UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE *102d* CONGRESS

SECOND SESSION

VOLUME 138—PART 15

JULY 31, 1992 TO AUGUST 6, 1992

(PAGES 20535 TO 22194)

GENERAL SERVICES ADMINISTRATION
12/18/97
LAW
LIBRARY
CENTRAL OFFICE

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1992

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

For sale by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328

Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 102th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Friday, July 31, 1992*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We take this moment of prayer, O God, to reflect on the blessings we have received and our responsibility for those gifts. There is great need in our communities and yet great abundance, too. There is poverty and yet plenty, for some a lack of education and yet great learning, too. There is illness and those who are gifted in healing. Teach us, gracious God, to employ all our resources, our wealth and talent, our enthusiasm and our faith, to work for justice so that every person will experience the blessings of life. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Colorado Mr. HEFLEY come forward and lead the House in the Pledge of Allegiance.

Mr. HEFLEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed, without amendment, a bill of the House of the following title:

H.R. 5566. An act to provide additional time to negotiate settlement of a land dispute in South Carolina.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 192. Concurrent resolution to establish a Joint Committee on the Organization of Congress.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2725. An act to authorize extension of time limitations for a FERC-issued license;

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes; and

S. Con. Res. 131. Concurrent resolution to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2759) "An act to amend the National School Lunch Act to improve the nutritional well-being of children under the age of 6 living in homeless shelters, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 959) "An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson."

TRUST ME

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, yesterday in Texas the President of the United States found just about everybody to blame for the economy and its sad performance. The villains are the cost of the cold war, then the end of the cold war; of course, Congress; the Federal Reserve System, Saddam Hussein, the consumers, the banks, other Presidential candidates and the media.

There is just one person, of course, who did not fall into the category of blame for the recession.

This is the President whose slogan on bumper stickers is "trust me."

He promised 15 million new jobs 4 years ago. We have had less than a million new jobs, and yet, he says, "Trust me."

He promised great economic growth. The result 4 years later is the worst economic growth performance at any time since World War II. "Trust me."

He says now that we have been out of a recession two times. We are now entering the triple dip of our recession. "Trust me."

This is the "trust me" President.

"Trust me."

Is that something like "read my lips"?

INTRODUCTION OF LEGISLATION TO REDUCE OVERHEAD EXPENSES OF FEDERAL GOVERNMENT

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, the economy is sluggish. Families all across Virginia and the Nation are looking for ways to cut costs in order to get through these uncertain economic times. We make fewer long distance phone calls. We plan ahead so we are not forced to pay extra for overnight or express postage. We use less electricity because we have become more conscious of turning out lights. And small businesses have certainly cut back or consolidated travel and postponed unnecessary spending on supplies. If families and small businesses have to make these sacrifices, then why can't their government as well?

Because Congress has not held the Federal Government sufficiently accountable for overhead spending, there has been little or no regard for the amount of taxpayer dollars each agency spends for costs, such as office supplies, shipping, mailing, rent, communications, utilities, equipment and employee travel.

Today, I am introducing legislation which would require each domestic agency of the Federal Government—including the Congress—to keep overhead expenses frozen at 1992 spending levels in 1993 and 1994. For the fiscal years 1995 through 1997, spending levels for these expenses would be permitted to increase only by the level of inflation.

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Mr. Speaker, if families and businesses can cut back during the tough times, so can the Federal Government. I know my constituents would insist on more responsible use of their tax dollars which my bill provides. The Heritage Foundation estimates this measure will save $136 billion over 5 years. This legislation will not alone balance the budget, but it is a step in the right direction. It will help reduce unnecessary and wasteful Government spending. I urge my colleagues to join me in sponsoring this much needed legislation to force a discipline on the Federal bureaucracy.

RECKLESSNESS—A THEME FOR THE SILLY SEASON

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, without a doubt the silly season is here. The Bush-Quayle team have decided that since they have no clue about what to do in the domestic arena, they will challenge Governor Clinton, the Democratic nominee for President on his foreign policy credentials.

On Monday Mr. Bush criticized Governor Clinton's foreign policy positions as being "reckless." Reckless of all things. Now "reckless" is a word this team should certainly be familiar with.

"Reckless" is the way the American people would describe the handling of this economy, which after 4 years is still far from recovery.

"Reckless" is a good word to describe the American education policy under this administration, since now our children have some of the lowest test scores in comparison to other industrialized countries.

"Reckless" is how I would describe this administration's environmental policy which led to our country's embarrassment at the Earth summit in Rio this summer.

Let me see, if I could think of one word to describe the policies leading up to the savings and loan bailout fiasco, I guess it would be "reckless."

Mr. Speaker, let us hope that as this year progresses Mr. Bush will show us some real leadership and deal with the urgent problems we are facing. His reckless abandonment of this country's domestic needs is showing everywhere you look in America.

Let us hope the administration pays attention to its own rhetoric. Recklessness is certainly one thing the American public is sick and tired of.

"PORKER OF THE WEEK AWARD" GOES TO CIESIN PROGRAM

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, there once was a program called CIESIN. Ever hear of it? Probably not until night before last. It is supposed to be a central data point for Earth science information. On Wednesday night Congress passed a bill giving it $50 million dollars for construction of a building to hold new information and data. Can you imagine the building you can get for $50 million—and to house information?

Not surprisingly, the new facility is to be built in the district of the retiring chairman of the committee. The project, which has already received over $41 million—all awarded without competition over where it should be located and little congressional oversight—was never asked for by NASA and never had hearings, and was never authorized through the normal legislative process. NASA is not even sure where the funding is going.

If it is a legitimate program, then why has it not gone through the normal budget process? It just appeared. Decisions about where our tax dollars are being invested should be done in the proper way. If not, these projects do not deserve to get any Federal funding.

For sidestepping the process, the CIESIN Program gets my "Porker of the Week Award."

THE WIZARD OF THE WHITE HOUSE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Republicans are now saying the economy is not as bad as everyone is making it out to be.

In fact, they are saying for sure it is not the fault of President George Bush. They are saying, if anything, it is the fault of the Democrat Party.

Now, folks, what we have here is a whining White House trying to defend an economy that is so bad that Disney World laid off 400 people yesterday.

I say the economy is bad when Mickey Mouse is standing in an unemployment line.

The President wants us to believe we are going to hit the yellow brick road next year. I think he is off to see the wizard. I am not so sure he will visit the wizard in the White House.

THE DEMOCRAT PLATFORM

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, 6 weeks ago the Democrats passed a resolution at their convention. Allow me to read an account to you:

> The chairman told what a hard time the committee had getting the platform ready. He told that one day they all didn't get to bed until six a.m. He said the fifty-four men on the committee thought of prayer and that they all recited the Lord's prayer. Can you imagine fifty-four political bosses reciting the Lord's prayer at six o'clock in the morning? So you see at a glance what drastic means this convention is forced to resort to.
>
> Well, it's 6:30 p.m. and they have just read the platform. It favors fixing everything the Republicans have ruined and keeping everything that they haven't. That platform is 45 pages long. If they had come out in the open on every question and told where they stood, they could have saved 42 pages. When you straddle an issue it takes a long time explaining it.

These were the words of Will Rogers right after the 1924 Democratic Convention.

Mr. Speaker, nothing has changed.

THE AMERICAN PEOPLE ARE NOT BUYING IT

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, George Bush says the economy is OK. He can tell that to the choir, but the congregation is not buying it.

Eleven million people who are unemployed are not buying it.

Fifty million people who are underemployed are not buying it.

Thirty-seven million people who have no health insurance, they are not buying it.

Fifty million people who are uninsured, they are not buying it.

Millions of retired people, older American citizens who worked all their lives, who have had their savings and their incomes cut, they are not buying it.

☐ 1010

Millions of American veterans whose spouses and widows have to rely on benefits from the Veterans' Administration, they are not buying it. And if this administration and Congress keep sending our jobs to Mexico, to China, and to Japan, those millions of Americans are going to be losing jobs, they ain't going to buy it either.

I say, finally, those who think George Bush should assume responsibility and stop blaming everybody else for what is going on, I guarantee you they are not buying it.

I think it is time for new leadership.

ADVANCEMENT OF HUSBAND KIMMEL

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, yesterday, on behalf of Mr. SPRATT, Mr. WELDON, Mr. SCHULZE, and myself, I introduced a sense-of-the-Congress resolution, which recommends posthumously advancing Rear Adm. Husband Kimmel to the full rank of admiral.

No President has ever considered promoting Husband Kimmel to the retired list in accordance with section 18 of the Officer Personnel Act of 1947. Kimmel, as commander in chief at Pearl Harbor, for far too long has been the scapegoat of the unprovoked attack.

Many veterans organizations, as well as military personnel, have supported Kimmel's advancement. Among these are the Pearl Harbor Survivors Association, two former Chairmen of the Joint Chiefs of Staff, and three former Chiefs of Naval Operations.

In 1944, a naval court of inquiry and, in 1946, a joint committee of the Congress found that there was absolutely no basis for the dereliction of duty charges against Rear Admiral Kimmel.

Mr. Speaker, I say to my fellow colleagues that we must remedy this injustice. This is why we have introduced this measure. And I ask all of you to support and cosponsor this long overdue measure.

THE WEAK, SILENT TYPE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, Georgia Gov. Zell Miller has President Bush's number down cold. Here's how Governor Miller described the President's miserable record:

Let's face facts:
George Bush just doesn't get it;
He doesn't see it;
He doesn't feel it; and
He's done nothing about it.

Nowhere is this more clear than the President's record on issues important to families, women, and children. By whatever standard of measurement—women's health, Head Start, family and medical leave, freedom of choice, the gag rule, or child support enforcement—George Bush's Presidency is a failure.

President Bush is all for family values as a bumper sticker slogan, but he has done nothing to value families.

He will not even meet with the congressional caucus for women's issues—a bipartisan group, I might add. He has rejected our invitations for 4 straight years. He will not even tell us to "shut up and sit down." He will not come anywhere near us.

When it comes to issues important to families, women, and children George Bush is the weak, silent type.

FACTS PRESIDENT BUSH CANNOT RUN FROM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today the newspapers have given us a new look at the Bush Presidency and what it has done for the American people, and the picture is dismal. New economic numbers have confirmed our worst fears: Our economy has slowed to a crawl and millions remain jobless because of it.

These are facts President Bush cannot run from. There is nowhere to hide. According to the Commerce Department the growth rate for the last quarter was 1.4 percent. But that is not the worst of it. While the President was telling us that there was no recession and that strong economic growth was just around the corner, the Commerce Department found that the facts were much different. It says that the 1990–91 recession was much worse than anyone, especially the President, thought.

This economy, under George Bush, is growing at less than half a percent each year. And who is suffering: America's working middle-class families.

When I visit the unemployment lines in Connecticut, the people I see are not the chronically unemployed. They are fathers and mothers, recent college graduates, tradesmen, and women, people who have the skills and want to work. And what has President Bush done for them? He promised 30 million jobs and no new taxes.

He says "trust me." But how can we trust a man who has broken his two biggest promises to the American people? It is time for a change, and it cannot come too soon.

BELATED RESULTS OF SECRET NAVY TESTS ON MUSTARD GAS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, in today's Federal Register, the Veterans' Administration finally and officially recognizes six diseases as being related to mustard gas exposure and thereby entitles victims of secret Navy tests who suffer as a result to service-connected compensation. This long-awaited announcement should give new hope to veterans whose claims have previously been denied. It brings us one step closer to acknowledging the terrible suffering these men have endured. When I introduced private legislation for the relief of four men in 1989, I never imagined the list of veterans who participated in secret mustard gas testing would grow to over 1,700. As soon as the first men identified themselves publicly, my office began to hear from individuals across the country, including some who believe their father or spouse had died from the long-term effects of mustard gas but could never be sure, since many of these men took the secret about their victimization to their graves. While we can never reverse their suffering, at least we can set the record straight and provide justified compensation to those who are still in need today.

THE DOG ATE MY HOMEWORK

(Mr. SCHUMER asked and was given permission to address the House of 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, this morning's Washington Post features the mother of all headlines. It says: "Bush Shifts Gears, Blames Others for Sluggish Economy."

The article lists all the excuses George Bush has offered trying to explain away the worst economic record since Herbert Hoover.

The administration blames the cold war for the recession.

The administration blames Saddam Hussein.

The administration blames Congress.

The administration blames the election.

The administration blames foreign countries.

The administration blames tight credit.

The administration blames the Federal Reserve.

In other words, the Bush Administration blames virtually everyone and everything on Earth for the recession, except its own mismanagement and failed policies. The headlines do not lie: "Bush Blames Others for Sluggish Economy," said one this morning.

In school, this is called the dog ate my homework defense.

In politics, this calls for a new President.

THE ONLY THING SENIORS HAVE TO FEAR IS FEAR ITSELF

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, Franklin D. Roosevelt said, "The only thing we have to fear is fear itself." Unfortunately, many seniors fear their Social Security benefits will soon run out, because they have been contacted by organizations charging that the trust fund is empty.

Members are familiar with these mailings, which often come in Government-style envelopes or with official-looking images inside. The implied Government connection is apparently meant to reassure seniors asked to make a donation.

Those who prey on seniors' fears should experience some fear of their own. The House has passed legislation increasing penalties for deceptive solicitations, and this should become law soon.

Mr. Speaker, I urge my colleagues to tell their constituents the truth about the trust fund, and also about the motives of organizations that say it is empty. Seniors who are listening, you should verify with your Congressman claims made in connection with an unsolicited mailing, especially when asked to donate your hard-earned savings.

Social Security trustees recently reconfirmed the security of the trust fund. Let us reassure our seniors that the only thing they have to fear is fear itself.

□ 1020

PRESIDENT'S FOREIGN POLICY RECORD NOT MUCH BETTER THAN HIS DOMESTIC ECONOMIC RECORD

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, the President has asked that we look at his foreign policy record and not his economic domestic record, and I think that is based on the theory that the domestic economic record is so abysmal that, by comparison, anything else would look better. But in objective terms, Mr. Speaker, the foreign policy is a very disappointing one.

Let us look at this. In Yugoslavia, where the President's press secretary recently made some very irresponsible partisan remarks, the administration's record has been a complete and utter disaster. This administration misjudged that situation from the beginning, was far too kind to the dictator of Serbia, and has, in fact, presided in part over a situation which has brought untold suffering. It is not the administration's fault that the suffering has happened, but George Bush and his vaunted foreign policy team have been able to do virtually nothing to alleviate it.

In China, Mr. Speaker, the greatest source of oppression of human beings in the world today, the Chinese Government, counts as its most genuine friend in the world the Bush administration, and what do we get in return? We get in return a Chinese trade policy where they have in percentage terms by far the largest ratio of exports sent to us to things they buy from us.

So, the Bush foreign policy record looks good only compared to the Bush economic record.

JUSTICE MUST PREVAIL

(Mr. RIGGS asked and was given permission to address the House for 1 minute.)

Mr. RIGGS. Mr. Speaker, Clark Clifford, former Defense Secretary under Lyndon B. Johnson, and his law partner, Robert Altman, were indicted 2 days ago in the BCCI scandal, at both the State and Federal levels, for enriching themselves through sweetheart loans and deals with BCCI. I applaud the efforts of the Federal Government to rectify this embarrassment on behalf of the American taxpayer. They have scored another notch in the belt against those who have allegedly defrauded BCCI depositors and the American people and against those who have wrecked havoc upon the banking industry to suit their own greed.

Throughout the Federal probe of the BCCI-First American Bankshares conspiracy, both Clifford and Altman emphatically denied knowledge of BCCI's stock ownership of First American of Washington, DC.

On September 11 of last year, both gentlemen appeared before the Committee on Banking, Finance and Urban Affairs, of which I am a member, and again under oath vehemently denied knowledge of BCCI's acquisition of First American. At that hearing, they were sworn in the both testified under oath. As such, it is my feeling, as I am sure it is the feeling of other Members, that if the allegations in the indictments are correct, Mr. Altman may have committed perjury before the Committee on Banking, Finance and Urban Affairs.

Therefore, I encourage the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs, to pursue this matter further, and I have authored a letter to Attorney General Barr calling for the investigation into this affair and pressing formal perjury charges if such are warranted.

Mr. Speaker, we must see that justice prevails.

YET ANOTHER BUILDING IN A SUBCOMMITTEE CHAIRMAN'S DISTRICT

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute.)

Mr. ROHRABACHER. Mr. Speaker, the gentleman from Colorado [Mr. HEFLEY], gave his porker of the week award to CIESIN. Well, it is even worse than what my colleague said because he did not have time to give my colleagues all the details. The $50 million for this questionable project was robbed from an absolutely essential aerospace research project. A powerful subcommittee chairman has shafted the aerospace industry at a time when it is most vulnerable, and it could derail this industry's, this vital industry's, transition from the cold war to a more peaceful, yet competitive world. America may end up without a really active and a competitive aerospace industry, but what we will have is yet another Government building in the subcommittee chairman's district.

Well, the liberal Democrats who control this body want to run the executive branch; that is what we are hearing all the time now. Well, if they are going to run the executive branch like they run this body, America is in for a lot of trouble.

Give me a break.

INTRODUCTION OF THE CRIMINAL ALIEN DEPORTATION AND EXCLUSION AMENDMENTS OF 1992

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, today I am introducing the Criminal Alien Deportation and Exclusion Amendments of 1992.

The bill costs nothing, streamlines the system, protects against the release of hardened criminals, and preserves the due process rights of the alien.

This legislation simply allows INS to deport criminal aliens at the trial court level instead of waiting until aliens have served out their entire sentences.

This bill is not about spending additional resources to solve the problem.

It is about saving State and Federal governments, the millions of dollars it costs to feed, clothe, and house deportable criminal aliens. Most of these aliens are convicted on drug charges and account for 25 percent of our Federal prison population.

As a Member of Congress from Florida, I deal with this problem extensively. I know this same situation is faced by my colleagues in California, Texas, Arizona, and New York.

I urge my colleagues to join me in taking this logical, no-nonsense step to deport criminal aliens and to save millions of State and Federal dollars.

WHAT DOES HE MEAN BY "WE"?

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, you being a man of the world, I know you will recall the old joke about native Americans surrounding the Lone Ranger and his sidekick Tonto. The Lone Ranger turns to Tonto and says, "Looks like we're surrounded Tonto. What are we going to do?"

To which Tonto replied, "What do you mean 'we,' Kemo Sabi?"

Well, that is the way I felt when, in his acceptance speech, the Governor of Arkansas, Bill Clinton, said, "We have won the cold war." And I know every person who has ever worn the uniform or worked in the defense industry or worked for the Pentagon or in the CIA and who fought the battle of the cold war against the Evil Empire feels the same way.

What do you mean "we," Governor Clinton? You're a draft dodger who never lifted your little finger to crush communism and end the Evil Empire, Soviet variety. The one time the country asked Mr. Clinton to make a sacrifice, to make a contribution to the defeat of communism, the Democratic nominee decided his personal needs were more important. What kind of commander-in-chief could this man possibly make? Who would ever want to serve under him?

Mr. Speaker, here is an article by Robert NcNamara, the most evil man to ever hold appointed office in our country this century.

In his article on avoiding the draft, this killer of my friends, Robert Strange McNamara, tries to whitewash the draft dodging of Mr. Clinton. Is he looking for redemption under a Clinton administration? It is not going to happen, Mr. Speaker.

□ 1030

WAR CRIMINALS HOLD SWAY IN YUGOSLAVIA

(Mr. HOYER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I regret that I do not have the time to respond to the previous speaker and the animus that his statement reflects.

Mr. Speaker, there is an even bigger problem in America, in Europe, and in the world: 2.5 million refugees have been created in the last year by war criminals. That is a tragedy, a tragedy whose name is Yugoslavia, a tragedy where innocent men, women, and children are being slaughtered and displaced by war criminals. As chairman of the Helsinki Commission, I strongly believe that an international effort should be taken immediately to investigate violations of international legal standards in the former Yugoslav Republics, to seek to take into custody those responsible and to try them, and if found guilty to punish them. At Nuremberg we said that we will hold accountable international criminals in courts of justice in the international community. Let those in Yugoslavia, on whatever side they fall, and there is blame enough to go around, know that the international community, not acting decisively now but hopefully beginning to do so, will nevertheless ultimately hold accountable those who kill and maim and force their victims out of their homes, those war criminals on every side who operate today in Yugoslavia. Mr. Speaker, we need to undertake this effort because where there is not justice, vengeance will most certainly reside.

SUPPORT VOICED FOR STAND ON YUGOSLAVIA

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, I rise simply to associate myself with the remarks of the gentleman from Maryland [Mr. HOYER], the chairman of the American delegation to the Conference on Security in Europe. He is an outspoken leader in the international effort to restore peace.

The SPEAKER pro tempore (Mr. TRAFICANT). Does the gentleman wish to proceed with his 1 minute?

Mr. McEWEN. Mr. Speaker, I have completed my statement in support of the gentleman. I associate myself with the remarks of the gentleman from Maryland.

Mr. HOYER. My Speaker, if the gentleman will yield, let me give him my thanks.

The SPEAKER pro tempore. The gentleman's words will be so noted in the RECORD.

REFORM OF AMERICA'S HEALTH CARE SYSTEM GAINS MOMENTUM IN KENTUCKY

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I also would join in what the gentleman from Maryland [Mr. HOYER] and the gentleman from Ohio [Mr. McEWEN] have said. Our subcommittee just this morning reported a bill favorably to grant protective status to all the Yugoslavians here in this country, and we held hearings just yesterday on the topic of refugees from that country.

Mr. Speaker, I am very happy to observe this Congress and this House moving toward reform of the health care system. It needs reform very badly. I am proud, too, to note, at the same time, that not all reform is being done here in these hallowed halls. Back home in Kentucky, my home State under the very strong leadership of Gov. Brereton Jones, task forces are meeting around the State to develop a health care reform proposal for the citizens of the State of Kentucky.

Mr. Speaker, I am a proud cosponsor of one of the major reform bills pending, one offered by our majority leader, the gentleman from Missouri [Mr. GEPHARDT], and the gentleman from California [Mr. STARK]. And, I am glad to note that even as we are working here in Congress, all around the country, and particularly in Kentucky, exciting, innovative, and dramatic new developments are being forged which will lead us eventually to a new program for health care in this Nation.

MEDIA BIAS IN THE POLITICAL ARENA

(Mr. COX of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, today on ABC's "Good Morning America," President Bush was subjected to a drive-by shooting of biased journalism. I know because I witnessed it.

Yesterday I gave a 30-minute interview to ABC in which I was unrelenting in my criticism of this Congress for failing to act on the President's economic growth package, for failing to act on the balanced budget amendment, and for failing to act on the line-item veto, and this morning I saw myself on television. I saw my face and my lips move, but not my voice, and the ABC reporter was saying that the President is responding to complaints from his own party that he is not focused on the economy.

It is change that we need, but it is change in this Congress that we need. This morning ABC stood for All Bias for Clinton. I do not want to see that anymore.

SELF-DETERMINATION FOR PUERTO RICO

(Mr. SERRANO asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SERRANO. Mr. Speaker, yesterday we took two votes to approve TV Marti. We did that because there was some concern about the programming. Was it educational, or was it entertainment?

I would like to suggest to the people at TV Marti a new program—one about the 93-year history of the Commonwealth of Puerto Rico and how this Congress has refused to deal with the idea of self-determination for the island of Puerto Rico.

After all, if we demand freedom and democracy for one place that is out of our control, we should feel the same way about another place that is within our control. The people of Puerto Rico have had 93 years without the opportunity to determine whether they want to be a State, whether they want to remain a Commonwealth, whether they want to expand the Commonwealth, or whether they want to become an independent nation.

May I also suggest a title for this documentary: "The Shining Star in the Caribbean" or "Puerto Rico, America's Best Opportunity to Double-Talk."

REPORT ON RESOLUTION PROVIDING FOR DISPOSITION OF SENATE AMENDMENT TO H.R. 2977, PUBLIC TELECOMMUNICATIONS ACT OF 1992

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 102–761) on the resolution (H. Res. 535) providing for the disposition of the Senate amendment to the bill (H.R. 2977) to authorize appropriations for public broadcasting, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2782, EMPLOYEES RETIREMENT INCOME SECURITY ACT OF 1974 AMENDMENTS

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 102–762) on the resolution (H. Res. 536) providing for the consideration of the bill (H.R. 2782) to amend the Employees Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 4318, MISCELLANEOUS TARIFF ACT OF 1992

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 532 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 532

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4318) to make certain miscellaneous and technical amendments to the Harmonized Tariff Schedule of the United States, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill as an original bill, as modified by the amendment printed in section 2 of this resolution, for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as having been ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. On page 115 of H.R. 4318, as reported, strike section 2123.

Mr. BONIOR. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, it has been said that a manager does things right while a leader does the right thing.

Passing H.R. 4318, the Miscellaneous Tariff Act, allows us to do both.

The bill's purpose is simple—it reverses a 1989 Treasury ruling that unilaterally handed a valuable tariff concession to our trading partners while getting nothing for American workers and businesses. The bill contains two main components.

First, it temporarily eliminates or reduces duties on over 200 goods.

It does a second thing. Right now, minivans and jeeps are classified as cars. That means their tariff is 2.5 percent. H.R. 4318 reclassifies imported four-door multipurpose vehicles [MPV's] as light trucks instead of cars.

That raises the tariff to 25 percent.

Why?

This issue reminds me of a story about W.C. Fields. A relative once visited him in the hospital and found him reading Scripture.

"Looking for moral guidance?" the relative asked.

"At my age, and with my record," Fields said, "I'm just looking for loopholes."

Well, a while back, the Japanese read our laws. And found a loophole.

A minivan is built directly from pickup truck designs.

It is called a truck for emission standards.

It is called a truck for fuel economy standards.

It is called a truck for gas guzzler and luxury taxes.

But the Japanese told the administration that it should be called a car.

The reason? Simple.

That would allow them to duck over $200 million in duties each year at the expense of U.S. taxpayers and workers.

The fact is, the Customs Service studied this issue for over a year. They found that the Japanese were wrong.

They decided that multipassenger vehicles were trucks.

In fact, earlier in the decade, even the Japanese insisted MPV's were trucks—at that time they thought it would enable them to evade Japan's voluntary restraint ceilings on cars.

Treasury decided to overturn its own Customs Service decision for purely political reasons.

Now, I'm not surprised the Japanese would try playing the name game—it's in their interest.

I'm not even surprised the administration would buy it.

After all, what have they done to stand up for American workers?

Nothing.

Nothing when it came to helping millions of jobless workers out of work through no fault of their own.

Nothing when it came to minimum wage.

Nothing when it came to helping America grow again and begin producing good jobs.

Nothing when it came to a middle class tax cut.

So I am not surprised that when the Japanese lobbyists wanted to take American workers to the cleaners, the Treasury Department said fine—a decision that its own former Customs Commissioner William Von Raab called the most unfair and politicized example he knew of foreign influence at high levels of the Bush administration.

But we in Congress should not let them do it.

You know, Mr. Speaker, probably every one of us has a VCR at home.

The VCR was invented in America.

None are made in the United States any more.

The same is true of fax machines and microwaves.

The minivan was invented in America, too.

But if we don't get tough with those abroad who get administration officials to promote sweetheart deals for their products, the minivan will go the way of the VCR and the fax.

Now, this bill is not a partisan one. In fact, it commands broad, bipartisan support.

The simple purpose is to have a consistent application of our law—not let the Japanese drive millions of minivans through legal loopholes and shove Americans out of their jobs.

So, Mr. Speaker, I ask my colleagues: support this rule so we can right a wrong.

Do things right and do the right thing.

Let us show the Japanese that we will not let the rhetoric of free trade allow them to get a free ride.

Mr. Speaker, House Resolution 532 makes it in order to consider the bill H.R. 4318, the Miscellaneous Tariff Act of 1992.

The rule waives all points of order against the bill and against its consideration.

The rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The rule makes in order the Ways and Means Committee amendment in the nature of a substitute now printed in the bill, as modified by an amendment printed in section 2 of the rule, as an original bill for the purpose of amendment.

All points of order are waived against the substitute, as modified. No other amendments are made in order by the rule.

Finally, the rule provides one motion to recommit with or without instructions.

I urge my colleagues to support the bill and the rule.

□ 1040

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this rule. The majority whip, the gentleman from Michigan [Mr. BONIOR], has explained the provisions of House Resolution 532.

It is a closed rule providing for consideration of H.R. 4318, the Miscellaneous Tariff Act of 1992. The rule permits an hour of general debate, waives all points of order against the bill and its consideration, and permits no amendments.

Republicans do not support closed rules. However, I would like to commend the distinguished chairman of the Rules Committee, the gentleman from Massachusetts, along with the committee's ranking member, Mr. SOLOMON of New York, for working to provide a motion to recommit with instructions within the rule.

This means after all the debate is finished the Republicans have one chance to make one amendment, once. That is under a system which is often referred to as a procedural vote, and, therefore, oftentimes more partisan than it need be.

This is a closed rule, permitting no amendments. Therefore, it prevents an amendment that I believe would find overwhelming support on the House floor. The gentleman from Pennsylvania [Mr. WELDON] and the distinguished Member from Maryland [Mr. MFUME] came before the Rules Committee and asked to offer a bipartisan amendment which was intended solely to provide valuable information to auto consumers.

The Weldon-Mfume amendment is simple—it would require a label to be affixed in a prominent place on every automobile sold in the United States which would provide two valuable pieces of information to American consumers:

First, the place of final production of the car; and

Second, the percentage of American-made parts.

Mr. Speaker, I commend the gentlemen from Pennsylvania and Maryland for bringing this amendment to the Rules Committee. The American people have the right to know that a car made in Mexico may be built with 75 percent American parts, while a car made in Kentucky might have 20 percent American-made parts.

Unfortunately, the Weldon-Mfume amendment has been prevented under the rule.

As we all know, there is a much more contentious tariff provision in this bill. We are certain to hear a tremendous amount on both sides of the light truck tariff issue.

Mr. Speaker, I will read the final paragraph of the minority views which were filed for H.R. 4318 by the members of the Committee on Ways and Means. It says:

H.R. 4318 began as a non-controversial miscellaneous bill containing numerous customs provisions, primarily designed to lower or suspend tariffs and thereby lower costs for U.S. producers and consumers. These individual provisions are still important but, with the addition of the controversial reclassification on utility vehicles and minivans, H.R. 4318 is doomed. The legislation needs to pass on its own merits and must have a financing mechanism that neither violates our GATT obligations nor unfairly burdens average American consumers.

As I said, this is an otherwise unobtrusive bill.

Mr. Speaker, I would like to insert at this time in the RECORD the statement of the administration policy where it outlines the objections of the administration with the light truck import section of the bill.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4318 MISCELLANEOUS TARIFF ACT OF 1992

Although the Administration would have no objection to many of the tariff extensions included in H.R. 4318 if their estimated revenue loss is fully offset, other provisions raise serious trade policy and budget concerns. Accordingly, if H.R. 4318 is presented to the President in its current form, the President's senior advisers would recommend a veto.

The Administration's specific objections include:

Section 2121B, which would arbitrarily reclassify "light trucks" for tariff purposes, thereby increasing the rate of duty from 2.5 percent to 25 percent. This provision would lead to a dramatic increase in consumer costs, could be considered as violating U.S. obligations under the General Agreement on Tariffs and Trade (GATT), and could result in retaliation against U.S. exports. In addition, this reclassification would thwart the harmonization of U.S. tariff classifications.

Section 2123, which contains the CBO scoring language required by House Rule XXI, is unacceptable. In a letter of December 21, 1990, the President stated that he would veto any bill containing such language. The effect of this provision is to overturn a key element of the Federal spending control mechanisms enacted pursuant to the 1990 Budget Agreement.

Section 2004, which unilaterally increases bound tariff rates on iron and steel pipe and tube. This increase could be considered by our trading partners as violating U.S. obligations under the GATT and could entitle them to retaliate against U.S. exports.

Sections 1001 through 1162, which are new duty suspensions or reductions on a variety of chemicals and other items. These tariff provisions would be effective from January 1, 1995, to December 31, 1996. The Administration opposes any duty suspension beyond December 31, 1994. At that time, an assessment can be made of progress in the Uruguay Round of negotiations and the possibility of gaining reciprocity for U.S. duty changes. In addition, enacting a future duty reduction could affect U.S. manufacturers adversely by discouraging planned and future domestic production.

Several sections providing for reliquidation of Customs duties. These provisions grant preferential treatment to one importer to the exclusion of others who may be similarly situated. In addition, they establish an undesirable precedent and encourage importers to seek redress of disputes through legislative action.

SCORING FOR THE PURPOSE OF PAYGO

H.R. 4318 would affect receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990. OMB's preliminary scoring estimates of this bill are presented in the table below. Final scoring of this proposal may deviate from this estimate. If H.R. 4318 is enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA. The cumulative effects of all legislation on direct spending and revenue will be issued in monthly reports transmitted to Congress.

ESTIMATES FOR PAY-AS-YOU-GO

[Dollars in millions]

	1993	1994	1995	1996	1997	1993–97
Receipts	−3	−4	55	97	221	367

Mr. Speaker, regarding the statements of the gentleman from Michigan [Mr. BONIOR] in which the gentleman referred to the CAFE standards, which are the corporate average fuel economy standards which were established by this Congress and this country on American automobiles, which were actually the system whereby the Federal Government prevented the production of American-size automobiles. Well over four out of five full size cars built on this planet were built in the United States, and the CAFE standards that were applied made it impossible to produce those cars any longer. So we federally outlawed the American-size automobile, which means that they had to meet these various standards, which meant they had to be lighter, they had to be smaller, they had to have no frames under them, they had to be front-wheel drive, and basically they had to be Japanese-size cars. That means we wiped away our lead in the automobile industry internationally.

When the final implementation took place, people were bidding for these automobiles at $2,000, $3,000, $4,000, $5,000 over sticker in order to get the final full size American car, which the world wanted and certainly we wanted.

Having done that, we then forced the American auto industry to go head to head with the European and Japanese auto industry on their terms.

The one exception to that was the minivan which was allowed to escape that. It was allowed to be classified not as a passenger vehicle. Therefore, they were able to still make the full size vehicle that the average American wanted to purchase. That meant that if you were my size or had a family, no longer would you have to get the little Japanese cars, but you could at least have a car that you could get into, and that was the minivan, because it was classified as a light truck.

So now if you go any place in our country where there are families, whether it be at 8 o'clock in any schoolyard in America, or if you go to an amusement park, you will see four out of five of the vehicles there are these minivans, which are classified as light trucks.

□ 1050

It is the only way the automobile industry in America has been able to survive. It is the only way the American family has been able to survive with transportation because one simply cannot put a full-sized American family into the CAFE standard automobile, which is our dilemma.

Nevertheless, be that as it may, that was the one place that the American automobile was able to compete. The Japanese obviously have spotted it, and they have prepared to come together with all the kuritsu capacity to target that particular remnant. And so now having recognized that it is a minivan in order to allow the Americans to survive, they want to have the other side of the coin, and that is to say that they want to be classified as a passenger vehicle and, thereby avoid the tariff and, thereby eliminate the one remnant of the American automobile production that we still hold a significant lead.

I would emphasize the fact, however, that trade is vitally, vitally important, and American products are desired around the globe. Not only is this Nation the largest exporter in the world, far and away. When someone wishes to buy a hair dryer or an airplane or anything else around the world, they want American products. We are by far the largest exporter. And here is an interesting fact: Over the last 6 years American exports have doubled. gone up 100 percent, 96 percent actually, but doubled. In order for other nations to either gain on us or catch up with us in our lead as the world's leading exporter, they would have to increase their position at least that much, would they not?

While American exports have doubled over the last 6 years, the nation that has increased their exports the greatest in competition to us is France. And France's exports have gone up 30 percent. After France comes Italy. After Italy, Germany. After Germany, Britain. After Britain, Canada. And after Canada, Japan. So Americans do have the capacity to produce good products. They are purchased around the globe. What we are interested in is making sure that we have access to them fairly, and that was the main purpose of H.R. 4318.

As I say, there will be much debate, I am sure, on the light truck decision, which will be before us. And I oppose the rule because it is presented to us in toto and in whole without the ability to make as much as one amendment to the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield 6 minutes to the author of the legislation that is so prominent in the bill and which we will discuss in the next 45 minutes, the distinguished gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I rise in strong support of H.R. 4318, which includes my bill to instill equity in our tariff treatment of imported multipurpose vehicles.

Prior to 1989, there was no clear classification of MPV's for tariff purposes.

The foreign importers of MPV's were able to reclassify their vehicles at will.

If they wanted to avoid the higher U.S. tariff on trucks—they would put a backseat in their MPV, and their vehicle became a car.

If they wanted to circumvent the voluntary restraint agreement on imported Japanese cars—they would yank out the backseat and the MPV became a truck—and thus not subject to the VRA.

In order to end this shell game that they were playing, the United States Customs Service undertook a year-long review of this issue, and that included tours of production facilities in Japan.

Customs found that these vehicles were produced in the same facilities, on the same assembly lines, and used the same chassis as other trucks.

In January 1989, the experts at Customs, who are responsible by law to make these determinations, ruled that these MPV's were trucks, and therefore subject to the 25 percent truck tariff.

However, in February 1989, U.S. Treasury Secretary Nicholas Brady overruled the experts at Customs, and allowed foreign importers to continue to manipulate American trade laws.

Never before had a U.S. Treasury Secretary overturned a tariff determination of the U.S. Customs Service.

That same month, I asked Secretary Brady during his testimony before the House Budget Committee what he based his decision on.

He told me that he had sent some people up to the Port of Baltimore to watch the vehicles being unloaded, and—based on the number of doors, windows, and seats—they looked more like cars than trucks.

Mr. Brady told me in his own words, "There was enormous pressure from our partners overseas to do this.

Let us hear those words again of Mr. Brady: "There was enormous pressure from our partners overseas to do this."

Mr. Brady, why do we always have to succumb to pressure? Why can we not apply pressure?

I pointed out to Mr. Brady at that meeting that Congress has defined what a truck is.

Both of these vehicles are trucks for EPA's lower emission standards for trucks. Both of these vehicles are trucks for the Transportation Department's lower fuel economy standards for trucks.

Both of these vehicles are trucks to avoid Treasury's gas guzzler and luxury taxes.

And, if they have only two doors, they are trucks for Treasury's tariff purposes—and pay 25 percent tariff.

But, if they have four doors, they all of a sudden become cars and only pay the 2.5 percent automobile tariff.

They are both made in the same facilities, on the same assembly lines, and based on the same chassis—but Treasury calls these trucks and these cars.

William von Raab, who was Customs Commissioner, appointed by a Republican administration at the time, called Treasury's reversal of his agency's initial decision,

> A shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy.

The fact is that the Treasury Department caved in to pressure from the foreign importers and their Washington lobbyists.

That foreign pressure was again evident this year.

This February, when I again questioned Treasury Secretary Brady before the Budget Committee, he acknowledged that there was a problem with Treasury's classification of MPV's and he indicated that his department was reexamining the issue.

I felt some hope, but I was more than a little surprised to learn that Treasury again immediately dropped the issue after encountering staunch opposition from Washington lobbyists for foreign truck makers.

Mr. Speaker, I don't blame the Japanese Government or the Japanese manufacturers for watching out for their best interests.

That is their job.

But, Mr. Speaker, it is the job of our Government to watch out for our Nation's best interests.

I am tired of our Government abandoning American companies and American workers in the face of foreign political pressure.

It is time to put an end to our unilateral trade disarmament policy.

The MPV provision is logical, is consistent with GATT, and passes the truck test which says that a truck is a truck, is a truck.

I urge my colleagues to support the rule, oppose the motion to recommit and support the bill.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I rise against the rule because it is a closed rule. We do not seem to obey the rules here anyway.

The main thing I want to do is, since the gentleman from Michigan is on the floor handling the rule, and since I have an article here from the paper indicating Democratic leaders are engaged in a coordinated effort to conceal the names of people who have received subpoenas, I wonder if the gentleman from Michigan can tell me whether or not he is aware in any way of subpoenas that are on Capitol Hill relating to the House post office scandal. The gentleman knows nothing about any of these subpoenas? He has not read the newspaper articles or he has not seen anything about any subpoenas being on the Hill? He is not aware at all of any coordinated effort to conceal names? It is his assumption that the names will be laid before the House in the near future in accordance with the rules?

The gentleman is giving me hand signals here and so on.

Do I understand that he does not know whether or not the names will be laid before the House? He does not know.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, I rise today in support of the rule, and I want to thank my good friend, the gentleman from Michigan [Mr. BONIOR] for allowing me some time to speak on a matter of what I believe is real importance to straighten out some of the rhetoric that was given earlier today.

I rise in support of an individual that started in the car industry in this country many years ago and who rose to the top of that industry and then was tapped by President Kennedy to run the defense of this country throughout his administration.

The fact is that in a bizarre twist of vindictive logic, we heard Secretary McNamara today referred to as a killer.

It just seems to me that we all recognize that this country was terribly divided by the Vietnam war, but for Bob McNamara to be the scapegoat for that terrible division, I think, was an unfair and unwarranted impingement on his reputation.

This individual has done more to save more lives in the Third World of this planet than perhaps anybody in the history of this country and of this world. His work at the World Bank was unprecedented in terms of what he was able to accomplish. Further, his work at international disarmament over the course of the last decade has done more to provide safety for all the people of this planet.

So I want to again thank the gentleman from Michigan [Mr. BONIOR] for allowing me some time to speak on an issue that I think needed to be straightened out, and I believe strongly that Bob McNamara is one of the finest public servants that has ever been tapped to serve our country.

□ 1100

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, this country is on the edge of a new era. As we have heard so often on this floor lately, the cold war has ended. That was a historic victory, but we cannot rest on our laurels. Military competition has given way to economic rivalry. And if we are going to be as successful in this new environment as we were in winning the cold war, we need to play by the same rules as our economic competitors.

We are in serious danger of learning this important lesson too late. Unemployment is up, economic growth is down, and our trade deficit is expanding.

I do not know how things are in your districts, but in mine the unemployment lines are long, the people are worried about losing sight of the American dream, and jobs are scarce.

Today we have the opportunity to begin turning our position around—to begin to show we are serious competitors—competitors who are willing to play by the rules but who will not be taken advantage of.

H.R. 4318 does something very simple—it reverses a mystifying Treasury Department ruling. Against the advice of the U.S. Customs Service, Treasury ruled in 1989 that imported multipurpose vehicles with four doors, classified as trucks for purposes of safety standards, emissions test, fuel economy, and taxes, be classified as cars for tariff purposes.

This misguided ruling costs taxpayers more than $300 million each year. It also costs thousands of jobs for American workers. These trucks, called cars by Treasury reap the benefit of a 2.5-percent tariff, instead of the 25-percent tariff they should rightfully receive.

The Customs inspector charged with classifying these vehicles ruled they should be called trucks for tariff purposes. Yet his ruling was overturned by the Treasury Department. He called the Treasury move a shocking and alarming example of the influence, of foreign business on U.S. Government trade policy.

We are continuing to do what we have so often in the past—shooting ourselves in the foot with trade policies that hurt domestic manufacturers and businesses and for some unfathomable reason help our foreign competitors.

It is time for us to stop this nonsense, begin to take our economic competitors seriously, and enforce the trade rules now on our books. Let us call a truck a truck. Vote for the rule, vote against the motion to recommit and for H.R. 4318.

Mr. MCEWEN. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, how ironic that the same Big Three that has lobbied this Congress for passage of a North American Free-Trade Agreement is now lobbying for a 1,000-percent increase in tariffs on minivans.

The Big Three wants a 25-percent tariff on minivans to match the 25-percent tariff on trucks. But that tariff on trucks, which is such an anomaly in the U.S. tariff system, was imposed in the sixties in response to the European Community's imposition of a poultry tariff.

The 25-percent tariff has no basis in reality anymore. What we should be debating today is lowering the 25-percent tariff to 2.5 percent—or eliminating it altogether.

I ask Detroit, are you really for free trade? Or are you for more protection from competition?

The answer is obvious. If they had their way, no cars would be imported into this country.

The new ad campaign by Chrysler says that in their business, "you lead, follow, or get out of the way."

Oh really? Then why have I received a ton of slick propaganda telling us that a minivan is a truck? Even though I will throw dirt in the back of my truck—but never into the back of my minivan.

Children may be strapped into the built-in child safety seats that Chrysler installs in its minivans. They do not put these seats in their trucks.

Perhaps when Chrysler installs child protective seats in the back of pickup trucks I will be convinced that we are talking about the same kind of vehicle.

There is a clear difference. People ride in these vans, manure rides in the backs of trucks. And now manure has found its way into my in box in the form of a slick lobbying effort by the Big Three.

Maybe Chrysler should change its slogan to "lead, follow, get out of the way, or hire a lobbyist."

Indeed, Chrysler makes their most popular minivan in Canada. They would not even be eligible for relief from dumping according to the Department of Commerce. So instead of using that protectionist sledgehammer, they will play the Congress card because they know in an election year special interests—especially Big Three special interests—will rule the day.

The Big Three has spent millions to convince us that limiting consumer choice in minivans is the best way to make Detroit competitive.

Wake up Detroit—why do you not just start building a better product. That is what you have been telling us the past few years. Prove it in the showrooms of this Nation.

Who will suffer if this bill passes today? The people we represent, the consumer who buys a minivan. Once again, we will be making the choice for consumers. Right now, they can pick between foreign or domestic minivans. But, if this bill is passed, the price of foreign vehicles will rise by as much as $3,700. Of course consumers will buy domestic—they will not have any choice. This is exactly what Detroit wants.

The last time this happened, two-door sport-utility vehicles were reclassified as trucks. Foreign models of these vehicles disappeared from showroom floors.

This is just one more in a long series of protectionist trade measures that will cost American jobs, increase prices for American consumers, cause a decline in quality for American products, and limit choices for American car buyers.

Protectionism currently limits American consumers to two foreign peanuts per year, and only one teaspoon of foreign ice cream. Mexico is allowed to export only 35,292 brassieres to the United States.

Trade barriers currently cost the average American family more than $1,200 annually. Instead of talking about bogus tax breaks for the middle class, we should be providing real relief by lowering barriers to trade.

Mr. Speaker, this Nation is in the midst of negotiating visionary progressive trade agreements within our own hemisphere and with the rest of the world. This will would be a gigantic leap backward. I urge my colleagues to defeat it.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from Michigan for yielding time to me.

Mr. Speaker, I rise in strong support of the rule, and, ultimately, in favor of the bill, H.R. 4318, the Miscellaneous Tariff Act. I think it was said very well earlier by the gentleman from Michigan [Mr. KILDEE], when he had his chart out here, and I think it ought to be reflected upon very carefully by the membership of the House as they vote on the rule and then on the bill.

That is, that for the purposes of taxes, the luxury tax, the gas-guzzler tax, these multipurpose vehicles are considered trucks. For purposes of fuel efficiency, these four-door vehicles are considered trucks. For the purpose of safety standards, these same identical vehicles are considered trucks. For purposes of emission rules they are considered trucks.

Only for the one single point—the applicable tariff—under the Treasury ruling, which this bill would reverse, are they considered automobiles.

□ 1110

I think that it all boils down to fairness and equity. What is fair is fair, and what is not fair is not fair. If it is a truck for one purpose, it should be a truck for all other related purposes.

I think in the last analysis, if our Nation is going to have a reasonable opportunity to compete in the world markets, and that is exactly what they are, world markets, and not local or domestic markets, then we have to have fair and equal rules by which we can play.

This Treasury ruling, which reversed the Customs ruling, is not fair and equitable.

So, I am for the rule because it allows this body to take up H.R. 4318. And, I am for the bill, because then the Treasury Department ruling will be reversed and will have a tariff system in which a truck is a truck is a truck.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the rule and of H.R. 4318. Along with the vast majority of Members of this Congress, I understand and am committed to the benefits of global trade policies which open rather than close markets. But at the same time, I count myself among those who understand the importance of gaining reciprocity and fairness in our dealings with our trade partners.

America can take pride in the role it has played in stimulating open markets around the globe. But at the same time, it must awaken itself to the dangers of unfair competition rooted in Government subsidies, structural impediments to entering other markets, practices of dumping products into this country at below cost in order to capture market share, and so forth.

Whether it be in agriculture, electronics, or manufactured products, this Nation's willingness to protect our workers and our businesses from unfair trade practices must be an integral part of our overall strategy of opening markets. Open markets does not mean simply allowing goods to enter this country without reciprocated opportunity to enter the markets of our trade partners.

Nowhere has there been more substantive damage to the American economy than in the failure to apply this maxim to the automotive industry in particular, and the manufacturing sector in particular. And nowhere have these problems been more severe than in our trading relationships with Japan.

An important provision of this bill seeks to address a part of this problem. It addresses a major loophole through which Japanese automotive manufacturers have received extraordinarily favorable duty classification for reasons rooted in foreign policy objectives as opposed to the principles of equity upon which free and fair markets must be based.

As I speak, Mr. Speaker, Autodie Corp.—the world's largest maker of auto dies, located in Grand Rapids, MI—is in the process of restructuring its debt and fending off the specter of bankruptcy. Four hundred highly skilled workers are at risk of losing their jobs. And this Nation is at risk of losing yet another critical component of its manufacturing infrastructure. How long do we have to wait, Mr. Speaker, until we wake up as to what we are doing to ourselves by our unwillingness to demand equity and reciprocity in our trade relationships with Japan, in particular.

Earlier this year, a Japanese automobile manufacturer was found guilty of having dumped its product into this country. But because the American auto manufacturers could not demonstrate sufficient material injury, there was no legal remedy. What do we have to do? Wait until all the plant doors are locked, and then demonstrate material injury?

Mr. Speaker, I can give you numerous examples as to the problems my parts suppliers and automotive manufacturing businesses have had in dealing with their Japanese counterparts. Many will not speak on the record for fear of subsequent retaliation in the land in which they seek market entry. But all we have to do is examine recent reports in the latest annual review of the structural impediments initiative where it is very clear that the Japanese have not acted in good faith in taking the steps to level the playing field in trade with this country.

While we can perhaps understand why the Japanese are reluctant to take steps which remove the advantages they presently enjoy in competition with America's manufacturing sector, there can be no hesitancy on our part in doing what we can do to level that field. And the MPV provisions in this legislation do just that.

This legislation is more than simply demanding fairness in trade. It is standing up and defending America's manufacturing infrastructure. It is defending skilled jobs for our workers. And it is right. I urge my colleagues to join with me in strong and enthusiastic support of H.R. 4318.

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. LEVIN] who has shepherded this legislation through the committees.

Mr. LEVIN of Michigan. Mr. Speaker, we are going to hear a lot of hyperbole. Trade always invokes that.

We will hear the word protectionism endless times.

My guess is we will hear the word bashing sooner or later. GATT may be involved. We may even hear the words Smoot Hawley.

But let us listen to reasonable people on this. Let us start with Secretary of the Treasury Brady.

The gentleman from Michigan [Mr. KILDEE] said to him at a hearing not so long ago:

> Is there any movement within the Administration to reconsider the Treasury Department decision?
>
> Secretary BRADY: Yes, sir, Congressman. As you have quite rightly pointed out, it is a different determination because a lot of these vehicles look like cargo vehicles but

> they—I mean, could be cargo-carrying vehicles while they are put forward as passenger vehicles. It is a hard determination to work. We are working on it. You have asked this question before, and we think it is a good one.

Then the Customs Commissioner at the time, let us listen to him, he wrote just a month ago. This is Mr. William von Raab, appointed by the administration:

> On January 4, 1989, following a year long investigation, Customs ruled that sport utility vehicles and most small vans would be classified in tariff heading HTS 8704, as light trucks. Based on all historical precedents, this should have been the end of the issue. Under U.S. law, the Customs Service has the responsibility for all such determinations or rulings concerning the appropriate classification of products upon import into the U.S. However, the following month, in an unprecedented action in response to foreign political pressure, Treasury reversed the proper Customs ruling, and concluded that two door MPVs should be classified as trucks, but that most four door MPVs would be classified as passenger cars, a decision that defies logic.

This is the leading expert in the Government at the time.

He goes on to say:

> The January 1989 Customs Service decision was right on the merits, and correct under the law.

He says:

> There was no justification for the extraordinary intervention by Treasury, except politics. In fact, what I witnessed was that Treasury officials suspended the Customs ruling without even understanding the merits of the case, and then spent more than a month trying to find some solution that would accommodate foreign political pressures.

He concludes:

> The Congress should reinstate the Customs Service decision.

That is exactly what we are doing today.

What is the law? The harmonized tariff law talks about the design, not the use, but the design of these vehicles. These vehicles are designed almost identically as are trucks and they are considered trucks for every other purpose—fuel economy, emissions, gas guzzlers, and also for luxury taxes.

Even the manufacturers themselves have said that. If you look at the testimony, for example, of Isuzu in 1988, they say that their Trooper vehicles are built on a truck chassis.

Nissan sales brochure for the Pathfinder says the Pathfinder has the same rugged chassis as the hard-body truck.

Motor Trend says:

> It's obvious the Pathfinder and the Hardbody pickup were on the drawing board at the same time.

Consumers Guide regarding the Toyota:

> The 4-runner rides and handles like a truck, which is not surprising since it's based on Toyota's 4 by 4 pickup, using the same chassis and powertrains.

So let us do away with all of the hyperbole and all the epithets and all the slogans that come into trade discussions and look at the facts.

Oh, then we will hear some other slogans, that the consumer will be hurt; but when the tariff was set at 2½ percent instead of 25 percent, those items from overseas that were the beneficiaries, their prices just went up. And Big Three prices on these vans have been holding firmly compared to the prices set by foreign vehicles.

No, there is no reason here to oppose this action. We gave away part of the store without getting anything.

Mr. Brady himself said, and I close by quoting:

> There was enormous pressure from our partners overseas to do this.

Mr. Speaker, it is about time that we looked at internationalization of trade, which I support in terms of American interests, which we should also support.

This bill makes good sense. Let us support the rule, oppose the motion to recommit, and pass this legislation.

Mr. MCEWEN. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WELDON].

□ 1120

Mr. WELDON. Mr. Speaker, I rise in strong opposition to this rule, and I will ask for a recorded vote on this rule. We talk a good game in this body, Mr. Speaker. We are talking about fairness for the consumer, we talk about encouraging the domestic automobile manufacturing industry. But when the gentleman from Maryland [Mr. MFUME] and I went before the Committee on Rules and offered what in fact was a very commonsense amendment, not a protectionist amendment, which would allow the consumers to be better informed about the vehicles they are purchasing, what did our distinguished majority and what did the majority members on the Committee on Rules decide? Mr. Speaker, by a 5-to-4 vote they said our amendment could not be offered.

Mr. Speaker, what is that amendment? It deals with where automobiles are manufactured. Why? Because the automobile manufacturers have been running emotional advertising campaigns for the last 3 years encouraging us as Americans to buy American vehicles, go out and buy a Ford, buy the Plymouth Voyager, the Mercury Tracer, the Dodge Stealth, buy a Mercury Capri or a Chevrolet Lumina or a Pontiac LeMans. They play to our emotion.

We go out as citizens to encourage jobs in this country, and we buy those vehicles. Then we see a Honda Accord, and we say we do not want to buy that because that is foreign. Well, let us look and see which cars in fact are made in the United States, Mr. Speaker, and which of these cars is able in fact to be attributed to our economy.

In fact, the only one is the Honda Accord. The Pontiac is from Korea, the Chevrolet Lumina is from Canada, the Mercury Capri from Australia, the Dodge Stealth from Japan, the Mercury Tracer from Mexico, and the Plymouth Voyager from Canada.

Now, I am not here to say that we want to be protectionist. But I am saying, when the car manufacturers play upon the emotions of the American people and say "buy America," is it not fair that the American people know where the car in fact is made and where the majority of the parts are from? We in fact argued that case before the Committee on Rules. The Rules Committee and the majority said, "We want to be fair to our consumers, we want to encourage our industry." What did they say to us? They said "no" by a 5-to-4 vote, "You can't offer this amendment. We don't want the American people to be able to know where the car is manufactured."

The amendment that would have been offered by my distinguished colleague, the gentleman from Maryland [Mr. MFUME], and I would have been very simple. It would have said that any car manufacturer would have had to do two things: On a public display on that vehicle, list the location of the final assembly of that vehicle and the percentage of the total value of that vehicle that is attributable to the American economy.

What is so wrong with that? Does that somehow cause the auto manufacturers to spend tons of money? I think not.

Why then were we not able to offer this amendment? It is proconsumer, pro-U.S. manufacturing, pro-U.S. jobs, prolabor. The UAW is able to see their workers building Honda Accords here in America. Yet we were denied that ability to offer this amendment.

This is the unfairness that is being brought before this body today, and I am going to ask every Member to oppose this rule because we were not given the right to allow this amendment, to in effect allow the American people to know where these cars are being manufactured, when the same manufacturers are running ad campaigns saying "buy American, buy our cars," putting American flags on these vehicles.

It is the right thing to do. What has been done to Mr. MFUME and to me and all those Members who agree with us is a travesty of justice. I would hope all of our colleagues would join me in opposing this rule.

Mr. Speaker, I submit for the RECORD an article entitled "Fleet Follies—Foreign or Domestic? Car Firms Play Games With the Categories," from the Wall Street Journal of November 11, 1991.

FLEET FOLLIES—FOREIGN OR DOMESTIC? CAR FIRMS PLAY GAMES WITH THE CATEGORIES

DETROIT.—Ford Crown Victoria, Nissan Sentra and Honda Civic. Can you name the domestic model?

Those who picked the Ford, go to the back of the class.

The correct answer: They are all imports. But they also are all domestic models. It just depends on which U.S. government agency does the classifying.

Confused? This is just the beginning.

Consider the Toyota Corolla and Chevrolet Geo Prizm. These cars are virtually indistinguishable, even at close range. They're built on the same assembly line in Fremont, Calif. But to get maximum advantage under U.S. fuel economy laws, General Motors Corp. calls its Prizm a domestic model, while Toyota calls the Corolla an import. When it comes to the "voluntary" limit on imported Toyotas, however, the California Corollas suddenly become all-American. As "domestic" cars, they don't count against Toyota's quota.

If this all sounds absurd, that's because it is.

OUT OF DATE

U.S. laws governing automotive trade and fuel economy are the regulatory equivalent of a Model T. Washington bases key elements of the laws designed to promote fuel-efficient cars, protect American jobs and boost sales of U.S.-made vehicles on distinctions between "domestic" and "foreign" models.

But these distinctions are fast becoming anachronistic as auto makers spread their operations around the globe. Regulators simply can't keep up with the pace of change. U.S. and Japanese trade negotiators recently called a time-out in their talks because they couldn't agree on a definition of what a "domestic" American car is for tariff purposes. "Nobody knows what anyone is talking about," despairs Commerce Secretary Robert Mosbacher.

Some pundits say the answer is to scrap the old apparatus. "What America should be worrying about is the value that Americans add to global products of whatever putative nationality," says Robert B. Reich, a professor at Harvard University's Kennedy School of Government. Squabbling over the nationality of products, he says, is "an exercise not unlike medieval scholastics, where people worried about how many angels could fit on the head of a pin."

PART MEXICAN

But auto executives have their own solution: "gaming," or manipulating the government's outdated rules for maximum profit. And as auto makers weave around the wheezing regulatory machinery, government policies for the environment, energy, federal deficit and American workers are subverted.

For example, some 400 U.S. workers lost their jobs when Ford Motor Co. switched to foreign suppliers for a dozen or more parts for its big, V-8-powered Crown Victoria. But now that the car's seats, fuel tanks and windshield glass are being made in Mexico, Ford can call the Crown Victoria an "import." That means the car's low fuel mileage will be averaged with that of the fuel-stingy Festiva, which Ford buys from Korean auto maker Kia Motors Corp. Ford also forestalls paying penalties for falling short of the U.S. "domestic," car fuel economy standard of 27.5 miles per gallon.

Ford officials say moving the Crown Victoria into the import fleet allows the company to keep selling it, and thus avoid even more job losses. "We're being permitted to take advantage of uncoordinated rules," says Susan Shackson, Ford director of government policy.

DUCKING IMPORT TAXES

Such bureaucratic gymnastics can yield huge savings for car companies and consumers. Playing regulators against each other has helped auto makers offer the large, less fuel efficient cars many Americans like—while ducking federal financial penalties imposed on car fleets that exceed mileage standards. Deft maneuverings also have enabled auto companies to duck import taxes on Japanese-built utility vehicles and Canadian cars.

Such regulatory ruses have far-reaching effects. The flow of vehicles and parts across the U.S. border has turned into a flood nearly tripling in the last decade to $125 billion in 1990.

What's more, billions of dollars in auto industry investment turn on how government regulators see the world.

Consider the congressional debate on whether to force the auto industry to raise sharply the fuel efficiency of its cars.

In the aftermath of the Gulf War, Congress has weighed a number of proposals to wean the U.S. economy off imported oil. One plan would require auto makers to redesign cars to lift their average fuel efficiency by nearly 25% to 34 miles a gallon in 2001 from the current standard of 27.5. Another would raise the standard to 40 miles a gallon.

The original Corporate Average Fuel Economy law, known as CAFE (pronounced like the French word for coffee), was enacted between oil shocks in 1975. It called for auto makers to raise the average mileage of their cars to 18 miles a gallon by 1978, and to 27.5 by 1985.

Fearing huge job losses if U.S. auto makers tried to meet the goals by importing high-mileage small cars from Japan, the powerful United Auto Workers union pressured Congress to forbid companies to average the fuel economies of their imported cars with their domestically produced vehicles. Thus was born the "dual fleet" system, which allows manufacturers to classify as domestic produced only the cars that have at least 75% of so-called domestic content.

But instead of preserving U.S. jobs, the dual fleet system is encouraging the Big Three to move jobs connected to big-car production offshore. Japanese auto makers, meanwhile, say they're discouraged from employing more Americans and buying more American parts.

Consider Nissan Motor Corp.'s Sentra subcompact. Nissan says the vehicle has domestic content of nearly 75%—a level that would make it a domestic model. Last week the auto maker said it will raise the amount it spends on parts made by U.S. suppliers by 40% to $3.3 billion. But that doesn't mean the Sentra will soon become a "domestic" car. That's because Nissan needs the Sentra, which gets up to 39 miles a gallon, in its foreign fleet to offset its lower mileage Infiniti Q45.

"To make the Sentra a domestic vehicle would be akin to shooting ourselves in the foot," says Timothy MacCarthy, Nissan's director of government affairs. That means it's unlikely Nissan will bring more Sentra jobs to the U.S., he says, "It would be foolish for us to do any more."

Nissan's not alone. Seven Japanese companies built some 1.3 million cars and trucks in the U.S. last year. Every one of them was considered an import for CAFE purposes, and every one was considered domestic for the purposes of the import restraints.

Meanwhile, the purpose for which CAFE was created—to get auto makers to build more fuel-efficient vehicles—is being defeated. The combined fuel economy for cars, vans and light trucks sold in the U.S. is lower now than just three years ago, and the nation uses as much foreign oil now as it did in 1975.

"The things happening now were not imagined by the people who wrote the CAFE law," says Donald Bischoff, a National Highway Traffic administration official.

CAFE rules often work at cross-purposes with trade policy. Under the U.S.-Canada Free Trade agreement, for example, cars must be at least 50% U.S. content to avoid paying duties at the Canadian border.

But what qualifies as "domestic content" under the fuel economy rules, administered by the Transportation Department, may not qualify as domestic under the trade agreement, which is enforced by the Customs Service.

The Transportation Department says marketing expenses can be included as domestic content for fuel-ecomony purposes. Customs excludes such costs, defining domestic content mainly by the origin of a car's parts.

Confusion over the conflicting definitions recently caused the Treasury Department to delay a decision on whether Honda quotas on Japanese cars. When French officials tried to exclude the Ohio-made Hondas a Japanese, U.S. government officials intervened.

"We stated to the world, to anyone who would listen, that they are North American cars," says Timothy O'Leary, a spokesman for the U.S. Trade Representative's office. Asked if the Trade Representative had stated the same to the U.S. Department of Transportation, which considers Ohio-made Hondas foreign cars, an official says the Transportation Department's system has nothing to do with trade classifications.

In fact, automotive trade laws have loopholes so big some auto makers are able to drive thousands of trucks through them.

In an effort to protect domestic truck makers, the U.S. levies a 25% tariff on imported light trucks. But some Jeep-like "sport utility vehicles," those with four doors, pay the lower, 2.5% tariff for cars even though they're marketed as trucks. Toyota, for example, pays a 2.5% duty on four-door versions of its 4-Runner off-road vehicle, which it sells as a truck.

Big Three officials complain that foreign truck makers are costing the U.S. Treasury $300 million a year by calling their four-door sport vehicles cars. Detroit lost a fight in 1989 to have these vehicles reclassified. Apparently undaunted, the Big Three are continuing their battle to get the laws changed to a more favorable position for them. Democratic Rep. Dale Kildee, whose Flint, Mich., district has a high concentration of GM employees, is pushing a bill that would force auto makers that classify vehicles as trucks for one purpose to classify them as trucks for all other regulatory purposes.

But as Mr. Kildee's bill languishes under congressional skirmishing, the prize for the most creative use of the conflicting rules probably goes to Britain's Rover Group Ltd., maker of the Range Rover sport-utility vehicle.

The British-made Range Rover lists for more than $40,000. But buyers don't pay the 10% luxury tax on the amount above $30,000. That's because Rover officials got the Internal Revenue Service to put their product in the same class of "multi-purpose vehicles" as a Winnebago camper, exempt from the luxury tax.

For fuel-economy purposes, the Range Rover is a truck. Buyers must pay a $120-per-vehicle gas-guzzler penalty, but they would pay even more if the Transportation Department called the Range Rover a car.

So does the Range Rover pay the Customs Service that 25% tariff levied on imported trucks? No. It has four doors, and thus Customs calls it a car:

> Range Rover spokesman William Baker says the company isn't being devious. "In our case," he says, "the vehicle doesn't fit neatly into one category or the other."

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, in substance, I have to agree with the gentleman from Pennsylvania who just spoke, and the distinguished young gentleman from Maryland [Mr. MFUME], an outstanding young Member. I have been advancing those types of initiatives for some time. But I will not fault the Committee on Rules for the trade dilemma, for the economic dilemma this Nation faces.

No Democrat has been more questioning nor confrontational of both parties, including my own, and in fact questioned the chairman of our Committee on Ways and Means out of frustration.

But let me say this: The truth is this is not an issue for the Committee on Rules or the Committee on Ways and Means. They have been doing their job. Our administration is not enforcing the law and making the rulings that are not in favor of the American people.

I want to say this today to the Members: There is nothing wrong with winning. We represent the home team. One of the reasons all of these vehicles are made all over the world is because Congress has allowed low-wage unregulated economies to steal our manufacturing jobs. This is but the microcosm of the problem, and we are not dealing with it.

We have an administration for 12 years that has given away the damn farm. We have had all the idealists, all the think-tank people in the world advising us, promulgating our trade policy. The reason America is unemployed, America has no health insurance, America is going bankrupt, is because we buy more than we sell and we have had an administration that has been the best President the world has ever had, while the American worker has to take their family to an unemployment line to see Mickey Mouse.

Mr. Speaker, Disney World just laid off 400 people, folks. Yes, there are not many cars made in America. There should be a labeling bill. I pushed it for years.

But let me tall you what: Why would anybody build anything in America with 80,000 OSHA laws and an EPA administrator hanging on their necks, Workman's Comp, unemployment comp, regulation after regulation? Why not go to Mexico? Why not go to China?

Mr. Speaker, I am glad to see, and am proud of what the Committee on Ways and Means has done; Chairman KILDEE, Mr. LEVIN, Chairman ROSTENKOWSKI; they have done their job. If our administration would enforce the law, we would not need to be here today passing this law.

Let me say this to the Members: The Constitution is clear, Congress drafts the law. One other thing the Constitution says: Congress should monitor and provide oversight to see that those laws are carried out. They are not being carried out, they are not being enforced, and we have an administration turning their back and letting foreign interests push our regulatory process around.

Most Members yet are still not paying much heed to that message. What bothers me, we have an administration that has made the cornerstone of their next candidacy a free-trade agreement with Mexico.

Beam me up, so help me, God.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DREIER], a distinguished Member.

Mr. DREIER of California. Mr. Speaker, here we go again with the standard battle that we have seen over the question of whether we are going to try to reduce barriers to encourage trade throughout the world, or establish barriers which prevent the American consumer from being able to buy the best-quality product at the lowest possible price.

Mr. Speaker, I wonder how many people in this House, especially people from Michigan, are aware of the fact that Chrysler Motors is making plans to build Jeep Cherokees, a multipurpose vehicle, with the steering wheel on the right-hand side. These plans are being made for one particular reason: so that this multipurpose vehicle can be exported to Japan.

I wonder how many of my colleagues realize that the tariff for this multipurpose vehicle is zero.

Now, it is very clear that H.R. 4318 is a violation of the General Agreement on Tariffs and Trade and our commitment to that process.

Unfortunately, we have gotten to a point where Members are going to have to argue now that Chrysler Motors should pay a 25-percent tariff on their Jeep Cherokees which are going to be exported to Japan. It seems to me that is a major mistake. None of us wants to create a tax on the American consumer, or see American workers lose their jobs as a result of retaliation.

So let's oppose this closed rule and oppose this bill. It is a very major mistake for us to impose a $1.8 billion tax on the American consumer, which is what this is.

It is blatantly unfair. It creates a situation which will only increase the cost of domestic vehicles, and with this kind of tax imposed, how will these companies be able to sell any of their cars? They will not be able to because the American consumer will not be able to afford them.

Mr. Speaker, the Treasury Department's decision to classify multipurpose vehicles as passenger cars rather than light trucks was based on solid technical information. It accurately reflects the design and use of these popular family vehicles. I would like to submit for the RECORD a chronology on how Treasury arrived at this decision, which was made without pressure from either domestic or foreign sources.

TREASURY REVIEW OF CLASSIFICATION OF SPORT UTILITY VEHICLES AND VANS

On January 4, 1989, concurrent with the change-over to the Harmonized Tariff System (1/1/89) Customs ruled that sport utility vehicles and small vans would be classified as light trucks.

Customs announced the decision in a press announcement, without any prior consultation with Treasury.

Customs decision was a reversal of a decade of Customs practice, affecting trade worth approximately one billion dollars.

Treasury, without prompting from any outside sources, foreign or domestic, private or government, began an immediate review of the ruling.

The Customs ruling lacked technical foundation.

In 1988 (the year immediately prior to the Customs ruling) approximately 44 percent of the vehicles in question were classified at the 25% rate; the Customs decision classified all at the 25% rate.

The investigation mentioned in the von Raab letter had been based on the TSUS, did not apply to classification under the Harmonized System, and was consequently discontinued by Commissioner von Raab in November 1988.

The initial Treasury review of the Customs ruling was conducted internally within Treasury, without consultation within other agencies or outside the government.

After approximately 2 weeks of review, Treasury beginning on January 16, 1989, discussed the issue with importers, domestic manufacturers, and automobile dealers.

There had been no foreign government contacts at that point, representatives of Japan, Germany, and the European Community later presented their views to various Treasury officials.

Treasury's final determination was made in early February 1989 and was publicly announced on February 16, 1989.

Treasury determination, based on 1988 imports of sport utility vehicles and light trucks, would result in 62% of the vehicles classified at the 25% rate, increasing the percentage of vehicles to which the higher rate applies.

It seems to me, Mr. Speaker, that if we want to address the problem of unfair trading practices by the Japanese, the best way to do that is through fair and free trade.

Just 2 weeks ago, I argued unsuccessfully to make in order an amendment to the Trade Protection Act, H.R. 5100, to require the President to begin consultations with the Government of Japan on negotiations for a United States-Japan free-trade agreement. I still submit that a free-trade agreement is the best tool for eliminating barriers and expanding trade.

□ 1130

It seems to me, Mr. Speaker, that we have no choice other than to oppose this rule and oppose this bill, and I urge defeat of both.

Mr. McEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman from Ohio [Mr. McEWEN] for yielding this time to me, and I say to the gentleman from Ohio, who is presiding over the debate, that I do not think I could come up with the name of another Member of this body who has worked harder to keep jobs in this country than the distinguished gentleman, Mr. TRAFICANT, who spoke earlier.

I have to, however, rise in opposition to this rule, not because I am opposed to the Tariff Act, but because I am opposed, rather, to a process that disallowed something that I thought was very important. I rise in opposition to this rule because 2 days ago our colleague, the gentleman from Pennsylvania [Mr. WELDON] and myself asked the Committee on Rules to make in order an amendment for floor consideration in this bill. The amendment that we proposed is a bipartisan effort to assist U.S. consumers in helping to determine something very simple, and that is which automobiles are made in the United States and which ones are made overseas.

Too often, Mr. Speaker, American consumers are not provided adequate information about the country of origin of their automobile or even of the automobile parts. Japanese and other automakers assemble cars in the United States and then import most of the parts back in. And so it becomes clear then that this is not fair to our automobile industry. It is not fair to people either who want to be able to make reasoned and logical decisions.

The Japanese and others are very closed regarding many of their import restrictions and are proud to buy products that are made within their homeland. On the other hand, many Americans are now decidedly choosing to support the concept of buy American in order to help try to keep jobs in this country. However when American consumers are not provided a clear definitional standard of what constitutes a foreign car versus a domestic car, we then undermine our own efforts to have a strong domestic automobile industry.

So, Mr. Speaker, the Weldon-Mfume amendment would have required all domestic and foreign automakers to do one thing: display in a prominent place on all automobiles a label indicating the location of the final production of the sale, indicating the percentage of the parts that were produced in the United States, and then requiring the Secretary of Transportation to issue final regulations within 180 days of the enactment of the legislation. In February the gentleman from Pennsylvania [Mr. WELDON] and I both introduced separate bills to achieve this end. The amendment was then offered before the Committee on Rules just yesterday, and we believe it was a creative, bipartisan effort to do that.

We believe also, Mr. Speaker, that there is a growing sense in this country that we are just not fighting hard enough to keep American jobs here and that foreign automakers can come here, slap on a buy American label, put it on the product and then sell the product in a deceptive way that undermines our efforts. We believe we have to fight harder, and fighting harder is having an informed consumer public.

Mr. Speaker, we do not believe that the amendment was revolutionary. We believe that the amendment would have been right because it would allow the people the opportunity then to make a choice rather than to be stymied and led around in a deceptive fashion by many automobile makers who say they are made in America when in fact we know most of the parts are being imported from somewhere else.

So, I would urge Members to take into consideration our statements on this particular rule, that they would vote against it and that they would understand that I have come here to speak against it because I believe strongly in the need to provide consumers in this country with a very basic right to know regarding automobiles and automobile parts.

Mr. McEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HUNTER].

The SPEAKER pro tempore (Mr. TRAFICANT). The gentleman from California [Mr. HUNTER] is recognized for 3 minutes.

Mr. HUNTER. Mr. Speaker, I thank the gentleman from Ohio [Mr. McEWEN], and I appreciate the additional minute from the gentleman from Michigan [Mr. BONIOR].

Let me just say to my colleagues that this is a question of American interests, and I want to go directly to the primary issue in this particular legislation, which is classification of the multipurpose vehicle and the thousands of American jobs that are hanging in the balance on the decision of this question, and what I want to ask my colleagues to do on the Republican side and the Democrat side is to follow the rule of law, the law that we set in place that gives the higher tariffs on trucks, on vehicles that are classified as trucks, and the lower tariffs on those that are classified as cars. So, let us follow the rule of law.

Second, let us use our common sense, and let us follow the common sense that was put forward when the Assistant Secretary for Enforcement and Operations Commissioner of Customs went to Japan, went to the assembly line, saw these multipurpose vehicles coming off the truck assembly line, wrote back to Customs and said, in fact, the Japanese attempted to keep us from seeing this assembly line. They had 15 reasons why they would not let us in to look at the assembly line. When we got in to look at the assembly line, he said this, and I quote:

> It is clear that the Forerunner is a truck, built in a truck factory, built on a truck chassis, built on a truck assembly line. It is hoped that this argument is not too simple in contrast to the complex and novel argument contrived by foreign manufacturers' representatives based on meeting notes, purposely deceptive information, and their own vivid imaginations. A brief visit provides striking and shocking confirmation of Customs' ruling.

So, let us follow the rule of law. Let us follow the interpretation made by a Republican administration. And let us follow the traditional Republican position on trade of supporting American manufacturing.

And who is going to build these multipurpose vehicles if in fact this tariff goes on? Well, my friend, Americans are going to build these vehicles. The 2,000 men and women a week who are getting out of the military with he drawdown at the close of the cold war, these people are going to build vehicles. They are going to be quality vehicles, just like the ones they build now. It will accrue to the benefit of the American consumer and to the American working people.

Mr. McEWEN. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. McEWEN] is recognized for 1 minute.

Mr. McEWEN. Mr. Speaker, we have had much debate about the bill, and now we are going to vote on the rule. The rule says this:

> Under no circumstances can any Member of the Congress make any amendments to this legislation during the course of consideration of this bill, and we believe that that is unnecessary.

My colleagues have heard the gentleman from Maryland and the gentleman from Pennsylvania suggest that, while we are considering this tariff legislation, perhaps we should be allowed to put a sticker on that says where the cars are made and how much domestic content they have. That is the thing we would like to have permission to do, but under the rule we are prevented from doing that.

The merits of the legislation will be debated shortly. The rule, however, is a closed rule that does not permit any amendments, and, therefore, in my judgment is unnecessarily restrictive, and I oppose the rule.

Mr. BONIOR. Mr. Speaker, I want to congratulate the gentleman from California [Mr. HUNTER] for an outstanding statement, and I yield the balance of my time to our colleague, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of the rule. I think, when we deal with tax and tariff issues, very frequently we face some very narrow options, and appropriately, to bring that to conclusion without being frustrated by an endless stream of amendments which result in dilatory tactics which frustrate the majority of House membership, it is important that we try to organize and schedule the deliberate consideration of issues in the House so we can get our work done.

☐ 1140

The merits of the truck/auto classification issue, I think, are clear. The law, agreements and the treaties that the United States has entered into provide for a differential tariff on trucks versus autos. I do not think there is any question, based on the hearing record and the testimony and the statements of Members, that the vehicles in question are trucks. What is at hand here is simply exploitation of treaties that the United States and other trading partners have entered into in good faith.

The question is, when we have treaties, are we going to stand up and hold up the provisions and fight for the implementation of such treaties in a fair and evenhanded manner, or are we going to let other nations that have products and have more moves and dodges of circumventing such agreement than a professional halfback on a Sunday afternoon who simply moves down the field ducking and faking their moves with compliance. In this case our trading partners are out of bounds and the U.S. Bush administration referees are looking the other way.

I think it has been demonstrated that too often these special interests and the foreign interests on such field of play have exploited the U.S. trade rules or lax enforcement at the expense of the American workers and at the expense of the American people. I say, "Don't do me any favors in terms of competition and raising the flag of competition and free enterprise." These people raise this flag when it suits their purpose to exploit the American people and to cause jobs and profits to be shifted out of our Nation not necessarily in terms of getting products at a fair price. They are for free enterprise and risk when it suits their purpose at the expense of workers in our Nation.

The fact of the matter is that in this U.S. mixed economy the National Government has to play a strong role in terms of issues with regard to trade. To uphold the laws of the land and the treaties, the agreements, that is all that is being expressed in this legislative initiative, fair play for American workers and fair trade. We want the law and rules to be fairly enforced, and this measure that the House is acting on today will give us the opportunity to do that, and Members can stand up for American workers rather than for some ephemeral theory of trade and competition that has never existed in the real world.

The law and rules are clear, the facts are clear in support of this measure, under these circumstances it is not surprising that most of the opposition to this legislation seek to change the topic, converting their opposition to this as a noble defense of the American consumer. This transparent rationalization mocks the oft-stated support of fair trade and speaks to a policy of convenience.

Mr. Speaker, our policies on trade must be sound and once established orderly and predictable, not shaped by the constant pressure of special and foreign interests at the expense of workers and our Nation's industrial base.

The SPEAKER pro tempore (Mr. TRAFICANT). All time for debate has expired.

Mr. BONIOR. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WELDON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 243, nays 150, not voting 41, as follows:

[Roll No. 355]

YEAS—243

Abercrombie
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Camp
Cardin
Carper
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gilman
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hughes
Hunter
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Spratt
Staggers
Stallings
Stenholm
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NAYS—150

Allard
Allen
Anderson
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dixon
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gibbons
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Hubbard
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Machtley
Marlenee
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Nichols
Nussle
Oxley
Packard
Paxon
Penny
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Rhodes
Ridge
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon

Spence
Stark
Stearns
Stump
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—41

Ackerman
Atkins
Bacchus
Boxer
Broomfield
Bruce
Byron
Campbell (CO)
Chapman
Collins (MI)
Conyers
Davis
Donnelly
Dwyer
Early
Eckart
Edwards (OK)
Ford (TN)
Gaydos
Hatcher
Huckaby
Hyde
Lehman (FL)
Levine (CA)
Lowery (CA)
Martin
Mavroules
McCrery
Morrison
Mrazek
Myers
Oakar
Owens (UT)
Pelosi
Savage
Scheuer
Solarz
Stokes
Towns
Traxler
Yatron

☐ 1204

Mr. LENT changed his vote from "yea" to "nay."

Mr. WILSON and Mr. SKAGGS changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WITHDRAWAL OF REMARKS OF MEMBER BY UNANIMOUS CONSENT

Mr. WALKER. Mr. Speaker, I ask unanimous consent to proceed out of order for 1 minute.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Speaker, I have had an opportunity to discuss the matters I put before the House this morning in my 1-minute speech. I understand the rules will be complied with and notification will be provided to the House later today in accordance with the procedures and precedents.

Therefore, Mr. Speaker, I ask unanimous consent to withdraw my earlier remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. ROSTENKOWSKI. I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill, H.R. 4318.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Illinois?

There was no objection.

MISCELLANEOUS TARIFF ACT OF 1982

The SPEAKER pro tempore. Pursuant to House Resolution 532 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4318.

☐ 1205

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4318) to make certain miscellaneous and technical amendments to the Harmonized Tariff Schedule of the United States, and for other purposes, with Mr. VALENTINE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4318, the Miscellaneous Tariff Act of 1992, which contains numerous miscellaneous tariff provisions covering a wide variety of customs and tariff issues. This bill contains close to 400 provisions, including numerous temporary duty reductions and suspensions, changes in tariff classifications, and modifications of customs-related provisions of the Harmonized Tariff Schedule of the United States.

Tariffs on goods imported into the United States have traditionally served to protect domestic industries from international competition. Tariffs have provided leverage to American companies competing against foreign companies with lower production or labor costs.

Mr. Chairman, the duty suspensions contained in H.R. 4318 eliminate or reduce the tariffs on a wide range of products for specified periods of time. In most cases, there is no U.S. production of these products. So, instead of protecting domestic interests, the existing tariffs only raise the cost of the final end item to American companies and consumers. These temporary suspensions are very meritorious and many of them have been in existence for a number of years. Their implementation has served to enhance the competitiveness of U.S. industries without harming American interests.

To finance the bill, H.R. 4318 contains a provision which would reclassify certain imported minivans, multipurpose or sport-utility vehicles as trucks. This provision would have the effect of increasing the tariff on such vehicles from 2.5 percent ad valorem to 25 percent. I want to point out to my colleagues that I opposed this provision when it was considered in the Committee on Ways and Means. However, I must point out that while controversial, this provision constitutes the sole revenue source for offsetting the revenue loss associated with the 394 miscellaneous tariff provisions and duty suspensions contained in H.R. 4318. Even with this provision in the bill, it became necessary to stagger the effective dates of many of the bill's provisions in order to comply with budgetary pay-go requirements.

Although some Members have expressed opposition to this reclassification provision, no credible alternative has been proposed for funding the bill. Mr. Chairman, we have to make a choice. Without the provision relating to the classification of MPV's and minivans, the bill would lose significant revenue and would not comply with the pay-go requirements of the Budget Act. Thus, inclusion of this provision in the bill is essential to proper funding of the bill and to allow the other 394 meritorious provisions to move forward.

Mr. Chairman, I urge my colleagues' support for H.R. 4318.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we hear a lot in this body about insisting on fair trade with Japan and our other trading partners. I rise in strong opposition to H.R. 4318 because it violates the rules of fair play in international trade. This bill targets exports of one country with an exorbitant tariff increase on products which are very popular with American families and with the disabled in this country.

The U.S. tariff on trucks is unusually high as a result of trade retaliation put in place in the 1960's. This relic, the so-called chicken war tariff, was a punitive response to unfair trade barriers faced by U.S. poultry producers in the European market. As a result of the tariff reclassification proposed in this bill, imports of multipurpose vehicles [MPV's] and minivans would be subjected to a 25-percent tariff, which is 1,000 percent greater than the current rate of 2.5 percent. This is simply a tax of $3,000 per vehicle on American consumers, and particularly hurts the disabled who depend on these vehicles.

The increase in the truck tariff dooms the rest of the bill, which includes over 240 meritorious duty suspension bills designed to make companies across the country more competitive. I urge my colleagues to support a motion to recommit so the committee will be directed to find a funding mechanism that is GATT legal and treats all U.S. workers and families fairly. This is the only way to ensure enactment of the other tariff provisions.

Some have said that tariff classifications should conform to fuel economy and safety regulations. That is the argument that proponents of this bill make over and over. But definitions of products for purposes of international trade cannot be rewritten based on internal domestic regulations of individuals countries.

The harmonized system of tariff classifications is an internationally negotiated schedule of product descriptions. It cannot be changed every time we amend the Clean Air Act, adjust CAFE standards, or change an agricultural health standard. The truth is that all auto producing countries classify MPV's as passenger vehicles for tariff purposes.

The National Highway Traffic Safety Administration's [NHTSA] criteria have been moving toward treating MPV's more like cars for purposes of ensuring safety.

Obviously, one alternative—if consistency is imperative—is to reclassify these vehicles as passenger cars for CAFE and safety purposes.

Furthermore, the provisions in H.R. 4318 adding multipurpose vehicles to this high tariff category contains an exemption for European producers. The high duty would only apply to Japan. This is the first country-specific tariff the Congress has ever considered.

Of course, enactment of such discriminatory tariff would be blatantly GATT illegal.

If we can do it because the Japanese have a trade surplus with us, then why shouldn't the Europeans do it to our products because we have a surplus with the Europeans? Obviously, the end of that road is international commercial trade destruction.

We would cry foul if our own competitive exports were subject to tailored tariff increases aimed solely at the United States. We are clearly obligated under international rules to apply tariffs in a nondiscriminatory manner and to maintain bound rates in a consistent and transparent manner. Indeed, Chrysler is poised to sell right-hand drive Jeep Cherokees to Japan. Will a 25 percent duty be appropriate for United States Jeeps? Because whether classified as trucks or cars they are admitted tariff free into Japan today.

Mr. Chairman, the minority intends to offer a motion to recommit H.R. 4318 which directs the Ways and Means Committee to strike the minivan reclassification provision and find an alternative funding mechanism. this is the only way we can ensure enactment of the noncontroversial miscellaneous tariff bills that have been pending so long. The future of these bills depends on defeating the truck tariff reclassification.

Mr. Chairman, I submit for the RECORD, and I do not want to read all of them, a list of organizations, including many representing the disabled, who strongly oppose this bill.

AD HOC COALITION AGAINST THE PASSENGER VEHICLE RECLASSIFICATION BILL

The organizations listed below are representative of groups across the country who oppose H.R. 4318—the import multipurpose passenger vehicle reclassification bill:

Citizens for a Sound Economy.
American Cancer Society, Cumberland County, New Jersey Chapter.
Arthritis Foundation, North Carolina State Chapter.
Multiple Sclerosis Support Group, Spartanburg, South Carolina.
Fairport Central School Parent-Teacher Association, Fairport, New York.
Girl Scout Council of Coastal North Carolina.
Central Illinois Center for Independent Living.
Peoria District 150 Parent-Teacher Association, Peoria, Illinois.
Helen Keller National Center for Deaf-Blind Youths and Adults Southeastern Region, Atlanta, Georgia.
Kansas Children's Service League.
Wichita Council of Camp Fire.
Chicago Association for the Education of Young Children.
Progress Center for Independent Living, Oak Park, Illinois.
Goodwill Industries of Chicago and Cook County.
Oklahoma City Public School Foundation.
Utah Association for Retarded Citizens.
Candlelighters of the El Paso Area (Children's Cancer Support Group).

The right vote is to vote for the motion to recommit, and failing that, to vote no on final passage of H.R. 4318.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, this bill ought to be characterized as the "you can't have it both ways" bill. During the 1980's Customs gave suppliers from overseas a choice of categorizing vehicles as cars or trucks. The Japanese categorized them as cars until they reached the ceiling under their voluntary restraint agreements. Then they said, "Wait a minute, yesterday it was a car, today it is a truck," and they brought them under truck and paid the highest tariffs.

From the 1980's through now multipurpose vehicles are trucks for emissions purposes, mileage purposes, gas guzzler tax, and even for tariffs for two-door vehicles. Only the four-door vehicles get an exception.

The point has been made that this bill is GATT illegal. I dispute that. It is not GATT illegal. It is not an increase in tariffs, it is reclassification, a reclassification back to where the Customs Service in 1969 said these vehicles ought to be. They ought to be classified under a harmonized system of tariffs as trucks.

Only then did it occur that the Treasury Department overruled that Customs Service determination in what Commissioner von Rabb later said was a blatant political decision, caving in to foreign lobbyists.

Let us not hesitate to correct a mistake, a political mistake that was made by the Treasury 4 years ago. Let us return these vehicles to the classification where the Customs Service originally said they should be.

Mr. Chairman, I yield back the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I just want to say that I have great, great respect for the gentleman from Texas [Mr. ARCHER]. We agree 99 percent of the time. He is truly a fine and solid Republican. However, on this issue he is wrong.

With respect to trucks, I think it is very important for all of us to focus on the visit that was made by the Assistant Secretary for Enforcement for the Commissioner of Customs in 1989 to Japan, in which he attempted to get into the Japanese trucklines and see if in fact this vehicle was a truck or a car. He said:

> While we were cordially welcomed by Toyota, it was very clear they did not want us to visit the Fourrunner pickup truck plant. Every effort was made to discourage us.

He goes on further and says this:

> After having finally gotten into the plant, it is clear that the Fourrunner is a truck, built in a truck factory, built on a truck chassis. It is hoped this argument is not too simple, in contrast to the complex and novel argument contrived by foreign manufacturers, based on meeting notes, purposely deceptive information, and their own vivid imaginations.

□ 1220

My colleagues, let us simply follow the rule of law here. Let us follow the regulatory procedure that was laid down. Let us follow the judgment of the Republican administration's own representative who took the time to go to Japan and research this problem, and do not worry, we will have lots of great Americans making these vehicles, the American consumers will be well served, and American industry and jobs will be served.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, reluctantly I oppose this bill.

A few years ago I was making a speech on this floor in which I complained about someone's use of facts, and I was told right after that, "Don't you know every Member of Congress has the right to invent its own facts?"

I have listened to the debate on the rule, and I want to say that that rule is being liberally followed here today. I think Members ought to all direct their attention to the fact that what we are doing is amending the harmonized tariff system. Now what does harmonized mean? It means harmonized on a worldwide basis. We enter into agreements, and our agreement with everybody else is to call these vehicles passenger cars.

What we are doing here is changing unilaterally our international agreement to carry these things as passenger cars.

Frankly, I have had a little something to do with trade. If there are two people in the administration I never would ask a question about trade on, because I do not think they know anything about it, one is Von Rabb, and the other one is the Secretary of the Treasury. They frankly know very little about the subject. I would not accept their testimony as being factual on anything related to trade.

Mr. Chairman, this is a fantastic tax increase. This tax increase will raise better than half a billion dollars a year from American taxpayers, not from Japanese taxpayers, from American taxpayers. This tax increase will increase the price of every van by about $3,300 to $4,000 per vehicle.

Oh, you say, it will only apply to Japanese vans. Do Members think the American manufacturers will stand still if there is no Japanese competition out there at a lesser price than them? If they do, they have not followed the pricing of automobile vehicles in the American market.

Now how did we get into this ridiculous position? Because we tried to play cute in 1964. Lyndon Johnson, a good friend of mine, increased the price of the light vehicle tax on German Volkswagen vans in order to try to get the Germans to buy our chickens, and we started the so-called chicken war.

We have got the highest tax in the world on trucks. Nobody taxes trucks any higher than we do. And now we are trying to move a passenger vehicle over into a truck classification for reasons that I really do not understand.

There is no reason for this bill to contain this amendment that it does. I would ask Members to vote against the amendment, and I would ask Members to vote against the bill if it is not deleted.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE], a respected member of the Committee on Ways and Means.

Mr. CRANE. Mr. Chairman, H.R. 4318 is a compilation of over 240 miscellaneous tariff bills which cut costs for American companies and deserve to be enacted. Proponents of these small bills have been waiting patiently for more than 2 years. Unfortunately, they may have to wait considerably longer because H.R. 4318 can never become public law in its current form. The President is certain to veto it.

The millstone around the neck of this legislation is the enormous and unjustifiable tariff increase—1,000-percent increase—on imports of popular multipurpose family vehicles. H.R. 4318 would label these vehicles as trucks, designed primarily to haul cargo, thereby increasing the duty from 2.5 percent to 25 percent. We only need to look in our garages and on our roads and highways. Is the next Voyager, Previa, Explorer, or Pathfinder you see carrying kids or concrete?

The proponents of this bill would have you believe that this tariff reclassification merely corrects an inconsistency in Federal regulations. Their convenient claim is that emissions standards, fuel economy standards, safety standards, and tariffs should all define vehicles in the same manner. None do now for the simple reason that they each have different purposes.

Safety standards are applied on a per vehicle basis and divide vehicles into two categories—passenger cars and trucks. The safety standards for the two are converging rapidly. Emissions standards also apply per vehicle and are divided into passenger cars and several categories of trucks. The different emission standards for cars and trucks will likely never converge because the weight requirements needed to haul cargo are substantially different than that needed to carry passengers.

Fuel economy standards are calculated on fleet wide averages and are based on the weight of the car, the type of engine, and so forth—not whether a vehicle is a car or a truck. Again, standards that in general apply to trucks will never be the same as cars because of the weight and engine power requirements needed to haul cargo.

Now we come to tariffs. Tariff classifications are developed in order to accurately describe the article and its use.

They are developed in concert with our trading partners so that tariff classifications are harmonized and exporters and importers will be able to predict how their product will be treated no matter which country it enters.

No country, including our own, relates internal Federal standards—whether they be health and safety, agricultural, environmental or recordkeeping—to tariff classifications.

The truth is that almost every country in the world treats multipurpose family vehicles as passenger cars, not trucks, for tariff purposes. This makes sense and ensures predictability.

American producers currently enjoy about an 84 percent market share in multipurpose vehicles. Sales are booming, and as we learned this week, profits are way up.

Domestic producers are market leaders for these popular models and can compete anywhere in the world. Imports merely give consumers more choice and more price competition. There is no justification for a 25-percent duty, which will effectively block this choice.

If we enact this tariff reclassification, American families should anticipate sticker shock as prices are inflated by an estimated $5,000 per vehicle.

According to the Congressional Research Service, and a study done at the Brookings Institution, auto quotas of the eighties resulted in price increases of between $1,000 and $2,000 per vehicle, on both domestic and foreign models. The trade distorting effects of the reclassification proposal in this bill are much greater. There is no reason to believe that prices will not rise if competition is limited.

Also, since this provision is primarily a one-country tariff—against Japan—and raises a bound rate under the GATT, it is a blatant violation of United States international obligations. We cannot practice such economic racism and expect to maintain our leadership role in foreign policy and economic affairs. Our trading partners are sure to retaliate and this will hit profits and jobs in a wide range of firms, both in and out of the auto sector.

U.S. exports support at least 7.2 million jobs in the United States which must not be sacrificed to protect the profits of a few industrial giants.

Mr. Chairman, I urge my colleagues not to forget American workers and families who carefully budget in order to purchase their Voyager, Previa, Explorer, or Pathfinder.

Do not forget our exporters who have proved to be the driving force of our economy. Do not forget America's integrity in the international trade arena because we negotiate tough, compete hard, but keep our commitments and do not hide behind protectionism.

Mr. Chairman, I urge a "no" vote on H.R. 4318 and a "yes" vote on the motion to recommit with instructions. This motion will allow us to preserve our miscellaneous tariff bills by eliminating the tariff reclassification provision that will draw a veto.

□ 1230

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, reasonable people will, of course, disagree and when with the benefit of hindsight they discover a mistake, it is the responsibility of reasonable people to take corrective action.

A yes vote on H.R. 4318, this Miscellaneous Tariff Act, will correct a mistake made by the Treasury Department in 1989 when it overruled its own Customs Service and classified four-door multipurpose vehicles as passenger cars, rather than trucks.

H.R. 4318 correctly classified imports of these vehicles as trucks.

After a year long study of these issues, Customs determined that these vehicles were properly classified as trucks.

At the same time, as has been stated, the EPA and the Department of Transportation both classified these vehicles as trucks for emissions, fuel economy and safety standard purposes, and even the Treasury Department classified them as trucks for purposes of the gas guzzler tax.

Treasury's unilateral reversal of this Customs decision resulted in a reduction of the import duty from 25 percent to 2½ percent.

Mr. Chairman and my colleagues, one of the things that has really disturbed me over the past 15 or 16 years is to watch as Members of this institution have consistently and purposely, it appears to me, failed and refused to take any action whatsoever to safeguard manufacturing jobs in this Nation. If we as an institution are going to yield at the altar of free trade to the ultimate disregard of the American work force, then we are surely going to be relegated as we are going in that direction today to a second- and third-rate manufacturing power.

I can tell you that it makes no reason whatsoever in the average working person's mind what we are doing in some areas, but when it comes to jobs in this Nation, you and I have failed and it is time that we stand up. If we are not going to stand up now, then you can try to get all the McDonald places that you can, because your people are going to be making $6 an hour for all their working lives.

This is a disgrace and the sooner this institution recognizes that, the better.

Mr. Chairman, I urge an "aye" vote on this bill.

Mr. CRANE. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I just want to continue a little bit from the previous speaker, the gentleman from Georgia, and say that I rise in favor of this bill.

I think it is time that we live up and treat everybody the same.

Absolutely, Customs ruled, the Treasury overruled and said this is a car. I have a chart that I want to submit for the RECORD that the gentleman just brought up. It basically shows a two-door multipassenger vehicle and it shows a four-door multipassenger vehicle and it goes over the exact things he just said.

These vehicles are trucks for emissions purposes. These are called trucks for fuel economy rules.

Want more? They are called trucks for gas guzzler and luxury taxes, but when it comes to tariffs, the one on the left, which is a two-door American-made multipassenger vehicle, is considered a truck and the one on the right, which is the exact same vehicle which has four doors, is then considered a car.

I think it is an insult. I will take my chances if they decide they want to get into a war.

I think we import a whole lot more products than we export to the Japanese.

I do not think that is the issue before us today. I think it is simply an issue that says that somewhere lobbying got this thing classified again as a car.

I believe we have to stand up and say what happened is wrong. I have to disagree with my good friend, the gentleman from Illinois, and say that I do not think the Japanese want to get into competing over cars that are exported and imported.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the Customs Agency, which is responsible by law to determine the classification of imports, ruled that multipurpose vehicles are trucks.

The experts at Customs based their decision on a year-long review, which included visits to truck factories in Japan.

Customs found that these MPV's were produced in the same factories, on the same assembly line, and on the same chassis as other trucks.

They announced their determination in January 1989.

However, 6 weeks later, U.S. Treasury Secretary Nicholas Brady overruled the experts at Customs.

Never before, had a U.S. Treasury Secretary overruled the Customs Service.

Mr. Brady told me at a Budget Committee hearing, that "there was enormous pressure from our partners overseas to do this."

When are we going to start applying pressure rather than caving in to pressure? What a pitiful statement for the Secretary to make.

Mr. Brady ignored the fact that Congress defined a truck for emissions and fuel standards differently than a passenger car.

All MPV's have to meet only the lower emission and fuel economy standards established for trucks.

William von Raab, who was Customs Commissioner at the time, called Mr. Brady's decision a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy.

Today, Congress has the opportunity to reaffirm the determination of the experts at the Customs Service.

This bill puts equity to our trade policy and recoups between $200 and $300 million for the U.S. Treasury per year.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the committee chairman for yielding me this time.

I rise in opposition to the bill.

Let me say, Mr. Chairman, that this proposal could have been crafted in a way that really helps America out, to keep us a preeminent Nation.

It is certainly true that the Japanese keep their markets closed to us in areas where we perform better than them, but I do not see a single thing in this legislation that opens up those markets, not a line, not a jot.

Second, maybe we should keep them out until they open up their markets in another bill. Fine, but where is the provision that says if we are going to raise the tariff up to 25 percent, which you know is a ghastly amount, that the consumer does not pay all that?

Time and time again what Detroit has done when given these advantages is not increase market share, is not plow the money back into research, but instead has simply raised the price, made their vehicles less competitive and then eventually lost market share.

I would say to my colleagues on the Ways and Means Committee, if you really meant this bill to do what you say it does, then there should have been a provision in there that says they cannot raise their prices more than the rate of inflation, and if they do, the tariff collapses, because sure as we are sitting here this will not benefit Detroit's competitiveness. In fact, it will make them less competitive and the consumer will pay through the nose.

If we are going to be No. 1, we had better craft smart trade legislation, not the ultimate free trade stuff that Reagan-Bush goes for and not the protectionist type of stuff that this is.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

□ 1240

Mr. TRAFICANT. Mr. Chairman, I commend the chairman and the committee for finally addressing the problem that, in my opinion, is destroying the American economy. Let us take a look at it.

Japan sells 1 out of every 3 cars purchased in America. When it comes to minivans, that is not even enough. They dump minivans in America, according to the Federal district court, almost 15 percent below their market value, in order to destroy our minivan market.

That is not enough. Then they want them called cars. The problem, and the reason we are here today, folks, is the Trade Representative does nothing, the trade Commission does nothing, the Commerce Department does nothing. We are at a point where even the President turns his back, does nothing.

So the Congress must act. Then everybody wants to question the Congress when the Congress does act.

Mr. Chairman, I stand here today and I have questioned a lot of policies, I want to stand with the chairman of this committee. I want to stand with the Congress that is giving America an opportunity to have jobs in the future.

Mr. Chairman, we invented televisions, VCR's, typewriters, telephones, and we do not have one factory in America that makes one of those products.

An American worker can pay a cable television bill, an American worker can pay a phone bill, but an American worker cannot get a damn job making one in a factory in this country. And we are now beginning to get at what I consider the structural economic problems of America. This is just the tip of the iceberg.

There are some problems that will have to be worked out, but I have confidence in the chairman and the committee and the Congress addressing themselves to these ends; it will help the American worker and the American economy.

Mr. Chairman, I do not believe there will be an American economy if American people are not working, because no one is going to pay a damn bit of tax to keep this country going.

Mr. CRANE. Mr. Chairman, I yield 4 minutes to our distinguished colleague, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I thank the gentleman for yielding this time to me.

Mr. Chairman, you would think that any Member that supports the tariff reducing provisions of this bill would understand; tariffs levied on imported goods increase costs to consumers and manufacturers.

It is quite evident, however, that many Members just don't get it. The Big Three American automakers have come back again begging for favors and whining for special treatment and it seems Members are more than willing to bow to their cries by including in this bill a tax on the family car of the nineties.

Mr. Chairman, I want to address the suspect arguments being bandied about by those who seek to raise the tariff on minivans and MPV's to 25 percent. Customs law gives clear and specific guidelines for determining whether an imported vehicle is a car or a truck for the purpose of levying tariffs. A vehicle that is used for hauling cargo is classified as a truck. If a vehicle is used for carrying passengers, it is a passenger vehicle or a car. It is quite clear to anyone on the street that four door multipurpose passenger vehicles and minivans are the family cars of the nineties. Mr. Chairman, they haul people, not concrete.

If four-door MPV's are reclassified as trucks they will be subject to a hefty 25-percent import tariff, up from 2.5 percent—that's a 1,000-percent increase. What this really means, Mr. Chairman, is that Congress is more than willing to tax the American family anywhere from $2,000 to $6,000 to allow the Big Three to gain a monopoly on the market and raise consumer prices as they've done in the past.

Make no mistake about it, Members, a vote for this bill is a vote for increasing van costs $2,000 to $6,000 for child care services, for disadvantaged people, senior citizens, Boy Scouts, Little League, any group that travels in a van, you are increasing the costs of those vans.

In case any of my colleagues have forgotten, the Big Three have been protected by 11 years of quotas on Japanese auto imports, to which they responded by raising the average price of a United States car from 33 percent of median household income in the seventies to 50 percent last year. It should come as no surprise that the Big Three will take advantage of this protection to once again pad the pockets of their top executives.

As if that were not enough to convince Members that this bill is a sham, proponents of the family car tax argue that we must make the standards consistent. They argue, they say, for uniformity for all MPV's. But let's look more closely at what the proponents of the bill are not talking about, what the legislation really does as the result of a very crafty backroom deal.

The bill contains two exemptions: First, it accepts vehicles which have been imported each year since 1963 and second, it exempts vehicles exported from a small supplier country and imported before the date of enactment. These vehicles will continue to be classified cars, not trucks, and subject to the 2.5 percent tariff rate, not the 25 percent rate.

Funny, but the only MPV lines that fall under these exceptions are Volkswagen of Germany and Range Rover of England. What is even funnier is, the only other MPV and minivan lines imported into the United States come from Japan.

I find it very difficult to understand how an English made Range Rover can be called a car while at the same time a Japanese made Nissan Pathfinder is called a truck. How can the proponents of this bill justify levying a 25-percent tariff on a Toyota Four Runner or an Isuzu Trooper but a 2.5-percent tariff on a Range Rover? Why is a two-door Mazda Navaho—built in Louisville, KY—a car, when an imported four-door Navaho is a truck? How is a Ford Explorer or a Jeep Cherokee a car, when a Nissan Pathfinder is a truck? What could possibly justify giving a Volkswagen Vanagan a 22.5-percent tariff break while levying a 25-percent tariff on a Toyota Previa?

Strange—all these inconsistencies in the face of so many calls for uniformity. The only thing that's uniform about these maneuvers is the foul stench they give off of special interest, protectionist politics.

Mr. Chairman, I hope my colleagues can see through the rhetoric and recognize this special interest protection for what it is. I urge the Members of this body not to vote for more protection for the Big Three at the expense of the American family, senior citizens, orphans, Little League, Boy Scouts, and anybody else who may want to carry passengers in a van.

And to all those who think this tariff is such a great idea because it's going to rake in over $300 million in revenue, you're sadly mistaken. As a result of imposing the 25 percent tariff on two-door MPV's in 1989, these vehicles have virtually disappeared from the American market—so much for that revenue. The American family can't afford a $2,000 to $6,000 tax hike on their family cars so they're not gonna buy these vehicles. Don't fool yourselves, we're going to end up with empty coffers, lost jobs and lost consumer choice.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for yielding this time to me.

Mr. Chairman, I cannot resist pointing out that, with previous speakers, they assume there is no competition left among the American producers in the event this bill passes. I believe we still have antitrust laws and that the Big Three, if you will, are going to compete furiously in this market and maintain a low price to the consumer.

What I want to address is section 2004 on page 85 of the bill, and I particularly speak to members of the steel caucus, because this section addresses another important fairness provision in the bill for U.S. steel producers and workers.

Under present law, the duties on stainless pipe and tube are substantially less than the sheet and plate.

What does this mean? It means that the foreign producers convert sheet and plate to pipe and tube so that they can send that same steel into this market at a much lower rate. The result is that you have a labor-intensive product; namely, pipe and tubing, coming in in great quantities. In fact, the import penetration in the pipe and tubing area is 42 percent versus 19 for sheet and plate.

The general policy behind the tariff structures of the United States and our trading partners is to affect higher tariffs on higher value products than on the power valve input components that go into the production of the product. What section 2004 does is put the same tariff on sheet and plate, stainless steel sheet and plate, as it does on pipe and tube.

It removes the incentive to flood the market with labor-intensive pipe and tube. That means we keep jobs in America.

The result of the present pattern is that 1 out of 3 jobs in the pipe industry have been lost.

H.R. 4318 corrects the problem by increasing the tariffs on each class of pipe and tube product to a level equal to that on plate and sheet product that serves at its imput. This removes any incentive to artificially flood the pipe and tube category for its lower duty rates.

This makes it consistent with the tariffs of other countries, such as Korea, now at 15 percent and the EC at 10 percent. Japan's duty is 5 percent, but other nontariff barriers are present ranging from distribution systems to custom's inspections, that block access to their market.

I add one final statement, and that is that it provides in the bill that it will not take effect if the tariff inversion that is in the present law is eliminated in the GATT negotiations.

I strongly urge support for the bill.

□ 1250

Mr. CRANE. Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman from Illinois [Mr. CRANE] for yielding this time to me, and I have high regard for him even though we disagree on this issue.

I say to my colleagues, let's cut through the baloney. The fact of the matter is the Japanese are getting away with bloody murder as far as this market is concerned.

Mr. Chairman, the President sent his chief deputy secretary McPherson from the Department of Customs over to Japan, and I want to read to my colleagues what he said, and I quote:

> It is clear that the Forerunner is a truck, built in a truck factory and built on a truck chassis. So, it is a truck, and it should be subject to the import tariffs that trucks are subject to.

Mr. Chairman, it is just that simple, and we are losing $300 million a year in market share because we are not making them adhere to the law. It is just that simple.

Now the Japanese have 31 percent of our automobile market. Are we going to wait around until they have all of it? Seventy-four thousand GM employees are being put out of work right now, and a number of their plants are being closed. Are we going to wait until GM is a thing of the past and we have lost a lot of our industrial base in this country?

I say to my colleagues, "The fact of the matter is this is a good bill, it should pass, and we should protect American jobs."

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, let me address what my distinguished colleague, the gentleman from Indiana [Mr. BURTON], has just said because I am in total sympathy with the points that have been made here with regard to the need to protect American jobs. But I am standing here to do just that, to protect American jobs, because the American minivan factories are operating over capacity. The majority of American minivans are manufactured in Canada. It is Canadian jobs that we are protecting with this bill primarily, and Canada is exempt from this tariff.

But we are going to lose jobs if this bill passes. We are going to lose thousands of jobs in foreign auto dealerships, probably hundreds in my congressional district, because 70 percent of the vehicles that are used in my district are foreign vehicles.

But wait a minute. Is that un-American? It is un-American when we consider the fact that the best-selling model is composed of 70 percent American made products?

"Now is that a foreign vehicle or an American vehicle," I ask my colleagues, "when you consider the fact that the Corolla, one of the most popular, is actually made by United Auto Workers here in the United States?"

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for yielding this time to me, and I appreciate the chairman and his work and the committee's work in bringing us this bill.

Mr. Chairman, I rise in support of the bill and in strong opposition to the motion to recommit.

My colleagues, we have got to seize this opportunity to make a clear statement and get clear action to try to protect American jobs. American families cannot be strong if they do not have American jobs and American incomes, and that is what is at stake here.

There may be a better way to deal with the whole trade package with the Japanese, the Europeans, or anybody else. Certainly many of us have been advocating other ways for years, but the reality is the U.S. Government will not, has not, acted, and we have heard all the sympathy this morning about all the inaction that we continually get both here and at the White House when it comes to this issue.

These are important jobs, well-paying jobs, that are at stake in this country, and we have got to understand that and understand that clearly.

Now we are told that somehow American consumers are going to be severely disadvantaged. American consumers have now and will have multiple choices from American manufacture of minivans and sport utility vehicles. Indeed they will have a choice not to pay a higher tariff. They will have a choice to buy something that will create an American job.

But, second, do not think for a moment the Japanese will stand still with this. They are likely to make choices, too, and one of the choices will be to expand production in this country by hiring more Americans to produce vans that Americans are going to buy.

Yes, there may be a better way, but we are never given a chance to get to it.

The Europeans have not stood still. They have not sat still for 10 years, and they have had thriving, vigorous economies, and they have restricted vigorously, strongly, more than most other people around the world, entry into their market by the Japanese vehicles. We have not. Their restrictions have only created pressures on our jobs and our sales in this country.

Mr. Chairman, we have got to seize the opportunity. Vote no. The economic news this week should tell us again and again and again that we must take more steps. If we had strong leadership in the White House, we would have a coordinated effort. We would not have to go at this in rifleshot ways that may not be the ideal way. But we do not have that right now, and hopefully this election this year is going to give us somebody new or somebody down there that is going to do the job.

Mr. CRANE. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HASTERT], my good friend and colleague.

Mr. HASTERT. Mr. Chairman, I thank the gentleman from Illinois [Mr. CRANE] for yielding this time to me, and, as my colleagues know, we have heard a lot of rhetoric today about this bill, about Japanese trucks or Japanese cars, whatever my colleagues want to call them. But the fact is what we are doing is we are protecting, and I find it incredulous, but we are protecting in this discussion today, protecting, Japanese jobs. I mean when we say that a truck, what was a truck, we are going to change it to a car, that is what the issue is, and we are going to hold it that way, what are we doing? We are changing the rules to allow Japanese products to come into this country, which is fine.

If we were to look up into the press gallery, we would see who is looking at whose protection where, but let me tell my colleagues that, as far as I see it, when we start to protect those products coming in here at the price of American jobs and American products, it is very, very plain. I have sheaves of paper and letters saying, "Vote against this bill." Who are they? They are the salesmen of these trucks, not the American people, not the American manufacturers.

I say to my colleagues of this Congress, "I think, if you look at it, we've said in the long time that we've started talking about taxes around here that we know a duck is a duck is a duck. Well, Mr. Chairman, we know a truck is a truck is a truck."

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, the debate has had a lot of comment about consumers, and I want to spend a minute talking about, not only consumption, but production. If we are going to have an economy where we have consumption, we have to have producers. We have to have people that are working in plants, like automobile plants, making enough wages to buy the cars whether they be domestic or foreign.

Henry Ford figured it out a long time ago. He did not pay his employees a decent wage and they could not buy the cars that were being made. That is what is at stake in this motion to recommit that we expect.

And let us not misunderstand what is going on in our economy today. It is in trouble. It is probably in the third dip of a recession. We just heard that the last quarter was anemic, 1.4-percent growth after it was much higher the quarter before.

We need to do something to invigorate production in the creation of jobs in this society. If we resist the motion to recommit and we pass this bill, we will do something to help.

Now why should someone be able to get one part of our Government to say that something is a truck for the purpose of emission requirements, but it is something else for the purpose of import requirements? Let us have one policy. That is what this bill is about, one policy, and let us form that policy. If we want to debate the policy for all the various reasons, let us do that, but let us do that at a different time. Today let us straighten out the policy so that we have one policy.

Mr. Chairman, a truck is a truck is a truck, and let us stand up for American workers, fight for American jobs and fight for American interests. That is what this bill does, and I urge Members to vote for it and to vote against the motion to recommit.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to our good friend and colleague, the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I want to take exception with the comments of the gentleman from Virginia [Mr. MORAN]. I want to point out that in Maryland near the port of Baltimore we have an outstanding minivan GM factory. The plant is located in the district of the gentleman from Maryland [Mr. CARDIN], but Mr. CARDIN and I share many of the employees as constituents. So, American jobs are protected by H.R. 4318.

☐ 1300

The sale of those Chevrolet minivans in this country is vital to those Americans working in that GM plant. So, Mr. Speaker, I have to ask, how in the world can minivans and sport utilities be classified as cars on this chart only where the word "tariff" appears? They are cars under the "rear-side windows, rear doors, rear seats," and cars under "four-doors."

Mr. Chairman, I do want to point out it has been absolutely ridiculous and unfair that the U.S. Treasury overruled Customs on the classification of those vehicles.

Mr. Speaker, in closing I want to say that I hope all the Republicans will follow those good Republicans on Mount Rushmore, Abraham Lincoln and Teddy Roosevelt, and support H.R. 4318.

Mr. Chairman, I include the chart referred to for the RECORD.

INCONSISTENCY OF MPV CLASSIFICATIONS

	Minivans		Sport utilities	
	Rear side windows, rear doors, rear seats	Other	4-door	2-door
Emissions	Truck	Truck	Truck	Truck.
Fuel economy	do	do	do	Do.
VRA	do	do	do	Do.
Gas guzzler tax	do	do	do	Do.
Luxury tax	do	do	do	Do.
Tariff	Car	do	Car	Do.

Note.—Truck emissions and fuel economy requirements are not as stringent as for cars. Gas guzzler and luxury taxes are not applicable to trucks.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, I agree with the gentlewoman from Maryland [Mrs. BENTLEY] that it is absolutely essential that this legislation be passed. Our foreign producers cannot have it both ways. They cannot want to classify these multipurpose vehicles as trucks for the purpose of U.S. emission laws, fuel-economy laws, safety-standard laws, and the gas-guzzler tax, and then on the other hand want to classify these vehicles as automobiles for the sole purpose of our tariff laws. That is not fair.

Mr. Chairman, we have very dedicated workers in my district that produce these multipurpose vehicles. All they ask is that our laws be fair and consistent and that they have the opportunity to compete.

Mr. Chairman, I ask that this Congress pass this law in order to make the law consistent and fair and so the American workers can indeed compete fairly. I urge the passage of this bill.

The CHAIRMAN. The Chair will advise that the gentleman from Illinois [Mr. ROSTENKOWSKI] has 5 minutes remaining and the gentleman from Illinois [Mr. CRANE] has 8 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise in strong support of H.R. 4318, the Miscellaneous Tariff Act.

At times, I believe this administration actually cares about the American auto industry. Unfortunately, these moments are often shortlived. Let me describe two incidents to illustrate my point.

In May, the Commerce Department ruled that Mazda and Toyota were dumping minivans into the U.S. market. Commerce found that Mazda MPV's were priced 12.7 percent and Toyota Previas 6.75 percent less in the United States than back in their home market in Japan. I applauded the Commerce Department for their efforts. The investigators took the unusual—but necessary—step of looking into the Keiretsu system in place in Japan and discovered a systematic pattern of lower prices for parts going into export models to be sold in the United States and other countries compared to the prices charged for parts earmarked for vehicles to be sold in Japan.

In a related ruling, back in January 1989, the U.S. Customs Service ruled that four-door imported MPV's should be classified as trucks under the harmonized tariff system. In its ruling, Customs concluded that vehicles designed for the "transport of goods and of persons" could not be classified as passenger vehicles. Instead, these vehicles should fall under the truck category. Passenger cars are assessed a 2.5-percent tariff when they enter the United States. Trucks, meanwhile, are assessed a 25-percent tariff. Prior to the Customs ruling, foreign automakers sometimes called the MPV's trucks and sometimes cars. If the automaker did not have room under the voluntary restraint agreement [VRA] cap in force at the time, they would call the MPV a truck—and accepted the 25-percent tariff as the price they had to pay to hawk their product in America; if, on the other hand, they did have room under the VRA cap, they would call the MPV a car—and avoid the 25-percent tariff. Under the leadership of Administrator William von Raab, Customs finally put a halt to this backdoor maneuvering by foreign automakers by ruling that all MPV's are trucks.

Unfortunately, these two stories did not end there. Despite the obvious abuse of American trade and tariff law in these cases, the administration dismissed the findings of both Commerce and Customs and cut a break for Japanese, German, and British automakers—all at the expense of the American autoworker.

In the dumping decision, the International Trade Commission ruled last month that American automakers have not suffered damage as a result of Mazda's and Toyota's underpricing. ITC granted Mazda and Toyota the administration's blessings to continue their efforts to undermine the autoworkers at Chrysler, Ford, and GM.

In the tariff case, the Treasury Department cut our foreign competitors a similar break by overruling the Customs Service only weeks after it reached its decision on MPV's. On February 16, in an unprecedented move, Treasury Secretary Nicholas Brady overturned Customs' MPV classification. In Customs' place, Treasury established its own tariff system with respect to MPV's. Treasury designated two-door MPV's as trucks, but curiously four-door MPV's as passenger cars.

Based on 1989 figures, this decision has generated losses to the U.S. Treasury of approximately $3,500 per vehicle. Multiply that figure by the thousands of Nissan Pathfinders and Toyota Four-Runners you see on the road and you find that $300 million in American taxpayer dollars is annually shifted to the coffers of foreign automakers.

Enough is enough.

While it will require a bigger fight to stop foreign dumping practices, today we have the opportunity to make a simple, sensible change to right this obvious wrong in our tariff system. H.R. 4318 will correctly reclassify imported four-door MPV's as trucks, joining their two-door models in this category. H.R. 4318 will reinstate the appropriate MPV ruling by the Customs Service, the Federal agency charged with determining the appropriate classification of products imported by the United States, which was ignored in that highly questionable decision by the Treasury Department 3 years ago.

Beyond correctly restoring the Customs Service designation, this change would bring Treasury in line with every other Federal agency, including itself, which classifies vehicles for regulatory purposes. The Department of Transportation considers MPV's trucks for weight purposes; the EPA considers MPV's trucks for emission standards and fuel-economy purposes; even Treasury considers MPV's for gas-guzzler and luxury-tax purposes. I find it outrageous that we backpedal on classifying MPV's as trucks when it comes time to assign tariffs—when it comes time for collecting money for the Federal Treasury. Let's bring Treasury on board with the rest of the Federal Government. MPV's are trucks, pure and simple.

Mr. Speaker, I am sick and tired of watching this administration bend over backward to accommodate our foreign competitors at the expense of the American auto industry. I don't want another community to experience what the city of Ypsilanti and Ypsilanti township will face 1 year from now when the GM assembly plant at Willow Run will close its doors. By next summer, 4,000 of my constituents who work at the plant will be out of a job. Thousands more, including parts suppliers and those in related industries, will feel the repercussions of Willow Run's shutdown. Eastern Michigan University predicts that 18,000 jobs will ultimately be affected. H.R. 4318 strikes a blow for the American auto industry—eliminating a discrepancy in tariff regulations which allows foreign automakers to play with our rules to further their best interests.

I encourage my colleagues to vote "yes" on H.R. 4318.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, the issue before us is very simple: Are we going to give fairness of treatment to American workers and American industry, or are we going to permit a bunch of high-priced foreign lobbyists to achieve special advantages at the expense of American industry and American workers. An "aye" vote for H.R. 4318 will put us on record for fairness. A "no" vote sustains the hands of a high-priced foreign lobby.

A well-quoted truism is that if it walks like a duck, it quacks like a duck, it swims like a duck, it flies like a duck, it is a duck.

The hard fact of the matter is that the U.S. Treasury Department now classifies vehicles which are in fact trucks, as cars. They are trucks for all corporate average fuel economy, emissions and safety purposes except one—and that is the payment of taxes.

It is interesting to note that this situation represents a significant change in policy by the Treasury Department. They overruled a well-reasoned decision by the U.S. Customs Service. The decision by the Treasury Department forced the Customs Service to apologize to the Japanese lobby. Now, these foreign vehicles are escaping a 25-percent tax, and, instead, are subject to a 2.5-percent tax.

Now, I regard that as unfair. It is costing the American taxpayers $300 million in annual revenue. It is time we reversed this policy. Two-door MPV's are classified as trucks for the purposes of emission, fuel economy, and taxation. Four-door MPV's are taxed for the same purposes in the same way. But when it comes to giving away taxpayer dollars to the Japanese, the administration says that a four-door MPV is a car. It costs the American taxpayers $300 million and treats them different from all other vehicles.

Mr. Chairman, what the legislation before us does is to reverse a wrong. I urge my colleagues to vote for $300 million for the American taxpayers, fair treatment for American workers, and the passage of this legislation.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Chairman, I appreciate the gentleman from Michigan [Mr. DINGELL] bringing to our attention the influence of the foreign lobbyists on this body.

I think it is noteworthy that while we hear that Americans are lazy from some people who oppose this bill, that Americans do not make a good product from some people who oppose this bill, that they fail to mention there are four Members of the other body who have received over $100,000 apiece in independent expenditure contributions for their campaigns from this organization that is lobbying against this bill. I think the people of America ought to know that.

The CHAIRMAN. The Chair would caution the gentleman from Mississippi about such references.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I listened a moment ago to the comments by the distinguished majority leader. The gentleman and I went to the same university. We graduated just a couple of years apart.

Mr. Chairman, you would not know it. We certainly did not go to the same economics classes. I listened to the gentleman say that we have production, not just consumption, and the gentleman is absolutely right.

But I have never been to an economics class that says somehow you can legislate production, or that you can legislate production with a tax on consumers. And that is just what we are doing here.

At least it is out in the open. We are very up front now about this. This has nothing to do with reclassification or making something conform.

We heard it all said here today. This is a tax. This is a protectionist tax. Let us stand up for the American worker, let us stand up for the American producer, let us tax those imports. Stop them from coming in.

Of course, the other side of the coin is let us tax the consumer. Let us tax the senior citizens center who buys their minivan. Let us tax the nonprofit organization who buys their minivan. Three thousands dollars, at least, on every minivan is what they are going to pay in order to do this protectionist measure for American industry.

Mr. Chairman, I have more confidence in American industry than a lot of my colleagues apparently do. I believe they can produce good products. They have been producing good products and they will be producing good products.

Mr. Chairman, what we need is more competition. What we need is an American industry that is prepared to compete in this world. I believe that is the direction that we are going.

Certainly we do not need to go back to the 1930's when we had the Smoot-Hawley Tariff Act that came at the time of the Depression and made the Depression the worst depression in the history of this country. But this is exactly, in a smaller way, the same kind of tax. It is a protectionist tariff. It is an attempt to raise a tariff. It has nothing to do with the reclassification. It is to make a 1,000-percent increase in the tariff on minivans for the consumers in this country.

Mr. Chairman, this should be defeated.

Mr. CRANE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, John Naisbitt, in his book "Megatrends 2000," has talked about the fact that the world is moving in the direction of a reduction of trade barriers. That creates just what my friend, the gentleman from Arizona [Mr. KOLBE] has advocated, a greater level of competition. In turn, it reduces the price of products to the consumer in America and throughout the world.

Now, it seems to me that rather than looking at imposing what is today a 2.5-percent penalty on the American consumer and dramatically increasing it to 25 percent, we should instead be figuring out a way to eliminate that 2.5-percent tariff.

How could we do that? I would argue that the best way is for us to move in the direction which a number of my friends on both sides of the aisle have actually joined me in supporting, and that is a United States-Japan Free-Trade Agreement.

Mr. Chairman, I do not want to see an erection of trade barriers here in the United States to prevent the flow of goods from Japan coming in. What I want to see is an elimination of barriers in Japan so we can export goods there.

Mr. Chairman, this kind of action does nothing to reduce these barriers all the way around. Instead, it hurts consumers, it hurts producers and workers, and it will reduce revenue to the U.S. Treasury. I urge opposition to this bill.

□ 1310

Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

In conclusion, let me remind everybody in this Chamber that we have devoted virtually the entire debate time about this bill, which has overwhelmingly positive components, but they were not discussed. They are components that do affect small businesses in this country and do affect jobs. But because we have focused on just 1 page out of 115 pages in this bill, and it is the one dealing with the minivans, we have misled, I think, everyone about what is in this bill that is good and should be passed.

But with the minivan provision in there, I guarantee my colleagues, it will not succeed. It will most assuredly get a Presidential veto.

For that reason, I am urging all of my colleagues to support the motion to instruct on the part of our distinguished minority leader; send this bill back to committee. Let us clean it up and bring it back expeditiously.

There are things in here, as I say, that have impact in a very positive way. And we do want to see them become law. But that cannot happen so long as we have this one unfortunate revenue-raising counterproductive protectionist provision in the bill.

Support the motion of the gentleman from Texas [Mr. ARCHER].

Mr. Chairman, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield the balance of my time to the gentlewoman from Ohio [Ms. KAPTUR].

The CHAIRMAN. The gentlewoman from Ohio [Ms. KAPTUR] is recognized for 2 minutes to close debate.

Ms. KAPTUR. Mr. Chairman, I rise in support of this miscellaneous tariff bill and against the motion to recommit because this bill finally gives us equal treatment of goods that are sold in this country. And it also helps us level the playing field.

It basically says:

> If you are a two-door truck or if you are a four-door truck, the tariff on you will be the same.

It is important to vote for this measure because it also closes a major inconsistency that arose because of the Treasury decision done behind closed doors that created this gap in the tariff.

Let me tell my colleagues that it is time that we stand up for America for a change. Producers, workers, consumers in my district are directly affected by it. Let me tell my colleagues how.

The Cherokee, which is made in my district by Chrysler Corp., is a four-door vehicle. And there are lots of them here in the Washington area. We can buy one of those in our country for about $22,300. But when I was in Japan, in Tokyo last December, I tried to buy one in Tokyo. Do my colleagues know how much it cost? The sum of $34,400 is a 50-percent price hike in that nation, where one cannot even get the car; it is only allowed in one dealership over there in Tokyo.

I then went out and tried to buy a Jeep Rancher, which is sold in my district. We can buy it for about $11,500 in this country. They were charging $30,232 for that car over there.

I tried to buy a standard Ford truck. Guess what? We cannot even get them in the Japanese market. So who is talking about being fair to consumers?

The Japanese consumers are treated so unfairly, they should welcome our products over there.

So I rise in strong support of this miscellaneous tariff bill. It levels the playing field. Congratulations to the chairman for bringing it up.

ATTACHMENT I.—PRICE SURVEY

	Toledo price	Tokyo price dollars/yen
TV[1]		
Zenith 19" S1902S	$199.97	
Zenith 19" SS1937S	$299.99	
Zenith 25" SG2567H	$449.97	
Zenith 27" SJ2722LK	$599.97	
Zenith 27" SG2795BG	$699.97	
Sony 29" KV–29ST1		$1830.00/Y238,000.
Panasonic 29" TH–29VS25.		$1807.00/Y235,000.
Mitsubishi 29" 29C–AP1.		$1730.00/Y225,000.
CAMERAS		
Minolta Maxxum 5000i	$349.95	$480.62/Y62,200.
Minolta X–370n	$279.95 (sale)	NA.
Minolta Maxxum 3xi	$379.95	$387.59/Y50,000.
Minolta Freedom 105i	$279.95	$480.62/Y62,000.
Nikon N5005	$369.95	$534.88/Y69,000.
Nikon Zoom Touch 500S	$176.00	$441.86/Y57,000.
Nikon One Touch 200	$89.95	$209.30/Y27,000.
Canon Mega Zoom 105	$237.95	$277.51/Y35,800.
U.S. COMPETITOR		
Polaroid Spectra SE	$109.95	NA.
Polaroid Impulse SE	$44.95	$162.79/Y21,000.
No U.S. 35mm competitor.		
CAMCORDER[2]		
Canon UC–1	$999.00	$1069.76/Y138,000.
No U.S. competitor		
LIQUOR (1.75 L)		
Scotch:		
Johnnie Walker black label.	$39.98	$46.51/Y6,000.
Cutty Sark	$21.99	$20.00/Y2,580.
Bourbon:		
Jack Daniels black	$21.49	$52.71/Y6,800.
Southern Comfort	$17.99	$27.13/Y3,500.
Gin:		
Beefeater	$24.99	$19.37/Y2,500.
Bombay	$21.99	$21.70/Y2,800.
GROCERIES		
Ham (Giant):		
Hormel Curemaster boneless.	$4.99 lb. (reg.)	$11.62/Y1,500.
Giant Honeyglazed half.	$4.29 lb. (reg.)	NA.
Steak (Safeway)		
Porterhouse	$6.29 lb. (reg.)	$20.36/Y2,627.
Porterhouse, USDA choice.	$6.79 lb. (reg.)	NA.
Sirloin, boneless	$4.28 lb.	$23.19.
Pork roast, boneless	$3.48 lb.	$6.01.
Broilers, whole	$1.18 lb.	$2.73.
Eggs, large	$.55 dozen	$.56.
Butter	$2.41 lb.	$5.35.
Cheddar cheese	$3.12 lb.	$3.73.
Potatoes	$.49 lb.	$1.56.
Apples	$1.01 lb.	$1.56.
Oranges	$.66 lb.	$1.62
Flour	$.26 lb.	$.64.
Sugar	$.38 lb.	$.81.
Coffee	$3.60 lb.	$11.00.
Milk (Giant): Vitamin D, 1 gallon.	$2.49	$5.89/Y570
Rice:		
Retail price	$.52 lb.	$1.23 lb.
Producer price	$.11 lb.	$.95 lb.
VEHICLES		
Chrysler Cherokee	$22,300	$34,400.
GM Grand Am	$14,823	$18,966.
Honda Accord	$15,581	$15,614.
Ford Taurus Wagon	$21,061	$25,556/3.450 mil.
Ford Thunderbird	$24,366	$36,444/4.92 mil.
Ford Escort:		
Std. model	$8,730	
3 dr. LX	$9,430	
GT	$12,246	
Ford Truck:		
Std. S	$10,921	Not imported.
XLT	$13,392	
Spectron XLT		$11,953/1.554 mil.
Buick Lesabre:		
Custom	$19,250	Not imported.
Limited	$21,220	
Buick Regal	$13,392	$31,307/4.07 mil.
Lincoln Continental	$35,552	$49,259/6.65 mil.
Jeep Wrangler	$11,500–21,000	$30,232.
Chrysler Imperial:		
EY6R	$29,063	$48,062.
V6–OHV	$30,000	$48,062.
Chrysler LeBaron:		
EC5J	$14,483	$33,333.
L–4–OHC	$15,472	$33,333.

[1] At 129 yen per dollar.

[2] At 130 yen per dollar.

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 4318, the Miscellaneous Tariff Act of 1992. This measure is complex; over 300 separate products are dealt with in this measure. The major attention is focused on the Bush administration caving in to special foreign interests on the truck classification and reducing improperly the tariff. This legislation reinstates a 1989 Customs Service decision concerning the tariff classification of multipurpose vehicles [MPV's]. The bill reclassifies certain multipurpose vans, such as minivans, and sport utility vehicles as trucks, thereby making such vehicles subject to a tariff rate of 25 percent. Under current law, these vehicles are classified as cars, which are subject to a low tariff rate of only 2.5 percent.

Mr. Speaker, I have been a longtime opponent of this misclassification of multipurpose vehicles which has, in effect, allowed foreign vehicle manufacturers to escape literally hundreds of millions of dollars in tariffs as well as costing American automobile workers their jobs in the face of increasingly stiff foreign competition. There has been a constant unrelenting pressure by the foreign import interests to undo and to circumvent this rule, not through a negotiated change but through a rules change, a reneging on the part of the U.S. administration. The Bush administration has caved in; that is why we in Congress must act to back up the treaty policy and American workers. As far back as June 1979, I joined with 21 other Members of the House in demanding an end to this tariff inequity which gives foreign vehicle manufacturers an unfair price break at the expense of the American light truck industry. Not only has this policy break been unfair to American workers; it has also been illegal. In 1963, a Presidential proclamation raised the tariff on trucks to 25 percent in retaliation for the lack of market access for American poultry products into Europe in general and Germany in particular. While this proclamation stands on the books, it has been ignored in recent years.

How do foreign vehicle manufacturers take advantage of this policy? Foreign manufacturers remove the cargo boxes from ready-made trucks, ship the boxes to the United States separately, and then remount them on the vehicles after the trucks have entered the United States resulting in a low tariff of 2.5 percent instead of 25 percent. Today the efforts are not as blatant but they have the same effect, such actions make a mockery out of fair enforcement and administration of the law.

While it is regrettable that foreign manufacturers will resort to such unfair tactics, it is even more disturbing that our own U.S. Government has unilaterally given away tariff concessions to some of our key trading partners and economic competitors by almost casually reclassifying multipurpose vehicles as cars rather than trucks. In 1988, the Treasury Department did exactly this and effectively lowered the tariffs on these vehicles by 22 percent.

The opponents of the legislation on the floor today don't argue the law because it clearly requires a 25-percent tariff. They don't argue the facts because that requires a 25-percent tariff. They are reduced to distractions such as raising these tariffs to their proper levels which will sting consumers by increased prices. But, in fact, this is inaccurate, when the Treasury gave foreign manufacturers a tariff windfall, these savings were not passed on to American consumers. In fact, from 1988 to 1991, the prices on the most popular foreign-made MPV's increased sharply after the tariffs were reduced. This points out that such correlation is off base. Another red herring argument by spokespersons for foreign trucks, or should I say so-called autos, is that passage of this legislation will violate the General Agreement on Tariffs and Trade [GATT]. In fact, the passage of this measure will return the MPV tariff to what the Customs Service determined it should be prior to the Treasury Department's unwarranted political intervention in 1988. Former U.S. Customs Commissioner William van Raab, commenting about the Treasury Department's 1988 ruling on MPV's, said:

> What I witnessed was that Treasury officials suspended the Customs ruling without even understanding the merits of the case, and then spent more than a month trying to find some solution that would accommodate foreign political pressures.

Mr. Chairman, the Ford Motor Co.'s Highland Park plant in St. Paul, MN, produces pickup trucks. The autoworkers at this plant and I'm sure at other plants around this country are sick and tired of their own Government paying more attention to foreign interests than to the welfare of our national economy. A truck is not a car. Let's pass this bill and restore some common sense to our tariff laws. I urge my colleagues to join me in voting for this bill.

Mr. Chairman, this overall measure contains hundreds of items on which no tariff will be levied or reduced substantially. Candidly, as you examine this list you quickly realize the history of errors and unfair competition that the United States has been subject to. Most are history, some plant the seeds for future problems. As an example, this measure includes a waiver of tariff for inline roller blade skates, a popular new U.S. sports product that originated in Minnesota. What is the result? To increase competition? To license the product to be produced abroad and eliminate the production at home? Or worse, see the idea siphoned off without any benefit. Mr. Chairman I'm deeply concerned about such provisions in this measure—not the truck classification provisions.

Mr. ATKINS. Mr. Chairman. I rise in support of this important legislation. H.R. 4318 will be a great step forward toward instilling equity and rationality in our tariff system. I would like to share the story of just one man who will be helped by this legislation.

In September 1990, my office was contacted by George Donovan of Andover, MA, in my district. Mr. Donovan runs a small business which imports ski products from Austria. For many years, he has specifically imported stretch wool gabardine ski pants made from Italian and Swiss fabric and produced in Austria.

Before January, 1989, when Congress replaced the Tariff Schedule of the United States [TSUS] with the Harmonized Tariff Schedule [HTS], these garments were classified as rainwear, or skiwear, because of their water-resistant quality. This category made no distinction between synthetic fiber or wool, and had a duty of 7.6 percent. Although the new HTS provided for synthetic water-resistant fiber under the 7.6 percent duty, it did not provide the same for wool fiber water-resistant garments. Therefore, the duty for this product jumped substantially to a duty of 21 percent, which is the duty for other wool products.

After discussions with Mr. Donovan as well as representatives of the domestic textile industry and the Commerce Department, I was convinced that the rise in duty from 7.6 percent to 21 percent for these water-resistant wool garments was unintended. That is why I introduced H.R. 1966, which would return the tariff for the product Mr. Donovan imports to the original level of 7.6 percent. H.R. 1966 was subsequently made a part of the bill which we consider today.

As the Member of Congress who represents the historic textile mill towns of Lowell and Lawrence, I understand the importance of the American textile industry vis-a-vis our international competitors. In this respect, my discussions with representatives of the textile industry have confirmed that there is no company in the United States which produces stretch wool gabardine ski pants such as those imported from Austria by Mr. Donovan. Furthermore, because these garments provide water resistance and protection against winter elements, and because of their composition and design, they can in no way be considered competitive with dress or casual wool trousers, which are protected by a higher duty rate.

The market for high wool content ski pants is small in the United States. There will be no editorials in the major newspapers. Nonetheless, it represents the livelihood for one small business in Massachusetts. This livelihood, and small business, is now threatened by an unintended duty in the HTS which provides a negligible amount in Federal revenues.

Mr. Chairman, there are many reasons to support this bill. I will support it to redress the injustice that has befallen one constituent in my district. I urge my colleagues to support it as well.

Mr. BEREUTER. Mr. Chairman, this Member would like to express his support for the proposed tariff increase on multipurpose vehicles [MPV's] in H.R. 4318.

In an unusual or unprecedented move, the U.S. Treasury Department has reversed a U.S. Customs Service ruling that properly classified multipurpose vehicles as trucks for tariff purposes. Current classification of these vehicles is inconsistent. While Treasury classifies MPV's as cars for tariff purposes, MPV's are advantageously classified as trucks for all other purposes including fuel standard, luxury, and gas guzzler taxes, and emission standards under EPA, DOT, and Treasury regulations; consistency requires—as the U.S. Customs Service originally and properly ruled—the tariff classification of these vehicles as trucks.

Mr. Chairman, our national economic interest demands that decisions such as multipurpose vehicle classification must be made on a case-by-case basis, not as a result of some ill-defined, ill-considered, or obsolete economic or strategic policy aimed at avoiding upsetting Japan or other nations. Each decision must now be rendered on the basis of the factual situation and where it results in an unfair advantage being given to an imported product. The United States must defend its industries against unfair trade practices but not improperly shield them from fair competition from foreign sources.

Therefore, this Member believes it is important to note that the United States International Trade Commission recently reported in July that Japanese manufacturers of minivans sold their vehicles in the United States at a weighted average dumping margin of 9.72 percent. Mazda MPV's were found to be sold at 12.70 percent less than fair value. Clearly, these figures reveal an intentional pricing policy by the Japanese automakers aimed at gaining market share in the United States. A commonsense application of the dumping principle requires action. A tariff classification which uniformly labels multipurpose vehicles as trucks for all purposes is certainly appropriate.

Mr. Chairman, this Member would stress his insistence that this decision must not be construed by the U.S. automakers as a green light to raise prices on domestically produced multipurpose vehicles. In the past, United States automakers have been shortsighted in automatically raising prices along with their foreign competitors or when voluntary restraints were implemented by Japan. That was a strategic error by the American auto industry and an exploitation of the American car buying public. This Member, therefore, strongly believes U.S. automakers must hold their prices steady and thereby seize this opportunity to implement long-term goals of increased market share and more aggressively pursue U.S. automobile markets abroad.

Mr. Chairman, I urge my colleagues to support H.R. 4318.

Mr. FAZIO. Mr. Chairman, I rise in support of the bill, and I want to commend the gentleman from Illinois, Chairman ROSTENKOWSKI, and the gentleman from Florida [Mr. GIBBONS] for their work on this legislation.

H.R. 4318, the Miscellaneous Tariff Act, contains numerous changes to the existing tariff schedule. In most cases, these changes would result in a reduction of import duties on items that are not manufactured in the United States. These duties do not protect any domestic interests and serve only to increase the costs to domestic users of these products.

H.R. 4318 will save money for American companies that import these products, and it will save money for the end users of these products—the consumer.

Mr. Chairman, while most of the provisions in H.R. 4318 are noncontroversial for these reasons, there is one provision which has gained a great deal of attention. Section 2121B of the bill proposes to increase the tariff on multipassenger vehicle [MPV] imports from 2.5 percent to 25 percent.

I support this provision for two reasons. First, it is clear from a Customs Service determination made in 1989 that MPV imports should carry a 25-percent duty. This conclusion was reached after a yearlong factfinding study. Unfortunately, the Treasury Department overruled the Customs Service after only a cursory, monthlong review. Thus, under this first point, section 2121B is instituting a tariff that the Customs Service's own classifications and requirements demand.

Second, the Department of Commerce has ruled that minivans were being imported from Japan at less than fair market value. Essentially, it has been documented that Japanese automakers have been underpricing their minivans to gain market share. Because of this finding, retaliatory action is warranted under U.S. trade laws. Unfortunately, the International Trade Commission [ITC] did not rule in favor of sanctions because the ITC reasoned that this underpricing did not cause enough material injury to the U.S. industry. The ITC reached this conclusion because Japanese minivan imports make up a small portion of the United States market. To this point I ask, are we to wait until there is material injury to U.S. companies before we take corrective action?

Mr. Chairman, section 2121B proposes to redress these concerns. It also sends a message to our Japanese counterparts that we will not tolerate their highly restrictive trade barriers against United States automobiles. Clearly, we cannot and should not undercut our own economic interests when our trading partners continue to demonstrate a lack of fairness and comity in international trade.

Mr. Chairman, I urge my colleagues to support section 2121B and support the bill.

Mr. PALLONE. Mr. Chairman, I rise to urge my colleagues to support the Miscellaneous Tariff Act which the House of Representatives is considering today. This legislation seeks to correct an inconsistency in the classification of multipurpose vehicles that costs the U.S. Treasury hundreds of millions of dollars annually.

The Miscellaneous Tariff Act reverses a 1989 Treasury Department ruling classifying four-door multipurpose vehicles as passenger cars. This ruling basically overruled a decision made by the U.S. Customs Service, after a yearlong investigation, which classified four-door multipurpose vehicles as trucks. Classification as cars means that these vehicles are subject to a lower import duty. Four-door multipurpose vehicles are classified as trucks for purposes of emissions standards, safety standards, fuel economy rules, and the gas-guzzler tax.

Does it make sense to classify these vehicles as cars for tariff purposes when they are classified as trucks for every other purpose? Does it make sense to grant a unilateral trade concession to Japanese automakers worth hundreds of millions of dollars a year? Why would the Treasury Department issue such a ruling? The U.S. Treasury is not in great shape these days. In fact, we are now about $4 trillion in debt. Our trade deficit with Japan stood at $43 billion last year. What, Mr. Speaker, is going on here?

William von Raab, the Customs Commissioner in 1989, issued a public statement explaining his view of the Treasury ruling making imported four-door multipurpose vehicles eligible for the lower tariff. He explained that he saw no justification for the Treasury ruling except politics. He urged the Congress to reinstate the Customs Service decision classifying four-door multipurpose vehicles as trucks.

Are we, in the U.S. House of Representatives, going to stand by while Treasury Department officials cave in to the high pressure tactics of lobbyists in the pay of foreign interests? Are we going to stand by idly while American workers in the fastest growing segment of the U.S. auto market are done in by unfair and illogical tariff classifications?

I join Commissioner von Raab in urging Congress to change the classification. Today, in the House of Representatives, we have the opportunity to do just that. We must change the Treasury ruling not only because of the American jobs which are at stake, or the many American businesses which depend on a healthy automotive industry for survival. We must send a message that our trade rules cannot be manipulated by foreign interests who stand to reap huge profits.

Mr. Chairman, I urge my colleagues to join me today in casting a vote for a fair and logical trade policy by supporting the Miscellaneous Tariff Act.

Mr. RAMSTAD. Mr. Chairman, I rise today in opposition to H.R. 4318, the Miscellaneous Tariff Act.

I regret that this bill, which contains over 200 duty suspensions for United States companies, is tarnished by the inclusion of the blatantly protectionist 25-percent tariff on Japanese minivans and multipurpose vehicles [MPV's].

Many businesses, particularly small- and medium-sized ones, have been looking forward for more than 2 years to the tariff reductions in H.R. 4318, which would improve American competitiveness at home and abroad. Unfortunately, this country-specific, GATT-violating tariff makes a vote for this bill indefensible.

Proponents of the tariff argue that it will generate revenue, make the minivan market more competitive and protect U.S. jobs. In reality, this tariff would lose revenue, limit consumer choice, increase the price of minivans across the board, and destroy U.S. jobs.

Those who argue that this tariff will increase revenue have forgotten our experience with the so-called luxury tax of 1990. Unfortunately, as we have learned, this misguided attempt to raise revenue by imposing an enormous tax on certain goods resulting instead in widespread job and revenue loss.

The same thing will happen if we impose this 25-percent tariff on the American consumer. Vehicle manufacturers will inevitably raise their prices, people will buy fewer vehicles, workers will lose their jobs, and tariff and income tax revenues will fall.

Proponents of H.R. 4318 also argue that this tariff will add competitiveness to the minivan and MPV market.

Mr. Chairman, domestic producers control over 80 percent of the market for these vehicles. Forcing a 25-percent price increase on the vehicles produced by foreign competitors will continue this market domination and invite domestic producers to increase their prices.

Those who will be hurt most by these inevitable price hikes include middle-class American families, community service organizations and advocacy groups for disabled Americans, all of whom rely heavily on minivans and MPV's.

Finally, supporters of the tariff insist that it protects American workers. Mr. Chairman, this argument is narrow minded, short sighted and another example of politics as usual.

This tariff only protects a select group of special interests, forcing U.S. workers and consumers to pay for it.

Some victims of this tariff are obvious—Americans who work in auto dealerships that sell Japanese vehicles, for example.

But this tariff also threatens the economic security of workers in export-based industries, which have propelled our weak economy through recent years, accounting for over 75 percent of our economy's growth. Enactment of this protectionist measure will almost certainly cause our trading partners to retaliate by erecting barriers to U.S. exports. Mr. Chairman, at a time of slow economic growth, our economy and workers can ill afford a trade war.

Every $1 billion in exports translates into 20,000 export-related jobs—jobs that pay 17 percent more per hour than the average U.S. wage. If Japan and the European community imposed prohibitive tariffs on the five largest surplus sectors in the United States economy, a loss of $35 billion in United States exports and 700,000 high-wage jobs could result.

Mr. Chairman, supporters of this tariff fail to recognize all of this measure's repercussions. This is one more dangerous example of how short-term vision and politics as usual will debilitate our economy in the long run.

Instead of enacting measures harmful to our economy—such as H.R. 4318—we should be passing legislation that will stimulate economic growth and create jobs. It's time to stand up for the American people—consumers and workers—and vote against this protectionist bill.

I urge my colleagues to support the motion to recommit with instructions to remove the 25-percent tariff from this bill and to preserve its important duty suspensions. Failing that, I strongly urge my colleagues to vote against H.R. 4318.

Mr. CONYERS. Mr. Chairman, I rise in strong support of H.R. 4318. This legislation includes a provision that reverses an egregious decision by the Treasury Department, and I urge my colleagues to join in supporting it.

Mr. Chairman, in 1989, the Secretary of the Treasury overruled the findings of a year-long investigation by his own Customs Service that found that four-door multipurpose vehicles [MPV's], are trucks. The Secretary of the Treasury felt that imported MPV's were more appropriately designated as cars, "due to the presence or absence of rear side windows." This reversal by the Treasury of an appropriate ruling by the Customs Service was an outrage for several reasons.

First, the Environmental Protection Agency classifies four-door MPV's as trucks for the purposes of emissions standards and fuel economy rules; the Department of Transportation classifies four-door MPV's as trucks for weight and other specifications; and the Treasury even considers four-door MPV's to be trucks for the purpose of gas guzzler and luxury taxes.

Second, the decision to reclassify four-door MPV's as cars means a massive tariff reduction on these vehicles—25% to 2.5% ad valorem—resulting in a $300 million revenue loss annually for the United States. This windfall has not translated into any benefit for American consumers or workers. The prices of these MPV's have increased steadily despite this decision—meaning that Japanese car companies pocketed the savings from this tariff reduction. The Nissan Pathfinder SE 44's price went from $17,499 in 1988 to $21,814 in 1990—a year after Treasury reduced the tariff. The story is the same for the Toyota 4-Runner SR-5 V-6; its price went from $16,698 in 1988 to $18,788 in 1990. Quite obviously, American consumers got nothing from the Treasury decision.

Moreover, there is evidence that this decision literally opened our gates to a Japanese dumping of these vehicles. In 1988, when the 25 percent tariff was still in effect, imported four-door MPV's constituted 27 percent of the total number of all MPV's registered in the United States. In 1989, the year of the tariff reduction, that number had jumped to 48 percent; it's projected that four-door imported MPV's will make up 84 percent of those registered in the United States this year.

The popularity of MPV's is no secret, and we all know what these numbers mean: they mean jobs—American jobs. They mean more American autoworkers in the streets while this tariff reduction helps Japanese auto executives put their kids through college.

Further, this decision did nothing to benefit United States trade negotiators with Japan—making this a unilateral giveaway of a very important and very expensive trade bargaining chip.

Third, the Treasury ruling came after intense foreign lobbying. The Committee on Government Operations, which I have the privilege of chairing, is examining evidence that this decision was the result of some quick work by the deputy manager of the Bush-Quayle reelection campaign—who also happens to be a lobbyist for the Japanese auto industry. We plan to hold a hearing on this issue in September.

Mr. Chairman, it is important to note that William von Raab, the Commissioner of Customs at the time of the Treasury decision, recently wrote to Congress on this issue. He said, and I quote:

> Treasury's reversal . . . was a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy.
>
> There was no justification for the extraordinary intervention by Treasury, except politics. In fact, what I witnessed was that Treasury officials suspended the Customs ruling without even understanding the merits of the case, and then spent more than a month trying to find some solution that would accommodate foreign political pressures.

Mr. Chairman, it doesn't get any clearer than that. How long will this administration continue to roll over in multibillion dollar trade negotiations? How long will this administration be allowed to continue this fire sale on American tariffs, jobs and competitiveness? My colleagues, Treasury's own Customs Commissioner says there was no justification for this $900 million giveaway except politics. I ask you, how long will we play the fool with Japan?

We can fix it right here. This bill provides a legislative fix for this shameful decision made by the Secretary of the Treasury, and will put an end to this multimillion dollar giveaway to Japanese auto companies. I urge my colleagues to join in supporting it.

Mr. COSTELLO. Mr. Chairman, today the Members of the House of Representatives will be asked to vote on H.R. 4318, the Miscellaneous Tariff Act of 1992.

The Environmental Protection Agency classifies four-door MPV's as trucks for the purposes of emissions standards and fuel economy rules; the Department of Transportation classifies four-door MPV's as trucks for weight and other specifications; and the Treasury even considers four-door MPV's to be trucks for the purpose of gas guzzler and luxury taxes. Therefore, I feel that the Treasury's classification of four-door MPV's as cars for the purpose of the import tariff is a gross inconsistency.

The reclassification of four-door MPV's as cars translates into a huge tariff reduction on these vehicles resulting in a $300 million revenue loss annually for the United States. A loss the United States can ill afford.

I was recently contacted by a prominent businessman in my congressional district, Mr. Jamie Auffenberg, who owns automobile dealerships that sell both foreign and domestic cars. Mr. Auffenberg was understandably concerned about the possible effects of this legislation on his business.

While I appreciate Mr. Auffenberg's concerns, I feel that support of this bill would be in the best interest of this country.

Between 1988 and 1989 the U.S. Customs Service conducted an extensive investigation into the proper classification of foreign MPV imports to the United States. Customs ruled that MPV's are trucks, and should therefore be subject to a 25-percent tariff upon importation. In 1989, the Secretary of the Treasury overruled his own Customs Service, stating that imported four-door MPV's are cars for the purpose of the import tariff.

Again, I will support the Miscellaneous Tariff Act of 1992 because I feel that Congress should reinstate the Customs Service decision to restore integrity to the U.S. policymaking process.

Mr. SYNAR. Mr. Chairman, in considering trade issues, I have been consistent in opposing legislation which I believe to be retaliatory or specifically designed to affect only one country. Unless the action is related to a foreign policy or human right controversy, such actions are not beneficial to U.S. trade. I do not believe that such actions on the part of the United States will solve our trade problems we have with other countries.

While I support most of the bill's tariffs, included in the Miscellaneous Tariff Act is one particular section that, reluctantly, I cannot support. I do believe there is a good case to be made that the present treatment of tariffs on imported minivans may have been misapplied by the executive branch. The solution, however, is not to apply a higher rate of duty that applies only to the minivans of one country.

If the present decision has been incorrect, I am in favor of correcting it for all countries that import minivans into the United States and not make it applicable to just one country.

Mr. BROOMFIELD. Mr. Chairman, I want to express my strong support for H.R. 4318, the Miscellaneous Tariff Act of 1992.

In 1989, we created a loophole in our trade law.

It is a loophole so big you can drive a truck through it.

And that's exactly what we are letting the Japanese do. Drive truck after truck into this country and call them cars to escape the tariffs that normally apply under United States law.

To make matters worse, the Japanese dump their minivans into this country in violation of international trade law to make inroads into one of the strongest markets for American automakers.

It's no secret that the American automobile industry is hurting today.

It would seem that the least we can do for the men and women whose jobs are on the line in this industry is to make sure there is a level playing field.

Instead, we are applying our laws inconsistently to the disadvantage of our own companies.

We tax multipurpose vehicles as trucks in this country. When it comes to pollution controls, we classify them as trucks. When we apply fuel economy standards, they're trucks.

But at our border, some kind of metamorphosis occurs and they change into cars.

My friends, we are never going to negotiate successfully with the Japanese if we don't command their respect. And when the Government adopts policies that don't make sense, it loses respect.

Yet that's exactly what we did in 1989 when we gave the Japanese a unilateral trade concession that flies in the face of every law on the books applying to vans and sport utility vehicles.

I have a long history of rejecting protectionist trade policies. But it is not protectionist to treat vehicles the same way outside our borders as we do within our borders.

It's just common sense.

I grew up understanding that, "If it looks like a duck and quacks like a duck, you call it a duck."

Well, if you take off the outer body of a sports utility vehicle and examine the chassis, it looks like a truck and it drives like a truck.

I urge my colleagues to insist that Treasury call it a truck by voting for H.R. 4318.

Mr. ASPIN. Mr. Chairman, I rise today in support of H.R. 4318, the Miscellaneous Tariff Act. When the U.S. Customs agency adopted the new Harmonized Tariff Schedule on January 1, 1989, it attempted to close a very troublesome loophole in the old U.S. tariff system, a loophole which allowed importers to enter multipurpose vehicles—jeeps, minivans and sports utility vehicles—as cars or trucks. Multipurpose vehicles are considered trucks by the auto industry and trucks by all U.S. Government agencies for the purpose of complying with U.S. emissions, fuel economy, gas guzzler, luxury tax and other regulations. In 1989, after an exhaustive year-long investigation, the U.S. Customs Service also determined that all multipurpose vehicles should be classified as trucks.

What's the big deal you ask? Until the 1989 Customs decision foreign multipurpose vehicles [MPV's] could enter the country at a considerably lower tariff rate than was appropriate. A difference of 22.5 percent to be precise. The U.S. Customs Service then acted and acted very appropriately I think. After completing a year long investigation, it determined that all multipurpose vehicles entering the United States should be classified as trucks and subject to a 25 percent tariff rate. Then, to the dismay of all, the U.S. Treasury reversed these findings and determined that all four-door multipurpose vehicles would be defined as cars and enter the U.S. market with foreign manufacturers paying only a 2.5 percent tariff rate.

The Congressional Budget Office estimates this reclassification could cost the U.S. Treasury over $1 billion in lost revenues.

Our colleagues on the House Ways and Means Committee recently received a letter from U.S. Customs Commissioner von Raab. I would like to share a piece of this letter with you. Commissioner von Raab writes:

> On January 4, 1989, following a year long investigation, Customs rules that sport utility vehicles and most small vans would be classified under tariff heading HTS 8704, as light trucks. Based on all historical precedents, this should have been the end of the issue. Under United States law, the Customs Service has the responsibility for all such determination or rulings concerning the appropriate classification of products upon import to the United States. However, the following month, in an unprecedented action in response to foreign political pressure, Treasury reversed the proper Customs ruling, and concluded that two-door MPV's would be classified as trucks and that most four-door MPV's would be classified as passenger cars, a decision that defies logic.

A decision that defies logic, I agree. In my home State of Wisconsin several thousand people are employed manufacturing either MPV's or components for MPV's. In Janesville, WI, alone there are over 5,000 employees building Suburbans and Blazers. In Kenosha, WI, we have a plant that provides over 1,000 jobs to people who make engines for the Jeep Cherokee. Competition in the MPV industry is fierce. Let's level the playing field for our domestic producers. I urge you to vote "yes" on H.R. 4318 and save American jobs.

Mr. KOPETSKI. Mr. Chairman, I rise to associate myself with the remarks of the gentleman from Florida [Mr. GIBBONS], the chairman of the Ways and Means Trade Subcommittee. This is an antijob bill for my State of Oregon and I ask permission to revise and extend.

Mr. Chairman, I oppose H.R. 4318. This legislation is antijob for my congressional district and all of Oregon. I concede this legislation is good for Chrysler workers in Canada producing Caravans but for my State it is a disastrous piece of legislation. Additionally, passage of H.R. 4318 will surely cause the Japanese to take retaliatory measures. This threatens the economic health of my State in numerous industries, particularly within my congressional district.

Mr. Chairman, the Port of Portland in 1991 served as the port of entry for almost 290,000 vehicles. Each vehicle imported through Oregon has a $358 economic effect in Oregon. From the pilot who brings the ship into port, to the Longshoreman and customs broker who process and handle the vehicles, to the Teamster who trucks the vehicles across this country, and finally to the rail worker who ships these vehicles to 30 States.

This legislation will inhibit American attempts to penetrate the Japanese market. United States exports to Japan have increased by 50 percent in the last years. Passage of this legislation will threaten to erase the gains U.S. trade negotiators have made in the past and are currently negotiating. Oregon exports over $2 billion annually to Japan. It is estimated that over 100,000 Oregonians are employed in trade dependent jobs. This legislation threatens important Oregon exports to Japan like lumber and wood products, agriculture and food products, computers and industrial machinery, paper products, primary metals and numerous other products.

This legislation is anticonsumer. If this tariff is imposed, imported minivans and sport utility vehicles will increase in price by $4,000; essentially taking these vehicles out of the marketplace. Detroit already controls 90 percent of this market and this legislation will give them a monopoly with freedom to raise prices at will. According to the Brookings Institution, import quotas in the eighties, which is what this really is, increased the price of United States-made cars by $1,200 and Japanese imports by $1,700. This cost American consumers about $17 billion during the eighties.

Mr. Chairman, I oppose this legislation because it is anti-Oregon and anticonsumer. I urge all of my colleagues to join me in opposing this protectionist measure.

The CHAIRMAN. All time has expired. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill, as modified by the amendment printed in section 2 of House Resolution 532, is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of substitute, as modified, is as follows:

H.R. 4318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Tariff Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Reference.

TITLE I—TEMPORARY SUSPENSIONS AND REDUCTIONS IN DUTIES

Subtitle A—New Duty Suspensions and Temporary Reductions

Sec. 1001. Pectin.
Sec. 1002A. High-purity luminescent grade zinc sulfide.
Sec. 1002B. Sodium formaldehyde sulfoxylate.
Sec. 1003. 1,2,4,5-Tetramethylbenzene (durene).
Sec. 1004A. 1,2-Dibromo-4-(1,2-dibromoethyl)cyclohexane.
Sec. 1004B. Tetrabromocyclooctane.
Sec. 1005. 2-Nitrobenzenesulfonyl chloride.
Sec. 1006. Fuel grade tertiary-butyl alcohol.
Sec. 1007. PCMX.
Sec. 1008. R Salt.
Sec. 1009. Chromotropic acid.
Sec. 1010. 4-Hydroxy-1-naphthalenesulfonic acid, monopotassium salt.
Sec. 1011. 1,1-Bis(1-methylethoxy)cyclohexane.
Sec. 1013. 1-(2-naphthalenyl)ethanone.
Sec. 1014. Chloranil.
Sec. 1015. Anthraquinonedisulfonic acid, sodium salt.
Sec. 1016. 4-(3,4-Dichlorophenyl)-1-tetralone.
Sec. 1017. Dicyclopentenyloxyethyl methacrylate.
Sec. 1018. m-Chloroperoxybenzoic acid.
Sec. 1019. Flurbiprofen.
Sec. 1020. Dimethylsuccinyl succinate.
Sec. 1021. Malonic acid.
Sec. 1022. 4,4'-(Hexafluoroisopropylidene)-bis(phthalic anhydride).
Sec. 1023. Mandelic acid.
Sec. 1024. Keto ester.
Sec. 1025. Benzenepropanoic acid, 2-chloro-4,5-difluoro-β-oxo, ethyl ester.
Sec. 1026. Oxalacetic acid diethyl ester sodium salt.
Sec. 1027. 4,4,4-Trifluoro-3-oxobutanoic acid, ethyl ester and 4,4,4-trifluoro-3-oxobutanoic acid, methyl ester.
Sec. 1028. 1-Hydroxy-6-docosyloxy-2-naphthalenecarboxylic acid.
Sec. 1029. 1-Hydroxy-6-octadecyloxy-2-naphthalenecarboxylic acid.
Sec. 1030. 2-Chloro-N,N-dimethylethylamine hydrochloride, 2-(diethylamino)-ethyl chloride hydrochloride, and dimethylaminoisopropyl chloride hydrochloride.
Sec. 1031. Orthanilic acid.
Sec. 1032. 2,5-Dichloroaniline.
Sec. 1033. 2,4,5-Trichloroaniline.
Sec. 1034. o-Nitroaniline-p-sulfonic acid, sodium salt.
Sec. 1035. 2,4-Dinitroaniline.
Sec. 1036. 2,5-Dichloroaniline-4-sulfonic acid and its monosodium salt.
Sec. 1037. 2,6-Dichloro-4-nitroaniline.
Sec. 1038. C-Amine.
Sec. 1039. m-Nitro-p-toluidine.
Sec. 1040. N-Nitrosodiphenylamine.

Sec. 1042. 1-Amino-2-napthalenesulfonic acid.
Sec. 1043. 2-Amino-1-naphthalenesulfonic acid.
Sec. 1044. 2,6-Xylidine.
Sec. 1045. 2-Amino-5-chloro-4-ethylbenzenesulfonic acid.
Sec. 1046. Toluene-2,4-diamine.
Sec. 1047. 4,4'-Methylenebis-(2,6-diethylaniline).
Sec. 1048. 4,4'-Benzidine-2,2'-disulfonic acid.
Sec. 1049. Ethambutol hydrochloride.
Sec. 1050. 2,4-Dimethoxyaniline.
Sec. 1051. 2,2-Bis[4-(4-aminophenoxy)phenyl]propane.
Sec. 1052. 2-Amino-5-chlorobenzophenone.
Sec. 1053. 3-Aminocrotonic acid, methyl ester.
Sec. 1054. Fluometuron.
Sec. 1055. p-Acetanisidide.
Sec. 1056. 4'-Amino-N-methylacetanilide.
Sec. 1057A. Naphthol ASBS.
Sec. 1057B. N-[[(4-Chlorophenyl)amino]carbonyl]-2,6-difluorobenzamide.
Sec. 1058. N,N'-Ethylenebis(5,6-dibromo-2,3-norbornanedicarboximide).
Sec. 1059. N,N-Dimethyl-N'-[3-[[(methylamino)carbonyl]oxy]phenyl]methanimidamide monohydrochloride.
Sec. 1060. Formetanate A-HCl.
Sec. 1061. Tetramethylguanidine.
Sec. 1062. 2-Cyano-4-nitroaniline.
Sec. 1063. p-Aminoazobenzenedisulfonic acid.
Sec. 1064. p-Aminoazobenzenedisulfonic acid, monosodium salt.
Sec. 1065. p-Aminoazobenzenedisulfonic acid, disodium salt.
Sec. 1067. p-Aminoazobenzene.
Sec. 1068. p-Aminoazobenzene hydrochloride.
Sec. 1069. Phenylhydrazine.
Sec. 1070. 1,3-Phenylenebis(1-methylethylidenebis)cyanic acid, 1,4-phenylene ester.
Sec. 1071. 1-Isocyanato-3-(trifluoromethyl)benzene.
Sec. 1073. Tetramethylthiuram monosulfide.
Sec. 1074. Diphenylthiourea.
Sec. 1075. Pentachlorothiophenol.
Sec. 1076. N,N'-(Dithiodi-2,1-phenylene)bisbenzamide.
Sec. 1077. 2,2-Dinitrodiphenyl disulfide.
Sec. 1078. Dibutylthiourea.
Sec. 1079. 2-Phosphonobutane-1,2,4-tricarboxylic acid and sodium salts.
Sec. 1080. Phospholan mixed with ethylene glycol.
Sec. 1081. Piperonyl butoxide (PBO).
Sec. 1082. Calcium lactobionate.
Sec. 1083. 2-Chloro-5-sulfophenylmethylpyrazolone.
Sec. 1084. p-Sulfophenylmethylpyrazolone.
Sec. 1085. Ethylene thiourea.
Sec. 1086. 2-Methyl-5-ethylpyridine.
Sec. 1088. Piperidinoethyl chloride hydrochloride.
Sec. 1090. Pyrmethyl alcohol.
Sec. 1093. Halofuginone hydrobromide.
Sec. 1094A. 2-Amino-4-chloro-6-methoxypyrimidine and 2-amino-4,6-dimeth-oxypyrimidine.
Sec. 1094B. Methenamine hippurate.
Sec. 1095. 12-aminododecanoic acid lactam.
Sec. 1096. Acetoxy azetidinone.
Sec. 1097. Finasteride.
Sec. 1098A. Myclobutanil.
Sec. 1098B. Lisinopril.
Sec. 1099. Fenbendazole.
Sec. 1101. Carbazole.
Sec. 1102. A-I coupler.
Sec. 1103. Metmercazole.
Sec. 1104. Hexamethylenimine.
Sec. 1105. 2-Aminothiazole.
Sec. 1106. 4,5-Dichloro-2-n-octyl-4-isothiazolin-3-one.
Sec. 1107. 2-Methyl-4-isothiazolin-3-one.
Sec. 1108. 2-Amino-6-nitrobenzothiazole.
Sec. 1109. 2-Amino-5,6-dichlorobenzothiazole.
Sec. 1110. Ethyl [10H-phenothiazin-2-yl]carbamate.
Sec. 1111A. Fenoxaprop-ethyl.
Sec. 1111B. Ofloxacin.
Sec. 1112. 2-Acetylbenzo(b)thiophene.
Sec. 1113. Diazo-2,1,4-sulfonic acid and its salts.
Sec. 1114. Morpholinoethyl chloride hydrochloride.
Sec. 1116. TAC.
Sec. 1117. Chlorthalidone.
Sec. 1118. Famotidine.
Sec. 1119. 7-(Hexadecylsulfonylamino)-1H-indole.
Sec. 1120. Physostigmine salicylate (Eserine salicylate).
Sec. 1121. Pilocarpine hydrochloride.
Sec. 1122. Lobeline sulfate.
Sec. 1123. D-Arabinose.
Sec. 1124. Tazobactam.
Sec. 1125. Oxytetracycline dihydrate.
Sec. 1126. UV-1084 light stabilizer.
Sec. 1127. 1,4,5,6-Tetrahydro-1-methyl-2-[2-(2-thienyl)ethenyl]pyrimidine tartrate.
Sec. 1128. Vigabatrin and clobazam.
Sec. 1129. Fustic liquid mixture.
Sec. 1130. Resolin red F3BS components I and II.
Sec. 1131. Acid violet 19.
Sec. 1132. Vat red 1 dye.
Sec. 1133A. Pigment yellow 101.
Sec. 1133B. Solvent yellow 172.
Sec. 1134. Solvent yellow 43.
Sec. 1135. Solvent yellow 44 or 85.
Sec. 1136. Benzoxazol.
Sec. 1137. Diflubenzuron.
Sec. 1138. 2-Methyl-4-isothiazolin-3-one with inerts.
Sec. 1139. 4,5-Dichloro-2-n-octyl-4-isothiazolin-3-one with inerts.
Sec. 1140. Certain carbodiimide masterbatches.
Sec. 1141. Certain coposite diagnostic or laboratory reagents.
Sec. 1142. Certain thermosetting polyimide resins.
Sec. 1143. Chlorinated synthetic rubber.
Sec. 1144A. Sodium carboxymethylcellulose, technical grade.
Sec. 1144B. Baseball and softball gloves and mitts.
Sec. 1144C. Leather baseball and softball gloves and mitts.
Sec. 1145. Photographic paper.
Sec. 1146. Vinyon.
Sec. 1147. Certain twine.
Sec. 1148. Man-made fiber felt fabric for technical purposes.
Sec. 1149. Water-resistant wool men's and boys' trousers.
Sec. 1150. Water-resistant wool women's and girls' trousers.
Sec. 1151. Brassieres.
Sec. 1152A. Ceramic statues, statuettes, and hand-made flowers.
Sec. 1152B. Other ornamental articles of porcelain.
Sec. 1152C. Ceramic ferrules and sleeves.
Sec. 1153. Certain sheet glass.
Sec. 1154A. Imitation jewelry of plastics.
Sec. 1154B. Machinery for use in the manufacture of video laser discs.
Sec. 1155. Spring-beard needles.
Sec. 1156. Sewing machine needles.
Sec. 1157. Digital processing units for automatic data processing machines.
Sec. 1158. Radio-tape player combinations.
Sec. 1160. Certain lightweight bicycles.
Sec. 1161A. Mounted closed circuit television lenses.
Sec. 1161B. Fixed focus instant print cameras.
Sec. 1161C. Instant print cameras, other than fixed focus, over $10.
Sec. 1162. Unstuffed dolls, doll parts, and accessories.
Sec. 1163. Personal effects and other articles of participants and other individuals associated with the XXVI Summer Olympiad.

Subtitle B—Existing Temporary Duty Suspensions

Sec. 1201. Extension of certain suspensions and reductions of duty.
Sec. 1202. Extension of, and other modifications to, certain suspensions of duty.

TITLE II—OTHER TARIFF AND MISCELLANEOUS PROVISIONS

Subtitle A—Tariff Classification and Other Technical Amendments

Sec. 2001. Pectin.
Sec. 2002. Certain motor fuel and motor fuel blending stock.
Sec. 2003. Linear alkylbenzenesulfonates.
Sec. 2004. Iron and steel pipes and tubes.
Sec. 2005. Imitation jewelry of plastics.
Sec. 2006. Reliquidation of certain petroleum products.

Subtitle B—Miscellaneous Provisions

Sec. 2101. Certain menthol feedstocks.
Sec. 2103. Wage certificates issued to certain producers of watches and watch movements.
Sec. 2104. Increase in duty-free tourist allowances.
Sec. 2105. Certain sweaters assembled in Guam.
Sec. 2106. Certain entries of N-acetylsufanilyl chloride.
Sec. 2107. Certain lead fuel test assemblies.
Sec. 2108. Duty exemptions for certain foreign repairs made to United States vessels.
Sec. 2109. Metallized or foil balloons of Mexican origin.
Sec. 2110. Certain entries.
Sec. 2111. Reissuance of production incentive certificate.
Sec. 2112. Liquidation and reliquidation of entries of certain paper products.
Sec. 2113. Exemption of semiconductors from country of origin marking requirements.
Sec. 2114. Renewal of existing customs exemption applicable to bicycle parts in foreign trade zones.
Sec. 2115. Certain entries.
Sec. 2116. Certain entries.
Sec. 2117. Customs treatment of certain fabric.
Sec. 2118. Reliquidating entries of industrial fasteners.
Sec. 2119. Reexportation of communications satellite articles.
Sec. 2120. Reliquidating entries of tubular tin.
Sec. 2121A. Reliquidating entries of rock wool manufacturing equipment.
Sec. 2121B. Tariff classification of light trucks.
Sec. 2122A. Effective dates.
Sec. 2122B. Definitions.
Sec. 2123. Cost estimate.

SEC. 2. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States.

TITLE I—TEMPORARY SUSPENSIONS AND REDUCTIONS IN DUTIES

Subtitle A—New Duty Suspensions and Temporary Reductions

SEC. 1001. PECTIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.13.02*	*Pectin (provided for in subheading 1302.20.20)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1002A. HIGH-PURITY LUMINESCENT GRADE ZINC SULFIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.28.30*	*Luminescent grade zinc sulfide having a purity of at least 99.999% pure (provided for in subheading 2830.20.00)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1002B. SODIUM FORMALDEHYDE SULFOXYLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.28.31*	*Sodium formaldehyde sulfoxylate (CAS No. 149–44–0) (provided for in subheading 2831.10.00)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1003. 1,2,4,5-TETRAMETHYLBENZENE (DURENE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.31.12*	*1,2,4,5-Tetramethylbenzene (durene) (provided for in subheading 2902.90.20)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1004A. 1,2-DIBROMO-4-(1,2-DIBROMOETHYL)CYCLO-HEXANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.31.13*	*1,2-Dibromo-4-(1,2-dibromoethyl)- cyclohexane (CAS No. 3322–93–8) (provided for in subheading 2903.59.05)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1004B. TETRABROMOCYCLOOCTANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.31.14*	*Tetrabromo-cyclooctane (CAS No. 3194–57–8) (provided for in subheading 2903.59.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1005. 2-NITROBENZENESULFONYL CHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.31.15*	*2-Nitrobenzene-sulfonyl chloride (CAS No. 1694–92–4) (provided for in subheading 2904.90.47)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1006. FUEL GRADE TERTIARY-BUTYL ALCOHOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.31.16*	*tert-Butyl alcohol (CAS No. 75–65–0) (provided for in subheading 2905.14.00)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1007. PCMX.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.31.17*	*4-Chloro-3,5-dimethylphenol (CAS No. 88–04–0) (provided for in subheading 2908.10.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1008. R SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.31.18*	*2-Naphthol-3,6-disulfonic acid (CAS No. 148–75–4) and its salts (provided for in subheading 2908.20.04)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1009. CHROMOTROPIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.31.19*	*1,8-Dihydroxy-naphthalene-3,6-disulfonic acid (Chromotropic acid) (CAS No. 148–25–4) (provided for in subheading 2908.20.60)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1010. 4-HYDROXY-1-NAPHTHALENESULFONIC ACID, MONOPOTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.31.20*	*4-Hydroxy-1-naphthalene-sulfonic acid, monopotassium salt (CAS No. 37860–62–1) (provided for in subheading 2908.20.60)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1011. 1,1-BIS(1-METHYLETHOXY)CYCLOHEXANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.31.21*	*1,1-Bis(1-methylethoxy)- cyclohexane (CAS No. 1132–95–2) (provided for in subheading 2911.00.00)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1013. 1-(2-NAPHTHALENYL)ETHANONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.31.22*	*1-(2-Naphthalenyl) ethanone (CAS No. 93–08–3) (provided for in subheading 2914.30.00)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1014. CHLORANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.23	*2,3,5,6-Tetrachloro-1,4-benzoquinone (CAS No. 118–75–2) (provided for in subheading 2914.70.20)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1015. ANTHRAQUINONEDISULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.24	*Anthraquinone-disulfonic acid, sodium salt (CAS No. 60553–45–9) (provided for in subheading 2914.70.20)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1016. 4-(3,4-DICHLOROPHENYL)-1-TETRALONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.25	*4-(3,4-Dichlorophenyl)-1-tetralone (CAS No. 79560–19–3) (provided for in subheading 2914.70.20)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1017. DICYCLOPENTENYLOXYETHYL METHACRYLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.26	*Dicyclopentenyloxyethyl methacrylate (CAS No. 68586–19–6) (provided for in subheading 2916.14.00)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1018. M-CHLOROPEROXYBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.27	*m-Chloroperoxy-benzoic acid (CAS No. 937–14–4) (provided for in subheading 2916.39.04)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1019. FLURBIPROFEN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.28	*2-(2-Fluoro-4-biphenylyl)propionic acid (Flurbiprofen) (provided for in subheading 2916.39.40)*	*6.8%*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1020. DIMETHYLSUCCINYL SUCCINATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.29	*Dimethyl succinyl succinate (provided for in subheading 2917.19.40)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1021. MALONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.30	*Malonic acid (CAS No. 141–82–2) (provided for in subheading 2917.19.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1022. 4,4′-(HEXAFLUOROISOPROPYLIDENE)BIS(PHTHA-LIC ANHYDRIDE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.31	*4,4′-(Hexafluoro-isopropylidene)-bis(phthalic anhydride) (provided for in subheading 2917.39.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1023. MANDELIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.32	*Mandelic acid (CAS Nos. 90–64–2 and 611–71–2) (provided for in subheading 2918.17.10)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1024. KETO ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.33	*Ethyl 2-keto-4-phenylbutanoate (CAS No. 64920–29–2) (provided for in subheading 2918.30.20)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1025. BENZENEPROPANOIC ACID, 2-CHLORO-4,5-DIFLUORO-β-OXO, ETHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.34	*Benzenepropanoic acid, 2-chloro-4,5-difluoro-β-oxo, ethyl ester (provided for in subheading 2918.30.20)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1026. OXALACETIC ACID DIETHYL ESTER SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.35	*Oxalacetic acid, diethyl ester, sodium salt (CAS No. 40876–98–0) (provided for in subheading 2918.30.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1027. 4,4,4-TRIFLUORO-3-OXOBUTANOIC ACID, ETHYL ESTER AND 4,4,4-TRIFLUORO-3-OXOBUTANOIC ACID, METHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.36	*4,4,4-Trifluoro-3-oxobutanoic acid, ethyl ester (CAS No. 372–31–6), and 4,4,4-trifluoro-3-oxobutanoic acid, methyl ester (CAS No. 83643–84–9) (provided for in subheading 2918.30.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1028. 1-HYDROXY-6-DOCOSYLOXY-2-NAPHTHALENECARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.31.37	*1-Hydroxy-6-docosyloxy-2-naphthalenecarboxylic acid (provided for in subheading 2918.90.40)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	”.

SEC. 1029. 1-HYDROXY-6-OCTADECYLOXY-2-NAPHTHALENECARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.38	1-Hydroxy-6-octadecyloxy-2-naphthalenecarboxylic acid (CAS No. 38134-94-0) (provided for in subheading 2918.90.45)	Free	No change	No change	On or before 12/31/96	".

SEC. 1030. 2-CHLORO-N,N-DIMETHYLETHYLAMINE HYDROCHLORIDE, 2-(DIETHYLAMINO)ETHYL CHLORIDE HYDROCHLORIDE, AND DIMETHYLAMINOISOPROPYL CHLORIDE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.39	2-Chloro-N,N-dimethylethylamine hydrochloride (CAS No. 4584-46-7); 2-(Diethylamino) ethyl chloride hydrochloride (CAS No. 869-24-9); and Dimethylaminoisopropyl chloride hydrochloride (CAS No. 4584-49-0) (provided for in subheading 2921.19.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1031. ORTHANILIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.40	o-Aminobenzene-sulfonic acid (CAS No. 88-21-1) (provided for in subheading 2921.42.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1032. 2,5-DICHLOROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.41	2,5-Dichloroaniline (CAS No. 95-82-9) (provided for in subheading 2921.42.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1033. 2,4,5-TRICHLOROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.42	2,4,5-Trichloroaniline (CAS No. 636-30-6) (provided for in subheading 2921.42.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1034. O-NITROANILINE-P-SULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.43	o-Nitroaniline-p-sulfonic acid, sodium salt (CAS No. 5042-33-1) (provided for in subheading 2921.42.30)	Free	No change	No change	On or before 12/31/96	".

SEC. 1035. 2,4-DINITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.44	2,4-Dinitroaniline (CAS No. 97-02-9) (provided for in subheading 2921.42.75)	Free	No change	No change	On or before 12/31/96	".

SEC. 1036. 2,5-DICHLOROANILINE-4-SULFONIC ACID AND ITS MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.45	2,5-Dichloroaniline-4-sulfonic acid and its monosodium salt (CAS Nos. 88-50-6 and 41295-98-1) (provided for in subheading 2921.42.75)	Free	No change	No change	On or before 12/31/96	".

SEC. 1037. 2,6-DICHLORO-4-NITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.46	2,6-Dichloro-4-nitroaniline (CAS No. 99-30-9) (provided for in subheading 2921.42.75)	Free	No change	No change	On or before 12/31/96	".

SEC. 1038. C-AMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.47	2-Amino-5-chloro-p-toluenesulfonic acid (CAS No. 88-53-9) (provided for in subheading 2921.43.60)	Free	No change	No change	On or before 12/31/96	".

SEC. 1039. M-NITRO-P-TOLUIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.48	m-Nitro-p-toluidine (CAS No. 89-62-3) (provided for in subheading 2921.43.60)	Free	No change	No change	On or before 12/31/96	".

SEC. 1040. N-NITROSODIPHENYLAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.49	N-Nitrosodiphenylamine (CAS No. 86-30-6) (provided for in subheading 2921.44.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1042. 1-AMINO-2-NAPHTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.50	1-Amino-2-naphthalenesulfonic acid (CAS No. 81-06-1) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1043. 2-AMINO-1-NAPHTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.51	2-Amino-1-naphthalenesulfonic acid (CAS No. 81-16-3) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1044. 2,6-XYLIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.52	2,6-Xylidine (CAS No. 87-62-7) (provided for in subheading 2921.49.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1045. 2-AMINO-5-CHLORO-4-ETHYLBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.53	2-Amino-5-chloro-4-ethylbenzenesulfonic acid (CAS No. 88–56–2) (provided for in subheading 2921.49.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1046. TOLUENE-2,4-DIAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.54	Toluene-2,4-diamine (CAS No. 95–80–7) (provided for in subheading 2921.51.10)	Free	No change	No change	On or before 12/31/96	".

SEC. 1047. 4,4′-METHYLENEBIS-(2,6-DIETHYLANILINE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.55	4,4′-Methylenebis-(2,6-diethylaniline) (CAS No. 13680–35–8) (provided for in subheading 2921.51.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1048. 4,4′-BENZIDINE-2,2′-DISULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.56	4,4′-Benzidine-2,2′-disulfonic acid (CAS No. 117–61–3) (provided for in subheading 2921.59.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1049. ETHAMBUTOL HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.57	Ethambutol hydrochloride (CAS No. 1070–11–7) (provided for in subheading 2922.19.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1050. 2,4-DIMETHOXYANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.58	2,4-Dimethoxy-aniline (CAS No. 2735–04–8) (provided for in subheading 2922.29.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1051. 2,2-BIS-[4-(4-AMINOPHENOXY)PHENYL]PROPANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.59	2,2-Bis-[4-(4-aminophenoxy)phenyl]-propane (CAS No. 13080–86–9) (provided for in subheading 2922.29.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1052. 2-AMINO-5-CHLOROBENZOPHENONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.60	2-Amino-5-chlorobenzophenone (CAS No. 719–59–5) (provided for in subheading 2922.30.35)	Free	No change	No change	On or before 12/31/96	".

SEC. 1053. 3-AMINOCROTONIC ACID, METHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.61	3-Aminocrotonic acid, methyl ester (CAS No. 14205–39–1) (provided for in subheading 2922.49.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1054. FLUOMETURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.62	1,1-Dimethyl-3-(α,α,α-trifluoro-m-tolyl)urea (Fluometuron) (CAS No. 2164–17–2) (provided for in subheading 2924.21.10)	Free	No change	No change	On or before 12/31/96	".

SEC. 1055. P-ACETANISIDIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.63	p-Acetanisidide (CAS No. 51–66–1) (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/96	".

SEC. 1056. 4′-AMINO-N-METHYLACETANILIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.64	4′-Amino-N-methylacetanilide (CAS No. 119–63–1) (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/96	".

SEC. 1057A. NAPHTHOL ASBS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.65	3-Hydroxy-3′-nitro-2-naphthoic anilide (CAS No. 135–65–9) (provided for in subheading 2924.29.14)	Free	No change	No change	On or before 12/31/96	".

SEC. 1057B. N-[[(4-CHLOROPHENYL)AMINO]CARBONYL]-2,6-DIFLUOROBENZAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.66	N-[[(4-chlorophenyl)amino]carbonyl]-2,6-difluorobenzamide (Diflubenzuron) (provided for in subheading 2924.29.19.)	Free	No change	No change	On or before 12/31/96	".

SEC. 1058. N,N′-ETHYLENEBIS(5,6-DIBROMO-2,3-NORBORNANEDICARBOXIMIDE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.67	N,N′-Ethylenebis(5,6-dibromo-2,3-norbornanedicarboximide) (CAS Nos. 52907–07–0 and 41291–34–3) (provided for in subheading 2925.19.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1059. N,N-DIMETHYL-N'-[3-[[(METHYLAMINO) CARBONYL]OXY]PHENYL] METHANIMIDAMIDE MONOHYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.68	N,N-Dimethyl-N'-[3-[[(methylamino)carbonyl]oxy]phenyl] methanimidamide monohydrochloride (CAS No. 23422–53–9) (provided for in subheading 2925.20.40)	Free	No change	No change	On or before 12/31/96	".

SEC. 1060. FORMETANATE A-HCL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.69	3-Dimethylaminomethyleneiminophenol hydrochloride (provided for in subheading 2925.20.30)	Free	No change	No change	On or before 12/31/96	".

SEC. 1061. TETRAMETHYLGUANIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.70	Tetramethyl-guanidine (CAS No. 80–70–6) (provided for in subheading 2925.20.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1062. 2-CYANO-4-NITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.71	2-Cyano-4-nitroaniline (CAS No. 17420–30–3) (provided for in subheading 2926.90.04)	Free	No change	No change	On or before 12/31/96	".

SEC. 1063. P-AMINOAZOBENZENEDISULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.72	p-Aminoazobenzenedisulfonic acid (CAS No. 101–50–8) (provided for in subheading 2927.00.10)	Free	No change	No change	On or before 12/31/96	".

SEC. 1064. P-AMINOAZOBENZENEDISULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.73	p-Aminoazobenzenedisulfonic acid, monosodium salt (CAS No. 61950–37–6 or 74543–21–8) (provided for in subheading 2927.00.10)	Free	No change	No change	On or before 12/31/96	".

SEC. 1065. P-AMINOAZOBENZENEDISULFONIC ACID, DISODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.74	p-Aminoazobenzenedisulfonic acid, disodium salt (CAS No. 2706–28–7) (provided for in subheading 2927.00.40)	Free	No change	No change	On or before 12/31/96	".

SEC. 1067. P-AMINOAZOBENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.76	p-Aminoazo-benzene (CAS No. 60–09–3) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1068. P-AMINOAZOBENZENE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.77	p-Aminoazo-benzene hydrochloride (CAS No. 3457–98–5) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1069. PHENYLHYDRAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.78	Phenylhydrazine (CAS No. 100–63–0) (provided for in subheading 2928.00.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1070. 1,3-PHENYLENEBIS(1-METHYLETHYLIDENEBIS)CYANIC ACID 1,4-PHENYLENE ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.79	1,3-Phenylenebis(1-methylethylidenebis)cyanic acid, 1,4-phenylene ester (CAS No. 127667–44–1) (provided for in subheading 2929.90.10)	Free	No change	No change	On or before 12/31/96	".

SEC. 1071. 1-ISOCYANATO-3-(TRIFLUOROMETHYL)BENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.80	1-Isocyanato-3-(trifluoromethyl)benzene (CAS No. 329–01–1) (provided for in subheading 2929.10.40)	Free	No change	No change	On or before 12/31/96	".

SEC. 1073. TETRAMETHYLTHIURAM MONOSULFIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.81	Tetramethylthiuram monosulfide (CAS No. 97–74–5) (provided for in subheading 2930.30.00)	Free	No change	No change	On or before 12/31/96	".

SEC. 1074. DIPHENYLTHIOUREA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.82	Diphenylthiourea (CAS No. 102–08–9) (provided for in subheading 2930.90.28)	Free	No change	No change	On or before 12/31/96	".

SEC. 1075. PENTACHLOROTHIOPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.83	Pentachlorothio-phenol (CAS No. 113–49–3) (provided for in subheading 2930.90.28)	Free	No change	No change	On or before 12/31/96	".

SEC. 1076. N,N'-(DITHIODI-2,1-PHENYLENE) BISBENZAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.84	N,N'-(Dithiodi-2,1-phenylene)bis-benzamide (CAS No. 135–57–9) (provided for in subheading 2930.90.28)	Free	No change	No change	On or before 12/31/96	".

SEC. 1077. 2,2-DINITRODIPHENYL DISULFIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.85	2,2-Dinitrodiphenyl disulfide (CAS No. 1155–00–6) (provided for in subheading 2930.90.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1078. DIBUTYLTHIOUREA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.86	Dibutylthiourea (CAS No. 109–46–6) (provided for in subheading 2930.90.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1079. 2-PHOSPHONOBUTANE-1,2,4-TRICARBOXYLIC ACID AND SODIUM SALTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.87	2-Phosphonobutane-1,2,4-tricarboxylic acid (CAS No. 37971–36–1) and sodium salts (CAS Nos. 40372–66–5, 62682–12–6, 66669–53– 2, and 67170–90–5) (provided for in subheading 2931.00.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1080. PHOSPHOLAN MIXED WITH ETHYLENE GLYCOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.88	3-(Hydroxymethylphosphinyl)-1-propanoic acid, 2-hydroxyethyl ester (CAS No. 68334–62–3) (provided for in subheading 2931.00.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1081. PIPERONYL BUTOXIDE (PBO).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.89	Piperonyl butoxide (PBO) (CAS No. 51–03–6) provided for in subheading 2932.90.41)	6.3%	No change	No change	On or before 12/31/96	".

SEC. 1082. CALCIUM LACTOBIONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.90	Calcium lactobionate (CAS No. 5001–51–4) (provided for in subheading 2932.90.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1083. 2-CHLORO-5-SULFOPHENYLMETHYLPYRAZOLONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.91	2-Chloro-5-sulfophenylmethylpyrazolone (CAS No. 88–76–6) (provided for in subheading 2933.19.40)	Free	No change	No change	On or before 12/31/96	".

SEC. 1084. P-SULFOPHENYLMETHYLPYRAZOLONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.92	p-Sulfo-phenylmethylpyrazolone (CAS No. 89–36–1) (provided for in subheading 2933.19.42)	Free	No change	No change	On or before 12/31/96	".

SEC. 1085. ETHYLENE THIOUREA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.93	Ethylene thiourea (CAS No. 96–45–7) (provided for in subheading 2933.29.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1086. 2-METHYL-5-ETHYLPYRIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.94	2-Methyl-5-ethylpyridine (CAS No. 104–90–5) (provided for in subheading 2933.39.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1088. PIPERIDINOETHYL CHLORIDE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.95	Piperidinoethyl chloride hydrochloride (CAS No. 2008–75–5) (provided for in subheading 2933.39.47)	Free	No change	No change	On or before 12/31/96	".

SEC. 1090. PYRMETHYL ALCOHOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.96	3,5-Dimethyl-2-hydroxymethyl-4-methoxypyridine (CAS No. 86604–78–6) (provided for in subheading 2933.39.47)	Free	No change	No change	On or before 12/31/96	".

SEC. 1093. HALOFUGINONE HYDROBROMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.97	Halofuginone hydrobromide (CAS No. 64924–67–0) (provided for in subheading 2933.59.36)	Free	No change	No change	On or before 12/31/96	".

SEC. 1094A. 2-AMINO-4-CHLORO-6-METHOXYPYRIMIDINE AND 2-AMINO-4,6-DIMETHOXYPYRIMIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.98	*2-Amino-4-chloro-6-methoxypyrimidine (CAS No. 5734-64-5); and 2-Amino-4,6-dimethoxypyrimidine (CAS No. 36315-01-2) (provided for in subheading 2933.59.90)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1094B. METHENAMINE HIPPURATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.99	*Methenamine hippurate (provided for in subheading 2933.90.46)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1095. 12-AMINODODECANOIC ACID LACTAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.00	*12-Amino-dodecanoic acid lactam (CAS No. 947-04-6) (provided for in subheading 2933.79.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1096. ACETOXY AZETIDINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.01	*[3R-[3α(R*), 4β]]-4-(Acetyloxy)-3-[1-[[(1,1-dimethylethyl)dimethylsilyl]oxy]ethyl]-2-azetidinone (CAS No. 76855-69-1) (provided for in subheading 2933.79.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1097. FINASTERIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.02	*(5α,17β)-(1,1-Dimethylethyl)-3-oxo-4-azaandrost-1-ene-17-carboxamide (Finasteride) (CAS No. 98319-26-7) (provided for in subheading 2933.79.50 or 3004.90.60)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1098A. MYCLOBUTANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.03	*α-Butyl-α-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile (Myclobutanil) (CAS No. 88671-89-0) (provided for in subheading 2933.90.20)*	*11.1%*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1098B. LISINOPRIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.05	*Lisinopril (provided for in subheading 2933.90.53)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1099. FENBENDAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.11	*Methyl 5-(phenylthio)-2-benzimidazolecarbamate (Fenbendazole) (CAS No. 43210-67-9) (provided for in subheading 2933.90.75)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1101. CARBAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.12	*Carbazole (CAS No. 86-74-8) (provided for in subheading 2933.90.80)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1102. A-I COUPLER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.13	*Acetoacetyl-5-aminobenzimidazolone (CAS No. 26576-46-5) (provided for in subheading 2933.90.80)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1103. METMERCAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.14	*2-Mercapto-5-methoxybenzimidazole (CAS No. 37052-78-1) (provided for in subheading 2933.90.80)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1104. HEXAMETHYLENIMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.15	*Hexamethyl-enimine (CAS No. 111-49-9) (provided for in subheading 2933.90.95)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1105. 2-AMINOTHIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.16	*2-Aminothiazole (CAS No. 96-50-4) (provided for in subheading 2934.10.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1106. 4,5-DICHLORO-2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.17	*4,5-Dichloro-2-n-octyl-4-isothiazolin-3-one (CAS No. 64359-81-5) (provided for in subheading 2934.10.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1107. 2-METHYL-4-ISOTHIAZOLIN-3-ONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.18	*2-Methyl-4-isothiazolin-3-one (CAS No. 2682-20-4) (provided for in subheading 2934.90.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1108. 2-AMINO-6-NITROBENZOTHIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.19	*2-Amino-6-nitrobenzothiazole (CAS No. 6285-57-0) (provided for in subheading 2934.20.60)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1109. 2-AMINO-5,6-DICHLOROBENZOTHIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.20	*2-Amino-5,6-dichlorobenzothiazole (CAS No. 24072-75-1) (provided for in subheading 2934.20.60)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1110. ETHYL [10H-PHENOTHIAZIN-2-YL] CARBAMATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.21	*Ethyl [10H-phenothiazin-2-yl] carbamate (CAS No. 37711-29-8) (provided for in subheading 2934.30.40)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1111A. FENOXAPROPETHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.22	*Ethyl 2-[4-[(6-chloro-2-benzoxazolyl) oxy]phenoxy] propanoate (Fenoxapropethyl) (provided for in subheading 2934.90.14)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1111B. OFLOXACIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.23	*Ofloxacin (provided for in subheading 2934.90.25)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1112. 2-ACETYLBENZO(B)THIOPHENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.24	*2-Acetylbenzo(b)thiophene (CAS No. 22720-75-8) (provided for in subheading 2934.90.40)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1113. DIAZO-2,1,4-SULFONIC ACID AND ITS SALTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.25	*Naphth[2,1-d]-1,2,3-oxadiazole-5-sulfonic acid and its sodium salt (provided for in subheading 2934.90.40)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1114. MORPHOLINOETHYL CHLORIDE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.26	*Morpholinoethyl chloride hydrochloride (CAS No. 3647-69-6) (provided for in subheading 2934.90.50)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1116. TAC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.28	*2-Thiopheneacetyl chloride (CAS No. 39098-97-0) (provided for in subheading 2934.90.50)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1117. CHLORTHALIDONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.29	*Chlorthalidone (CAS No. 77-36-1) (provided for in subheading 2935.00.57)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1118. FAMOTIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.31	*Famotidine (provided for in subheading 2935.00.57)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1119. 7-(HEXADECYLSULFONYLAMINO)-1H-INDOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.32	*7-(Hexadecylsulfonylamino)-1H-indole (CAS No. 51501- 27-0) (provided for in subheading 2935.00.90)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1120. PHYSOSTIGMINE SALICYLATE (ESERINE SALICYLATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.33	*Physostigmine salicylate (Eserine salicylate) (CAS No. 57-64-7) (provided for in subheading 2939.90.10)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1121. PILOCARPINE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.34	*Pilocarpine hydrochloride (provided for in subheading 2939.90.50)*	1.8%	No change	No change	On or before 12/31/96	".

SEC. 1122. LOBELINE SULFATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.35	*Lobeline sulfate (CAS No. 134-64-5) (provided for in subheading 2939.90.50)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1123. D-ARABINOSE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.36	*D-Arabinose (CAS No. 10323-20-3) (provided for in subheading 2940.00.00)*	Free	No change	No change	On or before 12/31/96	".

SEC. 1124. TAZOBACTAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.37	Tazobactam and its sodium salt, in bulk or put up in measured doses (CAS Nos. 89786–04–9 and 89785–84–2) (provided for in subheading 2941.10.50 or 3004.10.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1125. OXYTETRACYCLINE DIHYDRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.38	Oxytetracycline dihydrate containing not less than 80 percent by weight of oxytetracycline (provided for in subheading 2941.30.00)	Free	No change	No change	On or before 12/31/96	".

SEC. 1126. UV-1084 LIGHT STABILIZER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.39	[2,2'-Thiobis[4-(1,1,3,3-tetramethyl-n-butyl)phenolato](2,1)]-0,0',s-(1-butanamine), nickel II (CAS No. 14516–71–3) (provided for in subheading 2942.00.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1127. 1,4,5,6-TETRAHYDRO-1-METHYL-2-[2-(2-THIENYL)ETHENYL]PYRIMIDINE TARTRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.40	1,4,5,6-Tetrahydro-1-methyl-2-[2-(2-thienyl)ethenyl]pyrimidine tartrate (Pyrantel tartrate) blended with sodium aluminosilicate (provided for in subheading 3003.90.00)	Free	No change	No change	On or before 12/31/96	".

SEC. 1128. VIGABATRIN AND CLOBAZAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.41	Vigabatrin and clobazam (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/94	".

SEC. 1129. FUSTIC LIQUID MIXTURE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.42	Mixtures of 3,4-dihydroxyphenyl-2,4,6-trihydroxyphenylmethanone (CAS No. 480-16–0), and 2-(2,4-dihydroxyphenyl)-3,5,7-trihydroxy-4H-1-benzopyran-4-one (CAS No. 519–34–6) (provided for in subheading 3203.00.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1130. RESOLIN RED F3BS COMPONENTS I AND II.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.43	N-[2-[(2,6-dicyano-4-methylphenyl)-azo]-5-(diethylamino)-phenyl]methanesulfonamide and N-[2-[(2,6-dicyano-4-methylphenyl)-azo]-5-(di-l-propylamino)-phenyl]-methanesulfonamide (provided for in subheading 3204.11.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1131. ACID VIOLET 19.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.44	Acid violet 19 (CAS No. 3244–88–0) (provided for in subheading 3204.12.10 or 3707.90.30)	Free	No change	No change	On or before 12/31/96	".

SEC. 1132. VAT RED 1 DYE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.45	Vat red 1 dye (CAS No. 2379–74–0) (provided for in subheading 3204.15.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1133A. PIGMENT YELLOW 101.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.46	Pigment yellow 101 (provided for in subheading 3204.17.10)	Free	No change	No change	On or before 12/31/96	".

SEC. 1133B. SOLVENT YELLOW 172.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.47	Solvent yellow 172 (provided for in subheading 3204.19.15)	Free	No change	No change	On or before 12/31/96	".

SEC. 1134. SOLVENT YELLOW 43.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.48	Solvent yellow 43 (CAS No. 19125–99–6) (provided for in subheading 3204.19.15)	Free	No change	No change	On or before 12/31/96	".

SEC. 1135. SOLVENT YELLOW 44 OR 85.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.49	Solvent yellow 44 or solvent yellow 85 (CAS No. 12271–01–1) (provided for in subheading 3204.19.19)	Free	No change	No change	On or before 12/31/96	".

SEC. 1136. BENZOXAZOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.50	Benzoxazol (provided for in subheading 3204.20.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1137. DIFLUBENZURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.13	Mixtures of N-[[(4-chlorophenyl)amino] carbonyl]-2,6-difluorobenzamide (Diflubenzuron) and inert substances (provided for in subheading 3808.10.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1138. 2-METHYL-4-ISOTHIAZOLIN-3-ONE WITH INERTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.15	Mixtures of 2-methyl-4-isothiazolin-3-one (CAS No. 2682-20-4) and application adjuvants, with or without stabilizers (provided for in subheading 3808.90.20 or 3808.90.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1139. 4,5-DICHLORO-2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE WITH INERTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.16	Mixtures of 4,5-dichloro-2-n-octyl-4-isothiazolin-3-one (CAS No. 64359- 81-5) and application adjuvants, with or without stabilizers (provided for in subheading 3808.90.20 or 3808.90.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1140. CERTAIN CARBODIIMIDE MASTERBATCHES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.17	Masterbatches of poly[nitrilomethanetetraarylnitrilo[2,4,6-tris-(1-methylethyl)-1,3-phenylene]],[2,6-bis(1-methylethyl)-phenyl]omega-[[[[2,6-bis(1-methylethyl)-phenyl]amino]-methylene]-amino] or 2,4-diisocyanate-1,3,5-tris(1-methylethyl)-benzene homopolymer with polyethylene, with polyethylene terephthalate, or with thermoplastic polyurethanes (provided for in subheading 3812.30.40, 3901.10.00, 3907.60.00, or 3909.50.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1141. CERTAIN COMPOSITE DIAGNOSTIC OR LABORATORY REAGENTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.22	Composite diagnostic or laboratory reagents, comprising strips of plastics each incorporating on one side a pad of fibrous or porous material impregnated with chemical reagents for blood chemistry analysis and having, either on the reverse side or on an accompanying separate strip of plastics, a magnetic bar code containing machine-readable instructions designating the desired chemical analysis and calibrating the instrument performing such analysis (provided for in subheading 3822.00.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1142. CERTAIN THERMOSETTING POLYIMIDE RESINS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.12	1,1'-Bis(methylenedi-4,1-phenylene)-1H-pyrrole-2,5-dione, copolymer with 4,4'-methylenebis-(benzenamine) (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/96	".

SEC. 1143. CHLORINATED SYNTHETIC RUBBER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.13	Chlorinated synthetic polyisoprene, having a viscosity of 100 centipoise or more (provided for in subheading 3911.90.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1144A. SODIUM CARBOXYMETHYLCELLULOSE, TECHNICAL GRADE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.15	Sodium carboxymethylcellulose, technical grade (65% to 85% pure) (provided for in subheading 3912.31.00)	Free	No change	No change	On or before 12/31/96	".

SEC. 1144B. BASEBALL AND SOFTBALL GLOVES AND MITTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.25	Baseball and softball gloves and mitts (provided for in subheading 3926.20.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1144C. LEATHER BASEBALL AND SOFTBALL GLOVES AND MITTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.42.03	Baseball and softball gloves and mitts (except batting gloves), specially designed for use in sports, of leather or of composition leather (provided for in subheading 4203.21.40)	Free	No change	No change	On or before 12/31/96	".

SEC. 1145. PHOTOGRAPHIC PAPER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.48.11	Base paper to be sensitized for use in photography, less than 0.3 mm in thickness (provided for in subheading 4811.31.40)	0.9%	No change	No change	On or before 12/31/96	".

SEC. 1146. VINYON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.55.03	Synthetic staple fibers, not carded, combed or otherwise processed for spinning, containing 85% or more by weight of vinyl chloride and 14% or more by weight of vinyl acetate (provided for in subheading 5503.90.00)	Free	No change	No change	On or before 12/31/96	".

SEC. 1147. CERTAIN TWINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.56.07	Twine, defined as a plied yarn made from medium twist single yarns with ply twist in the opposite direction, measuring less than 4.8 mm in diameter and composed of the following fibers having an approximate percentage by weight of: 25 to 35% polyester, 18 to 28% acrylic, 17 to 27% nylon, 8 to 18% cotton, and 7 to 17% rayon (provided for in subheading 5607.50.20)	8%	No change	No change	On or before 12/31/96	".

SEC. 1148. MAN-MADE FIBER FELT FABRIC FOR TECHNICAL PURPOSES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.59.11	*Nonlaminated, chemically treated or coated, needleloom felt of man-made fibers (provided for in subheading 5911.40.00)*	*12.5%*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1149. WATER-RESISTANT WOOL MEN'S AND BOYS' TROUSERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.62.03	*Men's and boys' wool trousers and breeches containing elastomeric fiber, water resistant, without belt loops, weighing more than 9 kg per dozen (provided for in subheading 6203.41.10)*	*7.6%*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1150. WATER-RESISTANT WOOL WOMEN'S AND GIRLS' TROUSERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.62.05	*Women's and girls' wool trousers and breeches containing elastomeric fiber, water resistant, without belt loops, weighing more than 6 kg per dozen (provided for in subheading 6204.61.00)*	*7.6%*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1151. BRASSIERES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.62.12	*Brassieres containing net, lace, or embroidery (provided for in subheading 6212.10.10)*	*18%*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1152A. CERAMIC STATUES, STATUETTES, AND HAND-MADE FLOWERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.69.13	*Statues, statuettes, and handmade flowers, of porcelain or china, valued at more than $2.50 each and produced by professional sculptors or directly from molds made from original models produced by professional sculptors (provided for in subheading 6913.10.10)*	*2.6%*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1152B. OTHER ORNAMENTAL ARTICLES OF PORCELAIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.69.14	*Other ornamental articles of porcelain (provided for in subheading 6913.10.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1152C. CERAMIC FERRULES AND SLEEVES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.69.15	*Ceramic ferrules and mating sleeves of either alumina or zirconia, not exceeding 3 mm in diameter and 25 mm in length, and having a fiber channel opening (provided for in subheading 6914.90.00)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1153. CERTAIN SHEET GLASS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.70.05	*Float glass and surface ground or polished glass suitable for use in liquid crystal displays, in sheets, nonwired, whether or not having an absorbent or reflecting layer, but not otherwise worked, whether or not polished, measuring not more than 1.2 mm in thickness and not over 0.8m² in area (provided for in subheading 7005.10.00, 7005.29.05, or 7005.29.15)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1154A. IMITATION JEWELRY OF PLASTICS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.71.17	*Imitation jewelry of plastics (except parts) (provided for in subheading 7117.90.50)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1154B. MACHINERY FOR USE IN THE MANUFACTURE OF VIDEO LASER DISCS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.24	*Machinery for use in the manufacture of video laser discs (provided for in subheading 8424.89.00, 8428.90.00, or 8477.10.60)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1155. SPRING-BEARD NEEDLES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.52	*Spring-beard needles (provided for in subheading 8448.51.20)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1156. SEWING MACHINE NEEDLES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.53	*Sewing machine needles (provided for in subheading 8452.30.00)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1157. DIGITAL PROCESSING UNITS FOR AUTOMATIC DATA PROCESSING MACHINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.71	*Digital processing units not classifiable under subheading 9903.41.20 for automatic data processing machines, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon, certified as units designed for use other than in an automatic data processing machine of subheading 8471.20.00, including units entered from a foreign-trade zone which may be subsequently readmitted to a foreign-trade zone for further processing, notwithstanding any provision of section 3 of the Foreign Trade Zone Act (provided for in subheading 8471.91.00)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1158. RADIO-TAPE PLAYER COMBINATIONS.

Subchapter II of chapter 99 is amended by adding in numerical sequence the following new heading:

"	9902.85.28	Radiobroadcast receivers capable of operating without an external source of power, incorporating tape players which are incapable of recording (provided for in subheading 8527.11.11)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1160. CERTAIN LIGHTWEIGHT BICYCLES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.87.12	Bicycles having front wheels exceeding 55 cm but not exceeding 63.5 cm in diameter and rear wheels exceeding 63.5 cm in diameter, weighing less than 16.3 kg complete without accessories and not designed for use with tires having a cross-sectional diameter exceeding 4.13 cm, valued at $200 or greater (provided for in subheading 8712.00.40)	5.5%	No change	No change	On or before 12/31/96 ".

SEC. 1161A. MOUNTED CLOSED CIRCUIT TELEVISION LENSES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.90.02	Mounted lenses consisting of lenses suitable for use in, and presented separately from, closed circuit television cameras, with or without attached electrical or nonelectrical closed circuit television camera connectors, and with or without attached motors (provided for in subheading 9002.11.80, 9002.90.90, or 8529.90.30)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1161B. FIXED FOCUS INSTANT PRINT CAMERAS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.90.20	Fixed focus instant print cameras (provided for in subheading 9006.40.40)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1161C. INSTANT PRINT CAMERAS, OTHER THAN FIXED FOCUS, OVER $10.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.90.25	Instant print cameras, other than fixed focus, valued over $10 each (provided for in subheading 9006.40.90)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1162. UNSTUFFED DOLLS, DOLL PARTS, AND ACCESSORIES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.95.03	Dolls, whether or not dressed, other than stuffed dolls, not over 30 cm in height (provided for in subheading 9502.10.40), and doll parts and accessories, including garments and accessories thereof, footwear and headgear (provided for in subheading 9502.91.00), artificial eyes (provided for in subheading 9502.99.20), and other parts and accessories (provided for in subheading 9502.99.30)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1163. PERSONAL EFFECTS AND OTHER ARTICLES OF PARTICIPANTS AND OTHER INDIVIDUALS ASSOCIATED WITH THE XXVI SUMMER OLYMPIAD.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.98.04	Personal effects of participants in, officials of, and other individuals associated with the XXVI Summer Olympiad or the Cultural Olympiad associated with the XXVI Summer Olympiad; and other articles associated with the XXVI Summer Olympiad or the Cultural Olympiad: (1) Personal effects of participants in, officials of, or accredited members of delegations to the XXVI Summer Olympiad or the Cultural Olympiad associated with the XXVI Summer Olympiad, or of individuals who are members of the immediate families or servants of any of the foregoing persons. (2) Any article for which entry is sought by participants in, officials of, or accredited members of delegations to the XXVI Summer Olympiad and which is to be used or consumed at or in connection with the Olympiad. (3) Any article for which entry is sought by participants in, officials of, or accredited members of delegations to the Cultural Olympiad associated with the XXVI Summer Olympiad and which is to be used at or in connection with the Cultural Olympiad. (4) Subject to regulations prescribed by the Secretary of the Treasury, any other article for which entry is sought for use at or in connection with the XXVI Summer Olympiad	Free	No change	Free	On or before 10/4/96 ".

Subtitle B—Existing Temporary Duty Suspensions

SEC. 1201. EXTENSION OF CERTAIN SUSPENSIONS AND REDUCTIONS OF DUTY.

(a) EXTENSIONS UNTIL JANUARY 1, 1995.—Each of the following subheadings or headings is amended by striking the date in the effective period column and inserting "12/31/94":

(1) Subheadings 9902.05.10 and 9902.05.11 (relating to crude feathers and down).

(2A) Heading 9902.07.04 (relating to fresh, chilled, or frozen brussels sprouts).

(2B) Heading 9902.08.07 (relating to fresh cantaloupes).

(3) Heading 9902.26.14 (relating to synthetic rutile).

(4) Heading 9902.29.06 (relating to 1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol)).

(5) Heading 9902.29.08 (relating to β-Naphthol).

(6) Heading 9902.29.09 (relating to o-Benzyl-p-chlorophenol).

(7) Heading 9902.29.11 (relating to Triethylene glycol dichloride).

(8) Heading 9902.29.14 (relating to Dinocap).

(9) Heading 9902.29.21 (relating to m-Hydroxybenzoic acid).

(10) Heading 9902.29.24 (relating to 3-Amino-3-methyl-1-butyne).

(11) Heading 9902.29.25 (relating to 4-Chloro-2-nitroaniline).

(12) Heading 9902.29.26 (relating to p-Nitro-o-toluidine).

(13) Heading 9902.29.27 (relating to Tetraaminobiphenyl).

(14) Heading 9902.29.32 (relating to certain oxygen-function amino compounds).

(15) Heading 9902.29.34 (relating to 6-Amino-1-naphthol-3-sulfonic acid).

(16) Heading 9902.29.36 (relating to m-Nitro-p-anisidine).

(17) Heading 9902.29.37 (relating to m-Nitro-o-anisidine).

(18) Heading 9902.29.39 (relating to p-Nitro-o-anisidine).

(19) Heading 9902.29.41 (relating to 3-Ethylamino-p-cresol).

(20) Heading 9902.29.42 (relating to 4-Chloro-2,5-dimethoxyaniline).

(21) Heading 9902.29.44 (relating to 1-Amino-4-bromo-2-anthraquinonesulfonic acid (Bromamine acid) and its sodium salt).

(22) Heading 9902.29.45 (relating to 3,4-Diaminophenetole dihydrogen sulfate).

(23) Heading 9902.29.46 (relating to certain oxygen-function amino compounds).

(24) Heading 9902.29.49 (relating to Benzethonium chloride).

(25) Heading 9902.29.51 (relating to N-(7-Hydroxy-1-naphthyl)acetamide).

(26) Heading 9902.29.52 (relating to 2,5-Dimethoxyacetanilide).

(27) Heading 9902.29.55 (relating to certain carbodiimides).

(28) Heading 9902.29.58 (relating to N1-(2-Hydroxyethyl)-2-nitro-1,4-phenylenediamine).

(29) Heading 9902.29.62 (relating to Paraldehyde, USP grade).

(30) Heading 9902.29.63 (relating to Aminomethylphenylpyrazole (Phenylmethylamino-pyrazole).

(31) Heading 9902.29.64 (relating to 6-(3-Methyl-5-oxo-1-pyrazolyl)-1,3-naphthalenedisulfonic acid (Amino-J-pyrazolone) and 3-Methyl-1-phenyl-5-pyrazolone (Methylphenylpyrazolone).

(32) Heading 9902.29.67 (relating to 3-Methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-Tolylmethylpyrazo-lone)).

(33) Heading 9902.29.68 (relating to Phenylcarbethoxypyrazolone).

(34) Heading 9902.29.71 (relating to Barbituric acid).

(35) Heading 9902.29.73 (relating to 4,11-Diamino-1H-naphth[2,3-f]isoindole-1,3,5,10(2H)-tetrone).

(36) Heading 9902.29.74 (relating to Terfenadone).

(37) Heading 9902.29.75 (relating to 1-(3-Sulfopropyl)pyridinium hydroxide).

(38) Heading 9902.29.76 (relating to 2-n-Octyl-4-isothiazolin-3-one, and its mixtures with application adjuvants).

(39) Heading 9902.29.78 (relating to 2-(4-Aminophenyl)-6-methylbenzothiazole-7-sulfonic acid).

(40) Heading 9902.29.80 (relating to Sulfamethazine).

(41) Heading 9902.29.81 (relating to Sulfaquinoxaline and sulfanilamide).

(42) Heading 9902.29.82 (relating to Sulfathiazole).

(43) Heading 9902.29.83 (relating to Sulfaguanidine).

(44) Heading 9902.29.84 (relating to Sulfapyridine).

(45) Heading 9902.29.85 (relating to Acetylsulfaguanidine).

(46) Heading 9902.29.86 (relating to 2,4-Dichloro-5-sulfamoylbenzoic acid).

(47) Heading 9902.29.89 (relating to 4-Chloro-3-methylphenol).

(49) Heading 9902.29.96 (relating to Dicyclomine hydrochloride).

(50) Heading 9902.29.97 (relating to N-Acetylsulfanilyl chloride).

(51) Heading 9902.29.99 (relating to Terfenadine and mepenzolate bromide).

(52) Heading 9902.30.00 (relating to Desipramine hydrochloride).

(53) Heading 9902.30.03 (relating to Lactulose).

(54) Heading 9902.30.04 (relating to Nicotine resin complex put up in measured doses in chewing gum form).

(55) Heading 9902.30.08 (relating to 2,3,6-Trimethylphenol).

(56) Heading 9902.30.12 (relating to 6-t-Butyl-2,4-xylenol).

(57) Heading 9902.30.15 (relating to 7-Hydroxy-1,3-naphthalenedisulfonic acid, dipotassium salt).

(58) Heading 9902.30.16 (relating to 7-Acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene).

(59) Heading 9902.30.18 (relating to 1,4-Dihydroxyanthraquinone).

(60) Heading 9902.30.20 (relating to 1-Chloro-5-hexanone).

(61) Heading 9902.30.23 (relating to Diflunisal).

(62) Heading 9902.30.25 (relating to 6-Hydroxy-2-naphthoic acid).

(63) Heading 9902.30.30 (relating to 4,4'-Methylenebis(2,6-diisopropylaniline)).

(64) Heading 9902.30.31 (relating to 2-Chloro-4-nitroaniline).

(65) Heading 9902.30.34 (relating to 5-Amino-2-naphthalenesulfonic acid).

(66) Heading 9902.30.35 (relating to 7-Amino-1,3-naphthalenedisulfonic acid, monopotassium salt).

(67) Heading 9902.30.36 (relating to 4-Amino-1-naphthalenesulfonic acid, sodium salt).

(68) Heading 9902.30.37 (relating to 8-Amino-2-naphthalenesulfonic acid).

(69) Heading 9902.30.38 (relating to mixtures of 5- and 8-Amino-2-naphthalenesulfonic acid).

(70) Heading 9902.30.39 (relating to 1-Naphthylamine).

(71) Heading 9902.30.40 (relating to 6-Amino-2-naphthalenesulfonic acid).

(72) Heading 9902.30.41 (relating to 2-Naphthylamine-6-sulfonic acid).

(73) Heading 9902.30.42 (relating to 2-Naphthylamine-1,5-disulfonic acid and its monosodium salt).

(74) Heading 9902.30.43 (relating to 2,4-Diaminobenzenesulfonic acid).

(75) Heading 9902.30.44 (relating to 1,4-Diaminobenzene-2-sulfonic acid).

(76) Heading 9902.30.47 (relating to 1-Amino-2-methoxybenzene (o-Anisidine)).

(77) Heading 9902.30.48 (relating to 2-Amino-4-chlorophenol).

(78) Heading 9902.30.49 (relating to L-Ornithine, ethyl ester).

(79) Heading 9902.30.51 (relating to 7-Anilino-4-hydroxy-2-naphthalenesulfonic acid).

(80) Heading 9902.30.52 (relating to 1,4-Diamino-2,3-dihydroanthraquinone).

(81) Heading 9902.30.53 (relating to Trifluoroacetyl-L-lysine-L-proline in free base and tosyl salt forms).

(82) Heading 9902.30.55 (relating to 1-Amino-2-bromo-4-hydroxyanthraquinone).

(83) Heading 9902.30.57 (relating to L-Carnitine).

(84A) Heading 9902.30.59 (relating to Acetoacet-para-toluidide).

(84B) Heading 9902.30.60 (relating to 3-hydroxy-2-naphthanilide, 3-hydroxy-2-naphtho-o-toluidine, 3-hydroxy-2-naphtho-o-anisidine, 3-hydroxy-2-naphtho-o-phenetidide, 3-hydroxy-2-naphtho-4-chloro-2,5-dimethoxyanilide, and N,N'-bis(aceto-acetyl-o-toluidine)).

(85) Heading 9902.30.61 (relating to Diltiazem hydrochloride).

(86) Heading 9902.30.62 (relating to 3-Aminomethoxybenzanilide).

(87) Heading 9902.30.63 (relating to Acetoacetsulfanilic acid, potassium salt).

(88) Heading 9902.30.65 (relating to Iopamidol).

(89) Heading 9902.30.66 (relating to N-(2-Hydroxyethyl)-2,4,6-triiodo-5-[2-(2,4,6-triiodo-3-(N-methylacetamido)-5-(methylcarbamoyl)benzamido)acetamido]isophthalamic acid (Ioxaglic acid)).

(90) Heading 9902.30.67 (relating to 4-Aminoacetanilide).

(91) Heading 9902.30.69 (relating to 2,6-Dichlorobenzonitrile).

(92) Heading 9902.30.73 (relating to 2,2'-Bis(4-cyanatophenyl)-1,1,1,3,3,3-hexafluoropropane).

(93) Heading 9902.30.74 (relating to 4,4'-Thiodiphenyl cyanate).

(94) Heading 9902.30.75 (relating to 2-[(4-Aminophenyl)sulfonyl]ethanol, hydrogen sulfate ester).

(95) Heading 9902.30.77 (relating to Diphenyldichlorosilane and phenyltrichlorosilane).

(96) Heading 9902.30.78 (relating to Bendiocarb).

(97) Heading 9902.30.80 (relating to 2,5-Dichloro-4-(3-methyl-5-oxo-2-pyrazolin-1-yl)benz-enesulfonic acid).

(98) Heading 9902.30.85 (relating to Norfloxacin).

(99) Heading 9902.30.86 (relating to 6-Methyluracil).

(100) Heading 9902.30.88 (relating to Amiloride hydrochloride).

(101A) Heading 9902.30.89 (relating to 1,3,3-Trimethyl-2-methyleneindoline).

(101B) Heading 9902.30.90 (relating to L-Alanyl-L-proline).

(101C) Heading 9902.30.92 (relating to Ethyl 2-(2-aminothiazole-4-yl)-2-hydroxyiminoacetate).

(101D) Heading 9902.30.93 (relating to Ethyl 2-(2-aminothiazole-4-yl)-2-methoxyiminoacetate).

(102) Heading 9902.30.98 (relating to Mixed ortho/para-toluenesulfonamides).

(103) Heading 9902.31.01 (relating to Theobromine).

(104) Heading 9902.31.02 (relating to Cefixime).

(105) Heading 9902.31.06 (relating to Sucralfate).

(106) Heading 9902.32.04 (relating to 3,7-Bis(dimethylamino)phenazathionium chloride (Methylene blue)).

(107) Heading 9902.36.06 (relating to Metaldehyde).

(108) Heading 9902.38.06 (relating to Mixtures of dinocap and application adjuvants).

(109) Heading 9902.38.08 (relating to Maneb, zineb, mancozeb, and metiram).

(110) Heading 9902.38.09 (relating to Sethoxydim).

(111) Heading 9902.38.10 (relating to Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and stabilizers, whether or not containing application adjuvants).

(112) Heading 9902.38.11 (relating to Mixtures of 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) and application adjuvants).

(113) Heading 9902.38.14 (relating to Mixtures of 2,6-Dichlorobenzonitrile and inerts).

(114) Heading 9902.38.25 (relating to chemical light activator blend).

(115) Heading 9902.39.11 (relating to Hydrocarbon novolac cyanate ester).

(116) Heading 9902.39.14 (relating to Cross-linked polyvinylbenzyltrimethylammonium chloride) (Cholestyramine resin USP).

(117) Heading 9902.40.11 (relating to bicycle tires, inner tubes, and rim strips).

(118) Heading 9902.44.21 (relating to certain manmade or recomposed wood veneer).

(119) Heading 9902.51.01 (relating to certain unimproved wools).

(121) Heading 9902.64.02 (relating to skating boots for use in the manufacture of in-line roller skates).

(122) Heading 9902.66.01 (relating to self-folding collapsible umbrellas).

(123) Heading 9902.66.03 (relating to umbrella frames).

(126) Heading 9902.71.04 (relating to diamond tool and drill blanks).

(127) Heading 9902.73.12 (relating to cable or inner wire for caliper and cantilever brakes and casing therefor).

(128) Heading 9902.73.15 (relating to bicycle chains).

(129) Heading 9902.78.01 (relating to unwrought lead).

(130) Heading 9902.84.19 (relating to molten-salt-cooled acrylic acid reactors and their associated parts, accessories, and equipment, when imported as an entirety).

(131) Heading 9902.84.48 (relating to circular sweater strip and garment length knitting machines, parts therefor, and auxiliary machines).

(132) Heading 9902.84.49 (relating to certain power driven flat knitting machines, parts therefor, and auxiliary machinery).

(133) Heading 9902.84.51 (relating to needles for knitting machines).

(134) Heading 9902.84.79 (relating to machines suitable for use in the manufacture of wheels for bicycles).

(135) Heading 9902.85.03 (relating to parts of aircraft generators).

(136) Heading 9902.85.12 (relating to generator lighting sets for bicycles, and parts thereof).

(137) Heading 9902.85.24 (relating to certain video tape recordings).

(138) Heading 9902.85.27 (relating to certain entertainment broadcast band receivers).

(139) Heading 9902.87.14 (relating to certain bicycle brakes and brake mechanisms).

(140) Heading 9902.87.15 (relating to bicycle handlebar stems wholly of aluminum alloy).

(141) Heading 9902.87.16 (relating to bicycle handlebar stem rotor assemblies).

(142) Heading 9902.95.01 (relating to stuffed dolls and stuffed doll skins).

(143) Heading 9902.95.02 (relating to certain stuffed or filled toys).

(144) Heading 9902.95.04 (relating to skins for certain stuffed toys).

SEC. 1202. EXTENSION OF, AND OTHER MODIFICATIONS TO, CERTAIN SUSPENSIONS OF DUTY.

Subchapter II of chapter 99 is further amended as follows:

(1) PHOTOGRAPHIC COUPLER INTERMEDIATE.—Heading 9902.29.01 is amended—

(A) by inserting "2,3-Dihydroxynaphtha-lene-6-sulfonic acid, sodium salt, a.k.a." after "but excluding"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(2) P-TOLUENESULFONYL CHLORIDE.—Heading 9902.29.04 is amended—

(A) by inserting "(CAS No. 98–59–9)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(3) 2,6-DICHLOROBENZALDEHYDE.—Heading 9902.29.13 is amended—

(A) by inserting "(CAS No. 83–38–5)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(4) M-TOLUIC ACID.—Heading 9902.29.20 is amended—

(A) by inserting "(CAS No. 99–04–7)" before "(provided";

(B) by striking "2916.39.50" and inserting "2916.39.60"; and

(C) by striking "12/31/90" and inserting "12/31/94".

(5) α,α,α-TRIFLUORO-O-TOLUIDINE.—Heading 9902.29.28 is amended—

(A) by inserting "(CAS No. 88–17–5)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(6) 8-AMINO-1-NAPHTHALENESULFONIC ACID AND ITS SALTS.—Heading 9902.29.30 is amended—

(A) by inserting "(CAS No. 82–75–7)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(7) 5-AMINO-2-(P-AMINOANILINO)BENZENESULFONIC ACID.—Heading 9902.29.31 is amended—

(A) by inserting "(CAS No. 119–70–0)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(8) 1-AMINO-8-HYDROXY-3,6-NAPHTHALENEDISULFONIC ACID AND 4-AMINO-5-HYDROXY-2,7-NAPHTHALENEDISULFONIC ACID, MONOSODIUM SALT (H ACID, MONOSODIUM SALT).—Heading 9902.29.33 is amended—

(A) by inserting "(CAS No. 90–20–0)" after "acid" the first place it appears;

(B) by inserting "(CAS No. 5460–09–3)" before "(provided"; and

(C) by striking "12/31/92" and inserting "12/31/94".

(9) 6-AMINO-4-HYDROXY-2-NAPHTHALENESULFONIC ACID.—Heading 9902.29.35 is amended—

(A) by inserting "(CAS No. 90–51–7)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(10) 3,3′-DIMETHOXYBENZIDINE (O-DIANISIDINE) AND ITS DIHYDROCHLORIDE.—Heading 9902.29.38 is amended—

(A) by inserting "(CAS No. 119–90–4)" after "(o-Dianisidine)";

(B) by inserting "(CAS No. 20325–40–0)" before "(provided"; and

(C) by striking "12/31/92" and inserting "12/31/94".

(11) 2-AMINO-5-NITROPHENOL.—Heading 9902.29.40 is amended—

(A) by inserting "(CAS No. 121–88–0)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(12) 1-AMINO-2,4-DIBROMOANTHRAQUINONE.—Heading 9902.29.43 is amended—

(A) by inserting "(CAS No. 88–49–2)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(13) 4-METHOXYANILINE-2-SULFONIC ACID.—Heading 9902.29.47 is amended—

(A) by inserting "(CAS No. 13244–33–2)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(14) 1-AMINO-2-CHLORO-4-HYDROXYANTHRAQUINONE.—Heading 9902.29.48 is amended—

(A) by inserting "(CAS No. 2478–67–3)" before "(provided"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(15) 1,3-DIPHENYLGUANIDINE AND 1,3-DI-O-TOLYLGUANIDINE.—Heading 9902.29.56 is amended—

(A) by amending the article description to read as follows: "1,3-Diphenylguanidine (CAS No. 102–06–7) (provided for in subheading 2925.20.15) and 1,3-di-o-tolylguanidine (CAS No. 97–39–2) (provided for in subheading 2925.20.40)"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(16) N,N-BIS(2-CYANOETHYL)ANILINE.—Heading 9902.29.57 is amended—

(A) by inserting "(CAS No. 1555–66–4)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(17) 2,2-BIS(4-CYANATOPHENYL)PROPANE.—Heading 9902.29.59 is amended—

(A) by striking "2929.10.40" and inserting "2929.90.10"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(18) 3-(4-AMINOBENZAMIDO)PHENYL-β-HYDROXYETHYLSULFONE.—Heading 9902.29.61 is amended—

(A) by amending the article description to read as follows: "3-(4-Aminobenzamido)phenyl-β-hydroxyethylsulfone (CAS No. 20241–68–3) (provided for in subheading 2930.90.28)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(19) 1,2-DIMETHYL-3,5-DIPHENYL-1H-PYRAZOLIUM METHYL SULFATE (DIFENZOQUAT METHYL SULFATE).—Heading 9902.29.65 is amended—

(A) by amending the article description to read as follows: "1,2-Dimethyl-3,5-diphenyl-1H-pyrazolium methyl sulfate (Difenzoquat methyl sulfate) (provided for in subheading 2933.19.25)"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(20) 3-METHYL-5-PYRAZOLONE.—Heading 9902.29.69 is amended—

(A) by inserting "(CAS No. 108–26–9)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(21) BUTYL 2-[4-(5-TRIFLUOROMETHYL-2-PYRIDINYLOXY)PHENOXY]PROPANOATE.—Heading 9902.29.72 is amended—

(A) by striking "2933.90.20" and inserting "2933.39.25"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(22) N,N-DICYCLOHEXYL-2-BENZOTHIAZOLESULFENAMIDE.—Heading 9902.29.77 is amended—

(A) by amending the article description to read as follows: "N,N-Dicyclohexyl-2-benzothiazolesulfenamide (CAS No. 4979–32–2) (provided for in subheading 2934.20.60)"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(23) 2-AMINO-N-ETHYLBENZENESULFANOANILIDE.—Heading 9902.29.79 is amended—

(A) by inserting "(CAS No. 81–10–7)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(24) 3,5,6-TRICHLOROSALICYLIC ACID.—Heading 9902.29.90 is amended—

(A) by inserting "(CAS No. 40932–60–3)" after "acid"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(25) CLOMIPHENE CITRATE.—Heading 9902.29.95 is amended—

(A) by inserting "or 3004.90.60" after "2922.19.15"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(26) RIFAMPIN.—Heading 9902.30.06 is amended—

(A) by inserting "or 3004.20.00" after "2941.90.30"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(27) 1,5-NAPHTHALENE DIISOCYANATE.—Heading 9902.30.07 is amended—

(A) by striking "(provide" and all that follows through "2929.90.40)" and inserting "(CAS No. 3173–72–6) (provided for in subheading 2929.10.40)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(28) 2-TERTIARY-BUTYL-4-ETHYLPHENOL.—Heading 9902.30.11 is amended—

(A) by amending the article description to read as follows: "2-tertiary-Butyl-4-ethylphenol (CAS No. 96–70–8) (provided for in subheading 2907.19.50)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(29) 4,4′-METHYLENEBIS(2,6-DIMETHYLPHENYLCYANATE.—Heading 9902.30.13 is amended—

(A) by striking "2907.29.60" and inserting "2929.90.10"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(30) 1-NAPHTHOL-4-SULFONIC ACID AND ITS MONOSODIUM SALT.—The article description for heading 9902.30.14 is amended—

(A) by amending the article description to read as follows: "1-Naphthol-4-sulfonic acid (CAS No. 84–87–7) (provided for in subheading 2908.20.08) and its monosodium salt (CAS No. 6099–57–6) (provided for in subheading 2908.20.04)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(31) ANTHRAQUINONE.—Heading 9902.30.17 is amended—

(A) by inserting "(CAS No. 84–65–1)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(32) 4,4′-METHYLENEBIS(3-CHLORO-2,6-DIETHYLANILINE).—Heading 9902.30.29 is amended—

(A) by amending the article description to read as follows: "4,4′-Methylenebis(3-chloro-2,6-diethylaniline) (provided for in subheading 2921.42.30)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(33) 4-CHLORO-α,α,α-TRIFLUORO-O-TOLUIDINE.—Heading 9902.30.32 is amended—

(A) by amending the article description to read as follows: "4-Chloro-α,α,α-trifluoro-o-toluidine (CAS No. 445–03–4) (provided for in subheading 2921.43.10)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(34) CLENTIAZEM MALEATE.—Heading 9902.30.50 is amended—

(A) by inserting "(Clentiazem maleate)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(36) IOHEXOL.—Heading 9902.30.64 is amended—

(A) by inserting "(CAS No. 66108–95–0)" before "(provided"; and

(B) by striking "9/30/91" and inserting "12/31/94".

(37) 2,2-DIMETHYLCYCLOPROPYLCARBOXAMIDE.—Heading 9902.30.68 is amended—

(A) by inserting before the parenthetical the following: "(CAS No. 75885–58–4)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(38) 1,1-ETHYLIDENEBIS(PHENYL-4-CYANATE).—Heading 9902.30.72 is amended—

(A) by amending the article description to read as follows: "1,1-Ethylidenebis(phenyl-4-cyanate) (provided for in subheading 2929.90.10)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(39) 2,4-DIAMINO-6-PHENYL-1,3,5-TRIAZINE.—Heading 9902.30.87 is amended—

(A) by inserting "(CAS No. 91–76–9)" after "2,4-Diamino-6-phenyl-1,3,5-triazine"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(41) THIOTHIAMINE HYDROCHLORIDE.—Heading 9902.30.91 is amended—

(A) by striking "2934.10.10 or"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(44) N-(4-(((2-AMINO-5-FORMYL-1,4,5,6,7,8-HEXAHYDRO-4-OXO-6-PTERIDINYL)METHYL)AMINO)BENZOYL)-L-GLUTAMIC ACID.—Heading 9902.31.00 is amended—

(A) by striking the article description and inserting "Leucovorin calcium (provided for in subheading 2936.29.20)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(45) TEICOPLANIN.—Heading 9902.31.03 is amended—

(A) by inserting ", 2941.90.10," before "3003.20.00"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(46) 1-[1-((4-CHLORO-2-TRIFLUOROMETHYL)PHENYL)IMINO)-2-PROPOXYETHYL]-1-H-IMIDAZOLE.—Heading 9902.31.07 is amended—

(A) by inserting "(triflumizole)" after "1[1-((4-Chloro-2-(trifluoromethyl)phenyl)imino)-2-propoxyethyl]-1-H-imidazole"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(47) N,N'-BIS(2,2,6,6-TETRAMETHYL-4-PIPERIDINYL)-1,6-HEXANEDIAMINE.—Heading 9902.31.11 is amended—

(A) by striking "(CAS No. 612–55–7)" and inserting "(CAS No. 1260–55–7)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(48) PHOTOGRAPHIC COLOR COUPLERS.—Heading 9902.37.07 is amended—

(A) by inserting ", excluding 2,3-Dihydroxynaphthalene-6-sulfonic acid, sodium salt (a.k.a. 6,7-dihydroxy-2-naphthalenesulfonic acid, sodium salt)" after "couplers"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(49A) TRANSPARENT SHEETING OF PLASTICS.—Heading 9902.39.26 is amended—

(A) by inserting "3920.59.50 or" after "subheading"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(49B) DISPOSABLE SURGICAL GOWNS AND DRAPES.—Heading 9902.62.10 is amended by striking "12/31/92" and inserting "12/31/94".

(50) FIBERGLASS RUBBER REINFORCING CORD OR YARN.—Heading 9902.70.19 is amended—

(A) by striking "9 microns in diameter or 10 microns in diameter" and inserting "7 microns in diameter to 11.5 microns in diameter"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(51) FIBERGLASS TIRE CORD FABRIC.—Heading 9902.70.20 is amended—

(A) by striking "9 microns in diameter or 10 microns in diameter" and inserting "7 microns in diameter to 11.5 microns in diameter"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(52) INTERNAL COMBUSTION PISTON-TYPE ENGINES.—Heading 9902.84.07 is amended—

(A) by striking "heading 8407.32.20 or 8407.33.20" and inserting "subheading 8407.32.20, 8407.33.20, 8407.32.90, or 8407.33.90";

(B) by inserting "; or heading 8709" after "8704.31.00"; and

(C) by striking "12/31/92" and inserting "12/31/94".

(53) CERTAIN WEAVING MACHINES FOR FABRICS MORE THAN 4.9 METERS WIDE.—(HR 1896) Heading 9902.84.46 is amended—

(A) by striking ", parts thereof, and" and inserting "(provided for in subheading 8446.21.00 or 8446.30.00),";

(B) by striking "use therewith" and inserting "such machines";

(C) by striking "8446.21.00, 8446.30.00,";

(D) by striking ", 8848.41.00, 8448.42.00, or 8448.49.00)" and inserting "); and parts and accessories of the foregoing (provided for in subheading 8448.41.00, 8448.42.00 or 8448.49.00,"; and

(E) by striking "12/31/90" and inserting "12/31/94".

(54) HOSIERY KNITTING MACHINES.—Heading 9902.84.47 is amended—

(A) by striking ", and parts thereof";

(B) by striking "8447.20.60, or 8448.59.10" and inserting "or 8447.20.60"; and

(C) by striking "12/31/92" and inserting "12/31/94".

(55) CERTAIN ELECTROSTATIC COPYING MACHINE PARTS AND ACCESSORIES.—Heading 9902.90.90 is amended—

(A) by striking "not including photoreceptors or assemblies containing photoreceptors," and inserting "not including selenium/tellurium photoreceptors or assemblies containing selenium/tellurium photoreceptors,"; and

(B) by striking "12/31/92" and inserting "12/31/94".

TITLE II—OTHER TARIFF AND MISCELLANEOUS PROVISIONS

Subtitle A—Tariff Classification and Other Technical Amendments

SEC. 2001. PECTIN.

(a) IN GENERAL.—Chapter 13 is amended by striking subheading 1302.20.00 and inserting in numerical sequence the following new superior text and subheadings, with such new superior text having the same degree of indentation as the article description in subheading 1301.90:

"	1302.20	Pectic substances, pec-tinates, and pectates:				
	1302.20.20	Pectin	5%	Free (E,IL) 1% (CA)	25%	
	1302.20.40	Other	5%	Free (E,IL) 1% (CA)	25%	".

(b) STAGED RATE REDUCTIONS.—Any staged rate reduction of a special rate of duty set forth in subheading 1302.20.00 that was proclaimed by the President before the date of enactment of this Act and that takes effect after the date of enactment of this Act shall apply to the corresponding special rates of duty in subheadings 1302.20.20 and 1302.20.40 (as added by subsection (a)).

SEC. 2002. CERTAIN MOTOR FUEL AND MOTOR FUEL BLENDING STOCK.

(a) IN GENERAL.—Chapter 27 is amended—

(1) in additional U.S. Note 3, by striking "subheading 2710.00.15," and inserting "subheading 2707.50.10 or 2710.00.15,";

(2) in additional U.S. Note 4, by striking "subheading 2710.00.18," and inserting "subheading 2707.50.20 or 2710.00.18,"; and

(4) by inserting after subheading 2707.50.00 the following, with the article description for subheading 2707.50.10 having the same indentation as the article description for subheading 2707.91.00:

"	2707.50.10	Motor fuel	52.5¢/bbl	Free (IL) 10.5¢/bbl (CA)	$1.05/bbl	
	2707.50.20	Motor fuel blending stock	52.5¢/bbl	Free (IL) 10.5¢/bbl (CA)	$1.05/bbl	".

(b) STAGED RATE REDUCTIONS.—Any staged rate reduction of a special rate of duty set forth in subheading 2707.50.00 that was proclaimed by the President before the date of enactment of this Act and that takes effect after the date of enactment of this Act shall apply to the corresponding special rates of duty in subheadings 2707.50.10 and 2707.50.20 (as added by subsection (a)).

SEC. 2003. LINEAR ALKYLBENZENESULFONATES AND LINEAR ALKYLBENZENESULFONIC ACIDS.

(a) IN GENERAL.—Chapter 34 is amended by striking subheading 3402.11.10 and inserting in numerical sequence the following new superior text and subheadings, with such new superior text having the same degree of indentation as the article description in subheading 3402.11.50:

"		Aromatic or modified aromatic:				
	3402.11.15	Linear alkyl- benzene- sulfonates and linear alkyl-benzene- sulfonic acids	3.7¢/kg+15.9%	Free (E,IL) 1.4% (CA)	15.4¢/kg+53%	
	3402.11.30	Other	7.2%	Free (A,E,IL) 1.4% (CA)	15.4¢/kg+53.5%	".

(b) STAGED RATE REDUCTIONS.—Any staged rate reduction of a special rate of duty set forth in subheading 3402.11.10 that was proclaimed by the President before the date of enactment of this Act and that takes effect after the date of enactment of this Act shall apply to the corresponding special rates of duty in subheadings 3402.11.15 and 3402.11.30 (as added by subsection (a)).

SEC. 2004. IRON AND STEEL PIPES AND TUBES.

(a) NONALLOY IRON AND STEEL PIPES AND TUBES.—

(1) The superior text for subheadings 7306.30.30 and 7306.30.50 is amended to read as follows: "Having a wall thickness of 1.65 mm or more, not galvanized:".

(2) Subheadings 7306.30.30 and 7306.30.50 are redesignated as subheadings 7306.30.35 and 7306.30.55, respectively.

(3) Subheadings 7306.10.10, 7306.20.60, 7306.30.55 (as redesignated by paragraph (2)), and 7306.90.10 are each amended—

(A) by striking "1.9%" in column 1 General and inserting "4.9%"; and

(B) by striking "5.5%" in column 2 and inserting "20%".

(4) Subheadings 7306.20.20 and 7306.60.10 are each amended—

(A) by striking "0.5%" in column 1 General and inserting "4.9%"; and

(B) by striking "1%" in column 2 and inserting "20%".

(5) Chapter 73 is amended by inserting in numerical order the following new subheading having the same degree of indentation as the superior text for subheadings 7306.30.35 and 7306.30.55 (as redesignated by paragraph (2):

"	*7306.30.60*	*Having a wall thickness of 1.65mm or more, galvanized*	*6.5%*	*Free (C, E, IL) 1.1% (CA)*	*21.5%*	".

(b) ALLOY IRON AND STEEL PIPES AND TUBES.—

(1) Subheadings 7306.50.50 and 7306.90.50 are each amended—

(A) by striking "4.9%" in column 1 General and inserting "9.5%"; and

(B) by striking "10%" in column 2 and inserting "28%".

(c) STAINLESS STEEL PIPES AND TUBES.—

(1) Subheading 7306.40.10 is amended by striking "7.6%" in column 1 General and inserting "10.1%".

(2) Subheading 7306.40.50 is amended—

(A) by striking "5%" in column 1 General and inserting "10.1%"; and

(B) by striking "11%" in column 2 and inserting "29%".

(d) NEGOTIATING AUTHORITY.—In the event that a claim for compensation under any provision of the General Agreement on Tariffs and Trade or any other trade agreement to which the United States is a party is made by any Contracting Party to that agreement as a result of the amendments made by this section, the United States Trade Representative is authorized to negotiate such reasonable compensation as may be appropriate.

(e) APPLICABILITY OF STAGED RATE REDUCTIONS UNDER THE UNITED STATES-CANADA FREE-TRADE AGREEMENT.—

(1) Any staged reduction under the United States-Canada Free-Trade Agreement of special rates of duty for Canada set forth in subheading 7306.30.30 applies to the corresponding special rate of duty set forth in subheading 7306.30.35.

(2) Any staged reduction under the United States-Canada Free-Trade Agreement of special rates of duty for Canada set forth in subheading 7306.30.50 applies to the corresponding special rate of duty set forth in subheading 7306.30.55.

(3) Any staged reduction under the United States-Canada Free-Trade Agreement of special rates of duty for Canada set forth in subheading 7306.30.55 (as redesignated by subsection (a)(2)) also applies to the corresponding special rate of duty set forth in subheading 7306.30.60.

(f) EFFECTIVE DATE.—Except as provided in subsection (g), the amendments made by subsections (a), (b), and (c), shall apply with respect to goods entered, or withdrawn from warehouse for consumption, beginning on July 1, 1993.

(g) WAIVER.—In the event that—

(1) negotiations on market access and tariffs in the General Agreement on Tariffs and Trade provide for a tariff rate elimination schedule on steel products that will remove the tariff rate inversion on certain pipe and tube products; and

(2) the President or the United States Trade Representative certifies in writing to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that such schedule will eliminate such tariff inversion,

the provisions of this section shall not take effect.

SEC. 2005. IMITATION JEWELRY OF PLASTICS.

Heading 9902.71.13 is amended by striking "7117.90.40 (except parts) or 7117.90.50 (except parts)" and inserting "or 7117.90.40 (except parts)".

SEC. 2006. RELIQUIDATION OF CERTAIN PETROLEUM PRODUCTS.

(a) IN GENERAL.—Part 2 of subtitle G of title I of the Omnibus Trade and Competitiveness Act of 1988 is amended by adding at the end the following new section:

"SEC. 1846. APPLICATION FOR RELIQUIDATION OF CERTAIN PETROLEUM PRODUCTS.

"Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law to the contrary, the Secretary of the Treasury shall reliquidate on or after January 1, 1991, the entries numbered 86–121854–9, filed in San Francisco, California, with an entry date of October 8, 1985, and 86–436228–5, filed in Portland, Oregon, with an entry date of October 4, 1985, such entries covering certain petroleum products, as though the column 2 rate of duty in effect on the applicable entry date applied to such entries.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Omnibus Trade and Competitiveness Act of 1988.

Subtitle B—Miscellaneous Provisions

SEC. 2101. CERTAIN MENTHOL FEEDSTOCKS.

(a) IN GENERAL.—Chapter 29 is amended by striking subheading 2906.19.00 and inserting the following new subheadings, with the article description for subheading 2906.19 having the same degree of indentation as the article description in subheading 2906.14.00:

"	*2906.19*	*Other:*				
	2906.19.10	*Mixtures containing not less than 90 percent by weight of stereoisomers of 2-isopropyl-5-methylcyclohexanol, but containing not more than 30 percent by weight of any one such stereoisomer*	*Free*	*Free (A,E,IL) 1.4% (CA)*	*45%*	
	2906.19.90	*Other*	*7.1%*	*Free (A,E,IL) 1.4% (CA)*	*45%*	".

(b) STAGED RATE REDUCTIONS.—Any staged rate reduction of a special rate of duty set forth in subheading 2906.19.00 that was proclaimed by the President before the date of enactment of this Act and that takes effect after the date of enactment of this Act shall apply to the corresponding special rates of duty in subheadings 2906.19.10 and 2906.19.90 (as added by subsection (a)).

(c) CONFORMING AMENDMENT.—Chapter 99 of the Harmonized Tariff Schedule of the United States is amended by striking subheading 9902.29.05.

SEC. 2103. WAGE CERTIFICATES ISSUED TO CERTAIN PRODUCERS OF WATCHES AND WATCH MOVEMENTS.

(a) IN GENERAL.—Additional United States note 5(h) to chapter 91 is amended by adding at the end of subparagraph (v) the following new sentence: "At the election of the certificate holder, the Secretary of the Treasury shall pay to the holder the face value of the certificate less the value of—

"(A) any duty refund claimed by the holder under the certificate; and

"(B) any duty refund under the certificate that is sold by the holder under subparagraph (vi).".

(b) APPLICABILITY.—The amendment made by subsection (a) applies with respect to wage certificates issued under paragraph (h) of such additional United States note 5 or headnote 6(h) to subpart E of part 2 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) that are in effect on or after the date of the enactment of this Act.

SEC. 2104. INCREASE IN DUTY-FREE TOURIST ALLOWANCES.

(a) DUTY-FREE ALLOWANCE FOR RETURNING RESIDENTS.—U.S. Note 4 of subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States is amended by inserting "and Bermuda" before the period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to residents of the United States who arrive in the United States on or after the 15th day after the date of the enactment of this Act.

SEC. 2105. CERTAIN SWEATERS ASSEMBLED IN GUAM.

(a) IN GENERAL.—Heading 9902.61.00 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking "Sweaters that—" and inserting "Sweaters—";

(2) in clause (i), by inserting "that" before "do not";

(3) in clause (ii)—

(A) by inserting "that" before "are assembled";

(B) by striking ", exclusively" and all that follows through "aliens,"; and

(C) by striking the semicolon and inserting a comma; and

(4) by inserting after clause (ii) the following: "(iii) for which the number of United States citizens, nationals, or resident aliens who perform the assembly operation comprises at least 50 percent of the total number of assembly production workers; and".

(b) CONDITIONS.—Subchapter II of chapter 99 is amended—

(1) by redesignating U.S. Notes 8, 9, 10, 11, and 12 as U.S. Notes 9, 10, 11, 12, and 13, respectively; and

(2) by inserting after U.S. Note 7 the following new note:

"8. Notwithstanding any other provision of law, subheading 9902.61.00:

"(a) shall only apply to Guam; and

"(b) shall not apply in the case of any sweaters assembled by workers paid less than the United States minimum wage.".

SEC. 2106. CERTAIN ENTRIES OF N-ACETYLSUFANILYL CHLORIDE.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer before the 180th day after the date of the enactment of this Act, any entry of a good classified under item 906.38 of the Appendix to the Tariff Schedules of the United States that was made—

(1) after December 31, 1987; and

(2) before the effective date of the amendment made to such item by section 9004(a)(4) of the Technical and Miscellaneous Revenue Act of 1988;

shall be liquidated or reliquidated as though such entry occurred on such effective date.

SEC. 2107. CERTAIN LEAD FUEL TEST ASSEMBLIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Secretary of the Treasury shall—

(1) liquidate or reliquidate as free of duty any entry of any partially assembled lead fuel assembly (described in subsection (b)) made—

(A) on March 9, 1990 (Entry No. 110–0675952–3),

(B) on September 19, 1990 (Entry No. 110–1525996–0),

(C) on November 7, 1990 (Entry No. 110–3667810–7, and

(D) on December 21, 1990 (Entry No. 110–1526938–1), and

(2) refund any duties paid with respect to such entry,

if certification is given that such entry will be reexported or destroyed within 8 years of entry and such certification is submitted to the appropriate customs officer within 60 days after the date of the enactment of this Act.

(b) PARTIALLY ASSEMBLED LEAD FUEL ASSEMBLY.—A partially assembled lead fuel assembly is described in this subsection if it consists of not more than 4 partially assembled fuel bundles, composed of nuclear fuel rods of zircaloy tubes filled with slightly enriched uranium dioxide (UO_2) pellets, arranged into bundles of 96 rods, including a channel and upper handles and lower tie plates.

SEC. 2108. DUTY EXEMPTIONS FOR CERTAIN FOREIGN REPAIRS MADE TO UNITED STATES VESSELS.

(a) IN GENERAL.—Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ", or"; and

(3) by adding at the end the following new paragraph:

"(3) the cost of spare parts necessarily installed before first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.".

(b) APPLICABILITY.—Section 484E(b)(2)(B) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note) is amended to read as follows:

"(B) on or before December 31, 1994.".

SEC. 2109. METALLIZED OR FOIL BALLOONS OF MEXICAN ORIGIN.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days of the date of enactment of this Act, any liquidated entry of metallized or foil balloons of Mexican origin classified in subheading 9503.90.50 which was made after June 30, 1989, and before July 1, 1990, shall be reliquidated as though such entry had been made on July 1, 1990, and the Secretary of the Treasury shall make the appropriate refund of any duties paid with respect to such entry.

SEC. 2110. CERTAIN ENTRIES.

Notwithstanding section 514 of the Tariff Act of 1930, or any other provision of law, upon proper request filed with the customs officer concerned within 180 days after the date of the enactment of this Act, the entry of any stuffed dolls with or without clothing classified in item 737.23, renumbered item 737.18 effective June 1, 1988, and item 912.30 of the Tariff Schedules of the United States which was made on or after December 31, 1985, and before October 1, 1988, shall be liquidated as though such entry had been made on October 1, 1988.

SEC. 2111. REISSUANCE OF PRODUCTION INCENTIVE CERTIFICATE.

The production incentive certificate numbered PIC–EV–89, issued jointly by the Secretary of Commerce and the Secretary of the Interior, as provided in subdivision (h)(i)(B) of Additional U.S. Note 5 to chapter 91 of the Harmonized Tariff Schedule of the United States shall be deemed to have been reissued on the 15th day after the date of the enactment of this Act, in the amount of its balance remaining on February 28, 1990, and shall expire 1 year after such 15th day.

SEC. 2112. LIQUIDATION AND RELIQUIDATION OF ENTRIES OF CERTAIN PAPER PRODUCTS.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, but subject to subsection (b), upon proper request filed with the appropriate customs officer on or before the 180th day after the date of the enactment of this Act, any entry made after December 31, 1988, and before July 1, 1990, of a tissue paper product of Mexican origin classified under subheading 4818.10.00, 4818.20.00, or 4818.30.00 of the Harmonized Tariff Schedule of the United States shall be liquidated or reliquidated as though such entry had been made on July 1, 1990.

(b) ELIGIBLE LIQUIDATED ENTRIES.—A liquidated entry is eligible for reliquidation under subsection (a) only if the liquidation has been protested in accordance with section 514 of the Tariff Act of 1930.

(c) TIME LIMITATION FOR LIQUIDATION OR RELIQUIDATION.—Any liquidation or reliquidation for which a timely request is filed under subsection (a) shall occur within 180 days after the date of filing.

(d) REFUND OF DUTIES.—Customs duties that were—

(1) deposited with respect to any entry before liquidation under subsection (a); or

(2) paid on any entry that is reliquidated under subsection (a);

shall be refunded to the importer of record of the tissue paper product concerned within 90 days after the date of such liquidation or reliquidation.

SEC. 2113. EXEMPTION OF SEMICONDUCTORS FROM COUNTRY OF ORIGIN MARKING REQUIREMENTS.

Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is amended—

(1) by striking "Except as hereinafter provided," at the beginning of subsection (a) and inserting "Except as otherwise provided in this section,";

(2) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively; and

(3) by inserting after subsection (e) the following new subsection:

"(f) EXEMPTION FROM MARKING FOR SEMICONDUCTORS.—Articles provided for in headings 8541 and 8542 of the Harmonized Tariff Schedule of the United States and their containers are exempt from the marking requirements of subsection (a).".

SEC. 2114. RENEWAL OF EXISTING CUSTOMS EXEMPTION APPLICABLE TO BICYCLE PARTS IN FOREIGN TRADE ZONES.

(a) IN GENERAL.—Section 3(b) of the Act of June 18, 1934 commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c(b)), is amended by striking "on or before December 31, 1992" and inserting "on or before December 31, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1993.

SEC. 2115. CERTAIN ENTRIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the Secretary of the Treasury, within 90 days after the date of the enactment of this Act, shall, upon proper request filed with the appropriate customs officer, reliquidate each entry listed in subsection (b) as if any synthetic filaments which were tipped and flagged, or tipped, flagged and dyed abroad were properly classified under subheadings 5404.10.20 and 9802.00.50 of the Harmonized Tariff Schedule of the United States and make the appropriate refund of duty.

(b) AFFECTED ENTRIES.—The entries referred to in subsection (a), filed at the Port of Laredo, Texas, are as follows:

Entry Number	Date of Liquidation
0014819–3	July 20, 1990
0015228–6	July 20, 1990
0015409–2	July 20, 1990
0015586–7	July 20, 1990
0015668–3	July 20, 1990
0015736–8	July 20, 1990
0015824–2	July 20, 1990
0015872–1	July 20, 1990
0015906–7	July 20, 1990
0015960–4	July 20, 1990
0016039–6	July 20, 1990
0016350–7	July 20, 1990
0016396–0	July 20, 1990
0016540–3	July 20, 1990
0016590–8	July 20, 1990
0016623–7	July 20, 1990
0016708–6	July 20, 1990
0016753–2	July 20, 1990
0042492–5	July 20, 1990
0047845–9	July 20, 1990
0051495–6	July 20, 1990
0052146–4	July 20, 1990
0053348–5	July 20, 1990
0055273–3	July 20, 1990
0062536–4	August 3, 1990
0058825–7	August 31, 1990
1900104–5	November 2, 1990

SEC. 2116. CERTAIN ENTRIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision *of law, the Secretary of the Treasury, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, shall—*

(1) reliquidate each entry listed in subsection (b) at the rate of duty that would have been assessed if that entry had been made on the day before the effective date of the Harmonized Tariff Schedule of the United States; and

(2) make the appropriate refund of duty.

Such reliquidations and refunds shall be made within 180 days after the date on which the request is made.

(b) AFFECTED ENTRIES.—The entries referred to in subsection (a), filed at the Port of Los Angeles, California, are as follows:

Entry Number	***Date of Liquidation***
175–0125515–6	*January 13, 1989*
175–0126469–5	*January 27, 1989*
175–0126831–6	*February 13, 1989*
175–0127616–0	*February 23, 1989*
175–0127611–1	*March 2, 1989*
175–0128512–0	*March 23, 1989*
175–0129675–4	*April 17, 1989*
175–0132267–5	*June 5, 1989*

SEC. 2117. CUSTOMS TREATMENT OF CERTAIN FABRIC.

(a) IN GENERAL.—Any fabric wholly of polyamide covered by an entry listed in subsection (c) shall be treated as having been exported from the United States in accordance with the temporary importation bond applicable to that entry and all obligations of The Umbrellas: Joint Project for Japan and U.S.A. Corporation, a California corporation, (referred to in this section as the "importer of record") under such bond with respect to the fabric shall be treated as having been satisfied, if—

(1) before the first anniversary of the date of the enactment of this Act, the importer of record donates the fabric to an organization (referred to in this section as the "donee organization") within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under subtitle A of such Code of 1986; and

(2) before donation under paragraph (1), the donee organization enters into an agreement with the Secretary of the Treasury that meets the requirements in subsection (b).

(b) AGREEMENT REQUIREMENTS.—Any agreement entered into under subsection (a)(2) shall be subject to such terms and conditions as the Secretary of the Treasury considers necessary or appropriate to carry out the purposes of this section, including, but not limited to, the following:

(1) With respect to any of the fabric donated under subsection (a)(1), the donee organization shall be liable for—

(A) the duty that would have been assessed on the fabric at the time of entry but for the duty-free temporary importation under bond, and

(B) a penalty in the amount of the duty referred to in subparagraph (A),

if the donee organization, at any time before the tenth anniversary of the date of donation—

(i) sells the fabric, or

(ii) uses, or permits the use of, the fabric in the production of any article that is sold, or otherwise entered, into commerce.

(2) The donee corporation may, at any time within the 10-year period referred to in paragraph (1) and under customs supervision, destroy the fabric or export the fabric from the United States.

(c) AFFECTED ENTRIES.—The entries referred to in subsection (a), made at the Port of San Diego, California, are as follows:

Entry No.	*Date of Entry*
11–44451–5	*9/16/90*
11–44719–8	*10/28/90*
11–44964–6	*11/09/90*
11–44836–2	*11/09/90*
11–17258–3	*12/13/90*
11–17274–9	*12/27/90*
11–18025–2	*1/14/91*
11–10889–6	*1/10/91*
11–18135–8	*2/28/91*
11–18155–2	*3/07/91*
11–10100–2	*3/16/91*
11–18221–8	*3/23/91*
11–18237–3	*3/28/91*
11–18279–7	*4/11/91*
11–18333–8	*4/18/91*
11–18366–8	*5/02/91*
11–10684–9	*6/21/91*

(d) DENIAL OF CHARITABLE DEDUCTION.—No deduction shall be allowed under section 170 of the Internal Revenue Code of 1986 for any donation referred to in subsection (a)(1).

SEC. 2118. RELIQUIDATING ENTRIES OF INDUSTRIAL FASTENERS.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, where proper request is made within 180 days after the date of the enactment of this Act—

(1) any entries of industrial fasteners that were products of Japan provided for under items 646.17, 646.40, 646.41, 646.49, 646.51, 646.53, 646.54, 646.56, 646.58, 646.60, 646.63, 646.65, 646.72, 646.74, 646.75, 646.76, or 646.78 of the Tariff Schedules of the United States, and

(2) that were entered, or withdrawn from warehouse for consumption, between June 4, 1979, and December 31, 1981, inclusive, shall be reliquidated within 90 days of the date on which proper request is made, without liability of the importers of record for countervailing duties; and, except as provided in subsection (2), all countervailing duties which have been paid on these entries shall be refunded with interest according to law.

(b) CERTAIN ENTRIES UNDER ITEMS 646.54 AND 646.56.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, where proper request is made within 180 days after the date of the enactment of this Act, with respect to any entries of industrial fasteners that were products of Japan provided for under items 646.54 and 646.56 of the Tariff Schedules of the United States, and that were entered, or withdrawn from warehouse for consumption, between June 4, 1979, and December 31, 1979, countervailing duties which have been paid and which are in excess of 0.37 percent ad valorem shall be refunded with interest according to law.

SEC. 2119. REEXPORTATION OF COMMUNICATIONS SATELLITE ARTICLES.

(a) IN GENERAL.—(1) The first sentence of U.S. Note 1(a) to subchapter XIII of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "and (2)" and inserting "(2)"; and

(B) by striking the period at the end and inserting the following: ", and (3) for articles imported under heading 9813.00.05, the time for exportation may be extended for 1 or more further periods which, when added to the initial 1 year, shall not exceed a total of 5 years, but any application for an extension beyond the 3rd year must be accompanied by the importer's certification that the articles are dedicated for incorporation into a communications satellite.".

(2) The amendments made by subsection (a) apply with respect to goods entered on or after the date that is 3 years before the date of the enactment of this Act.

(b) EXPEDITED MITIGATION OF PENALTY ASSESSMENTS ON REEXPORTATIONS DELAYED BY LAUNCH SYSTEM FAILURES.—Goods imported under heading 9813.00.05 of the Harmonized Tariff Schedule of the United States after January 1, 1983, and before the effective date established under subsection (a)(2) that are certified by the importer—

(1) as having been dedicated for incorporation into a communications satellite; and

(2) as not having been exported within the time required for exportation under the applicable bond directly or indirectly as a result of launch schedule delays resulting from any launch failure, launch system failure, or technical delay;

are subject to liquidated damages not exceeding 1 percent of the liquidated damages established in the applicable bond.

SEC. 2120. RELIQUIDATING ENTRIES OF TUBULAR TIN.

Notwithstanding any provision of the Tariff Act of 1930 or any other law, the Secretary of the Treasury shall pay interest, calculated as provided for under section 520 of the Tariff Act of 1930, on the aggregate amount of the duties that were paid with respect to the entries of tubular tin products that were reliquidated on November 14, 1988, under the authority of section 1843 of the Omnibus Trade and Competitiveness Act of 1988.

SEC. 2121A. RELIQUIDATING ENTRIES OF ROCK WOOL MANUFACTURING EQUIPMENT.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Secretary of the Treasury shall—

(1) reliquidate the entries listed in subsection (b) within 90 days after the date on which application for reliquidation is made; and

(2) if any duty has been paid with respect to such entries, refund such duty with interest.

(b) ENTRIES DESCRIBED.—The entries referred to in subsection (a) were filed at the Port of Charleston, South Carolina, and are as follows:

Entry Number	***Date of Entry***
222–0123146–5	*May 2, 1989.*
222–0123350–3	*May 4, 1989.*
222–0123625–8	*May 17, 1989.*
222–0123624–1	*May 17, 1989.*
222–0124105–0	*June 6, 1989.*
222–0124579–6	*June 27, 1989.*
222–0124888–1	*July 12, 1989.*
222–0124889–9	*July 12, 1989.*
222–0125004–4	*July 14, 1989.*
222–0125355–0	*July 31, 1989.*
222–0126131–4	*September 8, 1989.*
222–0126516–6	*October 3, 1989.*
222–0127644–5	*December 5, 1989.*
222–0128043–9	*December 20, 1989.*
222–0128238–5	*January 9, 1990.*
222–0128359–9	*January 16, 1990.*
222–0129304–4	*March 5, 1990.*

SEC. 2121B. TARIFF CLASSIFICATION OF LIGHT TRUCKS.

(a) IN GENERAL.—The Additional U.S. Notes to chapter 87 are amended—

(1) by redesignating Note 2 as Note 3; and

(2) by inserting after Note 1 the following new note:

"2. Passenger vans (other than those of heading 8702), multipurpose vans, sport utility vehicles and other 'Jeep'-type vehicles with a gross vehicle weight not exceeding 3.65 metric tons and a basic vehicle frontal area of 4.2 square meters or less shall be classified under heading 8704.".

(b) SPECIAL RULES.—(1) The U.S. Notes to subchapter II of chapter 99 are amended by inserting after U.S. Note 1 the following new note:

"2. Heading 9902.87.20 applies only to motor vehicles described in Additional U.S. Note 2 to chapter 87 which—

"(a)(i) are, and are certified to be, of a vehicle line which (A) was first entered before December 4, 1963, and (B) was entered every calendar year between 1963 and 1992; or

"(ii) are, and are certified to be (A) of a vehicle line which was entered before the date of the enactment of this Act and during calendar year 1992, and (B) the product of a small supplier country.

"(b) For purposes of this Note, the term—

''(i) 'vehicle line' means a group of vehicles within a make which has a high degree of commonality in construction (e.g., body, chassis); and

''(ii) 'small supplier country' means a country in which motor vehicles described in Additional U.S. Note 2 to chapter 87 are produced if importations into the customs territory of the United States of such vehicles produced in such country exceeded one unit, but did not exceed 10,000 units, in the aggregate, during calendar year 1988.''.

(2) Subchapter I of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	*9901.87.10*	*Motor vehicles described in Additional U.S. Note 2 to chapter 87, other than motor vehicles of heading 9902.87.20 ....*	*16.5%*	*Free (B,CA,E,IL)*	*25%*	*On or before 12/31/2012*	''.

(3) Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	*9902.87.20*	*Motor vehicles described in Additional U.S. Note 2 to chapter 87, which meet the requirements of U.S. Note 2 to this subchapter ....*	*2.5%*	*Free (B,CA,E,IL)*	*25%*	*On or before 12/31/2012*	''.

(c) PUBLICATION.—The Secretary of the Treasury shall publish the list of small supplier countries, if any, described in U.S. Note 2 to subchapter II of chapter 99 (as added by subsection (b)(1) of this section) not later than the day before the 15th day after the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 2122A. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act—

(1) the amendments made by subtitle A of title I (other than sections 1128 and 1163) shall apply with respect to goods entered on or after January 1, 1995; and

(2) the amendments made by sections 1128 and 1163 and subtitle B of title I shall apply with respect to goods entered on or after the 15th day after the date of the enactment of this Act.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after the 15th day after the enactment of this Act and before the 195th day after the date of the enactment of this Act, any entry—

(A) that was made after the applicable date and before such 15th day; and

(B) with respect to which there would have been no duty, or a lesser duty, if any amendment made by—

(i) paragraph (5), (6), (12), (14), (15), (16), (17), (18), (19), (23), (27), (28), (33), (35), (37), (39), (40), (41), (42), (43), (44), (45), (88), (89), (110), or (138) of section 1201, or

(ii) paragraph (4), (14), (15), (19), (21), (22), (36), (49), or (53) of section 1202,

applied to such entry,

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) For purposes of this subsection, the term ''applicable date'' means—

(A) if the amendment described in paragraph (1)(B) is made by section 1202(25), December 31, 1988;

(B) if the amendment described in paragraph (1)(B) is made by—

(i) paragraph (5), (6), (12), (14), (15), (16), (17), (18), (19), (23), (27), (28), (33), (35), (37), (39), (40), (41), (42), (43), (44), (45), or (110) of section 1201, or

(ii) paragraph (14), (15), (19), (21), (22), (49), or (53) of section 1202,

December 31, 1990;

(C) if the amendment described in paragraph (1)(B) is made by—

(i) paragraph (88) or (89) of section 1201, or

(ii) paragraph (36) of section 1202,

September 30, 1991; and

(D) if the amendment described in paragraph (1)(B) is made by—

(i) paragraph (138) of section 1201, or

(ii) paragraph (4) of section 1202,

December 31, 1990.

(c) SPECIAL EFFECTIVE DATES.—

(1) SECTION 1201(2A).—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer before the 90th day after the date of the enactment of this Act, any entry—

(A) which was made after December 31, 1987, and before January 1, 1989; and

(B) with respect to which there would have been reduced duty if the amendment made by section 1201(2A) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) SECTION 1201(126).—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer before the 180th day after the date of the enactment of this Act, any entry—

(A) which was made after December 31, 1987, and before November 10, 1988; and

(B) with respect to which there would have been no duty, or a lesser duty, if the amendment made by section 1201(126) applied to such entry, shall be liquidated or reliquidated as though such amendment applied to such entry.

(d) SUNSET PROVISION FOR CERTAIN SUSPENSION OF DUTY.—Heading 9902.32.41 (as added by section 1128 of this Act) shall cease to apply—

(1) after the date in the effective period column; or

(2) on the date on which the Food and Drug Administration approves vigabatrin and clobazam for marketing in the United States, whichever date is later.

SEC. 2122B. DEFINITIONS.

For purposes of this Act:

(1) The term ''entry'' includes any withdrawal from warehouse.

(2) The term ''entered'' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(3) The term ''proper request'' means a request that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute, as modified, is in order.

The question is on the committee amendment in the nature of a substitute, as modified.

The committee amendment in the nature of a substitute, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. VALENTINE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4318) to make certain miscellaneous and technical amendments to the Harmonized Tariff Schedule of the United States, and for other purposes, pursuant to House Resolution 532, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. MURTHA). Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ARCHER. Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARCHER moves to recommit H.R. 4318 to the Committee on Ways and Means with instructions to promptly report the bill back to the House, striking section 2121B and including an alternative funding mechanism that is consistent with U.S. international obligations under the General Agreement on Tariffs and Trade (GATT) and the Balanced Budget and Emergency Deficit Control Act of 1985.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] is recognized for 5 minutes.

Mr. ARCHER. Mr. Speaker, section 2121B of this legislation changes the tariff classification for multipurpose family vehicles [MPV's] from passenger cars to trucks and raises the duty on such vehicles from 2.5 to 25 percent. As I have already stated, the President intends to veto H.R. 4318 in its current form, primarily because it contains this GATT-illegal and economically destructive provision. It is clear that the MPV tariff reclassification will kill H.R. 4318 and doom a variety of other important tariff changes also included in this legislation. If Members want to see their own tariff provisions become law, and not just symbolically pass the House, we must find a way to move this bill without the unacceptable MPV tariff increase.

My motion to recommit includes instructions to send the bill back to the Committee on Ways and Means and directs the committee to promptly report the bill back to the House, striking the MPV tariff reclassification. It also directs the committee to develop an alternative funding mechanism that is consistent with U.S. international obligations under the General Agreement on Tariffs and Trade [GATT] and the Balanced Budget and Emergency Deficit Control Act of 1985.

We have heard lengthy debate on the tariff reclassification provision and I am amazed that Members seem ready to embrace a single tariff change that will be so costly to consumers and in the process forfeit all the other tariff improvements that will help small- and medium-sized businesses stay competitive. Without my motion to recommit with instructions, that is what will happen.

The reclassification of MPV's does not merely conform the tariff on these vehicles to Federal emission standards, safety standards, or fuel economy standards. Indeed, none of these regulations are uniform in how they distinguish between passenger cars and trucks. These standards are unrelated to tariffs, just as agriculture and OSHA standards do not dictate tariff classifications.

Tariff classifications are established in concert with our trading partners, in order to ensure predictability and similar rules for all exporters. The rest of the world classifies MPV's as passenger vehicles. Also, the reclassification of MPV's contained in H.R. 4318 does violate our international obligations because it changes a bound tariff rate and applies different rates to imports from Japan and imports from Europe. This could result in retaliation against our competitive imports amounting to more than $500 million.

This provision works at cross-purposes with the export-led economic growth in our country. Domestic manufacturers of MPV's do not need protection from international competition. U.S. minivans and multipurpose vehicles enjoy an 84-percent market share and are a huge profit-maker for the Big Three. Just this week, Chrysler announced strong second-quarter earnings, primarily on the strength of its MPV and truck sales.

Our domestic industry is second to none in this field and does not need to be protected from import competition. Imports merely offer consumers more choice.

Mr. Speaker, once again, we cannot ensure enactment of our individual tariff measures if the MPV reclassification is not removed. I urge my colleagues to support the motion to recommit.

□ 1320

This could result in retaliation against our competitive imports amounting to more than $500 million. The provision works at cross-purpose with the export-led economic growth in our country.

Why do we have so little confidence in the ability of our workers and our ingenuity and our craftsmanship to be able to compete in the world? Domestic manufacturers of MPV's do not need protection from international competition. U.S. minivans and multipurpose vehicles enjoy an 84-percent market share and are a huge profitmaker for the Big Three.

Just this week Chrysler announced strong second-quarter earnings, primarily on the strength of its MPV and truck sales. Our domestic industry is second to none in this field, and does not need to be protected from import competition. Imports merely offer consumers more choice.

Mr. Speaker, once again, we cannot ensure enactment of all of the good parts of this bill unless we remove the bad. It will be vetoed if my motion to recommit does not pass. I urge passage and a vote for the motion to recommit.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in opposition to the motion to recommit H.R. 4318 to the Committee on Ways and Means. During committee consideration of this bill, no credible alternative to the MPV reclassification was proposed for funding H.R. 4318.

It is as clear now as it was when the committee considered this bill that, without the provision relating to the classification of MPV's and minivans, the bill would lose significant revenue and would not comply with the pay-go requirements of the Budget Act. Thus, inclusion of this provision in H.R. 4318 is essential to the proper funding of the bill and to allow the other 394 meritorious provisions to move forward.

The Committee on Ways and Means will not report a bill to the floor that is not in compliance with the pay-go requirements of the Budget Act. Recommitting the bill to the Committee on Ways and Means will not result in an alternative revenue source. It will simply result in killing any chances for the many meritorious provisions of H.R. 4318 to become law.

Mr. Speaker, I urge my colleagues to oppose the motion to recommit H.R. 4318.

Mr. JENKINS. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Georgia.

Mr. JENKINS. Mr. Speaker, this is the problem we get into with a motion to recommit in this form. We have 391 provisions of this trade bill that everybody wants passed but nobody wants to pay for them, so the motion to recommit says: "Yes, we want the 391 sections, but we do not want to pay for it. We will direct the Committee on Ways and Means to find some tax somewhere, gas tax or something, to pay for this motion to recommit, but we are not going to be responsible for it."

Is it any wonder that the American people are beginning to say, "This institution cannot legislate. They do not want to take any responsibility." This is a good example of a motion to recommit that ought to be voted against by everybody in this House, regardless of how they feel about the trade bill.

Mr. LEVIN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Michigan.

Mr. LEVIN of Michigan. Mr. Speaker, I thank the distinguished chairman for yielding.

Mr. Speaker, I am in favor of increased trade, and I am in favor of tearing down barriers, taking into account U.S. interests. The Treasury decision did not take into account American interests. It sold them out, and got nothing in return.

This is not a matter of GATT violation. There is none. This is not a matter of the consumer interest. There is already a lot of competition in this country among the Big Three. This is not a tax issue. This is a fairness issue. This is an integrity issue.

I close by reading the statement by the then-Commissioner of Customs. Please listen to what is at stake. He said, "On January 4, 1989, following a year-long investigation, Customs ruled that sport utility vehicles and most small vans would be classified * * * as light trucks."

That is what the issue is here.

> Based on all historical precedents, this should have been the end of the issue. Under U.S. law, the Customs Service has the responsibility for all such determinations * * * However, the following month, in an unprecedented action in response to foreign political pressure, Treasury reversed the proper customs ruling and concluded that two-door MPVs would be classified as trucks, but that most four-door MPVs would be classified as passenger cars, a decision that defies logic.
>
> The Congress should reinstate the Customs Service decision to restore integrity to the process by which decisions affecting U.S. policy are reached,

That is what he said, and that is what is at stake here—

> and make clear that the trade rules of the United States Government cannot be manipulated by producers which profit so greatly from their participation in the U.S. market.

The motion to recommit should be defeated, and this bill should be passed to keep the integrity of the U.S. system. Let us open trade barriers. Let us do it, keeping in mind American interests first and foremost.

Mr. ROSTENKOWSKI. Mr. Speaker, I urge a "no" vote on the motion to recommit, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in support of H.R. 4318, the Miscellaneous Tariff Act of 1992.

The tariff changes in this legislation are generally noncontroversial. We are merely reducing or ending tariffs which do not protect U.S. industry. In many cases, these tariffs actually harm U.S. competitiveness by raising the prices American producers must pay for foreign-made components or raw materials.

Mr. Chairman, I am very pleased that two provisions I authored have been included in H.R. 4318. Both of these amendments to the Harmonized Tariff Schedule have been carefully reviewed and approved by the International Trade Commission and the Commerce Department's International Trade Administration. Furthermore, both were endorsed by the Ways and Means Committee and, of course, the Subcommittee on Trade.

I introduced H.R. 2364 to assist Lenox, Inc. by temporarily reducing the import duty on certain ceramic statues, statuettes, and flowers which were made by professional sculptors. As my colleagues may know, Lenox, Inc. is an internationally renowned domestic producer and merchant of fine china whose headquarters is located in Lawrenceville, NJ—within my congressional district.

Lenox noted that due to an unexpected change in trade policy, the tariff rate for handmade figurines was actually increased above the rate for the products not made by hand. The traditional rates always had a lower tariff for the handmade products because it would encourage artistic work from sculptors.

I agreed to assist Lenox by sponsoring legislation which would temporarily reduce the duty for these items made by professional sculptors. Lenox, while a domestic maker of many ceramic products, markets the imported, handmade statuettes by mail order. Under my provision contained in the Miscellaneous Tariff Act, the duty for these figurines would be reduced from 3.1 percent to 2.6 percent. Passage of this provision would reduce the duties paid by Lenox and make it a stronger employer and more profitable enterprise.

Mr. Speaker, another bill I sponsored has also been included in H.R. 4318. On April 16, 1991, I introduced H.R. 1835 to strengthen the international competitiveness of the U.S. commercial communication satellite industry. I was pleased that after consideration and markup by the Subcommittee on Trade, my bill—H.R. 1835—was embraced by Chairman ROSTENKOWSKI and included in both the House trade expansion package, H.R. 5100, and today's bill, H.R. 4318. My satellite provisions were already passed in H.R. 5100, but I urge its approval in H.R. 4318 to further ensure its ultimate enactment.

Under current law, entire communication satellites and most parts may be imported into the United States free of duty as long as the satellite is subsequently reexported or launched into orbit. However, certain components which are necessary for the domestic manufacture of communication satellites have different tariff classifications and are therefore subjected to high import duties. The importer may put up a bond in exchange for paying the duty and can have the bond and the tariff excused if the manufacturer launches or reexports the satellite within 3 years. This procedure is known as temporary importation under bond [TIB].

Unfortunately, Mr. Chairman, the shuttle *Challenger* disaster and other launch failures played havoc with communication satellite launch schedules. As my colleagues know, the schedules for launches are determined years in advance and the repercussions from these past failures are still being felt by the industry.

My bill would provide satellite manufacturers with an additional 2 years, for a total of 5 years, to launch their satellites without the builder sacrificing the bond or suffering the impact of liquidation damages as long as the delay was no fault of their own.

Mr. Chairman, if enacted, my reform of TIB will ease the burden on those manufacturers who face harsh penalties through no fault of their own.

I am grateful that General Electric's Astro-Space division in East Windsor, NJ brought this situation to my attention. While passage of my measure will provide substantial benefits to a local constituent, I see broad positive implications from this legislation.

I urge approval of H.R. 4318 without further delay.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in support of H.R. 4318, the Miscellaneous Tariff Act. Imported multipurpose vehicles [MPV's] are classified as trucks only for emissions and fuel economy regulations, and luxury and gas guzzler for tax purposes. In other words, the Japanese car industry is again taking an unfair advantage over the American car industry and dumping minivans in our country at a rate of up to 7.19 percent below fair market value.

This legislation will correct an inconsistency in U.S. Government regulations that costs the American taxpayer about $300 million in annual revenue. The American taxpayer has a heavy enough burden without having to foot the bill for the Japanese as well. Classification of MPV's should be based on structural and design features and not on cosmetic features that can be easily manipulated by importers.

In 1989 the U.S. customs service determined that imported MPV's should be classified as trucks for tariff purposes. Within a week of that decision, the Treasury Department disagreed and determined that 2-door MPV's should be considered trucks and 4-door MPV's should be considered cars. Foreign political pressure allowed the customs decision to be overturned and by passing this legislation today we can correct this unfair decision.

I fully support free trade and competition, but when a country continues to blatantly break the rules, it is time to play hard ball. Mr. Chairman, more American jobs will be at stake if this legislation is not passed.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in support of H.R. 4318, the Miscellaneous Tariff Act. Imported multipurpose vehicles [MPV's] are classified as trucks only for emissions and fuel economy regulations, and luxury and gas guzzler for tax purposes. In other words, the Japanese car industry is again taking an unfair advantage over the American car industry and dumping minivans in our country at a rate of up to 7.19 percent below fair market value.

This legislation will correct an inconsistency in U.S. Government regulations that costs the American taxpayer about $300 million in annual revenue. The American taxpayer has a heavy enough burden without having to foot the bill for the Japanese as well. Classification of MPV's should be based on structural and design features and not on cosmetic features that can be easily manipulated by importers.

In 1989, the U.S. Customs Service determined that imported MPV's should be classified as trucks for tariff purposes. Within a week of that decision, the Treasury Department disagreed and determined that 2-door MPV's should be considered trucks and 4-door MPV's should be considered cars. Foreign political pressure allowed the customs decision to be overturned, and by passing this legislation today we can correct this unfair decision.

I fully support free trade and competition, but when a country continues to blatantly break the rules, it is time to play hardball. Mr. Chairman, more American jobs will be at stake if this legislation is not passed.

The SPEAKER pro tempore (Mr. MURTHA). All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken, and the Speaker pro tempore announced that the noes appear to have it.

Mr. ARCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 125, nays 263, not voting 46, as follows:

[Roll No. 356]

YEAS—125

Allard
Allen
Anderson
Archer
Armey
Baker
Barrett
Barton
Bateman
Beilenson
Berman
Bilirakis
Bliley
Boehner
Callahan
Campbell (CA)
Chandler
Coble
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dicks
Dixon
Dooley
Doolittle
Dornan (CA)
Dreier
Fawell
Fields
Fish
Gallegly
Gallo
Gekas

Gibbons
Gilchrest
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Hammerschmidt
Hancock
Hansen
Hefley
Herger
Hopkins
Hubbard
Ireland
James
Johnson (TX)
Klug
Kolbe
Kopetski
Kyl
Lagomarsino
Leach
Lewis (FL)
Lightfoot
Livingston
Lloyd
Machtley
Marlenee
McCandless
McCollum
McCurdy
McMillan (NC)
Meyers
Miller (OH)

Miller (WA)
Molinari
Moorhead
Moran
Morella
Nichols
Nussle
Oxley
Packard
Panetta
Paxon
Penny
Petri
Pickett
Porter
Quillen
Ramstad
Ravenel
Rhodes
Riggs
Rinaldo
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Schaefer
Schumer
Sensenbrenner
Shaw
Shays
Skaggs
Skeen
Smith (OR)
Smith (TX)
Spence
Stark

Stearns
Stump
Synar
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Waxman
Weber
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—263

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Ballenger
Barnard
Bennett
Bentley
Bereuter
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Bryant
Bunning
Burton
Bustamante
Camp
Cardin
Carper
Carr
Clay
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dorgan (ND)
Downey
Duncan
Durbin
Dymally
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hughes
Hunter
Hutto
Inhofe
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Martin
Martinez
Matsui
Mazzoli
McCloskey
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Pallone
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Ritter
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schiff
Schroeder
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Snowe
Solomon
Spratt
Staggers
Stallings
Stenholm
Studds
Sundquist
Swett
Swift
Tallon
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yates

NOT VOTING—46

Ackerman
Alexander
Atkins
Bacchus
Boxer
Broomfield
Brown
Bruce
Byron
Campbell (CO)
Chapman
Clement
Collins (MI)
Conyers
Dickinson
Donnelly
Dwyer
Early
Eckart
Edwards (OK)
Ford (TN)
Gaydos
Hatcher
Huckaby
Hyde
Lehman (FL)
Levine (CA)
Lowery (CA)
Mavroules
McCrery
Michel
Morrison
Mrazek
Myers
Oakar
Owens (UT)
Pelosi
Scheuer
Schulze
Smith (IA)
Solarz
Stokes
Tauzin
Towns
Traxler
Yatron

□ 1345

The Clerk announced the following pairs:

On this vote:

Mr. Levine of California for, with Mr. Atkins against.

Mr. Lowery of California for, with Mr. Broomfield against.

Mr. SMITH of Florida changed his vote from "yea" to "nay."

Messrs. COBLE, SPENCE, BEILENSON, RINALDO, and PENNY changed their vote from "nay" to "yea."

So the motion to recommit was rejected

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. VOLKMER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 273, noes 112, not voting 49, as follows:

[Roll No. 357]

AYES—273

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Baker
Ballenger
Barnard
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Bryant
Bunning
Burton
Bustamante
Camp
Cardin
Carper
Carr
Clay
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Condit
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Duncan
Durbin
Dymally
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gejdenson
Gephardt
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gunderson
Hall (OH)
Hamilton
Hancock
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hughes
Hunter
Inhofe
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McEwen
McGrath
McMillen (MD)
McNulty
Meyers
Mfume
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Pallone
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Price
Pursell
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Young (FL)

NOES—112

Allard
Allen
Anderson
Archer
Armey
Barrett
Barton
Bateman
Bliley
Boehner
Boucher
Callahan
Campbell (CA)
Chandler
Coble
Combest
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dooley
Doolittle
Dornan (CA)
Dreier
Fawell
Fields
Fish
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Goss
Gradison
Grandy
Green
Hall (TX)
Hammerschmidt
Hansen
Herger
Hopkins
Hubbard
Hutto
Ireland
Johnson (TX)
Klug
Kolbe
Kopetski
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Marlenee
McCollum
McHugh
McMillan (NC)
Miller (CA)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Nichols
Nussle
Orton
Oxley
Packard
Panetta
Parker
Paxon
Penny
Petri
Pickle
Porter
Quillen
Ramstad
Ravenel
Rhodes
Riggs
Roberts
Rohrabacher
Roth
Schaefer
Schiff
Schumer
Sensenbrenner
Shaw
Shays
Skeen
Smith (OR)
Smith (TX)
Stark
Stearns
Stenholm
Stump

Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Weber
Wyden
Young (AK)
Zeliff
Zimmer

NOT VOTING—49

Ackerman
Alexander
Atkins
Bacchus
Boxer
Broomfield
Brown
Bruce
Byron
Campbell (CO)
Chapman
Clement
Collins (MI)
Conyers
Dickinson
Donnelly
Dwyer
Early
Eckart
Edwards (OK)
Ford (TN)
Gaydos
Guarini
Hatcher
Hefley
Huckaby
Hyde
Jacobs
Lehman (FL)
Levine (CA)
Lowery (CA)
Mavroules
McCrery
Michel
Morrison
Mrazek
Myers
Oakar
Owens (UT)
Pelosi
Scheuer
Schroeder
Schulze
Smith (IA)
Solarz
Stokes
Towns
Traxler
Yatron

□ 1358

The Clerk announced the following pairs:

On this vote:

Mr. Stokes, for, with Mr. Levine of California against.

Mr. Atkins, for, with Mr. Lowery of California against.

Mr. DANNEMEYER and Mr. HALL of Texas changed their vote from "aye" to "no."

Mr. GOODLING and Ms. ROS-LEHTINEN changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON S. 12, CABLE TELEVISION CONSUMER PROTECTION ACT OF 1992

Mr. LENT. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. LENT moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate bill, S. 12, be instructed to maintain the protections and remedies provided in section 20 of the House amendment against theft of cable service.

The SPEAKER. The gentleman from New York [Mr. LENT] will be recognized for 30 minutes and the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes.

The gentleman from New York [Mr. LENT] is recognized for 30 minutes.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I understand that House conferees for S. 12, the Cable Television Consumer Protection and Competitiveness Act will be appointed shortly.

My motion to instruct is intended to act as a significant deterrent to the prevalent problem of theft of cable service. This instruction is critical to bring into conformity penalties and remedies for theft of cable service with those penalties and remedies for theft of satellite service.

□ 1400

The Senate failed to include such a provision in their bill. We think such a remedy is important to ensure the integrity and protection of property rights of cable.

Accordingly, Mr. Speaker, I strongly urge my colleagues to support my motion.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman for offering this motion. I support it. I urge my colleagues to do likewise.

Mr. LENT. Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from New York [Mr. LENT].

The motion to instruct was agreed to.

APPOINTMENT OF CONFEREES ON S. 12

The SPEAKER. The Chair appoints the following conferees, and, without objection, reserves the authority to make supplemental appointments, including the naming of additional conferees from the Committee on the Judiciary: Messrs. DINGELL, MARKEY, TAUZIN, ECKART, MANTON, HALL of Texas, HARRIS, LENT, RINALDO, BILIRAKIS, and FIELDS, provided that Mr. RITTER is appointed in place of Mr. FIELDS for consideration of so much of section 16 of the Senate bill as would add a new section 614(g) to the Communications Act of 1934 and so much of section 5 of the House amendment as would add a new section 614(f) to the Communications Act of 1934.

There was no objection.

RECOMMITTAL OF H.R. 5231, STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980 AMENDMENTS

Mr. VALENTINE. Mr. Speaker, I ask unanimous consent that the bill (H.R. 5231) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the technology administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes, be recommitted.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The bill, H.R. 5231, is recommitted to the Committee on Science, Space, and Technology.

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 5, FAMILY AND MEDICAL LEAVE ACT OF 1991

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes, with a House amendment thereto, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BOEHNER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

SMALL BUSINESS EQUITY ENHANCEMENT ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 531 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5191.

□ 1407

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5191) to encourage private concerns to provide equity capital to small business concerns, and for other purposes, with Mr. OBEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 30 minutes, and the gentleman from Florida [Mr. IRELAND] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to rise in support of H.R. 5191, the Small Business Equity Enhancement Act of 1992.

This legislation is sponsored by Representative IRELAND, the ranking minority member, and 17 other members of the Small Business Committee, and it has been endorsed by the administration. It received unanimous support in committee and was ordered reported by a vote of 39–0.

Over the years, the small business investment company or SBIC Program has worked very well.

Under this program, the Small Business Administration or SBA helps finance small firms through privately owned SBIC's. These companies are SBA-licensed to supply equity capital and long-term loan financings to small firms for expansion, modernization, and sound financings of their operations, as well as venture capital for startup costs or research and development expenses. SBIC's must operate within SBA regulations, but their individual transactions with small companies are private arrangements and have no connection with SBA.

The program has created over 1 million jobs.

Over the past 15 years, corporate form SBIC's have paid more than $500 million in taxes.

In addition, the program is filling not only a broad public policy goal of encouraging venture capital to go to small businesses, but also is assisting socially and economically disadvantaged individuals, is financing firms that are actively involved in exporting, and is providing substantial funding of firms in the technology sector.

In recent years, however, the program has had problems due to program structure and the economy. Possibly, it is a reflection of the overall state of the sharp decline in new money going to venture funds; in the past 5 years new capital has dropped 70 percent.

SBA Administrator Saiki appointed a blue ribbon commission under the leadership of a former Deputy Administrator, Patricia Cloherty. The Commission's report pointed out that the industry's problems are essentially cash flow related; that is, an SBIC during certain short cycles is receiving less income on its investments than is required to pay interest on its debts. The inevitable result is temporary insolvency, unless the SBIC has large cash assets.

This legislation proposes to create a new instrument, called a participating security, through which the Government could provide matching capital funds to SBIC's. It would be guaranteed by SBA and would be sold to private investors the same as in the current program. But, it would have two key features.

First, interest would be payable only to the extent that the SBIC had sufficient earnings or gross profits from which to do so, with SBA, at least temporarily making up any shortfall in interest.

Second, the Government would receive a share in the profits of the SBIC, with the profit participation being based on the amount of Government-guaranteed capital: If the Government provides guarantees equal to the amount of private capital, it would receive 9 percent of the SBIC's profits; and if it provides double the amount of private capital, it would receive 12 percent of the profits.

Although we believe this new mechanism will work, we are proposing it on a pilot basis. We are proposing to phase it in with an initial program level of $100 million in fiscal year 1993 and with annual increases until it reaches $700 million in guarantees in 1997.

We also believe that we can provide this assistance at a lower cost per dollar than under the current program. The present program, under the Credit Reform Act, costs about 15 cents on the dollar. We project the cost of the new security at 10 cents on the dollar, or a one-third improvement.

In addition, we could recover all of our costs. The program is designed to promote investments in sound, growth-oriented small firms, but occasionally SBIC's have invested in really stellar performers such as Cray Research, Apple Computer, Intel Corp., and Federal Express.

Under our profit participation provision, the Federal Government could cover years of program costs, assuming history repeats itself and the Government receives 10 percent, for example, of an SBIC's profits on another Federal Express-type investment.

There are, of course, many other changes being made by the bill, ranging from provisions imposing new requirements to provide greater safety and soundness on the Government's guarantees, to provisions directing that restrictions be removed or decreased for those SBIC's which have not obtained any Federal guarantees.

I particularly want to point out that the bill would require more private investments in these companies in order to obtain matching Federal guarantees. This new safety requirement would apply to both the current debenture guarantee program and to the proposed participating securities. The amount of the SBA financing generally would be limited to a maximum of $90 million per company; and the specific amount would be determined by the amount of private capital in the SBIC:

On the first $15 million of private capital, it could obtain up to $45 million in Federal guarantees;

On the second $15 million of private capital, it could obtain up to an additional $30 million; and

On the third $15 million of private capital, it could obtain up to an additional $15 million.

Thus, if an SBIC receives the maximum amount of Federal assistance, it would have private capital equal to one-half of the amount of Federal guarantees rather than the one-fourth permitted today.

This legislation will not cure all of the problems confronting the SBIC industry today, but it is clearly a good first step and will provide the agency and the industry the tools with which they can move forward.

Mr. Chairman, before closing, I want to thank the other members of the committee for their cooperation and contributions, particularly my ranking minority member, ANDY IRELAND. I know that without his strong support, we would not be here today.

I also want to say that I have enjoyed working with him on this bill and others. The Members know that he is retiring at the end of this term and I hope we will be back here on the floor with other legislation before he leaves, but just in case we are not, I want to thank him for all of his efforts to promote small business and secure the adoption of much needed legislation. It has been a pleasure having him as the ranking minority member, although I would have preferred that he be one of the senior Democratic members on the committee.

ANDY, you will be missed, but I wish you well.

I reserve the balance of my time.

□ 1410

Mr. IRELAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to start by commending my colleague, the chairman of the Committee on Small Business, for his considerable efforts in developing this legislation and bringing it to the floor for our consideration today. I also want to thank him for the spirit of bipartisan cooperation that he has fostered throughout this bill's development process.

As the gentleman from New York has so ably explained, H.R. 5191's purpose is, first and foremost, to create jobs for Americans by restoring the flow of venture capital to our Nation's emerging growth companies. At the same time, the bill will reduce the Federal Government's risk in guaranteeing debentures issued by SBA-certified small business investment companies, known as SBICs.

Let us face it: As big businesses in America continue to down size, hard-working Americans continue to lose jobs. Where are those hard-working Americans finding new jobs? In our Nation's smaller firms.

What can we in Congress do to help those small, but growing, businesses employ even more Americans? We can stimulate investment—in the form of patient capital—in these emerging growth firms. That is exactly what H.R. 5191 will do.

The chairman has explained that requiring SBIC's to pay interest semiannually from the start on their SBA-guaranteed debt makes it virtually impossible for those SBIC's to make the kind of equity investments that emerging growth—and job-creating—companies so desperately need. H.R. 5191 solves this problem in a very innovative—yet sound—way.

Currently, SBIC's issue debentures for 5 or 10 years that are pooled periodically by the SBIC Funding Corporation. Certificates of interest in those pools—which are guaranteed by SBA—are then sold to private investors. The debentures pay interest semiannually;

principal is returned when the term of the debenture expires.

Let me make clear that H.R. 5191 will not change the nature of the debt instrument sold into the private market. The procedure I just described will continue virtually unchanged once H.R. 5191 becomes law. What will change is the relationship between the SBIC and the SBA.

Under the current system, SBA steps in and makes good on its guarantee only when an SBIC is unable to make a semiannual interest payment, or is unable to return the principal when a debenture comes due. The best that can happen to SBA under this arrangement is that it doesn't lose money by having to make good in its guarantee.

H.R. 5191 allows an SBIC to opt for a different arrangement with the SBA than that of SBA as a simple guarantor of debt. By allowing SBA to step in and make semiannual interest payments on SBIC-issued debentures until that SBIC begins to realize a profit on its investments, H.R. 5191 encourages SBIC's to make the patient-capital, equity-type investments in smaller, startup firms that will allow them to grow and create jobs.

In return for SBA's willingness to step in on the front end of the investment, SBA receives a share of the profits once that investment starts to yield a return. For as long as the SBIC profits from the investment, the SBA profits as well.

This ability to share in the upside as well as the downside of an SBIC's investments will greatly reduce the overall costs associated with the SBIC program.

In addition, H.R. 5191 reduces the Federal Government's exposure to loss by placing several important safeguards on the SBIC Program:

First of all, an SBIC's shareholders and investors assume a higher proportion of risk than the Government. All private capital in an SBIC must be lost before the Government loses a penny.

Second, the amount of leverage available under this new security will be limited to 2:1.

The ratio of SBA-guaranteed debt to private capital will be reduced as an SBIC grows in size. This means that, when an SBIC takes down larger amounts of leverage, the ratio of required private capital will increase correspondingly.

H.R. 5191 strengthens the responsibility and accountability of an SBIC's Board or general partners for portfolio-company valuations. It also requires the adoption of written valuation guidelines by every SBIC. SBIC's must also submit valuation reports to SBA at least semiannually.

SBA's regulatory examination function is returned to the Investment Division under H.R. 5191. This will allow program staff to systematically monitor the financial condition of participating SBIC's, and to step in quickly when there is a problem.

Finally, by making clear that investments in SBIC's by public pension funds qualify as private capital, H.R. 5191 will open up pension funds—the primary source of venture capital in this country—to the SBIC industry.

By attracting substantial amounts of new private capital to the program, SBIC's will be able to invest in a greater number of emerging growth companies. The result will be more jobs, more taxes paid, and more opportunities to pursue the American dream of starting your own business.

And H.R. 5191 does all this, while actually reducing the subsidy rate for the program by one-third. It's no wonder that the bill has the unanimous support of Republicans and Democrats on the Small Business Committee, and the enthusiastic support of the administration, as well.

Mr. Chairman, I especially want to commend SBA Administrator Pat Saiki, the Investment Advisory Council she put together to look for ways to strengthen and improve the SBIC Program, and the SBIC industry for their willingness to work with the Small Business Committee in developing this important legislation.

H.R. 5191 demonstrates that when we can get cooperation among the executive branch, the Congress and the private sector, we can indeed do good things for America.

I ask my colleagues to vote for fiscal responsibility, and for jobs for Americans, by voting for H.R. 5191.

Mr. LAFALCE. Mr. Chairman, I yield 2½ minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank my friend, the gentleman from New York [Mr. LAFALCE], the chairman of the Committee on Small Business, for yielding to me. I salute the gentleman for bringing this bill to this point in the legislative process.

Mr. Chairman, I also commend my friend, the gentleman from Florida [Mr. IRELAND], with whom I have very much enjoyed serving over the years in this Chamber and on the Committee on Small Business, and wish the gentleman well.

Mr. Chairman, from one standpoint this is a somewhat complicated bill. The gentleman described it fairly straightforwardly and as simply as it could be. But it is a complicated bill.

However, there is a simple element as well. I think that what ought to be kept in mind is this simple fact: Most of the jobs in the United States are now being created by smaller companies, and among those, primarily among the smaller entrepreneurial type companies. Those are the very ones that need the capital which the small business investment companies are able to provide.

This bill will revolutionize the whole process by which capital will flow into these new, young, vigorous companies. This, in turn, will create the jobs which we very, very much need in America.

Mr. Chairman, the gentleman has done this in the way that I really like to see legislation crafted. It has been done in a bipartisan fashion. This is characteristic of the gentleman from New York [Mr. LAFALCE] as a legislator. The gentleman has been trying to figure out ways that both sides of the aisle can come together behind legislation which is sensible, which is cost effective, and which does the job.

Mr. Chairman, this is really what this bill before us today does. It is bipartisan. It is a good, solid piece of legislation, and I very much support it because it will get the job done.

Mr. Chairman, to sort of localize this legislation, back in Kentucky our Lt. Gov. Paul Patton, has been assigned a very important duty by our Governor, and that is to head up the whole statewide economic development program.

Mr. Chairman, I would tell the gentleman from New York [Mr. LAFALCE] that I have just heard from our Lieutenant Governor, who is very supportive of this bill, because it will allow, if I am not mistaken, a State, under some circumstances, to itself become a participant in these small business investment companies, so long as the picket fence is kept between the public and private character of that activity. Lieutenant Governor Patton says this is a very innovative and very important step forward.

So, Mr. Chairman, I support the bill for many reasons, including that, and also because, overall, it is a very, very fine piece of legislation which will help create jobs in America.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I rise today to compliment and give praise to Chairman LAFALCE and Representative IRELAND for their work on this important piece of legislation. H.R. 5191 may be one of the most significant and effective bills that this Congress can pass to help restart our economy and the small business community. Through this legislation, we will increase the amount of investment capital that is available to newly developing small businesses by strengthening the Small Business Investment Corporation Program.

The lack of investment and capital in this country has left small businesses throughout the country in a downward spiral. The effect of the downward spiral has left the American people wondering if we can continue to promote small businesses in this country. By passing H.R. 5191, we can help small, young companies to remain competitive by allowing them access to investment capital that is desperately needed. By passing H.R. 5191 into law, Congress can tell the American people, yes we can be competitive, yes we can be No. 1 in developing new products and businesses, and yes Congress is supportive of the American small businessperson.

In Las Vegas, we are hard at work to rebuild areas of West Las Vegas that have been ravaged and destroyed by the recent racial riots. As a participant of the recently formed, Multijurisdictional Community Empowerment Commission, whose purpose is to design a program to rebuild the West Las Vegas area, one of the measures which is central to this rebuilding process, is the establishment of a specialized small business investment corporation. H.R. 5191 will make the creation of SBIC's and SSBIC's in Las Vegas a reality and a means to revitalize the economically disadvantaged neighborhoods of West Las Vegas.

For the small businessperson in Las Vegas and around the country, I ask all Members to support H.R. 5191, a bill that helps to give the small businessperson an advantage in bringing America, once again to the forefront of developing the finest business enterprises in the world.

Mr. MAVROULES. Mr. Chairman, today the House of Representatives resoundingly endorsed the Small Business Equity Enhancement Act of 1992, H.R. 5191. This legislation would provide enhanced opportunities for small business investment companies [SBIC's] to succeed, and for small businesses to obtain much needed capital by making loans available to SBIC's through Small Business Administration [SBA] guarantees.

Given the climate in the banking industry and the scarcity of venture capital for even proven large business concerns, small businesses, especially disadvantaged businesses, have little access to capital and reduced chances of succeeding. Licensed by the SBA, SBIC's are often the only source of capital for small businesses. Serving the needs of socially or economically disadvantaged businesses, specialized SBIC's provide a much needed service to the disadvantaged community. The issue is simple—helping SBIC's helps small businesses, and helping small businesses helps our struggling economy.

Between 1986 and 1990, SBIC's financed over 5,800 small businesses. As for the New England region, it ranks second in the number of SBA-licensed SBIC's, third in the amount of private capital held by SBIC's, and third in the amount of capital leveraged from the SBA through the program. In my home State of Massachusetts alone, 304 small businesses have benefited from SBIC financing since 1986. Let me note that 155 of these businesses fall into the disadvantaged category. I submit to my colleagues that not only does this program pay off, it pays off in spades.

Mr. Chairman, it is time we realize that small businesses are the way out of our current economic doldrums. Initiatives such as the Small Business Equity Enhancement Act and the Small Business Credit Crunch Relief Act (H.R. 4111), which was overwhelmingly passed earlier this year, are the medicine our economy needs to get well. I am pleased to be associated with such legislation and as a member of the Small Business and Armed Services Committees will continue to work towards increasing the role small businesses play in the national economy.

Mr. RITTER. Mr. Chairman, I rise today to enthusiastically support H.R. 5191, the Small Business Equity Enhancement Act of 1992.

I congratulate both Chairman LAFALCE and the ranking minority member of the committee, Mr. IRELAND for their efforts to reach a bipartisan accord on this bill.

Mr. IRELAND perhaps sums it up best—a vote for H.R. 5191 is a vote for small business. And we must make no mistake about it—small business is one of the most important engines for economic growth in this country. The majority of Americans are now employed in small business across the country. If we are to provide the employment opportunities needed to sustain the economic growth we all desire, then we must provide a way for new startup ventures and expanding small businesses to get the capital they need to grow and to innovate.

That is what this bill is all about. By reinvigorating the Small Business Investment Company Program, we will be augmenting the ability of small businesses to attract desperately needed working capital. The credit crunch is well known. But less well known is the fact that in the last 5 years, new capital commitments to venture funds have declined by almost 70 percent. We cannot let this decline stand.

For in the last analysis, venture capital invested in American small business translates to money and jobs which stay in America. We can no longer afford to export more capital overseas than we invest in domestic small business.

I urge my colleagues to support this bill, and the jobs and opportunity it will ultimately bring to Americans across this country.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in support of H.R. 5191, the Small Business Equity Enhancement Act. This legislation will revitalize the small business investment company [SBIC] industry and will encourage investment in smaller firms. We cannot overemphasize the importance of making capital available to small businesses. The existence of the credit crunch and the challenges facing small businesses which need loan capital is something that we all know. However, less well known is that there is a similar shortage of funds to make equity investments and provide other venture capital to small firms. For example, between 1987 and 1991 commitments to venture funds decreased from $4.1 billion to $1.2 billion, or by almost 70 percent. Clearly, there is a need to act.

H.R. 5191 is a well thought out response to the problem of the lack of equity capital within the SBIC industry. Not only does H.R. 5191 stimulate much needed investment, it will also reduce the subsidy rate for the program by almost one-third.

If you will recall, the Small Business Investment Company Act was initiated in the midst of the 1958 recession. The act created one of the most exceptional public-private sector partnerships in the history of economic development. The success of the program can be attributed to the order of private capital in the capital structures of SBIC's, which has the effect of insulating Government funds from losses, and to the private ownership and management of the SBIC's, which have had the effect of assuring that the investment decisionmaking is prudent.

Though the SBIC program has had an overall sound record, several negative trends have emerged in recent years. These problems were acknowledged by Administrator Saiki at hearings in July of 1991. The Small Business Administration [SBA] under the direction of Administrator Saiki made a commitment to do "what it takes to restore integrity and purpose of this program."

Mr. Chairman, I am proud to proclaim that the Small Business Equity Enhancement Act restores integrity and the purpose of the program. H.R. 5191 provides several enhancements to what has been a fundamentally sound program. The basic flaw in the program for those SBIC's which provide much needed venture capital in the form of equity rather than as subordinated debt has been corrected. Programmatic changes will ensure a reduction of risk, return regulatory functions to SBA's investment division, allow SBIC's to charge market rates of interest, as well as allow pension fund investment to be counted as private capital.

In short, this is the type of progrowth, probusiness, projobs bill that we need to keep the economy moving.

Mr. CLEMENT. Mr. Chairman, as we debate this measure improving the Small Business Investment Corporation Program, I would like to share with you a story about a particular form of SBIC called a minority enterprise business investment corporation, or MESBIC.

My story asks whether the Small Business Administration is adequately monitoring the activities of MESBIC's and, by extension, SBIC's, and taking prompt administrative and legal action when violations of SBA rules are detected.

This is the story of Tennessee Equity Capital Corp. and several of the businesses which were financed through it. But it is a sad story because the owner of Tennessee Equity, Walter Cohen, has been indicted on fraud charges and the owners of the companies financed by Tennessee Equity are out in the cold and frustrated, disillusioned, and, in some cases, bankrupt.

One of the small companies financed by this MESBIC was Pointer Oil. Its owner, John Pointer, is in bankruptcy and unable to obtain capital to start a new business. His pleas for assistance to the SBA have fallen on deaf ears. He is told that there is nothing the SBA can do to help him get back on his feet, even though his track record as head of Pointer Oil was good, notwithstanding the active and illegal intervention into its operations by Tennessee Equity Capital Corp.

The SBA says it owes Mr. Pointer no special consideration at the same time it admits it should have been more diligent in its oversight of Tennessee Equity.

Ironically, the Federal investigation and indictment of Walter Cohen and Tennessee Equity would not have occurred without Mr. Pointer. For soon after his association with Tennessee Equity 3 years ago, Mr. Pointer began alerting the Small Business Administration to evidence that resulted in the indictment.

And now, despite his actions to blow the whistle on Tennessee Equity and owner Walter Cohen, SBA officials are unable and unwilling to help him get back into business or to help him promptly recover his assets.

But this story raises questions about the administration of the MESBIC and SBIC Programs and whether sufficient safeguards are in place to investigate alleged improprieties in these MESBIC–SBIC programs before they cause problems for the small companies financed through them. It raises questions as to whether the SBA is adequately protecting the taxpayers who guarantee the securities issued by MESBIC's and SBIC's.

In the case of Tennessee Equity, it appears that the office of the SBA's inspector general was working closely with the Justice Department in the investigation. However, the inspector general did not work closely with the other SBA officials who could have taken action ahead of any indictment. Information being gathered about Tennessee Equity's alleged improprieties was not shared with other offices at the SBA which could have taken separate administrative action against Tennessee Equity. In fact, at a meeting this spring between SBA officials, John Pointer, and my staff, one of the SBA associate administrators present leaned over to the SBA's attorney and whispered "Gee, why didn't we take action earlier?"

For, as a consequence of this meeting, a meeting that, by the way, took months of requests to get scheduled, the SBA went to Federal court and asked that Tennessee Equity be put under SBA receivership. But even this motion would have been lost by the SBA if it hadn't been for John Pointer's testimony to the court. John Pointer was not asked by the SBA to be present at the court hearing. SBA attorneys apparently thought they could do it themselves.

Mr. Chairman, in a recent Wall Street article about the case of John Pointer and Tennessee Equity, the head of SBA's investment division is quoted as saying "We license these investment companies. But we can't guarantee to the world at large that they follow all our rules."

Well, Mr. Chairman, it is critical that the SBA do a better job monitoring the activities of the SBIC's and MESBIC's. The SBA may not be able to guarantee that they follow the rules, but information about irregularities and improprieties should be investigated by those responsible for administering these programs so that prompt administrative action can be taken earlier against those suspected of fraud or violation of any SBA rules.

[From the Wall Street Journal, June 26, 1992]

Businessman Says U.S. Aid Role Blinded Him to Fraud—Federal Involvement Often Encourages Entrepreneurs to Lower Guard

(By Jeanne Saddler)

Entrepreneur John Pointer was delighted when an investment company licensed by the Small Business Administration took him under its wing a few years ago. Tennessee Equity Capital Corp. not only promised to invest in his fuel-brokerage company but also started the ball rolling to get additional funds from the SBA.

Mr. Pointer was a little taken aback at the active management role that Tennessee Equity's owner, Walter Cohen, insisted on taking in his Nashville company, but he felt little reason to worry. After all, Mr. Pointer figured, the SBA connection was all but a guarantee that the arrangement was on the up and up.

But today, bitter and bankrupt, he knows better. In violation of federal law, he says. Mr. Cohen essentially took control of Pointer Oil Co's finances—and helped himself to much of the money. As a result, Mr. Pointer lost control of his company to Mr. Cohen, who early this year was indicted for fraud.

"Basically, he claimed he had a business-incubator kind of setup for minority firms, but it was just a way of controlling those firms and having black 'front companies,'" says Mr. Pointer, who is black. He says he let Tennessee Equity officials run his day-to-day operations, even giving them authority to co-sign his firm's checks, because "my mind and thought pattern was that this guy was federally regulated."

That faith destroyed his business. "All of my hopes to pursue the 'American Dream' have been completely shattered by this SBA program, which was designed to aid and assist minorities," Mr. Pointer said in a letter he sent to the SBA last month.

He isn't alone. Each year, tens of thousands of entrepreneurs take part in government-backed private-sector programs, from SBA lending to lotteries by other agencies for winning federal cable licenses and oil leases. Often, they simply assume that the federal involvement safeguards them against fraud. Unfortunately, though federal agencies are expected to oversee the programs, they can't be held accountable for everything that goes wrong.

'LESS ON GUARD'

"Certainly, consumers will be less on guard when private firms are pretending their service is officially sanctioned by the government," says Dean Graybill, associate director of enforcement for the Federal Trade Commission's Bureau of Consumer Protection.

Mr. Pointer, though, says he eventually put his guard up. Starting three years ago, he says, he began alerting the SBA to evidence that resulted in the federal indictment against Mr. Cohen. The indictment, handed up in U.S. District Court in Nashville in February, accuses Mr. Cohen of defrauding the government by misusing federal funds and by taking direct control of companies that were supposed to receive the funds, in violation of federal law.

Mr. Cohen's attorney hasn't responded to requests for comment on the charges against him in the federal indictment and the accusations by Mr. Pointer.

Despite his actions to blow the whistle on Mr. Cohen. Mr. Pointer complains that he can't get SBA officials to help him recover some of his assets and get back into business. The SBA, while voicing sympathy for Mr. Pointer's plight and acknowledging it should have been more diligent in its oversight, says it owes him no special considerations.

"We license these [investment] companies" such as Mr. Cohen's, says Wayne Foren, head of the SBA's investment division. "But we can't guarantee to the world at large that they follow all our rules. When we find that they don't, we bring [them] back into compliance or do our best to get them out of the program."

Under the SBA's small business investment company program, a firm with about $2 million in cash can get as much as $3 million in federal money to invest in high-risk ventures that can't attract traditional bank financing. A small number of these SBICs—including Tennessee Equity—target minority firms.

STUDIES FAULT OVERSIGHT

Several recent studies, including one last year commissioned by the Senate Small Business Committee, concluded that the SBA's oversight and regulation of the SBIC program in the 1980s had been inadequate. In the wake of several SBIC failures, the SBA last year adopted new rules to govern the program and beefed up the staff charged with their oversight. The failed companies still owe SBA about $525 million.

In Mr. Pointer's case, according to the federal indictment, Tennessee Equity used the ruse of investing in Pointer Oil to secure $250,000 in SBA financing. The indictment accuses Mr. Cohen of submitting fraudulent documents to get the SBA to approve Tennessee Equity's applications for financial assistance.

Mr. Pointer says he never received any of the money and that most aspects of his business, other than winning contracts to purchase oil, were controlled by Tennessee Equity officers.

Grady Ring, a black business owner in Franklin, Tenn., who also lost control of his company after getting financing through Tennessee Equity, says Mr. Cohen convinced many minority business owners that his control of their companies was part of the bargain. "He would put his employees on your board and take control of the checkbook before people knew what was going on. They [the business owners] thought he was regulated by the government," Mr. Ring says. Both Messrs. Ring and Pointer now are suing Mr. Cohen in Nashville state court for fraud and misrepresentation.

The federal indictment of Mr. Cohen and two of his associates lists nine small Tennessee concerns that allegedly were improperly financed and managed by Tennessee Equity beginning in 1985.

INQUIRY IN 1989

The SBA's inspector general started looking into the case when Mr. Pointer took his complaints to the agency in 1989. But because the inspector general's office is independent and doesn't share details of its work with other SBA officials, no administrative action was taken against Tennessee Equity until after the indictment in February. Then, the SBA took control of the investment company, and officials say they're trying to unravel two years' worth of legal actions brought by and against the company.

Affidavit

I, John L. Pointer, home address 5488 Village Way, Nashville, Tennessee, telephone (615) 833–8610, do hereby provide the following statement to Gerald M. Struchen, who has identified himself to me as a Special Agent, U.S. Small Business Administration, Office of Inspector General. This statement is being provided in regard to my dealings with Tennessee Equity Capital Corporation (TECC), its principal, Walter S. Cohen, Brenda M. Resha and William Renick. I provide this statement voluntarily without threat, duress, or promise of reward.

I state that: Pointer Oil Company, Inc. is a small concern, owned by myself and operating as a petroleum products broker. Tennessee Equity Capital Corporation (TECC) is known to me a (sic) Minority Enterprise Small Business Investment Company owned and operated by Walter S. Cohen and licensed by the U.S. Small Business Administration to act as a lender to disadvantaged concerns such as Pointer Oil Company, Inc. Brenda Resha is known by me to be an employee of Walter S. Cohen. Brenda Resha (Resha) works for an office located at 4711 Trousdale Avenue, Suite 24, Nashville, Tennessee, which is the office for Tri-Star Cablevision, Inc. William Renick is known to me as a former associate of Walter S. Cohen. William Renick (Renick) also maintained an office at 4711 Trousdale Avenue, Suite 24, Nashville, Tennessee.

During the initial stages of trying to get Pointer Oil Company, Inc. (POC) started, I had contacted several lenders trying to establish a line-of-credit for POC, however, was turned down by all. Subsequently, an acquaintance of mine referred me to Walter S. Cohen (Cohen) who was known to them as a company that finances minority owned concerns.

When I approached Cohen for a loan, he told me that TECC is a company licensed by the U.S. Small Business Administration and that TECC receives money from the government to invest into small minority owned concerns. I never asked Cohen for a specific loan amount, he instead told me that he would commit to a $250,000 funding of POC to be used for working capital.

When the funding took place during February 1988, Cohen told me that it was his money that he was investing in POC and that he wanted the unused portion of the working capital funds to be placed into a money market. Cohen further told him that control of the funds were to be placed in the hands of Brenda Resha and maintained at the 4711 Trousdale Avenue address. Cohen further required that two (2) signatures be required to draw funds from any of the accounts established and that the account signators be myself, himself, Brenda Resha and William Renick.

When the $250,000 was disbursed by TECC to POC, Brenda Resha had me endorse the disbursement check which was then used to open an operating account for POC, with the remainder used to open a money market type account at Shearson/Lehman Brothers. The money which was placed in the Shearson Lehman account has since been transferred to an account at Goldman-Sachs in Memphis. From the records which I have just recently seen, there is approximately $189,000 in the Goldman Sach account.

I have no control over the Goldman Sach account, do not receive the statements of account and do not know the rate of return on the account.

I have not been permitted by Cohen to draw any salary, wages, bonus or other type of remuneration from POC.

I wanted to set up an office for POC in my home, however, Cohen told me that he wanted all of the POC business to be conducted from the 4711 Trousdale Avenue address and that all records are to be maintained at that address. Further, the telephone number which I use for my business is a telephone number for Tri-Star Cablevision, Inc.

In order to pay vendors, I have to go to the offices located at 4711 Trousdale Avenue and counter-sign the checks. To the best of my knowledge, vendors are being paid.

During August, 1989, Renick and Cohen had a parting of ways. At that time, I was told to sign a check drawn on the account of POC and payable to Brenda Resha in the amount of $2,000. Cohen told me that Resha does work for all of the small concerns such as POC and that they all share the expense on a rotating basis. This is the first time that I had any knowledge of money being paid to Resha from the POC account.

I have had no choice as to who is retained to do accounting and tax work for POC or who insurance is purchased from.

Sometime during 1989, I inquired of Walter Cohen as the filing of the 1988 tax returns for POC. Cohen told me that it had already been taken care of and not to be concerned about it.

During November, 1989, Cohen fired an office worker at the 4711 Trousdale Avenue address and a new girl was hired. Because I was concerned that something was amiss, I wanted to get access to my business records to see what was going on. The new girl, who apparently didn't know better, gave me access to the records.

Subsequent to getting access to most of my business records, I have found that my signature has been forged to several checks, mostly ones issued to Brenda Resha, and that my signature was forged to the 1988 federal tax return for POC. Additionally, I have found that my signature has been forged to federal fuel tax exemption certificate. I have not confronted Cohen with any of these findings.

I am aware that Cohen has applied to the U.S. Small Business Administration for additional funds indicting, in part, that a further commitment has been made for additional funding to POC. I have not requested further financing from TECC and can't even get control of the approximately $190,000 that is still in the Goldman-Sachs account.

In regards to other small concerns, I have seen records located at the 4711 Trousdale Avenue address for Celebrations Unlimited, Inc. and I know that Advanced Innovative Technology, Inc. uses an office at the address. I also know that money is going from Advanced Innovative Technology, Inc. to Tri-Star Cablevision, Inc., but do not know the reason. I have also seen files for Freetech Building Corporation and know that Capital Security Corporation has their offices at the 4711 Trousdale address. I also know that Theodora Morrison, a salesperson for Tri-Star Cablevision, Inc. has been placed as a front for a company called Floridavision, Inc. A Gerard Schackman, who is a troubleshooter for the Tri-Star Cablevision, Inc. lines, is being used as the president of a company called Starvision Cable, Inc.

I have read the preceding five and one-half pages of handwritten statement and agree that it is accurate and true to the best of my knowledge. I have further initialled each page and corrections to the pages.

JOHN L. POINTER.

POINTER PETROLEUM COMPANY, INC.,
2100 WEST END AVENUE,
Nashville, TN, February 7, 1991.

Mr. ROBERT HARTMAN,
Small Business Administration, Nashville, TN.

DEAR MR. HARTMAN: It has been over a year since I alerted the SBA's division in Atlanta about problems I was having with Mr. Walter Cohen and his MESBIC interest, Tennessee Equity Capital Corporation. We both know that the Office of Inspector General is still running their investigation. And quite frankly we both do not really know when Mr. Cohen's case will be brought to court if indicted.

During the interval, my company and my family have suffered great hardships. However, through this I continually try to pursue my company's business potential with vigor.

Your assistant, Mr. Clinton Smith recently introduced me to Mr. Ron Reed. From my conversation Mr. Reed is your financial expert who packages loans in this district. I have met with Mr. Smith and Mr. Reed to seek financing for a complete new company, Pointer Petroleum, Inc. Listed below you will find ample reasons why through my counsel's advice, I developed a new entity:

I. (May, 1990) Cohen knew the SBA was investigating him so he along with his aid released an investment account (over $190,000) in Pointer Oil Company's name without my knowledge.

II. Suits were filed by his lawyers halting any tax refunds going to Pointer Oil Company (over $100,000). His suit claims the monies should be going to Tennessee Equity Capital Corporation.

In spite of those very serious hardships, Pointer Oil Company continued to maintain and generate new business opportunities as the following listed below:

Saturn, Metro Nashville, Metro Airport, Memphis Transit Authority,[1] Nashville Electric Service, TVA, Shelby County Support Services,[1] Shelby County Sheriff's Department, Chattanooga Transit Authority, City of Chattanooga, Chattanooga School Board, Lockheed Airforce, State Agencies of Tennessee, City of Knoxville, Memphis, Light & Gas, Memphis Airport, Nissan, Toyota, Kodak, Frito Lay, Shoney's, and Martin Marietta.[1]

In August, Pointer Oil Company, Inc. was the recipient of Award for Minority Supplier of the Year for Shelby County.

In closing, Mr. Hartman I again am asking for finances which in 1988 were not given to my wife and myself properly. I have developed a proven track record that can grow and develop into a thriving business entity. In whatever deceitful manner Mr. Cohen used the taxpayer's money only reflects how damaging a lending interest aimed toward minorities can cause a depressive gap in the economic development.

Yours in trust,

JOHN L. POINTER.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 1, 1991.

Mr. JOHN L. POINTER,
Pointer Oil Company, Inc., Nashville, TN.

DEAR MR. POINTER: Thank you for a copy of your recent letter to Senator Sasser. I appreciate you keeping me informed of the difficulties your company is facing.

I have written to the new administrator at the Small Business Administration in your behalf. I have asked for the status of the investigation involving your company as well as the agency reconsidering your request for assistance to capitalize a new company. As soon as I have received a response, I will be happy to share it with you.

Again, thank you for your letter. Please feel free to call on me when I can be of further assistance to you.

Sincerely,

BOB CLEMENT,
Member of Congress.

POINTER OIL COMPANY, INC.,
Nashville, TN, February 27, 1991.

Senator JIM SASSER,
Russell Building, Washington, DC.

DEAR SENATOR SASSER: It has been several months since our last discussion about the SBA investigation concerning my company which is still ongoing. In June, Ms. Carmen Buero with your office assured me you would keep abreast of the SBA investigation, and I have appreciated the concerned interest.

---

[1] Existing contracts already assigned to Pointer Petroleum Company, Inc.

Since my last contact with Ms. Buero, there have been numerous legal attacks and maneuvers aimed at damaging my company and my family. Below, please find my monthly reportings of how the MESBIC investigation has heightened my exposure to more problems.

(A) June 1990—Walter Cohen (MESBIC) cleared all the monies ($190,000) in a investment account which was under the name of Pointer Oil Company without my knowledge.

(B) June 1990—My legal counsel filed suit against Cohen and his MESBIC (Tennessee Equity Capital Corp.).

(C) June, July 1990—Cohen's lawyers submitted counter claims, 1) that stated my wife and I were in default of the company, 2) I was ordered to give lengthy depositions with several of Cohen's attorney's, 3) Cohen filed a suit against Commissioner Joe Huddleston of the Tennessee Department of Revenue. He claimed the tax refunds owing monthly by the State should not be submitted to Pointer Oil Company but should be going to Tennessee Equity Capital Corp. to pay the guarantees my wife and I signed with the MESBIC.

(D) Pointer Oil Company in 1990 was the recipient of the State of Tennessee's gas and diesel contract (67 out of 95 counties). In December 1989, I informed staff members in General Services there was an ongoing investigation. At the start, they were lenient by only allotting 10 counties (Jan. until May). However, when I physically took the company over without any records at a new location, the state demanded that all agencies from the remainder of the counties start contacting my office for fuel. The average fuel use by the state during the summer and fall months was 900,000 gals. per month. This averaged out to almost $900,000 per month paid out by the state. My major supplier tried to help by giving me fuel supply financing with their bank in Charlotte, North Carolina.

(E) August-December (1990)—Cohen's purpose of his suit initially against the state was for only $50,000. He claimed my wife and I owed for guarantees. The state filed for an interpleader saying the courts could decide where the refunds should go. Recently, the tax refunds the state tax division is holding is over $300,000 and counting. Sprague Energy, my supplier for State of Tennessee's contract is now demanding in full payment of over $600,000. My counsel and I had acknowledged at the start about the litigation concerns with the MESBIC. The majority of the total sum is late invoice payments and tax refunds which are being withheld. Presently, we have been expecting a declaration of default by Sprague Energy. Their actions since December dictate these measures. A primary example is the fact of the constant communications with the State's General Services Department, Finance Division and also the Tax Revenue Division. My primary concern on that issue is the state has been communicating constantly with my supplier and not with myself being included. At one point my attorney and I demanded I be present on future meetings. Since the two December meetings, the State has been communicating with Sprague without my awareness. I now have possible legal concerns against Sprague (supplier) and even the State of Tennessee for not going through Pointer Oil Company as a contractor.

Currently Pointer Oil Company is no longer making sales. A new company has been formed (Pointer Petroleum Company, Inc.) in which I am not an owner. The State is penalizing this company because of my connection with Pointer Oil Company. The important fact which I have mentioned to the Tax Division is that I don't have any stock in Pointer Petroleum. I have asked the local SBA office to verify the investigation, in order to aid lenient penalties to receive Pointer Petroleum's license. The SBA stated they would not help.

Pointer Petroleum now has two contracts already assigned to the new company. These contracts are Martin Marietta (ammunitions plant) and Shelby County (support services). Please see enclosure.

Senator, I now need someone with authority to aid and assist me with my concerns, (1) receiving license with a minimum $3,000 bond and (2) getting some capital for operation purposes with the new company through the SBA. This summer when I revealed to members of the SBA committee the same information told to Ms. Buero about the MESBIC in Tennessee it was stated that this case will go down as the biggest scandal in the SBA's history. Millions of dollars have been defrauded, and presently I am still receiving all the attacks by the State, the supplier and Cohen. I have stood steadfast believing there will be justice in the court systems. I now have no capital to constantly seek legal advice with all my concerns. At this moment, I am contemplating national exposure on this entire incident because of my situation.

In closing, I am thanking you in advance for whatever you and your staff members can aid this Tennessean in need.

Yours in trust,

JOHN L. POINTER.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 1, 1991.

Hon. PATRICIA SAIKI,
Administrator, Small Business Administration, Washington, DC.

DEAR MRS. SAIKI: I would greatly appreciate your assistance in responding to the difficulties Mr. John Pointer has encountered since his company, the Pointer Oil Company, and the MESBIC to which he is associated, the Tennessee Equity Capital Corporation, became part of an SBA investigation.

As you can see from the enclosed correspondence, Mr. Pointer has been involved in an ongoing dispute with the Tennessee Equity Capital Corporation. In an effort to continue his business while the dispute and the investigation are resolved, Mr. Pointer would like to receive capital assistance from your agency for a new company.

As I understand, Mr. Pointer is not the subject of your agency's investigation. Nonetheless, the difficulties his is embroiled in have effectively stopped the operations of Pointer Oil and subjected it a string of countersuits and counterclaims.

I respectfully request your assistance in this matter. In addition, I would appreciate learning the status of the investigation and receiving advice and clarification of what issues are being investigated and whether Mr. Pointer has been implicated or is the subject of the investigation.

Thank you. If you have any questions or need any additional assistance, please feel free to call me or David Flanders of my Washington staff.

Sincerely,

BOB CLEMENT,
Member of Congress.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, April 22, 1991.

Hon. BOB CLEMENT,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN CLEMENT: This is in reply to your letter of April 1st on behalf of Mr. John L. Pointer, Pointer Oil Company, Nashville, Tennessee.

We are enclosing a copy of a letter sent to Mr. Pointer concerning his request for a loan from the Small Business Administration (SBA).

In addition to the credit situation referred to in the attached letter, it should be noted that no formal loan application has been received from Mr. Pointer, either in the name of Pointer Oil Company or his new company, Pointer Petroleum. If a loan application is received, we assure you that it will receive every consideration possible consistent with the regulations of the SBA.

With regard to the status of the investigation of Tennessee Equity Capital Corporation by the SBA Office of Inspector General, we are referring your request to them for direct reply.

We hope this information will be helpful to your constituent. We appreciate your interest in this matter, and in our Agency.

Sincerely,

PATRICIA SAIKI,
Administrator.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, April 11, 1991.

Mr. JOHN L. POINTER,
Pointer Oil Company, Inc., Nashville, TN.

DEAR MR. POINTER: This is in reply to your letter of March 6, addressed to Administrator Engeleiter, concerning the difficulties you are having with Tennessee Equity Capital Corporation.

Your letter has been referred to this office for response since it is presumed to be concerned with the obtaining of a business loan under the regular business loan program of the Small Business Administration.

We have been in touch with both the Office of Inspector General and the Office of Investment and understand the difficult situation in which you find yourself. Unfortunately, there is no way in which we can approve a loan in the face of the adverse financial factors present.

We regret that there is nothing that can be done to alleviate your difficulties short of a successful law suit. We hope at least this information will be of some assistance to you.

Sincerely,

CHARLES R. HERTZBERG,
Assistant Administrator for Financial Assistance.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 17, 1991.

Mr. JOHN L. POINTER,
Pointer Petroleum Co., Inc., Nashville, TN.

DEAR JOHN: Thank you for sharing with me your recent letter to SBA Administrator Patricia Saiki. I appreciate you keeping me informed of your efforts to obtain SBA assistance.

I have also written to Ms. Saiki and asked her to respond to your questions and, in particular, your request for a meeting with her. As soon as I have received a response, I will be happy to share it with you.

Again, thank you for bringing this correspondence to my attention. Please feel free to call on me if I can be of further assistance.

Sincerely,

BOB CLEMENT,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 17, 1991.
Hon. PATRICIA SAIKI,
Administrator, Small Business Administration, Washington, DC.

DEAR MRS. SAIKI: I recently received the enclosed letter from Mr. John Pointer of Pointer Petroleum Company, Inc., of Nashville, Tennessee.

I would greatly appreciate your assistance in reviewing Mr. Pointer's concerns and, in particular, honoring his request to meet with you. As you know, because of what I understand is a criminal investigation of a MESBIC associated with Pointer Petroleum, the company has little or no capital and, consequently, is losing contracts.

Thank you for your assistance in this important matter. If you or your staff have any questions or need any additional information, please feel free to call me or David Flanders of my Washington staff.

Sincerely,
BOB CLEMENT,
Member of Congress.

POINTER PETROLEUM CO., INC.,
Nashville, TN, May 22, 1991.
PATRICIA SAIKI,
Administrator, U.S. Small Business Administration, Washington, DC.

DEAR MS. SAIKI: I would like to congratulate you on your selection as the Chief Administrator to the U.S. Small Business Administration.

I have received your letter written to Congressman Bob Clement on my behalf. I also have your Chief Finance Director, Charles R. Hertzberg's letter. In your letter you state that there is no loan application for Pointer Oil nor Pointer Petroleum on file. However, Mr. Hertzberg writes a contradicting letter stating that there is no way SBA will approve a loan for my company. Also, in your local district office, I have been told that there would be no further form of communication for any interests on my behalf.

This letter is written to show that the SBA has completely failed me. Since the notification by me concerning the local MESBIC in Oct. 1989, there has been an insensitive attitude towards me starting from Nashville to Washington, D.C.

In your U.S.A. Today article (May 6, 1991), from my interpretation, you state that Minorities should be a great concern because "they" are behind the curve. You continued to state that "they" need our help. You concluded that SBA has to encourage Minorities and women to get into small businesses because that is where "they'll" do well.

Prior to my supposedly receiving a SBA loan (in Jan. 1988), I exhausted personal funds aligning government, state, municipal, and blue chip corporations for potential customers. Since this investigation, problems such as lack of funds, complete customer frustration, along with an assortment of litigations by your local MESBIC is forcing me completely out of the petroleum business. Effective today (May 21, 1991), I had to cancel a million dollar government contract (Martin Marietta) along with others because I have no funds.

Small businesses have a high ratio to falter, we both agree to that issue. And, being an African American businessman in today's economic structure, it is extremely difficult to stay in existence.

That is why programs developed by the SBA have to exist in a highly regulated manner. A good MESBIC program is the core for viable small businesses which need nurturing and development. My thoughts have completely changed since my signing for a SBA loan in 1988. Recently, Pointer Oil Company and my wife and I were forced into Bankruptcy.

I would like to set a meeting in Washington, D.C. to discuss my concerns soon.

Sincerely,
JOHN L. POINTER.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, July 18, 1991.
Hon. BOB CLEMENT,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN CLEMENT: This is in response to your letter of June 17 on behalf of Mr. John L. Pointer, Pointer Petroleum Co., Inc. of Nashville, Tennessee, which was prompted by a copy of Mr. Pointer's May 22 letter to Patricia Saiki, the Administrator of the Small Business Administration (SBA).

Ms. Saiki wrote a letter to Mr. Pointer on June 21. In this letter, she explained that SBA is aware of Pointer Petroleum's funding through Tennessee Equity Capital Corporation, a MESBIC company undergoing grand jury investigation, as well as Pointer's past communications with our Office of Financial Assistance, with our District Office in Nashville, Tennessee and with our office of the Inspector General.

In prior communications with Mr. Pointer, I advised that there was no way SBA could approve a loan in the face of the adverse financial factors present. This opinion was based on information provided in a letter from Mr. Pointer, and dealt with the Pointer company as then organized. In a subsequent letter Mr. Pointer stated that a new company had been formed in which he had no interest. Responding to that letter, we advised that SBA had no record of receiving an application from the newly formed company.

We have been advised by our office of the Inspector General that the investigation of Tennessee Equity Capital Corporation is still continuing. As such, we are not in a position to comment on any allegations made against that company.

Your interest in this matter and in our Agency is appreciated. We are pleased to be of assistance whenever possible.

Sincerely,
CHARLES R. HERTZBERG,
Assistant Administrator for Financial Assistance.

NASHVILLE, TN, *July 12, 1991.*
Mr. ROBERT HARTMAN,
U.S. Small Business Administration, Nashville, TN.

DEAR MR. HARTMAN: I have been informed by your Chief Administrator, Patricia Saiki to pursue any financial assistance through your office. Again, I am requesting aid and assistance for my company.

Please note since my last direct effort to you and your staff members in February 1991 for financial assistance, Pointer Oil Company and my wife and I were forced to file for bankruptcy due to your local MESBIC, Tennessee Equity Capital Corporation.

Banks have already informed me that a standard SBA loan package from me would not be accepted by them.

I would appreciate your correspondence on this issue.

Sincerely,
JOHN L. POINTER.

[From the Tennessean, July 28, 1991]

MINORITY BUSINESS "HELP" INVESTIGATED—LOAN RECIPIENTS CLAIM TAKEOVERS

(By Don Hinkle)

A federal grand jury here and the U.S. Small Business Administration are investigating claims a Nashville businessman seized control of local minority-owned businesses he was supposed to help.

The grand jury probe of the activities of Walter Cohen, president of Tennessee Equity Capital Corp., has followed a trail of bankruptcies and multimillion-dollar lawsuits as investigators try to determine how Cohen dealt with businesses run by minorities or Vietnam-era veterans.

Investigators have declined to comment on or discuss the 21-month-old probe, but court documents indicate the SDA and the grand jury are examining whether Cohen and TECC violated SBA regulations.

"The basis of their [the SBA's] investigation and federal grand jury action is based on their belief that Tennessee Equity Capital Corp. and Mr. Cohen have defrauded the U.S. Small Business Administration," a Nashville oil products distributor said in a sworn affidavit filed in a lawsuit against Cohen and his company.

Repeated attempts over the past two weeks to reach Cohen at his home at 1102 Stonewall Jackson Court in Brentwood and at his TECC office at 4711 Trousdale Drive were unsuccessful. He did not return phone calls despite visits by reporters to his office.

Cohen's attorney, Carcy Thompson, said he was unaware of any investigation and said allegations in two separate lawsuits in Davidson County Chancery Court were untrue. Thompson said Cohen had received "no formal suspension" from the SBA and, in fact, has not received SBA funds "in quite some time."

The suits charge that Cohen improperly took over two separate businesses after the owners got loans from TECC through Cohen.

Three Nashville businessmen say they have testified before the grand jury about their dealings with Cohen, and a fourth man, an oil products distributor, says the federal grand jury has subpoenaed records of "all companies controlled by Cohen and Tennessee Equity."

The case has featured a string of charges and countercharges.

According to court records and interviews with the parties involved, this is what happened;

Cohen and Tennessee Equity were licensed by the SBA in January 1979 to serve as a Minority Enterprise Small Business Investment Corp. Since then TECC has received approximately $1.7 million in SBA funds after Cohen put up about $1.3 million of matching money, SBA officials said.

As part of the SBA program, Cohen's company had the authority to lend money to qualifying minorities and Vietnam-era veterans who wanted to start businesses.

Under the SBA program, Cohen could lend up to 30% of his $1.3 million to any single minority business and was authorized to receive up to $25 million from the SBA.

Three Nashville businessmen questioned by the federal grand jury here say investigators appear to be interested in how Cohen handled the financial dealings of the companies he lent money to and whether he seized control of some of them.

The three men are: Glenn Perdue and Stephen Smith, owners of Transouth Systems Group, a computer automation company which subcontracted their services to Cohen-financed businesses, and Grady Ring, a 50% partner of Tri-Star Cablevision, a company formed to provide cable service to apartment complexes in the Southeast.

Assistant U.S. Attorney Wendy Goggin, who questioned the three witnesses before the grand jury last September, refused to comment on the investigation.

SBA special agents started examining Cohen's dealings in October 1989, looking at transactions involving at least a half dozen minority businesses. One of those companies is in bankruptcy. Founders of two other businesses have multi-million dollar lawsuits pending against Cohen.

As recently as this month, Jerry Struchen, an investigator with the SBA's inspector general's office in Atlanta, was in Nashville working on the case.

The SBA investigation was initiated when John Pointer, a Nashville petroleum products distributor, complained to Sen. Jim Sasser and 5th District Rep. Bob Clement that Cohen was trying to take over his oil company and thus breaking SBA rules.

Pointer has filed a $4 million lawsuit in Chancery Court here, charging that Cohen illegally exercised "absolute dominion and control" over Pointer Oil Co., a company he started in January 1988 after Cohen agreed to lend him $250,000.

Pointer contends Cohen and Tennessee Equity did not permit him "to make managerial decisions for Pointer Oil" and that Pointer was unable to draw "any form of salary or compensation from Pointer Oil."

Pointer Oil filed for Chapter 7 bankruptcy last month, as did Pointer and his wife, Victoria, in a separate filing. Under Chapter 7, assets—personal or business—must be liquidated to pay debts.

Investigators have questioned Perdue, Smith and Ring about who controlled the SBA money and who was running the minority businesses in which Cohen had invested.

According to a countersuit filed by Cohen in Chancery Court last August, Pointer mismanaged and "practically abandoned the business in or around November 1989," forcing "Tennessee Equity and its employees to manage the day-to-day operations of the affairs of Pointer Oil Company in order to protect its investment."

Cohen maintains that Pointer has repaid him only $142,000 of the $250,000 loan.

SBA regulations provide for the Minority Enterprise Small Business Investment Corp. to take temporary control of a troubled company if a formal plan is filed 30 days prior.

SBA officials in Washington could not say last week whether Cohen filed such a plan. They said they could not provide the names of companies Cohen has lent money to because investigators have seized all SBA records on Tennessee Equity.

Cohen said the loan agreement provided for two signatures from four designated company directors before checks could be cashed. The four directors were Pointer, Cohen and two Cohen associates—Brenda Resha and William Renick.

Attempts to contact Resha and Renick for comment were unsuccessful.

Perdue and Smith, the two subcontractors, said Cohen exercised control of companies—like Pointer Oil—by controlling who signed the checks.

Pointer has declined "on-the-record" interviews concerning his dealings with Cohen.

"John had no control" over Pointer Oil, Perdue said.

In Pointer's original complaint to Sasser, he said that in June 1990, Cohen took $190,000 from an "investment account" of Pointer Oil Co. without Pointer's knowledge.

"That business was not capital-intensive," Smith said.

"It is a broker business where you basically take money out of the bank, buy gas or oil, sell it, get some more money to replace it and make a little profit.

"John Pointer should have never run out of money."

In less than a year, Pointer had built Pointer Oil sales to $2 million.

By 1990, sales hit $5 million after Pointer got contracts with the State of Tennessee, the City of Atlanta, Metropolitan Nashville Airport Authority, Nashville Electric Service and the State of Georgia.

"John was doing a great job of going out and birddoggn' business," Perdue said.

In his lawsuit against Cohen, Pointer alleges "fraudulent conduct" and claims that someone at Tennessee Equity forged his signature on an April 17, 1990, fuel tax report to the Tennessee Department of Revenue's Petroleum Tax Division.

Cohen was granted an injunction earlier this year preventing more than $388,000 in fuel tax refunds from going to Pointer. Cohen's suit claims that the monies should be going to Tennessee Equity because of guarantees owed by Pointer.

On June 6 this year, Chancellor C. Allen High ordered the money be held—pending the outcome of all litigation—by bankruptcy trustee Samuel K. Crocker because of Pointer Oil's bankruptcy filing

"John Pointer was the first person that had enough guts to stand up to Cohen," Smith said.

[From The Tennessean, July 28, 1991]

PARTNER IN VENTURE SAYS HE WAS PUSHED OUT

(By Don Hinkle)

Grady Ring was a paratrooper in the Army Reserve during the Vietnam War, though he never had to go to Southeast Asia.

As such, the Franklin man was eligible in 1985 for a special $250,000 loan from the Small Business Administration through Nashville businessman Walter Cohen and his Tennessee Equity Capital Corp.

He and his partner, Bill Hutson, formed Tri-Star Cablevision to provide cable services to apartment complexes throughout the Southeast.

The venture blossomed into a going concern during the first two years of operation, but today Ring says Hutson and Cohen have pushed him out of the company.

Ring filed an $8 million lawsuit against Cohen almost a year ago in Davidson County Chancery Court to retain his 50 percent interest in Tri-Star. He is one of three people who have appeared before a federal grand jury here investigating Cohen.

"I thought . . . that because of SBA rules and regulations that they couldn't take any stock away or sell anything," said Ring, who now works as a local marketing consultant. "I trusted these people and I trusted the government."

Ring also has filed a $20,000 lawsuit against Hutson, alleging that Hutson "began to slow pay and no pay Ring for the purpose of pushing him out of the corporation Tri-Star."

Hutson denies those charges in an answer to the suit, but Cohen had not answered the suit against him last week.

Repeated attempts over the past two weeks to reach Cohen by phone and visits to his Brentwood home and Crieve Hall office were unsuccessful.

Carey Thompson, his attorney, said he was unaware of any investigation and said allegations in the lawsuit were untrue.

The lawsuit is part of a maze of legal documents filed here in Bankruptcy and Chancery courts.

Ring charges in the suit that Cohen tried to take over the business and that he believes that "Cohen, Tennessee Equity and Hutson diverted corporate assets to their own benefit at the expense of Tri-Star and its shareholders.

In a countersuit filed Aug. 14, 1989, against Ring, Hutson denies "pushing" Ring out and contends that Ring "surrendered his stock in Tri-Star Cablevision Inc., and has no further interest in the corporation."

The loan agreement between Tri-Star and Tennessee Equity required that two of the company's directors sign Tri-Star checks.

Even though Ring was 50 percent owner, he was not listed as one of the directors in the loan agreement with Tennessee Equity. The directors were Cohen, Hutson and Cohen associates Brenda Resba and William Renick.

Attempts to contact Resba and Renick for comment were unsuccessful.

Ring's suit says Cohen caused Tri-Star to enter "certain limited partnerships with himself and his associates whereby 99.5 percent of all of the benefits derived from such partnerships are attributable to Cohen."

"These arrangements deprived Tri-Star of material business assets for the personal gain of Cohen," the suit says. Ring said the charges in his lawsuit largely cover what assistant U.S. Attorney Wendy Goggin asked him before the grand jury. Goggin would not comment.

Hutson continues to work at Tri-Star, but filed for Chapter 7 personal bankruptcy last month. Chapter 7 requires liquidation of personal assets.

Among the creditors on Hutson's filing are the IRS, which is owed $324,315 from the year 1983, and the Illinois Department of Revenue, which is owed $15,134 from the same year.

Repeated attempts to reach Hutson to discuss his involvement with Tri-Star also failed.

Tri-Star supplied cable television to about 18–20 apartment complexes in Tennessee, Florida, and Georgia, garnering more than $60,000 in revenue each month. About half of the complexes served are in the Nashville area.

"In less than two years we had more business than we could handle," Ring said. "We had about 2,500 subscribers."

Meanwhile, Glenn Perdue, co-owner of Transouth Systems Group, a computer automation company that subcontracted their services to Cohen-financed businesses, said Cohen and Hutson had become "buddies."

"It appeared to me that Walter was trying to squeeze Grady out," said Perdue, who said he appeared before the grand jury here.

Perdue and Stephen Smith worked for Cohen as automation systems subcontractors from April 1987 to June 1988 and observed some of Tennessee Equity's dealings with Tri-Star and Pointer Oil.

"We witnessed a variety of things we didn't agree with . . . so we chose not to do business with him," Perdue said of Cohen.

Smith said he saw Ring come into Tri-Star Cablevision's offices—which doubled as a headquarters for Tennessee Equity—on Trousdale Drive one day and discovered he no longer had an office.

Ring said he told the grand jury that Cohen maintained an office there in violation of SBA regulations.

"Technically, according to the records, his office is at his house, but he spent a lot of time in the [Tri-Star] office," said Ring.

Ring filed for — and then voluntarily withdrew from—Chapter 13 bankruptcy after Cohen told him his services were no longer needed at Tri-Star.

Ring said he has spent more than $20,000 in legal fees in his battle with Cohen in the past 24 months.

"I think he's realized that I'm not going to walk away," Ring said.

Perdue, Smith, Ring, an Arthur Overall, owner of Music City Telecom which supplies pay telephones to Nashville International Airport, agree that Cohen exercised control of minority businesses by controlling all check writings.

Pointer Oil Co.,
Nashville, TN, October 19, 1991.
Patricia Saiki,
U.S. Small Business Administration, Washington, DC.

Dear Ms. Saiki: I am informing you and your staff members in Washington that the local MESBIC (Tennessee Equity Capital Corp.) and the owner, Walter Cohen have filed yet another law suit against the company and myself. This now makes three suits filed against me along with a possibility of another supplier filing a petition, soon. Cohen has also filed a petition to prevent my wife and I to be discharged in our personal bankruptcy case.

For two years, my family and company have been exposed to this man who seemingly is still hiding behind this "MESBIC cloak". If this still is a lengthy ongoing criminal investigation, then we are completely still at great risk by his financial prowess to continually manipulate legal actions against us.

As time still meanders concerning this SBA criminal investigation, it is becoming more apparent that this is definitely a racial matter. My reasons show that a Black businessman who reported a White government lender not only exposed his wrongdoings, but probably exposed the lack of government and policy control of the SBA special lending practice. John Pointer and family have suffered since notifying the government (two years), while Walter Cohen and Tennessee Equity Capital Corp. are still operating as a MESBIC here in Nashville.

I have repeatedly requested a meeting with you in Washington and you have never responded. There are more topics of discussion than just criminal investigation of the SBA's MESBIC. I, again am asking for a meeting with you, as soon as possible.

My family and I yearn to put our life back together so we can live a normal life.

Yours in trust,

John L. Pointer.

Nashville, TN, *November 1, 1991.*
Re: Pointer Oil Company/MESBIC-SBA Investigation
Patricia Saiki,
Administrator, U.S. Small Business Administration, Washington, DC.

Dear Ms. Saiki: Please find enclosed more evident proof of a Minority company completely owned by an African American now decimated and in financial ruins by the SBA's local MESBIC which still is in full operations.

I yearn for the expedient indictment of this federal investigation of Tennessee Equity Capital Corporation (MESBIC) here in Nashville.

Again, I am requesting a meeting with you, as soon as possible.

Yours in trust.

John L. Pointer.

10 LARGEST MINORITY–OWNED BUSINESSES—RANKED BY DOLLAR VOLUME OF STATE CONTRACTS FOR FISCAL YEAR ENDING JUNE 30, 1991

Name, address, phone	Type of business	State contract totals	Number of employees, year founded	Minority affiliation	Notable projects or largest state contracts
1. Pointer Oil Company Inc., 611 Commerce St., 37208	Gasoline, diesel fuel	$1,750,455	n/a, 1988	Black	NA.
2. Jones & Jones Contractors Inc., 1314 5th Ave. North, 37208, 244–5710.	Contractors	1,644,475	34, 1983	...do	Cumberland Gap. Natchez Trace, Saturn.
3. Lu Inc., 307 Arlington Ave., 37210, 256–6744	Highway construction	785,920	12, 1984	American Indian	Maintenance for energy absorption systems.
4. Smith Office Products, 1108 Bellshire Drive, 37207, 868–8930.	Office products, retail	376,425	34, 1982	Female	NA.
5. Linwood Construction Corp., Old Railroad Bed Road, Mt. Juliet, 754–8081, 37122.	Construction	236,833	6, 1986	Black	Hamilton County, Metropolitan Airport Authority.
6. A–H Mechanical Contractors Inc., 515 Tanksley Ave., 37211, 832–9256.	Plumbing, HVAC	187,450	50, 1964	Female	K.R. Harrington, waste water treatment plant.
7. Ericson Marketing Communications, 1130 8th Ave. South, 37203, 242–1050.	Advertising agency	178,945	102, 1968	...do	United Way, Meharry University, Fisk University.
8. Electronic Cable & Connector, 260 W. Main St., Hendersonville, 37075, 822–3151.	Computer hardware	149,421	10, 1984	...do	Running contract with the State of Tennessee, Willis Caroon.
9. American Resources Inc., 1017 Woodland, 37206, 228–3820.	Hazardous waste contractors	134,243	12, 1985	...do	Old Metropolitan Airport, Redstone Arsenil.
10. Thomas E. Gentry & Associates Inc., 407 48th Ave. North, 37209, 297–6224.	Construction landscaping paving	130,169	5, 1984	African-American	Region 3, Metropolitan Housing Agency: Preston Taylor Homes.

Congress of the United States,
House of Representatives,
Washington, DC, November 25, 1991.
Hon. Patricia Saiki,
Administrator, Small Business Administration, Washington, DC.

Dear Mrs. Saiki: You recently received a request from Mr. John Pointer of Nashville for the opportunity to meet with you. I respectfully request your favorable consideration of this request.

As you know, Mr. Pointer's firm has been embroiled in an ongoing investigation of the Tennessee Equity Capital Corporation, a Nashville MESBIC. I understand that Mr. Pointer is not the subject of this investigation. Nonetheless, his company has suffered and is unable to continue. At minimum, I would ask for the status of this investigation and when it is likely to be completed.

Thank you for your attention to this request for a response and for information. Please feel free to call on me or David Flanders of my Washington staff if I can answer any questions or provide you with any additional information.

Sincerely,

Bob Clement,
Member of Congress.

Congress of the United States,
House of Representatives,
Washington, DC, November 25, 1991.
Mr. John L. Pointer,
Pointer Petroleum Co., Inc., Nashville, TN.

Dear John: Thank you for the copies of your recent letters to SBA Administrator Patricia Saiki. I appreciate having them.

I have also written to Mrs. Saiki asking her for a quick resolution of this investigation and a response to your request for a meeting. Should I receive a response from the Administrator, I will be happy to share it with you.

Again, thank you. Please do not hesitate to call on me if I can be of further assistance to you.

Sincerely,

Bob Clement,
Member of Congress.

U.S. Small Business Administration,
Washington, DC, December 11, 1991.
Hon. Bob Clement,
House of Representatives, Washington, DC.

Dear Congressman Clement: This is in response to your November 25, 1991, letter to Ms. Patricia Saiki, Administrator, Small Business Administration (SBA), regarding Mr. John Pointer and an investigation of the Tennessee Equity Capital Corporation. In that letter, you asked for the status of that investigation and a likely completion date. I am responding to those questions because my office, along with the U.S. Attorney's Office, is investigating the matter.

On November 15, 1989, Mr. Pointer telephoned our Investigations Division Regional Office in Atlanta with information that resulted in the initiation of an investigation involving Tennessee Equity. Subsequently, on December 5, 1989, he promised to cooperate fully with SBA, Office of Inspector General, special agents assigned to conduct the investigation. Based on Mr. Pointer's expressed intent to cooperate and information he had furnished to that point, we requested special U.S. Marshall deputation from the Department of Justice (DOJ) on December 6, 1989, for the purpose of executing a search warrant in conjunction with the investigation. This request was made in compliance with DOJ guidelines and with the concurrence of the Assistant United States Attorney familiar with the case.

As of December 31, 1989, our agents were still awaiting approval of the deputation request, and Mr. Pointer, expressing frustration with the delays, withdrew his offer of full cooperation. On February 28, 1990, our agents finally received the deputation approval, but by that time, the investigative opportunities had been lost. The investigation was consequently delayed and other avenues had to be pursued, including the issuance of 31 grand jury subpoenas in addition to numerous additional interviews and record reviews. The subpoenas were primarily for banking and investment records, which were subsequently carefully examined for manipulation of funds. These examinations spawned more investigative leads, both interviews and record reviews, which had to be pursued. As evidence of the investigation's complexity and uniqueness, we currently have 225 open cases, and this case ranks sixth in amount of time spent by our special agents.

While we are in the final stages of this case, we cannot predict exactly when the matter will be closed. I assure you that we are working as expeditiously as possible to complete our investigation. If you have any additional questions on this matter, please do not hesitate to contact Assistant Inspector General for Investigations Stephen N. Marica at (202) 205-6575.

Sincerely,

JAMES F. HOOBLER,
Inspector General.

ADRIAN H. ALTSHULER,
ATTORNEY AT LAW,
Nashville, TN, January 27, 1992.

GENTLEMEN: Please be advised that I represent Mr. and Mrs. John Pointer. I have represented the Pointers for the last two (2) years and am Counsel of Record in their lawsuit against Tennessee Equity Capital Corp. ("TECC"), and Walter Cohen.

TECC, as you know, is a federally licensed Minority Enterprise Small Business Investment Corporation under Section 301(d) of the Small Business Investment Act of 1958, as amended ("MESBIC") located in Nashville, Tennessee, and its president and sole shareholder is Mr. Walter Cohen.

After being informed by the United States Small Business Administration ("SBA") that TECC was a federally licensed MESBIC, Mr. Pointer was encouraged by the SBA to seek investment capital from TECC for his company, Pointer Oil Company. Mr. Pointer was assured by the SBA that TECC was reputable and fully met all requirements and federal law governing MESBICs.

Mr. Pointer, after meeting with Mr. Cohen and TECC, was requested by Mr. Cohen to solicit a client and contract base before any funding would be supplied by TECC. Deferring his judgment to knowledge obtained from the SBA concerning TECC, Mr. Pointer expended his own financial resources during the first year for his company trying to arrange a customer and contract base. After successfully obtaining contracts, TECC proceeded with arranging the so called financing for Pointer Oil Company. Pointer Oil Company's present condition was obviously a lucrative opportunity for TECC to become involved in a situation where sweat equity and determination on Mr. Pointer's part had secured the hardest element of any business, that being business. TECC had Mr. and Mrs. Pointer execute the so called required paperwork and then proceeded to fund Mr. Pointer's company with $250,000.00.

As is obvious, Mr. Pointer was never allowed access to the funds he and his wife borrowed for their company. The funds were always kept out of Mr. Pointer's reach and invested in security accounts at the discretion of Mr. Cohen and ultimately for his own use and benefit. Mr. Cohen and TECC, from the beginning of the alleged funding of Pointer Oil Company have been guilty of fraud, self-dealing, misrepresentation, conversion, and breach of fiduciary duty.

The result of TECC and Mr. Cohen's actions have resulted in the severe and criminal abuse of government funds as well as the MESBIC program. Mr. Pointer and Mrs. Pointer have suffered severe financial hardships and were ultimately forced into bankruptcy as a result.

Mr. Cohen and TECC as you know, are currently under investigation by the government for their obvious unethical and illegal actions. It is my understanding that approximately 31 witnesses have appeared before the Grand Jury to give testimony. I personally have interviewed a number of the witnesses in my own discovery and am appalled at the numerous illegalities, irregularities and fraudulent actions apparently existing in your Nashville MESBIC. I am at a loss on how such obvious irregularities and illegalities can go undetected for so many years by your office. Mr. Pointer went to TECC for funding of his company; however, he ended up uncovering for the government a MESBIC that was acting extremely illegal and unethical and prostituting he and the other minority companies under its control.

At this time I would request the SBA to address the following issues:

(1) What action is the SBA going to take against TECC: ie. how can TECC be allowed to operate without any government intervention while it continues to be able to freely transact business as it sees fit?

(2) How and when will the SBA make available to Mr. Pointer the funds that he was suppose to receive for capitalization of his company? I trust you will agree he is entitled to receive the funds that the government allowed to be made available to him.

It is my desire the SBA work as expeditiously on this matter as possible. This matter has continued for two (2) years and nothing has been done to help Mr. and Mrs. Pointer in resolving any issues.

Please remember that it was the SBA that recommended TECC to Mr. Pointer and thus they should be willing to provide more assistance to him. He has continued to wage his civil actions against TECC and Mr. Cohen without the help of the group that basically contributed to the situation that he is currently embroiled. All that he ask is for some assistance from the ones that are in the position to help him.

Should you have any questions please contact me at the above number, I look forward to your response.

Very truly yours,

ADRIAN H. ALTSHULER.

[From the Banner, February 14, 1992]

THREE ALLEGEDLY FLEECED SMALL-BUSINESS FUND

(By Leslie McCullough)

A federal grand jury has indicted three Nashville residents on charges they conspired to defraud the Small Business Association of almost $2 million.

Walter S. Cohen, Brenda R. Resha and Washington R. Butler Jr. are charged in an eight-count indictment returned Thursday with fraudulently obtaining $920,000 in financing on behalf of Tennessee Equitable Capital Corporation, a small-business investment company operating in Nashville.

The document also alleges the trio made an attempt to obtain an additional $1 million from the Small Business Administration.

According to federal law, the SBA licenses investment firms eligible to receive funding if they are owned by low-income people.

The indictment states Tennessee Equitable Capital Corporation was licensed in January 1979 by the SBA, and application was made by Cohen for the corporation to receive SBA funds for investments in businesses that would be owned by economically disadvantaged people.

Federal law mandates that to make an investment in a small business with SBA funds, a corporation must not exercise control in the business.

The document claims that Tennessee Equitable Capital Corporation incorporated nine small businesses.

They included Tri-Star Cablevision, Music City Telecom, Freetech Building Corporation, Advanced Innovative Technology, Pointer Oil Co., Starvision Cable, Floridavision, Capital Security Corporation and International Trade Securities.

The document charges Resha, of 1019 Downey Drive, with being the bookeeper for each of the businesses.

"Brenda Resha maintained custody and control of the books and records for each of these small-business concerns," it states. "Resha also was co-signatory on the checking accounts."

The indictment also claims the trio had ownership in the businesses and used them to get SBA loans and funds.

It charges that in the case of Tri-Star, Cohen got loans of more than $680,000 for the company and employed two "consultants" for the business.

[From the Tennessean, Feb. 14, 1992]

3 INDICTED IN ALLEGED SBA SCAM—NETTED NEARLY $1M, 8-COUNT CHARGE SAYS

(By Phil Williams)

Three Nashvillians were indicted yesterday on federal charges that they set up sham minority corporations to obtain $920,000 from the U.S. Small Business Administration and tried to secure another $1 million.

An eight-count indictment returned by a federal grand jury charged Walter S. Cohen, Brenda R. Resha and Washington R. Butler Jr. with conspiring to defraud the SBA through a company, Tennessee Equity Capital Corp.

Cohen was president of Tennessee Equity, while Resha was its bookkeeper. Butler was president of a corporation established through the scheme, according to the indictment.

"Large financial fraud schemes against governmental entities and private corporations which violate federal criminal statutes will be vigorously prosecuted by this office," U.S. Attorney Ernest W. Williams said following the indictment.

Both Cohen and Resha denied the charges in prepared statements. Cohen said he has "made every effort to perform a valuable public service in accordance with all legal and regulatory requirements."

All three defendants face up to five years in prison and a $250,000 fine if convicted on the conspiracy charge.

Cohen also faces 25 years imprisonment and $1.25 million in fines for allegedly making false statements to the SBA. Butler additionally faces 10 years in prison and $500,000 in fines if found guilty of lying to the grand jury.

The investigation apparently was triggered when John Pointer, a Nashville petroleum products distributor, complained to Sen. Jim Sasser and Fifth District Rep. Bob Clement that Cohen was trying to take over his oil company in violation of SBA rules. Pointer is a former Vanderbilt linebacker.

Tennessee Equity received the federal funds under a program to provide money for investing in businesses run by minority or otherwise disadvantaged people.

SBA regulations prevented Tennessee Equity from interfering with the business except temporarily if they become financially troubled.

According to the indictment, Resha incorporated Pointer Oil Co. Inc. In Jan. 29, 1988, listing Pointer as president and herself as director. Four days later, Cohen reported to the SBA that TECC had made a $250,000 investment in Pointer Oil.

Other corporations that the indictment says were established or used by Cohen and Resha are:

Advanced Innovative Technology Inc. Butler, who is black, incorporated AIT on August 1987, listing himself as president and Resha as the registered agent. Cohen caused Tennessee Equity to invest $250,000 in the AIT and then controlled the company.

Music City Telecom. The pay telephone company was incorporated in January 1987 with Arthur Overall, who is black, as president. Cohen took control of its bank accounts and told the SBA he had made a $100,000 investment in it. The indictment said he caused some $250,000 to be disbursed to his personal bank account from the company and then transferred $150,000 back to Tennessee Equity.

Tri-Star Cablevision Inc. The company was established in June 1985 by Vietnam vet Bill Hutson. Cohen provided $250,000 in funding, plus guaranteed another $585,000 SBA loan. He hired two consultants through Tri-Star to perform services for all businesses funded by Tennessee Equity.

Freetech Building Corp. The company was set up by Elmer Freeman, who entered into a financing agreement that gave Cohen and Resha control over the company's bank accounts. That agreement was signed the same day that Cohen told the SBA that Tennessee Equity had provided $150,000 funding to Freetech.

Starvision Cable Inc. The company was incorporated in June 1988 with Gerard Schackman, a black employee of Tri-Star, designated as president. The day after the incorporation, Cohen reported to the SBA that Tennessee Equity had invested $250,000 in Starvision. The indictment said he actually disbursed only $150,000 to the company—$75,000 of which Starvision transferred to Tri-Star.

Floridavision Inc. The company was incorporated at Cohen's direction in November 1988 with Theodora Morrison, a black employee of Tri-Star, designated as president. The indictment said Cohen caused Tennessee Equity to disburse $150,000 to Floridavision—$75,000 of which Floridavision transferred to Tri-Star.

All the companies maintained offices at 4711 Trousdale Drive, the same address as Tennessee Equity.

□ 1420

Mr. IRELAND. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LAFALCE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill shall be considered as an original bill for the purpose of amendment, and each section is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 5191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Equity Enhancement Act of 1992".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. LEVERAGE (MATCHING FUNDS) FORMULA.

(a) NEW FORMULA.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) by inserting after the word "debentures" in the first and sixth sentences of subsection (b) the following: "or participating securities";

(2) by striking paragraphs (1) through (3) of subsection (b) and inserting in lieu thereof the following:

"(1) The total amount of debentures and participating securities that may be guaranteed by the Administration and outstanding from a company licensed under section 301(c) of this Act shall not exceed 300 per centum of the private capital of such company: Provided, That nothing in this paragraph shall require any such company that on March 31, 1993, has outstanding debentures in excess of 300 per centum of its private capital to prepay such excess: and Provided further, That any such company may apply for an additional debenture guarantee or participating security guarantee with the proceeds to be used solely to pay the amount due on such maturing debenture, but the maturity of the new debenture or security shall be not later than September 30, 2002.

"(2) After March 31, 1993, the maximum amount of outstanding leverage made available to a company licensed under section 301(c) of this Act shall be determined by the amount of such company's private capital—

"(A) if the company has private capital of not more than $15,000,000, the total amount of leverage shall not exceed 300 per centum of private capital;

"(B) if the company has private capital of more than $15,000,000 but not more than $30,000,000, the total amount of leverage shall not exceed $45,000,000 plus 200 per centum of the amount of private capital over $15,000,000; and

"(C) if the company has private capital of more than $30,000,000, the total amount of leverage shall not exceed $75,000,000 plus 100 per centum of the amount of private capital over $30,000,000 but not to exceed an additional $15,000,000.

"(3) Subject to the foregoing dollar and percentage limits, a company licensed under section 301(c) of this Act may issue and have outstanding both guaranteed debentures and participating securities: Provided, That the total amount of participating securities outstanding shall not exceed 200 per centum of private capital.

"(4) In no event shall the aggregate amount of outstanding leverage of any such company or companies which are commonly controlled as determined by the Administration exceed $90,000,000 (or such higher amount as is determined by the Administration as an inflationary adjustment pursuant to section 2(b) of the Equity Enhancement Act of 1992) unless the Administration determines on a case by case basis to permit a higher amount for companies under common control and imposes such additional terms and conditions as it determines appropriate to minimize the risk of loss to the Administration in the event of default.";

(3) by inserting before the period at the end of subsection (c)(6) the following: ", except as provided in paragraph (7)"; and

(4) by adding the following at the end of subsection (c):

"(7) The Administration may guarantee debentures or may guarantee the payment of the redemption price and prioritized payments on participating securities under subsection (g) from a company operating under section 301(d) of this Act in amounts above $35,000,000 but not to exceed the maximum amounts specified in section 303(b) subject to the following:

"(A) The interest rate on debentures and the rate of prioritized payments on participating securities shall be that specified in subsection 303(g)(2) without any reductions.

"(B) Any outstanding assistance under paragraphs (1) to (6) of this subsection shall be subtracted from such company's eligibility under section 303(b)(2)(A).".

(b) INFLATION ADJUSTMENT.—Not later than December 15, 1993, and in each subsequent calendar year, the Small Business Administration shall apply an inflationary adjustment to each of the dollar amounts specified in section 303(b) of the Small Business Investment Act of 1958. The adjustment for any calendar year shall be the percentage (if any) by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for calendar year 1992. For purposes of this adjustment, the term "Consumer Price Index" means the Consumer Price Index for all-urban consumers published by the Department of Labor, and for any calendar year it shall be the average of the index as of the close of the 12-month period ending on August 31 of such calendar year.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. PARTICIPATING SECURITIES.

Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is further amended by adding the following new subsections:

"(g) In order to encourage small business investment companies to provide equity capital to small businesses, the Administration is authorized to guarantee the payment of the redemption price and prioritized payments on participating securities issued by such companies which are licensed pursuant to section 301(c) of this Act, and a trust or a pool acting on behalf of the Administration is authorized to purchase such securities. Such guarantees and purchases shall be made on such terms and conditions as the Administration shall establish by regulation. For purposes of this section, (A) the term 'participating securities' includes preferred stock, a preferred limited partnership interest or a similar instrument, including debentures under the terms of which interest is payable only to the extent of earnings and (B) the term 'prioritized payments' includes dividends on stock, interest on qualifying debentures, or priority returns on preferred limited partnership interests which are paid only to the extent of earnings. Participating securities guaranteed under this subsection shall be subject to the following restrictions and limitations, in addition to such other restrictions and limitations as the Administration may determine:

"(1) Participating securities shall be redeemed not later than 15 years after their date of issuance for an amount equal to 100 per centum of the original issue price plus the amount of any accrued prioritized payment: Provided, That if, at the time the securities are redeemed, whether as scheduled or in advance, the issuing company (A) has not paid all accrued prioritized payments in full as provided in paragraph (2) below and (B) has not sold or otherwise disposed of all investments subject to profit distributions pursuant to paragraph (11), the company's obligation to pay accrued and unpaid prioritized payments shall continue and payment shall be made from the realized gain, if any, on the disposition of such investments, but if on disposition there is no realized gain, the obligation shall be extinguished: Provided further, That in the interim, the company shall not make any in-kind distributions of such investments unless it pays to the Administration such sums, up to the amount of the unrealized appreciation on such investments, as may be necessary to pay in full the accrued prioritized payments.

"(2) Prioritized payments on participating securities shall be preferred and cumulative and payable out of the retained earnings available for distribution, as defined by the Administration, of the issuing company at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on

such securities, adjusted to the nearest one-eighth of 1 per centum, plus, at the time the guarantee is issued, such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes, but not to exceed 2 per centum.

"(3) In the event of liquidation of the company, participating securities shall be senior in priority for all purposes to all other equity interests in the issuing company, whenever created.

"(4) Any company issuing a participating security under this subsection shall commit to invest or shall invest and maintain an amount equal to the outstanding face value of such security solely in equity capital. As used in this subsection, 'equity capital' means common or preferred stock or a similar instrument, including subordinated debt with equity features which is not amortized and which provides for interest payments contingent upon and limited to the extent of earnings.

"(5) The only debt which any company issuing a participating security under this subsection may have outstanding shall be temporary debt in amounts limited to not more than 50 per centum of private capital.

"(6) The Administration may permit the proceeds of a participating security to be used to pay the principal amount due on outstanding debentures guaranteed by the Administration, if (A) the company has outstanding equity capital invested in an amount equal to the amount of the debentures being refinanced and (B) the Administration receives profit participation on such terms and conditions as it may determine, but not to exceed the per centums specified in paragraph (11).

"(7) For purposes of computing profit participation under paragraph (11), except as otherwise determined by the Administration, the management expenses of any company which issues participating securities shall not be greater than 2.5 per centum per annum of the combined capital of the company, plus $125,000 if the company's combined capital is less than $20,000,000. For purposes of this paragraph, (A) the term 'combined capital' means the aggregate amount of private capital and outstanding leverage and (B) the term 'management expenses' includes salaries, office expenses, travel, business development, office and equipment rental, bookkeeping and the development, investigation and monitoring of investments, but does not include the cost of services provided by specialized outside consultants, outside lawyers and outside auditors, who perform services not generally expected of a venture capital company nor does such term include the cost of services provided by any affiliate of the company which are not part of the normal process of making and monitoring venture capital investments.

"(8) Notwithstanding paragraph (9), if a company is operating as a limited partnership or as a subchapter s corporation or an equivalent pass-through entity for tax purposes and if there are no accumulated and unpaid prioritized payments, the company may make annual distributions to the partners or shareholders in amounts not greater than each partner's or shareholder's maximum tax liability. For purposes of this paragraph, the term 'maximum tax liability' means the amount of income allocated to each partner or shareholder (including an allocation to the Administration as if it were a taxpayer) for Federal income tax purposes in the income tax return filed or to be filed by the company with respect to the fiscal year of the company immediately preceding such distribution, multiplied by the highest combined marginal Federal and State income tax rates for corporations or individuals, whichever is higher, on each type of income included in such return. For purposes of this paragraph, the term 'State income tax' means the income tax of the State where the company's principal place of business is located.

"(9) After making any distributions as provided in paragraph (8), a company with participating securities outstanding may distribute the balance of income to its investors, specifically including the Administration, in the per centums specified in paragraph (11), if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full, subject to the following conditions:

"(A) As of the date of the proposed distribution, if the amount of leverage outstanding is 200 per centum, or more, of the amount of private capital, any amounts distributed shall be made to private investors and to the Administration in the ratio of leverage to private capital.

"(B) As of the date of the proposed distribution, if the amount of leverage outstanding is more than 100 per centum but less than 200 per centum of the amount of private capital, 50 per centum of any amounts distributed shall be made to the Administration and 50 per centum shall be made to the private investors.

"(C) If the amount of leverage outstanding is 100 per centum, or less, of the amount of private capital, the ratio shall be that for distribution of profits as provided in paragraph (11).

"(D) Any amounts received by the Administration under subparagraph (A) or (B) shall be applied first as profit participation as provided in paragraph (11) and any remainder shall be applied as a prepayment of the principal amount of the participating securities or debentures.

"(10) After making any distributions pursuant to paragraph (8), a company with participating securities outstanding may return capital to its investors, specifically including the Administration, if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full. Any distributions under this paragraph shall be made to private investors and to the Administration in the ratio of private capital to leverage as of the date of the proposed distribution: Provided, That if the amount of leverage outstanding is less than 50 per centum of the amount of private capital or $10,000,000, whichever is less, no distribution shall be required to be made to the Administration unless the Administration determines, on a case by case basis, to require distributions to the Administration to reduce the amount of outstanding leverage to an amount less than $10,000,000.

"(11)(A) A company which issues participating securities shall agree to allocate to the Administration a share of its profits determined by the relationship of its private capital to the amount of participating securities guaranteed by the Administration in accordance with the following:

"(i) If the total amount of participating securities is less than 100 per centum of private capital, the company shall allocate to the Administration a per centum share computed as follows: the amount of participating securities divided by private capital times 9 per centum.

"(ii) If the total amount of participating securities is at least 100 per centum but not greater than 200 per centum of private capital, the company shall allocate to the Administration a per centum share computed as follows:

"(I) 9 per centum, plus

"(II) 3 per centum of the amount of participating securities minus private capital divided by private capital.

"(B) Notwithstanding any other provision of this paragraph—

"(i) in no event shall the total per centum required by this paragraph exceed 12 per centum; and

"(ii) this paragraph shall not be construed to create any ownership interest of the Administration in the company.

"(12) A company may elect to make an in-kind distribution of securities only if such securities are publicly traded and marketable. The company shall deposit the Administration's share of such securities for disposition with a trustee designated by the Administration or, at its option and with the agreement of the company, the Administration may direct the company to retain the Administration's share. If the company retains the Administration's share, it shall sell the Administration's share and promptly remit the proceeds to the Administration. As used in this paragraph, the term 'trustee' means a person who is knowledgeable about and proficient in the marketing of thinly traded securities.

"(h) The computation of amounts due the Administration under participating securities shall be subject to the following terms and conditions:

"(1) The formula in subsection (g)(11) shall be computed annually and the Administration shall receive distributions of its profit participation at the same time as other investors in the company.

"(2) The formula shall not be modified due to an increase in the private capital unless the increase is provided for in a proposed business plan submitted to and approved by the Administration.

"(3) After distributions have been made, the Administration's share of such distributions shall not be recomputed or reduced.

"(4) If the company prepays or repays the participating securities, the Administration shall receive the requisite participation upon the distribution of profits due to any investments held by the company on the date of the repayment or prepayment.

"(5) If a company is licensed on or before March 31, 1993, it may elect to exclude from profit participation all investments held on that date and in such case the Administration shall determine the amount of the future expenses attributable to such prior investment: Provided, That if the company issues participating securities to refinance debentures as authorized in subsection (g)(6), it may not elect to exclude profits on existing investments under this paragraph.".

SEC. 4. POOLING.

Section 321 of the Small Business Investment Act of 1958 (15 U.S.C. 687l) is amended to read as follows:

"SEC. 321. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

"(a) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of debentures issued by small business investment companies, including companies operating under the authority of section 301(d), and guaranteed by the Administration under this Act, or participating securities which are issued by such companies and purchased and guaranteed pursuant to section 303(g): Provided, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures or guaranteed participating securities.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures or the redemption price of and priority payments on the participating securities, which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, or participating securities are

redeemed, either voluntarily or involuntarily, or in the event of default of a debenture or voluntary or involuntary redemption of a participating security, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture or redeemed participating security and priority payments represent in the trust or pool. Interest on prepaid or defaulted debentures, or priority payments on participating securities, shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures or redemption, whether voluntary or involuntary, of all participating securities residing in the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect a fee for any guarantee under this section: Provided, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures or participating securities residing in a trust or pool against which trust certificates are issued.

"(f)(1) The Administration shall provide for a central registration of all trust certificates sold pursuant to this section. Such central registration shall include with respect to each sale—

"(A) identification of each small business investment company;

"(B) the interest rate or prioritized payment rate paid by the small business investment company;

"(C) commissions, fees, or discounts paid to brokers and dealers in trust certificates;

"(D) identification of each purchaser of the trust certificate;

"(E) the price paid by the purchaser for the trust certificate;

"(F) the interest rate on the trust certificate;

"(G) the fee of any agent for carrying out the functions described in paragraph (2); and

"(H) such other information as the Administration deems appropriate.

"(2) The Administrator shall contract with an agent or agents to carry out on behalf of the Administration the pooling and the central registration functions of this section including, notwithstanding any other provision of law, maintenance on behalf of and under the direction of the Administration, such commercial bank accounts as may be necessary to facilitate trusts or pools backed by debentures or participating securities guaranteed under this Act, and the issuance of trust certificates to facilitate such poolings. Such agent or agents shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government.

"(3) Prior to any sale, the Administrator shall require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument.

"(4) The Administrator is authorized to regulate brokers and dealers in trust certificates sold pursuant to this section.".

SEC. 5. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking in subsection (g)(3) "stock and $221,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $221,000,000 in guarantees of debentures, of which $40,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $100,000,000 in guarantees of participating securities";

(2) by striking in subsection (i)(3) "stock and $232,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $232,000,000 in guarantees of debentures, of which $42,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $250,000,000 in guarantees of participating securities"; and

(3) by adding the following new subsections at the end thereof:

"(k) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $23,000,000 in purchases of preferred securities, $244,000,000 in guarantees of debentures, of which $44,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $400,000,000 in guarantees of participating securities.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out subsection (k), including salaries and expenses of the Administration.

"(m) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $24,000,000 in purchases of preferred securities, $256,000,000 in guarantees of debentures, of which $46,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $550,000,000 in guarantees of participating securities.

"(n) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out subsection (m), including salaries and expenses of the Administration.

"(o) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $25,000,000 in purchases of preferred securities, $268,000,000 in guarantees of debentures, of which $48,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $700,000,000 in guarantees of participating securities.

"(p) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out subsection (o), including salaries and expenses of the Administration.".

SEC. 6. SAFETY AND SOUNDNESS.

(a) FINANCIAL VIABILITY DETERMINED.—Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by adding the following at the end of subsection (a): "The Administration shall also determine the ability of the company, both prior to licensing and prior to approving any request for financing, to make periodic payments on any debt of the company which is interest bearing and shall take into consideration the income which the company anticipates on its contemplated investments, the experience of the company's owners and managers, the history of the company as an entity, if any, and the company's financial resources.".

(b) VALUATION GUIDELINES AND RESPONSIBILITY.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by adding at the end thereof the following new subsection:

"(d) Each small business investment company shall adopt written guidelines for determination of the value of investments made by such company. The board of directors of corporations and the general partners of partnerships shall have the sole responsibility for making a good faith determination of the fair market value of the investments made by such company. Determinations shall be made and reported to the Administration not less than semiannually or at more frequent intervals as the Administration determines appropriate: Provided, That any company which does not have outstanding financial assistance under the provisions of this title shall be required to make such determinations and reports to the Administration annually, unless the Administration, in its discretion, determines otherwise.".

SEC. 7. EXAMINATIONS.

(a) EXAMINATION BY INVESTMENT DIVISION.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by striking from subsection (b) "Administration by examiners selected or approved by" and by inserting in lieu thereof the following: "Investment Division of"; and

(b) TRANSFER OF RESOURCES.—Effective October 1, 1992, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, and other funds employed, held, used, arising from, available or to be made available, which are related to the examination function provided by section 310 of the Small Business Investment Act of 1958 shall be transferred by the Inspector General of the Small Business Administration to the Investment Division of the Small Business Administration.

SEC. 8. NON-FINANCED SBICS.

(a) INVESTMENT LIMITATION.—Section 306(a) of the Small Business Investment Act of 1958 (15 U.S.C. 686(a)) is amended to read as follows:

"(a) If any small business investment company has obtained financing from the Administration and such financing remains outstanding, the aggregate amount of obligations and securities acquired and for which commitments may be issued by such company under the provisions of this title for any single enterprise shall not exceed 20 per centum of the private capital of such company, without the approval of the Administration."

(b) CONFORMING AMENDMENT.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by inserting before the semicolon at the end of subsection (c)(5) the following: ", if such restriction is applicable".

(c) TEMPORARY INVESTMENT OF FUNDS.—Section 308(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687(b)) is amended by inserting after "Such companies" in the third sentence the following: "with outstanding financings".

(d) REGULATORY REVIEW.—Not later than 90 days after the effective date of this Act, the Small Business Administration shall complete a review of those regulations intended to provide for the safety and soundness of those small business investment companies which obtain financing from the Administration under the provisions of the Small Business Investment Act of 1958. The Administration is directed to exempt from such regulations, or to separately regulate, those companies which do not obtain financing from the Administration.

(e) REPORT TO CONGRESS.—The Administration, within 180 days after the effective date of this Act, shall report on actions taken pursuant to section 8(d) of this Act to the Committees on

Small Business of the Senate and the House of Representatives, including the rationale for its actions.

SEC. 9. MINIMUM CAPITAL.

Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by striking from subsection (a) "1979 pursuant to sections 301(c) and (d) of this Act shall be not less than $500,000" and inserting in lieu thereof the following: "1992 pursuant to section 301(c) of this title shall be not less than $2,500,000 and pursuant to section 301(d) of this title shall be not less than $1,500,000".

SEC. 10. DEFINITIONS.

Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended as follows:

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) notwithstanding any other provision of law, the term 'private capital' means the private paid-in capital and paid-in surplus of a corporate licensee, or the private partnership capital of an unincorporated licensee, inclusive of any funds invested in the licensee by a public or private pension fund, and unfunded commitments from institutional investors that meet criteria established by the Administration, but exclusive of any funds (A) borrowed by the licensee from any source or (B) obtained or derived, directly or indirectly, from any Federal source, including the Administration: Provided, That no unfunded commitment from an institutional investor may be used for the purpose of meeting the minimum amount of private capital required by this Act or as the basis for the Administration to issue obligations to provide financing; and

"(10) the term 'leverage' includes debentures purchased or guaranteed by the Administration, participating securities purchased or guaranteed by the Administration, or preferred securities issued by companies licensed under section 301(d) of this Act and which have been purchased by the Administration.".

SEC. 11. INTEREST RATE CEILING.

Section 305 of the Small Business Investment Act of 1958 (15 U.S.C. 685) is amended by striking the period at the end of subsection (c) and by inserting in lieu thereof the following: ": Provided, That the Administration also shall permit those companies which have issued debentures pursuant to this Act to charge a maximum rate of interest based upon the coupon rate of interest on the outstanding debentures, determined on an annual basis, plus such other expenses of the company as may be approved by the Administration.".

SEC. 12. PREFERRED PARTNERSHIP INTERESTS.

Section 303(c) of the Small Business Investment Act of 1958 (15 U.S.C. 683(c)) is amended—

(1) by striking from the first sentence the word "preferred";

(2) by inserting after the second sentence the following: "As used in this subsection, the term 'securities' means shares of nonvoting stock or other corporate securities or limited partnership interests which have similar characteristics."; and

(3) by striking from paragraph (1) "shares of nonvoting stock (or other corporate securities having similar characteristics)" and inserting in lieu thereof "such securities".

SEC. 13. INDIRECT FUNDS FROM STATE OR LOCAL GOVERNMENTS.

Section 303(e) of the Small Business Investment Act of 1958 (15 U.S.C. 683(e)) is amended—

(1) by inserting after the word "company" the following: "licensed under section 301(d) and notwithstanding section 103(9)"; and

(2) by striking "prior" and all that follows thorugh the period at the end and inserting "to November 21, 1989: Provided, That such companies may include in private capital for any purpose funds indirectly obtained from State or local governments. As used in this subsection, the term 'capital indirectly obtained' includes income generated by a State financing authority or similar State institution or agency or from the investment of State or local money or amounts originally provided to nonprofit institutions or corporations which such institutions or corporations, in their discretion, determine to invest in a company licensed under section 301(d).".

SEC. 14. SBIC APPROVALS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding the following at the end of subsection (a)(2): "Subject to approval in appropriations Acts, amounts authorized for preferred securities, debentures or participating securities under title III of the Small Business Investment Act of 1958 may be obligated in one fiscal year and disbursed or guaranteed in the following fiscal year.".

SEC. 15. IMPLEMENTATION.

Notwithstanding any law, rule, regulation or administrative moratorium, except as otherwise expressly provided in this Act, the Small Business Administration shall—

(1) within 90 days after the date of enactment of this Act, publish in the Federal Register proposed rules and regulations implementing this Act and the amendments made by this Act; and

(2) within 180 days after the date of enactment of this Act, publish in the Federal Register final rules and regulations implementing this Act, and enter such contracts as are necessary to implement this Act and the amendments made by this Act.

Mr. LAFALCE. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAFALCE: Page 12, line 3, strike "200 per centum, or more," and insert in lieu thereof "more than 200 per centum".

Page 12, line 9, strike the word "less" and insert in lieu thereof "not more".

Page 14, line 2, strike the word "less" and all that follows through the word "capital" in line 3, and insert in lieu thereof "100 per centum of private capital, or less".

Page 14, line 8, strike "at least" and insert in lieu thereof "more than".

Page 14, strike lines 19 through 21, and insert the following:

"required by this paragraph exceed 12 per centum, unless required pursuant to the provisions of (ii) below,

"(ii) if, on the date the participating securities are marketed, the interest rate on Treasury bonds with a maturity of 10 years is a rate other than 8 per centum, the Administration shall adjust the rate specified in paragraph (A) above, either higher or lower, by the same per centum by which the Treasury bond rate is higher or lower than 8 per centum, and

"(iii) this paragraph shall not be construed".

Mr. LAFALCE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LAFALCE. Mr. Chairman, I am pleased to offer this amendment on behalf of myself and Mr. IRELAND, the committee's ranking minority member.

Mr. Chairman, the bill, as reported, is designed to provide guarantees of participating securities issued by a small business investment company [SBIC] with a subsidy rate approximating 10 percent, an improvement of about one-third from the current program; and, I want to note, that the Small Business Committee expects that the new program may do even better. This subsidy rate, however, is based upon today's cost of money to the Federal Government of about 8 percent; and it includes amounts which would be advanced by the Government to pay interest to the investors until the SBIC becomes profitable and pays future interest to investors and repays the Government.

The purpose of the amendment is to take into account the impact on the Government of possible future changes in the cost of Federal borrowings by indexing the Government's share of profit participation to changes in interest rates. If Federal rates increase, the Government's profit participation would increase; and if Federal rates decrease, the Government's profit participation would decrease.

For example, if Federal T-bill rates climb to 10 percent, a 25-percent increase above the bill's 8-percent base rate, this amendment would increase the Government's share under profit participation by 25 percent. Thus, if the SBIC has received SBA funding in an amount under which the formula called for a 12-percent share, this indexing amendment would increased the Government's share to 16 percent.

I believe that such flexibility is good for the Government and good for the small business investment companies.

I urge adoption of the amendment.

Mr. IRELAND. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment which provides for some technical revisions to H.R. 5191.

The bill, as reported out of the Small Business Committee, provides for a subsidy rate for the financing of the SBIC Program of 10 percent. This is a definite improvement over the current subsidy rate of roughly 14 percent.

However, the bill as reported keeps that subsidy rate only as long as interest rates remain static.

This amendment would take into account the inevitable fluctuations in the interest rates by indexing the SBA's profit participation to those changes.

This is a prudent amendment that allows us to accurately chart the subsidy rate and costs for this program from year to year. I ask my colleagues to join me in supporting this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. LAFALCE].

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 31, after line 5, insert the following new section:

SEC. 16. BUY AMERICA.

Section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 1661) is amended by adding at the end the following:

"It is the intention of the Congress that in the award of financial assistance under this Act, when practicable, priority be accorded to small business concerns which lease or purchase equipment and supplies which are produced in the United States and that small business concerns receiving such assistance be encouraged to continue to lease or purchase such equipment and supplies.".

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, it is a buy American amendment. I have cleared the amendment with the chairman and the minority staff.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, we have had the opportunity to review the amendment, and the amendment is surely acceptable to us in its present form.

Mr. IRELAND. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Florida.

Mr. IRELAND. Mr. Chairman, the amendment is acceptable to us in its present form as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MAZZOLI) having assumed the chair, Mr. OBEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5191) to encourage private concerns to provide equity capital to small business concerns, and for other purposes, pursuant to House Resolution 531, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. MAZZOLI). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BILBRAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 356, nays 2, not voting 76, as follows:

[Roll No. 358]

YEAS—356

Abercrombie
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bryant
Bunning
Burton
Bustamante
Callahan
Camp
Campbell (CA)
Cardin
Carper
Carr
Chandler
Clay
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mazzoli
McCandless
McCollum
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Murphy
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Perkins
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Studds
Stump
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—2

Crane
Penny

NOT VOTING—76

Ackerman
Alexander
Atkins
Bacchus
Berman
Boxer
Broomfield
Bruce
Byron
Campbell (CO)
Chapman
Clement
Collins (MI)
Conyers
Coughlin
Dickinson
Donnelly
Dooley
Dwyer
Dymally
Early
Eckart
Edwards (OK)
Fields
Fish
Ford (TN)
Gaydos

Geren
Guarini
Hatcher
Hefley
Huckaby
Hyde
Jenkins
Kolter
Lancaster
Lehman (FL)
Levine (CA)
Lloyd
Lowery (CA)
Mavroules
McCloskey
McCrery
McGrath
Michel
Morrison
Mrazek
Murtha
Myers
Nagle
Oakar
Olin
Owens (UT)
Pelosi
Peterson (FL)
Roukema
Sanders
Scheuer
Schroeder
Schulze
Smith (FL)
Smith (IA)
Solarz
Stokes
Sundquist
Swett
Synar
Taylor (NC)
Thomas (CA)
Thomas (GA)
Towns
Traxler
Volkmer
Washington
Whitten
Yatron

☐ 1448

The Clerk announced the following pair:

On this vote:

Mr. Swett for, with Mr. Synar against.

Mr. AUCOIN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TAYLOR of North Carolina. Mr. Speaker, during floor votes I unavoidably missed rollcall vote 358. Had I been present, I would have voted "aye" on rollcall vote 358, in favor of the Small Business Equity Enhancement Act, H.R. 5191.

PERSONAL EXPLANATION

Mr. PETERSON of Florida. Mr. Speaker, I was not here for rollcall No. 358, H.R. 5191—the Small Business Equity Enhancement Act. Had I been here, I would have voted "aye."

PERSONAL EXPLANATION

Mr. FIELDS. Mr. Speaker, I was unable to vote on final passage of H.R. 5191 (rollcall No. 358), the Small Business Equity Enhancement Act. Had I been present for the vote, I would have strongly supported this legislation.

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, I was absent due to a commitment that was made before legislative business was scheduled. I was unable to vote on the following rollcall votes: rollcall no. 355, 356, 357, and 358.

Had I been present, I would have voted "aye" on rollcall 355, "nay" on rollcall 356, "aye" on rollcall 357, "aye" on rollcall 358.

PERSONAL EXPLANATION

Mr. GUARINI. Mr. Speaker, I was necessarily absent, and, as a result, missed two rollcall votes. Had I been present, I would have voted "Aye" on rollcall votes 357 and 358.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 5191, the bill just passed.

The SPEAKER pro tempore (Mr. ANDREWS of Texas). Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3030 AND H.R. 1354

Mr. WISE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of two bills, H.R. 3030 and H.R. 1354.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

COMMUNICATION FROM HON. DAN ROSTENKOWSKI, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable DAN ROSTENKOWSKI, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1992.
Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of House Rule L, this is to inform you that certain employees in my Congressional office have received subpoenas issued by the United States District Court for the District of Columbia.

Sincerely yours,
DAN ROSTENKOWSKI.

☐ 1450

COMMUNICATION FROM HON. AUSTIN J. MURPHY, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. ANDREWS of Texas) laid before the House the following communication from the Honorable AUSTIN J. MURPHY:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 30, 1992.
Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to inform you that pursuant to Rule L (50) of the Rules of the House certain employees in my office have been served with subpoenas issued by the United States District Court for the District of Columbia.

Very truly yours,
AUSTIN J. MURPHY,
Member of Congress.

COMMUNICATION FROM HON. JOE KOLTER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOE KOLTER:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1992.
Speaker THOMAS S. FOLEY,
House of Representatives, the Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House certain members of my staff have been served with subpoenas issued by the United States District Court for the District of Columbia.

Sincerely,
JOE KOLTER,
Member of Congress.

LEGISLATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I have asked for this time for the purpose of receiving the schedule from the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend, the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Obviously, we are finished with votes today.

On Monday, August 3, we will have 38 bills under Suspension. I will not bother the Members with trying to read the names of all the bills, but they are available and Members who want to know exactly what is being offered can read that.

The votes will not be held, however, on Monday. They will be held until Tuesday.

Tuesday, August 4, we will meet at noon and take up H.R. 2977, Public Telecommunications Act of 1991, and H.R. 2782, to provide that Employment Retirement Income Security Act [ERISA] of 1974 does not preempt certain State laws.

Votes will start about 1:30 in the afternoon.

There will then be 14 additional bills on Suspension, and again all the votes on Suspensions from Monday and Tuesday will be held until after the two bills that I mentioned are finished.

Then on Wednesday, August 5, and the balance of the week, the House will meet at 10 in the morning and take up H.R. 5334, Housing and Community Development Act; H.R. 3603, Family Preservation Act; H.R. 4996, Jobs Through Exports Act of 1992; House Concurrent Resolution 246, relating trade agreements to health, safety, labor, and environmental laws; H.R. 4394, merchant mariners' documents; H.R. 5231, National Competitiveness Act; and H.R. 5466, Airline Competitiveness Enhancement Act.

I am not sure yet whether there will be votes on Friday. We still do not know the answer to that. It depends on the progress we are able to make through the week. Obviously, there are other matters that may come up, such as the Freedom Support Act, which we are communicating with the minority about and will continue to communicate about until it is actually brought up.

Mr. GINGRICH. I wonder if the majority leader might answer a couple questions.

We have some interest on our side of the aisle on questions about whether the National Institutes of Health bill is likely to come up next week or the week after, and I do not know whether the gentleman might be able to tell us about that.

Mr. GEPHARDT. We are waiting, as I understand it, favorable Senate action and it would depend on that.

Mr. GINGRICH. Similarly, there is some concern on our side, both pro and con, about the Freedom of Choice Act. Is that in a similar cycle of waiting for the other body, does the gentleman know?

Mr. GEPHARDT. It has not yet been prepared or ready. We will give communication in advance if there is an intention to do that, but I do not think that will happen.

Mr. GINGRICH. Also, there have been some reports in the press about the possibility of bringing up a bill on the Resolution Trust Corporation, which I think we would have a very hard time passing at the present time. Is there any indication about that on the gentleman's side?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, it is our intention to communicate with the gentleman and the minority leader about that legislation, whether or not it would be practical to bring it up. We are open to that suggestion, but obviously a lot of work has to take place to get us into that position.

Mr. GINGRICH. Mr. Speaker, I would just report to the majority leader that it is my impression on this side of the aisle that it would not get very many votes at the current time.

Finally, I want to ask about the title X conference report, whether or not there is any indication that might come up next week.

Mr. GEPHARDT. The conference is proceeding. If it comes to a successful conclusion, we will be communicating with the gentleman about whether or not to bring that up.

Mr. GINGRICH. Let me just say also, Mr. Speaker, I think when we go to our convention, the platform committee members, including our Members, such as the gentleman from Florida [Mr. McCOLLUM] and the gentleman from New York [Mr. SOLOMON] will be going the week after next. I would hope we could get most of the work done that week, if possible during the week, to accommodate those Members.

Mr. GEPHARDT. That is clearly our intention.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman.

ADJOURNMENT TO MONDAY, AUGUST 3, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PROVIDING CONDITIONS OF ADJOURNMENT FOR SENATE AND HOUSE

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 131) providing that the Senate and the House of Representatives shall not adjourn for a period in excess of 3 days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of 3 days) to a day certain, or for adjournment sine die.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 131

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislation Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

The SPEAKER pro tempore. The question is on the Senate concurrent resolution.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—BIAS OF CERTAIN MEDIA

Mr. COX of California. Mr. Speaker, I rise to a question of the privileges of the House.

The SPEAKER pro tempore. The Chair is aware of the gentleman's situation, and the gentleman is recognized for 1 hour on a question of personal privilege.

Mr. COX of California. Mr. Speaker, this morning I witnessed a drive-by shooting on ABC television on "Good Morning America." I witnessed it, and indeed I was in it.

Yesterday, ABC came by my office to film me for 30 minutes, to talk about the Presidential campaign. They were interested because the President, President Bush is visiting my district in California today and yesterday. They were interested because poll numbers show the President faring less well than he has been faring in the past in California, specifically and nationally, and they wanted to get the view of a Member of Congress from California.

For 30 minutes during this interview with ABC I was unstintingly supportive of President Bush, very bullish about his prospects, very critical of the Democratic nominee for President, Bill Clinton.

I told the reporters that this Congress was in fact very much responsible for the economic gridlock that America is now experiencing, that President Bush has sent an economic growth package to this Congress and the Congress has not acted upon it, that President Bush has pushed for the balanced budget amendment in Congress, but Congress has not acted on it, that President Bush has pushed for the line-item veto, and just very recently in this Congress we have been having vote after vote on the line-item veto, and this Congress is standing in the doorway preventing it from happening.

□ 1500

Yes, I said, the economy could be doing better, yes, I said, in California there are some people who, no question, are hurting. They want change, but what we must change is the Democratic leadership of this Congress, where we have not had a Republican Speaker since this Member was 2 years old, since 1954. That is what I told the reporters.

This morning I was interested to watch "Good Morning, America." First they began with a very positive piece about Bill Clinton, criticizing President Bush on the economy. The reporter then said that the President is being criticized by Republican Members asking him to focus more on the economy. And as the reporter said that, this Member's face was on the screen and my lips were moving, but it was not my voice. I never said any such thing. And when they started playing my voice, what they left, the only audible part was, "Yes, the economy could be doing better and people do want change." Of course, the rest of what I said, that they want change in Congress, this is where the gridlock is occurring and this is where the President has been stymied on his economic growth package, on the balanced-budget amendment, on tax relief, and on the line-item veto, all of that was cut out.

Now, this was not the first time that I have had this experience with media bias. Not too long ago, NBC's "Today Show" followed me around in California for an entire day.

On that same day, Bill Clinton happened to be in my district. Bill Clinton was speaking very near to my office. CNN filmed me standing in front of Bill Clinton's appearance, and I was very critical of Bill Clinton, very critical of the 128 instances in which he raised taxes in Arkansas; very critical of his record.

CNN dutifully reported what I said. And they had me saying just that.

NBC, which was following me around the whole day, filmed me talking to the CNN reporters with a microphone under my chin and a camera on me. But when I appeared on the "Today Show," those were not the words coming out of my mouth, they were words from a different interview at a different location, even though it appeared I was doing a stand-up.

And I was talking about the need for change in the Congress, the same things: Since 1954, one-party control, Americans do want change, I said.

What appeared in the context of a very pro-Clinton piece was Congressman CHRIS COX saying, "Well, the economy isn't doing well and we need change." And the suggestion was that Bill Clinton is that change, and I was somehow supportive of Bill Clinton instead of President George Bush.

Nothing could be further from the truth.

So I was prepared yesterday for this 30-minute interview, during which time after time after time I spoke not only of my support for the President and my optimism about his chances for reelection because much is going to change between now and Labor Day and certainly between Labor Day and the election, and I even took the trouble to speak not in paragraphs and sentences discursively, but in sound bits. And I said, "You mark my words," and ABC has this on tape:

> You mark my words, George Bush is going to be reelected; he is going to be reelected by a healthy margin: we are going to have strong Republican gains in the Congress. Bill Clinton is going to go the way of Jimmy Carter and Hillary Clinton is going to be remembered as the Winnie Mandela of American politics.

Now, that does not sound very critical of George Bush. But what ended up on television was this spot, first very positive about Bill Clinton and then a piece saying, "Republicans are saying George Bush should focus more attention on the economy," and then CHRIS COX saying, "The economy could do better, we need change," followed, I should add, by another fellow who came out and said, "George Bush should get off the ticket." Then the ABC reporter says, "The Bush campaign is shirking these acts of Republican treason."

Now, it is not that hard in America these days to find critics of the President. A reliable news organization can go gather testimony against President Bush and for Bill Clinton. It is not hard to do. They do not have to take words like that and put them in my mouth. Yet that is exactly what happened.

This is a clear case of distortion. I am delighted to have this opportunity to correct the record.

The fact is, my colleagues, democracy only works—democracy only works when there is freely available information and when the facts are before the American people. If we distort those facts or change them 180 degrees as happened here, then, no question, democracy is going to fail.

This morning, ABC stood for all bias for Clinton. I would like to see that corrected. In fact, I have discussed this with executives at ABC News. They have issued to me a letter of apology. I have undertaken to them to keep that letter confidential. I appreciated that they gave it to me. I will share it with the President and with Marlin Fitzwater.

But I want my colleagues to know that I am indeed working very hard for the reelection of this President, that I am urging all of my colleagues to do the same. And of course I will be abroad throughout California making sure those poll numbers that we have seen serve only as a wake-up call to those for us who intend to work very hard for the President's reelection.

Our economy depends upon it. As I said repeatedly during this 30 minutes that they got on tape yesterday, the President's economic growth plan has been blocked here in Congress. The President's plan for tax relief has been blocked here in Congress, the President's plan for a balanced-budget amendment has been blocked in Congress, the President's plan for a line-item veto, which even Bill Clinton supports, has been blocked here in this Congress. This is where the gridlock is occurring. This is where the change is required.

I am very much looking forward to working with my future colleagues after November so that perhaps we will have a better opportunity to bust up the gridlock and move the economy forward and give some relief to the beleaguered American people.

WE MUST DOWNSIZE OUR GOVERNMENT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DUNCAN. Mr. Speaker, I have strongly supported the efforts to pass a balanced budget amendment. I have voted for almost all the amendments which have been offered to reduce Federal spending. We desperately need to balance our budget and stop these losses of $1 billion a day.

But the main thing holding back our economy is the $4 trillion national debt. It is like a chain around the neck of our economy, and we could be booming today if we were not so far in the hole. But, as the 1990 budget agreement has helped prove once again, we will do more harm than good if we try to correct these problems by raising taxes.

Mr. Speaker, we have got to downsize our Government. Syndicated columnist William Murchison in today's Washington Times puts it this way:

> Balance the budget, yes, but balance it by controlling, not enlarging, government. Government at all levels today absorbs 40 percent of the gross national product. Another 11 percent, and you and I, my friends, become government employees, devoting the majority of our labors to keeping the bureaucracy paid and happy.
>
> This has got it backward. The private sector alone creates productive jobs; government, as any citizen of the ex-Soviet bloc can attest, mangles and mashes the creative capacity. Genuine economic reform starts with the idea that government, though we have to have it for the sake of civic order, is a bad idea, so let's minimize in order to control it.

DUBIOUS DEFICIT DEVICE

(By William Murchison)

> What's the problem with our economy—too much government? Or somehow not enough?
>
> Ross Perot, via his economic plan, gives an ambivalent answer. It's a little of both, he appears to say. The plan, laid out in U.S. News & World Report this week, fall between two stools. It has its good aspects and its bad ones. Mainly it misses the point.
>
> Sir Ross, newly dismounted from his white charger but still in splendid voice, aims at eliminating the deficit by 1998, at which juncture, glory be, we'd have an $8 billion surplus. This we would achieve by cutting spending on the one hand, raising taxes on the other.
>
> The analysts are properly calling Perot's plan painful and popularity-pooping. Gasoline taxes would shoot up 10 cents a year for five years, producing a $50 billion savings; Medicare and Medicaid costs would somehow be "contained" for a savings of $52.8 billion; discretionary programs would be cut by $33 billion; some employer-paid health insurance would be taxed; and the evil rich would see their taxes rise.
>
> The ambivalence goes on. Capital gains taxes—some on the evil rich—would be cut, with concomitant gains for the private sector. Yes, then more than $100 billion would be sucked away from the private sector as Washington stepped up investment in education, cities, roads, telecommunications systems and the like.
>
> Above all, the Perot plan is a budget-balancing plan. Competing objectives, like revi-

talization of the job-creating private sector, have been left out of the accounting. Is this what we want? One somehow doubts it.

The deficit, vast as it has become, is more symptom than cause of our economic problems. Our political and opinion leaders want the government to take a firmer lead in running the economy, so they have set up a mighty roar of complaint. Hardly a day passes on national television without lamentation by Bryant Gumbel or some other economic expert over the "greedy, unregulated" '80s—during which the United States, via deregulation and tax cuts, created more jobs than ever before in its history.

Picture government as an innocent baby being deliberately starved by abusive parents and you grasp the lie that Washington and its volunteer propaganda apparatus are force-feeding us. Keep-your-eye-on-the-deficit talk suggests the problem is selfish taxpayers greedy for services they resist paying for. Why don't they just shut up and fork over?

One agrees they should—if they really want all this government for which they're being billed. On the other hand, one isn't sure they understand the alternatives.

We constantly hear, "Let's pay our bills." And, yes, we should pay them. What then? If, in consequence, government winds up bigger than ever, we've gained nothing but a short respite. We've set ourselves up for another deficit "crisis" once the new bills come in, as they certainly will. The government Sir Ross Perot commends to us, its accounts duly balanced, would not be more svelte than now—it would be piggier, gobbling up ever greater shares of national resources.

Mr. Perot, like Bill Clinton, and very much unlike Ronald Reagan, sees government as a permanent partner in our economic endeavors. Neither Mr. Perot nor Mr. Clinton is a New Deal welfare-statist; at the same time, neither exhibits much enthusiasm for free-market economics or much concern about the onward march of government.

Balance the budget, yes—but balance it by controlling, not enlarging, government. Government at all levels today absorbs 40 percent of the Gross National Product. Another 11 percent and you and I, my friends, become government employees, devoting the majority of our labors to keeping the bureaucracy paid and happy.

This has got it backward. The private sector alone creates productive jobs; government, as any citizen of the ex-Soviet bloc can attest, mangles and mashes the creative capacity. Genuine economic reform starts with the idea that government, though we have to have it for the sake of civic order, is a bad idea, so let's minimize in order to control it.

Large and ambitious the Perot plan may be; genuine reform it is not.

THE FEDERAL ROLE IN INSURER SOLVENCY REGULATION

The SPEAKER pro tempore (Mr. MANTON). Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, I am sure that every Member of Congress shares my concern about the effect that recent insolvencies in the insurance industry has had on consumers. The failure of major insurance companies like the Executive Life Insurance Co. of California and the Mutual Benefit Life Insurance Co. in New Jersey last year brought home to many of us the substantial impact that an insurer insolvency can have on thousands of consumers who purchased life and health insurance as well as annuities to protect themselves and their families from financial distress.

I look forward to engaging in the discussions and debate surrounding this important issue and I encourage my colleagues, State regulators, and all others concerned with the regulation of insurance to make their views known to the Commerce Subcommittee as we move through the legislative process.

The business of insurance is national: Few insurers operate entirely within the borders of a single State and the effect of corporate or regulatory decisions and actions in one State directly affect the outcomes in other States and markets. The mobility of capital and consumers of insurance firms and agents, create linkages within the marketplace such that a regulatory weakness in any one State can have repercussions across the country and in all States.

The Subcommittee on Commerce, Consumer Protection, and Competitiveness, which I chair, and the Subcommittee on Oversight and Investigation of the House Energy and Commerce Committee have spent a substantial amount of time over the last 4 years investigating the practices of insurers and insurance regulators, examining the causes of recent insolvencies, and reviewing protection provided to consumers of insurance, both as information provided by insurance rating agencies and as postinsolvency coverage provided by State guaranty funds. These investigations have revealed that the regulation of insurer insolvency and the guaranty protection afforded insurance consumers are in need of revision and restricting if the U.S. insurance industry is to remain financially sound, economically viable, and internationally competitive.

Although State regulation of insurance has served this country well for over 100 years, the industry has become extremely complex during the past 20 years, going far beyond its original role of providing a mechanism for the spreading of risk of financial loss and has substantially increased its role as a major player in the field of financial services. The expansion of the activities of insurers at the State, national, and international level has brought with it a need to increase Federal involvement in the regulation of the insurance industry as it operates in the United States. Certain problems in the industry transcend State borders; as such, they are problems that might be best handled through Federal action based on State input.

Possible areas for Federal Government action have been proposed by a number of individuals. For example, it has been suggested that the Federal Government should establish a uniform system for rehabilitating or liquidating insurers that have been deemed to be financially impaired or insolvent, thereby facilitating the equitable settlement of claims by policyholders and creditors across the Nation. Another suggestion has been to establish a national guaranty fund to cover claims filed by consumers holding policies underwritten by federally regulated insurers that have become financially impaired. A third proposal would have the Federal Government establish minimum standards of coverage for State insurance guaranty funds, thereby assuring consumers a standard level of protection regardless of their State of residence. Some observers of the insurance industry have suggested that the regulation of foreign insurers and reinsurers might be better left to the Federal Government.

With the introduction of H.R. 4900, the Federal Insurance Solvency Act of 1992, by the Energy and Commerce Committee chairman JOHN DINGELL, the discussion of insurance regulation has moved beyond the investigation of the current state of affairs in the industry to include a debate over the roles that the Federal Government can take on to improve the regulation of the insurance industry for the benefit of insurers, State regulators, and consumers. The subcommittee which I chair has sought input from dozens of groups and individuals with expertise and interest in the industry, asking for written responses to a number of questions based on the chairman's bill and we have begun meeting with interested individuals and organizations to discuss the role of the Federal Government in insurance regulation.

□ 1510

ANITA NALL WINS GOLD

The SPEAKER pro tempore (Mr. MORAN). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, yesterday Anita Nall from Towson, MD, won a gold medal on the American women's relay swim team in the Olympics. Sixteen-year-old Anita, a straight-A student from my district, the Second Congressional District in Maryland, previously had won medals for her performances in the 200- meter and 100-meter breast stroke events. My colleagues may recall on the first night a somewhat disappointed young lady when she came in third and received a bronze medal. She had a brighter face the next night as a silver medal winner. However she, as well as her teammates, saved their best for the relay race.

When speaking of athletic prowess, commentators use words such as outstanding, incredible, and great so much that the accomplishments themselves become diminished because of the rhetoric.

Every performance cannot be great. However, there is something special about the Olympics. It is something the world almost always has realized. Every 4 years, the world celebrates the skill and strength of its athletes.

In ancient Greece, and just a week ago in Yugoslavia, battles were stopped to allow athletes to travel to the Games.

There is an Olympic spirit, and we should salute it.

And, we should learn from the efforts of our athletes like Anita. Anita did well, very well on her own, but she saved her best for a team event, when she and three other remarkable Americans pulled together to shatter the world's record. The broad smiles on their faces told the whole story. The other three were Lea Loveless of Crestwood, NY; Chrissy Alimann-Leighton of Tucson, AZ; and Jenny Thompson of Dover, NH.

Mr. Speaker, Americans accomplish wonderful things when they work together.

TRIBUTE TO LEWIS J. DOHERTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. HUBBARD] is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to Lewis J. Doherty, a highly respected and outstanding individual, who died at age 79, Wednesday, July 22, at Alexandria Hospital in Alexandria, VA.

Lew Doherty, the beloved and caring father of Mary Martha Fortney, my long-time staff member and staff director of our House Banking Subcommittee on General Oversight and Investigations, was a special person to all who met and knew him. Born in Buffalo, NY, on September 16, 1912, he moved his family to northern Virginia where he successfully worked in retail sales in Washington, DC, until his retirement in 1979.

A devout Catholic, Lew Doherty worked tirelessly for his church—Blessed Sacrament Catholic Church—raising funds for the convent, rectory, and school addition. He shared a special sense of fellowship with his pastor, the late Msgr. Martin T. Quinn, a fellow Irishman who had the same keen sense of humor as he.

Lew Doherty was liberated long before it was fashionable to be liberated. He never thought he was above working in the home and he willingly shared with his wife Fidelia the role and duties of raising their three daughters, Deborah, Eileen, and Mary Martha, sometimes even doing more than his fair share. Indeed, nothing was too great to ask of him if it was for his wife and daughters, the rest of his family and, later, for his seven grandchildren. He endeavored to teach his loved ones to be fair, unselfish, and hard working members of society. Lew knew the never-ending heartbreak of losing a daughter and when Deborah passed away in 1987, he stepped right in to raise her children in the best way he knew how.

My wife, Carol, and I attended his funeral last Friday, and listened to the eulogy given by his daughter, Eileen Doherty. A very special man, the Blessed Sacrament Church was filled with his family and friends who had come to pay tribute in memory of this wonderful person. Truly during the 79 years of Lew Doherty's life, he contributed much to make his community a better place in which to live.

Surviving are his wife Fidelia D. Doherty of Alexandria, Eileen M. Doherty of Columbia, SC, Mary Martha Fortney of Centreville, VA, a brother, Gerald E. Doherty of Gainesville, FL, seven grandchildren, four nieces, and two nephews.

My wife, Carol, and I extend to the family of Lewis Doherty our sympathy upon his recent death.

FOLEY SQUARE AFRICAN-AMERICAN GRAVEYARD CONTROVERSY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. SAVAGE] is recognized for 5 minutes.

Mr. SAVAGE. Mr. Speaker, after hearing one of my colleagues criticize coverage by the press not long ago, I decided to add some criticism also, but in doing so I have to explain, it must be explained, what happened, and it was so poorly covered by the press.

In New York there is a courthouse and Federal office building under construction, a huge project, one of the largest of such projects in the history of this Federal Government, and as with all Federal office and courthouse construction, it is being undertaken by the General Services Administration of our Federal Government.

□ 1520

Well, in the course of excavation, they discovered bones. As they probed into what turned out to be a burial ground, it was discovered that this was a colonial burial ground, mainly of the remains of African-American slaves, one that was on record in the New York City Hall, but without indication as to how large a burial ground it was, and a record that had just pretty much been ignored.

They continued to probe, and first pointed out that there were only a few remains. But as it turned out as they continued, you may have as much as 1,000 or more remains there, burials in the Foley Square area where the courthouse and office buildings are under construction.

The community began to complain in New York, particularly the African-American community, people like the great artist-musician Neil Pointer who formed a coalition of African-American artists who began to complain. The Patrice Lumumba coalition and other grassroots African-American groups in New York began to complain.

Then the city began to complain, the City Landmark Commission. The mayor appointed an advisory commission of leading citizens with regard to this burial site, and the complaints continued to rise. But the General Services Administration would not relent, but continued to excavate and desecrate this sacred ground.

Now, the National Historic Preservation Act requires under such circumstances in section 106 that the General Services Administration must then, when such a finding is discovered, consult with the Advisory Committee on Historic Preservation, presently chaired by Dr. Robert Bush. Then they must consult with the residents, the community, representatives of the community, before proceeding.

GSA did not do this adequately. In fact, they did not do it sufficiently to be considered in compliance with the law. Because when they consulted and developed a temporary memorandum of agreement, as required by the National Historic Preservation Act, the State Landmark Commission in New York State would not sign it because they felt it was inadequate. The Federal Advisory Committee on Historic Preservation indicated it was inadequate, it lacked specificity, grossly so.

So the GSA agreed to amend this memorandum of agreement to include greater specificity, and also a research design, as the law required. That is, they had proceeded thus far in desecrating this burial ground with no plan, no design to conduct research on how it would be done, how the excavation would take place, how much disinterment, what about reinterment, all of these questions that are required by law to be answered before proceeding under circumstances such as these. And GSA ignored that law, operating in violation of it, violation of the law, but also morally wrong.

So they agreed to amend the memorandum, to make it more adequate and in compliance with the law. They said in December when they agreed to do this that they would have it done in 30 days.

Well, came January of this year, and still there was no adequate amended memorandum, no adequate consultation with the community, nor with the Advisory Committee on Historic Preservation.

Now into July, 7 months later, there is still no research design, still inadtests mounted so that GSA had to respond, they said it would take another 90 days before they would have a research design, even though at this point they had disinterred some 410 remains.

The mayor of New York, in frustration, went to the press finally and protested and demanded that the excavation cease. GSA refused to do so.

It was at that point, last Thursday, that a friend in New York, Alton Maddock, well-known defense attorney, revered community activist and civil rights leader, called me and brought to my attention the article in last week's New York Times with the protests of Mayor Dinkins and asked would I look into it as the chairman of the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation of this House.

When I looked into it, it was obvious that every minute counted, because they were constantly disinterring more remains without respect for the archeological or historical significance of the finding or the sensitivities of the African-American community.

So we held a hearing in New York on Monday, organized in just 2 days by our hand-working staff of the subcommittee, an amazing hearing, where we heard testimony from the mayor and from GSA and from archeologists and other historic scholars, scholars of history, as well as institutions of concern such as the Landmark Commission of the City of New York and the Advisory Committee on Historic Preservation.

They all agreed. They said that this was the most important find of its kind in the United States in this century. Yet GSA refused to stop, to cease its excavation, even though it had no plan to guide it. JOHN DUNCAN, the Congressman from Tennessee, a Republican member of the subcommittee who attended the hearing, asked that the Regional Director, William Diamond of GSA, would you just temporarily cease excavation until we can consider the necessity of a research design, until we can receive adequate community involvement and consultation with the Advisory Committee. This fellow Diamond abjectly refused. He refused even to recommend it to GSA.

At that point, as chairman of the subcommittee, I rapped the gavel and concluded the hearing before it was scheduled to end because it was clear that to go on further was useless, and pointed out to the Regional Director Diamond that as chairman of the Public Buildings Subcommittee we had some influence in this matter, and that that influence would be used to stop this excavation as soon as we returned to Washington.

We returned and I phoned and had several conversations the very next day with the National Administrator of the General Services Administration, Richard Austin, whom I have always found to be a reasonable person, with some sensitivity to the communities and the people that that agency serves.

After our conversation and his further consultation with his advisers, we agreed to have a meeting that I convened in my office here in the Rayburn Building on the very next day, which would have been Wednesday of this week.

At that meeting the chairman of our full committee ROBERT ROE of New Jersey, chairman of the Committee on Public Works and Transportation, came in to join with us, along with the ranking members of that committee, JOHN HAMMERSCHMIDT of Arkansas of the full committee and JAMES INHOFE of Oklahoma of the subcommittee.

At that meeting I made a proposal as to how we could resolve this matter, with a proposal to immediately cease excavation, to go to New York and meet with Mayor Dinkins and his advisers and the concerned community activists in this matter, to advise them it had been ceased, and that we would form an advisory committee to their liking that would advise on how to proceed in this matter, and that GSA would discontinue any plans to construct further construction on that site, and that we would call upon the Smithsonian Institution to serve as interim project manager as far as the burial site was concerned.

□ 1530

After some discussion, it was all agreed, by Mr. Austin of the General Services Administration, the ranking Republicans, all of us there agreed. And then Richard Austin, myself, and Dr. Bush journeyed to New York the next day, which would have been yesterday, met with those with whom we had planned to meet. And there I gave, again, the proposal to which we had agreed. There it was accepted. Everyone was joyous. The problem was solved.

The point I want to make is that the press, however, none of the papers carried this story accurately. They all recognized something had happened because, until the Wednesday meeting that I convened in my office, GSA was adamant that they would not cease excavation. Minutes after that meeting, the excavation was ordered to cease. But none of them attempted to answer the question why.

And when we called a press conference in my office following that meeting on Wednesday so that the question could be answered, not a single member of the press would show.

The press, and this is my whole point, is always so critical of Congress. But when Congress, beyond its legislative mandate, goes to work, as we did in this instance, both sides, Republican and Democrat, to work to resolve a problem that was caused by errors on the executive side, and when we work in such a way as to solve that problem, where the staff worked over the entire week, night and day, to prepare the hearing from which all of this grew and we would take time to fly there then to work out the solution with those who had complained in New York, the press did not give proper credit to Congress.

Whenever you want to criticize a body, if you are honest and if you have any integrity, you have the obligation to also praise that body when praise is due.

They are not even interested in finding out why the body should be praised. I just want to add that to the complaint of my colleague who complained about a drive-by shooting, as he called it. But add this to the list. Someone needs to find out and make the press in this country accountable. Why should a handful of people determine what we hear, what we do not learn and, as a consequence, leave us ill informed to participate fairly and effectively in a democracy?

PERMISSION TO VACATE SPECIAL ORDER AND TO INSERT NEW SPECIAL ORDER

Mr. HOYER. Mr. Speaker, I ask unanimous consent to transpose my name in the special order calendar of Monday, August 3, with the gentleman from Pennsylvania [Mr. MURTHA]. I do so with the full concurrence and knowledge of my colleague, the gentleman from Pennsylvania [Mr. MURTHA].

The SPEAKER pro tempore (Mr. MORAN). Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONFERENCE REPORT ON S. 323, FAMILY PLANNING AMENDMENTS ACT OF 1992

Mr. WYDEN submitted the following conference report and statement on the Senate bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-767)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Planning Amendments Act of 1992".

SEC. 2. PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING SERVICES.

(a) REQUIRING CERTAIN NONDIRECTIVE COUNSELING AND REFERRAL SERVICES.—Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following subsection:

"(b)(1) The Secretary may not make an award of a grant or contract under this section unless the applicant for the award agrees that the family planning project involved will provide to individuals information regarding pregnancy management options upon request of the individuals.

"(2) With respect to compliance with the agreement made under paragraph (1), the family planning project involved, and any provider of services in the project, may not be required to provide information regarding a pregnancy management option if—

"(A) the project or provider (as the case may be) objects to doing so on grounds of religious beliefs or moral convictions; and

"(B) the project or provider refers the individual seeking services to another provider in the project, or to another project in the geographic area involved, as the case may be, that will provide such information.

"(3) For purposes of this subsection, the term 'information regarding pregnancy management options' means nondirective counseling and referrals regarding—

"(A) prenatal care and delivery;

"(B) infant care, foster care, and adoption; and

"(C) termination of pregnancy.".

(b) COMPLIANCE WITH STATE LAWS ON PARENTAL NOTIFICATION AND CONSENT.—Section 1008 of the Public Health Service Act (42 U.S.C. 300a–6) is amended by inserting "(a)" before "None" and by adding at the end the following:

"(b)(1) No public or nonprofit private entity that performs abortions may receive an award of a grant or contract under section 1001 unless the entity has certified to the Secretary that the entity is in compliance with State law regarding parental notification of or consent for the performance of an abortion on a minor which is enforced in the State in which the entity is located.

"(2) Paragraph (1) shall not be construed to require or prohibit a State's adoption of parental notification or parental consent laws regarding the performance of an abortion on a minor, or to require or prohibit the enforcement by a State of such laws.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(e) of the Public Health Service Act, as redesignated by subsection (a) of this section, is amended to read as follows:

"(e) For the purpose of grants and contracts under this section, there are authorized to be appropriated $180,000,000 for fiscal year 1993, $189,000,000 for fiscal year 1994, $198,500,000 for fiscal year 1995, $208,500,000 for fiscal year 1996, and $219,000,000 for fiscal year 1997.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING GRANTS AND CONTRACTS.

Section 1003(b) of the Public Health Service Act (42 U.S.C. 300a–1(b)) is amended to read as follows:

"(b) For the purpose of grants and contracts under subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1993, $5,250,000 for fiscal year 1994, $5,512,500 for fiscal year 1995, $5,788,125 for fiscal year 1996, and $6,077,530 for fiscal year 1997.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR INFORMATIONAL AND EDUCATIONAL MATERIALS.

Section 1005(b) of the Public Health Service Act (42 U.S.C. 300a–3(b)) is amended to read as follows:

"(b) For the purpose of grants and contracts under subsection (a), there are authorized to be appropriated $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.".

SEC. 5. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) SENSE OF CONGRESS REGARDING PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized in title X of the Public Health Service Act to be purchased with an award of a grant or contract under such title, it is the sense of the Congress that entities receiving such an award should in expending the award purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF AWARDS.—In making awards of grants and contracts under title X of the Public Health Service Act, the Secretary of Health and Human Services shall provide to each recipient of such an award a notice describing the statement made in subsection (a) by the Congress.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect upon the date of the enactment of this Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
RON WYDEN,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
BROCK ADAMS,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING, AND REFERRAL SERVICES

Both the Senate bill and the House amendment provide for the provision of information, nondirective counseling, and referral services. The Senate recedes to the House amendment and the Conferees adopt the explanation of this provision that is included in the House Committee Report.

EXEMPTION ON GROUNDS OF RELIGIOUS BELIEFS OR MORAL CONVICTIONS

Both the Senate bill and the House amendment provide for an exemption from the requirement of the provision of pregnancy management options if the project or provider objects to doing so on the grounds of religious beliefs or moral convictions. Both also provide for a requirement that a client seeking such information from a provider or project that claims such exemption be referred to another project or individual that will provide such information. The House amendment requires that such a referral be made within the geographic area involved.

The Senate recedes to the House amendment and the Conferees adopt the explanation of this provision that is included in the House Committee Report.

PARENTAL NOTIFICATION OF MINORS SEEKING ABORTION SERVICES WITH PRIVATE FUNDS

Both the Senate bill and the House amendment contain provisions regarding the notification of minors seeking abortion services with private funding from recipients of Title Ten funds. The Senate bill provided for two different Federal standards for such notification. The House amendment provided for a requirement that Title Ten grantees comply with applicable State law which is enforced in the State in which the entity is located.

The Senate recedes to the House amendment and the Conferees adopt the explanation of this provision that is included in the House Committee Report.

REAUTHORIZATION

The House amendment reauthorizes the Title Ten programs through FY 1996. The Senate bill contains no similar provision.

The Senate recedes to the House amendment and the Conferees adopt the explanation of this provision that is included in the House Committee Report.

JOHN D. DINGELL,
HENRY A. WAXMAN,
RON WYDEN,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
BROCK ADAMS,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

CONCERNS ABOUT FOREIGN BANK REGULATION, BNL LOANS TO IRAQ, AND BNL LOANS TO IRAQI FRONT COMPANIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, the case involving the Atlanta branch of the large Italian Government-owned bank, Banca Nazionale del Lavoro

[BNL], is one of the greatest financial and foreign policy scandals of all time in which former employees of the Atlanta branch of BNL approved over $5 billion in supposedly unauthorized loans to Iraq over the latter half of the 1980's. Most of these loans were not reported to American or Italian banking officials. These loans supported Iraq's efforts to buy food and military technology in this country—to the tune of several billion dollars as I have mentioned before.

The BNL scandal is at the very least a case study in bank regulatory failure.

This is where we came in from the very beginning from the Committee on Banking, Finance and Urban Affairs level.

Along with the BCCI scandal, BNL serves as a powerful warning to us that foreign governments, friends and foes alike, are willing to abuse the U.S. financial system in order to participate in nefarious activities. The laundering of drug money, illicit arms transactions, and financial transactions involving terrorists are all too commonplace in our huge, largely unchecked financial system. Notorious crooks and despots that have stolen the very hope from their people have all used foreign central banks to launder money in the United States.

The BNL scandal raises several concerns within the jurisdiction of the Banking Committee. Foremost is the adequacy of the regulation and supervision of U.S. branches and agencies of foreign banks. Branches and agencies of foreign banks like BNL and BCCI command over three-quarters of a trillion dollars in assets in the United States and over $8 billion of their liabilities are guaranteed by the FDIC, over $8 billion guaranteed by taxpayers.

For years I have been concerned that the supervisory sharing arrangement between the State, Federal, and international bank regulators is inadequate to ensure that international banks are properly supervised.

In 1990 and 1991, I sponsored changes in the law that improved supervision of foreign banks operating in the United States, but then, here again, I repeat what I have said on several occasions. I have more than just a passing interest and certainly not one exclusively since I became chairman of this committee, but it goes back to the fact that I am the prime reason why we got the first international banking act in 1978.

After the 1975 hearings that I arranged to have in my hometown of San Antonio, it took 3 years after those hearings. Those hearings ended in the indictment and conviction of two individuals, but it was the forerunner of what we now call the S&L scandal. It took 3 years to get minimal, weak, and inadequate legislation in 1978.

Since then, I have tried in every single Congress to strengthen those laws. The committee will continue to pursue foreign and domestic banks that engage in nefarious activities—since that is the only way to make sure they are aware that the Congress does not want and will not tolerate dirty money or dirty tricks in the U.S. financial system.

In the near future, I will begin to look at other banks with close links to Iraq. At this time I can only say that the committee is investigating the preinvasion and postinvasion activities of several United States-based banks that were providing financial services to Iraq from the United States. This inquiry is in its early stages and I will report on our findings as soon as possible.

The BNL and BCCI scandals prove that it is time the United States established a national screening board to monitor more closely foreign bank presence in the United States.

This is an effort that dictates back to the 1970's, incidentally. Every other country does, including Canada, but we do not. Banks are critically important to the operation of our economy, of course, and are critically important to the functioning of this economy.

□ 1540

Equally important, banks are the key to the clandestine operations of people like Saddam Hussein.

Our Government should have the power to review foreign ownership of U.S. banking and to more closely monitor the activities of foreign banks in the United States. We have a responsibility to stop future BNL's and BCCI's from occurring, although I have said, and I will repeat today, there is nobody who can tell us how many more BNL's and BCCI's are over there and here and have been around, and just need the occasion of time and circumstances to erupt to the surface.

A screening board would be indispensable in order to accomplish this.

Today, I want to show how BNL commercial loans helped Iraq. Much has been written about BNL's CCC guaranteed loans to Iraq and whether or not the commodities sold under the CCC program were diverted to pay for weapons. The diversion investigation in Atlanta is still ongoing.

The topic that has received less attention, but is much more important to determining the United States role in arming Iraq is the over $2 billion in BNL commercial, not agricultural, bank loans to Iraq. These loans were used by the Ministry of Industry and Military Industrialization [MIMI] to fuel the engine of Iraq's ambitious postwar military industrialization program. They were also used to fund Iraq's secret military technology procurement network. As I have mentioned, other banks may have been involved.

BNL has U.S. offices in Atlanta, New York, Chicago, Miami, and Los Angeles. Its North American headquarters is in New York. In addition, BNL has a commercial paper subsidiary, called BNL US Corp., incorporated in Delaware and operating out of New York. BNL has offices throughout Europe and branches in Hong Kong, Singapore, and a representative office in Tokyo. BNL also has subsidiaries in Canada and the Netherlands Antilles.

As the world knows, in July 1989, the Federal Reserve Bank of Atlanta was notified by the FBI of a substantial off-book operation at the Atlanta agency of Banca Nazionale del Lavoro. On August 4, 1989, the Federal Reserve, accompanied in Atlanta by the FBI and U.S. attorney in Atlanta, raided the U.S. operations of BNL.

Based on information gathered from that raid, it was apparent that BNL-Atlanta was conducting massive off-book transactions. The Atlanta office was lending and raising billions that it did not report on its financial statements or in its bank regulatory statements.

The off-book lending began in the mid-1980's. These transactions, kept on a set of secret books, were purportedly established to conceal the excessive Iraqi loans from BNL's headquarters in Rome. The off-book transactions were originally used to finance CCC guaranteed commodity exports to Iraq and to cover shipping costs for those exports. BNL also utilized the United States Export-Import Bank guarantee program to support shipments of industrial goods to Iraq.

BNL, EXPORT-IMPORT BANK AND CCC PROGRAMS

Under the Export-Import Bank [Eximbank] letter of credit program with Iraq, BNL was insured for 51 export transactions with a dollar value of $47 million. Of this amount of $43.8 million has been repaid by Iraq. Eximbank currently owes BNL the remaining $3.2 million because Iraq defaulted on several letters of credit that were funded by BNL and insured by Eximbank. But of course there were many other commercial loans, many more that BNL made for Iraqi purchases.

A great deal is known about BNL's relationship with the CCC program. In total, between 1985 and August, 1989, BNL financed the sale of about $1.9 billion in CCC-guaranteed United States agricultural products to Iraq. "Guaranteed" means taxpayer guarantees. What is not generally known is that BNL did little CCC business after the cease-fire with Iran in August 1988. In fiscal year 1985, BNL had a 20-percent share of the CCC business for Iraq, greater than any other country, and the next one was Mexico, so that gives the Members the extent and the huge size of Iraq's share of that CCC program, based on the guarantees.

BNL's share of the CCC program peaked at 92 percent in fiscal year 1987. By fiscal year 1989, which began in October 1988, BNL was out of the program altogether.

$2.155 BILLION IN MEDIUM-TERM LOAN AGREEMENTS

When the war with Iran ended in 1988, BNL Atlanta was asked to take a big role in Iraq's military industrialization program. While these loans were said to be for rebuilding the Iraqi civilian economy, many went to improve the Iraqi war machine, if not the majority.

Lending under these agreements took the form of four medium-term loan agreements [MTL's] signed with the Central Bank of Iraq [CBI]. These loans had 5 to 7 year maturities and 2 to 5 year grace periods. BNL was able to borrow huge amounts of money to fund these loans because it had the backing of the Italian Government which gave it a topnotch credit rating. The loan agreements are summarized in a table I offer for the RECORD at the end of this presentation.

We had what is known as MTL notes, one, two, three, four, dated respectively February 22, 1988; October 6, 1988; December 3, 1988; and April 8, 1989, of sums ranging from $200 million to $1.1555 billion.

By the time regulators raided BNL in August 1989, over $1 billion had already been disbursed.

As I will show in charts that, I ask to include in the RECORD, disbursements from the MTL's took several forms, called option A, option B, and option C. Under option A, BNL confirmed letters of credit issued by the Central Bank of Iraq. This meant that BNL had a major recordkeeping role. Under option A, BNL had to gather ship manifests, bills of lading, ship reliability certificates, ship insurance certifications, and documents showing that the goods arrived in Iraq, all before making direct payment to the exporter. About three-quarters billion dollars was doled out under option A before the recordkeeping function overwhelmed the little BNL office in Atlanta.

Gathering all the documentation needed for A-type transactions was a tremendous burden of the BNL employees. In addition, it was not bright to have mountains of Iraq-related documents piling up in the offices for auditors and bank examiners to see—they were not supposed to be providing that many commercial loans to Iraq.

As I pointed out in the second-to-the-last presentation, I listed the licenses, export licenses, from the Department of Commerce in which only 1 out of 771 or over 800 had any kind of follow-through as to end use. On what? On commercial lending, not the CCC program.

To avoid suspicion and to lessen the paperwork burden, BNL and Iraq devised another and more discreet method to disburse the MTL's called option B.

Option B streamlined the disbursements of money to Iraq and left little evidence for auditors to follow. Under option B, BNL received a telex from CBI, that is, the Central Bank of Iraq, telling them to transfer money into an Iraqi bank account maintained at one of several prominent financial institutions in the United States and Europe. This money was kept in an escrow-type account and used as collateral against disbursements made to the exporter. For example, when Iraq wanted to use BNL loans to buy computers from Hewlett Packard, CBI would send a telex to BNL stating that it wanted to buy Hewlett Packard computers and to send money to a numbered bank account at Bank America in San Francisco.

□ 1550

After receiving BNL money, Bank of America would pay Hewlett Packard for the computers and the computers would go to Iraq.

Bank of America used the BNL money that had been deposited into the numbered bank account as collateral to make sure it got repaid. When Iraq eventually did repay BNL, Bank of America would get to keep the collateral that had been deposited in the numbered account, and BNL got money directly from Iraq.

In this type of transaction Bank of America would receive a fee for gathering all the documents, and a fee for disbursing the money to Hewlett Packard. BNL would get a small fee from Iraq for advising on the transaction and received a small interest rate for the loan to Iraq.

OPTION C

A third and much simpler method was used to disburse over $100 million to Iraq's MIMI, the armaments ministry. In these countries they are indistinguishable. They can be called the Economic Development and Defense Procurement Agency, and as in this case it is very difficult to say where one begins and the other starts or leaves off. Under option C high ranking MIMI officials simply picked up the phone, called BNL-Atlanta and told them to transfer funds, totaling $107 million, into Iraqi accounts at Bank of New York, Chase Manhattan Bank, or Manufacturers Hanover Bank. This money is not traceable and Iraq is the only one that knows how this money was spent. Needless to say, $107 million could purchase lots of weapons, make lots of bribes, and even purchase other firms that could be used as front companies.

The sad thing that I said at the outset this day is that entities structured that way are still in operation in the United States of America.

As of January 1990, a total of $1.55 billion had been drawn and committed under these various agreements. After the BNL raid, Iraq still insisted that BNL make good on the remaining loans still outstanding under the agreements. After months of intense negotiations, on January 24, 1990, BNL and Iraq negotiated and agreed that the residual $600 million or so would be utilized for new transactions, two-thirds of which would finance projects for which the suppliers had to be Italian firms and one-third could be used for purchases from other countries.

You might wonder why BNL renegotiated the loans. It's simple. Under international law the contracts signed with BNL were valid.

And remember, the banking agency in Atlanta is an agency of an Italian bank doing business in the United States, but which is owned by the Italian Government. So these negotiations then would be done in Rome. So Iraq threatened not to repay the money it already owed to BNL unless BNL made good under the remaining balance of the loans, which under international law, as I say and repeat, were valid claims.

With earnings from its huge oil reserves—second in the world to Saudi Arabia—Iraq entered the decade of the eighties with hefty cash reserves. But its war with Iran 1980–88, and the drop in oil prices during the eighties changed all that. Wartime weapons purchases coupled with domestic infrastructure expansion served to deplete Iraq's foreign exchange reserves. And in the second-to-the-last previous order I placed in the RECORD, the documentation showing that during that period of the Iraq-Iran war we, the United States, together with some of our so-called friends in Europe, and even China, sent 47 billion dollars worth of armaments to Iraq.

Even though Iraq emerged from its war in poor financial condition, there was still some optimism regarding Iraq's industrialization program. Iraq's oil reserves and its educated work force led many experts to believe that if Iraq could manage its economy properly, it could fulfill the promises of the ambitious program. But with oil prices stagnating, and mountains of debt, Iraq was in poor shape to pay for the industrialization program.

In fact, Iraq had accumulated massive debts of some $70 to $80 billion during the 8-year war with Iran. About half of Iraq's external debt, about $35 to $40 billion, was owed to the Western creditors, and this debt had to be repaid in foreign exchange earned from oil exports.

Saddam Hussein reacted to this cash shortage by calling on many foreign countries to reschedule and spread out loans that had been extended to Iraq. Complicating Iraq's debt problems was the unwillingness of most Western banks to lend to Iraq without Government guarantees. However, with the help of the United States, through its CCC and Eximbank programs, and augmented by similar programs administered by several European and Asian countries, Saddam Hussein was able to keep his ambitious industrialization program going full speed.

However, since much of Iraq's oil earnings had to be earmarked for debt servicing, the military industrialization program was in jeopardy of failing. As I have shown in the previous 2 floor statements, priority was given to military-related projects and the CIA, State Department, and White House were well aware that Iraq's top priority was military industrialization. They knew what Iraq wanted to do, and they knew Iraq was using clandestine means to buy military technology.

In November 1989 the CIA noted that the $2.155 billion in MTL's for Iraq was the largest single extension of credit to Iraq. What we are now learning is that much of the technology bought with BNL loans was often used, if not totally used, on Iraqi weapons projects.

Deceit played a large part in building the Iraqi war machine. It is quite probable that many of the companies providing technology and know-how to the Iraqi war machine did not realize they were doing so, though I find that hard to believe. But the record shows that our Government had a good idea of what was transpiring, and decided to tolerate it, up to a point. It is useless to try to explain, it is unclear how much was tolerable, but we know that the administration deliberately allowed Iraq to buy technology needed for Iraq's rearmament program. That we know.

In order to clandestinely obtain the most sophisticated technologies, Iraq established a secret network of front companies charged with the mission of finding and exporting Western technology to Iraq.

□ 1600

No expense was spared including possible bribes and higher-than-normal profits for the producers of the goods exported to Iraq. MIMI funneled the BNL loans to the secret network of front companies, which in turn used the money to purchase United States and European technology for Iraq.

No fewer than 5 Iraqi front companies in the United States, Italy, and the United Kingdom received BNL money. Technology Development Group [TDG], Iraq's primary holding company in the United Kingdom received over 81 million deutsch marks for a hot forging dies project at NASSR which is a military complex near Baghdad, and $2.4 million to ship special materials to Iraq. TDG also got 750,000 British pounds to ship steel to Iraq.

Technology Engineering Group [TEG] received over 1.6 million pounds sterling to send raw materials to Iraq. Matrix-Churchill, Ltd., in London and owning the Cleveland, OH, Matrix-Churchill, received 9 million pounds sterling to ship sophisticated machine tools to Iraq. In another transaction MCL also received 3 million pounds sterling to ship other machine tools.

Matrix-Churchill Corp. [MCC] in Cleveland, OH, was the beneficiary of $14.3 million to ship a glass fiber factory to Iraq. I brought the significance of that out this last Monday.

MCC also received $600,000 in working capital loans from BNL. Finally the Italian front company, European Manufacturing Center [Euromac], received over $50,000 in BNL funds to send small tools to Iraq.

All of these companies were Iraqi-owned fronts with responsibility for obtaining equipment for Iraq's clandestine nuclear, biological, chemical weapons programs and long-range ballistic missile programs. As far back as 1989 the CIA believed the front companies were staffed by Iraqi intelligence agents under the control of Hussein Kamil, the son-in-law of Saddam Hussein, at MIMI—but this was to be tolerated, under the policy of trying to turn Saddam Hussein into a good citizen, as the President has claimed.

Not everything that these front companies shipped to Iraq was for weapons programs, but it does not make much sense that Iraq would set up such an elaborate system of front companies, staff them with intelligence agents, and use scarce financial resources to purchase goods destined for solely civilian purposes, which we know is not a fact. We know that the overwhelming, preponderant use of these funds was for military.

In other words, the network was not responsible for purchasing garden furniture, as we would have been led to believe early in this investigation.

Of course, even some of the civilian goods, such as room air conditioners and air chests, were destined for Iraqi weapons factories. But the key to it all was bank loans. BNL was the linchpin of the Iraqi secret procurement network; it was not the only source of money, but it was absolutely critically important, and indispensible.

Our Government knew a great deal about all this, but decided that as long as the shipments did not explode, or if they fell just short of enabling Iraq to build nuclear weapons, they would be tolerated. The great mystery is why this went on right up until the invasion of Kuwait, in August of 1990. The President has talked about making Iraq into a better world citizen, but that surely does not explain why his administration allowed Saddam Hussein to use this country as a source of materials he needed to build weapons of mass destruction, including materials our Government knew were destined for Saddam's nuclear weapons program.

Trying to explain all this is naturally embarrassing for the administration, of course, it is. And so it is not surprising that the administration has not cooperated fully with our requests for information. They have classified harmless materials, needlessly censored other information, stonewalled information requests, and withheld documents that have clearly fallen within Congressional requests. When that did not work, despite that, as in the case of the prohibitions that the Justice Department demanded of the Federal Reserve Board that they not supply us with our requested subpoena material, well, they simply had the aid and assistance of our friends in the Italian Senate and the Investigating Committee. I met with the chairman of that committee, two of his colleagues here, and we exchanged information, so we got some of the material that way.

Despite that, though, when they did not succeed in stonewalling us completely or intimidating us, they then attacked, accusing me of leaking documents selectively, leaking by placing them in the CONGRESSIONAL RECORD for the people to see, for my colleagues to know of. Is that a leak? Well, I have been doing that ever since I came to the Congress and had the first fight with the FAA Administrator, who was an empire builder and had shifted, despite the need for air passenger safety travel, the Air Route Traffic Center in San Antonio. We soon got the documentation showing it was political empire building. That embarrassed him to the point where he then clamped down on his staff, prohibited any one of them speaking to anybody, and said, "That man can't know that much about our operations unless somebody has leaked it."

Well, that was not true. In many cases, we just added right. We put two and two together and came up with four. This is what we have been doing here in this case. So when this did not work, they then accused me of leaking documents selectively, or to harm national security, but when asked, Secretary Eagleburger could not say how I had damaged national security, when he came before our committee.

And when challenged, the Justice Department responded by saying that harm was not the point—although they had previously claimed my actions were damaging. None of it is true. They have abused classification, because they want to hide the facts and the evidence. The latest harrassment is from the CIA, which claims I have leaked materials that I do not and never have possessed, and have not seen. The CIA has never provided any documentation that would even be more secret, much less top secret, so I feel very complimented when they say, "We have reason to think you must have gotten something top secret." Of course, they know that and we know it.

The embarrassment to the administration is growing. That is to be regretted; but when we started this, it was 3 years ago. When we tried to get our hearings off the ground exactly 2 years ago this month, the then Attorney General Thornburgh demanded that I not have a hearing; so if we had had compliance with our request, this whole thing would have been brought out. We would have had legislation to have proper at least enhancing of regulatory control, and it would not have happened in this election year. Nobody can say, not truthfully, that I have in any way directly or indirectly played into any kind of a political venture. I do not participate in primaries of any kind; and besides that, knowing full well what was going to happen, I have been scrupulously careful to watch exactly what I say, what I do, and that it has no implications of an out-and-out partisan nature.

Now, the facts are bad. They are embarrassing in retrospect, but if instead of stonewalling and then trying to retaliate by intimidating, just confront the fact and then join hands in defending the continual exposure of our banking system by strengthening our laws, we would all be better off.

Anyway, I offer for the RECORD the exchange of letters that I have had with the CIA in the last 2 days, and my answers, and the release I made pursuant to those letters and such materials that are pertinent.

Meanwhile, both myself and the Foreign Affairs Committee have been asking for and seeking documents from the State Department. This is the State Department. They have asked for delays. They have offered cooperation and then provided partial response, evasive actions, postponed meetings to discuss access to further materials in which we could get together.

We have not asked that we put our hands on and hold the materials. We want to see them because we want to protect the taxpayers.

□ 1610

The BNL has a claim right now against the Government to pay up to about some $300 million for the guarantees that they were out on Iraq because they say that Rome did not know anything about it. We have good reason to know that they did because our own Government agencies were informing them. But they do not want to give us access to those documents showing that, because they feel embarrassed.

Now, how can we help the national interest and save the taxpayers at least $300 million if, because of fear of embarrassment, that fact is not brought out and our legal authorities, trying to defend the Government, do not have the facts with which to defend it? That is just an example of what we face. So here the State Department now has delayed. We have set up a meeting. They canceled it without explanation. And this disappointing performance is only a part of a wider campaign of obstruction, unworthy of a great country and equally unworthy of a department with a great history.

I hope for cooperation, but with or without it, the truth will emerge.

The documents referred to are as follows:

SEVERAL OF THE LARGEST BENEFICIARIES OF BNL–ATLANTA LOANS TO IRAQ

[Option A]

Iraqi beneficiary	Exporter	Amount	Ostensible product description	Likely military use
General Automobile and Machinery Corporation, Baghdad.	General Motors Overseas Distribution Corporation, 3044 W. Grand Blvd., Detroit, Mich. 48202.	$154,000,000	10,000 Oldsmobile Cieras	Used as reward for Republican guard and Baath party loyalists.
Nasser State Enterprises for Mechanical Industries, Baghdad.	Matrix Churchill Limited, Fletchamsted Highway, Coventry CV 4 9DA U.K..	81,000,000 Deutsche Marks	Not forging dies project	Cannon/artillery.
Technical Corps for Special Projects (TECO), Baghdad, Project 102, Petrochemical Complex 2.	Lummus Crest Inc., 1515 Broad Street, Bloomfield, N.J. 07003.	$53,827,776	Services and licenses for Ethylene Plant at Petrochemical Complex. Steam cracking furnaces.	Ethylene is used in fuel-air explosives and as a chemical weapons precursor.
Al Shaheed Factory, Baghdad	Servaas Incorporated, 1000 Waterway Boulevard, Indianapolis, In. 46202.	$40,602,000	Copper scrap refining machines, tools, parts and technical documents.	Double production at artillery shell factory.
State Establishment for Heavy Engineering Equipment, project No. 74.	Techno Export Foreign Trade Co. Ltd., 1 Vachavshe Nam 1, Praha, Czechoslovakia.	$40,257,800	Technological equipment, materials and services and third countries origin for extension of manufacturing facilities of State Establishment.	Big Gun or nuclear weapons program.
Technical Corps for Special Projects (TECO), Project 65/Project 1937, Baghdad.	Biwater Process Plant Chemical & Thermal Engineering Limited, 52 Adderly Road, Wilmslow, Cheshire, SK9 1 NY England.	16,894,383 Pounds Sterling	Nitrogen Generation Plant Parts, Cryogenic Nitrogen Plant, Resin Factory.	To be used with glass fiber factory to make components for missiles, aircraft, etc.
State Machinery Trading Company, Baghdad	Centrifugal Casting, Machine Co., 6935 East 12th Street, Tulsa, Oklahoma 74112.	$26,337,241	Cast ductile iron pipe.	Artillery, barrels, Big Gun.
Nasser State Enterprises for Mechanical Industries.	SMS Hasenclaver GMBH, Witzeltrasse 55–400, Dusseldorf 1/BR, Germany.	33,750,000 Deutsche Marks	Machines and equipment and spare parts for forging lines..	Manufacturers of artillery and gun barrels.
State Machinery Trading Company. Technical Corps for Special Projects (TECO), Project No. 395.	Rotec, 333 West Lake Street, Elmhurst, Ill, 60126.	$18,708,365	Upstream and downstream conveyor system for cement. Vibration equipment.	Infrastructure for Condor II ballistic missile program.
State Machinery Trading Company, Baghdad	XYZ Options Inc., Arcadia Drive, Tuscaloosa, Al. 33404.	$14,072,625	Carbon determinator induction furnace, Isostatic press, Jig grinder, Tungsten carbide powder.	Found at Al Athere nuclear weapons plant.
Technical Corps for Special Projects (TECO), Baghdad, Project 3128.	Matrix-Churchill, 5930 Harper Road, Cleveland, Oh. 44139.	$14,100,000	Fiber Glass Project	With BiWater resin factory has many military uses including bomb casings, aircraft parts, etc.
State Machinery Trading Company, Baghdad	Gatewood Engineers Ltd., 2 Basset Court, Newport Pagnell, Buckingham Shire, MK16 OJN, United Kingdom.	$12,541,000	50 Terex dump trucks	Bought by Condor II ballistic missile program.
State Machinery Trading Company, Baghdad	Associated Instrument, P.O. Box 49591, Atlanta, Ga. 30329.	$12,161,502	Carbide tools	Many military uses including artillery shells and barrels.
State Machinery Trading Company, Baghdad	Caterpillar, 100 N.E. Adams St., Peoria, Ill. 61629.	$9,902,605	Billdozers	Bought by ballistic missile program. Used to erect infrastructure.

[Option B]

Exporter	Amount	Ostensible product description	Like military use
CE (Kintex), Bulgaria	$30,750,000	Transfer of know how, technologies and equipment for manufacturing of personal computers.	Direct arms purchases.
Thyssen Rheinstahi Technik, Germany	63,500,000 Deutsche Marks	Rotary forging plant	Artillery.
Danieli, Italy	126,000,000 Deutsche Marks	Rolling mill for steel plant	Artillery.
Comtech Systems, Inc., United States	$36,000,000	Mobile satellite tracking system	Track hostile intelligence satellites.
Lummus Crest, United States	$53,000,000	Ethylene plant—PC2	Ethylene used as fuel for explosives and precursor to chemical weapons.

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, July 30, 1992.

Chairman Henry B. Gonzalez of the House Banking, Finance and Urban Affairs Committee charged today that the intelligence community is being enlisted to help the Bush Administration deflect attention from failed policies involving Iraq.

Mr. Gonzalez said he had received two recent letters from the Central Intelligence Agency complaining about public disclosure of the intelligence community's knowledge of Iraq's ambitious military industrialization program. The letters were written to Mr. Gonzalez by Robert M. Gates, Director of Central Intelligence, and Admiral W. O. Studeman, Acting Director of Central Intelligence.

"These letters have all the appearance of warmed over versions of earlier complaints from Attorney General William P. Barr," Mr. Gonzalez said. "Like the Attorney General, Mr. Gates is fully aware that my public statements and revelations have been carefully handled and have not in any manner breached the security of ongoing intelligence efforts."

Mr. Gonzalez said he was "extremely disappointed that the Central Intelligence Agency was allowing itself to be used to build a smokescreen around the President's flawed policies. The CIA should be above involving itself in the political problems of the Administration. The American people deserve a full explanation and exposition of the pre-war policies and the CIA should not leave the impression it is willing to help cover up the facts."

(Letters attached.)

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, July 30, 1992.

Hon. W.O. STUDEMAN,
Admiral, U.S. Navy, Acting Director of Central Intelligence,
Central Intelligence Agency, Washington, DC.

DEAR ADMIRAL STUDEMAN: This letter is in response to your letter dated July 28, 1992 that was received by the Banking Committee on July 30, 1992. First, I want to make it clear that information contained in my statements on the House Floor, traceable to intelligence reports or otherwise, have in no way harmed the national security or revealed sensitive sources and methods.

As you are aware, because the Banking Committee does not have a Sensitive Compartmented Information Facility (SCIF), the Committee has not been permitted to retain any information above the SECRET level, and therefore, the Committee does not have information about the SECRET level. Your insinuation that I have revealed TOP SECRET, compartmentalized information is inflammatory and without merit. In fact, I have taken great pains to ensure that all information that I have placed in the Congressional Record is of the broadest nature and readily available from public sources.

To set the record straight, the CIA has not adequately cooperated with the Banking Committee since Attorney General Barr's letter of May 15, 1992. This letter has been used by the intelligence community, and numerous other government agencies, to forbid Banking Committee investigators from reviewing or discussing classified information. In fact, since May 15, 1992, on several occasions the intelligence community has prohibited Committee investigators from reviewing or even discussing classified information. As I told Director Gates, the CIA's position is to refuse to discuss or provide the Committee with access to classified information, yet, at the same time, I am being criticized for not discussing classified information with the CIA.

No one has shown that I have harmed the national security or compromised sources and methods, which leads me to conclude that the classification issue is being used as a convenient device to avoid substantive discussion of the issues at hand.

Rest assured Admiral Studeman, I stand ready to work with the intelligence community under mutually beneficial circumstances.

Thank you for your time and consideration of this request.

Sincerely,
HENRY B. GONZALEZ,
Chairman.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC., July 28, 1992.

Hon. HENRY GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As Director Gates' response to your letter of 7 July indicates, we have been making every effort to cooperate with your requests for access to intelligence information. We have appropriately declassified intelligence reports available for you to use in public statements. We are prepared to work with you to continue reviewing our reports to determine what may be made available to the public.

We fully respect your obligation to discharge the oversight responsibilities assigned to your Committee. I hope that you understand our obligation to protect intelligence sources and methods through careful review of information before it is released to the public.

We have reviewed your statements published in the Congressional Records of 21 and 27 July. We have determined that portions of your statements were drawn from classified intelligence documents, some of which are Top Secret, compartmented, and particularly sensitive. I have asked the Office of Security of the Central Intelligence Agency to undertake a review of your statements in order to determine the impact of the disclosures of intelligence information on intelligence sources and methods.

Very respectfully,
W.O. STUDEMAN,
Admiral, U.S. Navy, Acting Director of Central Intelligence.

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, July 28, 1992.

Hon. ROBERT M. GATES,
Director of Central Intelligence, Central Intelligence Agency, Washington, DC.

DEAR DIRECTOR GATES: This letter is in response to your letter dated July 24, 1992 that was received by the Banking Committee on July, 27, 1992. Frankly, I am perplexed by several statements in your letter and would like to set the record straight about several points contained in your letter.

First, information contained in my statements on the House Floor, whether traceable to intelligence reports or not, has in no way harmed the national security or revealed sensitive sources and methods. As you are aware, because the Banking Committee does not have a SCIF, we were not permitted to retain any information above the SECRET level. Therefore the Committee does not have information above the SECRET level. Your insinuation that I have revealed TOP SECRET compartmentalized information is inflammatory and without merit. In fact, I have taken great pains to ensure that all information that I have placed in the Congressional Record is of the broadest nature and readily available from public sources.

I can understand your discomfort at my revealing that the CIA and other executive branch agencies had early and acute knowledge of Iraq's military industrialization program, Iraq's weapons manufacturing establishments and Iraq's technology procurement network. You must also understand that the Committee could not effectively execute its oversight function without revealing, in the broadest context possible, that the CIA and other executive branch agencies knew of Iraq's military industrializations plans, were aware that U.S. technology was being sent to Iraqi weapons factories and were aware of Iraq's clandestine procurement activities. Many of these facts are available from public sources.

Since May 15, 1992, the Central Intelligence Agency, the National Security Council, National Security Agency, Defense Intelligence Agency, the State Department, the Department of Defense, the Treasury Department, the Commerce Department and the U.S. Customs Service, invoking the Attorney General's letter of May 15, 1992, have all refused to discuss classified information with the Banking Committee or to provide the Committee with classified documents. In effect, the CIA is criticizing me for not discussing classified matters, while at the same time, the CIA refuses to discuss classifed matters with me.

I do appreciate your verifying that the CIA did not begin assisting prosecutors in Atlanta, until "late summer 1990." Of course "late summer 1990" means after Iraq's August 2, 1990 invasion of Kuwait. I stand by my assertion that the intelligence community was not forthcoming with information related to BNL, Matrix-Churchill Corporation and Iraq until after the invasion of Kuwait.

The fact is that six known Iraqi front companies and many other notorious firms assisting Iraq's weapons programs were the beneficiaries of BNL loans. The fact is that 10 government agencies, including offices within the DOD that work closely with the CIA, were all in Atlanta investigating various aspects of the BNL's relationship with Iraq. Numerous press reports linked BNL-Atlanta to Iraq's procurement network, Iraq's military industrialization and weapons programs. While I will certainly accept hard evidence to the contrary, I find it difficult to conclude that CIA information on these topics, which was plentiful well before "late summer 1990," was not purposely withheld from prosecutors in Atlanta.

I am willing to investigate this issue in more detail. In order to facilitate consideration of this question, I respectfully ask that you provide the Committee with a copy of CIA's policy on sharing information with other government agencies, particularly law enforcement agencies and banking regulators. Also, please provide copies of all documentation supporting your assertion as well as any distribution lists associated with germane CIA documents on Iraq, BNL and Matrix-Churchill that were created prior to the Iraqi invasion of Kuwait. The Banking Committee will be happy to report to you on its findings related to this point.

I must also express my disappointment in learning, from a New York Times article, of the existence of a National Intelligence Review on Iraq, dated November, 1989, that contained information on BNL and Iraq's procurement networks. As you are aware, the Committee had asked the CIA for access to any reports containing information on BNL and Iraq's procurement networks. For some reason that report was never brought to the attention of Committee investigators.

Your assistance in furnishing the information requested herein will be greatly appreciated.

Thank you for your time and consideration of this request.

Sincerely,
HENRY B. GONZALEZ,
Chairman.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, July 24, 1992.

Hon. HENRY GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your letter of 7 July, we have reviewed the memorandum entitled "Iraq-Italy: Repercussions of the BNL-Atlanta Scandal" to determine whether it can be declassified. We have determined that nearly all of the document can be declassified, although we have had to make some very limited exclusions to protect sensitive intelligence sources and methods. The sanitized document is enclosed. We have done this as part of a continuing effort to cooperate with your committee.

We also have determined that your statement in the Congressional Record on 7 July

1992 included information from a TOP SECRET compartmented and particularly sensitive document dated 4 September 1989 to which we gave your staff access. Because of the sources and methods underlying that information, I will ask for a damage assessment to determine the impact of the disclosure.

I regret that you chose to discuss information from classified documents without attempting to determine if we could work out a way to satisfy both our need to protect intelligence sources and methods, as well as your need to make public information concerning the development of US policy toward Iraq.

I must also take strong exception to your statement in the Record that, "The lack of CIA cooperation with the prosecutors in Atlanta was a calculated administration effort to conceal the true nature of the BNL scandal and to hide the level of Iraqi Government complicity in the scandal." In fact, the CIA has cooperated completely with the prosecutors in Atlanta. We received and responded to several Department of Justice requests for information beginning in late summer 1990 providing, among other things, Directorate of Intelligence finished intelligence reports; raw intelligence reports; copies of articles from the foreign press; and Foreign Broadcast Information Service reports. We also provided special briefings for senior Department of Justice attorneys and have provided additional, responsive information as it has become available. Although we are unable to determine the value of CIA information to the prosecutor, the facts will show that we have been completely responsive to all requests we have received.

This Agency's consistent policy has been to cooperate, when requested to do so, with all Department of Justice prosecutions. If evidence to the contrary has come to light during the course of your investigation, I ask that you provide me with facts sufficient to permit inquiry into whether a violation of Agency policy has occurred. If no such evidence exists, I urge that the record be promptly corrected.

Sincerely,

ROBERT M. GATES,
Director of Central Intelligence.

Enclosure.

DIRECTORATE OF INTELLIGENCE, NOVEMBER 6, 1989

IRAQ-ITALY: REPERCUSSIONS OF THE BNL-ATLANTA SCANDAL

Summary

The revelation that a US branch of an Italian bank, Banca Nazionale del Lavoro (BNL), granted more than $3 billion in unauthorized letters of credit to Iraq has had wide-ranging repercussions for Iraq and Italy. For Iraq, public disclosure that is used some of the credits to acquire military-related technology has impeded procurement efforts, and the suspension of BNL credits has slowed civilian reconstruction and development projects. For Italy, the BNL scandal has cast at least a temporary shadow on Prime Minister Andreotti's new government, raised questions about public-sector enterprises, and reopened the issue of privatization.

The affair is unlikely to have a major impact on Iraqi military procurement efforts, but cash-short Baghdad probably will have to postpone plans for some civilian projects. The loss of BNL financing and, more important, any reduction in US agricultural credit guarantees because of negative publicity about the scandal probably would damage US-Iraqi commercial ties. For Iraq's part, however, the strain in political relations is likely to be short-lived, particularly if Baghdad believes US credit guarantees will be forthcoming. Iraq is eager to maintain good ties to the United States, an attitude intensified by improved relations between Iran and the USSR.

BNL-Atlanta Financing for Iraq

The Atlanta, Georgia branch of the state-owned Banca Nazionale del Lavoro (BNL)—Italy's largest bank—extended $3.2 billion in 2,500 unauthorized letters of credit for Iraq between February 1988 and July 1989. U.S. and Italian authorities have been investigating the scandal since July for violations of banking regulations and tax and customs laws.

Fragmentary reporting indicates BNL-Atlanta disbursed $1.85 billion of the $3.2 billion, including at least $800 million in letters of credit guaranteed by the US Commodity Credit Corporation (CCC). BNL headquarters agreed to release another $550 million in early October, ——— after Iraq threatened to suspend payment to Italian firms if the bank failed to honor its commitments.

BNL-Atlanta's unusual activities included: Exceeding the branch's allowable debt of $500,000 per customer.

Charging Baghdad an average 0.2-percent commission instead of the usual 15 percent for a poor credit risk.

Financing the letters of credit by borrowing from other banks for 90 to 180 days but allowing Iraq up to five years to repay.

BNL's North American headquarters in New York and the bank's directors in Rome publicly denied knowing about the letters of credit, although a BNL official in Chicago claims he notified New York and Rome several times about the unusual activity in Atlanta, according to press reports. Press reports also indicate a BNL branch in Udine, Italy referred customers exporting to Iraq to the Atlanta branch. Iraqi officials have generally denied knowledge of any wrongdoing, arguing that Baghdad is a victim in the scandal.

Iraq used some BNL credits—at least $600 million, according to British press—to buy military and dual-use technology through various front companies and legitimate firms in Western Europe. ———

British press says that BNL-Atlanta also financed Iraqi military purchases from Kintex, the Bulgarian armament company.

Impact on Iraq

The suspension of credits from BNL—by far Baghdad's largest source of credits—and disclosure in the British press that Iraq used the credits to acquire military-related technology has almost certainly complicated Baghdad's procurement efforts. We believe that increased Western scrutiny of these activities has at least temporarily impaired Baghdad's ability to acquire such technology. Press coverage and London's opposition to Iraq's control of a company possessing sensitive technology, for example, led SRC Composites to divest its advanced composites factory, according to press reports. Some other firms in the networks have gone out of business.

The loss of BNL financing has almost certainly slowed civilian reconstruction and development in Iraq. Many US and West European firms supplying goods and services to projects in Iraq were being paid through BNL ——— ——— Many of these firms have probably suspended business with Iraq until alternate methods of payment—cash, other loans, or barter—are arranged. Financially strapped Baghdad, however, is unable to meet demands by some of these firms for payment in cash, especially for expensive purchases. ——— reporting indicates Iraq has nearly exhausted available credit lines and barter opportunities.

Iraqi procurement networks

Baghdad has created complex procurement networks of holding companies in Western Europe to acquire technology for its chemical, biological, nuclear, and ballistic missile development programs. According to British press ——— one such network begins in Baghdad with the Al-Arabi Trading Company, which controls the London-based Technology and Development Group, Ltd. (TDG) and another UK firm, TMG Engineering. TDG and its Brussels-based partner, Space Research Corporation, own the Ulster-registered firm Canira Technical Corporation, Ltd. Canira in March established SRC Composites, which acquired access to advanced composite and carbon fiber technology used in aircraft and missile production. In 1987 TMG gained control of Matrix-Churchill, Ltd., the United Kingdom's leading producer of computer-controlled machine tools that can be used in the production of sophisticated armaments.

We believe Iraqi intelligence is directly involved in the activities of many holding companies funnelling technology to Iraq. ———.

Effect on US-Iraqi relations

For Iraq, any reduction in bilateral commercial ties because of the BNL scandal takes on political significance, which Baghdad—ever paranoid—tends to exaggerate. The fallout from the scandal has strained US-Iraqi relations. Baghdad is seriously concerned that the affair is adversely affecting its economic ties to the United States—the backbone of the bilateral relationship. Iraq is particularly upset that the CCC offered significantly less credit guarantees for FY 1990 than Baghdad requested because of negative publicity about the scandal. Iraq fears that any large reduction in CCC credit guarantees would make it more costly and difficult to import agricultural goods and damage its international credit rating.

Several US firms have already been affected by the scandal. ——— press reporting indicate BNL was financing at least $1 billion in sales to Iraq by US firms, including agricultural goods, an automobile plant, an ethylene plant, industrial machinery, construction materials, and irrigation equipment. Some US suppliers are worried that they will not receive payment on letters of credit that they have not yet submitted to BNL-Atlanta. Many US firms are trying to arrange other means of payment to avoid losing lucrative contracts.

The scandal has contributed to Iraq's perception that the United States is trying to hamstring Baghdad's efforts to promote better political ties. A senior Iraqi official told his US counterpart in early October that Baghdad was unhappy that Washington's decision on CCC credits is linked to the scandal, with which he maintained Iraq had no part. The official indicated this was not a sign that the United States wants to improve relations.

Baghdad is eager to resolve the BNL crisis because harmonious bilateral relations are important to its strategic planning. Iraq believes that the Iranians have not abandoned plans to oust the regime in Baghdad and wants to assure that the superpowers would back Iraq or at least remain neutral during any future hostilities. The Iraqis seek to prevent Washington from favoring Iran so much that Baghdad's interests are threatened. In Iraq's view, the superpowers regard Iran to be of greater importance in the region, and Baghdad is therefore trying to enhance Iraq's political and economic importance to the United States.

Impact on Italy

The BNL affair—in combination with other scandals—has cast a shadow on Prime Minister Andreotti's three-month-old government. Partly to divert attention from the BNL affair, the Socialists and some Christian Democrats are playing up other scandals, including renewed allegations that the Italian military covered up evidence concerning the 1980 crash of an Italian airliner north of Sicily. None of the governing political parties or their factions, however, appears now to believe it can strengthen its relative positions by exploiting the issue.

The scandal has also spotlighted the cost of Italy's longstanding and entrenched spoils system in the state-owned enterprises. Traditionally, appointments to key positions in public-sector companies have been allocated as a measure of party and even factional influence. Under this system, the president and several directors of BNL are members of the Italian Socialist Party, while the executive director usually comes from the Christian Democratic Party. Several backbenchers in parliament quickly denounced the spoils system for not allowing the most competent people to fill public-sector jobs. The attacks, however, have been discounted as political sour grapes, and the system shows no signs of collapse.

In light of the BNL affair, Treasury Minister Carli has renewed his efforts—against admittedly long odds—to enlist support for privatizing state-owned banks and other public-sector corporations. Carli believes the breakdown in supervision at BNL is all too typical of the quality of Italian public-sector banking. In his opinion, privatization would force Italian banks to narrow the current 6-percentage-point spread between interest paid to depositors and that charged to borrowers—a prerequisite if Italian banks are to do well after the EC dismantles capital controls next year.

The discovery of BNL's exposure in Iraq forced the bank to seek funds to boost its capital, which the Bank of Italy already considered too low. If Iraq defaulted, BNL technically would have been bankrupt because the amount of its loans to Iraq exceeded the bank's capital. In that event, the Bank of Italy and the Treasury Ministry would have been compelled to bail out the bank. Rome was stymied in finding a Socialist-controlled institution to recapitalize the bank by itself, and the government in October finally cobbled together a $1.7 billion package from the Treasury, a state-owned insurance company, and the Social Security Fund, thus maintaining a Socialist majority on the BNL board of directors.

We believe the revelations of BNL's dealings with Iraq—along with other recent scandals—stand in counterpoint to growing Italian self-confidence on the international stage in recent years. After more than three decades of international diffidence, we believe Italian leaders have been pursuing a diplomatic profile more commensurate with their country's international economic role. Italians have felt particular pride because:

Italian troops in the Beirut peacekeeping forces had fulfilled their mission as defined by Rome.

The Italian decision to accept U.S. cruise missiles played a decisive role in swinging West Germany behind deployment.

Their country's GDP had surpassed that of the United Kingdom and possibly France.

In the opinion of almost all Italian press commentators, the BNL affair had a negative impact on Italy's credibility throughout the West. We believe, however, that the setback to Rome's international standing has been substantially less than that portrayed in the Italian press, and we expect the scandal will gradually fade from public view within Italy and will have little lasting impact on the country's perception of its international role.

Outlook

We believe Iraq will work hard to establish new military procurement networks to replace those disclosed by the press and by the U.S. and Italian investigations as part of the fallout from the BNL affair. Baghdad highly values these networks to obtain technology that might otherwise be denied to it if the end user or purpose were revealed. Because of renewed Iraqi efforts and the likely existence of other networks that remain undetected, we do not believe that Iraq's covert procurement efforts will be set back seriously.

The drying up of this major financial source—at least for the next several years—will probably force Iraq to scale back ambitious civilian reconstruction and development plans. Baghdad probably formulated some economic plans under the assumption that BNL-Atlanta would continue to issue letters of credit on its behalf. Iraq will be unable, however, to replace BNL financing any time soon. Most commercial banks and foreign governments are likely to remain unwilling to grant or guarantee significant new credits to Baghdad until it repays more of its $45 billion non-Arab foreign debt—a low priority to Iraq. Furthermore, Iraq has over extended its barter commitments and will probably be reluctant to engage in many more such deals.

The BNL affair will probably have only a minimal impact on Italian-Iraqi relations. The scandal is unlikely to cause more than short-term political friction unless BNL fails to disburse the remaining letters of credit. Even then, Baghdad would probably employ economic—not political—means to punish Rome. Continued Iraqi threats to suspend payment to Italian firms if Rome fails to release the promised BNL credits will almost certainly be effective against the Italians, who have already agreed to release some of the undisbursed credits and have backed down in the past in the face of threats from other countries.

We have detected no sign of flagging Italian interest in Iraq, although we expect that Italian banks will scrutinize export financing and other credits for Baghdad more carefully. The Italians are maintaining existing levels of oil imports from Iraq while still trying to boost exports. Italian-Iraqi relations will continue to be strained, however, by the dispute over the delivery of Italian warships to Iraq, which is unlikely to be resolved any time soon because of Iraqi demands for additional financing for the ships and Iranian threats of retaliation against Italy if the ships are delivered.

Implications for the United States

The BNL scandal is likely to lead to a reduction of US-Iraqi commercial relations, particularly if CCC credit guarantees are decreased. Any loss of CCC credits probably would reduce Iraqi's food imports from the United States because Baghdad prefers to buy on credit. Iraq probably would turn to Australia and EC countries—which lost sales when the United States became Iraq's top Western agricultural supplier in 1983—as well as traditional suppliers Turkey and Brazil. Many of these suppliers are already trying to profit from the BNL scandal by boosting agricultural sales to Iraq at US expense. Furthermore, the banks's continued refusal to disburse remaining credits probably would prevent some US firms from implementing contracts with Iraq.

The strain in US-Iraqi political relations caused by the BNL scandal will probably be short-lived, particularly if Baghdad believes additional US credits will be forthcoming after the dust of the investigation settles. Iraq is eager to maintain good ties to the United States, an attitude intensified by improved relations between Iran and the USSR that make Baghdad uneasy. Iraq probably also believes that strained political relations would complicate its efforts to acquire US technology and credits in the future. We anticipate that Iraq will work hard to overcome the current frictions by offering commercial opportunities to the United States and lobbying US business and government officials.

Although the BNL affair embarrassed the Italian Government and banking sector, we do not believe it will not have a major impact on Italian relations with the United States. Rome appears satisfied to date with the cooperation of the US investigating agencies and appreciates the low-key manner in which Washington has reacted. BNL will probably close its Atlanta office and may suffer a loss of business in financing exports for US companies.

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, July 30, 1992.

Chairman Henry B. Gonzalez of the House Banking, Finance and Urban Affairs Committee charged today that the intelligence community is being enlisted to help the Bush Administration deflect attention from failed policies involving Iraq.

Mr. Gonzalez said he had received two recent letters from the Central Intelligence Agency complaining about public disclosure of the intelligence community's knowledge of Iraq's ambitious military industrialization program. The letters were written to Mr. Gonzalez by Robert M. Gates, Director of Central Intelligence, and Admiral W. O. Studeman, Acting Director of Central Intelligence.

"These letters have all the appearance of warmed over versions of earlier complaints from Attorney General William P. Barr," Mr. Gonzalez said. "Like the Attorney General, Mr. Gates is fully aware that my public statements and revelations have been carefully handled and have not in any manner breached the security of ongoing intelligence efforts."

Mr. Gonzalez said he was "extremely disappointed that the Central Intelligence Agency was allowing itself to be used to build a smokescreen around the President's flawed policies. The CIA should be above involving itself in the political problems of the Administration. The American people deserve a full explanation and exposition of the pre-war policies and the CIA should not leave the impression it is willing to help cover up the facts."

(Letter attached.)

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, July 30, 1992.

Mr. ROBERT GATES,
Director, Central Intelligence Agency, Washington, DC.

DEAR MR. GATES: The Committee on Banking, Finance and Urban Affairs has been investigating the Atlanta branch of the Italian government-owned Banca Nazionale del Lavoro (BNL) and its unauthorized loans to the government of Iraq of more than $4 billion. The Committee has in its possession a copy of the following documents:

1. A seven page memorandum entitled "*Iraq: No End in Sight to Debt Burden*" dated April 12, 1990; and

2. A four page letter from Mr. Stanley M. Moskowitz, Director of Congressional Affairs, to me dated November 12, 1991.

The Committee believes that it is important that the American people be informed of the contents of these documents.

The Committee respectfully requests that the Agency furnish the Committee with declassified copies of these documents.

The Committee appreciates your cooperation in ensuring that the classification review is completed and furnished to the Committee by Thursday, August 6, 1992. If you have any questions, please contact Ms. Debra Carr or Mr. Dennis Kane of the Committee staff at 225-4247.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

REDUCING S&L BAILOUT COSTS AND RESTORING CREDIT AVAILABILITY: THE FACTS ABOUT SUPERVISORY GOODWILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 60 minutes.

Mr. LAFALCE. Mr. Speaker, on July 2, the Committee on Small Business began a series of hearings to explore the impact of thrift and bank capital standards on credit availability for small business. I would like to take this opportunity to share with my colleagues my thoughts on some of the major issues on which we are hearing testimony.

Those issues include the treatment afforded the supervisory goodwill held as an asset by many thrift institutions, and the clear impact of that treatment on the level of funding required for the Resolution Trust Corporation [RTC], the closure of thrift institutions around the country, and the overall health of our economy.

This body has recently recognized the credit availability problems that are the clear consequences of a rigid implementation of new thrift capital standards by extending the time period granted thrifts to write off real estate subsidiary capital. That change has merit and should be permanently embraced. But the same arguments justifying new flexibility in this context are equally if not more legitimate in the context of supervisory goodwill.

As a result of the enactment of the Financial Institutions Reform, Recovery amd Enforcement Act [FIRREA] in August 1989, many thrift institutions throughout this country have been required to write off an asset called supervisory goodwill on the sharply accelerated basis demanded by the statute. As a result, thrift institutions that would otherwise be considered solvent or viable are being classified as institutions that need to be "resolved"—in effect, closed—by the RTC.

The damage done by these so-called resolutions is substantial and nationwide. They led to the closure of financial institutions in our communities; a substantial reduction of lending capacity in the midst of a serious credit crunch; and the economic elimination of the equity and debt securities owned by the shareholders and bondholders of those institutions. Small business owners, who must rely disproportionately on banks and thrifts for financing, have been particularly hard hit. Those wanting to start up or expand smaller enterprises simply could not find the necessary capital from the lenders on whom they had traditionally relied.

There have been yet other adverse consequences. Large quantities of real estate and other assets were dumped into the market, thereby depressing the values of properties owned by healthy financial institutions and others, and reducing the State and local tax revenues generated by those properties. Experienced and taxpaying employees were put out of work, creating dislocation in families and communities, and placing stress on local economies.

Finally, U.S. taxpayers in general were seriously disadvantaged. As we moved unnecessarily and abruptly to close institutions whose situation was clearly improving and who could survive unassisted by Government money if only the timetable for compliance with new standards were more reasonable, we dramatically increased the cost of the S&L bailout to the American taxpayer.

These costs will now increase yet again. Just a few days ago, the U.S. Claims Court ruled that the supervisory agreements entered into between the Federal Home Loan Bank Board and Glendale Federal Bank and Statesman Savings Holding Corp. constituted binding contracts which were breached, and that this breach of contract clearly entitles the institutions to damages or restitution. This is an argument that I made from the very beginning. As I emphasized at the time of our consideration of FIRREA, the Government can breach contracts, but not without paying the price.

The bill is now coming due. The refusal of the administration and this body to devise reasonable transition rules that acknowledge and attempt to reasonably address preexisting rights has already led to costly litigation, and is now leading to damage awards that will only increase the taxpayer cost associated with the bailout. More cases of the same nature are pending. If the Congress approves even more money for the RTC without making the necessary adjustments, litigation will continue, and more damage awards will follow.

Hence, the subject of goodwill, while a technical one, is hardly a theoretical one. I would like to elaborate on the history of this issue, explain in more detail the implications of the pending litigation, and focus attention on the decisions we confront at this point.

I. THE HISTORY OF THE SUPERVISORY GOODWILL PROBLEM

The subject of goodwill or supervisory goodwill has arisen repeatedly in the Congress over the last 4 years—in 1989, during consideration of FIRREA; again in 1991 in connection with the Federal Deposit Insurance Corporation Improvement Act [FDICIA]; and now again this year in connection with RTC funding. Fundamental disagreement about the way the issue was handled in FIRREA remains one of the major reasons RTC funding has been delayed.

As many of you are aware, a goodwill buyback bill has been proposed by others that would authorize an expenditure of up to $2 billion for the repurchase of supervisory goodwill from institutions that might reasonably be expected to survive with a capital infusion. Proponents of the buyback approach argue forcefully that the expenditure of $2 billion could save taxpayers between $10 to $20 billion of funds that have already been requested by the RTC to resolve a number of institutions with supervisory goodwill on their books.

Earlier this year, I introduced a bill, the Credit Availability Act of 1992, that would provide goodwill institutions with something just as valuable, time. Prior to FIRREA, thrift institutions had 25 to 40 years to write off the goodwill they had acquired in supervisory acquisitions. It is very instructive to recall that the original administration proposal would have provided 10 years. The Congress and the administration, caught in an ever-escalating bidding war regarding who could be the toughest on the industry, eventually provided 5 years, with an immediate phaseout of goodwill as tangible capital.

Tough new capital standards were necessary and appropriate. But a reasonable transition rule was imperative if our economy was not to suffer and credit was to remain available.

I therefore strongly opposed the precipitous application of the new standards, arguing that the result would be to maximize the number of institutions closed and to dramatically increase the taxpayer cost of this bailout. Subsequently, as I predicted, we have been faced with ever higher funding requests for the RTC.

My current proposal would simply give discretion to the Office of Thrift Supervision [OTS] to grant a modicum of additional time to qualified institutions to phase out their goodwill. The effect of the legislation would be to save the taxpayer the unnecessary cost of resolving those thrifts that meet a number of stringent conditions: are profitable; are increasing their capital ratios; are in compliance with any capital plan otherwise required; pose no risk to the insurance fund; have competent management; meet the credit needs of their communities; are not paying dividends without regulatory approval; and are in compliance with all applicable laws, regulations, orders, and supervisory agreements and directives.

I believe that taxpayer cost savings associated with this change could be as much as $40 to $50 billion.

A. THE ORIGIN OF SUPERVISORY GOODWILL

It is important to recall how this problem arose. Most institutions with supervisory goodwill on their books acquired it through contracts they entered into with the Government. I would like to spend a few minutes on this point, because it has been a source of concern to me ever since we first began consideration of the FIRREA legislation.

It is often said, and apparently commonly accepted, that the goodwill or supervisory goodwill we are now talking about is the creation of Federal thrift regulators who, in the early 1980's concocted this accounting gimmick as another form of regulatory accounting [RAP]. This is simply untrue.

Goodwill is not a creation of the Federal thrift regulators. Goodwill was and is an established accounting concept recognized under generally accepted accounting principles [GAAP]. Since at least 1946, generally accepted accounting principles have required that when an acquisition meets the criteria for purchase method accounting, as opposed to the pooling method, the surviving institution must record as goodwill the difference between the cost of the acquired company and the fair value of the acquired company's tangible and intangible assets less its liabilities. Accounting Principles Board Opinion No. 16. To this day, when one company acquires another company and the cost of the company acquired exceeds the fair market value of its assets minus liabilities, the difference is booked as goodwill.

This concept is not unique to the financial institutions industry. This concept was not concocted by Federal regulators. This concept applies to all industries and to all combinations—accounted for as a purchase—currently.

Indeed, as many Members are aware, the tax treatment of the goodwill generated with respect to different classes of assets in acquisitions is currently a subject of great debate within the Ways and Means Committee of this House. That tax debate regarding goodwill, like the current issues regarding the supervisory goodwill of thrift institutions, involves billions of dollars and potentially significant changes in industry structure.

If goodwill was not merely a gimmick, how has the concept of supervisory goodwill somehow gotten an unseemly reputation in connection with thrift institutions? To consider this issue, it is necessary to review the history of the early 1980's.

B. THE ORIGIN OF THRIFT INDUSTRY PROBLEMS

In the late 1970's and early 1980's, the country was experiencing rapid inflation. Interest rates were rising and there was mounting public pressure to relax the artificial constraints on deposit rates, Regulation Q of the Federal Reserve Board. Indeed, depositors voted with their feet in this regard by shifting massive quantities of funds from insured savings accounts in thrift institutions and banks to higher yielding investments, such as money market mutual funds and Treasury securities.

As a result of these consumer and economic pressures, deposit rate controls began to be dismantled at a time when interest rates were averaging 12 percent to 14 percent. At the same time, the average interest rate on assets for thrift institutions, invested primarily in 30-year fixed rate mortgages, was 7.5 percent. Obviously, an institution cannot pay 14 percent on its deposits liabilities if its assets are earning 7.5 percent. This mismatch or negative spread resulted in a deduction from the thrifts' capital account.

In 1980, thrifts had net worth or capital ratios of approximately 6 percent, as high as those of the commercial banks. But thrifts, unlike commercial banks, could not adjust their loan portfolios to shorten the maturities of their assets quickly enough and in the volume necessary to earn a return on assets equal to the cost of their liabilities. Thus, the capital base of the thrift industry eroded to a much greater extent than that of the commercial banking industry. By 1982, it was estimated that the thrift industry capital base had eroded to 4 percent, and by 1985 it was down to 3 percent.

Unfortunately, the thrift insurance fund, the FSLIC, was equally unprepared for the situation resulting from high interest rates in the early 1980's. As thrifts' capital base shrank, and their inability to adjust the maturities of their assets to their liabilities changed only gradually, the FSLIC recognized that its potential liabilities for thrift insured deposits far exceeded the size of the FSLIC fund.

Consequently, the members of the Federal Home Loan Bank Board, as directors of the FSLIC, did what any Government official would do, when it was clear that no additional funds would be forthcoming—they used the tools at hand, namely recognized accounting principles, to their advantage. Their judgment can be questioned, but they acted for a good reason. They chose to use the supervisory goodwill concept in order to encourage supervisory mergers, that is, mergers in which a healthy thrift would acquire an insolvent or significantly less healthy thrift. The theory was that the cost of a supervisory merger to the Government was significantly less than the cost of the traditional liquidation. It is a theory still worth considering.

A review of the transcripts of the FHLBB meetings of the day reveals that Government officials entered into transactions to "save money for the people of the United States, through a savings to the FSLIC." To do this, traditional methods of resolution—spending FSLIC funds to make acquirors whole in taking over institutions whose liabilities exceeded their assets—were not used because they could not be used: The FSLIC did not have the money and was not being given the money. Instead the regulators allowed the goodwill generated in a purchase transaction, and booked in accordance with GAAP as an asset on the acquiror's balance sheet, to be included in regulatory capital.

Through this method, the FSLIC saved the Government the cash outlay traditionally associated with an assisted acquisition—cash that FSLIC did not have. The effect of these transactions was to shift onto one taxpayer—the acquiror—the burden of all taxpayers to make good on the Government guarantee of insured deposits. Acquirors took on this burden, without any cash, because they received Government assurances, in the form of the assistance agreements, that they would have between 25 to 40 years to work out the difficulties of the failed institution and because the Government assured them that the goodwill asset would be included when calculating capital under the Government's regulatory capital rules.

I am not arguing that supervisory goodwill is a valuable asset that should legitimately count toward capital on an ongoing basis. Doing that clearly was fraught with difficulty. It was a device the Government used to buy time; a device that enabled acquirors who would otherwise have been unable to do so—because the Government had no money with which to fill the hole in the acquired institution—to participate in legitimate supervisory transactions that inured to the Government's benefit. These contracts deserved to be honored; at the very least, they do not deserve to be precipitously preempted. The courts seem to agree.

Moreover, time is itself a valuable tool. We have only to look at the serious economic recession that has been produced by our recent unwillingness to take a reasonable amount of time to effect the transition to new thrift capital standards to see how invaluable a less extreme approach would have been.

The purpose of supervisory goodwill is well summarized in the following extract from a written statement submitted by Richard T. Pratt, the former Chairman of the Federal Home Loan Bank Board, on October 1, 1990 to the House Committee on Banking, Finance and Urban Affairs:

> The Bank Board was caught between a rock and a hard place. While it did not have sufficient funds to close all insolvent institutions at the same time, it had to consolidate the industry, move weaker institutions into stronger hands, and do everything possible to minimize losses during the transition period. Goodwill was an indispensable tool in performing this task. The GAAP approach to purchase accounting mergers provided a bridge which allowed the Bank Board to encourage the necessary consolidation of the industry, while at the same time husbanding the financial resources which were then available to it.

This quotation also emphasizes another important aspect of this issue—that is, that, in many cases, the Government induced institutions to enter into the arrangements that resulted in supervisory goodwill. These arrangements were entered into at the behest of the Government. In fact, in many cases they were entered into under some pressure from the Government. The Government was confronted with a desperate situation. It is ironic to note that the Government was bailed out by private industry, and not the reverse.

Thus, if there are any negative connotations attached to goodwill, I submit it is because of the Government's conversion of its cash obligations into this recognized accounting concept and the subsequent convenient lapse of memory that the Government—including the administration and, to some extent, the Congress—seems to have with regard to the origins of supervisory goodwill.

II. THE PRESENT SITUATION

Where do things stand now? I would like to provide you with some details regarding the number of institutions with goodwill on their books; their prospects for survival if some action on goodwill is taken by the Congress; and the likely impact on these institutions and the costs of resolution—that is, the authorization of arguably unnecessary levels of funding for the RTC—if no action is taken along the lines I am suggesting.

A. THE NATURE OF THE INSTITUTIONS AT RISK

Based on December 31, 1991 data from "Thrift Financial Reports," there were 247 thrifts reporting $4 billion of supervisory goodwill on their books. This number is down significantly from the March 31, 1990 data, when there were 359 institutions reporting supervisory goodwill of $6.4 billion. Let me emphasize once again that this $6.4 billion represents funds which these institutions spared the Federal Government from spending.

These institutions took on more than $6.4 billion in liabilities which the Government did not have funds in its insurance fund—designed to protect the public—to assume.

These figures are necessarily understated. Publicly available data does not distinguish between so-called qualifying supervisory goodwill and nonqualifying supervisory goodwill. The thrift financial reports capture only qualifying supervisory goodwill. Nonqualifying supervisory goodwill is supervisory goodwill that is in excess of the amounts that FIRREA permits to be counted in calculating core capital.

The result is that the foregoing figures do not include all the goodwill generated in supervisory goodwill transactions because a significant portion of that goodwill became nonqualifying because of reductions in qualifying supervisory goodwill mandated by FIRREA. Further, the figures do not include supervisory goodwill that institutions voluntarily elected to write off ahead of schedule. In short, the publicly reported data systematically understates both the loss to the industry and the benefit to the Government of the goodwill transactions between 1980 and 1989.

Another reason for the reduction in the amount of supervisory goodwill outstanding is the reduction in the number of institutions remaining outside of RTC control. Closing approximately 700 institutions, some of which had qualifying supervisory goodwill on their books, has also eliminated a significant amount of qualifying supervisory goodwill from the publicly available data. Supervisory goodwill has also been reduced as a result of amortization. In sum, the numbers that I am giving you are necessarily quite conservative.

The 247 institutions presently reporting supervisory goodwill had total assets of approximately $420 billion—about half the assets of the total industry—and supervisory goodwill in the amount of $4 billion. These institutions include thrifts of all sizes, ranging from the largest with $24 billion in assets to the smallest with less than $20 million in assets. They are located in 44 States plus the District of Columbia and Puerto Rico. The institutions employ in excess of 100,000 people with a combined payroll of $3.437 billion—excluding benefits. This is not an abstract problem—100,000 working Americans are being directly affected by this technical issue.

A lot of discussion has focused on whether any, some, or all of these institutions can, or should, be saved. Again the data is useful. The 247 institutions can be divided into three groups. One group consists of institutions that have serious problems even without the supervisory goodwill. These are defined as those thrifts that failed their core capital requirement as of December 31, 1991 even if supervisory goodwill were included in the capital computation. There are 29 institutions in this group. Another group consists of institutions that will survive regardless of supervisory goodwill. These are defined as those thrifts that had in excess of 4 percent core capital as of December 31, 1991 even if supervisory goodwill were excluded. There are 135 institutions in this group.

The third group is the critical group for purposes of this analysis. It consists of thrifts for which the continued inclusion of supervisory goodwill in capital could make a difference in their ability to continue to survive. These are defined as those thrifts that met their current core capital requirement as of December 31, 1991 but would have failed a 4 percent core capital percent requirement if supervisory goodwill had been excluded. There are 83 institutions in this group.

Who are these institutions? I have not seen the listing of institutions in groups III and IV, a confidential list of the OTS, but based on their numbers, it is a reasonable assumption that all 83 institutions are somewhere in these bottom two groups of the industry. What do we know about these institutions? Based on the data, we know that they are profitable institutions, reporting positive return on assets [ROA] and that they met their core capital requirement as of December 31, 1991. We also know that, as supervisory goodwill continues to be reduced in accordance with the accelerated FIRREA schedule, these institutions will have greater difficulty in meeting their future capital requirements. Finally, we know that these 83 institutions have total assets of $153 billion and that the supervisory goodwill they are reporting is approximately $1.8 billion.

B. THE ARGUMENT FOR RELIEF FOR THE GOODWILL INSTITUTIONS

Should we let these institutions fail? Should we oppose some reasonable and measured form of relief for these institutions? I think not.

If Congress were merely to provide some modest relief for those institutions that have a reasonable probability of success, the American taxpayer would be saved the resolution expenses associated with closing these institutions. Looking at the 83 institutions that I have been discussing whose total assets equal $153 billion, and using the historical data on resolution costs published by the RTC, which are between 25 to 35 percent of total assets, a rough estimate of the cost of the resolution of these 83 institutions would be between $40 and $53 billion.

While the likely cost would be lower than this amount since these institutions are probably higher quality thrifts than those that have already failed, the resolution costs would clearly still be substantial. Thus, a very sound reason for not letting these institutions fail, and for supporting the kind of approach that I am advocating, would be simply to save massive amounts of money for the American taxpayer.

Various objections can be raised to these savings estimates. Some will argue that it is always cheaper not only to close down troubled institutions but also to do so as soon as possible. Others will emphasize that this calculation does not take into account the ongoing operating losses of the troubled institutions. The administration has been arguing that the Congress' failure to fund the RTC is costing the taxpayer millions of dollars per day.

I find—and I believe many of my colleagues on both sides of the aisle find—objections of this sort highly dubious. It is irresponsible and certainly counterintuitive to assume that it is always cheaper to close down institutions. The institutions that I just described are making money, they have positive returns on assets, and they meet their core capital requirement. Moreover, with the current rate environment—short-term rates on their liabilities at 3 to 4 percent and longer term rates on their assets at 8 to 9 percent—they are building their reserves and generally strengthening their franchise.

A liquidation strategy has clear costs of its own that we cannot continue to disregard. Closure involves sales of assets at depressed, and sometimes fire-sale prices, as well as the attendant costs of government administration of the assets.

In addition, the regulators' calculations of the amounts to be saved if an institution is resolved are derived from computer models whose relation to the real world is the subject of increasing debate. We have only to consider the very different projections we have recently heard from different executive agencies as to the number of financial institutions likely to fail in various future periods. The disparity in the projections is enough to suggest at least some caution, if not a general skepticism, in assessing the predictions of the regulators regarding the losses to be suffered if institutions are not resolved.

Furthermore, we must consider that the figures that we have from the regulators do not, at least as to goodwill, even break down the goodwill into qualifying supervisory goodwill and goodwill generated in nonsupervisory transactions, nor do those figures divide institutions into the types of categories I have discussed. Until now we have not had information that even allows us to think clearly about whether some relief with respect to goodwill might be effective, which institutions it would affect, and in what ways. We have not, in the correct sense of the word, been able to discriminate.

Most of the data that we have had from the regulators, perhaps understandably, has been organized so as to support the case that substantial additional funds must, at the earliest possible date, be appropriated for the RTC. Nothing we have received, either by way of data or analysis, questions the underlying assumptions on which these predictive computer models are based. These models seem to be primarily, if not exclusively, financial models, that do not take into adequate account the externalities—in commonsense terms, the side effects.

What side effects? Allow me to elaborate. These models do not take into account the effects of loss of employment on the community; of loss of tax revenue to the system; of the loss of value in the institution's securities and assets; of the cost of claims against the Government under the goodwill litigation which I will discuss in a moment; and so forth. I doubt seriously that these effects are properly considered and I am not prepared to concede that there are valid objections to the savings calculations that I have given above unless we are adequately informed as to the weight the Government gives to these important side effects.

These enormous side-effects are of a special interest to me as the chairman of the Small Business Committee because of our committee's concern about two important issues. The first is a concern about the availability of all forms of credit to small business owners. The second is a concern about Government actions that reduce the types and levels of economic activities that are particular sources of profitability to small businesses.

The placing of a profitable and viable financial institution into conservatorship or receivership produces a serious downward pressure on local credit availability and on sources of small business income. Typically, an institution in conservatorship experiences a withdrawal of deposits. Putting all other factors aside, this reduces or terminates new lending, thereby restricting local credit availability. In a receivership, employees typically are laid off. At the very least, they reduce their personal budgets, reducing the income of local businesses. At the same time, the trade contracts and other administrative expenditures of the institution are reduced or terminated. Local businesses also suffer a restriction in income because of these cutbacks.

I need not belabor this point or sketch out all the negative effects that flow from the interrelationships in local economies. It is our common experience that when a local employer and lender ceases to be an active player in the market, economic activity contracts for small businesses.

Some financial experts will argue that, notwithstanding all that has been said, in the larger perspective it is in the country's best interest for depository institutions to undergo further consolidation. Since existing law in regard to supervisory goodwill will tend to hasten the greatest level of consolidation, some have argued, we should not change existing law by providing greater flexibility for viable institutions.

I find this argument unduly Darwinian and unjustifiably costly to the American taxpayer. It will cost the American taxpayer as much as $40 to $50 billion more in resolution costs if no change is made to existing law. This is a great deal of money to be spent in order to achieve in very short order some abstract consolidation goal that will almost certainly be reached in any event—and with less disruption and at less expense—as a result of natural market forces. It is highly questionable whether we should spend large sums of taxpayer dollars to hasten or accelerate that natural process, whatever one's views on industry consolidation.

All of the issues I have reviewed argue strongly for some relief for goodwill institutions. But, perhaps most important, is the fact that a refusal to provide some reasonable flexibility in the treatment of goodwill represents a further breach of the public trust. Institutions holding supervisory goodwill are the ones which assumed the Government's expenses when the Government could not pay its obligations to insured depositors.

The transactions which occurred in the early 1980's can be viewed in one of two ways—and either argues strongly for redress. An analogy can be made to private industry granting the Federal Government a loan—which now private industry needs repaid. If the Congress for reasons of fiscal responsibility decides that it cannot now repay the loan, the only just and sensible thing to do is stretch out the time period over which these institutions must attain present day standards of capital compliance.

Alternatively, those earlier transactions can be viewed as the Government's granting the industry a loan, which the Government promised could be repaid over 25 to 40 years—and which no rational business would have accepted unless it could be repaid over such a time period. Yet now the Government not only insists on calling the loan after only 5 years but also insists on putting borrowers into bankruptcy if they cannot pay off the loan according to the new schedule. Looked at in that light, it is certainly reasonable if the Government now chooses to put the borrowers into bankruptcy only if they would go into bankruptcy regardless of whether the loan were called or not; and, clearly sensible to allow some more time to the business that could make it, but for the fact that the loan was—contrary to the Government's written promises—accelerated.

III. THE IMPLICATIONS OF THE CLAIMS COURT DECISION

Given the direction the courts are now taking there is another obvious and compelling reason for providing some relief in this area—simple self-interest. Thrift institutions disadvantaged by the Government's reneging on its contracts have acted predictably—they have sought redress in the courts. It appears that a number of them may achieve the relief that they seek; and, any damages awarded will only increase Government and taxpayer costs. The current writeoff schedule mandated by FIRREA simply runs the risk of continuing to drive up the Government's damages.

There is some serious doubt in my mind whether we have acted within legal and constitutional constraints in the past, and the Government may soon be forced to pay for its casual disregard of these constraints. Many Members may well be familiar with the recent Winstar case in which the Court of Claims held that the actions of the Government in requiring the accelerated writeoff of goodwill constituted a breach of contract entitling the plaintiffs to recover money damages or restitution from the Government. The Claims Court opinion emphasizes that the issues presented here go to the very heart of our system of government. The court's opinion makes a point that I have emphasized for some time—the Government can certainly break a contract, but it must pay a price:

> In this case, the government's power to regulate must operate within the context of the plaintiff's contract rights. While Congress clearly may alter the regulatory treatment of supervisory goodwill, it must also honor the plaintiff's rights. The government may breach the contract, but it must pay for the damages the plaintiffs suffer. Any alteration of this principle would undercut our democratic system. It would allow government policies to be paid for with a minority's rights." *Winstar Corp and United Federal Savings Bank* v. *U.S.* (slip op. at p. 10) (Cl. Ct. April 21, 1992).

The courts continue to call into question the view of the administration—and, in effect, of this body—that the government can blithely disregard its obligations without paying a price. Just last week, the Court of Claims ruled that the supervisory agreement entered into between the Government and Glendale Savings was a binding contract, the breach of which entitles Glendale to damages or restitution.

The court emphasized that "Glendale and FSLIC entered into a Supervisory Action Agreement, which manifested the Government's approval of the terms of the merger as set forth in the Merger Agreement." In the view of the court, "an express contract existed between the Government and Glendale * * * the Government and Glendale entered into an express agreement (the Supervisory Action Agreement) regarding the Government's approval and role in Glendale's acquisition of a failing savings and loan." Glendale did not embark on a gamble—it had a contract with the Government.

The court emphasized that the exercise of agency power "can * * * and continuously does, create rights on the part of private individuals that are held against and restrict government action." According to the court, to suggest, as the Government has suggested in these cases, "that an agency action cannot confer rights which the Government must honor is to suggest a notion that is as novel as it is anathema to our constitutional system."

The treatment of supervisory goodwill was, in the court's view, a clear element of that contract. As part of that agreement, "the Government manifested its intention to forbear from exercising its authority to bring enforcement proceedings against Glendale for failing to satisfy regulatory capital requirements 'following the merger.'" Moreover, the supervisory action agreement specifically "called for the use of the purchase method of accounting and the amortization of an intangible supervisory goodwill asset over periods of 12 and 40 years."

The Government did not choose to honor that contractual commitment—but that is not the end of the matter. The court made clear that "if an agreement of the government to forbear from the exercise of one of its sovereign powers is unmistakably found to be a term of a contract with a private individual, then the government cannot breach the contract without liability." The consequences of such a breach of contract rights are clear: "the government, therefore, is liable to Glendale for damages or restitution."

The level of damages ultimately depends on the degree of harm sustained, and the court views that as substantial:

> After the enactment of FIRREA in 1989, Glendale remained in compliance with all three new regulatory capital standards set forth in the Act * * * As of March 31, 1992, however, Glendale has fallen out of compliance with the "risk-based" capital standards. In addition, in calculating these three capital amounts, Glendale has been required by FIRREA to exclude considerable amounts of supervisory goodwill. In calculating its "tangible" capital, Glendale has been required to exclude from the original $734.6 million of supervisory goodwill agreed to by the parties all goodwill not amortized prior to the enactment of FIRREA * * * In calculating its "core" and "risk-based" capital, Glendale has been required * * * to deduct all but approximately $185 million of the $734.6 million of goodwill originally contemplated by the parties. Because of FIRREA, Glendale also cannot amortize over forty years the amount of goodwill that is allowable under the Act * * * FIRREA has also caused Glendale to suffer monetary loss. The exclusion of supervisory goodwill has: required Glendale to implement costly measures to compensate for the loss of goodwill from its regulatory capital amounts; constrained capital resources and thereby re-

stricted business opportunities; and adversely affected the confidence of Glendale's investors.

But these issues involve more than legalistic interpretations of contract rights—the integrity of our system is at stake. The court noted that:

> The Claims Court and its predecessor, the Court of Claims, was formed with the purpose of instilling confidence in dealing with the federal government that the government would honor its obligations to its citizens. The court was thus conceived pursuant to the idea, eloquently expressed by President Abraham Lincoln, that '[i]t is as much the duty of government to render prompt justice against itself, in favor of citizens, as it is to administer the same, between private individuals' * * * To conclude that all dealings with the government constitute nothing more than 'a very elaborate and expensive form of gambling,' is thus at variance with the very ideal upon which this court * * * and ultimately the rule of law is based.

The Government is free to choose the policy it will espouse vis-a-vis the savings and loan industry; but it must be mindful of the consequences of its choice if that choice intrudes on legal rights. The court in this case again sought to make clear a point it had made previously: "policy considerations have no part in evaluating whether the acquiring thrifts possessed contractual rights which must be honored." Quoting its decision in Winstar II, the court stated:

> The duty of this court, like any other court, is solely limited to determining the respective rights of the particular parties before it and granting relief to the parties where appropriate. It would be highly improper for this court to consider, as the government seems to suggest it do, the effect of this decision on the government's savings and loan policy. Courts are not established to make policy. Our Constitution, and the people who established that great document, gave the policy-making powers to the executive and legislative branches.

The Government must pay the legal price of the policy choices it makes, and that price could be high.

If we were to authorize a goodwill stretch out, during which a number of the goodwill institutions generate sufficient earnings to achieve capital compliance, the damages that these institutions suffered as a result of elimination of goodwill from capital would be more difficult to establish, and indeed might involve only negligible amounts. Thus, by legislating carefully now, we could still save the Government considerable expense. Alternatively, if we appropriate additional funds for the RTC and it closes these institutions and thereby incurs the cost of its resolutions, and if the Government is subsequently found by the courts to owe the institutions for damages caused by the Government's breach of contract, the taxpayer will have paid twice. This makes no sense—but it is the direction in which we are headed.

It is no answer that the Federal Government may ultimately win the case 5 or 10 years from now. In the meantime, scores of weak, but profitable and improving, financial institutions may be irreparably damaged, with consequent losses to the public they serve. And the Government may well lose the cases—in which event the cost to the taxpayer may be many times greater.

As a practical matter, the level of damages awarded in response to action the Government has already taken may well be very substantial. Continuing to operate under the same standards that the courts are calling into serious question will only exacerbate the additional costs the Government may ultimately bear.

But, whether the Government ultimately wins or loses these cases, the public loss is clear. As a matter of principle, we are seriously undercutting the faith of the private sector in the promises its Government makes. Predictably, it is now proving very difficult for the Government to interest private acquirors in negotiating with it for the purchase of weakened institutions, unless the Government provides all forms of assistance, financial and otherwise, immediately.

IV. RECENT OTS ACTIONS AND ACCESS TO THE RTC

It is imperative that we make some adjustment in the FIRREA legislation soon, since the current structure of the bailout legislation is creating pressure in precisely the wrong direction. At this point, there is a perverse incentive in the regulatory stucture that inclines the regulators to emphasize liquidation rather than rehabilitation of even viable thrifts.

Regulators are now enforcing the effects of the writeoff of supervisory goodwill with a vengeance. As we speak, the OTS is taking control of additional institutions and operating them under an RTC conservatorship. Over the last several weeks the OTS has placed dozens of additional institutions in conservatorship. As you know, while Congress has not appropriated additional funds to the RTC to resolve these institutions—that is, to merge or liquidate them—the lack of funds does not prevent conservatorships.

Why is this happening? Is there really such a dramatic need at this point to get dangerously insolvent institutions out of the system? I think not. The bad operators and the hopelessly insolvent institutions have, for the most part, long since been taken out of the system. Many of the institutions now being taken by the RTC are weak but viable, trying desperately to operate in a recessionary economy that the draconian approach we have taken in the FIRREA legislation has helped to create. Why then the continuing rush toward conservatorship?

Two reasons come to mind. First, the OTS, RTC, and the administration are frustrated that the Congress isn't providing the kind of blank check that they have requested. Second—and perhaps far more importantly—as of September 1993, the OTS will no longer have the authority to turn institutions over to the RTC.

At that point, the regulators will no longer have the ability to eliminate problem institutions from the universe of institutions regulated by the OTS by spending Treasury funds—in effect, taxpayer funds—to resolve them. After September 1993, access to the RTC and its taxpayer funding will be closed down by law and the OTS will need to turn institutions over to the savings association insurance fund or SAIF—a fund that, not surprisingly, will be very marginally funded. The Congressional Budget Office and the FDIC have recently estimated that the funding for the SAIF will be pitifully inadequate relative to the resolution costs potentially chargeable against the fund, assuming we go forward with the current resolution process and timetables.

Therefore, the pressure on regulators to get any risk—however marginal—out of the system is great. The result is that the regulators are placing enormous pressure on institutions to raise sufficient funds in the capital markets to bring them into full capital compliance in the very limited amount of time before the gate to the RTC closes. Given the state of our financial industry and the condition of our economy, such demands for a quick fix are totally unrealistic. Yet given a reasonable amount of time, many of these institutions could come into compliance.

The current effect of the pending transfer of the cost of resolutions from the RTC to the SAIF is to place unnatural pressures on both managements of affected thrift institutions and on the regulators: unnatural pressures to raise capital within time periods when the earnings of the institutions do not yet support those levels of capital; unnatural pressures to sell off assets to improve capital ratios during a period when market values for those assets are depressed, and the sales will themselves further depress those market values to the detriment of the general community; unnatural pressure to let employees go to save general and administrative expenses when one of the possible consequences is that the institution will not have sufficient experienced personnel to service its assets properly so as to maintain the value of the institution's assets, or at least to minimize losses; unnatural pressure to produce capital-raising devices that eliminate the market value of existing equity and debt securities of those institutions.

We must take the time to seriously question what we have wrought here. Is this reasonable, or even rational?

First, the Government breaches its contracts and takes a private institution's property. This destroys the institution's financial standing and renders it incapable of raising funds in the capital markets, much less achieving competitive levels of profitability. The Government then orders the institution, under penalty of the law, to nevertheless try to raise funds in the capital markets to replace the funds that the Government originally took away—diluting existing stockholders in the process. Then the Government declares the institution unsafe and unsound if it is unable to comply, issuing orders that threaten the careers and the property of the employees, officers, and directors of the institution. All this in order to avoid the risk, however slight, of possibly having to turn the institution over in the longer term to yet another unfunded Government entity—the SAIF. This appears to be little more than a complex version of the Government's robbing a man and then throwing him into jail because he is a vagrant. Is it any wonder that the RTC funding legislation is running into massive bipartisan resistance?

We must, however, acknowledge that the regulators have a real and serious problem. It clearly is not responsible for the regulators to turn an institution over to a governmental entity that is insufficiently funded when funds may be necessary from that entity for the protection of depositors. But we must recognize that the closure of the gate to the RTC is an artificial creation. It reflects a statutory deadline that we established in FIRREA and, in a subsequent statute, have already once extended. It can be extended again and there are those who argue it should be.

But, in the final analysis, the critical question is not whether RTC or SAIF funds the resolution on thrift institutions. The critical question is whether Congress will protect the taxpayer by placing on the regulators the kinds of discriminating controls that will ensure that taxpayer money is not wasted by reliance on a liquidation strategy that forces viable thrifts out of business at taxpayer expense. Until such discriminating controls are put in place, it is impossible to justify placing yet more taxpayer money at risk, whatever bureaucracy takes title to the funds.

V. CONCLUSION

My proposed approach does not provide any money to qualified goodwill institutions; it only provides time. I believe a good many of these institutions, which were the strongest and most profitable institutions when they were tapped by the Government for assisted transactions, to be able to earn their way out of their present difficulties, even under a much shortened time frame. I think we should give them, and their employees, and their communities, and the small businesses to which they lend, that chance. They will not be given an inordinate amount of time, and they will be under supervision—the closest possible supervision—while they are attempting to meet new standards on their own. Only those that can prove to the OTS' satisfaction their likelihood of success will be given any time at all beyond the FIRREA-scheduled timeframes.

I think that this is the right thing to do and that now is the time to do it before another large and, in my view, potentially unnecessary expenditure for RTC funding. We owe the American people a responsible expenditure of public funds and a thoughtful decision. The thoughtful decision is to exercise judgment, to select institutions that can survive, to give them some time, and to resist the political expediency of just generally throwing more money at the RTC.

Mr. Speaker, we have the opportunity to save the American taxpayer billions of dollars, and to restore the flow of credit to our communities. We cannot let that opportunity pass.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLEMENT (at the request of Mr. GEPHARDT) for today after 1:15 p.m., on account of official business.

Mr. STOKES (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. PETERSON of Florida (at the request of Mr. GEPHARDT) for today after 2 p.m., on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes each day, on today and August 4, 5, 6, 7, 11, 12, and 13.

Mr. RIGGS, for 60 minutes each day, on August 4, 5, 6, 7, 11, and 12.

Mrs. BENTLEY, for 5 minutes today, in lieu of 60 minutes previously approved.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. HUBBARD, for 5 minutes, today.

Mr. SWIFT, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HOYER, for 60 minutes today, and 60 minutes on August 3.

Ms. NORTON, for 60 minutes, on August 3.

Mr. SAVAGE, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 5 minutes on August 3, 5, 6, 7, 10, and 11.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. KOLBE.

Mr. RHODES.

Mr. SANTORUM.

Mrs. JOHNSON of Connecticut.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. VENTO.

Mr. FASCELL, in three instances.

Ms. DELAURO.

Mr. ASPIN.

Mr. ROSTENKOWSKI.

Mr. ANDREWS of New Jersey, in two instances.

Mr. FALEOMAVAEGA.

Mr. LONG.

Mr. EDWARDS of California.

Mrs. SCHROEDER.

Mr. ERDREICH.

Mr. LEVINE of California.

Mr. GUARINI.

Mr. JACOBS.

Mr. LAFALCE, in two instances.

Mr. DE LUGO.

Mr. VISCLOSKY.

Mr. SWETT.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4026. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2725. An act to authorize extension of time limitations for a FERC-issued license; to the Committee on Energy and Commerce.

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes; to the Committee on Energy and Commerce.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; (accordingly, at 4 o'clock and 13 minutes p.m.), under its previous order, the House adjourned until Monday, August 3, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4049. A letter from the Assistant Secretary of Defense, transmitting the Department's report on the domestic textile and apparel industry's ability to support defense mobilization requirements, pursuant to 10 U.S.C. 2510; to the Committee on Armed Services.

4050. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting a draft of proposed legislation to provide the Thrift Savings Plan for Federal employees with an extended deadline for implementing relevant sections of Public Law 102–318, as is provided to public retirement plans that operate under section 403(b) of the Internal Revenue Code; to the Committee on Ways and Means.

4051. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report on the nondisclosure of safeguards information for the quarter ending June 30, 1992, pursuant to section 147 of the Atomic Energy Act of 1954, as amended; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Concurrent Resolution 246. Concurrent resolution expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States (Rept. 102–635, Pt. 2).

Mr. FORD of Michigan. Committee on Education and Labor. H.R. 3603. A bill to promote family preservation and the prevention of foster care with emphasis on families where abuse of alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services; with amendments (Rept. 102–684, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5419. A bill to amend the Marine Mammal Protection Act of 1972 to authorize the Secretary of State to enter into international agreements to establish a global moratorium to prohibit harvesting of tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals, and for other purposes; with amendments (Rept. 102–746, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5013. A bill to promote the conservation of exotic wild birds; with amendments (Rept. 102–749, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 536. Resolution providing for the consideration of the bill (H.R. 2782) to amend the Employees Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws (Rept. 102–761). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 535. Resolution providing for the disposition of the Senate amendment to the bill (H.R. 2977) to authorize appropriations for public broadcasting, and for other purposes (Rept. 102–762). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 5630. A bill to amend the Head Start Act to expand services provided by Head Start programs; to expand the authority of the Secretary of Health and Human Services to reduce the amount of matching funds required to be provided by particular Head Start agencies; to authorize the purchase of Head Start facilities; and for other purposes; with amendments (Rept. 102–763). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Joint Resolution 507. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania (Rept. 102–764). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3418. A bill to regulate fishing and other maritime activities in certain waters of Alaska, and for other purposes; with an amendment (Rept. 102–765, Pt. 1). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Concurrent Resolution 179. Concurrent resolution expressing the sense of the Congress with regard to supporting increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing countries financed by the Government of Japan (Rept. 102–766, Pt. 1). Ordered to be printed.

Mr. WYDEN: Committee of Conference. Conference report on S. 323 (Rept. 102–767). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5397. A bill to amend title 46, United States Code, to prohibit abandonment of barges, and for other purposes; with an amendment (Rept. 102–768). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN:

H.R. 5729. A bill to limit amounts expended by certain Government entities for overhead expenses; jointly, to the Committees on Government Operations, House Administration, and the Judiciary.

By Mr. SWIFT (for himself and Mr. Waxman):

H.R. 5730. A bill to amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GUARINI (for himself, Mr. Roe, Mr. Hughes, Mr. Rangel, Mr. Andrews of New Jersey, Mr. Dwyer of New Jersey, Mr. Rinaldo, Mrs. Kennelly, and Mrs. Johnson of Connecticut):

H.R. 5731. A bill to establish an Interstate Taxation Commission; to the Committee on the Judiciary.

By Mr. LaFALCE (for himself and Mr. Ireland):

H.R. 5732. A bill to amend the Small Business Act to permit extended participation by disadvantaged small business concerns in business development programs; to the Committee on Small Business.

By Mr. LEWIS of Florida (for himself, Mr. McCollum, Mr. Lagomarsino, Mr. Goss, Mr. Bilirakis, Mr. Lehman of California, Mr. Stump, Mr. Johnston of Florida, Mr. Peterson of Florida, Mr. Johnson of Texas, Mr. Rhodes, Mr. Walsh, Mr. McMillan of North Carolina, Mr. Smith of Florida, Mr. Stearns, Mr. Shaw, Mr. Oxley, Mr. Ireland, Mr. Rohrabacher, Mr. Livingston, and Mr. Hutto):

H.R. 5733. A bill to amend the Immigration and Nationality Act to expedite the deportation and exclusion of criminal aliens; to the Committee on the Judiciary.

By Mr. McCANDLESS:

H.R. 5734. A bill to amend the Internal Revenue Code of 1986 to allow individuals a credit against income tax for amounts contributed to a health care savings account and to amend title XVIII of the Social Security Act to provide for a high deductible and protection against catastrophic medical care expenses for individuals who have established such accounts; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PASTOR (for himself, Mr. Kolbe, Mr. Rhodes, Mr. Stump, and Mr. Kyl):

H.R. 5735. A bill to amend the Southern Arizona Water Rights Settlement Act of 1982; to the Committee on Interior and Insular Affairs.

By Mr. RAHALL (for himself, Mr. Wise, Mr. Mollohan, and Mr. Staggers):

H.R. 5736. A bill to designate the Gallipolis Locks and Dam, Ohio River, Ohio and West Virginia, as the "Robert C. Byrd Locks and Dam"; to the Committee on Public Works and Transportation.

By Mr. TANNER (for himself, Mrs. Lowey of New York, and Mr. Studds):

H.R. 5737. A bill to provide that certain service in the American Field Service ambulance corps shall be considered active duty for the purposes of all laws administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. VENTO:

H.R. 5738. A bill to strengthen the protections afforded to units of the National Park System and certain other nationally significant historic and natural places, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. OAKAR:

H.R. 5739. A bill to reauthorize the Export-Import Bank of the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BAKER (for himself, Mr. Neal of North Carolina, Mr. Barnard, Mr. Bereuter, Mr. McCollum, Mr. Thomas of Wyoming, Mr. Hubbard, Mr. Neal of Massachusetts, and Mr. Stearns):

H.R. 5740. A bill to modernize and improve the Federal home loan bank system, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. de la GARZA (for himself, Mr. Coleman of Missouri, Mr. Tallon, and Mr. Lewis of Florida):

H.R. 5741. A bill entitled "Perishable Agricultural Commodities Act Technical Amendments of 1992"; to the Committee on Agriculture.

By Mr. ESPY (for himself, Mr. Glickman, Mr. Johnson of South Dakota, and Mr. Dooley):

H.R. 5742. A bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes; to the Committee on Agriculture.

By Mrs. JOHNSON of Connecticut (for herself and Mrs. Bentley):

H.R. 5743. A bill to amend title XIX of the Social Security Act to provide for improved delivery of and access to home care and to increase the utilization of such care as an alternative to institutionalization; jointly to the Committees on Energy and Commerce and Ways and Means.

By Mr. JOHNSON of South Dakota (for himself, Mr. English, and Mr. Peterson of Minnesota):

H.R. 5744. A bill to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. MEYERS of Kansas (for herself, Mr. Miller of Washington, Mr. Ewing, Mr. Edwards of Oklahoma, Mr. Leach, Mr. Smith of Texas, Mr. Boehner, Mr. Gallo, Mr. Armey, Mrs. Roukema, Mr. Fawell, Mr. Schaefer, Mr. McEwen, Mr. Ridge, Mr. Coleman of Missouri, Mr. Lent, Mr. Chandler, Mrs. Vucanovich, and Mr. Horton):

H.R. 5745. A bill to repeal the provisions of the Unemployment Compensation Amendments of 1992 which provide for optional trustee-to-trustee transfers of eligible rollover distributions and impose a withholding tax on distributions not so transferred; to the Committee on Ways and Means.

By Mr. RICHARDSON (for himself, Mr. Panetta, and Mr. Orton):

H.R. 5746. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish provisions regarding the composition and labeling of dietary supplements; to the Committee on Energy and Commerce.

By Ms. WATERS (for herself, Mr. Kennedy, Mr. Owens of New York, Mr. Wheat, Mr. Hayes of Illinois, Ms. Kaptur, Mr. Chapman, Mr. Sawyer, Mr. Stokes, Mr. Feighan, Mr. Miller of California, Mr. Anthony, Ms. Pelosi, Mr. Abercrombie, Mr. Dellums, Mrs. Unsoeld, Mr. DeFazio, Mr. Lehman of California, Mr. Andrews of New Jersey, Mr. Lewis of Georgia, Mr. Jefferson, Mr. Flake, Mr. Slattery, Mr. Richardson, Mr. Jones of Georgia, Mr. Roybal, Mr.

Annunzio, Mr. Espy, Mr. Brown, Mr. Martinez, Mr. Rangel, Mr. Dymally, Mr. Savage, Mr. Mfume, Mr. Clay, and Mr. Sanders):

H.R. 5747. A bill to authorize additional loan guarantee assistance under section 108 of the Housing and Community Development Act of 1974 for fiscal years 1993 through 1997; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WAXMAN (for himself, Mr. Wyden, Mr. Towns, and Mr. Ritter):

H.R. 5748. A bill to amend title XVIII of the Social Security Act to make miscellaneous amendments to the Medicare Program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ROHRABACHER (for himself, Mr. Armey, Mr. Cunningham, Mr. Sundquist, Mr. Gilman, Mr. Duncan, Mr. Hancock, Mr. Ritter, Mr. Crane, Mr. Gallegly, Mr. Hunter, Mr. Herger, Mr. Moorhead, and Mr. Solomon):

H.J. Res. 534. Joint resolution authorizing the National Captive Nations Committee, Inc., to establish a memorial in the District of Columbia or its environs; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. BORSKI introduced a bill (H.R. 5749) for the relief of Krishanthi Sava Kopp; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 252: Mr. Ravenel.

H.R. 755: Mr. Riggs.

H.R. 858: Mr. Rohrabacher and Mr. Atkins.

H.R. 1025: Mr. Pastor.

H.R. 1582: Mr. Ford of Tennessee.

H.R. 2164: Mr. Neal of North Carolina, Mr. Ray, Mr. Clement, Mr. Hubbard, Mr. Costello, Mr. Montgomery, Mr. Dooley, Mr. Roberts, Mr. Taylor of Mississippi, Mr. Sisisky, Mr. Bustamante, Mr. Jacobs, Mr. Goss, Mr. Bilbray, Mr. Stearns, Mr. Tanner, Mr. Skaggs, Mr. Hopkins, Mr. Callahan, and Mr. Weldon.

H.R. 2361: ers):

H.R. 5747. A bill to authorize additional loan guarantee assistance under section 108 of the Housing and Community Development Act of 1974 for fiscal years 1993 4Norton, and Mr. Glickman.

H.R. 2806: Mr. Nussle, Mr. Packard, and Ms. Horn.

H.R. 2862: Ms. Molinari.

H.R. 3092: Mr. Skeen.

H.R. 3253: Mr. Weiss, Mr. Lantos, and Mr. Panetta.

H.R. 3526: Mr. Smith of New Jersey.

H.R. 3710: Mr. Atkins and Mr. Frost.

H.R. 3918: Mr. Porter, Mr. Blackwell, Mr. Richardson, Mr. Atkins, and Mr. Beilenson.

H.R. 4157: Mr. Alexander.

H.R. 4207: Mr. Goss.

H.R. 4211: Mr. James.

H.R. 4288: Mr. Dornan of California.

H.R. 4343: Mr. Lehman of Florida.

H.R. 4399: Mr. Ford of Michigan.

H.R. 4542: Mr. Colorado, Mr. Downey, Ms. Kaptur, Mr. Hertel, and Mr. Blackwell.

H.R. 4611: Mr. Shays, Mr. Oxley, Mr. Ramstad, and Mr. Porter.

H.R. 4690: Mr. James.

H.R. 4784: Mr. Penny.

H.R. 5011: Mr. Lancaster.

H.R. 5052: Ms. Pelosi, Mr. Mfume, Mr. Ackerman, Mr. McDermott, Mr. Hochbrueckner, Mr. Berman, Mr. LaFalce, Mr. Dymally, Mr. Rangel, Ms. Norton, Mr. Owens of New York, Mr. Manton, Mr. Matsui, Mr. Evans, Mr. Atkins, Mr. Markey, Mr. Dixon, Mr. Lewis of Florida, and Mr. Foglietta.

H.R. 5237: Mr. Allard.

H.R. 5257: Mr. Lancaster, Mr. Evans, and Mr. DeFazio.

H.R. 5282: Mr. Kostmayer.

H.R. 5376: Mr. Bruce.

H.R. 5404: Mr. Mazzoli.

H.R. 5419: Mr. Gingrich, Mr. Rahall, Ms. Norton, Mr. Roybal, Mr. Payne of New Jersey, Mr. Owens of New York, and Mr. Reed.

H.R. 5437: Mr. Crane.

H.R. 5499: Mr. Frank of Massachusetts, Mr. Atkins, Mr. Hansen, Mr. Oberstar, Mr. Synar, Mr. Waxman, Mr. Evans, Mr. DeFazio, Mr. Levine of California, Mr. Berman, Ms. Norton, Ms. Horn, Mr. Johnson of South Dakota, Mr. LaFalce, Mrs. Roukema, Mr. Lipinski, Mr. Durbin, Ms. Kaptur, Mr. Visclosky, Mr. Conyers, Mr. Sanders, Mrs. Boxer, and Mrs. Collins of Illinois.

H.R. 5530: Mr. Zeliff and Mr. Thomas of Wyoming.

H.R. 5545: Mr. Goodling, Mr. Rhodes, Mr. Dorgan of North Dakota, Mr. Williams, Mr. Bereuter, and Mr. Rose.

H.R. 5555: Mr. Bacchus, Mr. Frost, Mr. Blaz, Mr. Jefferson, and Mrs. Mink.

H.R. 5567: Mr. Ireland, Mr. Holloway, Mr. McCrery, Mr. Kyl, Mr. Roybal, Mr. Packard, Mr. Johnson of Texas, Mr. Riggs, Mr. Huckaby, Mr. McMillan of North Carolina, Mr. Bevill, Mr. Walker, Mr. Dornan of California, Mr. Walsh, Mr. Geren of Texas, Mr. Bateman, Mr. McCandless, Mr. Hastert, Mr. Bliley, and Mr. Solomon.

H.R. 5591: Mr. Wolf, Mr. Walsh, Mr. Boehner, and Mr. Spence.

H.R. 5634: Mr. Smith of Florida.

H.R. 5681: Mr. Andrews of New Jersey and Mr. Bustamante.

H.R. 5682: Mr. Goss.

H.J. Res. 152: Mr. Anderson, Mr. Conyers, Mr. Gunderson, Mr. Green of New York, Mr. Hansen, Mr. Espy, Mr. Jacobs, Mr. Roybal, Mr. Riggs, Mr. Ravenel, Mr. Hochbrueckner, and Mr. Owens of Utah.

H.J. Res. 353: Mr. Fazio, Mr. Gilman, Mr. Hall of Ohio, Mr. Hansen, Mr. Levin of Michigan, Mr. McEwen, Mr. Mavroules, Mr. Mineta, Mr. Moody, Mr. Murtha, Mr. Packard, Mr. Sabo, Mr. Schumer, Mr. Tauzin, and Mrs. Vucanovich.

H.J. Res. 380: Ms. Snowe, Mr. Roe, Mr. Studds, Mr. Chandler, Mr. Sanders, Mr. Aspin, Mr. Berman, Mrs. Mink, Mr. Rangel, Mr. Rinaldo, Mr. Pickett, Mr. Wyden, and Mr. Clay.

H.J. Res. 413: Mr. Bennett, Mr. Broomfield, Mr. Donnelly, Mr. Frost, Mr. Gallo, Mr. Green of New York, Mr. Hunter, Mrs. Lowey of New York, Mr. McCollum, Mr. Miller of Washington, Mrs. Mink, Mr. Moorhead, Mr. Nichols, Ms. Norton, Mr. Petri, Mr. Ravenel, Mr. Saxton, Mr. Shays, Mr. Solarz, Mr. Spence, Mr. Yatron, and Mr. Zimmer.

H.J. Res. 474: Mr. Reed, Mr. Fields, Mr. Chandler, Mr. Doolittle, Mr. Ewing, and Mr. Bilbray.

H.J. Res. 524: Mr. English, Mr. Boucher, Mr. Frank of Massachusetts, Mr. Mazzoli, Mr. Jacobs, Mr. Stark, Mr. Kostmayer, Mr. Coleman of Texas, and Mr. Murtha.

H. Res. 372: Mr. Pallone.

H. Res. 422: Mr. Penny and Mr. Yatron.

H. Res. 428: Mr. Synar.

H. Res. 490: Mr. Kennedy.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1354: Mr. Wise.

H.R. 3030: Mr. Wise.

SENATE—*Friday, July 31, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Beloved, let us love one another: for love is of God; and every one that loveth is born of God, and knoweth God. He that loveth not knoweth not God; for God is love.—I John 4:7,8.

Eternal God, perfect in truth, justice, righteousness, and love, in times like these love will accomplish what nothing else can. Love is the most powerful force in the world, for God is love. Love has won infinitely more victories than violence, manipulation, coercion, anger—or indifference, the most destructive force in life. Love conquers fear—hate feeds it. Love motivates—anger discourages. Love reconciles, heals, embraces, cares, and supports—indifference alienates.

Quicken our minds, God of love, to realize that not to love is Godless, whatever one's religious profession. Open our eyes to see those who are starved for love—spouses, children, parents, neighbors, peers, and political opponents.

Gracious God, help us to love one another. In the name of the Lord, God of love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 31, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

QUORUM CALL

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 5373, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5373) making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments; as follows:

(The parts of the bill intended to be stricken are in brackets, and the parts of the bill intended to be inserted are in italics.)

H.R. 5373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993 for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, [$177,831,000] *$156,450,000*, to remain available until expended: *Provided*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1993 in the amounts specified:

[Los Angeles County Drainage Area Water Conservation and Supply, California, $200,000;

[Los Angeles River Watercourse Improvement, California, $300,000;

[Rancho Palos Verdes, California, $400,000;

[Miami River Sediments, Florida, $50,000;

[Monroe County (Smathers Beach), Florida, $500,000;

[Casino Beach, Illinois, $110,000;

[Chicago Shoreline, Illinois, $800,000;

[McCook and Thornton Reservoirs, Illinois, $3,500,000;

[Lake George, Hobart, Indiana, $260,000;

[Little Calumet River Basin (Cady Marsh Ditch), Indiana, $400,000;

[Mississippi River, Vicinity of St. Louis, Missouri, $500,000;

[Ste. Genevieve, Missouri, $750,000;

[Passaic River Mainstem, New Jersey, $10,000,000; and

[Red River Waterway, Shreveport, Louisiana, to

[Daingerfield, Texas, $2,800,000:

[*Provided further*, That using $320,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the cost-shared feasibility study of the Calleguas Creek, California, project based on the reconnaissance phase analyses of full intensification benefits resulting from a change in cropping patterns to more intensive crops within the floodplain. The feasibility study will consider the agricultural benefits using both traditional and nontraditional methods, and will include an evaluation of the benefits associated with the environmental protection and restoration of Mugu Lagoon: *Provided further*, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a cost-shared feasibility study for flood control at Norco Bluffs, California, based on flood related flows and channel migration which have caused bank destabilization and damaged private property and public utilities in the area: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to expand the study of long-term solutions to shoaling problems in Santa Cruz Harbor, California, by incorporating the study of erosion problems between the harbor and the easterly limit of the City of Capitola, particularly beach-fill type solutions which use sand imported from within or adjacent to the harbor: *Provided further*, That using $210,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to

---

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

undertake a study of a greenway corridor along the Ohio River in New Albany, Clarksville, and Jeffersonville, Indiana, using $125,000 of the funds appropriated under this heading in Public Law 101–101 for Jeffersonville, Indiana, $127,000 of the funds appropriated under this heading in Public Law 101–514, and $250,000 of the funds appropriated under this heading in Public Law 102–104: *Provided further*, That using $450,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the development of a comprehensive waterfront plan for the White River in central Indianapolis, Indiana: *Provided further*, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a feasibility study of the Muddy River, Boston, Massachusetts: *Provided further*, That using $50,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake feasibility phase studies for the Clinton River Spillway, Michigan, project: *Provided further*, That using $600,000 of the funds appropriated herein and $900,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project: *Provided further*, That using $3,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the Raritan River Basin, Green Brook Sub-Basin, New Jersey, project in accordance with the design directives for the project contained in Public Law 100–202: *Provided further*, That using $440,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to review and evaluate the plan prepared by the City of Buffalo, New York, to relieve flooding and associated water quality problems in the north section of the city and to recommend other cost-effective alternatives to relieve the threat of flooding: *Provided further*, That using $150,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a reconnaissance study of the existing resources of the Black Fox and Oakland Spring wetland areas in Murfreesboro, Tennessee, and examine ways to maintain and exhibit the wetlands, including an environmental education facility: *Provided further*, That using $950,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Richmond Filtration Plant, Richmond, Virginia, project: *Provided further*, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the study of the disposition of the current Walla Walla, Washington, District headquarters including preparation of the environmental assessment and design work associated with demolition of the building.]

Los Angeles County Drainage Area Water Conservation and Supply, California, $200,000;

Rancho Palos Verdes, California, $400,000;

Miami River Sediments, Florida, $50,000;

Casino Beach, Illinois, $110,000;

Chicago Shoreline, Illinois, $400,000;

McCook and Thornton Reservoirs, Illinois, $2,000,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $170,000;

Mississippi River, Vicinity of St. Louis, Missouri, $250,000;

Ste. Genevieve, Missouri, $300,000;

Passaic River Mainstem, New Jersey, $3,000,000; and

Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $1,000,000:

Provided further, That using $320,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the cost-shared feasibility study of the Calleguas Creek, California, project based on the reconnaissance phase analyses of full intensification benefits resulting from a change in cropping patterns to more intensive crops within the floodplain. The feasibility study will consider the agricultural benefits using both traditional and nontraditional methods, and will include an evaluation of the benefits associated with the environmental protection and restoration of Mugu Lagoon: Provided further, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a cost-shared feasibility study for flood control at Norco Bluffs, California, based on flood related flows and channel migration which have caused bank destabilization and damaged private property and public utilities in the area: Provided further, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to expand the study of long-term solutions to shoaling problems in Santa Cruz Harbor, California, by incorporating the study of erosion problems between the harbor and the easterly limit of the City of Capitola, particularly beach-fill type solutions which use sand imported from within or adjacent to the harbor: Provided further, That using $210,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: Provided further, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a feasibility study of the Muddy River, Boston, Massachusetts: Provided further, That using $50,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake feasibility phase studies for the Clinton River Spillway, Michigan, project: Provided further, That using $600,000 of the funds appropriated herein and $900,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project: Provided further, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the Raritan River Basin, Green Brook Sub-Basin, New Jersey, project in accordance with the design directives for the project contained in Public Law 100–202: Provided further, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to review and evaluate the plan prepared by the City of Buffalo, New York, to relieve flooding and associated water quality problems in the north section of the city and to recommend other cost-effective alternatives to relieve the threat of flooding: Provided further, That using $150,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a reconnaissance study of the existing resources of the Black Fox and Oakland Spring wetland areas in Murfreesboro, Tennessee, and examine ways to maintain and exhibit the wetlands, including an environmental education facility: Provided further, That using $950,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Richmond Filtration Plant, Richmond, Virginia, project: Provided further, That using $2,800,000 of the funds appropriated herein, the Secretary of the Army is authorized, in partnership with the Department of Transportation, and in coordination with other Federal agencies, including the Department of Energy, to evaluate the results of completed research and development associated with an advanced high speed magnetic levitation transportation system and to prepare and present documents summarizing the research findings and supporting the resultant recommendations concerning the Federal role in advancing United States maglev technology: Provided further, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate the feasibility phase of the study of the Devil's Lake Basin, North Dakota and shall address the needs of the area for water management; stabilized lake levels, to include inlet and outlet controls; water supply; water quality; recreation; and enhancement and conservation of fish and wildlife: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize up to $100,000, within available funds, to initiate studies to determine the necessary remedial measures to restore the environmental integrity of the lake area and channel depths necessary for small recreational boating in the vicinity of Drakes Creek Park on Old Hickory Lake, Tennessee: Provided further, That using $500,000 of available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate preconstruction engineering and design; and environmental studies for the Kaumalapau Harbor, Lanai, Hawaii project.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), [$1,235,502,000] *$1,233,937,000*, to remain available until expended, of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust [Fund] *Fund, for one half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the following projects: Mississippi River, Lock and Dam 13, Illinois and Iowa; Mississippi River, Lock and Dam 15, Illinois and Iowa; Illinois Waterway, Brandon Road, Dresden Island, Marseilles, and Lockport Locks and Dams, Illinois*: *Provided*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1993 in the amounts specified:

[Kissimmee River, Florida, $8,000,000;

[O'Hare Reservoir, Illinois, $3,000,000;

[Des Moines Recreational River and Greenbelt, Iowa, $2,500,000;

[Red River Basin Chloride Control, Texas and Oklahoma, $6,000,000; and

[Wallisville Lake, Texas, $500,000:

Provided further, That using $7,653,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the project to correct seepage problems at Beaver Lake, Arkansas, and all costs incurred in carrying out that project shall be recovered in accordance with the provisions of section 1203 of the Water Resources Development Act of 1986: *Provided further, That using funds appropriated prior to fiscal year 1992, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete the design memorandum and the environmental impact study on the Ouachita-Black Rivers navigation project in Arkansas and Louisiana: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to base all economic analyses of the Sacramento River Flood Control (Deficiency Correction), California, project on the benefits of the entire project, rather than the benefits of individual increments of the project: Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $500,000 of the funds appropriated herein and additional amounts as required from previously appropriated funds to continue plans and specifications, environmental documentation, and the comprehensive hydraulic modeling necessary to achieve to the maximum extent practicable in fiscal year 1993 the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California, for purposes of stabilizing the level of the river and establishing the proper hydraulic head to facilitate new fish protection facilities, the planning, design and implementation of which are integrally related to the planning, design and implementation of the project to restore the flood-damaged riverbed gradient: *Provided further*, That, using $660,000 in funds previously appropriated in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to develop a floodplain management planning model for the Yolo Bypass and adjacent areas as deemed appropriate, except, as provided in section 321 of Public Law 101–640, such funds shall not be subject to cost-sharing requirements. The one-time construction of operation and maintenance facilities shall be included as part of project costs with appropriate cost-sharing: *Provided further*, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the San Timoteo feature of the Santa Ana River Mainstem, California, project: *Provided further*, That, using funds available in this Act or any previous appropriations Act, the Secretary of the Army shall undertake at Federal expense such actions as are necessary to ensure the safety and integrity of the work performed under Contract Number DACW05–86–C–0101 for the Walnut Creek, California, flood control project: *Provided further*, That using $700,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on project modifications for the improvement of the environment, as part of the Anacostia River Flood Control and Navigation project, District of Columbia and Maryland, under the authority of section 1135 of Public Law 99–662, as amended: *Provided further*, That using $3,000,000 of the funds appropriated under this heading in Public Law 101–514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete real estate appraisals and make offers to willing sellers for the purchase of land at Red Rock Lake and Dam, Iowa, no later than October 31, 1993, in accordance with Public Law 99–190: *Provided further*, That using $22,500,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: *Provided further*, That no fully allocated funding policy shall apply to construction of the Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: *Provided further*, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Salyersville cut-through as authorized by Public Law 99–662, section 401(e)(1), in accordance with the Special Project Report for Salyersville, Kentucky, concurred in by the Ohio River Division Engineer on or about July 26, 1989: *Provided further*, That using $7,700,000 of the funds appropriated herein and $4,300,000 of the funds appropriated in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts for construction of parallel protection along the Orleans and London Avenue outfall canals as part of the Lake Pontchartrain and Vicinity, Louisiana, hurricane protection project in accordance with the cost-sharing principles outlined in Public Law 89–298 and Public Law 102–104: *Provided further*, That the project for flood control, Sowashee Creek, Meridian, Mississippi, authorized by the Water Resources Development Act of 1986 (Public Law 99–662) is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct the project with an expanded scope recreation plan, as described in the Post Authorization Change Report of the Chief of Engineers dated August 1991, and at a total project cost of $31,994,000 with an estimated first Federal cost of $19,706,000 and an estimated non-Federal cost of $12,288,000. The Federal share of the cost of the recreation features shall be 50 percent exclusive of lands, easements, rights-of-way and relocations: *Provided further*, That using $175,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide sewage disposal hookup for the Crosswinds Marina at the B. Everett Jordan Dam and Lake, North Carolina, project: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the Feature Design Memorandum for Forest Ridge Peninsula Recreation Area at the Falls Lake, North Carolina, project: *Provided further*, That with $600,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, to correct a design deficiency at the Falls Lake, North Carolina, project, is directed to implement Plan 5 as described in the Design Memo Supplement dated November 1988, concurred in by the South Atlantic Division Engineer on March 1989 with cost sharing as prescribed in the referenced report for this design deficiency: *Provided further*, That using $5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the New York Harbor Collection and Removal of Drift, New York and New Jersey, project including the continuation of engineering and design of the remaining portions of the Brooklyn 2, Kill Van Kull, Shooters Island, Bayonne, and Passaic River Reaches, the completion of the design memoranda for the Arthur Kill, New York, and Arthur Kill, New Jersey, reaches, the continuation of construction on the Weehawken-Edgewater, New Jersey and Brooklyn 2A reaches, and the completion of construction on the Jersey City North 2 reach: *Provided further*, That using $2,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake such measures as are necessary to compensate for damages caused to public and private property by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington. The costs of such measures shall be considered project costs and shall be allocated in accordance with existing cost allocations for the Little Goose and Lower Granite projects;]

O'Hare Reservoir, Illinois, $3,000,000;

Des Moines Recreational River and Greenbelt, Iowa, $1,000,000;

Red River Basin Chloride Control, Texas and Oklahoma, $6,000,000; and

Wallisville Lake, Texas, $500,000:

Provided further, That using $7,653,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the project to correct seepage problems at Beaver Lake, Arkansas, and all costs incurred in carrying out that project shall be recovered in accordance with the provisions of section 1203 of the Water Resources Development Act of 1986: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $500,000 of the funds appropriated herein and additional amounts as required from previously appropriated funds to continue plans and specifications, environmental documentation, and the comprehensive hydraulic modeling necessary to achieve to the maximum extent practicable in fiscal year 1993 the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California, for purposes of stabilizing the level of the river and establishing the proper hydraulic head to facilitate new fish protection facilities, the planning, design and implementation of which are integrally related to the planning, design and implementation of the project to restore the flood-damaged riverbed gradient: Provided further, That, using $660,000 in funds previously appropriated in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to develop a floodplain management planning model for the Yolo Bypass and adjacent areas as deemed appropriate, except, as provided in section 321 of Public Law 101–640, such funds shall not be subject to cost-sharing requirements. The one-time construction of operation and maintenance facilities shall be included as part of project costs with appropriate cost-sharing: Provided further, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the San Timoteo feature of the Santa Ana River Mainstem, California, project: Provided further, That, using funds available in this Act or any previous appropriations Act, the Secretary of the Army shall undertake at Federal expense such actions as are necessary to ensure the safe-

ty and integrity of the work performed under Contract Number DACW05–86–C–0101 for the Walnut Creek, California, flood control project: Provided further, That using $700,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on project modifications for the improvement of the environment, as part of the Anacostia River Flood Control and Navigation project, District of Columbia and Maryland, under the authority of section 1135 of Public Law 99–662, as amended: Provided further, That using $3,000,000 of the funds appropriated under this heading in Public Law 101–514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete real estate appraisals and make offers to willing sellers for the purchase of land at Red Rock Lake and Dam, Iowa, no later than October 31, 1993, in accordance with Public Law 99–190: Provided further, That with $22,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public law 96–367: Provided further, That with $20,565,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Public Law 96–367: Provided further, That with $23,000,000 of prior year appropriations to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Lower Mingo County, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: Provided further, That with $1,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction using continuing contracts construction of the Hatfield Bottom, West Virginia, element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Pubic Law 96–367: Provided further, That with $1,195,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to expedite completion of specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Upper Tug Fork Tributaries, West Virginia, Tug Fork, West Virginia, and Pike County, Kentucky: Provided further, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Lower Mingo County, West Virginia, Hatfield Bottom, West Virginia, Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project; and specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Tug Fork Tributaries, West Virginia, Upper Tug Fork, West Virginia, and Pike County, Kentucky: Provided further, That using $7,700,000 of the funds appropriated herein and $4,300,000 of the funds appropriated in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to incorporate parallel protection along the Orleans and London Avenue Outfall Canals into the authorized Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection project and award continuing contracts for construction of this parallel protection to be cost shared as part of the overall project, not separately, in accordance with the cost sharing provisions outlined in Public Law 89–298 and Public Law 102–104. Therefore, agreements executed prior to 1 June 1992 between the Federal Government and the local sponsors for the authorized project shall suffice for this purpose and will not require any additional local cost sharing agreements or supplements: Provided further, That using $4,400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue design and construction of the Ouachita River levees, Louisiana, project in an orderly but expeditious manner including rehabilitation or replacement at Federal expense of all deteriorated drainage structures which threaten the security of this critical protection: Provided further, That the project for flood control, Sowashee Creek, Meridian, Mississippi, authorized by the Water Resources Development Act of 1986 (Public Law 99–662) is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct the project with an expanded scope recreation plan, as described in the Post Authorization Change Report of the Chief of Engineers dated August 1991, and at a total project cost of $31,994,000 with an estimated first Federal cost of $19,706,000 and an estimated non-Federal cost of $12,288,000. The Federal share of the cost of the recreation features shall be 50 percent exclusive of lands, easements, rights-of-way and relocations: Provided further, That using $175,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide sewage disposal hookup for the Crosswinds Marina at the B. Everett Jordan Dam and Lake, North Carolina, project: Provided further, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the Feature Design Memorandum for Forest Ridge Peninsula Recreation Area at the Falls Lake, North Carolina, project: Provided further, That using $5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the New York Harbor Collection and Removal of Drift, New York and New Jersey, project including the continuation of engineering and design of the remaining portions of the Brooklyn 2, Kill Van Kull, Shooters Island, Bayonne, and Passaic River Reaches, the completion of the design memoranda for the Arthur Kill, New York, and Arthur Kill, New Jersey, reaches, the continuation of construction on the Weehawken-Edgewater, New Jersey and Brooklyn 2A reaches, and the completion of construction on the Jersey City North 2 reach: Provided further, That using $2,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to pay such sums or undertake such measures as are necessary to compensate for costs of repair, relocation, restoration, or protection of public and private property and facilities in Washington and Idaho damaged by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington: Provided further, That using not to exceed $2,000,000 of the funds appropriated herein for the Columbia River Juvenile Fish Mitigation, Washington project, the Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake advanced planning and design of modifications to public and private facilities that may be affected by operation of John Day Dam at minimum operating pool (elevation 257 feet): Provided further, That using $2,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed upon dissolution of the injunction by the United States District Court, to conduct the necessary engineering and design, and prepare the plans and specifications to resume construction of the Elk Creek Dam in Oregon: Provided further, That the Secretary of the Army is directed to permit the non-Federal sponsor of recreation facilities at Willow Creek Lake in Oregon to contribute, in lieu of cash, all or any portion of its share of the project with work in-kind, including volunteer labor and donated materials and equipment: Provided further, That with $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake further construction aspects of the Bethel, Alaska Bank Stabilization Project as authorized by Public Law 99–662 including but not limited to the installation of steel whalers and additional rock toe protection to the pipe pile, bulkheads and other areas vulnerable to collapse: Provided further, That no fully allocated funding policy shall apply to construction of the Bethel, Alaska Bank Stabilization Project and to the greatest extent possible the work described herein should be compatible with the authorized project: Provided further, That using funds made available in this Act or any previous appropriation Act, the Secretary of the Army shall construct a project for streambank protection along 2.2 miles of the Tennessee River adjacent to Sequoyah Hills Park in Knoxville, Tennessee, at a total cost of $600,000, with an estimated first Federal cost of $450,000 and an estimated first non-Federal cost of $150,000 and an estimated first non-Federal cost of $150,000: Provided further, That with $3,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers is authorized and directed to excavate the St. George Harbor entrance to 20 MLLW in accordance with the cost sharing provisions in Public Law 99–662; and, in addition, **[$90,000,000]** *$130,000,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, and the Secretary of the Army is directed to continue the second phase of construction of Locks and Dams 4 and 5; to continue construction of the Curtis and Eagle Bend, Phase I, Revetments in Pool 5 which were previously directed to be initiated in fiscal year 1992; to complete construction of the Carroll and Cupples Capouts, McDade, Moss, Sunny Point, and Eagle Bend, Phase II, Revetments in Pools 4 and 5 which were previously directed to be initiated; to award continuing contracts in fiscal year 1993 for construction of the following features of the Red River Waterway which are not to be considered fully funded: recreation facilities in Pools 4 and 5, Howard Capout, Westdale Capout, Piermont Capout, Coushatta flood damage repairs, and Twelvemile Bayou Bend Revetment adjacent to Wells Island Road.*

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), **[$365,432,000]** *$351,182,000*, to remain available until expended: *Provided*, That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further*, That the funds provided herein for operation and maintenance of Yazoo Basin Lakes shall be available for the maintenance of road and trail surfaces, alignments, widths, and drainage features: [*Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $2,000,000 of the funds appropriated herein to continue work on the Eastern Arkansas Region, Arkansas, project including the development and implementation of plans for one area to serve as a demonstration project.]

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, [$1,551,905,000] *$1,522,961,000*, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $16,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l): *Provided*, That not to exceed $7,000,000 shall be available for obligation for national emergency preparedness programs: [*Provided further*, That $2,285,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Hansen Dam, California: *Provided further*, That $2,000,000 of the funds appropriated herein, to remain available until expended, shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Sepulveda Dam, California: *Provided further*, That using $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the repair and rehabilitation of the Flint River, Michigan, flood control project: *Provided further*, That $40,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the project for removal of silt and aquatic growth at Sauk Lake, Minnesota: *Provided further*, That using $1,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on measures needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam, Montana, as authorized by section 33 of the Water Resources Development Act of 1988: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to work with the U.S. Environmental Protection Agency to begin the immediate cleanup of the Ashtabula River, Ohio: *Provided further*, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to update the project Master Plan for the Raystown Lake, Pennsylvania, project:] *Provided, That not to exceed $7,000,000 shall be available for obligation for national emergency preparedness programs: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use up to $1,200,000 of available funds to undertake high priority recreation improvements at the Skiatook Lake, Oklahoma project: Provided further, That using $1,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on measures needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam, Montana, as authorized by section 33 of the Water Resources Development Act of 1988: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to work with the U.S. Environmental Protection Agency to begin the immediate cleanup of the Ashtabula River, Ohio: Provided further, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to update the project Master Plan for the Raystown Lake, Pennsylvania, project: Provided further, That, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to use up to $5,000,000 of available funds to undertake necessary maintenance of the Kentucky River Locks and Dams 5–14, Kentucky prior to transfer of such facilities to the Commonwealth of Kentucky pursuant to the Memorandum of Understanding executed in 1985 concerning the Kentucky River Locks and Dams 5–14: Provided further, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct and maintain bank stabilization measures along the west bank of the Calcasieu River Ship Channel in Louisiana from mile 11.5 through mile 15.5.*

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $86,000,000, to remain available until expended.

None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 (1989 Manual) or any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rule-making process of the Administrative Procedure Act.

In addition, regarding Corps of Engineers ongoing enforcement actions and permit application involving lands which the Corps or EPA has delineated as waters of the United States under the 1989 Manual, and which have not yet been completed on the date of enactment of this Act, the landowner or permit applicant shall have the option to elect a new delineation under the Corps of 1987 Wetland Delineation Manual, or completion of the permit process or enforcement action based on the 1989 Manual delineation, unless the Corps of Engineers determines, after investigation and consultation with other appropriate parties, including the landowner or permit applicant, that the delineation would be substantially the same under either the 1987 or the 1989 Manual.

None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, [$15,000,000] *$10,000,000*, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, and the Water Resources Support Center, $142,000,000, to remain available until expended.

Funds are provided for the management and direction of the United States Army Corps of Engineers Civil Works Program, except that such funds shall not be used to close any district office of the Corps of Engineers. To further a more efficient headquarters and division office structure, the Secretary may transfer not to exceed $7,000,000 from other appropriations under this title to be merged with, and remain available for the same time period as, this appropriation: Provided, That this appropriation shall not be increased by more than 5 per centum by any such transfers, and the Committees on Appropriations of the House and Senate shall be promptly advised of such proposed transfers.

ADMINISTRATIVE PROVISIONS

Appropriations in this title or appropriations made in this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901–5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress. Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

SEC. 101. Public Law 101–302 (104 Stat. 213) is amended by striking the words "to meet the present emergency needs" under the General Expenses appropriation title of Corps of Engineers—Civil.

SEC. 102. Any funds heretofore appropriated and made available in Public Law 99–88 for construction of facilities at the Mill Creek recreation area of the Tioga-Hammond Lakes, Pennsylvania, project; in Public Law 100–71 for initiation of land acquisition activities as described in section 1114 of Public Law 99–662; and in Public Law 101–101 for construction of the Satilla River Basin, Georgia, project, and for acquisition of an icebreaking boat and equipment for the Kankakee River, Illinois, project, may be utilized by the Secretary of the Army in carrying out projects and activities funded by this Act.

SEC. 103. The Secretary of the Army, acting through the Chief of Engineers is directed to *maintain in caretaker status the navigation portion of the Fox River System in Wisconsin. The Assistant Secretary of the Army for Civil Works shall take over negotiations with the State of Wisconsin for the orderly transfer of ownership and operation of the Fox River Lock System to a nonfederal entity. These negotiations shall commence immediately, be conducted in good faith, and be completed as soon as possible. The terms of a negotiated settlement shall be presented to Congress immediately upon the completion of these negotiations. The settlement shall include provisons for both the logistics and timing of the transfer of the Lock System, as well as a negotiated recommendation for monetary compensation to the nonfederal entity for the repair and rehabilitation of damage and deterioration associated with all appropriate portions of the Fox River System which are being transferred.*

SEC. 104. Notwithstanding the requirements of section 103 of Public Law 99–662, the projects for flood control, Moorefield, West Virginia, and Petersburg, West Virginia, authorized by section 101 of the Water Resources Development Act of 1990, are modified to provide that the local sponsors may satisfy the cost-sharing requirements of section 103 of said law by contributing after January 1, 1990, land or other assets unrelated to the project site, at its appraised value.

SEC. 105. None of the funds appropriated in this Act shall be used to implement the proposed rule for the Army Corps of Engineers amending regulations on "ability to pay" (33 CFR Part 241), published in the Federal Register, vol. 56, No. 114, on Thursday, June 13, 1991.

SEC. 106. Notwithstanding the provisions of Public Law 95–269, the Secretary of the Army is directed to place the Federal hopper dredge fleet, excluding the Essayons and the Yaquina which shall be stationed and operated within the jurisdiction of the North Pacific Division, in a standby status for a period of one year from the date of enactment of this Act and to make all the material scheduled to be dredged by the vessels placed in standby, available for competitive bidding by the private dredging industry. Notwithstanding the preceding sentence, the Secretary shall mobilize any standby vessels or any part of the Federal dredge fleet to respond to emergency or national defense needs, or if the Secretary determines that the private dredging industry cannot perform the scheduled dredging at a reasonable price and in a timely manner. No later than 24 months after the date of enactment of this Act, the Secretary shall submit a report to Congress evaluating the capability of the private dredging industry to perform the work of the Federal hopper dredges placed in standby status. The study shall include an analysis of the cost-effectiveness of having the private dredging industry perform such work; the incremental cost to the Federal Government of maintaining these vessels in a standby status; and the cost of retiring each vessel placed in standby status in this Act.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, [$13,700,000] *$12,390,000*: *Provided*, That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, [$470,568,000] *$467,634,000* of which $69,333,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $156,168,000 shall be available for transfer to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99–294): *Provided further*, That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: *Provided further*, That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further*, That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.) [*Provided further*, That the amount authorized by section 4(a)(1) of Public Law 98–541 for the Trinity River Basin, California, Fish and Wildlife Management Program, is hereby increased by $15,000,000 to $48,000,000:] *Provided further, That pursuant to Section 406(c)(2) of Public Law 101–628, the Secretary of the Interior is directed to reimburse, in an amount not to exceed $800,000, the City of Prescott, Arizona for funding advanced by Prescott, Arizona to the Bureau of Reclamation for hydrological studies required by Section 406(c)(1) of Public Law 101–628.*

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, [$284,010,000] *$269,760,000*: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 4601–6a, as amended), may be derived from that fund: *Provided further*, That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98–381: *Provided further*, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further*, That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable: [*Provided further*, That of the funds appropriated herein, $3,250,000 shall be available for environmental studies associated with the renewal of Central Valley Project, California, water contracts and environmental compliance, provided that such funds shall be treated as capital expenses in accordance with Federal reclamation law.]

BUREAU OF RECLAMATION LOANS PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans and/or grants, $2,202,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–4221): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed **[$5,060,000]** *$6,000,000*.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $600,000: *Provided*, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from the fund.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $53,745,000, of which $1,177,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses: **[***Provided further*, That none of the funds made available in this Act may be expended to implement the transfer of title or ownership of the Central Valley Project to the State of California, unless subsequently authorized by Congress.**]**

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 4601–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 17 passenger motor vehicles for replacement only.

Appropriations for the Bureau of Reclamation in this Act or in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; services as authorized by 5 U.S.C. 3109, in total not to exceed $500,000 per year; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461–467) and June 27, 1960 (16 U.S.C. 469): *Provided*, That hereafter no part of any appropriation made in this Act or in subsequent Energy and Water Development Appropriations Acts shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation investigations under the head "General Investigations", and amounts provided for science and technology under the head "Construction Program".

Sums appropriated in this Act or in subsequent Energy and Water Development Appropriations Acts which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act, in any prior Act, or in subsequent Energy and Water Development Appropriations Acts which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of 31 U.S.C. 1341.

No funds appropriated to the Bureau of Reclamation for operation and maintenance in this Act or in subsequent Energy and Water Development Appropriations Acts, except those derived from advances by water users, shall hereafter be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act or by any subsequent Act shall hereafter be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.).

None of the funds made available in this Act may be expended to implement the transfer of title or ownership of the Central Valley Project to the State of California, unless subsequently authorized by Congress.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged, rendered inoperable, or destroyed by fire, flood, storm, drought, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. Hereafter, the Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. Hereafter, the Bureau of Reclamation may invite non-Federal entities involved in cost sharing arrangements for the development of water projects to participate in contract negotiation and source selection proceedings without invoking provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix (1988)): *Provided*, That such non-Federal participants shall be subject to the provisions of the Federal Procurement Integrity Act (41 U.S.C. 423 (1988)) and to the conflict of interest provisions appearing at 18 U.S.C. 201 et seq. (1988).

SEC. 206. Subsection (a) of section 7 of the Federal Water Project Recreation Act (79 Stat. 216 16 U.S.C. 4601–18) is amended by deleting the Proviso from the first sentence and by changing the semicolon after the word "purposes" to a period.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (42

U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 15, of which 14 are for replacement only), [$2,947,633,000, to remain available until expended, of which, $4,000,000 shall be derived by transfer from the Geothermal Resources Development Fund: *Provided*, That $6,000,000 of the amount appropriated in this paragraph is provided for hydrogen research] *$2,971,583,000, to remain available until expended, of which $300,000 shall be available only for planning funds for the Bishop Science Center, State of Hawaii; the Ambulatory Research and Education Building, Oregon Health Sciences University; and the Center for Energy and Environmental Resources, Louisiana State University, Baton Rouge, Louisiana, and of which, $4,000,000 shall be derived by transfer from the Geothermal Resources Development Fund.*

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity to provide enrichment services; purchase of passenger motor vehicles (not to exceed 57, of which 54 are for replacement only), [$1,335,320,000] *$1,321,320,000*, to remain available until expended: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total $1,462,000,000 in fiscal year 1993 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1993 so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 10 for replacement only)[, $998,884,000] *$1,460,784,000*, to remain available until expended. [In addition, such sums as are transferred from the Superconducting Super Collider Trust Fund shall be available, until expended, for the specific purpose of offsetting costs incurred by the Department in the design and development of the Superconducting Super Collider. None of the funds made available by this Act shall be obligated for the Superconducting Super Collider after June 1, 1993, unless the President has certified to the Congress that commitments for contributions from international sources meet or exceed a total of $650,000,000 for fiscal years 1993, 1994, and 1995.

[SUPERCONDUCTING SUPER COLLIDER TRUST FUND

[(INCLUDING TRANSFER OF FUNDS)

[There is established in the Treasury a fund to be known as the Department of Energy Superconducting Super Collider (SSC) Trust Fund, which shall consist of moneys provided by non-Federal participants in Department of Energy SSC activities: *Provided*, That amounts deposited in the Fund are available, without fiscal year limitation, for transfer by the Secretary of Energy to the "General Science and Research Activities" account, to be used for costs incurred in the design and construction of the SSC: *Provided further*, That amounts deposited in the fund shall earn interest at a rate and under such terms and conditions as may be prescribed by the Secretary of the Treasury.

[NUCLEAR WASTE DISPOSAL FUND

[For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $275,071,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed $5,750,000 may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: *Provided further*, That of the amount herein appropriated, not more than $6,250,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That the distribution of the funds herein provided among the affected units of local government shall be determined by the Department of Energy (DOE) and made available to the State and affected units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, each entity shall provide certification to the DOE, that all funds expended from such direct payment monies have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That of the amount appropriated herein, up to $1,700,000 shall be available for infrastructure studies and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno. Funding to the universities will be administered by the DOE through a cooperative agreement.

[In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the Fund.]

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $275,071,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: Provided, That of the amount herein appropriated, within available funds, not to exceed $5,000,000 may be provided to the State of Nevada, for the sole purpose in the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: Provided further, That of the amount herein appropriated, not more than $6,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: Provided further, That the distribution of the funds herein provided among the affected units of local government shall be determined by the Department of Energy (DOE) and made available to the State and affected units of local government by direct payment: Provided further, That within 90 days of the completion of each Federal fiscal year, each entity shall provide certification to the DOE, that all funds expended from such direct payment monies have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: Provided further, That none of the funds herein appropriated may be used for litigation expenses: Provided further, That grant funds are not to be used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That no funds herein appropriated shall be used by the State of Nevada for public relations, media, advertising or similar activities that are not related to scientific oversight of activities of the Department of Energy in furtherance of characterization studies: Provided further, That of the amount appropriated herein, up to $1,700,000 shall be available for infrastructure studies, mobile sampling platform and monitoring work and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno. Funding to the universities will be administered by the DOE through a cooperative agreement.

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the Fund.

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

Revenues received hereafter from the disposition of isotopes and related services shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided*, That such revenues and all funds provided under this head in Public Law 101-101 shall remain available until expended: *Provided further*, That if at any time the amounts available to the fund are insufficient to enable the Department of Energy to discharge its responsibilities with respect to isotope production and distribution, the Secretary may borrow from amounts available in the Treasury, such sums as are necessary up to a maximum of $5,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 93 for replacement only, the purchase of two fixed-wing and two rotary-wing aircraft, for replacement only), [$4,548,749,000, to remain available until expended, of which $40,000,000 shall be available for nuclear nonproliferation detection technology and other projects and activities of the Department of Energy and, in addition, of which $4,300,000 shall be available for the Reduced Enrichment Research Test Reactor program for fuel development and technical assistance: *Provided, That none of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated to implement the reconfiguration of nonnuclear activities of the Department of Energy until the occurrence of the following:*

[(1) The Secretary of Energy submits a report to the Committees on Appropriations that contains an analysis of the projected costs and benefits of the proposed nonnuclear reconfiguration and an analysis of the alternatives considered. The analyses shall take into account all relevant costs and benefits and shall include a discounted cash flow analysis of each alternative.

[(2) The Secretary of Energy certifies to the Committees on Appropriations that the discounted cash flow analysis demonstrates that the proposed nonnuclear reconfiguration is cost-effective on a plant by plant basis.

[(3) A period of 90 days has elapsed after the later of the submission of the report and the certification by the Secretary of Energy.

[Nothing in this provision prohibits the obligation of funds for studies, analysis, or preparation of conceptual designs that are necessary to assess the cost-effectiveness or feasibility of nonnuclear reconfiguration] *$4,498,249,000, to remain available until expended: Provided, That none of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated to implement the reconfiguration of nonnuclear activities of the Department of Energy until the occurrence of the following:*

(1) The Secretary of Energy submits a report to the Committees on Appropriations that contains an analysis of the projected costs and benefits of the proposed nonnuclear reconfiguration and an analysis of the alternatives considered. The analyses shall take into account all relevant costs and benefits and shall include a discounted cash flow analysis of each alternative.

(2) The Secretary of Energy certifies to the Committees on Appropriations that the discounted cash flow analysis demonstrates that the proposed nonnuclear reconfiguration is cost-effective on a plant by plant basis.

(3) A period of 90 days has elapsed after the later of the submission of the report and the certification by the Secretary of Energy.

Nothing in this provision prohibits the obligation of funds for studies, analysis, or preparation of conceptual designs that are necessary to assess the cost-effectiveness or feasibility of nonnuclear reconfiguration

NEW PRODUCTION REACTOR

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense new production reactor activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, [$171,800,000] *$170,028,000* to remain available until expended: *Provided*, That $100,000,000 for design of new production reactor capacity made available under the Energy and Water Development Appropriations Act, 1992, shall be available without regard to the issuance of the Record of Decision on the Environmental Impact Statement on New Production Reactor Capacity.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 148 for replacement only), [$4,603,009,000] *$4,802,047,000*, to remain available until expended: *Provided*, That notwithstanding any other law, funds appropriated under this heading may be made available to pay $100,000 to the United States Environmental Protection Agency for a stipulated penalty assessed under the Comprehensive Environmental Response, Compensation and Liability Act against the Fernald Environmental Management Project.

MATERIALS PRODUCTION AND OTHER DEFENSE PROGRAMS

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense materials production, and other defense programs activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 45 for replacement only), [$2,550,901,000] *$2,548,301,000*, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $100,000,000, to remain available until expended, all of which shall be used in accordance with the terms and conditions of the Nuclear Waste Fund appropriation of the Department of Energy contained in this title.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $405,656,000 to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $318,381,000 in fiscal year 1993 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1993 so as to result in a final fiscal year 1993 appropriation estimated at not more than $87,275,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,362,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,577,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for the Springfield Hatchery Production Facility, Dryden Dam Fish Screens, Bonneville Fish Sampling Facility, and Hungry Horse Resident Fish Hatchery, and, the purchase, maintenance and operation of two rotary-wing aircraft for replacement only; and for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1993, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $32,411,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $21,907,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $11,412,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7101, et seq.), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, [$326,634,000] *$336,634,000*, to remain available until expended, of which $305,390,000 shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $6,563,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $3,000); [$142,801,000] *$158,639,000* to remain available until expended: *Provided*, That hereafter and notwithstanding any other provision of law, not to exceed [$142,801,000] *$158,639,000* of revenues from fees and annual charges, and other services and collections in fiscal year 1993, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1993, so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

(TRANSFER OF FUNDS)

SEC. 301. Appropriations for the Department of Energy under this title in this and subsequent Energy and Water Development Appropriations Acts, hereafter shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may hereafter be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act or subsequent Energy and Water Development Appropriations Acts shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized hereafter to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFER OF FUNDS)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for Department of Energy activities funded in this Act or subsequent Energy and Water Development Appropriations Acts may hereafter be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act or subsequent Energy and Water Development Appropriations Acts may hereafter be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

MINORITY PARTICIPATION IN THE SUPERCONDUCTING SUPER COLLIDER

SEC. 304. (a) FEDERAL FUNDING.—The Secretary of Energy hereafter shall, to the fullest extent possible, ensure that at least 10 per centum of Federal funding for the development, construction, and operation of the Superconducting Super Collider be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(b) OTHER PARTICIPATION.—The Secretary of Energy hereafter shall, to the fullest extent possible, ensure significant participation, in addition to that described in subsection (a), in the development, construction, and operation of the Superconducting Super Collider by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))) and economically disadvantaged women.

SEC. 305. Notwithstanding section 1341 of title 31, United States Code, the Department of Energy hereafter may obligate funds in advance of their receipt from a non-Federal source to the extent of amounts actually held in trust or escrow to carry out Superconducting Super Collider activities: Provided, That these funds shall be available without fiscal year limitation or further appropriation: Provided further, That trust funds heretofore obligated from such trust or escrow shall, likewise, not be subject to section 1341 of title 31, United States Code.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, [$185,000,000] *$190,000,000*.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $13,000,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $325,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $475,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91–407), $485,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $535,415,000, to remain available until expended, of which $21,100,000 shall be derived from the Nuclear Waste Fund: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $514,315,000 in fiscal year 1993 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1993 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1993 appropriation estimated at not more than $21,100,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of title 5, United States Code, $4,585,000 to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1993 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, $2,060,000, to be transferred from the Nuclear Waste Fund and to remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $301,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $290,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $135,000,000, to remain available until expended: *Provided*, That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act or subsequent Energy and Water Development Appropriations Acts shall remain available for obligation beyond the fiscal year specified in such Acts therein unless expressly so provided therein.

SEC. 502. None of the funds in this Act or subsequent Energy and Water Development Appropriations Acts shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in such Acts.

SEC. 503. None of the programs, projects or activities as defined in the reports accompanying this Act or subsequent Energy and Water Development Appropriations Acts, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119 unless such reports expressly provide otherwise.

SEC. 504. The expenditure of any appropriation under this Act or subsequent Energy and Water Development Appropriations Acts for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, hereafter shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 505. Notwithstanding any other provision of this Act, subsequent Energy and Water Development Appropriations Acts or any other provision of law hereafter, none of the funds made available under this Act, subsequent Energy and Water Development Appropriations Acts or any other law hereafter shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 506. Such sums as may be necessary for Federal employee pay raises for programs funded by this Act or subsequent Energy and Water Development Appropriations Acts hereafter shall be absorbed within the levels appropriated in such Acts.

[SEC. 507. During the one-year period beginning on the date of the enactment of this Act, none of the funds made available in this Act or any other provision of law for fiscal year 1993 or any other fiscal year may be available to conduct any explosive nuclear weapons test unless the President certifies to Congress that any of the independent states of the former Soviet Union has conducted an explosive nuclear weapons test during that period.]

SEC. 507. During the one-year period beginning on the date of the enactment of this Act, none of the funds made available in this Act or any other provision of law for fiscal year 1993 or any other fiscal year may be available to conduct any explosive nuclear weapons test unless the President certifies to Congress that it is in the national interest to conduct an explosive nuclear weapons test or tests for purposes of safety of nuclear weapons. Such certification shall be provided in advance of each test and contain an explanation of the purpose(s) and reason(s) for the test. For classified matters, the certification may be transmitted in a classified annex.

SEC. 508. Notwithstanding any other provision of this Act, $5,000,000 of the funds appropriated in Title I or Title II shall be available for the Central Maine Water Supply Project, to remain available until September 30, 1993, and to become available only upon enactment into law of authorizing legislation.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1993".

Mr. JOHNSTON. Mr. President, I am pleased to present to the Senate, the Energy and Water appropriations bill for the fiscal year 1993.

This bill, H.R. 5373, passed the House of Representatives on June 17, 1992. The Subcommittee on Energy and Water Development marked up this bill on July 21 and the full Committee on Appropriations marked up and reported this bill on July 23, 1992. We marked up this bill as quickly as we could after receiving the bill from the House and receiving our 602(b) allocation. I want to assure the Members of the Senate that we have done the best we could to present a fair and balanced recommendation to the Senate in light of tough budgetary constraints.

Before summarizing the principal aspects of this year's appropriation bill, I want to take a moment to especially thank the senior Senator from West Virginia [Mr. BYRD], chairman of our full Committee on Appropriations and our distinguished President pro tempore of the Senate. He is and has been an outstanding leader and I thank him for his help and leadership on this appropriations bill and on all the other appropriation bills. I think we are very lucky to have Senator BYRD as chairman of our full committee.

I also want to thank my friend and my partner from Oregon, the ranking minority member of the Committee on Appropriations and of our Subcommittee on Energy and Water, Mr. HATFIELD. He and I have exchanged chairs here on this bill for many, many years. It really has been a partnership, a very pleasant one, and, I hope, a very productive one.

PURPOSE OF THE BILL

The purpose of this bill is to provide appropriations for the fiscal year 1993 beginning October 1, 1992, and ending September 30, 1993, for energy and water development, and for other related purposes. It supplies funds for water resources development programs and related activities of the Department of the Army, Civil Functions—U.S. Army Corps of Engineers' Civil Works Program in title I; for the Department of the Interior's Bureau of Reclamation in title II; for the Department of Energy's energy research activities—except for fossil fuel programs and certain conservation and regulatory functions—including environmental restoration and waste management, and atomic energy defense activities in title III; and for related independent agencies and commissions, including the Appalachian Regional Commission and Appalachian regional development programs, the Nuclear Regulatory Commission, and the Tennessee Valley Authority in title IV.

SUMMARY OF ESTIMATES AND RECOMMENDATIONS

The fiscal year 1993 budget estimates for the bill total $22,419,288,000 in new budget—obligational—authority. The recommendation of the committee totals $22,005,446,000. This is $413,842,000 below the budget estimates and $681,382,000 over the House bill.

SUBCOMMITTEE BUDGET ALLOCATION

The Energy and Water Development Subcommittee allocation under section 602(b)(1) of the Budget Act totals $22,080,000,000 in budget authority and $21,479,000,000 in outlays for fiscal year 1993. These amounts are significantly below the baseline estimate of $22,837,000,000 in budget authority and $22,270,000,000 in outlays. The shortfall between the subcommittee allocation and the 1993 baseline is $757,000,000 in budget authority and $791,000,000 in outlays.

In effect, Mr. President, in round numbers, our 602(b) allocation for the full committee was about three-quarters of a billion dollars below the baseline. That is, if you take last year's allocation of this committee and put it in real dollars, that is in dollars to reflect this year's inflation, we are actually three-quarters of a billion dollars below last year. We are half a billion dollars below in domestic discretionary alone.

For domestic discretionary programs, the subcommittee allocation totals $9,948,000,000 in budget authority and $9,578,000,000 in outlays. The baseline for domestic activities for the fiscal year totals $10,464,000,000 in budget authority and $10,039,000,000 in outlays, resulting in a shortfall of $516,000,000 in budget authority and $461,000,000 in outlays.

BILL HIGHLIGHTS

ATOMIC ENERGY DEFENSE ACTIVITIES

The amount recommended in the bill includes $12,118,625,000 for atomic energy defense activities. Major programs and activities include:

Testing	$383,860,000
Research and development	1,521,050,000
Production and surveillance	2,323,630,000
Nuclear materials production	1,609,043,000
Defense waste management and environmental restoration	4,802,047,000
New production reactor	170,028,000

ENERGY SUPPLY, RESEARCH, AND DEVELOPMENT

The bill recommended by the committee provides a total of $2,969,583,000 for energy supply, research, development and demonstration programs including:

Solar energy	$186,425,000
Environmental restoration and waste management nondefense	709,694,000
Nuclear fission R&D	296,454,000
Magnetic fusion	335,000,000
Basic energy sciences	774,900,000
Biological and environmental R&D	363,700,000

GENERAL SCIENCE AND RESEARCH

The committee recommendation also provides a net appropriation of $1,460,784,000 for general science and research activities in life sciences, high energy physics, and nuclear physics. Major programs are:

High energy physics research	$623,384,000
Nuclear physics	309,100,000
Superconducting super collider	550,000,000

REGULATORY AND OTHER INDEPENDENT AGENCIES

Also recommended in the bill is $194,945,000 for various regulatory and independent agencies of the Federal Government. Major programs include:

Appalachian Regional Commission	$190,000,000
Federal Energy Regulatory Commission	158,639,000
Nuclear Regulatory Commission	518,900,000
Tennessee Valley Authority	135,000,000

WATER RESOURCES DEVELOPMENT

General investigations	$172,490,000
Construction	2,068,373,000
Operations and maintenance	1,939,143,000
Corps of Engineers, regulatory activities	86,000,000

Mr. President, this bill and the report accompanying the bill have been available most of this week, since Tuesday I believe, for examination and study by the membership so I will not undertake to elaborate on the details of our committee recommendations. They are covered in the report and I believe are self-explanatory. I will summarize briefly the major recommendations.

First, on the superconducting super collider, we provide $550 million, which is $100 million less than the budget request. This amount will keep the SSC Program going at an adequate rate. It is not the optimal rate but this amount avoids serious delays in time and with the significant cost increases that would occur if we funded it at a lesser rate. The project is on budget and on schedule. The total project cost to construct the SSC in as spent dollars is $8.25 billion. Over $1.25 billion has been spent on the project. We will, of course, have a debate on the SSC and will go into the details of what I and many others believe is the most important science project in the world.

Another major issue that we have before us in this bill is the question of a moratorium on nuclear weapons testing. The House-passed bill provides for a complete moratorium that had only one exception, and that is if the States of the former Soviet Union conduct nuclear weapons test, then we could test. The committee recommendation strikes the House provision, section 507, general provisions of the bill on page 82 of the bill and proposes new language in lieu of the stricken language. We provide that there shall be a moratorium with only one exception, and that is for safety. In other words, if the President proposes to test a nuclear explosive for safety, he must say so in advance and describe the purpose(s) and reason(s) for the safety test. And for classified matters, he can present that to the Congress in a classified annex. We will also debate this matter on an amendment that will be offered, I understand. I will go into the reasons why we must have an exception for safety at that time. I think most Members will understand the need to test for safety—understands about safety, that is—and that is why our language provides for this exception. Let me emphasize that the exception is limited to safety with the President having to declare this in advance and state the reasons therefor in a certificate.

The committee also recommends an additional $50 million for technology development in connection with the Environmental Restoration and Waste Management Program of the Department of Energy. This is one of the fastest growing programs in all of Government and we have to invest more in trying to develop new technologies to deal with this problem which is over the next 30 years. New technologies will help to reduce the current costs.

We also recommend additional funding for technology partnerships with the national labs for a total of $116 million for fiscal year 1993. This is an important, continuing initiative which we began year before last. It has now become a very important part of our economic competitiveness effort. We are now beginning to see the fruits of our earlier work on this matter.

Another area of interest is that we recommend a modest number of new construction starts in the water resources development programs of the U.S. Army Corps of Engineers. We approved the 11 new projects in the budget and provided an additional 5 new, high priority, flood control projects. The total estimated Federal cost of these new projects is approximately $360 million of which about $22 million is included here to get them started.

Mr. President, the committee also recommends $375 million to proceed with characterization of the proposed nuclear waste repository of Yucca Mountain in Nevada. Of this amount $100 million comes from the atomic energy defense section of the bill to carry out the Government's obligation and responsibility and to meet its share for the disposition of defense high-level waste which will go into the repository. Mr. President, we simply must face up to our responsibility as the law provides in getting on with this work.

Most of the remaining major recommendations and provisions cover continuing and ongoing, well established functions of Government with which the Senate is very familiar.

Mr. President, this is a brief summary of the major issues and items. I hope that we can handle this measure in an expeditious manner so we can get to conference with the House of Representatives as soon as possible. I will be glad to respond to any questions concerning this bill or provide an explanation of our action to any Member now or at any time.

Mr. President, suffice it to say that we do not have room, really, to amend this bill. I mean Senators who have amendments who wish to add money or projects must of course displace something else in order to do it because we have used all of the money, and the money, as I say, is very short considering that last year we were three-quarters of a billion dollars more in real purchasing power than we are this year.

Mr. President, in closing I want to express my deepest sympathy to a dear, loyal, and most valuable member of our Senate staff, Mrs. Gloria Butland, on the death of her husband, Sam. Mr. Butland was killed in an automobile accident on Tuesday of this week while on a visit to his boyhood home in New Brunswick, Canada. The funeral is being held this morning as we speak. On behalf of the members of the committee and the staff, and on behalf of a host of friends here in the Senate family, we extend our greatest sympathies. Our thoughts and prayers are with Gloria in this hour of her great loss.

Mr. President, before we proceed further on the bill, I yield the floor to my distinguished friend from Oregon.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I first wish to thank our chairman, Senator JOHNSTON, for his exceptional work in bringing this bill before the Senate today. I think few, perhaps, appreciate the difficulties the Appropriations Committee is having this year in funding many important domestic discretionary programs. Chairman JOHNSTON's ability to present this body with such a fine, balanced product is highly commendable and certainly is a testament to his leadership. Senator JOHNSTON has, once again, made this a bipartisan process, and I know that he and his staff have worked hard to accommodate Members from both sides of the aisle.

I, too, wish to add my word of thanks to Chairman BYRD for his work on this bill as well, because Senator BYRD has the daunting task of seeing to it that all 13 appropriations bills are passed and on the President's desk by the end of the fiscal year. That, indeed, is a monumental task. And the primary reason we are here this morning is due to Chairman BYRD's determination to get our business completed in an expeditious manner and in due time.

I might take note that we have, now, 25 working days left between now and the end of the fiscal year. If you take the date that we have tentatively scheduled for adjournment, October 9, that means we have 32 days. But the fiscal year ends on October 1. And I cannot but focus on that for this moment because I think the body is most anxious to adjourn having completed the Nation's business in an orderly fashion and in a responsible way and get home for the political cycle we find ourselves in.

So I emphasize that to, hopefully, bring about a sense of time conservation, maximizing the working days we have left before the end of the fiscal year. I, too, wish to mention the fine staff work that has certainly undergirded our committee and had such a very important part in bringing this bill to the floor today: Proctor Jones, David Gwaltney, Gloria Butland, Mark Walker, and Dorothy Pastis. I am proud to say the Energy and Water Development Subcommittee is blessed with a staff of true professionals who work for all the members of the committee. I must say that those of us who are members of this subcommittee call equally upon the expertise and we get the very professional response from all the members of our staff. There is no great delineation between majority and minority staff.

While on the subject of our staff, I, too, want to join Senator JOHNSTON to express my sadness to learn of the death of Gloria Butland's husband. She has been not only a great staff person but she is a dear friend to us all. Our hearts go out to her and her family as they cope with this tragedy and the loss of her loved one.

Senator JOHNSTON has already given an excellent summary of the contents of the committee's fiscal year 1993 bill, and I want to emphasize an additional few points.

First, while I strongly support most of the provisions in this bill there is one provision with which I am at odds with the committee position. Section 507 of this bill deals with the question of moratorium on nuclear weapons tests. However, unlike the House bill, the provision in the House bill clearly bans nuclear tests for 1 year unless any of the States of the former Soviet Union conducts the test. Our position on the Senate side as the print is before us today is much less restrictive and would allow the President to continue testing if he certifies that it is in the national security interest to conduct tests for safety purposes.

Mr. President, I cannot support this provision. While it reflects a desire to shift the testing away from programs that are not safety-related, the language unfortunately does not offer any real change in the testing program currently in place. Instead, it allows the administration to continue its plans to conduct 30 tests over the next 5 years. In light of the most recent developments in the global situation, a business as usual approach on the testing question is unacceptable to me, and I believe a majority of the Members of this body. As Chairman JOHNSTON knows, we will be debating this issue at greater length later, so I will not belabor the point now.

On the positive side, I also want to point out that this bill does begin to reflect the changing priorities in the atomic weapons defense activities areas. With the exception of the Environmental Restoration and Waste Management account, all the major Defense Programs areas of our bill are significantly reduced from the fiscal year 1992 level. For example, for weapons activities, the committee's recommendation is funded at $4.4 billion, almost $4.5 billion, about $125 million less than last year—not, in one sense, a significant reduction in relation to the total, but it is in the opposite direction to which we had been moving through the 1980's, and that to me is not only halting the rushing freight train but we have stopped it and we have now started a slow reverse.

The New Production Reactor Program is greatly reduced from last year. It is down from $515.5 million to only $170 million. The materials production account is down approximately $600 million from last year to $2.548 billion. Of course, some of us would have liked to have seen greater reductions, but I believe here again we have reversed the trend and we are now moving in the correct direction.

The beneficiary of the reductions in these accounts, as I mentioned previously, is the environmental restoration and waste management account. This account, which funds waste management, technology development, and environmental cleanup activities at the former nuclear weapons production sites, is fully funded at $4.8 billion. I am pleased to report to my colleagues that the administration and the committee are providing the resources necessary to finally clean up the mess that was made in nearly 45 years of often careless, haphazard production of nuclear weapons.

With that said, Mr. President, I would like to remind my colleagues that this bill is right up against our 602(b) allocation, and that any amendments offered today will need to have offsets.

I once again express my deep gratitude for the excellent leadership of our chairman and the staff's devotion to the production of this bill.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, we have a number of committee amendments and I know of no objections to those committee amendments, save two: one relating to the superconducting super collider and one relating to nuclear testing.

Mr. President, what I will ask for, and I do not make the request at this time, is the request which, when put, will state as follows:

I ask unanimous consent the committee amendments be agreed to en bloc, except the committee amendments on the SSC appropriations, page 55, line 6 and 7; and the nuclear testing amendment, page 82, line 11 to line 5, page 83; and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by agreement to this request.

I do not put that request at this time. The effect of this will simply be to approve the other amendments, excepting these two.

Mr. President, I might add that we are putting out a hot line at this time—it may have already gone out—asking what further amendments will be required to this bill; that at some time later today, and after the approval of this unanimous-consent request, if it is approved, which we hope to get very shortly, then we will propound a unanimous-consent request that will say, in effect, that after all other amendments have been disposed of that all amendments be foreclosed save these two, that is SSC and nuclear testing, and that we will then come in with a unanimous-consent request to set those up for a Monday debate, SSC first with a 5-hour time limit on an amendment to be offered by Senator BUMPERS, with only germane second-degree amendments in order, and on nuclear testing with an amendment by Senator HATFIELD, et al., with a 2-hour time limit with only germane amendments to be in order.

I see the distinguished Senator from Maine in the Chamber. I think he has an interest in second-degree amendments on the nuclear testing issue. I wonder how much time he would want on second-degree amendments. There will be a 2-hour time limit on the Hatfield amendment. We expect there will be a tabling motion at the end of that 2 hours and then second-degree amendments would be made in order by the unanimous-consent request, when propounded, if propounded and approved, later in the day.

What would the Senator like in terms of time? Would an hour on second-degree amendments be suitable?

Mr. COHEN. I think perhaps an hour on my side. So probably at least a 2-hour time agreement will be satisfactory, equally divided.

Mr. JOHNSTON. Does the Senator foresee more than one second-degree amendment?

Mr. COHEN. I do not foresee it. It is really very difficult to engage in an intelligent discussion of this issue since we are anticipating an amendment by the Senator from Oregon and a motion to table, and then we are basing second-degree amendments on the contingency he will not be tabled, in which case it could be open to amendments. It is hard to say at this point. I would, for my purpose, only consider offering one second-degree amendment which I would think would take about 2 hours, equally divided.

Mr. JOHNSTON. If the amendment of the Senator from Oregon is tabled, the underlying amendment will be further amendable.

Mr. COHEN. In either event, I would still only anticipate an hour on my side.

Mr. JOHNSTON. That is helpful.

I mention to Senators that if they do have amendments to this bill that they should come over because later in the day when we have disposed of all the amendments that come out of the woodwork, then we will propound a unanimous-consent request that will make the only remaining business the nuclear testing and the SSC amendments.

Mr. COHEN. Will the Senator yield for a question?

Mr. JOHNSTON. Yes, certainly.

Mr. COHEN. I am not at liberty at this point to say whether there are other amendments on this side from members of the Armed Services Committee that might want to be offered. I have not discussed this with any other Members at this point.

Mr. JOHNSTON. When we propound the unanimous-consent request, it will not limit the number of second-degree amendments, so there will be, in effect, an unlimited amount of second-degree amendments with 2 hours each.

The President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc except the committee amendments on the superconducting super collider appropriation—that is on page 55, lines 6 and 7—and the amendment on nuclear testing—that is on page 82, line 11 through line 5 on page 83—and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall have been considered to have been waived by agreeing to this request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MAYBE THE PRESIDENT DID NOT KNOW

Mr. MOYNIHAN. Mr. President, I rise for the agreeable purpose of reporting that, in a short while now, President Bush will be visiting the welfare programs in Riverside, CA. Specifically the GAIN Program, which has been in place for some while there. And which has been the subject of a very encouraging report from the Manpower Demonstration Research Corp., in its continuing evaluation of the effectiveness of the Family Support Act, which was adopted and enacted in 1988, and which is just now beginning to grow roots and to show results.

It happens, sir—and it is important to note—that the 1988 legislation was the first serious reform in our welfare system, as we have come to know as the Aid to Families with Dependent Children's Program, established in the 1935 Social Security Act. The first time to say then that welfare involves a covenant rather than a one-way entitlement. That the covenant involved is that the larger society has a responsibility to help young women and children who find themselves dependent on public charities, as it is, and they in turn, the adults, have a responsibility to help themselves get out of that situation, to get work, get employment, and be independent citizens as everyone wants to be, and most are.

Let me be clear. We are not just talking about a small group on the side here. Almost one-third of the American children born in 1980 will have been on welfare before they are age 18. In our central cities, this number reaches 80 to 90 percent. This can be the average experience, and it could be the normal experience for children, and the universal experience, in some communities. And by no means is it a rare experience, in most.

The thing about this covenant, this mutual obligation, is that the idea came out of the States. It was a true example of federalism at work. I want to speak as the sponsor of the legislation here in the Senate.

Where do we get our idea? Where do we get our support? We got them from the State governments. During the Reagan years, to be clear, the Federal Government just dropped out of a social policy. And in a way that the founders might have predicted, States took over, and began innovating.

These innovations began to show. You had almost the same set of solutions developing in Massachusetts, under Governor Dukakis, a liberal Democratic administration; and across the country in California, under Governor Deukmejian, a conservative Republican administration. They all found themselves thinking of the same mix of incentives and sanctions.

You have to go into these programs. You have to take training. You have to find work. And if you do not, you lose benefits.

This combination was showing promise, a very satisfactory way in which the same sort of solution popped up on the Atlantic coast and the Pacific coast. And, sir, there was a chairman of the Governors Association, namely Bill Clinton of Arkansas. He got in touch with me as chairman of the Subcommittee on Social Security and Family Policy, and proposed that the Governors could be of real support in providing hands-on specific experience with the problem of welfare dependency.

I could not have been more open, as were all Members of the Senate who were working on this matter. Then, sir, a very important detail: Governor Clinton is down in Little Rock, in the Ozarks; Governor Deukmejian is in Sacramento; and Governor Dukakis is in Boston, far away. But near at hand was Gov. Mike Castle of Delaware. Gov. Mike Castle is a Republican. Democratic Governor Clinton, as chairman of the Governors Association, asked Governor Castle, to be the point man, the person on the spot here in Washington, to help us put this legislation together. And, indeed, we did.

It was one of the great moments, I know, for this Senator, when this body passed the Family Support Act. If I recall, the vote was 97 to 1—bipartisan. That was the real basis. That we all got together to deal with a problem that involves all of our children.

I have here, Mr. President—I have not seen this for quite a while—a photograph of the White House Rose Garden bill-signing ceremony, when President Reagan very generously had us down there, gave us opinions, and told us what a fine job we had done. And we had done it. And it was with his administration.

Well, there is DANNY ROSTENKOWSKI, chairman of the Ways and Means Committee of the House, smiling his great Chicago smile. There is this Senator, here. Behind the two of us is Gov. Mike Castle of Delaware, a Republican from Delaware. Right here on the edge is Bill Clinton, a Democrat from Arkansas, and chairman of the National Governors Association.

We did not just past that bill. We put up $1 billion, the regular Social Security funds, the entitlement moneys, to work the JOBS Program, job opportunities and basic skills, an acronym. We get into that sort of thing. That is the program Mr. Bush is visiting this morning.

It has been found by the MDRC to be quite the most successful JOBS Program they have yet encountered. It is run by Larry Townsend, who is an experienced 30-year veteran of these social welfare programs. He is head of the Department of Public Social Services in Riverside County, and he really feels he has something here.

In the first year of evaluated programs, single parents participating in the program in Riverside increased their earnings by almost $1,000—$996 precisely.

Since year one, we have always made clear that a program of this kind takes time to work out problems, gain understanding, and to change the bureaucratic behavior of people who, for 50 years, have been coming into the welfare office, signing up and getting their checks and going away. Or signing up and going away to get their checks. Instead, in Riverside, they say: "All right, here you are, we are glad to see you. We are going to do something about this situation. Let us get right down to it here. What is your plan?"

There is one specific in Riverside that Judith Gueron, the most able head of the Manpower Demonstration Research Corp., spotted right away: In Riverside, there is enough money to put every welfare recipient into a JOBS Program. Mothers with children under 3 do not have to go in. At State option, it can be under 1. But the rest, they are required. Simply, in most parts of the country there is not enough funding available to say everybody has to do it. As a result, you get that kind of creaming process. The people who want to, go in; the people who do not want to, do not. It is an ambiguous, uncertain outcome.

In Riverside everybody does, and no exceptions, no sort of, well, you know, you are going to be a difficult case, we will leave you over here, and we will spot somebody who really wants to. We will get good results by picking people who are going to do all right in the first place.

The point about the JOBS Program is, take the most difficult cases. A fair number of people who come on to welfare leave in a year and a half's time. Basically, it is income insurance. For a much larger number, it is a personal disaster for them and the children and the community. And getting them out is hard work.

Sir, now to a specific. Earlier this year, we found out that the State governments across the country were having trouble putting up their matching share of the cost of the JOBS Program. It is no news that State governments are in fiscal trouble everywhere. Such that last year, of the $1 billion available, only about $600 million was actually used, because the States could not match it. That is why Riverside is important. They take care of everybody.

We put in a bill after President Bush in his State of the Union Message raised the issue of welfare, and has continued to do so. During the primary season, he put out television spots that said he has an agenda to change welfare and make the ablebodied work. As if we had not enacted the Family Support Act.

Maybe he did not know. It is possible he did not know. I do not recall that he was at the Rose Garden signing ceremony, but he said he would do in legislation what we have already done. When we asked his representative, the Assistant Secretary of Health and Human Services, at the hearing in the Finance Committee: "Do you have welfare legislation you would like to propose," the answer was, "No, why do you ask." We said we asked because the President says he has an agenda, to change welfare and make the able-bodied work.

If you have an agenda, you usually have a bill. "Do you have a bill, Madam Secretary?" "No, I guess not. No." We put in a bill called the Work for Welfare Act of 1992, S. 2303. It was put in on March 3 after the State of the Union Message. It said: We will, the Federal Government will put up $4.5 billion in this emergency situation, which the President says is an emergency, and we will see that every person who is called up to enter the JOBS Program does so because the money is there. A JOBS Program that changes welfare and makes the able-bodied work.

Now, sir, this is S. 2303. This is the bill. It says that everybody is required under the Family Support Act to take training, job training, job search, find jobs, get off of welfare, that money will be there to see that that is done.

What was the administration's response in testimony before the Finance Committee? "No. No way. We will not spend a penny extra. We will not even deal with the fact that we are not using the money that is already appropriated."

You cannot have it both ways. You cannot go around talking about having an agenda and saying "no" to elemental proposals to put an existing statute that is working in a situation where it works even better.

Well, Mr. President, I can say that in the bill reported by the Finance Committee, on Wednesday evening, we have put up an additional $350 million for the JOBS Program, and $350 million for community work programs. We are coming along. The statute is in place. The President is out there to visit a program, which is taking place under a statute that Bill Clinton helped get enacted. I welcome the President to Riverside, CA.

I would like to think that somewhere in his briefing papers they tell him this is a JOBS Program, J-O-B-S, which is appropriate. It is working well here, because the match of resources and recipients is such that every eligible, every obliged welfare recipient is in a JOBS Program. There is a good bill in the Senate right now that would make this true across the country.

All you have to do is say, Mr. President, we will support the bill, instead of what you have done, which is to say we will not, and there will be "Riversides" across the country. That is what we hoped for. That is what we had in mind when we began this work in 1986, a bill signed in 1988. I would like to say, Mr. President, this was a very nice photograph of Governor Clinton in the Rose Garden on October 13, 1988. I look forward to seeing many more such photographs in the years ahead.

Thank you, Mr. President. I yield the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, I have a number of amendments which I will be offering, to be considered en bloc. I will describe these amendments and then send them to the desk. All of these are amendments that fit within our allocation. I mentioned earlier that our allocation has been fully used up. They are within available funds, if they involve money.

The first is an amendment, No. 2803, on behalf of Senator DECONCINI, which provides $1.3 million for Fort McDowell alone, which is a critical element in the water rights settlement between the Government and the Mohave-Apache Indians. Senator DECONCINI had raised this in subcommittee.

I asked him to hold up on it until we could have it analyzed. We have now analyzed it and, indeed, it is an emergency matter that must be dealt with now. That is the first amendment.

The second amendment, No. 2804, is on behalf of Senator DECONCINI, that allows the Corps of Engineers to utilize up to $500,000 within available funds for a reconnaissance level study on flooding problems on the Salt River Pima-Maricopa Indian Reservation in the vicinity of the Salt River, AZ.

The next amendment, No. 2805, is on behalf of Senator SASSER, which provides $500,000 for the Corps of Engineers to continue preconstruction, engineering, and design for the Kentucky Lock addition in accordance with the "Report of the Chief of Engineers," dated June 1, 1992.

The next amendment, No. 2806, is on behalf of Senator HEFLIN, which makes $2 million available to close out activities related to the Alabama Elk River Economic Development Program in Alabama. Again that is within available funds.

The next amendment, No. 2807, is on behalf of Senator SIMON, to provide the Corps of Engineers shall complete preconstruction engineering and design on the McCook and Thornton Reservoirs projects in Illinois, including all activities necessary to ready the project for construction in fiscal year 1994.

The next amendment, No. 2808, is on behalf of Senator REID, to provide $3,700,000 for infrastructure studies on the mobile sampling platform and monitoring work and other R&D activities carried out at the universities in Nevada, Reno, and Las Vegas. This is in connection with the nuclear waste development in Yucca Mountain and the university there. This comes out of the nuclear waste fund and is ongoing. The universities have done good research in the past and this is a continuation of that.

Next is amendment No. 2809, for $250,000 through the Corps of Engineers to demolish and remove the India Point railroad bridge in the Seekonk River, Providence, RI. It is on behalf of Senator CHAFEE.

Next is amendment No. 2810, a sense-of-the-Senate resolution on behalf of Senators KERREY, DASCHLE, EXON, LIEBERMAN, DODD, LEVIN, RIEGLE, and MOYNIHAN, which is a sense-of-the-Senate that Congress should reexamine the Low-Level Radioactivity Waste Policy Amendments of 1958 and work with the Secretary of Energy and the National Governors Association to develop solutions to problems relating to capacity within the United States for disposal of low-level radioactive waste, including the decline in the volume of generation of such waste and projected surplus of such capacity that have arisen since 1980.

Finally, on behalf of Senators BYRD, MITCHELL, REID, BOREN, DECONCINI, D'AMATO, FOWLER, MURKOWSKI, BIDEN, PRESSLER, DODD, KERREY, and MOYNIHAN, amendment No. 2811, a sense-of-the-Senate resolution that states that the national elections for the President and Parliament of Romania scheduled to be conducted on September 27, 1992, will be an important measure for Romania's progress toward democracy. Those elections should be conducted in a free and fair manner that includes reasonable equal access to the mass media by the major candidates; and the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and international observers are placed in Romania to monitor scheduled elections, and any runoff elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and consideration by the Congress of any legislation to grant nondiscriminatory most-favored trade to Romania should not be held until the Secretary of State certified to the election in Romania scheduled for September 27, 1992, and any consequent runoff elections that may be held are conducted in a free and fair manner.

AMENDMENTS NUMBERED 2803 THROUGH 2811

Mr. JOHNSTON. Mr. President, I send these amendments to the desk and I now ask unanimous consent that the amendments be considered and approved en bloc, and that any statements by Senators in support thereof be placed in the RECORD in the appropriate place next to the respective amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for other Senators, proposes amendments numbered 2803 through 2811, inclusive.

Mr. JOHNSTON. Mr. President, just to be sure, I think the pending amendments are the committee amendments, and I think it is implicit in my unanimous consent that the committee amendments be temporarily laid aside for this consideration.

The PRESIDING OFFICER. That was the Chair's understanding.

Mr. JOHNSTON. Mr. President, I have stated the amendments and am now ready for the question.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendments, en bloc.

The amendments (No. 2803 through 2811) were agreed to, en bloc, as follows:

AMENDMENT NO. 2803

On page 40, line 19 strike "$467,634,000" and insert "$466,334,000".

On page 40, line 22 strike "$156,168,000" and insert "$154,868,000".

On page 45, line 6 strike "$2,202,000" and insert "$3,502,000".

On page 45, line 14 insert the following before the period: ": *Provided further*, That $1,300,000 of the funds contained herein shall be for the Fort McDowell Indian Community Small Reclamation Project Act loan authorized by Section 8(e) of Public Law 101–628".

PROVIDE FUNDING FOR FORT MC DOWELL MOHAVE-APACHE INDIAN COMMUNITY

Mr. DECONCINI. Mr. President, the amendment I am offering directs the Bureau of Reclamation to provide $1.3 million to fund a small reclamation project loan for the Fort McDowell Mohave-Apache Indian Community of Arizona. This loan fulfills the Federal Government's obligations under the Fort McDowell Indian Community water settlement legislation and will allow this tribe to finally proceed to settle its long-standing water rights litigation.

Mr. President, there are over 50 lawsuits currently pending before State and Federal courts to resolve disputes over tribal rights to water flowing on, or past, Indian reservations. Litigation is costly, time consuming, uncertain in outcome, and once decided, can displace existing water uses and provide only paper rights, not wet water. Prolonged uncertainty clouds the validity of water rights for Indians and non-Indians alike, forestalling investment based on the availability of water. This uncertainty hurts tribes, businesses, States and the Nation.

The Fort McDowell Water Settlement Act of 1990 provides for the settlement of the Fort McDowell Indian Community's water rights claims against a number of non-Indian parties, including the Federal Government. This legislation prescribes steps which must take place within a defined time period in order for the water rights litigation to be resolved. Failure to meet the deadlines imperils the settlement negotiations and could result in the litigation continuing at immense financial and personal costs.

The Fort McDowell water rights settlement is the product of the hard work of many parties to resolve this highly contentious issue. If funding for the small reclamation project loan is not provided within the deadlines set out in the legislation, all of these efforts will be wasted. The Fort McDowell Indian Community has participated in good faith in negotiating settlement of its extremely valuable water rights claims. The Federal Government participated in the settlement negotiations and has agree to it. There is, therefore, a moral obligation to provide the necessary funding to implement all the settlement conditions. To do otherwise is irresponsible and a breach of faith, if not of trust.

As called for by the settlement legislation, the Fort McDowell Indian Community, is to receive a $23 million development fund. With the exception of a small reclamation projects loan, all of the money for the development fund has been provided. The tribe has agreed to wait for full funding of the total agreed $13 million loan if $1.3 million in loan funding is provided for the fiscal year.

Last year I requested funding for this small reclamation project loan be included in the fiscal year 1992 appropriations bill. However, I was informed by the committee that it was not possible to fund the loan at that time because the loan application had not yet been finalized by the Department of the Interior. Therefore, I agreed to defer my request pending the final approval of the Indian Community's application for the small projects loan. Mr. President, I am aware that the Secretary of the Interior has advised that his Department has now approved the loan application. We must now fulfill our obligation to provide funding for this loan. If we do not do so, the tribe has every right to withdraw from this settlement and without the settlement, the process of resolving the water rights of all the parties will be placed in jeopardy.

I ask unanimous consent that a letter I have received from the Fort McDowell Indian Community, and the letter from the Secretary of the Interior to the President of the Senate indicating the Department's approval of the ban, be printed in the RECORD.

Mr. President, I ask that my amendment be adopted.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FT. MCDOWELL MOHAVE-APACHE
INDIAN COMMUNITY,
Fountain Hills, AZ, July 27, 1992.

Hon. DENNIS DECONCINI,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: On behalf of the Fort McDowell Indian Community, I'd like to express our appreciation for your continuing efforts on the implementation of the Fort McDowell water settlement act of 1990, P.L. 101-628. As you know, that act prescribes a number of steps that must take place within a certain time frame or the entire settlement is off. The statute requires state court approval of the settlement by December 31, 1993, and the state court has advised the Community that the approval process will take one full year to complete. As a result, the parties must submit the entire settlement to the court for approval by January 01, 1993, to meet the statutory deadline.

With the strong support and encouragement of the Arizona congressional delegation, the parties to the settlement have worked diligently over the last year and one half to fully implement the Fort McDowell settlement. We are nearing completion on all components of the settlement, save one—appropriation of funding for a Small Projects Act loan in the amount of $13 million. This component is a vital part of the overall settlement. This loan is one of the items that by the terms of the settlement act must be in place by the statutory deadline; it is also the vehicle for funding irrigation construction on the reservation so that the Community can put the settlement water to beneficial use.

Because of the statutory deadline for finalizing the settlement, Congress must appropriate the Fort McDowell Small Projects Act loan in the Fiscal Year 1993 budget or our water settlement is a dead letter. The Community was extremely disappointed that the Administration, after negotiating the settlement with the Community and supporting in particular the loan as part of the settlement, chose not to include this item in its Fiscal Year 1993 budget request. And the Community is distraught that, thus far, the Congress has not added this item to the FY'93 budget. Nothing less than the entire settlement is on the line at this point. All other elements of the settlement are coming together, but this one failure would doom the entire settlement.

In the past few days, the Community consulted with its engineers to determine the absolute minimum level of funding necessary to at least commence the irrigation project to be funded by the small loan authorized in the water settlement. We are advised that if one million dollars of the total loan authorized by the settlement act were available, the project could at least commence so that all components of the settlement are in place by the statutory deadline. Obviously, the Community greatly prefers full funding of the loan; otherwise, the Community must sign waivers and releases before it obtains the full value of the settlement, i.e., the $13 million loan agreed to by the United States. But the Community is prepared to rely on Congress' stated commitment in the settlement act to provide the full loan amount so that we can avoid losing the entire settlement.

We earnestly hope that you can convince your colleagues that this appropriation in FY'93 is imperative. This is not the usual case where only one worthwhile project is at stake. The entire Fort McDowell water settlement is at stake. And the honor of the Administration and Congress is at stake. Both the Administration and the Congress supported and approved the loan as part of the Fort McDowell water settlement—the Administration and Congress gave the Community their word. The Community entered into the water settlement in the belief that the Administration and the Congress would honor their word. We hope we are not proven wrong.

Sincerely,

GILBERT JONES, Sr.,
Vice-President,
Mohave-Apache Community Council.

THE SECRETARY OF THE INTERIOR,
Washington, DC, July 10, 1992.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: The Fort McDowell Indian Community (Community) has applied for a loan under the Small Reclamation Projects Act (SRPA) of 1956 (70 Stat. 1044), as amended, and the Fort McDowell Indian Community Water Rights Settlement Act (the Act) of 1990. Their application is being processed in accordance with Section 4(c) of the SRPA and with procedures approved by the Office of Management and Budget.

Specific provisions of the Act waive certain application requirements and direct the Secretary of the Interior to provide a SRPA loan to the Community in the amount of $13 million to be repaid over a period of 50 years without interest. The Act also requires the Community to establish a separate repayment fund account which will essentially guarantee loan repayment. Penalties will accrue if the provisions of the Act are not implemented by the end of 1993.

The loan will be used to develop 1,584 acres for trickle irrigation of an orchard and vineyard enterprise on unallotted Community lands held in trust by the United States. The proposed project will assist in fulfilling the United States' trust responsibilities to Native Americans and contribute to the Administration's Rural America Initiative by providing long-term economic stability and improved social well being of the Community members and by helping maintain the rural reservation setting.

We have examined the proposal and find that it is technically and financially feasible and meets all requirements and provisions of the Act. The enclosed statement briefly describes the specifics of the proposal. In accordance with the Act of July 31, 1953, I certify that an adequate soil survey and land classification study, including a check for potentially hazardous trace elements, has been accomplished. The lands classified as irrigable are susceptible to the production of agricultural crops by means of irrigation and without adverse environmental impacts from hazardous trace elements.

A similar letter has been sent to the Speaker of the House.

Sincerely,

MANUEL LUJAN, JR.,
Secretary.

AMENDMENT NO. 2804

On page 12, line 4 insert the following before the period: ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to utilize up to $500,000, within available funds, to undertake a reconnaissance level study on flooding problems associated the sanitary landfill on the Salt River Pima-Maricopa Indian Reservation in the vicinity of the Salt River, Arizona".

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

Mr. DECONCINI. Mr. President, the amendment I am offering directs the Corps of Engineers to provide $500,000 for a reconnaissance study to assist the Salt River Pima-Maricopa Indian Community of Arizona in dealing with an emergency situation that threatens not only the Indian community, but also the environment of those living downstream. I cannot stress enough the urgent need of this project which will provide for bank stabilization at landfills located on the lands of the Salt River Pima-Maricopa Indian Community.

The Salt River Pima-Maricopa Indian Community reservation borders the Salt River immediately north and upstream of the Phoenix metropolitan area. This spring's heavy rainfall, combined with concern by Federal officials for the safety of upstream dam construction projects resulted in unusually large discharges into the Salt River upstream of the Salt River Pima-Maricopa Indian Community. These flood flows caused extensive erosion of both banks and the stream bed of the Salt River, threatening two landfill sites which serve both the Indian community and surrounding non-Indian communities. Emergency action by the tribe, the Corps of Engineers, the State of Arizona and the cities of Mesa, Scottsdale, and Phoenix prevented serious harm at the time, but these measures alleviated problems at the landfills only temporarily. Permanent correction is necessary to protect the property and health of the Indian community and the communities downstream of these landfill sites.

What is needed to address this critical situation in the long-term is a project to provide 100-year level flood protection to the two landfill sites. Such a project would avert any potential damage to the landfill embankments, downstream areas and underground aquifers. Total costs for design and construction of a permanent project are estimated to be in excess of $4 million.

I have been informed by the Corps of Engineers that this is an emergency situation. The corps, the Environmental Protection Agency, and the Indian community are working together in response to the declared emergency in a cooperative attempt to resolve existing erosion problems. Again, only permanent bank stabilization will completely correct this dangerous situation. To meet the emergency needs of channelization and bank stabilization, additional funding must be provided.

Mr. President, I am fully cognizant of the need for fiscal restraint in these times of recession. However, I strongly feel that the threat to public health and safety involved in this issue warrants Congress' immediate attention. Therefore, I ask that my colleagues support my amendment.

AMENDMENT NO. 2805

On page 12, line 4 insert the following before the period: "*Provided further*, That using $500,000 appropriated herein, to remain available until expended, the Secretary of the Army acting through the Chief of Engineers, is directed to continue preconstruction, engineering and design for the Kentucky Lock addition in accordance with the Report of the Chief of Engineers, date June 1, 1992".

AMENDMENT NO. 2806

On page 80, line 13, before the period: insert the following: ": *Provided further*, That no amount may be transferred from the Alabama Elk River Development Agency trust fund if the transfer would result in a balance in such trust fund that is less than $2,000,000".

ELKMONT RURAL VILLAGE

Mr. HEFLIN. Mr. President, I rise today to express my strong indignation over an injustice that may occur if the Senate does not take immediate action to stop it. I am referring to an attempt by some to gut the funding for TVA's Elkmont Rural Village located in Elkmont, AL. This is an ongoing project which has been in existence since 1977 in a partnership between TVA and Elkmont Rural Village homeowners. The Alabama Elk River Development Agency trust fund now totals $4.1 million and it has become a target for those looking for money in these tight budgetary times. It has been proposed by some that the bulk of this money be transferred for other purposes within the TVA budget.

I can understand the reasons for wanting to fund other programs with this money, but I cannot stand by and let this occur at the expense of the Elkmont Rural Village homeowners. The people of the Elkmont Rural Village, all 276 of them, have invested a total of over $8,000,000 of their own money and life savings in their homes. They have lived up to their end of the deal; now TVA wants to back out of its responsibility and abandon the homeowners.

Mr. President, I ask unanimous consent to insert in the RECORD at this point this list of the 276 residents of Elkmont Rural Village that are being abandoned by the Federal Government.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

RURAL VILLAGE FAMILY DIRECTORY—ALPHABETIC LISTING BY FAMILY NAME

Format: Family Name, Address & Telephone Number, Male Spouse Name & Occupation, Female Spouse Name & Occupation, Child's Name & Age, Child's Name & Age, etc. (Age as of nearest birthday. May have adult live-in listed.)

Mr & Mrs Mike Adams, 18 Sulphur Creek Lane, none, Mike Carpenter, Jan March of Dimes—Huntsville, Joshua, Justin, Eli, Eric.

Mr & Mrs Danny Adcock, 1 Sulphur Creek Lane, 732-3040, Danny Pipe Fitter/Stone & Webster Engineering, Kay Homemaker, Manion 15, Flax 5.

Mr & Mrs Gary Arnold, 5 Sulphur Creek Drive M/F, 732-3260, Gary Program Manager/Tec Master, Brenda, Program Analyst/MICOM, Redstone Arsenal.

Mr Michael J Bailey, 17 Buckeye Lane, 732-4054, Mike, US Army Missile Command, Redstone Arsenal, Michele 20, Ross 17.

Elkmont Baptist Church, Sulphur Creek Drive, 732-4629, Pastor David Jones, 723-4833.

Mr & Mrs Don Baugher, 19 Sulphur Creek Lane, Unlisted, Don, Joyce, Dunlop/Madison, Dennis Ferguson 26, Collin Baugher 15.

Mr & Mrs Timothy A Belmore, 25 Sulphur Creek Lane, 732-3244, Tim, Stone and Webster Engineering, Nora Homemaker, Bryan 9.

Mr & Mrs AJ Bing, 11 Sulphur Creek Drive, 732-4798, Bud Retired, Bernice Homemaker.

Mr & Mrs Don Black, 2 Walnut Drive, 732-4796, Don, Estimator/Harold Construction Co, Margaret, Secretary/Athens City Schools, Mike 26, Chris 22, Daniel 12.

Mr & Mrs Hughie Black, 6 Walnut Drive, 732-3014, Tom Retired, Cathy Homemaker.

Mr. Garner Bouse, 13 Sulphur Creek Lane 732-4512, Gar Sales Engineer/AMP Inc.

Mr. Arthur L. Bowen, 30 Poplar Drive 732-4678, Bud Warranty Correspondent/Acuster.

Mr. & Mrs. Jeffrey S. Brackeen, 16 Locust Lane 732-3029, Jeff Engineer/Rockwell International, Angle Administrative Assistant, Teladyne Brown.

Mr. & Mrs. Roy T. Brazeal, 9 Hickory Drive 732-3231 Roy Ross Poultry, Michele Unemployed Educator, Brad 5 Oylan Roy O.

Mr. & Mrs. David Brown, 10 Sulphur Creek Drive 732-4759. David Engineer/NASA Karia Homemaker, Matthew 4.

Mr. & Mrs. Robert Brown, 9 Walnut Drive 739-4800, Bob Browns Ferry, Glenda, Teacher/Elemant.

Mr. & Mrs. David Campbell, 10 Sulphur Creek Lane 732-4903, Dave Project Controls Engineer/TVA Browns Ferry Susle Homemaker, Brandl 6, Ashley 3.

Mr. & Mrs. John Carter, 24 Suphur Creek Drive * * *, John Management/Deldco Industrial Park, Lisa Teacher, Jonathan.

Mr. & Mrs. Kenneth Carter, 1 Cedar Lane 732-4521, Kenny Carter's Barbeque (Old Gin), Peggy Carter's Barbeque—Athens, Jane 19.

Mr. & Mrs. Wayne Case, 15 Buckeye Lane, Wayne Instructor/Limestone County Area Vocational Center, Prissy Executive Secretary to Dr. Hofaore/Ross Poultry.

Mr. & Mrs. Frank Cachon, 11 Sulphur Creek Drive M/F 732-4637, Frank Manufacturing Services Manager/Eaton Corp., Pat Retired/Registered Nurse, Lort 20 Lynn 16.

Mr. & Mrs. Jean-Pierre Chavanne, 7 Locust Lane 732-3189, John Lexington Fabrics, Trisha Athens State College, Christopher.

Mr. & Mrs. Richard Cialo, 24 Poplar Drive 732-4074, Rich Professional Engineer/Rockwell International, Alice Marketing Coordinator/Ross Breeders, * * *.

Mrs. Susan Clem, 7 Sulphur Creek Drive M/F 732-4791, Susan Assembly Line/Saginaw, * * * 15 Fred 11.

Mr. & Mrs. Wayne Clem, 5 Sulphur Creek Lane 732–4435, Wayne Dunlop, Gal Classic Arabian Farm, Daniel 13, David 10.

Mr. & Mrs. Van Coats, 10 Oak Drive 732–3132, Van Project Controls Manager/Unit 3 Browns Ferry. Ann Unemployed Educator, Nat 6.

Mr. & Mrs. Ted Colwel, 23 Sulphur Creek Lane None, Ted Wachtel Ford Motors, Ramona Homemaker.

Mr. & Mrs. John Conlon, 8 Sulphur Creek Drive, 732–4059, Mike Coca Cola, Inc., Cindy Avax Inc., Mallory 4 Zachary 9 Expecting -0.

Mr. & Mrs. Brad Coulter, 4 Poplar Drive, 732–4672, Brad Owner Bi-State Auto Parts-Ardmore, Debbie Teacher/West Limestone .

Mr. & Mrs. Charles Crosby, 24 Hickory Drive, 732–4640, Charles Computer Graphics Technican/TVA, Pam Homemaker, Jennifer 16, Jill 13, Jessica 12, Jonathan 9.

Mr. & Mrs. Gary Crurk, 27 Poplar Drive, 732–4845, Dan Configuration Management/Tentastar, Charlotte Records Analyst/Acustar.

Mr. & Mrs. Kenneth Culberson, 22 Sulphur Creek Drive, 732–4145, Kenny Senior Operator Instructor/Browns Ferry, Evelyn Homemaker, Deby 26.

Mr. & Mrs. Kenneth David, 15 Sulphur Creek Drive, 732–3167, Ken Retired/US Army, Veteran's Service Officer/Limestone County, Connie US Army Missile Command-Redstone Arsenal, Carrle 18.

Mr. & Mrs. Richard Dawes, 12 Sulphur Creek Lane, 732–4040, Rick Sterling Plumbing—Madison, Debbie Secretary/Intergraph.

Mr. & Mrs. David Dowd II, 8 Valley Lane Unlimited, David Mechanic/US Postal Service, Vield Street Department, City of Athens, Joseph 2.

Mr. & Mrs. Odla R. Draper, 17 Locust Lane, 732–4625, Chuck Computer Graphics Tech/TVA Browns Ferry, Sandl Homemaker, Rachel 5, Chelsea 2.

Mr. & Mrs. Robert W. Elda, 9 Poplar Drive, 732–4900, Bob Retired Engineer, Loretta Newspaper Reporter/"Your Community Shopper".

Mr. & Mrs. Robert Elgan, 15 Locust Lane, 732–4212, Rob McDonnell Douglas, Lora McDonnell Douglas.

Mr. & Mrs. Clayton Evans, 6 Plumtree Drive, 732–4625, Buzz Auto Worker/Saginaw, Debbie Accountant/State of Alabama, Max 4, Bonnie 2.

Mr. & Mrs. Craig Goodrich, 13 Hickory Drive, 732–3053, Craig Software Development/Bechtel, Annie Homemaker, Alexandra 1.

Mr. & Mrs. David Hagood, 2 Dogwood Drive, 732–4692, David Customer Engineer/Intergraph, Dawn Domestic Engineer, Sean 11, Allaha 9, Christopher 5, Spensor 3.

Mr. & Mrs. Charles Harbin, 8 Sulphur Creek Dr MF, 732–4163, Charles Space Program Designer/Teledyne Brown, Debbie Homemaker, Arln 13, Emily 10 JR 5.

Mr. & Mrs. Jeff Hill, 8 Hickory Drive, 732–4667, Jeff Saginaw, Mona Teacher/Elimont, Savannah 5.

Mr. & Mrs. Terry Hobbs, 9 Cedar Lane, 732–4779, Terry Manager/Jiffy Food Store, June Computer Programmer/Amoco Chemical, Leigh Ellen 8, Ethen 2.

Mr. & Mrs. Charles Hofacre, 7 Walnut Drive, 732–4883, Charles Ross Breeders, Christa Social Worker/State of Alabama Human Resources, Beth 8, Christopher 5.

Ms. Margarete Hogan, 24 Buckeye Lane, 732–4370, Margarete Athens Post Office, Heather 21.

Mr. & Mrs. Curt Hollingsworth, 11 Locust Lane 732–3213, Curt Gradwell Corporation, Whitney GrayBar Electric.

Mr. & Mrs. Jim Johnson, 30 Sulphur Creek Drive 732–4216, Jim Postmaster-Elkmont, Linda Teacher, Librarian/Reid Elementary, Allasa 9 Phillip 6.

Mr. & Mrs. Robert Johnson, 4 Sulphur Creek Lane, Robert Radio Personality/WZYP, Tammy Homemaker, Kull 2 Tara 1.

Mr. & Mrs. Steven Johnson, 4 Valley Lane 732–3195, Steve Manager/Darryl's Restaurant, Suzanne Ruby Tuesday's Restaurant, Zachary 9 Cody 8 Spensor 7.

Mr. & Mrs. David Jones, 22 Buckeye Lane 732–4833, David Sheet Metal Worker—R5A, Pastor—Elkmont BC, Preda Homemaker, Anna Sue 4 Elizabeth 2 Rachel 0.

Mrs. Betty Kirchhuber, 31 Sulphur Creek Drive 732–4575, Betty Artist.

Mr. & Mrs. Michael L. Lambert, 18 Poplar Drive, Mike Retired/US Army, Security/Tentastar, Shirley Contract Specialist/Acquisition Center—RSA, Ryan 16.

Mr. & Mrs. Bill C Latham Jr, 17 Sulphur Creek Drive 732–4709, Bill Steelcase Pam Intergraph.

Mr. & Mrs. Felix L. Liveoak Jr, 28 Sulphur Creek Drive 732–4430, Lee Retired/US Army, Retired/General Dynamics, Amy Homemaker.

Mr. & Mrs. Dennis Lowery, 20 Hickory Drive Unlisted, Dennis DOD-Huntville, Joanne Homemaker.

Mr. Duncan Rand Mackie, 2 Poplar Drive 732–3075, Randy Bechtel.

Mrs. John Marlin, 4 Locust Lane 732–4794, Nells Retired

Mr. & Mrs. Miles Martin, 10 Dogwood Drive Unlisted, Miles Project Manager/Pace & Walte, Brenda President/Lighthouse Network Inc, Alms 19 Lynn 19.

Mr. & Mrs. Perry A McNatt, 25 Buckeye Lane 732–4529, Perry Farmer/Partner in North Limestone Gin, Debbie Ellemont Post Office, Jennifer 7.

Mr. & Mrs. Robert L Melvin, 2 Sulphur Creek Lane 732–4367, Bob Letter Carrier/Athens Post Office, Mort M&M's Domestics/Patbaby-house sitter, Louise Franz—Mort's Mother.

Mrs. Joyce Mitchell, 33 Sulphur Creek Drive 732–4710, Joyce Retired/Teacher.

Mr. & Mrs. Thomas G. Moran, 32 Sulphur Creek Drive, Thom Engineer/Stone & Webster Engineering, Taresa Homemaker.

Mr. & Mrs. Keith Nichols, 16 Sulphur Creek Lane 732–4654, Keith Unit Operator/Browns Ferry, Sheila Homemaker, Josh 6 Mitch 4 Kelsey 0.

Mr. & Mrs. Clem Noblitt, 22 Poplar Drive 732–4584, Bud Medical Technician-Redstone Arsenal, Anne Homemaker.

Mr. & Mrs. Frank Noblitt, 14 Sulphur Creek Drive 732–4510, Frank TVA, Ava Homemaker/Student, Leslie 11 Kimberly 9.

Mr. James O'Mara, 25 Hickory Drive 732–3143, Jim Bachtel.

Mr. & Mrs. Jerry Patterson, 13 Sulphur Creek Dr. 732–4515, Jerry Maintenance/Monsanto, Carole Teacher/Athens High School.

Mr. & Mrs. Robert B. Paysinger, 7 Sulphur Creek Lane 732–4522, Bobby Malone and Hyde Drug Distributors, Jane Contract Specialist/MICOM Redstone Arsenal, Chris 18 Jaffe 16.

Mr. & Mrs. Jimmy Powers, 20 Buckeye Lane 732–4513, Jimmy Jimmy's Furniture—Athens, Barbara Receptionist/Athens Welcome Center, Benje 25 Beth 26.

Mr. & Mrs. Timothy J. Stone, 28 Sulphur Creek Lane 732–4609, Tim Electrical Engineer/Bechtel, Cheryl Homemaker, Amy 10 Chelsea 8 Katie Jo 3.

Mr. & Mrs. Greg Sutton, 22 Sulphur Creek Lane 732–4755, Greg Universal Data Systems, Pam US Army Missile Command—Redstone Arsenal, Emily Nicole 3.

Mr. & Mrs. Mike Taylor, 5 Locust Lane Unlisted, Mike Saginaw, Cathy Teacher/Ardmore, Elizabeth Catherine.

Mr. & Mrs. Joey Thompson, 19 Locust Lane 732–4558, Joey Teacher/Elkmont, Youth Dir/Ekton Rd. Baptist Ch, Vickie Teacher/Elkmont, Tabitha 19 Joey 11.

Mr. & Mrs. Scott Webb, 6 Sulphur Creek Lane 732–3062, Scott Cost Engineer/Bechtel, Kelly Homemaker, Christopher 3 Ryan James 0.

Mr & Mrs Eric Pugh, 13 Poplar Drive 732–3011, Eric Browns Ferry/TVA, Susan Homemaker, Erin 10 Christopher 9 Lauren 5 Mary Kate 3 Jordan 1.

Mr & Mrs Greg Rich, 13 Locust Lane 732–4742, Greg Steelcase-Athena, Donna Homemaker/Part-time Ross Vet Lab, Anna 7.

Mr & Mrs Edward P Samanek, 7 Sulphur Creek Drive 732–4708, Edward Madison Post Office, Geneva College Student, Catharine 3.

Mr & Mrs Sammy Shackelford, 26 Hickory Drive 732–4308, Sammy Unitog Corporation, Joan Jason 14.

Mr & Mrs Gerald Stafford, 3 Cedar Lane 732–8160, Gerald Oall Plus, Blanche Homemaker.

Mr & Mrs Tim Stanford, 10 Cedar Lane 732–4689, Tim Steel Case, Kathy Part Time/Bells & Bows, Teal 7.

Mr & Mrs Dean E Steele Sr, 13 Dogwood Drive 732–4526, Dean Retired Engineer/Bechtel, Mary Homemaker.

Mr & Mrs Jon Welch, 33 Poplar Drive 732–3188, Jon Bechtel, Diane Homemaker, Zachary 4 Brocklyn 1.

Mr & Mrs Randy Whitt, 1 Hickory Drive 732–4528, Randy Bricklayer, Madolyn Teacher/Piney Chapel & Ardmore, Jamie 28 Jeremy 16 Mary Lynn 12.

Mr & Mrs Robert S Wilson, 6 Sulphur Creek Drive 732–4561, Bob Rose Breeders, Virginia Legal Secretary/Patton, Latham, Legge & Cole, Bert 28 Stuart 16.

Mr & Mrs Dale Wisener, 1 Sulphur Creek Drive 732–4062, Dale Athena Post Office, Gail Office Assistant/Dr J W Smith-Athena.

Mr & Mrs Wayne L Wood, 5 Walnut Drive 732–4696, Wayne President/Kare Packaging Inc, Karen Owner/Kare Packaging Inc.

Mr & Mrs Bill Worthy, 1 Valley Lane 732–4489, Bill Saginaw, Baptist Minister, Jewel Homemaker.

Mr & Mrs Larry Wright, 11 Cedar Lane Unlisted, Larry Sales/Limestone Farmers Co-Op, Sandra Juvenile Probation Officer/Limestone County, Rebecca Kay 5.

Mr & Mrs Herbert Zoller, 6 Hickory Drive 732–3199, Herb NASA, Mary Anne Homemaker/Music Teacher, Andrew 2.

RESIDENCES NOT LISTED ABOVE

8 Dogwood Drive vacant.

1 Locust Lane.

Mr. HEFLIN. The citizens of Elkmont Rural Village are concerned that the future of their community is in jeopardy. They are very concerned that the promises made to them by the U.S. Congress and the Tennessee Valley Authority are being broken.

The Elkmont Rural villagers purchased or built their homes with the understanding, backed by contract, that the village would be fully developed. They more than matched the commitment of funds by the U.S. Congress with their life savings and mortgages totaling an investment of over $8 million. The amount of money in the trust fund is $4 million. Some want to take $3 million out of this fund, leaving only $1 million in the trust fund, an amount inadequate for the continued survival and future self-sufficiency of the village.

Never did the homeowners, after buying their homes, expect TVA and the Federal Government to back out of the project by failing to fulfill their end of the deal—the completion of the project. To add insult to injury, in addition to walking away from the project, they want to take most of the trust fund away as well, which would preclude the possibility of the homeowners finishing the project themselves.

The actions taken by TVA, and supported by some in Congress, have already had a chilling effect on the value of the homeowners investments, and on the future sales of developed property in the village. TVA and the Federal Government in this regard resemble a fly-by-night developer leaving town before the creditors and homeowners can catch up with him.

To quote from one of the many letters I have received from Elkmont, this one from Dennis D. Lowery:

> We have invested our futures on the promise of a developed village. Now, TVA auditor has told TVA to return the money to Congress and we, the villagers, are told "sorry, but from now on its your problem." We cannot maintain the systems built specifically for the village without a sufficient base for revenue development. If I had been told maintenance funds would not be there, I would not have bought my home in Limestone County.

This was a letter from A.J. Bing:

> As a former employee of TVA and a retired Navy World War II veteran, the very thought of such action puts a damper on my enthusiasm for my time of service to my country. It makes one feel like he is being deserted.

And this from Loretta M. Ekis:

> Those of us who invested our life savings in this rural village concept are not prepared to pay for the mistakes of TVA, AERDA, or Congress. If the funds are not used to develop the remaining acreage of the village, then we will be left with a huge debt that we cannot possibly pay.

While it may be unrealistic to expect TVA to build the other eight villages originally conceived in the Elk River development plan, legally and morally TVA and the Federal Government have an obligation to complete the first village in the project, the Elkmont Rural Village. Neither the AERDA Board nor village residents should be left with the burden of the operation and maintenance of the village with no money for developing and marketing the remaining acreage.

In my judgment, a reasonable solution to this problem would be for TVA to drop plans to build the other eight rural villages, but to complete the one that it has already started, Elkmont Rural Village. This should be done in such a way so as to protect the integrity of the homeowners investments while developing the village to fulfill its ultimate goal of being a self-sufficient and self-governing community.

The pledge that Congress made to the homeowners of the Elkmont Rural Village should not be broken. The Elkmont homeowners had faith in TVA and the Federal Government that the money contained in the trust fund would be spent for the development of the Elkmont Rural Village. These are the terms under which the trust fund was set up, and it would be a violation of that trust to use the funds for other purposes. The appropriated funds should therefore remain in the lower Elk region of the Elk River watershed. The present contract between the Alabama Elk River Development Agency and Tennessee Valley Authority extends to April 21, 1996, and it should be honored.

It is for these reasons that I offer an amendment to the Energy and Water Appropriations bill to mitigate the proposed usage of the trust funds for purposes other than what Congress originally intended. The purpose of the bill is to preserve the integrity of the Alabama Elk River Development Agency trust fund and thus preserve the integrity of the TVA and Congress in its contractual commitment to the Elkmont Rural Village. It simply states that not less than $2 million be left in the trust fund for the future development of the village.

AMENDMENT NO. 2807

On page 12, line 4 insert the following before the period: ": *Provided further*, That of the appropriated funds herein, the Secretary of the Army acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the McCook and Thornton Reservoirs project in Illinois, including all activities necessary to ready the project for construction in fiscal year 1994".

AMENDMENT NO. 2808

On page 60, line 6, strike "$1,700,000" and insert in lieu thereof "$3,700,000".

AMENDMENT NO. 2809

On page 28, line 7, insert the following after "662": ": *Provided further*, That using $250,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to demolish and remove the India Point Railroad Bridge in the Seekonk River, Providence, Rhode Island, as authorized by section 1166(c) of Public Law 99-662".

AMENDMENT NO. 2810

At the appropriate place insert the following:

Findings:

The United States Congress enacted the Low-Level Radioactive Waste Policy Act of 1980 (Public Law 99-924; 42 U.S.C. 2021b et seq.) upon the urging of the National Governors Association and prompted by a concern that failure to open new low-level radioactive waste disposal sites in the United States would result in a severe shortage of disposal capacity for such waste in the United States;

Congress enacted the Low-Level Radioactive Waste Policy Act Amendments of 1985 (Public Law 96-573; 94 Stat. 3347) to modify such 1980 Act by establishing incentives and procedures to permit disposal of low-level radioactive waste at existing commercial disposal facilities through the end of 1992;

A 1989 study conducted by the Office of Technology Assessment indicates that the volume of low-level radioactive waste generated in the United States declined approximately by half between 1980 and 1989;

The study predicts that such volume may decline approximately by half again between 1989 and 1993;

The volume of low-level radioactive waste disposed of is a major determinant of the cost of the disposal of such waste;

The disposal of increasingly small volumes of such waste results in higher costs of disposal per unit volume because many of the costs of developing and maintaining low-level waste disposal sites are fixed;

Given the likelihood that the number of low-level radioactive waste disposal sites in the United States will increase soon from 3 to more than 10, it is likely that the cost per unit volume of disposing of such waste at such sites will rise dramatically; and

On June 19, 1992, the Supreme Court of the United States held that the provisions of the Low-Level Radioactive Waste Policy Act Amendments of 1985 known as the "take-title" provisions were unconstitutional: Therefore, it is the sense of the Senate that the Congress should reexamine the Low-Level Radioactive Waste Policy Act Amendments of 1985 (Public Law 96-573; 94 Stat. 3347) and work with the Secretary of Energy and the National Governors Association to develop a solution to problems relating to capacity in the United States for disposal of low-level radioactive waste (including a decline in the volume of the generation of such waste and a projected surplus of such capacity) that have arisen since 1980.

AMENDMENT NO. 2811

On page 83, between lines 11 and 12, insert the following:

SEC. 509. (a) Congress makes the following findings:

(1) National elections for the President and Parliament of Romania are scheduled to be held on September 27, 1992.

(2) Romania lacks an historical tradition of political democracy.

(3) The Romanian elections of 1946, in a major step toward the Soviet and Communist enslavement of Eastern Europe, were fraudulently manipulated to bring the Communists to power.

(4) Romania, since the violent overthrow of the Communist Ceausescu regime in 1989, has professed to pursue a democratic course.

(5) Progress toward achieving democracy has been marred by acts of violence, perpetrated by groups of miners in June 1990 and September 1991, that were aimed either at suppressing political dissent or at undermining the democratic institutions of the Romanian Government.

(6) In February 1992, the first free and fair local government elections in a half century were held in Romania.

(7) There are many encouraging signs that the parliamentary and presidential elections scheduled for September 27, 1992, can be fairly and democratically conducted.

(8) Among those signs is the recent enactment of legislation in Romania that creates an audiovisual council with the responsibility for fairly allocating radio and television access to the various candidates.

(9) Although international human rights monitors have observed that Romania has made progress in the area of Human rights, the monitors have also identified significant unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

(10) Recent press reports indicate that Romania may be serving as a conduit for the transport of goods to Serbia and Montenegro in contravention of United Nations sanctions.

(11) A bilateral United States-Romanian trade agreement, which was signed on April 3, 1992, has been submitted to the Senate.

(12) To become effective, that trade agreement must be approved by the Senate.

(13) The support of the Senate for extending the favorable aid and trade treatment needed to help improve the performance and growth of the Romanian economy will depend heavily on the conduct of the fall election campaign and on the election day procedures.

(14) In considering the trade agreement, the Senate will also take into account Romania's record on human rights and its compliance with the United Nations sanctions against Serbia and Montenegro.

(15) The development of democratic procedures and institutions in Romania is at a critical stage, and the elections scheduled for September 27, 1992, represent an historic test of the commitment of the Romanian leadership and political system to developing such procedures and institutions.

(b) It is the sense of the Senate that—

(1) the elections for the President and Parliament of Romania that are scheduled to be conducted on September 27, 1992, will be an important measure of Romania's progress toward democracy;

(2) those elections should be conducted in a free and fair manner that includes reasonable equal access to the mass media by the major candidates;

(3) the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and international observers are placed in Romania to monitor the scheduled elections, and any run-off elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and

(4) consideration by the Congress of any legislation to grant nondiscriminatory (most-favored-nation) trade status to Romania should be withheld until the Secretary of State has certified to the Senate that the elections in Romania scheduled for September 27, 1992, and any subsequent runoff elections that may be held, are conducted in a free and fair manner.

DEMOCRACY IN ROMANIA

Mr. BYRD. Mr. President, I am offering an amendment expressing the sense of the Senate, on behalf of myself and the distinguished majority leader, Mr. MITCHELL, Mr. BOREN, the Chairman and other Members of the Helsinki Commission, Mr. DECONCINI, Mr. D'AMATO, and Mr. FOWLER, as well as other Senators concerned about developments in Romania, Mr. MURKOWSKI, Mr. BIDEN, Mr. PRESSLER, Mr. DODD, Mr. REID, Mr. KERREY, and Mr. MOYNIHAN, pertaining to the upcoming Presidential and Parliamentary elections in Romania. While I would have preferred to offer this in the form of a free-standing resolution as it was originally drafted, rather than as an amendment to this measure, we have been unable to get unanimous consent to bring the measure up on the floor. Because of the time-sensitive nature of this issue, for the resolution to have the desired effect on developments in Romania, it should be considered expeditiously. Consequently, I feel I must bring it to the attention of my colleagues at this time.

The manifestation of democracy in Romania is an important part of the historic and dramatic shift away from communism and dictatorship in the countries of the defunct Soviet Empire and Warsaw Pact in Eastern Europe. These nations are shaking off decades of crud and crust piled upon them by Soviet occupation and corrupt Communist dictatorships. After decades of life under the Soviet imposed dictatorial boot, in some of the nations of Eastern Europe progress has been swift, such as in Czechoslovakia and Poland, yet in others, important work remains left to be accomplished to put into place stable democratic institutions and practices. Romania falls into this second category and is facing an extremely important test of its progress this fall when Presidential and Parliamentary elections are scheduled to be held. It would be fair to say that Romania faces a watershed in its progress toward real working democracy.

There have been some encouraging recent signs that these elections will be held freely and fairly, and with reasonable access to the audiovisual media for the competing candidates. Local elections were held in February 1992 and have generally been given good marks for procedural fairness and peacefulness, free of intimidation or harassment from holdovers of the previous Communist regime of the irrational dictator, Mr. Ceausescu and his family.

Nevertheless, there have been indications pointing in the wrong direction as well. Romania has seen its share of violence during the last 5 years. Unlike the so-called velvet revolution in Czechoslovakia, the Ceausescu regime was overcome in the midst of violent street battles in December 1989, and he and his wife were preemptorily killed execution-style without a trial. Since the elections of 1990, peaceful street demonstrations have been marred by the regime's use of miners to brutally suppress such demonstrations. In addition, and of real concern for the elections this fall, the current Parliament, dominated by the regime in power, enacted legislation which restricts the role of domestic observers at the polling places, putting the question of the conduct of the elections under some cloud. While an atmosphere of fear and intimidation no longer pervades Romania, concern has been expressed over restrictions that have been imposed on domestic observers, as well as the overwhelming control that the current regime has over access to TV broadcasting.

Romania's economy has been struggling to overcome the command practices of the former Communist States, and is committed to free market principles. Nevertheless, the transition has proven difficult and the GNP declines over 10 percent last year and may decline even more this year. One item that Romania badly needs to help stabilize its economy and as a signal to international investors, is the passage by this body of most-favored-nation trade status with the United States. Such an agreement has been signed by the administration and submitted to the Senate for its approval. However, Mr. President, I believe that the Senate must make clear its concern over the future of democratic institutions in Romania by withholding approval of MFN until the elections have been held and it has been determined that the outcome was the result of free and fair procedures, with reasonable access to the media for the competing candidates. By doing so, we are giving the Romanian leadership an important incentive to make sure that this is in fact what does occur.

In addition, it is important that an effective delegation of international election observers be present to ascertain that these procedures and principles have been followed. Accordingly, the amendment calls for the Secretary of State to take a leadership role in putting together a credible and effective international observer delegation for both the elections of September 27, and any runoff elections that might be necessary subsequent to that.

Thus, the purpose of the amendment we are offering is to send a clear message to the leadership and competing parties in Romania that the conduct of the upcoming elections is a critical litmus test for future relations with the United States; that free, fair, and open campaigning and proper conduct of the polling apparatus will be of the utmost importance; and that a stable, growing and favorable economic relationship with the United States will be very much dependent upon what happens in that process.

I urge all my colleagues to support this amendment and the progress of democracy taking firm root in Romania.

Mr. DECONCINI. Mr. President, I am pleased to be an original cosponsor of this amendment regarding the upcoming Parliamentary and Presidential elections in Romania, and I commend my colleague Senator BYRD for introducing this timely resolution. It sends a clear and simple message to the Romanian authorities: The preparation and administration of the September 27 elections will be a critical component of our consideration of most-favored-nation trade status for Romania.

Mr. President, Romania stands at a critical point in its journey toward democracy. Despite the brave hopes of those who toppled the Ceausescu regime in the bloody street battles of December 1989, this journey has been difficult from the start—besieged by political instability, occasional violence, and a debilitating legacy of mistrust. Progress in the area of human rights has been hampered by unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

Over the past year, nonetheless, Romania has taken a number of important steps. Prime Minister Theodor Stolojan and his caretaker government have overseen the adoption of a new Constitution, the continuation of economic reforms, and the holding of local elections in February 1992 that made considerable progress toward meeting CSCE standards and guidelines.

The local elections were noteworthy not only for their procedural improvements relative to the general elections of May 1990, but also because they demonstrated a major shift to the political inclinations of the Romanian voters. The Democratic Convention, an opposition alliance, won the mayorships of many important urban centers, including the capital, Bucharest. The ruling National Salvation Front, in contrast, saw its support decline precipitously—from 66 percent to 33 percent of the vote.

Unfortunately, developments since then have been less than encouraging. The general elections, originally slated for May, were ultimately postponed to September. Furthermore, the Parliament passed electoral legislation purporting to restrict the role of domestic observers, contravening the spirit of Romania's CSCE commitments.

I firmly believe, Mr. President, that the upcoming elections represent an important test of the Romanian authorities' commitment to democratic procedures and institutions. Our resolution asks the United States Secretary of State to initiate an international effort to ensure a sufficient number of United States and international observers to monitor the elections and runoffs; the Helsinki Commission, of which I am cochairman, will also be sending a staff observer, and I understand that the National Democratic Institute and the International Republican Institute have plans to organize a joint observer mission, as they did for the elections of May 1990 and February 1992.

Delaying congressional consideration of most-favored-nation status adds extra incentive for all forces in Romania to ensure that the September 27 elections are truly free and fair, and to anchor the foundations of democracy and rule of law. I urge my colleagues to join me in support of this important amendment.

EXPRESSING THE SENSE OF THE SENATE REGARDING MOST-FAVORED-NATION STATUS FOR ROMANIA

Mr. DODD. Mr. President, I rise to join the distinguished chairman of the Appropriations Committee on the introduction of this amendment, and I want to commend him for his effort on this very important subject.

Mr. President, there can be no doubt that the Romanian Government has taken remarkable strides toward democracy and freedom since the fall of Nicolae Ceausescu in 1989. And there can be no doubt that the favorable trade treatment accorded under MFN status would certainly help the Romanians strengthen their progression to free markets and true democratic pluralism.

But for all that has changed in Romania over the past few years, there is much that still remains the same. Parliamentary and Presidential elections, once scheduled for the spring, have now been postponed until September 27. Access to the media remains severely limited. And the recent resurgence of anti-Semitism, along with the continued discrimination against ethnic Hungarians and Gypsies, serve as stark reminders that half a century of Communist rule is not easily overcome.

And so the question on MFN status, Mr. President, is not so much a question of whether but rather when. We all agree that extension of most-favor-nation status would be beneficial to the Romanian economy. But it is for exactly this reason that MFN is a useful instrument in bringing about positive change. Grant MFN too quickly, and we will have lost a unique opportunity to help foster true democracy in Romania.

Accordingly, Mr. President, this resolution is a simple one. It states the will of the Senate that MFN should not be granted until free and fair elections have been held in Romania. Certainly this basic test of democracy is a reasonable price to pay for normalized trade relations with the United States.

Mr. President, while I strongly support this resolution and commend the Senator from West Virginia for sponsoring it, I want to make clear my belief that the Romanian commitment to democracy must extend beyond the issue of elections. In fact, last Friday, 13 Senate colleagues and I sent a letter regarding this issue to Secretary of State James Baker.

In the letter, which I will submit for the RECORD, we spelled out the areas in which we will look for substantial improvements as we consider approval of MFN for Romania. Those areas include the holding of free and fair elections, the establishment of civilian control over the Romanian intelligence service, the operation of an independent media, and the protection of human rights and civil liberties, including the rights of minorities.

It is my sincere hope that the Romanian leadership will undertake legitimate reform in all of these areas between now and September. And it is my hope that the Senate Department will do everything in its power during that time to encourage Romania to bring about these changes.

Mr. President, I know MFN was not designed as a political tool. And I know many Members of this body are hesitant to use it as one. But today in Romania, it is not just democracy and human rights that are on the line, but the permanent emergence of a nation from half a century of Soviet rule. If a delay in MFN can possibly help democratic change take root in Romania, that seems to me a chance well worth taking.

I ask unanimous consent that the letter to Secretary Baker, signed by 14 Members of the Senate, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 24, 1992.
Hon. JAMES A. BAKER III,
Secretary of State, Department of State, Washington, DC.

DEAR SECRETARY BAKER: As the U.S. and Romania continue to chart a course for closer political and economic relations, we are writing to let you know of our concerns about the issue of Most Favored Nation (MFN) status for that country.

We believe the eventual restoration of MFN status to be an important step for Romania as it faces up to its serious economic challenges. Indeed, we look forward to the day when Romania casts off the last vestiges of its autocratic legacy and becomes a full-fledged member of the family of democratic nations. Sadly, that day has not yet arrived.

As we understand it, the Administration has set down three markers for the restoration of Romania's MFN status: free and fair elections, an independent media, and civilian control of the Romanian Intelligence Service [SRI]. We support these goals and would add a fourth: the protection of human rights and civil liberties, including the rights of minorities. Before supporting the restoration of MFN, we will look for significant progress in these areas.

In the area of elections, once-promising progress has recently been set back. We are deeply troubled by the recent decision to postpone elections until the fall, a further setback for this fundamental test of democracy. Furthermore, the election law now under consideration would eliminate or severely restrict domestic observers, contravening the spirit of the CSCE Copenhagen Document. And other serious problems remain, notably the existence of a county prefect system which gives broad power to centrally-appointed officials.

We will also look for improvement in the tolerance and protection of an independent media. Independent and opposition reporters continue to be subject to harassment and arbitrary denial of press privileges. The long-awaited establishment of an independent nationwide television station has not yet been achieved. And minority language television broadcasts—effectively halved under a February 3, 1992 order—have not been reinstated.

As for civilian control of the SRI, limited progress has been made to place this agency under suitable civilian control and to abandon ties with the former Securitate. Indeed, we view the recent appointment to the SRI leadership of Ion Talpes—a former advisor to

President Ion Iliescu with well-established ties to the Securitate—as a serious setback. Furthermore, the Romanian Government has yet to adequately distance itself from extremist, SRI-supported entities such as anti-Hungarian Vatra Romaneasca and anti-Semitic publications such as Romania Mare and Europa.

Finally, the protection of basic human and civil rights—especially where applicable to minorities—has been uneven at best. Three months ago, for example, the Mayor of the City of Cluj unilaterally cancelled a conference involving an ethnic Hungarian political party and issued an autocratic ban on bilingual signs. He has also led efforts to evict the Hungarian youth organization Madisz and the Hungarian journal Korunk from their offices.

At the national level, Romanian officials continue to limit television broadcasts in Hungarian, refuse to re-open the Hungarian Bolyai University in Cluj, and have introduced a draft Education Law which would eliminate Hungarian-language instruction in all medical, technical and business schools. And ethnic Hungarians and Gypsies who have been victims of anti-minority violence lack suitable legal protection and remedies, while many have been imprisoned on false charges.

Modern Romania has reached a turning point. Today its political leaders must decide, once and for all, whether they are truly ready to embrace democracy and its ideals. With a firm and principled hand, the United States can play a positive role in this historic moment—or we can sit on the sidelines. The prcess of restoring MFN status presents the United States with a unique opportunity to encourage true and lasting democratic reform in Romania. Let us not waste it.

We appreciate your prompt consideration of this matter, and we look forward to hearing from you at your earliest convenience.

Sincerely,

Christopher J. Dodd, Paul Simon, Brock Adams, Alan J. Dixon, Edward M. Kennedy, Claiborne Pell, Alfonse M. D'Amato, Dennis DeConcini, Frank R. Lautenberg, Daniel K. Akaka, Jesse Helms, John Glenn, George J. Mitchell.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we are now ready for any further amendments, and I would tell Senators that we expect to have just a couple of amendments, which should not take a long period of time; and I would urge Senators, therefore, if they want to have their amendment considered before we close this matter out very shortly that they should come to the floor.

I know the Senator from Nebraska wants to make a statement.

So I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I thank the distinguished Senator from Louisiana, as well as the distinguished senior Senator from Oregon, for accepting the amendment related to low-level nuclear waste.

I did not hear the full name of cosponsors of that amendment. I ask unanimous consent that the full list of cosponsors be Mr. DASCHLE, Mr. EXON, Mr. LIEBERMAN, Mr. DODD, Mr. LEVIN, Mr. RIEGLE, and Mr. MOYNIHAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, this sense-of-the-Senate amendment is needed in order to urge not only Congress but also the National Governors Association, and in the executive branch the Department of Energy to reexamine the Nation's law regarding low-level radioactive waste.

It is particularly important that we begin this now, because next year we will be debating the reauthorization of the Resource Conservation and Recovery Act (RCRA) and the Clean Water Act. It is very likely that we will make further progress toward resolving many conflicts that exist in both of those two pieces of legislation. Low-level waste is a very important issue that should not be neglected as we focus on RCRA and the Clean Water Act.

Mr. President, I believe it would be useful to provide some background about low-level radioactive waste so that my colleagues might have some point of reference here, because I understand that any time you are dealing with something controversial like this, if your State has not been sited there is a tendency to say: Why bother? Leave the status quo as it is. Let us not reopen this.

I urge my colleagues to consider that this needs to be reopened as a consequence of rather dramatic change that has occurred in the entire process.

Mr. President, in October 1980 the National Governors Association Task Force on Low-Level Radioactive Waste Disposal issued a report with 17 recommendations on how the Nation could cope with apparent lack of disposal capacity for low-level radioactive waste. This report was itself the end of a several-year process where the Governors of the States worked with the Federal Government to decide how to proceed. The Department of Energy was fully involved and fully apprised of the situation. The Governors concluded and made recommendations as to what ought to be done.

Mr. President, I ask unanimous consent that three pages from this report—that does a much better job than I could do laying out the issue—be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KERREY. Mr. President, the most critical part of the report was the assumption about the amount of low-level radioactive waste this Nation would be generating. I would say to my colleagues low-level radioactive waste includes clothing, gloves, other sorts of articles that are worn or used by individuals who work in nuclear powerplants or by individuals who work with nuclear medicine in hospitals.

There is some dispute about whether there is a so-called class A waste that ought to be reclassified as high-level waste. I happen to think it should be.

But that is an argument for this morning that is not as crucial as the fact that in 1980, according to Department of Energy figures 3.4 million cubic feet of low-level radioactive waste was being generated by all of America's nuclear powerplants and nuclear medicine facilities in America's hospitals. Some 3.4 million cubic feet was the baseline figure upon which it was determined how many compacts, how many sites this Nation would need. In fact, it was assumed that the volume of waste would continue to grow.

I want to make it clear that at the time there were three States that were very much concerned—Washington, South Carolina, and Nevada—because they had low-level radioactive sites and they were increasingly concerned about safety and reaching their capacity. There were serious environmental concerns at each of these sites. There was a great deal of concern amongst these States. This amendment by no means is a statement that we are going to put the burden back upon these three States.

I believe we have an obligation to face this as a national issue. We should not move in a direction that simply says if we hold our breath long enough, perhaps somehow Nevada and Washington and South Carolina will pick up the ball and run with it again. This amendment says that we should deal with this problem in a responsible fashion. And in so doing, Mr. President, it is my strong belief that the 1985 amendments, which clearly specify that we were going to move beyond these three sites, should be a part of our assumptions.

Nonetheless, Mr. President, instead of currently generating 3.4 million cubic feet, the amount of waste that is generated by nuclear facilities has been steadily declining over the years. In 1981, it dropped from 3.4 to 2.9, steadily going down. In 1988, the amount of waste that was being generated was 1.5 million cubic feet.

Furthermore, Mr. President, there was a 1989 study by the Office of Technology Assessment that stated that this volume will decline by another 50 percent by 1993. This decline occurs mostly as a consequence of power companies understanding that the less waste they generate, the less cost they have and the more advantages that will accrue to the ratepayers as a result.

So what sort of a problem does it create for us, Mr. President?

Well, the problem is that we are planning to build far more sites than are necessary. Furthermore, Mr. President, I have decided to offer this amendment because of my deep concern as to the impact of the June 19 U.S. Supreme Court decision in a New York case. The State of New York filed a lawsuit objecting on constitutional grounds to certain conditions in the 1985 Low-Level Radioactive Waste Act.

The court ruled that provisions of the law that require States to take ownership of and liability for low-level radioactive waste were both coercive and unconstitutional.

In light of this decision and the clear evidence that we are currently planning on building too many low-level waste disposal sites, I believe it is critical for the Congress to reopen the 1985 law—and again reopen it with an attitude of responsibility and an attitude that says we are by no means going back to the South Carolina, Washington, and Nevada sites; we know we are going to move on and build some additional sites—that we need to reopen this law nonetheless, working with the National Governors Association that the law assumes has responsibility, and with the Department of Energy to create a solution that better addresses the Nation's low-level waste problems in a fair and in a reasonable fashion.

Mr. President, I want to make it clear that Nebraska is one of the States that has diligently followed the 1985 act, and it is slated to be among one of the first new sites on line. As such, particularly given the Supreme Court's decision, I am concerned that my State may be asked to accept waste not just from our compact but from across the country because the other States will not heed the 1985 act following the Supreme Court's June 19, 1992, decision.

Let me make it clear that as Governor for the State of Nebraska in 1983, I signed the legislation that made Nebraska a member of the central interstate low-level waste compact. At the time, I strongly supported, in particular, the idea, the theory, of forming State compacts as a way to handle this particular problem as opposed to a Federal solution run by the Department of Energy. I strongly supported this approach because I also believed the States should bear some responsibility for disposing of waste that is generated within their borders and is generating as well within their regional compacts.

Unfortunately, Mr. President, these theories oftentimes do not hold up very well in practice.

I have already referred to the most important piece that has changed, and that is the amount of waste that is being generated substantially having changed the terms upon which the 1980 proposal was itself based. We find ourselves, in spite of the fact that we have decreased the amount of waste, with a great deal of difficulty getting anybody to say, "Let us reopen this thing."

I urge my colleagues to understand that allowing this thing to go forward is not itself a responsible way to deal with it. We can move this thing forward, but we should move it forward with changes. Because on paper and in practice, we will currently develop far more sites than this Nation needs. We have nine compacts today. We have nine unaffiliated States that under the current arrangement are required to develop a solution for their own State.

We would end up, Mr. President, if we continue on the current course, with 18 sites being built. It is estimated by the Office of Technology Assessment that we do not need six or more sites. Obviously, this law needs to be changed.

Mr. President, everybody who has looked at this issue knows that in light of the declining level of waste being generated, that we do not need the number of sites we contemplated. But, unfortunately most States are sitting quietly waiting for the others to first cross the line and license a new facility before proclaiming the compact system unworkable. The Supreme Court's decision reinforces that attitude, that perhaps if we wait, things will work out on their own.

Mr. President, things very rarely work out on their own, and in this particular case, they will not do so either. Unless we, as a Congress, work with the administration and with the Governors in the very same fashion, Mr. President, that in the late 1970's the Governors of this Nation worked with the Congress and worked with the administration on this problem in the first place, unless we revisit it with the same responsible attitude, we will find ourselves with another one of those problems that could have been avoided, another one of those situations where we say, "Gosh, if only we had only done this 5 or 6 years ago, this particular situation would not exist."

Mr. President, in conclusion, I would offer the following comments:

One, I have said a number of times and used a number of times the word "responsible." I believe that we have to be responsible in this case. We cannot simply say, "Gosh, I do not want it in my backyard."

We are Americans who take advantage of nuclear power. We are Americans who, when we find ourselves needing nuclear medicine for ourselves or our family, we do not sit and say, "Gee, I do not want nuclear medicine because there is low-level waste that is being generated."

We enjoy the benefits of these situations and we have a responsibility to figure out what we are going to be doing with our own waste. We are close to having a solution. If we will merely open this act, take into account the amount of waste that is being generated, alter that act accordingly, work with the Governors, work with the Department of Energy to come up with the number of sites that are being needed, deal in a straightforward open—and I emphasize the word "open," Mr. President—an open fashion so that the people themselves feel as if they are being dealt with in a fair fashion, I believe, Mr. President, we will come up with a fair solution.

I would comment as well in closing, Mr. President. We assumed that the compacts themselves would be a good solution. One of the problems we have run into is on this point of the need to be open with the people and give them the sense that they have an opportunity to participate in the process. Regrettably, our experience with the central Interstate low-level waste compact is that the compact itself is disconnected from the people. People in Nebraska, people in Kansas, people in Louisiana, people in the rest of the compact do not elect members to the compact. They elect Governors. They elect members to the legislature, to the U.S. Senate, Members of the U.S. House of Representatives. They do not elect members to the compact and they feel disconnected as a consequence.

We have had a great deal of difficulty at times getting direct and honest answers from the Department of Energy. It has changed recently with Admiral Watkins, and we have been provided with more direct access to the information.

Mr. President, if we expect to get a solution in the end that the people themselves trust will work, we must give the people access to information and access to the opportunity to say "I want it done this way, I want it done that way," and access to the moment when the elected political officials say "I vote aye, I vote no; based upon the information being provided to me, this is what I thing ought to be done."

Mr. President, the RCRA legislation and the clean water legislation will come up next year. My hope, strongly felt, is that Congress, taking this sense-of-the-Senate amendment, will through the appropriate committees, hear the information, will work with the Governors' association, will work with the Department of Energy, will listen to what the people themselves want to do, will fashion a solution. It will not be universally popular. It will require us to deal with our waste in a responsible fashion.

There will always be some who say they prefer the waste to be just sort of out of sight, out of mind; let somebody else figure out what to do with it. It will not be universally popular, Mr. President, but I believe in order to stand at some point in the future and say we did our best to be responsible, that this particular act needs to be reopened, reexamined, and a new approach taken.

Again I thank the distinguished Senator from Louisiana for his assistance on this amendment. I thank as well my cosponsors to this amendment for their consideration to what the resolution

itself ought to look like and the action that needs to be taken if we are going to solve this difficult but important problem.

I yield the floor.

EXHIBIT 1

THE ISSUE

In July of 1979, the Governors of Nevada, South Carolina, and Washington, the states housing the nation's only operating commercial low-level waste disposal sites, became concerned about the threat to public health and welfare posed by improper packaging and unsafe vehicles. They demanded that the Nuclear Regulatory Commission and the Department of Transportation enforce waste packaging and transportation regulations. Despite assurances from these agencies, the State of Washington found further violations of the regulations. Governor Ray closed the Hanford facility on October 4. On October 23, Governor List closed the Beatty, Nevada site after a U.S. Geological Survey team uncovered waste buried outside the existing fence—demonstrating inadequate recordkeeping for past operations at the site.

The sites were eventually reopened, following promises of certain corrective actions, but the three Governors of the repository states clearly and forcefully stated their unwillingness to continue to shoulder the entire national burden for low-level waste. They emphasized the necessity for other states to share in that responsibility. In addition, the citizens of repository states have for years borne the health and monetary costs of effective packaging and faulty vehicles. Moreover, some low-level waste is shipped from New England to Hanford, Washington causing excessive transportation costs and threatening unnecessary exposure to residents along the shipping route. The Governors' pronouncement, coupled with the diminishing physical capacity of those sites, compels immediate action.

Low-level wastes are defined as all radioactive wastes except spent fuel, high-level wastes which result from reprocessing of spent fuel, uranium mill tailings to wastes which contain more than ten nanocuries of transuranic contaminants per gram of material. They are generated by a wide variety of government, commercial, and medical sources. Federal generators of low-level include defense and research facilities.

The preponderence of commercial low-level waste is contaminated paper, plastics, rubble, filters, construction material, tools, and protective clothing from nuclear power plants. The growing use of radioactive materials in such products as luminous watch dials, measurement devices and smoke alarms has added to the volume of industrial waste. Finally, during the past two decades the medical profession and the academic community have increased their use of radioactive materials in research and diagnosis. Nearly 100 million diagnostic applications of radioactive isotopes are performed annually.

Excluding federal government sources, between 75,000 and 100,000 cubic meters of commercial low-level waste are generated each year. Nearly half comes from power plants, with almost a quarter from industry and the final quarter from medical and research institutions. A failure to expand low-level nuclear waste capacity can have serious adverse effects on our national energy program and our national health care system.

Low-level radioactive waste management may rapidly become crisis management if states continue to delay development of new disposal sites and techniques. National inaction regarding the creation of additional disposal capacity and techniques threatens to halt or seriously curtail medical research and diagnostic activities critical to the public health and welfare. Every community in this nation will be affected if it becomes more difficult to reap the benefits of nuclear medicine. The timetable associated with providing additional sites is a critical factor.

Until recently, Barnwell accepted low-level waste without restriction, annually receiving in excess of 75% of the nation's commercial wastes. However, since mid-1978, South Carolina has limited waste receipts at the Barnwell site to 2.4 million cubic feet per year. On October 31, 1979, Governor Riley announced a phased schedule to further reduce that limit to 1.2 million cubic feet within two years. Because it is geologically unacceptable, South Carolina also prohibits the burial of organic chemical wastes which comprise a large fraction of the wastes generated by hospitals, medical schools and universities. South Carolina has also refused to accept any waste from certain generators with poor packaging or shipping records.

Based on projected increases in the volume of low-level waste produced in this country and the restrictions on acceptance by current repository states, DOE estimates that a total of at least six low-level waste disposal sites could be required by the year 1990 in accordance with the following schedule:

1980: Barnwell, Beatty and Hanford can handle the nation's low-level waste.

1982[1]: Hanford could be closed as a national disposal site and a new site in addition to Barnwell and Beatty is required.

1984: Beatty is filled to capacity and a second new site is required.

1986: Only Barnwell remains open, three new sites are required.

1988: Barnwell is still open, but the national generation rate requires four additional sites.

1990[2]: Barnwell and five additional sites are required.

There are several other compelling facts:

Projections from past trends indicate that the nation will generate 321,000 cubic meters of low-level waste by 1990 as compared to approximately 99,000 cubic meters in 1980.

DOE estimates that, with a total of six low-level waste disposal sites which may be required by the year 1990, by dividing the nation into five regions, no region would require more than 1⅓ sites comparable to Barnwell's capacity.

The U.S. Department of Energy estimates that without additional sites we could experience severe disposal problems by mid-1983.

The Nuclear Regulatory Commission estimates that, even beginning immediately, complete development of a new site would take from two to four years.

In summary, the severity of the problem requires that additional waste disposal capacity be developed as soon as possible. To accomplish that, the Task Force urges the National Governors' Association to adopt the recommendations outlined below.

Mr. LIEBERMAN. Mr. President, I rise in strong support of Senator KERREY's amendment. I am delighted to be an original cosponsor and I appreciate Senator JOHNSTON's cooperation in accepting this amendment.

Since the enactment of the Low-Level Radioactive Waste Policy Act in 1980, there have been some dramatic developments. The Congressional Office of Technology in a 1989 study indicated that the volume of low level radioactive waste generated in the United States declined approximately by half between 1980 and 1989. Moreover, the study predicts that the volume may decline again approximately by half between 1989 and 1993.

But at the time of enactment of the 1980 law, the report of the National Governors Association, which formed the basis for the law enacted by Congress, projected that the nation will generate 321,000 cubic meters of low-level waste by 1990 as compared to approximately 99,000 cubic meters in 1980.

In 1980, even based on the view that the level of waste would rise dramatically, the Department of Energy estimated that six disposal sites could be needed. Now, however, the General Accounting Office reports that more than ten disposal sites may be built. The volume of low-level radioactive waste disposed of is a major determinant of the cost of the disposal of the waste; accordingly, the disposal of increasingly small volumes of such waste results in higher costs of disposal per unit volume because many of the costs of developing and maintaining low-level waste disposal sites are fixed.

Another development is the recent decision by the Supreme Court, ruling on a challenge brought by New York in which other States, including Connecticut joined in. The Court struck down one of the law's provisions requiring States to take title of the waste and become liable for damages suffered by the generator of the waste if the State fails to provide for disposal by 1996.

Mr. President, these new factors—which may significantly undermine the basis for the original law—mandate a reconsideration of the law by the Congress. But the basis for a new or amended law should, if possible, be forged from the States themselves who reached a consensus in 1980 on these issues and brought that consensus to the Congress. The National Governors Association played a pivotal role in that consensus. This amendment properly reflects the sense of the Senate that the Congress should work with NGA and the Department of Energy to develop a national solution to the problem.

---

[1] Policy issues, not physical limitations, are the more immediate factors controlling the future of the Hanford site. Governor Ray has threatened a 1982 closure of the Hanford site as a national repository (except for medical wastes) unless some meaningful progress occurs toward region formation. The mood of the state on this issue is further evidenced by a recent unsuccessful effort by the Washington State Legislature to codify Governor Ray's position, and a subsequent state initiative drive to accomplish the same. However, the actual physical capacity of the present Hanford site is not projected to be exhausted until approximately 1990, with the potential for future site expansion.

[2] In the absence of any restrictions or other complicating factors relating to these three sites, it is possible, but not probable, that all three sites could remain open until 1990. However, it is already questionable as to whether the Beatty site can expand on surrounding federal lands, and Barnwell has already adopted a phased volume-reduction schedule.

Mr. EXON. Mr. President, I rise in support of the resolution by my colleague from Nebraska.

The issue of low-level radioactive waste has been extraordinarily divisive in Nebraska. A recent sociological study of residents in the area proposed as the site for a waste facility in Nebraska concludes that there is a high likelihood of violence if construction begins on a low-level waste facility. While I am not familiar with the details or methodology of that study, it appears to underscore the tremendous difficulties that for some time have been clear to this Senator.

Those difficulties, in my estimation, are compelling reasons to review the act. Equally compelling, however, are the financial implications of low-level waste disposal under current rules.

The facts of the matter are that the volume of waste is declining and the projected per unit cost of disposal has risen dramatically since the act was reauthorized in 1985. That point is made abundantly clear in a 1989 Office of Technology Assessment Report which is referenced in the resolution. For these reasons, this matter simply must not be shunted aside.

I look forward to working with my colleagues, the Nation's Governors, and the Secretary of Energy as we review this very difficult matter.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. PRESSLER] is recognized.

Mr. PRESSLER. Mr. President, basically I want to congratulate the Senator from Nebraska [Mr. KERREY] for his sense-of-the-Senate resolution regarding a reexamination of the number of sites needed in our Nation for disposal of low-level radioactive waste. I know it has been a very controversial subject.

There has been a controversy in my State regarding a site near the South Dakota border. The site is located in Boyd County, NE, just a few miles from South Dakota. I must say I have had some sharp exchanges with some people, including the Senator from Nebraska, regarding my opposition to that site. But I congratulate him on this amendment. We need to take a closer look at how many of those sites we need in our Nation. The OTA study indicates we need far fewer sites. Hopefully, the one that is now designated for Nebraska, so close to our border, will not need to be built.

South Dakota is a small State. We do not have the kind of population to be noticed much in Presidential elections, and we do not have much clout in the House of Representatives in terms of numbers. So the Senator from South Dakota is protective of the rights of the people of South Dakota.

I think the Senator from Nebraska has done an excellent job of offering the sense-of-the-Senate resolution. I think we should work with the Department of Energy, and with the National Governors Association, to see whether we can resolve this matter in a favorable fashion. I know some of the sites already are receiving waste. Perhaps they will be adequate to meet the needs. Perhaps we will have to build more. We ought to take our responsibility in that regard.

But I congratulate him on his work on this, on his thoughtfulness, and I ask unanimous consent to be added as a cosponsor of his sense-of-the-Senate resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, after conferring with the chairman of this subcommittee, Mr. JOHNSTON, I have asked him to enter into a colloquy this morning with regard to NEWTTEC.

If I might, I would like to commend the distinguished chairman of the Energy and Water Development Subcommittee, Senator JOHNSTON, for the exemplary job he has done in bringing a good bill before us today despite very trying budgetary pressures. The ranking member of the subcommittee, Senator HATFIELD, also deserves our thanks for his work on this difficult measure.

I was very pleased to note that the bill provides an increase of $50 million from the administration's budget request for technology development activities under the defense environmental restoration and waste management account. As the report on the bill says, "the committee recommendation includes sufficient funding to continue integrated demonstration for new technology related to waste minimization, environmental conscious manufacturing, weapon component disposal and recycling, and waste landfill integration activities."

Those are some long words, but we are starting to put our money where our mouth is when it comes to developing new technologies as to deal with the environmental waste left from closed military bases and facilities around the Nation.

The senior Senator from Louisiana may recall that my colleague, Senator BAUCUS, and I wrote him on June 5 to urge that he provide $9 million through the program for the work of the National Environmental Waste Technology Testing and Evaluation Center in Butte, MT, known as NEWTTEC. The Center has been working with the Department of Energy to develop, demonstrate, and evaluate promising new environmental technologies such as a plasma arc furnace for the processing of hazardous wastes, spray casting of metals to minimize hazardous waste production, and various soil treatment techniques. NEWTTEC is not specifically mentioned in the committee's report. Consequently I'd like to ask my colleague from Louisiana if he believes the added $50 million recommended by the Appropriations Committee is sufficient to allow DOE to provide the required support to the NEWTTEC facility in fiscal year 1993?

Mr. JOHNSTON. It was our intention in increasing the technology development budget request by $50 million to provide DOE with the resources to fund projects like NEWTTEC. Our hope is that the increase will be sufficient to support NEWTTEC activities at the $9 million level.

Mr. BURNS. I thank the chairman and can assure him that the Montana delegation will do its best to see that the conferees on the energy and water development bill concur in the Senate's decision to increase technology development funding and I look forward to working with the Senator in the future to see that NEWTTEC gets its fair and appropriate share of the increase. We have some very serious problems. As you know, Butte, MT, is one of the largest Superfund sites in the Nation today. We must develop new technologies to remedy situations like Butte.

I want to personally thank the chairman and the ranking member of this committee for their cooperation.

Mr. JOHNSTON. Mr. President, I thank my friend from Montana and I assure him we will do our best to see the Department gives NEWTTEC the support it clearly deserves.

Mr. BURNS. I thank the chairman and yield the floor.

Mr. JOHNSTON. Mr. President, we are open for business. We have one little amendment here we hope to be able to resolve one way or the other. Then we are ready to go. We are ready to close out the bill shortly with the exception of those two big matters, that is the SSC and the nuclear testing.

I urge Senators, if amendments they have, to come over in the next few minutes before we close the bill out.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. HATFIELD. Mr. President, I ask unanimous consent that privilege of the floor be granted to Elizabeth Carroll, of Senator JEFFORDS' staff, during the consideration of H.R. 5373.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2812

(Purpose: To increase funding for technology transfer from the DOE weapons laboratories to the private sector)

Mr. JOHNSTON. Mr. President, I will shortly send an amendment to the desk on behalf of Mr. BINGAMAN and Mr. DOMENICI which has the effect of bringing technology transfer to the budget-requested level of $141 million.

Mr. President, the committee continues to strongly support the implementation of the National Competitiveness Technology Transfer Act of 1989, and the other new, innovative technology commercialization ventures of competitiveness.

The core research and development programs within the DOE labs represent a great resource. And this program, which we commenced in this committee, and has now been enthusiastically supported by the administration, uses these core technologies of the national labs. They will use these funds to develop these kinds of technologies. The kind which I hope they pursue are such things as high-speed computing, superconducting technologies, battery research, and that kind of thing.

Mr. President, I have discussed this with Senator HATFIELD.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. If there is no objection, the committee amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BINGAMAN (for himself and Mr. DOMENICI), proposes an amendment numbered 2812.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, line 7, delete the figure "$4,498,249,000" and insert in lieu thereof "$4,523,249,000".

On page 66, line 7, delete the figure "$2,548,301,000" and insert in lieu thereof "$2,523,301,060".

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, very briefly, let me thank the chairman of the committee and the ranking member for their willingness to accept this amendment on behalf of myself and Senator DOMENICI. This accomplishes what we jointly have been urging on the committee for some time now, and brings the level of funding for technology transfer activities in the Department of Energy up to where the administration has indicated it would like to have it.

The initiative here is very important. It is one that the Senator from Louisiana has taken a very strong leadership role in. He, myself, and Senator DOMENICI—all three—have been urging each year that more be done in our national laboratories to work cooperatively with industry on projects of a dual-use nature, projects that have benefits for our defense side; but also projects that have benefits for the commercial sector.

This provides some additional funds to allow that to occur. There has been great progress in the last year in identifying areas where cooperation with the private sector can occur, and this would ensure that adequate funds would be there next year to pursue the initiatives that should be pursued, as well.

I do know the chairman has concerns that we have proper accountability for the way these funds are spent. We share those concerns and want to make sure the necessary statutory report language is developed, to be sure that the funds are expended in a way that can be justified to the Congress in all respects.

Mr. President, the amendment which I am offering on behalf of Senator DOMENICI and myself is aimed at increasing funding for partnerships and dual-use technologies between the DOE weapons laboratories and industry to the level of the President's amended request; namely, $141 million.

This funding is urgently needed. I believe it is essential in light of the end of the cold war that we capitalize on the growing interest in industry to work on dual-use technologies with the weapons laboratories. We are finally seeing the fruits of the 1989 National Competitiveness Technology Transfer Act, which for the first time provided a workable mechanism for partnerships between Government-owned, contractor-operated laboratories and industry. The administration earlier this year launched a national technology initiative aimed at building partnerships between Federal laboratories and industry and thereby making better use of existing Federal R&D resources to benefit our industry's competitiveness.

The initiative, which in my view was long overdue, has generated overwhelming industry interest. In fact, Secretary of Energy Watkins wrote the majority leader, Senator MITCHELL, on July 8 and argued that his $141 million request was—

> Needed to respond to the tremendous interest we have received from the NTI. We have identified 400 projects which industry and academia have expressed interest in cofunding. In the computer industry alone, we have received proposals worth more than $75 million for cooperative agreements dealing with advanced computing.

I would ask unanimous consent that the full text of this letter appear in the RECORD at the end of my remarks.

Mr. President, unfortunately the House committees of jurisdiction have turned down Admiral Watkins' request for reprogramming of $50 million in fiscal year 1992 funds for cost-shared partnerships between the DOE weapons labs and industry. That makes approval of the full fiscal year 1993 funding even more important.

The manager of the bill, Senator JOHNSTON, has been a leader in pushing for an expansion of partnerships between the DOE laboratories and industry. Senator DOMENICI and I have enjoyed working with the Senator from Louisiana over the past several years in this area and indeed, I am proud to be an original cosponsor of the Senator's Department of Energy laboratory Technology Partnership Act of 1992, S. 2566, which has passed the Senate. That bill is designed to spur even greater activity in this area.

So I appreciate the managers' willingness to accept this amendment. Once more I am in their debt for their assistance in helping the laboratories in my State and the other weapons laboratories make the transition to a post-cold-war world.

This amendment is cost neutral. The offsetting reduction is in the line which funds the production of nuclear materials for weapons purposes. This is an area where the fiscal year 1993 Defense Authorization Act, which the Senate Armed Services Committee reported last week, anticipates significant savings in light of the end of the cold war. The end of the cold war has eliminated the need to produce additional plutonium or highly enriched uranium for weapons purposes. President Bush recently announced that the United States would unilaterally curtail further production of those materials for weapons purposes. My amendment makes only a modest reduction in this line, and in fact leaves this line still significantly above the level in the authorization bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, July 8, 1992.

HON. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: I was encouraged to see your recent statement of July 1, 1992, in support of making investments to revitalize America's research, manufacturing and high-technology base and promoting commercialization of technologies developed with Federal laboratories. As you and your colleagues must know, the Bush Administration has had a strong and aggressive program in this regard for some time.

The Department of Energy (DOE), along with the other agencies of the Federal Government with substantial research and development programs, has been pursuing efforts to assist business and academia in strengthening our Nation's competitive abilities. To date, over 1,000 collaborative research and development agreements have been initiated. Since February, these efforts have been coordinated through the President's National Technology Initiative (NTI). Through this Initiative 10 Agencies have held 9 seminars meeting with over 3,000 individuals from industry and academia to share with them how they can collaborate with the over 700 Federal research laboratories.

The DOE has been a major participant in a number of the ongoing efforts which you have endorsed, and we hope you will support our continued participation. In that regard, the DOE has a reprogramming request to further pursue the various industry initiatives in which our Federal laboratories have been asked to collaborate. It has been pending before the Congress since March 20, 1992. In view of your stated support for these efforts, I would ask you to assist me in having this request approved.

I would also like to request for support for our FY '93 request for technology transfer. In our fiscal year 1993 budget, we initially requested $91 million for defense related "dual use" technology transfer. Recently, I submitted a budget amendment requesting a $50 million increase for this program. This further request is needed to respond to the tremendous interest we have received from the NTI. We have identified 400 projects which industry and academia have expressed interest in co-funding. In the computer industry alone, we have received proposals worth more than $75 million for cooperative agreements dealing with advanced computing.

Finally, I ask for your assistance in assuring that the Congress supports the very initiatives you have endorsed. Specifically, I ask that you reverse Appropriation Committee actions cutting:

(1) $82 million from the President's request for high performance computing and communications;

(2) over $50 million from the President's request for advanced materials and processing; and

(3) over $75 million from the President's request for advanced manufacturing research and development.

Your support for these and other initiatives to assist U.S. industry in maintaining America's economic and technological leadership in international competition which are contained in the President's budget request for fiscal year 1993 is appreciated.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

Mr. BINGAMAN. I again thank the chairman and ranking member. I urge my colleagues to support the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 2812.

The amendment (No. 2812) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I have a statement not pertaining to the bill. Unless the managers have business immediately, I ask unanimous consent to speak out of order for just 4 or 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

REMARKS OF SENATOR ROBERT C. BYRD AT PRAYER BREAKFAST

Mr. STEVENS. Mr. President, I am delighted to see the current occupant of the chair, because he will be familiar with the subject that I wish to speak about since he was present at the time.

Mr. President, on June 27, our distinguished President pro tempore, Senator ROBERT BYRD of West Virginia, was the leader of the Senate Prayer Breakfast. These breakfasts are seldom mentioned on this floor.

However, as a current chairman of this function, I asked Senator BYRD if I could have the privilege of printing his remarks made to us last Wednesday in the RECORD. Senator BYRD's text at this prayer breakfast builds upon the foundation he had laid with previous addresses to the Senate. Let me remind Senators of those remarks.

First, on September 18, 1990, Senator BYRD spoke about "Drawing a Line for Decency and Taste." Second, on February 7, 1991, the President pro tempore discussed "The Dirty Dictionary." Third, on September 18, 1991, Senator BYRD spoke about "The Damage Television Is Doing to Children." Fourth, on June 16 of this year, my friend from West Virginia asked the Senate to consider his remarks on the question: "Are the Dark Ages Returning?" Fifth, just recently, on July 20, Senator BYRD made statements to the Senate on "Inhumanity and Human Values" and "The Latest Nation's Report Card Is In."

When he was before our prayer breakfast last Wednesday, Senator BYRD spoke at length, reviewing these past statements to the Senate, before he made his prepared remarks. I want to tell the Senate that this appearance of our President pro tempore was simply awesome, really.

I say that because once again Senator BYRD demonstrated his tremendous capacity to recall, analyze, and utilize the lessons of history, the history of our world, and to make his remarks concerning those lessons relevant to his feelings and recommendations about our Nation's future. It was very appropriate before the prayer breakfast, in my opinion.

Mr. President, I have on many occasions urged Senators to join us at these prayer breakfasts. My remarks today I hope will reinforce those invitations. I had asked Senator BYRD to make his annual appearance before us and he consented to come last Wednesday, and I think his words were an inspiration to all of us who participated in the fellowship of the prayer breakfast.

Mr. President, I ask unanimous consent that Senator BYRD's remarks presented to the Senate Prayer Breakfast last Wednesday be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SENATOR ROBERT C. BYRD'S REMARKS FOR THE SENATE PRAYER BREAKFAST, JULY 29, 1992

About 750 B.C., a man named Amos from Judah in southern Palestine was inspired to go to Israel in the north. Amos went north to Israel to share visions that God had given Amos concerning Israel's moral and spiritual shortcomings.

Understandably, Amos's words upset some of the political and religious leaders of Israel, and they told Amos to go back home and prophesy to Judah.

In his own defense, Amos said, "I was no prophet, neither was I a prophet's son; But I was a herdman, and a gatherer of sycamore fruit: And the Lord took me as I followed the flock, and the Lord said unto me, 'Go, prophesy unto my people Israel.' Now therefore here thou the word of the Lord:" (Amos 7: 14b–16a)

Amos was saying that he was not one of the orders of clergyman of his day—Hebrew prophets, the scholars tell us, were sometimes organized into brotherhoods and often passed their careers on to their sons.

No, Amos went on, in effect, saying, "I am not a prophet or the son of a prophet. I am a layman. I would just as soon not be telling you all of these things. I am not comfortable bringing this message. But the Lord told me to come up and do this, and I feel bound to do just that."

I understand how Amos felt.

Like Amos in the Old Testament, I am neither a prophet nor "a prophet's son."

Indeed, neither am I a clergyman, a minister, a priest, nor a rabbi.

That notwithstanding, I take somewhat seriously the observation of Matthew 5:15:

"Neither do men light a candle, and put it under a bushel, but on a candlestick; and it giveth light unto all that are in the house."

All of this is by way of saying that I feel compelled this morning to share a concern with you as my colleagues and friends. Please understand, too, that I feel as uncomfortable as Amos must have. I feel somewhat as if I am treading on alien turf in satisfying that responsibility to my conscience.

I suffer no qualms, however, in confessing that I believe that we are each here this morning because we each sense a relationship to God and in our own lives.

To one degree or another, each of us has associated himself with a church or synagogue along the way. Each of us knows something about Holy Scripture and has some understanding of the Judaeo-Christian tradition. In part for those reasons, we feel sufficiently at ease to attend this prayer breakfast, to reflect on words offered by others here touching on divine matters and to share our own perspectives on those words, and even to bow in prayer with others with whom we enjoy an intimacy adequate to allow us to open our hearts and our most private minds to those gathered here.

My concern is that, too often, once we leave this group or our church or the place in which we kneel in private prayer and go off to the Senate floor or into a committee meeting, we too often permit that old wall between church and state to box off our deepest moral concerns—to avoid any subject on the Senate floor, for example, that might suggest that we have delved into our souls and found a spiritual concern there that touches on the Body Politic of our country.

I do not suggest that our duty as U.S. Senators is to go forth and preach an evangelistic sermon on the Senate floor or hold healing services in the Senate Caucus Room.

But I do suggest that, as men concerned with the law and the creation of law, we have moral and ethical concerns—spiritual concerns—about the quality of life in America that too often we feel must be ignored—or concerns that too often must be so squeezed and tortured into a political semblance as to be unrecognizable as spiritual concerns.

In the phraseology of St. Augustine of Hippo, as U.S. Senators, we above all are citizens of Two Cities—the City of God and the City of the World. As citizens of the City of the World, we are acknowledged and proclaimed as political leaders—the shapers of laws, history, and destiny. But as believers in God—as those who own a Name Above All Names—as Citizens of the City of God who happen to be U.S. Senators—our responsibilities go far beyond holding only to an earthly, political, or material perspective.

Part of my concern is that, as our offspring and alert citizens in the future take a look at our times, they may ask why we, with all of our power, perspective, and privileges—why we, United States Senators in the last decade of the twentieth century, could not more perfectly chart our country's course, more sensitively apply a spiritual perspective to the dilemmas we face, and more faithfully attack the evils of materialism and decadence that seem to flourish all around us today.

Sometimes, I look back through history—at Ancient Greece, at Ancient Rome, at Ancient Constantinople, even at Tsarist Russia—I look back and I ask myself, "Did not somebody see clearly the decay? Did not somebody know that the end was near? Did not somebody have a voice to warn the emperors and kings and nobles and ordinary citizens what was about to happen unless things changed?"

Certainly, some did. Socrates did. Plato did. Cato the Censor did. Tolstoy did.

But not enough voices were raised to save those great civilizations and empires. Or perhaps those voices lacked sufficient pulpits for their warnings to be carried far enough.

I spoke earlier of putting candles on candlesticks. As a "candlestick," can any institution rival the well of the United States Senate? Aside from Teddy Roosevelt's "bully" presidential pulpit, not since the Oracle of Delphi were any people anywhere granted a more bully pulpit than the Senate floor that is our privilege every day—a pulpit to which the ear of the world is daily pressed in hopes of hearing some wisdom, some insight, or some oracle for our time.

Again and again, that which the ear of the world hears from the Senate floor is only partisanship—the philosophical and pragmatic differences that currently and transiently define us as Democrats and Republicans or as liberals, conservatives, moderates, and populists.

But partisanship will not solve, banish, end, or answer the greatest problems and crises facing us as a nation.

All around us, as Citizens of the Two Cities, we are witnesses to the decay, decline, decadence, disillusionment, and depravity into which too much of our society has slipped, fallen, tripped, or was pushed. Certainly, as U.S. Senators and as believers in God, we have a responsibility to proclaim in the midst of an uneasy acceptance of so much of this decay—to proclaim that these things are not right, that there must be a better way, that a halt must be called, and that a renewal of so much of this society is imperative if we are to survive as a nation, a civilization, a society, and a people.

Indeed, we as laymen have a responsibility as the layman Amos did—a herdsman and gatherer of sycamore fruit—to be a voice of God in our times.

Think back into our shared past.

Thirty years ago, could any of us have been so acceptive of the current rates of illegitimate birth? Of cocaine and "crack" addiction? Of drug-related murders not a mile from where we sit? Of the pornography and filth that night after night and day after day foam forth from the television sets of millions of homes across this country? Of television programming that mocks our most cherished values and principles, and that turns the airwaves nightly into a fetid morass through the glamorization of unavenged and unretributed adultery, murder, illicit sex, embezzlement, violence, assault, and promiscuity without a word of dissent uttered? Of sexual perversion being proclaimed as normative and normal for human life? Of children murdering their parents or of parents abusing their children as sex toys?

Think back into our shared past.

Thirty years ago, could any of us been so acceptive of the runaway materialism of this age? Of white-collar thieves robbing the small depositors of savings and loan associations? Of a populace so besotted with the pursuit of consumer goods that they are credit-card spending themselves into bankruptcy, day in and day out? Of lyrics pounding hour after hour into the ears and minds of our children counseling them to rape women, use dope, kill policemen, or steal whatever their fancy chooses? Of churches solemnizing marriages between same-sex couples? Of lesbians and homosexuals adopting babies and young children? Of tons of cocaine being landed on dirt airfields, disembarked in secluded inlets along our shores, or ferried into our country disguised in legitimate trade goods?

Certainly, we do well to rise to speak on the national debt and the deficit, to speak on the environment and energy conservation, to speak on agriculture policy and foreign affairs. All of those fall within our province.

But more than aloof lawmakers, we are the stewards of our country, stewards of our heritage, and stewards of the quality of moral and spiritual life of American society.

I am neither a prude nor a parson. I am neither a saint nor a mystic.

But like Amos, I feel a compulsion to cry out against the decadence and the decline that I witness all around us. And as one who believes in a God who created man and who weighs the nations on the scales of destiny and judges evil, I suggest that we, too, can and should raise our voices in the age in which we live, lest the future rise up and condemn us for too often hiding our lights under a bushel until it was too late—until the darkness becomes so great that it overwhelms even our small candles.

Mr. STEVENS. I thank my friends for allowing this interruption.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Alaska suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, I will shortly send to the desk an amendment on behalf of Senator GORTON and Senator ADAMS. What the amendment says is that during the 1-year period beginning on the day of the enactment of this act none of the funds made available in this act or any other provision of law for fiscal year 1993 may be made available for the implementation of an environmental restoration management contract at the Hanford, WA site.

This amendment was offered in the committee, and I opposed it at that time, even though we had report language suggesting that this should be done where practical.

Mr. President, our friends, the distinguished Senators from the State of Washington, as well as our friends in the House of Representatives, feel very strongly this should be statutory language rather than report language. So with some reluctance, I will agree to take this to conference.

Now, in taking this to conference, Mr. President, we want to make very clear we are not making a judgment by this on what we call the ERMC, the environmental restoration and management contracts, concept.

One of the issues involved is whether or not you should have separate contractors, ERMC contractors, or whether those contractors now on the site at Hanford, as well as other nuclear facilities, whether existing contractors should, in effect, be entitled to stay in place with their employees or whether you should have an ERMC contractor come in with a separate bid and with new arrangements.

It is a difficult balancing act, Mr. President, and I believe the Secretary of Energy ought to have maximum flexibility to act in the interest of the United States. We have in the issue of environmental management and waste remediation at our nuclear plants one of the most expensive and difficult activities of all the Federal Government. Just 5 years ago, this budget was $440 million. The next year, it was $880 million. The next year, it was $1.6 billion. The year after that, it was over $3 billion. Now it is over $5 billion and growing very rapidly.

So it is essential, Mr. President, that the Congress act on this issue, that the Department of Energy, have maximum flexibility to act in the interest of the taxpayers, and that we not be saddled with any contract, or any set of employees, or any inefficient work rules, or any inefficient labor contracts that would run up the cost of this even further because, Mr. President, as it is right now I do not believe there is enough money in the country thoroughly and totally to clean up every nuclear site in the country, every toxic waste dump, every bit of polluted part of these United States, at least if you define clean as being 100 percent clean.

I think that would take many hundreds of billions, perhaps trillions of dollars. In any event, whatever resource the United States can spend on this very difficult and expensive activity ought to be with a maximum of flexibility and a maximum of efficiency.

So having said that, Mr. President, I believe this amendment while it does not dictate at all that ERMC contracts may not be pursued, to the contrary, it permits that ERMC contract negotiations may be pursued. It does not deal with the question of who has a right to the new jobs, about what degree of job retraining is required, all important and difficult issues I know for the State of Washington as well as the State of Colorado, the State of Ohio, and other States which have a lot of these defense production facilities.

So, Mr. President, it does not deal with any of those things, but what it says is wait 1 year before you issue directions to the Secretary of Energy, wait 1 year before you issue this contract at Hanford, because there is another contract at Fernald, OH, which is expected to be awarded shortly which will give a basis of experience upon which to award the contract at Hanford.

That is the intent behind the amendment. We are willing on that basis to take it to conference.

I might say that we do so with reluctance, but we have such regard for the two Senators from Washington, and for the Speaker of the House, and Congressman NORM DICKS, that even though we are reluctant, we are also mindful of their good personalities.

Mr. President, I yield.

Mr. GORTON. Mr. President, the amendment is already at the desk and it is simply to be called up if the Senator wishes.

Mr. JOHNSTON. Mr. President, the amendment is at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee amendment is set aside.

AMENDMENT NO. 2813

(Purpose: To delay for 1 year the implementation of an environmental restoration management contract at the Hanford, Washington, site)

Mr. JOHNSTON. Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. GORTON (for himself and Mr. ADAMS), proposes an amendment numbered 2813.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. . During the one-year period beginning on the date of the enactment of this Act, none of the funds made available in this Act or any other provision of law for fiscal year 1993 may be available for the implementation of an environmental restoration management contract at the Hanford, Washington, site.

Mr. GORTON. Mr. President, for myself and for my colleague, I wish to thank the distinguished and gracious Senator from Louisiana, the chairman of the subcommittee, whose bill we are dealing with here today, for his agreement to accept this amendment which is very important to the people we represent.

I am sure that my colleague agrees with me in saying that none of the goals of efficiency, effectiveness, time, and cost is undercut in our view by this amendment at all. In fact, we believe that examining this more thoroughly is going to add to the efficiency and effectiveness, and lower the cost of this important cleanup.

We also note that the chairman noted the interest of the Speaker and other distinguished Members of the House in this amendment. We are most appreciative of his work, and of the work of the Senator from Oregon on this, and we thank him for proposing the amendment on our behalf.

Mr. President, the appropriation bill currently before the Senate includes some $4.8 billion for cleanup of defense waste at DOE sites nationwide. This amount represents an increase of $1.1 billion over appropriations for fiscal year 1992, and reflects the high priority both the administration and Congress have placed on defense waste cleanup.

But rapid growth in funding for the cleanup program has caused many to question whether the money is being spent wisely. Such criticisms will become more frequent if large cleanup budgets continue to produce precious little actual cleanup. Understandably, the Department of Energy is taking certain steps to address this concern.

The Department has begun to install environmental restoration management contractors, or ERMC's at cleanup sites in an effort to establish greater accountability in the cleanup process. The Department reasons that traditional management and operations contractors are not best suited to perform cleanup work, and that specialized cleanup contractors will do the job more efficiently.

The First ERMC has been bid at the Fernald site in Ohio, and is slated to be in place some time this fall. The second ERMC is to be installed at the Hanford site in my State, home to some 60 percent of DOE's nuclear waste.

Though I understand and share the Department's desire to improve the efficiency of cleanup at all DOE sites, the Hanford ERMC as currently structured threatens to do just the opposite. The ERMC fails to protect adequately the existing work force at the site, and as a result, will lead to work force instability and the loss of highly skilled cleanup personnel. It is by no means clear how the ERMC would interact with the four other contractors at the site, and it is possible that responsibilities will be blurred rather than clarified. These concerns were noted in a report by DOE's own Advisory Committee on Nuclear Facility Safety, which explicitly recommends that an ERMC not be installed at Hanford.

The Energy and Water Subcommittee has recognized these problems in its own report, and has recommended a 1-year delay in the Hanford ERMC so that the ERMC at Fernald, OH, can be fully evaluated. While I appreciate the committee's efforts to provide direction to DOE, I am confident that the Department will proceed in spite of the report language.

Reasonable people may certainly differ on how the Hanford ERMC should be structured. However, my amendment does not seek to dictate particular labor protections or rewrite the request for proposals for the ERMC. My amendment simply puts into bill language the 1 year delay in the Hanford ERMC called for in the committee report.

Simply put, the Hanford community is up in arms about the ERMC concept. It has no confidence that the ERMC will improve cleanup, and is deeply concerned about the dislocation that it may cause. All I am asking for, Mr. President, is more time. Many other DOE sites are slated to receive an ERMC, and I think it would be prudent to all concerned to settle now the significant questions raised by the Hanford ERMC. I also think we would benefit from lessons learned from the Fernald ERMC, which should serve as a test of this concept.

Mr. President, my amendment does only one thing, and that is to put into bill language what is already in the committee report. I am merely seeking more time in which to work out with the Department and the Hanford community the difficult issues associated with the ERMC. This delay will not significantly delay the cleanup activities that the ERMC would perform, as this work will not begin in earnest for several more years.

I ask for my colleagues' support.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I want to join with my colleague, Senator GORTON, in expressing appreciation to Senator JOHNSTON and to Senator HATFIELD for presenting this amendment. It provides an opportunity for us to have a year to study the environmental restoration and management contract [ERMC] at the Fernald site prior to implementing one at Hanford.

The amendment is not meant to in any way halt the drive for efficiency.

Rather, it will allow the cleanup effort at Hanford to continue, undisturbed.

Hanford is the largest and most complex of the DOE's defense-nuclear sites. The country has invested billions, over many years, to ensure that Hanford's workers are some of the best trained, most highly skilled workers in the nuclear complex. We cannot afford to jeopardize that investment with an untested management concept.

The Department's own Advisory Committee on DOE Nuclear Facilities concluded that the ERMC at Hanford should be canceled. The committee rightfully recognized that the ERMC could disrupt progress at the site, at a time when concern about a lack of progress on cleanup is growing in Congress. Delaying the Hanford ERMC for 1 year, which is all this amendment would do, is a modest compromise that will protect these interests. It is the least we can do for the site and for the country.

It is very important to this community, to the residents of the State of Washington, and, as mentioned by my colleague, to the Speaker of the House, to the Senate, and to Representative DICKS that this amendment be adopted.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 2813) was agreed to.

Mr. ADAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. FOWLER].

Mr. FOWLER. Mr. President, I rise to ask unanimous consent to return briefly to morning business for the purpose of legislative action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FOWLER. I thank the Chair.

(The remarks of Mr. FOWLER pertaining to the introduction of S. 3116 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, I will shortly send to the desk an amendment.

I ask unanimous consent that we temporarily lay aside the pending committee amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. This amendment will be proposed on behalf of Mr. BRYAN and Mr. REID. What it does, with respect to money coming from the nuclear waste fund, is put the same restrictions on the Department of Energy as are put on the State of Nevada. In the bill, as reported to the Senate, we put restrictions on the State of Nevada for using funds from the nuclear waste fund for such things as public relations, media, advertisements, similar activities, lobbying, et cetera; and we have simply added the Department of Energy to that, so that there will be a symmetry between the Department of Energy and the State of Nevada.

AMENDMENT NO. 2814

(Purpose: To extend the applicability of a certain restriction on the use of funds made available for nuclear waste disposal activities to the Department of Energy)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BRYAN (for himself and Mr. REID), proposes an amendment numbered 2814.

On page 60, line 1, insert after "appropriated" "from this fund" and

On page 60, line 2, insert "or by the Department of Energy" after "Nevada".

Mr. BRYAN. Mr. President, the distinguished chairman has correctly stated the purpose and scope of the amendment, with respect to the restrictions that are newly added language in the appropriation bill that limits the activities of the State of Nevada and precludes those funds for being used for public relations, media advertising, or similar activities not related to scientific oversight.

The amendment that the Senator has offered on behalf of Senator REID and myself would subject the Department of Energy to the same restrictions, and we agreed with that.

I might ask my friend from Louisiana if he would object to this. There is a piece of correspondence that I bring to the attention of the Senator that lays out what types of expenses are from the Department of Energy itself, in response to our inquiry. Would the Senator have objection if we make that part of the RECORD—not part of the legislation, but as part of the colloquy between the two of us? I think that has been provided to staff.

Mr. JOHNSTON. The Senator asks, would I have an objection to putting a letter in the RECORD?

Mr. BRYAN. Yes. If I offer a piece of correspondence which the Department of Energy sent to us with respect to this issue, not seeking to make it part of the legislation, but part of the colloquy the Senator and I are having in terms of this purpose, would the Senator object? If the Senator needs some time to look at that, I do not have a problem.

Mr. JOHNSTON. Mr. President, the Senator from Nevada is entitled to put that letter into the RECORD, and I have no objection.

Mr. BRYAN. I thank the Senator for his cooperation.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY, YUCCA MOUNTAIN SITE CHARACTERIZATION PROJECT OFFICE,
Las Vegas, NV, January 23, 1992.

Re Yucca Mountain Site Characterization Project (YMP) statement on scientists' involvement in outreach programs.

Hon. RICHARD H. BRYAN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BRYAN: John Bartlett, Director of the Office of Civilian Radioactive Waste Management, asked that I provide you with the enclosed information about the YMP scientists' involvement in public outreach activities in response to your November 19, 1991, letter to Secretary of Energy James D. Watkins.

The 700 scientists and engineers presently associated with the YMP are among the most eminent men and women in the scientific world. They represent some of the finest scientific research and engineering organizations in America. Their professional credentials are impeccable.

The project, over an extended period of time, has offered public speaking and media training to its scientists and other personnel who frequently speak to the public, the media or technical audiences. This training assists the scientists in more effectively communicating technical information to a variety of audiences.

More than 200 presentations were given to numerous groups in 1991 by project scientific and technical staff (see enclosure 1). Staff also participate in public and media tours of Yucca Mountain, public update meetings, and other informal discussions. In addition, project scientists and engineers give numerous presentations to technical groups such as the Presidentially-appointed Nuclear Waste Technical Review Board and the independent U.S. Nuclear Regulatory Commission. The YMP Office is dedicated to providing verbal or written information to anyone who request it.

The communications training sessions held for project personnel have been conducted by specially-trained consultants (see enclosure 2). As to your specific inquiry, nuclear industry consultants have requested information exchanges with project scientists to obtain information about the scientific studies. In these exchanges, the industry consultants have provided their insights on local media coverage of the nuclear waste issue. Such exchanges have been attended by scientists representing a variety of scientific disciplines (enclosure 3 is the correspondence associated with these sessions). No training materials were provided to project employees at these sessions by the nuclear industry consultants.

Information exchanges like these are consistent with our education and public outreach programs, and occur frequently with interested parties on all sides of the nuclear waste issue.

We are committed to informing and educating the public about or ongoing studies and will continue to involve the technical staff in these programs in 1992.

I appreciate the fact that Sara Besser and Timothy Hay of your staff took the time to tour Yucca Mountain on Thursday, January 9, 1992. I also would like to take this opportunity to extend to you a personal invitation to tour Yucca Mountain and talk with project scientists and engineers about our ongoing studies which are dedicated to determining whether or not Yucca Mountain is a safe site for a high-level nuclear waste repository.

Sincerely,

CARL P. GERTZ,
Project Manager.

YUCCA MOUNTAIN SITE CHARACTERIZATION PROJECT, OVERALL OUTREACH STATISTICS, 1991

Speaker's bureau presentations:
Total Educational, 91.
Total Technical, 60.
Total General Public, 58.
Total Presentations, 219.
Total Speakers, approx. 48.
Tour information:
Public Open House/Tours: 10, 2,505 guests.
All Others (Community organizations, media, congressional, DOE/HQ, schools, etc.): 64, 1,268 guests.
Totals: 74, 3,773 guests (Since march 1991) approx. 400 per month.
Exhibits:
National Exhibit Support Staff Only, 9.
Open to Public, 14.
Public Update Meetings, 6.
Trade/Professional Associations, 12.
Open Houses and other major tours, 10.
Total Exhibits, 51.

OTHER TECHNICAL PRESENTATIONS

	NRC	NWTRB	ACNW
Total presentations	60	192	8
Audience members/meeting	30	75	20
Number of 1991 meetings	14	16	4
Approx. number of staff presenters	60	163	8

YUCCA MOUNTAIN SITE CHARACTERIZATION PROJECT, COMMUNICATIONS TRAINING, 1984—PRESENT

Training Course: Technical Communication Workshop: Answering Straight Questions for the General Public and the News Media/EA Interactions.

Date: December 4–5, 1984.

Trainer: Ronald C. Gossling, Stephen Rowa, David Day, and Kelly Lane; The Communication Counsel of America, Inc.

Attendees: Sue Volek, SAIC; Marge Olson, SAIC; and others.

Training Course: Technical Issues Clinic, Media Skills.

Date: January 13–15, 1985.

Trainer: Ronald C. Gossling, The Communication Counsel of America, Inc.

Attendees: Mike Voegele, SAIC; Jean Younker, SAIC.

Training Course: Thinking on Your Feet When Your Back is to the Wall.

Date: September 18–20, 1988.

Trainer: David M. Green, Director of the Business Communications Program, University of California, Berkeley. Worked with David Valentine.

Attendees: Bea Reilly, SAIC; John Robson, YMP.

Training Course: Media Relations/Presentation Effectiveness Seminar

Date: December 19, 1988.

Trainer: David Valentine.

Attendees: Bea Reilly, SAIC; Carl Gertz, YMP; Wendy Dixon, YMP.

Training Course: Media Training Seminar.

Date: June 7, 1990.

Trainer: David Valentine, David A. Valentine, Inc. Communications Consultants.

Attendees: Bruce Crowe, LANL; Dave Dobson, YMP; Katie Grassmeier, YMP; Bea Reilly, SAIC; Kevin Rohrer, SAIC; Bill Andrews, SAIC; Jean Younker, SAIC; Jeremy Boak, YMP.

Training Course: Improving Risk Communication/Guidelines for Conducting Effective Public Meetings.

Date: August 3, 1990.

Trainer: Professor Vincent T. Covello, Center for Risk Communication.

Attendees: Roxanne Coniglio, OEA; Tom Bjerstedt, YMP; Jim Gardiner, YMP; Diane Harrison-Giesler, YMP; F.M. Hemmes, YMP; Mike Valentine, YMP; R.J. White, YMP; H.W. Adkins, MACTEC; Chris Binzer, SAIC; Jim Clark, SAIC; Greg Fehr, SAIC; April Gil, SAIC; Melissa Hammer, SAIC; Effie Harle, SAIC; Chuck Herrington, SAIC; Kathy Ingenthron-Fehr, SAIC; Allison Inglett, SAIC; Pete Karnoski, SAIC; Jerry King, SAIC; Ann Kirk, SAIC; Erin Larkin, SAIC; John Matras, SAIC; David Stahl, SAIC; Shirely Tarr, SAIC; L.E. Thompson, SAIC; Joel Berry, Harza; Marvin Saines, Harza; Andres Jenetta, SAIC; Bob Murray, SAIC.

Training Course: Media Training Seminar.

Date: August 10, 1990.

Trainer: David Valentine, David A. Valentine, Inc. Communications Consultants.

Attendees: Uel Clanton, YMP; Effie Harle, SAIC; A.C. Robison, YMP; Bea Reilly, SAIC; Kevin Rohrer, SAIC; Jerry King, SAIC; Max Blanchard, YMP; Tom Bjerstedt, YMP; Tony Buono, USGS.

Training Course: Public Outreach Volunteer Training, Communications Seminar.

Date: August 1, 1991.

Trainer: David Valentine, David A. Valentine, Inc. Communications Consultants.

Attendees: Kevin Rohrer, SAIC; Jerry Lorenz, REECo; Erin Larkin, SAIC; Carleen Hill, SAIC; Theresa Hirsch, SAIC; Amelia Landeros, REECo; Tim Hill, SAIC; Cheryl Sandoz, SAIC; Tim Frisk, SAIC; John Slocum, SAIC; Michael Madison, RSN; Melissa Hamner, SAIC; Jerry King, SAIC; Vicki Best, YMP; Chelsea Muntean, YMP; Kimberly McDonald, REECo; Christy Barry, SAIC; Bob Murray SAIC.

Training Course: Public Outreach Volunteer Training, Communications Seminar.

Date: August 2, 1991.

Trainer: David Valentine, David A. Valentine, Inc. Communications Consultants.

Attendees: Hans Ebner, SAIC; Frank Baird, SAIC: James Blink, LLNL; Biane Ridolfi, YMP; Sally Elder, REECo; Christine Barry, SAIC; John Waddell, SAIC; Linda Artis, SAIC; Barbara McKinnon, SAIC; Diane Harrison-Giesler, YMP; Mindy Wadkins, SAIC; Stanley Simms, SAIC; Effie Harle, SAIC; Shirley Tarr, SAIC.

Training Course: Communications Seminar: Communications and Problem Solving.

Date: October 14, 1991.

Trainer: Michael J. Gorman, Licensed Clinical Social Worker & Communications Consultant.

Attendees: Bea Reilly, SAIC; Ginny McNeill, SAIC; Mindy Wadkins, SAIC; Pau Seidler, SAIC; Georgette Guzzetta, SAIC; Theresa Hirsch, SAIC; Chris Binzer, SAIC; Erin Larkin, SAIC; Kevin Rohrer, SAIC; Carleen Hill, SAIC; Melissa Jones, SAIC; Effie Harle, SAIC; Kelly Doyle, SAIC; Linda Artis, SAIC; Dave Swallow, SAIC; Amelia Landeros, REECo.

Training Course: Phase I, Specialized Communication Skills Lab.

Date: October 28–30, 1991.

Trainer: Ronald Gossling, Nancie Poppema, Kelly Lane, The Communication Counsel of America, Inc.

Attendees: John W. Bartlett, OCRWM; Stephen J. Brocoum, OCRWM; Jane R. Stockey, OCRWM; Alan Berusch, OCRWM; A. C. Robison, YMP.

Training Course: Information Exchange Sessions between Scientists and Media Experts Retained by the Nuclear Industry.

Date: 8 sessions (July through October).

Facilitator: Ace Robison.

Attendees: Susanne Bruener, OIZ Advertising; Kent Oram, OIZ Advertising; Jean Younker, SAIC; Bill Dudley, USGS; Alan Flint, USGS; Jerry King, SAIC; Bruce Crowe, LANL; Bill Andrews, SAIC; Dennis Sorensen, SAIC; Dave Dobson, YMP; Tom Bjerstedt, YMP; Jerry Boak, YMP; Russ Dyer, YMP; Mike Voegele, SAIC; Mike Foley, SAIC; Jim Replogle, YMP; Gayle Fisher, YMP; Ace Robison, YMP; Carl Gertz, YMP; Bea Reilly, SAIC; Chris Binzer, SAIC; Kevin Rohrer, SAIC, Carleen Hill, SAIC; Jeanne Cooper, YMP (not all attendees participated in every session).

Training Course: Communications Skills Training.

Date: December 3–5, 1991.

Facilitator: Ronald C. Gossling, Nancy Papema and Kelly Lane, Communications Council of America.

Attendees: Eric Lundgaard, YMP; Wendy Dixon, YMP; Gayle Fisher, YMP; Tom Bjerstedt, YMP.

Training Course: Image and Communication Skills for Women.

Date: December 10, 1991.

Trainer: National Businesswomen's Leadership Association.

Training Course: Public Outreach Volunteer Training, Communications Seminar.

Attendees: Effie Harle, Linda Artis, Melissa Hamner.

SCIENCE APPLICATIONS
INTERNATIONAL CORP.,
Las Vegas, NV.

INTEROFFICE MEMORANDUM

Date: July 11, 1991.
To: Distribution.
From: Bea Reilly, Manager, 517/T–18, Office of Institutional and External Affairs.
Subject: David Valentine Seminar.

The Office of Institutional and External Affairs will be sponsoring a seminar for volunteers who help with tours, the Speakers Bureau, exhibits, and other public outreach events. The seminar will be conducted by a specialist in public speaking, David Valentine, and focus on improving public communication skills. The seminar will cover topics such as how to answer tough questions, how to organize an answer, persuasive presentation, and how to probe questions. Some of the in-class exercises will be video-taped allowing for direct and immediate feedback.

This will be a one-day seminar conducted in the training center at the Valley Bank Center. The seminar will be offered twice, once on August 1st and again on August 2nd. There is room for 25 people in each seminar. Names will be taken on a first-come, first-serve basis; however, preference may be given to those who are more actively involved in public outreach activities. If you would like to sign-up to attend this training seminar, Amyl or paper mail Kevin Rohrer (ROHRERK) a note stating which date you prefer. The deadline to sign-up is 4:30 p.m. Thursday, July 18. We will try to schedule you on your preferred date. If you know of someone who would like to participate, please forward this memo to them or have them contact Kevin.

We look forward to your participation in this training seminar.

SCIENCE APPLICATIONS INTERNATIONAL CORP.,
Las Vegas, NV, August 22, 1991.

CARL P. GERTZ,
Project Manager, Department of Energy, Yucca Mountain Site Characterization Project Office, Las Vegas, NV.

LIST OF PUBLIC OUTREACH VOLUNTEER TRAINING SEMINAR PARTICIPANTS

In our efforts to maintain a credible pool of volunteers available to help staff public outreach events (such as tours, exhibits, and presentations) we periodically offer training sessions to develop and improve the communication skills of volunteers. Attached you will find a brief summary of the recent Public Outreach Volunteer Training Seminar conducted by David Valentine. If you have any questions concerning the seminar or would like any additional information concerning this, please contact Kevin Rohrer of my staff at 4–7769.

Sincerely,

BEATRICE E. REILLY,
Manager, Office of Institutional and External Affairs, Technical and Management Support Services.

David Valentine conducted two Outreach Volunteer Training Seminar on August 1st and 2nd, 1991, in the Training Center at the Valley Bank Center. Yucca Mountain Project employees that have been actively involved in outreach activities and those who expressed an interest in volunteering were invited to attend. Below is a list of those who attended the seminar.

Comments received on the evaluation forms after the seminar were extremely positive. The seminar participants indicated that this type of training will be quite helpful in staffing tours and exhibits, as well as giving formal presentations.

Some of the major points covered included the art of answering questions and the 10 steps to an information/persuasive presentation. There were many opportunities throughout the seminar for the participants to practice their newly learned skills accompanied with video feedback.

SEMINAR PARTICIPANTS THURSDAY, AUGUST 1, 1991

Jerry Lorenz, REECo.
Erin Larkin, SAIC.
Carleen Hill, SAIC.
Theresa Hirsch, SAIC.
Amelia Landeros, REECo.
Tim Hill, SAIC.
Cheryl Sandoz, SAIC.
Tim Frisk, SAIC.
John Slocum, SAIC.
Michael Madison, RSN.
Melissa Hamner, SAIC.
Jerry King, SAIC.
Vicki Best, DOE.
Chelsea Muntean, DOE.
Kimberly McDonald, REECo.

SEMINAR PARTICIPANTS FRIDAY, AUGUST 2, 1991

Hans Ebner, T&MSS.
Frank Baird, SAIC.
James Blink, LLNL.
Diane Ridolfi, DOE.
Sally Elder, REECo.
Christine Barry, SAIC.
John Waddell, SAIC.
Linda Artis, SAIC.
Barbara McKinnon, SAIC.
Diane Harrison-Giesler, DOE.
Mindy Wadkins, SAIC.
Stanley Sims, SAIC.
Effie Harle, SAIC.
Shirley Tarr, SAIC.

DEPARTMENT OF ENERGY, YUCCA MOUNTAIN SITE CHARACTERIZATION PROJECT OFFICE,
Las Vegas, NV, June 27, 1991.

Michael I. Foley, SAIC, Las Vegas, NV, 517/T–39.
Michael D. Voegele, SAIC, Las Vegas, NV, 517/T–44.
Jerry L. King, SAIC, Las Vegas, NV, 517/T–03.
Jean L. Younker, SAIC, Las Vegas, NV, 517/T–10.
Bruce M. Crowe, LANL, Las Vegas, NV.
Carl P. Gertz, YMP, NV.
David C. Dobson, YMP, NV.
Thomas W. Bjerstedt, YMP, NV.
Ardyth M. Simmons, YMP, NV.
James M. Replogle, YMP, NV.
Jeremy M. Boak, YMP, NV.

MEDIA TRAINING SESSION

You are invited to participate in a training session on media interactions scheduled for July 2, 1991, from 9 am to noon in the Blue Conference Room.

The public tours during recent months have reconfirmed the fact that the public and the media respond more positively to individual scientists than to an institution. Accordingly, and consistent with Deputy Secretary W. Henson Moore's counsel to us, we are encouraging individual scientists to be more assertive in speaking out. In the training session on Tuesday, a local media expert will help you to better understand how to work with local members of the media, who they are, and how you can help them to better understand the issues that they are reporting on so they can, in turn, accurately report to the public.

I encourage you to attend Tuesday's session. If, for any reason, you are not able to attend, please contact Stacey Priest at 794–7964.

A.C. ROBISON,
Special Assistant for Institutional Affairs.

SCIENCE APPLICATIONS INTERNATIONAL CORP.,
Las Vegas, NV, August 1, 1991.

INTEROFFICE MEMORANDUM

Date: July 31, 1991.
To: Distribution.
From: Bea Reilly, Manager, 517/T–18, Office of Institutional and External Affairs.
Subject: Editorial Board Pre-Meeting on Aug. 5.

A meeting is scheduled for 9:30 a.m. in Project Office large conference room on Monday, August 5 for those YMP staff who will be participating in upcoming editorial boards with local media.

The following people have agreed to participate along with four others who will be alternates.

Yucca Mountain Project Editorial Board Participants:

Dave Dobson (lead), Geologist; Jean Younker, Geologist; Bill Dudley/Alan Flint, USGS; Jerry King, Seismologist; Bruce Crowe, Volcanologist; Gayle Fisher/Bea Reilly, Public Information; Bill Andrews, Transportation; Dennis Sorenson, Radiation.

Alternates: Tom Bjerstedt, Jerry Boak, Mike Voegele, Mike Foley.

We would appreciate all of you attending the meeting on Monday.

If you have not turned in detailed biographical information that was requested, please give it to Carleen Hill, Room 880, extension 4–7375 by the end of this week.

Distribution:

Also enclosed are handouts for those of you who could not attend yesterday's meeting.

If you have any questions, please give me a call at 4–7761.

Enclosures:
1. Common Questions.
2. Sample Questions.
3. News clips.
4. Talking Points.

Distribution:
Jean L. Younker, SAIC, Las Vegas, NV, 517/T–10.
Bill W. Dudley, Jr., USGS, Denver, CO.
Jerry L. King, SAIC, Las Vegas, NV, 517/T–03.
Bruce M. Crowe, LANL, Las Vegas, NV.
Bill Andrews, SAIC, Las Vegas, NV, 517/T–29.
Tom W. Bjerstedt, YMP, NV.
Jerry M. Boak, SAIC, Las Vegas, NV, 517/T–13.
Alan Flint, USGS, Mercury, NV.
cc w/encls:
Gayle Fisher, YMP, NV.
C. P. Gertz, YMP, NV.
A. C. Robison, YMP, NV.
C. M. Binzer, SAIC, Las Vegas, NV, 517/T–18.
C. R. Hill, SAIC, Las Vegas, NV, 517/T–18.
T&MSS LRC (2).
cc w/o encls:
D.C. Dobson, YMP, NV.
B.E. Reilly, SAIC, Las Vegas, NV, 517/T–18.
M.A. Voegele, SAIC, Las Vegas, NV, 517/T–04.
M.I. Foley, SAIC, Las Vegas, NV, 517/T–04.

To: Editorial Board Participants: Ace Robison, Mike Voegele, Jean Younker, Alan Flint, Bill Andrews, Dennis Sorensen, Beatrice Reilly, Bruce Crowe.
From: Gayle Fisher.

You are scheduled for an "editorial board" meeting Thursday, November 7, at 7 p.m. at KVBC TV–3, which is located at 1500 Foremaster Lane. This is one block north of Cashman Field as you head north on Las Vegas Boulevard. You will make a right at a stoplight and then head toward Rancho High School. The station is located before the school, and you should be there by 6:45 p.m.

A pre-board meeting will be held at 3:30 p.m. in the Blue Room at the Yucca Mountain Project Office.

The station doesn't have an editorial board per se, so the television panel will consist of those persons who report, write, edit or in some manner make decisions about Yucca Mountain stories and editorials which air on Channel 3. Those persons include reporter Tonia Ellis, news director Mike Cutler, assignment manager Hank Tester and managing editor Dan Burns. Three or four other people have been invited and might attend, including station owner Jim Rogers, anchorwoman Gwen Castaldi and anchorman Dave Courvosier.

The editorial board meeting will consist of the following:

1. Ace Robison will give a brief, overall statement about the Project, its complexity and the difficulty in communicating technical subjects to the public.

2. He will also introduce the YMPO panel members, who will each give a three-minute presentation on his or her role in determining whether or not Yucca Mountain is a suitable site for a potential repository.

3. The meeting will then be opened up for questions from the Channel 3 staff.

We have allotted two hours for this meeting. It may or may not last that long, depending on the questions. At its conclusion, the station might want to interview one or several of you on camera about something that you said during the meeting, so be prepared for this.

At the pre-board meeting, we will go over these steps and will also give you a rundown of the kinds of stories Channel 3 has been doing on Yucca Mountain during the last four months. This meeting should take about one hour or less.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2814) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I will shortly send an amendment to the desk on behalf of Senator SANFORD regarding a study of the Falls Lake, NC, boundaries and lake levels. It provides, from available funds, that $600,000 shall remain to make the study on the Falls Lake, NC, project.

I ask unanimous consent to temporarily lay aside the pending business and to consider this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2815

(Purpose: regarding a study of the Falls Lake, North Carolina boundaries and Lake Levels)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. SANFORD, proposes an amendment numbered 2815.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 7, insert the following after "662": ": *Provided further*, That with $600,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, to correct a design deficiency at the Falls Lake, North Carolina, project, is authorized and directed to implement Plan 5 as described in the Design Memo Supplement dated November 1988, concurred in by the South Atlantic Division Engineer on March 1989, or any modifications to Plan 5 that would require raising and spillway only, or that minimize or eliminate the need for land acquisition by the Corps, provided such modifications are agreeable to the N.C. Division of Water Resources and do not compromise the projected water supply levels, with cost sharing as prescribed in the referenced report for this design deficiency".

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2815) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that we lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I have a series of amendments I would like to offer and have considered en bloc which I will soon send to the desk. The first, amendment No. 2816, is on behalf of Senators BOREN and NICKLES to provide that the Secretary is directed during the fiscal year to maintain a minimal conservation pool level of 475.5 feet at Wister Lake in Oklahoma.

The second, amendment No. 2817, is on behalf of Senators MOYNIHAN and D'AMATO, that the Corps of Engineers is directed to use $5 million within available funds to carry out the purpose of an existing law. What this is for the development of conservation, restoration, and management activities at Onondaga Lake in New York.

The next amendment, No. 2818, is on behalf of Senators SEYMOUR and CRANSTON to provide that $500,000 in funds appropriated herein shall be for the Ventura Harbor project in Ventura, CA. This is, of course, within available funds.

The next, amendment No. 2819, is on behalf of Senator DOLE, which provides that within available funds, $50,000 is available for planning for the Center of Energy Research at the University of Kansas.

AMENDMENTS NUMBERED 2816 THROUGH 2819

Mr. JOHNSTON. Mr. President, I have, of course, discussed these with the ranking minority Member, and I now send those to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for other Senators, proposes amendments numbered 2816 through 2819.

The PRESIDING OFFICER. Is there additional debate? If not, the question is on agreeing to the amendments, en bloc.

The amendments (No. 2816, No. 2817, No. 2818, and No. 2819) were agreed to, en bloc, as follows:

AMENDMENT NO. 2816

": *Provided further*, That the Secretary is directed during fiscal year 1993 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma".

AMENDMENT NO. 2817

Page 12, line 4, insert the following before the period; ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $5,000,000 of actable funds to carry out the purposes of section 411 of Public Law 101-640".

AMENDMENT NO. 2818

On page 28, line 7, insert the following before the semicolon: ": *Provided further*, That the $500,000 of funds appropriated herein shall be for the Ventura Harbor project in California".

Mr. SEYMOUR. Mr. President, I would like to thank the two distinguished managers of the energy and water appropriations bill, Chairman JOHNSTON and Senator HATFIELD, for accepting my amendment regarding Ventura Harbor.

Ventura Harbor is located approximately 60 miles northwest of Los Angeles in southern California. This Harbor generates over $30 million annually and provides employment for thousands of individuals in the commercial fishing and tourism industries. These industries are reliant on a safe and dependable harbor entrance. Unfortunately, Ventura Harbor has one of California's most dangerous harbor entrances. Costly dredging is required annually to maintain safe passage.

The $500,000 appropriated by my amendment will enable the harbor district to begin construction of a breakwater, which will ultimately provide both substantial economic benefits for the region and millions of dollars in savings for the Federal Government in future maintenance funds.

The city and the local project sponsor, the Ventura Port District, have secured 20 percent of the improvement cost and have demonstrated a strong commitment to seeing this valuable project through.

I hope Congress will continue to support this project in the future, allowing for complete construction of these harbor entrance improvements.

Thank you, Mr. President. I yield the floor.

AMENDMENT NO. 2819

On page 53, line 19, add the following after the word "Fund:" ": *Provided further*, That within the funds appropriated herein, $50,000 shall be available only for planning funds for the Center for Energy Research, University of Kansas, Lawrence, Kansas".

Mr. JOHNSTON. Mr. President, I will shortly propound a unanimous-consent request, and I want to describe that now.

Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I will propose a unanimous-consent request which states that the only amendments remaining in order other than the excepted committee amendments to the energy and water bill will be a Conrad amendment on a North Dakota project, that is, on Garrison diversion, a Craig amendment on actinide research, a Reid amendment on nuclear testing, another Reid amendment on nuclear testing, a Bumpers amendment to strike funding for the super collider, a Bumpers amendment to strike funding for the super collider with some add-back, a Bumpers amendment to put a cap on American participation in the super collider if foreign contributions lag, a Bumpers amendment to put a prohibition on sole sourcing of super collider contracts that would shut out American firms, and a Cohen amendment on nuclear testing.

Mr. President, I correct that by stating the two Reid amendments on nuclear testing will not be part of the unanimous consent when I propound it. There will also be, of course, a Hatfield amendment on nuclear testing. It will provide that relevant second-degree amendments, where appropriate, be in order; that if Senator HATFIELD'S nuclear testing amendment is not tabled, it be in order for Senator COHEN to offer his nuclear testing amendment contained in the list as a substitute amendment for the Hatfield amendment; that the only amendments in order after the close of business today be the amendments contained in this agreement dealing with nuclear testing, the super collider, and the Conrad amendment on Garrison diversion.

Before I propound that, is that the understanding of all?

Mr. HATFIELD. Will the Senator yield for a question?

Mr. JOHNSTON. Yes. Certainly.

Mr. HATFIELD. As I understand the wording, not necessarily the procedure, of this unanimous consent, that the bill that we now have before us has nuclear testing provisions, and that Mitchell-Hatfield amendment which would ban nuclear testing for a year, that is nuclear underground testing, would be then the first issue on that subject to be voted on. If it is tabled, as I believe the wording was, or if it is not tabled, then the Senator from Maine [Mr. COHEN] would be recognized or would be in a position to offer an amendment in the second degree, so that the first vote on that issue would occur on the Mitchell-Hatfield amendment. Is that correct?

Mr. JOHNSTON. Mr. President, I would expect that to happen. We have not sequenced these amendments, although I would see no objection to doing that, unless anybody—in fact, if the Senator would like to lock in a 2-hour time agreement, as I understand he wants, before a motion to table on his amendment, I would think that would be consistent with the sense of what we are trying to do. That would guarantee that we would first vote on a motion to table.

Mr. HATFIELD. Let me say two things: First of all, I would like to make certain that the Mitchell-Hatfield amendment, when offered, would be voted on by a tabling motion or whatever, and then after the disposition of that, sequentially Senator COHEN be recognized for the amendment of the second degree.

I do not think we should be able to cut out any other Member's rights to offer an amendment in the second degree following Mr. COHEN'S, but I am merely saying it seems to me what we want to lock in here is a vote on a time agreement on the major substitute amendment or the amendment being offered by Senator MITCHELL and 52 other Senators here who have signed this test ban proposal.

I just do not think I want to get into a situation, as the Senator knows, to have an amendment in the second degree, and proceeding to a vote when we are going to be voting on a tabling motion.

Mr. JOHNSTON. Would the Senator want a 2-hour time agreement?

Mr. HATFIELD. Two hours is fine.

Mr. EXON. Reserving the right to object——

The PRESIDING OFFICER. No unanimous consent has yet been propounded, the Chair will remind the Senator from Nebraska.

Mr. EXON. I will withhold.

Mr. JOHNSTON. If the Senator can tell me what his concern is before I propound the request.

Mr. EXON. Yes. I very likely will object to any prearranged agreement with regard to scenarios for second-degree amendments if nuclear testing matter comes up. Myself and Senator NUNN have an amendment that we think might be acceptable to the majority of the Senate.

The Senate is split down the middle on this very, very important issue. I was alerted to the fact that the Senator, the manager of the bill, the Senator from Louisiana, indicated that Senator REID had two amendments, but then I heard him say later that those would not be included in the unanimous-consent agreement. So that takes care of that particular proposition.

Mr. JOHNSTON. I understand they are now back on.

Mr. EXON. I have several questions I would like to ask. The first question would be whether or not the Senator from Louisiana is intending to leave in the bill the widely published, talked about, as I understand it, provision reported out by the committee with regard to the attempt to settle this problem as outlined by the Senator from Louisiana. I am not saying I am necessarily for or against that proposal at this time.

I would first like to know whether or not it is the intention of the Senator from Louisiana to leave that particular suggestion in the bill. Does he intend to have that in the bill?

Mr. JOHNSTON. Yes. Mr. President, that will be the pending matter before the Senate. Not only is it pending, but I will strongly urge that on the Senate. That is the underlying amendment which then, without an agreement or with an agreement, is then subject to further amendment.

What we are discussing doing is having Senator HATFIELD first recognized with a 2-hour time limit to propose his amendment, and then I would move to table on that. If it is tabled, then the underlying committee amendment will be the issue which will be subject to further amendment.

If the Hatfield amendment is not tabled, then, under this agreement, Senator COHEN would be recognized to offer a substitute amendment for the Hatfield amendment.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. I say to the Senator from Nebraska that going back to the authorization committee's effort to come up with some kind of definitive position as the House committee has on authorization, relating to this subject, and recognizing a very deep interest on the part of the chairman of your committee and other members of your committee, that the staffs of Senator MITCHELL and my own staff, Senator NUNN'S staff, have been trying to work together to see wherein we might be able to broaden the so-called moratorium, 1-year moratorium, which is a very simple straightforward proposal that is in the House energy water bill, that has been acted upon by the House military authorization.

We are trying to work out, and possibly by Monday we might have some kind of a broader base proposal that would carry even greater numbers than the 53 who have now signed on this particular moratorium.

So I want the Senator from Nebraska to know that all lines of communications are open. We are anxious to try to be able to get a very, very large consensus of the Senate, not just 53, assuming that all people who signed the bill would vote for it. Both of us have been around long enough to know that sometimes people will find circumstances different or such, and when they have signed on a bill as a sponsor, it does not necessarily mean that is the final vote.

Second, rather than to try to sequence, as I understood the Senator from Nebraska to have some objection to, I certainly would be open to having the second-degree amendments, if we could get, say, 2-hour time agreements. What we are trying to get is a time agreement on any such second-degree amendments, without sequencing.

I am now told the Senators from Maine would like to have two testing second-degree amendments, and not to deny any Senator the right to a second-degree amendment without sequencing, if we could then get those 2 hours agreed to on such second degree, proceed as has the Senator from Louisiana has, our chairman, with this unanimous-consent agreement to at least get the issue before us as an alternative to the language in the committee, the so-called Mitchell-Hatfield amendment; then move to table that, or whatever disposition; then move to the second degree on sequence without sequence.

I would be agreeable to that.

Mr. EXON. If I could, reserving my right to object and responding further, as the subcommittee chairman of jurisdiction on this matter, I have been intimately involved in it from day one. I am aware of the negotiations that have been going on. It is my intention to later on today, when the time is right, to confer with the Senator from Oregon to try to maybe come to some kind of an understanding. There is a possibility of agreement I think here with maybe a little give and take here and there and elsewhere.

Many of us have been working in good faith for a long, long time to try to come up with a plan that we think might have a greater support in the Senate. Certainly many of us do not support the House-passed position. There are many of us who have some reservations about the amendment offered by the Senator from Oregon.

I guess what I am rising to object to—without objecting to the right of the manager to have the underlying bill which is the basis of the discussion and the unanimous-consent agreement that we are discussing at this time, I do not disagree with any of that or any time limit. I guess what I would like to object to, though, is what amendments would receive prior consideration, under what circumstances it would occur, whether the amendment to be offered by the Senator from Oregon either fails or does not fail on a tabling motion, or anything else.

I would object at this time to any unanimous-consent agreement that went beyond that point.

Mr. JOHNSTON. If that went beyond the 2 hours for the Senator from Oregon—does the Senator mean preferential consideration of a Cohen amendment?

Mr. EXON. Right.

Mr. JOHNSTON. Mr. President, I wonder if—

Mr. EXON. Mr. President, I might say that I am doing that because I think that in the event we have some kind of a consensus, which I think is still possible, I hope that would be the amendment that would intervene someplace, along the line of this consideration being made.

And I am not prepared at this time to agree to have any other amendment by either one of the Senators from Maine take a priority over the possibility of some kind of an agreement.

Mr. JOHNSTON. Mr. President, I wonder if the Senator from Maine is willing to agree that we dispose of the Hatfield amendment on a motion to table; and, thereafter, that any of these listed amendments be in order, and let recognition depend on who gets recognition.

Mr. COHEN. Certainly, on the second amendment, I would be willing to defer that one. But I would like to have my amendment considered immediately after the action taken on Senator HATFIELD's amendment.

Mr. JOHNSTON. Well, it takes unanimous consent. Will the Senator from Nebraska object to that?

Mr. EXON. Mr. President, the Senator from Nebraska indicated previously that he would not agree to that. I do not with great reluctance.

I guess what I am fearful of is, if we have the stacking of amendments at this time, it might further complicate the matter of reaching some kind of an agreement. Therefore, with all due respect, I have to object to that.

I believe that what the manager of the bill has just said would be acceptable, without saying whether the amendment of the Senator from Maine, or any other amendment that we might later agree on, would come one before the other, which would not be in the interest of reaching a compromise, in the opinion of the Senator from Nebraska, at this juncture.

UNANIMOUS-CONSENT AGREEMENT

Mr. JOHNSTON. Mr. President, let me propound the unanimous-consent request and see if we can get this agreed to.

Mr. President, I ask unanimous consent that the following be the only amendments remaining in order, other than the expected committee amendments to the energy and water appropriations bill, H.R. 5373:

A Hatfield nuclear testing amendment; a Conrad amendment on a North Dakota project, the Garrison conversion project; a Bumpers amendment to strike funding for the super collider; a Bumpers amendment to strike funding for the super collider with some addback; a Bumpers amendment to put a cap on American participation in super collider if foreign contributions lag; a Bumpers amendment to put a prohibition on sole sourcing of super collider contracts that would shut out American firms; an Exon-Nunn amendment on nuclear testing; a Reid amendment on nuclear testing; another Reid amendment on nuclear testing; two Cohen amendments on nuclear testing; a Craig amendment on actinide recycle research on nuclear energy.

I further ask unanimous consent that the relevant second-degree amendments, where appropriate, be in order; that if Senator HATFIELD's nuclear testing amendment, which will be offered to one of the committee amendments, is not tabled, it be in order for any of the designated Senators to offer one of their nuclear testing amendments contained in the list as a substitute amendment for the Hatfield amendment, notwithstanding the fact that a further degree of amendment would not be in order; and that that permission be granted for any of the listed Senators who have listed nuclear testing amendments.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Louisiana?

If not, without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, if we can dispose of the—

Mr. HATFIELD. If the Senator will yield for a moment, Mr. President, while we have the Senators who are here—and many others who are not here at the moment—who are expecting to perhaps join in an amendment on this question of nuclear testing.

I hope that Senators will feel that on this issue—as one of the main authors of the total test ban—that if there are ways in which we can broaden that, particularly in such areas as the comprehensive test ban, then I think all of us want to see more action, more acceleration of action, at least; and as to how to define safety tests or devices, and so forth.

I will not try to enumerate all of the possibilities, because they are multiple. I think it would be very compatible to the basic, underlying proposal here of suspending the underground testing for 1 year.

But we are just very open. I want to say that on behalf of the cosponsors I have had a chance to visit with.

Mr. JOHNSTON. If the Senator will yield at that point, Mr. President, I have been asked to state to our colleagues that there will be no more rollcall votes today.

Mr. HATFIELD. There is really nothing else for me to say, except to indicate that we are hoping to spend the weekend, at staff level, seeing where we might find common ground, and at the same time, be able to take a very strong legislative action on this very comprehensive question.

Mr. JOHNSTON. Mr. President, I wonder if we can try to lock in a unanimous-consent agreement that the Hatfield amendment, and all second-degree amendments, have a time limit of 2 hours equally divided.

Mr. President, I so request that when Senator HATFIELD presents his amendment, that his be the first amendment—that he be first recognized when the issue of nuclear testing comes up; that there be a time limit of 2 hours, equally——

Mr. EXON. Reserving the right to object, Mr. President, and I shall not object. I want to make a suggestion, if I might.

The PRESIDING OFFICER. The Senator has not completed his unanimous-consent request yet.

Mr. EXON. Mr. President, in order to accommodate all Senators on this matter that I think is a very deep and sincere conviction by Members on both sides of the issue, and at the same time, I know they want to move this bill along, could we have a unanimous-consent agreement that any and all amendments, in whatever form, with regard to nuclear testing, have the same time agreements as has been set forth on the amendment to be offered by the Senator from Oregon? Would that possibly expedite the procedure?

Mr. JOHNSTON. Mr. President, I would think it expedites things to have a 2-hour time agreement for Senator HATFIELD, which is the principal amendment. I say the principal amendment—at least, the first amendment. And I think it may be well to put a 2-hour time agreement on these others, as well.

If we have very many amendments, at 2 hours each, keeping in mind that we start this after a 5-hour debate on the SSC, we are going to be here late.

Mr. HATFIELD. Mr. President, I suggest that possibly getting just a 2-hour time agreement on the Mitchell-Hatfield amendment would perhaps put us in a better position after that 2 hours to be able to determine how many hours should be ascribed to the next Senator.

Mr. JOHNSTON. I think that is an excellent suggestion.

Mr. President, I therefore ask unanimous consent that there be a 2-hour time limit equally divided on the Hatfield amendment, to be followed by a motion to table.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. JOHNSTON. Mr. President, I withhold that.

And that I have an additional time of 1 hour for Senator REID and 20 minutes for Senator BRYAN.

Mr. HATFIELD. On What?

Mr. JOHNSTON. On the Hatfield amendment.

Mr. HATFIELD. No.

Mr. JOHNSTON. Mr. President, I withdraw the request. I hope we can work out a time agreement on that on Monday.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition? If not the Chair in his capacity as an individual Senator from Virginia suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACTINIDE RESEARCH

Mr. JOHNSTON. Mr. President, under the Advanced Reactor Research and Development Program, we have been carrying on a program called actinide research, the goal of which is to be able to reduce the volume and the radioactivity of nuclear waste. The hope is that these quantities could be reduced down by as much as 70 percent, thereby making much more manageable the problem of nuclear waste. This is a research program that I have long been in favor of.

Mr. President, my colleagues from Idaho and Illinois, who have a great interest in this really wanted to put in an amendment to take $9 million from another activity for this actinide research. They have, in the spirit of compromise, just asked for my commitment in conference to produce $6 million for this purpose.

Of course, Mr. President, as my colleagues know, the chairman of the Senate conferees cannot guarantee anything in conference. They are, of course, aware of that. But I will state to my colleagues that I will do the best I can to find an appropriate place from which to get $6 million for the Actinide Research Program. That cannot be a guarantee, but it can be a good-faith statement between my staff and I that we will do the very best we can to find the place to get that money.

I am frank to say at this point, not having looked over all of the accounts and all of the appropriate places from which this money might come and the way it might be funded, I cannot say precisely where that would be at this point. I think, rather than try to find such a place, that we would all be better off to take this to conference with that spirit and let me do the best I can in conference to find a place for that.

I think, really, you are better off to do that than even to pass an amendment here, because you would still have to face the conference. Even as we speak, my staff and I are looking at various accounts and, as I say, we will do the best we can.

(Mr. KERREY assumed the chair.)

Mr. SIMON. Will my colleague yield?

Mr. JOHNSTON. I will.

Mr. SIMON. I appreciate that. As you have suggested, this is really critical, because if we can find financing for a good chunk of our nuclear waste problems, we would help the Nation very, very significantly.

While the Senator from Louisiana is correct, no one can absolutely guarantee what is going to happen in conference, frankly—and I do not speak for my colleague from Idaho here; he will have to speak for himself—my feeling is, with that assurance from the Senator from Louisiana, that I think we can move ahead.

My own instinct is—and I yield to my colleague from Idaho on this—that we are better off not offering the amendment, but following the good will and the guarantee of the Senator from Louisiana that he will do his best.

Mr. JOHNSTON. Mr. President, before my friend from Idaho is recognized, I recognize that the goal that we are trying to achieve here is to keep his program alive. And the $6 million, in the view of the Senators from Idaho and Illinois, as I understand it, is what it takes to keep the program alive.

I would say the $6 million seems to be an appropriate goal, but I think my colleagues understand if we figure out a way to keep a program alive with a little less funding—and the difficulty of finding the money may be such—I hope that they would consider such a result to be a good-faith effort.

I mention that because in fiscal year 1992, there was $4.39 million provided for the program; in fiscal year 1991, $4.92 million. So these dollar amounts are regarded, if I may, as reasonable goals. But I hope I will not be held, in good-faith efforts, to the exact figure. Indeed, it might take a little more than $6 million if we can find it in our view to keep the program alive, but that is the goal: To keep the program alive.

Mr. CRAIG. If the chairman will yield, I believe the Senator from Illinois and I, in our discussions with the Senator from Louisiana, suggested somewhere in the $6 million range, also recognizing the administration's request of $9.23 million for this particular project.

The Senator from Louisiana and I, serving on that Energy Committee, are extremely concerned about how we manage waste. We have now just been caught up in some phenomenally inflated figures as it relates to Yucca Mountain, being able to go forward just with the licensure of moving forward with the construction of a facility, that we are now talking about billions—billions—more than we had originally thought might be the case.

Here is a research program that goes toward reducing the overall capacity of light water reactor fuel, spent fuel, by burning it in a very safe way. It is the kind of thing that I think this country speaks so loudly to at this moment. If we are going to have a nuclear industry, we have to be able to handle our waste effectively. This is one of the ways of doing it while generating increased energy capacity. And it is simply one of those worthy programs.

There are a lot of others, but when the National Science Foundation comes forward, really putting a very high priority on this particular program, then it makes all kinds of sense.

Mr. President, I have the following information to be included in the RECORD. First is a copy of a DOE news release that addresses this topic; second is an explanation of the actinide recycle process and its relationship to the integral fast reactor; and last is an excerpt from the National Research Council of the National Academies of Science and Engineering report, "Nuclear Power: Technical and Institutional Options for the Future" that addresses this important research and development.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[DOE News, June 17, 1992]

Note to Editors:

A Congressionally-mandated report by a committee of the National Research Council of the National Academies of Sciences & Engineering identifies several prerequisites to preserve a U.S. nuclear power option and recommends support for key reactor designs. The report, which is titled *Nuclear Power: Technical and Institutional Options for the Future*, will be published later this month, but an advance copy has been circulated to several news organizations.

The Department of Energy (DOE) also was provided with a copy. Commenting on it, DOE's Assistant Secretary for Nuclear Energy, William H. Young, expressed appreciation to the committee for their thorough review of a very complex issue. "We are pleased that the report is supportive of DOE's civilian nuclear power research and development programs and priorities, and of the nuclear power goals expressed in the administration's National Energy Strategy," he said.

Mr. Young further commented: "The committee evaluated seven designs proposed as next-generation nuclear reactors. The report supports Large Evolutionary Light Water Reactors (LWRs) as offering the most advantages, being closest to completion, and probably next to be deployed. The report also recommends that Mid-sized LWRs with passive safety features receive the highest priority for federal funding for further development. We agree that the LWR offers the best possibility for near-term deployment and that both concepts should be made ready for selection by the marketplace."

"The report recommends that Liquid Metal Reactors (LMRs) should be the highest-priority long-term option, and calls for expansion of the existing LMR design activity. The administration's National Energy Strategy also stresses the importance of developing the LMR because it is a potential contributor to our long-term radioactive waste management system and extends supplies of uranium fuel."

"Both the LWR and LMR funding recommendations made by the committee are higher than the existing DOE funding for these programs, but the committee's recommendations are consistent with DOE priorities. The reactor deployment schedules estimated by the committee differ in some respects from DOE plans. We will carefully consider the committee's recommendations on these issues in evaluating our future plans and budgets."

"The committee also recommended that the Modular High-Temperature Gas-Cooled Reactors should receive no federal funding because its market potential was judged to be low. The department will take this recommendation under advisement."

"The committee recommended closing the Hanford Fast Flux Test Facility near Richland, Washington. In April 1992, DOE placed that facility in a standby condition to conserve federal funds, pending a review to be completed this fall of potential future alternative DOE missions not considered by the committee."

"DOE is pleased that the committee emphasized the need to resolve the issues related to disposal of high-level radioactive waste. DOE notes that the committee recommended as a contingency plan that the linkage between a surface storage facility and the geologic repository be eliminated. This would permit construction of the Monitored Retrievable Storage facility to proceed before the Nuclear Regulatory Commission has issued a license for the construction of a repository.

Actinide recycle refers to the extraction of actinides (Plutonium and the minor actinides: Neptunium, Americium, Curium) from spent LWR fuel, so that they can be put back into a reactor, or otherwise burned up. These materials form the major long term (beyond a few hundred years) hazard in high level nuclear wastes. By recycle, the long term hazard is greatly reduced.

Actinide consumption is achieved by causing these materials to fission. This can be done in a reactor or in a subcritical assembly driven by an accelerator. The physics of actinide consumption is well known. The process is much more efficient in a fast reactor, where all of these materials fission readily and therefore constitute a useful fuel. In a light water reactor (LWR) the process is much less efficient and the actinides tend to poison the nuclear reaction. Material damage limits require that the actinides be recycled many (about 10) times, even in a fast reactor to achieve effective burnup.

The process is feasible only if the actinides can be effectively separated first from the spent LWR fuel and then repeatedly separated for recycle. Traditional (PUREX) reprocessing, when extended to reduce waste levels to an acceptable level, would be very expensive.

The Actinide Recycle Program at Argonne is focused on developing innovative pyrometallurgical (high temperature) processes to separate actinides from LWR spent fuel in a cost effective and efficient manner. The program started in FY91 with a funding level of $3 million per year in FY 1991 and FY 1992. The DOE funding request is $9.2 million for FY 1993.

The basic approach of the (LWR) Actinide Recycle Program is to develop an efficient head end process which will extract excess uranium from spent LWR fuel and convert the remainder to a form suitable as feed to the IFR process. Actinide recycling occurs naturally in the IFR for IFR fuels. The IFR process is highly efficient, reducing the waste streams to very low residual levels. A preliminary assessment of the feasibility of several pyrometallurgical processes has been completed and the results appear quite promising. Three candidate processes have been identified for further development.

An aggressive program has been developed to develop the necessary database to judge the technical feasibility of the proposed flowsheets by the end of FY95.

If this process is successfully developed, the result would be a system whereby essentially all actinide elements are extracted from LWR spent fuel in a single product stream, along with most rare earth fission products. A pure plutonium product is not possible. The product is highly radioactive and is not significantly more attractive than the original spent fuel as far as the diversion risk is concerned. The process therefore provides nonproliferation benefits. In these processes uranium remains as metal ingots with some noble fission product contamination. In this form the uranium can be easily stored for later recovery and use in the IFRs. The process involves small mass flow and the few process steps, so the compact equipment systems and small facility size portend favorable economics.

The program includes the following items:

Develop the process chemistry and materials in small-scale experiments.

Demonstrate unit operations at 20-kg scale (engineering scale) with simulated fuel to show scalability, materials handling, phase separations, engineering issues, and materials compatibility at a significant fraction of full scale.

Develop an integrated process at a larger scale to demonstrate that the process can be operated in a continuous or semi-continuous mode, that containment materials can be scaled up to near full-scale, and to provide sufficient cost and engineering data for design of a full-scale demonstration plant. This process can be operated cold, with depleted UO_2 and without TRU elements.

Demonstrate the decladding and separation process, the effects of irradiated fuel morphology, and the chemistry of curium and americium at prototypical levels in an intermediate-scale process with actual LWR spent fuel.

[National Academy Press, Washington, DC, 1992]

NUCLEAR POWER: TECHNICAL AND INSTITUTIONAL OPTIONS FOR THE FUTURE

(Committee on Future Nuclear Power Development, Energy Engineering Board, Commission on Engineering and Technical Systems, National Research Council)

* * * * *

c. Government incentives, in the form of shared funding or financial guarantees, would likely accelerate the next order for a light water plant. The Committee has not addressed what type of government assistance should be provided nor whether the first advanced light water plant should be a large evolutionary LWR or a mid-sized passive LWR.

5. The CANDU-3 reactor is relatively advanced in design but represents technology that has not been licensed in the United States. The Committee did not find compelling reasons for federal funding to the vendor to support the licensing.

6. SIR and PIUS, while offering potentially attractive safety features, are unlikely to be

ready for commercial use until after 2010. This alone may limit their market potential. Funding priority for research on these reactor systems is considered by the Committee to be low.

7. MHTGRs also offer potential safety features and possible process heat applications that could be attractive in the market place. However, based on the extensive experience base with light water technology in the United States, the lack of success with commercial use of gas technology, the likely higher costs of this technology compared with the alternatives, and the substantial development costs that are still required before certification, the Committee concluded that the MHTGR had a low market potential. The Committee considered the possibility that the MHTGR might be selected as the new tritium production reactor for defense purposes and noted the vendor association's estimated reduction in development costs for a commercial version of the MHTGR. However, the Committee concluded, for the reasons summarized above, that the commercial MHTGR should be given low priority for federal funding.

8. LMR technology also provides enhanced safety features, but its uniqueness lies in the potential for extending fuel resources through breeding. While the market potential is low in the near term (before the second quarter of the next century), it could be an important long-term technology, especially if it can be demonstrated to be economic. The Committee believes that the LMR should have the highest priority for long-term nuclear technology development.

9. The problems of proliferation and physical security posted by the various technologies are different and require continued attention. Special attention will need to be paid to the LMR.

* * * * *

LIQUID METAL REACTOR

LMRs offer advantages because of their potential ability to provide a long-term energy supply through a nearly complete use of uranium resources. Were the nuclear option to be chosen, and large scale deployment follow, at some point uranium supplies at competitive prices might be exhausted. Breeder reactors offer the possibility of extending fissionable fuel supplies will past the next century. In addition, actinides, including those from LWR spent fuel, can undergo fission without significantly affecting performance of an advanced LMR, transmitting the actinides to fission products, most of which, except for technetium, carbon, and some others of little import, have half-lives very much shorter than the actinides. (Actinides are among the materials of greatest concern in nuclear waste disposal beyond about 300 years.) However, substantial further research is required to establish (1) the technical and the economic feasibility of recycling in LMRs actinides recovered from LWR spent fuel, and (2) whether high-recovery recycling of transuranics and their transmutation can, in fact, benefit waste disposal. Assuming success, it would still be necessary to dispose of high-level waste, although the waste would largely consist of significantly shorter-lived fission products. Special attention will be necessary to ensure that the LMR's reprocessing facilities are not vulnerable to sabotage or to theft of plutonium.

The unique property of the LMR, fuel breeding, might lead to a U.S. market, but only in the long term. From the viewpoint of commercial licensing, it is far behind the evolutionary and mid-sized LWRs with passive safety features in having a commercial design available for review. A federally funded program, including one or more first plants, will be required before any LMR concept would be accepted by U.S. utilities.

Mr. CRAIG. Mr. President, I, for one, for a long time—and I think the chairman shares in this concern—have been fearful that we had headed in the wrong direction as it relates to handling nuclear waste or spent fuel materials, and that we really ought to complete the process of finding alternative approaches for using them, to activate the energy sources available within them, while at the same time reducing the overall waste stream.

This actinide research, which is going on at Argonne National Lab, does just that at this time. The preliminary reports on that work that has been done to date are very, very positive, so much so that I think, as the issue of a repository moves up as it relates to the cost, this issue comes along with it.

So we believe it is of prime importance. I am one of whose who is willing to lift its priority, as I think this Senate will do in coming years as other approaches become nearly insurmountable.

I appreciate and also respect the word of my chairman in a good-faith effort to try to recognize this. We have seen the sorting around, if you will, of priorities and would like to have them reshuffled a bit more, because I am one, and I think my colleague from Illinois agrees, who recognizes that this is a key priority issue.

Mr. JOHNSTON. Mr. President, as I mentioned in my first remarks, I do think this is a very, very exciting and useful endeavor, particularly when you consider the priority that nuclear waste has and the cost that nuclear waste has.

This, if it turns out to be what I believe it can be and what the Senator from Idaho and Illinois believe it can be, could vastly reduce the quantity that we have to deal with here and make our task cheaper and easier and safer. So I share his enthusiasm for this program. We will approach this conference with that attitude.

Mr. CRAIG. I thank the chairman.

Mr. SIMON. And I thank the Senator. When we talk about $6 million, I recognize it is absolute. If you come in with $5.9 million, we will not be unhappy or, if you come in with $7 million, we will not be unhappy.

Mr. JOHNSTON. Mr. President, I wonder if we may now take the Craig amendment from the unanimous-consent request?

Mr. CRAIG. I have no objection to that.

Mr. JOHNSTON. Mr. President, I therefore ask unanimous consent that the Craig amendment on actinide research previously referred to in the unanimous-consent request be deleted from that list of eligible amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, H.R. 5373 has many good provisions, but I object to the apparent elimination of actinide recycling research at the Argonne National Laboratory-West at the Idaho National Engineering Laboratory [INEL]. Nowhere in this bill do I see language assuring me that the program will continue in 1993.

This $9 million-per-year research program could literally save the nuclear power option in this country. It will do this by developing technology that will make spent nuclear fuel safer to handle and safer to store much sooner. The goal of the program is to reduce the half-lives of radioactive residues in spent fuel from thousands of years to approximately 200 years. If this can be achieved, a national spent fuel repository will be much easier to site, construct, and operate than it is today. However, progress cannot continue toward this goal if we arbitrarily eliminate the program in 1993.

Public and industry opinion in this country is nearly unanimous that the only way the nuclear option will become viable is if radioactive waste can be made less dangerous and less long-lived. The work at Argonne-West in Idaho will do this. For these reasons, and in order to treat the Argonne researchers at INEL fairly, I would strongly urge that the conferees from the Senate support this actinide research program in conference.

Mr. JOHNSTON. Mr. President, I believe that constitutes all of the business that we can tend to on this bill today. I will mention for the benefit of my colleagues that on Monday we will begin with the issue of the superconducting super collider. A number of amendments by Senator BUMPERS are eligible. I expect the principal amendment will be an amendment simply to strike the funding, although that will be up to Senator BUMPERS. He has, I believe, four amendments eligible.

I expect we will debate that for a period of about 5 hours, and I hope and expect at that point, then, we will leave the issue of the superconducting super collider and go to the issue of nuclear testing. And I hope we can stack votes from both to occur at around 6:30 or so.

But I caution my colleagues that is not locked into any unanimous consent, so at this point I cannot offer that assurance. I am sure the majority leader will have more to say about that, but that is at least my desire as floor manager on Monday. So we can expect a very full day on Monday, and I hope we will be able to finish this bill on Monday.

TECHNOLOGY TRANSFER

Mr. DECONCINI. Mr. President, I wish to compliment the chairman of our subcommittee for taking the lead in prodding our national laboratories to focus on technology transfer and the commercial possibilities discovered as a result of basic research. I ask my friend Senator JOHNSTON, has not our committee provided a significant increase for technology partnership between the national laboratories and the private sector?

Mr. JOHNSTON. Yes, notwithstanding the difficult fiscal situation we find ourselves in, the subcommittee feels that this was a priority and thus we were able to provide additional funding.

Mr. DECONCINI. Mr. President, I would like to ask the distinguished Senator from Louisiana if funding has been provided for critical technologies such as nanolithography and high resolution computation science programs?

Mr. JOHNSTON. Mr. President, within the funding provided for the national laboratories, there is funding for these technologies as well as many others.

Mr. DECONCINI. Mr. President, I would also like to ask the chairman of the committee one other question. Is it the Senator's opinion that we should encourage the national laboratories to join in partnerships with universities and the private sector in technology transfer endeavors?

Mr. JOHNSTON. Again, I say yes to my friend from Arizona. But that is not as easy as it sounds. For decades the research done at our labs was classified and consequently the scientific breakthroughs were rarely and reluctantly shared with the private sector. In view of the changing international political climate, we have to work to getting the knowledge that is within these laboratories out to American business so that we can become more competitive in the world marketplace.

Mr. DECONCINI. Mr. President, Phoenix, AZ has the third highest concentration of high-technology businesses in the country. However, most of these businesses are defense oriented and we, as many other communities throughout the Nation, find ourselves having to broaden our economic base given the changing international security needs. I believe that it is critical for us to do this in order for our country to regain our world leadership in high-technology manufacturing. By encouraging our national laboratories to engage in technology transfer, the Senator from Louisiana has clearly demonstrated that he is a leader in moving our country forward in this regard. This Senator appreciates his efforts.

Mr. CRANSTON. Mr. President, I would like to ask the manager of the bill, the distinguished Senator from Louisiana, about the San Lorenzo River flood control project in California.

Flooding along the San Lorenzo has been a concern since 1955 when the river spilled its banks, causing $30 million of damages. The Corps of Engineers built a channel and levee flood control project in 1959 to provide flood protection, but sediment has built up in the riverbed, reducing the level of protection to a 20-year event. The corps is now studying the feasibility of raising the levees. It is my understanding the current schedule calls for the feasibility study to be completed in October. Thus, unless additional moneys are made available, the project could come to a halt until fiscal year 1994 funding is approved.

I note that the Senate Appropriations Committee recommended $133,000 to complete the feasibility study for the corps flood control project on the San Lorenzo River, but was unable to include additional funds for preconstruction engineering and design work. It is important to the city of Santa Cruz, CA, that work be accelerated so the San Lorenzo River flood control project is ready for authorization in the 1994 water resources authorization bill.

Given this situation, I would like to ask the manager of the bill if he would consider a reprogramming request by the corps if additional funds are needed to complete the Chief of Engineers report on San Lorenzo River so that the project can be included in the 1994 authorization bill.

Mr. JOHNSTON. I appreciate the interest of the Senator from California in the San Lorenzo River flood control project. Based on the information that the Senator has presented, I believe the corps should take a close look at accelerating work on the project. If additional funds are needed, the committee would carefully consider any reprogramming request to advance the project in order that it can be included in the 1994 authorization bill.

Mr. CRANSTON. I thank the Senator for his support of this critical project.

Mr. GRAHAM. Mr. President, this week the Senate began debate on the appropriations bills for fiscal year 1993. With the support of many of my colleagues, I have offered amendments to try to bring to the attention of the Senate, the issue of reducing the Federal budget deficit and rebuilding the credibility of Congress in the public eye.

While the Federal Government has made some efforts to reduce the size of the budget, the severity of our fiscal crisis can be seen most clearly at the State level.

In these times of economic strife, many State legislatures have been forced to drastically reduce the size of their budgets. Mr. President, many States, such as my own home State of Florida, have had to make very tough choices and will have to make more. They have nearly reached the limit on streamlining government and cutting waste—we are now seeing significant reductions in the most basic of State services.

On July 27, the National Conference of State Legislatures released a study tracking State budget cuts for fiscal year 1993. Of 45 States responding to the survey, 28 reported "significant budget reductions." These program cuts, totaling $650 million, spanned almost every budget area including Medicaid expenditures, education, and social service programs.

The Federal effort at serious deficit reduction must start somewhere. As I have stated before, Congress is an institution which by its nature is inductive and incremental. We cannot wait until the day Congress is ready to tackle the issue of comprehensive deficit reduction. We must act immediately to begin, bit by bit, to trim the Federal budget.

In my opinion, and many of my colleagues have agreed, the administrative accounts of the major executive departments are the perfect place to begin this process. We were successful in freezing the Department of Commerce, the Department of State, and the Department of Justice administrative budgets at fiscal year 1992 levels—a savings of $94 million.

Although I had intended to offer similar amendments to each of the 13 appropriations bills, I will not offer such an amendment to the Energy and Water appropriations bill that is before us right now.

As I reviewed the committee's proposed bill, I found that the committee not only held the administrative account for the Department of Energy at 1992 levels, but slightly reduced it. When this bill came before the other body for debate, an amendment was accepted to cut a proposed increase in the administrative account of $21.5 million.

I want to take this opportunity to commend the subcommittee chairman and ranking member, my distinguished colleagues from the State of Louisiana and the State of Oregon, for their work and for their wisdom in including this rescission in their subcommittee's legislation.

Although several of the accounts within departmental administration are increased over 1992 levels, cuts have been made in other areas. With enhanced revenues expected for 1993 from DOE services and products and with the $21.5 million general reduction, the administrative budget for the Department of Energy will not increase under this bill.

Just as this bill has already done for the Department of Energy, I do intend to continue to offer a series of amendments to these appropriations bills to freeze administrative accounts. Once again, I would like to commend the subcommittee for their sensitivity to developing an administrative budget for DOE which will not increase our 1993 contribution to the budget deficit.

UNANIMOUS-CONSENT AGREEMENT

Mr. JOHNSTON. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the energy and water appropriations bill at 10 a.m. on Monday, August 3, that Senator BUMPERS be recognized to offer one of his super collider amendments contained in the agreement earlier entered; that the time between 10 a.m. and 1:30 p.m. be equally divided for debate between Senators BUMPERS and JOHNSTON; that at 1:30 p.m., the Bumpers amendment be set aside and Senator HATFIELD be recognized to offer his nuclear testing amendment; that there be a time limitation on the Hatfield amendment as follows: 60 minutes under the control of Senators REID and BRYAN; 15 minutes under Senator DOMENICI'S control; 60 minutes under Senator JOHNSTON'S control; and 2¼ hours under the control of Senator HATFIELD; that at 6 p.m., the Senate resume consideration of the Bumpers amendment; that the time between 6 p.m. and 6:30 p.m. be equally divided between Senators BUMPERS and JOHNSTON; that at 6:30 p.m., there be a vote in relation to the Bumpers amendment, to be followed immediately by a vote in relation to the Hatfield amendment; and that the preceding occur without any intervening action or debate.

Mr. President, I will state that the phrase "a vote in relation to" include a motion to table. I put the request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That at 10:00 a.m. on Monday, August 3, 1992, the Senate resume consideration of H.R. 5373, the Energy Water Appropriations Bill, with the only amendments remaining in order, other than the excepted committee amendments, to be the following:

Bumpers: Strike funding for Super Collider;

Bumpers: Strike funding for Super Collider with some add back;

Bumpers: Cap on American participation in Super Collider if foreign contributions lag;

Bumpers: Prohibition on sole sourcing of Super Collider contracts that would shut out American firms;

Cohen: Nuclear testing;

Conrad: North Dakota project (Garrison Diversion);

Exon/Nunn: Nuclear testing;

Reid: Nuclear testing; and

Reid: Nuclear testing.

Ordered further, That relevant second degree amendments, where appropriate, be in order.

Ordered further, That if Senator Hatfield's nuclear testing amendment, which will be offered to one of the committee amendments, is not tabled, it be in order for any of the designated Senators to offer one of his nuclear testing amendments contained in the list as a substitute amendment for the Hatfield amendment, notwithstanding the fact that a further degree of amendment would not be in order.

Ordered further, That at 10:00 a.m. on Monday, August 3, 1992, when the Senate resumes consideration of H.R. 5373, the Senator from Arkansas (Mr. Bumpers) be recognized to offer one of his Super Collider amendments contained in the agreement and that the time between 10:00 a.m. and 1:30 p.m. be equally divided between the Senator from Arkansas (Mr. Bumpers) and the Senator from Louisiana (Mr. Johnston).

Ordered further, That at 1:30 p.m. on Monday, August 3, 1992, the Bumpers amendment be laid aside and the Senator from Oregon (Mr. Hatfield) be recognized to offer his nuclear testing amendment, on which there shall be the following time limitation: 60 minutes under the control of Senators Reid and Bryan; 15 minutes under the control of Senator Domenici; 60 minutes under the control to Senator Johnston; and 2¼ hours under the control of Senator Hatfield.

Ordered further, That at 6:00 p.m. on Monday, August 3, 1992, the Senate resume consideration of the Bumpers amendment, with the time between 6:00 p.m. and 6:30 p.m. to be equally divided between Senators Bumpers and Johnston, with a vote in relation to the Bumpers amendment to occur at 6:30 p.m., to be followed immediately by a vote in relation to the Hatfield amendment, with the preceding to occur without any intervening action or debate.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. JOHNSTON. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the energy and water appropriations bill at 10:30 a.m. on Monday, August 3, that Senator BUMPERS be recognized to offer one of his super collider amendments contained in the agreement entered a few moments ago; that the time between 10:30 a.m. and 3:30 p.m. be equally divided between Senators BUMPERS and JOHNSTON; that at 3:30 p.m., the Bumpers amendment be laid aside and Senator HATFIELD be recognized to offer his nuclear testing amendment; that there be a time limit on the Hatfield amendment of 3 hours equally divided in the usual form, 15 minutes of which will be under Senator DOMENICI'S control and 20 minutes under Senator BRYAN'S control; that at 6:30 p.m., a vote in relation to Senator BUMPER'S amendments occur to be followed by a vote in relation to Senator HATFIELD'S amendment with no intervening action or debate between the time for debate and the two votes.

Mr. President, just to make clear that with respect to the 3 hours on the Hatfield amendment that Senator DOMENICI shall have 15 minutes, Senator BRYAN shall have 20 minutes and the balance shall be equally divided between Senator HATFIELD and myself.

Mr. President, I correct myself on that; that the 15 minutes for Senator DOMENICI and the 20 minutes under Senator BRYAN'S control would come out of the time allotted to me so that the 3 hours will be equally divided, an hour and a half allotted to me, of which I will allot 15 minutes to Senator DOMENICI and 20 minutes to Senator BRYAN.

If I may withhold until we have a final signoff by Senator DOLE. I will just withhold that unanimous-consent request until we hear from Senator DOLE.

MORNING BUSINESS

Mr. JOHNSTON. Mr. President, I ask there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALLOCATION OF FISCAL YEAR 1993 SPENDING AUTHORITY TO THE SUBCOMMITTEES OF THE COMMITTEE ON ARMED SERVICES

Mr. NUNN. Mr. President, under section 602(a) of the Congressional Budget Act, the "Statement of Managers" accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority. The 602(a) allocation of the fiscal year 1993 budget totals among the Senate committees was printed in the conference report on the concurrent resolution on the budget for fiscal year 1993.

Section 602(b) of the Budget Act requires committees to allocate such spending authority among either subcommittees or programs within their jurisdiction and to report these allocations to the Senate.

The Committee on Armed Services submits that following report in compliance with section 602(b) of the Budget Act allocating its direct spending authority among the subcommittees. I ask unanimous consent that the report be included in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF THE COMMITTEE ON ARMED SERVICES PURSUANT TO SECTION 602(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

Mr. Nunn, from the Committee on Armed Services, submitted the following report:

The Committee on Armed Services, which was allocated certain budget authority and outlays by the managers of the conference on the House Concurrent Resolution 287, reports the division of such allocations among subcommittees of the Committee for fiscal year 1993.

BACKGROUND

Under section 602(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority.

Section 602(b) of the Act requires the committees to allocate such spending authority among either subcommittees or the programs over which they have jurisdiction and to report these allocations to the Senate.

ALLOCATION RECEIVED BY THE COMMITTEE

The direct spending authority allocation received by the Committee on Armed Services was made to this committee of original and complete jurisdiction for the federal programs and activities assumed in the allocation.

The Committee on Armed Services received the following allocation for fiscal year 1993:

Fiscal Year 1993

Direct spending authority:	*Millions*
	Millions
Budget authority	$37,775
Outlays	37,624

ALLOCATIONS MADE BY THE COMMITTEE

The Committee has made its allocations among the several subcommittees as shown in the following table. Budget authority and outlay figures are CBO baseline estimates incorporated in the budget resolution.

The total amount of funds allocated in this report is equal to the allocations made to this Committee in H. Con. Res. 287, the Concurrent Resolution on the Budget for Fiscal Year 1993.

Fiscal Year 1993

Subcommittee on Manpower and Personnel:	*Millions*
	Millions
Budget authority	$37,693
Outlays	37,564
Subcommittee on Readiness, Sustainability, and Support:	
Budget authority	82
Outlays	60

FIGHTING THE NEW THREAT IN THE WAR ON DRUGS

Mr. McCAIN. Mr. President, the war on drugs is a battle that has not ended with the cold war. If anything, it is intensifying. Where we once faced one major cartel in Latin America, we now face three: the Medellin, Cali, and Urdinola. Latin American producers have added heroin production to their cultivation of cocaine and marijuana. Asian producers have expanded their cultivation of heroin and have begun to smuggle vast amounts of cannabis into Canada. New sources of drugs have emerged in Lebanon, and both Lebanon and Syria have joined the list of major drug-smuggling nations.

There are some encouraging trends. A survey released earlier this year by the National Institute of Drug Abuse did find that the number of adolescents from age 12–17 who admit to drug use has dropped 25 percent since 1988. At the same time, the number of Americans who recently used cocaine is estimated to have declined by 35 percent since 1988, and has dropped by half in the last 10 years.

THE CHANGING THREAT IN THE WAR ON DRUGS

Unfortunately, such surveys cannot distinguish with any accuracy between those who make less use of drugs and those who say they make less use of drugs. We all know the terrible cost that drugs exact from the poor and particularly from African-Americans. We know that the violence on our city streets is increasing and is spreading to the suburbs. There is a wealth of data to show that drug use has not been curtailed among several key segments of our population. Cocaine use by addicts and frequent users has increased, as have recent emergency room admissions involving cocaine.

While we may have sharply reduced casual drug use, our war on drugs is only having a minor impact on Americans who are heavy users of narcotics, or who have been involved in the drug culture for lengthy period of time. There are still approximately 10.2 million marijuana users, 1.6 million cocaine users, and 492,000 heroin users in the United States.

As any drug enforcement agent or inner city policeman will tell you, we have not been successful in raising the price of drugs or reducing their availability on the street. Although drug seizures have grown, and some have been dramatic, the amount of drugs under cultivation has also increased. Every improvement in interdiction and interception has been matched by an improvement in the sophistication of the smuggler.

This is clearly reflected in the latest estimates of the flow of drugs. According to the latest unofficial estimates by the El Paso Intelligence Center, which is DEA's center of expertise in assessing the flow of drugs, approximately 22,000 metric tons of marijuana were smuggled into the United States last year from Mexico, Jamaica, and Colombia alone. We seized only 231 metric tons from all sources—or about 1 percent. This meant that marijuana with a street price worth $52.2 billion successfully entered the United States.

Similarly, Bolivia, Colombia, and Peru alone produced about 880 to 1,090 metric tons of cocaine. We seized 145 metric tons from all sources in the world, and if we ignore all other producers, we seized a maximum of 13.3 to 15.5 percent of these imports. DEA estimates that under the most favorable possible assumptions, the street value of this cocaine was $33 billion, and the true value could have exceeded $50 billion.

In addition, DEA estimates world heroin production at 341.9 to 385.9 metric tons. DEA also estimates that 85 metric tons, or 25 percent of this production reaches the United States and that the United States only seized 1,645 kilograms of this total production. This means that U.S. addicts spent $4.25 billion on heroin last year, and that the drug traffic in the United States, was worth a total of $89.4 billion—even if we ignore all other drugs such as LSD and the amphetamines.

It is scarcely surprising, therefore, that there has been no drop in the amount of drugs available in the United States, and no drop in prices due to law enforcement. In fact, senior officials in both the joint task forces working to halt the flow of drugs, and in EPIC, El Paso Intelligence Center, agree that the only changes in the street price of drugs have been the result of price manipulation by the cartels—not the result of increased drug seizures.

FIGHTING THE WAR IN AMERICA AND THE WAR AGAINST SUPPLY

There is informal agreement within each of the joint task forces, and within the centers analyzing the war on drugs, that this situation will persist until we do a far more successful job of reducing demand. The gap between the street price of drugs and the cost of production and smuggling is so great that no effort to reduce supply can totally solve the problem.

The war on drugs can never be won unless we win the war against demand. The drug problem does not exist because other nations are forcing drugs on Americans. It exists because of a relentless American demand to which the world's criminals—both foreign and domestic—respond. It is painfully clear that the key battles in the war on drugs are still to be fought, and that they must be fought on American soil.

Nevertheless, we must fight to reduce supply. We must do the best we can to shield our borders, to prevent smugglers from reaching the United States, and to intercept and imprison them whenever and wherever we can.

THE MILITARY ROLE IN THE WAR ON DRUGS

We recognized these facts in the Senate Armed Services Committee 2 years ago when we held the hearings that led us to bring the military into the war on drugs. We understood that the military could not tip the balance and win the war, but that they have to play a critical role if we are ever to present a major challenge to drug smugglers.

This was the reason we funded a major military effort to fight the war on drugs. Over the past several years, the Department of Defense antidrug budget has tripled to $1.2 billion.

This military effort has produced progress in many areas. We have created joint task forces to cover each of our coasts, the Caribbean, and our land borders with Mexico. We have provided military and intelligence sensors, and communications systems far more sophisticated than those available to Federal, State, and local law enforcement officers.

We have created strong interdiction and interception programs to halt smuggling using light aircraft and small ships. We have created programs to help our Latin American neighbors improve their efforts to halt drug cultivation and smuggling, and we have improved the surveillance of our land borders.

THE NEED TO IMPROVE THE MILITARY EFFORT

As is almost inevitable, however, our efforts to use the military have led smugglers to adapt their efforts, and this has led to imbalances in the effectiveness of the various task forces. In fact, the increased effectiveness of the joint task forces guarding the air and sea routes through the Caribbean, across the gulf, and into California has driven smugglers to emphasize three other approaches to smuggling.

These three approaches include:

Using aircraft and ships to smuggle drugs into Mexico, and then using commercial vehicles, private vehicles, animals, and individuals to smuggle drugs across the land border;

Using large commercial aircraft, which are not subject to military surveillance and interdiction; and

Using container ships, which also are not subject to military surveillance and interdiction and which present a surveillance problem for Customs that is so large that only 5 percent of the hundreds of thousands of containers coming into the United States each year are subject to even the most perfunctory Customs inspection.

There is no precise way to know which of these routes is responsible for the largest volume of drugs. Experts in each joint task force, and in the DEA's El Paso Intelligence Center are in agreement that we simply lack the data to accurately assess both the overall volume of drugs being smuggled into the United States, and the amount of drugs coming in by a given smuggling method or crossing a given border.

There is agreement, however, that the volume of drugs being smuggled across the land borders of Arizona, California, New Mexico, and Texas has increased sharply over the last 2 years. There is complete agreement that massive new smuggling networks have been established in Mexico, and that some smuggling networks are so large that they have hundreds of large truck trailers and smuggle drugs in on a daily basis. There is complete agreement that at least 80 percent of the drugs smuggled across our land borders come safely into the United States, and some senior experts put the figure as high as 95 percent.

It is also striking that smuggling across the land borders accounted for 153.3 metric tons out of the total of 231 metric tons of marijuana seized last year. Similarly, 22.3 metric tons of cocaine were seized out of a total of 145 metric tons. Given the ease of smuggling, these figures would not be so large if only a small percentage of the total volume of marijuana and cocaine coming into the United States was coming across our land borders.

Drug experts agree that the problem is particularly severe in the case of large trailers because hundreds wait at our borders each day, and many are refrigerated. Delays lead to widespread protests by American businesses that depend on Mexican exports, and such trailers are extremely difficult to search. In fact, when they contain refrigerated or frozen goods, a search requires hours and means the destruction of most of the cargo.

As a result, the Latin American cartels have found that they can actually increase their profits if they do not use small aircraft by trying to cross the United States border at States like Arizona. While some such smuggling still does occur, the more sophisticated smugglers have found that a quick flight to Mexico from Latin America, instead of flying across the United States border, means far less risk of losing the aircraft or pilot, and that an aircraft can make more trips with much higher payloads. At the same time, Mexican-based smugglers have learned they can operate with great safety in Mexico, choose from among hundreds of possible crossing points, and cross the border with little risk. At worst, the smuggler loses a cheap truck and an expendable driver.

IMPROVING THE COVERAGE OF THE SOUTHWEST BORDER

The trends and problems I have just discussed became all too clear last year, when I began an investigation of the effectiveness of our war on drugs in covering the Southwest border. This investigation led me to ask Senator NUNN to hold a Senate Armed Services Committee hearing on the role of the military in the war on drugs.

This hearing was held in March, 1992. Both the testimony we received during the hearing, and our follow up investigations, revealed that we had created a military surveillance and interdiction system that was driving drugs into Mexico and across our land borders. Worse, it revealed that we had created major legal barriers to our military in using their surveillance and intelligence assets to detect and interdict land smuggling efforts.

Mr. President, I do not believe that a public discussion of all the details involved would be useful, and much of the data is law enforcement sensitive. I do, however, ask unanimous consent to print a letter in the RECORD that dramatizes the issues involved.

There being no objection, the draft was ordered to be printed in the RECORD, as follows:

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: There is forwarded herewith a draft of the proposed legislation "To amend titles 10 and 18, United States Code, to enhance the ability of the Department of Defense to perform its counternarcotics operations, and for other purposes."

The proposal is part of the Department of Defense legislative program for the 101st Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. It is recommended that the proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

Section 1213(b)(3) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 requires the Secretary of Defense to provide the Congress recommendations for legislation that would assist the department in performing its drug interdiction and counterdrug activities. This proposal is designed to meet that requirement and to offer needed authorities for the conduct of our operations in this important area.

Our proposal consists of eight provisions that we have found will provide us some assistance in the performance of our role as set forth in chapter 18 of title 10, United States Code. Specifically, the proposal would:

(1) authorize the transfer of seized or forfeited drug property to a country where it is most needed in the counternarcotics arena and transport it by departmental means,

(2) make the "additional cost incurred" standard, relating to statutory reimbursement for services provided above costs incurred which is currently authorized the Department of State, a universal standard for the Department of Defense and civilian law enforcement agencies,

(3) clarify that maritime communications transmitted through marine telephone operators to locations in the United States do not carry an expectation of privacy (obviating a recent 9th Circuit Court of Appeals decision),

(4) provide for an additional exception to the limited size of US Military Assistance Groups per country (from current level of six but only with notification and presidential level determinations),

(5) provide authority to military forces for the detection and monitoring of the movement of land traffic of illegal drugs,

(6) permit military working dog teams to assist civilian law enforcement agencies,

(7) state more positively the objective of ensuring that support to law enforcement is consistent with preparedness to perform traditional military missions, and

(8) provide a succinct statutory underpinning for our counternarcotics mission.

COST AND BUDGET DATA

The enactment of this proposed legislation would result in little or no additional costs to the Government.

Sincerely,

TERRENCE O'DONNELL.

SECTION-BY-SECTION ANALYSIS

Section 1 amends subsection 511 (e)(1)(E) of the Controlled Substance Act (21 U.S.C. 881(e)(1)(E)) to permit the transfer of forfeited drug property to foreign countries for counternarcotic uses without requiring the recipient country's participation in the seizure of the property. In addition, this provision would permit the transportation of the forfeited property by the Secretary of Defense on a space available basis.

Section 2 amends the Classified Information Procedures Act (CIPA), (18 U.S.C. app. IV (1988)), to establish a higher standard for a defendant to satisfy before the U.S. Government is required to produce classified foreign intelligence information in a criminal proceeding. Currently, a defendant is entitled to discover classified information, including classified foreign intelligence information, upon a showing of relevance. Under the proposed amendment, a defendant would be entitled to discover classified foreign intelligence information only upon a showing that he would, without the information, be denied his constitutional right to a fair trial. The amendment would prohibit a court from ordering production to a defendant as well as disclosure by a defendant of classified information that may have been provided the defendant during discovery. This amendment would extend to all classified foreign intelligence information the same protection as that currently provided for information lawfully obtained under the Foreign Intelligence Surveillance Act (FISA) of 1978, 50 U.S.C. §§1801–1811, at §1806(g) (1982).

Section 3 amends 10 U.S.C. §377(a) reimbursement provisions to conform with the "additional costs incurred" provisions found in 22 U.S.C. §2392 (c).

Current law requires civilian law enforcement agencies to reimburse the Department of Defense for any support provided. This has been interpreted by the Department of Defense as requiring "full reimbursement" (57 Comp. Gen. 674 (1974) and 31 U.S.C. §6505), unless a waiver is authorized. Counternarcotics support provided to the Department of State requires reimbursement only for the amount of additional costs incurred by the Department of Defense (22 U.S.C. §2392 (c)). The proposal would apply the same standard to *all* counternarcotics support provided by the Department of Defense to civilian law enforcement agencies, both Federal and state/local.

Section 4 amends title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Electronic Communications Privacy Act (ECPA), (18 U.S.C. §2510 et seq.) to clarify that the radio portion of maritime communications transmitted to and through a marine telephone operator located in the United States is not "a wire communication." The current wording of title III, coupled with Ninth Circuit case law, raises the question of whether the interception of maritime communications which travel in part by wire is prohibited. This amendment would clarify that title III does not prohibit the interception of the radio portion of such a transmission.

Section 5 amends section 515(c)(1) of the Foreign Assistance Act (22 U.S.C. §2321i) which currently limits the size of U.S. military personnel per country to six to manage in-country U.S. security assistance. There are a number of exceptions to this section for Colombia and sixteen other countries; the ceiling for U.S. MILGPs in Bolivia and Peru should be granted an exception, as in the other countries.

Section 6 amends section 374(b)(2)(A) of title 10, United States Code, to provide a significant but limited exception to the Posse Comitatus Act (18 U.S.C. §1385) by authorizing military personnel to operate equipment in support of Federal drug law enforcement agencies to detect and monitor the movement of traffic across the external land borders of the United States. This section authorizes ground surveillance of vehicular, equestrian, pedestrian or other traffic coming into the United States using night vision devices, ground sensors, or other military equipment to assist Federal drug law enforcement agencies.

Use of military personnel for ground surveillance of civilians within the United States has traditionally been viewed as prohibited by the Posse Comitatus Act. See Department of Defense Directive 5525.5, DoD Cooperation with Civilian Law Enforcement Officials, Encl. 4, para. 3d, 15 Jan. 1986. This general rule recognizes that physical surveillance of persons suspected of criminal conduct and reporting their movements to civilian law enforcement authorities to assist them in detaining or arresting the suspected offenders constitute direct participation of military personnel in law enforcement activities. (When military personnel also provide a base of operations for and transport the civilian law enforcement agents to the location of the arrest (as is now authorized by 10 U.S.C. 374(b)(2)(E)), they have done everything short of taking the suspect into custody). Without express statutory authority for physical surveillance assistance, it may be prohibited by the Posse Comitatus Act as well as by the restrictions of 10 U.S.C. §375.

Notwithstanding these restrictions, limited ground surveillance support can be provided incident to normal military training exercises or operations as authorized by the "Military Purpose Doctrine" and 10 U.S.C. §371(a), see Meeks, "Illegal law enforcement: Aiding Civil Authorities in Violation of the Posse Comitatus Act," 70 Mil. L. Rev. 83, 124–26 (1975), and as required by section 1206 of the National Defense Authorization Act for Fiscal Years 1990 and 1991. The assistance must be provided in the course of normal military training to avoid prohibited direct assistance. The provision of such support only as an incident of normal military training without express statutory authority, however, reduces the effectiveness of the support which may be given and exposes DoD personnel to unnecessary risk of personal liability.

Accordingly, this section is intended to provide a limited and narrowly circumscribed exception to the Posse Comitatus Act's prohibition on use of military personnel to execute the law by authorizing operations of military equipment only in border areas to detect and monitor the movement of traffic across the external land borders. Activities under this section are subject to the express restrictions of 10 U.S.C. §375 which prohibit the direct participation of military personnel in a search, seizure, arrest, or similar activity. To the extent that operation of military equipment for the purposes provided in this section in itself may constitute such direct participation, however, this section is intended as a very limited exception to the restrictions of section 375 as well. This section does not, however, authorize military personnel to effect a search, seizure, arrest or similar activity or to participate directly in such activities except as authorized in this section or as otherwise authorized by law.

This section in effect provides DoD personnel authority to do on land, at the external borders of the United States, in support of law enforcement agencies, that which they are currently authorized to do under 10 U.S.C. §124 as lead agency for aerial and maritime detection and monitoring of the transit of illegal drugs into the United States. Like the DoD lead agency mission, this support is intended to use DoD personnel in a role that is consistent with the traditional military mission and that maximizes the use of military skills, equipment, and technological capabilities while leaving to civilian law enforcement agencies the law enforcement activities for which they are trained and equipped. No radical break with the historic separation between military and civilian functions is intended.

Section 7 amends 10 U.S.C. §374(b)(2) by adding an additional purpose for which military personnel may operate Department of Defense equipment to assist civilian law enforcement agencies involved in the enforcement of drug, customs, and immigration laws. This would authorize the Secretary of Defense, upon request by the head of a Federal law enforcement agency, to loan military working dog teams (the team consists of a military working dog and its handler) to civilian law enforcement agencies for the purpose of conducting "sniffs" of containers that may be carrying illegal loans. The military working dog team would not be authorized to confront civilian citizens, *i.e.*, the dog may not "sniff" individuals. Nor may the team engage in any subsequent search, seizure, or arrest of civilian citizens and their property as a result of an "alert" (a reaction by the dog indicating the presence of an illegal substance) by the military working dog.

Section 8 amends 10 U.S.C. 376 to state more positively the objective of ensuring that support to law enforcement is consistent with preparedness to perform traditional military missions. As a matter of practice, the Department's counternarcotics operations generally enhance the preparedness of the armed forces to perform traditional missions. For example, personnel on radar planes and ships tracking suspected drug traffickers are honing their skills in performing their regular military functions.

Section 9 amends chapter 3 of title 10 by inserting a new section 124 before the current section 124 and redesignating the current section 124 as 124a. The current section 124 was enacted by section 1202 of the Department of Defense Authorization Act for Fiscal Year 1990 and 1991 (Public Law 101–189; 103 Stat. 1563). The revision is to state with clarity the function and mission of the Department of Defense in the war on drugs. The second sentence provides for regulations to ensure that the counternarcotics mission is carried out in a manner not inconsistent with accomplishment of other high priority missions, and in accordance with applicable law.

Mr. MCCAIN. This is a draft letter, developed by the Department of Defense, which was never formally sent to Congress. It does, however, catalog the various legal barriers that have constrained the military efforts to fight the flow of drugs, and which have had a particularly severe effect in limiting the effort to fight the smuggling across our land borders.

I am glad to report that some of these barriers have been removed. As a result of questions that I and others raised to the Department of Defense, it has reexamined the law and permitted the use of key sensors like forward looking infrared or FLIR.

Far more important, the fiscal year 1993 Defense Authorization Act just reported by the Senate Armed Services Committee contains provisions that will allow the military to use its senors and intelligence assets to continuously track smuggling activities across our land borders rather than simply take the equivalent of one reading or a snapshot of such activity. This reform is critical because continued tracking and large scale surveillance efforts are necessary to attack the overall drug smuggling effort, and because land smuggling is much harder to detect and analyze than smuggling by air or sea.

The bill language that I proposed which is incorporated in the Committee version of the fiscal year 1993 Defense Authorization Act makes changes to section 374 of title 10, United States

Code, and the counterdrug activities under section 1004 of the National Defense Authorization Act for fiscal year 1991. These changes clarify the intent of Congress to broaden the statutory authorities to permit systematic and continuing reporting on the movement of persons, vehicles, or other potential modes of transporting drugs over land to provide law enforcement with the necessary intelligence required to plan effective interdiction efforts.

The Act also calls for a comprehensive sensor mix study that would reinforce the need for providing for more effective coverage of the land border, improved networking of communications and intelligence, the development of new sensor equipment to rapidly detect the presence of drugs in containers and trucks, tests of airships to try to develop more cost-effective substitutes for the aerostats now in the border area, and expanded use of the National Guard in providing air patrol of the border area to allow Customs to concentrate more resources in intercepting smugglers.

I would like to thank my colleagues for their supporting my portion of this package, and congratulate Senator NUNN and Senator WARNER for the overall equality of this section of our bill.

THERE IS STILL MUCH TO BE DONE

The fact remains, however, that there is still much to be done. I have followed up this action by the committee with letters to Secretary Cheney and to Bob Martinez, Director of the President's Office of National Drug Control Policy, asking both for a comprehensive examination of how many legal barriers—if any—remain to the effective use of the military in the war on drugs. I ask unanimous consent that these letters be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCAIN. I have also asked them to review the measures of effectiveness currently being used by the military to ensure that: First, adequate analysis is taking place on the effect of the military in halting the drug trade across our land borders and into other methods not subject to effective military surveillance, and second to ensure improved analysis of the overall patterns in the traffic across each border State.

I believe this review is needed so that we can deal with the real smuggling threat to the Southwest border States, and so that we do not again fall into the trap of emphasizing one aspect of the war on drugs in a way that may actually make the situation worse in other areas and regions.

At the same time, I want to stress that I am not attempting to join those who talk about victory or who feel that any one step in fighting supply can change the overall situation. The sad fact is that we are only now learning how to fight half a war: The supply side.

I believe that one of the most urgent tasks of the next administration and the next Congress will be to link the improvement in the war on supply with equal improvements in the war on demand. I intend to do everything I can to support that effort.

We cannot rely on the comforting illusion that our military and our law enforcement officers can win this war without the help of every American. If we try to avoid the problem, or claim false victories, the pain and suffering inflicted on millions of American families by the drug traffic will continue.

DOMESTIC ISSUES IN THE WAR ON DRUGS

This will require a new focus on education and our youth. There can be no serious discussion of our Nation's drug use problems without a proper emphasis on the role of education and treatment programs. The onrushing flow of drugs into the United States means that those people who wish to buy drugs will almost certainly be able to find them.

Among the many other social problems that schools in America are struggling to cope with, drug use by students is a problem in thousands of school districts. If students can be brought face to face with the clear and present dangers of drug use through education programs during their school careers, we can build a formidable resistance in our Nation to the false allure of drug experimentation.

Since the alarming rise of drug use among Americans of all ages during the 1980's, antidrug education programs have become both part of standard health classes and special initiatives in our schools. At the Federal level, the Drug Free Schools and Communities Program was established to help schools and community groups educate their youth about the dangers of drugs. Currently funded at $620 million, the Drug Free School Program is an extremely important way to empower younger Americans with the truth about illegal drugs.

While States and local communities have the primary responsibility for education, the Congress should continue to expand the Drug Free Schools Program to ensure that all students participate in antidrug classes each year. It would be worthwhile to target new funds to the most troubled schools and communities through the emergency grants account of this program.

The equally important partner in demand reduction strategies is effective treatment programs. The disturbing amount of crimes is an unmistakable alarm that this chain must be broken. The need for greater treatment efforts is most heart-rendingly shown by the images of suffering infants born to crack-addicted mothers.

In my home State of Arizona, we are fortunate to have an array of specialized treatment programs that have achieved excellent results in turning substance abusers away from drugs. Unfortunately, the demand for treatment slots and resources far outstrips their availability. Whether it be at a county jail, a community treatment facility, or a Federal prison, steadily expanding treatment programs and supportive services must be a priority in our national drug strategy as well.

This is not an area where we can all turn to the Federal Government to shoulder this burden. All levels of government and the private sector must work in concert to expand drug treatment programs in our communities, and individuals who can afford to pay for their treatment must be required to do so. Federal funding for treatment services under the administration's national drug strategy has been increased to almost $2 billion this year, and I look forward to new initiatives in the Congress to monitor the effectiveness of various treatment approaches and to improve our targeting of new funds.

I am glad that the Bush administration has led a broad expansion in Federal antidrug programs in the last 4 years. I am glad that this effort has gone beyond supply and that overall funding for drug interdiction, prevention, and treatment programs has nearly doubled, increasing to almost $12 billion this year.

But, Mr. President, I believe that wars are meant to be won. I believe that we must not let political hope or partisan debate blind us to the fact that this war will take decades to win and can only be truly won on the homefront. I fought one war in which rhetoric became a substitute for both victory and reality. I promise you that this is a certain road to defeat, and this country cannot and must not take that road.

EXHIBIT 1

U.S. SENATE,
Washington, DC, July 29, 1992.

Hon. BOB MARTINEZ,
Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC.

DEAR BOB: Thank you for your letter of July 17, 1992.

I believe that you have good reason to be proud of the progress we are making in the war on drugs, and the improvements we are making in the federal effort. At the same time, I have growing concerns with several aspects of both the overall effort to fight the scourge of drugs, and with the impact of the military part of this effort.

MEASURES OF EFFECTIVENESS

I applaud the efforts you are making to expand the reporting systems and analytic capabilities that help us understand the results of our efforts in the war on drugs. I am particularly pleased with the progress being made by the El Paso Intelligence Center (EPIC).

It is painfully clear, however, that we have a long way to go. First, I believe that we must be much more cautious in using statistics on drug demand based on surveys of youth and adolescents. Such surveys present major questions regarding statistical validity in terms of both sampling and validity of the input data.

Second, we need to take up the challenge of producing detailed estimates of the nature of the drug traffic the explicitly measures what is happening in terms of the national and local patterns in drug traffic. These estimates should provide:

Detailed estimates of the total flow and sale of drugs across each part of our border and into and within each state.

Estimates by type of drug of the method of smuggling, production, and sale—with the same break out by state and portion of the border.

Estimates showing the patterns in type of smuggling and domestic production.

Third, we need to stop focusing on the amount of drugs we seize, and develop analytical tools which provide a clearer picture of the effectiveness of our fight against smuggling and supply. These figures should include:

Regular reporting by state and major urban area on the initial, distribution, and street price of drugs to measure in a statistically valid way whether our interdiction efforts are really affecting supply.

Regular reporting on the amount of drugs being produced or cultivated, the amount of drugs being smuggled into the U.S., and the amount being seized—with supporting estimates by type of smuggling, source country, state, and border to show our success in winning the war against supply.

At least semi-annual statistically valid surveys of shifts in demand.

These are all areas where I am fully aware there are major analytic difficulties. At the same time, I believe that organizations like EPIC can develop reasonably accurate figures if they are given the proper resources, and that we can never really know whether we are winning or losing without such data.

IMBALANCES IN THE WAR ON DRUGS

I raise these broader issues because, as the attached letter to Secretary Cheney indicates, I believe they would have warned us about what I believe may be a major problem in the way we are using the military to fight the war on drugs. It appears that our current efforts are acting to drive the drug traffic into Mexico and across the land borders of Arizona, California, New Mexico, and Texas.

As you warned me during some of our earlier discussions, the smuggling effort through Arizona and other southwest border states has been increasing for some time, and virtually all of the growth in this traffic into Arizona moves by land.

The military has had a major impact in reducing smuggling using small ships and aircraft. It is also clear, however, that this is driving drug smugglers to try to bypass the surveillance efforts of JTF-4 and JTF-5, and that their solution is to smuggle drugs by using container vessels and commercial aircraft that are not subject to military surveillance.

More important, the efforts of JTF-4 and JTF-5 have acted to drive the drug traffic into Mexico, where ships and aircraft can enter relatively freely, and then across the land border using tractor trailers, private and other commercial vehicles, mules, and individuals. While there have been some impressive seizures, this traffic is moving across our borders with near impunity.

This is why I have asked Secretary Cheney to review this issue and provide me with an analysis of the patterns in the drug traffic in the Southwest border, and the role the military is and can play in preventing land smuggling. We need to know the full extent to which the success of JTF-4 and JTF-5 is driving drug traffic into Mexico; how the resulting changes in the drug smuggling traffic in Mexico have acted to create a vast new set of smuggling networks within that country, and what JTF-4, JTF-5, and JTF-6 can do to deal with this problem.

REMOVING ALL OF THE BARRIERS TO EFFECTIVE USE OF THE MILITARY IN THE WAR ON DRUGS

Finally, I believe we face problems because we are not making full use of all the potential capabilities of the military and National Guard, and military sensors and intelligence sensors. As I noted in my letter to Secretary Cheney, I included legislation in the FY1993 Defense Authorization Act designed to correct one of the most critical problems in the present military effort to support the war on drugs: Limitations on the use of advanced military sensor and intelligence systems.

I have already asked Secretary Cheney for his analysis of this legislation and whether any major legal barriers still need to be addressed. I believe, however, that a coordinated effort is needed by your office to determine the views of customs and all relevant federal, state, and local enforcement agencies.

I believe that such an effort on your part could be critical in ensuring that we can achieve the same success we have achieved in dealing with small aircraft and ships in halting traffic across the land border, and in dealing with other problems like the use of container ships and commercial aircraft.

NEXT STEPS IN IMPROVING OUR EFFORTS TO WIN THE WAR ON DRUGS

I realize that I have raised a number of complex issues. I would be grateful, however, if you could let me know your views on each of these points as soon as possible. I believe we need to do as much as we can to build on our initial successes in winning the war on drugs, and to steadily improve our understanding of the impact of our efforts. We can only do this if we both improve the sophistication of our reporting and analysis, and ensure that we do not create imbalances in our efforts that simply drive drug traffickers from one form of smuggling to another, or place artificial limits on the role the military can play in achieving a victory.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

U.S. SENATE,
Washington, DC, July 29, 1992.

Hon. RICHARD B. CHENEY,
Secretary of Defense, Washington, DC.

DEAR SECRETARY CHENEY: During the last two years, you have forged the military effort to aid the war on drugs into a highly effective tool in fighting many forms of drug smuggling. I am concerned, however, that success in some areas is creating a fundamental imbalance in our efforts, and one that is acting to drive the drug traffic into Mexico and across and land borders of Arizona, California, New Mexico, and Texas.

It has become apparent that the smuggling effort through Arizona and other southwest border states has been increasing for some time, and that virtually all of the traffic into Arizona moves by land. This was one of the reasons I asked Senator Nunn to call the drug hearings the Senate Armed Services Committee held this March, and I have since had my staff visit JTF-4, JTF-5, JTF-6, EPIC, and the Customs C3I centers on each coast.

It is clear from both the testimony we have received, from these vists, and from the data provided by the Joint Task Forces and EPIC that the military has had a major impact in reducing smuggling using small ships and aircraft. It is also clear, however, that this is driving drug smugglers to try to bypass the surveillance efforts of JTF-4 and JTF-5, and that their solution is to smuggle drugs by using container vessels and commercial aircraft that are not subject to military surveillance.

More important, the efforts of JTE-4 and JTF-5 have acted to drive the drug traffic into Mexico, where ships and aircraft can enter relatively freely, and then across the land border using tractor trailers, private and other commercial vehicles, mules, and individuals. Both EPIC and JTF-6 officials informally agree that while there have been some impressive seizures, this traffic is moving across our borders with near impunity.

I believe that this aspect of the military role in the war on drugs deserves your careful study, and that of Assistant Secretary Duncan. I am deeply concerned that we may create a situation where we focus on our success in maritime and air surveillance, and fail to properly analyze the changing land threat, and the shift to container vessels and commercial aircraft.

I would, therefore, be grateful if you would review this issue and provide me with an analysis of the patterns in the drug traffic in the Southwest border, and the role the military does and can play in preventing land smuggling. Such an analysis should pay special attention to the impact of JTF-4 and JTF-5 in driving drug traffic into Mexico, the changes in the drug smuggling traffic in Mexico that have created a vast new set of smuggling networks within that country, and what JTF-4, JTF-5, and JTF-6 can do in combination to deal with this problem.

I realize that such an analysis may take some time, and I would be grateful if you could take two interim steps that would allow us to make immediate progress on these issues.

First, I gather that much of the preliminary analysis supporting the issues I have raised was done in response to questions I asked for the record in the March, 1991, hearing before the Senate Armed Services Committee. These answers were prepared by the proper JTFs several months ago, but I still have not received the result.

Second, I included legislation in the FY 1993 Defense Authorization Act designed to correct one of the most critical problems in the present military effort to support the war on drugs: Limitations on the use of advanced military sensor and intelligence systems. This legislation was a response to both the problems encountered by the JTFs, and problems raised by the Department relating to Titles 10 and 18 (USC) which place unnecessary constraints on the military in fighting drug smuggling. (A copy of the DoD analysis is attached).

I would appreciate it if you could ask Counsel to fully review the relevant text of the Authorization Act, and (a) let me know whether it gives the Department the full authority it needs to use all available reconnaissance and intelligence sensors with full effectiveness, and (b) whether further legislative changes are needed to correct the problems raised in the attached analysis by the Department.

I realize that I have raised a number of very complex issues, and that it may take some time for you and Assistant Secretary Duncan to decide how best to proceed. I would, however, be grateful if you could provide me with your views on how to proceed with the analysis I have requested as soon as possible.

I would also be grateful if you could provide me with the answers to my questions for the record and the supporting data from the JTFs as soon as possible, and if you could provide me with Counsel's opinion on the language in the Authorization Act by August 7, so we could have it in time to make any necessary amendments as part of the Senate floor action on the Act.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

DEPARTMENT OF DEFENSE,
Fort Bliss, TX, June 4, 1992.

Senator JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR DR. CORDESMAN: Per your request, the attached documents are forwarded directly to your office. They include copies of the slides you saw during your visit, and a copy of the DoD legislative proposals. The legislative proposals were submitted to OMB in June of 1990. They were never sent to the Hill. They were, however, the official DoD position on land detection and monitoring.

If you are considering a continuous observation authority, you might look at amending 10 USC 374(b)(3), as follows:

Add "(A), (B), or" between (2) and (c); replacing "into" with "in"; and replacing "vessels or aircraft where detection began outside such land area" with "vessels, ground conveyances, persons or aircraft engaged in international narcotics trafficking."

This is not an official DoD position, so I cannot supply more language, or a more lengthy explanation. We are hopeful that draft legislative proposals which we have submitted within DoD channels will be acted on in an expeditious manner.

Sincerely,

RICHARD B. JACKSON,
Major, Judge Advocate, Legal Advisor.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

Mr. WIRTH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 429.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 429) entitled "An Act to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1991".

SEC. 2. DEFINITION OF SECRETARY.

For the purposes of this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR BUFFALO BILL DAM AND RESERVOIR, SHOSHONE PROJECT, PICK-SLOAN MISSOURI BASIN PROGRAM.

Title I of Public Law 97–293 (96 Stat. 1261) is amended as follows:

(1) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(2) In section 102—

(A) by amending the heading to read as follows:

"RECREATIONAL FACILITIES, CONSERVATION, AND FISH AND WILDLIFE";

and

(B) by adding at the end the following: "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(3) In section 106(a)—

(A) by striking "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and inserting "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)"; and

(B) by striking "modifications" and all that follows and inserting "modifications.".

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 200. SHORT TITLE FOR TITLES II–VI; TABLE OF CONTENTS FOR TITLES II–VI; AND DEFINITIONS FOR TITLES II–VI.

(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".

(b) TABLE OF CONTENTS.—The table of contents for titles II through VI of this Act is as follows:

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

Sec. 201. Authorization of additional amounts for the Colorado River Storage Project.
Sec. 202. Bonneville Unit water development.
Sec. 203. Uinta Basin replacement project.
Sec. 204. Non-Federal contribution.
Sec. 205. Definite Plan Report and environmental compliance.
Sec. 206. Local development in lieu of irrigation and drainage.
Sec. 207. Water management improvement.
Sec. 208. Limitation on hydropower operations.
Sec. 209. Operating agreements.
Sec. 210. Jordan Aqueduct prepayment.
Sec. 211. Audit of Central Utah Project cost allocations.
Sec. 212. Crops for which an acreage reduction program is in effect.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

Sec. 301. Utah Reclamation Mitigation and Conservation Commission.
Sec. 302. Increased project water capability.
Sec. 303. Stream flows.
Sec. 304. Fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report for the Central Utah Project.
Sec. 305. Wildlife lands and improvements.
Sec. 306. Wetlands acquisition, rehabilitation, and enhancement.
Sec. 307. Fisheries acquisition, rehabilitation, and enhancement.
Sec. 308. Stabilization of high mountain lakes in the Uinta mountains.
Sec. 309. Stream access and riparian habitat development.
Sec. 310. Section 8 expenses.
Sec. 311. Jordan and Provo River Parkways and natural areas.
Sec. 312. Recreation.
Sec. 313. Fish and wildlife features in the Colorado River Storage Project.
Sec. 314. Concurrent mitigation appropriations.
Sec. 315. Fish, wildlife, and recreation schedule.

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

Sec. 401. Findings, purpose, operation and administration.
Sec. 402. Utah Reclamation Mitigation and Conservation Account.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

Sec. 501. Findings and purpose.
Sec. 502. Provision for payment to the Ute Indian Tribe.
Sec. 503. Tribal use of water.
Sec. 504. Tribal farming operations.
Sec. 505. Reservoir, stream, habitat, and road improvements with respect to the Ute Indian Reservation.
Sec. 506. Tribal development funds.
Sec. 507. Waiver of claims.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

(c) DEFINITIONS.—For the purposes of titles II–VI of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the United States Fish and Wildlife Service, the United States Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activi-

ties, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comments on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "Secretary" means the Secretary of the Interior.

(13) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(14) The term "State" means the State of Utah, its political subdivisions, or its designee.

(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $922,456,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: Provided, however, That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in table 2 of the report accompanying the bill H.R. 429. This additional sum shall be available solely for design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88-45, February, 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow;

(B) The Deep Creek pumping plant;

(C) The North Fork pumping plant;

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals;

(B) Draining of Benjamin Slough;

(C) Diking of Goshen or Provo Bays in Utah Lake;

(D) Ute Indian Unit;

(E) Leland Bench development; and

(F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.

(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with non-Federal entities for construction of such project, and (2) the Secretary has requested construction funds for such project.

(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made available in their entirety to non-Federal interests as provided for pursuant to the provisions of this Act.

(e) STATUS OF PARTICIPATING PROJECTS.—The Secretary, in consultation with the Secretary of Energy and the Governors of the Upper Colorado River Basin States, is directed to report to Congress not later than April 15, 1992, on the status of Colorado River Storage Project participating projects for which construction has not begun as of October 15, 1990. The report of the Secretary shall include, but not be limited to, the following information:

(1) a description of each project, its legislative history, and history of environmental compliance;

(2) an analysis of the economic costs and benefits of each participating project;

(3) a recommendation as to whether the authorization of appropriations for that project be amended, be terminated, or should remain unchanged, along with the reasons supporting each recommendation.

SEC. 202. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph: Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).

(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).

(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.

(3) WASATCH COUNTY WATER EFFICIENCY PROJECT.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.

(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in section 107(e)(2) for related purposes.

(C) The feasibility study and the project construction authorization shall be subject to the non-Federal contribution requirements of section 204.

(D) The project construction authorization provided in subparagraph (B) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in this subparagraph; or

(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.

(E) Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.

(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 102(a)(1) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 102(a)(1).

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) STRAWBERRY-PROVO CONVEYANCE STUDY.—(A) $2,000,000 for the District to conduct a feasibility study, with public involvement, of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The study shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified.

(B) The cost of the study provided for in subparagraph (A) shall be treated as an expense under section 8: Provided, however, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed.

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 201, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.

(b) STRAWBERRY WATER USERS ASSOCIATION.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within sections 2 and 13, township 3 south, range 12 west, and sections 7 and 8, township 3 south, range 11 west, Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.

SEC. 203. UINTA BASIN REPLACEMENT PROJECT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water construction within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.

(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no funds for such features have been obligated or expended in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in this paragraph; or

(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43–3825 (Application No. A36642) and Water Right No. 43–3827 (Application No. A36644).

(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available, upon appropriation by Congress.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust respon-

sibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) BRUSH CREEK AND JENSEN UNIT.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6-05-01-00143, as last revised on September 18, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre-feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources, United States Fish and Wildlife Service, and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 204. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 202 and 203 shall be 35 percent of the total costs and shall be paid concurrently with the Federal share, except that for the facilities specified in section 202(a)(6), the cost-share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 202 and 203, other than the study required by sections 202(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Any feature or study to which this section applies shall not be cost shared until after the non-Federal interests enter into binding agreements with the appropriate Federal authority to provide the share required by this section. The District may commence such studies prior to entering into binding agreements and upon execution of binding agreements the Secretary shall reimburse the District an amount equal to the Federal share of the funds expended by the District.

SEC. 205. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, amounts may not be obligated or expended for the features authorized in section 202(a)(1) or 203 until—

(1) the Secretary or the District, at the option of the District, completes—

(A) a Definite Plan Report for the system authorized in section 202(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 203(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the United States Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to any non-Federal interests until any such interest enters into binding agreements with the appropriate Federal authority to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 201, the Secretary is directed to make such sums as are necessary available to the District for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 204.

(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analyses consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983). The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.

SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 202(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(a)(1)(B) of this Act.

(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65 percent of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvements as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses;

(iii) planning or constructing water impoundments of greater than 5,000 acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 207. WATER MANAGEMENT IMPROVEMENT.

(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs;

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) ELEMENTS.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25 percent of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10 percent of recorded annual water deliveries.

The minimum goal for the District shall be 30,000 acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event that the Wasatch County Water Effi-

ciency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Juab Counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase 5,000 acre-feet per year. In no event shall the minimum goal for the District be less than 20,000 acre-feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2) (A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally sound measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Not less than ninety days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) EVALUATION OF CONSERVATION MEASURES.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three-year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water or without significant adverse environmental impact, and in the public interest shall be deemed to constitute the "active inventory." For purposes of this section, the determination of benefits shall take into account:

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than \$200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 202(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than \$50 per acre-foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50 percent of the water conservation goal within seven years after submission of the initial plan and 100 percent of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) without significant adverse environmental impact; and

(C) found to be in the public interest.

(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the United States Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved and accepted by the Secretary for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1993, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) WATER CONSERVATION PRICING STUDY.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are—

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;

(B) seasonal rate differentials;

(C) drought year surcharges;

(D) increasing block rate schedules;

(E) marginal cost pricing;

(F) rates accounting for differences in costs based upon point of delivery; and

(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will—

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of groundwater resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and groundwater supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new author-

ity to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) For an amount not to exceed 50 percent of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. Such Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65 percent of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be appropriated in section 201, and shall remain available until expended. $10,000,000 authorized by this paragraph shall be made first available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (B)(2)(b).

(f) UTAH WATER CONSERVATION ADVISORY BOARD.—(1) Prior to March 31, 1992, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.);

(B) elimination of declining block rate schedules from any system of water or wastewater treatment charges;

(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;

(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;

(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;

(F) requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction;

(G) requirements for the insulation of hot water pipes in all new construction;

(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air-conditioning and refrigeration systems;

(I) standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices; and

(J) elimination of evaporation as a principal method of wastewater treatment.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), (D), or (F) of paragraph (2) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Prior to January 1, 1993, the board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgment of the Board, will be most likely to be promulgated by January 1, 1994, and the failure of the board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) COMPLIANCE.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after ninety days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be:

(A) for the first year of substantial noncompliance, 5 percent of the District's annual Bonneville Unit repayment obligation to the Secretary;

(B) for the second year of substantial noncompliance, 10 percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, 15 percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within twelve months after a determination of substantial noncompliance, the Secretary shall refund 100 percent of the surcharge levied.

(h) RECLAMATION REFORM ACT OF 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) JUDICIAL REVIEW.—(1) For the purposes of sections 701 through 706 of title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) CITIZEN SUITS.—(1) IN GENERAL.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) No action may be commenced under paragraph (1) before sixty days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.

SEC. 209. OPERATING AGREEMENTS.

The District, in consultation with the Commission, the Utah Division of Water Rights and the Bureau, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir by January 1, 1993.

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary shall prescribe, and prior to October 1, 1992, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which *the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.*

SEC. 212. CROPS FOR WHICH AN ACREAGE REDUCTION PROGRAM IS IN EFFECT.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to crops for which an acreage reduction program is in effect until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge an acreage reduction program production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949 if the stocks of such commodity held in storage by the Commodity Credit Corporation exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity, as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the acreage reduction program crop production charge for the succeeding year on or before July 1 of each year.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969, and the Endangered Species Act of 1973; and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of five members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the Members of the House of Representatives representing the State.

(B) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the Members of the Senate representing the State.

(C) One from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) One from a list of residents of the State submitted by the District.

(E) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of four years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of three years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of two years.

(3) A vacancy in the Commission shall be filled within ninety days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS–15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be 1 year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS–15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) IMPLEMENTATION OF MITIGATION AND CONSERVATION MEASURES.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five-year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) REALLOCATION OF SECTION 8 FUNDS.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits: Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(3) CONTRACTING AUTHORITY.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise of final settlement of any claim arising thereunder, with universities, nonprofit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969.

(g) PLANNING AND REPORTING.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) FINAL PLAN.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five-year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.

(3) PUBLIC INVOLVEMENT AND AGENCY CONSULTATION.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than ninety days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall give due consideration to all substantive recommendations and measures received pursuant to section 301(g)(3)(A), and shall incorporate recommendations received from Federal and State resource agencies, county and municipal entities, and the appropriate Indian tribes, unless the Commission, in its sole judgment, determines that doing so would be inconsistent with the purposes of this Act or would interfere with or prevent the Commission from fulfilling the duties and responsibilities assigned to it in this Act, or result in inefficient or impractical resource management practices. The Commission shall include in its plan a written description of the recommendations received and adopted. In addition, the Commission shall include in its detailed report to Congress required under paragraph (g)(5) a summary of the recommendations received with a written finding explaining why such recommendations were adopted or rejected. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) AGENCY CONCURRENCE.—Commission plans developed in accordance with this subsection, or implemented under subsection (f), that affect National Forest System lands shall be subject to review and concurrence by the Secretary of Agriculture.

(6) REPORTING.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least sixty days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) DISCRETIONARY DUTIES AND POWERS.—In addition to any other duties and powers provided by law:

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation; Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(2) The Commission may, for the purpose of carrying out this Act, (A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and, (B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (1) or condemnation proceedings initiated by other agencies.

(i) FUNDING.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amount available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the account under section 402(b)(3)(C).

(j) AVAILABILITY OF UNEXPENDED AMOUNTS UPON COMPLETION OF CONSTRUCTION PROJECTS.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).

(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION.—Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Re-

sources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within the Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.

(l) REPRESENTATION BY ATTORNEY GENERAL.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) CONGRESSIONAL OVERSIGHT.—The activities of the Commission shall be subject to oversight by the Congress.

(n) TERMINATION OF BUREAU ACTIVITIES.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 302. INCREASED PROJECT WATER CAPABILITY.

(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.

(b) NONCONSUMPTIVE RIGHTS.—A non-consumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 303. STREAM FLOWS.

(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) The District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry Basin water rights being diverted to the Heber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta Basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah Counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.

(3)(A) The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry Basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek Drainage.

(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry Basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry Basin by the District shall be tendered in accordance with State law within thirty days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in quality and reliability to the Daniels Creek water being replaced and shall be provided by the District at a cost to the Daniels Creek Irrigation Company which does not exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.

(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:

(A) $500,000 for leasing of water pursuant to paragraph (2).

(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.

(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).

(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).

(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the months of November through April, and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or streambed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;

(5) study of the mitigation and conservation opportunities associated with section 202(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered

unusable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 315, unless otherwise provided in this Act.

SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.

(a) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency, for management as a big game winter range. In the case of such transfers, lands acquired within the boundaries of a national forest shall be administered by the Secretary of Agriculture as a part of the National Forest System.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for the purposes of this subsection.

SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall affect existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.

(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.

(12) The Commission is authorized to compensate out of funds available in section 201 landowners adjacent to the Utah Lake Wetlands Preserve who experience provable economic losses attributable to the establishment of the Preserve or provable economic losses directly resulting from Preserve management practices contrary to the provisions of this subsection or from the manipulation of water levels within the Preserve. Total compensation for claims pursuant to this subsection shall not exceed $2,000,000: Provided, That the amount of funds available from the Commission for such compensation shall be adjusted according to the mechanism provided in section 201. The filing of a claim for compensation pursuant to this subsection shall not preclude an affected adjacent landowner from seeking other remedies or damages otherwise available under State or Federal law.

(13) Valuation of interests acquired under this subsection shall be independently determined as though the Preserve had not been established.

(14) Any property acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the Commission to the Utah Division of Wildlife Resources.

(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2,000 feet out into the bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.

SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm water fishery and other related issues; and (B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond River and Sixth Water Creek drainages.

(7) $475,000 for fish habitat restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) REVISION OF PLAN.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary of the Wasatch-Cache National Forest to a level of practical necessity. For purposes of this subsection, the Lakes Management Area shall be

defined as depicted on the map in the Wasatch-Cache National Forest Land and Resource Management Plan.

(b) COSTS OF REHABILITATION.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) FISH AND WILDLIFE HABITAT.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.

SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream, access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed rehabilitation, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) STUDY OF IMPACT TO WILDLIFE AND RIPARIAN HABITATS WHICH EXPERIENCE REDUCED WATER FLOWS AS A RESULT OF THE STRAWBERRY COLLECTION SYSTEM.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 310. SECTION 8 EXPENSES.

Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in the following sections shall be treated as expenses under section 8: all sections of title III, and section 402(b)(2).

SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) FISHERIES.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) RIPARIAN HABITAT REHABILITATION.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) WETLANDS.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreages, including those along the Jordan River identified by the multiagency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) RECREATIONAL FACILITIES.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report accompanying the bill H.R. 429.

(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report accompanying the bill H.R. 429.

(e) PROVO RIVER CORRIDOR.—Of the amounts authorized to be appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion to Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 312. RECREATION.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) HABITAT IMPROVEMENTS IN CERTAIN DRAINAGES.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) SMALL DAMS AND WATERSHED IMPROVEMENTS.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) FISH HATCHERY PRODUCTION.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the United States Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:

(a) Deposit the Federal contribution to the Account authorized in section 402(b)(2); then,

(b) Of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concurrently with amounts available for implementation of title II of this Act.

(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, 3 percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.

(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to—

(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;

(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;

(3) provide jobs and sustainable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training, and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will—

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;

(6) provide additional conservation values to State and local government lands;

(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.

SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Instream flows				
1.a Lease of Daniels Creek water rights	$500	$500	$0	$0
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$10,0000	$10,000	$0	$0
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$15,000	$5,000	$5,000	$5,000
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$4,000	$500	$1,500	$1,500
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$500	$100	$100	$100
Subtotal	$30,000	$16,100	$6,600	$6,600
	FY96	FY97	FY98	
Instream flows				
1.a. Lease of Daniels Creek water rights	$0	$0	$0	
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$0	$0	$0	
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$0	$0	$0	
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$500	$0	$0	
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$100	$100	$0	
Subtotal	$600	$100	$0	
	TOTAL	FY93	FY94	FY95
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$1,300	$0	$100	$200
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$750	$0	$0	$250
Subtotal	$2,050	$0	$100	$450
	FY96	FY97	FY98	
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$500	$500	$0	
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$250	$250	$0	
Subtotal	$750	$750	$0	
	FY96	FY97	FY98	
Wetland acquisition, rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$14,000	$1,000	$2,600	$2,600
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$7,000	$300	$1,200	$1,500
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$1,500	$250	$250	$250
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 306(c)(9)]	$16,690	$1,690	$3,000	$3,000
Subtotal	$39,190	$3,240	$7,050	$7,350
	FY96	FY97	FY98	
Wetland acquisition, rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$2,600	$2,600	$2,600	
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$2,000	$2,600	$0	
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$250	$250	$250	
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 303(c)(9)]	$3,000	$3,000	$3,000	
Subtotal	$7,850	$7,850	$5,850	
	TOTAL	FY93	FY94	FY95
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$750	$50	$0	$100
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$4,000	$0	$400	$600
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$1,000	$200	$200	$200
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$1,500	$300	$300	$300
5. Study and facilitate development to improve Utah Lake warm-water fishery [Sec. 307(5)]	$1,000	$150	$150	$200
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$1,000	$0	$0	$0
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	$475	$50	$50	$75
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	$1,150	$0	$0	$100
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$5,000	$0	$0	$0
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$22,800	$100	$3,500	$4,200
Subtotal	$38,675	$850	$4,600	$5,775
	FY96	FY97	FY98	
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$200	$200	$200	
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$1,000	$1,000	$1,000	
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$200	$200	$0	
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$300	$300	$0	
5. Study and facilitate development to improve Utah Lake warmwater fishery [Sec. 307(5)]	$150	$150	$200	
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$100	$500	$400	
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	$100	$100	$100	
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	$300	$400	$350	
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$500	$2,000	$2,500	
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$5,000	$5,000	$5,000	
Subtotal	$7,850	$9,850	$9,750	
	TOTAL	FY93	FY94	FY95
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$2,500	$0	$500	$500
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$1,125	$125	$200	$200
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$4,000	$500	$700	$700
Subtotal	$7,625	$625	$1,400	$1,400
	FY96	FY97	FY98	
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$500	$500	$500	
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$200	$200	$200	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$700	$700	$700	
Subtotal	$1,400	$1,400	$1,400	
	TOTAL	FY93	FY94	FY95
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$750	$0	$250	$250
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$250	$0	$0	$50
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$350	$0	$0	$50
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$8,500	$500	$1,000	$1,500
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$400	$50	$75	$75
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$750	$75	$75	$150
Subtotal	$11,000	$625	$1,400	$2,075
	FY96	FY97	FY98	
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$250	$0	$0	
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$100	$100	$0	
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$100	$100	$100	
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$1,500	$2,000	$2,000	
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$75	$75	$50	
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$150	$150	$150	
Subtotal	$2,175	$2,425	$2,300	
	TOTAL	FY93	FY94	FY95
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$2,000	$125	$275	$400
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$750	$50	$100	$150
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$1,000	$0	$75	$75
4. Provo River corridor development [Sec. 311(e)]	$1,000	$0	$75	$75
Subtotal	$4,750	$175	$525	$700
Total Additional	$133,290	$21,615	$21,675	$24,350
	FY96	FY97	FY98	
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$400	$400	$400	
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$150	$150	$150	
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$200	$300	$350	
4. Provo River corridor development [Sec. 311(e)]	$200	$300	$350	
Subtotal	$950	$1,150	$1,250	
Total Additional	$21,575	$23,525	$20,550	
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$2,700	$900	$900	$900
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$3,990	$666	$803	$790
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$3,000	$600	$600	$600
Subtotal	$9,690	$3,966	$1,403	$1,390
	FY96	FY97	FY98	
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$0	$0	$0	
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$453	$604	$674	
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$600	$600	$0	
Subtotal	$1,053	$1,204	$674	
	TOTAL	FY93	FY94	FY95
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	$160	$160	$0	$0
Subtotal	$160	$160	$0	$0
	FY96	FY97	FY98	
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	$0	$0	$0	
Subtotal	$0	$0	$0	
	TOTAL	FY93	FY94	FY95
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$226	$100	$126	$0
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$1,050	$525	$525	$0
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$900	$900	$0	$0
Subtotal	$2,176	$1,525	$651	$0
Total DPR	$12,026	$5,651	$2,054	$1,390
Grand Total	$145,316	$27,266	$23,729	$25,740
	FY96	FY97	FY98	
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$0	$0	$0	
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$0	$0	$0	
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$0	$0	$0	
Subtotal	$0	$0	$0	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Total DPR	$1,053	$1,204	$674	
Grand Total	$22,628	$24,729	$21,224	

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 401. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State of Utah is one of the most ecologically significant States in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.

(b) Purposes.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) Establishment.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).

(b) Deposits Into the Account.—Amounts shall be deposited into the Account as follows:

(1) State contributions.—In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) Federal contributions.—In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.

(3) Contributions from project beneficiaries.—(A) In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-Federal funds from the District.

(B) $5,000,000 annually out of funds appropriated to the Western Area Power Administration, such expenditures to be considered nonreimbursable and nonreturnable.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) Interest and unexpended funds.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) Operation of the Account.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b) (1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) Administration by the Utah Division of Wildlife Resources.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive—

(A) all amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) all interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the account that exceeds the amount required to increase the principal of the account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the United States Forest Service, the Bureau of Land Management of the Department of the Interior, and the United States Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) Audit by Inspector General.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of the Interior.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

SEC. 501. FINDINGS.

(a) Findings.—The Congress finds the following—

(1) The unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) Purpose.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features

contemplated by the September 20, 1965 Agreement been constructed.

SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing on July 1, 1992 and continuing for fifty years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the first 35,500 acre-feet of such water converted to municipal and industrial water. The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe.

(b) BONNEVILLE UNIT TRIBAL WATERS.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) ELECTION TO RETURN TRIBAL WATERS.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 503. TRIBAL USE OF WATER.

(a) RATIFICATION OF REVISED UTE INDIAN COMPACT.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to reratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

(b) THE INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) RESTRICTION ON DISPOSAL OF WATERS INTO THE LOWER COLORADO RIVER BASIN.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, nonappealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact: Provided, however, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) USE OF WATER RIGHTS.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) RULES OF CONSTRUCTION.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to the appropriated by section 201, $45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year period—

(1) a 7,500 acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) REPAIR OF CEDARVIEW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to Secretary, in cooperation with the Tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) RESERVATION STREAM IMPROVEMENTS.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) BOTTLE HOLLOW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all nongame fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) MINIMUM STREAM FLOWS.—As a minimum, the Secretary shall endeavor to maintain continuous releases from the outlet works of the Upper Stillwater Dam into Rock Creek of 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April. Nothing in this authorization shall increase the obligation of the District to deliver more that 44,000 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.

(e) LAND TRANSFER.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) RECREATION ENHANCEMENT.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe, to permit the Tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

(g) MUNICIPAL WATER CONVEYANCE SYSTEM.—Of the amounts authorized to be appropriated in section 201, $1,250,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) TRIBAL DEVELOPMENT.—The Tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

SEC. 507. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) DESCRIPTION OF CLAIMS.—The Tribe shall waive, upon receipt of the section 504, 505, and 506 monies, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) RESURRECTION OF CLAIMS.—In the event the Tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE VII—TREATMENT OF DRAINAGE FROM THE LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 701. TREATMENT PLANT AND RELATED WORK.

(a) AUTHORIZATION.—The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by the treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, Colorado, in order that water flowing from the Leadville Tunnel shall meet water quality standards.

(b) COSTS NONREIMBURSABLE.—Construction, operation, and maintenance costs of the works authorized by this section shall be nonreimbursable.

(c) OPERATION AND MAINTENANCE.—The Secretary shall be responsible for operation, maintenance, and replacement of the water treatment plant, including sludge disposal authorized by this Act. The Secretary may contract for services to carry out this subsection.

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated beginning October 1, 1989, to carry out this title $20,000,000 (based on January 1989 prices), $2,000,000 of which shall be for the fish and wildlife restoration program authorized in section 704 of this title. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the works authorized by this Act.

SEC. 703. LIMITATION.

The treatment plant authorized by this title shall be designed and constructed to treat the quantity and quality of effluent historically discharged from the Leadville Mine Drainage Tunnel, Colorado.

SEC. 704. RESTORATION OF FISH AND WILDLIFE RESOURCES.

(a) AUTHORIZATION.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, is authorized, in consultation with other Federal entities and the State of Colorado, to formulate and implement, subject to the provisions of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River Basin impacted by the effluent discharge from the Leadville Mine Drainage Tunnel, Colorado. The formulation of the program under this section shall be undertaken with appropriate public consultation.

(b) NOTIFICATION TO CONGRESS.—At least sixty days prior to implementing a program under subsection (a), the Secretary shall submit a report outlining a proposed program for carrying out subsection (a), including estimated costs, to the Speaker of the House of Representatives and the President pro tempore of the Senate.

SEC. 705. UPPER ARKANSAS RIVER BASIN WATER QUALITY RESTORATION INITIATIVE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Subject to the provisions of subsection (e) of this section, the Secretary is authorized, in consultation with the State of Colorado, the Environmental Protection Agency, and other Federal, local, and private entities, to conduct investigations of water pollution sources and impacts attributed to mining and other development in the Upper Arkansas River Basin, to develop corrective action plans for such basin, and to implement corrective action demonstration projects for such basin. The Upper Arkansas River Basin is defined as the hydrologic basin of the Arkansas River in Colorado extending from Pueblo Dam upstream to the headwaters of the Arkansas River.

(2) LIMITATION.—The Secretary shall have no authority to implement corrective action demonstration projects under this section at facilities which have been listed or proposed for listing on the national priorities list or are subject to or covered by the Solid Waste Disposal Act.

(b) LIABILITY.—Neither the Secretary nor any person participating in a corrective action demonstration project shall be liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for costs or damages as a result of actions taken or omitted in the course of implementing an action developed under this section. This subsection shall not preclude liability for costs or damages as the result of negligence on the part of such persons.

(c) FUNDING.—In carrying out this section, the Secretary shall arrange for cost sharing with the State of Colorado and for the utilization of non-Federal funds and in-kind services where possible. The Secretary is authorized to fund all State costs required to conduct investigations and develop corrective action plans required in subsection (a). The Federal share of costs for the implementation of corrective action plans as authorized in subsection (a) shall not exceed 50 percent.

(d) PUBLIC INVOLVEMENT.—The development of all corrective action plans and subsequent corrective action demonstration projects under this section shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations issued under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Environmental Protection Agency.

(e) SUBMISSIONS OF PLANS TO CONGRESS.—At least sixty days prior to implementing any corrective action demonstration project under this section, the Secretary shall submit a copy of the proposed project plans, including estimated costs, to the Speaker of the House of Representatives and President pro tempore of the Senate.

(f) EFFECT ON CERCLA.—Nothing in this title affects or modifies, in any way, the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants, or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601). The development of corrective action plans and implementation of corrective action demonstration projects shall be exclusive of all enforcement actions under such Act. It is not the intent of this title to relieve non-Federal potentially responsible parties of their liability under such Act.

SEC. 706. DEFINITION.

As used in this Act, the term "Secretary" means the Secretary of the Interior.

TITLE VIII—LAKE MEREDITH PROJECT

SEC. 801. AUTHORIZATION TO CONSTRUCT AND TEST.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 738, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 802. CONSTRUCTION CONTRACT WITH THE CANADIAN RIVER MUNICIPAL WATER AUTHORITY.

(a) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Authority. Operation and maintenance of

project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) CONSTRUCTION CONTINGENT ON CONTRACT.—Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 803. PROJECT COSTS.

(a) CANADIAN RIVER MUNICIPAL WATER AUTHORITY SHARE.—All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 802 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) FEDERAL SHARE.—All project costs for design preparation, and construction management shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement, except that the Federal contribution shall not exceed 33 per centum of the total project costs.

SEC. 804. CONSTRUCTION AND CONTROL.

(a) PRECONSTRUCTION.—The Secretary shall, upon entering into the contract specified in section 802 with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) TERMINATION OF CONSTRUCTION.—At any time following the first advance of funds, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of construction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 per centum of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) TRANSFER OF CONTROL.—Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds.

SEC. 805. TRANSFER OF TITLE.

Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 806. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title, except that the total Federal contribution to the cost of the activities undertaken under the authority of this title shall not exceed 33 per centum.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

SEC. 901. AUTHORIZATION OF REFORMULATION.

The Secretary, consistent with the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create—

(1) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for ground water recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(2) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, for water sales, for fish, wildlife, and recreation purposes, and for other purposes.

SEC. 902. CONTRACT WITH THE STATE OF KANSAS FOR OPERATING POOL.

The Secretary may enter into a contract with the State of Kansas for the sale, use and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 903. CONTRACT WITH THE STATE OF KANSAS FOR CEDAR BLUFF DAM AND RESERVOIR.

(a) AUTHORIZATION.—The Secretary may enter into a contract with the State of Kansas, accepting a payment of $350,000, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir. After the reformulation of the Cedar Bluff Unit authorized by this title, all net revenues received by the United States from the sale of water of the Cedar Bluff Unit shall be credited to the Reclamation Fund.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the Cedar Bluff Irrigation District's obligations under contract number 0–07–70–W0064 shall be terminated.

(c) TRANSFER OF FISH HATCHERY.—The Secretary may transfer ownership of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 904. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary may transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached. The transferee of any interests conveyed pursuant to this section shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 905. ADDITIONAL ACTIONS.

The Secretary may take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 901 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE X—MISCELLANEOUS PROVISIONS, CENTRAL VALLEY PROJECT

SEC. 1001. EXTENSION OF THE TEHAMA-COLUSA CANAL SERVICE AREA.

The first paragraph of section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended by the Act of August 19, 1967 (81 Stat. 167), and the Act of December 22, 1980 (94 Stat. 3339), authorizing the Sacramento Valley Irrigation Canals, Central Valley Project, California, is further amended by striking "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or" and inserting "Tehama, Glenn, Colusa, Solano, and Napa Counties, those portions of Yolo County within the boundaries of Colusa County Water District, Dunnigan Water District, Yolo-Zamora Water District, and Yolo County Flood Control and Water Conservation District, or".

SEC. 1002. AUTHORIZATION FOR LONG-TERM CONTRACT FOR WATER DELIVERY.

(a) GENERAL AUTHORITY.—Notwithstanding the Energy and Water Development Appropriations Act, 1990, the Secretary of the Interior is authorized, pursuant to section 203 of the Flood Control Act of 1962 (76 Stat. 1191), to enter into a long-term contract in accordance with Federal Reclamation laws with the Tuolumne Regional Water District, California, for the delivery of water from the New Melones project to the county's water distribution system.

(b) RECLAMATION LAWS.—For purposes of subsection (a), the term "Federal Reclamation Laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof.

TITLE XI—SALTON SEA RESEARCH PROJECT

SEC. 1101. RESEARCH PROJECT TO CONTROL SALINITY.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding in-water segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) COST SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be 25 percent of the cost of the project.

(c) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources of the Senate regarding the results of the project referred to in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out the purposes of this title.

TITLE XII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 1201. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 1203, to the interstate compact, described in section 1202, relating to the waters of the Sabine River and its tributaries.

SEC. 1202. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (chapter 668; 68 Stat. 690; Public Law 85–78).

SEC. 1203. AMENDMENT.

The amendment referred to in section 1201 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: Provided, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XIII—NAME CHANGE

SEC. 1301. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1302. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in subsection (a) hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XIV—EXCESS STORAGE AND CARRYING CAPACITY

SEC. 1401. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the impounding, storage, and carriage of water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes from any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California.

TITLE XV—AMENDMENT TO THE RECLAMATION PROJECT ACT OF 1939

SEC. 1501. CONTRACT AMENDMENTS.

Subsection (h) of section 8 of the Reclamation Project Act of 1939 (43 U.S.C. 485g(h)) is amended to read as follows:

"(h) If any classification or reclassification of irrigable lands undertaken pursuant to this section results in an increase in the outstanding construction charges or rate of repayment on any project, as established by an existing contract with an organization, the Secretary shall amend the contract to increase the construction obligation or the rate of repayment. No other modification in outstanding construction charges or repayment rates may be made by reason of a classification or reclassification undertaken pursuant to this section without the approval of Congress.".

TITLE XVI—WATER RECLAMATION AND REUSE

SEC. 1601. PARTICIPATION IN STUDY.

The Secretary is authorized to participate with the city of San Diego, California, in the conduct of a study of conceptual plans for water reclamation and reuse. The Federal share of the cost of the study referred to in this section shall not exceed 50 percent of the total cost of the study.

SEC. 1602. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated the sum of $250,000 to carry out the Federal share of the study specified in section 1601 of this title.

TITLE XVII—RECLAMATION REFORM ACT OF 1982

SEC. 1701. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This title may be cited as the "Reclamation Reform Act Amendments of 1991".

(b) DEFINITION.—As used in this title, the term "the Act" means the Reclamation Reform Act of 1982 (Public Law 97–293, 96 Stat. 1263, 43 U.S.C. 390aa, et seq.).

SEC. 1702. NEW DEFINITION.

Section 202 of the Act is amended by adding the following new definition after paragraph 2, and redesignating the subsequent paragraphs accordingly:

"(3)(A) The term 'farm' or 'farm operation' means any landholding or group of landholdings, including partial landholdings, directly or indirectly farmed or operated by an individual, group, entity, trust, or any other combination or arrangement. The existence of a farm or farm operation will be presumed when ownership, operation, management, financing, or other factors, individually or together, indicate that one or more landholdings, including partial landholdings, are directly or indirectly farmed or operated by the same individual, group, entity, trust, or other combination or arrangement thereof.

"(B) The following arrangements and transactions, if negotiated at arms length between unrelated parties, shall not be factors for the purpose of determining the existence of a farm or farm operation:

"(i) Participation in a bona fide cooperative;

"(ii) Entering into an agreement in which each party bears the risk of loss individually for: (I) the use of equipment or labor; (II) processing, handling, brokering, or packing crops; (III) ginning cotton; (IV) purchasing seed; (V) purveying water; or (VI) other similar agreements;

"(iii) Entering into financial transactions involving land or crop loans, in which the lender has no interest in providing farm services of any kind (except in a fiduciary capacity as trustee), including, but not limited to, the granting or receipt of a security interest, crop mortgage, assignment of crop or crop proceeds or other interests in a crop or land solely for the purposes of obtaining repayment of a loan;

"(iv) Entering into (or exercising rights under) an agreement to assure or require bona fide quality control measures and/or the right to take control of farming operations in order to ensure quality control; or

"(v) Entering into an agreement for custom farming or farm management services if the custom farmer or farm manager does not bear a direct risk of loss in the crop.

"(C) With respect to activities between 'related parties', as defined in section 267(b) of the Internal Revenue Code of 1986, the Secretary shall certify that a farm or farm operation does not exist based on information supplied by such parties if such information indicates that all such activities were entered into and performed at arms length."

SEC. 1703. ADDITION OF FARM OR FARM OPERATION TO THE ACT.

(a) The second sentence of section 203(b) of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and inserting after "leased" wherever it appears the following: ", farmed or operated".

(b) Section 205 of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and by inserting after "landholdings" the following: ", farms or farm operations".

SEC. 1704. TRUSTS.

Section 214 of the Act is amended by adding the following new subsections.

"(c) The ownership and pricing limitations of this Act and the ownership limitations of any other provision of Federal reclamation law shall apply to a beneficiary of a trust in the same manner as any other individual.

"(d) The ownership and pricing limitations of this Act and the ownership limitations in any other provisions of Federal reclamation law shall apply to lands which are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the land served do not exceed the ownership and pricing limitations imposed by Federal reclamation law, including this title, as follows:

"(1) For trusts established on or before June 14, 1990 and benefitting 25 individuals or less, the ownership limitations shall go into effect nine years after enactment of these amendments, and the pricing limitations shall go into effect pursuant to sections 203 and 205, as applicable;

"(2) For trusts established on or before June 14, 1990 and benefitting more than 25 individuals, one hundred and eighty days after enactment of these amendments; and

"(3) For trusts established subsequent to June 14, 1990 upon the enactment of these amendments."

Section 205 is amended by adding a new subsection (d) as follows:

"(d) Any trust benefitting 25 individuals or less shall not, under any circumstances, be eligible to receive water at less than full-cost on more than 960 acres of Class I land or the equivalent thereof. Full-cost pricing resulting from the application of this subsection shall be phased in over three years, that being of the difference between the applicable nonfull cost rate and the then existing full-cost rate for the first, second, and third calendar years, respectively, following the effective date of these amendments.".

SEC. 1705. INTENT AND PURPOSES.

Section 224(c) of the Act is amended to read as follows:

"(c) The Secretary is directed to prescribe regulations and shall collect all data necessary to carry out the intent, purposes, and provisions of this title and of other provisions of Federal reclamation law. Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation established pursuant to this Act.".

SEC. 1706. REPORTING REQUIREMENTS.

(a) Section 228 of the Act is amended by inserting after "contracting entity" wherever it appears, the following: ", farm, or farm operation".

(b) Section 206 of the Act is amended by inserting after the final sentence the following: "This section shall also apply to all landholdings, farms, or farm operations, to all lands operated under any kind of operating agreement, and to all operators thereof. The Secretary, may also require the submission of any agreement or other document relating to the certification.".

SEC. 1707. RELIGIOUS OR CHARITABLE ORGANIZATIONS.

Section 219 of the Act is amended by—

(1) inserting "(a)" after "SEC. 219"; and

(2) inserting at the end the following new subsections:

"(b) The terms 'farm' or 'farm operation' shall not apply to any landholding of a religious or charitable entity or organization which qualifies as an individual under this section. If an individual religious or charitable entity or organization holds land as a lessor within a district, it shall qualify as an individual with respect to such lands: Provided, That the entity or organization directly uses the proceeds of the lease *only for charitable purposes: Provided further, That the lessee is eligible to receive reclamation water upon the leased lands.*

"(c) If an individual religious or charitable organization holds lands within a district, but fails to qualify as an individual under this section, its lands within a district with regard to which it does not qualify as an individual shall be lands held in excess of the ownership limitations of section 209 of this Act, and shall receive reclamation water only as excess lands in compliance with the provisions of section 209 of this Act. The failure of an individual religious or charitable entity or organization to qualify as an individual under this section shall not affect the qualification as an individual under this section of another individual religious or charitable entity or organization which is affiliated with the same central organization or is subject to a hierarchical authority of the same faith.".

SEC. 1708. RESTRICTION OF BENEFITS TO CITIZENS AND RESIDENT ALIENS.

(a) Section 202(8) of the Act, as redesignated by section 1702 of this Act, is amended by striking the period and inserting in lieu thereof the following: ": Provided, That all such persons are citizens of the United States or resident aliens thereof.".

(b) Section 202(10) of the Act, as redesignated by section 1702 of this Act, is amended by striking the period and inserting in lieu thereof the following: ": Provided, That all such persons are citizens of the United States or resident aliens thereof.".

SEC. 1709. ASSESSMENT REVIEW.

The Secretary shall review on a case-by-case basis the full cost charges applied to prior law recipients who filed irrevocable elections pursuant to section 203(b) of the 1982 Act between May 13, 1987 and January 1, 1988. Upon completion of such review, the Secretary shall determine, taking into account all relevant information, whether or not the full cost charges assessed of said prior law recipients are appropriate. Based upon such determination, the Secretary may reduce or rescind said charges accordingly: Provided, That the Secretary shall inform by letter report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of any intent to reduce or rescind such charges and that such reduction or rescission shall not take place until after the passage of ninety calendar days after the receipt by the respective Committees of the letter report. The Secretary shall consult with the Office of the Inspector General of the Department of the Interior in the preparation of such report.

SEC. 1710. APPLICATION TO INDIAN LANDS.

The Act (43 U.S.C. 390aa et seq.) is amended by adding at the end the following new section:

"SEC. 231. APPLICATION TO INDIAN LANDS.

"Nothing in this title shall apply to trust or restricted Indian lands.".

TITLE XVIII—GRAND CANYON PROTECTION

SEC. 1801. SHORT TITLE.

This title may be cited as the "Grand Canyon Protection Act".

SEC. 1802. FINDINGS.

The Congress finds the following:

(1) Current operating procedures at Glen Canyon Dam, including fluctuating water releases made for the production of peaking hydroelectric power, have substantial adverse effects on downstream environmental and recreational resources, including resources located within Grand Canyon National Park. Flood releases from Glen Canyon Dam have damaged beaches and terrestrial resources. Damage from flood releases can be reduced if the frequency of flood releases is reduced, as has been the practice in recent years.

(2) The Secretary announced on July 27, 1989, the preparation of an environmental impact statement to evaluate the impacts of Glen Canyon Dam operations on downstream environmental and recreational resources. Based in part on information developed during the environmental impact statement process, the Secretary will be in a position to make informed decisions regarding possible changes to current operating procedures for Glen Canyon Dam.

(3) The adverse effects of current operations of Glen Canyon Dam are significant and can be at least partially mitigated by the development and implementation of interim operating procedures pending the completion of an environmental impact statement, the Glen Canyon Environmental Studies, and the adoption of new long-term operating procedures for Glen Canyon Dam.

SEC. 1803. DEFINITIONS.

As used in this title—

(1) the term "Colorado River Compact" means the compact consented to by the Act of August 19, 1921 (chapter 72; 42 Stat. 171) and approved by section 13(a) of the Act of December 21, 1928 (45 Stat. 1064);

(2) the term "Upper Colorado River Basin Compact" means the compact consented to by the Act of April 6, 1949 (63 Stat. 31); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 1804. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) In General.—The Secretary shall operate Glen Canyon Dam and, if necessary, take other reasonable mitigation measures in such a manner as to protect, mitigate adverse impacts to, and improve the condition of, the environmental, cultural, and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, under operating procedures that are subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to the allocation of the Colorado River.

(b) Amendment of CRSP.—The Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.; commonly referred to as the "Colorado River Storage Project Act"), is amended as follows:

(1) In section 3, by adding at the end the following: "It is the further intention of Congress that the Secretary shall operate Glen Canyon Dam and, if necessary, take other reasonable mitigation measures, so as to protect, mitigate damages to, and improve the condition of the environmental, cultural, and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48), and other laws relating to allocation of the Colorado River.".

(2) In the first sentence of section 7, by striking "Acts." and inserting "Acts, nor shall the Secretary operate the hydroelectric powerplant at Glen Canyon Dam in a manner which causes significant and avoidable adverse effects on the environmental, cultural, or recreational resources of Glen Canyon National Park or Glen Canyon National Recreation Area downstream of Glen Canyon Dam.".

(c) Promulgation of Operating Procedures.—The Secretary shall promulgate interim and long-term operating procedures for Glen Canyon Dam as set forth in sections 1805 and 1806, which procedures shall be consistent with the requirements of this section, and, if necessary, shall take other reasonable mitigation measures.

(d) Disclaimer.—Nothing in this title alters or may be construed to alter the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established or to affect in any manner the authority and responsibility of the Secretary with respect to the management and administration of such areas, including natural and cultural resources, and visitor use, as provided by laws applicable to such areas, including (but not limited to) the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 1805. INTERIM OPERATING PROCEDURES FOR GLEN CANYON DAM.

(a) In General.—Notwithstanding any other provision of law, and pending compliance by the Secretary with the requirements of section 1806, the Secretary shall, not later than October 1, 1991, or upon cessation of research flows used for preparing the environmental impact statement ordered by the Secretary on July 27, 1989, whichever is earlier, develop and implement interim operating procedures for Glen Canyon Dam. Such procedures shall—

(1) not interfere with the primary water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to allocation of the Colorado River;

(2) minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam;

(3) adjust fluctuating water releases caused by the production of peaking hydroelectric power and adjust rates of flow changes for fluctuating flows that will minimize, to the extent reasonably possible, adverse downstream impacts;

(4) minimize flood releases, consistent with the requirements of section 1804 of this title;

(5) maintain sufficient minimum flow releases at all times from Glen Canyon Dam to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and to protect fishery resources; and

(6) limit maximum flows released during normal operations to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam and to protect fishery resources.

(b) Consultation.—The Secretary shall develop and implement the interim operating procedures described in subsection (a) in consultation with—

(1) appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, United States Fish and Wildlife Service, and the National Park Service;

(2) the Secretary of Energy;

(3) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(4) affected Indian tribes; and

(5) the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) Scientific Data.—The Secretary shall develop and implement the interim operating procedures referred to in this section using the best and most recent scientific data available, including the scientific information collected and analyzed as part of the Glen Canyon Environmental Studies.

(d) Termination.—The interim operating procedures described in this section shall terminate

upon compliance by the Secretary with the requirements of section 1806 of this title.

(e) DEVIATION FROM PROCEDURES.—The Secretary may deviate from the interim operating procedures described in this section upon a finding that such deviation is necessary and in the public interest in order to—

(1) comply with the requirements of section 1806(a) of this title;

(2) respond to hydrologic extremes or power system operating emergencies; or

(3) further reduce adverse impacts on environmental, cultural, or recreational resources downstream from Glen Canyon Dam.

SEC. 1806. GLEN CANYON ENVIRONMENTAL STUDIES; GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; AND LONG-TERM OPERATING PROCEDURES FOR GLEN CANYON DAM.

(a) EIS.—The Secretary shall, not later than December 31, 1993, complete the final Glen Canyon Dam Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and in addition shall complete the Glen Canyon Environmental Studies. In preparing the environmental impact statement, the Secretary shall consider the views and conclusions of all cooperating government agencies, affected Indian tribes, and the general public. The Secretary shall make use of the best and most recent scientific data and studies in preparing the environmental impact statement, including the scientific information collected and analyzed as part of the Glen Canyon Environment Studies.

(b) REVIEW.—The Comptroller General of the United States shall review, in accordance with the standards set forth in the United States Water Resource Council's March 10, 1983, Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, the costs and benefits to water and power users and to natural, recreational, and cultural resources resulting from management policies and dam operations identified pursuant to the draft of the environmental impact statement referred to in subsection (a). The Comptroller General shall report the results of the review to the Secretary and the Congress within one year after publication of the draft environmental impact statement.

(c) IMPLEMENTATION.—(1) Based on the findings, conclusions, and recommendations made in the studies, the statement prepared pursuant to subsection (a), and the review performed pursuant to subsection (b), the Secretary shall, within ninety days following completion of the final environmental impact statement or completion of the Comptroller General's review, whichever is later, implement long-term operating procedures for Glen Canyon Dam that will, alone or in combination with other reasonable mitigation measures, ensure that Glen Canyon Dam is operated in a manner consistent with this Act. Such procedures shall not interfere with the primary water storage and delivery functions of Glen Canyon Dam, pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to allocation of the Colorado River.

(2) Upon completion of the requirements of paragraph (1), the Secretary shall submit to the Congress—

(A) the studies and the statement completed pursuant to subsection (a); and

(B) a report describing the long-term operating procedures for Glen Canyon Dam and other measures taken to protect, mitigate adverse impacts to, and improve the condition of the environmental, cultural, and recreational resources of the Colorado River downstream of Glen Canyon Dam.

(d) ANNUAL REPORT.—Annually after the date of the implementation of the procedures under subsection (c)(1), the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report, separate from and in addition to the report specified in section 602(b) of the Colorado River Basin Project Act (43 U.S.C. 1552(b)), on the operation of the Glen Canyon Dam during the preceding year and the projected year operations undertaken pursuant to this title. In the process of preparing the long-term operating procedures, the annual plans of operation described in this section, and the annual report specified in section 602(b) of the Colorado River Basin Project Act, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1807. LONG-TERM MONITORING.

The Secretary shall establish and implement long-term monitoring programs and activities that will ensure that Glen Canyon Dam is operated in a manner consistent with the requirements of section 1804 of this title. Such long-term monitoring shall include any necessary research and studies to determine the effect of the Secretary's actions under section 1806(c)(1) of this title upon the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area. These monitoring programs and activities shall be established and implemented in consultation with the Secretary of Energy; the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming; affected Indian tribes, and the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry and the contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1808. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

SEC. 1809. SAVINGS.

Nothing in this title shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or, except as provided in section 1805, of this title, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), or other existing laws relating to environmental or natural resources protection, with regard to the operation of Glen Canyon Dam.

TITLE XIX—MID-DAKOTA RURAL WATER SYSTEM

SEC. 1901. SHORT TITLE.

This title may be cited as the "Mid-Dakota Rural Water System Act of 1991".

SEC. 1902. DEFINITIONS.

For purposes of this title—

(1) the term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report), as modified to reflect consideration of the benefits of the water conservation programs developed and implemented under section 1905 of this title;

(2) the term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota;

(3) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(4) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(5) the term "Secretary" means the Secretary of the Interior;

(6) the term "summer electrical season" means May through October of each year;

(7) the term "water system" means the Mid-Dakota Rural Water System, substantially in accordance with the feasibility study;

(8) the term "Western" means the Western Area Power Administration;

(9) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report;

(10) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990; and

(11) the term "wetland trust" means a trust established in accordance with section 11(b) and operated in accordance with section 11(c).

SEC. 1903. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) SERVICE AREA.—The water system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetland areas, and water conservation in Beadle County (including the city of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) TERMS AND CONDITIONS.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that those terms and conditions are inconsistent with this title.

(d) AMOUNT OF GRANTS.—Grants made available under subsection (a) to Mid-Dakota Rural Water System, Inc. and water conservation measures consistent with section 1905 of this title shall not exceed 85 percent of the amount authorized to be appropriated by section 1912 of this title.

(e) LOAN TERMS.—

(1) a loan or loans made to Mid-Dakota Rural Water System, Inc. under the provisions of this title shall be repaid, with interest, within thirty years from the date of each loan or loans and no penalty for pre-payment; and

(2) interest on a loan or loans made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(A) shall be determined by the Secretary of the Treasury on the basis of the weighted average

yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made; and

(B) shall not accrue during planning and construction of the water system, and the first payment on such a loan shall not be due until after completion of construction of the water system.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Mid-Dakota Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days.

(g) COORDINATION WITH THE DEPARTMENT OF AGRICULTURE.—

(1) The Secretary shall coordinate with the Secretary of Agriculture, to the maximum extent practicable, grant and loan assistance made under this section with similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(2) The Secretary of Agriculture shall take into consideration grant and loan assistance available under this section when considering whether to provide similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) to an applicant in the service area defined in subsection (b).

SEC. 1904. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development oj the wetland component.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a grant, providing not to exceed $100,000 annually, to the Mid-Dakota Rural Water System, Inc., for the operation and maintenance of the wetland component.

(c) NONREIMBURSEMENT.—Funds provided under this section shall be nonreimbursable and nonreturnable.

SEC. 1905. WATER CONSERVATION.

(a) WITHHOLDING OF FUNDS.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds that non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) PURPOSE OF PROGRAMS.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

(c) DESCRIPTION OF PROGRAMS.—Such water conservation programs shall include (but are not limited to) adoption and enforcement of the following—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) metering for all elements and individual connections of the rural water supply systems to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as individual customers);

(4) declining block rate schedules shall not be used for municipal households and special water users (as defined in the feasibility study);

(5) public education programs; and

(6) coordinated operation among each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 1906. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre for acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 1907. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc.,

that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be precluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 1908. RULE OF CONSTRUCTION.

This title shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 1909. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources.

SEC. 1910. USE OF GOVERNMENT FACILITIES.

The use of and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the other purposes for which they are authorized.

SEC. 1911. WETLAND TRUST.

(a) FEDERAL CONTRIBUTIONS.—The Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c), in the amount of $3,000,000 in the first year in which a contribution is made and $1,000,000 in each of the following four years.

(b) ESTABLISHMENT OF WETLAND TRUST.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to manage all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of Region 6 of the United States Fish and Wildlife Service;

(C) 1 representative from the Department of Agriculture, as determined by the Secretary of Agriculture; and

(D) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations, appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) OPERATION OF WETLAND TRUST.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are to be invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are to be expended for any purpose;

(C) the income received from the investment of such funds is to be used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetland trust under subsection (a) and income from investments made with such funds) are to be used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to the wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G)(i) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are to be remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements are acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to the management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection: Provided, That income earned from the Trust shall not be used to mitigate or compensate for wetland damage caused by Federal water projects;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) INVESTMENT OF WETLAND TRUST FUNDS.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

(e) COORDINATION WITH THE SECRETARY OF AGRICULTURE.—

(1) The Secretary shall make the Federal contribution under subsection (a) after consulting with the Secretary of Agriculture to provide for the coordination of activities under the wetland trust established under subsection (b) with the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

(2) The Secretary of Agriculture shall take into consideration wetland protection activities under the wetland trust established under subsection (b) when considering whether to provide assistance under the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

SEC. 1912. AUTHORIZATION OF APPROPRIATIONS.

(a) WATER SYSTEM.—There are authorized to be appropriated to the Secretary $100,000,000 for the planning and construction of the water system under section 1903, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available until expended.

(b) WETLAND COMPONENT.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 1904;

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 1904; and

(3) $7,000,000 for the Federal contribution to the wetland trust under section 1911.

TITLE XX—LAKE ANDES-WAGNER, SOUTH DAKOTA

SEC. 2001. DRAINAGE DEMONSTRATION PROGRAMS.

(a) The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through the Bureau of Reclamation, in coordination with the Secretary of Agriculture and with the assistance and cooperation of an oversight committee (hereafter "Oversight Committee") consisting of representatives of the Bureau of Indian Affairs, Agricultural Research Service of the Department of Agriculture, Soil Conservation Service of the Department of Agriculture, Extension Service of the Department of Agriculture, Environmental Protection Agency, United States Fish and Wildlife Service, United States Geological Survey, South Dakota Department of Game, Fish and Parks, South Dakota Department of Water and Natural Resources, Yankton-Sioux Tribe, and the Lake Andes-Wagner Water System, Inc. carry out a demonstration program (hereafter in this title the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Marty II Demonstration Program Plan of Study," dated May 1990, a copy of which is on file with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such Demonstration Program shall be conducted in accordance with the environmental analysis and documentation requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) The objectives of the Demonstration Program shall include—

(1) development of accurate and definitive means of quantifying projected irrigation and drainage requirements, and providing reliable estimates of drainage return flow quality and quantity, with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the planned Lake Andes-Wagner Unit and Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) development of best management practices for the purpose of improving the efficiency of irrigation water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation of water quality by irrigation practices;

(3) investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the planned Lake Andes-Wagner Unit and the Marty II Unit through the application of water, and other management practices;

(4) investigation and demonstration of the suitability of glacial till soils for crop production under irrigation, giving special emphasis to crops of agricultural commodities for which an acreage reduction program is not in effect under the provisions of the Agriculture Act of 1949 (7 U.S.C. 1462 et seq.) or by any successor programs established for crop years subsequent to 1990.

(c) Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions—

(1) rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor;

(2) the Demonstration Program shall provide for the—

(A) supply all water, delivery system, pivot systems and drains;

(B) operation and maintenance of the irrigation system;

(C) Secretary of Agriculture to supply all seed, fertilizers and pesticides and make standardized equipment;

(D) Secretary of Agriculture to determine crop rotations and cultural practices; and

(E) Secretary and Secretary of Agriculture to have unrestricted access to leased lands;

(3) the Secretary and the Secretary of Agriculture may, in accordance with the Demonstration Program contract with the lessor and/or custom operators to accomplish agricultural work, which work shall be performed in accordance with the Demonstration Program;

(4) no grazing may be performed on a study site;

(5) crops grown shall be the property of the United States; and

(6) at the conclusion of the lease, the lands involved will, to the extent practicable, be restored by the Secretary to their preleased condition at no expense to the lessor.

(d) The Secretary of Agriculture shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by the Secretary of Agriculture. Any crops not sold shall be disposed of as the Secretary of Agriculture determines to be appropriate, except that no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) The land from each ownership in a study site shall be established by the Secretary as a separate farm. The Secretary of Agriculture shall provide for lessors to preserve the cropland base and history on lands leased to the Demonstration Project under the same terms and conditions provided for under section 1236(b) of the Food Security Act of 1985 (7 U.S.C. 3836(b)). Establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) The Secretary shall periodically, but not less often than once a year, report to the Committee on Interior and Insular Affairs, the Committee on Agriculture, and the Committee on Merchant Marine and Fisheries of the House of Representatives, to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge. Each Demonstration Program report, including the report referred to in paragraph (3) of this subsection, shall evaluate data covering the results of the Demonstration Program as carried out in the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. The demonstration phase of the Demonstration Program shall terminate at the conclusion of the fifth full irrigation season. Promptly thereafter, the Secretary shall—

(1) remove temporary facilities and equipment and restore the study sites as nearly as practicable to their prelease condition. The Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation if so doing would be less costly than removing such equipment;

(2) otherwise wind up the Demonstration Program; and

(3) prepare in coordination with the Secretary of Agriculture a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge.

(g) Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for the Bureau of Reclamation. The Secretary, using only funds appropriated for the Demonstration Program, shall transfer to the other Federal agencies funds in amounts sufficient to offset expenses incurred under this title.

SEC. 2002. PLANNING REPORTS—ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Program provided for in section 2001, the Secretary shall comply with the study and reporting requirements of the National Environmental Policy Act and regulations issued to implement the provisions thereof with respect to the Lake Andes-Wagner Unit and Marty II Unit. The final reports prepared under this subsection shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency.

(b) Each report prepared under subsection (a) shall include a detailed plan providing for the prevention or avoidance of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the Unit to which the report pertains. The Department shall not recommend that any such Unit be constructed unless the respective report prepared pursuant to subsection (a) is accompanied by findings by the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency that the Unit to which the report pertains can be constructed, operated and maintained so as to comply with all applicable water quality standards and avoid all adverse effects to fish and wildlife resulting from the bioaccumulation of selenium.

SEC. 2003. INDIAN EMPLOYMENT.

In carrying out this title, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions training and employment opportunities shall be provided members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 2004. FEDERAL RECLAMATION LAWS.

This title is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto and amendatory thereof).

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program authorized by this title. Of the amounts appropriated pursuant to this section, 5 percent of the total shall be utilized by the Director of the United States Fish and Wildlife Service to fund projects on Western National Wildlife Refuges designed to mitigage the adverse effects of selenium on populations of fish and wildlife within such refuges.

TITLE XXI—INSULAR AREAS STUDY

SEC. 2101. FINDINGS.

The Congress hereby finds and declares that assuring adequate supplies of water, sewerage, and power for the residents of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands has become a problem of such magnitude that the welfare and prosperity of these insular areas require the Federal Government to assist in finding permanent, long-term solutions to their water, sewerage, and power problems.

SEC. 2102. AUTHORIZATION OF STUDY.

The Secretary of the Interior is authorized and directed to undertake a comprehensive study of how the long-term water, sewerage, and power needs of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands can be resolved. Such study shall be conducted in consultation with the governments of these insular areas.

SEC. 2103. REQUIREMENTS OF STUDY.

Such study shall include for each jurisdiction, but not be limited to—

(1) an assessment of the magnitude and extent of current and expected needs;

(2) an assessment of how the needs can be resolved;

(3) the costs and benefits of alternative solutions;

(4) the need for additional legal authority for the President to take actions to meet the needs; and

(5) specific recommendations for the role of the Federal Government and each insular government in solving the needs.

SEC. 2104. THE INSULAR AREAS ENERGY ASSISTANCE AMENDMENT OF 1991.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", Public Law 96–597, as amended by Public Law 98–213 (48 U.S.C. 1492), is amended by adding the following subsection:

"(g)(1) There are hereby authorized to be appropriated $500,000 to the Secretary of Energy for each fiscal year for grants to insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependence of the insular area on imported fuels and improve the quality of life in the insular area.

"(2) Factors which shall be considered in determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy grant under this subsection shall include, but not be limited to, the following—

"(A) whether the measure will reduce the relative dependence of the insular area on imported fuels;

"(B) the ease and costs of operation and maintenance of any facility contemplated as part of the project;

"(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the report by the Secretary of Energy pursuant to this section or identified by the Secretary as consistent with the purposes of this section; and

"(D) whether the measure will contribute significantly to the quality of the environment in the insular area.".

TITLE XXII—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

SEC. 2201. CONVEYANCE TO SUNNYSIDE VALLEY IRRIGATION DISTRICT.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described at lots 1 and 2 of block 34 of the town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXIII—PLATORO DAM AND RESERVOIR, COLORADO

SEC. 2301. FINDINGS AND DECLARATIONS.

The Congress finds and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grande Compact of 1939 on the use of the Rio Grande River among the States of Colorado, New Mexico, and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to—

(A) transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further financial risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States pursuant to the existing repayment contract between the United States and the District (Contract No. I1r–1529, as amended); and

(C) determine such one time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and taking into account 50 percent sharing of the cost of maintaining a minimum stream flow as provided in section 2(d) of this title.

SEC. 2302. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the District in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. I1r–1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam and Reservoir under Federal and State law; and

(B) that the District shall have the exclusive use and sole responsibility for maintenance of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite. The District shall have sole responsibility for maintaining the land and buildings in a condition satisfactory to the United States Forest Service.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such Contract Numbered Ilr-1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The District will, after consultation with the United States Forest Service, Department of Agriculture, operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases or bypasses from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 3,000 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss: Provided, however, That if necessary to maintain the winter instream flow provided in subparagraph (3), the permanent pool may be allowed to be reduced to 2,400 acre-feet.

(3) In order to preserve fish and wildlife habitat below Platoro Reservoir, the District shall maintain releases of water from Platoro Reservoir of at least 7 cubic feet per second during the months of October through April and shall bypass 40 cubic feet per second or natural inflow, whichever is less, during the months of May through September.

(4) The United States Forest Service, Department of Agriculture, is directed to monitor operation of Platoro Reservoir regularly including releases from it for instream flow purposes and to enforce the provisions of this subsection under the laws, regulations, and rules applicable to the National Forest System.

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this shall be consistent with the water supply use of the reservoir, with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer and with the provisions of subsection (d) hereof. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 2 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 2303. DEFINITIONS.

As used in this title—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

TITLE XXIV—SLY PARK UNIT, CENTRAL VALLEY PROJECT

SEC. 2401. SHORT TITLE.

This title may be cited as the "Sly Park Unit Sale Act".

SEC. 2402. SALE OF THE SLY PARK UNIT.

(a) IN GENERAL.—The Secretary shall, as soon as practicable after the date of enactment of this title, sell the Sly Park Unit to the El Dorado Irrigation District.

(b) SALE PRICE.—The sale price shall not exceed—

(1) the construction costs as included in the accounts of the Secretary, plus

(2) interest on the construction costs allocated to domestic use at the authorized rate included in enactment of the Act of October 14, 1949 (63 Stat. 852) up to an agreed upon date, plus

(3) the presently assigned Federal operation and maintenance costs, less

(4) all revenues to date as collected under the terms of the contract (14-06-200-949) between the United States and the El Dorado Irrigation District.

(c) TERMS OF PAYMENT.—The Secretary may negotiate for a payment of the purchase price on a lump-sum basis or on a semiannual basis for a term of not to exceed twenty years. If payment is not to be lump-sum, then the interest rate to be paid by the District shall be the rate referred to in subsection (b)(2).

(d) CONVEYANCE.—Upon completion of payment by the District, the Secretary shall convey to the El Dorado Irrigation District all right, title, and interest of the United States in and to the Sly Park Unit. All costs associated with the transfer shall be borne by the District.

SEC. 2403. DEFINITIONS.

For purposes of this title, the term:

(1) "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) "Secretary" means the Secretary of the Interior.

(3) "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversification Dam and Tunnel and conduits and canals as authorized under the American River Act of October 14, 1949 (63 Stat. 852).

TITLE XXV—COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES

SEC. 2501. COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES.

Section 9 of the Reclamation Projects Act of 1939 (43 U.S.C. 485h) is amended by inserting at the end thereof the following new subsection:

"(g)(1) All contracts entered into, renewed, or amended under authority of this section or any other provision of Federal reclamation law after—

"(A) two years after the date of the enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least 50 percent of full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in domestic storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by foreseeable disruptions in the supply of such commodity, as determined by the Secretary of Agriculture; and

"(B) four years after the date of the enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in domestic storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by foreseeable disruptions in the supply of such commodity, as determined by the Secretary of Agriculture.

"(2) The Secretary shall announce the amount of the full cost payment for the succeeding year on or before July 1 of each year.

"(3)(A) The Secretary shall credit against any additional payment obligation established by this subsection 70 percent of the costs incurred by individuals or districts subject to the provisions of this subsection during the period beginning on the date of enactment of this subsection and ending on December 31, 1996, up to a maximum cost of $100 per irrigated acre, for the installation of water conservation measures approved by the Secretary. The Secretary shall grant such credit only upon finding that installation of such measures, and any mitigation pursuant to subparagraph (B), have been completed. Credit that exceeds such repayment obligation in any one year shall be applied in each succeeding year until fully utilized. Within one year from the date of enactment of this subsection, the Secretary shall promulgate rules to carry out the provisions of this paragraph.

"(B) Mitigation for fish and wildlife habitat losses, if any, incurred as a result of the installation and operation of such water conservation measures shall be on an acre-for-acre basis, based on ecological equivalency, concurrent *with installation of such conservation measures, and shall be the responsibility of the individual or district served by such measures.*

"(4) As used in this subsection, the term 'full cost' shall have the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982.

"(5) This subsection shall not apply to—

"(A) any contract which provides for irrigation on individual Indian or tribal lands on which repayment is deferred pursuant to the Act of July 1, 1932 (chap. 369; 47 Stat. 564; 25 U.S.C. 386(a); commonly referred to as the 'Levitt Act');

"(B) an amendment of any contract with any organization which, on the date of enactment of this subsection, is required pursuant to a contract with the Secretary as a condition precedent to the delivery of water to make cash contributions of at least 20 percent of the cost of construction of irrigation facilities by the Secretary;

"(C) any contract which carries out the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99–294), 100 Stat. 418; and

"(D) water delivered to any agricultural producer who is not a participant in any acreage reduction program in effect under the Agricultural Act of 1949.".

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

SEC. 2601. HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROGRAM ACT.

The High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g–1 et seq.) is amended as follows:

(1) Section 4(c)(2) and section 5 are each amended by striking "final report" each place it appears and inserting "summary report".

(2) Section 4(c) is amended by adding at the end the following:

"(3) In addition to recommendations made under section 3, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

"(4) Each project under this section shall terminate 5 years after the date on which construction on the project is completed.

"(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.".

(3) Section 7 is amended by striking "$20,000,000 (October 1983 price levels)" and inserting in lieu thereof "$34,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein".

TITLE XXVII—SOLANO PROJECT TRANSFER AND PUTAH CREEK IMPROVEMENT

SEC. 2701. SHORT TITLE.

This title may be cited as the "Solano Project Transfer and Putah Creek Improvement Act".

SEC. 2702. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Solano Project is a Federal reclamation project located in Solano, Yolo, and Napa Counties, California. The project was constructed by the United States between 1953 and 1958 for the purposes of providing water supply and incidental flood control benefits;

(2) the Solano Project supplies approximately 65 per centum of Solano County's public water supply;

(3) the California State Water Resources Control Board has granted, pursuant to California law, water rights permits to the Bureau of Reclamation for the Solano Project which establish that Solano County is the place of use for Solano Project water, with the exception of four thousand acre-feet used annually by the University of California-Davis in Yolo County pursuant to contract, and with a provisional reservation of up to thirty-three thousands acre-feet for the Putah Creek watershed above Monticello Dam;

(4) repayment of the Solano Project's reimbursable capital costs is the exclusive obligation of the Solano County Water Agencies, and said agencies have repaid more than half of these costs;

(5) the Solano County Water Agencies perform all operation and maintenance for the Solano Project under contract with the United States, and they have paid all operation and maintenance costs of the project;

(6) the Solano Project has no financial or physical interconnection with any other local, State, or Federal water project;

(7) the Solano Project impounds and diverts the waters of Putah Creek, which support riparian habitat, including a riparian reserve operated by the University of California, and both a cold water fishery and a warm water fishery;

(8) the United States Fish and Wildlife Service currently is preparing a Putah Creek Resource Management Plan; and

(9) interested local public agencies and private organizations in Solano and Yolo Counties have formed an advisory group to provide advice regarding Putah Creek enhancement activities.

(b) PURPOSES.—The purposes of this title are—

(1) to convey to the Water Users fee title to the water supply facilities of the Solano Project upon payment to the United States by the Water Users of the sum calculated in accordance with section 2704 of this title;

(2) to provide for continuation of all public benefit purposes of the Solano Project;

(3) to protect Putah Creek fisheries, wildlife and riparian habitat, ground water recharge and diversion rights downstream of the Putah Diversion Dam in conformance with all applicable decisions and orders of the California State Water Resources Control Board and courts of competent jurisdiction, and all applicable State laws;

(4) to provide for enhancement of Putah Creek fisheries, wildlife and riparian habitat;

(5) to provide the Water Users with local ownership over their principal public water supply facilities;

(6) to eliminate significant Federal liabilities; and

(7) to benefit the Federal Treasury from such payment and title transfer.

SEC. 2703. DEFINITIONS.

For the purposes of this title, the term:

(a) "Book value" of the water supply facilities means an amount which equals the product of the depreciable facilities costs and the applicable depreciation factor.

(b) "Capital/O&M adjustment" means the amount in arrears, if any, of capital repayments or operation and maintenance expenses due pursuant to the water service contract, plus accrued interest.

(c) "Construction defect and dam safety adjustment" means $7,270,000 for purposes of this Act.

(d) "Depreciable facilities costs" means the reimbursable capital costs of the water supply facilities of the Project which are to be transferred.

(e) "Depreciation factor" means a percentage derived by calculating the number and fraction of years between the date of purchase and the year 2033 and then dividing by 75.

(f) "Interim water releases" means: (1) releases into Lower Putah Creek of water owned by the Water Users, or any constituent entity thereof, in an amount not to exceed 2,700 acre-feet in 1991 and 3,000 acre-feet in 1992; and (2) releases into lower Putah Creek of water owned by the Yolo County Entities, or any member thereof, in an amount not to exceed 3,000 acre-feet in either 1991 or 1992.

(g) "Lower Putah Creek Coordinating Committee" means an advisory committee established to assist the Secretary in coordinating Federal, State and local efforts to protect and enhance the habitat of Putah Creek. This Committee is to consist of a maximum of fourteen members, up to seven of which are to be appointed by the Water Users and up to seven of which are to be appointed by the Yolo County Entities. The Committee is not an agency or establishment of the United States.

(h) "Lower Putah Creek" means that portion of Putah Creek extending from the Putah Diversion Dam to the Yolo Bypass in Yolo County, California.

(i) "Reimbursable capital costs" means the original reimbursable costs of the Solano Project, as set forth in the Bureau of Reclamation document entitled "Solano Project Statement of Project Construction Cost and Repayment," dated September 30, 1989 ("Solano Project Statement") attached as Appendix "A" in the report accompanying H.R. 429.

(j) "Remaining indebtedness" means the remaining balance of the reimbursable capital costs of the Solano Project, as set forth in the Solano Project Statement, and as adjusted thereafter to reflect any payments made prior to the date of transfer.

(k) "Secretary" means the Secretary of the Interior.

(l) "Solano County Water Agencies" means one or more public agencies in Solano County which have used water from the Solano Project and who are member agencies of the Water Users.

(m) "Solano Project" means the reclamation project described in House Document Numbered 65, Eighty-first Congress, first session (1949).

(n) "Water service contract" means the contract between the United States and the Solano County Flood Control and Water Conservation District for water service and for operation and maintenance of certain works of the Solano Project, dated March 7, 1955 (Contract No. 14–06–200–4090).

(o) "Water supplies facilities" means—

(1) the Monticello Dam and spillway;

(2) Lake Solano, its lands and facilities, and the Putah Diversion Dam;

(3) the Putah South Canal; and

(4) all appurtenant facilities, lands, easements and rights-of-way.

This term does not include Lake Berryessa, its shoreline or any recreational features of the Solano Project, excepting recreational facilities leased and operated by Solano County on lands surrounding Lake Solano.

(p) "Water Users" means a public agency formed under the laws of the State of California duly organized and existing—

(1) including all member public agencies of the Solano Water Authority and the Solano County Water Agency, public agencies formed under the laws of the State of California;

(2) having a governing board in which a majority of the members are representatives of those local entities holding contracts for water from the Solano Project on the date of enactment of this title; and

(3) approved by both the Solano Water Authority and the Solano County Water Agency.

(q) "Yolo County Entities" means a group consisting of authorized representatives of the county of Yolo, the Yolo County Flood Control and Water Conservation District, the city of Davis, the city of Winters, the University of

California at Davis, and the Putah Creek Council.

(r) "Uncontrolled Releases" means water bypassed or released at the Putah Diversion Dam which is not required to be released pursuant to section 2706(c) of this title, or to meet contract or state-law requirements.

SEC. 2704. TRANSFER OF THE SOLANO PROJECT WATER SUPPLY FACILITIES, OPERATIONS AGREEMENT AND PAYMENT.

(a) AGREEMENT.—The Secretary shall, as soon as practicable after the date of enactment of this title, enter into an agreement with the Water Users for the implementation of section 2705(b) of this title.

(b) The Secretary shall, upon execution of the agreement described in section 2704(a) of this title and payment of the sum calculated in accordance with section 2704(c) of this title, and subject to the provisions of sections 2706(a) and 2707(a) of this title, transfer to the Water Users all right, title and interest in and to the water supply facilities of the Solano Project described in section 2703(o).

(c) PRICE.—The price paid by the Water Users for the water supply facilities of the Solano Project shall be the amount which is the total of—

(1) the remaining indebtedness;

(2) the book value of the water supply facilities;

(3) any capital/O&M adjustment amount; and

(4) all administrative costs incurred by the United States in effectuating the agreement and the transfer, less

(5) the dam safety and construction defect adjustment: Provided, however, That in no event shall the sum determined in subparagraphs (1)–(5) of this subsection above be less than 66 per centum of the original reimbursable capital costs of the water supply facilities of the Solano Project which are to be transferred.

SEC. 2705. RESPONSIBILITIES OF THE WATER USERS.

(a) Upon transfer of the water supply facilities, the Water Users shall, except as provided in this title: (1) assume all liability for administration, operation, and maintenance of said facilities and continue to provide for the operation thereof for the authorized Solano Project purposes including (but not limited to) all water supply contracts heretofore entered into by the Secretary; (2) protect Putah Creek fisheries, wildlife, riparian habitat, ground water recharge, and downstream diversion rights, including adhering to minimum water release schedules for Putah Creek downstream of Monticello Dam and Putah Diversion Dam in conformance with all applicable decision and orders of the State of California Water Resources Control Board and courts of competent jurisdiction and all applicable State laws; and (3) continue to provide the incidental flood control benefits currently enjoyed by downstream property owners on Putah Creek.

(b) The Water Users shall cooperate with the United States and the Lower Putah Creek Coordinating Committee to implement the supplemental releases for Putah Creek enhancement purposes mandated by section 2704. Such cooperation may include releasing Solano Project water from Monticello Dam and past the Putah Diversion Dam into Lower Putah Creek in exchange for water provided by the Secretary from other sources: Provided, That the Secretary shall pay the Water Users any actual costs that they may incur as a result of such exchange, less any savings that result from such exchange.

SEC. 2706. RESPONSIBILITIES OF THE UNITED STATES.

(a) PRETRANSFER CONFIRMATION.—The Secretary may not transfer title to the water supply facilities of the Solano Project unless the Secretary confirms that all of the Solano Project member units have executed an agreement addressing their respective contractual entitlements. These member units are the city of Fairfield, Maine Prairie Water District, Solano Irrigation District, city of Suisun City, city of Vacaville, city of Vallejo, California Medical Facility, and University of California, Davis.

(b) RECREATION.—(1) The Secretary shall be responsible for, and retain full title to and jurisdiction and control over the surface of Lake Berryessa and Federal lands underlying and surrounding the Lake, and shall retain full title to all Lake Berryessa recreational facilities, exclusive of those properly constructed by concessionaires under applicable contracts; concessionaire contracts, interests in real property associated therewith; and similar associated rights and obligations. The Secretary shall consult with the State of California and local governments in Napa County, California, prior to implementing any change in operating procedures for such lands. The Secretary is authorized to enter into contracts or other agreements with Napa County, California, regarding land use controls, law enforcement, water supply, wastewater treatment, and other matters of concern within the boundaries of lands surrounding Lake Berryessa that were originally included in the lands acquired from the Solano Project.

(2) The Secretary, acting through the Bureau of Reclamation, is authorized to obtain water from Lake Berryessa consistent with its existing State water rights permit for recreational or other resource management purposes at Lake Berryessa, including that required for concession operation, in the manner, amounts, and at times as may be determined by the Bureau of Reclamation.

(3) The Secretary, acting through the Bureau of Reclamation, is authorized to make available, subject to appropriation, funds collected from recreation entrance and user fees, to local and/or State law enforcement agencies to enforce rules and regulations as are necessary for regulating the use of all project lands and waters associated with Lake Berryessa, and to protect the health, safety, and enjoyment of the public, and ensure the protection of project facilities and natural resources.

(4) The Secretary is hereby authorized to enter into joint future projects with Lake Berryessa concessionaires to develop, operate, and maintain such short-term recreational facilities as he deems necessary for the safety, health, protection, and outdoor recreational use by the visiting public, and, to amend existing concession agreements, including extending terms as necessary for amortization of concessionaire investments, to accommodate such joint future projects.

(5) The Secretary is authorized to assist, or enter into agreements with the State of California, or political subdivision thereof, or a non-Federal agency or agencies or organizations as appropriate, for the planning, development and construction of water and wastewater treatment systems, which would result in the protection and improvement of the waters of Lake Berryessa.

(6) Funds collected from recreation entrance and user fees may be made available, subject to appropriation, for the operation, management and development of recreational and resource needs at Lake Berryessa.

(7) No activities upon the recreational interests hereby reserved to the United States shall, as determined by the Secretary after consultation with the Water Users, burden the Water Users' use of the water supply facilities of the Solano Project, reduce storage capacity or yield of Lake Berryessa, or degrade the Solano Project's water quality, except that, as described in subsection (b)(2) of this section, water will be made available for recreational and resource management purposes: And provided further, That this subsection will not apply to the particular Lake Berryessa recreational uses and operating procedures in existence on the date of the enactment of this legislation.

(8) Notwithstanding any provision in subsection (b) of this section, before the Secretary takes any action authorized by this subsection, including but not limited to the selection and/or approval of the Reservoir Area Management Plan (RAMP) for Lake Berryessa and surrounding lands, the Secretary shall consult with the County of Napa and determine that the proposed action is consistent with the Napa County General Plan, as amended.

(c) PUTAH CREEK ENHANCEMENT.—(1) The Secretary is authorized and directed to participate in a program to enhance the instream, riparian and environmental values of Putah Creek. Such program shall be at full Federal cost, shall cause no reduction in Solano Project supplies, and shall include but need not be limited to the following—

(A) the Secretary shall consult with the Lower Putah Creek Coordinating Committee and the Water Users and take appropriate actions to implement the recommendations contained in the United States Fish and Wildlife Service's Putah Creek Resource Management Plan;

(B) in order to enhance flows in Putah Creek which are prescribed by the California State Water Resources Control Board or courts of competent jurisdiction, arrangements as are necessary shall be made to provide at no net cost to any other party 3,000 acre-feet of supplemental water supply for releases into Putah Creek during "normal years," and 6,000 acre-feet of supplemental water supply for releases into Putah Creek during "dry years." "Normal years" are water years in which the total inflow into Lake Berryessa is greater than or equal to 150,000 acre-feet. "Dry years" are water years in which the total inflow into Lake Berryessa is less than 150,000 acre-feet. For the purposes of this paragraph, "water year" means each twelve month period beginning on October 1 and ending on the next September 30. These amounts to be released shall be in addition to any uncontrolled releases. The schedule for said supplemental releases shall be developed by the Secretary after consultation with the Lower Putah Creek Coordinating Committee. The Secretary is hereby authorized to enter into such agreements as may be necessary to effectuate this subsection;

(C) for purposes of more efficiently conveying and distributing the Lower Putah Creek such supplemental supplies and any additional amounts that the California State Water Resources Control Board or courts of competent jurisdiction may deem appropriate, the Secretary is authorized to construct water conveyance and distribution facilities at a cost of approximately $3,000,000; and

(D) to compensate for the cost associated with the 1991–1992 interim water releases, as defined in subsection 3(f), the Secretary is authorized and directed to supply to the Water Users and/or Yolo County Entities, or any member entities thereof providing the interim water releases, water in an amount equal to those interim water releases actually made or, in the alternative, to reimburse the parties making such releases for all costs associated with such releases.

(2) There are hereby authorized to be appropriated such sums as may be necessary to implement subsections (B), (C), and (D) of this section.

SEC. 2707. PAYMENT.

(a) PAYMENT.—The Secretary shall transfer all right, title, and interest in and to the water supply facilities of the Solano Project to the Water Users after the Secretary has received notification that the Water Users have made the payment specified in section 2704(b).

(b) DISPOSITION OF PAYMENT.—(1) All proceeds from the transfer of the Solano Project will be dedicated to environmental purposes. Eighty percent of the price paid for the water supply facilities of the Solano project as specified in section 4(c) shall be deposited in a separate account by the Secretary. Interest from such account shall be utilized by the Secretary for matching grants with nonprofit organizations and institutions in California for fish and wildlife conservation. The remaining 20 percent paid for the water supply facilities shall be expended by the Secretary for the purpose of protecting and enhancing Lower Putah Creek, and may include expenditures for the purposes of acquiring property, including water rights, making improvements to property, and conducting studies and wildlife management activities. The portion of sale proceeds designated for Lower Putah Creek protection and enhancement shall thereafter be maintained by the Secretary in a separate account. Monies and interest from such account may be expended by the Secretary for the sole purpose of funding projects designed for Lower Putah Creek protection and enhancement purposes, including the payment of direct costs associated with meeting with Secretary's responsibilities under section 2706(c)(1)(B) of this title, in accordance with criteria developed by the Secretary in consultation with the Lower Putah Creek coordinating committee.

(2) All funds under this section shall be available only to the extent provided in an annual appropriation for such purposes.

SEC. 2708. VESTED RIGHTS AND STATE LAWS UNAFFECTED.

Nothing in this title shall—

(a) be construed as affecting or intending to affect or to interfere in any way with the State laws relating to the control, appropriation, use, or distribution of water used for the Solano Project, or any vested right acquired thereunder; and

(b) in any way affect or interfere with State laws relating to the protection of fish and wildlife or instream flow requirements, or any right of the State of California or any landowner, appropriator, or user of surface water or ground water in, to, from or connected with Putah Creek or its tributaries.

TITLE XXVIII—DESALINATION

SEC. 2801. TECHNICAL ASSISTANCE.

The Secretary is authorized to provide technical assistance to States and to local government entities to assist in the development, construction, and operation of water desalination projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

TITLE XXIX—SAN JUAN SUBURBAN WATER DISTRICT

SEC. 2901. REPAYMENT OF WATER PUMPS, SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA.

(a) WATER PUMP REPAYMENT.—The Secretary shall credit to the unpaid capital obligation of the San Juan Suburban Water District (District), as calculated in accordance with the Central Valley Project ratesetting policy, an amount equal to the documented price paid by the District for pumps provided by the District to the Bureau of Reclamation, in 1991, for installation at Folsom Dam, Central Valley Project, California.

(b) CONDITIONS.—(1) The amount credited shall not include any indirect or overhead costs associated with the acquisition of the pumps, such as those associated with the negotiation of a sales price or procurement contract, inspection, and delivery of the pumps from the seller to the Bureau of Reclamation.

(2) The credit is effective on the date the pumps were delivered to the Bureau of Reclamation for installation at Folsom Dam.

TITLE XXX—TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT

SEC. 3001. INSTREAM RELEASES FROM THE TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT, FOR FISHERY RESTORATION AND FULFILLMENT OF FEDERAL TRUST RESPONSIBILITIES.

(a) INSTREAM RELEASES.—In order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and to achieve the fishery restoration goals of the Act of October 24, 1984 (98 Stat. 2721, Public Law 98–541), for water years 1992 through 1996, the Secretary of the Interior, through the Trinity River Division of the Central Valley Project, shall provide an instream release of water to the Trinity River for the purposes of fishery restoration, propagation, and maintenance of not less than 340,000 acre-feet per year. For any water year during this period for which the forecasted inflow to the Central Valley Project's Shasta Reservoir equals or exceeds 3,200,000 acre-feet, based on hydrologic conditions as of June 1 and an exceedance factor of 50 percent, the Secretary shall provide an additional instream fishery release to the Trinity River of not less than 10 percent of the amount by which forecasted Shasta Reservoir inflow for that year exceeds 3,200,000 acre-feet.

(b) COMPLETION OF STUDY.—By September 30, 1996, the Secretary, with the full participation of the Hoopa Valley Tribe, shall complete the Trinity River Flow Evaluation Study currently being conducted by the United States Fish and Wildlife Service under the mandate of the Secretarial Decision of January 14, 1981, in a manner which insures the development of recommendations, based on the best available scientific data, regarding permanent instream fishery flow requirements and Trinity River Division operating criteria and procedures for the restoration and maintenance of the Trinity River fishery.

(c) STUDY RECOMMENDATIONS.—Not later than December 31, 1996, the Secretary shall forward the recommendations of the Trinity River Flow Evaluation Study, referred to in subsection (b) of this section, to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase to the minimum Trinity River instream fishery releases established in subsection (a) and the operating criteria and procedures referred to in subsection (b) shall be implemented accordingly. If the Hoopa Valley Tribe and the Secretary do not concur, the minimum Trinity River instream fishery releases established in subsection (a) shall remain in effect unless increased by an Act of Congress, appropriate judicial decree, or agreement between the Secretary and the Hoopa Valley Tribe.

TITLE XXXI—BUY AMERICAN PROVISIONS

SEC. 3101. BUY AMERICAN PROVISIONS.

(a) The Secretary shall insure that the requirements of the Buy American Act of 1933, as amended, apply to all procurements made under this Act.

(b) DETERMINATION BY THE SECRETARY.—(1) If the Secretary, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary shall rescind the waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any agreement between the United States and a foreign country pursuant to which the head of an agency of the United States Government has waived the requirements of the Buy American Act with respect to certain products produced in the foreign country.

(3) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report on the amount of purchases from foreign entities under this Act from foreign entities in fiscal years 1992 and 1993. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(4) BUY AMERICAN ACT DEFINED.—For purposes of this section, the term "Buy American Act" means the title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(c) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(a)). Any such determination shall be made in accordance with section 305.

(d) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract made with funds authorized under this title pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

TITLE XXXII—LIMITATION ON AUTHORIZATIONS OF APPROPRIATIONS

SEC. 3201. LIMITATION.

Notwithstanding any other provision of law, amounts expended, or otherwise made available, pursuant to this Act when aggregated with all other amounts expended, or otherwise made available, for projects of the Bureau of Reclamation for fiscal year 1992 may not exceed 102.4 percent of the total amounts expended, or otherwise made available, for projects of the Bureau of Reclamation in fiscal year 1991.

TITLE XXXIII—ELEPHANT BUTTE IRRIGATION DISTRICT

SEC. 3301. TRANSFERS.

The Secretary of the Interior is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande Project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New

Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assumes the responsibility for operating and maintaining their portion of the project. Title to, and management and operation of, the reservoirs and the works necessary for their protection and operation shall remain in the United States until otherwise provided by an Act of Congress.

TITLE XXXIV—CENTRAL VALLEY PROJECT REFORM ACT

SEC. 3401. SHORT TITLE.

This Act may be cited as the "Central Valley Project Reform Act".

SEC. 3402. PURPOSES.

The purposes of this Act shall be—

(a) to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley basin of California;

(b) to address impacts of the Central Valley Project on fish, wildlife and associated habitats;

(c) to improve the operational flexibility of the Central Valley Project;

(d) to increase water-related benefits provided by the Central Valley Project to the State of California through expanded use of voluntary water transfers and improved water conservation;

(e) to study transfer of the Central Valley Project to non-Federal interests; and for other purposes.

SEC. 3403. DEFINITIONS.

As used in this Act—

(a) the term "anadromous fish" means those stocks of salmon (including steelhead), striped bass, sturgeon, and American shad that ascend the Sacramento and San Joaquin rivers and their tributaries and the Sacramento-San Joaquin Delta to reproduce after maturing in San Francisco Bay or the Pacific Ocean;

(b) the terms "artificial propagation" and "artificial production" mean spawning, incubating, hatching, and rearing fish in a hatchery or other facility constructed for fish production;

(c) the term "Central Valley Habitat Joint Venture" means the association of Federal and State agencies and private parties established for the purpose of developing and implementing the North American Waterfowl Management Plan as it pertains to the Central Valley of California;

(d) the terms "Central Valley Project" or "project" mean all Federal reclamation projects located within or diverting water from or to the watershed of the Sacramento and San Joaquin rivers and their tributaries as authorized by the Act of August 26, 1937 (50 Stat. 850) and all Acts amendatory or supplemental thereto, including but not limited to the Act of October 17, 1940 (54 Stat. 1198, 1199), Act of December 22, 1944 (58 Stat. 887), Act of October 14, 1949 (63 Stat. 852), Act of September 26, 1950 (64 Stat. 1036), Act of August 27, 1954 (68 Stat. 879), Act of August 12, 1955 (69 Stat. 719), Act of June 3, 1960 (74 Stat. 156), Act of October 23, 1962 (76 Stat. 1173), Act of September 2, 1965 (79 Stat. 615), Act of August 19, 1967 (81 Stat. 167), Act of August 27, 1967 (81 Stat. 173), Act of September 28, 1976 (90 Stat. 1324) and Act of October 27, 1986 (100 Stat. 3050);

(e) the term "Central Valley Project service area" means that area of the Central Valley and San Francisco Bay Area where water service has been expressly authorized pursuant to the various feasibility studies and consequent congressional authorizations for the Central Valley Project;

(f) the term "Central Valley Project water" means all water that is diverted, stored, or delivered by the Bureau of Reclamation pursuant to water rights acquired pursuant to California law, including water made available under the so-called "exchange contracts" and Sacramento River settlement contracts;

(g) the term "Fish and Wildlife Advisory Committee" means the Central Valley Project Fish and Wildlife Advisory Committee established in section 9 of this Act;

(h) the term "full cost" has the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982;

(i) the term "natural production" means fish produced to adulthood without direct human intervention in the spawning, rearing, or migration processes;

(j) the term "Reclamation laws" means the Act of June 17, 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto;

(k) the term "Refuge Water Supply Report" means the report issued by the Mid-Pacific Region of the Bureau of Reclamation of the United States Department of the Interior entitled Report on Refuge Water Supply Investigations, Central Valley Hydrologic Basin, California (March 1989);

(l) the terms "repayment contract" and "water service contract" have the same meaning as provided in sections 9(d) and 9(e) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195), as amended;

(m) the terms "Restoration Fund" and "Fund" mean the Central Valley Project Restoration Fund established by this Act; and

(n) the term "Secretary" means the Secretary of the Interior.

SEC. 3404. LIMITATION ON CONTRACTING AND CONTRACT REFORM.

(a) NEW CONTRACTS.—Except as provided in subsection (b) of this section, the Secretary shall not enter into any new short-term, temporary, or long-term contracts or agreements for water supply from the Central Valley Project for any purpose other than fish and wildlife before—

(1) the provisions of subsections 6(b)–(e) of this Act are met;

(2) the California State Water Resources Control Board concludes its current review of San Francisco Bay/Sacramento-San Joaquin Delta Estuary water quality standards and determines the means of implementing such standards, including any obligations of the Central Valley Project, if any, and the Administrator of the Environmental Protection Agency shall have approved such standards pursuant to existing authorities; and

(3) at least one hundred and twenty days shall have passed after the Secretary provides a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives explaining the obligations, if any, of the Central Valley Project system, including its component facilities and contracts, with regard to achieving San Francisco Bay/Sacramento-San Joaquin Delta Estuary water quality standards as finally established and approved by relevant State and Federal authorities, and the impact of such obligations on Central Valley Project operations, supplies, and commitments.

(b) EXCEPTION TO LIMIT ON NEW CONTRACTS.—In recognition of water shortages facing urban areas of California, and subsection (a) of this section notwithstanding, the Secretary is authorized to make available 100,000 acre-feet of Central Valley Project water for sale through water service contracts not to exceed twenty years in length to any California water district, agency, member district or agency, municipality, or publicly regulated water utility, without discrimination among them, for municipal and industrial purposes, except that no water shall be made available under this subsection until the State of California has entered into a binding agreement with the Secretary concerning the cost allocations set forth in section 6 of this Act. In carrying out this subsection, the Secretary shall—

(1) provide public notice of the availability of such water and be available to receive offers for such water for a period not to exceed one week in duration beginning not less than sixty days after enactment of this Act;

(2) make all such offers public immediately upon completion of the period for submission of bids established under paragraph (1) of this subsection;

(3) take such measures as are necessary to ensure that prospective agency purchasers do not engage in anti-competitive behavior; and

(4) accept the offers of the water agency or agencies offering the greatest monetary payments per acre-foot of water made available by the Secretary, except that—

(A) such payment must be greater than $100 per acre-foot of contractual commitment annually and, in addition, cover all Federal costs associated with the proposed sale and delivery;

(B) delivery under the contract must be feasible using existing facilities; and

(C) the proposed use of the water must be consistent with State and Federal law.

All revenues collected by the Secretary from the contract or contracts authorized by this subsection, other than actual operation and maintenance costs, shall be covered into the Restoration Fund.

(c) RENEWAL OF EXISTING LONG-TERM CONTRACTS.—Notwithstanding the provisions of the Act of July 2, 1956 (70 Stat. 483), the Secretary may renew any existing long-term repayment or water service contract for the delivery of water from the Central Valley Project for a period not exceeding 20 years, except that the Secretary shall first analyze the impacts of such proposed contract pursuant to Federal and State environmental laws.

(d) ENVIRONMENTAL REVIEW OF PROPOSED CONTRACT RENEWALS.—Not later than three years after the date of enactment of this Act, the Secretary shall prepare a programmatic environmental impact statement analyzing the impacts of the potential renewal of all existing Central Valley Project water contracts, including impacts within the Sacramento, San Joaquin, and Trinity river basins, and the San Francisco Bay/Sacramento-San Joaquin River Delta and Estuary.

(e) INCLUDING RESULTS OF ENVIRONMENTAL STUDIES.—The provisions of any contract renewed under authority of subsection (c) of this section shall be subject to further modifications by the Secretary based on any environmental impact statements carried out under subsections (c) or (d) of this section.

(f) WATER IDENTIFIED FOR FISH AND WILDLIFE PURPOSES.—Any Central Valley Project water service or repayment contract entered into, renewed, or amended under this section shall provide that the Secretary may, under procedures specified in this Act, allocate a portion of the water supply contained in such contract for the purposes specified in section 6 of this Act.

(g) CHANGE IN THE APPLICATION OF THE 1956 ACT.—Notwithstanding any provision to the contrary in any existing contract, the provisions of the Act of July 2, 1956 (53 Stat. 1187, U.S.C.), shall not apply to any Central Valley Project water service or repayment contract entered into, renewed or amended under any provision of the Federal Reclamation law after December 31, 1995. After December 31, 1995, the Secretary shall not be under any obligation to enter into, renew, or amend any water service or repayment

contracts in the Central Valley Project with any district or individual who has previously had such a contract prior to the date of enactment of this Act. Any Central Valley Project water service or repayment contract entered into, renewed or amended after the date of enactment of this Act and prior to December 31, 1995, shall contain the renewal provisions of the Act of July 2, 1956, for the term of such contract, and any additional renewals.

SEC. 3405. WATER TRANSFERS, IMPORTED WATER MANAGEMENT AND CONSERVATION.

(a)(1) WATER TRANSFERS.—Subject to review and approval by the Secretary, all individuals or districts who receive Central Valley Project water under service or repayment contracts entered into prior to or after the date of enactment of this Act are authorized to transfer all water subject to such contract to any other California water user or water agency, State agency, or private non-profit organization for project purposes or any purpose recognized as beneficial under applicable State law. Except as provided herein, the terms of such transfers shall be set by mutual agreement between the transferee and the transferor.

(2) CONDITIONS FOR TRANSFERS.—Transfers of Central Valley Project water authorized by this subsection shall be subject to the following conditions:

(A) No transfers shall be made in excess of the average annual quantity of water under contract actually delivered to the contracting district or agency between 1985 and 1989.

(B) All water under the contract which is transferred to any district or agency which is not a Central Valley Project contractor at the time of enactment of this Act shall, if used for irrigation purposes, be repaid at the greater of the full-cost or cost of service rates or, if the water is used for municipal and industrial purposes, at the greater of the cost of service or municipal and industrial rates.

(C) No water transfers authorized under this section shall be approved unless the transfer is between a willing buyer and a willing seller under such terms and conditions as may be mutually agreed upon.

(D) No water transfer authorized under this section shall be approved unless the transfer is consistent with State law, including but not limited to, the provisions of the California Environmental Quality Act.

(E) All transfers authorized under this section shall be deemed a beneficial use of water by the transferor.

(F) All transfers in excess of 20 percent of the water in any district contract shall be approved by such district based on reasonable terms and conditions. Any review and approval of such transfer by a district shall be undertaken in a public process similar to those provided for in section 226 of Public Law 97-293.

(G) All transfers entered into pursuant to this subsection between Central Valley Project water contractors and entities outside the Central Valley Project service area shall be subject to a right of first refusal on the same terms and conditions by entities within the Central Valley Project service area. The right of first refusal must be exercised within ninety days from the date that notice is provided of the proposed transfer. Should an entity exercise the right of first refusal, it must compensate the transferee who had negotiated the agreement upon which the right of first refusal is being exercised for that entity's full costs associated with the development and negotiation of the transfer.

(H) Any water transfer approved pursuant to this subsection shall not be considered as conferring supplemental or additional benefits on Central Valley Project water contractors as provided in section 203 of Public Law 97-293 (43 U.S.C. 390(cc)).

(I) No transfer shall be approved unless the Secretary has determined that the transfer will have no adverse effect on the Secretary's ability to deliver water pursuant to the Secretary's Central Valley Project contractual obligations because of limitations in conveyance or pumping capacity.

(J) The agricultural water subject to any water transfer undertaken pursuant to this subsection shall be that water that would have been consumptively used on crops had those crops been produced during the year or years of the transfer or water that would have otherwise been lost to beneficial use.

(K) No transfer shall be approved unless the Secretary determines that the program will have no significant long-term adverse impact on groundwater conditions.

(b) METERING OF WATER USE REQUIRED.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this Act, shall provide that the contracting district or agency shall ensure that all surface water delivery systems within its boundaries are equipped with volumetric water meters or equally effective water measuring methods within five years of the date of contract execution, amendment, or renewal, and that any new surface water delivery systems installed within its boundaries on or after the date of contract renewal are so equipped. The contracting district or agency shall inform the Secretary and the State of California annually as to the volume of surface water delivered within its boundaries.

(c) STATE AND FEDERAL WATER QUALITY STANDARDS.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal reclamation law after the date of enactment of this Act, shall provide that the contracting district or agency shall be responsible for compliance with all applicable State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated within its boundaries.

(d) WATER PRICING REFORM.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this Act, shall provide that all project water subject to contract shall be made available to districts, agencies, and other contracting entities pursuant to a system of tiered water pricing. Such a system shall specify rates for each district, agency or entity based on an inverted block rate structure with the following provisions—

(1) the first rate tier shall apply to a quantity of water up to 60 percent of the contract total and shall be not less than the applicable contract rate;

(2) the second rate tier shall apply to that quantity of water over 60 percent and under 80 percent of the contract total at a level halfway between the rates established under paragraphs (1) and (3) of this subsection;

(3) the third rate tier shall apply to that quantity of water over 80 percent of the contract total and shall not be less than full cost;

(4) rates shall be adjusted annually for inflation; and

(5) the Secretary shall charge contractors only for water actually delivered.

(e) WATER CONSERVATION STANDARDS.—The Secretary shall establish and administer an office on Central Valley Project water conservation best management practices that shall, in consultation with the Secretary of Agriculture, the California Department of Water Resources, California academic institutions, and Central Valley Project water users, develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by section 210 of the Reclamation Reform Act of 1982:

(1) Criteria developed pursuant to this subsection shall be established within six months following enactment of this Act and shall be reviewed periodically thereafter, but no less than every three years, with the purpose of promoting the highest level of water use efficiency achievable by project contractors using best available technology and best management practices. The criteria shall include, but not be limited to agricultural water suppliers' efficient water management practices developed pursuant to California State law or suitable alternatives.

(2) The Secretary, through the office established under this subsection, shall review and evaluate within 18 months following enactment of this Act all existing conservation plans submitted by project contractors to determine whether they meet the conservation and efficiency criteria established pursuant to this subsection.

(3) In developing the water conservation best management practice criteria required by this subsection, the Secretary shall take into account and grant substantial deference to the recommendations for action proposed in the Final Report of the San Joaquin Valley Drainage Program, entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

(f) INCREASED REVENUES APPLIED TO REIMBURSABLE COSTS.—Except as otherwise provided in this section, all revenues received by the Secretary under paragraph (a) of this section shall be covered to the Restoration Fund.

SEC. 3406. FISH, WILDLIFE AND HABITAT RESTORATION.

(a) AMENDMENTS TO CENTRAL VALLEY PROJECT AUTHORIZATIONS.—Act of August 26, 1937.—Section 2 of the Act of August 26, 1937 (chapter 832; 50 Stat. 850), as amended, is amended—

(1) in the second proviso of subsection (a), by inserting "and mitigation, protection, restoration and enhancement of fish and wildlife," after "Indian reservations,";

(2) in the last proviso of subsection (a), by striking "domestic uses;" and inserting "domestic uses and fish and wildlife mitigation, protection and restoration purposes;" and by striking "power" and inserting "power and fish and wildlife enhancement";

(3) by adding at the end the following: "The mitigation for fish and wildlife losses incurred as a result of construction, operation, or maintenance of the Central Valley Project shall be concurrent with such activity and shall be based on the replacement of ecologically equivalent habitat." and

(4) by adding at the end the following:

"(e) Nothing in this Act shall limit the State's authority to condition water rights permits for the Central Valley Project to make water available to preserve, protect, or restore, fish and wildlife and their habitat.".

(b) FISH AND WILDLIFE RESTORATION ACTIVITIES.—The Secretary, in consultation with the Central Valley Project Fish and Wildlife Advisory Committee established under section 9 of this Act (hereafter "Fish and Wildlife Advisory Committee") and in cooperation with other State and Federal agencies, is authorized and directed to—

(1) develop within 18 months of enactment and implement a program which makes all reasonable efforts to ensure that, by the year 2002, natural production of anadromous fish in

Central Valley rivers and streams will be sustained, on a long-term basis, at levels not less than twice the average levels attained during the period of 1981–1990:

(A) This program shall give first priority to measures which protect and restore natural channel and riparian habitat values through direct and indirect habitat restoration actions, modifications to Central Valley Project operations, and implementation of the measures mandated by this subsection.

(B) As needed to achieve the goals of the program, the Secretary is authorized and directed to modify Central Valley Project operations to provide flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish. Instream flow needs for all Central Valley Project controlled streams and rivers shall be determined jointly by the United States Fish and Wildlife Service and the California Department of Fish and Game.

(C) With respect to mitigation or restoration of upper San Joaquin River fish, wildlife, and habitat, the Secretary is directed to participate in the San Joaquin River Management Program under development by the State of California. In support of the objectives of the San Joaquin River Management Program and the Stanislaus and Calaveras Basin Environmental Impact Statement, and in furtherance of the purposes of this Act, the Secretary, in consultation with the Fish and Wildlife Advisory Committee and affected counties and interests, shall evaluate in-basin needs in the Stanislaus River basin, and shall investigate alternative storage, release, and delivery regimes for satisfying both in-basin and out-of-basin needs. Alternatives to be investigated shall include, but shall not be limited to, conjunctive use operations, conservation strategies, exchange arrangements, and the use of base and channel maintenance flows to assist in efforts to restore fish and wildlife populations and riparian habitat values in the San Joaquin River. Nothing in this Act or the amendments to the Act of August 26, 1937 shall be construed as requiring a re-establishment of flows between Gravely Ford and Mendota Pool for mitigation or restoration of fish, wildlife and habitat.

(D) Costs associated with this paragraph shall be reimbursable pursuant to existing statutory and regulatory procedures;

(2) upon enactment of this Act, and after implementing the operational changes authorized in subsection (b)(1)(B), make available project water for the primary purpose of implementing the fish, wildlife, and habitat restoration purposes and measures authorized by this section, except that such water shall be in addition to that required to implement subsections (b)(6) and (b)(15)(A). This water may be assigned immediately to supplement instream flows. The United States Fish and Wildlife Service shall conduct studies and monitoring activities as may be necessary to determine the effectiveness of such flows in meeting the goal established in subsection (b)(1). At the end of the initial five year period, the Secretary shall adjust the quantity of water assigned as necessary to meet the goal;

(3) develop and implement a program for the acquisition of a water supply adequate to meet the purposes and requirements of this section. Such a program should identify how the Secretary will secure this water supply, utilizing the following options in order of priority: improvements in or modifications of the operations of the project; conservation; transfers; conjunctive use; purchase of water; purchase and idling of agricultural land; reductions in deliveries to Central Valley Project contractors;

(4) develop and implement a program to mitigate fully for fishery impacts associated with operations of the Tracy Pumping Plant. Such program shall include, but is not limited to improvement or replacement of the fish screens and fish recovery facilities and practices associated with the Tracy Pumping Plant. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(5) develop and implement a program to mitigate fully for fishery impacts resulting from operations of the Contra Costa Canal Pumping Plant No. 1. Such program shall provide for construction and operation of fish screening and recovery facilities, and for modified practices and operations. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(6) install and operate a structural temperature control device at Shasta Dam to control water temperatures in the Upper Sacramento River in order to protect all life stages of anadromous fish in the Upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam. Costs associated with planning and construction of the structural temperature control device shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(7) meet flow standards and objectives and diversion limits set forth in all State regulatory and judicial decisions which apply to Central Valley Project facilities;

(8) investigate the feasibility of using short pulses of increased water flows to increase the survival of migrating juvenile anadromous fish in the Sacramento-San Joaquin Delta and Central Valley rivers and streams. Costs associated with implementation of this subparagraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(9) develop and implement a program which will eliminate, to the extent possible, losses of anadromous fish due to flow fluctuations caused by the operation of any Central Valley Project storage facility. The program shall be patterned after the agreement between the California Department of Water Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex;

(10) develop and implement measures to correct fish passage problems for adult and juvenile anadromous fish at the Red Bluff Diversion Dam. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(11) rehabilitate and expand the Coleman National Fish Hatchery by implementing the United States Fish and Wildlife Service's Coleman National Fish Hatchery Development Plan, and modify the Keswick Dam Fish Trap to provide for its efficient operation at all project flow release levels. The operation of Coleman National Fish Hatchery shall be coordinated with all other mitigation hatcheries in California. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(12) develop and implement a program to restore the natural channel and habitat values of Clear Creek, construct new fish passage facilities at the McCormick-Saeltzer Dam, and provide flows in Clear Creek to provide optimum spawning, incubation, rearing and outmigration conditions for all races of salmon and steelhead trout. Flows shall be provided by the Secretary from Whiskeytown Dam as determined by instream flow studies conducted jointly by the California Department of Fish and Game and United States Fish and Wildlife Service. Costs associated with providing the flows required by this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California. Costs associated with channel restoration and passage improvements required by this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California;

(13) develop and implement a program for the purpose of restoring and replenishing, as needed, spawning gravel lost due to the construction and operation of Central Valley Project dams, bank protection programs, and other actions that have reduced the availability of spawning gravel in the rivers impounded by Central Valley Project facilities. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(14) develop and implement a program which provides, as appropriate, for closure of the Delta Cross Channel and Georgiana Slough during times when significant numbers of striped bass eggs, larvae, and juveniles approach the Sacramento River intake to the Delta Cross Channel or Georgiana Slough. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(15) construct, in cooperation with the State of California, a barrier at the head of Old River to be operated on a seasonal basis to increase the survival of young outmigrating salmon that are diverted from the San Joaquin River to Central Valley Project and State Water Project pumping plants. The cost of constructing, operating and maintaining the barrier shall be shared equally by the State of California and the United States. The United States' share of costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(16) in support of the objectives of the Central Valley Habitat Joint Venture, deliver firm water supplies of suitable quality to maintain and improve wetland habitat on units of the National Wildlife Refuge System in the Central Valley of California, the Gray-Lodge, Los Banos, Volta, North Grasslands, and Mendota State wildlife management areas, and the Grasslands Resource Conservation District in the Central Valley of California:

(A) Upon enactment of this Act, the quantity and delivery schedules of water for each refuge

shall be in accordance with Level 2 of the "Dependable Water Supply Needs" table for that refuge as set forth in the Refuge Water Supply Report or two-thirds of the water supply needed for full habitat development for those refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation. Such water shall be delivered until the water supply provided for in subparagraph (B) of this paragraph is provided.

(B) Not later than ten years after enactment of this Act, the quantity and delivery schedules of water for each refuge shall be in accordance with Level 4 of the "Dependable Water Supply Needs" table for that refuge as set forth in the Refuge Water Supply Report or the full water supply needed for full habitat development for those refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(C) The Secretary is authorized to construct such water conveyance facilities and wells as are necessary to implement this paragraph. The increment of water required to fulfill subparagraph (B) of this paragraph shall be acquired by the Secretary through voluntary water conservation, conjunctive use, purchase, lease, donations, or similar activities, or a combination of such activities which do not require involuntary reallocation of project yield. The priority or priorities applicable to such incremental water deliveries for the purpose of shortage allocation shall be the priority or priorities which applied to the water in question prior to its transfer to the purpose of providing such increment;

(17) establish a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley and to assess the biological results of actions implemented pursuant to this section. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(18) develop and implement a plan to resolve fishery passage problems at the Anderson-Cottonwood Irrigation District Diversion Dam. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California;

(19) if requested by the State of California, assist in developing and implementing management measures to restore the striped bass fishery of the Bay-Delta estuary. Coats associated with implementation of this paragraph shall be allocated 50 percent to the United States as a reunbursable expenditure and 50 percent to the State of California. The United States' share of costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 50 percent shall be reimbursed as main project features and 50 percent shall be considered a nonreimbursable Federal expenditures;

(20) evaluate and revise, as appropriate, existing operational criteria in order to maintain minimum carryover storage at Sacramento and Trinity river reservoirs sufficient to protect and restore the anadromous fish of the Sacramento and Trinity rivers in accordance with the mandates and requirements of this subsection;

(21) participate with the State of California and other federal agencies in the implementation of the on-going program to mitigate fully for the fishery impacts associated with operations of the Glenn-Colusa Irrigation District's Hamilton City Pumping Plant. Such participation shall include replacement of the defective fish screens and fish recovery facilities associated with the Hamilton City Pumping Plant. This authorization shall not be deemed to supersede or alter existing authorizations for the participation of other Federal agencies in the mitigation program. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a non-reimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(22) install a temperature control device on Lewiston Dam to conserve cold water for fishery protection, provided that the cost of such device shall not exceed $1,500,000. Such devices, with the same cost restriction, may also be installed on the Trinity and Whiskeytown dams if the Secretary deems it appropriate. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

If the Secretary and the State of California determine that long-term natural fishery productivity in the Sacramento River, American River, and San Joaquin River resulting from implementation of this section is better than conditions that existed in the absence of Central Valley Project facilities, any enhancement provided shall shall become credits to offset reimbursable costs associated with implementation of this section.

(c) Additional Habitat Restoration Actions.—Not later than five years after enactment of this Act, the Fish and Wildlife Advisory Committee shall investigate and provide recommendations to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House on the following subjects:

(1) alternative means of improving the reliability and quality of water supplies currently available to privately owned wetlands in the Central Valley and the need, if any, for additional supplies;

(2) water supply and delivery requirements necessary to permit full habitat development for water dependent wildlife on 120,000 acres supplemental to the acreage referenced in paragraph (b)(15) of this section and feasible means of meeting that water supply requirement;

(3) measures to maintain suitable temperatures for anadromous fish survival in the Sacramento and San Joaquin rivers and their tributaries, and the Sacramento-San Joaquin Delta by controlling or relocating the discharge of irrigation return flows and sewage effluent, and restoring riparian forests;

(4) opportunities for additional hatchery production to mitigate the impacts of water development on Central Valley fisheries where no other feasible means of mitigation is available;

(5) measures to eliminate losses of juvenile anadromous fish resulting from unscreened or inadequately screened diversions on the Sacramento and San Joaquin rivers, their tributaries, and in the Sacramento and San Joaquin Delta, including measures such as construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing non-functioning screens, and relocation of diversions to less fishery-sensitive areas;

(6) measures to eliminate barriers to upstream and downstream migration of salmonids in the Central Valley, including removal programs or programs for the construction of new fish ladders; and

(7) construction of temperature control structures on Trinity, Lewiston, and Whiskeytown dams to conserve cold water for fishery protection.

(d) Report on Project Fishery Impacts.—The Secretary, in consultation with the Secretary of Commerce, the State of California, appropriate Indian tribes, and other appropriate public and private entities, shall investigate and report on all effects of the Central Valley Project on anadromous fish populations and the fisheries, communities, tribes, businesses and other interests and entities that have now or in the past had significant economic, social or cultural association with those fishery resources. The Secretary shall provide such report to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives not later than two years after the date of enactment of this Act.

(e) Ecosystem and Water System Operations Models.—The Secretary, in consultation with the State of California and in consultation with the Fish and Wildlife Advisory Committee, and other relevant interests and experts, shall develop readily usable and broadly available models and supporting data to evaluate the ecologic and hydrologic effects of existing and alternative operations of public and private water facilities and systems in the Sacramento, San Joaquin, and Trinity river watersheds. The primary purposes of this effort shall be to support the Secretary's efforts in fulfilling the requirements of this Act through improved scientific understanding concerning, but not limited to, the following:

(1) a comprehensive water budget of surface and groundwater supplies, considering all sources of inflow and outflow available over extended periods;

(2) water quality;

(3) surface-ground and stream-wetland interactions;

(4) measures needed to restore anadromous fisheries to optimum and sustainable levels in accordance with the restored carrying capacities of Central Valley rivers, streams, and riparian habitats;

(5) development and use of base flows and channel maintenance flows to protect and restore natural channel and riparian habitat values;

(6) implementation of operational regimes at State and Federal facilities to increase springtime flow releases, retain additional floodwaters, and assist in restoring both upriver and downriver riparian habitats;

(7) measures designed to reach sustainable harvest levels of resident and anadromous fish, including development and use of systems of tradeable harvest rights;

(8) opportunities to protect and restore wetland and upland habitats throughout the Central Valley; and

(9) measures to enhance the firm yield of existing Central Valley Project facilities, including improved management and operations, conjunctive use opportunities, development of offstream storage, levee setbacks, and riparian restoration.

In implementing this subsection, all studies and investigations shall take into account and be fully consistent with the fish, wildlife, and habitat protection and restoration measures required by this Act or by any other state or federal law, statute, or regulation. One-half of the costs associated with implementation of this subsection shall be borne by the United States as a nonreimbursable cost, the other half shall be borne by the State of California.

SEC. 3407. RESTORATION FUND.

(a) Restoration Fund Established.—There is hereby established in the Treasury of the United States the "Central Valley Project Restoration Fund" (hereafter "Restoration Fund")

which shall be available for deposit of donations from any source and revenues provided under this Act. Funds made available to the Restoration Fund are authorized to be appropriated to the Secretary to carry out the provisions of section 8(c), section 8(i), and the habitat restoration, improvement and acquisition (from willing sellers) provisions of this Act.

(b) MAXIMUM SURCHARGE ON WATER AND POWER SALES.—The Secretary shall impose an annual operations and maintenance charge on all sales of project power and water sufficient to generate $15,000,000 (October 1991 price levels) to be deposited in the Restoration Fund. The amount of the charge paid by Central Valley Project water and power users shall be assessed in the same proportion as their cost allocation.

(c) FUNDING TO NON-FEDERAL ENTITIES.—If the Secretary determines that the State of California or an agency thereof, or other nonprofit entity concerned with restoration, protection, or enhancement of fish, wildlife, habitat, or environmental values is best able to implement an action authorized by this Act in an efficient, timely, and cost effective manner, the Secretary is authorized to provide funding to such entity to implement the identified action.

(d) LIMITATION OF EXPENDITURES.—The Secretary shall not expend any funds on construction of capital facilities authorized under section 6 of this Act as to which the State of California is required to contribute a share of total costs until the State of California has agreed to meet such cost sharing requirement.

SEC. 3408. ADDITIONAL AUTHORITIES.

(a) REGULATIONS AND AGREEMENTS AUTHORIZED.—The Secretary is authorized and directed to promulgate such regulations and enter into such agreements as may be necessary to implement the intent, purposes and provisions of this Act.

(b) USE OF ELECTRICAL ENERGY.—Electrical energy used to operate and maintain facilities developed for fish and wildlife purposes pursuant to this Act, including that used for groundwater development, shall be deemed as Central Valley Project power and shall be repaid by the user in accordance with Reclamation law and at a price not higher than the lowest price paid by or charged to Central Valley Project contractors.

(c) ACQUISITION OF ADDITIONAL WATER SUPPLY.—In order to carry out the intent, purposes and provisions of this Act, the Secretary is authorized to obtain water supplies from any source available to the Secretary, including, but not limited to direct purchase from willing sellers of water, acquisition of land and associated ground and surface water rights, water made available from conjunctive use projects, and implementation of on-farm water conservation practices where water conserved thereby will be made available to the Secretary.

(d) CONTRACTS FOR ADDITIONAL STORAGE AND DELIVERY OF WATER.—The Secretary is authorized to enter into contracts pursuant to Reclamation law and this Act with any Federal agency, California water user or water agency, State agency, or private non-profit organization for the exchange, impoundment, storage, carriage, and delivery of Central Valley Project and non-project water for domestic, municipal, industrial, fish and wildlife, and any other beneficial purpose, except that nothing in this subsection shall be deemed to supersede the provisions of section 103 of Public Law 99-546 (100 Stat. 3051).

(e) USE OF PROJECT FOR WATER BANKING.—The Secretary, in consultation with the State of California, is authorized to enter into agreements to allow project contracting entities to use project facilities, where such facilities are not otherwise committed or required to fulfill project purposes or other Federal obligations, for supplying carry-over storage of irrigation and other water for drought protection, multiple-benefit credit-storage operations, and other purposes. The use of such water shall be consistent with and subject to applicable State laws.

(f) LIMITATION ON CONSTRUCTION.—This Act does not and shall not be interpreted to authorize construction of water storage facilities.

(g) ANNUAL REPORTS TO CONGRESS.—Not later than October 1 of the first full fiscal year after enactment of this Act, and annually thereafter, the Secretary shall submit a detailed report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report shall describe all significant actions taken by the Secretary pursuant to this Act and progress toward achievement of the intent, purposes and provisions of this Act. Such report shall include recommendations for authorizing legislation or other measures, if any, needed to implement the intent, purposes and provisions of this Act.

(h) RECLAMATION LAW.—This Act shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof.

(i) LAND RETIREMENT.—(1)The Secretary is authorized to purchase from willing sellers at fair market value land and associated water rights and other property interests identified in subsection (2) which receives Central Valley Project water under a contract executed with the United States.

(2) The Secretary is authorized to purchase, under the authority of subsection (i)(1), and pursuant to such rules and regulations as may be adopted or promulgated to implement the provisions of this subsection, agricultural land which, in the opinion of the Secretary—

(A) would, if permanently retired from irrigation, improve water conservation by a district, or improve the quality of an irrigation district's agricultural wastewater and assist the district in implementing the provisions of a water conservation plan approved under section 210 of the Reclamation Reform Act of 1982 and agricultural wastewater management activities developed pursuant to the recommendations contained in the final report of the San Joaquin Valley Drainage Program (September, 1990); or

(B) are no longer suitable for sustained agricultural production because of permanent damage resulting from severe drainage or agricultural wastewater management problems, groundwater withdrawals, or other causes.

(j) WATER CONSERVATION.—(1) The Secretary is authorized to undertake, in cooperation with Central Valley Project irrigation contractors, water conservation projects or measures needed to meet the requirements of this Act. The Secretary shall execute a cost-sharing agreement for any such project or measure undertaken. Under such agreement, the Secretary is authorized to pay up to 100 percent of the costs of such projects or measures. Any water saved by such projects or measures shall be made available to the Secretary in proportion to the Secretary's contribution to the total cost of such project or measure. Such water shall be used by the Secretary to meet the Secretary's obligations under this Act, including the requirements of section 6(b)(2). Such projects or measures must be implemented fully by the end of fiscal year 1999.

(2) There are authorized to be appropriated through the end of fiscal year 1997 $0 to carry out the provisions of this subsection. Funds appropriated under this subsection shall be a non-reimbursable Federal expenditure.

(k) CITIZEN SUITS.—(1) Any person may commence a civil suit in his or her own behalf against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under sections 4, 5, 6, 7, 8, and 12 of this Act which is not discretionary with the Secretary.

(2) The court may award costs of litigation (including reasonable expenses and attorney and expert witness fees) to any party other than the United States whenever the court determines such award is appropriate.

(3) The relief provided by this section shall not restrict any right which any person (or class of persons) may otherwise have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(4) The district courts shall have jurisdiction to prohibit or prevent any violation of this Act, to compel any action required by this Act, and to issue any other order to further the purposes of this Act. An action under this section may be brought in any judicial district where the alleged violation occurred or is about to occur, where fish or wildlife resources affected by the alleged violation are located, or in the District of Columbia.

SEC. 3409. CENTRAL VALLEY PROJECT FISH AND WILDLIFE ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the "Central Valley Project Fish and Wildlife Advisory Committee", hereafter referred to as the "Fish and Wildlife Advisory Committee".

(b) DUTIES.—The Fish and Wildlife Advisory Committee shall make recommendations to the Secretary with respect to the fish, wildlife, and environmental restoration actions identified in section 6. Such recommendations shall be advisory in nature and shall not be binding on the Secretary, however, the Secretary shall give substantial deference to such recommendations in carrying out responsibilities under this Act. Should the Secretary not implement any recommendations made by the Fish and Wildlife Advisory Committee, the Secretary shall notify the Committee in writing and explain the reasons for rejecting the recommendation.

(c) APPOINTMENT AND MEMBERSHIP.—The Fish and Wildlife Advisory Committee shall be comprised of the Director of the U.S. Fish and Wildlife Service and the Governor of California, or their designees, and twenty additional members appointed by the Secretary in consultation with the Governor to provide—

(1) ten representatives of environmental and conservation interests (including one representative of the Hoopa Valley Tribe); and

(2) ten representatives of agricultural and urban water users (including one representative of Central Valley Project power users).

(d) TERMS.—The term of a member of the Fish and Wildlife Advisory Committee shall be five years, except that five of the members appointed pursuant to subsection (c)(1) and five of the members appointed pursuant to subsection (c)(2) shall be appointed for an initial term of three years. Any vacancy on the Committee shall be filled in the same manner as the original appointment.

(e) CHAIRMANSHIP AND VOTING.—The Fish and Wildlife Advisory Committee shall be co-chaired by the Director of the United States Fish and Wildlife Service and the Governor of California, or their designees. The Committee shall meet at the call of the co-chairs or upon the request of a majority of its members. The Committee shall operate with the objective of achieving consensus, but may provide recommendations based on a majority vote.

(f) ADMINISTRATION.—The Secretary, in cooperation with the State of California, shall provide the Fish and Wildlife Advisory Committee with necessary administrative and technical support service, including information relevant to the functions of the Committee. The Committee shall determine its organization and pre-

scribe the practices and procedures for carrying out its functions, and may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) EXPENSES.—While away from their homes or regular places of business in the performance of service for the Fish and Wildlife Advisory Committee, members and their technical representatives shall be allowed travel expenses, including a per-diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or technical representative who is an employee of an agency or governmental unit of the United States or State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this subsection.

(h) GOVERNMENT EMPLOYEES.—Members of the Fish and Wildlife Advisory Committee and technical representatives who are full-time officers or employees of the United States or the State of California shall receive no additional pay, allowances, or benefits by reason of their service on the Committee.

(i) FEDERAL ADVISORY COMMITTEE ACT.—Except as provided in this section, the terms and provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended, (5 U.S.C. App. 2), shall apply to the Fish and Wildlife Advisory Committee.

(j) TERMINATION.—The Fish and Wildlife Advisory Committee shall cease to exist on December 31, 2010.

SEC. 3410. CENTRAL VALLEY PROJECT TRANSFER ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the "Central Valley Project Transfer Advisory Committee", hereafter referred to as the "Transfer Advisory Committee".

(b) MEMBERSHIP.—The Transfer Advisory Committee shall be comprised of 16 individuals, appointed as follows:

(1) 8 appointed by the Governor of California, one to represent each of the following organizations and interests:

(A) California Resources Agency;

(B) California State Water Resources Control Board;

(C) Central Valley Project agricultural water contractors;

(D) Central Valley Project municipal and industrial water contractors;

(E) Central Valley Project power contractors;

(F) environmental organizations;

(G) waterfowl conservation organizations; and

(H) fishery conservation organizations.

(2) 1 appointed by the President Pro Tempore of the California State Senate;

(3) 1 appointed by the Speaker of the California State Assembly;

(4) 2 appointed by the Secretary of the United States Department of the Interior to represent individually the United States Fish and Wildlife Service and Bureau of Reclamation;

(5) the Inspector General of the Department of the Interior or his or her designee;

(6) the Administrator of the Environmental Protection Agency or his or her designee;

(7) the Comptroller General of the United States or his or her designee; and

(8) 1 appointed by the Hoopa Valley Tribe.

(c) DUTIES.—The Transfer Advisory Committee shall prepare a report to Congress and the President on all issues associated with transfer of all Central Valley Project facilities and assets, assuming, first, that the transfer would be to the State of California, assuming, second that the transfer would be to Central Valley Project contractors, and assuming, third, that the transfer would be to a Commission with the members appointed by the Governor of California and the Secretary that would jointly operate the California State Water Project and the Central Valley Project. The Transfer Advisory Committee shall provide recommendations on which of these transfer options best serves the interests of the United States and the State of California, and on legislative and administrative measures required to execute such transfer which would ensure that—

(1) the fish and wildlife protection and restoration goals of this Act are achieved;

(2) the reserved fishing and water rights of affected Indian tribes are preserved, and the ability of the United States to meet its trust obligations with respect to such tribal assets is maintained;

(3) the Secretary's contractual obligations and rights associated with the Central Valley Project are fulfilled;

(4) the operations of the Central Valley Project and the California State Water Project are integrated to the maximum extent practicable; and

(5) Federal expenditures associated with the Central Valley Project are minimized.

(d) CHAIRMANSHIP AND VOTING.—The Transfer Advisory Committee shall be co-chaired by the Inspector General of the United States Department of the Interior and any individual selected by the Governor of California from among the Transfer Advisory Committee members appointed by the Governor of California pursuant to paragraph (a)(1) of this section. The Committee shall operate with the objective of achieving consensus, but may provide recommendations based on a majority vote.

(e) FEDERAL ADVISORY COMMITTEE ACT.—Except as provided herein, the terms and provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended, (5 U.S.C. App. 2), shall apply to the Advisory Committee.

(f) ADMINISTRATION.—The Secretary, in cooperation with the State of California, shall provide the Transfer Advisory Committee with necessary administrative and technical support service, including information relevant to the functions of the Committee. The Committee shall determine its organization and prescribe the practices and procedures for carrying out its functions, and may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) EXPENSES.—While away from their homes or regular places of business in the performance of service for the Transfer Advisory Committee, members and their technical representatives shall be allowed travel expenses, including a per-diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or technical representative who is an employee of an agency or governmental unit of the United States or State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this subsection.

(h) GOVERNMENT EMPLOYEES.—Members of the Transfer Advisory Committee and technical representatives who are full-time officers or employees of the United States or the State of California shall receive no additional pay, allowances, or benefits by reason of their services on the Committee.

(i) REGULAR MEETINGS REQUIRED.—The Transfer Advisory Committee shall meet at the call of the co-chairs and, in any event, not less than once every three months following enactment of this Act.

(j) DEADLINE FOR SUBMISSION OF REPORT.—The Transfer Advisory Committee shall submit the report as required by subsection (c) of this section not later than December 31, 1993. The report shall be submitted to the President of the United States, the Committee on Energy and Natural Resources of the Senate, the Committee on Appropriations of the Senate, the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committee on Appropriations of the House of Representatives.

(k) TERMINATION.—The Transfer Advisory Committee shall terminate 90 days after submission of such report.

SEC. 3411. SAN FRANCISCO BAY AND DELTA WETLAND RESTORATION PROGRAM.

(a) PROGRAM AUTHORIZED.—The Secretary, in cooperation with the Secretary of the Army, and in consultation with the State of California, San Francisco Bay area port authorities, fishery and waterfowl conservation interests, and the Fish and Wildlife Advisory Committee shall investigate and, if feasible, develop and implement a program using dredged material to restore, protect, and expand San Francisco Bay and Delta wetlands for the purposes of recruitment and survival of waterfowl, fish, and other wetland dependent species, flood control, water quality improvement, and sedimentation control.

(b) SPECIFIC CONSIDERATIONS.—The program developed under this section shall consider a broad range of upland disposal and give emphasis to restoration, protection, and expansion of wetlands supporting abundant and diverse wetland ecosystems, including, but not limited to—

(1) high primary productivity and functioning food chains;

(2) seasonal values for waterfowl breeding, nesting, staging, and wintering;

(3) habitat values for migrating anadromous fish; and

(4) protection from predation and disease.

(c) QUALITY OF DREDGE MATERIALS.—The program developed under this section shall ensure that dredge materials used for wetland restoration, protection, or expansion shall be of appropriate quality for such purposes.

SEC. 3412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Funds appropriated under this section shall remain available until expended.

SEC. 3413. SIPHON REPAIR AND REPLACEMENT.

(a) Congress finds that the prestressed concrete pipe siphons installed in the Hayden-Rhodes Aqueduct portion of the Central Arizona Project Designed and constructed by the Secretary pursuant to the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) have been determined to be defective, inadequate and unsuitable for aqueduct purposes and must be replaced or substantial repairs completed for the transfer of the operation of the Project to its local sponsor.

(b) Notwithstanding any other provision of law of contract, costs incurred in the repair, modification or replacement, together with associated costs, of the Hayden-Rhodes Aqueduct siphons at Salt River, New River, Hassayampa River, Jackrabbit Wash, Centennial Wash and Aqua Fria River, all features of the Central Arizona Project, shall be borne by the United States and shall be nonreimbursable and nonreturnable.

SEC. 3414. BUFFALO BILL DAM AND RESERVOIR, SHOSHONE PROJECT, PICK-SLOAN MISSOURI BASIN PROGRAM, WYOMING.

There are authorized to be appropriated such sums as may be required due to increased costs of construction attributable to delays in enactment of any additional authorization of appropriations for the construction of the Buffalo Bill

Dam and Reservoir modifications and recreational facilities. Provided, That such additional sums shall be nonreimbursable and nonreturnable under the Federal reclamation laws.

SEC. 3415. DEMONSTRATION PROJECT.

The Secretary is authorized and directed to undertake a demonstration project in the City and County of San Francisco to examine the feasibility and effectiveness of using advanced ecologically engineered technology for water reclamation and reuse in accordance with the title 22 standards of the California Water Code. "Advanced ecologically engineered technology" refers to a greenhouse-based, ecologically engineered technology which employs highly populated pond and marsh ecosystems to produce water for reclamation and reuse. One-half of the costs associated with implementation of this subsection shall be borne by the United States as a nonreimbursable cost; the other half shall be borne by the State of California and the City and County of San Francisco.

SEC. 3416. RECREATION

The first section of the Act of August 27, 1954 (16 U.S.C. 695d), is amended by inserting "and also for the use and enjoyment of the lands, waters, and related facilities thereof for recreation," after "fish and wildlife purposes.".

AMENDMENT NO. 2820

Mr. WIRTH. Mr. President, on behalf of Senator JOHNSTON and others, I move that the Senate concur in the amendment of the House, with an amendment that I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH], for Mr. JOHNSTON, proposes an amendment numbered 2820.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. WALLOP. Mr. President, I support the amendment offered to H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1992. Adoption of the amendment will finally permit us to go to conference with the House. It was not my idea to engage in the hostage taking, which now runs to 40 titles. Hopefully, we will be able to sort through all these titles and enact some long overdue legislation.

The amendment incorporates the text of H.R. 429 as originally passed by the Senate with two additional titles. The first of the additions is the San Carlos Indian settlement legislation as passed earlier by the Senate. At the time of its passage, I entered into a colloquy with Senator McCAIN. So that the legislative history of that title is complete, I would ask unanimous consent that the text of that colloquy appear in the record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. Mr. President, the second amendment incorporates the text of S. 684, the National Historic Preservation Act Amendments of 1992, as reported by the Committee on Energy and Natural Resources. There are a few modifications which were worked out to address some concerns which I had raised and I am grateful to Tom Williams and David Brooks of the committee's majority staff and Mary Stewart of Senator FOWLER's staff for their help in working out those amendments. I assume that we will still need to do some refinements in conference, and I must admit that I am not completely happy, but I do appreciate their efforts. I would ask unanimous consent that a copy of my minority views in the committee report be included in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WALLOP. Mr. President, those views set forth my underlying concern with the effect which well intentioned Federal programs can have on an unsuspecting public.

Mr. President, the attitude of the House on this measure is perplexing at best. On the Energy legislation which the Senate has been considering, the staff from the Senate and the House has been working overtime since the House action to prepare for conference. Throughout the July recess, the staff has worked to prepare a side-by-side for the conferees and attempting to define and resolve issues so that the Senate and the House can proceed directly to conference. That indicates to me that both the Senate and the House intend to try to resolve the many differences prior to adjournment.

Contrast that with the attitude of the House on this major water legislation. Last Congress we were held hostage for a resolution of reclamation reform, where members of the Senate and the House insisted on an agreement on unrelated social policy as the price of enactment of otherwise agreed on legislation. When a resolution on that issue seemed to be possible, the ransom was raised to include a massive restructuring of the Central Valley Project in California. When an agreement seems to have been worked out between representatives of the environmental defense fund and the water users, which could have served as the basis of a compromise, the House went into a shell. The House has refused to meet with the Senate to do any of the preparatory work for a conference. Their staff has refused to meet to work out a side-by-side or list of issues.

Our counterparts on the House side understand full well what the loss of the July recess and the last month means to getting a final resolution which can be enacted prior to adjournment. Rather than rejecting the Senate amendments and proceeding to conference 2 months ago, they reamended the bill and sent it back with a request for conference. The papers did not arrive in the Senate until a week later, just prior to the Senate's recess. Their staff has refused to meet on the absurd basis that they need to know who the Senate conferees are before the staff can meet. That is simply ridiculous.

The House knows what the pressures will be on our committee resources during the energy conference and I am certain that was part of their decision to delay consideration of this legislation. I think we can rise to their challenge, but I do want my colleagues to understand that there has been no indication that they are serious about seeing this legislation enacted.

EXHIBIT 1

COLLOQUY ON S. 291, SAN CARLOS APACHE INDIAN WATER SETTLEMENT

Senator WALLOP: Mr. President, S. 291 as reported by the Select Committee on Indian Affairs includes several provisions involving matters that fall within the jurisdiction of the Committee on Energy and Natural Resources. Since the Select Committee's report was filed on July 31, I have had an opportunity to review these provisions and the explanations of them in the Select Committee's report and am persuaded that a further, formal review by the Energy Committee is not necessary. However, for the record, I would ask the junior Senator from Arizona, the Vice Chairman of the Select Committee, if he would respond to three questions about the legislation.

Senator McCAIN: I will be happy to respond.

Senator WALLOP: Mr. President, Section 10(j) of the bill authorizes the Secretary of the Interior to acquire from the City of Scottsdale, Arizona, Planet Ranch on the Bill Williams River, including all appurtenant water rights and the city's pending application with the State of Department of Water Resources to appropriate additional water from the river, through a land exchange based on fair market value. If the lands the Secretary exchanges for Planet Ranch are lands previously purchased by the Bureau of Reclamation for the construction and use of the Central Arizona Project (CAP), how will this affect the repayment obligations of the Central Arizona Water Conservation District (CAWCD)?

Senator McCAIN: There will be no change in the District's repayment obligation. Under the terms of CAWCD's repayment contract and Reclamation law, once repayment of the CAP begins, if the Bureau of Reclamation sells lands it purchased for CAP use, the CAWCD is entitled to receive credit against the annual payments due on its repayment obligation. Section 10(j) ensures that in the event these same lands are exchanged for Planet Ranch, the CAWCD will receive the same fair market value credit against its annual payments as it would if the lands were sold. The effect is to ensure that the CAWCD, as a third party, neither receives a windfall nor suffers a penalty as a result of a Planet Ranch exchange.

Senator WALLOP: I thank the Senator for his answer. Section 10(k) of S. 291 repeals section 304(c)(3) of the Colorado River Basin Project Act of 1968. Will the Senator from Arizona please explain why this provision is in the bill?

Senator McCAIN: I will be happy to explain. First let me say that Section 304(c)(3) requires the Secretary of the Interior to find that a surplus of ground water exists and that drainage is or was required as a precondition for permitting ground water to be pumped from within the exterior boundaries of a CAP contractor's service area for any use outside that contractor's service area. This provision, which was enacted twelve years before Arizona enacted a comprehensive groundwater management law and twenty-three years before Arizona enacted statewide comprehensive legislation governing the transportation of groundwater, has provided the only federal requirement with respect to the transfer of ground water within the State of Arizona and applies to no other State.

Although the Secretary to date has not invoked the provision, municipalities in Maricopa County, including the City of Phoenix, are concerned that Section 304(c)(3) might be interpreted as a bar to a variety of water management activities either under way or contemplated pursuant to the State's Groundwater Management Act or pursuant to Indian water rights settlements. Consequently, they sought its repeal as part of the Fort McDowell Indian water rights settlement in the 101st Congress. However, rural Arizona counties and municipalities opposed repeal until the Arizona legislature enacted statewide comprehensive legislation on groundwater transportation. The Arizona delegation agreed that, upon enactment of such legislation by the State, we would seek repeal of 304(c)(3).

In May of this year Arizona enacted comprehensive groundwater transportation legislation that included a declaration of the State's support for legislation in Congress to amend Section 304(c)(3). Accordingly, Section 10(k) was added to S. 291.

I would observe that this affirmative response to the State's request is entirely consistent with longstanding federal policy to defer to State law on matters concerning the management and use of a State's water within its boundaries.

Senator WALLOP: I thank the Senator for his explanation. My third question concerns section 8(f) of S. 291, which provides for a waiver of ownership and full cost pricing limitations of Reclamation law to CAP contractors who waive any claims to the so-called excess AK-Chin water. Would the Senator explain the basis for this provision?

Senator MCCAIN: I'm glad to explain. Mr. President, the waivers authorized by Section 8(f) constitute a compromise that eliminates opposition to a key provision of the San Carlos settlement that allocates to the San Carlos Apache Tribe 33,300 acre-feet of Colorado River water which is excess to the Secretary's requirements under the 1984 AK-Chin Indian water settlement. S. 291 provides for the Tribe to lease this water to various Arizona municipalities and thereby obtain a significant, long term source of revenue—estimated at more than $40,000,000 over the next forty years—with which to develop its water and other resources.

However, reallocation of the excess AK-Chin water to the San Carlos Tribe for lease to municipal users will effectively preclude CAP non-Indian agricultural contractors from having any access to that water. Because these contractors were intended to have such access pursuant to the 1984 Senate amendments to the AK-Chin settlement they, as well as the State and the Central Arizona Water Conservation District, strongly opposed the reallocation and the settlement without some offsetting consideration. The Select Committee adopted the view of the State, the CAWCD and the contractors that a waiver of the ownership and full cost pricing limitations of Reclamation law would be appropriate consideration primarily because these limitations operate to frustrate efficient and economical use of water in central Arizona, which is directly contrary to the purposes of the 1968 Colorado River Basin Project Act and Arizona's Groundwater Management Act.

Mr. President, because section 8(f) is such an important provision of the San Carlos settlement, I think it is appropriate to include at this point in the record those portions of the report of the Select Committee on Indian Affairs on S. 291 (S. Rept. 102-133), which detail the history of the 1984 AK-Chin amendments and further explain the basis for the Reclamation waiver:

"In 1983 the Secretary and the AK-Chin Indian Community renegotiated the terms of the 1978 AK-Chin settlement after it had become clear that problems associated with acquiring the water sources identified in that settlement made those sources not viable. As introduced and passed by the House in September, 1984, the settlement amendments required the Secretary to provide 75,000 AF annually to AK-Chin, with the first 50,000 AF to be Colorado River water acquired from the Yuma-Mesa Division of the Gila Project, and the balance to come from AK-Chin's 58,300 AF CAP Indian allocation.

"Arizona's governor and Department of Water Resources (DWR) objected to the allocation of the unused Yuma-Mesa water for AK-Chin. DWR, which had included the allocated but unused Yuma-Mesa water in its calculation of Central Arizona Project supplies available for ultimate allocation to non-Indian agricultural and municipal users, saw the allocation to AK-Chin as causing shortages for other allottees in future dry years. After the House passed the renegotiated settlement on September 17, 1984, the Governor and DWR director sought changes in the legislation in the Senate.

"Arizona Senators Goldwater and DeConcini declined to change the terms of the renegotiated settlement, but did agree to two amendments that addressed the State's concerns. One modified Section 2(k) of the House bill, which provides that:

"Whenever the aggregate water supply * * * exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall have the authority to contract, on an interim basis, for the allocation of any of the water * * * which is not required for delivery to the AK-Chin Indian Reservation under this Act." The House Report (98-1026) was ambiguous as to the meaning of this provision. On page 5 it stated that "any water from these combined sources of water that is in excess of the Community's entitlement will be available for allocation to other water users in central Arizona", although the actual language in 2(k) did not specify central Arizona. On page 13, in the section-by-section analysis of section 2(K), the report states that "It is the intent of the Committee that any such excess water be allocated for use in Arizona."

"The State wanted to eliminate any doubt that the excess AK-Chin water would be used in central Arizona. Accordingly, Arizona's Senators agreed to amend subsection 2(K) to read "the Secretary shall allocate on an interim basis TO THE CENTRAL ARIZONA PROJECT any of the water * * * which is not required for delivery to the AK-Chin Indian Reservation under this Act."

"Relevant portions of both Senators' statements made during Senate consideration of H.R. 6206, as well as subsequent statements made in the House by Interior Committee Chairman Udall and Representative McCain concurring in the Senate amendments, describe the intent of requiring the Secretary to allocate the excess AK-Chin water to the Central Arizona Project so as to ensure that the water would be available to the Central Arizona Water Conservation District, the eventual operator of the CAP, for use by its non-Indian contractors.

"At the March 28, 1991 joint hearing on S. 291, Senator DeConcini and witnesses from the State of Arizona, the CAWCD, CAP agricultural contractors and Pinal County municipalities expressed support for the San Carlos settlement but strongly opposed S. 291's provisions allocating the excess AK-Chin water to the San Carlos Apache Tribe and authorizing its lease to municipal entities. The common base for their opposition is that these provisions, by effectively denying CAP agricultural contractors, who are not otherwise parties to the settlement, any opportunity to use the AK-Chin excess water, would frustrate the purpose and intent of the 1984 Senate amendments to the AK-Chin settlement. Only if the non-Indian CAP agricultural contractors received some consideration to offset their loss of all future access to the excess AK-Chin water would these parties support the settlement and S. 291.

"The Tribe and the Interior Department testified that the settlement would be unacceptable to them without the reallocated excess AK-Chin water and its lease revenues going to the Tribe. The Department has asserted that because the actual language of the 1984 amendments to the AK-Chin settlement arguably did not vest any legally enforceable right to the excess AK-Chin water in the State, CAWCD or its contractors, the purpose and intent of the Senate amendments in effect should be ignored and the water reallocated to San Carlos by the settlement legislation notwithstanding the understandings of the parties to those amendments.

"The Committee agrees with the Tribe and the Department that the use of the excess AK-Chin water as provided in S. 291 is essential if the Tribe's claims are to be fairly settled. However, the Committee also recognizes and gives great weight to the understandings of Arizona's Senators and the other parties supporting those amendments as to the purpose and intent of the amendments. The Committee also notes that the contributions of the State of Arizona and the cooperation of the CAWCD are essential to the implementation of the San Carlos settlement.

"Extensive discussions among the parties subsequent to the March hearing produced agreement that appropriate and acceptable consideration to the Central Arizona Project agricultural contractors for their loss of access to the excess AK-Chin water would be a waiver of the ownership limitations and full cost pricing provisions of Federal Reclamation law and the full cost pricing provisions of other Federal law. Accordingly, Section 8(f) of the Committee substitute provides for such a waiver in exchange for the contractors' waiver and release of any and all claims to the use of excess AK-Chin water.

"The appropriateness of the waiver is supported by information provided to the Committee by the State and the Central Arizona Water Conservation District that indicates that the ownership limitation and full cost pricing provisions of Federal reclamation law, fully applied to Central Arizona Project non-Indian agricultural contractors, operate to produce results contrary to the purposes for which the Central Arizona Project was authorized and to the purposes of Arizona's 1980 Groundwater Management Act.

"As described in a 1967 Senate report on the Central Arizona Project (S. Rept. 90–408, p. 27), the project was "needed to (1) Reduce a dangerous overdraft upon ground water reserves. (2) Maintain as much as possible of the area's 1,250,000 acres of irrigated farm land. (3) Provide a source of additional water for municipal and industrial use that will be required during the next 30 years." To this end, the 1968 authorizing legislation barred the use of Central Arizona Project water directly or indirectly for irrigation of lands not having a recent history of irrigation (Indian lands and state and Federal Wildlife refuges were excepted from this bar).

"Arizona's 1980 Groundwater Management Act (GMA) was enacted in part as a condition for receiving the Federal funding necessary to complete the Central Arizona Project. The GMA's primary goals include controlling the severe overdraft occurring in many parts of the state and providing a means to allocate the state's limited groundwater resources. Among its provisions, the GMA required integration of water conservation programs with the Central Arizona Project.

"The GMA established four Active Management Areas (AMA), which include 80 percent of Arizona's population and 70 percent of the state's groundwater overdraft, to provide comprehensive groundwater management. In the Prescott, Phoenix and Tucson AMAs, which include the large urban areas of the state, the primary management goal is to achieve safe-yield, defined as a long-term balance between the annual amount of groundwater withdrawn in the AMA and the annual amount of natural and artificial recharge, by the year 2025. In the Pinal AMA, where a predominantly agricultural economy exists, the management goal is to preseve that economy for as long as feasible, while considering the need to preserve groundwater for future non-irrigation uses.

"Under conservation and management plans for Arizona's agricultural sector, which accounts for about 75 percent of total water use in the AMA's, each farm's water use is to be reduced by increasing irrigation efficiency. In addition, CAP agricultural contractors are required to reduce groundwater pumping by one acre-foot for each acre-foot of CAP water they receive. The combination of more efficient irrigation systems with new surface supplies from the Colorado River via the CAP, which reduces the need to pump groundwater, is therefore crucial to the success of the state's efforts to meet its goal of safe-yield in the AMA's by 2025.

"The GMA assumes that CAP agricultural contractors will be able to take deliveries of large amounts of Colorado River water in the early years of the project, which would slow the rate of groundwater depletion, and, as municipal and industrial uses increase and agricultural areas convert to urban uses, further reduce depletion. Consistent with this assumption, agricultural users took deliveries of 594,000 acre-feet of water in calendar year 1990 and municipal and industrial users took deliveries of 151,000 acre-feet of Colorado River water.

"Arizona's Department of Water Resources, the CAWCD and representatives of CAP agricultural contractors testified that a waiver of the ownership limitations of federal law would enable the contractors to achieve more economical and efficient use of their water supplies, and to take delivery of increased amounts of CAP water, with corresponding reductions of groundwater pumping, as envisioned by the 1968 CAP authorizing legislation and the GMA. Doing so would not result in increases in lands subject to irrigation, as such increases are restricted under both the 1968 CAP authorizing legislation and the GMA.

"Similarly, these witnesses testified that the application of full-cost pricing provisions of Reclamation law and of federal law to CAP agricultural contractors is contrary to the goals of the CAP and the GMA. When the CAP is declared complete (anticipated some time in 1993), the contract rate for CAP agricultural water, including operation, maintenance and repair charges, will be about $57 per acre-foot. The cost of pumping an acre-foot of groundwater will remain less than the amount, while the full cost of CAP water is estimated to be about $250 per acre-foot.

"The CAP's economics and the requirements of Reclamation law attendant to contracting for CAP water were major factors that caused 13 of the 23 Arizona agricultural entities that were offered contracts for CAP water to decline those contracts. Relying on the calculations of water delivery and construction costs provided by the Bureau of Reclamation, the ten agricultural districts that did sign long term water service contracts obligated themselves to repay the United States over $250,000,000 for the cost of constructing their distribution systems. Six of the ten incurred more than $70,000,000 in additional bonded indebtedness to private lenders in order to meet a federal requirement that they pay twenty percent of the cost of their distribution systems up-front.

"Given their reliance on the information provided by the United States and notwithstanding the rates that they would pay for CAP water would be less than full cost, as provided in their water service contracts, CAP agricultural contractors remain concerned that full-cost provisions of Reclamation law might be applied to their operations or that federal law might be amended to require payment of full cost for project water as a condition of their eligibility for participation in various federal programs."

Mr. President, I hope that this explanation of the compromise on the AK-Chin water makes clear that the circumstances that gave rise to section 8(f) of S. 291 are unique to Arizona and to the Central Arizona Project. The excess AK-Chin water is a crucial element of the San Carlos settlement. It represents a major source of future revenue for the impoverished San Carlos Apache Tribe—revenue from local, non-Indian entities rather than from federal appropriations. I would emphasize that without the excess AK-Chin water compromise, the entire San Carlos settlement and the benefits it would provide both the Tribe and non-Indians are likely to be lost.

I know the Senator from Wyoming understands all too well how difficult and complex are the problems and issues posed by unresolved federal and Indian claims to water on western watersheds. I appreciate his concerns about S. 291, and thank him for the opportunity to answer his questions.

Senator WALLOP: I thank the Senator from Arizona for his responses.

EXHIBIT 2

MALCOLM WALLOP, MINORITY VIEWS ON S. 684

Although I join the majority in support of the need to address the National Historic Preservation Act, I disagree that this legislation, as reported, is a proper answer to that need. I have concerns that little regard has been shown in this legislation for solving the problems of the people who would be most affected by this legislation, that the process of determining eligibility of properties for the National Register of Historic Places is flawed, that the effects of extending responsibilities under the Act will create costly, overlapping jurisdictions, and will create a veto power over projects.

It is apparent that considerable effort was expended while crafting this legislation to involve National, State, and local historic preservationists, tribal leaders, archaeologists, and architects. As far as I can tell, no one has discussed the effects of this legislation with the homebuilders and homeowners, the agricultural or ranching communities, or the business community in general. It appears that no attempt has been made to build consensus with anyone other than the preservation community.

Basic to the administration of a law such as the National Historic Preservation Act is the ability to sort the truly important sites from the merely interesting sites. The Act does not now contain a process to identify sites, nominate, and then not now contain a process to identify sites, nominate, and then list the important sites. The eligibility criteria found in the Code of Federal Regulations have been written without clear guidance from the law. The National Historic Preservation Act simply does not establish criteria for eligibility. S. 684 makes no attempt to fix this fundamental flaw in the Act.

Under the National Historic Preservation Act and the existing regulations many non-qualifying properties are found eligible and listed every year. The owners of these patently non-qualifying properties have no way to get their properties removed from the eligible list of historic places until they have been included on the Register.

An example of this problem is demonstrated by what recently occurred at Brandy Station in Culpeper County, Virginia, the site of the Civil War's largest cavalry battle. Simply stated, during 1989, lands were identified at Brandy Station that were of national significance. Five areas totaling 250 acres were identified, and proffered as a gift to the Nation.

However, as soon as the county approved the necessary rezoning, the Federal Keeper of the Register declared a 14,000 acre area eligible for the National Register. The designation includes an airport and other clearly inappropriate properties that have long since lost their historic integrity.

Once properties are listed on the National Register, little attention is paid to cost and value in choosing projects to receive Federal monies for restoration. Preservation of some properties defy logic. An example is the Wesleyan Chapel at Women's Rights National Historic Park in Seneca Falls, New York. At this site some three hundred women gathered in 1848 to her Elizabeth Cady Stanton present a "Declaration of Sentiments" stating the need for political and economic rights or equality for women. By anyone's standards, a site like this is worth saving.

But, for all practical purposes the building in Seneca Falls, New York, no longer exists. The original congregation moved to a larger building in 1871, the chapel was sequentially converted to an opera house, an automobile showroom, a movie theater, and most recently to a laundromat. Each of these changes took its toll. All that remained of the original structure were two beams, roof supports, portions of two walls, and part of the brick foundation. There also were no records of what it had looked like in the 1800s.

The Park Service held a competition that brought in over 700 entries to "synthesize" the way the building might have looked in 1848. The winning design, an open-air pavilion partially built from the pitiful remnants of the original structure was ultimately incorporated into the Historic Landmark district.

This landmark rebuilds on the site of an important speech a totally fabricated interpretation of how the chapel might have looked. Federal money went to recreate something that we had already effectively lost, while at the same time other important historic landmarks were deteriorating and disappearing.

Part of this problem rests with the complicated overlapping jurisdictions. It is unclear who is responsible for the final decision on how to treat a property, particularly a Federal property. The present law requires the heads of all Federal agencies to assume responsibility for appropriate use and for the preservation of historic properties which are owned or controlled by the agency, and to approve Federal permits with respect to private actions.

This legislation has the potential effect of providing an historic preservation veto over any action, public or private, which involves any Federal action. Section 106 of the Act requires that an agency take into account the effect of any undertaking requiring Federal action on any property included in, or eligible for inclusion in, the National Register of Historic Places. The head of an agency is required to afford the Advisory Council on Historic Preservation an opportunity to comment on any such undertaking.

The amendment introduces new language requiring that an agency can go forward with the action only if an additional determination is made that implementing the recommendations of the Council is not "feasible and prudent". This is an unreasonable test.

It would seem to me to be an endless loop to require the agency to determine that the comments of the Council are not "feasible and prudent" when the Council has already found its comments to meet the same test. By the time a project gets to the stage at which the Council has made comments on a consultation, the agency has already evaluated the alternatives, examined all available options, spent budgeted dollars, and made appropriate findings.

What, after all, is "feasible" or "prudent" at this stage of a project? If the preferred agency action is not the best considered course of action at this late stage in a project, I don't know how anyone else will find it. Any other choice may well be overly expensive, be inconsistent with the charge of the agency, may preserve an historic resource that is already well represented by similar structures, or may simply not be the best use of scarce resources.

Further, if a Federal permit or other approval is required, the applicant has a need to reach resolution for the project. Undue delays, after all other steps have been taken, will in many cases make a project unfeasible. In most cases it is important to allow an applicant to know that additional steps will not be needed, and that the project can proceed because the agency has taken into account the effect of the proposed project.

Moreover, how does the "feasible and prudent" test apply to proposed private action that requires a Federal permit for some small part of the action? Is the "feasible and prudent" test the view of the Council, the agency, or the permit applicant? Where does expense to the private party get considered?

I am also concerned that this legislation will add to regulatory gridlock by creating overlapping authorities on many lands. While this legislation provides appropriate opportunities and responsibilities for Indian tribes and native Hawaiian organizations under the National Historic Preservation Act, it will exacerbate jurisdictional conflicts rather than relieve them.

The definition of tribal lands in this legislation includes, among other things, all lands within the exterior boundaries of any Indian reservations. The tribal historic preservation officer created by this legislation would have control over matters within the boundary of the reservation. The tribe thus could be responsible for approving or conditioning Federal actions affecting State lands or private lands, whether or not the owner wanted such representation.

As an example of how difficult this concept would be to administer for purposes of the National Historic Preservation Act, we need only consider the case of the Nez Perce Reservation in Idaho. According to the Bureau of Indian Affairs records office in Portland, this one reservation contains approximately 1366 parcels of State and fee lands as in holdings. These private lands total more than 95,000 acres. In addition, there are at least 170 acres of Forest Service land in three parcels, and about 18,000 acres of BLM lands in dozens of parcels within the exterior boundary of the reservation.

Finally, I am concerned with the lack of balance. This legislation seeks to go beyond fully considered agency action to a government by gridlock. By providing an effective veto for the Advisory Council, the head of a Federal agency would have to deal only with one interest group. I assume other interest groups such as fish and wildlife, outdoor recreation, and their various subgroups, would also like to have an effective veto rather than merely having their views fully considered.

For these reasons, I will offer an amendment on the floor to Senator Fowler's legislation, S. 684. My amendment will provide guidelines for establishing eligibility of a property for nomination to the Register, will redefine the term "tribal lands", and will remove the burden of making additional determinations by providing the head of an agency an opportunity to explain to the Council the agency's consideration of the Council comments.

SAN CARLOS INDIAN WATER SETTLEMENT AMENDMENT

Mr. DECONCINI. Mr. President, the amendment I am offering is legislation that has already passed the Senate which settles the water rights claims of the San Carlos Apache Tribe in Arizona. I am compelled to offer this legislation on this bill because of action taken by the House late last year relating to the use of the Ak-Chin surplus water in this settlement.

For the information of my colleagues, the water budget for the San Carlos settlement proposes using the 33,000 acre foot in excess of the amount needed to satisfy the Ak-Chin Indian settlement to complete the water budget for the San Carlos settlement. However, Senator Goldwater and I successfully offered an amendment to the 1984 Ak-Chin legislation which specifically stated that any water not utilized by the Ak-Chin community for this settlement would return to the central Arizona project to be reallocated by the State. Because of this, the State of Arizona, the Central Arizona Water Conservation District, along with myself, were opposed to using this water for the settlement.

To respond to this issue, the bill was modified to exempt irrigation districts receiving cap water from the ownership and full cost pricing limitations of Federal reclamation law. In return, these irrigation districts will drop their claims to the Ak-Chin surplus water. This agreement is reflected in both the San Carlos legislation which passed the Senate and my amendment.

The House, however, deleted the provision which provides for the reclamation law exemptions while continuing to use the surplus Ak-Chin water. The House action in this regard is totally unacceptable to a great many Arizonans, including this Senator.

Therefore, I ask that the Senate reaffirm its position on this matter by again passing the San Carlos Indian Water Settlement Act of 1991 as an amendment to this bill.

For a more complete statement on the San Carlos settlement, I would refer my colleagues to my statement in the CONGRESSIONAL RECORD of October 8, 1991, when this bill originally passed the Senate.

I yield the floor.

Mr. BROWN. I am pleased that the sponsors of H.R. 429 have agreed to include an amendment to title XXXX, the National Historic Preservation Act amendments. This amendment addresses a concern that this act might be used to limit or restrict the use, maintenance, and improvement of vitally important structures and facilities used to divert, store, and transport water.

My amendment confirms that the act does not allow any such limitations or restrictions. Accordingly, even if a water diversion or storage facility is eligible for, or perhaps even included on, the National Register of Historic Places, this status shall have no effect on the continued use and improvement of the facility or structure by its present or future owners.

The act does not authorize any Federal or State agency to impose any conditions upon, or require any authorization for or approval of, the use, operation, maintenance, repair, or improvement of such facilities, including modifications such as ditch lining, or facility rehabilitation or expansion.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado.

The motion was agreed to.

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate insist on its amendment; agree to the conference requested by the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPROPRIATIONS AUTHORIZATIONS ACT

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 551, S. 2624, authorizing appropriations for the Interagency Council on the Homeless; that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table and that any statements relating to the passage of this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2624), was deemed read the third time and passed, as follows:

S. 2624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS

SECTION 101. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,500,000 for fiscal year 1993, and $1,700,000 for fiscal year 1994.".

SEC. 102. EXTENSION OF INTERAGENCY COUNCIL.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 1994".

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM.

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $180,000,000 for fiscal year 1993, and $200,000,000 for fiscal year 1994.".

Mr. GLENN. Mr. President, today we have passed S. 2624, a bill which will reauthorize two programs in the Governmental Affairs Committee jurisdiction—the Interagency Council on the Homeless and the FEMA Emergency Food and Shelter Program. This legislation, which reauthorizes these two programs for 2 years each at slightly higher funding levels, is a critical part of Congress' effort to ensure the continued functioning of the omnibus KcKinney Act, a collection of programs that has proven to be very successful over the past 5 years.

S. 2624 would reauthorize the Emergency Food and Shelter National Board Program funding level at $180 million for the first year and $200 million for the second year. In addition, it would fund the Interagency Council on the Homeless at an authorization level of $1.5 million and $1.7 million in each of the next 2 years, respectively.

The first of these programs, the Emergency Food and Shelter National Board Program, is chaired by the Federal Emergency Management Agency [FEMA] and includes representatives of various national nonprofits. The National Board Program is intended to aid nonprofit organizations in thousands of counties around the country to purchase food, supply shelter, and to supplement and extend current available resources in order to meet emergency needs of homeless and hungry people. As chairman of the Committee on Governmental Affairs, I well know the importance of this program. The National Board brings Federal agencies, State entities, and local nonprofit groups together in a unique and highly successful effort to assist those most in need. This program's funds are distributed on a formula basis, straight to emergency shelters, soup kitchens, and other nonprofit groups in every State. And, unlike what happens in most programs, a negligible percentage of the National Board's funds are spent on administrative costs. Each nonprofit organization raises almost all of its own funds for administration.

For fiscal year 1993, the administration has requested $100 million for the Emergency Food and Shelter National Board Program, which is $34 million below the program's appropriation in 1991. The administration explains its request below this level as "a shift of resources away from emergency programs toward programs that provide longer-term and more comprehensive approaches to the problems faced by the homeless." Mr. President, I agree that we need to develop longer-term solutions which will help the homeless out of their plight. That is why I am proposing an increase in this and the Council's funding levels, so that we might buttress and improve current approaches that look like they ultimately will work in the long-term. but what about those who have just lost their jobs and their homes? What about those who stand on the brink of homelessness? Must they wait until they become homeless before they receive any help?

The simple fact is that not only do these programs actually address longer term concerns, they also are a necessity in facing the national emergency of homelessness now, an emergency which not only persists but has grown. In a 28-city survey, the U.S. Conference of Mayors found that as of December 1991, requests for emergency food assistance have increased by 26 percent. Requests for emergency shelter have grown by 17 percent over the year before. Since that survey, the recession has only worsened. Many States, including my own State of Ohio, have cut their general assistance programs. Thousands in Ohio have lost benefits, in many cases, their only benefits. Providers are pleading for our help. Members of the National Board have told my staff that even if this program's funding were tripled, it still would not be enough to meet the need. Perhaps this administration can simply dismiss the real emergency in our midst—we simply cannot afford to look the other way.

The second program my bill reauthorizes, the Interagency Council on the Homeless, was established to coordinate Federal homeless programs and provide information about these programs and homelessness generally on a national level. The Council brings together all Federal agencies to coordinate and direct Federal homelessness efforts, in addition to providing support to State, local, and private programs. Since its inception, the Council has made great improvements in its operations. Many local providers in my home State of Ohio have expressed praise for its programs and workshops.

Mr. President, my bill proposes modest increases in both of these very valuable programs. At a time when people are facing crises unimagined in their own lives and when the very services we have provided so far are, in some cases, the only hope they see for survival, we cannot and must not turn our backs and do nothing. Increased funding for these programs admits and attempts to address the desperate realities of this recession, while at the same time supporting some well-begun efforts to find long-term solutions to the daunting and persistent problems of chronic homelessness.

The homeless problem continues to be a festering sore on the social conscience of America. There is no escaping the hard facts—millions remain homeless or chronically vulnerable to the condition. Millions more teeter perilously on the edge of personal disaster leading directly to homelessness. Increasingly, the homeless are families, single mothers with children, rural Americans, many of whose relatives or friends are the only thing between them and the street. Studies and surveys all over the country are documenting a catastrophe of untold proportions—the birth of a permanent underclass, comprised of mothers and their children, sliding down the same hole of poverty into homelessness, from one generation to the next. Hopefully, the action we have taken tonight will make a real difference in these peoples' lives and move us down the road to ending this national disgrace.

I want to commend the Senate for the action it has taken. I look forward to the speedy enactment of this most important measure.

SETTLEMENT AGREEMENT BETWEEN THE PUEBLO DE COCHITI AND THE U.S. ARMY CORPS OF ENGINEERS

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4437, a bill to authorize funds for implementation of the settlement agreement between the Pueblo de Cochiti and the U.S. Army Corps of Engineers, just received from the House; that the bill be deemed read three times, passed and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4437) was deemed read the third time and passed.

Mr. WIRTH. Mr. President, one final item of business.

EFFECTIVENESS OF UNITED NATIONS INTERNATIONAL DRIFTNET FISHERY CONSERVATION PROGRAM

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 396, H.R. 2152, the High Seas Driftnet Fisheries Enforcement Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2152) to enhance the effectiveness of the United Nations international driftnet fishery conservation program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2821

(Purpose: To make an amendment in the nature of a substitute)

Mrs. KASSEBAUM. Mr. President, I send to the desk a Packwood substitute amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the substitute amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mrs. Kassebaum], for Mr. Packwood (for himself, Mr. Hollings, Mr. Stevens, Mr. Kerry, Mr. Gorton, Mr. Adams, Mr. Lott, Mr. Breaux, Mr. Murkowski, and Mr. Riegle), proposes an amendment numbered 2821.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

SEC. 2. FINDINGS AND POLICY.

(A) Findings.—Congress makes the following findings:

(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44-225, 45-197, and most recently 46-215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46-215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas".

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in the United Nations General Assembly Resolution numbered 46-215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) Policy.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly Resolution numbered 46-215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) Denial of Port Privileges.—

(1) Publication of list.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) Denial of port privileges.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) Notification of nation.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) Sanctions.—

(1) Identifications.—

(A) Initial identifications.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) Additional identifications.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(A)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

SEC. 103. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (E)(i) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

SEC. 104. DEFINITIONS.

In this title, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—the term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting in lieu thereof "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, would, kill, trap, capture, or collect.".

SEC. 202. ENFORCEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the Untied States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

TITLE III—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

SEC. 301. SHORT TITLE.

This title may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

SEC. 302. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) Prohibition.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) Civil Penalties and Permit Sanctions.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

SEC. 303. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) Denial of Port Privileges.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) Publication of List.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federations are parties.

(c) Notification of Nation.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

SEC. 304. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 303 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 303(b).

SEC. 305. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) Regulations.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b).

(b) Requirement for Submission of Documents.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) Appeals; Duration of Prohibitions.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the removal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 303(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days after such person terminates ownership and control in fishing vessels that are listed on the addendum under section 303(b).

SEC. 306. DEFINITIONS.

In this title, the following definitions apply:

(1) Central Bering Sea.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) Fishing vessel.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) Owns or controls.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) Permitted fishing vessel.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) Person.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) Processing facility.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

SEC. 307. TERMINATION.

This title shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 302 occurring prior to such termination date shall be conducted as if that section were still in effect.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) Intermediary Nation Defined.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) Embargo on Imports From Intermediary Nations.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

SEC. 402. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

SEC. 403. LIMITATION ON TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

SEC. 404. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

TITLE V-FEES

SEC. 501. RECREATIONAL BOAT TAX REPEAL.

(A) In General.—

(1) Scope of Fee.—Section 2110(b)(1) of title 46, United States Code, is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) Amount of fee.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) Effective Date.—The amendments made by this section are effective October 1, 1992.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) Definitions.—In this section, the following definitions apply:

(1) Commission.—The term "Commission" means the Federal Maritime Commission.

(2) Common carrier.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) Conference.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

(4) Essential terms of service contracts.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) Tariff.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) Tariff Form and Availability.—

(1) Requirement to file.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) Availability of information.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) Filing Schedule.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) Fees.—

(1) Amount of fee.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) Exemption for federal agencies.—A Federal agency is exempt from paying a fee under this subsection.

(e) Enforcement.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) Penalties.—

(1) Civil penalties.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) Criminal penalties.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) Automatic Filing Implementation.—

(1) Certification of software.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) Repayable advance.—

(A) Availability and use of advance.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) Requirement to repay.—

(i) In general.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) Interest.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) Use of retained amounts.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) Deposit in treasury.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) Restriction.—No fee may be collected under this section after fiscal year 1995.

(i) Conforming Amendment.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

Mr. PACKWOOD. Mr. President, I rise to strongly support adoption of my substitute amendment to H.R. 2152. I strongly support this amendment, which places mandatory sanctions on countries that do not stop drift net fishing by the end of this year.

Every so often, Mr. President, we learn about an issue that just mobilizes people. People across your State write letters, search you out at county fairs, or call your offices. Drift nets is one of these issues.

The fish, particularly salmon and steelhead, and the marine mammals that swim in the waters of the Pacific, have an historic importance in the Northwest. Drift nets threaten them.

Tens of thousands of sharks, seabirds, whales, dolphins, and salmon are swept up by these nets. And it's no wonder. Drift nets are up to 60 feet in depth and stretch for more than 30 miles. That's about the distance between Capitol Hill and Dulles Airport. They are literally walls of death.

Our ocean environment isn't the only victim of drift nets. Northwest fishermen have also paid the price. Drift nets are trapping migrating immature fish that would otherwise return to our Pacific Northwest rivers.

It is estimated that from 10,000 to 30,000 metric tons of North American salmon and steelhead, or about 21 million fish, have been taken each year by Asian drift net fleets in the North Pacific.

We have solid proof of how drift netting is affecting our legitimate fishermen. The National Marine Fisheries Service has documented nearly 10 million pounds of illegally taken salmon that was smuggled through the United States and sold in Japan.

Millions more pounds of this illegal salmon have been sold around the world.

Mr. President, we have made much progress in our efforts to ban drift net fishing. Last August, the Senate unanimously passed the Drift Net Moratorium Enforcement Act—a bill I introduced—to place mandatory sanctions on drift netting countries.

This action got the attention of the major drift-netting countries who said they would voluntarily reduce their drift net fishing.

Also, this action got the attention of the United Nations, who, in December, 1991, approved a resolution calling for a 50-percent reduction in drift net fishing by June 30 and a complete halt to drift net fishing by the end of this year.

In February, the House passed its version of the drift net sanctions bill, which incorporated much of the Senate-passed bill. What we are considering today is hopefully the last chapter in a sordid sea story.

This amendment incorporates many provisions from the House and makes some other changes. It is satisfactory to our fishing industry and environmental groups alike.

Some may wonder why, if the United Nations has acted, we need to pursue legislation. The reason is this: To ensure that there is the hammer of mandatory sanctions to back up the U.N. resolution.

While my hope is that drift-netting countries indeed stop the practice at the end of the year, I have too often seen deadlines slip. That must not happen this time. This bill ensures that any country that chooses to ignore the U.N. resolution will pay a price.

I urge my colleagues to support this amendment to ensure we see the end of drift net fishing at the end of this year.

Mr. HOLLINGS. Mr. President, I rise today to urge Senate approval of H.R. 2152, the High Seas Drift Net Fisheries Enforcement Act, as amended. In particular, I strongly support provisions repealing the Coast Guard recreational boat-user fee.

I have opposed this unjust tax on our Nation's boaters since President Reagan first proposed it back in 1981. Congress blocked it then and each subsequent year through the 1980's. Unfortunately, the boat-user fee was included 3 years ago in the budget summit agreement between President Bush and the congressional leaders, and was enacted as part of the Omnibus Budget Reconciliation Act of 1990.

My objection to the Coast Guard recreational boat-user fee is, and has always been, the fact that this is no true user fee. I have no objection to a user fee where an individual pays a specific amount for a specific service. However, that is just not the case here, as the facts demonstrate.

First, the administration has chosen to charge this fee, which ranges from $25 for boats 16 to 20 feet, to $100 for boats over 40 feet, in areas where there is no Coast Guard presence. For example, South Carolina boaters on Lakes Marion and Moultrie, the Santee-Cooper Lakes, have to pay the recreational fee despite having no Coast Guard coverage. The situation is similar for other inland waters in my State, including the Cooper River, the Congaree River, the Saluda River, the Wateree River, and the Pee Dee River, where boaters have to pay the fee.

Second, all the money collected by the user fee goes to the general revenue fund where it is spent on everything except services to boaters. In fact, the user fee decal sold by the Coast Guard says right on it that "boaters paying for the decal can expect no increase in the quantity, quality or variety of services provided by the Coast Guard."

Third, the Coast Guard is actually cutting back its services to boaters. The share of the Coast Guard's budget spent on search and rescue has decreased by 25 percent since 1981, in large part because the Coast Guard is no longer a towing service for recreational boaters. In nonemergency cases, the Coast Guard now routinely turns over cases to commercial towers whose fee ranges from $100 to $125 per hour.

We need to recognize that there has been a larger game afoot with this recreational user-fee caper. This thinly disguised tax is just one more gimmick that the administration has used to raise revenues while pretending—"read my lips"—that it is not levying new taxes. However, a boater user fee imposed where no services are provided is clearly no user fee. In fact, it looks like a tax, smells like a tax, and bites like a tax. The recreational boater user fee is bad economic policy, and it is unfair. We need to repeal it as expeditiously as possible.

The substitute amendment before the Senate today would do just that. The Senate substitute for H.R. 2152 provides for a phased repeal of the boater tax. Under these provisions, the Coast Guard user fee would be repealed on October 1, 1992, for boats 21 feet or less, 70 percent of the boaters that have to pay the fee; on October 1, 1993, for boats 37 feet or less; and on October 1, 1994, for all remaining recreational boats.

As a budget offset, the amendment establishes a user fee for electronic access to the Federal Maritime Commission's [FMC] new automated tariff filing and information [ATFI] system. Individuals who electronically retrieve ATFI data would be charged $0.46 per minute. The fee is for remote computer access to the ATFI system. Individuals may elect to purchase the service or not to purchase the service. The ATFI system will organize the tariffs, or shipping rates, that are required to be filed with the FMC into a rate-quoting system, similar to the existing system operated by airlines for flight rates. Both the Congressional Budget Office and the Office of Management and Budget have estimated that the ATFI fee would generate adequate funds to offset the budget loss from the repeal of the Coast Guard user fee.

In addition to eliminating an unfair tax, H.R. 2152 focuses on a pressing environmental threat and a longstanding concern of the Commerce Committee—drift net fishing on the high seas. The committee's involvement in the issue began in 1985, sparked by a U.S. outcry over the deployment of thousands of miles of drift nets by foreign fishermen in the international waters of the north Pacific Ocean. Evidence indicated that these nets caught and drowned enormous numbers of fish, marine mammals, seabirds, and other wildlife species. In addition, lost or abandoned drift nets became ghost nets, entangling and killing many more marine animals long after the boats returned to the dock. Finally, the illegal taking of American salmon and steelhead trout encouraged the development of international black markets and forced U.S. fishermen to take economic losses. Responding to these concerns, the committee was successful in securing for enactment of the Drift Net Impact Monitoring, Assessment, and Control Act of 1987.

The task since then has been to build a global consensus to ban this destructive fishing practice. Toward that goal, committee members were successful in pushing for U.S. introduction of U.N. General Assembly resolutions on high seas drift net fishing. The resolutions called for a moratorium on the use of drift nets in the South Pacific by June 30, 1991, and worldwide by December 31, 1992. In addition, the United States has become a signatory to the Convention for the Prohibition of Fishing with Long Drift Nets in the South Pacific, also known as the "Wellington Convention." The convention calls for a ban on drift net for establishment of an international fishery management regime for the South Pacific.

The amendment before us today is based on S. 884, the Drift Net Moratorium Enforcement Act of 1991, which I cosponsored. The drift net provisions call for tough new sanctions against countries that violate the U.N. drift net ban. The measures included complement and strengthen our international commitments on this issue, and represent a major step toward ending the drift net threat once and for all. I urge my colleagues to support passage of H.R. 2152 as amended.

REPEAL OF THE BOAT USER FEE

Mr. RIEGLE. Mr. President, I join in strong support of the effort to repeal the boat-user fee. Congress should move quickly to send this measure to the President so it can be signed into law.

The boat-user fee was contained in the Budget Act of 1990—a measure that I did not support. At that time, many believed that money collected from the boat-user fee would be used to benefit boaters. In other words, if it was a user fee, it should be used to pay for something that boaters used.

That has not been the case. The funds have not gone to the Coast Guard and boaters do not receive any additional services from the Federal Government. Boaters have found themselves in a situation in which they have been selected to pay an additional share of general Government expenses. There is no sound reason to ask boaters to pay more.

The boat-user fee has affected a great number of people in my State. There are more registered boaters in Michigan than there are in any other State. The vast majority of boatowners in Michigan are not extremely wealthy; they represent a broad cross section of the people in the State.

The proposal we have before us phases the tax out over a 3-year period. As of October 1, an estimated 70 percent of all boaters will not have to pay this tax. In 1994, it will be completely repealed. I would favor a faster elimination of this tax, but I believe that this is an important measure and I urge rapid action so boaters will not have to pay this unfair tax.

Mr. ADAMS. Mr. President, even as we act on the drift net bill, time is running out for endangered fish and marine mammals. The U.N. resolutions calling for a global moratorium on the use of large-scale drift nets beyond the exclusive economic zone [EEZ] by December 31, 1992, are not self-enforcing. This bill would force a ban on the importation of fish, fish products, sport fishing equipment, and deny port privileges to vessels from countries that allow drift net fishing.

As I have stated in the past, Japan, Korea, and Taiwan together allow more than 1,000 drift net vessels to sail freely in the north Pacific Ocean and the rest of the world's seas. They are driven by commercial greed. They share a collective disregard for the protection of endangered species. In the face of such arrogance, the United States is forced to adopt the aggressive position embodied in this bill.

This bill also has strong sanctions against unregulated fishing practices in the Donut Hole, which is an area of the Bering Sea beyond the exclusive economic zone of any nation. The Donut Hole had a large and healthy bottom-fish industry until it was plundered, mainly by foreign fishing vessels. Many of the companies that own these vessels also own fish processing facilities in this country and avail themselves to the rich bounty in the U.S. exclusive economic zone. This bill would prohibit these companies from benefiting from U.S. port privileges, the fishery in the U.S. EEZ if they continue to fish in the donut. The bill would also extend the same sanctions to our domestic fishing vessels.

If we are to judge the fishing practices of others, we must first put our own House in order. At my suggestion, another section has been added to this bill which would increase the domestic fishery observer fee in the north Pacific to up to 2 percent of the value of the unprocessed fish on most vessels. The purpose of this provision is to increase the level of fees that NMFS can levy on vessels in the north Pacific fleet. The current 1-percent limit in the Magnuson Act is not sufficient to fund a program with an adequate level of observer coverage. This provision will help ensure that there will be adequate research and monitoring of our largest domestic fishery, the north Pacific fishery.

Our concern cannot stop with the banning of drift nets. We must ensure sound management of our domestic fishery as well.

Mr. GORTON. Mr. President, for too long, our seas have been ravaged by foreign drift net vessels. These ships set out nets up to 30 miles long that capture and kill any sea creature in their enormous path. For the last several years, I have worked with my colleagues, Senator PACKWOOD and Senator STEVENS, in putting an end to this waste and destruction of our marine resources.

It is with pleasure that I lend my support to the bill before the Senate today. It is long overdue. Last August, the Senate passed S. 884, the Drift Net Moratorium Enforcement Act of 1991, a bill introduced by Senator Packwood which I cosponsored. The bill before the Senate today is based upon that legislation.

The High Seas Drift Net Enforcement Act put the necessary teeth into the U.N. General Assembly Resolutions numbered 44-225, 45-197 and 46-215. The latest of these resolutions calls for a worldwide moratorium on all high seas drift net fishing by December 31, 1992, in all the world's oceans. The bill before the Senate today requires the President to invoke expanded Pelly sanctions on any nation found to be drift net fishing after the end of this year. These sanctions would prohibit the importation of fish, fish products, and sport fishing equipment from any nation found to be drift net fishing next year. Most importantly, if Pelly sanctions alone do not work, it gives the President the authority to expand these sanctions to any product from the offending country. While all of the Nation's drift net fishing fleets have now indicated that they will stop this destructive practice after this year, this bill is important insurance for those pledges. It seems quite unlikely to me that drift netting nations would risk a ban on any of their valuable export products.

The bill also calls for strong measures to end all fishing in the Central Bering Sea area known as the donut hole. The State Department has undertaken multilateral efforts to end fishing in this area. It is important that the U.S. send a strong message to other nations that our fisherman will abide by our Nation's effort to impose a moratorium in the donut hole. This bill calls for the denial of U.S. port privileges to any vessel found fishing in the Central Bering Sea area. The bill includes further sanctions on vessels fishing in international waters of the Central Bering Sea. Specifically, vessels or companies operating vessels fishing in the donut hole, will lose their privilege to engage in U.S. fisheries, including fishing and fish processing activities.

Additionally, Mr. President, we have included a provision to phase out and repeal the unfair and misnamed Coast Guard boater user fee. This fee which is levied on all boats over 16 feet does not go to pay for the support of the Coast Guard, but rather is deposited into the General Treasury fund. The bill phases out the fee over the next 2 years by removing and reducing its first for the smallest boats and repealing it altogether by fiscal year 1995. Unfortunately, the budget offset for this measure is to charge for public access to the Federal Maritime Commission's planned Automated Tariff Filing and Information Systems. I do not agree with charging the U.S. shipping public for access to this information but I also know as members of the Senate Commerce Committee we have looked for a better alternative but have not been successful.

Mr. President, this is a very strong measure to protect our Nation's fisheries and other marine resources. It also addresses an unfair fee placed upon our Nation's recreational boaters. I urge the Senate's approval.

Mr. STEVENS. Mr. President, I am pleased to join several of my good friends, and in particular Senators PACKWOOD and KERRY, in cosponsoring this amendment in the nature of a substitute to H.R. 2152. The bill as amended by our substitute constitutes another major step forward in our continuing battle to protect marine resources from destructive fishing practices on the high seas.

Titles I and II of the substitute are aimed at closing the door on high seas drift net fishing. These two titles are almost identical to the provisions contained in H.R. 2152, which the House passed in response to S. 884, the Drift Net Enforcement Act sponsored by Senator PACKWOOD that this body sent to the House almost 1 year ago. The House provisions follow the mandatory sanctions concept contained in S. 884, with the useful addition of the ban on port calls for which the House deserves credit. I would also note, Mr. President, that the House has finally seen fit to expand the Pelly amendment sanctions to include all products, a change which the Senate has approved twice in the past 6 years, only to have the House refuse to accept it.

The port ban and mandatory sanctions in this substitute are what we need to convince driftnetting nations that the United States remains committed to ridding the seas of these "curtains of death." It has been a long fight. Several of those who have joined in sponsoring this substitute—Senators PACKWOOD, MURKOWSKI, and GORTON—were with me in 1986, when I introduced S. 2611, the first drift net bill to be considered by Congress. That bill did not pass, and the next year we tried again. This time we were successful. Senators PACKWOOD and MURKOWSKI again joined me to sponsor S. 62, which became law on December 30, 1987, when the President signed the Drift Net Impact Monitoring, Enforcement and Control Act as part of legislation enacting a United States-Japan Governing International Fishery Agreement.

But the battle was far from over, and a number of us here in the Senate continued to search for ways to bring an end to high seas drift nets. After I spoke with Secretary of State Baker and then-Ambassador to the U.N. Thomas Pickering, 11 members of the Senate, including Senators HOLLINGS, PACKWOOD, KERRY, GORTON, HATFIELD, DANFORTH, and ADAMS, wrote to Ambassador Pickering to urge the United States to introduce a resolution in the United Nations to ban high seas drift net fishing. As a result of that letter, and a considerable behind-the-scenes lobbying effort, the United Nations unanimously approved on December 22, 1989, a resolution which called for a moratorium on large-scale drift net fishing on the high seas after June 30, 1992. Since then the United Nations has approved two other resolutions concerning drift nets, the latest of which calls for an unconditional end to high seas drift net fishing after December 31, 1992. It is this latest resolution which the legislation before us today will enforce.

While efforts to bring worldwide pressure to end drift net fishing were ongoing in the United Nations, the Congress did not rest. In 1990, both the House and Senate continued efforts to build on the 1987 Drift Net Act, which resulted in the Drift Net Act Amendments of 1990. These amendments made clear that it was the policy of the United States that large-scale drift net fishing on the high seas should be banned, and further strengthened the observation and monitoring requirements of the Drift Net Act. In addition, the Congress made it illegal for citizens and vessels of the United States to engage in large-scale drift net fishing, either inside or outside the U.S. exclusive economic zone.

Now it is 1992, and the Congress is hopefully playing out the final act in the drift net drama. Once these provisions pass the House, and are signed by the President, which I hope will occur in short order, the Congress will have completed the effort begun by this Senator over 6 years ago. We will still need to be vigilant, to see that the worldwide moratorium imposed by the United Nations is in fact obeyed, but I am optimistic that the Congress will not have to legislate on this issue again in the near future.

However, I would remind my colleagues that the campaign to save the fisheries of the world is not yet over. Drift nets are a scourge that may soon be eradicated, but unfortunately they are not the only destructive fishing practice in use today. A good example of another destructive fishing practice is the growing threat from factory trawlers. These vessels drag nets the size of a football field through the water, scooping up everything in their path. But the processing plant on board can only handle certain sizes and types of fish, so the rest goes back over the side dead, crushed by the 60 to 100 tons of other fish that were dragged up in the net. Two years ago off Alaska, factory trawlers in a profit-chasing frenzy wasted millions of usable fish when they stripped the lucrative roe from the fish and chucked the less valuable, but edible, flesh over the side. This practice was so offensive that the Congress specifically banned roe-stripping in the 1990 Magnuson Act amendments that also prohibited large-scale drift net fishing.

Factory trawlers are the vacuum cleaners of the seas. After drift nets, they are probably the most destructive fishing practice in the North Pacific. They operate both inside and outside our 200-mile zone. Inside the zone they are at least subject to some restrictions imposed by the Magnuson Act. Outside the exclusive economic zone, factory trawlers fish unrestrained by any law. In the waters of the Central Bering Sea, in an area known as the Donut, foreign factory trawlers have been conducting intensive fishing operations, including pirate raids into the U.S. zone.

It was in 1988 that I first brought this problem to the attention of the Senate, when this body unanimously passed Senate Resolution 396, which called for a moratorium on fishing on the Donut. Since that time negotiations have been ongoing between the United States and the Russian Federation—formerly the Soviet Union—on one hand, and the fishing nations of Japan, Korea, Poland, and the People's Republic of China. Unfortunately these negotiations have been unsuccessful, and fishing in the Donut remains unrestrained.

But that may soon change, Mr. President, with the passage by the Senate of title III of this substitute, which is entitled the Central Bering Sea Fisheries Enforcement Act of 1992. These provisions prohibit U.S. nationals and vessels from fishing in the Donut, and ban port calls by fishing vessels from nations that continue to fish in the Donut without an international agreement after December 31, 1992. In addition, U.S. vessels and processors who operate in the fisheries off Alaska would be denied that privilege if they also have a controlling interest in a vessel that fishes in the Donut. To encourage the ongoing international negotiations, all three of the prohibitions would not apply to fishing conducted in accordance with an international fishing agreement to which both the United States and Russian Federation are parties.

In enacting title III, the Senate has once again demonstrated its leadership on fisheries issues. We have taken another strong step to protect a threatened fishery on the high seas.

I would also mention one provision in title IV, which concerns a change to the language concerning fees that may be charged by the North Pacific Fishery Management Council for providing observer coverage in fisheries subject to their jurisdiction. The provision that has been included adopts in the statute the cap recently approved by the council, namely that the fee charged cannot exceed 2 percent of the exvessel value of the catch in an unprocessed state. I would observe that this new cap is exactly that—a cap; as before the council is free to choose that they will impose a fee that is less than 2 percent of the value. Under the remaining provisions of that section of the Magnuson Act, which are not changed by this legislation, the Council is under an obligation to only charge what is necessary to cover the actual costs of the observer program. Administrative overhead and diversion of funds raised by the fee to other projects, no matter how worthy, is still prohibited under the law.

In closing, Mr. President, I would like to say again that the fight to save our fisheries from destructive fishing practices is far from over. However, with the passage of this bill, as amended by the Senate substitute, we have moved our battle lines forward. In fact, I am optimistic that we may one day soon be able to say that we actually have won the battle to end high seas drift net fishing.

The PRESIDING OFFICER. Are there amendments to the substitute?

If not, the question is on agreeing to the substitute amendment.

The amendment (No. 2821) was agreed to.

The PRESIDING OFFICER. Without objection, the bill as amended is deemed to have been read three times and passed.

So, the bill (H.R. 2152) was deemed read three times and passed.

Mr. WIRTH. Mr. President, I move to reconsider the vote.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ENVIRONMENT

Mr. WIRTH. Mr. President, in the past several weeks, a great deal of discussion has occurred on the floor of the Senate, in the White House press room, and in the media about the junior Senator from Tennessee's environmental views.

I wanted to take a few minutes to discuss those views in the light of a recent memorandum which has come to my attention dated July 15 from the Environmental Protection Agency sent out to all EPA employees entitled "Reflections on the Earth Summit." No doubt, it is to be expected that as the Democratic nominee for Vice President, Senator GORE's record will be examined and discussed, and it should be. What I did not expect and cannot accept is the deliberate attempt that is going on to distort his record with a number of false assertions and inaccurate histories.

Last week, I spoke on the floor about the vicious and absolutely uncalled for attack by the President's spokesman, Marlin Fitzwater. The idea of Mr. Fitzwater questioning Senator GORE's patriotism—calling him "Mr. Sellout America" for his role at the Earth summit—is absurd in principle and wrong in fact.

Recently, some new information has come to light that gives a window on the true facts of why the United States image was so badly tarnished in Rio and why this foreign policy fiasco occurred.

I can assure you that it was not because of the junior Senator from Tennessee. In fact, Senator GORE was there trying to protect the reputation of the United States by pointing out to the thousands of reporters who were there that we in the United States have a proud legacy of environmental protection and that we will continue to be leaders in protecting the environment. He also, in contrast to the administration, the White House, and the President, was able to present a vision for what the United States might be able to contribute to a global effort to protect the Earth's fragile environment, something that can be done and must be done. That is what Rio was all about. We can all be thankful that Senator GORE was there to help our country get itself out of the very deep ditch being dug for it by this White House and administration.

But I say to my colleagues, do not take my word for it. Listen to what the President's top environmental official had to say about it upon his return from Rio. My colleagues will recall that the EPA Administrator, Mr. Bill Reilly, was the head of the U.S. delegation to the Earth summit. And he did the best job he could under very difficult circumstances—many of them created by an absurdly political and out of touch White House. This is the White House that leaked a confidential diplomatic cable from Mr. Reilly, embarrassing him, our country, and some of the other nations that we have been working with. And this was a bald effort to introduce domestic reaction politics into the Rio conference which ended up backfiring on the White House. And it is this same event that catalyzed the heavy and persistent stream of criticism that barraged the United States.

Mr. Reilly describes his experience as follows:

> For me personally, it was like a bungee jump. You dive into space secured by a line on your leg and trust it pulls you up before you smash to the ground. It doesn't typically occur to you that someone might cut your line.

Mr. President, the person who leaked Mr. Reilly's memo cut his line and opened the floodgates of criticism on the United States, not Senator GORE.

Senator GORE did neither push him off, cut the bungee line, or whatever. That was all done right out at 1600 Pennsylvania Avenue.

On our position related to the global climate change convention—the treaty other nations and Senator GORE wanted to contain binding commitments to halt the precipitous rise of greenhouse gas concentrations in the atmosphere—Mr. Reilly related a statement by the British Secretary of State, Michael Howard, who said: "Rarely have I seen a good brief so poorly argued."

That is what we all said all along. The United States had a good brief and rarely have any of us seen our brief so poorly argued as it was by the White House in Rio. We had some very good points to make with respect to covering all of the greenhouse gases in the treaty, rather than just carbon dioxide. We had a very robust and ambitious history on clean air from the Stockholm convention to the Clean Air Act itself, to our own commitment of billions of dollars to cleaning up our own atmosphere through catalytic converters.

We did not take advantage of that history. We did not tell the world about that history. Rather, we had a wonderfully comprehensive approach to take and did not do it. Our resistance to anything that could be construed as a binding commitment to stabilize our emissions made us the international whipping boy rather than the international hero which we could have been on this global political and environment issue.

And Mr. Reilly says in his memo:

> The United States stood alone in resisting commitment to targets and timetables for reducing CO_2 emissions. * * * I believe the United States will have little difficulty stabilizing greenhouse gases.

Why did we do it to begin with?

That is the rub, Mr. President. We in the United States, our administration, argued against the wishes of the rest of the world on something that we can achieve with little difficulty. Why? Because it is an election year and certain interests in this country did not want this administration to be seen as progressive in any way, and the White House made the political judgment not to be seen in any way, shape or form taking the issue of global climate change seriously. So the rest of the world laughed, we acted, and it was further embarrassing to us.

Mr. Reilly goes on in his memorandum in the following manner.

> Another key question, frankly, is why did the United States play such a low-key defensive game in preparing for Rio? We assigned a low priority to the negotiations of the biodiversity treaty, were slow to engage the climate issue, were last to commit our President to attend Rio. We put our delegation together late and we committed few resources. No doubt this contributed to the negative feelings toward the United States.

All of these are statements by Bill Reilly.

Another contributing factor was the substantial negative media coverage from a press corps greater in number, I remind my colleagues, than that gathered now in Barcelona for the Olympics. And I happen to agree with Mr. Reilly's assessment that some of the press coverage was unfair. But while it was unfair, it was absolutely undefended by this administration.

Some of us had to get up on behalf of the United States of America and defend our country as our negotiators were incapable of doing it.

Memos were leaked, compromising not just our policy negotiators but our policy position as well. This did not occur because of anything that Senator GORE, the Senate observer group or any others of us said or did in Rio. Instead, some of our problems resulted from the administration's obstructionist and posturing stance on several pressing global environmental challenges, all clearly outlined in Mr. Reilly's memo. As Mr. Reilly writes, "We experience a public relations setback internationally counting on the notion that lonely defiance has its champions at home." The wrong political call.

That statement says it all. I hope that before anyone, Mr. Fitzwater or whoever it may be, makes another inaccurate statement about what happened at the Earth summit they ought to do their homework. They ought to understand why it was that our country and our President was so negatively portrayed, and why this was a sophomoric foreign policy disaster by a crowd that just does not understand what is going on in our country and around the world. They ought to ponder the statements of Bill Reilly.

And I am going to print this in the RECORD in a minute and they ought to read this memo. This memo says it all. It is not Senator GORE saying. It is not Senator WIRTH saying, not any Americans or observer group, nobody on the Senate floor. This is the memo coming from Bill Reilly, the President's lead environmentalist, the person the President turns to in an attempt to legitimatize our environmental record. It is this very record, Mr. President, this very memo written by Bill Reilly for all the EPA employees, dated July 15, that says it all.

Mr. President, I ask unanimous consent that this memo be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, July 15, 1992.

Memorandum to all EPA employees.

Subject: Reflections on the Earth Summit.

First, let me thank you very much for the warm welcome I received my first day back in the office. I was deeply moved by the declarations of confidence and support thousands of you signed. Not having had a lot of positive reinforcement in Rio it was all the more welcome to come home to some. And particularly satisfying that it came from my own EPA people. So thanks for that.

The United Nations Conference on Environment and Development, the Earth Summit, was a watershed event. In attendance at the Earth Summit were three times as many countries (180) than were present when the U.N. was organized, twice as many as signed the Montreal Protocol, 40,000 participants, 9,000 journalists, and over 100 heads of state. It was variously described: by Maurice Strong, Secretary General of UNCED, as "the most important conference in the history of humanity"; and as "a circus," by an anonymous White House staffer who briefed the New York Times on background!

For me personally, it was like a bungee jump. You dive into space secured by a line on your leg and trust it pulls you up before you smash to the ground. It doesn't typically occur to you that someone might cut your line!

The Rio Conference came 20 years after the first great international environmental meeting of recent times—the Stockholm meeting of 1972. The Stockholm Conference raised the profile of international environmental concerns, and many countries followed up by creating environment ministries. But environment in most countries did not become a priority issue, nor were the trade, economic and foreign policies of nations typically reformed to reflect environmental values. The purpose of the Rio conference was to elevate the environment as a priority, and promote better integration of nations' environmental goals with their economic aspirations.

Expectations for the Rio meeting were very high: for specific treaties on climate change and biodiversity; for a wide-ranging statement of principles on forest conservation and management; for an ambitious Agenda 21 with 900 pages of significant, new international commitments to better environmental behavior; and for new financial resources sought by developing countries—one speech by Maurice Strong indicated $125 billion estimated total annual need, of which he hoped $25 billion in new money annually would come from the conference. Inevitably, many of those expectations were not met. But what is extraordinary to me is how many were met, and how much the world did achieve. When I visited Brazil last winter to lay the groundwork for a possible visit by President Bush, neither the Brazilians nor I expected so much would ultimately be agreed to at the Conference.

Achievement: Framework Convention on Climate Change. 154 countries committed to decrease harmful levels of greenhouse gases, develop national action plans, and increase scientific research and monitoring. As you know, the United States stood alone in resisting a commitment to targets and timetables for reducing CO_2 emissions. The Treaty agreed to is a sound basis for addressing and periodically reviewing the problem, the science, economics and technology relevant to climate change. And I believe the United States will have little difficulty stabilizing greenhouse gases. In Rio, I proposed all signatories present their action plans by January 1. The European Community said they would need a year. In sum, on climate change, as the British Secretary of State Michael Howard, a barrister, put it to me, "Rarely have I seen a good brief so poorly argued."

Achievement: Convention on Biological Diversity. This treaty addressed the problem of species loss worldwide, with a commitment to national plans and conservation strategies. The United States decision not to sign was the subject of intense controversy and criticism. In public relations terms we never recovered from it. The decision was not based on opposition to the conservation elements of the agreement, which we support, but our financial and legal concerns related to a proposed regime to single out as especially unsafe biotechnology, and language suggesting that intellectual property rights are subordinate to other rights recognized in the Treaty. The financing provisions, leaving authority with the donee, are also unsound. The U.S. early on supported the need for a biodiversity convention so it was a perverse twist that we alone rejected it. In his speech to the Rio Conference, President Bush announced that the U.S. would exceed the conservation goals of the Convention on Biological Diversity and we will work to fulfill that pledge. Furthermore, I believe the Convention and instruments of implementation will likely be revised in the future and accommodate our concerns. Incidentally, I have begun to hear recently some claims that the biotechnology industry did not have fundamental objections to the Convention. Certainly elements of that industry convinced the State Department, Vice-President's office and White House that the Convention did threaten them; no companies communicated any contrary message, even privately.

Achievement: Forestry—the Declaration of Principles on Forestry and advancement of our "Forests for the Future Initiative," the President's proposal in lieu of a worldwide convention on forests. This Initiative promotes sustainable forest use and also carbon sequestering. The United States and Germany both made forests a priority and committed substantial funds for their protection. I personally negotiated on the Declaration of Principles and was struck by how offensive developing countries find some of the concepts—"global forest values," "carbon sinks," "international concern." The forest-owning developing countries genuinely fear as "globalization" of internationalization of their resources. Hence this implacable opposition to a Forestry Convention.

Achievement: Agenda 21—perhaps the most remarkable achievement of the conference. 900 pages of action plans—adopted by consensus by all 180 countries present—on addressing issues ranging from protecting the atmosphere and oceans, guidelines for Environmental Impact Statements, toxic release inventories, public participation, community right-to-know, safe drinking water. Many of these ideas, community right-to-know, TRI, EIS, were championed by the United States. Agenda 21 is an extraordinary new consensus on standards against which to measure the performance of governments. No doubt the press, non-governmental groups and environmental ministries will mine these documents for ideas, and will use them to hold governments and industry accountable for their actions for years to come. Just as in the field of human rights, these declarations will have the force of new expectations and will be a big stick with which to beat recalcitrant governments.

Achievement: The Rio Declaration or the Earth Charter. This declaration, a kind of "Stockholm Two" represents a compromise statement of principles with something for both the developed and developing nations. In a broad sense the Declaration embodies the general positive political emphasis UNCED put on environment and development needs. Its language is not all felicitous but it endorses economic instruments, a first for a U.N. document.

The Rio Conference had far-ranging impacts beyond the individual agreements negotiated:

It significantly heightened environmental concern worldwide, and in effect, was a 14 day crash course in environmental education. North and South America, Europe and Japan received saturating press coverage. I don't know about Africa, China or India.

It marked the arrival of the international environmental issue as one which will engage questions of trade, energy, technology transfer, bilateral funding, multilateral organizational commitments and structures. It launched the environment as a major new consideration in foreign policy. Prior to Rio, there was a tendency to limit or constrain environmental objectives to other forums, such as the GATT. Now developing nations are beginning to pursue trade and objectives in environmental treaties, where developed countries are finding it difficult to resist them.

It created a new and compelling rationale for engagement and cooperation between the North and the South, including funding commitments. Rio marked the arrival of a new basis for developing countries to make demands on developed countries. As traditional security and strategic claims have waged after the Cold War, developing countries have begun to appreciate that they have a new rationale for demanding concessions from richer countries: how they use their forests and burn fossil fuels, or whether they conserve species all matter to people in developed countries who will pay to influence new policies. Europe and Japan will be more susceptible to these new claims by developing countries than the U.S., I suspect, and this increasingly will isolate us.

From the conference new and significant financial commitments were drawn from Germany and Japan, and to many marked the arrival by these countries as international environmental leaders. The precedent of a major international agreement being concluded without the United States, was also much commented on. As I mentioned, in my view, the biological diversity treaty will be altered to satisfy the main U.S. concerns. The European Community and Brazil promised as much in their signing statements. In my opinion, a transition is taking place: countries with enormous economic resources are beginning to acknowledge social and environmental obligations commensurate with their economic power. This, in fact, has long been a objective of the U.S. foreign policy and we welcome this shared leadership.

One key question that remains in my view is why was so little asked of the developing countries? The lessons of Eastern Europe—the importance of democracy and free markets—are clear. The lessons of Mexico's experience are also clear. In Mexico, a liberalized economy open to trade and investment has resulted in more than $25 billion in new inflows of capital over the past few years, an amount that dwarfs any conceivable foreign aid to which they might have aspired. And now Mexico is spending one percent of their GNP on the environment. We are in a new era where trade, not aid, will provide needed resources. I was virtually alone in pointing to these realities but because of the U.S. position on biodiversity I simply was not heard.

Another key question, frankly, is why did the United States play such a low-key defensive game in preparing for Rio? We assigned a low priority to the negotiations of the biodiversity treaty, were slow to engage the climate issue, were last to commit our President to attend Rio. We put our delegation together late and we committed few resources. No doubt this contributed to the negative feelings toward the United States.

I feel strongly that the press did not fairly portray the U.S. contribution to the conference, yet it is the impression many took away. The President's speech was well received in view of the fact that we considered the content of agreements a substantive success. We experienced a public relations set back internationally, counting on the notion that lonely defiance has its champions at home, and when it is principled it is often vindicated by history.

Where do we go from here? We will need to continue the momentum of international cooperation on the environment, especially with Europe and Japan, and work to articulate more clearly the real reforms needed in developing countries, where arguments about the conditions placed on assistance will inevitably ensue. I suspect all governments worldwide will need to adjust to the higher environmental expectations of our own people.

I'll close with a book recommendation I consider required reading: Changing Course by Stephen Schmidheimy. It lays out a path for the future of environmental leadership for industry, by someone who has championed that cause.

Finally, if the new world order does not result in a new, higher priority for planetary stabilization—the oceans, atmosphere and forests and the rest—it will be disappointing to many. If it does, it will demand a new sophistication and capacity to integrate our economic priorities with new international environmental priorities on the part of governments and their leaders.

WILIAM K. REILLY.

Mr. WIRTH. Mr. President, I would also note that I am going to today put in the mail and send this memorandum to Mr. Fitzwater to remind him exactly what the record really is from his own administration, not Senator GORE.

Mrs. KASSEBAUM. Mr. President, is the Senator from Colorado through with his statement?

Mr. WIRTH. I am indeed.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM pertaining to the submission of Senate Concurrent Resolution 132 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

THE ECONOMY

Mr. RIEGLE. Mr. President, I rise at this time to talk about the economic data that came before us today in terms of what is happening in our national economy, and also to take note of a really incredible statement attributed to President Bush today, in his travels out in California.

The President, in an AP news story, apparently in the midst of the speech to a service club, is quoted as saying to people on welfare: "Get a job, or get off the dole."

So it sounds as if, based on this account and the further elaboration on it, that he was out targeting the people today on welfare and telling them that it was time for them to get a job. Most of the people on welfare want a job, but there are no jobs to be had. And there are no jobs to be had, because this administration has not had an economic strategy to create jobs in this country.

Let us just look at what the morning headlines tell us from newspapers across America. Here is the Los Angeles Times, from California, dateline today, headline: "Economy's Pace Reduced by Half." The subheadline says: "Output, the poor quarterly figure," referring to the second quarter of this year, "only 1.4 percent, is another piece of bad news for Bush's reelection effort. Economists say the recovery looks much like a slump." That is the Los Angeles Times.

Here is the New York Times, the lead story on the right hand column: "Economy's Growth in Second Quarter Was a Slight 1.4 Percent" in that period. And then it goes on to say how damaging that is to the country.

Let us take a newspaper right here in Washington, DC. I think it is probably one much read at the White House. The Washington Times' headline story today: "U.S. Economy Stuck in a Rut; Pre-election Pickup Doubted."

Listen to this. I want to read a little bit of this Washington Times story today:

> The Nation's sputtering economy slowed from April to June after a stronger showing at the beginning of the year, and it's not likely to improve much before the November elections, the Government reported yesterday.
>
> Gross domestic product—the sum total of the Nation's goods and services—increased a slight 1.4 percent in the second quarter after posting a 2.9 percent jump in the first quarter, the Commerce Department reported.
>
> Slower consumer spending, defense cutbacks and a decline in exports pulled the economy back in the second quarter, government economists said.

Dropping down:

> The Government also unveiled new numbers yesterday showing that the recession was actually 3 months longer than originally predicted.

Jumping down again.

> The weaker numbers were a disappointment for the Bush administration, which has come under fire for failing to correct the economic downturn that began in 1990.

The economic downturn that began with this administration has reduced per capita income of people in this country during the course of this administration. You have to go back virtually to the time of the Depression to find a time when the living standard and the disposable income of people in this country has been dropping the way it has been.

We now have over 15 million people in this country who are unemployed, those who have lost their jobs or their jobs have been eliminated by companies all across America, and what are called discouraged workers who have been out looking for work and cannot find work. And if you add into that people who are only able to work part time because they cannot find full-time work, the number is well in excess of 15 million people today who want jobs; who want jobs and who cannot find them.

So for the President to say to people, "Go find a job," you wonder what planet he is living on. There are no jobs to be found. That is the problem. We need jobs. We need jobs and we need a jobs strategy.

Now, the problem is the administration has no jobs strategy, not for this country. Oh, yes, they have a jobs strategy for Mexico. It is called the United States-Mexico Free-Trade Agreement. They are working day and night right now to complete work on that free trade agreement with Mexico. And that is a jobs program for Mexico.

It means more and more plants will close in the United States and the jobs will move down south of the border where there are very minimal environmental standards, very low wage levels.

Just the other day, we had the chief executive officers of the Smith Corona Typewriter Co., come before the Senate Banking Committee and testify that they have just announced they are closing the last typewriter plant in America up in Cortland, NY, eliminating 885 jobs and taking those jobs down to Mexico where the wages are so much lower.

And the reason they are doing it is that they were the target of trade cheating by a Japanese company, and our Government refused to do anything about it. Even though Smith Corona brought a legal action and the finding was in their favor, the Bush administration refused to apply the penalties against the Japanese typewriter company and, as a result, Smith Corona has had to close its American operation and now take that operation and those jobs down to Mexico.

The Bush administration came in the other day asking for economic help for the old Soviet Union because they have problems. We all see that. He came in and asked for financial help to try to get their job picture improved over in the Soviet Union. They have a defense conversion problem over there. He wants us to help with that.

Just yesterday, in the Senate Finance Committee, the administration was in again asking for help—who for this time?—for Communist China. Communist China, run by the most ruthless Communists in the world today, repressing their people. They have all kind of dissidents and people who were freedom fighters in the slave labor camps. Communist China wants most-favored-nation trading status and President Bush insists that we give them most-favored-nation trading status.

So this year the Communist Chinese will have a $15 billion trade surplus with the United States, and that means they are sucking $15 billion out of America, taking jobs to China, taking the scarce capital along with those jobs, hurting this country, and helping China.

So people here in the United States who are searching for work and who cannot find it, they cannot move to China to get a job. They should not be asked to move to Mexico to get a job. They ought to be able to get a job right here in the United States.

So for the President to tell people to find work when he has no strategy to make sure there is enough work to go around, I think is just not proper. It is just not fair. It is just not right.

I say this: I have known the President for many years. I like the President, personally. But he is disconnected from the economic realities that are facing people in this country. There is a disconnection between this administration up at the top of the Bush administration and what is really going on down at the grass roots where people live.

I have asked myself the question: Why is that? I think part of the problem is that there is at the top of this administration, among his chief economic advisers, people of great personal wealth with trust fund assets, and these are people who are not touched by the recession. They are doing well. They have high incomes. Whether it is trust fund income or whatever, it rolls in every week, every 2 weeks, every month.

So they are not experiencing this problem. It is not their sons and daughters that are going without work out in this badly damaged economy. So when they are approached by the problem of the economy in this country, they say, "What problem? What problem are you talking about?" Because they do not feel the problem. The problem is not affecting them.

Oh, yes, they can see the problem if it is in another country. If it is a need for a program in Thailand, the President will be right in here for it. He is for helping there. Or if it is a jobs program or economic support for Kuwait, he will be right here asking for that. You name the country, the Bush administration has a program to help them, except for this country; there is no economic program for America.

Of course, now what they are attempting to do, because their record is so miserable in this area, is they are going to undertake to attack their political challengers in terms of the Clinton and Gore ticket and to try to change the focus, create some phony issue so they do not have to talk about the economy and be measured on their own failed policies in this area.

A few months ago, Treasury Secretary, Secretary Brady was asked or volunteered an answer in a meeting somewhere as to why the economy was doing so poorly, and when was the economy going to pick up steam, when were we going to see more jobs in the economy.

He advanced as an answer at that time what he called the light bulb theory—the light bulb theory. As he saw it, he had read somewhere where the inventory of unsold light bulbs in the country had gotten very high; that a lot of light bulbs had been produced, but they had not been sold. And so he theorized that one of these days there was going to be a great rush of consumers out to replace their old light bulbs which they were hanging onto and they were going to buy new light bulbs and that was going to give the economy a spurt and we were going to start to see economic growth again.

Now, people hearing that were wondering if they could believe their ears. And it was said with a straight face. It makes no sense. It makes no sense. And, of course, the economy has continued to languish since.

Well, the other day, in the Wall Street Journal, there was a report on a Cabinet meeting just last week and the Treasury Secretary came forward with a new theory. This theory is just like the old one. He said what was going to happen here was that the American basketball team at the Olympics, the Dream Team, was going to win the gold medal and, when they did, that was going to create so much excitement and enthusiasm here in the United States that it was going to kick off a surge in the economy; that people presumably were going to run out and buy a refrigerator, buy a new car, buy a house, become more optimistic about the economic future.

Well, people read that and wondered, you know, if a trip over to St. Elizabeth's was needed here for an examination, because it is so nonsensical.

That is not a policy. That is an illustration of no policy. And, of course, some months ago, other top administration officials were asked what needed to be done and they said, well, nothing needs to be done. Do nothing.

Well, that is what has happened. We have had a do-nothing policy and the problems have gotten worse.

Now let me read another item over the ticker today. I just took it off the wire service outside the door here. This has a dateline of AP today.

> Americans' income show no growth in June. Americans' personal income failed to grow in June, the Government said today.

Now, this is today's news; not yesterday's news that was in this morning's paper, but this just came across the wire.

> Americans' personal income failed to grow in June, the Government said today, underscoring the sluggishness of economic recovery and reflecting tough conditions in the job market.

Dropping down here, the story goes on to say:

> The problem has been the dismal job market.

Further down it says:

> Manufacturing wages and salaries were down five-tenths of a percent. Other categories showing declines were farm income and interest income.

So people have less real income. Because once you deduct out the inflation effect, people are falling behind. That is what the per capita data shows over the last 3 years: that most people in this country are sliding backward in terms of the disposable income they have to finance their standard of living for themselves and for their families.

That is why we need a change in policy. But the President today is in, of all places, California. Here is California, with the highest unemployment rate in the country; 9.5 percent. The State is broke. They cannot even pay their bills and pay their employees. They are paying them with scrip, with IOU's. The banks have now said in California they are not going to continue even to honor the IOU's much longer, because there is no money coming through to redeem those IOU's.

In that situation, with that massive unemployment in California, the President says, "Get off welfare and get a job."

How do you get a job when there are not any jobs? How do you get a job when there are not any jobs, and when there is no job creation strategy?

Oh, yes, there is a strategy to create jobs in Mexico and to create jobs in the old Soviet Union and to create jobs in Communist China. The Bush administration has elaborate plans in each of those cases. They just do not happen to have a plan for this country.

So the people out there right now who are desperate for work, hunting for work, they do not need a lecture from the President. They need a job. And they want a job.

The other night on national television, one of the networks featured a story on two servicemen from the United States who fought in the Desert Storm war just over 1 year ago. When they came back from distinguished service in that war, they of course received the parades that they deserved. But now, all these months later, they are unemployed and homeless, living in cardboard boxes here in the District of Columbia.

They were interviewed on that TV show. They feel very bitter because they were important to this country several months ago, when they put on the uniform of America and put their lives on the line to go over and do our Nation's work. But now they have come back here, and they are forgotten. They are unemployed. They are looking for work; they cannot find it. They are homeless, living in cardboard boxes right here in the Nation's Capital.

Why can the administration not see this? We do not need more lectures about finding work. We need an administration that is going to create some jobs in America. The people will find the jobs and take the jobs. They are desperate for the jobs—desperate for the jobs.

I received a letter the other day from a man in Texas who had been watching one of the hearings on C-SPAN. This was a man who wrote a long letter to me. He had a college degree. He indicated how he had lost his job. He has been through three different job-retraining programs he still cannot find work. And he is desperate. He was writing to say he is desperate.

He does not want to be on welfare. He wants to work, but he cannot work if there is not enough work in this country and if the administration is out to lunch on this problem, as they are.

They are sleepwalking. The Bush administration is sleepwalking on these economic issues. I do not know who put that speech together for the President today, to send him out to Los Angeles to tell people to get off welfare and take a job, the very day that the Los Angeles Times is running a headline story that the economy's pace is reduced by half and unemployment is rising. In fact, it is the highest, in California, of any State in the Union.

What do you suppose the people in California who are unemployed and desperate, looking for work, must think when the President comes out and says, "Why do you not get a job?" They want him to do his job. They want him to do his job. But he will not do it; not on domestic policy.

It is the one-eyed President problem. He can see the foreign policy issues. You can talk about a foreign policy issue from Tahiti to Timbuktu—that he will see, and he will get interested in that. He will work on that. He will generate a program, and they will come up here and ask for help, and so forth and so on. Because with the one eye that can see, they can see all the foreign policy problems. But when it comes to domestic policy, that is the blind eye. They cannot see out of that eye.

If you talk about a jobless problem, homeless problem, AIDS problem, the need to revitalize our industry, to stop the trade cheating, all these things—they cannot see that. They cannot see it because they cannot see out of that eye.

So now we have a situation where the President is out in California, telling people to go out and find a job in a job market where 9.5 percent of the people are unemployed. I cannot believe it. I cannot believe it.

I mean, how can the administration hope to have any credibility in a situation like that? What needs to happen is they need to come back and craft a plan, an economic surge plan, that can get this country back to work.

Let me tell you what ought to be in it, because much of this has been laid out by Bill Clinton and AL GORE in terms of the platform of the Democratic Party. They have offered a strategy. Their strategy is to invest in this country, and to invest in the people of this country and the businesses of this country to get an investment-led growth strategy in place that can create jobs. That is what is going to take people off welfare: The fact that there is an opportunity to move into a job.

Right now, the Bush strategy, the economic strategy, has failed so miserably that people are being thrown out of jobs onto welfare. So we need a new strategy. We need one that concentrates on our human resources, that powers into education, powers into job training and retraining where it is needed, to make sure that people who need health services and health care are getting it.

If somebody is out there and they are sick and they cannot be made well, they are not going to be able to produce properly.

We need to invest in our technologies; we need a major surge in technology investment. We need to invest in our infrastructure. We all know we have terminal problems in that area. The Japanese are spending 6, 8, 10 times the amount on infrastructure investment that we are in transportation networks, information networks, and urban revitalization. This work is out there waiting to be done. You have all these unemployed workers. Let them go and do that work.

We need more investment in plants and equipment. We need the most modern equipment that money can buy to increase the productivity of our workers. And we have to incentivize the flow of capital into expansion in the economy and into job creation. And we need strategies that business and Government and labor can work out together on our critical industries.

We need strategies to strengthen the auto industry, the aerospace industry, the chemical industry, computers and software, pharmaceuticals, electrical components and equipment, machine tools, telecommunications. These are the industries that are critical for us. They provide hundreds of thousands—in the end, millions—of jobs in our economy.

And I am talking about good jobs. I am talking about jobs that pay for a middle-class standard of living and income. I am not talking about jobs at the minimum wage down at the fast-food place. I am talking about jobs that provide health care and a lifelong work career, and a decent retirement at the other end.

We also need some structural adjustment policies. All of these workers who are coming out of the defense industries—both workers who work on manufacturing lines and those who work in the Government laboratories—we have to make sure they have alternative work to do; help in the adjustment; help in the transition.

What the heck. I mean, they are in here asking for money to help the Soviet Union go through that transition. We ought to be spending some money constructively and wisely, and in a targeted way here, to help the adjustment process for our own workers in this country.

I have left for last the trade issue. Listen to these numbers. Since 1980, since Ronald Reagan came into the White House with George Bush as his partner, and now since that time, with Bush and QUAYLE, we have had a terrible performance in the international trading accounts. How much have we lost in our trade deficit since 1980? It is a number that is so astronomical that people have a hard time even comprehending its size. Our trade deficit with the rest of the world since 1980 is $1.1 trillion.

You wonder why our economy is battered? Why it is hurt? Why industries are closing down and plants are closing down? A large part of it is the trade cheating that is going on.

Japan is the worst offender, but there are others right behind them, where they will not let our products be sold in their country and yet they flood their products, their surplus production, here into the United States below cost. They target major industries and, one by one, they destroy those industries in the United States.

We have seen it in consumer electronics. We have seen a lot of damage done in the auto industry. There was a little pickup in the first quarter of this year with the auto companies, but it is modest. And over the last—roughly—2 years, the three domestic auto companies in the United States have aggregate losses of about $10 billion. That is money that is now gone, and those companies are weakened as a result of it. And the number of jobs has gone way down, too, at the same time. So tremendous damage has been done there.

Has there been any trade strategy to deal with this? No; there has not. Take the case of Japan, the worst offender. The President went over to visit Japan a few months ago. They had talks on trade.

Do you know what has happened since? Our trade deficit with Japan is worse today than it was before the President took his trip. It is worse today. It is higher. It is running right now at the rate of about $44 billion for this year. So that means that Japan, every 30 days, is extracting over 3 billion dollars' worth of strength out of the American economy.

They are taking the jobs, taking the money, taking them to Japan. That is every month, over $3 billion every month.

What are we doing about it? Next to nothing. So the Japanese are laughing at us. They cannot understand the weakness of the Bush administration policy. They expected the Bush administration to crack down on the trade cheating. Unfortunately, the Bush administration will not do it.

The Europeans cracked down on the Japanese trade cheating and so has everybody else in the world. But no, we will not do it because there is no strength in our policy in that area.

Listen to this: Since 1980, Japan alone has taken out of the United States in trade surpluses in their favor $460 billion and they are adding to it between $3 and $4 billion every single month.

I say to people in this country wherever they may be, if your job prospects are diminishing, if your sons and daughters are having trouble finding good jobs, part of the problem is the trade cheating that is going on and the fact that nothing effective is being done about it. We have passed laws here, the Super 301 law which I helped write, and it is not being enforced effectively. Smith Corona, which has just closed its last typewriter plant in America, testified just last week that they have had to move their final plant out of America to Mexico because they have been the victim of trade cheating by Japan. They caught Japan red-handed and our administration now will not administer the penalties and enforce the law and stop that abuse. So those jobs are gone. And that ripples through our economy.

Here in America, every job is connected to every other job. That is why when we buy something that is made in this country and we keep the money in the country, it keeps moving around, it helps create the next person's job. If you have a job and you are spending money on things that come from America, you are helping to create the job for the fellow over on the next block or in the next county or across the State or in some other State across the country. We need more of that.

Mr. President, a few months ago in the Congress, we passed an economic growth strategy. It was a good package. We incorporated in that even a number of the suggestions that President Bush himself had made.

The package, in order to create jobs and new investment in the country, had to paid for. That is the requirement under the law that now exists. So in order to pay for it, we increased the taxes on the most wealthy people in the United States, the people at about the top 1 percent of the income category. It is referred to essentially as a millionaire's tax. That would have been kicking in and hitting people principally in that area.

The President did not like that package. That is the part of it he did not like, and so he vetoed that package. That is just one veto. There is a whole stack of those. If only we had all those, all of the things that have been vetoed, including, by the way, one of the extensions of unemployment benefits to try to help people through this seemingly never-ending recession that is out there—he was not willing to accept that either. Not once, but twice. We finally rammed it down the third time, but by that time, the unemployment was much higher and it was obvious that their ideas about the economy were so flimsy and irrelevant that people were demanding an extension of unemployment compensation benefits, and so he changed his mind and passed that.

He may do that now with this new program that we just brought through the Finance Committee. We will have to wait and see. Over at the Federal Reserve, we have had a situation. We had Alan Greenspan come in the other day to testify before the Banking Committee on what has been done with monetary policy. Money growth has been awfully slow and it has been awfully slow for a long, long time.

When the economic data would begin to turn sour, the Fed would make a little adjustment here and see what would hatch. When things got worse, then they would make another little adjustment. So they made a lot of small adjustments over a long period of time, but they never got in front of the problem and did enough to really take and put some strength into the economy in bold, strong shots. In fact, he said to us, I am paraphrasing, he said we have adjusted the monetary policy 23 times. Adjusted it 23 times. And I thought that is a lot like having your car, when it is not working properly and you take it down to the service garage to get it repaired and you take it in and the fellow makes the adjustments and you bring the car home and the first time you try it, you drive it, it stalls out in an intersection and it is obvious he did not get the job done, so you take it back to the repair shop a second time.

We have taken it back to the repair shop now 23 times and it is still not working properly. Now I think we are to the point where the Fed cannot do this job. They waited a long time, they did a small amount each time, they did not get in front of the problem and now we find ourselves in a situation where I do not think monetary policy at this point can put much of a dent in this problem any time soon.

We need more than that. We need the kind of strategy that I laid out here earlier and the kind of strategy that Governor Clinton and Senator GORE put forward. We need a change in direction. We need a change in economic strategy. You know who is saying that the loudest and the clearest? The people of the country are saying it. You look at the public opinion polls by every national organization. They ask a standard question now: Is America on the right track going into the future or the wrong track going into the future?

The numbers are at an all-time high; over 80 percent of the American people now in poll after poll after poll are saying that the American economy is on the wrong economic track going into the future and that we need big changes in economic strategy. That does not mean a free trade agreement with Mexico which is a jobs program for Mexico. It does not mean most-favored-nation trading status with Communist China, which is a jobs program for China. It does not mean special help for the old Soviet Union, which will help improve the employment situation there. It does not mean more help for Kuwait because they have problems over there.

We need some help in this country and not just a lecture out in California from the President today, telling unemployed people to go find a job when there are no jobs to be found. The highest unemployment of anyplace in the country, 9.5 percent is in California. The State is broke, it cannot pay its employees, giving them scrip. The banks are about to say they cannot accept it any longer.

And the advice of the President out there today is for people who lost their jobs and find themselves on welfare to go out and find a job. Maybe they are supposed to move to Mexico. There are going to be a lot of jobs in Mexico if they manage to ram this free-trade agreement with Mexico down our throats. We are going to try to prevent that from happening here. I hope that will succeed.

When all the cards are on the table on that issue, if we put that issue on a ballot in the country and let the public vote on it, I know what the vote would look like. People in this country know we do not have enough jobs to be able to ship millions more of our jobs down to Mexico where the rates are 50 cents an hour and they have virtually no environmental standards and the laws are not enforced properly down there. So people do not want that. They know that is not going to help us. That is why the Europeans did not take Turkey into the Common Market, the European Common Market, because there was too big a differential in the economies.

Mexico is a Third World economy. It is fundamentally different than the situation we faced with Canada, the economy of which is much more on an even plane with ours. But in the case of Mexico, clearly it is a Third World economy. And for the same reasons that Turkey was not taken into the European Common Market, we have to have a great caution about sending more of our jobs out of America, in this case to Mexico, or to Communist China or any other place.

So I think the record is clear. I assume, as I said earlier, that the administration reads this newspaper in this town, the Washington Times, with a headline today, "U.S. Economy Stuck in a Rut." U.S. economy stuck in a rut.

This crowd has been in power now for 12 years in the executive branch of Government, first Reagan-Bush, now Bush-QUAYLE. The plan we are following is their plan. It is their plan, and it has given us these results. So it is time for a change. It is time to make sure we have enough jobs to go around in this country. It is not enough to go out there and beat up on the people who are unemployed or who, because they cannot find work, are on welfare. People want to work. Oh, there may be a few who do not want to work. Most people in this country want to work. The 15 million people we can identify who want to work full time and cannot find full-time work want to work, but there is not any work for them because our concentration is elsewhere. This one-eyed administration has plans for all the other countries in the world, economic strategies, but none for this country.

So that is the record and the choice we face. People are not going to be fooled about it. Oh, I know they are gong to back the dump truck up and dump everything they can. As Senator WIRTH said, they are trying to discredit AL GORE now and trying to discredit Governor Clinton in any way they can, because if you cannot present the case on the central issue of the day, which is our economic situation, our economic future, if your record is poor in that area, and you have no meaningful strategy to do anything about it, what do you do? You change the subject.

To what do you change it? Well, it is pretty slim pickings there, too. There is not very much they can change it to, so they have to change it to beating up on the other guys.

That is not what the American people want. They want answers to this economic problem. They want the U.S. economy, which the Washington Times says is stuck in a rut, out of the rut, and that means new leadership, new thinking, new economic strategy.

I am happy to say there are proposals such as the one I have laid out today and which have been put forward by the candidates in my party which will address those issues right across the board, from the trade problems to the lack of economic growth, to the job creation needs in the United States and putting people first, investing in our people.

I conclude with this thought. It is so interesting because there are actually some people in the other party—I do not know that we will hear from any of them today, but there are some people in the other party who think it is also time to change economic strategy. There are some people right in the President's own Cabinet who think that. They do not have any influence, and I gather they get hooted down when they say this around the Cabinet table when Secretary Brady is floating either the light bulb theory of recovery or the Dream Team gold medal theory of recovery. But there are some Republicans around, at least a few, who think we need a new economic strategy. There are some even bold enough to say we need a new team leading it, that we need a new President, a new Vice President. Some of the Republicans would replace one and some would replace the other, but there are a lot of Republicans who would replace one or both in order to get a new economic strategy.

So there are plenty of voices on that side of the political debate that are just as concerned about the absence of an economic strategy and the pathetic performance our economy over the last 4 years as demonstrated by all the data that is there to see from the Federal Reserve, from the Commerce Department, and all the rest of the agencies that compile this information.

So we need a change. We need a new policy. We need new people in charge to make that policy happen.

I think that is what the American people are going to say. It is what they are indicating now in terms of their opinion when they are asked about it in the polls being taken. They want change. They want a new economic strategy. They do not want more of the same. They want to put the focus back on this country. And they want to have a situation where finally again we have an administration that does not just have an economic program for every other country around the globe but in fact has one for this country, one that is good for our people, and one that makes sure that there are enough jobs to go around.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Republican leader is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 3117 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

BILL CLINTON AND PUBLIC TELEVISION FUNDING

Mr. DOLE. Mr. President, I know we have had a lot of political discussion on the floor today and probably will have more before the day is over. I have been critical of the Democratic nominee, but I wanted to indicate one area where I think he may be right. I finally found one.

I do not agree with Bill Clinton on too many issues, but it appears there may be one where we do agree. Just a few weeks ago this Senate voted to dig deep into Uncle Sam's pockets to spend $1.1 billion tax dollars over 3 years for the Corporation for Public Broadcasting, a nearly 50 percent increase above current funding levels.

I consider myself a supporter of public television. It seems to me that public broadcasting could get along with the President's generous request of $825 million, which amounts to more than CPB gets now. But it looks like Bill Clinton may agree with me, according to a transcript of a C-SPAN interview Sunday night. When asked: Should the American taxpayer spend more money on public television, Governor Clinton responded, "I don't know that we have to spend more money on it now. We have a pretty vital network of public television." I understand he has a habit of wiggling out of these things but that is what he said last week.

I do not know what he may say next week when some liberal catches him and reminds him that he ought to be spending more.

But, before anyone gets too worked up over a CPB funding freeze in a Clinton White House, consider that such a position is out of step with every single Member of his own party in the Senate. Not one Democrat voted to support the President's reasonable $825 million request—not one Democrat voted for fiscal restraint, not even Bill Clinton's own running mate.

And before anyone starts calling Bill Clinton a "moderate" based on his apparent fiscally responsible position on this single issue, do not forget his proposed budget busting $220 billion in new spending on lots of other big money, big Government programs.

Mr. President, when I asked serious questions about how tax dollars were being spent on public broadcasting, what did I get? A shrill chorus calling me a "censor" who wanted to "kill Big Bird." If any of those folks, including the Democrat Vice-Presidential nominee, now want to direct their fire at Bill Clinton, be my guest. But their charges will be as wrong today as they were then.

I notice that none of the liberal media has taken up a cry that he is out to kill Big Bird or somehow get rid of "Sesame Street," because I assume they know he will change his position in a day or two in any event.

ARKANSAS AND THE BALANCED BUDGET

Mr. DOLE. Mr. President, I think the record should reflect on this Friday that politics has been initiated on the other side of the aisle. I am pleased the Senator from Mississippi is going to be here at least to set the record straight. He will not have time to set the entire record straight. Maybe he can start today and we can finish it up next week.

But the one thing I want to talk about is just one fact—no politics; nothing that this Senator is going to say is about politics; nothing to criticize. He is going to state the facts because I get a little tired hearing Governor Clinton say he has balanced the budget in Arkansas 11 times. I have heard the claims about the Arkansas balanced budget that has been used to show how fiscally responsible Bill Clinton is.

Let me tell you, the Governor does not have any choice in Arkansas. Unlike the Federal Government, the Arkansas law prevents appropriations in excess of revenues. We tried to pass the balance-the-budget amendment here about 30 days ago. Bill Clinton's running mate voted against us, as did many on the other side. Not many at all supported a balance budget amendment.

But in Arkansas, you have to balance the budget. The Arkansas code sets up a system much like the Gramm-Rudman system, except it permits no deficit at all. If there are not sufficient revenues to fund appropriations, then the appropriations are reduced to the level of available funds.

Not only does the President not have such a law to help him balance the budget, but he has Congress dominated by his political enemies. You would think that when you listen to the Clinton rhetoric, boy, this is tough, balancing that budget in Arkansas. First, you have a law that says you have to do it. If you do not do it, you are subject to all kinds of penalties.

Let us end all of this rhetoric. It is like the rhetoric of the Senator from Michigan, who just cannot help himself. Responsibility is not in his vocabulary. So he comes out and makes all these crazy charges about Bush. In fact, I think he does have the gold medal for attacking President Bush more on the Senate floor than any other liberal Democrat in the Senate. I think he is up to 36 times this year, going for the gold. I think he will probably get it.

But in any event, President Bush is running against odds. We have a Democratic House, where the House Democrats have a 102-vote margin. In the Senate, it is 57 to 43.

Let us take a look at Arkansas with this courageous Gov. Bill Clinton, who is now the Democratic nominee. What are his odds? In 1979, the Arkansas Senate had 34 Democrats and 1 Republican. Boy, that must have been tough for Governor Clinton, only 31-to-1 odds in the Senate. That was Governor Clinton's first term. By 1989, Republicans had soared in their contingent and increased to four. The Democrats only had 31. So it is 31 to 4, still a pretty good majority for that courageous Governor down there who was trying to balance the budget.

That was the Senate. Let us look at the House. In the Arkansas House, the party ratio in 1979 was 97 Democrats and three Republicans. Boy, that must have been tough for Governor Clinton to get his way when he only had 97 to 3—97 to 3 in favor of his party. By 1992, it had become 88 to 11 in favor of the Democrats with 1 Independent. So it was still 8 to 1. It must have been tough.

I just say to everybody who cares, if anybody cares, you give President Bush that kind of majority in the House and the Senate for 4 years, and we will straighten out this country. We will not add to the deficit. We will not spend more money. We will not do a lot of things that are being done now.

I listened to my colleague from Michigan talk about change. If you have a lot of old furniture in the house, you ought to get rid of the oldest first. Democrats have controlled the House for 38 years, controlled the Senate 32 out of 38. We have only had a Republican in the White House for 12 years. There ought to be a change in leadership in the House and in the Senate.

I listened earlier to the Senator from Colorado try to defend—he did not do it very well—the extreme, radical environmental views of Mr. Clinton's running mate, our colleague, Senator GORE. They are now backtracking from all these radical environmental statements by Senator GORE down in Rio, where he was sort of bashing America, bashing George Bush, as he did on the Senate floor, standing right back there in the back row day after day before the Rio conference, bashing President Bush for not going far enough.

It turns out, as the Democrats look at it now, what they had and what Senator GORE was advocating was an antijob, antigrowth, antibusiness, and, in effect, an antienvironmental policy where he is going to pick up the tab for every environmental problem in the world and put millions and millions of people out of work in Michigan, Ohio, Washington, Oregon, and other States where Gore had his sights trained before becoming the running mate.

So I am encouraged that my Democratic colleagues are now starting to defend their colleague in the Senate as well as their nominee for President of the United States.

I just suggest that these discussions, I hope, were useful. If we are going to set the record straight—and I know the distinguished Senator from Mississippi has been working very hard to get the facts. You are going to hear facts on this side of the aisle.

I just gave you facts about Arkansas. I did not dream this up. This is the law. These are the numbers.

So the next time anybody hears either the nominee, Mr. Clinton, or his running mate, Mr. GORE, talk about how he balanced the budget 11 straight years, remember, the law requires it in Arkansas, plus he had overwhelming majorities in both the House and the Senate in the State legislature.

Mr. President, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator for Mississippi is recognized.

CHANGE THE CONGRESS

Mr. LOTT. Mr. President, it must be Friday because it is obvious we are wanting to have a little fun, have a little shouting and a little hollering. Every Friday afternoon it seems now our colleagues come over, the Senator from Michigan, and Senator from Maryland, and others, to spend a few hours bashing President Bush, putting the blame on President Bush.

I am glad to see the distinguished Republican leader come over and set the record straight about Arkansas also. I am from Mississippi. Our State balances the budget every year, too. We have a constitutional amendment requiring we balance the budget. Our Governor also has line-item veto.

But I will say this for the Governor of Arkansas. He is for line-item veto. That is more than we get out of this body. We cannot get the Senate to vote for a line-item veto, but their nominee for President is for it.

So if we follow the example of Arkansas and Mississippi and 41 other States, we would have a line-item veto and give the President a chance to at least knock out a few bad lines in these monstrous bills they send over here.

So I say to the America people, if you want change, if you want real change, change the Congress. This where the problem is. We are it. Those who say President Bush has no domestic agenda, that he has not provided domestic leadership, I say you can lead a horse—or in this case a donkey—to water, but you cannot make him drink. The President has been trying. He has tried time and time again on a legislative agenda for the domestic economy.

He has presented bills. He has had them introduced. He sends them up here, and he speaks for them. He urges they be adopted. What does the Congress do? Nothing.

I say to the Democrats here on the floor of the Senate this: If they want to do something about the economy, they have a 57-to-43 majority; they control every committee. They control the Finance Committee; do something; do something about it.

We have not passed any economic growth bills in the Senate this year. The Finance Committee finally staggered to a bill on the urban aid problem a couple of days ago. It turns out it has a lot of the tax considerations we should have passed 6 months ago. Where have they been for 200 days?

As a matter of fact, in the Washington Post this morning the lead editorial says that even this is a terrible bill. But I remind the American people, and I remind my colleagues, if the Democrats want to do something to help the economy, if they want to pass some legislation, all they have to do is do it. They have an unbelievable majority in the House and majority in the Senate. I say to them: Get going, do something about it.

Let us look at the record. I am not interested in just saying that it is the President, or it is the Congress, or it is the Arkansas Governor. What is the record? I made these points yesterday, but for those who did not see or hear it, I have a chart that makes very clear where the problem is. These are way past due. President Bush has tried to get educational improvement. His legislation came to the Congress 1,210 days ago. That was as of July 28. So it is longer than that.

Savings and economic growth, a bill introduced by Senator PACKWOOD in 1990; for 908 days it has been pending. Crime control. Yesterday, when we had the D.C. appropriations bill, a very major amendment was offered and accepted to try to do something about the death penalty and about crime in the District of Columbia. It is not just the District of Columbia; it is nationwide. The President has made very good proposals. Senator THURMOND of South Carolina has pushed for those good proposals. Yet, the bills languish in the Congress.

The President asked for crime control and sent good legislation that would help the officers, reform habeas corpus, and have the death penalty included. We cannot move it here in the Senate. For 774 days it has been pending before the Congress.

Enterprise zone and job creation, something we have been talking about for years. We would like to have an opportunity to see if these enterprise zones will work. They will, but Congress will not act on it. This particular bill was introduced in 1991, well over 500 days ago.

Jobs creation initiatives. Congress will not act on it. In fact, every time Congress starts talking about economic growth, what do they do? They turn it into a tax increase bill. When the President proposed economic growth legislation earlier this year, introduced and supported by the Republican leader, Senator DOLE, and others, it was a good bill and had some things that would be helping the economy right now. What happened? The Congress raised $100 billion in taxes, forced the President to veto it, and it was sustained because it would have hurt the economy even more.

Finally, after about 518 days, we passed an energy bill yesterday. Hallelujah. No. 1, that is it—the first really broad-based bill that will help the economy move forward economically that we passed through the whole process this whole year.

One other bill that was good, although limited to a relatively small area, was the Higher Education Act. Here we are in the eighth month, and we passed two bills that amount to something for the year. It took us over 500 days on energy.

Line-item veto. We have had votes in the Senate. The Senate will not pass it. It has been pending 460 days plus.

The President's long-term economic growth proposal has been pending in the Senate over 200 days.

Let us talk about what we can do to help the economy. The President did not just send a bill up here that sounded good, that he would like to have for political reasons. It would really have helped the economy. It would have cut the capital gains tax rate; give the first-time homeowner tax relief, a $5,000 tax credit. That was in his proposal. But it was not in the bill that went back to the President earlier this year. I do not know why. Now the Finance Committee met Wednesday, and they have one in theirs. It is only $2,500, which is not enough. But that is why, in my opinion, you saw home building jump up in February and March of this year, in anticipation of having this first-time homeowner opportunity. And also the possible benefits from IRA's, and in fact the IRA's could be used for a home.

We had simplification of the alternative minimum tax. Individual retirement accounts; investment tax allowance, to encourage businesses and industry to get more equipment to improve their businesses, which would create all kinds of jobs.

We have had a tremendous slow-down in the real estate economy in America, because the Congress made a mistake in the passive loss laws. Now we should add that back. I understand the Finance Committee, on Wednesday, adopted some rule changes on these passive losses. But it took them 200 days to finally get out of the Finance Committee.

So there are a whole number of positive proposals that were made earlier this year that we supported, which got messed up in the House, and the final result was nothing but a tax increase. It would have hurt the economy.

It is just like back a couple of years ago when people said, "let us raise the luxury tax, that will get us more revenue." We raised the luxury taxes on boats, automobiles, and planes, and what did we get? Less revenue and less jobs, because when you raise taxes on people, they will alter their behavior to not have to pay those taxes. I am not saying that you just always spur the economy by giving tax breaks.

By the way, there is an interesting thing about so-called tax breaks. The liberals say a tax break is giving away something. Do you know what it is? It is letting the people who work keep their own money. That is the solution to the economy in America—for the Federal Government to stop taking the people's money and wasting it on regulations, regulators and bureaucrats, and spending programs which do not do their jobs.

So I say again to the Congress that you are in charge. If you want to do something about the economy, then do something. Instead of holding all of these bills hostage, let us do something to encourage economic growth.

The Senator from Michigan was being critical of President Bush because he told welfare people to get a job. Hey, I agree. We want to get people off of welfare. I think most people want to get off of welfare. They want to get a job. We have to give them an opportunity. We have to help them with better education. There has to be job training. There needs to be more money for vocational education. We have to be concerned about child care, so that people can work.

There are a number of things we need to do. But more than anything else, we need to help them get off, and we need to do things that will help them find a job. How do you do that? You do it with this, and with other proposals that President Bush has proposed, that President Reagan proposed in the past, and President Carter even made good proposals when he was in the Presidency.

But the Congress would not act. For 30 of the last 36 years, the Democrats have had a majority here in this body, and yet they want to blame somebody else.

Here is the problem. It is the U.S. Congress. So I say I want to help the economy and the people. Let us pass some of these good bills in the time we have left.

Let us look a minute at what is really happening with the economy.

Mr. PRYOR. Will the Senator yield?

Mr. LOTT. I am happy to yield to the Senator from Arkansas.

Mr. PRYOR. Mr. President, the Senator is talking about the so-called bogus majority in the Congress made up of Democrats. And the Senator is talking about blaming Congress all of these years that the Democrats have had control. First, we did not have control of the Senate for a period of years. Second, I have been here since President Reagan was the President. I have been here since President Bush was the President. I wonder if the Senator from Mississippi can point to me any one of those 8 years under President Reagan, or under the 3½ years of President Bush, if in any of those years President Reagan or President Bush submitted a balanced budget to the Congress?

Mr. LOTT. Mr. President, I appreciate the Senator from Arkansas coming over and engaging in the discussion.

First of all, I want to make sure he understands—I did point out—that in this body, the Democrats have controlled it 30 of the last 36 years. I acknowledge that it was 6 years, I guess, it was controlled here in this one body by the Republicans.

Let me respond to the Senator's question here. Today, we have not been talking about a balanced budget amendment. We have been talking about economic growth. That is what the President is being criticized for. Let me emphasize, I am for a balanced budget amendment. I would like for us to have a constitutional amendment to require one like the State of Arkansas does and my State of Mississippi does. It is no coincidence we have those requirements and have a balanced budget. I would like to have a line-item veto to help in that regard.

Let me say, I wish the President would have a balanced budget amendment. I regret we did not do more to give that to the President.

Let me remind the Senator, the Presidents submit budgets, but they do not pass anything. Every year, and I have been here 20 years, the President sends a budget up here, and the Congress does everything but spit on it and ignore it, kick it out in the street, damn it, criticize it, and go merrily on its way.

This body will not even pass legislation that makes the President be involved in getting to a reduced deficit. I would like to see that happen. I would like to force the President to have to be involved. The truth of the matter is the President sends a budget up here and that is the last you hear of it.

Congress passes the budget. In truth, the budget resolution is not worth the paper it is written on, anyway. Everything in this body, in Congress, is controlled by the appropriators. They do not even wait for authorization anymore. We pass the spending bills year after year.

I know the sincerity of the Senator from Arkansas. I will be glad to work with him. Let us make the Presidents be involved in the future, regardless of who is President—President Bush, or some other future President. They ought to be involved in this budget process, and not just send up a budget.

I also remind the Senator from Arkansas, for 150 years, Presidents did not even send budgets to the Congress—did not even send ones.

Right now, I think we need to focus on economic growth, what can we do to give the economy a boost. They come in here and say: Oh, it is the President. He is the one not involved in the problems with the economy.

Well, he deserves some of the blame. All of us do. But again, what I am saying here today is the Congress has the ability to go ahead and act on its own.

I want to talk about this economic problem. We heard about how bad it is, how sluggish it is. I would be depressed, too, if I were the American people. Every time something happens in the economy, even if it is good, the news media says: But it is not very good; it should be better.

The economy is growing—not fast enough. But, I mean, we completely forgot about some economic statistics. The growth continued up in the second quarter of 1992, at 1.4 percent annual rate of growth. That is the fifth consecutive quarter of growth, as a matter of fact.

We keep forgetting facts like interest rates and inflation are at the lowest levels in a generation, 30 or 40 years. The worst that can be said about the recent numbers that just came out in this quarter is that they are not as good as they were in the first quarter. One little statistic. And all the bad news. One good news that the media does not want to talk about, but at least the Wall Street Journal did was in homebuilding. As a matter of fact, we had a spurt in homebuilding. New homes surged 7.9 percent in June, and new claims for unemployment benefits fell.

You will not hear that on NBC, CBS, or ABC tonight. They will not mention that unemployment fell. Oh, no. They will find the bad news. The economy is slowly improving. Why do we not talk about new homes starting up; why do we not talk about unemployment claims dropping.

However, it should be doing better. If the Congress would have passed something other than a tax increase bill in March and April, if we passed this plan, the economy would be recovering right now.

I think you would find home starts, new home starts, would be running way up; probably a 15-percent increase instead of 7.9 percent.

So I think we need to look at the facts on the economy. I think a lot of the problem is we are being told it is bad, and people are worried that they are not going to get any change in the economic growth incentives from the Congress. They do not know what is going to happen in Presidential campaigns. I think a lot of it is that Congress need to give the people some encouragement and incentive. We could do this by passing the President's proposals which would do more for the good of the economy.

The reason I came to the floor today is not to attack the Democratic nominee for President; I did not come here just to defend President Bush, I came because I am not going to stand mute every Friday when we have a chart show on the other side of the aisle, and the whole time is spent blaming the President. What I want to do is talk about the truth, what is happening in the Congress. I will tell you what is happening in the Congress: Nothing.

So if you are going to have a blame game around here, let us put it where it belongs. I know where it belongs, because I have been looking right at it for 24 years as a staff member, as a House Member, and in the Senate.

So I just hope the American people will think about this, and that they will look at the real record. And if you want change, change this place. Then you will get some action.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, once again, we are here for the Friday afternoon matinee performance. And, once again, we hear from the other side of the aisle all of the bad things about Governor Clinton. And the distinguished minority leader, the Senator from Kansas, has now injected, once again, our colleague, Senator GORE, who is, of course, Governor Clinton's running mate for the Presidency.

Mr. President, there is one thing that I agree with the distinguished Senator from Kansas on, and I have a copy of his statement. I assume he said it. But this, I think, is his statement. He said, in the conclusion of his statement, and I quote:

> It is divided Government that is driving the deficit upward.

Well, Mr. President, maybe we do not need a divided Government any longer. I agree with the distinguished Senator from Kansas. Maybe we need a Democratic President and Vice President, and a Democratic Congress.

The Senator also alludes to the fact that down in Arkansas, and it appears that most of the research here is not being done on the state of the Federal economy; but most of the research today is being done on the Arkansas economy. I do not know how many researchers the Republicans have detailed down to Little Rock.

And, by the way we appreciate the tourist boom that we are having. All the hotels are full, and people are looking for houses to buy and apartments to rent. The whole State is just humming with activity. Hope, AR, is about to have its Watermelon Festival in 2 or 3 weeks, and all of the motels are booked far and wide near Hope. We are just very excited about what is happening throughout my home State.

But in the State of Arkansas, according to Senator DOLE, the deficit was cured and the books were balanced and the budget was balanced. And he said that there is only one Republican in the State legislature; the rest of them are Democrats. That is not quite right. There are three or four Republicans, I think, in each House now. But at least we do not have a divided government. And the Democrats—I want to say to the Senator from Kansas—the Democrats in the governorship, in the Governor's office and in the legislature, balanced the budget of the State of Arkansas. That is who balanced the budget.

I do not know why there is all this attention right now on what is going on with the Arkansas budget. It seems there has been an inordinate amount of time and attention given to the Arkansas budget.

But let me, if I might, say one thing that I do not agree with Senator DOLE on, and I really do not. And I am not saying that I resent it, but I must say that I am a little surprised. The Senator from Kansas this afternoon, in my opinion, has made some very derogatory statements about our colleague, Senator ALBERT GORE of Tennessee.

I am here to ask him—he is not on the floor any longer. I am here to ask the Republican leader why, on yesterday, when the Senator from Tennessee was here on this floor, voting in the Chamber of the U.S. Senate, why did not the distinguished Republican leader at that time, while Senator GORE was here, make the accusations against him then that he has made today, so that our colleague, Senator GORE, could respond?

Let him leave town, and then the Senator jumps on him. I do not think that is a very good way to operate, Mr. President.

I would also like to encourage, in all the research that is being done over here on the Republican side of the aisle, I would like to challenge a little research to be made—I have not done this research, but I hope they can do a little additional research—and I hope that the research will be done going back 4 years. I would like to know what Democratic Senators on this side of the aisle said about the then Senator from Indiana, Senator QUAYLE, who became the nominee for Vice President on the Republican ticket.

Mr. President, as far as I know, nothing except complimentary things were said about our colleague from Indiana, then Senator DAN QUAYLE, now our distinguished Vice President.

But, yet, all of a sudden, we see Senators from this side of the aisle getting up and talking in very derogatory terms about the Senator from Tennessee, Senator ALBERT GORE, who, I think, has not only been a splendid choice on behalf of Governor Clinton to be his running mate, but I think has helped to unite our party and hopefully is going to help unite our country.

Mr. President, I do not know if the forum of the U.S. Senate is going to be used on a weekly or a daily basis, but once again I am making my plea that if we are going to do this every day or every other day, I think it would be courtesy, I think it would be comity, if we would at least inform each other and perhaps just set aside a certain time of the day, say 8 o'clock in the morning or 9 o'clock, where we will just have a political time here. That side will get 30 minutes and we will get 30 minutes to respond.

But to continue these types of attacks, especially when Senators cannot respond to the attacks, on their record, I do not think is fair. I do not think the American people perceive it to be fair. And I am very, very hopeful that we are going to see this sort of thing lessen, Mr. President, and not escalate.

Once again, I am sorry to have to come over and take the time of the Senate. But I want my colleagues over there to know that if these things are going to be said about the Governor of Arkansas, and if they are going to be said about Senator GORE, our colleague from Tennessee, we are going to respond to them.

But the real reason, once again, that all these accusations are being made and the reason that this forum is being used is to hide the fact that our economy in this country is in shambles, that the White House is in shambles, that the Bush campaign is in shambles. They are trying to cover all this up. They are trying to cover it up by making all these accusations against the Governor of Arkansas and against the Senator from Tennessee. And these accusations will not go unmet nor unchallenged.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might say to my friend from Arkansas, I am not going to speak on the issue he referred to. I have a completely different subject today. And if I do speak, I do not speak about the individuals, I speak about their platform or their programs. But in any event, Senator BYRD and I are going to speak on a completely different subject.

(Mr. PRYOR assumed the chair.)

COMMENDING CHARLTON HESTON

Mr. DOMENICI. Mr. President, as soon next week as is practical, Senator BYRD and I, joined by as many Senators as we can get, are going to introduce a resolution and we are going to speak to that resolution. Certainly we are not going to try to waste the time of the Senate. We have a schedule. But we have something we think is rather important.

Essentially, I would just summarize that we are going to ask the U.S. Senate to commend Charlton Heston for the speech he made and the position he took when he spoke before the stockholders of Time-Warner, Inc.

Now, we are going to do this because we do think it is appropriate that the floor of the U.S. Senate, in the parlance of the day, use its capacity as a pulpit to express concerns much the same as those expressed by Charlton Heston when he admonished the Time-Warner Corp., its president, and its board of directors.

And I might suggest that in the process of this discussion and the entering of this resolution early next week, we will make available—not in the RECORD but rather to individual Senators and individual members of the media, if they would like to see it—the actual total text of the speech that he made.

In fact, it will not be introduced in the RECORD because the distinguished former majority leader and the Senator from New Mexico think it is so vile, so disgraceful in content, only because he quotes literally from that rap musical that is at issue. He gave an eloquent speech and we would love to put in all of his words. But he went beyond the cop killer portion and took out the actual lyrics of some of the other rap contained therein. And Senators should read it. It is so bad, we do not want to put it in the RECORD of the U.S. Senate. Some might want to. We do not want to.

But Senators should read it and the media should read it.

What we want to do is, we want to express on the floor of the Senate, in no uncertain words, that America is having some very, very serious problems with reference to our value system. We are having some very serious problems with reference to the behavior pattern of our young people, and not only of them, of all of our people.

We all know that there is an old saying that has to do with reading good books. And it is something like: How much good you get out of reading good books. That has been talked about forever. It happens to be a truism. The more good books you read, the more good ideas you have.

But there are people in this country who do not want to believe the opposite of that; that if you are reading books that are not good, that are evil, that are foul, that attack the very value system that causes us to exist, there are some who will say, "It doesn't matter. You don't learn anything from that."

Now I say to my good friend in the Chair, is it possible that we have such a marvelous system that young people will read a good book and get good things out of it, but they will watch six or eight movies or TV shows or rap words that are the absolute opposite of anything decent, good, moral, and they do not get anything out of that?

Well, it really is not true and everybody in America knows it. And we are all running around waiting for somebody else to do something about it.

What we have in this resolution—and I am going to read it because we have gone out and searched where institutions that are worried about our children are putting up a flag, saying, "You can't keep on dishing out, doling out to young people the trash you are dealing and not expect them to come out wondering about some of our basic institutions like marriage, like taking care of your children, like responsibility, like life."

So, we are going to praise Charlton Heston. He stood before this group and he said in no uncertain words, if you have to make money off trash like this you ought to be ashamed of yourself. I am paraphrasing. He said to them if all you live by is greed, you ought to be ashamed of yourself. In fact, he said, again paraphrasing, you ought to take that thing off the market, and you ought to figure out how much profit you made out of it, and you ought to give it away. You ought to give the profits, said he, to the widows of policemen who died in serving their cities, counties, or States, thus serving our people.

And then let me suggest, if you read beyond the "Cop Killer lyrics, you read some of the filthiest trash you will ever imagine. For our young people to hear about sex, about sodomy—it even mentions, I might say in his verbatim quoting of the words from that particular record—he even mentions the distinguished Senator ALBERT GORE's wife has a couple of nieces. Apparently—apparently because he is angry at her, he mentions what ought to be done to those two young ladies. And that is a song. A rap melody.

And here sits a great American corporation with a president who wants America, apparently, to live, succeed, prosper. And somehow, when somebody says, Why do you put that on the market, the response must be: "It is none of your business." Or something like: "I have constitutional rights." Or: "The person who recorded it has some kind of constitutional rights."

Is that not a joke? Is that not a joke? If Time-Warner did not publish that rap piece it would not go beyond the few little people he appeared before in person. What gives him constitutional rights to insist that Time-Warner give it to millions of people?

They are in business. And, as Mr. Heston said: "Do not hide behind that. Because you tell almost all artists," he said, "what you want of them. In fact you turn down things you do not want because you do not think they will make money. So why do you have to take this, if it is going to hurt American young people, day by day as they try to grow up?"

Or, I might ask for everyone you do like that, can you not think of doing one that is at least spreading a bit of decency? A bit of morality, a bit of the value system that keeps America afloat, without which we will sink?

Having said that, clearly next week when we get a chance, with the assistance of the leadership and certainly after we have gathered more cosponsors who want to commend this kind of forthright, upright citizenship on the part of this Mr. Charlton Heston, we are going to ask the Senate to vote on this. So everyone will know that, aside from all the other things we do, we want to say to American individuals, corporations, and institutions, if you do not help we cannot solve this problem of corruption, this problem of killings on our streets, this problem of illicit activities going on everywhere to the extent we wonder how much longer the great ship will stay afloat.

So we are going to say such things in our resolution. I am just going to take a few moments, Mr. President, and read them. They are not just invented words by the Senators from West Virginia and New Mexico. Here is one, I might say to the current occupant of the chair.

Your distinguished Senator ROCKEFELLER, who I know well, the junior Senator from West Virginia, serving with Senator BYRD, chaired a commission on children. They have a chapter in that commission report that received the unanimous vote of conservatives, liberals, middle-of-the-road people, women and men of all cultures, all creeds. They all voted "aye," when they spoke of what was going to happen to the children of America if we did not clean up what they are getting day by day in the media, in the movies, on the TV's, on cable, in books. And nobody is saying: Senate, you have to act. We cannot act.

What we are saying is people have to act.

This first one says:

> Whereas the National Commission on Children report states that "The news and the entertainment media have tremendous potential to educate children and expose them to other cultures and new ideas" and recommends "that the recording industry continue and enhance its efforts to avoid the distribution of inappropriate materials to children;
>
> Whereas the National Commission on Children report states that "In a free society, there will always be tension between freedom of expression and upholding common social values. Censorship is the antithesis of what we embrace. Forging common values will never depend solely on laws, but also on persuasion and example. Success will require thoughtful action and self-restraint by individuals and major institutions with the ability or potential to influence children's moral development. This makes the task of parents, public leaders, educators, media executives, entertainers, and advertisers more difficult, but no less important.";

Now, Mr. President, that is a broad-based commission of Americans, men and women, stating just what I said about the responsibility of executives, of entertainers, of media executives, and, yes, of advertisers. For I will depart from the text for a minute and say how would some of that get on the air if the American corporations as advertisers would not pay for it? How come the boards of directors who take such great pride in saying they are helping that president produce profits, why do they not take a little bit of pride in saying we know what we are paying for that is going on the airways of America. Why do they not tell their executives to review all of those before they pay for them?

Sometimes we could even say that about their advertisements. I think we have all seen advertisements that make us wonder whether there is any regard at all for our children as they put it on there to sell everything they can at Christmas. Sometimes it is such an irony, at the holy season of Christmas, to see to what ends advertisers will go to put their message on to sell the product without regard for any influence on the moral fiber of the young people who are trying to celebrate a very important kind of religious feast around Christmas.

Let me proceed with some of the other things we are telling the Senate are items that we postulate our resolve clauses on.

The Carnegie Council on Adolescent Development. Again, not Senators, not teachers, not parents talking to their own children, but a council on adolescent development.

Whereas the Carnegie Council on Adolescent Development, executive summary of its publication "Fateful Choices: Healthy Youth for the 21st Century" states that, "The news and entertainment media are significant influences on the attitudes and behavior of young adolescents. * * * Great efforts, short of censorship, should be made to purge the media, particularly television and rock music programs, of their orgy of mindless violence. * * *"

Let me read those last few words again, "of their orgy of mindless violence."

The news and entertainment media should be enlisted in efforts to promote health, to reduce substance abuse, violence, irresponsible sexual behavior, and to provide a better understanding of sound nutrition and physical exercise.

Whereas the Massmutual American Family Values Program 1991 study states "Parents are challenged by the entertainment industry. While three out of four respondents think parents should be the primary influences on children, 68% think television, movies, rock music and videos are the biggest influence on developing children's values. While parents understand their own responsibility in teaching family values, a significant number indicated that the entertainment media could help by providing better role models for both parents and children.";

Whereas in the June 1992 Journal of the American Medical Association article "Television and Violence," the author, Dr. Brandon S. Centerwall, states, "In a recent meta-analysis of randomized, case-control, short-term studies, exposure to media violence caused, on the average, a significant increase in children's aggressiveness as measured by observation of their spontaneous, natural behavior following exposure.";

Mr. President, to depart again from the text now, those who practice medicine are scientifically telling us what we all know intuitively: If young people watch useless murders, carnage, all the kinds of acts that one human can perpetrate on another, sometimes the perpetrator is seen as a success for having killed as many as he could or did and on and on. We know that has an effect, just like reading good books has a good effect. The medical scientists are saying there is a relationship; we do not have to rely upon our good judgment and our intuition. They are telling us, if you show young people those kinds of things frequently enough, the urge, the spontaneity, the willingness to do those things is increased dramatically.

If we know that, what do we expect there is around to counter it unless those who are giving the children that seek to do either less of it or some counterbalancing of programs to give the opposite kind of strength of character to young people as they grow?

My next hypothesis or whereas clause is that—

* * * the Senate supports the concept that corporate America and the officials of all American institutions can and should contribute positively to individual thought and conduct as key contributors to a healthy, responsible society and individual human dignity;

Whereas, corporate and institutional entities, their management and stockholders, as well as their advertisers and sponsors, should exercise positive and constructive oversight of their activities without the sole test of their contributions based on profits, sales, and publicity;

Let me depart for a moment. Mr. President, you know, having heard this Senator, that I am one who, on the floor of this Senate, advocates capitalism, perhaps at least in terms of my messages on the floor, second to none. I am unabashed in reminding people, sometimes from your side of the aisle, that business has to make a profit if they are going to hire people. And we are always talking about jobs.

Why do we not talk about profit? When we pass laws that take away profits, it is no wonder that we lose jobs. But, Mr. President, I believe, as certain as I am alive, that unless American business does what that sentence says, we are lost. If they are not concerned enough about what their money is buying on the mass media of the United States, concerned enough to worry about its adverse effect on our children, and if they are not worried and are not concerned because they are only concerned about profit, I submit to you, Mr. President, that they are planting the seeds for their own demise because this country will not continue indefinitely with the kinds of things that are occurring in the mass media of America, feeding the mind, changing the hearts and wills of our people the way it is happening now.

Whereas the exercise of citizenship encompasses individual and community actions to promote responsible behavior and values; Now, therefore, be it

Resolved, That the Senate applauds Mr. Charlton Heston for calling the attention of the general public and the shareholders of Time Warner Inc., to the responsibility of the corporate officials of Time Warner regarding the moral content of its products and services;

That the Senate strongly believes that corporate America and the officials of all American institutions weaken the moral fiber of the nation by hiding behind the faceless masks of such corporations and institutions in a relentless search for profits, sales and publicity without regard to the moral content of their products and services;

That the Senate commends Charlton Heston for assuming his civic responsibilities, without concern over the possible adverse consequences to his own financial and public position; and

That the Senate strongly encourages the officers, employees, and shareholders of all American corporations and institutions to emulate the example set by Mr. Heston and insist upon the acceptance of personal responsibility for the moral flavor, content and repercussions of the activities, products and services of their corporations and institutions.

Mr. President, clearly anyone listening should know that this Senator does not say any of these things lightly, for those who know me, I understand young people. Some might say I am pretty far away from young people at 60 years of age, but I remind them and state for the record that I have eight of my own, eight children. They are all out of college now. They are all doing quite well. They all had a lot of these pressures, and far be it from me to tell this Senate and whoever is interested in what we said that they did not have problems because of just what I am talking about, and part of it might be because I did not do my personal parental responsibility, did not do it right.

But I submit I am starting to have grandchildren. I have five of them coming along. Frankly, when I get one to about 10 or 11, sometimes I close my eyes and say, "Boy, haven't they had a blissful, nice life. Don't they love their parents and don't they have a sense of righteousness and decency that is just marvelous." And then I stop and think, praise God that 10 years from now, after they have been beat upon—in spite of what their wonderful mother and father would do—by what we are throwing into the minds and eyes and ears of our young people day by day, hopefully, they can make it through one way or another.

So with this, that is enough today to remind the Senate that we are going to ask Senators to vote on this and that my good friend, the great Senator from West Virginia, and I are pretty serious about using the floor of the Senate for these kinds of things. We do it this Friday afternoon. So if anybody is wondering, the Senate does not have any urgent business this afternoon. Somebody would think we ought not be doing this and we have to pass some laws. We do not have anything this afternoon. We are keeping these lights on and imposing on you to sit here, Mr. President, because we think that is exactly what we ought to use this floor for, and never will we object when anybody takes this floor and wants to talk about these kind of things. We are not preachers; we are not ministers. We are not supposed to be. We are not prophets, but I tell you, we sense history pretty deeply, and my cosponsor reminds us frequently of history. We see history in the making in the United States.

What we are worried about is that this great country deserves to live as a leader with people happy and getting ahead and successful, not just for 200 years. If we do not mess it up, we ought to live with this kind of freedom for thousands of years. We have the ability to go beyond these other empires. But some of us are a bit worried. It is not the laws we pass or do not pass or the money we spend or do not spend, but just how our young people grow up and what they turn out to be because of what we give them or do not give them or sit around in a lazy kind of way and let others give to them in ways that all our common sense and every fiber of decency and positive intuition says have to be wrong.

With that, I see my friend on the floor. I have taken enough time.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The President pro tempore is recognized.

Mr. BYRD. Mr. President, I thank my friend from New Mexico, Senator DOMENICI, and I commend him for his thoughts and for the idea of submitting the resolution. I have not been able to be on the floor all the time during his remarks.

May I ask the Senator if he read his resolution into the RECORD?

Mr. DOMENICI. I did.

Mr. BYRD. Very well.

Mr. DOMENICI. From time to time I departed from it and came back to it, but I think I read every word of it.

WHERE DID THE TRAIN LEAVE THE TRACK?

Mr. BYRD. Mr. President, as the Senator from New Mexico stated, we do not have any business at the moment to transact, and so we are taking the floor to speak about this resolution and about the circumstances that bring us to the floor today.

I do not know of anything more important than the children of this country, more important than the family values, more important than the principles that the forefathers laid down and by which they lived—patriotism, respect for the law, respect for their parents, respect for the teachers, respect for the flag, honesty, frugality, the desire to work, the willingness to work and work hard, and a belief in a higher power, a God who rules the destinies of men and nations, a God who created man out of the dust of the ground, created man in His own image and breathed into his nostrils the breath of life.

How He created man is not something that I have to attempt to explain. I do not have to know that. The important thing is that God created man, if He wanted to do that through an evolutionary process, or whatever, but scientists are coming around more and more to an agreement with the first chapter of Genesis, which explains the creation of the universe, creation of man, male and female, creation of the fowls of the air and the beasts of the field. Our forefathers believed in that creator.

So if we are concerned about our young people today, I do not know of any business that is more important than that.

I took a piece of plastic clay,
And idly fashioned it one day.

And as my fingers pressed it still,
It moved and yielded to my will.

I came again when days were past,
The bit of clay was hard at last.

The form I gave it, it still bore,
And I could change that form no more.

I took a piece of living clay,
And gently formed it day by day.

And molded with my power and art,
A young child's soft and yielding heart.

I came again when years were gone,
He was a man I looked upon.

He still that early impress wore,
And I could change him nevermore.

The bit of verse speaks for itself.

That is what the resolution is about. The resolution is about these pieces of clay, human clay, and what is happening to our young people in that impressionable stage in their lives when their attitudes and outlooks and beliefs are being formed, and those attitudes and beliefs, once formed, are going to remain with them throughout their lives.

Let me lay out the general picture, as it were, of some of the conditions that are facing the country today.

General statistics indicate that in 1950, 1.7 percent of white babies in this country were born to never-married mothers and 16.8 percent of black babies were born to never-married mothers.

In 1990, roughly 17 percent of white babies were born to never-married mothers and more than 60 percent of black babies were born to never-married mothers.

According to the Census Bureau, this country now has 10 million single-parent households, nearly three times the number of single-parent households in 1970.

A reported study by the National Association of Elementary School Principals of 18,000 students disclosed that children in 1-parent families achieved less in school and got into more trouble with the authorities than did children from 2-parent homes. The principals' study concluded that the missing parent was such a heavy factor in deciding these results that youngsters from low-income two-parent families actually outperform students from high-income single-parent homes.

At root, then, Mr. President, one can reasonably conclude that the breakdown, the dissolution, the destruction, the decline, the collapse, or the decay—whatever word one chooses to use—of the traditional American nuclear family is one of the primal causes of the alarming rise of crime, antisocial behavior, drug addiction, murder, assault, rape, and robbery that are turning so many of our center-cities into war zones.

Among the *au courant*—that is, the stylish and up-to-date; those who are supposed to be in or with the current—ridiculing the television family-world of "Ozzie and Harriet," of "Leave It to Beaver," and of "Father Knows Best" is considered fashionable. That kind of family, we are told, if it ever really existed, was a product of a smug and self-satisfied 1950's, and is too naive and politically incorrect for today's more knowing, hipper, and cynical society.

But, as imperfectly as those 50's family shows portrayed it, the traditional American nuclear family is the keystone on which our country has depended since the colonial era, and is the presupposition of every other institution of significance in our society.

Through the traditional nuclear family—father, mother, and offspring—and the extended family beyond that, values have been nurtured and passed from one generation to the next, personal and social responsibilities have been taught to children, a sense of self and the meaning of love have been developed, religious faith has been made real, the conscience of the young has been shaped, morality has been cultivated, initial character has been forged, and acceptable behavior has been defined for children as they encounter others outside the family or the neighborhood or the local community. In that nuclear family, generation after generation after generation, each new rising American generation has learned the meaning of selfhood, of being an American, of being a decent human being, and of being a person answerable both to God and the law.

But rising divorce rates, economics, popular culture, peer-group pressure, mass communications, and other circumstances are, layer by layer, undercutting, weakening, sapping, and sabotaging the traditional American family.

Mr. President, I do not mean to suggest by my remarks that millions of single parents and other caregivers are not exerting sometimes Promethean efforts to serve the needs of children under their supervision. In spite of those efforts, however, sociologist Amitai Etzioni summarizes the overwhelming bulk of research on the effects of contemporary family structures, saying, "The body of data leads to the inescapable conclusion that single parenting is harmful to children."

And the National Commission on Children has declared from its research:

> Rising rates of divorce, out-of-wedlock childbearing and absent parents are not just manifestations of alternative lifestyles; they are patterns of adult behavior that increase children's risk of negative consequences.

The presence of two parents and their availability to the children in a family are, however, no longer, in themselves, a guarantee that even a traditional nuclear family can assure the results in child development and adult maturity that such a structure once permitted.

At least since the end of World War II, and increasingly since the war in Vietnam, a number of other forces have exerted their influence on the youth of our country so strongly that they have often neutralized and even negated the positive effects offered by a child's being reared in an apparently solid, stable, and healthy traditional family.

Outside forces have so subverted the normal development of some children that they have become moral mutants.

Increasingly, those influences and others are insidiously infecting the minds, consciences, tastes, and souls of our children and youth to such a degree that the future foundations of functional, rational, and moral community in this country can be questioned.

Mr. President, one of those influences is rampant hedonism, most eloquently, evangelically, and consistently proclaimed since the 1950's in the so-called "Playboy philosophy."

According to this view of life, "anything goes"—particularly in regard to sex. Such philosophy prescribes, "If it feels good, do it." Regard not the conscience—that repository of neurotic hangups, outdated prejudices, and Victorian repressions. Do not count the cost of your behavior; it does not matter. Let the cards fall where they may. If a young woman gets pregnant through your exercise of your impulses, that is her problem, not yours. If children come into the world through your excesses, so what? It's a tough life. Let the State take care of them. Take no responsibility for your own acts; that is somebody else's problem.

Unfortunately, while sometimes disarmingly ridiculing the contemporary apostle of modern hedonism, Playboy magazine editor Hugh Hefner, the mass media—movies, television, magazines, books, drama, and music alike—have graphically saturated our culture with this philosophy.

In allegiance to this axiology, sex is used to sell toilet articles, mattresses, automobiles, soft drinks, beer, cigarettes, fur coats, shoes, vacations—name it, and Madison Avenue knows how to tie sex to it and move it off the shelf.

In allegiance to the Playboy ideology, television and the movie industry have stopped barely short of making pornography the norm by which dozens of movies and television programs are measured for commercial value.

Thirty years ago, the movie "The Moon Is Blue" was judged indecent and denied a showing in many movie houses because it used the word "virgin" in its dialog.

But according to the Center on Media and Public Affairs, on current television programs, 63 percent of the time adultery is portrayed without disapproval. Similarly, prior to 1969, the Center reports that television portrayed extramarital sex in 1 instance out of every 30 shows. Today, one television show in six touches on extramarital sex.

And hardly a peep is heard in reaction to these trends.

Where are the churches? Where are the community leaders? Where are the business leaders? Where are the academics? And where are the U.S. Senators, members of the State legislatures and Governors, and other high officials? Hardly a peep is heard.

Year in and year out, the children of this country are being proselytized with the message that sexual abandon, promiscuity, and irresponsibility are the norms for human behavior, and that for that behavior, no price should be expected or exacted.

Again and again, television action shows feature crooks with hearts of gold, murderers who are just misunderstood, and juvenile delinquents as victims of society. Daily in soap operas adultery is portrayed without the least signs of disapprobation from their fictional families and friends. Comedy shows mock parental authority and picture mothers and fathers as dolts and fools, to the accompanying roar of canned audience laughter and applause.

And even the children themselves, as portrayed on television, serve to undermine any sense of morality, with 6-year old's rolling their eyes knowingly at gutter innuendoes and mouthing vulgarities and profanities like grizzled sailors back from lifetimes at sea. Similarly, teenagers who are portrayed as being studious or responsible are made to look square and unfashionable at best, or secretly perverted and even psychopathic at worst.

Because they are studious; because they are responsible, they are working in the libraries in the schools, they are in the laboratories in the schools, and because they are reading and taking books home, and they are doing homework, they are looked upon to be square, unfashionable at best, or secretly perverted, and even psychopathic at worst.

How can any values taught to children in a family stand up against the power of the images and the proliferation of the pounding, pounding, pounding with which such irresponsibility is assaulting the eyes and ears of our children, day after day and night after night?

Since the early 1950's, our society has treated television as a friendly, electronic babysitter that can be depended upon to benignly amuse and even educate the millions of children who watch it daily.

Current findings suggest, however, that the television industry has betrayed the trust once placed in it.

A recent report released by the American Psychological Association [APA] calls into question television's benign influence on children, suggesting even that television may be a malignant force in the development of young children, exposing them to a gratuitous violence, while teaching them antisocial attitudes toward others.

In particular, the APA charges, television is bombarding children with images of death, injury, and human destruction at rates unparalleled in previous generations.

For instance, by the time an American child, watching the average of 3 hours of commercial television programming per day, has attained the 7th-grade level, he or she has already witnessed on average 8,000 television murders and been exposed to more than 100,000 other assorted acts of violence.

Any parent or teacher deliberately feeding children a similar intellectual diet in the home or classroom might be found guilty of child abuse.

Worse perhaps than the "anything goes" philosophy and the ubiquitous diet being served up by television to our children is much of the rock music that pours forth from the record industry onto the youth music market.

A 1990 report by the Council on Scientific Affairs of the American Medical Association—the AMA—states, "Since the 1950's, rock music has helped create and institutionalize a distinct 'youth culture' in American society. Over the past decade, however, the messages portrayed by certain types of rock music have deteriorated so that today they may present"—and I am quoting here—"they may present a real threat to the physical health and emotional well-being of especially vulnerable children and adolescents."

This AMA report proceeds by specifically pinpointing so-called "heavy metal," punk rock," and "rap" as the most potentially dangerous for unstable teenagers and children, featuring, as these music forms so often do, lyrics promoting drug and alcohol use, suicide, violence, satanic worship and demonology, sexual exploitation and rape of women.

In this same vein are the lyrics of the rapper Ice-T in the first pressing of his most recent record album, "Body Count." Regardless of the intention of the rap singer or the context in which the lyrics were offered, this particular album glamorized the killing of police officers—men and women upon whom members of every definable community in our country must depend for their safety and, on occasion, even for their lives. These police officers are also members of families—fathers and mothers, wives and husbands—of other Americans of all races. Yet, for the sake of sensationalism, shock, or whatever cause, this particular rap singer chose to make acceptable, through popularization, the unthinkable and the unconscionable: advocacy of murdering law enforcement personnel.

To the credit of Ice-T, he made a decision—admittedly under significant pressure—to withdraw the offending song from future copies of this album.

Further, to the credit of the album's record publishing company—a subsidiary of Time-Warner—the decision was made to recall all copies of the original "Body Count" album from record shops and distributors across the country.

For those efforts, both Ice-T and Time-Warner deserve congratulations.

But those congratulations must be somewhat tempered in view of the subsequent decision to distribute single-record copies of the offending song at Ice-T's future concerts.

Whatever the current situation, however, the central complaint about the original decision to issue such a rap song still stands.

How utterly hypocritical that one of our largest, most profitable corporations—Time-Warner—chose not only to issue an album with such contents, but also refused for so long to withdraw it after the public outcry and had the gall and unmitigated temerity and effrontery to wrap this obscenity in first amendment defenses.

The bottom line here, Mr. President, is not the defense of freedom of speech, but the defense of freedom of profits, no matter that those profits were to be earned at the cost of advocating the murder of police, the further poisoning of the minds and dulling of the consciences of young people, and the irresponsible condoning of mindless violence.

No question of censorship arises here, Mr. President. Of course, within reason, anybody can advocate almost anything that he or she wishes. But in the name of all common sense, who has the "right" to publicly advocate the murder of anybody else, particularly under the guise of entertainment or artistry, and what kind of corporate mentality aims to make money through the advocacy of murder? Has decadence reached such a level that all sense of decency and lawfulness has fled the corporate boardrooms and headquarters of our major companies? Did Time-Warner lose its sanity as well as its conscience in the initial decision to issue a song on one of its albums with such repugnant, violent, and reprehensible lyrics?

Mr. President, I am proud to lend my support to this effort to commend Mr. Charlton Heston for the significant stand that he took in challenging the corporate leadership of Time-Warner on the issue of the rap album "Body Count."

For roughly four decades, Charlton Heston has been a successful motion picture actor, and is considered worldwide as one of America's most outstanding film, stage, and television personalities.

Moreover, from 1966 to 1971, Charlton Heston served as president of the Screen Actors Guild.

Mr. President, I rehearse Mr. Heston's pedigree not simply for puffery but as a means of outlining the stake that Charlton Heston has laid on the professional line in daring to challenge the powers controlling one of the world's largest, most influential, and not to be left unsaid, most profitable media conglomerates, Time-Warner. In effect, through his courage and his exercise of his rights as a stockholder in Time-Warner, Charlton Heston may have sacrificed his own career for the sake of a value that is more precious than personal fame or fortune.

Many of the executives who currently control the mammoth's share of America's communication media corporations and those wealthy stockholders who own most of the shares in those corporations apparently some time ago decided that no values or tastes were too esteemed to be ignored or mocked in the name of higher dividends. Such individuals do not appreciate anybody in our society who challenges their decisions, questions their judgments, or, above all, threatens their profits. By confronting that mentality in the executive suites of Hollywood and Manhattan, Charlton Heston has made himself a visible target for wrath and retribution.

But Charlton Heston has set an example that should become the paradigm of choice for millions of other Americans. And if more of those millions of Americans—fathers and mothers of children and teenagers especially—read some of the other lyrics to which Mr. Heston objected at the Time-Warner stockholders' meeting, the outrage of those Americans would undoubtedly exceed Charlton Heston's anger.

Mr. President, the lyrics of one song on the "Body Count" I have read from the text of Mr. Heston's speech at the stockholders' meeting. So vile, so perverted, and so evil are those lyrics that no one should ever repeat them here on the Senate floor or anywhere else. They are absolutely outrageous.

Mr. President, I am no prude. I have worked in the shipbuilding yards of this country. I have worked in gas stations, coal company stores, and butcher shops. I grew up in coal mining communities among some profoundly hard struggling, hardworking, hard speaking, hard fighting people, and having lived, now, 4 years longer than the Psalmist promised, three score years and 10, I probably have heard about every foul expression known in the English language.

In spite of that experience, however, some of the lyrics quoted from the album to which Charlton Heston addressed his complaints—some of those lyrics will turn any civilized, upright, thinking citizen's stomach.

That literate, civilized executives at Time-Warner or any other apparently reputable company would have allowed such vulgarity and filth to be pressed onto record albums or published with a record album, is beyond me.

When I reflect on the lyrics that I read from that album, when I reflect on the contents of so many television programs, and when I reflect on the contents of so many movies currently playing across our country, I tremble for the quality of life that we are going to bequeath to our children and grandchildren. And I say that the parents of children in this country simply do not know the content of those lyrics to which their children are listening. It is hard to understand the lyrics, but the children understand them, the children understand them.

Mr. President, we are developing a subculture within a culture, a nation within a nation.

No wonder murder rates are soaring. No wonder drug abuse is rampant. No wonder that children are shooting children in the streets of this city. No wonder children 12 years of age carry guns to school. No wonder that suicides among teenagers have reached such alarming levels. No wonder that the rates of AIDS infections and of venereal diseases among American teenagers and young people are climbing to startling levels.

We are all so concerned about the spread of AIDS in this country at a horrifying rate. It is spreading. And we talk about the need for appropriating more money, developing medicines, vaccines, or whatever. People should become aware of what is going on. They should become aware of the lyrics in rock music that are contributing to sexual promiscuity among teenagers. We are going to have more and more of AIDS, more and more illegitimate children born.

Has decadence reached such a level?

No wonder babies are having babies and the birth rolls are being crowded with newborns conceived out of wedlock—no wonder; young people listen to this vile trash and it puts ideas into their heads, and they think it is the in thing to do—newborns conceived out of wedlock, condemned to lives without fathers, and potentially doomed to futures of crime, confusion, and purposelessness. Day after day, young Americans are being bombarded by the entertainment industry of this country with pornography, vulgarity, tastelessness, promiscuity, violence, drug propaganda, profanity, barbarism, nihilism, and hedonism.

This is a variable flood of filth and garbage. The American people ought to be aware of it. The parents of this country ought to make it their business to learn what is on those records. Once the American people get riled, they will wake up the board rooms. They will rattle the teeth of the corporate executives who are making money from ruining the lives of young people in this country.

This flood of filth and garbage will only cease, Mr. President, when millions of Americans follow the witness of Charlton Heston and call the communications and entertainment media corporations to task—through their wallets and bank accounts—by refusing to collaborate passively in the degradation of American society and the trashing of American culture.

I applaud Charlton Heston for his courage and I call on the mighty communications companies of this country to come to their corporate sensibilities before the word America displaces

Sodom and Gommorah as a universal synonym for immorality and perversion, to the damnation of our names for centuries to come.

The hour is late for our country, for our culture, and for our heritage.

I hope that Senators will speak out. When I first came to the Senate 34 years ago, Senators took the floor and spoke out about the mores of this country. If those Senators were here today, they would be speaking out about what they see going on in this country. It is shameful, and it is going to ruin—ruin—the country.

A line comes to mind from "The Battle Hymn of the Republic": "We are trampling out the vintage where the grapes of wrath are stored." If we are today concerned about the murders and the muggings, the violence, the promiscuity, that are being promoted by the lyrics of rock music so nonchalantly looked upon by all too many people; if we are today shocked by the unwed births being recorded in unparalleled numbers nationwide; if we are today repelled and frightened by the burgeoning rate of AIDS infections among teenagers, heterosexual women, and other previously untouched groups; and if the rates of cocaine use and crack addiction have us alarmed now, I shudder to think of the volume of vintage that is being stored up among the grapes of wrath for next year and for 10 years from now and 20 years from now and 30 years from now as a result of the moral decay and irresponsibility rampant in our country today.

If we are to blunt the centrifugal forces that are corrupting our children and teenagers, and if we are to redeem the future before we pass the point of no return—and we are almost there—then I firmly believe that the traditional nuclear family must be strengthened and restored to its central place in American society.

And achieving this strengthening and restoration of the family will require more than simply talking about it.

I hope that mothers and fathers and grandparents will begin a serious reflection on the quality of life, on the means by which values are being taught, on relations with children, on the activities that include all of the family unit, and on any other aspects that might define life, within their own family circles.

I hope that churches, synagogues, mosques, and temple memberships will find real and lasting ways to reinforce family strength within their own communions, and ways to herald the family as it relates to the Bible, the Torah, or the holy writings of particular religions.

It is old fashioned these days to talk about the Bible. But it lays out the plan. It tells us how to live; and how to die. America had better get back to reading that great old book.

And above all, perhaps, I urge the executives and creative forces of the media—the press and entertainment alike—to critically assess their impact on our society as purveyors of values, particularly on children and teenagers.

Against the beating that it has taken and is taking, we can no longer take the nuclear family for granted. But the nuclear family—this matrix of value and character, this bulwark against mental illness and moral sickness, this source of community strength and national patriotism, this crucible of human decency and personal integrity—must be shored up as surely as America's physical infrastructure and our industrial base need refurbishing and restoration. In the past, the family was America's central resource and asset. Let us hope that in the future, we can still count on the family as the keystone to our national strength and stability.

I hope we can have more people who have the courage that Charlton Heston has demonstrated, to confront the corporate executives in their board rooms and, in so doing, confront their pocketbooks.

There is nothing more important, Mr. President, than our young people. As a matter of fact, there are not many other things as important as our young people. And we are selling them short when we fail to speak out about the trash, the junk that they watch daily and nightly on television—that marvelous electronic eye; what an instrument for good. And it does much good. It does much good.

But the American people had better wake up. If they do, they will awaken those who do the television programming and let them know that the public is tired of the filth and the trash that are coming into our living rooms all over this country, day and night. An alarmed public will also rise up and demand a higher standard in the record industry.

So I call on my friends here in this Chamber, my colleagues, to speak out. I commend Senator DOMENICI. There are other Senators who have seen the printed lyrics which Charlton Heston read to the executives of Time-Warner. Senators have been shocked by those lyrics. I hope other Senators will take a stand. Perhaps our voices will somehow at least be heard before it is too late.

J.G. Holland wrote a bit of verse which the Chaplain quoted in his prayer one day this week, and it is appropriate here. God give us men.

God, give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor—men who will not lie;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking;
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking;
For while the rabble, with their thumbworn creeds,
Their large professions and their little deeds,
Mingle in selfish selfish, lo!
Freedom weeps, wrong rules the land,
And waiting justice sleeps.

God give us men!

Horace Greeley said, "Fame is a vapor; popularity an accident; riches take wings; those who cheer today may curse tomorrow. Only one thing endures: character."

Let not the Nation's character be destroyed by those who seek profits at the expense of the lives and futures of our young people.

Mr. President, I yield the floor.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,995,311,832,756.31, as of the close of business on Wednesday, July 29, 1992.

On a per capita basis, every man, woman, and child owes $15,554.49—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

THE PRESSLER AMENDMENT AND PAKISTAN'S NUCLEAR WEAPONS PROGRAM

Mr. PRESSLER. Mr. President, yesterday the Foreign Relations Committee held an extremely enlightening hearing on interpretation of the Pressler amendment.

During the hearing, it was my great pleasure to listen to the testimony of Senator JOHN GLENN. My first experience with the senior Senator from Ohio occurred when I was a student at the University of South Dakota. I wrote him a letter congratulating him on being the first American to orbit the Earth on the *Friendship 7* mission. I received a very kind response and am pleased to count Senator GLENN as one of my very good friends today.

Few Members of the Senate, indeed of Congress, understand the issue of nuclear nonproliferation better than Senator GLENN. At the Wehrkunde

Conference in Munich last winter, which I attended, Senator GLENN gave an excellent speech on nonproliferation issues. He is the leading expert on nonproliferation in the U.S. Senate today. I was pleased he was with us yesterday to share his experience and knowledge on this subject. Senator GLENN's testimony was one of the most complete and best recitations of the history surrounding Pakistan's nuclear weapons program I have ever seen or heard. I commend Senator GLENN's comments to all Senators and will ask unanimous consent that Senator GLENN's testimony before the Foreign Relations Committee on July 30, 1992 be included in the RECORD immediately following my remarks.

Yesterday's Foreign Relations Committee hearing explored the State Department's view that the Pressler amendment allows for the continued licensing of private sales of arms and technology to Pakistan notwithstanding what many consider very clear statutory language prohibiting such sales. To quote from the amendment, "no assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan, pursuant to the authorities contained in this Act or any other Act. * * *"

The language is quite clear. By licensing the export of arms and military technology to the government of Pakistan under the terms of the Arms Export Control Act, it seems to this Senator that the administration is in violation of both the letter and spirit of the Pressler amendment.

Mr. President, my concern is not just that the State Department is misinterpreting a statute passed by Congress. I am also very concerned that the purpose of the Pressler amendment—to stop nuclear weapons proliferation and ensure U.S. taxpayers are not asked to subsidize indirectly the building of a nuclear weapons program in Pakistan—is not being achieved because while we have penalized Pakistan by cutting off most assistance to that country, arms continue to flow through the back door of private sales.

I recently returned from a trip to nine former Soviet republics and Latvia. Just prior to that trip the Foreign Relations Committee considered the START Treaty and the full Senate passed the Freedom Support Act. Under the terms of the Lisbon protocol to the START Treaty, Belarus, Kazakhstan, and Ukraine each agreed to sign the Nuclear Non-Proliferation Treaty as nonnuclear state parties.

I believe that such assurances would be equally valuable from the other nations emerging from the former Soviet Union that do not currently have a nuclear weapons capability. During this committee's hearings on START, I questioned administration witnesses regarding this issue and will continue to push this idea at every opportunity.

My point is that I came away from my recent trip convinced that we should apply the terms of the Pressler amendment to other developing nations which do not have a nuclear weapons capability, but which receive aid from the United States. We should use economic means to encourage nonnuclear countries to remain nonnuclear. We must make it clear that should they decide to pursue a nuclear weapons program, it will be without the help of the United States.

Mr. President, let me conclude by saying that I intend to continue working with Senator GLENN and others to ensure that at this unique time in world history—a time when the United States remains the world's sole superpower and, together with Russia, works to reduce the nuclear threat—developing nations follow that lead and resist the temptation to acquire their own nuclear weapons capability.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR JOHN GLENN—U.S./PAKISTAN NUCLEAR ISSUES

(Before the Committee on Foreign Relations, U.S. Senate, July 30, 1992)

Thank you, Mr. Chairman, for this opportunity to testify on U.S. responses to nuclear developments in Pakistan. I was tempted also to address my many concerns about India's large unsafeguarded nuclear program, but given time limitations and the focus of this hearing, I will address these concerns in another forum. Besides, your Committee has every reason to focus today on Pakistan. After all, American taxpayers shelled out billions of hard-earned tax dollars in aid that was explicitly justified as necessary to curb Pakistan's bomb program. This aid was provided only after repeated waivers of our nuclear nonproliferation laws. Congress has both the right and the duty to see what happened to these funds.

A review of this evidence will also encourage us to reexamine some old policy assumptions—like the faith some of our leaders have put in transfers of arms and high technology as tools of nuclear nonproliferation—and to appreciate the importance of some old fundamentals, like the duty of the Executive to "faithfully execute the laws," the need for a working relationship between Congress and the Executive, and the public's right to know.

My testimony will address five questions: First, what were Congress and the American taxpayers told about the relationship between U.S. military aid and Pakistan's bomb? Second, how have these claims stood up over time? Third, why did Congress impose nuclear conditions on aid only to Pakistan? Fourth, did the Reagan and Bush administrations implement these conditions as Congress had intended? And finally, where do we go from here?

THE PROMISE OF THE POLICY

Between 1982 and 1990, America provided over $4 billion in assistance to Pakistan, about half of which was military. Some people think this aid was solely intended to get the Soviets out of Afghanistan, a goal we shared with Pakistan. My staff, however, has identified 20 official administration statements claiming since 1981 that military assistance would address Pakistan's security concerns and thereby keep Pakistan from acquiring the bomb. I will submit with my testimony some relevant excerpts. [Attachment]

Given these many claims, the answer to my first question is crystal clear: the military transfers and other assistance were explicitly justified to Congress as instruments of a nuclear nonproliferation policy. Yet since this aid was only provided following waiver upon waiver of our nuclear nonproliferation laws, the administration had a heavy burden of proof to demonstrate that the aid was producing the promised results.

Unfortunately, the much-heralded nonproliferation benefits never materialized, which simplifies the job of answering my second question about the effects of the policy. It is well known that Pakistan was acquiring a nuclear weapons capability throughout the 1980's. I will attach to my statement a table listing 50 events that show without a doubt that Pakistan was continuing and even accelerating its pursuit of the bomb despite all of our aid. [Attachment] Mr. Chairman, if you judge by the evidence and not by the promises, there was a direct—not an inverse—relationship between the level of our aid and Pakistan's progress toward the bomb.

This leads to the answer to my third question about why Congress decided to impose new conditions on aid provided only to Pakistan. In the face of sensational daily headlines from around the world attesting to the failure of the administration's arms-for-nuclear-restraint policy, Congress went to work in the mid-1980's to strengthen conditions on further aid to Pakistan. It was no more "discriminatory" for Congress to single out Pakistan for special aid conditions than it was for the Executive to issue waiver after waiver of our nonproliferation laws just on Pakistan's behalf.

ORIGINS OF THE PRESSLER AMENDMENT

On March 28, 1984, this Committee adopted an amendment offered by Sen. Cranston and myself providing that no assistance shall be furnished and "no military equipment or technology shall be sold or transferred to Pakistan" unless the President could first certify that Pakistan does not possess a nuclear explosive device, is not developing a nuclear device, and is not acquiring goods to make such a device. On April 3, 1984, the Committee narrowly voted to reconsider this amendment and adopted instead a substitute offered by Senator Pressler, Mathias and Percy, which tied the continuation of aid and military sales to two certification conditions: (1) that Pakistan not possess a nuclear explosive device; and (2) that new aid "will reduce significantly the risk" that Pakistan will possess such a device. This text, which was enacted on another bill in August 1985, has come to be called the "Pressler amendment."

In summary, the amendment made binding what had been an official policy, namely that our aid would reduce the risk of nuclear proliferation. It also clarified—by its broad prohibition on all arms transfers under any U.S. law—that a failure to meet these standards would lead to a cutoff of not only assistance but of military sales as well.

Let me just add at this point that neither the legislative history nor the text of the amendment itself contains any written or implied exclusion of commercial arms sales from the scope of these sanctions. Indeed, it is useful to recall that in past testimony at least one State Department witness has also dismissed this peculiar argument for allowing commercial arms sales to continue in the event of a nuclear violation. At a hearing of this Committee on November 12, 1981, I asked Undersecretary of State James Buckley to describe how a nuclear detonation by Pakistan would affect our transfers of F-16 aircraft and he replied that such an event would, in his words:

> * * * dramatically affect the relationship. The cash sales are part of that relationship. I cannot see drawing lines between the impact in the case of a direct cash sale versus a guaranteed or U.S.-financed sale.

Yet as the evidence kept flowing in about new Pakistan advances toward the bomb, new rationalizations kept flowing out from Foggy Bottom for continuing our transfers of arms and aid in the service of nonproliferation—which brings me to my fourth question addressing how the Pressler amendment and other relevant laws were implemented.

IMPLEMENTATION OF THE PRESSLER AMENDMENT

I have long believed that continued arms experts to Pakistan was no way to halt its bomb program. But when you consider that of the 50 nuclear weapon-related events I cited in my submission to the Committee, three-quarters of them occurred after the Pressler amendment was enacted, it becomes glaringly apparent that the Reagan and Bush administrations willfully violated not only the Pressler amendment but several other nuclear nonproliferation laws as well. I believe that the Pressler amendment was violated almost immediately after it was enacted, when U.S. assistance and arms were transferred even though our government knew Pakistan was continuing its pursuit of the bomb.

There are three specific violations I would like to discuss today. First, I believe that the President's conclusion in October 1989 that Pakistan does not possess a nuclear explosive device conflicts with widely available information indicating that Pakistan was a de facto nuclear-weapon state. Indeed, Pakistan may well have attained that capability even before 1989, when would cast doubt on the accuracy of non-possession certifications by the Reagan administration as well.

Five years ago, a London newspaper published excerpts from an interview with no greater authority than Dr. Abdul Qadeer Khan, the father of Pakistan's bomb; in Dr. Khan words, "what the CIA has been saying about our possessing the bomb is correct." Later, in February 1992, the Pakistan foreign secretary publicly conceded that his government had "inherited" a nuclear capability. He told a U.N. audience on February 7th that "there was a capability in 1989," but he denied that the program was "moved forward" and maintained that "we froze the program." In an interview reported in the Washington Post the same day, the foreign secretary state that Pakistan possesses "elements which, if put together, would become a device. He referred to specifically to weapons "cores."

The foreign secretary's statements raise some thorny problems for both the administration and the Pakistani government:

1. If Pakistan possessed these "elements" back in 1989, then how could the President have certified that Pakistan did not possess a nuclear explosive device? By the State Department's own interpretation of the Pressler amendment, if Pakistan possessed the bomb in pieces, it possessed the bomb.

2. If Pakistan did not possess these "elements" back in 1989, but acquired them after President Bush made his certification of nonpossession in October 1989, then the foreign secretary's statement that the program was "frozen" when his government came to power in November 1990 is hardly reassuring. The foreign secretary is saying that Pakistan has frozen its status as a de factor nuclear weapon state. He is also admitting that Pakistan has violated its solemn commitment to the United States in 1984 that it would not enrich uranium beyond the 5% level needed for civilian uses.

The foreign secretary's candid remarks about the existence of a nuclear capability in 1989—combined with his remarks about weapons "cores" that he claims were produced before his government came to power—raises the real possibility of a violation of the non-possession standard in that year or even earlier.

The second violation also occurred in 1989—actually it was just a repeat of 4 prior violations by President Reagan—when President Bush certified that the provision of new assistance would "reduce significantly" the risk that Pakistan would possess a nuclear explosive device. In contrast to voluminous evidence indicating that Pakistan's program to develop nuclear weapons was advancing throughout the late 1980's, there were just no credible grounds for concluding that the provision of new foreign aid was reducing the risk of Pakistan possessing the bomb.

In fact, I believe there is considerable evidence that America's aid and high technology undoubtedly contributed to Pakistan's nuclear and missile capabilities. The F-16 aircraft we provided along with the dual-use goods we transferred to nuclear and missile facilities in Pakistan provide sufficient grounds for this conclusion.

The third violation—and I do indeed call this a violation—occurred in 1992, when it was officially confirmed that the United States government was continuing to license arms sales to Pakistan despite the clear requirement of the Pressler amendment that "no military equipment or technology shall be sold or transferred to Pakistan" if it has not received the required Presidential certifications.

Evidently, this is what we are now down to: elements of our bureaucracy are grasping at straws to perpetuate the myths that additional military transfers will buy us influence over Pakistan's bomb program, and that such transfers are perfectly legal. The rationale that our government is somehow justified in licensing sales of munitions to maintain current military capabilities (which the Pakistani foreign secretary now tells us includes nuclear weapons) flies in the face of the black-and-white words of the Pressler amendment.

Commercial arms sales do indeed contravene both the spirit and the letter of the Pressler amendment. All the more so, given that the equipment we are evidently continuing to supply includes spare parts for F-16 aircraft, a known delivery vehicle for nuclear weapons. Mr. Chairman, I would like to submit a list of official statements from the Reagan and Bush administrations taking mutually contradictory positions on the issue of whether the F-16 can be used by Pakistan to deliver nuclear weapons. Clearly somebody—and not just in Pakistan—has not been telling the truth to the people, which raises the possibility of yet another violation of the law.

In summary, the administration's position on commercial arms sales not only lacks a solid foundation in law, it seems almost contrived to subvert and frustrate the very purposes of sanctions, which are to impose a cost for noncompliance with legitimate nonproliferation standards, to offer an incentive to correct the policies to noncompliance, and to signal the priority of nuclear nonproliferation on America's foreign policy agenda.

OTHER LAWS INFRINGED

I would like to add to this testimony that I believe at least four additional laws were either willfully misinterpreted or simply ignored by zealous Executive officials who were driven by a policy they could not admit was bankrupt. I believe this shady record applies not just to nonproliferation laws directed at Pakistan and my list is by no means exhaustive.

Under the Glenn/Symington amendment, U.S. aid is supposed to be halted to any nation that delivers unsafeguarded nuclear enrichment equipment, materials, or technology to any other country that does not have full-scope safeguards. In December 1981, I delivered a floor statement that cited an AP story claiming that the State Department believed Pakistan was receiving nuclear technology through Turkey. Turkish press reports through mid-1988 were commenting about U.S. concerns relating to such sales. Yet the aid ban was never invoked against Turkey and no waiver was sought.

Another law, Section 309c of the Nuclear Non-Proliferation Act, requires special licensing controls over "all export items * * * which could be * * * of significance for nuclear explosive purposes." The $2 billion in dual-use goods that were approved for sale to Pakistan and Iraq (including goods going to nuclear and missile facilities), coupled with the almost complete failure of our government to verify the ultimate end uses of our exports—suggest a serious breakdown in the implementation of this law.

A third law, Section 602 of the Nuclear Non-Proliferation Act requires that three committees will be kept "fully and currently informed" about dangerous foreign nuclear activities and the work of our own federal agencies on behalf of nonproliferation goals. I do not believe that the standards of "fully," "currently," or "informed" were satisfied. We surely were not consulted about continuing commercial arms sales to Pakistan.

And finally, Section 601 of the Nuclear Non-Proliferation Act requires the Executive to send an annual report to Congress on nuclear proliferation. The evidence reviewed in our Committee's newsletter, Proliferation Watch of November-December 1991 shows a clear pattern of noncompliance with that reporting requirement.

PAKISTAN AND IRAQ

Mr. Chairman, I am convinced that this dismal record has much in common with our past experiences in dealing with Iraq's bomb as well.

Let me start with high-tech trade: before Saddam invaded Kuwait in August 1990, our policymakers sought to restrain Iraq by means that included licensing some $1.5 billion in commercial sales of U.S. high technology. Between 1985 and 1990, the Commerce Department also licensed just under $800 million in comparable goods to facilities in Pakistan, including certain destinations widely known to be associated with nuclear and missile programs. There are a lot better ways to redress our balance of trade than by peddling arms or dual-use goods to countries with lousy nonproliferation credentials. This policy did not work with Iraq. It is a continuing failure with respect to China. And it surely never worked with Pakistan.

Then there were the now infamous "Detonation symposiums." The Reagan and Bush administrations did nothing to stop scientists from Pakistan, Iraq, and several other proliferation-sensitive countries from attending symposiums on "Detonation" hosted by our three nuclear weapon labs. Other scientists from these countries were also allowed to visit and to conduct research at these labs and to meet with some of our bomb designers. What kind of message does that send of our commitment to nuclear nonproliferation?

But there are other indicators of the second-class status of nonproliferation as a policy priority in the 1980's. Both Pakistan and Iraq sought to acquire nuclear weapons triggers. Both illicitly obtained centrifuges based on a European Urenco design. Both have produced or sought some 19 nuclear-related goods, as documented in a recent issue of the Governmental Affairs Committee's newsletter, Proliferation Watch. Both established elaborate secret procurement networks. Both claimed their nuclear programs were entirely peaceful. Yet in both cases, U.S. officials treated nonproliferation as a secondary goal of policy. I find these parallels too close for comfort.

Our Pakistan and Iraq policies have also soaked American taxpayers to the tune of some $2 billion in Iraq's defaulted loans that were guaranteed by Uncle Sam, and some $4 billion in total U.S. foreign aid to Pakistan throughout the 1980's that was supposed to entice Pakistan away from acquiring the bomb and enhance the welfare of Pakistan's citizens.

Also, administration spokesmen routinely opposed congressional efforts to impose sanctions against both Iraq and Pakistan. The imposition of sanctions would at least have clarified for the world where America stood on two key nonproliferation issues; at best, the sanctions may well have helped to impede both programs. What is known, however, is that the "aid-and-trade" and "waivers-for-favors" policies for restraining bomb programs in both Iraq and Pakistan were complete failures.

NEXT STEPS AND REFORMS

Mr. Chairman, I have covered a lot of ground today and would like to answer my final question with a few recommendations on where we should be going from here.

Congress cannot legislate away another nation's bomb program. However, America is under no obligation to make it any easier for a nation to acquire or enhance such a capability and, in fact, we have a moral and a legal duty to make such pursuits quite costly. If Pakistan ultimately decides that its bomb is worth the hardships of acquiring and possessing it, then that is Pakistan's choice to make and we must respond accordingly. For now, we need to firm up our sanctions policy.

First, we must halt all commercial arms exports to Pakistan. The time has come to turn out the lights of a policy that failed to deliver on its promises. The party is over.

Second, we must notify our friends and allies—particularly France and Russia because of their expressed interest in selling nuclear-capable aircraft to Pakistan—about this decision and urge them to support and not to undercut our sanctions policy. We should publicly expose all efforts to frustrate our nonproliferation diplomacy and advise all nations of additional consequences they will face if they continue to pursue such efforts.

Third, we must remind Pakistan's leaders that America expects Pakistan to comply with its pledge in 1984 that it would not enrich uranium over the 5% level needed for peaceful uses of nuclear energy. We can discuss resumption of aid when that promise has been kept and when Pakistan has satisfied our government that it is willing to bring its nuclear program fully into line with the Pakistani government's own peaceful policy statements.

And finally, we should notify Pakistan that we intend to enforce our export licensing standards with respect to sales of dual-use goods. We should undertake a review of our licensing policy with respect to other nations as well that do not satisfy those licensing standards. We should also work closely with other countries that export dual-use goods to ensure that they do not undercut our policies—and caution them of the consequences if our concerns are not heeded.

Mr. Chairman, although the administration is not without its accomplishments in developing international regimes, the record shows that much more needs to be done just to get our own government's house in order. I look forward to working with you—and with the new administration next year regardless of who wins the presidential election—to repair the damage that has been done over the last 10 years to our nuclear nonproliferation laws and policies.

In closing, I hope that as we evaluate our record, Pakistan—one of the world's poorest nations—will also evaluate the full implications of its bomb program for the welfare of its 100 million citizens. I will submit today a fact sheet describing Pakistan's economic and social conditions, and its lop-sided defense budget. The longer that Pakistan's bomb and huge military establishment drain off resources needed to meet these needs, the greater will be the real national security threat that Pakistan will face in the years ahead.

U.S. AID POLICIES AND PAKISTAN'S BOMB: WHAT WERE WE TRYING TO ACCOMPLISH?

(Materials Compiled by Senate Committee on Governmental Affairs)

Letters to Congress from Presidents Reagan & Bush, 1985-1989, required under sec. 620E(e) of Foreign Assistance Act (Pressler Amendment)—

"The proposed United States assistance program for Pakistan remains extremely important in reducing the risk that Pakistan will develop and ultimately possess such a device. I am convinced that our security relationship and assistance program are the most effective means available for us to dissuade Pakistan from acquiring nuclear explosive devices. Our assistance program is designed to help Pakistan address its substantial and legitimate security needs, thereby both reducing incentives and creating disincentives for Pakistani acquisition of nuclear explosives."—President Bush, 10/5/89; President Ronald Reagan, 11/18/88; 12/17/87; 10/27/86; & 11/25/85.

President George Bush, letter to Congress (addressed to J. Danforth Quayle as President of the Senate), 12 April 1991, urging abandonment of Pressler certification requirement:

"* * * my intention is to send the strongest possible message to Pakistan and other potential proliferators that nonproliferation is among the highest priorities of my Administration's foreign policy, irrespective of whether such a policy is required by law."

Deputy Assistant Secretary of State Teresita Schaffer, testimony before House subcommittee, 2 August 1989:

"None of the F-16's Pakistan already owns or is about to purchase is configured for nuclear delivery * * * a Pakistan with a credible conventional deterrent will be less motivated to purchase a nuclear weapons capability."

Deputy Assistant Secretary of Defense Arthur Hughes, testimony before House subcommittee, 2 August 1989:

"Finally, we believe that past and continued American support for Pakistan's conventional defense reduces the likelihood that Pakistan will feel compelled to cross the nuclear threshold."

Deputy Assistant Secretary of State Robert Peck, testimony before House subcommittee, 17 February 1988:

"We believe that the improvements in Pakistan's conventional military forces made possible by U.S. assistance and the U.S. security commitment our aid program symbolizes have had a significant influence on Pakistan's decision to forego the acquisition of nuclear weapons."

Special Ambassador at large Richard Kennedy, testimony before two House subcommittees, 22 October 1987:

"We have made it clear that Pakistan must show restraint in its nuclear program if it expects us to continue providing security assistance."

Assistant Secretary of State Richard Murphy, testimony before Senate subcommittee, 18 March 1987:

"Our assistance relationship is designed to advance both our non-proliferation and our strategic objectives relating to Afghanistan. Development of a close and reliable security partnership with Pakistan gives Pakistan an alternative to nuclear weapons to meet its legitimate security needs and strengthens our influence on Pakistan's nuclear decision making. Shifting to a policy of threats and public ultimata would in our view decrease, not increase our ability to continue to make a contribution to preventing a nuclear arms race in South Asia. Undermining the credibility of the security relationship with the U.S. would itself create incentives for Pakistan to ignore our concerns and push forward in the direction of nuclear weapons acquisition."

Deputy Assistant Secretary of State Howard Schaffer, testimony before House subcommittee 6 February 1984:

The assistance program also contributes to U.S. nuclear non-proliferation goals. We believe strongly that a program of support which enhances Pakistan's sense of security helps remove the principal underlying incentive for the acquisition of a nuclear weapons capability. The government of Pakistan understands our deep concern over this issue. We have made clear that the relationship between our two countries, and the program of military and economic assistance on which it rests, are ultimately inconsistent with Pakistan's development of a nuclear explosive device. President Zia has stated publicly that Pakistan will not manufacture a nuclear explosives device."

Special Ambassador at large Richard Kennedy, testimony before two House subcommittees, 1 November 1983:

"By helping friendly nations to address legitimate security concerns, we seek to reduce incentives for the acquisition of nuclear weapons. The provision of security assistance and the sale of military equipment can be major components of efforts along these lines. Development of security ties to the U.S. can strengthen a country's confidence in its ability to defend itself without nuclear weapons. At the same time, the existence of such a relationship enhances our credibility when we seek to persuade that country to forego [sic] nuclear arms . . . We believe that strengthening Pakistan's conventional military capability serves a number of important U.S. interests, including non-proliferation. At the same time, we have made clear to the government of Pakistan that efforts to acquire nuclear explosives would jeopardize our security assistance program."

Statement by Deputy Assistant Secretary of State Harry Marshall, 12 September 1983, before International Nuclear Law Association, San Francisco:

"U.S. assistance has permitted Pakistan to strengthen its conventional defensive capability. This serves to bolster its stability and thus reduce its motivation for acquiring nuclear explosives."

President Ronald Reagan, report to Congress pursuant to sec. 601 of the Nuclear Nonproliferation Act ("601 report"), for calendar year 1982:

"Steps were taken to strengthen the U.S. security relationship with Pakistan with the objective of addressing that country's security needs and thereby reducing any motivation for acquiring nuclear explosives."

President Ronald Reagan, report to Congress pursuant to sec. 601 of the Nuclear Nonproliferation Act ("601 report"), for calendar year 1981:

"Military assistance by the United States and the establishment of a new security relationship with Pakistan should help to counteract its possible motivations toward acquiring nuclear weapons . . . Moreover, help from the United States in strengthening Pakistan's conventional military capabilities would offer the best available means for counteracting possible motivations toward acquiring nuclear weapons."

Assistant Secretary of State James Malone, address before Atomic Industrial Forum, San Francisco, 1 December 1981:

"We believe that this assistance—which is in the strategic interest of the United States—will make a significant contribution to the well-being and security of Pakistan and that it will be recognized as such by that government. We also believe that, for this reason, it offers the best prospect of deterring the Pakistanis from proceeding with the testing or acquisition of nuclear explosives.

Undersecretary of State James Buckley, testimony before Senate Foreign Relations Committee, 12 November 1981:

"We believe that a program of support which provides Pakistan with a continuing relationship with a significant security partner and enhances its sense of security may help remove the principal underlying incentive for the acquisition of a nuclear weapons capability. With such a relationship in place we are hopeful that over time we will be able to persuade Pakistan that the pursuant of a weapons capability is neither necessary to its security nor in its broader interest as an important member of the world community."

Testimony of Undersecretary of State James Buckley, in response to question from Sen. Glenn, Senate Foreign Relations Committee, 12 November 1981, on Effects of a Nuclear Detonation on Continuation of Cash Sales of F–16's:

"[Sen. Glenn] * * * so if Pakistan detonates a nuclear device before completion of the F–16 sale, will the administration cut off future deliveries?

"[Buckley] Again, Senator, we have underscored the fact that this would dramatically affect the relationship. The cash sales are part of that relationship. I cannot see drawing lines between the impact in the case of a direct cash sale versus a guaranteed or U.S.-financed sale."

Undersecretary of State James Buckley, Letter to NY Times, 25 July 1981:

"In place of the ineffective sanctions on Pakistan's nuclear program imposed by the past Administration, we hope to address through conventional means the sources of insecurity that prompt a nation like Pakistan to seek a nuclear capability in the first place."

FROM MYTH TO REALITY: EVIDENCE OF PAKISTAN'S "NUCLEAR RESTRAINT"

Early 1980's—Multiple reports that Pakistan obtained a pre-tested, atomic bomb design from China.

Early 1980's—Multiple reports that Pakistan obtained bomb-grade enriched uranium from China.

1980—U.S. Nuclear Export Control Violation: Reexport via Canada (components of inverters used in gas centrifuge enrichment activities).

1981—U.S. Nuclear Export Control Violation: New York, zirconium (nuclear fuel cladding material).

1981—AP story cites contents of reported US State Department cable stating "We have strong reason to believe that Pakistan is seeking to develop a nuclear explosives capability * * * Pakistan is conducting a program for the design and development of a triggering package for nuclear explosive devices."

1981—Publication of book, Islamic Bomb, citing recent Pakistani efforts to construct a nuclear test site.

1982/3—Several European press reports indicate that Pakistan was using Middle Eastern intermediaries to acquire bomb parts (13-inch "steel spheres" and "steel petal shapes").

1983—Recently declassified US government assessment concludes that "There is unambiguous evidence that Pakistan is actively pursuing a nuclear weapons development program * * * We believe the ultimate application of the enriched uranium produced at Kahuta, which is unsafeguarded, is clearly nuclear weapons."

1984—President Zia states that Pakistan has acquired a "very modest" uranium enrichment capability for "nothing but peaceful purposes."

1984—President Reagan reportedly warns Pakistan of "grave consequences" if it enriches uranium above 5%.

1985—ABC News reports that US believes Pakistan has "successfully tested" a "firing mechanism" of an atomic bomb by means of a non-nuclear explosion, and that US krytrons "have been acquired" by Pakistan.

1985—U.S. Nuclear Export Control Violation: Texas, krytrons (nuclear weapon triggers).

1985—U.S. Nuclear Export Control Violation: US cancelled license for export of flash x-ray camera to Pakistan (nuclear weapon diagnostic uses) because of proliferation concerns.

1985/6—Media cites production of highly enriched, bomb-grade uranium in violation of a commitment to the US.

1986—Bob Woodward article in Washington Post cites alleged DIA report saying Pakistan "detonated a high explosive test device between Sept. 18 and Sept. 21 as part of its continuing efforts to build an implosion-type nuclear weapon;" says Pakistan has produced uranium enriched to a 93.5% level.

1986—Press reports cite U.S. "Special National Intelligence Estimate" concluding that Pakistan had produced weapons-grade material.

1986—Commenting on Pakistan's nuclear capability, General Zia tells interviewer, "It is our right to obtain the technology. And when we acquire this technology, the Islamic world will possess it with us."

1986—Recently declassified memo to then-Secretary of State Henry Kissinger states, "Despite strong U.S. concern, Pakistan continues to pursue a nuclear explosive capability * * * If operated at its nominal capacity, the Kahuta uranium enrichment plant could produce enough weapons-grade material to build several nuclear devices per year."

1987—U.S. Nuclear Export Control Violation: Pennsylvania, maraging steel & beryllium (used in centrifuge manufacture and bomb components).

1987—London Financial Times reports US spy satellites have observed construction of second uranium enrichment plant in Pakistan.

1987—Pakistan's leading nuclear scientist states in published interview that "what the CIA has been saying about our possessing the bomb is correct."

1987—West German official confirms that nuclear equipment recently seized on way to Pakistan was suitable for "at least 93% enrichment" of uranium; blueprints of uranium enrichment plant also seized in Switzerland.

1987—U.S. Nuclear Export Control Violation: California, oscilloscopes, computer equipment (useful in nuclear weapon R&D).

1987—According to photocopy of a reported German foreign ministry memo published in Paris in 1990, UK government official tells German counterpart on European non-proliferation working group that he was "convinced that Pakistan had 'a few small' nuclear weapons."

1988—President Reagan waives an aid cut-off for Pakistan due to an export control violation; in his formal certification, he confirmed that "material, equipment, or technology covered by that provision was to be used by Pakistan in the manufacture of a nuclear explosive device."

1988—Hedrick Smith article in New York Times reports US government sources believe Pakistan has produced enough highly enriched uranium for 4-6 bombs.

1988—President Zia tells Carnegie Endowment delegation in interview that Pakistan has attained a nuclear capability "that is good enough to create an impression of deterrence."

1989—Multiple reports of Pakistan modifying US-supplied F-16 aircraft for nuclear delivery purposes; wind tunnel tests cited in document reportedly from West German intelligence service.

1989—Test launch of Hatf-2 missile: Payload (500 kilograms) and range (300 kilometers) meets "nuclear-capable" standard under Missile Technology Control Regime.

1989—CIA Director Webster tells Senate Governmental Affairs Committee hearing that "Clearly Pakistan is engaged in developing a nuclear capability."

1989—Media claims that Pakistan acquired tritium gas and tritium facility from West Germany in mid-1980's.

1989—ACDA unclassified report cites Chinese assistance to missile program in Pakistan.

1989—UK press cites nuclear cooperation between Pakistan and Iraq.

1989—Article in Nuclear Fuel states that the United States has issued "about 100 specific communiques to the West German Government related to planned exports to the Pakistan Atomic Energy Commission and its affiliated organizations;" exports reportedly included tritium and a tritium recovery facility.

1989—Article in Defense & Foreign Affairs Weekly states "sources close to the Pakistani nuclear program have revealed that Pakistani scientists have now perfected detonation mechanisms for a nuclear device."

1989—Reporting on a recent customs investigation, West German magazine Stern reports, "since the beginning of the eighties over 70 [West German] enterprises have supplied sensitive goods to enterprises which for years have been buying equipment for Pakistan's ambitious nuclear weapons program."

1989—Gerard Smith, former US diplomat and senior arms control authority, claims US has turned a "blind eye" to proliferation developments Pakistan in and Israel.

1989—Senator Glenn delivers two lengthy statements addressing Pakistan's violations of its uranium enrichment commitment to the United States and the lack of progress on nonproliferation issues from Prime Minister Bhutto's democratically elected government after a year in office; Glenn concluded, "There simply must be a cost to non-compliance—when a solemn nuclear pledge is violated, the solution surely does not lie in voiding the pledge."

1989-1990—reports of secret construction of unsafeguard nuclear research reactor; components from Europe.

1990—US News cites "western intelligence sources" claiming Pakistan recently "cold-tested" a nuclear device and is now building a plutonium production reactor; article says Pakistan is engaged in nuclear cooperation with Iran.

1990—French magazine publishes photo of West German government document citing claim by UK official that British government believes Pakistan already possesses "a few small" nuclear weapons; cites Ambassador Richard Kennedy claim to UK diplomat that Pakistan has broken its pledge to the US not to enrich uranium over 5%.

1990—London Sunday Times cites growing U.S. and Soviet concerns about Pakistani nuclear program; paper claims F-16 aircraft are being modified for nuclear delivery purposes; claims US spy satellites have observed "heavily armed convoys" leaving Pakistan uranium enrichment complex at Kahuta and heading for military airfields.

1990—Pakistani biography of top nuclear scientist (Dr. Abdul Qadeer Khan and the Islamic Bomb), claims US showed "model" of Pakistani bomb to visiting Pakistani diplomat as part of unsuccessful nonproliferation effort.

1990—Defense & Foreign Affairs Weekly reports "US officials now believe that Pakistan has quite sufficient computing power in country to run all the modeling necessary to adequately verify the viability of the country's nuclear weapons technology."

1990—Dr. A.Q. Khan, father of Pakistan's bomb, receives "Man of the Nation Award."

1990—Washington Post documents 3 recent efforts by Pakistan to acquire special arc-melting furnaces with nuclear and missile applications.

1991—Wall Street Journal says Pakistan is buying nuclear-capable M-11 missile from China.

1991—Sen. Moynihan says in television interview, "Last July [1990] the Pakistanis machined 6 nuclear Pakistan warheads. And they've still got them."

1991—Time quotes businessman, "BCCI is functioning as the owners' representative for Pakistan's nuclear-bomb project."

1992—Pakistani foreign secretary publicly discusses Pakistan's possession of "cores" of nuclear devices.

ARE PAKISTAN'S F-16'S "NUCLEAR-CAPABLE"? IT DEPENDS ON WHO YOU ASK

[Sen. Glenn]—"How about delivery systems? Is there any evidence that Pakistan converted F-16s for possible nuclear delivery use?

[Gates]—"We know that they are—or we have information that suggests that they're clearly interested in enhancing the ability of the F-16 to delivery weapons safely. But we don't really have—they don't require those changes, I don't think, to deliver a weapon. We could perhaps provide some additional detail in a classified manner."

"Assessing ballistic missile proliferation and its control," report of Center for International Security and Arms Control, Stanford University, November 1991:

"Pakistani F-16 aircraft could be effective nuclear-delivery vehicles even if Pakistan's nuclear warheads are large and heavy."

"Western intelligence sources" cited in U.S. News & World Report, 12 February 1990:

"The sources say Pakistan, in violation of agreements with Washington, is busily converting U.S.-supplied F-16 fighter planes—60 more are scheduled to be sent this year—into potential nuclear-weapons carriers by outfitting them with special structures attached to the plane's underwing carriage. The structure allows the mounting of a dummy under one wing of the F-16 to balance the weight of the bomb under the other wing."

Deputy Assistant Secretary of Defense Arthur Hughes, testimony before House Subcommittee, 2 August 1989:

"In order to deliver a nuclear device with any reasonable degree of accuracy and safety, it first would be necessary to replace the entire wiring package in the aircraft. In addition to building a weapons carriage mount, one would also have to re-do the fire control computer, the stores management system, and mission computer software to allow the weapon to be dropped accurately and to redistribute weight and balance after release. We believe this capability far exceeds the state of the art in Pakistan and could only be accomplished with a major release of data and industrial equipment from the U.S."

[Rep. Solarz]—Now, in your testimony, Mr. Hughes, I gather you've said that the F-16s which we have already sold them are not nuclear capable?

[Hughes]—That's right, sir.

[Rep. Solarz]—And the planes we're planning to sell will not be configured in such a way that they could deliver nuclear ordnance?

[Hughes]—That's right, Mr. Chairman.

Deputy Assistant Secretary of State Teresita Schaffer, testimony before House Subcommittee, 2 August 1989:

"None of the F-16s Pakistan already owns or is about to purchase is configured for nuclear delivery. Pakistan, moreover, will be obligated by contract not to modify its new acquisitions without the approval of the United States."

Views attributed to German Intelligence Agency (BND), in Der Spiegel, 24 July 1989:

"The Pakistanis have secretly planned to use the fighter aircraft as a delivery system for their bomb. According to a report by the Federal Intelligence Service (BND), relevant tests have already been successfully concluded. The BND has reported to the Chancellor's Office that, using an F-16 model, the Pakistanis have made wind tunnel tests and have designed the shell of the bomb in a way that allows them to install it underneath the wings. At the same time, the detonating mechanism has been improved, so that the weapon can now be used. According to the BND report, the Pakistanis long ago found out how to program the F-16 on-board computer to carry out the relevant flight maneuvers in dropping the bomb. According to the report from Pullach [BND headquarters], they also know how to make the electronic contact between the aircraft and the bomb."

Sen. John Glenn, letter to President Ronald Reagan, 5 March 1987:

"And I believe we should continue to try to provide assistance to the Afghans. But if the price that must now be paid is acceptance of Pakistani nuclear weapons production along with the continued provision of a 'made in the U.S.A.' delivery system (F-16s), a combination certain to ultimately erode the national security of the United States and some of its closest allies, then the price is too high."

Undersecretary of State James Buckley, testimony before Senate Foreign Relations Committee, 12 November 1981:

[Sen. Hayakawa]—"Do the F-16's provide Pakistan with a delivery system for nuclear device?"

[Bukcley]—"Yes they would. But by the same token, that is not the only aircraft that would have that capability. My understanding is that the Mirage III currently possessed by Pakistan, would have the capability of delivering a small nuclear device."

E.F. Von Marbod, Director of Defense Security Assistance Agency, testimony before two House subcommittees, 16 September 1981:

[Solarz]—"I gather the F-16's are technically capable of carrying nuclear weapons. Will the F-16's supplied Pakistan be able to carry nuclear weapons?"

[Von Marbod]—"Mr. Solarz, all nuclear capabilities will be deleted from these F-16's. All wiring to the pylons, all computer software programs that manage the hardware stores and all cockpit controls that are nuclear-related."

THE BOMB VS. BUTTER: PAKISTAN'S ULTIMATE CHOICE

From the New Book of World Rankings, third edition, 1991:

"Pakistan displays all the negative characteristics of an underdeveloped economy: a rigid, highly stratified and largely illiterate society; overdependence on agriculture; and limited infrastructure and natural resources."

Some basic facts from the United Nations Development Programme Human Development Report 1992:

Pakistan is listed as only 120th out of 160 nations in terms of human development. The nation's Human Development Index is only 0.305 (out of 1).

Pakistan's GNP per capita was a mere $370 in U.S. dollars. 30%, or 36.7 million Pakistanis live below the U.N. poverty line.

Life expectancy at birth is a mere 57.7 years.

Out of 1000 Pakistani infants born, 104 of them (over 10%) will die within a year; 6 out of 1000 mothers will die in childbirth. 158 out of 1000 Pakistani children (over 15%) will die before they are 5 years of age—860,000 in the past year alone. 12,000,000 children (52% of all Pakistani children) are malnourished; 42% of the children are malnourished badly enough to cause stunted growth.

55 million Pakistanis (45%), have no access to either health services or safe drinking

water. Over 100 million Pakistanis (82%) have no access to sanitation.

43.5 million Pakistani adults (65%) are illiterate. Divided by sexes, 53% of Pakistani males (17.2 million) are illiterate; 79% of Pakistani females (26.3 million) are illiterate. The average Pakistani receives only 1.9 years of schooling; males receive an average of 3 years, while females receive only 0.7 years of schooling. The latter figure is the same amount of schooling received by women in Ethiopia.

Some basic rankings from the New Book of World Rankings, third edition, 1991:

Pakistan ranks only 144th out of 170 nations on the Physical Quality of Life Index, below nations such as Bangladesh and Haiti.

Pakistan ranks 148th among nations in terms of literacy.

The country is 14th from the bottom in terms of access to sanitation.

The nation is currently 8th from the bottom in terms of primary school enrollment, and 18th from the bottom in school population-teacher ratios.

Pakistan's spending priorities, as reported by the United Nations Development Programme Human Development Report 1992:

Pakistan spends a mere 0.2% of its GNP on health care and public health programs.

Pakistan spends a mere 2.6% of its GNP on education.

6.7% of Pakistan's GNP is devoted to the military. Overall, national military expenditure is 2.4 times that of health and education expenditures combined. In 1990 alone, Pakistan imported $2.693 billion worth of arms; more than 19 times that of "social development" imports. Pakistani soldiers outnumber teachers by 1.5 to 1; they outnumber physicians by 10 to 1.

World rankings of these priorities, as reported by the New Book of World Rankings, third edition, 1991;

Pakistan's public health expenditures per capita are the eighth lowest in the world (an "astoundingly low" $0.70 per person annually).

Pakistan ranks only 126th in terms of educational spending per capita (a mere $7 per person).

Recent trends in defense expenditures according to Finance Minister Sartaj Aziz, press conference covered by Agence France Press, 17 May 1992:

In 1992, Pakistan has raised its defense budget by 8.4% to 82 billion rupees ($3.44 billion).

In 1992, Pakistan's defense spending amounts to 8% of GDP and nearly 27% of total federal government expenditure, according to official figures.

Minister Aziz: "I would be the first man to ask for reducing defence expenditure and diverting funds to the neglected social sectors."

[From the Herald Tribune, June 26, 1992]

ON PROLIFERATION LAW, A DISGRACEFUL FAILURE

(By John Glenn)

WASHINGTON.—It is no secret that I have been at odds with the Reagan and Bush administrations over their record in preventing the spread of nuclear weapons.

I have stated publicly my dismay over the direction taken first by President Ronald Reagan and then by President George Bush in providing aid and arms to Pakistan without requiring concrete actions to stop the Pakistani bomb program, and in building up Saddam Hussein's ability to mount a nuclear and missile threat.

But an examination of the record suggests that there is more than a political or policy dimension to our disagreement. I now believe that actions taken and not taken by the Reagan and Bush administrations in the area of nuclear nonproliferation amount to a pattern of willful misinterpretation of U.S. laws.

Some years ago, Senator STUART SYMINGTON and I amended the Foreign Assistance Act to require a cutoff of economic and military assistance to any country that, after 1977, imported or exported unsafeguarded nuclear enrichment or reprocessing materials, equipment or technology.

Since then only one nation, Pakistan, has been found by a U.S. president to be in violation of this law. America first cut off aid to Pakistan in September 1977, for a reprocessing-related violation. It did so again in April 1979 for a violation of the enrichment provision.

But after the Reagan administration took office in 1981, the law was changed to permit the flow of assistance to Pakistan during the war between the Soviet Union and the Afghan rebels. Over the next decade, aid to Pakistan amounted to more than $4 billion, including the delivery of 40 F-16 fighter planes—an excellent nuclear weapons delivery system—with no assurances that Pakistan would end or reverse its nuclear weapons program.

Indeed, the Reagan administration at one point, publicly parroting the Pakistanis' claim that their nuclear program was peaceful, pressured Congress to change the law—in effect, simply to repeal it—so that aid could be provided to Pakistan. Congress refused, instead moving to suspend the law for a limited time while drawing a new line (no nuclear testing) that Pakistan could not cross without suffering an aid cutoff.

In 1985, following reports that the Pakistani program was progressing, Congress drew a tighter line, the Pressler amendment, that required the president to certify that Pakistan did not possess a nuclear explosive device and that the provision of U.S. aid would reduce significantly the risk of its getting one. The Pressler amendment also stated that such a cutoff would mean "no military equipment or technology shall be sold or transferred to Pakistan."

What does the record show about the Bush and Reagan commitment to nonproliferation in this case?

In 1981, when U.S. aid began to flow, Pakistan had not produced bomb-grade nuclear material, nor had it manufactured bomb components or repeatedly violated U.S. nuclear export control laws and those of U.S allies. All these provocations occurred at the time of maximum U.S. assistance and continued after enactment of the Pressler amendment.

Did Pakistan suffer an aid cutoff as required by the amendment? No. The deliveries of F-16s and other equipment continued. President Reagan continued to certify annually that Pakistan did not "possess" a nuclear device and (despite all the evidence to the contrary) that continued U.S. assistance would reduce the risk of such possession—this although India had concluded by 1987 that Pakistan had the ability to assemble such a device easily and quickly.

Four years ago, reports were circulating that high-level analysts in U.S. intelligence agencies could not support another presidential certification of aid for Pakistan. Yet in October 1989, President Bush again certified that Pakistan did not possess a nuclear explosive device and that U.S. aid was "reducing incentives and creating disincentives" for acquisition of nuclear explosives.

This disgraceful policy failure appeared to have ended in October 1990, when Mr. Bush finally admitted what had become evident: The president could not certify that the Pakistanis did not have the bomb, and that was tantamount to saying they had it. And nine years of U.S. assistance had helped Pakistan release funds for its nuclear weapons program and given it the means for delivering the weapons.

Shockingly, testimony by Secretary of State James Baker this year revealed that the administration has continued to allow Pakistan to purchase munitions through commercial transactions, despite the explicit, unambiguous intent of Congress that "no military equipment or technology shall be sold or transferred to Pakistan." These sales may have included spare parts for F-16 aircraft.

These facts alone would be enough to destroy any credibility possessed by this administration and the previous one on the issue of nuclear nonproliferation. Unfortunately, there is more (the details are beyond the scope of this article), including a failure to apply the Glenn-Symington amendment to Turkey despite that country's involvement in helping Pakistan acquire sensitive equipment for enriching uranium.

The Reagan and Bush administrations have practiced a nuclear nonproliferation policy bordering on lawlessness. They have undermined the respect of other countries for U.S. law and have done great damage to the nuclear nonproliferation effort.

Keep this in mind the next time someone in the administration extols the need for military action to deal with some power-hungry dictator seeking to acquire nuclear weapons.

PROCLAMATION OF RETIREMENT

Mr. BUMPERS. Mr. President, today I extend my appreciation to Sam Hindsman who, after many years of working hard for the State of Arkansas, has earned the right to enjoy his retirement.

Sam Hindsman has made many important leadership contributions to the State of Arkansas in his 45 years as a resident. He served as head basketball coach and instructor of physical education at the University of Central Arkansas from 1944 to 1947. In 1947, Sam joined the faculty of Arkansas Tech University in Russellville, where he became head coach of the department of health, physical education and recreation. He achieved the rank of full professor, and was also head basketball coach from 1947 to 1966. During this term, Sam Hindsman won many championships, awards, and honors and received the first NAIA "Coach of the Year" award in 1954 and was inducted into the Arkansas Sports Hall of Fame in 1981.

For 19 years, Sam has overseen the activities of the weights and measures division and the laboratory standards division for the State of Arkansas. In 1977, 1979, and 1981, he was selected by the Office of Weights and Measures, National Bureau of Standards, as a delegate from the United States to the OIML meetings in Paris, France. In addition, Sam was elected chairman of the National Conference on Weights and Measures in 1984 and played a vital role in producing and developing a petroleum testing program and laboratory facility that is highly acclaimed in the United States. Despite all these responsibilities, Sam and his wife, Marylou, still found the time to raise five children and numerous grandchildren.

Today I am honored to recognize Sam Hindsman for his many years of valuable service to the great State of Arkansas and wish him and his family a very happy and fulfilling future.

MESSAGES FROM THE HOUSE

At 1:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill:

H.R. 3243. An act to direct the Administrator of the Federal Aviation Administration to publish routes on flight charts to safely guide pilots operating under visual flight rules through and in close proximity to terminal control areas and airport radar service areas.

ENROLLED BILLS SIGNED

At 4:02 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4026. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. Byrd].

At 4:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 131. A concurrent resolution to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31.

The message also announced that the House of Representatives has passed the following bill:

S. 12. An act to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times, and referred as indicated:

H.R. 3243. An act to direct the Administrator of the Federal Aviation Administration to publish routes on flight charts to safely guide pilots operating under visual flight rules through and in close proximity to terminal control areas and airport radar service areas; to the Committee on Commerce, Science and Transportation.

The following bills were referred on July 30, 1992:

H.R. 5620. An act making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations; and

H.R. 5677. An act making appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following bill, which was placed on the calendar:

S. 1581. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfers for works prepared under certain cooperative research and development.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 3114. An original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. No. 102–352).

By Mr. DeCONCINI, from the Committee on Appropriations, with amendments:

H.R. 5488. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–353).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 2766. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes (Rept. No. 102–354).

By Mr. SASSER, from the Committee on Appropriations, with amendments:

H.R. 5428. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–355).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 2549. A bill to make technical corrections to chapter 5 of title 5, United States Code.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN:

S. 3114. An original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. FOWLER:

S. 3115. A bill to provide for the full recovery of the Federal Government's costs of selling timber on national forest lands through the implementation of a legal minimum bid, to require site-specific identification of national forest lands that are economically unsuitable for timber harvesting, to remove those lands from the base of suitable timber and make associated adjustments in the allowable sale quantity, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRYOR (for himself and Mr. Fowler):

S. 3116. A bill to amend the Egg Amend Research and Consumer Information Act, to accomplish an expansion of exemption eligibility from assessments under this Act and to authorize increased assessment rates if approved by producers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE (for himself, Mr. Grassley, Mr. Nickles, Mr. Bond, Mrs. Kassebaum, Mr. McConnell, and Mr. Durenberger):

S. 3117. A bill to amend title XVIII of the Social Security Act to enhance certain payments made to medicare-dependent, small rural hospitals; to the Committee on Finance.

By Mr. CONRAD (for himself, Mr. Inouye, Mr. McCain, Mr. Simon, Mr. Murkowski, Mr. Akaka, and Mr. Burdick):

S. 3118. A bill to increase employment and business opportunities for Indians, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. CONRAD (for himself, Mr. Heflin, Mr. Daschle, Mr. Wellstone, Mr. Kerrey, Mr. Bumpers, and Mr. Harkin):

S. 3119. A bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. KASSEBAUM (for herself, Mr. Simon, Mr. Kennedy, Mr. Dole, Mr. Mitchell, Mr. Pell, Mr. Helms, Mr. Lugar, Mr. Wofford, Mr. McConnell, Mr. Leahy, Mr. Durenberger, Mr. Levin, Mr. Gore, Mr. Cochran, Mr. Sanford, Mr. Wellstone, Mr. Chafee, Mr. Dodd, Mr. DeConcini, Mr. Harkin, Mr. Kerry, Mr. Riegle, Mr. Biden, Mr. Cranston, Mr. Lieberman, Mr. Hatfield, Mr. Robb, Ms. Mikulski, Mr. Moynihan, and Mr. Danforth):

S. Con. Res. 132. A concurrent resolution expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of United Nations security guards to assure that humanitarian relief gets to those most in need; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FOWLER:

S. 3115. A bill to provide for the full recovery of the Federal Government's costs of selling timber on national forest lands through the implementation of a legal minimum bid, to require site-specific identification of national forest lands that are economically unsuitable for timber harvesting, to remove those lands from the base of suitable timber and make associated adjustments in the allowable sale quantity, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL FOREST TIMBER SALES COST RECOVERY ACT OF 1992

Mr. FOWLER. Mr. President, I rise again today to introduce legislation to restore sound economic and ecological management of our National Forest System.

Our citizens are more concerned than ever about our dwindling natural heritage. They are demanding better stewardship of our natural resources. At the same time, they are crying out for fiscal responsibility in Government.

This legislation addresses all these goals.

The political leadership of the U.S. Forest Service, on the other hand, has grudgingly resisted every reform demanded by the American people. If the Forest Service had its way, it would expand its timber programs, add to its 360,000 miles of forest roads, turn forests into tree farms and sell off our natural birthright at a loss to the taxpayers.

This is exactly the sort of shortsighted management and special interest giveaway the American people are so tired of.

The Forest Service admits that more than half of our national forests lose money on the Forest Service-administered timber sales—meaning that woodland resources and wildlife habitats disappear, along with taxpayer funds from the Treasury.

When the total costs of roadbuilding and bureaucratic overhead are figured in, many more of these timber sales come up losers for the American people, economically and ecologically. One study challenging Forest Service figures claims that timber sales in 101 of our National Forests generate $350 million in losses every year for the American taxpayer.

The American people pay more, and end up with less.

For too long, the Forest Service has obscured this reality by counting increased runoff from logging sites as an economic benefit—when the real results are increased erosion, stream siltation and the decimation of salmon and other fish populations.

The Forest Service has factored in wildlife benefits from increased numbers of blue jays and squirrels—when the rare and endangered species that require the deepest woodland habitats and the greatest protection are the most threatened by Forest Service logging operations.

The truth is—no matter how many fictional benefits we add in, or how many negative consequences we ignore, most sales in our National Forest do not cover the Government's cost of producing the timber.

It is time for an honest accounting, and responsible management of the public trust our national forests represent. That means no more ecological destruction at taxpayer expense. That means timber sales conducted according to sound business practices that do not depend on taxpayer subsidies. That means weaning the Government off of this wasteful giveway.

This legislation will establish a minimum bid price for timber sales in our National Forests. That minimum must cover all the costs associated with the timber sale, including roadbuilding and stand management.

In fiscal years 1993, 1994, and 1995, the Forest Service would not be allowed to sell more than 75 percent of the previous year's sales below the minimum bid price. In fiscal year 1996, that figure would drop to 65 percent. By the end of fiscal year 1997, all timber sold in our country's national forests would have to meet the minimum bid requirement.

This will force the Forest Service to consider the real costs of selling off our public forestlands. It should steer the Forest Service toward sounder management practices. It will get us on the road to eliminating timber sales that cannot be supported by the bottom line in these days of budget deficits. And it will force the Forest Service to start making the most of the taxpayers' investment in these forest resources.

Ideally, we will see the U.S. Forest Service at the forefront of the fight to protect our forests from excessive timbering and roadbuilding, to ensure wildlife diversity and the survival of threatened woodland species, and to preserve some semblance of the scenic grandeur and natural wonder of our forests for our children.

By Mr. PRYOR (for himself and Mr. FOWLER):

S. 3116. A bill to amend the Egg Research and Consumer Information Act, to accomplish an expansion of exemption eligibility from assessments under this act and to authorize increased assessment rates if approved by producers; to the Committee on Agriculture, Nutrition and Forestry.

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1992

Mr. PRYOR. Mr. President, I rise today to introduce a bill to amend the Egg Research and Consumer Information Act, a statute that authorizes research, food safety and consumer education programs to be conducted by the American Egg Board.

If enacted, my bill would do two things: first, it would raise the exemption level on egg producers' assessment from those having 30,000 laying hens to those who have 50,000. Second, it would enable producers to vote on an increased assessment for the American Egg Board, which could never exceed 30 cents per case.

The American Egg Board has allocated over $1 million this year for research at respected institutions, like Columbia University and the University of Washington at Seattle, to learn more about the relationship between egg consumption and blood cholesterol levels.

In addition to research activity, AEB has created and established education programs to teach egg safety and handling procedures to foodservice operators to help reduce the risk of illness from food contamination in hospitals, nursing homes and other institutions. Consumers also receive positive and truthful egg information through distribution of thousands of leaflets and media publicity campaigns.

Mr. President, in the past, I have supported the Egg Research and Promotion Program and other similar commodity programs because they represent an excellent example of producers of agricultural commodities helping themselves. Rather than seeking assistance from the Federal Government, producers collectively assess themselves to help maintain and expand the market for their products, educate and inform consumers, and conduct vital research. All of these activities are important for market stability and future growth. They enable hundreds of small producers of agriculture commodities to accomplish cooperatively that which they would never be able to do individually. These programs provide agriculture producers with the opportunity to compete more effectively with major food companies in expanding the market for their commodity.

Mr. President, I ask that this bill and a detailed description of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECOD, as follows:

S. 3116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Egg Research and Consumer Information Act Amendments of 1992".

SEC. 2. AMENDMENTS RELATING TO RATE OF ASSESSMENT.

(a) AMENDMENTS TO SECTION 8.—Section 8(e) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(e)) is amended by—

(1) designating the first and second sentences as paragraph (1);

(2) designating the fifth and sixth sentences as paragraph (3); and

(3) striking out the third and fourth sentences and inserting in lieu thereof the following new paragraph:

"(2) The rate of assessments shall be prescribed by the order, and shall not exceed 30 cents per case of commercial eggs or the equivalent thereof. The order may be amended to change the rate of assessment if recommended by the Egg Board and approved by egg producers in a referendum conducted under section 9(b)."

(b) AMENDMENTS TO SECTION 9.—Section 9 of the Egg Research and Consumer Information Act (7 U.S.C. 2708) is amended by—

(1) designating the first two sentences as subsection (a);

(2) designating the last sentence as subsection (c); and

(3) inserting after subsection (a), as designated under paragraph (1), the following new subsection;

"(b)(1) Whenever the Egg Board determines, based on scientific studies, marketing analysis, or other similar competent evidence, that an increase in assessment rate is needed to ensure that assessments under the order are set at an appropriate level to effectuate the declared policy of this Act, the Egg Board may request that the Secretary conduct a referendum, as provided in paragraph (2).

"(2) When requested by the Egg Board under paragraph (1) or (3), the Secretary shall conduct a referendum among egg producers not exempt hereunder who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether such producers approve the change in the assessment rate proposed by the Egg Board. The change in the assessment rate shall take effect if approved or favored by not less than two-thirds of the producers voting in such referendum, or by a majority of the producers voting in such referendum if such majority produced not less than two-thirds of all the commercial eggs produced by those voting during a representative period defined by the Secretary.

"(3) With respect to the order in effect on the date of the enactment of this subsection, the Egg Board shall undertake to determine under paragraph (1), as soon as practicable after such date of enactment, whether to request that the Secretary conduct a referendum under paragraph (2). If the Egg Board makes such a request on competent evidence, as provided in paragraph (1), the Secretary shall conduct such referendum as soon as practicable, but not later than 3 months after receipt of such request from the Egg Board.

"(4) Notwithstanding any other provision of this Act, whenever an increase in the assessment rate and the authority for additional increases is approved by producers in a referendum under this subsection, the Secretary shall amend the order as appropriate to reflect such vote of producers; and such amendment to the order shall become effective on the date it is issued.".

SEC. 3. AMENDMENT RELATING TO EXEMPT PRODUCERS.

Section 12(a)(2) of the Egg Research and Consumer Information Act (7 U.S.C. 2711) is amended by striking out "30,000 laying hens" and inserting in lieu thereof "50,000 laying hens."

SEC. 4 AMENDMENT TO EGG PROMOTION AND RESEARCH ORDER.

Notwithstanding any other provision of law:

(a) AMENDMENT.—The Secretary of Agriculture shall issue amendments to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this Act. Such amendments shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue the proposed amendments to such order not later than 30 days after the date of the enactment of this Act.

(b) EFFECTIVE DATE.—The amendments to the egg promotion and research order required by subsection (a) shall become effective no later than 90 days after the date of the enactment of this Act, and shall not be subject to a referendum under the Egg Research and Consumer Information Act.

SHORT SUMMARY

This legislation to amend the Egg Research and Consumer Information Act will accomplish two primary goals: It will expand eligibility for exemption from assessments under the Act and authorize increased assessment rates if approved by egg producers.

Specifically, the bill will do the following:

(1) It will increase the trigger level for exemption from assessments under the egg promotion and research order. Currently, the Act provides that any egg producer whose aggregate number of laying hens at any time during a 3-consecutive-month period immediately prior to the date of assessment has not exceeded 30,000 laying hens will be exempt from specific provisions of the Act (such as assessment requirements). The bill will increase that exception trigger level from 30,000 laying hens to 50,000 laying hens.

(2) It will authorize the Egg Board to request increases in assessment rates, and provide for a referendum of producers on any such request, as follows:

(a) The Board could request a change in assessment rates if it determines (based on scientific studies, marketing analyses or other competent evidence) that a change in assessment rates is necessary to achieve the policy goals of the Act.

(b) The Board can request a change in the assessment rate under the order of any amount, increase or decrease, except that in no case could the assessment rate ever exceed 30 cents per case.

(c) The Secretary would be required to conduct a referendum on any change requested by the Board and the change would go into effect only if approved by two-thirds of the producers voting in the referendum or a majority of those voting if they produced not less than two-thirds of the commercial eggs produced during a representative period (this requirement remains unchanged from current law).

(d) Specifically, the Board would be required to determine, as soon as practicable after enactment of the bill, whether a change in the assessment rate is needed. If the Egg Board requests this initial change in assessments the Secretary would have to conduct the referendum within three months. (Sec. 2.)

(3) The Secretary would be required to implement these changes in the egg promotion and research program by an amendment to the order (without a referendum) effective not later than 90 days after enactment of the bill. (Sec. 4)

By Mr. DOLE (for himself, Mr. GRASSLEY, Mr. NICKLES, Mr. BOND, Mrs. KASSEBAUM, Mr. MCCONNELL, and Mr. DURENBERGER):

S. 3117. A bill to amend title XVIII of the Social Security Act to enhance certain payments made to medicare-dependent, small rural hospitals; to the Committee on Finance.

SMALL RURAL HOSPITALS AMENDMENTS

Mr. DOLE. Mr. President, this year the topic of health care is dominating many of our political debates and campaign rhetoric. Just about everyone is running around talking about expanding talking about expanding access to health care in the United States. I, too, share in this concern, as I have throughout my career in public life. But, today, Mr. President, I am introducing a bill, the intention of which is not the expansion of access, but the preservation of access to health care in rural areas.

In 1989, Congress was responsive to the disproportionate financial hardship which many rural hospitals were facing by enacting legislation that provided an opportunity for small rural hospitals to have a special adjustment in the way they are reimbursed by Medicare. Since its enactment in 1989, over 500 rural hospitals in 40 States have been eligible for a higher payment rate under the Medicare-dependent hospital provision. This benefit has enabled hospitals to provide outreach services to rural populations and to continue to offer vital diagnostic, medical, and surgical facilities and services to the residents of these rural areas. Unfortunately, in March 1993, the medicare dependent hospital provision will expire.

Mr. President, if, because of budgetary restraints, these rural hospitals are forced to reconsider the degree and level of services offered to area residents—or in some cases—to close their doors altogether—citizens in these areas would be forced to travel great distances to obtain critical health care services or be compelled to sacrifice services entirely in some instances. Traveling may be an option which represents a significant hardship for our elderly and disabled populations and their families. Furthermore, to create a situation where individuals must forego services is, frankly, poor health policy.

The bill that I am offering today, along with Senators GRASSLEY and DANFORTH will allow Medicare dependent hospitals to benefit from the provision for 3 full years and will then be phased down until such time as the urban-rural payment differential expires.

Mr. President, it is my belief that the extension of the Medicare dependent hospital provision is vital to the continued supply of health care services in rural areas. I urge my colleagues to support this effort and vote in favor of this bill.

Mr. President, I ask that the following tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—OPTION FOR MEDICARE-DEPENDENT HOSPITALS [1]

[Increase in PPS payments in millions of dollars]

	Fiscal year—						
	1992	1993	1994	1995	1996	1997	Total 1992–1997
Incurred	12	75	48	0	0	0	135
Outlays	6	75	50	6	0	0	135

[1] OPTION: NOW provisions extended through September 30, 1994. For cost-reporting periods ending on or before March 31, 1994, payment equals full NOW amount, for discharges after that, payment equals the regular PPS amount plus one-half the differences between the full amount and the regular PPS amount.

Source: Preliminary estimate by the Congressional Budget Office.

TABLE 2.—ILLUSTRATION OF HOW THE OPTION FOR MEDICARE-DEPENDENT HOSPITALS WORKS FOR HOSPITALS WITH DIFFERENT COST-REPORTING FLORIDA

Fiscal year, month and year	Hospital's cost-reporting period beginning month											
	April	May	June	July	August	September	October	November	December	January	February	March
1990:												
April 1990	X											
May 1990	X	X										
June 1990	X	X	X									
July 1990	X	X	X	X								
August 1990	X	X	X	X	X							
September 1990	X	X	X	X	X	X						
1991:												
October 1990	X	X	X	X	X	X	X					
November 1990	X	X	X	X	X	X	X	X				
December 1990	X	X	X	X	X	X	X	X	X			
January 1991	X	X	X	X	X	X	X	X	X	X		
February 1991	X	X	X	X	X	X	X	X	X	X	X	
March 1991	X	X	X	X	X	X	X	X	X	X	X	X
April 1991	XX	X	X	X	X	X	X	X	X	X	X	X
May 1991	XX	XX	X	X	X	X	X	X	X	X	X	X
June 1991	XX	XX	XX	X	X	X	X	X	X	X	X	X
July 1991	XX	XX	XX	XX	X	X	X	X	X	X	X	X
August 1991	XX	XX	XX	XX	XX	X	X	X	X	X	X	X
September 1991	XX	XX	XX	XX	XX	XX	X	X	X	X	X	X
1992:												
October 1991	XX	XX	XX	XX	XX	XX	XX	X	X	X	X	X
November 1991	XX	XX	XX	XX	XX	XX	XX	XX	X	X	X	X
December 1991	XX	XX	XX	XX	XX	XX	XX	XX	XX	X	X	X
January 1992	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	X	X
February 1992	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	X
March 1992	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
April 1992	XXX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
May 1992	XXX	100%	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
June 1992	XXX	100%	100%	XX	XX	XX	XX	XX	XX	XX	XX	XX
July 1992	XXX	100%	100%	100%	XX	XX	XX	XX	XX	XX	XX	XX
August 1992	XXX	100%	100%	100%	100%	XX	XX	XX	XX	XX	XX	XX
September 1992	XXX	100%	100%	100%	100%	100%	XX	XX	XX	XX	XX	XX
1993:												
October 1992	XXX	100%	100%	100%	100%	100%	100%	XX	XX	XX	XX	XX
November 1992	XXX	100%	100%	100%	100%	100%	100%	100%	XX	XX	XX	XX
December 1992	XXX	100%	100%	100%	100%	100%	100%	100%	100%	XX	XX	XX
January 1993	XXX	100%	100%	100%	100%	100%	100%	100%	100%	100%	XX	XX
February 1993	XXX	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	XX
March 1993	XXX	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
April 1993	50%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
May 1993	50%	50%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
June 1993	50%	50%	50%	100%	100%	100%	100%	100%	100%	100%	100%	100%
July 1993	50%	50%	50%	50%	100%	100%	100%	100%	100%	100%	100%	100%
August 1993	50%	50%	50%	50%	50%	100%	100%	100%	100%	100%	100%	100%
September 1993	50%	50%	50%	50%	50%	50%	100%	100%	100%	100%	100%	100%
1994:												
October 1993	50%	50%	50%	50%	50%	50%	50%	100%	100%	100%	100%	100%
November 1993	50%	50%	50%	50%	50%	50%	50%	50%	100%	100%	100%	100%
December 1993	50%	50%	50%	50%	50%	50%	50%	50%	50%	100%	100%	100%
January 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	100%	100%
February 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	100%
March 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
April 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
May 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
June 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
July 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
August 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
September 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%

Notes.—Table applies to hospitals with 12-month cost-reporting periods that begin on the first day of the month. "X" "XX" and "XXX" indicate that Medicare-dependent hospital (MDH) payments apply under current law. "100%" indicates that, under the option, an MDH would receive the full MDH payment amount. "50%" indicates that, under the option, an MDH would receive a payment equal to the regular PPS amount plus ½ of the difference between the full MDH amount and the regular PPS amount.

Mr. MCCONNELL. Mr. President, I am pleased to be a cosponsor of the bill introduced by the minority leader. Once again, Senator DOLE has demonstrated his commitment to providing health care to all Americans—particularly those in rural areas.

In 1989, Congress passed the Medicare dependent hospital provision, which allowed over 500 hospitals in 40 States to receive special adjustment in Medicare reimbursement rates. In Kentucky, 10 hospitals have benefited from this provision, including the Allen County War Memorial Hospital in Scottsville and the Cumberland County Hospital in Burkesville.

I think everyone in this Chamber appreciates the special needs associated with rural medical care. Two weeks ago, I participated in a health care forum in eastern Kentucky where the importance of rural care was echoed by educators, doctors, hospital administrators, and concerned citizens. There is no doubt in my mind health care reform is a top priority to rural America.

The Medicare dependent hospital provision is set to expire in March 1993. The bill introduced by my colleague from Kansas will provide the funding for 3 full years, after which it will be phased down until the urban-rural payment differential expires.

Mr. President, I commend Senator DOLE for introducing this legislation which is of great importance to rural hospitals, and I urge my colleagues to support this bill.

By Mr. CONRAD (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. SIMON, Mr. MURKOWSKI, Mr. AKAKA, and Mr. BURDICK):

S. 3118. A bill to increase employment and business opportunities for Indians, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN BUSINESS OPPORTUNITIES ENHANCEMENT ACT

• Mr. CONRAD. Mr. President, today I am pleased to be joined by the chairman and vice chairman of the Select Committee on Indian Affairs, Senator INOUYE and Senator MCCAIN, as well as Senators SIMON, MURKOWSKI, AKAKA, and BURDICK in introducing the Indian Business Opportunities Enhancement Act.

Mr. President, the proposal we are introducing makes much-needed changes in the Buy Indian Act, which was enacted in 1910. That act provides a contracting preference for Indian-owned business enterprises that wish to compete for bidding opportunities. The preference is authorized, but not required, on contracts let by the Bureau of Indian Affairs and the Indian Health Service where moneys are appropriated "for the benefit of Indians."

During the 101st Congress, the need for significant amendments to the Buy Indian Act became apparent during hearings by the Special Committee on Investigations. The special committee, which was established by the Select Committee on Indian Affairs, conducted an investigation of fraud, corruption and mismanagement in American Indian affairs. The investigation revealed that a number of unscrupulous front companies were taking improper advantage of Indian entrepreneurs and Federal contracting preferences. Over the years, it has also become clear that the Buy Indian Act is not geared sufficiently to providing real economic development opportunities on Indian reservations.

Therefore, the committee passed S. 321, the Buy Indian Act Amendments of 1989, to reform, update, and improve the two laws involved—the Buy Indian Act and section 7(b) of the Indian Self-Determination Act.

The legislation that we are introducing today continues the effort at change that began in the 101st Congress. Although S. 321 passed the Congress, it was ultimately vetoed by the President. Since that time, staff of the Select Committee on Indian Affairs, Bureau of Indian Affairs representatives, House Interior Committee staff and other interested parties have held numerous discussions and drafting sessions to fashion an acceptable compromise.

The bill is extensive, so I will highlight only a few of its most notable provisions.

First, the bill focuses the Buy Indian Act on reservation economic development. It helps ensure that Buy Indian contract dollars will be spent in a way that not only provides opportunities for business entrepreneurs, but also provides an economic benefit to impoverished reservations.

Second, the bill sets aside for small businesses all Buy Indian contracts below $1 million. According to the BIA, one large Buy Indian contractor consistently receives nearly 50 percent of the dollar value of all BIA construction contracts in most years. In fiscal year 1992, that contractor received nearly 80 percent. This provision will prevent a single contractor from monopolizing Buy Indian Act opportunities.

Third, the bill addresses the prompt payment concerns of Buy Indian contractors by directing contracting agencies to adhere to the requirements of the Federal Prompt Payment Act. The bill also provides for the creation of an alternative dispute resolution framework to ensure that conflicts can be resolved before contractors are brought to the edge of bankruptcy.

Fourth, the bill creates a bonding demonstration project within the BIA and, as a last resort, authorizes contracting officers to waive the Miller Act on low-dollar contracts.

Fifth, the bill creates an Office of Indian Business Utilization within the Department of the Interior as the primary Federal entity responsible for administering the act. The office would, among other things, conduct periodic random investigations of self-certified Buy Indian contractors, investigate complaints that Buy Indian requirements are being ignored or improperly applied, and certify joint venture arrangements.

Finally, in an effort to compromise with the Bush administration, the bill abandons the formal certification requirements of S. 321. In its place is an enhanced self-certification process using spot checks to investigate the eligibility of individual Indian preference enterprises, criminal penalties, and weighted preferences for Indian preference enterprises that provide tangible benefits to reservation communities. Furthermore, the bill authorizes interested parties such as Indian tribes to challenge the self-certification of questionable Indian preference enterprises.

I, along with many of my colleagues on the committee, hope to move expeditiously to pass this bill. We still await the administration's position, but understand that it is forthcoming. We hope that the administration will act quickly so that this important legislation can be enacted this year.•

By Mr. CONRAD (for himself, Mr. HEFLIN, Mr. DASCHLE, Mr. WELLSTONE, Mr. KERREY, Mr. BUMPERS, and Mr. HARKIN):

S. 3119. A bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

USDA NATIONAL APPEALS DIVISION ACT OF 1992

• Mr. CONRAD. Mr. President, I am introducing a bill, cosponsored by Senators HEFLIN, DASCHLE, WELLSTONE, KERREY, BUMPERS, and HARKIN to establish a fair, objective, streamlined appeals process for five USDA agencies. The bill is entitled the USDA National Appeals Division [NAD] Act of 1992.

This bill will consolidate appeals systems of the Agricultural Stabilization and Conservation Service [ASCS], the Commodity Credit Corporation [CCC], the Farmers Home Administration [FmHA], the Rural Development Administration [RDA], previously part of FmHA, and the Soil Conservation Service [SCS]. Congressman ESPY is introducing companion legislation in the House today.

Many Members are familiar with the serious problems their constituents have with the appeals systems of these agencies, particularly FmHA, RDA, and ASCS. This legislation would resolve those problems. It would establish a fair, objective appeals process in which the public could have confidence. It would improve the quality of ASCS, CCC, FmHA, and SCS decisions. It would streamline the appeals process for farmers and consolidate the administrative costs of three appeals systems into one.

NAD would be very similar in structure and purpose to the current FmHA–NAS, and have many of the same authorities as the ASCS–NAD. Here's how it would work. Appellants of ASCS, SCS, and CCC adverse decisions would first have informal hearings before the relevant county or State committees, or other ASCS or SCS employees—when applicable. This bill would make no change in the current county or State committee appeals process. Appellants of FmHA and RDA adverse decisions would have an informal meeting with the FmHA of RDA decisionmaker after requesting a NAD appeal hearing, but prior to that hearing.

If appellants are not satisfied with the decisions under the informal hearing or meeting process, they could proceed to the NAD appeals process. The NAD appeals process would consist of a hearing before a NAD hearing officer in the State, which could be conducted over the telephone, and an optional review of the hearing officer's determination by the NAD Director if requested by the appellant. Appellants who are appealing multiple agencies' adverse decisions could appeal them all at once, at one hearing.

If the head of the agency which issued the original adverse decision asserted that the NAD determination on that adverse decision violated law or regulations, he or she could also request a review of that determination by the NAD Director. The NAD's final determination would be administratively final, conclusive, and binding on the relevant agency, and would have to be implemented within 30 days.

While NAD would be very similar to the current FmHA-NAD and ASCS-NAD, it would have some essential differences. It would be independent of program officials and employees who make and implement policy. Thus, it would eliminate the inherent conflict of interest that currently exists when an agency head both runs a program and can issue final determinations on appeals of adverse decisions of the agency. This conflict of interest is deepened by the fact that currently the head of each of these agencies controls the regulation process for their respective appeals systems, determines which adverse decisions are appealable, and evaluates the job performance of the directors of the ASCS and FmHA appeals system. In addition, as I learned last year in my hearing on the FmHA-NAS, the appeals system directors cannot testify independently before Congress, but must have their testimony cleared by the agency head.

Mr. President, there is no independence for these appeals systems. Under my bill, there would be clear independence. NAD staff would be free to make determinations based on the law and regulations, without pressure from agency officials and employees. These decisions will be administratively final.

Giving an appeals system this independence and authority to issue administratively final decisions is not a new concept. There are numerous other Federal appeals systems which have such independence and authority. Examples of such systems include the administrative review staff of the USDA Food and Nutrition Service, the State Food Stamp Appeals Board, the Financial Assistance Appeals Board of the Department of Energy, the Social Security Appeals Council, and the Benefits Review Board of the Department of Labor.

This bill would improve the appeals process in other ways. It would provide one-stop shopping for appellants who are appealing multiple agencies' adverse decisions, because they may appeal them all at one hearing.

It would make the NAD determinations administratively final, and require their implementation, so that an agency cannot delay implementation or overturn a decision months, or more than a year, after an appeals determination is made.

It would stop the revolving door where an appellant wins an appeal, but then is denied by an agency again for the same reasons, and must appeal again.

It would clearly spell out accountability, by requiring that job performance criteria for agency employees include their responsibility for causing unnecessary appeals or failing to implement decisions, and requires sanctions against employees who perform poorly.

ASCA, SCS, FmHA, and RDA have over 7,700 county offices, as well as numerous State and district offices. Officials, employees, and committee members in these offices issue hundreds of thousands of decisions annually. SCS decisions will become increasingly important as farmers try to comply with conservation laws, and as the penalties for violations become increasingly harsh. Ensuring that quality decisions are issued is a continuous challenge.

Because NAD's staff would review agencies' program decisions daily, NAD would be an ideal resource for identifying problems with the implementation of the law and regulations by the agencies. This bill would allow NAD to issue reports on such problems to be used to improve program quality in all these agencies. This kind of objective review of field decisions will improve the quality of the agencies' decisions and is crucial to ensure that participants are treated fairly, equitably and consistently around the country.

Current statutes prohibit courts from reviewing ASCS findings of facts and determinations. That is, if ASCS finds that the Earth is flat, the courts cannot overturn that finding. These archaic statutes were enacted prior to the Administrative Procedures Act [APA], which generally makes all executive agency decisions reviewable to courts. This bill would bring the ASCS up to the APA age, by making its findings of fact and determinations reviewable by courts.

This bill would also allow USDA State-certified mediation programs to mediate disputes involving wetland determinations, farm program compliance, farm creditors, rural water loans, grazing on national forest lands, and pesticides. It would also allow a Federal match of up to 70 percent of the cost of the programs, to help States unable to meet the current 50 percent match requirement. These programs are very successful, and their expanded use will result in cost effective resolutions of a variety of agricultural disputes.

Mr. President, some will say that this legislation is not needed. They will say that the current appeals systems are working fine. They will say if appellants feel they have not received fair, objective reviews of adverse decisions, they already have a remedy. They can sue the Government.

Mr. President, I do not believe that is a responsible answer to a very serious problem. That is not the way Government should operate. Many of the farm program participants, particularly FmHA and RDA borrowers, do not have the money to sue the Government. In fact, FmHA controls the annual crop income of many FmHA borrowers, and can deny the release of funds for attorneys fees. Such borrowers, and many other farm program participants have no recourse in reality if the Government fails to implement the law. Government is here to serve the people fairly, and to implement the law and regulations correctly. It is not to run unimpeded by the law and regulations because the public it serves cannot afford to appeal to the courts to correct wrongful Government actions.

Mr. President, the Government and the public will both benefit from the establishment of a fair, rational, objective appeals process. We urge our colleagues to support this badly needed legislation. I ask unanimous consent that the text of the bill, a short summary, and a section-by-section summary be included after my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "USDA National Appeals Division Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. National Appeals Division.
Sec. 4. Notice and opportunity for hearing.
Sec. 5. Informal hearings and meetings; appealable decisions.
Sec. 6. Access to materials.
Sec. 7. Hearings.
Sec. 8. Administrative appeal review.
Sec. 9. Judicial review.
Sec. 10. Implementation of final determinations of Division.
Sec. 11. Evaluation of employees.
Sec. 12. Prohibition on adverse action while appeal pending.
Sec. 13. Relationship to other laws.
Sec. 14. Authorization of appropriations.
Sec. 15. State mediation programs.
Sec. 16. Conforming amendments.
Sec. 17. Effective date.

SEC. 2. DEFINITIONS.

As used in this Act (unless the context clearly requires otherwise):

(1) ADVERSE DECISION.—The term "adverse decision" means an administrative decision made by a decisionmaker that is adverse to an appellant, including a denial of equitable relief.

(2) AGENCY.—The term "agency" means

(A) the Agricultural Stabilization and Conservation Service;

(B) the Commodity Credit Corporation;

(C) the Farmers Home Administration;

(D) the Rural Development Administration;

(E) the Soil Conservation Service;

(F) a State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); or

(G) a successor to an agency referred to in subparagraphs (A) through (F).

(3) APPELLANT.—The term "appellant" means any person—

(A) whose right to participate in, or receive payments, loans, or other benefits in accordance with, any of the programs administered by an agency is affected by an adverse decision made by a decisionmaker; and

(B) who appeals the adverse decision in accordance with this Act.

(4) DECISIONMAKER.—The term "decisionmaker" means—

(A) an officer or employee of an agency; or

(B) in the case of a State or county committee referred to in paragraph (2)(F), the State or county committee,

who makes an adverse decision that is appealed by an appellant.

(5) DIRECTOR.—The term "Director" means the Director of the Division.

(6) DIVISION.—The term "Division" means the National Appeals Division established by this Act.

(7) FINAL DETERMINATION.—The term "final determination" means a determination of an appeal by the Division regarding an appeal that is administratively final, conclusive, and binding.

(8) FINAL DETERMINATION LETTER.—The term "final determination letter" means a written determination on an appeal sent to an appellant under paragraph (1) or (2) of section 7(b) or subsection (d) or (e)(3) of section 8.

(9) HEARING RECORD.—The term "hearing record" means the transcript of a hearing, any audio tape or similar recording of a hearing, and all documents and other evidence presented to a hearing officer.

(10) IMPLEMENT.—The term "implement" means to effectuate fully and promptly a final determination of the Division not later than 30 calendar days after the effective date of the final determination specified in section 7(h)(2).

(11) PARTICIPANT.—The term "participant" means any person whose right to participate in, or receive payments, loans, or other benefits in accordance with, any of the programs administered by an agency is affected by an adverse decision made by a decisionmaker.

(12) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(13) STATE DIRECTOR.—The term "State director" means the individual who is primarily responsible for carrying out the program of an agency within a State.

SEC. 3. NATIONAL APPEALS DIVISION.

(a) ESTABLISHMENT.—The Secretary shall establish and maintain a National Appeals Division, within the Office of the Secretary, to carry out this Act.

(b) DIRECTOR.—

(1) IN GENERAL.—The Division shall be headed by a Director, appointed by the Secretary from among individuals with substantial experience in practicing administrative law. The position of the Director shall be a Senior Executive Service position (as defined in section 3132(a)(2) of title 5, United States Code) that shall be filled by a career appointee (as defined in section 3132(a)(4) of such title).

(2) POWERS.—To carry out this Act, the Director shall promulgate procedural regulations and policies governing the conduct of the business of the Division, including the conduct of appeals, the standard of review, the conduct of reviews of appeals, the appeals process, and other actions affecting the procedural rights of appellants, consistent with this Act. The Director shall have the exclusive authority to promulgate the regulations.

(3) DIRECTION, CONTROL, AND SUPPORT.—The Director shall be free from the direction and control of, and shall not receive administrative support (except on a reimbursable basis) from, any person other than the Secretary.

(4) LEVEL V OF EXECUTIVE SCHEDULE.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Director, National Appeals Division, Department of Agriculture.".

(c) LEGAL COUNSEL.—The Director may retain legal counsel to advise the Director and hearing officers of the Division with respect to such legal questions as the Director considers appropriate, and otherwise act as an advocate for the agency. Legal counsel shall not serve as counsel to any other division or agency of the Department of Agriculture.

(d) HEARING OFFICERS AND OTHER EMPLOYEES.—

(1) IN GENERAL.—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division.

(2) POWERS OF HEARING OFFICERS.—To carry out this Act, a hearing officer—

(A) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available that relate to programs and operations with respect to which an appeal has been taken;

(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities established under this Act from any Federal, State, or local governmental agency or unit of the agency;

(C) may require the attendance of witnesses, the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to the proper resolution of appeals;

(D) may, if appropriate, require the attendance of witnesses and production of documentary evidence by subpoena, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(E) may administer oaths and affirmations, whenever necessary in the process of hearing appeals; and

(F) may enter into contracts and other arrangements for reporting and other services and make such payments as may be necessary to carry out this Act.

(3) EXCLUSIVE EMPLOYMENT.—An employee of the Division may have no duties other than those that are necessary to carry out this Act.

(4) DIRECTION AND CONTROL.—All employees of the Division shall report to the Director and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than the Division.

(e) RESOURCES AND PERSONNEL.—The Secretary shall ensure that—

(1) the Division has resources and personnel that are adequate to hear and determine all initial appeals in the State of residence of an appellant on a timely basis and to otherwise carry out this Act; and

(2) hearing officers receive training and retraining adequate for the duties of hearing officers on initial employment and at regular intervals after initial employment.

(f) DELEGATION AND REVIEW.—The Secretary may not delegate to any other person (other than the Director) the authority of the Secretary with respect to the Division.

(g) REPORTS AND STUDIES.—

(1) IN GENERAL.—The Director shall issue such reports, and conduct and provide such studies, to the Secretary and the head of an agency as the Director determines are necessary to identify and resolve problems of the agency with respect to implementation of—

(A) laws, policies, procedures, and regulations of the agency, based on final determinations of the Division; and

(B) final determinations of the Division.

(2) AVAILABILITY TO PUBLIC.—The reports and studies referred to in paragraph (1) shall be made available to the public.

(h) INDEX OF DETERMINATIONS.—

(1) IN GENERAL.—The Director shall develop a subject-matter index of all significant final determinations of the Division that are considered by the Director to—

(A) be precedential; or

(B) otherwise establish a principle that—

(i) governs recurring cases with similar facts;

(ii) develops Division policy and exceptions to the policy in areas in which the law is unsettled;

(iii) deals with important emerging trends; or

(iv) provides examples of the appropriate resolution of major types of cases not otherwise indexed.

(2) AVAILABILITY TO PUBLIC.—The Director shall publicize the index and make the index available to the public.

(3) PUBLIC INFORMATION.—A final determination of the Division shall be subject to the requirements of section 552 of title 5, United States Code.

SEC. 4. NOTICE AND OPPORTUNITY FOR HEARING.

(a) IN GENERAL.—Not later than 10 days after an adverse decision affecting a participant, the Secretary shall provide the participant with written notice of—

(1) the decision, including all of the reasons underlying the adverse decision;

(2) an opportunity for an informal hearing or meeting with the decisionmaker on the adverse decision;

(3) an opportunity for a hearing by the Division on the adverse decision not later than 45 days after receipt of the request of the participant for a hearing;

(4) if the decisionmaker asserts that the adverse decision is nonappealable, an opportunity to request a determination by the Director on whether an adverse decision is appealable; and

(5) a description of the procedure to—

(A) appeal the adverse decision to the Division (including any deadlines for filing an appeal); and

(B) if the decisionmaker asserts that the adverse decision is not appealable, request a determination by the Director on whether the decision is appealable.

(b) RECORDS.—The Secretary shall maintain all of the materials on which an adverse decision is based with respect to a participant at least until the expiration of the period during which the participant may seek administrative or judicial review of the decision.

(c) JOINDER.—

(1) IN GENERAL.—A borrower or applicant who applies for a loan on which a guarantee is requested or who has received a guaranteed loan, and who is directly and adversely affected by a decision of the Secretary, may appeal the decision under this Act without the lender joining in the appeal.

(2) RENTAL HOUSING.—A tenant in rental housing of an agency who is individually, directly and adversely affected by a decision of the Secretary, may appeal the decision under this Act without the landlord joining in the appeal.

(3) THIRD PARTIES.—

(A) IN GENERAL.—If appropriate to protect the rights of a participant (other than the appellant) that may be directly, substantially, and adversely affected by a decision of the Division, a hearing officer may invite the participant to participate in a hearing if the final determination resulting from the hearing would, as a practical matter, foreclose the participant from protecting the rights of the participant that may be adversely affected by the final determination.

(B) PROCEDURAL RIGHTS FOR PARTICIPANTS.—If the participant elects to participate in the hearing, the participant shall have the same procedural rights as the appellant with regard to the hearing and other procedures described in this Act.

(C) NO APPEAL RIGHTS FOR NONPARTICIPANTS.—If the participant elects not to participate in the hearing, the participant may not institute an appeal with respect to the implementation of any final determination resulting from the hearing.

(D) BASIS FOR INVITING PARTICIPANTS.—The decision to invite a participant under subparagraph (A) shall be made in the discretion of the hearing officer taking into account—

(i) any request to participate made by the participant;

(ii) any request by the appellant to include or exclude the participant;

(iii) any request by the decisionmaker to include or exclude the participant;

(iv) the opportunity the participant would have to appeal the decision in a separate proceeding and whether the appeal would be adequate to protect the rights of the participant; and

(v) such other factors as may be specified in regulations specified by the Director.

(d) BASIS FOR DECISIONS.—A decisionmaker—

(1) shall base an adverse decision on the information that is available to the decisionmaker at the time the initial adverse decision is made; and

(2) may not base any subsequent adverse decision on information that was previously available to the decisionmaker if that information could have been used to support the initial adverse decision.

SEC. 5. INFORMAL HEARINGS AND MEETINGS; APPEALABLE DECISIONS.

(a) INFORMAL HEARINGS.—If the Agricultural Stabilization and Conservation Service, Commodity Credit Corporation, or Soil Conservation Service makes an adverse decision—

(1) the appropriate State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), or (if applicable) an officer or employee of the Agricultural Stabilization and Conservation Service or the Soil Conservation Service, shall hold an informal hearing on the decision; and

(2) to be eligible to appeal the decision to the Division, the appellant, or a representative of the appellant, must participate in the informal hearing.

(b) INFORMAL MEETINGS.—If the Farmers Home Administration or the Rural Development Administration makes an adverse decision, the decisionmaker shall hold an informal meeting with the appellant after the appellant has requested a hearing and before any hearing on the decision of the decisionmaker by the Division. At a reasonable time prior to the informal meeting, the decisionmaker shall provide to the appellant, and any representative of the appellant, access to materials in accordance with section 6(a).

(c) APPEALABLE DECISIONS.—In a case described in section 4(a)(4), the determination of the Director as to whether an adverse decision is appealable shall be administratively final, conclusive, and binding.

SEC. 6. ACCESS TO MATERIALS.

(a) IN GENERAL.—An appellant shall have the right to have—

(1) access to all the materials in the personal file of the appellant and other materials used to make the adverse decision that are maintained by the Secretary, including a reasonable opportunity to inspect and reproduce the file at an office of the agency located in the area of the appellant; and

(2) representation by an attorney or nonattorney during the inspection and reproduction of files under paragraph (1) and at any informal meeting or hearing or Division hearing.

(b) CHARGES.—The Secretary may charge an appellant for any reasonable costs incurred in reproduction of files under subsection (a)(1).

SEC. 7. HEARINGS.

(a) CONDUCT OF HEARING.—At a minimum, at a hearing conducted under this Act, the appellant shall be given a full opportunity to present argument, evidence, facts, and information relevant to the matter at issue.

(b) HEARINGS.—

(1) IN GENERAL.—Hearing officers within the Division in a State shall hear and determine all formal appeals of decisions that are subject to this Act and are made by county supervisors, county committees, State committees, district directors, State directors, or other employees of an agency working in the State.

(2) LOCATION OF HEARINGS.—A hearing shall be held in the State of residence of the appellant.

(3) TELEPHONE.—At the request of an appellant, a hearing may be conducted over the telephone.

(4) DETERMINATION LETTER.—The hearing officer shall issue a determination letter on the appeal of the adverse decision not later than—

(A) 30 calendar days after a hearing on an appeal of an adverse decision made by the Farmers Home Administration or the Rural Development Administration; or

(B) 60 calendar days after a hearing on an appeal of an adverse decision made by the Agricultural Stabilization and Conservation Service, the Commodity Credit Corporation, or the Soil Conservation Service.

(5) REVIEW BY DIRECTOR.—

(A) REFERRAL.—A determination of a hearing officer shall, on request and election of the appellant, be referred to the Director for review.

(B) ACTIONS.—The Director shall promptly—

(i) review the determination; and

(ii) uphold the determination, issue a new determination, require that a new hearing be held on one or more of issues considered at the original hearing, or take any combination of the actions described in this clause; and

(iii) issue a determination letter.

(c) PRODUCTION OF RECORD.—Each hearing before a hearing officer in the Division shall be recorded verbatim by voice recorder, stenographer, or other method. A transcript of the hearing, together with a copy of any audio recording of the hearing and copies of all documents and evidence submitted, shall be made available to the appellant, on request, if the decision of the hearing officer is appealed.

(d) USE OF RECORD.—If the decision of a hearing officer is appealed, the hearing officer shall certify the hearing record and otherwise provide the certified hearing record to the Director. The Director shall base the review of the hearing by the Director on the hearing record. If necessary, the Director may conduct a complete review of the adverse decision.

(e) NEW INFORMATION.—

(1) HEARING.—A hearing officer shall consider information presented at the hearing regardless of whether the evidence was known to the decisionmaker at the time the decision appealed from was made. The hearing officer shall leave the record open for a reasonable period of time and allow the submission of information after the hearing to the extent necessary to prevent the appellant or the decisionmaker from being prejudiced by new facts, information, arguments, or evidence presented or raised by the decisionmaker or appellant.

(2) REVIEW.—The Director may, in extraordinary circumstances, consider new information in reviewing a determination under this section or section 8. An appellant and the decisionmaker shall have the opportunity to comment on the new information. When a determination of a hearing officer is being reviewed by the Director, and new information is being considered, the hearing officer shall have the opportunity to comment on the new information.

(f) FINDINGS OF FACT.—The Director shall not reverse the determination of a hearing officer or the Director under this section or section 8 as to a finding of fact that is based on oral testimony or inspection of evidence unless—

(1) there is no substantial evidence to support the finding of fact; or

(2) the Director is considering new information under subsection (e)(2) with respect to the finding of fact.

(g) CONSIDERATION OF LAWS AND REGULATIONS.—In considering the merits of an appeal, a hearing officer and the Director shall base a determination on and consider applicable laws and regulations in effect and available to the public on the date the decision appealed from was made. The Director shall have the same authority as the Secretary to grant equitable relief.

(h) FINALITY.—

(1) IN GENERAL.—Except as provided in section 7(b) or 8, the determination of a hearing officer or the Director shall be administratively final, conclusive, and binding on the relevant agency.

(2) EFFECTIVE DATE OF FINAL DETERMINATIONS.—A final determination made by the Division under this Act shall be effective as of—

(1) in the case of the Agricultural Stabilization Service, the Commodity Credit Corporation, or the Soil Conservation Service, the date of filing an application or the date of the transaction in question, whichever is applicable; and

(2) in the case of the Farmers Home Administration and the Rural Development Administration, the date of the original adverse decision.

SEC. 8. ADMINISTRATIVE APPEAL REVIEW.

(a) REVIEW OF DECISION OF HEARING OFFICER OR DIRECTOR.—In extraordinary circumstances, if an agency head believes that the decision of a hearing officer or the Director is contrary to a law or regulation of the agency, the agency head may request (in writing) that the Director review the decision of the hearing officer or the Director.

(b) REQUESTS FOR REVIEW.—

(1) TIMING.—A request for review under subsection (a) shall be made within 10 work-

ing days after receipt by the decisionmaker of the decision of the hearing officer or Director. If the relevant agency head fails to make a request for review in accordance with this section, the decision of the hearing officer or the Director shall be administratively final and shall be promptly implemented.

(2) CONTENTS.—A request for review shall include a full description of—

(A) the extraordinary circumstances justifying the request for review; and

(B) the reasons that the relevant agency head claims the decision is contrary to applicable law or regulations of the relevant agency.

(3) COPY TO APPELLANT AND HEARING OFFICER.—A copy of the request shall be provided to the appellant and the hearing officer at the same time the request is provided to the Director. The hearing officer shall immediately forward the case file to the Director on receipt of a copy of the request.

(c) TIMING OF DETERMINATIONS BY DIRECTOR.—On receiving a request for review and the case file, the Director shall determine within 5 working days whether the request has merit.

(d) REQUESTS WITHOUT MERIT.—If the Director determines that the request does not have merit, the Director shall notify the relevant agency head, the appellant, and the hearing officer, in writing, that the determination of the hearing officer or Director is a final determination.

(e) REQUESTS WITH MERIT.—

(1) IN GENERAL.—If the Director determines that a request by the relevant agency head has merit, within 10 working days after the receipt of the request for review and receipt of the case file (subject to paragraph (4)), the Director shall—

(A)(i) conduct a review of the decision (based on the hearing record), the assertions raised by the relevant agency head in the letter of the relevant agency head requesting an administrative appeal review, any additional argument submitted by the appellant, and (in extraordinary circumstances) any new information submitted by the relevant agency head or the appellant; and

(ii) issue a final decision on the appeal; or

(B) if the Director determines the hearing record is inadequate, remand the decision for further proceedings to complete the hearing record.

(2) OPPORTUNITY FOR COMMENT.—In a review conducted under paragraph (1)(A), an appellant and the hearing officer (if the decision being reviewed was made by a hearing officer) shall have the opportunity to provide written rebuttal to the claim of the relevant agency head, and comment in writing with regard to the review of the Director.

(3) NOTICE OF FINAL DETERMINATION.—The Director shall notify the hearing officer, relevant agency head, and the appellant, in writing, of the final determination or other disposition of the request for review.

(4) EXTENSION OF DEADLINE.—The period of time for a review may be extended by the Director to the extent that an appellant or hearing officer has requested and received additional time during which to submit arguments, rebuttal, or new information.

(5) FINALITY.—The determination of the Director shall be administratively final and shall be promptly implemented. The relevant agency may not request a second review as to the determination of the hearing officer or the Director on the same issues.

(f) RECOMMENDATIONS.—The Director or a hearing officer may include recommendations in a final determination letter.

SEC. 9. JUDICIAL REVIEW.

A final determination of the Division under the process provided for in this Act shall be reviewable and enforceable by a United States court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

SEC. 10. IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION.

(a) IN GENERAL.—Except as provided in sections 7(c) and 8, on having a case returned pursuant to the final determination of a hearing officer or the Director, the State committee, county committee, or employee of the relevant agency shall implement the final determination.

(b) ACTIONS BY RELEVANT AGENCY HEAD.—The relevant agency head shall correct implementation problems, and shall make available to the public a report on the status of implementation of final determinations of the relevant agency head that reversed or modified an adverse decision of the agency.

(c) IMPLEMENTATION.—It is the sense of Congress that under provisions of law in existence on the date of enactment of this Act—

(1) a State director is—

(A) responsible for reviewing all appeal requests of adverse decisions of the State director or subordinates, prior to hearings, to determine whether the adverse decisions should be modified or withdrawn by the decisionmaker, rather than proceed with the appeals;

(B) required to implement final determinations of a hearing officer or the Director that affect the State; and

(C) monitor implementation of final determinations that reverse and modify adverse decisions; and

(2) relevant agency heads are responsible for—

(A) the performance of State directors under paragraph (1); and

(B) the implementation of all final determinations of the Division that reverse or modify adverse decisions of the agency.

(d) PROTECTION OF APPELLANTS' RIGHTS.—

(1) IN GENERAL.—No officer or employee of the Federal Government shall make or engage in threats or intimidation, or solicit action, to prevent any potential appellant from exercising the rights of the appellant under this Act or make or engage in retaliation or retribution for the exercise of a right of an appellant under this Act.

(2) CORRECTIVE ACTION.—If an officer or employee of the Federal Government violates paragraph (1), the Secretary shall take corrective action (including the imposition of sanctions, when necessary).

(e) IMPLEMENTATION PROBLEMS.—

(1) IN GENERAL.—The Secretary shall assign employees within the Office of the Secretary whom appellants may contact concerning problems with the implementation of final determinations of the Division. The employees shall investigate and, to the extent practicable, resolve the implementation problems.

(2) IDENTITY OF EMPLOYEES.—The Secretary shall notify the Director of the name, address, and telephone numbers of employees assigned under paragraph (1). The Director shall include this information in the final determination letter of the Director to an appellant.

(3) LETTER TO APPELLANT.—Not later than 30 calendar days following the issuance of a final determination, the assigned employee shall mail a letter to the appellant soliciting confirmation from the appellant that the final determination has been implemented or, if the appellant believes that the decision has not been implemented, a description of the failure to implement the decision.

(4) DECISION NOT IMPLEMENTED.—If the appellant indicates that the decision has not been implemented, the assigned employee shall immediately undertake to ensure that the final determination is implemented in accordance with this Act.

(5) DESCRIPTION OF IMPLEMENTING STEPS.—On determining that the final determination has been implemented, the relevant agency head shall provide the appellant and the assigned employee with a description of the steps taken by the relevant agency to implement the final determination.

SEC. 11. EVALUATION OF EMPLOYEES.

(a) IN GENERAL.—The Secretary shall promulgate regulations that require an annual review and evaluation of employees and officials of each agency.

(b) PERFORMANCE.—As part of the review and evaluation, a decisionmaker, a State director, or the relevant agency head shall be considered to have performed poorly if the decisionmaker, State director, or relevant agency head—

(1) takes action that leads to numerous appeals that result in—

(A) adverse decisions that are reversed or modified; or

(B) administrative appeal reviews that are determined to not have merit by the Division;

(2) fails to properly implement decisions;

(3) fails to satisfactorily perform the reviewing and monitoring responsibilities required under provisions of law referred to in section 10(c); or

(4) threatens or intimidates, or engages in retaliation or retribution against, an appellant in violation of section 10(d).

(c) SANCTIONS.—If a decisionmaker, State director, or relevant agency head has performed poorly (as described in subsection (b)), the Secretary shall issue sanctions against the decisionmaker, State director, or relevant agency head which may include a formal reprimand or dismissal.

(d) BASIS FOR REVERSALS.—In conducting the evaluation of the number of appeals decided against the decisionmaker, the Secretary should consider mitigating circumstances, such as whether the reversal was based solely on—

(1) new information not available to the decisionmaker;

(2) erroneous advice from a superior to the decisionmaker;

(3) published agency interpretations or procedures that were determined to be invalid by the Division; or

(4) the failure of a superior to provide clear instructions to the decisionmaker.

SEC. 12. PROHIBITION ON ADVERSE ACTION WHILE APPEAL PENDING.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not take an adverse action relating to an appeal against an appellant while an appeal is pending. In particular, the Secretary shall not take any action that would prevent the implementation of a final determination in favor of the appellant.

(b) PAYMENTS.—This section shall not preclude the Secretary from withholding a payment if the eligibility for, or amount of, the payment is an issue on appeal.

SEC. 13. RELATIONSHIP TO OTHER LAWS.

(a) OTHER RIGHTS.—This Act is not intended to supersede or deprive a recipient of assistance from the relevant agency of any rights that the recipient may have under any other law, including section 510(g) of the Housing Act of 1949 (42 U.S.C. 1480(g)).

(b) EQUITABLE RELIEF.—This Act is not intended to affect the authority of an agency head to grant equitable relief.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act for fiscal year 1993 and subsequent fiscal years.

(b) TRANSFER OF FUNDS.—The Secretary shall transfer sums made available to the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as it existed before the amendment made by section 16(a)) for fiscal year 1992 to the Division established by this Act.

SEC. 15. STATE MEDIATION PROGRAMS.

(a) QUALIFYING STATES.—Section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101) is amended—

(1) by striking "agricultural loan" each place the term appears; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "and their creditors," and inserting "their creditors, and (with respect to other than agricultural loan matters) the Department of Agriculture,"; and

(ii) by striking "an" and inserting "the"; and

(B) in paragraph (5), by inserting before "receive" the following: ", and all persons directly affected by actions of the Department of Agriculture involving wetlands determinations, farm program compliance, disputes between farmers and their creditors, rural water loan programs, grazing on national forest lands, and pesticides,".

(b) MATCHING GRANTS TO STATES.—Section 502 of such Act (7 U.S.C. 5102) is amended—

(1) by striking "agricultural loan" each place the term appears;

(2) in subsection (b)(1), by striking "50" and inserting "70"; and

(3) in subsection (c), by inserting "in respect of which the amount was paid" before the period.

(c) PARTICIPATION OF FEDERAL AGENCIES.—Section 503 of such Act (7 U.S.C. 5103) is amended—

(1) by striking "agricultural loan" each place the term appears; and

(2) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking "that makes, guarantees, or insures agricultural loans";

(B) in each of subparagraphs (A) and (B), by inserting ", in any matter involving agricultural loans" before the semicolon; and

(C) in subparagraph (B), by striking ", on the date of the enactment of this Act,".

(d) REPORT.—Subtitle A of title V of such Act (7 U.S.C. 5101 et seq.) is amended by adding at the end the following new section:

"SEC. 507. REPORT ON EXPANDED STATE MEDIATION PROGRAMS.

"Not later than 2 years after the date of the enactment of this section, the Secretary of Agriculture shall report to the Congress on the matters described in section 505 with respect to all State mediation programs receiving matching grants under this subtitle.".

(e) CONFORMING AMENDMENTS.—

(1) WAIVER OF FARM CREDIT MEDIATION RIGHTS BY BORROWERS.—Section 4.14E of the Farm Credit Act of 1971 (12 U.S.C. 2202e) is amended by striking "agricultural loan".

(2) WAIVER OF FMHA MEDIATION RIGHTS BY BORROWERS.—Section 358 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006) is amended by striking "agricultural loan".

SEC. 16. CONFORMING AMENDMENTS.

(a) ASCS.—

(1) FINALITY OF FARMERS PAYMENTS AND LOANS.—Section 385 of the Agricultural Act of 1938 (7 U.S.C. 1385) is amended—

(A) by striking the first sentence; and

(B) in the second sentence, by striking "such payment" and inserting "payment under any Soil Conservation Act (16 U.S.C. 590a et seq.), payment under the wheat, feed grain, upland cotton, extra long staple cotton, and rice programs authorized by the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and this Act, loan, or price support operation, or the amount thereof,".

(2) DETERMINATIONS BY SECRETARY.—Section 412 of the Agricultural Act of 1949 (7 U.S.C. 1429) is repealed.

(3) APPEALS.—Section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) is amended to read as follows:

"SEC. 426. APPEALS.

"(a) DEFINITIONS.—As used in this section:

"(1) ASCS.—The term 'ASCS' means the Agricultural Stabilization and Conservation Service, or any successor agency in the United States Department of Agriculture.

"(2) COUNTY COMMITTEE.—The term 'county committee' means a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

"(3) NATIONAL APPEALS DIVISION.—The term 'National Appeals Division' means the National Appeals Division established in accordance with section 3 of the USDA National Appeals Division Act of 1992.

"(4) STATE COMMITTEE.—The term 'State committee' means a State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

"(b) RIGHT TO APPEAL.—Any participant in any of the programs under this Act or any other Act administered by ASCS shall have the right to appeal to the National Appeals Division any adverse determination made by any State committee or county committee, by employees or agents of the committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation, under this Act or under any other Act administered by the ASCS.

"(c) APPEAL PROCEDURE.—

"(1) IN GENERAL.—The appeal shall be made in accordance with the USDA National Appeals Division Act of 1992 (including section 5 of such Act) and this section.

"(2) CONDITIONS OF APPEAL.—Any participant who believes that a proper determination has not been made with respect to the implementation of any program administered by the ASCS concerning the participant may appeal the determination as follows:

"(A) If the determination was rendered by a county committee, the participant may appeal the determination to the applicable State committee.

"(B) If the determination was rendered by a State committee, the participant may appeal the determination to the National Appeals Division.

"(C) If the determination was rendered by any other employee or agent of the ASCS or the Commodity Credit Corporation, the participant may appeal the determination to the National Appeals Division.

"(D) ASCS may reverse or modify a decision made by a State committee or county committee at any time prior to commencement of the appeal of an appellant to the National Appeals Division, except that nothing in this subparagraph is intended to affect a procedure of a State committee or county committee.

"(d) COURT REVIEW.—A final decision of the Department of Agriculture under the process provided for in this section shall be reviewable by a United States court of competent jurisdiction.

"(e) PARTICIPANT.—For the purposes of this section, the term 'participant' means any person whose right to participate in, or receive payments or other benefits in accordance with, any of the programs under this Act or any other Act administered by the ASCS is adversely affected by a determination of any State committee or county committee, by employees or agents of the committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation under this Act or under any other Act administered by the ASCS.

"(f) DECISIONS OF STATE AND COUNTY COMMITTEES.—

"(1) FINALITY.—All decisions of a State or county committee, or employee of the committee, made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final, unless such decisions are (not later than 90 days after the date of issuance of the decision) appealed under this section or modified under subsection (c)(2)(D).

"(2) RECOVERY OF AMOUNTS.—No action shall be taken to recover amounts found to have been disbursed thereon in error unless the participant had reason to believe that the decision was erroneous.

"(g) REGULATIONS.—The Secretary shall issue such regulations as are determined necessary to implement this section, including regulations governing the conduct of appeals made before State committees and county committees.".

(b) FMHA.—

(1) NATIONAL APPEALS DIVISION.—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is amended by striking subsections (d) through (g).

(2) LEASE OR PURCHASE AGREEMENTS.—Section 335(e)(9) of such Act (7 U.S.C. 1985(e)(9)) is amended by inserting after "appealable under" the following: "the USDA National Appeals Division Act of 1992 (including section 5 of such Act) and".

(3) HOMESTEAD PROPERTY.—The second sentence of section 352(c)(3) of such Act (7 U.S.C. 2000(c)(3)) is amended by inserting after "described in" the following: "the USDA National Appeals Division Act of 1992 (including section 5 of such Act) and".

(4) DEBT RESTRUCTURING AND LOAN SERVICING.—Section 353 of such Act (7 U.S.C. 2001) is amended.—

(A) in subsection (h), by inserting after "filed under" the following: "the USDA National Appeals Division Act of 1992 and"; and

(B) in the first sentence of subsection (j), by inserting after "under" the following: "the USDA National Appeals Division Act of 1992 and".

SEC. 17. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this Act and the amendments made by this Act shall become effective on the earlier of—

(1) the date that is 180 days after the date of enactment of this Act, or

(2) the date the Director issues final regulations pursuant to subsection (b).

(b) REGULATIONS.—The Director shall—

(1) not later than 90 days after the date of enactment of this Act, promulgate proposed regulations to implement this Act and the amendments made by this Act, consistent with provisions of section 553 of title 5, United States Code, permitting public comment;

(2) issue final regulations to implement this Act and the amendments made by this

Act, not later than October 1, 1992, or 180 days after the date of enactment of this Act, whichever is later; and

(3) issue final regulations—

(A) providing for the transfer of all pending appeals within the jurisdiction of agencies referred to in section 2(2) to the Division on the effective date prescribed in subsection (a);

(B) providing for the transfer of case files with respect to the appeals; and

(C) otherwise providing for the orderly transfer of all pending appeals and reviews from the agencies to the Division.

(c) IMPLEMENTATION; PROTECTION OF APPELLANTS' RIGHTS.—Subsections (c) and (d) of section 10 shall become effective on the date of enactment of this Act.

This Act would establish an independent USDA National Appeals Division [NAD] which would consolidate the ASCS, CCC, FmHA, RDA, and SCS appeals systems. The NAD would be very similar in structure and purpose to the current National Appeals Staff [NAS] within FmHA, and would have the same authorities as the National Appeals Division within ASCS [ASCS-NAD]. NAD authorities which would differ from the current NAS statute or regulations, or current ASCS-NAD authorities, are enumerated in the attached summary.

In general, appellants of ASCS, SCS, and CCC adverse decisions must first have informal hearings before the relevant county or State committees. This legislation would make no change in the current county or State committee appeals process, which is under the authority of ASCS or SCS, as applicable. Appellants of FmHA and RDA adverse decisions must have an informal meeting with the FmHA or RDA decisionmaker prior to a NAD hearing.

If appellants are not satisfied with the decisions under the informal hearing or meeting process, they may proceed to formal appeals under NAD. Appellants who are appealing multiple agencies' adverse decisions may appeal them all at once, at one hearing. The NAD appeals process consists of a hearing before a hearing officer in the State, and an optional review of the hearing officer's determination by the NAD Director if requested by the appellant. If the relevant agency head asserts the NAD determination violates law or regulations, he or she can also request a review of that determination by the NAD Director. The NAD's final determination is administratively final, conclusive, and binding on the relevant agency, and must be implemented in 30 days.

USDA NATIONAL APPEALS DIVISION ACT OF 1992, SENATOR KENT CONRAD AND SENATOR HOWELL HEFLIN, SECTION-BY-SECTION SUMMARY

Section 1. This section names this Act the USDA National Appeals Division (NAD) Act of 1992, and includes a table of contents.

Section 2. This section defines terms used in this Act, including the following terms. The term "agency" means ASCS, CCC, FmHA, RDA, or SCS, or ASCS or SCS State or county committees, whichever is appropriate. The term "appellant" means any person whose right to participate in, or receive payments, loans or other benefits in accordance with, any of the programs administered by ASCS, CCC, FmHA, RDA, or SCS, who appeals an adverse decision. The term "final determination" means a determination by NAD of an appeal which is administratively final, conclusive and binding. The term "implement" means to effectuate fully and promptly a NAD final determination within 30 calendar days. The term "State director" means the individual who is primarily responsible for carrying out the program of an agency within a State.

Section 3. This subsection establishes the NAD. Like the current NAS statute, it provides NAD with a Director and other employees who shall work for NAD only; authorizes NAD to perform the activities authorized in this Act; and requires the Secretary to provide NAD with necessary resources and personnel. It differs from the current NAS statute in nine ways. (1) The NAD is placed within the Office of the Secretary, and thus is independent of any agency. (2) The Director shall be a career appointee at the Senior Executive Service level V of the Executive Schedule who has substantial experience in administrative law. (3) The Director is required to promulgate NAD regulations and policies. (4) The NAD Director receives direction or control only from the Secretary. (5) It provides the NAD with legal counsel.

(6) It provides NAD with the same powers as the current ASCS-NAD with regard to (A) having access to all materials relating to programs and operations to which an appeal has been made; (B) requesting information and assistance to carry out NAD duties and responsibilities from any Federal, State, or local government agency or unit; (C) requiring the attendance of witnesses and the production of all data and documentary evidence necessary; (D) requiring the attendance of witnesses and production of documentary evidence by subpoena; (E) administering oaths and affirmations; and (F) entering into contracts for reporting and other services. Unlike ASCS-NAD, it gives these authorities directly to hearing officers.

This section, like current NAS statute, also states that NAD employees report only to the NAD Director. (7) The Secretary may only delegate his or her authority to oversee NAD to the Director. (8) The NAD Director is required to issue reports and studies as necessary regarding problems with (A) implementation of laws, policies, procedures and regulations by the agencies that NAD has identified through its final determinations, or (B) implementation of NAD final determinations, and may include NAD's advice on how to resolve the problems. The reports will be available to the public.

(9) It requires the Director to develop a subject-matter index of all significant final determinations, and make this index available to the public. It clarifies that final determinations fall are subject to the requirements of the Freedom of Information Act.

Section 4. This subsection, like the current NAS statute, requires the Secretary to provide a participant with written notice of an adverse decision, the opportunity for, and notice of, an informal hearing or meeting with the decisionmaker, and an opportunity for a NAD hearing. Like current NAS regulations, it allows the NAD to hear appeals of adverse decisions on all FmHA programs and requires that a hearing be held no later than 45 days after the appellant requests the hearing. It makes seven changes. (1) It allows NAD to also hear appeals under all ASCS, CCC, RDA and SCS programs. (2) It requires an agency to notify a participant of all of the reasons underlying an adverse decision. (3) It allows appellants, when denied the right to appeal an adverse decision, to request a determination by the NAD Director as to whether an adverse decision is appealable.

(4) It requires the Secretary to keep all the materials on which an adverse decision was based, to ensure that the appellant will have access to them. (5) It allows guaranteed loan borrowers or applicants to independently appeal an adverse decision without the lender joining in the appeal, and allows tenants in FmHA rental housing to independently appeal the decision without the landlord joining in the appeal. (6) It allows a hearing officer to invite participants other than appellant to a hearing if the final determinations would, as a practical matter, foreclose the other participant from protecting his or her rights that might be adversely affected by the final determination.

(7) Adverse decisions must be supported by the information available to the decisionmaker at the time the original adverse decision was made. Agencies are prohibited from basing any subsequent adverse decision on facts or information previously available to the agency if that information could have been used to support the initial adverse decision.

Section 5. This section makes three changes. (1) It requires ASCS, SCS and CCC participants or their representatives to go through the informal hearing process before the county and State committees, or an ASCS or SCS employee, an appropriate, prior to entering the formal NAD appeals process. (2) It requires FmHA and RDA appellants to have an informal meeting with the decisionmaker after the appellants have requested a NAD hearing and prior to such hearings, and give the appellant access to all of the materials used to make the adverse decision. (3) It requires the NAD Director to make the final administrative determination as to whether an adverse decision is appealable in cases in which an appellant is denied the right to appeal an adverse decision, and requests a determination by the NAD Director.

Section 6. This subsection, like the current NAS statute, gives appellants access to information in their personal file, allows appellants to have representation by an attorney or nonattorney, and allows the Secretary to charge for reasonable costs of reproducing files. It makes one change. (1) It ensures that appellants have access to all materials used to make the adverse decision.

Section 7. This section makes seven changes. Like the ASCS-NAD statute, it requires that appellants be advised of the issues involved in an appeal and have the full opportunity to present facts, information, and evidence.

Like current NAS statute, it defines the duties of hearing officers and the conduct of hearings and reviews. Like the ASCS-NAD, it allows hearings to be conducted over the telephone, at the request of the appellant, and makes the final determination of a hearing officer or the Director administratively final, conclusive and binding on the relevant agency. (2) It describes the hearing and review process, and requires hearing officers to issue determination letters not later than 30 days after a hearing on a FmHA or RDA appeal, as is currently required in NAS regulations, and not later than 60 days after a hearing on an ASCS, CCC or SCS appeal. (3) It eliminates the optional FmHA State director's review of a hearing officer's decision, because the NAD is no longer a division of FmHA. (4) It clarifies that hearing officers may consider new information at the hearing stage, and the NAD Director may consider new information, under extraordinary circumstances, at the review stage. All parties to the appeal are given an opportunity to respond to such new information.

(5) Unless considering new information, the Director shall not reverse the determina-

tions of a hearing officer or the Director as to the finding of fact based on oral testimony or inspection of the evidence unless there is no substantial evidence to support the finding of fact.

(6) It requires NAD to base its determinations on applicable laws and regulations that are published and available to the public in deciding appeals. The Director may grant equitable relief.

(7) Like the current FmHA regulations, it makes any final determination made by the NAD regarding FmHA or RDA adverse decisions effective as though the adverse decision appealed had originally been decided in the appellant's favor on the date of the original adverse decision. For ASCS, SCS or CCC appeals, the effective date will be the date of the filing of an application or the date of transaction, whichever is applicable.

Section 8. This subsection codifies the current NAS administrative appeal review regulations, which allows FmHA, in extraordinary circumstances, to appeal a NAS decision which an agency asserts violates law or regulations. This subsection makes nine changes. (1) It allows ASCS, SCS, CCC and RDA to request such reviews. (2) It allows only the relevant agency head to make such requests. (3) It eliminates from the criteria under which a review can be requested a claim that the determination would result in unauthorized assistance, since that would fall under the category of violating regulations. (4) It extends the deadlines for requesting a review to 15 days and conducting the review to 10 days. (5) If a review is not requested within 15 business days, or if the NAD Director issues a determination in response to the request, that determination is administratively final, conclusive and binding. (6) In these administrative review requests, the NAD Director shall issue a final determination, or remand the case for further proceedings to complete the administrative record. In these reviews, the appellant and NAD staff may comment on the agency head's claims. (7) The deadline for the NAD Director to make a determination can be extended if the appellant requests additional time to submit materials. (8) The Director's determination is administratively final and shall be promptly implemented. The relevant agency head may not request a second review.

(9) The Director or hearing officers may include recommendations in their determinations.

Section 9. Like the current ASCS-NAD statute, this section makes NAD final determinations reviewable and enforceable by a U.S. court of competent jurisdiction.

Section 10. This section addresses relevant agencies' responsibilities and performance with regard to appeals and implementation of NAD final determinations. Like current NAS statute, it requires the relevant agency to implement final determinations. It makes three changes. (1) It requires the relevant agency head to correct implementation problems, and make available to the public a report on implementation activity.

(2) It states the sense of Congress that current law requires State directors to be responsible for reviewing their adverse decisions and those of their subordinates which are appealed to determine whether the adverse decision should be withdrawn or modified rather than proceed with an appeal hearing; and ensuring they and their subordinates implement NAD final determinations which reverse or modify adverse decisions. Current law also makes the relevant agency heads responsible for overseeing the performance of these review and implementation responsibilities by their subordinates, and in general makes them responsible for implementing NAD reversed and modified decisions.

(3) It prohibits any federal employee or official from engaging in threats, intimidation, retaliation or retribution against an appellant, and requires that the Secretary take corrective action, including sanctions, when necessary, for employees who violate these statutes.

(4) It requires the Secretary to assign employees within the Office of the Secretary who appellants may contact about problems with the implementation of NAD final determinations. This staff will investigate and, to the extent practicable, resolve these implementation problems. The Secretary will notify NAD of the name, address, and telephone numbers of this staff. NAD will include this information in its final determination letters to appellants.

Section 11. This section makes one change. (1) It requires the Secretary to promulgate regulations that require the annual job performance review and evaluation of employees and officials of the relevant agencies to include criteria regarding appeals and to consider an employee to have performed poorly if the employee or official takes action that (A) leads to numerous appeals that result in NAD final determinations that reverse or modify the adverse decisions, or administrative appeal reviews that are determined to not have merit by NAD, (B) fails to properly implement final determinations, (C) fails to satisfactorily perform the reviewing and monitoring responsibilities required under current law, or (D) threatens or intimidates, or engages in retaliation or retribution against an appellant. It requires the Secretary to issue sanctions against an official or employee who exhibits such poor performance, including formal reprimands and dismissal.

Section 12. This subsection makes one change. (1) It prohibits the Secretary from taking any adverse action relating to an appeal against an appellant while an appeal is pending. In particular, the Secretary is prohibited from taking any action that would prevent the implementation of a final determination in favor of an appellant. The Secretary is not precluded from withholding a payment to an appellant if the eligibility for, or amount of, the payment is the issue on appeal.

Section 13. This subsection makes two changes. (1) It ensures that passage of this Act in no way supersedes or deprives recipients of FmHA assistance from any rights that they may have under any other statute such as 42 U.S.C. 1480(g). (2) It states that this Act does not affect the ASCS Administrator's authority to grant equitable relief.

Section 14. This section requires the Secretary to transfer the funds used for the NAS, the current ASCS-NAD, and SCS appeals programs to the NAD for FY 1992, and thereafter authorizes such sums as are necessary.

Section 15. This section amends the Agricultural Credit Act of 1987 with regard to USDA-certified state mediation programs to allow the Secretary to match up to 70% of the cost of the programs. It also allows these programs to mediate disputes involving wetland determinations, farm program compliance, farm creditors, rural water loans, grazing on national forest lands, and pesticides.

Section 16. This section amends the current ASCS-NAD statute in four ways. (1) It makes federal farm payment determinations and the findings of fact on which they are based reviewable by a United States Court of competent jurisdiction, as is generally mandated for all executive agency decisions under the Administrative Procedures Act. (2) It strikes the language which establishes ASCS-NAD. However, it retains the provisions regarding (a) definition of participant; (b) participants' right to appeal; (c) the county and State committee informal hearing process; (d) court review of USDA final decisions; (e) general finality of all decisions of State and County Committees, unless appealed, and prohibition on action to recover amounts found to have been disbursed in error unless the participant had reason to believe that the decision was erroneous; (f) the requirement that the Secretary issue regulations to implement these provisions; (g) the Secretary's authority to make price support or other payments available to farmers who have acted in good faith.

(3) If an adverse decision was rendered by a county committee, it requires a participant to appeal an adverse decision to the State committee prior to appealing to NAD. (4) It allows ASCS to reverse or modify a decision by a county or State committee at any time prior to commencement of a NAD appeal. (5) It states that this section is not intended to change any procedures of the county or State committee.

It also repeals the NAS statute on the effective date of this Act, and replaces references to the NAS in the Consolidated Farm and Rural Development Act with references to NAD.

Section 17. This subsection makes this Act effective the earlier of 180 days after the date of enactment or the date final regulations are issued, and requires the Director to issue proposed regulations within 90 days of enactment, and issue final regulations within 180 days. These regulations shall include provision for the transfer of all pending appeals of the agencies to NAD.

ADDITIONAL COSPONSORS

S. 703

At the request of Mr. ROCKEFELLER, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 703, a bill to amend the Harmonized Tariff Schedule of the United States to correct the tariff rate inversion on certain iron and steel pipe and tube products.

S. 1010

At the request of Mr. INOUYE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1010, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants.

S. 1578

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 2117

At the request of Mr. SASSER, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2117, a bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses.

S. 2553

At the request of Mr. INOUYE, the names of the Senator from California [Mr. CRANSTON] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 2553, a bill to amend the Civil Liberties Act of 1988 to increase the authorization for the Trust Fund under the Act, and for other purposes.

S. 2667

At the request of Mr. HEFLIN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2667, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use.

S. 2719

At the request of Mr. PRYOR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2719, a bill to require the United States Trade Representative to take action authorized under section 301 of the Trade Act of 1974 against certain foreign countries in retaliation for the imposition by such countries of a ban on the importation of rice and rice products of the United States, and for other purposes.

S. 2766

At the request of Mr. LEVIN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2766, a bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

S. 2870

At the request of Mr. RUDMAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2870, a bill to authorize appropriations for the Legal Services Corporation, and for other purposes.

S. 2887

At the request of Mr. MCCONNELL, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2887, a bill to amend title IV of the Social Security Act to provide that the Secretary of Health and Human Services shall enter into an agreement with the Attorney General of the United States to assist in the location of missing children.

S. 2899

At the request of Mr. KENNEDY, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2899, a bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

At the request of Mr. FOWLER, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2899, supra.

S. 2907

At the request of Mr. KERREY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2907, a bill to reform the National Flood Insurance Program.

S. 2922

At the request of Mr. COHEN, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Washington [Mr. ADAMS], the Senator from New York [Mr. D'AMATO], the Senator from Vermont [Mr. JEFFORDS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Idaho [Mr. CRAIG], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2922, a bill to assist the States in the enactment of legislation to address the criminal act of stalking other persons.

S. 2935

At the request of Mr. BOND, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2935, a bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

S. 2949

At the request of Mr. KENNEDY, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 2978

At the request of Mr. PRYOR, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2978, a bill to amend the Rural Electrification Act of 1936 to permit the prepayment and refinancing of Federal Financing Bank loans made to rural electrification and telephone systems, and for other purposes.

S. 3046

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 3046, a bill to amend the Tariff Act of 1930 to improve the antidumping and countervailing duty provisions, and for other purposes.

S. 3092

At the request of Mr. NUNN, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 3092, a bill to amend the charter of the Group Hospitalization and Medical Services, Inc., to remove the partial exemption granted to the corporation from the insurance laws and regulations of the District of Columbia.

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

SENATE CONCURRENT RESOLUTION 132—RELATING TO THE CIVIL CONFLICT IN SOMALIA

Mrs. KASSEBAUM (for herself, Mr. SIMON, Mr. KENNEDY, Mr. DOLE, Mr. MITCHELL, Mr. PELL, Mr. HELMS, Mr. LUGAR, Mr. WOFFORD, Mr. MCCONNELL, Mr. LEAHY, Mr. DURENBERGER, Mr. LEVIN, Mr. GORE, Mr. COCHRAN, Mr. SANFORD, Mr. WELLSTONE, Mr. CHAFEE, Mr. DODD, Mr. DECONCINI, Mr. HARKIN, Mr. KERRY, Mr. RIEGLE, Mr. BIDEN, Mr. CRANSTON, Mr. LIEBERMAN, Mr. HATFIELD, Mr. ROBB, Ms. MIKULSKI, Mr. MOYNIHAN, and Mr. DANFORTH) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 132

Whereas as a result of the civil conflict in Somalia, at least 30,000 people have died, hundreds of innocent civilians, many of them children, continue to die each day, and an additional 1,200,000 lives are at risk;

Whereas the Somali political factions show no signs of ceasing their internecine war for power even as thousands of their own people perish;

Whereas international relief agencies have been unable to deliver adequate humanitarian assistance to those most in need due to increasingly difficult and dangerous conditions, including pervasive banditry and looting;

Whereas the United Nations Security Council, on July 27, 1992, adopted a resolution on the situation in Somalia, including an expansion of United Nations relief efforts and support for the deployment of United Nations security personnel to facilitate the delivery of relief supplies, and the President has expressed strong support for the United Nations proposals; and

Whereas although the Congress has expressed strong support for more active efforts to deliver humanitarian relief to the suffering people of Somalia, the situation has continued to deteriorate: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) condemns in the strongest possible terms the senseless killing and wanton destruction wrought by the political factions in Somalia;

(2) strongly urges these factions to abide by the United Nations cease-fire and to allow the deployment of security forces to protect humanitarian relief deliveries and workers;

(3) commends the dedicated and energetic efforts of United Nations Secretary-General Boutros Boutros Ghali, and his Special Envoy to Somalia, Ambassador Mohammed Sahnoun;

(4) pays tribute to the courageous and heroic actions of the relief agencies working in Somalia;

(5) calls upon the international community, through the United Nations, and in particular the United Nations specialized agencies, to immediately expand its relief efforts in Somalia;

(6) recognizes with appreciation the July 27, 1992, statement of the President urging the United Nations to deploy a sufficient number of security guards to permit relief supplies to move into and within Somalia, and committing funds for such an effort; and

(7) urges the President to work with the United Nations Security Council to deploy these security guards immediately, with or without the consent of the Somali factions, in order to assure that humanitarian relief gets to those most in need, particularly the women, children and elderly of Somalia.

Mrs. KASSEBAUM. Mr. President, I rise today to introduce a resolution on the desperate humanitarian crisis in Somalia. I am joined by the distinguished chairman of the African Affairs Subcommittee, Senator SIMON, as well as 29 other Senators, including the majority and Republican leaders, Senators MITCHELL and DOLE; the chairman and ranking member of the Foreign Relations Committee, Senators PELL and HELMS; Senators KENNEDY, LUGAR, WOFFORD, MCCONNELL, LEAHY, DURENBERGER, LEVIN, GORE, COCHRAN, SANFORD, WELLSTONE, CHAFEE, DODD, DECONCINI, HARKIN, KERRY, RIEGLE, BIDEN, CRANSTON, LIEBERMAN, HATFIELD, ROBB, MOYNIHAN, DANFORTH, and MIKULSKI.

Mr. President, an enormous human tragedy is unfolding in Somalia, a tragedy almost beyond the imagining of any American:

At least 30,000 Somalis have been killed;

Every day hundreds more die, mostly innocent children;

At this point, Doctors Without Borders estimates that one-quarter of all the children under 5 in Somalia have already died of hunger; and

In the coming months, another 1.2 million people will be at risk.

Mr. President, during my recent trip to Somalia, I saw the tragic effects of the crisis: Silent children waiting patiently for the next bowl of food, women too weak to stand, young boys with missing limbs, blown off by stray land mines.

It is, in the words of relief officials, "the single worst humanitarian crisis in the world."

LACK OF SECURITY

Despite the courageous efforts of relief officials, the reality is that many people continue to die. The food is not getting to those who need it most.

Much of the relief brought into Somalia is stolen by armed gangs. Bandits rule the ports and roadways. Raiding aid convoys has become a way of life. Nearly every teenager carries an automatic weapon.

In just 4 days in June, the manager of CARE's food relief operation in Mogadishu, recorded 21 armed raids on truck convoys, food distribution centers, and docks where food is stored.

The two major competing factions in southern Somalia, Ali Mahdi and General Aideed, show little or no regard for their own people. They do little to protect relief shipments or workers. And there is no sign that they will soon end their battle for the rubble of Mogadishu.

It is a tragic, desperate, and appalling situation. Food sits offshore and at the ports but cannot reach the thousands starving only a few miles away—simply because of insecurity.

HUMANITARIAN SECURITY GUARDS

Mr. President, I believe we have reached the point where action must be taken. I strongly believe that the United Nations should deploy humanitarian security guards immediately to assure that humanitarian relief gets to those most in need. These guards would secure the ports, guard relief convoys, and protect relief workers.

This is not without significant risk. But I believe, at this point, it is a risk worth taking. Hundreds of thousands of lives could be at stake.

RESOLUTION

Mr. President, the resolution specifically urges the President, working through the United Nations, to deploy U.N. security guards immediately to protect the food relief.

Earlier this week, the President expressed strong support for the deployment of an effective number of security guards and stated the willingness of the administration to help fund such an effort.

In addition, the resolution commends U.N. Secretary-General Boutros-Ghali and his special envoy for Somalia, Ambassador Mohammed Sahnoun. I met with Ambassador Sahnoun in Nairobi and was very impressed by his dedication and abilities.

The resolution pays tribute to the courageous and heroic efforts of the relief agencies working in Somalia, including: the International Committee of the Red Cross, International Medical Corps, CARE, World Concern, Save the Children-UK, and Doctors Without Borders.

The resolution calls upon the U.N. specialized agencies, particularly UNICEF and World Food Program, to expand their operations in Somalia.

Finally, the resolution condemns in the strongest possible terms the senseless killing and wanton destruction wrought by the political factions in Somalia.

CONCLUSION

Mr. President, I know that many may wonder why we should care about Somalia. Sometimes it seems that Africa is an endless source of disaster and crisis—in Ethiopia, in Mozambique, in Sudan, or the drought that now grips all of southern Africa. Some may feel that Africa is hopeless, that no matter what we do, it is never enough.

I believe the United States has a specific moral obligation to Somalia. Throughout the long years of the cold war, Somalia and the rest of the Horn were of strategic importance to the United States. If the Soviet Union still existed today, we would never have allowed Somalia to disintegrate in this way. The question we must now face is whether our concern for human beings is as great as our past fear of the Soviet empire.

I ask unanimous consent that the editorials from the Financial Times, the Economist, and the New York Times be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Financial Times, July 29, 1992]

TIME TO INTERFERE

The tragedy in Somalia raises a fundamental question, as pertinent to the plight of countries such as Zaire or Angola as it is to the fate of 7m Somalis. What responsibility does the west have for erstwhile client states in Africa, once counted for strategic reasons, but abandoned when the end of superpower rivalry made those considerations redundant? And when these regimes collapse, should humanitarian imperatives override national sovereignty and justify the intervention of the outside world, providing aid where and when it sees fit?

The moral responsibility is clear. Africa's cold war legacy is the joint creation of the west and the former Soviet Union, whose rivalry many of the continent's leaders skillfully exploited. But the Soviet Union is no more. Only the west has the capacity to help Africa cope with the legacy, assisted by a United Nations now capable of playing a constructive role in world affairs.

In the era when the Horn of Africa was one of the cockpits of superpower rivalry, Somalia was courted by both Moscow and Washington. A shared border with Ethiopia, itself a cold war battleground, and the need for access to the Somali port of Berbera, strategically located on the Red Sea, made Somalia's friendship worth buying with aid and arms. Those assets are worthless in the new world order. Past rivalry over Somalia has been replaced by near indifference.

In the seven months since General Siad Barre abandoned the capital to competing factions, the country has descended into a state of anarchy from which recovery will be a forbidding task. Some 30,000 people have died. More than 1m Somalis have been displaced from their homes or have taken refuge in neighboring countries. Aid officials estimate that more than two-thirds of the 7m population are threatened with starvation, while hundreds of children are dying daily.

The arrival in Mogadishu last week of a 50-strong United Nations force to help monitor Somalia's fragile ceasefire is a welcome development. But it comes to late to avert catastrophe, and is too little to ensure a lasting peace.

What more can be done? A good deal, according to Mr. Boutros Boutros-Ghali, the UN's hardpressed secretary-general. He accuses the western nations that dominate the Security Council of double standards in dwelling on "the rich man's war" in the former Yugoslavia while largely ignoring the plight of Africa, and has proposed a significant extension of UN humanitarian and peacemaking efforts in Somalia.

Nobody should underestimate the difficulties. Mr. Boutros-Ghali would be the first to admit that, with paymasters such as the US refusing to pay their share of the budget, the UN is impossibly over stretched by its existing commitments. What is more, intervention in Somalia is highly risky, with aid shipments vulnerable to violent interference from rival warlords in the capital.

Yet there comes a point at which humanitarian needs eclipse other considerations. There are recent precedents, most obviously the UN's role in opening up Sarajevo airport as a conduit for relief supplies. A relatively modest operation in Mogadishu, properly guarded and backed with air cover, would probably save hundreds of thousands of lives. Better still, in the case of the other Somalias waiting to happen in Africa, would be timely diplomatic intervention to avert disaster.

NANNY IN BLUE HELMET

"Should I jab them with my ballpoint pen?" asks Lewis MacKenzie, the Canadian general whose job is to stop militiamen firing across the runway at Sarajevo airport. The United Nations, his employer, has been told to turn international good intentions into food and medicine for the besieged Bosnians, and it is doing what it can. But it is equipped with little more than ballpoints, and it is jabbing in a vacuum. Though global busybodiness is increasingly popular, the UN's members have yet to put their minds to the question of when, how and why their club should poke its military nose into a member's domestic concerns.

The United Nations' traditional peacekeeping duty is to interpose itself between belligerents, when both sides invite it to do so. Now, as the UN Security Council stretches in freedom after its long cold-war hibernation, it is being urged to stop the horrors that result from wars within states, from post-civil-war anarchy, from the crushing of human rights. Television, and the break-up of old political patterns, have made it harder than it used to be to ignore spectacular man-made disasters, even in faraway places.

Regimes that wish to be left alone—to make their own mistakes, to keep themselves in power or to torment their people—wrap themselves in the UN charter, which rules against intervention in domestic affairs. But the ban does not apply if a threat to international peace or security can somehow be unearthed; then, given the political will, the ban can be put aside. The UN has for quite a while been ready to get involved in a non-military way. It imposed economic sanctions against South Africa less because of the threat to international peace than because of a general revulsion at apartheid. With the consent of the rulers it has supervised elections, demobilised guerrilla armies, reorganised police forces. On request, it sends in peacekeepers, observers and mediators.

Now it hovers on a treacherous threshold. When something intolerable happens—inside Iraq, Somalia, Yugoslavia—where the government has not invited the UN in, should it sally forth regardless? Is it in the business of stopping people killing each other or, if that is beyond its powers, rescuing any innocents it can? In general, the answer has to be No. Intervening in a war, even if only to bring relief, means becoming involved in the fighting; outsiders who plunge into domestic wars without a clear idea of what they want to achieve, and a good chance of achieving it, may leave things worse than they were, and their own credibility smashed. But there will be exceptions.

Iraq was an exception: not the Gulf war but the UN's postwar response to Iraq's suppression of domestic rebellions. Some 400,000 Kurds had fled to the mountains where unarmed agencies could do nothing to help them. Security Council Resolution 688, passed in April 1991, established the principle that a government could be made to accept aid; even though the resolution did not speak of armed intervention, it was used as legal cover by the Americans, British and French who set up the Kurdish "safe havens" in northern Iraq.

Yet even in Iraq—a defeated country, subject to victors' justice—the going was hard, and is getting harder. Resolution 688 was carried by only one more vote than was necessary; China, one of the veto-bearing permanent members, abstained. Getting a similar resolution passed in the future, even in similar circumstances, might be beyond any government's power. Iraq is now making life impossible both for relief workers and for the UN guards who are there to protect them.

FOSTER-PARENT NEXT?

Somalia, where an inconclusive civil war has left people in desperate need of food, and of armed escorts to make sure the food gets where it should, could be another exception. The UN is inhibited because one of the local warlords has said he wants no armed outsiders in the country. But if the UN were to drop its inhibitions, a relatively small military operation could probably scare off the looters and hold the ring.

Such an action would have consequences: would the UN, after taking charge in a country with no semblance of a government, have to start thinking of running the place until one could be set up? It might. Yet the UN has had harder tasks. Indeed, the case for intervention in Somalia rests on the fact that it would be fairly easy. Like helping the Kurds, it is achievable.

Ex-Yugoslavia is much harder. The UN soldiers in Croatia perform the traditional peacekeeping role of separating the belligerents. The ones in Bosnia want to do something new. They arrived for what some saw as an urgent, discrete and achievable job: the breaking of the siege of Sarajevo. But their tasks multiply—silencing militias determined to keep the war going, taking control of heavy weapons, safeguarding a land route from the coast. General MacKenzie reckons he needs 40,000 troops, just for Sarajevo. In Bosnia the protection of humanitarian aid, if it is to succeed, will slide ineluctably into peace-enforcement, possibly on a larger scale than the UN's members are prepared to countenance.

All this points to a patchy, pragmatic set of criteria. Consistency is absent. Horrible happenings may have to be left to work themselves out, either because members of the Security Council are insufficiently interested or because the chances of a successful intervention are too low. Since the tendency nowadays is to think that the world should be put to rights despite itself, people turn to the UN to do something. Sometimes it can, more often it cannot. It is, thank goodness, less respectful than it was of its members' sovereign right to be as brutal as they wish on their own home ground. But Superman it is not.

THE HELL CALLED SOMALIA

War, drought, the collapse of civil authority: these are the malign toxins that threaten the very existence of Somalia, a husk of a country on the Horn of Africa. As Jane Perlez of The New York Times reports, a third of Somalia's more than 4.5 million people are likely to starve to death within six months. A third of a country! Small wonder a Red Cross worker exclaimed in despair: "Here is hell."

Worse, this hell is man-made, the result of a clan-based civil war waged by roving gangs of teenagers. The violence erupted after the overthrow last year of Somalia's longtime strongman, Mohammed Siad Barre, who played on cold war rivalry to amass a huge arsenal of weapons.

Could more be done to stop the fighting and feed the famished? Absolutely. But fearing a quagmire, the big Western states have averted their gaze. And unlike the Ethiopian famine in 1984–1985, which also occurred during a civil war, there have been no Live Aid concerts, no chorus of pop stars singing "We Are the World."

Granted, Somalia competes for the world's attention with the slaughter in Sarajevo, the plight of Iraq Kurds, the life-threatening droughts elsewhere in Africa and a global AIDS plague. And diplomats have seized on the particulars of Somalia to justify an inadequate United Nations humanitarian effort.

Somalia has no functioning government. Fighting persists despite a cease-fire in the capital, Mogadishu, whose de facto master is a capricious warlord named General Adid.

Citing this chaos as a pretext to do little, the Security Council voted to send only 50 unarmed U.N. military observers to monitor the cease-fire and speed the delivery of food and medicine. This token force was the most the Bush Administration felt it could prudently support.

Some U.N. officials, Ms. Perlez found, believe that more food could be airlifted into the interior even with this limited presence. Some Americans, notably Senator Nancy Kassebaum of Kansas, favored sending 500 armed peacekeepers to back up the biggest-ever International Red Cross relief operation.

But Somalia's agony underscores a more basic need: an effective, mobile U.N. peacemaking force, strong enough to quell the warlords.

Secretary General Boutros Boutros-Ghali has called for the formation of just such a force, consisting of volunteers, available on 48-hour call from U.N. members. But with the exception of France, the big Western powers have shown little interest in his suggestion. And George Bush, the New World President, has said nothing about this proposal, or about Somalia. Meantime, a third of a country inches toward the grave.

Mr. SIMON. Mr. President, I am pleased, together with Senator KASSEBAUM who recently visited the famine-stricken people of Somalia, to introduce a resolution to express the Senate's strong support for the calls for urgent action on Somalia which have come from the U.N. Security Council and from President Bush.

Although the Senate has twice passed resolutions indicating our commitment to active humanitarian relief efforts in Somalia, the famine has only worsened. Twenty-five percent of all children under five have already died, according to relief agency assessments. If efforts to distribute emergency aid to all those in need are not effective, one-third of Somalia's entire population may be dead within 6 months.

These numbers are appalling. Both the United Nations and the United States must mount an all-out effort to effectively distribute food to those at risk by whatever means necessary. A relief worker in Mogadishu was quoted recently as saying that the Somali crisis is encountering not donor fatigue so much as donor exhaustion. When the deaths of over a million people can be avoided by an urgent and well-organized effort, then the international community, however tired, ought to do it.

Mr. KENNEDY. Mr. President, I join Senator KASSEBAUM, Senator SIMON, and others in sponsoring the resolution before us today. A massive human tragedy is occurring in Somalia, and the world can ignore it no longer.

With each passing day, day after day, literally hundreds of innocent Somali men, women, and children die of starvation.

International relief workers report that one cannot travel along any road in this broken country without seeing the lifeless skeletons of those whose desperate search for food ended in vain.

Children are always the first to die in families like these. One voluntary agency estimates that 20 percent of all children under 5 have now died. But that was 2 months ago, and as the international community wrings its hands over the difficulties of providing relief in the midst of conflict, that tragic statistic climbs higher every day.

I commend Senator KASSEBAUM for her visit to Somalia last week and for her leadership in bringing this desperate plight to the attention of the Senate—and our country. I am pleased to join with Senator KASSEBAUM, Senator SIMON, and others in sponsoring the resolution before us tonight.

Our Senate resolution says we cannot wait. We must do no less for the people of Somalia than we are doing for those in Yugoslavia and what we provided to Ethiopia in the 1980's. The role of the United Nations, the Red Cross, and the voluntary agencies must be expanded immediately.

The United Nations will also need security guards to protect relief workers and supplies. This step was authorized earlier this week by the Security Council.

Already, rebel forces in Somalia have threatened to disrupt the United Nation's humanitarian efforts and confront the security guards which the United Nation intends to provide.

The Secretary General of the United Nations has paused in his efforts to escalate relief in light of this recent threat.

However, we can't afford to wait. Relief efforts must be augmented immediately.

So our resolution encourages President Bush to work urgently with the Security Council to end the bullying of the callous faction leaders in Somalia and let the lifesaving U.N. mission go forward.

The United Nations estimates that of the 6.5 million Somalis, 4.5 million are in danger of starvation. At least 1.2 million—mostly children—are at immediate risk. Tens of thousands are in small camps scattered about the country.

Over 300,000 have already fled to neighboring Kenya, and 1,000 more arrive every day. Large numbers of refugees have also arrived in Ethiopia, Djibouti, and Yemen.

This tragedy threatens to surpass even the famine in Ethiopia in its deadly impact on the population. In Ethiopia, 9 million people were at risk—roughly 20 percent of the Ethiopian population—and 1 million died.

In Somalia, over two-thirds of the population faces famine, but it is not too late to curb the death rate and prevent the tragedy from reaching the level that afflicted Ethiopia 8 years ago.

Earlier this week, the Secretary General of the United Nations outlined the steps which must be taken to address the humanitarian needs of Somalia, and to move the country toward national reconciliation.

Relief efforts must be decentralized and must be extended throughout the country. They must go hand in hand with the peacekeeping mission of the United Nations, so that U.N. guards can provide security for the massive relief operation that is required.

The international community must contribute generously to the effort.

The United Nations has issued an appeal for $117 million for famine relief. So far, $41 million has been pledged by governments.

Clearly, more must be done to support this appeal and the vital work of the International Committee of the Red Cross.

Over the past year and a half, the United States has provided $63 million in supplies and funds for Somali relief.

Earlier this week, President Bush indicated his willingness to increase our contribution, and called upon the United Nations to move ahead swiftly to implement a broader program.

The time for talk is long past. Decisive action by the United States and the United Nations is needed to help the innocent and starving citizens of Somalia. I urge the Senate to approve this resolution.

AMENDMENTS SUBMITTED

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1993

DECONCINI AMENDMENT NO. 2803

Mr. JOHNSTON (for Mr. DECONCINI) proposed an amendment to the bill, H.R. 5373, making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes, as follows:

On page 40, line 19, strike "$467,634,000" and insert "$466,334,000".

On page 40 line 22, strike "$156,168,000" and insert "$154,868,000".

On page 45, line 6, strike "$2,202,000" and insert "$3,502,000".

On page 45, line 14, insert the following before the period: ": *Provided further*, That $1,300,000 of the funds contained herein shall be for the Fort McDowell Indian Community Small Reclamation Project Act loan authorized by Section 8(e) of Public Law 101-628.

DECONCINI AMENDMENT NO. 2804

Mr. JOHNSTON, (for Mr. DECONCINI) proposed an amendment to the bill, H.R. 5373, supra, as follows:

On page 12, line 4, insert the following before the period: ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to utilize up to $500,000, within available funds, to undertake a reconnaissance level study on flooding problems associated with the sanitary landfill on the Salt River Pima-Maricopa Indian Reservation in the vicinity of the Salt River, Arizona".

SASSER AMENDMENT NO. 2805

Mr. JOHNSTON (for Mr. SASSER) proposed an amendment to the bill, H.R. 5373, supra, as follows:

On page 12, line 4, insert the following before the period: ": *Provided further*, That using $500,000 appropriated herein, to remain available until expended, the Secretary of the Army acting through the Chief of Engineers, is directed to continue preconstruction, engineering and design for the Kentucky Lock addition in accordance with the Report of the Chief of Engineers, date June 1, 1992".

HEFLIN AMENDMENT NO. 2806

Mr. JOHNSTON (for Mr. HEFLIN) proposed an amendment to the bill, H.R. 5373, supra, as follows:

On page 80, line 13, before the period, insert the following: ": *Provided further*, That no amount may be transferred from the Alabama Elk River Development Agency trust fund if the transfer would result in a balance in such trust fund that is less than $2,000,000".

SIMON AMENDMENT NO. 2807

Mr. JOHNSTON (for Mr. SIMON) proposed an amendment to the bill, H.R. 5373, supra, as follows:

On page 12, line 4, insert the following before the period: ": *Provided further*, That of the appropriated funds herein, the Secretary of the Army acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the McCook and Thornton Reservoirs project in Illinois, including all activities necessary to ready the project for construction in fiscal year 1994".

REID AMENDMENT NO. 2808

Mr. JOHNSTON (for Mr. REID) proposed an amendment to the bill, H.R. 5373, supra, as follows:

On page 60, line 6, strike "$1,700,000" and insert in lieu therefore "$3,700,000".

CHAFEE AMENDMENT NO. 2809

Mr. JOHNSTON (for Mr. CHAFEE) proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 28, line 7, insert the following after "662": "; *Provided further*, That using $250,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to demolish and remove the India Point Railroad Bridge in the Seekonk River, Providence, Rhode Island as authorized by section 1166(c) of Public Law 99-662".

KERREY (AND OTHERS) AMENDMENT NO. 2810

Mr. JOHNSTON (for Mr. KERREY, for himself, Mr. DASCHLE, Mr. EXON, Mr. LIEBERMAN, Mr. DODD, Mr. LEVIN, Mr. RIEGLE, Mr. MOYNIHAN, and Mr. PRESSLER) proposed an amendment to the bill H.R. 5373, supra; as follows:

At the appropriate place insert the following:

Findings:

The United States Congress enacted the Low-Level Radioactive Waste Policy Act of 1980 (Public Law 99-924; 42 U.S.C. 2021b et seq.) upon the urging of the National Governors Association and prompted by a concern that failure to open new low-level radioactive waste disposal sites in the United States would result in a severe shortage of disposal capacity for such waste in the United States;

Congress enacted the Low-Level Radioactive Waste Policy Act Amendments of 1985 (Public Law 96-573; 94 Stat. 3347) to modify such 1980 Act by establishing incentives and procedures to permit disposal of low-level radioactive waste at existing commercial disposal facilities through the end of 1992;

A 1989 study conducted by the Office of Technology Assessment indicates that the volume of low-level radioactive waste generated in the United States declined approximately by half between 1980 and 1989;

The study predicts that such volume may decline approximately by half again between 1989 and 1993;

The volume of low-level radioactive waste disposed of is a major determinant of the cost of the disposal of such waste;

The disposal of increasingly small volumes of such waste results in higher costs of disposal per unit volume because many of the costs of developing and maintaining low-level waste disposal sites are fixed;

Given the likelihood that the number of low-level radioactive waste disposal sites in the United States will increase soon from 3 to more than 10, it is likely that the cost per unit volume of disposing of such waste at such sites will rise dramatically; and

On June 19, 1992, the Supreme Court of the United States held that the provisions of the Low-Level Radioactive Waste Policy Act Amendments of 1985 known as the "take-title" provisions were unconstitutional: Therefore, it is the sense of the Senate that the Congress should reexamine the Low-Level Radioactive Waste Policy Act Amendments of 1985 (Public Law 96-573; 94 Stat. 3347) and work with the Secretary of Energy and the National Governors Association to develop a solution to problems relating to capacity in the United States for disposal of low-level radioactive waste (including a decline in the volume of the generation of such waste and a projected surplus of such capacity) that have arisen since 1980.

BYRD (AND OTHERS) AMENDMENT NO. 2811

Mr. JOHNSTON (for Mr. BYRD for himself, Mr. MITCHELL, Mr. REID, Mr. BOREN, Mr. DECONCINI, Mr. D'AMATO, Mr. FOWLER, Mr. MURKOWSKI, Mr. BIDEN, Mr. PRESSLER, Mr. DODD, Mr. KERREY, and Mr. MOYNIHAN) proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 83, between lines 11 and 12, insert the following:

SEC. 509. (a) Congress makes the following findings:

(1) National elections for the President and Parliament of Romania are scheduled to be held on September 27, 1992.

(2) Romania lacks an historical tradition of political democracy.

(3) The Romanian elections of 1946, in a major step toward the Soviet and Communist enslavement of Eastern Europe, were fraudulently manipulated to bring the Communists to power.

(4) Romania, since the violent overthrow of the Communist Ceausescu regime in 1989, has professed to pursue a democratic course.

(5) Progress toward achieving democracy has been marred by acts of violence, perpetrated by groups of miners in June 1990 and September 1991, that were aimed either at suppressing political dissent or at undermining the democratic institutions of the Romanian government.

(6) In February 1992, the first free and fair local government elections in a half century were held in Romania.

(7) There are many encouraging signs that the parliamentary and presidential elections scheduled for September 27, 1992, can be fairly and democratically conducted.

(8) Among those signs is the recent enactment of legislation in Romania that creates an audiovisual council with the responsibility for fairly allocating radio and television access to the various candidates.

(9) Although international human rights monitors have observed that Romania has made progress in the area of Human rights, the monitors have also identified significant unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

(10) Recent press reports indicate that Romania may be serving as a conduit for the transport of goods to Serbia and Montenegro in contravention of United Nations sanctions.

(11) A bilateral United States-Romanian trade agreement, which was signed on April 3, 1992, has been submitted to the Senate.

(12) To become effective, that trade agreement must be approved by the Senate.

(13) The support of the Senate for extending the favorable aid and trade treatment needed to help improve the performance and growth of the Romanian economy will depend heavily of the conduct of the fall election campaign and on the election day procedures.

(14) In considering the trade agreement, the Senate will also take into account Romania's record on human rights and its compliance with the United Nations sanctions against Serbia and Montenegro.

(15) The development of democratic procedures and institutions in Romania is at a critical stage, and the elections scheduled for September 27, 1992, represent an historic test of the commitment of the Romanian leadership and political system to developing such procedures and institutions.

(b) It is the sense of the Senate that—

(1) the elections for the President and Parliament of Romania that are scheduled to be conducted on September 27, 1992, will be an important measure of Romania's progress toward democracy;

(2) those elections should be conducted in a free and fair manner that includes reasonable equal access to the mass media by the major candidates;

(3) the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and international observers are placed in Romania to monitor the scheduled elections, and any run-off elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and

(4) consideration by the Congress of any legislation to grant nondiscriminatory (most-favored-nation) trade status to Romania should be withheld until the Secretary of State has certified to the Senate that the elections in Romania scheduled for September 27, 1992, and any subsequent run-off elections that may be held, are conducted in a free and fair manner.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 2812

Mr. JOHNSTON (for Mr. BINGAMAN, for himself, and Mr. DOMENICI) proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 63, line 7, delete the figure "$4,498,249,000" and insert in lieu thereof "$4,523,249,000".

On page 66, line 7, delete the figure "$2,548,301,000" and insert in lieu thereof "$2,523,301,000".

GORTON (AND ADAMS) AMENDMENT NO. 2813

Mr. JOHNSTON (for Mr. GORTON, for himself, and Mr. ADAMS) proposed an amendment to the bill H.R. 5373, supra; as follows:

At the appropriate place, insert:

SEC. . During the one-year period beginning on the date of the enactment of this Act, none of the funds made available in this Act or any other provision of law for fiscal year 1993 may be available for the implementation of an environmental restoration management contract at the Hanford, Washington, site.

BRYAN (AND REID) AMENDMENT NO. 2814

Mr. JOHNSTON (for Mr. BRYAN, for himself, and Mr. REID) proposed an amendment to the bill H.R. 5373, supra; as follows:

On page 60, line 1, insert after "appropriated": "from this Fund".

On page 60, line 2, insert "or by the Department of Energy" after "Nevada".

SANFORD AMENDMENT NO. 2815

Mr. JOHNSTON (for Mr. SANFORD) proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 28, line 7, insert the following after "662":

Provided further, That with $600,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, to correct a design deficiency at the Falls Lake, North Carolina, project, is authorized and directed to implement Plan 5 as described in the Design Memo Supplement dated November 1988, concurred in by the South Atlantic Division Engineer on March 1989, or any modifications to Plan 5 that would require raising the spillway only, or that minimize or eliminate the need for land acquisition by the Corps, provided such modifications are agreeable to the North Carolina Division of Water Resources and do not compromise the projected water supply levels, with cost sharing as prescribed in the referenced report for this design deficiency".

BOREN (AND NICKLES) AMENDMENT NO. 2816

Mr. JOHNSTON (for Mr. BOREN, for himself, and Mr. NICKLES) proposed an amendment to the bill H.R. 5373, supra, as follows:

"*Provided further*, That the Secretary is directed during fiscal year 1993 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma".

MOYNIHAN (AND D'AMATO) AMENDMENT NO. 2817

Mr. JOHNSTON (for Mr. MOYNIHAN, for himself, and Mr. D'AMATO) proposed an amendment to the bill H.R. 5373, supra, as follows:

Page 12, line 4, insert the following before the period: ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $5,000,000 of available funds to carry out the purposes of section 411 of Public Law 101-640".

SEYMOUR (AND CRANSTON) AMENDMENT NO. 2818

Mr. JOHNSTON (for Mr. SEYMOUR, for himself, and Mr. CRANSTON) proposed an amendment to the bill H.R. 5373, supra, as follows:

Page 28, line 7, insert the following before the semicolon: ": *Provided further*, That $500,000 of funds appropriated herein shall be for the Ventura Harbor project in California".

DOLE AMENDMENT NO. 2819

Mr. JOHNSTON (for Mr. DOLE) proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 53, line 19, add the following after the word "Fund": ": *Provided further*, That within the funds appropriated herein, $50,000 shall be available only for planning funds for the Center for Energy Research, University of Kansas, Lawrence, Kansas".

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

JOHNSTON AMENDMENT NO. 2820

Mr. WIRTH (for Mr. JOHNSTON) proposed an amendment to the Senate amendment to the bill (H.R. 429) to authorize additional appropriations for the Construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, as follows:

Delete all after the enacting clause and substitute the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1992".

SEC. 2. DEFINITION AND TABLE OF CONTENTS.

For purposes of this Act, the term "Secretary" means the Secretary of the Interior.

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Definition and table of contents.

TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

Sec. 101. Additional authorization of appropriations.

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

Sec. 200. Short Title and Definitions for Titles II–VI.
Sec. 201. Authorization of additional amounts for the Colorado River Storage Project.
Sec. 202. Bonneville Unit water development.
Sec. 203. Uinta Basin Replacement Project.
Sec. 204. Non-Federal contribution.
Sec. 205. Definite Plan Report and environmental compliance.
Sec. 206. Local development in lieu of irrigation and drainage.
Sec. 207. Water management improvement.
Sec. 208. Limitation on hydropower operations.
Sec. 209. Operating agreements.
Sec. 210. Jordan Aqueduct prepayment.
Sec. 211. Audit of Central Utah Project cost allocations.
Sec. 212. Surplus Crops.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

Sec. 301. Utah Reclamation Mitigation and Conservation Commission.
Sec. 302. Increased project water capability.
Sec. 303. Stream flows.
Sec. 304. Fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report for the Central Utah Project.
Sec. 305. Wildlife lands and improvements.
Sec. 306. Wetlands acquisition, rehabilitation, and enhancement.
Sec. 307. Fisheries acquisition, rehabilitation, and enhancement.
Sec. 308. Stabilization of high mountain lakes in the Uinta mountains.
Sec. 309. Stream access and riparian habitat development.
Sec. 310. Section 8 expenses.
Sec. 311. Jordan and Provo River Parkways and natural areas.
Sec. 312. Recreation.
Sec. 313. Fish and wildlife features in the Colorado River Storage Project.
Sec. 314. Concurrent mitigation appropriations.
Sec. 315. Fish, wildlife, and recreation schedule.

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

Sec. 401. Findings and purpose.
Sec. 402. Utah Reclamation Mitigation and Conservation Account.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

Sec. 501. Findings.
Sec. 502. Provisions for payment to the Ute Indian Tribe.
Sec. 503. Tribal use of water.
Sec. 504. Tribal farming operations.
Sec. 505. Reservoir, stream, habitat, and road improvements with respect to the Ute Indian Reservation.
Sec. 506. Tribal development funds.
Sec. 507. Waiver of claims.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

TITLE VII—LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

Sec. 701. Authorization.
Sec. 702. Costs nonreimbursable.
Sec. 703. Operation and maintenance.
Sec. 704. Appropriations authorized.
Sec. 705. Limitation.
Sec. 706. Design and operation notification.
Sec. 707. Fish and wildlife restoration.
Sec. 708. Water quality restoration.

TITLE VIII—LAKE MEREDITH SALINITY CONTROL PROJECT, TEXAS AND NEW MEXICO

Sec. 801. Authorization.
Sec. 802. Construction contract.
Sec. 803. Project costs.
Sec. 804. Construction and control.
Sec. 805. Appropriations authorized.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

Sec. 901. Authorization.
Sec. 902. Contract.
Sec. 903. Contract.
Sec. 904. Transfer of district headquarters.
Sec. 905. Liability and indemnification.
Sec. 906. Additional actions.

TITLE X—SALT-GILA AQUEDUCT, ARIZONA

Sec. 1001. Designation.
Sec. 1002. References.

TITLE XI—VERMEJO PROJECT RELIEF, NEW MEXICO

TITLE XII—GRAND CANYON PROTECTION

Sec. 1201. Short title.
Sec. 1202. Protection of Grand Canyon National Park.
Sec. 1203. Interim protection of Grand Canyon National Park.
Sec. 1204. Glen Canyon Dam environmental impact statement; long-term operation of Glen Canyon Dam.
Sec. 1205. Long-term monitoring.
Sec. 1206. Rules of construction.
Sec. 1207. Studies nonreimbursable.
Sec. 1208. Authorization of appropriations.
Sec. 1209. Replacement power.

TITLE XIII—LAKE ANDES-WAGNER/MARTY II, SOUTH DAKOTA

Sec. 1301. Short title.
Sec. 1302. Demonstration program.
Sec. 1303. Planning reports—environmental impact statements.
Sec. 1304. Authorization of the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota.
Sec. 1305. Conditions.
Sec. 1306. Indian employment.
Sec. 1307. Federal Reclamation laws govern.
Sec. 1308. Cost sharing.
Sec. 1309. Authorization of appropriations.
Sec. 1310. Indian water rights.

TITLE XIV—MID-DAKOTA RURAL WATER SYSTEM

Sec. 1401. Short title.
Sec. 1402. Definitions.
Sec. 1403. Federal assistance for rural water system.
Sec. 1404. Federal assistance for wetland development and enhancement.

Sec. 1405. Water conservation.
Sec. 1406. Mitigation of fish and wildlife losses.
Sec. 1407. Use of Pick-Sloan power.
Sec. 1408. Rule of construction.
Sec. 1409. Water rights.
Sec. 1410. Use of government facilities.
Sec. 1411. Authorization of appropriations.

TITLE XV—SAN LUIS VALLEY PROTECTION, COLORADO

Sec. 1501. Permit issuance prohibited.
Sec. 1502. Judicial review.
Sec. 1503. Costs.
Sec. 1504. Disclaimers.

TITLE XVI—IRRIGATION ON STANDING ROCK INDIAN RESERVATION, NORTH DAKOTA

Sec. 1601. Irrigation on Standing Rock Indian Reservation.

TITLE XVII—SOUTH DAKOTA WATER PLANNING STUDIES

Sec. 1701. Authorization for South Dakota Water Planning Studies.

TITLE XVIII—PLATORO RESERVOIR AND DAM, SAN LUIS VALLEY PROJECT, COLORADO

Sec. 1801. Findings and declarations.
Sec. 1802. Transfer of operation and maintenance responsibility of Platoro Reservoir.
Sec. 1803. Definitions.

TITLE XIX—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

Sec. 1901. Short title.
Sec. 1902. General authority.
Sec. 1903. Appraisal investigations.
Sec. 1904. Feasibility studies.
Sec. 1905. Research and demonstration projects.
Sec. 1906. Southern California comprehensive water reclamation and reuse study.
Sec. 1907. San Jose area water reclamation and reuse program.
Sec. 1908. Phoenix metropolitan water reclamation study and program.
Sec. 1909. Tucson area water reclamation study.
Sec. 1910. Lake Cheraw water reclamation and reuse study.
Sec. 1911. San Francisco area water reclamation study.
Sec. 1912. San Diego area water reclamation program.
Sec. 1913. Los Angeles area water reclamation and reuse project.
Sec. 1914. San Gabriel Basin demonstration project.
Sec. 1915. Authorization of appropriations.
Sec. 1916. Groundwater study.
Sec. 1917. Authorization of appropriations.

TITLE XX—SALTON SEA RESEARCH PROJECT, CALIFORNIA

Sec. 2001. Research project to control salinity.

TITLE XXI—RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE UNIT, NEW MEXICO

Sec. 2101. Clarification of cost-share requirements.

TITLE XXII—REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA

Sec. 2201. Sale of Bureau of Reclamation loans.
Sec. 2202. Savings provisions.
Sec. 2203. Fees and expenses of program.
Sec. 2204. Termination of authority.

TITLE XXIII—UNITED WATER CONSERVATION DISTRICT, CALIFORNIA

Sec. 2301. Sale of the Freeman Diversion Improvement Project loan.
Sec. 2302. Termination and conveyance of rights.
Sec. 2303. Termination of authority.

TITLE XXIV—SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA

Sec. 2401. Repayment of water pumps, San Juan Suburban Water District, Central Valley Project, California.

TITLE XXV—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

Sec. 2501. Conveyance to Sunnyside Valley Irrigation District.

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

Sec. 2601. High Plains States Groundwater Demonstration Program Act.

TITLE XXVII—AMENDMENT TO SABINE RIVER COMPACT

Sec. 2701. Consent to amendment to Sabine River compact.
Sec. 2702. Compact described.
Sec. 2703. Amendment.

TITLE XXVIII—MONTANA IRRIGATION PROJECTS

Sec. 2801. Pick-Sloan project pumping power.

TITLE XXIX—ELEPHANT BUTTE IRRIGATION DISTRICT, NEW MEXICO

Sec. 2901. Transfer.
Sec. 2902. Limitation.
Sec. 2903. Effect of Act on other laws.

TITLE XXX—RECLAMATION RECREATION MANAGEMENT ACT

Sec. 3001. Short title.
Sec. 3002. Findings.
Sec. 3003. Definitions.
Sec. 3004. Amendments to the Federal Water Project Recreation Act.
Sec. 3005. Management of Reclamation lands.
Sec. 3006. Protection of authorized purposes of Reclamation projects.
Sec. 3007. Maintenance of effort.

TITLE XXXI—WESTERN WATER POLICY REVIEW

Sec. 3101. Short title.
Sec. 3102. Congressional findings.
Sec. 3103. Presidential review.
Sec. 3104. The Advisory Commission.
Sec. 3105. Duties of the Commission.
Sec. 3106. Representatives.
Sec. 3107. Powers of the Commission.
Sec. 3108. Powers and duties of the Chairman.
Sec. 3109. Other Federal agencies.
Sec. 3110. Appropriations.

TITLE XXXII—MOUNTAIN PARK MASTER CONSERVANCY DISTRICT, OKLAHOMA

Sec. 3201. Payment by Mountain Park Master Conservancy District.
Sec. 3202. Reschedule of repayment obligation.

TITLE XXXIII—SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST

Sec. 3301. South Dakota biological diversity trust.

TITLE XXXIV—CENTRAL VALLEY PROJECT FISH AND WILDLIFE ACT

Sec. 3401. Short title.
Sec. 3402. Statement of purpose.
Sec. 3403. Definitions.
Sec. 3404. Protection, restoration, and enhancement of Central Valley fish and wildlife habitat.
Sec. 3405. Establishment of the Central Valley Project Fish and Wildlife Advisory Committee.
Sec. 3406. Establishment of Central Valley Project Fish and Wildlife Task Force.
Sec. 3407. Provisions for transfer of Central Valley Project Water.
Sec. 3408. Agricultural water conservation feasibility studies.
Sec. 3409. Implementation.

TITLE XXXV—THREE AFFILIATED TRIBES AND STANDING ROCK SIOUX TRIBE EQUITABLE COMPENSATION PROGRAM, NORTH DAKOTA

Sec. 3501. Short title.
Sec. 3502. Definitions.
Sec. 3503. Findings; declarations.
Sec. 3504. Funds.
Sec. 3505. Eligibility for other services not affected.
Sec. 3506. Per capita payments prohibited.
Sec. 3507. Standing Rock Sioux Indian Reservation.
Sec. 3508. Transfer of lands.
Sec. 3509. Transfer of lands at Oahe Dam and Lake Project.
Sec. 3510. Conforming amendment.
Sec. 3511. Authorization of appropriations.

TITLE XXXVI—WETLAND HABITAT RESTORATION PROGRAM

Sec. 3601. Definitions.
Sec. 3602. Wetland trust.
Sec. 3603. Authorization of appropriations.

TITLE XXXVII—SAN JOAQUIN NATIONAL VETERANS CEMETERY, CALIFORNIA

TITLE XXXVIII—SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT

Sec. 3801. Sonoma Baylands wetland demonstration project.

TITLE XXXIX—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT

Sec. 3901. Short title.
Sec. 3902. Congressional findings.
Sec. 3903. Definitions.
Sec. 3904. Water.
Sec. 3905. Ratification and confirmation of contracts.
Sec. 3906. Water delivery contract amendments; water lease, water withdrawal.
Sec. 3907. Construction and rehabilitation; trust fund.
Sec. 3908. Satisfaction of claims.
Sec. 3909. Environmental compliance.
Sec. 3910. Miscellaneous provisions.
Sec. 3911. Effective date.

TITLE XXXX - NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS

Sec. 4001. Short title.
Sec. 4002. Findings.
Sec. 4003. Policy.
Sec. 4004. Review of threats to properties.
Sec. 4005. State historic preservation programs.
Sec. 4006. Certification of local governments.
Sec. 4007. Tribal historic preservation programs.
Sec. 4008. Matching grants.
Sec. 4009. Education and training.
Sec. 4010. Requirements for awarding of grants.
Sec. 4011. Apportionment of grant funds.
Sec. 4012. Federal agency historic preservation programs.
Sec. 4013. Lease or exchange of Federal historic properties.
Sec. 4014. Disposition of archaeological materials.
Sec. 4015. Interstate and international traffic in antiquities.
Sec. 4016. Membership of advisory council on historic preservation.
Sec. 4017. Regulations of the advisory council on historic preservation.
Sec. 4018. Definitions.
Sec. 4019. Cooperative agreements for the performance of functions of a Federal agency.

Sec. 4020. Access to information.
Sec. 4021. National center for preservation technology.
Sec. 4022. Secretarial report.
Sec. 4023. Miscellaneous.

TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

Title I of Public Law 97-293 (96 Stat. 1261) is amended as follows:

(a) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(b) In section 102, amend the heading to read "recreational facilities, conservation, and fish and wildlife", and add at the end "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(c) In section 106(a), strike "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and insert "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)", and strike "modifications" and all that follows and insert "modifications." in lieu thereof.

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 200. SHORT TITLE AND DEFINITIONS FOR TITLES II-VI.

(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".

(b) DEFINITIONS.—For the purposes of titles II-VI of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et. seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comments on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "Secretary" means the Secretary of the Interior.

(13) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(14) The term "State" means the State of Utah, its political subdivisions, or its designee.

(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note) and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $924,206,000 (January 1991) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: *Provided, however*, That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in the Report of the Senate Committee on Energy and Natural Resources accompanying the bill H.R. 429. This additional sum shall be available solely for design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88-45, February, 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow;

(B) The Deep Creek pumping plant;

(C) The North Fork pumping plant;

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals;

(B) Draining of Benjamin Slough;

(C) Diking of Goshen or Provo Bays in Utah Lake;

(D) Ute Indian Unit;

(E) Leland Bench development;

(F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.

(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with the District for construction of such project, and (2) the Secretary has requested, or the Congress has appropriated, construction funds for such project.

(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made immediately available in their entirety to the District and the Commission as provided for pursuant to the provisions of this Act.

(e) SECRETARIAL RESPONSIBILITY.—The Secretary is responsible for carrying out the responsibilities as specifically identified in this Act and may not delegate his responsibilities under this Act to the Bureau of Reclamation. The District at its sole option may use the services of the Bureau of Reclamation on any project features.

SEC. 202. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as pro-

vided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: *Provided, however*, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph.

Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).

(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(1). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).

(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.

(3) WASATCH COUNTY WATER EFFICIENCY PROJECT.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.

(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in Section 207(e)(2) for related purposes.

(C) The feasibility study and the Project construction authorization shall be subject to the non-federal contribution requirements of Section 204.

(D) The project construction authorization provided in subparagraph (B) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this subparagraph; or

(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.

(E) Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.

(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(3) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(3). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(3).

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) PROVO RIVER STUDIES.—(A) $2,000,000 for the District to conduct, with public involvement:

(i) a hydrologic study that includes a hydrologic model analysis of the Provo River Basin with all tributaries, water imports and exports, and diversions, an analysis of expected flows and storage under varying water conditions, and a comparison of steady state conditions with proposed demands being placed on the river and affected water resources, including historical diversions, decrees, and water rights, and

(ii) a feasibility study of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The studies shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified. In addition to funds appropriated after the enactment of this Act, the Secretary is authorized to utilize Section 8 funds which may be available from FY 1992 appropriations for the Central Utah Project for the purposes of carrying out the studies described in this paragraph.

(B) The cost of the studies provided for in subparagraph (A) shall be treated as an expense under section 8: *Provided, however*, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed. Within its available funds, the U.S. Geological Survey is directed to consult with the District in the preparation of the study identified in subparagraph (5)(A)(1).

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 201, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(6). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.

(b) STRAWBERRY WATER USERS ASSOCIATION.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within Sections 2 and 13, T. 3 S., R. 12 W., and Sec-

tions 7 and 8, T. 3 S., R. 11 W., Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.

SEC. 203. UINTA BASIN REPLACEMENT PROJECT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water conservation within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.

(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no federally appropriated funds for such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: *Provided, however*, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this paragraph; or

(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 203(a). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43-3825 (Application No. A36642) and Water Right No. 43-3827 (Application No. A36644).

(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available without further authorization or appropriation by Congress. Such amounts shall be treated as private funds to be held in trust for landowners of the irrigation project and shall not be treated as public or appropriated funds.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) BRUSH CREEK AND JENSEN UNIT.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6-05-01-00143, as last revised on September 19, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre-feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources, U.S. Fish and Wildlife Service, and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 204. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 202 and 203 shall be 35 percent of the total reimbursable costs and shall be paid concurrently with the Federal share, except that for the facilities specified in 202(a)(6), the cost share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 202 and 203, other than the study required by section 202(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Within 120 days of enactment of this Act, the Secretary shall execute a cost sharing agreement which binds the District to provide annually such sums as may be required to satisfy the non-Federal share of the separate features authorized and approved for construction pursuant to this Act. The Secretary is not authorized to broaden the scope of the cost sharing agreement beyond assuring that the non-Federal interests will satisfy the cost sharing provisions as set forth in this section. Any feature to which this section applies shall not be initiated until after the non-Federal interests enter into a cost sharing agreement with the Secretary to provide the share required by this section. The District may commence any study authorized herein prior to entering into a cost sharing agreement, and upon execution of a cost sharing agreement the Secretary shall reimburse the District an amount equal to the Federal share of the funds expended by the District.

SEC. 205. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, federally appropriated funds may not be obligated or expended by the District for construction of the features authorized in section 202(a)(1) or 203 until—

(1) the District completes—

(A) a Definite Plan Report for the system authorized in section 202(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 203(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the U.S. Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to the District until the District enters into a binding agreement with the Secretary to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act. The Secretary shall execute such binding agreement within 120 days of enactment of this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 201, the Secretary is directed to make sums available to the District as required by the District, for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 204.

(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analyses consistent with the *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983).* The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.

SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 202(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(1)(B) of this Act.

(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65% of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvements as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses;

(iii) planning or constructing water impoundments of greater than 5,000 acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 207. WATER MANAGEMENT IMPROVEMENT.

(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs;

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) ELEMENTS.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25% of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10% of recorded annual water deliveries.

The minimum goal for the District shall be thirty thousand acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event that the Wasatch County Water Efficiency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Juab counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase 5,000 acre-feet per year. In no event shall the minimum goal for the District be less than 20,000 acre-feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2)(A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and,

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally acceptable measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Each plan or plan supplement shall be technically sound, internally consistent and supported by objective analysis.

Not less than 90 days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) EVALUATION OF CONSERVATION MEASURES.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water, environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied, and in the public interest shall be deemed to constitute the "active inventory". For purposes of this section, the determination of benefits shall take into account:

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 302(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre-foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50% of the water conservation goal within seven years after submission of the initial plan and 100% of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been satisfied; and

(C) found to be in the public interest.

(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the U.S. Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1994, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) WATER CONSERVATION PRICING STUDY.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are:

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;

(B) seasonal rate differentials;

(C) drought year surcharges;

(D) increasing block rate schedules;

(E) marginal cost pricing;

(F) rates accounting for differences in costs based upon point of delivery; and

(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will:

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of groundwater resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and groundwater supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) For an amount not to exceed 50% of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. The Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65% of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be appropriated in section 201, and shall remain available until expended. $10,000,000 authorized by this paragraph shall be made available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (B)(2)(b) and shall thereafter be available for the purposes of this paragraph. The Federal share shall be allocated between the purposes of municipal and industrial

water supply and irrigation, as appropriate, and shall be repaid in the manner of repayment for each such purpose.

(f) UTAH WATER CONSERVATION ADVISORY BOARD.—(1) Within two years of the date of enactment of this Act, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.)

(B) elimination of declining block rate schedules from any system of water or wastewater treatment charges;

(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;

(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;

(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;

(F) requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction;

(G) requirements for the insulation of hot water pipes in all new construction;

(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air conditioning and refrigeration systems;

(I) standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices; and

(J) elimination of evaporation as a principal method of wastewater treatment.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), (D), or (F) of paragraph (2) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved after January 1, 1992, by a conservation measure which is placed on the active inventory shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Within three years of the date of enactment of this Act, the board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgement of the Board, will be most likely to be promulgated within four years of the date of enactment of this Act, and the failure of the board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) COMPLIANCE.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after 90 days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be:

(A) for the first year of substantial noncompliance, five percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(B) for the second year of substantial noncompliance, ten percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, fifteen percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within 12 months after the first determination of substantial noncompliance, the Secretary shall refund 100% of the surcharge levied.

(h) Reclamation Reform Act of 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) Judicial Review.—(1) For the purposes of sections 701 through 706 of Title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of Title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of Title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) CITIZEN SUITS.—(1) In General.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) No action may be commenced under paragraph (1) before 60 days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.

SEC. 209. OPERATING AGREEMENTS.

The District, in consultation with the Commission and the Utah Division of Water Rights, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir within two years of the date of enactment of this Act.

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary may prescribe, and within one year of the date of enactment of this Act, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 212. SURPLUS CROPS.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to surplus crops, until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge a surplus crop production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provision of the Agricultural Act of 1949, as amended, if the total supply of such commodity for the marketing years in which the bulk of the crop would normally be marketed is in excess of the normal supply as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the surplus crop production charge for the succeeding year on or before July 1 of each year.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of 5 members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the members of the House of Representatives representing the State.

(B) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the members of the Senate representing the State.

(C) 1 from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) 1 from a list of residents of the State submitted by the District.

(E) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of 4 years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of 3 years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of 2 years.

(3) A vacancy in the Commission shall be filled within 90 days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be 1 year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of Title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) IMPLEMENTATION OF MITIGATION AND CONSERVATION MEASURES.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five-year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) REALLOCATION OF SECTION 8 FUNDS.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallo-

cate any amount so specified to achieve such benefits: *Provided, however*, That the Commission shall obtain the prior approval of the U.S. Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(3) Funding for NEPA compliance.—The Commission shall annually provide funding on a priority basis for environmental mitigation measures adopted as a result of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for project features constructed pursuant to titles II and III of this Act.

(4) Contracting authority.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise or final settlement of any claim arising thereunder, with universities, non-profit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(g) Planning and Reporting.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) Final plan.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five-year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.

(3) Public involvement and agency consultation.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request in writing from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than 90 days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) Reporting.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least 60 days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) Discretionary Duties and Powers.—In addition to any other duties and powers provided by law—

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation: *Provided, however*, That the Commission shall obtain the prior approval of the U.S. Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(2) The Commission may, for the purpose of carrying out this Act,

(A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and

(B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (l) or condemnation proceedings initiated by other agencies.

(i) Funding.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the Account under section 402(b)(3)(C).

(j) Availability of Unexpended Amounts Upon Completion of Construction Projects.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the Account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).

(k) Transfer of Property and Authority Held By the Commission.—Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of federal land ownerships, to the appropriate federal agency.

(l) Representation by Attorney General.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) Congressional Oversight.—The activities of the Commission shall be subject to oversight by the Congress.

(n) Termination of Bureau Activities.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 302. INCREASED PROJECT WATER CAPABILITY.

(a) Acquisition.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.

(b) Nonconsumptive Rights.—A nonconsumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within 30 days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) Authorization of Appropriations.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 303. STREAM FLOWS.

(a) Stream Flow Agreement.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) Increased Flows in the Upper Strawberry River Tributaries.—(1) The District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry basin water rights being diverted to the Heber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the U.S. Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.

(3)(A) The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek drainage.

(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry basin by the District shall be tendered in accordance with State law within 30 days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in quality and reliability to the Daniels Creek water being replaced and shall be provided by the District at a cost to the Daniels Creek Irrigation Company which does not exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.

(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:

(A) $500,000 for leasing of water pursuant to paragraph (2).

(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.

(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).

(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).

(c) Stream Flows in the Bonneville Unit.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission in consultation with the U.S. Fish and Wildlife Service and the Utah State Division of Wildlife Resources:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the months of November through April, and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) Mitigation of Excessive Flows in the Provo River.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or stream bed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;

(5) study of the mitigation and conservation opportunities associated with section 202(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 315, unless otherwise provided in this Act.

SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.

(a) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of federal land ownerships, to the appropriate federal agency, for management as a big game winter range. Of the amounts authorized to be appropriated by section 201, $1,300,000 shall be available only for the purposes of this subsection.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for the purposes of this subsection.

SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall affect existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a Federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.

(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.

(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2000 feet out into the Bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the Bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.

SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm watery fishery and other related issues; and

(B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond Fork River and Sixth Water Creek drainages.

(7) $475,000 for the restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) REVISION OF PLAN.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary, as depicted on the map in the Wasatch-Cache National Forest Plan (p. IV-166, dated 1987), to a level of practical necessity.

(b) Costs of Rehabilitation.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) Fish and Wildlife Habitat.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.

SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) In General.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed stabilization, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) Study of Impact to Wildlife and Riparian Habitats Which Experience Reduced Water Flows as a Result of the Strawberry Collection System.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 310. SECTION 8 EXPENSES.

(a) Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in subsection (b) of this section shall be treated as expenses under section 8.

(b) The sections referred to in subsection (a) of this section are as follows: Title III, and 402(b)(2).

SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) Fisheries.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) Riparian Habitat Rehabilitation.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) Wetlands.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreage, including those along the Jordan River identified by the multi-agency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) Recreational Facilities.—(1) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102—).

(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102—).

(e) Provo River Corridor.—Of the amounts authorized to the appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion to Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 312. RECREATION.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) Habitat Improvements in Certain Drainages.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) Small Dams and Watershed Improvements.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) Fish Hatchery Production.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the U. S. Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:

(a) deposit the Federal contribution to the Account authorized in section 402(b)(2); then,

(b) of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concurrently with amounts available for implementation of title II of this Act.

(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, three percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.

(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to:

(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;

(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;

(3) provide jobs and sustainable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training, and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will:

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;

(6) provide additional conservation values to state and local government lands;

(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.

SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that —

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State of Utah is one of the most ecologically significant states in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.

(b) PURPOSES.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this Title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).

(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:

(1) STATE CONTRIBUTIONS—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.

(3) CONTRIBUTIONS FROM PROJECT BENEFICIARIES.—(A) In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-federal funds from the District.

(B) $5,000,000 annually by the Secretary of Energy out of funds appropriated to the Western Area Power Administration, such expenditures to be considered nonreimbursable and nonreturnable.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) INTEREST AND UNEXPENDED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) OPERATION OF THE ACCOUNT.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend without further authorization and appropriation by Congress all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b)(1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive:

(A) All amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) All interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the account that exceeds the amount required to increase the principal of the account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the U.S. Forest Service, the Bureau of Land Management of the Department of the Interior, and the U.S. Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) AUDIT BY INSPECTOR GENERAL.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of Interior.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

SEC. 501. FINDINGS.

(a) FINDINGS.—The Congress finds the following—

(1) the unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) PURPOSE.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features

contemplated by the September 20, 1965 Agreement been constructed.

SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing one year after the date of enactment of this Act, and continuing for 50 years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the first 35,500 acre-feet of such water converted to municipal and industrial water. The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe.

(b) BONNEVILLE UNIT TRIBAL WATERS.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) ELECTION TO RETURN TRIBAL WATERS.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 503. TRIBAL USE OF WATER.

(a) RATIFICATION OF REVISED UTE INDIAN COMPACT.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to re-ratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

(b) THE INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) RESTRICTION ON DISPOSAL OF WATERS INTO THE LOWER COLORADO RIVER BASIN.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, non-appealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact; *Provided, however*, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) USE OF WATER RIGHTS.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact of the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) RULES OF CONSTRUCTION.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to the appropriated by section 501, $45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year period—

(1) a 7,500 acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations. Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) REPAIR OF CEDARVIEW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to the Secretary, in cooperation with the Tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) RESERVATION STREAM IMPROVEMENTS.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) BOTTLE HOLLOW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all non-game fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) MINIMUM STREAM FLOWS.—As a minimum, the Secretary shall endeavor to maintain continuous releases into Rock Creek to maintain 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April, at the reservation boundary. Nothing in this authorization shall increase the obligation of the District to deliver more that 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.

(e) LAND TRANSFER.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) RECREATION ENHANCEMENT.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe, to permit the Tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

(g) MUNICIPAL WATER CONVEYANCE SYSTEM.—Of the amounts authorized to be appropriated in section 201, $3,000,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) TRIBAL DEVELOPMENT.—The Tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

SEC. 507. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) DESCRIPTION OF CLAIMS.—The Tribe shall waive, upon receipt of the section 504, 505, and 506 monies, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) RESURRECTION OF CLAIMS.—In the event the Tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE VII—LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 701. AUTHORIZATION.

The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by said treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, in order that water flowing from the Leadville Tunnel may meet water quality standards, and to contract with the Colorado Division of Wildlife to monitor concentrations of heavy metal contaminants in water, stream sediment, and aquatic life in the Arkansas River downstream of the water treatment plant.

SEC. 702. COSTS NONREIMBURSABLE.

Construction, operation, and maintenance costs of the works authorized by this title shall be nonreimbursable.

SEC. 703. OPERATION AND MAINTENANCE.

The Secretary shall be responsible for operation and maintenance of the water treatment plant, including sludge disposal authorized by this title. The Secretary may contract for these services.

SEC. 704. APPROPRIATIONS AUTHORIZED.

There is hereby authorized to be appropriated beginning October 1, 1989, for construction of a water treatment plant for water flowing from the Leadville Mine Drainage Tunnel, including sludge disposal, and concrete lining the rehabilitated portion of the tunnel, the sum of $10,700,000 (October 1988 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation and maintenance of the works authorized by this title, including but not limited to $1,250,000 which shall be for a program to be conducted by the Colorado Division of Wildlife to monitor heavy metal concentrations in water, stream sediment, and aquatic life in the Arkansas River.

SEC. 705. LIMITATION.

The treatment plant authorized by this title shall be designed and constructed to treat the quantity and quality of effluent historically discharged from the Leadville Mine Drainage Tunnel.

SEC. 706. DESIGN AND OPERATION NOTIFICATION.

Prior to the initiation of construction and during construction of the works authorized by section 701, the Secretary shall submit the plans for design and operation of the works to the Administrator of the Environmental Protection Agency and the State of Colorado to obtain their views on the design and operation plans. After such review and consultation, the Secretary shall notify the President Pro Tempore of the Senate and the Speaker of the House of Representatives that the discharge from the works to be constructed will meet the requirements set forth in Federal Facilities Compliance Agreement No. FFCA 89-1, entered into by the Bureau of Reclamation and the Environmental Protection Agency on February 7, 1989, and in National Pollutant Discharge Elimination System permit No. CO 0021717 issued to the Bureau of Reclamation in 1975 and reissued in 1979 and 1981.

SEC. 707. FISH AND WILDLIFE RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, to formulate and implement, subject to the terms of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River basin impacted by the effluent discharged from the Leadville Mine Drainage Tunnel. The formulation of the program shall be undertaken with appropriate public consultation. (b)Prior to implementing the fish and wildlife restoration program, the Secretary shall submit a copy of the proposed restoration program to the President Pro Tempore of the Senate and the Speaker of the House of Representatives for a period of not less than sixty days.

SEC. 708. WATER QUALITY RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, the Administrator of the Environmental Protection Agency, and other Federal entities, to conduct investigations of water pollution sources and impacts attributed to mining-related and other development in the Upper Arkansas River basin, to develop corrective action plans, and to implement corrective action demonstration projects. Neither the Secretary nor any person participating in a corrective action demonstration project shall be liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act for costs or damages as a result of actions taken or omitted in the course of implementing an approved work plan developed under this section; *Provided*, That this subsection shall not preclude liability for costs or damages which result from negligence on the part of such persons. The Secretary shall have no authority under this section at facilities which have been listed or proposed for listing on the National Priorities List, or are subject to or covered by the Resource Conservation and Recovery Act. For the purpose of this section, the term "Upper Arkansas River basin" means the Arkansas River hydrologic basin in Colorado extending from Pueblo Dam upstream to its headwaters.

(b) The development of all corrective action plans and subsequent corrective action demonstration projects shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations promulgated under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Administrator of the Environmental Protection Agency.

(c) The Secretary shall arrange for cost sharing with the State of Colorado and for the use of non-Federal funds and in-kind services where possible. The Secretary is authorized to fund all State costs required to conduct investigations and develop corrective action plans. The Federal share of costs associated with corrective action plans shall not exceed 60 percent.

(d) Prior to implementing any corrective action demonstration project, the Secretary shall submit a copy of the proposed project plans to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(e) Nothing in this title shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants, or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act.

(f) There is authorized to be appropriated such sums as may be required to fulfill the provisions of sections 707 and 708 of this title.

TITLE VIII—LAKE MEREDITH SALINITY CONTROL PROJECT, TEXAS AND NEW MEXICO

SEC. 801. AUTHORIZATION.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 802. CONSTRUCTION CONTRACT.

(a) The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Authority. Operation and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 803. PROJECT COSTS.

(a) All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 802 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) All project costs for verification, design preparation, and construction management (estimated to be approximately 33 percent of the total project cost) shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement.

SEC. 804. CONSTRUCTION AND CONTROL.

(a) The Secretary shall, upon entering into a mutually acceptable agreement with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) At any time following the first advance of funds by the Authority, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of construction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 per centum of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, and reimbursement of Federal costs pursuant to subsection 804(b) of this title, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements, or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds. Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 805. APPROPRIATIONS AUTHORIZED.

There are hereby authorized to be appropriated to carry out the provisions of this title the sum of $3,000,000 (October 1989 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuation in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

SEC. 901. AUTHORIZATION.

The Secretary, pursuant to the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create:

(a) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for groundwater recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(b) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, water sales, fish, wildlife, and recreation purposes; and for other purposes.

SEC. 902. CONTRACT.

The Secretary is authorized to enter into a contract with the State of Kansas for the sale, use, and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 903. CONTRACT.

(a) The Secretary is authorized to enter into a contract with the State of Kansas, accepting a payment of $365,424, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir, as full satisfaction of reimbursable costs associated with irrigation of the Cedar Bluff Unit, including the Cedar Bluff Irrigation District's obligations under Contract No. 0-07-70-W0064. After the reformulation of the Cedar Bluff Unit authorized by this title, any revenues in excess of operating and maintenance expenses received by the State of Kansas from the sale of water from the Cedar Bluff Unit shall be paid to the United States and covered into the Reclamation Fund to the extent that an operation, maintenance and replacement charge or reimbursable capital obligation exists for the Cedar Bluff Unit under Reclamation law. Once all such operation, maintenance and replacement charges or reimbursable obligations are satisfied, any additional revenues shall be retained by the State of Kansas.

(b) The Secretary is authorized to transfer title of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 904. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary is authorized to transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached.

SEC. 905. LIABILITY AND INDEMNIFICATION.

The transferee of any interest conveyed pursuant to this title shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 906. ADDITIONAL ACTIONS.

The Secretary is authorized to take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 901 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE X—SALT-GILA AQUEDUCT, ARIZONA

SEC. 1001. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona Project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1002. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in section 1001 hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XI—VERMEJO PROJECT RELIEF, NEW MEXICO

Section 401 of the Act of December 19, 1980, (94 Stat. 3227) is amended by striking the text that begins: "Transfer of project facilities to the district shall be without . . ." and ends with ". . . shall be maintained consistently with existing arrangements" and inserting in lieu thereof "Effective as of the date of the written consent of the Vermejo Conservancy District to amend Contract 178r–458, all facilities are hereby transferred to the District. The transfer to the district of project facilities shall be without any additional consideration in excess of the existing repayment contract of the district and shall include all related lands or interest in lands acquired by the Federal Government for the project, but shall not include any lands or interests in land, or interests in water, purchased by the Federal Government from various landowners in the district, consisting of approximately 2,800 acres, for the Maxwell Wildlife Refuge and shall not include certain contractual arrangements, namely Contract No. 14–06–500–1713 between the Bureau of Reclamation and the Bureau of Sport Fisheries and Wildlife, and concurred in by the district, dated December 5, 1969, and the lease agreement between the district and the Secretary dated January 17, 1990, and expiring January 17, 1992, for 468.38 acres under the district's Lakes 12 and 14, which contractual arrangements shall be maintained consistent with the terms thereof. The Secretary, acting through the United States Fish and Wildlife Service, shall retain the right to manage Lake 13 for the conservation, maintenance, and development of the area as a component of the Maxwell National Wildlife Refuge in accordance with Contract No. 14-06-500-1713 and in a manner that does not interfere with operation of the Lake 13 dam and reservoir for the primary purposes of the Vermejo Reclamation Project."

TITLE XII—GRAND CANYON PROTECTION

SECTION 1201. SHORT TITLE.

This Act may be cited as the "Grand Canyon Protection Act of 1992".

SEC. 1202. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—The Secretary shall operate Glen Canyon Dam in accordance with the additional criteria and operating plans specified in section 1204 and exercise other authorities under existing law in such a manner as to protect, mitigate adverse impacts to, and improve the values for which Grand Canyon National Park and Glen Canyon National Recreation Area were established, including, but not limited to natural and cultural resources and visitor use.

(b) COMPLIANCE WITH EXISTING LAW.—The Secretary shall implement this section in a manner fully consistent with and subject to the Colorado River Compact, the Upper Colorado River Basin Compact, the Water Treaty of 1944 with Mexico, the decree of the Supreme Court in Arizona v. California, and the provisions of the Colorado River Storage Project Act of 1956 and the Colorado River Basin Project Act of 1968 that govern allocation, appropriation, development, and exportation of the waters of the Colorado River basin.

(c) RULE OF CONSTRUCTION.—Nothing in this title alters the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established or affects the authority and responsibility of the Secretary with respect to the management and administration of the Grand Canyon National Park and Glen Canyon National Recreation Area, including natural and cultural resources and visitor use, under laws applicable to those areas, including, but not limited to, the Act of August 25, 1916 (39 Stat. 535) as amended and supplemented.

SEC. 1203. INTERIM PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) INTERIM OPERATIONS.—Pending compliance by the Secretary with section 1204, the Secretary shall, on an interim basis, continue to operate Glen Canyon Dam under the Secretary's announced interim operating criteria and the Interagency Agreement between the Bureau of Reclamation and the Western Area Power Administration executed October 2, 1991 and exercise other authorities under existing law, in accordance with the standards set forth in Section 1202, utilizing the best and most recent scientific data available.

(b) CONSULTATION.—The Secretary shall continue to implement Interim Operations in consultation with—

(1) Appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, United States Fish and Wildlife Service, and the National Park Service;

(2) The Secretary of Energy;

(3) The Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(4) Indian Tribes; and

(5) The general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) DEVIATION FROM INTERIM OPERATIONS.—The Secretary may deviate from Interim Operations upon a finding that deviation is necessary and in the public interest to—

(1) Comply with the requirements of Section 1204(a);

(2) Respond to hydrologic extremes or power system operation emergencies;

(3) Comply with the standards set forth in Section 1202;

(4) Respond to advances in scientific data; or

(5) Comply with the terms of the Interagency Agreement.

(d) TERMINATION OF INTERIM OPERATIONS.—Interim Operations described in this section shall terminate upon compliance by the Secretary with Section 1204.

C. 1204. GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; LONG-TERM OPERATION OF GLEN CANYON DAM.

(a) FINAL ENVIRONMENTAL IMPACT STATEMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a final Glen Canyon Dam environmental impact statement, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) AUDIT.—The Comptroller General shall—

(1) audit the costs and benefits to water and power users and to natural, recreational, and cultural resources resulting from management policies and dam operations identified pursuant to the environmental impact statement described in subsection (a); and

(2) report the results of the audit to the Secretary and the Congress.

(c) ADOPTION OF CRITERIA AND PLANS.—(1) Based on the findings, conclusions, and recommendations made in the environmental impact statement prepared pursuant to subsection (a) and the audit performed pursuant to subsection (b), the Secretary shall—

(A) adopt criteria and operating plans separate from and in addition to those specified in section 602(b) of the Colorado River Basin Project Act of 1968 and

(B) exercise other authorities under existing law, so as to ensure that Glen Canyon Dam is operated in a manner consistent with section 1202.

(2) Each year after the date of the adoption of criteria and operating plans pursuant to paragraph (1), the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report, separate from and in addition to the report specified in section 602(b) of the Colorado River Basin Project Act of 1968 on the preceding year and the projected year operations undertaken pursuant to this Act.

(3) In preparing the criteria and operating plans described in section 602(b) of the Colorado River Basin Project Act of 1968 and in this subsection, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including—

(A) representatives of academic and scientific communities;

(B) environmental organizations;

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

(d) REPORT TO CONGRESS.—Upon implementation of long-term operations under subsection (c), the Secretary shall submit to the Congress the environmental impact statement described in subsection (a) and a report describing the long-term operations and other reasonable mitigation measures taken to protect, mitigate adverse impacts to, and improve the condition of the natural, recreational, and cultural resources of the Colorado River downstream of Glen Canyon Dam.

(e) ALLOCATION OF COSTS.—The Secretary of the Interior, in consultation with the Secretary of Energy, is directed to reallocate the costs of construction, operation, maintenance, replacement and emergency expenditures for Glen Canyon Dam among the purposes directed in section 1202 of this Act and the purposes established in the Colorado River Storage Project Act of April 11, 1956 (70 Stat. 170). Costs allocated to section 1202 purposes shall be nonreimbursable.

SEC. 1205. LONG-TERM MONITORING.

(a) IN GENERAL.—The Secretary shall establish and implement long-term monitoring programs and activities that will ensure that Glen Canyon Dam is operated in a manner consistent with that of section 1202.

(b) RESEARCH.—Long-term monitoring of Glen Canyon Dam shall include any necessary research and studies to determine the effect of the Secretary's actions under section 1204(c) on the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area.

(c) CONSULTATION.—The monitoring programs and activities conducted under subsection (a) shall be established and implemented in consultation with—

(1) the Secretary of Energy;

(2) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(3) Indian tribes; and

(4) the general public, including representatives of academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1206. RULES OF CONSTRUCTION.

Nothing in this title is intended to affect in any way—

(1) the allocations of water secured to the Colorado Basin States by any compact, law, or decree; or

(2) any Federal environmental law, including the Endangered Species Act (16 U.S.C. 1531 et seq.).

SEC. 1207. STUDIES NONREIMBURSABLE.

All costs of preparing the environmental impact statement described in section 1204, including supporting studies, and the long-term monitoring programs and activities described in section 1205 shall be nonreimbursable. The Secretary is authorized to use funds received from the sale of electric power and energy from the Colorado River Storage Project to prepare the environmental impact statement described in section 1204, including supporting studies, and the long-term monitoring programs and activities described in section 1205, except that such funds will be treated as having been repaid and returned to the general fund of the Treasury as costs assigned to power for repayment under section 5 of the Act of April 11, 1956 (70 Stat. 170).

SEC. 1208. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SEC. 1209. REPLACEMENT POWER.

The Secretary of Energy in consultation with the Secretary of the Interior and with representatives of the Colorado River Storage Project power customers, environmental organizations and the states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming shall identify economically and technically feasible methods of replacing any power generation that is lost through adoption of long-term operational criteria for Glen Canyon Dam as required by Section 1204 of this title. The Secretary shall present a report of the findings, and implementing draft legislation, if necessary, not later than two years after adoption of long-term operating criteria. The Secretary shall include an investigation of the feasibility of adjusting operations at Hoover Dam to replace all or part of such lost generation. The Secretary shall include an investigation of the modifications or additions to the transmission system that may be required to acquire and deliver replacement power.

TITLE XIII—LAKE ANDES-WAGNER/ MARTY II, SOUTH DAKOTA

SEC. 1301. SHORT TITLE.

This title may be cited as the "Lake Andes-Wagner/Marty II Act of 1992".

SEC. 1302. DEMONSTRATION PROGRAM.

(a) The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through the Bureau of Reclamation, and with the assistance and cooperation of an oversight committee consisting of representatives of the Bureau of Indian Affairs, Environmental Protection Agency, United States Fish and Wildlife Service, United States Geological Survey, South Dakota Department of Game, Fish and Parks, South Dakota Department of Water and Natural Resources, Yankton-Sioux Tribe, and the Lake Andes-Wagner Water Systems, Inc., carry out a demonstration program (hereinafter in this title the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Marty II Demonstration Program Plan of Study," dated May 1990, a copy of which is on file with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) The objectives of the Demonstration Program shall include:

(1) development of accurate and definitive means of quantifying projected irrigation and drainage requirements and providing reliable estimates of drainage return flow quality and quantity with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the planned Lake Andes-Wagner Unit and Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) development of best management practices for the purpose of improving the efficiency of irrigation water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation of water quality by irrigation practices;

(3) investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the planned Lake Andes-Wagner Unit and the Marty II Unit through the application of water and other management practices;

(4) investigation and demonstration of the suitability of glacial till soils for crop production under irrigation, giving preference to crops that are not eligible for assistance under programs covered by title V of the Agriculture Act of 1949 (7 U.S.C. 1461 et seq.) or by any successor programs established for crop years subsequent to 1990.

(c) Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions:

(1) rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor;

(2) the Secretary shall:

(A) supply all water, delivery system, pivot systems and drains;

(B) operate and maintain the irrigation system;

(C) supply all seed, fertilizers and pesticides and make standardized equipment available;

(D) determine crop rotations and cultural practices;

(E) have unrestricted access to leased lands;

(3) the Secretary may contract with the lessor and/or custom operators to accomplish agricultural work, which work shall be performed as prescribed by the Secretary;

(4) no grazing may be performed on a study site;

(5) crops grown shall be the property of the United States; and

(6) at the conclusion of the lease, the lands involved will, to the extent practicable, be restored by the Secretary to their pre-leased condition at no expense to the lessor.

(d) The Secretary shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by the Secretary. Any crops not sold shall be disposed of as the Secretary determines to be appropriate, except that no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) The land from each ownership in a study site shall be established by the Secretary as a separate farm. Each such study site farm will, during the demonstration phase of the Demonstration Program, annually receive planted and considered planting credit equal to the crop acreage base established for the farm by use of crop land ratios when it became a separate farm without regard to the acreage actually planted on the farm. Establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) The Secretary shall periodically, but not less often than once a year, report to the Committee on Energy and Natural Resources of the Senate, to the Committee on Interior and Insular Affairs of the House of Representatives, and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge. Each Demonstration Program report, including the report referred to in paragraph (3) of this subsection, shall evaluate data covering the results of the Demonstration Program as carried out on the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. The demonstration phase of the Demonstration Program shall terminate at the conclusion of the fifth full irrigation season. Promptly thereafter, the Secretary shall:

(1) remove temporary facilities and equipment and restore the study sites as nearly as practicable to their prelease condition. The Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation if so doing would be less costly than removing such equipment;

(2) otherwise wind up the Demonstration Prgram; and

(3) prepare a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge.

(g) Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for the Bureau of Reclamation. The Secretary, using only funds appropriate for the Demonstration Program, shall transfer to the other Federal agencies funds appropriate for their expenses.

SEC. 1303. PLANNING REPORTS-ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Program provided for in section 1302, the Secretary, with respect to the Lake Andes-Wagner Unit and the Marty II Unit, shall comply with the study and reporting requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions thereof. Using feasibility methodologies consistent with those employed in the Lake Andes-Wagner Unit Planning Report—Final Environmental Impact Statement, filed September 17, 1985, the final reports prepared under this subsection shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency. The final report for the Lake Andes-Wagner Unit shall constitute a supplement to the Lake Andes-Wagner Unit report referred to in the preceding sentence.

(b) Each report prepared under subsection (a) shall include a detailed plan providing for the prevention, correction, or mitigation of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the Unit to which the report pertains and shall be accompanied by findings by the Secretary and the Administrator of the Environmental Protection Agency that the Unit to which the report pertains can be constructed, operated and maintained so as to comply with all applicable water quality standards.

(c) The construction of a Unit may not be undertaken until the final report pertaining to that Unit, and the findings referred to in subsection (b) of this section, have lain before the Congress for not less than one hundred and twenty days and the Congress has appropriated funds for the initiation of construction.

SEC. 1304. AUTHORIZATION OF THE LAKE ANDES-WAGNER UNIT AND THE MARTY II UNIT, SOUTH DAKOTA.

Subject to the requirements of section 1303 of this title, the Secretary is authorized to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota, as units of the South Dakota Pumping Divisions, Pick-Sloan Missouri Basin Program. The units shall be integrated physically and financially with other Federal works constructed under the Pick-Sloan Missouri Basin Program.

SEC. 1305. CONDITIONS.

(a) The Lake Andes-Wagner Unit shall be constructed, operated and maintained to irrigate not more than approximately 45,000 acres substantially as provided in the Lake Andes-Wagner Unit Planning Report—Final Environmental Impact Statement filed September 17, 1985, supplemented as provided in section 1303 of this title. The Lake Andes-Wagner Unit shall include on-farm pumps, irrigation sprinkler systems, and other on-farm facilities necessary for the irrigation of not to exceed approximately 1,700 acres of Indian-owned lands. The use of electric power and energy required to operate the facilities for the irrigation of such Indian-owned lands and to provide pressurization for such Indian-owned lands shall be considered to be a project use.

(b) The Marty II Unit shall include a river pump, irrigation distribution system, booster pumps, irrigation sprinkler systems, farm and project drains, electrical distribution facilities, and the pressurization to irrigate not more than approximately 3,000 acres of Indian-owned land in the Yankton-Sioux Indian Reservation, substantially as provided in the final report for the Marty II Unit prepared pursuant to section 1303 of this title.

(c) The construction costs of the Lake Andes-Wagner Unit allocated to irrigation of non-Indian owned lands (both those assigned for return by the water users and those assigned for return from power revenues of the Pick-Sloan Missouri Basin Program) shall be repaid no later than forty years following the development period. Repayment of the construction costs of the Lake Andes-Wagner Unit apportioned to serving Indian-owned lands and of the Marty II Unit allocated to irrigation shall be governed by the Act of July 1, 1932 (47 Stat. 564 Chapter 369; 25 U.S.C. 386a).

(d) Indian-owned lands, or interests therein, required for the Lake Andes-Wagner Unit or the Marty II Unit may, as an alternative to their acquisition pursuant to existing authority under the Federal reclamation laws, be acquired by exchange for land or interests therein of equal or greater value which are owned by the United States and administered by the Secretary or which may be acquired for that purpose by the Secretary.

(e) For purposes of participation of lands in the Lake Andes-Wagner Unit and the Marty II Unit in programs covered by title V of the Agriculture Act of 1949 (7 U.S.C. 1461 et seq.) as amended by subtitle A of title XI of the Food, Agriculture, Conservation and Trade Act of 1990 the crop acreage base determined under title V of that Act as so amended and the program payment yield determined under title V of that Act as so amended shall be the crop acreage base and program payment yield established for the crop year immediately preceding the crop year in which the development period for each Unit is initiated. For any successor programs established for crop years subsequent to 1995, the acreage and yield on which any program payments are based shall be determined without taking into consideration any increase in acreage or yield resulting from the construction and operation of the Units.

(f) Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the facilities authorized by this section shall be concurrent with the construction of the Unit involved and shall be on an acre-for-acre basis, based on ecological equivalency. In addition to the fish and wildlife enhancement to be provided by the fish rearing pond of the Lake Andes Unit, other facilities of that Unit may be utilized to provide fish and wildlife benefits beyond the mitigation required to the extent that such benefits may be provided without increasing costs of construction, operation, maintenance or replacement allocable to irrigation or impairing the efficiency of that Unit for irrigation purposes.

SEC. 1306. INDIAN EMPLOYMENT.

In carrying out sections 1302, 1304 and 1305 of this title, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions, training and employment opportunities shall be provided to members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 1307. FEDERAL RECLAMATION LAWS GOVERN.

This title is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto and amendatory thereof). The Federal reclamation laws shall govern all functions undertaken pursuant to this title, except as otherwise provided in this title.

SEC. 1308. COST SHARING.

(a) IN GENERAL.—The Proposal dated September 29, 1987, supplemented October 30, 1987 (on file with the Committee on Energy and Natural Resources of the Senate and with the Committee on Interior and Insular Affairs of the House of Representatives), pursuant to which the State of South Dakota (hereafter in this section referred to as the "State") and the Lake Andes-Wagner Irrigation District (hereinafter in this section referred to as the "District") would provide funding for certain costs of the Lake Andes-Wagner Unit, and the District would also assume certain responsibilities with respect thereto, is approved subject to the provisions of subsections (b) and (c) of this section. The Secretary shall promptly enter into negotiations with the State and District to conclude an agreement between the United States, the State, and the District implementing the proposal.

(b) The agreement shall include provisions for:

(1) the establishment and capitalization of the non-Federal fund, including, subject to the Secretary's approval, investment policies and selection of the administering financial institution, and including also provisions dealing with withdrawals of moneys in the fund for construction purposes;

(2) the District to administer the design and construction, which shall be subject to the approval of the Secretary, of the distribution and drainage systems for the Lake Andes-Wagner Unit;

(3) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the ring dike, not exceeding $3,500,000, the construction cost, if any, of such dike in excess of that amount being the responsibility of the United States but any such excess cost remains reimbursable, subject to the condition that construction of the ring dike shall not commence earlier than the sixth year of full operation; and

(4) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the Unit's closed drainage system, not exceeding $36,000,000, the construction cost, if any, of the closed drainage system in excess of that amount being the responsibility of the United States but any such excess remains reimbursable, subject to the conditions that:

(A) construction of the closed drainage system shall commence not earlier than the sixth year of full operation of the Unit and shall continue over a period of thirty-five years as required by the Secretary subject to such modifications in the commencement date and the construction period as the Secretary determines to be required on the basis of physical conditions; and

(B) the District, in addition to such annual assessment as may be required to meet its expenses (including operation and maintenance costs and any annual repayment installments to the United States) shall, commencing three years after issuance by the Secretary of a notice that construction of the Unit (other than drainage facilities) has been completed, levy assessments annually of not less than $1.00 per irrigable acre calculated to provide moneys sufficient, together with other moneys in the fund, including anticipated accruals, referred to in paragraph (1), to finance, not to exceed $36,000,000, the construction of the closed drainage system.

(C) In the event the detailed plan of the Lake Andes-Wagner Unit referred to in subsection (b) of section 1303 reduces the irrigated acreage of the Lake Andes-Wagner Unit to less than 45,000, the District's maximum obligation hereunder shall be reduced in the ratio that the reduction in acreage bears to 45,000.

(c) Notwithstanding any other requirements of this section, the Secretary shall require that the agreement to be negotiated pursuant to this section shall provide that the total non-Federal share of the costs of construction allocable to irrigation of the facilities of the Lake Andes-Wagner Unit to be constructed pursuant to subsection (a) of section 1304 of this title (other than the costs apportionable to serving Indian-owned lands and the facilities described in the second sentence of that subsection) shall be 30 percent. The 30 percent non-Federal share shall include:

(1) funds to be deposited in the non-Federal fund referred to in paragraph (1) of subsection (b) of this section and interest earned thereon;

(2) savings to the United States by reason of paragraph (2) of subsection (b) of this section;

(3) savings to the United States by reason of administering the design and construction of any other feature or features of the Lake Andes-Wagner Unit, and of any feature or features of the Marty II Unit, the design and construction of which is administered by the District pursuant to an agreement with the Secretary;

(4) all funds heretofore or hereafter made available to the United States by non-Federal interests, or expended by such interests, for planning or advance planning assistance for the Lake Andes-Wagner Unit or for the Marty II Unit; and

(5) any feature to which this section applies shall not be initiated until after the District and the State have entered into the cost-share agreement with the United States required by this section.

SEC. 1309. AUTHORIZATION OF APPROPRIATIONS.

(a) LAKE ANDES-WAGNER UNIT.—There are authorized to be appropriated—

(1) $175,000,000 (October 1989 price levels) for construction of the Lake Andes-Wagner Unit (other than the facilities described in the second sentence of subsection (a) of section 1305 of this title) less the non-Federal contributions as provided in subsections (b) and (c) of section 1308 of this title; and

(2) $1,350,000 (October 1989 price levels) for construction of the facilities described in the second sentence of subsection (a) of section 1305 of this title, which amounts include costs of the Lake Andes-Wagner Irrigation District in administering design and construction of the irrigation distribution and drainage systems.

(b) MARTY II UNIT.—There are authorized to be appropriated $24,000,000 (January 1989 price levels) for construction by the Bureau of Reclamation in consultation with the Bureau of Indian Affairs of the Marty II Unit.

(c) The amounts authorized to be appropriated by subsections (a) and (b) of this section shall be plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the type of construction involved.

(d) DEMONSTRATION PROGRAM.—There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program.

(e) OPERATION AND MAINTENANCE.—There are authorized to be appropriated such amounts as may be necessary for the operation and maintenance of each Unit.

SEC. 1310. INDIAN WATER RIGHTS.

Nothing in this title shall be construed as affecting any water rights or claims thereto of the Yankton-Sioux tribe.

TITLE XIV—MID-DAKOTA RURAL WATER SYSTEM

SEC. 1401. SHORT TITLE.

This title may be cited as the "Mid-Dakota Rural Water System Act of 1992".

SEC. 1402. DEFINITIONS.

For purposes of this title—

(1) the term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report), as modified to reflect consideration of the benefits of the water conservation programs developed and implemented under section 1405 of this title;

(2) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(3) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(4) the term "Secretary" means the Secretary of the Interior;

(5) the term "summer electrical season" means May through October of each year;

(6) the term "water system" means the Mid-Dakota Rural Water System, substantially in accordance with the feasibility study;

(7) the term "Western" means the Western Area Power Administration;

(8) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report; and

(9) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990.

SEC. 1403. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) SERVICE AREA.—The water system shall provide for safe and adequate municipal, rural, and industrial water supplies; mitigation of wetland areas; and water conservation in Beadle County (including the city of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) TERMS AND CONDITIONS.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that those terms and conditions are inconsistent with this title.

(d) AMOUNT OF GRANTS.—Grants made available under subsection (a) to Mid-Dakota Rural Water System, Inc. and water conservation measures consistent with section 1405 of this title shall not exceed 85 percent of the amount authorized to be appropriated by section 1412 of this title.

(e) LOAN TERMS.—

(1) a loan or loans made to Mid-Dakota Rural Water System, Inc. under the provisions of this title shall be repaid, with interest, within thirty years from the date of each loan or loans and no penalty for prepayment; and

(2) interest on a loan or loans made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(A) shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made; and

(B) shall not accrue during planning and construction of the water system, and the first payment on such a loan shall not be due until after completion of construction of the water system.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Mid-Dakota Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met; and

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days.

(g) COORDINATION WITH THE DEPARTMENT OF AGRICULTURE.—

(1) The Secretary shall coordinate with the Secretary of Agriculture, to the maximum extent practicable, grant and loan assistance made under this section with similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(2) The Secretary of Agriculture shall take into consideration grant and loan assistance available under this section when considering whether to provide similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) to an applicant in the service area defined in subsection (b).

SEC. 1404. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development of the wetland component.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a grant, not to exceed $100,000 annually, to the Mid-Dakota Rural Water System, Inc., for the operation and maintenance of the wetland component.

(c) NONREIMBURSEMENT.—Funds provided under this section shall be nonreimbursable and nonreturnable.

SEC. 1405. WATER CONSERVATION.

(a) WITHHOLDING OF FUNDS.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds that non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) PURPOSE OF PROGRAMS.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

(c) DESCRIPTION OF PROGRAMS.—Such water conservation programs shall include (but are not limited to) adoption and enforcement of the following—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) metering for all elements and individual connections of the rural water supply systems to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as individual customers);

(4) declining block rate schedules shall not be used for municipal households and special water users (as defined in the feasibility study);

(5) public education programs; and

(6) coordinated operation among each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 1406. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 1407. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc.;

that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be precluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 1408. RULE OF CONSTRUCTION.

This title shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 1409. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or groundwater, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any groundwater resources.

SEC. 1410. USE OF GOVERNMENT FACILITIES.

The use of and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the other purposes for which they are authorized.

SEC. 1411. AUTHORIZATION OF APPROPRIATIONS.

(a) WATER SYSTEM.—There is authorized to be appropriated to the Secretary $100,000,000 for the planning and construction of the water system under section 1403, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available under expended.

(b) WETLAND COMPONENT.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 1404; and

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 1404;

(3) $7,000,000 for the Federal contribution to the wetland trust under section 1411.

TITLE XV—SAN LUIS VALLEY PROTECTION

SEC. 1501. PERMIT ISSUANCE PROHIBITED.

(a) No agency or instrumentality of the United States shall issue any permit, license, right-of-way, grant, loan or other authorization or assistance for any project or feature of any project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or export to any portion of another State, unless the Secretary of the Interior determines, after due consideration of all findings provided by the Colorado Water Conservation Board, that the project will not:

(1) increase the costs or negatively affect operation of the Closed Basin Project;

(2) adversely affect the purposes of any national wildlife refuge or federal wildlife habitat area withdrawal located in the San Luis Valley, Colorado; or

(3) adversely affect the purposes of the Great Sand Dunes National Monument, Colorado.

(b) Nothing in this title shall be construed to alter, amend, or limit any provision of Federal or State law that applies to any project or feature of a project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or another State. Nothing in this title shall be construed to limit any agency's authority or responsibility to reject, limit, or condition any such project on any basis independent of the requirements of this title.

SEC. 1502. JUDICIAL REVIEW.

The Secretary's findings required by this title shall be subject to judicial review in the United States district courts.

SEC. 1503. COSTS.

The direct and indirect costs of the findings required by section 1501 of this title shall be paid in advance by the project proponent under terms and conditions set by the Secretary.

SEC. 1504. DISCLAIMERS.

(a) Nothing in this title shall constitute either an expressed or implied reservation of water or water rights.

(b) Nothing in this title shall be construed as establishing a precedent with regard to any other federal reclamation project.

TITLE XVI—IRRIGATION ON STANDING ROCK INDIAN RESERVATION

SEC. 1601. IRRIGATION ON STANDING ROCK INDIAN RESERVATION.

Section 5(e) of Public Law 89-108, as amended by section 3 of the Garrison Diversion Unit Reformulation Act of 1986, is amended by striking "Fort Yates" and inserting "one or more locations within the Standing Rock Indian Reservation".

TITLE XVII—SOUTH DAKOTA WATER PLANNING STUDIES

SEC. 1701. AUTHORIZATION FOR SOUTH DAKOTA WATER PLANNING STUDIES.

The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100-516). Section 3(b)(1) of the Mni Wiconi Project Act of 1988 is amended by striking "shall" and inserting "may".

TITLE XVIII—PLATORO RESERVOIR AND DAM, SAN LUIS VALLEY PROJECT, COLORADO

SEC. 1801. FINDINGS AND DECLARATIONS.

The Congress finds that and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grande Compact of 1939 on the use of the Rio Grande River among the States of Colorado, New Mexico, and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to—

(A) transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States and the District (Contract No. Ilr-1529, as amended); and

(C) determine such one-time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and maintaining a minimum stream flow as provided in section 1802(d) of this title.

SEC. 1802. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the district in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. Ilr-1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam, and Reservoir under Federal and State law; and,

(B) that the District shall have the exclusive use of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such contract No. Ilr-1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The District will, after consultation with the United States Forest Service, Department of Agriculture, operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases of bypass from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 3,000 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss: *Provided, however*, That if necessary to maintain the winter instream flow provided in subparagraph (3), the permanent pool may be allowed to be reduced to 2,400 acre-feet.

(3) In order to preserve fish and wildlife habitat below Platoro Reservoir, the District shall maintain releases of water from Platoro Reservoir of 7 cubic feet per second during the months of October through April and shall bypass 40 cubic feet per second or natural inflow, whichever is less, during the months of May through September.

(4) The United States Forest Service, Department of Agriculture, is directed to regularly monitor operation of Platoro Reservoir, including releases from it for instream flow purposes, and to enforce the provisions of this subsection (d).

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this subsection shall be consistent with the water supply use of the reservoir, with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer and with the provisions of subsection (d) hereof. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 1802 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 1803. DEFINITIONS.

As used in this title—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

TITLE XIX—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

SEC. 1901. SHORT TITLE.

This title may be referred to as the "Reclamation Wastewater and Groundwater Study and Facilities Act".

SEC. 1902. GENERAL AUTHORITY.

(a) The Secretary of the Interior (hereafter "Secretary"), acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto (hereafter "Federal reclamation laws"), is directed to undertake a program to investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater, and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.

(b) Such program shall be limited to the States and areas referred to in section 1 of the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) as amended.

(c) The Secretary is authorized to enter into such agreements and promulgate such regulations as may be necessary to carry out the purposes and provisions of this title.

(d) The Secretary shall not investigate, promote or implement, pursuant to this title, any project intended to reclaim and reuse agricultural wastewater generated in the service area of the San Luis Unit of the Central Valley Project, California, except those measures recommended for action by the San Joaquin Valley Drainage Program in the report entitled "A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley" (September 1990).

SEC. 1903. APPRAISAL INVESTIGATIONS.

(a) The Secretary shall undertake appraisal investigations to identify opportunities for water reclamation and reuse. Each such investigation shall take into account environmental considerations as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions thereof, and shall include recommendations as to the preparation of a feasibility study of the potential reclamation and reuse measures.

(b) Appraisal investigations undertaken pursuant to this title shall consider, among other things—

(1) all potential uses of reclaimed water, including, but not limited to, environmental restoration, fish and wildlife, groundwater recharge, municipal, domestic, industrial, agricultural, power generation, and recreation;

(2) the current status of water reclamation technology and opportunities for development of improved technologies;

(3) measures to stimulate demand for and eliminate obstacles to use of reclaimed water, including pricing;

(4) measures to coordinate and streamline local, state and Federal permitting procedures required for the implementation of reclamation projects; and

(5) measures to identify basic research needs required to expand the uses of reclaimed water in a safe and environmentally sound manner.

(c) The Secretary shall consult and cooperate with appropriate State, regional, and local authorities during the conduct of each appraisal investigation conducted pursuant to this title.

(d) Costs of such appraisal investigations shall be nonreimbursable.

SEC. 1904. FEASIBILITY STUDIES.

(a) The Secretary is authorized to participate with appropriate Federal, State, regional, and local authorities in studies to determine the feasibility of water reclamation and reuse projects recommended for such study pursuant to section 1903 of this title. The Federal share of the costs of such feasibility studies shall not exceed 50 per centum of the total, except that the Secretary may increase the Federal share of the costs of such feasibility study if the Secretary determines, based upon a demonstration of financial hardship on the part of the non-Federal participant, that the non-Federal participant is unable to contribute at least 50 per centum of the costs of such study. The Secretary may accept as part of the non-Federal cost share the contribution of such in-kind services by the non-Federal participant that the Secretary determines will contribute substantially toward the conduct and completion of the study.

(b) The Federal share of feasibility studies, including those described in sections 1906 and 1908 through 1910 of this title, shall be considered as project costs and shall be reimbursed in accordance with the Federal reclamation laws, if the project studied is implemented.

(c) In addition to the requirements of other Federal laws, feasibility studies authorized under this title shall consider, among other things—

(1) near- and long-term water demand and supplies in the study area;

(2) all potential uses for reclaimed water;

(3) measures and technologies available for water reclamation, distribution, and reuse;

(4) public health and environmental quality issues associated with use of reclaimed water; and,

(5) whether development of the water reclamation and reuse measures under study would—

(A) reduce, postpone, or eliminate development of new or expanded water supplies, or

(B) reduce or eliminate the use of existing diversions from natural watercourses or withdrawals from aquifers.

SEC. 1905. RESEARCH AND DEMONSTRATION PROJECTS.

The Secretary is authorized to conduct research and to construct, operate, and maintain cooperative demonstration projects for the development and demonstration of appropriate treatment technologies for the reclamation of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters. The Federal share of the costs of demonstration projects shall not exceed 50 percent of the total cost including operation and maintenance. Rights to inventions developed pursuant to this section shall be governed by the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (Pub. L. 96-480) as amended by the Technology Transfer Act of 1986 (Pub. L. 99-502).

SEC. 1906. SOUTHERN CALIFORNIA COMPREHENSIVE WATER RECLAMATION AND REUSE STUDY.

(a) The Secretary is authorized to conduct a study to assess the feasibility of a comprehensive water reclamation and reuse system for Southern California. For the purpose of this title, the term "Southern California" means those portions of the counties of Imperial, Los Angeles, Orange, San Bernardino, Riverside, San Diego, and Ventura within the south coast and Colorado River hydrologic regions as defined by the California Department of Water Resources.

(b) The Secretary shall conduct the study authorized by this section in cooperation with the State of California and appropriate local and regional entities. The Federal share of the costs associated with this study shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than six years after appropriation of funds authorized by this title.

SEC. 1907. SAN JOSE AREA WATER RECLAMATION AND REUSE PROGRAM.

(a) The Secretary, in cooperation with the city of San Jose, California, and the Santa Clara Valley Water District, and local water suppliers, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Jose metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1908. PHOENIX METROPOLITAN WATER RECLAMATION STUDY AND PROGRAM.

(a) The Secretary, in cooperation with the city of Phoenix, Arizona, shall conduct a feasibility study of the potential for development of facilities to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, groundwater recharge and direct potable reuse in the Phoenix metropolitan area, and in cooperation with the City of Phoenix design and construct facilities for environmental purposes, ground water recharge and direct potable reuse.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total. The Federal share of the costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for operation or maintenance of the project.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title.

SEC. 1909. TUCSON AREA WATER RECLAMATION STUDY.

(a) The Secretary, in cooperation with the State of Arizona and appropriate local and regional entities, shall conduct a feasibility study of comprehensive water reclamation and reuse system for Southern Arizona. For the purpose of this section, the term "Southern Arizona" means those portions of the counties of Pima, Santa Cruz, and Pinal within the Tucson Active Management Hydrologic Area as defined by the Arizona Department of Water Resources.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title.

SEC. 1910. LAKE CHERAW WATER RECLAMATION AND REUSE STUDY.

(a) The Secretary is authorized, in cooperation with the State of Colorado and appropriate local and regional entities, to conduct a study to assess and develop means of reclaiming the waters of Lake Cheraw, Colorado, or otherwise ameliorating, controlling and mitigating potential negative impacts of pollution in the waters of Lake Cheraw on groundwater resources or the waters of the Arkansas River.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title.

SEC. 1911. SAN FRANCISCO AREA WATER RECLAMATION STUDY.

(a) The Secretary, in cooperation with the city and county of San Francisco, shall conduct a feasibility study of the potential for development of demonstration and permanent facilities to reclaim water in the San Francisco area for the purposes of export and reuse elsewhere in California.

(b) The Federal share of the cost of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title.

SEC. 1912. SAN DIEGO AREA WATER RECLAMATION PROGRAM.

(a) The Secretary, in cooperation with the city of San Diego, California or its successor agency in the management of the San Diego Area Wastewater Management District, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Diego metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1913. LOS ANGELES AREA WATER RECLAMATION AND REUSE PROJECT.

(a) The Secretary is authorized to participate with the city and county of Los Angeles, State of California, West Basin Municipal Water District, and other appropriate authorities, in the design, planning, and construction of water reclamation and reuse projects to treat approximately one hundred and twenty thousand acre-feet per year of effluent from the city and county of Los Angeles, in order to provide new water supplies for industrial, environmental, and other beneficial purposes, to reduce the demand for imported water, and to reduce sewage effluent discharged into Santa Monica Bay.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for operation or maintenance of the project.

SEC. 1914. SAN GABRIEL BASIN DEMONSTRATION PROJECT.

(a) The Secretary, in cooperation with the Metropolitan Water District of Southern California and the Main San Gabriel Water Quality Authority or a successor public agency, is authorized to participate in the design, planning and construction of a conjunctive-use facility designed to improve the water quality in the San Gabriel groundwater basin and allow the utilization of the basin as a water storage facility; *Provided*, That this authority shall not be construed to limit the authority of the United States under any other Federal statute to pursue remedial actions or recovery of costs for work performed pursuant to this subsection.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1915. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of sections 1901 through 1914 of this title.

SEC. 1916. GROUNDWATER STUDY.

(a) In furtherance of the High Plains Groundwater Demonstration Program Act of 1983 (98 Stat. 1675), the Secretary of the Interior, acting through the Bureau of Reclamation and the Geological Survey, shall conduct an investigation and analysis of the impacts of existing Bureau of Reclamation projects on the quality and quantity of groundwater resources. Based on such investigation and analysis, the Secretary shall prepare a reclamation groundwater management and technical assistance report which shall include—

(1) a description of the findings of the investigation and analysis, including the methodology employed;

(2) a description of methods for optimizing Bureau of Reclamation project operations to ameliorate adverse impacts on groundwater, and

(3) the Secretary's recommendations, along with the recommendations of the Governors of the affected States, concerning the establishment of a groundwater management and technical assistance program in the Department of the Interior in order to assist Federal and non-Federal entity development and implementation of groundwater management plans and activities.

(b) In conducting the investigation and analysis, and in preparation of the report referred to in this section, the Secretary shall consult with the Governors of the affected States.

(c) The report shall be submitted to the Committees on Appropriations and Interior and Insular Affairs of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate within three years of the appropriation of funds authorized by section 1917.

SEC. 1917. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal years beginning after September 30, 1992, $4,000,000 to carry out the study authorized by section 1916.

TITLE XX—SALTON SEA RESEARCH PROJECT

SEC. 2001. RESEARCH PROJECT TO CONTROL SALINITY.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding in-water segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) COST SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be 50 percent of the cost of the project.

(c) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives regarding the results of the project referred to in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out the purposes of this title.

TITLE XXI—RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE UNIT, NEW MEXICO

SEC. 2101. CLARIFICATION OF COST-SHARE REQUIREMENTS.

Notwithstanding any other provision of law, the project for flood control, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico, authorized by section 203 of the Flood Control Act of 1948 (Public Law 80-858) and amended by section 204 of the Flood Control Act of 1950 (Public Law 81-516), is modified to more equitably reflect the non-Federal benefits from the project in relation to the total benefits of the project by reducing the non-Federal contribution for the project by that percentage of benefits which is attributable to the Federal properties: *Provided, however*, That the Federal property benefits exceed 50 per centum of the total project benefits.

TITLE XXII—REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA

SEC. 2201. SALE OF BUREAU OF RECLAMATION LOANS.

(a) The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall conduct appropriate investigations regarding, and is authorized to, sell, or accept prepayment on, loans made pursuant to the Small Reclamation Projects Act (43 U.S.C. 422a-4221) to the Redwood Valley County Water District.

(b) Any sale or prepayment of such loans, which are numbered 14-06-200-8423A and 14-06-200-842A Amendatory to the Redwood Valley County Water District, shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the federal government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the federal government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2202. SAVINGS PROVISIONS.

Nothing in this title, including prepayment or other disposition of any loans, shall—

(a) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the applications of the provisions of Federal Reclamation Law (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982), including acreage limitations, to the extent such provisions would apply absent such prepayment; or

(b) authorize the transfer of title to any federally owned facilities funded by the loans specified in section 2201 of this title without a specific act of Congress.

SEC. 2203. FEES AND EXPENSES OF PROGRAM.

In addition to the amount to be realized by the United States as provided in section 2201, the Redwood Valley County Water District shall pay all reasonable fees and expenses incurred by the Secretary relative to the sale.

SEC. 2204. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: *Provided*, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

TITLE XXIII—UNITED WATER CONSERVATION DISTRICT, CALIFORNIA

SEC. 2301. SALE OF THE FREEMAN DIVERSION IMPROVEMENT PROJECT LOAN.

(a) AGREEMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall conduct appropriate investigations regarding, and is authorized to sell, or accept prepayment on, the loan contract described in paragraph (2) to the United Water Conservation District in California (referred to in this title as the "District") for the Freeman Diversion Improvement Project.

(2) LOAN CONTRACT.—The loan contract described in paragraph (1) is numbered 7-07-20-W0615 and was entered into pursuant to the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).

(b) PAYMENT.—Any agreement negotiated pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the federal government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2302. TERMINATION AND CONVEYANCE OF RIGHTS.

Upon receipt of the payment specified in section 2301(b)—

(1) the District's obligation under the loan contract described in section 2301(a)(2) shall be terminated;

(2) the Secretary of the Interior shall convey all right and interest of the United States in the Freeman Diversion Improvement Project to the District; and,

(3) the District shall absolve the United States, and its officers and agents, of any liability associated with the Freeman Diversion Improvement Project.

SEC. 2303. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: *Provided*, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

TITLE XXIV—SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA

SEC. 2401. REPAYMENT OF WATER PUMPS, SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT CALIFORNIA.

(a) WATER PUMP REPAYMENT.—The Secretary shall credit to the unpaid capital obligation of the San Juan Suburban Water District (District), as calculated in accordance with the Central Valley Project rate setting policy, an amount equal to the documented price paid by the District for pumps provided by the District to the Bureau of Reclamation, in 1991, for installation at Folsom Dam, Central Valley Project, California.

(b) CONDITIONS.—(1) The amount credited shall not include any indirect or overhead costs associated with the acquisition of the pumps, such as those associated with the negotiation of a sales price or procurement contract, inspection, and delivery of the pumps from the seller to the Bureau.

(2) The credit is effective on the date the pumps were delivered to the Bureau for installation at Folsom Dam.

TITLE XXV—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

SEC. 2501. CONVEYANCE TO SUNNYSIDE VALLEY IRRIGATION DISTRICT.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described at lots 1 and 2 of block 34 of the town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

SEC. 2601. HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROGRAM ACT.

The High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g–1 et seq.) is amended as follows:

(1) Section 4(c)(2) and section 5 are each amended by striking "final report" each place it appears and inserting "summary report".

(2) Section 4(c) is amended by adding at the end the following:

"(3) In addition to recommendations made under section 3, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

"(4) Each project under this section shall terminate 5 years after the date on which construction on the project is completed.

"(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.".

(3) Section 7 is amended by striking "$20,000,000 (October 1983 price levels)" and inserting in lieu thereof "$31,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein".

TITLE XXVII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 2701. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 2703, to the interstate compact, described in section 2702, relating to the waters of the Sabine River and its tributaries.

SEC. 2702. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (chapter 668; 68 Stat. 690; Public Law 85–78).

SEC. 2703. AMENDMENT.

The amendment referred to in section 2701 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: *Provided*, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XXVIII—MONTANA IRRIGATION PROJECTS

SEC. 2801. PICK-SLOAN PROJECT PUMPING POWER.

(a) The Secretary of the Interior, in cooperation with the Secretary of Energy, shall make available, as soon as practicable after the date of enactment of this Act, project pumping power from the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" approved December 22, 1944 (58 Stat. 891) (commonly known as the "Flood Control Act of 1944") to two existing non-Federal irrigation projects known as the—

(1) Haidle Irrigation Project, Prairie County, Montana; and

(2) Hammond Irrigation District, Rosebud County, Montana.

(b) Power made available under this section shall be at the firm power rate.

TITLE XXIX—ELEPHANT BUTTE IRRIGATION DISTRICT, NEW MEXICO

SEC. 2901. TRANSFER.

The Secretary is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assume responsibility for operating and maintaining their portion of the project.

SEC. 2902. LIMITATION.

Title to and responsibility for operation and maintenance of Elephant Butte and Caballo dams, and Percha, Leasburg, and Mesilla diversion dams and the works necessary for their protection and operation shall be unaffected by this title.

SEC. 2903. EFFECT OF ACT ON OTHER LAWS.

Nothing in this title shall affect any right, title, interest or claim to land or water, if any, of the Ysleta del Sur Pueblo, a federally recognized Indian Tribe.

TITLE XXX—RECLAMATION RECREATION MANAGEMENT ACT

SEC. 3001. SHORT TITLE.

This title may be cited as the "Reclamation Recreation Management Act of 1992".

SEC. 3002. FINDINGS.

The Congress finds and declares the following:

(1) There is a Federal responsibility to provide opportunities for public recreation at Federal water projects.

(2) Some provisions of the Federal Water Project Recreation Act are outdated because of increases in demand for outdoor recreation and changes in the economic climate for recreation managing entities.

(3) Provisions of such Act relating to non-Federal responsibility for all costs of operation, maintenance, and replacement of recreation facilities result in an unfair burden, especially in cases where the facilities are old or underdesigned.

(4) Provisions of such Act that limit the Federal share of recreation facility development at water projects completed before 1965 to $100,000 preclude a responsible Federal share in providing adequate opportunities for safe outdoor recreation.

(5) There should be Federal authority to expand existing recreation facilities to meet

public demand, in partnership with non-Federal interests.

(6) Nothing in this title changes the responsibility of the Bureau to meet the purposes for which Federal Reclamation projects were initially authorized and constructed.

(7) It is therefore in the best interest of the people of this Nation to amend the Federal Water Project Recreation Act to remove outdated restrictions and authorize the Secretary of the Interior to undertake specific measures for the management of Reclamation lands.

SEC. 3003. DEFINITIONS.

For the purposes of this title:

(1) The term "Reclamation lands" means real property administered by the Secretary, acting through the Commissioner of Reclamation, and includes all acquired and withdrawn lands and water areas under jurisdiction of the Bureau.

(2) The term "Reclamation program" means any activity authorized under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371)), and Acts supplementary thereto and amendatory thereof).

(3) The term "Reclamation project" means any water supply or water delivery project constructed or administered by the Bureau of Reclamation under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

(4) The term "Secretary" means the Secretary of the Interior.

SEC. 3004. AMENDMENTS TO THE FEDERAL WATER PROJECT RECREATION ACT.

(a) ALLOCATION OF COSTS.—Section 2(a) of the Federal Water Project Recreation Act (16 U.S.C. 460l-13(a)) is amended, in the matter preceding paragraph (1), by striking "all the costs of operation, maintenance, and replacement" and inserting "not less than one-half the costs of operation, maintenance, and replacement".

(b) RECREATION AND FISH AND WILDLIFE ENHANCEMENT.—Section 3(b)(1) of the Federal Water Project Recreation Act (16 U.S.C. 460l-14(b)(1)) is amended—

(1) by striking "within ten years"; and

(2) by striking "all costs of operation, maintenance, and replacement attributable" and inserting "not less than one-half the costs of planning studies, and the costs of operation, maintenance, and replacement attributable".

(c) LEASE OF FACILITIES.—Section 4 of the Federal Water Project Recreation Act (16 U.S.C. 460l-15) is amended by striking "costs of operation, maintenance, and replacement of existing" and inserting "not less than one-half the costs of operation, maintenance, and replacement of existing".

(d) EXPANSION OR MODIFICATION OF EXISTING FACILITIES.—Section 3 of the Federal Water Project Recreation Act (16 U.S.C. 460l-14) is amended by adding at the end the following new subsection:

"(c)(1) Any recreation facility constructed under this Act may be expanded or modified if—

"(A) the facility is inadequate to meet recreational demands; and

"(B) a non-Federal public body executes an agreement which provides that such public body—

"(i) will administer the expanded or modified facilities pursuant to a plan for development for the project that is approved by the agency with administrative jurisdiction over the project; and

"(ii) will bear not less than one-half of the planning and capital costs of such expansion or modification and not less than one-half of the costs of the operation, maintenance, and replacement attributable to the expansion of the facility.

"(2) The Federal share of the cost of expanding or modifying a recreational facility described in paragraph (1) may not exceed 50 percent of the total cost of expanding or modifying the facility.".

(e) LIMITATION.—Section 7(a) of the Federal Water Project Recreation Act (16 U.S.C. 460l-18(a)) is amended—

(1) by striking "purposes: Provided," and all that follows through the end of the sentence and inserting "purposes"; and

(2) by striking "subsection 3(b)" and inserting "subsection (b) or (c) of section 3".

SEC. 3005. MANAGEMENT OF RECLAMATION LANDS.

(a) ADMINISTRATION.—(1) Upon a determination that any such fee, charge, or commission is reasonable and appropriate, the Secretary acting through the Commissioner of Reclamation, is authorized to establish—

(A) filing fees for applications and other documents concerning entry upon and use of Reclamation lands;

(B) recreation user fees; and

(C) charges or commissions for the use of Reclamation lands.

(2) The Secretary, acting through the Commissioner of Reclamation, shall promulgate such regulations as the Secretary determines to be necessary—

(A) to carry out the provisions of this section and section 3006;

(B) to ensure the protection, comfort, and well-being of the public (including the protection of public safety) with respect to the use of Reclamation lands; and

(C) to ensure the protection of resource values.

(b) INVENTORY.—The Secretary, acting through the Commissioner of Reclamation, is authorized to—

(1) prepare and maintain on a continuing basis an inventory of resources and uses make of Reclamation lands and resources, keep records of such inventory, and make such records available to the public; and

(2) ascertain the boundaries of Reclamation lands and provide a means for public identification (including, where appropriate, providing signs and maps).

(c) PLANNING.—(1)(A) The Secretary, acting through the Commissioner of Reclamation, is authorized to develop, maintain, and revise resource management plans for Reclamation lands.

(B) Each plan described in subparagraph (A)—

(i) shall be consistent with applicable laws (including any applicable statute, regulation, or Executive order);

(ii) shall be developed in consultation with—

(I) such heads of Federal and non-Federal departments or agencies as the Secretary determines to be appropriate; and

(II) the authorized beneficiaries (as determined by the Secretary) of any Reclamation project included in the plan; and

(iii) shall be developed with appropriate public participation.

(C) Each plan described in subparagraph (A) shall provide for the development, use, conservation, protection, enhancement, and management of resources of Reclamation lands in a manner that is compatible with the authorized purposes of the Reclamation project associated with the Reclamation lands.

(d) NONREIMBURSABLE FUNDS.—Funds expended by the Secretary in carrying out the provisions of this title shall be nonreimbursable under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

SEC. 3006. PROTECTION OF AUTHORIZED PURPOSES OF RECLAMATION PROJECTS.

(a) Nothing in this title shall be construed to change, modify, or expand the authorized purposes of any Reclamation project.

(b) The expansion or modification of a recreational facility constructed under this title shall not increase the capital repayment responsibilities or operation and maintenance expenses of the beneficiaries of authorized purposes of the associated Reclamation project.

SEC. 3007. MAINTENANCE OF EFFORT.

Prior to making an expenditure for the construction, operation, and maintenance of any expansion of a recreation facility under section 3004(d) of this title at any project, the Secretary must determine that the expansion will not result in a delay or postponement of, or a lack of funding for, the repair, replacement, or rehabilitation of the water storage or delivery features which are necessary for the authorized purposes of such project.

TITLE XXXI—WESTERN WATER POLICY REVIEW

SEC. 3101. SHORT TITLE.

This title may be cited as the "Western Water Policy Review Act of 1992."

SEC. 3102. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Nation needs an adequate water supply for all states at a reasonable cost;

(2) the demands on the Nation's finite water supply are increasing;

(3) coordination on both the Federal level and the local level is needed to achieve water policy objectives;

(4) not less than fourteen agencies of the Federal Government are currently charged with functions relating to the oversight of water policy;

(5) the diverse authority over Federal water policy has resulted in unclear goals and an inefficient handling of the Nation's water policy;

(6) the conflict between competing goals and objectives by Federal, State, and local agencies as well as by private water users is particularly acute in the nineteen Western States which have arid climates which include the seventeen reclamation States, Hawaii, and Alaska;

(7) the appropriations doctrine of water allocation which characterizes most western water management regimes varies from State to State, and results in many instances in increased competition for limited resources;

(8) the Federal Government has recognized and continues to recognize the primary jurisdiction of the several States over the allocation, priority, and use of water resources of the States and that the Federal Government will, in exercising its authorities, comply with applicable State laws;

(9) the Federal Government recognizes its trust responsibilities to protect Indian water rights and assist Tribes in the wise use of those resources;

(10) Federal agencies, such as the Bureau of Reclamation, have had, and will continue to have major responsibilities in assisting States in the wise management and allocation of scarce water resources; and

(11) the Secretary of the Interior, given his responsibilities for management of public

land, trust responsibilities for Indians, administration of the reclamation program, investigations and reviews into ground water resources through the Geologic Survey, has the resources to assist in a comprehensive review, in consultation with appropriate officials from the nineteen Western States, into the problems and potential solutions facing the nineteen Western States and the Federal Government in the increasing competition for the scarce water resources of the Western States.

SEC. 3103. PRESIDENTIAL REVIEW.

(a) The President is directed to undertake a comprehensive review of Federal activities in the nineteen Western States which directly or indirectly affect the allocation and use of water resources, whether surface or subsurface, and to submit a report on the President's findings, together with recommendations, if any, to the Committees on Energy and Natural Resources and Appropriations of the Senate and the Committees on Interior and Insular Affairs and Appropriations of the House of Representatives.

(b) Such report shall be submitted within five years from the date of enactment of this Act.

(c) In conducting the review and preparing the report, the President is directed to consult with the Advisory Commission established under section 3104 of this title, and may request the Secretary of the Interior or other federal officials or the Commission to undertake such studies or other analyses as the President determines would assist in the review.

(d) The President shall consult periodically with the Commission, and upon the request of the President, the heads of other Federal agencies are directed to cooperate with and assist the Commission in its activities.

SEC. 3104. THE ADVISORY COMMISSION.

(a) The President shall appoint an Advisory Commission (hereafter in this title referred to as the "Commission") to assist in the preparation and review of the report required under this title.

(b) The Commission shall be composed of eighteen members as follows:

(1) Ten members appointed by the President including:

(A) the Secretary of the Interior or his designee;

(B) at least one representative chosen from a list submitted by the Western Governors Association;

(C) at least one representative chosen from a list submitted by Tribal governments located in the Western States.

(2) In addition to the ten members appointed by the President, the Chairmen and the Ranking Minority Members of the Committees on Energy and Natural Resources and Appropriations of the United States Senate and the Committees on Interior and Insular Affairs and Appropriations of the United States House of Representatives shall serve as ex officio members of the Commission.

(c) The President shall appoint one member of the Commission to serve as Chairman.

(d) Any vacancy which may occur on the Commission shall be filled in the same manner in which the original appointment was made.

(e) Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 3105. DUTIES OF THE COMMISSION.

The Commission shall—

(1) review present and anticipated water resource problems affecting the nineteen Western States, making such projections of water supply requirements as may be necessary and identifying alternative ways of meeting these requirements—giving considerations, among other things, to conservation and more efficient use of existing supplies, innovations to encourage the most beneficial use of water and recent technological advances;

(2) examine the current and proposed Federal programs affecting such states and recommend to the President whether they should be continued or adopted and, if so, how they should be managed for the next twenty years, including the possible reorganization or consolidation of the current water resources development and management agencies;

(3) review the problems of rural communities relating to water supply, potable water treatment, and wastewater treatment;

(4) review the need and opportunities for additional storage or other arrangements to augment existing water supplies including, but not limited to, conservation;

(5) review the history, use, and effectiveness of various institutional arrangements to address problems of water allocation, water quality, planning, flood control and other aspects of water development and use, including, but not limited to, interstate water compacts, Federal-State regional corporations, river basin commissions, the activities of the Water Resources Council, municipal and irrigation districts and other similar entities with specific attention to the authorities of the Bureau of Reclamation under reclamation law;

(6) review the legal regime governing the development and use of water and the respective roles of both the Federal Government and the States over the allocation and use of water, including an examination of riparian zones, appropriation and mixed systems, market transfers, administrative allocations, ground water management, interbasin transfers, recordation of rights, Federal-State relations including the various doctrines of Federal reserved water rights (including Indian water rights and the development in several States of the concept of a public trust doctrine); and

(7) review the activities, authorities, and responsibilities of the various Federal agencies with direct water resources management responsibility, including but not limited to the Bureau of Reclamation and those agencies whose decisions would impact on water resource availability and allocation, including, but not limited to, the Federal Energy Regulatory Commission.

SEC. 3106. REPRESENTATIVES.

(a) The Chairman of the Commission shall invite the Governor of each Western State to designate a representative to work closely with the Commission and its staff in matters pertaining to this title;

(b) The Commission, at its discretion, may invite appropriate public or private interest groups including, but not limited to, Indian Tribes and Tribal organizations to designate a representative to work closely with the Commission and its staff in matters pertaining to this title.

SEC. 3107. POWERS OF THE COMMISSION.

(a) The Commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable;

(2) use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States;

(3) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in that manner; and

(4) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

(c) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for Level II of the Executive Schedule.

(1) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate but only to the extent that such personnel can not be obtained from the Secretary of the Interior or by detail from other federal agencies. Such personnel may be appointed without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates.

(2) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109 (b) of Title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(d) The Secretary of the Interior shall provide such office space, furnishings and equipment as may be required to enable the Commission to perform its functions. The Secretary shall also furnish the Commission with such staff, including clerical support, as the Commission may require.

SEC. 3108. POWERS AND DUTIES OF THE CHAIRMAN.

(a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in paragraphs (2) through (4) of section 3107(a).

(b) The Chairman may make such provisions as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Director or other personnel of the Commission.

SEC. 3109. OTHER FEDERAL AGENCIES.

(a) The Commission shall, to the extent practicable, utilize the services of the Federal water resource agencies.

(b) Upon request of the Commission, the President may direct the head of any other Federal department or agency to assist the Commission and such head of any Federal department or agency is authorized—

(1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 3107(a)(7) of this title, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

(2) to detail to temporary duty with the Commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for

carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the Secretary of the Interior.

SEC. 3110. APPROPRIATIONS.

There are hereby authorized to be appropriated not to exceed $10,000,000 to carry out the purposes of this title.

TITLE XXXII—MOUNTAIN PARK MASTER CONSERVANCY DISTRICT, OKLAHOMA

SEC. 3201. PAYMENT BY MOUNTAIN PARK MASTER CONSERVANCY DISTRICT.

(a) IN GENERAL.—The Secretary shall conduct appropriate investigations regarding, and is authorized to accept prepayment of, the repayment obligation of the District for the reimbursable construction costs of the project allocated to municipal and industrial water supply for the city, and, upon receipt of such prepayment, the District's obligation to the United States shall be reduced by the amount of such costs.

(b) PAYMENT AMOUNT.—Any prepayment made pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining repayment obligation by the interest rate determined according to this section.

(c) INTEREST RATE.—The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) INVESTIGATIONS.—In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the federal government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) TAX-EXEMPT FINANCING.—If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the federal government for the direct or indirect loss of future tax revenues.

(f) LIMIT ON INTEREST RATE.—Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) APPROVAL.—The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any prepayment made pursuant to this title.

(h) TERMINATION OF AUTHORITY.—The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: Provided, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

(i) TITLE TO PROJECT FACILITIES.—Notwithstanding any payments made by the District pursuant to this section or pursuant to any contract with the Secretary, title to the project facilities shall remain with the United States.

(j) DEFINITIONS.—For the purposes of this section—

(1) the term "city" means the city of Frederick, Oklahoma; the city of Snyder, Oklahoma; or the city of Altus, Oklahoma;

(2) the term "District" means the Mountain Park Master Conservancy District of Mountain Park, Oklahoma;

(3) the term "project" means the Mountain Park Project, Oklahoma; and

(4) the term "Secretary" means the Secretary of the Interior.

SEC. 3202. RESCHEDULE OF REPAYMENT OBLIGATION.

(a) The Secretary shall conduct appropriate investigations regarding the ability of the District to meet its repayment obligation.

(b) If the Secretary finds that the District does not have the ability to pay its repayment obligation, then the Secretary shall offer the District a revised schedule of payments for purposes of meeting the repayment obligation of the District: *Provided*, That such schedule of payments shall—

(1) be consistent with the ability to pay of the District, and

(2) have the same discounted present value as the repayment obligation of the District.

(c) The Secretary shall conduct the investigations and make any offer of a revised schedule of payments pursuant to this section no later than 12 months after the date of enactment of this section.

TITLE XXXIII—SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST

SEC. 3301. SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST.

(a) The Secretary, subject to the provisions of subsection (d) of this section, shall make an annual Federal contribution to a South Dakota Biological Diversity Trust established in accordance with subsection (b) of this section and operated in accordance with subsection (c) of this section. Contributions from the State of South Dakota may be paid to the Trust in such amounts and in such manner as may be agreed upon by the Governor and the Secretary. The total Federal contribution pursuant to this section, including subsection (d), shall not exceed $12,000,000.

(b) A South Dakota Biological Diversity Trust shall be eligible to receive Federal contributions pursuant to subsection (a) of this section if it complies with each of the following requirements:

(1) The Trust is established by non-Federal interests as a non-profit corporation under the laws of South Dakota with its principal office in South Dakota.

(2) The trust is under the direction of a Board of Trustees which has the power to manage all affairs of the corporation, including administration, data collection, and implementation of the purposes of the Trust.

(3) The Board is comprised of five persons appointed as follows, each for a term of five years:

(A) 1 person appointed by the Governor of South Dakota;

(B) 1 person appointed by each United States Senator from South Dakota;

(C) 1 person appointed by the United States Representative from South Dakota; and

(D) 1 person appointed by the South Dakota Academy of Science.

(4) Vacancies on the Board are filled in the manner in which the original appointments were made. Any member of the Board is eligible for reappointment for successive terms. Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed is appointed only for the remainder of such term. A member may serve after the expiration of his or her term until his or her successor has taken office. Members of the Board shall serve without compensation.

(5) The corporate purposes of the Trust are to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity, its rare species, exemplary examples of plant and animal communities and large-scale natural ecosystems.

(c) A South Dakota Biological Diversity Trust established by non-Federal interests as provided in subsection (b) shall be deemed to be operating in accordance with this subsection if, in the opinion of the Secretary, each of the following requirements are met:

(1) the Trust is operated to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity; its rare species, extraordinary examples of plant and animal communities and large-scale natural ecosystems in accordance with its corporate purpose; and

(2) the Trust is managed in a fiscally responsible fashion by investing in private and public financial vehicles with the goal of producing income and preserving principal. The principal will be inviolate, but income will be used to accomplish the goals of the trust.

(3) Proceeds from the Trust are used for the following purposes:

(A) $10,000 per year or 5 percent of the total funds expended by the Trust (whichever is larger) will be provided to the South Dakota Natural Heritage Program (currently as part of the South Dakota Game, Fish, and Parks Departments), in order to do the following:

(i) maintain and update the South Dakota Biodiversity Priority Site List;

(ii) conduct inventory to discover and survey new sites for the Priority Site List; and

(iii) manage data to maintain the Natural Heritage Databases needed to produce and document the Priority Site List.

(B) Up to 5 percent of the costs of each project are used for preserve design or site planning to ensure that sites are selected for funding which are well-designed to maintain the long-term viability of the significant species and communities found at the site.

(C) Proceeds from the Trust may be used to complete land protection projects designed to protect biological diversity.

(D) Projects may include acquisition of land, water rights or other partial interests from willing sellers only, or arranging management agreements, registry and other techniques to protect significant sites.

(E) Ownership of land acquired with Trust proceeds will be held by the public agency or private non-profit organization which proposed and completed the project, or another conservation owner with the approval of the Board. The land will be managed and used for the protection of biological diversity. If the property is used or managed otherwise, title will revert to the Trust for disposition.

(F) Projects eligible for funding must be included on the South Dakota Biodiversity Priority List and located within the borders of South Dakota.

(G) At the discretion of the Board, Trust proceeds may be used for direct project costs including direct expenses incurred during project completion. Land project funding may also include the creation of a stewardship endowment subject to the following terms:

(i) Up to 25 percent of the total fair market value of the project may be placed in a separate endowment.

(ii) The proceeds from the endowment will be used for the ongoing management costs of maintaining the biological integrity and viability of the significant biological features of the site.

(iii) Endowment funds may not be used for activities which primarily promote recreational or economic use of the site.

(iv) The endowment for each site will be held in a separate account from the body of the Trust and other endowments. The endowments will be managed by the Trust Board but the owner or manager of the site may draw upon the proceeds of the stewardship endowment to fund management activities with approval of the Board. Additional management funds may be secured from other public and private sources.

(H) Should the biological significance of a site be destroyed or greatly reduced, the land may be disposed of but the proceeds and any stewardship endowment will revert to the Trust for use in other projects.

(I) Proceeds from the Trust may be used for management of public or private lands, including but not restricted to lands purchased with Trust funds, except that only those management projects that result in the maintenance or restoration of statewide biological diversity are eligible for consideration.

(d) For each fiscal year after 1992, 2 percent of the Federal contributions for the same fiscal year, determined pursuant to subsection (a) of this section, shall be used by the Secretary in order to do the following:

(1) restore damaged natural ecosystems on public lands and waterways affected by the Reclamation program outside South Dakota;

(2) acquire from willing sellers only other lands and properties or appropriate interests therein outside South Dakota with restorable damaged natural ecosystems and restore such ecosystems;

(3) provide jobs and suitable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties (or appropriate interests therein) where repair of compositional, structural and functional values will do the following:

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna which are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl and other wildlife;

(6) provide additional conservation values to state and local government lands;

(7) add to structural and compositional values of existing preserves or enhance the viability, defensibility and manageability of preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation and other water quality improvement capacity.

(f) The Secretary shall annually report on activities under this section to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Interior and Insular Affairs and the Committee on Appropriations of the House of Representatives.

(g) There are authorized to be appropriated not to exceed $12,000,000 for the purposes of this title.

TITLE XXXIV—CENTRAL VALLEY PROJECT FISH AND WILDLIFE ACT

SEC. 3401. SHORT TITLE.

This title may be cited as the "Central Valley Project Fish and Wildlife Act of 1992."

SEC. 3402. STATEMENT OF PURPOSE.

The purposes of this title are:

(a) to protect, restore, and enhance fish and wildlife habitat in the Central Valley of California as specifically provided for within this title;

(b) to partially mitigate the impacts of the Central Valley Project on fish and wildlife habitat by requiring the implementation of specific habitat restoration actions;

(c) to provide for the continued orderly operation of the Central Valley Project by resolution of fish and wildlife issues impacts;

(d) to establish a joint Federal and state advisory committee to identify, develop and assist the Secretary of the Interior in the implementation of habitat restoration actions identified in this title and a Federal task force to assist the Secretary of the Interior in the identification and development of additional habitat restoration actions that would provide means by which the mitigation of Central Valley Project impacts on fish and wildlife habitat and cost effective protection, restoration, and enhancement of fish and wildlife habitat and resources in the Central Valley of California may be accomplished;

(e) to encourage, through cost sharing and other related actions, the cooperation and contribution by the State of California and other non-Central Valley Project entities toward the protection, restoration and enhancement of fish and wildlife habitat within the Central Valley of California;

(f) to increase the benefits provided by the Central Valley Project to California through the expanded use of water conservation and water transfers;

(g) to achieve the purposes of this title through implementation of projects, procedures and programs which do not result in further degradation of resources, including, but not limited to, groundwater, of the areas presently served by the Central Valley Project; and

(h) to coordinate the efforts and actions authorized in this title with other activities being undertaken within the State of California to ensure that work is not unnecessarily duplicated and is coordinated to minimize inconsistent and counter-productive results and maximize the benefits to be obtained.

SEC. 3403. DEFINITIONS.

As used in this title:

(a) The term "anadromous fisheries" includes runs of salmon, striped bass, steelhead trout, sturgeon, and American shad that ascend the Sacramento and San Joaquin Rivers and their tributaries and the Sacramento-San Joaquin Delta to reproduce after maturing in the San Francisco Bay and/or the ocean.

(b) The terms "artificial propagation" and "artificial production" include spawning, hatching, incubating, and rearing fish in a hatchery or other facility constructed for fish production.

(c) The term "Central Valley" means the watershed of the Sacramento and San Joaquin Rivers and their tributaries including the Sacramento-San Joaquin Delta.

(d) The term "Central Valley Project" means the Central Valley Project, California, as authorized in the Act of August 26, 1937 (50 Stat. 850) and all acts amendatory thereto.

(e) The term "Central Valley Project Fish and Wildlife Advisory Committee" means the Committee established in section 3405 of this title.

(f) The term "Central Valley Project Fish and Wildlife Task Force" means the Task Force established in section 3406 of this title.

(g) The term "Central Valley Project Service Area" means that area where water service has been authorized pursuant to the various feasibility studies and consequent congressional authorizations for the Central Valley Project.

(h) The term "Central Valley Project water" means all water that is diverted, stored or delivered by the Bureau of Reclamation pursuant to water rights acquired pursuant to California law, including water made available under the so-called "exchange" and Sacramento River settlement contracts.

(i) The term "Central Valley Project Water Contractor" means any entity which contracts for Central Valley Project water.

(j) The term "Central Valley Project Water Contractors Fund" means the fund established in section 3404(h) of this title.

(k) The term "Central Valley Refuges" includes the Sacramento, Delevan, Colusa, Sutter, Kesterson, San Luis, Merced, Pixley, and Kern National Wildlife Refuges, the Grassland Resource Conservation District, the Gray Lodge, Los Banos, Volta, and Mendota State Wildlife Areas, and those National Wildlife Refuges and State Wildlife Areas identified in the Bureau of Reclamation's report entitled San Joaquin Basin Action Plan/Kesterson Mitigation Plan (1989).

(l) The term "critically overdrafted groundwater basin" means those areas defined by the California Department of Water Resources, in its Bulletin No. 118-80, to have a critical groundwater overdraft problem.

(m) The term "natural production" means fish produced to adulthood without the direct intervention of man in the spawning or rearing processes.

(n) The term "Refuge Water Supply Report" means the report entitled Report on Refuge Water Supply Investigations, published in March 1989 by the Bureau of Reclamation, Department of the Interior.

(o) The term "Secretary" means the Secretary of the Interior or his designee, except as otherwise provided.

(p) The term "transfer" means:

(1) all conjunctive use programs that provide for the transfer of all or a portion of the surface water made available by the use of groundwater as a substitute supply to another water use,

(2) exchanges between water users,

(3) groundwater storage programs that provide for transfer of all or a portion of the stored water to another water user directly or through exchange,

(4) conservation programs that provide for all or a portion of the water conserved to be transferred to another water user, or

(5) purchase of water through fallowing programs that allow water to be moved from a Central Valley Project contractor to an-

other water user on a short or long-term basis.

SEC. 3404. PROTECTION, RESTORATION, AND ENHANCEMENT OF CENTRAL VALLEY FISH AND WILDLIFE HABITAT.

(a) GENERAL AUTHORITY.—The Secretary shall:

(1) implement the actions established by section 3404(b);

(2) develop, select, and implement actions, using the criteria established in section 3404(e), that address the fish and wildlife habitat issues listed in section 3404(c);

(3) as provided in section 3405, establish a "Central Valley Project Fish and Wildlife Advisory Committee" that will make recommendations to the Secretary with respect to the actions set forth in sections 3404(b) and 3404(c) using the criteria established in section 3404(e); and

(4) as provided in section 3406, establish a "Central Valley Project Fish and Wildlife Task Force" that will identify additional actions that would protect, restore, and enhance the Central Valley fish and wildlife habitat, develop the technical information needed to evaluate these actions, determine the economic and biological feasibility of these actions using the criteria established in section 3404(e), and report the findings to Congress for implementation authorization.

(b) INITIAL ACTION.—Subject to limitations contained in sections 3404(f)(6) and 3404(f)(7), the following fish and wildlife habitat protection, restoration, and enhancement actions shall be implemented by the Secretary.

(1) Negotiation and execution of an agreement with the California Department of Fish and Game by December 31, 1992, which, when implemented, will mitigate the direct fishery losses associated with the operation of the Tracy Pumping Plant. Direct losses are defined as fish lost after they enter the Tracy Pumping Plant intake channel, taking into account numbers of fish that survive and are returned to the Sacramento-San Joaquin Delta. The cost of this action shall be allocated under section 3404(f)(1).

(2) Negotiation and execution of an agreement with the California Department of Fish and Game by December 31, 1994, which, when implemented, will mitigate for direct fishery losses associated with the operation of the Contra Costa Canal Pumping Plant No. 1. Direct fishery losses are defined as fish lost after they enter Rock Slough. The cost of this action shall be allocated in the same manner as costs associated with the Contra Costa Canal are currently paid.

(3) Installation and operation of a structural temperature control device at Shasta Dam and development and implementation of modifications in Central Valley Project operations, if needed, by December 31, 1995, to allow for control of water temperatures in the upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam sufficient to protect salmon. The cost of this action shall be allocated under section 3404(f)(1).

(4) The Coleman National Fish Hatchery shall be rehabilitated and expanded by implementing the United States Fish and Wildlife Service's Coleman National Fish Hatchery Development Plan by December 31, 1995. The Secretary shall negotiate and execute a contract for the operation of the hatchery by the California Department of Fish and Game. The contract shall provide that its operation shall be coordinated with all other mitigation hatcheries in California. In addition, the Keswick Dam Fish Trap shall be modified to provide for its operation at all project flow release levels. The cost of this action shall be allocated under section 3404(f)(1).

(5) The negotiation and execution of an agreement with the California Department of Fish and Game, within one year after the enactment of this Act, which, when implemented, will eliminate, to the extent practical, losses of salmon and steelhead trout due to flow fluctuations caused by the operation of Keswick, Nimbus, and Lewiston Regulating Dams. The agreement shall be patterned after the agreement between the California Department of Water Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex. Any costs associated with this Agreement shall be nonreimbursable.

(6) A gravel replenishment program shall be developed and implemented by December 31, 1993, for the purpose of restoring and replenishing, on a continuous basis, spawning gravel lost due to the construction and operation of Shasta, Folsom and New Melones Dams, bank protection programs, and other actions that have reduced the availability of spawning gravel in the upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam, and in the American and Stanislaus Rivers downstream of Nimbus and Goodwin Dams, respectively. The cost of this action shall be allocated under section 3404(f)(2).

(7) A Delta Cross Channel monitoring and operational program shall be developed and implemented, within one year after the enactment of this Act, for the purpose of protecting striped bass eggs and larvae as they approach the Delta Cross Channel gates. This program includes, but is not limited to, closing the Delta Cross Channel gates during times when significant numbers of striped bass eggs and larvae approach the Sacramento River intake to the Delta Cross Channel. Since this action will, by its nature, also restrict pumping at the Tracy Pumping Plant, other restrictions on the operation of the Delta Tracy Pumping Plant, which may currently exist to protect striped bass eggs and larvae, shall be modified, relaxed or eliminated to comport with this action. The cost of this action shall be allocated under section 3404(f)(1).

(8) The Secretary shall, either directly or through an agreement with the State of California, provide dependable water supplies of suitable quality to the Central Valley Refuges in accordance with Level 2 quantity and delivery schedules of the "Dependable Water Supply Needs" table for that refuge, as set forth in the Refuge Water Supply Report or as established by the Secretary for the refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report. If the Central Valley Project cannot deliver a full supply in any water year to the refuges and the Central Valley Project contractors, then the Secretary shall impose shortages on the Central Valley Project water provided the refuges that are equal to the shortages imposed on the non-water rights Central Valley Project agricultural contractors. The Secretary shall implement the actions authorized herein without a reduction in the pumping and/or conveyance capacity needed to serve other Central Valley Project purposes. The Secretary shall encourage the conjunctive use of surface water and groundwater and the multiple use of water supplies as a means to facilitate the purposes and intent of this subsection. The dependable water supplies provided to the Central Valley Refuges pursuant to this subsection shall be delivered until the firm water supplies provided for in section 3404(c)(13) are available to these refuges, and shall be provided pursuant to agreements between the Secretary, the California Department of Fish and Game, and the Grasslands Resource Conservation District which shall be executed within one year after the enactment of this Act. Fifty percent of the cost of providing water to private refuges shall be paid for by those private refuges. The remaining cost of this action shall be allocated under section 3404(f)(2).

(9) The Secretary, in coordination with the California Department of Fish and Game, shall, within one year after the enactment of this Act, establish a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley and to assess the biological results of actions implemented pursuant to this section and section 3404(c). The cost of this action shall be allocated under section 3404(f)(2).

(c) HABITAT RESTORATION ACTIONS.—Subject to the limitations contained in sections 3404(f)(6) and 3404(f)(7), and utilizing the criteria in section 3404(e), the Secretary shall develop, evaluate, select, and, unless otherwise specifically provided, by December 31, 2000, implement actions that will address the following fish and wildlife protection, restoration, and enhancement issues.

(1) The Secretary shall develop and implement a program to eliminate the need to reduce Keswick Dam releases every Spring to place the Anderson-Cottonwood Irrigation District Diversion Dam into operation, and every Fall to take the Dam out of operation. Additionally, the program will include structural measures need to address upstream migrating adult salmon passage problems at the Diversion Dam due to inadequate ladder attraction flows. The cost of this action shall be allocated under section 3404(f)(3).

(2) The Secretary shall develop and implement a program to minimize fish passage problems for salmon at the Central Valley Project Red Bluff Diversion Dam. The cost of this action shall be allocated under section 3404(f)(4).

(3) The Secretary shall develop and implement a program to augment natural production of salmon and steelhead trout population levels in the San Joaquin River system in above normal water years through means of artificial production. The cost of this action shall be allocated under section 3404(f)(2).

(4) The Secretary shall construct and operate a new satellite hatchery to augment the single and dual purpose channels at the Tehama Colusa Fish Facility and to further mitigate the impact of Shasta Dam on fishery resources. The new satellite hatchery shall be located at a suitable location upstream of the Red Bluff Diversion Dam. This new hatchery shall be operated by the California Department of Fish and Game under contract with the Secretary. The cost of this action shall be allocated under section 3404(f)(2).

(5) The Secretary shall construct a salmon and steelhead trout hatchery on the Yuba River. The Secretary shall negotiate and execute a contract with the California Department of Fish and Game to operate the hatchery. The objective of such hatchery is to assist in California's efforts to realize the full potential of salmon and steelhead trout natural production on that river and to assist in maintaining the existing runs of salmon and steelhead trout and create enhancement potential for natural production in above normal water years. The cost of this action shall be allocated under section 3404(f)(3).

(6) The Secretary shall negotiate and execute an agreement with the California De-

partment of Fish and Game by December 31, 1993 that requires the release of the minimum flows necessary to take full advantage of the spawning, incubation, rearing and outmigration potential of the upper Sacramento River and the Lower American River for salmon subject to the physical capabilities of the Central Valley Project facilities involved. The Agreement shall provide for less than these minimum flows in dry and critical water years if the Secretary determines that in so doing the Secretary can minimize the impacts of providing the fishery flows on other Central Valley Project authorized purposes, provided the fishery benefits lost in those years are offset by enhancing spawning, incubation, rearing and outmigration conditions in other water years. The cost of this action shall be allocated under section 3404(f)(1). The Secretary is authorized to assist in the funding of biological studies, in cooperation with the California Department of Fish and Game and the California State Water Resources Control Board, focused on furthering the scientific understanding of the salmon fishery in these rivers and to provide the information needed to verify that the intended fishery benefits are being provided by the minimum fishery requirements in this agreement and to allow for adjustments to the flow requirements in the future, if needed. If the Secretary and the California Department of Fish and Game determine that the flow conditions in the upper Sacramento River and the lower American River provided by the Central Valley Project under this agreement are better than conditions that would have existed in the absence of the Central Valley Project facilities, the enhancement provided shall become credits to be provided Central Valley Project water and power contractors to offset future mitigation responsibilities identified pursuant to section 3404(d).

(7) The Administrator of the Environmental Protection Agency is directed to expedite and by no later than December 31, 1995, complete efforts to clean up mines causing intermittent releases of lethal concentrations of dissolved metals from the Spring Creek Debris Dam. In the interim, the Secretary shall provide water from Keswick Dam sufficient to dilute the Spring Creek Debris Dam discharges to concentration levels that allow survival of fish life below Keswick Dam except when the United States Corps of Engineers' flood control criteria for Shasta Dam limit that capability. The cost of this action, not including the cost of EPA actions, shall be allocated under section 3404(f)(3). If the Administrator of the Environmental Protection Agency fails to complete such efforts by December 31, 1995, all such costs shall be assumed by the Agency.

(8) The Secretary shall provide flows to allow sufficient spawning, incubation, rearing and outmigration conditions for salmon and steelhead trout from Whiskeytown Dam as determined by instream flow studies conducted by the California Department of Fish and Game after Clear Creek has been restored and a new fish ladder has been constructed at the McCormick-Saeltzer Dam. The cost of providing the required flows shall be allocated under section 3404(f)(1). Any federal cost associated with the restoration of the Clear Creek or in the construction of a fish ladder at the McCormick-Saeltzer Dam shall be allocated under section 3404(f)(3).

(9) The Secretary is authorized to construct, in partnership with the State of California, a barrier at the head of Old River in the Sacramento-San Joaquin Delta, by December 31, 1995, to partially mitigate the impact of the Central Valley Project and State Water Project pumping plants in the south Sacramento-San Joaquin Delta on the survival of young outmigrating salmon that are diverted from the San Joaquin River to the pumps. The cost of constructing, operating and maintaining the barrier shall be shared 50% by the State of California and 50% by the Federal government. The Federal share shall be allocated under section 3404(f)(1).

(10) The Secretary shall evaluate and implement a program to correct a defective fish screen at the Glenn-Colusa Irrigation District's Sacramento River diversion which was constructed with Federal and state funding and which does not function due to design errors. The cost of this action shall be allocated under section 3404(f)(3).

(11) The Secretary shall assist in the funding, in coordination with the California Department of Fish and Game, of enforcement measures that will reduce the numbers of striped bass illegally taken from the San Francisco Bay Estuary. The cost of this action shall be allocated under section 3404(f)(3).

(12) The Secretary shall provide such assistance as may be requested by the State of California to develop and implement fishing regulations that will protect the older more productive striped bass females in order to maintain a viable reproducing striped bass population.

(13) The Secretary shall develop and implement measures that will provide additional dependable water supplies of suitable quality. The conveyance capacity needed to deliver this water and associated refuge facilities to permit full habitat development of the Central Valley Refuges and the water provided shall be up to the Level 4 quantity and delivery schedules in the "Dependable Water Supply Needs" table as set forth in the Refuge Water Supply Report or as established by the Secretary for the refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report. Water for this purpose shall be provided by: (1) the Secretary providing Central Valley Project water supply on a firm basis equal to the amount currently delivered by the Central Valley Project on a non-firm basis, provided that if the Central Valley Project cannot deliver a full supply in any water year to the refuges and the Central Valley Project contractors, then shortages shall be imposed on the Central Valley Project water provided the refuges that are equal to the shortages imposed on the non-water rights Central Valley Project agricultural contractors; (2) voluntary water conservation or conjunctive use purchases provided the surface water being made available through conjunctive use does not come from an area in a critically overdrafted groundwater condition and the conserved water being purchased would not be available to another user of Central Valley surface or groundwater in the absence of the water conservation purchase; and (3) voluntary water purchases from existing Central Valley Project water contractors provided the water being purchased would have been consumptively used in the absence of the specific water purchase. Neither additional Central Valley Project water shall be made available for this purpose nor should any Central Valley Project conveyance capacity be made available for this purpose if that conveyance capacity is needed to convey water to existing Central Valley Project water contractors. Fifty percent of the cost of providing water to private refuges shall be paid by those private refuges. The remaining cost of this action shall be allocated under section 3404(f)(3).

(d) ADDITIONAL HABITAT RESTORATION ACTIONS.—Subject to the limitations contained in sections 3404(f) (6) and 3404(f) (7) and utilizing the criteria in section 3404(e), the Central Valley Project Fish and Wildlife Task Force established in section 3406 of this title shall identify additional actions that would provide mitigation of Central Valley Project impacts on Central Valley fish and wildlife habitat and would protect, restore, and enhance Central Valley fish and wildlife habitat. The Task Force shall develop the information needed to evaluate these actions technically, determine the economic and biological feasibility using the criteria established in section 3404(e), determine appropriate cost allocations specific to each action, and select actions to recommend to Congress for authorization to implement. The Task Force shall make its first report to Congress no later than December 31, 1995, and shall report every five years thereafter, at a minimum, until the year 2010, when the Task Force shall cease to exist. Fish and wildlife habitat issues to be evaluated by the Task Force shall include, but not be limited to, the following:

(1) Determination of the flows and habitat restoration measures needed to protect, restore and enhance salmon and steelhead trout in the San Joaquin River below the confluence with the Merced River, Mokelumne River, and Calaveras River and in the Butte, Deer, Mill, and Battle Creeks, which are tributary to the Sacramento River, and development of feasible means of maintaining those flows and implementing the habitat restoration measures identified.

(2) Investigation of actions allowing closure or screening of the Delta Cross Channel and Georgiana Slough to prevent the diversion of outmigrating salmon and steelhead trout through those facilities.

(3) Investigation of the need to expand existing wildlife refuges and/or develop additional wildlife refuges in the Central Valley beyond what is included in the Refuge Water Supply Report. The Task Force shall also determine the water supply and delivery requirements, above Level 4, necessary to permit full habitat development of existing wildlife refuges and determine feasible means of meeting that water supply requirement.

(4) Investigation of alternative means of improving the reliability of water supplies currently available to privately owned wetlands in the Central Valley.

(5) As a means of increasing survival of migrating young fish, investigation of the feasibility of using short pulses of increased water flows to move salmon, steelhead trout, and striped bass into and through the Sacramento-San Joaquin Delta.

(6) Investigation of ways to maintain suitable temperatures for young salmon survival in the lower Sacramento River and in the Sacramento-San Joaquin Delta by controlling or relocating the discharge of irrigation return flows and sewage effluent.

(7) Investigation of the need for additional hatchery production to mitigate the impacts of water development on Central Valley fisheries where no other feasible means of mitigation is available or where hatchery production would enhance efforts to increase natural production of a particular species.

(8) Investigation of measures available to correct flow pattern problems in the Sacramento-San Joaquin Delta created by the

operation of the Central Valley Project and the California State Water Project as well as San Francisco Bay inflow pattern changes caused by the operation of water development projects in the Central Valley.

(9) Evaluation of measures to avoid unquantified losses of juvenile anadromous fish due to unscreened or inadequately screened diversions on the Sacramento and San Joaquin Rivers, their tributaries, and in the Sacramento-San Joaquin Delta such as construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing non-functioning screens, and relocation of diversions to less fishery-sensitive areas.

(10) Elimination of barriers to upstream migration of salmon and steelhead trout adults to spawning areas downstream of existing storage facilities in the Central Valley caused by agriculture diversions and other obstructions reduce the natural production of these species as well as removal programs or programs for the construction of new fish ladder.

(e) Social, Economic and Biological Considerations.—In fulfilling their responsibilities as specified in sections 3404(c) and 3404(d), the Secretary, the Central Valley Project Fish and Wildlife Advisory Committee, and the Central Valley Project Fish and Wildlife Task Force shall consider the following criteria and factors, and issue findings thereon, when determining which alternate programs, policies or procedures should be implemented to protect, restore and/or enhance fish and wildlife conditions. The alternative programs available to implement specific actions in sections 3404(c) and 3404(d) that best meets all of the following criteria shall be selected.

(1) Natural production alternatives shall be given priority over artificial production alternatives;

(2) Alternatives that have the highest biological probability of achieving the desired objective shall be preferred.

(3) Alternatives that provide a greater magnitude of potential benefits shall be given priority over alternatives which have a lesser magnitude of potential benefits.

(4) Alternatives that are determined to be the most cost effective, measured in economic terms considering impacts within the Central Valley Project service area's water and power resources and related industries.

(f) Cost Allocations.—The fiscal cost of implementing actions listed in section 3404(b) and selected pursuant to section 3404(c) shall be allocated as follows:

(1) Costs specified within sections 3404(b) and 3404(c) as allocated under this subsection shall be first allocated among Central Valley Project purposes, with reimbursable costs then allocated between Central Valley Project water and power contractors pursuant to applicable statutory and regulatory procedures and assessed pursuant to the provisions of section 3404(h) of this title.

(2) Costs specified within sections 3404(b) and 3404(c) as allocable under this subsection shall be allocated 37.5 percent to the Central Valley Project, 37.5 percent as a nonreimbursable Federal expenditure, and 25 percent payable by the State of California. Central Valley Project costs shall be first allocated among Central Valley Project purposes with reimbursable costs, then allocated between Central Valley Project water and power contractors and assessed pursuant to the provisions of section 3404(h) of this title. Central Valley Project costs determined to be nonreimbursable shall be added to the nonreimbursable Federal expenditure.

(3) Costs specified within sections 3404(b) and 3404(c) as allocable under this subsection shall be allocated 50 percent as a Federal nonreimbursable cost and 50 percent to the State of California.

(4) Costs associated with actions that are determined to be a Central Valley Project responsibility under sections 3404(f)(1) and 3404(f)(2) that pay for the replacement of existing Central Valley Project facilities that have not properly mitigated the effects of the Central Valley Project on the environment because of design errors by Federal agencies, shall be allocated as a Federal nonreimbursable cost.

(5) Central Valley Project power shall be used to supply the capacity and energy needs of actions identified in sections 3404(b) and 3404(c) where the costs or a portion of the costs have been allocated to the Central Valley Project as a reimbursable cost pursuant to subsections (1) and (2) of this section. The value of the Central Valley Project power, calculated as the cost of obtaining dependable power from other available sources, shall be credited against the Central Valley Project power contractors' share of the cost of actions that are mitigating the effects of the Central Valley Project and the effects of others on Central Valley fish and wildlife habitat as determined pursuant to section 3404(f)(2).

(6) Notwithstanding any other provisions of this title, the Secretary shall not undertake any action authorized herein unless the State of California makes appropriate commitments to participate in the actions identified in this title, provides relevant state approvals for identified actions, and agrees to participate in the cost sharing provisions of this title. Where local agency action or approval is required within this title, the Secretary shall not proceed unless that local agency approval or participation is secured: *Provided, however*, That nothing herein is intended to require Central Valley Project water or power contractors' approval or participation as a condition on the Secretary's ability to proceed with the mandated actions.

(7) Notwithstanding any other provisions of this title, no actions authorized in this title shall be implemented unless such actions are consistent with state water law and will not constitute an unreasonable use of water as that term is used within Article X, section 2, of the Constitution of the State of California.

(g) Additional Authorities.—

(1) The Secretary is authorized to promulgate such regulations and enter into such agreements as may be necessary to implement the purposes and provisions of this title.

(2) In order to carry out the purposes and provisions of section 3404(c)(12), the Secretary is authorized, consistent with state law, to obtain water supplies from any source available to the Secretary: *Provided*, That such acquisition shall be pursuant to state law and any purchases shall be from willing sellers only. The Secretary, however, except as specifically provided herein, shall not diminish water supplies available to Central Valley Project contractors without compensation.

(3) The Secretary shall determine and implement the actions mandated by sections 3404(b) and 3404(c) in the most efficient and cost-effective means available. Should the Secretary determine that the State of California or a local agency of the State of California is best able to implement an action authorized by this title, the Secretary shall negotiate with the State of California or a local agency of the State of California an agreement which would allow the State of California or a local agency of the State of California to undertake the identified action. In the event no such agreement can be negotiated, the Secretary shall proceed to implement the action through means available to him.

(4) The Secretary is hereby authorized and directed as an integral part of this title, to initiate studies of any and all facilities that would assist in fully meeting the fish and wildlife purposes of this title. The Secretary shall, for each facility identified, also study the feasibility of these facilities for other purposes, including, but not limited to, water and power supplies. Cost allocations for identified multiple purpose facilities should be in accordance with the allocation of water developed or conveyed or otherwise made available by those facilities.

(h) Funding.—

(1) Authorization.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of this title. Funds appropriated under this section are authorized to remain available until expended.

(2) Central Valley Project Water Contractors Repayment.—The amount to be repaid by water contractors under sections 3404(f)(1) and 3404(f)(2) of this title shall be collected as follows:

(i) Notwithstanding the provisions of section 105 of Public Law 99-546, the amount to be repaid by the Central Valley Project water contractors under sections 3404(f)(1) and 3404(f)(2) shall be capitalized for a period necessary to ensure repayment, consistent with the provisions of subsection 3404(h)(ii).

(ii) Annual payment of the capitalized costs to be repaid by the Central Valley Project water contractors under sections 3404(f)(1) and 3404(f)(2) shall not exceed $1.00 an acre-foot for each acre-foot of water delivered under contract to such contractors.

(iii) The annual payments set forth in subsection 3404(h)(ii), together with interest thereon, shall be placed into a Central Valley Project Water Contractors Fund to be established by the Secretary. The first assessment shall be collected as part of water charges during the first water year which commences at least ninety days after enactment of this Act. The Central Valley Project Water Contractors Fund shall be utilized exclusively to repay costs of Central Valley Project water contractors incurred under sections 3404(f)(1) and 101(f)(2). The Secretary is authorized to use the funds within the Central Valley Project Water Contractors Fund, for these purposes, without further authorization, but subject to appropriation.

(iv) The provisions of this subsection 3404(h)(2)(i) shall apply only to Central Valley Project water delivered to Central Valley water contractors for water delivered under contract with the Bureau of Reclamation pursuant to which additional payments for such water are required.

(3) Central Valley Project Power Contractors Repayment.—The amount to be repaid by Central Valley Project power contractors, pursuant to sections 3404(f)(1) and 3404(f)(2), shall be collected by the Secretary in accordance with existing law, policy, and practices for the repayment, by Central Valley Project power contractors, of operation and maintenance and capital costs allocated to those power contractors.

(4) Cost Sharing.—The State of California and other parties identified in sections 3404(f)(2) and 3404(f)(3) shall pay an amount

equal to the amount allocated within those sections each year. In addition to cost outlays or payments to the Treasury of the United States, the Secretary may consider as a financial contribution by the State of California, Central Valley Project contractors, or other parties identified in sections 3404(f)(2) and 3404(f)(3) the value of contributions of personal or real property or personnel which the Secretary determines is beneficial to the achievement of the objectives of this title. Such contributions may include the provisions of water or water conveyance capacity to meet the requirements of this title.

(5) REMAINING COSTS.—The remaining costs shall be considered nonreimbursable costs as a Federal contribution for preserving, protecting, restoring and enhancing fish and wildlife resources within the Central Valley of California.

SEC. 3405. ESTABLISHMENT OF THE CENTRAL VALLEY PROJECT FISH AND WILDLIFE ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—In order to carry out the purposes of section 3404 of this title, there is hereby established the Central Valley Project Fish and Wildlife Advisory Committee (hereinafter referred to as the "Committee").

(b) FUNCTIONS.—The Central Valley Project Fish and Wildlife Advisory Committee shall make recommendations to the Secretary with respect to the actions set forth in sections 3404(b) and 3404(c). Such recommendations shall be strictly advisory in nature and shall not be binding on the Secretary.

(c) MEMBERSHIPS AND APPOINTMENTS.—The Central Valley Project Fish and Wildlife Advisory Committee shall be composed of the Secretary and the California Secretary of Resources and 21 additional members appointed jointly by them, as follows:

(1) A non-fishery representative of the Upper Sacramento River Fisheries Task Force.

(2) A representative of the California commercial salmon fishing industry.

(3) A representative of the California sports fishing interests.

(4) A representative of the California Department of Fish and Game.

(5) A representative of the California Department of Water Resources.

(6) A representative of the California State Water Resources Control Board.

(7) A representative of the United States Bureau of Reclamation.

(8) A representative of the United States Fish and Wildlife Service.

(9) A representative of the United States Bureau of Land Management.

(10) A representative of the United States National Marine Fisheries Service.

(11) A representative of the United States Army Corps of Engineers.

(12) A representative of the Western Area Power Administration.

(13) A representative of California wildlife interests.

(14) A representative of the Central Valley Project agriculture contractors.

(15) A representative of the Central Valley Project urban contractors.

(16) A representative of the State Water Project agriculture contractors.

(17) A representative of the State Water Project urban contractors.

(18) A representative of environmental interests in California.

(19) A representative of the Central Valley Project power users.

(20) A representative of agriculture who does not receive water pursuant to a Central Valley Project or State Water Project contract.

(21) A representative of urban water users who does not receive water pursuant to a Central Valley Project or State Water Project contract.

(d) TERMS AND VACANCIES.—

(1) The term of a member of the Committee shall be for the life of the Committee.

(2) Any vacancy on the Committee shall be filled through appointment jointly by the Secretary and the California Secretary of Resources.

(e) TRANSACTION OF BUSINESS.—

(1) CHAIRMEN.—The Committee shall be cochaired by the Secretary and the California Secretary of Resources.

(2) MEETINGS.—Except as provided in paragraph (3), the Committee shall meet at the call of the Chairmen or upon the request of a majority of its members.

(3) RECOMMENDATIONS OF THE COMMITTEE.—All recommendations of the Committee shall be through a two-thirds majority vote.

(f) STAFF AND ADMINISTRATION.—

(1) ADMINISTRATION SUPPORT.—The Secretary, in cooperation with the State of California, shall provide the Committee with necessary administrative and technical support services.

(2) INFORMATION.—The Secretary, in cooperation with the State of California and to the extent practicable, shall furnish the members of the Committee with all information and other assistance relevant to the functions of the Committee.

(3) ORGANIZATION.—The Committee shall determine its organization and prescribe the practices and procedures for carrying out its functions under subsection (b). The Committee may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) MEMBERS WHO ARE FEDERAL OR STATE EMPLOYEES.—Any Committee member who is appointed to the Committee by reason of his employment as an officer or employee of the United States or the State of California shall cease to be a member of the Committee on the date on which that member ceases to be so employed.

(h) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of service for the Committee members and their technical representatives shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or technical representative who is an employee of an agency or governmental unit of the United States or the State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this paragraph.

(i) COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Committee and technical representatives who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Committee.

(j) TERMINATION.—The Central Valley Project Fish and Wildlife Advisory Committee shall cease to exist on December 31, 2010.

SEC. 3406. ESTABLISHMENT OF CENTRAL VALLEY PROJECT FISH AND WILDLIFE TASK FORCE.

(a) ESTABLISHMENT.—The Secretary shall, within thirty days after enactment of this title, establish a Task Force to review, evaluate and make recommendations with respect to matters identified; and in the manner provided for in section 3404(d) of this title. A minority report may be submitted if consensus recommendations cannot be achieved on any matter studied or reported on by the Task Force.

(b) SELECTION OF TASK FORCE MEMBERS.—The Task Force shall be comprised of fifteen members. The Secretary shall select the members of the Task Force as follows:

(1) The Secretary shall include on the Task Force six members recommended by the Governor of the State of California.

(2) The Secretary shall include on the Task Force three members recommended by each of the following:

(i) Chairman of the Senate Committee on Energy and Natural Resources; and

(ii) Chairman of the House of Representatives Committee on Interior and Insular Affairs.

(3) The Secretary shall also include on the Task Force three members of his own selection.

(4) With respect to the recommendations and selections set forth in sections 3406(b)(1), 3406(b)(2) and 3406(b)(3), the Task Force shall be comprised of, but not limited to:

(i) members of the general public;

(ii) representatives of the Central Valley Project Water Contractors;

(iii) representatives of the State Water Project Contractors;

(iv) representatives of the Central Valley Project power contractors;

(v) representatives of other affected water and irrigation organizations and entities; and

(vi) representatives of fish and wildlife organizations.

(c) ORGANIZATION AND OPERATION OF THE TASK FORCE.—The Secretary shall appoint a Task Force Chairman who will set the dates of hearings, meetings, workshops and other official Task Force functions in carrying out the purposes of this title. The Secretary is authorized and directed to finance from funds available to the Secretary the reasonable costs and expenses of the Task Force and its members in carrying out the mandate of this section. This shall include all reasonable travel and related expenses. The Task Force shall dissolve on December 31, 2010.

SEC. 3407. PROVISIONS FOR TRANSFER OF CENTRAL VALLEY PROJECT WATER.

(a) TRANSFERS WITHIN THE CENTRAL VALLEY PROJECT SERVICE AREA.—Subject to the provisions of section 3407(f), the Secretary is authorized to approve all transfer agreements among Central Valley Project contractors and between Central Valley Project contractors and non-contractors involving Central Valley Project water within the authorized Central Valley Project service area.

(b) TRANSFERS WHICH RESULT IN NO NET EXPORT OF WATER OUTSIDE THE CENTRAL VALLEY PROJECT SERVICE AREA.—Subject to the provisions of section 3407(f), the Secretary is authorized to approve all transfer agreements between Central Valley Project contractors and parties outside of the Central Valley Project service area upon the determination that as a result of the proposed transaction over the term of the transfer agreement there is no net export of water out of the Central Valley Project service area of the transferor.

(c) TRANSFERS WHICH RESULT IN A NET EXPORT OF WATER OUTSIDE THE CENTRAL VALLEY PROJECT SERVICE AREA.—Except for transactions authorized under sections

3407(d) and 3407(e) and subject to the provisions of section 3407(f), the Secretary is authorized to approve all transfers between Central Valley Project water contractors and parties outside of the Central Valley Project service area where the Secretary determines that as a result of the proposed transaction over the term of transfer agreement there will be a net export of water out of the service area of the transferor, provided that the transfer meets the following conditions:

(1) The water being transferred would not otherwise be available to other consumptive beneficial uses absent implementation of the program; and

(2) Over the term of the agreement in question, the transfer will have no significant, long-term, adverse impact on groundwater conditions in the transferor's service area.

(d) TRANSFERS OF WATER DEVELOPED THROUGH TEMPORARY FALLOWING OR PERMANENT LAND FALLOWING.—Subject to the provisions of section 3407(f), the Secretary is authorized and directed to approve transfers of Central Valley Project water within or outside of the authorized Central Valley Project service area where the water to be transferred is available for transfer because of the implementation, by the transferor or landowner, of a temporary fallowing or permanent land fallowing program, including land retirement, provided that the involved Central Valley Project water contractor determines that the following conditions are satisfied:

(1) The program will have no significant long-term adverse impact on groundwater conditions.

(2) The water developed under the program shall be that water that would have been consumptively used on crops had those crops been produced during the year(s) of the transfer or water that would have otherwise been lost for beneficial use (i.e. wet water).

(3) No more than 80 percent of the water developed under such transfer shall be made available for export out of the transferor's service area with 10 percent distributed within the transferor's service area to assist in the protection of groundwater resources and 10 percent applied to fish and wildlife purposes within the Central Valley Project service area pursuant to a program approved by the Secretary.

(4) In order to avoid adverse third party impacts the total quantity of water exported under all such transfers by the transferor or landowner shall not exceed 20 percent of the total annual water supply delivered by the Central Valley Project that otherwise would have been available in any particular year for use within the service area of the transferor or 3,000 acre-feet, whichever is greater.

(5) The program will have no unreasonable impacts on water supply, operations or financial condition of the water contractor or its water users.

(e) TRANSFERS OUTSIDE OF THE CENTRAL VALLEY PROJECT SERVICE AREA DURING CERTAIN CRITICAL YEARS.—Notwithstanding the provisions of sections 3407(c) and 3407(d) and subject to the provisions of section 3407(f), the Secretary is authorized to approve both long-term and short-term contracts for the transfer of Central Valley Project water outside of the Central Valley Project service area during dry and critically dry years, as determined by the California Department of Water Resources, where the water is to be transferred to a water district or other public agency which the Secretary determines, in the absence of the transfer, would have been required, after the imposition of water conservation measures, to impose a twenty-five percent or greater deficiency on its customers.

(f) GENERAL PROVISIONS.—The following provisions shall also apply to any transfer:

(1) No program and/or agreements authorized under this title shall be approved unless the action is between a willing buyer and a willing seller under such terms and conditions as may be mutually agreed upon;

(2) No program and/or agreements authorized under this title shall be approved unless the proposed action is consistent with State law including, but not limited to, the provisions of the California Environmental Quality Act.

(3) All programs and/or agreements authorized under this title involving Central Valley Project water, shall be deemed a beneficial use of water by the transferor.

(4) All programs and/or agreements authorized under this title must include a Central Valley Project water contractor as a transferor and as a contracting party. The criteria established within section 3407(d) are intended to govern the exercise of a Central Valley Project water contractor's approval of a transfer proposed by a landowner within the service area of the Central Valley Project water contractor. The provisions of this title are only intended to govern the transfer of Central Valley Project water.

(5) Notwithstanding any contrary provisions contained within Central Valley Project water contracts, in implementing programs and/or agreements authorized under this title, there shall be no limitations on the use of agricultural water for municipal and industrial purposes or municipal and industrial water for agricultural purposes. All transferees of Central Valley Project water shall strictly comply with acreage and pricing requirements of reclamation law applicable to the actual use of Central Valley Project water by the transferee, rates for the applicable uses of water by the transferee shall apply to the transferee during the year or years of actual transfer and shall not be applied to the transferor.

(6) All agreements entered into pursuant to this title between Central Valley Project water contractors and entities outside of the Central Valley Project service area shall be subject to a right of first refusal on the same terms and conditions by entities within the Central Valley Project service area. The right of first refusal must be exercised within ninety days from the date that notice is provided of the proposed transfer. Should an entity exercise the right of first refusal, it must compensate the transferee who had negotiated the agreement upon which the right of first refusal is being exercised for that entity's full costs associated with the development and negotiation of the agreement.

(7) Agreements entered into pursuant to this title shall not be considered as conferring new, supplemental or additional benefits, and shall not be otherwise subject to the provisions of section 203 of Public Law 97-293 (43 U.S.C. 390(cc)).

(8) No programs and/or agreements authorized under this title shall be approved unless the Secretary has determined that the action will have no adverse effect on the Secretary's ability to deliver water pursuant to the Secretary's Central Valley Project contractual obligations because of limitations in conveyance or pumping capacity.

(g) THE ESTABLISHMENT OF CENTRAL VALLEY PROJECT WATER CONTRACT TRANSFER SECURITY AND CERTAINTY.—

(1) All existing and future contracts for Central Valley Project water shall be deemed to allow for the transfers and exchanges provided for within this section.

(2) In order to encourage and aid in the transfer and exchange of water, as provided for within this title, all Central Valley Project contractors who are parties to a long-term transfer or exchange contract shall be entitled to renew its water contract for, at a minimum, a term equal to the remaining term of the transfer or exchange agreement at the time that the underlying contract is to be renewed.

(3) All agreements entered into under sections 3407(b)-(e) of this title shall provide that, during the year(s) of actual transfer, Central Valley Project water subject to transfer shall be repaid at "full cost" as that term is defined at 43 U.S.C. 390(bb).

SEC. 3408. AGRICULTURAL WATER CONSERVATION FEASIBILITY STUDIES.

(a) GENERAL.—This objective of this section is to encourage implementation of financially feasible water conservation practices. Water conservation practices include those practices which make water available that would not otherwise have been available to Central Valley streams or which do not worsen groundwater conditions. Water conservation, for the purposes of this title, does not include land fallowing.

(b) WATER CONSERVATION FEASIBILITY STUDIES.—All existing Central Valley Project agricultural contractors shall submit a report to the Secretary which identifies water conservation practices within two years after enactment of this Act. For such practices identified, the report shall analyze the cost and benefits to that entity and its customers of implementing each of the water conservation practices listed in this section, to the extent they apply to that entity, and any additional practices the Secretary determines should be analyzed.

(1) Water management:

(i) monitoring water supplies, deliveries and accounting;

(ii) providing farmers with crop evapotranspiration information; and providing scheduling procedures for ordering water which correspond with demand for irrigation water to the extent practical;

(iii) monitoring of surface water qualities and quantities;

(iv) monitoring of groundwater elevations and quality; and

(v) monitoring of quantity and quality of drainage waters within facilities the district owns or controls.

(2) District facility improvements:

(i) improving the maintenance or upgrading of water measuring devices;

(ii) automating canal structures;

(iii) lining or piping ditches and canals;

(iv) modifying distribution facilities to increase water delivery flexibility;

(v) constructing or lining regulatory reservoirs;

(vi) developing recharge basins, implementing in lieu recharge programs or other means of recharging groundwater basins when adequate supplies are available; and

(vii) evaluating and improving pump efficiencies of district pumping facilities.

(3) District institutional adjustments:

(i) improving communications and cooperation among districts, farmers and other agencies;

(ii) adjusting the water fee structure to provide incentives for efficient use of water and to reduce drainage discharges;

(iii) increasing flexibility in the ordering and timing of deliveries to meet crop demands; and

(iv) increasing conjunctive use of groundwater and surface water.

(4) District water user water management programs:

(i) assisting the facilitation of the financing of physical improvements for district and on-farm irrigation systems;

(ii) providing educational seminars for staff and farmers; and conducting public information programs, which seminars and programs shall address the following subjects, to the extent applicable to the area; and

(A) improving existing on-farm and district-wide irrigation efficiency;

(B) monitoring of soil moisture and salinity;

(C) promoting of efficient pre-irrigation techniques;

(D) promoting of on-farm irrigation system evaluations;

(E) constructing tail-water deliveries;

(F) improving on-farm irrigation and drainage systems; and

(G) evaluating and improving water user pump efficiencies.

(iii) providing water users with crop evapotranspiration data and information.

(c) BENEFITS AND COSTS.—The benefits and costs of implementation of specific water conservation practices shall be evaluated through analysis of, but not limited to, the impact on the following:

(1) water usage;

(2) electrical energy usage;

(3) labor and equipment required, including costs of training personnel;

(4) crop yields;

(5) reduction or increase in drainage related problems;

(6) fish and wildlife habitat conditions;

(7) costs of construction;

(8) costs of operation and maintenance;

(9) costs of water information programs; and

(10) costs of computer equipment and software.

SEC. 3409. IMPLEMENTATION.

(a) AGRICULTURAL CONTRACT WATER CONSERVATION REQUIREMENTS.—All Central Valley Project agricultural contractors shall develop a plan for implementation of water conservation practices determined by the entity within the water conservation report required under section 3408 of this title to be financially and otherwise feasible for the specific entity. The entity shall complete the plan for implementation within one year after completion of the report required in section 3408. Financially feasible conservation practices which will cause environmental harm, including, but not limited to, adversely affecting groundwater conditions, or are inconsistent with other requirements of law, shall not be required to be implemented.

(b) ON-FARM WATER CONSERVATION INCENTIVE PROGRAM.—There is hereby established a Water Conservation Incentive Program, which shall be administered by the Secretary to encourage and assist with the on-farm implementation of the water conservation practices set forth in section 3408(b)(4). Said program shall be a Guarantee Loan Program, and the Secretary may enter into a Memorandum of Understanding with the Secretary of Agriculture to administer such program in conjunction with other programs offered through the United States Department of Agriculture.

(c) MUNICIPAL AND INDUSTRIAL CONTRACT WATER CONSERVATION REQUIREMENTS.—The Secretary shall require all Central Valley Project municipal and industrial water users, to the extent they provide retail, municipal and industrial water service, to comply with the provisions of the September 19, 1991, Memorandum of Understanding regarding Urban Water Conservation in California.

(d) SECRETARIAL REVIEW.—The Secretary shall evaluate the benefits and cost analysis for each of the water conservation practices found by the specific water user preparing the water conservation reports required by section 3408 of this title to be not feasible and determine the following:

(1) Which water conservation practices, if implemented, would make additional water available to Central Valley streams or to a usable groundwater basin that would not otherwise be available in the absence of implementation of the water conservation practice.

(2) For each water conservation practice identified in section 3409(d)(1), the benefit/cost ratio of implementing that water conservation practice if that water were used to fulfill wildlife refuge water supply obligations established by this title; or made available to other water agencies through the transfer provisions established by this title.

(e) WATER CONSERVATION PRACTICES.—The Secretary may implement those water conservation practices identified which conserve water, are economically feasible, and which the Secretary determines are prudent, through implementation of the identified water conservation practice with the entity holding the contractual right to the water conserved and then making that water available for use by Central Valley refuges as required by provisions of this title, provided that an agreement is entered into between the entity and Secretary that insures the entity and its water users are not damaged by such measures, including, but not limited to, increasing cost to the entity or its water users or interferes with the ability of the entity water users to produce crops. The Secretary shall fund the implementation of a specific water conservation practice in exchange for the use of the saved water. If the Secretary determines that purchasing water for the Central Valley refuges by implementing specific water conservation practices found to meet the requirements of section 3409(d)(1) is not feasible, the Secretary shall make that water available to other California water agencies by negotiating and executing agreements between the United States, the entity holding the Central Valley Project contractual right to the saved water, and entities interested in obtaining the conserved water in exchange for funding the implementation of the water conservation practice.

TITLE XXXV—THREE AFFILIATED TRIBES AND STANDING ROCK SIOUX TRIBE EQUITABLE COMPENSATION PROGRAM

SEC. 3501. SHORT TITLE.

This title may be cited as the "Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act."

SEC. 3502. DEFINITIONS.

As used in this title, the term——

(1) "Secretary" means the Secretary of the Interior;

(2) "Three Affiliated Tribes" means the Mandan, Hidatsa, and Arikara Tribes that reside on the Fort Berthold Indian Reservation, a Federal reservation established by treaty and agreement between the Tribes and the United States;

(3) "Standing Rock Sioux Tribe" means the members of the Great Sioux Nation that reside on the Standing Rock Indian Reservation, established by treaty between the Tribe and the United States; and

(4) "Joint Tribal Advisory Committee" means the commission established by the Secretary on May 10, 1985, for the purpose of assessing the impacts of the Garrison and Oahe Dams on the Three Affiliated Tribes and the Standing Rock Sioux Tribe.

SEC. 3503. FINDINGS; DECLARATIONS.

(a) FINDINGS.—In recognition of the findings, conclusions, and recommendations of the Secretary's Joint Tribal Advisory Committee, Congress finds that the Three Affiliated Tribes and the Standing Rock Sioux Tribe should be adequately compensated for the taking, in the case of the Three Affiliated Tribes, of 156,000 acres of reservation lands and, in the case of the Standing Rock Sioux Tribe, 56,000 acres of reservation lands, as the site for the Garrison Dam and Reservoir, and the Oahe Dam and Reservoir. Congress concurs in the Advisory Committee's findings and conclusions that the United States Government did not justly compensate such Tribes when it acquired those lands.

(b) DECLARATIONS.—(1) The Congress declares that the Three Affiliated Tribes are entitled to additional financial compensation for the taking of 156,000 acres of their reservation lands, including thousands of acres of prime agricultural bottom lands, as the site for the Garrison Dam and Reservoir, and that such amounts should be deposited in the Recovery Fund established by section 3504(a) for use in accordance with this title.

(2) The Congress declares that the Standing Rock Sioux Tribe is entitled to additional financial compensation for the taking of over 56,000 acres of its reservation lands, as the site for the Oahe Dam and Reservoir, and that such amounts should be deposited in the Standing Rock Sioux Tribe Economic Recovery Fund established by section 3504(b) for use in accordance with this title.

SEC. 3504. FUNDS.

(a) THREE AFFILIATED TRIBES ECONOMIC RECOVERY FUND.—(1) There is established in the Treasury of the United States the "Three Affiliated Tribes Economic Recovery Fund" (hereinafter referred to as the "Recovery Fund").

(2) Commencing with fiscal year 1993, and each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Recovery Fund an amount, which shall be nonreimbursable and nonreturnable and which is hereby appropriated, equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts appropriated to the Recovery Fund for compensation for the Three Affiliated Tribes pursuant to this paragraph and paragraph (3) exceed $149,200,000.

(3) For payment to the Three Affiliated Tribes of amounts to which they remain entitled pursuant to the Act entitled "An Act to make certain provisions in connection with the construction of the Garrison diversion unit, Missouri River Basin project, by the Secretary of the Interior," approved August 5, 1965 (79 Stat. 433), there is authorized to be appropriated to the Recovery Fund established by subsection (a) for fiscal year 1993 and each of the next following 9 fiscal years, the sum of $6,000,000.

(4) Only the interest received on moneys in such Fund shall be available, and is hereby appropriated, for use by the Secretary of the Interior in making payments to the Three Affiliated Tribes for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary.

(b) Standing Rock Sioux Tribe Economic Recovery Fund.—(1) There is established in the Treasury of the United States the "Standing Rock Sioux Tribe Economic Recovery Fund."

(2) Commencing with fiscal year 1993, and for each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Recovery Fund an amount, which shall be nonreimbursable and nonreturnable and which is hereby appropriated, equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts appropriated to the Recovery Fund for compensation for the Standing Rock Sioux Tribe pursuant to this paragraph exceed $90,600,000.

(3) Only the interest on the moneys in such Fund shall be available, and is hereby appropriated, for use by the Secretary of the Interior in making payments to the Standing Rock Sioux Tribe for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary.

(c) Limitation.—During fiscal years 1993, 1994, and 1995, the interest described in subsections (a)(4) and (b)(3) shall not exceed the savings generated by the bill.

SEC. 3505. ELIGIBILITY FOR OTHER SERVICES NOT AFFECTED.

No payments pursuant to this title shall result in the reduction, or the denial, of any Federal services or programs that the Three Affiliated Tribes or the Standing Rock Sioux Tribe, or any of their members, are otherwise entitled to, or eligible for, because of their status as a federally recognized Indian tribe or member pursuant to Federal law. No payments pursuant to this title shall be subject to Federal or State income tax, or affect Pick-Sloan Missouri River Basin power rates in any way.

SEC. 3506. PER CAPITA PAYMENTS PROHIBITED.

No part of any moneys in any fund under this title shall be distributed to any member of the Three Affiliated Tribes or the Standing Rock Sioux Tribe on a per capita basis.

SEC. 3507. STANDING ROCK SIOUX INDIAN RESERVATION.

(a) Irrigation.—The Secretary of the Interior is authorized to develop irrigation within the boundaries of the Standing Rock Indian Reservation in a 2,380 acre project service area, except that no appropriated funds are authorized to be expended for construction of this project unless the Secretary has made a finding of irrigability of the lands to receive water as required by the Act of July 31, 1953 (43 U.S.C. 390a). Repayment for the units authorized under this subsection shall be made pursuant to the Act of July 1, 1932 (25 U.S.C. 386a).

(b) Specific.—There is authorized to be appropriated, in addition to any other amounts authorized by this title, or any other law, to the Secretary of the Interior $4,660,000 for use by the Secretary of the Interior in carrying out irrigation projects for the Standing Rock Sioux Tribe.

(c) Disclaimer.—This section shall not limit future irrigation development, in the event that such irrigation is subsequently authorized.

SEC. 3508. TRANSFER OF LANDS.

(a) Former Tribal Lands.—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are those Federal lands which were acquired from the Three Affiliated Tribes by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949 and which are within the external boundary of the Fort Berthold Indian Reservation and located at or above contour elevation 1,860 feet mean sea level.

(b) Four Bears Area.—All rights, title, and interest of the United States in the following described lands (including the improvements thereon) and underlying Federal minerals are hereby declared to be held in trust by the United States for the Three Affiliated Tribes as part of the Fort Berthold Indian Reservation:

(1) approximately 142.2 acres, more or less, lying above contour elevation 1,854 feet mean sea level and located south of the southerly right-of-way line of North Dakota State Highway No. 23, in the following sections of Township 152 North, Range 93 West of the 5th principal meridian, McKenzie County, North Dakota:

Section 15: South Half of the Southwest Quarter;

Section 21: Northeast Quarter and Northwest Quarter of the Southeast Quarter;

Section 22: North Half of the Northwest Quarter; and

(2) approximately 45.80 acres, more or less, situated in the East Half of the Southwest Quarter and the East Half of the West Half of the Southwest Quarter of Section 15, lying at or above contour elevation 1,854 mean sea level, located North of the Northerly right-of-way line of North Dakota State Highway No. 23 and Southeasterly of the following described line:

Commencing at a point on the West line of said Section 15, said point being 528.00 feet Northerly of the existing Northerly right-of-way line of North Dakota State Highway No. 23; thence North 77 00′ 00″ East to the West line of said East Half of the West Half of the Southwest Quarter of Section 15, and the point of beginning of such line; thence Northeasterly to the Northwest corner of the East Half of the Southwest Quarter and the point of termination.

(c) Former Nontribal Lands.—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are—

(A) those Federal lands acquired from individual Indian owners by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949; and

(B) those lands acquired from non-Indian owners by the United States for such Project (either by purchase or condemnation);

and which are within the external boundary of the Fort Berthold Reservation, and located at or above contour elevation 1,860 feet mean sea level.

(d) Right of First Refusal.—(1) The Secretary of the Interior shall, within 1 year following the date of the enactment of this title, offer to the Three Affiliated Tribes, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed 12 months following notice of the offer to such Tribes, owners, heirs, or assigns, to purchase at fair market value any land, in the case of the Three Affiliated Tribes, described in subsection (b), and in the case of individual Indian and non-Indian owners, described in subsection (c), which was so acquired. If any such former owner, or his or her heirs or assigns, refuses or fails to exercise his or her right to repurchase, an option to purchase such land shall be afforded to the Three Affiliated Tribes.

(2) Lands purchased from the Secretary of the Interior by former owners, or their heirs or assigns, under this subsection shall not be sold by former owners, their heirs or assigns, within the 5-year period following such purchase, unless the Three Affiliated Tribes has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribes—

(A) 30 days from such notification to inform the prospective seller whether the Tribes intend to exercise their right of first refusal to purchase such lands at the price of the bona fide offer; and

(B) 1 year from such notification to complete the purchase of such lands under their right of first refusal.

(e) Consideration.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevations 1,860 feet mean sea level (for subsections (a) and (c)) and 1,854 feet mean sea level (for subsection (b)) by surveying and monumenting such contour at intervals no greater than 500 feet. The survey and monumentation shall be completed within 2 years after the date of the enactment of this title.

(f) Reservations.—The United States hereby reserves the perpetual right, power, privilege, and easement permanently to overflow, flood, submerge, saturate, percolate, and erode the land described in subsections (a), (b), and (c) in connection with the operation and maintenance of the Garrison Dam Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris, and natural obstructions which, in the opinion of the Secretary of the Army, may be detrimental to the Project. The Three Affiliated Tribes, and the owners or their heirs or assigns who reacquired such lands pursuant to this title may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easements hereby reserved.

(g) Prohibitions.—With respect to any lands described in this section that are below 1,860 feet mean sea level, no structures for human habitation shall be constructed or maintained on the land, and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(h) Excavation.—With respect to lands described in subsections (a), (b), or (c), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(i) Disclaimer.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a), (b), and (c) prior to the date of the enactment of this title.

(j) Trust Lands.—(1) All rights, title, and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held in trust by the United States for the Three Affiliated Tribes.

(2) The improvements and facilities referred to in paragraph (1) are the Red Butte Bay Public Use Area and the Deepwater Bay Public Use Area. The recreation facilities include those facilities located both above and below contour elevation 1,860 feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of Engineers shall have no obligation or responsibility to operate, maintain, repair, or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreational facilities in this subsection shall be the responsibility of the Department of the Interior.

SEC. 3509. TRANSFER OF LANDS AT OAHE DAM AND LAKE PROJECT.

(a) FORMER TRIBAL LANDS.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph (1) are those Federal lands which were acquired from the Standing Rock Sioux Tribe by the United States for the Oahe Dam and Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85-915), and—

(A) which extend southerly from the south shore of Cannonball River, in Sioux County, North Dakota, to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation 1,620 feet mean sea level.

(b) FORMER NONTRIBAL LANDS.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph (1) are those Federal lands acquired from individual Indian owners by the United States for the Oahe Dam and Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85-915), and from non-Indian owners (either by purchase or condemnation), and—

(A) which extend southerly from the south shore of the Cannonball River, in Sioux County, North Dakota to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation 1,620 feet mean sea level.

(c) RIGHT OF FIRST REFUSAL.—(1) The Secretary of the Interior shall, within 1 year following the date of the enactment of this title, offer to the Standing Rock Sioux Tribe, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed 12 months following notice of the offer to the Standing Rock Sioux Tribe, owners, heirs or assigns, to purchase at fair market value any land, in the case of the Standing Rock Sioux Tribe, described in subsection (a), and in the case of individual Indian and non-Indian owners, described in subsection (b), which was so acquired. If any such owner, or his or her heirs or assigns, refuses or fails to exercise their right to repurchase, an option to purchase such lands shall be afforded to the Standing Rock Sioux Tribe.

(2) Lands purchased from the Secretary of the Interior by such former owners, or their heirs or assigns, under this subsection shall not be sold by the former owners, their heirs or assigns, within the 5-year period following such purchase, unless the Standing Rock Sioux Tribe has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribe—

(A) 30 days from such notification to inform the prospective seller whether the Tribe intends to exercise its right of first refusal to purchase such lands at the price of the bona fide offer, and

(B) 1 year from such notification to complete the purchase of such lands under its right of first refusal.

(d) CONSIDERATION.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevation 1,620 feet mean sea level by surveying and monumenting such contour at intervals no greater than 500 feet. The survey and monumentation shall be completed within 2 years after the date of the enactment of this title.

(e) RESERVATIONS.—The United States hereby reserves the perpetual right, power, privilege and easement permanently to overflow, flood, submerge, saturate, percolate and erode the land described in subsections (a) and (b) in connection with the operation and maintenance of the Oahe Dam and Lake Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris and natural obstructions which, in the opinion of the Secretary of the Army may be detrimental to the Project. The Standing Rock Sioux Tribe, and the owners or their heirs and assigns, who reacquired any such lands pursuant to this title, may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easement hereby reserved.

(f) PROHIBITIONS.—With respect to lands described in this section that are below 1,620 feet mean sea level, no structures for human habitation shall be constructed or maintained on the land and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(g) EXCAVATION.—With respect to lands described in subsections (a) or (b), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(h) DISCLAIMER.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a) and (b) prior to the date of the enactment of this title.

(i) TRUST LANDS.—(1) All rights, title and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held in trust by the United States for the Standing Rock Sioux Tribe.

(2) The improvements and facilities referred to in paragraph (1) are the levee around the City of Fort Yates, North Dakota, and the recreation facilities located at the Fort Yates Recreation Area, the Walker Bottoms Recreation Area, and the Grand River Recreation Area, including those recreation facilities located both above and below contour elevation 1,620 feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of Engineers shall have no obligation or responsibility to operate, maintain, repair or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreational facilities in this subsection shall be the responsibility of the Department of the Interior.

(j) EXCEPTION.—Notwithstanding subsection (i), the transfer of such improvements and facilities pursuant to subsection (i) does not include the improvements and facilities located at the Indian Memorial Recreation Area and the Grand River Fish Spawning Station, unless and until the State of South Dakota consents in writing and then only upon amendment of the "Agreement Between the United States and the State of South Dakota for Recreation and Fish and Wildlife Development at Lake Oahe, South Dakota" entered into on September 2, 1983, which amendment shall specifically provide for such transfer.

(k) FISH AND WILDLIFE..—Notwithstanding any other provision of law, the lands transferred under subsection (a) which, prior to the date of enactment of this title, were designated by the Corps of Engineers as mitigation lands for purposes of fish and wildlife conservation in accordance with the Fish and Wildlife Conservation Act of 1958, shall be included in any subsequent determination of the Corps' compliance with the fish and wildlife mitigation requirements of the Fish and Wildlife Conservation Act of 1958. The Standing Rock Sioux Tribe shall use its best efforts to conduct fish and wildlife conservation and mitigation on such lands. Notwithstanding the provisions of the Fish and Wildlife Conservation Act of 1958, the State of South Dakota shall have no claim, right, or cause of action pursuant to Federal law to compel designation of additional lands currently under the jurisdiction of the Corps of Engineers, for purposes of fish and wildlife conservation in lieu of the lands transferred by subsection (a).

SEC. 3510. CONFORMING AMENDMENT.

Section 10(a)(2) of Public Law 89-108 is amended by striking "$67,910,000" and inserting "$7,910,000."

SEC. 3511. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 3504 of this title.

TITLE XXXVI—WETLAND HABITAT RESTORATION PROGRAM

SEC. 3601. DEFINITIONS.

(1) the term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota; and

(2) the term "wetland trust" means a trust established in accordance with section 3602(b) and operated in accordance with section 3602(c).

SEC. 3602. WETLAND TRUST.

(a) FEDERAL CONTRIBUTIONS.—Subject to appropriations therefore, the Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c), in the amount of $3,000,000 in the first year in which a contribution is made and $1,000,000 in each of the following four years.

(b) ESTABLISHMENT OF WETLAND TRUST.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to manage all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of Region 6 of the United States Fish and Wildlife Service;

(C) 1 representative from the Department of Agriculture, as determined by the Secretary of Agriculture; and

(D) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations, appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) OPERATION OF WETLAND TRUST.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are to be invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are to be expended for any purpose;

(C) the income received from the investment of such funds is to be used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetland trust under subsection (a) and income from investments made with such funds) are to be used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to the wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G)(i) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are to be remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements are acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to the management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection: *Provided*, That income earned from the Trust shall not be used to mitigate or compensate for wetland damage caused by Federal water projects;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) INVESTMENT OF WETLAND TRUST FUNDS.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

(e) COORDINATION WITH THE SECRETARY OF AGRICULTURE.—(1) The Secretary shall make the Federal contribution under subsection (a) after consulting with the Secretary of Agriculture to provide for the coordination of activities under the wetland trust established under subsection (b) with the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

(2) The Secretary of Agriculture shall take into consideration wetland protection activities under the wetland trust established under subsection (b) when considering whether to provide assistance under the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

SEC. 3603. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $7,000,000 for the Federal contribution to the wetland trust established under section 3602.

TITLE XXXVII—SAN JOAQUIN NATIONAL VETERANS CEMETERY, CALIFORNIA

Notwithstanding any other provisions of law, the Secretary of the Interior and the Secretary of Veterans Affairs are authorized to enter into a contract to provide for the delivery in perpetuity of water from the Central Valley Project in quantities sufficient, but not to exceed 850 acre-feet per year, to meet the needs of the San Joaquin National Cemetery, California.

TITLE XXXVIII—SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT

SEC. 3801. SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Army is directed to develop and carry out in accordance with this section a 320-acre Sonoma Baylands wetland demonstration project in the San Francisco Bay-Delta estuary, California. The project shall utilize dredged material suitable for aquatic disposal to restore, protect, and expand the Sonoma Baylands for the purposes of preserving waterfowl, fish, and other wetland dependent species of plants and animals and to provide flood control, water quality improvement, and sedimentation control.

(b) ADDITIONAL PROJECT PURPOSES.—In addition to the purposes described in subsection (a), the purposes of the project under this section are to restore tidal wetlands, provide habitat for endangered species, expand the feeding and nesting areas for waterfowl along the Pacific flyway, and demonstrate the use of suitable dredged material as a resource, facilitating the completion of Bay Area dredging projects in an environmentally sound manner.

(c) PLAN.—

(1) GENERAL REQUIREMENT.—The Secretary, in cooperation with appropriate Federal and State agencies, and in accordance with applicable Federal and State environmental laws, shall develop in accordance with this subsection a plan for implementation of the Sonoma Baylands project under this section.

(2) CONTENTS.—The plan shall include initial design and engineering, construction, general implementation, and site monitoring.

(3) TARGET DATES.—

(A) FIRST PHASE.—The first phase of the plan for final design and engineering shall be completed within 6 months of the date of the enactment of this Act.

(B) SECOND PHASE.—The second phase of the plan, including the construction of onsite improvements, shall be completed within 10 months of the date of the enactment of this Act.

(C) THIRD PHASE.—The third phase of the plan, including dredging, transportation, and placement of material, shall be started no later than July 1, 1994.

(D) FOURTH PHASE.—The final phase of the plan shall include monitoring of project success and function and remediation if necessary.

(d) NON-FEDERAL PARTICIPATION.—Any work undertaken pursuant to this title shall be initiated only after non-Federal interests have entered into a cooperative agreement according to the provisions of section 221 of the Flood Control Act of 1970. The non-Federal interests shall agree to:

(1) provide 25 percent of the cost associated with the project, including provision of all lands, easements, rights-of-way, and necessary relocations; and

(2) pay 100 percent of the cost of operation, maintenance, replacement, and rehabilitation costs associated with the project.

(e) REPORTS TO CONGRESS.—The Secretary shall report to Congress at the end of each of the time periods referred to in subsection (c)(3) on the progress being made toward development and implementation of the project under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for carrying out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

TITLE XXXIX—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT

SEC. 3901. SHORT TITLE.

This title may be cited as the "San Carlos Apache Tribe Water Rights Settlement Act of 1992".

SEC. 3902. CONGRESSIONAL FINDINGS.

(a) SPECIFIC FINDINGS.—The Congress finds and declares that——

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) qualification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on November 9, 1871, and by actions subsequent thereto, the United States Government established a reservation for the San Carlos Apache Tribe in Arizona;

(5) the United States, as trustee for the San Carlos Apache Tribe, obtained water entitlements for the Tribe pursuant to the Globe Equity Decree of 1935; however, continued uncertainty as to the full extent of the Tribe's entitlement to water has severely limited the Tribe's access to water and financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on Federal program funding and achieve meaningful self-determination and self-sufficiency;

(6) proceedings to determine the full extent and nature of the Tribe's water rights are currently pending before the United States District Court in Arizona and in the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Tribe's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Tribe and its neighboring non-Indian communities have sought to settle their dispute to water and reduce the burdens of litigation;

(8) after lengthy negotiations, which included participation by representatives of the United States Government, the Tribe, and neighboring non-Indian communities of the Salt River and Gila River Valleys, who are all party to the General Adjudication of the Gila River System and Source, the parties are prepared to enter into an Agreement to resolve all water rights claims between and among themselves, to quantify the Tribe's entitlement to water, and to provide for the orderly development of the Tribe's lands;

(9) pursuant to the Agreement, the neighboring non-Indian communities will relinquish claims to approximately 58,735 acre-feet of surface water to the Tribe, provide the means of storing water supplies of the Tribe behind Coolidge Dam on the Gila River in Arizona to enhance fishing, recreation, and other environmental benefits, and make substantial additional contributions to carry out the Agreement's provisions; and

(10) to advance the goal of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Tribe to utilize fully its water resources in developing a diverse, efficient reservation economy.

(b) PURPOSES OF TITLE.—It is the purpose of this title——

(1) to approve, ratify, and confirm the Agreement to be entered into by the Tribe and its neighboring non-Indian communities,

(2) to authorize and direct the Secretary of the Interior to execute and perform such Agreement, and

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Tribe as provided in the Agreement and this title.

SEC. 3903. DEFINITIONS.

For purposes of this title:

(1) "Active conservation capacity" means that storage space, exclusive of bank storage, available to store water which can be released through existing reservoir outlet works.

(2) "Agreement" means that agreement among the San Carlos Apache Tribe; the United States of America; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; the Arizona cities of Chandler, Glendale, Globe, Mesa, Safford, Scottsdale and Tempe, the town of Gilbert; Buckeye Water Conservation and Drainage District, Buckeye Irrigation Company, the Phelps Dodge Corporation and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is executed by the Secretary of the Interior pursuant to sections 3910(c) and 3911(a)(7) of this Act.

(3) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(4) "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(5) "Globe Equity Decree" means the decree dated June 29, 1935, entered in the United States of America v. Gila Valley Irrigation District, et al., Globe Equity 59, in the District Court of the United States in and for the District of Arizona, and all decrees and decisions supplemental thereto.

(6) "Reservation" means the reservation authorized by the Treaty with the Apache Nation dated July 1, 1852 (10 Stat. 979), established by the Executive orders of November 9, 1871 and December 14, 1872, as modified by subsequent Executive orders and Acts of Congress including the Executive order of August 5, 1873.

(7) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(8) "Secretary" means the Secretary of the Interior.

(9) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona Corporation.

(10) "SCIP" means the San Carlos Irrigation Project authorized pursuant to the Act of June 7, 1924 (42 Stat. 475), expanded pursuant to the Act of March 7, 1928 (45 Stat. 200, 210), and administered by the Bureau of Indian Affairs.

(11) "Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and duly recognized by the Secretary.

SEC. 3904. WATER.

(a) REALLOCATION OF WATER.—The Secretary shall reallocate, for the exclusive use of the Tribe, all of the water referred to in subsection (f)(2) of section 2 of the Act of October 19, 1984 (98 Stat. 2698), which is not required for delivery to the Ak-Chin Indian Reservation under that Act. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-0906-09W-09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(b) PARTIAL SATISFACTION OF CLAIMS.—Notwithstanding any other provision of this Act, in the event the authorizations contained in section 3908(b) do not become effective, the water referred to in subsection 3904(a) of this Act shall constitute partial satisfaction of the Tribe's claims for water in the proceeding entitled "In Re the General Adjudication of All Rights To Use Water in the Gila River System and Source," Maricopa County Superior Court Nos. W-091, W-092, W-093, and W-094 (consolidated), as against the parties identified in section 3903(2) of this Act.

(c) ADDITIONAL ALLOCATIONS.—The Secretary shall reallocate to the Tribe an annual entitlement to 14,655 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to Phelps Dodge Corporation in the Notice of Final Water Allocations to Indian and non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12446 et seq.). The Tribe shall pay the United States or, if directed by the Secretary, CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 3906, water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-0906-09W-09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(d) ADDITIONAL ALLOCATIONS.—The Secretary shall reallocate to the Tribe and annual entitlement to 3,480 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to the city of Globe, Arizona in the Notice of Final Water Allocations to Indian and Non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12466 et seq.). The Tribe shall pay the United States or, if directed by the Secretary CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 3906, water service capital charges, or any other charges or payments of such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of contract No. 14-0906-09W-09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be reimbursable.

(e) WATER STORAGE POOL.—Notwithstanding the Act of June 7, 1924 (43 Stat. 475), as amended by the Act of March 7, 1928 (45 Stat. 200, 210), in order to permit the Tribe to maintain permanently a pool of stored water for fish, wildlife, recreation and other purposes, the Secretary shall designate for the benefit of the Tribe such active conservation capacity behind Coolidge Dam on the Gila River in Arizona as is not being used by the Secretary to meet the obligations of SCIP for irrigation storage, except that any water stored by the Tribe shall be the first water to spill ("spill water") from Coolidge Dam. The water stored by the Tribe shall be, at the Tribe's designation, the water provided to the Tribe pursuant to subsections (a), (c) and (d) of this section, its entitlement of 12,700 acre-feet of water under its Tribal CAP Delivery Contract dated December 11, 1981; the water referred to in section 3910(f), or any combination thereof. A pro rata share of evaporation and seepage losses shall be deducted daily from the Tribe's stored water balance as provided in the Agreement. The Tribe shall pay an equitable share of the operation and maintenance costs for the water stored for the benefit of the Tribe, subject to the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386 et seq.). The water stored by the Tribe pursuant to this subsection shall not be subject to apportionments pursuant to Article VIII (2) of the Globe Equity Decree. Not later than January 31 of each year, the Secretary shall notify the United States District Court for the District of Arizona of the Tribe's stored water balance as of January 1 of that year. The Secretary shall notify said Court of the Tribe's stored water balance at least once per calendar month and at such more frequent intervals as conditions, in the Secretary's judgment, may require.

(f) EXECUTION OF AGREEMENT.—The Secretary shall execute the Agreement which establishes, as between and among the parties to Agreement, the Tribe's permanent right, except as provided in paragraphs 13.0, 14.0 and 15.0 of the Agreement, to the on-reservation diversion and use of all ground water beneath the Tribe's Reservation, subject to the management plan referred to in section 3910(d) of this Act, and all surface water in all tributaries within the Tribe's Reservation to the mainstreams of: The Black River, the Salt River below its confluence with the Black River, the San Pedro River and the Gila River, including the right, except as provided in paragraphs 14.0 and 15.0 of the Agreement, to fully regulate and store such water on the tributaries. The Tribe's rights to the mainstream of Black River, San Pedro River and the Gila River shall be as provided in the Agreement and the Globe Equity Decree. With respect to parties not subject to the waiver authorized by subsection 3908(b) of this Act, the claims of the Tribe and the United States, as trustee for the Tribe, are preserved.

(g) GILA RIVER EXCHANGES.—Any exchange pursuant to this legislation of Gila River water for water supplied by the CAP shall not amend, alter or conflict with the exchanges authorized by section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)).

SEC. 3905. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) RATIFICATION OF CONTRACT.—Except as provided in section 3910(i), the contract between the SRP and the RWCD District dated October 24, 1924, together with all amendments thereto and any extension thereto entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) SUBCONTRACT.—The Secretary shall revise the subcontract of the Roosevelt Water Conservation District for agricultural water service from the CAP to include an addendum substantially in the form of Exhibit "A" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time or times as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) RESTRICTIONS.—The lands within RWCD and SRP shall be free from the ownership and full cost pricing limitations of Federal reclamation law and from all full cost pricing provisions of Federal law.

(d) DISCLAIMER.—No person, entity or lands shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) or any full cost pricing provision of Federal law by virtue of their participation in the settlement or their execution and performance of the Agreement, or the use, storage or delivery of CAP water pursuant to a lease, sublease or exchange of water to which the Tribe is entitled under this title.

(e) FULL COST PRICING PROVISIONS.—The lands within the Tribe's Reservation shall be free from all full cost pricing provisions of Federal law.

(f) CERTAIN EXTENSIONS AUTHORIZED.—Notwithstanding any other provision of law or any other provision of this title, the Secretary, subject to tribal approval, is authorized and directed to: extend the term of that right-of-way permit granted to Phelps Dodge Corporation on March 8, 1950, and all amendments thereto, for the construction, operation and maintenance of an electrical transmission line and existing road for access to those facilities over the lands of the Tribe; extend the term of that right-of-way permit numbered 2000089 granted on July 25, 1944, to Phelps Dodge Corporation, and all amendments thereto, for the construction, use, operation and maintenance of a water plant, pipeline, canal, water flowage easement through Willow Creek and existing road for access to those facilities over the lands of the Tribe; and grant a water flowage easement through the portions of Eagle Creek flowing through the Tribe's Reservation. Notwithstanding any other provision of law, each such right-of-way and flowage easement shall be for a term expiring on March 8, 2090, and shall be subject to the right of Phelps Dodge to renew the rights-of-way and flowage easements for an additional term of up to 100 years, subject to payment of rental at a rate based upon fair market retail value.

SEC. 3906. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE, WATER WITHDRAWAL.

(a) AMENDMENT OF CONTRACT.—The Secretary shall amend the CAP water delivery contract between the United States and the Ak-Chin Indian Community dated December 11, 1980, and the contract between the United States and the Ak-Chin Indian Community dated October 2, 1985, as is necessary to satisfy the requirements of section 3904(a) of this Act.

(b) CONTRACT AMENDMENT.—The Secretary shall amend the CAP water delivery contract between the United States and the Tribe dated December 11, 1980 (hereinafter referred to as the "Tribal CAP Delivery Contract"), as follows:

(1) To include the obligation by the United States to deliver water to the Tribe upon the same terms and conditions set forth in the Tribal CAP Delivery Contract as follows: water from those sources described in subsections (a), (c), and (d) of section 3904 of this Act; except that the water reallocated pursuant to such subsections shall retain the priority such water had prior to its reallocation. The cost to the United States to meet the Secretary's obligation to design and construct new facilities to deliver CAP water shall not exceed the cost of construction of the delivery and distribution system for the 12,700 acrefeet of CAP water originally allocated to the Tribe.

(2) To extend the term of such contract to December 31, 2100, and to provide for its subsequent renewal upon the same terms and conditions as the Tribal CAP Delivery Contract, as amended.

(3) To authorize the Tribe to lease or to enter into an option or options to lease the water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, within Maricopa, Pinal and Pima Counties for terms not exceeding one hundred years and to renew such leases.

(4) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, to the city of Scottsdale under the terms and conditions of the Water Lease set forth in Exhibit "B" to the Agreement.

(5) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, including, but not limited to, the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Tempe and the town of Gilbert.

(c) APPROVAL OF AMENDMENTS.—Notwithstanding any other provision of law, the amendments to the Tribal CAP Delivery Contract set forth in Exhibit "C" to the Agreement are hereby authorized, approved and confirmed.

(d) CHARGES NOT TO BE IMPOSED.—The United States shall not impose upon the Tribe the operation, maintenance and replacement charges described and set forth in section 6 of the Tribal CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the lessee or lessees of the options to lease or leases herein authorized.

(e) WATER LEASE.—Except as provided in paragraph (3) of this subsection, any Water Lease entered into by the Tribe as authorized by section 3906 shall specifically provide that—

(1) the lessee shall pay all operation, maintenance and replacement costs of such water to the United States, or if directed by the Secretary, to CAWCD;

(2) except as provided in paragraph (3) of this subsection, the lessee shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance and replacement costs and lease payments; and

(3) with respect to the water reallocated to the Tribe pursuant to subsections (c) and (d) of section 3904, the Tribe or lessee shall pay any water service capital charges or municipal and industrial subcontract charges for any water use or lease from the effective date of this title through September 30, 1995.

(f) ALLOCATION AND REPAYMENT OF COSTS.—For the purpose of determining allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-0906-09W-09245, Amendment No. 1, between the United States of America and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with the delivery of water to which the Tribe is entitled under the Tribal Delivery Contract, as amended, to the lessee or lessees of the options to lease or leases herein authorized shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(g) AGREEMENTS.—The Secretary shall, in consultation with the Tribe, enter into agreements necessary to permit the Tribe to exchange, within the State of Arizona, all or part of the water available to it under its Tribal CAP Delivery Contract, as amended.

(h) RATIFICATION.—As among the parties to the Agreement, the right of the city of Globe to withdraw and use water from under the Cutter subarea under the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(i) USE OF WATER.—As among the parties to the Agreement, the right of the city of Safford to withdraw and use water from the Bonita Creek watershed as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(j) WITHDRAWAL AND USE OF WATER.—As between the Tribe and Phelps Dodge, the right of Phelps Dodge to divert, withdraw and use water as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(k) PROHIBITIONS.—Except as authorized by this section, no water made available to the Tribe pursuant to the Agreement, the Globe Equity Decree, or this title may be sold, leased, transferred or in any way used off the Tribe's Reservation.

SEC. 3907. CONSTRUCTION AND REHABILITATION; TRUST FUND.

(a) DUTIES.—The Secretary is directed—

(1) pursuant to the existing authority of the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) to design and construct new facilities for the delivery of 12,700 acre-feet of CAP water originally allocated to the Tribe to tribal reservation lands at a cost which shall not exceed the cost for such design and construction which would have been incurred by the Secretary in the absence of the Agreement and this title; and

(2) to amend the contract between the United States Economic Development Administration and the Tribe relating to the construction of Elgo Dam on the San Carlos Apache Indian Reservation, Project No. 07-0981-09000210, to provide that all remaining repayment obligations owing to the United States on the date of the enactment of this Act are discharged.

(b) FUND.—There is established in the Treasury of the United States a fund to be known as the "San Carlos Apache Tribe Development Trust Fund" (hereinafter called the "Fund") for the exclusive use and benefit of the Tribe. The Secretary shall deposit into the Fund the funds authorized to be appropriated in subsection (c) and the $3,000,000 provided by the State of Arizona pursuant to the Agreement. There shall be deposited into the Fund any monies paid to the Tribe or to the Secretary on behalf of the Tribe from leases or options to lease water authorized by section 3906 of this Act.

(c) AUTHORIZATION.—There are authorized to be appropriated $18,800,000 in fiscal year 1993, and $19,600,000 in fiscal year 1994, together with interest accruing thereon beginning one year from the date of enactment of this Act at rates determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Federal obligations of comparable maturity, to carry out the provisions of subsection (b).

(d) USE OF FUND.—When the authorizations contained in section 3908(b) of this Act are effective, the principal of the Fund and any interest or income accruing thereon may be used by the Tribe to put to beneficial use the Tribe's water entitlement, to defray the cost to the Tribe of CAP operation, maintenance and replacement charges as appropriate, and for other economic and community development purposes. The income from the Fund shall be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council. Such income may thereafter be expended only in accordance with such budget. Income not distributed shall be added to principal. The principal from the Fund may be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council and the Secretary. Such principal may thereafter be expended only in accordance with such budget: Provided, however, That the principal may only be utilized for long-term economic development projects. In approving a budget for the distribution of income or principal, the Secretary shall, in accordance with regulations promulgated pursuant to subsection (e) of this section, be assured that methods exist and will be employed to ensure the use of the funds shall be in accordance with the approved budget.

(e) REGULATIONS.—The Secretary shall, no later than 30 days after the date the authorizations contained in section 3908(b) are effective, promulgate regulations necessary to carry out the purposes of subsection (d).

(f) DISCLAIMER.—The United States shall not be liable for any claim or cause of action arising from the Tribe's use or expenditure of monies distributed from the Fund.

SEC. 3908. SATISFACTION OF CLAIMS.

(a) FULL SATISFACTION OF CLAIMS.—Except as provided in subsection (e) of this section, the benefits realized by the Tribe and its members under this title shall constitute full and complete satisfaction of all members' claims for water rights or injuries to water rights under Federal, State and other laws (including claims for water rights in ground water, surface water, and effluent) from time immemorial to the effective date of this title. Notwithstanding the foregoing, nothing in this title shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's Reservation.

(b) RELEASE.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized, as part of the performance of the obligations under the Agreement, to execute a waiver and release, except as provided in the Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from time immemorial to the effective date of this title, and any and all future claims of water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this title, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise.

(c) ADDITIONAL RELEASES.—Except as provided in the Agreement, the United States shall not assert any claim against the State of Arizona or any political subdivision thereof, or any person, corporation or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise in its own right or on behalf of the Tribe based upon—

(1) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) of the Tribe and its members, or

(2) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) held by the United States on behalf of the Tribe and its members.

(d) SAVINGS PROVISION.—In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 3911(a), the Tribe and the United States shall retain the right to assert past and future water rights claims as to all Reservation lands.

(e) DISCLAIMER.—Nothing in this title shall affect the water right or claims related to the San Carlos Apache Allotments outside the exterior boundaries of the Reservation.

(f) AK-CHIN WATER CLAIMS; WAIVER AND RELEASE.—Lands receiving CAP water shall be free from the ownership and full cost pricing limitations of Federal reclamation law and from all full cost pricing provisions of Federal law: *Provided*, That, as to each non-Indian agricultural contractor of such water, such exemptions shall be contingent upon the execution by such contractor of a waiver and release of any and all claims resulting from the reallocation of water to the Tribe pursuant to section 3904(a) of this Act.

SEC. 3909. ENVIRONMENTAL COMPLIANCE.

(a) NO MAJOR FEDERAL ACTION.—Execution of the settlement agreement by the Secretary as provided for in section 3910(c) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary shall carry out all necessary environmental compliance during the implementation phase of this settlement.

(b) AUTHORIZATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with the settlement under this title, including mitigation measures adopted by the Secretary.

(c) Lead Agency.—With respect to such settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable Federal environmental laws.

(d) Environmental Acts.—The Secretary shall comply with all aspects of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable Federal environmental Acts and regulations in proceeding through the implementation phase of such settlement.

SEC. 3910. MISCELLANEOUS PROVISIONS.

(a) Waiver of Sovereign Immunity.—In the event any party to the Agreement files a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of this title or the Agreement, naming the United States of America or the Tribe as parties, authorization is hereby granted to joining the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived.

(b) Certain Claims Prohibited.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this title or the Agreement against any lands within the San Carlos Apache Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) Approval of Agreement.—Except to the extent that the Agreement conflicts with the provisions of this title, such Agreement is hereby approved, ratified and confirmed. The Secretary shall execute and perform such Agreement as approved, ratified and confirmed. The Secretary is authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(d) Ground Water Management Plan.—The Secretary shall establish a ground water management plan for the San Carlos Apache Reservation which, except as is necessary to be consistent with the provisions of this title, will have the same effect as a management plan developed under Arizona law.

(e) Amendment to the Act of April 4, 1938.—The Act of April 4, 1938 (52 Stat. 193; 25 U.S.C. 390) is amended by inserting immediately before the period at the end thereof a colon and the following: "*Provided further*, That concessions for recreation and fish and wildlife purposes on San Carlos Lake may be granted only by the governing body of the San Carlos Apache Tribe upon such conditions and subject to such limitations as may be set forth in the constitution and bylaws of such Tribe".

(f) San Carlos Reservoir.—There is hereby transferred to the Tribe the Secretary's entitlement of 30,000 acre-feet of water, less any evaporation and seepage losses from the date of acquisition by the Secretary to the date of transfer, which the Secretary may have acquired through substituting CAP water for water to which the Gila River Indian Community and the San Carlos Irrigation and Drainage District had a right to be released from San Carlos Reservoir and delivered to them in 1990.

(g) Limitation.—No part of the Fund established by section 3907(b) of this Act, including principal and income, or income from options to lease water or water leases authorized by section 3906, may be used to make per capita payments to members of the Tribe.

(h) Disclaimer.—Nothing in this title shall be construed to repeal, modify, amend, change or affect the Secretary's obligations to the Ak-Chin Indian Community pursuant to the Act of October 19, 1984 (98 Stat. 2698).

(i) Water Rights.—Nothing in this title shall be construed to quantify or otherwise affect the water rights, claims or entitlements to water of any Arizona tribe, band or community, other than the San Carlos Apache Tribe.

(j) Planet Ranch.—The Secretary is authorized and directed to acquire, with the consent of and upon terms mutually acceptable to the city of Scottsdale ("city") and the Secretary, all of the city's right, title and interest in Planet Ranch located on the Bill Williams River in Arizona, including all water rights appurtenant to that property, and the city's January 1988 application filed with the Arizona Department of Water Resources to appropriate water from the Bill Williams River through a land exchange based on fair market value. If an exchange is made with land purchased by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, then, upon commencement of repayment by CAWCD of the reimbursable costs of the Central Arizona Project, the fair market value of those lands so exchanged shall be credited in full against the annual payments due from CAWCD under Article 9.4(a) of Contract No. 14-0906-09W-09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, until exhausted: *Provided, however*, That the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection.

(k) Repeal.—Section 304(c)(3) of the Colorado River Basin Project Act (43 U.S.C. 1524(c)(3)) is hereby repealed. This subsection does not authorize transportation of water pumped within the exterior boundary of a Federal reclamation project established prior to September 30, 1968, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391), as amended and supplemented, across project boundaries.

(l) Water Rights.—Nothing in this title shall be construed to affect the water rights or the water rights claims of any Federal agency other than the Bureau of Indian Affairs on behalf of the San Carlos Apache Tribe, nor shall anything in this title be construed to prohibit the United States from confirming in the Agreement, except on behalf of Indian tribes other than the San Carlos Apache Tribe, the Gila River and Little Colorado River watershed water rights of other parties to the Agreement by making express provisions for the same in the Agreement.

SEC. 3911. EFFECTIVE DATE.

(a) Effective Date of Authorization.—The authorization contained in section 3908(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1) the Secretary has fulfilled the requirements of sections 3904 and 3906;

(2) the Roosevelt Water Conservation District subcontract for agricultural water service from CAP has been revised and executed as provided in section 3905(b);

(3) the funds authorized by section 3907(c) have been appropriated and deposited into the Fund;

(4) the contract referred to in section 3907(a)(2) has been amended;

(5) the State of Arizona has appropriated and deposited into the Fund $3,000,000 as required by the Agreement;

(6) the stipulations attached to the Agreement as Exhibits "D" and "E" have been approved; and

(7) the Agreement has been modified, to the extent it is in conflict with this title, and has been executed by the Secretary.

(b) Conditions.—(1) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection (a) of this section have not occurred by December 31, 1994, subsections (c) and (d) of section 3904, subsections (a) and (b), of section 3905, section 3906, subsection (a)(2), (c), (d), and (f) of section 3907, subsections (b) and (c) of section 3908, and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (l) of section 3910 of this Act, together with any contracts entered into pursuant to any such section or subsection, shall not be effective on and after the date of enactment of this title, and any funds appropriated pursuant to section 3907(c), and remaining unobligated and unexpended on the date of the enactment of this title, shall immediately revert to the Treasury, as general revenues, and any funds appropriated by the State of Arizona pursuant to the Agreement, and remaining unobligated and unexpended on the date of the enactment of this title, shall immediately revert to the State of Arizona.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, if the provisions of subsections (a) and (b) of section 3905 of this Act have been otherwise accomplished pursuant to provisions of the Act of October 20, 1988, the provisions of paragraph (1) of this subsection shall not be construed as affecting such subsections.

TITLE XXXX—NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS

SEC. 4001. SHORT TITLE.

This title may be cited as the "National Historic Preservation Act Amendments of 1992".

SEC. 4002. FINDINGS.

Section 1(b) of the National Historic Preservation Act, Public Law 89-665, as amended (16 U.S.C. 470(b)), is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), (8) and (9); and

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) historic properties, including prehistoric and historic sites, buildings, districts, structures, and objects, prehistoric and historic archaeological resources, prehistoric and historic roads and trails, and places that have figured in the traditions and lifeways of our communities, of indigenous populations and of the Nation as a whole, are vital links to our past and contribute in major ways to the identity of our Nation and its communities;

(3) a national preservation program is achieved by extending Federal Government concern to properties of significance to localities, Indian tribes, Native Hawaiians, States, and the Nation in private and public ownership;".

SEC. 4003. POLICY.

Section 2 of the National Historic Preservation Act (16 U.S.C. 470-1) is amended—

(1) in paragraph (2) by inserting "and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiian organizations, and local governments" after "community of nations"; and

(2) in paragraph (6) by inserting ", Indian tribes, and Native Hawaiian organizations" after "local governments".

SEC. 4004. REVIEW OF THREATS TO PROPERTIES.

Section 101(a) of the National Historic Preservation Act (16 U.S.C. 470a(a)) is amended at the end thereof by adding the following new paragraph:

"(8) The Secretary shall, at least once every 4 years, in consultation with the Council, make a review in general of threats to properties included in or eligible for inclusion on the National Register, in order to—

"(A) determine what kinds of properties may be in particular danger;

"(B) ascertain the causes of the threats; and

"(C) develop and submit to the President and Congress recommendations for remedial action where appropriate.".

SEC. 4005. STATE HISTORIC PRESERVATION PROGRAMS.

Section 101(b) of the National Historic Preservation Act (16 U.S.C. 470a(b)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary, in consultation with the Council and the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with the requirements of this Act. If at any time the Secretary determines that a State program is not consistent with the requirements of this Act, the Secretary shall disapprove the program and suspend, in whole or in part, assistance to the State under subsection (b)(1), unless there are adequate assurances that the program will be made consistent with the requirements of this Act within a reasonable period of time. At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems so long as the State system establishes and maintains substantially similar accountability standards. The Secretary may also conduct periodic fiscal audits of State programs approved under this section.";

(2) in paragraph (3)—

(A) in subparagraph (G), by striking "relating to the Federal and State Historic Preservation Programs; and" and inserting "in historic preservation;";

(B) in subparagraph (H), by striking the period at the end thereof and inserting a semicolon; and

(C) by adding at the end thereof the following new subparagraphs—

"(I) consult with appropriate Federal agencies in accordance with this Act on—

"(i) Federal undertakings that may affect historic properties; and

"(ii) the content and sufficiency of any plans developed to protect or to reduce or mitigate harm to such properties;

"(J) advise, assist, and evaluate proposals for rehabilitation projects that may qualify for Federal assistance (including grants, loans, and tax incentives); and

"(K) carry out such additional responsibilities as the Secretary, in consultation with the State Historic Preservation Officer determines to be appropriate, consistent with the purposes of this Act.";

(3) in paragraph (5) by striking "1980" and inserting "1992"; and

(4) by adding at the end thereof the following new paragraphs:

"(6)(A) Subject to subparagraph (B), the Secretary or the Council may enter into contracts or cooperative agreements with a State Historic Preservation Officer to allow such Officer to carry out their duties within the State in the following areas—

"(i) to identify and preserve historic properties;

"(ii) to determine the eligibility of properties for listing on the National Register;

"(iii) to expand the National Register;

"(iv) to maintain historical and archaeological data bases;

"(v) to certify eligibility for Federal preservation incentives; and

"(vi) to comment on actions of Federal, State, or local governments, private individuals, and corporations pursuant to this Act, the Internal Revenue Code of 1986, and other Federal law.

"(B) The Secretary or the Council may enter into a contract or cooperative agreement under subparagraph (a) only if—

"(i) the State Historic Preservation Officer has requested the additional authority;

"(ii) the Secretary has approved the State historic preservation program pursuant to section 101(b) (1) and (2);

"(iii) the State Historic Preservation Officer agrees to carry out the additional authority in a timely and efficient manner acceptable to the Secretary or the Council, as the case may be;

"(iv) the Secretary or the Council agree to provide for a timely review of decisions when requested; and

"(v) the Secretary or the Council and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying out such authority.".

SEC. 4006. CERTIFICATION OF LOCAL GOVERNMENTS.

Section 101(c) of the National Historic Preservation Act (16 U.S.C. 470a(c)) is amended by adding at the end thereof the following new paragraph:

"(4) For the purposes of this section the term—

"(A) 'designation' means the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; and

"(B) 'protection' means a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to subsection (c).".

SEC. 4007. TRIBAL HISTORIC PRESERVATION PROGRAMS.

(a) REVISION OF EXISTING LAW.—Section 101 of the National Historic Preservation Act (16 U.S.C. 470a) is amended—

(1) by redesignating subsections (d), (e), (f), (g) and (h) as subsections (e), (f), (g), (h), and (i); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1)(A) The Secretary shall establish a program to assist Indian tribes and Native Hawaiian organizations in preserving their unique cultural resources. The program shall have as its purpose the preservation, retention, and enhancement of the historic properties and cultural traditions of Indian tribes and Native Hawaiians. The Secretary shall foster communication and cooperation between Indian tribes and Native Hawaiian organizations and State Historic Preservation Officers in the administration of the national historic preservation program to ensure that all types of historic properties and all public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, Native Hawaiian organizations, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties.

"(B) The program under subparagraph (A) shall be developed in such a manner as to ensure that tribal and Native Hawaiian values are taken into account. The Secretary may waive or modify requirements of this section to conform to the cultural setting of tribal or Native Hawaiian heritage preservation goals and objectives. The tribal and Native Hawaiian programs implemented by specific tribes and Native Hawaiian organizations may vary in scope, as determined by each tribe's chief governing authority and Native Hawaiian organizations authorized officials.

"(C) The Secretary shall consult with Indian tribes, Native Hawaiian organizations, other Federal agencies, State Historic Preservation Officers, and other interested parties and initiate the program under subparagraph (A) by not later than October 1, 1993.

"(2) A tribe or a Native Hawaiian organization may assume all or any part of the functions of a State Historic Preservation Officer under subsection (b)(3), together with the concomitant responsibilities under subsections (b) (2) and (3), with respect to tribal land, as such responsibilities may be modified for tribal programs through regulations issued by the Secretary if—

"(A) the tribe's chief governing authority or organization's chief executive official so requests;

"(B) the tribe or organization designates a tribal preservation official to administer the tribal historic preservation program, through appointment by the tribe's chief governing authority or the organization's chief executive official or as a tribal ordinance may otherwise provide;

"(C) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;

"(D) the Secretary determines, after consultation with the tribe or organization, the appropriate State Historic Preservation Officer, the Council (if the tribe or organization proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 106), and other tribes or organizations, if any, whose tribal or aboriginal lands may be affected by conduct of the tribal preservation program—

"(i) that the tribal preservation program is sufficient to carry out the functions specified in the plan provided under subparagraph (C); and

"(ii) that the plan defines any remaining responsibilities of the State Historic Preservation Officer; and

"(iii) that the plan provides, with respect to properties neither owned by a member of the tribe nor held in trust by the Secretary for the benefit of the tribe, at the request of the owner thereof, the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in (b)(3), together with the concomitant responsibilities under subsections (b)(2) and (3); and

"(E) based on satisfaction of the conditions stated in subparagraphs (A), (B), (C), and (D), the Secretary approves the plan.

"(3) In consultation with interested Indian tribes, Native Hawaiian organizations, and other Native American organizations and the National Conference of State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying out section 103(a) with respect to tribal programs that assume responsibilities under paragraph (2).

"(4) At the request of a tribe or Native Hawaiian organization whose preservation program has been approved to assume responsibilities pursuant to paragraph (3), the Secretary shall enter into contracts or cooperative agreements with such tribe or organization, all or any part of the authorities described in subsection (b)(6) on tribal land, if—

"(A) the Secretary and the tribe or organization agree on additional financial assistance, if any, to the tribe or organization for the costs of carrying out such authorities;

"(B) the Secretary ensures that the tribal historic preservation program is sufficient to carry out the contract or cooperative agreement and this Act; and

"(C) the contract or cooperative agreement specifies any continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by—

"(i) the tribes or organizations traditional cultural authorities;

"(ii) representatives of other tribes or organizations whose traditional lands are under the jurisdiction of the tribe or organization to which the Secretary's preservation responsibilities are delegated; and

"(iii) the interested public.

"(5) The Council may enter into an agreement with an Indian tribe or a Native Hawaiian organization to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 106, if the Council, after consultation with the tribe or organization and appropriate State Historic Preservation Officers, determines that the tribal historic preservation regulations will afford historic properties consideration equivalent to those afforded by the Council's regulations.

"(6) At the request of an Indian tribe or a Native Hawaiian organization whose preservation program has been approved to assume responsibilities pursuant to paragraph (2), and with the concurrence of the Council (after consultation with the affected State Historic Preservation Officer), the Bureau of Indian Affairs, the Indian Health Service, and other Federal agencies may enter into contracts or cooperative agreements to carry out such part of their preservation functions and responsibilities as the tribe or organization may request on tribal land to the tribal preservation official, or, when a tribe or organization so requests, to the appropriate State Historic Preservation Officer, including any such agency's responsibility to consult with the Council and the State Historic Preservation Officer pursuant to section 106.

"(7)(A) Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.

"(B) In carrying out its responsibilities under section 106, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A).".

(b) CONFORMING AMENDMENT.—Section 110(c) of the National Historic Preservation Act (16 U.S.C. 470h-2(c)) is amended by striking "101(g)" and inserting "101(h)".

SEC. 4008. MATCHING GRANTS.

Section 101(e) of the National Historic Preservation Act, as redesignated by section 4007(a)(1) of this title, is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this Act and any other Act affecting historic resources.

"(B) The Secretary shall consult with the Council regarding the provision of grants related to the carrying out of authorities under subsection (b)(6)."; and

(2) by adding at the end thereof the following new paragraphs—

"(4) The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this Act as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be waived or Federal funds available to a tribe or Native Hawaiian organization may be used as matching funds for the purposes of the tribes or organizations conducting its responsibilities pursuant to this section.

"(5)(A) As part of the program of matching grant assistance to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau (referred to as the Micronesian States) in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands, approved by the Compact of Free Association Act of 1985 (48 U.S.C. 1681 note), the Trusteeship Agreement for the Trust Territory of the Pacific Islands, and the Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled 'Joint Resolution to approve the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes' (48 U.S.C. 1681 note). It shall be the goal of the program to ensure at the termination of the Compacts that each Micronesian State has established historic and cultural preservation programs that meet the unique cultural needs of those emerging nations, thus guaranteeing the continuation of the programs. The Secretary may waive or modify the requirements of this section to conform to the cultural setting of those nations in order to achieve that goal.

"(B) The amounts to be made available to the Micronesian States shall be determined by the Secretary on the basis of needs as determined by the Secretary. Matching funds shall not be required.".

SEC. 4009. EDUCATION AND TRAINING.

Section 101 of the National Historic Preservation Act (16 U.S.C. 470a), as amended by section 4006 of this title, is further amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary shall, in consultation with other appropriate Federal, tribal, Native Hawaiian, and non-Federal organizations, develop and implement a comprehensive preservation education and training program.

"(2) The education and training program described in paragraph (1) shall include—

"(A) new standards and increased preservation training opportunities for Federal workers involved in preservation-related functions;

"(B) increased preservation training opportunities for other Federal, State, tribal, and local government workers, students, and individuals with an avocational interest in preservation;

"(C) inclusion of provisions in federally-sponsored survey and excavation work to afford an opportunity for the participation of avocational archaeologists;

"(D) special assistance to historically black colleges and universities and to tribal colleges and colleges with a high enrollment of Native Americans or Native Hawaiians to establish preservation degree programs;

"(E) dissemination of information on preservation technologies;

"(F) implementation of a coordinated national informational and media program (such as public service announcements) on preservation topics;

"(G) distribution of model preservation curricula for elementary and high schools and adult education programs;

"(H) preservation internship programs for United States and foreign students;

"(I) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in existing Federal training and development programs; and

"(J) support for research, analysis, curation, interpretation, and display related to preservation.".

SEC. 4010. REQUIREMENTS FOR AWARDING OF GRANTS.

Section 102 of the National Historic Preservation Act (16 U.S.C. 470b) is amended—

(1) by amending subsection (a)(3) to read as follows:

"(3) for more than 60 percent of the aggregate costs of carrying out projects and programs specified in section 101(b)(3) in any one fiscal year, except that the Secretary may provide additional financial assistance for costs incurred by a State Historic Preservation Officer in carrying out activities pursuant to section 101(b)(6).";

(2) in subsection (b) by striking ", in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory to the Secretary"; and

(3) by adding at the end thereof the following new subsection:

"(d) The Secretary shall make funding available to individual States and the National Trust for Historic Preservation as soon as practicable after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be considered to be one grant and shall be administered by the National Park Service as such.".

SEC. 4011. APPORTIONMENT OF GRANT FUNDS.

Section 103 of the National Historic Preservation Act (16 U.S.C. 470c) is amended—

(1) in subsection (a) by striking "for comprehensive statewide historic surveys and plans under this Act", and inserting "for the purposes of this Act"; and

(2) in subsection (b) by striking "The amounts appropriated and made available for grants to the States for purposes and programs under this Act for each fiscal year shall be apportioned among the States by the Secretary in accordance with needs as disclosed in approved statewide historic preservation plans.".

SEC. 4012. FEDERAL AGENCY HISTORIC PRESERVATION PROGRAMS.

Section 110 of the National Historic Preservation Act (16 U.S.C. 470h-2) is amended—

(1) in subsection (a)(1) by striking "101(f)" and inserting "101(g)";

(2) by amending subsection (a)(2) to read as follows:

"(2) Each Federal agency shall establish (unless exempted pursuant to section 214), in consultation with the Council and the Secretary and in cooperation with affected

State Historic Preservation Officers, tribal preservation programs, and certified local governments, a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties. Each agency shall implement such a program that ensures—

"(A) that historic properties under the jurisdiction or control of the agency are identified, evaluated, and nominated to the National Register;

"(B) that such properties under the jurisdiction or control of the agency as are listed in or may be eligible for the National Register—

"(i) are managed and maintained in a way that reasonably preserves their historic, archaeological, architectural, cultural, and other values; and

"(ii) are not inadvertently damaged, disposed of or allowed to deteriorate;

"(C) that the preservation, management, and maintenance of such properties not under the jurisdiction or control of the agency, but subject to possible effect are given full consideration in planning;

"(D) that the agency's preservation-related activities are carried out in cooperation with historic preservation planning activities of other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations, and the private sector; and

"(E) that the agency's procedures for compliance with section 106—

"(i) are consistent with regulations issued by the Council pursuant to section 211;

"(ii) provide for identification and evaluation of historic properties for listing in the National Register and the development and implementation of agreements, in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, regarding the means by which adverse effects on such properties will be resolved; and

"(iii) provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent with section 3(c) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(c))."; and

(3) by adding at the end thereof the following new subsections:

"(k) Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of section 106, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.

"(l) With respect to any undertaking subject to section 106 which adversely affects any property included in or eligible for inclusion in the National Register, and for which the Federal agency has not entered into an agreement with the Council, the head of the Federal agency shall approve the undertaking only if the head of such agency accepts the recommendations of the Council or determines that the undertaking as approved is a feasible and prudent alternative to the recommendations of the Council. Where a section 106 memorandum of agreement has been executed with respect to an undertaking, such memorandum shall govern the undertaking and all its parts.

"(m) When the Council finds, after consultation with the Secretary, State Historic Preservation Officers, affected Indian tribes, Native Hawaiian organizations, local governments, and the interested public, that a Federal agency's procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) provide adequately for consideration of properties of cultural and historical significance, including—

"(1) the identification of effects on such properties; and

"(2) the development and implementation of agreements with affected parties and others regarding the means by which adverse effects will be resolved,

the agency may comply with those procedures in place of regulations promulgated by the Council in order to meet the requirements of sections 106, 110(a)(2), 110(b), and 111 of this Act, as applicable. The Council shall review the procedures of such an agency from time to time to ensure that they continue to provide adequately for consideration of properties of cultural and historical significance.".

SEC. 4013. LEASE OR EXCHANGE OF FEDERAL HISTORIC PROPERTIES.

Section 111 of the National Historic Preservation Act (16 U.S.C. 470h-3) is amended in subsection (a) by striking "may, after consultation with the Advisory Council on Historic Preservation, lease" and inserting "after consultation with the Council, shall establish and implement adaptive use alternatives for historic properties that are not needed for current or projected agency purposes, and may".

SEC. 4014. DISPOSITION OF ARCHAEOLOGICAL MATERIALS.

Title I of the National Historic Preservation Act (16 U.S.C. 470 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 112. (a) Each Federal agency that is responsible for the protection of archaeological resources or that conducts, causes to be conducted, or permits archaeological surveys or excavations pursuant to this Act or any other law shall ensure that—

"(1)(A) contractors supervising archaeological surveys and excavations meet professional standards under regulations developed by the Secretary in consultation with the Council and other affected agencies, taking into account, and, when appropriate, utilizing the pertinent standards and certification systems of, international, national, State, and local archaeological organizations;

"(B) agency personnel supervising archaeological surveys and excavations meet qualification standards established by the Office of Personnel Management, in consultation with the Secretary, in accordance with standards for archaeologists under the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

"(2) programs for the protection of archaeological resources and for archaeological surveys and excavations are designed, when appropriate, to involve and inform the interested public, including volunteers, professional societies, avocational groups, educational institutions, Indian tribes, and Native Hawaiian organizations;

"(3) archaeological surveys and excavations are designed, to the extent feasible, to address research topics of demonstrable significance to the sciences and humanities; and

"(4) records and other data produced by archaeological surveys and excavations are maintained in perpetuity in appropriate data bases and disseminated to potential users.

"(b) In order to promote the preservation of archaeological resources on private land that are eligible for listing in the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this Act include plans to—

"(1) provide information to the owners of private lands containing archaeological resources that have a demonstrated or likely research significance, with information about the need for protection of those resources, and the available means of protection;

"(2) encourage owners to preserve archaeological resources in place and offer the owners of those resources information on the tax and grant assistance available for the donation of the resources or of a preservation easement of the resources;

"(3) encourage the protection of Native American cultural items (within the meaning of section 2 (3) and (9) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3001 (3) and (9)) and of properties of religious or cultural importance to Indian tribes, Native Hawaiian organizations, or other Native American groups; and

"(4) encourage owners who are undertaking excavations to—

"(A) conduct excavations and analyses that meet the standards for federally-sponsored excavations established pursuant to this Act;

"(B) register artifacts found within the archaeological resource with an antiquities registration program;

"(C) donate or lend artifacts of great significance in current or likely research to an appropriate research institution;

"(D) allow access to artifacts for research purposes; and

"(E) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under section 3(a)(2) (B) or (C) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(a)(2) (B) and (C)), give notice to and consult with such Indian tribe or Native Hawaiian organization.".

SEC. 4015. INTERSTATE AND INTERNATIONAL TRAFFIC IN ANTIQUITIES.

Title I of the National Historic Preservation Act (16 U.S.C. 470 et seq.), as amended by section 4013, is further amended by adding at the end thereof the following new section:

"SEC. 113. (a) In order to facilitate the control of illegal interstate and international traffic in antiquities, the Council, in consultation and cooperation with the Secretary, shall study and report the suitability and feasibility of alternatives for controlling illegal interstate and international traffic in antiquities.

"(b) In conducting the study described in subsection (a) the Council shall consult with other Federal agencies that conduct, cause to be conducted, or permit archaeological surveys or excavations and with State Historic Preservation Officers, archaeological organizations, Indian tribes, Native Hawaiian organizations, and other Native American organizations, international organizations and other interested persons.

"(c) Not later than 18 months after the date of enactment of this section, the Council shall submit to Congress a report detailing its findings and recommendations from the study described in subsection (a).

"(d) There are authorized to be appropriated not more than $500,000 for the study described in subsection (a), such sums to remain available until expended.".

SEC. 4016. MEMBERSHIP OF ADVISORY COUNCIL ON HISTORIC PRESERVATION.

Section 201(a) of the National Historic Preservation Act (16 U.S.C. 470i(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) one member of an Indian tribe or Native Hawaiian organization appointed by the President.".

SEC. 4017. REGULATIONS OF THE ADVISORY COUNCIL ON HISTORIC PRESERVATION.

Section 211 of the National Historic Preservation Act (16 U.S.C. 470s) is amended by striking the period at the end of the first sentence and inserting "in its entirety".

SEC. 4018. DEFINITIONS.

(a) AMENDMENT AND ADDITION OF DEFINITIONS.—Section 301 of the National Historic Preservation Act (16 U.S.C. 470w) is amended—

(1) in paragraph (1) by striking "Code," and all that follows through the end of the paragraph, and inserting in lieu thereof, "Code.";

"(2) in paragraph (2) by striking 'the Trust Territories of the Pacific Islands' and inserting 'the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau';

"(3) by amending paragraph (4) to read as follows:

"(4) 'Indian tribe' or 'tribe' means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.";

(4) in paragraph (5) by striking "Register" and all that follows through the end of the paragraph and inserting "Register, including artifacts, records, and material remains related to such a property or resource.";

(5) by amending paragraph (7) to read as follows:

"(7) 'undertaking' means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including—

"(A) those carried out by or on behalf of the agency;

"(B) those carried out with Federal financial assistance;

"(C) those requiring a Federal permit, license, or approval; and

"(D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.";

(6) in paragraph (8) by—

(A) striking "maintenance and reconstruction," and inserting "maintenance, study, interpretation, reconstruction, and education and training regarding the foregoing activities,";

(7) in paragraph (9) by striking "urban area" and inserting "area";

(8) in paragraph (10) by striking "urban area of one or more neighborhoods and" and inserting "area";

(9) in paragraph (13)(A) by striking "archaeology" and inserting "prehistoric and historic archaeology, folklore and cultural anthropology,"; and

(10) by adding at the end thereof the following new paragraphs:

"(14) 'tribal land' means—

"(A) all lands within the exterior boundaries of any Indian reservation;

"(B) all dependent Indian communities; and

"(C) any lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), and section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 17, 1959 (Public Law 86-3; 73 Stat. 5).

"(15) 'Traditional cultural authority' means an individual in a Native American group, Native Hawaiian, or other social or ethnic group who is recognized by members of the group as an expert on the groups traditional history and cultural practices.

"(16) 'Certified local government' means a local government whose local historic preservation program has been certified pursuant to section 101(c).

"(17) 'Cultural resources' means the tangible and intangible elements of traditional culture, including—

"(A) historic resources;

"(B) American folklife, as that term is defined in section 3(1) of the American Folklife Preservation Act (20 U.S.C. 2102(1)); and

"(C) Native American cultural values protected by the American Indian Religious Freedom Act (42 U.S.C. 1996).

"(18) 'Council' means the Advisory Council on Historic Preservation established by section 201.

"(19) 'Native Hawaiian' means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

"(20) 'Native Hawaiian organization' means any organization which—

"(A) serves and represents the interests of Native Hawaiians;

"(B) has as a primary and stated purpose the provision of services to Native Hawaiians; and

"(C) has expertise in Native Hawaiian Affairs, and includes the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawaii.".

(b) TECHNICAL AMENDMENT.—Section 201(a) of the National Historic Preservation Act (16 U.S.C. 470i(a)) is amended by striking "(hereafter referred to as the 'Council')".

SEC. 4019. COOPERATIVE AGREEMENTS FOR THE PERFORMANCE OF FUNCTIONS OF A FEDERAL AGENCY.

Section 302 of the National Historic Preservation Act (16 U.S.C. 470w-1) is amended by inserting after "Act," the following: "and, in consultation with the Council, enter into an agreement with the Council, a State Historic Preservation Officer, or a tribal preservation official to carry out the functions of the Federal agency within a State or within tribal land, and may make funds available to the Council, State Historic Preservation Officer, or tribal preservation official for that purpose,".

SEC. 4020. ACCESS TO INFORMATION.

Section 304 of the National Historic Preservation Act (16 U.S.C. 4702-3) is amended to read as follows:

"(a) The head of a Federal agency or other public official receiving grant assistance pursuant to this Act, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may—

"(1) cause a significant invasion of privacy;

"(2) risk harm to the historic resource; or

"(3) impede the use of a traditional religious site by practitioners.

"(b) When the head of a Federal agency or other public official has determined that information should be withheld from the public pursuant to subsection (a), the Secretary, in consultation with such Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this Act.

"(c) When the information in question has been developed in the course of an agency's compliance with section 106 or 110(f), the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b).".

SEC. 4021. NATIONAL CENTER FOR PRESERVATION TECHNOLOGY.

(a) The National Historic Preservation Act, as amended, is further amended by adding at the end thereof the following new title—

"TITLE IV—NATIONAL CENTER FOR PRESERVATION TECHNOLOGY

"SEC. 401. The Congress finds and declares that the complexity of technical problems encountered in preserving historic properties and the lack of adequate dissemination of technical information to preserve such properties require a national initiative to coordinate and promote research, disseminate information, and provide training about preservation technologies.

"SEC. 402. For the purposes of this title, the term—

"(1) 'Board' means the National Preservation Technology Board established pursuant to section 404;

"(2) 'Center' means the National Center for Preservation Technology established pursuant to section 403; and

"(3) 'Secretary' means the Secretary of the Interior.

"SEC. 403. (a) There is hereby established within the Department of the Interior a National Center for Preservation Technology. The Center shall be located at Northwestern State University of Louisiana in Natchitoches, Louisiana.

"(b) The purposes of the Center shall be to—

"(1) develop and disseminate preservation and conservation technologies for the identification, evaluation, conservation, and interpretation of prehistoric and historic resources;

"(2) develop and facilitate training for Federal, State, and local resource preservation professionals, cultural resource managers, maintenance personnel, and others working in the preservation field;

"(3) take steps to apply preservation technology benefits from ongoing research by other agencies and institutions;

"(4) coordinate and promote the transfer of preservation technology among Federal agencies, State and local governments, universities, international organizations, and the private sector;

"(5) serve as a liaison with related international organizations including, but not limited to the International Council on Monuments and Sites, the International Center for the Study of Preservation and Restoration of Cultural Property, and the International Council on Museums; and

"(6) conduct such other activities as may be necessary to fulfill the purposes of this title.

"(c) Such purposes shall be carried out through research, professional training, technical assistance, and programs for public awareness, and through regional centers, laboratories, and service facilities designated or established under section 405.

"(d) The Center shall be headed by an Executive Director appointed by the Secretary in consultation with the Board.

"(e) The Secretary shall provide the Center with such personnel, equipment, and facilities as may be needed by the Center to carry out its activities.

"SEC. 404. (a) There is hereby established a Preservation Technology Board.

"(b) The Board shall—

"(1) provide leadership, policy advice, coordination, and professional oversight to the Center;

"(2) advise on priorities and the allocation of funds among the activities of the Center; and

"(3) submit an annual report to the President and the Congress.

"(c) The Board shall be comprised of—

"(1) at least 6 members appointed by the Secretary who shall represent appropriate Federal, State, and local agencies, and other public, private, and international organizations; and

"(2) at least 5 members appointed by the Secretary on the basis of outstanding professional qualifications or experience in the disciplines included in the scope of the work of the Center.

"SEC. 405. (a) The Secretary, in consultation with the Board, shall select regional preservation technology centers from among applicants with a demonstrated institutional commitment to the purposes of the Center.

"(b) Such centers, covering regional areas of the United States (as specified by the Secretary, in consultation with the Board), shall develop, coordinate, and implement preservation technology programs consistent with the purposes of the Center.

"(c) Eligible applicants may include Federal and non-Federal laboratories, museums, universities, non-profit or for-profit corporations, offices and Cooperative Park Study Units of the National Park Service, State Historic Preservation Offices, and tribal preservation offices.

"(d) The Secretary, in consultation with the Board, may establish or designate analytical or technical research laboratories and service facilities to further the purposes of the Center.

"SEC. 406. The Center may accept—

"(a) grants and donations from private individuals, groups, organizations, corporations, foundations, and other entities; and

"(b) transfers of funds from other Federal agencies.

"SEC. 407. Subject to appropriations, the Center may enter into contracts and cooperative agreements with Federal, State, local, and tribal governments, Native Hawaiian organizations, educational institutions, and other public and private entities to carry out the Center's responsibilities under this Act.".

"(b) Nothing in this section shall affect existing related programs and activities currently undertaken by the National Park Service at Williamsport, Maryland or Monocacy National Battlefield, Maryland.

"(c) There are authorized to be appropriated for the establishment, operation, and maintenance of the Center and any regional preservation technology center, such sums as may be necessary.".

SEC. 4022. SECRETARIAL REPORT.

(a) Not later than one year after the date of enactment of this Act, the Secretary of the Interior shall prepare and submit to the Congress a report on the manner in which properties are listed or determined to be eligible for listing on the National Register, including but not limited to the appropriateness of the criteria used in determining such eligibility, and the effect, if any, that such listing or finding of eligibility may have on the owners of such property.

(b) In preparing the report, the Secretary shall consult with, and consider the views and comments of other Federal agencies, as well as interested individuals and public and private organizations, and shall include any comments received as an appendix to the report.

SEC. 4023. MISCELLANEOUS.

Notwithstanding any provision of Public Law 89-665, as amended (16 U.S.C. 470 et seq.), the inclusion on or determination of eligibility for the National Register for a structure or facility used for the diversion, storage, carriage, or transmission of water shall not limit or restrict the use, operation, repair, or improvement of such structure or facility.

HIGH SEAS DRIFT NET FISHERIES ENFORCEMENT ACT

PACKWOOD AMENDMENT NO. 2821

Mrs. KASSEBAUM (for Mr. PACKWOOD, for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. KERRY, Mr. GORTON, Mr. ADAMS, Mr. LOTT, Mr. BREAUX, Mr. MURKOWSKI, and Mr. RIEGLE) proposed an amendment to the bill (H.R. 2152) to enhance the effectiveness of the United Nations international drift net conservation program, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

SEC. 2. FINDINGS AND POLICY.

(A) FUNDINGS.—Congress makes the following findings:

(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44-225, 45-197, and most recently 46-215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46-215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas".

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in the United Nations General Assembly Resolution numbered 46-215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly Resolution numbered 46-215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance

with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) Determination of effectiveness of sanctions.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(A)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

SEC. 103. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (E)(i) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

SEC. 104. DEFINITIONS.

In this title, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—THE TERM "LARGE-SCALE DRIFTNET FISHING VESSEL" MEANS ANY VESSEL WHICH IS—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting in lieu thereof "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, would, kill, trap, capture, or collect.".

SEC. 202. ENFORCEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the Untied States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

TITLE III—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

SEC. 301. SHORT TITLE.

This title may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

SEC. 302. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

SEC. 303. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federations are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

SEC. 304. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 303 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 303(b).

SEC. 305. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the removal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 303(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days after such person terminates ownership and control in fishing vessels that are listed on the addendum under section 303(b).

SEC. 306. DEFINITIONS.

In this title, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

SEC. 307. TERMINATION.

This title shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 302 occurring prior to such termination date shall be conducted as if that section were still in effect.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMBARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

SEC. 402. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

SEC. 403. LIMITATION ON TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

SEC. 404. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

TITLE V-FEES

SEC. 501. RECREATIONAL BOAT TAX REPEAL.

(A) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code, is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

FREEDOM OF CHOICE ACT OF 1991

SMITH AMENDMENT NOS. 2822 THROUGH 2831

(Ordered to lie on the table.)

Mr. SMITH submitted amendments intended to be proposed to the bill (S. 25) to protect the reproductive rights of women, and for other purposes, as follows:

AMENDMENT NO. 2822

At the appropriate place, add the following:

Section 152 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"( ). EXCEPTION.—For purposes of subsection (a), the term "dependent" does not include any individual in any taxable year if

"(1) an induced abortion was attempted with respect to such individual;

"(2) such abortion was unsuccessful;

"(3) the taxpayer claiming such individual as a dependent consented to such abortion; and

"(4) such individual died within the same table year as the birth as a result of the abortion or of complications resulting from the abortion.".

AMENDMENT NO. 2823

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from regulating the performance of abortions after the ninth month of pregnancy unless the life of the mother would be endangered if the pregnancy were carried to term.".

AMENDMENT NO. 2824

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from allowing a woman to sue an abortion-provider for physical, mental, emotional, or financial damage done to such woman by such abortion-provider.".

AMENDMENT NO. 2825

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from establishing a reasonable waiting period not in excess of 24 hours prior to the performance of an abortion.".

AMENDMENT NO. 2826

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from enacting constitutional statutes requiring that the parents of a minor child who has not attained 18 years of age give their consent to the performance of an abortion on such child: *Provided, however*, That a state may not require the notification of a parent in the case of a pregnancy resulting from incest with such parent or in the case in which the minor would be subject to severe physical or mental abuse if the parent were notified.".

AMENDMENT NO. 2827

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from enacting constitutional statutes requiring that the parents of a minor child who has not attained 18 years of age be notified prior to the performance of an abortion on such child.".

AMENDMENT NO. 2828

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from requiring the provision of information concerning the medical and biological ramifications of an abortion to a woman seeking an abortion prior to the performance of such abortion.".

AMENDMENT NO. 2829

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from regulating the performance of abortions performed solely on the basis of the sex of the fetus.".

AMENDMENT N. 2830

At the appropriate place, add the following:

"Nothing in this Act shall be construed to require any individual or institution with moral or religious objections to the performance of some or all abortions to perform an abortion or participate in the performance of an abortion.".

AMENDMENT NO. 2831

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from regulating the performance of abortions after the sixth month of pregnancy unless the life of the mother would be endangered if the pregnancy were carried to term.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WIRTH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, July 31, 1992, at 10 a.m., to conduct a hearing on the nominations of C.C. Hope, Jr., to be a Member of the Board of Directors of the FDIC; James D. Jameson, to be an Assistant Secretary of Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. WIRTH. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, July 31, beginning at 10:30 a.m., to conduct a hearing to consider measures to conserve exotic, wild birds, including S. 1218 and S. 1219.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. WIRTH. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 31, at 10 a.m., to hold a hearing on the United States response to the drought in southern Africa.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATE QUARTERLY MAIL COSTS

• Mr. FORD. Mr. President, in accordance with section 318 of Public Law 101–520, I am submitting the summary tabulations of Senate mass mail costs for the third quarter of fiscal year 1992, that is the period of April 1, 1992 through June 30, 1992, to be printed in the RECORD, along with the quarterly statement from the U.S. Postal Service setting forth the Senate's total postage costs for the quarter.

The material follows:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING JUNE 30, 1992

Senators	Original total pieces	Pieces per capita	Original total cost	Cost per capita
Adams				
Akaka	2,451	.00221	$2,205.88	$0.00199
Baucus	39,900	.04993	5,684.87	.00711
Bentsen	429,320	.02527	81,427.90	.00479
Biden	2,031	.00305	1,611.38	.00242
Bingaman	4,725	.00312	996.29	.00066
Bond	364,665	.07126	55,022.51	.01075
Boren				
Bradley	106,840	.01382	15,192.13	.00197
Breaux	59,225	.01403	9,573.95	.00227
Brown	151,489	.04598	25,518.92	.00775
Bryan	67,300	.05600	10,626.88	.00884
Bumpers	92,796	.03948	21,349.76	.00908
Burdick				
Burns	107,725	.13481	19,691.51	.02464
Byrd				
Chafee	88,150	.08785	13,342.72	.01330
Coats				
Cochran				
Cohen	376,226	.30639	65,684.65	.05349
Conrad			34.22	.00005
Craig				
Cranston	5,375,250	.18062	926,649.32	.03114
D'Amato	2,159,336	.12003	379,647.58	.02110
Danforth				
Daschle	21,855	.03140	3,111.50	.00447
DeConcini				
Dixon				
Dodd	40,765	.01240	10,326.32	.00314
Dole				
Domenici	1,975	.00130	474.26	.00031
Durenberger	358,085	.08185	59,286.55	.01355
Exon				
Ford				
Fowler	83,600	.01290	12,196.18	.00188
Garn				
Glenn				
Gore	354,790	.07274	48,768.97	.01000
Gorton	1,044,120	.21454	185,885.64	.03820
Graham	1,930	.00015	1,735.07	.00013
Gramm	32,999	.00194	10,548.50	.00062
Grassley	78,000	.02809	14,155.72	.00510

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING JUNE 30, 1992—Continued

Senators	Original total pieces	Pieces per capita	Original total cost	Cost per capita
Harkin				
Hatch	223,004	.12944	40,773.08	.02367
Hatfield				
Heflin	1,400	.00035	326.76	.00008
Helms				
Hollings				
Inouye	425,000	.38349	65,610.48	.05920
Jeffords	12,450	.02212	2,922.46	.00519
Johnston	179,300	.04249	24,742.22	.00586
Kassebaum				
Kasten	58,339	.01193	44,915.08	.00918
Kennedy	5,550	.00092	1,173.07	.00019
Kerrey				
Kerry	30,850	.00513	5,849.11	.00097
Kohl				
Lautenberg	3,578	.00046	1,950.09	.00025
Leahy	44,250	.07863	8,559.72	.01521
Levin	27,950	.00301	5,817.54	.00063
Lieberman	93,672	.02850	27,130.00	.00825
Lott				
Lugar	106,975	.01930	17,651.85	.00318
Mack	2,435,074	.18821	416,817.12	.03222
McCain	596,699	.16280	111,876.98	.03052
McConnell	504,025	.13677	88,863.71	.02411
Metzenbaum				
Mikulski				
Mitchell	57,370	.04672	8,169.33	.00665
Moynihan	38,315	.00213	7,897.56	.00044
Murkowski	178,000	.32361	37,202.34	.06764
Nickles	139,224	.04426	30,181.63	.00959
Nunn				
Packwood	38,900	.01369	7,304.61	.00257
Pell				
Pressler	25,749	.03700	21,233.20	.03051
Pryor	99,500	.04233	16,646.28	.00708
Reid	69,910	.05817	9,950.60	.00828
Riegle	307,357	.03307	48,068.80	.00517
Robb				
Rockefeller	35,080	.01956	4,984.30	.00278
Roth				
Rudman				
Sanford				
Sarbanes	64,650	.01352	10,572.84	.00221
Sasser	197,650	.04053	27,141.09	.00556
Seymour	1,311,500	.04407	222,922.99	.00749
Shelby				
Simon				
Simpson	5,400	.01191	740.45	.00163
Smith	471,790	.42532	67,180.03	.06056
Specter				
Stevens	311,110	.56561	47,831.78	.08696
Symms	13,275	.01319	2,747.82	.00273
Thurmond				
Wallop				
Warner				
Wellstone	170,775	.03903	26,154.65	.00598
Wirth				
Wofford				

Other offices	Total pieces	Total cost
The Vice President	0	0
The President pro-tempore	0	0
The Majority Leader	0	0
The Minority Leader	0	0
The Assistant Majority Leader	0	0
The Assistant Minority Leader	0	0
Secretary of Majority Conference	0	0
Secretary of Minority Conference	0	0
Agriculture Committee	0	0
Appropriations Committee	0	0
Armed Services Committee	0	0
Banking Committee	0	0
Budget Committee	0	0
Commerce Committee	0	0
Energy Committee	0	0
Environment Committee	0	0
Finance Committee	0	0
Foreign Relations Committee	0	0
Governmental Affairs Committee	0	0
Judiciary Committee	0	0
Labor Committee	0	0
Rules Committee	0	0
Small Business Committee	0	0
Veterans Affairs Committee	0	0
Ethics Committee	0	0
Indian Affairs Committee	0	0
Intelligence Committee	0	0
Aging Committee	0	0
Joint Economic Committee	0	0
Joint Committee on Printing	0	0
Democatic Policy Committee	0	0
Democratic Conference	0	0
Republican Policy Committee	0	0
Republican Conference	0	0
Legislative Counsel	0	0
Legal Counsel	0	0
Secretary of the Senate	0	0
Sergeant at Arms	0	0
Narcotics Caucus	0	0
SCMTE POW/MIA	0	0

U.S. POSTAL SERVICE,
Washington, DC, July 16, 1992.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. FORD: Detailed data on franked mail usage by the U.S. Senate for the third quarter, Fiscal Year 1992, is enclosed. Total postage and fees for the quarter is $3,891,848.

A summary of Senate franked mail usage based upon the first three quarters of actual data for Fiscal Year 1992 is as follows:

Volume	65,139,691
Revenue per piece	.1859
Revenue	12,108,152.00
Provisional payments to date	16,000,000.00
Excess in provisional payments	3,891,848.00

The first three Postal Quarter results, when projected to an annual figure based upon historical trends for Senate franked mail activity, provide the following estimates for FY 1992:

Volume	101,940,049
Revenue per piece	.1825
Total revenue	18,599,312
Current appropriation	32,000,000
Estimate surplus	13,400,688

However, the validity of these projections does remain questionable due to substantial variances in Senate quarterly mailing patterns over the past several years.

If you or your staff have any questions, please call Tom Galgano of my staff on 268-3255.

Sincerely,

JAMES S. STANFORD,
General Manager, Official and International Mail Accounting Division, Office of Accounting.

Enclosures.

SENATE FRANKED MAIL POSTAL QUARTER III, FISCAL YEAR 1992

Subcategories	Pieces	Rate	Amount
1. Letters: 1st class (total)	1,833,606	$0.2900	$531,746
2. Flats: 1st class	106,985	1.1053	118,251
3. Parcels:			
Priority-up to 11 oz			
Priority-over 11 oz	15,523	4.9016	76,088
4th class—regular	23,285	3.8586	89,848
Total	38,808	4.2758	165,936
4. Orange bag pouches:			
First class	146,917	.3511	51,583
Priority-up to 11 oz	1,324	2.8983	3,837
Priority-over 11 oz	8,899	4.2552	37,867
Total	157,140	.5937	93,287
5. Agriculture bulletins:			
First class			
Priority-up to 11 oz			
Priority-over 11 oz	1	20.3500	20
3d class			
4th class special (Bk)	5	10.3502	52
4th class regular	27	9.6059	259
Total	33	10.0303	331
6. Yearbooks: 4th class special (Bk) (Total)	1,058	1.4800	1,566
7. Other (ODD SIZE PARCELS):			
Priority-up to 11 oz			
Priority-over 11 oz	354	36.6034	12,958
4th class special (Bk)			
4th class regular	2,116	11.7825	24,932
Total	2,470	15.3401	37,890
Total outside DC	346,250	.4801	166,222
Permit imprint mailings:			
1st class single piece rate	554	.2906	161
3d class bulk rate	17,863,881	.1178	2,104,712
Parcel post—PI			
1st class single piece—PI			
Address corrections (3547's)	250	.3520	88
Address corrections (3d cl)	2,623	.2901	761
Mailing list corrections (10 names or less)			
Mailing list corrections (more than 10 names)			
Mailgrams:			
IPA—International priority airmail			
Mailing fees (registry, certified, et cetera)			
Postage due/short paid mail			205
Permit fees			
Miscellaneous charges/adj			
Express mail service			664,464
Subtotal	20,353,658	.1909	3,885,620
Adjustments			
Grand total	20,353,658	.1909	3,885,620

●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Brian Riendeau, a member of the staff of Senator MCCONNELL, to participate in a program in China, sponsored by the U.S.-Asia Institute and the Chinese People's Institute of Foreign Affairs, from August 17–29, 1992.

The committee determined that participation by Mr. Riendeau in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.●

TRIBUTE TO THE "DREAM TEAM"

● Mr. ROCKEFELLER. Mr. President, I rise today to pay tribute to an outstanding group of athletes, the men who comprise the U.S. Olympic men's basketball team.

The U.S. Olympic basketball team is made up of NBA players this year in an effort to show the rest of the world the United States is still the world's dominant basketball nation. In every previous Olympiad, the U.S. basketball team used only collegians. In 1989, the Olympic Committee, frustrated by the recent failures, voted to allow professional basketball players to compete as Olympians.

The result of that decision is the great Olympic basketball team assembled for this Olympiad. The "Dream Team," as the team has been dubbed, is composed of 10 pros and 1 collegian. They are: Michael Jordan, Scottie

Pippen, Earvin "Magic" Johnson, John Stockton, Karl Malone, Charles Barkley, Patrick Ewing, David Robinson, Chris Mullin, Larry Bird, and Christian Laettner.

The "Dream Team" played their first game together in Portland, OR, in the Tournament of the Americas, an Olympic qualifying tournament. Their opponent in that first game was Puerto Rico. By all accounts, it wasn't much of a game. I say that because the "Dream Team" routed the Puerto Rican team by 72 points. After beating each of their next two opponents by a margin of over 50 points, the "Dream Team" qualified for the Olympics and became the overwhelming favorite to win the gold medal in Barcelona.

The "Dream Team" has become a worldwide sensation. These athletes have been relentlessly pursued by thousands of fans, including their fellow Olympians. Despite all of the attention, these men have handled their success in a manner that makes our country proud. As Magic Johnson said, "We are Olympic athletes." Indeed they are. They have raised the sport of basketball to an art form. Each of these men is an extraordinary athlete, and the explosiveness of their games reflects the genius of the players. Today I rise with my fellow Americans to salute the "Dream Team." We, as Americans, are proud to say that the greatest basketball team in the world represents our country in the 26th Olympiad.●

THE MODERATE'S LAMENT

● **Mr. DURENBERGER.** Mr. President, we are living in a time of change. In the politics of public policy the political parties lose relevance, predictability and credibility.

But, conservatives and liberals are usually that—and no matter how "neo"—predictable by contrast with each other.

It has been comforting to be a moderate, but difficult to define. We're often called middle-of-the-roaders. We are recently the bridge between the shoulders or the road. But, we are also—in the middle—the place where most accidents occur.

Once a year we gather to celebrate our existence. We do it as the Ripon Society—founded in 1857 in a small college town in Wisconsin. Last evening former Minnesota Congressman Bill Frenzel lead a gathering of Ripons that describes where we think all politics should be.

I ask that Bill's "rhyme" be included in the RECORD.

The article follows:

THE MODERATE'S LAMENT

(Rhyme of the Ancient Moderate)

Lend me your ear, you people here, I'd like to now present
A piece of verse that I've rehearsed, called the Moderate's Lament
Though others say we've lost our way I'll get this one response in
'Tis a noble cause that gave us pause at Ripon in Wisconsin.
In the G-O-P there'll always be some different ways of thinkin'
Proclamations in our nation antedate the days of Lincoln
We all embrace the same traditions, even share a few positions,
But honor different prohibitions, politicians and ambitions.
Ripons are moderate, we're balanced, we are temperate and medium
We don't like right wing pandering or leftist liberal tedium
We believe the middle course is always best to steer the nation
Said our model, Aristotle "all things in moderation."
We're mod'rate in extreme, since way before the Civil War
Only two say they're more moderate, Bill Clinton and Al Gore.
To come around to middle-ground the Democrats have tarried,
That lively lad Ted Kennedy must wonder, "What, me married?"
But it's not easy being moderate, no politicians dream,
On either side you are besot by collegues so extreme
Sometimes you say "Cool off my friend, your rantings are not pretty,
Then later on he pulls his rank and kills you in committee
We will dispute with Landslide Newt, but we manage with decorum,
And when he's wrong, he'll go along, he even reads the Ripon Forum.
It's tough making out when you have no clout, the House is really frightenin'
Like Rudolph's reindeer friends, before they knew his nose was lightnin'.

Reelection's never easy, as a Ripon I recall,
The only thing that's sure is Archer and Clinger in the fall.
No it's not easy being moderate, it's no day at the beach,
Even with the best of men, like Jeffords, Green, Leach
They're all good legislators, yes they do well one and all,
But they're always on edge at home, do help them when they call.
It's not easy being moderate, though we seek the true and good
They say we're wishy-washy, but we're just misunderstood
Right wingers may go throw their bombs from places they're ensconsed in
But we will honor moderation as per Ripon, Wisconsin.
So we'll endure the critics pure
whose path toward hell is bent
And wonder, will our party make us room inside its tent?
We'll disagree bout what to fund and where those funds are spent
And with voices proud we'll sing aloud the Moderate's Lament.●

CENTENNIAL OF THE SHERMAN ANTITRUST ACT

● **Mr. KOHL.** Mr. President, 2 years ago this month, our Nation celebrated the centennial of the Sherman Antitrust Act, one of the most significant laws ever passed by this body. To commemorate the occasion, Members of the Congress and the Justice Department, scholars and practitioners gave speeches about the history of the Sherman Act in strengthening this Nation's commitment to the principles of economic justice, free-market opportunity, and consumer welfare.

I rise today not to revisit anew the historical importance of the Sherman Act, but to recognize its present and future value. In just 2 years since we commemorated the act's 100th birthday here in this country, antitrust legislation has been born for the first time in emerging democracies around the globe.

The hurricane winds of democratic revolution in Eastern and Central Europe have left in their wake shattered institutions and daunting challenges. How can emerging democracies create successful political and economic institutions? How can they make the transition from a controlled to a market-based economy? The Sherman Act provides twin legacies of guidance: First, industrial democracies must enact antitrust laws, and second they must enforce them.

Mr. President, antitrust laws were nonexistent in Eastern Europe's centrally planned economies, which were premised on price fixing and the domination of whole sectors by a single monopoly. Antitrust laws seek to ensure that societal resources are allocated in their most valuable way through the natural forces of market supply and demand. So it is not surprising that the failure of antitrust policy corresponds with a failure of economic growth.

Based on the Sherman Act's century of success, there is international consensus today that economic growth necessitates the enactment of competitive, nonmonopolistic market structures. This is the Sherman Act's first and foremost legacy. At an international antitrust summit held last year in Prague, the heads of newly constituted antitrust authorities across Eastern Europe agreed that antimonopoly laws were a sine qua non of successful economic democracy.

In fact, all across Eastern Europe, newly emerging governments are putting the principles embodied in the Sherman Act into practice. For example, new laws in the former Soviet Union require that business enterprises wishing to merge present a reorganization plan to the antitrust committee. The committee has the right to prevent merger or absorption if it might lead to a substantial decrease in competition, and the law grants government authorities and business enterprises the right to appeal their cases to the Supreme Court. Noncompliance with the committee's prescriptions are punishable by stiff fines and confiscation of any profit obtained through monopoly activities or unfair competition.

Poland passed the earliest and most stringent antitrust laws in Eastern Europe. Under its new antimonopoly law, mergers that create or strengthen a dominant market position can be divided and liquidated by the antimonopoly office. Managers of defaulting companies can be fined personally, something which is not possible even under the European Community's antitrust laws. I am not sure, Mr. President, that we need such stringent sanctions here in the United States, but I do believe that the current administration could learn something from the trust-busting vigor of these new democracies.

In Hungary and Czechoslovakia, under antimonopoly laws passed recently by their respective parliaments, nearly all mergers that lead to a joint market share of 30 percent or more are prohibited. Cartel agreements are nullified and banned. Newly created offices for economic competition can impose fines for infringement. And Bulgaria, closely following recommendations made by the American Bar Association's Central and East European Law Initiative [CEELI], last summer adopted its first antitrust measures. I would note that CEELI, as well as the U.S. Department of Justice, the Federal Trade Commission, and the Agency for International Development, have strongly encouraged these global antitrust developments by consulting emerging democracies on the lessons of the Sherman Act.

The second key legacy of the Sherman Antitrust Act is the primacy of enforcement. Market-based competition lies not only within our statutes but also in ourselves, and in a society's willingness to make short-run sacrifices for long-term gains. The Sherman Act could not have withstood a society uncommitted to its enforcement. Although the impetus for the act was the anger of farmers and unions against trusts, its enduring success is our Nation's faith in economic justice and market opportunity.

Mr. President, emerging democracies—plagued by generations of central planners and a half-century's worth of bad habits—must change not only their laws but their ideals. It is not enough that yesterday's poets and political prisoners are today's presidents and prime ministers. It is not even enough that they pass strong antitrust laws. In the words of Justice Thurgood Marshall:

> Antitrust laws in general, and the Sherman Act in particular, are the Magna Carta of free enterprise. They are as important to the preservation of economic freedom as the Bill of Rights is to the protection of our fundamental personal freedoms.

The enforcement of and commitment to Sherman Act principles in countries which have never known such disciplines will be the supreme challenge of future generations.•

MILITARY ORDER OF WORLD WARS

• Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

The Military Order of World Wars is a nonprofit organization composed of over 19,000 officers on active duty, retired or honorably discharged/separated from the Armed Forces. Their membership, comprising 153 chapters throughout the country, includes officers of all ranks who have served in the Armed Forces of the United States. They include Presidents, Senators, Congressmen, judges, and military chiefs of the armed services. The order was established in 1920 and has had many notable leaders, including two generals, John J. Pershing and Douglas MacArthur.

The objectives of the Military Order of World Wars include the promotion of patriotic education, defending the honor and integrity of the Federal Government and the Constitution, fostering fraternal relations among all branches of the Armed Forces and encouraging the commemoration of military service and the establishment of war memorials.

Granting a Federal charter to the Military Order of World Wars is a fitting act by this body, on behalf of a grateful nation, to express heartfelt appreciation for what the members of the order have done for our country. The services these individuals have given has not been limited to the taking of arms, but also, in civilian life, has been extended to acts of charity and selflessness that bring them little recognition. Certainly they do not serve to seek recognition, Mr. President, but they do deserve it. It is our responsibility to provide it.

Mr. President, I am proud of the people who serve and have served in our Armed Forces, and I am grateful for what they have done for our country. Through the efforts of the Military Order of World Wars, and other organizations like it, their efforts continue. I urge my colleagues to join me in supporting this bill, because in so doing we can perhaps communicate, at least in some small measure, a sense of our heartfelt appreciation.•

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is below the budget resolution by $0.9 billion in budget authority and above by $4.3 billion in outlays. Current level is $2.9 billion above the revenue floor in 1992 and above by $3.8 billion over the 5 years, 1992–96. Since my last report, dated July 6, the Congress has cleared and the President has signed the unemployment compensation amendments bill—Public Law 102–318—a bill providing for the transfer of certain naval vessels—Public Law 102–322—and the higher education amendments bill—Public Law 102–325. These actions changed the current level estimate of budget authority and outlays.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $352.6 billion, $1.4 billion above the maximum deficit amount for 1992 of $351.2 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 27, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through July 24, 1992. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated July 2, 1992, the Congress has cleared and the President has signed the Unemployment Compensation Amendments bill (P.L. 102–318), a bill providing for the transfer of certain naval vessels (P.L. 102–322) and the Higher Education Amendments bill (P.L. 102–325). These actions changed the current level estimate of budget authority, outlays and revenues.

Sincerely,

ROBERT D. REISCHAUER.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONGRESS, 2D SESSION AS OF JULY 24, 1992

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level[1]	Current level +/− resolution
On-budget			
Budget authority	1,270.7	1,269.8	−0.9
Outlays	1,201.7	1,206.0	+4.3
Revenues:			
1992	850.5	853.4	+2.9
1992–96	4,836.2	4,840.0	+3.8
Maximum deficit amount	351.2	352.6	+1.4
Debt subject to limit	3,982.2	3,894.2	−88.0
Off-budget			
Social Security outlays:			
1992	246.8	246.8	
1992–96	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–96	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

Note.—Detail may not add due to rounding.•

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS, JULY 24, 1992

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions			
Revenues			853,364
Permanents and other spending legislation	807,567	727,184	
Appropriation legislation	686,331	703,643	
Mandatory adjustments [1]	(1,041)	1,105	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted [2]	1,260,314	1,199,389	853,364
Enacted this session			
Emergency Unemployment Compensation Extension (Public Law 102–244)	2,706	2,706	
American Technology Preeminence Act (Public Law 102–245)			(3)
Technical Correction to the Food Stamp Act (Public Law 102–265)	(3)	(3)	
Further Continuing Appropriations, 1992 (Public Law 102–266) [4]	14,178	5,724	
Extend Certain Expiring Veterans' Programs (Public Law 102–291)	(3)	(3)	
1992 Rescissions (Public Law 102–298)	(8,154)	(2,499)	
Emergency Disaster Assistance for Los Angeles and Chicago (Public Law 102–302) [5]	81	15	
Unemployment Compensation Amendments (Public Law 102–318)	980	980	
Transfer of Certain Naval Vessels (Public Law 102–322)			2
Higher Education Amendments (Public Law 102–325)	(305)	(270)	
Total enacted this session	9,483	6,653	2
Total current level	1,269,797	1,206,043	853,366
Total budget resolution [6]	1,270,713	1,201,701	850,501
Amount remaining:			
Over budget resolution		4,342	2,865
Under budget resolution	916		

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the Concurrent Resolution on the Budget (H. Con. Res. 121).

[2] Excludes the continuing resolution enacted last session (P.L. 102–145) that expired March 31, 1992.

[3] Less than $500 thousand.

[4] In accordance with Section 251 (a)(2)(D)(i) of the Budget Enforcement Act the amount shown for P.L. 102–266 does not include $107 million in budget authority and $28 million in outlays in emergency funding for SBA disaster loans.

[5] In accordance with Section 251 (a)(2)(D)(i) of the Budget Enforcement Act the amount shown for P.L. 102–302 does not include $995 million in budget authority and $537 million in outlays in emergency funding.

[6] Includes revision under Section 9 of the Concurrent Resolution on the Budget (see p. S4055 of "Congressional Record" dated March 20, 1992).

Note.—Detail may not add due to rounding.

ACTION ON AMENDMENT NO. 2811 TO H.R. 5373 VITIATED

Mr. BYRD. Mr. President, I ask unanimous consent that Senate action on amendment No. 2811 to H.R. 5373, a sense-of-the-Senate amendment on Romanian elections, be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACTION ON MESSAGE FROM HOUSE VITIATED—H.R. 429

Mr. BYRD. Mr. President, I ask unanimous consent, on behalf of Mr. MITCHELL, that all Senate action on the message from the House on H.R. 429 that followed the adoption of the motion to concur in the House amendment with an amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I further ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

I further ask unanimous consent that the Senate amendment be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, AUGUST 3, 1992

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Monday, August 3; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that immediately after the Chair's announcement, the Senate resume consideration of Calendar No. 570, H.R. 5373, the energy and water appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, AUGUST 3, 1992, AT 10 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. on Monday, August 3.

The motion was agreed to; and the Senate, at 5:02 p.m., recessed until Monday, August 3, 1992, at 10 a.m.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE HEALTH CHOICES FREEDOM ACT OF 1992

HON. BILL RICHARDSON
OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. RICHARDSON. Mr. Speaker, I am pleased to introduce today, the House companion bill to S. 2835, the Health Choices Freedom Act of 1992 introduced on June 11, 1992, by Senator ORRIN HATCH of Utah. I have heard from many of my constituents and from citizens around our country who have expressed great enthusiasm and support for this legislation. This legislation will protect consumers' rights to obtain nutritional supplements and accurate information on their use and the roles they may play in matters of health care, and at the same time strengthen consumer protections on the manufacture of these products.

The exploding costs and inadequacies of our current health care system have caused many citizens and health professionals to explore and investigate the use and efficacy of complementary and alternative forms of health care. Santa Fe, NM, the heart of my congressional district, has grown into national prominence as a center for complementary and alternative health care including acupuncture, Chinese herbal medicine, homeopathic medicine, and nutritional medicine. Additionally, herbal and other alternative treatments are an important part of traditional ethnic minority cultures both in New Mexico and the United States.

There is a growing body of science which indicates important roles for nutrients and herbs in the prevention of disease and the maintenance of health and well-being. We should be exploring this research, Mr. Speaker, as the costs of health care continue to rise seemingly beyond our control. Now more than ever, Americans want to know how they can achieve optimal health and well-being through diet, lifestyle, and nutritional changes. Regardless of whether or not one personally agrees with the use and effectiveness of nutritional supplements and herbs, many across our Nation do and ongoing scientific and research efforts in this area have given new credence and currency to this issue.

I cite as a few examples, the following:

The cover story of the April edition of Time magazine highlights "the real power of vitamins" and says "new research shows they may help fight cancer, heart disease, and the ravages of aging." The New York Times and U.S. News & World Report have had similar articles.

At the February 1992 New York Academy of Sciences conference on "New Views on the Function and Health Effects of Vitamins," scientists detailed the links between vitamin consumption and disease prevention.

A pharmaceutical company has purchased the rights to parts of the Costa Rican rain forest in order to protect from destruction potential medical and herbal cures that may yet be discovered in rare flora and fauna.

The Centers for Disease Control issued an advisory on Monday, July 27, 1992, that all women of childbearing age insure they obtain adequate levels of folic acid in their diet through food or supplementation to prevent neural tube birth defects. This important B-vitamin can help prevent congenital deformities in children such as spina bifida and anencephalopathy. It is interesting to note Mr. Speaker, that the FDA had ruled under the proposed regulations of the Nutrition Labeling Act of 1990 Public Law 101–535, that there was not "significant scientific agreement" to support a claim that folic acid prevents neural tube birth defects. This legislation would create a framework to provide accurate information to consumers and allow them to decide for themselves or in conjunction with the opinions of their health professionals.

A July 1992 article in the Journal of Nutrition Science & Policy which explains how antioxidant vitamins like beta carotene, vitamins A, C, and E, can actually reduce certain cancer risks. The National Cancer Institute has long advocated that Americans eat a diet rich in antioxidant vitamins to reduce the risk of developing cancer. Ironically Mr. Speaker, the FDA has yet to acknowledge significant scientific agreement to support a health claim for antioxidant nutrients and the prevention of cancer. This legislation would allow consumers to obtain all the information about this claim and decide for themselves whether to use such dietary supplements.

Mr. Speaker, in view of all of this positive health information, the Food and Drug Administration has lacked a coherent regulatory policy on nutritional supplements and herbs. Aside from the requirements of the Proxmire amendment, the current system of regulating these substances as drugs and/or food additives has led to a policy that ultimately denies consumers their freedom to obtain these substances and relevant health information about their uses. This legislation seeks to both protect consumers' rights to obtain dietary supplements and herbs; and assures them that they will be safe, of high quality, and that the information about them will be truthful and not misleading. Americans want greater freedom, participation, and expanded options for themselves in health care, not less.

From discussions with my colleagues it is my understanding that virtually every Member of this body has received constituent mail or communications with regards to the issue of access to dietary supplements and current FDA policy toward them. It is critical that we gain a greater scientific understanding of vitamins, minerals, and herbs and the role they play in preventing disease and promoting health. In this way, we will firmly recognize the role that dietary supplements have been playing and will continue to play into the future in offering us real options for health, well-being, and prevention of disease. I urge my colleagues to recognize the importance of this legislation and give their support to it.

Mr. Speaker, I am attaching a section-by-section analysis of my legislation explaining important features of the legislation, as well as the New York Times article referenced in my statement:

SECTION-BY-SECTION ANALYSIS OF THE HEALTH FREEDOM ACT OF 1992

Section 1 contains the name of the Act.

Section 2 contains definitions. "Dietary supplement" is defined to include all of the terms that were discussed in the floor statements made by Senator Symms and Senator Hatch at the time that Section 403(r)(5)(D) was introduced into the Senate as part of the Nutrition Labelling and Education Act. This definition adds only one element—the specific mention of a concentrate or extract. The appropriate forms of dietary supplements are mentioned in Section 2(a)(1)(b)(i).

Section 2(b) defines drug to preclude a drug classification based solely on the fact that a dietary supplement contains a certain potency or because it was sold in conjunction with a valid health claim. The reason for this clarification is that FDA has indicated in its proposed NLEA regulations that potency will be considered in determining whether a dietary supplement is sold for "therapeutic" as opposed to "nutritional" purposes. There is no provision in the law that permits such interpretation. Section 411 was passed to prevent potency-based drug classifications, but FDA has not incorporated this interpretation into its dietary supplement enforcement policy.

Section 2(c) defines food additives to exclude any dietary supplement which is labeled as such. This section is particularly critical since the Food and Drug Administration has pursued many safe, otherwise lawful dietary supplements on the tortured theory that they are unsafe food additives. The rationale for their theory is that a substance that is otherwise a nutrient or food, when placed in a gelatin capsule or in a tablet, suddenly becomes an added ingredient and thus a food additive.

Section 3 is the health claims and labelling section for dietary supplements. Under Section 403(r)(5)(D) of the NLEA, Congress stated that FDA could establish a separate procedure and standard for dietary supplement health claims as opposed to those for foods. The reason for the enactment of Section 403(r)(5)(D) was a recognition by Congress that dietary supplements as a category had been treated as a stepchild; major scientific institutions, perhaps influenced by traditional medical concerns, never performed research on the role of dietary supplements. Rather, any nutritional/disease prevention research was done solely on foods as such. Given the health care crisis in this country, the need for the population to have access to improved means of maintaining and preventing health became very clear to Congress in 1990. This section thus allows for responsible claims concerning safe substances and also

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

provides that FDA will be notified 30 days before any new claims are issued, allowing for regulatory or enforcement action in the event the Agency believes there to be a danger. In addition, this section spells out a very thorough basis in science for any claim that must be made. If the claim does not appear to be based on a full consensus of scientific opinion or "significant scientific agreement" as that term is used in the NLEA, then the labelling will disclose that fact. Consumer protection thus enters both in terms of the necessary science required, as well as in the fact that there will be disclosure as to the level of scientific agreement.

As an added measure of disclosure to the consumer, *Section 3(d)* also requires that labelling for dietary supplements bear the quantity of such nutrients on a per day basis rather than on a per unit basis. There has been confusion in the past when nutrition information has been provided as to a single pill or capsule, yet the recommended dosage was for ingestion of two to three capsules per day.

Section 3(e) mandates that FDA take a strong look at whether the U.S. RDA must be retained. The FDA proposed as an alternative the Recommended Daily Intake, quantity measures which were below the U.S. RDA and which would severely impact on the nutrition of the population. This is another health and safety measure that the bill provides.

Section 3(f) adds a strong mandate that FDA issue new Good Manufacturing Practice regulations to ensure that raw material manufacturers in the dietary supplement industry notify FDA of any safety problems or significant manufacturing changes. It is felt that this type of control can help to avoid unintended contamination. Section 3(f) also permits FDA to establish safety studies on dietary supplements. Subsection (3) requires FDA to establish by regulation the safe dietary supplement use of all the essential nutrients that have been identified to date (and will be identified in the future).

The final provision of the Act, *Section (g)*, deals with the problem that many industry members face in introducing a safe supplement that FDA may question. A common practice for FDA has been to issue a Warning Letter or to take other regulatory action against a company, threatening criminal sanctions, civil remedies, or further enforcement measures if the company does not cease selling the supplement or making certain claims for that supplement. When challenged in court, FDA has stated that it has not yet engaged in "final Agency action," thereby precluding any legal challenge. Industry companies are thus left in the paradoxical situation of being told that FDA has not yet made up its mind, but that FDA will sue the company if it continues its challenged conduct. Courts have gone both ways in supporting or rejecting FDA's ripeness argument, and a legislative solution is particularly appropriate here where the industry has taken the lead in providing newer nutritional products.

[From the New York Times, Mar. 10, 1992]

VITAMINS WIN SUPPORT AS POTENT AGENTS OF HEALTH

(By Natalie Angier)

Long consigned to the fringes of medicine and accorded scarcely more credibility than crystal-rubbing or homeopathy, the study of how vitamins affect the body and help prevent chronic diseases is now winning broad attention and respect among mainstream medical researchers.

Scientists, who thought that the basic questions in vitamin research had been solved and that the major benefits of the nutrients were to prevent diseases of deficiency like rickets and beri-beri, are learning that most of the vitamins—from A through K and all the subvariants in between—play far more fundamental and long-term roles in the body than anybody had suspected.

They are gathering provocative evidence that vitamins influence the health and vibrancy of nearly every organ, and that these enigmatic chemicals may help forestall or even reverse many diseases of aging, including cancer, heart disease, osteoporosis, a flagging immune system, neurodegeneration and other chronic disorders.

But scientists emphasized that the results were extremely preliminary and should not be viewed as reason to start popping vitamin tablets by the fistful. They warned that a few compounds, like the fat-soluble vitamins A and D, can be quite toxic if taken in doses significantly exceeding the Government's recommended daily intake.

Nevertheless, scientists are buoyed by their new observations, which reveal molecular mechanisms that go beyond standard assumptions about why vitamins are so vital, and why the body goes to such lengths to absorb these essential chemicals from food. For example, some researchers have suspected for years that certain vitamins, particularly vitamins E, C and beta carotene, may help prevent cancer by scavenging free radical molecules that might harm the cell's fragile genetic material. But more recently researchers have discovered that those vitamins, called as a group antioxidant compounds, may also battle cardiovascular disease. They have shown that antioxidant vitamins prevent the body from turning otherwise innocuous cholesterol into a sticky and reactive form that can clog the arteries and set the stage for heart attacks.

Other vitamins, particularly folic acid, seem to counteract cancer by strengthening the chromosomes and perhaps preventing dangerous viruses from infiltrating deep into cells and touching off a tumor. For reasons that remain unknown, folic acid also sharply cuts the rate of neural-tube birth defects. In a study reported last July, researchers showed that pregnant women who took folic acid supplements had a much lower risk than women who did not take the supplement that their babies would have neural-tube deformities like spina bifida, or open spine, and anencephaly, a deadly defect in which much of the brain is missing.

"We used to think about vitamins strictly in terms of what you needed to prevent short-term deficiencies," said Dr. Simin N. Meydann of the Human Nutrition Research Center on Aging at Tufts University in Boston. "Now we're starting to think about what is the optimal level of vitamins for lifelong health and to prevent age-associated diseases."

ALLOW SENIOR CITIZENS TO CHOOSE THEIR FAMILIES, FIRST

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mrs. JOHNSON of Connecticut. Mr. Speaker, imagine losing your family's financial security because you wanted to provide long-term home care instead of nursing home care for your infirmed spouse. That's the tough choice facing many elderly Americans and that's why Congresswoman HELEN DELICH BENTLEY and I are introducing the Senior Home Care Choice Fairness and Improvement Act of 1992 today. This is the companion bill to S. 2686, introduced by Senators BOND and COATS. This legislation would assure financial equity in a Medicaid benefit intended to protect senior citizens needing long-term care, regardless of setting. No longer could the Federal Government—albeit unintentionally—punish those elderly persons who want to care for spouses within their family setting.

Currently, most States force an elderly person, whose spouse needs long-term care, to choose between losing the couple's financial security or placing the spouse in a nursing home, even though the infirmed spouse could be cared for at home. Only a limited number of States—and I am pleased that Connecticut is one of them—have elected to include the optional spousal impoverishment provisions of the Medicaid Program in their community and home-based waiver programs.

The ability of one spouse to save a portion of the couple's assets is referred to as "spousal impoverishment" protection. This protection was first extended to Medicaid nursing home patients in 1989. At the same time, it was made an optional benefit under the Home and Community-Based Waiver Program. Spousal impoverishment protection permits the at-home spouse to retain assets, in addition to the home, of $13,000 to $69,000 and an income of approximately $13,000 to $21,000. But since protection does not automatically apply to home care, elderly persons who decide to be cared for at-home must spend down to $2,000 in assets—savings accounts, certificates of deposits, and the like—before they can qualify for Medicaid assistance.

Elderly couples who want to stay together and want to care for their needs at-home should be protected. They should not be forced to choose between poverty and institutionalization. Representative BENTLEY's and my bill is both about saving money—long-term care for Medicaid patients in nursing homes is generally far more expensive than care in a home setting—and preserving family values and individual dignity.

It is the Government's responsibility to ensure that families are given every option to stay together and that seniors who choose home care are as well protected from spousal impoverishment as seniors receiving out-of-home care. The purpose of our legislation is to clarify the current law and ensure that there is no question that spousal protection should apply in all settings.

Our legislation requires that those States which have a community and home-based Medicaid waiver must provide spousal impoverishment protection to spouses of individuals eligible for home care under the Medicaid State Waiver Program. Everyone who is eligible for nursing home coverage will now have an equal and fair option to stay in their homes with their spouses while they receive Medicaid coverage for medical and personal services just as they would have if they had elected nursing home care.

In addition, this bill requires hospitals to notify patients needing long-term care that they are qualified for either nursing home or home care under Medicaid. These patients deserve to have the opportunity to make a fair choice and to know of their options.

The Senior Home Care Choice Fairness and Improvement Act of 1992 will give to Medicaid eligible individuals the choice of staying at home with their infirmed spouses and, thereby, keep their family together during a time of need. It is truly a family protection measure.

LET'S HELP KEEP OUR SENIOR CITIZENS TOGETHER

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mrs. BENTLEY. Mr. Speaker, today I am introducing legislation along with my colleague from Connecticut [Mrs. JOHNSON] that I believe offers a realistic way to keep families with ill or disabled loved ones together. For too long, the system has been weighted in favor of separating as opposed to unifying the family. The problem with our current system is that in most States, elderly individuals who want to keep their spouses in the home are unable to do so because of dire financial consequences. While the State of Maryland does not participate in the 1915(c) program—better known as the Home and Community-Based Waiver Program—and is therefore a unique exception to the rule, the legislation that we are introducing today will reverse what amounts to an unacceptable policy throughout much of the country.

Under current law in most States, a spouse who lives in the community must have a yearly income below $21,000 and assets below $69,000 to qualify for the spousal impoverishment assistance for nursing home care. Requirements for home-based care however, are dramatically different and unfortunately for untold numbers of Americans, terribly unfair. To receive home-based care, this same individual must spend down to $2,000 in assets to qualify for medical assistance.

Mr. Speaker, the fact that a family would have to exhaust nearly all of its assets in order to enable a loved one to receive long-term care in the home is outrageous when you consider that the same assets would be fully protected, provided of course, that the family member were institutionalized. I know of several families throughout the country who have been faced with the difficult choice of selling off their investments in order to keep a loved one in the home, and therefore qualify for assistance. At great financial peril, many families nonetheless opt to care for the family member without the benefit of financial assistance that they should rightly be entitled to. Faced with two unpleasant alternatives, this particular option is often viewed as the correct choice for elderly couples who want to stay together.

Nevertheless, the policy that I have just mentioned is blatantly unfair, and this unfairness warrants the type of remedy that Mrs. JOHNSON and I are prepared to initiate today. We need policies that provide for more compassionate care in the last years in life—and policies that encourage families to stay together, not break apart.

Constructive changes to the current law makes good sense, not only because of the fairness issue but also because home care is compassionate and costs effective. The National Association for Home Care estimates that it costs over $20,000 per month to keep a patient in the hospital for intravenous nutritional therapy. Similar therapy, administered in the home environment, costs under $10,000. The same holds true for numerous other in-home therapies.

Mr. Speaker, as the ongoing health care debate is elevated in intensity it is clear that we need to make health care more family friendly. The legislation that we are introducing today does just that.

LIONS HOME FOR THE BLIND (HOGAR DEL CIEGO) SEARCHES FOR LIGHT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to commend the Lions Home for the Blind (Hogar del Ciego) for their admirable devotion to bettering the quality of life for Miami's blind community.

The Lions Home for the Blind has served as a haven for blind and visually handicapped individuals for some time now. This nonprofit organization depends on the generosity of community support for its survival. To raise the funds necessary to operate the Home for the Blind, the Lions Club held a radio marathon on Saturday, July 11, 1992. Aleida Leal, radio marathon chairman, and Felipe Vilaomat, executive director, devoted many hours of hard work to organizing this event, and their efforts were a great success. Listeners called in all day, raising over $17,000 in revenue for the home. I was honored to have been asked to participate and I called in to encourage all to donate to this worthy cause.

The many donations received by the home allow them to brighten the lives of many individuals who find themselves in perpetual darkness. Transported to and from the center 5 days a week, these individuals find companionship, social and educational activities, and, most importantly, people who care about them and are eager to be of service in any way they can.

Mr. Speaker, I commend the many individuals associated with the Lions Home for the Blind. The citizens of south Florida realize the importance of the Home's survival, and provide support. I ask my colleagues to join me in offering all involved a hearty congratulations for the success of the radio marathon and in wishing the Lions Home for the Blind good fortune in all future endeavors.

THIRD GRADERS MAKE AIDS PANELS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to insert in the RECORD the story of third graders from the Bret Harte Elementary School in Deptford, NJ who, after much time and effort, made a mini AIDS quilt. I commend these young people for their concern and dedication.

BRET HARTE THIRD GRADERS MAKE AIDS PANELS

December 1, 1991 was World AIDS Day. In order to promote an awareness of the disease and concern for people suffering with HIV and AIDS, Ms. Moore's third grade made paper panels that were put together to form a mini AIDS quilt. After the project, Erin Mullen decided to make a real AIDS panel for Ms. Moore's brother, Bobby Moore, because he died of AIDS. That night, Erin used her baby blanket to begin the panel. The next day, she asked Alissa Snyder to help. Later, Rachael Cohen thought of making another panel for Eddie Pompper, a 28 year old man who died of AIDS. Soon Rachael asked Lauren Xenakis and Lauren Schlanger to help develop Eddie's panel. All of us gave up many lunchtime recesses because we care about people who have died of AIDS and about people living with the disease.

We have shared the panels with other Bret Harte students and with a K–8 school in Deptford, NJ. In October of 1992, they will be shown with 20,000 others as part of the Names Project Aids Memorial Quilt. The display will be in Washington, DC.

LAUREN SCHLANGER.
LAUREN KENAHIS.
ERIN MULLEN.
ALISSA SNYDER.
RACHAEL COHEN.

THE QUAGMIRE RIGHTS OF ABORTION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. LAFALCE. Mr. Speaker, for too long the national debate on abortion has been the captive of inflamed rhetoric, distorted claims, and extreme tactics. Rational discourse has been the exception rather than the rule and even the suggestion of compromise has been anathema to both sides. Yet, amid the escalating rhetoric of the abortion debate there remain a few voices seeking to advance constructive debate on this divisive issue.

I would like to insert into the RECORD the following article written by one of these voices, John Leo, entitled "The Quagmire of Abortion Rights." Mr. Leo makes two important points in his article. First, he asserts the need for a political solution to a dilemma which moral philosophy, logic, reason, or other materials of law have been unable to resolve. Second, he underscores the importance of genuine compromise—a compromise which will likely displease both extremes but appeal to the vast majority of Americans who are troubled with the status quo of abortion on demand.

To provide much-needed perspective on the situation in the United States, Mr. Leo cites the democratic compromise forged in France, embodying the idea that abortions should be kept to a minimum but leaving neither side fully satisfied. I commend the following article as a constructive contribution to the dialogue so fundamental to solving this dilemma.

[From U.S. News and World Report, July 13, 1992]

THE QUAGMIRE OF ABORTION RIGHTS

(By John Leo)

In 1973, Yale Law Prof. Alexander Bickel, one of the eminent constitutional scholars of his day, had an immediate objection to *Roe v. Wade*. Since "moral philosophy, logic reason or other materials of law" can give no answer to the dilemma of what to do about abortion, he wrote, "Should not the question then have been left to the political process, which in state after state can achieve not only but many accommodations, adjusting them from time to time as attitudes change?"

Obvious answer. Yes. If politics had been allowed to operate, we wouldn't be in such a fix today. Lacking an imperial judiciary, other democracies have reached tolerable accommodations and moved on. The court has prevented that here. By foreclosing normal democratic outlets, *Roe v. Wade* distorted abortion policies, setting the stage for extreme street politics and frank attempts to pack the courts. If judges are going to impose social policy, then politicians will try to impose judges.

In the 1989 *Webster* decision, four justices seemed poised to overturn *Roe*. The decision suggested that the right to decide about abortion belongs to the people, through their legislatures, and not to the courts. But last week in *Planned Parenthood v. Casey*, the court veered away from the expected next step—junking *Roe* altogether—and produced a patched-up, head-scratching decision that accomplishes nothing. *Casey* maintains the status quo. *Roe* is reaffirmed. The plurality's argument that the court can't back down because it has staked its authority and reputation on *Roe* is truly pathetic. It sounds like late 1960s White House rhetoric on why America couldn't afford to leave Vietnam. The adventure has been a giant mistake. It has torn the country apart, but we can't do anything about it or we'll lose face.

OUT OF THE COURTS.

A comment in the *Wall Street Journal* by Harvard Law Prof. Mary Ann Glendon echoes Bickel: The *Casey* decision "disappoints those who hoped that the court would adhere to the principle that, in the absence of clear guidelines from constitutional text or tradition, controversial social issues are to be worked out through the ordinary processes or bargaining, education and persuasion, rather than resolved by judicial fiat."

Glendon's book "Abortion and Divorce in Western Law" shows how this process has worked in other Western democracies. France, bitterly divided on the issue in the early 1970s, worked out a compromise, and turmoil has ended. Up to the 10th week, abortion is offered to any woman in a state of 'distress" over her pregnancy. "Distress" is self-defined, no questions asked. Later abortions are somewhat harder to get.

But ease of access is balanced by emphasis, mostly rhetorical, on the duty to protect developing human life. The French statute names the underlying problem as one involving developing life, not as a conflict between a woman's freedom and a nonperson. Regulations call for a one-week waiting period, which can sometimes be waived, and counseling, preferably with the male partner present, on alternatives to abortion and the benefits guaranteed to all mothers. The law states that abortion is not a form of birth control and backs that up with government promotion of birth-control information. To avoid bringing abortion mills into existence, and thus making abortion look routine, the operations are government-funded and must be performed by doctors in approved facilities. ("Only in America has a vast profit-making industry grown up around abortion," Glendon writes.)

Could such a compromise take hold in the United States? Not in that form, surely. France has a long tradition of paternalistic government. America has its fierce individualism, exacerbated by *Roe*. But if the Supreme Court can get hold of itself and return abortion to the political process, Glendon thinks legislators would do well to study foreign models.

The French solution can be viewed cynically: easy abortion in exchange for accepting a few platitudes on the value of human life. But Glendon considers it "humane, democratic compromise" built around compassion and concern for pregnant women, married and unmarried, as well as concern for fetal life.

The key to the compromise is that abortion is socially positioned as a regrettable exception to the principle that developing life is to be protected. French law embodies the idea that abortions should be kept to a minimum. The idea is backed by social programs, including grants and day care, that help women avoid abortion. The mandatory counseling, a simple discussion of options, does not have the punitive or anxiety-producing tone that arouses such resentment here. Glendon reports that it is "clearly meant to be helpful to the woman while trying to preserve the life of the fetus."

This sort of compromise will not appeal to those who think early abortion is murder or to those devoted to the hysterical argument that a one-day waiting period is an intolerable act of oppression. But it would appeal to the vast majority of Americans who want the turmoil to end. Polls consistently show that a decisive majority opposes abortion; wants it discouraged and regulated but is unwilling to use law to forbid abortions. So an Americanized version of the French accommodations may be the future of the issue here. But not until the Supreme Court extricates itself from its 19-year Vietnam.

SERGEANT HENDERSON RECOGNIZED FOR HIS 20 YEARS OF DEDICATED SERVICE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. FASCELL. Mr. Speaker, on the occasion of his retirement from the U.S. Air Force, I want to take this occasion to recognize the outstanding service of T. Sgt. Lester D. Henderson for his 20 years of dedicated service to the United States.

During a 20-year career of exemplary service, Sergeant Henderson established a pattern of achievements and outstanding service, culminating in his most recent assignment as noncommissioned officer in charge of the suspense control section in the Air Force Office of Legislative Liaison. He personally managed the overall operation of the suspense control desk which processes all Presidential, Vice Presidential, and congressional correspondence for the Secretary of the Air Force and the Air Force Chief of Staff. After a survey of the tasks performed and needed skills, he developed an extensive training program to qualify new personnel for the performance of all facets of correspondence control. His program resulted in major improvements in the management of office correspondence. As a military escort for numerous congressional delegations he elicited an unending series of favorable comments on the part of his delegation chairmen and members.

I would like to especially note that Sergeant Henderson has been awarded the Air Force Meritorious Service Medal with an oak leaf cluster, the Air Force Commendation Medal with an oak leaf cluster, and the Air Force Achievement Medal with an oak leaf cluster. This, Mr. Speaker, is an extraordinary achievement.

Sergeant Henderson's service is a model for every young man seeking to serve his country.

RULE ON HOUSE CONCURRENT RESOLUTION 246, EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO THE RELATION OF TRADE AGREEMENTS TO HEALTH, SAFETY, LABOR, AND ENVIRONMENTAL LAWS OF THE UNITED STATES

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the rules of the Democratic Caucus, I wish to serve notice to my colleagues that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of House Concurrent Resolution 246, expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States.

CITY OF MIAMI HONORS ITS OUTSTANDING CITIZENS OF THE YEAR

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize five distinguished Miami citizens who were honored by the city of Miami with its fourth annual Citizens of the Year award. These outstanding citizens were nominated by the mayor and the city's commissioners for their work in civic and cultural affairs, as well as their significant efforts to improve our community.

The five recipients of this award were recognized with a presentation ceremony, as part of the state of the city address, at the Omni International Hotel. These dedicated citizens included Alan Weisberg and Bernard Poitier.

Alan Weisberg was nominated by Mayor Xavier Suarez as the "kind of person who solves problems rather than creating them." He has served Miami in many roles as a founder of a civic association, a promoter of historic districts, and advocate for renovation of Biscayne Boulevard. His most significant achievement has been as the chairman of the Bayfront Park Management Trust, which he helped turn into an attraction which has brought millions of visitors to the downtown area.

Bernard Poitier, the director of the Poitier Funeral Home, was nominated by Commissioner Miller Dawkins as one of the unsung heroes in our community. He has gone beyond the call of duty to assist the needy and less fortunate. A compassionate and principled man, he has lived by the principle, "love thy neighbor as thyself."

Also nominated for this prestigious award were Dr. Olga Perez-Nodal, Josefina Carbonell, and Orlando Urra who were mentioned in a previous extension.

Each of the award winners have gone beyond the call of duty to assist the needy, and less fortunate members of our community. These distinguished citizens were not only successful in their careers, but have also found personal reward from day to day through helping others. They have helped others not only financially but with their hard work and dedication to various causes. They are truly a significant part of Miami's contribution to the "thousand points of light" who throughout our Nation work to help people in their local communities.

TAKE PRIDE IN AMERICA VIRGIN ISLANDS' DAY

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. DE LUGO. Mr. Speaker, today is Take Pride in America Virgin Islands' Day, marking the kickoff of a cleanup and environmental awareness project that is to serve as a model for the other U.S. offshore areas.

The residents of our insular areas are stewards of some of the most beautiful and environmentally sensitive areas under the U.S. flag. It is so important that we work diligently to preserve and enhance this inheritance.

I am proud that Secretary of the Interior Manuel Lujan has selected the Virgin Islands for this event, and I am proud of the many individuals and organizations in the Virgin Islands taking part in today's efforts.

I read into the RECORD a release from Secretary Lujan's office summarizing Take Pride in America Virgin Islands' Day.

JULY 31 IS TAKE PRIDE IN AMERICA VIRGIN ISLANDS' DAY

Secretary of the Interior Manual Lujan today announced the kickoff of a project for the U.S. Virgin Islands aimed at stewardship of natural resources and protecting the environment.

The project, part of the Interior Department's Take Pride in America program, in cooperation with the government of the U.S. Virgin Islands will launch a Take Pride in America Virgin Islands' Day, July 31, 1992. The project will document and outline a successful day of islandwide cleanup and stewardship activities for use as a model for other U.S. insular areas in the Pacific.

"We selected the U.S. Virgin Islands for this model project because of the interest and commitment," Lujan said. "We are encouraged and excited about this project."

Take Pride in America is a broad based partnership of millions of volunteers to preserve and enhance our Nation's natural, cultural and historic public resources. The organization sponsors an annual awards program to recognize those who have made outstanding contributions to the preservation and enhancement of America.

The Virgin Islands project represents the first in a series of planned activities culminating in 1994 when the Take Pride in America program will hold its first National Take Pride in America Day, bringing Americans from all over the United States to participate in an assortment of stewardship efforts.

The Take Pride in America Virgin Islands' Day will be followed by two days of awards ceremonies to recognize organizers of these events on each island. Cleanup activities will be coordinated with the St. Thomas-St. John Chamber of Commerce and the St. Croix Chamber of Commerce.

Assistant Secretary for Territorial and International Affairs Stella Guerra will be joined by U.S. Virgin Islands Lieutenant Governor Derek Hodge. Hodge is the Honorary Chairman of the Take Pride in America Virgin Islands' Day activities.

NATIONAL PARKS AND LANDMARKS CONSERVATION ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. VENTO. Mr. Speaker, our Nation's identity is steeped in images from our national parks: The power of Old Faithful in Yellowstone, the majesty of Halfdome in Yosemite, the vision of Independence Hall, the endurance of Chaco Canyon's prehistoric ruins. These are places of national and international significance. We have been shaped by these special places. We all care deeply about our national parks and landmarks and take great pride in them; they embody the best this Nation has. The Statue of Liberty, the Everglades, Gettysburg, the Grand Canyon—these places help define us as an American people. In addition to the national parks, there are 2,000 national historic landmarks and 580 national natural landmarks, which although not owned or administered by the National Government have been found to be nationally significant.

Having inherited such wonders, we can do no less than pass them on to our descendants in the best condition possible. But today these special places are at risk, threatened by human-caused and natural forces. Numerous articles and studies report the stress and strains our national parks and landmarks are under.

Threats to these resources originate both inside and outside parks and landmarks. Some dramatic threats are easily recognized. But other threats, whose impacts are often even more serious, are subtle and insidious. Our responsibility extends to all these special resources, and against all such threats.

Over 75 years ago when the National Park Service was established, park managers sincerely believed that they could ensure that national park resources would remain unimpaired by carefully managing actions within park boundaries. Today we know that national parks and landmarks are embedded in their larger ecosystems, and in their larger societal contexts. They are affected by forces from near and far. Today we realize that the forces endangering our national parks and landmarks are both more powerful and complicated than had been suspected. There is every reason to believe that such threats to our heritage will only become more complex as we learn more about them. Some threats are completely beyond our human control. But many other threats are very much within our power to counter. Public policy should strongly encourage communities and individuals around parks and landmarks to cooperate in their protection from careless, uncontrolled, and adverse development. The law should direct other Federal agencies to coordinate with national parks and landmarks so that Federal dollars aren't simultaneously spent to save parks and landmarks, while other spending adversely impacts such special resources. National policy can provide mechanisms to deal with emergency situations so that we can avoid the crises we encountered 3 years ago when the Manassas National Battlefield Park was under threat of becoming a suburban shopping mall.

For this reason, I ask Members to join me in providing a thoughtful and sensible framework for national park and landmark protection. The legislation is premised on cooperation rather than confrontation. This approach to national park and landmark protection combines a thorough knowledge of these special places and their needs, with careful management and cooperative efforts to prevent crises, and to provide emergency tools for those times crises cannot be prevented.

We need the political will to act on our deep concerns for our natural and cultural heritage as embodied within our national parks and landmarks.

Today I am introducing comprehensive legislation that furthers the protection of these resources so that the fundamental goals and objectives of their designation, their use, and their enjoyment might be optimized in perpetuity. The bill is similar to a measure introduced by my colleague, Senator DALE BUMPERS, chairman of the Senate Subcommittee on Public Lands, National Parks and Forests.

My legislation has five simple principles.

First, we must ensure that the National Park Service can manage the resources in its care in the most professional way possible, avoiding political interference. My legislation includes the Presidential appointment of a professional Director of the National Park Service with Senate confirmation and with clear authority over the organization. The National

Park Service should no longer be a political pincushion. The recent incident affecting regional National Park Service Director Lorraine Mintzmyer is only the latest in a series of political manipulations of the National Park Service and its personnel.

Second, we need to understand the conditions and needs of national parks and landmarks as accurately and fully as possible so that wise protection decisions can be made. The measure directs the National Park Service to research the condition of national parks and landmarks and to use this research in making appropriate management decisions.

Third, we need to establish cooperative mechanisms among national parks and landmarks and those organizations, individuals, and governmental entities that can be partners in their protection and public enjoyment.

Fourth, we must craft tools to handle emergencies when they arise. Once a bulldozer has scraped away archaeological resources or a species is extinct it is too late. The Congress cannot create natural or cultural resources. These are irreplaceable nationally significant resources and there are rare times when action to save them must be quick and effective.

Fifth, there should be consistency in Federal actions: Another Federal agency or its programs should not be able to damage the national parks and landmarks that the National Park Service is entrusted by law to protect.

This legislation includes all 361 units of the National Park System. It also includes the national historic landmarks and the national natural landmarks, places that have been designated for their national significance and physical integrity. These resources are irreplaceable. They contain some of the most precious treasures of America. They deserve our full care and attention. They are a natural and cultural legacy given to us by those who came before us; we must pass on that heritage to those who follow. Seventy-five years ago people with great vision established the National Park Service. Over 100 years ago we began to set aside these special places. The preservation and conservation of our natural and cultural resources—America's crown jewels—is recognized as one of the best ideas our Nation ever had. Let's build upon that heritage and not allow it to be destroyed. We all benefit from the vision that preserved this heritage for us today. This legislation is intended to help pass such vision on to future generations so that they too will be able to benefit from our national parks and landmarks—their American heritage.

TRIBUTE TO C.R. GIBBS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. NORTON. Mr. Speaker, in the past decade, a new and exciting emphasis has been placed on the history of African-Americans and the often pivotal role they have played in the great events that comprise our national legacy. Today I would like to pay tribute to a man, Carroll R. Gibbs, who has played no small part in this historic renaissance.

An author and lecturer, he has devoted the past 20 years to illuminating the rich contributions of African-Americans to our society and its culture through his lectures, exhibits, and films. Author of several books, including "The Friends of Frederick Douglass, Black Inventors, Black Explorers," and coauthor of "Black Georgetown Remembered," he is also an expert on black Civil War units. He has served as a consultant to the D.C. Public School System, Georgetown University, and the Smithsonian Institution, and has written many articles for both scholarly and popular publications.

On July 15, the friends of C.R. Gibbs and the Howard University Alumni Association wisely chose to honor not only his love of African-American history, culture, and literature, but his choice to share that devotion with the world at large. I know that my colleagues will join me in saluting the commitment and accomplishments of C.R. Gibbs.

EARLY TRADE BETWEEN INDIANS AND NON-INDIANS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a recollection of King Haglar, a member of the Catawba Tribe as published in a book entitled "Native American Testimony." The editorial comment which precedes the article is provided also:

YOU ROT THE GUTS OF OUR YOUNG MEN

Distilled liquor was the bane of Indian existence everywhere, wrecking family life, causing humiliating sprees of self-destruction, and insidiously used by corrupt whites to confuse Indians before trade or land negotiations. Here a mid seventeenth-century chieftain of the Catawbas—a large tribe inhabiting the Carolinas—scolds North Carolina authorities with a complaint frequently expressed by Indian leaders. Known as King Haglar by English colonists, the chief spoke these words on August 29, 1754. Although he continued to petition for years for an embargo on firewater, by the close of the eighteenth century liquor, along with successive epidemics of smallpox and attacks by the Iroquois, had decimated his people.

Brothers, here is one thing you yourselves are to blame very much in; that is you rot your grain in tubs, out of which you take and make strong spirits.

You sell it to our young men and give it [to] them, many times; they get very drunk with it [and] this is the very cause that they oftentimes commit those crimes that is offensive to you and us and all through the effect of that drink. It is also very bad for our people, for it rots their guts and causes our men to get very sick and many of our people has lately died by the effects of that strong drink, and I heartily wish you would do something to prevent your people from daring to sell or give them any of that strong drink, upon any consideration whatever, for that will be a great means of our being free from being accused of those crimes that is committed by our young men and will prevent many of the abuses that is done by them through the effects of that strong drink.

KING HAGLAR,
Catawba.

MARIA ANA ALVAREZ-REYES, A MIAMI DAILY POINT OF LIGHT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am please to call my colleagues' attention to the outstanding service rendered to the State of Florida and the United States by Dr. Maria Ana Alvarez-Reyes. Dr. Alvarez-Reyes has received the honor of being the 847th daily Point of Light for the Nation.

Dr. Alvarez-Reyes has served the United States for 11 years as an originator of the Ingles Practico—practical English—program. This program is intended to teach English to Spanish speakers as well as to promote cultural understanding. Dr. Alvarez-Reyes left a rewarding career as a psychologist to devote her energies to promote cultural understanding between ethnically diverse groups, as well as create opportunities for economic progress in the Hispanic community. Her efforts have included delivering lesson materials to homes and organizations and offering job referrals to her students. More than 23,000 courses have been distributed over the past 11 years.

Dr. Alvarez-Reyes volunteers 30 hours, 6 days a week, every week to teach three or four English classes a month. Additionally, Dr. Alvarez-Reyes trains the other teachers and oversees the Ingles Practico program out of her own home. However, Dr. Alvarez-Reyes' efforts to supporting lifelong learning for those individuals who only speak Spanish do not stop there. She also holds radio and television interviews and tapes public service announcements for her students.

President Bush has saluted Dr. Alvarez-Reyes for symbolizing success in serving and helping others. It is an honor for me to bring to the attention of the House of Representatives Dr. Alvarez-Reyes for her selfless dedication to promoting bilingual skills in the Hispanic community. She stands as a shining signal to the Hispanic community that doors need not be closed because of a language barrier.

MORATORIUM ON GRADUATION FROM THE MINORITY BUSINESS DEVELOPMENT PROGRAM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. LAFALCE. Mr. Speaker, today I am introducing a bill providing for a moratorium of up to 1 year on graduation from the Minority Business Development Program under section 8(a) of the Small Business Act. I am pleased to have Representative ANDY IRELAND, ranking minority member of the Small Business Committee, join as a cosponsor.

In 1988, when Congress reformed the Minority Business Development Program, Congress established the U.S. Commission on Minority Business Development. The Commission was charted with the responsibility to review and assess the overall effectiveness of the Small Business and Capital Ownership Development Program, commonly referred to as the Section 8(a) Program.

The Commission's final report is anticipated to be delivered to the President and Congress during the month of August 1992. It proposes changes which, if enacted by Congress, could affect a small business' tenure in the program, and the type of technical and financial assistance offered by the Small Business Administration.

Our bill provides Congress with sufficient time to receive the Commission's final report, hold hearings and, if appropriate, offer legislation which would make the Section 8(a) Program a more effective tool for bringing our Nation's minority-owned firms into the mainstream of the Federal procurement process. Our bill has the support of the Hispanic Caucus, the Black Caucus, and of interested groups representing the minority business community.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in 1988, Congress established the Commission on Minority Business Development;

(2) one of the duties of the Commission on Minority Business Development is to review and assess the overall effectiveness of the Small Business and Capital Ownership Development Program established pursuant to section 7(j)(10) of the Small Business Act; and

(3) the final report of the Commission on Minority Business Development, which is anticipated to be transmitted to the President and Congress in August 1992, will propose changes to the Small Business and Capital Ownership Development Program which if adopted could affect the tenure of small business concerns participating in the program and the type of technical and financial assistance offered to small business concerns by the Small Business Administration under the program.

(b) PURPOSE.—It is the purpose of this Act to extend the participation of certain disadvantaged business concerns in the Small Business and Capital Ownership Development Program during a period in which Congress may consider changes to the program.

SEC. 2. EXTENDED PARTICIPATION BY DISADVANTAGED SMALL BUSINESS CONCERNS IN BUSINESS DEVELOPMENT PROGRAMS.

Section 7(j)(10)(C) of the Small Business Act (15 U.S.C. 636(j)(10)(C)) is amended by adding at the end the following:

"(iii) Notwithstanding clause (i), a small business concern participating in any program or activity conducted under the authority of this paragraph or eligible for the award of contracts pursuant to section 8(a) of this Act on the date of the enactment of this clause shall be permitted continued participation and eligibility in such program or activity until the latter of—

"(I) the 365th day following such date of enactment; or

"(II) the date on which such participation and eligibility expires under clause (i).".

VOTER FRUSTRATIONS—LETTER FROM THE ROWLEY'S

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. RHODES. Mr. Speaker, each of us receive communications from our constituents reflecting the degree of voter frustrations and concern about the Congress and the domestic economy.

What follows is one such letter from Mr. and Mrs. Arden A. Rowley, constituents of mine from Mesa, AZ. The Rowley's believe a limit on congressional service is one way to get at the problems about which they speak. Although I do not support an artificial term limit, because I believe it would detract from our most cherished American freedoms, rights and responsibilities, the Rowley's asked that I share their views with the Members of the House of Representatives.

MESA, AZ,
July 11, 1992.

All U.S. Representatives,
House of Representatives,
Washington, DC

REPRESENTATIVES: Congress is supposed to work for us, the taxpayers. It's time to clean house! It's time to pass term limitation for all members of Congress.

The average reelection rate for incumbents over the last decade has been 95%, not because of the wonderful job you are doing but because you are able to spend hundreds of thousands of dollars of tax payers money to finance your reelection campaigns and gain financial support from special interest groups.

Jamie Whitten from Mississippi has been in Congress for 50 years. Over a dozen members have been there for 30 years and more. Our founding fathers did not intend for anyone to make a career out of public office. Citizen statesmen not professional politicians.

Since most of you were elected to Congress for life, and this is essentially what happens today, you do anything you want collectively. You take pay hikes without a vote, bounce hundreds of thousands of dollars in bad checks with no worry, and live it up at taxpayers' expense!

Most of you can't even balance your own checkbooks. Is it any wonder that you can't balance the National budget?

You have written $25 million in personal checks against insufficient funds, and nearly $4 trillion against insufficient funds for the Nation. You call it deficit spending. No, you will never balance the National budget Unless you pass Term Limitation nothing will really change, because it is almost impossible to come anywhere near matching an incumbent's war chest.

In 1991 and 1992, you will spent more than $75,000,000 of taxpayer money on mailings to help get yourselves elected.

You will get more than 100 million dollars from Special Interest political action committees. Challengers will get less than $20 million. This sheer weight of dollars almost guarantees your reelection.

This is why Term Limitation is essential, if America is to be saved from bankruptcy and absolute disaster!

Perks for you are paid for by us taxpayers. This included the House of Representatives private bank and a hundred others that you know about. I don't need to reenumerate them here.

If I were to deliberately write checks against insufficient funds I'd probably be in jail. My bank would certainly not continue to cash my checks. These bounced checks amount to interest free loans—loans with no real requirement to be paid back. Some of you used these loans to help finance your election campaigns.

There is a free lunch (and a free dinner and a free breakfast, too) for you. You have set up 14 restaurants to serve 435 Representatives and 100 Senators, plus your staffs. Your eateries range from simple cafeterias to palatial dining rooms, with crystal chandeliers. The cost for a filet mignon served to you by black-tie waiters: $7.50. I pay twice that much at a restaurant here in Mesa, Arizona.

When it is all added up you spend more than $2,500,000,000 each year on yourselves. Almost anything you can imagine—from silk neckties to Polaroid cameras can be supplied to you, courtesy of the American taxpayer. In the basement of the House and Senate office buildings are located stores where you can buy for your offices, "Office Supplies" like Polaroid Spectra cameras, crystal candlestick holders, leather wallets, china vases, silk neckties—and much, much more.

Only you and your staffs are allowed to shop in these stores. The items are sold at big discounts, and can be bought with cash, or charged to your office expense account. Guess what? No one checks to make sure that item is being used for "legitimate official" purposes.

But leather wallets or even crystal candlestick holders are small subsidies compared to the millions of dollars paid to reelection campaigns of Senator Alan Cranston and other members in exchange for special favors for Washington's Special Interests. Charles Keating, President of the now defunct Lincoln Savings and Loan funnelled Cranston about $1 million in campaign contributions.

Cranston and others of you senators intervened on Keating's behalf with Federal regulators who were seeking to close Lincoln S&L. Later on the government did shut down this S&L, with this delay costing us taxpayers $2.6 billion. Your pandering to the Special Interests is on the verge of driving America into bankruptcy.

Your S&L bailout will cost taxpayers more than $400 billion.

The Senate Ethics Committee reprimanded Sen. Cranston for "Improper and Repugnant" conduct. Big deal! Cranston is still in the Senate. The Senator said he did nothing worse than many of you, his colleagues in Congress, have done. Here's what he told some of you, his fellow Senators:

"Here, but for the grace of God, stand you. I could cite example after example of comparable conduct to demonstrate that I violated no norms of conduct . . . the only difference between me and other senators was that they covered their tracks."

Tragically, the Senator is right on that one. You are riddled with corruption, and contempt for the average American.

These few examples of the abuse of power (and there are many more) illustrate a system which simply must be changed. It's a system that isolates you elected politicians from the everyday problems of working folks in this country. This system of "election for life" must be replaced.

I'm talking about Term Limitation: Limiting the number of terms that members of Congress can serve, then returning them back to their community to live under the laws which they have passed; not being exempt from them as they are from many while they serve in Congress. Term Limitation would make members of Congress live by the same rules that the President and most of our Nation's governors must live with.

The President is now limited to serving two terms (of 4 years each). Most governors are limited to two terms. I would propose that members of the U.S. House of Representatives be limited to 8 years (four terms of 2 years each). Senators would be limited to 12 years (two 6-year terms).

Term Limitation will clean house and the only way to save our country is to clean house and send you members of Congress back into the real world, where budgets must be balanced and checks can't be bounced legally.

This will give the citizens a chance to put Americans from the real world into office for a limited amount of time committed to doing the people's business and a lot less influenced by Special Interests and Political Action Committees.

In addition to Term Limitation there are three other reforms which must follow:

1. Give the President the line item veto so he may cut out senseless, expensive pork from your spending.

2. Reform of political campaign laws to eliminate contributions to candidates from outside of his/her area of representation thus giving all who wish to run for public office equal opportunity.

3. Pass a balanced budget amendment without any additional taxes to balance it but by cutting spending to balance it.

Until these four reforms are made Congress will continue to diminish in the eyes of the citizens of this nation and our nation will continue its march to bankruptcy. There is not one of you that does not believe this deep within your heart.

Sincerely,

ARDEN A. ROWLEY.
RUTH M. ROWLEY.

P.S. I do not deny that there are many of you who individually are trying to honestly do what is right for America but collectively, as Congress, you are a disaster for America and must make the changes which I, as well as millions of other Americans, have proposed.

A SPECIAL SALUTE TO BRENDA WELCH, EXECUTIVE DIRECTOR OF HITCHCOCK CENTER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. STOKES. Mr. Speaker, I rise today to salute Ms. Brenda Welch, an extraordinary person from my congressional district, who has made a difference in our community. Ms. Welch serves as Executive Director of Hitchcock House, the largest residential facility for female drug and alcohol abusers in the Cleveland area.

Brenda Welch is a hard working and talented individual who recognized the need for additional drug counseling centers and drug treatment programs in the community. In particular, she noted the lack of resources available to serve the female population.

Brenda Welch came to Hitchcock House in 1987. Since that time the center has grown not only in size but importance. Hitchcock House was once a halfway house with an annual budget of approximately $250,000. Under the leadership of Brenda Welch, Hitchcock House has a permanent home at a spacious former seminary, and a budget which now exceeds $1 million. The facility operates two satellite programs; a 30-day outpatient component, and a program which allows women to keep their children with them during treatment.

Mr. Speaker, Brenda Welch is committed to improving the lives of the women at Hitchcock Center. She is a compassionate and devoted individual who remains steadfast in her willingness to create a nurturing and positive environment for those in need. I want to share with my colleagues a recent article from the Plain Dealer concerning Brenda Welch and her many achievements. I am proud to bring her efforts to the attention of the Nation, and I wish her much continued success.

LEVELING THE FIELD FOR FEMALE ADDICTS

(By Nick Charles)

The deck was stacked against her before her first breath.

Brenda Welch's family came from the most abject of situations: Southern black poverty.

Her plight was compounded later in her life, when as a teen she had a child. Another came three years later when she was 20.

A single parent with minimal options. Welch went on welfare for 10 years.

But any resemblance between the Nashville, Ark., native and Ronald Reagan's fictional "welfare queen," is just that: fiction.

Welch, 43, executive director of Hitchcock Center, the city's largest residential drug rehabilitation facility for women, spent those 10 years on the dole in Cleveland earning three degrees.

"People tend to write off single women," said Welch. "I was the first welfare recipient in my family, but I thank God for welfare. It allowed me to establish my career."

Establish is an understatement.

Welch has a master's degree in social science from Case Western Reserve University, a bachelor's from Cleveland State University and an associate's degree from Cuyahoga Community College. In 1980, she began counseling drug and alcohol abusers and administering programs for them.

She spent the early part of her career working in co-educational drug counseling programs at Laurelwood Hospital and the West Side Community Mental Health Center. The last five years she has worked at Hitchcock Center.

Under her leadership the facility has grown in size and importance. It was once basically a halfway house, with a budget of about $250,000 per year.

Now its budget exceeds $1 million and the center has a permanent home at a spacious former seminary on Cleveland's East Side.

Fifty-four beds are filled; 70 are empty for lack of funds for staffing and supplies.

"I get very upset when people say there aren't any beds in the city. What we lack is funding," said Welch.

The center has two satellite programs: a 30-day outpatient component and one that allows women to keep their children with them during treatment.

The center treats only women, explained Welch, because more and more women need help with recovery from addiction.

"We've always had female alcoholism, but the family was able to hide that away. Now crack-cocaine is the first drug that women have embraced, and it's very hard to hide that addiction."

Hitchcock gives them an environment to talk about "shame-based issues," she said. "They tend to be abused sexually, and they tend to use sex to get their drugs."

It's important, Welch said, that women have female counselors and therapists who can be positive role models.

Most of the 45-person staff is female; half recovering addicts.

But that doesn't guarantee success, she said. "We are not the all-in-all for women."

Welch is relentless in her search to find ways to keep her operation afloat and expand it. The center has an alumni association that organizes fund-raisers.

Now that her youngest child is 14 and is pretty self-sufficient, Welch devotes most of her energies to her career, family—and garden. "I'm a florist and I do floral arrangements. It's good therapy," said Welch.

Most of the women she deals with aren't fortunate enough to have supportive families or leisure distractions, she knows.

Constant family and social pressures are among the reasons women will continue to use drugs and may seek help.

"Women have been put on a pedestal. We have been defined by men as to what we should be and those are difficult roles to live up to," she said.

"FAIR BRIBES" TO MOTIVATE KIDS

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. SANTORUM. Mr. Speaker, recently I received some thoughtful correspondence from a young resident of my district, Ms. Lisa Zambri. She expressed great conviction about the needs of young people today, and offered some suggestions about how to help kids avoid destructive behaviors and their related consequences. Her request of me was that I would help her "get the word out" to Congress. To help her do this I am providing the RECORD with the following excerpt from her letter, certainly worthy of consideration:

If you know kids (especially teens), you know that the more one preaches to them, the less they listen. Boredom sets in and the word never gets across to them. I think I know how to get across to them.

Being an older teen myself, I know how my generation thinks. I know that to do something, we all need MOTIVATION. If somehow, organizations against AIDS and drugs would give kids something to motivate them to quit or not start, I believe kids would do it.

Nothing expensive, with the deficit that'll never happen. Maybe extra college help (financially or with grades and credits). Maybe free passes to events for those who really get involved, free passes are given away all the time anyway. Do you see? The more they get involved, the more they receive in help. I hate the word "bribe," but in a way it is a "fair bribe."

I know I would love to lead an organization or give speeches on this topic, and I am definitely going to try in my school district, my town, and possibly my city. But I can't go very far without governmental help. That is why I need you to please let Congress hear my word, my idea. I ask on behalf of me, my sister, and a large group of kids who are willing to start this idea off. I know there are a lot of people paid to keep Congress from doing things about this, but Congress must finally realize that its voters are dying off from drunk driving accidents or AIDS, or are too busy getting high or drinking to want to vote. I ask you to think about it. Thank you kindly.

THE NATIONAL ENDOWMENT FOR DEMOCRACY: OUR SHINING JEWEL

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. FASCELL. Mr. Speaker, I rise to pay tribute to the National Endowment of Democracy [NED]. NED has been criticized by some but, since its implementation in 1983, we have witnessed the evolution of the democratic process in places we would not have imagined at the time of its inception. While NED is not primarily responsible for these events, it has played an important role in promoting the democratic process when the opportunity arose. I wish to commend our colleagues' attention to Tom Tiede's article which recently appeared in the Key West Citizen. It correctly recognizes NED as a sound and sensible investment.

GOVERNMENT'S SHINING JEWEL A BARGAIN

WASHINGTON.—As these things go in the capital, the National Endowment for Democracy is a decidedly piddly project. The privately run group—which is partially funded by Congress—employs a scant 30 people and operates on an annual budget ($27 million) that works out at less than two one-thousandths of a percent of all federal spending.

But the organization boasts accomplishments as grand as its name. It is sowing the seeds of self-determination from one end of the Earth to the other. Building democracy has become a growth business internationally, and the tiny, largely unknown endowment has without argument become one of the industry leaders.

Democrats and Republicans alike tend to pay it tribute. Big Business and organized labor have collected comfortably in its camp. Journalists claim it is a bright jewel on the otherwise tarnished governmental coronet. Not incidentally, it may very well be the best if not the only taxpayer bargain in Washington.

Margaret Ferry is the spokeswoman for NED. She says any U.S. money spent on liberty is a wise investment: "We wouldn't say we're changing the world alone. But we are making a significant contribution, and it's gratifying. Look at what's happening. The Cold War has ended. These are very good times for the planet."

COINCIDED WITH EFFORT

The good times, as it happens, have more or less coincided with the NED effort. The endowment was initiated a decade ago. Ferry says Ronald Reagan made a speech to the British Parliament at the time, regarding the promotion of civil pluralism; and, in 1983, the U.S. Congress responded by giving the mandate to NED

The mandate had its skeptics, to be sure. Ferry says some observers worried that the endowment would finance a politically ideologic crusade. The critics claimed America did not have either a right or responsibility to take private steps to establish conservative and capitalistic revolutions in foreign states.

Yet the majority held. And NED became a small bipartisan piece of the nation's foreign policy. The group now gives grants to free political parties, to cultural and educational associations, and to labor and trade enterprises; they in turn use the money to encourage democratic ruminations wherever necessary.

So far, the grants have totaled $160 million. Ferry says the money has been channeled to 300 groups advocating freedom in 75 countries. The cash has helped pay for independent newspapers in Central America, for the release of political prisoners in Africa, and indirectly for opposition to a totalitarian coup attempt in the old U.S.S.R.

THERE HAVE BEEN DEFEATS

Ferry adds that there have been defeats as well. Or at least delays in the grant-making work. The promotions have not yet worked in Cuba, for example; and many targeted states in Arabia also remain totalitarian. In this region, Panama demagoguery remains fast, and individual guarantees in Haiti have actually eroded.

Still, the good news predominates. During the 1990 elections in Nicaragua, NED contributed $7 million to Violeta Chamorro's campaign against the ruling and repressive Sandinista regime. She won, and it was the first time in a century that a national vote brought down a dictator and ended a civil war at the same time.

The endowment also funneled cash to the Solidarity labor movement, when the democratic elements in Poland were trying to bust loose from communist control and the Warsaw Pact. The freedom fighters eventually brokered a power-sharing agreement that led to a multi-party transition, and the Warsaw Pact is bad history.

NED funds have also aided the shift toward pluralism in a score of African entities. They include Benin and Botswana. The money was used for monitoring teams that contributed to Benin's democratic elections of 1991, and it has helped to assure that Botswana's emerging private sector has representation in the government.

CONGRESSMAN KILDEE SALUTES ST. JOHN STREET COMMUNITY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. KILDEE. Mr. Speaker, I rise before the U.S. House of Representatives to urge my colleagues to join me in paying tribute to an important area of my hometown of Flint, MI, the St. John Street community.

A reunion of residents of the St. John Street community will be held on August 1, 1992 to celebrate the rich ethnic heritage of that neighborhood. This thriving community was the focal point in Flint for immigrants from throughout the world. People migrated to this area from Europe, Asia, Africa, and the deep southern region of the United States. The St. John Street community was a microcosm of the extensive ethnic growth in the United States at the turn of the century.

It was common on any given day to see various ethnic and racial groups including, Greek, Macedonian, Yugoslav, Bulgarian, African, Jewish, and Russian-Americans mingling at the various shops, restaurants, and businesses thriving in the St. John Street community. This area had its own energy that was created by all these ethnic groups. A hallmark of this area was the fact that all these diverse cultures lived together, side by side, in harmony and peace.

In many respects, the St. John Street community was the archetypal example of the bountiful opportunities available in this great Nation. Immigrants came from all walks of life to find their dream in America, and those who came to Flint found it to be a place where families could be raised, children could obtain a fine education, and breadwinners could provide for their families.

Mr. Speaker, it is indeed an honor and a pleasure for me to rise today before my colleagues in the U.S. House of Representatives to pay tribute to this wonderful enclave of America. Our great Nation was founded on the principle of freedom and democracy. The many people who came to America and who were fortunate enough to come to Flint and live in the St. John Street community were blessed to make this neighborhood their home. The St. John Street community will forever live in the hearts and minds of all those who began their lives there. It was a community whose residents will never forget the role it played in their lives.

JOHN BEMIS VEACH

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. TAYLOR of North Carolina. Mr. Speaker, one of western North Carolina's most distinguished citizens, John Bemis Veach, recently broke ground for the Forest Discovery Center at the Cradle of Forestry.

The Transylvania Times recently ran a profile of Jack Veach which I commend to my colleagues.

(By L. Dorreene Anderson)

"If I live to the year 2000 I will have lived in three centuries," says John Veach, Born Dec. 12, 1899, come Dec. 2000, just eight years hence, he will achieve that goal. John's experiences during his 92 years have seen Western North Carolina evolve from beautiful forest land to a thriving area of multiple industries and tourist attractions.

Though born in Oil City, Pa., he graduated from Hill School in Pottsville, Pa. in 1919, and Yale University with the class of 1923 with an A.B. in business administration. He worked in the lumber industry in northwest Pennsylvania then moved to Robbinsville, Graham County. He was president of the Bemis Lumber company from August 1935 to 1972.

His grandfather Bemis ran the first steam operated sawmill in 1855 west of Albany, N.Y. Floated down the Chemung River to Campbell then by the first Erie railroad to Almira, N.Y., to Rochester and Buffalo, this lumber was used for bridge ties and switch ties.

On June 23, John and his wife will celebrate their 69th wedding anniversary. Their one son John Bemis Veach, Jr. is retired and lives in Asheville. Grandson John Bemis Veach III is a lawyer in Washington, D.C.

During ground-breaking activities recently at the Cradle of Foresty, John Veach wielded the gold shovel, an honor afforded him because of his long and distinguished years of participation with the United States Forestry Service.

In 1962 Jim Vessey, regional forester in the Southern United States, based in Atlanta, GA., and Vernon Rhoades, first supervisor of Pisgah National Forest, met and decided to do something to perpetuate forestry in the United States.

They were instrumental in getting Congress to designate the Pink Beds, so called because of the beautiful pink rhododendrons there, as the location of a permanent Cradle of Forestry. Two thousand acres were set aside and an appropriation from the United States Congress made possible the building that was dedicated in 1970. The original building burned and a new one was built.

The Interpretative Association of the Cradle of Forestry was established to promote and support the Cradle of Forestry, a national historic site.

The Cradle of Forestry property already had several old buildings on it that Dr. Carl Schenck used for his Forestry School.

Dr. Schenck was hired by Conelius Vanderbilt and brought to the United States from Germany to maintain his vast land holdings surrounding his Biltmore Estate. This was the location of the Biltmore School of Forestry started by Dr. Schenck in 1897. This was the first school of forestry in the United States and trained men to correctly operate the neglected forest.

Vanderbilt, who spent a great deal of his time in Europe, became familiar with European estates and forests. When he built his now famous Biltmore House he decided he wanted a forest that rivaled the big forests of Europe—Germany, Austria, Hungary, etc.

John Veach was one of the first people in the 1960s to want to create the Cradle of Forestry. He has been a member of the Cradle of Forestry Interpretive Board from 1970 on and off to the present.

John Veach has resided in Asheville for 42 years and is a member of the All Saints Episcopal Church in Biltmore.

"I am involved in the Cradle of Forestry in the United States to help our citizens realize the fact that trees grow," says John. "Like a corn field if they are not nurtured, no corn appears. So if trees are not properly harvested and replaced, we will one day be out of wood.

"I want everybody to know the importance of trees in our country. In North Carolina there is no oil, no coal, no minerals but we can surely grow trees which are the greatest natural resource that North Carolina has.

Expansion, including two wings to be added to the existing building at the Cradle of Forestry will create a 15,000-square-foot Forest Discovery Center. John Bemis Veach helped turn the first soil with the gold shovel. An honor indeed, but his devotion and continued interest earned this signal honor.

An Environmental Education wing, the Dr. Carl Schenck Education Center, will have classrooms and a meeting room where school groups and other organizations can discuss and learn about forestry. The Forest Discovery Center will be a monument to the vision and dedication of men like John Bemis Veach.

What a heritage to leave for future generations to enjoy and build upon.

THE SPINAL CORD LIVING ASSISTANCE DEVELOPMENT GROUP AND PEDRO RODRIGUEZ WORK TO ENABLE THE DISABLED

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. ILEANA ROS-LEHTINEN. Mr. Speaker, I would like to recognize the Spinal Cord Living Assistance Development Group [SCLAD] and its President Pedro Rodriguez. Formed in 1985, SCLAD seeks to integrate persons with disabilities into the community. SCLAD stresses rehabilitation and independent living supported by a reliable network of support services.

This October 2d, 3d, and 4th SCLAD will be sponsoring its second freedom fair and expo at the Miami Beach Convention Center. The freedom fair provides a forum for people with disabilities to display their abilities and meet with other disabled, service providers, and manufacturers of rehabilitation products. Among the important issues that will be discussed are: independent living and full participation in community life, career options, the workplace and the enforcement of the Americans with Disabilities Act.

The fair will also showcase the artistic and physical abilities of the disabled. The freedom fair will display paintings, sculpture, and crafts by artists with disabilities. The exhibits will include both local artists from south Florida and artists from around Latin America. Participants will be able to display their athletic abilities in the freedom 5K race and walk. Other activities include an official wheelchair slalom competition with athletes from south Florida and around the country.

Mr. Speaker, I commend the Spinal Cord Living Assistance Development Group and its President Pedro Rodriguez. Their story is a heartening example of the power of enthusiasm and ingenuity to overcome difficulties. I wish them much success in their upcoming freedom fair.

HELSINKI HUMAN RIGHTS DAY

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. SWETT. Mr. Speaker, I rise today in support of House Resolution 508, legislation designating August 1, 1992, as "Helsinki Human Rights Day." The Helsinki accords, signed by 35 nations in 1975, set forth to promote human rights and peaceful relations among the sovereign States of Europe as well as the United States. Since 1975, 17 more nations have signed the Helsinki accords, and the world has experienced tremendous changes.

The Soviet Union is now a memory, and in the wake of its breakup into the Commonwealth of Independent States, there has been a great deal of turmoil and violence. In these turbulent times it behooves us, now more than ever, to abide by the spirit of the Helsinki accords.

Mr. Speaker, we must put aside our ethnic, cultural, and geographical differences which have polarized us for so long and begin working together as a world community. As has been clearly evinced by the recent fighting in the former State of Yugoslavia, we have a very long and arduous road to travel. Nevertheless, with cooperation and peaceful relations, fostered in part by the Helsinki accords, we can engender a better understanding of each other and create a more peaceful world community where the rights of all peoples and nations are respected.

Mr. Speaker, I urge my colleagues to support this resolution and in so doing, reaffirm our commitment, as well as this great Nation's commitment, to the protection of human rights for all peoples and the promotion of peace and understanding among nations.

CAMDEN, NJ

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to enter into the RECORD two letters which were recently written by two of my constituents. Both letters were written by residents of Camden, NJ because of an article about that city which recently appeared in Time magazine. That article portrayed only the negative side of Camden, and while Camden is ridden with many problems, these letters show the side of Camden which Time failed to see. The first letter was written to the mayor of Camden, Hon. Aaron A. Thompson, by a young lady named Maria Luna. The second was written to the editors of Time by a Camden High School student named Deshawn Bennett. I believe that because of young people like Maria and Deshawn, Camden has a bright future.

DEAR MR. MAYOR: Hello, my name is Maria Luna I attend Rafael Cordera Molina School. I am in the 5th grade.

I am sorry if I am disturbing you. I know you are very busy. The reason I am writing to you is because I am very upset about what was written in the article in Time magazine about Camden. I've lived in Camden for five years and I do not think it is as bad as they say.

There are bad people every where you go. North Camden is one of those places. Not every one who lives in Camden is bad. My parents work hard and try to give me the best they can.

My mother is a nurse, she takes care of people who need help. I have two aunts who grew up on welfare they both went to school and worked hard to get off of welfare, and now, one of them works for the city of Camden and the other one works for a lawyer. I am very proud of my family and I want to be just like them. This article does not talk about the good people who live here.

For example, what they put in the article "It is the story of girls who dream of becoming hair dressers but wind up as whores" this is not true of all girls I want to be a hairdresser too, but because my parents are working hard to raise me the right way. I believe my dream will come true. With all due respect I think that they should not be talking about people unless they can do some thing to change things.

We are not rich but we live in the best way, we do not have a lot but we have something I think that what they say about teenagers being involved in drugs and crime, may be true but if they had more activities, schools, park. It might resolve some of the problems. I think if you can help Camden City. It would be a better place to live in and look much much better, and have a better future.

Sincerely,

MARIA LUNA.

JANUARY 24, 1992.

DEAR EDITOR: When I recently read an article that was written about Camden, New Jersey in your January 20th edition, I became a bit confused. I couldn't distinguish whether its purpose was to hurt or help the city. You portrayed Camden in such a negative way. I read your article twice, analyzing each paragraph closely in search of just one positive statement, however there were none. I just don't understand your objective of taking a city that's limping and kicking its crutch out from under it. The feelings of the residents of Camden are probably irrelevant to you. You get paid to do a job whether people's emotions are hurt or not. Well I hope you got a pat on the back for a job that was half done. There are two sides to every story, however you only told one side. You listened to all the negatives but, didn't list the positives, which I don't think was fair. Unfortunately some of the things you stressed in such an exaggerated nature were true.

Camden is a city struggling to rebuild itself and articles such as yours do not help. Articles like this shatter people's confidence and hope, in making Camden an improved environment. In your article you didn't mention that 55% of Camden City graduates go on to post-secondary schools, and that the percentage of college graduates is increasing rapidly. You said Camden is a city of broken wings. Who broke those wings? You said yourself that Camden's suburbs used to treat their own sewage, but now they pump all of their waste to Camden. Why Camden? The county treats Camden like a garbage can and you expect some of the people to not feel like trash. How could you write articles like this and expect the youth to have self-esteem?

How would you feel if you were a juvenile resident of Camden and read an article such as yours? Would you feel like you had a chance in life? However, I'm thankful that we do have some strong youth that have their goal set, and will not let poor journalism stray them off their course to success. You interviewed a prostitute named Nikkeya, and a drug dealer named Minute Mouse. Why didn't you come to high schools and interview honor students? I'll tell you why, because you didn't come to Camden looking for anything positive. You came looking for something negative and you found it.

All that I ask for, is that when Time Magazine is ready to write a positive article on the youth in urban high schools, that you come back to Camden High School.

Yours truly, highly upset.

DESHAWN BENNETT.

CAMDEN HIGH SCHOOL.

A SALUTE TO PARTICIPANTS IN THE JOBS FOR OHIO'S GRADUATES PROGRAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. STOKES. Mr. Speaker, I am pleased to rise today to bring to the attention of my colleagues the Jobs for Ohio's Graduates [JOG] Program, a most exciting and innovative program which has proven successful in my congressional district and throughout Ohio.

A statewide, school-to-work program operating in 15 Ohio cities, JOG assists high school seniors in developing such necessary job-related skills as employment interviews, decision making, public speaking, and telephone techniques. More importantly, the JOG Program instills in our youth the confidence, determination and incentive essential to enter today's competitive job market.

I am pleased to salute such an outstanding program and would like to recognize those students and career specialists who took part in the 1992 Career Development Conference sponsored by the Jobs for Ohio Graduates Program.

Aviation High School—students: Renaldo Cedeno, Delilah Dervic, Chris DeMarco, Anita Horvath, Tanisha Redding, Jim Kearns, Harley Wright, Steven Pace, Frank Vazquez, and Edwin Cedeno. Career specialist: George Skalsky.

Cleveland Heights High School—students: Monique Sims, Erica Evans, Darrell Johnson, Michael Wren, Leah Bland, and Larwou Korvah. Career specialist: Theresa Gantous.

Garfield Heights High School—students: David Pell, Charlotte Kolesar, Joe Chmielewski, Tammy Pauly, Sharon Motley, Joe Royer, and Leslie Smith. Career specialist: Greg Benedetto.

Health Careers Center—students: Anquinette Hardman, Albert Saxton, Lashawn Pate, Keisha Garner, Enver Vajuci, Dwight Taylor, Nina Clegatt, Laticia Thomas, Walisa Brown, Yalsha Dozier, Angela Cardaman, Melinda Jackson, Tasha Daugherty, and Toshima Mathis. Career specialists: Elanine Iadeluca and Stephanie Phelps.

Jane Addams Business Careers Center—students: Monique Tinsley, Nerandai Seokaran, Robbie Ivory, James Patton, Tiffany Jones, Jimmy Prince, and Angelique Holden. Career specialist: Joann Levy.

Parma High School—students: Dave Fuglein, Dave Chovanik and Thomas O' Connor. Career specialist: Steve Farkas.

Shaw High School—students: Michael Oatman, Lisa Marie Wiggins, LeRashaun Spencer, Larzell Cowan, Kip Saunders, and Ingrid Pipher. Career specialists: Jacqueline Williams.

INTRODUCTION OF SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT ACT OF 1992

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. PASTOR. Mr. Speaker, today, I am introducing the Southern Arizona Water Rights Settlement Act of 1992. This bill seeks to end what has been a long dispute involving the city of Tucson, the U.S. Government, the Tohono O'odham Nation, and the allottees of the San Xavier District. In 1982, Congress recognized the need to settle this dispute and passed the Southern Arizona Water Rights Settlement Act [SAWRSA].

It is now 10 years later, Mr. Speaker, and the controversy has yet to be resolved. Countless hours of debate and discussion, as well as tens of thousands of dollars have been spent in attempts to forge a compromise that is suitable to the parties involved. What I and my colleagues are seeking is a just resolution to what has become a very bitter and polarizing feud. Too much time has passed, too many harsh words have been spoken, and too little has been accomplished.

The collection of amendments to the 1982 SAWRSA that I am introducing as a bill would preserve, in its basic form, the original agreement with the following exceptions:

The cooperative fund would be continued.

All provisions tied to dismissal of the lawsuit against the city of Tucson would become effective obligations without regard to a dismissal.

The Secretary of the Interior would be required to rehabilitate and extend the allottees' farm as well as the other farms, or pay penalties. The amount of settlement water that the allottees would be allowed to use on these farms would be determined by the Secretary's decision on farm extension.

The amendments would clarify the extinguishment of the water rights of the nation and the allottees. Both parties would have the opportunity to settle disputes in the claims court only.

Limited in lieu storage of ground water not pumped within a given year would be allowed, with specific guidelines set for withdrawals of stored ground water in San Xavier.

The nation would be allowed to use a given amount of water within its territorial jurisdiction outside of the Tucson Active Management Area [AMA]. In addition, the nation would be allowed to make short-term leases of its water outside of the AMA subject to certain requirements.

With this said, I would like to mention, Mr. Speaker, that a great deal of apprehension on the part of the allottees surrounds the introduction of the Southern Arizona Water Rights Settlement Act of 1992. I consider this bill a first step in an attempt to forge a fair compromise that will enable this major water claim to be settled without having to resort to lengthy and costly litigation in Federal court. This latter course would only serve in impeding the economic development of the San Xavier District and the Tohono O'odham Nation, as well as complicating the city of Tucson's future.

In short, Mr. Speaker, I expect this bill to undergo numerous changes and revisions as it is discussed and its provisions debated and negotiated. Yes, I would like to see a resolution of the claims. I also want to ensure that the allottees are guaranteed the water that they are entitled to and that is necessary to their continued economic development.

I particularly want to acknowledge the cooperation and contributions of Congressman JIM KOLBE and other members of the Arizona congressional delegation. Their support is an indicator of the importance of this issue to the State of Arizona.

I look forward to working with the San Xavier District and the Tohono O'odham Nation in forging an agreement, and with my colleagues in framing a legislative solution that is fair to all parties. Let us end this dispute and move on to the more important tasks of building better communities and stronger economies.

INTRODUCTION OF LEGISLATION TO RENEW THE CHARTER OF THE EXPORT-IMPORT BANK OF THE UNITED STATES

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. OAKAR. Mr. Speaker, I rise today to introduce legislation to renew the charter of the Export-Import Bank, which is scheduled to expire on September 30, 1992. The bill embodies the work of the Subcommittee on International Development, Finance, Trade and Monetary Policy, which held a markup on July 30, 1992, and approved a committee print on this subject, as amended.

LEGISLATIVE HISTORY

The administration communicated with the House and Senate on April 27, 1992, proposing that the Export-Import Bank charter be renewed for a period of 6 years and other provisions.

The subcommittee held a public hearing on May 6, 1992 on the subject of charter renewal. We also conducted hearings on April 11, 1991 and May 2, 1991, which developed valuable information on various aspects of the Bank's programs. In the course of the 1991 hearings, we asked the General Accounting Office to study the issues relevant to charter renewal, and received the GAO report at this year's hearings. The subcommittee also consulted widely with associations concerned with international finance and trade from the standpoint of large and small exporters, industry, labor, banking, insurance, State government and nonprofit organizations.

IMPORTANCE OF EXPORTS AND THE EXPORT-IMPORT BANK

The subcommittee found that exports are increasing rapidly. U.S. exports expanded from $227 billion in 1986 to $422 billion in 1991, an increase of 85.6 percent. According to the Bank's 1991 annual report, these exports support at least 7 million jobs and a considerable proportion of U.S. economic growth. We also found that requests for funding assistance from the Export-Import Bank have risen rapidly. In 1991, the Bank used up all of its authorized resources and still could not satisfy the demand.

Very heartening, also, is the judgment of the export community, as expressed in our hearings by Thomas Mullany of Rockwell, International Corp., representing the coalition on employment through exports, that: "Under the superb leadership of current Eximbank Chairman John Macomber, the Bank has become more responsive and innovative in its efforts to promote U.S. exports."

As a result, I believe that charter renewal is "consensus legislation" that all Members can support. When the bill reaches the floor, I would hope for a strong endorsement by this House, as a signal of congressional support for the Bank's efforts to help American firms pursue the historic new trade opportunities of this post-cold war era.

The alternative is that the Bank will run out of authority to make commitments on October 1, 1992, placing U.S. exporters at a severe competitive disadvantage.

CONTENTS OF LEGISLATION

For these purposes, the subcommittee drafted a streamlined bill, containing two titles. A third title was then added in the markup by amendment.

Title I, on the charter renewal, would extend both the general authority and the war chest authority of the Bank for 5 years, increase the Bank's aggregate ceiling for total financing, support the continued use of the Commercial Bank Guarantee Program, encourage the use of U.S. insurance companies in providing maritime insurance on Eximbank-financed exports, provide for "one-stop" centers to assist small- and medium-sized exporters with financing assistance, and seek to tie the Bank's programs into overall export strategy.

Title II of the print repeats title VI of H.R. 3428, with a couple of minor technical and clarifying amendments, one of which represents agreement between the Committees on Foreign Affairs and Banking with respect to a provision of common concern. These provisions are carried over from our international financial institutions bill, H.R. 3428, which has already been approved by our subcommittee, on September 25, 1991, and by the full Banking Committee last month, on June 18, 1992; House Report 102–657.

Title III also transfers excepts from H.R. 3428 on the enterprise for the Americas initiative, especially as it relates to the role of the Export-Import Bank.

GEORGE BUSH'S "THREAT-AND-FORGET" APPROACH IS NO ANSWER TO SADDAM HUSSEIN'S "CHEAT-AND-RETREAT TACTICS"

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. ASPIN. Mr. Speaker, I rise again to discuss the ongoing problem of Iraq's non-compliance with U.N. resolutions and the continued erosion of the United Nation's authority in Iraq. Saddam Hussein's methods are well known. Even the Bush Administration has identified his "cheat and retreat" tactic. In response, however, the Administration has countered only with "threat and forget."

But when Saddam Hussein cheats and retreats, he doesn't retreat all the way. And when George Bush makes a threat and then forgets it, Saddam gets a little bolder. It's a new war of nerves and inches, and we're losing it.

It has been going on since the Gulf War ceasefire. Four times in the last year Saddam Hussein's pattern of non-compliance has escalated into a major showdown with the United Nations and the gulf war coalition partners. Each time President Bush has threatened military action to bring Saddam to heel. In some cases the threats produced some concessions from Saddam. In others, the threats achieved nothing at all. But in no instances have these threats produced full Iraqi compliance with all U.N. resolutions.

Let's look at the record:

SHOWDOWN NO. 1—JULY 1991

U.N. Resolution 687 explicitly demands that Iraq provide a full and complete accounting of its unconventional weapons programs, and authorizes anywhere, anytime inspections of Iraqi facilities. Iraq's initial reports, however, grossly underestimated its chemical, biological, and missile programs and flatly denied the nuclear program.

This underreporting was known because Iraqi defectors had conformed what Saddam Hussein would not report—not only did Iraq have a nuclear weapons program, but it was much larger than anyone previously suspected and Saddam actively sought to block discovery of the evidence of its existence. The showdown of the summer of 1991 over this obstructionism began to take shape in late June.

On June 23, a group of inspectors demanded entry to facilities at Abu Ghurayb—a site identified by defectors as part of the covert nuclear program. The Iraqis refused.

On June 28, again acting on an intelligence tip, the UNSCOM inspectors demanded access at the military transport compound al-Fallujah. The Iraqis again refused, but by climbing a water tower U.N. inspectors spotted and photographed a convoy of over 100 trucks leaving the facility. When the inspectors began photographing the departing convoy, Iraqi guards fired shots to try and make them stop and then tried to seize the film—fortunately they failed. The record of this great getaway was preserved.

After these actions, Secretary of State Baker accused the Iraqis of "extraordinarily serious" efforts to deceive the United Nations.

When asked what the United States might do in response, he said "stay tuned." President Bush the same day said that the United States had "incontrovertible evidence" of violations of the U.N. resolution by Saddam, whom he called a "brutal bully," and declared that the United States "certainly won't" tolerate his obstructionism.

On July 8, the Iraqis formally disclosed some details of their nuclear enrichment programs, but this declaration was far from complete. The Iraqis still refused to acknowledge they had a nuclear weapons program. Exasperated by Iraq's piecemeal disclosure of its nuclear program and its obstruction of inspections, the U.N. Security Council issued an ultimatum on July 12: full disclosure on the weapons of mass destruction by July 25 or potentially face military action.

Between July 14 and 19, U.S. officials clearly brandished the possibility of military action. When asked what would happen of Saddam did not comply, U.S. ambassador to the United Nations said, "He has not seen everything that is going to happen yet."

As the deadline approached, however, Bush administration officials soft-pedaled the notion that Iraq's failure to comply would prompt United States action. White House Press Secretary Fitzwater said on July 23 that the July 25 deadline did not imply a "deadline for action."

On July 25 the deadline passed, Iraq made no additional declarations and the United States did nothing. On the same day the Security Council began informal discussions—not of how to enforce Resolution 687, but on a plan to allow Iraq to sell some oil for food and medical supplies.

In the first, crucial showdown the United States backed down, not Saddam Hussein. The United States simply dropped the subject when Saddam refused to be cowed by our threats. To this day Iraq has not submitted a complete accounting of its unconventional weapons programs as required under the U.N. resolutions.

SHOWDOWN NO. 2—SEPTEMBER 1991

Saddam began his major September challenge to the United Nations with a preliminary skirmish over helicopters. He took issue with the use of helicopters by U.N. inspectors. On September 18, President Bush said that he was "fed up" with Saddam's resistance and suggested that he would send warplanes to protect the helicopters as well as an additional Patriot battery to Saudi Arabia. On September 19, President Bush said, "We are prepared to use military action to see that he does comply."

It was cheat and retreat in the familiar pattern. On this occasion, the Iraqis backed down and, on September 23, told the U.N. that its helicopter flights would be permitted. But even as Saddam retreated on one front, he cheated on another when he tried to prevent U.N. inspectors from taking evidence of prohibited—by the U.N. resolutions—activity. This led to the notorious Baghdad parking lot incident.

On September 23, a large contingent of nuclear inspectors followed another intelligence lead and found conclusive proof of Iraq's nuclear weapons program in a downtown government building. The Iraqis held the inspectors for 13 hours and then forcibly retrieved the documents they had discovered in one of the buildings.

On the following day, inspectors, still acting on intelligence leads, entered another building and found another trove of incriminating evidence. This time, however, the inspectors refused to hand over any documents or microfiche from the second building. The Iraqis tried many means of intimidating the inspectors, including drummed-up demonstrations, but the inspectors held their ground. What resulted was a 5-day siege of the inspectors in a Baghdad parking lot. The seige was lifted by a compromise that allowed mutual copying of the material from the second building. But Saddam never delivered a complete set of the documents found in the first building. Cheat and retreat had paid off again for Saddam.

The Bush administration had blustered during the helicopter crisis, but had relatively little to say during the parking lot standoff. Moreover, during the parking lot episode, the United States position was undermined by its ally in the Gulf, Saudi Arabia. On September 26, United States. Air Force transport planes carrying additional military materiel to Saudi Arabia had to turn around in midair after the United States received a message from the Saudi Defense Minister that there was no need for it. It was a signal that Saddam could only welcome.

SHOWDOWN NO. 3—MARCH 1992

This third showdown erupted when Saddam Hussein again refused to allow the U.N. inspectors to do their job in Iraq, and blatantly challenged the right of the United Nations to dismantle his mass destruction weapons.

On February 18, 1992, U.N. Special Commission [UNSCOM] Chairman Rolf Ekeus reported to the Security Council that "Iraq has no intention of meeting its obligations * * * in resolution 715" and that Iraq is not fully complying with resolution 707. United Nations Security Council Resolution 707 had found Iraq to be in material breach of its responsibilities regarding full disclosure of Iraq's weapons of mass destruction. Resolution 715 had offered detailed plans for the dismantlement and long-term monitoring of these weapons.

On February 28, UNSCOM recalled its inspection team from Iraq after waiting in vain for Iraqi permission to destroy parts of Iraq's missile production facilities. On the same day the Security Council issued an ultimatum demanding that Iraq explain itself and comply with all resolutions within 2 weeks or face "serious consequences."

In response to this demand Saddam Hussein sent Foreign Minister Tariq Aziz to New York on March 11 to 14 for meetings with the Security Council. The meetings, however, produced little progress. By March 16, President Bush was again stressing that "all options are open"—this now familiar precursor for making military threats.

In the usual pattern, Saddam eventually relented and by the end of March inspectors were permitted to destroy the targeted missile facilities. But also as usual, Saddam had made partial, grudging compliance seem like a concession on his part. He has still not fully agreed to the provisions of Resolution 715 and he has still failed to produce a comprehensive report on weapons of mass destruction.

SHOWDOWN NO. 4—JULY 1992

This summer's high-profile showdown with Iraq over inspection came over access to the Ministry of Agriculture, but it was only a small part of what is probably Saddam's broadcast challenge to the U.N.'s authority in Iraq, a challenge that is largely succeeding. Since June, Iraq has:

Rejected the border demarcation recommended by the U.N. Boundary Commission and stopped attending meetings of the Commission.

Blocked U.N. relief efforts by blocking visas and transportation and refused to sign an extension of the memorandum of understanding [MOU], which expired June 30, for U.N. and relief personnel in Iraq.

Engaged in a growing terrorist campaign against U.N. personnel in the Kurdish enclave.

Launched a new military offensive against the Shi'a in the south, including attacks with fixed-wing aircraft.

None of these major infractions of U.N. resolutions, however, prompted serious response from the United Nations or the United States. It took a new parking lot incident outside the Ministry of Agriculture to get the attention of the President. Even so, the standoff was 18 days old before a U.S. official began rattling the usual saber, saying that "we are not ruling out any option, including the use of military force."

My colleagues in the House will recall this most recent parking lot confrontation. Again acting on tip, inspectors sought access to the Ministry. That access was denied and the standoff began. This time, however, Saddam drummed up increasing violent demonstrations against the inspectors that eventually drove them off.

The Bush administration again resorted to the "all options are open" rhetoric, but only after the inspectors had been driven off, giving Saddam's henchmen time to sanitize the Ministry. But Saddam scored a bigger victory than merely securing a chance to get rid of incriminating evidence. He succeeded in negotiating the conditions of an inspection, something he has no right to do under the provisions of the cease-fire that ended the gulf shooting war. And he succeeded in negotiating the membership of the inspection team, which now excludes inspectors from the United States and the United Kingdom. The Ministry has now been inspected, but at an enormous price and to no avail. Not surprisingly, no incriminating evidence was found.

The Bush administration at first appeared relieved at this compromise. On July 27, administration officials had announced the dispatch of another carrier, the U.S.S. *Kennedy*, to the region. By the next afternoon, the carrier had turned around and Marlin Fitzwater, the White House spokesman, said the crisis had been "diffused". Defense Secretary Cheney was stressing that the use of force was not imminent.

Now, in retrospect, the Bush administration seems unhappy with the resolution of this showdown. The United States reportedly is pressing the United Nations to step up its inspection activity. The apparent reason for this is to precipitate another showdown with Iraq, presumably one that we'll be better prepared for.

With every showdown the United States and the United Nations loses ground to Saddam Hussein. Why does this worry us?

First, these showdowns and their outcomes reinforce Saddam rather than undermining him. This goes directly against George Bush's stated goal of getting rid of Saddam Hussein.

Second, each showdown has eroded more of the United Nations' authority and encouraged Saddam Hussein to do it again.

Finally, by dragging his feet and chipping away at the U.N. resolution Saddam Hussein may well outlast the international support for sanctions and inspections. In that case Saddam will again rebuild the weapons of mass destruction that we have struggled so vigorously to eliminate.

It is abundantly clear that making threats of what we will do if Iraq does not comply fully with the U.N. resolutions, and then forgetting about them when Saddam Hussein cheat is not working. It is better to make no threats at all, than to make empty threats, with a thug like Saddam Hussein. We need to think through now—before the next showdown—precisely what we want Saddam Hussein to do, how long we will give him to do it, and what we will do if he doesn't comply. If we don't have good answers to these questions, we shouldn't be talking about trying to precipitate another showdown.

TRIBUTE TO DR. D. EDWARD FRANK

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to Dr. D. Edward Frank, a fine physician, humanitarian, and long-time family friend.

Dr. Edward Frank was born in Bath Beach, NY, the son of Celia and Meyer Frank. Edward was the youngest of six boys and his childhood was spent in the Bronx, and later moved to Riverside Drive in New York City, where he graduated from De Witt Clinton High School.

At the age of 16, he entered the University of Pennsylvania in Philadelphia. Even at that young age Edward had decided that he wanted to study medicine, being determined to go into a profession where the dream to help his fellow man could be accomplished.

Edward Frank did his undergraduate and graduate work at the University of Pennsylvania. When he graduated and received his M.D. degree in 1934, he became licensed to practice in New York. He opened his first office in New York City and had a general practice there for a few years. He was associated with the New York Poly Clinic Hospital. Early in his career Dr. Frank decided to specialize in the field of allergy. His research in the field was widely respected.

Edward met his wife of 50 years, Esther, a native Angeleno. Their courtship was mainly carried on by long distance correspondence. They were married in New York on March 30, 1941 and went on a wedding trip to Washington, DC and Florida.

Having met all the requirements for a California medical license, Edward and Esther moved to California in May, 1943. Dr. Frank has served as president of the Los Angeles Society of Allergy and as president of the U.S.C. Faculty Association.

In 1945, Dr. Frank was asked to become a clinical professor at the U.S.C. School of Medicine in the department of allergy. He served in the allergy clinic for more than 30 years. Before his retirement, he did a great deal of research in the field of allergy, as well as volunteering to treat patients of little means. His mate, Esther, assisted him and the other doctors at the clinic.

Aside from being a fine physician and human being, Edward was an accomplished artist and there proudly hangs a portrait of Eleanor Roosevelt in her collection at Hyde Park; as well as a portrait of President Carter in his library in Atlanta.

Throughout all his endeavors, Dr. Frank enjoyed the warmth and support of his loving wife, Esther and their children. Michael Frank, the eldest son, has been happily married for 18 years to Laura Osher Frank. Michael is a marriage and family counselor, currently studying for his Ph.D. in clinical psychology. Laura is an artist and an elementary school teacher. They are the proud parents of Sara Michelle, age 11, and Linnea Rebecca, age 14. Linnea has been invited to attend the Hamilton High School for the Performing Arts in Los Angeles. She is an accomplished vocalist and also sings in the choir at Temple Adat Ari El. According to her grandmother, Sara is a very enthusiastic participant in life, enjoying athletics, dance, and animals. Mark Frank, their second son, is a contractor and self-taught wood carver and inventor, who has a patent on a kit he devised to build a canoe. Karen Frank, Edward and Esthers' youngest adult child, has a masters degree from U.S.C. in special education. A few years ago Karen wrote and produced her own musical show, "A Perfect Day Dream" which was enjoyed by many.

It is a pleasure to share the memory of Dr. Edward Frank with my colleagues in the U.S. House of Representatives. I ask that they join me in recognizing Edward Frank's gifts to his family and society.

TRIBUTE TO TELE-TECH PROJECT PARTICIPANTS

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. BAKER. Mr. Speaker, I rise today to offer my congratulations to the East Baton Rouge Parish School System for hosting the Project TELE-TECH conference in Baton Rouge, LA, and to pay tribute to the teachers from around the State who will take part in this unique program.

Teachers from the State of Louisiana who participate will be introduced to state-of-the-art information in the use of instructional television technology and English as a second language methodology to meet the educational needs of limited English proficient students and their parents. This instruction will be helpful because an examination of the Louisiana Education Assessment Program in 1991 showed that over 75 percent of the LEP students fail the math, science and social studies components of standardized tests.

Training activities will involve 560 math and science classroom teachers each year for a total of 1,680 trained by the end of the project. Those teachers trained the first year will have a positive impact on 14,000 limited English proficiency students. Over a 3-year period, 42,000 Louisiana students will benefit from effective instruction in these content areas.

I wish all TELE-TECH participants the best of luck, and I sincerely admire their dedication to the teaching profession.

TRIBUTE TO MS. CARY DE LEON

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to congratulate Ms. Cary de Leon on her recent appointment as head of the Dade County Commission on the Status of Women. As a community activist and business woman, Ms. de Leon has given a voice to the battered women of south Florida who have repeatedly been silenced by abusive mates.

Some 33 years ago, Cary de Leon learned that her maid in Cuba was a battered wife. This revelation incensed Ms. de Leon, moving her to take action against this cruel abuse. In the years that have transpired, Cary de Leon has devoted much time and energy toward getting women's issues noticed. Ms. de Leon recognized that battered women, for the most part, remained quiet; she, however, was determined to give them a voice.

Aside from heading the Dade County Commission on the Status of Women, Ms. de Leon also chaired Miami's Commission on the Status of Women from 1990 to 1991, the first Hispanic to lead both groups. These honors are well deserved, as Ms. de Leon's devotion to this cause is unmatched. She keeps herself well occupied around the clock. It is because of such dedication that women's issues have begun to receive the attention they deserve.

The 27-member commission studies issues that affect Dade County women. They present their findings to the county commissioners, and lobby for legislation to meet women's needs. Some of the issues Ms. de Leon plans to deal with during her 2-year term as chairwoman of the commission include housing for older women, bringing more women into politics, and her long-time concern: battered women.

Upon moving to Miami 12 years ago, Ms. de Leon was encouraged to head the public relations department for Coconut Grove's Mayfair Shops. At this time, she also helped to establish the Latin Business and Professional Women's Club. Ms. de Leon now works as a victim-witness coordinator at the Dade State attorney's office.

Mr. Speaker, I now ask you to join me in commending Cary de Leon for generous service to her south Florida community. Women everywhere depend on people like Ms. de Leon to represent them in society. Ms. de Leon's devotion has brought these issues to the forefront of our society. It is women like herself that make society realize that these are more than simply women's concerns—they are everyone's concerns. I congratulate her on her recent appointment as chairwoman of Dade County Commission on the Status of Women, and wish her success with this and all future endeavors.

MART GIBSON GUGGENHEIM'S REPORT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. JACOBS. Mr. Speaker, my coworkers and I are most fortunate. We have a friend named Mart Gibson Guggenheim to whom God gave a brilliant mind. She is a writer of lean and precise language.

The following is her report on David McCullough's "Truman."

McCullough heads PBS 26 The American Experience.

Ms. Gibson Guggenheim's report covers interviews on Richard Heffner's Open Mind, PBS 26, July 15 and July 22, 1992.

The report is a consequence of one viewing of each program and as can be seen by the following words, it is concise and delicious.

TRUMAN'S CAMPAIGN FOR THE PRESIDENCY

He traveled 22,000 miles by train, made up to 13 speeches a day, most extemporaneous from the train's rear platform. Big city speeches were prepared in advance—Truman telling his adviser: Let's just say what we mean! Not eloquent as FDR had been, but was always understood and "left people feeling better." (Sam Rayburn said Truman talked with the Congress, not at it.)

His message sounded like Perot's, "You are the government, not the politicians, journalists and experts. (TV had just arrived in 1948.) Vote your self interest, that of your children and grandchildren. Build the country you hope for."

TRUMAN'S PROGRAM

He sent the first-ever Civil Rights message to Congress. His grandparents had owned slaves and, from old habit, he could use the word 'nigger,' but he was the first presidential candidate to campaign in Harlem and the first to address an NAACP meeting. He said, "It's right. If it costs me the election, let it." He desegregated the Armed Forces.

The Medicare Bill, passed during the Johnson Administration, originated with Truman.

He made repeated hard decisions: With 80,000 to 100,000 lives at stake, Truman said yes to dropping the A Bomb, and no to MacArthur's wish to use atomic weapons in Korea. When MacArthur disregarded other orders, Truman fired him.

HARRY TRUMAN, THE MAN

He "loved to read," had a sense of history—not only regard for the past but for how his present, perhaps unpopular decisions, would be judged in the future. He believed in the system and in continuity—wanted the aura of the Presidency maintained. No reverse snob, he made Dean Acheson, ("Groton, Harvard, elegant eastern gentleman") his Secretary of State, a major voice in the White House, and vital to Truman's second term. Their correspondence continued for twenty years after Truman's retirement. At night, in the old White House, Truman had heard footsteps of earlier Presidents—asked himself, was it Adams? Lincoln?

He was a man of courage and optimism—and understood the value of these traits in a leader. He saw the President's job as setting the tone—dealt in reality—asked: What is needed? How much does it cost? How to get there?

Like Kennedy, he would today control press conferences. He would say, "You're not asking the right questions. The point is not the opposition—but what about the homeless? Medical programs? Haitian policy? McCullough believes Truman would today "sweep the country". He would say, "Forget the hokum. Get the job done!"

"God was watching over us—a great and good man with plenty of flaws but responsible, principled, capable of moral leadership, who knew where he wanted to take the country. He was a wit. He believed in common sense and common decency, in working hard and doing your best. Always he more than rose to the occasion. He believed in keeping your word, not being too big for your britches, casting your vote, crossing when the light was green, and he had wonderful vitality. He was physically very strong and emotionally very tough, had inner balance and knew who he was."

Truman was "exactly the President the Founding Fathers had in mind. His own life reflected the experience of the American people and made him an affirmative symbol of American participatory democracy. This is us, then and now."

THE EVENTS

Truman's Senate Committee had been rooting out corruption in war contracts. He had no desire to be the Vice President for Franklin Roosevelt's fourth term. FDR's illness was recognized, discussed. Both James Burns and Henry Wallace, then Vice President, wanted the job. But "the bosses," headed by Ed Flynn of the Bronx, favored Truman—a man with no education beyond high school, who came up through the Pendergast "organization" to become a second-term Senator from Missouri. Roosevelt simply went along, saw Truman seven or eight times, "told him nothing about anything including the atomic bomb."

Then, on April 12, 1945, some eighty days after coming to office, the country still at war, Truman became President. He had no advisers—took the people already there—George Marshall, Eisenhower, Dean Acheson, Averell Harriman and others, and promised to continue Roosevelt's policies.

In July he was at the Postdam Conference. The British, reassured, were then convinced here was "a man who could take it."

MART.

IN HONOR OF TED J. BALESTRERI AND BERT P. CUTINO

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. PANETTA. Mr. Speaker, I rise today in honor of Ted J. Balestreri and Bert P. Cutino as they are inducted into the California Restaurant Association Education Foundation Hall of Fame. Ted and Bert have been instrumental in the success of the foundation, a nonprofit public benefit corporation, which has awarded more than $125,000 in scholarships and grants to hospitality students, educators, and trade schools.

In 1968, Ted and Bert created the Sardine Factory Restaurant in the Cannery Row area of Monterey. The restaurant has since been the recipient of many prestigious awards including the "Nation's Restaurant News Hall of Fame Award," "California Top 10 Restaurants," and the "Knights of the Vine Gold Vine Award." In 1981 and again in 1984 the Sardine Factory had the honor of being 1 of the 50 restaurants in the United States to serve at President Reagan's inauguration.

In September 1986, Ted and Bert established the "Balestreri and Cutino Scholarship Fund" which is administered through the California Restaurant Association Education Foundation. The interest from this fund has been used to award scholarships to deserving students whose career objectives are in food service. They have also been leaders and have given countless hours to the community of Monterey.

Mr. Speaker, the story of these two men is the story of this Nation. They were both raised in the Monterey area. They were willing to invest in a business that is special to them and to the people of Monterey. In their success, they have given back a part of themselves and their abilities to the community. They both have wonderful wives and families. They truly are the American success story.

Mr. Speaker, I now ask my colleagues to join me in recognizing my friends, Ted Balestreri and Bert Cutino in their outstanding support to the community and to the food service industry.

OPERATION SAFE NEIGHBORHOOD—GARY, IN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. VISCLOSKY. Mr. Speaker, it is with special honor that I rise today to recognize the latest crime prevention efforts within the city of Gary, IN. The coordinator of Operation Safe Neighborhood, Ms. Louise Ivey, has announced the committee's event of the year, America's ninth annual National Night Out, August 4, 1992.

Operation Safe Neighborhood's participation in this year's National Night Out marks yet another effort to eliminate crime from the streets of Gary. The mission of this organization is to send criminal offenders in northwest Indiana the message that the citizens of Gary, in a concerted effort with the Gary police department, are working diligently against crime. The organization presents a unified front against criminal activity and works to increase public awareness as to methods to identify and respond to suspicious behavior in their respective neighborhoods. Such projects are particularly instrumental in rejuvenating pride in Gary, and creating a safe and fearless environment for our neighbors and children.

The city of Gary is the only city in the State of Indiana to receive a national award for crime prevention participation. Operation Safe Neighborhood, in conjunction with the National Association of Town Watch, will continue to effectively heighten crime and drug awareness, generate support and participation in local anti-crime efforts, strengthen neighborhood spirit and police community relations, and send the message to criminals that our neighborhoods are organized and fighting back. My hope is that the message will be received by communities nationwide.

It is my privilege to recognize the distinguished efforts of the International Association of Police Community Relations Officers, Inc.; the Honorable Thomas V. Barnes, mayor of the city of Gary; Marvin Exum, director of public safety; David Wade, chief of police and the Men and Women in Blue; and Louise Ivey, director of police community relations. Their endeavors are certainly admirable and I commend the determination and genuine concern displayed by city of Gary officials and community members for their fine display of citizenship.

As Representative for the First Congressional District of Indiana, I am proud and honored to acknowledge August 4, 1992 as National Night Out and the month of August as Operation Safe Neighborhood Month. I am confident their endeavors will be as rewarding this year, as they have proven to be in the past.

HELEN MEHR, PIONEER AND HUMANITARIAN

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. EDWARDS of California. Mr. Speaker, for over 40 years, the residents of Santa Clara County lived a little better, were better informed and were persuaded to be more compassionate thanks to the contributions of Helen Margulies Mehr. It saddens me today to bring news of her passing.

Helen Mehr established the first clinical psychology practice in Northern California, no small feat for any medical professional at that time, let alone for a woman. She co-founded the California Psychological Association, helping to enact the first licensing laws for the profession in the state.

In concert with her work with her optometrist husband, Edwin, Helen Mehr wrote several tracts on care for the partially blind and helped to establish the Vision Rehabilitation Center of Santa Clara County.

As founder and first Secretary-Treasurer of the Peace Psychology Division of the American Psychological Association and as a member of Psychologists for Social Responsibility, the social action committee at Temple Emanuel, the Fellowship for Reconciliation and the Interfaith Peace Coalition, Helen's deep compassion extended beyond her patients. It is this commitment to the advancement of all humankind that made her work important.

Helen was a model activist, always willing to lead by example, always reasoned, never contemptuous. Whether organizing an assembly or a letter writing campaign, her influence and authority was distinct.

Her opinions were frequently published throughout the bay area and were both expected and welcomed in my office. During the Persian Gulf war, Helen spoke to me of her dream that dialogue and sensibility would prevail over bloodshed.

We still have a long night ahead before her dream of peace and fellowship will be realized. But I pledge to you and to all those who are fortunate enough to have known Helen Mehr, that I will continue to work for that dream. Her spirit will not be forgotten.

DeLUCAS TAKES GIANT LEAP FOR ALABAMA AND AMERICA

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. ERDREICH. Mr. Speaker, I rise today to pay tribute to one man who has truly made a giant leap for Alabama and America. Dr. Larry DeLucas, the associated director of the Center for Macromolecular Crystallography at the University of Alabama in Birmingham, is Alabama's newest astronaut.

During his 14-day journey in space, Dr. LeLucas experimented with and grew several sets of protein crystals. These crystals are being used to help develop treatments for diseases that affect our immune system such as AIDS and diabetes. Doctors will one day use these protein crystal experiments to help ensure a healthier America.

The University of Alabama in Birmingham has been experimenting with these protein crystals for the past 6 years. Their contributions to the science field have been invaluable. NASA and Dr. DeLucas will add greatly to these contributions as a result of this flight.

Mr. Speaker, I, along with all Alabamians congratulate Dr. DeLucas on this historic flight. We are all proud of him, and he is the only Alabamian that can say he has orbited the Earth 221 times.

INTERSTATE COMMISSION ON COMMUTER TAXES

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. GUARINI. Mr. Speaker, commuter taxes have been a source of recurring friction between States. This has been particularly true for the tristate area of New Jersey, New York, and Connecticut.

This is an issue of fairness. When commuter taxes are proposed passions run high with threat of retaliation. This friction can be very detrimental to relations between States, threatening to disrupt interstate commerce, start border wars, and create an uneven playing field. What is needed is a neutral forum to address and try to resolve these issues.

My legislation would establish an interstate taxation commission to address commuter taxes in the tristate area of New Jersey, New York, and Connecticut. This Commission will be composed of representatives from New Jersey, New York, and Connecticut. It will provide a neutral forum to work to bring all parties together, to make recommendations on any proposed commuter tax, and to help avert any potential border war which would serve no one's interest.

FEDERAL HOUSING ADMINISTRATION REFORM

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. DEFAZIO. Mr. Speaker, I strongly support efforts to reinvigorate the Federal Housing Administration [FHA] by raising FHA loan limits and eliminating the 57 percent limit on the financing of closing costs include in this year's VA/HUD/Independent Agencies appropriations bill.

The 1990 Housing Act went too far by dramatically limiting the FHA's role in assisting young families purchasing a home. The FHA loan limits imposed by the 1990 act have driven away potential home buyers in droves. And the limit on financing closing costs has raised down payments to the point where most potential borrowers are priced completely out of the housing market. During these tough economic times, young families simply can't afford these out-of-pocket expenses.

In just 2 years, FHA activity has dropped off considerably as a result of these restrictions. FHA statistics show that lending to first-time home buyers in the section 203b program fell 24 percent between 1990 and 1991. During that same period, FHA activity in Oregon dropped by nearly the same amount.

Raising the FHA loan limit to keep pace with nationwide housing markets will not put the FHA on shaky ground. In my district, the average loan size is just $65,000 compared to the FHA's maximum loan amount of $89,000. Clearly, it will take a lot more than raising the loan limit to endanger the solvency of the FHA in Oregon.

In order to be effective, FHA must be accessible to low- and moderate-income families. Families throughout southwest Oregon have enough trouble gathering necessary cash to make a downpayment on their first home without the Congress reaching into their pockets for a little bit more. I urge my colleagues to support the FHA reforms included in this bill.

I'm submitting an article for the RECORD from the February 29, 1992 Washington Post describing this situation. I encourage Members to read it.

FHA HIGHER COSTS LINKED TO SALES DROP

CRITICS BLAME BUYER LOCKOUT ON CLOSING FEES

(By Ann Mariano)

The number of moderate-income Americans buying homes dropped by nearly a third in the first six months after the Bush administration imposed higher fees for Federal Housing Administration-insured mortgages, according to a new study.

Housing industry officials said the decline is alarming because these are buyers with income levels that will make it difficult for them to get home loans elsewhere.

Until last July, the FHA allowed buyers of homes valued at less than $50,000 to make only a 3 percent down payment. Now buyers also must pay 43 percent of their closing costs in cash, an increase of several hundred dollars in most instances, where previously they could finance all of their closing costs over the life of the loan.

The Mortgage bankers Association of America said its study showed that 32,566 people buying homes costing $50,000 or less used the FHA loan program in the last half of 1991, a 31 percent drop from the same period in 1990. The association said that represents 14,522 buyers who could not buy homes as result of the FHA fee increase.

But other groups of potential buyers with higher incomes also have been hurt, putting the overall decline in use of FHA mortgages at 12 percent when compared with loans insured by the agency during the last half of 1990.

Among more affluent purchasers, the number of loans dropped by 16 percent. On a $70,000 home in a state with typical closing costs of 2 percent of the mortgage amount, a buyer's down payment increased by $572, according to the bankers' association.

Both Republican and Democratic members of Congress have worried publicly that Americans are being locked out of homeownership because of the new FHA rules.

The Bush administration "is taking what is a well-performing program and literally running it into the ground." said Rep. Bruce F. Vento (D-Minn.), member of the House housing and community development subcommittee. "These policies have brought us to the point where the program is absolutely crippled."

Vento said Congress "is going to have to act" to rescue the FHA before "it becomes a liability on the federal government." Because of the increased fees, Vento and others said, the FHA is no longer getting a cross-section of buyers, but is attracting only purchasers "who can't get credit any place else," exposing the fund to a much higher default rate.

A community development bill introduced by Rep. Henry B. Gonzalez (D-Tex.), chairman of the House Banking, Finance and Urban Affairs Committee, includes provisions reversing some of HUD's changes. The measure would prohibit the HUD secretary from limiting the amount of closing costs that can be financed in an FHA-insured loan and reverse the current HUD policy of charging higher premiums for refinancing mortgages than those required of new purchasers.

Sen. Pete V. Domenici (R-N.M.), head of a Senate Republican task force on real estate, introduced legislation this week to raise the $125,000 limit on homes the FHA can insure in high cost areas such as California and several locations on the East Coast including the Washington region.

Domenici said 33 percent of first-time buyers in California cannot get FHA insurance because the state's high housing costs push many homes above the FHA limit. His legislation also would require the FHA to "develop new programs to better serve low-income minorities and first-time home buyers," the senator said.

The FHA's goal would be to increase the share of low-income and minority housing it insures from 15 percent of all its loans to 30 percent and must report to Congress within one year on how it plans to reach this goal. Domenici said.

HUD's changes in the FHA add several hundred dollars to the amount of cash home buyers must have to cover settlement costs. Buyers must pay a new one-half percent annual premium and come up with cash to cover 43 percent of their closing costs when a sale is completed.

A buyer with a $100,000 mortgage and $2,500 in closing costs now must pay about $1,000 more in cash, according to the mortgage bankers' calculations. Closing costs include fees for inspections, appraisals, attorneys, real estate brokers and title insurance premiums.

GROUPS CRITICIZE HIGHER FHA COSTS

While the FHA's costs increased and many borrowers went elsewhere for insurance, the Department of Veterans Affairs registered a 7 percent increase in the number of mortgages it guaranteed and loans covered by private mortgage insurance companies jumped by 45 percent, according to the mortgage bankers' study.

"I don't like the idea that you're kicking out" a group of prospective home buyers by "attaching extra cost to those who can least afford it," said Michael A. Stegman, professor of city and regional planning at the University of North Carolina. He said this may be actuarially sound but "I'm not so sure it's sociologically sound."

Stegman, who has studied and reported on a variety of HUD programs, said the department's stance on the FHA is in contrast to the initiative for helping public housing residents buy their units and aiding other low-income people with home purchases.

HUD is "giving away buildings without worrying about" the financial resources of the buyers, Stegman said. "There is a total inconsistency between this and what is happening to FHA borrowers.

HUD requires public housing tenants who buy their units to pay part of the purchase price. They pay what they can afford and HUD subsidizes the remainder, said John C. Weicher, HUD's assistant secretary for policy development and research. HUD also pays a portion of tenants' utility costs for the first five years, he said.

In a letter sent to mortgage bankers last month, HUD Deputy Secretary Alfred A. DeliBovi said the department's changes have strengthened the FHA and "hopefully directed it toward stability" while opening the door "for other mortgage entities to serve traditional FHA markets." He added that the FHA continues to have some benefits not available from private mortgage insurance.

In an interview this week, Weicher said that the decline in FHA business is "about in line" with the overall housing market.

"We think, fundamentally, that it is too early to draw conclusions" about the effects of the administration's extra fees, Weicher said.

FHA loan applications increased by 60 percent in January over the previous month and rose 30 percent in January over the same month in 1991, when the United Sates was embarking on the Persian Gulf War, Weicher said. He also said the department "tried to design reform to bear as lightly on [middle-income buyers] as we could."

C. Austin Fitts, the first chief of the FHA in the Bush administration, said HUD changed the program's pricing formulas "in a way that doesn't make sense."

The bulk of any premium increases should be charged at the time the loan is paid off, she said. "Instead, they decided to balance the budget yet again on the back of the FHA," she said.

Angelo R. Mozilo, a Pasadena, Calif., banker and president of the mortgage bankers group, believes the administration wants the FHA to play a far smaller role in helping Americans buy homes, and may even hope to abolish the agency.

The National Affordable Housing Act passed in late 1990 made the changes in the FHA that Mozilo said "brought serious consequences the American people don't deserve, particularly low-income people" by weakening the agency.

SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT AMENDMENTS ACT OF 1992

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. KOLBE. Mr. Speaker, today, along with the other members of the Arizona delegation, I am pleased to introduce the Southern Arizona Water Rights Settlement Amendments Act of 1992. I understand that a companion measure is also being introduced today in the Senate by Senators DECONCINI and MCCAIN.

This bill seeks to extend and adjust deadlines, alter certain terms and conditions, and provide clarification to the original Southern Arizona Water Rights Settlement Act [SAWARSA]. Today, as when it was originally enacted in 1982, SAWARSA represents a critical component in the comprehensive resolution of water rights claims in Arizona. Its history began in 1975 when the Papago Tribe—now the Tonono O'odham Nation—the United States, and two Indian allottees filed a lawsuit against the city of Tucson and other upper Santa Cruz Basin water users. That lawsuit sought to enjoin future ground water use as well as damages for prior misuse.

To avoid the expense, delay, and uncertainty of litigation that would cloud future water rights in southern Arizona for years, the parties entered into extensive settlement negotiations. A legislative settlement agreement was reached and ratified by Congress in 1982 as the Southern Arizona Water Rights Settlement Act [SAWARSA]. The SAWARSA calls for the tribe to receive farm improvements, 66,000 annual acre-feet of water, and a $15 million trust fund.

Since 1982, new circumstances have arisen that threaten the viability of the original SAWARSA agreement, including pending deadlines related to dismissal of the lawsuit against the city of Tucson and other parties. Because of objections by the San Xavier District and the allottees, efforts have been ongoing to try to resolve these objections and reach agreement. To date, no agreement has been reached and dismissal has not occurred.

In addition, the SAWARSA requires that, after dismissal, the United States is obligated to pay penalties if water is not delivered by October 1992. Although the United States is capable of providing water, the facilities necessary to accept the water have not been constructed.

As a result, these amendments are necessary to allow SAWARSA to fulfill its promise. The SAWARSA is too important to fail. It will provide certainty for allocation and use of water resources and allow for accurate resource management and economic planning. Residents of the Tribe, the city of Tucson, and the State of Arizona will realize these benefits. All those entities support this proposal.

I must acknowledge that some individual allottees in the San Xavier District oppose this bill on the grounds that the settlement and amendments thereto do not fairly and adequately compensate the San Xavier allottees for water losses. I understand their calls for fairness and I encourage them to join the legislative settlement process that we begin today with the introduction of this bill. I respect the allottees' claims and would hope to see those claims satisfactorily resolved. Few people, if any, in Arizona will benefit from protracted and uncertain litigation. Failure to reach a legislative settlement not only puts in jeopardy the considerable benefits of SAWARSA but has serious long-term negative implications for all water users in southern Arizona.

FULL RECOGNITION FOR ALL AMERICAN FIELD SERVICES PERSONNEL

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. TANNER. Mr. Speaker, I am today introducing legislation to provide relief for a much deserving group of Americans, the members of an organization known during World War I and II as the American Field Services.

This organization originated as a group of American volunteer combat ambulance drivers. The U.S. Government sponsored this group as a wartime service to American and allied troops in the Africa, Europe, and India-Burma campaigns. At its peak, the American Field Services consisted of 3½ companies with 437 ambulances and 891 men. Deployed on army orders of battle, AFS units conducted an estimated 714,000 ambulance evacuations of wounded soldiers.

During the period 1942–45, AFS ambulance drivers were registered by the State Department under Article 10 of the Geneva Red Cross Convention as a responsibility of the American Government and as members of the American Army medical service. They were then attached to allied army units where they served under U.S. War Department control or U.S. Army command.

On the surface, it appears that the service of these courageous men was straightforward, and that subsequent recognition of that service would be forthcoming as it was for all of those brave men and women who served in the world wars. Unfortunately, that has not proven to be the case.

At the conclusion of the war, these men did not receive U.S. military discharges.

Consequently they were not eligible for recognition by the Veterans' Administration. Over the years, efforts have been undertaken to obtain that recognition to no avail.3

In 1977, however, the Congress enacted Public Law 95–202 creating a process through which any civilian group could apply to have its deployment in wartime considered active military service. The Secretary of the Air Force has been designated by the Secretary of Defense as the executive agent in the administering of this process.

To make a long story short, the AFS applied under this process for recognition. In an August 30, 1990 decision, the Secretary of the Air Force recognized only a portion of those who served in the AFS of World War II which meant that about 1,100 AFS members received credit for their service and about 1,000 did not. The Secretary decided, based upon a DOD directive, that recognition was to be based on the extent to which the group was under the control of the U.S. Armed Forces.

Given the great sacrifice these men made during a time when U.S. military forces were committed to a worldwide, allied effort to overcome the forces of tyranny, it is unfair to suggest that only a portion of those who served in the AFS were deserving of full recognition as military service. To illustrate how inequitable this decision is, at least one AFS member was awarded two Purple Hearts for wounds received on the battlefield. Yet he is among the 1,000 AFS members whose service is not considered equivalent to military service.

There are other examples like that. The point is we can, and should, take the opportunity—even this belated one—to extend recognition to all AFS personnel who provided a vital and, in many cases, a life saving service to the soldiers of America and her allies.

We are, this year, beginning what is sure to be a lengthy commemoration of the 50th anniversary of many momentous battles of World War II. As we undertake those observances, much will be said about our national steadfastness in a monumental time of world crisis and our determination to defend freedom.

Let us also take the time to make sure we have properly recognized all of those who stepped forward in that time of darkness to pledge their very lives to the cause of freedom. All members of the American Field Services rightly deserve such recognition.

Since the Secretary of the Air Force has refused, thus far, to alter his earlier decision, this legislation specifically providing for recognition of the service of the AFS as military service is necessary. It deserves the consideration of this body and the full support of all our colleagues.

TRIBUTE TO SMSGT. DONNA RENEE HAMMILL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mrs. SCHROEDER. Mr. Speaker, I rise today to recognize SMSgt. Donna Renee Hammill, who will be retiring from the U.S. Air Force on August 21, 1992.

Renee entered active duty with the Air Force in 1971, shortly after graduating from high school in Mt. Holly, NC. She was an 18 year-old trailblazer, entering military service when women comprised only 2 percent of the Air Force. Renee met each new challenge she faced with energy and enthusiasm, and excelled in her duties to achieve the next to the highest rank possible for an enlisted member. During her 21 years of active duty, she served at Air Force bases in Texas, New Hampshire, California, Colorado, Delaware, and Maryland and completed overseas assignments in Turkey and the Philippines.

In addition to performing her military duties, Renee aggressively pursued her education, obtaining an associate's degree, a bachelor's degree, and a master's degree; a feat accomplished by less than one-half of 1 percent of Air Force enlisted personnel. Renee's determination and dedication is an example for all young servicemen and women to follow. She has served with great distinction and has earned our respect and gratitude for her many contributions to our Nation's defense. My colleagues and I wish SMSgt. Donna Renee Hammill great success in her transition to civilian life.

IN RECOGNITION OF EMS VICTIMS

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. DELAURO. Mr. Speaker, in 1989 a drug that had been banned for nearly two decades killed more than 30 unsuspecting Americans and injured thousands more. The drug was L-tryptophan, and the disease it caused was eosinophilia myalgia syndrome.

EMS victims suffer from severe muscle and nerve pain, paralysis, pulmonary and respiratory problems, severe skin diseases, and brain dysfunction. The several million Americans who used L-tryptophan trusted the FDA to safeguard their lives; unfortunately, the agency did not fulfill its mandate of protecting the public from tainted products like L-tryptophan.

In 1973, the FDA ruled the sale of L-tryptophan as a dietary supplement illegal. Since then it has done little to restrict the sale of this and other over-the-counter amino acids. Two lawsuits in the late 1970's both failed; the FDA then simply abandoned all hope of regulation during the 1980's. Canada, which shared the FDA's concerns about L-tryptophan, aggressively restricted its sale and only 11 cases of EMS were reported there, 10 of which were imported from the United States. Had the FDA acted with equal vigor, this painful episode that has ruined so many lives could have been averted.

Showa Denko, the Japanese petrochemical firm that produced and marketed L-tryptophan since 1982, billed its product as a genuine, all natural elixir. Its marketing promised, among other things, that the product would relieve stress, reduce depression, relieve premenstrual syndrome, increase mental acuity, and promote weight loss. Nowhere were there any warnings concerning L-tryptophan's known dangers.

The victims of this neglect have nowhere to turn. Medicine has no cure. Showa Denko KK is working hard to postpone settlements at the expense of American citizens, and the FDA had already washed its hands of any responsibility.

In order that such a painful catastrophe never happen again, the FDA must end its policy of neglect. We must strive to find the proper balance between the sale of safe and effective drugs and the protection of American consumers. Finally, our Government should take appropriate actions to ensure that Showa Denko KK meet its responsibility to the victims of this tragic affair.

TRIBUTE TO THE DESCENDENTS OF JACOB GEIGER

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to the descendents of Jacob Geiger as they celebrate their 75th annual family reunion. The descendents of Jacob Geiger take great pride in their heritage, which has lasted for over 200 years here in the Lehigh Valley.

The origin of Jacob Geiger is somewhat of a mystery since there is no evidence documenting his arrival in America. According to John J. Geiger, author of "Geiger Family and History of Heidelberg Church," it is believed that Jacob Geiger was a native of Wurtenburg, Germany, who arrived in Philadelphia, PA, on September 14, 1751, on board the ship *Duke of Bedford.* However, there is not one shred of evidence that proves any of these facts.

According to "Over Two Centuries of Geigers in America," compiled by the Rev. Elwood Semmel, there were Geigers on 19 different ships that arrived in the port of Philadelphia between 1732 and 1751. To make it even more difficult, there were Jacob Geigers on at least five ships up to 1751, and if he arrived before he was 16 years old he most likely would not have been listed.

However, there is another theory that Jacob Geiger actually arrived in the port of Philadelphia in September 1743, aboard the ship *Robert and Alice.* The rationalization behind this theory is that on this same ship arrived the Baer family, who later settled near Neffs, PA, and were neighbors of Jacob Geiger, their ancestor. In addition, it is also known that Jacob Geiger II married a Baer.

Needless to say, the descendents of Jacob Geiger do know that, on March 1, 1755, their ancestor along with his wife Catharina took possession of a vacant tract of land in, what was then, Heidelberg Township in Northampton County and is now, Washington Township in Lehigh County, PA. After 30 years of developing and improving the land, he received title to it from the receiver general's office in Philadelphia, PA, on June 11, 1785.

The Geigers were similar to the other new settlers in America in that they had to adjust to the hardships of the New World. The Heidelberg area in which they resided was a relatively calm area during the 1750's, despite the conflicts between the settlers and the Indians that arose in the surrounding settlements of Gnattenhutten, which is now Lehighton and Lynn Township. The Geigers were fortunate enough to avoid conflicts with the Indians. They simply worked hard to develop their land and in more trying times came to the aid of others who were victimized by Indian attacts.

The Geigers were not simply just Pennsylvania Germans, they were the craftsmen, the farmers, and the merchants who contributed to the foundation of our great Nation. As a matter of fact, living one mile from the Geiger homestead was one of Heidelberg Township's most celebrated citizens, Heinrich Geiger. He served as a second lieutenant in the French and Indian War, in 1757, and later became the justice of the peace in the newly formed Heidelberg Township in 1764. He also served as a colonel in the 3d Batallion of the Northampton County Militia in 1778. In addition, Jacob Geiger was listed in the 1st Census of the United States, which was completed in 1791. The Geigers were true Americans who worked hard to make our great Nation into what it is today.

Over the years the Geiger family has grown and migrated across the country. In order to keep the family bond strong over the years, Joel P. Geiger decided to bring the family together for an annual event. So on August 1, 1914, the descendants of Jacob Geiger held their first family reunion and it soon blossomed into a yearly tradition. You could almost say that it is the 79th annual family reunion, except they did not hold a reunion during the years 1942 to 1945 because of World War II.

The site of the family reunions has changed over the years from its origin at Neffs Grove to today's site at Egypt Memorial Park, but the traditional festive atmosphere has not. According to Ernest Neimeyer, chairman of the Jacob Geiger Family Historical Committee, the entertainment has consisted of various bands, magicians, clowns, novelty speakers, dancers, and family members. There have been dances, games, and skits with family participation. Such skits as "The Astronauts," "The Carpenter's Helper," and "Groggy Geiger's Hill Billy Band" by the Neimeyer brothers have been hits with the family in the past.

For the evening meal each family brought their own food. This was done until the 50th reunion when it was decided by the president at that time, Herman Geiger, that it would be better if they had a smorgasbord where each family contributed their own traditional dish. It was so well organized that you could tell who was missing by what food was missing.

Mr. Speaker, I am proud to represent the descendants of Jacob Geiger and the area in which his proud legacy and family tradition originated and continues to blossom. In a time when family values have been put to the test, the descendants of Jacob Geiger have continued to gather together and rejoice in their strong family lineage. I ask you and my colleagues to join me in congratulating Ernest Neimeyer, Mrs. Russel Rupp, Paul W. Moyer, George Schmeltzle, David Neimeyer, Raymond C. Geiger, and Calvin Geiger, and the rest of the Geiger family for preserving such a fine tradition. I wish them many more years of happiness and joy together.

HOUSE OF REPRESENTATIVES—*Monday, August 3, 1992*

The House met at 12 noon and was called to order by the Speaker pro tempore (Mr. MONTGOMERY).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 31, 1992.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on Monday, August 3, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we look to our communities and to our world, our eyes are often filled with scenes of hostility and the anguish of people living in suspicion and hatred with each other. Remind us, gracious God, that in addition to seeing the reality of selfishness in life, may we also see the power of the spirit, of respect and esteem and acts of justice that are also a part of the lives of people. May our dedication be as reconcilers of disputes and as agents of peace. May our words and deeds, our attitudes and our feelings, be directed to the good works of justice and mercy, the opportunities for which are all about us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. MAZZOLI] will lead the House in the Pledge of Allegiance.

Mr. MAZZOLI led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

CONTROLS NEEDED ON CAMPAIGN SPENDING BY INDIVIDUAL CANDIDATES

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, there is an audible intake of breath by my audiences when I tell them that up to $1 million is sometimes spent to win a seat in the House of Representatives.

I wonder what my audience's reaction now will be when I report that this spring $3.4 million was spent, not to win a House seat, but simply to win the right to run for that House seat. And, of that $3.4 million, $3.3 million was contributed by the candidate himself.

Too much money is being spent in campaigns both by individuals on their own behalf and by political action committees and other special interest groups.

Now Congress can control what political action committees spend, but it cannot, under the Buckley-Valeo Supreme Court case, which cited constitutional reasons, control what individuals can spend on their own campaigns.

There is pending House Joint Resolution 524, offered by the gentleman from Michigan [Mr. DINGELL], of which I am a sponsor, which would change that. It would give Congress the authority to limit what individuals can contribute to their own campaigns.

Please cosponsor House Joint Resolution 524 and, by that, cosponsor better government.

FIFTY DAYS SINCE DEFEAT OF BALANCED BUDGET AMENDMENT: STILL NO DEMOCRAT PARTY SOLUTION TO DEFICIT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, it has now been 50 days since the tax and spend Democrats who control Congress delivered a knock-out punch to the American taxpayer when they successfully defeated a balanced budget amendment.

Through the use of scare tactics on the elderly and under the guise of a promise from the Budget Committee chairman to "bring to the floor an enforcement procedure to move us toward a balanced budget with tough enforcement regardless of what happens," my colleagues on the other side of the aisle defeated efforts, which an overwhelming majority of Americans support, to balance the Federal budget.

Well, to borrow a line from a popular commercial, "Where's the Beef?" Mr. Speaker, where is the enforcement procedure that the chairman of the Budget Committee promised 50 days ago?

It is estimated that the national debt grows by $1.2 billion a day. That is almost an additional $60 billion in debt facing the American taxpayers since the Democrats defeated the balanced budget amendment. We ought to be ashamed! It is no wonder why people have had all they can stand of a Democrat-controlled Congress.

For Americans to send Bill Clinton and AL GORE to the White House to control runaway Federal spending by a Congress controlled by Democrats makes as much sense as sending a fire truck to a fire with its water tanks filled with gasoline.

SUPPORT BILL CLINTON AND GOOD HEALTH CARE

(Mr. STARK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STARK. Mr. Speaker, yesterday the President showed his true colors in Illinois by attacking a Clinton proposal, and in his attack he indicated what he really intends to do, and that is to end Medicare.

The President does not trust the Government to do anything. He does not trust the people. He does not trust other governments. He would end Medicare for seniors.

I would challenge anybody in this Hall to stand up and say that they would oppose Medicare as a good system for all seniors.

Clinton, on the other hand, Bill Clinton would provide all Americans with access to affordable health care.

Bush protects the big insurance companies, rich doctors, gouging for- profit hospitals, high-charging pharmaceutical companies; but Clinton would change that. He would hold down costs, make insurance available to all and pay fair rates to providers.

It is not enough for the President to use his plan, which is abstinence, celibacy, exercise and prayer. If you think that will bring health care to Americans, guess again; support Bill Clinton for change for the better.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

COMMENDING PRESIDENT'S APPROVAL OF FUNDS FOR SALE OF PORK

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, for my export 1-minute today, I would like to commend President Bush's approval yesterday of Export Enhancement Program funds for the sale of pork to the Commonwealth of Independent States.

Mr. Speaker, this decision clearly demonstrates the President's longstanding commitment to agriculture and provides an excellent opportunity for United States farmers, the people of the former Soviet Union and the United States' economy.

It is estimated that the pork sale could add $125 million to the U.S. economy by creating additional revenues for pork producers and food processors as well. The sale could also boost significantly the consumption of corn and soybeans.

Mr. Speaker, this decision marks the beginning of an important commitment to compete in world markets for value-added agriculture products. Already, the European Community is aggressively pursuing the sale of such products in emerging markets throughout the world. EEP funding is essential to allow American pork producers to fairly compete with the heavily subsidized European Community meat producers.

The approval of this sale—which would be equal to one-third of all U.S. pork exports—also underlines the importance of agriculture exports to the U.S. economy. From October 1991 to May 1992, the U.S. recorded an agricultural trade surplus of $13.4 billion.

Mr. Speaker, exports of U.S. goods and services continually play a larger role in this Nation's prosperity, and agricultural exports are a significant portion of that total. Therefore, this Member applauds the President's recent decision to compete in the rapidly growing markets of value added and high value agricultural products.

STOP KILLINGS BY SERBIANS

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, this weekend in Bosnia, one of the most horrible incidents took place. A busload of orphans, all very young children, was passing from Bosnia across to the coast of Croatia to be able to find a place to live safely. The bus was clearly marked. It was marked and the Serbian "Nationalist" forces were notified that they were going down this corridor.

As the nurses said, no one believed that the Serbian Nationalists, which are not Serbian Nationalists, they are a bunch of thugs and terrorists, would attack this bus. They did. They machine gunned it and killed two young girls, one 14 months old and one 3 years old.

The time has come for the Europeans and the Americans to do a surgical strike on the Serbian positions above these roads. We cannot allow thousands of innocents to go on being killed.

As the Bosnians and Croatians have said, if there was oil in Bosnia or in Croatia, we would be there in 5 minutes.

We in the United States as the leader of the free world must do something now to make sure this useless and inhumane slaughter is discontinued. Serbian Nationalists or terrorists as they are in that area must be brought to heel and they must be stopped before this slaughter becomes a genocide of those people who are not Serbians in the area.

□ 1210

GEORGE BUSH'S SCARE TALK ON HEALTH CARE

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, yesterday President Bush showed us how low a desperate candidate will go on the health care issue.

He said Bill Clinton's health reform plan would mean Government-controlled medicine, waiting lines, and unemployment. That is the kind of scare talk Republican candidates have been using for decades to block health care reform.

The truth is, the Clinton plan would control costs, provide affordable health care for everyone, let doctors treat disease instead of filling out paperwork, and level the playing field for American business.

George Bush would rather frighten voters than face the facts. The cost of health care has tripled in the Reagan-Bush years. Millions of American families have lost health insurance in this recession, and millions more live in daily fear that a major illness will bankrupt them.

But all George Bush proposes to do is throw more money at the health insurance industry through tax credits, cut back on private health insurance and Medicare benefits, and shift the burden to the States. Bill Clinton's plan is called pay or play—George Bush's should be called pay and pray.

Mr. Speaker, the American people have had enough of George Bush's scare talk and distortion. They are going to elect a President who will take on the special interests and lead the way to real health care reform.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1790

Mr. DANNEMEYER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1790.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, August 4, 1992.

TAX TREATMENT OF ASSOCIATIONS RESULTING FROM MERGERS OF CERTAIN FARM CREDIT ASSOCIATIONS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5642) to amend the Internal Revenue Code of 1986 with respect to the treatment of certain property and casualty insurance companies under the minimum tax, and for other purposes.

The Clerk read as follows:

H.R. 5642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MINIMUM TAX TREATMENT OF CERTAIN PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) ADJUSTED CURRENT EARNINGS PREFERENCE.—

(1) IN GENERAL.—Clause (i) of section 56(g)(4)(B) of the Internal Revenue Code of 1986 (relating to inclusion of items included for purposes of computing earnings and profits) is amended by adding at the end thereof the following new sentence: "In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1989.

(b) ADJUSTMENTS FOR BOOK INCOME.—In applying section 56(f) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) to any insurance company taxable under section 831(b) of such Code, only net investment income as reported in the company's applicable financial statement shall be taken into account in determining the adjusted net book income of such insurance company. The preceding sentence shall apply to taxable years beginning after December 31, 1986, and before January 1, 1990.

SEC. 2. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS.

If an employer elects under Treasury Regulation 31.3402(g)-1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 24 percent. The preceding sentence shall apply to payments made after December 31, 1993.

SEC. 3. TAX TREATMENT OF ASSOCIATIONS RESULTING FROM MERGERS OF CERTAIN FARM CREDIT ASSOCIATIONS.

(a) IN GENERAL.—Part IV of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to farmers' cooperatives) is amended by adding after section 521 the following new section:

"SEC. 522. CERTAIN MERGED FARM CREDIT ASSOCIATIONS.

"(a) IN GENERAL.—For purposes of this title, except as otherwise provided in this section, an applicable merged association shall be treated in the same manner as a production credit association is treated under section 2.6 of the Farm Credit Act of 1971 (12 U.S.C. 2077).

"(b) TREATMENT OF EXEMPT ITEMS.—

"(1) IN GENERAL.—For purposes of this title, an exempt item shall not be taken into account in computing the tax liability of any applicable merged association.

"(2) EXEMPT ITEM.—For purposes of this subsection, the term 'exempt item' means any item of income, gain, loss, or deduction which is properly allocable to loans described in section 1.7 of the Farm Credit Act of 1971 (12 U.S.C. 2015) which have an initial term of at least 10 years.

"(c) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE MERGED ASSOCIATION.—The term 'applicable merged association' means any association resulting from a merger under section 7.8 of the Farm Credit Act of 1971 or section 411 of the Agricultural Credit Act of 1987 of 1 or more production credit associations and 1 or more Federal land bank associations. Such term includes any corporation resulting from a subsequent merger of an association referred to in the preceding sentence with another corporation.

"(2) REFERENCES TO FARM CREDIT ACT OF 1971.—Any reference in this section to the Farm Credit Act of 1971 shall be a reference to such section as in effect immediately before the date of the enactment of this section."

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for part IV of subchapter F of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 522. Certain merged farm credit associations."

(2)(A) The part heading for such part IV is amended by adding at the end thereof the following: "; **CERTAIN FARM CREDIT ASSOCIATIONS**".

(B) The item relating to part IV in the table of parts for subchapter F of chapter 1 of such Code is amended by inserting "; certain farm credit associations" after "cooperatives".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. MCGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today to urge my colleagues to support passage of H.R. 5642, a bill I coauthored along with my friend, Mr. JACOBS of Indiana. Section 1 of the bill addresses a minimum tax calculation problem for very small property and casualty insurance companies. These companies write less than $1.2 million in annual premium volume.

They are companies who only write business in one State and in many instances, one county. They are located in rural areas and service our farmers and small towns, insurance markets large companies are unwilling to service. The companies have been in business, in many cases, for over 100 years, and have 2 to 4 employees.

In 1986, the property/casualty insurance tax code was substantially changed and rewritten. Many changes were also made to the alternative minimum tax calculation.

The Congress decided that small property and casualty companies (less than $1.2 million annual premium) did not have sophisticated staff—attorneys, actuaries, investment and tax advisers—and would find it difficult to comply with the new Tax Code requirements.

In addition, because of the size and operations of these small companies, they don't have "loss reserves" and "unearned premium reserves."

Consequently, a different tax provision was included in the 1986 Tax Reform Act which allows these companies to elect to be taxed on investment income only. But we failed to include similar language in the alternative minimum Tax Code.

In recent years, the IRS has determined that without a legislative change to the Tax Code clarifying the AMT calculation, very small property and casualty insurers will have to make all the same calculations as the very large companies in order to comply with the AMT. Section I makes the necessary change to the Tax Code. With the enactment of the bill, very small property and casualty insurers will make their AMT calculation using taxable and tax-exempt investment income as their income basis.

While simplifying their tax calculations, the change also guarantees these companies will always be taxpayers even in years they experience underwriting losses.

Section I merely clarifies the intent of Congress in the 1986 Tax Reform Act.

Mr. Speaker, of particular interest to me is section 3 of the bill. That section clarifies the intent of the House of Representatives when it passed the Agricultural Credit Act of 1987, by restoring the traditional tax treatment of the associations of the Farm Credit System.

The historical tax treatment was unintentionally altered as part of the restructuring brought about by the 1987 act.

As approved by the Committee on Ways and Means, section 3 of the bill clarifies that the Farm Credit Systems' Agricultural Credit Associations are exempt from taxation on the earnings from long-term loans of the type made by Federal land bank associations.

Congress first established this exemption for the Farm Credit System when it created the system 75 years ago.

That exemption was unintentionally removed for Agricultural Credit Associations when the Congress sought to restore confidence and improve efficiency in the system in 1987.

In the 1987 Act, Congress recognized that some of the farmer-borrowers who own the Farm Credit System institutions may wish to organize their local associations to provide for one-stop credit services.

Accordingly, the 1987 act authorized the merger of Production Credit Associations with Federal Land Bank Associations.

The resulting Agricultural Credit Associations can provide both long-term mortgage loans and short-term production loans. When the mergers were authorized it was assumed that the attributes of the two original lenders would be retained, including the tax treatment of the long-term mortgage loans.

Somewhere along the way our intent that the tax treatment of income from long-term mortgage loans continue unchanged was lost. The merger of a taxable entity, the short-term lender, with an exempt entity, the long-term lender, resulted in a new taxable entity. Mr. Speaker, this substantially increases the cost of operating this new entity.

Consequently, the option for the System's farmer-borrowers to merge land bank and production credit associations to form a single Agricultural Credit Association has been rendered less attractive.

This bill will clarify that the intent of the 1987 act was to continue the traditional tax treatment of long-term loans, including when such loans are made by Agricultural Credit Associations.

Mr. Speaker, I am pleased to inform the House that the chairman of the Committee on Agriculture, Mr. DE LA GARZA, and the ranking Republican of that committee, Mr. COLEMAN, both support this legislation.

In order to allow the farmer-borrowers-owners of the Farm Credit System to choose how to provide credit to the nation's agricultural community as they best see fit, as was originally intended in the 1987 act, I urge my colleagues to enthusiastically support H.R. 5642.

□ 1220

Mr. GIBBONS. Mr. Speaker, I reserve the balance of my time.

Mr. McGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill certainly needs no further explanation. It was not deemed to be controversial when it was considered in the Committee on Ways and Means, and we heard no objections since then.

Mr. GRANDY. Mr. Speaker, I rise in strong support of H.R. 5642 and urge its favorable adoption by the House and its eventual adoption into law. H.R. 5642 serves to remedy a unintended consequence of the tax provisions of the Agricultural Credit Act [ACA] of 1987. As a former member of the House Agriculture Committee who was intimately involved in the formulation of that act, I can assure you that increasing the tax burden on cooperatively owned farm credit banks was not the intent of that legislation. On the contrary, the principal purpose of that act was to restore the health of the Farm Credit System [FCS] which had suffered significantly in the mid-1980's.

It has been longstanding tax policy to not tax the income from long-term mortgage lending of Farm Credit System institutions. Prior to the 1987 act, these institutions consisted primarily of Land Bank Associations. On the other hand, the income from short-term lending for operational expenses, provided by Production Credit Associations in the FCS, has always been taxable. One of the principal means of reestablishing the Farm Credit System on firm financial footing under the ACA was to permit the merger of the long- and short-term lending arms of the System in order to improve efficiencies, spread risk, and cut costs.

Unfortunately, due to the legislative timing of the ACA, while the House bill addressed the differential taxation of merged short- and long-term institutions—known as Agricultural Credit Associations—the final act was silent on how they were to be taxed. Since that time, rulings by the Internal Revenue Service have ruled that all the income—both from long-term mortgage lending and short-term operational lending—of a merged Agricultural Credit Association is taxable. Such a ruling violates longstanding, wise tax policy and frustrates one of the means by which the act tried to improve the health of the FCS—the merger of associations with identical or substantially similar lending territories.

H.R. 5642 serves to right this oversight and to restore to their full effect the provisions of the Agricultural Credit Act for insuring the continued availability of affordable and adequate farm and ranch financing. I want to stress that the tax exemption provided in H.R. 5642 is strictly limited to income derived by merged associations from long-term real estate mortgage loans of the type that were formerly exempt.

I urge my colleagues to pass this bill and I look forward to its adoption into law.

Mr. McGRATH. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5642.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

EXEMPTING FROM UBIT THE CONDUCT OF CERTAIN GAMES OF CHANCE BY TAX-EXEMPT ORGANIZATIONS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5660) to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONDUCTING OF CERTAIN GAMES OF CHANCE NOT TREATED AS UNRELATED TRADE OR BUSINESS.

(a) IN GENERAL.—Paragraph (1) of section 513(f) of the Internal Revenue Code of 1986 (relating to certain bingo games) is amended by inserting before the period "or other qualified games of chance".

(b) OTHER QUALIFIED GAMES OF CHANCE.—Subsection (f) of section 513 of such Code is amended by adding at the end thereof the following new paragraph:

"(3) OTHER QUALIFIED GAMES OF CHANCE.—For purposes of paragraph (1), the term 'other qualified game of chance' means any game of chance (other than bingo) if—

"(A) the conducting of such game by the organization does not violate State or local law,

"(B) the conducting of such game by organizations which are not nonprofit organizations would violate such law, and

"(C) no substantial part of the work in conducting such game is performed by individuals principally engaged in performing gaming services for hire."

(c) CLERICAL AMENDMENT.—The subsection heading of section 513(f) of such Code is amended by striking "BINGO GAMES" and inserting "GAMES OF CHANCE".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to games conducted after the date of the enactment of this Act.

SEC. 2. INCREASE IN RATE OF WITHHOLDING TAX ON CERTAIN GAMBLING WINNINGS.

(a) IN GENERAL.—Paragraph (1) of section 3402(q) of the Internal Revenue Code of 1986 (relating to extension of withholding to certain gambling winnings) is amended by striking "20 percent" and inserting "28 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to proceeds from wagers placed after December 31, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. McGRATH] will be recognized for 20 minutes.

Mr. BILBRAY. Mr. Speaker, I rise in opposition to H.R. 5660, as amended.

The SPEAKER pro tempore. Is the gentleman from New York [Mr. McGRATH] opposed to this legislation?

Mr. McGRATH. I am not opposed, Mr. Speaker, but we have a Member who is.

The SPEAKER pro tempore. Because the gentleman from Nevada [Mr. BILBRAY] has risen in opposition to H.R. 5660, as amended, he will be recognized for 20 minutes.

Mr. BILBRAY. Mr. Speaker, I will yield time to my colleague, the gentlewoman from Nevada [Mrs. VUCANOVICH], and, if the Speaker will so allow, we can split the time between the proponents and opponents.

The SPEAKER pro tempore. The Chair concurs.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS] for 20 minutes in favor of this legislation, and the gentleman from Nevada [Mr. BILBRAY] for 20 minutes in opposition to this legislation.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the distinguished ranking Member, the gentleman from Florida [Mr. GIBBONS], my friend, who does such an outstanding job on the Committee on Ways and Means. I also want to thank the gentleman from New York [Mr. McGRATH], my very good friend by way of Prince George's County, MD. He lived in my district for a period of time, and he has worked very hard on this legislation, as well as being very concerned about the objectives.

Mr. Speaker, I rise in strong support of H.R. 5660, as amended.

This legislation, I think frankly, is not opposed by anybody in terms of its objective and the tax treatment that it will give to certain charitable organizations. My friends from Nevada, with whom I have discussed this matter, did have a great concern with the original formulation of the bill. I trust they are somewhat more sanguine about its present posture, but obviously, as I can see, they are still not pleased with the legislation, and they will speak for themselves.

I also, Mr. Speaker, want to say that the gentleman from Nebraska [Mr. HOAGLAND], my good friend, has introduced legislation. We have joined together in this effort, and he has been a yeoman leader on this effort, and I want to congratulate him.

Mr. Speaker, briefly this legislation is directed at the Federal Government's increasing focus on the burden of providing community services on charitable institutions. We talk about volunteerism. We talk about people becoming involved in doing good in our communities. In fact, many charitable organizations are doing that. These groups often must be creative in raising the funds necessary to their worthwhile projects because of shortage of efforts. Games like bingo have been used for years and have enjoyed exemption from taxation. Other games that have also been used, like raffles, casino nights, pull tabs and amusements are subject to taxation. What this means is that groups like the Jaycees, Knights of Columbus, volunteer fire departments, V.F.W. halls, and thousands of other charitable institutions must not only keep two separate accountings for taxable and nontaxable fund raising events, but they must also divert scarce resources from needy community projects.

My district and my county that I now represent, which is volunteer and career service professionals; all are not low-expense operations. The balance of my district is all volunteer service. A firepumper, Mr. Speaker, as you probably know, can run over $200,000 and a fire tractor to pull ladder trailers can run over $140,000. Just this past Saturday I was visiting the Berwyn Heights Volunteer Fire Department. They have a 106-foot ladder truck. The price is $527,000. In my district, in fact, over $12 million worth of fire equipment has been purchased since 1987 with the revenue, in some part, though not exclusively, but in part from revenues from games of chance.

In addition, the Jaycees have built and operate a community center for senior citizens; Jaycees of which I used to be a member, have built a senior citizen community center with revenues raised in this way.

H.R. 5660, exempts funds raised by these charities from the unrelated business income tax—only if the games of chance are operated by a 501(C)(3) charitable institutions. These are not private, profit-making/profit-diverting organizations. These funds go directly into public-good projects. Current law already allows this exemption already for any charitable organization within the State of North Dakota, showing how well represented the North Dakota folks have been. The North Dakota folks have been represented very well, even though their Representative is not listening to me currently.

I say to the gentleman from North Dakota, "Mr. DORGAN, I was just saying how well the folks of North Dakota have been represented, how these organizatons have already been taken care of in your State."

The IRS has recently started to enforce this law, cracking down in Maryland and Nebraska to collect unpaid taxes against these charities, and they plan to expand their crackdown, and my colleagues ought to take care of this, to over 30 States that allow such charity fundraisers. That is why we must act now to make clear that this exemption applies to everyone the same as it now does in North Dakota.

Mr. Speaker, there has been some concern raised by my friends in the Nevada delegation, as I have said, over the original bill's revenue raising proposal. Originally, this bill proposed to raise the excise tax on wagering from .25 percent to 1 percent. That caused a problem; we understood that, and I have assured my colleagues that we will work with them on that effort. We have substituted in this amended bill a new revenue offset. We have raised the withholding rate from 20 percent to 28 percent, and it only applies to winnings in excess of $1,000 and if the odds are 300 to 1. This bill would increase that withholding to 28 percent.

□ 1230

Mr. Speaker, one ought to understand why this revenue source raises funds. It raises funds because it provides for the collection of taxes that are due and owing to the Federal Government but which are now not paid. That is what needs to be understood with respect to this revenue source. It is revenue which is due and owing to the Federal Government but which is not paid. That is to say this revenue source speaks to tax avoidance. We all know what happens when we have tax avoidance. They ship the cost of that to the rest of us.

So this has two very positive aspects: First, it raises revenue, and second, it gets to that tax avoidance.

Mr. MCGRATH. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I am pleased to yield to the gentleman from New York.

Mr. MCGRATH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I support the efforts of my colleague, the gentleman from Maryland. Charitable fundraising activities should not be subject to the unrelated business income tax. The tax can completely eliminate proceeds from events that finance essential public services such as fire protection, health care, and education. The individuals running the fundraising events are not profiting from them. As long as the charities are complying with other State and Federal law, their fundraising events should not be treated as an unrelated business activity.

Mr. HOYER. Mr. Speaker, I thank the gentleman from New York [Mr. MCGRATH] for his very worthwhile and cogent comments and also for the diligent work he has extended on behalf of this legislation. I am only sorry that next year when I have a similar problem, he will not be here to work with us. His retirement is going to result in a great loss to the Congress.

Mr. Speaker, I have letters from the National Multiple Sclerosis Society, the Jaycees, and the National Volunteer Fire Council, which, by the way, represents over 20,000 fire departments across this country, all writing in support of this legislation. I have also heard from the Knights of Columbus and from veterans groups, as I am sure many of my colleagues have who support this legislation.

Mr. Speaker, we all come to this well and speak on behalf of many worthwhile and critical community projects performed by charitable institutions in our districts. We have all engaged in ribbon-cuttings or ridden in parades with our local volunteer fire departments. Today, Mr. Speaker, we have an opportunity to do something for them to help them continue their work in our communities and thereby do something significant for our communities and our people. We can help them by treating them fairly and extending to all what a few have enjoyed for years.

Today we can pass H.R. 5660 and allow them to reinvest their hard-earned dollars back into our communities.

Mr. Speaker, I urge my colleagues to strongly support this legislation.

CRESCENT CITIES JAYCEES
FOUNDATION, INC.,
Oxon Hill, MD, July 30, 1992.

Re H.R. 5660.

Hon. STENY HOYER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE HOYER: On behalf of the Crescent Cities Jaycees Foundation, I respectfully request a favorable vote on H.R. 5660, which is currently scheduled for floor consideration on Monday.

Our organization is one of thousands of non-profits throughout the country that depend on revenue raised from charity games of chance. Because of the Tax Reform Act of 1986, organizations that conduct these games of chance are now subject to unrelated business income tax ("UBIT").

H.R. 5660, if passed, would once again restore the exemption from UBIT for qualified non-profit organizations.

By assuming a responsibility traditionally reserved to the federal, state, and local governments, non-profit organizations can once again be free to re-invest substantially more into our local communities and provide benefits through charitable programs for the elderly, needy, children and homeless.

Thank you for your attention to this matter.

Sincerely,

H. DAVID KROLL,
President.

NATIONAL MULTIPLE
SCLEROSIS SOCIETY,
New York, NY, July 24, 1992.

Hon. PETER HOAGLAND,
House of Representatives,
Washington, DC.

DEAR MR. HOAGLAND: On behalf of the 400,000 members of the National Multiple Sclerosis Society, I write to express our strong support for H.R. 5660 and to urge its passage.

In states where it is legal for nonprofits to conduct fundraising through games of chance, there is opportunity for our chapters to raise significant funds. The bill would enhance our chapters' ability to achieve our mission goals of research, services, education and advocacy on behalf of people who live with multiple sclerosis.

The best example we have is our chapter in Minnesota which raises funds through paper slots or pull tabs throughout the state. The chapter has plowed back large portions of the funds directly into the communities in which they were raised. For example, the chapter has used the revenue to put curb cuts in a small town in southern Minnesota.

Charitable gambling, like any other form of fundraising, provides nonprofit organizations with the ability to help those who cannot get help from anywhere else. America has a strong tradition of volunteerism. By eliminating the tax on charitable gaming fundraising, voluntary associations like the National Multiple Sclerosis Society can provide more service to those in need.

Please let us know if there is anything we can do to help pass H.R. 5660.

Sincerely,

MARTHA KEYS,
Vice President, Public Affairs
(Former Member of Congress).

NATIONAL VOLUNTEER FIRE COUNCIL,
Alexandria, VA, July 24, 1992.

Re H.R. 5560.

Hon. JERRY LEWIS,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN LEWIS: I am writing to ask your support for H.R. 5660, which is coming up Monday for floor consideration under suspension of the rules.

The National Volunteer Fire Council (28,000 fire departments and 1,500,000 firefighters) supports this Bill and strongly encourages you to vote favorable.

Many of our member organizations use charity gaming to purchase fire apparatus and equipment. In Prince George's County, Maryland alone, over $12 million in fire apparatus has been purchased since 1987. For many fire departments, charity gaming is their only source of funding.

Thank you very much for your attention to this matter and again I ask for your favorable vote on H.R. 5560.

Sincerely,

ROBERT MCKEON,
Chairman.

Mr. BILBRAY. Mr. Speaker, I yield 5 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in opposition to H.R. 5660 as amended. The bill exempts income derived from games of chance conducted by tax-exempt organizations from the unrelated business income tax. In order to offset the revenue losses due to the expansion of the unrelated business income tax [UBIT] exemption, the bill increases the withholding on gambling winnings. Under present law, proceeds from a wagering transaction are subject to withholding at a rate of 20 percent if such proceeds exceed $1,000 and if the amount of such proceeds is at least 300 times as large as the amount wagered. Under H.R. 5660 the rate of withholding on proceeds from a wagering transaction would be increased to 28 percent.

The bill defines "other games of chance" as any game that does not require a substantial amount of paid work, that is conducted by a tax-exempt organization, and that is conducted in accordance with State and local laws.

Mr. Speaker, if you were to look in the paper you would find ads for casino nights sponsored by local fire departments and other organizations. These casino nights offer roulette, poker, black jack, Caribbean stud poker among other games. Atlantic City rules are in force all night. These nights are very well organized and well run.

Mr. Speaker, first, the current law, 20 percent is a fair effective tax rate. A 28-percent rate will result in over-withholding with the taxpayers entitled to a refund at a later date. Second, this is not real revenue, it is just an accelerated collection—and in some cases an over-collection.

Mr. Speaker, I have no problem with charities and volunteer fire departments raising money. These are good causes. However, I have a problem with bringing an important tax bill such as this to the House floor under suspension of the rules.

This bill is ill advised and has been rushed to the floor without hearings. Members, such as myself, who have an interest in this bill were given no opportunity to present our views before the Ways and Means Committee. This is not the way the House of Representatives should operate.

I am pleased that no withholding tax is imposed on winnings from slot machines, bingo, or keno. However, Members should be aware that H.R. 5660 does hit State-conducted lotteries. In the case of State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20 percent is such proceeds exceed $5,000, regardless of the odds of the wager. H.R. 5660 will increase this rate to 28 percent. I doubt that the representatives of these State lotteries are even aware that this bill exists, let alone being considered on the floor today.

Mr. Speaker, I appreciate the intent of the bill, however, I have a problem with the process. This bill should be sent back to committee and hearings should be held and all interested parties should have an opportunity to express their views.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Speaker, I am, of course, very pleased that the House today is considering H.R. 5660, a bill brought to us with the cooperation of Chairman Rostenkowski and the senior majority member of his committee, the gentleman from Florida [Mr. GIBBONS], and through the efforts of the gentleman from Maryland [Mr. CARDIN], the gentleman from Maryland [Mr. HOYER], and the gentleman from New York [Mr. MCGRATH], whose skills and talents we will sorely miss in the next Congress.

Let me try to explain briefly what has happened in the recent history of Federal taxation of charitable gaming in States like Nebraska and the consequences this has had for a number of Nebraska charities.

In early 1990, due to a technical change contained in the 1986 Tax Reform Act, a number of Nebraska charities began receiving large tax bills, with back taxes, interest, and penalties going back to 1986, for conducting fundraising activities using so-called pickle cards—we call them pickle cards in Nebraska—which had previously been tax-exempt.

Pickle cards are small pull-tab gambling cards. When the tabs are pulled back, slot machine symbols are revealed. They are called pickle cards because they used to be stored in jars that contained pickles on counters. I do not know that they are called pickle cards anywhere else in the country, but they are in Nebraska.

What is important is that this has customarily been low-stakes gaming in Nebraska. These pickle cards cost 50 cents, maybe a dollar, and if you are lucky, you will win $5, maybe $10, and the proceeds go the charity that is selling the cards. In Nebraska they are used by Catholic parishes to raise funds for their schools. At spaghetti dinners and pancake breakfasts, representatives of the church will sell the cards to parishioners as a traditional recreational way of raising funds. This makes a difference in some cases whether Catholic schools can stay open or not in the State of Nebraska.

Other nonprofit organizations have used them extensively for many years. They are used by organizations like the Jaycees. The gentleman from Maryland [Mr. HOYER] in his comments earlier talked about the various things the Jaycees in Maryland have funded with the proceeds of this low-stakes charitable gambling. Similarly, in Nebraska the Jaycees through the years have funded a number of worthwhile projects.

□ 1240

Volunteer fire departments in Nebraska, the Fraternal Order of Police, private schools like Roncalli and Mercy in Omaha, American Legion posts and Veterans of Foreign Wars chapters, events like the Septemberfest Salute to Labor, and athletic clubs for children, like the Viking Ship and Little Tykes, just to name a few, have raised funds for years by selling these pickle cards, and found out to their surprise in the spring of 1990, nearly 4 years after the new tax had been levied, that they in fact have been subjected to the tax for several years.

As a result, we found out in the spring of 1990 that many of these charities owed large amounts of back taxes, penalties and interest. We have many charitable groups in eastern Nebraska that owe tens of thousands of dollars in back taxes, penalties and interest. Some are threatened with bankruptcy.

The over 200 charities in Nebraska, that have been affected by this have subject to confusing changes in the law and inconsistent enforcement by the Internal Revenue Service. A lot of volunteers who have given enormous amounts of time to these organizations are trying to figure out exactly what they owe and how to react to the notices from the Internal Revenues Service that these very large amounts are due.

It is important that we get this straightened out for the sake of these charities. This particular bill does that in part by repealing the tax prospectively for charities which engage in this low stakes fundraising gaming, and where that gaming is made legal by State law.

Let me just briefly summarize the recent changes in the law that have resulted in this unfavorable situation.

In 1978, Congress created the bingo exemption, which allows nonprofit charitable organizations which qualify for 501(c) tax exempt status, to conduct bingo games to raise funds.

In 1984, Congress decided that charities should be allowed to raise funds through games of chance other than bingo without being subject to taxation. The tax exemption was granted only if State law allowed nonprofit organizations, and only nonprofit organizations, to conduct such games, if such State law prohibited for-profit organizations from conducting such games. If state laws did not allow it, then the tax exemption did not apply.

Then in 1986 a technical correction was added to the 1986 Tax Reform Act. We are still somewhat bewildered today as to the origin of this technical correction. But what it did was repeal the tax exemption for nonprofit charities in all States except North Dakota.

In 1988 Congress responded to this problem by reducing back tax liability by changing the effective date after which such games could be taxed up to the date of the 1986 change in the law.

When we found out about it in the spring of 1990, Senator EXON and Senator KERREY from Nebraska introduced legislation in the Senate and I introduced legislation in the House designed to remedy the situation.

Congress has elsewhere recognized that the long-standing tradition of charitable gaming does not constitute an unrelated activity of the charity for taxable purposes. Many charities use games, like Friday night bingo, as a way to raise funds for community projects. Gaming encourages people to make contributions, and also introduces an element of fun and a feeling of participation. The games may be raffles, bingo games, pull-tab games such as pickle cards in Nebraska, or other variations depending on local custom and law. The bingo exemption, the expanded 1984 exemption, and the 1988 reduction of liability all indicate that Congress recognizes that these games raise funds for valuable activities in our communities.

IRS POLICY INCONSISTENT

It is not clear that the record of IRS enforcement has been consistent. It appears to vary form State to State. For instance, in Nebraska they tax the charities who sell pickle cards through State licensed operators whose commission is fixed by the State, allegedly because it constitutes a business. In Maryland, however, IRS appears to be mounting a far more extensive challenge, asserting that the games of chance of whatever kind, whether conducted by volunteers or not, whether all the proceeds go to charity or not, are unrelated to the tax exempt function, and therefore taxable.

I have asked the IRS to clarify its position on these issues. The Service is conducting a review of policy towards tax-exempt organizations, as well as reviewing these issues in particular. Fortunately, enforcement activities against Nebraska charities have been held pending the review.

This bill will resolve these doubts. This bill is consistent with the direction Congress has been moving in and obviates the North Dakota special exception.

DISCOURAGES PROFESSIONAL GAMBLING

We recognize and share the concerns of Members who do not want professional gamblers to come in and take advantage of charitable status, either by manipulating legitimate charities or establishing fraudulent charities. We have included a provision that would exclude from the tax exemption games in which a substantial part of the work is conducted by people whose principal occupation is running gambling operations.

The bill also does not supersede any State law. Games conducted in violation of State or local law are explicitly excluded form the tax exemption. We have tried to strike a balance between the legitimate and traditional activities that the community accepts and exclude anyone who would abuse this fundraising privilege.

H.R. 5660 will allow those thousands of community organizations across the country in those states which allow it to continue the tradition of charitable giving to their nonprofit organizations through low-stakes games of chance. I urge my colleagues to vote "yes."

Mr. Speaker, let me just say in conclusion that it really makes a great deal of sense for us to do that so that nonprofit organizations, including religious organizations that have traditionally raised funds in this fashion can continue those operations. It is a good bill and I would urge my colleagues to enact it.

Mr. BILBRAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is kind of hard to fight against this bill. The gentleman has talked about the Catholic Church, which I am a member of, the Knights of Columbus, which I am a member of, and the Jaycees, which I am a former member of. The only organization I am not a member of is a volunteer fire department, coming from an urban area. So I guess I am opposing three out of the four groups I belong to.

Mr. Speaker, this measure at first glance seems not a controversial piece of legislation. It proposes to exclude games of chance conducted by nonprofit organizations from the definition of unrelated trade or business. However, when one looks closely at this bill and how it is being paid for, it should never have been on the suspension calendar.

When the legislation was considered in the Committee on Ways and Means, no source of revenues were proposed to offset the cost, which is $100 million.

So where did they find the revenues? H.R. 5660 proposes to increase the withholding on certain gaming winnings from 20 to 28 percent. Under current law, proceeds from a wagering transaction are subject to withholding at a rate of 20 percent if such proceeds exceed $1000.

In the case of State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20 percent if such proceeds exceed $5,000. Under H.R. 5660, the withholding tax will rise to 28 percent. This provision will cover the State lotteries in 32 States and the District of Columbia. In fact, I am amazed that Members from those States that have state-conducted lotteries are not here really inquiring what this will do. Will this discourage people from buying lottery tickets, the proceeds of which are also used for educational purposes, used for public works projects in those States, and they are a very vital need and actually create a lot of good in those States that have these kinds of lotteries, and help with the deficits that so many of these States are having?

If people know that nearly one-third of that revenue is going to be taken out and withheld from them, I think a lot of people will be discouraged from buying those tickets. They also do very, very worthy charitable works and educational programs within those States.

The main beneficiaries of this bill are the numerous nonprofit organizations, such as volunteer fire departments that run Las Vegas Nights several times a week.

While I do not disagree with the efforts of the fire departments to raise funds to help the citizens of their communities, it should not be at the expense of the legal gaming industry, for several reasons.

One would think that these Las Vegas Nights are small time mom and pop events. This is hardly the case. Just last week in the Washington Post was an advertisement by a volunteer fire department in the State of the gentleman from Maryland [Mr. HOYER], advertising, "Casino Nights: Caribbean stud poker, $1,000 bonus; $1,000 royal high hand every two hours; roulette; poker; blackjack; free food."

Mr. Speaker, if you would ask the gentleman from Maryland [Mr. HOYER] what kind of liabilities these people have brought up, they are in the millions of dollars. These are not nights that the local Catholic charity is having bingo or something and raising $2,000, $3,000, or maybe even $5,000 to help their local Catholic school or to help some senior group. This is big business. These are big events. They are well-run, they are well-financed, and they make immense profits. Those are the people crying.

Mr. Speaker, this bill is not retroactive. The gentleman from Nebraska [Mr. HOAGLAND] said some of the churches are facing bankruptcy because of these tremendous liabilities. This does not remove, as I understand the bill, any of that liability. This does not take away the penalty that they had in the past, the interest that has accrued, and the taxes that were not paid. So this bill does not save those churches in those groups tens of thousands of dollars.

The Knights of Columbus that owe over $1 million in the district of the gentleman from Maryland [Mr. HOYER] are not going to be saved that way. They have to pay it. The volunteer fire department that owes nearly $2 million has to pay it. It is just removing all future liability. Those penalties and interest would not be there if these people had paid them timely.

Mr. Speaker, I sympathize that these people did not read the 1986 Tax Code. I can say I was not here and did not vote on the 1986 Tax Code. I was not part of that fiasco. Therefore, a lot of people have been hit with high taxes and interest and so forth because they did not read the code and did not know what was going on.

Mr. Speaker, second, it is very important that by adding more taxes on the legal gaming industry and doing these things, like I said, you get people that do not want to participate. Maybe some people feel that is great, that maybe they should not participate in the lotteries, maybe they should not participate in legalized gambling. But the fact is there are illegal operations going on all over this country that are not paying their fair share of taxes. We should be going out and encouraging the IRS and Justice Department to find these people and collect their taxes from them. I think we could raise a lot more than $100 million a year. We would raise hundreds of millions of dollars a year in additional money.

□ 1250

I urge that we look at this measure very closely, that we understand what it does. And then those Members out there that have States that have legalized lotteries, this is going to hurt them. It is going to cut back the take that they are receiving on those lotteries. Because people, if they look and they find out that they are going to have withheld from their taxes a good portion of that tax, of that winning, if they have a big winning, it is going to be very detrimental.

I urge that on this motion the Members here vote no when the voice vote comes in a few minutes.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. MONTGOMERY]. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5660, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CLARIFYING TAX TREATMENT OF INTERMODAL CONTAINERS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5674) to clarify the tax treatment of intermodal containers, to revise the tax treatment of small property and casualty insurance companies, and for other purposes.

The Clerk read as follows:

H.R. 5674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TAX TREATMENT OF CERTAIN CARGO CONTAINERS

SEC. 101. TREATMENT OF CERTAIN CARGO CONTAINERS.

(a) GENERAL RULE.—A qualified intermodal cargo container shall be treated as property described in section 48(a)(2)(B)(v) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

(b) QUALIFIED INTERMODAL CARGO CONTAINER.—

(1) GENERAL RULE.—For purposes of this section, the term "qualified intermodal cargo container" means any intermodal cargo container of a United States person which, after being placed in service, at all times during the taxable year either—

(A) is subject to a qualifying lease, or

(B) is being—

(i) held for lease,

(ii) moved for purposes of leasing or being available for lease, or

(iii) maintained or repaired for subsequent lease,

by the taxpayer, a lessee or agent of the taxpayer or any other person.

(2) DEFINITIONS.—For purposes of this subsection—

(A) QUALIFYING LEASE.—The term "qualifying lease" means—

(i) any lease to a container user that has one or more trade routes that contact the United States, or

(ii) any short-term lease to a container user.

(B) CONTAINER USER.—The term "container user" means—

(i) a person that is in the business of using intermodal cargo containers to ship or transport cargo for other persons, or

(ii) with respect to an intermodal cargo container, a person that uses the container to ship or transport its own cargo.

(C) U.S. TRADE ROUTES.—A container user shall be deemed to have one or more trade routes that contact the United States if at any time during the taxable year such person—

(i) owns, operates, or charters any vessel that receives or delivers any intermodal cargo container in the United States, or

(ii) uses any intermodal cargo container to ship cargo to or from the United States.

(D) SHORT-TERM LEASE.—The term "short-term lease" means—

(i) any lease the stated term of which is not more than 50 percent of the class life (within the meaning of section 168(i)(1) of the Internal Revenue Code of 1986) of the container, and

(ii) any lease under a lease agreement under which the lessee is not required to use or hold the container for a specified term.

(E) LEASE.—The term "lease" means lease or sublease.

SEC. 102. NO INFERENCE.

No inference shall be drawn from this title as to the application of section 48(a)(2)(B)(v) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990) or section 168(g)(4)(E) of the Internal Revenue Code of 1986 to containers that are not qualified intermodal cargo containers or to containers placed in service after December 31, 1989.

SEC. 103. REVOCATION OF PRIOR ELECTION.

(a) GENERAL RULE.—Any election made under Internal Revenue Service Revenue Procedure 90-10 prior to the date of enactment of this Act may be revoked without the consent of the Secretary of the Treasury or his delegate. An election revoked under this section shall be treated as never having been made.

(b) TIME AND MANNER OF REVOCATION.—Any revocation under subsection (a) shall be made within 180 days after the date of enactment of this Act by filing with the Secretary of the Treasury or his delegate—

(1) a statement describing the election being revoked and indicating that the election is revoked, and

(2) an amended return consistent with such revocation.

SEC. 104. EFFECTIVE DATE.

(a) GENERAL RULE.—Section 101 shall apply to all intermodal cargo containers placed in service before January 1, 1990.

(b) REVOCATION OF ELECTION.—Section 103 shall take effect on the date of the enactment of this Act.

TITLE II—OTHER PROVISIONS

SEC. 201. DEDUCTION FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 832(c) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(14) the small insurance company deduction allowed under subsection (h)."

(b) SMALL INSURANCE COMPANY DEDUCTION DEFINED.—Section 832 of such Code is amended by adding at the end thereof the following new subsections:

"(h) SMALL INSURANCE COMPANY DEDUCTION.—

"(1) IN GENERAL.—The small insurance company deduction allowed under this subsection for any taxable year is the applicable deduction percentage of so much of the tentative taxable income for such taxable year as does not exceed $3,000,000.

"(2) PHASEOUT BETWEEN $3,000,000 AND $15,000,000.—The amount of the small insurance company deduction determined under paragraph (1) for any taxable year shall be reduced (but not below zero) by the applicable phaseout percentage of so much of the tentative taxable income for such taxable year as exceeds $3,000,000.

"(3) PERCENTAGES.—For purposes of this subsection—

In the case of taxable years beginning in calendar year:	The applicable deduction percentage is:	The applicable phaseout percentage is:
1992	0	0
1993	0	0
1994	3	0.75
1995	7	1.75
1996	9	2.25
1997 and thereafter	15	3.75

"(4) SMALL INSURANCE COMPANY DEDUCTION NOT ALLOWABLE TO COMPANY WITH ASSETS OF $500,000,000 OR MORE.—

"(A) IN GENERAL.—The small insurance company deduction shall not be allowed for any taxable year to any insurance company which, at the close of such taxable year, has assets equal to or greater than $500,000,000.

"(B) ASSETS.—For purposes of this paragraph, the term 'assets' means all assets of the company.

"(C) VALUATION OF ASSETS.—For purposes of this paragraph, the amount attributable to—

"(i) real property and stock shall be the fair market value thereof, and

"(ii) any other asset shall be the adjusted basis of such asset for purposes of determining gain on sale or other disposition.

"(D) SPECIAL RULE FOR INTERESTS IN PARTNERSHIPS AND TRUSTS.—For purposes of this paragraph—

"(i) an interest in a partnership or trust shall not be treated as an asset of the company, but

"(ii) the company shall be treated as actually owning its proportionate share of the assets held by the partnership or trust (as the case may be).

"(i) TENTATIVE TAXABLE INCOME.—For purposes of subsection (h)—

"(1) IN GENERAL.—The term 'tentative taxable income' means taxable income determined without regard to the small insurance company deduction.

"(2) EXCLUSION OF ITEMS ATTRIBUTABLE TO NONINSURANCE BUSINESSES.—The amount of the tentative taxable income for any taxable year shall be determined without regard to all items attributable to noninsurance businesses.

"(3) NONINSURANCE BUSINESSES.—

"(A) IN GENERAL.—The term 'noninsurance business' means any activity which is not an insurance business.

"(B) CERTAIN ACTIVITIES TREATED AS INSURANCE BUSINESSES.—For purposes of subparagraph (A), any activity which is not an insurance business shall be treated as an insurance business if—

"(i) it is of a type traditionally carried on by insurance companies for investment purposes, but only if the carrying on of such activity (other than in the case of real estate) does not constitute the active conduct of a trade or business, or

"(ii) it involves the performance of administrative services in connection with plans providing property or casualty insurance benefits.

"(j) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(1) SMALL INSURANCE COMPANY DEDUCTION DETERMINED ON CONTROLLED GROUP BASIS.—For purposes of subsections (h) and (i)—

"(A) all insurance companies which are members of the same controlled group shall be treated as 1 insurance company, and

"(B) any small insurance company deduction determined with respect to such group shall be allocated among the insurance companies which are members of such group in proportion to their respective tentative taxable incomes.

"(2) NONINSURANCE MEMBERS INCLUDED FOR ASSET TEST.—For purposes of subsection (h)(4), all members of the same controlled group (whether or not insurance companies) shall be treated as 1 company.

"(3) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)).

"(4) ADJUSTMENTS TO PREVENT EXCESS DETRIMENT OR BENEFIT.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this subsection to prevent any excess detriment or benefit (whether from year-to-year or otherwise) arising from the application of this subsection."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 202. PENALTY FREE WITHDRAWALS FROM ANNUITIES FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(q) of the Internal Revenue Code of 1986 (relating to 10-percent penalty for premature distributions from annuity contracts) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by inserting after subparagraph (J) the following new subparagraph:

"(K) which is a qualified higher education expense distribution (as defined in paragraph (4))."

(b) QUALIFIED HIGHER EDUCATION EXPENSE DISTRIBUTION.—Subsection (q) of section 72 of such Code is amended by adding at the end thereof the following new paragraph:

"(4) QUALIFIED HIGHER EDUCATION EXPENSE DISTRIBUTION.—

"(A) IN GENERAL.—For purposes of paragraph (2)(K), the term 'qualified higher education expense distribution' means any distribution from a designated higher education expense annuity to the taxpayer if such distribution is used within 90 days of the date of the distribution to pay qualified tuition and related expenses (as defined in section 117(b)) required for the enrollment or attendance of such taxpayer, the taxpayer's spouse, or a child (as defined in section 151(c)(3)) or grandchild of such taxpayer at an eligible educational institution (as defined in section 135(c)(3)); except that such expenses shall be reduced by any amount excluded from gross income under section 135 by reason of such expenses.

"(B) DESIGNATED HIGHER EDUCATION EXPENSE ANNUITY.—

"(i) IN GENERAL.—The term 'designated higher education expense annuity' means any annuity purchased after December 31, 1992, and designated for purposes of this paragraph by the purchaser at the time of purchase as an annuity to which this paragraph applies.

"(ii) CERTAIN ANNUITIES RECEIVED IN AN EXCHANGE NOT ELIGIBLE.—Such term shall not include any annuity acquired in an exchange to which section 1035 applies unless the annuity given up by the taxpayer in the exchange was a designated higher education expense annuity."

(c) GIFT TAX TREATMENT.—Subsection (e) of section 2503 of such Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF PREMIUMS PAID UNDER DESIGNATED HIGHER EDUCATION EXPENSE ANNUITIES.—

"(A) IN GENERAL.—Any premium paid for a designated higher education expense annuity shall not be treated as transfer of property by gift for purposes of this chapter.

"(B) RECAPTURE RULES.—If any premium paid by any person for a designated higher education expense annuity is not treated as a taxable gift solely by reason of subparagraph (A)—

"(i) LIFETIME DISTRIBUTIONS NOT USED FOR EDUCATIONAL PURPOSES.—Any disqualified lifetime distribution from the portion of any annuity attributable to such premium shall be treated as a transfer by gift by such person.

"(ii) INCLUSION IN GROSS ESTATE.—The gross estate of such person shall include the value (as of the date of the decedent's death or applicable valuation date set forth in section 2032) of the portion of any annuity attributable to such premium.

"(C) DISQUALIFIED LIFETIME DISTRIBUTION.—For purposes of subparagraph (B), the term 'disqualified lifetime distribution' means any distribution which is not a qualified higher education distribution and which is made during the life of the person referred to in subparagraph (B) to or for the benefit of another person.

"(D) OTHER DEFINITIONS.—For purposes of this paragraph, the terms 'designated higher education expense annuity' and 'qualified higher education expense distribution' have the respective meanings given such terms by section 72(q)(4)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

SEC. 203. REPEAL OF STOCK FOR DEBT EXCEPTION IN DETERMINING INCOME FROM DISCHARGE OF INDEBTEDNESS.

(a) IN GENERAL.—Subsection (e) of section 108 of the Internal Revenue Code of 1986 is amended—

(1) by striking paragraph (10) and redesignating paragraph (11) as paragraph (10), and

(2) by amending paragraph (8) to read as follows:

"(8) INDEBTEDNESS SATISFIED BY CORPORATION'S STOCK.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor corporation transfers stock to a creditor in satisfaction of its indebtedness, such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock transferred after July 9, 1992, in satisfaction of any indebtedness.

(2) EXCEPTION.—The amendments made by this section shall not apply to stock transferred in satisfaction of any indebtedness if such transfer is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before July 9, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. MCGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, this is a bill sponsored by the gentleman from Michigan [Mr. VANDER JAGT].

Mr. Speaker, I reserve the balance of my time.

Mr. MCGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5674 was sponsored by a distinguished member of the Ways and Means Committee, Mr. VANDER JAGT, to accomplish a number of worthwhile tax changes.

First, it would clarify the proper tax treatment of intermodal containers used in the transport of goods to and from the United States. This clarification is necessary to undo the harm to numerous taxpayers caused by a 1990 Internal Revenue Service ruling on the investment tax credit. That ruling reversed practices relied on by taxpayers since 1962 when the investment tax credit became available.

Second, the bill would promote education savings by eliminating the penalty tax on premature withdrawals from certain annuities which are specially designated as education savings annuities.

Third, the bill contains a provision which would provide a special deduction for small property and casualty insurance companies to give those companies treatment similar to that accorded to small life insurance companies.

This deduction would encourage the growth of surplus of small companies, thereby increasing the competitive balance in the property and casualty industry, and could help to prevent another coverage crisis such as we suffered in the mid-1980's.

To raise offsetting revenue for these changes, the bill would repeal the rule that gives special treatment to exchanges of stock for debt in bankrupt and insolvent corporations.

Mr. MATSUI. Mr. Speaker, I rise today in support of H.R. 5674, a bill which contains two measures of which I was an original cosponsor; a clarification of the proper tax treatment of intermodal cargo containers and tax relief for small property and casualty companies.

Title I of H.R. 5674 contains legislation that I have been working on for several years which addresses the investment tax credit and accelerated depreciation provisions of the Internal Revenue Code as applied to intermodal containers. In general, the credit and accelerated depreciation deductions would be allowed under this proposal for containers placed in service by U.S. lessor prior to January 1, 1991 and which were or are leased to container users such as shipping companies that have trade routes that touch the United States.

This proposal is intended to resolve a controversy which has affected the entire leasing community since the mid-1980's when the IRS began to change its interpretation of the provision applying the credit and depreciation to containers. Prior to the mid-1980's, domestic container lessors claimed the credit and deductions on substantially all of their containers. This practice was consistently confirmed in tax audits.

After 20 years of such practice, the IRS suddenly began to disallow the credit and deductions because the lessors could not prove specifically which containers entered or left a U.S. port each year—a tall order when such proof had never before been required. This approach was formalized in a revenue ruling in January 1990, and that ruling now requires the container owner to trace each container's activity to document that it is used substantially in transportation to and from the United States.

The most egregious part about this revenue ruling is that it is being retroactively applied, in some cases back as far as 1974. Such retroactive application is not only unfair, but practicably impossible to comply with. The alternative safe harbor offered to electing companies in the revenue ruling regards them with only slightly more than half of the credits claimed by container lessors in prior years.

The bottom line here is that a whole industry now faces the unpalatable options of entering into protracted and costly litigation, or accepting the half-a-loaf offered by the Service. Neither alternative is acceptable.

Title I provides a standard which would confirm the long-standing practices of the U.S. container leasing industry by overruling the Service's 1990 revenue ruling, and I strongly support its enactment.

Equally important, Mr. Speaker, is title II of H.R. 5674 which provides shall property and casualty companies with a deduction which is currently only available to small life insurance companies. The deduction was granted to small life insurance companies in 1984 on the theory that small companies in early stages of development need help getting through the startup phase. The theory is particularly applicable in the insurance industry where the well-established companies are so large.

In the property and casualty industry, as in many other industries, competition is enhanced by the existence of smaller companies. The small property and casualty companies often provide much needed coverage in times of crisis when coverage is otherwise unavailable, as was the case in the mid-1980's when there was a coverage shortage period.

Small companies also provide an important check on the industry. They provide the much needed competitive balance which helps to keep premium costs from escalating unnecessarily.

The enactment of the Tax Reform Act of 1986 included provisions which dramatically increased the tax burden of small property and casualty companies. Those changes have brought Treasury double the revenues estimated, but much of that tax burden has impacted the ability of small companies to be formed, grow, and compete with the larger companies. The double whammy is that they cannot even compete against small general insurance companies because the latter have this deduction that small property and casualty companies do not have.

Enactment of title II is important because it will level the playing field between all small insurance companies, and it will allow small companies to form and grow and thereby provide a check on the premium costs and activities of the larger companies.

Mr. Speaker, I urge my colleagues to vote in favor of H.R. 5674.

Mr. MCGRATH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5674.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RESTORING PRIOR LAW TREATMENT OF CORPORATE REORGANIZATIONS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5655) to amend the Internal Revenue Code of 1986 to restore the prior law treatment of corporate reorganizations through the exchange of debt instruments, and for other purposes.

The Clerk read as follows:

H.R. 5655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTORATION OF PRIOR LAW TREATMENT OF CORPORATE REORGANIZATIONS THROUGH EXCHANGE OF DEBT INSTRUMENTS.

(a) IN GENERAL.—Subsection (a) of section 1275 of the Internal Revenue Code of 1986 (relating to original issue discount special rules) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) Special rule for determination of issue price in case of exchange of debt instruments in reorganizations.—

"(A) In General.—If—

"(i) any debt instrument is issued pursuant to a plan of reorganization (within the meaning of section 368(a)(1)) for another debt instrument (hereinafter in this paragraph referred to as the 'old debt instrument'), and

"(ii) the amount which (but for this paragraph) would be the issue price of the debt instrument so issued is less than the adjusted issue price of the old debt instrument, then the issue price of the debt instrument so issued shall be treated as equal to the lesser of the stated principal amount of the debt instrument so issued or the adjusted issue price of the old debt instrument.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT INSTRUMENT.—The term 'debt instrument' includes an investment unit.

"(ii) ADJUSTED ISSUE PRICE.—

"(I) IN GENERAL.—The adjusted issue price of the old debt instrument is its issue price, increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(7) or (b)(4) of section 1272 (or corresponding provisions of prior law)).

"(II) SPECIAL RULE FOR APPLYING SECTION 163(e).—For purposes of section 163(e), the adjusted issue price of the old debt instrument is its issue price, increased by any original issue discount previously allowed as a deduction."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 108(e)(11) of such Code (relating to issue price) is amended by striking "1273 and 1274" and inserting "1273, 1274, and 1275".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act, in satisfaction of any indebtedness.

SEC. 2. INCREASE IN MILEAGE REQUIREMENT FOR DEDUCTION FOR MOVING EXPENSES.

(a) GENERAL RULE.—Paragraph (1) of section 217(c) of the Internal Revenue Code of 1986 (relating to condition, for allowance) is amended by striking "35 miles" each place it appears and inserting "60 miles".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. MCGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. MOODY], the author of this legislation.

Mr. MOODY. Mr. Speaker, H.R. 5655, introduced by Mr. MCGRATH and myself, restores the pre-OBRA 1990 tax treatment of exchanges of corporate debt instruments. An exchange in this context merely means renegotiating the terms of an existing outstanding debt—either by switching the interest rate, the length, or any other terms of the instrument.

Only two years ago OBRA 1990 levied a tax on the phantom income—called cancellation of indebtedness income, or COD—created by such an exchange unless the exchange takes place in bankruptcy. That is the fatal flow of this OBRA 1990 provision. It encourages bankruptcy.

The goal of H.R. 5655 is to facilitate debt workouts without forcing debtor firms into bankruptcy. Bankruptcy hurts creditors, debtors, consumers, investors, and, most importantly, the firms' workers.

Bankruptcy also increases transaction costs, such as lawyer's fees, financing costs, etc., and results in tremendous uncertainties to all concerned. The social costs of bankruptcy—in terms of laid off workers, broken lives, unemployment, etc.—are even greater.

Healthy companies are able to refinance their debts to take advantage of lower interest rates without any tax consequences by simply going to the marketplace for new loans. Ironically, it is only troubled companies who are unable to take advantage of lower rates by renegotiating existing debts without triggering significant tax payments.

The New York Bar Association and the American Bar Association tax section both support the changes advocated by the Moody-McGrath bill.

Finally, a recent appeals court decision makes it clear that the face value of exchanged debt is what is important in determining the debtor's liability, not the face interest rate. Court law now holds that the phantom income concept is not good bankruptcy law, and supports the bill's premiss that there is no legal reduction of indebtedness. Therefore, no tax on cancellation of indebtedness should apply.

In sum, this legislation allows businesses that are in trouble to work their way out without going into bankruptcy and destroying jobs and lives.

Mr. GIBBONS. Mr. Speaker, I reserve the balance of my time.

Mr. MCGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill needs no further explanation. It was not deemed to be controversial when it was considered by the Ways and Means Committee, and we have heard no objections since then.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. GIBBON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5655.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SOCIAL SECURITY AND SUMMER CAMP COUNSELORS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5656) to amend the Internal Revenue Code of 1986 to exempt services performed by full-time students for seasonal children's camps from social security taxes, and for other purposes.

The Clerk read as follows:

H.R. 5656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SERVICES PERFORMED BY FULL-TIME STUDENTS FOR SEASONAL CHILDREN'S CAMPS EXEMPT FROM SOCIAL SECURITY TAXES.

(a) IN GENERAL.—Subsection (b) of section 3121 of the Internal Revenue Code of 1986 (defining employment) is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by adding at the end thereof the following new paragraph:

"(21) service performed by a full time student (as defined in section 3306(q)) in the employ of an organized children's camp—

"(A) is such camp—

"(i) did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year, or

"(ii) had average gross receipts for any 6 months in the proceeding calendar year which were not more than 33⅓ percent of its average gross receipts for the other 6 months in the preceding calendar year, and

"(B) if such full time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year."

(b) CONFORMING AMENDMENT.—Subsection (a) of section 210 of the Social Security Act is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by adding at the end thereof the following new paragraph:

"(21) Service performed by a full time student (as defined in section 3306(q) of the Internal Revenue Code of 1986) in the employ of an organized children's camp—

"(A) if such camp—

"(i) did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year, or

"(ii) had average gross receipts for any 6 months in the preceding calendar year which were not more than 33⅓ percent of its average gross receipts for the other 6 months in the preceding calendar year, and

"(B) if such full time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid on or after October 1, 1993.

SEC. 2. TREATMENT OF INDIAN TRIBAL GOVERNMENTS UNDER SECTION 403(b).

In the case of any contract purchased in a plan year beginning before January 1, 1993, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. MCGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. MOODY], the author of this bill.

Mr. MOODY. Mr. Speaker, this legislation cosponsored by Representatives GUY VANDER JAGT and BARBARA KENNELLY, has two parts:

First, it extends FICA tax exemptions to full-time students employed in children's summer camps and their employers; and

Second, it ensures that the employees of Indian tribes that have set up certain deferred compensation pension plans have the same protections as 501(c)(3) tax-exempt organizations.

I. FICA EXEMPTION FOR CAMP COUNSELORS

The first part of the bill ensures that full-time students that work as summer camp counselors, and their employers, are not subject to FICA taxes.

This is consistent with a series of other laws that recognize the special status of camp counselors. They are exempt from minimum wage laws and the unemployment tax system, for example.

Moreover, full-time students that are employed by their colleges and universities are already exempt from FICA taxes. As a result, full-time student employees of the type this bill would cover who work in school-sponsored camps are already exempt. Most 4-H camps, for example, fit into this category.

It is not fair to exempt from FICA tax one group of people who are doing exactly the same work while taxing the others merely by virtue of the sponsorship of the camps.

Over 65 percent of the camps this bill would cover are run by nonprofits such as Girl Scouts, Christian Camping International/USA, the Easter Seal Society, Camp Fire Boys and Girls, the YMCA, and numerous other similar organizations. They will be able to use the savings of this bill to attract better staff and provide better programming for the youth of America—often disadvantaged and minority youth who need this experience the most.

II. INDIANS' PENSIONS

The second provision of this bill concerns several Indian tribes around the Nation that have set up deferred compensation pension plans for their employees under a provision of the Tax Code designed to help nonprofits set up these plans.

Unfortunately, the U.S. Tax Code specifies that such deferred compensation pension plans are eligible for statutorily exempt organizations, that is, organizations exempt by virtue of 501(c)(3) provisions. But Indian tribes are tax exempt by virtue of Federal treaties and case law, not statute by virtue of section 501(c)(3).

This bill would extend this same tax-exempt status to these existing tribal plans. They have acted in good faith and in accord with our policy to encourage pension savings. They should not be subject to tax.

□ 1300

Mr. Speaker, I reserve the balance of my time.

Mr. MCGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill needs no further explanation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5656.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TREATMENT OF CERTAIN GAINS AND LOSSES OF FARMER COOPERATIVES

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5650) to amend the Internal Revenue Code of 1986 to allow nonexempt farmer cooperatives to elect patronage-sourced treatment for certain gains and losses, and for other purposes.

The Clerk read as follows:

H.R. 5650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN GAINS AND LOSSES OF FARMER COOPERATIVES.

(a) GENERAL RULE.—Section 1388 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(k) TREATMENT OF GAINS OR LOSSES ON THE DISPOSITION OF CERTAIN ASSETS.—For purposes of this title, in the case of any organization to which part I of this subchapter applies—

"(1) IN GENERAL.—An organization may elect to treat gain or loss from the sale or other disposition of any asset (including stock or any other ownership or financial interest in another entity) as ordinary income or loss and to include such gain or loss in net earnings of the organization from business done with or for patrons, if such asset was used by the organization to facilitate the conduct of business done with or for patrons.

"(2) ALLOCATION.—An election under paragraph (1) shall not apply to gain or loss on the sale or other disposition of any asset to the extent that such asset was used for purposes other than to facilitate the conduct of business done with or for patrons. For purposes of this paragraph, the extent of such use may be determined on the basis of any reasonable method for making allocations of income or expense between patronage and nonpatronage operations.

"(3) PERIOD OF ELECTION.—An election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the organization. Any such revocation shall be effective for taxable years beginning after the date on which notice of the revocation is filed with the Secretary.

"(4) ELECTION AFTER REVOCATION.—If an organization has made an election under paragraph (1) and such election has been revoked under paragraph (3), such organization shall not be eligible to make an election under paragraph (1) for any taxable year before its 3rd taxable year which begins after the 1st taxable year for which such revocation is effective, unless the Secretary consents to such election.

"(5) NO INFERENCE.—Nothing in this subsection shall be construed to infer that a change in the law is intended for organizations not having in effect an election under paragraph (1). Any gain or loss from the sale or other disposition of any asset by such organization shall be treated as if this subsection had not been enacted."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to dispositions after the date of the enactment of this Act.

SEC. 2. TREATMENT OF CERTAIN HIGH YIELD DISCOUNT OBLIGATIONS.

(a) GENERAL RULE.—Paragraphs (1)(A) and (2)(A) of section 163(i) of the Internal Revenue Code of 1986 (relating to applicable high yield discount obligations) are each amended by striking "5 years" and inserting "4 years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to instruments issued after the date of the enactment of this Act.

SEC. 3. TREATMENT OF INTEREST ON RESERVES OF LIMITED EQUITY HOUSING COOPERATIVES.

(a) GENERAL RULE.—Section 277 of the Internal Revenue Code of 1986 (relating to deductions incurred by certain membership organizations in transactions with members) is amended by adding at the end thereof the following new subsection:

"(c) TREATMENT OF INTEREST ON RESERVES OF LIMITED EQUITY HOUSING CORPORATIONS.—

"(1) IN GENERAL.—For purposes of subsection (a), any interest received by a limited equity housing corporation on reasonable reserves established in connection with such corporation (including reserves required by a government agency or lender) shall be treated as income derived by such corporation from transactions with members.

"(2) LIMITED EQUITY HOUSING CORPORATION.—For purposes of paragraph (1), the term 'limited equity housing corporation' means any cooperative housing corporation (as defined in section 216(b)(1)) with respect to which the requirements of section 143(k)(9)(D)(i) are met."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. MCGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, this is a bill sponsored by the gentleman from North Dakota [Mr. DORGAN], so I yield myself such time as I may consume and I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, I think Chairman GIBBONS has almost explained it. It is as simple as it sounds. We have some confusion in the treatment of patronage source income for tax-exempt cooperatives, farmer cooperatives, and this bill adopts the same test that the courts have applied consistently to determine whether an item of income is so-called patronage source income.

The second portion of this legislation deals with housing co-ops, and it clarifies the rules governing the treatment of transactions involving interest earned by housing cooperatives on its reserves. The small amount of money that is required to pay for this is raised by changing a threshold on the issuers of junk bonds, traditionally called payment-in-kind bonds, in which taxpayers have deducted interest that they had not really paid because they had simply issued more bonds.

We had a 5-year threshold on that. This moves it to 4 years, which I think is good tax policy, and also, coincidentally, raises a small amount of money which is sufficient to pay for both of these provisions that would clarify the tax treatment for the farmers' cooperatives and also for the housing cooperatives.

Mr. MCGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill was not controversial in committee, and we have heard no objection since then. H.R. 5650 would allow farmer co-ops and low- and moderate-income housing co-ops to elect patronage dividend treatment in certain instances. Currently, some technical provisions in the Tax Code can create problems for these co-ops, and this bill would help alleviate some of those problems.

Mr. GRANDY. Mr. Speaker, I rise today in strong support of H.R. 5650 and urge its adoption by the House. H.R. 5650, introduced by Representative DORGAN and myself, has broad bipartisan support as evidenced by the 98 cosponsors on H.R. 2361, the basis for H.R. 5650, and the 54 cosponsors of the Senate version of this legislation.

Fundamentally, H.R. 5650 allows current tax practices to continue. Previous tax practice has allowed any of the over 5,100 farmer-owned cooperatives that sell an asset to treat the income from that sale as patronage-sourced—coming from an asset used for members—if the asset passes a test that it was "directly related to or facilitated business for or on behalf of its members." This test has been established and affirmed several times by the courts. If the asset was from mixed use—member and nonmember—then the income can be proportionately allocated. If the asset was purely nonmember related, then the income must be nonpatronage sourced.

Despite the consistent application of the patronage-source test by the courts and the test's establishment in Internal Revenue Service [IRS] regulations, the IRS continues to challenge the ability of farmer coops to make the election thereby causing cooperatives significant legal costs and adversely affecting their ability to make business decisions. H.R. 5650 prospectively seeks to remedy this situation by clearly establishing in law that cooperatives may elect to treat income as patronage-sourced if the sold asset meets the court-established test. Without the legislation, farmer coops will continue to be plagued by unnecessary, costly, and time-consuming litigation on the issue which wastes business resources as well as IRS resources.

Since this issue has been repeatedly and clearly ruled on by the courts, I would prefer that we were adopting H.R. 2361 today which provides for retroactive treatment for open tax years, but in the spirit of comity Representative DORGAN and I have amended that legislation to be prospective only. Finally, I want to emphasize that under H.R. 5650 no one is avoiding taxation, there is no room for manipulation, and it fundamentally and simply allows current tax practice, which is sensible and fair, to continue.

Mr. Speaker, I urge my colleagues to adopt H.R. 5650 and I look forward to its adoption into law.

Mr. RANGEL. Mr. Speaker, I rise in support of H.R. 5650, a bill affecting the taxation of cooperatives. This is a bill that modifies the rules for farm co-ops and limited equity housing co-ops. I have joined my colleague from North Dakota in cosponsoring this legislation because we both support one of the common threads that runs between rural and urban areas; the need for people to come together in cooperative arrangements to meet their needs. In the rural areas it is the farm co-op. In urban areas it is the housing co-op.

Currently co-operative housing corporations are in the midst of a vexatious litigation with the IRS over whether Internal Revenue Code section 277 applies to housing co-ops. The issue is whether the co-ops must consider their interest income from the reserves they keep patronage or nonpatronage income. The bottom lines is that if it is considered nonpatronage income that is, not from the members, the interest will be taxable. If it is patronage income the income will be offset by patronage deduction—depreciation on the building—and there will be no net income. If it is not patronage income as the IRS claims, then there will probably be no nonpatronage offsets and the co-op will have net income.

Many limited equity co-ops in New York City, where the co-operators are low- and moderate-income families, are required by the terms of their insured and HUD subsidized mortgages to keep a reserve. They earn interest on these reserves. The IRS has claimed that the co-ops owe taxes on this income. In many cases the IRS has made claims as high as $1,000 per family.

In my district alone there are 9,000 families living in limited equity co-ops.

To keep the revenue loss down the provisions of this bill do not apply to all housing co-ops. It will not apply to market rate co-ops on Park Avenue. It only applies to limited equity co-ops as defined in the Internal Revenue Code. These co-ops are generally only available to low- and moderate-income families and they usually do not allow the co-operator to make a profit on the sale of the co-operative stock.

This provision is designed to help keep the rents of these moderate- and low-income families down and allow them to own their own homes. The interest on the reserves is used to reduce the maintenance charges to the co-operators.

This bill is prospective because the retrospective cost is too great. The prospective cost is $12 million over 5 years. The bill is intended not to have any inference on the current litigation between the co-ops and the IRS. I want to add that an amendment providing the same relief as this bill that applied to all housing co-operatives, not just limited equity co-ops was included in H.R. 4210 as passed by Congress but vetoed by the President.

The same comprehensive amendment has been included in H.R. 11 as just reported by the Senate Finance Committee. I urge the passage of this bill.

Mr. MCGRATH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5650.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TAX TREATMENT OF CERTAIN NONPROFIT ORGANIZATIONS PROVIDING HEALTH BENEFITS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5641) to amend the Internal Revenue Code of 1986 with respect to the treatment of certain nonprofit organizations providing health benefits, and for other purposes.

The Clerk read as follows:

H.R. 5641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN NONPROFIT ORGANIZATIONS PROVIDING HEALTH BENEFITS.

(a) GENERAL RULE.—Paragraph (2) of section 833(c) of the Internal Revenue Code (defining existing Blue Cross or Blue Shield organization) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, an organization shall be treated as a Blue Cross or Blue Shield organization if such organization is not a health maintenance organization and is organized under and governed by State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 2. TREATMENT OF CERTAIN SECURITIES TRANSFERRED TO ESOP FROM TERMINATED PENSION PLANS.

Subsection (b) of section 7302 of the Revenue Reconciliation Act of 1989 is amended by adding at the end thereof the following new paragraph:

"(3) SECURITIES ACQUIRED PURSUANT TO SECTION 4980(c)(3).—The amendment made by this section shall not apply to employer securities acquired before October 1, 1989, pursuant to section 4980(c)(3) of the Internal Revenue Code of 1986 with assets transferred from a defined benefit pension plan the termination of which was the subject of a determination letter issued by the Internal Revenue Service which was in effect on August 4, 1989, and at all times thereafter before such securities were acquired."

SEC. 3. CLASSIFICATION OF CERTAIN INTEREST AS STOCK OR INDEBTEDNESS.

(a) GENERAL RULE.—Section 385 of the Internal Revenue Code of 1986 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by adding at the end thereof the following new subsection:

"(c) EFFECT OF CLASSIFICATION BY ISSUER.—

"(1) IN GENERAL.—The characterization (as of the time of issuance) by the issuer as to whether an interest in a corporation is stock or indebtedness shall be binding on such issuer and on all holders of such interest (but shall not be binding on the Secretary).

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—Paragraph (1) shall not apply to any holder of an interest if such holder on his return for the first taxable year during which he held such interest discloses that he is treating such interest in a manner inconsistent with the characterization referred to in paragraph (1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to instruments issued after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. MCGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, this is a bill sponsored by the gentleman from New York [Mr. MCGRATH]. Therefore, I will defer to him to speak to this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is designed to clarify two provisions of the Tax Code and to prevent a recurring abuse.

The first section makes clear that certain not-for-profit health insurance organizations are eligible to receive a tax deduction granted under section 833 of the Internal Revenue Code. Some insurers were inadvertently omitted from this provision, which we enacted in 1986, when we took away their tax exempt status.

The second section of my bill cures an inequity caused by the 1989 changes in pension law and the slow Internal Revenue Service approval of filings required by the Tax Code. While waiting for IRS determination letters on changes in their retirement plans some companies were disadvantaged by a 1989 change we made in the law. The change penalized companies in the midst of transactions, which were legal and would have been completed but for lengthy IRS reviews.

The IRS ultimately approved the transactions, but the law was changed while the taxpayers were waiting. In one case, IRS action took over 9 months.

The result has been a serious burden on retirement plans of thousands of individuals.

The third section of my bill is intended to finance this bill and several others.

It will help prevent an illegal tax avoidance scheme known among practitioners as the debt-equity whipsaw. Issuers of stock or bonds and holders of those interests classify their interests differently to maximize tax advantages. Under my bill, issuers would be required to define the interest they are selling and holders would be bound by that designation for tax purposes.

Mr. RANGEL. Mr. Speaker, I rise in support of H.R. 5641 a bill introduced by Mr. MCGRATH.

This amendment is designed to allow GHI the same tax status as the Blue Cross and Blue Shield organizations.

The Tax Reform Act ended the tax exemption of Blue Cross and Blue Shield organizations. In its place it allowed the Blue Cross and Blue Shield organizations partial tax relief. They would have to pay about a 21-percent rate instead of a 34-percent rate on income equal to 3 months reserve and 34 percent on amounts in excess of that amount.

The problem is that the repeal of the tax exemption covered any tax exempt organization operating like the Blues, but the partial tax exemption specifically named the Blue Cross and Blue Shield organizations. The result is then GHI unintentionally lost its tax exemption, but received none of the new substitute tax exemptions.

GHI operates as a nonprofit just like a Blue Cross and Blue Shield organization. It is organized and regulated under New York State law exactly as the Blue Cross and Blue Shield organizations in the State are organized and regulated.

GHI has over 2.2 million insureds many of whom work for New York City and other governments. Many of the insureds are covered as a result of union-negotiated contracts.

GHI is making an extensive effort to provide community rating and open enrollment as is now required in New York.

This amendment should cost no more than about $1 million per year.

Mr. MCGRATH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5641.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1310

TREATMENT OF CERTAIN PORT AUTHORITY BONDS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5659) to permit the simultaneous reduction of interest rates on certain port authority bonds.

The Clerk read as follows:

H.R. 5659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN PORT AUTHORITY BONDS.

(a) IN GENERAL.—In the case of bonds described in subsection (b)—

(1) the simultaneous reduction of interest rates on such bonds shall not affect the tax-exempt status of the interest on such bonds, and

(2) such bonds shall not be treated as arbitrage bonds under section 148 of the Internal Revenue Code of 1986 by reason of the failure to reduce interest rates on loans made with the proceeds of such bonds before the date of such simultaneous reduction.

(b) BONDS DESCRIBED.—The bonds described in this subsection are bonds issued—

(1) by or on behalf of a port authority created on August 17, 1932,

(2) pursuant to a resolution adopted on February 14, 1974, that established a common bond security fund program, and

(3) after September 3, 1980, and before May 30, 1991.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from New York [Mr. MCGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO], the sponsor of this bill.

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today in support of my legislation, H.R. 5659, that will assist the St. Paul Port Authority. My thanks to Chairman ROSTENKOWSKI and the members of the Ways and Means Committee for permitting this legislation to be considered today in the House. Special thanks are due to the gentleman from Ohio [Mr. PEASE], my friend and colleague serving on the Ways and Means Committee, for placing this matter at my request before the committee and carrying forward my concerns for the needs of St. Paul, MN, in an effective and credible manner.

This special legislation addresses a unique and urgent matter which is essential to the viability of the economy of St. Paul. I know of no opposition to this bill. This is a noncontroversial measure.

The St. Paul Port Authority's common revenue bond fund program consists of approximately 168 separate bond issues totaling over $332 million in outstanding bonds. These bonds have been issued over a period of 18 years, and have provided financing to industrial, residential, and commercial projects in the City of St. Paul and its immediately surrounding areas. The program has been the main industrial engine of the city of St. Paul, and has been responsible for creating and preserving over 38,000 industrial jobs over the past two decades.

Due to a number of factors, including a deterioration in the general economic conditions and the problem plaguing commercial properties generally, the reserves supporting these bonds, are at risk of being depleted in the year 2000. Unless this program is restructured, bonds maturing after that date would then be paid solely from project cash flow which without this change may not be sufficient to pay the principal and interest in the outyears.

The purpose of the measure being considered today, H.R. 5659, would eliminate technical restrictions that currently impede the St. Paul Port Authority's plan to restructure the common revenue bond program to avoid this potential default. The bill also allows the port authority to use the anticipated interest rate differential from reissuance and place such savings into the St. Paul Port Authority bond reserved fund to safeguard future payments to bond holders. The bill applies solely to St. Paul. We know of no other municipal bond issuer in a similar situation.

I would like to insert for the RECORD, a letter from the mayor of St. Paul and from the president of the St. Paul Port Authority regarding the necessity of this legislation.

Mr. Speaker, I urge my colleagues to support this bill. I thank the gentleman from Florida [Mr. GIBBONS] for the time and would be happy to yield for any questions.

The letter referred to follows:

CITY OF SAINT PAUL,
Saint Paul, MN, July 21, 1992.

Hon. BRUCE VENTO,
House of Representatives, Washington, DC.

Re: Port Authority of the city of Saint Paul Proposed Tax Law Change

DEAR CONGRESSMAN VENTO: I understand that you have been instrumental recently in helping the Port Authority of the City of Saint Paul to obtain federal tax law changes that would help with restructuring of its common revenue bond fund program.

Please know that the City of Saint Paul is very anxious that the Port Authority succeed in its proposed restructuring, so that it can continue to provide financing to industrial and other projects in the City of Saint Paul and its immediate surrounding areas. To date, the Port Authority's Common Revenue Bond Fund program has been responsible for creating and preserving over 38,000 industrial jobs which are very important to the City of Saint Paul.

Your efforts in helping the Port Authority achieve the federal tax law changes that it has proposed is very much appreciated, and your continued support for this proposal is respectfully requested.

Very truly yours,
Mayor JAMES SCHEIBEL.

PORT AUTHORITY OF THE
CITY OF SAINT PAUL,
St. Paul, MN, July 21, 1992.

Hon. BRUCE VENTO,
House of Representatives, Washington, DC.

Re: Port Authority of the City of Saint Paul Proposed Tax Law Change

DEAR CONGRESSMAN VENTO: As you know, the Port Authority is seeking some federal tax law changes as part of a proposed restructuring of its Common Bond Fund program. We understand that you have been instrumental in moving this proposed change forward, and want to thank you very much for your efforts.

As I am sure you have already been told, the Port Authority's Common Revenue Bond Fund program consists of approximately 168 separate bond issues, totalling $322,870,000 in outstanding bonds. These bonds have been issued over a period of 18 years.

Due to a number of factors, including a general deterioration in general economic conditions, the reserves supporting these bonds (currently funded at over $63,000,000) are likely to be depleted in the year 2000. Unless this program is restructured, bonds maturing after that date would then be paid solely from project cash flow. It is estimated that this cash flow will not be sufficient to pay the accruing interest much less the more than $200,000,000 in principal still outstanding at that date. In addition the Port Authority would no longer be able to fund economic recovery projects.

The adoption of the proposed federal tax legislation will eliminate technical restrictions that currently impede the Port Authority's plan to restructure the common revenue bond fund program to avoid this potential default, while at the same time resulting in a large present value reduction in tax exempt interest. This result is certainly beneficial to the treasury, while it also provides relief to the many holders of the Port Authority's common revenue bond fund program bonds, and finally, allows the Port Authority to continue to fund economic recovery projects.

For these reasons, we respectfully ask that you continue your full support of the proposed federal tax legislation. We stand ready to provide you with any additional information or help that you might need in this regard.

Very truly yours,
KENNETH R. JOHNSON,
President.

Mr. MCGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, The bill needs no further explanation. It was not deemed to be controversial when it was considered by the Means Committee, and we have heard no objections since then.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5659.

The question was taken; and (two-thirds having voted in favor thereof) the rules suspended and the bill was passed.

A motion to reconsider was laid on the table.

TREATMENT OF CERTAIN COSTS OF PRIVATE FOUNDATION IN REMOVING HAZARDOUS SUBSTANCES

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5644) to provide that certain costs of private foundations in removing hazardous substances shall be treated as qualifying distributions.

The Clerk read as follows:

H.R. 5644

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN COSTS OF PRIVATE FOUNDATION IN REMOVING HAZARDOUS SUBSTANCES TREATED AS QUALIFYING DISTRIBUTION.

(a) IN GENERAL.—In the case of any taxable year beginning after the date of the enactment of this Act, the distributable amount of a private foundation for such taxable year for purposes of section 4942 of the Internal Revenue Code of 1986 shall be reduced (but not below zero) by any amount paid or incurred (or set aside) by such private foundation for the investigatory costs and direct costs of removal or taking remedial action with respect to a hazardous substance released at a facility which was owned or operated by such private foundation.

(b) LIMITATIONS.—Subsection (a) shall only apply to costs—

(1) incurred with respect to hazardous substances disposed of at a facility owned or operated by the private foundation by only if—

(A) such facility was transferred to such foundation by bequest before December 11, 1980, and

(B) the active operation of such facility by such foundation was terminated before December 12, 1980, and

(2) which were not incurred pursuant to a pending order issued to the private foundation unilaterally by the President or the President's assignee under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, or pursuant to a nonconsensual judgment against the private foundation issued in a governmental cost recovery action under section 107 of such Act.

(c) HAZARDOUS SUBSTANCE.—For purposes of this section, the term "hazardous substance" has the meaning given such term by section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Kentucky [Mr. BUNNING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, this is a bill sponsored by the gentleman from Kentucky [Mr. BUNNING].

Mr. Speaker, I reserve the balance of my time.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge passage of H.R. 5644—a bill that I believe is noncontroversial and has been judged by the Joint Tax Committee to have a negligible revenue effect on the Treasury.

It is an issue that has been around for a while. Legislation similar to this has been adopted in the Senate three times and was the subject of a 1986 Select Revenue Subcommittee hearing here in the House.

The problem that this bill will correct involves a situation where a charitable foundation is bequeathed property that is later found to be the subject of a Superfund cleanup.

A good example is the Brown Foundation of Louisville, KY.

In 1969, the Brown Foundation was bequeathed the bulk of its assets under the will of James Graham Brown. Among these assets were several operating businesses, including three facilities which were engaged in the treatment of wooden poles with creosote and other chemicals in order to preserve them for extended use.

The foundation dissolved the wood treatment companies and liquidated the assets.

Nearly 15 years later the foundation was advised by the EPA of a hazardous cleanup problem at one of the sites.

The foundation, trying to fulfill its responsibility to the public health and welfare of the area surrounding the pole treatment facility entered into a voluntary consent order with the EPA to clean up the site. That cleanup is ongoing and the foundation is looking at two other sites that may need cleaning up.

Now the problem.

A charity must, by law, disburse a certain amount of money each year for so-called charitable purposes in order to maintain its nonprofit status. Section 4942 of the Internal Revenue Code requires a charity to annually disburse charitable payments which are qualifying distributions equivalent to at least 5 of the fair market value of its assets.

Unfortunately, the costs associated with the study and cleanup of a Superfund site do not qualify as qualified disbursements under section 4942 of the Internal Revenue Code.

As a result, the combination of the 5 percent requirement and the substantial cleanup costs that have been voluntarily assumed could result in the foundation seriously depleting its corpus.

This could not only threaten the ability of the foundation to support worthy charitable activities, in the future, but would also threaten the very existence of the foundation.

The bill I'm asking you to support, H.R. 5644 provides that study and cleanup expenditures, voluntarily assumed by a charitable foundation, would constitute a charitable payment for the purposes of the qualifying distribution requirement of section 4942 of the Code.

The provisions of the bill will only apply if the property in question was acquired and subsequently disbursed before the enactment of the Superfund law. Therefore, someone cannot set up a new foundation in order to evade their existing legal obligations under Superfund.

Furthermore, the bill is prospective in application and only applies to costs incurred after the date of enactment.

I truly believe that this legislation will aid environmental cleanup by encouraging charities, such as the Brown Foundation, to voluntarily assist the Government in cleaning of Superfund sites.

Also, this bill will ensure that good, worthwhile charities won't be forced out of business because they owned tainted property long before the enactment of Superfund.

I urge passage of the bill.

JAMES GRAHAM BROWN FOUNDATION, INC. CUMULATIVE GRANT HISTORY 1954–90

Organization:	*Amount*
Adults of the Community Organization	8,000
Alabama Baptist Children's Homes	35,000
Alabama Four-H Club Foundation, Inc.	100,000
Alabama Institute for Deaf and Blind Foundation, Inc	17,000
Alabama Sheriffs Boys and Girls Ranches, Inc.	180,600
Alabama Society For Crippled Children and Adults, Inc	20,000
Alice Lloyd College	775,000
American Cancer Society	67,500
American Cave Conservation Association, Inc	250,000
American Council of Young Political Leaders	2,000
American Printing House for the Blind, Inc	232,000
American Red Cross, Gulf Coast Region	30,000
American Red Cross, Louisville Area Chapter	1,078,849
American Red Cross, North Baldwin County Chapter	876
Arthritis Foundation, Alabama Chapter	25,000
Arthritis Foundation, Kentucky Chapter	20,000
Arts Center Association (Friends of the Water Tower)	75,000
Asbury College	350,000
Association for Retarded Citizens of Baldwin County	40,000
Auburn University	150,000
Baldwin County, Alabama	81,660
Baptist Hospital East	3,750
Bayside Academy	85,000
Beautification League of Louisville & Jefferson County	5,000
Behringer-Crawford Museum	50,000
Bellarmine College	5,488,070
Belle of Louisville Operating Board	35,000
Bellewood Presbyterian Home for Children	15,000
Berea College	404,000
Beth Haven Christian School	25,000
Better Business Bureau of Greater Louisville	20,000
Birmingham Southern College	275,000
Bishop State Junior College	50,000
Blue Coats of Louisville	1,000
Bound for Kentucky	1,000
Boy Scouts of America, Audubon Council	5,000
Boy Scouts of America, Black Warrior Council	176,000
Boy Scouts of America, Blue Grass Council	500
Boy Scouts of America, Dan Beard Council	50,000
Boy Scouts of America, Gulf Coast Council	68,700
Boy Scouts of America, Mobile Area Council	80,851
Boy Scouts of America, National Scouting Museum	250,000
Boy Scouts of America, Old Kentucky Home Council	1,291,500
Boy Scouts of America, Pine Burr Area Council	170,000
Boy Scouts of Tuscaloosa County, Alabama	25,200
Boys' Haven	33,750
Brescia College	885,000
Bridgehaven	171,000
Broadway Project Corporation	1,075,000
Brooklawn, Inc	75,000
Brown's Lane Christian School	34,000
Buckhorn College Association	8,500
Buechel Little League, Inc	600
Cabbage Patch Settlement House, Inc	25,000
Cain Center for the Disabled, Inc	50,000
Caledonia Cemetery Association	10,000
Camp Shenandoah	4,000
Campbell Lodge	50,500
Campbellsville College	325,000
Catholic Youth Organization	77,750
Cedar Lake Lodge, Inc	340,000
Central Presbyterian Church	4,500
Centre College	4,290,521
Century Club of Kentucky	1,000
Cerebral Palsy School	65,000
Children's Hospital Foundation, Inc. (Kosair)	452,000

	Amount
Choice, Inc.	25,000
City of Bancroft, Kentucky	6,100
City of Bay Minette, Alabama	594,166
City of Covington, Kentucky	10,000
City of Fairhope, Alabama	3,000
City of Fayette, Alabama	150,000
City of Hills and Dales, Kentucky	10,000
City of Live Oak, Florida	216
City of Louisville, Kentucky	419,000
City of Mobile, Alabama	35,000
City of Northport, Alabama	32,124
City of St. Matthews, Kentucky	1,150,000
Clark County Historical Society	7,000
Come-Unity Cooperative Care, Inc.	75,000
Coon Public Library	12,000
Council for Retarded Citizens of Jefferson Co., Kentucky	5,000
Council of Independent Kentucky Colleges & Universities	587,500
Crusade for Children	2,000
Cumberland College	1,125,000
Danville and Boyle County Fdn on Historic Preservation	31,000
Dare to Care!	70,000
The David School	75,000
De Paul School	875,200
Dessie Scott Children's Home	6,500
Dinsomore Homestead Foundation, Inc.	221,000
Diocesan Catholic Children's Home	270,000
Downtown Development Corporation	2,360,000
Drug Abuse Center	50,000
Druid City Hospital	100,000
Dumas Wesley Community Center	25,000
East End Boys Club, Inc	35,000
Environmental Alternatives, Inc	12,500
Episcopal Church Home and Infirmary	100,000
Exploreum, Inc	150,000
Eye Foundation, Inc	300,000
Family and Children's Agency, Inc	115,000
Farnsley-Moremen Historic Home, Inc	200,000
Faulkner University	400,000
Fayette County Memorial Library	50,000
Fifteen Telecommunications, Inc	359,000
Filson Club	451,500
First Christian Church of Louisville	2,000
First Presbyterian Church	5,250
Florida Sheriffs Boys Ranch	35,000
Focus on Senior Citizens of Tuscaloosa County, Inc	37,400
Fort Thomas Heritage League, Inc	50,000
Fourth Avenue Presbyterian Church	15,000
Frazier Rehabilitation Center	705,000
Friedman Library	120,000
Friends of Kentucky Four-H	210,000
Friends of Kentucky Public Archives, Inc	25,000
Friends of Searcy Hospital Foundation, Inc	35,000
Fund for the Kentucky School for the Blind Art, Inc	30,000
Georgetown College	4,578,521
God's Pantry-Crisis Food Center, Inc	50,000
Goodwill Industries of Kentucky	158,017
Governor's Scholars Program, Inc	200,000
Greater Louisville Swim Foundation, Inc	175,000
Greater Louisville-National Multiple Sclerosis Society	10,000
Greenspace, Inc	10,000
Habitat for Humanity	44,000
Hanover College	4,261,416
Harrison County, Mississippi	94,700
Haskins Herrington Corporation	75,000
Hays Kennedy Park Foundation	25,000
Heart Fund of Kentucky	15,500
Heart of the Parks Foundation, Inc	20,000
Hindman Settlement School	50,000
Historic Homes Foundation, Inc	186,500
Historic Mobile Preservation Society	45,000
Historic Properties Endowment Fund	5,000
Home of the Innocents	800,000
Honorable Order of Kentucky Colonels	1,000
Hospice of Louisville, Inc	40,000
Huntingdon College	550,000
Independent Industries, Inc	100,000
Iroquois Child Care Center	6,000
Isaac W. Bernheim Foundation	55,000
J.B. Speed Art Museum	850,000
Jefferson County Crimestoppers	90,000
Jefferson County Fiscal Court	1,080,000
Jefferson County Police Department	3,870
Jefferson County Public Education Foundation	246,200
Jewish Community Center	261,735
Jewish Hospital, Inc	55,000
John Sherman Cooper Commemoration Fund, Inc	2,000
Judson College	250,000
Julius T. Wright School for Girls	250,000
Junior League of Louisville, Inc	209,000
Junior Achievement of Kentuckiana, Inc	544,789
Junior Achievement of Mobile, Alabama	75,000
Junior League of Tuscaloosa, Inc	25,000
Kentuckiana Children's House	20,000
Kentuckiana Girl Scout Council	101,975
Kentuckiana Interfaith Community	85,000
Kentuckiana Metroversity	124,000
Kentucky Art and Craft Foundation	25,000
Kentucky Baptist Hospitals	125,000
Kentucky Bar Foundation, Inc.	50,000
Kentucky Bicentennial Commission	1,992
Kentucky Center for Public Issues	150,000
Kentucky Council on Economic Education	337,000
Kentucky Country Day School	250,050
Kentucky Derby Museum Corporation	6,904,000
Kentucky Easter Seals Society, Inc	142,500
Kentucky Education Foundation, Inc	150,000
Kentucky Harvest	15,200
Kentucky Hill Industries, Inc	25,000
Kentucky Historical Society	10,000
Kentucky Independent College Foundation, Inc	55,000
Kentucky Library Association	2,800
Kentucky Lions Eye Foundation, Inc	54,000
Kentucky Lung Association	8,700
Kentucky Quilt Project, Inc	10,000
Kentucky Railway Museum, Inc	22,000
Kentucky Science & Technology Council, Inc	275,000
Kentucky Sheriffs' Association	5,000
Kentucky State University	500,000
Kentucky Synod Educational Campaign	10,000
Kentucky Tennis Patrons Foundation	200
Kentucky Tomorrow, Inc	30,000
Kentucky Wesleyan College	4,564,260
KentuckyShow	300,000
The King's Daughters and Sons Home, Inc	7,500
Kiwanis Children's Cancer Clinic Fund	10,000
KMI Memorial Chapel Foundation	500
Lake Cumberland Four-H Club Center, Inc	25,000
Land Between the Lakes Association	8,000
Leadership Kentucky, Inc	50,000
Leadership Louisville Foundation, Inc	60,000
Lees College	544,000
Leukemia Society of Kentucky, Inc	2,000
Liberty Hall, Inc	40,000
Life Span, Inc	350,000
Lilly Woods Forest Association	23,779
Lindsey Wilson College	425,000
Little Sisters of the Poor, Louisville	255,500
Little Sisters of the Poor, Mobile, Alabama	25,000
Living Arts and Sciences Center	25,000
Louisville Area Chamber of Commerce	265,000

	Amount
Louisville Bar Foundation, Inc	25,000
Louisville Board of Education	1,125,000
Louisville Civic Ventures, Inc	335,833
Louisville Collegiate School	205,000
Louisville Community Foundation, Inc	25,000
Louisville Dance Council, Inc	750
Louisville Deaf Oral School	310,052
Louisville Development Foundation, Inc	2,250,750
Louisville Free Public Library Foundation, Inc	970,000
Louisville Fund	27,500
Louisville Jaycees	117,000
Louisville Medical Research Foundation, Inc	15,000
Louisville Presbyterian Theological Seminary	100,000
Louisville Red Shield Boys Club, Inc	11,000
Louisville School for Autistic Children	13,353
Louisville Seahawks	30,000
Louisville Tennis Center, Inc	250
Louisville Urban League	121,033
Louisville Waterfront Development Corporation	250,000
Louisville Zoological Foundation	2,050,000
Louisville/Jefferson County Clean Community System	9,125
National Conference of Christians and Jews	13,000
Madonna Manor, Inc	155,000
March of Dimes	6,000
Maria Products, Inc	5,000
Marion Military Institute	175,000
Maryhurst School	116,300
McDowell House	50,000
McGill-Toolen High School	100,000
Medical Center Hospitality House, Inc	15,500
Medical Foundation of Jefferson County Medical Society, Inc	720,000
Medical Oncology Research Fund	100
Mercy Medical, Inc	50,000
Methodist Evangelical Hospital, Inc	55,000
Metro Brothers and Sisters, Inc	40,000
Metro React Team, Inc	5,700
Metro United Way	5,057,750
Midway College	325,000
Miscellaneous Contributions (in the South) Mission House	50,000
Mississippi State University	250,000
Mobile Association for Retarded Citizens, Inc	150,000
Mobile Baptist Association	12,000
Mobile College	50,000
Mobile Rehabilitation Association, Inc	35,000
Monroe County Public Library	20,000
Mountain Association for Community Economic Development	5,000
Museum of History and Science	2,500,000
National Conference of Christians and Jews	7,050
National Foundation (Polio, Birth Defects) Ky Chapter	1,000
National Foundation for Infantile Paralysis, Louisville Chpt	6,000
National Municipal League's 84th Conference	5,000
National Society to Prevent Blindness	51,000
Nature Conservancy	956,000
New Directions, Inc	5,000
Northern Ky. Association for Retarded Citizens, Inc	30,000
Notre Dame University	25,000
Old Bardstown Village	108,000
Old Dauphin Way School	50,000
Old Ladies Home	2,750
Our Lady of Peace Hospital	440
Owensboro Area Museum	25,000
Park DuValle Neighborhood Health Center	4,500
Parkhill Family Health Center	50,000
Patton Museum Development Fund	25,000
Penelope House	50,000
Pikeville College	450,500
Pioneer Opportunity Workshop	25,000
Planned Parenthood Inc	16,500
Portland Christian School	25,000
Portland Museum	975,000
Possibilities Unlimited, Inc	50,000
Presbyterian Child Welfare Agency	20,000
Presbyterian Community Center	22,556
Presbyterian Home for Children, Inc	50,000
Presbyterian Hospital	2,500
Presbyterian Sunday School Building Fund	1,000
Preservation Alliance, Inc	100,000
The Prichard Committee for Academic Excellence	50,000
Project Find Child Abuse Treatment Center	25,000
Providence Hospital	168,864
Quicksand Crafts Center	14,000
Recording for the Blind, Inc	24,000
Recovery Inc. of Kentucky	55,000
Red Cross Hospital	58,500
Redwood School & Rehabilitation Center	75,000
Regional Cancer Center Corporation	5,505,250
Roosevelt School Relief Fund	2,000
Rose Polytechnic Institute	12,000
Saint Anthony Hospital	50,000
Saint Benedict's Center for Early Childhood Education	25,000
Saint Benedict's School	10,000
Saint Catharine College	180,000
Saint Charles Care Center & Village	100,000
Saint Charles Montessori Schools	25,000
Saint Francis High School	150,000
Saint Francis School	150,000
Saint John's Center	60,000
Saint Joseph Catholic Orphan Society	92,800
Saint Patrick's Center	310,000
Saint Paul's Episcopal School	125,000
Saint Vincent DePaul Society	100,000
Saint Xavier High School	150,000
Saints Mary and Elizabeth Hospital	50,000
Salvation Army of Louisville	1,704,524
Salvation Army of Mobile, Alabama	100,000
Salvation Army of Owensboro	100,000
Salvation Army of Tuscaloosa, Alabama	10,500
Samford University	10,560
Save the Mansion	35,000
Schizophrenia Foundation, Kentucky, Inc	215,000
Senior House, Inc	30,000
Service Corps of Retired Executives	3,500
Shakertown at Pleasant Hill, Kentucky, Inc	762,500
Shakertown at South Union	10,000
Southern Baptist Theological Seminary	350,000
Southern Police Institute	1,500
Southern Research Institute	200,000
Spalding University	2,150,650
Spina Bifada Association of Kentucky	10,000
Spring Hill College	85,000
Springdale Cemetery Association	117,500
Stillman College	200,000
Stockton Civic Association and Volunteer Fire Department	16,700
Talbot House, Inc	12,000
Telford Community Center, Inc	45,000
Thomas Hospital	100,000
Thomas More College	4,578,521
Thruston B. Morton Fund	30,000
Transylvania University	2,000,000
Tri-State Drug Rehabilitation and Counseling Program	50,000
Trinity High School	150,000
Troy State University	73,787
Tuscaloosa Academy	127,000
U.S.A. Harvest	35,000
Union College	550,000
Cerebral Palsy KIDS Center	85,850
United Jewish Campaign of Louisville	73,750
United States Olympic Committee	5,000
United States Sports Academy	25,022
University Military School	350,000
University of Alabama	1,116,389
University of Cincinnati	63,000
University of Kentucky	1,039,000
University of Louisville	4,713,918
University of Miami—Law and Economics Center	25,000
University Press of Kentucky	50,000

	Amount
Ursuline Society and Academy of Education, Inc	305,000
Ursuline-Pitt School	30,000
Vietnam Veterans Kentucky Leadership Program, Inc	75,000
Villa Madonna Academy	50,000
Visually Impaired Preschool Services	30,000
Volunteers of America of Kentucky, Inc	117,750
Walden School	125,000
Washington and Lee University	300,000
Wayside Christian Mission	254,768
Wendell Foster Center	136,000
Wesley Community House	50,000
Wilmer Hall Episcopal Children's Home	65,000
Wood Hudson Cancer Research Laboratory, Inc	40,000
Woodbury Forest School	500
YMCA of Frankfort, Kentucky	50,000
YMCA of Greater Louisville	1,977,325
YMCA of Kentucky	3,750
YMCA of Northern Kentucky at Covington	50,000
YMCA of Owensboro Daviess Co	50,000
YMCA of Paris-Bourbon County	100,000
YMHA of Louisville	2,000
YWCA of Louisville	1,069,000
Zoneton Fire District	300
Total: 472 organizations	118,794,051

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. BUNNING. I yield to the gentleman from Louisville.

Mr. MAZZOLI. Mr. Speaker, I thank my dear friend from Kentucky for yielding, my colleague on the committee and in the delegation, and also thank him for his excellent work on this bill. This is something he and I have been working on for a long time. The gentleman from Kentucky has been able to fashion this bill, and I salute him for it.

As he very well knows, and has very aptly pointed out, one of the charitable foundations that would qualify under the bill, the Brown Foundation in Louisville, has over the past 30 years roughly, almost 40 years actually, distributed over $118 million to various charities.

☐ 1320

So any kind of a bill like this that would help the Brown Foundation do two things, clean up environmentally unsound areas and, at the same time, contribute money to worthy charities is a good bill, and I join my friend, the gentleman from Kentucky, in urging support for the bill.

Mr. BUNNING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5644.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXEMPTING CERTAIN FERRY TRANSPORTATION FROM EXCISE TAX

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5661) to amend the Internal Revenue Code of 1986 to exempt transportation on certain ferries from the excise tax on transportation of passengers by water.

The Clerk read as follows:

H.R. 5661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FOR TRANSPORTATION ON CERTAIN FERRIES.

(a) GENERAL RULE.—Subparagraph (B) of section 4472(1) of the Internal Revenue Code of 1986 (relating to exception for certain voyages on passenger vessels) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN VOYAGES.—The term 'covered voyage' shall not include—

"(i) a voyage of a passenger vessel of less than 12 hours between 2 ports in the United States, and

"(ii) a voyage of less than 12 hours on a ferry between a port in the United States and a port outside the United States.

For purposes of the preceding sentence, the term 'ferry' means any vessel if normally no more than 50 percent of the passengers on any voyage of such vessel return to the port where such voyage began on the 1st return of such vessel to such port."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to voyages beginning after December 31, 1989; except that no refund of any tax paid before the date of the enactment of this Act shall be made by reason of such amendment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Kentucky [Mr. BUNNING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine [Mr. ANDREWS], who introduced this bill originally.

Mr. ANDREWS of Maine. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this particular legislation is created to correct a provision that was established in law in 1989 that was a so-called international departure tax on ship passengers.

As you know, the international law provides for gambling in international waters and, as a result of that, we saw the increase of cruise lines specifically for the purpose of offering recreation and gambling in international waters, so-called cruises to nowhere. So this international departure tax or head tax was established for passengers getting on board that kind of a service. Well, unfortunately, that bill extended to basic passenger service, ferry service, to those who were getting on board a ferry not for the purpose of gambling or recreation but for the purpose of going from one port to another port.

Now, the law in 1989 exempted those ferries that would go from U.S. ports, from point a to point b, that were both within the United States and that were voyages of 12 hours or less between those two U.S. ports. However, it did not extend that exemption to those ferries, again, of less than 12 hours in length but extended from an American port to a foreign port.

So if you live in the State of Maine, as I do, or if you live in the Great Lakes area of you live in Washington State and you have people who take ferry service from your home over to Canada, you found yourself confronted with this tax because a provision was not put into the law that would exempt those people from taking a ferry for that purpose.

Mr. Speaker, this bill very simply corrects the inequity, takes care of those people using ferry service for that purpose, and would extend the provision to voyages of passenger vessels of less than 12 hours on a ferry between a port in the United States and a port outside of the United States, similar to what the Prince of Fundy cruise lines, for example, extends ferry service between Portland, ME, and Yarmouth, NS.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill needs no further explanation. It was not deemed to be controversial when it was considered by the Ways and Means Committee, and we have heard no objections since then.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5661.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

APPLICATION OF WAGERING TAXES TO CHARITABLE ORGANIZATIONS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5648) to amend the Internal Revenue Code of 1986 to revise the application of the wagering taxes to charitable organizations.

The Clerk read as follows:

H.R. 5648

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHANGES IN APPLICATION OF WAGERING TAXES TO CHARITABLE ORGANIZATIONS.

(a) Exemption From Occupational Tax for Charitable Organizations.—Section 4411 of the Internal Code of 1986 (relating to occupational tax on wagering) is amended by adding at the end thereof the following new subsection:

"(c) Exception for Charitable Organizations, Etc.—No tax shall be imposed by subsection (a) on—

"(1) any organization exempt from tax under section 501 or 521, and

"(2) any person who is engaged in receiving wagers only for or on behalf of such an organization,

if the only wagers accepted by such organization (and such person) are authorized under the law of the State in which accepted."

(b) Exception From Wagering Tax for Charitable Organizations.—Section 4402 of such Code (relating to exemptions for tax on wagers) is amended by inserting "(a) In General.—" before "No tax" and by adding at the end thereof the following new subsection:

"(b) Charitable Organizations, Etc.—

"(1) Exemption where charitable expenditures exceed winnings.—If the amount of charitable expenditures of any organization described in section 4411(c) for any calendar quarter equals or exceeds the amount of wagering winnings of such organization for such quarter, no tax shall be imposed by this subchapter on wagers placed during such calendar described in section 4411(c)(2) with respect to such organization.

"(2) Reduction of tax where winnings exceed charitable expenditures.—

"(A) In general.—If paragraph (1) does not apply to an organization or person described in section 4411(c) for any calendar quarter, the tax imposed by this subchapter on wagers placed with such organization or person during such quarter shall be the applicable percentage of the tax which would (but for this paragraph) be imposed on such wagers during such quarter.

"(B) Applicable percentage.—For purposes of subparagraph (A), the applicable percentage for any calender quarter is the excess of 100 percent over the percentage which the charitable expenditures of such organization for such quarter is of the wagering winnings of such organization for such quarter.

"(3) Definitions and special rule.—For purposes of this subsection—

"(A) Charitable expenditures.—The term 'charitable expenditures' means, for any calendar quarter, the sum of—

"(i) the amount paid by such organization during such quarter to accomplish 1 or more of the purposes described in section 170(c)(2)(B) or to acquire an asset used (or held for use) directly in carrying out 1 or more of such purposes, and

"(ii) the amount permanently setaside by such organization during such quarter for 1 or more of such purposes.

"(B) Wagering winning.—The term 'wagering winnings' means, with respect to any calender quarter, the excess of the wagers which would (but for this subsection) be subject to tax under this subchapter and which are placed with the organization during such calender quarter over the winnings paid on such wagers.

"(C) Special rule.—Wagers received by any person for or on behalf of an organization shall be treated as received by such organization."

(c) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to taxes imposed for periods beginning after the date of the enactment of this Act.

(2) Subsection (b).—The amendment made by subsection (b) shall apply to wagers placed in calendar quarters beginning after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. Gibbons] will be recognized for 20 minutes, and the gentleman from New York [Mr. McGrath] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Gibbons].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, charitable organizations are vital to our society. Through the use of local and private funds, these nonprofit organizations are able to mobilize the Nation's volunteers to provide relief to the needy.

Congress has long recognized the invaluable service of charitable organizations by providing them an exemption from Federal income tax.

Nevertheless, there are two taxes in the Internal Revenue Code which are imposed on charitable and noncharitable entities alike. The first is an annual occupational stamp tax of $50 imposed on each and every volunteer who helps with activities such as jar raffles and pull tabs. The second is a wagering excise tax imposed on gross income from these same activities.

These two taxes impose an undue burden upon nonprofit organizations that conduct games of chance as fundraising activities. It is hard to imagine what tax policy is served by imposing an occupational stamp tax on volunteers. The wagering excise tax is also counterproductive because it doesn't discriminate between income that inures to the benefit of the membership and income that goes for truly charitable activities. In both cases, the result is that resources are drained from our charitable organizations.

H.R. 5648 would exempt from the occupational tax organizations exempt from income tax under code section 501 or 521, and individuals engaged in receiving wagers on behalf of such organizations.

H.R. 5648 would also exclude from the base of the wagering excise tax any amounts which are used for charitable purposes. Thus, if the amount of an organization's charitable expenditures equals or exceeds the amount of the net proceeds from gambling conducted by the organization, then no wagering excise tax would be imposed. If the amount of charitable expenditures is less than the gambling proceeds, the amount of the wagering excise tax would be proportionately reduced. Consequently, funds which go to provide benefits to the organization's membership would remain subject to the excise tax, while amounts spent for youth counseling, for example, would be exempt from tax.

These reforms should have been enacted long ago. They were not addressed until now because the two taxes generally were not collected from charitable groups in the past. However, in recent years, several IRS districts have begun to vigorously enforce collection. Unless reformed, the taxes will soon be collected nationally. It would certainly help our Nation's charitable organizations if we would provide an exemption before, rather than after, the damage is done.

Mr. Speaker, I reserve the balance of my time.

□ 1330

Mr. McGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us addresses a problem caused by two little-known sections of the Internal Revenue Code. For many years, charities and individuals working for charities have unknowingly violated these provisions.

One requires each person engaged in the business of accepting wagers to register with the IRS and to pay an excise tax equal to .25 percent of the amount of such wagers.

The second section at issue here imposes an occupational tax of $50 a year on each person who accepts wagers on behalf of an organization. An annual tax of $500 is imposed on the organization. These taxes are aimed at commercial gambling entities, and they are very unfair when imposed on short-term charitable fundraising activities.

The IRS has recently utilized these laws to impose taxes on nonprofit charitable institutions which raise money through bazaars, raffles, and similar activities.

Most citizens are unaware of the existence of these Federal taxes. A recent surge in IRS enforcement activite has caused charitable groups in several States to pay steep fines and penalties.

Hospitals, schools, fire departments, drug and pregnancy counseling centers, and other vital institutions are assisted through fundraising efforts that could be construed as wagering under the Internal Revenue Code. I do not think that we should discourage or limit this type of activity throught he Internal Revenue Code if it is legal under the law of a particular State.

Consistent and fair enforcement of existing law would likely cost more than the income produced for the Federal Treasury.

H.R. 5648 would exempt charitable organizations and individuals acting on their behalf of from these occupational and excise taxes.

The amendment contains language to ensure that the proceeds from the gambling activity are permanently dedicated for charitable purposes. This bill will protect our constituents who volunteer for local charities. It will also extricate the IRS from a difficult enforcement area, which produces little revenue and terrible public relations.

Mr. ROSTENKOWSKI. Mr. Speaker, charitable and fraternal organizations raise significant funds for charitable purposes through the conduct of games of chance. For the most part, these games are run by volunteers and patronized by members of the organization or the public.

Since 1989, the Internal Revenue Service [IRS] has taken the position in some districts that these organizations and their volunteers are subject to an annual occupational tax on wagering of $50 per volunteer. In addition, the IRS has sought to impose a wagering excise tax of .25 percent on gross receipts from these same activities.

When these two taxes were first enacted, I doubt that many Members of Congress envisioned that they would be imposed on volunteers or volunteer-run organizations. In any event, it is now clear that the taxes impose an undue burden upon nonprofit organizations that raise money for charity by conducting games of chance. The taxes reduce the income that is available for truly charitable activities.

H.R. 5648 would exempt from the occupational tax organizations exempt from income tax under Code section 501 or 521, and individuals engaged in receiving wagers on behalf of such organizations.

H.R. 5648 would also exclude from the base of the wagering excise tax any amounts which are used for charitable purposes.

During times when we are asking our volunteer and charitable agencies to perform more and more services because of government's inability to afford to do them, it is counterproductive to seek to penalize them by imposing multiple taxes and related paperwork. H.R. 5648 would certainly ease these burdens, for groups that use all of the proceeds from games of chance to fund charitable activities.

Mr. McGRATH. Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5648.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FEDERAL PROGRAM IMPROVEMENT ACT OF 1992

Mr. PICKLE. Mr. Speaker, by direction of the Committee on Ways and Means, I move to suspend the rules and pass the bill (H.R. 3837) to make certain changes to improve the administration of the Medicare Program, to reform customs overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, and to require reports on employers with underfunded pension plans, as amended.

The Clerk read as follows:

H.R. 3837

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Program Improvement Act of 1992".

TITLE I—PROVISIONS RELATING TO THE MEDICARE PROGRAM

Subtitle A—Durable Medical Equipment

SEC. 101. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual (other than a covered item the supplier has already furnished to the individual) unless—

"(i) the individual gives permission to the supplier to make contact by telephone for such purpose; or

"(ii) the supplier has furnished a covered item under this subsection to the individual during the 15-month period preceding the date on which the supplier contacts the individual for such purpose.

"(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for any item subsequently furnished to the individual by the supplier.

"(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier's conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the programs under this Act, in accordance with the procedures set forth in subsections (c), (f), and (g) of section 1128.".

(2) REQUIRING REFUND OF AMOUNTS COLLECTED FOR DISALLOWED ITEMS.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(18) REFUND OF AMOUNTS COLLECTED FOR CERTAIN DISALLOWED ITEMS.—

"(A) IN GENERAL.—If a nonparticipating supplier furnishes to an individual enrolled under this part a covered item for which no payment may be made under this part by reason of paragraph (17)(B), the supplier shall refund on a timely basis to the patient (and shall be liable to the patient for) any amounts collected from the patient for the item, unless—

"(i) the supplier establishes that the supplier did not know and could not reasonably have been expected to know that payment may not be made for the item by reason of paragraph (17)(B), or

"(ii) before the item was furnished, the patient was informed that payment under this part may not be made for that item and the patient has agreed to pay for that item.

"(B) SANCTIONS.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

"(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

"(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.".

(b) CONFORMING AMENDMENT.—Section 1834(h)(3) of such Act (42 U.S.C. 1395m(h)(3)) is amended by striking "Paragraph (12)" and inserting "Paragraphs (12) and (17)".

SEC. 102. CERTIFICATION OF PROVIDERS OF DURABLE MEDICAL EQUIPMENT.

(a) CERTIFICATION OF DURABLE MEDICAL EQUIPMENT AND OTHER SUPPLIERS; APPLICATION FOR SUPPLIER NUMBERS.—

(1) MANDATORY SUPPLIER CERTIFICATION.—

(A) IN GENERAL.—Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), as amended by section 101(a), is further amended by adding at the end the following new paragraph:

"(19) CERTIFICATION OF SUPPLIERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act (except as provided in subparagraph (D)), no payment may be made under this part for covered items furnished on or after January 1, 1994, unless the supplier furnishing the item meets the standards for certification described in subparagraph (B).

"(B) STANDARDS FOR CERTIFICATION.—A supplier meets the standards for certification described in this subparagraph if (in accordance with regulations of the Secretary) the supplier—

"(i) is in compliance with all applicable State and Federal licensure and regulatory requirements;

"(ii) maintains a physical facility and inventory on an appropriate site;

"(iii) has appropriate liability insurance.

"(iv) meets such other appropriate standards as the Secretary may establish by regulation.

"(C) PROHIBITION AGAINST DELEGATION OF CERTIFICATIONS.—The Secretary may not delegate the responsibility to certify suppliers under subparagraph (A) to any non-governmental entity.

"(D) EXCEPTION FOR SUPPLIERS WITH EXISTING PROVIDER AGREEMENTS.—Subparagraph (A) shall not apply with respect to covered items furnished by a supplier that is a provider of services that has in effect an agreement with the Secretary under section 1866(a).".

(B) REQUIRING REFUNDS OF AMOUNTS COLLECTED.—Section 1834(a)(18) of the Social Security Act (as added by section 101(a)(2)) is amended by striking "paragraph (17)(B)" each place it appears and inserting "paragraph (17)(B) or paragraph (19)(A)".

(C) PUBLICATION OF STANDARDS.—Not later than July 1, 1993, the Secretary shall publish in the Federal Register the certification standards for suppliers of covered items established under section 1834(a)(19)(B) of the Social Security Act (as added by subparagraph (A)).

(2) APPLICATIONS FOR SUPPLIER NUMBERS.—

(A) CRITERIA; INFORMATION REQUIRED.—Not later than July 1, 1993, the Secretary of Health and Human Services shall establish criteria for the application for and issuance of supplier numbers for suppliers of durable medical equipment, prosthetic devices, and urological and ostomy care supplies under part B of the medicare program, and shall include in such criteria a requirement that the supplier disclose to the Secretary the following information (to the extent that the information is not otherwise required to be disclosed under section 1124A of the Social Security Act):

(i) Information relating to the ownership of the supplier and the identity of managing employees.

(ii) The identity and billing number of other entities providing items or services for which payment may be made under the medicare program with respect to which an owner or managing employee of the supplier has or has had an ownership or control interest within the previous 3 years.

(iii) Whether any penalties (including exclusion from participation) have been assessed against any owner or managing employee of the supplier under the medicare or medicaid programs.

(iv) The identity and existence of any subcontracting or subsidiary business entities with which the provider is affiliated or doing business which are advertising or marketing firms directly or indirectly involved in sales of durable medical equipment or other supplies to medicare beneficiaries.

(v) Information on the supplier's sales and billing practices, including whether the supplier engages in telemarketing and whether items are directly purchased, warehoused, and shipped by the entity or supplied under arrangements with other suppliers.

(vi) Documentation regarding whether the supplier is certified as a durable medical equipment supplier by the Secretary.

(vii) Any other information the Secretary considers appropriate.

(B) PROHIBITION AGAINST MULTIPLE BILLING NUMBERS.—The Secretary may not issue more than one billing number to any supplier described in subparagraph (A), unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

(C) EXCEPTION FOR PROVIDERS OF SERVICES.—The standards established pursuant to subparagraph (A) and the prohibition described in subparagraph (B) shall not apply with respect to any supplier described in subparagraph (A) that is a provider of services that has in effect an agreement with the Secretary under section 1866(a) of the Social Security Act.

(b) STUDY OF CERTIFICATION AND QUALITY CRITERIA.—

(1) STUDY.—The Secretary of Health and Human Services (in consultation with representatives of suppliers of durable medical equipment under the medicare program and such other individuals or organizations as the Secretary considers appropriate) shall conduct a study of the feasibility and desirability of establishing and implementing additional certification and quality assurance criteria for suppliers of durable medical equipment, prosthetic devices, and urological and ostomy care supplies under part B of the medicare program, and shall include in the study an analysis of standards relating to safety, patient records and rights, equipment management and maintenance, qualifications of employees (including the appropriate use of certified respiratory therapists in providing home oxygen therapy services), and internal quality assurance programs.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit a report on the study conducted under paragraph (1) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate.

SEC. 103. REFORM OF PROCEDURES FOR FILING, PROCESSING, AND REVIEWING CLAIMS.

(a) PROHIBITION AGAINST CARRIER SHOPPING.—

(1) IN GENERAL.—Section 1834(a)(12) of the Social Security Act (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

"(12) USE OF CARRIERS TO PROCESS CLAIMS.—

"(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for one or more entire regions to process all claims within the region for covered items under this section.

"(B) PROHIBITION AGAINST CARRIER SHOPPING.—(i) No supplier of a covered item may present or cause to be presented a claim for payment under this part unless such claim is presented to the appropriate carrier.

"(ii) For purposes of clause (i), the term 'appropriate carrier' means the carrier having jurisdiction over the geographic area that includes the location where the item was directly furnished to the patient.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished on or after July 1, 1993.

(3) CLARIFICATION OF AUTHORITY TO DESIGNATE CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing in this subsection or the amendment made by this subsection may be construed to restrict the authority of the Secretary of Health and Human Services to designate regional carriers or modify claims jurisdiction rules with respect to items or services under part B of the medicare program that are not covered items under section 1834(a) of the Social Security Act or prosthetic devices or orthotics and prosthetics under section 1834(h) of such Act.

(b) CERTIFICATES OF MEDICAL NECESSITY FOR ITEMS OF DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, AND ORTHOTICS AND PROSTHETICS.—Not later than July 1, 1993, the Secretary of Health and Human Services shall, in consultation with carriers under part B of the medicare program, develop one or more standardized certificates of medical necessity for durable medicare equipment, prosthetic devices, and orthotics and prosthetics to be completed by each physician who prescribes such an item for any medicare beneficiary and transmitted to the carrier processing the claim for payment for the item under the program and to the beneficiary receiving the item.

(c) COVERAGE AND REVIEW CRITERIA.—

(1) DEVELOPMENT AND ESTABLISHMENT.—Not later than July 1, 1993, the Secretary of Health and Human Services, in consultation with representatives of suppliers of durable medical equipment, individuals enrolled under part B of the medicare program, and appropriate medical specialty societies, shall develop and establish uniform national coverage and utilization review criteria for 200 items of durable medical equipment, prosthetic devices, orthotics and prosthetics, and surgical dressings selected in accordance with the standards described in paragraph (2). The Secretary shall publish the criteria as part of the instructions provided to fiscal intermediaries and carriers under the medicare program.

(2) STANDARDS FOR SELECTING ITEMS SUBJECT TO CRITERIA.—The Secretary may select an item for coverage under the criteria developed and established under paragraph (1) if the Secretary finds that—

(A) the item is frequently purchased or rented by beneficiaries;

(B) the item is frequently subject to a determination that it is not medically necessary; or

(C) the coverage or utilization criteria applied to the item (as of the date of the enactment of this Act) is not consistent among carriers.

(3) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of durable medical equipment, prosthetic devices, orthotics and prosthetics, and surgical dressings to determine whether items not included among the items initially selected under paragraph (1) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall apply such criteria to such additional items.

(4) REPORT ON EFFECT OF UNIFORM CRITERIA ON UTILIZATION OF ITEMS.—Not later than January 1, 1994, the Secretary shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate analyzing the impact of the uniform criteria established under paragraph (1) on the utilization of items of durable medical equipment, prosthetic devices, orthotics and prosthetics, and surgical dressings by individuals enrolled under part B of the medicare program, and shall include in the report recommendations regarding the development and establishment of uniform coverage and utilization criteria for additional items under the program.

SEC. 104. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) ADJUSTMENTS MADE TO FINAL PAYMENT AMOUNTS.—Section 1834(a)(10)(B) of the Social Security Act (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: "In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.".

(b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

(1) IN GENERAL.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) ITEMS DESCRIBED.—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 105. ADVANCED DETERMINATION REQUIREMENTS FOR POTENTIALLY OVERUSED ITEMS.

(a) TREATMENT OF POTENTIALLY OVERUSED ITEMS AND ADVANCED DETERMINATIONS OF COVERAGE.—

(1) IN GENERAL.—Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), as amended by sections 101 and 102, is further amended by adding at the end the following new paragraph:

"(20) SPECIAL TREATMENT FOR POTENTIALLY OVERUSED ITEMS.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that

are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, decubitus care mattresses, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

"(i) the item is marketed directly to potential patients;

"(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

"(iii) the item has been subject to a consistent pattern of overutilization; or

"(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) ADVANCE CARRIER DETERMINATIONS FOR CUSTOMIZED ITEMS.—Section 1834(a)(11) of such Act (42 U.S.C. 1395m(a)(11)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—Upon the request of a supplier, a carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is subject to special carrier scrutiny under paragraph (20)(B).".

(3) REQUIRING CARRIERS TO MEET CRITERIA RELATING TO TIMELY RESPONSE TO REQUESTS.—Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(4) TECHNICAL AMENDMENT.—Section 1834(h)(3) of such Act is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after July 1, 1993.

(b) REPORT ON IMPLEMENTATION AND REVIEW OF POTENTIALLY OVERUSED ITEMS.—Not later than July 1, 1993, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate describing the steps the Secretary has taken to carry out the provisions of section 1834(a) of the Social Security Act requiring advance coverage determinations or special carrier scrutiny for certain items, together with an analysis of the effectiveness of such requirements in reducing unnecessary utilization of items of durable medical equipment under part B of the medicare program.

SEC. 106. PHYSICIAN OWNERSHIP REFERRAL ARRANGEMENTS REGARDING DURABLE MEDICAL EQUIPMENT SUPPLIERS.

(a) IN GENERAL.—Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), as amended by sections 101(a), 102(a), and 105(a), is further amended by adding at the end the following new paragraph:

"(21) LIMITATION ON CERTAIN PHYSICIAN REFERRALS.—

"(A) PROHIBITION OF CERTAIN REFERRALS.—

"(i) IN GENERAL.—Except as provided in subparagraph (B), if a physician (or immediate family member of such physician) has a financial relationship with an entity specified in clause (ii), then—

"(I) the physician may not make a referral to the entity for the furnishing of covered items for which payment otherwise may be made under this part, and

"(II) the entity may not present or cause to be presented a claim under this part or bill to any individual, third party payor, or other entity for covered items furnished pursuant to a referral prohibited under subclause (I).

"(ii) FINANCIAL RELATIONSHIP SPECIFIED.—For purposes of this paragraph, a financial relationship of a physician (or immediate family member) with an entity specified in this clause is—

"(I) except as provided in subparagraphs (C) and (D), an ownership or investment interest in the entity; or

"(II) except as provided in subparagraph (E), a compensation arrangement (as defined in subparagraph (H)(i)(a)) between the physician (or immediate family member) and the entity.

An ownership or investment interest described in subclause (I) may be through equity, debt, or other means.

"(B) GENERAL EXCEPTIONS TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS.—Subparagraph (A)(i) shall not apply in the following cases:

"(i) PHYSICIANS' SERVICES.—In the case of physicians' services (as defined in section 1861(q)) provided personally by (or under the personal supervision of) another physician in the same group practice (as defined in subparagraph (H)(iv)) as the referring physician.

"(ii) IN-OFFICE ANCILLARY SERVICES.—In the case of services—

"(I) that are furnished—

"(a) personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are employed by such physician or group practice and who are personally supervised by the physician or by another physician in the group practice, and

"(b)(1) in a building in which the referring physician (or another physician who is a member of the same group practice) furnishes physicians' services unrelated to the furnishing of covered items, or

"(2) in the case of a referring physician who is a member of a group practice, in another building which is used by the group practice for the centralized provision of the group's covered items, and

"(II) that are billed by the physician performing or supervising the services, by a group practice of which such physician is a member, or by an entity that is wholly owned by such physician or such group practice,

if the ownership or investment interest in such services meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(iii) PREPAID PLANS.—In the case of services furnished—

"(I) by an organization with a contract under section 1876 to an individual enrolled with the organization,

"(II) by an organization described in section 1833(a)(1)(A) to an individual enrolled with the organization, or

"(III) by an organization receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972, to an individual enrolled with the organization.

"(iv) HOSPITAL FINANCIAL RELATIONSHIP UNRELATED TO THE PROVISION OF COVERED ITEMS.—In the case of a financial relationship with a hospital if the financial relationship does not relate to the provision of covered items.

"(v) OTHER PERMISSIBLE EXCEPTIONS.—In the case of any other financial relationship which the Secretary determines, and specifies in regulations, does not pose a risk of program or patient abuse.

"(C) GENERAL EXCEPTION RELATED ONLY TO OWNERSHIP OR INVESTMENT PROHIBITION FOR OWNERSHIP IN PUBLICLY-TRADED SECURITIES.—Ownership of investment securities (including shares or bonds, debentures, notes, or other debt instruments) which were purchased on terms generally available to the public and which are in a corporation that—

"(i) is listed for trading on the New York Stock Exchange or on the American Stock Exchange, or is a national market system security traded under an automated interdealer quotation system operated by the National Association of Securities Dealers, and

"(ii) had, at the end of the corporation's most recent fiscal year, total assets exceeding $100,000,000,

shall not be considered to be an ownership or investment interest described in subparagraph (A)(ii)(a).

"(D) ADDITIONAL EXCEPTIONS RELATED ONLY TO OWNERSHIP OR INVESTMENT PROHIBITION.—The following, if not otherwise excepted under subparagraph (B), shall not be considered to be an ownership or investment interest described in subparagraph (A)(ii)(a):

"(i) HOSPITALS IN PUERTO RICO.—In the case of covered items provided by a hospital located in Puerto Rico.

"(ii) RURAL PROVIDER.—In the case of covered items if the supplier furnishing the items is in a rural area (as defined in section 1886(d)(2)(D)).

"(iii) HOSPITAL OWNERSHIP.—In the case of covered items furnished by a hospital (other than a hospital described in clause (1)) if—

"(I) the referring physician is authorized to furnish equipment at the hospital, and

"(II) the ownership or investment interest is in the hospital itself (and not merely in a subdivision thereof).

"(E) EXCEPTIONS RELATING TO OTHER COMPENSATION ARRANGEMENTS.—The following shall not be considered to be a compensation arrangement described in subparagraph (A)(ii)(II):

"(i) RENTAL OF OFFICE SPACE.—Payments made for the rental or lease of office space if—

"(I) there is a written agreement, signed by the parties, for the rental or lease of the space, which agreement—

"(a) specifies the space covered by the agreement and dedicated for the use of the lessee,

"(b) p±rovides for a term of rental or lease of at least one year;

"(c) provides for payment on a periodic basis of an amount that is consistent with fair market value;

"(d) provides for an amount of aggregate payments that does not vary (directly or indirectly) based on the volume or value of any referrals of business between the parties; and

"(e) would be considered to be commercially reasonable even if no referrals were made between the parties;

"(II) in the case of rental or lease of office space in which a physician who is an interested investor (or an interested investor who is an immediate family member of the physician) has an ownership or investment interest, the office space is in the same building as the building in which the physician (or group practice of which the physician is a member) has a practice; and

"(III) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(ii) EMPLOYMENT AND SERVICE ARRANGEMENTS WITH HOSPITALS.—An arrangement between a hospital and a physician (or immediate family member) for the employment of the physician (or family member) or for the provision of administrative services, if—

"(I) the arrangement is for identifiable services;

"(II) the amount of the remuneration under the arrangement—

"(a) is consistent with the fair market value of the services, and

"(b) is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician;

"(III) the remuneration is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the hospital; and

"(IV) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(iii) OTHER SERVICE ARRANGEMENTS.—Remuneration from an entity (other than a hospital) under an arrangement if—

"(I) the arrangement is—

"(a) for specific identifiable services as the medical director or as a member of a medical advisory board at the entity pursuant to a requirement of this title,

"(b) for specific identifiable physicians' services to be furnished to an individual receiving hospice care if payment for such services may only be made under this title as hospice care,

"(c) for specific physicians' services furnished to a nonprofit blood center, or

"(d) for specific identifiable administrative services (other than direct patient care services), but only under exceptional circumstances specified by the Secretary in regulations;

"(II) the requirements described in subclauses (II) and (III) of clause (ii) are met with respect to the entity in the same manner as they apply to a hospital; and

"(III) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(iv) PHYSICIAN RECRUITMENT.—In the case of remuneration which is provided by a hospital to a physician to induce the physician to relocate to the geographic area served by the hospital in order to be a member of the medical staff of the hospital, if—

"(I) the physician is not required to refer patients to the hospital,

"(II) the amount of the remuneration under the arrangement is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician, and

"(III) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(v) ISOLATED TRANSACTIONS.—In the case of an isolated financial transaction, such as a one-time sale of property, if—

"(I) the requirements described in subclauses (II) and (III) of clause (ii) are met with respect to the entity in the same manner as they apply to a hospital, and

"(II) the transaction meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(vi) SALARIED PHYSICIANS IN A GROUP PRACTICE.—A compensation arrangement involving payment by a group practice of the salary of a physician member of the group practice.

"(F) REPORTING REQUIREMENTS.—Each entity providing covered items or services for which payment may be made under this part shall provide the Secretary with the information concerning the entity's ownership arrangements, including—

"(i) the covered items and services provided by the entity, and

"(ii) the names and unique physician identification numbers of all physicians with an ownership or investment interest (as described in subparagraph (A)(ii)(a)) in the entity, or whose immediate relatives have such an ownership or investment.

Such information shall be provided in such form, manner, and at such times as the Secretary shall specify. Such information shall first be provided not later than 1 year after the date of the enactment of this paragraph. The requirement of this subparagraph shall not apply to covered items and services provided outside the United States or to entities which the Secretary determines provide services for which payment may be made under this title very infrequently. The Secretary may waive the requirements of this subparagraph (and the requirements of chapter 35 of title 44, United States Code, with respect to information provided under this subparagraph) with respect to reporting by entities in a State (except for entities providing covered items) so long as such reporting occurs in at least 10 States, and the Secretary may waive such requirements with respect to the providers in a State required to report so long as such requirements are not waived with respect to parenteral and enteral suppliers, end stage renal disease facilities, suppliers of ambulance services, hospitals, entities providing physical therapy services, and entities providing diagnostic imaging services of any type.

"(G) SANCTIONS.—

"(i) DENIAL OF PAYMENT.—No payment may be made under this part for a covered item which is provided in violation of subparagraph (A)(i).

"(ii) REQUIRING REFUNDS FOR CERTAIN CLAIMS.—If a person collects any amounts that were billed in violation of subparagraph (A)(i), the person shall be liable to the individual for, and shall refund on a timely basis to the individual, any amounts so collected.

"(iii) CIVIL MONEY PENALTY AND EXCLUSION FOR IMPROPER CLAIMS.—Any person that presents or causes to be presented a bill or a claim for an item that such person knows or should know is for an item for which payment may not be made under clause (i) or for which a refund has not been made under clause (ii) shall be subject to a civil money penalty of not more than $15,000 for each such item. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iv) CIVIL MONEY PENALTY AND EXCLUSION FOR CIRCUMVENTION SCHEMES.—Any physician or other entity that enters into an arrangement or scheme (such as a cross-referral arrangement) which the physician or entity knows or should know has a principal purpose of assuring referrals by the physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this paragraph, shall be subject to a civil money penalty of not more than $100,000 for each such arrangement or scheme. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(v) FAILURE TO REPORT INFORMATION.—Any person who is required, but fails, to meet a reporting requirement of subparagraph (F) is subject to a civil money penalty of not more than $10,000 for each day for which reporting is required to have been made. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A.

"(H) DEFINITIONS.—For purposes of this paragraph:

"(i) COMPENSATION ARRANGEMENT; REMUNERATION.—(I) The term 'compensation arrangement' means any arrangement involving any remuneration between a physician (or immediate family member) and an entity.

"(II) The term 'remuneration' includes any remuneration, directly or indirectly, overtly or covertly, in cash or in kind.

"(ii) EMPLOYEE.—An individual is considered to be 'employed by' or an 'employee' of an entity if the individual would be considered to be an employee of the entity under the usual common law rules applicable in determining the employer-employee relationship (as applied for purposes of section 3121(d)(2) of the Internal Revenue Code of 1986).

"(iii) FAIR MARKET VALUE.—The term 'fair market value' means the value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes (not taking into account its intended use) and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.

"(iv) GROUP PRACTICE.—The term 'group practice' means a group of two or more physicians legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association—

"(I) in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides (including medical care, consultation, diagnosis, or treatment) through the joint use of shared office space, facilities, equipment, and personnel;

"(II) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group;

"(III) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group; and

"(IV) which meets such other standards as the Secretary may impose by regulation.

In the case of a faculty practice plan associated with a hospital with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group (as well as perform other tasks such as research), the previous sentence shall be applied only with respect to the services provided within the faculty practice plan.

"(v) INTERESTED INVESTOR; DISINTERESTED INVESTOR.—The term 'interested investor' means, with respect to an entity, an investor who is a physician in a position to make or to influence referrals or business to the entity (or who is an immediate family member of such an investor), and the term 'disinterested investor' means an investor other than an interested investor.

"(vi) INVESTOR.—The term 'investor' means, with respect to an entity, a person with a finan-

cial relationship specified in subparagraph (A)(ii) with the entity.

"(vii) REFERRAL; REFERRING PHYSICIAN.—

"(I) PHYSICIANS' SERVICES.—In the case of an item or service for which payment may be made under this part, the request by a physician for the item or service, including the request by a physician for a consultation with another physician (and any test or procedure ordered by, or to be performed by (or under the supervision of) that other physician), constitutes a 'referral' by a 'referring physician'.

"(II) OTHER ITEMS.—The request or establishment of a plan of care by a physician which includes the provision of the covered item constitutes a 'referral' by a 'referring physician'.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to covered items of durable medical equipment furnished on or after January 1, 1994.

SEC. 107. REPORTS AND STUDIES.

(a) ITEMS REQUIRING IMPROVED DEFINITIONS.—The Secretary of Health and Human Services (in consultation with the Inspector General of the Department of Health and Human Services, manufacturers of durable medical equipment, and entities that establish quality standards for items of durable medical equipment) shall prepare a list of items of durable medical equipment that require improved definitions, including improvements relating to the incorporation of updated quality considerations for the items, for purposes of part B of the medicare program, and shall submit a report on changes made to improve the definitions of items on such list to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than January 1, 1993.

(b) GEOGRAPHIC VARIATION AMONG SUPPLIER COSTS COMPARED TO PAYMENT AMOUNTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than July 1, 1993, the Administrator shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under subparagraph (A), and shall include in such report—

(A) an analysis on a geographic basis of the supplier costs of durable medical equipment under the medicare program;

(B) the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(C) an analysis of the feasibility and desirability of establishing a national fee schedule for determining the amount of payment for items of durable medical equipment under the medicare program, together with recommendations regarding the design of such a fee schedule (including whether fees should be based on the average or median of current payment amounts or on another basis).

(3) DURABLE MEDICAL EQUIPMENT DEFINED.—In this subsection, the term "durable medical equipment" means covered items under section 1834(a) of the Social Security Act, prosthetic devices, orthotics and prosthetics, ostomy bags and supplies, and surgical dressings.

(c) CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—Not later than July 1, 1993, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate describing items of durable medical equipment treated as prosthetic devices or orthotics and prosthetics for purposes of determining the amount of payment for such items under part B of the medicare program that do not require individualized or custom fitting and adjustment to be used by a patient, and shall include in such report recommendations for an appropriate methodology for determining the amount of payment for such items under such program.

Subtitle B—Secondary Payer Identification and Enforcement

SEC. 111. IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.

(a) SURVEY OF BENEFICIARIES.—

(1) IN GENERAL.—Section 1862(b)(5) of the Social Security Act (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

"(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.".

(2) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall enter into an agreement with an entity to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by paragraph (1)) not later than January 1, 1993.

(b) MANDATORY SCREENING BY PROVIDERS AND SUPPLIERS UNDER PART B.—

(1) IN GENERAL.—Section 1862(b) of such Act (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

"(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to complete a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed $2,000 for each such incident. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to items and services furnished on or after January 1, 1993.

SEC. 112. IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.

(a) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—

(1) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 of the Social Security Act (42 U.S.C. 1396h) is amended by adding at the end the following new subsection:

"(k) An agreement with an agency or organization under this section shall require that such agency or organization submit an annual report to the Secretary describing the steps taken to recover payments made for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(2) CARRIERS UNDER PART B.—Section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking "and" at the end of subparagraphs (G) and (H); and

(B) by inserting after subparagraph (H) the following new subparagraph:

"(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(b) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—

(1) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816(f)(1)(A) of such Act (42 U.S.C. 1396h(f)(1)(A)) is amended by striking "processing" and inserting "processing (including the agency's or organization's success in recovering payments made under this title for services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)))".

(2) CARRIERS UNDER PART B.—Section 1842(b)(2) of such Act (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the Secretary shall establish standards and criteria relating to the carrier's success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(c) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(1) IN GENERAL.—Section 1862(b)(2)(B)(i) of such Act (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: "If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).".

(2) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) of such Act is amended to read as follows: "REPAYMENT REQUIRED.—".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments for items and services furnished on or after January 1, 1993.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for years beginning with 1993.

SEC. 113. STUDY OF EFFECTIVENESS OF SECONDARY PAYER REFORMS.

(a) IN GENERAL.—The Comptroller General shall conduct a study of the effectiveness of the amendments made by this subtitle in improving

collections from primary plans for expenditures under the medicare program for which medicare is a secondary payer, and shall include in the study—

(1) an evaluation of the feasibility and desirability of providing incentives to entities serving as carriers and fiscal intermediaries under the medicare program to recover amounts paid under the program for items and services for which payment should not have been made under the program because of the medicare secondary payer requirements; and

(2) an analysis of the feasibility and desirability of permitting entities that are not engaged in providing, paying for, or reimbursing the cost of medical or other health services under group insurance policies or contracts or similar agreements or arrangements to serve as fiscal intermediaries and carriers under the medicare program.

(b) REPORTS.—Not later than July 1, 1993, the Comptroller General shall submit interim findings on the study conducted under subsection (a) to the Committee on Ways and Means of the House of Representatives. Not later than March 1, 1994, the Comptroller General shall submit a final report on the study to the Committee, and shall include in the report any recommendations the Comptroller General considers appropriate for actions to improve collections from primary plans for expenditures for which medicare is a secondary payer.

Subtitle C—Payment for Interpretation of Electrocardiograms

SEC. 121. PERMITTING SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) DEVELOPMENT OF SEPARATE FEE SCHEDULE AMOUNTS FOR ELECTROCARDIOGRAM INTERPRETATIONS.—Effective for services furnished on or after January 1, 1993—

(1) IN GENERAL.—The Secretary of Health and Human Services—

(A) shall make separate payment, under the fee schedule established under section 1848 of the Social Security Act, for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

(B) shall adjust the relative values established for medical visits and consultations under subsection (c) of such section so as not to include relative value units for electrocardiogram interpretation in the relative value for medical visits and consultations.

(2) CONFORMING AMENDMENT.—Section 1848(b) of the Social Security Act (42 U.S.C. 1395w–4(b)) is amended by striking paragraph (3).

(b) BUDGET NEUTRALITY.—Effective for services furnished on or after January 1, 1993—

(1) the Secretary shall reduce the relative values for all services established under section 1848(c)(2) of the Social Security Act by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the provisions of this section would not result in expenditures under section 1848 of such Act that exceed the amount of such expenditures under such section that would have been made if this section had not been enacted, and

(2) the Secretary shall reduce the amount determined under section 1848(a)(2)(B)(i)(I) of such Act by such percentage as the Secretary determines to be required to assure that, taking into account the reduction in relative values made under paragraph (1), the provisions of this section do not result in expenditures under section 1848 of such Act in 1993 that exceed the amount of such expenditures under such section that would have been made if this section had not been enacted.

TITLE II—CUSTOMS OFFICER PAY REFORM

SEC. 201. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

(a) IN GENERAL.—Section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267) is amended to read as follows:

"SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

"(a) OVERTIME PAY.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsection (c), a customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of the basic pay of the officer. For purposes of this paragraph, the hourly rate of basic pay for a customs officer does not include any premium pay provided for under subsection (b).

"(2) SPECIAL PROVISIONS RELATING TO OVERTIME WORK ON CALLBACK BASIS.—

"(A) MINIMUM DURATION.—Any work for which compensation is authorized under paragraph (1) and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment.

"(B) COMPENSATION FOR COMMUTING TIME.—

"(i) IN GENERAL.—Except as provided in clause (ii), in addition to the compensation authorized under paragraph (1) for work to which subparagraph (A) applies, the customs officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer.

"(ii) EXCEPTION.—Compensation for commuting time is not payable under clause (i) if the work for which compensation is authorized under paragraph (1) commences within 2 hours of the next regularly scheduled work assignment of the customs officer.

"(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—

"(1) NIGHT WORK DIFFERENTIAL.—

"(A) 3 P.M. TO MIDNIGHT SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

"(B) 11 P.M. TO 8 A.M. SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.

"(2) SUNDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a Sunday that is not a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 50 percent of that basic rate.

"(3) HOLIDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

"(4) TREATMENT OF PREMIUM PAY.—Premium pay provided for under this subsection may not be treated as being overtime pay or compensation for any purpose.

"(c) LIMITATIONS.—

"(1) FISCAL YEAR CAP.—The aggregate of overtime pay under subsection (a) (including commuting compensation under subsection (a)(2)(B)) and premium pay under subsection (b) that a customs officer may be paid in any fiscal year may not exceed $25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service.

"(2) EXCLUSIVITY OF PAY UNDER THIS SECTION.—A customs officer who receives overtime pay under subsection (a) or premium pay under subsection (b) for time worked may not receive pay or other compensation for that work under any other provision of law.

"(d) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as are necessary or appropriate to carry out this section, including regulations—

"(1) to ensure that callback work assignments are commensurate with the overtime pay authorized for such work; and

"(2) to prevent the disproportionate assignment of overtime work to customs officers who are near to retirement.

"(e) DEFINITIONS.—As used in this section:

"(1) The term 'customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

"(2) The term 'holiday' means any day designated as a holiday under a Federal statute or Executive order.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a), is repealed.

(2) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out "AT NIGHT" in the section heading and inserting "DURING OVERTIME HOURS";

(B) by striking out "at night" and inserting "during overtime hours"; and

(C) by inserting "aircraft," immediately before "vessel".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply to customs inspectional services provided on or after October 1, 1992.

SEC. 202. FOREIGN LANGUAGE PROFICIENCY AWARDS FOR CUSTOMS OFFICERS.

Cash awards for foreign language proficiency may, under regulations prescribed by the Secretary of the Treasury, be paid to customs officers (as referred to in section 5(e)(1) of the Act of February 13, 1911) to the same extent and in the same manner as would be allowable under subchapter III of chapter 45 of title 5, United States Code, with respect to law enforcement officers (as defined by section 4521 of such title).

SEC. 203. APPROPRIATIONS REIMBURSEMENTS FROM THE CUSTOMS USER FEE ACCOUNT.

Section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended—

(1) by amending clause (i) of subparagraph (A) to read as follows:

"(i) in—

"(I) paying overtime compensation and premium pay under section 5(a) and (b) of the Act of February 13, 1911,

"(II) paying agency contributions to the Civil Service Retirement and Disability Fund to match deductions from the overtime compensation paid under subclause (I), and

"(III) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and"; and

(2) by striking out "except for costs described in subparagraph (A)(i)(I) and (II)," in subparagraph (B)(i).

SEC. 204. TREATMENT OF CERTAIN PAY OF CUSTOMS OFFICERS FOR RETIREMENT PURPOSES.

(a) IN GENERAL.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the semicolon at the end of subparagraph (D) and inserting "; and";

(3) by adding after subparagraph (D) the following:

"(E) with respect to a customs officer (referred to in subsection (e)(1) of section 5 of the Act of February 13, 1911), compensation for overtime inspectional services provided for under subsection (a) of such section 5, but not to exceed 50 percent of any statutory maximum in overtime pay for customs officers which is in effect for the year involved;"; and

(4) by striking out "subparagraphs (B), (C), and (D) of this paragraph," and inserting "subparagraphs (B), (C), (D), and (E) of this paragraph".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act and apply only with respect to service performed on or after such date.

SEC. 205. REPORTS.

(a) CUSTOMS USER FEE ACCOUNT REPORTS.—Subparagraph (D) of section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(D)) is amended to read as follows:

"(D) At the close of each fiscal year, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives—

"(i) containing a detailed accounting of all expenditures from the Customs User Fee Account during such year, including a summary of the expenditures, on a port-by-port basis, for which reimbursement has been provided under subparagraph (A)(ii); and

"(ii) containing a listing of all callback assignments of customs officers for which overtime compensation was paid under section 5(a) of the Act of February 13, 1911, and that were less than 1 hour in duration.".

(b) OTHER REPORTS.—

(1) GAO REPORT.—The Comptroller General of the United States shall undertake—

(A) an evaluation of the appropriateness and efficiency of the customs user fee laws for financing the provision of customs inspectional services; and

(B) a study to determine whether cost savings in the provision of overtime inspectional services could be realized by the United States Customs Service through the use of additional inspectors as opposed to continuing the current practice of relying on overtime pay.

The Comptroller General shall submit a report on the evaluation and study required under this subsection to the Committees by no later than the 1st anniversary of the date of the enactment of this Act.

(2) TREASURY RECOMMENDATION.—On the day that the President submits the budget for the United States Government for fiscal year 1994 to the Congress under section 1105(a) of title 31, United States Code, the Secretary of the Treasury shall submit to the Committees recommended legislative proposals for improving the operation of customs user fee laws in financing the provision of customs inspectional services.

(3) DEFINITION OF COMMITTEES.—For purposes of this subsection, the term "Committees" means the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—AVAILABILITY AND USE OF DEATH INFORMATION UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

SEC. 301. IMPROVEMENTS IN PROGRAM FOR USE OF DEATH CERTIFICATES TO CORRECT PROGRAM INFORMATION.

(a) ELIMINATION OF STATE RESTRICTIONS ON USE OF INFORMATION.—Section 205(r)(1) of the Social Security Act (42 U.S.C. 405(r)(1)) is amended by adding at the end, after and below subparagraph (B), the following new sentence: "Any contract entered into pursuant to subparagraph (A) shall not include any restriction on the use of information obtained by the Secretary pursuant to such contract, except to the extent that such use may be restricted under paragraph (6).".

(b) INFORMATION PROVIDED TO STATE AGENCIES FREE OF CHARGE.—

(1) IN GENERAL.—Section 205(r)(4) of such Act (42 U.S.C. 405(r)(4)) is amended to read as follows:

"(4)(A) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a State agency other than under this Act, the Secretary shall to the extent feasible provide such information free of charge through a cooperative arrangement with such agency, for ensuring proper payment of those benefits with respect to such individuals, if such arrangement does not conflict with the duties of the Secretary under paragraph (1).

"(B) The Secretary may enter into similar agreements with States to provide information free of charge for their use in programs wholly funded by the States if such arrangement does not conflict with the duties of the Secretary under paragraph (1).".

(2) CONFORMING AMENDMENT.—Section 205(r)(3) of such Act (42 U.S.C. 405(r)(3)) is amended by striking "or State".

(c) USE BY STATES OF SOCIAL SECURITY ACCOUNT NUMBERS CONTINGENT UPON PARTICIPATION IN PROGRAM.—Section 205(r)(2) of such Act (42 U.S.C. 405(r)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following new subparagraph:

"(B) Notwithstanding section 7(a)(2)(B) of the Privacy Act of 1974 and clauses (i) and (v) of subsection (c)(2)(C) of this section, any State which is not a party to a contract with the Secretary meeting the requirements of paragraph (1) (and any political subdivision thereof) may not utilize an individual's social security account number in the administration of any driver's license or motor vehicle registration law.".

SEC. 302. STUDY REGARDING IMPROVEMENTS IN GATHERING AND REPORTING OF DEATH INFORMATION.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of possible improvements in the current methods of gathering and reporting death information by the Federal, State, and local governments which would result in more efficient and expeditious handling of such information.

(b) SPECIFIC MATTERS TO BE STUDIED.—In carrying out the study required under this section, the Secretary shall—

(1) ascertain the delays in the receipt of death information which are currently encountered by the Social Security Administration and other agencies in need of such information on a regular basis,

(2) analyze the causes of such delays,

(3) develop alternative options for improving Federal, State, and local agency cooperation in reducing such delays, and

(4) evaluate the costs and benefits associated with the options referred to in paragraph (3).

(c) REPORT.—Not later than December 31, 1992, the Secretary shall submit a written report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted pursuant to this section, together with such administrative and legislative recommendations as the Secretary may consider appropriate.

SEC. 303. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by section 301 shall take effect 1 year after the date of the enactment of this Act.

(b) PROMOTION OF ENTRY INTO NEW CONTRACTS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall take such actions as are necessary and appropriate to promote entry into contracts under section 205(r) of the Social Security Act which are in compliance with the requirements of the amendments made by section 301.

TITLE IV—PBGC REPORT ON EMPLOYERS WITH UNDERFUNDED PLANS

SEC. 401. REPORT ON EMPLOYERS WITH UNDERFUNDED PLANS.

(a) GENERAL RULE.—The Pension Benefit Guaranty Corporation shall, on January 31 of each calendar year after 1991, submit a report to the Congress setting forth—

(1) the name of each contributing sponsor of 1 or more applicable plans having unfunded liabilities aggregating $25,000,000 or more, and

(2) the name of each contributing sponsor with an applicable plan which has an unfunded liability in excess of $5,000,000 and with respect to which a minimum funding waiver in excess of $1,000,000 has been granted.

Information may be included in such report only if such information may be publicly disclosed by the Pension Benefit Guaranty Corporation.

(b) DETERMINATIONS OF UNFUNDED LIABILITY.—For purposes of subsection (a), determinations of the unfunded liability of any plan shall be made by the Pension Benefit Guaranty Corporation on the basis of the most recent information available to it.

(c) APPLICABLE PLAN.—For purposes of subsection (a), the term "applicable plan" means any employee pension benefit plan (as defined in paragraph (2) of section 3 of the Employee Retirement Income Security Act of 1974) covered under subtitle B of title IV of such Act; except that such term shall not include a multiemployer plan (as defined in section 4001(a)(3) of such Act).

(d) CONTRIBUTING SPONSOR.—For purposes of this section, the term "contributing sponsor" has the meaning given to such term by section 4001(a)(13) of such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. PICKLE] will be recognized for 20 minutes, and the gentleman from Kentucky [Mr. BUNNING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I yield myself such time as I may need.

Mr. Speaker, I rise to bring before the House, H.R. 3837, the Federal Program Improvement Act of 1992. This bill is pure good government and eliminates fraud, waste, and abuse in our Federal programs. Importantly, this bill makes a wide variety of programs under the jurisdiction of the Committee on Ways and Means more effective and efficient. I want every Member of the House to know that a vote for this bill is a vote your constituents deserve and expect, H.R. 3837 will make five main changes:

First, stop the payment of Federal benefit checks to dead people. Federal agencies such as the Office of Personnel Management, Veterans Affairs, and Department of Labor have been sending millions of dollars each month in benefit checks, Social Security and others, to deceased individuals, some of whom have been dead for up to 6 years. H.R. 3837 stops this practice.

I might add that our colleague, the gentleman from Pennsylvania [Mr. SCHULZE], has been very active in this field. He is not here with us today, but he has taken a lead in this area of reform.

Second, stop scams involving the sale of durable medical equipment to Medicare beneficiaries. The Federal Government has been paying for equipment, such as paraffin wax baths, mattress pads, knee braces, and electrical nerve stimulators. Medicare beneficiaries don't want or need this equipment. They've been pressured into accepting it by high-pressure telephone salesmen who tell the beneficiaries that the equipment is free, and Medicare will pay for it. Often, the equipment is of very poor quality. The Medicare Program wastes millions of dollars on such equipment. H.R. 3837 stops this practice.

Third, stop Medicare from paying people's health bills when private insurance companies should be paying. The Medicare Program has been paying hundreds of millions of dollars for the health bills of beneficiaries who have other health insurance that is primary to Medicare. Worse, little has been done to recoup these erroneous Medicare payments for the Federal Government. H.R. 3837 stops future erroneous payments and makes it easier to recoup past mispayments.

Fourth, stop mismanagement of inspector overtime pay by the U.S. Customs Service. Customs management practices for paying inspectors overtime are vulnerable to abuse and the underlying law, enacted in 1911, is outdated. As a result of much negotiation and the support of Customs and Treasury, reform measures have been developed to better administer overtime pay (thorough basic, differential, and other pay rate adjustments) and to fairly compensate the inspectors (through increased pension and foreign language benefits). H.R. 3837 contains such balanced reform measures.

Fifth, provide the Congress with information on whether federally insured pension plans are being funded. The Federal Government is potentially liable for $40 billion is unfunded pension plan benefits that have been guaranteed by the Pension Benefit Guaranty Corporation. This amount has grown by $10 billion in just one year. It is important that the Congress have full information on which companies have failed to fund their pension liabilities and by how much. H.R. 3837 will require such reporting.

This bill, according to the CBO pay-go estimate, will result in over $40 million in direct savings over the next five years. In fact, this bill could save taxpayers hundreds of millions of dollars more, maybe billions. The final cost savings resulting from this bill will depend on the unknown magnitude of the problems we have identified and corrected with this legislation.

Most importantly, this bill saves the American people time and money by making Government programs more user-friendly and less susceptible to abuse. The beneficiary of this legislation is the average person on the street—your constituents. H.R. 3837 proves that our aggressive oversight of the laws Congress has enacted will result in the ferreting out of fraud, waste and abuse. The public needs to know that the Congress is out there protecting their pocketbook. This bill will protect the integrity of many programs within the committee's jurisdiction.

At the start of the 102d Congress, the Ways and Means Committee chairman announced that the committee would undertake a major oversight initiative. The initiative would involve a commitment by the committee to improve the efficiency and effectiveness of health, trade, tax, income security, and other laws within the committee's jurisdiction. As chairman of the Committee's Oversight Subcommittee, I was pleased to join the chairman in this initiative. I assure you that this oversight process will continue during succeeding Congresses, in an effort to achieve more savings and better government.

During the 1st session of this Congress, the Subcommittee on Oversight conducted numerous investigations, hearings and site visits, and issued reports, in furtherance of this major oversight initiative. This legislation reflects the bipartisan reform recommendations unanimously agreed to by the Subcommittee on Oversight, and approved by the Ways and Means Committee. I want to thank the chairmen and members of the Committee on Energy and Commerce and Committee on Post Office and Civil Service for their cooperation and support of the bill. Correspondence between the Committee on Ways and Means and the Committee on Post Office and Civil Service with regard to H.R. 3837 will be included in the RECORD.

In summary, the Federal Program Improvement Act of 1992 will:

First, eliminate abusive marketing practices by durable medical equipment [DME] suppliers seeking reimbursement under the Medicare program, and eliminate waste in the administration of the program. These provisions in title I subtitle A, will result in savings, according to the CBO, of at least $27 million over 5 years. The bill provides that:

Medicare carriers—health insurance companies under contract with the Federal Government to administer the Medicare program—will be required to deny Medicare provider numbers to DME suppliers who engage in telemarketing schemes, making unsolicited telephone calls to Medicare beneficiaries to induce them to buy equipment;

The Health Care Financing Administration [HCFA] will be required to establish standards for the certification of DME suppliers and deny the use of more than one provider number by DME suppliers;

Medicare carriers will be required to reimburse DME suppliers based on the fee schedule in effect for the residence or address of the beneficiary, rather than the fee schedule at the "point-of-sale," in order to eliminate "carrier shopping";

HCFA will be required to establish uniform coverage criteria for the most frequently purchased items of DME and to prepare a list of items of DME for which improved equipment definitions would be appropriate;

Medicare carriers will be authorized to use current, rather than historical, price information in determining the appropriate amount of Medicare payment for DME; and,

HCFA will be required to consider the appropriateness of a uniform, national fee schedule and review items classified as "prosthetics and orthotics."

Second, prevent Medicare from erroneously paying health bills when private insurance companies are responsible, and enhance erroneous Medicare payment recoveries under the Medicare Secondary Payer program. The Health and Human Services inspector general has estimated that the extent of such erroneous Medicare payments may be as high as $1 billion annually. To stop this waste of Federal dollars, title I, subtitle B, of the bill provides that:

Medicare beneficiaries will be screened regarding private health insurance coverage at the time of enrollment in the Medicare Program;

Sanctions will be authorized against providers, such as doctors and hospitals, who routinely and willfully fail to screen beneficiaries for private insurance coverage;

Medicare contractors—health insurance companies under contract with the Federal Government to administer the Medicare laws—will be required to submit quarterly reports to HCFA on their efforts to recover erroneous payments; and

The process of recovering erroneous payments from the primary private insurer will be streamlined.

Third, improve the U.S. Customs Service's administration of inspectional overtime to ensure that resources are better managed. Title II of the bill amends the Customs overtime pay laws (the "1911 Act") to better parallel the Federal Employees Pay Act [FEPA] rules which generally apply to Federal workers. The bill will insure that overtime hours paid bear a more direct relationship to hours worked, by providing for:

Payment of overtime benefits only after 40 hours of work have been completed and only for actual time worked; pay rate differentials for night, Sunday, and holiday work performed as part of an inspector's regular work week schedule; a two hour minimum for callbacks; and, additional compensation for a second commute.

To offset income cuts occasioned by these reforms, and in recognition of the valuable services provided to our country by Customs inspectors, the bill would:

Authorize the Commissioner of Customs to pay foreign language bonuses; and

Increase Customs inspector retirement pay by including overtime pay in the calculation of retirement benefits.

In addition, to ensure proper oversight of the Customs management of overtime pay, the bill would provide that:

The definition of "inspectional services" will be clarified to limit 1911 Act overtime benefits to employees performing actual inspectional activities;

The General Accounting Office will report on the costs of covering night and weekend workloads with additional inspectors, rather than by covering such workload by use of inspector overtime; and

Customs will report annually on the use of overtime, including a breakdown of the use of short callback assignments and second commutes.

Fourth, prevent the flow of Federal benefit checks to deceased beneficiaries. The provisions in title II will result in savings, according to CBO, of at least $13 billion over 5 years. To stop Government agencies from paying Federal benefit checks to individuals whose death has already been reported to the Social Security Administration, the bill provides that:

The Social Security Administration will be authorized and required to share with all Federal agencies death certificate information purchased from State agencies; and

The States will allow for Federal Government-wide use of State death information, in exchange for the States' use of Social Security numbers in administering certain State programs.

Fifth, improve access to information about pension plans which are underfunded and for which the Federal Government may become liable. Title IV of the bill requires that:

The Pension Benefit Guaranty Corporation provide two annual reports to the Congress: One, listing plans with underfunding in excess of $25 million and the amount of such underfunding, and two, listing plans with underfunding in excess of $5 million that have been granted a minimum-funding waiver in excess of $1 million according to publicly disclosable information.

I urge my colleagues to support H.R. 3837.

Mr. Speaker, I include a letter from the gentleman from Missouri [Mr. CLAY], dated May 4, 1992, as follows:

COMMITTEE ON POST OFFICE
AND CIVIL SERVICE,
Washington, DC, May 4, 1992.

Hon. DAN ROSTENKOWSKI, *Chairman,*
Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This refers to your letter of April 10, 1992, concerning the bill H.R. 3837, the Federal Program Improvement Act of 1992, which was ordered reported, amended, by your Committee on April 1, 1992.

As explained in your letter, the bill includes provisions which pertain to matters that fall within the jurisdiction of the Committee on Post Office and Civil Service. You have requested our review and approval of those provisions in order to avoid a sequential referral of the bill and thereby expedite consideration of the bill by the House.

We have carefully reviewed the provisions in question—section 202 (foreign language proficiency awards for customs officers) and section 204 (treatment of overtime pay for civil service retirement purposes)—and we have no objection thereto.

As a result of the cooperation you and your Committee staff have provided, we see no need to seek sequential referral of this legislation. However, our agreement to forgo consideration of the legislation should not be construed as a waiver of this Committee's jurisdiction as established by House Rule X, clause 1(o).

I would appreciate your inserting copies of our correspondence relating to this matter in the Congressional Record during the consideration of H.R. 3837 by the House.

Sincerely,

WILLIAM L. CLAY,
Chairman.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, April 10, 1992.

Hon. WILLIAM CLAY,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, DC.

DEAR BILL: As you may know, the Committee on Ways and Means recently reported H.R. 3837, the Federal Program Improvement Act of 1991, as amended. This bill is designed to improve the efficient operation of several programs within the jurisdiction of the Committee on Ways and Means. As reported, the bill includes matters within the jurisdiction of the Committee on Post Office and Civil Service.

Specifically, the Committee included provisions authorizing the Secretary of the Treasury to pay foreign language awards to Customs officials who use one or more foreign languages in the performance of their jobs and providing that overtime pay received by Customs officials, up to specific limits, be included in calculating their retirement benefits. The provisions were included to offset the cost to employees of reforms of the overtime system governing the Customs Service.

In order to ensure timely consideration by the House of H.R. 3837, I respectfully request that your Committee not request sequential referral of this legislation. In doing so, I fully acknowledge your Committee's exclusive jurisdiction over matters relating to the Federal Civil Service. I further state that action by the Committee on Ways and Means on this legislation in no way affects your Committee's jurisdiction in this area.

I am enclosing a copy of the Committee on Ways and Means report on H.R. 3837 for your information.

Thank you for your consideration of this request.

Sincerely,

DAN ROSTENKOWSKI,
Chairman.

□ 1340

Mr. Speaker, I reserve the balance of my time.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3837, the Federal Program Improvement Act. The act implements five bipartisan reports issued last year by the Ways and Means Oversight Subcommittee.

The goal of the bill is simple: Eliminate waste, fraud, and abuse from our Federal health care, trade, income security, and pension programs. As a result of H.R. 3837, taxpayers will save millions of dollars, and important new safeguards will protect the integrity of Federal spending.

The bill protects the Medicare Program by banning abusive telemarketing of durable medical equipment, establishing minimum standards for DME suppliers, and giving HHS new authority to reduce outrageously high DME prices down to more reasonable levels.

H.R. 3837 further protects Medicare by reducing erroneous payments under the Medicare Secondary Payer Program. Under the bill, HHS would be required to screen beneficiaries for other primary health coverage at the time of enrollment, while doctors would have to screen patients or face new penalties.

The bill also eliminates longstanding abuse and mismanagement of U.S. Customs Service inspector overtime pay. It does this by revising the overtime pay system to pay only for actual time worked in excess of a 40-hour workweek or 8-hour day.

It also restores OMB's authority to oversee the Customs User Fee account that funds overtime.

In order to keep inspectors whole, the bill provides additional pay for second commutes and work performed at night, Sundays, and holidays. In addition, inspectors would get to count part of their overtime pay toward retirement, and receive foreign language bonuses if qualified.

Finally, H.R. 3837 would prevent the payment of Federal benefits to deceased individuals by encouraging cooperative efforts by the States, and strengthen oversight of our pension system by requiring the Pension Benefit Guaranty Corp. to report on underfunded pension plans.

Mr. Speaker, I commend Chairman PICKLE and my fellow Oversight Subcommittee members, on both sides of the aisle, for the spirit of comity and cooperation on this bill. H.R. 3837 is good for the Federal Government, and good for the Federal taxpayer. I urge my colleagues to vote aye.

Mr. Speaker, I reserve the balance of my time.

Mr. PICKLE. Mr. Speaker, I want to commend the gentleman from Kentucky [Mr. BUNNING] and the minority on the subcommittee because they have worked with us very closely on this legislation. We passed this measure unanimously, on a bipartisan basis, out of the subcommittee, and I think that speaks well for the intent of the members of this subcommittee.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. WAXMAN], chairman of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce.

Mr. WAXMAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, H.R. 3837, the Federal Program Improvement Act of 1992, includes a number of changes in the administration of the Medicare Program, as well as other matters not within the jurisdiction of the Committee on Energy and Commerce.

Title I of the bill—which includes the Medicare provisions—is based on the oversight and investigative activities of the Committee on Ways and Means. These Medicare provisions are intended to reduce fraud and abuse in the coverage of durable medical equipment items and supplies, and to reduce erroneous payments under the Medicare secondary payor policy.

Key features of title I as reported by the Committee on Energy and Commerce are:

A ban of Medicare payment for covered durable medical equipment [DME] items marketed through unsolicited telephone contacts with beneficiaries;

Certification standards for DME suppliers including the assignment of unique identifying numbers;

Consolidation and standardization of claims processing and special scrutiny of claims for certain abused items; and

Prohibition on physician referrals to DME suppliers in which they have a financial relationship.

The bill also includes provisions related to Medicare's secondary payor policy. The Secretary would be directed to mail questionnaires to beneficiaries when they first become entitled to Medicare benefits in order to identify whether these individuals are covered under other health plans that are primary to Medicare. In addition, providers and practitioners submitting claims for Medicare services would also be required to include information about other health plan coverage.

The case for these provisions is presented in detail in the report on H.R. 3837—House Report 102–486—by the Committee on Ways and Means and the report of the Committee on Energy and Commerce. It is my understanding that the bill as reported is supported by organizations representing DME suppliers and other interested groups. The Congressional Budget Office has estimated that the bill would result in savings in Medicare outlays totalling $27 million over 5 years.

Mr. Speaker, our Committee did adopt one amendment to title I of H.R. 3837 which I offered on behalf of our colleague, Congressman TOM MCMILLEN, when the bill was considered by the Subcommittee on Health and the Environment.

This amendment—which was adopted unanimously—restores separate payments for physician interpretation of electrocardiograms [EKG's] under Medicare. It would reserve the policy included in OBRA 90 that prohibits such payments. The amendment assures Medicare patients access to this important diagnostic service, and does so in a budget-neutral manner.

Mr. Speaker, I want to thank the gentleman from Texas, Mr. PICKLE, for his leadership in developing this legislation, and for the valuable work of his Oversight Subcommittee in identifying the need for this legislation.

Mr. Speaker, I urge my colleagues to support the bill.

Mr. PICKLE. Mr. Speaker, I want to commend the chairman of the subcommittee, the gentleman from California [Mr. WAXMAN] for his cooperation in the passage of this bill. I would also commend the gentleman from Missouri, Mr. WILLIAM CLAY, the chairman of the Committee on Post Office and Civil Service, who has worked closely with us on this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. TAUZIN] for the purpose of a colloquy.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman from Texas for yielding to me.

Mr. Speaker, section 106 of H.R. 3837 proposes to extend certain Medicare physician self-referral prohibitions to durable medical equipment. Now, when we think of DME, most of us think of wheelchairs, crutches, beds, and things of that nature, but DME also includes the external portable infusion pumps that medical oncologists use to treat their cancer patients on an ambulatory basis, that is, neither in the hospital nor the physician's office.

This provision would have a negative impact on medical oncologists who prescribe ambulatory chemotherapy and other drug therapies for their cancer patients. Additionally, the laws in some States governing the ability of a physician to dispense drugs prevent physicians from qualifying for the exception provided in current self-referral law for in-office ancillary service. So this provision in H.R. 3837 would allow some oncologists to qualify for the exception, but not others.

This limitation of physician involvement in ambulatory chemotherapy would force some cancer patients back to the more expensive and confining hospital setting, and would prevent them from continuing their work and home activities. Slow continuous infusion of chemotherapy tends to be easier on the patient than single injections of large doses, which have worse side effects.

Now, I am not aware of any studies that demonstrate that it is abusive for a physician to own an interest in a durable medical equipment supplier to which that physician refers patients. The studies of which I am aware, the 1989 study by the office of the inspector general of HHS, found no difference in utilization between physician owned and independently owned DME suppliers, and the more extensive and recent Florida study on physician ownership did not reach that conclusion either.

As a matter of fact, the most recently released report on home drug infusion therapy conducted by the Office of Technology Assessment concludes that the physician's active involvement in the ambulatory drug therapy is very important and results in a higher quality of care. Finally, in the widely heralded Florida self-referral legislation that was enacted unanimously earlier this year in response to the Florida study, not only was DME not singled out for special self-referral prohibition, but referrals by medical oncologists for equipment and drugs and solutions that are furnished or administered to their patients in the course of cancer treatment were specifically excepted from the application of the Florida legislation.

When we prohibited self-referrals for clinical laboratory services in 1989 we provided an exception for referral by pathologists because, after all, laboratory services are integrally related to a pathologist's medical practice. Similarly, the drug therapies administered through these portable infusion pumps are not only an integral part of the medical oncologist's practice, for all intents and purposes, they constitute the practice itself. Treating cancer through drug therapies is what a medical oncologist does.

I would like to see this language amended in conference or via some other vehicle, to the effect that a request by an oncologist for an external ambulatory infusion pump as well as the drugs which must be put into the pump, does not constitute a referral by a referring physician. I would ask the chairman if he agrees that there is a problem and if he would be willing to work with me on resolving this issue.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding to me.

Mr. Speaker, I hasten to assure the gentleman that I will be happy to work with him on this issue. The gentleman brings up an important point, and as we go forward I will certainly be in touch with the gentleman and will work with him.

Mr. TAUZIN. I thank the gentleman for his interest and cooperation.

Mr. PICKLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like at this time to commend the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL] and the chairman of our full committee, the gentleman from Illinois [Mr. ROSTENKOWSKI] for helping us to advance this important issue. Mr. Speaker, I recommend passage of this bill.

Mr. SCHULZE. Mr. Speaker, I am pleased to speak today in strong support of the Federal Program Improvement Act of 1992. This act represents the bipartisan product of the Ways and Means Subcommittee on Oversight, of which I am the ranking Republican member.

I have long believed that Congress must be vigilant in looking over the shoulder of the farflung bureaucracy. No stone should go unturned in the search for possible fraud and abuse. This bill is the product of the kind of sustained, long-term oversight effort that is essential to good government. The bill makes key changes to five Federal programs that will result in significant, tangible savings to the taxpayer through improved government operations.

First, Mr. Speaker, one of the most important sections of the bill addresses abusive telemarketing by unscrupulous durable medical equipment [DME] suppliers. Due to the high concentration of both elderly citizens and medical equipment companies in southeastern Pennsylvania, my home district has become a hotbed of this abuse.

During our investigation, the subcommittee traveled to West Chester, PA, and learned first hand how boiler room telemarketing operations make unsolicited calls to unsuspecting seniors, and induce them to buy equipment that they don't need and don't want.

The bill effectively puts an end to this practice by an outright ban on DME telemarketing under the Medicare Program.

I originally proposed such a ban in my bill, H.R. 3587, and I am pleased to say that my legislation has been incorporated in its entirety into this act. The act also gives the Department of Health and Human Services new authority to bring outrageously high DME prices down to current, more reasonable levels.

Second, the bill reduces erroneous payments under the Medicare Secondary Payer [MSP] Program.

Under the Medicare law, private insurers must pay claims before Medicare. However, doctors and hospitals often send claims to Medicare first, since Medicare pays more quickly. The Medicare contractors are then left to figure out who should really pay. As a result, the taxpayers lose up to $1 billion per year due to these erroneous payments.

This bill goes to the heart of the problem, by establishing new penalties for doctors and hospitals who repeatedly violate MSP screening requirements.

Third, the bill ends the abuses and mismanagement that have characterized the overtime pay system for U.S. Customs Service inspectors. Under the 80-year-old overtime law, inspectors get paid 4 hours pay for working just 1 minute past the end of the regular work day, or 16 hours pay for any work done on a Sunday.

Customs managers have treated the user fee fund that covers overtime expenses like free money, and Congress and OMB have exercised little or no oversight.

This bill changes that situation by modifying Customs Service compensation rules to make hours paid bear a more direct relationship to hours worked.

In return, inspectors would be able to include a portion of their overtime earnings toward retirement, and qualify for foreign language bonuses. However, the new retirement benefits would be subject to strict regulatory controls. Also, OMB would again be allowed to police spending on overtime from the Customs COBRA user fee account.

Fourth, the bill would reduce the erroneous payment of Federal benefits to persons who have died. It would do this by directing the Federal agencies to cross-check their beneficiary lists with death data compiled by the Social Security Administration. This screening process will identify deceased beneficiaries more quickly and thus allow the agencies to stop issuing benefit checks more quickly.

Fifth, the bill directs the Pension Benefit Guarantee Corporation to improve its management system for the collection and tracking of premium payments by pension plan sponsors. The Oversight Subcommittee found that the PBGC's premium collection system was under stress because it was based on an out-of-date computer system. The variable rate feature of the PBGC premium pushed the collection system beyond its capability and the system crashed.

Mr. Speaker, the five major features of this act will improve the efficiency of Federal programs. The details are neither glamorous nor flashy but they address the nitty-gritty operational features which are essential for good government. I am proud to be an original cosponsor of this bill, and urge my colleagues to support it.

Mr. ROSTENKOWSKI. Mr. Speaker, at the beginning of the 102d Congress, I announced that the Committee on Ways and Means would conduct a major oversight initiative to review programs within the jurisdiction of the committee focusing on the efficient administration of these programs and on their effectiveness in achieving their goals. In furtherance of the oversight initiative, during the first session of the Congress, the committee conducted more than 50 hearings and numerous site visits. These activities an the committee's findings were reported to the House in February.

H.R. 3837 contains the changes that are necessary to eliminate ineffective and inefficient administration within programs in the committee's jurisdiction as identified by the Subcommittee on Oversight. The subcommittee spent a great deal of time analyzing the operations of the Federal Government and identifying problems areas: Federal benefit payments to deceased individuals; abusive marketing practices by durable medical equipment suppliers; mismanagement overtime pay by the Customs Service; Government payment of medical costs which should have been paid by private insurers; and, weaknesses in the administration of the Pension Benefit Guaranty Corporation. H.R. 3837 shows the ongoing effort of the committee to look at the nuts and bolts of programs that we have enacted and I hope that the Congress will pass this important legislation. In the end, I believe that the American public will be better served as a result of the committee's major oversight initiative and the resulting legislation.

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise today in support of H.R. 3837, the Federal Program Improvement Act, introduced by my colleague Mr. PICKLE. This is an excellent piece of legislation, which makes several needed changes to the Medicare Program.

Of special importance to me are the provisions that were added during consideration of the legislation in the Energy and Commerce Committee dealing with electrocardiogram [EKG] interpretations. Last year I introduced H.R. 3373, the provisions of which are similar to the measures included in this bill.

H.R. 3373 sought to correct a problem that was created by the Omnibus Budget Reconciliation Act of 1990 [OBRA]. OBRA '90 prohibited a separate payment for EKG interpretations that were ordered or performed in conjunction with an office visit or consultation. The Health Care Financing Administration recognized that this created a situation where physicians would receive no reimbursement for a highly skilled procedure. Therefore, as part of its rulemaking for the RBRV fees schedule, HCFA increased the reimbursement level for office visits in order to compensate for a lack of a separate payment for EKG interpretations.

This addition to office visits provided insufficient reimbursement for EKG interpretations, while at the same time providing reimbursement to physicians who did not even perform EKG interpretations. In essence, this reimbursement system created an incentive for physicians not to perform EKG's on Medicare patients.

Clearly, this is an issue which is important to physicians who interpret EKG's. They want, and rightly so, to be fairly compensated for this service. However, it is important that we do not lose sight of the fact that this is also an issue that is very important to Medicare beneficiaries as well.

Cardiovascular diseases and strokes are the leading cause of death among older Americans. 84 percent of Americans over the age of 65 will experience some kind of heart disorder. EKG's are crucial for detection of these types of disorders. The American Heart Association has stated that it is concerned that the prohibition on reimbursement for EKG interpretations will reduce the appropriate utilization of this important diagnostic tool, and that there are defined circumstances where a skilled EKG interpretation is vital to the interest of patients.

The Congress has created a reimbursement system that discourages physicians from providing EKG's to those patients who are most likely to need and benefit from them—the elderly. We need to pass H.R. 3837 to fix this problem.

Also of concern to me, is that the prohibition on a separate payment for EKG interpretations found in OBRA '90 was penny wise and dollar foolish. In our efforts to reduce spending in the Medicare Program, it is quite probable that we accomplish the opposite result. By failing to detect heart disorders early through a properly interpreted EKG, the Medicare Program will incur greater expense through increased hospital and emergency room costs.

As I have already indicated, the measures contained in H.R. 3837, are very similar to H.R. 3373. These provisions are made budget neutral by splitting off the additional payments that HCFA attached to office visits. However, as this add-on was insufficient to compensate for the true value of this service, additional moneys are achieved through a small across the board reduction in all service still in transition under the RBRV fee schedule.

The EKG provisions in H.R. 3837 are supported by the American Society of Internal Medicine, the American Medical Association, the American College of Cardiology, the National Rural Health Association, the American Academy of Family Physicians, the American Academy of Neurology, the American College of Physicians, American Group Practice Association, the Association of Professors of Medicine, Medical Group Management Association, the Renal Physician Association, the American Osteopathic Association, the American College of Rheumatology, the American College of Chest Physicians, the American Association of Clinical Endocrinologists, the Society of Coronary Angiography and Interventions, and the North American Society of Pacing and Electrophysiology. H.R. 3373 has 239 cosponsors from this chamber and Secretary Sullivan has indicated that he has no problem with the provisions found in H.R. 3837.

To close today, I would like to thank Mr. PICKLE for his strong and early support for this legislation. I would like to thank both Chairman DINGELL and Chairman WAXMAN, who were instrumental in moving this legislation forward. While EKG reimbursement is only one part of H.R. 3837, it is an important one, and I would ask all of the Members who have supported H.R. 3373 to lend their support to the bill that is before us today.

Mr. RANGEL. Mr. Speaker, I rise in support of H.R. 3837. This bill includes five titles emanating from investigations undertaken by the Subcommittee on Oversight. While I support the Committee on Ways and Means Report on each of the titles, I am particularly interested in one. I have been very concerned about the investigations involving the alleged abuses in the application of the law enacted in 1911 affecting the overtime pay of Customs inspectors. I am particularly interested in the work of customs inspectors. As chairman of the Select Committee on Narcotics Abuse and Control I have come to learn they are front line against illegal drug importation.

The 1911 law is an anachronism. It produces anomalies in overtime pay not reflective of the current operations of Customs. In 1911 most inspections involved ships and some railroads. Today there are an enormous number of airplanes entering the United States through many more ports and airports than ships entered in 1911. Nevertheless, there is no reason just to change the overtime provisions for Customs inspectors without recognizing the extraordinary and often dangerous jobs so many of them do.

When this bill was reported by Subcommittee on Oversight of the Committee on Ways and Means, I objected along with my colleagues on the committee from New York, Mr. DOWNEY and Mr. MCGRATH, that the bill would reduce overall compensation for Customs inspectors by over $23 million per year. The committee came to recognize that the 1911 law needed revision, but that it did not want to reduce the overall compensation of Customs inspectors. I am happy to say that the committee reduced the cut in the overtime pay and took that reduced savings in overtime and used it in a revenue neutral manner to improve the retirement pay of the inspectors and the bonus pay provided to those with special language skills so useful to people who work with foreign travelers. I can support this rationalization of compensation for Customs inspectors.

I recognize some inspectors may lose some immediate cash compensation. However, I believe that in the long run an improved retirement package is good for the Customs Service and their inspectors.

I remain an advocate of law enforcement status for Customs inspectors. I recognize that the distinguished chairman of the Committee on Post Office and Civil Service, Mr. CLAY, is reluctant to make any changes affecting law enforcement status for Federal employees before the Office of Personnel Management makes it report to Congress on this matter next year. I am hopeful that the OPM will recognize the important law enforcement work that Customs inspectors have undertaken.

I will continue to support law enforcement status for the inspectors and I hope that the Senate in their consideration of this title of this bill will give consideration of the status of the inspectors.

I urge the passage of H.R. 3837.

Mr. PICKLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. PICKLE] that the House suspend the rules and pass the bill, H.R. 3837, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

☐ 1350

PHASEOUT OF THE OCCUPATIONAL TAXES RELATING TO DISTILLED SPIRITS, WINE, AND BEER

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5649) to amend the Internal Revenue Code of 1986 to phaseout the occupational taxes relating to distilled spirits, wine, and beer and to impose the tax on diesel fuel in the same manner as the tax on gasoline.

The Clerk read as follows:

H.R. 5649

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—PHASEOUT OF OCCUPATIONAL TAXES RELATING TO DISTILLED SPIRITS, WINE, AND BEER

SEC. 101. REDUCTION IN RATES OF OCCUPATIONAL TAXES RELATING TO DISTILLED SPIRITS, WINE, AND BEER.

(a) PROPRIETORS OF DISTILLED SPIRITS PLANTS, ETC.—

(1) Subsection (a) of section 5081 is amended by striking "$1,000" and inserting "$500".

(2) Subsection (b) of section 5081 is amended by striking " '$500' for '$1,000' " and inserting " '$250' for '$500' ".

(b) BREWERS.—Subsection (a) of section 5091 is amended by striking "$1,000" and inserting "$500".

(c) WHOLESALE DEALERS.—Subsections (a) and (b) of section 5111 are each amended by striking "$500" and inserting "$250".

(d) RETAIL DEALERS.—Subsections (a) and (b) of section 5121 are each amended by striking "$250" and inserting "$125".

(e) NONBEVERAGE DRAWBACK.—Subsection (b) of section 5131 is amended by striking "$500" and inserting "$250".

(f) INDUSTRIAL USE.—Subsection (a) of section 5276 is amended by striking "$250" and inserting "$125".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1993, but shall not apply to taxes imposed for periods before such date.

SEC. 102. REPEAL OF OCCUPATIONAL TAXES RELATING TO DISTILLED SPIRITS, WINE, AND BEER.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 of such Code is amended by striking ", on payment of a special tax per annum,".

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

"Subpart A. Manufacturers of stills.

"Subpart B. Nonbeverage domestic drawback claimants.

"Subpart C. Recordkeeping by dealers.

"Subpart D. Other provisions."

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

"Part II. Miscellaneous provisions."

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking "**and rate of tax**" in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking "and rate of tax" in the section heading,

(ii) by striking "(a) ELIGIBILITY FOR DRAWBACK.—", and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

"Subpart C—Recordkeeping by Dealers

"Sec. 5121. Recordkeeping by wholesale dealers.

"Sec. 5122. Recordkeeping by retail dealers.

"Sec. 5123. Preservation and inspection of records, and entry of premises for inspection."

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) WHOLESALE DEALERS.—For purposes of this part—

"(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

"(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

"(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

"(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer."

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking "section 5146" and inserting "section 5123".

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.",

(ii) by striking "section 5146" in subsection (c) and inserting "section 5123", and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) RETAIL DEALERS.—For purposes of this section—

"(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

"(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

"(3) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3)."

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

"Subpart D—Other Provisions

"Sec. 5131. Packaging distilled spirits for industrial uses.

"Sec. 5132. Prohibited purchases by dealers."

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting "(as defined in section 5121(c))" after "dealer" in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

"(b) PENALTY AND FORFEITURE.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302."

(11) Subsection (b) of section 5002 is amended—

(A) by striking "section 5112(a)" and inserting "section 5121(c)(3)",

(B) by striking "section 5112" and inserting "section 5121(c)",

(C) by striking "section 5122" and inserting "section 5122(c)".

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking "section 5134" and inserting "section 5114".

(13) Subsection (d) of section 5052 is amended to read as follows:

"(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e)."

(14) The text of section 5182 is amended to read as follows:

"For provisions requiring recordkeeping by wholesale liquor dealers, see section 5112, and by retail liquor dealers, see section 5122."

(15) Subsection (b) of section 5402 is amended by striking "section 5092" and inserting "section 5052(d)".

(16) Section 5671 is amended by striking "or 5091".

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended—

(i) by striking "this part" each place it appears and inserting "this subchapter", and

(ii) by striking "this subpart" in section 5732(c)(2) (as so redesignated) and inserting "this subchapter".

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking "(except the tax imposed by section 5131)" each place it appears.

(C) Subsection (c) of section 5733, as redesignated by subparagraph (A), is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

"Sec. 5732. Payment of tax.

"Sec. 5733. Provisions relating to liability for occupational taxes.

"Sec. 5734. Application of State laws."

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (b) of section 6071 is amended by striking "section 5142" and inserting "section 5732".

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking "subpart F" and inserting "subpart B", and

(B) by striking "section 5131(a)" and inserting "section 5111(a)".

(21) The table of sections for subchapter D of chapter 51 is amended by striking the item relating to section 5276.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1994, but shall not apply to taxes imposed for periods before such date.

TITLE II—MODIFICATIONS TO TAX ON DIESEL FUEL

SEC. 201. MODIFICATIONS TO TAX ON DIESEL FUEL.

(a) IN GENERAL.—Subparts A and B of part III of subchapter A of chapter 32 (relating to manufacturers excise taxes) are amended to read as follows:

"Subpart A—Gasoline and Diesel Fuel

"Sec. 4081. Imposition of tax.
"Sec. 4082. Exemptions.
"Sec. 4083. Definitions and special rule.
"Sec. 4084. Cross references.

"SEC. 4081. IMPOSITION OF TAX.

"(a) TAX IMPOSED.—

"(1) TAX ON REMOVAL, ENTRY, OR SALE.—

"(A) IN GENERAL.—There is hereby imposed a tax at the rate specified in paragraph (2) on—

"(i) the removal of a taxable fuel from any refinery, "(ii) the removal of a taxable fuel from any terminal,

"(iii) the entry into the United States of any taxable fuel for consumption, use, or warehousing, and

"(iv) the sale of a taxable fuel to any person who is not registered under section 4101 unless there was a prior taxable removal or entry of such fuel under clause (i), (ii), or (iii).

"(B) EXEMPTION FOR BULK TRANSFERS TO REGISTERED TERMINALS.—The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk to a terminal if the person removing or entering the taxable fuel and the operator of such terminal are registered under section 4101.

"(2) RATES OF TAX.—

"(A) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

"(i) the Highway Trust Fund financing rate,

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate, and

"(iii) the deficit reduction rate.

"(B) RATES.—For purposes of subparagraph (A)—

"(i) the Highway Trust Fund financing rate is—

"(I) 11.5 cents per gallon in the case of gasoline, and

"(II) 17.5 cents per gallon in the case of diesel fuel,

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon, and

"(iii) the deficit reduction rate is 2.5 cents per gallon.

"(b) TREATMENT OF REMOVAL OR SUBSEQUENT SALE BY BLENDER.—

"(1) IN GENERAL.—There is hereby imposed a tax at the rate specified in subsection (a) on taxable fuel removed or sold by the blender thereof.

"(2) CREDIT FOR TAX PREVIOUSLY PAID.—If—

"(A) tax is imposed on the removal or sale of a taxable fuel by reason of paragraph (1), and

"(B) the blender establishes the amount of the tax paid with respect to such fuel by reason of subsection (a),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

"(c) TAXABLE FUELS MIXED WITH ALCOHOL AT REFINERY, ETC.—

"(1) REDUCED RATES.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by substituting rates which are $^{10}/_{9}$ of the otherwise applicable rates in the case of the removal or entry of any taxable fuel for use in producing at the time of such removal or entry a qualified alcohol mixture. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing such a mixture after the time of such removal or entry.

"(2) LATER SEPARATION OF FUEL FROM QUALIFIED ALCOHOL MIXTURE.—If any person separates the taxable fuel from a qualified alcohol mixture on which tax was imposed under subsection (a) at the otherwise applicable Highway Trust Fund financing rate (or its equivalent) by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) OTHERWISE APPLICABLE RATES.—In the case of the Highway Trust Fund financing rate, the otherwise applicable rate is—

"(i) 6.1 cents per gallon in the case of gasoline, and

"(ii) 12.1 cents per gallon in the case of diesel fuel.

In the case of a qualified alcohol mixture none of the alcohol in which consists of ethanol, the preceding sentence shall be applied by substituting '5.5 cents' for '6.1 cents' and '11.5' for '12.1'.

"(B) QUALIFIED ALCOHOL MIXTURE.—The term 'qualified alcohol mixture' means any mixture of a taxable fuel if at least 10 percent of such mixture is alcohol.

"(C) ALCOHOL DEFINED.—The term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal (including peat). Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants).

"(4) TERMINATION.—Paragraph (1) shall not apply to any removal or sale after September 30, 2000.

"(d) TERMINATION.—

"(1) HIGHWAY TRUST FUND FINANCING RATE.—On and after October 1, 1999, the Highway Trust Fund financing rate under subsection (a)(2) shall not apply.

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995.

"(3) DEFICIT REDUCTION RATE.—On and after October 1, 1995, the deficit reduction rate under subsection (a)(2) shall not apply.

"(e) REFUNDS IN CERTAIN CASES.—Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable fuel establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such taxable fuel, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

"SEC. 4082. EXEMPTIONS.

"(a) IN GENERAL.—The tax imposed by section 4081 shall not apply to diesel fuel—

"(1) which the Secretary determines is destined for a nontaxable use,

"(2) which is indelibly dyed in accordance with regulations which the Secretary shall prescribe, and

"(3) which meets such marking requirements (if any) as may be prescribed by the Secretary in regulations.

"(b) NONTAXABLE USE.—For purposes of this section, the term 'nontaxable use' means—

"(1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of the imposition of tax on any sale thereof,

"(2) any use in a train, and

"(3) any use described in section 6427(b)(1).

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations requiring the conspicuous labeling of retail diesel fuel pumps and other delivery facilities to assure that persons are aware of which fuel is available only for nontaxable uses.

"(d) CROSS REFERENCE.—

"For tax on train and certain bus uses of fuel purchased tax-free, see section 4041(a)(1).

"SEC. 4083. DEFINITIONS AND SPECIAL RULE.

"(a) TAXABLE FUEL.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxable fuel' means—

"(A) gasoline, and

"(B) diesel fuel.

"(2) GASOLINE.—The term 'gasoline' includes, to the extent prescribed in regulations—

"(A) gasoline blend stocks, and

"(B) products commonly used as additives in gasoline.

For purposes of subparagraph (A), the term 'gasoline blend stock' means any petroleum product component of gasoline.

"(3) DIESEL FUEL.—The term 'diesel fuel' means any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel-powered train.

"(b) CERTAIN USES DEFINED AS REMOVAL.—If any person uses (other than in the production of gasoline, diesel fuel, or special fuels referred to in section 4041) taxable fuel, such use shall for the purposes of this chapter be considered a removal.

"SEC. 4084. CROSS REFERENCES.

"(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

"(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.

"(3) For provisions to relieve purchasers from excise tax in the case of taxable fuel not used for taxable purposes, see section 6427.

"Subpart B—Aviation Fuel

"Sec. 4091. Imposition of tax.

"Sec. 4092. Exemptions.

"Sec. 4093. Definitions.

"SEC. 4091. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on the sale of aviation fuel by the producer or the importer thereof or by any producer of aviation fuel.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) shall be the sum of—

"(A) the Airport and Airway Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 17.5 cents per gallon.

"(3) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

"(4) TERMINATION OF RATES.—

"(A) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1996.

"(B) The Leaking Underground Storage Tank Fund financing rate shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

"(c) REDUCED RATE OF TAX FOR AVIATION FUEL IN ALCOHOL MIXTURE, ETC.—

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 4.1 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 4.56 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be 1/10 cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 4.1 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 2000.

"(d) LOWER RATES OF TAX ON ALCOHOL MIXTURES NOT MADE FROM ETHANOL.—In the case of a mixture described in subsection (c)(1)(A)(i) none of the alcohol in which is ethanol—

"(1) subsections (c)(1)(A) and (c)(2) shall each be applied by substituting rates which are 0.6 cents less than the rates contained therein, and

"(2) subsection (c)(1)(B) shall be applied by substituting rates which are 10/9 of the rates determined under paragraph (1).

"SEC. 4092. EXEMPTIONS.

"(a) NONTAXABLE USES.—The Airport and Airway Trust Fund financing rate under by section 4091 shall not apply to aviation fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)(A)).

"(b) SALES TO PRODUCER.—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply to aviation fuel sold to a producer of such fuel.

"(c) SUPPLIES FOR VESSELS AND AIRCRAFT.—Under regulations prescribed by the Secretary, the Leaking Underground Storage Tank Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)).

"SEC. 4093. DEFINITIONS.

"(a) AVIATION FUEL.—For purposes of this subpart, the term 'aviation fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

"(b) PRODUCER.—For purposes of this subpart—

"(1) CERTAIN PERSONS TREATED AS PRODUCERS.—

"(A) IN GENERAL.—The term 'producer' includes any person described in subparagraph (B) who elects to register under section 4101 with respect to the tax imposed by section 4091.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a refiner, blender, or wholesale distributor of aviation fuel, or

"(ii) a dealer selling aviation fuel exclusively to producers of aviation fuel.

"(C) REDUCED RATE PURCHASERS TREATED AS PRODUCERS.—Any person to whom aviation fuel is sold at a reduced rate under this subpart shall be treated as the producer of such fuel.

"(2) WHOLESALE DISTRIBUTOR.—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells aviation fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding the term 'wholesale distributor' from paragraph (1)) is a producer or importer."

(b) CIVIL PENALTY FOR USING UNTAXED FUEL FOR TAXABLE USE.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6714. EXEMPT-USE DIESEL FUEL SOLD FOR USE OR USED IN TAXABLE USE.

"(a) IMPOSITION OF PENALTY.—If diesel fuel which is dyed in accordance with section 4082—

"(1) is sold by any person for any use which such person knows or has reason to know is not a nontaxable use, or

"(2) is used by any person for a nontaxable use and such person knew, or had reason to know, that such fuel was so dyed,

then, in addition to the tax, such person shall pay a penalty on such sale or use.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) on any sale or use shall be the greater of—

"(1) $1,000, or

"(2) the product of the number of gallons so sold or used and twice rate of tax under section 4081 on diesel fuel.

"(c) DEFINITIONS.—For purposes of this section, the terms 'nontaxable use' and 'diesel fuel' have the respective meanings given such terms by sections 4082 and 4083."

(2) CLERICAL AMENDMENT.—The table of sections for such part I is amended by adding at the end thereof the following new item:

"Sec. 6714. Exempt-use diesel fuel sold for use or used in taxable use."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 40 is amended by striking ", section 4081(c), or section 4091(c)" and inserting "or section 4081(c)".

(2) Subsection (a) of section 4101 is amended by striking "4081" and inserting "4041(a)(1), 4081,".

(3) Section 4102 is amended by striking "gasoline" and inserting "any taxable fuel (as defined in section 4083)".

(4) Paragraph (1) of section 4041(a) is amended to read as follows:

"(1) TAX ON DIESEL FUEL IN CERTAIN CASES.—

"(A) IN GENERAL.—There is hereby imposed a tax on any diesel fuel (as defined in section 4083)—

"(i) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle or a diesel-powered train for use as a fuel in such vehicle or train, or

"(ii) used by any person as a fuel in a diesel-powered highway vehicle or a diesel-powered train unless there was a taxable sale of such fuel under clause (i).

"(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of diesel fuel if there was a taxable sale of such fuel under section 4081 and the tax thereon was not credited or refunded.

"(C) RATE OF TAX.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate on diesel fuel and the deficit reduction rate in effect under section 4081 at the time of such sale or use.

"(ii) HIGHWAY RATE NOT TO APPLY TO TRAINS.—The Highway Trust Fund financing rate shall not apply to any sale for use, or use, of fuel in a train.

"(iii) CERTAIN BUS USES.—If the limitation in section 6427(b)(2)(A) applies to fuel sold for use or used in an automobile bus, the Highway Trust Fund financing rate shall be 3 cents per gallon and the deficit reduction rate shall not apply."

(5) Paragraph (2) of section 4041(a) is amended by striking "or paragraph (1) of this subsection" and by inserting "on gasoline" after "Highway Trust Fund financing rate".

(6) Paragraph (2) of section 4041(c) is amended by striking "any product taxable under section 4081" and inserting "gasoline (as defined in section 4083)".

(7) Paragraph (2) of section 4041(d) is amended—

(A) by striking "(other than a product taxable under section 4081)" and inserting "(other than gasoline (as defined in section 4083))", and

(B) by striking "section 4091" and inserting "section 4081".

(8) Paragraph (3) of section 4041(d) is amended by striking "(other than any product taxable under section 4081)" and inserting "(other than gasoline (as defined in section 4083))".

(9) Subparagraph (A) of section 4041(k)(1) is amended by striking "sections 4081(c) and 4091(c), as the case may be" and inserting "section 4081(c)".

(10) Subparagraph (B) of section 4041(m)(1) is amended by striking "section 4091(d)(1)" and inserting "section 4091(c)(1)".

(11) Section 6206 is amended by striking "4041 or 4091" and inserting "4041, 4081, or 4091".

(12) Paragraph (1) of section 6302(f) is amended by inserting "on gasoline" after "section 4081" and after "such tax".

(13) Paragraph (1) of section 6412(a) is amended by striking "gasoline" each place it appears (including the heading) and inserting "taxable fuel".

(14) The heading of paragraph (4) of section 6416(a) is amended by striking "GASOLINE" and inserting "GASOLINE AND DIESEL FUEL".

(15) Sections 6420(c)(5) and 6421(e)(1) are each amended by striking "section 4082(b)" and inserting "section 4083(a)".

(16) Subsection (b) of section 6427 is amended—

(A) by striking "if any fuel" in paragraph (1) and inserting "if any diesel fuel (as defined in section 4083(a))", and

(B) by striking "4091" each place it appears and inserting "4081".

(17)(A) Paragraph (1) of section 6427(f) is amended by striking "4091(c)(1)(A), or 4091(d)(1)(A)" and inserting "or 4091(c)(1)(A)".

(B) Paragraph (2) of section 6427(f) is amended to read as follows:

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

"(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

"(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof."

(18) Subsection (h) of section 6427 is amended by striking "section 4082(b)" and inserting "section 4083(a)(2)".

(19) Paragraph (3) of section 6427(i) is amended—

(A) by striking "GASOHOL" in the heading and inserting "ALCOHOL MIXTURE", and

(B) by striking "gasoline used to produce gasohol (as defined in section 4081(c)(1))" in subparagraph (A) and inserting "gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))".

(20) The heading of paragraph (4) of section 6427(i) is amended by inserting "4081 OR" before "4091".

(21) Subsection (l) of section 6427 is amended to read as follows:

"(l) NONTAXABLE USES OF AVIATION FUEL TAXED UNDER SECTION 4091.—

"(1) IN GENERAL.—Except as provided in subsection (k) and in paragraphs (3) and (4) of this subsection, if—

"(A) any diesel fuel on which tax has been imposed by section 4081, or

"(B) any aviation fuel on which tax has been imposed by section 4091,

is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4081 or 4091, as the case may be.

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means—

"(A) in the case of diesel fuel, any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of the imposition of tax on any sale thereof, and

"(B) in the case of aviation fuel, any use which is exempt from the tax imposed by section 4041(c)(1) other than by reason of the imposition of tax on any sale thereof.

"(3) LIMIT ON REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Paragraph (1) shall not apply to so much of the tax imposed by section 4081 or 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

"(A) fuel used in a diesel-powered train, and

"(B) fuel used in any aircraft (other than as supplies for vessels or aircraft, within the meaning of section 4221(d)(3)).

"(4) NO REFUND OF DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the deficit reduction rate imposed by such section unless such fuel was used by a State or any political subdivision thereof."

(22) Paragraph (1) of section 9503(b) is amended—

(A) by striking "gasoline)," in subparagraph (E) and inserting "gasoline and diesel fuel), and",

(B) by striking subparagraph (F), and

(C) by redesignating subparagraph (G) as subparagraph (F).

(23) Subparagraph (B) of section 9503(b)(4) is amended by striking ", 4081, and 4091" and inserting and 4081".

(24) Subparagraph (D) of section 9503(c)(6) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(25) Paragraph (2) of section 9503(e) is amended—

(A) by striking ", 4081, and 4091" and inserting "and 4081", and

(B) by striking ", 4081, or 4091" and inserting "or 4081".

(26) Subsection (b) of section 9508 is amended—

(A) by inserting "and diesel fuel" after "gasoline" in paragraph (2), and

(B) by striking "diesel fuel and" in paragraph (3).

(27) The table of subparts for part III of subchapter A of chapter 32 is amended by striking the items relating to subparts A and B and inserting the following new items:

"Subpart A. Gasoline and diesel fuel.

"Subpart B. Aviation fuel."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 202. FLOOR STOCKS TAX.

(a) IN GENERAL.—There is hereby imposed a floor stocks tax on diesel fuel held by any person on April 1, 1993.

(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the amount of tax which would be imposed under section 4081 of the Internal Revenue Code of 1986 if there were a taxable sale of such fuel on such date.

(c) LIABILITY AND PAYMENT OF TAX.—

(1) LIABILITY FOR TAX.—A person holding the diesel fuel on April 1, 1993, to which the tax imposed by this section applies shall be liable for such tax.

(2) METHOD OF PAYMENT.—The tax imposed by this section shall be paid in such manner as the Secretary shall prescribe.

(3) TIME FOR PAYMENT.—The tax imposed by this section shall be paid on or before September 30, 1993.

(d) DEFINITIONS.—For purposes of this section—

(1) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4083(a) of such Code.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(e) EXCEPTIONS.—

(1) EXEMPT HOLDERS.—The tax imposed by this section shall not apply to fuel held by any person if no tax would have been imposed by section 4081 of such Code on any prior removal or entry of such fuel had such section 4081 applied to all prior removals and entries of such fuel.

(2) PERSONS ENTITLED TO CREDIT OR REFUND.—The tax imposed by this section shall not apply to fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 is allowable for such use.

(3) COMPLIANCE WITH DYING REQUIRED.—Paragraphs (1) and (2) shall not apply to the holder of any fuel if the holder of such fuel fails to comply with any requirement imposed by the Secretary with respect to dying or marking such fuel.

(f) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes imposed by this section to the same extent as if such taxes were imposed by such section 4081.

SEC. 203. AVAILABILITY OF AMOUNTS IN HIGHWAY TRUST FUND FOR TRANSITION ASSISTANCE.

The purposes for which amounts may be authorized and expended under section 1040 of the Intermodal Surface Transportation Efficiency Act of 1991 shall include grants to assist businesses having annual sales of less than 50,000,000 gallons of diesel fuel to defray the one-time costs of installing additional storage tanks to comply with the fuel dying requirements imposed by the amendments made by this title.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. MCGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MATSUI] since it is his bill.

Mr. MATSUI. Mr. Speaker, I thank the gentleman from Florida [Mr. GIBBONS] for yielding this time to me, and, before I begin, I have two letters dated July 31, 1992; one from the gentleman from New Jersey [Mr. ROE], the chairman of the Committee on Public Works and Transportation; and the other is a response by myself to Mr. ROE, and basically these letters confirmed that the jurisdictional issue that Public Works might have had, does not exist because the coissue of authorization of the $40 million for conversion that is listed in this bill is subject to both authorization and appropriation at some future date by the Committee on Public Works and Transportation.

The letters referred to are as follows:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, July 31, 1992.

Hon. ROBERT T. MATSUI,
House of Representatives, Washington, DC.

DEAR BOB: It is my understanding that the House will soon be considering H.R. 5649, a bill to amend the Internal Revenue Code of 1986 to phase-out the occupational taxes relating to distilled spirits, wine and beer, and to impose the tax on diesel fuel in the same manner as the tax on gasoline, under suspension of the House Rules.

Section 203 of the bill, as ordered reported, would provide a new purpose for which funds authorized and expended under section 1040 of the Intermodal Surface Transportation Efficiency Act of 1991 could be used. That purpose would "include grants to assist businesses having annual sales of less than 50,000,000 gallons of diesel fuel to defray the one-time costs of installing additional storage tanks to comply with certain fuel dyeing requests."

It is our understanding that while the language of section 203 itself could be read as to provide that authority immediately, it is the intent of your Committee that this section be subject to future authorization and appropriation action by the committees of jurisdiction. I respectfully request that you confirm that understanding and include our exchange of correspondence on this matter at the point in the record on debate of H.R. 5649.

With warmest personal regards.

Sincerely,

ROBERT A. ROE,
Chairman.

HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1992.

Hon. ROBERT A. ROE,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

DEAR BOB: Thank you for your letter on H.R. 5649, a bill to amend the Internal Revenue Code of 1986 to phase-out the occupational taxes relating to distilled spirits, wine and beer, and to impose the tax on diesel fuel in the same manner as the tax on gasoline.

Your understanding is correct. It is the intent of our Committee that section 203 shall only take effect as authorized by the committees of jurisdiction of Congress in a law enacted after the date of the enactment of this bill. In fact, the Committee Report states that this provision is "subject to future authorization and appropriation by the Congressional committees of jurisdiction".

Per your request, I would by happy to include our letters in the record and I want to thank you for your cooperation on this matter.

Sincerely,

ROBERT T. MATSUI,
Member of Congress.

Mr. Speaker, I rise today to strongly encourage my colleagues to enact legislation that I have proposed, H.R. 5649. This legislation accomplishes two things: First, it repeals an antiquated and inequitable tax on producers, distributors, and retailers of licensed beverages. Second, it contains language that will improve the enforcement of the collection of Federal excise taxes on diesel fuel, thereby stamping out prevalent tax evasion by organized crime groups and tax cheats.

The special occupational tax was originally established in the 1860's to generate revenue for the Civil War. It is essentially a user fee imposed on businesses that manufacture, distribute, or sell alcohol. It is not an excise tax, and the taxpayer receives no license or other benefit for its payment. The SOT was basically forgotten and unenforced until the 1987 Budget Reconciliation Act, when, without any hearings, the tax was rediscovered and increased—in some cases by 1000 percent.

This tax has fallen exceptionally hard on small retail stores. Whether it is a seasonal restaurant, an Elks lodge, a convenience or grocery store, a campground, or florist that delivers wine with flowers, no one is spared the tax. These small businesses incur the fee at substantial cost as they have trouble passing the tax on to consumers because they have to price their products competitively. Large producers are probably better able to recoup some of the tax because they can increase their prices by only a small amount. However, the unfairness of this tax is readily apparent when you note that a chain of four neighborhood food stores pays the same annual special occupational tax as the Nation's largest single-site brewery or distillery plant.

The GAO has repeatedly recommended repeal of this tax. A September 1990 GAO report states that "special occupational taxes are relatively costly to administer particularly when considering the small amount of revenue generated." In addition, that report notes that the Bureau of Alcohol, Tobacco and Firearms has had problems identifying all of the alcohol retailers subject to the tax and collecting amounts due from them. There is no question that this arcane and antiquated tax is a burden on the tax system and on small businesses, and it needs to be repealed.

Mr. Speaker, this legislation also addresses an enormous problem for both Federal and State governments—tax evasion on sales of diesel fuel. The Joint Committee on Taxation has estimated that the adoption of this proposal would increase revenues by approximately $718 million over the next 5½ years. Simply by collecting taxes owed to the Federal Government—$718 million. That is money that will be taken out of the hands of tax cheaters and organized crime groups, 90 percent of which will go into the highway trust fund to be used for improved bridge and highway infrastructure and approximately 10 percent of which is dedicated to deficit reduction.

The reduction of evasion is accomplished in my proposal by doing two things. First, the bill would move the point of tax collection upstream to the point of first distribution. Doing so will reduce opportunities for creating daisy chains to conceal fraudulent transactions. This same change was effected in 1987, to address gasoline tax evasion with impressive results.

The second part of the proposal would deter evasion by dyeing tax-exempt fuel. This is not an original idea. Motor fuels are dyed in 19 countries worldwide for tax compliance purposes. In the Canadian province of Quebec, diesel fuel has been dyed since 1972. Their collections increased approximately 100 percent in the 2 years following implementation of the change. In the State of Mississippi today, diesel fuel for nonhighway use is dyed for State tax compliance purposes.

Not only is the thought not original for tax compliance purposes, but it is designed to compliment EPA regulations. Under the Clean Air Act, as of October 1993, high sulfur diesel must be dyed and may only be used for off-road purposes. Both the Clean Air Act and my proposal would merge to provide that dyed fuel must remain off-road because it is either high in sulfur or tax exempt.

The enactment of H.R. 5649 is necessary because the current structure of the diesel excise tax makes it simply too attractive for cheaters. The volume of gallons sold and the number of different firms within the distribution chain make it difficult to follow the product from the refiners through multiple wholesalers to the ultimate retailer. In addition, industry characteristics that encourage cheating—a cash industry that is highly price sensitive—will never change. Sales volumes increase dramatically in this industry by selling the product just a few cents below competition.

Some of my colleagues have suggested that diesel fuel tax evasion is simply a regional problem in the Northeast. However, the Criminal Investigation Division of the IRS national office will tell you that diesel fuel tax evasion schemes have been investigated and prosecuted in every geographic region of the country.

Using my home State of California as an example, it is easy to see the effect diesel tax cheating has on State and Federal revenue nationwide. In California, the State and Federal excise taxes on diesel fuel together account for approximately 45 cents per gallon, or roughly 40 percent of the price per gallon. At present, the California State Board of Equalization has, thus far, identified approximately 500 diesel accounts suspected of evasion. Of these accounts, 89 have been audited and determined to owe an additional $20,369,956.

I am told that these investigations are just the tip of the iceberg regarding a nationwide problem. Diesel tax cheating is so extensive now that the U.S. Department of Transportation currently publishes a newsletter called "Fuel Tax Evasion Highlights." Most indicative of the problem, however, is the fact that the industry itself came to me with this proposal to increase compliance on its own taxes because the tax cheats are putting long-established and legitimate companies out of business.

This past May, at a Public Works Subcommittee hearing, the Federal Highway Administration testified that tax evasion schemes eat up between 15 and 25 percent of the taxes on diesel fuel. It is time to do something about this egregious evasion—we must stop organized crime rings and tax cheaters.

Mr. Speaker, H.R. 5649 is good legislation. Not only does it repeal a tax that is inequitable and more costly to administer than it is worth, but it also seeks to enforce a tax that is already on the books, but is being blatantly ignored by flagrant tax cheats. At a time when the Federal Government faces an embarrassing and glaring deficit, and State and local governments can barely, if at all, meet their budgets, it is time to crack down on tax evasion. It is responsible tax policy, and I urge my colleagues to vote in favor of this bill.

Mr. Speaker, I might add that there are some farm groups opposed to this legislation, particularly the latter part as it pertains to the diesel fuel compliance. I will only say that if, in fact, this legislation goes down, I intend to introduce immediately, and seek active cosponsorship, to make it a personal priority that we will then come up with a counter legislation that will collect the tax on all potential taxpayers at the terminal rack, and then those that are tax exempt can ask for a refund by the Federal Government. We tried to do this in 1987 because we need compliance on this particular issue. We cannot go along and lose $718 million every 5 years while the Federal Government has $400 billion per annum deficits, and so this matter, if we lose it, will not, and here I will pursue it in 1993, and I am hopeful that we will pass it because we have the SOT, the Civil War tax, that should be repealed, and certainly we want to get rid of tax cheats and organized crime that are cheating as well.

☐ 1400

Mr. McGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5649. The bill has certainly been adequately explained by my colleague, the gentleman from California [Mr. MATSUI].

Mr. Speaker, as my colleague pointed out, there is some opposition to the bill. With that understanding in mind, I yield 2½ minutes to our colleague, the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the ranking minority member for yielding me this time.

Regrettably, Mr. Speaker, I must rise in opposition to this bill today. It is not because I disagree with the gentleman from California in his attempt to ultimately repeal the special occupational tax. Frankly, I think that repeal makes sense. I have supported it, and I will continue to support it.

However, the circumstances in which we find ourselves are that we are linking legislative proposals with revenue. While I support the legislative proposal to repeal the special occupational tax, which I think is unwarranted and to which I raised objection back in 1987 when it was increased, I fully support the repeal. However, I do not believe that the method by which the gentleman from California has proposed to pay for it is a method that makes sense or is fair to those of us in rural America. I think that simply replaces one problem with another.

The proposal to dye fuel will almost certainly require family farmers to have dual tanks. It will almost certainly require a capital outlay on the part of service stations in small towns and on the part of farmers and others that I do not believe they should be required to have to make at this point. We have what has seemed to be a $5 billion problem. The gentleman from California [Mr. MATSUI] offers a proposal that raises approximately $700 million. I would much prefer that we first have concentrated hearings in this area, and that, second, we see the feasibility study that is now underway down at the Department of Energy with respect to dyeing fuel, and then combine that with a legislative proposal that really does address the full $5 billion problem over a 5-year period.

So on behalf of myself and my colleague, the gentleman from Iowa [Mr. GRANDY], I am constrained to oppose this legislation. I might say that my colleague, the gentleman from Iowa, had intended to be here today and ask for a vote, and I will ask for a vote in his stead. The gentleman from Iowa [Mr. GRANDY] was on an airplane that had mechanical trouble today, so he is stranded somewhere in an airport. He had intended to be on the floor, and his statement in opposition to this revenue source that is being proposed will have to be supplied under general leave.

Let me restate again the situation. The gentleman from California [Mr. MATSUI] has proposed something that I support and think is fully reasonable with respect to the special occupational tax. The proposal on the affirmative side is absolutely essential, and we ought to adopt it, if not now, at some other point, but it ought to be matched in my judgment with a revenue source that does not put the cost of doing this on the backs of family farmers in this country.

The American Farm Bureau opposes that revenue source, along with the National Farmers Union, the National Council of Farmer Cooperatives, and the National Wheat Growers Association, not because they are selfish, not because they do not understand that there is a problem here, but because they believe this transfers the problem onto the backs of family farmers who are in deep trouble at this point.

Mr. Speaker, I intend to ask for a rollcall vote on this legislation, and I hope we can resolve this problem in some other way at some future point.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I appreciate the efforts of the gentleman from California to repeal the burdensome and inefficient special occupational tax on alcohol. My colleagues will recall that the 1987 Budget Reconciliation Act increased this tax by as much as 1000 percent for retail liquor and beer dealers.

The increase has fallen particularly hard on small businesses, the little mom and pop stores. It is simply inequitable. Furthermore, the General Accounting Office has determined that the special occupational taxes are both difficult to collect and administer.

At the same time, Mr. Speaker, I do have concerns about the revenue raiser used to pay for this measure. As chairman of the Oversight Subcommittee, I have spent an enormous amount of time on gasoline and diesel excise tax evasion issues. The answer to the evasion problem is not to change the point of collection. Instead, we need better enforcement by the Internal Revenue Service. As I looked into these issues, I was shocked to find that the Internal Revenue Service apparently puts a very low priority on the excise tax area. Equally shocking is the fact that the IRS has no computerized means with which to track whether people pay the excise taxes that they owe.

Mr. Speaker, I would hope as we move along that we might find another approach to pay for the repeal of the special occupational tax on alcohol. I am concerned about the cash-flow burdens that the diesel tax change would put on our small wholesale oil marketers. Rather than change the law, I prefer that we encourage the Internal Revenue Service to devote resources to diesel and gasoline excise tax collection and enforce the laws already on the books.

TEXAS OIL MARKETERS
ASSOCIATION,
Austin, TX, August 3, 1992.

Hon. JAKE PICKLE,
U.S. Congress, Washington, DC.

DEAR CONGRESSMAN PICKLE: The Texas Oil Marketers Association is opposed to Congressman Matsui's (D-Cal.) bill, H.R. 5649, which will move the collection point of the federal excise tax from the independent petroleum marketers' wholesale level to the refinery rack. The legislation also removes the Special Occupational Tax on alcohol retailers.

This legislation is similar to the major supplier contracts TOMA members must sign with their supplier in order to purchase branded products: "The large print giveth, and the small print taketh away." TOMA supports the elimination of the S.O.T. on alcohol, but not at the expense of losing the collection of the excise tax on diesel.

TOMA supports strong enforcement of the collection of the excise tax on motor fuels and has continually encouraged Congress to instruct the IRS to develop a clear audit trail on the collection of the excise tax. Where the tax is collected does not have any effect on the evasion problem if the IRS does not have an audit trail that will track each gallon sold.

If the IRS can track a $10 interest payment to an individual through Form 1099, then why do they say it is impossible to develop an audit trail on excise taxes on motor fuels? To the independent petroleum marketer, the picture is clear. The IRS receives more credit and "glory" when they file against an individual for 15 cents versus building a case against a million dollar excise tax evader.

The movement of the collection point on the excise tax on diesel will not solve the evasion problem. A vote for the Matsui bill will be just another step toward driving the independent petroleum marketers out of business.

Please vote against the Matsui Bill, H.R. 5649.

Sincerely,
JIM SHILLINGBURG,
CAE, Executive Vice President.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I rise today in strong support of H.R. 5649, a measure that will provide tax relief for hundreds of thousands of small businesses all across the country. I also want to compliment my colleague from California, BOB MATSUI, for his leadership on this issue.

After Congress passed the Budget Reconciliation Act in 1987, small business retailers learned that, as part of this package, Congress had revived a little known measure, known as the special occupation tax, on alcohol [SOT].

The SOT is imposed on any retailer that sells alcoholic beverages. While it's an antiquated tax, dating back to the Civil War, its effect on small businesses is very real, especially when the 1987 Reconciliation Act raised it more than 1,000 percent.

Imagine the surprise when small businesses such as grocery and convenience stores, restaurants, fraternal organizations, taverns, and others found out that they had to pay the Federal Government yet another tax.

There has been periodic, but consistent, criticism of this tax. As early as 1976, the General Accounting Office called for repeal of the SOT and, in 1990, GAO once again studied the tax and found it inequitable and inefficient, and recommended repeal. Mr. Speaker, I believe the repeal of this unfair tax coupled with enforcement of diesel excise tax is an important proposal. Gasoline retailers, truck stop operators, and others who sell diesel fuel, cannot compete with dishonest individuals who manipulate the current system and avoid paying diesel excise taxes.

These criminals are able to sell their fuel at a much lower price, threatening the livelihood of many honest gasoline retailers. In addition, the Federal Government cannot afford this practice, considering the highway trust fund is cheated out of more than $700 million.

H.R. 5649 provides a one two punch for small business. It repeals an inequitable and inefficient tax, and helps to eliminate diesel excise tax evasion. I urge my colleagues to support this measure.

Mr. Speaker, in closing, I would say that this does not violate any law or it does not affect anybody who is not doing anything that is not against the law.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I want to thank the chairman of the subcommittee for yielding this time to me, and I want to congratulate the gentleman from California [Mr. MATSUI] for bringing this bill to the floor.

This bill is not only needed because it repeals the special occupational tax, which everyone here has said should be repealed, but this tax was increased by a tremendous amount in 1987, for small businesses, an increase from $24 to $250. For small businesses this imposes a burden where there is really no justification at all for the imposition of this tax.

I also want to congratulate the gentleman from California [Mr. MATSUI] for complying with the Budget Act in bringing forward the revenue that is necessary in order to comply with the deficit reduction program. His bill will not only pay for the repeal of the special occupational tax but provide some additional revenue for deficit reduction.

The bill also deals with a very important problem. Everyone here acknowledges that we have an evasion of the diesel tax, the excise tax. The gentleman from California [Mr. MATSUI] has come forward with a proposal that will deal with that evasion and reduce the amount of taxes that are being lost. It complies with the same means of collection that we have with gasoline, and as has been pointed out by previous speakers, it sets up a system of fair competition so that those people who are avoiding the tax do not have an advantage over those people who are duly paying the tax.

□ 1410

Mr. Speaker, I urge my colleagues to support H.R. 5649. It is a good bill on the tax that it repeals, and it is a good bill in the way it is funded.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, just to sum up, I realize that the farmers have had problems. They have sent out a Dear Colleague letter with respect to this legislation. It is not the part that repeals the special occupancy tax. Everyone favors tax cuts; nobody favors tax increases. I guess this bill is probably symbolic of that.

But the fact of the matter is this does not raise taxes. What this proposal does is require greater compliance of existing tax laws. I know that some of the farm groups are making allegations that this will cost them literally thousands of dollars more to comply with the law, but I would have to say that this is not necessarily true.

In our legislation it would require either one of two things: they can either dye the nontax diesel fuel, or, alternatively, they can pay the tax at the terminal rack and seek a refund later if they do not want to go through some modifications.

Frankly, if in fact this measure goes down, then it is my intent to introduce legislation that will give them the option of only the latter. That is, they can pay the tax at the rack, just like withholding is done for wage earners, and then they can seek a refund at tax time. That will be the alternative and it will raise more money actually because what will happen is there will be a surge of revenues the first year, and I am sure the members of the Committee on Ways and Means will be able to use those revenues for good purposes in 1993, like to reduce the deficit and to require greater tax compliance.

Mr. Speaker, I hope the farm groups out there involved in this debate realize this matter will not be over. I expect this to pass tomorrow, but if it does not, there will be other ways to get greater compliance.

Mr. KANJORSKI. Mr. Speaker, as an original cosponsor of H.R. 3781, the precursor of this legislation, I rise in strong support of H.R. 5649. Our bill, H.R. 5649, will put an end to a nuisance tax which has created more problems than it has raised revenues.

Mr. Speaker, I first learned about the special occupational tax [SOT], in 1989 when a small Elks Club in my congressional district told me that they had just received a tax bill for $9,776.98 for a tax they had never heard about before, and which neither the IRS nor the Bureau of Alcohol, Tobacco and Firearms [BATF] had never attempted to collect. Much to the club's surprise, they were being dunned for taxes owed as far back as 50 years ago.

An investigation by my staff revealed that for many years a seldom-enforced section of the Internal Revenue Code imposed a nominal occupational tax on purveyors of distilled spirits—$25 per year from 1866 to 1940, $27.50 per year from 1941 to 1951, $50 per year from 1952 to 1959, and $54 per year from 1960 to 1988. The 1987 Budget Reconciliation Act increased the tax nearly fivefold, to $250 per year, and transferred administration over it from the IRS to the BATF.

With the major increase in the tax in 1988 the BATF began to more vigorously enforce the law and notify tavern owners of their obligations. For many tavern owners, however, this was the first time they had ever been notified by the Government that there even was a special occupational tax.

The BATF took the inflexible position that they were required to collect back taxes, interest, and penalties as far back as 1866, even if the tavern owners never received a notice that they owed taxes, and even if the tavern is owned by a nonprofit organization like the Elks, Moose, VFW, American Legion, or Knights of Columbus.

The BATF took this position even though the statute of limitation for most tax violations is 3 years, and even though the statute of limitation for violent crimes like kidnaping, arson, and robbery is rarely more than 5 years. Yet in this case the BATF said they were required to collect back taxes, interest, and penalties as far back as 1866 when the SOT was created. That is a 126 year statute of limitation, which is preposterous.

The BATF's position is based on a classic catch-22. It is based on the fact that there is no statute of limitation on tax violations when an individual fails to file a tax return. In this case, of course, the vast majority of people who did not pay failed to do so precisely because they did not know the tax existed. Neither IRS nor BATF had ever notified them about the tax before, and the tax required a special form, it was not just a line on the normal business income tax form. If these small businesses had been notified they undoubtedly would have paid because for most of the last century the tax was only $25, $27.50 or $50 a year. Since they did not know the tax existed, they did not file the required form, and consequently there is no statute of limitation.

The absurdity of the BATF's position is highlighted by the fact that it would require a business, even a nonprofit charitable group like the VFW or the American Legion, to keep its records as far back as 1866, which few businesses do. It has never been clear whether or not this includes the prohibition years when, of course, it was illegal to dispense alcoholic beverages.

The Elk's Club in my district was told it had to pay back taxes, interest, and penalties for the last 50 years, even though it was flooded in 1972 when the Susquehanna rose over its banks as a result of tropical storm Agnes. It lost all its records for years prior to 1972 in the flood.

As a result of this ludicrous situation, on May 9, 1989, I introduced legislation, H.R. 2285, to establish a reasonable statute of limitation. Sixty-eight of my colleagues from all across the United States cosponsored my bill. I reintroduced H.R. 2285 in the 102d Congress as H.R. 122.

In testimony before the House Ways and Means Committee on October 26, 1989, Assistant Secretary of the Treasury for Tax Policy Kenneth W. Gideon admitted that:

> This case involves a tax that for years before 1987 was insignificant and not well publicized. It appears that noncompliance in years before 1987 was due to the fact that many taxpayers were simply not aware of the tax. There is no evidence that dealers were attempting to avoid the tax.

As a result, the Assistant Secretary stated that the Treasury did not object to the passage of my bill.

Although the revenue impact of my bill was less than $2 million, the lack of action on miscellaneous tax legislation until this month, has prevented this worthwhile proposal from being adopted.

My colleague from California, Mr. MATSUI, has come to the logical conclusion that the entire SOT is a nuisance tax which is not worth the relatively meager revenue it brings in. This confirms informal advice I was given some time ago by BATF personnel who said that the processing of hundreds of thousands of SOT returns each year, and monitoring compliance, was hardly worth the effort for them, particularly given the paltry sums which were raised.

Although Mr. MATSUI's bill does not explicitly include a statute of limitation for past violations, it would be pointless and ludicrous for the BATF to dun unknowing businesses for 50-year-old violations of a tax that no longer exists.

One clear advantage of H.R. 5649 is that by eliminating the underlying tax, we know there will not be any further violations in the future.

Mr. Speaker, the existing law has made criminals out of honest businessmen who were never notified by the IRS or the BATF that they owed taxes. It then proceeded to treat these individuals worse than bank robbers, arsonists, kidnappers, and other violent felons. H.R. 5649 will put an end to this abuse, and will actually raise revenue because it contains an offset which will close a loophole that organized crime has used to avoid paying Federal excise taxes on diesel fuel.

Finally, let me note that some concern has been raised among farm groups that the revenue offset contained in H.R. 5649 will adversely affect farmers. I want to assure them that H.R. 5649 does not, in any way, affect the taxes paid by farmers on diesel fuel. Diesel fuel for off-road use by farmers continue to be tax exempt. Farmers will not be required to install additional storage tanks unless they have a need for substantial amounts of on-road diesel fuel as well as off-road diesel fuel. If they do need substantial amounts of both on-road and off-road diesel fuel, the bill provides a mechanism for them to receive financial assistance with the one-time installation cost of an additional storage tank. H.R. 5649 will not decrease the availability of diesel fuel for farmers or anyone else. A similar system of fuel distribution is already in use in Canada, a major agricultural producer, and there has never been a problem with it.

In short, Mr. Speaker, H.R. 5649 will close a tax loophole which has been exploited by organized crime, while eliminating a nuisance tax which has created a blizzard of cost-inefficient paperwork for hundreds of thousands of small businesses and small fraternal groups like the Moose, the Elks, the Knights of Columbus, the American Legion, and the VFW.

Mr. GRANDY. Mr. Speaker, the bill, H.R. 5649, addresses two separate issues; the first is the repeal of the special occupational tax [SOT]. The second is changing the point of collection of diesel fuel excise taxes and requiring the dyeing of diesel fuel.

While I support repeal of the $250 SOT annual retail licensing fee we should not shift the cost of its repeal to farmers who will be required to spend over $650 to install new fuel tanks as well as pay increased transportation costs for diesel fuel and more for liability insurance on the additional tanks. Simply swapping one problem for another is not an equitable solution to this problem.

No Ways and Means hearings have been held on the diesel fuel tax compliance issue generally and none have been held on possible solutions to the problem. To say that a hearing titled "Shortfalls in Highway Trust Fund Collections" at the Public Works and Transportation Subcommittee on Investigations and Oversight should serve as the basis for Ways and Means Committee action is poor precedent. The hearings did not focus on the compliance problem specifically nor on specific solutions to address any shortfall.

The problem and potential solutions should be studied by the Ways and Means Committee so we are sure any problem that may exist is clearly addressed by the solution. To say that this problem is so massive as to require a fix immediately does not hold water. Neither Treasury nor the IRS has come to the committee complaining of a revenue hemorrhage and our Oversight Subcommittee has not bothered to hold hearings.

However, if the hearing record from Public Works is what you want to base your justification upon, it says diesel fuel evasion is an annual billion dollar problem—$500 billion over the budget window. The proposed solution should at least approach raising the amount of revenue reportedly lost, but it does not even come close. Over the 5 year budget window, moving the collection point and dyeing diesel fuel will raise only $718 million—nothing to sneeze at—but with a reported $5 billion problem I think we should be able to address the reported problem more effectively. With all the trouble it causes, this solution still raises less than 15 percent of the reported revenue loss. I think we need to find a better solution if there is a problem.

Who says that dyeing diesel fuel is the only answer to whatever compliance problem may exist? We are not even sure whether it would work. The Department of Transportation has commissioned a feasibility study on the dyeing of diesel fuel. Congress should wait for the results of this study to be made available before acting on this proposal.

There are dozens of alternatives that could address this problem in a less intrusive manner. Didn't the IRS state at the Public Works hearing that a computer system relating to tax-free sales is feasible? Shouldn't Ways and Means at least look at a solution the IRS believes to be feasible? The IRS is currently working with industry, taxpayers/stakeholders to define burdens and costs of their possible computer system. The committee should listen to the IRS and hear about this option.

I would like to address the assistance funds available for purchase of additional fuel tanks required by this bill. The bill provides $40 million from the highway trust fund for grants. One estimate of what the additional storage tanks for farmers may cost is roughly $500 million per year. Even if you don't like our estimate of what this problem is, cut it in half or a quarter and the additional tanks required solely by farmers still dwarfs the money allocated to solving this problem. Home heating fuel companies as well as construction companies and other tax-exempt users of fuel are also eligible for the grants.

Finally, even if there really was enough money there in the trust fund to solve the tankage problem, that money must still be authorized and appropriated. Given the tight budget constraints those committees are working under, the tankage problem might not rise to the top of their priority list at authorization and appropriation time and no assistance will be provided for the purchase of tanks.

Mr. KYLE. Mr. Speaker, this bill, H.R. 5649 is an example of what is wrong with the legislative process, and why the American people are fed up with Government and demanding change.

Instead of just repealing the onerous Special Occupational Taxes [SOT's], H.R. 5649 simply trades one problem, one injustice, for another.

I support the repeal of SOT's. I had voted against the exorbitant increases that were enacted in 1987—increases that precipitated this legislation today. These taxes should be repealed.

But, the bill doesn't end there. It also attempts to attack the problem of diesel fuel tax evasion, and it should. However, it does so in a way that is expected to recoup only about

$718 million out of an estimated $5 billion evaded over 5 years. And, it imposes new costs of compliance on the agricultural industry that will amount to over $500 million. Other off-road users will also pay a price.

These off-road users are not the problem, at least the primary problem, in these evasion schemes. Yet, they are being forced to pay the price for it.

Mr. Speaker, this bill should not be considered on the suspension calendar. We ought to have an opportunity to amend it. It needs further hearings. We ought to move a bill that takes care of the SOT problem, without penalizing innocent bystanders.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5649.

The question was taken.

Mr. DORGAN of North Dakota. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

TAX TREATMENT OF LICENSED COTTON WAREHOUSES

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5643) to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by operators of licensed cotton warehouses.

The Clerk read as follows:

H.R. 5643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY OPERATORS OF LICENSED COTTON WAREHOUSES.

(a) GENERAL RULE.—Section 451 of the Internal Revenue Code of 1986 (relating to general rule for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

"(h) SPECIAL RULES FOR OPERATORS OF LICENSED COTTON WAREHOUSES.—

"(1) IN GENERAL.—In the case of any taxpayer which is the operator of a licensed cotton warehouse and the taxable income of which is computed under an accrual method of accounting, such taxpayer shall not be required to accrue any amounts to be received for processing and storing cotton at such warehouse until such amounts are actually received.

"(2) INTEREST ON DEFERRED TAX LIABILITY.—

"(A) IN GENERAL.—If any deferred amount is received during any taxable year, the tax imposed by this chapter for such taxable year shall be increased by the amount of the interest determined under subparagraph (B) with respect to such deferred amount.

"(B) AMOUNT OF INTEREST.—The amount of interest determined under this subparagraph with respect to any deferred amount shall be determined—

"(i) on the amount of the tax for such taxable year which is attributable to such deferred amount,

"(ii) for the period beginning on the due date for the taxable year of the deferral and ending on the due date for the taxable year in which such deferred amount is received, and

"(iii) by using the Federal short-term rate in effect under section 1274 as of the due date for the taxable year in which such deferred amount is received, compounded semiannually.

"(3) TREATMENT AS INTEREST.—Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during the taxable year.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) LICENSED COTTON WAREHOUSE.—The term 'licensed cotton warehouse' means any warehouse for the storage of cotton which is licensed under the United States Warehouse Act (7 U.S.C. 241, et seq.) or under any similar State law.

"(B) DEFERRED AMOUNT.—The term 'deferred amount' means any amount which is includible in gross income for the taxable year but which would have been includible in gross income for a prior taxable year but for this subsection.

"(C) TAXABLE YEAR OF DEFERRAL.—The taxable year of the deferral is the taxable year for which the deferred amount would have been includible in gross income but for this subsection.

"(D) DUE DATE.—The term 'due date' means the date prescribed for filing the return of tax imposed by this chapter, determined without regard to any extension.

"(5) ELECTION.—This subsection shall apply to a taxpayer only if such taxpayer makes an election under this paragraph. Such an election shall apply to the taxable year for which made and for all subsequent taxable years unless revoked with the consent of the Secretary."

(b) CONFORMING AMENDMENT.—Subparagraph (N) of section 26(b)(2) of such Code is amended by striking "sections 453(l)(3)" and inserting "sections 451(h)(2), 453(l)(3),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts accrued in taxable years beginning after December 31, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. MCGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5643 allows operators of licensed cotton warehouses to postpone accrual of income related to processing or storing cotton until the taxpayer is legally able to collect the fees for such services. Such taxpayers would, however, be required to pay the Government an interest charge with respect to the deferral.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill needs no further explanation. It was not deemed to be controversial when it was considered by the Means Committee, and we have heard no objections since then.

Mr. Speaker, I have no requests for time and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5643.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TAX TREATMENT OF ALASKA NATIVE CORPORATIONS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5658) relating to the tax treatment of certain distributions made by Alaska Native Corporations.

The Clerk read as follows:

H.R. 5658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX TREATMENT OF CERTAIN DISTRIBUTIONS MADE BY ALASKA NATIVE CORPORATIONS.

(a) GENERAL RULE.—For purposes of the Internal Revenue Code of 1986, any qualified distribution made by a Native Corporation shall be treated as a distribution not made out of earnings and profits.

(b) QUALIFIED DISTRIBUTION.—For purposes of this section—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified distribution' means any distribution to a Native (as defined in section 3 of the Alaska Native Claims Settlement Act) or descendant of a Native (as so defined) which—

(A) is made after the date of the enactment of the Alaska Native Claims Settlement Act, and

(B) which but for this section would have been treated as a dividend under chapter 1 of such Code.

(2) LIMITATION.—The aggregate amount of distributions made by any Native Corporation which may be treated as qualified distributions shall not exceed the lesser of—

(A) the aggregate amount realized by such Corporation on or before July 9, 1992 (or pursuant to an agreement entered into on or before such date), from the sale of any land or interest in land received by such Corporation pursuant to the Alaska Native Claims Settlement Act, or

(B) the aggregate bases (as determined pursuant to section 21(c) of such Act) of any land or interest in land received by such Corporation pursuant to such Act and sold on or before July 9, 1992 (or pursuant to an agreement entered into on or before such date), reduced by the aggregate bases of any land or interest in land sold in a sale referred to in subsection (c)(2)(B).

(c) ADJUSTMENTS TO AMOUNT REALIZED.—For purposes of subsection (b)(2)(A)—

(1) there shall be taken into account any amount realized by the Corporation indirectly through another entity in which such Corporation has an interest, but

(2) the following amounts shall be disregarded:

(A) Any amount realized directly or indirectly by the Corporation for the use of losses credits of such Corporation or of a corporation all of the stock of which is owned directly by such Corporation where such use would not have been allowable without regard to section 60(b)(5) of the Tax Reform Act of 1984 (as amended by section 1804(e)(4) of the Tax Reform Act of 1986, and repealed by section 5021 of the Technical and Miscellaneous Revenue Act of 1988).

(B) Any amount realized directly or indirectly by the Corporation from a special purpose sale of any land or interest in land where the loss incurred on such sale was used in a manner which would not have been allowable, but for such section 60(b)(5) and such Corporation realized directly or indirectly any consideration for such use.

(d) SPECIAL PURPOSE SALE.—For purposes of subsection (c), the term "special purpose sale" means a sale in which a loss was recognized, and which was made under an agreement which was entered into either (1) after October 22, 1986, and on or before April 26, 1988, or (2) after April 26, 1988, if the loss incurred thereon was used in a contract referred to in section 5021(b) of the Technical and Miscellaneous Revenue Act of 1988.

(e) NATIVE CORPORATION.—For purposes of this section, the term "Native Corporation" has the meaning given such term by section 3 of the Alaska Native Claims Settlement Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. MCGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, I rise as the sponsor of H.R. 5658.

The purpose of this bill is to clarify the original intention of the Alaska Native Claims Settlement Act that certain distributions by Alaska Native Corporations to their shareholders are not taxable.

Under the Alaska Native Claims Settlement Act, Alaskan Natives received cash, land, and rights to natural resources in exchange for the extinguishment of their aboriginal rights.

To facilitate the transfer and to assist the Natives in assimilating into the nonnative economy, the act required that the Natives form regional and village corporations to select, receive, and administer these assets.

Because the transfer of cash and property was compensatory in nature, Congress provided that the settlement be tax free.

In drafting the statute, however, Congress created an unfortunate and probably unintended ambiguity when broad and unclear language was used to govern the tax treatment of distributions of the property portion of the settlement by the Native corporations to their shareholders.

This has led to concern that such distributions would be taxable.

To tax these distributions would be giving with one hand and taking away with another.

Alaskan Natives are entitled to the entire air and just settlement intended by the Alaska Native Claims Settlement Act.

H.R. 5658 attempts to clarify this ambiguity by providing that certain distributions by Alaska Native Corporations arising of the sale proceeds of their natural resources not be taxable as dividends to the shareholders.

This tax treatment is limited to exclude any proceeds relating to the transactions in the mid-1980's to sell net operating losses to third parties. It is further limited to exclude sales of land which is so important to the Alaskan Native heritage and culture.

Mr. Speaker, I believe this bill is a good bill for the native people of Alaska and I urge my colleagues to support it.

Mr. MCGRATH. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of H.R. 5658 offered by my good friend, the gentleman from Seattle, WA, Mr. MCDERMOTT. Consideration of this bill today is the culmination of an effort that Mr. MCDERMOTT and I began in 1989 to provide for the fair and just tax treatment of certain distributions by Alaska Native Corporations to their shareholders.

As you are well aware, the Alaska Native Claims Settlement Act was passed by Congress in 1971 to resolve and settle the increasing controversies arising out of claims by Alaska Natives to land and resources in Alaska. The act provided that the Natives would extinguish their aboriginal claims in exchange of cash, land, and rights to natural resources. The compensation was to be fair and just to the Alaska Natives. As a means of facilitating this large and complicated transfer, the Natives were required to form corporations to receive the transferred assets. These corporations were intended to provide the Natives with a business entity that would enable them to assimilate with the nonnative economy and, in many cases, they have worked quite effectively.

The purpose of the Settlement Act was to make the Natives whole for the claims they were relinquishing. It was not a for-profit transaction. As a result, the act provided that the settlement be excluded from Federal, State, and local tax just like a damage award from a court of law. However, because of some ambiguity in the statute, the Native Corporations have real concern that distributions to shareholders may be taxed as dividends. The distribution of the nonprofit portion of the sale proceeds, or, in essence, the return of capital portion, should not be taxed. Taxing these distributions would be nothing less than giving with one hand and taking with the other.

The amount of compensation was determined in ANCSA and the Alaska Natives should receive this fair and agreed-upon amount before the Government tries to take some of it back through taxes.

Mr. Speaker, this is a good bill. It ensures that Alaska Natives are treated fairly and justly. I urge my colleagues to support it.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, I wish to advise Members that the gentleman from California [Mr. MILLER], the chairman of the Committee on Interior and Insular Affairs, has done a very careful analysis of this bill and supports it.

Mr. MILLER of California. Mr. Speaker, I rise in support of this legislation which clarifies the tax treatment of certain distributions to shareholders made by Alaska Native Corporations.

As chairman of the Interior Committee, I sincerely appreciate the interest that the Ways and Means Committee has taken in Alaska Native matters. The prime sponsor of this bill, Mr. MCDERMOTT of Washington, served as one of the most capable members of the Interior Committee, and he is continuing to work hard to address problems confronting American Indians through his positions on Ways and Means.

The text of the bill as reported does, however, raise some concerns about its scope and potentially unintended consequences. I am pleased that the committee has sought to respond to my concerns through clarifying report language. In addition, I appreciate the commitment of the gentleman from Washington to modify the bill language as the legislative process continues in the Senate or in conference.

I raise these concerns in the context of the experience Congress had with the sale of net-operating losses by Alaska Native Corporations. The NOL provision was approved by Congress in 1986 with a little appreciation of the fiscal and environmental consequences. While some of the Native Corporations used the tax break to offset legitimate business losses, others created resource-based NOL transactions which required quick development of their lands in order to recognize huge tax losses. For corporations which owned timber, large areas were clearcut at uneconomic rates, resulting in significant environmental degradation, all of which was subsidized by the taxpayer. The NOL provision was originally estimated to cost $50 million and eventually cost the taxpayers over $1.5 billion.

As Members know, the Interior Committee takes its responsibility for American Indian and Alaska Native matters very seriously. In 1971, the Interior Committee wrote the Alaska Native Claims Settlement Act to resolve the aboriginal land claims of Alaska Natives.

In the act, Congress adopted a historically unique approach to American Indian policy. The Claims Act authorized the creation of 13 Native regional corporations and more than 200 village, urban, and group corporations to administer the settlement of approximately $1 billion and over 40 million acres of land.

While Congress used the corporation structure to implement the Claims Act, Alaska Native Corporations are clearly not intended to be just like other for-profit businesses. Alaska Native Corporations are charged with a difficult mission of attempting to balance economic development goals with social and cultural concerns such as maintaining their lands for subsistence use. Sale of stock has been restricted by Congress in an effort to discourage the potential short-term economic interests of current shareholders from sacrificing the long-term interests of future generations of Alaska Natives.

Section 21(c) of the Claims Act provides that the initial conveyance of lands to Alaska Native Corporations shall be tax free and that the basis in lands for tax purposes is established at the time of conveyance. Congress also intended that Native corporations could make tax-free distributions to its shareholders of the cash amounts received in the original settlement.

The bill before us today clarifies that Alaska Native Corporations may make tax-free distributions to shareholders of revenue generated from development of their natural resources in an aggregate amount of no more than the basis in the land as established by section 21(c) of the Claims Act. The tax-free treatment is limited to cash revenues received from the development of natural deposits or timber by a Native corporation or a wholly owned subsidiary prior to July 9, 1992, and excludes revenues related to net operating loss transactions.

For both fiscal and environmental reasons, it is essential that tax-free distributions be limited, as provided in this bill, to revenues generated from past resource development. After the disastrous experience with the net operating losses, it would be utterly irresponsible for Congress to open another Pandora's box of environmentally destructive activity on Native lands through additional taxpayer subsidies in the future.

It is my intent to work with the gentleman from Washington and the Ways and Means Committee to expand this legislation to provide prospective tax incentives for Native corporations which chose to preserve, rather than develop, their lands. This would build on my provision passed by the House in the comprehensive energy bill (H.R. 776) to use *Exxon Valdez* oil spill settlement funds for acquisition of Native corporation timber and lands.

I have long argued that we should use the Tax Code to encourage environmentally responsible activity. To allow tax-free distributions of revenues generated by Native corporations through selling conservation easements or lands to the Government would benefit both the Alaska Native community and the environment. I appreciate the committee's cooperation to this end.

Mr. McGRATH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5658.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1420

EXTENDING ROLLOVER PERIOD FOR PRINCIPAL RESIDENCE FOR CERTAIN TAXPAYERS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5652) to amend the Internal Revenue Code of 1986 to extend the period for the rollover of gain on the sale of a principal residence for the period the taxpayer has substantial frozen deposits in a financial institution.

The Clerk read as follows:

H.R. 5652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR PURCHASE OF NEW RESIDENCE UNDER SECTION 1034.

(a) GENERAL RULE.—Section 1034 of the Internal Revenue Code of 1986 (relating to rollover of gain on sale of principal residence) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) EXTENSION WHERE TAXPAYER HAS SUBSTANTIAL FROZEN DEPOSITS.—

"(1) IN GENERAL.—The running of any period of time specified in subsection (a) or (c) (other than the 2 years referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer has substantial frozen deposits after the date of the sale of the old residence; except that any such period of time as so suspended shall not extend beyond the date 5 years after the date of the sale of the old residence.

"(2) SUBSTANTIAL FROZEN DEPOSITS.—For purposes of this subsection—

"(A) IN GENERAL.—A taxpayer shall be treated as having substantial frozen deposits for any period during which the aggregate frozen deposits of the taxpayer exceed 50 percent of the net amount realized from the sale of the old residence.

"(B) FROZEN DEPOSIT.—The term 'frozen deposit' means deposit in a financial institution if such deposit may not be withdrawn (during a period of at least 5 days) because of—

"(i) the bankruptcy or insolvency of a financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State.

"(C) NET AMOUNT REALIZED.—The net amount realized from the sale of the old residence is the amount realized from the sale of the old residence reduced—

"(i) as provided in subsection (b)(1), and

"(ii) by the amount of any indebtedness of the taxpayer which was secured by the old residence.

"(3) TREATMENT OF MARRIED INDIVIDUALS.—If the old residence and the new residence are each used by the taxpayer and the spouse of the taxpayer as their principal residence, such individuals shall be treated as one taxpayer for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to—

(1) any residence sold or exchanged after December 31, 1990, and

(2) any residence sold or exchanged on or before such date if the period specified in section 1034(a) of the Internal Revenue Code of 1986 (without regard to the amendment made by subsection (a)) has not expired before January 1, 1991.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. McGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island [Mr. REED], the sponsor of this bill.

Mr. REED. Mr. Speaker, I rise in support of H.R. 5652. I would first like to thank Chairman ROSTENKOWSKI and my good friend Mr. DONNELLY. Passage of this bill would not have been possible without their interest in the plight of Rhode Islanders still struggling to get their lives back on track in the wake of our credit union crisis.

I would also like to acknowledge and thank the Providence IRS staff for their extraordinary efforts in assisting Rhode Island taxpayers during this crisis. The efforts of Malcolm Lieberman, Patricia Rusk, Sheryl Egan, and others in the Providence IRS office were essential in resolving administratively many tax problems that arose as a result of this crisis.

On January 1, 1991, the Governor of Rhode Island closed 45 privately insured credit unions and banks when their private deposit insurance fund failed. Over 350,000 accounts and $1.7 billion in deposits was frozen. And, only in the last few weeks have the majority of those deposits been once again made available to depositors.

Mr. Speaker, never before, not even during the Great Depression, has such a large percentage of a State's population been affected by a banking crisis.

These depositors put their money into local institutions with confidence that their deposits would be fully insured and also that they would have immediate access to their deposits. They had no knowledge that would have led them to believe that their savings were at risk.

As a result, prior to January 1, 1991, several people sold their homes and deposited the proceeds of these sales into their privately insured institution—which was then closed, freezing the proceeds from the sale of their home. Some of these people had no access to those funds for 18 months, and they have been unable to use the proceeds to purchase a new home or obtain credit toward the purchase of a new home within the time specified in section 1034 of the IRS code.

In addition, taxpayers who now have access to their funds, or a portion of their funds, are, in some cases, faced with a capital gains penalty because they have exceeded the rollover period.

In April, I wrote to Commissioner Goldberg and asked if the IRS had the authority to waive the statutory requirements of section 1034(a). I was informed that the IRS has no such authority, and that a legislative change was necessary.

The legislation before us today, H.R. 5652, introduced by myself and Mr. DONNELLY, will assist depositors who have the proceeds from a home sale in a closed credit union. Under current IRS law (section 1034), a taxpayer may generally defer recognition of gain on the sale of a principal residence as long as the gain is rolled over into a new residence within a 2-year period.

H.R. 5652 suspends the 2-year rollover period, but for not more than 5 years, during any time that a taxpayer had substantial frozen deposits.

A taxpayer would be treated as having substantial frozen deposits if an amount exceeding 50 percent of the amount realized from the sale of a principal residence were deposited and then frozen in a financial institution. The deposits would be deemed frozen if the funds may not be withdrawn because of the bankruptcy or insolvency of the financial institution, or any requirement imposed by the State in which the institution is located because of the bankruptcy or insolvency.

This legislation received the support of Assistant Secretary of the Treasury for Tax Policy during a hearing in the Ways and Means Committee on July 6.

This legislation applies to a very small number of people under extremely specific circumstances. It will result in no significant loss to the U.S. Treasury.

Mr. Speaker, this legislation is simply fair. We are not giving these individuals anything to which they are not entitled. We are simply recognizing that during the time when the accounts were frozen, these people could not possibly rollover the funds because they could not get the money out of the bank.

Last year I came before my colleagues many times and asked your help in approving a loan guarantee for the State. Thanks in large measure to the tremendous support we received from Banking Committee Chairman HENRY GONZALEZ and other members of that Committee, Congress supported this request. Today we are taking another step toward resolving this situation and I am back before you again, asking for your understanding once more.

I urge my colleagues to support this measure which will allow a small number of Rhode Island taxpayers to finally get on with their lives.

Mr. GIBBONS. Mr. Speaker, I reserve the balance of my time.

Mr. McGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill needs no further explanation. It was not deemed to be controversial when it was considered by the Ways and Means Committee, and we have heard no objections since then.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5652.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SPECIAL ESTATE TAX VALUATION RECAPTURE RULES

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5647) to provide that the special estate tax valuation recapture provisions shall cease to apply after 1992 in the case of property acquired from decedents dying before January 1, 1982.

The Clerk read as follows:

H.R. 5647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective on and after January 1, 1993, the amendments made by subsection (c) of section 421 of the Economic Recovery Tax Act of 1981 shall also apply with respect to the estates of decedents dying before January 1, 1982.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. MCGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I rise in strong support of H.R. 5647 and urge its favorable adoption by the House and its eventual adoption into law. I introduced H.R. 5647 in order to remove an inequity in current law and to help preserve family farms and family businesses in America.

This bill deals with section 2032A of the Internal Revenue Code. This highly complex section, which we amended in OBRA 1990 due to its unintended adverse impact on family-owned businesses, deals with the special use valuation of estates for estate tax purposes. Section 2032A permits the heirs of an estate to have any land or business property in the estate to be valued at its use value—be it agricultural or small-business—instead of its market value in order to reduce the estate taxes that are due. The purpose behind this special use valuation is to help preserve family farms and family businesses that may have to be sold just to pay the estate taxes if the taxes were computed based on the market value for development.

Election of special use valuation treatment under section 2032A is not free, however. If elected, the heirs have to enter into a restrictive agreement with the Internal Revenue Service [IRS] which requires them to keep the land in its special use—be it farming or small business—for a period of years and to not sell it during that period. The IRS also maintains a lien on the property equivalent to the reduced tax liability which resulted from the special use valuation. If the heirs discontinue the qualified use or sell the property, they are liable for the previously avoided estate tax.

Prior to 1982, the time period of the restrictive section 2032A agreements was 15 years. However, in 1981, pursuant to the Economic Recovery Tax Act of 1981 (Public Law 97-34), these restrictive agreements were only required to last 10 years. The existing 15-year agreements, however, were not altered thus leaving the inequity I spoke of earlier. The effect of H.R. 5647 is to remedy this inequity by converting all of the remaining 15-year agreements into 10 year agreements. Since 1992 is the 10th year after the tax change in 1981, all 15-year agreements would be terminated as of December 31 of this year and the IRS liens on those estates would be lifted.

The motivation for H.R. 5647 is not to encourage heirs to sell agricultural land or other business assets or use them for nonqualified purposes. Nor is it because constituents have been pounding my door down asking to get out of the agreements. I think the IRS would agree that most of the people holding properties under section 2032A do not plan on selling it or not keeping it in farming or other family business use.

In fact, how this issue came to my attention was from a constituent who farms land subject to a section 2032A agreement and who desperately wants to continue doing so. However, due to the restrictive lien placed on the property and a few tight years in farming, he and his family members are finding it increasingly difficult to secure adequate financing to continue farming—the IRS lien restricts how much the bank can lend. If they cannot secure adequate financing they will be forced to sell the family farm, violate the agreement which they don't want to, and then potentially be subject to additional estate taxes.

The purpose of my bill is to remove this obstacle and help preserve the family farm. It has become clear to me that repeal of section 2032A to these old agreements is the most effective, direct way of removing that obstacle and it is also fair given the change made in 1981.

I urge my colleagues to pass this bill and I look forward to its adoption into law.

□ 1430

Mr. McGRATH. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5647.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TAX TREATMENT OF DEPOSITS UNDER CERTAIN PERPETUAL INSURANCE POLICIES

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5657) to amend the Internal Revenue Code of 1986 with respect to the treatment of deposits under certain perpetual insurance policies.

The Clerk read as follows:

H.R. 5657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF DEPOSITS UNDER CERTAIN PERPETUAL INSURANCE POLICIES.

(a) GENERAL RULE.—Section 7872 of the Internal Revenue Code of 1986 (relating to treatment of loans with below-market interest rates) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) TREATMENT OF DEPOSITS UNDER CERTAIN PERPETUAL INSURANCE POLICIES.—

"(1) IN GENERAL.—This section shall not apply to any deposit made by a policyholder under a qualified perpetual policy.

"(2) QUALIFIED PERPETUAL POLICY.—For purposes of paragraph (1), the term 'qualified perpetual policy' means any insurance policy—

"(A) which provides insurance for property damage or casualty with respect to qualified residential property (or the contents thereof), and

"(B) which is funded only by the policyholder placing with the insurance company a cash deposit (and does not provide for any periodic premiums) and such deposit is fully refundable (except for a penalty for early withdrawal) upon cancellation of the policy.

For purposes of the preceding sentence, the term 'qualified residential property' means any personal residence and any building used for residential purposes with 10 or fewer dwelling units."

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 7872(c) of such Code is amended by striking "subsection (g)" and inserting "subsections (g) and (h)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. McGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN], the sponsor of the bill.

Mr. CARDIN. Mr. Speaker, I rise in support of H.R. 5657.

Mr. Speaker, H.R. 5657, which I introduced along with my colleagues on the Ways and Means Committee, Mr. GRADISON and Mr. SCHULZE, brings tax fairness to thousands of middle-class American homeowners. It does so by reaffirming the traditional tax treatment of perpetual insurance policies.

H.R. 5657 clarifies the tax treatment of deposits under perpetual insurance policies on residential property. The bill is crucial to maintaining practices under which thousands of homeowners have insured their homes for 200 years.

The way the policies work is that the homeowner makes a deposit with the insurer. The amount of the deposit is based on the value of the property being insured. The company invests the deposit, and uses the earnings on the investment to cover the cost of the insurance.

As I mentioned, the companies offering these perpetual insurance policies have been in business, operating in this way, for 200 years. The transaction between homeowners and the companies involved have never triggered a Federal tax consequence.

In the past few years, the Internal Revenue Service has made a number of inquiries of the companies. The Service has sought to determine whether the deposit paid by the homeowner constitutes a loan at below market rates under section 7872 of the Internal Revenue Code.

Section 7872, which was adopted as part of the 1984 Tax Act, provides that for certain below-market rate loans, the foregone interest is treated as transferred from the lender to the borrower and retransferred by the borrower to the lender as interest. The section applies to gift loans, demand loans, compensation-related loans, and tax avoidance loans.

The deposits made by policyholders under perpetual insurance policies fit none of these categories. It is especially clear that the deposits do not constitute tax avoidance. The policies in question have been offered, in the case of the company operating in Baltimore, since 1865. It is hard to argue that a transaction that predates the existence of the Federal income tax by more than half a century was designed as a tax avoidance scheme.

Section 7872 specially applies to interest arrangements that have a significant effect on the Federal tax liability of the lender or the borrower. It is important to understand that the only Federal tax impact from a change in the traditional treatment of these policies would fall not on the companies, but on thousands of middle-class homeowners. If perpetual deposits are treated as interest-free loans, the company, as borrower, has deemed premium income as an offsetting interest expense deduction.

But while the change would be a wash for the company in terms of taxes, the policyholders would be required to pay tax on interest income, and have no offsetting deduction. Given the average size of the deposits of approximately $3,000, the significant-effect provision of section 7872 should not be triggered.

Furthermore, the regulations adopted under the significant-effect provision include a list of exemptions. The exemptions include accounts or deposits made with a bank in the ordinary course of its business, and loans made by a life insurance company in the ordinary course of its business. The close similarity of the perpetual insurance deposits to these exempted transactions clearly leads to the result we would effect through H.R. 5657.

Mr. Speaker, only a small number of these companies are operating in the country today. The policyholders are not high-rollers seeking advantages through the manipulation of the Tax Code. In fact, the average policyholder of the Baltimore-based perpetual company has income of slightly over $50,000.

The bill simply codifies the tax treatment that has traditionally been accorded these policies. The revenue effect of the bill is negligible, estimated by the Joint Tax Committee at $1 million a year. To treat these policies as loans under section 7872 clearly reaches beyond the intent of the section, which was to nail tax avoidance schemes.

Mr. Speaker, we should not be in the business, through the misapplication of the Tax Code, of putting companies out of business. The American taxpayers who have bought these policies deserve to be able to have the assurance that the Federal Government will not cavalierly and unwisely disrupt their homeowners insurance.

I urge my colleagues to join me in passing this needed legislation.

Mr. McGRATH. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise in support of H.R. 5657. The bill has been more than adequately explained by our colleague, the gentleman from Maryland [Mr. CARDIN]. It was not deemed to be a controversial measure when it was considered by the Committee on Ways and Means, and we have heard no objections since then.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5657.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MFN STATUS FOR REPUBLIC OF ALBANIA

Mr. GIBBONS. Mr. Speaker, I move to suspend the rule and pass the joint resolution (H.J. Res. 507) to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.

The Clerk read as follows:

H.J. RES. 507

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania transmitted by the President to the Congress on June 16, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from New York [Mr. McGRATH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a change of pace. All the bills we have had so far have been tax bills. This is a trade bill. This bill extends most-favored-nation treatment to the Republic of Albania.

Mr. Speaker, for over 50 years the Republic of Albania, the people of Albania, have either been occupied by hostile forces or they have been under a Communist dictatorship. Along with the revolution that has taken place in Eastern Europe, the people of the Republic of Albania have at last found freedom. They deserve freedom. I know of no people in Europe who have been more mistreated by their neighbors, by history, by religion, or by occupying invaders than the people of Albania.

Mr. Speaker, after World War II the country sunk into the most obstinate of all Communist tyrannies. Albania, under the Communist dictator, became the ultimate Communist state.

□ 1440

It was more Communist than the U.S.S.R. It was more Communist than China, and with the same disastrous or more disastrous results accrued to these fine people.

They now seek freedom. They have established a republic. They are attempting to gain or regain control of their destiny and enter into the world marketplace, and we welcome them. They are entitled to it.

They have entered into a treaty of commerce and trade with the United States that extends to the United States an opportunity to enter their markets on a commercial basis and to receive fair and free treatment of our goods and our services and to acknowledge that we are entitled to trade in their country. By this act, if it is passed by the Congress, and I think it should be, the President of the United States will be entitled to extend to these people nondiscriminatory tariff treatment to their products.

I urge the adoption of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. McGRATH. Mr. Speaker, I rise in strong support of House Joint Resolution 507.

Mr. Speaker, I yield 3 minutes to my colleague from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of this resolution approving the extension of most-favored-nation [MFN] treatment to the products of the Republic of Albania. I want to commend the good work of majority leader GEPHARDT and minority leader MICHEL and the gentleman from Florida [Mr. GIBBONS], the distinguished chairman of the trade subcommittee for their leadership in bringing this bill to the floor at the request of the administration.

Not many years ago, Albania was one of the most closed societies in the world of nations and was extremely anti-American in its orientation. Totalitarian communism denied basic freedoms to the Albanian people and imposed upon that poor country an unworkable economic system that made Albania the most undeveloped nation in Europe.

Fortunately, the winds of change blew through Eastern Europe in 1989, and dramatic changes have taken place in Albania since that time. Already, democratically elected President Sali Berisha is bringing basic human freedoms, respect for human rights and free market economics to his longsuffering nation.

The administration and the Congress, in particular, encouraged the democratic forces in Albania to stand up to their former Communist regime. We gave them good moral support at that time. However, we cannot stand back and let that poor nation face overwhelming challenges without another helping hand. We must stay engaged.

House Joint Resolution 507 will give Albania the kind of help that it needs as it moves from a command to a free market economic system. The resolution will grant Albania standard tariff rates on exports to the United States. Already, America is granting economic assistance and humanitarian relief to that small country. This resolution provides badly needed help in the trade area so that Albania can strengthen its weak economy, and someday join the family of free market nations.

Accordingly, I urge my colleagues to join me in strongly supporting this timely resolution.

Mr. McGRATH. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this Member rises in strong support of House Joint Resolution 507, granting most-favored-nation tariff status to the Republic of Albania.

For decades Albania has been the most isolated nation in Europe, cut off from almost all contact with its neighbors. Cut off from the outside world, this tiny nation on the Adriatic has been the country that time forgot. And it has languished, as its leaders imposed a brand of radical Marxism that was extreme even in the eyes of their Communist neighbors. Indeed, of all the former Communist countries of Eastern Europe, perhaps Albania's sufferings were most extreme.

Yet the democratic revolution has now come to Albania. The recently conducted elections were a dramatic demonstration of the strides being taken in Albania. This is a country that wants democracy. This is a country that wants a free market economy. This is a country that seeks to rejoin the modern family of nations.

Mr. Speaker, this Member would note the important role in Albania's transition to a free market democracy that is being played by a consortium headed by the University of Nebraska at Lincoln. Faculty staff of UN–L are on the scene for aid in Albania, working with local leaders to develop the technical and legal infrastructure to sustain a free market economy. UN–L is providing technical assistance at the time when Albania needs it most. And, through the University's Center for Albanian Studies—the only such center in the world—books, computers, and software are being provided to the University of Tirana to establish a management development center. This modest but very necessary educational assistance effort, coupled with the granting of most-favored-nation tariff status, will help Albania in its economic transformation. In going forward with these measures, we will be laying the foundation for good trade relations in the years ahead.

Mr. Speaker, I commend the leadership on both sides of the aisle, and Chairman GIBBONS, and I thank the gentleman for his special role in this, as well as the ranking minority member of the Subcommittee on Trade.

This Member would urge adoption of House Joint Resolution 507.

Mr. MCGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution has certainly been adequately explained by the several speakers. It was certainly not deemed to be controversial when it was considered in the Ways and Means Committee and we have heard no objections to the resolution since then.

Mr. SWETT. Mr. Speaker, I enthusiastically and wholeheartedly support and welcome this legislation before the House today which will extend most-favored-nation [MFN] status to products of Albania coming to the United States.

This legislation is most appropriate in view of the political changes that have taken place in Albania over the past 2 years. The people of Albania have risen up against their former Communist government—one of the most repressive and oppressive Communist governments—and Albania now has a freely elected, democratic government. Just a few years ago, I had the great pleasure and honor of welcoming to Washington, Albania's democratically elected President, Hon. Sali Barisha. His commitment, and the commitment of the Albanian people, to democracy and to a free-market economy are most impressive, and they make it most proper that we extend this trade benefit to Albania at the present time.

Mr. Speaker, Albania is a small, poor European country which is seriously in need of economic development in order to provide for its population. The people of Albania have been subject to a brutal dictatorship which stifled the economy of the country, contributed to the country's impoverishment, and spent limited resources for questionable purposes. It is most gratifying to see the new Albanian Government making decisions that will reorient the country's economy and benefit the Albanian people.

It is most appropriate under these circumstances, Mr. Speaker, that we extend the same benefits to Albania that are enjoyed by other countries, including the other newly emerging democracies of central and Eastern Europe. Albanian trade products are limited and are likely to be limited in the future, but this has great symbolic importance. By extending MFN trade status to Albania, we are welcoming and recognizing Albania's return to equal status among the community of nations.

It is noteworthy, Mr. Speaker, that New Hampshire has played a disproportionate role in helping this newly emerging democracy in making the political and economic changes that are vital to its further development. Among those from New Hampshire who have contributed are Mr. Tom Christo, a prominent businessman; David Young, a businessman and member of our State house of representatives; and our colleague, BILL ZELIFF, who personally traveled to Albania earlier.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. HOYER. Mr. Speaker, I rise today to voice support for the pending United States-Albania trade agreement. Timely adoption of the agreement would pave the way for the extension of most-favored-nation [MFN] status to that nation. I commend the distinguished chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, and the chairman of the Trade Subcommittee, Mr. GIBBONS, for their prompt action on this important agreement. The agreement, signed during President Berisha's historic visit to Washington in June, is a milestone in United States-Albanian relations and could provide an important boost to Albania's faltering economy.

As Chairman of the Helsinki Commission, I have followed closely developments in Albania. A nation slightly smaller than my home state of Maryland, Albania has made significant strides in recent years to reverse decades of self-imposed international isolation and domestic repression. Diplomatic relations with the United States were restored in 1991 and Albania became a full participant in the Conference on Security and Cooperation in Europe [CSCE].

Albania is committed to undertaking political and economic reforms in keeping with its CSCE commitments which set forth excellent standards for the transition to democracy and market economy. Albanians gave their overwhelming support to the opposition Democratic Party in elections held earlier this year which were observed by Helsinki Commission staff. Dr. Sali Berisha, a leading Albanian intellectual and a founder of the Democratic Party—Albania's first opposition party—was elected President last March following elections in which the Democratic Party won 62 percent of the vote. President Berisha met with the Commission leadership during his recent official visit to Washington. He had testified before the Commission on democratic developments in his country in May 1991.

President Berisha and the leadership in Tirana face the difficult task of overcoming the legacy of communism which has left Albania as the poorest country in Europe today. Soaring unemployment, reportedly as high as 70 percent, and inflation are sources of particular concern. Nevertheless, the democratic government is dedicated to implementing market-oriented reforms. Its action program presented in April calls for radical reform covering privatization, development of the private sector, and liberalization of prices and trade. The Government is working closely with the International Monetary Fund and other organizations in efforts to overcome decades of centralization and forced collectivization.

I urge my colleagues to vote in support of the pending trade agreement as a means of demonstrating our commitment to the reform process underway in Albania and as a vehicle for expanding trade opportunities between our two nations.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of House Joint Resolution 507, to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.

Approval of this resolution will permit the President to proclaim most-favored-nation [MFN] treatment to Albania and for the agreement on trade relations between the United States of America and the Republic of Albania, signed on May 14, to enter into force upon an exchange of notes of acceptance by the two governments.

Albania has met the terms and conditions set forth in title IV of the Trade Act of 1974 for the granting of MFN treatment. The bilateral trade agreement includes provisions for facilitating trade and business relations between our two countries, strong protections of intellectual property rights, import safeguard measures, commercial dispute settlement, as well as reciprocal nondiscriminatory treatment. The President also has waived the so-called Jackson-Vanik Freedom of Emigration Requirements of title IV based on satisfactory assurances from the Albania Government that its practices will lead substantially to freedom of emigration objectives.

Mr. Speaker, the Committee on Ways and Means is not aware of any opposition to this resolution. Extending MFN status to Albania will promote United States trade and investment opportunities and demonstrate United States support for the progress by Albania from economic isolation into the global marketplace.

I urge all my colleagues to support passage of House Joint Resolution 507.

Mr. MCGRATH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 507.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the 19 bills that have just been considered and passed by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

U.S. COMMISSION ON CIVIL RIGHTS AUTHORIZATION ACT OF 1992

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5399) to amend the U.S. Commission on Civil Rights Act of 1983 to provide an authorization of appropriations.

The Clerk read as follows:

H.R. 5399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Commission on Civil Rights Authorization Act of 1992".

SEC. 2. REAUTHORIZATION.

Section 7 of the United States Commission on Civil Rights Act of 1983 (42 U.S.C. 1975e) is amended by adding at the end the following: "There are authorized to be appropriated to carry out this Act $7,422,014 for fiscal year 1993, and an additional $850,000 for fiscal year 1993 to relocate the headquarters office. None of the sums authorized to be appropriated for fiscal year 1993 may be used to create additional regional offices.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. EDWARDS] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5399 authorizes an appropriation for the U.S. Commission on Civil Rights for fiscal year 1993.

By voice vote, the Committee on the Judiciary rejected the Commission's request for increased funding of 31 percent and staff of nearly 21 percent over the current fiscal year.

H.R. 5399 maintains the agency at 1992 levels with the requested 4.7 percent COLA increase and 4 percent for inflation. It also authorizes $850,000 to relocate the headquarters office, and prohibits using any funds to create additional regional offices.

Last year we debated legislation extending the life of the Commission. The clear bipartisan message from that debate was that the agency must clearly demonstrate it is back in the fact-finding business if it expects to be reauthorized at the end of 3 years. I believe the committee's action this year makes clear that it is premature to expand its operations until that record of fact-finding is clearly demonstrated.

I am pleased the Commission is taking seriously the committee's concerns about its fact-finding mandate. Already this year, it has:

Released a well publicized report on the "Civil Rights Issues Facing Asian Americans in the 1990's";

Conducted hearings in Washington, DC and Chicago, IL, around its new theme of race, poverty, and violence; and

It plans to issue three additional reports.

In fiscal year 1993, the agency plans to issue three reports and conduct a hearing in Los Angeles on racial and ethnic tensions.

Mr. Speaker, the sums authorized by H.R. 5399 will enable the Commission to carry out its statutory fact-finding mission. I urge support of this bill.

□ 1450

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill authorizes an appropriation of $7,422,014 and an additional $850,000 for fiscal year 1993 to relocate the headquarters office of the Commission. The building in which the Commission is currently located is considered unsafe and so they will be forced to move to another location in Washington.

This authorization is less than what the administration requested and the Commission originally requested, but the subcommittee members, on a bipartisan basis, feel that it is sufficient for the Commission to operate effectively.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the bill, H.R. 5399.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ESTABLISHING DIVISIONS IN THE GENERAL JUDICIAL DISTRICT OF CALIFORNIA

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3795) to amend title 28, United States Code, to establish three divisions in the Central Judicial District of California.

The Clerk read as follows:

H.R. 3795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) The Federal Government has the responsibility to provide quality services which are readily accessible to the people it serves.

(2) The court facilities in the Central Judicial District of California are presently inadequate, and current and projected growth exacerbates the problem.

(3) The population demographics of southern California have changed dramatically over the last decade, as the center of population shifts inland. Between 1980 and 1990, the population of Riverside County increased 76.5 percent, and San Bernardino County's population increased 58.5 percent, to a combined population of 2,600,000.

(4) In the next 15 years, the population in Riverside and San Bernardino Counties is expected to increase again by 70 percent, and 67 percent, respectively. By the year 2005, Riverside and San Bernardino Counties will have 4,400,000 residents.

(5) As a result of the population growth, the freeways connecting the Pacific coast and the inland areas are tremendously overburdened, and Federal offices along the coast are no longer accessible to the residents of Riverside and San Bernardino Counties.

(6) The creation of 3 divisions in the Central Judicial District of California is urgently needed to provide for the delivery of judicial services to all areas and all residents of the Central Judicial District of California.

SEC. 2. CREATION OF 3 DIVISIONS IN CENTRAL DISTRICT OF CALIFORNIA.

Section 84(a) of title 28, United States Code, is amended to read as follows:

"(c) The Central District comprises 3 divisions.

"(1) The Eastern Division comprises the counties of Riverside and San Bernardino.

"Court for the Eastern Division shall be held at a suitable site in the city of Riverside, the city of San Bernardino, or not more than 5 miles from the boundary of either such city.

"(2) The Western Division comprises the counties of Los Angeles, San Luis Obispo, Santa Barbara, and Ventura.

"Court for the Western Division shall be held at Los Angeles.

"(3) The Southern Division comprises Orange County.

"Court for the Southern Division shall be held at Santa Ana.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect 6 months after the date of the enactment of this Act.

(b) PENDING CASES NOT AFFECTED.—This Act and the amendments made by this Act shall not affect any action commenced before the effective date of this Act and pending in the United States District Court for the Central District of California on such date.

(c) JURIES NOT AFFECTED.—This Act and the amendments made by this Act shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving in the Central Judicial District of California on the effective date of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. COBLE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. President, I will take a few minutes to briefly describe the bill and its background.

H.R. 2795 would merely establish a third place for holding court at a site in San Bernardino or Riverside Counties in the Central Judicial District of California. At the present time, court is only held in Los Angeles and Santa Ana in Orange County.

The justification for this minor change in the central district can be made on the following demographic and geographic factors. Between 1980 and 1990, the population of Riverside County increased 76.5 percent and the population of San Bernardino County increased 58.5 percent; 2.6 million persons now live in these counties which is the 11th most populous area in the country. In the next 15 years, the population in these areas is projected to increase again by 70 percent and 67 percent, respectively, which will mean by the year 2005 they will have 4.4 million residents.

San Bernardino County, itself, is the largest county in the 48 contiguous States of the United States—it is larger than the combined areas of New Jersey, Massachusetts, Delaware, and Rhode Island. Together with Riverside County it is an enormous expanse. This combined with the results of other population growth in southern California has made the freeways between these inland areas and the court houses in Santa Ana and Los Angeles tremendously overcrowded, leading to rush-hour traffic commutes of 5 hours a day or more for law enforcement officers, attorneys, and other principal parties involved with Federal civil and Criminal cases.

On May 4, 1992, the judges of the central judicial district overwhelmingly voted in favor of H.R. 3795 and Chief Judge Real stated at our sharing on June 11, 1992, that H.R. 3795 has been approved by the judicial council for the ninth circuit. Chief Judge Real also indicated that he expects support for H.R. 3795 from the Judicial Conference of the United States when they meet in August.

H.R. 3795 has the bipartisan support of both Senators from California and is sponsored in the House by Mr. GEORGE BROWN and the original cosponsors are Mr. LEWIS, Mr. COX, and Mr. MCCANDLESS of California.

I believe H.R. 3795 is noncontroversial and it was reported out favorably by voice vote from the Committee on the Judiciary. I urge your support for H.R. 3795.

Mr. Speaker, I want to, first of all, congratulate the ranking Republican, the gentleman from California [Mr. MOORHEAD], for his work on this and other legislation. He cannot be with us today, but substituting for him today is the gentleman from North Carolina [Mr. COBLE]. I appreciate his valued service on our subcommittee.

Mr. Speaker, I urge support for H.R. 3795.

Mr. Speaker, I reserve the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3795, which would amend title 28, United States Code, to establish three divisions in the Central District of California.

Mr. Speaker, I would like to commend the chairman of the Subcommittee on Intellectual Property and Judicial Administration, the gentleman from New Jersey [Mr. HUGHES], as well as the ranking minority member of the subcommittee, the distinguished gentleman from California [Mr. MOORHEAD], for their work on this legislation. In addition, several distinguished members of the California delegation have played important roles in the consideration of H.R. 3795 and are to be commended for their efforts. They include the gentleman from California [Mr. BROWN], the gentleman from California [Mr. LEWIS], the gentleman from California [Mr. COX], and the gentleman from California [Mr. MCCANDLESS].

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEWIS], one of the original cosponsors of the legislation, and one who has been instrumental in getting this bill to the floor of the House today.

Mr. LEWIS of California. Mr. Speaker, I rise in support of H.R. 3795, a bill to establish three divisions of the Central Judicial District of California.

This legislation will create three separate divisions of the central district. One division will continue to meet in Los Angeles; the second will meet in Orange County; and the third will meet in the inland empire—ideally in San Bernardino County.

Having represented the majority of San Bernardino County, I have seen the enormous population growth over the past decade. In fact, over the last 10 years, the population of San Bernardino County has nearly doubled in size. With population growth expected to continue its upward spiral into the next century, the ability of San Bernardino County residents to commute to Federal Court facilities in Los Angeles and Orange County becomes increasingly difficult, if not impossible. The transportation infrastructure simply has not kept pace with these demographic changes. Long commutes have become increasingly common.

Moreover, the pressures placed by population growth are magnified when one considers the enormity of San Bernardino County. San Bernardino County is the largest county in the continental United States. Many of my constituents reside in remote areas some 200 miles away from the central district's facilities. From Needles to Barstow to Baker and beyond, my constituents are denied reasonable access to Federal Court facilities. As jurors, they are expected to travel unreasonable distances to participate in trials. Locating a court in the San Bernardino or Riverside region would erase this geographic barrier to justice.

Accompanying the population growth in San Bernardino has been a disturbing increase in criminal activity. Both San Bernardino and Riverside Counties have been named high intensity drug trafficking areas [HIDTA] by the Department of Justice. This designation was made due to the large drug trade that exists in the southern California area. As a result of this action, a number of new antidrug initiatives have begun and additional funds have been made available to local law enforcement in San Bernardino and Riverside Counties. A new court in this area would aid in the quick and efficient disposition of cases brought about through this HIDTA designation.

The district court's docket has reflected the area's growth. According to the Administrative Office of the United States Courts, criminal activity and civil filings increased from 9,876 in 1990 to 10,601 in 1991. Down from a high of 14,298 in 1987, filings will undoubtedly increase significantly over the next decade. The median time of criminal felony cases from filing to disposition has increased from 3.5 months in 1986 to 5.1 months in 1991. Though we recognize and commend the court's efforts to accommodate this growth, I believe the only realistic permanent solution would be to divide the district and place a Federal court in the Inland Empire—specifically in San Bernardino County.

I am pleased to have worked with my colleagues, Mr. BROWN, Mr. MCCANDLESS, and Mr. COX, in designing this bill and I hope we can move to enact it and return make the courts more convenient to the people of southern California. I urge my colleagues to support H.R. 3795.

☐ 1500

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. BROWN], who is the original sponsor of this legislation and has worked very diligently to move this legislation to the floor.

Mr. BROWN. Mr. Speaker, I will not repeat the arguments already made by my good friend, the gentleman from New Jersey [Mr. HUGHES] with regard to this legislation.

Mr. Speaker, first let me thank the distinguished chairman of the House Judiciary Committee, Congressman JACK BROOKS, and the very able chairman of the Judiciary Subcommittee on Intellectual Property and Judicial Administration, Congressman BILL HUGHES, for bringing this important bill (H.R. 3795) before the House for a vote. My constituents and I could not hope for more concern and responsiveness from any Member of the Congress.

In the interest of time, let me briefly highlight some of the most compelling arguments in support of bringing Federal Court to the region of southern California that we affectionately call the inland empire.

First, as you know, the population of southern California continues to soar. But what you may not know is that the center of this population explosion is shifting steadily away from the coastal counties toward the Inland Empire. The two counties I represent had the fastest growing population anywhere in the Nation during the past decade.

Between 1980 and 1990, the population of Riverside County rose 76.5 percent, while the population of San Bernardino County increased 50.5 percent; 2.6 million people now live in the Inland Empire, yet there is absolutely no Federal Court within reasonable access. In comparison, 2.1 million people live in Orange County and Federal Court already sits in Santa Ana. In Sacramento, 1.8 million people enjoy a Federal Court in their midst.

Second, foreboding demographic trends are clear. The population of the Inland Empire will continue to grow by leaps and bounds. In the next 15 years, the population in Riverside and San Bernardino Counties is projected to grow by 70 percent and 67 percent, respectively. By the year 2005, Riverside and San Bernardino Counties will have 4.4 million residents.

Third, geographic practicalities also argue in favor of establishing a division of Federal Court in the Inland Empire. San Bernardino County is the largest county in the 48 contiguous States—larger than the combined States of New Jersey, Massachusetts, Delaware, and Rhode Island. Combined with Riverside County, there is an enormous expanse of far-flung communities in the Inland Empire, but there is no access to Federal Court facilities closer than downtown Los Angeles—more than 200 miles from the eastern border of San Bernardino County. Those long distances, for example, make it extremely difficult for my constituents to serve as jurors.

Fourth, residents of the Inland Empire are confronted daily with commuting gridlock when they attempt to travel to Federal Court. As a result of unparalleled population growth in southern California, in general, and in the Inland Empire, in particular, the highways connecting Los Angeles and Orange County are completely overwhelmed. Federal Court facilities in Los Angeles and Santa Ana are very inaccessible to my constituents. It is very wasteful and totally unreasonable to expect the residents of San Bernardino and Riverside Counties to endure a commuting nightmare, sitting in traffic 6 hours round-trip to travel just 50 miles to pursue one case in a Federal courtroom in Los Angeles or Santa Ana.

Finally, H.R. 3795 represents a cost-effective way to redress these existing problems and to position the Federal judiciary in southern California smartly to respond to the additional looming demographic changes certain to further transform our region. Subdividing the central district is far less costly than creating a whole new district. Also when the lease for Federal bankruptcy judges in San Bernardino expires in 1994, their offices could be consolidated in one Federal courthouse site in the Inland Empire.

Mr. Speaker, it is my firm conviction that our Federal Government has a solemn, threshold responsibility to provide quality services that are readily accessible to the people we serve. With respect to Federal Court facilities, that is clearly not happening in the Inland Empire.

Finally, I would be remiss if I did not recognize three outstanding southern Californians who have provided so much assistance to me in advancing this legislation. The extraordinary leadership and foresight shown by Chief Judge Manuel Real of the Central Judicial District of California has been crucial in building support for this bill and underscoring why it is so urgently needed. He is truly one of our Nation's exceptional jurists and public servants.

Jane Carney and Terry Bridges, two outstanding attorneys in the Inland Empire, past and present leaders of our local bar associations, have worked tirelessly, too, to demonstrate why our region merits its own Federal Court.

H.R. 3795 has received strong bipartisan backing at every step of the legislative process. I urge my colleagues to support it.

Mr. McCANDLESS. Mr. Speaker, today I rise in support of H.R. 3795, a bill to establish three divisions of the Central Judicial District of California.

This bill will create three separate divisions of the central district. One division will continue to meet in Los Angeles; the second will meet in Santa Ana in Orange County; and the third will meet either in San Bernardino or Riverside. Let me say just a word about the special problems faced by these two counties.

Over the last 10 years, the population in Riverside and San Bernardino Counties has nearly doubled in size. In the next 15 years, it's predicted that it will double once again. This increase has clogged both the courts with more cases and the freeways with more cars.

In addition, both San Bernardino and Riverside counties have been named part of the high-intensity drug trafficking area [HIDTA] by the Department of Justice. This designation was made due to the large drug trade in the southern California area. As a result of this action, a number of new antidrug initiatives have begun and additional funds have been made available to local law enforcement. A new court in this area would aid in the quick and efficient disposition of cases brought about through this HIDTA designation.

I am pleased to have worked with my colleague in designing this bill and I hope we can move to enact it and return the courts to the people of southern California. I urge my colleagues to vote in favor of H.R. 3795.

Mr. MOORHEAD. Mr. Speaker, I would like to indicate my support for H.R. 3795, which would establish three divisions in the Central Judicial District of California and also establish a new place for holding court in San Bernardino or Riverside County. I would like to commend the chairman of the Subcommittee on Intellectual Property and Judicial Administration, BILL HUGHES, for his work on this legislation. In addition, several of my distinguished colleagues from California, especially GEORGE BROWN, JERRY LEWIS, CHRIS COX, and AL MCCANDLESS have played key roles in the consideration of H.R. 3795 and are to be commended for their efforts.

As one of the witnesses at the Subcommittee hearing on this proposal noted:

> There have been discussions and proposals over many years about solutions to the perceived problems of the geographical size, caseload, and population of the current Central District of California.

In fact, as far back as 1977, our former distinguished colleague on the Judiciary Committee and now a prominent judge on the Ninth Circuit Court of Appeals, Chuck Wiggins, introduced H.R. 3972, a bill to create a new judicial district in California comprised of the counties of Orange, San Bernardino, and Riverside. By the same token, our distinguished colleague from California, BILL DANNEMEYER, has introduced legislation in each of the last two Congresses to create a new judicial district in California. While H.R. 3795 does not go as far as creating a new judicial district, it does represent in part the culmination of these earlier, laudable efforts to bring relief to the Central District of California.

In short, the need for H.R. 3795 is based on the current burgeoning population of 2.6 million people in San Bernardino and Riverside counties. In the next 15 years, the populations in these areas are projected to increase again by 70 percent and 67 percent respectively, which will mean by the year 2005 they will have 4.4 million residents. In addition, Federal Court facilities in Los Angeles and Santa Ana are very inaccessible to litigants, witnesses, jurors, and counsel. Six-hour round trip commutes to travel 50 miles to pursue one case in a Federal courtroom in Los Angeles or Santa Ana are not uncommon for residents of San Bernardino and Riverside Counties.

H.R. 3795 is supported by the judges of the Central District of California, the Riverside and San Bernardino County Bar Associations and all major Federal law enforcement agencies in the relevant counties. Accordingly, I urge my colleagues' support for the legislation.

Mr. COBLE. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 3795.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

PROVIDING POLICIES WITH RESPECT TO APPROVAL OF BILLS PROVIDING FOR PATENT TERM EXTENSIONS

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5475) providing policies with respect to approval of bills providing for patent term extensions, and to extend certain patents, as amended.

The Clerk read as follows:

H.R. 5475

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATUTORY EXTENSION OF PATENT TERMS.

(a) IN GENERAL.—The Congress finds that, in the future, any bill providing for the extension of the term of a patent should not be approved by the Congress unless the requirements set forth in subsection (b) or (c) are met.

(b) REQUESTS BASED ON DELAY IN PREMARKET APPROVAL.—When the basis for a bill providing for a patent extension is delay in premarket regulatory approval of a patented invention, the following requirements should be met before the bill is approved by the Congress:

(1) GOVERNMENTAL MISCONDUCT.—(A) Delay in the approval process must have been beyond the control of the patent holder and directly caused by governmental misconduct.

(B) For purposes of this paragraph, governmental misconduct is established by presentation of adequate proof of—

(i) dishonest or deceitful conduct,

(ii) vindictive or retaliatory action,

(iii) arbitrary, capricious, or grossly negligent performance of governmental duties, or

(iv) serious failure to perform governmental duties,

by the Federal Government.

(C) Unusual or unexpected delay alone does not constitute governmental misconduct for purposes of this paragraph.

(2) UNJUSTIFIED INJURY TO THE PATENT HOLDER.—The governmental misconduct under paragraph (1) must have caused a substantial inequity to the patent holder who, without the extension of the patent term, will suffer material harm directly attributable to the delay in the approval process. The unjustified harm to the patent holder if relief is not granted must outweigh any harm to the public (such as through higher prices) or to competitors that will result from extension of the patent.

(3) EXPIRED PATENTS.—Expired patents shall not be revived and extended, except under the most extraordinary and compelling circumstances. In no such case shall an extension be granted unless the patent holder exercised due diligence to prevent the invention from entering the public domain.

(4) INTERVENING RIGHTS.—In the event extraordinary circumstances justify the revival and extension of an expired patent, intervening rights shall be extended to persons using the subject matter of the patent after its expiration. Such rights shall not be provided in the case of statutory extension of unexpired patents, except that, in a case in which extreme injustice would result from the failure to provide such rights, they may be extended to persons who have, in good faith expectation of the expiration of the patent, made substantial preparation for use of the subject matter of the patent after its expiration.

(c) OTHER REQUESTS.—When the basis for a bill providing for a patent term extension is other than delay in premarket regulatory approval, the following requirements should be met before the bill is approved by the Congress:

(1)(A) Either governmental misconduct (as described in subjection (b)(1)), or action or inaction by the United States Government, contributed substantially to significant injury to the patent rights of the person requesting extension of the patent.

(B) For purposes of subparagraph (A), the action or inaction by the Government need not constitute governmental misconduct (as described in subsection (b)(1)), but must be of such a nature as to create a moral or ethical obligation on the part of the Government to provide relief to a person whose patent rights have been substantially injured by the action or inaction by the Government. Such action or inaction may include altering, by statute or rule, the regulatory approval procedures, standards, or requirements in a case in which there has been material reliance by an applicant on the prior procedures, standards, or requirements.

(2) The requirements set forth in paragraphs (2) through (4) of subsection (b) are met, except that—

(A) the reference in subsection (b)(2) to "governmental misconduct" shall be deemed to include, as applicable, the action or inaction by the Government described in paragraph (1) of this subsection, and

(B) the reference in subsection (b)(2) to "delay in the approval process" shall be deemed to refer to "governmental misconduct", which shall be deemed to include, as applicable, the action or inaction by the Government described in paragraph (1) of this subsection.

(d) LACK OF DUE DILIGENCE.—Notwithstanding the preceding provisions of this section, in no case should the Congress approve a bill providing for the extension of the term of a patent in the case of delay attributable to a lack of due diligence by the patent holder.

SEC. 2. PATENT EXTENSION FOR NONSTEROIDAL ANTI-IN-FLAMMATORY DRUGS.

(a) IN GENERAL.—The terms of United States patents numbered 3,793,457 and 4,076,831 shall each be extended for a period of 2 years beginning on the date of its expiration.

(b) LIMITATION ON RIGHTS.—The rights derived from any patent which is extended by this section shall be limited during the period of such extension to any use for which the subject matter of the patent was approved by the Food and Drug Administration before the date of the enactment of this Act.

SEC. 3. PATENT TERM EXTENSION FOR OLESTRA.

The terms of United States patents numbered 4,005,195, 4,005,196, and 4,034,083 (and any reissues of such patents) shall each be extended for a period beginning on the date of its expiration through December 31, 1997.

SEC. 4. EXTENSION OF PATENT FOR INSIGNIA.

A certain design patent numbered 29,611, which was issued by the United States Patent Office on November 8, 1989, which is the insignia of the United Daughters of the Confederacy, and which was renewed and extended for a period of 14 years by the Act entitled "An Act granting an extension of patent to the United Daughters of the Confederacy", approved November 11, 1977 (Public Law 95–168; 91 Stat. 1349), is renewed and extended for an additional period of 14 years beginning on the date of the enactment of this Act, with all the rights and privileges pertaining to such patent.

SEC. 5. PATENT TERM EXTENSIONS FOR AMERICAN LEGION.

(a) BADGE OF AMERICAN LEGION.—The term of a certain design patent numbered 54,296 (for the badge of the American Legion) is renewed and extended for a period of 14 years beginning on the date of the enactment of this Act, with all the rights and privileges pertaining to such patent.

(b) BADGE OF AMERICAN LEGION WOMEN'S AUXILIARY.—The term of a certain design patent numbered 55,398 (for the badge of the American Legion Women's Auxiliary) is renewed and extended for a period of 14 years beginning on the date of the enactment of this Act, with all the rights and privileges pertaining to such patent.

(c) BADGE OF SONS OF THE AMERICAN LEGION.—The term of a certain design patent numbered 92,187 (for the badge of the Sons of the American Legion) is renewed and extended for a period of 14 years beginning on the date of the enactment of this Act, with all the rights and privileges pertaining to such patent.

SEC. 6. INTERVENING RIGHTS.

The renewals and extensions of the patents under sections 4 and 5 shall not result in infringement of any such patent on account of any use of the subject matter of the patent, or substantial preparation for such use, which began after the patent expired but before the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. COBLE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5475 is the product of almost a year's work by the Subcommittee on Intellectual Property and Judicial Administration. It grew out of a group of nine separate bills referred to the committee, each of which would extend the term of a patent or patents.

Following a hearing on these bills last October, the Subcommittee on Intellectual Property and Judicial Administration determined that at least two of them involved substantial factual disputes. We therefore asked the General Accounting Office to do some factfinding analysis regarding the Food and Drug Administration review of the ansaid (H.R. 2255) and olestra (H.R. 2805) products.

After some 4 months, the GOA provided the subcommittee with reports which helped clarify the facts regarding FEA review of ansaid and olestra.

The subcommittee then met and decided to defer action on the specific bills until we first develop a set of standards which must be met before we will favorably consider any bill providing for a patent term extension.

We also agreed that any bill favorably reporting a patent term extension should be a public and not a private bill.

As a reflection of these decisions, H.R. 5475 is a public bill which establishes standards for the consideration of future patent extension bills.

We decided not to apply these standards retroactively to the bills already pending. I doubt if any of the separate extension bills which are incorporated in this bill would qualify under these new, stricter standards. However, we feel that fairness dictates that these petitions be judged by preexisting standards, not by ones we formulated after these bills were introduced. Indeed, in our hearing last October on these bills, proponents and opponents alike quite properly focused their presentations on whether the particular fact situations in question met the 1984 standards developed by our committee.

The central requirement of the new standards is that the patent rights of the patentee who is seeking an extension were materially harmed by governmental action or inaction.

If the claim is that the harm resulted from unjustified delay in the regulatory approval process—and almost all cases are—the governmental action or inaction must constitute misconduct on the part of the Government. Mere delay in the regulatory process is not sufficient basis for a patent extension.

The bill enumerates various types of Government action which might constitute misconduct. In addition to egregious acts, such as deceitful, vindicative, or retaliatory action, misconduct can also be found in grossly negligent performance of governmental duties, or serious failure to perform those duties.

In examining the history of special legislation to grant statutory patent relief, we determined that, on some rare occasions, relief is appropriate even though there is no governmental misconduct. Examples are found in the governmental taking or curtailing of patent rights during time of war or national emergency. In these circumstances, the Government has not been guilty of misconduct—but nonetheless the patent owner was seriously harmed by governmental action, and there is a moral if not a legal obligation on the part of the Government to provide relief.

In addition to the formulation of standards for future cases, H.R. 5475 provides for patent term extensions in the case of five product patents and four design patents.

Deciding these individual cases was the tougher part of our work on these issues, and among the most difficult I have worked on in my 18 years in the House.

First, the facts were in serious dispute. After we sorted out the facts as best we could, we had to decide what was fair and in the public interest.

On the one hand is the interest of developers of these products, their stockholders and employees in seeing that they are given the opportunity to market their products and recover their investments.

These investments are massive. For example, the three products involved in this bill required from $100 to $230 million to develop. Without a fair chance to bring their drug or food product to market, these investments would not be made, and we would all suffer.

On the other hand, patent terms have always been limited, and for good reason. The inventor receives exclusive rights to make and market the invention for a limited period of time in exchange for full disclosure of how it is made, so that others may enter the competition when the term expires. This benefits not only competitors who wish to enter the market, but also, frequently, the public at large in the form of lower prices. Generic drugs are a prime example.

Let me describe for you what we decided on the individual patents, and why:

1. ANSAID AND LODINE

Patents for these two products, both nonsteroidal anti-inflammatory drugs, are each extended for 2 years. Both the Upjohn new drug application for ansaid and the American Home Products NDA for lodine encountered delays of more than 78 months before approval. This is three times the average review period at the time these applications were filed.

The delays were caused in part by FDA concern over serious results, including numerous deaths, which resulted from the use of other, previously approved drugs of the same category. Nonetheless there was a troublesome 2-year period during which it appears that, without reasonable explanation, no action at all was taken by the FDA. In short, I believe the FDA, stung by criticism of the approval of the earlier drugs, froze up and shut down work on these drugs for about 2 years.

Eventually—after 78 months in the case of ansaid and 96 months in the case of lodine—the FDA determined that both ansaid and lodin are safe and effective, and have none of the defects found in the earlier approved drugs. Under these circumstances, some short term of extension is appropriate. H.R. 5475 provides for a 2-year extension of each of these patents.

2. OLESTRA

Consideration of the appropriate review and approval process for this ground breaking product has vexed the FDA and Procter & Gamble, the company which developed it, for 20 years. One of the four patents involved in the olestra application, which has not yet been approved, has already expired. The patents cover various aspects of the noncaloric cholesterol-free sucrose polyester compound known as olestra. Olestra is a fat replacement product that can be used to flavor and texture food.

I do not believe that there is any justification for reviving the expired patent, or for granting the company's other request for an open-ended 10-year extension of the existing patents, to run from the time, if ever, that the FDA approves the food additive petition.

However, some relief is appropriate. The bill before us would extend the three unexpired olestra patents until December 31, 1997. This amounts to an extension of about 4 years for two of the patents, and 3½ years for the third.

If and when the FDA petition is approved, the company would be entitled to a 2-year extension under the Patent Term Restoration Act of 1984. However, if we enact this bill, it will take away that 2 years. The net effect of this bill is, therefore, an extension of only 1½ to 2 years.

We refused to provide an extension for the patent for an antiradiation drug developed under contract to the U.S. Army in the 1960's and known as WR 2721. That drug shows substantial potential for additional useful development.

However, we don't think that, standing alone, potentiality for future development is a proper basis for patent extension. The company—U.S. Bioscience—which owns the patent rights acquired those rights in 1987. The company bases its request for an extension upon the claim that, for many years, information regarding the potential for the drug was unavailable because of national security classification.

We checked with the Army, however, and found that the information was classified for no more than a 4-year period, and that this classification was lifted in 1965. The Army further reports that it in fact encouraged publication and development of the potentialities of the drug, beginning in the 1970's.

Furthermore, we don't think a company which bought patent rights in 1987 has a legitimate claim against the Government for something the Government may have done in the 1960's, long before the company bought into the patent, and even before it was issued.

DESIGN PATENTS FOR INSIGNIAS AND BADGES

Section 4 of the bill would renew and extend the design patent for the insignia for the United Daughters of the Confederacy.

Section 5 would renew and extend the design patents for the badges of the American Legion, the American Legion Women's Auxiliary, and Sons of the American Legion.

All of these four design patents have expired, and would be renewed and extended for a period of 14 years beginning on date of enactment. Intervening rights would be recognized to prevent infringement actions against any persons who began use of the subject matter of these patents after their expiration and before the effective date of this act.

H.R. 5475 is a good bill. It lays down clear and appropriately tough standards for future statutory patent extensions.

It deals fairly with the bills filed under the old rules. It grants short extensions for products which were bogged down for excessive amounts of time in bureaucratic delay, and thus encourages the extremely expensive research and development that is necessary to bring beneficial new medicines and food products to consumers.

I urge your support.

□ 1510

Mr. Speaker, I reserve the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my strong support for passage of H.R. 5475, a bill to create new standards regarding patent extension approvals. My primary interest in this legislation concerns that section of the bill involving the macronutrient called olestra, which has been developed by the Procter & Gamble Corp.

Mr. Chairman, I first want to commend the chairman of the Subcommittee on Intellectual Property and Judicial Administration, the gentleman from New Jersey [Mr. HUGHES], and the ranking minority member of the subcommittee, the distinguished gentleman from California [Mr. MOORHEAD], for their patience and thoughtful contributions during our work on this project. Mr. Speaker, these two gentlemen provided the leadership necessary to craft a fair and innovative bill which will extend certain patents for a brief period of time while creating a new standard to be applied to future extension requests.

In addition to olestra, those products receiving patent extensions are two anti-inflammatory drugs, one licensed to the Uphohn Co., called ansaid; and the other owned by American Home Products, called lodine. Both drugs will receive 2-year extensions. Design patents for badges and insignia used by the United Daughters of the Confederacy and the American Legion will also be extended for 14 years.

The most important feature of the bill, Mr. Speaker, is the creation of new criteria to judge the merits of future requests. In brief: when a request for a patent term extension involves regulatory delay, the delay must have been beyond the control of the patent holder and directly caused by governmental misconduct. Unusual or unexpected delay alone will not constitute governmental misconduct. Further, the governmental misconduct must have caused a substantial inequity to the patent holder who will suffer material harm in the absence of an extension. Expired patents shall not be revived and extended, except under the most extraordinary and compelling circumstances. Requests based on circumstances other than regulatory delay need not constitute misconduct but must be of a nature to create a moral obligation on the part of the Government to supply relief.

No one involved in this process walked off with all of what he or she wanted. But the finished product in my opinion is something in which the subcommittee, especially its leadership, can take pride.

Mr. Speaker, I made the statement, you may recall, in full committee, I was reminded of a ship charting dangerous waters as we went through this with Mr. HUGHES and Mr. MOORHEAD, who led the subcommittee through what I call procedural waters infested with rocks on the one hand, reefs on the other, and shoals somewhere in the middle. But thanks to their leadership, and I will again use the word patience, we negotiated this very difficult course and, I think, came up with a very worthwhile finished product.

Mr. Speaker, as noted, I am most interested in obtaining relief for olestra. By way of background, olestra is a calorie-free fat substitute that looks, cooks, and tastes like ordinary fat, but adds no fat or calories to the diet. Procter & Gamble has been testing olestra since 1971, the year its first patent for the substance was granted. Since that time, Procter & Gamble has invested more than $180 million in research and development in the project, but because of the unique nature of olestra, has been unable to secure Food and Drug Administration approval of the product. The company plans to spend another $50 million over the next 2 years to obtain the necessary regulatory clearance.

□ 1520

The last point, I believe, Mr. Speaker, is crucial in understanding why extended patent protection for olestra is warranted. Back in the early seventies, some testing indicated that olestra contained cholesterol-reducing properties. Neither Procter & Gamble nor the FDA had ever encountered a substance like this one that processed the attributes of a drug, on the one hand, as well as a food additive, on the other.

There was a total absence of any precedent to guide Procter & Gamble as it sought to establish the proper testing protocols for olestra, or to enable the FDA to provide other guidance in the matter. Stated differently, the FDA was compelled to develop the rules of the game as it went along. Understandably—and after the fact—this resulted in a 20-year-plus delay in approval that persists to this day.

Mr. Speaker, we all know that patent extension bills are rarely approved. To do so routinely would encourage monopolistic behavior and ultimately hurt consumers through higher prices. They should only be granted under exceptional circumstances. Under the standard which has governed patent extension requests, however, Procter & Gamble's situation would more than justify the assistance contained in H.R. 5475.

The company initially requested a 10-year extension for four patents—one of which has already expired—from the date of regulatory approval. But the legislation before us only extends the unexpired patents for 3½ to slightly less than 4 years—at most—after expiration. The expired patent—the most important of the four—will not be extended at all. But this is still an equitable result, Mr. Speaker; Procter & Gamble will receive some protection for its exercise of good faith and commitment to regulatory compliance. As a simple matter of equity, it would otherwise be unfair to allow competitors to piggy-back on a $180 million investment when this corporation has exercised due diligence as it navigated, and continues to navigate, the regulatory maze at FDA, and I do not say there is fault against FDA, but it is, nonetheless, a regulatory maze.

Finally, Mr. Speaker, I think we have before us a fair, balanced, equitable bill, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. MCHUGH] for yielding this time to me. He has yielded to me knowing that I have some reservations on the bill.

Mr. Speaker, H.R. 5475 deserves thoughtful consideration by every Member of the House. It is not without controversy, unfortunately, or differences of opinion on what is arguably a very complex subject.

First, Mr. Speaker, I would like to commend the thoughtful approach of the Committee on the Judiciary in establishing new strict standards for granting private patent extensions. Passage of this bill will have a significant effect on the normal course of business for thousands of American companies and their workers, not to mention millions of consumers.

Having said that, however, I think that what the bill gives with the one hand it immediately taketh away, and it grants special patent extensions to three companies without actually applying the new standards, and granting those extensions has been opposed by a variety of consumer interests: Public Citizen, Center for Science in the Public Interest, Citizens for Public Action on Blood Pressure and Cholesterol, Consumer Federation of America, Consumers Union and the National Consumers League. It would be my hope that that portion of this bill would have been dropped had the bill been brought to the floor with a rulemaking in order an amendment to eliminate that portion of it. It seems to me that without the debate necessary to determine whether billions of dollars should be given away to three of the largest, most profitable pharmaceutical manufacturers in this country who already enjoy generous research and development tax credits, 936 credits for manufacturing in Puerto Rico, which gives almost $3 billion a year in taxpayer awards to these pharmaceutical companies, and they have just announced, in some cases, some 27 percent increase on some of the drugs covered under this bill.

How much are we going to ask the consumers of this country who are already burdened by the lack of decent cost containment of their medical expenses to bear? I think that is a topic worthy of debate.

I would like to see H.R. 5475 passed by this House. I would like to see it amended, and I would like to see the amendment discussed after thorough discussion of these particular issues.

Mr. COBLE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I thank the gentleman from North Carolina [Mr. COBLE] for yielding this time to me.

Mr. Speaker, I come before this body not deeply knowledgeable in reference to all the aspects of this bill, and I commend the committee for certainly coming up with new recommendations, new concepts, in regard to patent approvals.

However, Mr. Speaker, I have had contact from various groups, one within my 13th Congressional District, where they pointed out that they had relied upon the fact that a certain patient, described in this bill, would be expiring. This pertains to olestra, the fat substitute which indeed is quite a concept. They have spent approximately $40 million in research of olestra, assuming that there was a date certain when the patents pertaining to olestra would be terminated. So it does appear to me that there is controversy here and that perhaps it was not a bill that should be on the Suspension Calendar.

I did want to express my concern. I think somewhere along the line there should be some open debate on this subject because I am sure there are many others who have some of the concerns that I do have.

Mr. Speaker, I thank the gentleman very much for having yielded to me.

Mr. COBLE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I thank the gentleman from North Carolina [Mr. COBLE] for yielding this time to me, and, Mr. Speaker, I want to compliment the gentleman from New Jersey [Mr. HUGHES], the gentleman from California [Mr. MOORHEAD], and the gentleman from North Carolina [Mr. COBLE] for the extraordinary good work they have done in bringing together this bill which is very complicated, to say the least.

I know that the gentleman from North Carolina [Mr. COBLE] has done a splendid job in explaining the reason why I am here to extend the patent for olestra. The gentleman has mentioned that olestra is unique. It has taken Procter & Gamble over 20 years of research and uninterrupted dialog with the FDA. Procter & Gamble has invested something in the neighborhood of $185 million to research for olestra in pursuit of this innovation. It is a unique new food additive, and because it is unique, the Food and Drug Administration has been a long time in allowing for approval. Procter & Gamble has been diligent in pursuing FDA approval from the start, and, without the extension, Proctor & Gamble will lose all of its key patent rights by expiration through early 1994, about the same time that FDA would be expected to approve its use.

So, Mr. Speaker, I rise in support of this legislation. I think it is good legislation, but I especially think it is desirable because of the patent extension for olestra. There is a foreign-based competitor, I submit, ready, willing and able to pick up where Procter & Gamble is about to leave off if this extension is not granted. I think a failure to extend the extension of the patent for olestra would be unfair and a deterrent to long-term research and development.

□ 1530

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to say to my colleagues in California and Illinois that I understand the argument. I understand that there is a foreign corporation which is based in Rotterdam that has also invested a lot of money in this product, not nearly as much as has Procter & Gamble, and obviously they are opposed to the legislation because they stand to gain from this patent going into the public domain.

But let us just take olestra. The basic patent is already expired. It has been 20 years. We grant a 17-year patent. Putting aside the 2-year extension available under certain circumstances, we grant 17 years. That means that they have 17 years basically to receive the recoupment for that money. In the instance of Procter & Gamble, they have spent $180 million.

Now, while on the one hand once the patent falls into the public domain we benefit through the generic industry in particular in lower costs, but if companies will not invest because they cannot recoup their investment, then we do not get the patent to begin with and we do not get the products. That is the balancing we have had to do.

In the instance of olestra, the Food and Drug Administration did not know what to do with it. They had a macronutrient and they did not know what it was about and we did not have testing protocols in place. So it took all those years to get to the point where we are just moving that through the process now.

Just recently the Food and Drug Administration mandated new tests on pigs. That was a brew requirement. In the meantime, 20 years have gone by and their basic patent has expired.

Is that fair? I do not think that is fair.

In the instance of ansaid, ansaid was a closer call for us. Lodine, not so much. But ansaid, there was a 2-year period of time when apparently the FDA did very little if anything in processing that drug. It took a total of 78 months, when the average time should take 26 months. Is that fair? In the instance of lodine, it took 96 months. It is a very similar product.

Mr. Speaker, that takes away from the company's basic investment and makes it that much more difficult for those companies to recoup their investments.

We talk about industries having a hard time surviving in this economic climate today and competing with other companies around the world. Here is an instance basically where there is a basic unfairness. So we get down to the standard.

Mr. Speaker, I think my colleague is right. We agonized over whether to apply this tough new standard, but we thought to ourselves, is that fair to take a tougher new standard and apply it to pending cases?

We took testimony on the basis of a standard which says if you have delay and you have harm, that is a sufficient basis for a patent extension. Is it fair to change the rules in the middle of the game after you have taken testimony?

Mr. Speaker, I do not think so. That is where the subcommittee came down, that is where the full committee came down, and, Mr. Speaker, I think the subcommittee and the full committee in working their will came up with a fair and balanced bill to all concerned. Not just to the companies, but also to the public interest, which is served by getting these products on the market so we can benefit from these new medicines.

Mr. FISH. Mr. Speaker; I rise in support of H.R. 5472.

I would like to commend the gentleman from New Jersey [Mr. HUGHES] and the gentlemen from California [Mr. MOORHEAD], and North Carolina [Mr. COBLE] for their painstaking work and thoughtful analysis on these difficult issues. Our patent laws have served this country well. Patent protection provides the incentives to make investments and bring new products to market. It's important to protect and encourage this investment but we must at the same time be sensitive to the rights of others whose competitive commercial interest may be adversely affected by the extension of a patent. To balance these interests can be a very difficult assignment. Upjohn, American Home Products, and Procter & Gamble made a fair and reasonable case before the subcommittee.

Extending the term of a patent, even one that has expired is something the Congress can and has done for over 200 years. The use of special relief legislation was adopted by the First Congress, which passed the first two private bills in 1789. The first private patent extension was enacted in 1808. The acceptance of this special legislative function by Congress met with opposition early on—John Quincy Adams regarded it as a contradiction of the separation of powers. He thought that "a deliberative assembly is the worst of all tribunals for the Administration of Justice." I am sure some of you would agree with him, but my point is that H.R. 5475 represents a method of justice that's as old as the process itself. It's not an easy method, it's not a popular method and it may not be the best method, but the Judiciary Committee and its subcommittee have done this House and the Congress an important service by not only carefully considering the various bills currently before it, but also in developing guidelines that will aid in the consideration of future proposals. For this we are grateful and I urge support for H.R. 5475.

Mr. GRADISON, Mr. Speaker, I rise in support of H.R. 5475, a bill providing policies with respect to approval of bills providing for patent term extensions. At the outset, I want to commend the chairman of the subcommittee [Mr. HUGHES] and the ranking Republican member [Mr. MOORHEAD] for their cooperation, fairness, and deliberate consideration of the issues raised in this legislation.

Substantial congressional and judicial precedent exists for the extension of patent terms. However, this legislation represents the first instance in which Congress will establish statutory standards by which requests for patent term extensions are to be judged. These provisions are reasonable and they deserve the support of the House. It would, however, be unreasonable to apply these standards retroactively.

H.R. 5475 also incorporates the provisions of H.R. 2805, as amended, which I introduced last year. H.R. 2805 would have extended the terms on patents related to olestra, a noncaloric, nonabsorbable fat replacement, invented by the Procter & Gamble Manufacturing Co.

Due to the unique properties of olestra, its use as a food additive has not yet been approved by the Food and Drug Administration. The unique character of olestra has required the development of a new regulatory regime which was not foreseen when current law was written. As a result, no practical relief can be granted to the company under the Patent Restoration Act of 1984. Hence, the need for congressional action.

Mr. Speaker, the subcommittee, after deliberate consideration, chose not to extend the expired patent on olestra. The extensions the subcommittee did grant on the three remaining patents are for a period of 3 years.

In my view, this will provide some relief to the company and will also support an important public policy interest. Our interest in this House should be in supporting and encouraging innovation. Defeat of this legislation would not only defeat the standardization of patent term extension requests, as well as important patent protections for the American Legion and the United Daughters of the Confederacy, it would send a signal that this House is not prepared to give minimal support to innovation. It is a signal this House should not send.

I urge my colleagues to support the bill.

Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 5475.

I would like to commend the gentleman from New Jersey [Mr. HUGHES] and the gentleman from North Carolina [Mr. COBLE] for the work product they bring before us today. The extensions provided for in this bill are, in my opinion, fair and just.

No one received all of what they asked for but having reviewed the record closely, we did try and provide a fair extension of those who, I think, made a good case.

The immediate problem for the subcommittee and the Judiciary Committee was to deal fairly with a group of very difficult patent extension bills that we found before us. And all of these bills are difficult. Because each of the applicants feels that they have a hardship, that the patent term is not sufficient to get their product approved by the Food and Drug Administration and their patents are going to expire before they have had an opportunity to put their product on the market, or before they could recover any of the costs of their research and development.

Obviously, the purpose of our patent system is so that people who spend their money on research and development of a product and take the risk will have an opportunity to try and recover their costs and make a profit before their patent expires. And the delays that have taken place in many instances, in getting their products to market, have been so long that they haven't had a chance to try and get any return on what are substantial investments.

We have struggled over all of these individual bills for a number of months. And in the end, I totally agree on the result contained in H.R. 5475.

What's important about this legislation are the standards we have developed for future consideration of patent term extensions. To statutorize standards by which to measure future legislation is unprecedented. Never before in the history of patent term extensions has a committee recommended a mechanism for dealing with these important and difficult cases. These standards are intended to be high, and difficult to meet, but they would also provide the subcommittee with the needed flexibility to deal with the extensions that are meritorious.

I think it is necessary that at least some leeway be there. But we want these rules tough enough so that we don't have a flood of bills from people whose patents are expiring, who think that they can come to Congress and receive an easy extension of their patent.

Our job is to try to bring some degree of fairness to these situations. And I believe that this is what H.R. 5475 does, and I certainly hope that it is adopted. If there are changes that are later needed down the line in the standards, they may be made by a future Congress. But for today, I think this is a good bill, and good policy and urge a favorable vote.

Mr. WOLPE. Mr. Speaker, I am one of the original cosponsors of legislation to extend that patent for ansaid, an anti-inflationary drug used to treat diseases like rheumatoid arthritis. Ansaid is manufactured by The Upjohn Co., which is headquartered in my district and which has been an outstanding corporate citizen during the more than 100 years since its founding.

H.R. 5475 provides some patent relief for ansaid, and I support the bill. I believe that the facts of the ansaid case unequivocally indicate this relief is warranted, and I have a lengthy statement that I would like to submit for the record which lays out those facts in significant detail.

I invite my colleagues—those of you who have not been as closely involved in this bill as I have—to examine the facts. These facts have been examined exhaustively by this body, by our Senate counterparts, by the FDA and by the Patent and Trademark Office, and, in an unprecedented step, by the GAO. These facts indicate that, through no fault on the part of the company, the ansaid application was subject to extraordinary regulatory delay.

BILL HUGHES, the chairman of the Intellectual Property Subcommittee of the Judiciary Committee, and the ranking minority member of that subcommittee, CARLOS MOORHEAD, looked at these facts. They looked also at the manner in which we here in Congress deal with patent extension requests, a role which extends back to the earliest days of this body. The subcommittee came up with standards to evaluate patent extension legislation in the future, but agreed that it would be inequitable, based on the facts of the ansaid case, to deny relief.

I think that the facts of the ansaid case are compelling. I believe that H.R. 5475 is a balanced and equitable bill, and I encourage my colleagues to vote yes.

THE FACTS OF THE ANSAID CASE

I. THE DEVELOPMENT OF ANSAID

For many decades, medical researchers have sought safe and effective treatments for the inflammatory diseases which affect large segments of the U.S. population. These diseases include rheumatoid arthritis, degenerative joint disease, bursitis and tendinitis, and they afflict virtually all Americans, from the elderly to the best trained athletes.

Aspirin has long been recognized as a potent anti-inflammatory drug and is still the drug of choice for many patients. Because of the serious gastrointestinal effects of aspirin, however, research continued in an effort to find a safer agent. Research conducted in the late 1950's and early 1960's resulted in the discovery of compounds now classified as "non-steriodal anti-inflammatory drugs" ("NSAIDs"). As a group, these drugs have anti-inflammatory properties comparable to aspirin but with fewer adverse gastrointestinal effects.

Indicin, a product of Merck Sharp & Dohme, was the first of these drugs to be approved, in 1965, but the approval of Motrin, an Upjohn product, in 1974 opened the gates for the introduction of fifteen more of these drugs over the next fourteen years. The NSAID field is now among the most competitive and consumer-oriented fields in the pharmaceutical marketplace. The development of Ansaid represents the next step in the progress of this important line of drugs.

II. THE ANSAID APPROVAL PROCESS

The Upjohn Company submitted its NDA for Ansaid (flurbiprofen) on March 29, 1982. At that time, the average period for approval of an NDA for an NSAID such as Ansaid was approximately two years. From 1974 through 1982, eight out of ten NSAIDs had been approved in 27 months or less.[1]

The animal studies and clinical trials of Ansaid had shown the drug to be both effective for the treatment of rheumatoid arthritis and osteoarthritis and remarkably free of serious side effects. The drug's profile was, in fact, quite similar to what was anticipated for drugs of this class. Upjohn therefore reasonably expected that its NDA would not present significant problems and that it would be approved within the two-year period required for approval of other NSAIDs in the 1974–1982 period.

Shortly after the Ansaid NDA was submitted, however, a series of events relating to other drugs unfolded, which dramatically lengthened the approval time for Ansaid. After approving ten NSAIDs in the immediately preceding eight years, the FDA did not approve *any* drugs of this class in 1983 or 1984, and only one in each of the next three years. Average NSAID approval times soared from slightly more than two years for drugs approved in 1982 and earlier to almost six years for those approved after that time. Because of these delays, Upjohn did not reach marketing approval for Ansaid until October 31, 1988, more than six years after its NDA was submitted.

These delays were caused by events pertaining to other NSAIDs, principally Oraflex, Feldene, Zomax, and Suprol. As a result of issues raised by those drugs, FDA slowed its new NSAID approvals for two primary reasons. First, significant Agency resources were devoted to resolving the questions raised by those particular drugs and were thus unavailable for reviewing new NSAID applications. Second, when FDA did turn to reviewing the pending NADs for this class of drugs, it gave them much closer scrutiny in light of the problems with other NSAIDs, and this also lengthened the time needed for approval.

In sharp contrast to the drugs and events described below, Ansaid has been used safely by millions of people in the United States and internationally. The safety of the product was never under any dispute at any time during the course of FDA review of the application for approval.

A. Oraflex

On April 19, 1982, FDA approved the NDA for Oraflex (Benoxaprofen), an NSAID indicated, like Ansaid, for treatment of reheumatoid arthritis and osteorathritis. The Oraflex NDA was submitted in 1980, and approval followed 27 months later, the average time then expected for NSAIDs. Almost immediately after this approval, however, FDA was forced to devote substantial resources to reviewing new information on the drug and reassessing its labeling, dosage, and risk-benefit ratio.

On April 24, 1982, The Lancet, a British medical publication, published a letter to the editor noting jaundice in three patients using benoxprofen in the United Kingdom.[2] A few weeks later, on May 8, 1982, the British Medical Journal published a "short report" describing the death of six elderly patients, all of whom had been taking benoxaprofen, from a liver disorder known as cholestatic jaundice.[3] FDA also received a letter on May 27, 1982, from a British government medical official pertaining to adverse events associated with benoxaprofen.[4]

These events and other reports prompted FDA to reconsider the labeling of Oraflex, especially as it concerned liver and kidney dysfunction, as well as the appropriate dosage for elderly patients. Senior FDA officials gave this matter their personal attention from the outset.[5] In addition, FDA personnel conducted careful investigations into the voluminous clinical data concerning the safety of Oraflex.[6] As part of its overall review, the Agency considered whether certain adverse events raised medical and scientific questions for NSAIDs as a class, in addition to whether they necessitated changes with respect to Oraflex in particular. The Agency also implemented changes in its DNA review procedures to ensure that medical officers based their decisions on the most current safety data available.[7]

FDA devoted a meeting of its Arthritis Advisory Committee on June 3–4, 1982, to the issue of liver toxicity for all NSAIDs. At the meeting, the Director of the FDA division responsible for NSAID approvals indicated his belief that almost all NSAIDs were associated with liver abnormalities and that additional information was needed to help develop classwide labeling revisions.[8] This association had not previously manifested itself as a significant clinical problem.[9]

Following this meeting, FDA reviewed proposed revised labeling for Oraflex. It ultimately approved revisions on July 12, 1982.[10] Reports continued, however, concerning the use of benoxaprofen overseas. Later that month, for example, the regulatory authorities in Denmark decided to restrict the drug to hospital use.[11]

At the same time, the Oraflex controversy continued to receive widespread public and media scrutiny in the United States.[12] The Health Research Group, a consumer advocacy organization, petitioned the Secretary of Health and Human Services to remove Oraflex from the market.[13] Six weeks later, the American Association of Retired Persons also petitioned the Secretary to ban the drug.[14] These organizations, joined by the National Council of Senior Citizens, sued the Department of Health and Human Services in federal court shortly thereafter in an attempt to force FDS to rescind the approval for Oraflex.[15] Responding to these efforts required substantial Agency resources.

On August 3 and 4, 1982, the Intergovernmental Relations and Human Resources Subcommittee of the House Committee on Government Operations held oversight hearings on FDA's regulation of new drugs.[16] The hearings concentrated almost exclusively on matters relating to Oraflex and Feldene (piroxicam), another NSAID (see below). Even before the hearings were held, FDA personnel had responded to congressional staff inquiries concerning Oraflex.[17]

FDA Commissioner Arthur Hull Hayes, Jr., M.D., and other FDA officials gave extensive testimony at these hearings. In fact, FDA officials were the only persons who testified during the two days of hearings. In discussing the NDA approval process, Commissioner Hayes noted that even the two years required for approval of Oraflex was a "lengthy" period, which was required because the NDA was particularly "complicated."[18] More straightforward NSAID applications presumably would take less time to approve.

FDA continued responding to congressional requests for information concerning Oraflex after the hearings were concluded.[19] Meanwhile, the manufacturer of Oraflex voluntarily suspended the sale and distribution of the drug on August 5, 1982.[20]

After several months of investigation, the House Committee on Government Operations released a report concerning Oraflex and recommending changes in FDA's adverse event reporting requirements and NDA review procedures.[21] On October 12, 1984, FDA Commissioner Frank E. Young, M.D., provided detailed responses to the Committee's recommendations.[22] In this response, Commissioner Young noted that the Agency had proposed changes in its new drug regulations in October 1982 and June 1983.[23] Those changes included modification of the reporting requirements.

In addition, FDA continued its own investigation of Oraflex. Following an extensive review, FDA referred the matter to the Justice Department in May 1983. A grand jury was later convened, and the manufacturer ultimately pleaded guilty to misdemeanor violations of the Federal Food, Drug, and Cosmetic Act on August 21, 1985.

B. Feldene

A substantial part of the August 1982 oversight hearings were devoted to FDA's approval of another antiarthritic NSAID, Feldene (piroxicam).[24] This drug was approved on April 6, 1982, following extensive FDA review of the clinical trial data in the NDA. Questions were raised at the hearing with respect to the effectiveness of the drug and certain press announcements concerning the drug.[25] Again, senior FDA management testified and responded to the Subcommittee's questions.

In the same report in which it discussed Oraflex, the Committee noted issues pertaining to Feldene as well.[26] As stated by the Committee, an FDA supervisory medical officer investigating Oraflex also raised questions pertaining to Feldene adverse event reporting.[27] The Subcommittee subsequently "brought this matter to the attention of senior FDA managers," and further FDA review ensued.[28] Thus, as with Oraflex, FDA officials spent considerable time investigating the facts pertaining to Feldene. More than a year after the hearing, FDA was still reviewing the reporting of adverse events associated with Feldene and responding to congressional inquiries on this matter.[29]

C. Zomax

In the spring of 1983, as FDA continued its Oraflex and Feldene investigations, the Agency found itself facing yet another controversy involving another NSAID, Zomax (zomepirac sodium). After approval in 1980, Zomax was withdrawn from the market by its manufacturer on March 4, 1983, "because of fatal and near fatal adverse reactions to the drug."[30]

For at least a year prior to the removal of Zomax from the market, FDA medical officials with responsibility for new drugs in general and NSAID's in particular had devoted considerable time and effort to reviewing data on Zomax and considering changes in the drug's labeling.[31] During this period, and especially after the market withdrawal, issues pertaining to Zomax "received a good deal of publicity."[32]

The Intergovernmental Relations and Human Resources Subcommittee held oversight hearings concerning Zomax on April 26 and 27, 1983.[33] Commissioner Hayes again appeared before the Subcommittee, accompanied by several other senior FDA officials.[34] In his testimony, the Commissioner discussed FDA's adverse event monitoring systems, and in particular a newly developed system that "logs all reports * * * regardless of source and tracks the review process until the report is entered into the [Drug Experience Information System] file."[35] The Commissioner also noted that the adverse events associated with Zomax were considered in light of the drug experience profiles for NSAIDs as a class, and that the Agency carefully considered overall drug experience patterns for the NSAIDs in this context.[36]

---

[1] Footnotes at end of article.

The removal of Zomax from the market prompted intense FDA scrutiny of all NSAIDs. For example, FDA prepared an extensive "summary of [adverse drug experience] reports, by year, for all nonsteroidals on the basis of market share."[37] In addition, Agency officials analyzed reports pertaining to several NSAIDs to determine whether those drugs were associated with the same type of hypersensitivity or anaphylactic (allergic) reactions that led to the withdrawal of Zomax.[38] FDA was particularly concerned with the possibility that "the apparent increase in hypersensitivity [to Zomax] * * * [was not] really different from other NSAID drugs used the same way," and that "if other NSAIDs were used intermittently, they too would have a greater frequency of hypersensitivity reactions."[39] FDA therefore conducted an "indepth analysis * * * by examining all nonsteroidal exposed patients" in a data base of records from 300,000 Medicaid patients."[40] In addition, the Agency developed tabulations of more than 18,000 adverse events for all NSAIDs from 1969 through 1983, and presented these to the Subcommittee during the hearings.[41]

The Commissioner and other FDA officials also responded to extensive questioning from the Subcommittee. Most fundamentally, the Subcommittee was concerned whether FDA was "really doing an objective job," or instead "trying to find justification for having approved a product."[42] Commissioner Hayes responded that the Agency was not "seeking a justification but rather * * * trying to find the right answer" in light of all available "scientific data."[43] While the discussion focused primarily on Zomax, the Subcommittee emphasized that "[w]e are really talking about appropriate policy and procedures of the Agency, including questions of adequate staffing and effective management practices."[44]

In this regard, the Subcommittee pointed to a 1982 report of the General Accounting Office concerning areas in which FDA's adverse event monitoring systems could be improved, and asked what steps had been taken to implement the recommendations contained in that report.[45] The Commissioner responded that Agency officials "have addressed and continue to address" these issues.[46] For example, considerable FDA resources were devoted to maintaining and improving FDA's computer tracking system.[47] FDA officials also explained that an indepth epidemiological study of adverse event information for even a single drug is an especially "labor intensive" undertaking.[48] The Subcommittee questioned whether a computer system could be implemented specifically to track adverse events reported with respect to NSAIDs.[49] FDA responded that the issues involved in any tracking system are "very complicated" and its system in particular is "complex."[50] Resources also were devoted to answering inquiries from the Subcommittee about specific Zomax adverse event reports and other issues.[51] Finally, the Subcommittee reviewed documents pertaining to two NSAIDs with NDAs then pending at FDA to determine whether they raised safety issues related to Zomax.[52]

On December 2, 1983, the House Committee on Government Operations issued a report concerning "FDA's Regulation of Zomax."[53] Among other things, the Committee recommended that "FDA establish procedures for prompt processing, review, and analysis of all adverse reaction reports for marketed drugs."[54] The controversial nature of the entire Zomax episode and of certain of the Committee's findings is reflected in the numerous dissenting and additional views accompanying the report.[55]

D. Suprol

After a virtual moratorium on NSAID approvals, FDA finally approved a new NSAID, Suprol (suprofen), on December 24, 1985. A few months later, however, the drug's manufacturer began receiving reports of unusual adverse kidney effects, frequently combined with flank pain, associated with Suprol. Sales of the drug ultimately were halted on May 18, 1987, in the face of mounting criticism.[56]

Reports of the flank pain syndrome associated with Suprol had begun to appear almost immediately after the drug was approved for marketing.[57] Subsequently, numerous reports were made to FDA, and the Agency became occupied with reviewing new and revised labeling for the drug. An article also appeared in the June 1986 edition of the FDA Drug Bulletin.[58] In addition to the Agency itself, Advisory Commission reviewed Suprol in light of the new adverse events reports.[59] FDA resources were also devoted to responding to a petition filed in September 1986 seeking the removal of Suprol from the market.[60]

Once again, FDA officials testified at a House oversight hearing devoted to examining the Agency's NSAID regulatory processes. Among the issues raised by the House Subcommittee at the hearing were whether FDA adequately investigated the drug sponsor's reporting of adverse drug events and whether the Agency had properly weighed the risks and benefits of the drug.[61] The overall goal of the hearing was to use the case of Suprol to evaluate "whether or not our current system of drug regulation and surveillance works."[62]

At the hearing, FDA officials emphasized the difficulty of detecting rare adverse events in the clinical trials prior to NDA approval, since those trials are generally limited to a few thousand patients.[63] Following the hearing, FDA supplied a detailed chronology of events relating to Suprol. as well as written responses to certain questions raised at the hearing.[64] FDA had also answered questions from the Subcommittee chairman prior to the hearing.[65]

E. Contrast: The Approval of Ocufen

Review of the case of FDA approval of Ocufen, an ophthalmic solution containing flurbiprofen sodium—a salt of the active ingredient in Ansaid—suggests that the delay in approving Ansaid was due to events relating to other NSAIDs, and not to the nature of the product itself.

The NADA for Ocufen for use in the inhibition of intraoperative miosis was submitted by Allergan on December 19, 1984—more than two years after the NDA for Ansaid. It was approved in just two years, on December 31, 1986—almost two years before Ansaid would be approved.

The review time for Ocufen was similar to the mean review time (22 months) for all new molecular entities reviewed by the Division of Anti-Infective Drugs during the period 1980 through 1988. Thus, flurbipofen was approved for ophthalmic use without significant regulatory delay. The delay in approving Ansaid, by contrast, can be viewed as directly associated with the crises involving other orally administered NSAIDs.

III. CONGRESSIONAL REVIEW OF ANSAID PATENT EXTENSION LEGISLATION

H.R. 5475 includes a set of standards by which Congress can evaluate future patent extension request. The bill has been criticized for expanding several patents, under previously existing standards of equity and extraordinary circumstances, and applying the new standards only prospectively. The assumption underlying this argument is that because the new standards were not in use, the extensions in H.R. 5475 were granted without regard to any standard or process. In the case of Ansaid, however, nothing could be further from the truth.

Ansaid legislation has been considered by this Congress for well over a year. It was introduced in May of last year, with 28 original co-sponsors. It has been the subject of hearings in three Committees, including: the Intellectual Property Subcommittee of the House Judiciary Committee; the Health and the Environment Subcommittee of the House Energy and Commerce Committee; and the Patent and Trademark Subcommittee of the Senate Judiciary Committee. The Patent Office and the FDA testified at all of those hearings.

At the request of Representative Bill Hughes, Chairman of the Intellectual Property Subcommittee of the House Judiciary Committee, and Senator Dennis DeConcini, Chairman of the Patent and Trademark Subcommittee of the Senate Judiciary Committee, the GAO conducted an unprecedented investigation into the facts of the FDA's approval of Ansaid. The Upjohn Company cooperated completely with GAO investigators.

The following outline indicates the nature and extent of the Congressional consideration of the Ansaid patent term extension.

1. H.R. 2255 introduced May 8, 1991.

29 Cosponsors, including 16 Democrats and 13 Republicans.

Cosponsors: Bonior, Broomfield, Bryant, Camp, Carr, Coble, B. Collins, Conyers, R. Davis, Feighan, Fish, W. Ford, Gekas, Henry, Hertel, Hoagland, Kildee, M. Levine, S. Levin, McCollum, Moorhead, Pursell, Richardson, Schiff, Synar, Traxler, Upton, Vander Jagt and Wolpe

2. Hearing held on August 1, 1991 on S. 1165 (Senate counterpart of H.R. 2255) by the Patents, Copyrights and Trademarks Subcommittee of the Senate Committee on the Judiciary

Testimony by Theodore Cooper, M.D., Ph.D., Chairman and CEO, The Upjohn Company; Harry F. Manbeck, Jr., Commissioner of Patents and Trademarks; Stuart Nightingale, M.D., Associate Commissioner, FDA

3. Hearing held on October 31, 1991 on H.R. 2255 by the Intellectual Property and Judicial Administration Subcommittee of the House Committee on the Judiciary

Testimony by Theodore Cooper, M.D., Ph.D., Chairman and CEO, The Upjohn Company; Stuart Nightingale, M.D., Associate Commissioner, FDA

4. Hearing held on February 20, 1992 by the Health and Environment Subcommittee of the House Committee on Energy and Commerce

Testimony by Theodore Cooper, M.D., Ph.D., Chairman and CEO, The Upjohn Company

5. Markup of S. 1165 held on May 21, 1992 by the Patent Subcommittee

6. Markup of H.R. 2255 held June 11, 1992 by the Intellectual Property Subcommittee: H.R. 2255 reported out as part of a clean bill, H.R. 5475

7. Markup of H.R. 5475 held July 22, 1992 by the full House Judiciary Committee: bill reported favorably to the full House, without amendment (voice vote)

This lengthy process of review was based on a standard that has evolved over the long course of Congressional consideration of patent extensions, which, as Representative Fish pointed out during the full Judiciary Committee markup of H.R. 5475, Congress has approved since its inception.

That standard has been stated in a variety of ways, but it is fundamentally one of equity: Congress has in the past weighed the merits of each individual case, and has made a decision based on the equities. The new standards enunciated in H.R. 5475 are a reasonable attempt to make this general concept of equity more specific. But as Chairman Hughes explained at the markup, it is not fair to require a company which has invested a great many resources in making a case under an older standard to make another case under a new standard.

It would be particularly unfair to Upjohn. The patent for Ansaid expires in February of 1993. Application of the new standards would require additional hearings, another review by the Patent Office and by FDA, a new GAO report, and reconsideration by the appropriate Congressional committees. In light of the lengthy consideration this bill has already had, and the short time remaining on the patent, application of the new standards would not be equitable.

IV. THE GAO REPORT

The GAO conducted an investigation of the circumstances of the FDA delay in the approval of the Ansaid application. This unprecedented step, never before included in a Congressional review of a patent extension request, resulted in a report which was, in part, the basis for the relief granted in the Intellectual Property Subcommittee's bill. The extensions in H.R. 5475 have nevertheless been criticized as unsupported by the GAO report.

As the following excerpts indicate, however, this is a completely specious charge.

Upjohn's preparation of the NDA: No unusual delay.

"From our review of agency and company documentation and our own analysis, it appears that Upjohn did not unnecessarily delay submitting its NDA." GAO Report at 5.

Application reviews take longer; May 1984 through May 1986

"Upjohn's primary arguments * * * to support its claim that the patent term for Ansaid should be extended are most relevant to this 2-year period. FDA acknowledges that, during this time, its reviews took longer." GAO Report at 8.

The impact of unusual circumstances on the FDA

"FDA did indeed face an unusual set of events from 1982 through 1987, which affected its operations. . . . Compared with the pre-1982 approval time, the average time taken to approve NSAID NDAs nearly doubled." GAO Report at 8.

V. CONCLUSION: THE PUBLIC POLICY REASONS FOR SUPPORTING A PATENT EXTENSION FOR ANSAID

There are general public policy reasons for patent extensions which concern adequate reward for innovation. Congress has traditionally served as a safety valve in the rare situations in which the rigidities of our otherwise effective patent system would prevent appropriate compensation for inventors.

But in the case of Ansaid, there is also a more specific public health reason for supporting the Ansaid extension. The Upjohn Company is sponsoring research into additional uses for Ansaid. Promising work is being done in a variety of areas, including post-surgical pain, fractures, and gout. Upjohn is also supporting research by Dr. Tom Aufdemorte, who is working at the UT Health Science Center in San Antonio. Dr. Aufdemorte has discovered some interesting possibilities for the use of Ansaid in treating osteoporosis, a disease which seriously diminishes the quality of life of many elderly women. Without additional market exclusivity, however, Upjohn will not be able to afford to continue this support.

In summary: H.R. 5475 is a balanced and equitable bill. The case of Ansaid has been meticulously made and documented in several Congressional forums. The legislation has been subject to hearings and public markup. There are sound public policy reasons for this extension. The bill is worthy of support.

FOOTNOTES

[1] This is illustrated in the following table:

Year of approval	Name of drug	Approval time (months)
1974	Motrin (ibuprofen)	18
1976	Nalfon (fenoprofen calcium) ...	22
1976	Naprosyn (naproxen)	23
1976	Tolectin (tolmetin sodium)	20
1978	Clinoril (sulindac)	27
1980	Meclomen (mecloftenamate sodium).	39
1980	Zomax (zomepirac sodium)	22
1982	Feldene (piroxicam)	48
1982	Oraflex (benoxaprofen)	27
1982	Dolobid (diflunisal)	22

However, only five NSAIDs were approved from 1983 through 1988, and only three of those are currently being marketed. Suprol (suprofen) was approved in 1985 following an 86-month review period, and was withdrawn from the market in May 1987. Orudis (ketoprofen) was approved in 1986 after 46 months. Voltaren (diclofenac) was approved in 1987 after 55 months. Remedial (karprofen) was approved in 1988 after 87 months, but has not been marketed. Ansaid was approved in 1988 after a 79-month review period.

[2] "Jaundice associated with the use of benoxaprofen," Lancet 959 (Apr. 24, 1982). *See The Regulation of New Drugs by the Food and Drug Administration: The New Drug Review Process*, Hearings Before a Subcomm. of the House Comm. on Gov't Operations, 97th Cong., 2d Sess. 105 (1982) [hereinafter cited as *New Drug Hearings*].

[3] Taggart and Alderice, "Fatal cholestatic jaundice in elderly patients taking benoxaprofen," 284 Brit. Med. J. 1372 (May 8, 1982). *See New Drug Hearings, supra*, at 104.

[4] *See* "Deficiencies in FDA's Regulation of the New Drug 'Oraflex,'" Fourteenth Report by the House Comm. on Gov't Operations, H.R. Rep. No. 511, 98th Cong., 1st Sess. 3 (1983) [hereinafter cited as "Oversight Report"].

[5] *See, e.g., New Drug Hearings*, supra, at 108 (memorandum of phone conversation concerning Oraflex between FDA's Acting Director, Office of New Drug Evaluation, and Lilly physician); id. at 112–113 (memorandum of meeting concerning Oraflex; attendees included FDA's Director and Associate Director, Bureaus of Drugs and Biologics).

[6] *See, e.g.*, id. at 98–99 (setting forth FDA memorandum concerning benoxaprofen adverse event reporting).

[7] *See id.* at 526–527 (setting forth memorandum from Dr. Temple concerning review of investigational files prior to NA approval).

[8] Adv. Comm. Transcript, pp. 156–157.

[9] *See, e.g., id.* at 106.

[10] *See* "Oversight Report," supra, at 3.

[11] *See id.*

[12] *See, e.g.*, "Oraflex Case Seen Changing Drug Industry," Wall St. J., Sept. 20, 1982, at 33.

[13] *See* "Warning About Using Anti-Arthritis Drugs Is Urged by U.S. Panel," Wall St. J., June 18, 1982, at 32.

[14] *See* "Arthritis Drug Stirs Ban Effort," Wash. Post, July 31, 1982, at A–4.

[15] *See* "3 Groups Suing To Bar Arthritis Drug Oraflex," Wash. Post, Aug. 3, 1982, at A–13.

[16] *See New Drug Hearings, supra.*

[17] *See, e.g., id.* at 119 (memorandum of telephone conversation between Dr. Harter of FDA and Mr. Sigelman of the Subcommittee staff).

[18] *Id.* at 16.

[19] *See, e.g., id.* at 532, 559–561 (letters from Commissioner Hayes to Representative Fountain).

[20] *See id.* at 564.

[21] *See* "Oversight Report," *supra*, at 8.

[22] *See* letter from Commissioner Young to Representative Weiss (Oct. 12, 1984).

[23] *See id.*; 47 Fed. Reg. 46622 (Oct. 19, 1982) (NA regulations); 48 Fed. Reg. 26720 (June 9, 1983) (investigational new drug, or "IND," regulations). The revised regulations became final in 1985 and 1987. *See* 50 Fed. Reg. 7452 (Feb. 22, 1985) (NA regulations); 52 Fed. Reg. 8798 (Mar. 19, 1987) (IND regulations).

[24] *See, e.g., New Drug Hearings*, supra, at 367.

[25] *See, e.g., id.* at 368–404, 508–512.

[26] *See* "Oversight Report," *supra*, at 7, 21–22.

[27] *See id.* at 7.

[28] *Id.* at 21.

[29] *FDA's Regulation of Zomax: Hearings Before a Subcomm. of the House Comm. on Gov't Operations*, 98th Cong., 1st Sess. 440–447 (1983) [hereinafter cited as Zomax Hearings].

[30] *Id.* at 2.

[31] *See, e.g., id.* at 108–119, 125–127.

[32] *Id.* at 91. As Dr. Harter of the FDA explained with respect to the withdrawal of Zomax from the market, "I think the news media got more interested; it got more publicity than one might expect, because the Tylenol thing had preceded it, and here was a company with a similiar—not the same problem—but from the news people's viewpoint a similar problem, deaths from a drug." Transcript of Arthritis Advisory Committee Meeting, May 12, 1983, at 9 [hereinafter cited as Advisory Comm. Tr.].

[33] *See Zomax Hearings, supra.*

[34] *See id.* at 85, 124.

[35] *Id.* at 88.

[36] *See id.* at 89. An FDA official explained to the Arthritis Advisory Committee that while it may seem to "be an easy thing" to review the relevant epidemiologic data, "it is clear that it is not" because the "reaction is rare enough that it is hard to get the noise out so you can start seeing the reaction you are really interested in." Advisory Comm. Tr., *supra*, at 10.

[37] *Zomax Hearings, supra*, at 89.

[38] *See id.*

[39] *Id.* at 90.

[40] *Id.* at 89.

[41] *See id.* at 102–104.

[42] *Id.* at 96 (Mr. Weiss).

[43] *Id.* at 97.

[44] *Id.* at 124 (Mr. Weiss).

[45] *See id.* at 132–134.

[46] *Id.* at 133.

[47] *See id.*

[48] *Id.* at 283, 285.

[49] *See id.* at 285 (Mr. Weiss).

[50] *Id.* at 286.

[51] *See id.* at 327–333, 509–532.

[52] *See id.* at 533–555.

[53] "*FDA's Regulation of Zomax*," Thirty-First Report by the (House Comm. on Gov't Operations, H. Rept. No. 584, 98th Cong., 1st Sess. (1983).

[54] *Id.* at 27.

[55] *See id.* at 28–36.

[56] *See FDA's Regulation of the New Drug Suprol*, Hearing Before a Subcomm. of the House Comm. on Gov't Operations, 100th Cong., 1st Sess. 417–418 (1987).

[57] *See id.* at 35–36.

[58] *See id.* at 36–41.

[59] *See id.* at 42.

[60] *See id.* at 364.

[61] *See id.* at 2.

[62] *Id.* at 3.

[63] *See id.* at 364.

[64] *See id.* at 412–433.

[65] *See id.* at 336–366.

Mr. COBLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 5475, as amended.

The question was taken.

Mr. STARK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

LIBERIAN RELIEF, REHABILITATION, AND RECONSTRUCTION ACT OF 1992

Mr. DYMALLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 994) to authorize supplemental appropriations for fiscal year 1991 for relief, rehabilitation, and reconstruction in Liberia, as amended.

The Clerk read as follows:

H.R. 994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Liberian Relief, Rehabilitation, and Reconstruction Act of 1992".

SEC. 2. LIBERIAN RELIEF, REHABILITATION, AND RECONSTRUCTION.

(a) FINDINGS.—The Congress finds that—

(1) as a result of a protracted civil war, a general breakdown of law and order, the displacement of up to one-half of the country's population, the destruction of significant sections of the infrastructure, and the resulting economic collapse, the people of Liberia are suffering from—

(A) several malnutrition and life-threatening disease conditions;

(B) a total collapse of Liberia's agricultural market due to abandoned farmlands and displaced farmers; and

(C) a nationwide dismantling of the health, educational, and sanitation systems; and

(2) because of a long, historical, and special relationship with the Republic of Liberia, it is in the interest of the United States, and it is also in the interest of the international community, to respond to the urgent needs of the people of Liberia and to assist in every way possible that country's effort to restore democracy and promote democratic institutions.

(b) STATEMENT OF POLICY REGARDING ASSISTANCE FOR LIBERIA.—It is the policy of the United States to continue to commit increased diplomatic resources for the purposes of resolving the fundamental political conflicts that underlie the protracted humanitarian emergency in Liberia.

(c) SUPPORT FOR PEACEKEEPING EFFORTS.—It is the sense of the Congress that the President should continue to support the peacekeeping efforts in Liberia being carried out by the Economic Community of West African States (ECOWAS).

(d) INTERNATIONAL DISASTER ASSISTANCE FOR LIBERIA.—Chapter 9 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2292-2292p) is amended by adding at the end thereof the following new section:

"SEC. 495L. LIBERIAN CIVIL STRIFE ASSISTANCE.

"(a) IN GENERAL.—The President is authorized to provide assistance for civil strife relief, rehabilitation, and general recovery in Liberia. In providing such assistance, priority shall be given to activities that—

"(1) coordinate and enhance the efforts of the United States, Liberia, and international private and voluntary organizations to provide relief, rehabilitation, and recovery projects in Liberia;

"(2) assist in the restoration of services in Liberia that provide water and power;

"(3) encourage and facilitate the provision of health care, including activities relating to the provision of primary health care;

"(4) encourage and facilitate the restoration of educational services, including activities relating to the provision of educational services to displaced children; and

"(5) contribute to efforts by the international community to respond to the relief and development needs of the people of Liberia.

"(b) HUMANITARIAN PURPOSES.—Assistance provided under this section shall be for humanitarian purposes.

"(c) AVAILABILITY OF FUNDS.—Funds made available for the purposes of this chapter may be used to carry out this section.

"(d) GENERAL POLICIES AND AUTHORITIES.—Except as otherwise provided in this section, assistance under this section shall be furnished in accordance with the policies and general authorities contained in section 491.".

"(e) RESTRICTIONS ON ASSISTANCE TO LIBERIA.—For fiscal years 1992 and 1993, assistance under the Foreign Assistance Act of 1961 may be provided to the Government of Liberia only if the President determines and reports to the Congress that the Government of Liberia has achieved substantial progress toward reconciliation and toward free and fair elections that are monitored by international observers. This section shall not be construed to affect the provision of humanitarian assistance of the provision of assistance to nongovernmental organizations for activities to enhance progress toward reconciliation and free and fair elections in Liberia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DYMALLY] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BEREUTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 994 supports the democratic process in Liberia and hopes to provide both an incentive as well as broaden the scope of participation in the relief, rehabilitation, and recovery effort in this war-torn country.

This measure was updated and amended recently when it passed the Committee on Foreign Affairs unanimously. The amended version of this bill permits the U.S. Government to provide limited assistance for elections and troop encampment, demobilization, and retraining.

It is important that the United States Congress support diplomatic and peacekeeping efforts in Liberia to remedy the collapse of the economic, agricultural, health and educational systems in this country. It is my hope that we can act favorably on H.R. 994 so the position of the United States in support of the democratic movement in Liberia will be defined and clarified.

Mr. Speaker, this bill basically is a signal to the Liberians, both sides, to say that the United States is willing to lend support to Liberia if they can come to a reconciliation of the conflict which has torn that country apart.

More recently, Mr. Speaker, a staff member met with the Liberians in Dakar, Senegal, during the meeting of ECOWAS, and expressed the anxiety of Congress to see a resolving of that problem there, but further expressed a fear that if the situation is not settled soon enough, they may soon be forgotten.

Mr. Speaker, I am hopeful as a result of this measure and as a result of our discussions with them last week in Dakar, Senegal, during the ECOWAS meeting, that there will be another push to resolve the dilemma that is faced between the two sides.

Mr. Speaker, I have a letter for the RECORD from the Congressional Budget Office, which states:

> The Congressional Budget Office has reviewed H.R. 994, the Liberian Relief, Rehabilitation, and Reconstruction Act of 1992, as ordered reported by the House Committee on Foreign Affairs on June 18, 1992. Enactment of the bill would not affect the budgets of Federal, State, or local government.

Mr. Speaker, the letter goes on to say it does not in any way appropriate any funds and gives the President the authority to do essentially what we did under the leadership of the gentleman from Nebraska [Mr. BEREUTER].

Mr. Speaker, this bill is almost a carbon copy of a measure which passed this House to develop the policy and position to bring some peace and stability to Liberia as we did in the Horn.

Mr. Speaker, I submit the letter referred to for the RECORD.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 29, 1992.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 994, the Liberian Relief, Rehabilitation, and Reconstruction Act of 1992, as ordered reported by the House Committee on Foreign Affairs on June 18, 1992. Enactment of the bill would not affect the budgets of federal, state, or local governments.

The bill would authorize the President to provide civil strife and rehabilitation assistance to Liberia, and also would authorize the use of disaster assistance funds for those purposes. Because the President currently has authority to provide assistance to Liberia, and because the bill would not provide any additional authorizations of appropriations, enactment of the bill would not affect federal spending.

The bill would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

The CBO staff contact is Kent Christensen, who can be reached at 226-2840.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Mr. Speaker, I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in Liberia a brutal civil war has brought terrible devastation. In that country, as in so many other places around the world today that are wracked by civil war, we see the terrible results when ethnic strife and class conflict replace orderly government.

We all share a desire to aid the people of Liberia, a nation that enjoys a unique, positive, and longstanding relationship with the United States. It is appropriate, therefore, that H.R. 994 authorizes relief assistance for Liberia, and urges support for the peacekeeping efforts of the Economic Community of West African States [ECOWAS].

This Member would note that the United States has, in fact, already responded rapidly and appropriately to the crisis in Liberia. President Bush has already provided $160 million in aid and almost $25 million to the members and organization of ECOWAS since the war began in late 1989.

It is this Member's understanding that the administration does not oppose passage of this legislation. And, while the administration already has the authority to do much that is provided for in this legislation, passage of H.R. 994 will send an important signal that Congress will not ignore the bloodshed and misery in Liberia.

Mr. Speaker, this Member would commend the efforts of the chairman of the Subcommittee on Africa, the gentleman from California [Mr. DYMALLY]. He has always worked diligently to raise this body's awareness of the suffering and misery in Africa. This Member would commend him for his resolution.

Mr. Speaker, this Member would also urge adoption of this resolution.

□ 1540

Mr. Speaker, this Member would commend highly the efforts of the chairman of the Subcommittee on Africa, the gentleman from California [Mr. DYMALLY]. He has always worked diligently to raise this body's awareness of the suffering and misery in Africa.

This Member would commend him for introducing and championing this resolution. While there are months yet ahead, let me take this opportunity, since I am speaking on this legislation and since he is no seeking reelection, to commend him for the outstanding leadership that he has brought to the House Committee on Foreign Affairs and to the Congress by his many initiatives.

Mr. Speaker, this Member would also strongly urge adoption of the resolution by the U.S. House of Representatives.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DYMALLY. Mr. Speaker, I yield myself such time as I may consume.

I thank my friend for his kind comments. Had he made those comments before February 10, I never would have retired. I thank the gentleman very much for his kind words.

He also has done an outstanding job, and this is really a carbon copy of the leadership he provided on the Horn. We thank him for his leadership.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. DYMALLY] that the House suspend the rules and pass the bill, H.R. 994, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "An act to authorize assistance for civil strife relief, rehabilitation, and reconstruction in Liberia."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There is no objection.

COMMENDING THE PEOPLE OF THE PHILIPPINES

Mr. LANTOS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 348) to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines.

The Clerk read as follows:

H. CON. RES. 348

Whereas achieving the first peaceful and constitutional succession of elected presidents is one of the most difficult and important steps in the establishment of democratic government;

Whereas the Philippines, under the leadership of President Corazon Aquino, has successfully completed this democratic transition, and thereby, secured the final victory of the 1986 "Peoples Power Revolution";

Whereas Fidel Ramos was a key participant in the 1986 Peoples Power Revolution that ended the Marcos dictatorship, and subsequently played a crucial role in opposing 6 abortive coup attempts that threatened to overthrow the democratically elected government;

Whereas newly-elected President Fidel Ramos will face the important challenge of continuing the difficult economic and political reforms begun by his predecessor;

Whereas despite a series of natural disasters (including earthquakes, typhoons, and volcanic eruption), the Philippine economy has turned from annual contraction under the previous regime to a yearly growth rate of 3 to 4 percent;

Whereas the American people can be proud of the role the United States has played in helping Filipinos succeed in the reestablishment of democracy in their country and in beginning free market economic reforms; and

Whereas despite the withdrawal of United States Armed Forces from Clark Air Field and Subic Bay Naval Station, the United States and the Philippines continue to be bound together by their Mutual Defense Treaty and to share important security interests in the region: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That in light of the continued strong security and economic interests shared by the United States and the Philippines as well as our deep cultural and historic ties, the Congress—

(1) congratulates Fidel Ramos on his election to the Presidency of the Philippines;

(2) commends the people of the Philippines for institutionalizing democratic government in their country by supporting peaceful and constitutional elections;

(3) urges the President of the United States to strongly support continued economic and political reform by the new Philippine Government; and

(4) believes a new era has begun in United States-Philippine Government; and

(5) believes a new era has begun in United States-Philippine relations and recommends that a post-bases relationship be built on the cooperative pursuit of mutually beneficial goals.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. LANTOS] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BEREUTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

At the outset, I would like to pay tribute to the distinguished chairman of our subcommittee, the gentleman from New York [Mr. SOLARZ], the distinguished Republican ranking member, the gentleman from Iowa [Mr. LEACH], and our colleague, the gentleman from Guam [Mr. BLAZ] for bringing this resolution before us.

What does this resolution do? It states basically that the Congress of the United States commends the people of the Philippines for institutionalizing Democratic government in their country by supporting peaceful and constitutional elections. Our resolution congratulates Fidel Ramos on his election to the Presidency of the Philippines. It urges President Bush to support strongly continued economic and political reform by the Government of the Philippines.

The resolution reminds us that a new era has begun in United States-Philippine relations and recommends that, in light of United States withdrawal from our bases in the Philippines, a new bilateral relationship be built on a cooperative pursuit of mutually beneficial goals.

It should be recalled, Mr. Speaker, that the people power revolution in the Philippines, some 6½ years ago, was the first in a long series of peaceful and nonviolent democratic revolutions. It was a courageous effort, given the authoritarian tenor of the times. And the fact that it succeeded gave inspiration and confidence to people across this globe to strike out on behalf of democracy.

The question may well be asked: Would the freedom fighters in Warsaw or Prague or Bucharest or Moscow have been so courageous had the Philippine experiment failed? The Filipino democracy movement has made the repression of similar movements in Beijing and Rangoon all the more reprehensible. So whatever may happen in the Philippines, we should be ever grateful to the Filipino people for contributing to the more peaceful and democratic world order that exists today.

Mr. Speaker, a key transitional point in the life of a new democracy is the transfer of power from the first group to the second group of leaders. Just as Thomas Jefferson's inauguration marked the maturing of American democracy, so the assumption of power by Fidel Ramos from Cory Aquino is a significant event in the consolidation of democracy in the Philippines. It is an event well worth commemorating.

Our relationship with the Philippines, Mr. Speaker, was much more than access to Clark Air Force Base and to our naval base at Subic. For the future we should base our relations not on the end of that access but on everything else: The history of our very benign colonial rule, the strong cultural influence we continue to have on the islands, our powerful economic presence in the Philippines represented by about $2 billion in American investment, and our status as the No. 1 trading partner of the Philippines.

Equally important is our political kinship with another democratic people who have made a tremendous contribution to our own society—the 3 million Filipino-Americans.

I believe, Mr. Speaker, that this concurrent resolution will not only pay tribute to the institutionalization of democracy in the Philippines but will serve to strengthen United States-Filipino relations for many years to come.

Mr. Speaker, I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the recent elections in the Philippines and the smooth transition from President Aquino to President Ramos are important developments in Philippine politics. They reinforce the momentum toward democracy that we witness around the world. When an elected leader in a country such as the Philippines is able to turn over the reins of power through the election process, this surely advances the growth of democracy in Asia.

The resolution before us today recognizes this fact, and as recognized by my distinguished colleague from California [Mr. LANTOS], congratulates both President Ramos on his election and the Philippine people for their support of the democratic process. It also recognizes the serious economic and political reforms that need to take place in the Philippines, and urges President Bush to support the efforts of the Philippine Government to address them.

The United States has enjoyed a long and special relationship with the Philippines and its people, a relationship that has spanned nearly this entire century. In years past, Americans and Filipinos have stood side by side to fight totalitarian aggression. But, as strategic relationships have evolved, we find ourselves on the threshold of a new era in United States-Philippine relations. This Member sincerely hopes that our ties, our shared and positive history, and our mutual interests will serve as a solid foundation for continued cooperation and friendship between our two nations and peoples.

Mr. Speaker, this Member would congratulate the author of this resolution, the distinguished gentleman from New York [Mr. SOLARZ]—a man who probably knows more about the Philippine political situation than any Member of this body. This Member would also congratulate the distinguished gentleman from Iowa [Mr. LEACH], the ranking member of the Asia Subcommittee for working effectively to move this resolution forward. Lastly, this Member would recognize the leadership of the distinguished chairman and ranking minority member of the Foreign Affairs Committee, the gentlemen from Florida [Mr. FASCELL] and Michigan [Mr. BROOMFIELD] who have spent their career advancing the cause of democracy worldwide.

Mr. Speaker, this Member would urge adoption of House Concurrent Resolution 348.

□ 1550

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend my good friend and colleague, the gentleman from Nebraska [Mr. BEREUTER] for his eloquent support of this legislation, and I want to join him in paying tribute to the two outstanding members of the Committee on Foreign Affairs, our chairman and ranking Republican member, the gentleman from Florida [Mr. FASCELL] and the gentleman from Michigan [Mr. BROOMFIELD], as they are ready to retire from this body. They have both made enormous contributions to the globe in terms of peace, cooperation, and understanding.

Mr. BENNETT. Mr. Speaker, I rise in strong support of House Concurrent Resolution 348.

The Filipino people have demonstrated in war and in peace a strong adherence to democratic principles. The election of President Ramos in a truly democratic election is a tribute to him, to President Aquino, and to all Filipino people. Warm congratulations are due to all of them who made this possible.

Mr. Speaker, as a guerrilla in the Philippines in World War II, I owe my life to my Filipino comrades-in-arms of that time. As an American and a veteran of the war, I am grateful to the Filipino people for this further milestone in the progress of this beautiful country.

Mrs. MINK. Mr. Speaker, I rise in support of House Concurrent Resolution 348 in praise of our friends and allies of the Republic of the Philippines, for the recent free election that saw Mr. Fidel Ramos elected to the Presidency of that democracy. A new age has dawned on this overcast country, and the continued support of the American people and Government is critical to the stability and effectiveness of the Ramos administration to revitalize the Philippine nation.

About one-fifth of the State of Hawaii's population is of Filipino background, 200,000 persons with an abiding interest in the well-being of their ancestral homeland. Across the United States we have more than 2 million Filipinos in all walks of life that share an equal reverence and concern that the bonds that exist between the Philippines and America remain strong and secure. Bonds that were forged in battle and tempered by our common dedication to democracy and economic opportunity.

Our Filipino allies have endured incredible tribulations and misfortunes in recent times, both manmade and natural, that must now be confronted and remedied by President Ramos and his new administration.

The extraordinary "People's Power" legacy of former President Corazon Aquino, which literally revolutionized the Philippines, must be acknowledged as well. Her personal integrity and example inspired her citizens to renew their faith in themselves, and the conduct of the recent Philippine national elections is a tribute to the democratic spirit that once again radiates from this proud, but congenial people.

House Concurrent Resolution 348 congratulates Fidel Ramos on his election, commands the people of the Philippines for institutionalizing democratic government in their country by supporting peaceful and constitutional elections, urges our President to strongly support continued economic and political reform by the new Philippine Government, and expresses our country's belief that a new era has begun in our joint relations built on the cooperative pursuit of mutually beneficial goals.

It is a pleasure and honor to express my approval of this timely resolution, Mr. Speaker, and I look forward to working with our compadres in President Ramos' administration and the Philippine Congress to bring its provisions to fruition.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from California [Mr. Lantos] that the House suspend the rules and agree to House Concurrent Resolution 348.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 348, which was just adopted by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ALASKA PENINSULA WILDERNESS DESIGNATION ACT OF 1992

Mr. MILLER of California. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 1219) to designate wilderness, acquire certain valuable inholdings within national Wildlife Refuges and National Park System units, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Peninsula Wilderness Designation Act of 1992".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "land" means lands, waters, and interests therein;

(2) The term "public lands" means land situated in Alaska which, after the date of enactment of this Act, the title is in the United States, except—

(A) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provisions of Federal law; and

(B) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished.

(3) The term "Native Corporation" means any Regional Corporation, any Village Corporation, any Native group and those Native entities which have incorporated pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(3)).

(4) The term "Regional Corporation" has the same meaning as such term has under section 3(g) of the Alaska Native Claims Settlement Act.

(5) The term "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act.

(6) The term "Native group" has the same meaning as such term has under sections 3(d) and 14(h)(2) of the Alaska Native Claims Settlement Act.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "Alaska Statehood Act" means the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (72 Stat. 339), as amended.

(9) The term "State" means the State of Alaska.

(10) The term "Koniag" means Koniag, Incorporated, a Regional Corporation.

(11) The term "Selection Rights" means those rights granted to Koniag pursuant to sections 12(a), 12(b), and 14(h)(8) of the Alaska Native Claims Settlement Act (85 Stat. 688), as amended, to receive title to the oil and gas rights and other interests in the subsurface estate of approximately two hundred and seventy-five thousand acres of public lands in the State of Alaska which lands are identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninsula", dated May 1989.

(1) The term "agency" includes—

(A) any instrumentality of the United States;

(B) any element of an agency; and

(C) any wholly owned or mixed-owned corporation of the United States Government identified in chapter 91 of title 31, United States Code.

(13) The term "property" has the same meaning as is provided the term in section 12(b)(7) of Public Law 94-204 (43 U.S.C. 1611 note), as amended.".

SEC. 3. DESIGNATION OF WILDERNESS.

(a) Designation of Wilderness.—The public lands within the boundaries depicted as "Proposed Wilderness" on the following identified maps are hereby designated as wilderness, and therefore as components of the National Wilderness Preservation System, with the nomenclature and approximate acreage as indicated below:

(1) Aniakchak Wilderness of approximately five hundred and three thousand acres within the Aniakchak National Monument and Preserve and which is generally depicted upon the map entitled "Aniakchak Wilderness" dated July 1992.

(2) Alaska Peninsula Wilderness of approximately one million eight hundred and seventy-six thousand acres within the Alaska Peninsula National Wildlife Refuge and which is generally depicted upon the map entitled "Alaska Peninsula Wilderness" dated July 1992.

(3) Approximately three hundred and forty-seven thousand acres within the Becharof National Wildlife Refuge as an addition to the existing Becharof Wilderness, as generally depicted upon the map entitled "Becharof Additional Wilderness" dated July 1992.

(b) Map and Legal Description.—As soon as practicable after the enactment of this Act, a map and legal description of each wilderness area designated by this Act shall be published in the Federal Register and filed with the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate. Each such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and map. A copy of each map shall be available for public inspection in an appropriate office of the National Park Service and the Fish and Wildlife Service, Department of the Interior.

(c) Lands Included.—Except for those lands subject to Koniag Selection Rights which are subsequently relinquished pursuant to section 5, only those lands within the boundaries of any wilderness area which are public lands (as such term is defined in this Act) shall be deemed to be included as a portion of such area. No lands within the boundaries of any wilderness area designated pursuant to section 3(a) hereof and which, before, on, or after the date of enactment of this Act, are conveyed to the State, to any Native Corporation, or to any private party, shall be subject to the regulations applicable solely to public lands within such wilderness areas. Any lands subject to Koniag Selection Rights relinquished to the United States pursuant to section 5 which are within the boundaries of a wilderness area designated by this Act shall become part of such wilderness areas and shall be administered accordingly.

SEC. 4. MANAGEMENT OF WILDERNESS AREAS.

(a) Generally.—Except as provided in subsection (b) of this section, and subject to valid existing rights, the lands designated as Aniakchak Wilderness by this Act shall be managed by the Secretary of the Interior in the same manner as the lands designated as wilderness by section 701 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), and the other lands designated as wilderness by this Act shall be managed by such Secretary in the same manner as the lands designated as wilderness by section 702 of such Act.

(b) Permits.—(1) Any special use or concession permit which was in existence during 1991 for operations on lands designated as wilderness by this Act and which except for designation of such lands as wilderness could have remained in effect or been renewed by or reissued to the same permittee, may be renewed or reissued to such permittee, may be renewed or reissued to such permittee, subject to the provisions of this subsection.

(2) Nothing in this Act shall require renewal or reissuance of a permit if the Secretary, for reasons other than the designation of lands as wilderness, determines that such action would be inconsistent with applicable law or established regulations. Nothing in this Act shall preclude the Secretary from canceling or otherwise restricting any permit for any reasons other than the designation of lands as wilderness.

(3) No renewal or reissuance of a permit described in paragraph (1) of this subsection shall be for a period longer than the lifetime of the permittee, and no such permit shall be transferable or assignable.

(4) Designation of lands as wilderness shall not prevent any structures and other improvements authorized by a permit described in paragraph (1), including cabins, from continuing to be used, maintained, and if necessary, replaced, to the extent otherwise permissible, but no additional structures or other improvements shall be permitted on lands so designated.

SEC. 5. ACQUISITION OF KONIAG SELECTION RIGHTS.

(a) IN GENERAL.—(1) If the Secretary receives from Koniag a timely tender of relinquishment of the Selection Rights, the Secretary shall accept such tender no later than 60 days after its receipt, and shall notify the Secretary of the Treasury of such acceptance.

(2) For purposes of this subsection, a tender by Koniag shall be timely if it is received by the Secretary no later than 180 days after either—

(A) receipt by Koniag of the Secretary's determination of the value of the Selection Rights pursuant to subsection (b) of this section, or

(B) the outcome of the procedures established by subsection (b) of this section for resolution of any dispute regarding such value,

whichever last occurs, unless the Secretary and Koniag agree to modify his deadline.

(b) VALUE.—(1) The value of the Selection Rights shall be equal to the fair market value of the oil and gas interests, and where appropriate the fair market value of the subsurface estate of the lands or interests in lands.

(2) Within 90 days after the date of enactment of this Act, Koniag and the Secretary shall meet to determine the identity of a qualified appraiser who shall meet to determine the identity of a qualified appraiser who shall perform an appraisal of the Selection Rights in conformity with the standards of the Appraisal Foundation and utilizing the methodology customarily used by the Minerals Management Service of the Department of the Interior in valuing such interests. Such appraiser shall be selected by the mutual agreement of Koniag and the Secretary, or if such agreement is not reached within 60 days after such initial meeting, then Koniag and the Secretary, no later than 90 days after such initial meeting, shall each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal. Within 180 days after the selection of the third appraiser, a written appraisal report setting out the value of the Selection Rights and the methodology used to arrive at it, shall be delivered to the Secretary and to Koniag.

(3) Within 60 days after the receipt of the appraisal report described in paragraph (2), the Secretary shall determine the value of the Selection Rights and shall immediately notify Koniag of such determination. The determination of value shall be considered final agency action for purposes of judicial review under chapter 7 of title 5, United States Code. If Koniag does not agree with the value as determined by the Secretary, the procedures specified in section 206(d) of Public Law 94-579, as amended, shall be used to establish the value, but the average value per acre of the Selection Rights shall not be more than $300.

SEC. 6. KONIAG ACCOUNT.

(a) ESTABLISHMENT.—(1) Notwithstanding any other provision of law, on October 1, 1997, the Secretary of the Treasury, in consultation with the Secretary, shall establish a Koniag Account.

(2) Beginning on October 1, 1997, the balance of the account shall—

(A) be available to Koniag for bidding on and purchasing property sold at public sale, subject to the conditions described in paragraph (3); and

(B) remain available until expended.

(3)(A) Koniag may use the account established under paragraph (1) to bid as any other bidder for property (wherever located) at any public sale by an agency and may purchase the property in accordance with applicable laws and regulations of the agency offering the property for sale. Notwithstanding any other provision of law, the right to draw against such account shall be assignable in whole or in part by Koniag, but no assignment shall be recognized by the Secretary of the Treasury until written notice thereof is filed with the Secretary of the Treasury and the Secretary of the Interior by Koniag.

(B) In conducting a transaction described in subparagraph (A), an agency shall accept, in the same manner as cash, any amount rendered from the account established by the Secretary of the Treasury under paragraph (1). The Secretary of the Treasury shall adjust the balance of the account to reflect the transaction.

(C) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the account established under paragraph (1) to—

(i) receive deposits;

(ii) make deposits into escrow when an escrow is required for the sale of any property; and

(iii) reinstate to the account any unused escrow deposits in the event sales are not consummated.

(b) AMOUNT.—The initial balance of the account established in subsection (a) shall be equal to the value of the Selection Rights as determined pursuant to section 5 of this Act.

(c) TREATMENT OF AMOUNTS FROM ACCOUNT.—(1) The Secretary of the Treasury shall deem as cash payments any amount tendered from the account established pursuant to subsection (a) and received by agencies as proceeds from a public sale of property, and shall make any transfers necessary to allow an agency to use the proceeds in the event an agency is authorized by law to use the proceeds for a specific purpose.

(2)(A) Subject to subparagraph (B), the Secretary of the Treasury and the heads of agencies shall administer sales pursuant to this section in the same manner as is provided for any other Alaska native corporation authorized by law as of the date of enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

(B) Amounts in an account created for the benefit of a specific Alaska native corporation may not be used to satisfy the property purchase obligations of any other Alaska native corporation.

(d) REVENUES.—The Selection Rights shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 15 legislative days in which to revise and extend their remarks on H.R. 1219.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California, I yield such time as I may consume. Mr. Speaker, I rise in support of H.R. 1219, the Alaska Peninsula Wilderness Designation Act of 1992. This is a historic day for the gentleman from Alaska and I am pleased to stand with him in support of this bill that benefits both the environment and the Alaska Native community.

H.R. 1219 designates 2.7 million acres of wilderness within three conservation system units on the Alaska Peninsula and acquires 275,000 acres of inholdings within those units.

Although Alaska wilderness designations have generated significant controversy in the past, this legislation was sponsored by the gentleman from Alaska and received bipartisan support from the Interior Committee.

In the 1980 Alaska National Interest Land Conservation Act [ANILCA], Congress designated 104 million acres of new or expanded conservation system units on public lands in Alaska. The state contains about 75 percent of the Nation's total park land and about 90 percent of the Nation's wildlife refuge lands.

Section 1317 of ANILCA directs the Secretary of the Interior to review all Alaska National Wildlife Refuge System lands and National Park System lands that are not already preserved as wilderness to determine their suitability for wilderness designation. In turn, the President is required to submit recommendations to Congress.

According to a General Accounting Office investigation done at the Interior Committee's request, U.S. Fish and Wildlife Service planning teams determined that an additional 52.6 million acres in Alaska wildlife refuges would qualify for wilderness designation. Despite a 1987 deadline established by section 1317 of ANILCA for submitting recommendations to Congress, the administration has yet to comply with the law.

The wilderness designations included in this legislation are within the Alaska Peninsula National Wildlife Refuge, the Becharof National Wildlife Refuge, and the Aniakchak National Monument and Preserve. The designations largely reflect the recommendations of the managers of each of the three conservation system units.

In order to eliminate inholdings which pose an obstacle to wilderness designation, the legislation provides for the acquisition on a willing seller basis of 275,000 acres of Alaska Native Claims Settlement Act oil and gas selection from Koniag, Inc., an Alaska Native regional corporation. In Exchange for Koniag's selection rights, the fair market value of which will be determined by the Department of the Interior in an appraisal process, Koniag will be compensated with a property account that can be used to purchase excess Federal property. The Koniag selection rights can be valued at no more than $300 per acre.

Significantly, the legislation specifies that the revenues received by Koniag will be subject to the revenue sharing provisions of section 7(i) of ANCSA.

Under section 7(i), 70 percent of the revenues received by an Alaska Native regional corporation from the development of subsurface estate or timber are required to be shared among the other regional corporations, who in turn make distributions to their village corporations and at large shareholders. Increasingly, it is evident that ANCSA section 7(i) revenue sharing is critical to the economic viability of many Native corporations.

I would like to commend the gentleman from Alaska for his sponsorship of this legislation.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1219, the Alaska Peninsula Wilderness Designation Act of 1991. This legislation would consolidate land ownership in Alaska, benefit Native Alaskans in the Kodiak Island area, and make possible the designation of wilderness in an area where there are no conflicts with other economic development potential.

I would like to express my appreciation to Chairman MILLER and his staff for the way in which they have worked on this legislation. My guess is that it is such a rare occasion to see DON YOUNG introducing a wilderness bill, that they wanted to move it along as quickly as possible before I changed my mind.

Unfortunately, over the course of the years the perception has grown up that I am opposed to all wilderness designations in the State of Alaska. That's not true—I am not opposed to all wilderness—just most of it. I think wilderness designation must be measured against the needs of the people who live in Alaska and other States. I think lands owned by the public should be used to help alleviate joblessness and to help resolve social ills, just as public resources in the form of moneys are used to alleviate joblessness or compensate the unemployed. I am opposed to the broad, sweeping designations of wilderness simply for the sake of playing the acreage game, without regard for impact that such action has on people. I believe that this bill is an excellent example of what we can do when we work together.

There is no question that the lands being designated as wilderness by H.R. 1219 are eligible wilderness. But H.R. 1219 also avoids including lands which are necessary for the economic survival of Alaskans. The transportation corridors, which were recognized as being important to the development of the region, are left intact and available for use when the need arises.

Likewise, this legislation also contains provisions for the protection of the people who earn their livelihoods from these lands, some of whom have been out there since before the parks and refuges were created.

Under the provisions of this bill, their rights to continue to use the lands for which they hold permits will not be cut off simply because there is a change in the status of the lands and they are designated as wilderness. In keeping with this intent, I fully expect both the Fish and Wildlife Service and the Park Service to honor the commitment that we are making to these individuals—that they will not be harassed because of their use, nor will their permits be changed or revoked.

Another significant aspect of this legislation is the role that Koniag has played in making its inholdings in these wilderness areas available for acquisition in order to make the designations possible. Without its agreement, Koniag's inholdings would have been a major impediment to the wilderness designations.

Because of the nature of these inholdings, Koniag would have the right not only to develop the lands it selected but also the right of access across adjacent Park and Refuge lands. The development of the Koniag lands and its use of its access rights could have made management of the federal lands under a wilderness designation more difficult for the agencies.

Since the hearings were held on my bill, Koniag and the staff have worked out what appears to be a satisfactory method of compensation. Rather than the OCS lease credits in the original bill, Koniag has agreed to accept the right to acquire government property no longer required for the government's use. We have limited the use of this provision until after October 1, 1997.

Again I would like to express my appreciation to the chairman and the staff of the committee in working with us to produce this bill. When we started out, I have to admit that I didn't know whether we would be successful in reaching our goal but it appears that so far we have.

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of H.R. 1219, the Alaska Peninsula Wilderness Designation Act of 1992.

H.R. 1219 addresses the management of two units of the National Wildlife Refuge System. For this reason, the bill was sequentially referred to the Committee on Merchant Marine and Fisheries. The committee ordered the bill reported by voice vote on July 23, 1992.

H.R. 1219 would designate as wilderness about 2.7 million acres within three conservation areas on the Alaska Peninsula. It would also acquire for the Federal Government 275,000 acres of oil and gas selection rights from the Koniag Alaska Native Regional Corporation.

The oil and gas selection rights are inholdings that could disrupt the management of these parks and refuges. H.R. 1219 will eliminate the inholdings, remove obstacles to wilderness designation, and generally improve the management of these conservation areas. H.R. 1219 also provides appropriate, but not excessive, compensation to the Alaska Native Regional Corporations.

I urge my colleagues to support H.R. 1219.

Mr. PANETTA. Mr. Speaker, H.R. 1219 designates certain public land in Alaska as wilderness and authorizes the purchase of rights and interest in those lands held by the Koniag Native Corp. To compensate the corporation, the bill establishes an account in the Treasury that will contain the equivalent of the fair market value of those rights and interests. The corporation will be able to use the account to bid on and purchase Federal property sold at public sale. The bill provides new budget authority and it is direct spending.

When the Committee on Interior and Insular Affairs reported H.R. 1219, it was subject to a point of order under section 302(f) of the Budget Act. The bill was estimated to increase budget authority and outlays by the Federal Government in 1997 by up to $83 million and that new budget authority caused the Committee to exceed its allocation for the 5-year period, 1993–97.

Today, the House is considering H.R. 1219 with an amendment that shifts the date of the establishment of the Koniag Native Corp. account from fiscal year 1997 to fiscal year 1998. Avoiding the Budget Act windows does not, however, resolve the direct spending implications of the bill. H.R. 1219 was not paid for in 1997 and is not paid for in 1998.

I will note that the estimated cost of H.R. 1219 is somewhat fluid. The bill affects 275,000 acres and caps the valuation at $300 per acre, therefore, it could increase direct spending by up to $83 million. However, that figure assumes each acre will be valued at the maximum permitted. According to the cost estimate, CBO expects the value per acre to be significantly less than $300, but does not estimate the low end of the range of possible costs.

In light of the budgetary implications of H.R. 1219, I will continue to monitor its progress through the Senate and House and I continue to urge the committee to resolve the direct spending issues contained in the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 1219, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TECHNICAL AMENDMENTS TO CERTAIN FEDERAL INDIAN STATUTES

Mr. MILLER of California. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 5686) to make technical amendments to certain Federal Indian statutes, as amended.

The Clerk read as follows:

H.R. 5686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORRECTION OF LAND DESCRIPTION WITH RESPECT TO THE GRAND RONDE RESERVATION.

Section 4(b) of Public Law 100–425 (25 U.S.C. 713f note) is amended by striking "SE¼NE¼" in the fourth column of the description of the 47th tract of land listed in such subsection and inserting the following: "SE¼NE¼,E½SW¼".

SEC. 2. EXTENSION OF DEADLINE WITH RESPECT TO PONCA ECONOMIC DEVELOPMENT PLAN.

Section 10(a)(3) of the Ponca Restoration Act (25 U.S.C. 983h(a)(3)) is amended by striking "2" and inserting "3".

SEC. 3. EXPENDITURE OF JUDGMENT FUNDS.

(a) CROW TRIBE JUDGMENT FUND.—Notwithstanding any other provision of law, or any distribution plan approved pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary of the Interior may reprogram, in accordance with Crow Tribal Resolution 91–14, any and all remaining funds (principal and interest accounts) which were awarded in satisfaction of the judgments in Indian Claims Commission Docket No. 54 (1961) and United States claims Court Docket Nos. 796–71 and 797–71 (1981).

(b) SHOSHONE-BANNOCK JUDGMENT FUND.—Notwithstanding any other provision of law, or any distribution plan approved pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary of the Interior may reprogram, in accordance with Shoshone-Bannock Tribal Resolution GNCL–91–0616, dated July 19, 1991, any and all remaining funds (principal and interest accounts) which were awarded in satisfaction of the judgment in Indiana Claims Commission Docket No. 326–C–2 (1985).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chairman recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5686.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, H.R. 5686 is sponsored by Congressman RHODES. The amended bill makes technical amendments to four Federal statutes. The first provision would correct a land description contained in the Grand Ronde Reservation Act. The second provision would extend the time period for the Secretary of the Interior to develop an economic development plan for the Ponca Indian Tribe of Nebraska.

The third provision allows the Crow Indian Tribe of Montana to reprogram judgment funds. The fourth provision allows the Shoshone-Bannock Indian Tribe of Idaho to reprogram judgment funds. The measure is noncontroversial and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5686, which was introduced by the Gentleman from Arizona, [Mr. RHODES]. As the Gentleman from California has indicated, H.R. 5686 would make technical amendments to certain Federal Indian Statutes.

The first is the correction of a land description. Pursuant to the Grand Ronde Reservation Act, the selection of lands available for establishment of the reservation was limited to public lands administered by the BLM. The lands eventually chosen consisted of a tract of Oregon and California Railroad grant lands. To compensate for the BLM's loss of this tract, section 4 of the act redesignated a series of Federal public domain land parcels as revested Oregon and California railroad grant lands.

Section 4(B) sets forth descriptions of the 48 redesignated land parcels. The 47th tract, however, is incorrectly identified. This legislation would correct that oversight. I should note that there have been two prior corrections made to the land descriptions set forth in section 4(B), one in 1988 and another in 1990. I trust this will be the last.

The second technical amendment contained in the bill is to the Ponca Restoration Act of 1990, which restored Federal recognition to the Ponca Tribe of Nebraska. Section 10 of that act directs the Secretary of the Interior to establish an economic development plan with the tribe. Subsection 10(A)(3) directs the Secretary to submit the plan to Congress within 2 years of enactment—by October 31, 1992.

H.R. 5686 would extend the 2-year deadline for submission by a year, and is necessary because the Ponca Act was signed into law on October 31, 1990, in the very early stages of fiscal year 1991. No appropriations were provided to fund the Ponca's development plan that year, and the tribe had to wait a full year, until fiscal year 1992, for the appropriation of its planning funds. By extending the submission deadline by 1 year, the tribe and the Secretary will be allowed a full 2 years to develop and submit the plan, in keeping with the original intent of the Congress.

Section 3 of H.R. 5686 would allow the Secretary of the Interior to reprogram amounts remaining in certain judgment fund accounts of two tribes: The Crow Tribe of Montana and the Shoshone-Bannock Tribe of Idaho.

Under the provisions of the Indian Judgment Fund Distribution Act—25 U.S.C. §1401 et seq—up to 80 percent of any judgment award to a tribe can be distributed on a per capita basis. The remaining funds are to be used for the benefit of the tribe pursuant to a plan reached between the tribe and the Secretary of the Interior. In the case of these two tribes, however, those plans have run their course, leaving a remainder of unspent funds in the accounts. However, the funds cannot be used for any purpose other than those originally specified in the tribe's plan, even if that purpose no longer exists. This bill would remedy that problem, by allowing the two tribes to use the funds remaining in their accounts, with the approval of the Secretary, for projects beneficial to their members.

In the case of the Crow Tribe, about $664,500 remains in the trust accounts set up for the tribe with money from judgment awards in Indian Claims Commission docket No. 54, and U.S. Court of Claims docket Nos. 796–71 and 797–71. In docket No. 54, a programming plan for the claims award was approved in 1962; the balance of that fund is about $121,300. The moneys from judgments in docket. Nos. 796–71 and 797–71, about $247,000, were never programmed. The principal and interest in these funds now equals approximately $543,200. This bill would allow the tribe to use the funds for beneficial projects on the reservation.

As for the Shoshone-Bannock Tribe, the original $5.8 million judgment award to the tribe from Indian Claims Commission docket No. 326–C–2 was subject to a plan devised by the tribe and the Secretary in which 80 percent of the fund was distributed per capita to tribal members. The remaining 20 percent was to be used for land acquisition, and the interest on the 20 percent was supposed to be used for covering the costs of water rights litigation. The per capita distribution was made, and the land acquired, but the water litigation was settled and there remains $900,000 in the interest account.

This legislation would permit the tribe, with the approval of the Secretary, to use that money for the benefit of the tribe.

Mr. Speaker, H.R. 5686 has broad bipartisan support. Congressmen AUCOIN and BEREUTER, in whose districts the Grand Ronde and Ponca Tribes reside, are cosponsors of this legislation. In addition, all of the tribes affected by

H.R. 5686 enthusiastically support it, as does the administration.

In closing, I would like to thank the chairman of the Interior Committee for agreeing to bring this legislation to the floor so expeditiously. Because of the extremely time-sensitive nature of section 2 of this bill, and because we have so few legislative days left this session, I trust that the other body will move as swiftly.

Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member rises today in support of H.R. 5686, legislation to make technical amendments to certain Federal Indian statutes.

This Member would like to thank the distinguished gentleman from Arizona [Mr. RHODES] for introducing this bill that makes an important technical correction to Public Law 101–484.

This law reestablished Federal recognition for the Ponca Tribe of Nebraska. It also required the tribe to submit an economic development plan 2 years from the date of enactment, which would be October 31, 1992. Since no appropriations were provided to fund the Poncas' economic development plan in 1990, the tribe effectively only had 1 year of funding to develop a plan. This technical correction would allow the Ponca Tribe an additional year to complete the plan, thereby giving them the 2 fully funded years that clearly were originally intended by Congress.

An economic development plan is crucial to the success to tribal efforts and will greatly benefit each member of the Ponca Tribe, by providing increased economic opportunities for all involved.

Of course, the Ponca Tribe is very supportive of this change.

It is critical that this bill move quickly. The gentleman from Arizona [Mr. RHODES] introduced the legislation on July 23, and in less than 2 weeks it is being considered by the House. Once it is passed by the House, this Member would strongly hope that this time-sensitive legislation not languish in the other body. Also this Member extends his appreciation to them.

Mr. Speaker, this Member would like to urge his colleagues to support this legislation.

Mr. WILLIAMS. Mr. Speaker, I rise today in support of H.R. 5686, a bill to make technical amendments to certain Federal Indian statutes. There is a provision in this bill that I would like to bring to your attention. It allows the Crow Tribe of Montana to access and spend about $664,500 from trust fund accounts held by the Bureau of Indian Affairs for past judgment awards.

The Indian Justice Fund Distribution Act set up a system by which funds awarded to a tribe can be distributed. Up to 80 percent can be distributed on a per capita basis while the remaining funds must be used for the benefit of the entire tribe. The tribe must formulate a plan to spend the funds and reach agreement with the Secretary of the Interior. In the case of the Crow, their plans have been implemented with $664,500 left unspent. The unspent funds cannot be used for purposes outside of the plan and the original act provides no mechanism for additional planning. Therefore, this bill allows the Crow to formulate a second plan with the approval of the Secretary, to utilize the remaining funds.

The Crow Tribe wants to use part of its funds for an excellent and worthwhile effort, renovation of the Crow youth camp in the Bighorn Mountains for drug treatment and rehabilitation programs. Earlier this year, the University of Minnesota completed a study on native American youth. They found that the death rate for native American teenagers is twice that of adolescents of other racial and ethnic backgrounds. The study reasons that the high rates of mortality among youth related to suicide and motor vehicle crashes are no doubt associated with substance abuse. I think the Crow Tribe's plan to take care of their youth, and in turn the tribe's future, is commendable.

Funds would also be used to expand the existing Crow tribal offices. I wholeheartedly support this bill.

Mr. MARLENEE. Mr. Speaker, I rise today in support of the Indian technical amendments legislation, H.R. 5686. The Crow Tribe of Montana has requested, pursuant to current law, that Congress authorize the release of approximately $600,000 of funds belonging to the tribe that are currently held in the treasuries. This legislation would authorize the Secretary of the Interior to reprogram these funds consistent with purposes outlined in a 1991 Crow tribal resolution.

The tribe intends to use the funds to renovate the Crow youth camp in the Bighorn Mountains to house a drug treatment and rehabilitation program and to enhance the current tribal administration building.

I am particularly pleased with the tribe's ongoing commitment to the needs of its members, especially its youth, in the area of drug treatment and rehabilitation. That the tribe is spending its own funds, not appropriated funds of the BIA for this purpose, is especially significant. I look forward to a time when our Nation's Indian tribes will have the ability to make these funding choices on their own—and am encouraged by the priorities this resolution demonstrates of the Crow Tribe.

□ 1600

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 5686, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–367)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of February 11, 1992, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq) then or thereafter located in the United States or within the possession or control of a U.S. person. In that order, I also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. I prohibited travel-related transactions and transportation transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. U.S. persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724 which I issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Order No. 12724 ("the Executive orders"). The report covers events from February 2, 1992, through August 1, 1992.

1. The economic sanctions imposed on Iraq by the Executive orders are administered by the Treasury Department's Office of Foreign Assets Control ("FAC") under the Iraqi Sanctions

Regulations, 31 CFR part 575 ("ISR"). There have been no amendments of those regulations since my last report.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the IEEPA and ISR with respect to transactions involving Iraq. Penalties were collected, principally from financial institutions which engaged in unauthorized, albeit apparently inadvertent, transactions with respect to Iraq.

3. Investigation also continues into the roles played by various individuals and firms outside of Iraq in Saddam Hussein's procurement network. These investigations may lead to additions to the FAC listing of individuals and organizations determined to be Specially Designated Nationals ("SDN's") of the Government of Iraq. In practice, an Iraqi SDN is a representative, agent, intermediary, or front (whether open or covert) of the Iraqi government that is located outside of Iraq. Iraqi SDN's are Saddam Hussein's principal instruments for doing business in third countries, and doing business with them is the same as doing business directly with the Government of Iraq.

The impact of being named an Iraqi SDN is considerable: all assets within U.S. jurisdiction of parties found to be Iraqi SDN's are blocked; all economic transactions with SDN's by U.S. persons are prohibited; and the SDN individual or organization is exposed as an agent of the Iraqi regime.

4. Since my last report, one case filed against the Government of Iraq has gone to judgment. *Centrifugal Casting Machine Co., Inc.* v. *American Bank and Trust Co., Banca Nazionale del Lavoro, Republic of Iraq, Machinery Trading Co., Baghdad, Iraq, Central Bank of Iraq, and Bank of Rafidain*, No. 91-5150 (10th Cir., decided June 11, 1992), arose out of a contract for the sale of goods by plaintiff to the State Machinery Co., an Iraqi governmental entity. In connection with the contract, the Iraqi defendants opened an irrevocable letter of credit in favor of Centrifugal, from which Centrifugal drew a 10 percent advance payment. Repayment of the advance payment in case of nonperformance by Centrifugal was guaranteed by a standby letter of credit. Performance did not occur due to the imposition of economic sanctions against Iraq in August 1990, and the United States claimed that an amount equal to the advance payment was blocked property. The district court ruled that the standby letter of credit had expired, that no U.S. party was liable to an Iraqi entity under the standby letter of credit, and that the advance payment funds were therefore not blocked property and could be distributed to U.S. persons. The court of appeals affirmed the ruling of the district court that there was no blocked Iraqi property interest in the advance payment funds, based on applicable principles of letter of credit law.

5. FAC has issued 288 specific licenses regarding transactions pertaining to Iraq or Iraqi assets. Since my last report, 71 specific licenses have been issued. Most of these licenses were issued for conducting procedural transactions such as filing of legal actions, and for legal representation; other licenses were issued pursuant to United Nations Security Council Resolutions 661, 666, and 687, to authorize the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes. All of these licenses concern minor transactions of no economic benefit to the Government of Iraq.

To ensure compliance with the terms of the licenses which have been issued, stringent reporting requirements have been imposed that are closely monitored. Licensed accounts are regularly audited by FAC compliance personnel and deputized auditors from other regulatory agencies. FAC compliance personnel continue to work closely with both State and Federal bank regulatory and law enforcement agencies in conducting special audits of Iraqi accounts subject to the ISR.

6. The expenses incurred by the Federal Government in the 6-month period from February 2, 1992, through August 1, 1992, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are estimated at $2,476,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in FAC, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, the Office of the Assistant Secretary for International Affairs, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs and the Office of the Legal Adviser), the Department of Transportation (particularly the U.S. Coast Guard), and the Department of Commerce (particularly in the Bureau of Export Administration and the Office of the General Counsel).

7. The United States imposed economic sanctions on Iraq in response to Iraq's invasion and illegal occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions calling for the elimination of Iraqi weapons of mass destruction, the demarcation of the Iraq-Kuwait border, the release of Kuwaiti and other prisoners, compensation for victims of Iraqi aggression, and the return of Kuwaiti assets stolen during its illegal occupation of Kuwait. The U.N. sanctions remain in place; the United States will continue to enforce those sanctions.

The Saddam Hussein regime continues to violate basic human rights by repressing the Iraqi civilian population and depriving it of humanitarian assistance. The United Nations Security Council passed resolutions that permit Iraq to sell $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. Under the U.N. resolutions, the equitable distribution within Iraq of this assistance would be supervised and monitored by the United Nations and other international organizations. The Iraqi regime continues to refuse to accept these resolutions, and has thereby chosen to perpetuate the suffering of its civilian population.

The regime of Saddam Hussein continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The United States will therefore continue to apply economic sanctions to deter Iraq from threatening peace and stability in the region, and I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

GEORGE BUSH.

THE WHITE HOUSE, *August 3, 1992*.

MARINE MAMMAL HEALTH AND STRANDING RESPONSE ACT

Mr. CARPER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3486) to amend the Marine Mammal Protection Act of 1972 to provide for examination of the health of marine mammal populations and for effective coordinated response to strandings and catastrophic events involving marine mammals, as amended.

The Clerk read as follows:

H.R. 3486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marine Mammal Health and Stranding Response Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Current stranding network participants have performed an undeniably valuable and ceaseless job of responding to marine mammal strandings over the last 15 years.

(2) Insufficient understanding of the connection between marine mammal health and the physical, chemical, and biological parameters of their environment prevents an adequate understanding of the causes of marine mammal unusual mortality events.

(3) An accurate assessment of marine mammal health, health trends in marine

mammal populations in the wild, and causes of marine mammal unusual mortality events cannot be made without adequate reference data on marine mammals and the environment in which they live.

(4) A systematic assessment of the sources, presence, levels, and effects of potentially harmful contaminants on marine mammals would provide a better understanding of some of the causes of marine mammal unusual mortality events and may serve as an indicator of the general health of our coastal and marine environments.

(5) Responses to marine mammal unusual mortality events are often uncoordinated, due to the lack of sufficient contingency planning.

(6) Standardized methods for the reporting of dying, dead, or otherwise incapacitated marine mammals in the wild would greatly assist in the determination of the causes of marine mammal unusual mortality events and enhance general knowledge of marine mammal species.

(7) A formal system for collection, preparation, and archiving of, and providing access to, marine mammal tissues will enhance efforts to investigate the health of marine mammals and health trends of marine mammal populations, and to develop reference data.

(8) Information on marine mammals, including results of analyses of marine mammal tissues, should be broadly available to the scientific community, including stranding network participants, through a marine mammal data base.

SEC. 3. MARINE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM.

(a) IN GENERAL.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following new title:

"TITLE III—MARINE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM

"SEC. 301. ESTABLISHMENT OF PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, establish a program, to be known as the 'Marine Mammal Health and Stranding Response Program'.

"(b) PURPOSES.—The purposes of the Program shall be to—

"(1) facilitate the collection and dissemination of reference data on the health of marine mammals and health trends of marine mammal populations in the wild;

"(2) correlate the health of marine mammals and marine mammal populations in the wild with available data on physical, chemical, and biological environmental parameters; and

"(3) coordinate effective responses to unusual mortality events by establishing a process in the Department of Commerce in accordance with section 304.

"SEC. 302. DETERMINATION, DATA COLLECTION AND DISSEMINATION.

"(a) DETERMINATION FOR RELEASE.—The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, develop objective criteria, after an opportunity for public review and comment, to provide guidance for determining at what point a rehabilitated marine mammal is releasable to the wild.

"(b) COLLECTION.—The Secretary shall, in consultation with the Secretary of the Interior, collect and update periodically existing information on—

"(1) procedures and practices for—

"(A) rescuing and rehabilitating stranded marine mammals, including criteria used by stranding network participants, on a species-by-species basis, for determining at what point a marine mammal undergoing rescue and rehabilitation is returnable to the wild; and

"(B) collecting, preserving, labeling, and transporting marine mammal tissues for physical, chemical, and biological analyses;

"(2) appropriate scientific literature on marine mammal health, disease, and rehabilitation;

"(3) strandings, which the Secretary shall compile and analyze, by region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded marine mammals; and

"(4) other life history and reference level data, including marine mammal tissue analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters.

"(c) AVAILABILITY.—The Secretary shall make information collected under this section available to stranding network participants and other qualified scientists.

"SEC. 303. STRANDING RESPONSE AGREEMENTS.

"(a) IN GENERAL.—The Secretary may enter into an agreement under section 112(c) with any person to take marine mammals under section 109(h)(1) or section 112(c) in response to a stranding.

"(b) REQUIRED PROVISION.—An agreement under this subsection shall—

"(1) specify each person who is authorized to perform activities under the agreement; and

"(2) specify any terms and conditions under which a person so specified may delegate that authority to another person.

"(c) REVIEW.—The Secretary shall periodically review agreements under section 112(c) that are entered into pursuant to this title, for performance adequacy and effectiveness.

"SEC. 304. UNUSUAL MORTALITY EVENT RESPONSE.

"(a) RESPONSE.—

"(1) WORKING GROUP.—

"(A) The Secretary, acting through the Office, shall establish, in consultation with the Secretary of the Interior, a marine mammal unusual mortality event working group, consisting of individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, marine conservation, and medical science, to provide guidance to the Secretary and the Secretary of the Interior for—

"(i) determining whether an unusual mortality event is occurring;

"(ii) determining, after an unusual mortality event has begun, if response actions with respect to that event are no longer necessary; and

"(iii) developing the contingency plan in accordance with subsection (b), to assist the Secretary in responding to unusual mortality events.

"(B) The Federal Advisory Committee Act shall not apply to the marine mammal unusual mortality event working group established under this paragraph.

"(2) RESPONSE TIMING.—The Secretary, in consultation with the Secretary of the Interior, shall to the extent necessary and practicable—

"(A) within 24 hours after receiving notification from a stranding network participant that an unusual mortality event might be occurring, contact as many members as is possible of the unusual mortality event working group for guidance; and

"(B) within 48 hours after receiving such notification—

"(i) make a determination as to whether an unusual mortality event is occurring;

"(ii) inform the stranding network participant of that determination; and

"(iii) if the Secretary has determined an unusual mortality event is occurring, designate an Onsite Coordinator for the event, in accordance with subsection (c).

"(b) CONTINGENCY PLAN.—

"(1) IN GENERAL.—The Secretary shall, in consultation with the Secretary of the Interior and the unusual mortality event working group, and after an opportunity for public review and comment, issue a detailed contingency plan for responding to any unusual mortality event.

"(2) CONTENTS.—The contingency plan required under this subsection shall include—

"(A) a list of persons, including stranding network participants, at a regional, State, and local level, who can assist the Secretary in implementing a coordinated and effective response to an unusual mortality event;

"(B) the types of marine mammal tissues and analyses necessary to assist in diagnosing causes of unusual mortality events;

"(C) training, mobilization, and utilization procedures for available personnel, facilities, and other resources necessary to conduct a rapid and effective response to unusual mortality events; and

"(D) such requirements as are necessary to—

"(i) minimize death of marine mammals in the wild and provide appropriate care of marine mammals during an unusual mortality event;

"(ii) assist in identifying the cause or causes of an unusual mortality event;

"(iii) determine the effects of an unusual mortality event on the size estimates of the affected populations of marine mammals; and

"(iv) identify any roles played in an unusual mortality event by physical, chemical, and biological factors, including contaminants.

"(c) ONSITE COORDINATORS.—

"(1) DESIGNATION.—

"(A) The Secretary shall, in consultation with the Secretary of the Interior, designate one or more Onsite Coordinators for an unusual mortality event, who shall make immediate recommendations to the stranding network participants on how to proceed with response activities.

"(B) An Onsite Coordinator so designated shall be one or more appropriate Regional Directors of the National Marine Fisheries Service or the United States Fish and Wildlife Service, or their designees.

"(C) If, because of wide geographic distribution, multiple species of marine mammals involved, or magnitude of an unusual mortality event, more than one Onsite Coordinator is designated, the Secretary shall, in consultation with the Secretary of the Interior, designate which of the Onsite Coordinators shall have primary responsibility with respect to the event.

"(2) FUNCTIONS.—

"(A) an Onsite Coordinator designated under this subsection shall coordinate and direct the activities of all persons responding to an unusual mortality event in accordance with the contingency plan issued under subsection (b), except that—

"(i) with respect to any matter that is not covered by the contingency plan, an Onsite Coordinator shall use his or her best professional judgment; and

"(ii) the contingency plan may be temporarily modified by an Onsite Coordinator, consulting as expeditiously as possible with the Secretary, the Secretary of the Interior, and the unusual mortality event working group.

"(B) An Onsite Coordinator may delegate to any qualified person authority to act as an Onsite Coordinator under this title.

"SEC. 305. UNUSUAL MORTALITY EVENT ACTIVITY FUNDING.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund to be known as the 'Marine Mammal Unusual Mortality Event Fund', which shall consist of amounts deposited into the Fund under subsection (c).

"(b) USES.—

"(1) IN GENERAL.—Amounts in the Fund—

"(A) shall be available only for use by the Secretary, in consultation with the Secretary of the Interior—

"(i) to compensate persons for special costs incurred in acting in accordance with the contingency plan issued under section 304(b) or under the direction of an Onsite Coordinator for an unusual mortality event; and

"(ii) for reimbursing any stranding network participant for costs incurred in preparing and transporting tissues collected with respect to an unusual mortality event for the Tissue Bank; and

"(B) shall remain available until expended.

"(2) PENDING CLAIMS.—If sufficient amounts are not available in the Fund to satisfy any authorized pending claim, such claim shall remain pending until such time as sufficient amounts are available. All authorized pending claims shall be satisfied in the order received.

"(c) DEPOSITS INTO THE FUND.—There shall be deposited into the Fund—

"(1) amounts appropriated to the Fund;

"(2) other amounts appropriated to the Secretary for use with respect to unusual mortality events; and

"(3) amounts received by the United States in the form of gifts, devises, and bequests under subsection (d).

"(d) ACCEPTANCE OF DONATIONS.—For purposes of carrying out this title, the Secretary may accept, solicit, and use the services of volunteers, and may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

"SEC. 306. LIABILITY.

"(a) IN GENERAL.—A person who is authorized to respond to a stranding pursuant to an agreement entered into under section 112(c) is deemed to be an employee of the government for purposes of chapter 171 of title 28, United States Code, with respect to actions of the person that are—

"(1) in accordance with that agreement; and

"(2) in the case of an unusual mortality event, in accordance with—

"(A) the contingency plan issued under section 304(b);

"(B) the instructions of an Onsite Coordinator designated under section 304(c); or

"(C) the best professional judgment of an Onsite Coordinator, in the case of any matter that is not covered by the contingency plan.

"(b) LIMITATION.—Subsection (a) does not apply to actions of a person described in that subsection that are grossly negligent or that constitute willful misconduct.

"SEC. 307. NATIONAL MARINE MAMMAL TISSUE BANK AND TISSUE ANALYSIS.

"(a) TISSUE BANK.—

"(1) IN GENERAL.—The Secretary shall make provision for the storage, preparation, examination, and archiving of marine mammal tissues. Tissues archived pursuant to this subsection shall be known as the 'National Marine Mammal Tissue Bank'.

"(2) GUIDANCE FOR MARINE MAMMAL TISSUE COLLECTION, PREPARATION, AND ARCHIVING.—The Secretary shall, in consultation with individuals with knowledge and expertise in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for marine mammal tissue collection, preparation, archiving, and quality control procedures, regarding—

"(A) appropriate and uniform methods and standards for those activities to provide confidence in marine mammal tissue samples used for research; and

"(B) documentation of procedures used for collecting, preparing, and archiving those samples.

"(3) SOURCE OF TISSUE.—In addition to tissues taken during marine mammal unusual mortality events, the Tissue Bank shall incorporate tissue samples taken from other sources, in the wild including—

"(A) incidental takes of marine mammals;

"(B) subsistence-caught marine mammals;

"(C) biopsy samples; and

"(D) any other samples properly collected.

"(b) TISSUE ANALYSIS.—The Secretary shall, in consultation with the Marine Mammal Commission, the Secretary of the Interior, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for monitoring and measuring, by use of the most effective and advanced diagnostic technologies and tools practicable overall health trends in representative species or populations of marine mammals, including—

"(1) the levels of, and if possible, the effects of, potentially harmful contaminants; and

"(2) the frequency of, and if possible, the causes and effects of abnormal lesions or anomalies.

"(c) DATA BASE.—

"(1) IN GENERAL.—The Secretary shall maintain a central data base which provides an effective means for tracking and accessing data on marine mammals, including relevant data on marine mammal tissues collected for and maintained in the Tissue Bank.

"(2) CONTENTS.—The data base established under this subsection shall include—

"(A) reference data on the health of marine mammals and populations of marine mammals; and

"(B) data on species of marine mammals that are subject to unusual mortality events.

"(d) ACCESS.—The Secretary shall, in consultation with the Secretary of the Interior, establish criteria, after an opportunity for public review and comment, for access to—

"(1) marine mammal tissues in the Tissue Bank;

"(2) analyses conducted pursuant to subsection (b); and

"(3) marine mammal data in the data base maintained under subsection (c);

which provide for appropriate uses of the tissues, analyses, and data by qualified scientists, including stranding network participants.

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated—

"(1) to the Secretary for carrying out this title (other than sections 305 and 307) $250,000 for each of fiscal years 1993 and 1994;

"(2) to the Secretary for carrying out section 307, $250,000 for each of fiscal years 1993 and 1994; and

"(3) to the Fund, $500,000 for fiscal year 1993.".

(b) IMPLEMENTATION.—The Secretary of Commerce shall—

(1) in accordance with section 302(a) and 302(b) of the Marine Mammal Protection Act of 1972, as amended by this Act, and not later than 24 months after the date of enactment of this Act—

(A) develop and implement objective criteria to determine at what point a marine mammal undergoing rehabilitation is returnable to the wild; and

(B) collect and make available information on marine mammal health and health trends;

(2) in accordance with section 304(b) of the Marine Mammal Protection Act of 1972, as amended by this Act, issue a detailed contingency plan for responding to any unusual mortality event—

(A) in proposed form by not later than 18 months after the date of enactment of this Act; and

(B) in final form by not later than 24 months after the date of enactment of this Act.

SEC. 4. CONFORMING AMENDMENTS.

The Marine Mammal Protection Act of 1972 is amended—

(1) in section 102(a) (16 U.S.C. 1372(a)) by inserting "or title III" after "this title";

(2) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by inserting "or title III" after "this title"; and

(3) in section 112(c) (16 U.S.C. 1382(c)) by inserting "or title III" after "this title".

SEC. 5. DEFINITIONS.

Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended—

(1) in paragraph (11)—

(A) by striking "The term" and inserting "(A) Except as provided in subparagraph (B), the term";

(B) by redesignating subparagraph (A) as clause (i);

(C) by redesignating subparagraph (B) as clause (ii); and

(D) by adding at the end the following:

"(B) In title III, the term 'Secretary' means the Secretary of Commerce."; and

(2) by adding at the end the following:

"(15) The term 'Fund' means the Marine Mammal Unusual Mortality Event Fund established by section 305(a).

"(16) The term 'Office' means the Office of Protected Resources, in the National Marine Fisheries Service.

"(17) The term 'stranding' means an event in the wild in which—

"(A) a marine mammal is dead and—

"(i) is on a beach or shore of the United States, or

"(ii) is in waters under the jurisdiction of the United States (including any navigable waters); or

"(B) a marine mammal is alive and is—

"(i) on a beach or shore of the United States and unable to return to the water;

"(ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or

"(iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.

"(18) The term 'stranding network participant' means a person who is authorized by an agreement under section 112(c) to take marine mammals as described in section 109(h)(1) in response to a stranding.

"(19) The term 'Tissue Bank' means the National Marine Mammal Tissue Bank provided for under section 307(a).

"(20) The term 'unusual mortality event' means a stranding that—

"(A) is unexpected;

"(B) involves a significant die-off of any marine mammal population; and

"(C) that demands immediate response.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware [Mr. CARPER] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chairman recognizes the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I yield myself such time as I many consume.

Mr. Speaker, I rise in strong support of H.R. 3486, the Marine Mammal Health and Stranding Response act.

This legislation represents a carefully crafted response to a problem that plagues our shores, and the shores of many other coastal countries: the often inexplicable stranding and death of large numbers of dolphins, whales and other marine mammals. The final straw prompting the development of this bill was the massive die-off of bottlenosed dolphins along the atlantic coast during 1987–88 in which up to half of the coastal population of bottlenosed dolphins perished. Most disturbing was our inability to say with any certainty why the deaths occurred. Granted, causes of these events may be difficult to determine under any circumstances, but this country was grossly unprepared to respond to the event. Thus, we didn't even have a fighting chance to collect the data needed to get to the root cause.

This bill would give us the tools we need to monitor the health of our coastal marine mammals, and to respond quickly when these unusual mortality events occur. The bill creates, through a newly created national marine mammal tissue bank, a systematic process for collecting, preserving, and storing tissues from healthy and stranded marine mammals so that analyses and comparisons can be made. Comparisons of healthy and stranded animals will provide clues to the interplay between the marine environment, coastal pollution, and marine mammal health, and help us determine why these animals sometimes die in such large numbers.

The bill also establishes a quick response program for unusual strandings and die-offs. This program will ensure that sufficient personnel and resources are focused on such events pursuant to a well conceived contingency plan. In the past, the Federal response has generally been ad hoc, underfunded, and too slow to gather the quality information needed to determine the causes and effects of these events. Future responses, under this bill, will be prompt, organized, and adequately funded.

And to ensure that knowledge gained from tissue analyses and other activities related to marine mammals is broadly available to the scientific community, the bill establishes a data base with information on marine mammal health and strandings, results of tissue analyses, and other relevant details.

Under this bill, this Nation will—for the first time—have the tools it needs to monitor the health of marine mammals. With this program in place, we will also have in place a sensitive barometer of the impact of human activities on our coastal environment.

Mr. Speaker, this legislation is the product of several years of discussion with virtually every interested group. That cooperative effort has resulted in a product that—as far as I know—has generated no opposition.

Mr. Speaker, we have a good bill here. I urge my colleagues to support it.

□ 1610

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 3486, the Marine Mammal Health and Stranding Response Act.

Briefly, this bill will establish a contingency program and fund for responding to unusual mortality events—such as the mass die-off in 1987–88 in which half of the Atlantic stock of bottlenosed dolphin perished.

In addition, the bill provides for the collection and analysis of reference tissues of marine mammals migrating along various regions of our Nation's coastlines. This is to address the present lack of knowledge we have regarding the normal health trends of these species.

Although increasingly high counts of contaminants are found in the tissues of dead and stranded marine mammals, we have nothing to reference in determining whether this is normal. Clearly, we need to know if these mammals are telling us something about the condition of their environment.

The bill also provides for the coordination of existing facilities to archive marine mammal tissues and analyses into a data bank that can be accessed by researchers and stranding network participants for comparative study.

Lastly, the bill promulgates guidelines to stranding networks regarding what tissue samples to collect, how to prepare them, how to ensure their integrity, and where to send them for documentation and storage.

The 1987–88 die-off and subsequent die-offs in the gulf have revealed a total lack of preparation for responding to these disturbing events. Federal agencies are left scrambling for funds, collected tissues are often mishandled or lost, and data regarding the health trends of these creatures, as they correspond to the health of our coastal environment, is largely nonexistent.

Although the issue of marine mammals and the causes of their strandings and deaths are not a burning issue on the national agenda at this time, no one knows when a massive die-off might occur again—anywhere.

These massive die-offs are increasing in size and frequency along our Nation's coastline and around the world. Whether it is a natural phenomenon or whether it is in response to the changing condition of our oceans are questions about which we remain uncertain.

H.R. 3486 establishes the critical framework needed for providing the answers to the disturbing questions being raised by these marine creatures.

I want to give a special thanks to staff—Dr. Leslie Dierauf and Ron Moore, and to the Center for Marine Conservation, all of whom contributed a great deal of expertise to the final drafting of this measure.

This bill was unanimously supported by the committee and has the full support of the administration and the marine mammal groups who are on the front lines responding to these tragic events.

I urge my colleagues to support passage of H.R. 3486 today.

Mr. Speaker, I reserve the balance of my time.

Mr. CARPER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 3486, the Marine Mammal Health and Stranding Response Act. I'd like to thank the chairmen of the subcommittee, Mr. STUDDS, and the full committee, Mr. JONES, for moving this very important initiative forward. Indeed, this legislation is necessary to address the problems and dearth of information associated with marine mammal strandings and unusual mortality events.

I also want to commend my colleagues, Mr. CARPER, and Mr. SAXTON, for their leadership on this issue. This bill is a culmination of many long hours spent in discussion with members of the committee, the Marine Mammal Commission, the conservation and scientific communities, and the members of the marine mammal stranding network. This bill represents a good compromise between all interested parties.

Soon after dead and dying dolphins began washing up along the Atlantic Coast in 1987 and 1988, it was clear that our national response was disorganized and ineffective. Indeed, our inability to find the cause or solution to this unusual event in which hundreds of marine mammals perished was a source of tremendous frustration.

Further, this event highlighted the shortcomings in our knowledge about these mammals and the cause of the dolphin deaths that were occurring in such epidemic proportions. Extensive studies conducted to determine the cause of the mortality raised more questions than they answered and to this day, we do not know the cause of the massive die-off.

This legislation, which establishes programs for responding to marine mammal disasters and assessing the state of marine mammal health, therefore, is a major step forward. Under this bill, information on the rescue and rehabilitation of marine mammals would be compiled, centralized, updated, and made available to scientific researchers and members of the marine mammal stranding network to help in assessing the causes of strandings and unusual mortality events.

This legislation sets up guidelines and standardizes collection, preservation, labeling, transport, and archiving of marine mammal tissue samples which will be essential to establish baseline data that can be used in assessing health trends of marine mammals and making determinations of marine mammal health and the causes of mortality.

Finally, the bill sets up a contingency plan so that response to strandings and unusual mortality events will be timely and coordinated and designed to gather the information necessary to determine the causes and effects of these events.

This legislation will help marine mammal stranding response centers and volunteers throughout the Nation. Indeed, I am very proud of the marine mammal stranding response center in New Jersey. They do excellent work and this legislation will help them increase their effectiveness.

Mr. Speaker, it is important that we support marine mammal research and pursue investigations of strandings and unusual mortality events. Just as importantly, we need to develop better baseline data so that we might better assess the condition of our oceans. Only then may we be able to answer many of the unknowns that still exist and, if possible, prevent a recurrence of the dolphin tragedy.

H.R. 3486 and the substitute amendment is a major step in this direction. The bill provides the Nation with the essential tools for monitoring the health of marine mammals and establishes programs which will act as a barometer of the impact of human activities on our coastal environment. This is a rational bill and I urge my colleagues' strong support for its passage.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to point out that this bill is the result of a great deal of hard work by Members of both parties, and it goes to show, I believe, what can be accomplished when we Republicans and Democrats work together on problems that we all have in common.

I would like to again commend the leadership on the other side, particularly my colleague, the gentleman from New Jersey [Mr. HUGHES], for the very strong advocacy role he played in this.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CARPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just echo what the gentleman from New Jersey [Mr. SAXTON] has said. In the Committee on Merchant Marine and Fisheries, we do not give as much thought or time to partisan labels as we do toward getting things done. The legislation that I think is before us today is another piece of evidence that that, indeed, continues to be the case.

To the gentleman from New Jersey [Mr. SAXTON], who is an architect of this bill, to the gentleman from New Jersey [Mr. HUGHES], and the gentleman from Massachusetts [Mr. STUDDS], whose support in drafting has been very helpful, I want to say thank you, as well as to the members of our respective staffs for their assistance.

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of H.R. 3486, the Marine Mammal Health and Stranding Response Act.

Marine mammals have beached or stranded themselves on every coast of the United States. The response to these strandings—carried out primarily by volunteers—has been admirable, but in many cases uncoordinated.

H.R. 3486 would formalize a nationwide coordinated response system for marine mammal strandings and help fund those responses. The bill also provides for the establishment of a national marine mammal tissue bank. It is our committee's hope that scientific evaluation of the tissues taken from these stranded animals will provide a window into the health of not only marine mamals, but our oceans themselves.

I congratulate my colleagues, Mr. CARPER, Mr. STUDDS, and Mr. SAXTON for their bipartisan efforts on behalf of this most worthy of causes.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 3486 and urge its adoption.

Mr. Speaker, this bill is designed to provide a formal mechanism for dealing with marine mammals that are unexpectedly stranded on our shores. It also provides funding for a very modest tissue bank program, so that scientists can determine the quality of our ocean waters. This is a bipartisan measure which was reported unanimously by our committee.

Mr. Speaker, I also want to note that during committee markup, my colleagues lavished a great deal of praise on the majority staff for work they did on the bill. I want to point out that two members of minority staff of this committee, Mr. Rod Moore and Ms. Laurel Bryant, spent a great deal of time making sure this bill was put together in an acceptable form. Since this was a bipartisan effort, I think a praise should be given to staff on both sides of the aisle.

Mr. Speaker, I support this bill and its passage by the House.

Mr. CARPER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Delaware [Mr. CARPER] that the House suspend the rules and pass the bill, H.R. 3486, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Marine Mammal Protection Act of 1972 to provide for examination of the health of marine mammal populations and for effective coordinated response to strandings and unusual mortality events involving marine mammals.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CARPER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3486, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

ABANDONED BARGE ACT OF 1992

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5397) to amend title 46, United States Code, to prohibit abandonment of barges, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5397

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Barge Act of 1992".

SEC. 2. ABANDONMENT OF BARGES.

(a) IN GENERAL.—Part B of subtitle II of title 46, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 47—ABANDONMENT OF BARGES

"Sec.
"4701. Definitions.
"4702. Abandonment of barge prohibited.
"4703. Penalty for unlawful abandonment of barge.
"4704. Removal of abandoned barges.
"4705. Liability of barge removal contractors.

"§4701. Definitions

"In this chapter—

"(1) 'abandon' means to moor, strand, wreck, sink, or leave a barge of more than

100 gross tons unattended for longer than forty-five days.

"(2) 'barge removal contractor' means a person that enters into a contract with the United States to remove an abandoned barge under this chapter.

"(3) 'navigable waters of the United States' means waters of the United States, including the territorial sea.

"(4) 'removal' or 'remove' means relocation, sale, scrapping, or other method of disposal.

"§4702. Abandonment of barge prohibited

"(a) An owner or operator of a barge may not abandon it on the navigable waters of the United States. A barge is deemed not to be abandoned if—

"(1) it is located at a Federally- or State-approved mooring area;

"(2) it is on private property with the permission of the owner of the property; or

"(3) the owner or operator notifies the Secretary that the barge is not abandoned and the location of the barge."

"§4703. Penalty for unlawful abandonment of barge

"Thirty days after the notification procedures under section 4704(a)(1) are completed, the Secretary may assess a civil penalty of not more than $1,000 for each day of the violation against an owner or operator that violates section 4702. A vessel with respect to which a penalty is assessed under this chapter is liable in rem for the penalty.

"§4704. Removal of abandoned barges

"(a) Authority To Remove.—

"(1) In general.—The Secretary may remove a barge that is abandoned after complying with the following procedures:

"(A) If the identity of the owner or operator can be determined, the Secretary shall notify the owner or operator by certified mail—

"(i) that if the barge is not removed it will be removed at the owners' or operators' expense; and

"(ii) of the penalty under section 4703.

"(B) If the identity of the owner or operator cannot be determined, the Secretary shall publish an announcement in—

"(i) a notice to mariners; and

"(ii) an official journal of the county in which the barge is located

that if the barge is not removed it will be removed at the owners' or operators' expense.

"(2) United states not liable.—The United States and any officer or employee of the United States is not liable to an owner or operator for damages resulting from removal of an abandoned barge under this chapter.

"(b) Liability of Owner and Operator.—The owner or operator of an abandoned barge is liable, and an abandoned barge is liable in rem, for all expenses that the United States incurs in removing an abandoned barge under this chapter.

"(c) Removal Services.—

"(1) Solicitation.—The Secretary may, after providing notice under subsection (a)(1), solicit by public advertisement sealed bids for the removal of an abandoned barge.

"(2) Contract.—After solicitation under paragraph (1) the Secretary may award a contract. The contract—

"(A) may be subject to the condition that the barge and all property on the barge is the property of the barge removal contractor; and

"(B) must require the barge removal contractor to submit to the Secretary a plan for the removal.

"(3) Commencement of removal.—Removal of an abandoned barge may begin thirty days after the Secretary completes the procedures under subsection (a)(1).

"§4705. Liability of barge removal contractors

"(a) Liability.—

"(1) In general.—A barge removal contractor and its subcontractor are not liable for damages that result from actions taken or omitted to be taken in the course of removing a barge under this chapter.

"(2) Exceptions.—Subparagraph (1) does not apply—

"(A) with respect to personal injury or wrongful death; or

"(B) if the contractor or subcontractor is grossly negligent or engages in willful misconduct.".

(b) Application to Certain Barges.—One year after the date of enactment of this Act, the Secretary may assess a civil penalty under section 4703 against an owner or operator of a barge abandoned before June 11, 1992.

SEC. 3. CLERICAL AMENDMENT.

The analysis of subtitle II at the beginning of title 46, United States Code, is amended by inserting after the item relating to chapter 45 the following:

"47. Abandonment of barges .... 4701".

SEC. 4. NUMBERING OF BARGES.

Section 12301 of title 46, United States Code, is amended—

(1) by inserting "(a)" before "An undocumented vessel"; and

(2) by adding at the end the following:

"(b) The Secretary shall require an undocumented barge of more than 100 gross tons operating on the navigable waters of the United States to be numbered.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana [Mr. Tauzin] will be recognized for 20 minutes, and the gentleman from Texas [Mr. Fields] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. Tauzin].

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to ask my colleagues to support H.R. 5397, the Abandoned Barge Act of 1992. I introduced this bill along with Chairman Jones and Congressman Jack Fields to protect our Nation's waterways from the environmental problems resulting from abandoned barges. I chair the Subcommittee on Coast Guard and Navigation, which has held hearings on this issue. We have learned that abandoned barges create a significant source of water pollution on our inland waterways.

At the outset of the subcommittee's investigation, I was amazed to learn that abandoning a barge is not a violation of law. As long as a barge does not pose a threat to navigation, it can legally remain moored on a river bank or stranded in a marsh. An abandoned barge would seem to be nothing more than an eyesore to those of us who enjoy recreation on our waterways. But to those criminals who profit by illegally disposing of chemical and petroleum wastes, an abandoned barge is an easy and efficient repository for toxic dumping.

The primary purpose of H.R. 5397 is to prevent future marine pollution from abandoned barges. Last year the Subcommittee on Coast Guard and Navigation asked the General Accounting Office [GAO] to investigate the problems associated with abandoned vessels. On July 21, 1992, the GAO submitted their report to the Committee on Merchant Marine and Fisheries.

The GAO estimates there are between 600 and 1,200 abandoned barges along our Nation's waterways. Since 1988, the Federal Government has spent almost $6 million to clean up pollutants from 51 abandoned vessels. In only a few of these cases did the owners pay for the cleanup costs. The taxpayers paid for the rest.

In 1988, the Federal Government spent $845,600 to remove 210,000 gallons of waste material from two abandoned tank barges in Empire, LA. Following the cleanup, the tank barges were locked shut. The barges remained abandoned in an unused canal. In 1991 the site was revisited and it was discovered that the barges had been broken into. Midnight dumpers had used the barges to dispose of almost 600,000 gallons of waste chemicals. This time the Federal Government spent $1.7 million to clean and remove the barges.

We drafted the Abandoned Barge Act to correct this environmentally dangerous and unfair loophole in current law.

H.R. 5397:

First, makes abandoning a barge in the Nation's waterways illegal.

Second, establishes a new penalty which we hope will deter those who would abandon a barge on our waterways.

Third, requires that all barges be numbered and thus allows the Coast Guard to better identify the person responsible for the barge, and

Fourth, gives the Coast Guard discretionary authority to contract for the removal of the barge at the owner or operator's cost.

There are existing abandoned barges which will need removal at some point in time. Those that pose the greatest current threat to the environment by containing either oil or hazardous material can be disposed of with funds available under the oil pollution trust fund or the Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA]. We may at some point in the future need to determine whether funding will be needed to remove those that may be potential targets of midnight dumpers, but which are not a current threat.

H.R. 5347 is the result of a bipartisan effort by the Subcommittee on Coast Guard and Navigation. It is also the product of a great deal of hard work and cooperation between the General Accounting Office, the Coast Guard and the American waterways operators. I am hopeful that H.R. 5397 will send a signal to those who wish to use our waters as a cheap and easy place for disposal so that this practice will no longer be tolerated. I also want to encourage the industry to seek innovative methods of disposing of barges which are no longer usable. Just as the oil industry has found an environmentally beneficial use for outdated oil rigs in the rigs to reefs program, there may be a beneficial use for these vessels or the metal contained in them. I know that the responsible barge operators share my concern for protecting our waterways from pollution and will continue to work with our subcommittee as cooperatively as they have in the past.

I urge my colleagues to join with me to support H.R. 5397 which will provide needed protection to our Nation's waterways.

☐ 1620

Mr. FIELDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor of H.R. 5397, I rise in strong support of this legislation and compliment my distinguished subcommittee chairman, BILLY TAUZIN, for his outstanding leadership in moving this important environmental protection bill.

H.R. 5397 is a product of 2 years of careful consideration by the Coast Guard and Navigation Subcommittee. Our subcommittee conducted two extensive oversight hearings on this issue and we commissioned the General Accounting Office to undertake a study to determine how many vessels had been abandoned, the extent of the environmental damage they have caused, and whether U.S. laws adequately addressed the problem of abandoned barges.

According to the General Accounting Office, there are some 600 abandoned barges in the United States, with the majority of them located in the Gulf of Mexico. In fact, there are at least three abandoned barges in my own congressional district which have been abandoned along the Houston ship channel.

These barges are navigational hazards and some have become convenient disposal sites for the dumping of hazardous materials which are polluting our waterways.

In 1989, the Coast Guard discovered that two abandoned tank barges in Empire, LA, had leaked 1,000 gallons of illegally dumped waste oil into the Mississippi River. Since the owners of these vessels were either deceased or bankrupt, the Coast Guard cleaned up the waste material at a cost of $835,000. Regrettably, however, the Coast Guard chose not to remove or destroy these tank barges.

This was a tragic mistake because on a subsequent visit to the site, the Coast Guard found that illegal dumping had resumed and these barges now contained 571,200 gallons of hazardous material. Using its Superfund authority, Coast Guard contractors removed this waste at an estimated cost of $1.7 million.

While the Empire barge incident may be the most famous, the Coast Guard has investigated dozens of other abandoned barges that have been used as illegal dump sites.

Mr. Speaker, this is a practice that must be stopped and H.R. 5397, introduced by the gentleman from Louisiana, is the right solution to this problem.

Under current law, incredibly, it is not unlawful to abandon a barge and there is no identification system for the thousands of undocumented barges. It is, therefore, difficult, if not impossible, for the Coast Guard to locate the owners of these vessels.

Mr. Speaker, H.R. 5397 will make it illegal to abandon a barge, will authorize the Coast Guard to remove them, will establish civil penalties for abandoning a barge, and will require all barges of 100 gross tons to be numbered. In this way, the Coast Guard will be able to find the rightful owners and to assess removal or cleanup costs for any environmental damage they may have caused.

Furthermore, this bill will send a clear signal to the U.S. Coast Guard that we believe they should remove abandoned barges before, and not after, they pollute our waterways.

Mr. Speaker, I am very pleased that we are considering this important bill and my good friend from Louisiana, Mr. TAUZIN, deserves tremendous credit for leading this timely effort to protect our coastal environment.

This is an excellent bill and I urge my colleagues to vote "aye" on H.R. 5397.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to add my congratulations and thanks to the gentleman from Texas [Mr. FIELDS], the ranking minority member, proving again that our subcommittee does work in an extraordinary bipartisan manner. If there is gridlock around here, it does not happen on our subcommittee. We work and try to get things done. This is a good thing that needs to get done, and I urge my colleagues to finally approve it.

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of H.R. 5397, the Abandoned Barge Act of 1992.

For many years, Congress has worked to establish a comprehensive strategy to address maritime oilspills. The Oil Pollution Act of 1990 [OPA '90] was the fruit of that effort. H.R. 5397 addresses an environmental threat from barges that was not adequately addressed by OPA '90 and other environmental laws, such as the Comprehensive Environmental Response, Compensation, and Liability Act, better known as CERCLA or Superfund.

Barges abandoned along this Nation's waterways are a blight on the environment, endangering both human and marine life. Our committee, through field hearings in Louisiana, has seen firsthand the problems created by these barges. We were shocked to learn that current law does not prohibit an owner or operator from abandoning a barge, unless the barge presents a hazard to navigation or creates a clear environmental hazard under OPA '90 or CERCLA.

Barges, as they reach the end of their economic life, present a dilemma for owners. The scrap value of these vessels is minimal and the cost of cleaning them, particularly those used to transport oil and chemicals, is astronomical. For example, two barges abandoned near New Orleans yielded about 260 tons of scrap steel, which had a value of $2,900, but cost over $300,000 for cleanup, removal, and disposal.

As a result, many owners take the irresponsible approach of abandoning these vessels along our waterways. Federal authorities cannot remove the barge unless it is a hazard to navigation or creates a clear and immediate environmental hazard.

However, these abandoned barges can pose a danger to human and marine life. Unscrupulous individuals have found these barges to be convenient receptacles for illegal dumping of oil or hazardous wastes, which often spill into and pollute our waterways. The committee has learned that even after cleaning and removal of hazardous materials by Federal agencies, illegal dumpers have broken into locked barges and refilled them with hazardous materials, thereby requiring further cleanup expenditures.

Starting over a year ago, the General Accounting Office [GAO], at the request, began an extensive study of the abandoned barge problem.

The GAO study found:

Federal laws do not specifically prohibit vessel abandonment;

As a result, at least 1,300 vessels are abandoned in waterways throughout the Nation;

These vessels pollute the marine environment and pose a continual pollution threat;

Abandoned vessels cost millions to clean up and remove; and

Vessel owners are not being held accountable for damages.

GAO advised Congress to enact legislation, first, to make it illegal to abandon barges, second, to provide appropriate administrative fines and penalties to deter abandonment, and third, to require permanent registration and marking of all barges.

To give a sense of the magnitude of this problem it should be noted that the Army Corps of Engineers estimates that 1,201 abandoned barges now clog our waterways.

Since 1988, the Coast Guard has investigated over 100 incidents of potential pollution from abandoned vessels. The cleanup costs associated with these investigations reached almost $6 million. Approximately 40 percent of this has been spent on abandoned barges alone.

To make matters even worse, little of the cleanup expenses have been recovered from the barge owners or operators responsible for the abandonment and resultant pollution. Because barges are exempt from current identification and documentation requirements, it is often impossible to determine the owner or operator of an abandoned barge.

It is high time to give the Federal agencies the authority to remove these barges before they become environmental nightmares, and the ability to track down the persons responsible for this environmental disgrace.

H.R. 5397 would end these problems by—

Prohibiting owners and operators from abandoning a barge;

Authorizing the Coast Guard to remove these environmental eyesores;

Allowing the Coast Guard to recover removal costs from the owners or operators of abandoned barges; and

Requiring the numbering of barges so Federal agencies will be able to identify individuals who illegally abandon a barge.

H.R. 5397 is an appropriate response to the findings of GAO and the Committee on Merchant Marine and Fisheries. It fills gaps in the current regime established by OPA '90 and CERCLA. The Coast Guard, using the tools in H.R. 5397, will be better able to safeguard the environment and hold those who damage it financially responsible. This bill is a necessary addition to the arsenal of weapons essential to defending the marine environment.

I commend Mr. TAUZIN for developing this important legislation and urge its adoption.

Mr. FIELDS. Mr. Speaker, I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Louisiana [Mr. TAUZIN] that the House suspend the rules and pass the bill, H.R. 5397, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

THE GREAT LAKES FISH AND WILDLIFE TISSUE BANK ACT

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5350) to establish the Great Lakes fish and wildlife tissue bank, as amended.

The Clerk read as follows:

H.R. 5350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. SHORT TITLE.

This Act may be cited as "The Great Lakes Fish and Wildlife Tissue Bank Act".

SEC. 102. TISSUE BANK.

(a) IN GENERAL.—The Secretary shall coordinate existing facilities for the storage, preparation, examination, and archiving of tissues from selected Great Lakes fish and wildlife, which shall be known as the 'Great Lakes Fish and Wildlife Tissue Bank'.

(b) GUIDANCE.—The Secretary shall, in consultation with appropriate Federal and State agencies and the Council of Great Lakes Research Managers, issue guidance, after an opportunity for public review and comment, for Great Lakes fish and wildlife tissue collection, preparation, archiving, quality control procedures, and access that will ensure—

(1) appropriate uniform methods and standards for those activities to provide confidence in Great Lakes fish and wildlife tissue samples used for research;

(2) documentation of procedures used for collecting, preparing, and archiving those samples; and

(3) appropriate scientific use of the tissues in the Great Lakes Fish and Wildlife Tissue Bank.

SEC. 103. DATA BASE.

(a) MAINTENANCE.—The Secretary shall maintain a central data base which provides an effective means for tracking and assessing relevant reference data on Great Lakes fish and wildlife, including data on tissues collected for and maintained in the Great Lakes Fish and Wildlife Tissue Bank.

(b) ACCESS.—The Secretary shall establish criteria, after an opportunity for public review and comment, for access to the data base which provides for appropriate use of the information by the public.

SEC. 104. DEFINITIONS.

In this Act—

(1) "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(2) "Great Lakes fish and wildlife" means fauna, fish, and invertebrates dependent on Great Lakes resources, and located within the Great Lakes Basin.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary, $250,000 for each of fiscal years 1993 and 1994 to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5350. The Great Lakes, like many of our fragile marine environments, have suffered over the years from our human tendency to view these areas as limitless dumping grounds. Thanks to the efforts of my colleagues who represent the various States bordering the Great Lakes, that view is changing.

This bill will help scientists to monitor the general health trends of the wildlife that depend on the Great Lakes ecosystem for survival, and I urge my colleagues to support it.

□ 1630

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Great Lakes Fish and Wildlife Tissue Bank Act and urge its adoption.

This bill, authorized by Congressman BOB DAVIS, directs the Secretary of the Interior to coordinate existing facilities for handling selected Great Lakes fish and wildlife tissues. The Secretary must also issue guidance for tissue collection, establish criteria for access to the bank, and maintain a data base for tracking data on Great Lakes tissues.

This bill can greatly aid our work in cleaning up the Great Lakes. Coordination of facilities and development of uniform collection and storage standards will also make this information more valuable to users and save time and money.

I urge support for the measure and commend our ranking minority member for his leadership in protecting the Great Lakes.

Mr. Speaker, I urge adoption of the bill.

Mr. DAVIS. Mr. Speaker, I appreciate the cooperation of Chairmen STUDDS, JONES, and HERTEL in supporting this legislation and moving it through committee.

This bill authorizes the Fish and Wildlife Service to coordinate existing facilities to create a Great Lakes Tissue Bank for specimens of fish, wildlife, and even zebra mussels. The bill also authorizes the establishment of a centralized data base for information collected on Great Lakes fish and wildlife to give resource managers one-stop shopping.

The need for a centralized tissue bank in the Great Lakes has been recognized for a decade. The International Joint Commission recommended its creation in 1983, and the need was echoed in 1986, when the Council of Great Lakes Governors signed a toxic pollutant control agreement. More recently, the idea was promoted by the Northeast-Midwest Institute.

Specimen banking is needed to help monitor the environmental health of the lakes, as well as judge the effectiveness of our cleanup and control methods. Current tissue collection and storage methods are haphazard, and no central depository of information about Great Lakes tissues exist. The few banking efforts are uncoordinated, underfunded, and understaffed.

Mr. HERTEL. Mr. Speaker, H.R. 5350, the Great Lakes Wildlife Tissue Bank Act was introduced by Mr. DAVIS on June 9, 1992. I cosponsored this bill along with Mr. NOWAK, Mr. OBERSTAR, Ms. KAPTUR, Mr. BONIOR, Mr. VISCLOSKY, Mr. LAFALCE, Mr. PEASE, and Mr. LIPINSKI. The bill requires that the U.S. Fish and Wildlife Service take steps to provide for the storage, preparation, examination and archiving of Great Lakes wildlife, fish, and invertebrate tissues. H.R. 5350 also requires the establishment of uniform guidance on methods for collection, preparation, analysis, archiving, and quality control, while establishing a data base for tracking and evaluating information on Great Lakes animal tissue.

On April 8, 1992, the Subcommittee on Oceanography, Great Lakes and the Outer Continental Shelf held an oversight hearing on Great Lakes Federal research efforts. H.R. 5350 was one outcome of the findings of that hearing. The bill was referred to the Subcommittee on Fisheries and Wildlife Conservation and the Environment which discharged it on July 1, 1992, prior to the bill's markup by the Merchant Marine and Fisheries Committee. I would like to thank Chairman STUDDS for discharging the bill, allowing its subsequent unanimous approval by the committee. This is a valuable contribution to our ongoing effort to manage and protect our Great Lakes.

In 1983, a report by the Science Advisory Board of the United States-Canada International Joint Commission advocated establishment of a tissue bank as a means of monitoring toxic contaminants in Great Lakes fish and wildlife.

Over 400 man-made contaminants have been identified in Great Lakes fish and wildlife. Unfortunately, we don't have the analytical capabilities, or the resources to keep a running record of the amount of each of these substances existing in Great Lakes fish and wildlife. Moreover, contaminant analysis is very expensive—in some cases, the analysis of a single sample can cost from $1,000 to $2,000.

The establishment of a Great Lakes tissue bank is a cost-saving solution to this dilemma because it will provide for long-term storage of tissue samples that could be analyzed for a suspect contaminant should trouble arise. For example, 10 years into the future, if Great Lakes scientists suspect that a particular compound might be threatening ecosystem health, they could carry out an analysis of tissue bank samples and determine how concentrations of that compound had changed over that 10-year period. Such knowledge is essential for gaining the scientific understanding we need to effectively manage and protect our Nation's vast Great Lakes resources.

I urge passage of H.R. 5350.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5350, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIONAL MARINE SANCTUARIES REAUTHORIZATION AND IMPROVEMENT ACT OF 1992

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4310) to reauthorize and improve the national marine sanctuaries program, and to establish the Coastal and Ocean Sanctuary Foundation, as amended.

The Clerk read as follows:

H.R. 4310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—REAUTHORIZATION AND AMENDMENT OF TITLE III OF MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

SEC. 1. SHORT TITLE.

This title may be cited as the "National Marine Sanctuaries Reauthorization and Improvement Act of 1992".

SEC. 2. FINDINGS, PURPOSES, AND POLICIES.

(a) FINDINGS.—Section 301(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431) is amended—

(1) in paragraph (2)—

(A) by inserting "cultural," after "educational,"; and

(B) by inserting ", and in some cases international," after "national";

(2) in paragraph (4)—

(A) by inserting ", research" after "conservation"; and

(B) by striking "and" after the semicolon at the end;

(3) in paragraph (5) by striking the period at the end and inserting a semicolon instead; and

(4) by adding at the end the following:

"(6) protection of these special areas can contribute to maintaining a natural assemblage of living resources for future generations; and

"(7) the Nation can contribute to that maintenance by including sites representative of biogeographic regions of its coastal and ocean waters and Great Lakes among the national marine sanctuaries established under this title.".

(b) PURPOSES AND POLICIES.—Section 301(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 is amended to read as follows:

"(b) PURPOSES AND POLICIES.—The purposes and policies of this title are—

"(1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance;

"(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

"(3) to support, promote and coordinate scientific research on, and monitoring of, the resources of these marine areas, especially long-term monitoring and research of these areas;

"(4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment;

"(5) to allow, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

"(6) to develop and implement coordinated plans for the conservation and management of these areas with assistance from appropriate Federal agencies, State, local and native governments, and other public and private interests;

"(7) to create models of, and incentives for, ways to conserve and manage these areas;

"(8) to cooperate with global programs encouraging conservation of marine resources; and

"(9) to maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate.".

SEC. 3. DEFINITIONS.

(a) MARINE ENVIRONMENT.—Section 302(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(3)) is amended by adding "including the Exclusive Economic Zone," after "jurisdiction,".

(b) DAMAGES.—Section 302(6) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(6)) is amended—

(1) in subparagraph (A)(ii) by striking "and" at the end;

(2) in subparagraph (B) by inserting "and" at the end; and

(3) by adding at the end the following:

"(C) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;".

(c) RESPONSE COSTS.—Section 302(7) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(7)) is amended by inserting "or authorized" after "taken".

(d) SANCTUARY RESOURCE.—Section 302(8) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(8)) is amended—

(1) by inserting "cultural," after "educational,";

(2) by striking the period after "value of the sanctuary" and inserting instead "; and"; and

(3) by adding the following after paragraph (8):

"(9) 'Exclusive Economic Zone' means the Exclusive Economic Zone as defined in the Magnuson Fishery Conservation and Management Act.".

(e) TECHNICAL CORRECTION.—Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—

(1) in paragraph (1) by striking "304(a)(1)(E)" and inserting "304(a)(1)(C)(v)"; and

(2) in paragraph (5) by striking "and" after the semicolon.

SEC. 4. SANCTUARY DESIGNATION STANDARDS.

(a) STANDARDS.—Section 303(a)(2)(B) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(a)(2)(B)) is amended by inserting "or should be supplemented" after "inadequate".

(b) FACTORS AND CONSULTATIONS.—

(1) Section 303(b)(1)(A) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(b)(1)(A)) is amended by inserting "maintenance of critical habitat of endangered species," after "assemblages,".

(2) Section 303(b)(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(b)(3)) is amended—

(A) by inserting ", governmental," after "other commercial" and inserting ", governmental," after "any commercial";

(B) by adding at the end "The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report regarding any past, present, or proposed future disposal of materials or detonation of ordnance in the vicinity of the proposed sanctuary."; and

(C) by striking "304(a)(1)" and inserting "304(a)(2)".

SEC. 5. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

(a) SANCTUARY PROPOSAL.—Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended—

(1) by striking "prospectus" wherever it appears and inserting instead "documents";

(2) in subparagraph (a)(1)(C) by striking "a prospectus on the proposal which shall contain—" and inserting instead "documents, including an executive summary, consisting of—";

(3) by adding after paragraph (a)(3) the following:

"(4) FEDERAL AGENCY COMMENTS.—Comments by Federal agencies on any notice or documents issued under this section must be provided to the Secretary by the close of the official public comment period required by the National Environmental Policy Act of 1969.";

(4) by renumbering the remaining paragraphs accordingly;

(5) by altering any reference to the renumbered paragraphs accordingly;

(6) in former paragraph (a)(4) by inserting "cultural," after "educational,"; and

(7) in former paragraph (a)(5)—

(A) by striking "United States Fishery Conservation Zone" and inserting instead "United States Exclusive Economic Zone"; and

(B) by adding at the end "The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.".

(b) TAKING EFFECT OF DESIGNATIONS.—Section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b)) is amended—

(1) in paragraph (1) by striking the dash after "unless" and inserting instead ", in the case of a national marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.";

(2) by striking subparagraphs (b)(1)(A) and (b)(1)(B);

(3) in paragraph (b)(2) by—

(A) striking "(A) or (B)" before "will affect";

(B) by striking "not disapproved under paragraph (1)(A) or"; and

(C) by striking "(B)" before "shall take effect."; and

(4) by striking paragraph (b)(3) and renumbering the following paragraph.

(c) ACCESS AND VALID RIGHTS.—Section 304(c)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(c)) is amended to read as follows:

"(1) Nothing in this title shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.".

(d) ANNUAL REPORT.—Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended by adding at the end the following:

"(d) ANNUAL REPORT TO CONGRESS.—The Secretary shall prepare and submit to Congress, no later than February 15 of each year, a status report on the National Marine Sanctuary Program.

"(e) INTERAGENCY COOPERATION.—(1) Subject to any guidelines the Secretary may establish, the head of a Federal agency shall consult with the Secretary on a prospective agency action that is likely to destroy, cause the loss of, or injure any sanctuary resource.

"(2) Promptly after the conclusion of consultations under paragraph (1), the Secretary shall provide to the head of a Federal agency a written statement setting forth the Secretary's determination whether the agency action is likely to destroy, cause the loss of, or injure any sanctuary resource. The statement shall also include a summary of the information on which the determination is based. If the Secretary finds that the action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall suggest reasonable and prudent alternatives which can be taken by the Federal agency in implementing the agency action which will conserve sanctuary resources.".

SEC. 6. INTERNATIONAL COOPERATION.

Section 305 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1435) is amended—

(1) in the heading of the section by striking "**APPLICATION OF REGULATIONS AND INTERNATIONAL NEGOTIATIONS**" and inserting instead "**INTERNATIONAL REGULATION AND COOPERATION**"; and

(2) by adding at the end the following:

"(c) INTERNATIONAL COOPERATION.—The Secretary, in consultation with the Secretary of State and the heads of other appropriate Federal agencies, shall cooperate with foreign countries and international organizations to further the purposes and policies of this title, consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas.".

SEC. 7. PROHIBITED ACTIVITIES.

Section 306 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1436) is amended to read as follows:

"SEC. 306. PROHIBITED ACTIVITIES.

"It is unlawful to—

"(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

"(2) possess, sell, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

"(3) interfere with the enforcement of this title; or

"(4) violate any provision of this title or any regulation or permit issued pursuant to this title.".

SEC. 8. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) Section 307(c)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(c)(1)) is amended by striking "$50,000" and inserting instead "$100,000".

(2) Section 307(c)(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(c)(3)) is amended by adding at the end "The penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.".

(b) FORFEITURE.—Section 307(d)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(d)(1)) is amended by adding at the end "The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as damages under section 312 of this title.".

(c) USE OF RECEIVED AMOUNTS.—Section 307 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437) is amended by striking subsection (e)(1) and inserting the following:

"(1) EXPENDITURES.—

"(A) Notwithstanding any other law, amounts received by the United States as civil penalties, forfeitures of property, and costs imposed under paragraph (2) shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act.

"(B) Amounts received under this section for forfeitures and costs imposed under paragraph (2) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any sanctuary resource or other property seized in connection with a violation of this title or any regulation or permit issued under this title.

"(C) Amounts received under this section as civil penalties and any amounts remaining after the operation of subparagraph (B) shall be used, in order of priority, to—

"(i) manage and improve the national marine sanctuary with respect to which the violation occurred that resulted in the penalty or forfeiture;

"(ii) pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation or permit issued under this title; and

"(iii) manage and improve any other national marine sanctuary.".

(d) CONFORMING AMENDMENT.—Section 312(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(d)) is amended by—

(1) striking "and civil penalties under section 307";

(2) striking paragraph (3); and

(3) renumbering the remaining paragraph.

(e) ENFORCEABILITY.—Section 307 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437) is amended by adding at the end the following:

"(j) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, which is subject to the sovereignty of the United States, and the United States exclusive economic zone, consistent with international law.".

SEC. 9. MONITORING AND EDUCATION.

Section 309 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1440) is amended—

(1) by inserting ", **MONITORING, AND EDUCATION**" at the end of the section heading;

(2) by inserting "take such action as is necessary to";

(3) by inserting ", monitoring, and education" before "purposes";

(4) in paragraph (1)—

(A) by striking "National Oceanic and Atmospheric Administration" and inserting instead "Under Secretary of Commerce for Oceans and Atmosphere";

(B) by inserting ", monitoring, and education" before ", give priority"; and

(C) by striking "to research involving" and inserting instead ", to the extent practicable, to activities which involve"; and

(5) in paragraph (2) by inserting before the period at the end ", monitoring, and education, including coordination with the system of national estuarine reserves established under section 315 of the Coastal Zone Management Act of 1972".

SEC. 10. COOPERATIVE AGREEMENTS AND DONATIONS.

Section 311 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1442) is amended to read as follows:

"SEC. 311. COOPERATIVE AGREEMENTS, GRANTS, DONATIONS, AND ACQUISITIONS.

"(a) AGREEMENTS AND GRANTS.—The Secretary may enter into cooperative agreements and financial agreements, including contracts and grants, with any State, tribal or local government, regional or interstate agency, private person, or nonprofit organization to assist the Secretary in carrying out the purposes and policies of this title.

"(b) DONATIONS.—

"(1) ACCEPTANCE OF DONATIONS.—The Secretary may solicit and accept donations of funds, property, and services as gifts or bequests for use in designating and administering national marine sanctuaries under this title.

"(2) AGREEMENTS.—The Secretary may enter into agreements with any nonprofit organization authorizing the organization to solicit donations for the Secretary under this subsection.

"(3) ACQUISITIONS.—The Secretary may acquire by purchase, lease, or exchange, any land, facilities, or other property necessary and appropriate to carry out the purposes and policies of this title.".

SEC. 11. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

(a) LIABILITY FOR INTEREST.—Section 312(a)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)(1)) is amended to read as follows:

"(1) LIABILITY TO UNITED STATES.—Any person who destroys, causes the loss of, or injuries any sanctuary resource is liable to the United States for an amount equal to the sum of—

"(i) the amount of response costs and damages resulting from the destruction, loss, or injury; and

"(ii) interest on that amount calculated under section 1005 of the Oil Pollution Act of 1990.".

(b) LIABILITY IN REM.—Section 312(a)(2) of the Marine Protection, Research and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)(2)) is amended by adding at the end: "The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.".

(c) LIMITS TO LIABILITY.—Section 312(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)) is amended by adding at the end the following:

"(4) LIMITS TO LIABILITY.—Nothing in sections 4281-4289 of the Revised Statutes of the United States or section 3 of the Act of February 13, 1893, shall limit the liability of any person under this title.".

(d) RESPONSE ACTIONS.—Section 312(b)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(b)(1)) is amended by inserting "or authorize" after "undertake".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

Section 313 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444) is amended to read as follows:

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out this title the following—

"(1) $8,000,000 for fiscal year 1993;

"(2) $16,000,000 for fiscal year 1994;

"(3) $20,000,000 for fiscal year 1995; and

"(4) $25,000,000 for fiscal year 1996.".

SEC. 13. ADVISORY COUNCILS AND SHORT TITLE.

The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended by adding at the end the following:

"SEC. 315. ADVISORY COUNCILS.

"(a) ESTABLISHMENT.—The Secretary may establish one or more advisory councils (in this section referred to as an 'Advisory Council') to provide assistance to the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.

"(b) MEMBERSHIP.—Members of the Advisory Councils may be appointed from among—

"(1) persons employed by Federal or State agencies with expertise in management of natural resources;

"(2) members of relevant Regional Fishery Management Councils established under section 302 of the Magnuson Fishery Conservation and Management Act; and

"(3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.

"(c) LIMITS ON MEMBERSHIP.—For sanctuaries designated after the date of enactment of the National Marine Sanctuaries Reauthorization and Improvement Act of 1992, the membership of Advisory Councils shall be limited to no more than 15 members.

"(d) PAY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), members of an Advisory Council shall serve without pay.

"(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(e) STAFFING AND ASSISTANCE.—The Secretary may make available to an Advisory Council any staff, information, administrative services, or assistance the Secretary determines are reasonably required to enable the Advisory Council to carry out its functions.

"(f) PUBLIC PARTICIPATION AND PROCEDURAL MATTERS.—The following guidelines apply with respect to the conduct of business meetings of an Advisory Council:

"(1) Each meeting shall be open to the public, and interested persons shall be permitted to present oral or written statements on items on the agenda.

"(2) Emergency meetings may be held at the call of the chairman or presiding officer.

"(3) Timely notice of each meeting, including the time, place, and agenda of the meeting, shall be published locally and in the Federal Register.

"(4) Minutes of each meeting shall be kept and contain a summary of the attendees and matters discussed.

"SEC. 316. SHORT TITLE.

"This title may be cited as 'The National Marine Sanctuaries Act'.".

SEC. 14. GRAVEYARD OF THE ATLANTIC ARTIFACTS.

(a) ACQUISITION OF SPACE.—Pursuant to section 314 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1445) and consistent with the Cooperative Agreement entered into in October, 1989, between the National Oceanic and Atmospheric Administration and the Mariner's Museum of Newport News, Virginia, the Secretary shall make a grant for the acquisition of space in Hatteras Village, North Carolina, for—

(1) the display and interpretation of artifacts recovered from the area of the Atlantic Ocean adjacent to North Carolina generally known as the Graveyard of the Atlantic, including artifacts recovered from the Monitor National Marine Sanctuary; and

(2) administration and operations of the Monitor National Marine Sanctuary.

(b) AUTHORIZATION.—To carry out the Secretary's responsibilities under this section, there are authorized to be appropriated to the Secretary a total of $800,000 for fiscal years 1993 and 1994, to remain available until expended.

(c) FEDERAL SHARE.—Not more than two-thirds of the cost of space acquired under this section may be paid with amounts provided pursuant to this section.

TITLE II—HAWAIIAN ISLANDS HUMPBACK WHALE NATIONAL MARINE SANCTUARY

SEC. 21. SHORT TITLE.

This title may be cited as the "Hawaiian Islands Humpback Whale National Marine Sanctuary Act".

SEC. 22. FINDINGS.

The Congress finds the following:

(1) Many of the diverse marine resources and ecosystems within the Western Pacific region are of national significance and importance.

(2) There are at present no ocean areas in the Hawaiian Islands designated as national marine sanctuaries or identified on the Department of Commerce's Sanctuary Evaluation List of sites to be investigated as potential candidates for designation as a national marine sanctuary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(3) The Hawaiian Islands consist of 8 major islands and 124 minor islands, with a total land area of 6,423 square miles and a general coastline of 750 miles.

(4) The marine environment adjacent to and between the Hawaiian Islands is a diverse and unique subtropical marine ecosystem.

(5) The Department of Commerce recently concluded in its Kahoolawe Island National Marine Sanctuary Feasibility Study that there is preliminary evidence of both biological, cultural, and historical resources adjacent to Kahoolawe Island to merit further investigation for national marine sanctuary status.

(6) The Department of Commerce also concluded in its Kahoolawe Island National Marine Sanctuary Feasibility Study that there are additional marine areas within the Hawaiian archipelago which merit further consideration for national marine sanctuary status and the national marine sanctuary program could enhance marine resource protection in Hawaii.

(7) The Hawaiian stock of the endangered humpback whale, the largest of the three North Pacific stocks, breed and calve within the waters of the main Hawaiian Islands.

(8) The marine areas surrounding the main Hawaiian Islands, which are essential breeding, calving, and nursing areas for the endangered humpback whale, are subject to damage and loss of their ecological integrity from a variety of disturbances.

(9) The Department of Commerce recently promulgated a humpback whale recovery plan which sets out a series of recommended goals and actions in order to increase the abundance of the endangered humpback whale.

(10) An announcement of certain Hawaiian waters frequented by humpback whales as an active candidate for marine sanctuary designation was published in the Federal Register on March 17, 1982 (47 FR 11544).

(11) The existing State and Federal regulatory and management programs applicable to the waters of the main Hawaiian Islands are inadequate to provide the kind of comprehensive and coordinated conservation and management of humpback whales and their habitat that is available under title III of the Marine Protection, Research and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(12) Authority is needed for comprehensive and coordinated conservation and management of humpback whales and their habitat that will complement existing Federal and State regulatory authorities.

(13) There is a need to support, promote, and coordinate scientific research on, and monitoring of, that portion of the marine environment essential to the survival of the humpback whale.

(14) Public education, awareness, understanding, appreciation, and wise use of the marine environment is fundamental to the protection and conservation of the humpback whale.

(15) The designation, as a national marine sanctuary, of the areas of the marine environment adjacent to the main Hawaiian Is-

lands which are essential to the continued recovery of the humpback whale is necessary for the preservation and protection of this important national marine resource.

(16) The marine sanctuary designated for the conservation and management of humpback whales could be expanded to include other marine resources of national significance which are determined to exist within the sanctuary.

SEC. 23. DEFINITIONS.

In this title, the following definitions apply:

(1) The term "adverse impact" means an impact that independently or cumulatively damages, diminishes, degrades, impairs, destroys, or otherwise harms.

(2) The term "Sanctuary" means the Hawaiian Islands Humpback Whale National Marine Sanctuary designated under section 25.

(3) The term "Secretary" means the Secretary of Commerce.

SEC. 24. POLICY AND PURPOSE.

(a) POLICY.—It is the policy of the United States to protect and preserve humpback whales and their habitat within the Hawaiian Islands marine environment.

(b) PURPOSE.—The purposes of this title are—

(1) to protect humpback whales and their habitat in the area described in section 25(b);

(2) to educate and interpret for the public the relationship of humpback whales to the Hawaiian Islands marine environment;

(3) to manage such human uses of the Sanctuary consistent with this title and title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this Act; and

(4) to provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary designated in section 25(a).

SEC. 25. DESIGNATION OF SANCTUARY.

(a) DESIGNATION.—Subject to subsection (c), the area described in subsection (b) is designated as the Hawaiian Islands Humpback Whale National Marine Sanctuary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1451 et seq.).

(b) AREA INCLUDED.—

(1) Subject to subsections (c) and (d), the area referred to in subsection (a) consists of the submerged lands and waters off the coast of the Hawaiian Islands seaward of the upper reaches of the wash of the waves on shore—

(A) to the 100-fathom (183-meter) isobath adjoining the islands of Lanai, Maui, Kahoolawe, and Molokai, including Penguin Bank; and

(B) to the deep water area of Pailolo Channel from Cape Halawa, Molokai, to Nakalele Point, Maui, and southward.

(2) The Secretary shall generally identify and depict the Sanctuary on National Oceanic and Atmospheric Administration charts. Those charts shall be maintained on file and kept available for public examination during regular business hours at the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration. The Secretary shall update the charts to reflect any boundary modification under subsection (d).

(c) EFFECT OF OBJECTION BY GOVERNOR.—

(1) If within 45 days after the date of enactment of this Act the Governor of Hawaii certifies to the Secretary that the designation is unacceptable, the designation shall not take effect in the area of the Sanctuary lying within the seaward boundary of the State of Hawaii.

(2) If within 45 days after the date of issuance of the comprehensive management plan and implementing regulations under section 26 the Governor of Hawaii certifies to the Secretary that the management plan, any implementing regulation, or any term of the plan or regulations is unacceptable, the management plan, regulation, or term, respectively, shall not take effect in the area of the Sanctuary lying within the seaward boundary of the State of Hawaii.

(3) If the Secretary considers that an action taken under paragraph (1) or (2) will affect the Sanctuary in a manner that the policy and purposes of this title cannot be fulfilled, the Secretary may terminate the entire designation under subsection (a). At least 30 days prior to such termination, the Secretary shall submit written notification of the proposed termination to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

(d) BOUNDARY MODIFICATIONS.—No later than the date of issuance of the draft environmental impact statement for the Sanctuary under section 304(a)(1)(C)(vii) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(a)(1)(C)(vii)), the Secretary, in consultation with the Governor of Hawaii, if appropriate, may make modifications to the boundaries of the Sanctuary as necessary to fulfill the purpose of this title. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a written notification of such modifications.

SEC. 26. COMPREHENSIVE MANAGEMENT PLAN.

(a) PREPARATION OF PLAN.—The Secretary, in consultation with interested persons and appropriate Federal, State, and local government authorities, shall develop and issue not later than 18 months after the date of enactment of this Act a comprehensive management plan and implementing regulations to achieve the policy and purpose of this title. In developing the plan and regulations, the Secretary shall follow the procedures specified in sections 303 and 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433 and 1434). Such comprehensive management plan shall—

(1) allow all public and private uses of the Sanctuary (including uses of Hawaiian natives customarily and traditionally exercised for subsistence, cultural, and religious purposes) consistent with the primary objective of the protection of humpback whales and their habitat;

(2) set forth the allocation of Federal and State enforcement responsibilities, as jointly agreed by the Secretary and the State of Hawaii;

(3) identify research needs and establish a long-term ecological monitoring program with respect to humpback whales and their habitat;

(4) identify alternative sources of funding needed to fully implement the plan's provisions and supplement appropriations under section 27 of this title and section 313 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444);

(5) ensure coordination and cooperation between Sanctuary managers and other Federal, State, and local authorities with jurisdiction within or adjacent to the Sanctuary; and

(6) promote education among users of the Sanctuary and the general public about conservation of humpback whales, their habitat, and other marine resources.

(b) PUBLIC PARTICIPATION.—The Secretary shall provide for participation by the general public in development of the comprehensive management plan or any amendment thereto.

SEC. 27. AUTHORIZATION OF APPROPRIATIONS.

For carrying out this title, there are authorized to be appropriated to the Secretary $500,000 for fiscal year 1993 and $300,000 for fiscal year 1994. Of the amounts appropriated under this section for fiscal year 1993—

(1) not less than $50,000 shall be used by the Western Pacific Regional Team to evaluate potential national marine sanctuary sites for inclusion on the Department of Commerce's Sanctuary Evaluation List; and

(2) not less than $50,000 shall be used to continue the investigation of biological, cultural, and historical resources adjacent to Kahoolawe Island.

TITLE III—MISCELLANEOUS

SEC. 31. STELLWAGEN BANK NATIONAL MARINE SANCTUARY.

(a) DESIGNATION.—The area described in subsection (b) is designated as the Stellwagen Bank National Marine Sanctuary (hereafter in this section referred to as the "Sanctuary").

(b) AREA.—The Sanctuary shall consist of all submerged lands and waters, including living and nonliving marine resources within those waters, bounded by the area described as Boundary Alternative 3 in the Draft Environmental Impact Statement and Management Plan for the Proposed Stellwagen Bank National Marine Sanctuary, published by the Department of Commerce in January 1991, except that the western boundary shall be modified as follows:

(1) The southwestern corner of the Sanctuary shall be located at a point off Provincetown, Massachusetts, at the following coordinates: 42 degrees, 7 minutes, 44.89 seconds (latitude), 70 degrees, 28 minutes, 15.44 seconds (longitude).

(2) The northwestern corner of the Sanctuary shall be located at a point off Cape Ann, Massachusetts, at the following coordinates: 42 degrees, 37 minutes, 53.52 seconds (latitude), 70 degrees, 35 minutes, 52.38 seconds (longitude).

(c) MANAGEMENT.—The Secretary of Commerce shall issue a management plan for the Sanctuary in accordance with section 304 of the Marine Protection, Research, and Sanctuary Act of 1972 (16 U.S.C. 1434).

(d) SAND AND GRAVEL MINING ACTIVITIES PROHIBITED.—Notwithstanding any other provision of law, exploration for, and mining of, sand and gravel and other minerals in the Sanctuary is prohibited.

(e) CONSULTATION.—Pursuant to section 304(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this Act, the appropriate Federal agencies shall consult with the Secretary of Commerce on all prospective agency actions in the vicinity of the Sanctuary regarding the potential impact of those activities on sanctuary resources.

(f) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce for carrying out the purposes of this section $570,000 for fiscal year 1993 and $250,000 for fiscal year 1994.

SEC. 32. MONTEREY BAY NATIONAL MARINE SANCTUARY.

(a) ISSUANCE OF DESIGNATION NOTICE.—Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b))—

(1) by not later than September 18, 1992, the Secretary of Commerce shall publish

under that Act in the Federal Register a notice of designation of the Monterey Bay National Marine Sanctuary (hereafter in this section the "Sanctuary"); and

(2) the designation of the Sanctuary pursuant to that notice shall take effect on September 18, 1992.

(b) EXCEPTIONS.—The designation or a term of the designation under subsection (a)—

(1) shall not apply if it is disapproved by a joint resolution enacted by the Congress prior to September 18, 1992; and

(2) shall not take effect in areas within the seaward boundary of the State of California, if the Governor of the State of California certifies to the Secretary of Commerce before that date that it is unacceptable.

(c) FAILURE TO DESIGNATE.—If the Secretary of Commerce fails to meet the requirements of subsection (a), the area described and depicted as Boundary Alternative 5 in the Final Environmental Impact Statement and Management Plan for the Proposed Monterey Bay National Marine Sanctuary, published by the Department of Commerce in June 1992, is designated as the Monterey Bay National Marine Sanctuary, effective September 18, 1992.

(d) SANCTUARY MANAGEMENT.—

(1) MANAGEMENT PLAN.—

(A) The Secretary of Commerce shall issue a management plan and implementing regulations for the Sanctuary in accordance with section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434).

(B) The Sanctuary shall be managed and regulations enforced under all applicable provisions of title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) as if the Sanctuary had been designated under that title.

(2) OIL AND GAS ACTIVITIES PROHIBITED.—Notwithstanding any other provision of law, no leasing, exploration, development, or production of minerals or hydrocarbons shall be permitted within the Sanctuary.

SEC. 33. SAN LUIS OBISPO STUDY.

(a) IN GENERAL.—The Secretary of Commerce shall conduct a study of the area described in subsection (d) for purposes of making determinations and findings in accordance with section 303(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(a)), regarding whether or not all or any part of that area is appropriate for designation as a national marine sanctuary under that Act. Not less than ½ of the cost of the study shall be contributed by non-Federal sources prior to beginning the study.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that sets forth the determinations and findings referred to in subsection (a).

(c) LIMITATION ON APPLICATION.—If not less than ½ of the cost of a study under subsection (a) have not been provided by non-Federal sources before January 1, 1994, the requirements of this section shall no longer apply.

(d) AREA INCLUDED.—The area referred to in subsection (a) includes—

(1) the area of the marine environment off the coast of California generally known as Estero Bay; and

(2) significant, adjacent marine environments associated with Estero Bay.

SEC. 34. ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES.

(a) IN GENERAL.—Beginning on the date of enactment of this Act, the Secretary shall conduct a 2-year pilot project to enhance funding for designation and management of national marine sanctuaries.

(b) PROJECT.—The project shall consist of—

(1) the creation, adoption, and publication in the Federal Register by the Secretary of a symbol for the national marine sanctuary program, or for individual national marine sanctuaries;

(2) the solicitation of persons to be designated as official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(3) the designation of persons by the Secretary as official sponsors of the national marine sanctuary program or of individual sanctuaries;

(4) the authorization by the Secretary of the use of any symbol published under paragraph (1) by official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(5) the establishment and collection by the Secretary of fees from official sponsors for the manufacture, reproduction or use of the symbols published under paragraph (1);

(6) the retention of any fees assessed under paragraph (5) by the Secretary in an interest-bearing revolving fund; and

(7) the expenditure of any fees and any interest in the fund established under paragraph (6), without appropriation, by the Secretary to designate and manage national marine sanctuaries.

(c) CONTRACT AUTHORITY.—The Secretary may contract with any person for the creation of symbols or the solicitation of official sponsors under subsection (b).

(d) RESTRICTIONS.—The Secretary may restrict the use of the symbols published under subsection (b), and the designation of official sponsors of the national marine sanctuary program or of individual national marine sanctuaries to ensure compatibility with the goals of the national marine sanctuary program.

(e) PROPERTY OF UNITED STATES.—Any symbol which is adopted by the Secretary and published in the Federal Register under subsection (b) is deemed to be the property of the United States.

(f) PROHIBITED ACTIVITIES.—(1) It is unlawful for any person—

(A) designated as an official sponsor to influence or seek to influence any decision by the Secretary or any other Federal official related to the designation or management of a national marine sanctuary, except to the extent that a person who is not so designated may do so;

(B) to represent himself or herself to be an official sponsor absent a designation by the Secretary;

(C) to manufacture, reproduce, or use any symbol adopted by the Secretary absent designation as an official sponsor and without payment of a fee to the Secretary; and

(D) to violate any regulation promulgated by the Secretary under this section.

(2) Violation of this section shall be considered a violation of title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(g) REPORT.—No later than 30 months after the date of enactment of this Act, the Secretary shall submit a report on the pilot project to Congress regarding the success of the program in providing additional funds for management and operation of national marine sanctuaries.

(h) DEFINITIONS.—In this section—

(1) "national marine sanctuary" or "national marine sanctuaries" means a national marine sanctuary or sanctuaries designated under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.), or by other law in accordance with title III of the Marine Protection, Research, and Sanctuaries Act of 1972;

(2) "official sponsor" means any person designated by the Secretary who is authorized to manufacture, reproduce, or use any symbol created, adopted, and published in the Federal Register under this section for a fee paid to the Secretary; and

(3) "Secretary" means the Secretary of Commerce.

(i) USE OF APPROPRIATIONS.—Of sums appropriated to the Secretary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.), for administration of the national marine sanctuary program, the Secretary may expend a total of $100,000 for fiscal years 1993 and 1994 to carry out this section.

SEC. 35. TECHNICAL CORRECTIONS RELATING TO COASTAL ZONE MANAGEMENT ACT OF 1972.

(a) AMENDMENT OF COASTAL ZONE MANAGEMENT ACT OF 1972.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(b) TECHNICAL CORRECTIONS.—

(1) The Act is amended by—

(A) striking "coastal State" each place it appears and inserting "coastal state";

(B) striking "coastal States" each place it appears and inserting "coastal states"; and

(C) striking "coastal State's" each place it appears and inserting "coastal state's".

(2) Section 6203(b)(1) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–301, relating to section 303(2) of the Coastal Zone Management Act of 1972) is amended by striking "as well as the" the first place it appears and inserting "as well as to".

(3) Section 6204(a) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–302, relating to section 304(1) of the Coastal Zone Management Act of 1972) is amended—

(A) in the matter preceding paragraph (1) by striking "The third sentence of section" and inserting "Section";

(B) in paragraph (1) by inserting after "period at the end" the following: "of the third sentence"; and

(C) in paragraph (2) by inserting after "territorial sea.'" the following: "at the end of the second sentence".

(4) Section 6204(b) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–302) is amended by striking "following'" and inserting "following:".

(5) Section 304(1) (16 U.S.C. 1453(1)) is amended in the second sentence—

(A) by striking "the outer limit of" the first place it appears; and

(B) by striking "1705," and inserting "1705),".

(6) Section 304(2) (16 U.S.C. 1453(2)) is amended by striking "the term" and inserting "The term".

(7) Section 304(9) (16 U.S.C. 1453(9)) is amended to read as follows:

"(9) The term 'Fund' means the Coastal Zone Management Fund established under section 308(b).".

(8) Section 306(b) (16 U.S.C. 1455(b)) is amended by striking the semicolon at the end and inserting a period.

(9) Section 6216(a) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–314, relating to section 306A(b)(1) of the Coastal Zone Management Act of 1972) is amended by striking "306a(b)(1)" and inserting "306A(b)(1)".

(10) Section 306A(a)(1)(B) (16 U.S.C. 1455a(a)(1)(B)) is amended by striking "specified" and all that follows through the end of the sentence and inserting "specified in section 303(2)(A) through (K).".

(11) Section 306A(b) (16 U.S.C. 1455a(b)) is amended—

(A) in paragraph (2) by striking "that are designated" and all that follows through the end of the paragraph and inserting "that are designated in the state's management program pursuant to section 306(d)(2)(C) as areas of particular concern."; and

(B) in paragraph (3) by—

(i) striking "access of" and inserting "access to"; and

(ii) striking "in accordance with" and all that follows through the end of the paragraph and inserting "in accordance with the planning process required under section 306(d)(2)(G).".

(12) Section 306A(c) (16 U.S.C. 1455a(c)) is amended in paragraph (2)(C) in the matter following clause (iii) by striking "shall not by" and inserting "shall not be".

(13) Section 6208(b)(3)(B) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–308, relating to section 307(c)(3)(B) of the Coastal Zone Management Act of 1972) is amended by inserting "with" after "complies".

(14) Section 307(i) (16 U.S.C. 1456(i)) is amended—

(A) by inserting "(1)" after "(i)";

(B) in paragraph (1) (as designated by subparagraph (A) of this paragraph) by striking the second sentence; and

(C) by adding at the end the following:

"(2)(A) The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c).

"(B) If the Secretary waives the application fee under paragraph (1) for an applicant, the Secretary shall waive all other fees under this subsection for the applicant.

"(3) Fees collected under this subsection shall be deposited into the Coastal Zone Management Fund established under section 308.".

(15) Section 6209 of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–308, relating to section 308 of the Coastal Zone Management Act of 1972) is amended in the matter preceding the quoted material by striking "1456" and inserting "1456a".

(16) Section 308(a)(1) (16 U.S.C. 1456a(a)(1)) is amended in the first sentence by striking "pursuant to this Act" and inserting "pursuant to this title".

(17) Section 308(b)(1) (16 U.S.C. 1456a(b)(1)) is amended by striking "(hereinafter" and all that follows through "'Fund')".

(18) Section 308(b)(1) (16 U.S.C. 1456a(b)(1)) is amended by inserting after "subsection (a)" the following: "and fees deposited into the Fund under section 307(i)(3)".

(19) The first section 313 (16 U.S.C. 1459) is amended—

(A) in subsection (a) by striking "section 308" and inserting "section 308, as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990,"; and

(B) in paragraph (1) of subsection (b) by striking "section 308(d)" and all that follows through the end of the paragraph and inserting "section 308, as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990; and".

(20) The second section 313 (16 U.S.C. 1460, relating to Walter B. Jones excellence in coastal zone management awards) is amended—

(A) by redesignating that section as section 314;

(B) in subsection (a) by inserting after "under section 308" the following: "and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315)"; and

(C) in subsection (e) by inserting after "under section 308" the following: "and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315)".

(21) Section 315(a) (16 U.S.C. 1461(a)) is amended by striking "National Estuarine Reserve Research System" and inserting "National Estuarine Research Reserve System".

(22) Section 315(c)(4) (16 U.S.C. 1461(c)(4)) is amended by striking "subsection (1)" and inserting "paragraph (1)".

(23) Section 316(a) (16 U.S.C. 1462(a)) is amended in clause (5) by striking "subsections (c) and (d) of this section" and inserting "subsections (c) and (d) of section 312".

(24) Section 6217(i)(3) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–319, relating to definitions under that Act) is amended—

(A) by striking the comma; and

(B) by inserting "Zone" after "Coastal".

SEC. 36. REAUTHORIZATION OF FLORIDA KEYS NATIONAL MARINE SANCTUARY WATER QUALITY PROTECTION PROGRAM.

In addition to amounts otherwise available, there are authorized to be appropriated $1,000,000 for each of the fiscal years 1993 through 1996 for the water quality protection program for the Florida Keys National Sanctuary developed under section 8 of the Florida Keys National Marine Sanctuary and Protection Act (Public Law 101–605).

SEC. 37. RESEARCH TO IMPROVE MANAGEMENT.

(a) FLORIDA NATIONAL MARINE SANCTUARY.—Section 7(a) of the Florida Keys National Marine Sanctuary and Protection Act (Public Law 101–605) is amended by striking paragraph (4), inserting the following new paragraphs, and renumbering subsequent paragraphs accordingly:

"(4) identify priority needs for research and amounts needed to—

"(A) improve management of the Sanctuary, and in particular, the coral reef ecosystem within the Sanctuary; and

"(B) identify clearly the cause and effect relationships between factors threatening the health of the coral reef ecosystem in the Sanctuary;

"(5) establish a long-term ecological monitoring program and data base, including methods to disseminate information on the management of the coral reef ecosystem;".

(b) DEADLINES NOT AFFECTED.—The provisions of this section shall not be construed to modify, by implication or otherwise, the deadlines established under—

(1) section 7(a) of the Florida Keys National Marine Sanctuary and Protection Act regarding completion of the comprehensive management plan and final regulations; or

(2) section 8(a) of that Act regarding development of the water quality protection program.

SEC. 38. OLYMPIC COAST NATIONAL MARINE SANCTUARY.

No oil or gas leasing or preleasing activity shall be conducted within the area designated as an Olympic Coast National Marine Sanctuary in accordance with Public Law 100–627.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, as one of the authors of this bill, Mr. Speaker, I cannot emphasize enough its importance to protecting the marine environment. Ever since its creation 20 years ago, the National Marine Sanctuary Program has been visionary in one very important aspect—preserving special areas of the marine environment for a variety of uses.

Balancing humans needs against the fragility of our coastal marine environments is not easy. We in Massachusetts know that as well as anyone. But the National Marine Sanctuary Program manages to juggle those needs. It has served to protect marine resources as diverse as the commerical fisheries of the Gulf of the Farallones and the wreck of the U.S.S. *Monitor*.

Today the House will debate H.R. 4310, the National Marine Sanctuary Reauthorization and Improvement Act of 1992. The bill streamlines the designation process, clarifies and strengthens NOAA's management authority, and authorizes funding at the needed levels. With the designation of three new sanctuaries in the bill, and sanctuaries off the Olympic Coast of Washington; Norfolk Canyon off Virginia; and Thunder Bay in Michigan undergoing evaluation for designation within the next 2 years, it is clearly time to reauthorize and improve this program.

Before I explain the amendments to H.R. 4310, I would like to add a point of explanation for the record. The phrase "treaty right" added to section 304(c)(1), is deleted under the substitute amendment. The deletion eliminates concerns that the proposed language could be construed to expand the Secretary's authority to regulate Indian treaty right activities beyond the Secretary's existing authority to enact nondiscriminatory regulations to the extent necessary for resource protection. It is not the intent of this committee or of this body that H.R. 4310 in any way abrogate, modify, or diminish treaty rights.

The bill before this body today contains a committee amendment which was not in this bill as reported out of

Merchant Marine and Fisheries Committee. The amendment designates three sanctuaries that have been under NOAA consideration: The Hawaiian Islands Humpback Whale National Marine Sanctuary, the Stellwagen Bank National Marine Sanctuary, and the Monterey Bay National Marine Sanctuary. With the adoption of H.R. 4310, the National Marine Sanctuary Program will cover twice the area of the 10 sanctuaries designated from 1975 through 1991.

The amendment also instructs NOAA to conduct a study of San Luis Obispo, CA, for possible sanctuary designation, and to undertake a pilot project—modeled after the Olympics—to develop a symbol and seek out sponsors for the sanctuary program.

Two provisions relating to the Florida Keys National Marine Sanctuary are included in the committee's amendment. The first extends NOAA's authority to complete a study for water quality protection in the Florida Keys, and the second instructs NOAA to undertake the development of a coral reef research and management program unique to the Keys.

Finally, the committee's amendment establishes a ban on oil and gas leases in the Olympic Coast National Marine Sanctuary, and includes a number of technical and conforming amendments to the Coastal Zone Management Act.

A number of these amendments have been triggered by the fact that this administration and the previous one have occasionally forgotten that resource protection is a sanctuary's primary goal under the law, and have unreasonably delayed the designation of new sanctuaries in order to protect private interests. Most recently, these delaying tactics have been led by the Vice President's Council on Competitiveness. This convenient lack of memory is occurring right now in relation to the proposed Stellwagen Bank National Marine Sanctuary in the waters of Massachusetts, and has led to the inclusion of that designation in H.R. 4310.

For almost a decade, Stellwagen Bank languished on the back burners of NOAA's National Marine Sanctuary Program. During that time, threats to the integrity of this incredible marine ecosystem have continued to build. In 1990, NOAA finally began the process of making Stellwagen Bank a sanctuary—with support from virtually the entire Commonwealth of Massachusetts. NOAA has so far done an excellent job of moving Stellwagen toward sanctuary status, and I would like to take this opportunity to thank them for their efforts. However, a philosophical debate within the administration now threatens to kill this designation—a debate over the legitimacy of leaving Stellwagen Bank open to offshore sand and gravel mining.

The fact that the Department of the Interior would even consider the possibility of sand and gravel mining in a highly productive marine ecosystem is nothing short of ludicrous. Stellwagen Bank is sand and gravel—mine it, and you destroy the very reason for establishing this sanctuary in the first place. NOAA's draft environmental impact statement for the Stellwagen Bank Sanctuary recognized how harmful mining could be to this ecosystem, and the Department of the Interior should do the same. This ridiculous debate must be stopped here and now. Government by special interest does not fly in the Commonwealth of Massachusetts—government by the people does.

We have also included a provision in the Stellwagen Bank Sanctuary designation that requires Federal agencies to consult with NOAA on all proposed actions in the vicinity of the sanctuary regarding their potential impact on sanctuary resources. This provision is more stringent than the general consultation provision included in H.R. 4310, which does not require consultation on all Federal actions, only on those that are likely to harm sanctuary resources. Due to the special nature of the Stellwagen Bank ecosystem, and the variety of activities that occur in Massachusetts Bay, it is essential that we take extra care.

I would like to close by stressing the importance of this bill, and by thanking my colleagues on the Committee on Merchant Marine and Fisheries who worked so hard to bring it before you today. I urge its support.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 4310 and urge its adoption.

This bill is the product of many compromises worked out by the majority and the minority sides of our committee. It is not a perfect bill and there are still changes that some Members would like to see made. Nevertheless, I believe it is the best compromise that could be obtained under the circumstances.

I do want to call the Members' attention to section 7 of the bill dealing with prohibited activities. As the committee report—House Report 102-565—explains, we are not attempting to prohibit activities such as commercial fishing that occur outside of a sanctuary, even though those same fish may be found in the sanctuary. This same understanding applies to section 301(b)(2) of the Marine Sanctuaries Act, as amended by this bill.

Further, in regard to the Hawaiian Islands Humpback Whale Sanctuary that is created in title II of this bill, Members should note that this language does not prevent NOAA from examining other areas around the Hawaiian Islands for use as marine sanctuaries. Also, it is the intent of our committee that NOAA follow the normal procedure for developing the management plan for this sanctuary and may include regulations protecting other nationally significant marine resources within the sanctuary.

Mr. Speaker, again I believe this bill is an excellent compromise and should be supported.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mr. Speaker, I rise in support of H.R. 4310 and to thank our committee leadership on both sides of the aisle for their efforts in bringing this bill to the floor today. I particularly appreciate their efforts to address some of my concerns surrounding designation of the Olympic Coast National Marine Sanctuary. I also appreciate the support from my friends and Washington State colleagues SID MORRISON and JOHN MILLER to ensure responsible management of the unique marine resources found within the Olympic Coast Sanctuary region. We are all indebted to the esteemed chairman from Massachusetts, Mr. STUDDS, for his typically fine leadership.

Congress directed the National Oceanic and Atmospheric Administration [NOAA] to designate a portion of the Washington coast as a national marine sanctuary in 1988. This direction recognized the unique natural resource values of the Olympic Coast and the opportunity under the National Marine Sanctuary Program to promote public education and scientific research.

Unfortunately, designation of this sanctuary is 2 years behind schedule. This delay has been caused by poor program management, lack of sufficient resources, and the insistence of the Minerals Management Service that oil and gas drilling be allowed within the sanctuary boundaries.

Last July, NOAA issued its preferred management plan in a draft environmental impact statement and management plan [EIS]. This plan would designate a discrete area off the Olympic National Park and prohibit oil and gas development within the boundaries. NOAA based this preferred management option on two points: First, its findings that the area has "significant natural resource values and qualities that are especially sensitive to potential impacts from OCS activities," and second, findings of the Minerals Management Service [MMS] that this area has "a higher environmental productivity and sensitivity ranking, and even lower hydrocarbon potential, than the Monterey Bay, CA, planning area which was recently closed off to oil and gas activities"—draft EIS, page 157.

The substitute offered today includes my provision to codify NOAA's preferred management option of prohibiting oil and gas development within the sanctuary. This prohibition will apply only to the area designated by NOAA in its final EIS. I propose this amendment because, despite NOAA's best judgment, there are some within the administration who still want to leave open the option of OCS development within the sanctuary.

This language is nearly identical to a provision I included in the comprehensive energy bill already adopted by this House. I am serious about permanent protection from oil and gas development along our coast, and ensuring such protection for the sanctuary region of our coast is an important first step.

Finally, Mr. Speaker, in addition to oil and gas development, there are a number of other outstanding issues that were raised during the public hearings on the draft EIS. These include authority to regulate ship traffic, sanctuary boundaries, and the Navy's use of an area known as sea lion rock as a bombing target. Although these concerns were raised nearly a year ago at public hearings, NOAA has failed to respond to them. My provision in today's bill is intended to permanently resolve just one issue—oil and gas development. The remaining ones must still be resolved by NOAA under authority of the National Marine Sanctuary Program. But we can only wait so long. Continued failure by NOAA to fulfill its responsibility to protect the unique resources of the Olympic Coast in a timely fashion, as required by law, will result in further legislation by this Member.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. I thank the subcommittee chairman for yielding this time to me.

Mr. Speaker, I requested this time in order to engage in a colloquy with the chairman of the subcommittee.

Mr. Speaker, the committee amendment includes a provision that extends the authorization of the water quality protection program for the Florida Keys National Marine Sanctuary authorized in section 8 of the Florida Keys National Marine Sanctuary and Protection Act, enacted in 1990. This provision falls within the water quality jurisdiction of the Committee on Public Works and Transportation. We have reviewed the provision, and support its adoption.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. RAHALL. I yield to the chairman of the subcommittee.

Mr. STUDDS. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman's statement. I concur in the jurisdictional point he has raised.

Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. I thank the gentleman for yielding to me.

Mr. Speaker, I would like very much to commend and thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. STUDDS], and the ranking minority member, the gentleman from Alaska [Mr. YOUNG], my good friend, for their commitment to the National Marine Sanctuaries Program.

□ 1640

I think, being from Hawaii and from Alaska [Mr. YOUNG] and I have a particular affinity in that regard, and the gentleman from Massachusetts [Mr. STUDDS] of course, with his long and commendable service with respect to the Atlantic and his general knowledge with respect to matters regarding the ocean, has served this House in very good stead.

I would also like to thank the members of the Committee on Merchant Marine and Fisheries for including language in the committee amendment which will establish, as noted by the gentleman from Alaska [Mr. YOUNG], the National Humpback Whale Marine Sanctuary in Hawaiian waters. This provision will permit us to reverse a century of destruction and neglect.

Mr. Speaker, I want to note very particularly that this sanctuary is in regard to an area which is the breeding, calving, and nursing areas for the humpback whale, the breeding, calving and nursing areas. The humpback whales migrate yearly from Alaskan waters to Hawaii for calving. These 40-ton acrobats have inspired awe and enchantment for generations. Today, people visit Hawaii from all over the world to view the sight of these magnificent creatures.

But there is a downside to all this attention. The humpback whale is on the Endangered Species List and its population continues to decline. The need for Federal protection is obvious. Establishment of the Hawaiian Islands National Humpback Whale Marine Sanctuary is a welcome step in creating a protected environment for these unique animals and unique circumstances within which we find the calving and the breeding.

However, I am aware that the chairman and I share some concerns regarding the waters surrounding Kahoolawe and unexploded ordnance. People may not be aware that the Island of Kahoolawe has in the past been utilized in wartime activities, and there is the possibility of unexploded ordnance there.

Therefore, Mr. Speaker, I would like to engage in a brief colloquy with the chairman:

Do I have the gentleman's assurance that he will address this issue in conference with the Senate?

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. ABERCROMBIE. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, out of gratitude to the gentleman for his pronouncing the aforementioned island, the gentleman has my assurance.

Mr. ABERCROMBIE. Mr. Speaker, I say to the gentleman from Massachusetts, Thank you very much. "Kahoolawe" is a word that might prove formidable to virtually any other Member, but I am certain that the chairman, of all the Members, would be able to handle it, and we most certainly want to invite you to come out and see the situation, not necessarily where the unexploded ordnance is. Maybe I'll invite Mr. YOUNG to come with me on that one.

Mr. YOUNG of Alaska. All right.

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman, and I most certainly thank the gentleman from Alaska [Mr. YOUNG], and for purposes of the RECORD let it be noted that he nodded his head most vigorously in the affirmative with respect to the invitation to come to Kahoolawe, and I offer my wholehearted support for this legislation, and the people from Hawaii say, "Mahalo."

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just think the RECORD should reflect there are equally unpronounceable places in the gentleman's State of Alaska. I urge all our colleagues to support this bill.

Mr. HERTEL. Mr. Speaker, this year marks the 20th anniversary of the National Marine Protection, Research, and Sanctuaries Act of 1972. It is appropriate today that the House will debate legislation to extend title III of that landmark legislation. I am pleased to request consideration of H.R. 4310, the National Marine Sanctuary Reauthorization and Improvement Act of 1992, which I introduced on February 25, 1992. The bill is cosponsored by Mr. HUGHES, Mr. DAVIS, Mr. PANETTA, Mr. FASCELL, Mr. SCHEUER, Mr. MANTON, Mr. MCDERMOTT, Ms. NORTON, and Mr. SAXTON.

The National Marine Sanctuary Program was created by Congress to protect and conserve distinct areas of ocean, coastal and Great Lakes waters recognized for their unique qualities. The Secretary of Commerce was given authority to evaluate discrete sites for designation as National Marine Sanctuaries and to develop and implement the management plan for each sanctuary, to preserve its vast resources.

In the early stages of the program, the National Oceanic and Atmospheric Administration [NOAA] drafted regulations to take on the task of site selection, evaluation, and designation of sanctuaries. The first two National Marine Sanctuary designations were accomplished in 1975; these were the U.S.S. *Monitor* off North Carolina and Key Largo, FL. In 1980, the Channel Islands National Marine Sanctuary off California was designated. Then in 1981, three more sanctuaries of varying size and characteristics were designated. These were located at Gray's Reef, GA; Looe Key, FL; and the Gulf of Farallones, CA.

For the better part of the 1980's the National Marine Sanctuary Program was at a standstill. Denied budget support by the past administration, those sanctuaries that were designated had few, if any, resources for management. Proposals for new sites were stifled.

It was not until the smallest of all existing sanctuaries—0.2 square nautical miles—in Fagatele Bay, American Samoa was designated in 1986 that it appeared there was any life left in the National Marine Sanctuary Program. Three years later, Cordell Bank, CA was designated.

In the first 17 years of the program, the administration's interest in the sanctuary program was minimal and neglectful. By the late 1980's, congressional interest intensified. Intervention by Congress propelled the final designations, in 1990 and 1991 respectively, of the Florida Keys and the Flower Garden Banks National Marine Sanctuaries.

Today, as we reexamine the history of the National Marine Sanctuary Program, the Congress will again intervene by statute to designate sanctuaries, because several of our colleagues are interested in finalizing the lengthy and tedious designation process where the merits of specific sites are clear and where these sites require immediate management consideration.

Slated for statutory designation are Stellwagen Bank, MA, a 600-square-mile area whale summering ground, and areas around the Hawaiian Islands amounting to 830 square miles, where humpback whales and various coral reef resources can be found. In addition, Monterey, CA, Olympic Coast, WA, and the Florida Keys may each be guided through designation to management by various directives and limitations on activities in the sanctuaries. Other provisions included in the substitute amendment offered today will require new studies or projects to improve the sanctuary program.

By the time the House has adopted H.R. 4310, with final designations of Stellwagen Bank, Monterey, and the Hawaiian Islands, the National Marine Sanctuary Program will cover twice the square mile area of the 10 sanctuaries designated from 1975 through 1991. With sanctuaries off Olympic Coast, WA; Northwest Straits, WA; Norfolk Canyon, VA; and Thunder Bay, MI undergoing evaluation for designation in the next 2 years, it is clearly time to reauthorize and improve upon the purposes and policies of the National Marine Sanctuary Program. In this process, we must be farsighted and willing to ensure that NOAA has adequate resources to carry out the missions that are delineated by statute. If Congress expects NOAA to develop and implement management plans through collaboration, cooperation, and consultation, with multiple-use objectives, authorized funding levels must be based on realistic program requirements.

LEGISLATIVE HISTORY

Mr. Speaker, allow me to summarize our legislative activity and the provisions of H.R. 4310. Let me also urge support by our colleagues for this worthwhile legislation.

In contemplation of reauthorization of the National Marine Sanctuary Program, the Subcommittee on Oceanography, Great Lakes and the Outer Continental Shelf hosted two hearings jointly with the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

The first hearing was held on November 7, 1991. Several of our colleagues testified concerning the priorities of the National Marine Sanctuary Program: that for 1993 the administration should request $30 million to administer the program; that training must support effective managers interacting with local communities; that research and education must be integrated fully into the management plans; and that cooperation from local and nonprofit organizations in program operations should be encouraged. Administration witnesses recounted the progress of the program; and affected industry witnesses registered support, yet cautioned against statutory bans on activities in sanctuaries, such as oil and gas exploration. Environmental and conservation organization representatives testified about the necessity for additional funding to carry out program management plans effectively. An independent review team representative submitted an extensive report providing a scientific, economic, and environmental review of the program and recommendations for future action.

A second hearing on reauthorization of the National Marine Sanctuary Program was held on March 31, 1991, following introduction of H.R. 4310, and legislation by the chairman of the Fisheries and Wildlife Conservation and the Environment Subcommittee. In addition to administration witnesses, various environmental organizations, State government, ocean industries, and scientific representatives testified. Central to the discussions were the issues of the timeliness of sanctuary designations; the reach of regulations on permitted or licensed activities affecting sanctuary resources; local consultation in developing management plans; the continuation and limitation of multiple use management regulations; promotion of research, monitoring and education; international cooperation; the scientific bases for selecting new sites; and the adequacy of funds to carry out management of existing and new expansive sanctuary areas.

Following the hearings and discussion among subcommittee members, modifications to H.R. 4310 were suggested. These were incorporated into an amendment adopted at a joint subcommittee markup on May 12, 1992. On May 14, 1992, the Merchant Marine and Fisheries Committee marked up H.R. 4310, incorporating a technical amendment and an amendment by Chairman JONES relating to the artifacts of the U.S.S. *Monitor* National Marine Sanctuary.

On June 16, 1992, on behalf of the Merchant Marine and Fisheries Committee, I requested that the Rules Committee provide an open rule for consideration of H.R. 4310. House Resolution 488, providing an open rule for debate, was subsequently reported. Since that time, members of the Committee on Merchant Marine and Fisheries on both sides of the aisle have taken the opportunity to review amendments to be offered to H.R. 4310. Consensus on the substance of those amendments has allowed for the inclusion of these amendments as titles II and III of the substitute amendment brought before the House today. The text of title I is the same as reported by the House Merchant Marine and Fisheries Committee on June 15, 1992 (House Report 102-565). Given broad support for the substitute, consideration of H.R. 4310 under suspension of the rules provides the most expeditious and efficient procedure for adopting the bill.

DESCRIPTION OF PROVISIONS

With that brief history, allow me to outline the provisions of the bill beginning with title I.

Sections 1 through 3 of the bill refine the purposes and policies of the National Marine Sanctuary Program and clarify definitions in the Act. These sections include cultural qualities, international significance, and research as factors considered in designating a sanctuary. In addition protection of the natural assemblage of living resources and biogeographic representation can be considered in site selections.

In the revised purposes and policies of the act, sanctuaries will serve as models and incentives for conservation and management and to enhance living resources by providing places for species to survive and propagate. Sanctuaries will continue to allow for lawful public and private use of marine areas, and coordinated plans for conservation and management will include a variety of affected interests. New language in these sections promotes scientific research, long-term monitoring, and education. Cooperation in international programs for conserving marine resources is also encouraged.

Sections 4 through 6 amend designation procedures to allow for additional factors to be considered. The resource assessment that serves as a baseline for determining damages is amended under section 5 to include a report on past, present, or proposed disposal of materials or detonation of ordnance affecting a sanctuary.

Section 5 requires interagency cooperation and consultation with the Secretary of Commerce to determine if a permitted activity may potentially harm sanctuary resources.

These sections streamline the designation process by requiring less paperwork, a 60-day agency review of environmental impact statements, expanded and cooperative consultations in selecting sanctuaries and implementing management plans, and a brief annual progress report on program activities and requirements.

Sections 7, 8, and 11 define prohibited, unlawful activities in a sanctuary; establish enforcement procedures and penalties; describe how amounts recouped from damages or penalties may be collected, accrued, and spent; and clarify the limits of liability for loss of, or injury to sanctuary resources.

Sections 9, 10, and 13 will greatly enhance public awareness and participation in the National Marine Sanctuary Program. First, these sections promote education, research, and monitoring. Second, they allow new, supportive cooperative agreements, and financial arrangements, including the acceptance by the Secretary of tax-free donations, for use in meeting the management and operational goals of a sanctuary. Third, the Secretary is given direct authority to purchase or lease facilities, such as docks or visitors stations, necessary for routine sanctuary field operations. Fourth, the Secretary is allowed to enter into agreements for nonprofit organizations to solicit donations on behalf of the sanctuary program, thus obviating the need for a separate foundation as proposed in H.R. 4310 and H.R. 3694. Finally, the Secretary may establish advisory councils to assist in designation and management of a sanctuary.

Section 12 augments the authorization of funds for the Marine Sanctuary Program to $15 million in fiscal year 1993, with incremental increases of $5 million each year through 1996. Of these amounts, it is expected that 75 percent of the amounts provided will be used for onsite management and operations of designated sanctuaries. This new focus on management and operations is key to this reauthorization, recognizing that the number of designated sanctuaries has recently grown quite significantly. As a point of clarity, it is recognized that some activities that support on-site management may be more efficiently contracted through a central office and would not be charged against headquarters functions. However, the shift in focus from analysis to management remains.

Section 14 of the bill authorizes $800,000 for the acquisition of facilities for artifacts recovered from the graveyard of the Atlantic and for office space for the *Monitor* Marine Sanctuary.

Title II of the substitute amendment provides for the designation of the Hawaiian Islands Humpback Whale National Marine Sanctuary. This new sanctuary provides a management plan for protecting humpback whales and their delicate habitat, as well as ensuring the balance of multiuse in the designated area.

Title III includes in the substitute amendment a variety of important designations. First, section 31 designates the long delayed Stellwagen Bank National Marine Sanctuary off Massachusetts. Restrictions are placed on sand and gravel mining that could be detrimental to the area, and consultation on dredge disposal is required.

Second, section 32 requires issuance of a designation notice for the Monterey Bay National Marine Sanctuary by September 18, 1992, granting automatic designation if the deadline is not met. In addition, section 33 requires a study of San Luis Obispo, CA for purposes of determining whether it is an appropriate area for a sanctuary designation.

Section 34 establishes a 2-year pilot promotion project for sanctuaries that encourages sponsors and donations from the private sector.

Section 35 includes technical corrections recommended by the Law Revision Counsel to the 1972 Coastal Zone Management Act. These technical adjustments are nonsubstantive and will cure statutory references and omissions in the 1990 amendments.

Section 36 of the substitute amendment bolsters the Florida Keys National Marine Sanctuary Water Quality Program by increasing the authorization by $1 million. Section 37 provides for a coral reef research and management program unique to the Keys.

Finally, section 38 restricts oil and gas leasing and preleasing activities in the Olympic Coast National Marine Sanctuary.

VIEWS AND SUMMARY

The National Marine Sanctuary Program survived in very bleak years of budget austerity. Now, because the program is achieving a higher level of visibility and popularity, the committee agreed unanimously to increase the authorization and appropriation levels that support the program. During our discussions on reauthorization, recommendations of the National Marine Sanctuary Review Team were considered. Although the committee did not elect at this time to elevate the Marine Sanctuary Program to a separate program office within NOAA's National Ocean Service, this is a proposal that merits certain consideration in the next reauthorization cycle.

As initially introduced, I recommended $28 million in fiscal year 1993 for the National Marine Sanctuary Program with reasonable inflationary increases provided in subsequent years. This amount was justified by an analysis of requirements for site designation, management plan development and implementation, and operational resources based on the schedule of designations presented by the administration in 1991. This amount did not assume statutory designations of new sanctuaries or require their implementation ahead of that schedule.

In the course of committee deliberations, several Members advocated that $10 million would be adequate for the National Marine Sanctuary Program in 1993. Given the statutory mandates in this legislation, coupled with the size and total number of designated sanctuaries, it would be impossible to authorize less than the compromise amount of $15 million for fiscal year 1993 and expect the program to function. Anything less, in my opinion, would force NOAA to operate without sufficient resources, ultimately making the program ineffective, damaging its reputation, and undermining its potential for success.

As a final note, Mr. Speaker, I would hope that the reputation of the National Marine Sanctuary Program will be held in positive high regard and that the commitment of appropriations and resources made by the Congress will steadily grow to meet the size of that national trust we have designated.

I urge the support of our colleagues of H.R. 4310 and for the future of the National Marine Sanctuary Program.

The need for additional Marine Sanctuary Program funds is demonstrated best by the administration's acknowledgment that areas designated require more management and operations resources.

For example, the President's fiscal year 1993 budget request for the sanctuary program included a 46-percent increase over 1992 appropriations. Passbacks from the Department of Commerce indicate that $14 million—a 164-percent increase was initially requested for 1993; however, OMB scaled back the request to $7.3 million—the 46-percent increase.

The administration's reauthorization bill authorizes $7.3 million for fiscal year 1993 and "such sums as may be necessary" through 1996. Given the scope of expanded responsibilities and the dramatic increase in size of areas to be managed, the sums necessary to meet program requirements assume significant increases in the outyears.

The statement of administration policy [SAP] issued by OMB indicates that the administration supports House passage of H.R. 4310.

During the course of committee consideration of H.R. 4310, the 1993 authorization level was scaled back from $28 million to $15 million, a compromise that recognizes fiscal constraints. Only incremental increases were allowed for inflation and operating costs through 1996.

H.R. 4310 increases civil penalties that flow to the program. Additional damages collections are included in statutes directed for restoration and monitoring of sanctuary resources.

The committee provided statutory authority in three areas intended to enhance resources to the program: First, is direct statutory authority for donations to the Secretary of Commerce for sanctuaries; second, cooperative agreements with Federal, State, and local government agencies and nonprofit organizations are permitted for sanctuary management related activities; and third, the substitute provides for promotional arrangements that will hopefully provide private sector support to the program.

No funds were provided for over $65 million in capital expenditures and major equipment costs estimated as startup requirements for sanctuaries.

An independent review panel appointed by the administration projected costs of the Marine Sanctuary Program in upcoming years based on the current schedule of designations by NOAA. The amount estimated for on-going management, start-up costs at new sites, and continuing analyses, research and monitoring required by law was $50 million in 1994. H.R. 4310 authorizes $20 million in fiscal year 1994—less than half the amount recommended by the panel.

The Science and Technology Committee took the opportunity to review H.R. 4310 and provided the chairman with a letter of support for the bill as reported to committee. No changes were recommended to the bill.

Based on the current schedule of designations, the National Marine Sanctuary Program will in 1993 encompass an area twice the size as it did in 1992. Basic operations and management of these areas require at least the commitment of funds provided in H.R. 4310.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4310—NATIONAL MARINE SANCTUARIES ACT AMENDMENTS

The Administration supports House passage of H.R. 4310, which would strengthen the marine sanctuaries program, with amendments to:

Delete the earmarking of funds in section 12. This provision would severely restrict other important activities, including designation of new sanctuaries and central management responsibilities.

Revise section 8(c)(3) to list the Exclusive Economic Zone (EEZ) of the United States as an area in which the marine sanctuaries program applies and is enforceable. This will clarify that marine sanctuaries located in whole or in part in the EEZ are covered.

Revise section 12, which authorizes appropriations for the marine sanctuaries program, to conform with the President's budget request of $7.3 million for FY 1993.

Delete provisions requiring grants for the acquisition of space in Hatteras Village, North Carolina. Funding specific activities or sanctuary operations does not recognize competing priorities within the national marine sanctuaries program.

The Administration opposes amendments that may be offered to H.R. 4310 designating or regulating activities in individual marine sanctuaries. Those amendments would bypass congressionally-established administrative procedures concerning designation and management of sanctuaries.

Pay-as-You-Go Scoring

H.R. 4310 would increase receipts because it increases the maximum civil money penalty for violations of the law. It would also require a grant to be made and would authorize the acceptance of gifts and bequests. Therefore, H.R. 4310 is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990.

OMB's preliminary scoring estimates for this bill are presented in the table below. Final scoring of this legislation may deviate from these estimates. If H.R. 4320 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA. The cumulative effects of all enacted legislation on direct spending will be issued in monthly reports transmitted to the Congress.

ESTIMATES FOR PAY-AS-YOU-GO

[In millions of dollars]

	1992	1993	1994	1995	1996	1997	1992–97
Outlays	+(1)	+(1)	+(1)	+(1)	+(1)	+(1)	+(1)
Receipts	+(1)	+(1)	+(1)	+(1)	+(1)	+(1)	+(1)
Net Deficit: Increase (+) /decrease (−).	−(1)	+(1)	−(1)	−(1)	−(1)	−(1)	+(1)

[1] Less than $500,000.

Mr. DAVIS. Mr. Speaker, I am a strong advocate of the bill and the committee amendment supported by the Merchant Marine and Fisheries Committee. It combines the best of the bills authored by Chairman STUDDS and Chairman HERTEL, and adds several ideas from a bill submitted to Congress by President Bush last month. It is a truly bipartisan effort.

The amendments to the National Marine Sanctuary Program in H.R. 4310 will make designation of new sanctuaries easier and, once designated, will strengthen existing educational uses and provide greater protection of sanctuary resources. I am pleased that the proposed Thunder Bay sanctuary in Lake Huron—the first freshwater national marine sanctuary—will be able to take advantage of these improvements.

In addition, I thank Chairman HERTEL for including in the committee amendment a measure I authored which creates a pilot program to help increase funding for management of national marine sanctuaries.

My amendment authorizes the creation of a marine sanctuaries logo and initiates a pilot program that will allow solicitation of corporate sponsorship fees for use of that logo. It will allow for the designation of official sponsors of the marine sanctuary program, and the fees raised from official sponsors will go directly to the sanctuary program.

The amendment is written to ensure that the logo and sponsorship designation are used only in a manner consistent with the overall objectives of the sanctuary program. We do not want this pilot program to detract in any way from the high regard in which the sanctuary program is held. In addition, the amendment expressly prohibits sponsors from having any undue influence on sanctuary policy.

The best analogy, I believe, is to the United States Olympic Committee [USOC]. In the mid-1980's, in a search for increased revenues, the USOC developed an unprecedented sponsorship and licensing program. That program has progressed to the point where today 42 percent of the USOC's revenues—more than $125 million between 1988–92—comes from licensing and sponsorships.

I believe we can have similar success with the sanctuary program, and at the end of this pilot program we will know for sure. We are in an era of extraordinarily tight budgets, a time when we have no choice but to take innovative, creative steps. This amendment is such a step. I urge its adoption.

I look forward to quick passage of H.R. 4310 and the committee amendment.

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of H.R. 4310.

It is appropriate that the Congress take up a major reauthorization of this program during the year of its 20th anniversary. For many years, this program languished in administration indifference. Now, with renewed enthusiasm downtown and on the hill, the National Marine Sanctuary Program is finally coming into its own.

The committee is indebted to Mr. HERTEL for his enthusiasm and support for marine sanctuaries and for his leadership in bringing this bill before the house. Mr. STUDDS, Mr. DAVIS, and Mr. YOUNG have all shown great interest and leadership on this issue as well. Last, I would like to thank our colleagues LEON PANETTA and DANTE FASCELL, who are not committee members but who have been enthusiastic supporters of the program and strong advocates of marine resource protection in general.

The committee amendment before you enjoys strong bipartisan support from the Committee on Merchant Marine and Fisheries. The amendment strengthens the National Marine Sanctuary Program by clarifying and enhancing the purposes of the program and by providing NOAA with new authority to improve sanctuary management and to better protect sanctuary resources.

I urge my colleagues to support this legislation.

Mr. PANETTA. Mr. Speaker, I rise today in strong support of H.R. 4310, the National Marine Sanctuary Program Reauthorization and Improvement Act of 1992. I would like to commend Chairman JONES, Chairman HERTEL, and Chairman STUDDS for their diligent work on this legislation and thank them for their efforts on behalf of the Monterey Bay National Marine Sanctuary. The committee had made the Monterey Sanctuary designation a priority and its support has been invaluable.

The committee substitute contains two sections I authored to expedite the designation of the Monterey Sanctuary and require a study of Estero Bay in San Luis Obispo County, CA, for a possible national marine sanctuary designation.

Ensuring adequate protection for the Monterey Bay through a sanctuary designation has been one of my highest priorities since I was first elected to the Congress in 1976. The upcoming designation of the Monterey Sanctuary signals the final victory of a long, hard fought battle. With the support of this committee, we have overcome the resistance of two administrations and their attempts to stonewall a strong designation for Monterey Bay. After the Reagan administration effectively prohibited the designation of the Monterey Sanctuary through the administrative process, I introduced legislation to statutorily mandate the designation of the Monterey Sanctuary. This legislation was entered into law in 1988 and required the designation of the Monterey Sanctuary by the end of 1989.

Obviously, this designation is long overdue. Much of the delay associated with the Monterey site has been due to the national marine sanctuary program's unfortunate lack of resources. Many months have been lost however due to conflicts within the administration concerning the strength and effectiveness of the sanctuary designation. For example, in 1990 I engaged in a 6-month battle with the administration who refused to accept a proposed oil and gas ban for the Monterey Sanctuary. While we were eventually successful in securing this ban, valuable time was wasted deciding whether to allow oil and gas activities in a national marine sanctuary, a decision that never should have been an issue.

The National Oceanic and Atmospheric Administration [NOAA] released the final environmental impact statement/management plan—management plan—for the Monterey Sanctuary in June and I expect the final designation notice for Monterey will be released in mid-August. Unfortunately, there are not enough legislative days left in the session for the Congress to complete its review period of the designation notice prior to its adjournment in October. Section 32 of the legislation considered today would mandate the designation of the Monterey Bay National Marine Sanctuary by September 18, 1992—with the largest boundary alternative and an oil and gas prohibition—but would preserve the Congress and State of California's right to review and amend the rest of the Monterey Sanctuary regulations per section 304 of the Marine Protection, Resources and Sanctuaries Act [MPRSA].

It is important that the legislation protects Congress' right to amend the Monterey Sanctuary regulations as I have concerns with some of the regulations, as proposed. While I am generally supportive of the management plan's provisions, I object to the management plan's unconditional exemption of potential dredge disposal sites being considered as part of the San Francisco Bay Long-Term Management Strategy from regulation under the sanctuary regime.

NOAA's ability to regulate the discharge of substances from beyond the boundaries of the

Sanctuary is one of the management plans most important terms, section 944.5(a)(3). Boundaries drawn on a map do not necessarily protect Sanctuary resources from the potential harmful effects of activities beyond its borders. In NOAA's defense, I would say it is possible that, due to the depth of the disposal site and the nature of the material being disposed, this proposed disposal site will not harm sanctuary resources. However, it would be my opinion that such a finding would be best determined during the permit review process for the disposal site, not prior to its selection. Furthermore, I am concerned that this exemption may set a weak precedent of NOAA's regulation of dredge disposal sites in future sanctuaries. At a minimum, NOAA should retain the authority to consult with the other appropriate agencies regulating this site.

Second, I remain concerned with the regulation of vessel traffic in the Monterey Sanctuary. Although vessel traffic is in the scope of regulations, the proposed regulations do not regulate vessel traffic upon designation. In my comments on the management plan, I encouraged NOAA to work with the U.S. Coast Guard to devise commercial vessel traffic lanes that would steer vessel traffic outside of the most sensitive areas.

If the issues of dredge disposal and vessel traffic regulations are not adequately addressed in the final designation document for the Monterey Sanctuary, I reserve the right to object to those terms of designation and will seek legislation to amend these regulations so they provide strong, adequate protection to the Monterey Bay.

Section 33 of the legislation considered today is a provision I authored to direct NOAA to undertake a study of Estero Bay and adjacent marine environments in San Luis Obispo County, CA to determine if the area warrants a national marine sanctuary designation.

Earlier this year, I introduced legislation, H.R. 3099, to designate this area as a national marine sanctuary. Ideally, I would have liked to enact the San Luis Obispo designation as part of the program reauthorization. It does not appear, however, that enacting such legislation would be possible at this time. Realizing that, I have decided to pursue the San Luis Obispo designation through the enactment of this amendment.

Given the large variety of significant and sensitive marine resources in Estero Bay, I am confident the study will conclude that the area warrants a sanctuary designation. It is my hope that this study will provide us with the documentation needed to achieve that eventual designation.

I would also point out to my colleagues that in the interest of conserving NOAA's financial resources, my amendment requires that one-half of the study be funded by non-Federal sources.

It is my belief that the marine area of the central coast of California noted in this amendment possesses the ecological, historical, recreational, and educational qualities noted above which make it an area of national significance and a beneficial addition to the national marine sanctuary program.

This coastal area represents one of the most significant marine ecosystems along the Nation's west coast. It has a rich variety of sensitive coastal habitats including significant wetlands and estuaries as well as rocky intertidal zones and subtidal rocky reef communities. The area is home to many threatened and endangered species including the California sea otter, seven endangered species of whale, and four species of sea turtles, and is also a major feeding and resting area for migratory birds protected under international treaties.

Mr. Chairman, Estero Bay is an important, significant, and sensitive marine resource worthy of consideration for inclusion in the national marine sanctuary program. I urge my colleagues to aid this effort and to ensure the timely designation of the Monterey Bay National Marine Sanctuary by supporting this legislation.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 4310, the National Marine Sanctuaries Reauthorization and Improvement Act. Through hard work the committee has produced legislation that is a good compromise and will enhance the success of the program.

The National Marine Sanctuaries Program protects our vital marine resources from degradation, provides important natural research laboratories, and helps educate the public concerning the coastal oceans, as well as provides recreational opportunities.

I am particularly pleased that the legislation increases the authorization level of the program. This increase is crucial if the program is to meet its goal of sustaining, conserving and replenishing the natural and functional diversity of significant and ecologically representative marine areas.

I am also pleased that the legislation streamlines the designation process, broadens the criteria for designation and strengthens enforcement.

Further, the management of marine sanctuaries is a particularly difficult task as we must balance economic considerations with recreational and conservational uses. This bill goes a long way to achieving this balance.

The National Marine Sanctuaries Reauthorization bill will enhance the program's ability to maintain the health and integrity of a variety of ecosystems in our coastal, ocean and Great Lakes regions.

I offer my strongest support for its passage and urge my colleagues to do the same.

Mrs. MINK. Mr. Speaker, I rise today in strong support of H.R. 4310, legislation to reauthorize and improve the National Marine Sanctuaries Program.

Since 1972, when Congress passed the National Marine Protection, Research, and Sanctuaries Act, this valuable program has undertaken a formidable task—the protection of special areas of the marine environment for conservation and multiple use. And it has done this despite the fact that like so many other Federal programs, it received a low priority throughout the 1980's. In fact, the administration's support was so meager through these years that the policies and purpose of the enacting legislation were threatened because such limited resources were made available to carry them out.

I am truly gratified to see the Congress acting to give the Marine Sanctuaries Program the funding it needs to fulfill its mission.

In my home State of Hawaii we are well aware that effective marine conservation is an essential building block of our economy and our future. Without it, we risk losing the fishing and tourism industries that have served so well and so long as our economic foundation. The sanctuaries program is a solid contributor to the goal of dependable marine conservation, and it should be improved and expanded.

This legislation is also particularly important for my district because it includes the National Humpback Whale Marine Sanctuary in Hawaiian waters. The humpback whale is on the endangered species list and its population is declining. The new sanctuary in the waters surrounding the island of Kahoolawe, and adjacent to the islands of Maui, Molokai, and Lanai, will protect the breeding, calving, and nursing areas of these beautiful creatures.

My only regret about this bill is that in designating the Humpback Whale Marine Sanctuary we have not included the waters around the island of Kauai. We know well that the humpback whales live and frolic under the watchful eye of the national wildlife refuge at Kilauea Point. The bill is deficient in that we don't include this region. I also would like to someday see the sanctuary expanded to include other species of marine life.

For too long we have neglected the magnificent animals in our oceans, and it is imperative that we reverse the trend. H.R. 4310 does this and more; it is with great enthusiasm that I join my colleagues in support of this legislation.

Mr. LANCASTER. Mr. Speaker, I rise in strong support of the National Marine Sanctuaries Reauthorization Act of 1992. I would like to particularly address my colleagues' favorable attention to section 14 of the bill, which authorizes the Secretary to make a grant for the acquisition of appropriate facilities for display and interpretation of the artifacts recovered from the Graveyard of the Atlantic off Cape Hatteras, NC.

The location of such a museum at Hatteras, NC, would be beneficial to the local economy and a great honor to the local people, many of whom are direct descendents of shipwreck survivors whose vessels went down in storms and battles and pirate raids in the Graveyard of the Atlantic. Others manned the life saving stations—later Coast Guard Stations—that protected the lives of those whose ships perished in these treacherous waters. No location would be more appropriate, and no location would better enhance the historical significance of these artifacts from ships that sailed during the formative years of our Nation.

Mr. Speaker, I commend my fellow members of the Committee on Merchant Marine and Fisheries, especially Chairman WALTER JONES, for their hard work and good judgment in this bipartisan effort to improve our National Marine Sanctuaries program and to preserve and enhance or priceless marine heritage and resources.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 4310, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to reauthorize and improve the national marine sanctuaries program, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FAA CIVIL PENALTY ADMINISTRATIVE ASSESSMENT ACT OF 1992

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5481) to amend the Federal Aviation Act of 1958 relating to administrative assessment of civil penalties, as amended.

The Clerk read as follows:

H.R. 5481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "FAA Civil Penalty Administrative Assessment Act of 1992".

SEC. 2. ADMINISTRATIVE ASSESSMENT.

(a) IN GENERAL.—Section 901(a)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)(3)) is amended to read as follows:

"(3) ADMINISTRATIVE ASSESSMENT.—

"(A) GENERAL AUTHORITY.—Upon written notice and finding of a violation by the Administrator, the Administrator or the delegate of the Administrator, may assess a civil penalty for a violation of title III, V, VI, or XII or section 1101 or 1115(e)(2)(B) or any rule, regulation, or order issued thereunder.

"(B) NO REEXAMINATION OF LIABILITY OR AMOUNT.—In the case of a civil penalty assessed by the Administrator under this paragraph, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

"(C) CONTINUING JURISDICTION OF DISTRICT COURTS.—Notwithstanding subparagraph (A), the United States district courts shall have exclusive jurisdiction of any civil penalty initiated by the Administrator—

"(i) which involves an amount in controversy in excess of $50,000;

"(ii) which is an in rem action or in which an in rem action based on the same violation has been brought;

"(iii) regarding which an aircraft subject to lien has been seized by the United States; and

"(iv) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

"(D) PROCEDURES WITH RESPECT TO VIOLATIONS BY PILOTS, FLIGHT ENGINEERS, MECHANICS, AND REPAIRMEN.—

"(i) NOTICE OF CHARGES.—Before issuing an order assessing a civil penalty under this paragraph against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman, the Administrator shall advise such person of the charges or any reasons relied upon by the Administrator for the proposed action and shall provide such person an opportunity to answer any charges and be heard as to why such order should not be issued.

"(ii) APPEAL TO NTSB.—Any person acting in the capacity of a pilot, flight engineer, mechanic, or repairman against whom an order assessing a civil penalty is issued by the Administrator under this paragraph may appeal the order to the National Transportation Safety Board, and the Board shall, after notice and a hearing on the record in accordance with section 554 of title 5, United States Code, affirm, modify, or reverse the order of the Administrator.

"(iii) WEIGHT AFFORDED TO FINDINGS AND INTERPRETATIONS OF FAA.—In the conduct of its hearings under this subparagraph, the National Transportation Safety Board shall not be bound by any findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations administered by the Federal Aviation Administration and of written agency policy guidance available to the public relating to sanctions to be imposed under this subsection unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in accordance with law. The Board may, consistent with this subsection, modify the type of sanctions to be imposed from assessment of a civil penalty to suspension or revocation of a certificate.

"(iv) EFFECT OF FILING OF APPEAL.—The filing of an appeal of an order of the Administrator with the National Transportation Safety Board under this subparagraph shall stay the effectiveness of the order.

"(v) JUDICIAL REVIEW.—A person substantially affected by an order of the National Transportation Safety Board under this subparagraph or the Administrator, in any case in which the Administrator determines that such an order will have a significant adverse impact on the implementation of this Act, may obtain judicial review of such order under the provisions of section 1006 of this Act. The Administrator shall be a party to all proceedings for judicial review under this clause. In any such proceedings, the findings of fact of the Board shall be conclusive if supported by substantial evidence.

"(E) PROCEDURES WITH RESPECT TO VIOLATIONS BY OTHER PERSONS.—

"(i) GENERAL PROCEDURES.—A civil penalty may be assessed against any person (other than a person acting in the capacity of a pilot, flight engineer, mechanic or repairman) by the Administrator under this paragraph only after notice and an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(ii) STANDARD OF REVIEW.—In any appeal from a decision of an administrative law judge, the Administrator shall consider only the following issues:

"(I) Whether each finding of fact is supported by a preponderance of reliable, probative, and substantial evidence.

"(II) Whether each conclusion of law is made in accordance with applicable law, precedent, and public policy.

"(III) Whether the administrative law judge committed any prejudicial errors that support the appeal.

"(iii) TIME FOR COMMENCING PROCEEDING.—Except where good cause exists, a civil penalty action shall not be initiated under this subparagraph after 2 years from the date the violation occurred.

"(F) LIMITATION ON APPLICABILITY.—This paragraph only applies to violations occurring on or after the date of the enactment of the FAA Civil Penalty Administrative Assessment act of 1992.

"(G) MAXIMUM AMOUNT.—The maximum amount of a civil penalty which may be assessed by the Administrator or the National Transportation Safety Board under this paragraph may not exceed $50,000.

"(H) DEFINITIONS.—In this paragraph, the following definitions apply:

"(i) FLIGHT ENGINEER.—The term 'flight engineer' means a person who holds a flight engineer certificate issued under part 63 of title 14 of the Code of Federal Regulations.

"(ii) MECHANIC.—The term 'mechanic' means a person who holds a mechanic certificate issued under part 65 of title 14 of the Code of Federal Regulations.

"(iii) PILOT.—The term 'pilot' means a person who holds a pilot certificate issued under part 61 of title 14 of the Code of Federal Regulations.

"(iv) REPAIRMEN.—The term 'repairman' means a person who holds a repairman certificate issued under part 65 of title 14 of the Code of Federal Regulations.".

(b) REPEAL OF DEMONSTRATION PROGRAM.—Section 905 of such Act (49 U.S.C. App. 1475) is repealed.

(c) CONTINUATION OF FORMER PROGRAMS WITH RESPECT TO PREENACTMENT VIOLATIONS.—Notwithstanding subsections (a) and (b) of this section, sections 901(a)(3) and 905 of the Federal Aviation Act of 1958 as in effect on July 31, 1992, shall continue in effect on and after such date of enactment with respect to violations of the Federal Aviation Act of 1958 occurring before such date of enactment.

SEC. 3. CONFORMING AMENDMENTS TO REVOCATION OF CERTIFICATES PROCEDURE.

(a) GENERAL AUTHORITY.—Section 609(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429(a)) is amended—

(1) by striking the fifth sentence and inserting the following: "In the conduct of its hearings under this subsection, the Board shall not be bound by any findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations administered by the Federal Aviation Administration and of written agency policy guidance available to the public relating to sanctions to be imposed under

this subsection unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in accordance with law. The Board may, consistent with this subsection, modify the type of sanction to be imposed from suspension or revocation of a certificate to assessment of a civil penalty."; and

(2) by striking the last sentence and inserting the following: "A person substantially affected by an order of the Board under this subsection, or the Administrator in any case in which the Administrator determines that such an order will have a significant adverse impact on the implementation of this Act, may obtain judicial review of such order under the provisions of section 1006 of this Act. The Administrator shall be a party to all proceedings for judicial review under this subsection. In any such proceeding, the findings of fact of fact of the Board shall be conclusive if supported by substantial evidence.".

(b) CONTROLLED SUBSTANCE ACTIVITIES.—Section 609(c)(3) of such Act is amended—

(1) by striking the third sentence and inserting the following: "In the conduct of its hearings under this paragraph, the Board shall not be bound by any findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations administered by the Federal Aviation Administration and of written agency policy guidance available to the public relating to sanctions to be imposed under this subsection unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in accordance with law."; and

(2) by striking the last sentence and inserting the following: "A person substantially affected by an order of the Board under this paragraph, or the Administrator in any case in which the Administrator determines that such an order will have a significant adverse impact on the implementation of this Act, may obtain judicial review of such order under the provisions of section 1006 of this Act. The Administrator shall be a party to all proceedings for judicial review under this paragraph. In any such proceeding, the findings of fact of the Board shall be conclusive if supported by substantial evidence.".

SEC. 4 CONFORMING AMENDMENT TO ISSUANCE OF CERTIFICATE PROCEDURE.

Section 602(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1422(b)(1)) is amended by inserting "but shall be bound by all validly adopted interpretations of laws and regulations administered by the Federal Aviation Administration unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in accordance with law" after "findings of fact of the Administrator.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Speaker, H.R. 5481 would permanently reauthorize FAA's authority to assess civil penalties for violations of Federal aviation regulations. Congress first approved this authority for the FAA in 1987 on an experimental basis and twice approved temporary extensions of that authority. This legislation will fix civil penalty authority permanently in statutory law. Civil penalty authority is used quite commonly throughout the executive branch by a number of agencies which administer more than 200 civil penalty statutes similar to this one. Civil penalties in the field of aviation are an important tool in promoting aviation safety and security.

One important example of how the FAA has effectively used its civil penalty authorities in the area of airline security, which represents 32 percent of all the penalty cases in the air carrier security program under this initiative are tested by FAA employees who try to slip through air carrier x-ray machines and metal detectors simulated weapons. Since 1988 the policy of the FAA has been to seek a civil penalty whenever an airline failed to detect one of those test objects. The airlines have been quite vocal in the opposition to the use of civil penalties to enforce security compliance, yet the record clearly shows that there is no denying that carrier detection rates have improved by almost 20 percentage points, from 76 percent to 95 percent, when our strict security enforcement policy was backed up with swift and effective adjudication.

Although security is the most obvious example of the civil penalty program, the record shows generally that swift and sure enforcement serves as a detriment to potential violators in other areas of aviation as well. Small civil penalty cases ought to be handled by the FAA rather than by the Federal courts. We first made that observation and determination and gave the FAA civil penalty authority in 1977 because we found that the U.S. District Courts, which previously held the civil penalty authority, and U.S. attorneys were overburdened and cannot give adequate attention to the relatively small civil penalty cases which began to backlog and build up in large numbers. The FAA has administered the civil penalty program efficiently and fairly. The Administrative Conference of the United States [ACUS] commissioned a study of the FAA civil penalty program, which was conducted by Professor Perritt, a professor at Villanova University Law School. ACUS endorsed the conclusion of Professor Perritt that there was "no evidence of actual unfairness or mishandling of cases resulting from commingling prosecutorial and judging functions under the present system." Indeed, in 32 percent of cases which an independent ALJ decided in favor of the FAA prosecutors, the FAA Administrator reversed the ALJ's decision.

That this bill comes before the House on the Suspension Calendar which is normally reserved for relatively noncontroversial legislation, Mr. Speaker, belies both the complexity of the issues covered by the law and the controversy attending the implementation of civil penalties, as evidenced by the several hearings the subcommittee has held on the subject, the complex and often contentious markups in subcommittee and full committee. But the bill now before us makes adjustments in the program to accommodate concerns raised by aviation groups. With these changes, Mr. Speaker, the organizations representing airline pilots, airline mechanics, general aviation pilots and the airlines themselves now support the bill.

□ 1650

In other words, it has not been easy getting to this point.

As recommended by ACUS, the bill gives pilots and flight engineers the right to appeal civil penalties to the National Transportation Safety Board. The bill also meets concerns raised by the airlines by continuing the provisions in existing law that limit PAA's penalty authority to only those penalties of under $50,000. In larger cases, airlines and other respondents will continue to have the right to a judicial hearing before a civil penalty is imposed.

The bill also includes amendments which will incorporate into the statute two provisions now in FAA rules. The first of these establishes the standards by which the Administrator will review decisions of an ALJ. Under this provision, the Administrator in reviewing an ALJ decision shall consider: First, whether each finding of fact is supported by a preponderance of reliable, probative, and substantial evidence; second, whether each conclusion of law is made in accordance with applicable law, precedent, and public policy; and, third, whether the administrative law judge committed any prejudicial errors that support the appeal.

The second establishes a statute of limitations for bringing civil penalty proceedings of 2 years from the date the violation occurred.

The majority of cases remaining in the program are security cases against individuals, carriers, and airports. It is important that the FAA retain these cases since the National Transportation Safety Board does not have any expertise in security matters.

Mr. Speaker, I want to take this opportunity to express my appreciation to the ranking member of the subcommittee, the gentleman from Pennsylvania [Mr. CLINGER], and the ranking member of the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], who have labored mightly throughout many long weeks to bring about the compromise that results in the legislation today and results in our being able to bring this bill under suspension rather than on an open rule, where I am sure we would have had a very long debate had the principal issues not been ironed out as they have been beforehand.

Mr. Speaker, I also want to express my appreciation to Secretary of Transportation Card and to the FAA, to Administrator Tom Richards and General Counsel Quinn, who have devoted a great deal of their time, many, many hours of time and debate and discussion, in ironing out these problems and bringing us to a program that I really believe is going to be effective and workable.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when we first authorized the Civil Penalty Demonstration Program 5 years ago, we did not fully appreciate the storm of controversy it would create. At that time, we were mainly concerned about the inefficiency of forcing the FAA to work through the U.S. Attorney's Office every time it wanted to impose a fine.

The civil penalty program we adopted allowed the FAA to prosecute small civil penalties itself, without having to go into court. Because it was a new program, we authorized it for only a 2-year trial period to see how it would work.

In fact, it turned out to be very controversial. Airlines and pilots strongly opposed it and sought its termination or at least substantial modifications.

To address the concerns that had been raised, we extended the program and asked for a study by the administrative conference. The administrative conference is the expert on these sorts of questions involving administrative law and procedure.

The administrative conference completed the study last January and filed its report. It is a very extensive and scholarly piece of work and the conference is to be commended for the job it has done.

The report makes a number of recommendations, most of which tend to vindicate the FAA's handling of the program. However, it did include one recommendation that is controversial. That is, the recommendation that only cases involving pilots and flight engineers should be transferred to the NTSB.

Our aviation subcommittee held an extensive hearing on this subject where it heard the arguments of the pilots, the airlines, and the FAA. The issues were fully considered during markups in both the Aviation Subcommittee and the Public Works and Transportation Committee.

On balance, we concluded that the recommendation of the administrative conference is the correct approach. The conference is the expert on this sort of issue and it favored transferring only the pilot and flight engineer cases from the FAA to the NTSB.

However, we have modified this legislation somewhat in order to achieve enough support for passage. In committee, cases involving mechanics were added to those being transferred to the Safety Board.

In addition, the bill now retains the $50,000 cap on the penalty that can be assessed under this program. It also contains a 2-year statute of limitations and some restrictions on the FAA's ability to reverse the decision of an administrative law judge. But in most other respects, we have tried to follow the recommendations of the administrative conference.

One technical item requires some clarification. It concerns the Safety Board's review of FAA findings of fact and interpretation.

In the civil penalty cases for which it is responsible, the Safety Board is not required to accept the FAA's view of the facts of the case. On the other hand, it is bound to accept FAA's interpretation of its laws, regulations, and sanction policies that apply to the case.

I would like to make clear however, that if the Board finds that FAA is interpreting its laws and regulations, or implementing its sanction guidelines, in an arbitrary or capricious manner, then the Board is not obliged to follow the FAA's approach.

Mr. Speaker, this legislation had been very controversial. But I believe we have worked out the main differences now.

This bill will help avoid the potential for forum shopping and conflicts of interest on the part of the FAA. And most importantly, it will enhance safety by streamlining FAA enforcement and ensure fairness by giving the NTSB an important role to play in the process.

I would like to commend the chairman of the subcommittee, Mr. OBERSTAR, as well as the subcommittee ranking minority member, Mr. CLINGER, for their diligent efforts to bring the bill to the floor. I would also like to thank the chairman of the committee for expediting the measure through committee.

Therefore, I support the approach to the FAA's civil penalty program that is taken by this bill. I urge the House to support it as well.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to concur in the several observations and interpretations of the provisions of the bill as offered by the gentleman from Arkansas [Mr. HAMMERSCHMIDT]. I think our two statements round out and complete the interpretation of this very complex legislation.

Mr. Speaker, in closing I would like to further express appreciation to Deputy Secretary of Transportation Arthur Rothkopf, who has been in communication with us almost on a daily basis and given a great deal of his personal time to resolving many of these thorny and complex subjects, and to our colleagues on the subcommittee, the gentleman from North Carolina [Mr. VALENTINE] and the gentleman from Oklahoma [Mr. INHOFE], both of whom have had a very keen interest and have helped us work our way through some of the complexities of the bill on the policy side.

Mr. Speaker, I would like to express a very special appreciation for diligent and undying effort and commitment to professionalism to our staff, Mary Walsh, who bore the heat of the day on this issue, and David Heymsfeld, Charlie Ziegler, and David Schaeffer, all four of whom are probably very happy to see this bill passed on to the other body.

Mr. MCEWEN. I would like to take just a moment to commend the efforts of the distinguished chairman of the Aviation Subcommittee, Mr. OBERSTAR of Minnesota, and the ranking member, Mr. CLINGER of Pennsylvania, for bringing this important legislation to the floor of the House today. I would also like to express my personal thanks to my colleague from Oklahoma, Mr. INHOFE, and the gentleman from North Carolina, Mr. VALENTINE, for their efforts to include the transfer of appeals of all certificate cases from the FAA to the National Transportation Safety Administration.

As you may know, I recently introduced legislation, H.R. 5384, to transfer the appeal of civil penalties against any airman or air carrier to the NTSB. Thus, I am very pleased that the final legislation transfers to the NTSB cases involving pilots, flight engineers, mechanics and repairmen. This provision is a significant step forward, and I again commend the work of the chairman to address this issue here today.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 5481, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5517. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes, and

H.R. 5678. An act making appropriations for the Departments of Commerce, Justice and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5517) "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. BOND, Mr. GORTON and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5678) "An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SASSER, Mr. ADAMS, Mr. BYRD, Mr. RUDMAN, Mr. STEVENS, Mr. HATFIELD, Mr. KASTEN, and Mr GRAMM to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2624. An act to authorize appropriations for the Interagency Council on the Homeless, the Federal Emergency Management Food and Shelter Program, and for other purposes.

□ 1700

JUVENILE JUSTICE AND DELINQUENCY PREVENTION AMENDMENTS OF 1992

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5194) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Juvenile Justice and Delinquency Prevention Amendments of 1992".

TITLE I—AMENDMENTS TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 101. PURPOSE.

Section 102(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602(b)) is amended—

(1) by striking "and (4)" and inserting "(4)", and

(2) by inserting before the period at the end the following:

"; (5) to encourage parental involvement in treatment and alternative disposition programs; and (6) to provide for coordination of services between State, local, and community-based agencies and to promote interagency cooperation in providing such services".

SEC. 102. DEFINITIONS.

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) by amending paragraph (16) to read as follows:

"(16) the term 'valid court order' means a court order given by a juvenile court judge to a juvenile—

"(A) who was brought before the court and made subject to such order;

"(B) who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States;

"(C) with respect to whom an appropriate public agency (other than a court or law enforcement agency), before the issuance of such order—

"(i) reviewed the behavior of such juvenile and the circumstances under which such juvenile was brought before the court and made subject to such order;

"(ii) determined the reasons for the behavior that caused such juvenile to be brought before the court and made subject to such order;

"(iii) determined that all dispositions (including treatment), other than placement in a secure detention facility or a secure correctional facility, have been exhausted or are clearly inappropriate; and

"(iv) submitted to the court a written report stating the results of the review conducted under clause (i) and the determinations made under clauses (ii) and (iii);",

(2) in paragraph (17) by striking "and" at the end,

(3) in paragraph (18) by striking the period at the end and inserting a semicolon, and

(4) by adding at the end the following:

"(19) the term 'comprehensive and coordinated system of services' means a system that—

"(A) ensures that services and funding for the prevention and treatment of juvenile delinquency are consistent with policy goals of preserving families and providing appropriate services in the least restrictive environment so as to simultaneously protect juveniles and maintain public safety;

"(B) identifies, and intervenes early for the benefit of, young children who are at risk of developing emotional or behavioral problems because of physical or mental stress or abuse, and for the benefit of their families;

"(C) increases interagency collaboration and family involvement in the prevention and treatment of juvenile delinquency; and

"(D) encourages private and public partnerships in the delivery of services for the prevention and treatment of juvenile delinquency;

"(20) the term 'gender-specific services' means services designed to address needs unique to the gender of the individual to whom such services are provided;

"(21) the term 'hate crime' means an offense that manifests evidence of prejudice based on race, religion, sexual orientation, or ethnicity;

"(22) the term 'home-based alternative services' means services provided to a juvenile in the home of the juvenile as an alternative to incarcerating the juvenile, and includes home detention; and

"(23) the term 'jail or lockup for adults' means a locked facility that is used by a State, unit of local government, or any law enforcement authority to detain or confine adults—

"(i) pending the filing of a charge of violating a criminal law;

"(ii) awaiting trial on a criminal charge; or

"(iii) convicted of violating a criminal law.".

SEC. 103. ESTABLISHMENT OF OFFICE.

Section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b)) is amended—

(1) in the first sentence by striking "in juvenile justice programs" and inserting "as practitioners in the field of juvenile justice", and

(2) by striking the last sentence and inserting the following:

"There shall be a direct reporting relationship between the Administrator and the Attorney General. In the performance of the functions of the Administrator, the Administrator shall be directly responsible to the Attorney General. The Attorney General may not delegate any power, duty, or function vested under this title or title II in the Attorney General.".

SEC. 104. CONCENTRATION OF EFFORT.

(a) FUNCTIONS OF ADMINISTRATOR.—Section 204(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(a)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" after "(a)", and

(B) by striking "implement overall policy and develop objectives and priorities" and inserting "develop objectives, priorities, and a long-term plan, and implement overall policy and a strategy to carry out such plan,", and

(2) by adding at the end the following:

"(2)(A) Such plan shall—

"(i) contain specific goals and criteria for making grants and contracts, for conducting research, and for carrying out other activities under this title;

"(ii) provide for coordinating the administration programs and activities under this title with the administration of all other Federal juvenile delinquency programs and activities, including proposals for joint funding to be coordinated by the Administrator.

"(B) The Administrator shall review such plan annually, revise such plan as the Administrator considers appropriate, and publish such plan in the Federal Register—

"(i) not later than 240 days after the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1992, in the case of the initial plan required by paragraph (1); and

"(ii) except as provided in clause (i), in the 30-day period ending on October 1 of each year.".

(b) DUTIES.—Section 204(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(b)) is amended—

(1) in paragraph (5) by striking "and" at the end,

(2) in paragraph (6) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(7) not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1992, issue model standards for providing health care to incarcerated juveniles.".

(c) REPEALER.—Section 204 the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended by striking subsections (f) and (g).

SEC. 105. COORDINATING COUNCIL.

Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "the Director of the Office of Community Services" and all that follows through the period, and inserting the following:

"the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of Drug Abuse Policy, the Director of the ACTION Agency, and individuals appointed under paragraph (2).", and

(B) by amending paragraph (2) to read as follows:

"(2)(A) Nine members shall be appointed, without regard to political affiliation, to the Council in accordance with this paragraph from among individuals who are practitioners in the field of juvenile justice and who are not officers or employees of the United States.

"(B)(i) Three members shall be appointed by the Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives.

"(ii) Three members shall be appointed by the majority leader of the Senate, after consultation with the minority leader of the Senate.

"(iii) Three members shall be appointed by the President.

"(C)(i) Of the members appointed under each of clauses (i), (ii), and (iii)—

"(I) 1 shall be appointed for a term of 1 year;

"(II) 1 shall be appointed for a term of 2 years; and

"(III) 1 shall be appointed for a term of 3 years;

as designated at the time of appointment.

"(ii) Except as provided in clause (iii), a vacancy arising during the term for which an appointment is made may be filled only for the remainder of such term.

"(iii) After the expiration of the term for which a member is appointed, such member may continue to serve until a successor is appointed.",

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)",

(B) in the second sentence by inserting "shall examine how the separate programs can be coordinated among Federal, State, and local governments to better serve at-risk children and juveniles and" after "Council"

(C) by adding at the end thereof the following:

"(2) In addition to performing their functions as members of the Council, the members appointed under subsection (a)(2) shall collectively—

"(A) make recommendations regarding the development of the objectives, priorities, and the long-term plan, and the implementation of overall policy and the strategy to carry out such plan, referred to in section 204(a)(1); and

"(B) not later than 180 days after the date of the enactment of the Juvenile Justice and Delinquency Prevention Act of 1992, submit such recommendations to the Administrator, the Chairman of the Committee on Education and Labor of the House of Representatives, and the Chairman of the Committee on the Judiciary of the Senate.", and

(3) in subsection (f)—

(A) by inserting after "(f)" the following: "Members appointed under subsection (a)(2) shall serve without compensation.", and

(B) by striking "who are employed by the Federal Government full time".

SEC. 106. ANNUAL REPORT.

Section 207(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617(1) is amended—

(1) in subparagraph (D)—

(A) by inserting "(including juveniles treated as adults for purposes of prosecution)" after "juveniles", and

(B) by striking "and" at the end,

(2) in subparagraph (E) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(F) the educational status of juveniles, including information relating to learning disabilities, failing performance, grade retention, and dropping out of school.".

SEC. 107. ALLOCATION.

The first sentence of section 222(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(c)) is amended by striking "and evaluation" and inserting ", evaluation, and one full-time staff position".

SEC. 108. STATE PLAN.

(a) PLAN REQUIREMENTS.—Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended—

(1) in paragraph (3)(B) by inserting "recreation," after "special education,",

(2) in paragraph (8)(A) by inserting "(including educational needs)" after "delinquency prevention needs" each place it appears,

(3) in paragraph (9) by inserting "recreation," after "special education,"

(4) in paragraph (10)—

(A) in subparagraph (A) by inserting "(including home-based alternative services)" after "services" the first place it appears,

(B) by amending subparagraph (B) to read as follows:

"(B) community-based programs and services designed to work with—

"(i) parents and other family members to maintain and strengthen the family unit so that juveniles may be retained in their homes; and

"(ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the family unit;"

(C) in subparagraph (C)—

(i) by striking "youth" the second and third places it appears and inserting "juveniles", and

(ii) by striking "delinquents" and inserting "delinquent juveniles",

(D) in subparagraph (D) by striking "youth" and inserting "juveniles",

(E) by amending subparagraph (E) to read as follows:

"(E) educational programs and supportive services designed—

"(i) to encourage delinquent juveniles and other juveniles to remain in elementary and secondary schools or in alternative learning situations, including programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education provides; and

"(ii) enhance coordination with the local schools such juveniles would otherwise attend, to ensure that—

"(I) the instruction such juveniles receive outside such schools is closely aligned with the instruction provided in such schools; and

"(II) information regarding any learning problems identified in such alternative learning situations are communicated to such schools;",

(F) in subparagraph (F) by striking "youth" and inserting "juveniles",

(G) in subparagraph (G)—

(i) by striking "youth" each place it appears and inserting "juveniles", and

(ii) by inserting "(including juveniles with limited-English speaking ability)" before "who",

(H) in subparagraph (H)—

(i) in clause (iv) by inserting "(including home-based treatment programs)" after "facilities", and

(ii) in clause (v) by inserting before the semicolon at the end the following:

", with special emphasis on involving parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability",

(I) in subparagraph (I) by striking "learning disabled and other handicapped juveniles" and inserting "juveniles who are learning disabled or otherwise handicapped or who have educational problems",

(J) in subparagraph (K) by striking "and" at the end,

(K) by adding at the end the following:

"(M) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of the family unit; and

"(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration;",

(5) in paragraph (12)(B)(i) by striking "child" and inserting "juvenile",

(6) in paragraph (13)—

(A) by striking "youths" and inserting "juveniles",

(B) by striking "regular", and

(C) by inserting before the semicolon at the end "or with the part-time or full-time security staff (including management) or direct-care staff of a jail or lockup for adults",

(7) in paragraph (14) by striking "provide that" and all that follows through "1980.",

(8) in paragraph (17)—

(A) by striking "and other youth" and inserting "juveniles and other juveniles",

(B) by striking ". Such" and inserting "(such", and

(C) by inserting before the semicolon the following:

"and should include providing family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible)",

(9) in paragraph (19) by striking "this Act" each place it appears and inserting "this title",

(10) by redesignating paragraph (24) as paragraph (28),

(11) in paragraph (23) by striking "and" at the end,

(12) by redesignating paragraphs (9) through (23) as paragraphs (12) through (26), respectively,

(13) by inserting after paragraph (8) the following:

"(9) contain—

"(A) an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services for females; and

"(B) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

"(10) contain—

"(A) an analysis of services for the prevention and treatment of juvenile delinquency in rural areas, including the need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services ; and

"(B) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas;

"(11) contain—

"(A) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

"(B) a plan for providing needed mental health services to juveniles in the juvenile justice system;", and

(14) by inserting after paragraph (26), as so redesignated, the following:

"(27) provide an assurance that if the State receives under section 222 for any fiscal year an amount that exceeds 105 percent of the amount the State received under such section for fiscal year 1992, all of such excess shall be expended through or for programs that are part of a comprehensive and coordinated community system of services; and".

(b) APPROVAL OF PLAN; REDUCTION OR TERMINATION OF FUNDS.—Section 223(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(c)) is amended to read as follows:

"(c)(1) Subject to paragraph (2), the Administrator shall approve any State plan, and any modification thereof, that meets the requirements of this section.

"(2) If a State fails to comply with the requirements of paragraph (12)(A), (13), (14), or (23) in any fiscal year beginning after January 1, 1993, then—

"(A) subject to subparagraph (B), the amount allotted under section 222 to the State for such fiscal year shall be reduced by 25 percent for each such paragraph with respect which to noncompliance occurs; and

"(B) the State shall be ineligible to receive any allotment under such section for such fiscal year unless—

"(i) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with subsections (c) and (d) of section 222 and with section 223(a)(5)(C)) for such fiscal year only to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

"(ii) the Administrator determines, in the discretion of the Administrator, that the State has—

"(I) achieved substantial compliance with each such paragraph with respect to which the State is in noncompliance; and

"(II) made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time.".

(c) LACK OF APPROVED STATE PLAN.—Section 223(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(d)) is amended—

(1) in the first sentence—

(A) by inserting ", excluding funds the Administrator shall make available to satisfy the requirement specified in section 222(d)," after "section 222(a)", and

(B) by striking "the purposes of subsection (a)(12)(A), subsection (a)(13), or subsection (a)(14)" and inserting "activities of the kinds described in paragraphs (12)(A), (13), (14), and (23) of subsection (a)", and

(2) in the last sentence by striking "under subsection" and all that follows through "subsection (a)(13)", and inserting the following: "of paragraphs (12)(A), (13), (14), and (23)".

SEC. 109. INFORMATION FUNCTION.

Section 242(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5652(3)) is amended by inserting "(including drug and alcohol programs and gender-specific programs)" after "treatment programs".

SEC. 110. RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS.

Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5663) is amended—

(1) by striking "The" and inserting "(a) The",

(2) in paragraph (8) by striking "and" at the end,

(3) in paragraph (9) by striking the period at the end and inserting a semicolon, and

(4) by adding at the end the following:

"(10) support research related to achieving a better understanding of the commission of hate crimes by juveniles and designed to identify educational programs best suited to prevent and reduce the incidence of hate crimes committed by juveniles; and

"(11) routinely collect, analyze, compile, publish, and disseminate uniform national statistics concerning—

"(A) all aspects of juveniles as victims and offenders;

"(B) the processing and treatment, in the juvenile justice system, of juveniles who are status offenders, delinquent, neglected, or abused; and

"(C) the processing and treatment of such juveniles who are treated as adults for purposes of the criminal justice system.

"(b) The Administrator shall make available to the public—

"(1) the results of evaluations and research and demonstration activities referred to in subsection (a)(6); and

"(2) the data and studies referred to in subsection (a)(7);

that the Administrator is authorized to disseminate under subsection (a).".

SEC. 111. TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.

Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(1) in paragraph (2) by inserting "(including juveniles who commit hate crimes)" after "offenders",

(2) in paragraph (3) by striking "and" at the end,

(3) in paragraph (4) by striking the period at the end and inserting "; and", and

(4) by adding at the end the following:

"(5) provide technical assistance and training to assist States and units of general local government to adopt the model standards issued under section 204(b)(7).".

SEC. 112. ESTABLISHMENT OF TRAINING PROGRAM.

The first sentence of section 245 is amended by inserting before the period at the end the following: ", including methods and techniques specifically designed to prevent and reduce the incidence of hate crimes committed by juveniles".

SEC. 113. CURRICULUM FOR TRAINING PROGRAM.

Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660) is amended by inserting before the period at the end the following: "and shall include training designed to prevent juveniles from committing hate crimes".

SEC. 114. SPECIAL STUDIES AND REPORTS.

Section 248 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5662) is amended by adding at the end the following:

"(d)(1) Not later than 180 days after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1992, the Administrator shall begin to conduct a study of the incidence of violence committed by or against juveniles in urban and rural areas in the United States.

"(2) Such areas shall include—

"(A) the District of Columbia;

"(B) Los Angeles, California;

"(C) Milwaukee, Wisconsin; and

"(D) such other cities as the Administrator determines to be appropriate.

"(3) With respect to each area included in the study, the objectives of the study shall be—

"(A) to identify characteristics and patterns of behavior of juveniles who are at risk of becoming violent or victims of homicide;

"(B) to identify factors particularly indigenous to such area that contribute to violence committed by or against juveniles;

"(C) to determine the accessibility of firearms and the use of firearms by or against juveniles;

"(D) to determine the conditions that cause any increase in violence committed by or against juveniles;

"(E) to identify existing and new diversion, prevention, and control programs to ameliorate such conditions;

"(F) to improve current systems to prevent and control violence by or against juveniles; and

"(G) to develop a plan to assist State and local governments to establish viable ways to reduce homicide committed by or against juveniles.

"(4) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1992, the Administrator shall submit a report, to the Chairman of the Committee on Education and Labor of the House of Representatives and the Chairman of the Committee on the Judiciary of the Senate, detailing the results of the study addressing each objective specified in paragraph (3).

"(e)(1) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1992, the Administrator shall—

"(A) conduct a study described in paragraph (2), using data available from Federal, State, and local enforcement agencies, and

"(B) submit to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate the results of such study.

"(2) Such study shall assess—

"(A) the characteristics of juveniles who commit hate crimes, and to prepare a profile of such juveniles, based on—

"(i) the types of hate crimes committed;

"(ii) their motives for committing hate crimes;

"(iii) the extent to which such juveniles were influenced by publications and organized groups intended to encourage the commission of hate crimes; and

"(iv) the impact of their race, ethnic background, sex, age, neighborhood, and family income on such juveniles;

"(B) the characteristics of hate crimes committed by juveniles, including—

"(i) the types of such crimes;

"(ii) the number of individuals who participated with juveniles in committing such crimes;

"(iii) the types of law enforcement investigations conducted with respect to such crimes;

"(iv) the law enforcement proceedings commenced against juveniles for committing hate crimes; and

"(v) the penalties imposed on such juveniles as a result of such proceedings; and

"(C) the characteristic of the victims of hate crimes committed by juveniles, including—

"(i) a profile of such victims; and

"(ii) the frequency with which institutions and individuals, separately determined, were the targets of such crimes.".

SEC. 115. SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS.

Section 261 Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665) is amended—

(1) in subsection (a)—

(A) by striking "(a) The" and inserting "(a) Except as provided in subsection (f), the",

(B) in paragraph (1) by inserting "(including home-based treatment programs)" after "alternatives",

(C) in paragraph (4)—

(i) by inserting "(including self-help programs for parents)" after "programs", and

(ii) by inserting before the period at the end the following:

", including programs that work with families during the incarceration of juvenile family members and which take into consideration the special needs of families with limited-English speaking ability",

(D) in paragraph (6)—

(i) in subparagraph (C) by striking the period at the end and inserting a semicolon, and

(ii) by adding at the end the following:

"that targets juveniles who have had contact with the juvenile justice system or who are likely to have contact with such system.", and

(E) by adding at the end the following:

"(8) Establishing or supporting programs designed to prevent and to reduce the incidence of hate crimes committed by juveniles, including—

"(A) model educational programs that are designed to reduce the incidence of hate crimes by means such as—

"(i) addressing the specific prejudicial attitude of each offender;

"(ii) developing an awareness in such offender, of the effect of the hate crime on the victim; and

"(iii) educating such offender about the importance of tolerance in our society; and

"(B) sentencing programs that are designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration.",

(2) in subsection (b)—

(A) by striking "(b) The" and inserting "(b) Except as provided in subsection (f), the", and

(B) in paragraph (2) by inserting "to assist in identifying learning difficulties (including learning disabilities)," after "schools,", and

(3) by adding at the end the following:

"(f) The Administrator shall not make a grant or a contract under subsection (a) or (b) to the Department of Justice or to any administrative unit or other entity that is part of the Department of Justice.".

SEC. 116. CONSIDERATIONS FOR APPROVAL OF APPLICATIONS.

(i) Section 262(d)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665a(d)(1)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) The competitive process described in subparagraph (A) shall not apply to programs to be carried out in areas with respect to which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq) that a major disaster or emergency exists.", and

(2) by striking subparagraph (C).

SEC. 117. GANG-FREE SCHOOLS AND COMMUNITIES; COMMUNITY-BASED GANG INTERVENTION.

Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667–5667a) is amended to read as follows:

"PART D—GANG-FREE SCHOOLS AND COMMUNITIES; COMMUNITY-BASED GANG INTERVENTION

"Subpart I—Gang-Free Schools and Communities

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 281. (a) The Administrator shall make grants to or enter into contracts with public agencies (including local educational agencies) and private nonprofit agencies, organizations, and institutions to establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes:

"(1) To prevent and to reduce the participation of juveniles in the activities of gangs that commit crimes. Such programs and activities may include—

"(A) individual, peer, family, and group counseling, including the provision of life skills training and preparation for living independently;

"(B) education and social services designed to address the social and developmental needs of juveniles which such juveniles would otherwise seek to have met through membership in gangs;

"(C) the organization of neighborhood and community groups to work closely with parents, schools, law enforcement, and other public and private agencies in the community; and

"(D) training and assistance to adults who have significant relationships with juveniles who are or may become members of gangs, to assist such adults in providing constructive alternatives to participating in the activities of gangs.

"(2) To develop within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(3) To provide treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent.

"(4) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

"(5) To promote and support, with the cooperation of community-based organizations experienced in providing services to juveniles engaged in gang-related activities and the cooperation of local law enforcement agencies, the development of policies and activities in public elementary and secondary schools which will assist such schools in maintaining a safe environment conducive to learning.

"(6) To assist juveniles who are or may become members of gangs to obtain appropriate educational instruction, in or outside a regular school program, including the provision of counseling and other services to promote and support the continued participation of such juveniles in such instructional programs.

"(7) To expand the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substances analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802) by juveniles, provided through State and local health and social services agencies.

"(8) To provide services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity.

"(9) To support activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this subpart.

"(b) From not more than 15 percent of the amount appropriated to carry out this part in each fiscal year, the Administrator may make grants to and enter into contracts with public agencies and private nonprofit agencies, organizations, and institutions—

"(1) to conduct research on issues related to juvenile gangs;

"(2) to evaluate the effectiveness of programs and activities funded under subsection (a); and

"(3) to increase the knowledge of the public (including public and private agencies that operate or desire to operate gang prevention and intervention programs) by disseminating information on research and on effective programs and activities funded under this subpart.

"APPROVAL OF APPLICATIONS

"SEC. 282. (a) Any agency, organization, or institution desiring to receive a grant, or to enter into a contract, under this subpart shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application submitted under subsection (a) shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 281 and specifically identify each such purpose such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(6) describe how such program or activity is coordinated with programs, activities, and services available locally under parts B or C of this title, and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801–11805);

"(7) certify that the applicant has requested the State planning agency to review and comment on such application and summarizes the responses of such State planning agency to such request;

"(8) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency; and

"(9) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(c) In reviewing applications for grants and contracts under section 281(a), the Administrator shall give priority to applications—

"(1) submitted by, or substantially involving, local educational agencies (as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891));

"(2) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(3) for assistance for programs and activities that—

"(A) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in such geographical area; and

"(B) will substantially involve the families of juvenile gang members in carrying out such programs or activities.

"Subpart II—Community-Based Gang Intervention

"SEC. 285. (a) The Administrator shall make grants to or enter into contracts with public and private nonprofit agencies, organizations, and institutions to carry out programs and activities—

"(1) to reduce the participation of juveniles in the illegal activities of gangs;

"(2) to develop regional task forces involving State, local, and community-based organizations to coordinate enforcement, intervention, and treatment efforts for juvenile gang members and to curtail interstate activities of gangs; and

"(3) to facilitate coordination and cooperation among—

"(A) local education, juvenile justice, employment, and social service agencies; and

"(B) community-based programs with a proven record of effectively providing intervention services to juvenile gang members for the purpose of reducing the participation of juveniles in illegal gang activities.

"(b) Programs and activities for which grants and contracts are to be made under subsection (a) may include—

"(1) developing within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(2) providing treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent.

"(3) promoting the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

"(4) expanding the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substances analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802) by juveniles, provided through State and local health and social services agencies.

"(5) providing services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity; or

"(6) supporting activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this subpart.

"APPROVAL OF APPLICATIONS

"SEC. 286. (a) Any agency, organization, or institution desiring to receive a grant, or to enter into a contract, under this subpart shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application submitted under subsection (a) shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 285 and specifically identify each such purpose such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(6) describe how such program or activity is coordinated with programs, activities, and services available locally under parts B or C of this title, and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801–11805);

"(7) certify that the applicant has requested the State planning agency to review and comment on such application and summarizes the responses of such State planning agency to such request;

"(8) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency; and

"(9) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(c) In reviewing applications for grants and contracts under section 285(a), the Administrator shall give priority to applications—

"(1) submitted by, or substantially involving, community-based organizations experienced in providing services to juveniles;

"(2) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(3) for assistance for programs and activities that—

"(A) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in such geographical area; and

"(B) will substantially involve the families of juvenile gang members in carrying out such programs or activities.

"Subpart III—General Provisions

"DEFINITION

"SEC. 288. For purposes of this part, the term 'juvenile' means an individual who is less than 22 years of age.".

SEC. 118. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—The first sentence of section 291(a)(1) the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)(1)) is amended to read as follows: "There are authorized to be appropriated to carry out this title (other than part D) $150,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996.".

(b) PART D AUTHORIZATION.—Section 291(a)(2)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)(2)(A)) is amended to read as follows:

"(A)(i) Subject to subparagraph (B), there are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996 to carry out subpart I of part D.

"(ii) Subject to subparagraph (B), there are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996 to carry out subpart II of part D.".

TITLE II—AMENDMENTS TO THE RUNAWAY AND HOMELESS YOUTH ACT

SEC. 201. FINDINGS.

Section 302 of the Runaway and Homeless Youth Act (42 U.S.C. 5701) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) juveniles who leave and remain away from home without parental permission, are at risk of developing serious health and other problems because they lack sufficient resources to obtain care and may live on the street for extended periods thereby endangering themselves and creating a substantial law enforcement problem for communities in which they congregate;",

(2) in paragraph (4) by striking "and" at the end,

(3) in paragraph (5) by striking "temporary" and all that follows through the period at the end, and inserting "care (including preventive services, emergency shelter services, and extended residential shelter) outside the welfare system and the law enforcement system;"

(4) by adding at the end the following:

"(6) runaway and homeless youth have a disproportionate share of health, behavioral, and emotional problems compared to the general population of youth, but have less access to health care and other appropriate services;

"(7) early intervention services (such as home-based services) are needed to prevent runaway and homeless youth from becoming involved in the juvenile justice system and other law enforcement systems; and

"(8) street-based services that target runaway and homeless youth where they congregate are needed to reach youth who require assistance but who would not otherwise avail themselves of such assistance or services without street-based outreach.".

SEC. 202. AUTHORITY TO MAKE GRANTS.

(a) AUTHORITY.—Section 311(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(a)) is amended by striking "structure and" and inserting "system, the child welfare system, the mental health system, and".

(b) ALLOTMENT OF FUNDS.—Section 311(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(b)) is amended—

(1) in paragraph (2)—

(A) by striking "$75,000" and inserting "$100,000", and

(B) by striking "$30,000" and inserting "$45,000", and

(2) in paragraph (3) by striking "1988" each place it appears and inserting "1992".

(c) STREET-BASED SERVICES; HOME-BASED SERVICES.—Section 311 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended by striking subsection (c) and inserting the following:

"(c)(1) If for a fiscal year the amount appropriated under section 385(a)(1) exceeds $50,000,000, then the Secretary may make grants under this subsection for such fiscal year to entities that receive grants under subsection (a), to establish and operate street-based service projects for runaway and homeless youth on the street.

"(2) For purposes of this part—

"(A) the term 'runaway and homeless youth on the street' means an individual who—

"(i) is less than 22 years of age; and

"(ii) may obtain the means of survival by engaging in unlawful activity in a public place;

"(B) the term 'street-based service project' means a project that—

"(i) provides staff (including volunteers) to frequent public places in which runaway and homeless youth on the street congregate, for purposes of identifying, contacting, and establishing relationships with such youth;

"(ii) assesses the problems and service needs of runaway and homeless youth on the street contacted, and refers such youth to agencies and organizations that provide needed services;

"(iii) provides street-based crisis intervention and counseling to runaway and homeless youth on the street, or refers such youth to providers of needed crisis intervention services; and

"(iv) provides health education and disease prevention services to runaway and homeless youth on the street.

"(d)(1) If for a fiscal year the amount appropriated under section 385(a)(1) exceeds $50,000,000, then the Secretary may make grants for such fiscal year to entities that receive grants under subsection (a), to establish and operate home-based service projects for families that are separated, or at risk of separation, as a result of the physical absence of a runaway youth or youth at risk of family separation.

"(2) For purposes of this part—

"(A) the term 'home-based service project' means a project that provides—

"(i) case management; and

"(ii) in the family residence (to the maximum extent practicable)—

"(I) intensive, time-limited, family and individual counseling;

"(II) training relating to life skills and parenting; and

"(III) other services;

designed to prevent youth from running away from their families or to cause runaway youth or to return to their families;

"(B) the term 'youth at risk of family separation' means an individual—

"(i) who is less than 18 years of age;

"(ii) who has a history of running away from the family of such individual;

"(iii) whose parent, guardian, or custodian is not willing to provide for the basic needs of such individual; and

"(iv) who is at risk of entering the child welfare system or juvenile justice system, as a result of the lack of services available to the family to meet such needs; and

"(C) the term 'time-limited' means for a period not to exceed 6 months.".

SEC. 203. ELIGIBILITY.

(a) APPLICANTS.—Section 312(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(a)) is amended by inserting "(including a host family home)" after "facility".

(b) PLAN REQUIREMENTS.—Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(b)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) shall use such assistance to establish, to strengthen, or to fund a runaway and homeless youth center, or a locally controlled facility providing temporary shelter, that has—

"(A) a maximum capacity of not more than 25 youth and

"(B) a ratio of staff to youth that is sufficient to ensure adequate supervision and treatment;",

(2) in paragraph (3)—

(A) by striking "child's parents or relatives and assuring" and inserting "parents or other relatives of the youth and ensuring", and

(B) by striking "child" each place it appears and inserting "youth",

(3) by amending paragraph (4) to read as follows:

"(4) shall develop an adequate plan for ensuring—

"(A) proper relations with law enforcement personnel, social service personnel, health care personnel, school system personnel, and welfare personnel;

"(B) coordination with personnel of the schools to which runaway and homeless youth will return, to assist such youth to stay current with the curricula of such schools; and

"(C) the return of runaway and homeless youth from correctional institutions;",

(4) in paragraph (5)—

(A) by striking "aftercare" and all that follows through "assuring", and inserting "providing counseling and aftercare services to such youth, for encouraging the involvement of their parents or legal guardians in counseling, and for ensuring", and

(B) by striking "children" and inserting "youth",

(5) in paragraph (6) by striking "children and family members which it serves" and inserting "youth and family members whom it serves (including youth who are not referred to out-of-home shelter services)",

(6) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and

(7) by inserting after paragraph (5) the following:

"(6) shall develop an adequate plan for establishing outreach programs designed to attract individuals (including individuals who are members of a cultural minority and and individuals with limited English-speaking ability) who are eligible to receive services for which a grant under subsection (a) may be expended;".

(c) STREET-BASED SERVICES; HOME-BASED SERVICES.—Section 312 of the Runaway and Homeless Youth Act (42 U.S.C. 5712) is amended adding at the end the following:

"(c) To be eligible for assistance under section 311(c), an applicant shall propose to establish, strengthen, or fund a street-based service project for runaway and homeless youth on the street and shall submit to the Secretary a plan in which such applicant agrees, as part of such project —

"(1) to provide qualified supervision of staff, including on-street supervision;

"(2) backup personnel for on-street staff;

"(3) to provide informational and health educational material to runaway and homeless youth on the street in need of services;

"(4) to provide initial and periodic training of staff who provide services under such project;

"(5) to carry out outreach activities for runaway and homeless youth on the street and to collect statistical information on runaway and homeless youth on the street contacted through such activities;

"(6) to develop referral relationships with agencies and organizations that provide services or assistance to runaway and homeless youth on the street, including law enforcement, education, social services, vocational education and training, public welfare, legal assistance, and health care;

"(7) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds received under section 311(c), the achievements of the project under section 311(c) carried out by the applicant, and statistical summaries describing the number and the characteristics of the runaway and homeless youth on the street who participate in such project in the year for which the report is submitted;

"(8) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(9) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this subsection 311(c);

"(10) to keep adequate statistical records that profile runaway and homeless youth on the street whom it serves and not to disclose the identity such youth in reports or other documents based on such statistical records;

"(11) not to disclose records maintained on individual runaway and homeless youth on the street without the informed consent of the individual youth, to anyone other than an agency compiling statistical records; and

"(12) to provide to the Secretary such other information as the Secretary may reasonably require.

"(d) To be eligible for assistance under section 311(d), an applicant shall propose to establish, strengthen, or fund a home-based service project for runaway youth or youth at risk of family separation and shall submit to the Secretary a plan in which such applicant agrees, as part of such project —

"(1) to provide counseling and information services needed by runaway youth, youth at risk of family separation, and the family (including unrelated individuals in the family household) of such youth, including services relating to basic life skills, interpersonal skill building, educational advancement, job attainment skills, mental and physical health care, parent training, financial planning, and referral to sources of other needed services;

"(2) to provide directly, or through an arrangement made by the applicant, 24-hour service to respond to family crises (including immediate access to temporary shelter for runaway youth and youth at risk of family separation affected by family crises); and

"(3) to establish in partnership with the families of runaway youth and youth at risk of family separation, objectives and measures of success to be achieved as a result of participating in such project;

"(4) to provide informational and health educational material to runaway youth and youth at risk of family separation in need of services;

"(5) to provide initial and periodic training of staff who provide services under such project;

"(6) to carry out outreach activities for runaway youth and youth at risk of family separation, and to collect statistical information on runaway youth and youth at risk of family separation contacted through such activities;

"(7) to ensure that—

"(i) caseloads will remain sufficiently low to allow for intensive (5 to 20 hours per week) involvement with each family participating in such project; and

"(ii) qualified supervision will be provided to staff who provide services under such project;

"(8) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds under section 311(d), the achievements of the project under this part carried out by the applicant and statistical summaries describing the number and the characteristics of the runaway youth and youth at risk of family separation who participate in such project in the year for which the report is submitted;

"(9) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(10) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under section 311(d);

"(11) to keep adequate statistical records that profile runaway youth and youth at risk of family separation whom it serves and not to disclose the identity of such youth in reports or other documents based on such statistical records;

"(12) not to disclose records maintained on individual runaway youth or youth at risk of family separation without the informed consent of the individual youth, to anyone other than an agency compiling statistical records; and

"(13) to provide to the Secretary such other information as the Secretary may reasonably require.".

SEC. 204. APPROVAL OF SECRETARY.

Section 316 of the Runaway and Homeless Youth Act (42 U.S.C. 5712a) is amended—

(1) in the first sentence—

(A) by striking "section 311(a)" the first place it appears and inserting "subsection (a), (c), or (d) of section 311", and

(B) by striking "section 311(a)" the last place it appears and inserting "such subsection", and

(2) by striking "$150,000" and inserting "$200,000".

SEC. 205. GRANTS TO PRIVATE ENTITIES; STAFFING.

Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended—

(1) by striking "part" each place it appears and inserting "title",

(2) in the first sentence inserting "and the programs, projects, and activities they carry out under this title" after "center", and

(3) in the last sentence by inserting "under this title" before the period at the end.

SEC. 206. ELIGIBILITY.

Section 322(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5714-2(a)) is amended—

(1) in paragraph (8) by inserting "(including individuals who are members of a cultural minority and individuals who have limited-English speaking ability)" after "individuals", and

(2) in paragraph (13)—

(A) by striking "consent of the individual youth and parent or legal guardian" and inserting "informed consent of the individual youth", and

(B) by striking "or a government agency involved in the disposition of criminal charges against youth".

SEC. 207. REPORTS.

Section 361 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(1) in subsection (a) by striking "runaway" and all that follows through "part A", and inserting "programs, projects, and activities carried out under this title (other than part B)", and

(2) by adding at the end the following:

"(c) The Secretary shall include in each report required by this section a summary of the results of Federal evaluation of the programs, projects, and activities carried out under this title, and a description of the training provided

to the individuals who carry out such evaluation. As part of such evaluation, the Secretary shall require such individuals to visit each grantee on-site not less frequently than at 3-year intervals.".

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 366(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) There are authorized to carry out this title (other than part B and section 344) $75,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996.", and

(2) by adding at the end the following:

"(3) After making the allocation required by paragraph (2), the Secretary shall reserve —

"(A) for fiscal year 1993 not less than $912,500, of which $125,000 shall be available for the acquisition of communications equipment;

"(B) for fiscal year 1994 not less than $826,900;

"(C) for fiscal year 1995 not less than $868,300; and

"(D) for fiscal year 1996 not less than $911,700; to carry out section 331.".

(b) TRANSITIONAL LIVING GRANT PROGRAM.—Section 366(b)(1) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(b)(1)) is amended to read as follows:

"(1) Subject to paragraph (2), there are authorized to be appropriated to carry out B $25,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996.".

(c) DEMONSTRATION PROJECTS IN RURAL AREAS.—Section 366 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and

(2) by inserting after subsection (b) the following:

"(c) There is authorized to be appropriated $1,000,000 for each of the fiscal years 1993, 1994, 1995, and 1996 to carry out section 344.".

SEC. 209. NATIONAL COMMUNICATION SYSTEM; STREET-BASED SERVICES PROGRAM; HOME-BASED SERVICES PROGRAM; COORDINATING ACTIVITIES.

The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended—

(1) in part D—

(A) by striking "PART D" and inserting "PART F", and

(B) by redesignating sections 361, 362, 363, 364, and 366 as sections 381 through 385, respectively,

(2) in part C—

(A) by striking PART C" and inserting "PART E", and

(B) by redesignating sections 341 and 342 as sections 371 and 372, respectively, and

(3) by inserting after part B the following:

"PART C—NATIONAL COMMUNICATIONS SYSTEM

"AUTHORITY TO MAKE GRANTS

"SEC. 331. With funds reserved under section 385(a)(3), the Secretary shall make grants for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers. The Secretary shall give priority to grant applicants that have experience in providing telephone services to runaway and homeless youth.

"PART D—COORDINATING, TRAINING, RESEARCH, AND OTHER ACTIVITIES

"COORDINATION

"SEC. 341. With respect to matters relating to the health, education, employment, and housing of runaway and homeless youth, the Secretary shall coordinate the activities of agencies of the Department of Health and Human Services with the activities of other Federal entities and with the activities of entities that are eligible to receive grants under this title.

"GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

"SEC. 342. The Secretary may make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities (and combinations of such entities) that are eligible to receive grants under this title, for the purpose of carrying out the programs, projects, or activities for which such grants are made.

"AUTHORITY TO MAKE GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

"SEC. 343. (a) The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway youth and homeless youth.

"(b) In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

"(1) juveniles who repeatedly leave and remain away from their homes without parental permission;

"(2) home-based and street based services for, and outreach to, runaway youth and homeless youth;

"(3) transportation of runaway youth and homeless youth in connection with services authorized to be provided under this title;

"(4) the special needs of runaway youth and homeless youth programs in rural areas;

"(5) the special needs of programs that place runaway youth and homeless youth in host family homes;

"(6) the special needs of programs for runaway and homeless youth who are sexually abused;

"(7) innovative methods of developing resources that enhance the establishment or operation of runaway and homeless youth centers.

"(8) training for runaway youth and homeless youth, and staff training, related to preventing and obtaining treatment for infection by the human immunodeficiency virus (HIV);

"(9) staff training to recognize and respond to emotional and behavioral effects of sexual abuse experienced by youth, and agency-wide strategies for responding to youth who may have been sexually abused;

"(10) increasing access to health care (including mental health care) for runaway youth and homeless youth; and

"(11) increasing access to education for runaway youth and homeless youth.

"(c) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants who have experience working with runaway youth or homeless youth.

"TEMPORARY DEMONSTRATION PROJECTS TO PROVIDE SERVICES TO YOUTH IN RURAL AREAS

"SEC. 344. (a)(1) With funds appropriated under section 385(c), the Secretary may make grants on a competitive basis to States, localities, and private entities (and combinations of such entities) to provide services (including transportation) authorized to be provided under part A, to runaway and homeless youth in rural areas.

"(2)(A) Each grant made under paragraph (1) may not exceed $100,000.

"(B) In each fiscal year for which funds are appropriated to carry out this section, grants shall be made under paragraph (1) to eligible applicants carry out projects in not fewer than 10 States.

"(C) Not more than 2 grants may be made under paragraph (1) in each fiscal year to carry out projects in a particular State.

"(3) Each eligible applicant that receives a grant for a fiscal year to carry out a project under this section shall have priority to receive a grant for the subsequent fiscal year to carry out a project under this section.

"(b) To be eligible to receive a grant under subsection (a), an applicant shall—

"(1) submit to the Secretary an application in such form and containing such information and assurances as the Secretary may require by rule; and

"(2) propose to carry out such project in a geographical area that—

"(A) has a population under 20,000; and

"(B) is located outside a Standard Metropolitan Statistical Area; and

"(C) agree to provide to the Secretary an annual report identifying—

"(i) the number of runaway and homeless youth who receive services under the project carried out by the applicant;

"(ii) the types of services authorized under part A that were needed by, but not provided to, such youth in the geographical area served by the project;

"(iii) the reasons the services identified under clause (ii) were not provided by the project; and

"(iv) such other information as the Secretary may require.".

(b) CONFORMING AMENDMENTS.—(1) Section 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5712a) is repealed.

(2) Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5712b) is repealed.

(3) Section 315 of the Runaway and Homeless Youth Act (42 U.S.C. 5712c) is repealed.

(3) Sections 316 and 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5713, 5714) are redesignated as sections 313 and 314, respectively.

(4) Section 365 of the Runaway and Homeless Youth Act (42 U.S.C. 5733) is repealed.

TITLE III—AMENDMENT TO THE MISSING CHILDREN'S ASSISTANCE ACT

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 407 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended by striking "1989, 1990, 1991, and 1992" and inserting "1993, 1994, 1995, and 1996".

TITLE IV—AMENDMENT TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 401. FINDINGS.

The Congress finds the following:

(1) Circumstances surrounding the recent death of a young boy named Adam Mann in New York City prompted a shocking documentary focusing on the inability of child protection services to protect suffering children, and this documentary showed the serious need for systemic changes in our child welfare protection system.

(2) Thorough, coordinated, and comprehensive investigation will hopefully lead to the prevention of abuse, neglect, or death in future instances.

(3) An undue burden is placed on investigation due to strict Federal and State laws and regulations regarding confidentiality.

(4) While the Congress recognizes the importance of maintaining the confidentiality of records pertaining to child abuse, neglect, and death, often the purpose of these confidentiality laws and regulations are defeated when they end up protecting those responsible.

(5) Comprehensive and coordinated interagency communication needs to be established, with adequate provisions to protect against the public disclosure of any detrimental information need to be established.

(6) Certain States, such as Georgia, North Carolina, California, Missouri, Arizona, Minnesota, Oklahoma, and Oregon have already taken the necessary steps to establish by statute interagency, multidisciplinary fatality review

teams to fully investigate incidents of death believed to have been caused by child abuse or neglect with great success. Such teams should be established in every State and their scope of review should be expanded to include egregious incidents of child abuse and neglect before the child in question dies. These teams will increase the accountability of the child protection service.

SEC. 402. MODIFICATION OF CONFIDENTIALITY PROVISION REGARDING STATE GRANTS UNDER CHILD ABUSE PREVENTION AND TREATMENT ACT.

Section 107(b)(4) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106A(b)(4)) is amended to read as follows:

"(4) provide for—

"(A) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including methods to ensure that disclosure (and redisclosure) of information concerning child abuse or neglect involving specific individuals is made only to persons or entities that the State determines have a need for such information directly related to purposes of this Act; and

"(B) requirements for the prompt disclosure of all relevant information to any Federal, State, or local governmental entity, or any agent of such entity, with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;".

SEC. 403. SENSE OF THE CONGRESS.

It is the sense of the Congress that each State should carry out detailed review and reform of the system in the State for protecting against child abuse and neglect, including implementing formal interagency, multidisciplinary teams—

(1) to review all cases of child death where that child was previously known by the State to have been abused or neglected and those incidents of child abuse before the child dies where there is evidence of negligent handling by the State in order to hold the State accountable; and

(2) to make final recommendations regarding the outcomes of individual cases and systemic changes in the State's procedures for protecting against child abuse and neglect.

TITLE V—GENERAL PROVISIONS

SEC. 501. TECHNICAL AMENDMENTS.

(a) JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in sections 202(b), 202(d), and 241(e)(5) by striking "prescribed for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376", and

(2) in sections 201(b), 202(c), 204(b), and 241(e)(6) by striking "this Act" each place it appears and inserting "this title".

(b) RUNAWAY AND HOMELESS YOUTH ACT.—The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended—

(1) in section 312(a) by striking "juveniles" each place it appears and inserting "youth", and

(2) in section 383, as so redesignated by section 209(1)(B), by striking "Act" and inserting "title".

SEC. 502. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATES.—(1) Except as provided in paragraph (2) and subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) The amendment made by section 108(a)(7) shall take effect on January 1, 1993.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to fiscal years beginning before October 1, 1992.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. FAWELL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill, H.R. 5194, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here today to vote on passage of H.R. 5194, the Juvenile Justice and Delinquency Prevention Amendments of 1992, the reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974, and Runaway and Homeless Youth Act.

Before I begin my remarks, I would like to take the time to thank Chairman FORD and my colleagues from the other side of the aisle, Mr. GOODLING, ranking member of the Education and Labor Committee, and Mr. FAWELL, ranking member of the Human Resources Subcommittee for their tireless efforts in helping to put together this truly bipartisan bill.

A lot has happened this past year since the Human Resources Subcommittee started a series of reauthorization hearings. We visited Boys Town in Omaha, NE, visited gang programs and talked with gang members in Portland, OR, and Los Angeles, CA. We visited runaway shelters in Grand Island, NE, and New York City and talked with runaway and homeless kids.

We weren't too surprised to learn the Bloods and Crips are now a part of the Omaha and Portland scenes nor that there are over 300,000 homeless kids on any given day in America. What we were surprised at was the fact that the weapons that we have in the arsenal in our war to save our kids and to fight delinquency are woefully out of date and resources are totally inadequate.

All in all, the visits we have made and the hearings that we have held have led us to the belief that so as the character and nature of gangs and juvenile delinquency has evolved, so must the Juvenile Justice and Delinquency Prevention Act.

Where much of the initial thrust of the act was on ensuring the separation of juvenile offenders from adult offenders, the act also was a response to growing concerns about the lack of adequate technical expertise and resources available to State, county, and local agencies to effectively provide justice and promote programs that help provide alternatives to delinquent and at-risk juveniles.

Over the past 18 years since the implementation of the act, it has tried to evolve to adjust to the changing needs of both the system and to the youth that we serve. We know provision of services has gotten more sophisticated, but so have our youth.

So in looking at juvenile justice issues, the subcommittee went beyond the beltway to hold hearings from the west coast to the east coast, looking at both urban and rural issues and a variety of programs in an effort to find innovative new ideas that offer other alternatives and hope for our youth, in order to improve the act during its reauthorization.

One thing we have found for sure, is that the act can make a difference in the lives of both rural and urban youth. We have heard testimony from people who made obvious the need for these juvenile justice and delinquency prevention programs; we have also seen a variety of innovative programs that have new ways of providing these much-needed services. We have looked at how these programs are being implemented at the Federal level and what improvements need to be made so we can make the JJDPA as effective as possible.

The original act focused on the need for coordinated juvenile delinquency efforts on the Federal, State, and local levels and to involve the nonprofit sector in these efforts, with three major premises: Juvenile crime must be reduced, the proportion of crimes committed by juveniles should be decreased, and methods of handling juveniles should be improved. The act also created the Office of Juvenile Justice and Delinquency Prevention to provide Federal leadership with the focus in mind.

With that in mind let us now ask: What has happened over the last 18 years? Have we met the original mandates of the act? We have changed the methods of handling our youth in the juvenile justice system and have drastically reduced the number of juveniles in adult jails and have virtually removed all status offenders from locked facilities.

But we cannot say that we have been totally successful in our mission. Juvenile crime has not been reduced and the proportion of crimes committed by juveniles have not decreased.

During the first part of the 1980's, youth arrests in the United States declined while adult arrests increased. But, in the latter part of the 1980's, juvenile arrests increased at a greater pace than adults for violent crimes and a lesser rate than adults for property crimes. It appears that we are reaching a softer segment of our delinquent population while those hardcore more violent youth are increasing in numbers.

Let me repeat this. The latter one-half of the 1980's, a time which coincides with the past and present administration's total lack of commitment to juvenile justice; a fact evidenced by their action—when year in and year out they virtually zeroed out the Office of Juvenile Justice and Delinquency Prevention budget; and they ignored the fact that juvenile arrests increased at a greater rate than that of adults for violent crimes.

Mr. Chairman, we are at a crossroad in our fight for the productive lives of our youth.

The 1989-90 arrest trends show an increase in the number of juvenile arrests for murder and nonnegligent manslaughter, robbery, and aggravated assault, respectively 26 percent, 17 percent, 16 percent, alarming figures that indicate to me that we need to step up and broaden our efforts toward prevention and intervention.

We know that about 1 million kids run away from home each year and, as I stated earlier, that there are over 300,000 homeless kids on any given day in this country. These young people are probably the most vulnerable members of our society. These teenagers are impressionable—struggling with a word of constantly changing values—and are in the process of making the difficult transition from child to adult.

To me, one thing is very clear—we cannot prevent crime by locking up kids who can be saved. And we are not serving justice by certifying kids as adults in order to satisfy some need to show that we are tough on crime. And we cannot leave our children to the mean streets of America.

I would like to ask the unenlightened: What are we going to do when we fill all of our jails?

The build more jails, lock them up, and throw away the key mentality won't solve our problems.

I further would say to my hang'em from the highest tree colleagues to be careful—in this time of being tough on crime we must be careful not to lose sight of our mission to break the cycle of delinquency. We want our streets, our homes, and our families to be safe. But we cannot keep building more prisons. We must divert children-at-risk before they are irretrievable. We must provide alternatives to violent antisocial behavior. This was the mandate of the original act.

H.R. 5194 addresses all of these issues. It provides incentives for States and local jurisdictions to enter into innovative public-private partnerships. It also provides incentives to local jurisdictions to create community systems of care, involving interagency collaborative efforts; it makes the Office of Juvenile Justice and Delinquency Prevention more autonomous so that it truly serves as the leader in national juvenile justice policy; and strengthens the coordinating council.

H.R. 5194 also creates two new gang intervention programs: One that requires local education agency involvement with other local, public, and private institutions in providing a broad variety of prevention and intervention activities; and the other aimed specifically at the more hardcore gang members providing for the development of regional task forces involving State, local, and community-based organizations to coordinate enforcement, intervention, and treatment efforts and to curtail interstate activities of gangs.

The bill also allows the continuation of vital services to our runaway and homeless youth. The Runaway and Homeless Youth Act is the safety net with which we rescue those young people, who have been cast off into a sea of distrust and exploitation. The act provides basic services through community-based agencies to alleviate the problems of runaways through the provision of temporary shelter, supportive services, and counseling—and whenever possible, reuniting them with their families. The act also provides funding for transitional living programs that provide long-term shelter and life skills training to homeless youth who are attempting to make that transition to adulthood.

Finally, as we have traveled holding these hearings, we have seen that the act has had an impact on America's youth; we have learned that intervention programs do work. But we have fallen short in our mission to address the needs of our Nation's at-risk youth; in providing the dollars and the leadership necessary to fight the tide.

This legislation is committed to addressing today's immediate issues concerning youth and will make the necessary structural changes to the JJDPA in this reauthorization cycle to ensure the future of our youth. But I also ask all of you, my colleagues in this body, to support us in our quest. We need to arm those who are fighting the fight on the front lines; those who see what works and what doesn't. We need to help restore the national leadership and autonomy of the Office of Juvenile Justice and Delinquency Prevention and to maintain the integrity of the original act. We all need to work together as advocates for the future of America's youth to achieve this goal.

We have seen the terrible tragedy in my hometown, Los Angeles, 2 months ago—the tragedy of rioting, brother against brother—an act of frustration with failing judicial and social systems. What happened there is a message to all of America; we need to respond to our communities. We need to provide alternatives for our youth.

Mr. Speaker, this bill represents a bipartisan effort to address the ravages of social disease on our youth and our communities. This effort is reflected by Chairman FORD'S cosponsorship of H.R. 5194 along with that of the ranking minority members of the full committee and the subcommittee, Mr. GOODLING and Mr. FAWELL.

H.R. 5194 is a keystone in the foundation of the future of our children. I ask for your support in passing this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FAWELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5194, the Juvenile Justice and Delinquency Prevention Act of 1992. This bill will authorize three programs which are vital to the well-being of this country's youth: the Juvenile Justice and Delinquency Prevention Act, the Runaway and Homeless Youth Act, and the Missing Children's Act. This bill also includes a small, yet crucial, amendment to the Child Abuse Prevention and Treatment Act that was authored by Congresswoman MOLINARI.

I want to thank Congressman Martinez, the chairman of the Human Resources Subcommittee, for the bipartisan manner in which this reauthorization process has been conducted—from the handling of hearing sites and witnesses through the development of changes in these important laws.

As I mentioned, the legislation we are voting on today supports the provision of important services to at-risk youth, whether they be runaways, homeless youth, or youth involved in the juvenile justice system. By providing assistance to these young men and women today, we are ensuring they will become productive members of society tomorrow instead of part of the adult criminal justice systems.

I would like to mention several of the changes which I believe will strengthen the ability of these laws to help youth and their families.

In both the Juvenile Justice and Delinquency Prevention Act and the Runaway and Homeless Youth Act, we have added language concerning the provision of counseling to youth and their families before the youth returns home. While aftercare is important, I also believe families should receive counseling before the youth returns home to help ensure the same circumstances which led the youth to leave home do not reoccur.

We also have stressed the need for better communication between the facility where the youth is residing, whether it is a juvenile detention center or a runaway or homeless youth shelter, and their local school to ensure the instruction they are receiving is closely aligned with the instruction provided in their home school. This also will ensure that any learning problems identified in the facility are relayed to school personnel. These changes should assist in encouraging youth to stay in school and graduate once they return home.

In response to testimony received in Portland, we have added language regarding the need to work with language and cultural minority families to ensure they are aware of all the services available to help them and can avail themselves of such services.

I would, at this point, like to mention an innovative program operating in my congressional district. On April 7, Jean Peerson, chief probation officer, Department of Probation and Court Services, DuPage County and Pat McGrath, superintendent of the DuPage County Youth House, testified before the Subcommittee on Human Resources about an innovative home detention program they have developed with allows them to treat youth locally rather than sending them to other jurisdictions when their facility is overcrowded. They have a 79 percent success rate, partially due to their ability to work with the youth and their family at the same time since the youth remains in the home setting. A definition of home-based alternative services has been included in the bill and I would certainly encourage the use of this successful alternative to incarceration.

I also am pleased to announce that my home State of Illinois recently passed a law that will finally bring it into full compliance with the jail-removal mandate of the Juvenile Justice Act. This new law will prohibit the detention of juveniles for status offenses, which is required by the Federal law.

I would like to briefly mention the addition in the Runaway and Homeless Youth Act of street-based and home-based services. These new services will target youth who are most at risk and provide effective interventions, such as family involvement, to prevent these youth from falling into delinquent activity. these new programs will be administered by existing basic grant centers, in order to maximize their effectiveness through coordination of all the different services.

I am glad to support the increased authorization levels for the different programs in this bill. I have talked to many people in my district that work with these programs and I have heard testimony from experts in these areas who have explained the benefits of these programs to me. Based on this information, I strongly believe that these are programs that deserve, on their own merits, increased funding in order to solidify and hopefully expand the progress being made.

Finally, as I mentioned, there also is a child abuse provision in this bill that was added by Congresswoman MOLINARI. This provision would amend the confidentiality requirement of the Federal child abuse laws to mandate that States share records amongst different governmental agencies, and to allow States to share information with other necessary entities in order to ensure coordinated protection against child abuse and neglect. Government agency sharing of child abuse records is currently only permissible under existing Federal law. It is surprising that this measure is necessary, but some States actually prohibit one agency from sharing this information with another agency in the name of strict confidentiality. The purpose of this provision is to liberalize the sharing of records and information in the Government's possession in order to enhance the prevention or intervention of child abuse or neglect, while at the same time protecting against the public disclosure of unsubstantiated information that could stigmatize a family. I applaud my colleague from Staten Island, NY, for her tireless work on behalf of abused and neglected children. I am proud to say that I am an original cosponsor of her bill, H.R. 5205, which is the source of this provision.

Mr. Speaker, I encourage my colleagues to support this reauthorization package.

□ 1710

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to engage in a colloquy with our colleague, the chairman of the subcommittee with jurisdiction over this bill.

In July of 1990, the Office of Juvenile Justice and Delinquency Prevention approved a plan submitted by the State of Wisconsin which allowed Wisconsin additional time to complete statutory and regulatory changes, and specified conditions under which Wisconsin would be deemed in compliance with the act. Approval of this plan—confirmed by letter from Robert Sweet, administrator, to Jerome Lacke, executive director, Wisconsin Office of Justice Assistance, dated July 17, 1990—represented a good-faith agreement with Wisconsin which Wisconsin has been diligently implementing.

It is my understanding that it is not the intent of the committee that this bill abrogate that agreement, and that the committee report contains language on page 30 which protects Wisconsin's participation under the act, including the State-formula block grant portion of the act, as long as Wisconsin meets the requirements of the agreed to jail removal plan.

Is this also the gentleman's understanding?

Mr. MARTINEZ. Mr. Speaker, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from California.

Mr. MARTINEZ. The gentleman is correct. It is not our intent to be in disagreement or out of concert with the agreement that was reached with Wisconsin, with the office of Juvenile Justice and Delinquency Prevention. It is our intent that the agreement should be honored and that Wisconsin should be protected.

Mr. PETRI. Mr. Speaker, I thank my colleague for engaging in this colloquy.

Mr. Owens of New York. Mr. Speaker, I rise to speak in support of substitute language offered to section 402 of the bill, which amends section 107(b)(4) of the Child Abuse Prevention and Treatment Act [CAPTA]. The substitute language will provide greater specificity as to who can receive disclosed records and the standards that must apply to the release of information among Federal, State or local governmental entities.

Since the enactment of CAPTA in 1974, the Federal Government has set the parameters for State laws and regulations in preserving the confidentiality of all child abuse/neglect records in order to protect the rights of the child and the child's parents or guardians.

States have endeavored to meet new needs for wider disclosure of records they have occasionally run into conflict with the regulations. Federal regulations permit States to authorize disclosure to the following persons or agencies:

An agency required to investigate reports of abuse or neglect;

A court;

A grand jury;

An authority investigating a report or providing services to the child or family;

Physicians treating a child suspected of being maltreated;

A person legally authorized to place a child in protective custody;

An agency authorized to diagnose, care for, treat, or supervise a reportedly abused or neglected child;

A person about whom such report is made;

A child named in the report;

State or local officials with oversight authority for child protective service agencies;

Persons or agencies engaged in bona fide research, with several specified restrictions on the release of the information; and

Additional persons or agencies for the purposes of carrying out background and/or employment-related screening of individuals who are engaged in child-related activities or employment.

The administration has informed us that there are at least 10 States currently out of compliance (A listing of those 10 States and a description of the conflict with the Federal requirements is attached.) It would appear that in some instances this noncompliance is a result of a misunderstanding of what the regulations allow; in other instances, States have decided to chart a different course. The substitute language will clarify legislative intent and bring some of the States back into compliance. In order to accomplish national uniformity we would expect that new rules be promulgated as soon as possible to alleviate any lingering confusion and avoid any potential court challenge.

I have worked in a bipartisan manner with Ms. MOLINARI and Mr. MARTINEZ to provide the following interpretative summary to guide the administration in drafting new regulations:

Subsection 4(A) refers to the need to develop methods to preserve the confidentiality of all records "in order to protect the rights of the child's parents or guardians." Clearly, if a family gives their consent a State can authorize the disclosure of such records related to living as well as deceased children. Additionally, the subsection requires States to develop methods to preserve the confidentiality of all records for those persons or entities that "the State detemines have a need for such information directly related to the purposes of this Act". A State may therefore authorize the disclosure of information concerning the status and disposition of any investigations to the original reporter of the information based on the State's conclusion that the release of such limited information would encourage more reporting of child abuse and neglect. The language would also permit States to develop methods to disclose records to preadoptive parents based on the premise that their need for such information is "directly related to the purposes of the Act"; courts could also be authorized to redisclose information concerning child abuse and neglect to persons who in their discretion "have a need for such information", for example public disclosure of specific cases of child abuse and neglect would be permitted though court order to the media as long as any identifying information is redacted.

The provision in subsection 4(B) requires prompt disclosure of all relevant information to any Federal, State or local governmental entity, for example to members of interagency child fatality review teams or to multiagency review panels that may not be primarily investigative in nature. For the purposes of this provision, "relevant information" means providing access to all pertinent records (law enforcement, probation, child welfare, medical, drug abuse treatment, educational) on a child and his or her family.

CHART 1.—ISSUES IDENTIFIED WITH RESPECT TO STATE COMPLIANCE WITH THE FEDERAL CHILD ABUSE AND NEGLECT CONFIDENTIALITY REQUIREMENTS (45 CFR 1340.14(i))

State	Citation of compliance documentation	Description of conflict with Federal requirements
Alabama	Ala. Admin. Code Sections, 660–5–34—.07(4)(d)8; 660–5–34—.08(4)(3(e)6.	Alabama's law permits disclosure to "a person whose use of such reports or records would prevent or disclose abuse or neglect of children through information contained therein as determined by the State Department of Human Resources." This does not fall within the categories of individuals or agencies permitted access under Federal regulation.
	Ala. Admin. Code Section, 660–5–34—.07(4)(d)6	The State law permits disclosure to persons engaging in research without, as required by the Federal regulations, requiring authorization by the child or the child's legal representative
	Ala. Admin. Code Section, 660–5–34—.07(4)(d)3	The State law appears to permit disclosure to a district attorney for purposes other than for investigating or prosecuting child abuse and neglect. The Federal regulation does not permit such unlimited disclosure.
	Ala. Admin. Code Sections, 660–5–34—.07(4)(d)8; 660–5–34—.07(4)(e)8; 660–5–34—.07(4)(e)7.	The State law is ambiguous concerning whether a parent who is the subject of the report can receive an unedited version of the report which fails to protect the identity of the reporter.
California	CA. Penal code 11167(d)	Provides open ended discretion of courts to disclose child abuse and neglect reports. The Federal regulation does not permit unrestricted disclosure by a court.
Florida	FL Stat. Ann. Section 119.07	Florida's public records laws allow circumventing Federal confidentiality requirements by obtaining a court order.
	FL Stat. Ann. Section 119.07(B)(2)	The State's public records laws and its statute governing confidentiality of child abuse and neglect records apparently allow public access to information about investigations concerning deceased children. such disclosure is inconsistent with Federal confidentiality requirements.
	FL Stat. Ann. Section 415.51(2)(D)	The State law allows disclosure of child abuse and neglect records to the alleged perpetrator, but fails to protect sufficiently the identity of individuals who might be endangered by the disclosure.
	FL Stat. Ann. Section 415.51(4)	State law allows disclosure of child abuse and neglect records to professionals diagnosing and treating the alleged perpetrator. Such disclosure is inconsistent with Federal confidentiality requirements.
Georgia	OGCA 49–5–41(A)	State statute permits release of some information about the status and results of an investigation to "any adult requesting information regarding investigation by the Department in a governmental protective agency regarding a deceased child when such person specifies the identity of the child. . . ." Note: In order to maintain its eligibility for a Child Abuse and Neglect Basic State Grant, Georgia has invoked a "saving clause" contained in OGCA 49–5–43 which authorizes the State agency to prohibit the release of information if such disclosure would result in the loss of Federal funds.
Kentucky	KRS Section 620.050(4) (a) & (f)	Kentucky protects only "informants" of child abuse and neglect from disclosure to the suspected abuser. The Federal regulation requires States to protect the reporter of the abuse and any other person who could be in danger if that person's identity were released to the suspected abuser.
	KRS Section 620.050(4)	The Kentucky statute could be interpreted to allow disclosure of the identity of the informant and any other "at-risk" person to a parent who is the alleged abuser. The Federal regulation does not allow disclosure of the identity of reporters of child abuse and other "at-risk" people to parents who are suspected abusers.
	OAG 91–33	The Kentucky Attorney General has issued an opinion indicating that the State's confidentiality statute is not applicable to the initial written complaint or report which preceded and prompted the State's investigation. The Federal regulation requires the State to provide by statute that all reports of child abuse and neglect be kept confidential.
	KRS Section 620.050(4) (a) & (f)	The State's statute allows child abuse and neglect reports to be released to anyone "authorized by court order" and allows the court to authorize disclosure of the identity of informants to the suspected abuser.
Mississippi	Miss. Code Ann. Section 34–21–261(5)(c)	The Mississippi statute appears to allow State courts to order disclosure to individuals and organizations beyond those permitted by Federal regulations, thereby permitting circumvention of the Federal requirements by obtaining a court order.
	Miss. Code Ann. Section 43–21–261(1)(e)	The State statute allows disclosure of child abuse and neglect records for research purposes, but does not require consent by the child or the child's representative prior to disclosing information identifying individuals named in the records.
	Miss. Code Ann. Section 43–21–261(3)	The State statute allows disclosure of child abuse and neglect records to a parent, guardian, or custodian, even if alleged to be the abuser, but the statute fails to protect the identities of the reporter and other individuals who might be endangered by the disclosure.
	Miss. Code Ann. Section 43–21–261(8)	The State statute allows disclosure of inmates' and potential parolees' youth court records to the Corrections Department and Parole Board. Since the statute does not limit the disclosure to exclude abuse and neglect records, it is inconsistent with Federal confidentiality requirements.
North Carolina	N.C. Admin. Code Title 10 r. 411.0313(a)(1) and N.C. Gen. Stat. Section 74–675.	State law allows unlimited disclosure by court order, thereby permitting circumvention of Federal requirements.
	Attorney General's Opinion	Allows disclosure to the news media of certain information about Department of Social Services' investigations of children's deaths. Such disclosure, even though limited in scope, is inconsistent with Federal requirements.
	N.C. Admin. Code Title 10, v. Sec. II.0102(a)(2)	The State administrative code provision that authorizes release of information from the central registry for research purposes fails to protect the identities of individuals named in the registry's child abuse investigation material, or to require that the researcher make the requisite showings of necessity and consent prior to release of the identifying information.
South Carolina	S.C. Ann. Code Section 20–7–690(C)	The State statute allows disclosure of information to any person engaged in a bona fide research purpose, with written permission of and with any limitations imposed by the Commissioner of the State Department of Social Services, but does not provide for approval by the abused child or the child's representative.
	S.C. Ann. Code Section 20–7–690 (C)(2) (D) & (E)	The State protects from disclosure to suspected abusers identifying information only about the "reporters" of child abuse, not other individuals who may be endangered by such disclosure.
South Dakota	SDCL Section 26–7A–28(1). Note: During South Dakota's 1992 legislation session, the identified deficiencies were corrected by amendments which become effective July 1, 1992.	This section of the State law authorizes the court, in its general discretion, to release information on the identity of children taken into temporary custody. Federal law does not authorize the disclosure of child abuse and neglect information by a court, in the exercise of its general discretion. Note: The 1992 amendments provide that any information regarding an alleged, apparent, or adjudicated abused or neglected child may be released by a court only to those persons or entities listed in SDCL sec. 26–8A–13, (which persons and entities fall within the categories permitted by the Federal regulation).
	SDCL Section 26–7A–29	This section permits disclosure of information concerning children "to adult siblings of the child" who may not be the legal guardian of the child, or the child's representative, or the subject of the report of child abuse or neglect. Note: The 1992 amendments remove "adult siblings of a child" from the list of persons authorized to receive confidential information under this statute.
	SDCL Section 26–8A–13(5)	This subsection permits disclosure of child abuse and neglect information to a prospective adoptive parent(s), who is not yet authorized to care for an allegedly abused or neglected child and may not yet be the guardian of the child. Note: The 1992 amendments remove the word "prospective" from subsection (5).
	SDCL Section 26–8A–13(7)	This subsection permits disclosure at the general discretion of the court and beyond those persons or agencies permitted by the Federal regulation. Note: Subsection (7) has been amended to no longer permit disclosure by a court at its discretion.
Tennessee	T.C.A. Sections 37–1–409; 37–1–612; 37–1–604, and published Attorney General Opinions.	According to the State statutes and at least three published opinions of the State's Attorney General, anyone within the Department of Human Services (TDHS) or on a child abuse investigation team has the discretion to disclosure reports or records of reports of child abuse if such person determines that the enunciated purposes of the State statutes were served by such disclosure. The Federal regulation does not permit such broad disclosure.
	T.C.A. Sections 37–1–409(E), 37–612(E)	TDHS may confirm to anyone whether a child abuse investigation has commenced. It is nearly impossible to confirm an investigation has commenced without indirectly divulging information about the alleged abuse. The Federal regulation does not permit such a broad disclosure.
	T.C.A. Sections 37–1–409(D); 37–612(C)(2)	A district attorney may obtain reports or records of reports of child abuse on any case in his judicial district for any or no reason; the district attorney's access is not limited by time, purpose or the district attorney's official function. The Federal regulation does not provide for such an extensive exception from confidentiality.
	T.C.A. Sections 37–1–409(D); 37–612(D)	TDHS may release reports or records of reports to a professional person for the diagnosis and treatment of a person perpetrating sexual abuse. The Federal regulation does not provide for such an exception from confidentiality.
	T.C.A. Sections 37–1–409(D); 37–612(C)(4)	TDHS may release identifying information to a person engaged in bona fide research or auditing when such information is absolutely essential, suitable provision is made to maintain confidentiality, and TDHS has given written permission. The Federal regulation, however, also requires that the child's or the child's representative's written permission be obtained before identifying information is released to persons engaged in bona fide research.

CHART 1.—ISSUES IDENTIFIED WITH RESPECT TO STATE COMPLIANCE WITH THE FEDERAL CHILD ABUSE AND NEGLECT CONFIDENTIALITY REQUIREMENTS (45 CFR 1340.14(i))—Continued

State	Citation of compliance documentation	Description of conflict with Federal requirements
	T.C.A. Sections 37–1–403(E); 37–605(C)	Autopsy reports are not subject to the confidentiality requirements of Tennessee's statutes. The structure of the statutes, however, indicate that such reports may contain the name of the reporter of the child abuse, as well as other information about the investigation.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 5194, the Juvenile Justice and Delinquency Prevention Amendments of 1992.

This legislation has been developed on a strong bipartisan basis and contains improvements in both the Juvenile Justice and Delinquency Prevention Act and the Runaway and Homeless Youth Act, which will make them more effective in serving this extremely at-risk population of our Nation's youth.

This legislation stresses prevention, intervention and treatment. For example, it calls for greater coordination between a youth's home school and the facility where they are currently residing, whether it is a juvenile detention facility or a runaway or homeless shelter. Due to the strong correlation between poor academic achievement and juvenile delinquency, this provision could prove to be a key prevention tool. Insuring these youth can keep up with their classmates while they are not attending their local school will help guarantee they will stay in school and succeed academically once they return to their homes. If they remain in school and off the streets, the chances of their involvement in delinquent activities or of them running away again will be greatly diminished.

In addition, H.R. 5194 refocuses the youth gang provisions on home, school, and community-based intervention rather than drug and alcohol prevention. While drug and alcohol prevention programs remain an important component of gang prevention and intervention programs, this program has been restructured to address other elements in a child's life which can play an important role in whether or not they become—and stay—involved in gang activities. Strengthening a youth's ties to home, their community, and school can reduce their involvement in gangs. In addition, promoting cooperation among organizations in the community which work with at-risk youth and their families has been shown to enhance the success of any intervention program. I commend Chairman MARTINEZ, Congressman KILDEE, and Congressman FAWELL for making these important changes in this section of the law.

In title II of the bill, that reauthorizes the Runaway and Homeless Youth Act, there is a call for greater home-based and street-based services for youth. These services are designed to target troubled youth and provide the most effective interventions, such as greater family involvement, before these youth become involved in delinquent activities. I applaud Congressman FAWELL, the distinguished ranking minority member of the subcommittee of jurisdiction, for insisting that these new services be included as part of the basic center program. This will facilitate coordination in providing these youth with the new services and all the other services and resources available to them.

Mr. Speaker, I encourage all of my colleagues to support H.R. 5194. This is a good bill which will go a long way in helping our Nation's communities deal with the problems related to juvenile delinquency, and runaway and homeless youth. At the same time, it will provide at risk youth with the assistance they need to get back on the right track and lead long, successful lives.

Ms. MOLINARI. I want to express my strong support for H.R. 5194, the Juvenile Justice and Delinquency Prevention Act Amendments of 1992. Specifically, I would like to call attention to an amendment I offered during committee consideration, which was favorably accepted, regarding confidentiality laws and accountability in child abuse and neglect cases.

I would like to take this opportunity to thank and commend Congressman OWENS, chairman of the Select Education Subcommittee, for his past and future dedication and work on behalf of abused and neglected children in our Nation. In addition, I want to thank both the chairman of the Human Resources Subcommittee, Congressman MARTINEZ and the ranking minority member, Congressman FAWELL, who along with Congressman OWENS, GOODLING, BALLENGER, and PAYNE were original sponsors of my legislation, the Adam Mann Child Abuse and Neglect Protection Act.

I introduced this legislation after a number of tragic cases—child abuse cases—were brought to my attention. In addition, I informally convened a hearing on child abuse in New York City, and attended a second hearing held by the Select Education Subcommittee, chaired by MAJOR OWENS. During both of these hearings I became painfully aware of how the child protection system in our country is failing our children.

Last year, according to the National Committee for the Prevention of Child Abuse, an estimated 1,383 children in this country died from abuse or neglect. Since 1985, reported child fatalities have increased by 57 percent nationwide. The number of overall reports of child abuse and neglect grew to almost 2.7 million in 1991—a 31-percent increase since 1985. These numbers are astounding. Each number represents an innocent child who is defenseless against cruel and harmful treatment.

We have a long way to go to reach the desired level of effectiveness in identifying and preventing cases of child abuse. I firmly believe that it is a problem requiring multidisciplinary and interagency cooperation. In fact, during the hearings, expert witnesses, and families of the children the system was designed to protect repeatedly cited two major problems regarding the child protection system: confidentiality laws and the lack of accountability in the child protection services.

Currently, the Federal Child Abuse Prevention and Treatment Act [CAPTA] requires States to keep child abuse records confidential in order to receive grants under the act. Some States have passed strict confidentiality laws, or strictly interpret existing confidentiality laws in response to the Federal mandate.

My child abuse amendment in the committee substitute before us today is designed to loosen the rigidity of the confidentiality laws, while at the same time insures that harmful, unsubstantiated, family information is not released to the public. My amendment establishes the premise that, unless otherwise provided for, all records are to be kept confidential by insisting that States shall provide for "methods to preserve the confidentiality of all records."

However, my amendment clearly states that it is the intent to require States to freely share information within and among the several different agencies that deal with child abuse in one way or another by having States establish "requirements for the prompt disclosure of all relevant information to any Federal, State, or local governmental entity, or any agent of such entity, with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect."

For example, if the probation office calls the child protective services [CPS] to solicit information regarding whether or not a parent should be released from probation, the CPS should be allowed to relay that there have been recent reports of child abuse. Unfortunately, in some States because of the strict interpretation of the confidentiality laws, this information is not released. Sadly, this actually happened in New York not too long ago. This language also would obviously include a requirement to provide all necessary child abuse information to multidisciplinary review teams or fatality review boards that are established by States to review specific cases of abuse and neglect.

States also are required to establish procedures for "disclosure (and redisclosure) of information concerning child abuse or neglect involving specific individuals * * * to persons or entities that the State determines have a need for such information which is directly related to purposes" of the Federal child abuse laws. This is meant to allow States some flexibility in sharing this information outside the government if there is a need. For example, this language would allow States to share with pre-adoptive parents, information regarding past abuse involving their prospective adopted child.

This language would allow mandated reporters, such as doctors or teachers, to receive minimal feedback on the progress of a case which they reported. This would eliminate the frustration that reporters feel when they make a report and never see any progress or hear that anything is being done to protect the child. Such feedback will encourage these people to continue to fulfill their mandate to report instances of abuse or neglect.

This language also would allow for the public disclosure, through the media or otherwise, of specific cases of child abuse or neglect as long as all information which could identify the individuals involved is redacted. Public disclosure of child abuse cases where the government has failed the child is often the best form of accountability. Public accountability of CPS's is unfortunately necessary sometimes to insure that they adequately perform their jobs. However, it is important that identifying information be removed before release so that families are not unnecessarily stigmatized. Also, the identity of the reporter should remain confidential, so as not to discourage people from coming forward with what they know. One method that States may establish to provide for this type of release is to authorize courts to release the appropriate information.

In addition, my bill would express the sense of Congress that States should create autonomous, interagency, multidisciplinary teams to review cases of death thought to have been caused by child abuse, or egregious cases of suspected child abuse—before the child dies—when the child's case is not being handled adequately by the child protection services. These review teams would then make recommendations regarding an individual case or on systemic changes that are necessary. Currently eight States have established, by statute, review teams that examine only child fatalities. This bill expresses the sense of Congress that these review teams should go a step further and also examine serious child abuse cases before the child dies.

I believe that systemic changes are needed to address the growing problem of child abuse. In attempting to change the system, we must ask ourselves: why are child protective services not properly fulfilling their mandate of protecting the child?

Over and over again, we find that there is a dearth of information-sharing between the principle government departments and agencies with a vested interest in the welfare of families and children. Federal and State confidentiality laws are central to the ability of these agencies to share essential information pertaining to a particular child abuse case. The confidentiality laws currently in place can prevent officials in one government agency from passing on vital information to officials in another agency.

Basically, these laws are meritorious. But recently, these provisions have come under increased criticism as being ineffective in protecting children. They are frequently criticized for preventing disclosure of pertinent information, and are frequently cited as causes for the potential loss of Federal funding.

I do not advocate the repeal of confidentiality laws. I respect the compelling need for privacy in family matters. And, I believe the necessity to protect families against unnecessary public disclosure of private information is equally important in the debate surrounding confidentiality laws. However, I strongly believe they unnecessarily and sometimes tragically prevent life saving information from being shared.

I do not think that a change in the confidentiality laws will be the panacea to end child abuse or neglect. However, we need to take seriously our responsibility to protect our children. Unfortunately, the answers to how we make government more responsive are not as concrete as they should be. Upon hearing the statistics for reported child abuse, neglect and deaths, I know all my colleagues agree with me that the numbers are horrific.

Please join me in rejecting the status quo and in challenging the system that is failing our children. Join me in strongly supporting swift passage of the Juvenile Justice and Delinquency Prevention Act.

Mr. FORD of Michigan. Mr. Speaker, I rise today in support of H.R. 5194, the Juvenile Justice and Delinquency Prevention Act Amendments of 1992. I want to congratulate Mr. MARTINEZ, the chairman of the Subcommittee on Human Resources, and Mr. FAWELL, the ranking minority member, for bringing the House a bipartisan bill.

This bill authorizes a wide range of Federal activities regarding juvenile delinquency. The centerpiece of the Act is the State formula grant program which allocates monies to the States in return for which the States agree to make improvements in their policies regarding juveniles. As a result, the number of youth inappropriately jailed has declined and the number receiving treatment or other alternatives has increased.

H.R. 5194 makes several improvements in juvenile justice policies. First, it establishes a direct reporting relationship between the Administrator of the Office of Juvenile Justice and the Attorney General. Second, it requires the Administrator to develop a long-term plan for administration of the Office and the development of a national strategy for delinquency prevention. Third, it requires issuance of model standards for providing health care for incarcerated juveniles. Fourth, it requires collection of data on the education status of juveniles and the inclusion in State plans of education, home-based, and family-based alternative services. State plans must prohibit the use of common staff for adults and juveniles.

The bill also strengthens data collection and dissemination efforts, research and evaluation, and technical assistance and training. H.R. 5194 devotes significant attention to the problem of youth who commit hate crimes. It also reauthorizes gang intervention programs to address the gang problem that affects many of our cities.

In addition, this bill reauthorizes the Runaway and Homeless Youth Act that supports runaway shelters and other support services to troubled youth. It also funds the Missing Children's Assistance Act that provides support for activities dealing with the problem of missing children.

Mr. Speaker, H.R. 5194 is authorized at $150 million in fiscal year 1993 and at such sums thereafter. I regret that we find ourselves in a situation where the bill is funded at no more than half its authorized level.

I urge my colleagues to support this bill overwhelmingly.

Mr. KILDEE. Mr. Speaker, I rise in support of H.R. 5194, the Juvenile Justice and Delinquency Prevention Amendments of 1992. This is a good bill which continues the bipartisan tradition which has always attended the Juvenile Justice and Delinquency Prevention Act. H.R. 5194 extends the Juvenile Justice, Runaway and Homeless Youth, and Missing Children titles for 4 additional years.

While I strongly support the entire bill, there are two amendments on which I particularly would like to comment.

The first is the new title II, Gang-free Schools and Communities Program which is identical to H.R. 5175, the Gang-free Schools and Communities Act, which I introduced with other members of the subcommittee. This replaces the existing program which was enacted in 1988 and which, unfortunately, has accomplished little except for research. This new program authorizes $25 million to primarily support local service projects designed to help organize and support gang prevention and intervention projects which substantially involve public schools.

Educational services, when coordinated with social and mental health services available through community-based youth services organizations and other public agencies, can become powerful tools to prevent youth from joining or participating in gang activities. Youth who are, or may become, gang members must have access to these kinds of comprehensive services if we want them to participate in lawful, constructive activities, and to make safe and healthy decisions about their futures.

The second amendment addresses the issue of the so-called valid court order. This provision of the law provides an exception to the requirement that status offenders are to be treated in nonsecure facilities in cases where a youth violates a valid order of the court. I opposed the adoption of this exception 12 years ago and have continued to have concerns about its use. The bill provides for local reviews of these orders to ensure that runaways and other status offenders will not be held in secure detention if nonsecure treatment options are available in the community.

I want to express my appreciation for the hard work of the subcommittee chairman, Mr. MARTINEZ and the ranking Republican, Mr. FAWELL. They have brought us an excellent bill which I am pleased to support.

Mrs. MINK. Mr. Speaker, I rise today in strong support of H.R. 5194, the Juvenile Justice and Delinquency Prevention Amendments of 1992, which provides essential assistance to States to address the problems of juvenile delinquency, youth gangs, runaways, missing children, and homeless youth.

This legislation speaks to the very heart of our Nation, the future of our children and youth. Millions of children in our Nation continue to suffer from poverty, drug abuse, violence, and family disintegration. They are forced to confront difficult situations which drive them out of their homes and into the streets, many turning to gangs, crime or substance abuse.

H.R. 5194 renews our commitment to improving the plight of children in our Nation by focusing on the prevention, intervention and treatment programs for a variety of juvenile problems. It authorizes $301 million for the Juvenile Justice and Delinquency Prevention Program, the Runaway and Homeless Youth Program, the Transitional Living Program for Homeless Youth and the Missing Children's Assistance Act.

The bill elevates juvenile issues within the Department of Justice by establishing a direct reporting relationship between the Office of Juvenile Justice and the Attorney General. It requires the Administrator to develop a long-term national strategy for delinquency prevention and the issuance of model standards for providing health care for incarcerated juveniles.

H.R. 5194 emphasizes intervention, prevention and family involvement in rehabilitative efforts by providing for the inclusion of home-based treatment, parent self-help and hate crime prevention programs for at risk youth.

The bill also creates two new gang intervention programs involving local education agencies and community organizations in gang prevention and developing interstate task forces to curtail the expansion of hard core gang activity across State lines. And it continues important programs to provide temporary shelter, counseling and assistance to runaways and homeless youth.

Mr. Speaker, I urge my colleagues to help us make an investment in the youth of our Nation by voting for H.R. 5194, the Juvenile Justice and Delinquency Prevention Amendments of 1992.

Mr. FAWELL. Mr. Speaker, I yield back the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ABERCROMBIE). The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the bill, H.R. 5194, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HEAD START IMPROVEMENT ACT OF 1992

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5630) to amend the Head Start Act to expand services provided by Head Start programs; to expand the authority of the Secretary of Health and Human Services to reduce the amount of matching funds required to be provided by particular Head Start agencies; to authorize the purchase of Head Start facilities; and for other purposes, as amended.

The Clerk read as follows:

H.R. 5630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Head Start Improvement Act of 1992".

SEC. 2. AMENDMENTS.

(a) ALLOTMENT OF QUALITY IMPROVEMENT FUNDS.—Section 640(a)(3)(B) of the Head Start Act (42 U.S.C. 9835(a)(3)(B)) is amended—

(1) in clause (i) and (iii) by striking "and second" and inserting ", second, and third", and

(2) in clause (ii) by striking "second" and inserting "third".

(b) PARENTAL SKILLS.—Section 640(a)(4)(B)(i)(II) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)(II)) is amended by inserting ", literacy," after "skills".

(c) REDUCTION OF REQUIRED AMOUNT OF MATCHING FUNDS.—Section 640(b) of the Head Start Act (42 U.S.C. 9835(b)) is amended—

(1) in the first sentence by striking ", in accordance with regulations establishing objective criteria,", and

(2) by inserting after the first sentence the following:

"For the purpose of making such determination, the Secretary shall take into consideration with respect to the Head Start program involved—

"(1) the lack of resources available in the community that may prevent the Head Start agency from providing all or a portion of the non-Federal contribution that may be required under this subsection;

"(2) the impact of the cost the Head Start agency may incur in initial years it carries out such program;

"(3) the impact of an unanticipated increase in the cost the Head Start agency may incur to carry out such program;

"(4) whether the Head Start agency is located in a community adversely affected by a major disaster; and

"(5) the impact on the community that would result if the Head Start agency ceased to carry out such program.".

(d) ISSUANCE OF TRANSPORTATION SAFETY REGULATIONS.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

"(i) The Secretary shall issue regulations establishing requirements for the safety features, and the safe operation, of vehicles used by Head Start agencies to transport children participating in Head Start programs.".

(e) LOSS OF PRIORITY.—(1) Section 641(c)(1) of the Head Start Act (42 U.S.C. 9836(c)(1)) is amended by adding at the end the following: "Notwithstanding any other provision of this paragraph, the Secretary shall not give such priority to any agency with respect to which financial assistance has been terminated, or an application for refunding has been denied, under this subchapter by the Secretary after affording such agency reasonable notice and opportunity for a full and fair hearing in accordance with section 646(a)(3).".

(2) The amendment made by paragraph (1) shall apply only with respect to terminations of financial assistance, and denials of refunding, occurring after July 29, 1992.

(f) REVIEW OF HEAD START AGENCIES.—Section 641(c)(2) of the Head Start Act (42 U.S.C. 9836(c)(2)) is amended—

(1) by inserting "(A)" after "(2)", and

(2) by adding at the end the following:

"(B) The Secretary shall conduct a review of each newly designated Head Start agency immediately after the completion of the first year such agency carries out a Head Start program.

"(C) The Secretary shall conduct followup reviews of Head Start agencies when appropriate.".

(g) DESIGNATION OF HEAD START AGENCIES.—Section 641(d) of the Head Start Act (42 U.S.C. 9836(d)) is amended—

(1) in paragraph (6) by striking "and" at the end,

(2) in paragraph (7) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(8) the plan of such applicant to provide (directly or through referral to educational services available in the community) parents of children who will participate in the proposed Head Start program with child development and literacy skills training in order to aid their children to attain their full potential; and

"(9) the plan of such applicant who chooses to assist younger siblings of children who will participate in the proposed Head Start program to obtain health services from other sources.".

(h) INTERIM GRANTEE.—Section 641 of the Head Start Act (42 U.S.C. 9836) is amended—

(1) in subsection (e) by striking "(c) and (d)" and inserting "(c), (d), and (e)",

(2) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and

(3) by inserting after subsection (d) the following:

"(e) If, in a community served by a Head Start program, there is no applicant qualified for designation as a Head Start agency to carry out such program, the Secretary may appoint an interim grantee to carry out such program until a qualified applicant is so designated.".

(i) POWERS AND FUNCTIONS OF HEAD START AGENCIES.—Section 642(b) of the Head Start Act (42 U.S.C. 9836(b)) is amended—

(1) by striking "and (5)" and inserting "(5)", and

(2) by inserting before the period at the end the following:

"; (6) provide (directly or through referral to educational services available in the community) parents of children participating in its Head Start program with child development and literacy skills training in order to aid their children to attain their full potential; and (7) consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources.".

(j) ADMINISTRATIVE REQUIREMENTS AND STANDARDS.—Section 644 of the Head Start Act (42 U.S.C. 9839) is amended—

(1) in subsection (b) by striking "No" and inserting "Except as provided in subsection (f), no",

(2) in the first sentence of subsection (c) by striking "subsection (a)" and inserting "subsections (a) and (f)", and

(3) by adding at the end the following:

"(f)(1) The Secretary shall establish uniform procedures for Head Start agencies to request approval to purchase facilities to be used to carry out Head Start programs.

"(2) Except as provided in section 640(a)(3)(A)(v), financial assistance provided under this subchapter may not be used by a Head Start agency to purchase a facility (including paying the cost of amortizing the principal, and paying interest on, loans) to be used to carry out a Head Start program unless the Secretary approves a request that is submitted by such agency and contains—

"(A) a description of the site of the facility proposed to be purchased;

"(B) the plans and specifications of such facility;

"(C) information demonstrating that—

"(i) the proposed purchase will result in savings when compared to the costs that would be incurred to acquire the use of an alternative facility to carry out such program; or

"(ii) the lack of alternative facilities will prevent the operation of such program; and

"(D) such other information and assurances as the Secretary may require.".

(k) TECHNICAL AMENDMENTS.—(1) Section 640 of the Head Start Act (42 U.S.C. 9835) is amended—

(A) in subsection (a)—

(i) in paragraph (2)—

(I) in subparagraph (A) by inserting "children" after "handicapped",

(II) in subparagraph (B) by striking "Commonwealth of," and inserting "Commonwealth of", and

(III) in subparagraph (C) by striking "any",

(ii) in paragraph (3)(A)(vi) by striking "section 640(a)(2)(C)" and inserting "paragraph (2)(C)", and

(iii) in paragraph (5)(B)(i) by striking "clause (A)" and inserting "subparagraph (A)", and

(B) in subsection (g) by striking "for all" and inserting "For All".

(2) Section 640A(b) of the Head Start Act (42 U.S.C. 9835a) is amended—

(A) in paragraph (1) by striking "solution" and inserting "solutions", and

(B) in paragraph (7)—

(i) in clause (iii) by striking "the", and

(ii) in clause (iv) by striking "the" the first place it appears.

(3) Section 642(c) of the Head Start Act (42 U.S.C. 9837(c)) is amended by striking "subtitle" and inserting "subchapter".

(4) Section 643 of the Head Start Act (42 U.S.C. 9838) is amended by striking "the such" each place it appears and inserting "such".

(5) Section 651(g) of the Head Start Act (42 U.S.C. 9846(g)) is amended—

(A) by striking "physicial" and inserting "physical", and

(B) by striking "(g)(1)" and inserting "(g)".

(6) Section 651A of the Head Start Act (42 U.S.C. 9846a) is amended—

(A) in subsection (f) by striking "COMPARISION" and inserting "COMPARISON", and

(B) in subsection (g) by inserting "of title I of the Elementary and Secondary Education Act of 1965" after "chapter 1".

SEC. 3. TECHNICAL AMENDMENTS RELATING TO THE CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.

(a) PLACEMENT OF ACT.—Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-236) is amended in the matter preceding paragraph (1) by striking "title IV" and inserting "title VI".

(b) REFERENCES IN DEFINITIONS.—Section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n) is amended—

(1) in paragraph (7)—

(A) by striking "section 4(b)" and inserting "section 4(e)", and

(B) by striking "(25 U.S.C. 450b(b))" and inserting "(25 450b(e))", and

(2) in paragraph (14)—

(A) by striking "section 4(c)" and inserting "section 4(l)", and

(B) by striking "(25 U.S.C. 450b(c))" and inserting "(25 U.S.C. 450b(l))".

SEC. 4. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATES.—(1) Except as provided in paragraph (2) and subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) The amendment made by section 2(e)(1) shall take effect on July 30, 1992.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act, other than the amendment made by section 2(e)(1), shall not apply with respect to fiscal years beginning before October 1, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. FAWELL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 5630, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I begin my opening statement, I'd like to recognize the support of several Members who requested that they be added as cosponsors of this bill after the committee report was filed. These Members are: Mr. MILLER of California, Mr. LEHMAN of California, Mrs. UNSOELD, and Mr. GUNDERSON. Although these Members will not be listed as cosponsors, their vigorous support for this legislation will no doubt be appreciated by the Head Start community and their constituents.

Mr. Speaker, the bill we are now considering is a bill introduced with the cosponsorship of my colleagues. It is to improve one of the Nation's most favored Federal programs, the Head Start Act. The Head Start Act is, as we all know, one of our better programs. It provides low-income preschool-aged children services that provide for their educational, social, health, and nutritional needs. Once these children complete the Head Start Program, they are able to enter school on an equal footing with other children, instead of starting at a disadvantage that is hard to overcome.

Studies show that the Head Start Program has been very successful, and that graduates from programs like Head Start are more likely to do well in school. They stay in school, and are less likely to engage in delinquent behavior. Head Start, therefore, is a program that should be the cornerstone of our social and educational policy—not only does it provide educational and health services to children, but it is a very effective preventive program for our at-risk youth. Without Head Start these children could not receive these valuable services.

There are many Members of Congress who are no doubt among its greatest fans. We are not, however, Head Start's only fan. There are parents, teachers, and alumni with enthusiasm for the program, there is broad support from both sides of the aisle on the House floor, and last but not least the administration has also shown great support.

I appreciate the support of my colleague, Mr. FORD, chairman of the Education and Labor Committee, as well as the support of Mr. GOODLING, the ranking minority member of the committee and Mr. FAWELL, the ranking minority member of the Subcommittee on Human Resources. Mr. KILDEE, former chairman of the subcommittee, Mrs. LOWEY, and Mr. DE LUGO who are also original cosponsors of this bill. The Head Start community thanks them.

The President requested a $600 million increase and the Congress responded in the affirmative. It is important because the Head Start Program is currently serving less than one-third of the eligible population. This infusion of funds would do a lot to increase the numbers of children who could receive the valuable services that Head Start provides. Money, however, is not the only answer to creating an effective Head Start Program.

H.R. 5630, the Head Start Improvement Act of 1992, makes many of the technical changes necessary to ensure that the Head Start Act runs at its most efficient level. Without these technical changes, many of these additional dollars would not be used effectively. Although these changes are small, the Head Start community indicates that these changes are necessary to preserve the quality of Head Start services and to allow existing programs to grow as the appropriations for the program grow.

Although these changes will greatly increase the efficiency and effectiveness of Head Start services, they will have little or no cost impact on current services, and there are no set-asides or new authorization levels. We have attempted to make this bill as cost free as possible. The changes, which I will outline in a minute, will create dollars, because they will allow the existing dollars appropriated to the Head Start Program to be used more efficiently, ultimately allowing more children to receive better quality Head Start services.

STATEMENT RE: CBO COST ESTIMATE

Mr. Speaker, I'd like to ask unanimous consent to insert in the RECORD at this time a cost estimate of H.R. 5630 from the Congressional Budget Office [CBO] which was not available at the time of filing the committee report.

According to CBO, enactment of this legislation would have no impact on the budgets of Federal, State, and local governments. In addition, the pay-as-you-go procedures of section 252 of the Budget Enforcement Act, would not apply to the bill.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 3, 1992.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As requested, the Congressional Budget Office has reviewed H.R. 5630, the Head Start Improvement Act of 1992, as ordered reported by the House Committee on Education and Labor on July 30, 1992. Enactment of H.R. 5630 would amend the Head Start Act to specify certain requirements of the Secretary of Education and the Head Start agencies in carrying out the Head Start program, but would not affect the authorization level of the Head Start program. As a result, enactment of this bill would have no impact on the budgets of federal, state or local governments. Pay-as-you-go procedures, set up by section 252 of the Budget Enforcement Act of 1990, would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them. The staff contact, Joshua Leichter, can be reached at 226-2820.

Sincerely,
ROBERT D. REISCHAUER,
Director.

The Head Start improvement bill makes nine main modifications to the existing Head Start Act which I'd like to briefly outline. The bill amends the act:

First, to allow programs to apply for money to purchase their Head Start facilities;

Second, to reformulate the requirements placed on Head Start agencies that need a waiver of non-Federal matching requirements;

Third, to require that the Department of Health and Human Services issue regulations regarding the safety features, and safe operation, of transportation used by Head Start programs;

Fourth, to allow younger siblings of Head Start students to qualify for health care benefits under the Head Start Program;

Fifth, to maintain local control of quality improvement money for 1 additional year;

Sixth, to strengthen the role of parents in the Head Start Act, and to provide the services necessary to allow them to guide their children;

Seventh, to require the Secretary to review new agencies after the first year of operation and allow for followup reviews of existing programs; and

Eighth, technical amendments to correct errors in the Head Start reauthorization bill passed last Congress and the child care development and block grant.

Ninth, to eliminate the priority given to grantees in operation before 1981 who have had their grant taken away, and to allow the Secretary to appoint an interim grantee in a community if there are no approvable grant applications.

The changes made in the Head Start improvement bill are minor and inexpensive changes. Yet, these changes, combined with the infusion of money that we are seeing with this years increased appropriations level, can radically improve the effectiveness of the program and increase the number of low-income children that receive quality educational, health, and nutrition services. I urge you to support the Head Start Improvement Act, and ask that we move promptly to preserve this program serving our Nation's low-income families and children.

□ 1720

Mr. Speaker, I reserve the balance of my time.

Mr. FAWELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5630, the Head Start Improvement Act of 1992, a bipartisan bill of which I am an original cosponsor.

Let me start by saying that I have made several visits to the LaGrange Area Head Start Program, which is in my district. I must tell you that I had always heard about the success of Head Start, but it wasn't until I visited a Head Start classroom that I really understood the reason behind that success. During that visit I met with the program staff, and realized that it is these special people that make Head Start work as well as the parents. I met people like Chen Chu Wells, who has worked tirelessly for Head Start for more than 20 years to help underprivileged families get ahead.

The movement off the Hill to bring this bill forward was spearheaded by the National Head Start Association, which is made up of thousands of people like Chen Chu Wells. They came to us seeking some programmatic changes needed in order to make Head Start even better. These are the people that live with the program every day, so I am glad that we are able to help them out.

Their priorities, which are embodied in H.R. 5630, are: First, to allow the Secretary to grant requests by Head Start agencies to purchase facilities, if it is more cost-effective than renting; second, to make it easier to apply for a waiver of the matching funds requirement during especially tough economic times; and third, to require that all Head Start vehicles meet minimum safety standards. These changes are sensible.

The purchase of facilities provision of the bill would allow a Head Start agency to petition the administration to use Head Start funds for mortgage payments instead of endlessly paying rent, if it is more cost-effective. The discretion to grant the petition would rest with the administration. There was some concern over the legal question of ownership of the facility, but those questions, I believe, have been answered by reviewing HHS's regulations—the grantee agency would hold legal title to the property, but in the deed the property would be restricted to only Federal uses unless the Government is reimbursed.

The matching funds waiver provision only would make it easier for agencies to apply for the waiver. The discretion to grant any waiver would still remain with the administration. Currently, in order to even be considered for a waiver the agency must show that the average per capita income of its county is below $3,000, or that the county suffered a natural disaster. These objective criteria hurdles make it very difficult, if not impossible, for an agency to get the administration to even listen to the merits of its request for a waiver of the match requirement.

It is especially appropriate that the transportation safety regulations provision is included in the bill that we are marking up today because just 2 weeks ago one of the largest manufacturers of school buses issued a recall on 24,000 school buses, because of potentially disastrous safety defects. It makes sense that Head Start vehicles be as safe as regular school transportation.

I also would like to compliment Congressman GOODLING, the ranking minority member of the Education and Labor Committee, on his parental education provision that is included in this bill. Parental involvement has always been an important component of Head Start, and I think that concept will be strengthened by ensuring that Head Start parents are given the literacy and parenting skills training necessary to allow these parents to help themselves and their children beyond the Head Start classroom.

These are all sensible changes that will make a good program even better. I would like to thank my colleague from California, Mr. MARTINEZ and Congressman GOODLING for their efforts in this area, and I would urge quick passage of this bill.

Mr. GOODLING. Mr. Speaker, I rise today in support of H.R. 5630, the Head Start Improvement Act of 1992. I am glad to be included as an original cosponsor of this bipartisan bill.

I am particularly encouraged because H.R. 5630 includes my parental education provisions. These provisions will require that all Head Start parents be provided with parenting and literacy skills training, either directly from the Head Start agency or through referral to other programs in the community. Similar language already exists in the statute, but my provisions will make it clear that this training for Head Start parents is mandatory. I believe this is vital, and I am glad that I was able to convince my colleagues to see my point of view on this, because the more we help the Head Start parents the more they will be able to help their children, even after the Children graduate from Head Start.

Mr. Speaker, as you know I have devoted a good deal of my life, both professionally and here in Congress, to combating illiteracy. Illiteracy is an intergenerational problem and we need to find a way to break the vicious cycle of children of illiterate parents growing up illiterate themselves. My parental education provisions in this bill will help break this cycle.

Head Start is successful at getting underprivileged children up to speed to start school, but studies have shown that many of these children lose the benefits gained in Head Start within 2 or 3 years. We need to make sure that the Head Start parents are trained in parenting skills and taught how to read so that the parents will be able to continue and maintain the lessons that the children learned while in Head Start. My provisions in this bill will help to do that.

H.R. 5630 also includes several other provisions that will make sensible changes to the

Head Start Program. I am pleased to support these changes in this bipartisan bill and I urge that it be passed.

Mr. FORD of Michigan. Mr. Speaker, I rise in strong support of H.R. 5630, the Head Start Improvement Act of 1992. While this legislation will not serve to increase the Federal financial commitment to this most valuable program, the improvement included in this bill will go far toward ensuring that Head Start services are delivered in the most cost-effective and efficient manner.

I want to commend the chairman of the subcommittee, Mr. MARTINEZ, and the ranking minority member of the subcommittee, Mr. FAWELL, for bringing this important measure forward with deliberate speed. I also want to thank Mr. GOODLING for his contributions to this bill in recognizing the vitally important role which parents play in the educational and social development of their children through the Head Start Program.

I am pleased to join today as part of bipartisan support for H.R. 5630. During a time when politics all too often muddies the water, I find it encouraging that we are able to find overwhelming support for this program of merit. Twenty-seven years after its conception, Head Start has proven itself as one of our most successful education and social service programs.

Head Start programs face three problems due to the law's prohibition on using grant funds for the purchase of facilities: First, the risk of losing space which they have renovated, second, the lack of availability of rental facilities in a community, and third, significant costs incurred by leasing, rather than owning. Allowing for the purchase of Head Start facilities furthers the intent of the act—that individual grantees continue to have the flexibility to provide services according to their local community's needs.

At a time when local communities find it increasingly difficult to allocate scarce resources to competing worthy programs, Head Start programs are jeopardized throughout the country. The reformulation of the waiver of non-Federal matching requirements will help to solve this problem.

H.R. 5630 allows the Head Start Program to serve those Head Start children and their families as efficiently and effectively as possible while continuing to provide quality services. Allowing young siblings of Head Start students to qualify for health care benefits under the program simply makes good sense. Most of these services are donated to Head Start and offering them to the younger siblings can only help with our efforts at early intervention. Establishing regulations for Head Start programs for the purchase and safe operation of vehicles used by Head Start agencies is a major step towards assuring continued quality.

I have long advocated Head Start as our first line of defense against the forces that deny our youth the opportunity to excel. Support for Head Start has been practically universal. This popular program has been responsible for helping hundreds of thousands, if not millions, of American children by giving them a head start at learning, living, and life.

Mrs. MINK. Mr. Speaker, I rise today in strong support of H.R. 5630, the Head Start Improvement Act of 1992, which seeks to make changes to the Head Start Program in order for local Head Start Programs to best utilize increasing funds provided by the Congress.

Since 1964 Head Start has been the most successful early childhood education program in the country, providing education, health, social services for needy children and their families. Studies show that participation in a quality preschool program, such as Head Start improves scholastic achievement, elevates high school graduation rates, increases enrollment in postsecondary programs, and enhances employment prospective; moreover, it decreases youth delinquency rates and use of welfare assistance.

Both the Congress and the administration have recognized the success of Head Start and with strong bipartisan support we have been able to double the size of the program over the last decade. Despite high budget deficits and constraints on domestic spending, funding for the Head Start Program increased from $911.7 million in fiscal year to $2.2 billion in fiscal 1992, almost doubling the number of participants in the program.

Even with these increases, the current program still only serves about 30 percent of the eligible children in our Nation. No one argues that even more funds are necessary for Head Start, and as we continue to move forward in this direction, the Head Start Improvement Act makes important changes to allow local programs to utilize funds to maintain and improve the quality of Head Start Program in a cost-effective and comprehensive manner.

The bill allows Head Start grant money to be used to purchase facilities. Head Start Programs have faced increasing difficulty in obtaining rental space, and have incurred increasing costs because they are not able to purchase facilities and must continue to pay rent for facilities that they have often renovated and repaired with Federal dollars.

H.R. 5630 also provides for the reformulation of the waiver of non-Federal matching requirements. At a time when our State and local budgets are rapidly declining, every Federal dollar available is often necessary to keep Head Start and other social services running. In some communities the 20 percent matching requirement is an unsurmountable barrier to establishing a Head Start Program.

The bill also retains the original intent of the program to encourage local flexibility by extending for 1 year local control over funds for the improvement of quality of Head Start Programs, such as upgrading salaries for Head Start personnel, upgrading transportation for Head Start children and improving staff/child ratios.

Finally, the bill improves parent involvement in the program, and allows for younger siblings to take part in health care services provided by the Head Start Act.

Mr. Speaker, this legislation is necessary to maintain and improve existing Head Start Programs and assure that new programs are able to provide quality education and social services to needy children and families in their communities.

I urge my colleagues to continue their support for the Head Start Program and vote for H.R. 5630.

Mr. FAWELL. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. ABERCROMBIE). The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the bill, H.R. 5630, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

STICK TO THE ISSUES

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. HOAGLAND. Mr. Speaker, I must rise this afternoon to voice my objections to recent comments of Mary Matalin, a high official of the administration's reelection campaign. In criticizing the Clinton-Gore ticket, Ms. Matalin has sunk to new levels of political gamesmanship.

Even by today's standards, which admittedly are at the lowest level in decades, her remarks are as base and as tasteless as I can remember hearing, and this, after the administration has promised to stick to the issues and avoid malicious mudslinging.

As Associated Press story appears in this morning's Omaha World Herald which I ask be made part of the record.

An example of her unrestrained, intemperate barrages: "We respectfully request you and your fellow Democrat sniveling hypocrites read our lips: shut up and sit down so we can get back to more highlights of the Clinton record."

I also place in the record a Washington Post article from last Saturday. This woman will apparently say anything, anywhere, especially when we hear bad economic news. Perhaps this rhetoric reflects desperation in the Bush campaign. I don't know.

But Mr. Speaker and colleagues, let everyone dignify the campaign. Let us stick to the problems of health care, jobs, and education, the important issues the American people expect and want to be debated in a Presidential campaign. Let us stay out of the mud.

Mr. Speaker, I include the following news article above referred to:

[From the Omaha World Herald, Aug. 3, 1992]

BUSH CAMPAIGN FIRES SNIDE SHOT

ROSEMONT, ILL. (AP).—The Bush campaign, accused by Arkansas Gov. Bill Clinton of mudslinging, responded Sunday by unleashing a vitriolic compendium of nasty things that Clinton and other Democrats have said about Bush.

The campaign styled its broadside in the form of a who-said-what quiz for Clinton and other "sniveling hypocritical Democrats."

Among its questions:

"Which campaign had to spend thousands of taxpayer dollars on private investigators to fend off "bimbo eruptions?"

"Which candidate * * * admitted there was a deliberate 'pattern of omission' in his answers on marijuana use?"

"Who called George Bush a tax evader * * * 'That fellow who claims Texas so he doesn't have to pay taxes in Maine'?"

The answer to these, the Bush campaign said, was Clinton and his aides.

But others include shots at Bush fired by Sen. Tom Harkin, D-Iowa, Rep. Maxine Waters, D-Calif., Democratic Party Chairman Ron Brown and others.

"If they want to stick to the issues, then fine, knock off the cheap shots," Mary Matalin, the Bush campaign's political director, said Sunday of the Clinton camp. "We haven't done anything but contrast our record with his. Back off boys."

As to the tone of the release, Matalin said, "It's Sunday. I was having a little fun."

The release said, "We respectfully request you and your fellow Democrat sniveling hypocrites read our lips: shut up and sit down so we can get back to more highlights of the Clinton record."

The tone of the "quiz" was unusually snide even by the standards of attack politics.

One GOP quiz question quotes Harkin, who challenged Clinton in the primary, as saying that Bush "better be ready to protect the family jewels."

It quotes Rep. Waters as calling Bush a racist.

[From the Washington Post, Aug. 1, 1992]

CLINTON CAMPAIGN RETURNS THE RHETORIC—BUSH CAMP ATTACKED FOR GOING NEGATIVE

(By Ruth Marcus)

Capping a week of charges and countercharges, the Clinton campaign yesterday seized on some new anti-Clinton rhetoric from a high official of President Bush's campaign in the hope that it would backfire against Bush.

Its ammunition was a remark by Bush-Quayle campaign political director Mary Matalin in which she raised many of the so-called character issues that have dogged Arkansas Gov. Bill Clinton even while saying the issues will not be raised in the campaign.

In a story in yesterday's New York Times, Matalin was asked if the GOP campaign was subtly employing the "character" issue to remind voters about Clinton's marital troubles, use of marijuana and draft record.

"The larger issue is that he's evasive and he's slick," Matalin told the Times. "We've never said to the press that he's a philandering, pot-smoking draft dodger."

"The way you just did?" Matalin was asked, according to the Times.

"The way I just did," she said. "But that's the first time I've done that. There's nothing nefarious or subliminal going on."

The Clinton campaign said there was nothing subliminal about what it viewed as an attempt to rehash old charges against Clinton at a time when Bush is lagging in the polls. The campaign swiftly issued a page of quotations from Bush vowing to eschew negative campaigning, along with statements from Democratic vice presidential candidate Albert Gore Jr. and party chairman Ronald H. Brown assailing Matalin's remarks.

"It is clear that this is part of a pattern," Brown said. "The same Bush-Quayle campaign that questioned Ross Perot's sanity and commitment to the Constitution and impugned Al Gore's patriotism is now trafficking in tabloid trash about the Clinton family."

Gore called on Bush to live up to "his promise to keep this campaign on the issues and out of the mud."

Matalin expressed no regrets yesterday about her comments.

"They are sniveling hypocrites on this," she said, noting that Clinton and other Democrats have repeatedly bashed Bush. "These guys have been on the road 169 days and they have yet to miss a day they didn't bash Bush."

Charles Black, senior political advisor to the campaign, said there was nothing wrong with Matalin's remarks.

"She was responding to a reporter's question," he said. "She didn't bring it up, and her answer is, 'No, we're not going to make personal attacks.' And we're not. She's not, nobody is." The campaign, he said, "would never bring that up. The reporter brought it up."

Black added: "It appears to me they're kind of sensitive about some subjects. I would have ignored it if it was me."

In choosing to publicize the Matalin quotation, the Clinton camp was making the political calculation that it had more to gain from accusing Bush of mudslinging than it had to lose from reminding voters about Clinton's admitted past marital difficulties and other potential deficits.

The quick response echoed the aggressive reaction of the campaign earlier this week to accusations from White House spokesman Marlin Fitzwater that the Democratic team was unqualified to handle foreign policy and that Clinton's comments on Yugoslavia were "reckless."

"What they're counting on is that they can continue to let this seep out, seep out, seep out," said Clinton communications director George Stephanopoulos. But, he said, "If President Bush is going to play this kind of same old dirty politics, he ought to be called onto the carpet for it."

Meanwhile, the Bush campaign, which had promised a daily fax attaching some aspect of Clinton's record, fell behind schedule on Day Three yesterday, since Matalin was traveling in California with Bush.

Staff writer Ann Devroy in California contributed to this report.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARTINEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BONIOR, for 60 minutes each day, on September 9, 15, 16, 22, 23, 29, and 30.

Mr. LIPINSKI, for 5 minutes each day, on August 4 and 11.

Mr. GONZALEZ, for 60 minutes each day, on September 9, 10, 11, 14, 17, 18, 21, 24, 25, and 28.

Mr. HAYES of Illinois, for 60 minutes, on August 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FAWELL) and to include extraneous matter:)

Mr. FIELDS.

Mr. MYERS of Indiana.

Mr. WELDON.

Mr. MICHEL.

Mr. COX of California.

(The following Members (at the request of Mr. MARTINEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. ROE.

Mr. FALEOMAVAEGA.

Mr. MONTGOMERY.

Mr. ASPIN.

Mr. OLVER.

Mr. DE LUGO.

Mr. LANTOS.

Mr. MAZZOLI.

Mr. EDWARDS of California.

Mrs. LOWEY of New York.

ADJOURNMENT

Mr. MARTINEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 28 minutes p.m.) the House adjourned until tomorrow, Tuesday, August 4, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4052. A letter from the Chairman, District of Columbia Retirement Board, transmitting the Board's comments on the enrolled actuary's report on the disability retirement rate for police officers and firemen for 1991, pursuant to D.C. Code Annotated, section 1-725(b); to the Committee on the District of Columbia.

4053. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-282, "Real Property Tax Exemption Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4054. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-283, "Real Property Tax Rates for Tax Year 1993 and Real Property Tax Revision and Re-classification Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4055. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in June 1992, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

4056. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the actuarial reports on the Judicial Retirement System, the Judicial Officers' Retirement Fund, the Judicial Survivors' Annuities System, and the Claims Court Judges' Retirement System for the calendar year 1991, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4057. A letter from the Farm Credit Bank of Texas, transmitting the 1991 annual report and audited financial statement of the Farm Credit Banks of Texas Pension Plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4058. A letter from the Librarian of Congress, transmitting the report of the activities of the Library of Congress, including the Copyright Office, for the fiscal year ending September 30, 1991; accompanied by a copy of the annual report of the Library of Congress Trust Fund Board, pursuant to 2 U.S.C. 139; to the Committee on House Administration.

4059. A letter from the Acting Comptroller, Department of Defense, transmitting the quarterly report on program activities for facilitation of weapons destruction and nonproliferation in the former Soviet Union, pursuant to Public Law 102–229, section 108; jointly, to the Committees on Appropriations and Foreign Affairs.

4060. A letter from the Chief, Forest Service, Department of Agriculture, transmitting a report entitled "Potential Impacts of Aircraft Overflights of National Forest System Wildernesses," pursuant to 16 U.S.C. 1a-1 note; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3837. A bill to make certain changes to improve the administration of the Medicare Program, to reform customs overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, and to require reports on employers with underfunded pension plans; with an amendment (Rept. 102–486 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 3848. A bill to encourage the growth and development of commercial space activities in the United States, and for other purposes; with an amendment (Rept. 102–769, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 5399. A bill to amend the U.S. Commission on Civil Rights Act of 1983 to provide an authorization of appropriations (Rept. 102–770). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1241. A bill to impose a criminal penalty for flight to avoid payment of arrearages in child support; with amendments (Rept. 102–771). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3795. A bill to amend title 28, United States Code, to establish three divisions in the Central Judicial District of California, Rept. 102–772). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4209. A bill to amend the act entitled "An Act conferring jurisdiction on certain courts of the United States to hear and render judgment in connnection with certain claims of the Cherokee Nation of Oklahoma," approved December 23, 1982; with an amendment (Rept. 102–773, Pt. 1). Ordered to be printed.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5686. A bill to make technical amendments to certain Federal Indian statutes, (Rept. 102–774). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5475. A bill providing policies with respect to approval of bills providing for patent term extensions, and to extend certain patents; with an amendment (Rept. 102–775). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2731. A bill to amend section 2680(c) of title 28, United States Code, to allow Federal tort claims arising from certain acts of customs or other law enforcement officers, and to amend section 3724 of title 31, United States Code, to extend to the Secretary of the Treasury the authority to settle claims for damages resulting from law enforcement activities of the Customs Service; with amendments (Rept. 102–776). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1206. A bill to confer jurisdiction on the United States Claims Court with respect to land claims of Pueblo of Isleta Indian Tribe; with an amendment (Rept. 102–777). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans Affairs. H.R. 5619. A bill to reorganize technically chapter 36 of title 38, United States Code, and for other purposes; with amendments (Rept. 102–778). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mr. GEPHARDT, Mr. MICHEL, Mr. GINGRICH, Mr. DE LA GARZA, Mr. COLEMAN of Missouri, Mr. ASPIN, Mr. BROWN, Mr. WYLIE, Mr. HAMILTON, Mr. GILMAN, and Mr. LEACH):

H.R. 5750. A bill to support freedom and open markets in the independent states of the former Soviet Union, and for other purposes; jointly, to the Committees on Foreign Affairs, Banking, Finance and Urban Affairs, Agriculture, Armed Services, and Science, Space, and Technology.

By Mr. FASCELL (for himself and Mr. BROOMFIELD):

H.R. 5751. A bill to provide for the distribution within the United States of certain materials prepared by the U.S. Information Agency; to the Committee on Foreign Affairs.

By Mr. MILLER of California (for himself and Mr. WAXMAN):

H.R. 5752. A bill to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

By Mr. MINETA (for himself, Mr. ROE, Mr. HAMMERSCHMIDT, and Mr. SHUSTER):

H.R. 5753. A bill to make technical corrections to title 23, United States Code, the Federal Transit Act, and the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. NOWAK (for himself, Mr. ROE, Mr. HAMMERSCHMIDT, and Mr. PETRI):

H.R. 5754. A bill to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ROE (for himself and Mr. HAMMERSCHMIDT):

H.R. 5755. A bill to amend the John F. Kennedy Center Act to authorize appropriations for administration of the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 755: Mr. EVANS.

H.R. 1241: Mr. BACCHUS and Mr. LANCASTER.

H.R. 1427: Mr. SOLOMON.

H.R. 2125: Mr. RANGEL, Mr. TOWNS, Mr. WALSH, and Mr. HUGHES.

H.R. 3204: Mr. BEILENSON.

H.R. 3545: Mr. TORRICELLI.

H.R. 3748: Mr. MAVROULES.

H.R. 5214: Mr. EARLY.

H.R. 5274: Mr. KLECZKA, Mr. MARLENEE, Mr. COSTELLO, Mr. HOCHBRUECKNER, Mr. PARKER, Mr. DURBIN, Mr. CONDIT, Mr. ENGLISH, Mr. JOHNSON of South Dakota, Mr. CONYERS, Mr. BENNETT, Mr. BROWN, and Ms. KAPTUR.

H.R. 5317: Mr. PASTOR.

H.R. 5360: Mr. TOWNS and Mr. MARKEY.

H.R. 5434: Mrs. LOWEY of New York and Mr. KENNEDY.

H.R. 5477: Mr. SHAW.

H.R. 5478: Mr. SARPALIUS, Mr. ANTHONY, Mr. LEWIS of Florida, Mr. TOWNS, Mr. BROWN, Mr. HERTEL, Mr. ANDERSON, Mr. MCCOLLUM, and Mr. PRICE.

H.R. 5531: Mr. WILSON, Mr. SARPALIUS, Mr. HALL of Texas, Mr. GEREN of Texas, Mr. COLEMAN of Texas, Mr. CHAPMAN, Mr. EDWARDS of Texas, Mr. LAUGHLIN, Mr. FROST, Mr. BRYANT, Mr. DOOLEY, Mr. MCDERMOTT, Mr. HORTON, Mr. GUARINI, Mr. HAYES of Illinois, Mr. OWENS of New York, Mr. FASCELL, Mrs. BOXER, Mr. DIXON, and Mr. KOPETSKI.

H.R. 5591: Mr. MCCANDLESS, Mr. BOEHLERT, and Mr. ZELIFF.

H.R. 5619: Mr. HAMMERSCHMIDT, Mr. JENKINS, Mr. HEFNER, Mr. RICHARDSON, Mr. STENHOLM, Mr. PAYNE of Virginia, Mr. PARKER, and Mr. HARRIS.

H.J. Res. 393: Mr. SCHEUER, Mr. TOWNS, Mr. PANETTA, Mr. SHUSTER, Ms. KAPTUR, Mr. ENGEL, Mr. SHARP, Mr. STOKES, Ms. WATERS, Mr. HAMILTON, Mr. ATKINS, Mrs. MORELLA, Mr. SPENCE, Mr. YOUNG of Florida, Mr. HUGHES, and Ms. MOLINARI.

H.J. Res. 398: Mr. CHANDLER, Mr. MOORHEAD, Mr. MILLER of California, Mr. DE LA GARZA, Mr. MFUME, and Mr. WASHINGTON.

H.J. Res. 399: Mr. WOLPE and Mr. YOUNG of Florida.

H.J. Res. 478: Mr. ENGEL.

H.J. Res. 489: Mr. LEVINE of California, Mr. LENT, Mr. BILIRAKIS, Mr. LEWIS of Florida, Mr. GILLMOR, Mr. MOORHEAD, Mr. HUNTER, and Mr. HAMMERSCHMIDT.

H.J. Res. 495: Mr. EWING, Mr. MFUME, Mr. ROGERS, Mr. CLAY, Mr. ANDERSON, Mr. ANNUNZIO, Mr. AUCOIN, Mr. BORSKI, Mrs. BOXER, Mr. CAMP, and Mr. YOUNG of Florida.

H.J. Res. 505: Mr. MCCLOSKEY, Mr. VALENTINE, Mr. KOSTMAYER, and Mr. DUNCAN.

H. Res. 359: Mr. ENGEL.

H. Res. 502: Mr. SCHIFF.

H. Res. 515: Mr. PAYNE of New Jersey, Mr. ATKINS, Mr. LANTOS, Mr. MCNULTY, Mrs. SCHROEDER, and Mrs. UNSOELD.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1790: Mr. DANNEMEYER.

PETITIONS, ETC.

Under clause 1 of rule XXII,

172. The SPEAKER presented a petition of the Council of the County of Kauai, Hawaii, relative to the Federal trust relationship and obligation to native Hawaiians; which was referred to the Committee on Interior and Insular Affairs.

SENATE—*Monday, August 3, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *Blessed be the name of God for ever and ever: for wisdom and might are his: And he changeth the times and the seasons: removeth kings, and setteth up kings* * * *. Daniel 2:20, 21.

Eternal God, Lord of history, Ruler of nations, the United Nations is confronted with a stubborn crisis which threatens global peace. Apparently, Saddam Hussein sees himself as the modern counterpart of Nebuchadnezzar who ruled Babylon, a world empire, until it was conquered by the Medes and Persians, modern Iran. The prophet Daniel records the pride of "Nebuchadnezzar the king, unto all people, nations, and languages, that dwell in all the earth * * * ."—Daniel 4:1. We pray, mighty God, as you overruled in the life of Nebuchadnezzar, so you will in the life of the present ruler of Iraq.

In the words of Daniel, the King boasted, "* * * Is not this great Babylon, that I have built * * * by the might of my power, and for the honour of my majesty?"—Daniel 4:30. After God's discipline, the arrogant King called his counselors and lords together and, in a repentant spirit, said, "Now I Nebuchadnezzar praise and extol and honour the King of heaven, all whose works are truth, and his ways judgment: and those that walk in pride he is able to abase."—Daniel 4:37.

King of heaven, as You transformed the heart of Nebuchadnezzar in ancient Babylon, we pray You will rule in the life of Saddam Hussein, that peace may prevail and the suffering in Iraq and uncertainty abroad may end.

In the name of the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 3, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BRYAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 5373, which the clerk will now report.

The assistant legislative clerk read as follows:

A bill (H.R. 5373) making appropriations for energy and water development for the fiscal year ending 1993, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas [Mr. BUMPERS] is recognized.

Mr. BUMPERS. Mr. President, could the Chair restate the order for the benefit of the Senate on the time agreement on this amendment.

The ACTING PRESIDENT pro tempore. The Senator is to be recognized for purposes of offering an amendment at this point, and the time for the debate on this amendment lasting until 1:30 will be divided equally, one half of the time under the control of the Senator for Arkansas, and the other half under the control of the chairman of the committee, the senior Senator from Louisiana.

Mr. BUMPERS. Mr. President, then there is, as I understand it, an additional 30 minutes of debate to be equally divided beginning at 6 p.m. this evening, am I correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BUMPERS. After which there will be a vote on an amendment by the Senator from Oregon [Mr. HATFIELD] followed by a vote on this amendment?

The ACTING PRESIDENT pro tempore. The Senator is correct.

AMENDMENT NO. 2832

(Purpose: To limit the funds that may be used for the superconducting super collider)

Mr. BUMPERS. Mr. President, I call up an amendment at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2832.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 55, strike line 7, and insert in lieu thereof the following: "$1,460,784,000, to remain available until expended: *Provided*, That of this amount, from funds appropriated for the superconducting super collider, $516,000,000 shall be applied to deficit reduction.".

Mr. BUMPERS. Mr. President, we had originally scheduled 5 hours for this debate on the super collider. It has now been cut to 4 hours. I have no quarrel with that. I was on a plane headed for Arkansas when this agreement was worked out, and I simply hope that all Senators on both sides will have an opportunity to speak. I am going to try to reserve time for everybody on my side who has asked for time to speak.

I would note that after reading Helen Dewar's article in the Post this morning about so-called gridlock, in which she discusses at length policy debates and legislation being passed and vetoed, legislation being filibustered, and the use of the term gridlock growing daily, as does the anger of the American people, I also note that tomorrow the second part of the series of her articles will deal with the deficit.

Now, that is the principal objection I have to the superconducting super collider. In a perfect world, I would be more than happy to vote for this. But it is not a perfect world. On the contrary, it is a very imperfect world and growing worse as far as the United States is concerned because of the deficit.

Many of you know that I was a trial lawyer before I came to the Senate, and I have a tendency to make those impassioned jury arguments in arguing amendments. But today I am going to do my very best to make a case both on the fact that intellectually we should not do this; that the costs are already out of control; that spending money on

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the superconducting super collider squeezes out a lot of needs in this country and, indeed, even a lot of science that could be more productively spent, to say nothing of the fact that the job part of this is the worst of all arguments.

Even among the physicists of this country, this project will cost $10 million per physicist employed on the job. The jobs created will be $80,000 per job, and I submit if you took it out and put it on highway construction you could create probably four times as many jobs.

That is probably the last argument I will make right now on the jobs issue, but that is not a legitimate argument.

I will close the debate tonight with an impassioned appeal to this body. We are now debating what I consider to be one of the 10 or 15 most important debates we will have all year on one of the 6 or 7 most important issues, and I see 2 Senators on the floor and 1 sitting in the Chair. So this all plays right into the hands of our critics, and justly so.

Despite the argument—I hesitate to say intellectual argument, but besides the pure arguments about jobs, about cost, about the science, about the crowding out, and about the deficit, I know that the deal is done; the die has been cast: I will vote for your super collider if you will vote for my space station, or I will vote for SDI if you will vote for the super collider.

I do not say that to denigrate a single soul in this body. I must confess in the interest of candor, Mr. President, if my State was going to get $2 to $5 billion of this money, I would be seated where the distinguished senior Senator from Louisiana, my very good friend, sits probably making the same arguments he is going to make. If I were from the State of Texas where it was going to be built and where maybe as many as 6,000 jobs will be created, I would be taking the same position the Senator from Texas will be taking. However, I am not so burdened, and I can look at this with a quite different view.

I want my colleagues to know we are talking about $20 billion minimum. We are not talking about $8 billion to build this system. We are talking about building and operating it for 25 years at an annual cost of $500 million. And the argument that we have to be on the cutting edge of science makes a lot of sense if it is the kind of science that will cut the $52 billion trade deficit we have with Japan this year, but it is not that kind of science.

There are going to be a lot of arguments here made about all the spinoff benefits that we are going to receive. Well, the House did not buy it, Mr. President. Bear in mind that the House killed this project outright—killed it dead by a 50-vote majority. Do you know why they killed it? Because it had been only 3 or 4 days from the time they voted on this that they had voted not to put a constitutional amendment to balance the budget in our Constitution.

Those who had voted not to put an amendment in the Constitution were looking for cover. I do not blame them. I would have been, too. Our ability to cut spending around here is in direct relationship to the length of time it has been since we have debated a constitutional amendment to balance the budget. And the House, because they had been chided about not putting a constitutional amendment in the budget and about not ever being able to cut any projects, killed this sucker dead.

One of the reasons I will not win today, Mr. President, is because the scientists of this country, and the Department of Energy, especially have learned what the Pentagon has known for 50 years and what NASA is beginning to perfect, and that is, if you want money, contract it in 50 States. You do not have to give any State very much, and if you are from a small State like Arkansas, just put $10 or $15 million in there and have the people going to get that, go to their Senators and say: you are going to kill the jobs in my State if you vote against the superconducting super collider.

Do you know how may States have contracts on the SSC? Forty-eight. Only two lonely States are not getting a piece of the action. Do you think that is by accident? Do you think the people who put this project together picked out 48 States for a piece of the action just because those States were the only States where a particular contract could be formed? Those States were chosen for political reasons, and it works. I have never seen it fail to work in this body. I must say, there are three or four courageous Senators who have come to me in the last 2 weeks and said: Senator, I am going to help you with that, and it is going to hurt me back home, because we have several contracts on the super collider. They have my undying admiration and gratitude.

Oh, yes, we need to be on the cutting edge of science, but, Mr. President, this Nation is on the cutting edge of bankruptcy, and nobody can ever seem to find a place to bring this thing under control.

Mr. President, I have placed, or will shortly place, on every Senator's desk a separate thing to counter the contracts in 48 States. What I will place on everybody's desk is what it is going to cost the taxpayers of your State to pay for this thing. Arkansas, whom George Bush now says is probably the worst State in the Nation, which has been ill-governed, and there is no State in the history of the world that has ever been so ill-governed, and he wants to extract $83 million from that terrible State of Arkansas, from the people of Arkansas, to build a piece of science from which they will probably never derive one single ounce of benefit.

So, Senators, look on your desks and see what the percentage cost of this collider is for the people of your State. And then be prepared to go back home and tell them that you voted to extract that money from them, but then also tell them what the benefits are that they are going to get out of it. I dare you to do that.

One of the real tragedies of this debate is, in all probability, that this project is going to be killed—not this year, but maybe next year; if not next year, the following year.

I think about the antiballistic missile system out in North Dakota back in the late 1960's and early 1970's. There were people who stood on the floor of the Senate day after day saying: It will not work, why are we putting $6 billion in it? That would be comparable to about $30 billion today.

But the argument year after year was: We have gone too far. We cannot turn back. That is what I call a nose-under-the-tent theory. So you will hear the arguments on the other side today. Do you realize, Senator, we have already put $1 billion into this project? We cannot turn back now.

Just this last year you head these arguments: What will Japan and all of the other countries who are going to help us think? Why, we will never be a reliable scientific partner again.

I remember that the initial project called for $1.7 billion in foreign assistance—$1 billion of which was to come from Japan.

I will come back to that argument in just a moment, but do you remember that trip the President took to the Far East, and wound up in Japan, and got sick at the dinner, and everybody thought the Japanese will probably at least feel sorry for him, and despite all of their reticence about any trade concessions, they will probably give him his $1 billion for the superconducting super collider. Do you know what they told the President? It has been nice having you here. Do not call us, we will call you.

Who is on the cutting edge of science in this world? The Japanese. I will tell you something that is really ironic. When the Japanese were toying with the idea of participating in this, they set aside some money, and they put it in their foreign aid budget. The Japanese put $1 billion in their foreign aid budget to help the United States build this thing. Now, of course, they are not going to give us anything.

Mr. President, there are other people here who would be much better to argue certainly the technical aspects of this. I never even had high school chemistry. I do not have a scientific mind. My father used to say, if I had had a scientific or mathematical mind, he would have been questioning my mother more intently.

I do not know anything about the science of particle physics, and I do not know anything about linear accelerators. I simply know what some of the leading scientists of this country have said—even Dr. Lederman, on whose opinion the proponents of this heavily rely for building it—Dr. Leon Lederman, the leadoff witness in the hearing that was set up by the distinguished chairman of the Energy Committee, Senator JOHNSTON. I do not know anything about any of those things, but I know that we only fund Head Start at 50 percent of what we ought to be funding it at. I know that the Women, Infants, and Children's Program is funded at about 55 percent of where it ought to be and, therefore, poor women in this country get no prenatal or neonatal care, and their children do not get a decent diet the first 3 years of their life, which drops their IQ by 15 points.

I know there are 35 million people in this country with no health insurance. I know that we have 10 million people walking the streets looking for jobs. I know that there are unmet needs in the National Institutes of Health, where they are trying to deal with AIDS, cancer, leukemia, arthritis, heart disease, you name it, and can only fund 25 percent of the good applications for medical grants they get for medical research.

Mr. President, a short 20 years ago, NIH was funding 70 percent of all the good claims and applications for medical research grants that they received. Today, they fund about 25 to 26 percent, and we are putting $20 billion in determining the origin of matter. If I were a physicist, I would be curious about the origin of matter. But even if I were a physicist, I would also know one thing: This research can be done today, next year, 100 years from now. That is the reason I said in a perfect world of fiscal surpluses I would be for it. It is not going anywhere.

We are going to build a 54-mile underground racetrack at Waxahachie, TX, and with the use of magnets, we are going to have these particles collide at something like 20 million volts. And from that we will be unraveling the mysteries of how the Earth was formed, how matter was formed.

Mr. President, I mentioned Leon Lederman a moment ago. Here is what the Nobel laureate particle physicist, Leon Lederman, who strongly favors this project, said on June 30, 1992. This is their physicist, not mine.

> Spinoffs would be a crazy reason for building the super collider. We do not build it for the spinoffs. We build it because we are curious. The SSC is so long-term and uncertain in its payoff.

Some people have said the magnetic resonance imaging invention came as a result of this kind of research, and the man who was most deeply involved in it said, "That is the biggest piece of nonsense I ever heard in my life."

It is reputed to be a cure for cancer, the common cold, sties, corns, athletes foot, you name it. I think I have seen at some point how if we go forward with this project we will have a cure to every ailment ever known to man.

Listen to Dr. Krumhansl. Dr. Krumhansl was the president of the 40,000-member American Physical Society in 1989. Here is what he said to the American Physical Society on June 18, 1992, the same meeting at which Dr. Lederman spoke. Listen to this:

> It's about time to dispel the illusions in Congress and the public in general about technological and educational spinoff from particle physics. Not only is this largely a fiction, but in some instances at least claims by the SSC proponents were actually work done by others.

Dr. Nicholaas Bloembergen who was president of the American Physical Society, professor at Harvard University, May 21, 1991, as an expert in magnetic resonance:

> I can state categorically that MRI is not a spinoff from SSC related activities.

Dr. Griffin Resor, president of MRC Technology, Inc., July 18, 1991:

> If the United States following its present competitiveness model funds the super collider, in the future the United States may become the world's leading supplier of super colliders. But this market is very small. If in the same time interval Japan focuses on superconductors for small motors and power distribution and is equally successful, Japan will dominate all applications where power efficiency is important. Japan's wealth will continue to increase dramatically. Except for a small team working in Texas, the U.S.A.'s wealth will diminish.

Mr. President, here is what the U.S. Council on Competitiveness said. This consists of people like Bob Inman, George Fisher, who favors the SSC, John Akers, of IBM and Don Peterson, chairman of Ford.

> In an era of limited resources for Science and Technology, the United States must choose its priorities carefully. The United States is spending a lot of resources on national prestige technology—projects that make little contribution to U.S. economic growth and competitiveness. Constant spending on generic industrial technology would not only have a major impact on America's international prestige, but also on our standard of living, national security, and international influence.

I save the best until last, Mr. President. Another quote from Dr. James Krumhansl of the American Physical Society, 1989. Listen carefully.

> The issue is not simply big science versus small science but that in the view of many members of the American Physical Society the extravagant representation to the public of the potential fruits from the SSC are fictitious ethically irresponsible.

These are not people who just fell off the turnip truck. We are talking about Harvard professors, Nobel laureates. We are talking about the top physicists in the country.

Mr. President, in a poll of the American Physical Society members that the DOE—I believe the DOE conducted this study. What do you think is the most important thing for physicists and the future of this country insofar as research is concerned? The SSC ranks 10th in a field of 11 choices.

So in conclusion, Mr. President, if you are going to vote on this because you think it puts us on the cutting edge, I invite you to walk to my desk and let me show you these quotes that I just gave to you.

Let us talk about what does it do to other science? If you are a poor scientist out there trying to get some kind of a grant and you are a very proud, intelligent, physicist, what do you do for money? Completely aside from Head Start, crime, and education, the WIC Program, all the other unmet needs of the country—I am just talking about people who are engaged in this procession—there are numerous physicists that would tell you this money could be better spent to make us a healthier, happier, and certainly a busier America.

Mr. President, I do not want to quote Mr. Lederman too often but he is so good, because, Herman Talmadge, who used to be our distinguished colleague here, when he discussed this, "throws the corn where the hawks can get to it."

Here is what he said:

> If we don't drastically reduce [the SSC's then-estimated $4 billion] costs, SSC will die or, worse, drag out to become an unfruitful drain on the rest of the [high energy physics] program.

Mr. President, I want to call two things to your attention. No. 1, he said that in 1985. Second, he said that when the cost of this project was being represented to the Nation at $4 billion.

And what did he say? He said:

> If we do not drastically reduce this cost, you are going to squeeze out other high-energy research.

What did Prof. Philip Anderson, Nobel Laureate in Princeton, say in 1991?

> Are there worthwhile research institutions and projects which are being neglected and starved for money while the SSC is relatively liberally funded? The answer is yes, there are very many. * * * Is the SSC so urgent that we have to go ahead with it at any cost? Obviously not.

Dr. Bloembergen, president of the Physical Society:

> * * * the SSC must not be built at the expense of broadly based scientific research * * * even the leaders of the high energy physics community have stated that without new money, the SSC should not be built.

Dr. Krumhansl:

> Large areas of small science physics, far more important in the larger scheme of things than particle physics, are starving and have been for the past several years, * * * the SSC burden will cause significant additional damage to small science funding * * * [If the SSC is stopped,] American technology or competitiveness will not suffer at all.

And finally, Mr. President, the Chronicle of Higher Education, April 22, 1992:

> The recommendation, which would force hundreds of scientists to be laid off at the Stanford University center, came as a surprise to researchers who had been seeking approval to build a new electron collider there. It was one of several proposals by the High Energy Physics Advisory Panel to meet what many physicists fear will be a series of lean budgets for their field *as the department continues its construction of the Superconducting Supercollider*.

So will it crowd out other science that has a faster paycheck?

The proof is in the pudding. There it is.

Incidentally, before I go on Mr. President, I want to tell the Senators from New York and California that they can almost rest assured that the Stanford linear particle accelerator, where hundreds of physicists work, will probably be closed if we continue funding this.

To the Senators from New York, I promise them, Brookhaven is going to have a very difficult time surviving if we fund this.

Dr. Peoples, director of Fermi National Accelerator Laboratory, April 22, 1992. Bear in mind that is only 3 months ago:

> By the end of the decade * * * the diversion of funds to the supercollider will not only reduce the diversity of programs in the field, but lead to "utter disaster" for the national laboratories.

And finally, Dr. Rustum Roy, who appeared on MacNeil/Lehrer the other night with Senator JOHNSTON and me:

> How can one possibly support $10 billion for an ultimate luxury item in a budget crisis? * * * how does one possibly justify putting money into a totally esoteric corner of the most "use-less" part of science instead of * * * materials, engineering, bioscience, agricultural science, on which jobs and trade depend?

Dr. Roy said on that show the other night—I quote him, and not me—he said:

> This is a tremendous welfare program for the State of Texas.

The Senator from Louisiana said:

> Well, Dr. Roy, you are not even a particle physicist. You are a materials physicist.

See, I do not know the difference between the two.

Now, Mr. President, let us move on to the cost of the project. Here is the chronology of the cost that will give you some idea of where we are headed, because we have already tripled—tripled—Mr. President, that wonderful $4 billion figure back in 1984 and 1985.

Now, nobody here is naive enough to believe that if the Department of Energy's internal studies now show this project is going to cost $11.8 billion, when I think we have only let the first excavation contract, there is not anybody in this body naive enough to believe you are probably headed for two to three times that cost.

Then, of course, you know I want to make one other point. I mentioned the ballistic missile program, which we could not stop, and then started dismantling the day it was completed, in 1975 or 1976. We started dismantling it after we put $6 billion in it. And a few Senators in this body were squealing like a pig under the gates every step of way, and saying: This is a terrible mistake.

You think about the SST, it lost by one vote here. And the British and French went ahead and built the SST, to their eternal chagrin, dismay, and regret. I guess that was the last time the Senate really did something responsible. They killed that supersonic transport, and the British-built the Concorde. It was a very wise decision. And the B-2 bomber, when it became apparent that we not only would not get what we thought we were going to get out of the B-2, but even that the Soviet Union was dissolved—does not exist—people still insisted on going forward with the B-2 bomber because we have already "gone too far to turn back."

Mr. President, I digressed, but I come back to where I started on the chronology of the cost of this project. In 1985, here is what Dr. Lederman, again one of the strong proponents of this project, said:

> The estimated $4 billion everybody talks about, nobody out there believes, if we do not drastically reduce costs, SSC will die, or worse drag out to become an unfruitful drain on the rest of the program.

I read that quote to you before, but it is even more appropriate on where we were in 1985, talking about $4 billion.

In 1987, I guess it is Dr. Trivelpiece, here is what he said:

> We believe that the $4.4 billion is not only accurate.

Listen, let me go back, because I now want you to know who Dr. Trivelpiece is. Dr. Trivelpiece was, on April 7, 1987, when this quote was made, Director of the Office of Energy Research, in the Department of Energy. These are the people who have been giving us the figures on what this thing is going to cost. So Dr. Trivelpiece, who is obviously saying what Ronald Reagan told him to say, because they have been saying what George Bush told them to say ever since, here is what he said:

> We believe that 4.4 billion is not only accurate to within 10 percent, it is conservative. The SSC is probably the best analyzed project ever brought forward by the administration to the Congress in terms of knowing what it takes to do it, what the feasibility is, how long it is going to take, and what it is going to cost.

Here is our guru in the Department of Energy, at a time when the projected cost was to be $4.4 billion, and he is saying never in the history of the world has anybody known what the cost was going to be as precisely as we do.

And then, in 1989, Secretary Watkins comes over to testify before the Energy Committee. By this time, George Bush is President, and my good friend and distinguished colleague, Senator JOHNSTON, is chairman of that committee.

And Secretary Watkins then says that the cost is now $5.9 billion, sorry about the earlier projection of cost; a minor $2 billion mistake, after Dr. Trivelpiece said: Never in the annals of the world have we known about what something was going to cost.

Two years later, his boss, the Secretary, comes over and says, well, the cost is up $2 billion, but actually Texas is going to put in about a billion so it is really only a billion.

But listen to this. Actual words of Secretary Watkins: "If the collider costs a dime more than $5 billion, we should not build it." Who is the leading cheerleader at $11.8 billion? Secretary Watkins. What people say around here means nothing anymore. We all hold nobody accountable.

And in Physics Today, in March 1991, here is another quote. This is the American Physical Society's magazine, I believe, called Physics Today:

> Administration sources say that the White House Office of Management and Budget, which sat on DOE's cost report for more than three months, argues that the figure of $8.25 billion may turn out to be much too low.

Now, Mr. President, we have gone from $4 billion, to $8.25 billion in this chronology and the Physics Today magazine says the figure may turn out to be much too low.

And then, in August, that same magazine said: "[Japanese] scientists and diplomats alike do not trust the U.S. Government, and the Department of Energy in particular"—and I might just digress to say I agree—"to come up with reliable [SSC] cost estimates. The official $8 billion figure is now laughed at, and the numbers keep going higher." That is the Japanese version of it.

And what else did they say? Tokyo's newspaper—and I cannot pronounce the name of it—on April 11 of this year, 1992, said, "It is highly likely that the $8.25 billion figure may increase at some point during construction." Now if I have ever heard an understatement made, "increase during construction," that is it.

Finally, Mr. President, we went from the original $4 billion to $5.9 billion to $8.25 billion and here, 2 years ago, a figure that nobody knew about or was told about, an independent cost estimating staff inside the Department of Energy, said: "The total cost of the SSC is $11.8 billion, and this should not be interpreted as a worst-case scenario."

That is said by the proponents of the collider.

Mr. President, fool me once, shame on you. Fool me twice, I will lose my seat.

And now, let us talk about how well the project is being managed so far.

This is not really nearly as determinative as all the other things, crowding out other sciences, cost escalation, but on mismanagement, here is what Henson Moore said in January of this year. Henson Moore is the guy just under Secretary Watkins. He is the Deputy Secretary of Energy.

> Today I have learned that the overrun problems are continuing and may be even getting worse. * * * the actions taken thus far appear to me to be woefully inadequate. * * * this shows to me a lack of management ability on the part of URA [the superconducting contractor].

The General Accounting Office, in April of this year:

> Although DOE maintains that the SSC project is on schedule and within budget, it does not have in place an integrated system for monitoring cost and schedule performance that would allow it to objectively determine its progress.

In other words, GAO has said they do not know what they are doing. How can they tell you what the cost is going to be when they do not have any method for determining it.

And the inspector general of the Department of Energy said, "Unless checked, [SSC] cost overruns also appear likely for future construction that is in progress or planned."

And in the hearing conducted by Senator JOHNSTON and the Energy Committee, they testified, principally Mr. Cipriano, who is in charge of this project at the Department of Energy, "Well, GAO said that, but we have corrected that now. That is no longer valid by the GAO."

So I wrote GAO and said, "Is this true." And they wrote back and said, "The Department of Energy has not yet fully implemented the cost and schedule system for managing this project."

Mr. President, this was 10 days ago. This is not back in January or April. Ten days ago they say the Department of Energy has not yet fully implemented the cost and schedule system for managing this project. And without a cost and schedule system, DOE cannot accurately assess on a timely basis whether this project has encountered problems affecting the cost and schedule.

> [DOE has] not yet fully implemented the cost and schedule system for managing the SSC project. * * * *Without a cost and schedule system, DOE cannot accurately assess on a timely basis whether the SSC project has encountered problems affecting the cost and schedule.*
>
> [The SSC contractor] made a preliminary integrated project schedule in May 1992. That preliminary schedule disclosed that *the SSC project's cost exceeded planned funding* * * * [by] about $200 million more than planned [for FY95] * * * Major program elements were missing from the integrated project schedule * * * the first meaningful trend analysis * * * showing *the estimated cost and schedule for completing the project may not be available until June 1993*—nearly 4½ years after DOE awarded URA [the contractor] the prime contract that required the Cost and Schedule Control System to be implemented.

Mr. President, I have alluded to foreign assistance already, but I will just come back to it for just a moment to say that I never will forget those debates last year of how we were not going to be a reliable scientific partner if we did not go ahead with this because the Japanese were relying heavily on it; Albania is going to furnish copper; India has committed $10 million. And so far that is it, so far as foreign participation is concerned.

Secretary Watkins in 1989 said, "I am confident that we can count on the Japanese to contribute significantly to this undertaking, we would hope in the order of $500 million to $1 billion.

From a 1990 Department of Energy decision document.

> We believe that we are unlikely to meet the Administration's goal for non-federal participation (one-third of the total project cost) in the foreseeable future.

That is one-third. The Department of Energy said we have been planning on one-third participation by foreigners. They now say they may not reach that. In Physics World, another physical magazine, in August 1991, it says:

> Japanese scientists and diplomats alike do not trust this Government, and the Department of Energy in particular, to come up with reliable [SSC] cost estimates. The official $8 billion figure is now laughed at, and the numbers keep going higher.

Mr. President, a prominent Japanese particle physicist, in August 1991, said, "It is a great intellectual gimmick and the science is interesting, but is it worth this kind of money?

Finally, Mr. President, April 1992, just a short 3 months ago, the Japanese, with whom we have been pleading with to give us money:

> It is highly likely that the $8.25 billion figure * * * may increase at some point during construction.

Mr. President, I do not want to get in the technical part of this, as I said earlier, but I do want to say that the Japanese have done their own estimates of what the cost of the magnets are going to be. And when you look at the $11.8 billion that the Department of Energy internal studies say it is going to cost, when you look at that, they are anticipating that the magnets—the magnets, there are two different kinds—are going to cost $2 billion beyond. And the Japanese internal studies on that say the magnets are going to cost $5 billion. Now if the Japanese turn out to be right, add another $3 billion just for the magnets.

Mr. President, when I think at how hard I have to scrounge in the Labor-HHS Appropriation Subcommittee to get money to immunize the children of this country, when I think about how we have to scrounge to try to get a little money for education, Pell grants and personal loans when I go to the John L. McClellan VA hospital in Little Rock and see 100 closed beds because of lack of money and a list as long as across the floor of this Chamber of veterans pleading for admission to that hospital; when I realize there are 3 million people on the streets with no housing, and when I think about the United States becoming the crime capital of the world, which we are now—we have more people in prison today, as a percentage of our population, than any nation on Earth, including China and South Africa.

There was a woman came up to me in Ashdown, Little River County, AR, Saturday afternoon; everybody there rhapsodic because Ashdown was celebrating its 100th birthday, Little River County on the same day celebrating its 125th birthday. This panicky mother, I would say of 65, said, "Senator, I need to talk to you."

Every Senator knows what this is like. When you walk into a crowd you walk out with five cases to take back to your staff, that is how troubled people in this country are.

"My daughter had a heart transplant, and she has been doing very well, and the doctors say she is doing well. But she can no longer afford the medication. And Medicaid will not buy her drugs for her."

There were tears streaming down her cheeks. "My daughter is going to die if she does not get help."

I wanted to say I would like to help but we have to fund this big $20 billion super collider.

Finally, Mr. President, there is the question of the deficit. And when I say finally, this overrides everything else. I want my colleagues when they come in tonight to vote to ask themselves this simple question: What do you think is the greatest threat to the future of this Nation?

Perhaps different people have different ideas. But I have been expecting it all to cave in every day for years now. I do not know what props it up—$400 billion this year. A $4 trillion national debt; $3 trillion of it accumulated in the last 12 years. And we say why are people so upset?

They may not understand it, but I can tell you at the belt-buckle level, they understand it precisely. You will hear arguments, and I have read—I have a briefing book that thick, and I read every word of it this weekend. Many of the arguments in the House by those who favor this—this is such a small percentage of the budget. And therein lies the rationale that has brought us to this unhappy point. It is always such a small amount. And this crowd wants this little bit, and this crowd wants this little bit—maybe just a fraction of a percentage of the budget, or certainly a little larger fraction of the deficit. Helen Dewar of the Washington Post says the place is in gridlock, and she could not be more right.

My math may be wrong. But the full funding, the full funding only amounts to 1.25 percent of the budget. But if you take the $500-plus million that the Senator from Louisiana added after the House struck everything out; if you take the $550 million for next year's budget, that is only 12-hundredths of 1 percent of next year's budget. As a percentage of this year's deficit of $400 billion, this $500-plus million is only one-eighth of 1 percent. They are just small fractions. Why are we making such a big to-do about such a small part of the budget.

Those are what I call big numbers; big "nose-under-the-tent" numbers. And bear in mind that the first cost of this project which is now projected to be $11.8 billion and will certainly go much higher by almost everybody's understanding—add to that $500 million a year.

Mr. President, I used to get teary-eyed every time I saw the shuttle take off. Do you know what dried my tears? When I found out it costs $300 to $500 million every time it takes off.

Do you know the real tragedy? The real tragedy is every dime of this $20 billion is going to be borrowed—every single penny of it. It will be borrowed and will add to the deficit. So you look at the real costs. If $10 billion is the cost of construction I can tell you that 30 years from now, you compound the interest—just the cost of the project itself will be $30 billion. You want to project 30 years past the day it is built, the compounded interest on it, on $20 billion? It is $60 billion. You are not voting for $11.8 billion today. You are voting to add that to the deficit and pay interest and compounded interest on it forever.

These beautiful staff pages down here will not live to see any portion of this paid off. But it is such a small part of the budget deficit and it does create some jobs. Not many compared to the cost, but some.

Mr. President, it has been about 3 weeks to a month now since we had the amendment to put a constitutional provision in to balance the budget. I do not know how it would work. I think it would be very cumbersome. The thing I worry about more than anything else is it will not be enforced and it will make a mockery of the Constitution which everybody knows is so sacred to me, as it is to them. When you go tinkering with the Constitution you get my attention in a hurry.

But we are reaching that point. There is a fellow who used to work for me. I used to have a furniture and hardware and appliance store I owned when I was practicing law. He had a good expression. Sometimes when I was in a quandary he would say, "Let's do something, even if it's wrong." Maybe the time for a balanced budget amendment has come. We will try it and see what happens.

The people who argued against it here said why do we not cut some of these boondoggles like the super conducting super collider, and the space station, and strategic defense initiative, and the Trident missile? Now we are down to the point where you get to vote on those things, and neither those who favor the constitutional amendment nor those who opposed it can find it in their hearts to kill any of those projects.

If you cannot kill this one I am not going to say you ought to hang it up, because I think it will be killed next year after we put in another $500 million, or the year after that after we put another $500 million in it.

But this project is a cacophony of broken promises. Broken promises on the original cost; broken promises on cost controls; broken promises on what the spinoffs are, which do not exist; broken promises on foreign participation. And now the Senate is prepared to say: Just never you mind about all of that. This is going to turn out just great. It is going to turn out just great, like the SST did, and like the ABM system did, and like the B-2, bomber did.

Our President says he is a great fiscal conservative, and I think he is, as long as you do not have to cut spending. I can hear it now out of the White House when people talk about the deficit, and George Bush will say: Those mean old Democrats made me do it. I have been trying to get spending under control but I do want that space station; I do want SDI; I want the super collider because it is in my home State of Texas and it is just wonderful science; I want more Trident II missiles. I want more spare parts. I want more of everything, but I am a wonderful fiscal conservative, and I am really concerned about this deficit, and if it were not for those mean old Democrats, I would do something about it.

Mr. President, does the deficit threaten this Nation as nothing else? Absolutely. Not one person in this body disagrees with that. Does this project add to that deficit with very marginal, if any, payback? Absolutely, yes.

I yield the floor, Mr. President.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Louisiana [Mr. JOHNSTON] is recognized.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Arkansas said two things with which I strongly agree.

First, he began his talk about the merits of this project. And he said this project ought to be built, he added, "in a perfect world." And he said the science will always be there; we can discover it 50 years from now or 100 years from now. I guess you can always make those kinds of comments about science. But I certainly agree with him on that score.

Second, I agree with him when he said his math may be wrong, but it surely and demonstrably is wrong, totally wrong.

Mr. President, it is easy in this year of 1992 where Americans are unhappy everywhere and discontent pervades the land to forget how well off we are and why we are well off.

Indeed, Mr. President, ordinary Americans today live in more comfort, with better health, with better quality of life than kings and emperors of old because of what? Because of science. And we are here today to determine, Mr. President, whether we ought to go forward as a country on the most important scientific project in America.

My friend from Arkansas has attacked this project on three scores and he is dead wrong on all three scores. Let me deal with those three types of arguments.

First, he says about the costs. I think he has the cost of this project at over $50 billion at last estimate and growing, and it will never be paid for, he says.

Second, he says that all these scientists do not support it.

And, third, he says that the science is relatively worthless.

Mr. President, let me reveal the truth about the project costs. This project is on time and on budget. The budget is $8.25 billion. Where have all these other costs come from? They are comparing apples and oranges. When the Senator from Arkansas uses the estimate—he has used $11 billion, he used $20 billion, he has used $50 billion—he adds in things which are not part of this project, including operating costs, including costs from other estimators who are not correct.

But, Mr. President, the total expense, the total cost of this project, according to the Department of Energy is $8.25 billion in as-spent dollars. That is not 1990 dollars. That is in as-spent dollars.

But if you look at that which has already been spent, sunk costs through September 30, 1992, are $1.25 billion. The outstanding Texas contribution is $700 million. Termination costs are $200 million, and outyear inflation is $700 million.

So that, in effect, Mr. President, the cost of continuing the project as opposed to the cost of terminating the project is $5.4 billion.

This is a long way from $50 billion or $20 billion or all these other incredible costs that the Senator from Arkansas talks about.

The actual construction cost experience is better than the plan. The plan is the $8.25 billion. We have here surface facilities which were projected at $36.1 million. The actual contracts are coming in at $34.3 million.

Mr. President, one of these buildings came in a little over cost, but the others are under cost so that the buildings themselves are coming in at under cost. The tunneling, and this is a 54-mile tunnel, costs are coming in substantially below what the estimates were. They were estimated at $137.5 million and are coming in at $97.6 million.

There is a $900 million contingency cost of this project which was designed to be large enough to include cost overruns if they occurred. But these cost overruns have not occurred and we have not had to use the $900 million so that in effect the $8.25 billion is probably going to be substantially under that cost.

Mr. President, this chart shows the stability of the cost estimates. We all recognize that there was a tremendous design upgrade cost earlier in this project. This was caused by the fact that the earlier design of the magnets was thought to be adequate and a cost estimate was made on the design of the magnets.

The scientists looked at it and decided that the magnets had to be redesigned and that resulted in a cost escalation back in 1988 of $1.9 billion or, this is in as-spent dollars, it was $2.35 billion.

The reason we have these different amounts in as-spent or actual dollars is to compare apples to apples. We need to be clear when we talk about the cost of this project as to when the estimates were made and what dollars we are talking about.

So here is the story of cost escalations of the project. It was on the redesign of the magnets. So the conceptual design back in January of 1989 was $5.9 billion and we had the design upgrades of $2.35 billion and that actually is what has accounted for the escalation in cost.

The actual design, the cost estimate of January 1991 was $8.25 billion. Mr. President, that has remained solid for the 18 months since it—actually it is about 20 months since it has been estimated. We are still exactly on target. The fact that there were cost escalations back in 1988 when we redesigned the magnets in no way means that those cost escalations will continue. The contrary, Mr. President, the biggest unknown in this project was the design and the manufacture of the magnets. They have been redesigned. They have now been manufactured, at least a set of magnets, 100 yards long, has been designed, manufactured, and tested and the performance is excellent, in every way meeting the design standards.

So that what we have now, Mr. President, is full confidence that the cost estimates will be met. We have that confidence because we have actually manufactured the magnets. We have actual experience in constructing the buildings, and we have actual experience in digging the tunnels. We have in place actual experience in digging through that chalk formation, so we know what we are going to find.

We are told that this project will eat up all the scientific money from every project from—the Senator from Arkansas talked about Fermi lab. The fact of the matter is in this year's budget we have upgrades for Fermi lab.

He says it will take away money from Brookhaven National Laboratory in New York. We are building the relativistic heavy iron accelerator as we speak in Brookhaven, NY, and it is not taking the money from that.

Mr. President, the fact is, if you look at Federal research and development spending, the National Institutes of Health take 19.4 percent of the budget on Federal R&D spending, SDI takes 6.2 percent, the space station 2.9 percent, NASA basic research takes 2.6, the National Science Foundation takes 2.6, energy basic research takes 2.3 percent, defense basic research is 1.3 percent, and the superconducting super collider takes 0.6 percent of the R&D funding budget.

Now, Mr. President, the argument that this 0.6 percent of the Federal R&D budget is going to stop cancer research, is going to keep us from building the relativistic heavy iron accelerator at Brookhaven Lab, it is going to cut off funding from Fermi Lab, it is going to stop progress in this country is about as absurd as the Senator's joke that we claim this is going to stop everything from corns to halitosis. Mr. President, the fact is this 0.6 percent of the Federal R&D budget is not going to stop basic research.

The fact is, Mr. President, that the superconducting super collider is on budget, on time. It represents 43/100ths of 1 percent of the budget. If you cancel this project and 22 others like it, you would save 1 percent of the budget. Let me repeat that. If you canceled the superconducting super collider and 22 other projects, you save 1 percent of the budget.

Now, Mr. President, this is not the problem. As the old saying goes, "You can fool the fans, but you can't fool the players," and the players in this body, the people who know about budgets, knows that the problem of our budget is in entitlements, which take up collectively 59 percent of the budget, and not with the superconducting super collider, which takes up 43/1000ths of 1 percent of the budget.

Now, of course, you can say it all adds up. The President, scientific research has not been increasing pell-mell. It is not what is hurting our budget today. It is entitlements, and particularly the medical part of entitlements which are going up at 15 percent a year.

Mr. President, we are told that a whole raft of scientists do not approve of this project. The fact is, Mr. President, the science community strongly supports this project.

Mr. President, I have in hand a letter signed by 40 eminent scientists, including 20 Nobel Prize winners, who say, "We are deeply alarmed by its immediate destructive effect on the entire U.S. scientific enterprise and even more concerned about the serious long-term damaging consequences of this action"—"this action" being the cancellation of the superconducting super collider.

Mr. President, I ask unanimous consent that this letter, signed by these 22 Nobel Prize winners and other distinguished scientists, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COLUMBIA UNIVERSITY IN THE
CITY OF NEW YORK,
New York, NY, July 13, 1992.

Hon. J. BENNETT JOHNSTON,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR JOHNSTON: We the undersigned members of the scientific community are shocked and dismayed by the House rejection of funding for the Superconducting Super Collider. We are deeply alarmed by its immediate destructive effect on the entire U.S. scientific enterprise and even more concerned about the serious long-term damaging consequences of this action.

The approval of the SSC project in 1990 was widely acclaimed as our nation's firm commitment to be a leader in this scientific age. It has galvanized many foreign countries to follow us and collaborate on this unique common effort. It has also inspired our younger generation to be optimistic about their future in science and technology.

The construction of the SSC is at the cutting edge of advanced technology and industrial capability. It will generate a large number of jobs and will greatly enrich the nation's technological strength through training, research and manufacture.

At present, the scientific goals of the SSC are even more relevant and compelling than a few years ago. Furthermore, the SSC project has already made important scientific and technological progress in the design and development of the accelerator and detectors. At many international conferences, the initial achievements of the SSC project have been recognized as the symbol of our great strides forward in science and technology. This sudden rejection stuns and confuses. To kill an undertaking that is so splendidly fulfilling its expectations and its mission raises fundamental questions about our national commitment and our ability to carry out long-term scientific projects. Such an action is clearly damaging to future international collaboration on our scientific ventures.

We are painfully aware of the need to bring the budget deficit under control. However, in this world of very rapid change where confidence in any country can be quickly eroded, it is essential for our Nation to steadfastly preserve and expand its scientific and technological strength.

The SSC is an investment for the future in science, technology and people. We, therefore, respectfully urge you to restore its funding.

Sincerely,

(The signatures of the following are on file.)

Sidney Altman, Yale University (Nobel Prize in Chemistry, 1989).

Hans A. Bethe, Cornell University (Nobel Prize in Physics, 1967).

Paul Chu, University of Houston (National Medal of Science, 1988).

Leon N. Cooper, Brown University (Nobel Prize in Physics, 1972).

Alan M. Cormack, Tufts University (Nobel Prize in Medicine, 1979).

James W. Cronin, University of Chicago (Nobel Prize in Physics, 1980).

Hans G. Dehmelt, University of Washington (Nobel Prize in Physics, 1989).

Sidney D. Drell, Stanford Linear Accelerator Center (Deputy Director, SLAC).

Herman Feshbach, Massachusetts Institute of Technology (National Medal of Science, 1986).

Val L. Fitch, Princeton University (Nobel Prize in Physics, 1980).

Herbert Friedman, Naval Research Laboratory (National Medal of Science, 1967; Wolf Prize, 1987).

Jerome I. Friedman, Massachusetts Institute of Technology (Nobel Prize in Physics, 1990).

Murray Gell-Mann, California Institute of Technology (Nobel Prize in Physics, 1969).

Donald A. Glaser, University of California, Berkeley (Nobel Prize in Physics, 1960).

Sheldon L. Glashow, Harvard University (Nobel Prize in Physics, 1979).

Marvin L. Goldberger, University of California, Los Angeles (President Emeritus, California Institute of Technology).

Maurice Goldhaber, Brookhaven National Laboratory (Director Emeritus, BNL; Wolf Prize, 1991).

Ernest M. Henley, University of Washington (President, American Physical Society).

Dudley R. Herschbach, Harvard University (Nobel Prize in Chemistry, 1986).

Henry W. Kendall, Massachusetts Institute of Technology (Nobel Prize in Physics, 1990).

T.D. Lee, Columbia University (Nobel Prize in Physics, 1957).

Leon M. Lederman, University of Chicago (Nobel Prize in Physics, 1988).

Boyce D. McDaniel, Cornell University (Director Emeritus, Laboratory of Nuclear Studies).

Joseph E. Murray, Harvard University (Nobel Prize in Medicine, 1990).

George E. Pake, Institute for Research on Learning, Palo Alto (National Medal of Science, 1987).

W.K.H. Panofsky, Stanford Linear Accelerator Center (Director Emeritus, SLAC; National Medal of Science, 1969).

John Peoples, Fermi National Accelerator Laboratory (Director, Fermilab).

Norman F. Ramsey, Harvard University (Nobel Prize in Physics, 1989).

Burton Richter, Stanford Linear Accelerator Center (Director, SLAC; Nobel Prize in Physics, 1976).

Abdus Salam, International Centre for Theoretical Physics, Trieste (Nobel Prize in Physics, 1979).

Nicholas P. Samios, Brookhaven National Laboratory (Director, BNL).

Frederick Seitz, Rockefeller University (President Emeritus, Rockfeller University; National Medal of Science, 1973).

Joseph H. Taylor, Princeton University (Wolf Prize, 1992).

Samuel C.C. Ting, Massachusetts Institute of Technology (Nobel Prize in Physics, 1976).

Alvin Trivelpiece, Oak Ridge National Laboratory (Director, ORNL).

James A. Van Allen, University of Iowa (National Medal of Science, 1987).

Simon Van der Meer, CERN Laboratory, Geneva (Nobel Prize in Physics, 1984).

Steven Weinberg, University of Texas, Austin (Nobel Prize in Physics, 1979).

Victor Weisskopf, Massachusetts Institute of Technology (Director Emeritus, CERN; National Medal of Science, 1979; Wolf Prize, 1981).

Robert R. Wilson, Cornell University (Director Emeritus, FNAL; National Medal of Science, 1973).

(This is the same letter sent on June 25th, but with more signatures.)

Mr. JOHNSTON. Mr. President, I have also signatories to that letter. There are 2,032 scientists who had signed similar letters. They are from all over the country and some from all over the world.

Mr. President, it is very clear that the scientific community is for this project. I have here a letter from Ernest M. Henly, who is president of the American Physical Society, who encloses the statement of the executive board of the American Physical Society of 26 June 1992, in which they say:

> Taken at this late point, the cancellation of such a highly visible project would send a message to the world that the United States is relinquishing its long-term commitment to fundamental scientific research. Such a perception could not fail to have serious consequences for the long-term interests of this Nation.

They say they are dismayed by the recent vote of the U.S. House of Representatives.

Mr. President, I ask unanimous consent that statement be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMERICAN PHYSICAL SOCIETY,
Washington, DC, June 29, 1992.

Hon. J. BENNETT JOHNSTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR JOHNSTON: The Executive Board of the American Physical Society issued the enclosed statement on the Superconducting Supercollider at its meeting on Friday, 26 June 1992. We hope this statement can be included in the record of the Energy and Water Development Committee hearing on the SSC scheduled for 30 June 1992.

Sincerely,

ERNEST M. HENLEY,
President.

STATEMENT OF THE EXECUTIVE BOARD OF THE AMERICAN PHYSICAL SOCIETY ON THE SUPERCONDUCTING SUPERCOLLIDER, JUNE 26, 1992

The Executive Board of the American Physical Society is dismayed by the recent vote of the US House of Representatives to terminate funding for the Superconducting Supercollider. While we strongly reaffirm the position of the APS Council that funding for the SSC not come at the expense of the broad base of American science termination of the SSC would seriously disrupt progress in elementary particle physics. Moreover, taken at this late point, cancellation of such a highly visible project would send a message to the world that the United States is relinquishing its long-standing commitment to fundamental scientific research. Such a perception could not fail to have serious consequences for the long-term interests of the Nation.

Mr. JOHNSTON. Mr. President, we are told that other scientists whom Senator BUMPERS quotes give the impression they are against this project. For example, Dr. Jerome Friedman, a Nobel Prize winner, was quoted in the Senator's materials. Dr. Friedman says:

> It has come to my attention that a document has been circulated which contains a quote attributed to me taken from a December 1991 issue of Physics Today. This quote, which was taken out of context, implies I am not a supporter of the superconducting super collider. I want it to be known that I am a strong supporter of the SSC.

And the letter goes on.

Here is another statement from Dr. Alvin Trivelpiece, who was also quoted:

> Nothing has happened during the period since I left the Department of Energy which has caused me to change my opinion on the value of doing this project which will enable us to understand the fundamental properties of matter and to enhance the scientific progress of the U.S.

I could go on and on, Mr. President. The point is the American scientific community is a very strong and cohesive supporter of the superconducting super collider, and statements taken out of context to the contrary are simply not so. The American scientific community knows that this six-tenths of 1 percent of the Federal R&D budget is not going to sink science in this country. To the contrary, if you stop projects of this size this far in, it would be harmful to all science.

Now, Mr. President, why do we do this project? I have read more and more about World War II and the war in the Pacific. The war in the Pacific was not going well for the United States until one great event took place; it was the watershed event of the war in the Pacific which really set the scene for our victory over Japan. Up until the Battle of Midway, we had been outgunned. The Japanese Navy was far superior to ours. But at the Battle of Midway, which is called the "Incredible Victory"—in fact, there was a book written with that title—we were able to sink or seriously damage four Japanese carriers. Why were we able to do that? Because we broke the code, because we found out through our crytographers what the Japanese code was. We were able to decimate their Navy at the Battle of Midway and later at the battle of the Coral Sea, and we were able to shoot down Admiral Yamamoto later, all because we broke the code.

Mr. President, what we are talking about with the superconducting super collider is breaking the ultimate code of the universe, determining what the ultimate particles and the ultimate forces of this universe are. In breaking that code, we believe scientists believe there will be incredibly useful information which will come forth to the American public.

Scientific knowledge, Mr. President, is like peeling an onion, there are layers of it. We began with the Greeks, I guess. Dr. Lederman says that scientific knowledge began in the town of

Miletus in ancient Greece in 650 B.C. Clearly the ancient Greeks were those who began peeling back the layers of knowledge in Greece with Pythagoras, Euclid, Ptolemy, probes the secrets of astronomy.

We came along with a whole succession of scientists. Galileo determined the laws of the solar system and geometry; Prince Henry the Navigator, began the great science even before Columbus, of navigation. He did not know that the world floated on a sea of magma. He did not know anything about plate tectonics, but he founded a whole system of navigation which has revolutionized the world. Sir Isaac Newton came along with the laws of physical physics. Those laws are valid today; Mendel with genetics. Then we came along with electricity and magnetism. We discovered the atom; Madam Curie, Dr. Geiger, Professor Einstein discovered molecules, atoms, protons, neutrons, electrons.

And finally, Mr. President, we have come to what we believe are the ultimate particles and the ultimate forces, quarks and electrons and what we are trying to do with the superconducting super collider is to reconcile the whole pattern, the whole code if you will, of the universe.

What are all of these quarks and leptons, and how do the force between them relate?

It is in a sense, Mr. President, the ultimate scientific truth.

We have heard Dr. Leon Lederman, the distinguished Nobel Laureate, quoted a great deal. I would like to read just a couple of paragraphs from his testimony because I think it puts in context the superconducting super collider better than my words could do it.

Here is what he says:

> Now we have reached what many, a consensus, believe is the bottom line. The quarks and electrons and their friends are, we believe, points of mass and energy in space.
>
> The quark picture is very concise and correctly accounts for all the data we have collected over the centuries. However, the underlying simplicity still alludes us. Our current world view has 12 basic point-like particles which interact and combine with each other via four forces of nature.
>
> We know and are continuing to learn in our labs a great deal about the point-like building blocks of matter, and of the nature of the forces, and like the motorist on a winding forest road, we are beginning to glimpse, however fleetingly, the towering peaks of a grand unity. But the mathematics is incomplete when we try to predict what happens at higher energy, at the energy of the super collider. And this is a sure sign that something important is missing.
>
> Until we can complete the unification process and make the picture mathematically whole, the question of how the world works will not be answered, but the obstacles realized in the 1970's focuses on a bizarre, revolutionary new idea which was immortalized by the mayor of a place called Waxahachie, Texas, who in public some years ago said, "We have got to find the Higgs Boson."
>
> If the mayor of Waxahachie can say that, something is happening in this Nation. The idea for the past decade or so is no longer what is inside, although we hope to continue to look. The Higgs idea which was so articulated by the mayor, is that we are looking at nature through a new and as yet hypothetical force field that in a sense makes a simple, overarching symmetric world look complicated. The Higgs idea also enables us to have a mathematically consistent and unified view of the world.
>
> As a metaphor, think of a child's kaleidoscope which exhibits patterns of beauty and complexity as you rotate the tube, but inside, if you take it apart, one sees a few bits of colored glass and an ingenious array of mirrors. Higgs is like the mirrors. The pattern of colored glass is the simple formula that would tell us how the universe works.
>
> Another metaphor, however limited, is think of a group of extraterrestrials watching a soccer game, but somehow that are incapable of seeing the ball, and they see a lot of people running around seemingly at random in a chaotic disorganized activity, but if someone postulates the existence of a soccer ball, the whole thing becomes clear and simple and elegant.

Mr. President, what that distinguished Nobel Laureate was saying is that we are trying to determine the code of the universe. What makes it work, what we are made of, what the cosmos is made of, what the smallest things and the largest things are made of.

Dr. George Smoot, who testified before our committee, the distinguished astrophysicist and cosmologist who most people have seen on the television lately, the one who discovered the ripples in space, in his testimony before our committee, I must say, Mr. President, gave one of the most fascinating dialogs, monologs on the cosmos that I have ever heard.

Interesting little tidbits that he said, among other things, were that the world, our solar system, is part of the Milky Way. Maybe ordinary people know that. I did not know that. But we are part of the Milky Way and the Milky Way in turn is made up of billions of solar systems, just the size of the Earth or bigger, with suns, moons, and all the rest.

But the thing that really was confounding to me was when he said that there are billions of other galaxies like the Milky Way, billions. And our understanding of that is only beginning to come into view. But Dr. George Smoot said that the information that will come from the superconducting super collider on particles and forces and the code of the universe is essential to the understanding of astrophysics and the cosmos and the universe; that the 80 percent of the matter out there in space which the scientists call dark matter, cannot be understood, cannot be described, either mathematically or in any other way, without an understanding of the elementary forces and particles that make up nature. It is the key, in effect, which unlocks the cosmos. So says Dr. George Smoot, the distinguished astrophysicist from UC Berkeley.

It is also essential to understand the smallest parts, the quarks, the leptons, the strong force that binds the nucleus of the atom together. What they are looking for, these scientists, Mr. President, is a mathematically consistent formula which will tell us how the world works together so that you can translate gravity into electromagnetism, into the strong force or into the weak force, which are the four fundamental forces of nature, and be able to understand those and the particles that make us up. Is this important? Mr. President, what Dr. Lederman was saying in the quoted piece from Senator BUMPERS when he said we should not do this because of the spinoffs, he did not mean at all that there would not be incredible spinoffs. To the contrary. He pointed out in his own testimony that magnetic resonance imaging was really a spinoff from the work at Fermi Lab, not because of high energy physics, but because of superconducting magnets used in high energy physics. So it is with so many other spinoffs here.

But the point Dr. Lederman was making is that this is the most fundamental mystery of the cosmos, what we are made of, and how these parts and forces fit together; and that that fundamental knowledge has to be worth six-tenths of 1 percent of the R&D budget. It has to be worth 43 one-thousandths of this year's budget.

Mr. President, these are important amounts, yes, but for the kind of science, for the kind of mysteries that we are trying to unravel with the superconducting super collider, they are trivial. Mr. President, we do not know what we are going to discover with the superconducting super collider. Einstein, when he came up with the theory of relativity—$E=mc^2$, energy equals mass times the speed of light squared—no one knew what that was going to reveal. It was the unknown. It opened up broad new vistas of science and progress for this country.

Mr. President, there are Senators in this body who when they came to this body 30 years ago, the gross national product—half of the gross national product has been added because of science discovered since they came here in the last 30 years. Thirty years, Mr. President. We do not know how we are going to use the basic code of the universe. Maybe it will only be to satisfy our curiosity about the cosmos, what it is made of, how it fits together, what is happening to it. Maybe it will be only to tell us what we are made of, and what are the elementary forces and particles of nature. Maybe that is all.

If that is all, Mr. President, surely it is worth it. Why did we go to the Moon at much greater cost? Well, I guess to find out essentially whether it was made of green cheese; but almost nobody says that it was not worth it, going to the Moon at a cost of many times more than this project. It was because of the inherent curiosity of man.

We are talking about probes to Mars and other parts of the solar system. Most of that is because of the curiosity of man and woman. What could be more basic and fundamental than the code which regulates this entire scheme of things? That great philosopher, Paul Freund, says that the thing that unites mankind, unites civilization, is our profound ignorance of the three fundamental questions of the universe: Whither, whence, and why.

Maybe in a religious sense, this will not answer those questions, but it will surely answer in a scientific sense the question of whence. Where did we come from scientifically? What are we made of? And indeed, what is the future of the universe? It is answered by the questions to be unraveled by the superconducting super collider.

Mr. President, we have heard questions raised about why do you need a superconducting super collider? You have other projects. You have the project at CERN. You have the projects at Fermi Lab and elsewhere. Well, the answer is that scientists believe that you can break apart these small parts and examine them with the scientific certainty that you need only with the kinds of energies to be generated at the superconducting super collider. It will be a collision which will take place at 40 trillion electron volts—three times that which is even dreamed of at CERN.

I mentioned earlier four fundamental forces of nature. One of those is the strong force that binds the nucleus of the atom together. In effect, we need a strong hammer to crack that nut. We need 40 trillion electron volts to be able to take apart that nucleus of the atom and to take apart these fundamental parts of matter. It cannot be done with less energy and with a smaller track. Fifty-four miles around was designed not because we wanted to build a bigger race track, but because we need 54 miles around in order to generate 40 trillion electron volts, in order to get to those basic secrets of the universe.

Mr. President, I could go on and on about that which will be discovered by the superconducting super collider, but the fact of the matter is, if we knew exactly what it was we were going to discover, it probably would have been already discovered. I can tell you that the spinoffs from high energy physics with lesser machines have been incredible. There are 20 million medical procedures done, such as cancer—I can tell you what it does, when it shoots the beam of ions inside of a person and can extract the cancer and destroy the cancer without destroying any of the other tissue around it. There are 20 million of those kinds of medical procedures which are a direct outgrowth of high energy physics, and which were discovered on account of not super colliders, but at least colliders.

Mr. President, indeed, there will be what we call a "beam line," constructed at the superconducting super collider, which will have one of those medical applications. Twenty million of those applications are a direct outgrowth. Magnetic levitated trains, we hope, will be a direct result of superconducting magnets. Superconducting magnetic energy storage, high-speed boats, using superconducting magnets, and on and on the list goes of that which we can expect from this.

Mr. President, the fact of the matter is that the fundamental science, breaking the fundamental code of the universe, is surely worth the forty-three one-thousandths of 1 percent of the budget which this represents, and I trust the Senate will continue to fund it.

Mr. President, I ask unanimous consent to have printed in the Record the lead editorial in the New York Times of this morning, supporting this project.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 3, 1992.]

LET'S CONTAIN THE SUPERCOLLIDER

The superconducting supercollider, an enormous and costly instrument for probing the structure of matter, poses a stark issue for the Senate today:

Should the nation, faced with recession and budget deficits, continue to build an $8-billion machine to explore scientific questions that are of great intellectual interest but may have little practical payoff? Or should it write off the $1 billion spent so far and terminate the project?

The House voted in June to cancel the project as unaffordable. But President Bush traveled to the construction site in voter-rich Texas last week to declare support for "one of the greatest scientific projects in the entire world." The Senate is expected to approve further funding today, setting the scene for a showdown with the House over whose view will prevail.

On the merits, the mammoth machine is worth building—provided it can be financed without robbing a host of other vital scientific projects.

The supercollider will be a huge underground instrument, 54 miles in circumference. It will accelerate two beams of protons in opposite directions around a giant ring lined with magnets. When the protons smash together, they will release showers of debris from which scientists hope to divine a deeper understanding of the fundamental forces and particles that shapes the universe.

Unlike the controversial space station, which is primarily an engineering feat, the supercollider is at the cutting edge of research in two important fields. It is a key to further advance in high-energy physics, which seeks to find the most elementary particles and forces from which everything else is made. And its findings will shed light on events at the very creation of the universe, the domain of cosmology.

Even critics don't quibble that the supercollider will perform good science. But its relative importance remains in dispute. Some critics note that a large accelerator now being built in Europe may answer some of the same questions. Others contend that less costly small-scale physics is even more important because it involves more scientists and students, and it studies phenomena that are relevant to the every-day world.

Proponents have greatly exaggerated their case. They suggest, plausibly, that the machine might revolutionize our understanding of force and matter. But they neglect to mention that it may prove a dud, finding little of interest. And they predict spinoff benefits for industry and medicine without acknowledging that $8 billion invested more broadly in science might yield even greater benefits.

Proponents have repeatedly low-balled their cost estimates, only to revise them upward. And they insist that foreign nations will foot part of the bill, with little to show for their optimism.

In the past, this page has opposed the collider for fear its escalating costs would divert funds from more fruitful research. But with care and determination, it now looks possible to do both. Project managers seem finally to have stabilized their costs and surmounted the most worrisome technological hurdle—the huge superconducting magnets.

The collider should be completed because it will perform pioneering research in a field long dominated by the U.S. but where Europe is taking the lead. It would be a shame for a great nation to shrink from this intellectual adventure.

The project should be canceled only if it threatens to damage other fields of science, thus doing more harm than good.

Congress could assure that happier outcome by continuing the collider while setting firm limits to the total budget for high energy physics in future years. That way the new machine could be financed largely by shrinking or closing its obsolescent predecessors. Resources would not need to be drained from other vital research.

The PRESIDING OFFICER. The Senator from Nevada.

Who yields time?

Mr. REID. Mr. President, will the Senator from Louisiana, the manager of one aspect of this debate, yield to the Senator from Nevada 12 minutes?

Mr. JOHNSTON. Mr. President, I yield 15 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada [Mr. Reid] is recognized.

Mr. REID. Mr. President, Nevada was an original competitor for the superconducting super collider. Nevada's efforts were supported by the entire congressional delegation and all of Nevada's State officers. Nevada would have benefited significantly both from an economic standpoint and also from the standpoint of prestige. But, Mr. President, Nevada will still benefit but not from the project bringing new jobs to Nevada. Nevada will benefit because the country will benefit. The superconducting super collider is good for America.

Our Nation's future, Mr. President, rests on keeping and/or regaining our scientific and technological edge. Report after report tells a sad story of American children who are falling farther and farther behind in science and math competency. An illustration of that problem as well as the solution can be found in a recent book written by Lester Thurow, a Novel Prize laureate. The book is entitled "Head to Head."

In this book, Lester Thurow documents why we are not winning the economic competition between ourselves and other industrialized democracies. Lester Thurow says—and I quote:

> America did not become rich because it worked harder or saved more than its neighbors. A small population lived in a very large, resource-rich environment. Natural resources were combined with the first compulsory public K through 12 education system and the first system of mass higher education in the world. Together, they gave America an economic edge. While Americans may not worked harder, they were better skilled and worked smarter.

He goes on to say the, "the skills of the labor force are going to be key competitive weapon in the 21st century."

Throughout this book, Mr. President, Thurow talks about the importance of science, technology, and education in this country.

You see he has to be concerned, Mr. President, because in America today, we have fewer physics teachers than we have school districts, not schools, but school districts.

Education and skills are the keys to the future of this country, the future of the world. The world comes to American for postgraduate education. We need to fill our graduate schools with our kids, kids that have mastered the academic difficult subject of science and mathematics. We do not need a majority of our graduate engineering schools to be foreign born as they are today. The superconducting super collider and all it represents in future technology and research helps point the way in our future economic competition with other industrialized nations.

It is important in keeping our scientific edge. When it is completed, the superconducting super collider will be the world's largest. It will be capable of exploring the makeup of matter at the highest energy levels ever conceived. Opponents of this project cannot dispute nor have they disputed that the superconducting super collider will generate good science.

On it, Mr. President, America will train a generation of physicists not only from our country but from the world over. There is, however, a dark cloud on the horizon. The Europeans are in hot pursuit of their own next generation atom smasher. At the present time, the Europeans plan to expand their largest atom smasher called CERN on the Swiss-French border. Should we abandon or delay the superconducting super collider, the Europeans will build the world's largest smasher and they will reap the harvest and spinoffs that will be an outgrowth of this project. They will train a generation of physicists in Europe, not in America. They will be the technology leaders, not America. Do we want that? No, we do not want that.

Mr. President, I support scientific research. The space program and SDI are two examples of the multitude of federally funded programs that have technological spinoffs. Whether you support either of those programs really does not matter for purposes of this debate, because we will have to acknowledge that those two programs have developed significant spinoffs. These ranged from breakthroughs in new materials, breakthroughs in laser technology, and advances in satellite remote sensing, and even new ideas, Mr. President, in high-temperature lightweight ceramics.

I think it is probative, Mr. President, to read a part of a letter I received on July 31 from Senator JOHNSTON, chairman of this subcommittee, and chairman of the Energy and Natural Resources Committee; and LLOYD BENTSEN, the chairman of the Finance Committee; and from DANIEL PATRICK MOYNIHAN, senior Senator from New York, who is the academic of the Senate.

In part, this letter from these three Senators said some things worth repeating, and I quote from the fourth paragraph of this letter:

> This project is regarded around the world from the cutting edge of fundamental science there is. The superconducting super collider, once completed in 1999, will be the world's largest scientific research facility, a 54 mile underground accelerator that will explore the inner workings of the atom and may be the one instrument that will tell us what makes up 90 percent of the universe. The superconducting super collider will not only serve as an instrument for basic scientific research, but will also be a catalyst for economic growth in education and energy. Spinoff technologies from particle accelerator research already are improving cancer treatment, medical diagnostics, cryogenics supercomputing and transportation.
>
> Success in this magnificent quest is the all more satisfying because it is America that is leading the way. Everywhere in the world, the most brilliant scientists and engineers want to come to America to study and to work. America is absolutely number one in the science in the world and the superconducting super collider is essential to keep it that way.

At this time, Mr. President, we do not know what advances the superconducting super collider will bring, but I do know this project will keep our Nation at the cutting edge of scientific research and technology. We must be prepared to respond to the Europeans and the Japanese and take the competitive edge of this situation.

Mr. President, I do not think anyone here today should base their vote, their choice, their decision upon the underlying amendment in the bill. You should not base your decision on who authored the amendment or who is the chairman of this subcommittee. The decision is more complex and more important than that.

I think, Mr. President, each of my colleagues should base his or her vote on an America that is still curious like Lewis and Clark was curious. An America still dreaming like its Albert Einstein, still stretching through new horizons, horizons based on science and technology. Mr. President, in choosing the superconducting super collider you will see an America concerned not just with platitudes about education, and we talk a lot about platitudes, but real education, real science.

Let us move, Mr. President, from a society of adulation and ease to one seeking the boundaries of knowledge, a country having room for Albert Einstein and his theory of relativity, a world having room for a Philo Farnsworth and theory about the thing called television.

You see, Mr. President, in 1844, there is an example of how we have been and should be in the future involved in technology. In 1844, the Congress and the President approved the expenditure of $40,000 to build a telegraph line between Baltimore and Washington, DC, to see if this new technology would work. For the expenditure of this money, the world was revolutionized, the communications industry was revolutionized. The Government stepped out and the private sector stepped in and the future was certainly better, because of the expenditures of these moneys.

Mr. President, let us vote for education, today. Let us vote for America's future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I will yield to the other Senator from Nevada in just a moment.

While I am waiting for him to come in, I will just make a couple of points that I failed to make this morning. For example, one point I think worth stating is that when I said that Brookhaven Laboratories in New York and the Stanford linear accelerator at Stanford would likely have to be closed because this would crowd out that kind of research, I forget that my friend from Louisiana, the chairman of the committee, decides how much Brookhaven and Stanford is going to get.

So I would say, very candidly, I think those two projects are safe until after this project is put to bed. I think you can rest assured that the Senator from Louisiana is not going to risk the loss of votes in California and New York over a few hundred million dollars at Stanford and Brookhaven. I am not criticizing him for that, I am just making a point on the way things work around here.

The other thing I want to point out is the Senator put the New York Times editorial of this morning in the RECORD. And I want to encourage all my colleagues to read that very, very tepid endorsement of the super collider. The Times editorial points out, No. 1, that it should not be built if it is going to crowd out other science: and No. 2, do not be misled by some of the outlandish representations that have been made on what we are going to get back from this project.

For example, they very candidly point out something I neglected to say in my opening statement this morning, and that is you may get nothing. You may get nothing out of this. Not one single physicist is going to tell you that they are going to reach the ultimate goal that they seek with the expenditure of this $11.8 billion, $12 billion.

So, as the Times said, to use their word, the whole project may be a bust.

But I very carefully documented the very question the Times asked: Does it crowd out other science?

Well, you can answer that two ways. It does not crowd out other science if you are willing to continue to watch the deficit go forward, and fund everything else as well as the super collider. But if you are going to try to keep scientific budgets and R&D under some reasonable control, then the obvious answer is, yes, it does crowd out other science. And I tried to document that case this morning.

Finally, there is another case to be made, Mr. President, and it is that if you delay this project, you may find that you will be glad you did not build it because there is a lot of other science coming along that indicates a much smaller—a much smaller—version of this may be applicable by the turn of the century, and you will have this project on your hands which is already obsolete.

That is exactly what the British are doing, and in a sense, that is what they are doing in the CERN project in Geneva. I will tell you what would really be interesting is if the CERN project in Switzerland came up with the answers to what we are looking for at about the time we got through spending this $12 billion. I say $12 billion; you all know it is going to be half or twice that much.

Finally, Mr. President, I will not read now—I will do that later—what the Congressional Research Service says on why the British are very apprehensive about this. It is the same reason the Japanese are so apprehensive: They are not putting any money in. We look at the Japanese to be on the cutting edge of all of these things, and they have not yet chosen to put one thin dime in this.

Finally, Mr. President, I ask unanimous consent that the editorial from the London Economist of June 27–July 3, 1992, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the London Economist, June 27–July 3, 1992]

PAYING FOR BIG SCIENCE

Listen to a young particle-physicist, overheard in the bar at a conference: "Maybe half a billion, but no more—a realistic number". He was not talking about the electrons in his accelerator, or the years it takes a proton to decay. (Those numbers are a lot bigger.) He was talking about the stack of taxpayers' dollars needed to pay for a forthcoming experiment. Physicists, inured to immensity, think of such sums without awe or respect. When it comes to public money, congressmen, as a rule, are also rather underawed. So it was a surprise last week when the House of Representatives decided to save $8 billion or more by taking the grandest of the physicists' dreams, the Superconducting Super Collider (SSC), out of the budget.

Big science is stirring; particle physics is fruitful. But the decision to chop the SSC was right. If knowledge is the goal, there are better ways to spend that vast sum.

A UNIFIED FIELD OF PHYSICISTS

The SSC is designed to accelerate beams of protons closer to the speed of light than ever before. As they are accelerated the protons become heavier, and it becomes harder and harder to convince them to move in circles rather than straight lines. That is why the SSC is so large; it is designed to deal with protons so massive that thousands of powerful superconducting magnets are needed to entice the beams to bend, even when they need negotiate only the gentle curves of a ring 86km (54 miles) around. The energy release when such protons are smashed together would produce flurries of hitherto-unseen particles. They may be particles of which theory already speaks. They could be novelties to strike the theorists dumb.

From the 1930s, when the world's most powerful accelerator could be held in your hand, the history of fundamental physics has been one of arranging ever more energetic collisions between particles. Higher energies allow the workings of the universe to be examined on smaller scales. They have allowed physicists to dissect the atomic nucleus, then to divide its constituents into smaller pieces still and describe the forces that bind them together. They now feel themselves on the brink of pulling all their theories—save that of gravity, which still stands apart—into a single account of the forces of nature, and of the constituents of the world that those forces predate and underlie. In the underground chambers of the SSC, they hope at last to sketch out that grand unified theory.

Probing nature's secrets has been the scientist's delight for centuries. It has proved profitable, yielding chemistry, electronics and the other commonplace miracles of modern technology. If the SSC were the only tool that could take this investigation further, it might be worth saving. But there are other, less dramatic schemes—less inspiring to physicists but still intriguing enough to be done and done well. It is possible to study the mundane in detail for clues about what lies beyond, rather than exploring uncharted energies to confront the unknown head-on. Insights may come from trapping particles drifting through the cosmos. New technologies could allow collisions like the SSC's in smaller, cheaper machines. Research towards these ends is likely to be starved of money by the ravenous appetite of the SSC.

For those who feel they must blaze trails, there is a 27km circular tunnel outside Geneva, where Europe's particle physicists hope to build an accelerator that might reach 40% of the SSC's energy. It is a costly project, though much cheaper than the SSC. But if Europe, America and Japan co-operated, uniting the world's physicists while they seek to unite the world's physics, the accelerator would be affordable. Unfortunately, physicists fear that politicians do not think that way. Some believe the death of the SSC could persuade Europe's governments to abandon their own accelerator. Advocates of the SSC argue that if it is cancelled, smaller projects will die with it in a general retreat from particle physics.

This need not be so. Particle physics matters not because particle physicists say it does, or because it brings jobs to certain congressional districts, or because it lets one country be top nation. It matters because the search for new and profound knowledge is an endeavour that reflects well on any who undertake it, and because it stands a good chance of improving man's ability to use nature. This does not make it worth doing at any cost. In big science, where costs are frightening, governments should reflect that collaboration can sometimes be as effective as competition.

Mr. BUMPERS. In that editorial they say:

> But the decision to chop the SSC was right. If knowledge is the goal, there are better ways to spend that vast sum.

Mr. President, I yield to the distinguished Senator from Nevada 10 minutes, and if he chooses to yield some of it back, that will be fine.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank the distinguished senior Senator from Arkansas.

Mr. President, I rise today in support of the Bumpers amendment to cut funding for the superconducting super collider [SSC]. Let me start out by stating what this debate is not about. It is not about whether the Federal Government ought to generously support science.

We should. And I do. Most Members would agree that Federal support of science research helps foster many of the technological advances that improve our competitiveness as a nation and improves our standard of living as individual citizens in this great country of ours.

This debate is not about whether particle physics is an important element of our science effort. It is. Particle physics has the potential to tell us about the basic structure of matter. I am not against Government funding of science or particle physics specifically.

In fact, I have in years past supported construction of the SSC. But we are not debating the merits of basic science or particle physics. What we are debating is whether we as a Nation have the funds to support all the science projects we would like to invest in.

Mr. President, I think the answer to that is obvious. Our resources are finite and we must make priority judgments.

Particle physics is an exciting field, but so is exploration of space, genetics, robotics, artificial intelligence, and dozens and dozens of other worthwhile projects.

Given our current financial situation, we do not have the luxury of funding all the exciting science initiatives presented us and instead will have to make many hard sacrifices if we are going to get our financial house in order.

Therefore, I believe that it is appropriate in determining how we expend our money for science projects and how we arrange those priorities that we subject those expenditures to a three-way task:

The first is, how much money do we have to spend on worthwhile science projects? How much should be allocated in the Federal budget each year for science projects?

And, as I have indicated, Mr. President, I am supportive of the very generous allocation of those resources.

Next, Mr. President, I suggest we must examine how does each of those scientific programs help our Nation in terms of our ability to compete internationally to introduce new products that will be made in this country by American factories and by American businesses. And what is its effect on our standard of living? Will it improve it or is it unnecessary in order to achieve that type of basic competitiveness in the global marketplace of the future.

Finally, Mr. President, I suggest that we ought to examine how well the individual program is run. Tested by that standard, the SSC fails to meet the test.

What has changed since my earlier support is an alarming deterioration of our financial situation and in the SSC program itself.

Since then, the SSC's costs have more than tripled to over $10 billion at the same time our national debt has quadrupled to $4 trillion. That, Mr. President, in a nutshell says it all.

Our Nation has a $4 trillion national debt and we are spending $800 million each and every day just on interest on that national debt.

This year, we are looking at adding close to another $400 billion to the national debt, which means the interest payments will increase by an additional $20 billion. That money does not feed anyone or clothe anyone or educate anyone or take care of anyone's health care or make us more competitive.

It just services the national debt by making the minimum credit card payment on the enormous principal of some $4 trillion.

Everyone of us knows that continuing to run annual deficits and accumulated debt drain our precious resources that will compromise our future standard of living.

Yet we continue to ignore the hard choices that have to be made. Setting aside for a moment whether this $10 billion could be better spent on education or infrastructure, let us consider how the SSC compares with other science programs in terms of helping our competitiveness and improving our standard of living.

In an attempt to prioritize research projects, the Department of Energy undertook in its Office of Policy and Internal Analysis to evaluate all of the science programs that were being funded by the Department on the basis of the merits of these programs.

The director of the policy office specifically directed that the analysis should not consider political sensitivities. Based strictly on the merits of each program, the SSC came in 10th out of the 11 programs.

That is how the nonpolitical experts at the Department of Energy rated the SSC.

Mr. President, how about experts in the private sector? What is their view of the SSC Program?

The Industrial Research Institute, a nonprofit research organization funded by Fortune 500 industrial companies, took a survey of the research and development corporate vice presidents across America and asked them to rate the five big science projects currently being considered in terms of their promise to return something meaningful to the competitiveness of the United States.

Here is how they ranked them:

First, the human genome project;

Second, the national aerospace plane;

Third, the space station;

Fourth, the strategic defense initiative [SDI];

Fifth, the superconducting super collider.

In other words, America's corporate scientists rated the SSC dead last in terms of its benefits for our national competitiveness.

What are the policy implications of funding a project rated so low by DOE's own nonpolitical policy department and by corporate R&D managers?

The SSC commands over one-fourth of DOE's entire science budget in the President's fiscal 1993 budget request and is allocated almost 80 percent of the entire high-energy physics budget.

SSC funding will concentrate research dollars in an area that accounts for less than 1 percent of all science research.

Supporters of the SSC have circulated material showing all the great spinoffs from the project.

As Congressman SHERWOOD BOEHLERT recently pointed out in the argument that occurred in the other chamber:

> Contrary to all the hype, the SSC will not cure cancer, will not provide a solution to the problem of male pattern baldness, and will not guarantee a World Series victory for the Chicago Cubs.

According to the Congressional Budget Office, technological spinoffs are more likely when we fund a broad base of research programs rather than a few large projects.

Never before have we had more scientists submitting worthy applications for funding to the National Institutes of Health and the National Science Foundation only to be told there is not enough money to fund their projects.

The SSC, if it is not stopped now, will eat up dollars for scientific research projects and leave few, if any, dollars left for less costly, but more effective science projects that take place in our laboratories and in our universities throughout the country.

Finally, I believe we must look at how well run has the SSC project been.

The record is dismal.

The SSC Program has been plagued by cost overruns and poor management from the very beginning.

In 1983, we were told that the total cost would be about $3.9 billion.

In 1986, that figure jumped to $4.2 billion; by 1988, to $5.3 billion; and then later, in 1989, to $5.9 billion.

Now an independent cost estimate has soured to $11.25 billion.

On top of that, we will spend $500 million a year maintaining and operating this program.

Over the next 20 years, another $10 billion.

The SSC stands as yet another example of the management problems rampant at DOE.

Let me quote from the then-Deputy Secretary of Energy, W. Henson Moore, in a letter to the project manager sent in January of this year:

> I have learned of that the overrun problems are continuing and may even be getting worse * * * the actions taken thus far appear to me to be woefully inadequate

Those were observations made by the No. 2 man in the Department of Energy earlier this year, indicating that the management problems with respect to the SSC have not been solved and, indeed, are getting worse. That is hardly the kind of project that ought to commend itself to a priority in terms of our funding.

Just a very few weeks ago the Senate debated a constitutional amendment to balance the budget. I supported that amendment. That was not the prevailing judgment of this body. But those who opposed the amendment argued that we cannot wait for the 3 to 5 years for the amendment to be ratified. We should start taking steps now so we do not pass this terrible burden of an expanding deficit on to our children and our children's children.

As my able colleague, the distinguished senior Senator from Arkansas has pointed out, it is clear that this project will get a sufficient number of votes from my colleagues in this Chamber. But I think the message we send is a dreadful one, that we are unable to manage the finances of government, that we were unable to make the difficult choices, and that we are unable as an institution to establish priorities. I fear that the conclusion the American public will reach is that we are long on rhetoric but short on performance.

I yield the floor and yield the remainder of my time.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the Senator from Texas.

Mr. BENTSEN. Mr. President, with the consent of the manager in opposition to the amendment, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. BENTSEN. Mr. President, I recognize the concerns of my friend from Nevada and, in turn, my good friend, the senior Senator from Arkansas. I join him on a number of issues insofar as cutting back on this deficit and trying to change the order of priorities. They are not easy choices, but I do not defer to anyone when it comes to trying to see that we get this deficit down.

I have supported a balanced budget amendment since the day I came to the U.S. Senate in 1971, long before it was politically fashionable to do so. There is no question but what the long-term economic health of this Republic is being increasingly jeopardized by a decade's worth of 12-digit annual Federal budget deficits.

But there is also no question that our economic future is being harmed by a declining international competitiveness, due in part to insufficient investment in basic scientific research. A technologically and economically more competitive America will generate more revenue for the Federal Treasury, and will help raise the standard of living of our people.

The superconducting super collider is not just one more line item in the Federal budget, nor would its cancellation make a perceptible dent in the deficit reduction. Even as a federally funded research and development enterprise, the SSC is a fiscally modest undertaking. If you put it in perspective, looking at the proposed fiscal year funding for the SSC, it represents only 3.5 percent of the Federal budget expenditure for general science, for space technology, and the program will never consume more than 3 percent of the projected annual total Federal expenditures for research and development. The SSC's average annual cost from inception to its completion in the year 1999 comes to less than $1 billion, or about one-half the cost of a B-2 bomber or about one-fifth of the cost of a new aircraft carrier.

Compare those average costs to other research and development programs, such as the $14 billion for the National Institutes of Health, the $3 to $5 billion for the strategic defense initiative. Consider, also, the fact that the State of Texas, even though plagued by the worst recession it experienced since the Great Depression, has committed itself to $1 billion worth of those costs; 12 percent of the total cost. Tell me any other State in the Nation that has made that kind of a financial commitment on a Federal project? Almost $300 million of that has already been expended.

One of the interesting things in its development is that in trying to keep it on schedule, at times the money coming from the Federal Government has been irregular to the point that it caused a hitch in construction. So the State of Texas funds, in spite of all of the State's budget deficits and problems and concerns, has been like a surge tank, bringing in the extra money at the critical times to keep a continuity in the process.

If you compare the SSC to labs in other States, the question arises of how much did the State of California contribute to the construction of the Lawrence Livermore lab? How much did the State of Illinois contribute to the construction of the Enrico Fermi lab?

Mr. President, I have heard a lot of talk in recent days about the SSC being nothing more than a big slab of Texas political pork. Nothing could be farther from the truth. Some of those making that kind of comment are from States that have long hosted national energy physics laboratories. Was construction of the Lawrence Livermore lab out in California nothing but a piece of California political pork? Was the construction of the Enrico Fermi lab in Illinois just a piece of political pork for Illinois? Of course not.

Waxahachie, TX, was selected as the SSC site for sound scientific reason. A Federal commission looked at some 20 sites, reduced the number down to 7, and then finally chose that site. They made a contract with the Government of Texas and the taxpayers will participate to make a substantial contribution to the cost.

One of the reasons that area was chosen is because of the stability of the chalky, geological formation which provides stability to the SSC's 54 miles of tunnels and the experiments to be conducted within them. It was not decided by who had the most votes in any particular committee. It was not a political decision but a scientific decision and a contract made with a State government.

How are we ever going to get State contracts in the future where that State shares part of the cost if you do not live up to the contract after they have made the commitment, after they have begun to condemn lands, and move people off farms?

There is a very good reason why Livermore, SSC, Fermi and other laboratories are called national laboratories—national—because they are, indeed, national scientific enterprises aimed at benefiting all Americans, advancing American science. There is no Texas or California or Illinois science.

There has been a lot of recent talk, Mr. President, bemoaning the absence of a significant foreign investment, participation in, and financial support for the SSC. I ask, so what? Sure, it would be nice to have others pick up part of the cost, but I hope we have not reached a point in this country where our readiness to proceed with any major scientific enterprise is to be made contingent on foreign attitudes rather than based on our best judgment of what is right for our country. Perhaps the Japanese, South Korean and other foreign reluctance to participate in the SSC stems from the conclusion that the Americans lack the political will to carry through on a program—and that kind of a conclusion was certainly reinforced by the House vote against the SSC. We want to have Nobel prize winners in energy physics gathering together in the United States to research these ideas, to exchange viewpoints, to advance that kind of a science—rather than having them meet in Japan or in France.

Mr. President, the issue before us far transcends money and jobs. If it was only about money and jobs, I think it would be a pretty weak case. What is the superconducting super collider? It is many things. The superconducting super collider is the latest chapter in a 60-year long American odyssey and high-energy-physics basic research, which at each juncture has yielded commercially advantageous applications, and technological spinoffs that have helped improve the standard of living of our people and our economic competitiveness abroad.

The superconducting super collider is a means of preserving and enhancing America's global lead in such wave-of-the-future technologies: A superconducting wire, super computing, cryogenics, superconducting magnets and noninvasive medical diagnosis and treatment.

The superconducting super collider is a vehicle from adjusting in a world in which a nation's security and standing derived first and foremost from its relative military power to a world in which the inseparable twins of technology prowess and economic competitiveness are already displacing military might as the premier yardstick of world leadership. In this postcold war era, we do not want to end up like France in the postworld war era after World War I, where their economy and international competitiveness was destroyed, and the only thing they had left as a symbol of their strength was their military power.

The superconducting super collider is also a means of facilitating the transition of much of our defense industrial talent to nondefense endeavors. The SSC demands engineering, manufacturing, fabrication, and management skills that have been the foundation of our now shrinking aerospace and defense industries.

The cold war's demise has confronted us with a daunting task of converting many of our swords and plowshares over the coming decades, and the SSC provides a model of civilian scientific enterprise that can effectively absorb human talent that has been heretofore devoted to the science of war.

Finally, the superconducting super collider provides a basic research training route for future generations of American scientists.

Would you really rather have our young scientists travel to France or Japan because that was the fertile breeding ground of scientific thought and research and exchange of viewpoints? Even today, 7 years ahead of the SSC's completion, thousands of students and professors at over 100 universities and colleges across the country, from Boston to Honolulu, are already engaged in SSC-related projects. Mr. President, the superconducting super collider is an investment in America's future. It is not, as some critics claim, just a toy for the amusement of American physicists. To say that is to ignore the profound effect that 60 years of basic research and high energy physics has had on the health and well-being of Americans.

I know there are those who expect immediately that we are going to get commercial spinoffs from the SSC. Those who think that do not understand basic scientific research. Nothing could be more basic or potentially revolutionary in its consequences than probing the mysteries of matter, the stuff of which our universe is made. Even so, there is already evidence of the likelihood that the SSC will produce major advances in such areas as medical diagnosis and treatment.

I was down there about a month ago, Mr. President, meeting with physicians and scientists talking about setting up the experiment right there where they would use that proton beam in cancer research, in working on operations where they could make the penetration of cancerous organs and stop it with exquisite limitations.

They can go after cancer into the brain, into the back of the eye, destroying cancerous tissue. It was amazing to talk to those people and hear how excited they were about the possibilities of what they were going to be able to accomplish. What really impressed me was they were already underway to turn that SSC into a powerful instrument of cancer treatment, using it to destroy cancerous tumors. Only two such treatment centers exist in the United States today, but this SSC proton beam will be much more effective and far stronger in destroying those cells while minimizing damage to the adjacent healthy tissue.

Let me cite another example, the one at the University of Florida and what they have been able to do in creating a transparent plastic that can be sterilized for medical purposes by exposing it to accelerated electrons instead of environmentally dangerous gases, this could lead to saving millions of dollars in expensive medical wastes.

Mr. President, to cancel the superconducting super collider means sending pink slips now to 6,000 people. To cancel the superconducting super collider now would deprive over 100 universities of millions of dollars in research grants. To cancel the superconducting super collider now will discourage State governments from ever again entering into scientific enterprise partnerships with the Federal Government. To cancel the superconducting super collider now would devastate high-energy physics research in the United States, leaving the field to our foreign competitors. To cancel the superconducting super collider now would forfeit the benefits of its inevitable commercial available spinoffs. To cancel the superconducting super collider now would deny American industry the opportunity to develop an infrastructure for super conductivity. To cancel the superconducting super collider now would damage our standing in the international scientific community and reinforce suspicions that we lack both vision and political will.

As today's New Times editorialized: "The collider should be completed because it will perform pioneering research in a filed long dominated by the United States but where Europe is taking the lead. It would be a shame for our great Nation to shrink from this intellectual adventure."

Mr. President, a vote for the superconducting super collider is a vote for America's future, not turning inward, not turning back, but retaining leadership in science. I do not think it is any coincidence that both of the Presidential candidates this contentious political year, support the SSC.

Let it not someday be said of us here today, "How shortsighted they were; in their obsession with the SSC's dollar costs, they failed to appreciate its real value."

Mr. President, I return the remainder of my time to the manager of the legislation.

The PRESIDING OFFICER. Who yields time?

The Senator from Arkansas, Mr. Bumpers.

Mr. BUMPERS. Mr. President, I yield 15 minutes to the distinguished Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. SASSER. Mr. President, I thank my friend from Arkansas.

Mr. President, I rise to express my support for the amendment offered by the distinguished Senator from Arkansas [Mr. BUMPERS].

Recently, we have debated at length on this floor the necessity to reduce the budget deficit. We went on for days on the floor of the Senate discussing the need, or as some saw the need, to actually amend the Constitution of the United States to require a balanced budget. On the other side of the aisle particularly, there were a number of impassioned speeches made about the necessity of doing something about the budget deficit. Indeed, it had become so imperative that we had to amend the over 200-year-old basic document, the basic contract between the people of the United States and its Government. Of course, that effort to mandate a balanced budget by way of a constitutional amendment would not have taken effect for at least 5 or 6 years, according to its proponents.

Today, we have an opportunity to stand up and make a significant statement that we are concerned about the budget deficit and wish to do something about it or we simply want to posture about it and position overselves to make self-serving speeches to the local Rotary Club.

That is what this debate is all about today. I think most of us in this Chamber would say, if our fiscal house was in order, if our economy was moving ahead at a fast clip, if we had a substantial rate of growth in the gross national product of the United States, if we were not running gargantuan budget deficits, then, yes, the super collider would be a very interesting scientific project to pursue.

But that is not the case. Today, we are confronted with a national debt that will approach and exceed $4 trillion in the not too distant future. We have budget deficits stretching as far as the eye can see—$250, $360, $400 billion.

So the question comes, do we want to increase the national debt, do we want to increase the deficit, do we want to borrow more money to build this enormous and enormously expensive scientific project, a project on which we really cannot even get an accurate handle on its costs?

I have a great concern about the history of the escalating cost of this project. Currently, the Department of Energy claims the total cost for the super collider will be about $8.2 billion. They say somp of the cost is going to be borne by foreign contributors. I want to congratulate the Department of Energy for going an entire year this time without changing the cost estimate for the super collider. But if history is any judge, the latest estimate will not last long. Since 1986, the cost estimates for the super collider have been rising at an alarming rate. The official Department of Energy cost estimates have ranged from $5 billion in 1986 to $8.6 billion in 1990, nearly a 70-percent cost overrun in the space of 4 years.

But even in 1990, the Department of Energy's independent cost estimating staff expressed its view that the $8.4 billion estimate is both unrealistic and unachievable. The independent cost estimate set its project cost estimate at $11.8 billion.

Since last year, the Department of Energy has held to its newest estimate of $8.2 billion, as I said earlier, but that estimate is not accurate, in my judgment. But it is immaterial really whether this project cost $8.2 billion, or $11 billion, or $12 billion, or $15 billion. From a cost effectiveness standpoint, we simply cannot afford it at this time in our history.

When we began this project, when the talks started, there was a lot of conversation about foreign contributions. This was such an essential scientific project that we needed to rely on substantial foreign contributions, it would be on American soil, and the American Government would exercise a substantial or the lion's share of the proposal of the project and its studies. The Department of Energy pledged to deliver $1.7 billion in foreign contributions. Given the super collider's escalating cost, foreign participation is crucial to the fiscal viability of this project. But it is sad to learn that the only foreign commitment so far is a mere pittance of $50 million from India and some surplus copper from Albania.

During Senate debate last year, supporters of the super collider argued that part of its multibillion-dollar cost would be picked up by other countries, particularly Japan. In fact, the administration was expected to secure a pledge of $1 billion from Japan last year. Yet when the President went to Japan, not only was the trip disastrous from other angles, but the Japanese decided not to offer any funding. Japan's Science and Technology Agency stated "Such a big outlay would constrain other projects in Japan."

We ought to think about that statement a moment because Japan spends more on basic research relative to its gross national product that we do here in the United States. Yet the Japanese chose not to make a contribution to the super collider.

In my mind, that raises concerns about the damage that further development of the super collider does to basic science programs, other basic science programs. This comes at a time when expenditures for basic scientific research—and the science dollar—are generally stretched to their absolute limit.

I am concerned that if we go forward with this massive and highly expensive project that we will indeed be surrendering a leadership role in science, in research, to Japan and Europe because we will be allowing the super collider to suck up billions of research dollars that otherwise might have gone to countless smaller scale projects, and at universities and scientific research installations all across the country.

That may be the greatest threat of all to our leadership role in basic scientific research. We all know there is a lot of debate within these scientific community whether bigger science projects yield better research payoffs than smaller scale efforts. The facts are that no one, not even the most avid supporters of the super collider, can guarantee that the large-scale use of superconducting magnets will yield any further basic scientific discoveries or technological innovations any more than a whole assortment of existing smaller scale research projects whose funding is seriously threatened by the enormous cost of this project.

I do not dispute the assertion that the super collider will yield some fascinating discoveries regarding the origin of matter. The attempt to re-create some of the conditions and reactions believed to have formed the universe is an impressive undertaking. It is an endeavor that I would, in all probability, support if our budget were not constrained by more immediate challenges.

It is the combination of these extraordinarily high budget deficits and the slowest rate of growth since the Great Depression that means we must focus our limited Federal resources on revitalizing our economy.

If this project, the superconducting super collider, is allowed to continue, the Department of Energy in 1993 will spend more than four times as much on this single project than on all of their technology transfer activities to the private sector. And that is what we desperately need now in this economy, and in this worldwide, highly competitive economic environment. We need more effective technology transferred to the private sector so that they can utilize this to produce marketable products.

The President's 1993 budget request for the Environmental Protection Agency's entire research and development budget is only one-half of the amount requested for the super collider. Under a healthier budget and economic conditions going forthwith, the super collider would not hurt us a bit. But in our present condition, the tradeoffs involved with continuing to finance the super collider, I say, are simply too much.

Mr. President, there have been eloquent arguments made here on behalf of the super collider today; eloquent arguments made on the scientific advancement that might result if this project is financed through to conclusion.

But what my colleagues overlook, I think, is that this is simply a project that we simply cannot afford at this particular time in our history. Even if we accepted the current $8.2 billion cost estimate made by the Department of Energy, which I do not believe is credible, even if the administration were successful in its promise to obtain $1.7 billion in foreign contributions, which it has not and cannot deliver on, even if the superconductor was not draining away funds from other important scientific research, which I believe it is, even if the superconducting super collider has the potential to yield significant economic and technological benefits in the future, which I think is doubtful, and even if the Congress was not faced with the task of making some tough decisions on budget priorities for this Nation, which I suggest it must, we simply cannot continue to fund the superconducting super collider.

I want to say to my colleagues here this afternoon on the Senate floor that we can continue to take this floor and rail against the deficit, we can continue to advance dubious measures such as a constitutional amendment to balance the budget, which will not take effect for 5, or 6, or 7 years, and may not be effective even at that time.

We can continue to go home and make speeches to the Rotary Club about what is to be done about the deficit; or we can start making some decisions here this afternoon, and this, I submit, ought to be the first priority. We ought not to finance this highly expensive project, because we cannot afford it. We ought to reduce funding for a whole host of other projects, so that we follow it. We ought to give serious consideration to terminating the space station. There is already a space station available we can rent from the Soviet Union. That country went broke financing these highly expensive projects of dubious value.

And then, of course, we will have the Armed Services authorization bill up here soon, and we can make some further reductions there.

If we are really serious about doing something about the deficit, I say to my colleagues, this is the place to start. We can continue to make those reductions as the other appropriations and authorizations bills come to this floor.

And if we cannot vote to make reductions on something that is really just an added luxury, such as the superconducting super collider, then I think we forfeit our right to go home and talk about the deficit; we forfeit our right to mount this floor and talk about reducing the deficit; we forfeit the right to say that we are concerned about the deficit or the national debt.

We ought to admit that we are simply hypocrites and we want to continue funding all of this, and we want to continue to pass on the promissory note to future generations, because that is precisely what happened.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I wonder if the Senator from Tennessee will yield for a question or two on my time.

Mr. SASSER. I am pleased to yield.

Mr. JOHNSTON. Mr. President, I earlier used the figure that entitlements and mandatories constitute 59 percent of the budget.

Does the Senator from Tennessee, the chairman of the Budget Committee, agree with that?

Mr. SASSER. Well, Mr. President, I do not dispute that. But, at the same time, entitlements also constitute well over 40 percent of the revenues that come into the budget. And to try to make the argument that simply reducing entitlements is the way to deal with the deficit—that might be one way to do it.

Mr. JOHNSTON. Mr. President, I did not make the argument; I asked a question.

Mr. SASSER. Let us start with this project today.

Mr. JOHNSTON. I was going to ask the Senator a series of questions. It was a very simple question: Does he agree?

I think the answer was yes; and then he went on to argue what I might have argued, but I did not.

Does the Senator agree with me that, as a percentage of R&D funding, the superconducting super collider constitutes six-tenths of 1 percent of the total R&D funding?

Mr. SASSER. I do not agree or disagree with my friend from Louisiana, Mr. President. But the point that I am making here today is that if we are serious about reducing the deficit, we have to start somewhere.

Mr. President, we can make a plausible argument for every project to come to the floor.

Mr. JOHNSTON. Will the Senator agree that the superconducting super collider this year is forty-three one-thousandths of 1 percent of the budget?

Mr. SASSER. I would neither disagree nor agree. I cannot respond to that.

Mr. JOHNSTON. Mr. President, I can tell the Senator that those figures are correct.

The point is simply this: The budget deficit is caused by entitlements. We all know that. The Senator from Tennessee knows that better than most Members on this floor.

Regarding the 15 percent escalation in medical costs, I do not have all of the solutions to that, but I know that is the problem. And forty-three one-thousandths of 1 percent for the superconducting super collider, or six-tenths of 1 percent of all R&D funding, is not what is hurting this deficit. It is entitlements.

Until the Senator from Tennessee—joined by me and others on the Budget Committee, and Senators on this floor—can face up to that, we are not going to solve the budget deficit.

The superconducting super collider is the most important scientific project in America today. At least, the American Physical Society and other leading Nobel Laureates tell us that. And by taking away forty-three one-thousandths of 1 percent of the budget, you are neither going to sink the ship of state fiscally, or solve the other problems. You have to deal with entitlements. That is the plain truth. We need to face up to it.

Let me tell you, if we start making this argument about, well, this project is not much, but it all adds up, I mean, we can do that with the labs in the Senator's home State of Tennessee. Do you know they want to build an advanced neutron source at Oak Ridge for $6 billion? I think it is a good idea. But that is going to cost more than $5.4 billion, the incremental cost of finishing this project. What are we going to do when we make that argument about that project, or about all of the other scientific projects?

We cannot do that as a great Nation, Mr. President. It is because America is in trouble economically and competitively in this world that we do not need to stop scientific research. We need to increase it, if anything, because that is the progress of tomorrow.

Mr. President, half of the gross national product of today's America is made up of discoveries of the last 30 years. Half of it. We can say, as Senator BUMPERS says, these secrets of science will be there 50 years or 100 years from now.

Well, frankly, they will not. They will have been discovered by somebody else. And the technology will be developed by somebody else, if we do not do it. Are we going to let this country sink slowly, like the Sun in the West at eventide, and say we cannot compete anymore?

Are we going to say that we have no more scientific curiosity, scientific competitiveness, and that we are going to let this budget deficit, fueled by entitlements, overwhelm us, take our spirit and competitiveness, and take the feeling of excellence that has developed this country and has brought us to the pinnacle of all nations of the world?

Are we going to get mired down in that kind of spirit? I do not think so.

Mr. DOMENICI. Will the Senator yield on his time?

Mr. JOHNSTON. Mr. President, I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me say to my friend, the chairman of the Budget Committee, in response to the entitlement issue, it was said that there are trust funds backing up this entitlement program.

Let me set the record straight. There is a trust fund backing up Social Security. But for all of the rest of the mandatories, which amount to $450 billion, which are made up of the two medical programs that are growing at over 2½ times the rate of inflation, the trust funds backing that batch of $450 billion is only 50 percent. So the other 50 percent, you are looking to be solved in the very same way that you pay for other programs. You have to tax people and borrow money, and it is growing at an astronomical rate.

So entrusted for them is not an argument, other than if you want to isolate Social Security, it is paid for. If you take Medicare, Medicaid, all the pension programs, they are only half funded.

Having said that, let me suggest to anyone who thinks when it is right to do science research, and when the best talent in America is telling you to do it, that you can wait around and it will be discovered in 50 years—it will still be there—let me suggest two things: It may not be there, because others may find it. And more important, Mr. President, if you do not find the secrets of science when you know how, you give the American people a legacy of less, rather than a legacy of what they are entitled to and what humankind is entitled to; because you do not go after these secrets to write textbooks. You go after these secrets because they yield things for human beings like the laser which is now on every counter when you go through the supermarket. That is the result of basic physics that came out of things like the big physics machine at Los Alamos. Those basic concepts are now in every store. What do they add? They did productivity. They make that clerk able to deliver five times more per day. What does that mean? That means America may be able to get out of this problem of not having enough productivity a year to keep the standard of living going up and inflation down. That is at the heart of the future day-by-day living standard of Americans, and it melds right in with the great science of the past.

Frankly, the early scientists really had a selling job. They were on the frontiers when nobody even knew anything about it. They were saying with their great minds, "Do it." We wasted some money, but we made the great breakthroughs.

Here we are today with that superclass of scientists which we helped educate and get onto the humankind scene of activities where they are saying, "This is the next big secret: How material and matter is hooked together." We have already found some of the secrets, and it yielded material wealth in abundance. Now let us go after the next one or let us acknowledge that we are not capable of carrying forward with the great science legacy handed to us by the greatest scientists in the world, which just happened to be Americans, which is no accident.

I thank the Senator for yielding. Does he want me to complete my 15 minutes? I have 15 minutes. I ask how much I have used. And I will use 5 or 6. How much time did I use?

The PRESIDING OFFICER. The Senator from New Mexico has used approximately 5 minutes.

Mr. DOMENICI. I have 15 minutes reserved, so I yield myself 10 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMENICI. Let me again here on the floor pay a compliment to Senator JOHNSTON. To my knowledge, Senator JOHNSTON has no national laboratories like Sandia, Los Alamos, and Livermore in his State. He does not have any of these great science facilities like the one we have at Argonne, like we have at Brookhaven, clearly like Senator SASSER has in his State, Oak Ridge. Yet, I think it is fair to say that when it comes to basic science endeavors of the United States, the Senator has seen fit to take a lead.

So my first couple minutes I want to use in saying, "Congratulations." He is on the cutting edge of what will keep America the leader of the world, what will keep America's standard of living moving up, what has a real chance of giving us a sustained economic growth without inflation, because basic science discoveries are the thing that adds to America's capability to remain a leader in the world, not only militarily, but a leader in the world economically and will push our standard of living ever higher. So I commend the Senator.

This issue of the superconducting super collider is really an American issue; it is not just a Senate issue. It has some of the spirit of America in it, some of the past success, and a great deal of the future.

If the United States of America has to acknowledge that we cannot do this job, that for some reason we cannot fund the next greatest science ever developed in the world, then we are acknowledging defeat. We have enough gloom going around America. We have enough people predicting how bad off we are. The truth of the matter is that we are a giant, giant ship, big, with the highest standard of living in the world. The totality of our gross national product is, by anyone's calculations, far ahead of any country in the world. When we look at the material wealth that we have, the cars we have, the houses we have, the things in our houses, the things in our daily life that make life worth living, we are still ahead of everyone. This is no accident. This is because the American spirit of "can do" was alive and well, and this is an issue right today of whether we can do or whether we want to acknowledge defeat.

There are some who would say, "Spend this money elsewhere." In this huge American availability of resources, there is no way that we can find a better project than the project that the best scientific brains in our country, those who truly look at where the breakthroughs are going to come, recommend.

The testimony before the Energy Committee by our leading physicists—it was something to behold and to see in that room an accumulation of Nobel laureates from all over America, who made the great science breakthroughs, there standing shoulder to shoulder saying, "Do this project." And then to see along with them one of America's captains of industry. We had there the former chief executive officer of Motorola, a company that is known for its progressiveness, its application of science and research so it is ahead of the power curve. That man sat there and said, "You ought to do this, because to stop it is an acknowledgment of defeat, and it is acknowledging that America does not want to be on the cutting edge of that which will keep us and our material wealth and our industry and our jobs competing in the world and, yes, even ahead of the world.

So I come today to suggest that there is plenty of history showing how basic science has yielded basic things for Americans, how basic science breakthroughs have produced things that Americans are using today that those who made the breakthroughs had no knowledge at all would be in our daily lives.

I am here to suggest that science breakthroughs in the past yielded spinoffs that were not even contemplated by the science that is making our daily lives much better. If that is the case, how could we be so irresponsible as to suggest that this one will not do that even though we are told by the very best it will do all of those things and more? How can we believe that we cannot afford a project like this when we have a budget of $1.5 trillion a year. How much is this going to cost, I ask my friend, in its totality? How much?

Mr. JOHNSTON. As the percentage of this year's budget, it is 43/1000ths of 1 percent of this budget.

Mr. DOMENICI. Give me the dollar figure again?

Mr. JOHNSTON. It is $8.25 billion overall if you add the increment cost; that is, the cost of finishing as opposed to terminating. The cost in fiscal year 1992 dollars is $5.4 billion. Those are reliable costs now because the magnets have been redesigned, have been manufactured and tested, and the manufacturer has proven up and the testing as proven up, and they have done test borings on the drills. So those costs are very reliable. You have an incremental cost of $5.4 billion.

Mr. DOMENICI. Let us use the $8.3 billion. Let me repeat, the budget of the United States, I say to my friend from Louisiana, is very close to $1.5 trillion. Are we suggesting here, spread out over a number of years, because this $1.5 trillion is every year, each of the years we are going to spend $1.5 trillion, and it is going up, are we suggesting we cannot afford a portion of this, $8.3 billion each year out of a $1.5 trillion? That cannot be the reason. That cannot be the reason.

So the argument has to be here on the floor one of two things: The project is not worthwhile. I do not believe that is so. I think if we just had a vote here on the Senate floor, let us listen to the great physicists and scientists. Is the project worthwhile for human kind? It has to be a 90-to-10 vote. I do not know where the 10 comes from. They may be the ones to say no more big projects like, say, no more genome mapping, you are not going to map the genetic systems of the human body, because it is big, when it is now almost assured that we will hand over the gene for every single major disease that mankind has within 10 years to the great scientists to find cures for things that have been part of mankind's terrible past, and we will begin to cure them in innumerable numbers. The greatest wellness project in the world is that one.

Mr. JOHNSTON. Mr. President, as the Senator knows, I am a very strong supporter of that project. But if you required the scientist from the human genome project to tell you what they are going to discover and what diseases they are going to be able to cure because of the human genome project, they could not tell you. Einstein could not have told you what the theory of relatively was going to produce.

Mr. DOMENICI. Exactly right.

Mr. JOHNSTON. You cannot tell that in advance, but we know it will happen.

Mr. DOMENICI. Mr. President, I want to close here today urging that as to that one reason, that it is not worthwhile, I do not think that anybody could really say that.

The second would be that we cannot afford it. I do not believe anyone can really look at the American budget and say you cannot afford it.

And the third would be that it probably will not work. And I cannot believe that when you are talking about the greatest breakthroughs in science history, with scientists telling you it will work, it has just as much chance as all the other major research where we gambled in the past, I cannot believe there is really much to stand on here today for those who say we should not proceed.

I hope that we give a strong signal to America's future and, to the bright side of America, some hope, which I think we desperately need in this country. This would be a sign of hope to our people that we contend to be at the cutting edge of these kinds of things, because they are good for our people and for the world.

PRIVILEGES OF THE FLOOR

Mr. DOMENICI. Mr. President, I ask unanimous consent that Tina Kaarsberg of my staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I was proceeding on the assumption that I had 2 hours, rather than an hour and 45 minutes. I just visited with the majority leader, who said that he would ask for an additional 15 minutes for me, because I had promised the Senator from Iowa 20 minutes and I only have 12 minutes remaining for the proponents of the amendment. The opponents of the amendment have, I believe, 30 minutes. Is that correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. So prior to the time the majority leader comes back and makes such a request, would the Senator from Louisiana like to enter into a request right now?

Mr. JOHNSTON. How much time remains on each side?

The PRESIDING OFFICER (Mr. KOHL). The Senator from Louisiana has 30 minutes and Senator BUMPERS has 12 minutes.

Mr. BUMPERS. I wanted to make enough time for 20 minutes for the Senator from Iowa and 5 minutes for the Senator from Minnesota [Mr. WELLSTONE]. And I would be happy for the Senator from Louisiana to have additional time, too.

Mr. JOHNSTON. At this time, let us see how much time the Senator may need.

Mr. BUMPERS. Could we proceed on the assumption that we could do this, and let us assume that the Senator from Iowa will have 20 minutes. That is where I am really pressed. I committed 20 minutes to him and I would like to honor that.

Mr. JOHNSTON. Mr. President, the problem is that we are going to have to push back the vote. And then the Senator from Arkansas has a lot of other amendments, I am afraid. Does the Senator from Arkansas plan to push his other amendments?

Mr. BUMPERS. I probably will. But we are talking about 10-, 15-minute amendments, that is all. I only have one or two more and they should not take more than 10 minutes each.

Mr. JOHNSTON. I think it is going to be a late night. And the Senator has an additional 15 minutes before 6 o'clock.

Mr. BUMPERS. The Senator has 15 minutes before the vote tonight.

Mr. JOHNSTON. That is correct.

Mr. BUMPERS. But I would like to reserve that.

Mr. President, I withdraw my request. We will just let the Senator from Iowa begin. The majority leader can come in and make the request.

I yield the remainder of the time I have remaining to the Senator from Iowa [Mr. HARKIN].

Mr. HARKIN. I thank my colleague for yielding me this time. I hope we can work out something because I know that I cannot make all of my comments within the 12-minute allotted period of time. I think this is a very important debate for the Senate and for the country, and I hope we can work out some extension of time.

Mr. President, at the outset, let me join with my colleague from New Mexico in paying compliments to the distinguished chairman of this committee, Senator JOHNSTON, for his long support for research and for building the infrastructure of this country, two items in which I have long had a great interest and support, both in basic and applied research and also in what I call the physical and human infrastructure of this country.

Those long-term investments in this country cannot find a better champion than in Senator JOHNSTON from Louisiana.

I have for the last 18 years been a strong supporter of basic research. I served 10 years in the other body. I served on the Science and Technology Committee for 10 years, and chaired subcommittees. The record would show that my votes have been fairly consistent in support of basic research. I felt strongly about it because basic research opens the doors to knowledge.

There are no real spinoffs. People always talk about spinoffs coming from this SSC. That is not really so. I do not want anyone to talk to me about spinoffs. That is not the reason for doing basic research. More often than not, there are not any immediate spinoffs for basic research.

Basic research increases the basic knowledge in different areas and from that basic knowledge you build different things. Finally, down the road sometime, other bits and pieces of knowledge may lead to some spinoff. And certainly if that is true in all science, it is especially true in high-energy physics. Certainly any spinoffs from high energy physics are surely in the long-term.

I rise with mixed emotions. On one hand, I have been a strong supporter of basic research. All other things being equal, I would support the SSC, the superconducting super collider. But all things are not equal right now. We are in a terrible economic bind in this country. Economically we are going down hill in terms of competitiveness with other nations. We are not taking our basic research and applying it, which translates into jobs and economic growth activity.

I would say right now, from my 18 years of experience here and, as I said, 10 years on the Science and Technology Committee in the House, that we ought to be putting our research into material sciences, into solid-state physics. These are more pertinent to our everyday lives than long-term projects dealing in high-energy physics.

So for me it is not a matter of going after the SSC and stopping it. It is a matter of priorities and where we are going to spend our money.

I have had to wrestle with this for some time, because I did not come to the conclusion that I was going to vote for the Bumpers amendment or vote for some amendment to defund SSC until very recently. I have talked with my staff. I happen to have a very distinguished scientist on my staff. We have looked into all aspects of the SSC. So I decided not to ask the politicians whether we should go ahead with this or to even ask myself—I am not a scientist—but to try to look and see what the scientific community is saying about it.

When you look at the American Physical Society, you look at high-energy physicists, they all say of course build it. That is their bailiwick. That is their operating sector. But I want to know more about how the broad spectrum of scientists in this country feel about the SSC.

First of all, Mr. President, an internal review made by the Department of Energy in the spring of 1991 rated the SSC 10 out of 11. This is an internal Department of Energy document. Let me read the opening paragraph. This is from Linda Stuntz, Deputy Under Secretary for Policy Planning and Analysis, Department of Energy.

> You need to know first what seems to be right on the merits, determined in accordance with criteria carefully selected and applied as uniformly as humanly possible across all relevant program elements.

So, leave the politics out of it. What is good on a science basis? This DOE internal document from 1991 said to emphasize the following: Chemical sciences, materials sciences, engineering and geosciences, energy and biosciences, biological and environmental research. Leave about the same: Applied math, nuclear physics, high energy physics. Deemphasize—their own language—deemphasize superconducting super collider and advanced energy projects.

So, an internal DOE analysis, when you leave the politics out of it, rated the SSC 10 out of 11 in terms of what we ought to be doing.

Sigma Xi, the preeminent scientific society in America—comprises research scientists. These are research scientists from across the spectrum of research science, not just high-energy physics. Sigma Xi took a survey in 1988 and asked their scientists to rate different proposals. They asked them for the three best uses of public funds for scientific research. The results? Mr. President, the results were:

	Percent
Untargeted individual research awards	23
Biosphere/Geosphere systems	19
AIDS	16
Engineering Research Centers and Science and Technology Centers	13
Superconducting Materials	9
Space Station	6
SDI	4
Human Genome Project	4
Other (mostly health related)	4
Superconducting super collider	2

The SSC even rated below the strategic defense initiative and the space station.

These are not politicians speaking. These are the research scientists in America.

I know there was some talk earlier this was not a real statistically relevant survey. I want to read for the RECORD the forward to this study done by Sigma Xi:

> This report is a summary "sketch" of the results of the survey, and it offers an outline of characteristics, opinions, and preferences of the Sigma Xi members. A complete portrait awaits in-depth analysis. It may be too much to claim that the membership of the Society represents all of science, but it is a fact that individuals from more than 160 disciplines who are employed in academia, industry, and government responded to the questionnaire. No other survey can claim such a comprehensive canvas.

No other survey can claim such a comprehensive canvas of scientists all over America. That is Government scientists, industry scientists, academia scientists. And they rated the superconducting super collider dead last.

Finally, the Industrial Research Institute did a study of the R&D corporate vice presidents for the big companies in America, the R&D corporate vice-presidents, those corporate vice-presidents in charge of research and development in industry in America. They were asked to rate five major large science projects. They gave them just five: human genome, national aerospace plane, space station, strategic defense initiative, superconducting super collider.

No. 1, human genome project; No. 2, national aerospace plane; No. 3, space station; No. 4, strategic defense initiative; No. 5, SSC.

These are the corporate vice-presidents in charge of research and development in America, many of those scientists or engineers in their own right.

All that aside, I asked what other elements may go into this decision? It has to do with tradeoffs and priorities. We cannot fund everything. For example the High-Speed Rail Association said that for $10 billion—what we are going to put into the SSC—we could do the following. We could complete a high-speed rail system from Dallas to Austin to Houston that would go 200 miles an hour; we could build the same system all across the State of Ohio; we could upgrade the tracks to 150 mph from Boston to New York—all of this for the cost of one SSC. And with the private funding that would come with high-speed rail, that $10 billion would go even further. And if you build this high-speed rail you will get more high tech out of it, you will get more jobs, you will get technological innovations that we can sell abroad and export abroad. And I dare say, precious little of what we are going to put into the SSC could ever be exported.

Mr. President, I have here a statement made by President Bush on July 30, when he was down in Texas. Let me just read what President Bush said about this:

> The superconducting super collider is a big priority, a big part of our investment in America's future. And when you talk basic research this is the Louvre, the pyramids, and Niagara Falls all rolled into one.

With friends like that, the proponents of the SSC do not need any enemies. I can tell you that.

Mr. JOHNSTON. Will the Senator yield? Is the Senator aware that President-to-be Clinton has also endorsed this project in equally glowing language, has he not?

Mr. HARKIN. I doubt he is going to compare it to the pyramids. I do not know if he wants to build any pyramids.

Mr. JOHNSTON. He does not use the same language but he does support it.

Mr. HARKIN. There are legitimate arguments for the SSC. I have not said there are none. I have just said what are the other scientists saying about it, and what are the tradeoffs, and what else can we do with that money; because we have to make those kinds of decisions.

But the President of the United States comparing it to the pyramids? Give me a break. The last thing we need to do is build some pyramids in this country. What we need to do is we need to put people to work building things we can build and export and that we can make money on.

Again, priorities. Let me get back to what the distinguished Senator from New Mexico was saying. I am going to come out on the floor of the Senate in September with my appropriations bill.

Mr. President, I guess my time has expired. Obviously, I am only halfway through what I want to say.

Mr. BUMPERS. Mr. President, I ask unanimous consent the Senator from Iowa be granted an additional 7 minutes.

Mr. JOHNSTON. Mr. President, I do not want to hold up. I will yield the Senator from Iowa—can he make it on 4 minutes? Because I think we are going to have enough time out of the testing argument, which starts at 1:30, so there will be enough time without having to move back the 6:30 vote.

Mr. HARKIN. Later on? That is fine with me, as long as I can get through.

Mr. JOHNSTON. I yield the Senator 4 minutes of my time.

Mr. HARKIN. I cannot finish in 4 minutes, but if I can do that in the testing period I appreciate it, and I appreciate the chairman yielding me some of his time.

As I said, I am going to bring my appropriations bill out in September. We are not going to have enough money.

Seventy-four percent of the research grants approved by NIH—Mr. President, listen carefully—74 percent of the research grants approved by peer review for NIH will not be funded. They will not be funded. This is basic research. You have 10 doors to open, to unlock some of the mysteries of what is happening medically. Seven of them will not be opened because we do not have the money.

Mr. President, $1.3 billion worth of clinical trials research this year is going unfunded. This is on prostate cancer, breast cancer, heart disease. Who knows? In one of these clinical trials one of those doors to open might be a cure. Mr. President, 500,000 people will die of cancer this year. Diabetes, 12 million suffering from it; AIDS, 1.5 million. The way I see it, spending $8 to $10 billion on the SSC is like fixing up the basement when your house is on fire. Our house is on fire in this country.

We need to put money in basic research but we need to put it in the basic research that will make our lives better, that will enhance our technology and make us better, competitively, than other nations.

Mr. President, I have a lot more to say. I know my time is up.

I have heard about the six-tenths of a percent, and that is true; the chairman is right. Six tenths of a percent. But will it crowd out other science? The CBO has said if we spend for general science, space, and the technology programs—if we froze those at the 1991 level through 1996, which is probably what we are going to do, and if the large science projects like the SSC, and the space station, and the Earth observatory system go as planned, other science spending will go down 45 percent relative to the levels the administration has proposed.

So what we have here is big science at the expense of little science.

Mr. President, we are being asked to spend $8 billion to $10 billion to find out what happened in the few milliseconds after the big bang when most school kids in America cannot even tell you what the big bang is.

So, again, for me it is a matter of priorities. We have a ladder, we have a lot of basic research that needs to be done in this country. We, in this body, need to decide how we are going to prioritize those.

My priorities, I must tell you quite frankly and tell my distinguished chairman, my priorities are the human genome project, heart disease, cancer research, making sure that those programs at NIH are funded, making sure that we do fully fund Head Start, and maternal and child health care programs and Early Start programs and immunize every kid in America.

But, Mr. President, when I bring my bill out on the floor in September and I ask for money to immunize every child in America, when I ask for money for maternal and child health care, when I ask for money to fund NIH research, do you know what I will be told, Mr. President? You do not have enough money.

When we go to the taxpayers, we tell them to take out their wallets and we take their money, we take their tax dollars, it comes from one pocket. Where are you going to spend it?

I would love to complete the SSC, and I think there may be a time in the future when we can. But right now, Mr. President, I think we have some other things to spend that had-earned tax dollar on.

I will finish my comments, I hope, later on during the debate on the testing. I appreciate the chairman yielding the floor.

Mr. President, I ask unanimous consent that an editorial from the Morning Register be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ON TRACK; OFF TRACK

A tremendous future could await the magnetically powered train, a silent swiftie that would zip through the air inches above its tracks. And for just $45 million in federal help, development of a prototype could begin.

There is no practical future, meanwhile, for a magnetically powered atom-smasher, whose only purpose is to break tiny particles of matter into even tinier components. At a cost of $11 billion, it could help explain how the university began. But while it might be fun to know, the answer to that $11-billion question isn't worth a bucket of warm spit.

So guess which is expected to stand the better chance in the '93 budget?

"Maglev" could achieve a speed of 300 mph and still stop every few miles to pick up passengers, thanks to the magnetic levitation system's super-fast acceleration and deceleration. Magnets in the Maglev system would push the train up and off its tracks, while other magnets send the train barreling down its railbed at airliner speed.

Likewise, magnets in the atom-smashing Superconducting Super Collider would send subatomic particles around the inside of a 50-mile-long underground oval at nearly the speed of light, then crash them into each other head-on, whereupon some of the 2,500 scientists employed the SSC would examine the wreckage to see if hitherto unknown particles of matter had been isolated.

The Maglev could revolutionize mass transportation, providing cheaper, faster service with less environmental impact than present forms. But typically, Europeans or Japanese could be the first to capitalize and hence reap the rewards of this all-American invention (Brookhaven National Laboratories and Massachusetts Institute of Technology).

The super expensive super collider-toy could solve some mysteries of the big-bang theory. Even if it does, it is unlikely to have any practical benefits to mankind.

President Bush once supported Maglev, signing legislation authorizing $725 million for development. Last spring he changed his mind. He wants Congress to strip the relatively modest $45 million in prototype money from the '93 budget. But he still wants the SSC, with its ridiculous price tag. After all, it would be built in his home state of Texas.

The U.S. House, at least, has other ideas. Last month the House voted 232–181 to kill the SSC. That was a gutsy vote; smart bureaucrat-scientists had managed to put a piece of the SSC action in 45 of the 50 states (including Iowa). But House members, including majorities in seven of the 10 states profiting most handsomely, voted to appropriate just enough money ($34 million) to shut it down. It has already cost more than $1 billion.

Iowans Dave Nagle, Neal Smith and Jim Ross Lightfoot voted to fund the boondoggle. Jim Leach, Fred Grandy and Jim Nussle voted to kill it.

Unfortunately, the SSC has important friends in the Senate. Kent Jeffreys of the Competitive Enterprise Institute in Washington, D.C., describes SSC as an "ill-conceived science project with weak economic justifications," but with "a tremendous amount of special-interest support." That means the issue is far from dead.

But Maglev may be.

The SSC was first approved by President Ronald Reagan, who was a sucker for high-drama, high-budget items such as Star Wars and human space shots. Sober scientists warned at the time that financing it could dry up federal money for more mundane but practical projects. That could include Maglev—as deserving a scientific project as has come before Congress in some time.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, this is a debate about fundamental science and fundamental values of the United States. Let me tell you what this debate is not about. This debate is not about whether the superconducting super collider is going to use up all the money for other science.

Mr. President, as I have demonstrated, the superconducting supercollider is six-tenths of 1 percent of the Federal R&D budget funding; six-tenths of 1 percent. The NIH budget, to which the Senator from Iowa was referring, is 19.4 percent of the Federal budget, and I am glad it is. It consumes about $15 billion annually, and I am glad it does. But, Mr. President, to say that this $15 billion program is being eclipsed by this six-tenths of 1 percent for the superconducting super collider is an argument that simply does not wash.

As I have mentioned before, the superconducting super collider is forty-three one-thousandths of a 1 percent of the budget—forty-three one-thousandths of the 1 percent of the Federal budget. It is six-tenths of 1 percent of the Federal R&D budget.

The question is not whether this is going to eclipse the rest of science in America. You do not have to be a genius at fractions and at mathematics to figure that out. What is at issue, Mr. President, is whether or not this fundamental science to break the code of the universe, to determine what the basic laws of matter and energy are, whether that is worthwhile doing.

The distinguished physicist, Leon Lederman, testifying before our committee, said, in trying to put it in layman's language, that this inquiry is so basic it is as if, he said, you were some extraterrestrial looking down at the Earth at a soccer game and you could see all of the men or women running around the field but assume the soccer ball was invisible. It would make no sense the fact that these figures were running around to no apparent purpose. But if you can suddenly put the soccer ball into vision, you would understand what the game was about.

In like matter, Mr. President, when we can make a mathematical formula which can tell how the four basic forces of nature—gravity, the electromagnetic force that controls, of course, all radio, electricity, lights, cooling, heating, the weak force which is radio activity, nuclear energy, if you will, and the strong force which binds together the nucleus of the atom, those four forces are related, so the scientists believe, and they believe they can reconcile those four forces and translate one into the other, just as Einstein and the theory of relativity. Every school boy knows the formula $E=mc^2$. Energy equals mass times the speed of light square, the theory of relativity that tells you that mass is energy and energy is mass.

When Einstein came up with that theory, he did not say, well, if I can come up with this theory and prove it, I will be able to harness nuclear energy, or that I will create a science that will treat 20 million Americans in the year 1992 with nuclear medicine, or that I can come up with a theory which can lead to all kinds of breakthroughs in medicine and science and improve vastly the gross national product of America. He did not say that.

He went into the theory of relativity for knowledge sake and that knowledge has paid off handsomely.

Mr. President, we believe that the knowledge of the universe, from the smallest things, the smallest particles, the so-called Higgs Boson, which is one of the biggest missing pieces here, they think it is there but they have to have very high energies, in effect, to crack that nut. They have to have a huge hammer of enormous force in order to crack the nut of the strong force that binds that nucleus together in order to examine its constituent parts, to come up with a mathematical theory that will make sense of it all. We believe that is the most fundamental inquiry in science today. We believe it is ultimate truth, ultimate truth in that these are the ultimate parts—we used to think the atom was ultimate and then the proton and neutron were ultimate. But now we believe that these parts and these forces are ultimate, ultimate truth, as it were.

That is what the superconducting super collider is designed to discover. It is on time, on budget, its cost to complete is $5.4 billion in 1992 dollars. Those are no longer whimsical estimates, Mr. President. We recognize there has been cost escalation in the past because we redesigned the magnets, we redesigned the injector, we increased the size of the circumstances. That is well known and it is totally admitted.

But now we have a design which is fixed. It has been manufactured. It has been tested as far as the dipole magnets are concerned, the central part of the machinery. We have had test diggings in the chalk formations around Waxahachie. Those have come in under cost, under projected costs.

We believe, Mr. President, that this $5.4 billion cost to finish is a very conservative cost. Keep in mind that there are $900 million of contingency fees in here and if we do not use those, then it is not $9.4 it is $5.4 billion to finish. We believe the cost estimates are good costs, that not only can we afford it, we cannot afford to stop this project.

Mr. President, can you imagine what it would mean to this country if having embarked on this endeavor, taken homes, lives, put together a team of thousands of the top scientists in the world, advertised, in effect, our intentions globally and then suddenly withdrew from this? If we are going to withdraw from this in high-energy physics, why does it make sense to do any other high-enegy physics anywhere in America? And we do a lot of other projects throughout the country. Why does it make any sense to do fusion research? Everybody knows that fusion will not pay off until 2040 or 2050, if then.

Why go into all of this other basic research. The fact is, Mr. President, a great Nation, the leader of the world, not just in military might but most importantly in science and, in turn, in gross national product, cannot afford to retreat from this kind of project.

Mr. President, I yield the floor.

Mr. SYMMS. Mr. President, I rise to oppose the Bumpers Amendment to eliminate funding for the superconducting super collider. I appreciate the concerns of my colleague from Arkansas about developing clear priorities for science research and development in this country. However, in my view, the SSC ought to be a priority program.

Whole new industries could be developed by the research to be done by the SSC. Research in physics from 1910 to 1940 helped develop the following technologies—radar, x rays, televisions, microwaves, semiconductors, computers, and lasers. Most of these technologies originated in the United States and created entirely new markets for us in the post-World War II era. Today, these industries make up one-fourth of the Nation's gross domestic product.

Research is probably one of the most beneficial use of taxpayer dollars. A better understanding of atomic particles could revitalize science and math education and could revolutionize the United States economy. Such a revolution could dramatically improve living conditions throughout our society. That is a benefit worth pursuing.

Another reason to support the SSC relates to the many young men and women who have served our country so well in military service. Next year will see hundreds of thousands of defense-related jobs lost.

Building the SSC is one way for the Federal Government to soften the blow to the economy caused by the drastic defense cuts supported so far by this Congress.

The Senate Appropriations Committee mark for SSC in fiscal year 1993 doesn't break the budget like many other programs do. At $550 million, the SSC project is little more than a chink in the armor of a $400 billion deficit.

The bottom line here is that the SSC ought to be a budget priority. It is a program that will build America's future by investing in our economic strength today.

Mr. President, I would urge my colleagues to vote against this amendment.

I ask unanimous consent that a letter, of which I have received hundreds in my office, in support of the SSC be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Dear SENATOR SYMMS: I want to ask for your support on funding for the Super-Conducting Super Collider Project. The benefits that this nation and the world will gain from the SSC are immeasurable. The Project will:

Reestablish a manufacturing base for America in intensely competitive global marketplace.

Constructively invest over $20 billion dollars into the U.S. economy.

Create advanced technologies and tens of thousands of highly-skilled jobs.

Draw America's youth to careers in science and engineering with hope for the future.

And, the SSC Project already has:

Awarded over 19,000 work contracts in over 47 states.

Made 10% of the SSC federal funding available to small disadvantaged businesses.

Applied SSC's technologies to medical lifesaving diagnostic equipment and developments.

Enhanced math and science educational programs for America's schools.

Increased physics research in over 100 universities across the country.

The United States of America was once recognized clearly as the world leader in the development of emerging technologies. Please help us reignite that leadership and build a productive nation driven by a technology base second to none.

Sincerely,

BILL MOFFITT.

IDAHO FALLS.

Mr. BOREN. Mr. President, an election year does not excuse this body from making poor, unwise public policy. Unfortunately, the pressures of an election year has once again jeopardized a program known not for its past failures but is future potential and applicability. The superconducting super collider [SSC] is the program that some in this body would like to see fall victim to the congressional guillotine. I rise today to oppose the effort to cut funding for this important and worthwhile project.

Opponents of the SSC would like to wrap themselves around the banner of fiscal responsibility. They ask how can this country fund a project during these lean budgetary times that reaps no tangible benefits and only adds to the budget deficit?

Let us not be fooled by these arguments. Since my arrival in the Senate, I have supported measures to control Federal spending. That is why I support the balanced budget amendment and the Domenici proposal to deal with the spiraling costs of entitlements. To truly control the budget deficit, the answer does not lie with eliminating funding of a project that represents less than 1 percent of the total Federal R&D project.

Furthemore, we are not throwing money at a black hole. As a GAO report states, the job-creating multiplier effect of SSC expenditures will be that every $1 equivalent spent generates $3 in economic utility. This is an investment whose rewards will come in many forms.

This debate is not only about one of the world's most important scientific enterprizes. This is also about this country's leadership in tomorrow's world. The best minds of this country's scientific community are working to unlock the most fundamental questions of our universe. While they march toward that goal, they will revolutionize the computer industry, the medical community, and transform our industrial and technological base. Economic opportunities never anticipated will arise, scientific advancements never predicated will proceed, and educational worlds never explored will emerge. Even if the original scientific goals are not completely met, the knowledge gained will completely change our lives. Our reach, as the poet Browning stated, should exceed our grasp.

The question is will this country lead in this initiative or will we let others do that task. Can we capitulate our undisputed leadership in this area because of misguided arguments? How can we encourage our youth who must live in tomorrow's world to study the math and sciences, when the Congress is unwilling to commit to a project that would enhance and promote such studies? How can we challenge our scientists, educators, and industrialists to lead in their fields if the Government fails to support their pioneering spirit?

Whether we like it or not, this debate reveals something fundamental of this country's priorities. The choice is between boldly taking the initiative or meekly surrendering our leading position. The choice is between making wise investments for the future or foolishly withdrawing under the false guise of fiscal responsibility. Let us not be deafened by the cocophony of political demagoguery. I urge the Senate to stand with the scientists, educators, and experts in the field who urge this body to fund this project. To paraphrase the Greeks, science is too important to be left to the politicians. Indeed, let us marshall our innovative and creative forces, and commit this country to excellence.

Mr. LEAHY. Mr. President, the superconducting super collider is designed to house over 10,000 magnets each weighing 12 tons. The magnetic force of the SSC could be great enough to draw $12 billion of taxpayers money from the U.S. Treasury over half a continent away unless we act today.

Six weeks ago, the Senate was locked in a rhetorical debate on balancing the Federal budget. No real cuts, no hard choices, no reduced spending options were offered in that debate on amending the Constitution to require a balanced budget. Today we can make a real cut in wasteful spending that will add $12 billion to the Federal debt.

The SSC is wasteful Government spending. Supporters suggest that spending $12 billion on this particle accelerator will lead to new technologies and new jobs. Deputy Secretary of Energy W. Henson Moore testified in recent congressional hearing about the numerous technological spinoffs from the SSC. Dr. Nicholas Blumberg, president of the American Physical Society, responded in a Senate hearing saying, "I can assure you these are spinoffs of small scale science, not of the SSC, and the attribution of the SSC to other spinoffs * * * is also highly questionable." Mr. President, the few technologies that might emerge from the SSC do not justify its $12 billion price tag.

The SSC is not a jobs program either. Proponents of the super collider say 6,000 jobs are at stake if we kill this program. Last year we spent about $500 million on the SSC. That's about $80,000 per job—not a very cost-effective jobs program. The Congressional Budget Office points out that more jobs and new technologies could be created if Federal dollars were spread among a broad base of research programs.

An internal analysis done by the Department of Energy to rank all of its science programs on their merits placed the SSC 10th out of 11 programs. The analysis recommended that the SSC be deemphasized in the DOE's budget. President Bush recommended spending about 75 percent of the high-energy physics budget on the SSC. Funding for science research programs is effectively a zero-sum game: if we increase funding for the SEC it crowds out research dollars for other scientific research.

The SSC can't deliver the jobs it promises. It can't deliver the science and technology it promises. However, Mr. President, the fundamental reason I am opposed to the superconducting super collider is because it costs too much money.

In 1989, Secretary of Energy Watkins stated that if the SSC costs a dime more than $5 billion, we shouldn't build it. The independent cost estimating staff at the Department of Energy has estimated the SSC will cost 68 billion dimes more than Admiral Watkins' figure.

In 1986, the earliest cost estimate for the SSC was between $3.9 and $4.2 billion. The first SSC budget in 1988 put the cost at $5.3 billion. The 1990 budget request put the final cost at $5.9 billion. Design modifications made before the 1991 budget proposal added another $1–$2 billion to the SSC's total cost. The current DOE cost estimate is $8.3 billion. As I have stated, DOE's Independent Cost Estimating arm puts the cost at $3.5 more than the DOE has told Congress.

So, we've gone from a 1986 cost estimate of $3.9 billion to a current independent cost estimate of $11.8 billion.

The Department of Energy has continually claimed that $1.7 billion of the costs of the super collider would be borne by foreign contributions. The attitude of the DOE has been "build it and they will come." But, the foreign contributions have not come. To date, only $50 million in foreign contributions have materialized. Japan has refused to make a commitment, even after President Bush's hat-in-hand request last January.

Mr. President, I would strongly encourage my colleagues not to be drawn in by the magnetism of this collosal waste of funds. The superconducting super collider is not a jobs program. The technological spinoffs will be negligible. The addition to Federal debt will be enormous. Funding for the SSC must end.

The PRESIDING OFFICER. Under the previous order, the pending amendment will be set aside and the Senator from Oregon [Mr. HATFIELD] is to be recognized to offer an amendment at this time.

Mr. SIMPSON. Mr. President, many months ago I initially opposed the SSC and supported Senator BUMPERS' amendment to cut the SSC funding last year. However, my education continues. Discoveries from this basic research are said now to be directly linked to possible dramatic advances in the methods of cancer diagnosis and proton therapy.

I understand, too, the research will also benefit the development of magnetic levitation frictionless trains and magnetically propelled nonmoving parts, silent underwater boats, vessels, and other means of transportation. The SSC will also advance new computer architectures and new forms of energy.

I have also learned that doctors have reported that excess protons generated by the collider might be used for cancer treatment and other tests such as those used in mammography.

A university study shows that the proton beam of the collider's linear accelerator can be used for medical applications without additional costs in the program.

In fact, the collider's immense beam power could be focused on the human body to treat deep-seated masses, such as brain tumors or prostate cancers. The proton treatment also may help to avoid many of the side effects of conventional radiation treatment, which use x rays to destroy tumors. In other words, the first benefits of the SSC may very well be medical therapy with proton beams from the collider. These benefits could indeed, be seen immediately, if not within the next 5 years.

Finally, I understand that a cancer therapy program at the collider site would have the advantage of bringing together many of the world's outstanding minds in medicine and physics. For these and a myriad of imaginative possible benefits to all people, I will support the SSC and feel that we should continue to fund this worthy project.

Mr. DURENBERGER. Mr. President, this is one of the most difficult votes that I will have cast in my 14 years in the U.S. Senate. For I recognize that in voting against continued funding for the superconducting super collider, it may appear to some people that I am voting against advancing to the very edge of the frontiers of scientific knowledge.

I am not a physicist, not even a scientist. But I recognize that our advancement as human civilization is founded on our capacity to investigate and understand the scientific underpinnings of existence. Much of the material progress that mankind has achieved is owed to science.

What distinguishes the Members of the 102d Congress from the Members of the First Congress in 1789, is not the quality of our intellect and ability to engage in political discourse. It is the extraordinary technology that has evolved through centuries of patient scientific investigation. In science, each advance in understanding the nature of matter lays the foundation for the next advance.

We live in a world where I can get on an airplane and be in Minneapolis, in slightly more than 2 hours. I can witness events, as they are happening, anywhere on the face of the globe, while sitting in my living room. Our life expectancies are more than double what they were a century and a half ago because scientists in the 18th, 19th, and 20th centuries painstakingly learned the scientific basis of life.

So, Mr. President, I recognize the critical importance that science plays in every aspect of our being.

I also know that with each advancement in science, we can unleash direct and indirect harm to the world that we know and live in.

Early in this century, the discovery of radium and its use as an illuminator on wrist watches caused unexpected cancers in the workers in the factories where the illuminated dials were assembled.

The discovery of freon made the possibility of air-conditioning and home refrigeration not just a luxury for the select wealthy few, but everyday items that are found in most homes in America. Yet the wide dispersal and availability of freon-based products has been clearly linked to the erosion of the ozone shield that protects all life from cosmic rays.

And of course, there is the discovery of fission and fusion—the energy that appears to drive our universe. Used peacefully, atomic energy was once thought to be the answer to mankind's seemingly insatiable desire for electricity.

But today, 47 years after the first test of atomic power, we are having to cope with the question of what we do with spent fuel and other byproducts of chain reaction. Where can they be stored? Is it conceivable for 1992 engineering to design a container that will safely store nuclear waste for the next 10,000 years? It's an inconceivable question.

So, Mr. President, technological advance is a two-edged sword. On the whole, I believe we are far better off because of the knowledge developed through science. Therefore, no one should assume that my vote against the superconducting super collider represents a declaration against scientific research.

I am voting against continued funding for the SSC based on my belief that this decade of world leadership and the 21st century beyond demands more of us as a nation than did the 20th century of scientific invention. It demands we revalue investment in science as opposed to the arts and humanities. If we had unlimited resources, if we were engaged in a scientific competition with a global superpower like the former Soviet Union, and if this project would lead to an enhancement of our national security, then I would be willing to continue funding this project.

But in 1992 we face no such threat. Our country is militarily secure and faces no credible military threat. Whether what is learned from building and operating the superconducting super collider could provide us with any greater degree of military security is something no one can answer. But I am willing to take the risk of ceasing construction of the collider because I believe it will be decades before this country faces any credible foreign military threat.

Mr. President, the threat that exists in this country comes from within. Many of our cities are literally crumbling under the weight of deferred physical maintenance and social neglect. Our health care system is rapidly reaching the point where cost is becoming prohibitive, and access more remote. The wonders of science have given us unbelievable cures, but at a cost which discourages investment in prevention. Our educational infrastructure is badly in need of fundamental overhaul. We must begin to face up to these problems and begin the process of assigning more focus to our domestic priorities. Mr. President, let me put this in a slightly different light. It is a problem of the human spirit.

In my view, the $8 billion to $12 billion that will eventually be expended to construct and operate the superconducting super collider can better be spent on financing the critical needs of our Nation that are currently being addressed with patchwork programs and patchwork financing.

I have no expectation that will happen, but I believe it should.

During the Gramm-Rudman-Hollings era, when I founded Americans for Generational Equity, I argued that if Congress reduced non-needs-based financing of programs for the elderly, it would not guarantee more spending on children. While we should, we don't. But, if I am correct, at least this legacy of debt we send our children will be mitigated. Deficit reduction is not all bad.

Mr. President, I cannot claim that I understand the national values inherent in the research that could be conducted by the superconducting super collider. I am required to acknowledge, however, that without my vote and without Federal public investment, national research on high energy physics and cosmology will be confined to accelerator projects in other nations, or to smaller-scale, longer-term research projects in this country.

It is difficult for me to reach a decision which requires me to compare this effort and its potential benefit with the costs to the people of this Nation of our failure to invest in less politically powerful research projects.

I cannot make the argument others have made that a no vote on the super collider will save the money necessary to invest in other research. It won't. No other projects have the political leverage this one has in an election year.

Nor can I make the argument its chief sponsor makes: That its costs pale by comparison with all other federally financed research. That argument went out with me the third time in a row I heard it made on this floor as a justification for an investment decision that could not stand on a more valid comparative argument.

Mr. President, when will our Nation take a breather from science? When do we get to spend some time and some research investment on the arts and the humanities; on behavior; on human relationships; or the application of the arts of history, language, geology, and anthropology.

Mr. President, the 20th century gave us great education and great science. And the application of technology has truly changed the quality of our material lives. But we have come to rely too much on technology. We need a revival of the spiritual in our country.

We are both the better—and less well—for all we learned and all we have as a result. We need to pause.

Mr. President, I ask unanimous consent that two articles on the superconducting super collider be inserted in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, August 3, 1992]

LET'S CONTAIN THE SUPERCOLLIDER

The superconducting supercollider, an enormous and costly instrument for probing the structure of matter, poses a stark issue for the Senate today:

Should the nation, faced with recession and budget deficits, continue to build an $8-billion machine to explore scientific questions that are of great intellectual interest but may have little practical payoff? Or should it write off the $1 billion spent so far and terminate the project?

The House voted in June to cancel the project as unaffordable. But President Bush traveled to the construction site in voter-rich Texas last week to declare support for "one of the greatest scientific projects in the entire world." The Senate is expected to approve further funding today, setting the scene for a showdown with the House over whose view will prevail.

On the merits, the mammoth machine is worth building—provided it can be financed without robbing a host of other vital scientific projects.

The supercollider will be a huge underground instrument, 54 miles in circumference. It will accelerate two beams of protons in opposite directions around a giant ring lined with magnets. When the protons smash together, they will release showers of debris from which scientists hope to divine a deeper understanding of the fundamental forces and particles that shape the universe.

Unlike the controversial space station, which is primarily an engineering feat, the supercollider is at the cutting edge of research in two important fields. It is a key to further advance in high-energy physics, which seeks to find the most elementary particles and forces from which everything else is made. And its findings will shed light on events at the very creation of the universe, the domain of cosmology.

Even critics don't quibble that the supercollider will perform good science. But its relative importance remains in dispute. Some critics note that a large accelerator now being built in Europe may answer some of the same questions. Others contend that less costly small-scale physics is even more important because it involves more scientists and students, and it studies phenomena that are relevant to the every-day world.

Proponents have greatly exaggerated their case. They suggest, plausibly, that the machine might revolutionize our understanding of force and matter. But they neglect to mention that it may prove a dud, finding little of interest. And they predict spinoff benefits for industry and medicine without acknowledging that $8 billion invested more broadly in science might yield even greater benefits.

Proponents have repeatedly low-balled their cost estimates, only to revise them upward. And they insist that foreign nations will foot part of the bill, with little to show for their optimism.

In the past, this page has opposed the collider for fear its escalating costs would divert funds from more fruitful research. But with care and determination, it now looks possible to do both. Project managers seem finally to have stabilized their costs and surmounted the most worrisome technological hurdle—the huge superconducting magnets.

The collider should be completed because it will perform pioneering research in a field long dominated by the U.S. but where Europe is taking the lead. It would be a shame for a great nation to shrink from this intellectual adventure.

The project should be canceled only if it threatens to damage other fields of science, thus doing more harm than good.

Congress could assure the happier outcome by continuing the collider while setting firm limits to the total budget for high energy physics in future years. That way the new machine could be financed largely by shrinking or closing its obsolescent predecessors. Resources would not need to be drained from other vital research.

[From the New York Times, August 3, 1992]

SCIENCE, MAYBE, BUT POLITICS FOR SURE

(By Clifford Krauss)

WASHINGTON, August 2.—In a chamber renowned for talkers, Senator Alan K. Simpson, the Republican whip, is regarded as a champion.

But after he and other undecided Republicans were invited to the White House recently for a hardsell lobbying session on the superconducting supercollider, the Wyoming Republican was suddenly at a loss for words.

"I'm no scientist," he said. "Don't ask me what it all is."

With the Senate expected to vote on the big-ticket item early this week, many lawmakers can recite—more or less—the boilerplate on the particle accelerator: It will help discover the fundamental forces of nature by racing subatomic particles around a track until they smash, simulating the conditions that existed just after the birth of the universe.

But if few members of Congress are scientists, all are politicians, and many are also lawyers, adversarial thinkers trained to translate complicated subjects into their own terms: budgets, jobs and, ultimately, votes.

Scientists who say the supercollider offers no practical benefits are quoted by opponents, while supporters quote scientists who say the supercollider offers the limitless promise of new frontiers—so the technical arguments are pretty much a wash.

"The truth is, I do not think there is a single person in this body who has the scientific background to know for sure whether this is the greatest investment ever or the worst investment," said Representative Newt Gingrich of Georgia, the Republican whip, in a rare moment of the House floor debate on the supercollider.

So, like the debates over the space station planned by NASA, the debates over the supercollider are dominated by economic and electoral, not scientific, issues. And just as in other legislative battles, the issues in the two expensive science projects boil down to the benefits of reducing unemployment versus the benefits of reducing the deficit.

Opponents call the $8 billion supercollider and the $30 billion space station space-age pork. "The truth is we just can't afford them," said Representative Leon E. Panetta, the California Democrat who is chairman of the House Budget Committee.

Supporters counter that the projects are needed to sustain the nation's competitive edge in aerospace technology and physics, and they will also create tens of thousands of high-paying jobs.

The importance of the jobs argument was demonstrated in the House vote on the supercollider on June 17. The votes of state delegations correlated closely with the amount of money the project was expected to bring. Texas stands to gain the most from the supercollider since it is being built in Waxhachie, about 20 miles south of Dallas. The state's delegation voted 26 to 1 against an amendment to cut financing. The Illinois delegation, which would obtain $48 million in project contracts this year, voted 18 to 2 against the amendment. New York members, happy their state will receive $44 million in contracts, voted 23 to 10 against the amendment.

But in the end, the supercollider went down to defeat by a vote of 232 to 181, because the dominant issue in the debate was the deficit—at least for lawmakers whose states would not benefit from the contracts and jobs.

"Timing was everything," said Representative Sherwood Boehlert of upstate New York, a Republican leader of the forces opposing the project. He noted that the vote came less than a week after the House narrowly missed reaching a two-thirds majority to pass the balanced-budget amendment so deficit considerations were still fresh.

But now lawmakers say the heat of the balanced-budget debate has cooled, and in the last month the focus of Capitol Hill has shifted back to jobs. So although fiscal conservatives from states not likely to gain from the space station argued last week the country faced a black hole of $130 billion in project costs over the next quarter century, the House decided to go ahead with it by a resounding vote of 238 to 181.

The Senate is expected to approve financing for the supercollider by a handy margin. When the matter goes to a House-Senate conference committee later this summer, few believe that the House will put up much resistance to providing money for the project. "As a practical matter," Mr. Boehlert said, "most members of Congress have signed on not as a science project but as a public works jobs program."

Mr. SANFORD. Mr. President, I cannot vote for what I consider a valuable project run in a wasteful and inefficient manner.

If we have a new administration, I would hope we could look forward to making this project more efficient. It has considerable scientific promise.

I may very well vote next year to continue the SSC project if the new President assures that we will achieve that proper level of efficiency.

Mr. KOHL. Mr. President, it is with mixed emotions that I rise to support Senator BUMPERS amendment to cut funding for the superconducting super collider [SSC].

After a careful review of the issues associated with funding the SSC, I have reached two basic conclusions. Let me review them with you.

First, there are at least three legitimate arguments which justify construction of the SSC: The pursuit of knowledge, the impact of cancelation on the scientific community, and the spinoff effects of this research on commercial technology. Mr. President, I find each of those arguments to be persuasive. On an intellectual level, who could be against the kinds of research which might allow us to reach the Holy Grail of science: A grand unified theory which could unite the elemental forces of nature and explain the status of matter in the moments after—and perhaps even before—the Big Bang. And if we deny American physicists the tools they need to get those answers, I am sure that we will see some particle physicists move to Europe to work with countries which do have at least some of those tools and that loss means that we will not have the teachers here to train a new generation of specialists in this field. Finally, I am convinced that completing the SSC would yield some as-yet unknown findings which can be translated into commercial technology. Other pure science projects have yielded commercial technologies in the past and there is no reason to believe that this project wouldn't.

But there is a second conclusion I have reached as well, Mr. President. And that is simply this: Despite the value of this project, we cannot afford it. We cannot afford it.

Those are sad words, Mr. President. But they are also true.

We have a $400 billion budget deficit this year. We have a $4 trillion national debt. The size of those numbers staggers the imagination and often beclouds the mind. They are not just numbers: They are a time bomb almost ready to explode and devastate the American economy; they are a dagger aimed at the heart of the American society. You see, Mr. President, those deficits and that debt are dragging this economy, and this Nation, down. We cannot respond to the recession—to the economic and human costs—because we do not have the money. We cannot invest in education and infrastructure here at home because we do not have the money. We cannot respond to the human need created by starvation in the third world and political reform in the former Eastern bloc because we do not have the money. And, Mr. President, we cannot spend over $8 billion on the SSC because we do not have the money.

I regret that Mr. President. I regret it very much. But I am convinced that we have to deal with the deficit, we have to reduce it. And to do that, we have to make some tough choices—choices which make us unhappy, which cannot be justified on the basis of the intrinsic value of the project in question.

Over the past few weeks a number of physicists have come to my office to make the case for the SSC. They made a good case. But they made it only from their perspective as physicists. My perspective is supposed to be broader, to encompass the national interest as well as the interest that all human beings have in answering basic scientific questions. And from that perspective, Mr. President, I must say we cannot afford it.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, might I inquire as to the parliamentary situation we are in at the moment?

The PRESIDING OFFICER. The Senator from Oregon is to be recognized to offer an amendment.

Mr. HATFIELD. For what period of time?

The PRESIDING OFFICER. The Senator will control 2 hours and 15 minutes of debate on the amendment.

Mr. HATFIELD. Mr. President, today we now turn to the consideration of a provision of the energy and water appropriations bill that addresses the question of underground nuclear testing.

The PRESIDING OFFICER. The Senator must offer his amendment to control the debate.

Mr. HATFIELD. I thank the Chair. I will offer the amendment at a period of time following a few remarks.

Is that permissible?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, to further explain the reason I am not sending the amendment to the desk immediately, like so many things in life, we have become increasingly dependent upon technology, and the computer is broken down in the legislative drafting office. I am in no way trying to catch anyone by surprise. When the amendment is printed up, it will be made immediately available to all interested parties.

Mr. President, some months ago, Senator MITCHELL, the majority leader, and I circulated a proposal for a 1-year moratorium on any underground testing of nuclear devices.

As the Senate knows, we now have 53 cosponsors of that proposal. The House of Representatives has already adopted a similar proposal on this Energy and Water Subcommittee appropriations bill. And the House Armed Services Committee has, as well, stated its opposition for underground testing, at least for a period of a year.

Mr. President, when one reviews the number and the persons who have signed this proposal on the Senate side, it lifts it out of the traditional hawks and doves, military and antimilitary people of the Senate. That is the last kind of debate we need at this particular moment on this issue, if we could set aside those historic and traditional labels that may have been pertinent to the issues in the past, but today those old divisions and labels I think do not apply.

In an effort to reach out to those who had not signed our proposal—namely, the other 47 Members of the Senate—and for different reasons, as well as for the variety of reasons of those who did sign it, we have been meeting with members of the Armed Services Committee, our staff, the staff of the majority leader, Senator MITCHELL, and others who are interested in this subject. So that when the amendment is presented to the desk today, it will be an amendment to this bill which will be chiefly sponsored by Senators MITCHELL, EXON, and myself.

If you take the original 1-year moratorium and compare it to the amendment we are offering today, it has some very significant changes, significant in the sense that we recognize, as sponsors of the 1-year moratorium, that a case can be made about testing for safety purposes. We go further than the current bill's language, which provides only for safety testing. We say, upon procedures that are outlined in this amendment, if the President feels it is necessary to do a reliability test, we even provide for that. But it has to be certified, and it has to be explained and described in sufficient detail that Members of Congress at least will know precisely what the plan is.

Now, that is just one part of the change. I want to say that we have kept the very basic purpose of suspending testing as of now, or when the bill is passed and signed into law.

We have reduced it from 12 months to 9 months, and we feel that the argument can be made that in that 9-month period it would probably be required to fulfill the other contingencies, the other requirements, from the position we are in now wherein the administration has no plan for comprehensive testing or for testing for safety purposes as at least indicated by the testimony given to the House of Representatives Committee on Military Affairs.

We also are trying to lift this whole procedure, this amendment, out of the framework of 1 year or 9 months. We are saying now, what about the events that should follow the ban on testing, whether 9 months or a year? What do we want to trigger beyond just 12 months or 9 months? Something certainly more profound than just suspending the test for 9 months.

I think, without exception, this entire body of Senators agree that a long-term objective would be to get back to the comprehensive test ban treaty on a multinational basis, to halt the arms race throughout the world and especially in the rogue countries that we identify, as well as the superpowers.

In other words, we are trying to say this is the first step toward long-term goals, and we think this kind of a test step is very important to trigger the responses that we want to trigger around this world.

Mr. President, I want to make sure, too, that we understand that whatever position you take on 9 months, 12 months, or a test ban at all, that surely there has to be some kind of an end to this activity. Are we really wedded to or locked into the proposition that somehow testing goes on in perpetuity? That is why, again, I think we have strengthened our proposal by attempting to set forth the options beyond the limitation of the ban on testing.

So we take notice of the immediate pause in our testing program but try to outline a rational policy which leads to an end of underground testing in this country, to an end of it, and to an end of underground testing throughout the world.

Our immediate pause sets an end date for the program, September 30, 1996. So, we are not only suspending the program for 9 months, but we are also setting a date for an end of the testing program period.

I would like to place this whole issue into some historic context because I believe that will help again to understand how we arrived where we are and why we propose this amendment.

I want to say that, in some ways, this is a very simple amendment, very simple. It is a timeframe, stating goals, stating what we hope to accomplish. I know there will be those who will say, "Oh, but it is not a simple issue. It is a very complex issue. It is confusing. It is dangerous." But I want to say, from the point of the process—and hold it to the process—it is a simple, straightforward amendment. I think we ought to, as I say, try to put it into some context.

When Senator MITCHELL and I first introduced our 1-year moratorium, we believed, as we do now, that the United States was in the best possible position to respond to the call to reassess our testing policy. We also wanted to develop the best possible vehicle to respond to the Russian testing moratorium. Since we first introduced our proposal, that moratorium has been joined by France, our ally in Western Europe, and France's decision to end its testing program through the end of this year.

So our purposes were twofold: One, to give our country the time, the space, if you will, to review the testing program in order to get a fresh outlook toward our post-cold-war arsenal.

Our second purpose in this proposal was to give some more weight to the United States' role as the primary advocate of nonproliferation worldwide. I think in one sense it is even of greater urgency. I say that because of Russia's new experience in democratic government. The comprehensive assistance program to that democracy still hangs in legislative limbo, and our aid has been disjointed and perhaps not as generous as it could be.

Mr. President, when President Boris Yeltsin was here not too many months ago, he made it very clear that a suspension of nuclear testing by the United States could be an important signal to send to them. It would be more important not only to send to the political leadership of Russia, but to the Russian military. Bear in mind that as we have observed this evolution of geopolitics in the former Soviet Union, let us be mindful of a number of factors. One is, we do have, new political leadership in Boris Yeltsin.

I shall never forget his first visit here to the United States and a group of Senators were invited to meet with him, I might mention, at a time when the White House was debating the question of whether they would receive him at the White House. The first statement he made to us was a very dramatic statement. He said: "I stand before you as the first Russian in 1,000 years of history to be elected to a public office of responsibility." Mind you, the first Russian in 1,000 years of history to be selected by a constituency to hold public power. It boggles the mind.

But let us be mindful that, as dramatic as the political shift has been, the Russian military is greatly the same. Even the inventory of the positioning or the location of their various and sundry nuclear weapons is not clearly defined.

So let us not be so overwhelmed, as we could well be, by the political, dramatic change, but recognize there is an infrastructure of a secret police and there is the presence of the military still as an organization in Russia, and, like many political leaders today, Mr. Yeltsin is facing his two flanks, his flank to the left and his flank to the right. That certainly should cause us again to be helpful in any way we can to stabilize this fledging democracy because, again, a failure of this democracy now in Russia could swing either way. It could swing back to the conservative hold of the old military secret police kind of dictatorship, or who knows where it could proliferate further. I think we must understand that this test ban proposal has significance far beyond our own political situation at home.

Over the past 8 months, as I have indicated, 53 Senators have come to agree that a 1-year ban to testing is a prudent way to respond. I am very happy to say that out of our discussions and the modification of the original 1-year moratorium, the chairman of the Strategic Committee of our Senate Armed Services Committee, Mr. EXON, now joins in urging us to suspend testing for 9 months, or until June of next year, along with the other provisions.

The bill, Mr. President, as we now have it on the floor for consideration, appears to place a moratorium on undergound tests. But, unfortunately, this bill, unless modified by our amendment, will allow underground nuclear testing to continue as may be planned by the administration. This bill, unless modified by our amendment, will allow the President to continue underground tests at the rate he chooses, so long as he certifies that each test is in the national interest and for the purposes of safety. Although, again, I underscore that the term "safety" is not defined, and there are no safeguards against multiple tests being used and conducted during "those safety tests."

Safety is the word we will hear over and over today. I do not have a problem with that word. Safety is arguably the only aspect of the nuclear arsenal we should worry about anymore. After all, we really are not worried about whether or not the weapons in our arsenal are going to do the job when they are dropped or propelled toward an enemy. What we are concerned about these days is whether our nuclear arsenal is going to do harm to us, to our environment, to our service men and women, and some of us, about being a potential target of a so-called enemy. So safety is a very important issue. But where I will disagree, I believe, with those who will seek to defeat the amendment and retain the ability to test and test and test, is the level of confidence we have in our existing stockpile.

Parenthetically, I want to stop here for a moment and remind my colleagues of the history of the test ban debate. It has been noted that this issue is the oldest item on the current nuclear arms-control agenda. Congress has been considering the issue since the beginning of the nuclear age. Presidents have been grappling with the debate since that time.

During those debates, we were told that we could not stop testing because we could not verify that the other guys had stopped, or how to verify their commitments to stopping. Then we were told we could not stop testing, because we had no confidence in the stockpile, and that debate went on. Reliability was the No. 1 concern of those debates. It would not surprise me to hear that issue discussed today, despite the fact that reliability testing has no place in the bill, as written, or in other considerations that would be debated. We were also told we needed to keep testing, because we need new nuclear weapons.

Well, remember the report on safety which raised the possibility of newer generational warheads, safer warheads. Well, that was put to sleep pretty quickly. I am doubtful that I will hear anyone argue that point here today.

And we sometimes are told that we need nuclear testing to understand effects. We need nuclear testing to know how our weapons will respond to nuclear war. These tests are about winning a nuclear war. Mr. President, it is 1992 and some still are insisting that we need to plan for winning a nuclear war.

So we are left with safety. Let me again say that, obviously, I am no opponent of safety. I support an effort to negotiate a comprehensive test ban, and I support an end to nuclear proliferation. I support an end to the possibility of nuclear war, period. I want to rid this Earth of these insidious weapons. But while we have them, I want them to be as safe as possible.

So when I offer this amendment, I line up with anyone in this body, and with the administration, for it is the administration itself that announced to Congress in March of this year.

> The Air Force and Navy, in cooperation with the Office of the Secretary of Defense and the Energy Department, evaluated the safety of all ballistic missiles that carry nuclear warheads.
>
> It was determined that there is not now sufficient evidence to warrant our changing either warheads or propellants.

That is our existing arsenal.

In other words, the administration itself has already told the Congress that the arsenal is, for the time being, considered to be satisfactorily safe. "We are not now planning to upgrade any weapon in the arsenal." That is the statement of the administration.

Perhaps we will do that in the future, and I probably would support such a decision. But the Department of Energy, the Air Force, the Navy, and the Office of the Secretary of Defense, have already evaluated our nuclear force and have decided not to change a thing.

So all this talk about the urgent need for safety testing is just that—it is talk. They come up with this at a time when they feel that maybe the Congress will put a ban on the underground testing.

Let me assure you that the decision to suspend tests is not based only upon our concern for international security. The current arsenal's safety stature has been evaluated by several independent scientists, and they have concluded, as well as the administration, that this is the safest arsenal the United States has ever had. The Senate Armed Services Committee and the Foreign Relations Committee have received extensive information regarding the safety status of our current arsenal.

Perhaps there are reasons to make it safer. This amendment allows for these reasons to be investigated and judgments to be made based upon unbiased science and utilizing cost benefit analyses. So as much as we discuss safety, it is not the only issue. We are providing for safety tests in this amendment. The most critical issue we are required to deal with today is the need to assume fully the mantle of leadership and effort in the nonproliferation area. This amendment assures that we will. The wording of the committee bill does not.

I want to mention some of the individuals and organizations who have been in contact with our efforts since Senator MITCHELL and I first introduced the bill to limit testing for 1 year. This proposal is supported by a corps of groups who have worked tirelessly to end the nuclear threat. Our bill is supported by environmental organizations, who express their belief that underground nuclear testing has resulted in irreversible damage to our country. And it is supported by an impressive array of politicians from other countries, including Russian parliamentarians. So, Mr. President, in the vernacular or in the wording of the so-called political arena, if you want an environmental vote this is an environmental issue as well as a defense issue, nuclear testing issue; it is an environmental issue as well.

Also two different groups endorsing the moratorium are especially worthy of note. First a call from 30 Nobel Laureates deserves mention. These scientists in their statement to Congress have called upon us to give support to the prompt cessation of nuclear weapons testing.

As the statement notes, and I quote from these Nobel scientists:

> For the first time since Hiroshima and Nagasaki were destroyed by nuclear bombs, here exists an excellent opportunity to terminate the nuclear arms race and to rid mankind of the threat of a nuclear holocaust. A major remaining concern is nuclear proliferation.

The other endorsement I will mention is that of six scientists who participated in the Manhattan Project which led to the first test of a nuclear weapon on July 16, 1945.

In their message to Congress, Drs. Owen Chamberlain, Bernard Fell, Carson Mark, Joseph Rockblatt, Glenn Seaborg and Harriet York wrote:

> We continue to believe that a comprehensive test ban is in the best interest of the United States and all of the other countries of the world. The advantages of an immediate mutual moratorium and of a comprehensive test ban outweigh, in our judgment, any perceived benefits of further tests for any reasons.

For any reasons.

(Mr. AKAKA assumed the chair.)

Mr. HATFIELD. Mr. President, this statement is from the very scientists who helped us create the nuclear age. Now they are urging us here today to put in place a 1-year moratorium as part of the effort to put the nuclear genie back in the bottle. As I indicated, they wrote it on the basis of a 1-year moratorium and we have modified it to present a 9-months moratorium.

There is one more authority of support for this proposal to end testing for a year, and that authority, Mr. President, is the American people. In a poll just conducted the public has made its belief in its future. Seven-two percent would recommend the United States stop testing nuclear weapons right now, either temporarily while we attempt to get all countries to stop, or, whether or not the United States is joined in a moratorium, either way. Seventy-two percent of the people of this country want testing to end now. They do not want excuses. They want an end to nuclear testing.

Mr. President, I hope the Senate is listening to the findings of this national poll. We do not run our Government on the basis of polls. But certainly as an institution of Government that is often criticized for being out of touch with the will and the feelings of the people, this is a perfectly marvelous example of where they speak with great power and majority.

Mr. President, I believe that the American people understand that the United States needs to continuously evaluate its nuclear arsenal and the effect of nuclear weapons worldwide. So much energy and dollars were invested in countering the Soviet threat that it is difficult to think creatively in this new world order. But we must do so. It is a time to evaluate our nuclear testing programs, which consume almost half a billion dollars a year, despite the fact that the program no longer has a credible mission beyond the possibility of safety programs.

Mr. President, the current language is the same old business in the same old way, giving little or no evidence, especially using the term "safety" to define it, that we have shifted gears on the basis of the dramatic traumatic change of geopolitics of this world. It is not business as usual. It is to face up to the whole new universe of which we are a part, to find the leadership in this area.

Half a billion dollars. Well, I could think of many things that I would have that half a billion dollars to expend, offset the deficit for part, perhaps. Half a billion dollars. Or it would allow a million more women, infants and children to participate in the WIC Program of this country, where we are not covering all of the eligibles and all of the needs of people. A half a billion dollars to increase environmental cleanup work. Half a billion dollars to increase the Federal budget by alternative energy by 50 percent.

The testing regime like every other program in this bill cannot be insulated from the kind of scrutiny every other project, defense and nondefense, receives in these tough fiscal times.

It is discouraging to me that this Government has not initiated the evaluation of the testing program. Its announcement that it will limit itself to 6 tests, probably 6 tests for the administration did not restrict itself with a ceiling each year for the next 5 years that is a total of 30 tests for safety and reliability of an arsenal that is smaller and safer than ever before. Even more troubling to me is that the 5-year program outlined is not accompanied by a plan to end testing as is required of the United States as a signatory nation of the Nuclear Nonproliferation Treaty.

The Government's announcement of a 5-year program only represents its intentions to continue testing as desired during that link in time. It does not in any way respond to the tremendous opportunities that exist now or in the next 5 years. Nor does it respond to what may very well be a crisis of confidence in the United States' willingness to end the nuclear threat come 1995 when the Nuclear Nonproliferation Treaty is reviewed.

The United States has thus far been able to shun its responsibilities to assume leadership in the talks to limit and ultimately halt underground testing. And the Government while arguing that nuclear nonproliferation is its most pressing concern in the wake of the war with Iraq and the dissolution of the Soviet Union appears to be blind to the role nuclear testing plays in the nonproliferation effort.

And you cannot separate those two goals. In a letter to me written about 2 weeks ago, Secretaries Cheney of Defense, Watkins of Energy, and the National Security Adviser, General Scowcroft, wrote:

> A test moratorium is not needed to create an environment conducive to deep reductions in nuclear weapons.

Mr. President, I wonder then why the French announced the reason they stopped their testing program for a year which is that it wanted to inspire countries to deal urgently with the problem of nuclear proliferation. And in its letter to me the administration wrote:

> Despite what some may claim, our nuclear testing program does not hinder nuclear nonproliferation efforts.

Why then is our own arms control experts gearing up for a crisis when the NPT review conference commences in 1995? The United States, Mr. President, is on notice, after all, by the nonnuclear States that it will be held to the demand for a substantive show of good faith in meeting the terms of that treaty. The NPT preamble states that it is the intention of parties to the treaty to "Achieve at the earliest possible date the cessation of the nuclear arms race and undertake effective measures in the direction of nuclear disarmament."

And the preamble states that the signers seek "discontinuance of all test explosions of nuclear weapons for all time."

I am sure that many nations of the world will look at our actions beyond what our words may be. And those who believe that our obsession with the continuation of the testing program is not standing in the way of nuclear nonproliferation efforts obviously are not listening to the vast majority of countries who will be attending that 1995 conference.

In its conclusion the administration's letter to me states: "A halt to testing would not eliminate any warheads nor would it increase international security."

Well, again, I say perhaps these officials, if they had attended the congressional luncheon with President Yeltsin, would feel a little differently, for it was at this most recent meeting—congressional meeting—which President Yeltsin argued forcefully for the Congress to approve a testing moratorium to match his country's moratorium. Again, I emphasize the fact that Yeltsin needs help in exerting the control over the very powerful military establishment in his country, and he has said this. He is on record. Surely, this is in our national interests, and surely it would increase international security to respond to Yeltsin's call for a moratorium.

Finally, I want to mention the situation in Asia. The immediate threats of an uncontrollable nuclear arms race in that region is matched only by the threat of an arms race in the Middle East.

Congress has spent much time considering the emerging threats in Asia. China, India, and Pakistan are all of immense concern to all of us. Experts have reported that it is likely that the Chinese would join in a moratorium on underground testing. No one knows for certain but it certainly has been reported.

If the United States stops testing, it is likely the British, who use our Nevada test site, by the way, will follow suit. China would then be isolated in its testing program and probably at least, let us say, have a possibility of stopping that testing.

The question of India and Pakistan is even more clear. All of this is conjecture. But as we are so willingly ready to risk for war, is it not about time we are willing to take some risks for reducing the arms race and the food of that arms race, the energy propelling that arms race, is technology.

India has already indicated it will not join in the proposed five-nation conference to address proliferation issues unless the United States and the other nuclear powers stop testing and producing nuclear testing.

Given these facts, it is impossible to argue that a testing moratorium will have no impact upon international security.

Mr. President, I want to conclude by again emphasizing that this amendment will suspend testing for 9 months. Its purpose is precisely designed to allow a response to the French and Russian moratorium, while at the same time providing the information necessary to evaluate the program and make decisions about our smaller, safer nuclear arsenal.

Mr. President, we are going to hear about nuclear accidents, and all these things that we are deeply concerned about happening. Let us say that many of those horror stories will be on arsenals from which we have already destroyed the weapons, or are in the process of destroying many of those weapons. So let us not use something out of the past to try to argue continuation of nuclear testing.

Mr. JOHNSTON addressed the Chair.

Mr. HATFIELD. Does the Senator wish me to yield?

Mr. JOHNSTON. No, I thought the Senator had concluded.

Mr. HATFIELD. Mr. President, I would be happy to yield for a question at any time or yield the floor to the Senator. I have now a copy of the amendment that I wish to refer to in some detail.

Mr. President, after the safety tests as provided here that may be required, and after the Congress has approved them on the basis of the recommendations and certification by the President, after those tests are completed, our Nation will end underground testing and thus honor its treaty obligations toward ending the nuclear threat and to assume the moral leadership necessary to reach that and to help make that goal possible.

I call upon the Senators to join the 51 Senators who have already supported the Mitchell-Hatfield 1-year moratorium by voting for this amendment offered today.

Mr. COHEN. Will the Senator yield for a question?

Mr. HATFIELD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has an hour and 32 minutes remaining.

Mr. COHEN. I just want to ask the Senator to yield for a question pertaining to one provision.

The Senator from Oregon has made a number of major changes in the original Hatfield-Mitchell proposal; I think some very constructive ones. I was concerned about the absolute cutoff of 1996. Is that irrespective of whether the former Soviet Union resumes testing, or the French resume testing?

Mr. HATFIELD. We have a safety valve for that possibility.

Again, I apologize to the Senator from Maine for not having in his hand by now this amendment. We are making some copies just as quickly as we can.

Mr. COHEN. I now have a copy.

Mr. HATFIELD. Mr. President, let me readdress my response to the Senator from Maine on the question.

We have made a very definitive end to that testing period. During the testing period that we say before 1996, should the Russians resume, then we would have that safety valve at that point. But in 1996, it would definitely end.

Mr. COHEN. Irrespective of whether there is a resumption on the part of former Soviet Union, or the French, or Pakistan, or anyone else, there would be no testing under any circumstance by the United States no matter what the world situation was?

Mr. HATFIELD. That would be the commitment we would be adopting in this amendment in 1992.

Mr. COHEN. I thank the Senator.

Mr. HATFIELD. Mr. President, I now have a copy of the amendment which I have been talking about and would like to send it to the desk and place it formally before the body.

The PRESIDING OFFICER. Will the Senator withhold while the Chair makes some announcements?

Mr. HATFIELD. I am happy to withhold.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1993

APPOINTMENT OF CONFEREES

The PRESIDING OFFICER. Under the order of July 27, 1992, the Senate having received from the House of Representatives H.R. 5678, the text of S. 3026, as amended, is incorporated into the House bill as Senate-passed amendments, the House bill, as amended, is deemed read a third time and passed, and a motion to reconsider laid upon the table.

So the bill (H.R. 5678), as amended, was passed.

The PRESIDING OFFICER. Pursuant to that order, the Senate insists on its amendments, requests a conference with the House, and the Chair is authorized to appoint conferees. Pursuant to the order, the Chair appoints the following conferees:

The President Officer appointed Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SASSER, Mr. ADAMS, Mr. BYRD, Mr. RUDMAN, Mr. STEVENS, Mr. HATFIELD, Mr. KASTEN, and Mr. GRAMM conferees on the part of the Senate.

The PRESIDING OFFICER. S. 3026 is indefinitely postponed.

APPOINTMENT OF CONFEREES—H.R. 429

The PRESIDING OFFICER. Pursuant to the order of July 31, 1992, the Chair will now appoint conferees on the bill H.R. 429.

The Presiding Officer appointed Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. BRADLEY, Mr. BINGAMAN, Mr. WIRTH, Mr. FOWLER, Mr. WALLOP, Mr. HATFIELD, Mr. DOMENICI, Mr. BURNS, Mr. CRAIG, and Mr. SEYMOUR conferees on the part of the Senate.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2833

(Purpose: To revise section 507 relating to the conduct of nuclear weapons testing)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for himself, Mr. MITCHELL, Mr. EXON, Mr. LEVIN, and Mr. WELLSTONE, proposes an amendment numbered 2833.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 82, strike out line 19 and all that follows through page 83, line 5, and insert in lieu thereof the following:

SEC. 507. (a) Hereafter, funds made available by this Act or any other Act for fiscal year 1993 or for any other fiscal year may be available for conducting a test of a nuclear explosive device only if the conduct of that test is permitted in accordance with the provisions of this section.

(b) No test of a nuclear weapon may be conducted before July 1, 1993.

(c) On and after July 1, 1993, a test of a nuclear weapon may be conducted—

(1) on if—

(A) the President has submitted the annual report required under subsection (d);

(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

(2) only if the test is conducted during the period covered by the report.

(d)(1) Not later than March 1 of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

(i) will not be in the United States stockpile of active nuclear weapons;

(ii) will remain under the control of the Department of Defense; and

(iii) will not be transferred to the Department of Energy for dismantlement.

(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C) that does not have any such feature and, as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

(G) An assessment of the number and type of nuclear weapon tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

(3) For the purposes of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: "The Congress disapproves the report of the President on nuclear weapons testing, dated _____." (the blank space being appropriately filled in).

(4) No report is required under this subsection after 1996.

(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

(A) Only those nuclear warheads in which a modern safety feature has been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

(B) For the purposes of subparagraph (A), "joint resolution" means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: "The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated _____." (the blank space being appropriately filled in.")

(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

(f) No underground test of nuclear weapons may be conducted by the United States after September 30, 1996.

(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

(h) In this section, the term "modern safety feature" means any of the following features:

(1) An insensitive high explosive (IHE).

(2) Fire resistant pits (FRP).

(3) An enhanced detonation safety (ENDS) system.

Mr. HATFIELD. Mr. President, one of the chief cosponsors, Senator EXON, chairman of the Subcommittee of Strategic Forces and Nuclear Deterrence, has arrived and would like to be able to speak, and I would at this time to yield the floor. I see my comanager of the bill, Senator JOHNSTON, also wishing to take the floor. I ask if we could give Senator EXON an idea of how much time——

Mr. JOHNSTON. Mr. President, I would like to speak for a short period of time. I hope Senator EXON will remain here because I want to express some thoughts and concerns to which I wish he as well as the Senator from Oregon would respond. That is the reason I would like to speak before he speaks, because I would like to have him speak to that.

Mr. HATFIELD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Louisiana [Mr. JOHNSTON] is recognized.

Mr. JOHNSTON. Mr. President, I yield myself 10 minutes.

I would like to sharpen the issue here, if I may. The House bill contained a moratorium on any nuclear testing for this year for any purpose unless the former Soviet Union tested their weapons. That is the way the energy and water appropriations bill, which contains the nuclear testing money each year, came to us from the House. So our committee had to respond to that moratorium.

What we did in the Appropriations Committee is to provide a moratorium for any purpose save safety. The language which we used was as follows:

> None of the funds made available in this act may be used for any nuclear testing unless the President certifies to Congress that it is in the national interest to conduct an explosive weapons test or tests for the purposes of safety of nuclear weapons. Such certification shall be provided in advance of each test and contain an explanation of the purposes and reasons for the test. For classified measures the certification may be transmitted in a classified annex.

Mr. President, it is my understanding that something like four or maybe five tests are planned this year and that I think I am correct in saying all are for safety save one test. So I think it is important, therefore, to zero in on this question of safety.

Why is testing of nuclear weapons so important? It is so important because nuclear weapons, even today's nuclear weapons, represent a great danger to the American public and to the world because of the lack of safety of their devices. As the sheet from the national lab, the Lawrence Livermore Lab which conducts these tests, states:

> Nuclear weapons that are accident proof, that remain safe under all credible accident conditions, will be needed for the reduced stockpile envisioned for the 21st century. Most of the currently projected reduced stockpile of nuclear weapons will not have even the modern safety features available with existing technology, insensitive high explosives that is nearly impossible to detonate accidentally, and fire resistant pits to contain plutonium in a fuel fire. We need to improve the safety of the stockpile to these current standards promptly. But this requires nuclear testing of specific designs.
>
> Further, we need to design warheads that are truly accident proof by utilizing a "binary nuclear weapons" concept, in which the high explosive and plutonium are physically separated until after launch. Only such weapons can be made impervious to all credible accidents.

So our situation now is that most of our nuclear weapons in the inventory are not safe. They do not contain the insensitive high explosives, the fire resistant pits, and they certainly do not contain the binary nuclear weapons concept that would protect them.

Why is this important? We have been very, very lucky in this country. I have here a description of 32 different nuclear weapons accidents—32. It so happens that none of these were very close.

Mr. President, I ask unanimous consent to have this report printed in the RECORD. It makes absolutely fascinating and hair-raising reading to realize how close to absolute disaster we came.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Department of Defense

NARRATIVE SUMMARIES OF ACCIDENTS INVOLVING U.S. NUCLEAR WEAPONS, 1950–1980

Attached are unclassified summaries describing the circumstances surrounding 32 accidents involving nuclear weapons. Also attached is the Department of Defense (DOD)/Department of Energy (DOE) definition of "accident" used in researching this project.

Twenty-six of these summaries were first released by the Air Force in 1977; another was prepared following the Titan II explosion in Arkansas in September 1980. These previously released summaries are marked with a figure "1"; in some cases they include new material made available as a result of more search.*

There never has been even a partial, inadvertent U.S. nuclear detonation despite the very severe stresses imposed upon the weapons involved in these accidents. All "detonations" reported in the summaries involved conventional high explosives (HE) only. Only two accidents, those at Palomares and Thule, resulted in a widespread dispersal of nuclear materials.

Nuclear weapons are never carried on training flights. Most of the aircraft accidents represented here occurred during logistic/ferry missions or airborne alert flights by Strategic Air Command (SAC) aircraft. Airborne alert was terminated in 1968 because of:

Accidents, particularly those at Palomares and Thule

The rising cost of maintaining a portion of the SAC bomber force constantly on airborne alert, and,

The advent of a responsive and survivable intercontinental ballistic missile force which relieved the manned bomber force of a part of its more time-sensitive responsibilities. (A portion of the SAC force remains on nuclear ground alert).

Although normal DOD policy is to neither confirm nor deny the presence of nuclear weapons or components, recently revised DOD Directive 5230.16 governing public affairs guidance allows for confirmation when required to protect public safety or as a means of reducing widespread public alarm. Therefore, in some of the events summarized here, confirmation of presence is not published. Except for Palomares and Thule, it is not possible to specify the location of the accidents that occurred overseas.

Most of the weapons systems involved in these accidents are no longer in the active inventory. Those include the B–29, B–36, B–47, B–50, B–58, C–124, F–100, and P–5M aircraft, and the Minuteman I missile.

With some early models of nuclear weapons, it was standard procedure during most operations to keep a capsule of nuclear material separate from the weapon for safety proposes. While a weapon with the capsule removed did contain a quantity of natural (not enriched) uranium with an extremely low level of radioactivity, accidental detonation of the HE element would cause neither a nuclear detonation nor contamination. Modern design incorporates improved redundant safety features to insure that a nuclear explosion does not occur as the result of an accident.

This list of accidents was compiled by DOD/DOE researchers during December 1980–January 1981. The researchers reviewed all available records of the military services and DOE, applying current definition to determine if an event warranted categorization as an accident.

For example, one event not covered by these narratives was included in a "Chronology of Nuclear Accident Statements", released by DOD in 1968:

The researchers found, however, that only a small retrorocket on the missile had accidentally fired. The missile and its warhead were not damaged. That event does not warrant inclusion in a list of accidents involving nuclear weapons.

Another event from the 1968 list, involving a U.S. Navy Terrier missile (January 1966; NAS Mayport, Florida) was not considered to be an accident, but has been categorized as a significant incident. In that incident, a nuclear warhead separated from the missile, and fell about eight feet. The warhead was dented; no other damage occurred.

The other events in this list, that were also cited in the 1968 "Chronology * * *", are identified with a figure "2".

The events outlined in the attached narratives involved operational weapons, nuclear materials, aircraft and/or missiles under control of the U.S. Air Force, U.S. Navy, or the Atomic Energy Commission (a DOE predecessor agency). The U.S. Army has never experienced an event serious enough to warrant inclusion in a list of accidents involving nuclear weapons. The U.S. Marine Corps does not have custody of nuclear weapons in peacetime and has experienced no accidents of significant incidents involving them.

To the best of our knowledge, this list is complete. Reporting requirements varied among the Services, (particularly in the earlier period covered by these narratives) so it is possible, but not likely, that an earlier accident has gone unreported here. All later events, however, have been evaluated and are included if they fall within the established definition of an accident.

DEFINITION OF AN ACCIDENT

An "accident involving nuclear weapons" is defined as—

An unexpected event involving nuclear weapons or nuclear weapons components that results in any of the following:

Accidental or unauthorized launching, firing, or use, by U.S. forces or supported allied forces, of a nuclear-capable weapon system which could create the risk of an outbreak of war.

Nuclear detonation.

Non-nuclear detonation or burning of a nuclear weapon or radioactive weapon component, including a fully assembled nuclear weapon, an unassembled nuclear weapon, or a radioactive nuclear weapon component.

Radioactive contamination.

Seizure, theft, or loss of a nuclear weapon or radioactive nuclear weapon component, including jettisoning.

Public hazard, actual or implied.

February 13, 1950/B–36/Pacific Ocean, off Coast of British Columbia:

The B–36 was enroute from Eilson AFB to Carswell AFB on a simulated combat profile mission. The weapon aboard the aircraft had a dummy capsule installed. After six hours of flight, the aircraft developed serious mechanical difficulties, making it necessary to shut down three engines. The aircraft was at 12,000 feet altitude. Icing conditions complicated the emergency and level flight could not be maintained. The aircraft headed out over the Pacific Ocean and dropped the weapon from 8,000 feet. A bright flash occurred on impact, followed by a sound and shock wave. Only the weapon's high explosive material detonated. The aircraft was then flown over Princess Royal Island where the crew bailed out. The aircraft wreckage was later found on Vancouver Island. (*1)

April 11, 1950/B-29/Manzano Base, New Mexico:

Aircraft departed Kirtland AFB at 9:30 p.m. and crashed into a mountain on Manzano Base approximately three minutes later, killing the crew. Detonators were installed in the bomb on board the aircraft. The bomb case was demolished and some high explosive (HE) material burned in the gasoline fire. Other pieces of unburned HE were scattered throughout the wreckage. Four spare detonators in their carrying cases were recovered undamaged. There were no contamination or recovery problems. The recovered components of the weapons were returned to the Atomic Energy Commission. Both the weapon and the capsule of the nuclear material were on board the aircraft but the capsule was not inserted for safety reasons. A nuclear detonation was not possible. (*1)

July 13, 1950/B-50/Lebanon, Ohio:

The B-50 was on a training mission from Biggs AFB, Texas. The aircraft was flying at 7,000 feet on a clear day. Aircraft nosed down and flew into the ground killing four officers and twelve airmen. The high explosive portion of the weapon aboard detonated on impact. There was no nuclear capsule aboard the aircraft. (*1)

August 5, 1950/B-29/Fairfield/Suison AFB, California:

A B-29 carrying a weapon, but no capsule, experienced two runaway propellers and landing gear retraction difficulties on takeoff from Fairfield/Suison AFB (now Travis AFB). The aircraft attempted an emergency landing and crashed and burned. The fire was fought for 12–15 minutes before the weapon's high explosive material detonated. Nineteen crew members and rescue personnel were killed in the crash and/or the resulting detonation, including General Travis. (*1)

November 10, 1950/B-50/Over Water, outside United States:

Because of an in-flight aircraft emergency, a weapon containing no capsule of nuclear material was jettisoned over water from an altitude of 10,500 feet. A high-explosive detonation was observed.

March 10, 1956/B-47/Mediterranean Sea:

The aircraft was one of a flight of four scheduled for non-stop deployment from MacDill AFB to an overseas air base. Takeoff from MacDill and first refueling was normal. The second refueling point was over the Mediterranean Sea. In preparation for this, the flight penetrated solid cloud formation to descend to the refueling level of 14,000 feet. Base of the clouds was 14,000 feet and visibility was poor. The aircraft, carrying two nuclear capsules in carrying cases, never made contact with the tanker.

An extensive search failed to locate any traces of the missing aircraft or crew. No weapons were aboard the aircraft; only two capsules of nuclear weapons material in carrying cases. A nuclear detonation was not possible. (*1)

July 27, 1956/B-47/Overseas Base:

A B-47 aircraft with no weapons aboard was on a routine training mission making a touch and go landing when the aircraft suddenly went out of control and slid off the runway, crashing into a storage igloo containing several nuclear weapons. The bombs did not burn or detonate. There were no contamination or cleanup problems. The damaged weapons and components were returned to the Atomic Energy Commission. The weapons that were involved were in storage configuration. No capsules of nuclear materials were in the weapons or present in the building. (*1)

May 27, 1957/B-36/Kirtland AFB, New Mexico:

The aircraft was ferrying a weapon from Biggs AFB, Texas, to Kirtland AFB. At 11:50 a.m. MST, while approaching Kirtland at an altitude of 1,700 feet, the weapon dropped from the bomb bay taking the bomb doors with it. Weapon parachutes were deployed but apparently did not fully retard the fall because of the low altitude. The impact point was approximately 4.5 miles south of the Kirtland control tower and .3 miles west of the Sandia Base Reservation. The high explosive material detonated, completely destroying the weapon and making a crater approximately 25 feet in diameter and 12 feet deep. Fragments and debris were scattered as far as one mile from the impact point. The release mechanism locking pin was being removed at the time of release. (It was standard procedure at that time that the locking pin be removed during takeoff and landing to allow for emergency jettison of the weapon, if necessary). Recovery and cleanup operations were conducted by Field Command, Armed Forces Special Weapons Project. Radiological survey of the area disclosed no radioactivity beyond the lip of the crater at which point the level was 0.5 milliroentgens. There were no health or safety problems. Both the weapon and capsule were on board the aircraft but the capsule was not inserted for safety reasons. A nuclear detonation was not possible. (*1)

July 28, 1957/C-124/Atlantic Ocean:

Two weapons were jettisoned from a C-124 aircraft on July 28 off the east coast of the United States. There were three weapons and one nuclear capsule aboard the aircraft at the time. Nuclear components were not installed in the weapons. The C-124 aircraft was enroute from Dover AFB, Delaware when a loss of power from number one and two engines was experienced. Maximum power was applied to the remaining engines; however, level flight could not be maintained. At this point, the decision was made to jettison at 4,500 feet altitude. The second weapon was jettisoned at approximately 2,500 feet altitude. No detonation occurred from either weapons. Both weapons are presumed to have been damaged from impact with the ocean surface. Both weapons are presumed to have submerged almost instantly. The ocean varies in depth in the area of the jettisonings. The C-124 landed at an airfield in the vicinity of Atlantic City, New Jersey, with the remaining weapon and the nuclear capsule aboard. A search for the weapons or debris had negative results.(*1)

October 11, 1957/B-47/Homestead AFB, Florida:

The B-47 departed Homestead AFB shortly after midnight on a deployment mission. Shortly after liftoff one of the aircrafts outrigger tires exploded. The aircraft crashed in an uninhabited area approximately 3,800 feet from the end of the runway. The aircraft was carrying one weapon in ferry configuration in the bomb bay and one nuclear capsule in a carrying case in the crew compartment. The weapon was enveloped in flames and burned and smoldered for approximately four hours after which it was cooled with water. Two low order high explosive detonations occurred during the burning. The nuclear capsule and its carrying case were recovered intact and only slightly damaged by heat. Approximately one-half of the weapon remained. All major components were damaged but were identifiable and accounted for.(*1)

January 31, 1958/B-47/Overseas Base:

A B-47 with one weapon in strike configuration was making a simulated takeoff during an exercise alert. When the aircraft reached approximately 30 knots on the runway, the left rear wheel casting failed. The tail struck the runway and a fuel tank ruptured. The aircraft caught fire and burned for seven hours. Firemen fought the fire for the allotted ten minutes fire fighting time for high explosive contents of that weapon, then evacuated the area. The high explosive did not detonate, but there was some contamination in the immediate area of the crash. After the wreckage and the asphalt beneath it were removed and the runway washed down, no contamination was detected. One fire truck and one fireman's clothing showed slight alpha contamination until washed. Following the accident, exercise alerts were temporarily suspended and MDS B-47 wheels were checked for defects.(*1)

February 5, 1958/B-47/Savannah River, Georgia:

The B-47 was on a simulated combat mission that originated at Homestead AFB, Florida. While near Savannah, Georgia, the B-47 had a mid-air collision with a F-86 aircraft at 3:30 a.m. Following the collision, the B-47 made three attempts to land at Hunter AFB, Georgia, with a weapon aboard. Because of the condition of the aircraft, its airspeed could not be reduced enough to insure a safe landing. Therefore, the decision was made to jettison the weapon rather than expose Hunter AFB to the possibility of a high explosive detonation. A nuclear detonation was not possible since the nuclear capsule was not aboard the aircraft. The weapon was jettisoned into the water several miles from the mouth of the Savannah River (Georgia) in Wassaw Sound off Tybee Beach. The precise weapon impact point is unknown. The weapon was dropped from an altitude of approximately 7,200 feet at an aircraft speed of 180–190 knots. No detonation occurred. After jettison the B-47 landed safely. A three square mile area was searched using a ship with divers and underwater demolition team technicians using Galvanic drag and handheld sonar devices. The weapon was not found. The search was terminated April 16, 1958. The weapon was considered to be irretrievably lost. (*1; **2)

March 11, 1958/B-47/Florence, South Carolina:

On March 11, 1958 at 3:58 p.m. EST, a B-47E departed Hunter AFB, Georgia, as number three aircraft in a flight of four enroute to an overseas base. After leveling off at 15,000 feet, the aircraft accidentally jettisoned an unarmed nuclear weapon which impacted in a sparsely populated area 6½ miles east of Florence, South Carolina. The bomb's high explosive material exploded on impact. The detonation caused property damage and several injuries on the ground. The aircraft returned to base without further incident. No capsule of nuclear materials was aboard the B-47 or installed in the weapon. (*1; **2)

November 4, 1958/B-47/Dyess AFB, Texas:

A B-47 caught fire on takeoff. Three crew members successfully ejected; one was killed when the aircraft crashed from an altitude of 1,500 feet. One nuclear weapon was aboard when the aircraft crashed. The resultant detonation of the high explosive made a crater 35 feet in diameter and six feet deep. Nuclear materials were recovered near the crash site. (*1; **2)

November 26, 1958/B-47/Chennault AFB, Louisiana:

A B-47 caught fire on the ground. The single nuclear weapon on board was destroyed by the fire. Contamination was limited to the immediate vicinity of the weapon residue within the aircraft wreckage. (*1; **2)

January 18, 1959/F-100/Pacific Base:

The aircraft was parked on a reveted hardstand in ground alert configuration. The external load consisted of a weapon on the left intermediate station and three fuel tanks (both inboard stations and the right intermediate station). When the starter button was depressed during a practice alert, an explosion and fire occurred when the external fuel tanks inadvertently jettisoned. Fire trucks at the scene put out the fire in about seven minutes. The capsule was not in the vicinity of the aircraft and was not involved in the accident. There were no contamination or cleanup problems. (*1)

July 6, 1959/C-124/Barksdale AFB, Louisiana:

A C-124 on a nuclear logistics movement mission crashed on take-off. The aircraft was destroyed by fire which also destroyed one weapon. No nuclear or high explosive detonation occurred—safety devices functioned as designed. Limited contamination was present over a very small area immediately below the destroyed weapon. This contamination did not hamper rescue or fire fighting operations. (*1; **2)

September 25, 1959/P-5M/Off Whidbey Island, Washington:

A U.S. Navy P-5M aircraft ditched in Puget Sound off Whidbey Island, Washington. It was carrying an unarmed nuclear antisubmarine weapon containing no nuclear material. The weapon was not recovered.

October 15, 1959/B-52/KC-135/Hardinsberg, Kentucky:

The B-52 departed Columbus Air Force Base, Mississippi at 2:30 p.m. CST, October 15, 1959. This aircraft assumed the #2 position in a flight of two. The KC-135 departed Columbus Air Force Base at 5:33 p.m. CST as the #2 tanker aircraft in a flight of two scheduled to refuel the B-52s. Rendezvous for refueling was accomplished in the vicinity of Hardinsberg, Kentucky, at 32,000 feet. It was night, weather was clear, and there was no turbulence. Shortly after the B-52 began refueling from the KC-135, the two aircraft collided. The instructor pilot and pilot of the B-52 ejected, followed by the electronic warfare officer and the radar navigator. The co-pilot, navigator, instructor navigator, and tail gunner failed to leave the B-52. All four crewmembers in the KC-135 were fatally injured. The B-52's two unarmed nuclear weapons were recovered intact. One had been partially burned but this did not result in the dispersion of any nuclear material or other contamination. (*1; **2)

June 7, 1960/BOMARC/McGuire AFB, New Jersey:

A BOMARC air defense missile in ready storage condition (permitting launch in two minutes) was destroyed by explosion and fire after a high-pressure helium tank exploded and ruptured the missile's fuel tanks. The warhead was also destroyed by the fire although the high explosive did not detonate. Nuclear safety devices acted as designed. Contamination was restricted to an area immediately beneath the weapon and an adjacent elongated area approximately 100 feet long, caused by drainoff of firefighting water. (*1; **2)

January 24, 1961/B-52/Goldsboro, North Carolina:

During a B-52 airborne alert mission structural failure of the right wing resulted in two weapons separating from the aircraft during aircraft breakup at 2,000-10,000 feet altitude. One bomb parachute deployed and the weapon received little impact damage. The other bomb fell free and broke apart upon impact. No explosion occurred. Five of the eight crew members survived. A portion of one weapon, containing uranium, could not be recovered despite excavation in the water-logged farmland to a depth of 50 feet. The Air Force subsequently purchased an easement requiring permission for anyone to dig there. There is no detectable radiation and no hazard in the area. (*1; **2)

March 14, 1961/B-52/Yuba City, California:

A B-52 experienced failure of the crew compartment pressurization system forcing descent to 10,000 feet altitude. Increased fuel consumption caused fuel exhaustion before rendezvous with a tanker aircraft. The crew bailed out at 10,000 feet except for the aircraft commander who stayed with aircraft to 4,000 feet steering the plane away from a populated area. The two nuclear weapons on board were torn from the aircraft on ground impact. The high explosive did not detonate. Safety devices worked as designed, and there was no nuclear contamination. (*1; **2)

November 13, 1963/Atomic Energy Commission Storage Igloo/Medina Base, Texas:

An explosion involving 123,000 pounds of high explosive components of nuclear weapons caused minor injuries to three Atomic Energy Commission employees. There was little contamination from the nuclear components stored elsewhere in the building. The components were from obsolete weapons being disassembled.

January 13, 1964/B-52/Cumberland, Maryland:

A B-52D was enroute from Westover Air Force Base, Massachusetts, to its home base at Turner Air Force Base, Georgia. The crash occurred approximately 17 miles SW of Cumberland, Maryland. The aircraft was carrying two weapons. Both weapons were in a tactical ferry configuration (no mechanical or electrical connections had been made to the aircraft and the safing switches were in the "Safe" position). Prior to the crash, the pilot had requested a change in altitude because of severe air turbulence at 29,500 feet. The aircraft was cleared to climb to 33,000 feet. During the climb, the aircraft encountered violent air turbulence and aircraft structural failure subsequently occurred. Of the five aircrew members, only the pilot and co-pilot survived. The gunner and navigator ejected but died of exposure to sub-zero temperatures after successfully reaching the ground. The radar navigator did not eject and died upon aircraft impact. The crash site was an isolated mountainous and wooded area. The site had 14 inches of new snow covering the aircraft wreckage which was scattered over an area of approximately 100 yards square. The weather during the recover and cleanup operation involved extreme cold and gusty winds. Both weapons remained in the aircraft until it crashed and were relatively intact in the approximate center of the wreckage area. (*1; **2)

December 5, 1964/LGM 30B (Minuteman ICBM)/Ellsworth AFB, South Dakota:

The LGM 30B Minuteman I missile was on strategic alert at Launch Facility (LF) L-02, Ellsworth AFB, South Dakota. Two airmen were dispatched to the LF to repair the inner zone (IZ) security system. In the midst of their checkout of the IZ system, one retrorocket in the spacer below the Reentry Vehicle (RV) fired, causing the RV to fall about 75 feet to the floor of the silo. When the RV struck the bottom of the silo, the arming and fusing/altitude control subsystem containing the batteries was torn loose, thus removing all sources of power from the RV. The RV structure received considerable damage. All safety devices operated properly in that they did not sense the proper sequence of events to allow arming the warhead. There was no detonation or radioactive contamination. (*1)

December 8, 1964/B-58/Bunker Hill (Now Grissom) AFB, Indiana:

SAC aircraft were taxiing during an exercise alert. As one B-58 reached a position directly behind the aircraft on the runway ahead of it, the aircraft ahead brought advanced power. As a result of the combination of the jet blast from the aircraft ahead, the icy runway surface conditions, and the power applied to the aircraft while attempting to turn onto the runway, control was lost and the aircraft slid off the left hand side of the taxiway. The left main landing gear passed over a flush mounted taxiway light fixture and 10 feet farther along in its travel, grazed the left edge of a concrete light base. Ten feet farther, the left main landing gear struck a concrete electrical manhole box, and the aircraft caught on fire. When the aircraft came to rest, all three crew members aboard began abandoning the aircraft. The aircraft commander and defensive systems operator egressed with minor injuries. The navigator ejected in his escape capsule, which impacted 548 feet from the aircraft. He did not survive. Portions of the five nuclear weapons on board burned; contamination was limited to the immediate area of the crash and was subsequently removed. (*1)

October 11, 1965/C-124/Wright-Patterson AFB, Ohio:

The aircraft was being refueled in preparation for a routine logistics mission when a fire occurred at the aft end of the refueling trailer. The fuselage of the aircraft, containing only components of nuclear weapons and a dummy training unit, was destroyed by fire. There were no casualties. The resultant radiation hazard was minimal. Minor contamination was found on the aircraft, cargo, and clothing of explosive ordnance disposal and fire fighting personnel, and was removed by normal cleaning. (*1)

December 5, 1965/A-4/At Sea, Pacific:

An A-4 aircraft loaded with one nuclear weapon rolled off the elevator of a U.S. aircraft carrier and fell into the sea. The pilot, aircraft, and weapon were lost. The incident occurred more than 500 miles from land.

January 17, 1966/B-52/KC-135/Palomares, Spain:

The B-52 and the KC-135 collided during a routine high altitude air refueling operation. Both aircraft crashed near Palomares, Spain. Four of the eleven crewmembers survived. The B-52 carried four nuclear weapons. One was recovered on the ground and on April 7, one was recovered from the sea. Explosive materials exploded on impact with the ground, releasing some radioactive materials. Approximately 1,400 tons of slightly contaminated soil and vegetation were removed to the United States for storage at an approved site. Representatives of the Spanish government monitored the cleanup operation. (*1; **2)

January 21, 1968/B-52/Thule, Greenland:

A B-52 from Plattsburgh AFB, New York, crashed and burned some seven miles southwest of the runway at Thule AB, Greenland while approaching the base to land. Six of the seven crewmembers survived. The bomber carried four nuclear weapons, all of which were destroyed by fire. Some radioactive contamination occurred in the area of the crash, which was on the sea ice. Some 237,000 cubic feet of contaminated ice, snow and water, with crash debris, were removed to an approved storage site in the United States over the course of a four-month operation. Although an unknown amount of contamination was dispersed by the crash, environmental sampling showed normal readings in the area after the cleanup was completed. Representatives of the Danish government monitored the cleanup operations. (*1;**2)

Spring 1968/At Sea, Atlantic:

Details remain classified.

September 19, 1980/Titan II ICBM/Damascus, Arkansas:

During routine maintenance in a Titan II silo, an Air Force repairman dropped a heavy wrench socket, which rolled off a work platform and fell toward the bottom of the silo. The socket bounced and struck the missile, causing a leak from the pressurized fuel tank. The missile complex and the surrounding area were evacuated and a team of specialists was called in from Little Rock Air Force Base, the missile's main support base. About 8½ hours after the initial puncture, fuel vapors within the silo ignited and exploded. The explosion fatally injured one member of the team. Twenty-one other USAF personnel were injured. The missile's reentry vehicle, which contained a nuclear warhead, was recovered intact. There was no radioactive contamination. (*.1)

Mr. JOHNSON. Mr. President, one of these accidents was an accident at Grand Forks, ND, in 1980. This picture shows a B-52 on the runway, on a strip alert, which burned for 6 hours with nuclear weapons aboard.

These weapons on this B-52 did not contain insensitive high explosives. Or, to put it another way, they contained sensitive high explosives. Had this fire reached the high explosive part—keep in mind that the high explosive detonates the nuclear device. And the danger in this kind of accident is not from a nuclear explosion because in order to have the nuclear explosion, all of these small pieces of high explosive must detonate exactly simultaneously in order to crush the nuclear mass into a critical mass and that can happen only if it is intentionally detonated—I mean only if it receives the electrical impulse that intentionally detonates it.

The danger in this situation is that if any of these high explosives detonate, they will spew plutonium over a wide area.

As a matter of fact, this chart shows the situation. It shows what the pattern would have been in the Grand Forks case. This is the size of Grand Forks, population 44,000.

This is the possible plutonium dispersal pattern. This is what would have happened had the fire actually—had the wind been blowing in another direction, which would have spread the fire to the nuclear weapon itself—an area that big.

There are other nuclear accidents. This is a Titan II ICBM silo fire in 1980, in Arkansas. The ICBM or the warhead was actually blown out of the silo. It did not detonate.

There are other accidents. There was an accident in Palomares, Spain, where you had the weapon that hit the ground, there was a detonation of the high explosive, it spread plutonium over a very large area. There was not loss of life in that case. Luckily, it was in a rural area.

But it spread plutonium over a large area. In Thule, Greenland, the same thing happened. In Alaska, the same thing happened. Perhaps the most hair-raising of all was the accident in North Carolina where a B-52 broke up in flight. Two nuclear weapons were released. One, the parachute deployed and was recovered, and the other, the nuclear weapon went down and hit the ground. I understand that several of the safety devices on the nuclear weapon failed. Luckily at least one was successful.

In this case, the 24-megaton warhead was equipped with six interlocking safety mechanisms, all of which had to be triggered in sequence to explode the bomb. When the Air Force experts rushed to the North Carolina farm to examine the weapon after the accident, they found that five of the six interlocks had been set off by the fall. Only a single switch prevented the 24 megaton bomb from detonating and spreading fire and destruction over a large area.

Mr. President, my colleagues know that usually we deal with kilotons. For example, the new D5 nuclear warhead is 450 kilotons. This accident in North Carolina was 24 megatons, or 50 times as powerful as the D5 missile, and it was almost detonated.

Mr. President, the point is, I think as these pictures graphically show, we cannot abide not having these weapons tested for safety.

If I may show one more picture. This happens not to have been a nuclear weapon. This picture of this device is a bomb that was put into the hotel in Lake Tahoe back in 1980. It is a booby-trapped 1,000-pound bomb. They put it in the hotel and they brought in the greatest experts on bomb detonation in the world. This was also accompanied by a note that said "Do not fool with this bomb, it will blow up on you." They were asking for $24 million, whatever the extortion threat was. But that is a picture of the bomb. We sent in our experts to try to disarm the bomb. They were up there in a helicopter with all kinds of devices. Mr. President, it did not work, as this photograph shows. This is the Lake Tahoe, the Frontier Hotel, whatever the resort hotel. There it is going up, exploding. The purpose of this picture is to also illustrate that there is a terrorist dimension to the purpose of safety.

I am spending a lot of time on safety because the case is irrefutable that this country, indeed the former Soviet Union, all countries need to test for safety. We need fire resistant pits, we need better electrical systems, we need insensitive high explosives, we will need eventually the binary safety devices.

So what does this have to do with where we are now and what are the differences between the two bills? As we came out of the Appropriations Committee, we saved test only for safety, not for reliability, only for safety. And the President must certify in advance about what the purposes is, what he hopes to achieve, and send that to the Congress.

The Senator from Oregon proposes that we have a moratorium for 9 months, no testing for safety in the meantime. This means that we would, I am sure, have to cancel how many of those tests that are presently planned for safety.

What does that achieve, Mr. President? Why do we want to stop testing? Keep in mind, these are underground tests. They have nothing to do with pollution of the atmosphere and those other problems we used to have. It has nothing to do with the pollution of the ground. Even the Senators from Nevada have recognized that these tests are conducted with perfect safety.

I guess it has something to do with some international treaty and why that proposal gets you closer to an international treaty and what you would hope to achieve on an international treaty by delay of 9 months and the cancellation of some of these safety tests, I do not know.

In other words, Mr. President, the sooner we get to alleviating the danger of this kind of accident, the better off we are. The sooner we can get all of our nuclear facilities with safety devices, I think the better off we are.

The only thing I know of, the amendment of the Senator from Oregon goes into a plan which the President would need to file in advance, and I think that would be useful. I think it would be useful to know what he plans to do. But if the President should miscertify—and these experts will know exactly what these tests are under our amendment when he files in advance—they will know if he says we are going to test the W-88 warhead or whatever it is, and we hope to find this out, they will know if that is true or not and we will be here next year in case the President willy-nilly wants to have a large number of nuclear tests. But, Mr. President, it seems to me that we would be better off to go ahead with those planned tests that we have right now, tests for safety, and not cancel those or delay those for the 9 months involved.

Mr. President, there are almost 10,000 employees out in Nevada for these tests. It seems incredible, but this is a large staff of scientists who conduct these tests, almost 10,000 in number. It seems to me inordinately wasteful if we all recognize that tests must be done to keep a cadre of 10,000 people, or 9,000, whatever the figure is, on the payroll waiting for 9 months before you commence the tests. If these tests are necessary, then let these people, expensively employed, go ahead and do their jobs testing for safety, for no other purpose.

We cannot fire these people for 9 months and then say come back on September 30 or September 1, whenever the date is, and we will rehire you at that time. You have to keep them on the payroll twiddling their thumbs while they wait for the President to give them the directions to test for safety.

Mr. President, let me say just one final word. The Union of Concerned Scientists, which supports some form of test ban, certainly a test ban treaty and some form of moratorium, one of their leading experts was in my office recently. He affirmatively and strongly stated that, yes, we need to test for safety, for all of the reasons that I have just stated.

I am sure that there would be a difference in what he would say as to the number of tests necessary over the next number of years between him and the people at Lawrence Livermore lab. But everyone who is knowledgeable in this debate recognizes the need to test for safety. I think the question now at hand between us is whether there ought to be a moratorium for 9 months canceling those tests now planned for safety, in effect wasting that money for 9 months, while we decide what to do. It is a fairly narrow question, but I think an important one. I hope my colleagues will address that question.

Mr. HATFIELD. I will be happy to respond to the Senator's question.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, first of all, let me reiterate again, from the testimony of the administration—bear in mind, the Senator from Louisiana has implied that somehow there is a program all ready to go, and that those scientists out there would be sitting around twiddling their fingers if he put this moratorium through. Mr. President, again, the Air Force and the Navy, in cooperation with the Office of the Secretary of Defense and the Department of Energy, have evaluated the safety—and I am quoting. This is from Dr. Robert Barker, the Assistant Secretary of Defense for Atomic Energy. This is March 19, 1992.

> All of these agencies have evaluated the safety of all ballistic missiles that carry nuclear warheads. It was determined that there is not now sufficient evidence to warrant our changing either warheads or propellants.

Now, there is no such plan the administration has waiting for testing.

Let me add one other document——

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. HATFIELD. Sure.

Mr. JOHNSTON. The Senator spoke of warheads and ballistic missiles. That does not include cruise missiles?

Mr. HATFIELD. Propellants.

Mr. JOHNSTON. Cruise missiles. It does not include cruise missiles and iron bombs from airplanes, does it?

Mr. HATFIELD. If the Senator will withhold just 1 minute, here is another document, Mr. President, in which it talks about warheads of all kinds—bombs, missiles, and so forth—and the grade that they give. There are three tests, as you know, three safety tests, and the military has taken each one of these, indicating the entry and the stockpile and the safety rate: A, B, or C. And not one of them is rated under C, as far as safety is concerned.

It is on this document that was based this statement by the Assistant Secretary of Defense that we have no plans at this moment to upgrade the safety of this arsenal.

Does the Senator have any other information that would indicate the administration has a plan ready to go, or that would be somehow unduly restricted for a 9-month delay? I have searched. I have asked the questions. I have not found any answer to that.

If the administration started today to develop a plan for safety testing, I would say to the Senator from Louisiana, it will take a major part of that 9 months, probably, with all the other activities that are ongoing. And also the 9 months overlaps the expiration of the moratorium of the Russians. I would think this is all the more reason, from a nonproliferation point, and stability of the world, that we ought to push on this. But the safety factor, we provide for that after the 9-month moratorium.

The Senator showed a demonstration of a B-52 and explosion. Let us bear in mind, B-52's are no longer flying around with those bombs for 24 hours a day.

And let me also say——

Mr. JOHNSTON. The Senator is correct; they are no longer on alert.

Mr. HATFIELD. That is right.

Mr. JOHNSTON. But the bombs are available to put on the planes.

Mr. HATFIELD. Mr. President, let me go back again to the fact that the Assistant Secretary of Defense says the Air Force, which is in charge of those B-52's, has no plans to upgrade its current arsenal for safety purposes—the Air Force. So I think that type of exhibit is without validity as to this issue.

I would say to the Senator from Louisiana, 53 Senators out of the Senate would like a 1-year moratorium—1-year moratorium. We are suggesting on this modification 9 months, with these outyears. And beyond the moratorium, nonproliferation conferences and safety device definitions, and having the Congress come back and take the President's recommendation seriously and reevaluate the whole testing question.

So I think here we have a pretty clear case, Mr. President, that we have attempted to not only cooperate with the administration and those who have felt we should not limit tests, or we would go on and test and test and test and test. We want to modify, of course, to satisfy the Senator from Maine on the matter of the end of 1996: we have no problems with that.

So we are trying to develop the consensus where we can have the moratorium. That is first out—the moratorium. That is as much domestic as it is international.

I would say to the Senator, down in Nevada there are many of those fine scientists, and so forth, who could be engaged in nonnuclear safety programs. We are not going to lose them. Where are they going, with Russia being on a moratorium, France on a moratorium. The world market, with that kind of science expertise, is not that readily available. I am for keeping them in place. I do not want to lose that scientific community.

But by the same token, I must say, there are many other things besides the testing. Or they can be planning for the tests. They can be doing a lot of things. In a 9-month period, a simple gestation period for human life, we cannot utilize that time with these scientists for all the related activities to safety and the reduction of the arsenals that are all part of the grand design, hopefully, to lead us to a safe world?

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield however many minutes the Senator from Nebraska wishes.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. EXON].

Mr. HATFIELD. Mr. President, if the Senator will yield 1 minute, I would like to add the Senator from Michigan [Mr. LEVIN] as an original cosponsor of this modification.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend from Oregon for yielding.

I have listened with great interest to my colleague from Louisiana, who has put in a lot of effort on the concern that is before the Senate right now. As a member of the Armed Services Committee and chairman of the committee of jurisdiction, we have looked very long and hard at that. We have made two trips to the Nevada test site to get some firsthand knowledge as best we could. We have had thorough briefings from the scientists there with regard to the potential safety problems.

Let me say that I have some of the same concerns so well expressed by the Senator from Louisiana during the remarks he just made on the floor, and I congratulate him for those remarks. I think testing for safety purposes is something with which we should proceed.

The concern that I and other Senators have had—the concern we had with the original proposal, to be offered by the Senator from Oregon, joined by the majority leader, the Senator from Maine, which essentially was the same position taken by several committees and the House of Representatives by a very large vote, was that there would be a moratorium, period, for 1 year. That, in essence, was the thrust of all of the proposals that had been advanced.

That proposal had not only passed the House of Representatives by a substantial majority, but 52 or 53 Members of the Senate evidently had signed on to such a proposal in the form of a letter to the Secretary of Defense.

I oppose those measures. I oppose those measures now. I congratulate the Senator from Oregon and the Senator from Maine, the majority leader, and others who I think have been convinced by the lengthy discussions in which we have been involved that, indeed, there should be a window—a reasonable window, if you will—for proper testing, with a strong emphasis on safety testing, as has just been brought out and talked about by the Senator from Louisiana.

Indeed, I agree, not with the degree but that there is a potential problem with safety with regard to our intercontinental ballistic missiles.

I would simply like to say, Mr. President, the Senator from Louisiana said that our inventory of such weapons today is "not safe," as I heard the Senator from Louisiana. I think that is not a totally accurate statement. I think it would be far better to say—and put this in a proper perspective by so saying—those weapons are not as safe as we would like them to be; or they can be made safer, and should be, through testing, if that is possible. And I think it is.

That is why, if the Senator will take a very close look at the amendment offered by the Senator from Oregon and other cosponsors, including this Senator, I believe that most, if not all, of the legitimate concerns he has brought up are addressed.

With regard to cruise missiles, my interpretation of the Drell report—I stand corrected if there is evidence that I am not accurate—was that the Drell Commission, which made a very in-depth study of this, indicated that there was no reason for concern about the safety of cruise missiles. Therefore, I think we can downgrade that somewhat as a matter of concern.

Simply stated, the Senator from Oregon and those associated with him have come a long way, a very long way, Mr. President, from their proposal to eliminate all testing for a 1-year period, period.

What is wrong with that? What is wrong with that is, I am sure, is that the signal would be clearly sent to all of the very talented people that we have at the Nevada test site that this is simply a forerunner to closing that facility within a matter of months. If that would happen, I am concerned—from signals, and contacts, and conversations that I have had with people very close to that situation—that an outright 1-month moratorium period without any consideration for what we are going to do in the future would cause us to lose a great deal of the expertise that we have now to get on with the business of safety and the safety from the spread of plutonium, as has been addressed by the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. EXON. Certainly.

Mr. JOHNSTON. I think there is a fairly narrow but important difference between the Hatfield amendment and the Appropriations Committee amendment. The Hatfield amendment as of now has a moratorium for any purpose for 9 months. That is that you cannot test for safety or any other purpose during that 9 months.

Am I not correct that, of the tests planned for the coming year, three or four of those tests were for safety purposes?

Mr. EXON. I think the Senator from Louisiana is correct.

Mr. JOHNSTON. Is there any good reason to have those 10,000-odd people out there sort of twiddling their thumbs when we need to move forward with this test for safety? Is it really the reason that the Senator is for that, to sort of avoid the total moratorium? Should we not proceed for that 9 months?

Mr. EXON. I suspect, in answer to my friend from Louisiana very directly, if you could have that option, it might be the best of all worlds. It has been my concern, I say to my friend from Louisiana, which I take it has been one of his concerns and why he got into this matter, that he was not in support of the action taken by the House of Representatives nor was he in support of what 52 or 53, over half of our colleagues in the Senate, have expressed in letter form to the Secretary of Defense.

Mr. JOHNSTON. The Senator is correct.

Mr. EXON. Therefore, it comes back to the situation of how do we best solve this problem? It seems to me that the people out there would not be twiddling their thumbs if the Hatfield-Exon-Mitchell-Nunn, et al., amendment is passed. They would indeed be planning for the safety tests that would be made in the future. It takes a long time to adequately and correctly plan these tests.

Mr. President, the Senator is so right. Let me emphasize once again, we had an accident with a nuclear warhead in Missouri. We had an accident with a nuclear warhead in North Dakota. We have had other accidents.

So far, Mr. President, we have been successful with the safety means in place, or crossing your fingers, you might say. Maybe there was some degree of luck in the fact that we did not have an explosion of plutonium. However, it did not happen, which partially proves that the system that we have now cannot be adequately, or properly, or honestly described as "not safe." Nevertheless, there are binary—which is another way of saying separating-type—features that can very likely be put into our ICBM inventory that have to be properly tested, which is one of the reasons that this Senator, at least, feels that we should not be talking about or enacting any piece of legislation here, as the House of Representatives already has, that would send a signal to those people out there that we are not going to do any more testing at all for whatever reason.

So, I believe that the Senator from Louisiana and this Senator are on exactly the same track. I just would like to have the opportunity, as I have now done, to try to take back some of those statements that were made that our nuclear ICBM inventory is "not safe." It simply is not as safe as it could be, and, if we are going to make it safer, we are going to have to have some tests, which are clearly allowed under reasonable conditions by the amendment offered by the Senator from Oregon.

I think the Senator from Oregon, once again, would agree that indeed he and his colleagues have come a long, long way to try to accommodate many of the concerns that have been raised by the Senator from Oregon and others in this particular area.

Mr. President, if I might go into a little bit of the details on why I support and join with the Senator from Oregon. After a great deal of conversations, talk back and forth, we made some proposals that I thought were very reasonable. I felt, though, that maybe they would be rejected out of hand. They were not rejected out of hand.

Friday afternoon we came to a basic agreement that I think has encompassed the real need with regard to the future. And the fact that, as the Senator from Oregon just indicated, my close friend and colleague, Senator LEVIN, from Michigan, has now come on our bill as a cosponsor indicates to me what I thought about the attitude of Senator LEVIN when the Senator and I discussed this in my office on Friday last.

Senator LEVIN was one of those, by the way, who signed a letter to the President, but I think that the arrangements, and the compromise, and—above all else—the consensus position, is best represented in the amendment that is now before the body. A lot of hard work and compromise has gone into that.

Mr. President, as an original cosponsor of the Hatfield-Mitchell-Exxon, et al., amendment, I rise to urge my colleagues to support this position, which represents a balanced, sound approach to bringing our nuclear testing program in line with recent arms control progress between the United States and the former Soviet Union. The cold war adversarial relationship between the United States and Russia has transformed into a positive alliance where newfound trust and cooperation has yielded revolutionary agreements sharply slashing our respective nuclear stockpiles.

To be sure, the world of 1992 bears little, if any, resemblance to the world of 1972. The Russians have stopped nuclear testing. The French have stopped nuclear testing. Even the Chinese, who have a limited testing program, are making encouraging comments about joining a testing moratorium. The prospect of reaching an international court whereby nuclear nations agree to halt all testing and in the process slam shut, maybe just slam it down, the atomic Pandora's box is no longer simply a pipe dream. It is real, Mr. President, and it is within our grasp, but only achievable if the United States, the most powerful nation in the world, nuclearwise and otherwise, begins to show leadership and fulfills its pledge—I say again, Mr. President—fulfills its pledge for a comprehensive test ban, a pledge made in the United States-signed treaty, a pledge made by both the Reagan and the Bush administration.

Without a comprehensive test ban, the chance of halting the spread of nuclear weapons to nonnuclear nations is greatly diminished. Without a rudimentary testing program, a new member to the nuclear arms club will not have the confidence in its arsenal necessary for full operational effectiveness and deterrent capability.

A comprehensive test ban is the key to nuclear nonproliferation. It is in this context that the United States must view the justification for future nuclear tests, for it is in this context, in light of the Russian and French pledges, that the world is judging us. The issue comes down to a simple question: Is or is not the United States serious about nuclear nonproliferation?

As chairman of the Armed Services Subcommittee on Strategic Forces and Nuclear Deterrence, I made two trips to our nuclear testing range at the Nevada test site. I have been briefed at length by Department of Energy officials and national laboratory scientists in highly classified sessions. The amendment before the Senate is the product of my conclusions reached as a result of these visits and other considerations.

My first conclusion is that there are needed upgrades to our nuclear weapons stockpile that should be pursued in order to improve weapons safety. Though no new weapons are planned for the U.S. arsenal, three specific upgrades identified by the congressionally created Drell panel—fire-resistant pits, insensitive high explosives and enhanced nuclear detonation safety systems—should be retrofitted into our weapons so as to significantly reduce the possibility of a catastrophic peacetime accident occurring. Our amendment allows for no more than five safety tests a year for a period of 3 years—15 total—a sufficient number to properly test out these much needed improvements.

My second conclusion is that after over 820 nuclear detonations, the United States has no compelling need to test for warhead reliability extensively. Even so, the amendment allows for reliability testing—no more than one per year—so long as it is counted against the five tests per year limit and only if Congress does not disapprove the substitution after notification by the President. This latitude to use 3 of the 15 allowable tests for purposes of reliability testing is designed to accommodate unforeseen testing needs, though I believe it will not be needed.

My third conclusion is that a comprehensive test ban is in the national security interests of the United States. Once the testing for the previously mentioned safety improvements is complete, our Nation can match the Russian and French initiative and end its program of testing with the knowledge that its nuclear arsenal is a safe, thoroughly tested deterrent which will continue to be the mainstay of our Nation's superpower status. Without American participation there can be no true comprehensive test ban treaty. And without a comprehensive test ban treaty, the spread of nuclear weapons technology into the Third World—a legitimate threat to the future security of our country—cannot be stemmed. For this reason, the amendment sets September 30, 1996, as the end date of the U.S. nuclear testing program, provided Russia does not test beyond this date as well. If Russia does test after this date, the ban would be lifted.

My fourth conclusion is that the United States cannot let the push for a temporary superpower moratorium on nuclear testing go unanswered. For this reason, our provision enacts a 9-month moratorium on testing while the President is directed to submit a report to Congress detailing the nuclear weapons inventory, modifications needed to incorporate all necessary safety upgrades, the tests, not to exceed five, to be performed in the next fiscal year, and a proposed plan to achieve a comprehensive test ban by 1996. Most importantly, after so many years of stalling and unfulfilled promises, the United States would be on the path toward a multilateral test ban, joined by Russia and, hopefully, the nations of the world.

In certain ways, this amendment is similar to the administration's present testing policy.

The administration's plan calls for six tests a year; this amendment authorizes no more than five, which is not a significant difference, most would agree.

The administration wants to test for safety and reliability; this amendment authorizes needed safety tests and a handful of reliability tests provided Congress affirms the need for such a nonsafety test.

The administration wants to permit the United Kingdom to conduct one test a year at the Nevada test site; this amendment allows for such a test.

The reluctance of the executive branch, however, to take advantage of a defining moment in the history of the nuclear age necessitates that the Congress act in order to fill the void in leadership and, in the process, move the world closer to effectively halting the spread of nuclear weapons. While the need for superpower testing has lessened, the need to stem the tide of nuclear proliferation in the Third World becomes more urgent.

In reining in the testing of these weapons, significant progress will be made toward closing the atomic Pandora's box destabilizing our future security. By enacting an interim moratorium that has been outlined and then completing what remains of justified safety testing, our country can move toward a test ban with Russia and lead the rest of the world through example, not just hollow, ineffective words.

Mr. President, I reserve the remainder of my time.

Mr. JOHNSTON. Will the Senator yield for a question on my time.

Mr. EXON. I yield.

Mr. JOHNSTON. Mr. President, as the Senator knows, this is not just a moratorium for this year but is permanent legislation on an appropriations bill.

I was just talking to the White House people out in the cloakroom about what it all means. Is the Senator supporting this as permanent legislation without having the Armed Services Committee take a look at the permanent legislation?

We have to deal with this as a moratorium for this year; it is in the House bill. No funds may be used for testing for this year. But this, of course, is permanent legislation. Is that the position of the Armed Services Committee that they want the Appropriations Committee to or that we want to legislate on this matter on the floor?

Mr. EXON. The Armed Services Committee, as the Senator knows, has just completed our authorization bill, and we had a very lengthy debate and study on that matter and could not reach an agreement in committee. Therefore, it was the recommendation of the chairman, and it was the recommendation of I guess most of the people on the committee on both sides of the aisle, that we had best let this matter ride until we get to the floor.

We knew very well and talked about the various proposals that the Senator had put into this bill in the appropriations measure. We knew full well of the proposed amendment to be offered on this bill by the Senator from Oregon. We knew full well of the 53 Members of the Senate who had written to the Secretary of Defense indicating that we should just have a moratorium for a year, period. We knew all of those things. I simply am saying that we have worked very hard to try and come up with a compromise.

The Senator is absolutely correct. This is a 1-year appropriations bill and cannot carry beyond that?

Mr. JOHNSTON. No. This amendment does carry on beyond that.

Mr. EXON. It carries for how long?

Mr. JOHNSTON. 1996; it is permanent law.

Mr. EXON. That might well be, but the Senator knows that whatever we do here on an appropriations bill, or authorization bill, or anything else cannot bind future Congresses.

I simply say then that what we were attempting to do, what this Senator is attempting to do with this particular amendment, is maybe to set this down on this particular measure and have this or something very close to it be the hallmark of other types of legislation where it would be proper and very much in order to bring it up for debate or amendment. That is the best answer that I can give to my friend from Louisiana.

I want to make sure that he understands where we are coming from. I do not really believe that the Senator from Louisiana and the Senator from Nebraska are coming from far distances on this particular matter. Does that answer the question from the Senator?

Mr. JOHNSTON. Mr. President, I had not seen this amendment before today, in fact before this afternoon. The amendment which I proposed and which is the position of the Appropriations Committee is to have a moratorium for this year's testing except for safety.

It was our position that we needed safety. Everyone recognizes the need for those tests. There are safety tests planned for this year. I am in the process of getting information from the White House as to the nature of those they can give to us.

I think there is an important difference again between what this legislation does and our position. This legislation does not permit any tests—even those planned tests which are planned within the next 3 months for safety must be canceled under this legislation and no safety test or for any reason after 1996 may be taken.

I just wonder if we want to make the decision now to have no test for safety after September 30, 1996. Maybe we want to.

But I do not think the problem is we are worried about the Soviet Union building new weapons. I think the greater worry is both our weapons and the Soviet weapons are not sufficiently safe and endanger mankind by some kind of premature explosion.

The Senator says that the cruise missiles are OK. It is my understanding that the SRAM missile, which is still in the inventory and not on alert——

Mr. HATFIELD. Mr. President, whose time is this?

The PRESIDING OFFICER (Mr. ROBB). The Chair advises the Senator the current time is being charged against the Senator from Louisiana.

Mr. JOHNSTON. The SRAM does not have a sensitive high explosive and there is a new version of the air-launched cruise missile which will have a sensitive high explosive. I do not know that will go in the inventory. If so, it will have to be tested. The D-5 if put into the inventory needs to be tested.

It is the position of Lawrence Livermore that I earlier read that almost none of our present weapons in the inventory contained the kind of safety devices that we need, and we need those tests.

As I mentioned earlier, the Union of Concerned Scientists say we need safety tests.

I would say that it would be better to have the kind of moratorium which we have in the appropriations bill, which limits for this year any test except for safety which the President must certify and gives the Armed Services Committee and other committees of jurisdiction the chance to look at long-term permanent law, because this is permanent law as opposed to Appropriations Committee language. I think those are differences but important differences.

Mr. EXON. Mr. President, will the Senator yield me 2 minutes to try to respond to the Senator?

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. I am happy to yield time.

The majority leader has asked for time and has been waiting.

Mr. EXON. Mr. President, will the majority leader allow me 2 minutes to try to respond directly to the points raised by the Senator from Oregon?

Mr. HATFIELD. I am happy to yield 3 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for up to 3 minutes.

Mr. EXON. Mr. President, I am fearful that the Senator from Louisiana, while I am sure it is not his intention, is trying to throw cold water on a concept that we have advanced in that it would destroy safety testing. That is not the correct description of what we had done.

I think it would be legitimate to say that about the original proposal offered by the Senator from Oregon. The lab experts tell us, and we have been in contact with them, that 10 to 15 safety testings as authorized and could be approved in the legislation offered by the amendment from the Senator from Oregon would be more than is necessary to prove up on these safety matters. So that is not an issue.

If you want to argue, as you might, that under this amendment we would not test as quickly as we would under the Johnston proposal, I might say, yes, although I think that is a matter of degree. I would simply say that let us not try and use the same arguments against this proposal that the Senator from Oregon has offered as what he intended to offer.

This proposal, I think the Senator from Louisiana would agree, is far, far better with regard to the ability to test for safety purposes than was the original proposal offered by the Senator from Oregon and certainly that authored and passed in the House of Representatives.

I thank my friend from Oregon, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield to the majority leader such time as he may consume.

The PRESIDING OFFICER. The majority leader, Senator MITCHELL, is recognized accordingly.

Mr. MITCHELL. Mr. President, I am pleased that for the first time since 1988 the Senate today has an opportunity to consider a measure to limit nuclear testing.

Much has changed since 1988. This provision, and I trust the vote today, reflects that change in a positive and appropriate way.

Like the distinguished former chairman of the Appropriations Committee, Senator HATFIELD, I have been a longtime supporter of limits on nuclear tests.

I commend the Senator for his efforts on this issue and I know that he shares my gratification that a total of 53 Senators agree on the need for an immediate testing moratorium and have cosponsored S. 2064 to express their support for a testing pause.

I am particularly pleased that the distinguished chairman of the Subcommittee on Strategic Forces and Nuclear Deterrence, Senator EXON, has joined me and Senator HATFIELD to craft a comprehensive nuclear testing policy.

Our amendment combines the concept of the moratorium bill with the basic elements of a testing phaseout provision that Senator EXON included in his subcommittee markup—a provision which I understand had the support of all the Democrats on the Armed Services Committee.

This approach merges the immediate political demand to alter our testing practice with a longer term strategy to eliminate the need for nuclear testing altogether.

The amendment imposes a 9-month moratorium on nuclear testing.

The moratorium can be followed by a testing program to implement all necessary safety features on stockpiled weapons. Five tests can be conducted each year for 3 years. One exception per year may be made for a reliability test if Congress does not disapprove the test within 60 days. One exception may also be made to conduct a test for the United Kingdom. But in no case can the total number of tests exceed 5 tests per year or a total of 15 tests through September 30, 1996.

And then, as of September 30, 1996, the U.S. nuclear testing program will end.

This amendment truly reflects post-cold war thinking.

Five years ago, who would have predicted that the Presidents of the United States and a newly independent State of Russia would each offer proposals for massive arms reductions, many to be carried out unilaterally?

Who would have thought the START negotiations would have been completely and immediately overshadowed by a new strategic arms agreement that cut far deeper into the heart of both sides' arsenals?

Who would have believed that the race for strategic superiority would end so suddenly, and that the most immediate military threat to our security would be the efforts of countries other than the Soviet Union to acquire nuclear technology and the means to deliver it?

It is in this context—the end of the superpower arms race and the urgent need to strengthen nuclear nonproliferation—that this amendment is so important and timely.

There are many important reasons to enact a temporary moratorium now.

First, a United States moratorium is an appropriate response to the Russian and French testing moratoriums.

We all know the long history of Soviet, and then Russian, unilateral moratorium on nuclear testing: They were ignored by the Reagan and Bush administrations.

The most recent action was the renewal of a 1-year moratorium announced by President Yeltsin in October.

If there were ever an opportunity to help buttress Yeltsin against the military men who would resurrect the Russian nuclear arsenal, the moratorium provides one.

Yeltsin reportedly already has agreed that—in the absence of a United States response to the Russian moratorium—the Russian military can renew nuclear testing at the end of the year.

That would be an unfortunate development, representing an increased role for the military establishment and a diminution of the civilian authority's ability to press for continuing arms control measures.

Yeltsin's initiative subsequently was joined by the French.

In April, France initiated its own testing moratorium through the end of the year, and it finally agreed to sign the Nuclear Nonproliferation Treaty.

France and Russia have called for the United States to join and to negotiate a comprehensive testing ban. The Presidents of Canada, Kazakhstan and many other nations also have urged the United States to halt tests.

The only other nuclear powers, the United Kingdom and China, could well follow suit. Since the United States conducts nuclear tests on behalf of the United Kingdom, those tests would automatically stop. The Chinese would either join or be isolated in the world community. So a U.S. moratorium would make it possible that, for the first time ever, all nuclear powers stop nuclear testing.

This would be an historic acknowledgement of the transformation of international politics.

It also would provide a much-needed opportunity for the nuclear establishment of each nation to reevaluate the purposes of their nuclear testing program.

This is the second reason to implement a moratorium.

A hard look at our testing program would reveal that there is only one reason to resume nuclear testing—to ensure the operability of the two or three warheads that could be fitted with new safety devices. And then testing could stop altogether.

A testing pause would provide the political momentum for all nuclear nations to negotiate a multilateral, comprehensive test ban.

This is a third reason for joining the Russian and French moratorium.

It is regrettable that the Bush administration has such a poor record on this issue.

For decades, the United States had sought to negotiate an end to nuclear testing. Every American President from Eisenhower through Carter, Republican and Democrat, sought a comprehensive test ban. In treaties signed by the United States in 1963, 1969, and 1974 the United States solemnly and formally committed itself to continue negotiations to end such testing.

President Reagan pledged that he would continue this policy.

In 1986, President Reagan wrote to Congress that he would:

> immediately engage in negotiations on ways to implement a step-by-step parallel program—in association with a program to reduce and ultimately eliminate all nuclear weapons—of limiting and ultimately ending nuclear testing.

This promise was used to induce the House of Representatives to end its insistence on a nuclear testing moratorium in conference on the fiscal year 1987 DOD authorization bill.

But, as we all know, this has not been upheld by the Bush administration.

In fact, the Bush administration has taken just the opposite position.

In response to a letter from the chairman of the Armed Services Committee, Senator NUNN, and Senators GORE and SIMON, the President's National Security Adviser, Brent Scowcroft, rule out the possibility of seeking an end to testing, even though that had been the objective of every American President since Eisenhower, and an objective to which the United States committed itself in three treaties signed previously.

It is time to face the facts: This administration will not willingly pursue further limits on testing. It must be required to take a pause, reassess its testing program, and understand how serious Congress—and the rest of the world—is about ending nuclear testing. The moratorium will do this.

Finally, a U.S. commitment to ending testing is a critical tool in the effort against nuclear proliferation. The Bush administration says it cares about halting the spread of nuclear technology. I believe it does. But it ignores the fact that nuclear testing gravely undermines U.S. nonproliferation objectives.

The 1969 Treaty on the Nonproliferation of Nuclear Weapons [NPT] offered an implicit quid pro quo to induce nonnuclear states to sign on: The nuclear powers would work to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament.

For nonnuclear states, the sign of seriousness that the nuclear powers are upholding their end of the bargain is whether they are moving to end nuclear testing. No one can dispute the inconsistency of the administration telling other countries that they have no right to nuclear weapons, while insisting that we have the continuing right to build and test nuclear weapons.

Ending nuclear testing is the obvious first step toward nonproliferation. This is why other nations have been trying to get the superpowers to end testing for years. Consistent U.S. objections to testing limits has prevented progress in strengthening the Treaty on Nonproliferation.

At the last review conference in 1990, there was no progress on strengthening International Atomic Energy Agency procedures in two different areas because Mexico and other nations wanted to ban further nuclear tests.

The stronger agency procedures on which there was no action would have allowed special inspections of undeclared sites and required full scope safeguards for nuclear exports to nonnuclear states. These are important measures. They would have been useful regarding Iraq's nuclear program prior to the war. It is foolhardy to forestall strengthening international nuclear safeguards simply because we will not end an unnecessary nuclear test program.

In 1995, the treaty will again come up for review. This time, the treaty itself could be jeopardized. Joining the Russian and French moratorium would demonstrate America's good faith in improving efforts to achieve nonproliferation; to stop the spread of nuclear weapons to other countries.

The administration argues that America's choices about nuclear weapons have no relationship to the policies of other nations. Showing restraint on testing, they say, cannot help in the effort against nonproliferation.

Yet North Korea and other would-be nuclear nations frequently point to United States testing to defend their policies. At the very least, we give them an excuse behind which to hide.

Moreover, the administration itself—in another clear inconsistency—has claimed that U.S. nuclear restraint can aid nonproliferation efforts. President Bush explained that the United States formally ended nuclear material production "to show leadership on critical issues [and] to encourage countries in regions of tension such as the Middle East and South Asia to take similar actions." Those very words apply to this very issue. Ending testing does matter.

The United States should demonstrate that it takes its commitment to nonproliferation seriously and uphold its end of the Nonproliferation Treaty's bargain. Of course, a testing moratorium also will save hundreds of millions of dollars each year and save the environment from the effects of nuclear explosions.

But other critical reasons to pause in our nuclear test program are to readjust the U.S. testing program and to jumpstart progress toward a comprehensive test ban. That is why these are the other elements of the Hatfield-Exon-Mitchell provision.

The administration will be required to submit a report during the moratorium. In addition to outlining the nuclear arsenal, the need for any additional safety tests, and other technical details, the report must include a plan to negotiate a comprehensive test ban. The moratorium itself will encourage the other nuclear powers to join in such a ban. Russia, which has long sought a treaty banning nuclear tests, will obviously be eager to help achieve this goal.

Because the amendment mandates an end to U.S. tests by 1996, I am confident that the United States will do all it can to make this a multilateral achievement. Achieving a comprehensive test ban would be perhaps the clearest proof that what was once derided pie-in-the-sky thinking is now eminently practical.

The administration's arguments against this amendment are without merit. The administration would have us believe that a temporary moratorium will prevent tests ever again. The administration also would have us believe that continued testing remains necessary. Neither contention is true.

Because this amendment concerns only a temporary moratorium, the first objections are irrelevant. The legislation itself provides that tests can resume. In terms of the need for continued testing, ad infinitum—their arguments don't hold up to scrutiny.

First, the United States now has no plans to develop or design new warheads, and we have no nuclear warheads in production. So we obviously do not need tests to produce new warheads.

Second, testing for reliability is not necessary. Warhead design flaws that can be cited to scare people are flaws that were not revealed by nuclear testing, but by designers who realized that they had neglected some factors in their work.

The reliability of our nuclear stockpile can be monitored without tests almost indefinitely. We are talking about percentages of reliability or declining confidence that are very small. Furthermore, it is the missile, not the warhead, that is the least reliable part of the weapons system.

Finally, from 1964 to 1981, not a single nuclear test was conducted for reliability reasons. The sudden interest in the warhead reliability arises out of desperation for a rationale for continued testing.

Safety is a different matter. According to the March testimony of Robert Barker, Assistant Secretary of Defense for Atomic Energy, the Air Force, the Navy, DOD, and DOE concluded "that there is not now sufficient evidence to warrant our changing either warheads or propellants." Thus, no retrofits for safety have even been ordered by the administration. So a moratorium sure is± not going to affect our safety program.

But there is a rational for limited tests to ensure that every weapon that we keep in the stockpile will incorporate up-to-date safety features. Because two, or possibly three warheads that will be kept need additional safety features, we will need to conduct a limited number of tests on an example of each reconfigured weapon. Ray Kidder from Lawrence-Livermore National Laboratory has testified that only four tests would put insensitive high explosives on both the W-88 and W-76 warhead.

The regime set out by this amendment—15 tests over 3 years—ensures sufficient testing to successfully upgrade those weapons.

The administration has tried to defuse the growing congressional support for limits on nuclear testing by proposing its own so-called new policy. But the new policy is really the old policy. It is just more of the same. It barely affected the previously planned testing schedule. It did nothing to respond to the Russian and French moratoriums. And it remained sullen silent on the question of negotiating further testing limits—each of which is critical to any new policy.

Other have suggested other equally unsatisfying alternatives to the comprehensive policy presented by this measure that Senator HATFIELD, Senator EXON, and I have agreed upon. This bill, for example, contains a pseudomoratorium—a moratorium with waiver authority so broad that the President already has indicated he would use it. The provision in this bill would let the President conduct any nuclear tests for safety that he deems to be in the national interest.

Well, President Bush already has said that continued testing is in the national interest. So, the provision in the bill is not a moratorium at all. It is a green light to more testing. Another proposal is to put in law the President's so-called new policy—the one that's really the same as the old policy and does not really change anything. The proposal would include language urging the President to negotiate a comprehensive test ban.

The Senate already has passed such language and we already know that the administration will ignore it. So this alternative offers nothing new, either. The time has come for the United States to stop dragging its heels on progress toward a nonnuclear world. Dozens of Nobel laureates who helped develop nuclear weapons say the time is right to end testing.

Admiral Crowe endorsed a moratorium, saying that a United States moratorium should last as long as Russia and France suspend their tests. "The [U.S.] needs to take some steps toward a pause in nuclear testing," he said, "We need to do something on this issue."

The House of Representatives agrees. It included a moratorium provision in its energy and water bill, passed overwhelmingly. It voted 237-167 for the Kopetski-Green nuclear moratorium amendment to the DOD authorization bill. The American people also know that the time has come to pass this amendment. An overwhelming majority of Americans want to halt testing now.

In a recent poll conducted by ICR Survey Research Group, 72 percent of

Americans wanted the United States to stop nuclear testing, either without conditions or temporarily while seeking a multilateral test ban. Only 7 percent of those Americans polled supported continued testing regardless of the actions of other nations. That is the policy of the Bush administration.

Americans are ahead of their Government on this issue. They know that the world has changed and that we have an unprecedented opportunity to put the arms race behind us. They want us to start by ending nuclear testing.

The Russian moratorium expires in October. The French moratorium expires in January. Both nations will resume testing if the United States fails to join their moratorium. As the Russian Minister of Atomic Energy said: "The United States has the last word [on nuclear testing], and the whole world awaits this step." Let us speak clearly and forcefully, and take this step today.

I urge my colleagues to support the Hatfield-Exon-Mitchell amendment and vote against all weakening amendments offered today.

I thank my colleague for his courtesy in extending this time to me.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana [Mr. JOHNSTON].

Mr. JOHNSTON. Mr. President, when we put together the unanimous-consent request on this matter last Friday, the Senator from Texas was out of town. He has since called and asked me for 10 minutes to speak on the SSC. I told him I would give it to him out of my nuclear testing time.

At this time, I yield 10 minutes to the junior Senator from Texas to speak about SSC, or whatever else he wants to speak about.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank the distinguished chairman of the Energy Committee.

Testing is about safety and reliability, and as long as we want safety and reliability, we have to test. I am opposed to the test ban amendment that is pending.

But we are debating today two issues. We will first vote on funding for the superconducting super collider, and then we will vote on nuclear testing. I want to direct my remarks this afternoon to the SSC.

AMENDMENT NO. 2832

Mr. GRAMM. I want to begin by reminding my colleagues of the process we used to get to this point on the SSC.

On February 10, 1987, the Secretary of Energy announced that we were going to move ahead with building the superconducting super collider, the world's largest and most important scientific project to be built anywhere in the world in the last quarter of the 20th century. States were asked to submit proposals for the site location. Forty-three proposals were received from 25 States and, as a matter of fact, a guy named Paul Jablonka proposed it be built on the Moon. That proposal, as far as I know, was immediately rejected.

But the Secretary of Energy set out a process whereby the National Academy of Sciences and the National Academy of Engineering, as a joint project, would look at each of the proposals, evaluate them, and choose the best site on technical merit. They immediately reduced down the 43 proposals to 36 sites in 25 States. After a comprehensive study, the final list came out. There were seven States on the list. When that study was completed on November 9, 1989, Texas was chosen.

I want to remind my colleagues—those from 25 States—States that submitted proposals for the SSC site—that their proposal was considered not by the administration; not by a political appointee; but by the National Academy of Sciences and the National Academy of Engineering. And a selection was made to build the SSC in Texas, as the best site from a technical viewpoint.

I also want to remind my colleagues that in competing for this $8 billion project, the State of Texas, offered and the Federal Government accepted, $1 billion of funds from the State. No other State made a similar gesture.

We now have come down to the moment of truth, Mr. President, as to what we are going to do about building the SSC. We have heard many arguments about funding. I would like to address two of them.

First of all, I would like to address the deficit argument. I remind my colleagues that we are operating under a spending ceiling. Nobody doubts that we are going to spend right up to the spending ceiling. So if we reduce funding for the SSC, the money is going to be spent somewhere else.

There are those who say: Well, this is a good place to start deficit reduction. I could respond by saying that when we voted to increase by 50-percent funding for the Public Broadcasting Service, that that was a good opportunity to begin deficit reduction. But the bottom line is we decided deficit reduction in the budget. We set out a spending limit. So the debate is not about deficit reduction; the debate is about priorities. That is the major argument, I think, for the superconducting super collider.

Twenty-five years ago, in 1967, the Federal Government spent over 5 percent of the nondefense budget on research in science and technology. Today, 25 years later, if we fund and build the SSC, we are going to be spending 1.8 percent of the Federal budget on science and technology in the future. In short, as a proportion of the budget, we have reduced by more than half the amount of money spent on science and technology.

I think we are basically down to a decision, and we all know what the decision boils down to: Do we want to spend money on science and technology in a long-term investment in the future of the country, or do we want to take the money from science and technology and spend it on something else?

The disadvantage that science has always had in debate on the floor of the Senate and on the floor of the House is that there is a limited constituency for the future. As a result, we consistently underfunded the future. We consistently invest more in the next election than we do in the next generation.

I doubt if there is a Member of the Senate who really understands to any degree what the SSC is about. We have all learned our little pat statements as to what it does, but it is an investment in high-energy physics. That is an area that the United States has been the world leader ever since the Manhattan project.

Between 20 and 30 percent of the gross national product of the United States today comes from high-energy physics that the United States of America was the pioneer in research on. Everything from the computer to the television has come as a result of high-energy physics research undertaken in this country. It is an area that we have been a leader in; it is an area that we are a leader in today; and the decision on this project is a decision as to whether we are going to stay the leader in this important area.

I believe that we are talking about an investment that will yield hundreds of thousands of jobs after the turn of the century, jobs in new technology and new techniques. I think it is important that we make the decision to invest not in the next election, but in the next generation.

So I want to ask my colleagues to look at the SSC, to look at what research and development has done for America in the past, to look at the high return we have gotten on the research we have undertaken. I hope that after taking that look that we decide to build the most important scientific project to be built anywhere in the last quarter of the 20th century.

I hope we build the SSC so America can stay No. 1 in science and technology because, in the longrun, the only way we can maintain the highest standard of living in the world, the only way we can pay the highest wages in the world, is to have the best technology and the best tools in the world. And the SSC is a sound, long-term investment in the future of America. I hope today we make that investment.

I yield back the reminder of my time.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 2833

Mr. LEVIN. Mr. President, the Senator from Oregon indicated to me that he would yield me 10 minutes from his time, but he is not on the floor to do it.

The PRESIDING OFFICER. Without objection, the Senator from Michigan [Mr. LEVIN], is recognized for up to 10 minutes, with the time charged to the Senator from Oregon.

Mr. LEVIN. Mr. President, first, I want to congratulate the Senator from Oregon, the Senator from Nebraska, and the majority leader for working out this amendment on testing. It is a very important step forward towards a comprehensive test ban. It does it in a way which will allow for the completion of safety testing on the two to three warheads which can still arguably use some safety testing.

This initiative will finally, after years and years and years of commitment to a comprehensive test ban, put us on the road to a global ban on nuclear explosion. Most important, it will take a major step on the road to limit the proliferation of nuclear weapons.

What is important is that those two goals are inextricably linked. Moving toward a comprehensive test ban and limiting proliferation of nuclear weapons are inextricably linked. They cannot be separated. We cannot have nonproliferation without finally agreeing to a comprehensive test ban, because other nations will not agree not to proliferate, not to produce nuclear weapons, not to have tests, unless we also finally agree to end the testing of nuclear weapons.

This administration has made some notable progress in the area of nuclear weapons policy. But, on the question of continued explosive testing of nuclear warheads, it is frozen into cold war priorities. Instead of halting testing and leading a global effort to prevent proliferation of nuclear weapons, the United States is insisting on exploding nuclear warheads in the desert for as long as we have a nuclear arsenal.

That is the administration's position. And so we continue to test despite the Russian suspension of nuclear testing that began last October and the French suspension of testing that began in April. Both nations have called on the United States to join their moratorium in negotiating a comprehensive test ban treaty. But the administration has failed to show the slightest interest in negotiations on nuclear testing despite the cessation of testing in other countries, despite existing U.S. treaty obligations, and despite commitments from the Bush administration to negotiate further limits on testing.

Every President from President Eisenhower through President Carter pursued the goal of a comprehensive test ban treaty. In the Limited Test Ban Treaty signed by President Kennedy in 1963, the United States and other signatories pledged to achieve "the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to that end." That is the Limited Test Ban Treaty which has been approved by this country. We are a party to that treaty.

In 1969, President Johnson negotiated the Nuclear Nonproliferation Treaty that was subsequently supported by President Nixon. It repeated that pledge verbatim in its preamble. Article VI of that treaty is viewed by nonnuclear states as an agreement by the United States and other nuclear states to negotiate a comprehensive test ban. Every 5 years the parties to the nonproliferation treaty meet to review the treaty.

If anyone doubts that article VI and the achievement of a comprehensive test ban is crucial to the extension of the nonproliferation treaty in 1995, the next time it comes up for its 5-year review, they should read the record of the 1990 review conference of the Nonproliferation Treaty. At that conference the participants agreed to the following statement. We were one of the participants. We agreed to this statement in 1990. And every one of us should be aware of what we have pledged as recently as 1990:

> The conference noted that no multilateral negotiations had taken place between 1985 and 1990 toward the achievement of an agreement banning all test explosions of nuclear weapons for all time. Mindful that the extension of the treaty will be considered in 5 years—

That is 1995—

> the conference expressed its belief that a comprehensive test ban treaty would significantly enhance the universality and durability of the nonproliferation treaty beyond 1995. The conference reaffirmed that a comprehensive test ban treaty adhered to by all states would make the single most important contribution toward strengthening and extending international barriers against the proliferation of nuclear weapons and would contribute greatly to the limitation of the grave threat to the environment and human health represented by continued nuclear testing. The conference once again emphasizes the critical importance of a comprehensive nuclear test ban and calls for early action towards that objective.

We approved that. We subscribed to those statements as late as 1990.

Now, the Nonproliferation Treaty is not the only treaty commitment we have made to negotiate a comprehensive test ban. In 1974, President Nixon signed the Threshold Test Ban Treaty. Article I said: "The parties shall continue their negotiations with a view toward achieving a solution to the problem of the cessation of all underground nuclear weapons test." That commitment was shared by the Senate. In 1990 we voted to ratify the Threshold Test Ban Treaty containing that commitment, 98-0.

Although President Carter continued comprehensive test ban negotiations and made extensive progress, President Reagan halted those talks. Congress then took the initiative with both the House and the Senate voting several times to urge resumption of negotiations. In 1986, the House voted for the United States to join a Soviet moratorium. President Reagan then threatened a veto. The distinguished chairman of the Senate Armed Services Committee, Senator NUNN, then became personally involved in obtaining a commitment from President Reagan to resume talks on limiting test explosions.

In a 1986 October 10 letter to the Congress, President Reagan pledged to "immediately engage in negotiations on ways to implement a step-by-step parallel program—in association with a program to reduce and ultimately eliminate all nuclear weapons—of limiting and ultimately ending nuclear testing."

That is his commitment. That is President Reagan's commitment. In exchange for that commitment, the House of Representatives dropped its insistence on a nuclear testing moratorium for the fiscal year 1987 Department of Defense authorization bill.

The progress since then has just not occurred on comprehensive test ban negotiations. We have seen none from the Reagan administration or the Bush administration.

And now the Congress again must act, not just because we made a solemn commitment to act but because we have seen through the statement of a number of other countries, including France, that unless we live up to our solemn obligations, they will begin testing, and we clearly see before us that unless we live up to our commitment to stop the testing of nuclear weapons, we will lost the battle against the proliferation of nuclear weapons. We cannot have nonproliferation and endless testing of nuclear weapons. We must finally do what we have committed ourselves over and over again to do, which is to negotiate an end to the testing of nuclear weapons, if we are, in fact, going to achieve the greatest single goal for our own security, which is the nonproliferation of nuclear weapons.

On September 17, 1990, Arms Control and Disarmament Agency Director Ronald Lehman promised in a Senate Armed Services Committee hearing that the delay in resuming nuclear testing talks would not be lengthy. He said, "We are not talking about years." That was almost 2 years ago.

The chairman of the Armed Services Committee, along with Senators SIMON and GORE, wrote to the President's National Security Adviser, Brent Scowcroft, on March 31 of this year, citing many of these facts and seeking to know from the administration when further steps toward a CTB Treaty would be forthcoming. That letter noted:

When Congress reached its compromise agreement on nuclear testing with President Reagan on the eve of the Reykjavik Summit in 1986, it believed that it had received a solemn commitment from the President to pursue in good faith a step-by-step series of negotiations resulting in progressively more stringent limitations on underground nuclear tests.

But the response from General Scowcroft contained no commitment to work toward a CTB, no plans or schedule for resumption of negotiations. General Scowcroft ruled out any limits on nuclear testing beyond current United States plans and practices, and reaffirmed the U.S. intention to continue testing as long as we retain nuclear weapons, regardless of other nations' efforts to seek a mutual halt to explosive nuclear weapons tests. The administration's new policy on nuclear testing merely formalizes a previous decision to test up to six times a year. That policy flies in the face of logic. It violates treaty commitments which are the law of the land, and it violates Presidential commitments made to Congress.

Now there are several reasons we have conducted nuclear weapons tests. The main reason is to perfect new weapons designs. But the United States has no nuclear warheads in production, and no new warheads being developed or designed.

Another reason is to confirm that safety devices on warheads work as intended. Although safety questions have been raised about some warheads and missiles in the stockpile, no retrofits of warheads for safety reasons have actually been ordered at this time. The Air Force, Navy, DOD and DOE have concluded "that there is not now sufficient evidence to warrant our changing either warheads or propellants," according to March testimony from then-Assistant Secretary of Defense for Atomic Energy Robert Barker before the House Armed Services Committee Defense Nuclear Facilities Panel.

But this amendment allows for safety tests that would permit three kinds of safety devices to be installed in all warheads that will remain in the arsenal. Insensitive high explosives, fire resistant pits and enhanced detonation safety systems can be installed in warheads that will remain in the arsenal but lack these features, if the President reports to Congress that those safety features are required, and if the tests to support those retrofits are completed by September 1996.

Could there be any value to conducting some limited number of nuclear tests to support the addition of those safety features to warheads that lack them? The answer may be "yes."

But the costs of continuing to test nuclear weapons with no end in sight, developing a whole new set of safety features with totally redesigned warheads, or for so-called weapons effects tests, or to keep thousands of weapons designers employed—those costs are very high. Continuing testing for those purposes would actually promote nuclear proliferation, a far greater potential danger to our national security than the threat of accidental detonation of nuclear warheads, which is extraordinarily low and can be further reduced through greater care in transportation and other operational procedures.

Make no mistake—when we insist on testing without end, we are promoting proliferation of nuclear weapons. Other nations that have currently suspended their nuclear tests will begin testing again. "France will resume testing in the South Pacific if other nuclear powers fail to join its moratorium," said President Mitterand on July 15. And Victor Mikailov, Russian Minister of Atomic Energy and Power, said last month "If the United States doesn't stop testing, we will be forced to resume testing next year." So Russia and France have stopped testing—but the actions the Bush administration proposes could actually lead them to start again.

Even the Chinese, who recently conducted a large test, are—"serious about preparing for a comprehensive test ban. The other nuclear weapons states should be prepared for that"—says Shen Dingli, a Chinese physicist and arms control expert. "The test related to China's preparation for a test ban. It may be the last on a big scale," said Shen.

The whole world is concerned about nuclear proliferation, but the United States is promoting that dreaded result when we are a major obstacle to a worldwide comprehensive test ban. Our nuclear testing policy puts at risk the existing nonproliferation regime and jeopardizes chances to build a stronger regime. Weigh the value of effective nonproliferation against the value of continued testing, and the conclusion is clear.

The administration's policy cannot and should not stand. First, we need a moratorium, one that least matches the Russians and the French. Second, we need negotiations to complete a Comprehensive Test Ban Treaty. This amendment sets a target date of 1996 for achieving a CTB, and toward that end allows up to 15 tests to incorporate warhead safety features, even though we probably would not need all 15. Those tests—if the President orders them—must be completed and a final end to all testing secured as soon as possible.

And finally, we need a strategy to strengthen and extend the Nuclear Nonproliferation Treaty in 1995. The United States should be leading efforts to stop proliferation, not posing the greatest threat to the NPT regime we have.

I urge my colleagues to reject the current administration policy and approve this amendment to put the United States on course to end nuclear explosive testing in all nuclear weapons states as quickly as possible. That is one way we can begin addressing the foremost security threat—not warhead safety but nuclear proliferation.

Mr. President, again, I congratulate the sponsors of this amendment, and I ask unanimous consent that I be added as a cosponsor, if I am not already listed as one.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DOMENICI. Mr. President, will the Senator yield me 15 minutes? I think I have it under the UC.

The PRESIDING OFFICER. The Senator is correct. The Senator from New Mexico is recognized for 15 minutes.

Mr. DOMENICI. I thank the Chair.

Mr. President, I thought the issues before the Senate this afternoon would be a 1-year full moratorium or a moratorium with the exception of permitting safety testing upon certification by the President. When I thought that was the issue, I felt very comfortable that we would understand what we are doing on the floor and we would choose one or the other.

But what has happened is, over the last 72 hours, a 1-year moratorium has turned into a permanent multiyear program for all nuclear testing. The Chair has heard it explained. Senators have heard it explained.

Mr. President, on plain, simple grounds, are we sure we know what we are doing? It seems to me that if ever there was a situation when we should not, on an appropriation bill, over the last 72 hours, devise a permanent, total program for the nuclear testing of American nuclear weapons, it is this one.

Now, frankly, it is very difficult to try to get the point across that nuclear testing for safety is serious business. Let me just show this chart.

This is a Minuteman III MK-12 reentry vehicle. This is it exposed to safety and reliability testing. It was down in the ground as one of America's nuclear weapons that could be there waiting to be used, and it would not have worked.

You see what happened? You could not simulate this. That is what nuclear testing is about. You take the weapons, and you test them to make sure that you do not have unsafe weapons.

Before I show you a couple more, let me tell you what we are supposed to do with our nuclear weapons system during the next 8 or 10 years, whether or not everything works out with the Soviet Union, whether or not we have the much-spoken-of nonproliferation treaty, we are going to make seven safety modifications to our current system. Not that anybody understands what they are, but just so we know they are real—the B-61, the W-62, the W-69, W-

76, W-78, W-80, and W-88. These are all nuclear weapons. And we are going to do safety modifications on them because we already know that science and technology cries out for safety modifications.

In each of these we are going to implement things like enhanced nuclear detonation safety, insensitive high explosives, and fire resistant pits. All of these are things we are going to do to these weapons to make them safer, so we will not have that happening when they are sitting down there in the silo waiting around ready to be used, God willing never, but nonetheless ready.

I am told—and this is one group of experts—that if we are going to make these changes, these safety modifications—and I say to my friend Senator BENNETT JOHNSTON, we are told if we are going to make those needed safety modifications that approximately five tests are needed for each of those particular safety enhancements so that we will end up knowing that the needed safety modifications as planned are safe.

I do not know if five is right. I am told it is right. What if it is four? What if it is three? There are eight different warheads we are going to modernize, and from what I understand that modernization and needed safety enhancement is going to occur even within the small numbers of nuclear weapons that are contemplated under the new agreements with the Soviet Union.

In other words, we are going to have these weapons, they are going to be part of our arsenal, and I wonder why we would not want to be sure that they are safe and that the needed safety modifications had taken place. Why would we not do that? Does that have anything to do with the Soviet Union? Does it have anything whatsoever to do with nuclear proliferation? It seems to me that it has everything to do with whether you want safe nuclear weapons in the arsenal.

Having said that, it seems to me that Senator HATFIELD's proposed multiyear program for nuclear testing that originally was to be a moratorium—all of a sudden it sprang wings and from a moratorium it is a 5-year program. It seems to me that every one of us on the floor today agrees that modifications to enhance safety should be pursued, and being told that about five tests are needed to implement each new technology on each type of warhead, how could we be agreeing to 15? It seems to me we might not even know what we are talking about. Maybe we pick three a year, or four a year and say that sounds right. Maybe we could get something good out of the world on some other program, some other treaty. But what does it have to do with a valid, appropriate, American safety program?

Mr. JOHNSTON. Will the Senator yield?

Mr. DOMENICI. Yes.

Mr. JOHNSTON. The information I have is that after all the strategic weapon reductions that are planned there will be nine weapons in the inventory. Of those, seven need safety modifications; the B-61 needs two, the B-62 needs three; that is insensitive high explosive, fire resistant pit and enhanced nuclear detonation safety; that normally there is no way to certify a warhead without six or more tests; and that to install all safety modifications will take at least 40 tests unless they cut corners.

I do not know whether that is correct or not. That is the information given to me by the testers, by the Department of Energy.

The information they also gave me is that originally they had five safety tests planned for 1933. I can give you the information on it. The GABBS test, or ultra safe pit plutonium involved test, the counter bore test, optimized safety design with pit reused. There are two others, without going into detail of them.

It just seems to me that if we do not know enough about this to go beyond saying no test except for safety, that is an understandable, clear rule. Yet, this amendment would give us a long-time, permanent law which cancels safety tests, and has no safety test after 1996. It seems to me that is not connected to nuclear proliferation. That is connected to nuclear safety on the wrong side of nuclear safety.

Does the Senator agree with that?

Mr. DOMENICI. I agree. Since I have the exact same information regarding the same warheads that are going to be enhanced, they will be in the inventory and enhanced as described, I ask unanimous consent that the entire list be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SAFETY TESTS STILL NEEDED

After all the strategic weapon reductions, there will still be eight or nine weapon types in the stockpile: B-61, W-62, W-69, W-76, W-78, W-83, W-87, W-88, W-80.

Of these, seven need safety modifications: B-61 IHE, FRP; W-62 ENDS, IHE, FRP; W-69 ENDS, IHE, FRP; W-76 IHE, FRP; W-78 IHE, FRP; W-80 FRP; W-88 IHE, FRP.

ENDS=Enhanced Nuclear Detonation Safety.

IHE=Insensitive High Explosive.

FRP=Fire Resistant Pit.

Normally there is no way to certify a warhead without five or more tests.

To install all safety modifications will take at least forty tests, unless we cut corners.

Mr. DOMENICI. I said that we have been advised that there are about an average of 5 tests for each. If there are 8, that is 40. That sounds much different than 15, and it really is.

Mr. COHEN. Will the Senator yield? I do not think it is quite 15. The amendment as written allows for 5 per year for 3 years; minus 1 for reliability, if the administration chooses one for reliability, and minus 1 for the British test. It is basically 3 per year for 3 years, or a total of 9 tests for safety.

Mr. DOMENICI. I thank the Senator. He is more right than I am.

The point is, when you are talking about this kind of event in our history, we have gone through building this arsenal. It is here. If anybody thinks that we do not get very much out of these underground tests and these tests for safety, let us look at this one real quick.

I do not need to cite the missiles down the side here, but every system except one had unpredicted failures discovered on nuclear tests. There they are, with the little red checks, "major system test, unexpected results." That is why we do tests. We do not do these tests because we like to do underground nuclear tests. I think America would be delighted to never do them again. I am certain that our friends from Nevada in whose State much of this occurs—I mean if they knew that America never needed to do these, they will not be here on the floor. They are concerned because they have manpower, they have facilities. We are going to put them all up in some kind of state of confusion because on the floor of the United States Senate we are going to come up with an ill advised multiyear plan for about three tests a year.

If I were on the Armed Services Committee, far be it from me to advise anyone, but I would be here asking that you do nothing for more than 1 year on this bill, and give it back to those who delve into this in great detail to see if we are right about the 8 systems, to see if we are right about how many tests you have to do, and to see if that jibes up with the 3 that are in here for each of the next 3 years.

So I urge—although it seems to me that the die is sort of cast, and unless we hear from additional members of the Armed Services Committee on our side and some additional Democrats on the other side, other than Senator EXON and LEVIN—if we do not hear from any, the die is cast on the floor of the Senate, in spite of what we are being told about the 8 systems, we are going to cavalierly decide that enough is enough, these are not very good things, and it is going to help some other program of negotiating on proliferation, which is going to get a big positive boost out of this. Frankly, it seems to me that we should be sure if we have 2,000, or 18,000 or 12,000 nuclear weapons, and whether we have an agreement to lower it more than it is today, we ought to do the safety experiments to make sure that what we have are safe.

I yield back any time that I have to the chairman, Senator JOHNSTON.

Mr. REID. Mr. President, under the order entered, it is my understanding that I control 1 hour; is that true?

The PRESIDING OFFICER. The Senators from Nevada are going to control 1 hour.

Mr. REID. Senator BRYAN has asked me to request that 10 minutes of his time be extended to Senator COHEN.

The PRESIDING OFFICER. The Senator from Maine is recognized for 10 minutes.

Mr. COHEN. Mr. President, it has been stated by several members that we have come a long way on this issue, and indeed I think we have come a very long way. Last week, the committee was talking about an amendment that would have established a 1-year moratorium period—nothing about safety and reliability, simply a 1-year moratorium. I think that the committee members—certainly the Senator from Oregon and others—tried to negotiate in good faith to come up with some acceptable compromise. They have come down from a year to 9 months. They have, in fact, recognized that safety is a critically important issue in this entire debate. That safety is not something to be dismissed lightly, or to be denigrated, saying, "oh, there they go again with their safety considerations, another ruse foisted on the American people by the Bush administration." They have also recognized that there are issues dealing with reliability and nonproliferation and the nuclear testing talks.

I might say, for the information of my colleagues, I raised these issues about this linkage, and there is a linkage between our testing practices and our ability to encourage other nations to join in the nonproliferation regime. There is linkage between our testing policies and reestablishing nuclear test talks with Moscow. There is linkage between all of this.

So I think we were right to raise these issues in the Armed Services Committee. As the Senator from Nebraska pointed out, we did not reach any conclusion. I raised this linkage in the Armed Services Committee markup in response to questions raised by Senator NUNN—he is not here just yet, but he will be soon—about the failure of the administration to really aggressively pursue the nuclear testing talks during the past several years. I think that was a legitimate complaint, and we tried to address that during the Armed Services Committee's mark-up and we were unable to reach a consensus.

The Senator from Oregon said this is a simple issue. I would like to take issue with that statement. This is not a simple issue. This is a very complex and complicated issue. I go back to the mid 1980's, when we had something comparable to this in terms of its popularity. It was called the nuclear freeze movement in this country, which was very, very popular at that time. It was something deeply held by well-meaning people, as far as the need to establish a nuclear freeze immediately. It come right on the heels of the Soviet Union—at that time the Soviet Union—deploying SS-20's in Eastern Europe. Had a nuclear freeze been endorsed by the Senate and the House and embraced by the President, that would have meant that the United States could not have deployed the Pershing II missile in West Germany and the cruise missile in other countries. And by rejecting the freeze's popularity and the apparent simplicity—not unlike what has been suggested here that a test ban is a simple issue—by rejecting that, we were able to deploy our Pershing II, and re-enter negotiations with the Soviet Union. We were able to eliminate the threat of the SS-20. We were able to pull back our Pershing II's.

We did all of that because we had to engage in a somewhat paradoxical situation of having to deploy a system in order to get real reductions. I say to my friend that we have that sort of complexity involved in this issue as well. It is not simply simple. It is quite complicated.

It has been suggested that 72 percent of the American people want an end to nuclear testing. As we all know, in this business, it depends on how you ask the question. Do you want an end to nuclear testing? Answer, yes. Do you want an end to nuclear testing if it means that a substantial portion of our residual nuclear weapons are going to remain inherently unsafe? Ask that question and find out what the results would be. Do you want an end to the Federal deficit? Well, 75 percent of the people would say, obviously, yes. Do you want an end to the Federal deficit if it means increasing your taxes; or if it means cutting Social Security; if it means cutting veterans benefits; if it means putting a means test to all of our entitlement programs?

So how you ask the question, or phrase the question, depends very much on what kind of an answer you are going to get. I do not doubt that 72 percent of the American people want an end to nuclear testing. The real issue is whether or not we are going to have remaining something that is safe and indeed reliable.

The Senator from Louisiana has pointed out—and I think very effectively, as has the Senator from New Mexico—that there are serious safety issues that have been raised—not by politicians or bureaucrats at the White House or down at the Pentagon. These issues have been raised by a panel put together at the behest of Congress 2 years ago. The so-called Drell panel was created at the request of a House committee. The Drell panel was the one that came to the conclusion that a substantial portion of our inventory still has major safety problems.

The Senator from Louisiana started to deal with that, and he showed a photograph, which I did not see at the time, but perhaps it was that accident we had at Grand Forks Air Force Base, North Dakota, in 1980 with a B-52 bomber. That bomber was loaded with SRAM-A missiles, and the W-69 warhead on that SRAM-A missile is not equipped with insensitive high explosives, or with a fire resistant pit, or with the enhanced nuclear detonation safety systems. It has none of those safety systems. We were lucky in this particular tragedy. As I recall, it was Dan Rowen who used the expression "the fickle finger of fate." We were spared a major catastrophe by that fickle finger of fate, because the wind was blowing the wrong way that day.

Let me read to you what an expert witness said in testimony taken before the Appropriations Committee:

> The wind happened to be blowing down the axis of the aircraft. Had the wind be blowing across, rather than parallel to the fuselage, the whole system could have been engulfed in flames (including the SRAM-A missiles). There is a real world out there, and those kinds of accidents happen. You are talking about something that in one respect could probably have been worse than Chernobyl, because you had plutonium in the soil and on the soil, which you have to clean up.

So here we have a situation in which one accident could have been a major catastrophe of Chernobyl proportions, had the wind been blowing across the aircraft rather than along its axis. Those are the kinds of issues we are dealing with. Safety is so important because the SRAM-A missiles simply do not have the safety devices necessary to protect the American people.

Mr. President, it was suggested that we are spending a half-billion dollars to test our weapons. I do not know if that is the accurate figure, but let's assume it is. That is a substantial amount of money. I also point to the Drell Commission, which pointed out that had we had an accident that dispersed plutonium, one accident could in fact involve not only the personal tragedy of thousands of people being affected by the plutonium, but we could spend at least a half-billion dollars cleaning up the nuclear contamination. At least a half-billion dollars. Now we are talking about having thousands of nuclear weapons in our arsenal for the indefinite future. As long as we have them, they should be safer and they surely ought to be reliable.

The amendment as originally proposed last week, or passed by the House, simply said let us have a 12-month moratorium. It had no nexus, no connection with efforts to encourage nonproliferation; no connection with how we are going to get the nuclear test talks underway again with Moscow; no ultimate strategy for trying to get this genie at least under control, if not back in the bottle, which is probably impossible.

I looked at the amendment that has been offered by the Senator from Oregon and my colleague, Senator MITCHELL from Maine, and Senator EXON. I want to call to their attention, and that of my colleagues, to page 6 where I find some major difficulties with the language as it has been written.

By setting a date of 1996 and fixing that as a deadline after which there will be no more testing whatsoever, it seems to me that does several things. Most importantly, it fully takes away leverage we might have or might need at that point to exert over those nations we are trying to encourage to comply with this nonproliferation regime. If you fix it——

The PRESIDING OFFICER (Mr. WOFFORD). The time yielded to the Senator has expired.

Mr. COHEN. May I have an additional 3 minutes?

The PRESIDING OFFICER. Is the Senator yielded an additional 3 minutes?

Mr. BRYAN. Yes; the Senator from Nevada yields 3 minutes.

The PRESIDING OFFICER. The Senator is yielded an additional 3 minutes.

Mr. COHEN. Mr. President, I will try to be brief as I can on this issue.

If we fix a time certain after which there will be no further testing under any circumstances, it seems to me we lose the leverage to encourage the very objective we all want, that it, to get other Nations not to engage in proliferation.

In addition to that concern, on page 3, it seems to me the way the language of paragraph (F) as written would, in fact, preclude a safety device being installed if a weapon already has one safety device. If a warhead already has the enhanced nuclear detonation safety [ENDS] system, paragraph (F) would preclude adding the two other safety features. That is contrary to what the Drell panel recommended: We should have all three safety devices, not just one. So the way in which the language reads, it would preclude the testing of any system if you already had one safety device. In fact, you may need all three.

Second, I think it was suggested by the Senator from Oregon that safety tests might be used for multiple purposes. The difficulty with that is that we want to test some systems for survivability against weapon effects. Our communications system, for example, are tested under the subkiloton level for this purpose and that would not be allowed under this particular language because safety tests are conducted at much higher yields.

NEED TO IMPROVE WEAPON SAFETY

Mr. President, no greater responsibility has been placed upon our shoulders than to protect the American people against the almost unimaginable threat posed by nuclear weapons. For decades, the aspect of this threat that has required our greatest attention has been the prospect of a Soviet attack on the United States.

With the fading away of the cold war in recent years, we have suddenly become much more aware of other aspects of the threat that were previously all but ignored. We have only recently faced up to the negligence with which the Department of Energy's nuclear weapon complex has been operated for decades, endangering large parts of America. This matter has acquired such urgency that the Armed Services Committee has told DOE that henceforth priority will be given to bringing its facilities into compliance with environmental laws and to cleaning up decades of waste, rather than on modernizing the complex.

Another aspect of the nuclear threat that has received inadequate attention until recent years is the danger associated with accidents involving nuclear weapons. While this issue has certainly not been ignored, reviews conducted in recent years have shown that the dangers are worse than had generally been assumed and that much more can, and should, be done to reduce these dangers.

Two years ago, the House of Representatives appointed a special panel on nuclear weapons safety to review the extent of this danger and make recommendations regarding it. This group, commonly referred to as the Drell panel after its chairman, Prof. Sydney Drell, delivered an extremely sobering message in its December 1990 report.

In a finding that should cause us to pause, the Drell panel reported that the tremendous progress in supercomputer capabilities in recent years had led to the "realization that unintended nuclear detonations present a greater risk than previously estimated (and believed) for some of the warheads in the stockpile."

In assessing the overall weapon safety situation, the Drell panel quoted an earlier, 1988, DOE Nuclear Weapons Safety Review Group that concluded:

> We still have risks from weapons that will remain in the stockpile for years. The potential for a nuclear weapons accident will remain unacceptably high until the issues that have been raised are resolved.

The Drell panel found that "although many things have been, or are being fixed, still more remains to be addressed" and that "there remains room for substantial improvement in nuclear weapons safety."

SAFETY FEATURES: THREE EXAMPLES

Far from being uniformly negative, however, the panel found that "safety standards can be raised if we take advantage of important new technical advances." Principal among these advances identified by the panel are:

Insensitive high explosive [IHE] to replace the conventional high explosive that compress the fissile material to produce a nuclear yield. In the panel's words "In certain violent accidents * * * (ordinary) high explosive has a high probability of detonating * * * causing dispersal of plutonium from the weapon's pit." In contrast, insensitive high explosive has very little likelihood of detonating in any plausible scenario.

According to the panel, use of "IHE is a very effective way—perhaps now the most important step—for improving the safety of the weapons stockpile against the danger of scattering plutonium."

Yet, even though IHE is viewed as the most important step to improve the safety of the stockpile, the Drell panel found that as of 1990 "only 25 percent of the stockpile is equipped with IHE."

Halting nuclear testing would prevent us from putting IHE into the warheads that will form the bulk of the stockpile for the indefinite future. Let me repeat, if proposals to halt testing are adopted, the majority of the nuclear stockpile remaining after the START II reductions will contain unsafe high explosive rather than the much safer IHE.

A second necessary safety feature is the enhanced nuclear detonation safety [ENDS] system, which isolates the electrical arming components from energy sources, such as lightning or other electrical disturbances, that could cause accidental detonation. The Drell Panel noted that barely half of the stockpile has the ENDS system, and that the others "do not meet the established stockpile safety criteria." Proposals to halt nuclear testing would prevent the incorporation of the ENDS system to these other weapons. This would raise unacceptable safety concerns.

A third safety feature is the fire-resistant pit, which is specially designed to prevent the release of plutonium even when the weapon is exposed to high temperatures for long periods, as might happen in a aircraft fuel fire. Proposals to halt nuclear testing would also prevent the incorporation of fire-resistant pits into the weapons we will retain.

Mr. President, safety features such as these are not luxuries. The simple fact is that our weapons today do not meet our existing safety critera, and, as the Drell Panel concluded, "the majority of the weapons in the current stockpile will have to be modified to meet existing safety criteria."

EVEN CTB DEVOTEES SUPPORT SAFETY IMPROVEMENTS

This is even acknowledged by the specialists who are often quoted by those who favor a halt to nuclear testing.

Dr. Ray Kidder is routinely cited as an authority by test ban advocates. At a seminar sponsored by the Congressional Research Service in May, he unequivocally stated that "IHE provides a major improvement in safety."

And yet the other person most frequently cited as an authority by test ban advocates, Prof. Frank von Hippel, acknowledged at a Foreign Relations Committee hearing 2 weeks ago that "after the implementation of the reductions that are underway, three warhead designs will not contain insensitive high explosive [IHE]." And, I would note, these three warhead designs will make up the majority of the weapon stockpile.

ACCIDENTS: SRAM-A

A vote to halt nuclear testing today is a vote to condemn the American people to live with unsafe nuclear weapons in their midst for years and years—indeed, until nuclear weapons are eliminated. Not just a few unsafe nuclear weapons, but a nuclear stockpile in which most of the weapons do not have critical safety features.

Anyone who believes that this is acceptable should review the consequences that could result from an accident involving a nuclear weapon.

Senators may recall an accident in 1980 in which a B-52 caught fire at Grand Forks Air Force Base in North Dakota. That bomber was loaded with short-range attack missiles, known as SRAM-A's. The W-69 warhead in the SRAM-A missile is not equipped with insensitive high explosive. It is not equipped with a fire-resistant pit. It is not equipped with the enhanced nuclear detonation safety system. It does not have any of the safety features highlighted as especially important by the Drell panel.

Testimony to the Appropriations Committee several years ago revealed that we were spared a catastrophe only by what comedian Dan Rowen used to refer to as the "fickle finger of fate." According to that testimony:

> The wind happened to be blowing down the axis of the aircraft. Had the wind been blowing across, rather than parallel to the fuselage, the whole system could have been engulfed in flames (including the SRAM-A missiles). There is a real world out there and those kind of accidents do happen. You are talking about something that in one respect could be probably worse than Chernobyl * * * because you have plutonium in the soil and on the soil, which you have to clean up.

In the Grand Forks accident, we were very lucky. The SRAM-A warheads on that bomber were not damaged by the fire. Next time, we might not be as lucky. This chart shows what could have happened. Had the warheads been damaged, plutonium could have been spread over a very large area, exposing a large number of people to this extremely dangerous, cancer-causing substance.

But this is not even the worst case—not by a long shot. As discussed in the Drell panel report, a fire aboard an aircraft loaded with the SRAM-A could result in a nuclear detonation. It goes without saying that the public health hazard represented on this chart would pale in comparison to that resulting from the immediate nuclear effects and the radioactive fallout produced by a nuclear detonation.

Only in the last 2 years have we finally faced up to the danger associated with this unsafe weapon system. In 1990, Secretary Cheney ordered that SRAM-A missiles be taken off alert aircraft.

But the Drell panel was categorical in stating that "It is not sufficient to pull such weapons off the alert ALPHA force but retain them in the war reserve stockpile * * *."

Moreover, the Drell panel stressed that "the SRAM-A is one such example, but not the only one."

ACCIDENTS: TRIDENT

The Drell panel also focused its attention on the Trident II D-5 missile. Neither of the warheads carried by the Trident missile have insensitive high explosive. The Navy has recently altered its missile handling procedures, greatly reducing the chances of the type of accident most often discussed. But so long as these warheads contain ordinary high explosive rather than IHE, there remains the danger of an accident.

Professor von Hippel, whom test ban advocates so frequently quote, testified to the Foreign Relations Committee earlier this month regarding the potential consequences of an accident at the Bangor, WA, Trident facility in which detonation of the high explosive in Trident warheads dispersed plutonium. According to Professor von Hippel, such an accident could cause thousands of additional cancer deaths. ["* * * anywhere from 20 to 2,000 additional cancer deaths."]

Beyond the public health hazards of this type of accident, the Drell panel estimated that such an accident would cost upwards of half a billion dollars to clean up.

Mr. President, these are not just abstract, hypothetical possibilities to me, and they should not be to other Senators. The SRAM-A was originally deployed in 1972 at Loring Air Force Base in my State of Maine, back at a time when the safety problems of the SRAM-A were not known. While Loring was subsequently converted to a non-nuclear base, the grave dangers associated with the SRAM-A that used to be deployed there lead me to be especially concerned about weapon safety issues. Even though my own constituents are no longer faced with the serious risk of a nuclear weapon accident, that does not mean that I can turn my back on other Americans who might be faced with similar risks today and in the future.

SRAM-II CANCELED

Some might respond that we can just retire the SRAM-A. A few will even cite testimony to Congress that DOE plans to retire the SRAM-A and replace it with the SRAM-II, which would have these various safety features. Senators might recall, however, that just last fall Congress and the administration decided to terminate the SRAM-II, both because of technical problems with the missile and as part of the arms control initiative adopted after the failed Soviet coup.

So we are stuck with the SRAM-A. And unless we want the American public held hostage to the "fickle finger of fate," we must act to make the SRAM-A safer. To do so, we could try to fix the unsafe W-69 warhead now in it. Or we could switch warheads, equipping the SRAM-A with the much safer W-89 warhead developed for the SRAM-II. In either case, however, testing would be necessary.

And, as the Drell panel emphasized, the SRAM-A is only one example of currently unsafe weapons we will retain in our inventory for the indefinite future.

Mr. President, we have been very fortunate in that the accidents that have occurred to date have not resulted in catastrophic consequences. But that does mean that we should do nothing more than hope that our luck continues. As the Drell panel summed up the matter:

> No matter how successful—and lucky—a system has been, it must not be allowed to breed complacency or justify the status quo. When one considers the potential for tragedy should a serious accident occur and considers the consequence of such an accident for our national security, it is clear that no reasonable effort should be spared to retain full vigor and care in the safety assurance process and to prevent any such accident from occurring.

Mr. President, there are other provisions of the amendment besides those I have discussed, which I think are objectionable in terms of the way they are written. I would be happy to discuss those with the Senator from Oregon or his staff. But I think the way in which it was written today, as it currently stands, I could not support that amendment.

I believe we have to be fully committed to the Drell panel's objective that no reasonable effort be spared to assure safety and prevent any accident. I do not believe that the amendment as currently drafted comes close to assuring that. At this point in time I would vote against the amendment as written.

I thank the Senators for yielding.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the President has put forward a new nuclear testing policy that takes safety into consideration. In fact, a nuclear test scheduled for September of this year at the Nevada test site has already been canceled as a result of this policy. The test did not primarily concern safety, and it was stopped.

The problem is not nuclear testing; it is nuclear weapons: There are too many of them, and there are too many of them in the wrong hands. The number of third world countries with nuclear capabilities seems to grow daily. Saddam Hussein's near success with developing a nuclear weapon should be an eye-opener for us all.

In addition to the United States, three Republics of the former Soviet Union, Great Britain, France, and China, four countries are believed to have nuclear weapons, or have the ability to assemble them in short order; namely, Israel, India, Pakistan, and South Africa. Several more nations are in pursuit of the bomb: Iraq, North Korea, Libya, Iran, Argentina, Brazil, Algeria, and, some say, Syria. Not all of these countries are exactly friends of the United States.

Some argue that if the United States stops testing, other countries will follow suit. Can anybody here say that Saddam Hussein would not have pursued his nuclear weapons program if the United States had ceased testing? The hypothesis is ridiculous and dangerous. Neither will Pakistan or India halt its nuclear development just because the United States stops testing. They fear one another, and they fear China, which recently tested a one megaton bomb. This is the type of test that is destabilizing, not the less than 20-kiloton explosions in the Nevada desert. If cutting off aid to Pakistan has not stopped their nuclear weapons program, setting an example by not testing certainly isn't going to do anything. The United States cannot afford such a symbolic and I submit, Mr. President, a useless gesture.

Though former President Gorbachev declared a 1-year testing moratorium, President Yeltsin has ordered his Ministry of Nuclear Energy and the military high command to ready the former Soviet test site at Novaya Zemblya for testing. The decree calls for tunnels to be prepared for a resumption of testing at the rate of two to four explosions a year. The Russians and the French will begin testing again. They will have to ensure the safety of their stockpile.

How could we object to the former Soviet Union, the Russian Republic, testing their weapons for safety purposes?

The events of the last few years show that test bans have nothing to do with ending the arms race. Our strategic stockpile will decline to 3,500 warheads by the turn of the century. United States-Soviet/Russian arms reductions demonstrate that eliminating testing is not necessary to achieve arms control. A halt to nuclear testing would not eliminate one nuclear weapon, nor would it increase international security. If anything, ending testing would decrease international security by sending a message of complacency to Third World countries.

It is essential that we test nuclear weapons to ensure their safety. Although they are among the most complex weapons in the U.S. arsenal, nuclear weapons are tested only a small fraction as much as other weapons systems adopted by our military forces.

Some proponents of a nuclear test ban say that the stockpile is already safe. But one of the arguments against nuclear testing is: "Isn't a safe weapon an oxymoron?" It's a silly statement, but I have heard it several times, even among those who should know better. Ask our military men and women in the field about the importance of safe weapons. It is no oxymoron to them. To them a safe weapon means survival. Ask civilians who live near bases where nuclear weapons are stored. It's no oxymoron to them.

In May of 1990, Defense Secretary Cheney acknowledged a safety problem with U.S. nuclear artillery shells in Europe. The defects had been found in hundreds of W79 short-range nuclear artillery shells based in Germany, Italy, and the Netherlands. These are shells that can deliver a 10-kiloton nuclear blast.

The safety problems were confirmed through testing at the Nevada test site in 1988. Because problems were identified through testing, they were fixed, and accidents were prevented.

Over the last 32 years, there have been 32 accidents involving nuclear weapons, almost a third of which involved the dispersal of radioactivity. These contaminating accidents occurred throughout the United States at bases in New Mexico, Texas, Louisiana, New Jersey, Indiana, and Ohio. In addition, radiation contaminating accidents have occurred in Palomares, Spain, where there was a mid-air collision; Thule, Greenland, where there was a crash, and there was a radioactivity dispersing accident at a SAC base overseas, the site of which is still classified.

These are just the accidents that have dispersed radioactivity. Other accidents involving nuclear weapons have occurred in the States of Washington, California, Florida, Georgia, South Carolina, Kentucky, North Carolina, Missouri, South Dakota, and Arkansas. In addition, accidents have occurred at sea and at U.S. bases overseas.

I ask unanimous consent that the details of these accidents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE I.—SUMMARY OF ACCIDENTS INVOLVING U.S. NUCLEAR WEAPONS

Accident No.	Date	Location	Weapon configuration			Type of accident	Nuclear weapon response		
			Assembled weapons	Unassembled weapons	Component only		HE response		Contamination
							HE burn	HE detonate	
1	02/13/50	Puget Sound, WA		X		Jettison, 8000′		X	
2	04/11/50	Manzano Base, NM		X		Crash into mountain	X		
3	07/13/50	Lebanon, OH		X		Crash in dive		X	
4	08/05/50	Fairfield-AFB, CA		X		Emergency landing, fire		X	
5	11/10/50	Over water, outside US		X		Jettison		X	
6	03/10/56	At sea (Mediterranean)			X	Aircraft lost			
7	07/27/56	SAC		X		B-47 crashed into bunker			
8	05/22/57	Kirtland AFB, NM		X		Inadvertent jettison		X	X
9	07/28/57	At sea (Atlantic)		X		Jettisons, 4500′ & 2500′			
10	10/11/57	Homestead AFB, FL		X		Crash on takeoff, fire	X	X (low order)	
11	01/31/58	SAC base overseas	X			Taxi exercise, fire	X		X
12	02/05/58	Savannah, GA		X		Midair collision, jettison			
13	03/11/58	Florence, SC		X		Accidental jettison		X	
14	11/06/58	Dyess AFB, TX	X			Crash on takeoff		X	X
15	11/26/58	Chenault AFB, LA	X			Fire on ground	X		
16	01/08/59	US Base, Pacific		X		Ground alert, fuel tanks on fire			
17	07/06/59	Barksdale AFB, LA	X			Crash on takeoff, fire	X (1/5)		X (1/3)
18	09/25/59	Off Whidbey Is., WA		X		Navy aircraft ditched			
19	10/15/59	Hardinsburg, KY	X			Midair collision, impact	X (2/2)		
20	06/07/60	McGuire AFB, NJ	X			Missile fire	X		X
21	01/24/61	Goldsboro, NC	X			Midair breakup			
22	03/14/61	Yuba City, CA	X			Crash after abandonment			
23	11/13/63	Medina Base, TX			X	Storage igloo at AEC plant	X	X	X
24	01/11/64	Cumberland, MO	X			Midair breakup, crash			
25	12/05/64	Ellsworth AFB, SD	X			Missile reentry vehicle fell			
26	12/08/64	Bunker Hill AFB, IN	X			Taxi crash, fire	X (3/5)		X (1/5)
27	10/11/65	Wright-Patterson AFB, OH			X	Transport a/c fire on ground			X
28	12/05/65	At sea, Pacific	X			Aircraft rolled off elevator			
29	01/17/66	Palomares, Spain	X			Midair collision, crash		X (2/4)	X (2/4)
30	01/21/68	Thule, Greenland	X			Crash after abandonment		X (4/4)	X (4/4)
31	Spng, 68	At sea, Atlantic	X			Lost weapons			

TABLE I.—SUMMARY OF ACCIDENTS INVOLVING U.S. NUCLEAR WEAPONS—Continued

Accident No.	Date	Location	Weapon configuration			Type of accident	Nuclear weapon response		
			Assembled weapons	Unassembled weapons	Component only		HE response		Contamination
							HE burn	HE detonate	
32	09/19/80	Damascas, AK	X			Missile fuel explosion			

Notes.—USAF September 19, 1977 press release to Richard Panter, Eye-Witness News Boston, obtained under the Freedom of Information Act, supplemented by DOD per Appendix I. The term "Assembled Weapon" means either that the separable nuclear capsule was installed but was not in the bomb's pit or sealed-pit type of weapon with the nuclear material integral with the HE subsystem. "Unassembled Weapons" means that the separable nuclear capsule was not installed in the weapon, (the USAF press release for accidents 1–13 used the term "assembled weapon" for the above plus where a capsule was on the aircraft. Contamination from all accidents except 29 and 30 was low in radioactivity and highly localized in area affected. In the parentheses), the first number indicates the number of weapons that had the named response, and the second number gives the total involved in the accident.

Mr. REID. The accident that occurred in South Dakota which has been talked about here and has been illustrated, as it was before the full Appropriations Committee, involved a fire which, I repeat, if the wind had shifted—the fire burned for 5 hours—would have carried a plume of radioactive plutonium which would have left the State essentially unlivable.

How many Members of this body, especially those from States and regions where accidents have occurred—and I read off those 32 accidents—are willing to go home and tell their constituents they are not willing to take every step to keep the nuclear stockpile safe?

Every Senator should carefully consider how many nuclear weapons are stored in his or her State before deciding that testing for safety is unnecessary.

As Senator COHEN so eloquently stated, an independent congressionally appointed panel, the Drell panel, has recommended that the United States give greater emphasis to designs that would make nuclear weapons "as safe as practically achievable." To develop such designs will require some further testing.

These safety improvements include the use of insensitive high explosives, that is, explosives that are virtually impossible to detonate in a great majority of violent accidents. Other safety improvements include electrical systems that incorporate enhanced nuclear detonation safety for a nuclear warhead. Such electrical systems would, for example, protect a weapon from the effects of spurious electrical signals such as lightning.

Without nuclear testing our confidence in our nuclear deterrent would erode with time. In the future, we will rely on only a small fraction of the nuclear systems that we had in the past. We cannot afford to allow one of these systems to become unsafe or unstable.

Currently, selected nuclear weapons are withdrawn at periodic intervals from the stockpile for examination. Unexpected deterioration in certain components of a warhead, or unforeseen conditions to which the warhead may have been exposed, can cause varying degrees of uncertainty about its performance.

For example, the warhead for the *Polaris* submarine ballistic missile was discovered to have undergone some corrosion several years after its deployment. A nuclear test of the *Polaris* warhead showed that the corrosion was seriously affecting the warhead. This defect, if left uncorrected, would have caused a major portion of our sea-launched ballistic missile deterrent force to be inoperable and unsafe. This could only have been determined through nuclear testing.

In the future we will most likely have only one nuclear warhead for our sea-launched ballistic missiles. If problems occur with it—a very possible event—we will not have a reliable and safe submarine-based nuclear deterrent. One of the legs of the triad would, in effect, be crushed.

Acquisition regulations for nuclear survivable systems require that nuclear survivability must be demonstrated through a combination of underground testing and above-ground simulation. Potential downsizing of nuclear arsenals and military forces in the United States and the former Soviet Union does not negate the need for nuclear survivable systems.

In fact, it can be argued that the nuclear survivability of the remaining weapons systems in the United States will be more important, since we will have to do more with less. The Desert Storm experience should serve as a warning that future regional conflicts could involve nuclear-capable adversaries. What would have happened if Saddam Hussein had exploded a nuclear device over the battlefield? What would have happened to our tanks, aircraft, missiles, communications systems, and other systems? No one knows. We need to know.

We must be sure that every potential adversary knows we are prepared to survive attack. If deterrence is to work, U.S. forces must not present easy targets for preemptive attack in a crisis. Our retaliatory forces, as well as the warning sensors and command-and-control systems that alert and provide direction to them, must be capable of performing critical functions during and after exposure to nuclear effects.

The value of our deterrent is strongly dependent on being confident that our aircraft, our tanks, as well as other military systems, will operate as designed. Nuclear testing is the only way to ensure that such confidence is achieved. Changes to existing military systems, such as guidance upgrades, safety modifications, and new fuzes, must be validated to ensure that they do not compromise the systems' survivability.

The United States must maintain its capabilities in nuclear weapons safety design. As long as nuclear weapons remain on the world scene, the United States needs to maintain a competent cadre of nuclear weapons scientists. The nuclear weapons business is a highly specialized and relatively small community. It we stop nuclear testing for 9 months, we will lose these experts, or a lot of them. If we decide after that time to begin testing again, or if 3 months from now when the Russian moratorium ends and they decide to start testing again, will we be ready? The answer is probably, no. The Third World proliferators are dedicating their best and brightest scientists to this pursuit. It is incumbent on the United States to maintain its nuclear expertise.

One of the arguments against further testing is that it is bad for the environment. When a nuclear device is exploded beneath the Nevada desert, the surrounding rock is vaporized and quickly cools to a glass-like substance. This vitrified rock very efficiently contains the radionuclides, preventing them from spreading. The radionuclides are locked into the crystals.

An Office of Technology Assessment [OTA] report called the Containment of Underground Nuclear Explosions came to the conclusion that, since the accidental venting in 1970 during the Baneberry test, nuclear testing has been safe: "If the same person had been standing at the boundary of the Nevada test site in the area of maximum concentration of radioactivity for every test since 1970, that person's total exposure would be equivalent to 32 extra minutes of normal background exposure or the equivalent of 1/1,000 of a single chest x ray."

If you were to walk across the Nevada test site today, you would pick up less radiation than if you walked through the city of New York.

With regard to ground water, the EPA has been sampling ground water around the Nevada test site since 1972. To date, no radioactivity has been detected. The Nevada test site has an active ground water monitoring program called the hydrology and radionuclide migration program. This is a DOE Program with participants from Lawrence Livermore and Los Alamos National Laboratories, as well as the Desert Research Institute and the U.S. Geological Survey.

Again, from the OTA report:

> No analysis of groundwater has ever found tritium [the most mobile of the radioactive material] at a distance greater than a few hundred meters from some of the old test sites. None of the water samples collected outside the boundary of the test site has ever had detectable levels of radioactivity attributable to the nuclear testing program. An independent test of water samples from around the test site was conducted by Citizen Alert at 14 locations. [Citizen Alert is an environmental community action group in Nevada.] Citizen Alert found no detectable levels of tritium or fission products in any of their samples.

The environmental vote today is a vote to continue testing for safety. It is a vote against the Hatfield amendment. Accidents involving the dispersal of radiation could be disastrous.

There are also those who say we should rely on computer modeling rather than actually exploding a nuclear device. Even tests done today using the most sophisticated computers available cannot accurately predict results. We still get plenty of surprises.

Of the 14 fiscal years 1991 and 1992 tests conducted to date, one had a yield nearly a factor of 10 below expected, two had primary yields half that expected, and one had a total yield about 16 percent below expected. You may say, "So what? They'll still do damage." But that is not the point. All test predictions were based on experienced judgment, the best computers and models, and the best nonnuclear tests. All were wrong, which indicates we still have an incomplete understanding of how a nuclear device will work. Without nuclear testing, there will be little confidence in our calculations if future safety issues are raised.

Most of the progress we have made in the safety of nuclear warheads is a direct result of nuclear testing. Recently, computer calculations of several nuclear weapons systems suggested that the weapons did not meet their safety requirements. It was impossible to determined the accuracy of the new calculations without conducting nuclear tests that isolated the predicted deficiencies. Subsequent nuclear tests confirmed the basic validity of these new computer codes, and established new limits in our design capabilities.

Our history of nuclear warhead development makes it abundantly clear that computer calculations could hardly substitute for a nuclear test to confirm that a warhead has been safely designed. These tests provide us with the only means we have to guarantee that the nuclear stockpile remains safe.

Between 1958 and 1961, the United States entered into a nuclear test moratorium. Let us take a look at what happened as a result.

What happened is one of the most dangerous results of the 1958-61 moratorium was that designers, in the absence of test data, began to believe their own theoretical calculations. An example is the W52 warhead for the Sergeant missile. During the test moratorium, a fatal production accident prompted scientists to change the high explosives in the warhead. Based on calculations and many non-nuclear tests, the lab had high confidence in its change of high explosives. The weapon, therefore, was stockpiled with the new explosives.

The scientists were so confident in their calculations that they did not test the W52 for 2 years after the moratorium was over. When they finally did conduct a nuclear test, they discovered it was a dud—it did not work. Fortunately, as a result of nuclear testing, we were able to fix the problem. What if the W52 had continued to have a safety problem as we stockpiled it? Without a test, we do not know what would have happened.

When the test moratorium ended, it was very difficult to get started again. We had lost our scientists and our testing capabilities had degraded to an unacceptable level. When testing finally did resume, there were surprises with nearly every test. The last thing a captain of a submarine carrying nuclear weapons needs on board his boat is a surprise.

A test ban will reduce our ability to make safety upgrades, and we will lose our technical capabilities, including experienced designers and test site capabilities.

John Curran once said: "Eternal vigilance is the price of liberty." As long as the United States maintains a nuclear deterrent as a fundamental element of defense strategy, some amount of nuclear testing will be required.

I ask my colleagues, whether they are cosponsors of the Hatfield amendment or not, to not let politics rule reason.

This modified amendment is not a good amendment. It is fallacious. It does not solve the problems that it seeks to solve. And we will rue the day we do not test for safety of our nuclear arsenal.

I yield the floor.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be deducted proportionately.

The Senator from Nevada.

Mr. BRYAN. Mr. President, unless one of my other colleagues desire to speak at this point I would like to use 10 minutes of the time which is under my control, and that of Senator REID, at this time.

The PRESIDING OFFICER. The Senator from Nevada [Mr. BRYAN].

Mr. BRYAN. I thank the Chair. None of us today would fail to acknowledge that winds of change have blown across the international landscape; that relations between east and west are measurably better than they were just a few years ago; that the collapse of the Soviet Union and a step back from the nuclear Armageddon that gripped America for the past four decades, is welcome news. Men and women throughout the world have rejoiced in these developments and I think it is a propitious moment for us to look to the century ahead, that perhaps we can indeed embark upon a future which provides greater peace and security for all of our citizens.

We ought not in that moment of flush euphoria, let this excitement about these dramatic international events of just the past few years cloud our judgment and our decisions regarding the issue of continued nuclear testing.

As long as the United States maintains a nuclear stockpile, we need to assure the capability to test our remaining weapons, and we must continue those necessary tests.

The Nevada testing facility is a unique resource, and the Nation's investment in it must be protected even if the frequency of testing is reduced due to the smaller number of nuclear weapons in the stockpile and the absence of new warhead designs.

An appropriate level of testing needs to be maintained in order to upgrade our current weapons stockpile to the highest standards of safety, and to maintain confidence in the existing stockpile as the weapons age, and as weapons components are renewed and recycled.

The administration has modified American nuclear testing policy in response to the rapidly evolving international situation to which I have just alluded.

In a recent policy change, the Department of Defense stated that the United States will conduct only the minimum number of nuclear tests necessary to evaluate and improve the safety and reliability of our shrinking nuclear stockpile.

To limit testing beyond these parameters is not only unnecessary but irresponsible.

A nuclear weapon is not a static, inert commodity.

As weapons age, they need to be maintained and modified.

Nuclear components such as tritium need to be replenished.

As our stockpile shrinks and ages, some testing will be essential to assure both the safety and the reliability of the remaining weapons.

Indeed, it would be irresponsible to abandon our capability to test the stockpile as it ages.

Underground testing is the cornerstone of ensuring the safety of our aging nuclear weapons stockpile.

The Department of Defense has committed itself to making our nuclear weapons as safe as modern technology permits.

Mr. President, that ought to be the goal of all of us, to make sure that existing nuclear stockpile is as safe as modern technology permits. That cannot be achieved without continued testing.

An independent, congressionally appointed panel chaired by Dr. Sydney Drell also recommended that the United States should give a greater emphasis to nuclear weapons designs, that would make these weapons "as safe as practically achievable." A moratorium directly threatens these important goals.

During the nuclear age, there have been several accidents involving nuclear weapons. The distinguished senior Senator from Louisiana has alluded to some of those. The distinguished senior Senator from New Mexico has alluded to others. The Senator from Maine, earlier this afternoon, mentioned others. And my distinguished senior colleague from Nevada, Senator REID, has mentioned others.

They have ranged from ones that did not disperse nuclear material, such as the Titan missile accident in Damascus, AR, to a few accidents in which explosives in the weapons detonated, dispersing nuclear material but not resulting in a nuclear explosion.

Future safety needs and changing safety designs should not be foreclosed by a testing moratorium.

For instance, an important safety feature, the development of insensitive high explosives [IHE's], required a substantial number of nuclear tests in the 1970's.

Nuclear weapons equipped with insensitive high explosives have extra protection from potential chemical explosions, if the warhead were dropped or pierced.

Only through additional testing will all our nuclear weapons meet this safety standard.

Research is currently being conducted on nuclear warheads that can withstand the intense temperature of an aircraft fire.

A moratorium on nuclear testing would threaten this research, and seriously limit future safety upgrades.

As our stockpile of nuclear weapons is reduced, the reliability of each nuclear weapon becomes absolutely critical to an effective deterrence.

Only through testing can we have adequate assurance that our nuclear weapons will function as expected in a time of crisis.

Stockpile surveillance, above ground experiments, and modeling often uncover flaws that cannot be resolved without the use of a nuclear test.

Almost one-half of the nuclear weapons systems developed since 1970 have needed nuclear testing to correct or evaluate defects.

Clearly, a testing moratorium would seriously hamper our confidence in our nuclear weapons stockpile.

Some of America's greatest technological resources have been devoted to design, production, and testing of our nuclear weapons.

Personnel at the Nevada test site in my own State are a small community of highly specialized workers, with expertise found nowhere else in the world.

If a testing moratorium is enacted, many skilled researchers and testing technicians will leave the program, threatening the viability of this vital national resource.

New military systems in areas critical to American security such as surveillance and communications are constantly being developed.

Nuclear testing is vital to ensuring the survivability of these systems.

Computer simulation techniques are continually being developed to limit the number of nuclear tests needed, but for the foreseeable future, simulation cannot replace the need for limited actual nuclear testing in this area.

Since 1958 the United States has deployed 41 different nuclear weapons systems.

Of these, 14 needed corrective modifications after they were ready for deployment.

These deficiencies were either discovered or corrective measures evaluated in subsequent nuclear tests.

Many may try to argue that our nuclear stockpile is safe enough.

However, safe enough is a dangerous concept when dealing with accidents involving nuclear weapons.

My senior colleague alluded to the W-79 warhead, a warhead that was believed to be unsafe. It went through a series of computer modelings and simulations, but only after testing at the Nevada test site was it determined that this nuclear artillery shell was indeed dangerous and could have detonated as a result of simply being dropped.

The tests that were used to confirm these results were conducted at the Nevada test site as part of the safety evaluation program.

Mr. President, this did not occur in the dawn of the nuclear age. This occurred just 4 years ago. I ask unanimous consent that an article in the Washington Post dated May 23, 1990, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 23, 1990]

DEFECTIVE NUCLEAR SHELLS DISCOVERED IN EUROPE—U.S. SECRETLY REPAIRING FAULTY WEAPONS

(By R. Jeffrey Smith)

In a series of secret moves, the U.S. government discovered—and is repairing—defective nuclear artillery shells that could have exploded accidentally while stored in Europe, and has started urgent studies of the designs of two other atomic warheads whose safety is suspect, according to senior U.S. officials and weapons scientists.

In the most serious incident, the government in 1988 belatedly discovered a defect in the W-79 short-range artillery shell after it had been deployed in Europe. Urgent orders were issued not to move the warheads, and repair teams hurried to the nuclear ammunition depots to disable the several hundred shells so they could not be accidentally detonated, the officials and scientists said.

The artillery shells, which are deployed in at least three West European countries and in U.S. stockpiles, are being modified so they will detonate only after being fired in battle, the officials said.

The Joint Chiefs of Staff, in a separate nuclear weapons safety incident, last year secretly imposed special restrictions on the handling and deployment of a short-range missile carried by U.S. strategic aircraft in order to avoid accidental explosions that could disperse cancer-causing, radioactive plutonium from the missile warhead, these sources said.

The Department of Energy, in a third case, last week agreed to a secret congressional request for an independent scientific inquiry into the possibility that a nuclear warhead now being deployed aboard Trident strategic submarines could be detonated in a possible missile-handling accident in port, according to the sources.

The problems with the three weapons have raised serious questions on Capitol Hill and in the Bush administration about U.S. nuclear weapons safety. Some experts forecast that additional problems may be uncovered by special scientific inquiries at the nuclear weapons laboratories ordered recently by Secretary of Energy James D. Watkins.

The Department of Energy (DOE) is responsible for the design and production of all nuclear warheads. The Department of Defense (DOD) determines warhead requirements and develops the weapons on which the warheads are deployed.

Watkins, while declining to discuss difficulties with specific weapons, said in an interview this week that "we're not all that comfortable" with the government's past approach to several safety issues, and that "we need to focus a lot more" on measures to diminish the risk of accidentally dispersing plutonium in warheads.

Watkins also emphasized that when weapons safety problems are uncovered, "we take the operational steps necessary to minimize those risks, take the weapons out of service if necessary and then look for some midterm and long-term fixes. We're in that process right now."

He added in response to questions that "fortunately, we don't have many (weapons) that fall into that category, but I can tell you that we're serious about those things and we do what's necessary to make sure that we don't have any situation . . . where we can't meet our (safety) specifications."

In contrast to the wide attention recently given to environmental and scientific problems of nuclear weapons production, safety questions about individual weapons have scarcely been scrutinized outside the tight-knit community of weapons designers and the defense officials to whom they answer.

Some high-level Bush administration officials say they believe that safety issues traditionally have had a much lower priority than military concerns such as increasing a nuclear weapon's explosive power, efficiency or reliability.

But Watkins, who says he came into office in 1989 with a "very significant sense of laxity in the safety practices of DOE," has ordered what other officials say is the first comprehensive assessment of the probability of an accident involving any of the more than 20,000 nuclear warheads deployed with U.S. forces-around the globe.

No nuclear weapon ever has been known to detonate accidentally and produce a nuclear yield. However, there have been unexpected detonations of the volatile chemical explosives surrounding the nuclear materials in warheads, including several incidents that resulted in considerable radioactive contamination.

Officials say that Watkins's safety concern about the Short-Range Attack Missile–A, or SRAM–A, carried by strategic bombers led to establishment of a special committee on nuclear weapons safety last year that includes senior DOD and DOE officials.

Although it will report simultaneously to Watkins and Defense Secretary Richard B. Cheney, the two departments, in a conflict indicating diverging priorities on weapons issues, fought a heated battle over who would chair the committee. The dispute eventually was won by DOE.

"I felt it was necessary that we have a somewhat independent committee . . . that could stand off from military requirements, military demands and focus heavily on the safety issue," Watkins said. "I just felt that conflict of interest ought to be separated out."

The information about recent nuclear weapons safety problems in this article is derived from interviews with more than two dozen U.S. military and civilian officials and nuclear weapons scientists. None was willing to be quoted by name, because everything about the episodes is highly classified.

THE W–79

Officials say the most dangerous and politically sensitive incident was the surprise discovery in early 1988 that W–79 artillery shells deployed in West Germany, Italy and the Netherlands could accidentally explode if they were struck forcefully at a sensitive spot, perhaps by a stray bullet or impact from a nearby battlefield explosion in wartime.

A single, elliptical reference to the problem appeared in an unclassified report issued by Watkins three months ago. The report mentioned that a warhead developed by Lawrence Livermore National Laboratory under DOE supervision, identified only as "WXX," had recently caused "one-point safety concerns" that were confirmed by underground nuclear testing.

U.S. officials subsequently confirmed that the "WXX" was the W–79.

"Nobody was blase about it, but nobody was panicky either," said a senior military official of the government's reaction. "We did not foresee an imminent catastrophe. But when it comes to nuclear safety, we treat everything as potentially serious."

Computer calculations and underground tests before the start of production in 1981 had indicated no safety problems. But a new safety analysis at Livermore in 1988 raised concerns that were confirmed by secret underground nuclear tests in December 1988 and February 1989, officials said.

The tests indicated that the W–79 did not meet a secret government safety standard requiring that with any warhead design, under any circumstances, there be less than a one-in-a-million chance of an accidental nuclear explosion with a yield as powerful as a blast from about four pounds of TNT, enough to destroy a small room.

Several officials said an inadvertent explosion of the material surrounding the nuclear core was particularly likely to produce a nuclear yield if it occurred while the shells were loaded inside the 8-inch howitzers from which they are fired, an unusual circumstance in peacetime. But a senior military official said, "For a while, we were also worried that these things might go off if they fell off the back of a truck and landed in a certain way."

The officials did not say how big an accidental explosion a W–79 shell might have caused. The warhead is designed to explode in battle with up to a 10-kiloton nuclear yield, about two-thirds the force of the 1945 Hiroshima bomb.

A highly-placed foreign official said that after the confirming nuclear test, a small group in the West German government was told in a general way that "there was a chance of technical failure leading to an explosion" of the shells and that "some adjustments" to their design were needed to prevent any accident.

Senior West German officials "were not informed explicitly" how an accidental nuclear blast might occur, the official said, "but I do not rule out that a more detailed briefing was given to specialists" in the German ministry of defense, he added.

Officials said the information was kept otherwise secret to avoid panicking citizens or calling into question the viability of the U.S. nuclear force in Europe, which includes dozens of nuclear-tipped missiles, more than 1,000 nuclear bombs and hundreds of older, nuclear-tipped artillery shells.

"It was obviously a politically hot potato," a U.S. official said.

Another senior military official said the episode alarmed the Pentagon and induced tensions with DOE. "It was the sort of problem that never should have occurred," the official said. "There simply was no good excuse for it."

After ordering that all W–79 warheads be immobilized at their storage sites, the government sent teams of experts in early 1989 to install special "safing mechanisms" to block any detonation of the shells, several officials said.

Some of the warheads have been returned to the Pantex warhead production plant in Amarillo, Tex., so the "safing mechanisms" can be disabled and additional steel plating installed inside the skin of the shells at particularly sensitive spots.

Of the W–79 problem, Watkins said only, "Without any question, safety has been preserved." Pentagon spokesman Pete Williams said last night that "the point is: the weapon is safe." He added that "changes were made to the W–79, but I can't discuss the details of that."

The shells are in special U.S. storage bunkers overseas and at the Seneca Army weapons depot in New York state, including some that are still inoperative. Asked why, a senior official said, "it has to do with politics within the (Western) alliance."

But the Nuclear Weapons Council, three senior DOE and DOD officials who decide nuclear warhead production matters, was sufficiently concerned about the W–79 to decide early this year that its design would not be replicated in a slightly smaller artillery shell, the W–82.

"If one of these shells had a problem, then by definition the other one would certainly have it, too, in terms of the basic physics," one official said. "They basically have the same 'primary', or nuclear core, he explained.

The decision forced at least a two-year suspension of W–82 production, which had been scheduled to begin last February. Several sources said the delay was partly at the urging of Congress, which voted secretly last year to block W–82 spending until the Bush administration certified that it was safe.

President Bush announced on May 3 that he wanted to halt the W–82 deployment program in response to the declining military threat in Eastern Europe. A senior U.S. military official said the design defects, which Bush did not mention, played no role in the decision.

W–88 TRIDENT WARHEAD

Discovery of safety defect in the W–79 artillery shell prompted a more extensive review by the weapons laboratories of other warheads, which soon cast a shadow over the thermonuclear weapon now being deployed atop D–5 missiles in Trident submarines, the W–88.

Some U.S. weapons scientists have alleged, based on computer modeling of accident scenarios, that the W–88 could be detonated accidentally if the propellant fuel in D–5 missiles catches fire due to mishandling during loading operations at the Trident bases in Bangor, Wash., and Kings Bay, Ga.

A powerful nuclear blast or widespread dispersal of cancer-causing plutonium dust would result, these scientists say. They add that, in years past, the latter possibility has been taken so seriously that Livermore experts prepared maps of potential plutonium fallout over Spokane, Wash., near the Trident base at Bangor.

The allegations are the subject of a bitter scientific dispute at the highest levels of the Pentagon and DOE, according to some of the officials involved. The stakes are enormous, because the Trident missile system is expected to be at the heart of America's strategic deterrent force for the next three decades.

Although senior DOE and DOD officials say the risks are small, Watkins last week agreed to a secret, bipartisan congressional request that the issue be adjudicated by a special panel of three independent scientists cleared to review the nation's most sensitive nuclear weapons information.

Watkins said, "I have viewed all of the analysis, time and time again" on the W–88, as have the directors of the three U.S. nuclear weapons laboratories and I'm satisfied . . . that we can continue to do the analysis we have to do on that weapon without undue concern." He said it now meets all nuclear explosive and weapons system safety standards.

At the same time, Watkins said that "had I been intimately involved in this process" during key deliberations in the early 1980s, "I would not have" made the decision to use the warhead's current design. "I don't think that kind of decision will ever be made again, and certainly won't be made while I'm here, and I believe with the kind of discussions that we've had with DOD it's not going to be made again."

At issue is the use of volatile explosive materials in the W–88 warhead that scientists say would explode in a missile fire, producing forces that could compress the nuclear core in each bomb and begin a nuclear chain reaction. The Trident missile is considered particularly vulnerable to such an accident because its multiple warheads are arranged in a circle around the propellant fuel in the missile's third stage.

The warheads on most other U.S. ballistic missiles are arrayed on a platform that sits atop the final stage, allowing for the use of some form of insulating material to protect them from a missile fire.

Scientists at Livermore strongly protested the decision to use the volatile materials, but W–88 designers at Los Alamos National Laboratory said that using a less volatile material would not have substantially diminished the risk of an accident. The Navy also opposed the idea because the added weight of the alternate materials would have reduced the missiles' range or required the deployment of fewer warheads on each missile.

Watkins said he would have "accepted the very modest penalties" associated with using the less volatile materials. He said "a special task team" has been formed to "see what can be done" about W-88 modifications.

The congressional request for an independent inquiry was initiated by Rep. John M. Spratt Jr. (D-S.C.), who chairs the House Armed Services Committee's panel on DOE defense nuclear facilities. He was joined by Rep. Les Aspin (D Wis.), the House Armed Services Committee chairman; Rep. William L. Dickinson (Ala.), the committee's senior Republican; and Rep. Jon L. Kyl (Ariz.), the senior Republican on the committee's defense nuclear facilities panel.

Details of the Trident safety problem described in this article were not obtained from congressional sources.

W-69 SRAM-A WARHEAD

Watkins said that in early 1989 he told senior aides to ask the directors of the nation's three nuclear weapons laboratories whether they were "satisfied" with the agency's handling of safety issues. "The answer was no," he said, and one lab director used the opportunity to raise strong concerns about a particular weapon that "needed to have some aggressive attention."

Watkins declined to say what the weapon was, but officials at another agency identified it as the SRAM-A, a 1970s-vintage weapon carrying a warhead that uses the same volatile material as the W-88 Trident warhead. Roughly 14 feet in length, the weapon can be slung below the wings of B-52, B-1B or FB-111 bombers or carried in the internal bomb bay. "It's basically a fuel tank with wings," one official said.

They said longstanding safety concerns about the weapons are partly based on an intense B-52 engine fire on the runway at Grand Forks, N.D., in September 1980 that injured a crewman and came close to causing an electrical short in the SRAM. The short might have caused the volatile material to explode, dispersing the plutonium in the weapon's core, several officials said.

Acting at Watkins's initiative, DOE officials sought to mention several safety problems involving the SRAM-A warhead in a routine report to Bush last year about the overall safety of the nuclear weapons stockpile. But DOD officials rebelled, causing submission of the report to the White House to be held up for more than three months, according to officials at both agencies.

Watkins said he used the dispute to win DOD's approval for a new weapons safety review committee under DOE's control. He also said the safety matters at issue were explained to Bush by national security adviser Brent Scowcroft with Cheney's concurrence.

"I would have just moved unilaterally (with Bush) had I not been satisfied that the thing was being well aired," Watkins said. Other officials said Watkins and Cheney agreed on the need to control aircraft operations involving the SRAM-A tightly while further analysis is being done.

DOD spokesman Williams said "the Joint Staff did approve modifications to procedures involving the SRAM-A," but declined to say what they were.

Mr. BRYAN. Mr. President, incorporating the best available safety technology into our remaining weapons, including such features as insensitive high explosives and fire-resistant pits will require further testing.

Let me, in the few moments I have left, evaluate the amendment that the distinguished Senator from Oregon and a number of our colleagues have offered.

First, Mr. President, it is clear it provides for a 9-month temporary, as it is referred to, moratorium. The nuclear testing program is not like turning your lights off in the evening and then the next morning when you have occasion to need them to flip them back on. This very skilled group of professionals, not all of whom are nuclear physicists, many have technical skills that are absolutely essential to support this program, these people will be thrown into chaos and the program, in my judgment, will be compromised. These people will understandably need to move to find new employment for themselves and we will lose this vital testing resource.

The 1996 cutoff, as contemplated by the amendment also, Mr. President, seems to me to be particularly ill-advised.

The PRESIDING OFFICER. The Senator has used 10 minutes. Any other Senator can yield additional time.

Mr. BRYAN. I yield myself an additional 3 minutes, Mr. President.

The PRESIDING OFFICER. The Senator is recognized for the additional time.

Mr. BRYAN. Mr. President, the 1996 cutoff seems to me particularly ill-advised because if our purpose is to impose leverage on those countries which either are or may embark upon nuclear testing, to impose a self-imposed restraint to me makes no sense in achieving that objective.

Let me invite my colleagues' attention to page 3, subparagraph f. Under the proposed amendment, a plan for installing—that is the test itself—the safety test, could only be conducted if the nuclear device did not have any safety feature. So the standard, Mr. President, would not be can we devise the safest possible techniques—and we basically today are talking about three such safety measures—but if a nuclear warhead had any one of the three, it could not be further tested to determine whether the additional devices could be added to it.

In terms of achieving the safest possible nuclear arsenal, it makes no sense at all to impose that type of a limitation on the program. As we know, there are three types of safety systems: The enhanced detonation safety system, the fire-resistant pit, and the insensitive high explosives. Even with the proposals advanced by the President, approximately two-thirds of our nuclear arsenal that will be in existence a decade from now in the year 2002 will not have all three of these safety systems provided as part of it. I should think it is in everybody's best interest that all three of these safety systems be added.

Moreover, Mr. President, I note that in defining what a modern safety feature is, the amendment would seem to limit us to the state of the art or the technology today. Perhaps next year or the year thereafter, or in a very short period of time, new safety procedures and devices will be discovered and those, too, ought to be added to the nuclear devices as part of the arsenal. It seems to me that the definition on page 7 of modern safety features may, indeed, limit the technology in terms of adding additional safety.

Mr. President, it seems to me that we share a common goal, and that is to have the safest nuclear arsenal possible. The amendment offered by the distinguished Senator from Oregon, although well intentioned, it seems to me is counterproductive to that objective. I urge my colleagues to defeat the amendment, and I reserve the remainder of my time.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that the senior Senator from South Carolina desires 6½ minutes. Senator BRYAN and I yield 3½ minutes to the Senator.

Mr. JOHNSTON. I yield 3 minutes of my time.

Mr. THURMOND. I think maybe I can finish in 5 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 6½ minutes.

Mr. THURMOND. Mr. President, the current debate on nuclear testing is one of the most critical defense issues the Senate will consider this year. During the debate, the primary question that we should ask ourselves is: Do we want this Nation to have a safe and reliable nuclear deterrent force?

In his testimony before the Armed Services Committee on July 28, Secretary Cheney eloquently touched on the importance of nuclear testing. He stated:

> Both the Congress and the Administration share the goal of assuring the safety of our nuclear stockpile. Continued nuclear testing is critical to this end. As both the Administration and respected experts have testified, continued testing is essential both for incorporating additional safety features into our weapons and for identifying, assessing, and correcting aging, safety, and other problems that may arise. There is simply no effective and reliable alternative to nuclear testing.

Mr. President, the Nation's nuclear testing program has changed significantly over the years. We have gone form a high of 96 tests in 1962 to a low of six in 1992.

The President's announced testing policy will further reduce that number. More importantly, however, it limits the purposes of these few tests to specific areas, namely: First, to evaluate and improve safety; second, to maintain reliability; and finally, to ensure that our forces can function despite possible exposure to nuclear effects.

Mr. President, regardless of how small our nuclear stockpile is—and let me add that I support the reductions agreed upon by President Yeltsin and President Bush—we must ensure that these weapons are safe and reliable. As the size of the stockpile and the number of weapons types decrease, it is also increasingly important to ensure that the remaining weapons meet their performance specifications and that our military forces—including satellites, communications systems, and weapons support systems—can function despite exposure to nuclear effects.

Despite the increased use of computers in weapons design and our scientists' knowledge of nuclear physics, we can never be sure how a nuclear device will function. For example, of the six tests conducted in fiscal year 1992, one produced a yield nearly a factor of 10 below that predicted.

Mr. President, we should also remember that we are constantly developing new combat systems. Unless these systems are tested in a nuclear environment, which is almost impossible to simulate, we may be sending our forces into combat with communications and weapons systems that cannot withstand exposure to a nuclear explosion—including one caused by a crude device developed by a Third World nation.

Mr. President, today we are faced with two options:

The Hatfield amendment, which allows 15 tests between July 1993 and September 1996 and then imposes a total ban on nuclear testing; and,

The Johnston position, endorsed by the committee, which permits safety testing provided the President certifies that it is in the national interest.

Mr. President, I am opposed to any absolute nuclear testing moratorium and will vote against the Hatfield, Mitchell, Exon amendment. The 1996 total test ban will not guarantee the achievement of a comprehensive test ban treaty, nor will it guarantee the safety or reliability of our nuclear deterrent forces.

Mr. President, in closing, I want to urge my colleagues to vote against the Hatfield amendment. The nuclear arms race will not stop because we are not testing; it will end through negotiations. Meanwhile, the Nation must be assured that its aging nuclear weapons are safe and reliable in the hands of our forces.

I wish to thank the distinguished Senator for yielding me this time.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, will the Chair notify me when there is 1½ minutes remaining.

Mr. President, first of all, I commend Senator HATFIELD, Senator EXON, and Senator MITCHELL for again raising this issue in a way which I am very hopeful the majority of the Members of the Senate can support.

I ask unanimous consent to be a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the Berlin Wall is down. The Soviet Union has collapsed. The cold war is over. The time has come for the United States to halt nuclear testing.

We no longer need such tests, because we no longer need to develop more powerful or more accurate weapons to deter the Soviet Union. In the post-cold war world, the greater danger comes from the continuation of the arms race and the proliferation of nuclear weapons.

We need to take all the steps we can to reduce these basic threats to our future security.

The danger was demonstrated vividly 2 months ago, when China conducted its largest underground nuclear test ever. What right does the United States have to criticize China's test, when we insist on continuing our own tests? The best way to restrain China and other nations is to halt our own testing.

With the Nonproliferation Treaty up for renewal in 1995, it is crucial that we act now to ban nuclear testing. We have been preaching nonproliferation to other nations for years.

But the signers of the Nonproliferation Treaty deserve to know that we are prepared to practice what we preach or else our preaching will be to no avail.

Negotiation of a comprehensive test ban treaty is the single most effective step that the United States can take to halt the nuclear arms race and restrain the spread of nuclear weapons.

Until we end our own testing, other nations will have a credible "everybody does it" excuse to test their own nuclear weapons and defy international antiproliferation efforts.

Only six nations have ever admitted to testing nuclear devices—the United States, Russia, Britain, France, China, and India. A handful of other countries are known to be at various stages in the development of nuclear weapons, but none of them has ever announced nuclear tests.

Time is critical. The end of the cold war gives us the opportunity to take an effective and immediate step toward halting the arms race. A worldwide ban on nuclear tests would create an additional barrier to any nation, including any terrorist nation, contemplating a nuclear capability, but a worldwide ban can be achieved only if the United States leads the way.

The amendment before us establishes a logical step-by-step program to establish a permanent ban on nuclear weapons testing after a short moratorium and a handful of safety-related tests.

A mortatorium is needed to demonstrate a renewed U.S. commitment to seeking an end to nuclear testing. Russia and France have already announced moratoriums on nuclear testing through the end of the year. By joining this moratorium, the United States will give new momentum to the worldwide drive for a comprehensive test ban.

It is necessary for Congress to initiate this moratorium because the administration has not carried out its promises to begin negotiations to achieve a comprehensive test ban.

In 1986, President Reagan wrote to the Congress pledging to begin negotiation to limit and ultimately end nuclear testing, once the verification protocols to the two 1970's nuclear testing treaties were achieved and the treaties were ratified.

This commitment was made in exchange for an agreement by the House of Representatives to drop a provision in the 1987 Defense authorization bill that would have mandated negotiations of a comprehensive test ban.

In June 1990 President Bush and President Gorbachev signed the verification protocols to the two treaties—the Threshold Test Ban Treaty and Peaceful Nuclear Explosions Treaty—and the treaties went into effect in December 1990.

In testimony supporting ratification of these treaties, Ambassador Ronald Lehman, Director of the Arms Control and Disarmament Agency, specifically restated the administration's commitment to a step-by-step process to limit and ultimately end nuclear testing.

At that time, he indicated that the delay in the start of these talks would not be lengthy—specifically that the delay would not be measured in years.

Despite this commitment, it has now been more than 2 years since the verification protocols were signed. Yet the negotiations on a CTB still have not begun.

In fact, the administration has simply ignored an amendment that Senator SIMON and I sponsored on the 1992 Defense Authorization bill that directed the President to submit by February 1992 a report to Congress containing a proposed schedule for the negotiations and identifying the objectives.

Now it is up to Congress to take stronger measures. By enacting the pending amendment on nuclear testing, Congress can ensure that the administration initiates the long-promised negotiations for a comprehensive test ban.

Contrary to claims by the administration, a test ban will not undermine the reliability or the safety of our nuclear arsenal. Reliability is a concern that deals primarily with new weapons—warheads that are under development or have been recently introduced into the stockpile. But the United

States has no new nuclear warheads in development.

The reliability of the existing weapons in the U.S. stockpile can be maintained without nuclear weapons tests. According to the conclusion of an independent review of nuclear stockpile issues by Lawrence Livermore physicist Dr. Ray Kidder:

> A high degree of confidence in the reliability of the existing stockpile is justified * * * in the absence of nuclear explosive tests.

This conclusion confirmed expert views previously expressed by Dr. Hans Bethe, Dr. Richard Garwin, Dr. Carons Mark, and Dr. Herbert York.

Nor are safety concerns an obstacle to a test ban. Pursuant to recent arms reduction initiatives, the accelerated retirement of older weapons has eliminated the least safe weapons designs.

With the remaining weapons in the stockpile, there are two types of safety concerns—avoiding an accidental nuclear detonation and averting any scattering of plutonium in the environment.

The first of these concerns—accidental detonation—can be resolved with safety tests with an explosive power equivalent to a few pounds or less of TNT. Such tests need not be limited under a comprehensive test ban, because they are extremely small and would be almost impossible to verify.

The second safety concern—avoiding the accidental release of plutonium—has already been addressed by installing modern safety and security features, such as insensitive high explosive and fire-resistant pits, on nuclear weapons.

It may be cost-effective to ensure that all of these features are incorporated on all nuclear warheads that will remain in the arsenal. But this would require only a handful of additional nuclear tests that could easily be accomplished before a CTB goes into effect.

The amendment thus specifically provides for a limited number of safety-related tests prior to negotiation of a CTB.

But, we must avoid allowing safety testing to be the Trojan horse that defeats a comprehensive test ban for 40 years, the Department of Energy and the Pentagon have assured the American people that U.S. nuclear weapons are safe. But now that all other reasons for conducting nuclear tests have been swept away by the end of the cold war, they suddenly want us to believe that our most modern weapons are not safe.

It is like running the marathon in the Olympics only to find in the final stretch a few more miles have been added to the race.

The bottom line is that a comprehensive test ban is essential to sustain progress in nonproliferation efforts, and it will not make our nuclear stockpile less reliable or less safe.

Given the administration's refusal to begin the long-promised CTB negotiations, Congress must press the issue by enacting a moratorium in nuclear testing to match those of the Russians and the French by limiting future tests to the handful needed to make the last safety improvement to the nuclear arsenal.

The nuclear weapons policy of the United States must change with the changing world. Cold war levels of military spending full-speed ahead on star wars, too many B-2 bombers, vast numbers of United States troops in Europe to defend against a nonexistent Soviet threat—too often we continue to act like a nuclear-armed ostrich with its head still buried in the cold war sand.

The amendment before the Senate is an important step toward the change we know must come. I urge its adoption.

The PRESIDING OFFICER [Mr. KERREY]. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I want to modify my amendment in an effort to continually seek consensus and to develop the broadest possible base of support.

Senator COHEN of Maine had raised two questions on the floor during the earlier period of the debate. One was what would happen at the end of 1996 in which the current wording of the amendment would bring to a halt the testing, without equivocation, without any contingency. And so I have proposed, in order to meet the concern expressed by not only Senator COHEN but other persons, that we would add a provision allowing for resumption of United States testing after September 30, 1996, if Russia conducts a nuclear test after that date, at which time the prohibition on the United States nuclear testing is lifted.

I think that should go a ways at least, if not completely, to satisfy that issue.

Senator COHEN, also on page 5, line 7, spoke of the wording of the bill, the fact that nuclear warheads are not used in testing—"Only those nuclear explosive devices" in lieu of the word "warhead," and instead of making it singular like "in which a modern safety feature," we would make that plural in case we wanted more than one safety feature test.

So Mr. President, I send that modification on those two points of the amendment to the desk and ask for their adoption.

The PRESIDING OFFICER. Is there objection to the modification?

If not, without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 82, strike out line 19 and all that follows through page 83, line 5, and insert in lieu thereof the following:

SEC. 507. (a) Hereafter, funds made available by this Act or any other Act for fiscal year 1993 or for any other fiscal year may be available for conducting a test of a nuclear explosive device only if the conduct of that test is permitted in accordance with the provisions of this section.

(b) No test of a nuclear weapon may be conducted before July 1, 1993.

(c) On and after July 1, 1993, a test of a nuclear weapon may be conducted—

(1) only if—

(A) the President has submitted the annual report required under subsection (d);

(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

(2) only if the test is conducted during the period covered by the report.

(d)(1) Not later than March 1 of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

(i) will not be in the United States stockpile of active nuclear weapons;

(ii) will remain under the control of the Department of Defense; and

(iii) will not be transferred to the Department of Energy for dismantlement.

(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C) that does not have any such feature and, as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

(G) An assessment of the number and type of nuclear weapon tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

(3) For the purposes of paragraph (1), "joint resolution" means only a joint resolu-

tion introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: "The Congress disapproves the report of the President on nuclear weapons testing, dated ________." (the blank space being appropriately filled in.).

(4) No report is required under this subsection after 1996.

(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

(B) For the purposes of subparagraph (A), "joint resolution" means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: "The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated ________." (the blank space being appropriately filled in).

(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

(f) No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless Russia conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

(h) In this section, the term "modern safety feature" means any of the following features:

(1) An insensitive high explosive (IHE).

(2) Fire resistant pits (FRP).

(3) An enhanced detonation safety (ENDS) system.

Mr. HATFIELD. Mr. President, could I inquire as to the remaining time I have in my control?

The PRESIDING OFFICER. Sixteen minutes thirty-six seconds.

Mr. HATFIELD. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, may I inquire as to the amount of time under the control of the opponents?

The PRESIDING OFFICER. Twenty-three minutes and thirty seconds.

The Chair modifies that. The Senator has 11½ minutes remaining.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the time elapsing now be charged against Senator Johnston and Senator Bryan.

The PRESIDING OFFICER. Is there objection?

Mr. BRYAN. Will the Chair restate the proposal?

The PRESIDING OFFICER. The Senator from Oregon asked the time to be charged against the Senator from Nevada and the Senator from Louisiana.

Mr. BRYAN. I object.

Mr. JOHNSTON. Mr. President, as a substitute unanimous consent, I ask that it be charged equally.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the unanimous-consent agreement for the full bill reserves time for the distinguished Senator from North Dakota, and I now have an amendment which can obviate the need to consider that amendment.

So, while we have a little down time here, I ask unanimous consent that it be in order to present an amendment dealing with the North Dakota project which is called the Garrison diversion project.

I ask unanimous consent that it be in order for me at this time to offer and consider an amendment, and that it be taken out of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2834

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BURDICK, proposes an amendment numbered 2834.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, after line 15, add the following:

"Sec. . Utilizing processes required under the National Environmental Policy Act, the Secretary of the Interior is directed to conduct a formal analysis, by no later than March 31, 1994, of alternatives for the design, construction, and operation of the Sykeston Canal as a functional replacement for Lonetree Reservoir, pursuant to section 8(a)(1) of Public Law 89-108, as amended by the Garrison Diversion Reformulation Act of 1986, Public Law 99-294. The resulting Definite Plan Report/Environmental Impact Statement shall be utilized by the Secretary for the development of a Record of Decision which is to contain the Secretary's recommendation for proceeding with the final design and construction of the Sykeston Canal, consistent with the provisions of the Garrison Diversion Reformulation Act, the National Environmental Policy Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, and the Boundary Waters Treaty of 1909. For purposes of this section, the Secretary shall take into account the results of studies conducted by the Secretary of the Army with respect to the stabilization of Devils Lake, North Dakota.".

Mr. JOHNSTON. Mr. President, this is a very highly contentious subject, a subject of the Garrison Diversion Dam project. But this particular amendment had been worked out after a long time of negotiation between Senator BURDICK and environmental organizations, the Canadians, and others. And it will obviate the necessity of having to consider the Conrad amendment.

So I ask that we adopt it at this time.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is agreed to.

The amendment (No. 2834) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the unanimous-consent agreement governing this bill now delete the necessity for the amendment from Senator CONRAD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, as under the previous agreement.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I yield to the Senator from Illinois 4 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 2833, AS MODIFIED

Mr. SIMON. Mr. President, I am pleased to rise in support of the amendment offered by my colleague from Oregon. I think it is extremely important that we move in a responsible way here.

On the fiscal year 1992 defense authorization bill, I introduced an amendment cosponsored by Senators

PELL and KENNEDY that called for a return to the nuclear testing talks, a report detailing the goal for these talks, and a schedule for resuming the negotiations. They were to report in February.

In March, Senator GORE asked Robert Barker, the Assistant to the Secretary of Defense for Atomic Energy, about the report required by my amendment, and Mr. Barker said that the administration could not see "a next step which does not have adverse security implications."

I think it is very clear that there are security implications from escalating, testing, and continued arms multiplication. And I also believe there is a moral factor here. It is very difficult for the United States to say to other countries: You cannot be testing; you should not be testing. And then they say to us: Why are you testing?

That puts us in a very untenable situation. In 1987, Dr. Ray Kidder, a nuclear weapons scientist at the Lawrence Livermore lab, one of the two national nuclear weapons labs, reported in an unclassified report:

> A detailed review of the problems encountered with the 14 weapon designs since 1958 that have been frequently and prominently cited as evidence that a low threshold or comprehensive test ban would preclude the possibility of maintaining a reliable stockpile shows that this experience has little, if any, relevance to the question of maintaining the reliability of the stockpile of nuclear weapons that exists in 1987.

Just recently, he was asked by the Foreign Relations Committee whether that is still valid. He said:

> The conclusion stated is no less valid today than it was 5 years ago in 1987.

Why go testing if other nations are not testing? It is very difficult to come up with any reason for doing it. We have had testimony before the Foreign Relations Committee that China, which is the only other nation testing right now, would be willing to stop testing if we did.

Maybe that is not valid. But let us try this moratorium. Let us see if we can build a safer world for our children in generations to come.

Next, I believe that there are environmental factors here, even with underground testing. This is pure instinct. I am not a scientist. I am not an environmental scientist, as everybody knows. I have very little scientific knowledge. But my instinct tells me that there are environmental hazards that we do not know about here.

We do know one thing. When you have underground tests—and I respect my colleagues from Nevada, who are trying to protect some jobs in Nevada out there, but there are environmental factors for Nevada that have to be considered also; and one is that when you have these tests, there is a huge residue of nuclear radiation.

Second, while there is no evidence at this point that these huge explosions underground cause any damage elsewhere, my instinct tells me that for every cause, there is an effect; and that somewhere, some damage is taking place—maybe earthquakes elsewhere; I do not know. But I think the fact that we cannot prove environmental damage at this point should not lead us to conclude that there is no environmental damage.

Finally, we have to make priorities here. I see the Senator from Oregon here, and I see the Senator from Louisiana here. Both of them serve on the Appropriations Committee. At the request of the administration, we are going to spend $500 million this next fiscal year on nuclear tests; $500 million happens to be what we spend in education and health care for American Indians in a year. What if we spend $250 million on Indian education and health care, and another $250 million to reduce the deficit. Would we be a better country, a more secure country? I believe we would.

I believe the Hatfield amendment should be adopted.

I yield the floor.

Mr. JOHNSTON. Mr. President, How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes, 56 seconds.

Mr. JOHNSTON. I yield myself 5 minutes.

Mr. President, I am very skeptical about this amendment. Let me make the basis of my skepticism clear at this point.

The basic difference between the underlying appropriations language, which prohibits all tests except for safety, in the language of the Senate from Oregon, is that he has a 9-month moratorium where no tests for any purpose may take place. And, thereafter, reports are submitted, which I think are a good idea. And some tests, which are limited—I think none—over a period of 3 years, are permitted for safety, and I believe one for reliability.

So the basic difference between the underlying appropriations language and the language of the Senator from Oregon is in the number of tests. He tells me it is 15 tests in 3 years, 5 per year: 1 for reliability; 1 for the British—and in any event, theirs is limited—and there is a 9-month moratorium.

In one sense, it is not a huge difference. But it is very clear. Every single expert and every single participant in this debate agrees, and says we need tests for safety. I made the case earlier about how dire that need for safety is; about how populations are threatened by possible explosions of nuclear bombs and warheads. I think everyone agrees to that.

If that is so, the question is: Why do we have a 9-month moratorium? There are, as I understand it, three tests planned for safety—one per quarter in the next three quarters—which would be affected by that. That is the information given to me by the White House. I could be wrong.

But if we have three tests for safety planned—one a quarter in the next three quarters during this period of time—why should we cancel those tests? Keep in mind that the budget provides, I believe, $475 million. I think the budget request was $475 million. Our bill provides $383 million. Obviously, this is considered by all to be a high priority.

Why do we pay $383 million for only one quarter of testing? You say: We ought to be able to save three-quarters of that $383 million. You cannot do it, Mr. President. In effect, what you have to do is have all of these employees out there in Nevada waiting for 9 months—maybe they can do some paper reports, or whatever before their first test is eligible to be done in the last quarter.

It seems to me that if safety is important, as I think it is, we ought to do it sooner rather than later, and we should not, in effect, waste three-quarters of the $383 million budget.

With respect to the moratorium in 1996, we simply do not have a basis to determine that. Everyone wants a nonproliferation treaty, I think. The Soviet Union surely is not the problem there. We are not trying to talk Boris Yeltsin into being less hostile to us.

The nations we are worried about with nonproliferation are those that are not likely to be affected, certainly, by the difference between the amendment of the Senator from Oregon and the underlying appropriations amendment.

For example, we do not want Pakistan to test. Are they going to say, well, you cannot test for the first 9 months and therefore we can sign a proliferation treaty? It seems to me they are not going to be affected by that. That is true as to the People's Republic of China or other countries that we are really concerned about.

If you are trying to talk people into a nuclear moratorium, it is not going to be affected by a 9-month delay or, indeed, by a 1996 final moratorium.

So, Mr. President, I very much appreciate the efforts of the Senator from Oregon in ameliorating the harsh effects of the total House moratorium and the effects of the amendment which he originally proposed. This is clearly better than that in the eyes of those of us who think that testing for safety is very vital. But I am very skeptical about why we have the 9-month moratorium.

Mr. President, there are a huge number of unanswered questions posed by this amendment. It is not my inclination at this time, even though I have a great deal of skepticism about this, to make an active opposition to the amendment. I say that because the distinguished Senator from Nebraska who is head of the Armed Services Subcommittee on this matter, and the distinguished Senator from Michigan, who is a member of the Armed Services Committee, are cosponsors of this amendment.

I am inclined to be benign in my approach to this so that we may take this to conference, get the views of the administration, determine what the precise nature is of the three tests to be conducted in the next three quarters, and determine whether there is a meeting of the minds as to whether those three tests are important. I think we may well find out that the three tests would pass muster in the judgment of anyone as needing to be tested or, on the other hand, the administration may tell us that they can delay for 9 months and that that delay would do no harm to the program.

We have been trying to talk to the representatives of the White House in the few hours since this amendment has been pending and the answers we get from them are not definitive because it takes time to secure this information.

So, my inclination is at this point, Mr. President, to, in effect, take this to conference, not with a view to dropping it in conference, but with a view to finding out the answers to these questions, and in the meantime, working in good faith for those on both sides of this question, including the White House, to determine what we may prudently do in going in the direction of a moratorium. Indeed, the appropriations language went in the direction of a moratorium, more moratorium on everything but safety, and yet at the same time, preserve our flexibility for safety.

Mr. President, I see the distinguished Senator from Georgia is just coming in and the distinguished Senator from Maine is here. I wonder what the attitude of the Senator from Maine would be toward taking this matter to conference and working on these issues in the meantime.

Mr. COHEN. The Senator from Maine will yield to find out what the chairman of the Armed Services Committee thinks about this going to conference. I did want to take a couple of minutes to address several questions to the Senator from Oregon, but I would do that on the time of the Senator from Nevada if he would like.

The PRESIDING OFFICER. Who yields time?

The Senator from Maine.

Mr. BRYAN. I am pleased to yield 2 minutes to the Senator from Maine from time under my control.

Before yielding, if I might inquire and ask my friend and colleague, the Senator from Louisiana, one additional question with respect to this analysis of this amendment.

The Senator from Nevada would like to ask the Senator from Louisiana one additional question.

I agree with his analysis of the amendment and where he believes it is flawed. But I find one additional concern. I do not know whether the Senator shares that view as well. That is at page 3, subparagraph (F) of the amendment offered by Senator HATFIELD. I view that language from lines 16 to 22 as a limitation of the type of weapon that can be tested.

It would seem to me that is an abandonment or a retreat from developing the safest possible nuclear arsenal, one that would include all three of the modern safety features defined on page 7, namely, the sensitive high explosive, the fire-resistant pits, and the enhanced detonation safety system.

If I am reading that language correctly, the test plan could only contemplate test with respect to a weapons system that had no such feature. And if that is true, it seems to me that that is clearly not the kind of policy that we ought to pursue. I think he would agree with me that we ought to have the safest possible arsenal.

I would inquire of my friend as to whether he reads the language as I do.

Mr. JOHNSTON. Mr. President, I think the Senator points out what could be an ambiguity. That is one of the problems with trying to legislate on a very complicated issue with a floor amendment, and we must, of necessity, do that all the time. I know the Senator from Oregon has been working very diligently to bring the parties together on this matter.

Nevertheless, the meaning of that language in subparagraph (F) of page 3 is not entirely clear. I mean, it seems to talk about a plan. The President shall submit to the committee a report containing the following matters and then "A plan for installing one or more," and so forth.

The question is, is this something the President submits as a report, or is this a limitation on what the Nation may do?

It is not entirely clear at all to me, and the actual effect upon weapons in the inventory upon the safety devices that they may contain, is also not very clear. That is why I think my attitude at this point at least—and I wanted to hear from the distinguished chairman of the Armed Services Committee—is to, at this point, say let us take it to conference with a view to going over this language very carefully, to resolving the ambiguities, to maximizing safety, keeping in mind that everybody that I know anything about, wants more safety in our weapons as soon as we can get it and to determine, in light of that, whether or not this language matches up to those things and to modify it in such a way that it does match up to those requirements.

I am quite sure that this language ought to be very carefully studied to see if we can improve it.

Mr. BRYAN. I thank the Senator for his response. I yield 2 minutes to the distinguished Senator from Maine.

Mr. COHEN. I thank the Senator for yielding.

Let me respond quickly to the Senator from Louisiana. I think in view of the complexity of the amendment, it continues to evolve in these waning moments that the more appropriate course of conduct for us would be to defer the matter until next week when the Senate Armed Services Committee brings the DOD authorization bill to the floor. That way, at least, we would have a better grasp of the nuances involved. That would be my preference.

The Senator from Georgia has just arrived. He is in the cloakroom negotiating with the Senator from Oregon. Perhaps we will hear his opinion on this.

Mr. JOHNSTON. If the Senator will yield, we had to deal with the moratorium in the House bill.

Mr. COHEN. I understand. In terms of coming to grips with the issues, I think it would be preferable from my perspective to deal with this issue next week after having a chance to go through this.

Mr. JOHNSTON. I understand the Senator.

Mr. COHEN. Then, I say, second, the Senator from Illinois, who was briefly on the floor, indicated $500 million was going to be spent for safety tests that could be spent for education.

It struck me to be something of an irony. The Senator from Illinois may recall that there was a minor accident in the city of Chicago. As I recall, some local engineer apparently penetrated one of the underground tunnels in the water system and suddenly we had a major flood in Chicago which cost the Federal taxpayer millions of dollars to help rectify.

We have the experts saying that one nuclear accident of the magnitude of Chernobyl would take at least a half billion dollars, $500 million. We are going to have several thousand nuclear weapons in our arsenal for the foreseeable future. All we need is one catastrophe, and that eats up that $500 million.

I want to emphasize to my colleagues not to dismiss the notion of safety or deride how much money is being spent. As long as we have nuclear weapons, we have to spend the money to make sure they are safe, in order to protect the American people.

There is a third point I would like to raise—and he is not here now, but let me just raise it for the RECORD.

Under the amendment by the Senator from Oregon, under subsection (F) regarding the cutoff date of 1996, there is now an exception or exemption in the event that Russia resumes testing. It would seem to me a more comprehensive statement has to be given here. It should read that we cannot test after that point unless the President certifies to the Congress that another country has conducted a nuclear test, and that such test is inimical to the security interests of the United States, or threatens the nonproliferation objectives of the United States, or unless the President certifies that additional nuclear explosive testing is required in order to install a modern safety feature in the weapons cited in subparagraph (d)(1)(c).

Could I have 1 additional minute?

Mr. JOHNSTON. I yield 1 minute to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. COHEN. I thank the Senator for yielding me the 1 additional minute.

In addition, as I pointed out in my earlier remarks, the way in which the Senator from Oregon's amendment is constructed, all three safety devices could be precluded from being installed in these weapon systems. The way it is written, it would allow no further testing to add safety features to a weapon if it has one such safety system already.

There have been changes made by the Senator from Oregon, but they still leave a good deal of ambiguity. And I think one way to fix that is on page 3, lines 17 to 19, we should strike the words "that does not have any such feature." Deleting those words in lines 17 and 19 would make it clearer that in the weapons systems that we retain we want all three safety features that have been identified by the Drell Panel to be included.

Let me just reiterate my own feeling on this Mr. President. I believe that we need additional time in which to refine the amendment of the Senator from Oregon. I hope that we can achieve some kind of a compromise by the time the Armed Services Committee comes to the floor with the DOD authorization bill.

I know the Senator from Louisiana is compelled to go forward with some response, in view of the House's action. I think a better solution for us would be to take a bit more time to develop this.

Mr. JOHNSTON. Mr. President, I would point out that our bill does not deal with permanent legislation. It simply states no testing except for safety this year. That is what we ought to do on this appropriation bill, deal with this year and not permanent legislation, and let you all deal with permanent legislation when your bill comes up.

Mr. President, I yield 2 minutes to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair and I thank Senator Johnston.

Mr. President, I ask unanimous consent that an article in the Washington Times on July 31, written by Paul Nitze and Siegfried Hecker, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, July 31, 1992]

WEAPONS TESTING WE CAN'T DO WITHOUT

(By Paul Nitze/Siegfried Hecker)

The issue of nuclear testing is once again being brought into the public spotlight with the U.S. Senate set to consider a moratorium on all such tests.

The need for nuclear testing remains controversial and not well understood, especially since the end of the Cold War. In the eyes of many people, nuclear testing is a powerful symbol of the evil of nuclear weapons. Since testing is often associated with the development of increasingly destructive bombs, a halt in testing is associated with a safer and better world.

However, from our combined experiences in arms control, as well as maintenance of the U.S. nuclear arsenal, we see a different side.

As if any other high-technology venture, testing is imperative to ensure safety and reliability. Underground nuclear testing offers the only opportunity to conduct realistic, relevant experiments that help to ensure the safety, security and reliability of nuclear weapons. Such experiments help preserve the competence and judgment of the scientists and engineers who must maintain our remaining nuclear arsenals, who will help dismantle weapons and whose skills will be required in case of accidental damage to a weapon or to evaluate or disable a terrorist bomb.

Arguments about preserving technical competence are not politically fashionable. But the tragic accidents of the Challenger, Chernobyl and Bhopal are stark reminders of inadequate testing and questionable technical judgment. Why give up nuclear tests when the consequences of a nuclear-weapons accident overshadow those of any other technology on Earth?

The fact that the arms race with the former Soviet Union is over does not alter the necessity of testing. Indeed, the decision by Russian President Boris Yeltsin at the recent U.S.-Russia summit to no longer seek parity when the two arsenals are dramatically reduced by the end of the decade reinforces the nuclear deterrent role of the United States as the global guarantor of peace.

That role makes the safety and reliability of U.S. weapons even more important. At the same time, Mr. Yeltsin's decision makes the notion that testing drives the arms race or upsets strategic stability as obsolete as the Cold War itself.

The end of the Cold War will speed up removal of some of the older weapons, those with few modern safety features. However, there will be a tendency to leave weapons in the stockpile still not fully modernized in safety terms.

Since it is now less important (because of less reliance on strategic missiles) to pack more explosive power into smaller packages, weapons designers can make weapons safer to prevent the unlikely event of an accident, or to make them more tamper-proof against terrorists. They may also be able to build them with greater longevity so they last for 50 years. But such weapons cannot be developed without nuclear testing.

Some nations such as Mexico have objected to U.S. nuclear testing in conjunction with the Non-Proliferation Treaty discussions. Their objections are obsolete now that the arms race with the former Soviet Union is over and the principal purpose of U.S. nuclear tests is to ensure the safety, security and reliability of weapons.

Realistically, the post-Cold War peace should not lure us into adopting some notion of the "end of history" and the end of conflict or threats in our national security strategy. U.S. nuclear weapons provide a hedge against the possible resurgence of a nuclear threat from Russia or other successor states to the former Soviet Union, which will retain thousands of strategic and tactical nuclear warheads. It is also important for the sake of international tranquility that neither Germany nor Japan are tempted to develop their own nuclear forces for self-protection—a temptation which might arise were the United States to withdraw its nuclear umbrella.

Further, U.S. nuclear weapons are needed to dissuade rogue leaders from using weapons of mass destruction and to prevent nuclear blackmail.

In the post-Cold War era, a smaller but safe and reliable U.S. nuclear arsenal will serve to discourage the proliferation of nuclear weapons. The nuclear ambitions of countries such as Iraq, Libya and Algeria are not driven by the U.S. arsenal, nor the fact that we test, but by strong political motives or regional security concerns.

As long as U.S. security interests are served by nuclear weapons, we should ensure their safety, security and reliability as well as maintain a competent scientific work force to oversee them. A small number of tests will be necessary to serve these continuing needs. As a matter of fact, the number of tests in recent years has already declined sharply to only six this year.

That seems a very small price to pay if it helps ensure that the end of the Cold War does indeed result in a safer world.

(Paul H. Nitze served as U.S. ambassador to Intermediate Range Nuclear Forces Treaty negotiations and as a special adviser to President Reagan on arms-control matters. Siegfried S. Hecker is director of the *Los Alamos National Laboratory*, which, along with the *Lawrence Livermore Laboratory in California*, is responsible for the design and testing of all weapons in the U.S. nuclear arsenal.)

Mr. DOMENICI. Mr. President, I am going to read one paragraph of it, which I think summarizes what the good Senator from Maine has said and what Senator JOHNSTON has been saying:

> Arguments about preserving technical competence are not politically fashionable. But the tragic accidents of the Challenger, Chernobyl and Bhopal, are stark reminders of inadequate testing and questionable technical judgments. Why give up nuclear tests when the consequences of a nuclear-weapons accident overshadow those of any other technology on Earth?

I think that is the issue. And frankly, as we have been trying to say, why should we fashion, over the last 72 hours from a 1-year moratorium which Senator HATFIELD had in mind—we had a 1-year moratorium except for safety—why should we fashion a permanent 5-year program on testing with specific numbers of tests when we already know that we need to upgrade a number of weapons in our arsenal? And clearly you cannot upgrade them as to safety on the tests provided in this long-term so-called complete testing program that is now offered on an appropriations bill.

I believe we ought to either table that or reduce it to a 1-year event and get on with letting the Armed Services Committee draw up legislation for the long-term needs in nuclear testing.

I thank the Senator for yielding and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, how much time remains?

The PRESIDING OFFICER. Seven minutes, seventeen seconds for the Senator from Oregon; 4 minutes and 25 seconds for the Senator from Louisiana, and 1 minute for the Senators from Nevada.

Mr. JOHNSTON. One minute for the Senators from Nevada, 4 minutes for the Senator from Louisiana, and 7 minutes to the Senator from Oregon?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I do ask to modify my amendment on page 3. There has been a question raised as to the number of tests that might be made relating to numbers of safety features. And on page 3, line 18, following the capital C, cross out the words "that does not have any such feature and", delete those words, so then I think it would clarify that objection. I so modify my amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment (No. 2833), as further modified, is as follows:

(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

Mr. CRANSTON. Mr. President, I rise today to lend my strong support to the Hatfield amendment currently under consideration. A 9-month moratorium is the appropriate reply to the Russian moratorium. A plan to achieve a multilateral comprehensive ban on the testing of nuclear weapons before September 30, 1996, provides the necessary response to our new opportunities for peace.

Every American President from Eisenhower until Reagan supported the ultimate objective of a comprehensive test ban. The Reagan administration, though, in its frenzied arms buildup, abandoned this objective in the short term. Instead, it declared that "for the foreseeable future, nuclear testing will continue to be indispensible to our security."

The future has finally rounded beyond the foreseeable circumstances of the Reagan era. Events no one could have predicted just 10 years ago confounded and inspired us all. The cold war is over. The Soviet Union has disintegrated. The race to develop the most modern strategic nuclear weapons has ended, and we have won.

The Soviets declared two unilateral moratoria on nuclear testing in the last 5 years. In 1986, Soviet President Gorbachev halted nuclear testing for 18 months. On October 5, 1991, Mr. Gorbachev again initiated a 12 month moratorium on testing in the U.S.S.R. He challenged the United States to join in pursuing the complete cessation of all nuclear tests.

President Yeltsin of Russia has upheld that ban. President Nazarbayev of Kazakhstan has also issued a call for peace. He closed down the nuclear reactor in Semipalatinsk, and encouraged the United States to join the comprehensive test ban.

France, too, declared a moratorium on testing in April of this year.

The United States, however, continues to test as if this were 1982, and the Soviet Union and the United States were still trapped in the deadly race to develop new and improved warheads every 6 months. This is a cold war mentality. Testing is a step toward intensifying proliferation. Today, we are making great efforts to curb proliferation. In fact, we are creating no new weapons. We are downsizing our military. We are taking our missiles off alert. We no longer need to threaten our enemy with repeated nuclear tests to demonstrate we are ready to do nuclear battle at any moment.

The administration argues that the United States must test in order to maintain our strategic deterrent. Mr. President, the fact that our arsenal is loaded with hundreds of nuclear missiles is a deterrent in itself.

Take the Persian Gulf war as an example. Israel has never tested or even confirmed that it possesses a nuclear bomb. Throughout the Persian Gulf war, Sadaam Hussein threatened to attack Israel with chemical weapons. But, as we all now know, he has used chemical gas only on the Kurds in Iraq; he never lobbed any chemical missiles against Israel. I believe that the threat that Israel would retaliate with a nuclear attack—a threat never tested in an underground cavern—deterred him. I believe that Syria and Iran, two more of Israel's historic enemies, have been deterred by Israel's potential nuclear capability.

The administration has also claimed it must test for safety, reliability, and survivability of our nuclear stockpile. But Dr. Robert Barker, Assistant Secretary of Defense for Atomic Energy, testified before the House Armed Services Committee in March 1992, that the Air Force and the Navy, in conjunction with the Department of Defense and the Department of Energy, reviewed the safety of the ballistic missiles which carry the nuclear warheads. They concluded that no changes were needed for safety reasons.

If we don't need to change anything for safety reasons, then we don't need to test for safety reasons.

Mr. President, most of the brightest and experienced weapons designers in this country advocate a test ban. Two weeks ago at a hearing before the Senate Foreign Relations Committee, Rear Adm. Eugene J. Carroll of the Center for Defense Information; Dr. Ray Kidder of the Lawrence-Livermore Laboratory in California; and Dr. Frank Von Hippel of the Woodrow Wilson School of Public Affairs at Princeton University all testified that the United States possesses the best tested weapons in the world.

Rear Admiral Carroll reported that in safety that, nuclear material could not be detonated. Moreover, many of the warheads deemed unsafe will be retired under recent arms control agreements. Furthermore, as our weapons are placed off alert status, the risk of accident is greatly reduced, as is the consequential need for safety improvements.

Our thinking on arms control should be fundamentally different today than it was 5 years ago. The debate on a moratorium should no longer revolve around whether the United States will test six times a year, three times a year, or halt completely for all of 1 year. Rather, this is our chance to consider how a moratorium can serve the strategic, long-term American global aims.

While I compliment President Bush and Secretary of State Baker on their successful negotiations with Russia, Kazakhstan, Byelarus, and Ukraine on the START Treaty, its protocols, and the upcoming so-called START II Treaty, I am wondering how much further this administration is willing to go in the pursuit of peace. We have a window of opportunity today to restructure the world's security balance. Quite frankly, merely reducing the number of tests, is, at this point in history, a rather paltry and unimaginative offering.

I want to address the compelling reasons for why we should pursue, at the very least, a 9-month moratorium on nuclear testing.

A moratorium on testing by the United States would shift the concerns about nuclear proliferation in a more constructive direction. It would allow us to take the time to evaluate the purpose of testing in the new world.

At the same time, it would demonstrate our sincere effort to reduce global nuclear arsenals to the minimal necessary level of post-cold-war nuclear deterrence, and underscore our commitment to containing nuclear proliferation.

It would lend credibility to negotiations on a long-term extension of the

Nonproliferation Treaty, which expires in 1995.

It would signal U.S. cooperation toward advancing negotiations on the comprehensive test ban treaty we have thus far only dreamed of.

It would strengthen the positions of reformers in the newly independent republics of the former Soviet Union, such as Boris Yeltsin, who are struggling to turn their nations' focus from military defense to domestic restructuring.

A halt to nuclear testing would also reduce the environmental damage created by the uncontrolled high-level radioactive waste which tests produce.

And it would save American taxpayers just under half a billion dollars in fiscal year 1993 alone.

The United States House of Representatives passed a resolution by a margin of 236 to 167 calling for a 1-year United States testing moratorium, conditional on the continuation of the Russian moratorium. Fifty-two Senators have cosponsored S. 2064, which does the same. Thirty-two Nobel laureates, including Hans Bethe and Kenneth Arrow, as well as several of the most sophisticated and experienced weapons designers, have given their full support to the prompt cessation of nuclear weapons testing.

Mr. President, eventually, either every nation will stop testing, or no nation will. If the United States doesn't stop, no one else will either.

I urge my colleagues to make a sensible investment in peace. Support a short-term moratorium on nuclear testing. Support efforts to conclude a comprehensive test ban by 1996. It will give us an opportunity to reevaluate the advantages of testing, while at the same time witness the benefits of a moratorium. What do we have to lose?

Mr. HATFIELD. Mr. President, I ask unanimous consent that Senator CRANSTON be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Oregon has 5 minutes, 25 seconds, the Senator from Louisiana has 4 minutes, and the Senator from Nevada has 1 minute.

Mr. HATFIELD. Mr. President, I think we can wind this matter up with the few moments we have left. Let me just reiterate that the amendment which we have presented here today, the so-called Hatfield-Mitchell-Exon amendment, allows for safety testing after 9 months moratorium in order that the United States may pursue any changes necessary to include safety features in our arsenal.

Bear in mind, again, that there is no stated administration definitive position except the March 2, 1992, statement made by the Assistant Secretary of Defense before the House authorization committee.

Whatever the administration may have fed into the debate this afternoon, I still go back to that one point of reference. Again, I want to remind this body that our arsenal is safer than ever before, and every weapon in the arsenal has been tested with an A, B, C, D, E, F test judgment or measurement. Most of them averaged out A, B, or C, with C having the largest number.

Remember this, that some of these matters that have been raised today about possible accidents—again, I emphasized our arsenal is not constantly deployed on planes and ships and therefore we have another safety factor.

The science of this issue is complex, but the task before the Senate today is complex. This amendment requires the most comprehensive evaluation ever requested, to my knowledge, of the administration. The 9-month pause not only provides for urgent response to Boris Yeltsin's moratorium and the action of the French, but also support for this amendment's adoption comes from the most prominent people in our scientific community, six scientists who worked on the Manhattan project, who now believe a moratorium is vital, and 30 Nobel laureates who seek passage of a moratorium, and other groups such as the Federation of American Scientists, Natural Resources Defense Council, and the Union of Concerned Scientists.

Given these considerations, I urge the Senate not to lose this historic opportunity. This amendment offers cooperation between a great many interests, and I believe that cooperation is unprecedented here today. So, too, is this opportunity to change our nuclear testing policy for the good. I urge my colleagues to support this amendment and defeat any tabling motion that might be offered.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I was just handed a copy of the letter from the Secretary of Defense to Senator MITCHELL, who says as follows:

> The Department of Defense strongly opposes the Hatfield Amendment for the following reasons:
>
> (1) It imposes a comprehensive test moratorium after 30 September 1996. However, all Administration studies and reviews have concluded that, as long as we will retain a nuclear deterrent—regardless of its size—we will need to test for safety and reliability. We will retain a nuclear deterrent past 30 September 1996.
>
> (2) The amendment assumes that we will solve all safety problems by 30 September 1996, within a finite number of tests. This is irresponsible. Worse, it assumes that we will never have a safety—or a reliability problem—after 30 September 1996. No one can ensure this; indeed, as history has shown us, the odds are very much against it.
>
> (3) The amendment requires that Congress review the President's certification on the need for testing. This creates yet another roadblock. In effect, given the reporting and certification requirements and the possibility of further Congressional blockage, the amendment is a de facto moratorium.
>
> (4) Finally, a nine month moratorium in testing means that the staff at the Nevada Test Site will be paid for doing essentially nothing. This is a waste of taxpayers' funds and could lead to a loss of expertise.
>
> Best regards,
>
> DICK CHENEY.

And written in handwriting at the bottom is: "If a moratorium is passed, I will recommend the President veto the bill."

And then there is a further statement by the Secretary of Energy, essentially to the same effect, which I will not read because I think I would otherwise run out of time.

Mr. President, I ask unanimous consent that copies of these letters be printed in the RECORD at this point as if read in full.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, August 3, 1992.
Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: The Department of Defense strongly opposes the Hatfield Amendment for the following reasons:

(1) It imposes a comprehensive test moratorium after 30 September 1996. However, all Administration studies and reviews have concluded that, as long as we will retain a nuclear deterrent—regardless of its size—we will need to test for safety and reliability. We will retain a nuclear deterrent past 30 September 1996.

(2) The amendment assumes that we will solve all safety problems by 30 September 1996, within a finite number of tests. This is irresponsible. Worse, it assumes that we will never have a safety—or a reliability problem—after 30 September 1996. No one can ensure this; indeed, as history has shown us, the odds are very much against it.

(3) The amendment requires that Congress review the President's certification on the need for testing. This creates yet another roadblock. In effect, given the reporting and certification requirements and the possibility of further Congressional blockage, the amendment is a de facto moratorium.

(4) Finally, a nine month moratorium in testing means that the staff at the Nevada Test Site will be paid for doing essentially nothing. This is a waste of taxpayers' funds and could lead to a loss of expertise.

Best regards,

DICK CHENEY.

P.S.—If a moratorium is passed I will recommend the President veto the bill!

STATEMENT BY THE SECRETARY OF ENERGY

The Hatfield, Mitchell, and Exon amendment to H.R. 5373 is unacceptable, and I will recommend to the President that it be vetoed for the following reasons:

1. The restriction that no underground test of nuclear weapons may be conducted by the United States after September 30, 1996, is unacceptable because the testing cutoff would mean that new features could not be incorporated into our deterrent at a later date and that an unpredicted safety or reliability problem could not be resolved; in addition, this approach makes no allowance for testing activities in other countries;

2. The planned safety tests by the Department of Energy should not be postponed until a date later than June 1, 1993, as required by the amendment; this restriction will result in delays in planned safety tests which will provide us with vital information for potential modifications to stockpile weapons;

3. The disruption to the planned test program and reduction in scope of the program will result in loss of employees at the test site and thus make it difficult to resume testing; and

4. The restriction under paragraph (e)(1)(a), which limits testing to "only those nuclear warheads in which a modern safety feature has been installed," is unacceptably restrictive to our need to develop and install improved safety technologies in the stockpile. Also, this language is too restrictive in that it does not allow for testing should a safety problem be discovered in a stockpile weapon.

THE WHITE HOUSE,
Washington.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSTON: The amendment to the Energy and Water Appropriations Bill proposed by Senators Hatfield, Mitchell, and Exon should be seen for what it is—a clear path to a comprehensive nuclear test ban. It would prevent us from conducting underground nuclear tests that are necessary to maintain a safe and reliable nuclear deterrent. Further, it would be an inefficient use of scarce fiscal resources, and includes the possibility of Congressional disapproval of the entire test program or of individual tests—seriously interfering with the President's powers as Commander-in-Chief. In total, this amendment could endanger the national security of the United States. For these reasons, the Secretary of Defense, the Secretary of Energy and I would recommend veto of the legislation.

The amendment does not envisage testing of special advanced technologies including:

The ability to incorporate entirely new safety technologies into the stockpile—technologies which will not be mature before the proposed testing cut off;

The effects of nuclear explosions on U.S. forces, including, importantly, the ability of space-based sensors and ground-based defensive interceptors to be tested in a nuclear environment;

The ability to evaluate techniques to destroy warheads of unknown or uncertain design (a proliferation problem).

The amendment imposes an absolute limit on the number of tests the U.S. could conduct over the next several years. The number proposed is not adequate to incorporate new safety features into the stockpile. As importantly, the testing cut off would mean that new features could not be incorporated into our deterrent at a later date and that an unpredicted safety or reliability problem could not be resolved.

The imposed nine-month moratorium is a waste of scarce resources. The costs of maintaining the nuclear testing infrastructure would have to be paid while we simply delayed needed tests (there are six nuclear tests scheduled from now through July 1993).

The planned end to testing would apply to the United Kingdom as well as to the United States.

The President has adopted a sound nuclear testing policy responding to the changed international security environment, the reduced threats, the need to reduce defense spending, and the need to maintain a safe and reliable, but much smaller, nuclear deterrent. The President's policy limits the number, yield and purpose of U.S. nuclear tests while allowing for the minimum necessary to meet his national security responsibilities.

Sincerely,

BRENT SCOWCROFT.

Mr. JOHNSTON. Mr. President, given my statement earlier about my skepticism—and I want to be in complete good faith with the Senator from Oregon—would the Senator from Oregon agree with me, in view of the unanswered questions, if we took this to conference we would have the ability to respond to these questions of safety and the nature of the tests to be completed in the next 9 months? In other words, I do not want to go into conference thinking if we accept the amendment we have no ability to respond to what I see as very important issues here.

Mr. HATFIELD. Mr. President, as I understand the situation the Senator poses, if we go to conference, there is a moratorium already on the House side, which is a 12-month moratorium, which we offered originally. We can go from the Senate side with no reference to this issue, with the language now in the bill, or with the amendment that I am proposing today. We still have a conferenceable item, and as far as saying today how it is going to turn out in that conference, I am not in a position to say. I do not know. I think certainly the whole issue would be reviewed carefully in that conference. If the Senator has new information or updated information, certainly the conference should consider the best information. I would see no problem.

Mr. JOHNSTON. Would we have the ability, in my colleague's judgment, in good faith—I know we have the technical ability under the rules to do virtually what we want—but to respond to some of these concerns of the Secretary of Defense?

Mr. HATFIELD. Mr. President, I will respond. I think the fact we have moved from a 12-month House version and attempted to include as many people as possible—the Senators from Nevada with great concerns, the Senator from Maine, and others who have participated in this—indicates we have demonstrated the best of good faith, trying to be sensitive to the best of information and to the problems. We have modified our language three times because the Senator from Maine pointed out technicalities—problems we certainly did not intend to present to this body.

So I say, obviously we are going to be openminded on all of these matters.

Mr. JOHNSTON. Frankly, the decision I have to make as the floor manager is whether to simply move to table at the appropriate time, have that vote, and put the matter off until tomorrow or days after that, or whether simply to—I cannot accept the amendment for the whole Senate, but I can recommend that and take the amendment to conference.

In the meantime, the armed services bill will be coming along, and they could accommodate. This is permanent legislation. If we have that flexibility in good faith to deal in conference, I would be inclined to do that and let the Armed Services Committee in their bill deal further with the matter.

I wonder if the Senator from Maine would have any advice?

Mr. COHEN. If the Senator will yield, what I intend to do is spend a little more time with this amendment—I believe a bargain was made, in fact a good-faith effort to meet the objections I have—and then when the defense authorization bill comes to the floor next week, offer an amendment quite similar but perhaps with a few changes that I would recommend.

So I intend to offer something similar to this but with changes that would reflect my own concerns about it next week when the defense bill comes to the floor.

Mr. HATFIELD. Mr. President I think it is fairly obvious—

Mr. JOHNSTON. Is the Senator saying he would offer that next week on the armed services bill?

Mr. COHEN. That is right. That is what I intend to do.

Mr. JOHNSTON. So, would the Senator concur that perhaps the best action right now would be, with some skepticism but with good faith, to take this amendment to conference and let the Armed Services Committee deal with the matter more fully when their bill comes up?

Mr. COHEN. I think that would be the better course.

Mr. REID. Will the Senator yield for a question?

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired. The Senator from Oregon has 7 seconds.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. The Senator from Nevada will yield to the Senator from Georgia, the chairman of the Armed Services Committee.

Mr. NUNN. Mr. President, I am not going to make a speech. I, unfortunately, could not be here and have not been part of the negotiations and have not yet decided how I will vote myself. But I would just point out to the authors, I think I would agree with the Senator from Maine in his statement that this amendment has come a long way and is much more, I think, practical now than it was in the original form.

The problem I have now is that we have a 9-month moratorium, as I understand it, and a 1996 date for a comprehensive test ban. One or the other of those, it seems to me, is out of place. If you are going to have a 1996 date, you need to get started right now, although you would have to have a plan first and that might take 4 months, 5 months. I do not know how long it would take the administration to have a plan.

If you want a 9-month moratorium for purposes which I know are important in terms of world perception, then it seems to me that the 1996 date ought to be slipped to 1997 or 1998, because what we have done with the combination of that is basically said we want a comprehensive test ban by 1996 and yet we are not going to start doing anything about the safety testing, which everyone now acknowledges is absolutely essential, for the next 9 months, or 9 months from the date of enactment.

Those would be my only observations. There are some technical language examinations that I think need to be made but that can be done in conference, relating to whether inadvertently—and having talked to the author, the Senator from Oregon, I know it would have been inadvertent—whether we have really corrected the language that appears to say if you have one safety feature on a weapon, another one cannot be added. That one needs to be looked at carefully.

Mr. President, I thank my colleagues for the time.

Mr. DOLE. Mr. President, the drafters of this amendment say that this is really not a moratorium. Sure there are steps the administration has to take and studies it has to provide. But, then after all that, the United States can test. Well, the drafters forgot to add a line in their amendment, wishing the administration good luck—since luck is exactly what it will take to maneuver through all these requirements while trying to conduct a responsible testing program—which, by the way, can only be done until September 1996.

What lies under the mounds and mounds of reporting requirements and preconditions is a moratorium, plain and simple. No amount of obfuscation—which the Congress is so good at—can hide that fact.

The bottom line is that when the cloaks and veils are lifted, this amendment is a nuclear testing ban.

Well, those who support this amendment point to the dramatic strides made in START and the followup agreement reached at the summit with Boris Yeltsin and say the United States should have gone further and halted all nuclear testing.

Mr. President, even when these agreements are fully implemented, 11 years from now—in the year 2003—the United States will still have 3,500 nuclear weapons.

Well, this is one Senator who wants to make sure these 3,500 nuclear weapons are safe and that they are reliable.

Mr. President, the basic problem with sponsoring this nuclear test ban amendment is that you have to make certain assumptions about the future:

First, you have to assume that there will not be any safety problems in our stockpile after 1996, or that if there are, we will be able to detect and correct potential safety problems without nuclear tests.

Second, you have to assume that the United States won't need to rely on its nuclear deterrent after 1996—because without a testing capability you can't be sure about the reliability of our nuclear forces.

Mr. President, I cannot predict the future—nor do I think, with all due respect, that my colleagues can.

Moreover, I am not a nuclear weapons design or testing expert, and neither are any of my colleagues.

Finally, I am not the commander in chief—and neither are Members of Congress. Not one of us here has the constitutional and moral responsibility for the safety of our nuclear weapons, the safety of those who handle our nuclear weapons, or the safety of the American people—which may one day rely on a credible nuclear deterrent.

Is there a Senator here prepared to face his or her constituents, some of whom may be working on nuclear stockpiles, and say, "Don't worry about safety—don't worry about reliability. Trust me."? We've all heard that line before.

Let's face it. Nuclear weapons are the most dangerous weapons we possess—and as long as they are an integral part of our defense, as long as we rely on them, the United States will need some capability to test for safety and reliability.

It's nice to think of a world without nuclear weapons and a United States without nuclear weapons. But, the fact is, we are not there yet. A nuclear free world is not a reality.

So, let's get back to reality and vote against the Hatfield amendment.

AN END TO NUCLEAR TESTING

Mr. DECONCINI. Mr. President, I am pleased to join with the Senator from Oregon [Mr. HATFIELD] and the distinguished majority leader, Mr. MITCHELL, in supporting their amendment to impose a 1-year moratorium on nuclear testing. As a cosponsor of the original bill from which this amendment is drawn, I firmly believe that the United States can afford to take a slight risk for peace.

Regrettably, we are not leading the world on this issue. We have lost the moral high ground to France and Russia which have already pledged to stop nuclear weapons testing. Maintenance of our moral leadership of the world requires us to do no less.

The Bush administration recently announced that it planned to reduce U.S. nuclear tests significantly by cutting them to no more than six per year. However, the administration is significantly behind the curve of United States and world public opinion when it comes to nuclear testing.

The reasons for a testing moratorium are numerous. Many people view the elimination of nuclear weapons testing as a moral obligation, but there are a number of technical reasons for a moratorium as well.

The first and most obvious reason is the disintegration of the Soviet Union. Any threat from what remains of the Soviet Union and the former Warsaw Pact has now been dramatically reduced. Indeed, the President would have this Nation provide foreign aid to the former Soviet behemoth. CIA Director Robert Gates has endorsed the view of the changed world environment. He stated on January 23, 1992, "The threat to the United States of deliberate attack from [the former Soviet Union] has all but disappeared for the foreseeable future."

We are now in the process of working together with the nations of the former Soviet Union on many issues. We are even providing aid and technical assistance to dismantle and destroy the nuclear weapons which were once trained upon U.S. cities. I believe that it is important that we step forward and demonstrate to our former enemy, as well as the rest of the world, that we are committed to peaceful cooperation with the fellow members of the nuclear fraternity. The United States remains one of the last nuclear-capable nations which continues to conduct nuclear weapons testing. What message are we sending to the world's nuclear haves and have nots when we continue to test in the face of Russian and French moratoria?

A second reason for banning nuclear testing is nuclear proliferation. The United States advocates a position of nuclear nonproliferation. We are a proud signatory of the Nuclear Nonproliferation Treaty [NPT] and our export policies against proliferation of any nuclear capability are among the strongest in the world. But how can we expect anyone to believe our words when our actions belie them. The continuing hypocrisy of the Bush administration threatens to undermine our principled position. If we continue to develop and test our nuclear weapons, I am concerned that the United States will lose its global leadership in the advocacy of nonproliferation. Many signatories to the NPT have threatened to reconsider their position at the NPT review conference in 1995 if the United States continues to stubbornly cling to its—testing as usual—position. Former President Carter stated recently that "the world is concerned about nuclear proliferation. Here again, the United States is the major obstacle to a worldwide comprehensive test ban. Our threats against Pakistan, North Korea, Iraq, and Libya have a somewhat hollow ring when our deserts still shake with nuclear explosions.''

The Bush administration now states that it needs to continue testing because of national security and weapons safety. While this may be a perfectly legitimate issue, I have to ask if our weapons are unsafe. If they are unsafe, have we been conducting safety tests all along, or have we merely been conducting tests of new warheads and new weapons? Safety was not a concern of Secretary Cheney who stated earlier that the United States planned no safety upgrades in 1992. Now, however, he is chanting the safety mantra because that appears to be the only message that will sell with American public opinion.

Finally, a pause in testing will allow experts to determine the extent of the environmental impact of continued testing at our national test sites.

In closing, it is clear to this Senator that a nuclear testing moratorium is an idea whose time has come. We have endured and triumphed during an age of war and hostility in which arms testing was a necessary evil. That time, however, has passed. We must now lead the world toward the new era of peace.

I ask unanimous consent that a July 22, 1992, editorial from the Arizona Daily Star, entitled "Stop Blasting: Moratorium on Nuclear Tests Makes Sense" be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Arizona Daily Star, July 22, 1992]

STOP BLASTING—MORATORIUM ON NUCLEAR TESTS MAKES SENSE

Congress is working faster than George Bush's brain again. This time lawmakers are pushing to formalize a nuclear issue that ought to be just a housekeeping item in the post-Cold War era—a moratorium on nuclear testing.

The House overwhelmingly passed a one-year stop on these expensive, dangerous underground explosions under the Nevada desert. Now 52 senators, including Arizona's DENNIS DECONCINI, are sponsoring a similar bill, but Bush is still holding out for a "modest nuclear testing program" despite all evidence that it's unneeded, unwise policy. The administration wants probably no more than six tests a year over the next five years, or more than three tests per year in excess of 35 kilotons.

That's only a token reduction. Experts say more than half of all U.S. tests already have an explosive force of less than 35 kilotons, or the equivalent of about 35,000 tons of TNT.

Even the Pentagon says "safety" upgrades of the existing arsenal, which is the usual excuse for nuclear testing now, is not necessary.

Each test costs $30 million to $60 million or more, much of it wasted on weapons that will never be deployed, such as a Star Wars X-ray laser-weapon program that has been canceled.

Those millions would buy a lot of drug-prevention efforts and recreation programs for troubled youths in urban centers.

As long as the United States keeps up this pretense of need for nuclear testing, the danger of proliferation grows. The U.S. lack of restraint leaves no incentive for other countries to refrain from testing deadly weapons.

With no superpower arms race anymore, there's obviously no need to develop new nuclear weapons in this country, especially since our current arsenal alone is enough to destroy most of the planet.

Whatever and whoever remains of communist hardline resistance in the former Soviet Union can exploit U.S. continued testing as a reason to continue an oversized military budget. Russia's two-year unilateral moratorium on testing will end in October, and Moscow officials say they'll be forced to start testing again if Washington doesn't stop.

Underground blasts are not without their side effects, either. High levels of radiation left in the soil could be absorbed by plants and animals.

If the administration can't understand the logic of a test-ban moratorium, Congress ought to drive the point home. Americans want something better for their money than expensive blasts under the Nevada desert.

Mr. SMITH. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Oregon, as well as the underlying bill language regarding nuclear testing.

Mr. President, from the outset, let us be clear about what we are debating here today. This discussion is not just about modifying our nuclear test regime, or curtailing weapons development, it is about whether or not the United States will remain a nuclear power. It is that simple. Because without adequate testing, we simply cannot ensure the safety, reliability, or survivability of our nuclear forces.

Proponents of the Hatfield amendment argue that the world has changed and that the United States no longer needs to maintain a nuclear test regime. The Soviet threat has disappeared, further arms reductions are imminent, the world has become safe and benign. Well, Mr. President, this is a very optimistic viewpoint and it misses the point completely.

As long as we have any nuclear weapons, whether it is 3,000 or 300, it is essential that we test these weapons to ensure safety and credibility. In fact, as the size of our arsenal and number of weapons types decrease, it becomes increasingly important to ensure that the remaining weapons meet their performance specifications, and that our military forces, including satellites, communication systems, and weapons support systems, are capable of functioning in a nuclear environment. Nuclear testing is essential in this area.

From a safety standpoint, we test to gain absolute assurance that in the event of an accident, our nuclear weapons will not deliver a yield. Clearly, there can be no compromise in ensuring the safety of our nuclear weapons, and we must test to do so.

From a reliability standpoint, we test to ensure that our weapons will perform as they are designed to. This hardly seems unreasonable, since we have invested tens of billions of dollars on our nuclear deterrent force. At the very least, we should ensure that they are capable of doing what they are supposed to do. I would say to my colleagues who support testing only for safety; there is little consolation or security gained by knowing that a weapon won't detonate on our own territory if we cannot be sure that it would detonate, as designed, in time of war.

To better place this issue in perspective, I would ask my colleagues to consider some of the surprises which have resulted from nuclear testing. Since 1958, one-third of U.S. nuclear weapons have required postdevelopmental testing. Some problems were discovered in surveillance activities but others were only discovered during the conduct of nuclear tests. All these problems required subsequent testing to assure that fixes were effective. Additionally, nearly half of the nuclear weapon types introduced into the stockpile since 1970 have required postdevelopment nuclear testing to verify or fix problems, and to resolve questions of safety and reliability.

Mr. President, of the eight tests conducted in fiscal year 1991, several exhibited performance that differed significantly from that predicted. Two tests had yields in which the primary performance was approximately half of that expected. The total yield of another test was low by about 16 percent. Furthermore, of the 6 tests conducted so far in fiscal year 1992, 1 produced a yield of nearly a factor of 10 below the level predicted. The reasons for these deviations vary and, in some cases, remain unknown.

I would say to my colleagues, these deviations indicate an incomplete understanding of the detailed physics of nuclear weapon performance. And if design changes are needed to correct problems in future stockpile inspections or to make future safety improvements, we must test to retain confidence in the safety and reliability of such changes.

Mr. President, I have heard some of my colleagues who support this amendment argue that by halting our testing, the United States will be setting an example that will help prevent the spread of nuclear weapons to the developing nations. Again, this is an extremely optimistic yet, frankly, naive assertion. Let us be honest, Saddam Hussein and Kim il-Sung are not glued to their seats wondering whether the United States will continue to conduct nuclear tests. And does anyone in this chamber actually believe that either of these two barbarians, or their terrorist cohorts, would halt the quest to acquire nuclear weapons purely because the United States has stopped testing? Not a chance. They have done, and will continue to do, whatever it takes to satisfy their perverse appetites for power.

I have also heard my colleagues complain that the administration has failed to adapt our test regime to changes in the international security environment and in the size and nature of our nuclear deterrent. This is also untrue. The United States has already significantly reduced the number of nuclear tests that we conduct. In fact, we now conduct only about one third as many tests as we did in the early 1980's and about one quarter the average level of the 1970's.

The President's revised testing policy states that the purpose of all U.S. underground nuclear testing of its weapons is to evaluate and improve the safety of our smaller nuclear deterrent and to maintain the reliability of U.S. forces. In doing so, the United States will conduct only six tests per year over the next 5 years. Of these six annual tests, no more than three can exceed 35 kilotons. In my view, the President's testing initiative represents a legitimate and responsible approach given the ongoing changes in the world.

Mr. President, I urge my colleagues to carefully consider their vote on this issue. It is, perhaps, the most fundamental and far reaching which we will cast this year. At issue is whether nuclear weapons will continue to play a role in our national security or not. Because unless we continue to test our deterrent force, we simply cannot ensure its safety and reliability.

I would caution my colleagues not to be swayed by partisan political or idealistic arguments. Where the defense and security of our Nation is concerned, we must be resolute. If the Senate believes that the United States should continue to rely on nuclear weapons, whether it be 3,000 or 300, then the only responsible course of action is to continue testing. To do otherwise would be dangerous and destabilizing.

I urge my colleagues to vote against the Hatfield amendment, and I yield the floor.

Mr. DODD. Mr. President, I rise in strong support of this amendment. And I want to commend the distinguished majority leader, Senator HATFIELD and Senator EXON, for putting together this important provision. I hope this amendment will be supported by a large majority of my colleagues.

Mr. President, I am a cosponsor of S. 2064, first put forth by Senators HATFIELD and MITCHELL, that would impose a 1-year moratorium of United States nuclear testing unless Russia tests a nuclear weapon during that time. The amendment before us today represents a modified version of that provision.

This modification would impose a 9-month moratorium on nuclear testing, instead of the 1-year moratorium called for in S. 2064. However, the amendment would then go a step further to address what happens in the period after the moratorium.

The amendment would restrict nuclear tests to the purposes of safety or reliability only, and would place strict reporting requirements on the President should he wish to conduct reliability tests. It would require that no more then 5 tests be conducted in any given fiscal year, with a total of no more than 15 through fiscal year 1996.

The amendment would also require that for every fiscal year in which testing has been planned, the President must submit an annual report describing the precise need for safety testing, a cost/benefit analysis of that testing, a description of progress being made on the resumption of the nuclear testing talks with Russia and a plan for achieving a comprehensive testing ban by September 30, 1996. In addition, the amendment states that no test shall be conducted after 1996, unless Russia continues to test after that period.

Finally, Mr. President, and most important, the amendment includes a provision allowing Congress the opportunity to enact a joint resolution disapproving of any of the annual reports submitted by the President, and thereby prohibiting nuclear testing during the next fiscal year. This is an important assertion of the proper role of congressional oversight.

Mr. President, let me take a moment to expand on this provision. If there is one concern that I have over this bill, it is the fact that it could be construed to acknowledge the need for safety testing over the next few years. While I yield to no one in my concern for a safe and reliable nuclear arsenal, I share the belief of many in this body that the need for safety testing has been dramatically overstated by testing proponents.

And so I want to make clear my hope that Congress will not hesitate to use its authority under the joint resolution procedure to closely evaluate each proposed set of safety tests. And I hope there is nobody in the Chamber who believes that by voting for this amendment, we are in any way surrendering our right to use the joint resolution procedure to prohibit further tests of any kind.

Mr. President, over the next few years, there are few challenges that loom more important on the international sphere than the issue of nuclear proliferation. The examples throughout the world are numerous. Third world nations like Syria, Iran, Iraq, North Korea, Algeria, Pakistan, and numerous others, all have acquired or are attempting to acquire nuclear technology.

A comprehensive testing ban would help to limit proliferation by limiting the ability of a nation to develop and improve nuclear weapons. But the United States has refused to take the lead on this important issue—just when U.S. leadership has been needed the most.

The Soviet Union and its successor states have had a unilateral moratorium on nuclear testing since October 1990. France, too, has sworn off nuclear testing. Even China has said it would consider not testing if the other four permanent members of the Security Council were to make the same commitment.

But the United States still clings steadfastly to its nuclear tests, stubbornly refusing to budge. How can we ask other nations to adopt a testing moratorium if we refuse to consider one ourselves?

Mr. President, the U.S. refusal to give up its nuclear testing has simply not been worth the cost. Today we have a chance to do something about it. I hope we can pass this amendment by a large margin, and reassert U.S. leadership on this very important issue.

Mr. PELL. Mr. President, I am pleased to support the nuclear testing amendment to H.R. 5373 offered by the distinguished majority leader Mr. MITCHELL, the Senator from Oregon [Mr. HATFIELD], and the Senator from Nebraska [Mr. EXON].

This amendment has two very important and compelling benefits. First, it provides for a moratorium on nuclear testing. Second, it provides for a test cessation in 4 fiscal years. The combination of a moratorium and an end to testing at a certain date should at last demonstrate to other nations that we are serious about controlling ourselves and curbing the proliferation of nuclear weapons.

At present, the Russians and the French have imposed unilateral moritoria on their own testing. Approval of this legislation will encourage both nations to continue that moratorium. The British would be bound to us in a moratorium, since they test exclusively at our test site. The Chinese would thus be isolated if they were to continue to test.

Time and again the former Soviets have tried to interest the United States in a comprehensive test ban. President Gorbachev refrained from testing nuclear weapons for more than a year during 1987–88. On October 5, 1991, President Gorbachev stated that the Soviets would not test for 1 year, and asked the United States to join a comprehensive test ban. Because the United States was not responsive, President Yeltsin stated in February 1992 that he would begin preparation for testing at Novoya Zemlya if the United States did not stop testing. In May 1992, the Russian Minister of Atomic Energy, Victor Mikhailov put this in perspective by stating:

> Following our example, in April France declared a moratorium on nuclear tests until the end of 1992. The United States has the last word and the whole world awaits this step.

Mikhailov stated that Russia would begin testing in 1993 at the rate of two to four times a year if the United States does not join in the testing moratorium.

On April 8, 1992, President Mitterrand of France suspended its 32-year-old testing program. President Mitterrand wrote the leaders of the other nuclear weapons states to encourage them to make the moratorium universal. He stated that France would retain its independent nuclear deterrent as "the keystone of our defense policy," but that he would press for global arms reductions. President Mitterrand suggested that France would continue its moratorium if the other nuclear weapons states joined the moratorium. Mitterrand stated: "In 1993, we will see if our example is followed, and if common sense has advanced."

This amendment could stop the Chinese from further testing. There have been recent reports that suggest that China may accede to ban nuclear testing if the other four nuclear weapons states stopped testing. Reportedly the Chinese officials have stated that China will not be the only outsiders in a test ban regime. It stands to reason that China's one test a year is not greatly significant to them, and they might be encouraged to join the moratorium. China acceded to the Nuclear Nonproliferation Treaty in March and is slowly trying to move away from its isolated position in the world.

Thus, this amendment gives us an almost certain opportunity to have four or five of the five nuclear weapons states refrain from testing for a period.

The approach taken in this amendment would also encourage progress on nuclear nonproliferation in the Indian subcontinent. It is well known that the Indian explosion of 1974 provoked Pakistan to follow India's lead and move toward nuclear weapons. The United States has proposed a five-nation conference of India, Pakistan, China, Russia, and the United States to address the proliferation problems of the subcontinent. India has stated that they will not participate in their process as long as Russia, China, and the United States test nuclear weapons, produce new nuclear weapons and refrain from a "no-first-use pledge."

This legislation would help control nuclear weapons in the rest of the world. The Nuclear Nonproliferation Treaty [NPT] creates two classes of nations: those who had manufactured and tested nuclear weapons prior to January 1, 1967, known as nuclear-weapon states and all others, the non-nuclear-weapon states. Of the five nuclear-weapon states, only France is not a state party to the NPT, while Britain, Russia, China, and the United States are states parties to the NPT. In the preamble to the NPT, the parties recall that the determination of the three nuclear-weapons states parties to the NPT in the Limited Test Ban Treaty "to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end." In the ensuing years, the issue of continued nuclear testing by the superpowers has been a bone of contention for the nonnuclear weapons states and the non-NPT members.

The U.S. position on nuclear testing was the subject of controversy at the NPT Review Conference of 1990 and at the Limited Test Ban Amendment Conference of January, 1991. The 1990 NPT Review Conference did not move ahead on strengthening IAEA procedures in two areas because Mexico and other nations wanted to ban further nuclear tests. This deadlock stopped the adoption of first, "special IAEA inspections" of undeclared sites which would have been useful in Iraq prior to the 1991 gulf war; and second, the requirement of full scope safeguards for nuclear exports to nonnuclear weapons states. The Limited Test Ban Amendment Conference was called to consider amending the LTB to complete test ban. The amendment conference voted 75 to 2, with 19 abstentions, to continue to meet on this issue.

Mr. President, I must tell you that I am somewhat uncomfortable with the allowance for a relatively high number of safety tests, as well as reliability tests upon a presidential certification. In connection with its consideration of S. 2064, a bill providing for a nuclear moratorium, the Committee on Foreign Relations held a hearing in July 23 with representatives of the Department of Defense and Energy, as well as nongovernmental experts. At that hearing, we explored safety and reliability issues in some depth.

The reliability of a nuclear system depends on the reliability of the warhead, the reliability of guidance system, and the reliability of the missile or aircraft. Efforts to improve guidance and delivery systems would not be affected at all by limits on nuclear testing.

Reliability of nuclear warheads can be measured by various electrical and other nondestructive tests, as well as by actually exploding the nuclear weapon to see if it works and how well. Testimony before the committee indicated that nuclear weapons that have been deployed for several years remain reliable. It is only during the early years of new nuclear systems that reliability can be a problem. Now that our nuclear arsenal is not being redesigned, all of our systems should have the necessary maturity.

For a nuclear deterrent to be effective, the other party must perceive that the nuclear weapons of his adversary are reliable. If a nation wishes to attack the other side first, in a preemptive attack, it is clear that the entire nuclear system must be very reliable and that the first strike will be disabling. Reliability is less important for deterrence since it is only necessary to have sufficient survivable forces to deter or to impose unacceptable damage in a retaliatory strike. Since the United States will have about 8,000 strategic nuclear weapons under START, and some 3,500 nuclear weapons under the prospective de-MIRV'ing treaty, the United States clearly will have a surfeit of reliable weapons for deterrence.

The U.S. criteria for safety is to virtually eliminate the possibility of an accident releasing a nuclear yield of more than the equivalent of 4 pounds of high explosive. Over the years, the United States has added: First, special safety configurations to prevent detonations when warheads are dropped or bashed; second, insensitive high explosives to reduce the risk of accidental detonations of the nonnuclear explosives surrounding the nuclear heart of each device; third, fire-resistant pits to prevent detonations of nuclear weapons when bombers crash and burn or missiles catch fire; and fourth, enhanced nuclear detonation safety equipment.

After U.S. forces are adapted to the START and de-MIRV'ing treaties, all these safety features will be on most of the warheads, depending on whether the executive branch substitutes fully safe warheads for warheads that lack certain safety features because of earlier decisions. For example, Trident missile warheads lack insensitive high explosive because the Navy decided that the safety risk was so small that it did not justify burdening the Trident warheads and shortening their range through the installation of much heavier and more bulky insensitive high explosive.

Propelling these safety improvements were such incidents some years ago as the crash of a bomber carrying nuclear weapons at Thule, Greenland, and the mid-air crash of a bomber near Palomares, Spain, causing weapons to be dropped on land and sea. After that time, the bombers no longer took routine flights with nuclear weapons aboard. More recently, all U.S. bombers have been taken off alert. The Navy now loads the Trident SLBM's without warheads, and then places the warheads into the SLBM's. This two-step procedure reduces the risk of accidents involving these warheads.

In December 1990 a panel chaired by Prof. Sidney Drell, of the Stanford Linear Accelerator Center, released a report on "Nuclear Weapons Safety." The report cited a number of safety problems. Many of the problems cited in that report have been addressed by removing the older weapons systems. The main remaining issues raised by the Drell panel that could lead to further nuclear testing are: First, the absence of insensitive high explosive on the Trident W-76 and W-88 warheads. Second, the lack of fire-resistant pits on gravity bombs and cruise missiles on heavy bombers. The administration has not chosen to rebuild these systems because of the expense and because the safety level of these systems has been thought acceptable.

The administration has testified that the present arsenal is safe. Dr. Robert Barker, Assistant to the Secretary of Defense—Atomic Energy stated in March 1992 before the House Armed Services Committee:

> The Air Force and Navy, in cooperation with the Office of the Secretary of Defense and the Department of Energy, evaluated the safety of all ballistic missiles that carry nuclear warheads. It was determined that there is not now sufficient evidence to warrant our changing either warheads or propellants.

Mr. President, Dr. Raymond Kidder of the Lawrence Livermore National Laboratory described to the Committee on Foreign Relations a program involving changes in our systems that would eliminate any requirement for a large number of safety tests. Dr. Kidder told the committee:

> If further investigation should indicate a need to upgrade these missiles to include all modern safety features (they lack Insensitive High Explosive (IHE), and Fire Resistant Pits (FRP)), this could be accomplished as follows:
>
> The W78 warheads could be replaced with existing W87 MX warheads (no nuclear tests).
>
> The W88 warheads could be replaced with W89 warheads whose development tests for use in the now-cancelled SRAM II have been completed. We estimate that not more than four nuclear tests would be needed to adapt the W89 for use in the W88 Mark 5 re-entry body, a different delivery vehicle than that used in the SRAM II.
>
> The W76 warheads could be replaced with a smaller number of W89 warheads modified for use on the Trident II D5 missile. No nuclear tests would be required beyond those conducted to accomplish the W88 warhead replacement.
>
> Some improvement in the safety of the Trident I, II C4 missile could be achieved by changing the missile design to accommodate four warheads instead of eight and replacing, with suitably designed blast/debris deflectors and barriers, the four alternate missile stations that would be removed. (No nuclear tests).
>
> The numbers of tests listed above assume that the Rocky Flats plant in Colorado is not operating, requiring the use of pits salvaged from weapons being retired.

I would hope very much that the Congress and the executive branch will work closely together in deciding upon a program that will keep safety testing to a minimum. I agree with Dr. Kidder that the substitution of safer warheads already available in the existing arsenal, if deemed advisable, is preferable to a further reworking and testing of warheads.

Mr. President, I would hope very much that this amendment, if enacted into law, will spur the administration to reopen talks on a comprehensive test ban. There are many compelling reasons to have a comprehensive ban and no compelling reasons against such a ban.

The Reagan and Bush administrations were essentially unwilling to take steps toward a multilateral ban. We have paid a price for our failure to take a leadership role in this area. A correct decision today will put us solidly on the right path.

Thank you, Mr. President.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Oregon has 35 seconds remaining.

Mr. HATFIELD. I yield back my time.

The PRESIDING OFFICER. The time for debate on the pending amendment has expired.

AMENDMENT NO. 2832

The PRESIDING OFFICER. Under the previous order, the Senate will rescue consideration of Amendment No. 2832 offered by the Senator from Arkansas [Mr. Bumpers] to the committee amendment on page 5 of the bill. Debate on the amendment is limited to 30 minutes equally divided and controlled between Senators BUMPERS and JOHNSTON.

Who yields time? The Senator from Arkansas is recognized.

Mr. BUMPERS. I yield the Senator from Minnesota 5 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, sometimes when we are asked to vote on a particular project or funding for a particular project it is an easy vote. This has not been the case for me when it comes to the superconducting super collider.

I once had a conversation with the majority leader, Senator MITCHELL, in which I said to Senator MITCHELL—oh, it must have been a month ago—"Sometimes it is just difficult to know how to vote." He turned to me and quoted Lyndon Baines Johnson who once said, "Doing the right thing is easy, knowing the right thing is hard." On this particular question, knowing the right thing is very difficult.

Mr. President, over the past month or so, many people have called me and have talked with me; Nobel laureates, project scientists, physicists from the University of Minnesota, many good friends. And they have told me that the super collider represents real frontier science and research. Mr. President, I am quite convinced that they have said that in good faith. But the question before us tonight on this vote is not whether the super collider is a project with scientific merit. I think we all agree. The question is as follows: Many meritorious projects come before us. Many people ask us for help. There are competing claims, and that is what makes this such a difficult decision.

Last week, Mr. President, the Senate Appropriations Committee marked up the Interior appropriations bill. The committee cut funding for low-income weatherization. For thousands of families who will not receive this funding for low-income weatherization, this is the difference between having housing and maybe being homeless. Or it is the difference between being able to have heat or being able to eat.

Mr. President, if we cannot find funds for low-income weatherization, how can we justify spending $550 million for the super collider?

I was a teacher before I came to the Senate. I insist on the floor of the Senate tonight that the most important education program is to make sure every woman expecting a child has a diet rich in vitamins, minerals, and protein. But, Mr. President, we do not fully fund prenatal programs, we have cut Medicaid Programs. Is not an investment in prenatal care an investment in our future? Is not investing in healthy children an investment in our future? When we cannot find the funds for prenatal care, how do we justify spending $550 million for the super collider?

Mr. President, we talk about preventive health care, but our public health care system is in shambles in our country. Just look at the state of childhood immunization. We are seeing diseases reappear: Measles, whooping cough, polio. Where are the funds for childhood immunization? How can we, when we say we do not have the funds for childhood immunization to protect our children in our own country, justify spending $550 million on the super collider?

For me, today's vote is a question of conscience. I cannot vote for the funding of the super collider when we do not meet basic human and community needs in our own country. And under the budget agreement that we labor under, this is the tradeoff.

Many times I voted to waive that budget agreement, but we have not done so. My vote tonight is not a vote against science funding. We have a significant amount of spending that goes to science funding, $20 billion or thereabout, and this is not a no-never vote on the super collider. I have had many close friends and many people convince me that this is important research. I hope that we will be able to fund this research in the future. But the choice tonight is not a choice for the future, it is our vote now, and in good conscience I am going to support the amendment offered by the Senator from Arkansas.

The PRESIDING OFFICER (Mr. AKAKA). Who yields time?

Mr. JOHNSTON. Mr. President, I yield 1 minute to the Senator from Idaho.

The PRESIDING OFFICER. One minute is yielded to the Senator from Idaho, [Mr. CRAIG].

Mr. CRAIG. Mr. President, let me suggest the vote tonight is in fact a vote for the future. If this country can only fund its day-to-day operations, its day-to-day concerns and it cannot look forward into the future, whether it is a humanitarian future or a scientific future, if we do not have the wisdom to invest for tomorrow, we will not be able to provide tomorrow the kinds of jobs and a dynamic economy that spell a successful Nation. That is really the bottom line of the debate on the superconducting super collider.

I remember when I was in high school, it was the space program. This country was investing in a program, that spinoff is now in the hundreds of billions of dollars, not to science.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator's minute has expired.

Mr. CRAIG. Might I have 1 more minute?

Mr. JOHNSTON. I yield 1 more minute.

Mr. CRAIG. Mr. President, that investment in the space program was not just to science, it was to everyday work and application, from the household to the service station, of course, to military application. That is ultimately the debate on the superconducting super collider. It is again this Nation investing in its scientific future, building a base and understanding and pushing that envelope of knowledge that we have, as a Nation, led the world in decade after decade.

As we vote tonight, let us remember that is the primary issue which we are debating and why it is so fundamentally important for our Nation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CRAIG. I thank my chairman for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me just address the whether-we-can-afford-this-or-not argument. One of the most disturbing things about America today, and it does not only apply to the way we budget things, but actually what is going on in our country, is that we have the kind of the idea that if we do not get everything today, the world is gone. It is a kind of a society of let us spend everything we can on what we need today and not worry about the future. That is catching on in America. We do not save anymore. We do not worry about the future. We just complain about it.

Let me suggest that we are not going to pay for this $8.3 billion super collider in 1 year. We are going to pay for it over 7 years. So let me just do some arithmetic with the Members of the Senate to see if we can afford the other things that are being indicated are of higher concern, including those that the occupant of the Chair has.

Let me just assume the budget of the United States does not go up one nickel. It is $1.5 trillion this year. I think it is fair to assume it will be that at least for the next 7 years. Do the arithmetic with me. That is $10.5 trillion, $10 trillion, $500 billion that we are going to spend on what everyone thinks we need.

Is anyone suggesting over that period of time we cannot afford $8.3 billion? $10.5 trillion is what we are spending for all the things that Senators like the occupant of the Chair and many others are concerned about. That is what we are spending. I do not believe the argument that we cannot afford it in the broad budget sense comes anywhere close to reality. If we cannot put that small amount on the real future of America, then what are we here for?

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Minnesota in his speech a moment ago said that he was strongly for this project but that we ought to do this sometime in the future; that we ought to scrub the project now and do it sometime in the future.

Mr. President, let us not kid ourselves. It is virtually now or never on this project. What we have done as a Nation is created a long-term plan. Based upon that plan, the State of Texas has floated bonds in the hundreds of millions of dollars. I think their total commitment is $1 billion. We have expropriated land. We have moved people out of homes. We have a team of thousands of the finest scientists in the United States who have been assembled for the purposes of building the superconducting super collider.

Mr. President, anyone who says that we can tell all those folks to go home, wait a few years, and do not call us, we will call you if we change our mind, it is not going to happen.

I listened, Mr. President, not only to the distinguished Senator from Minnesota but others talk about the state of anxiety and disquiet in this country, and nobody knows that more keenly than I, coming from a State that has been heavily impacted. But if there was ever a time in the history of this country when we cannot afford to abandon science, to abandon our quest for technology, it is today of all days.

When we are being outdistanced in so many fields by the Japanese, by the Swedes, by the Germans, by the French, by other competitors around the world, to take a field in which we are preeminent, high energy physics, when we are on the verge of breaking the code of the universe—breaking the code of the universe, that is what it is—to determine what are the elementary particles and forces and how they fit together and how they determine the whole cosmos down to the smallest thing, the smallest bits of matter, we cannot walk away from that and say go home, people on this team, scientists on this team, thousands of you, go home; we will do it another day.

Senator BUMPERS says the information will be there 50 years from now, 100 years from now. I wonder what would have happened if they said that to Einstein when he was on the edge of discovering the relativity theory, or if they had said that to Faraday as he was ready to discover the secrets of electricity and electromagneticism, or if they had said that to Maxwell when he was discovering the secrets of the atom, or Geiger or Madam Curie, or a whole host of people from the Greeks down to modern day. Mr. President, the quest for science, the quest for knowledge, the quest for breaking that code is here today.

We are told, Mr. President, we do not have the money to do it. I know money is tight. But this budget this year, Mr. President, the SSC contains Forty-three/one thousands of 1 percent of this budget. It contains six-tenths of 1 percent of the R&D budget.

Mr. President, I have used this chart before, but this is Federal R&D funding. Look at how it compares to NIH, which is 19.4 percent, $15 billion, or SDI, which is 6.2 percent, or on down with the space station, NASA research, National Science Foundation, basic energy research, and down here is the superconducting super collider at six-tenths of 1 percent of the R&D budget.

Mr. President, to say this is going to be the PacMan that ate up all this other budget research is simply absurd. Or to say that this is going to be the straw that broke the fiscal back of the United States is simply absurd.

If we are going to balance the budget, it has to be because we address the question of medical care and entitlements, and everybody knows that, Mr. President. That is the fast-growing part of the budget. Domestic discretionary, of which this is a part, or scientific research is not growing but contracting. And this small part for the superconducting super collider is not changing that.

Mr. President, I think the words of Dr. Lederman, distinguished Nobel Laureate, bear repeating. He says as follows:

> Now we have reached what many, a consensus, believe is the bottom line. We are looking at nature through a new and as yet hypothetical force field that in a sense makes a simple overarching symmetrical world look complicated.
>
> The synergy of inner space—particle physics—and outer space—cosmology—is one of the most dramatic events in the history of science, and so that is why physicists from Fermilab in Illinois and SLAC in California and Brookhaven and Cornell in New York, disgruntled as we all are at the loss of the SSC in our own State, and fearful as we are about the long-term funding of our own institutions, are nevertheless joining together to support this project.

I could not say it as well in 100 years, Mr. President. The distinguished Nobel laureate says science has come together for this project.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSTON. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, there has never been a more compelling case before this body which gave us the opportunity to tell the American people we are going to take charge of our spending. I think every single Member of the Senate before he or she votes tonight ought to ask himself or herself this question: how high would the deficit have to be to make me vote no? Is there some figure out there—$400 billion is the deficit this year. If it went to $800 billion, a trillion, would I vote to cut spending?

The most intense lobbying I have ever seen in my life since the Panama Canal Treaty has just taken place in the last 2 weeks on this amendment. The physicists of the country have lobbied. Dr. Lederman, whom the distinguished Senator from Louisiana just quoted, a Nobel laureate, said, "We are not building this for spinoffs. It would be," to use his words, crazy to build it for spinoffs. We build it because we are curious."

This morning I quoted Dr. Trivelpiece, who in 1987 was Director of the Office of Energy Research, who said, "We believe that $4.4 billion is not only accurate, within 10 percent, it is conservative." And he goes on to say that "Never before has a projected cost figure been as accurately assessed and will never change." And this morning he said Senator BUMPERS misquotes me or something. "I am still hot for it. I still stand by what I said." What he said in 1987 was $4.4 billion, would be the cost. In 1989, Secretary Watkins comes before the Energy Committee and said: I am sorry, the cost is $5.9 billion.

But if it goes a dime higher, count me out. Two years later, they say it is $8.25 billion. We are already twice the original projection, and, the Secretary of Energy says if it goes any higher, we should not build it.

The Energy Department's internal audits say the cost is going to be $11.8 billion, and the lifetime cost even at today's figure is $20 billion.

I have never seen a project with as many broken promises. The people here who are relying on all of these physicists will come in here, soon and vote for the space station, which almost every single physicist in America opposes, and the people who favor the space station will come in here and renounce the very people that they are honoring so highly today, the American physicists, because they favor this.

Where are all the budget balancers? Less than 3 weeks ago on the floor of this body, I have never heard as many unctuous, pontificating statements in my life about excessive spending and a constitutional amendment to balance the budget. "Put a few words in the Constitution," they said. "That will solve the problem."

When the junior Senator from Texas said "I am going to make sure—I do not care if the House has killed it—I am going to make every Member of the U.S. Senate vote"—that was an obvious political threat.

Where are all the people who delivered all the lectures about constitutional amendments to balance the budget?

Where are the people who said why do we not cut all that spending out? We do not need a constitutional amendment. Let us cut the space station. Let us cut SDI. Let us cut the super collider.

I will tell you what happened. It has been 3 weeks, and memories are very short around here. You have all these broken promises. GAO says there are no cost controls, and no procedures in place to determine the cost controls according to performance as this contract goes forward.

Last year, the debate was that all the countries were going to kick in. We could count on the Japanese for at least $1 billion. The Japanese sent word, "Do not call us. We will call you."

Right now, we have a $10 million contribution from India on a $20 billion project; not forthcoming. The cost now is $11.8 billion, and headed north.

Mr. President, if every Senator would ask himself this question: What is the most honest threat to the future of this Nation? It is the deficit. There is absolutely no controversy about that.

Then ask yourself this question: Is going forward with a $20 billion project, every single penny of which must be borrowed—and with compounded interest, during the life of this thing it comes to $53 billion, not $20 billion—$53 billion, taking the interest rate on 30-year Treasury notes today; no inflation. Put inflation in it, it goes to $80 billion. You will have to borrow every dime.

Do you know what this reminds me of, Mr. President? It reminds me of a guy who just lost his job, his car has been repossessed, he is 3 months behind on his house payments, and he is about to be foreclosed.

And his daughter comes home from school and says, "Dad, I just found this beautiful $400 dress to wear to the senior prom."

He says, "Darling, you know I would do anything to buy that dress for you for the senior prom but here are the facts." And he lays the facts out for her.

She says, "But, daddy, it is such a pretty dress."

That is exactly what U.S. Senate is getting ready to say tonight, "It is just so pretty, I cannot resist it." The country is $4 trillion in debt. The Japanese are holding a $52 billion trade deficit against us, and if they thought there was one single thing in this program that would help them technologically, they would be in it with both feet.

Mr. President, I yield 1 minute to the Senator from Iowa.

Mr. HARKIN. Mr. President, I would like to inquire of the President. Earlier today I said I needed several more minutes. The chairman gave me 4 minutes. I hoped to get some time on the debate on the testing which the chairman said I might be able to do. That was all taken up.

I know that by unanimous consent agreement debate would be cut off at 6:30. It is a very important debate, Mr. President, I have about 7 or 8 minutes of remarks left that I would like to make here tonight. I would like to ask unanimous consent for about 8 more minutes.

Mr. JOHNSTON. Mr. President, my friend from Iowa knows of my high regard for him. But, Mr. President, we have had over 4 hours I think on this. Senators have been alerted to a 6:30 vote.

With reluctance, I would object, Mr. President, because this is not the last matter we have to tend to today. I am afraid if we get into extending time, we will do so for a number of Senators for whom we would have to cut off. I apologize.

Mr. HARKIN. I understand. I do not understand fully. This is a very important debate, but I will accept 1 minute if I can.

The PRESIDING OFFICER. The time of the Senator from Iowa has expired.

Mr. BUMPERS. I yield the Senator from Iowa 1 minute, Mr. President.

Mr. HARKIN. Mr. President, earlier the chairman talked about Madam Curie, Einstein, and everybody else. The Research Society in America asked where we should spend our money. No 1, in untargeted individual research awards; dead last, superconducting super collider. That is where we ought to be putting our money, in the Einsteins and the Madam Curies, into the individual awards, the small sciences, but not this.

I just want to end my remarks, Mr. President, by taking the Senators back to April 29, 1986. During that debate, a Senator on the floor argued against Federal investment in science and technology. Here is what that Senator said.

> The truth is, in the last 30 years, we have invested in science and technology. We have invested in resource development and in education and training. The result has been economic stagnation.

This Senator went on to say that American industry is in a much better position to make investments in science and technology, primarily because they invest in products and processes that are useful to society:

> American business in investing in science and technology, in the development of new products and new techniques and in the development of new plant and equipment. How are we to assume that we in Congress know more about technology and science and resource development than all the hundreds of thousands of American corporations that are investing in these areas?

Who was this Senator who railed against the Federal Government investing in science and technology, who noted that investments in products and new techniques were preferred? None other than the Senator from Texas [Mr. GRAMM].

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 3½ minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, my distinguished friend from Arkansas has build a series of inaccuracies to expand a project which is $5.4 billion to complete from this point on to one that is $53 billion in scope, which is absolutely absurd.

Mr. President, what this project is right now, when you take away sunk costs, the Texas contribution, termination costs, and outyear inflation, is $5.4 billion. It is not $20 billion.

How does the Senator from Arkansas use the figure of $20 billion? He takes the highest estimate, which is not the current estimate, for this project. He adds on to that all of the interest in the meantime. He adds on to that the operating costs, and all the other expenses. It is as if when you bought a house you would add on the cost of mowing the lawn, heating the house, painting the house, paying the insurance, all of those expenses that go on in the meantime.

The actual cost, Mr. President, is $5.4 billion, and that this is no longer an escalating project.

Have costs escalated in the past? Yes. Why? Because they had to redesign the magnet, redesign the circumference. That is done now. The magnets are redesigned. They are manufactured. They are tested in sufficient quantity to assure cost control. We can assure cost control on the contracts that are let for the excavating of the project, as well as the construction of the project.

Mr. President, there may be reasons to be against this. But escalating cost is not one of them. The basic question facing us, Mr. President, is whether or not this country believes it is important to go into the most basic science that there is, the science of determining what we are made of and what the basic forces of nature are.

As Dr. Lederman says: "It is one of the most dramatic events in the history of science."

Mr. President, we cannot afford to walk away from this project, being that far into it and being this close to a solution to the project. You cannot do it through the CERN super collider in Switzerland. It does not have—we are told by the scientists—the requisite powers to break apart the nucleus of the atom and determine what those forces and parts are.

Mr. President, I quoted earlier from Dr. Paul Froyne, the distinguished legal scholar and philosopher, who said that "the thing that unites civilized people everywhere is their profound ignorance about the most important questions of the universe—whither, whence, and why. This helps answer that question at least scientifically.

Mr. BUMPERS. Mr. President, I want all of the Members of the Senate to look at the names of all the people who voted for cloture on a constitutional amendment to balance the budget and said this is the only way to save this body. We are out of control. You are going to have to put words in the Constitution. Look at the names of all of those people who voted for cloture, and then before we adjourn, look and see how they voted on the super collider, the space station, SDI, intelligence, the Trident missile, those five things, to save $10 billion in 1993, over the life of them $350 billion, and with interest compounded, over the life of those, $900 billion, because every dime of it is borrowed.

I ask the Members of this body to do your duty, and start tonight exercising the responsibility you told the Chamber of Commerce and the Rotary Club you would.

Mr. DODD. Mr. President, I rise this evening in support of the amendment offered by the distinguished Senator from Arkansas [Mr. BUMPERS].

The Superconducting Super Collider Program has received national attention as a project clearly seeking a mission. The research has been touted as fundamental toward the understanding of the universe and critical in our search for the origins of matter.

Mr. President, I do not necessarily disagree with the ideals and aspirations of those who would seek to continue this program. In fact, I have supported the more modest funding levels approved last year. But the world has changed, Mr. President, and the priorities must change as well.

Like so many other issues before this body, this vote is a vote on priorities; and I cannot in good conscience vote to continue this program.

When first designed, the superconducting super collider promised to bring international funding and backing from a host of other nations. The list of contributors appeared long and the commitment firm. But since that time the contributions have not materialized and new commitments have been even harder to obtain.

Mr. President, tonight's difficult decision pits the desire to support research against the fiscal realities of our expanding Federal deficit. The research is desired, but we simply cannot afford it. This is a decision that really cuts to the heart of what is happening to this Nation—we are simply unable to fund all of our desired programs with the limited resources available to us.

As I studied this issue I carefully weighed the evidence on both sides of the argument. As I considered the facts, the merits of the project quickly faded in the light of fiscal reality. Perhaps the questions being asked and hopefully answered may someday provide insights into the origin of our very being. But on balance, Mr. President, this project does not have the funding nor the full support of the scientific community.

Mr. President, the superconducting super collider is not on budget and it is not on time. Documents provided from the Department of Energy clearly admit this fact. Additionally, the GAO as recently as last April concluded that the SSC project was badly managed and cost overruns could bring the total cost to well over $11 billion. The question quickly became, should we continue along on this program or cut our losses now and join with the other efforts already underway abroad.

Mr. President, this is also a question of responsibilities. As a body, we have a responsibility to weigh the facts and offer decisions on priorities for our Nation. As a Member, I have a responsibility to the constituents of Connecticut who stand to pay almost $117 million in taxes over the next few years to complete this program. Mr. President, I must fulfill my responsibility to those constituents and to this body by voting with the distinguished Senator from Arkansas to cut the funding for this project.

Mr. WARNER. Mr. President, I rise today in support of the amendment offered by my distinguished colleague from Arkansas, Senator BUMPERS to restrict funding for the superconducting super collider—the SSC.

My position on this matter has been arrived at with great reluctance because I have supported the SSC in the past, and recognize it has considerable scientific merit in broadening our understanding of matter and energy.

I have always been supportive of the mission of basic science research and other activities sponsored by the Federal Government that attempt to address fundamental scientific questions: What is the structure of matter? How did the universe begin and will it end?

But, Mr. President, Federal spending is out of control and we must take every opportunity to cut spending and restore fiscal responsibility.

The projections provided by the Department of Energy indicate that the cost to complete construction of the SSC will be $8.2 billion, but it certainly may be closer to $10 billion. This construction cost is also only a partial investment in the SSC because there will be significant annual operating costs which the Federal Government must finance.

We simply cannot afford it. The most serious problem facing our Nation today is the Federal deficit, and we simply must tackle it.

Federal spending is out of control, and we must take every opportunity to cut spending and restore fiscal responsibility.

The projected Federal deficit for this fiscal year is $396 billion. the Federal debt for fiscal year 1992 is $425 billion compared to $59.2 billion when I was first elected to office.

Individuals are beginning to realize that a huge budget deficit is something that affects them and the future of their children. An ever growing amount of their tax dollars are being spent on servicing, paying interest, on the national debt. This is money that, in many ways, does not move America forward. It does not provide housing, cancer research funding, or better education for our youth.

Nobody can deny that we absolutely must come to grips with our Federal deficit, and make the extremely tough choices necessary to do so. We must cancel big dollar Federal projects such as the SSC.

Mr. President, no program can be safe from cuts. We must consider each program on its merits, and determine if it can be justified within our tight budget constraints.

I have reluctantly concluded that the SSC cannot be justified in this austere budget, and I support the BUMPERS amendment. I do so recognizing there are many interests in my State strongly supporting the SSC. I respect their view as I hope they do mine.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JOHNSTON. Mr. President, I move to table the Bumpers amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. DIXON], the Senator from Tennessee [Mr. GORE], are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] and, the Senator from California [Mr. SEYMOUR], are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS], is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] and the Senator from California [Mr. SEYMOUR], would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 32, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—62

Adams
Akaka
Baucus
Bentsen
Bingaman
Boren
Breaux
Brown
Burns
Byrd
Chafee
Cochran
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dole
Domenici
Ford
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Hatfield
Heflin
Inouye
Johnston
Kasten
Kerrey
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Reid
Robb
Rockefeller
Roth
Rudman
Sarbanes
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Wirth
Wofford

NAYS—32

Biden
Bond
Bradley
Bryan
Bumpers
Coats
Cohen
Conrad
Dodd
Durenberger
Exon
Fowler
Harkin
Hollings
Jeffords
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mitchell
Nunn
Pryor
Riegle
Sanford
Sasser
Smith
Warner
Wellstone

NOT VOTING—6

Burdick
Dixon
Gore
Hatch
Helms
Seymour

So the motion to table the amendment (No. 2832) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we now will move to the Hatfield amendment. Senator NUNN has only recently come in from a trip, and I ask unanimous consent that Senator NUNN be allowed 3 minutes within which to talk about the Hatfield amendment.

After that, I do not know whether we will need a record vote or not, but one has been ordered.

The PRESIDING OFFICER. There will be order in the Chamber. There will be order in the Chamber. The Senator may proceed.

Mr. JOHNSTON. Mr. President, before I put that unanimous-consent request, the only other matter in order, other than the Hatfield amendment—and if we take the Hatfield amendment, I think then that will be the last amendment on nuclear testing, I believe; certainly the last one that would require a vote—then the only other amendments in order are the Bumpers amendments. I wonder if the Senator from Arkansas intends to pursue other amendments.

Mr. BUMPERS. I do. I say to the Senator.

Mr. JOHNSTON. There may be other record votes after that.

So now I ask unanimous consent that Senator NUNN be allowed to proceed for 3 minutes.

The PRESIDING OFFICER. There will be order in the Chamber.

Is there objection to the unanimous-consent request? Without objection, the Senator from Georgia is recognized.

Mr. NUNN. Mr. President, could we have order? I cannot hear myself.

The PRESIDING OFFICER. Will Senators please take their discussions out of the Chamber? There will be order in the Chamber.

AMENDMENT NO. 2833, AS FURTHER MODIFIED

Mr. NUNN. Mr. President, I thank the Chair and I thank the Senator from Louisiana.

First, I want to congratulate the Senator from Oregon, the Senator from Louisiana, the Senator from Nebraska, the Senator from Maine, and others who worked so diligently for so many days on this testing matter, which is enormously important.

I plan to vote for this compromise that has been worked out, but I do want to put down a marker as to matters that need to be considered, certainly, before this conference is concluded on this bill, and I also anticipate this matter will be addressed on the armed services authorization bill.

I am concerned that we have a moratorium combined with a 1996 date for a comprehensive test ban. I understand the purpose of both of those. But those tend to be in tension and work against each other because, if we are going to have a 1996 test ban date, we need to get on with the safety testing, which now I think everyone agrees has to take place. So one or the other of those dates needs to be, I think, adjusted.

I am also concerned that there may not be enough tests here to complete the safety regime that has been advocated by the Drell Commission and others, and I think that number of tests needs another look.

I believe that we need to clarify what I believe to be the intent of the authors of this amendment that weapons reliability includes weapons effects, that is, effects on things like satellites and other important security measures.

I also believe we need to clarify that a weapon with one or more safety features can be modified to add additional safety features. Right now the language is not completely clear on that. We do not want to block additional safety features being put on weapons that already have a safety feature. And we also need, I believe, to look carefully at adding a provision that would abrogate the cessation of tests, which is 1996 under this amendment, if Russia resumes testing, or if China has not agreed to a moratorium by 1998.

Mr. President, I thank my colleagues for this additional time. I will vote for the amendment with these markers down for further work.

I thank the Chair.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The question is on the amendment of the Senator from Oregon.

Mr. JOHNSTON. Mr. President, the committee is willing to take the amendment, considering the discussions we have had.

I think we may need a vote anyway, is that correct? Does anyone desire a vote on the matter?

I believe Senator HATFIELD does desire a vote. We urge all Senators to vote yes on this.

I think we will have one more vote that we know about on a Bumpers amendment after this.

Mr. COHEN. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. COHEN. Will the Senator make clear that next week the Armed Services Committee does intend to bring a measure to the floor that will clarify many of the items that were outlined by Senator NUNN? Those of us that feel they have not been adequately addressed intend to bring a measure to the floor that will provide further clarification.

Mr. JOHNSTON. Indeed, Mr. President, that is the basis upon which we would take it; that and the fact that in our own conference we would be able to address these same concerns and draw upon the work of the Armed Services Committee, if you are able to get consensus by that time.

Mr. STEVENS. Mr. President, is there a time agreement on the next amendment of the Senator from Arkansas?

Mr. BUMPERS. I have two amendments, one of which I think the distinguished floor managers will accept and another one that we can dispose of in 10 minutes and then vote.

Mr. JOHNSTON. Mr. President, I have seen one which we are willing to take. The other one I had not seen.

My guess is the Senator from Arkansas is correct about his time estimates. But we do want to finish the bill tonight.

Mr. BUMPERS. It is so innocuous, I am sure you will accept it.

Mr. DECONCINI. Will the Senator yield? Mr. President?

The PRESIDING OFFICER. The Senator from Arizona.

If the Senator will suspend?

The previous Presiding Officer tried very hard to get the attention of the floor. We will wait until there is silence in the Senate.

The Senator from Arizona may proceed.

Mr. DECONCINI. Mr. President, is it possible to discuss a time agreement with the Senator from Arkansas for 10 minutes?

Mr. JOHNSTON. Mr. President, we are not ready for a time agreement at this time. I do not believe it will take a great amount of time. We will move to table. After that, if the tabling motion is not successful, and I believe it would be, it may take some additional time.

But I hope the time for the next vote would not be extremely long.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, may I suggest that we now have the vote on the Hatfield amendment; that during that vote we attempt to reach an agreement limiting the time for the amendment to 10 minutes, as the Senator from Arkansas has suggested, or as short a time as desired by the managers? And then, immediately after this vote we could get the agreement and then finish this bill, hopefully in very short time so we could complete action on it this evening.

Mr. COHEN. If the majority leader will yield, let me indicate to my colleagues that whatever the outcome of the vote on the Hatfield amendment, that I do not intend to offer any additional amendments to the bill, so there will be no further amendments by the Senator from Maine.

Mr. MITCHELL. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 2833), as further modified. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. DIXON], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

I further announce that if present and voting the Senator from Illinois [Mr. DIXON] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] and the Senator from California [Mr. SEYMOUR] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 68, nays 26, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—68

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bumpers
Byrd
Chafee
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gorton
Graham
Grassley
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Pryor
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Wellstone
Wirth
Wofford

NAYS—26

Brown
Bryan
Burns
Coats
Cochran
Cohen
Craig
Dole
Domenici
Garn
Gramm
Hollings
Lott
Lugar
Mack
McCain
Nickles
Reid
Roth
Rudman
Simpson
Smith
Symms
Thurmond
Wallop
Warner

NOT VOTING—6

Burdick
Dixon
Gore
Hatch
Helms
Seymour

So the amendment (No. 2833), as further modified, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment, as further modified, was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I want to command the Senator from Oregon and the Senator from Nebraska and other Senators involved for their role in the truly historic vote which has just occurred. This is the first time in history that the Senate has ever voted in support of any limits on nuclear testing, let alone expressed an overwhelming desire to end all nuclear testing. The margin of 68 to 26 is overwhelming. It reflects the truly enormous scope of change that has occurred in the world in the past few years. The man who has done the most to lead the effort in this direction has been the Senator from Oregon, Senator HATFIELD. He deserves the gratitude of all Americans and people around the world and the recognition which this historic vote signifies. I congratulate the Senator.

Mr. President, I am now advised that Senator BUMPERS is prepared to accept a 10-minute time limitation equally divided on this amendment, and that Senator JOHNSTON will propound the agreement, and that he will move to table it so that there will possibly be just this one more vote on this measure.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, Senator BUMPERS has 2 amendments. The first provides that in the acquisition of necessary components that to the extent we purchase those that are manufactured outside of the United States, that contractors in this country be able to bid for those. And while we do not know all the details about what the different collaborations are, the groups that might join together for this, we are willing to take it to conference and in good faith try to make it work.

And so if the Senator will send up his amendment at this time, we can accept that.

AMENDMENT NO. 2835

(Purpose: To prohibit the expenditure of Federal funds for the purchase of components for the superconducting super collider that are manufactured outside the United States unless American firms were allowed to compete for the contract)

Mr. BUMPERS. Mr. President, I have not offered the amendment. I do so at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2835.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following: "Except in the acquisition of components necessary for the Solenoidal Detector Collaboration (SDC) or the Gammas, Electrons, and Muons Detector Collaboration (GEM), no Federal funds appropriated to the Department of Energy for fiscal year 1993 or thereafter may be used, directly or indirectly, to purchase components for the superconducting super collider that are manufactured outside the United States, except pursuant to a contract that was open to competitive bidding.

Mr. BUMPERS. Mr. President, the amendment is very simple. It simply says that except in the acquisition of components necessary for certain technical aspects of this, no Federal funds appropriated in the Department of Energy for the year 1993 and thereafter may be used directly or indirectly to purchase components for the superconducting super collider that are manufactured outside the United States except pursuant to a contract that was open to competitive bidding.

Mr. President, I do not mind telling my colleagues there is some sole source contracting going on. It is costing American jobs. This amendment is designed to correct that.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Could I ask a question of the Senator?

If a foreign country is going to supply any of the components, the amendment says they will do so only if there are competitive bids and they win it. Is that essentially it?

Mr. BUMPERS. Yes.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. Is there further discussion on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2835) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that on the next Bumpers amendment, when offered, if offered, which provides for the $650 million foreign contributions, there be a limit of 10 minutes equally divided, with no second-degree amendment; that I then be recognized on a motion to table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I might tell my colleagues, if this matter is tabled, I understand we could then go directly to final passage and that a Record vote has not been requested on either side on final passage.

So if this is tabled, I believe I am safe to say this would be the last vote of the day.

Mr. BUMPERS. Can I ask the Senator a question?

Would it be fair to say if it is not tabled, it would still be the last vote of the evening?

Mr. JOHNSTON. That depends.

Mr. BUMPERS. The Senator is not suggesting to the people standing around this body if they vote to table, they can go home, and if they do not, they cannot?

Mr. JOHNSTON. Yes. In other words, we regard this as a killer amendment which would take some additional time and thought to explain. That is exactly what I am saying, yes. Absolutely.

Mr. BUMPERS. Mr. President, we already have a 10-minute time agreement. There is something that just does not sound quite right about that. We have a 10-minute agreement to that. I agreed to that so Senators can get home to their families, and now the Senator is saying in sort of a threatening way if they do not vote, they cannot go home?

Mr. JOHNSTON. No. It is up to the majority leader to do that tonight or do that tomorrow. What I am saying, we cannot accept this amendment based on the motion to table. This is a killer amendment. I am not trying to be cutesy about this. I am telling it like it is. I believe this would be a very bad amendment in all sincerity and, therefore, if we fail to table, we could not turn around then and accept the amendment.

Mr. BUMPERS. I do not understand for the life of me why this is a bad amendment. Last year this Senate was assured this collider was not going to be built unless we had $1.7 billion in foreign participation. I am saying there ought to be $650 million, and the Senator is saying it is a killer amendment.

Mr. JOHNSTON. If the Senator will introduce his amendment, I will tell the Senate why I believe that.

Mr. BUMPERS. Mr. President, I do not have any delusions about whether or not my amendment is going to be tabled. But I do think it is passing strange in two ways: Number one, that if you vote to table, you can go home and spend the evening with your family. If you do not, you cannot. Last year we were told there would certainly be $1.7 billion in foreign participation. I am only asking for a third of that to see this thing go forward and the Senator is calling it a killer amendment.

Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The parliamentary situation is that a 10-minute time limit has been agreed to if the Senator chooses to offer his amendment.

Mr. BUMPERS. Has the time agreement been agreed to?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that this colloquy not count against the time agreement.

The PRESIDING OFFICER. Since the amendment has not been offered, there cannot be time running in any event.

Mr. JOHNSTON. If my colleague from Arkansas will permit——

Mr. BUMPERS. I do not want to hold on to this amendment all night. Do not make me stand here and hold it.

Mr. JOHNSTON. Mr. President, I want to clarify it. The Senator made it sound as if I was not being quite fair. The situation is this: If we have a 10-minute time agreement followed by a motion to table, if the matter is tabled, and we do not—this is the last matter that is eligible to be brought up on this bill, we would then go to final passage without a record vote, and so Senators are thereby released.

If it is not tabled, then we would need to discuss it further and perhaps amend it in the second degree.

I am not sure about that. I did not mean to threaten Senators if they would stay here all night. I did mean to say I know we could go home at the end of 10 minutes if a matter cuts off debate and then you go to final passage without a record vote. That is all I was saying, and I hope that does not sound unfair, but it is factual.

Mr. BUMPERS. There is a second part of this amendment which I think is also very important and a part which I think we would certainly agree to. If you were not opposed to the requirement that there be $650 million in foreign participation on this project, we also state in the amendment that no components for the collider purchased with U.S. tax dollars manufactured outside the United States shall be counted as a contribution from international sources toward that goal.

The Senator would agree with that part of it, would he not?

Mr. JOHNSTON. Mr. President, in the first place, the Appropriations Committee has long believed that if this project was worth doing, it is worth doing with American dollars.

If I can read to the Senator, as far back as 1990, our report said this:

> The committee believes that the benefits to be gained by magnet industrialization, especially manufacturing technology in the U.S. industry, outweigh the budgetary requirements that appear to require foreign participation.

So, Mr. President, we do not believe we ought to make this requirement, and particularly we do not believe we ought to make the requirement in such a way as to give foreigners a veto, because the amendment says you cannot go forward after June 1, 1993, unless you have foreign participation in place.

What this would mean is that if the Japanese came to see us on May 1, 1993, and you do not otherwise have the foreign participation in place, they could say, "Here is $650 million, and we want the cream of your technology." And we would either have to say yea, in which event they get the cream of our technology, or say nay, in which event you stop the super conductor in place.

We should not give foreigners a veto on this project. That is all it is.

Mr. BUMPERS. I am not so concerned about giving foreigners a veto as I am about the representation that has been made to the United States Senate time and time again about foreign participation.

Mr. JOHNSTON. Not by this Senator.

Mr. BUMPERS. Maybe not by that Senator, maybe not by the committee report language, but I can show you. Look at the debate last year in the CONGRESSIONAL RECORD. You will see time after time a Senator got up and said our foreign partners will think we are reneging on them if we do not go forward with this. They are in. They are committed.

Mr. JOHNSTON. I think the Senator is referring to the House debate. I think I am correct—

Mr. BUMPERS. I want to correct it to this extent. The Senator from Louisiana did not do that. But there were other Senators in his position who did.

Mr. JOHNSTON. Maybe, maybe not. Let us look at that RECORD.

Mr. BUMPERS. I read the RECORD this weekend.

Mr. DOLE. Can we offer the amendment? Can we start the clock?

Mr. BUMPERS. I am having a lot of fun. This is a good amendment. I do not want anybody to vote willy-nilly on it without knowing what they are voting on. That would be a terrible thing to happen around here.

Mr. President, since we only had 10 minutes, I thought we ought to clarify what we are talking about here; that is, there ought to be some foreign participation but, on these sole source contracts, which the project is now busily engaged in with foreign companies, sole sources, no competition, they ought not be doing that, and we provided in the other amendment that they not do it. In this one I am saying that any contracts they give to foreigners shall not be counted as a foreign participation. Nobody can disagree with that, can they?

AMENDMENT NO. 2836

(Purpose: To limit Federal appropriations for the superconducting super collider)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2836.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place in the amendment, insert the following: "None of the funds made available by this Act shall be obligated for the superconducting super collider after June 1, 1993, unless the President has certified to the Congress that commitments for contributions from international sources meet or exceed a total of $650,000,000 for fiscal years 1993, 1994, and 1995. No components for the superconducting super collider purchased with United States tax dollars and manufactured outside the United States shall be counted as a contribution from international sources for the purpose of meeting the $650 million foreign contribution requirement.

Mr. BUMPERS. Mr. President, to the distinguished floor manager, I would also like to make an additional point to carry out the colloquy a little further.

I remember very well in 1989 when Secretary Watkins came before the Energy Committee and said "I am sorry about that $4 billion projection. It is now at $5.9. But I want to tell you for sure, that if it is a dime more than that, it should not be built." I am quoting the Secretary of Energy who is today the cheerleader for this project at $11.8 billion, just twice what it was when he told the committee in 1989 that it ought not to be built if it exceeded $5.9 billion. But he says the cushion of this is $5.9. Texas is going to contribute $900 million and, in addition to that, we feel certain that the Japanese, who are very enthusiastic about this project, will come in for somewhere between $500 million and $1 billion.

Mr. President, I am offering this amendment not to needle the proponents of this project, not to be an obstructionist, but to say at some point people ought to be held accountable for their representations. If you want to say come in here and lie to us, tell us anything you want to, we do not care, we are going to spend the money anyway, that is one thing. But if you expect the Secretary of Energy, for example, to be a man of integrity, and a man of good representation, a man whom you want to rely on, if you want to rely on him, then you ought to vote for this amendment.

I did not suggest that Japan was coming in for a half a billion to $1 billion. I did not even know they were anticipating $1.7 billion in foreign participation. Nobody suggested that this was a good project, whether they came in or not. The suggestion was it was so good they could not resist it. We now know that it "ain't" good enough for anybody.

Japan has said that if you wait for the year 2000 there is a technology that may make this obsolete, that would be much less expensive. The Congressional Research Service says the British think it is utter waste of money because they know the technology will change by the year 2000 and be much less expensive.

Mr. HAWKIN. Will the Senator yield for a question?

Mr. BUMPERS. I am happy to yield.

Mr. HARKIN. I have here a Chronicle of Higher Education, March 1992, a report that says the Department of Energy said that much of the overseas work will be done by contracting work to foreign countries, without receiving competitive bids from American companies, and also that the contributions will come mainly in the savings achieved by constructing sophisticated magnets and other technical hardware with low-cost overseas labor. The Department's plans was revealed here in the scientific meeting on the super collider by the project manager, and other agency officials. They estimated that the agency would receive about $400 million in assistance from the four countries in this way.

I wonder if the Senator could elaborate. Is he telling me they are going to have sole source contracting for some of these components in low-wage countries from overseas and the difference between what they would charge for that and what we would have to pay for it here would—

Mr. BUMPERS. As a contribution. The Senator answered his own question.

Mr. HARKIN. That would be a contribution.

Mr. BUMPERS. Absolutely.

Mr. HARKIN. I do not think that is right.

Mr. BUMPERS. I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, as I said earlier, the Appropriations Committee of the Senate has long believed and has put in our report each year that we believe that if the super conductor is worth doing, it is worth doing in the United States. Frankly, we have discouraged the penchant of some of those in the Department of Energy to get foreign participation on the ground, that if foreigners participate they want the best of the manufacturing technology. The Japanese are ahead of us now in automobiles, not because they invented these devices for automobiles but because of their manufacturing technology; or at least they have been ahead of us, and I understand now that we are moving right on ahead and turning that around.

In any event, I would hope that we would keep the cream of this technology for ourselves.

But beyond that, Mr. President, to put us in the position where we must get $650 million before June 1, 1993, or else the cutoff ax falls—I mean what this says is on June 1, 1993, if you do not have the $650 million in place, you cannot proceed to spend another dollar; you have to fire all of your employees. And what does that mean for contracting? It means that any contract you let between now and then must be subject to the provision that all funding may stop on June 1, 1993. What is that going to do to a contract? They have a built in termination cost in the contract which is going to up the cost of the contracts.

It effectively gives a veto to the Japanese or anybody else who can submit whatever it is they want to submit, and we have to take it or leave it or not proceed with the project. I mean they can say here is $650 million, and we want all the rights to all of the manufacturing technology, right on down the list. So that they would get the cream of the project for $650 million, and it is put to us "Take it or leave it."

I know that is not what the Senator from Arkansas has in mind, but I think that is the inevitable result of this.

I hope we build it ourselves. Most of the cost is already sunk and is there. Let us develop this technology in America. The science is worth finding out. We ought to do it here. We clearly should not give a veto to a foreign power, and put our contracting provisions in limbo so that we do not know whether we are a reliable contracting party. That will only run up the cost.

So, Mr. President, while I understand what the Senator from Arkansas wants to do, I do not think this accomplishes it.

One final word: That is, the Senator from Iowa talked about these noncompetitive bids from foreigners with low wage scales.

I believe we have fixed that problem with a previous amendment, which we have accepted.

mr. BUMPERS. I just explained that.

Mr. HARKIN. That is what the Senator informed me of.

In reading this further it seems like Mr. Cipriani is going on saying they are going to discuss the possibility of awarding contracts to South Korea to build medium energy booster magnets, and to China for components on the accelerator. My question comes back to, are we going to be using taxpayer dollars to contract with low-wage countries like China and places like that to build components for this?

Mr. JOHNSTON. The answer is no.

Mr. HARKIN. How about buying the components here and spending the taxpayers' dollars here?

Mr. JOHNSTON. The Senator is right in his concern. Under the amendment accepted, that cannot be done.

Mr. HARKIN. What if China bids competitively on building a magnet, and they underbid us, then they can get the contract; is that not right?

Mr. JOHNSTON. Mr. President, as a practical matter that cannot be done. We are the only country in the world right now that can build these magnets. They have taken a long time to design.

Mr. BUMPERS. Louisiana is the only State where they can be built; is that correct?

Mr. JOHNSTON. No. They are actually being built at the Fermi Lab.

Mr. HARKIN. If these other countries put in bids that are lower than what they are here, then obviously the contracts can be awarded overseas; is that true?

Mr. JOHNSTON. Well, with the magnets, which is the biggest component part, only Westinghouse and General Dynamics are capable of doing this anyway. We are way down the road on that.

Mr. HARKIN. Can they sub-contract—

Mr. JOHNSTON. I understand the Senator's concern. I do not think it is a real one.

Mr. HARKIN. My concern is a real one

The PRESIDING OFFICER. The time of the proponent has expired. The Senator from Arkansas has 1 minute 9 seconds remaining.

Mr. BUMPERS. Would the Senator from Louisiana agree with me, so that the record is painfully clear on this, that if we enter into a competitive contract, and South Korea and the United States each bid on the contract and the South Koreans bid $100 million, and the United States company bids $150 million, the contract goes to South Korea, because they are $50 million under the American company? Would the Senator agree with me that under no circumstances should that difference of $50 million be counted as a foreign participation by Korea?

Mr. JOHNSTON. That is correct.

Mr. BUMPERS. The Senator from Louisiana would not tolerate that?

Mr. JOHNSTON. That is correct.

Mr. BUMPERS. Mr. President, this amendment simply says that the foreign participation ought to be $650 million, and it also says—I want to be clear so that everybody understands it—no components purchased with U.S. tax dollars and manufactured out of the United States shall be counted as a contribution for purposes of meeting this limit.

The PRESIDING OFFICER. All time has expired.

Mr. JOHNSTON. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. DIXON], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from California [Mr. SEYMOUR] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 31, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—62

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Breaux
Brown
Burns
Byrd
Chafee
Coats
Cochran
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dole
Domenici
Ford
Garn
Glenn
Gorton
Graham
Gramm
Hatfield
Heflin
Inouye
Johnston
Kerrey
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Nickles
Packwood
Pell
Reid
Robb
Rockefeller
Roth
Sanford
Sarbanes
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth
Wofford

NAYS—31

Bond
Bradley
Bryan
Bumpers
Cohen
Conrad
Dodd
Durenberger
Exon
Fowler
Grassley
Harkin
Hollings
Jeffords
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mitchell
Nunn
Pressler
Pryor
Riegle
Sasser
Smith
Wellstone

NOT VOTING—7

Burdick
Dixon
Gore
Hatch
Helms
Rudman
Seymour

So the motion to table the amendment (No. 2836) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, what is the pending business?

EXCEPTED COMMITTEE AMENDMENT ON PAGE 55, LINES 6 AND 7

The PRESIDING OFFICER. The pending business is the first excepted committee amendment.

The question is on agreeing to the first excepted committee amendment.

The first excepted committee amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 82, LINE 11 TO LINE 5 ON PAGE 83

The PRESIDING OFFICER. The question is now on the second committee amendment, as amended.

The second committee amendment, as amended, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMENDING THE DEFENSE TRANSITION PROPOSALS

Mr. PRYOR. Mr. President, I would like to make a brief statement in support of a provision in the 1993 Energy and Water Development Appropriations bill which will assist our country as it makes the difficult economic transition brought on by lower defense spending. The provision I am speaking of is an appropriation of $141 million to fund technology cooperation and technology transfer activities between the Department of Energy weapons labs and industry.

The appropriation contained in this bill represents a $91 million increase in funding for this purpose over fiscal year 1992 levels. As reported out of committee, the bill originally appropriated $116 million for this purpose, and on Friday an amendment increasing the appropriation to $141 million was offered to the bill by the distinguished chairman of the subcommittee, Senator BENNETT JOHNSTON, on behalf of Senators JEFF BINGAMAN and PETE DOMENICI of New Mexico.

As most of my colleagues know by now, the Senate Democratic Task Force on Defense/Economic Transition made recommendations to the majority leader on May 21 of ways the Federal Government can help workers, communities, and industry make the adjustment to a lower defense spending environment. Senator BINGAMAN was one of the members of the task force and he contributed mightily and unselfishly to its work. One of the recommendations the task force made was a proposal that the country's defense labs reorient themselves to perform more cooperative work with the private sector. Primary among these labs are the DOE's large weapons labs which represent one of the greatest resources in our Nation's entire R&D infrastructure.

With the end of the cold war and the concurrent decline in our defense expenditures, weapons development will fade in importance. These labs can continue to serve a valuable purpose, however, by turning their tremendous technical resources toward the challenges faced by U.S. manufacturers trying to compete in the world market.

One of the primary mechanisms for promoting greater lab industry cooperation is the DOE's cooperative research and development agreements, or CRADA's. Under the CRADA process, individual companies submit competitive proposals for cooperative research projects to the labs. Once a proposal is selected, the industry participant must put up some of its own money to match the Government contribution to the project. In this way, only the highest quality projects with true market potential are funded.

There is a substantial body of opinion which believes we need to do more to promote greater cooperation between the labs and industry. The DOE should cut down on the red tape and bureaucracy which currently slows the CRADA approval process. The labs should use their regular programmatic funds for cooperative projects with industry and not limit this type of work just to CRADA's. Alternatively, the Congress and the DOE should investigate the possibility of giving the individual labs direct control over an amount of money in their budgets for cooperative project with industry, in addition to the CRADA money which is currently controlled by DOE headquarters.

We must try new ways to unlock the tremendous potential offered by these labs. According to reports I have heard, industry interest in working cooperatively with the labs is at an all time high, and the competitive pressures U.S. industry is facing is at or near an all time high as well. Now that their importance in the cold war is fading, these labs can be a potent weapon in the economic war we are embroiled in, and the Energy and Water appropriations bill before us provides the ammunition the labs need.

Mr. President, in closing, I want to mention that in addition to the Senate Democratic Task Force on Defense/Economic Transition, President Bush also recommended an increase in funding for CRADA's. I believe this recommendation displayed some of the greatest initiative of all the defense transition recommendations made by President Bush, and I commend him for it.

I urge my colleagues to support this provision of the bill.

CHILDREN'S HOSPITAL OF MICHIGAN

Mr. RIEGLE. Mr President, I rise today in support of Children's Hospital of Michigan's positron emission tomography [PET] scanner project. Completion of this project is of great importance to Michigan and the pediatric community nationwide.

The PET scan is state-of-the-art imaging technology which enables clinicians to detect and treat diseases such as epilepsy, brain tumors, and AIDS by assessing the biochemical and physiological functioning of vital organs which cannot be detected by traditional forms of imaging. While the Department of Energy played a pivotal role in the development of this technology, and contributed to the establishment of many of the PET scanners operating in an adult setting there is no PET scan machine in the Nation dedicated solely to the treatment of children. Yet, children under 15 years of age comprise 25 percent of the U.S. population.

Children's Hospital of Michigan's demonstration pediatric PET scanner project will, for the first time, make this advanced energy-related medical technology available to children. In addition, this demonstration project will contribute significantly to the transfer of this technology throughout the entire pediatric medical community.

Children's Hospital of Michigan needs an additional $8 million to complete this project. Children's Hospital has already provided $29 million, more than 60 percent of the total cost associated with the project. The funds we are seeking will allow the hospital to complete implementation of this innovative project.

Last year, the PET scanner project, with the support of the distinguished chairman and ranking member, Senators JOHNSTON and HATFIELD, as well as Senator LEVIN and myself, received $8 million in the fiscal year 1991 Energy and Water appropriations bill. These funds were used for construction and renovation of the facility that will house the PET scanner. I believe this initiative, which will demonstrate the benefit of this technology while serving a new population of patients, deserves continued Federal assistance.

Mr. President, it is my understanding that, while there are no demonstration projects in the House Energy and Water appropriations measure, the Senate version of the bill does make some funding available for demonstration projects. On behalf of the entire Michigan House delegation, which has expressed its support for this project and Senator LEVIN who shares my commitment to the PET scanner initiative, I urge the members of the Senate Appropriations Committee to provide funding the PET scanner project when the bill is taken up in a conference so that Children's Hospital of Michigan can complete this important project.

Mr. President, I commend Senators JOHNSTON and HATFIELD for their commitment to this project in the past and for their leadership in the Energy and Water Appropriations Subcommittee.

TECHNOLOGY TRANSFER

Mr. DOMENICI. Mr. President, our national laboratories and U.S. industries have enthusiastically welcomed the opportunity to team together to pursue research in areas critical to our national competitiveness. For the Department of Energy's Defense Laboratories, technology transfer is a relatively new endeavor. However, industry has recognized the scientific and engineering resources within the laboratories and is participating in cooperative research and development agreements [CRADA's] with the labs as quickly as the CRADA's can be approved by the Department.

I am pleased with the recent progress the Department has made toward streamlining the CRADA approval process and look forward to continued improvements.

Technology transfer is now benefiting all levels of U.S. industry; from small entrepreneurial businesses to corporate giants such as General Motors. I would like to include in the RECORD a brief listing of some of the most recent CRADA's that labs in my State of New Mexico have signed; the first list from Sandia National Laboratories, and the second from Los Alamos National Laboratories. These lists clearly demonstrate our labs are proving to be a valuable resource to industry interested in pursuing cutting-edge technologies.

The appropriations bill before us today includes $141 million for technology transfer programs at the Department of Energy. I am very pleased the Senate has seen fit to provide the full amount of the President's request.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SANDIA NATIONAL LABORATORIES CRADAS

CRADA No. and company name	Technology title	Signed
1010—Vindicator Corp ...	Physical Security Technology.	Yes.
1011—BPLW Architects and Engineers, Inc.	......do	Yes.
1014—Stellar Systems ...	......do	Yes.
1018—United Technologies/Pratt & Whitney.	Intelligent Processing Thin Section Welded Assemblies.	Yes.
1020—LSI Logic	Microelectronics Quality Reliability Center (MQRC).	Yes.
1021—Signetics Company.	......do	Yes.
1023—National Semiconductor.	......do	Yes.
1026—Motorola, Inc.	Solvent Reduction Through Use of Self-Cleaning Soldering Process.	Yes.
1027—Permacharge, Inc	Microcellular Foam Filtration Media Fabrication and Evaluation.	Yes.
1028—Dow Corning Corp	Microengineered Materials Development Project.	Yes.
1029—Watkins Johnson	Chemical Vapor Deposition of Copper for Integrated Circuits.	Yes.
1029B—Schumacher Inc	......do	Yes.
1030B—NCMS	Printed Wiring Board—Interconnect Systems Program.	Yes (ceremonial signing)
1032—Rocketdyne	Intelligent Process Control for Automated Welding, Machining, and Assembly.	Yes.
1033—United Technologies/Pratt & Whitney.	Intelligent Machining of Castings.	Yes.
1034—City of Albuquerque.	Volatile organic monitor for industrial effluents.	Yes.
1035B—AT&T	Projection X-ray Lithography using a Laser Plasma Source.	Yes (ceremonial signing).
1042—Carpenter Technology.	Joining Technology for Advanced Borated Stainless Steel.	Yes.
1044—General Electric ...	Synthetic Diamond Substrates for Electronic Multi-Chip Packaging.	Yes.
1045—Oregon Cutting Systems.	Diamond Chainsaw Rock Cutting System Technology Development.	Yes.
1046B—Fluid Dynamics International, Inc.	Sandia MESH Generation Computer Software.	Yes.
1046C—MacNeal-Schwendler Corp.	......do	Yes.
1047—Olin-Hunt Corp	Microelectronics Quality Reliability Center (MQRC).	Yes.
1053—Shell Development Company.	Reduction of Energy Consumption & Water Streams with Hydrous Metal Oxide Catalysts for the Synthesis of Oxygenate Product.	Yes.
1055—Schlumberger Technologies.	Development of a Structured Failure Analysis Expert System.	Yes.
1057—Cray Research Inc	Cleaning Related Processes for Printed Wiring Boards.	Yes.
1058—Sematech	Microelectronics Technology Phase 1.	Yes.
1063—Kaehr Plating	Electroplating Process Control.	Yes.
1072—Mechanical Technology Inc.	Robotic Sensor End Effector.	Yes.
1075—Radiant Technologies.	Nonvolatile Forroelectric Random Access Memories.	Yes.
1077—Sematech	Semiconductor Equipment Reliability Modeling and Design.	Yes.
1078—BIOSYM Technologies, Inc.	Molecular Design of Polymer Alloys.	No, not until after Aug. 24, 1992.
1085—Conductus, Inc	Confocal Resonator Imaging Systems.	No, not until after Aug. 16, 1992.
1091A—Digital Instruments, Inc.	Non-contact Atomic Level Interface Force Microscope.	No, not signed by Participant.
1092—AT&T Bell Laboratories.	Fabrication of Microelectronic Structuring Using Gold-Subfile Electroplating.	No, not until Aug. 29, 1992.
1108—NCMS	NCMS Umbrella CRADA	Yes (ceremonial signing).

Note.—119 total initiated to date, 45 Approved, 18 J/C's Pending DOE action, 2 J's pending DOE action, 56 in Negotiations.

LOS ALAMOS NATIONAL LABORATORY

[Cooperative research and development agreements (CRADA) executed as of July 31, 1992]

CRADA No. and company	Technology description	Effective date/duration
LC910003—United Technologies Corp, Pratt & Whitney, Manufacturing Science Corp.	Advanced Beryllium Processing.	Apr. 30, 1992—3 yr.
LC9110006—Motorola, Inc.	Dataflow Computer	Apr. 8, 1992—1 yr.
LC110007—Hughes Aircraft Co.	SCCO2 Cleaning of Particulates.	Mar. 27, 1992—25 mo.
LC10009—DICO Corp	FB-CVD of Diamond	Jan. 29, 1992—30 mo.
LC9110010—Schlumberger-Doll Research.	Downhole Oilwell Tool Modeling.	Mar. 30, 1992—3 yr.
LC9110011—Life Technologies, Inc.	DNA Sequencing	Mar. 21, 1991—3 yr.
LC9110012—Canberra Industries, Inc.	Continuous Air Monitor	June 5, 1991—2 yr.
LC9110014—Cray Research, Inc.	Computational Electromagnetics.	Mar. 30, 1992—18 mo.
LC9110016—Cray Research, Inc.	Global Climate Modeling	Mar. 30, 1992—12 mo.
LC9110017—Cray Research Inc.	Computational Chemistry.	Mar. 30, 1992—3 yr.
LC9110020—AWC/Lockheed Corp.	Soil Remediation	Feb. 18, 1992—2 yr.
LC9210028—Neocera, Inc.	Pulsed Laser Deposition—High Temperature Superconducting Films.	June 30, 1992—2 yr.

Note.—The following CRADAs have been approved and are in the process of being signed: LA92C10049—Amoco Oil Co., Supercomputer Simulation Model for Residual Oil Hydroprocessing, 3 years; LA92C10042—Rhomed, Inc., Radiolabeling of Proteins-Peptides With Isotopes of Copper 2 years; LA92C10036—Tektronix, Inc., Thermoacoustic Cryocooler, 5 years.

MOREHEAD CITY HARBOR DREDGING

Mr. SANFORD. I would like to discuss with the distinguished Senator from Louisiana a project of extreme importance to me and to the economic well-being of my State of North Carolina. Would the Senator allow me to speak for a moment on the need for the Corps of Engineers to remain engaged in the project to deepen and widen the harbor at Morehead City, NC?

Mr. JOHNSTON. I would be glad to entertain any remarks by my good friend from North Carolina.

Mr. SANFORD. Congress began action on the proposal to deepen Morehead City Harbor in 1984, and you know how slow the preliminary stages of these projects can be, Mr. President. The corps is, however, now preparing to put the dredges in the water. Unfortunately, it looks like I may have to tell my friends in eastern North Carolina that the project will have to wait a little longer.

I do understand the severe constraints placed upon the chairman this year, and I am grateful for his support of that funding which will ensure that the project does not die. While the corps will almost certainly not be able to remain on schedule for the Morehead City dredging program, the $100,000 which the committee has recommended for this initiative in the corps general construction account is absolutely essential to ensure that the corps does not fall hopelessly behind.

Mr. JOHNSTON. I respect the Senator's remarks and I understand the importance of the Morehead City Harbor to North Carolina. I pledge to the Senator from North Carolina that I will do my best to maintain at least the modest appropriation of $100,000 for deepening this port as the Energy appropriations bill is reviewed by the conferees. The committee recommendation is the full amount requested in the President's fiscal year 1993 budget by the Corps of Engineers.

Mr. SANFORD. I am grateful to the distinguished chairman of the Energy and Water Subcommittee for his words of support. I would, however, like to let the Senator from Louisiana know of the commitments made by State legislators in North Carolina to fund their portion of the cost-share for the Morehead City dredging project. After much debate, and in the midst of very tough financial times for our State government, North Carolina lawmakers recently approved the expenditure of more than $3.5 million for Morehead City dredging this year. Unfortunately, these funds may be lost without a sufficient Federal commitment.

Mr. JOHNSTON. Again, I want the Senator from North Carolina to know that I will make every effort to retain the $100,000 in conference, thereby ensuring that Congress can consider further funding of this program again next year. I am sure the Senator is aware that the Morehead City project is among those waiting to be authorized by the Water Resources Development Act of 1992.

Mr. SANFORD. I thank the Senator for mentioning this additional relevant piece of legislation. I am acutely aware of the status of S. 2734, the Water Resources Development Act of 1992, and of the fact that the Morehead City project, and a worthy storm damage reduction project benefitting Topsail Beach, NC, are among those initiatives that the act would authorize. As I have indicated to the chairman personally and in a recent letter, I am disappointed that S. 2734 has been obstructed from coming to the floor, and I am hopeful that many of the corps' priority programs, which will certainly strengthen this Nation's economic security, will soon receive full Senate consideration in this bill.

Mr. JOHNSTON. I am glad that the senator from North Carolina has taken this opportunity to discuss these issues with me, and I am certainly aware of the role that the Corps of Engineers must play in meeting the needs of his state.

Mr. SANFORD. I am grateful to the senior Senator from Louisiana for his indulgence.

Mr. DOMENICI. Mr. President, I rise in support of the energy and water development appropriations bill reported by the Senate Appropriations Committee.

By CBO's scoring, this bill provides $22.1 billion in new budget authority and $12.4 billion in new outlays for the Department of Energy, the Corps of Engineers, the Bureau of Reclamation, and for other selected independent agencies. By CBO's scoring the bill is within its section 602(b) allocation and the discretionary spending caps.

Mr. President, the committee would restore funding for the superconducting super collider [SSC]. This project represents an investment in our future, an investment that will allow us to maintain and strengthen our lead in science and technology development.

The committee also imposes a responsible moratorium on nuclear weapons testing—one that prohibits any tests except those needed for safety purposes.

I want to thank the distinguished chairman and ranking member for including funding for a number of projects and programs important to my home State of New Mexico.

In particular, I want to thank the managers for maintaining funding for the core research and development programs of the Nation's defense laboratories and providing funding for technology transfer initiatives.

The bill also includes funding for the Los Alamos Meson physics facility [LAMPF]. This facility and other dependent operations provide increasingly valuable educational, technology transfer, health, and environmental benefits.

I am concerned by the bill's funding of LAMPF and the Office of Nuclear Safety with defense funds. The administration's preliminary assessment is that these transfers should be scored against the domestic discretionary cap.

During the committee's consideration of the bill, I stated my hope that in conference a portion of the LAMPF funding will be continued through DOE's civilian energy budget.

There are several other matters in this bill that I will address as we proceed with the bill.

I commend the subcommittee chairman, the Senator from Louisiana, and the ranking minority member, the Senator from Oregon, for their hard work to meet continuing program requirements and important priorities and their efforts to keep the bill within its section 602(b) allocation.

Mr. SEYMOUR. I would like to engage in a colloquy with Chairman JOHNSTON and the ranking Republican member, Senator HATFIELD regarding appropriations for several projects important to California.

Senator JOHNSTON, as the chairman of the Senate Energy and Natural Resources Committee, and Senator HATFIELD, also a member of that committee, are aware that I have been working with them for the past year to resolve critical fish and wildlife problems in the State of California.

While I realize Chairman JOHNSTON and Senator HATFIELD have had to make some difficult decisions this year regarding appropriations levels, I would like to bring to their attention several worthy projects which would provide for the restoration of sensitive fish and wildlife habitat, and begin the process of resolving some of these problems.

The House bill provides $300,000 for a conjunctive use study to determine the viability of using private Sacramento Valley rice fields as seasonal wetlands. This funding would allow the U.S. Bureau of Reclamation to participate with the U.S. Fish and Wildlife Service, appropriate State agencies and private organizations to work together on this study.

California's Sacramento Valley has perhaps the best soil and climate for rice production in the United States. While California's almost 400,000 acres of rice land ranks third in acreage, our farmers rank second in yields due to the excellent climate. In addition to the tremendous economic benefits provided by the rice industry to the Sacramento Valley and to the State, these fields provide additional benefits not known to many people outside the rice industry and the conservation community.

Rice fields, flooded with several inches of water for part of the year are actually seasonal wetlands, providing excellent habitat for hundreds of species of wildlife. Each year after harvest approximately 400 pounds of rice per acre is leftover in the fields. This grain is a remarkably rich food source for ducks, geese, and other waterfowl migrating through the Pacific flyway. In fact, California's rice fields are one of the North America's largest, most significant wildlife habitats.

This study would provide the necessary research to determine how to better utilize Sacramento Valley rice fields for seasonal wetlands and for offstream water storage.

Additionally, the House bill provides $300,000 to provide for the completion of feasibility reports and documentation to determine the necessary measures to provide reliable water supplies to Central Valley wetlands and wildlife refuges. Currently, there are 15 National Wildlife Refuges and Management areas in the Central Valley. Unfortunately, it has only recently become clear that additional facilities will be necessary in order to provide them with the water requirements outlined in the Bureau of Reclamations 1989 Report on Refuge Water Supply Investigations. This funding will allow the Bureau of Reclamation to complete the necessary reports required to determine what facilities are needed.

Finally, the House bill provides $800,000 for the Bureau of Reclamation to continue design work on the temperature control device at Shasta dam. This device will allow the bureau to provide cold water for outmigrating and spawning salmon, including the winter-run salmon now listed as an endangered species, when it is most needed during the hot summer months. I would like to thank both Chairman JOHNSTON and Senator HATFIELD for their assistance last year to include in the drought bill, signed by the President in March, a provision to begin design and specification work on this device.

I ask Chairman JOHNSTON and Senator HATFIELD if there will be an opportunity to recede to the House position on these projects during conference?

Mr. JOHNSTON. I appreciate Senator SEYMOUR's bringing these issues to the subcommittee's attention. Having worked with the Senator in the Energy and Natural Resources Committee on these matters, I am familiar with them. I assure the Senator I will give these matters careful consideration.

Mr. HATFIELD. Senator SEYMOUR has worked diligently during the past year to resolve these issues he has brought to our attention today. As the Senator from the State bordering California, I am very aware of the conflict that has emerged in California during the ongoing water debate. The projects Senator SEYMOUR has supported are important, particularly because they are creative, rather than divisive solutions to restore fish and wildlife habitat. There is no question these are worthy projects, and I will work with my colleagues in conference to insure they are thoroughly considered and evaluated on their merits and benefits.

ROBOTICS PROGRAM

Mr. SASSER. I would like to discuss with the manager of the bill an issue of vital importance regarding the appropriation for advanced reactor research and development. For several years now, I have supported and the Senator from Louisiana has recommended funding in the energy and water appropriations bill for the university research program in robotics for advanced reactors. Unfortunately, because of the severe budgetary constraints faced by the committee this year, the bill and report before us do not include the $3.5 million in funding earmarked in the House report for the Robotics Program.

The Robotics Program is conducted by teams of graduate students and faculty members at the Universities of Tennessee, Texas, Florida, and Michigan, along with the Oak Ridge National Laboratory. They have worked tirelessly with the money appropriated in prior years to establish a comprehensive research agenda for developing advanced robotic technology. These efforts have resulted in important accomplishments in a broad variety of technical areas such as sensor based robotics, advanced manipulators and mobile robots.

For these reasons, I strongly support continued congressional support for the university research program in robotics for advanced reactors. I know that the Senator from Louisiana has done his best to balance the many demands placed on the committee during this difficult fiscal year, but I am hopeful that in conference negotiations he will give strong consideration to adopting the House position on funding for the Robotics Program.

Mr. JOHNSTON. The Senator from Tennessee is correct in stating that our committee has supported funding for the Robotics Program for several years. Our inability to make the same recommendation this year was based on budgetary constraints, not doubts about the effectiveness of the program. I can assure the Senator from Tennessee that I will give careful consideration in conference negotiations to adopting the House position on funding for the Robotics Program.

TRANSMISSION PROJECT AND H.R. 5373

Mr. DOMENICI. Mr. President, during the Senate's consideration of H.R. 5373, the energy and water development appropriations bill for fiscal year 1993, I would like to bring to my colleagues' attention a major energy initiative by the Navajo Nation in New Mexico and Arizona. That initiative is the proposed Navajo transmission project that would install a 500,000 volt transmission line that could move much needed electricity to the Southwestern and Western United States.

The Congress has spent a significant part of this session debating a national energy strategy for the United States. I am proud to say that the State of New Mexico has done its share in providing abundant, competitively priced electrical energy to the growing Southwest. The majority of this electrical energy is produced from clean, economical powerplants that utilize regional coal as a fuel, and many of these plants are located on reservation lands belonging to the Navajo people in New Mexico and Arizona. It is the growing interdependence of the electrical energy supply in the Southwest, and a recent major energy initiative of the Navajo Nation that I would like to discuss today.

Mr. President, the report accompanying the fiscal year 1993 energy and water development appropriations bill, discusses the Navajo transmission project as part of the funding recommendations of the Western Area Power Administration [WAPA]. Although the Appropriations Committee was unable to accommodate the request I made on behalf of the Navajo Nation for and fiscal year 1993 appropriation of $6.2 million to allow the tribe to proceed with an environmental impact statement on the proposed transmission project, the committee does request that WAPA work with the Navajo Nation in the development of this project and that it provide such assistance as is possible. In fact, the Navajo Nation is working on an agreement with WAPA for $1.2 million to be provided for preliminary work on the Navajo transmission project within its fiscal year 1992 and fiscal year 1993 budgets.

Last January, the Navajo Nation, under the leadership of Navajo president Peterson Zah and vice president Marshall Plummer, issued an important policy statement on energy development on Navajo lands. The President's energy policy for the Navajo Nation provides a comprehensive strategy for future energy development for the tribe, while setting out important goals that support the implementation of the strategy. The Navajo Nation is to be commended for this initiative to establish a formal energy policy for the tribe.

A major underpinning of the strategy is Navajo ownership in energy projects constructed and operated on and over Navajo reservation lands. The Navajo Nation no longer wants to limit its role in these projects to that of a lessor of land, water and other resources. Rather, through cooperative efforts with entities seeking the opportunity to develop energy projects on Navajo lands, this ownership objective can be met. Indeed, with over 40 percent of Navajo general fund revenues coming from energy production, this next step seems all the more fair and reasonable.

As a measure of the tribe's commitment, over the past 2 years it has pursued the development of a strategic regional power transmission project that would substantially improve the deliverability of existing electrical generation in the four corners area of New Mexico, Arizona, Colorado, and Utah to various Western electricity markets. The proposed Navajo transmission project is planned as a 500,000 volt transmission line that would be capable of moving up to 1,200 million watts of electrical energy and capacity from "source to sink." As long ago as the mid-1960's, a power transmission capacity deficit has been growing in this region of our national electrical grid. It is through the single initiative of the Navajo Nation in this project that our Nation's resources can be more efficiently and effectively utilized.

As such, I believe the Navajo transmission project to be of a national interest.

This 400-mile long line will originate in the four corners area of northwestern New Mexico and span the breadth of Arizona, terminating at a station in southern Nevada. Construction is expected to begin after an approximately 24-month licensing and permitting period, with the transmission facility going into commercial operation in late 1996.

The Navajo Nation, through its tribal energy enterprise, the Dine' Power Authority, has recently entered into an agreement with the Western Area Power Administration of the Department of Energy, that will create a partnership to make this needed project a reality. Western has had a need for additional transmission capacity over the Navajo reservation in this region for years. Indeed, Western has received congressional approval in past budgets to construct a very similar facility over the reservation. This new cooperative approach, while serving the needs of Western and its customers, preserves an ownership in the finished project that is vital to the long-term energy interests of the Navajo Nation. Western's efforts in working closely with the Navajo Nation on the project have not gone unnoticed by the Senate, and Western Administrator Clagett deserves our appreciation for his leadership.

The preconstruction costs of the project have been estimated at $13.7 million. The vast majority of this cost is for an environmental impact statement that will be required of the Navajo Nation and Western; this, in spite of the fact that over 75 percent of the project will be restricted to lands of the Navajo Nation. These costs do not include several million dollars already expended by the Navajo Tribe to bring the Navajo transmission project to its current level of planning and development.

I am pleased to acknowledge that the Western Area Power Administration has already agreed to commit $1.2 million from its fiscal year 1992 and fiscal year 1993 budgets toward these preconstruction costs. The Navajo Nation approached Congress for assistance with the balance of this necessary preconstruction funding during fiscal year 1993 and fiscal year 1994. The construction cost for the project attributable to Navajo ownership is planned to be raised in the financial markets. Western's pro rata share of construction costs is anticipated to be appropriated by Congress, as is the case with all projects.

Because additional transmission capacity out of the Four Corners areas is a precondition to moving existing resources to market, and because of the potential for clean, inexpensive electrical generation using abundant supplies of natural gas in New Mexico, the support for the Navajo project is widespread among my Senate and House colleagues from the West.

The Navajo Transmission Project is an important energy initiative by a native American tribe. It will allow much better utilization of existing energy resources throughout the West, creating both a transmission capability that will be needed in the future as existing facilities reach their useful life, and a supply of power as demand grows in the Southwest. I will join my colleagues from the West in urging the Western Area Power Administration to provide the maximum support possible to the Navajo Nation on the proposed Navajo transmission project in fiscal year 1993. I ask my Senate colleagues to join me in supporting the Navajo Nation in its strategic energy initiative and in this most important Navajo transmission project.

NAVAJO TRANSMISSION PROJECT

Mr. DECONCINI. Mr. President, as many of my colleagues know, it is becoming increasingly difficult to move electricity around existing transmission grids to meet growing energy demands. In many ways, our inability to do so creates conditions of both surplus and shortages which results in an inefficient use of our Nation's resources. There are few areas of the country in which this transmission deficit is more acute than in the four corners area in the Southwest.

Since the 1960's, several large powerplants have been built in this area of the country. These generating stations provide electricity to millions of people in California, Arizona, New Mexico, Colorado, Utah, and Nevada. Fueled mainly by abundant supplies of competitively priced coal, the pace of construction of these large-scale power plants has far exceeded the construction of adequate transmission facilities. Consequently, since the early sixties, the transmission deficit has grown to the point where there is a bottleneck in this critical power production region of the country.

Many of these powerplants and transmission lines exist on the Navajo Nation's Reservation in northwestern New Mexico and northern Arizona. Since these facilities were first constructed, the Navajo Nation has failed to enjoy the privilege of ownership, remaining instead of the role of lessor of their lands. In every case, compensation for use of Navajo lands came in the form of small one-time payments for lease durations that in some instances are perpetual. These terms were then, and remain today, commercially unfair to the Navajo People.

Over the last 2 years, at the tribe's own expense, the Navajo Nation has investigated the feasibility of constructing a large power transmission line from four corners, across Arizona, to southern Nevada, that would go far toward alleviating the transmission bottleneck of which I spoke earlier. Called the Navajo transmission project, this 400 mile, 500,000-volt line would transfer about 1,200 million watts of power from existing and potential generation sources to growing electrical load centers in the Western United States. By virtue of its strategic power interconnection in southern Nevada to a number of existing and planned transmission lines, the Navajo transmission project will allow for the seasonal exchange of energy between hydroelectric resources in the Pacific Northwest, and coal-based resources in the Southwest.

Such diversity encourages the strategic management of our existing electric generation resources in the West, avoiding the overbuilding of hydro or thermal generation in any one region. Such overbuilding often results from the absence of power transmission facilities necessary to move power around on our Nation's utility grid. Thus, the Navajo transmission project will contribute to a more efficient utilization of resources in America.

The Navajo Nation has been working closely with the Western Area Power Administration to pursue joint development and ownership of this project. Doing so will assist WAPA in meeting some of its transmission capacity needs in this region of the West for WAPA's customers. With WAPA participating in the project with the Navajos, an estimated saving of up to $79 million will be realized over an alternate transmission project, the Northern Arizona Project, that has been pursued by WAPA for the last 5 years at a cost of over $14 million.

Preconstruction costs necessary to bring this strategic energy project to construction has been estimated at $13.7 million, with over half these funds going to the environmental impact statement required under the National Environmental Policy Act. This requirement exists despite the fact that up to 75 percent of the right-of-way for the project is through Navajo-controlled lands.

The Navajo Nation has approached Congress for assistance with this needed preconstruction funding. WAPA and the tribe have negotiated the underlying joint development agreement necessary for describing the ultimate co-ownership structure for the project.

For too many years the Federal Government's policies toward Native Americans have discouraged entrepreneurship and encouraged dependence. In the case of the Navajo transmission project, Congress has been presented an opportunity to reverse this trend. Once this project is at the point of construction, the Navajos intend to raise the approximately $200 million in construction funds in the private financial markets. All that is being requested of Congress is the startup funding to allow for Navajo ownership in a major energy project. This will be a grand and glorious step toward self-determination and enhance credibility for the Navajo People. Congress should reward their initiative with its enthusiastic support and encouragement for success.

Mr. President, I appreciate the committee chairman and ranking member for their efforts in including language in the committee report accompanying the fiscal year 1993 Energy and Water appropriations bill indicating the committee's support for the Navajo transmission project. I intend to continue working with them to secure adequate funding to ensure that this worthy project becomes a reality.

Mr. President, I ask that a number of letters I have received in support of this project be included in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SALT RIVER PROJECT,
Phoenix, AZ, July 20, 1992.

Hon. DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: A power transmission project across our state is being developed jointly by the Navajo Nation and the Western Area Power Administration. Called the "Navajo Transmission Project" (NTP), as proposed, it could provide a beneficial electrical link between the Four Corners and both Southern Arizona and Nevada and, therefore, relieve a power transmission constraint west and south of the Four Corners.

We understand you are sponsoring an appropriation for FY '93 in the Energy and Water Appropriations Subcommittee for preconstruction activity for the NTP. Salt River Project supports your efforts on this appropriation.

Sincerely,

JOHN R. LASSEN,
President.

THE NAVAJO NATION,
Window Rock, AZ, June 5, 1992.

Hon. DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: On behalf of the Navajo Nation, thank you for including the Navajo Transmission Project preconstruction costs ($6,195,000), in your appropriation's request to the Subcommittee on Energy and Water Development. We are heartened by your personal intervention on our behalf. I am pleased to share with you a copy of a letter I received from William H. Clagett, Administrator of the Western Area Power Administration (WAPA). WAPA states that it is willing to explore with the Navajo Nation a joint participation project to alleviate the bottleneck in the Four Corners area.

Although WAPA still has on its books the Northern Arizona Project, WAPA states if Congress decides to spend appropriated funds for the Navajo Transmission Project it will spend it on "planning, design, and environmental activities to develop a viable project that is economically competitive with other transmission projects in the Southwest". The Navajo Transmission Project is much more commercially attractive to the Navajo Nation than the Northern Arizona Project. Further, WAPA is open to redirecting FY '92 funds and their FY '93 budget request "for a project across Navajo lands without further congressional approval". The Navajo Nation is encouraged that WAPA is willing to redirect such funds but asks that Congress state expressly that such funds will go to the Navajo Transmission Project to avoid any ambiguity.

Currently, the Navajo Nation is working with WAPA on a participation agreement that we hope will be completed this summer. All that remains is securing the essential preconstruction funding, as initiated by you, to move the Navajo Transmission Project toward reality. As we have described to you previously, the Navajo Nation proposes that the FY '93 funds will go to the Dine' Power Authority, that will fund preconstruction activities, notably the Environmental Impact Statement, project management, engineering, and other required development efforts. Of the total request ($6,195,000), $2,060,000 would be appropriated to WAPA to be made available to the Dine' Power Authority in return for a credit toward one-third ownership in the Project by WAPA, and $4,135,000 to the Dine' Power Authority on behalf of the Navajo Nation.

The development of this Project marks a major departure from the way the Navajo Nation has looked at energy development in the past. We have come to realize that it is to our benefit, economically and environmentally, that we become owners in the projects developed on or over our lands. It is time that we take a leadership role for our people in this regard.

Again, we appreciate all your work on our behalf. Please contact me or our Washington Office if you have any need for further information or assistance.

Sincerely,

MARSHALL PLUMMER,
Vice President.

DEPARTMENT OF ENERGY,
WESTERN AREA POWER ADMINISTRATION,
Golden, CO, May 28, 1992.

Mr. MARSHALL PLUMMER,
Vice President, Navajo Nation, Window Rock, AZ.

DEAR MR. PLUMMER: Mr. Lloyd Greiner (of my staff) and Mr. Tom Wray (of Groves Wray Associates) have had several discussions concerning the FY 1993 appropriations process and the Navajo Transmission Project. This letter summarizes the Western Area Power Administration's (Western) position on this topic. You may use the content of this letter in any way that you wish to facilitate the Project.

Western is willing to explore with Navajo Nation (Nation), and others, a joint participation transmission project to provide additional capacity to alleviate a bottleneck in transmitting hydro and coal-fired generation from the Rocky Mountain region to Southwest load centers. Either the Navajo Transmission Project or the Northern Arizona Project (formulated by Western) can be configured to meet the needs of the Nation, Western, and other participants.

Western supports the Nation in its effort to solicit other utilities' participation in a project which will alleviate the bottleneck in the Four Corners area. In FY 1992, Western has $527,000 available; and Western's FY 1993 budget request includes $633,000 for the Northern Arizona Project. These funds can be utilized for planning and preconstruction activities for a project across Navajo lands without further congressional approval. Western needs to have a signed letter agreement with the Nation in place before funds can be spent.

It is our understanding that the Nation is attempting to obtain a $6.2 million add-on to Western's FY 1993 Construction, Rehabilitation, Operation, and Maintenance appropriation. If Congress decides to appropriate additional funds to Western for the Navajo Transmission Project, Western could spend these funds on planning, design, and environmental activities to develop a viable project that is economically competitive with other transmission projects in the Southwest. Western anticipates recovering through power rates only those costs related to the portion of the project that it owns.

Please contact me if I can be of further assistance in this matter.

Sincerely,

WILLIAM H. CLAGETT,
Administrator.

BHP WORLD MINERALS,
WESTERN U.S. MINING,
Farmington, NM, June 17, 1992.

Hon. DENNIS DECONCINI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: BHP Minerals operates the Navajo, San Juan and La Plata Mines in New Mexico and is the exclusive fuel supplier to the Four Corners Power Plant (operated by Arizona Public Service Company) and the San Juan Generating Station (operated by Public Service Company of New Mexico). BHP's New Mexico mines produce approximately 14 million tons of coal annually and employ about 900 workers. Members of the Navajo Tribe of Indians account for over 70% of the work force. The $45 million annual payroll and approximately $105 million in taxes and royalties provide a substantial economic base for the Navajo Nation, the State of New Mexico and the Four Corners region.

Representatives of the Dine' Power Authority, a Navajo Tribal Enterprise, have recently advised our company that they have contacted your office seeking legislative support and financial appropriations for the Navajo Transmission Project. This project could address future energy development transmission requirements in addition to providing immediate capacity for current electric generation facilities and production.

For the past several years, BHP Minerals has examined the feasibility of developing large uncommitted coal reserves which are leased from the Navajo Nation. The Navajo South Project contemplates the establishment of a mine-mouth electric generating station together with the necessary transmission facilities. A project of this magnitude would provide substantial economic benefits for the Navajo Nation.

The Navajo South Project, if viable, would require the meaningful participation and involvement of the Navajo Nation. Specifically, the Navajo Nation would be asked to provide the necessary transmission corridors to transmit the electricity to market as well as other natural resource project components.

The Navajo Transmission Project could very well accommodate much of the transmission capacity requirements of BHP Minerals' Navajo South Project if structured appropriately. We believe that coal development on the Navajo Reservation represents a significant economic development alternative for the Navajo Nation. For these reasons, BHP Minerals supports the development of the Navajo Transmission Project and your efforts to assist the Navajo Nation in this regard.

Very truly yours,

JAMES R. ROTHWELL,
Vice President and General Manager,
Western U.S. Mining.

PACIFICORP.,
Portland, OR, July 17, 1992.

Hon. DENNIS DECONCINI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: PacifiCorp is a major electric utility with significant operations in seven western states. Recent business arrangements have brought us into contact with the Navajo Nation, with whom we hope to establish a long-term, mutually beneficial commercial relationship.

The Navajo Nation has taken major strides in the development of a sound economy, and we are aware of the continuing efforts of the Navajo Nation to expand opportunities through active participation at all levels of development of their energy resorces. In furtherance of its economic efforts, the Navajo Nation has conducted preliminary planning and feasibility studies of the Navajo Transmission Project, a proposed electric transmission project that would connect electric generation facilities on the Navajo Reservation. Whether the Navajo Transmission Project is feasible, both from an environmental and economic perspective, cannot be finally determined by the Navajo Nation and others without further study and review.

It is our understanding that the Navajo Nation has requested federal appropriations for preconstruction development activities and continued planning of the Navajo Transmission Project. Although our organization does not currently intend to participate in the Navajo Transmission Project, we nonetheless request that you give favorable consideration to the Navajo Nation's request.

Sincerely,

AL GLEASON.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:

• Mr. SEYMOUR. Mr. President, I would like to commend the distinguished managers of the Energy and Water appropriations bill, Chairman JOHNSTON and Senator HATFIELD, for their efforts to work with me to provide funding for two projects, critical to California.

We all know that California, in its sixth consecutive year of drought, is confronted with very serious water supply and conservation decisions. Undoubtedly, the 1990's promise to be a challenging decade for California as it attempts to manage its water resource to meet a growing population which will soon surpass 30 million. I appreciate the thoughtful attention members of the Energy and Water Appropriations Subcommittee have given to the needs and concerns of Californians.

Specifically, two projects included in the Senate Energy and Water appropriations bill will help meet the future protection and assistance needs of Californians.

In February of this year, we all witnessed the devastation of flooding when unusually heavy rains hit Southern California. Currently under construction is the Santa Ana River mainstem project. This project, which consists of seven interdependent features, is designed to protect over 2 million residents in San Bernardino, Riverside, and Orange Counties, who live in the Santa Ana River flood plain. In fact, the Corps of Engineers has determined flooding of this river could result in significant loss of life and an estimated $12 billion in property damage. The Santa Ana River mainstem project will provide needed flood protection through the construction and enlargement of dams, levees, and channels. This funding is vitally needed to protect residents in the flood plain as well as protect against future costs associated with a devastating flood. I am truly pleased the committee was able to provide $90.8 million for this critical project.

Also authorized by this bill is the Southern California comprehensive water reclamation and reuse study. This authorization allows the Secretary of the Interior to undertake a comprehensive study to determine the feasibility of a reclamation and reuse program in Southern California. As Californians endure continued drought, the importance of conservation and reclamation programs becomes increasingly important. Alternative methods of conservation are needed to meet increasing water demands for both environmental and urban uses. This is an important first step toward increasing awareness as well as beginning much needed research into alternative modes of water conservation.

I again thank the chairman and Senator HATFIELD for their leadership and assistance with this bill and urge the adoption of this important legislation.

I yield the floor.•

Mr. BYRD. Mr. President, I want to take this opportunity to thank the distinguished chairman of the subcommittee, the Senator from Louisiana, Senator JOHNSTON, and the distinguished Senator from Oregon, the ranking member, Senator HATFIELD, for their good work in managing this very complex piece of legislation.

As we all know, this bill has many contentious issues but the fact that these two Senators work so well together and have such intimate knowledge of each and every detail of the bill is invaluable to shepherding this bill through in a timely manner. In addition, the bill as reported by the Senate is within its 602(b) subcommittee allocation.

Both Senators should be congratulated for their outstanding efforts.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

So the bill (H.R. 5373), as amended, was passed.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on behalf of the Senate.

The motion was agreed to and the Presiding Officer [Mr. CONRAD] appointed Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. SASSER, Mr. DECONCINI, Mr. REID, Mr. HATFIELD, Mr. GARN, Mr. COCHRAN, Mr. DOMENICI, Mr. SPECTER, and Mr. NICKLES conferees on behalf of the Senate.

Mr. JOHNSTON. Mr. President, I want to reiterate my thanks to the distinguished Senator from Oregon. He is a pleasure to work with. He is competent and courteous and effective. It is a pleasure to work with him.

I would like to thank my staff, Proctor Jones and David Gwaltney. We are especially mindful about the loss within our staff of Gloria Butland, the loss of her husband. She worked very hard on this bill.

With thanks to all Senators, I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to respond to the chairman of our committee, Senator JOHNSTON, in acknowledging the excellent cooperation that has existed for many years now between the ranking member and the chairman of the committee.

Mr. President, this bill is within the 602(b). I think it is a good bill. We can go to the conference with great pride to represent the Senate's interest.

I too would like to make my appreciation known to our staff, both the majority staff, who have been enumerated, as well as to Mark Walker, Keith Kennedy, and Dorothy Pastis. And on the amendment relating to the test treaty, I would like to especially thank Julie McGregor of my staff, who is a real extraordinary young lady who has helped a great deal to bring this to pass.

So I am grateful to be working with Senator JOHNSTON on this question.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

MORNING BUSINESS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, on Wednesday, July 29, upon the modification of the Finance Committee amendment to the energy bill, H.R. 776, I submitted revised budget authority and outlay allocations to the Finance Committee and aggregates under section 9 of the concurrent resolution on the budget for fiscal year 1992, House Concurrent Resolution 121, and section 9 of the concurrent resolution on the budget for fiscal year 1993, House Concurrent Resolution 287. Those revised allocations and aggregates appear at pages S10,742 through S10,744 of the CONGRESSIONAL RECORD for July 29, 1992.

Later, July 29, the Senate adopted an amendment offered by the Senator from West Virginia [Mr. ROCKEFELLER] that further modified the subject of those revised allocations and aggregates, creating new entities to replace coal industry health funds that are experiencing financial difficulties. These provisions will ensure that retired coal miners, their widows, and their dependents continue to receive the health benefits for which they contracted. In the words of section 9(c) of both the

1992 and 1993 budget resolutions, these two provisions "increase funding to make continuing improvements in ongoing health care programs."

Just today, I have received the Congressional Budget Office's estimate of the costs of Senator ROCKEFELLER's amendment. That estimate indicates that Senator ROCKEFELLER's amendment would result in less budget authority and outlays than would the committee amendment. Consequently, lower budget authority, outlay, and revenue levels are appropriate for the legislation as passed by the Senate.

As H.R. 776 as amended complies with the conditions set forth in the budget resolutions, under the authority of section 9 of the 1992 and 1993 budget resolutions, I hereby file with the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974, U.S.C. sections 633 and 655a (1988 and supplement II 1990), and revised functional levels and aggregates to carry out section 9 of the budget resolutions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SECTION 9 OF THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEARS 1992 AND 1993

[In millions of dollars]

	1992	1993	1993-97
Spending allocations and revenue totals:			
Resolution Revenue totals	850,455	848,947	4,818,815
Reserve fund change	−45	−57	−196

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SECTION 9 OF THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEARS 1992 AND 1993—Continued

[In millions of dollars]

	1992	1993	1993-97
Revised revenue totals	850,410	848,890	4,818,619
Finance Committee budget authority allocations	491,288	518,163	3,013,627
Reserve fund change	−45	−57	−196
Revised Finance Committee budget authority allocations	491,243	518,106	3,013,431
Finance Committee outlay allocations	487,381	515,787	2,999,864
Reserve fund change	−45	−57	−196
Revised Finance Committee outlay allocations	487,336	515,730	2,999,668

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SECTION 9 OF THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEARS 1992 AND 1993

[In millions of dollars]

	1992	1993	1994	1995	1996	1997
Functional levels and aggregates:						
Resolution revenue aggregates	850,445	848,947	912,202	968,719	1,018,170	1,070,777
Reserve fund change	−45	−57	18	−39	−52	−66
Revised resolution revenue aggregates	850,400	848,890	912,220	968,680	1,018,118	1,070,711
Resolution budget authority totals	1,270,657	1,250,047	1,270,302	1,310,219	1,375,470	1,469,077
Reserve fund change	−45	−57	18	−39	−52	−66
Revised resolution budget authority totals	1,270,612	1,249,990	1,270,320	1,310,180	1,375,418	1,469,011
Resolution function 550 budget authority totals	83,145	105,475	116,582	129,289	143,695	159,502
Reserve fund change	−45	−57	18	−39	−52	−66
Revised resolution 550 budget authority totals	83,100	105,418	116,600	129,250	143,643	159,436
Resolution outlay totals	1,201,645	1,242,347	1,256,002	1,258,519	1,305,270	1,416,477
Reserve fund change	−45	−57	18	−39	−52	−66
Revised resolution outlay totals	1,201,600	1,242,290	1,256,020	1,258,480	1,305,218	1,416,411
Resolution function 550 outlay totals	83,345	104,775	115,882	128,089	142,395	157,802
Reserve fund change	−45	−57	18	−39	−52	−66
Revised resolution 550 outlay totals	83,300	104,718	115,900	128,050	142,343	157,736

THE IMPACT OF TELEVISION VIOLENCE

Mr. BYRD. Mr. President, for some time, I have been underlining the corrosive effects that much television programming is having in this country, particularly on the lives and values of our children and youth.

Recently, our distinguished colleague from Illinois, Senator PAUL SIMON, shared with me a copy of one of his regular weekly columns on this same subject. Senator SIMON's column, drawn from his own independent research, verifies and parallels my own objections to much current television programming and its effects on our children, our mores, and our society.

Mr. President, I ask that Senator SIMON's column entitled "The TV Violence Act at Its Midpoint" be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

THE TV VIOLENCE ACT AT ITS MID-POINT

Children imitate what they see and hear. I see that in my two-year-old granddaughter.

Teenagers come up with weird haircuts they have seen and copied.

Adults also imitate, whether it is buying a car as a result of a TV commercial or a political leader making the same gestures as John F. Kennedy.

The older we are, the less likely we are to imitate what we see and hear, but to some extent, the pattern (of imitation) follows us through life.

That becomes significant because of television. Violence on entertainment television is absorbed and imitated—particularly by children—into our lives and into our culture.

Because numerous studies show this conclusively, six years ago I asked representatives from the television industry to voluntarily establish standards on violence. They told me they could not do that, working together as an industry, because of antitrust laws.

I pushed through Congress the TV Violence Act, a three-year exemption to the McCarran-Ferguson Antitrust Act, so the industry could get together and establish standards. That finally became law.

Two things have happened to make that law significant now: One is that we are at the half-way point in terms of the exemption. Second, The Journal of the American Medical Association has published a powerful new article underscoring how violence on television is adding to violence in our society.

We are at half time and I'm pleased to say the cable industry shows signs it may yet treat the subject seriously, though we have to wait for results. The television networks have met on the issue, and only time will tell if they will begin to regard this as anything more than a public relations problem with Congress.

Cable has hired one of the nation's experts, Professor George Gerbner of the University of Pennsylvania, to do a fairly in-depth look at the cable industry's products, and there is every indication they are serious although the study is not as wide-ranging as is desired.

In the past I've had little hope that we will get anything more than pious words from the networks. I hope I am wrong.

What underscores the importance of this is an article in the June issue of The Journal of the American Medical Association by Dr. Brandon S. Centerwall, of the Department of Psychiatry and Behavioral Sciences of the University of Washington.

His study of murder rates among whites in several countries, including the United States, shows that the murder rate doubled 10 to 15 years after the introduction of television into a nation's culture.

He concludes: "Long-term childhood exposure to television is a causal factor behind approximately one-half of the homicides committed in the United States, or approximately 10,000 homicides annually. * * * If, hypothetically, television technology had never been developed, there would today be 10,000 fewer homicides each year in the United States, 70,000 fewer rapes and 700,000 fewer injurious assaults."

Those conclusions are so powerful they are hard to believe—Just as it was hard to believe the harm that cigarettes cause when medical researchers first came out with those studies.

Suppose the article is 50 percent off target. That still suggests that by changing our television programming we could eventually prevent 5,000 murders a year, 35,000 rapes and 350,000 assaults.

Or let us assume the article is 90 percent wrong, only 10 percent accurate. That still means we could improve television and each year save 1,000 of those murdered and prevent 7,000 rapes and 70,000 assaults.

Our friends in the television industry have our lives—and their lives—in their hands as they mull over what to do. If they use the balance of this three-year period just to spin their wheels and do nothing, it is unlikely they public will sit back and do nothing.

An aroused public may ask for government censorship.

A much better answer is for the industry to agree voluntarily—that it is worth forgoing a few dollars in profits (violence on television makes money) to have a society that is less violent.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator Helms is in North Carolina recuperating following heart surgery, and he has asked me to submit for the Record each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator Helms. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,999,118,165,854.01, as of the close of business on Thursday, July 30, 1992.

On a per capita basis, every man, woman, and child owes $15,569.31—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

RABBI MARC TANENBAUM: A LEADER IN CHRISTIAN-JEWISH RECONCILIATION AND LONGTIME SUPPORTER OF REFUGEES

Mr. PELL. Mr. President, I was saddened to learn of the death earlier this month of Rabbi Marc H. Tanenbaum, a longtime leader of efforts to bring about Christian-Jewish dialog, and for many years a board member of the International Rescue Committee.

Although Rabbi Tanenbaum was best known for his pioneering work in strengthening relations between Christians and Jews, he will also be remembered for his devoted efforts to aid the world's refugees.

In the early 1980's Rabbi Tanenbaum served on the Citizen's Commission on Indochinese Refugees organized by the IRC that made several trips to southeast Asia to visit camps for Vietnamese boat people and refugees from Cambodia. With other members of the Commission he participated in a march for survival to the Cambodian border in 1980. At the border Rabbi Tanenbaum led the group in the recitation of Kaddish, the Jewish prayer for the dead, for the millions of Cambodians who has died under the Khmer Rouge.

I have the honor of having served on the IRC's board with Rabbi Tanenbaum, and I have long admired and supported his work, so it was with personal sadness that I learned of his passing on July 3.

I ask that his obituary from the July 4 New York Times be printed at this point in the Record.

There being no objection, the order to be printed in the Record, as follows:

[The New York Times, July 4, 1992]

Rabbi Marc Tanenbaum, 66, Is Dead

(By Ari L. Goldman)

Rabbi Marc H. Tanenbaum, a father of modern Christian-Jewish dialogue and, through 25 years of radio commentary, one of the best-known rabbis in America, died early yesterday at Lenox Hill Hospital. He was 66 years old and lived in Manhattan.

He died of heart failure after undergoing heart surgery last month, said his wife, Georgette Bennett.

With charisma and passion, Rabbi Tanenbaum preached better understanding between the faiths everywhere from the Vatican to the headquarters of the World Council of churches in Geneva to the Christian Bible colleges of America's South.

The son of Orthodox Jewish immigrants from Russia who owned a grocery store in Baltimore, Rabbi Tanenbaum brought Jews and Christians together for dialogue in the wake of the Nazi Holocaust and the creation of the modern state of Israel. He worked to heal nearly 2,000 years of mutual suspicion and animosity by helping both sides better understand one another.

A CONFRONTATIONAL FRIEND

His biography reads like a history of Christian-Jewish relations in the second half of the 20th century. Rabbi Tanenbaum developed friendships with Roman Catholic, Protestant and Eastern Orthodox Christian leaders, but he was not afraid of challenging them when he felt Jewish interests were threatened.

He often found himself negotiating between Jews who felt that Christian leaders deserved more deference and others who believed that confrontation was the best approach. His efforts sometimes incurred the wrath of Orthodox Jewish leaders who believed that to engage in interfaith dialogue was to diminish Judaism.

In his files, the rabbi kept a cartoon from the Yiddish press of the 1960's that showed Pope Paul VI holding Rabbi Tanenbaum on a leash.

Over the years, Rabbi Tanenbaum found himself at the center of all the major Jewish-Christian controversies, everything from the Catholic convent at the death camp at Auschwitz to the claim of one Southern Baptist leader that "God Almighty does not hear the prayer of a Jew" to the position of mainline Protestants on the rights of Palestinians in Israel.

John Cardinal O'Connor, the Roman Catholic Archbishop of New York, said yesterday that Rabbi Tanenbaum's passing was "the end of an era." He called the rabbi "a pioneer in Christian-Jewish relations and Catholic-Jewish relations in particular.

From Rome, Edward Cardinal Cassidy, the president of the Vatican Commission for Religious Relations With the Jews, said that Rabbi Tanenbaum was "a great source of reconciliation and strength during moments of deep difficulty between our communities."

CAUTION TO A CRUSADER

Rabbi Tanenbaum also had a long friendship with the Rev. Billy Graham. Before Mr. Graham held a crusade in Central Park last summer, Rabbi Tanenbaum set up a meeting between the Christian evangelist and the New York Board of Rabbis to assure the rabbis that Mr. Graham was not interested in converting Jews but only in bringing Christians to their faith.

The Rev. Jerry Falwell, who publicly debated Rabbi Tanenbaum before a rapt audience of conservative rabbis in 1985, said yesterday, "Rabbi Tanenbaum spent his life attempting to strengthen healthy relations between Christians and Jews. He was brilliant and committed."

Marc Herman Tanenbaum was born in Baltimore on Oct. 13, 1925, and got his early education at the Talmudical Academy of Baltimore and at City High School. He entered Yeshiva University in Manhattan at the age of 15.

After graduating from college, he began his rabbinical studies at the Jewish Theological Seminary, also in Manhattan. While a student, he became an aide to Rabbi Abraham Joshua Heschel, professor of Jewish ethics and mysticism at the seminary.

Rabbi Tanenbaum edited several volumes of Rabbi Heschel's books.

RECONCILING LOVE AND HATE

While at the seminary, Rabbi Tanenbaum began to delve into the roots of anti-Semitism among Christians. He said that he was driven to reconcile how "a church that preached a gospel of love could have turned it into a gospel of hatred and destruction when is came to the Jews."

Rabbi Tanenbaum was ordained in 1950 and, after a brief period in publishing and public relations, became one of the first Jewish professionals to devote himself virtually full-time to improve relations between Christians and Jews.

He served as the executive vice president of the Synagogue Council of America and, beginning in 1960, as director of interreligious affairs for the American Jewish Committee.

In the 1950's, much of the focus of the dialogue was between Protestants and Jews, but the spotlight shifted dramatically in the early 1960's when Pope John XXIII convened the Second Vatican Council. Rabbi Tanenbaum was an official observer to the council and, according to his recollection, the only rabbi to attend.

In terms of relations with the Jews, the council produced a landmark document, "Nostra Aetate," which rejected the idea that the Jewish people were accountable for the death of Jesus and repudiated anti-Semitism "by anyone at any time."

Catholic-Jewish relations became Rabbi Tanenbaum's primary concern, but he also worked to open avenues to Evangelicals, Orthodox Christians and Muslims in the years that followed.

In 1983, he became the director of international affairs at the Jewish Committee, which introduced him to a whole new set of issues dealing with refugee relief and human rights even as he maintained his involvement in interfaith relations. He retired from the Committee in 1990 but remained as a consultant to the organization.

In the early 1980's, he was a member of a delegation of the International Rescue Committee that made three fact-finding trips to Southeast Asia to investigate the plight of Vietnamese boat people. At the Thai border with Cambodia, the rabbi joined Elie Wiesel, the Nobel laureate and chronicler of the Holocaust, in the recitation of Kaddish, the Jewish prayer for the dead, for the million Cambodians who died at the hands of the Khmer Rouge.

WHITE HOUSE COMMISSIONS

Rabbi Tanenbaum served on White House commissions on children, the elderly and the Holocaust. He was the member of the boards of directors of numerous institutions, including the American Jewish World Service and the International Rescue Committee. He was named to the board of Covenant House, a network of shelters for runaways, in an effort to restore confidence in the agency in the wake of scandals involving the founder, the Rev. Bruce Ritter.

He was the former chairman of the International Jewish Committee for Interreligious Consultations, which represents Judaism in talks with the Vatican and other world religious bodies.

He was the founder and a chairman of the National Interreligious Task Force on Soviet Jewry, which, until the collapse of the Soviet Union, worked on behalf of both Jews and Christians oppressed for their religious beliefs.

Starting in 1965, Rabbi Tanenbaum had a syndicated radio broadcast of religious commentary on WINS, an all news radio station in New York City.

He also served as a consultant to movie and television productions on religious and Jewish matters, including the NBC series "Holocaust."

Rabbi Tanenbaum received 15 honorary degrees from both religious and secular institutions, won the International Interfaith Achievement Award of the Conference of Christians and Jews and, in April, the Israel and Libby Mowshowitz Award of the New York Board of Rabbis.

Rabbi Tanenbaum is survived by his wife, who is expecting their child in September; three children by a previous marriage, Susan, of Queens, Michael, of Brooklyn, and Adena, of Oxford, England, and a sister, Sima Scherr, of Pikesville, Md.

TO EXTEND THE MEDICARE DEPENDENT HOSPITALS PROGRAM

Mr. GRASSLEY. Mr. President, I am pleased to be the lead cosponsor of legislation introduced last Friday by the Republican leader, Senator DOLE, to extend the Medicare Dependent Hospital Program.

Medicare-dependent hospitals are rural hospitals with less than 100 beds and a Medicare share of discharges or patient days of at least 60 percent. These hospitals are able to use the highest of three alternative methods of computing Medicare reimbursement.

There are 54 of these hospitals in my State of Iowa and 563 such hospitals around the country. Only two States—Texas and Kansas—have more of the them than does Iowa.

The Medicare-dependent hospital provision of Medicare law is worth around $7.5 million a year to these hospitals in Iowa. At least one of these hospitals gets a million dollars by virtue of its qualification for this status. Others get hundreds of thousands of dollars that they otherwise would not get were it not for this program.

Needless to say, this is money that it will be very difficult to replace should this program cease without some other positive development, such as the elimination of the rural-urban differential, scheduled for October 1, 1994.

A new report issued by the Iowa Hospital Association shows that 32 Iowa hospitals operated in the red at the end of 1991, a 33 percent increase over the previous year. Medicare is the major culprit, according to this report, in failing to cover the cost of the care that these hospitals provide.

Iowa can't afford to lose these hospitals, Mr. Chairman, if Iowa citizens living in rural communities are to have good access to health care.

Not all of these hospitals, it should be pointed out, take a rate different than the standard Medicare reimbursement rate for which they would be qualified. Approximately 30 of these hospital in Iowa take advantage of special rates under this classification.

The reason a special designation was permitted these hospitals is clear from the designation itself—Medicare-dependent. These are small hospitals which are extraordinarily dependent on Medicare reimbursement. There are few ways that these hospitals can make up for contractual adjustments—the difference between hospital charges and Medicare reimbursement.

This provision of Medicare law ends March 31, 1993, but hospitals lose eligibility at the end of their fiscal year. Thus, some hospitals dropped out in April of this year. Another large group dropped out in June 30, 1992, including in Iowa a very large group, 48 of the 54 eligible. Others will drop out in September and in December of this year.

What our bill does is extend this provision, currently due to expire on March 31, 1993, until March 31, 1994 under the same terms as in current law, and then until September 30, 1994, under terms that would provide eligible hospitals with 50 percent of the difference between their standard reimbursement and the highest rate permitted under terms of the Medicare-dependent hospital provisions. The bill would also be retroactive, permitting those hospitals which have already lost this status because of current law requirements to be reimbursed as though no interruption in that status had occurred.

Our bill carries the Medicare-dependent hospitals provision forward until September 30, 1994, because the difference between urban and rural payment rates end on that date and hospitals will be on a level playing field, at least as far as Medicare reimbursement is concerned.

Some had advocated a simple 1-year extension of the program on the grounds that the urban-rural differential would be being phased out, and that other changes would be occurring in the hospital part of the Medicare Program within the same general period of time.

However, a 1-year extension would have simply recreated next year the same problem we are now facing. Many hospitals would have been out of the Medicare-dependent hospital program for a year or more before final phasing out of the urban-rural differential. Thus, we felt that a longer extension was called for.

Some had advocated a full 2-year extension of the program. But, a full 2-year extension would not only be considerably more expensive than the bill we propose today, but the Medicare-dependent hospitals would be getting extra payment for some time after elimination of the urban-rural differential.

We have not included an offset in the bill, but under our budget rules, of course, the extension of this provision will have to be paid for when we act on it. I understand the concern within the hospital community that the cost of the bill would be paid for from funds now going to urban hospitals, or from funds now going to other rural, not Medicare-dependent, hospitals. Speaking for myself, I would like to find a way to pay for this legislation that does not come from within the hospital payment component of Medicare.

Mr. President, rural hospitals in my State are not doing well under the Medicare Program. The administrators of many of these hospitals in my State have been in touch with me about the even tighter fiscal crunch they will face if they lose this status.

Therefore, I will be working hard to pass and send this legislation to the President before the Congress adjourns later this year.

U.S. COMMITTEE FOR REFUGEES CALLS ATTENTION TO DRAMATIC GROWTH IN WORLD REFUGEE PROBLEMS

Mr. PELL. Mr. President, the 1992 World Refugee Survey published by the U.S. Committee for Refugees sets forth in a single volume the tragic dimensions of the world's refugee crises. While it had been hoped that 1992 might be a time of peaceful reconciliation and refugee repatriation, we have seen instead the new flood of refugees displaced by fighting in the former Yugoslavia, the plight of some 1.5 million persons in Somalia, the majority of them women and children, facing imminent death from starvation, the wide-ranging drought in the countries of southern Africa, and, closer to home, the continued flow of refugees from Haiti.

The World Refugee Survey each year provides the essential background information and statistics on refugees that are needed to comprehend the problems, as well as the solutions, being worked on by the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the many other governmental and nongovernmental organizations that do so much to relieve the plight of refugees.

I ask that the analysis "The Year in Review" by Roger P. Winter, director of the U.S. Committee for Refugees, which introduces the World Refugee Survey for 1992 be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From World Refugee Survey, 1992]

THE YEAR IN REVIEW

(By Roger P. Winter)

The year 1991 was one of mega-change; the concept of "transition" does not do it justice. It produced a total transformation in the world's framework for addressing political, human rights, and humanitarian matters. Many old relationships became invalid, but we remained unsure of the new. Generally the direction was positive, but the reemergence of violent European and Central Asian tribalism must give the entire world pause.

Consider this very selective and obviously incomplete list of developments in 1991 that bear directly on refugees and displaced people:

The Soviet Union is GONE, yet we have no confidence that what follows will bring less conflict in the world. The prospects, in fact, seem to be for higher numbers of refugees and displaced people.

The year saw the birth of a plethora of newly sovereign states—fifteen out of the ashes of the USSR; Croatia and Slovenia; probably Eritrea; possibly Somaliland, as well as a reunited Germany and Yemen.

The Gulf War spiked upwards the number of refugees in the world and laid new parameters on discussions of the meaning of national sovereignty.

Yugoslavia committed suicide, and killed a lot of people in the process, while Europe struggled to confront its own indecision as to its role in intervening.

A face-to-face peace process at least began in the Middle East.

South Africa reentered the world community, the UN High Commissioner for Refugees moved in, and refugees began to return.

The Horn of Africa saw the collapse of two entrenched dictatorships. In Ethiopia, the change produced some hope; in Somalia, the world's least understandable civil war degenerated into total anarchy in the capital, Mogadishu.

A UN-sponsored peace agreement was negotiated in Cambodia, ending more than a decade of civil war. The peace plan holds out both the promise of safe repatriation for 370,000 Cambodian refugees in Thailand and the threat of a return to power by the universally despised Khmer Rouge.

The entire world recognized the courage and moral authority of Nobel Peace Prize winner Aung San Suu Kyi, while at home in Burma, moral midgets with guns continued to hold democracy captive.

A peace accord for El Salvador became UN Secretary General Javier Perez de Cuellar's parting gift to the world and to Butros Butros-Ghali, his successor.

The world's only superpower stained its soul in its maltreatment of Haitian boat people, perhaps the Western Hemisphere's most brutalized population.

"American First" became the rallying cry behind which admirable and proper concern for the desperately needy in U.S. society was deformed into scapegoating of any and all available targets, tinged with racism and destructive isolation.

This list could go on. But no development, of course, matches in impact the demise of the Soviet Union. It holds massive implications, for regional conflicts in the developing world and elsewhere, world peace, the functioning of the United Nations, nuclear proliferation, and other utilization, democratization, and other overarching aspects of world society. How far the mighty have fallen! A superpower society of enormous infrastructure—monuments, buildings, subways, power plants, and military strength, blessed with a well-educated, unusually cultured population—now is incapable of feeding its people, keeping them warm, giving them a survivable present, a coherent future. And still the end of the plunge is not yet in sight.

The peripheral republics generally see little difference between Soviet imperialism and Russian imperialism. Russian President Boris Yeltsin framed their fear when he suggested that Russia might seek to reshape its borders to embrace ethnic Russian populations residing as minorities in other republics. Columnist William Safire has written that in moving "away from empire there is concern about healthy nationalism's flip side of ethnic repression and local war. . . ." Journalist Michael Dobbs suggests, "The nightmare scenario is Yugoslavia writ large, a bloody civil war accompanied by the mutation of communism into nationalism." And there are already wars a-plenty—including those in and around Nagorno-Karabakh in Azerbaijan, South Ossetia in Georgia, and Georgia's own civil war. All of these conflicts have produced refugees and displaced people. Ethnic Russians, often the agents of past imperialism, are also moving in significant numbers with the potential for much more. And they are not alone.

The Soviet Union's historic ethnic policy has produced a more bizarre map laden with "automomous" structures embedded within many republics. As each republic declared its independence from the old union, each autonomous area declared its independence from the republic. The potential for conflict is astounding. As Dobbs points out, "From President Mikhail Gorbachev down, virtually every Soviet citizen is descended from more than one nation, making a civilized divorce practically impossible."

For now, most nationality groups are scrambling for position in a bleak economy and confused political framework. But said Rashab Safin, a Tartar leader in Russia, "The big empire that was called the Soviet Union has already collapsed. Now it is the turn of the small empire (Russia). What is happening is historically inevitable. Not a single empire survives forever. They all collapse—and this one will as well."

Nevertheless, many throughout Russia and the other republics struggled valiantly towards democracy and peaceful resolution of conflict. And, too many outside the republics of the Commonwealth of Independent States (CIS) recognized the need to respond to the deteriorating humanitarian situation there, though predictably the initial focus in Europe was on the need for a new Iron Curtain to keep out all potential migrants from the east. Outside governments also too slowly began to realize the need to use their new diplomatic relations with each emerging republic to minimize compelled migration by avoiding actions such as the dismissing of Russians from their jobs or the consideration of parliamentary resolutions threatening to disenfranchise thousands of Russians or others (e.g. in Latvia and Lithuania).

Outside of the CIS, despite the list of critical developments cited above, the major issues that relate to refugees and displaced people were similar to those of 1990. Weapons were still being mass produced and massively and irresponsibly distributed, such as China's substantial sales to Sudan with Iranian financing. Globally, particularly in Africa, democratization did make progress, a trend that contributes to hope for the future, for, as James H. Billingham noted, ". . . out of the large and generally depressing literature on how wars actually start in the modern world, there is one encouraging fact: democracies in history do not fight one another." And the United Nations, despite its structural limitations, is increasingly showing that it can more nearly approximate what our world needs it to be.

So how did 1991 unfold in terms of the five point agenda set forth in this column last year and, now, proposed here again as an equally valid agenda for 1992?

1. Advance and institutionalize international protection and assistance for internally displaced people.

This is surely one agenda item on which a great deal materialized in 1991. The allied intervention into Iraq to benefit at-risk Kurds and Shi'ites was not necessarily precedential because of the unique conditions under which it occurred, but it certainly did charge the debate. The UN struggled mightily with the need to confront more directly its responsibilities for internally displaced people and in fact made progress with the creation of the Office of the Emergency Relief Coordinator, a high level "Supremo" with important new tools for improving the UN's ability to respond to a wide range of humanitarian emergencies. Still, the system clings to the concept of at least "minimal acquiescence" by a government before the UN will respond. It never really confronted the heart of the problem: to recognize that there is evil in the world and that, in isolated cases when a rogue government debauches its own people, the lines for international action on behalf of the people must both exist and be clear. It therefore did not resolve this most serious problem. Nevertheless, the days of Pol Pots hiding their horrors behind a deformed concept of "national sovereignty" must end. As professor Aristide Zolberg said, "States may assert that sovereignty is absolute, but we don't have to believe them."

Increasingly, people worldwide understand that a codified international system for approaching this type of situation, embracing both universal and regional mechanisms, is the best method for resolving the humanitarian problem while avoiding neocolonialistic abuse. Former UN Secretary General Perez de Cuellar noted, "We are clearly witnessing what is probably an irresistible shift in public attitudes toward the belief that the defense of the oppressed in the name of morality should prevail over frontiers and legal documents." The international community must make the choice Boris Yeltsin claims his government has made: "We have made an irrevocable choice in which the human being is the supreme value and his interests constitute the basis of the foreign and domestic policies of the State. . . ." The international community needs to make that same commitment and proceed to put the practical mechanisms in place to achieve that end, regardless of the encroachment on "sovereign" governments.

2. Strengthen the multilateral humanitarian institutions.

Despite the theatrics regarding the "Supremo," there was not improvement in 1991 in terms of underlying commitment to increasing the diplomatic, operational, and financial strength of the office of the UN High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross, and other operational international entities that deal with refugees and displaced people. While huge sums of money were brought to bear on people displaced in connection with the Persian Gulf War, we continued to regress on basic care and maintenance for the rest of the refugees and displaced people worldwide. Despite the magnitude of potential displacement in the former Soviet Union, UNHCR was struggling to open a one-person office in Moscow as 1991 closed. It is in a resource and personnel ceiling straightjacket, caused consciously by donor governments. UNHCR's performance in Ethiopia/Eritrea again justifiably came in for muted criticism. Yet, hypocritically, major donors criticized its performance in the aftermath of the Gulf War while not accepting that they themselves were the greatest determinants of that performance.

In fact, the world community ought not to scapegoat UNHCR but rather commit to making it better, just as it must with the entire UN system. Yet as the year closed, member states were one billion dollars in arrears in payments to the UN (only 68 of 159 members had paid in full), and the balance due was "the highest level of unpaid member debt in history." The United States was the largest single debtor.

3. Promote successful repatriation and reintegration of refugees and internally displaced people.

It has often been said of late that 1992 will be a year of repatriation. My great fear, however, is that it will be a year of lost opportunity regarding repatriation. My colleague Anna Cecelia Escalante recently pointed out that "peace must be based on more than the mere laying down of arms." So too repatriation, to be maximally successful, must be more than physical movement back across a border or to a home area.

The opportunity is the chance to convert repatriation into reconciliation through wise planning and realistic investment of resources. The opportunities for repatriation—Angola, South Africa, Cambodia, Somalia, Ethiopia/Eritrea, Western Sahara, hopefully one day soon Afghanistan, Liberia, Mozambique—are many, and almost all will involve return to totally devastated home areas. Journalist Paul Lewis points out that UNHCR "as a rule of thumb reckons it costs twice as much to send refugees home and get them restarted as it does to keep them in a camp for a year." But repatriation is a solution, and a camp is not. The hope of investments in repatriation-related development and transitional aid is to capture the momentum of peace for the benefit of all, the diminution of future conflict and refugee flows, the enhancement of democratization.

Unfortunately, looking at what donor governments have been willing to invest in repatriation opportunities in 1991, there is no reason beyond their rhetoric to believe those governments value the opportunities available.

4. Ensure that victims of human conflict in the poorest, least strategically important countries of the world don't continue to be ignored.

We in the NGO and religious communities have essentially failed at this. There is increasing evidence that refugees, internally displaced people, and victims of violence in places like Somalia have lost whatever priority the Cold War competition for their hearts and minds might previously have afforded them. Developed societies, in some cases afflicted with serious recession, seem driven toward less engagement with these matters rather than more. The myth that victims elsewhere in the world are somehow in competition with victims at home is taking root more broadly when the truth is that both sets of victims get the crumbs of available resources.

NGOs and religious bodies have a massive job to do in helping the societies of the developed world humanize their priorities.

5. Fight off the attempts by the rich liberal democracies of the West to cut themselves off from asylum seekers from the second and third worlds.

If we all have learned anything from the environmental movement, it is that the world is ultimately interconnected. It is not possible to draw away from the rest of the world and somehow wall "them" out. It is certainly not possible while maintaining civilized democratic institutions, nor does it make sense economically to wall out newcomers while, as Sir Anthony Parsons has said, preserving "a mammoth old peoples' home" in a fortress Europe, for example. Interdiction policies, such as that of the United States in Mexico or off the coast of Florida, ultimately do not work either because they do not resolve the causes of the movement they seek to deter.

On balance, while the prospects for the world, especially the developed world, have improved in the past year because of the implications of the Cold War's passing, the prospects for refugees and displaced people specifically have not. It is unacceptable that all that struggle, all those resources, including billions of dollars to sustain conflict, and all those lives should have been consumed by geostrategic confrontation, yet when the time for healing arrives, the energy is spent, the cupboard is bare.

This is not the time for the United States or others in the developed world to withdraw from humanitarian commitments to the rest of the world, pursuing isolationism, which Congressman Stephen Solarz rightly calls "a long discredited delusion arisen from the graveyard of bad ideas." This is a time to lead with the very best of our principles—humanism, democratization, sustainable development to benefit all, at home and abroad. The quality of our future and that of our children depend on understanding this.

REMOVAL OF INJUNCTION OF SECRECY TREATY DOCUMENT NO. 102–36

Mr. JOHNSTON. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty with Romania Concerning the Reciprocal Encouragement and Protection of Investment (Treaty Document No. 102–36), transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of Romania Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol and related exchange of letters, signed at Bucharest on May 28, 1992. I transmit also, for the information of the Senate, the report of the Department of State with respect to this treaty.

The treaty will help to encourage U.S. private sector involvement in the Romanian economy by establishing a favorable legal framework for U.S. investment in Romania. The treaty is fully consistent with U.S. policy toward international investment. A specific tenet, reflected in this treaty, is that U.S. investment abroad and foreign investment in the United States should receive fair, equitable, and nondiscriminatory treatment. Under this treaty, the Parties also agree to international law standards for expropriation and expropriation compensation; free transfers of funds associated with investments; and the option of the investor to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this treaty as soon as possible, and give its advice and consent to ratification of the treaty, with protocol and related exchange of letters, at an early date.

GEORGE BUSH.

The White House, *August 3, 1992.*

AUTHORIZING TESTIMONY AND PRODUCTION OF DOCUMENTS BY AN EMPLOYEE OF THE SENATE

Mr. JOHNSTON. Mr. President, on behalf of the majority leader and the distinguished Republican leader, I send to the desk a resolution on the authorization for testimony and document production by a Senate employee and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 328) to authorize testimony and production of documents by an employee of the Senate in Marian Mixon v. U.S. Department of the Treasury.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, an administrative appeal is pending before the Merit Systems Protection Board in which a former employee of the Internal Revenue Service is challenging her employment termination. The employee worked in an IRS office in Mississippi, and one of the events that bears upon her termination was a telephone call she placed to Senator THAD COCHRAN'S office.

Counsel for the Internal Revenue Service has requested that the receptionist in Senator COCHRAN'S office who received this telephone call, Anna Mayfield, testify at this administrative hearing. This resolution authorizes Ms. Mayfield to testify and to produce documents relevant to that telephone call.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 328) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 328

Whereas in the case of Marian Mixon v. U.S. Department of the Treasury, MSPB Docket No. AT-1221-92-0714-W-1, pending before the United States Merit Systems Protection Board, counsel for the Internal Revenue Service has requested the testimony of Anna Mayfield, an employee of the Senate on the staff of Senator Thad Cochran;

Whereas by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Anna Mayfield is authorized to testify and produce documents in Marian Mixon v. U.S. Department of the Treasury, except concerning matters for which a privilege should be asserted.

REGARDING THE DESPERATE HUMANITARIAN CRISIS IN SOMALIA

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Concurrent Resolution 132, regarding the desperate humanitarian crisis in Somalia, and that the Senate then proceed to its immediate consideration, that the concurrent resolution be agreed to and the motion to reconsideration laid upon the table, and the preamble agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 132) was agreed to, as follows:

S. CON. RES. 132

Whereas as a result of the civil conflict in Somalia, at least thirty thousand people have died, hundreds of innocent civilians, many of them children, continue to die each day, and an additional one million two hundred thousand lives are at risk;

Whereas the Somali political factions show no signs of ceasing their internecine war for power even as thousands of their own people perish;

Whereas international relief agencies have been unable to deliver adequate humanitarian assistance to those most in need due to increasingly difficult and dangerous conditions, including pervasive banditry and looting;

Whereas the United Nations Security Council, on July 27, 1992, adopted a resolution on the situation in Somalia, including an expansion of United Nations relief efforts and support for the deployment of United Nations security personnel to facilitate the delivery of relief supplies, and the President has expressed strong support for the United Nations proposals; and

Whereas although the Congress has expressed strong support for more active efforts to deliver humanitarian relief to the suffering people of Somalia, the situation has continued to deteriorate: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) condemns in the strongest possible terms the senseless killing and wanton destruction wrought by the political factions in Somalia;

(2) strongly urges these factions to abide by the United Nations ceasefire and to allow the deployment of security forces to protect humanitarian relief deliveries and workers;

(3) commends the dedicated and energetic efforts of United Nations Secretary-General Boutros Boutros Ghali, and his Special Envoy to Somalia, Ambassador Mohammed Sahnoun;

(4) pays tribute to the courageous and heroic actions of the relief agencies working in Somalia;

(5) calls upon the international community, through the United Nations, and in particular the United Nations specialized agencies, to immediately expand its relief efforts in Somalia;

(6) recognizes with appreciation the July 27, 1992, statement of the President urging the United Nations to deploy a sufficient number of security guards to permit relief supplies to move into and within Somalia, and committing funds for such an effort; and

(7) urges the President to work with the United Nations Security Council to deploy these security guards immediately, with or without the consent of the Somalia factions, in order to assure that humanitarian relief gets to those most in need, particularly the women, children and elderly of Somalia.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. JOHNSTON. Mr. President, I ask unanimous consent that during the recess/adjournment of the Senate, that Senate Committees be permitted to file reported Legislative and Executive Calendar business on Thursday, August 27 from 11 a.m. to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROHIBITION OF USE OF CERTAIN TERMS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 580, S. 2087, relating to the Visiting Nurse Association, that the committee substitute amendment be adopted, that the bill be read a third time and passed, that the motion to reconsider be laid upon the table and that any statements relating to this item be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2087) was read the third time and passed as follows:

SECTION 1. PROHIBITION OF CERTAIN USE OF TERMS "VISITING NURSE ASSOCIATION", "VISITING NURSE SERVICE" "VNA", AND "VNS".

The Attorney General may bring an action in district court to—

(1) impose on any person who is not a visiting nurse association or visiting nurse service, and knowingly commits any of the violations described in section 2, a civil penalty that does not exceed $1,000 for each such violation; and

(2) enjoin any such person from committing any such violation.

SEC. 2. VIOLATIONS FOR WHICH CIVIL PENALTY MAY BE IMPOSED.

For purposes of section 1, a violation shall be any of the following:

(1) Use of the term "visiting nurse association", "visiting nurse service", "VNA", "VNS", or any colorable imitation of any such term, by a person in commerce or in connection with any goods or services in a manner that falsely suggests, or causes any confusion, mistake, or deception, that the goods or services are produced or endorsed by a visiting nurse association or visiting nurse service.

(2) Use of the term "visiting nurse association", "visiting nurse service", "VNA", or any colorable imitation of any such term, by a person in commerce or in connection with any goods or services in a manner that falsely suggests, or causes any confusion, mistake, or deception, that the person is associated in any way with the visiting nurse association or visiting nurse service.

SEC. 3. AVAILABLE OF OTHER REMEDIES.

The remedies provided under this Act shall be in addition to the remedies provided by any other law.

SEC. 4. JURISDICTION.

The district and territorial courts of the United States shall have original jurisdiction and the courts of appeal of the United States (other than the United States Court of Appeals for the Federal Circuit) shall have appellate jurisdiction, of all actions arising under this Act, without regard to the amount in controversy or lack of diversity of citizenship of the parties.

SEC. 5. DEFINITION.

For purposes of this Act, the term "visiting nurse association", "visiting nurse service", "VNA," or "VNS" means a community-based home health care provider comprised of at least a medicare-certified home health agency that is—

(1) controlled, either directly or at the corporate level, by an independent, self-perpetuating, and voluntary board of directors,

(2) exempt from Federal taxation under section 501(a) of the Internal Revenue Code of 1986; and

(3) described in section 501(c)(3) of such Code.

SEC. 6. EFFECTIVE DATE.

(a) IN GENERAL.—That Act shall take effect on the expiration of the 6-month period beginning on the date of the enactment of this Act.

(b) EXCEPTION.—This Act shall not apply to any person referred to in section 1 who has used

the term "visiting nurse association", "visiting nurse service", "VNA", "VNS", or any colorable imitation of any such term continuously for at least 2 years prior to the date of the enactment of this Act.

FEDERAL COURTS STUDY COMMITTEE IMPLEMENTATION ACT OF 1992

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 568, S. 1569, the Federal Courts Study Committee Implementation Act of 1992.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1569) to implement the recommendations of the Federal Courts Study Committee, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment striking out all after the enacting clause and inserting in lieu thereof the following:

That this Act may be cited as the "Federal Courts Study Committee Implementation Act of 1992".

TITLE I—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

SEC. 101. ESTABLISHMENT OF BANKRUPTCY APPELLATE PANELS.

Section 158 of title 28, United States Code, is amended—

(1) in subsection (b)—

(A) by striking out paragraphs (1), (3), and (4);

(B) by redesignating paragraph (2) as paragraph (1); and

(C) by inserting after paragraph (1) (as redesignated by subparagraph (B) of this paragraph) the following:

"(2) The judicial council of each circuit shall establish a bankruptcy appellate panel unless the council certifies that the circuit has insufficient judicial resources to establish such a panel, taking account of bankruptcy judges' caseloads, the geographical dispersion of bankruptcy judges in the circuit, and the opportunity to establish a joint panel with another circuit. If a judicial council certifies that the circuit has insufficient judicial resources to establish a panel, it shall within 90 days thereafter file a report with the Administrative Office of United States Courts describing why the circuit's judicial resources are insufficient to permit establishment of a panel. Any panel established after the date of the enactment of the Federal Courts Study Implementation Act of 1992 shall be established for a period of three years or until a majority of the bankruptcy judges requests the council to discontinue the panel, whichever is earlier. Thereafter, the council may again establish a panel under the same procedures and standards under this paragraph. The council may reconsider its decision not to establish a panel at any time.

"(3) A bankruptcy appellate panel established under this section shall be comprised of three bankruptcy judges from districts within the circuit or circuits, to hear and determine, upon consent of all the parties, appeals under subsection (a). A bankruptcy judge may not hear an appeal originating within a district for which the judge is appointed or designated under section 152 of this title."; and

(2) by amending subsection (c) to read as follows:

"(c) All appeals under this section shall be heard by a bankruptcy appellate panel under subsection (b), unless the appellant elects to file an appeal under subsection (a) or any other party within 30 days after service of notice of appeal elects to have the appeal heard under subsection (a). An appeal under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts and in the time provided by rule 8002 of the Bankruptcy Rules.".

SEC. 102. SUPREME COURT AUTHORITY TO PRESCRIBE RULES FOR APPEAL OF INTERLOCUTORY DECISIONS.

Section 1292 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The Supreme Court may prescribe rules in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals, that is not otherwise provided for under subsection (a), (b), (c), or (d).".

SEC. 103. ABOLITION OF TEMPORARY EMERGENCY COURT OF APPEALS.

(a) APPEALS UNDER ECONOMIC STABILIZATION ACT.—Section 211 of the Economic Stabilization Act of 1970 (Public Law 91–379; 84 Stat. 799) is amended by striking out subsections (b) through (h) and inserting in lieu thereof the following:

"(b) Appeals from orders or judgments entered by a district court of the United States in cases and controversies arising under this title may be brought in the United States Court of Appeals for the Federal Circuit if the appeal is from a final decision of the district court or is an interlocutory appeal permitted under section 1292(c) of title 28, United States Code.".

(b) JUDICIAL REVIEW OF EMERGENCY ORDERS UNDER THE NATURAL GAS POLICY ACT.—Section 506(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(c)) is amended—

(1) in the first sentence, by striking out "the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended," and inserting in lieu thereof "the United States Court of Appeals for the Federal Circuit"; and

(2) by striking out "Temporary Emergency Court of Appeals" each place it appears and inserting in lieu thereof "United States Court of Appeals for the Federal Circuit".

(c) CONFORMING AMENDMENTS.—Section 1295(a) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraphs:

"(11) of an appeal under section 211 of the Economic Stabilization Act of 1970;

"(12) of an appeal under section 5 of the Emergency Petroleum Allocation Act of 1973;

"(13) of an appeal under section 506(c) of the Natural Gas Policy Act of 1978; and

"(14) of an appeal under section 523 of the Energy Policy and Conservation Act.".

(d) ABOLITION OF COURT.—The Temporary Emergency Court of Appeals created by section 211(b) of the Economic Stabilization Act of 1970 is abolished effective six months after the date of the enactment of this Act.

(e) PENDING CASES.—(1) Any appeal which, before the effective date of abolition described under subsection (d), is pending in the Temporary Emergency Court of Appeals but has not been submitted to a panel of such court as of that date shall be assigned to the United States Court of Appeals for the Federal Circuit as though the appeal had originally been filed in that court.

(2) Any case which, before the effective date of abolition described under subsection (d), has been submitted to a panel of the Temporary Emergency Court of Appeals and as to which the mandate has not been issued as of that date shall remain with that panel for all purposes and, notwithstanding the provisions of sections 291 and 292 of title 28, United States Code, that panel shall be assigned to the United States Court of Appeals for the Federal Circuit for the purpose of deciding such case.

SEC. 104. JURISDICTION FOR MAGISTRATE JUDGES FOR MODIFICATION OF CONDITIONS OR REVOCATION OF PROBATION OR SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (d) by striking out "and to revoke or reinstate the probation of any person granted probation by him." and inserting in lieu thereof "and to revoke, modify, or reinstate the probation of any person granted probation by a magistrate judge."; and

(2) by adding at the end thereof the following new subsections:

"(h) The magistrate judge shall have power to modify, revoke, or terminate supervised release of any person sentenced to a term of supervised release by a magistrate judge.

"(i) A district judge may designate a magistrate judge to conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the judge proposed findings of fact and recommendations for such modification, revocation, or termination by the judge, including, in the case of revocation, a recommended sentence under the provisions of section 3583(e) of this title. The magistrate judge shall file his proposed findings and recommendations.".

SEC. 105. EXHAUSTION OF REMEDIES.

Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended to read as follows:

"§1997e. Exhaustion of remedies

"(a) CERTIFICATION.—(1) In any action brought pursuant to section 1979 of the Revised Statutes (42 U.S.C. 1983) by an adult confined in any jail, prison, or other correctional or detention facility, the court shall, if it finds that such a requirement would be appropriate and in the interests of justice, continue the case for 90 days in order to require exhaustion of administrative remedies if the defendant shows the court, or if the Attorney General certifies, under subsection (b), that plain, speedy, and effective remedies are available to the confined adult. Exhaustion of remedies shall not be required in any case in which the claimant alleges facts that show a risk of substantial or irreparable harm.

"(2) The failure of the Attorney General to certify an administrative remedy under subsection (b), or the decision of the Attorney General to suspend or withdraw the certification of an administrative remedy under subsection (c), shall not be binding on the courts.

"(b) PROCEDURE FOR CERTIFICATION.—The Attorney General shall develop a procedure for the prompt review and certification of administrative remedies, as voluntarily submitted by the various States and political subdivisions, for the resolution of grievances of adults confined in any jail, prison, or other correctional or detention facility, to determine if the administrative remedies provide plain, speedy, and effective remedies.

"(c) SUSPENSION OR WITHDRAWAL OF CERTIFICATION.—The Attorney General may suspend or withdraw the certification of an administrative remedy under subsection (b) if the Attorney General has reasonable cause to believe that the administrative remedy no longer provides a plain, speedy, and effective remedy.

"(d) FAILURE OF STATE TO ADOPT OR ADHERE TO ADMINISTRATIVE REMEDY.—The failure of a State or political subdivision of a State to adopt or adhere to an administrative remedy consistent with this section shall not constitute the basis for an action under section 3 or 5.".

SEC. 106. PARTIES' CONSENT TO DETERMINATION BY BANKRUPTCY COURT.

Section 157(c)(2) of title 28, United States Code, is amended by adding at the end thereof the following: "For purposes of this paragraph, a party shall be deemed to consent to a bankruptcy judge's findings becoming final unless the party objects within 10 days after entry of the bankruptcy judge's findings.".

SEC. 107. INTERCIRCUIT TRANSFERS.

Section 291(a) of title 28, United States Code, is amended to read as follows:

"(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit.".

TITLE II—JUDICIAL SURVIVORS' ANNUITIES IMPROVEMENTS

SEC. 201. JUDICIAL SURVIVORS' ANNUITIES AMENDMENTS.

(a) ELECTION.—Section 376 of title 28, United States Code, is amended in the matter following subsection (a)(1)(G)—

(1) by striking out "or" at the end of clause (v); and

(2) by adding after clause (vi) "or (vii) the date of the enactment of the Federal Courts Study Committee Implementation Act of 1992;".

(b) CONTRIBUTIONS.—Section 376(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) in the first sentence by striking out "including any 'retirement salary', a sum equal to 5 percent of that salary." and inserting in lieu thereof "a sum equal to 1.5 percent of that salary, and a sum equal to 3.5 percent of his or her retirement salary. The deduction from any retirement salary of a senior judge eligible to perform judicial services under this title or of a judicial official on recall under sections 155(b), 178, 371(b), 372(a), 373(c)(4), 375, or 636(h) of this title shall be an amount equal to 1.5 percent of retirement salary.";

(3) by redesignating all that follows the first sentence (as amended by paragraph (2) of this subsection) as paragraph (3) and inserting before such paragraph (3) the following new paragraph:

"(2) A judicial official who is not entitled to receive an immediate retirement salary upon leaving office but who is eligible to receive a deferred retirement salary on a later date shall file, within ninety days before leaving office, a written notification of his or her intention to remain within the purview of this section under such conditions and procedures as may be determined by the Director of the Administrative Office of the United States Courts. Every judicial official who files a written notification in accordance with this paragraph shall be deemed to consent to contribute, during the period before such a judicial official begins to receive his or her retirement salary, a sum equal to 3.5 percent of the deferred 'retirement salary' which that judicial official is entitled to receive. Any judicial official who fails to file a written notification under this paragraph shall be deemed to have revoked his or her election under subsection (a) of this section."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking out "so deducted and withheld from the salary of each such judicial official" and inserting in lieu thereof: "deducted and withheld from the salary of each such judicial official under paragraphs (1) and (2) of this subsection".

(c) DEPOSITS.—Section 376(d) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out "5 percent" and inserting in lieu thereof "3.5 percent"; and

(2) in paragraph (2) by striking out "5 percent" and inserting in lieu thereof "3.5 percent".

(d) REFUND OF DEPOSITS.—Section 376(g) of title 28, United States Code, is amended to read as follows:

"(g) If any judicial official leaves office and is ineligible to receive a retirement salary or leaves office and is entitled to a deferred retirement salary but fails to make an election under subsection (b)(2) of this section, all amounts credited to his or her account established under subsection (e), together with interest at 4 percent per annum to December 31, 1947; and at 3 percent per annum thereafter, compounded on December 31 of each year, to the date of his or her relinquishment of office, minus a sum equal to 1.5 percent of salary for service while deductions were withheld under subsection (b) or for which a deposit was made by the judicial official under subsection (d), shall be returned to that judicial official in a lump-sum payment within a reasonable period of time following the date of his or her relinquishment of office. For the purposes of this section a 'reasonable period of time' shall be presumed to be no longer than one year following the date upon which such judicial official relinquished his or her office.".

(e) PAYMENT OF ANNUITIES.—Section 376(h)(1) of title 28, United States Code, is amended by striking out "or while receiving 'retirement salary'," and inserting in lieu thereof "while receiving retirement salary, or after filing an election and otherwise complying with the conditions under subsection (b)(2) of this section".

(f) CREDITABLE SERVICE.—Section 376(k) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking out "and" at the end thereof;

(2) in paragraph (4) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) those years during which such judicial official had deductions withheld from his or her 'retirement salary' in accordance with subsection (b) (1) or (2) of this section.".

(g) COMPUTATION OF ANNUITY.—Section 376(l) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out "(i) during those three years of such service in which his or her annual salary" and inserting in lieu thereof "(i) during those three years of such service, or during those three years while receiving a retirement salary in which his or her annual salary or retirement salary"; and

(2) in paragraph (1) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

"(D) the number of years during which the judicial official had deductions withheld from his or her retirement salary under subsection (b) (1) or (2) of this section; plus".

(h) TERMINATION.—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

"(v) If any judicial official ceases to be married after making the election under subsection (a), he or she may revoke such election in writing by notifying the Director of the Administrative Office of the United States Courts. The judicial official shall also notify any spouse or former spouse of the application for revocation in accordance with such requirements as the Director of the Administrative Office of the United States Courts shall by regulations prescribe. The Director may provide under such regulations that the notification requirement may be waived with respect to a spouse or former spouse if the judicial official established to the satisfaction of the Director that the whereabouts of such spouse or former spouse cannot be determined.".

(i) CREDIT FOR PRIOR CONTRIBUTIONS AT HIGHER RATE.—Notwithstanding any other provision of law, the contribution under section 376(b) (1) or (2) of title 28, United States Code (as amended by this Act), of any judicial official who is within the purview of section 376 on the effective date of this Act shall be reduced by 0.5 percent for a period of time equal to the number of years of service for which the judicial official has made contributions or deposits before the enactment of this Act to the credit of the Judicial Survivors' Annuities Fund or for eighteen months, whichever is less, if such contributions or deposits were never returned to the judicial official. For purposes of this subsection, the term "years" shall mean full years and twelfth parts thereof.

(j) REDEPOSIT OF PRIOR CONTRIBUTIONS.—Any judicial official who makes an election under section 376(b) of title 28, United States Code, may make a redeposit to the credit of the Judicial Survivors' Annuities Fund in installments, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts. If a judicial official elects to make a redeposit in installments—

(1) the Director shall require that the first installment payment made shall be in an amount no smaller than the last eighteen months of salary deductions or deposits previously returned to that judicial official in a lump-sum payment; and

(2) the election under section 376(b) of title 28, United States Code, shall be effective upon payment of the first such installment.

SEC. 202. LIFE INSURANCE COVERAGE.

(a) ELIGIBILITY.—Section 8701(a) of title 5, United States Code, is amended—

(1) in paragraph (9) by striking out "and" after the semicolon;

(2) in paragraph (10) by adding "and" after the semicolon; and

(3) by inserting after paragraph (10) and preceding the matter before subparagraph (A) the following new paragraph:

"(11) a judicial official, including a judge of the United States Claims Court (i) who is in regular active service, or (ii) who is retired from regular active service under section 178 of title 28, United States Code; a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands (i) who is in regular active service, or (ii) who is retired from regular active service under section 373 of title 28, United States Code; a bankruptcy judge or a magistrate judge (i) who is in regular active service, or (ii) who retired after attaining age 65 from regular active service under chapter 83 or 84 of this title, section 377 of title 28, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note; Public Law 100-659);".

(b) ADDITIONAL OPTIONAL LIFE INSURANCE.—

(1)(A) Sections 8706(a) and 8714b(c)(1) of title 5, United States Code, are each amended in the second sentence by inserting "and judicial officials described under section 8701(a)(11)" after "section 8701(a)(5) (ii) and (iii)".

(B) Sections 8714a(c)(1) and 8714c(c)(1) of title 5, United States Code, are each amended by adding after the first sentence "Justices and judges described under section 8701(a)(5) (ii) and

(iii) and judicial officials described under section 8701(a)(11) of this chapter are deemed to continue in active employment for purposes of this chapter.".

(2) The amendments made under paragraph (1) shall apply to a judicial officer described in section 8701(a)(11) of title 5, United States Code (as amended by this Act) who—

(A) is retired under chapter 83 or 84 of title 5, United States Code, section 178, 373, or 377 of title 28, United States Code, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note); and

(B) retire on or after August 1, 1987.".

(c) Conversion Rights.—(1) Section 8714a(c)(3) of title 5, United States Code, is amended by inserting "or a judicial official as defined under section 8701(a)(11) who leaves office without an immediate annuity" after "for continuation of the judicial salary".

(2) Section 8714b(c)(1) of title 5, United States Code, is amended in the third sentence by inserting "or a judicial official as defined under section 8701(a)(11) who leaves office without an immediate annuity" after "for continuation of the judicial salary".

SEC. 203. HEALTH INSURANCE FOR SPOUSES.

Section 8901(3) of title 5, United States Code, is amended—

(1) in subparagraph (C) by striking out "and" at the end thereof;

(2) in subparagraph (D) by adding "and" at the end thereof; and

(3) by adding at the end thereof the following new subparagraph:

"(E) a member of a family who is a survivor of—

"(i) a Justice or judge of the United States, as defined under section 451 of title 28, United States Code;

"(ii) a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands;

"(iii) a judge of the United States Claims Court; or

"(iv) a United States bankruptcy judge or a full-time United States magistrate judge;".

SEC. 204. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this title.

TITLE III—JUDICIAL FINANCIAL ADMINISTRATION

SEC. 301. AWARD OF FILING FEES IN FAVOR OF THE UNITED STATES.

(a) Actions Commenced by the United States.—Section 2412(a) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) A judgment for costs, when awarded in favor of the United States in an action brought by the United States, may include an amount equal to the filing fee prescribed under section 1914(a) of this title. The preceding sentence shall not be construed as requiring the United States to pay any filing fee.".

(b) Disposition of Filing Fees.—Section 1931 of title 28, United States Code, is amended by inserting "or pursuant to an award in favor of the United States under section 2412(a)(2) of this title" after "chapter".

SEC. 302. AMENDMENTS TO THE JUDICIARY AUTOMATION FUND.

Section 612 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence by striking out "equipment for" and inserting in lieu thereof "equipment, program activities included in the courts of appeals, district courts, and other judicial services account of"; and

(B) in the third sentence—

(i) by inserting ", support personnel in the courts and in the Administrative Office of the United States Courts," after "personal services"; and

(ii) by striking out "in the judicial branch" and inserting in lieu thereof "purchased from the Fund. In addition, all agencies of the judiciary may make deposits into the Fund to meet their automatic data processing needs in accordance with subsections (b) and (c)(2).";

(2) in subsection (b)(1), by striking out "judicial branch", and inserting in lieu thereof "activities funded in subsection (a) and shall include an annual estimate of any fees that may be collected under section 404 of the Judiciary Appropriations Act, 1991 (28 U.S.C. 1913 note; Public Law 101–515; 104 Stat. 2132)";

(3) in subsection (b)(2), by striking out "judicial branch of the United States" and inserting in lieu thereof, "activities funded under subsection (a)";

(4) in subsection (c)(1)(A), by inserting "all fees collected by the judiciary under section 404 of the Judiciary Appropriations Act, 1991 (28 U.S.C. 1913 note; Public Law 101–515; 104 Stat. 2132)" after "surplus property";

(5) in subsection (e)(1) by striking out "$75,000,000" and inserting in lieu thereof "amounts estimated to be collected under subsection (c) for that fiscal year";

(6) by amending subsection (i) to read as follows:

"(i) Reprogramming.—The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States may transfer amounts not in excess of $1,000,000 from the Fund into the account to which the funds were originally appropriated. Any amounts in excess of $1,000,000 may be transferred only by following reprogramming procedures in compliance with provisions set forth in section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2227); and";

(7) in subsection (j) in the second sentence by inserting "in statute" after "not specified"; and

(8) in subsection (l) by striking "1994" and inserting in lieu thereof "1999", and by striking out "'Judicial Services Account'" and inserting in lieu thereof "fund established under section 1931".

SEC. 303. VICTIMS' RIGHTS FUNDING.

Section 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is amended to read as follows:

"(c)(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.

"(2) The Fund shall be available as follows:

"(A) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(B) Of the next $100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 1403; and

"(ii) 45 percent shall be available for grants under section 1404(a);

"(C) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404A.

"(D) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(E) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under subparagraphs (A) through (D) shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 1403.

"(ii) 47.5 percent shall be available for grants under section 1404(a).

"(iii) 5 percent shall be available for grants under section 1404(c)(1)(B).".

SEC. 304. FILING FEES.

Section 1931 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The following"; and

(2) by adding at the end thereof the following new subsection:

"(b) If the court authorizes a fee of less than $120, the entire fee, up to $60, shall be deposited into the special fund provided in this section.".

TITLE IV—JURY MATTERS

SEC. 401. JURY SELECTION.

Section 1863(b)(2) of title 28, United States Code, is amended by adding at the end thereof the following: "The plan for the district of Massachusetts may require the names of prospective jurors to be selected from the resident list provided for in chapter 234A, Massachusetts General Laws, or comparable authority, rather than from voter lists.".

SEC. 402. EXPANDED WORKERS' COMPENSATION COVERAGE FOR JURORS.

(a) Expansion of Coverage.— Section 1877(b)(2) of title 28, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (C); and

(2) by inserting before the period at the end of subparagraph (D) the following: ", or (E) traveling to or from the courthouse pursuant to a jury summons or sequestration order, or as otherwise necessitated by order of the court".

(b) Effective Date.—The amendment made by subsection (a) shall apply to jurors serving on or after December 1, 1991.

SEC. 403. COMPENSATION FOR LOSS OR DAMAGE TO PERSONAL PROPERTY OF JURORS.

Section 604 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(i)(1) The Director may compensate any person for the loss of, or damage to, personal effects of such person incurred incident to the performance of duties pursuant to a summons to serve as a grand or petit juror. Such compensation shall be consistent with sections 3721 and 3723 of title 31.

"(2) The Director shall prescribe guidelines for the allowance of claims for compensation under paragraph (1) of this subsection.".

SEC. 404. GRAND JURY TRAVEL.

Section 1871(c) of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) A grand juror who travels to district court pursuant to a summons may be paid the travel expenses provided under this section or, under guidelines set by the Judicial Conference, the actual reasonable costs of travel by aircraft when weather conditions warrant and when certified by the chief judge of the district court in which the grand juror serves.".

SEC. 405. PERMANENT AUTHORIZATION FOR OPTIONAL USE OF NEW JURY SELECTION PROCESS.

(a) Authority To Use One-Step Procedure.—Section 1878, title 28, United States Code, is amended to read as follows:

"§1878. Optional use of a one-step summoning and qualification procedure

"(a) At the option of each district court, jurors may be summoned and qualified in a single procedure, if the court's jury selection plan so authorizes, in lieu of the two separate procedures otherwise provided for by this chapter. Courts shall ensure that a one-step summoning and qualification procedure conducted under this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title.

"(b) Jury selection conducted under this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with a one-step summoning and qualification procedure as authorized by this section.".

(b) CONFORMING AMENDMENT.—The item relating to section 1878 in the table of sections for chapter 121 is amended to read as follows:

"1878. Optional use of a one-step summoning and qualification procedure.".

(c) SAVINGS PROVISION.—For courts participating in the experiment authorized under section 1878 of title 28, United States Code (as in effect before the effective date of this section), the amendment made by subsection (a) of this section shall be effective on and after January 1, 1992.

TITLE V—MISCELLANEOUS

SEC. 501. PRETERMISSION OF REGULAR SESSIONS OF COURT OF APPEALS.

Section 48(c) of title 28, United States Code, is amended by striking out ", with the consent of the Judicial Conference of the United States,".

SEC. 502. REPORTS AND STATISTICS.

(a) ELIMINATION OF DUPLICATIVE REPORTING REQUIREMENT.—Section 1121(a) of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (12 U.S.C. 3421(a)) is amended by adding at the end thereof "No report is required under this section after January 1, 1992.".

(b) TRANSFER OF REPORTING DUTY TO ADMINISTERING AGENCY.—Section 2412(d)(5) of title 28, United States Code, is amended by striking out "The Director" and all that follows through "this title," and inserting in lieu thereof "The Attorney General shall report annually to the Congress on".

(c) EXTENSION FOR JUDICIAL CENTER REPORT.—Subsection 302(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 104 Stat. 5104) is amended by striking out "2 years" and inserting in lieu thereof "2 years and 9 months".

SEC. 503. RECYCLING AND REUSE OF RECYCLABLE MATERIALS.

Section 604(g) of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3)(A) In order to promote the recycling and reuse of recyclable materials, the Director may provide for the sale or disposal of recyclable scrap materials from paper products and other consumable office supplies held by an entity within the judicial branch.

"(B) The sale or disposal of recyclable materials under subparagraph (A) of this paragraph shall be consistent with the procedures provided in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property.

"(C) Proceeds from the sale of recyclable materials under subparagraph (A) of this paragraph shall be deposited as offsetting collections to the fund established under section 1931 of this title and shall remain available until expended to reimburse any appropriations for the operation and maintenance of the judicial branch.".

SEC. 504. BANKRUPTCY RULEMAKING.

(a) METHODS OF PRESCRIBING BANKRUPTCY RULES.—Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a) (2), by striking out "section 2072" and inserting in lieu thereof "sections 2072 and 2075";

(2) in subsection (d), by inserting "or 2075" after "2072"; and

(3) in subsection (e), by inserting "or 2075" after "2072".

(b) EFFECTIVE DATE OF BANKRUPTCY RULES.—Section 2074(a) of title 28, United States Code, is amended by inserting "or 2075" in the first sentence after "2072".

(c) CONFORMING AMENDMENT.—Section 2075 of title 28, United States Code, is amended by striking out the third undesignated paragraph.

SEC. 505. VENUE IN DIVERSITY AND FEDERAL QUESTION CASES.

Section 1391 of title 28, United States Code, is amended—

(1) in subsection (a)(3) by inserting before the period "if there is no district in which the action may otherwise be brought"; and

(2) in subsection (b), by striking out "in" before "(1)" and inserting in lieu thereof "if".

SEC. 506. SUMMARIES OF REPORTS TO CONGRESS.

Section 103(c)(4)(B) of the Civil Justice Reform Act of 1990 (Public Law 101–650) is amended by striking "the reports" and inserting in lieu thereof "summaries of the reports".

SEC. 507. BANKRUPTCY ADMINISTRATOR PROGRAM.

(a) PRESIDING OFFICER.—A bankruptcy administrator appointed under section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554; 100 Stat. 3123), as amended by section 317(a) of the Federal Courts Study Committee Implementation Act of 1990 (Public Law 101–650; 104 Stat. 5115), or the bankruptcy administrator's designee may preside at the meeting of creditors convened under section 341(a) of title 11, United States Code. The bankruptcy administrator or the bankruptcy administrator's designee may preside at any meeting of equity security holders convened under section 341(b) of title 11, United States Code.

(b) EXAMINATION OF THE DEBTOR.—The bankruptcy administrator or the bankruptcy administrator's designee may examine the debtor at the meeting of creditors and may administer the oath required under section 343 of title 11, United States Code.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of enactment of this Act.

SEC. 508. COSTS AND FEES IN THE UNITED STATES COURT OF VETERANS APPEALS.

(a) IN GENERAL.—Section 2412(d)(2)(F) of title 28, United States Code, is amended by inserting before the semicolon "and the United States Court of Veterans Appeals".

(b) APPLICATION TO PENDING CASES.—The amendment made by subsection (a) shall apply to any case pending before the United States Court of Veterans Appeals on the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 509. COURT TO BE HELD AT LANCASTER, PENNSYLVANIA.

Section 118(a) of title 28, United States Code, is amended by inserting "Lancaster," before "Reading".

TITLE VI—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 601. JUDICIAL RETIREMENT MATTERS.

(a) CREDITABLE SERVICE FOR CERTAIN JUDICIAL ADMINISTRATIVE OFFICIALS.—(1) Section 611(d) and 627(e) of title 28, United States Code, are each amended by inserting "a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representatives," after "Congress,".

(2)(A) Sections 611(b) and 627(c) of such title are each amended—

(i) in paragraph (b), by striking out "who has served at least fifteen years and" and inserting in lieu thereof "who has at least fifteen years of service and has"; and

(ii) in the first undesignated paragraph, by striking out "who has served at least ten years," and inserting in lieu thereof "who has at least ten years of service,".

(B) Sections 611(c) and 627(d) of such title are each amended—

(i) by striking out "served at least fifteen years," and inserting in lieu thereof "at least fifteen years of service,"; and

(ii) by striking out "served less than fifteen years," and inserting in lieu thereof "less than fifteen years of service,".

(b) JUDICIAL RETIREMENT FUNDS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)) is amended by inserting after "Judicial survivors' annuities fund (10–8110–0–7–602);" the following:

"Judicial Officers' Retirement Fund (10–8122–0–7–602);

Claims Court Judges' Retirement Fund (10–8124–0–7–602);".

(c) JUDICIARY TRUST FUNDS.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after "Payment to civil service retirement and disability fund (24–0200–0–1–805);" the following:

"Payment to Judiciary Trust Funds (10–0941–0–1–752);".

SEC. 602. FULL-TIME STATUS OF COURT REPORTERS.

Section 753(e) of title 28, United States Code, is amended by inserting after the first sentence the following: "For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which a reporter receives a salary at the annual salary rate fixed for a full-time reporter pursuant to the preceding sentence.".

SEC. 603. FEDERAL JUDICIAL CENTER.

(a) FUNCTIONS.—Subsection 620(b) of title 28, United States Code, is amended—

(1) in paragraph (4) by striking out "and" at the end thereof;

(2) in paragraph (5) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with and assist agencies of the Federal Government and other appropriate organizations in providing information and advice to further improvement in the administration of justice in the courts of foreign countries and to acquire information about judicial administration in foreign countries that may contribute to performing the other functions set forth in this section.".

(b) COMPENSATION.—Subsection 625(b) of title 28, United States Code, is amended by inserting, after "section 5316, title 5, United States Code", and before the colon, the following language: ", except the Director may fix the compensation of no more than 5 percent of the authorized positions of the Center at a level not to exceed the annual rate of basic pay of level IV of such pay rates".

(c) CLERICAL COMPENSATION.—Subsection 625(c) of title 28, United States Code, is amended by striking out "competitive service and" and inserting in lieu thereof "competitive service without regard to".

TITLE VII—CRIMINAL LAW

SEC. 701. AUTHORITY TO LIMIT COLLECTION OF PRETRIAL INFORMATION IN CLASS A MISDEMEANOR CASES.

Section 3154(1) of title 18, United States Code, is amended by inserting before the period "; except that a district court may direct that pretrial services not collect, verify, and report such information on individuals charged with Class A misdemeanors as defined in section 3559(a)(6) of this title".

SEC. 702. NEW AUTHORITY FOR PROBATION AND PRETRIAL SERVICES OFFICERS.

(a) Section 3603 of title 18, United States Code, is amended—

(1) in paragraph (7) by striking out "and" at the end thereof;

(2) by redesignating paragraph (8) as paragraph (10) and inserting after paragraph (7) the following new paragraphs:

"(8)(A) when directed by the court, and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of sections 4243 and 4246 of this title, and report such person's conduct and condition to the court ordering release and to the Attorney General or his designee; and

"(B) immediately report any violation of the conditions of release to the court and the Attorney General or his designee;

"(9) if approved by the district court, be authorized to carry firearms under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe; and".

(b) Section 3154 of title 18, United States Code, is amended—

(1) by redesignating paragraph (12) as paragraph (14); and

(2) by inserting after paragraph (11) the following new paragraphs:

"(12)(A) As directed by the court and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report such person's conduct and condition to the court ordering release and the Attorney General or his designee.

"(B) Any violation of the conditions of release shall immediately be reported to the court and the Attorney General or his designee.

"(13) If approved by the district court, be authorized to carry firearms under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe.".

SEC. 703. GOVERNMENT RATES OF TRAVEL FOR CRIMINAL JUSTICE ACT ATTORNEYS AND EXPERTS.

The Administrator of General Services Administration, in entering into contracts providing for special rates to be charged by Federal Government sources of supply, including common carriers and hotels (or other commercial providers of lodging) for official travel and accommodation of Federal Government employees, shall provide for charging the same rates for attorneys, experts, and other persons traveling primarily in connection with carrying out responsibilities under section 3006A of title 18, United States Code, including community defender organizations established under subsection (g) of that section.

SEC. 704. TECHNICAL CORRECTION.

Section 3143(b)(1) of title 18, United States Code, is amended by striking out "paragraph (b)(2)(D)" and inserting in lieu thereof "subparagraph (B)(iv) of this paragraph".

TITLE VIII—FOREIGN RECORDS OF REGULARLY CONDUCTED ACTIVITY

SEC. 801. FOREIGN RECORDS OF REGULARLY CONDUCTED ACTIVITY.

(a) AMENDMENT TO TITLE 28, UNITED STATES CODE.—Chapter 115 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§1747. Foreign records of regularly conducted activity

"(a)(1) In a civil proceeding in a court of the United States, including the United States Claims Court and the United States Tax Court, a foreign record of regularly conducted activity, or a copy of such record, shall not be excluded as evidence by the hearsay rule if a foreign certification attests that—

"(A) such record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

"(B) such record was kept in the course of a regularly conducted business activity;

"(C) the business activity made such a record as a regular practice; and

"(D) if such record is not the original, such record is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

"(2) A foreign certification under this section shall authenticate such record or duplicate.

"(b) As soon as practicable after a responsive pleading has been filed, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but the court for cause shown may grant relief from the waiver.

"(c) As used in this section, the term—

"(1) 'foreign record of regularly conducted activity' means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country;

"(2) 'foreign certification' means a written declaration made and signed in a foreign country by the custodian of a foreign record of regularly conducted activity or another qualified person, that if falsely made, would subject the maker to criminal penalty under the law of that country; and

"(3) 'business' includes business, institution, association, profession, occupation, and calling of every kind whether or not conducted for profit.".

(b) CONFORMING AMENDMENT.—The table of sections of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1746 the following item:

"1747. Foreign records of regularly conducted activity.".

(c) EFFECTIVE DATE.—The amendments made by this section are effective on the date of enactment of this Act.

TITLE IX—STATE JUSTICE INSTITUTE REAUTHORIZATION

SEC. 901. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (Public Law 98–620; 42 U.S.C. 10713) is amended to read as follows:

"There are authorized to be appropriated to carry out the purposes of this title $20,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, $25,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996. Amounts appropriated for each year are to remain available until expended.".

SEC. 902. INTERAGENCY AGREEMENTS.

Section 206(b) of the State Justice Institute Act of 1984 (42 U.S.C. 10705) is amended by—

(1) striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Upon application by an appropriate State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of State or local government other than a court.";

(2) redesignating paragraph (4) as paragraph (5); and

(3) adding after paragraph (3) the following new paragraph:

"(4) The Institute shall have authority to enter into contracts with Federal agencies to carry out the purposes of this title.".

SEC. 903. EFFECTIVE DATE.

The provisions of this title shall take effect on the date of enactment of this Act.

TITLE X—TERRORISM CIVIL REMEDY

SEC. 1001. TERRORISM CIVIL REMEDY.

(a) REINSTATEMENT OF LAW.—The amendments made by section 132 of the Military Construction Appropriations Act, 1991 (104 Stat. 2250), are repealed effective as of April 10, 1991.

(b) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (a), is amended—

(1) in section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) as section 2332 and amending the heading for section 2332, as redesignated, to read as follows:

"§2332. Criminal penalties";

(3) by inserting before section 2332, as redesignated by paragraph (2), the following new section:

"§2331. Definitions

"As used in this chapter—

"(1) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin;

"(2) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(3) the term 'national of the United States' has the meaning given such term in section

101(a)(22) of the Immigration and Nationality Act; and

"(4) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property."; and

(4) by inserting after section 2332, as redesignated, the following new sections:

"§2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902 (i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (k), (l), (n), and (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, any civil action under section 2333 against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 may be served in any other district where the defendant resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy that is substantially the same as the one available in the courts of the United States.

"§2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of the defendant's whereabouts, shall not be counted for the purposes of the period of limitation prescribed by subsection (a).

"§2336. Other limitations

"(a) ACTS OF WAR.—No action shall be maintained under section 2333 for injury or loss by reason of an act of war.

"(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the attorney for the Government may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any objections raised by the Government in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

"§2337. Suits against Government officials

"No action shall be maintained under section 2333 against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within the officer's or employee's official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within the officer's or employee's official capacity or under color of legal authority.

"§2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.".

(c) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 113A of title 18, United States Code is amended to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(2) The item relating to chapter 113A in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"113A. Terrorism .... 2331".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

TITLE XI—EFFECTIVE DATE

SEC. 1101. EFFECTIVE DATE.

Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act shall be effective on and after January 1, 1993.

AMENDMENT NO. 2837

Mr. JOHNSTON. I send amendments to the desk on behalf of Senator HEFLIN and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. HEFLIN, proposes an amendment numbered 2837.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 20, line 25, beginning with "unless" strike out all through line 2 on page 21 and insert in lieu thereof "if the council certifies that sufficient judicial resources exist to establish such a panel, taking into account such factors as".

On page 21, line 9, strike out "Administrative Office of the United States Courts" and insert in lieu thereof "Judicial Conference of the United States".

On page 26, line 21, insert "convicted of a crime" before "confined".

On page 27, line 12, insert "(1)" before "The Attorney".

On page 27, line 16, insert "convicted of a crime" before "confined".

On page 27, insert between lines 19 and 20 the following:

"(2)(A) The Attorney General or court shall consider the following standards in determining whether or not administrative remedies are plain, speedy and effective:

"(i) advisory role of employees and inmates or representatives of prisoner rights in formulating a plan of administrative remedies;

"(ii) maximum time limits for written responses to grievances;

"(iii) safeguards to avoid reprisals against any grievant or participant in the resolution of a grievance; and

"(iv) independent review of the disposition of grievances by an outside entity.

"(B) If the Attorney General or court finds that the administrative remedies are not in substantial compliance with the standards under subparagraph (A), the State shall prove either to the Attorney General or court that alternate procedures developed by the State accomplish the same objectives of providing a plain, speedy and effective administrative remedy.

On page 27, line 21, insert "or court" after "General".

On page 27, line 23, insert "or court" after "General".

On page 28, strike out lines 8 through 13 and insert in lieu thereof:

Section 157(c)(1) of title 28, United States Code, is amended by adding at the end thereof the following: "A party shall be deemed to consent to the findings of fact and conclusions of law submitted by a bankruptcy judge unless the party files a timely objection. If a timely objection is not filed, the proposed findings of fact and conclusions of law submitted by the bankruptcy judge shall become final and the bankruptcy judge shall enter an appropriate order thereon.".

On page 35, line 23, strike out "Claims Court" and insert in lieu thereof "Court of Federal Claims".

On page 38, line 20, strike out "Claims Court" and insert in lieu thereof "Court of Federal Claims".

On page 42, beginning with line 7, strike out all through line 18 on page 43 and insert in lieu thereof the following:

SEC. 303. VICTIMS' RIGHTS FUNDING.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.";

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The Fund shall be available as follows:

"(1) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(2) Of the next $100,000,000 deposited in the Fund in a particular fiscal year—

"(A) 49.5 percent shall be available for grants under section 1403; and

"(B) 45 percent shall be available for grants under section 1404(a).

"(3) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(4) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(5) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under paragraphs (1) through (4) shall be available as follows:

"(A) 47.5 percent shall be available for grants under section 1403.

"(B) 47.5 percent shall be available for grants under section 1404(a).

"(C) 5 percent shall be available for grants under section 1404(c).".

On page 53, line 14, strike out "Claims Court" and insert in lieu thereof "Court of Federal Claims".

On page 59, line 4, strike out "Claims Court" and insert in lieu thereof "Court of Federal Claims".

On page 70, strike out lines 8 through 12 and insert in lieu thereof the following:

TITLE XI—COURT OF FEDERAL CLAIMS

SEC. 1101. SHORT TITLE.

This title may be cited as the "Court of Federal Claims Technical and Procedural Improvements Act of 1992".

SEC. 1102. COURT DESIGNATION.

(a) IN GENERAL.—Chapters 7, 51, 91, and 165 of title 28, United States Code, is amended by—

(1) striking "United States Claims Court" each place it appears and inserting "United States Court of Federal Claims"; and

(2) striking "Claims Court" each place it appears and inserting "Court of Federal Claims".

(b) OTHER PROVISIONS OF LAW.—Reference in any other Federal law or any document relating to—

(1) the "United States Claims Court" shall be deemed to refer to the "United States Court of Federal Claims"; and

(2) the "Claims Court" shall be deemed to refer to the "Court of Federal Claims".

SEC. 1103. SOCIAL SECURITY AMENDMENTS.

Section 178 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) For the purpose of construing section 3121(i)(5) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(i)(5)) and section 209(h) of the Social Security Act (42 U.S.C. 409(h)), the annuity of a Court of Federal Claims judge on senior status after age 65 shall be deemed to be an amount paid under section 371(b) of this title for performing services under the provisions of section 294 of this title.".

SEC. 1104. ELIGIBILITY FOR INSURANCE AND ANNUITIES PROGRAMS.

Chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 179. Insurance and annuities programs

"For the purpose of construing the provisions of title 5, a judge of the United States Court of Federal Claims shall be deemed to be a 'judge of the United States' as designated in section 2104(a) of title 5.".

SEC. 1105. MILITARY RETIREMENT PAY FOR RETIRED JUDGES.

(a) IN GENERAL.—Chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 180. Military retirement pay for retired judges

"Section 371(e) of this title shall be applicable to judges of the United States Court of Federal Claims, and for the purpose of construing section 371(e) of this title, a judge of the United States Court of Federal Claims shall be deemed to be a judge of the United States as defined by section 451 of this title.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following:

"179. Insurance and annuities programs.
"180. Military retirement pay for retired judges.".

SEC. 1106. RECALL OF COURT OF FEDERAL CLAIMS JUDGES ON SENIOR STATUS.

(a) IN GENERAL.—Section 375 of title 28, United States Code, is amended—

(1) in the first sentence of subsection (a)(1) by striking ", a judge of the Claims Court," and ", judge of the Claims Court,";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) For purposes of paragraph (1) of this subsection, a certification may be made, in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located.";

(3) by amending paragraph (3) of subsection (a) to read as follows:

"(3) For purposes of this section, the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984."; and

(4) in subsection (f) by—

(A) striking ", a judge of the Claims Court,"; and

(B) striking ", a commissioner of the Court of Claims,".

(b) RECALL OF RETIRED JUDGES.—Section 797 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting "section 178 of this title or under" after "under"; and

(2) in the second sentence of subsection (d) by striking "civil service".

SEC. 1107. LAW CLERKS AND SECRETARIES.

The first sentence of section 794 of title 28, United States Code, is amended by inserting after "may approve" the following: "for district judges".

SEC. 1108. SITES FOR HOLDING COURT.

(a) IN GENERAL.—Section 798(a) of title 28, United States Code, is amended to read as follows:

"(a) The United States Court of Federal Claims is authorized to utilize facilities and hold court in Washington, District of Columbia, and throughout the United States (including its territories and possessions) as necessary for compliance with sections 173 and 2503(c) of this title. The facilities of the Federal courts, as well as other comparable facilities administered by the General Services Administration, shall be made available for trials and other proceedings outside of the District of Columbia.".

(b) FOREIGN COUNTRY.—

(1) REDESIGNATION.—Subsection (b) of section 798 of title 28, United States Code, is redesignated as subsection (c).

(2) HEARING IN A FOREIGN COUNTRY.—Section 798 of title 28, United States Code, is amended by inserting after subsection (a) the following:

"(b) Upon application of a party or upon the judge's own initiative, and upon a showing that the interests of economy, efficiency and justice will be served, the chief judge may issue an order authorizing a judge of the court to conduct proceedings, including evidentiary hearings and trials, in a foreign country whose laws do not prohibit such proceedings, except that an interlocutory appeal may be taken from such an order pursuant to the provisions of section 1292(d)(2) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.".

(c) APPEAL JURISDICTION.—Section 1292(d)(2) of title 28, United Sates Code, is amended by inserting after "When" the following: "the chief judge of the United States Court of Federal Claims issues an order under the provisions of section 798(b) of this title, or when".

SEC. 1109. JURISDICTION.

Section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) If the certification of a claim pursuant to this Act is technically defective, a court or agency board of contract appeals may permit the certification to be corrected at any time prior to a final decision by the court or agency board of contract appeals unless the failure properly to certify in the first instance was fraudulent, in bad faith, or with reckless or grossly negligent disregard of the requirements of the relevant statutes or regulations.

"(B) If the contracting officer did not challenge the validity of the certification and the court or agency board of contract appeals permits the defective certification to be corrected under this section, interest shall accrue on the claim under section 611 of this Act from the date the claim was first submitted to the contracting officer.

"(C) This paragraph shall be effective with respect to cases filed with any court or agency board of contract appeals under section 607, 608, or 609 of this Act on or after the date of the enactment of this paragraph.".

SEC. 1110. AWARDABLE COSTS.

Section 1919 of title 28, United States Code, is amended by—

(1) striking "district court or" and inserting "district court,"; and

(2) inserting after "Trade" the following: ", or the Court of Federal Claims".

SEC. 1111. PROCEEDINGS GENERALLY.

Section 2503 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d) For the purpose of construing sections 1821, 1915, 1920 and 1927 of this title, the United States Court of Federal Claims shall be deemed to be a court of the United States.".

SEC. 1112. SUBPOENAS AND INCIDENTAL POWERS.

(a) IN GENERAL.—Section 2521 of title 28, United States Code, is amended by—

(1) amending the section heading to read as follows:

"§ 2521. Subpoenas and incidental powers";

(2) inserting "(a)" before "Subpoenas requiring"; and

(3) adding at the end thereof the following new subsections:

"(b) The United States Court of Federal Claims shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(c) The United States Court of Federal Claims shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree or command as is available to a court of the United States. The United States marshal for any district in which the Court of Federal Claims is sitting shall, when requested by the chief judge of the Court of Federal Claims, attend any session of the Court of Federal Claims in such district.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 165 of title 28, United States Code, is amended by amending the item relating to section 2521 to read as follows:

"2521. Subpoenas and incidental powers.".

SEC. 1113. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE XII—EFFECTIVE DATE

SEC. 1201. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act shall be effective on and after January 1, 1993.

(b) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any provision of this Act, all sums expended pursuant to this Act shall be subject to the availability of appropriations.

Mr. HEFLIN. Mr. President, I rise today to offer an amendment to the Senate Judiciary Committee substitute version of S. 1569, the Federal Courts Study Committee Implementation Act. My amendment encompasses certain technical and other improvements to S. 1569, all of which have been agreed upon by the Judiciary Committee.

The 100th Congress created within the Judicial Conference of the United States a 15-member Federal Courts Study Committee and directed it to "make a complete study of the courts of the United States and of the several States and transmit a report * * * on such study." The Federal Courts Study Committee included members of the Federal executive, legislative and judicial branches and representatives from State governments, universities, and private practice, all of whom worked toward the goal of developing a long-range plan for the judicial system. I was privileged to serve as a member of this committee, as did Senator GRASSLEY.

Last Congress, the Federal Courts Study Committee Implementation Act of 1990 was enacted into law as part of the Judicial Improvements Act of 1990. While that legislation addresses some necessary objectives of the committee, it merely scratches the surface in terms of the remaining committee recommendations and their potential usefulness.

Therefore, S. 1569 incorporates additional recommendations of the Federal Courts Study Committee. These important provisions are as follows:

Section 101 would require each circuit to establish a bankruptcy appellate panel or participate with one or more small circuits in a multicircuit panel, if the circuit has sufficient resources to establish a panel.

Section 102 would delegate authority to the Supreme Court, under the Rules Enabling Act, to define what constitutes a final decision; and to define circumstances in which orders and actions of district courts not otherwise subject to appeal under acts of Congress may be appealed to the courts of appeals.

Section 103 would abolish the Temporary Emergency Court of Appeals and vest its remaining caseload in the Court of Appeals for the Federal circuit.

Section 104 would provide jurisdiction for magistrate judges to revoke, modify or terminate the supervised release or probation of a defendant sentenced by a magistrate judge.

Section 105 would require State prisoners to first exhaust certain administrative remedies prior to bringing a civil rights action in Federal district court.

Section 106 would provide that in non core proceedings, a bankruptcy judge's findings become final unless a party files a timely objection.

Section 107 would allow the Chief Justice of the United States, upon request, to designate and assign temporarily any circuit judge to another circuit.

Title II of the S. 1569 substitute addresses important needs and issues affecting the surviving spouses and dependents of federal judges.

This proposal would reduce the contribution of judges from 5 percent of salary to 1.5 percent of salary while in active service or while serving in senior or recalled status, and would set the rate of contribution at 3.5 percent of retirement salary for those judges leaving office. The reductions in the judges' contributions would attract more participants and extend protection to survivors of judges who otherwise would remain vulnerable to financial crises.

Titles III–VII of the S. 1569 substitute contain various judicial housekeeping items which were included at the request of the Judicial Conference of the United States. These sections focus on judicial financial administration; jury matters; judiciary personnel administration, benefits, and protections; and criminal law.

Moreover, title V of the substitute contains several miscellaneous items. Among these items is section 506, included at the request of Senator BIDEN. This provision would reduce the burden of a reporting requirement created by the Civil Justice Reform Act of 1990. Section 508, included at the request of Senator DECONCINI, would amend the Equal Access to Justice Act to clarify that it is intended to apply to the Court of Veterans Appeals. Section 509, included at the request of Senator SPECTER, would authorize the holding of court in Lancaster, PA.

Title VIII was included at the request of Senator THURMOND. In civil litigation, it would provide for the admission in evidence of foreign business records. In addition, title IX would reauthorize the State Justice Institute from 1993–1996. This reauthorization, which I strongly support, would continue the mission of the State Justice Institute to improve the administration of justice in our Nation's State court systems.

Finally, title X, included at the request of Senator GRASSLEY, would provide a civil cause of action in Federal court for victims of terrorism. Senator GRASSLEY's provision has strong bipartisan support in the Senate, and I am pleased to support its inclusion in my bill.

In addition to making technical corrections to the S. 1569 substitute, my amendment will incorporate the following changes:

SECTION 105. EXHAUSTION OF REMEDIES

The amendment outlines four standards that the Attorney General or court shall consider in determining whether or not administrative remedies are plain, speedy and effective. They basically mirror four of the five standards in the code section being amendment, 42 U.S.C. section 1997e. One of the five standards was contained in the initial section of 105(a)(1) and stated that exhaustion should not be required in any case in which the claimant alleges facts that show a risk of substantial or irreparable harm.

The report of the Federal Courts Study Committee contains a recommendation that if statutory standards were retained, a State should be able to prove to the Attorney General of the United States or a district court that it has alternate procedures which accomplish the same objectives as those addressed by the standards, and that these procedures are a plain, speedy and effective remedy which the State prisoner must exhaust prior to the resolution of the section 1983 civil suit. Thus, some flexibility is given to the Attorney General or courts in approving an administrative remedy plan and it is hoped that States will be encouraged to develop plans for approval.

SECTION 106. PARTIES' CONSENT TO DETERMINATION BY BANKRUPTCY COURT

Under present law, there are certain matters in which a bankruptcy judge is not permitted to make a final determination without the consent of all the parties to such action by the bankruptcy judge. In the absence of this complete consent—which under the Federal rules of bankruptcy procedure must express consent—the bankruptcy judge is limited to filing proposed findings of fact and conclusions of law. The proposed findings of fact and conclusion of law must be presented to a district judge for review and for entry of a final order or judgment, even when no party objects to what the bankruptcy judge has proposed.

The amendment would eliminate review by a district judge when no party files an objection to the proposals made by the bankruptcy judge. Once the period for filing objections has expired, the bankruptcy judge would enter a final order which would be appealable in the same manner as any other final order of a bankruptcy judge.

Rule 9033 of the Federal rules of bankruptcy procedure provides a 10-day period for filing objections to proposed findings of fact and conclusions of law filed by a bankruptcy judge who hears a matter under section 157(c)(1). The amendment requires that any objection be filed timely. Accordingly, the rule would continue to function as it does presently.

TITLE XI—COURT OF FEDERAL CLAIMS

On April 2, 1992, I introduced S. 2521, a bill to amend title 28 of the United States Code to improve the Federal claims litigation process before the U.S. Claims Court and to assist the court in providing better and more efficient service to its litigants. It would also ensure fair treatment for the regular and senior judges of the court by providing certain benefits equivalent to those available to other Federal trial judges.

The Subcommittee on Courts and Administrative Practice held a hearing on S. 2521 on April 29, 1992, and heard testimony from four witnesses on various aspects of the bill: Hon. Loren A. Smith, chief judge of the U.S. Claims Court; Stuart E. Schiffer, Deputy Assistant Attorney General of the Civil Division, U.S. Department of Justice; Lynda Troutman O'Sullivan, an attorney in private practice, Washington, DC; and John S. Pachter, chairman of the section of public contract law, American Bar Association, Washington, DC.

As a result of modifications suggested by various individuals and entities, the amendment I am offering today is a compromise and has the approval of all the members of the Judiciary Committee.

The Claims Court is the Nation's primary forum for monetary claims against the Federal Government. The court has jurisdiction to entertain suits for money against the United States that are founded upon the Constitution, an act of Congress, an Executive order, a regulation of an executive department, or contract with the United States and that do not sound in tort. The court hears major patent cases, Government contract suits, tax refund suits, fifth amendment takings cases and Indian claims, among many other types of lawsuits. The court has national jurisdiction, and the judges hear cases around the country at locations that are most convenient to the litigants and the witnesses.

The amendment that I am introducing today extends several existing provisions of title 28 to apply to the Claims Court and clarifies other provisions. The amendment will also make applicable to Claims Court judges provisions that now apply to Federal judges in general. The amendment will improve the service that the court can provide to litigants by clarifying one issue regarding court jurisdiction and appropriate sites for holding trials. In addition, the amendment will provide resources needed to improve the court's already impressive performance in difficult, complex cases. Finally, the amendment will also reduce confusion over the name of the court. Let me provide a brief summary of my amendment:

Section 1102 will change the name of the court from U.S. Claims Court to U.S. Court of Federal Claims. This properly reflects the actual Federal jurisdiction of the Claims Court, is faithful to the historic name of the court and will also reduce confusion between this court and small claim courts in various jurisdictions.

Section 1103 will ensure that Claims Court judges over age 65 who are on senior status will receive the same treatment as other Federal trial judges on senior status insofar as Social Security taxes and payments are concerned.

Section 1104 amends title 28 to clarify that the judges of the U.S. Claims Court are judicial officers eligible for coverage under annuity, insurance and other programs available under title 5 of the United States Code.

Section 1005 provides that judges of the Claims Court are covered by section 371(e) of title 28 and are to receive any military retirement pay to which they are otherwise entitled. This will extend to Claims Court judges the same treatment now provided for other Federal trial judges insofar as earned military retirement pay is concerned.

Section 1106 eliminates superseded and duplicated provisions pertaining to the recall of a senior judge of the Claims Court.

Section 1107 will ensure that Claims Court judges have the authority to hire the same number of law clerks as U.S. district court judges. This will insure that the Claims Court judges have sufficient legal resources to discharge their unique and heavy judicial responsibilities.

Section 1108 clarifies the authority of the court to hold proceedings where convenient to the litigants and witnesses. The amendment will restore the authority of the court to preside in hearings overseas, particularly in government contract disputes, when the circumstances of the case make that the most appropriate location for the parties and witnesses.

Section 1109 relates to the court's jurisdiction and differs from my original bill by dropping the first three provisions that would have amended its jurisdiction. Section 1109 retains, however, a provision that, in my judgment, would reduce wasteful litigation over one jurisdictional issue.

This provision would amend 41 U.S.C 605(c) by making certification of claims under the Contract Disputes Act nonjurisdictional. Wasteful and esoteric litigation over this issue has produced several hundred written and, oftentimes, conflicting opinions from various courts and agency appeals boards. The language I include today is the result of much discussion between the Administrative Conference, members of the Judiciary Committee, and the Claims Court.

The language would not eliminate the certification requirement. The language would permit an agency board of contract appeals or court to allow a certification to be amended if there are reasonable grounds and so long as the certification was not made fraudulently, in bad faith, or with reckless or grossly negligent disregard of the Contract Disputes Act or applicable regulations. This section shall also have prospective application and allow interest to accrue from the date a claim was filed where a court or board of contract appeals allows a defective certification to be corrected.

Sections 1110 and 1111 will promote uniformity among the courts by making applicable to the Claims Court various provisions of title 28 pertaining to costs, witness fees, forma pauperis proceedings and payment of judgments now applicable to other Federal trial courts.

Section 1112 will amend 28 U.S.C. 2521 to provide for the Claims Court the same authority to enforce its orders and processes as is presently provided for the U.S. Tax Court.

I urge my colleagues to support this legislation, which I believe will promote efficiency and fairness. The U.S. Claims Court is an important part of the Federal court system. The creation of this court by the Congress to do justice responded to a very basic democratic imperative: fair dealing by the Government in disputes between the Government and the private citizen. As Abraham Lincoln noted: "It is as much the duty of the Government to render prompt justice against itself, in favor of citizens, as it is to administer the same, between private individuals." This amendment will allow it to better comply with its mandate and assist it in providing improved service to litigants and to the entire country.

In formulating this Federal Courts Study Committee legislation, we have been mindful of the concerns of many parties expressing an interest. I feel that these efforts have produced a consensus bill which will benefit our Federal judiciary in many ways, for years to come.

Mr. THURMOND. Mr. President, I support S. 1569, the Federal Courts Study Committee Implementation Act and the amendment offered by my good friend, Senator HEFLIN. This bill was introduced on July 26, 1991, and will implement some of the recommendations of the Federal Courts Study Committee, as well as addressing other matters.

The Federal Courts Study Committee was created in 1988 as a response to concerns about the steadily increasing expense and delay occurring within the Federal court system. Congress directed the Chief Justice of the Supreme Court to appoint this committee to examine the Federal court system and to make comprehensive recommendations to improve the efficiency of the Federal courts. Some of these recommendations became law as a part of a bill sponsored by Senator BIDEN and myself, the Judicial Improvements Act of 1990.

Title I of the bill before us today will implement certain other recommendations of the Federal Courts Study Committee. These recommendations include, among other matters, permitting the creation of bankruptcy appellate panels, authorizing U.S. magistrates to revoke, modify or terminate the supervised relief of a defendant in certain situations, and allowing the Chief Justice to assign temporarily any circuit judge to another circuit.

Title 2 of the bill will amend the Judicial Survivors Annuity Act. This act established a monetary protection system for the spouse or minor children of a deceased Federal judge by providing for the creation of an annuity for their benefit. Under current law, the judges are required to contribute 5 percent of their annual salary to the Survivors fund.

However, because of the high contribution cost which is mandatory for Federal judges participating in this program, few judges have elected to join. Under this legislation, the major change to this act will be a decrease in the current amount Federal judges are required to contribute if they choose to join the Judicial Survivors' Annuity System. Mr. President, after careful review of the survivors' annuity programs for other Federal employees and Members of Congress, I feel that this change is fair and equitable.

Title 3 through title 7 address various judicial, jury, and criminal matters. Title 8 of the bill is legislation which I sponsored, at the administration's request, to facilitate the introduction of foreign business records into evidence in Federal civil proceedings. This section is analogous to title 18, section 3505 of the United States Code, which applies to the introduction of foreign business records into evidence in Federal criminal proceedings.

Title 9 of the bill provides for the reauthorization of the State Justice Institute for the next 4 years. The Institute awards grants and supports educational programs to improve the administration of justice in our State courts. Title 10 of the bill is identical to the Civil Remedies for Victims of Terrorism bill, which is sponsored by Senator GRASSLEY and has already passed the Senate last year.

The amendment offered by Senator HEFLIN also includes a new title 11, similar to S. 2521, which addresses the Federal claims litigation process before the U.S. Claims Court. Since its creation in 1982, the Claims Court has played a vital, important role in the Federal judiciary system as the forum to hear claims brought by individuals and corporations against the Federal Government for a broad range of nontort actions.

The bill addresses a number of issues facing the Claims Court. Several sections in the bill would alter certain administrative procedures affecting judges of the Claims Court. This legislation will also make various provisions of title 28 applicable to the claims court. These matters include costs, witness fees, and payment of judgments.

This legislation changes the requirement that a contractor must certify this claim pursuant to the Contract Disputes Act in order for the Claims Court to have jurisdiction over these disputes. The certification requirement is intended to prevent fraud and encourage settlement of disputes by requiring a contractor to certify that the claim is honest and not inflated. Under current law, if a contractor fails to properly certify his claim, the claim is dismissed for lack of jurisdiction. There is simply no opportunity to amend the certification even if the impropriety is purely technical in nature.

This bill does not do away with the certification requirement or its jurisdictional nature. The legislation will authorize an agency board of contract appeals or court to permit a certification that is technically defective to be amended unless the failure to properly certify was due to the contractor's fraudulence, bad faith, or reckless or grossly negligent disregard of the governing statutes and regulations. Therefore, a contractor who makes an honest mistake in the certification will not be penalized by having his claim dismissed. However, a contractor is still under a duty to abide by the governing statutes and regulations dealing with certification.

Mr. President, I believe that the provisions of this legislation are fair and balanced, and I encourage my colleagues to support S. 1569.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2837) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

If not, the question is on agreeing to the substitute amendment?

The substitute amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1569), as amended, was passed as follows:

S. 1569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Courts Study Committee Implementation Act of 1992".

TITLE I—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

SEC. 101. ESTABLISHMENT OF BANKRUPTCY APPELLATE PANELS.

Section 158 of title 28, United States Code, is amended—

(1) in subsection (b)—

(A) by striking out paragraphs (1), (3), and (4);

(B) by redesignating paragraph (2) as paragraph (1); and

(C) by inserting after paragraph (1) (as redesignated by subparagraph (B) of this paragraph) the following:

"(2) The judicial council of each circuit shall establish a bankruptcy appellate panel if the council certifies that sufficient judicial resources exist to establish such a panel, taking into account such factors as bankruptcy judges' caseloads, the geographical dispersion of bankruptcy judges in the circuit, and the opportunity to establish a joint panel with another circuit. If a judicial council certifies that the circuit has insufficient judicial resources to establish a panel, it shall within 90 days thereafter file a report with the Judicial Conference of the United States describing why the circuit's judicial resources are insufficient to permit establishment of a panel. Any panel established after the date of the enactment of the Federal Courts Study Implementation Act of 1992 shall be established for a period of three years or until a majority of the bankruptcy judges requests the council to discontinue the panel, whichever is earlier. Thereafter, the council may again establish a panel under the same procedures and standards under this paragraph. The council may reconsider its decision not to establish a panel at any time.

"(3) A bankruptcy appellate panel established under this section shall be comprised of three bankruptcy judges from districts within the circuit or circuits, to hear and determine, upon consent of all the parties, appeals under subsection (a). A bankruptcy judge may not hear an appeal originating within a district for which the judge is appointed or designated under section 152 of this title."; and

(2) by amending subsection (c) to read as follows:

"(c) All appeals under this section shall be heard by a bankruptcy appellate panel under subsection (b), unless the appellant elects to file an appeal under subsection (a) or any other party within 30 days after service of notice of appeal elects to have the appeal heard under subsection (a). An appeal under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts and in the time provided by rule 8002 of the Bankruptcy Rules.".

SEC. 102. SUPREME COURT AUTHORITY TO PRESCRIBE RULES FOR APPEAL OF INTERLOCUTORY DECISIONS.

Section 1292 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The Supreme Court may prescribe rules in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals, that is not otherwise provided for under subsection (a), (b), (c), or (d).".

SEC. 103. ABOLITION OF TEMPORARY EMERGENCY COURT OF APPEALS.

(a) APPEALS UNDER ECONOMIC STABILIZATION ACT.—Section 211 of the Economic Stabilization Act of 1970 (Public Law 91-379; 84 Stat. 799) is amended by striking out subsections (b) through (h) and inserting in lieu thereof the following:

"(b) Appeals from orders or judgments entered by a district court of the United States in cases and controversies arising under this title may be brought in the United States Court of Appeals for the Federal Circuit if the appeal is from a final decision of the district court or is an interlocutory appeal permitted under section 1292(c) of title 28, United States Code.".

(b) JUDICIAL REVIEW OF EMERGENCY ORDERS UNDER THE NATURAL GAS POLICY ACT.—Section 506(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(c)) is amended—

(1) in the first sentence, by striking out "the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended," and inserting in lieu thereof "the United States Court of Appeals for the Federal Circuit"; and

(2) by striking out "Temporary Emergency Court of Appeals" each place it appears and inserting in lieu thereof "United States Court of Appeals for the Federal Circuit".

(c) CONFORMING AMENDMENTS.—Section 1295(a) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraphs:

"(11) of an appeal under section 211 of the Economic Stabilization Act of 1970;

"(12) of an appeal under section 5 of the Emergency Petroleum Allocation Act of 1973;

"(13) of an appeal under section 506(c) of the Natural Gas Policy Act of 1978; and

"(14) of an appeal under section 523 of the Energy Policy and Conservation Act.".

(d) ABOLITION OF COURT.—The Temporary Emergency Court of Appeals created by section 211(b) of the Economic Stabilization Act of 1970 is abolished effective six months after the date of the enactment of this Act.

(e) PENDING CASES.—(1) Any appeal which, before the effective date of abolition described under subsection (d), is pending in the Temporary Emergency Court of Appeals but has not been submitted to a panel of such court as of that date shall be assigned to the United States Court of Appeals for the Federal Circuit as though the appeal had originally been filed in that court.

(2) Any case which, before the effective date of abolition described under subsection (d), has been submitted to a panel of the Temporary Emergency Court of Appeals and as to which the mandate has not been issued as of that date shall remain with that panel for all purposes and, notwithstanding the provisions of sections 291 and 292 of title 28, United States Code, that panel shall be assigned to the United States Court of Appeals for the Federal Circuit for the purpose of deciding such case.

SEC. 104. JURISDICTION FOR MAGISTRATE JUDGES FOR MODIFICATION OF CONDITIONS OR REVOCATION OF PROBATION OR SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (d) by striking out "and to revoke or reinstate the probation of any person granted probation by him." and inserting in lieu thereof "and to revoke, modify, or reinstate the probation of any person granted probation by a magistrate judge."; and

(2) by adding at the end thereof the following new subsections:

"(h) The magistrate judge shall have power to modify, revoke, or terminate supervised release of any person sentenced to a term of supervised release by a magistrate judge.

"(i) A district judge may designate a magistrate judge to conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the judge proposed findings of fact and recommendations for such modification, revocation, or termination by the judge, including, in the case of revocation, a recommended sentence under the provisions of section 3583(e) of this title. The magistrate judge shall file his proposed findings and recommendations.".

SEC. 105. EXHAUSTION OF REMEDIES.

Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended to read as follows:

"§ 1997e. Exhaustion of remedies

"(a) CERTIFICATION.—(1) In any action brought pursuant to section 1979 of the Revised Statutes (42 U.S.C. 1983) by an adult convicted of a crime confined in any jail, prison, or other correctional or detention facility, the court shall, if it finds that such a requirement would be appropriate and in the interests of justice, continue the case for 90 days in order to require exhaustion of administrative remedies if the defendant shows the court, or if the Attorney General certifies, under subsection (b), that plain, speedy, and effective remedies are available to the confined adult. Exhaustion of remedies shall not be required in any case in which the claimant alleges facts that show a risk of substantial or irreparable harm.

"(2) The failure of the Attorney General to certify an administrative remedy under subsection (b), or the decision of the Attorney General to suspend or withdraw the certification of an administrative remedy under subsection (c), shall not be binding on the courts.

"(b) PROCEDURE FOR CERTIFICATION.—(1) The Attorney General shall develop a procedure for the prompt review and certification of administrative remedies, as voluntarily submitted by the various States and political subdivisions, for the resolution of grievances of adults convicted of a crime confined in any jail, prison, or other correctional or detention facility, to determine if the administrative remedies provide plain, speedy, and effective remedies.

"(2)(A) The Attorney General or court shall consider the following standards in determining whether or not administrative remedies are plain, speedy and effective:

"(i) advisory role of employees and inmates or representatives of prisoner rights in formulating a plan of administrative remedies;

"(ii) maximum time limits for written responses to grievances;

"(iii) safeguards to avoid reprisals against any grievant or participant in the resolution of a grievance; and

"(iv) independent review of the disposition of grievances by an outside entity.

"(B) If the Attorney General or court finds that the administrative remedies are not in substantial compliance with the standards under subparagraph (A), the State shall prove either to the Attorney General or court that alternate procedures developed by the State accomplish the same objectives of providing a plain, speedy and effective administrative remedy.

"(c) SUSPENSION OR WITHDRAWAL OF CERTIFICATION.—The Attorney General or court may suspend or withdraw the certification of an administrative remedy under subsection (b) if the Attorney General or court has reasonable cause to believe that the administrative remedy no longer provides a plain, speedy, and effective remedy.

"(d) FAILURE OF STATE TO ADOPT OR ADHERE TO ADMINISTRATIVE REMEDY.—The failure of a State or political subdivision of a State to adopt or adhere to an administrative remedy consistent with this section shall not constitute the basis for an action under section 3 or 5.".

SEC. 106. PARTIES' CONSENT TO DETERMINATION BY BANKRUPTCY COURT.

Section 157(c)(1) of title 28, United States Code, is amended by adding at the end thereof the following: "A party shall be deemed to consent to the findings of fact and conclusions of law submitted by a bankruptcy judge unless the party files a timely objection. If a timely objection is not filed, the proposed findings of fact and conclusions of law submitted by the bankruptcy judge shall become final and the bankruptcy judge shall enter an appropriate order thereon.".

SEC. 107. INTERCIRCUIT TRANSFERS.

Section 291(a) of title 28, United States Code, is amended to read as follows:

"(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit.".

TITLE II—JUDICIAL SURVIVORS' ANNUITIES IMPROVEMENTS

SEC. 201. JUDICIAL SURVIVORS' ANNUITIES AMENDMENTS.

(a) Election.—Section 376 of title 28, United States Code, is amended in the matter following subsection (a)(1)(G)—

(1) by striking out "or" at the end of clause (v); and

(2) by adding after clause (vi) "or (vii) the date of the enactment of the Federal Courts Study Committee Implementation Act of 1992;".

(b) Contributions.—Section 376(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) in the first sentence by striking out "including any 'retirement salary', a sum equal to 5 percent of that salary." and inserting in lieu thereof "a sum equal to 1.5 percent of that salary, and a sum equal to 3.5 percent of his or her retirement salary. The deduction from any retirement salary of a senior judge eligible to perform judicial services under this title or of a judicial official on recall under sections 155(b), 178, 371(b), 372(a), 373(c)(4), 375, or 636(h) of this title shall be an amount equal to 1.5 percent of retirement salary.";

(3) by redesignating all that follows the first sentence (as amended by paragraph (2) of this subsection) as paragraph (3) and inserting before such paragraph (3) the following new paragraph:

"(2) A judicial official who is not entitled to receive an immediate retirement salary upon leaving office but who is eligible to receive a deferred retirement salary on a later date shall file, within ninety days before leaving office, a written notification of his or her intention to remain within the purview of this section under such conditions and procedures as may be determined by the Director of the Administrative Office of the United States Courts. Every judicial official who files a written notification in accordance with this paragraph shall be deemed to consent to contribute, during the period before such a judicial official begins to receive his or her retirement salary, a sum equal to 3.5 percent of the deferred 'retirement salary' which that judicial official is entitled to receive. Any judicial official who fails to file a written notification under this paragraph shall be deemed to have revoked his or her election under subsection (a) of this section."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking out "so deducted and withheld from the salary of each such judicial official" and inserting in lieu thereof: "deducted and withheld from the salary of each such judicial official under paragraphs (1) and (2) of this subsection".

(c) Deposits.—Section 376(d) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out "5 percent" and inserting in lieu thereof "3.5 percent"; and

(2) in paragraph (2) by striking out "5 percent" and inserting in lieu thereof "3.5 percent".

(d) Refund of Deposits.—Section 376(g) of title 28, United States Code, is amended to read as follows:

"(g) If any judicial official leaves office and is ineligible to receive a retirement salary or leaves office and is entitled to a deferred retirement salary but fails to make an election under subsection (b)(2) of this section, all amounts credited to his or her account established under subsection (e), together with interest at 4 percent per annum to December 31, 1947; and at 3 percent per annum thereafter, compounded on December 31 of each year, to the date of his or her relinquishment of office, minus a sum equal to 1.5 percent of salary for service while deductions were withheld under subsection (b) or for which a deposit was made by the judicial official under subsection (d), shall be returned to that judicial official in a lump-sum payment within a reasonable period of time following the date of his or her relinquishment of office. For the purposes of this section a 'reasonable period of time' shall be presumed to be no longer than one year following the date upon which such judicial official relinquished his or her office.".

(e) Payment of Annuities.—Section 376(h)(1) of title 28, United States Code, is amended by striking out "or while receiving 'retirement salary'," and inserting in lieu thereof "while receiving retirement salary, or after filing an election and otherwise complying with the conditions under subsection (b)(2) of this section".

(f) Creditable Service.—Section 376(k) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking out "and" at the end thereof;

(2) in paragraph (4) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) those years during which such judicial official had deductions withheld from his or her 'retirement salary' in accordance with subsection (b) (1) or (2) of this section.".

(g) Computation of Annuity.—Section 376(l) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out "(i) during those three years of such service in which his or her annual salary" and inserting in lieu thereof "(i) during those three years of such service, or during those three years while receiving a retirement salary in which his or her annual salary or retirement salary"; and

(2) in paragraph (1) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

"(D) the number of years during which the judicial official had deductions withheld from his or her retirement salary under subsection (b) (1) or (2) of this section; plus".

(h) Termination.—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

"(v) If any judicial official ceases to be married after making the election under subsection (a), he or she may revoke such election in writing by notifying the Director of the Administrative Office of the United States Courts. The judicial official shall also notify any spouse or former spouse of the application for revocation in accordance with such requirements as the Director of the Administrative Office of the United States Courts shall by regulations prescribe. The Director may provide under such regulations that the notification requirement may be waived with respect to a spouse or former spouse if the judicial official established to the satisfaction of the Director that the whereabouts of such spouse or former spouse cannot be determined.".

(i) Credit for Prior Contributions at Higher Rate.—Notwithstanding any other provision of law, the contribution under section 376(b) (1) or (2) of title 28, United States Code (as amended by this Act), of any judicial official who is within the purview of section 376 on the effective date of this Act shall be reduced by 0.5 percent for a period of time equal to the number of years of service for which the judicial official has made contributions or deposits before the enactment of this Act to the credit of the Judicial Survivors' Annuities Fund or for eighteen months, whichever is less, if such contributions or deposits were never returned to the judicial official. For purposes of this subsection, the term "years" shall mean full years and twelfth parts thereof.

(j) Redeposit of Prior Contributions.—Any judicial official who makes an election under section 376(b) of title 28, United States Code, may make a redeposit to the credit of the Judicial Survivors' Annuities Fund in installments, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts. If a judicial official elects to make a redeposit in installments—

(1) the Director shall require that the first installment payment made shall be in an amount no smaller than the last eighteen months of salary deductions or deposits previously returned to that judicial official in a lump-sum payment; and

(2) the election under section 376(b) of title 28, United States Code, shall be effective upon payment of the first such installment.

SEC. 202. LIFE INSURANCE COVERAGE.

(a) Eligibility.—Section 8701(a) of title 5, United States Code, is amended—

(1) in paragraph (9) by striking out "and" after the semicolon;

(2) in paragraph (10) by adding "and" after the semicolon; and

(3) by inserting after paragraph (10) and preceding the matter before subparagraph (A) the following new paragraph:

"(11) a judicial official, including a judge of the United States Court of Federal Claims (i) who is in regular active service, or (ii) who is retired from regular active service under section 178 of title 28, United States Code; a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands (i) who is in regular active service, or (ii) who is retired from regular active service under section 373 of title 28, United States Code; a bankruptcy judge or a magistrate judge (i) who is in regular active service, or (ii) who retired after attaining age 65 from regular active service under chapter 83 or 84 of this title, section 377 of title 28, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note; Public Law 100-659);".

(b) Additional Optional Life Insurance.—

(1)(A) Sections 8706(a) and 8714b(c)(1) of title 5, United States Code, are each amended in the second sentence by inserting "and judicial officials described under section

8701(a)(11)" after "section 8701(a)(5) (ii) and (iii)".

(B) Sections 8714a(c)(1) and 8714c(c)(1) of title 5, United States Code, are each amended by adding after the first sentence "Justices and judges described under section 8701(a)(5) (ii) and (iii) and judicial officials described under section 8701(a)(11) of this chapter are deemed to continue in active employment for purposes of this chapter.".

(2) The amendments made under paragraph (1) shall apply to a judicial officer described in section 8701(a)(11) of title 5, United States Code (as amended by this Act) who—

(A) is retired under chapter 83 or 84 of title 5, United States Code, section 178, 373, or 377 of title 28, United States Code, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note); and

(B) retire on or after August 1, 1987.".

(c) Conversion Rights.—(1) Section 8714a(c)(3) of title 5, United States Code, is amended by inserting "or a judicial official as defined under section 8701(a)(11) who leaves office without an immediate annuity" after "for continuation of the judicial salary".

(2) Section 8714b(c)(1) of title 5, United States Code, is amended in the third sentence by inserting "or a judicial official as defined under section 8701(a)(11) who leaves office without an immediate annuity" after "for continuation of the judicial salary".

SEC. 203. HEALTH INSURANCE FOR SPOUSES.

Section 8901(3) of title 5, United States Code, is amended—

(1) in subparagraph (C) by striking out "and" at the end thereof;

(2) in subparagraph (D) by adding "and" at the end thereof; and

(3) by adding at the end thereof the following new subparagraph:

"(E) a member of a family who is a survivor of—

"(i) a Justice or judge of the United States, as defined under section 451 of title 28, United States Code;

"(ii) a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands;

"(iii) a judge of the United States Court of Federal Claims; or

"(iv) a United States bankruptcy judge or a full-time United States magistrate judge;".

SEC. 204. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this title.

TITLE III—JUDICIAL FINANCIAL ADMINISTRATION

SEC. 301. AWARD OF FILING FEES IN FAVOR OF THE UNITED STATES.

(a) Actions Commenced by the United States.—Section 2412(a) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) A judgment for costs, when awarded in favor of the United States in an action brought by the United States, may include an amount equal to the filing fee prescribed under section 1914(a) of this title. The preceding sentence shall not be construed as requiring the United States to pay any filing fee.".

(b) Disposition of Filing Fees.—Section 1931 of title 28, United States Code, is amended by inserting "or pursuant to an award in favor of the United States under section 2412(a)(2) of this title" after "chapter".

SEC. 302. AMENDMENTS TO THE JUDICIARY AUTOMATION FUND.

Section 612 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence by striking out "equipment for" and inserting in lieu thereof "equipment, program activities included in the courts of appeals, district courts, and other judicial services account of"; and

(B) in the third sentence—

(i) by inserting ", support personnel in the courts and in the Administrative Office of the United States Courts," after "personal services"; and

(ii) by striking out "in the judicial branch" and inserting in lieu thereof "purchased from the Fund. In addition, all agencies of the judiciary may make deposits into the Fund to meet their automatic data processing needs in accordance with subsections (b) and (c)(2).";

(2) in subsection (b)(1), by striking out "judicial branch", and inserting in lieu thereof "activities funded in subsection (a) and shall include an annual estimate of any fees that may be collected under section 404 of the Judiciary Appropriations Act, 1991 (28 U.S.C. 1913 note; Public Law 101–515; 104 Stat. 2132)";

(3) in subsection (b)(2), by striking out "judicial branch of the United States" and inserting in lieu thereof, "activities funded under subsection (a)";

(4) in subsection (c)(1)(A), by inserting "all fees collected by the judiciary under section 404 of the Judiciary Appropriations Act, 1991 (28 U.S.C. 1913 note; Public Law 101–515; 104 Stat. 2132)" after "surplus property";

(5) in subsection (e)(1) by striking out "$75,000,000" and inserting in lieu thereof "amounts estimated to be collected under subsection (c) for that fiscal year";

(6) by amending subsection (i) to read as follows:

"(i) Reprogramming.—The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States may transfer amounts not in excess of $1,000,000 from the Fund into the account to which the funds were originally appropriated. Any amounts in excess of $1,000,000 may be transferred only by following reprogramming procedures in compliance with provisions set forth in section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2227); and";

(7) in subsection (j) in the second sentence by inserting "in statute" after "not specified"; and

(8) in subsection (l) by striking "1994" and inserting in lieu thereof "1999", and by striking out "'Judicial Services Account'" and inserting in lieu thereof "fund established under section 1931".

SEC. 303. VICTIMS' RIGHTS FUNDING.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.";

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The Fund shall be available as follows:

"(1) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(2) Of the next $100,000,000 deposited in the Fund in a particular fiscal year—

"(A) 49.5 percent shall be available for grants under section 1403; and

"(B) 45 percent shall be available for grants under section 1404(a).

"(3) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(4) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(5) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under paragraphs (1) through (4) shall be available as follows:

"(A) 47.5 percent shall be available for grants under section 1403.

"(B) 47.5 percent shall be available for grants under section 1404(a).

"(C) 5 percent shall be available for grants under section 1404(c).".

SEC. 304. FILING FEES.

Section 1931 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The following"; and

(2) by adding at the end thereof the following new subsection:

"(b) If the court authorizes a fee of less than $120, the entire fee, up to $60, shall be deposited into the special fund provided in this section.".

TITLE IV—JURY MATTERS

SEC. 401. JURY SELECTION.

Section 1863(b)(2) of title 28, United States Code, is amended by adding at the end thereof the following: "The plan for the district of Massachusetts may require the names of prospective jurors to be selected from the resident list provided for in chapter 234A, Massachusetts General Laws, or comparable authority, rather than from voter lists.".

SEC. 402. EXPANDED WORKERS' COMPENSATION COVERAGE FOR JURORS.

(a) Expansion of Coverage.— Section 1877(b)(2) of title 28, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (C); and

(2) by inserting before the period at the end of subparagraph (D) the following: ", or (E) traveling to or from the courthouse pursuant to a jury summons or sequestration order, or as otherwise necessitated by order of the court".

(b) Effective Date.—The amendment made by subsection (a) shall apply to jurors serving on or after December 1, 1991.

SEC. 403. COMPENSATION FOR LOSS OR DAMAGE TO PERSONAL PROPERTY OF JURORS.

Section 604 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(i)(1) The Director may compensate any person for the loss of, or damage to, personal effects of such person incurred incident to the performance of duties pursuant to a summons to serve as a grand or petit juror. Such compensation shall be consistent with sections 3721 and 3723 of title 31.

"(2) The Director shall prescribe guidelines for the allowance of claims for compensation under paragraph (1) of this subsection.".

SEC. 404. GRAND JURY TRAVEL.

Section 1871(c) of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) A grand juror who travels to district court pursuant to a summons may be paid the travel expenses provided under this section or, under guidelines set by the Judicial Conference, the actual reasonable costs of travel by aircraft when weather conditions warrant and when certified by the chief judge of the district court in which the grand juror serves.".

SEC. 405. PERMANENT AUTHORIZATION FOR OPTIONAL USE OF NEW JURY SELECTION PROCESS.

(a) AUTHORITY TO USE ONE-STEP PROCEDURE.—Section 1878, title 28, United States Code, is amended to read as follows:

"§ 1878. Optional use of a one-step summoning and qualification procedure

"(a) At the option of each district court, jurors may be summoned and qualified in a single procedure, if the court's jury selection plan so authorizes, in lieu of the two separate procedures otherwise provided for by this chapter. Courts shall ensure that a one-step summoning and qualification procedure conducted under this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title.

"(b) Jury selection conducted under this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with a one-step summoning and qualification procedure as authorized by this section.".

(b) CONFORMING AMENDMENT.—The item relating to section 1878 in the table of sections for chapter 121 is amended to read as follows:

"1878. Optional use of a one-step summoning and qualification procedure.".

(c) SAVINGS PROVISION.—For courts participating in the experiment authorized under section 1878 of title 28, United States Code (as in effect before the effective date of this section), the amendment made by subsection (a) of this section shall be effective on and after January 1, 1992.

TITLE V—MISCELLANEOUS

SEC. 501. PRETERMISSION OF REGULAR SESSIONS OF COURT OF APPEALS.

Section 48(c) of title 28, United States Code, is amended by striking out ", with the consent of the Judicial Conference of the United States,".

SEC. 502. REPORTS AND STATISTICS.

(a) ELIMINATION OF DUPLICATIVE REPORTING REQUIREMENT.—Section 1121(a) of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (12 U.S.C. 3421(a)) is amended by adding at the end thereof "No report is required under this section after January 1, 1992.".

(b) TRANSFER OF REPORTING DUTY TO ADMINISTERING AGENCY.—Section 2412(d)(5) of title 28, United States Code, is amended by striking out "The Director" and all that follows through "this title," and inserting in lieu thereof "The Attorney General shall report annually to the Congress on".

(c) EXTENSION FOR JUDICIAL CENTER REPORT.—Subsection 302(c) of the Judicial Improvements Act of 1990 (Public Law 101-650; 104 Stat. 5104) is amended by striking out "2 years" and inserting in lieu thereof "2 years and 9 months".

SEC. 503. RECYCLING AND REUSE OF RECYCLABLE MATERIALS.

Section 604(g) of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3)(A) In order to promote the recycling and reuse of recyclable materials, the Director may provide for the sale or disposal of recyclable scrap materials from paper products and other consumable office supplies held by an entity within the judicial branch.

"(B) The sale or disposal of recyclable materials under subparagraph (A) of this paragraph shall be consistent with the procedures provided in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property.

"(C) Proceeds from the sale of recyclable materials under subparagraph (A) of this paragraph shall be deposited as offsetting collections to the fund established under section 1931 of this title and shall remain available until expended to reimburse any appropriations for the operation and maintenance of the judicial branch.".

SEC. 504. BANKRUPTCY RULEMAKING.

(a) METHODS OF PRESCRIBING BANKRUPTCY RULES.—Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking out "section 2072" and inserting in lieu thereof "sections 2072 and 2075";

(2) in subsection (d), by inserting "or 2075" after "2072"; and

(3) in subsection (e), by inserting "or 2075" after "2072".

(b) EFFECTIVE DATE OF BANKRUPTCY RULES.—Section 2074(a) of title 28, United States Code, is amended by inserting "or 2075" in the first sentence after "2072".

(c) CONFORMING AMENDMENT.—Section 2075 of title 28, United States Code, is amended by striking out the third undesignated paragraph.

SEC. 505. VENUE IN DIVERSITY AND FEDERAL QUESTION CASES.

Section 1391 of title 28, United States Code, is amended—

(1) in subsection (a)(3) by inserting before the period "if there is no district in which the action may otherwise be brought"; and

(2) in subsection (b), by striking out "in" before "(1)" and inserting in lieu thereof "if".

SEC. 506. SUMMARIES OF REPORTS TO CONGRESS.

Section 103(c)(4)(B) of the Civil Justice Reform Act of 1990 (Public Law 101-650) is amended by striking "the reports" and inserting in lieu thereof "summaries of the reports".

SEC. 507. BANKRUPTCY ADMINISTRATOR PROGRAM.

(a) PRESIDING OFFICER.—A bankruptcy administrator appointed under section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554; 100 Stat. 3123), as amended by section 317(a) of the Federal Courts Study Committee Implementation Act of 1990 (Public Law 101-650; 104 Stat. 5115), or the bankruptcy administrator's designee may preside at the meeting of creditors convened under section 341(a) of title 11, United States Code. The bankruptcy administrator or the bankruptcy administrator's designee may preside at any meeting of equity security holders convened under section 341(b) of title 11, United States Code.

(b) EXAMINATION OF THE DEBTOR.—The bankruptcy administrator or the bankruptcy administrator's designee may examine the debtor at the meeting of creditors and may administer the oath required under section 343 of title 11, United States Code.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of enactment of this Act.

SEC. 508. COSTS AND FEES IN THE UNITED STATES COURT OF VETERANS APPEALS.

(a) IN GENERAL.—Section 2412(d)(2)(F) of title 28, United States Code, is amended by inserting before the semicolon "and the United States Court of Veterans Appeals".

(b) APPLICATION TO PENDING CASES.—The amendment made by subsection (a) shall apply to any case pending before the United States Court of Veterans Appeals on the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 509. COURT TO BE HELD AT LANCASTER, PENNSYLVANIA.

Section 118(a) of title 28, United States Code, is amended by inserting "Lancaster," before "Reading".

TITLE VI—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 601. JUDICIAL RETIREMENT MATTERS.

(a) CREDITABLE SERVICE FOR CERTAIN JUDICIAL ADMINISTRATIVE OFFICIALS.—(1) Section 611(d) and 627(e) of title 28, United States Code, are each amended by inserting "a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representatives," after "Congress,".

(2)(A) Sections 611(b) and 627(c) of such title are each amended—

(i) in paragraph (b), by striking out "who has served at least fifteen years and" and inserting in lieu thereof "who has at least fifteen years of service and has"; and

(ii) in the first undesignated paragraph, by striking out "who has served at least ten years," and inserting in lieu thereof "who has at least ten years of service,".

(B) Sections 611(c) and 627(d) of such title are each amended—

(i) by striking out "served at least fifteen years," and inserting in lieu thereof "at least fifteen years of service,"; and

(ii) by striking out "served less than fifteen years," and inserting in lieu thereof "less than fifteen years of service,".

(b) JUDICIAL RETIREMENT FUNDS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)) is amended by inserting after "Judicial survivors' annuities fund (10–8110–0–7–602);" the following:

"Judicial Officers' Retirement Fund (10–8122–0–7–602);

Court of Federal Claims Judges' Retirement Fund (10–8124–0–7–602);".

(c) JUDICIARY TRUST FUNDS.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after "Payment to civil service retirement and disability fund (24–0200–0–1–805);" the following:

"Payment to Judiciary Trust Funds (10–0941–0–1–752);".

SEC. 602. FULL-TIME STATUS OF COURT REPORTERS.

Section 753(e) of title 28, United States Code, is amended by inserting after the first sentence the following: "For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which a reporter receives a salary at the annual salary rate fixed for a full-time reporter pursuant to the preceding sentence.".

SEC. 603. FEDERAL JUDICIAL CENTER.

(a) Functions.—Subsection 620(b) of title 28, United States Code, is amended—

(1) in paragraph (4) by striking out "and" at the end thereof;

(2) in paragraph (5) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with and assist agencies of the Federal Government and other appropriate organizations in providing information and advice to further improvement in the administration of justice in the courts of foreign countries and to acquire information about judicial administration in foreign countries that may contribute to performing the other functions set forth in this section.".

(b) Compensation.—Subsection 625(b) of title 28, United States Code, is amended by inserting, after "section 5316, title 5, United States Code", and before the colon, the following language: ", except the Director may fix the compensation of no more than 5 percent of the authorized positions of the Center at a level not to exceed the annual rate of basic pay of level IV of such pay rates".

(c) Clerical Compensation.—Subsection 625(c) of title 28, United States Code, is amended by striking out "competitive service and" and inserting in lieu thereof "competitive service without regard to".

TITLE VII—CRIMINAL LAW

SEC. 701. AUTHORITY TO LIMIT COLLECTION OF PRETRIAL INFORMATION IN CLASS A MISDEMEANOR CASES.

Section 3154(1) of title 18, United States Code, is amended by inserting before the period "; except that a district court may direct that pretrial services not collect, verify, and report such information on individuals charged with Class A misdemeanors as defined in section 3559(a)(6) of this title".

SEC. 702. NEW AUTHORITY FOR PROBATION AND PRETRIAL SERVICES OFFICERS.

(a) Section 3603 of title 18, United States Code, is amended—

(1) in paragraph (7) by striking out "and" at the end thereof;

(2) by redesignating paragraph (8) as paragraph (10) and inserting after paragraph (7) the following new paragraphs:

"(8)(A) when directed by the court, and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of sections 4243 and 4246 of this title, and report such person's conduct and condition to the court ordering release and to the Attorney General or his designee; and

"(B) immediately report any violation of the conditions of release to the court and the Attorney General or his designee;

"(9) if approved by the district court, be authorized to carry firearms under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe; and".

(b) Section 3154 of title 18, United States Code, is amended—

(1) by redesignating paragraph (12) as paragraph (14); and

(2) by inserting after paragraph (11) the following new paragraphs:

"(12)(A) As directed by the court and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report such person's conduct and condition to the court ordering release and the Attorney General or his designee.

"(B) Any violation of the conditions of release shall immediately be reported to the court and the Attorney General or his designee.

"(13) If approved by the district court, be authorized to carry firearms under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe.".

SEC. 703. GOVERNMENT RATES OF TRAVEL FOR CRIMINAL JUSTICE ACT ATTORNEYS AND EXPERTS.

The Administrator of General Services Administration, in entering into contracts providing for special rates to be charged by Federal Government sources of supply, including common carriers and hotels (or other commercial providers of lodging) for official travel and accommodation of Federal Government employees, shall provide for charging the same rates for attorneys, experts, and other persons traveling primarily in connection with carrying out responsibilities under section 3006A of title 18, United States Code, including community defender organizations established under subsection (g) of that section.

SEC. 704. TECHNICAL CORRECTION.

Section 3143(b)(1) of title 18, United States Code, is amended by striking out "paragraph (b)(2)(D)" and inserting in lieu thereof "subparagraph (B)(iv) of this paragraph".

TITLE VIII—FOREIGN RECORDS OF REGULARLY CONDUCTED ACTIVITY

SEC. 801. FOREIGN RECORDS OF REGULARLY CONDUCTED ACTIVITY.

(a) Amendment to Title 28, United States Code.—Chapter 115 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1747. Foreign records of regularly conducted activity

"(a)(1) In a civil proceeding in a court of the United States, including the United States Court of Federal Claims and the United States Tax Court, a foreign record of regularly conducted activity, or a copy of such record, shall not be excluded as evidence by the hearsay rule if a foreign certification attests that—

"(A) such record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

"(B) such record was kept in the course of a regularly conducted business activity;

"(C) the business activity made such a record as a regular practice; and

"(D) if such record is not the original, such record is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

"(2) A foreign certification under this section shall authenticate such record or duplicate.

"(b) As soon as practicable after a responsive pleading has been filed, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but the court for cause shown may grant relief from the waiver.

"(c) As used in this section, the term—

"(1) 'foreign record of regularly conducted activity' means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country;

"(2) 'foreign certification' means a written declaration made and signed in a foreign country by the custodian of a foreign record of regularly conducted activity or another qualified person, that if falsely made, would subject the maker to criminal penalty under the law of that country; and

"(3) 'business' includes business, institution, association, profession, occupation, and calling of every kind whether or not conducted for profit.".

(b) Conforming Amendment.—The table of sections of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1746 the following item:

"1747. Foreign records of regularly conducted activity.".

(c) Effective Date.—The amendments made by this section are effective on the date of enactment of this Act.

TITLE IX—STATE JUSTICE INSTITUTE REAUTHORIZATION

SEC. 901. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"There are authorized to be appropriated to carry out the purposes of this title $20,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, $25,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996. Amounts appropriated for each year are to remain available until expended.".

SEC. 902. INTERAGENCY AGREEMENTS.

Section 206(b) of the State Justice Institute Act of 1984 (42 U.S.C. 10705) is amended by—

(1) striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Upon application by an appropriate State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of State or local government other than a court.";

(2) redesignating paragraph (4) as paragraph (5); and

(3) adding after paragraph (3) the following new paragraph:

"(4) The Institute shall have authority to enter into contracts with Federal agencies to carry out the purposes of this title.".

SEC. 903. EFFECTIVE DATE.

The provisions of this title shall take effect on the date of enactment of this Act.

TITLE X—TERRORISM CIVIL REMEDY

SEC. 1001. TERRORISM CIVIL REMEDY.

(a) Reinstatement of Law.—The amendments made by section 132 of the Military Construction Appropriations Act, 1991 (104 Stat. 2250), are repealed effective as of April 10, 1991.

(b) Terrorism.—Chapter 113A of title 18, United States Code, as amended by subsection (a), is amended—

(1) in section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) by striking subsection (d)

and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) as section 2332 and amending the heading for section 2332, as redesignated, to read as follows:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332, as redesignated by paragraph (2), the following new section:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin;

"(2) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act; and

"(4) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property."; and

(4) by inserting after section 2332, as redesignated, the following new sections:

"§ 2333. Civil remedies

"(a) Action and Jurisdiction.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) Estoppel Under United States Law.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902 (i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (k), (l), (n), and (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) Estoppel Under Foreign Law.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) General Venue.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) Special Maritime or Territorial Jurisdiction.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, any civil action under section 2333 against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) Service on Witnesses.—A witness in a civil action brought under section 2333 may be served in any other district where the defendant resides, is found, or has an agent.

"(d) Convenience of the Forum.—The district court shall not dismiss any action brought under section 2333 on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy that is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) In General.—Subject to subsection (b), a suit for recovery of damages under section 2333 shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) Calculation of Period.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of the defendant's whereabouts, shall not be counted for the purposes of the period of limitation prescribed by subsection (a).

"§ 2336. Other limitations

"(a) Acts of War.—No action shall be maintained under section 2333 for injury or loss by reason of an act of war.

"(b) Limitation on Discovery.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the attorney for the Government may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any objections raised by the Government in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(c) Stay of Action for Civil Remedies.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

"§ 2337. Suits against Government officials

"No action shall be maintained under section 2333 against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within the officer's or employee's official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within the officer's or employee's official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.".

(c) Technical Amendments.—(1) The chapter analysis for chapter 113A of title 18, United States Code is amended to read as follows:

"Chapter 113A—Terrorism

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(2) The item relating to chapter 113A in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"113A. Terrorism .... 2331".

(d) Effective Date.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

TITLE XI—COURT OF FEDERAL CLAIMS

SEC. 1101. SHORT TITLE.

This title may be cited as the "Court of Federal Claims Technical and Procedural Improvements Act of 1992".

SEC. 1102. COURT DESIGNATION.

(a) In General.—Chapters 7, 51, 91, and 165 of title 28, United States Code, is amended by—

(1) striking "United States Claims Court" each place it appears and inserting "United States Court of Federal Claims"; and

(2) striking "Claims Court" each place it appears and inserting "Court of Federal Claims".

(b) Other Provisions of Law.—Reference in any other Federal law or any document relating to—

(1) the "United States Claims Court" shall be deemed to refer to the "United States Court of Federal Claims"; and

(2) the "Claims Court" shall be deemed to refer to the "Court of Federal Claims".

SEC. 1103. SOCIAL SECURITY AMENDMENTS.

Section 178 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) For the purpose of construing section 3121(i)(5) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(i)(5)) and section 209(h) of the Social Security Act (42 U.S.C. 409(h)), the annuity of a Court of Federal Claims judge on senior status after age 65 shall be deemed to be an amount paid under section 371(b) of this title for performing services under the provisions of section 294 of this title.".

SEC. 1104. ELIGIBILITY FOR INSURANCE AND ANNUITIES PROGRAMS.

Chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 179. Insurance and annuities programs

"For the purpose of construing the provisions of title 5, a judge of the United States Court of Federal Claims shall be deemed to be a 'judge of the United States' as designated in section 2104(a) of title 5.".

SEC. 1105. MILITARY RETIREMENT PAY FOR RETIRED JUDGES.

(a) In General.—Chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 180. Military retirement pay for retired judges

"Section 371(e) of this title shall be applicable to judges of the United States Court of Federal Claims, and for the purpose of construing section 371(e) of this title, a judge of the United States Court of Federal Claims shall be deemed to be a judge of the United States as defined by section 451 of this title.".

(b) Table of Sections.—The table of sections for chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following:

"179. Insurance and annuities programs.
"180. Military retirement pay for retired judges.".

SEC. 1106. RECALL OF COURT OF FEDERAL CLAIMS JUDGES ON SENIOR STATUS.

(a) In General.—Section 375 of title 28, United States Code, is amended—

(1) in the first sentence of subsection (a)(1) by striking ", a judge of the Claims Court," and ", judge of the Claims Court,";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) For purposes of paragraph (1) of this subsection, a certification may be made, in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located.";

(3) by amending paragraph (3) of subsection (a) to read as follows:

"(3) For purposes of this section, the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984."; and

(4) in subsection (f) by—

(A) striking ", a judge of the Claims Court,"; and

(B) striking ", a commissioner of the Court of Claims,".

(b) Recall of Retired Judges.—Section 797 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting "section 178 of this title or under" after "under"; and

(2) in the second sentence of subsection (d) by striking "civil service".

SEC. 1107. LAW CLERKS AND SECRETARIES.

The first sentence of section 794 of title 28, United States Code, is amended by inserting after "may approve" the following: "for district judges".

SEC. 1108. SITES FOR HOLDING COURT.

(a) In General.—Section 798(a) of title 28, United States Code, is amended to read as follows:

"(a) The United States Court of Federal Claims is authorized to utilize facilities and hold court in Washington, District of Columbia, and throughout the United States (including its territories and possessions) as necessary for compliance with sections 173 and 2503(c) of this title. The facilities of the Federal courts, as well as other comparable facilities administered by the General Services Administration, shall be made available for trials and other proceedings outside of the District of Columbia.".

(b) Foreign Country.—

(1) Redesignation.—Subsection (b) of section 798 of title 28, United States Code, is redesignated as subsection (c).

(2) Hearing in a foreign country.—Section 798 of title 28, United States Code, is amended by inserting after subsection (a) the following:

"(b) Upon application of a party or upon the judge's own initiative, and upon a showing that the interests of economy, efficiency and justice will be served, the chief judge may issue an order authorizing a judge of the court to conduct proceedings, including evidentiary hearings and trials, in a foreign country whose laws do not prohibit such proceedings, except that an interlocutory appeal may be taken from such an order pursuant to the provisions of section 1292(d)(2) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.".

(c) Appeal Jurisdiction.—Section 1292(d)(2) of title 28, United Sates Code, is amended by inserting after "When" the following: "the chief judge of the United States Court of Federal Claims issues an order under the provisions of section 798(b) of this title, or when".

SEC. 1109. JURISDICTION.

Section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) If the certification of a claim pursuant to this Act is technically defective, a court or agency board of contract appeals may permit the certification to be corrected at any time prior to a final decision by the court or agency board of contract appeals unless the failure properly to certify in the first instance was fraudulent, in bad faith, or with reckless or grossly negligent disregard of the requirements of the relevant statutes or regulations.

"(B) If the contracting officer did not challenge the validity of the certification and the court or agency board of contract appeals permits the defective certification to be corrected under this section, interest shall accrue on the claim under section 611 of this Act from the date the claim was first submitted to the contracting officer.

"(C) This paragraph shall be effective with respect to cases filed with any court or agency board of contract appeals under section 607, 608, or 609 of this Act on or after the date of the enactment of this paragraph.".

SEC. 1110. AWARDABLE COSTS.

Section 1919 of title 28, United States Code, is amended by—

(1) striking "district court or" and inserting "district court,"; and

(2) inserting after "Trade" the following: ", or the Court of Federal Claims".

SEC. 1111. PROCEEDINGS GENERALLY.

Section 2503 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d) For the purpose of construing sections 1821, 1915, 1920 and 1927 of this title, the United States Court of Federal Claims shall be deemed to be a court of the United States.".

SEC. 1112. SUBPOENAS AND INCIDENTAL POWERS.

(a) In General.—Section 2521 of title 28, United States Code, is amended by—

(1) amending the section heading to read as follows:

"§ 2521. Subpoenas and incidental powers";

(2) inserting "(a)" before "Subpoenas requiring"; and

(3) adding at the end thereof the following new subsections:

"(b) The United States Court of Federal Claims shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(c) The United States Court of Federal Claims shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree or command as is available to a court of the United States. The United States marshal for any district in which the Court of Federal Claims is sitting shall, when requested by the chief judge of the Court of Federal Claims, attend any session of the Court of Federal Claims in such district.".

(b) Conforming Amendment.—The table of sections for chapter 165 of title 28, United States Code, is amended by amending the item relating to section 2521 to read as follows:

2521. Subpoenas and incidental powers.".

SEC. 1113. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE XII—EFFECTIVE DATE

SEC. 1201. EFFECTIVE DATE.

(a) In General.—Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act shall be effective on and after January 1, 1993.

(b) Availability of Appropriations.—Notwithstanding any provision of this Act, all sums expended pursuant to this Act shall be subject to the availability of appropriations.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECORD TO REMAIN OPEN

Mr. JOHNSTON. Mr. President, I ask unanimous consent the Record remain open today until 10 p.m., in order for Senator Bentsen to insert an explanatory statement regarding H.R. 11, the urban aid package.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty which was referred to the appropriate committees.

(The treaty received today is printed at the end of the Senate proceedings.)

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO IRAQ MESSAGE FROM THE PRESIDENT—PM 265

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I hereby report to the Congress on the development since my last report of February 11, 1992, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq) then or thereafter located in the United States or within the possession or control of a U.S. person. In that order, I also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exploration of goods, services, and technology from the United States to Iraq. I prohibited travel-related transactions and transportation transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. U.S. persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property), were continued and augmented on August 9, 1990, by Executive Order No. 12724 which I issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Order No. 12724 ("the Executive orders"). The report covers events from February 2, 1992, through August 1, 1992.

1. The economic sanctions imposed on Iraq by the Executive orders are administered by the Treasury Department's Office of Foreign Assets Control ("FAC") under the Iraqi Sanctions Regulations, 31 CFR Part 575 ("ISR"). There have been no amendments of those regulations since my last report.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the IEEPA and ISR with respect to transactions involving Iraq. Penalties were collected, principally from financial institutions which engaged in unauthorized, albeit apparently inadvertent, transactions with respect to Iraq.

3. Investigation also continues into the roles played by various individuals and firms outside of Iraq in Saddam Hussein's procurement network. These investigations may lead to additions to the FAC listing of individuals and organizations determined to be specially designated nationals ("SDN's") of the Government of Iraq. In practice, an Iraqi SDN is a representative, agent, intermediary, or front (whether open or covert) of the Iraqi Government that is located outside of Iraq. Iraqi SDN's are Saddam Hussein's principal instruments for doing business in third countries, and doing business with them is the same as doing business directly with the Government of Iraq.

The impact of being named an Iraqi SDN is considerable: all assets within U.S. jurisdiction of parties found to be Iraqi SDN's are blocked; all economic transactions with SDN's by U.S. persons are prohibited; and the SDN individual or organization is exposed as an agent of the Iraqi regime.

4. Since my last report, one case filed against the Government of Iraq has gone to judgment. *Centrifugal Casting Machine Co., Inc.* v. *American Bank and Trust Co., Banca Nazionale del Lavoro, Republic of Iraq, Machinery Trading Co., Baghdad, Iraq, Central Bank of Iraq, and Bank of Rafidain*, No. 91-5150 (10th Cir., decided June 11, 1992), arose out of a contract for the sale of goods by plaintiff to the State Machinery Co., an Iraqi governmental entity. In connection with the contract, the Iraqi defendants opened an irrevocable letter of credit in favor of Centrifugal, from which Centrifugal drew a 10-percent advance payment. Repayment of the advance payment in case of nonperformance by Centrifugal was guaranteed by a standby letter of credit. Performance did not occur due to the imposition of economic sanctions against Iraq in August 1990, and the United States claimed that an amount equal to the advance payment was blocked property. The district court ruled that the standby letter of credit had expired, that no U.S. party was liable to an Iraqi entity under the standby letter of credit, and that the advance payment funds were therefore not blocked property and could be distributed to U.S. persons. The court of appeals affirmed the ruling of the district court that there was no blocked Iraqi property interest in the advance payment funds, based on applicable principles of letter of credit law.

5. FAC has issued 288 specific licenses regarding transactions pertaining to Iraq or Iraqi assets. Since my last report, 71 specific licenses have been issued. Most of these licenses were issued for conducting procedural transactions such as filing of legal actions, and for legal representation; other licenses were issued pursuant to United Nations Security Council Resolutions 661, 666, and 687, to authorize the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes. All of these licenses concern minor transactions of no economic benefit to the Government of Iraq.

To ensure compliance with the terms of the licenses which have been issued, stringent reporting requirements have been imposed that are closely monitored. Licensed accounts are regularly audited by FAC compliance personnel and deputized auditors from other regulatory agencies. FAC compliance personnel continue to work closely with both State and Federal bank regulatory and law enforcement agencies in conducting special audits of Iraqi accounts subject to the ISR.

6. The expenses incurred by the Federal Government in the 6-month period from February 2, 1992, through August 1, 1992, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are estimated at $2,476,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in FAC, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, the Office of the Assistant Secretary for International Affairs, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs and the Office of the Legal Adviser), the Department of Transportation (particularly the U.S. Coast Guard), and the Department of Commerce (particularly in the Bureau of Export Administration and the Office of the General Counsel).

7. The United States imposed economic sanctions on Iraq in response to Iraq's invasion and illegal occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is main-

taining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions calling for the elimination of Iraqi weapons of mass destruction, the demarcation of the Iraq-Kuwait border, the release of Kuwaiti and other prisoners, compensation for victims of Iraqi aggression, and the return of Kuwaiti assets stolen during its illegal occupation of Kuwait. The U.N. sanctions remain in place; the United States will continue to enforce those sanctions.

The Saddam Hussein regime continues to violate basic human rights by repressing the Iraqi civilian population and depriving it of humanitarian assistance. The United Nations Security Council passed resolutions that permit Iraq to sell $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. Under the U.N. resolutions, the equitable distribution within Iraq of this assistance would be supervised and monitored by the United Nations and other international organizations. The Iraqi regime continues to refuse to accept these resolutions, and has thereby chosen to perpetuate the suffering of its civilian population.

The regime of Saddam Hussein continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The United States will therefore continue to apply economic sanctions to deter Iraq from threatening peace and stability to the region, and I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

GEORGE BUSH.

THE WHITE HOUSE, *August 3, 1992.*

MESSAGES FROM THE HOUSE

At 12:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4318. An act to make certain miscellaneous and technical amendments to the Harmonized Tariff Schedule of the United States, and for other purposes;

H.R. 5191. An act to encourage private concerns to provide equity capital to small business concerns, and for other purposes;

H.R. 5678. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes; and

H.R. 5679. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4318. An act to make certain miscellaneous and technical amendments to the Harmonized Tariff Schedule of the United States, and for other purposes; to the Committee on Finance.

H.R. 5191. An act to encourage private concerns to provide equity capital to small business concerns, and for other purposes; to the Committee on Small Business.

H.R. 5679. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations.

The following bill, received from the House of Representatives for concurrence on July 28, 1992, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5465. An act to amend title XIII of the Federal Aviation Act of 1958 relating to aviation insurance; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolutions, received from the House of Representatives for concurrence on July 29, 1992, was read, and referred as indicated:

H. Con. Res. 302. A concurrent resolution expressing the sense of Congress regarding communities making the transition to "Hunger-Free" status; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. MIKULSKI, from the Committee on Appropriations, with amendments:

H.R. 5679. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-356).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with amendments:

S. 3065. A bill to revise and extend the Rehabilitation Act of 1973, and for other purposes (Rept. No. 102-357).

By Mr. BENTSEN, from the Committee on Finance:

H.R. 11. An act to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

Mr. BENTSEN. Mr. President, I ask unanimous consent that an explanation of the Finance Committee bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TECHNICAL EXPLANATION OF THE FINANCE COMMITTEE AMENDMENT

TITLE I. ECONOMIC DEVELOPMENT IN DISTRESSED AREAS—ENTERPRISE ZONES

(Secs. 1101–1111 of the bill and new sections 1391–1397 of the Code)

Present Law

The Internal Revenue Code does not contain general rules that target specific geographic areas for special Federal income tax treatment. Within certain Code sections, however, there are definitions of targeted areas for limited purposes (e.g., low-income housing credit and qualified mortgage bond provisions target certain economically distressed areas). In addition, present law provides favorable Federal income tax treatment for certain U.S. corporations that operate in Puerto Rico, the U.S. Virgin Islands, or a possession of the United States to encourage the conduct of trades or businesses within these areas.

Reasons for Change

The committee believes that special consideration should be given to the problems of distressed urban and rural areas. Revitalization of economically distressed areas through expanded employment and capital incentives, especially for residents of those distressed areas, should help alleviate economic and social problems. In particular, tax incentives in the form of wage and training subsidies paid to employers will increase the employment opportunities for zone residents. Capital incentives should be targeted to promoting tangible capital improvements that directly benefit the economy and residents of the distressed area. The committee also believes that any Federal tax incentives for distressed areas should be provided in conjunction with resources committed by the nominating State and local governments as described in their agreed-upon course of action. Finally, because there is no consensus among policy analysts evaluating existing enterprise zone programs about the operation of tax provisions that target geographic areas, the Federal tax enterprise zone program should be subject to a Congressionally mandated study by the National Academy of Sciences to review the efficacy of the program. In this way, Congress can determine whether it is appropriate to continue, modify, or expand the enterprise zone program.

Explanation of Provisions

Designation of tax enterprise zones

In general.—A total of 25 tax enterprise zones will be designated (subject to availability of eligible zones) during 1993–1996. Tax enterprise zones are urban tax enterprise zones, rural development investment zones, or Indian reservation tax enterprise zones, and will be designated from areas nominated by State and local governments or a governing body of an Indian reservation.

The Secretary of Housing and Urban Development (HUD) will designate 15 urban tax enterprise zones (up to 6 zones designated in 1993, 4 zones in 1994, 3 zones in year 1995, and 2 zones in year 1996). Any shortfall in designations of zones may be carried forward to the following year, but not beyond 1996.

The Secretary of Agriculture (in consultation with the Secretary of the Interior) will designate 8 rural development investment zones (up to 3 zones designated in 1993, 2 zones in 1994, 2 zones in 1995, and 1 zone in 1996).[1] Any shortfall in designations of zones may be carried forward to the following year, but not beyond 1996.

---

[1] Rural development investment zones will be located in areas that are (1) outside a metropolitan

The Secretary of the Interior will designate 2 Indian reservation tax enterprise zones (1 zone in 1993, 1 zone in 1994, and any shortfall carried forward through 1996).[2] Nominated areas located on Indian reservations also would be eligible for designation (provided the bill's criteria are met) as rural development investment zones.

Zone designations generally will remain in effect for 10 years. An area's zone designation may be revoked if the local government or State significantly modifies the boundaries or does not comply with its agreed-upon course of action for the zone (described below).[3]

Eligibility criteria for zones.—The eligibility criteria for urban tax enterprise zones, rural development investment zones, and Indian reservation tax enterprise zones generally are the same (except as noted below). To be eligible for designation as a tax enterprise zone, a nominated area is required to have all of the following characteristics: (1) a population of at least 20,000 (10,000 in the case of a rural zone and no minimum population for Indian reservation zones); (2) a condition of unemployment and general distress (indicated by factors such as high crime rates, or designation of the area as a disaster area or high-intensity drug trafficking area ("HIDTA") under the Anti-Drug Abuse Act of 1988); (3) is one contiguous area; (4) is located within not more than two States; (5) poverty rates of at least 25 percent in each of the area's census tracts;[4] (6) poverty rates of at least 35 percent in each of at least 80 percent of the area's census tracts; and (7) a satisfactory course of action (described below) adopted by the State and local governments designed to promote economic development in the nominated area.

Course of action.—In order for a nominated area to be eligible for designation as a tax enterprise zone, the local government and State in which the area is located are required to agree in writing that they will adopt (or continue to follow) a specified course of action designed to reduce burdens borne by employers of employees in the area.

A course of action must include the following actions with respect to a nominated area: (1) certification by the State insurance commissioner (or similar official) that basic commercial property insurance of a type comparable to that insurance generally in force in urban or rural areas (whichever is applicable) throughout the State is available to businesses within the nominated area; (2) a program to ensure the necessary rehabilitation of publicly owned property; (3) a commitment to increase the level, or efficiency of delivery, of local public services (such as public safety protection); (4) involvement in the program by public or private entities (e.g., community groups), including a commitment to provide jobs and job training, and technical, financial, or other assistance to employers, employees, and residents of the area; (5) special preferences granted to contractors owned and operated by socially and economically disadvantaged groups, in connection with activity in the zone; (6) certain programs to encourage local financial institutions to make loans to area businesses, with emphasis on small and locally owned businesses; and (7) special preferences for projects within the area in allocations of the State's low-income housing credit ceiling and private activity bonds ceiling.[5]

In addition, the required course of action may include the following: (1) a reduction of tax rates or fees applying within the zone; (2) donations of surplus land to community organizations agreeing to operate businesses on the land; and (3) programs to encourage employers to purchase health insurance for employees on a pooled basis.

Programs which serve as part of the required course of action may be implemented by both government and nongovernmental entities, but may not be funded with proceeds from any Federal program (other than discretionary proceeds, such as community development block grants, the use of which is not restricted to a zone). In evaluating courses of action agreed to by the State or local government, past efforts of those governments with respect to the nominated area are to be taken into account.[6]

Selection process and criteria.—All designated tax enterprise zones will be selected from nominated areas on the basis of the following factors: (1) the strength and quality of promised contributions by State and local governments relative to their fiscal ability; (2) the effectiveness and enforceability of the guarantees that the promised course of action will be implemented, including the specificity with which the commitments enumerated in the course of action are described in order that it could be determined annually by the applicable Secretary whether such commitments actually are being carried out; (3) the level of commitments by private entities of additional resources to the economy of the nominated area, including the creation of new or expanded business activities; and (4) the relative levels (compared to other nominated areas) of unemployment, general distress, and poverty in the nominated area.[7]

Tax incentives

Employer wage credit.—A 40-percent credit against income tax liability is available to all employers for the first $20,000 of wages paid to each employee who (1) is a zone resident (i.e., his or her principal place of abode is within the zone),[8] and (2) performs substantially all employment services within the zone in a trade or business of the employer.[9]

The maximum credit per qualified employee is $8,000 per year. Wages paid to a qualified employee continue to be eligible for the credit if the employee earns more than $20,000, although only the first $20,000 of wages are eligible for the credit.[10] The wage credit is available with respect to a qualified employee, regardless of the number of other employees who work for the employer or whether the employer meets the definition of an "enterprise zone business" (which applies for the investment tax incentives described below).

Qualified wages include the first $20,000 of "wages," defined as (1) salary and wages as generally defined for FUTA purposes, and (2) certain training and educational expenses paid on behalf of a qualified employee, provided that (a) the expenses are paid to an unrelated third party and are excludible from gross income of the employee under present-law section 127, or (b) in the case of an employee under age 19, the expenses are incurred by the employer in operating a youth training program in conjunction with local education officials.

The credit is allowed with respect to both full-time and part-time employees. However, the employee must be employed by the employer for a minimum period of at least 90 days or 120 hours of service. Wages are not eligible for the credit if paid to certain relatives of the employer or, if the employer is a corporation, certain relatives of a person who owns more than 50 percent of the corporation. In addition, wages are not eligible for the credit if paid to a person who owns more than five percent of the stock (or capital or profits interests) of the employer.

To be eligible for the wage credit, an employer is required to notify all employees eligible to receive advance refundability of the earned income tax credit (EITC) of the availability of such advance refundability.

For certain small employers, the credit is refundable (and may be used to reduce tentative minimum tax). For this purpose, the term "small employers" is defined as employers with gross receipts not greater than $2 million during the preceding taxable year, although refundability is phased out for employers with gross receipts between $1 million and $2 million. For employers that are not "small employers," the credit is not refundable. For such employers, the credit is subject to the general business credit limitations (sec. 38) and, therefore, may not be used to reduce tentative minimum tax.

---

statistical area as defined by the Secretary of Commerce, or (2) determined by the Secretary of Agriculture, after consultation with the Secretary of the Interior, to be a rural area.

[2] Indian reservation tax enterprise zones must be located on a "reservation" as defined in (1) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or (2) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

[3] An area's designation as a tax enterprise zone may be revoked only after a hearing on the record at which officials of the State and local governments (or Indian reservation) are given an opportunity to participate and the governments have an opportunity to correct any deficiencies found at the hearing. Any such revocation may take effect only prospectively.

[4] The poverty rate is to be determined by the 1990 census or subsequent census data. If areas are not tracted as population census tracts, the equivalent county divisions as defined by the Bureau of the Census for purposes of defining poverty areas would be treated as population census tracts.

[5] Required elements of a course of action apply to an area located on an Indian reservation only to the extent that the reservation governing body has legal authority to comply with such requirements.

[6] The bill provides that the required course of action may not include any action to assist any business in relocating from an area outside the tax enterprise zone to within the tax enterprise zone. However, this limitation is not to be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if (1) the establishment of the new branch, affiliate, or subsidiary will not result in a decrease in employment in the area of original location or in any other area where the existing business conducts operations, and (2) there is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business in the area of its original location or in any other area where the existing business conducts operations.

[7] It is intended that, during the 1993-1996 period, a nominating entity may, if it so desires, submit an up-dated application for an area previously nominated for designation as a tax enterprise zone.

[8] The committee intends that employers will undertake reasonable measures to verify an employee's residence within the zone, so that the employer will be able to substantiate any wage credit claimed under the bill.

[9] The credit is not available, however, with respect to any individual employed at any facility described in present-law section 144(c)(6)(B) (i.e., a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises).

[10] To prevent avoidance of the $20,000 limit, all employers of a controlled group of corporations (or partnerships or proprietorships under common control) are treated as a single employer.

An employer's deduction otherwise allowed for wages paid is reduced by the amount of credit claimed for that taxable year.

Expansion of targeted jobs tax credit.—The present-law targeted jobs tax credit (TJTC) is expanded so that a person who resides in a tax enterprise zone is treated as a member of a targeted group for purposes of that credit.[11]

Thus, employers located outside enterprise zones are entitled to claim the 40-percent TJTC credit on up to $6,000 of qualified first-year wages paid to employees who reside within a tax enterprise zone.[12]

As under present-law, an employer's deduction otherwise allowed for wages is reduced by the amount of TJTC claimed for that taxable year.

Definition of "enterprise zone business".—The investment tax incentives described below (but not in the labor incentives described above) are available only with respect to trade or business activities that satisfy the criteria for an "enterprise zone business." Under the bill, an "enterprise zone business" is defined as a corporation or partnership (or proprietorship) if for the taxable year: (1) the sole trade or business of the corporation or partnership is the active conduct of a qualified business within a tax enterprise zone;[13] (2) at least 80 percent of the total gross income is derived from the active conduct of a qualified business within a zone; (3) substantially all of the use of its tangible property occurs within a zone; (4) substantially all of its intangible property is used in, and exclusively related to, the active conduct of such business; (5) substantially all of the services performed by employees are performed within a zone; (6) at least one-third of the employees are residents of the zone;[14] and (7) no more than five percent of the average of the aggregate unadjusted bases of the property owned by the business is attributable to (a) certain financial property, or (b) collectibles not held primarily for sale to customers in the ordinary course of an active trade or business.

A "qualified business" is defined as any trade or business other than a trade or business that consists predominantly of the development or holding of intangibles for sale or license, or a business consisting of the operation of a facility described in present-law section 144(c)(6)(B).[15] In addition, the leasing to others of any structure or building located within a tax enterprise zone is treated as a qualified business only if at least 50 percent of the gross rental income from the building or structure is derived from property leased to enterprise zone businesses. The rental of tangible personal property to others is not a qualified business unless substantially all of the rental of such property is by enterprise zone businesses or by residents of a tax enterprise zone.[16]

Activities of legally separate (even if related) parties are not aggregated for purposes of determining whether an entity qualifies as an enterprise zone business.

Increased section 179 expensing.—The present-law $10,000 expensing allowance for certain depreciable business property provided under section 179 is increased to $75,000 for "qualified zone property" used in an enterprise zone business (as defined above). In addition, the type of property eligible for section 179 expensing is expanded to include buildings used in an enterprise zone business.

"Qualified zone property" is defined as depreciable tangible property (including buildings), provided that: (1) such property was acquired by the taxpayer (but not from a related party) after the zone designation took effect; (2) the original use of the property in the zone commences with the taxpayer;[17] and (3) substantially all of the use of the property is in the zone in the active conduct of a trade or business by the taxpayer in the zone. In the case of property which is substantially renovated by the taxpayer, however, such property need not be acquired by the taxpayer after zone designation nor originally used by the taxpayer within the zone if during any 24-month period after zone designation the additions to the taxpayer's basis in such property exceed 100 percent of the taxpayer's basis in such property at the beginning of the period or $5,000 (whichever is greater).[18]

As under present law, the section 179 expensing allowance is phased out for certain taxpayers with investment in depreciable business property during the taxable year above a specified threshold. However, the present-law phaseout range (i.e., $200,000 to $210,000 of investment during the taxable year) is increased for enterprise zone businesses to a phaseout range of $300,000 to $450,000 of investment made by the taxpayer during the taxable year.

As under present law, all component members of a controlled group are treated as one taxpayer for purposes of the $75,000 limitation and the phaseout (sec. 179(d)(6)). Also, as under present law, the $75,000 expensing allowance is to apply at both the partnership and partner level.

The increased expensing allowance is allowed for purposes of the alternative minimum tax (i.e., it will not be treated as an adjustment for purposes of the alternative minimum tax). The section 179 expensing deduction will be recaptured if the property is not used predominantly in an enterprise zone business (under rules similar to present-law section 179(d)(10)).

Accelerated depreciation.—An enterprise zone business (as defined above) will determine depreciation deductions with respect to "qualified zone property"[19] (also defined above) by using the following recovery periods:

3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	20 years

The shorter recovery periods allowed for qualified zone property of enterprise zone businesses will not be allowed for alternative minimum tax purposes.

Ordinary loss treatment.—Loss incurred by an individual or corporate taxpayer on disposition of certain property used in an enterprise zone business is treated as ordinary loss. The provision applies to tangible property used in an enterprise zone business for at least two year (five years in the case of real property). Loss on disposition of a stock or partnership interest in an enterprise zone business held by an individual for at least two years also is treated as ordinary loss. Ordinary loss treatment is not available under the provision for intangible property, other than stock or partnership interests in enterprise zone businesses.

Stock interests eligible for the ordinary loss treatment must be acquired by the individual taxpayer on original issue from the corporation solely in exchange for cash at a time when the corporation was an enterprise zone business (or was being organized for the purpose of being an enterprise zone business.[20] Similar rules would apply to partnership interests in enterprise zone businesses. Property used in an enterprise zone business is eligible for the ordinary loss treatment under the bill if the property (1) meets the definition of "qualified zone property" (defined above), or (2) is land which is an integral part of an enterprise zone business.

The ordinary loss treatment applies only to losses that are attributable to the period that the property is used in an enterprise zone business.[21] Losses from transactions with related persons are not eligible for the ordinary loss treatment (sec. 267).

Any loss that is treated as an ordinary loss under this provision is not to be taken into account in applying section 1231. In addition, any loss that is treated as an ordinary loss under this provision is to be treated as attributable to a trade or business of the taxpayer for purposes of the net operating loss deduction of section 172. Finally, the ordinary loss treatment is to apply for purposes of computing alternative minimum tax.

Stock expensing.—An individual is allowed a 50-percent deduction for the amount paid in cash during the taxable year to purchase certain stock in an enterprise zone business. The amount of the deduction is limited to $25,000 per year (with a $250,000 lifetime cap).[22] The deduction is allowed to an individual as an above-the-line deduction (regardless of whether the individual claims the standard deduction).

---

[11] The TJTC (sec. 51) expired on June 30, 1992, but is extended for 18 months (i.e., through December 31, 1993) by another provision contained in the bill.

[12] Employers located within a tax-enterprise zone are not allowed to claim the TJTC with respect to an employee if any of such employee's wages were taken into account in determining the employer's enterprise zone wage credit for that taxable year.

[13] This requirement does not apply to a business carried on by an individual as a proprietorship.

[14] For this purpose, the term "employee" includes a self-employed individual (within the meaning of section 401(c)(1)).

The committee intends that the Secretary of the Treasury will prescribe regulations to determine the appropriate treatment of part-time employees for purposes of calculating whether one-third of the employees are residents of the zone.

[15] See footnote 9 above.

[16] An activity will cease to be a qualified enterprise zone as of the date on which the designation of the enterprise zone in which the activity is conducted is terminated, except that the activity will continue to be a qualified enterprise zone business with respect to (1) the first taxable year of such activity, (2) any property placed in service before the date of termination of the zone designation, and (3) any property placed in service after the date of termination pursuant to a binding, written contract in effect before the termination date (and at all times thereafter).

[17] Thus, used property may constitute qualified zone property, so long as it has not previously been used within the tax enterprise zone.

[18] Qualified zone property does not include any property to which the alternative depreciation system under section 168(g) applies, determined (1) without regard to section 168(g)(7), and (2) after application of section 280F(b).

[19] Accelerated depreciation will be available with respect to property that is not expensed under section 179.

[20] Under the bill, stock is not eligible for the ordinary loss treatment if the basis of such stock had been reduced under the stock expensing provision described below. In addition, stock is not eligible for the ordinary loss treatment if such stock was acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of the provision.

[21] For this purpose, termination or revocation of an area's designation as a tax enterprise zone is disregarded.

[22] Thus, in order for an individual to claim the maximum $25,000 per-year deduction, the individual must purchase $50,000 of qualified stock during the taxable year.

Individuals are permitted to carry excess amounts (above the $25,000 per-year limit— to the next taxable year (subject to the $250,000 lifetime cap).

Stock qualifies for the expensing deduction only if it was stock acquired on original issue[23] from a domestic C corporation that: (1) meets the definition of an enterprise zone business (defined above); (2) does not have more than one class of stock outstanding; (3) the sum of (a) the unadjusted bases of the assets owned by the corporation and (b) the value of leased assets does not exceed $3 million;[24] (4) more than 20 percent of the total value and total voting power of the stock of the corporation is owned by individuals (directly or through partnerships or trusts) or by estates; and (5) the cash paid for the stock is used by the issuing corporation within 12 months to acquire property (a) which is depreciable tangible property (whether real or personal) to which section 168 applies, (b) the original use of which in the zone commences with the issuing corporation, and (c) substantially all of the use of which is in the zone.

For purposes of the $25,000 annual limitation and the $250,000 lifetime cap, an individual and members of his family (as defined in present-law section 267(c)(4)) are treated as a single individual.

The basis of stock for which a deduction is claimed under the provision is reduced by the amount of the deduction. In addition, gain on disposition of the stock is treated as ordinary income to the extent of the amount allowed as a deduction, and interest is payable on certain premature dispositions. The deduction is allowed for purposes of the alternative minimum tax.

Low-income housing credit expansion.—For purposes of the low-income housing credit (LIHC),[25] tax enterprise zones automatically qualify as "difficult to develop" areas, within which the eligible basis of buildings for purposes of computing the credit is 130 percent of the cost basis. (Thus, for LIHC projects in tax enterprise zones, the credit will be based on 91 percent of present value instead of the regular LIHC rate of 70 percent of present value.) The present-law State credit cap continues to apply.

Qualified enterprise zone facility bonds

In general.—The bill authorizes a new category of exempt-facility private activity bonds, qualified enterprise zone facility bonds, for use in areas certified as eligible to be enterprise zones. Qualified enterprise zone facility bonds are bonds 95 percent or more of the net proceeds of which are used to finance qualified enterprise zone property (as defined generally under the bill) for a qualified enterprise zone business[26] and land located in the zone the use of which is an integral part of such a business.

Unlike the other tax incentives provided for designated tax enterprise zones, these bonds may be issued for use in all areas that are *eligible* for designation as one of the 25 tax designated tax enterprise zones, regardless of whether the appropriate Secretary designates the area such. However, an area is eligible for use of these new exempt-facility bonds only if an application is made to the appropriate Secretary for such a designation and that Secretary certifies that the application demonstrates that the area meets the eligibility criteria enumerated above for designation (including the required course of action by the State and local governments).

Qualified enterprise zone facility bonds may be issued for use in an area only during the 60-month period following the earlier of (a) the date the zone is certified by the appropriate Secretary as an eligible area, or (b) the date on which the zone is designated a tax enterprise zone.

Prompt expenditure required.—The proceeds of qualified enterprise zone facility bonds must be spent no later than 18 months after the date on which the bonds are issued. Tax-exemption on the bond interest will not be affected if this expenditure requirement is not satisfied, however, if (a) all unspent proceeds as of the end of the 18-month period are used to redeem bonds that are a part of the issue during the succeeding six months, and (b) the issuer pays a penalty equal to three percent per year of the unspent proceeds for the period beginning on the date the bonds are issued and ending on the date the unspent proceeds are used to redeem bonds.

Special rules on issue size and use to finance certain facilities.—The aggregate face amount of a qualified enterprise zone bond issue may not exceed the excess of $1 million over all outstanding prior issues of such bonds with respect to any qualified enterprise zone business which is a principal user of the bond proceeds. For purposes of this determination, all businesses that are related parties, within the meaning of section 52(a) or (b) are treated as a single business.

The bill exempts qualified enterprise zone facility bonds from the general restrictions on financing the acquisition of existing property (sec. 147(d)). Additionally, these bonds may not be used to finance the acquisition of farmland, including such land for use by certain first-time farmers (sec. 147(c)(2)).

Penalty for failure to continue as zone business or to use bond-financed property in the zone business.—The bill extends change-in-use rules to qualified enterprise zone facilities bonds. Accordingly, interest on all bond-financed loans to a business that no longer qualifies as an enterprise zone business, or on loans to finance property that ceases to be used by the business in the enterprise zone, becomes nondeductible, effective from the first day of the taxable year in which the disqualification or cessation of use occurs.

Further, if less than substantially all of the use of bond-financed property continues to be in the enterprise zone or the borrower ceases to be an enterprise zone business at any time within 10 years after the financing is provided, a penalty of 1.25 percent of the face amount of all qualified enterprise zone facility bond financing provided to the borrower is imposed. this penalty is in addition to the loss of interest deductions, described above.

The bill provides that the change-in-use and 1.25-percent penalties are waived in the case of borrowers that cease to qualify as enterprise zone businesses or that cease to use bond-financed property in the zone in that business as a result of bankruptcy, or solely as a result of a zone's ceasing to be eligible as such (e.g., as a result of the passage of time). Further, the committee intends that the Treasury Department may waive these penalties in the case of violations caused by circumstances beyond the control of the borrower if the violations are corrected within a reasonable period after the business has reason to know of them.

Partial exemption from State volume limitations.—Qualified enterprise zone facility bonds are allowed a 50-percent exclusion from the otherwise applicable State private activity bond volume limitations.

Exception from bank pro rata interest deduction disallowance.—The bill provides that the general rule requiring banks to forego a portion of their otherwise allowable interest expense deduction if they invest in tax-exempt bonds does not apply to investments in qualified enterprise zone facility bonds, if the issuer elects.

Rules

Within four months after the date of enactment, the Secretaries of HUD, Agriculture, and Interior are required to promulgate rules (by notice or regulation) regarding: (1) procedures for nominating areas for designation as tax enterprise zones; (2) the method for comparing the enumerated selection criteria; and (3) recordkeeping requirements to assist in the preparation of studies to be submitted to Congress (described below). Such rules must provide that State and local government shall have no less than five months after issuance to submit their applications for zone designation before such applications are evaluated and compared and any area is designated as a tax enterprise zone.

Study

The bill provides for a study to be conducted under the auspices of the National Academy of Sciences, analyzing the effectiveness of the tax incentives in the tax enterprise zones. An interim report of this study is required to be submitted to Congress by July 1, 1997, and a final report by July 1, 2000. The Secretary of the Treasury (in consultation with the Secretaries of Housing and Urban Development, Agriculture, and Interior) is directed to contract with the National Academy of Sciences within three months after the date of enactment to conduct this study.

Effective Date

Tax enterprise zone designations will be made only during calendar years 1993 through 1996. The tax incentives provided for are available during the period that the designation remains in effect, which generally will be for 10 years after the designation first becomes effective.

TITLE II. ECONOMIC GROWTH INCENTIVES

SUBTITLE A. INCREASED SAVINGS: INDIVIDUAL RETIREMENT ARRANGEMENTS (IRAS)

(Secs. 2001–2022 of the bill; secs. 72, 219, 401(k), and 403(b) of the Code; and new sec. 408A of the Code)

Present Law

Under present law, certain individuals are allowed to deduct contributions (up to the lesser of $2,000 or 100 percent of the individual's compensation or earned income) to an individual retirement arrangement (IRA). The amounts held in an IRA, including earnings on contributions, generally are not included in taxable income until withdrawn.

The $2,000 deduction limit is phased out over certain adjusted gross income (AGI) levels ($25,000 for individuals, $40,000 for joint filers) if the individual or the individual's spouse is an active participant in an employer-sponsored retirement plan. An individual may make nondeductible IRA contributions (up to the $2,000 or 100 percent of compensation limit) to the extent the individual is not permitted to make deductible IRA contributions.

---

[23] Stock is not eligible for the expensing deduction if such stock was acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of the provision.

[24] The determination of the total value of assets owned and leased by the corporation will be made as of the time of issuance of the stock in question but will include amounts received by the issuing corporation for such stock.

[25] The LIHC (sec. 42) expired on June 30, 1992, but is extended for 18 months (i.e., through December 31, 1993) by another provision of the bill.

[26] For purposes of the tax-exempt bond provisions, the term qualified enterprise zone business includes a business located in a certified enterprise zone area (see below) that satisfies with respect to the certified area in which it is located all of the criteria applicable to such businesses that are located in designated tax enterprise zones.

Reasons for Change

The committee is concerned about the national saving rate, and believes that individuals should be encouraged to save. The committee believes that the ability to make deductible contributions to an IRA is a significant savings incentive. Under present law, however, this incentive is not available to all taxpayers. Further, the present-law income thresholds for IRA deductions are not indexed for inflation, so that fewer Americans will be eligible to make a deductible IRA contribution each year, and the amount of the maximum contribution is declining in real terms over time.

The committee believes it is appropriate to encourage individual saving by making an IRA deduction available to all taxpayers. Expanding the IRA deduction will provide all Americans with a meaningful incentive to save for their retirement years. Appropriate limits for taxpayers with other elective tax-favored savings vehicles will ensure that tax benefits are distributed among individuals more evenly.

The committee is also concerned that Americans are not saving enough to ensure that their children will be able to afford a college education. College costs have risen dramatically over the past two decades. The ability to obtain a college education is an important factor in ensuring that the United States remains competitive with other nations. Home ownership among young individuals has also decreased. In addition, medical costs have continued to increase at a rate faster than inflation. Accordingly, the committee believes that there should be appropriate incentives to save for education, home ownership, and large medical expenses, and that taxpayers should be able to use amounts saved in an IRA for such purposes without penalty.

The committee also believes that some individuals would be more likely to save if funds set aside in a tax-favored account could be withdrawn without tax after a reasonable holding period. The committee believes that an account to which contributions are nondeductible but withdrawals from which are tax free will provide taxpayers with an alternative savings vehicle that some taxpayers may find more suitable for their savings needs.

Explanation of Provision

The bill restores the deductibility of IRA contributions for all taxpayers under the rules in effect prior to the Tax Reform Act of 1986 and provides for the indexing of the limits on contributions to IRAs, in increments of $500.

In addition, the bill permits nondeductible contributions to new special IRAs. Withdrawals from a special IRA are not includible in income if attributable to contributions that have been held by the special IRA for at least 5 years. A tacking rule applies in the case of qualified transfers from one special IRA to another.

The limits on contributions to deductible IRAs and special IRAs are coordinated. Furthermore, the limit on contributions to deductible IRAs and special IRAs is coordinated with the limit on elective deferrals to a qualified cash or deferred arrangement (sec. 401(k) plan), tax-sheltered annuity (sec. 403(b) annuity), simplified employee pension (SEP), or a section 501(c)(18) plan. Thus, for example, in no case can the sum of contributions (deductible and nondeductible) to an IRA, contributions to a special IRA, and elective contributions to a 401(k) plan exceed the limit on elective deferrals ($8,728 in 1992).

The bill permits qualified transfers from deductible IRAs to special IRAs without imposition of the 10-percent tax on early withdrawals. The amount transferred to a special IRA generally is includible in income in the year of transfer. However, if the transfer occurs before January 1, 1995, the transferred amount is includible in income ratably over a 4-taxable year period.

The bill allows withdrawals from an IRA and from amounts attributable to elective deferrals under (1) a section 401(k) plan, (2) a tax-sheltered annuity (sec. 403(b) annuity,) or (3) a section 501(c)(18) plan without imposition of the 10-percent additional income tax on early withdrawals to the extent the amount withdrawn is used to pay qualified acquisition, construction, or reconstruction costs with respect to a principal residence of a first-time homebuyer who is the taxpayer, the taxpayer's spouse, or the taxpayer's child or grandchild.

A first-time homebuyer is any individual (and if married, such individual's spouse) who had no present interest in a principal residence during the 3-year period prior to the purchase of a home. If an individual is deferring tax on gain from the sale of a previous principal residence and is permitted an extended rollover period, he or she is not considered a first-time homebuyer until after the end of the extended rollover period. In the case of certain homebuyers described in Code sec. 143(i)(1)(C) whose family incomes do not exceed $15,000, ownership of land subject to certain contracts for deed described in such section does not disqualify the homebuyer from being considered a first-time homebuyer.

The waiver of the 10-percent additional tax on early withdrawals also applies to the extent distributions do not exceed qualified higher education expenses. Qualified higher educational expenses means tuition, fees, books, supplies, and equipment required for the enrollment of or attendance of the taxpayer, the taxpayer's spouse, or the taxpayer's child or grandchild at a college, university, or post-secondary vocational school. The amount of qualified higher educational expenses for any taxable year is reduced by any amount excludable from gross income under the provision in the Code pertaining to U.S. education savings bonds.

In addition, the 10-percent additional tax applies to the extent distributions are made to an individual after separation from employment, if (1) the individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of the separation and (2) the distributions are made during the taxable year during which such unemployment compensation is received or the succeeding taxable year.

The bill extends to IRAs the present-law exception to the 10-percent additional income tax for distributions from qualified retirement plans used to pay deductible medical expenses. For purposes of the medical expense exception (with regard to both IRAs and qualified retirement plans), a child, grandchild, or ancestor of the taxpayer is treated as a dependent of the taxpayer in determining whether medical expenses are deductible.

Finally, the bill provides that the present-law rule permitting penalty-free IRA withdrawals after an individual reaches 59½ would not apply in the case of amounts attributable to contributions (other than rollovers from a qualified plan) made during the previous 5 years. A tacking rule applies in the case of rollovers from one IRA to another. Thus, contributions to a deductible IRA generally must remain in the account for at least 5 years to avoid withdrawal penalties. For purposes of applying the rule, distributions are treated as having been made first from the earliest contributions (and earnings) remaining in the account, and then from other contributions in the order in which made.

Effective Date

The bill generally applies to taxable years beginning after December 31, 1993. However, the provision permitting penalty-free withdrawals for qualified purposes is effective for taxable years beginning after December 31, 1992. In addition, the provision permitting transfers from deductible IRAs to special IRAs is effective for taxable years beginning after December 31, 1992. Thus, special IRAs can be established and maintained in taxable years beginning before January 1, 1994, only with funds transferred from a deductible IRA. The requirement that contributions to a deductible IRA generally must remain in the account for at least 5 years to avoid withdrawal penalties applies to contributions (and earnings allocated thereto) that are made after December 31, 1993.

SUBTITLE B. OTHER ECONOMIC DEVELOPMENT PROVISIONS

A. INVESTMENT IN REAL ESTATE

1. Modification of passive loss rules for certain real estate persons (sec. 2101 of the bill and sec. 469 of the Code)

Present Law

The passive loss rules limit deductions and credits from passive trade or business activities. Dedications attributable to passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income, such as wages, portfolio income, or business income that is not derived from a passive activity. Credits from passive activities may not reduce the taxpayer's tax liability, to the extent such credits exceed regular tax liability from passive activities. Deductions and credits that are suspended under these rules are carried forward and treated as deductions and credits from passive activities in the next year. The suspended losses from a passive activity are allowed in full when a taxpayer disposes of his entire interest in the passive activity to an unrelated person.

The passive loss rules apply to individuals, estates and trusts, closely held C corporations, and personal service corporations. A special rule permits closely held C corporations to apply passive activity losses and credits against active business income (or tax liability allocable thereto) but not against portfolio income.

Passive activities are defined to include trade or business activities in which the taxpayer does not materially participate. To materially participate in an activity, a taxpayer must be involved in the operations of the activity on a regular, continuous, and substantial basis. Except as provided in regulations, a taxpayer is treated as not materially participating in an activity held through a limited partnership interest.[1]

---

[1] Treas. Reg. section 1.496-5T(e) provides exceptions to this general rule for limited partnership interests in certain circumstances, including the circumstance where an individual taxpayer is both a

Rental activities (including rental real estate activities) are also treated as passive activities, regardless of the level of the taxpayer's participation. In general, rental activities cannot be treated as part of a larger activity that includes nonrental activities. A special rule permits the deduction of up to $25,000 of losses from rental real estate activities (even though they are considered passive), if the taxpayer actively participates in them. This $25,000 amount is allowed for taxpayers with adjusted gross incomes of $100,000 or less, and is phased out for taxpayers with adjusted gross incomes between $100,000 and $150,000. Active participation is a lesser standard of involvement than material participation. A taxpayer is treated as actively participating if, for example, he participates, in a significant and bona fide sense, in the making of management decisions or arranging for others to provide services (such as repairs). The active participation standard is not satisfied, however, if the taxpayer's interest is less than 10 percent (by value) of all interests in the activity. A taxpayer generally is deemed not to satisfy the active participation standard with respect to property he holds through a limited partnership interest.

Reasons for Change

The committee considers it unfair that a persons who performs more than half his personal services in a real property trade or business is not permitted in some cases to offset losses from rental estate activities in which he materially participates against nonpassive income from the conduct of a real property trade or business. The committee bill modifies the passive loss rule to alleviate this unfairness.

Explanation of Provision

If the taxpayer meets eligibility requirements with respect to real property trades or businesses in which he performs services, then the taxpayer's net loss from rental real estate activities in which the taxpayer materially participates generally is allowed to offset income from real property trade or business activities.

The provision allows a taxpayer to deduct a portion of the passive activity loss for the taxable year not exceeding the net loss from rental real estate activities in which he materially participates, subject to an income limitation. Under the income limitation, the loss allowed under the provision may not exceed the lesser of (1) the taxpayer's net income from real property trade or business activities which are not passive activities, or (2) the taxpayer's taxable income (determined without regard to this provision). A similar rule applies with respect to passive activity credits.

Real property trade or business means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

A taxpayer meets the eligibility requirements if more than half of the personal services the taxpayer performs in a trade or business during the taxable year are in real property trades or businesses in which he materially participates.

In the case of a joint return, it is intended that for purposes of the eligibility requirements each spouse's personal services are taken into account separately. In determining material participation, however, the provision does not change the present-law rule (sec. 469(h)(5)) that the participation of the spouse of the taxpayer is taken into account. Thus, for example, a husband and wife filing a joint return meet the eligibility requirements (assuming neither is an employee) if during the taxable year one spouse performs at least half of his or her business services in a real estate trade or business in which either spouse materially participates. The couple does not fail the eligibility requirements if less than half their business services, taken together, are performed in real estate trades or businesses in which either of them materially participates, provided that more than half of one spouse's business services qualify.

For purposes of the eligibility requirements, personal services performed as an employee are not treated as performed in a real estate trade or business unless the person performing services has more than a 5 percent ownership interest in the employer (within the meaning of sec. 416(i)(1)(B)).

Material participation has the same meaning as under present law. Thus, as under present law, except as provided in regulations, no interest as a limited partner in a limited partnership is treated as an interest with respect to which the taxpayer materially participates.

The provision applies to taxpayers subject to the passive loss rule, other than closely held C corporations.

Losses allowed by reason of the present-law $25,000 allowance are determined before the application of this provision.

Effective Date

The provision is effective with respect to taxable years beginning after December 31, 1991.

2. Changes relating to real estate investments by pension funds and others

a. Modification of the rules related to debt-financed income (sec. 2111 of the bill and sec. 514 of the Code)

Present Law

In general, a qualified pension trust or an organization that is otherwise exempt from Federal income tax is taxed on any income from a trade or business that is unrelated to the organization's exempt purposes (Unrelated Business Taxable Income or "UBTI") (sec. 511). Certain types of income, including rents, royalties, dividends, and interest are excluded from UBTI, except when such income is derived from "debt-financed property." Income from debt-financed property generally is treated as UBTI in proportion to the amount of debt financing (sec. 514(a)).

An exception to the rule treating income from debt-financed property as UBTI is available to pension trusts, educational institutions, and certain other exempt organizations (collectively referred to as "qualified organizations") that make debt-financed investments in real property (sec. 514(c)(9)(A)). Under this exception, income from investments in real property is not treated as income from debt-financed property. Mortgages are not considered real property for purposes of the exception.

The real property exception to the debt-financed property rules is available for investments in debt-financed property, only if the following six restrictions are satisfied: (1) the purchase price of the real property is a fixed amount determined as of the date of the acquisition (the "fixed price restriction"); (2) the amount of the indebtedness or any amount payable with respect to the indebtedness, or the time for making any payment of any such amount, is not dependent (in whole or in part) upon revenues, income, or profits derived from the property (the "participating loan restriction"); (3) the property is not leased by the qualified organization to the seller or to a person related to the seller (the "leaseback restriction"); (4) in the case of a pension trust, the seller or lessee of the property is not a disqualified person (the "disqualified person restriction"); (5) the seller or a person related to the seller (or a person related to the plan with respect to which the pension trust was formed) is not providing financing in connection with the acquisition of the property (the "seller-financing restriction"); and, (6) if the investment in the property is held through a partnership, certain additional requirements are satisfied by the partnership (the "partnership restrictions") (secs. 514(c)(9)(B)(i) through (vi)).

Reasons for Change

The committee believes that modifications to the debt-financed income rules are desirable to permit qualified organizations to make debt-financed investments in real property on commercially reasonable terms in circumstances where the committee believes there is no potential for abuse.

Explanation of Provision

Relaxation of the leaseback and disqualified person restrictions

The bill relaxes the leaseback and disqualified person restrictions to permit a limited leaseback of debt-financed real property to the seller (or a person related to the seller) or to a disqualified person.[1] The exception applies only where (1) no more than 25 percent of the leasable floor space in a building is leased back to the seller (or related party) or to the disqualified person, and (2) the lease is on commercially reasonable terms.

Relaxation of the seller-financing restriction

The bill relaxes the seller-financing restriction to permit seller financing on terms that are commercially reasonable. The bill grants authority to the Treasury Department to issue regulations for the purpose of determining commercially reasonable financing terms.

The bill generally does not modify the present-law fixed price and participating loan restrictions. Thus, for example, income from real property acquired with financing where the timing or amount of payment is based on revenue, income, or profits from the property generally will continue to be treated as income from debt-financed property, unless some other exception applies.

Relaxation of the fixed price and participating loan restriction for property foreclosed on by financial institutions

The bill relaxes the fixed price and participating loan restrictions for certain sales of real property foreclosed upon by financial institutions.[2] The relaxation of these rules is limited to cases where: (1) a qualified organization acquires the property from a financial institution that acquired the real property by foreclosure (or after an actual or imminent default), or was held by the financial institution at the time that it entered into conservatorship or receivership; (2) any gain recognized by the financial institution with

---

general and a limited partner, or where the taxpayer meets certain of the material participation tests (including the 500 hour test) applicable to persons other than limited partners.

[1] As under present law, a leaseback to a disqualified person remains subject to the prohibited transaction rules set forth in section 4975.

[2] For this purpose, financial institutions include financial institutions in conservatorship or receivership and certain affiliates of financial institutions (and a government corporation which succeeded to the rights and interests of such a receiver or conservator).

respect to the property is ordinary; (3) the stated principal amount of the seller financing does not exceed the financial institution's outstanding indebtedness (including accrued but unpaid interest) with respect to the property at the time of foreclosure; and (4) the value of any participation feature at the time of sale does not exceed 30 percent of the value of the property.

The bill grants authority to the Treasury Department to issue regulations for the purpose of clarifying these limitations. In particular, these regulations are expected to establish standards for determining what constitutes a participation feature and how to determine whether the value of a participation feature at the time of sale exceeds 30 percent of the value of the property. For example, a participation feature that provides the seller with less than a 30-percent interest in net proceeds, net income, or gain on sale of the property is expected to be valued at less than 30 percent of the value of the property.

Elimination of the section 514(c)(9)(B) restrictions for investments through certain large partnerships

The bill eliminates the six section 514(c)(9)(B) restrictions for qualified organizations that invest in real property through certain "large" partnerships.

A "large" partnership is a partnership having at least 250 partners that satisfies the following three tests: (1) interests in the partnership are registered with the Securities and Exchange Commission; (2) a significant percentage (at least 50 percent) of each class of interests is owned by taxable individuals (but excluding interests owned by IRAs from the calculation); and (3) a principal purpose of the partnership allocations is not tax avoidance. Partnership interests that are subject to the same terms are considered to be in the same class, regardless of whether the interests are subject to different ownership restrictions.

Effective Date

The provision generally is effective for acquisitions on or after July 28, 1992. The leaseback provision also is effective for leases entered into on or after July 28, 1992.

b. Repeal of the automatic UBTI rule for publicly-traded partnerships (sec. 2112 of the bill and sec. 512(c) of the Code)

Present Law

In general, the character of a partner's distributive share of partnership income is the same as if the income had been directly realized by the partner. Thus, whether a tax-exempt organization's share of income from a partnership (other than from a publicly-traded partnership) is treated as unrelated business income depends on the underlying character of the income (sec. 512(a)(1)).

However, a tax-exempt organization's distributive share of gross income from a publicly-traded partnership (that is not otherwise treated as a corporation) automatically is treated as UBTI (sec. 512(c)(2)(A)). The organization's share of the partnership deductions is allowed in computing the organization's taxable unrelated business income (sec. 512(c)(2)(B)).

Reasons for Change

The automatic UBTI rule effectively prevents pension funds and other tax-exempt organizations from investing in publicly-traded partnerships. The committee believes these investors could provide a valuable source of capital that should be available to publicly-traded partnerships.

Explanation of Provision

The bill repeals the rule that automatically treats income from publicly-traded partnerships as UBTI. Thus, under the provision, investments in publicly-traded partnerships are treated the same as investments in other partnerships for purposes of the UBTI rules.

Effective Date

The provision is effective for partnership years ending on or after July 28, 1992.

c. Permit title-holding companies to receive small amounts of UBTI (sec. 2113 of the bill and secs. 501 (c)(2) and (c)(25) of the Code)

Present Law

Section 501(c)(2) provides tax-exempt status to certain corporations organized for the exclusive purpose of holding title to property and turning over any income from the property to an organization which is itself tax-exempt. Section 501(c)(25) provides tax-exempt status to certain corporations and trusts that are organized for the exclusive purposes of acquiring and holding title to real property, collecting income from such property, and remitting the income therefrom to no more than 35 shareholders or beneficiaries that are: (1) qualified pension, profit-sharing, or stock bonus plans (sec. 401(a)); (2) governmental pension plans (sec. 414(d)); (3) the United States, a State or political subdivision, or governmental agencies or instrumentalities; or (4) tax-exempt charitable, educational, religious, or other organizations described in section 501(c)(3). However, the IRS has taken the position that a title-holding company described in section 501(c)(2) or 501(c)(25) will lose its tax-exempt status if it generates any amount of UBTI.[3]

Reasons for Change

Typical investments of section 501 (c)(2) and (c)(25) corporations include shopping centers, office buildings, and apartment buildings. These real estate investments typically generate rental income, which generally is not considered UBTI, but may also generate small amounts of income which could be treated as UBTI (e.g., money collected from laundry machines offered to tenants, or from vending machines offered as a convenience to the patrons of a shopping center).

The committee believes that a section 501 (c)(2) or (c)(25) organization should not lose its exemption merely because it receives small amounts of UBTI that are incidentally derived from the holding of real property.

Explanation of Provision

The bill permits a title-holding company that is exempt from tax under sections 501(c)(2) or 501(c)(25) to receive UBTI of up to 10 percent of its gross income for the taxable year without losing its tax-exempt status, provided that the UBTI is incidentally derived from the holding of real property. For example, income generated from parking or operating vending machines located on real property owned by a title-holding company generally would qualify for the 10-percent de minimis rule, while income derived from an activity that is not incidental to the holding of real property (e.g., manufacturing) would not qualify. In cases where unrelated income is incidentally derived from the holding of real property, receipt by a title-holding company of such income (up to the 10-percent limit) will be subject to tax as UBTI.

In addition, the bill provides that a section 501(c)(2) or 501(c)(25) title-holding company will not lose its tax-exempt status if UBTI that is incidentally derived from the holding of real property exceeds the 10-percent limitation, provided that the title-holding company establishes to the satisfaction of the Secretary of the Treasury that the receipt of UBTI in excess of the 10-percent limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such excess UBTI.

Effective Date

The provision is effective for taxable years beginning after December 31, 1991.

d. Exclusion from UBTI of any gains from the disposition of property acquired from financial institutions in conservatorships or receiverships (sec. 2114 of the bill and sec. 512(b) of the Code)

Present Law

In general, gains or losses from the sale, exchange or other disposition of property are excluded from UBTI (sec. 512(b)(5)). However, gains or losses from the sale, exchange or other disposition of property held primarily for sale to customers in the ordinary course of a trade or business are not excluded from UBTI (the "dealer UBTI rule") (sec. 512(b)(5)(B)).

Reasons for Change

Real property that is owned by troubled financial institutions often is sold in bundled packages. This enables the financial institution to dispose of the less desirable properties together with the more desirable properties. It also allows institutions with large portfolios of properties to pass on to purchasers some of the burden of an orderly liquidation of the properties.

The committee understands that the dealer UBTI rule effectively discourages pension funds and other tax-exempt organizations from investing in the properties bundled together by troubled financial institutions. The committee believes that these investors could provide a valuable source of capital for the purchase of these bundled properties.

Explanation of Provision

The bill provides an exception to the dealer UBTI rule by excluding gains from the sale, exchange or other disposition of certain real property and mortgages acquired from financial institutions that are in conservatorship or receivership (or from a government corporation that succeeded to the rights and interests of such a receiver or conservator). Only real property and mortgages owned by a financial institution (or that was security for a loan extended by the financial institution) at the time that the institution entered conservatorship or receivership are eligible for the exception.

The exclusion is limited to properties designated as disposal property within nine months of acquisition, and actually disposed of within two-and-a-half years of acquisition. The two-and-a-half year disposition period may be extended by the Treasury Secretary if an extension is necessary for the orderly liquidation of the property. No more than one-half by value of properties acquired in a single transaction may be designated as disposal property.

The exclusion is not available for properties where the aggregate expenditures made by the acquiror for improvement and development which are includible in the basis of the property exceed 20 percent of the net selling price of the property. Thus, for example, the exclusion is available for property where there has been securing of zoning permits if the aggregate expenditures on improvement and development do not exceed 20 percent of the net selling price of the property.

Effective Date

The provision is effective for property acquired on or after July 28, 1992.

---

[3] IRS Notice 88-121, 1988-2 C.B. 457. See also Treas. Reg. sec. 1.501(c)(2)-1(a).

e. Exclusion of loan commitment fees and certain option premiums from UBTI (sec. 2115 of the bill and sec. 512(b) of the Code)

Present Law

Income from a trade or business that is unrelated to an exempt organization's purpose generally is UBTI. Passive income such as dividends, interest, royalties, and gains or losses from the sale, exchange or other disposition of property generally is excluded from UBTI (sec. 512(b)). In addition, gains on the lapse or termination of options on securities are explicitly exempted from UBTI (sec. 512(b)(5).

Present law is unclear on whether loan commitment fees and premiums from unexercised options on real estate are UBTI.

Reasons for Change

The committee believes that taxing loan commitment fees and premiums from unexercised options on real estate is inconsistent with the generally tax-free treatment of income from investment activities accorded to exempt organizations.

Explanation of Provision

The bill provides that loan commitment fees and premiums from unexercised options on real estate are excluded from UBTI. For purposes of this provision, loan commitment fees are non-refundable charges made by a lender to reserve a sum of money with fixed terms for a specified period of time. These charges are to compensate the lender for the risk inherent in committing to make the loan (e.g., for the lender's exposure to interest rate changes and for potential lost opportunities).

Effective Date

The provision is effective for premiums or loan commitment fees that are received on or after July 28, 1992.

f. Relaxation of limitations on investments in real estate investment trusts by pension funds (sec. 2116 of the bill and sec. 856(h) of the Code)

Present Law

A real estate investment trust ("REIT") is not taxed on income distributed to shareholders. A corporation does not qualify as a REIT if at any time during the last half of its taxable year more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by five or fewer individuals ("the five or fewer rule"). A domestic pension trust is treated as a single individual for purposes of this rule.

Dividends paid by a REIT are not UBTI,[4] unless the stock in the REIT is debt-financed. Depending on its character, income earned by a partnership may be UBTI (sec. 512(c)). Special rules treat debt-financed income earned by a partnership as UBTI (sec. 514(c)(9)(B)(vi)).

Reasons for Change

The committee believes that relaxation of the five or fewer rule is appropriate to encourage pension fund investment in REITs. Such investment, however, may permit circumvention of the UBTI. Accordingly, in certain circumstances, UBTI is imposed on a pension trust holding shares in a REIT if direct ownership of the REIT assets by the pension trust would have resulted in UBTI.

Description of Proposal

Qualification as a REIT

The bill provides that a pension trust generally is not treated as a single individual for purposes of the five-or-fewer rule. Rather, the bill treats beneficiaries of the pension trust as holding stock in the REIT in proportion to their actuarial interests in the trust. This rule does not apply if disqualified persons, within the meaning of section 4975(e)(2) (other than by reason of subparagraphs (B) and (I)), together own five percent or more of the value of the REIT stock and the REIT has earnings and profits attributable to a period during which it did not qualify as a REIT.[5]

In addition, the bill provides that a REIT cannot be a personal holding company and, therefore, is not subject to the personal holding company tax on its undistributed income.

Unrelated business taxable income

Under the bill, certain pension trusts owning more than 10 percent of a REIT must treat a percentage of dividends from the REIT as UBTI. This percentage is the gross income derived from an unrelated trade or business (determined as if the REIT were a pension trust) divided by the gross income of the REIT for the year in which the dividends are paid. Dividends are not treated as UBTI, however, unless this percentage is at least five percent.

The UBTI rule applies only if the REIT qualifies as a REIT by reason of the above modification of the five or fewer rule. Moreover, the UBTI rule applies only if (1) one pension trust owns more than 25 percent of the value of the REIT, or (2) a group of pension trusts individually holding more than 10 percent of the value of the REIT collectively own more than 50 percent of the value of the REIT.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

3. Tax credit for first-time homebuyers (sec. 2121 of the bill and new sec. 23 and sec. 1016 of the Code)

Present Law

There is no tax credit for the purchase of a principal residence under present law.

Reasons for Change

The committee believes that a temporary tax credit for first-time homebuyers would accelerate the time at which first-time homebuyers purchase a home. By accelerating and increasing expenditures on home purchases, the committee also believes such a credit would assist in the recovery of the real estate industry.

Explanation of Provision

Under the bill, individuals who purchase a principal residence are eligible to receive a tax credit equal to 10 percent of the purchase price of the residence, up to a maximum credit of $2,500. The credit applies to a principal residence if (1) the taxpayer acquires such residence on or after July 28, 1992, and before January 1, 1993, or (2) the taxpayer enters into a binding contract to acquire such residence on or after July 28, 1992, and before January 1, 1993, and the taxpayer purchases such residence before April 1, 1993. One-half of the credit is allowed in the taxable year in which the purchase occurs and the other half will be allowed in the following taxable year. Only one tax credit may be claimed per residence. Manufactured homes can qualify as a principal residence under the same rules as under present law, regardless of whether they are treated as real or personal property under State law.

First-time homebuyers are defined as individuals who did not have a present interest in a residence in the 3 years preceding the purchase of a home. If an individual is deferring tax on gain from the sale of a previous principal residence and is permitted an extended rollover period, he or she is not considered a first-time homebuyer until after the end of the extended rollover period.

In the case of certain homebuyers described in Code sec. 143(i)(1)(C) whose family incomes do not exceed $15,000, ownership of land subject to certain contracts for deed described in such section does not disqualify the homebuyer as being considered a first-time homebuyer.

The first-time homebuyer credit is nonrefundable, and thus is available only to the extent the taxpayer had income tax liability to offset. However, any unused portion of the credit may be carried forward for up to 5 years and applied against future income tax liability.

The credit is recaptured if the residence on which the credit was claimed is sold or otherwise disposed of within 3 years of the date the residence was purchased. The recapture rule does not apply, however, to dispositions by reason of the taxpayer's death or divorce. If the taxpayer sells the residence within 3 years but purchases a new home within the rollover period, the credit is recaptured to the extent the taxpayer would have claimed a smaller credit on the new residence had it been purchased during the period when the credit was available.

Effective Date

The provision is effective for purchases on or after July 28, 1992.

4. Treatment of certain real property business indebtedness of individuals (sec. 2131 of the bill and sections 108 and 1017 of the Code)

Present Law

The discharge of indebtedness generally gives rise to gross income to the debtor taxpayer. Present law provides exceptions to this general rule. Among the exceptions are rules providing that income from the discharge of indebtedness of the taxpayer is excluded from income if the discharge occurs in a title 11 case, the discharge occurs when the taxpayer is insolvent, or in the case of certain farm indebtedness. The amount excluded from income under these exceptions is applied to reduce tax attributes of the taxpayer.

Prior law also provided an elective exception for the discharge of qualified business indebtedness, defined as indebtedness incurred or assumed by a corporation, or indebtedness incurred or assumed by an individual in connection with property used in his trade or business. The excludable amount was limited to the basis of the taxpayer's depreciable property, and the excludable amount was applied to reduce the basis of depreciable property of the taxpayer. The taxpayer could elect to treat inventory as depreciable property for this purpose. If the amount of discharge income exceeded the basis of depreciable property, the excess was included in gross income for the year of the discharge. This exception was repealed by the 1986 Act.

Reasons for Change

The committee understands that real property has declined in value in some areas of the nation, in some cases to such a degree that the property can no longer support the debt with which it is encumbered. The committee believes that where an individual has discharge of indebtedness that results from a decline in value of business real property securing that indebtedness, it is appropriate to provide for deferral, rather than current inclusion, of the resulting income. Generally, that deferral should not extend beyond the period that the taxpayer owns the property.

---

[4] See Rev. Rul. 66-151, 1966-1 C.B. 151.

[5] Moreover, as under present law, any investment by a pension trust must be in accordance with the fiduciary rules of the Employee Retirement Security Act ("ERISA") and the prohibited transaction rules of the Code and ERISA.

Explanation of Provision

The bill provides an election to individual taxpayers to exclude from gross income certain income from discharge of qualified real property business indebtedness. The amount so excluded cannot exceed the basis of certain depreciable real property of the taxpayer and is treated as a reduction in the basis of that property.

Qualified real property business indebtedness is indebtedness that (1) is incurred or assumed in connection with real property used in a trade or business (2) is secured by that real property, and (3) with respect to which the taxpayer has made an election under this provision. Indebtedness incurred or assumed on or after July 30, 1992 is not qualified real property business indebtedness unless it is either (1) debt incurred to refinance qualified real property business incurred or assumed before that date (but only to the extent the amount of such debt does not exceed the amount of debt being refinanced) or (2) qualified acquisition indebtedness. Qualified real property business indebtedness does not include qualified farm indebtedness.

Qualified acquisition indebtedness is debt incurred to acquire, construct or substantially improve real property that is secured by such debt, and debt resulting from the refinancing of qualified acquisition debt, to the extent the amount of such debt does not exceed the amount of debt being refinanced.

The amount excluded under the provision with respect to the discharge of any qualified real property business indebtedness may not exceed the excess of (1) the outstanding principal amount of such debt (immediately before the discharge), over (2) the fair market value (immediately before the discharge) of the business real property which is security for the debt. For this purpose, the fair market value of the property is reduced by the outstanding principal amount of any other qualified real property indebtedness secured by the property immediately before the discharge.

For example, assume that on July 30, 1992, Individual J owns a building, used in his trade or business, that is subject to a first mortgage securing a debt of J's of $110,000 and a second mortgage securing a second debt of J's of $90,000. J is neither a bankrupt nor insolvent and neither debt is qualified farm indebtedness. J agrees with his second mortgagee to reduce the second mortgage debt to $30,000, resulting in discharge of indebtedness income in the amount of $60,000. Under the provision, assuming that J has sufficient basis in business real property to absorb the reduction (see below), J can elect to exclude $50,000 of that discharge from gross income. This is because the principal amount of the discharged debt immediately before the discharge (i.e., $90,000) exceeds the fair market value of the property securing it (i.e., $150,000 of free and clear value less $110,000 of other qualified business real property indebtedness or $40,000) by $50,000. The remaining $10,000 of discharge is included in gross income.

The amount excluded under the provision may not exceed the aggregate adjusted bases (determined as of the first day of the next taxable year or, if earlier, the date of disposition) of depreciable real property held by the taxpayer immediately before the discharge, determined after any reductions after subsections (b) and (g) of section 108. Depreciable real property acquired in contemplation of the discharge is treated as not held by the taxpayer immediately before the discharge.

The amount of debt discharge excluded under the provision is applied, using the rules of section 1017 (as modified by the bill), to reduce the basis of business real property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs. The election under 1017(b)(3) to treat inventory as qualified property does not apply. If the taxpayer disposes of real property (in the transaction that gave rise to the discharge or otherwise) prior to the first day of the next taxable year, then the reduction in basis of such property is made as of the time immediately before the disposition.

In the case of discharge of indebtedness of a partnership, the determination of whether indebtedness is qualified real property indebtedness is made at the partnership level. For example, if partnership debt is discharged, the determination of whether the debt was incurred or assumed in connection with real property used in a trade or business is made by reference to the trade or business of the partnership and real property owned by the partnership. The election to apply the provision is made at the partner level, however, on a partner by partner basis. An interest of a partner in a partnership that owns depreciable real property is treated as depreciable real property to the extent of the partner's proportionate interest in the depreciable real property held by the partnership. The partnership's basis in depreciable real property with respect to such partner is correspondingly reduced.

If depreciable real property, the basis of which was reduced under this provision, is disposed of, then for purposes of determining the amount of recapture under section 1250: (1) any such basis reduction is treated as a deduction allowed for depreciation, and (2) the determination of what would have been the depreciation adjustment under the straight line method is made as if there had been no such reduction. Thus, the amount of the basis reduction that is recaptured as ordinary income is reduced over the time the taxpayer continues to hold the property, as the taxpayer foregoes depreciation deductions due to the basis reduction.

Effective Date

The provision is effective with respect to discharges after December 31, 1991 in taxable years ending after that date.

B. EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

1. Extension of exclusion for employer-provided educational assistance (sec. 2141 of the bill and sec. 127 of the Code)

Present Law

Under prior law, an employee's gross income and wages for income and employment tax purposes did not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts are paid or incurred pursuant to an educational assistance program that meets certain requirements. This exclusion, which expired with respect to amounts paid after June 30, 1992, was limited to $5,250 of educational assistance with respect to an individual during a calendar year.

In the absence of this exclusion, an employee generally is required to include in income and wages, for income and employment tax purposes, the value of educational assistance provided by an employer to the employee, unless the cost of such assistance qualified as a deductible job-related expense of the employee.

Reasons for Change

The exclusion from income for employer-provided educational assistance programs has two intended purposes: (1) to increase the levels of education and training in the workforce and (2) to eliminate the potential complexity of determining whether training and education benefits provided by an employer constitute job-related expenses that are deductible by the employee.

The committee believes that some of the benefits attributable to the exclusion for employer-provided educational assistance accrue to society at large by creating a better-educated workforce. The committee believes that the exclusion for employer-provided educational assistance is used by employees to improve their competitive position in the workforce. In the absence of the subsidy, the committee believes that some individuals would underinvest in education.

The committee believes it is appropriate to provide for a temporary extension of the exclusion to reduce the complexity that would exist in the absence of the exclusion and to provide the opportunity for Congress to reevaluate the value of the exclusion.

Explanation of Provision

The exclusion for employer-provided educational assistance is extended for 18 months (through December 31, 1993).

Effective Date

The provision is effective for taxable years ending after June 30, 1992.

2. Exclusion for employer-provided group legal services; tax exemption for qualified group legal services organizations (sec. 2142 of the bill and secs. 120 and 501(c)(20) of the Code)

Present Law

Under prior law, certain amounts contributed by an employer to and benefits provided under a qualified group legal services plan were excluded from an employee's gross income and wages for income and employment tax purposes. The exclusion was limited to an annual premium value of $70. The exclusion expired after June 30, 1992.

Prior law also provided tax-exempt status for an organization the exclusive function of which was to provide legal services or indemnification against the cost of legal services as part of a qualified group legal services plan. The tax exemption for such an organization expired after June 30, 1992.

Reasons for Change

The committee believes that the exclusion for employer-provided group legal services and the tax exemption for group legal services organizations may increase the access of taxpayers to basic legal services.

The committee believes it is appropriate to provide for a temporary extension of the exclusion and exemption to provide the opportunity for Congress to reevaluate the value of the exclusion and exemption.

Explanation of Provision

Under the bill, the exclusion from income for employer-provided group legal services and the tax exemption for group legal services organizations is extended for 18 months (through December 31, 1993).

Effective Date

The provision is effective for taxable years ending after June 30, 1992.

3. Extend health insurance deduction for self-employed individuals (secs. 2143 of the bill and sec. 162(l) of the Code)

Present Law

Under present law, the tax treatment of health insurance expenses depends on whether the taxpayer is an employee and whether the taxpayer is covered under a health plan paid for by the employee's employer. An employer's contribution to a plan providing accident or health coverage for the employee and the employee's spouse and dependents is excludable from an employee's income. In addition, businesses can generally deduct, as an employee compensation expense, the full cost of any health insurance coverage provided for their employees. The exclusion and deduction are generally available in the case of owners of the business who are also employees.

In the case of self-employed individuals (i.e., sole proprietors or partners in a partnership), no equivalent exclusion applies. However, prior law provided a deduction for 25 percent of the amount paid for health insurance for a self-employed individual and the individual's spouse and dependents. The 25-percent deduction was also available to more than 2-percent shareholders of S corporations. The amount of expenses in excess of the deductible amount could be taken into account in determining whether the individual is entitled to a medical expense deduction (sec. 213). Thus, such amounts were deductible to the extent that, when combined with other unreimbursed medical expenses, they exceed 7.5 percent of adjusted gross income.

Individuals (who are not self employed and whose employers do not provide health insurance coverage) who purchase their own health insurance can deduct their insurance premiums only to the extent that the premiums, when combined with other unreimbursed medical expenses, exceed 7.5 percent of adjusted gross income.

The 25-percent deduction for health insurance costs of self-employed individuals expired for taxable years beginning after June 30, 1992. In the case of years beginning in 1992, only amounts paid before July 1, 1992, for coverage before July 1, 1992, are taken into account in determining the amount of the deduction.

Reason For Change

The 25-percent deduction for health insurance costs of self-employed individuals was added by the Tax Reform Act of 1986 to reduce the disparity between the tax treatment of owners of incorporated and unincorporated businesses (e.g., partnerships and sole proprietorships). The provision was enacted on a temporary basis, and has been extended several times since enactment.

In H.R. 4210, as passed by the Senate earlier this year, the committee provided for a permanent extension of the exclusion of 100 percent of the health insurance expenses of self-employed individuals. However, this provision has not been enacted. Given the short time until the 25-percent deduction will expire, the committee believes that it is appropriate at this time to extend the provision providing a 25-percent deduction again on a temporary basis.

Explanation of Provision

The bill extends the 25-percent deduction for health insurance expenses of self-employed individuals for 18 months (through December 31, 1993).

Effective Date

The provision is effective for taxable years ending after June 30, 1992.

4. Qualified mortgage bonds and mortgage credit certificates (sec. 2144 of the bill and secs. 143 and 25 of the Code)

Present Law

Qualified mortgage bonds

Qualified mortgage bonds ("QMBs") are bonds the proceeds of which are used to finance the purchase, or qualifying rehabilitation or improvement of single-family, owner-occupied residences located within the jurisdiction of the issuer of the bonds. Persons receiving QMB loans must satisfy principal residence, purchase price, borrower income, first-time homebuyer, and other requirements. Part or all of the interest subsidy provided by QMBs is recaptured if the borrower experiences substantial increases in income and disposes of the subsidized residence within nine years after it was purchased.

The volume of QMBs that a State may issue is limited by an annual State private activity bond volume limit.

Mortgage credit certificates

Qualified governmental units may elect to exchange private activity bond volume authority for authority to issue mortgage credit certificates ("MCCs"). MCCs entitle homebuyers to nonrefundable income tax credits for a specified percentage of the interest paid on mortgage loans on their principal residences. Once issued, an MCC remains in effect as long as the loan remains outstanding and the residence being financed continues to be the MCC-recipient's principal residence. MCCs are subject to the same targeting requirements and recapture rules as QMBs.

Expiration

Authority to issue QMBs and to elect to trade in private activity bond volume authority to issue MCCs expired after June 30, 1992.

Reasons for Change

If properly targeted and administered, the QMB and MCC programs should enable the individuals to who otherwise would be unable to afford homes without the longer-term Federal subsidy provided by these programs. A temporary extension of the programs will permit this assistance to continue.

The committee has become aware that some states have housing programs that are designed to aid very low-income individuals who are treated as already having purchased land under a contract for deed. In a contract for deed, the individuals have purchased unimproved land under a type of land installment contract. Then the individuals frequently have constructed housing which does not meet adequate housing standards on that land for use as their principal residence. The committee understands that these contracts for deed must be refinanced in order to obtain financing for construction on the land of a new residence that meets adequate housing standards or a qualified home improvement loan for the existing housing on the land.

Explanation of Provision

The bill extends the authority to issue QMBs and to elect to trade in bond volume authority to issue MCCs for 18 months (through December 31, 1993).

The bill also provides, that in the case of homebuyers whose family income does not exceed $15,000,[1] ownership of land subject to certain contracts for deed does not violate the requirement that QMB- and MCC-financed homebuyers be first-time homebuyers and that the financing provided be for new mortgages. Thus, the bill allows QMB-financed loans to be made (and MCCs granted) to individuals who own land subject to these contracts for deed provided that the homebuyers satisfy (a) all otherwise applicable requirements of the QMB and MCC programs but for the contract for deed and (b) the special $15,000 income limit. These loans may be used to repay the contract for deed and to finance a new residence on the land. Also, as under present law, these homebuyers will remain eligible for qualified home improvement loans to rehabilitate existing housing on the land subject to the contracts for deed.

Effective Date

The extension of the QMB and MCC programs is effective after June 30, 1992. The provision relating to land owned subject to certain contracts for deed applies to loans made (and MCCs granted) after the date of the bill's enactment.

5. Qualified small-issue bonds (sec. 2145 of the bill and sec. 144 of the Code)

Present Law

Interest on small issues of private activity bonds issued by States or local governments ("qualified small-issue bonds") is excluded from gross income if certain conditions are met. First, at least 95 percent of the bond proceeds must be used to finance manufacturing facilities or certain agricultural land or equipment. Second, the bond issue must have an aggregate amount of $1 million or less, or the aggregate amount of the issue, together with the aggregate amount of certain related capital expenditures during the six-year period beginning three years before the date of the issue and ending three years after that date, may not exceed $10 million.

Issuance of qualified small-issue bonds, like most other private activity bonds, is subject to annual State volume limitations.

Authority to issue qualified small-issue bonds expired after June 30, 1992.

Reasons for Change

The committee believes that it is appropriate temporarily to permit State and local governments to continue to issue qualified small-issue bonds.

Explanation of Provision

The bill extends authority to issue qualified small-issue bonds for 18 months (through December 31, 1993).

Effective Date

The provision is effective for bonds issued after June 30, 1992.

6. Research and experimentation tax credit (sec. 2146 of the bill and sec. 41 of the Code)

Present Law

The research tax credit provides a 20-percent credit to the extent that a taxpayer's qualified research expenditures for the current year exceed its base amount for that year. The credit expired after June 30, 1992.

The base amount for the current year generally is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenditures for the 1984-1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (such as "start-up firms) are assigned a fixed-base percentage of .03.

---

[1] This $15,000 amount will be indexed for calendar years after 1992.

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

Qualified research expenditures eligible for the credit consist of: (1) "in-house" expenses of the taxpayer for research wages and supplies used in research; (2) certain time-sharing costs for computer use in research; and (3) 65 percent of amounts paid by the taxpayer for contract research conducted on the taxpayer's behalf. Expenditures attributable to research that is conducted outside the United States do not enter into the credit computation. In addition, the credit is not available for research in the social sciences, arts, or humanities, nor is it available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

In addition, the 20-percent tax credit also applies to the *excess* of (1) 100-percent of corporate cash expenditures (including grants or contributions) paid for university basic research *over* (2) the sum of (a) the greater of two fixed research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.

Deductions for qualified research expenditures allowed to a taxpayer under section 174 are reduced by an amount equal to 100 percent of the taxpayer's research credit determined for that year.

Reasons for Change

Technological development is an important component of economic growth. However, because costly technological advances made by one firm are often cheaply copied by its competitors, businesses may not find it profitable to invest in some research activities. A research credit can help to promote investment in research, so that research activities undertaken approach the optimal level for the overall economy. The committee, therefore, believes that it is appropriate to extend the research tax credit.

Explanation of Provision

The bill extends the research tax credit for 18 months (i.e., for qualified research expenditures and university basic research expenditures incurred through December 31, 1993).

Effective Date

The provision applies to qualified expenditures incurred during the period July 1, 1992, through December 31, 1993.

7. Tax credit for low-income rental housing (sec. 2147 of the bill and sec. 42 of the Code)

Present Law

In general

A tax credit is allowed in annual installments over 10 years for qualifying newly constructed or substantially rehabilitated low-income rental housing. For most qualifying housing, the maximum credit is an amount having a present value of 70 percent of the eligible basis of the low-income housing units. For housing receiving other Federal subsidies (e.g., tax-exempt bond financing) and for the acquisition cost of existing housing that is substantially rehabilitated (e.g., costs other than rehabilitation expenditures), the maximum credit is an amount having a present value of 30 percent of qualified basis. Generally, that part of the building for which the credit is claimed must be rented to qualified low-income tenants at restricted rents for 15 years after the building is placed in service. In addition, a subsequent additional 15-year period of low-income use generally is required.

Eligible basis

The basis on which the credit is computed is determined as a percentage of the eligible basis of a qualified low-income building that is attributable to low-income rental housing units. This percentage is the lesser of (1) the percentage of low-income units to all residential units or (2) the percentage of the floor space of the low-income units to the floor space of all residential rental units. Generally, eligible basis is limited to the adjusted basis of the residential rental units, facilities for use by the tenants, and other facilities reasonably required by the project. There is no per-housing-unit limit on the amount of eligible basis.

Ten-year anti-churning rule

The credit is not allowed on buildings, or substantial improvements to buildings, that have been previously placed in service within 10 years of placement in service for credit purposes. Waivers from the 10-year rule may be granted by the Treasury Department under certain circumstances.

Minimum set-aside requirement for low-income individuals

Under the general minimum set/aside a residential rental project qualifies for the credit only if: (1) 20 percent or more of the aggregate residential rental units in the project are occupied by individuals with incomes of 50 percent or less of area median income or (2) 40 percent or more of the aggregate residential rental units in the project are occupied by individuals with incomes of 60 percent or less of area median income. Also, a special set-aside may be elected for projects that satisfy a stricter requirement and that significantly restrict the rents on the low-income units relative to the other residential units in the building.

Rents

The maximum rent that may be charged a family in a unit on which a credit is claimed depends on the number of bedrooms in the unit. The rent limitation is 30 percent of the qualifying income on a family deemed to have a size of 1.5 persons per bedroom (e.g., a two-bedroom unit has a rent limitation based on the qualifying income for a family of three). Prior to 1990, qualifying income for purposes of the rent limitation was determined on the family's qualified income based on actual family size, not apartment size.

Students

A housing unit generally is not eligible for the low-income housing tax credit if the tenants are full-time students who are not married individuals filing joint returns. Exceptions to this rule allow the credit to be claimed on housing units occupied by persons who are enrolled in certain job training programs or students who are receiving AFDC payments.

Qualified allocation plan

Each allocating agency is required to adopt a qualified allocation plan containing selection criteria for use in determining credit allocations to projects. The allocating agency then must allocate credit amounts to projects under such allocation plan.

State low-income housing credit authority limitation

Each State receives an annual low-income housing credit volume ceiling of $1.25 per resident. To qualify for the credit, a building owner generally must receive a credit allocation from the appropriate State credit authority. An exception is provided for property which is substantially financed with the proceeds of tax-exempt bonds subject to the State's private-activity bond volume limitation.

That portion of a State's credit authority which is unallocated in the year in which it originally arises may be carried forward and added to the State's credit authority for the subsequent calendar year. If allocations in the subsequent year exceed that year's annual credit authority, but do not exhaust the sum of that year's annual credit authority plus any credit authority carried forward from the preceding year, any remaining carried-forward credit authority is allocated in the next subsequent year to a national pool. Credit authority from the national pool is allocated to States who had utilized their entire credit allocation in the prior year.

Expiration

The low-income housing tax credit expired after June 30, 1992.

Reasons for Change

The committee believes it is appropriate for the Federal Government to play a significant role in the development of additional affordable housing for low-income individuals. The committee believes that the low-income housing tax credit is a useful incentive for increasing the housing stock available to these individuals. The committee is aware of complaints regarding the allocation process and will continue to study and analyze various alternatives that will maximize the efficient use of low-income housing credits. Further, the committee believes that certain modifications to the credit will improve its operation.

Explanation of Provision

Expiration

The bill extends the low-income housing tax credit for 18 months (through December 31, 1993), with several modifications.

Eligible basis

The bill provides that community service facilities in projects in qualified census tracts are included in eligible basis as functionally related and subordinate facilities if (a) the size of the facilities is commensurate with tenant needs, (b) the facilities are designed to serve qualifying tenant populations and employees of the project owner, and (c) no more than 20 percent of the credit project's eligible basis is attributable to such facilities.

10-year anti-churning rule

The bill authorizes the Treasury Department to grant waivers from the credit's 10-year anti-churning rule for certain projects substantially assisted, financed, or operated under section 221(d)(4) of the National Housing Act.

Minimum set-aside requirement for low-income individuals

The bill authorizes the Treasury Department to: (1) provide a waiver of penalties for de minimis errors in the application of the minimum set-aside rules, and (2) grant a waiver from the annual recertification of tenant income, for tenants in a building, if all the tenants in the building are low-income tenants.

Rents

The bill provides that if certain conditions are met, a taxpayer who placed low-income housing credit buildings in service before the effective date of the Omnibus Budget Reconciliation Act of 1989 is eligible to elect a provision of that Act on a prospective basis. Specifically, owners will be able to elect whether to use apartment size or actual family size as the basis of qualifying income for purposes of the low-income housing credit's gross rent limitation. To qualify the owner must enter into a compliance monitoring agreement with the State allocating agency and make the irrevocable election within 180 days of enactment. The election must be made on a building-by-building basis and does not apply to rents charged to existing tenants.

Students

The bill provides that a unit occupied entirely by full-time students may qualify for the credit if the full-time students are single parents and none of the tenants or their minor children is a dependent of a third party. The bill also codifies the present-law exception regarding married students filing joint returns (which continues to apply to all buildings placed in service since original enactment of the low-income housing credit by the Tax Reform Act of 1986).

Qualified allocation plan

The bill provides that an allocating agency take into consideration the reasonableness of costs relating to the development and operation of the credit project. Generally such determination should be based on the cost of the overall project rather than on individual items. In making such determination the agency may use reasonable methods including making comparisons of costs in similar projects in the locality, and reviewing development practices or building design. Further, the degree and size of amenities should be limited to those necessary for the size and type of tenant population to be served.

State low-income housing credit authority limitation

For purposes of the carryforward rule, the bill treats credits carried forward from previous years as used before current year credits.

Effective Date

Generally, the provision is effective for allocations of low-income housing credit volume limitation (and buildings financed with tax-exempt bonds issued) after June 30, 1992. The provisions relating to an election under the gross rent limitation and to the Treasury Department's authority to grant waivers are effective on date of enactment. The provision relating to the credit carryforward rules is effective on or after January 1, 1992.

8. Targeted jobs tax credit (sec. 2148 of the bill and sec. 51 of the Code)

Present Law

Tax credit

The targeted jobs tax credit is available on an elective basis for hiring individuals from nine targeted groups. These targeted groups consist of individuals who are either recipients of payments under means-tested programs, economically disadvantaged (as measured by family income), or disabled.

The credit generally is equal to 40 percent of up to $6,000 of qualified first-year wages. A credit equal to 40 percent of up to $3,000 of wages paid to qualified summer youth employees is also allowed. Thus, the maximum credit is generally $2,400 per qualified employee, with a $1,200 maximum credit per summer youth employee. The employer's deduction for wages is reduced by the amount of the credit claimed.

No wages are taken into account for purposes of the credit unless the eligible employee is employed by the employer for the lesser of 90 days or 120 hours (14 days or 20 hours in the case of qualified summer youth employees).

The credit expired for individuals who began work for an employee after June 30, 1992.

Authorization of appropriations

Present law authorizes appropriations for administration and publicity expenses relating to the credit through June 30, 1992. These monies are to be used by the Internal Revenue Service and the Department of Labor to inform employers of the credit program.

Reasons for Change

The committee believes that the targeted jobs tax credit provides a useful incentive for hiring disadvantaged individuals. The committee also believes that economically disadvantaged youths aged 23 and 24, long-term unemployed individuals and certain individuals residing in Federally designated enterprise zones will enjoy increased employment opportunities with the extension of the credit to these groups.

Explanation of Provision

The bill extends the targeted jobs tax credit and the authorization for appropriations for 18 months (through December 31, 1993).

The bill also makes several changes to the credit. First, the bill restores individuals aged 23 and 24 to the category of economically disadvantaged youth. Second, the bill extends the credit to employers of long-term unemployed individuals (a new eligible group). For these purposes, a long-term unemployed individual is defined as someone who has exhausted eligibility for unemployment compensation (including extended benefits) before the hiring date. The maximum credit for this new category of targeted jobs will be 40 percent of the first $3,000 of qualified first-year wages. To be eligible for the credit the employee must remain employed for a maximum of 120 days and, the employer must certify that reasonable action was taken to specifically recruit the long-term unemployed. Third, the bill extends the credit to employers of residents of Federally designated enterprise zones. Fourth, the bill repeals the 120 hour minimum employment requirement but retains the 90 day requirement. The minimum employment rule for qualified summer youth employees is unchanged.

The committee also intends that other Federal agencies may in consultation with the Treasury Department provide guidance relating to administrative matters of the credit program such as substantiation of eligibility for the credit or other documentation requirements. Further, the committee intends that States will be permitted to accept electronic filings for administrative documentation under the credit program including certification of eligibility.

Effective Date

Generally, the provision is effective for individuals who begin work for an employer after June 30, 1992. However, the provision relating to the minimum employment period is effective after the date of enactment. Also, the provision relating to long-term unemployed individuals is effective for employees hired during the six-month period starting after the date of enactment.[1]

9. Tax credit for orphan drug clinical testing expenses (sec. 2149 of the bill and sec. 28 of the Code)

Present Law

The orphan drug tax credit provides a 50-percent nonrefundable tax credit for a taxpayers' qualified clinical testing expenses paid or incurred in the testing of certain drugs for rare diseases, generally referred to as "orphan drugs." Qualified testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (FDA) but before the drug has been approved for sale by the FDA. Present law defines a rare disease or condition as one that (1) affects less than 200,000 persons in the United States or (2) affects more than 200,000 persons, but there is no reasonable expectation that businesses could recoup the costs of developing a drug for it from U.S. sales of the drug. These rare diseases and conditions include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette's syndrome, and Duchenne's dystrophy (a form of muscular dystrophy).

The orphan drug tax credit expired after June 30, 1992.

Reasons for Change

To encourage the development of drugs to treat rare diseases, the committee believes it is appropriate to extend the orphan drug tax credit.

Explanation of Provision

The bill extends the orphan drug tax credit for 18 months (i.e., for qualified clinical testing expenses incurred through December 31, 1993).

Effective Date

The provision is effective for expenses incurred during the period July 1, 1992, through December 31, 1993.

10. Excise tax on certain vaccines for the Vaccine Injury Compensation Trust Fund (sec. 2150 of the bill and secs. 4131 and 9510 of the Code)

Present Law

The Vaccine Injury Compensation Trust Fund ("Vaccine Trust Fund") provides a source of revenue to compensate individuals who are injured (or die) as a result of the administration of certain vaccines: diphtheria, pertussis, and tetanus ("DPT"); diphtheria and tetanus ("DT"); measles, mumps, and rubella ("MMR"); and polio. The Vaccine Trust Fund provides the funding source for the National Vaccine Injury Compensation Program ("Program"), which provides a substitute, Federal "no-fault" insurance system for the State-law tort and private liability insurance systems otherwise applicable to vaccine manufacturers.

Under the Program, all persons who were immunized with a covered vaccine after the effective date of the Program, October 1, 1988, are prohibited from commencing a civil action in State court for vaccine-related damages unless they first file a petition with the United States Claims Court, where such petitions are assigned to a special master and governed by streamlined procedural rules designed to expedite the proceedings.[1] In these cases, the Federal Government is the respondent party in the proceedings, and the claimant generally must show only that certain medical conditions (or death) followed the administration of a covered vaccine and that the first onset of symptoms occurred within a prescribed time period.[2] Compensation under the Program generally is limited to actual and projected unreimbursed medical, rehabilitative, and custodial expenses, lost earnings, pain and suffering (or, in the event of death, a recovery for the estate) up to $250,000, and reasonable attorney's fees.[3] Only if the final settlement under the Program is rejected may the claimant proceed with a civil tort action in the appropriate State court, where recovery generally will be governed by State tort law principles,[4] subject to certain limitations and specifications imposed by the National Childhood Vaccine Injury Act of 1986.[5]

---

[1] The bill also includes additional six-month periods of eligibility for long-term unemployed individuals if the national unemployment rate exceeds 7 percent in any future month.

[1] Persons who received vaccines before the Program's effective date of October 1, 1988 ("retrospective cases") also may be eligible for compensation under the Program if they had not yet received compensation and elected to file a petition with the United States Claims Court on or before January 31, 1991. Under the Program, awards in retrospective cases are somewhat limited compared to "prospective cases" (i.e., those where the vaccine was administered on or after October 1, 1988). Awards in retrospective cases are not paid out of the Vaccine Trust Fund but are paid out of funds specially authorized by Congress. See 42 U.S.C. sec. 300aa-15(i), (j) (appropriating $80 million for fiscal year 1989 and for each subsequent year).

The Vaccine Trust Fund is funded by a manufacturer's excise tax on DPT, DT, MMR, and polio vaccines (and any other vaccines used to prevent these diseases). The excise tax per dose is $4.56 for DPT, $0.06 for DT, $4.44 for MMR, and $0.29 for polio vaccines.

The vaccine excise tax expires after the later of: (1) December 31, 1992; or (2) the date on which the Vaccine Trust Fund revenues exceed the projected liabilities with respect to compensable injuries from vaccines administered before October 1, 1992. Amounts in the Vaccine Trust Fund are available for the payment of compensation under the Program with respect to vaccines administered after September 30, 1988, and before October 1, 1992.

Reasons for Change

Congress created the National Vaccine Injury Compensation Program as part of the National Childhood Vaccine Injury Act of 1986, in view of concerns that the combination of significantly higher prices for vaccines and uncertain compensation for injuries could result in reduced compliance with the nations childhood immunization efforts. The Program became effective following enactment of a Federal funding source. This funding source was provided by the enactment of vaccine excise taxes in the Omnibus Budget Reconciliation Act of 1987, with the excise taxes imposed on sales of covered vaccines on or after January 1, 1988. The Program for administering claims became effective on October 1, 1988, but was not fully operational until February 1, 1989.[6]

Because data on the administration of the Program and the Vaccine Trust Fund are only beginning to be collected, it is appropriate to extend for two years (i.e., through December 31, 1994) the present-law vaccine excise taxes. In addition, the authorization for compensation to be paid from the Vaccine Trust Fund for certain damages resulting from vaccines administered after September 30, 1988, and before October 1, 1992, is extended for two years (i.e., for vaccines administered before October 1, 1994). In the interim, the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, should study the administration of the Program and Vaccine Trust Fund to determine whether additional vaccines should be included in the Program or other modifications (such as adjustments to the excise tax rates) are warranted.

Explanation of Provisions

Extension of excise tax and Program funding

The present-law excise taxes imposed on certain vaccines are extended for two years (i.e., through December 31, 1994). Authorization for compensation to be paid from the Vaccine Trust Fund for certain damages resulting from vaccines administered after September 30, 1988, and before October 1, 1992, also is extended for two years (i.e., for vaccines administered after September 30, 1988, and before October 1, 1994).

Study

In addition, the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, is directed to conduct a study of: (1) the estimated amount that will be paid from the Vaccine Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994; (2) the rates of vaccine-related injury or death with respect to various types of vaccines; (3) new vaccines and immunization practices being developed or used for which amounts may be paid from the Vaccine Trust Fund; (4) whether additional vaccines should be included in the Program; and (5) the appropriate treatment of vaccines produced by State governmental entities. The Secretary of the Treasury must submit a report detailing his findings not later than January 1, 1994, to the House Committee on Ways and Means and the Senate Committee on Finance.

Effective Date

The provisions are effective on the date of enactment.

11. Permanent extension of General Fund transfer to Railroad Retirement Tier 2 Fund (sec. 2151 of the bill)

Present Law

The proceeds from the income taxation railroad retirement tier 2 benefits are transferred from the general fund of the Treasury to the Railroad Retirement Account. This transfer applies only to proceeds from the taxation of benefits which have been received prior to October 1, 1992. Proceeds from the taxation of benefits received after this date remain in the general fund.

Reasons for Change

It is appropriate to make permanent the transfer of funds from the general fund of the Treasury to the Railroad Retirement Account to promote the ongoing solvency of the Railroad Retirement system.

Explanation of Provision

The transfer of proceeds from the income taxation of railroad retirement tier 2 benefits from the general fund of the Treasury to the Railroad Retirement Account is made permanent.

Effective Date

The provision is effective beginning September 30, 1992.

C. OTHER INCENTIVES

1. Special depreciation allowance for certain equipment acquired in 1992 (sec. 2161 of the bill and secs. 56 and 168 of the Code)

Present Law

Depreciation deductions

A taxpayer is allowed to recover, though annual depreciation deductions, the boost of certain property used in a trade or business are held for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the accelerated cost recovery system (ACRS), as modified by the Tax Reform Act of 1986. Under ACRS, different types of property generally are assigned applicable recovery periods and depreciation methods. The recovery periods applicable to most tangible personal property (generally tangible property other than residential rental property and nonresidential real property) range from 3 to 20 years. The depreciation methods generally applicable to tangible personal property are the 200-percent and 150-percent declining balance methods, switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

For purposes of the alternative minimum tax (AMT), tangible personal property generally is depreciated using the 150-percent declining balance method over lives that are typically longer than the applicable recovery periods for regular tax purposes. In addition, for purposes of the adjusted current bearings (ACE) component of the corporate AMA, tangible personal property is depreciated using the straight-line method over these longer lives.

Expensing election

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $10,000 of the cost of qualifying property placed in service for the taxable year. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $10,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In addition, the amount eligible to be expended for a taxable year may not exceed the taxable income of the taxpayer for the year that is derived from the active conduct of a trade or business (determined without a regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations).

Reasons for Change

The committee believes that allowing additional first-year depreciation would accelerate purchases of new equipment, promote additional capital investment, modernization, and growth, and lead to a more rapid economic recovery.

Explanation of Provision

The bill allows an additional first-year depreciation deduction equal to 15 percent of the adjusted basis of certain qualified property that is placed in service before January 1, 1994. The additional depreciation deduction is allowed for both regular tax and AMT purposes for the taxable year in which the property is placed in service. The basis of the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect the additional first-year depreciation deduction. A taxpayer may elect to not claim the additional first-year depreciation for qualified property.

---

[2] Compensation may not be awarded, however, if there is a preponderance of the evidence that the claimant's condition or death resulted from factors unrelated to the vaccine in question.

[3] 42 U.S.C. sec. 300aa-15. The committee wishes to clarify its understanding that amounts received by a claimant from the Vaccine Trust Fund constitute damages received on account of personal injuries or sickness for purposes of the exclusion from gross income provided by the general rules of section 104(a)(2).

[4] In most State proceedings, significant issues arise whether injuries suffered by a child after immunization were, in fact, caused by the vaccine administered and whether the manufacturer was at fault in either the manufacture or marketing of the vaccine.

[5] Title III, P.L. 99-660. This Act preempts State tort law to a limited extent by imposing limits on recovery from vaccine manufacturers. Among the limitations are a prohibition on compensation if the injury or death resulted from side effects that were unavoidable; a presumption that manufacturers are not negligent in manufacturing or marketing vaccines if they complied, in all material respects, with Federal Food and Drug Administration requirements; and limits on punitive damage awards.

[6] Several procedural aspects of the Program were amended by section 6601 of the Omnibus Budget Reconciliation Act of 1989. To date, most of the dispositions under the Program have involved so-called "retrospective cases." See Mariner, Wendy K., *Innovation and Challenge: The First Year of the National Vaccine Injury Compensation Program*, May 1991, report prepared for consideration by the Administrative Conference of the United States.

Property qualifies for the additional first-year depreciation deduction if (1) the property is section 1245 property to which ACRS applies (other than property that is required to be depreciated under the alternative depreciation system of ACRS) and (2) the original use of the property commences with the taxpayer on or after August 1, 1992.[1] In addition, the property must be acquired by the taxpayer (1) on or after August 1, 1992, and before January 1, 1993, but only if no binding written contract for the acquisition is in effect before August 1, 1992, or (2) pursuant to a binding written contract which was entered into on or after August 1, 1992, and before January 1, 1993.

In addition, except as otherwise provided in regulations, repaired or reconstructed property is not qualified property. Finally, property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer will qualify if the taxpayer begins the manufacture, construction, or production of the property on or after August 1, 1992, and before January 1, 1993 (and all other requirements are met). For this purpose, property that is manufactured, constructed, or produced for the taxpayer by another person is considered to be manufactured, constructed, or produced by the taxpayer.

The limitations on the amount of depreciation deductions allowed with respect to certain passenger automobiles (sec. 280F of the Code) are adjusted to reflect the additional first year depreciation deduction. Thus, the limitation on the amount of depreciation allowable for the first year that a passenger automobile to which this provision applies will be increased by 15 percent and subsequent year depreciation allowances will be decreased to reflect this first year increase.

The following examples illustrate the operation of the provision:

Example 1.—Assume that on September 1, 1992, a calendar year taxpayer acquires and places in service qualified property that costs $1 million. Under the provision, the taxpayer is allowed an additional first-year depreciation deduction of $150,000. The remaining $850,000 of adjusted basis is to be recovered in 1992 and subsequent years pursuant to the depreciation rules of present law.

Example 2.—Assume that on September 1, 1992, a calendar year taxpayer acquires and places in service qualified property that costs $30,000. In addition, assume that the property qualifies for the expensing election under section 179. Under the provision, the taxpayer is first allowed a $10,000 deduction under present-law section 179. The taxpayer then is allowed an additional first-year depreciation deduction of $3,000 based on $20,000 ($30,000 original cost less the section 179 deduction of $10,000) of adjusted basis. Finally, the remaining adjusted basis of $17,000 ($20,000 adjusted basis less $3,000 additional first-year depreciation) is to be recovered in 1992 and subsequent years pursuant to the depreciation rules of present law.

Effective Date

The provision applies to property placed in service on or after August 1, 1992.

2. Corporate alternative minimum tax; Elimination of ACE depreciation adjustment for corporate AMT (sec. 2162 of the bill and sec. 56(g) of the Code)

Present Law

Under present law, a corporation is subject to an alternative minimum tax ("AMT") which is payable, in addition to all other tax liabilities, to the extent that it exceeds the corporation's regular income tax liability. Alternative minimum taxable income ("AMTI") is the corporation's taxable income increased by the corporation's tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the deferral of income resulting from the regular tax treatment of those items. For a corporation, the amount of AMT paid in a year may be carried forward as a credit and used to reduce the corporation's regular tax liability (but not below the corporation's tentative minimum tax for the year).

One of the adjustments that is made to taxable income to arrive at AMTI relates to depreciation. Depreciation on most personal property to which the modified ACRS system adopted in 1986 applies is calculated using the 150-percent declining balance method (switching to straight line in the year necessary to maximize the deduction) over the life described in Code section 168(g) (generally the ADR class life of the property).

For taxable years beginning after 1989, AMTI includes an amount equal to 75 percent of the amount by which adjusted current earnings ("ACE") exceeds AMTI (as determined before this adjustment). The ACE adjustment replaced a "book-income adjustment" applicable to tax years 1987 through 1989. In general, ACE equals AMTI with additional adjustments that generally follow the rules presently applicable to corporations in computing their earnings and profits. For purposes of ACE, depreciation is computed using the straight-line method over the class life of the property. Thus, a corporation generally must make two depreciation calculations for purposes of the AMT—once using the 150-percent declining balance method and again using the straight-line method.

Reasons for Change

The committee believes that the depreciation component of the ACE adjustment may constitute too great a reduction in the regular tax incentive for capital investment for U.S. corporations. As a result of the ACE depreciation adjustment, many capital-intensive corporations are subject to the AMT, particularly if the corporations are adding to their capital stock or experiencing depressed earnings.

The ACE depreciation adjustment also is a source of substantial complexity. As a result of the adjustment, corporations must make three separate depreciation computations to determine taxable income and alternative minimum taxable income.

Explanation of Provision

The bill eliminates the depreciation component of ACE for corporate AMT purposes. Thus, the depreciation methods and lives that a corporation uses in computing AMTI (generally, the 150-percent declining balance method for tangible personal property over the sec. 168(g) life) will apply for purposes of computing ACE.

Effective Date

The provision is effective for property placed in service in taxable years beginning after the date of enactment.

SUBTITLE C. LUXURY EXCISE TAX; DIESEL FUEL EXCISE TAX ON MOTORBOATS

1. Repeal of luxury excise tax on boats, aircraft, jewelry, and furs; indexing of luxury excise tax on automobiles (sec. 2201 of the bill and secs. 4001-4012 of the Code)

Present Law

Present law imposes a ten-percent excise tax on the portion of the retail price of the following items that exceeds the thresholds specified: automobiles above $30,000; boats above $100,000; aircraft above $250,000; jewelry above $10,000; and furs above $10,000. The tax also applies to subsequent purchases of component parts and accessories, occurring within six months of the date the automobile, boat, or aircraft is placed in service.

The tax generally applies only to the first retails sale after manufacture, production or importation of items subject to the tax. It does not apply to subsequent sales of these items. The taxes on automobiles, boats, and aircraft generally do not apply to items used in trade or business.

Present law includes no exceptions to the tax base for costs associated with specially equipping an automobile for use by disabled persons. Further, the tax does not apply to demonstrator vehicles used for the purpose of test drives by customers until the vehicle is sold, but luxury automobiles used by the sales staff for personal use are subject to the tax.

The tax applies to sales before January 1, 2000.

Reasons for Change

During the recent recession, the boat, aircraft, jewelry, and fur industries have suffered job losses and increased unemployment. The committee believes, in the context of the current general economic hardship, that it is appropriate to eliminate the burden these taxes impose in the interests of fostering economic recovery in those and related industries.

The committee recognizes that in the absence of indexation of the threshold above which the tax on automobiles applies, even modest inflation will subject more automobiles to the luxury tax than were subject to the tax when it was first enacted.

The committee further believes that it is unfair and inappropriate to treat as luxury purchases those accessories or modifications which must be purchased by an individual with a disability to enable him or her to operate or to enter or exit a vehicle.

Explanation of Provision

Repeal of tax on boats, aircraft, jewelry, and fur

The bill repeals the luxury excise tax imposed on boats, airplanes, jewelry, and furs.

Indexing of tax on automobiles

The bill modifies the luxury excise tax on automobiles to provide that the $30,000 threshold is indexed annually for inflation occurring after 1990. Consequently, the applicable threshold for 1992 will be $30,000 increased by the 1991 inflation rate.

Exemption for certain equipment installed on passenger vehicles for use by disabled individuals

The bill provides that the luxury excise tax does not apply to the cost of a part or accessory installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, in order to compensate for the effect of the disability. This exception does not apply to accessories commonly available from the manufacturer or dealer, such as power steering, power door locks, power seats, or power windows.

---

[1] A special rule applies in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property is to be treted as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback.

Treatment of demonstrator vehicles

The bill exempts automobile dealers from paying the luxury tax on demonstrator vehicles used for purposes other than test drives. Under the provision, the tax, if any, is to be assessed and paid on the sales price of the car when the car is sold.

Effective Date

The repeal of the luxury excise taxes on boats, aircraft, jewelry, and furs is effective for sales on or after January 1, 1992. The indexation of the threshold applicable to automobiles is effective for sales on or after July 1, 1992. The provision relating to the purchase of accessories or modifications by disabled persons is effective for purchases after December 31, 1990. The provision relating to the use before sale of demonstrator vehicles is effective for vehicle use beginning after June 30, 1992.

Persons entitled to a refund may request it from the seller at which they purchased the taxed item, who then may obtain the refund as provided under present-law Code section 6416.

2. Impose excise tax on diesel fuel used in noncommercial motorboat (sec. 2202 of the bill and secs. 4092, 4041, 6421, 9503, and 9508 of the Code)

Present Law

Federal excise taxes generally are imposed on gasoline and special motor fuels used in highway transportation, by certain off highway recreational trail vehicles, and by boats (14 cents per gallon). A Federal excise tax also is imposed on diesel fuel (20 cent per gallon) used in highway transportation. Diesel fuel used in trains generally is taxed at 2.5 cents per gallon.

The revenues from these taxes, minus 2.5 cents per gallon, are deposited in the Highway Trust Fund, the National Recreational Trails Trust Fund, or the Aquatic Resources Trust Fund through September 30, 1999. Revenues from the remaining 2.5 cents per gallon are retained in the General Fund through September 30, 1995, after which time the 2.5-cents-per-gallon portion of the taxes (including the tax on diesel fuel used in trains) is scheduled to expire.

An additional 0.1-cent-per-gallon tax applies to these fuels to finance the Leaking Underground Storage Trust Fund, generally through December 31, 1995.

Diesel fuel used in recreational boats is not taxed.

Reasons for Change

The bill eliminates the discrepancy between gasoline used by pleasure boats (which is taxable) and diesel fuel used by these boats (which is not taxable).

Explanation of Provision

The bill extends the current 20.1-cents-per-gallon diesel fuel excise taxes to diesel fuel used by boats. Fuel used by boats for commercial fishing, transportation for compensation or hire, or for business use other than predominantly for entertainment, amusement, or recreation, remains exempt.

The tax is collected at the same point in the distribution chain as the highway diesel fuel tax (i.e., on sale to a retailer). However, to prevent unnecessary tax-paid sales followed by refunds, retailers that sell diesel fuel exclusively to commercial (i.e., non-pleasure) boats are permitted to buy the fuel without payment of tax.

The revenues from the 20.1-cents-per-gallon tax on diesel fuel used by boats will be retained in the General Fund.

The bill provides that the tax imposed on diesel fuel used in noncommercial motorboats expires after September 30, 1997.

Effective Date

The provision is effective after September 30, 1992.

TITLE III. OFFSETTING REVENUE INCREASES

SUBTITLE A. GENERAL PROVISIONS

1. Mark-to-market accounting method for dealers in securities (sec. 3001 of the bill and new sec. 475 of the Code)

Present Law

A taxpayer that is a dealer in securities is required for Federal income tax purposes to maintain an inventory of securities held for sale to customers. A dealer in securities is allowed for Federal income tax purposes to determine (or value) the inventory of securities held for sale based on: (1) the cost of the securities; (2) the lower of the cost or market value of the securities; or (3) the market value of the securities.

If the inventory of securities is determined based on cost, unrealized gains and losses with respect to the securities are not taken into account for Federal income tax purposes. If the inventory of securities is determined based on the lower of cost or market value, unrealized losses (but not unrealized gains) with respect to the securities are taken into account for Federal income tax purposes. If the inventory of securities is determined based on market value, both unrealized gains and losses with respect to the securities are taken into account for Federal income tax purposes.

For financial accounting purposes, the inventory of securities generally is determined based on market value.

Reasons for Change

Inventories of securities generally are easily valued at year end, and, in fact, are currently valued at market by securities dealers in determining their income for financial statement purposes and in adjusting their inventory using the lower of cost or market method for Federal income tax purposes. The committee believes that the cost method and the lower of cost or market method generally understate the income of securities dealers and that the market method most clearly reflects the income of securities dealers. Consequently, as proposed in the administration's fiscal year 1993 budget, the bill requires certain securities that are held by a dealer in securities to be marked to market for Federal income tax purposes.

Explanation of Provision

In general

The bill provides two general rules (the "mark-to-market rules") that apply to certain securities that are held by a dealer in securities. First, any such security that is inventory in the hands of the dealer is required to be included in inventory at its fair market value. Second, any such security that is not inventory in the hands of the dealer and that is held as of the close of any taxable year is treated as sold by the dealer for its fair market value on the last business day of the taxable year and any gain or loss is required to be taken into account by the dealer in determining gross income for that taxable year.[1]

If gain or loss is taken into account with respect to a security by reason of the second mark-to-market rule, then the amount of gain or loss subsequently realized as a result of a sale, exchange, or other disposition of the security, or as a result of the application of the mark-to-market rules, is to be appropriately adjusted to reflect such gain or loss. In addition, the bill authorizes the Treasury Department to promulgate regulations that provide for the application of the second mark-to-market rule at times other than the close of a taxable year or the last business day of a taxable year.

The mark-to-market rules do not apply for purposes of determining the holding period of any security. In addition, the mark-to-market rules do not apply in determining whether gain or loss is recognized by any other taxpayer that may be a party to a contract with a dealer in securities.

Character of gain or loss

Any gain or loss taken into account under the provision (or any gain or loss recognized with respect to a security that would be subject to the provision if held at the end of the year) generally is treated as ordinary gain or loss. This character rule does not apply to any gain or loss allocable to any period during which the security (1) is a hedge of a position, right to income, or a liability that is not subject to a mark-to-market rule under the provision, or (2) is held by the taxpayer other than in its capacity as a dealer in securities. In addition, the character rule does not apply to any security that is improper by identified (as described in detail below) by the taxpayer.

No inference is intended as to the character of any gain or loss recognized in taxable years prior to the enactment of this provision or any gain or loss recognized with respect to any property to which this character rule does not apply.

Definitions

A dealer in securities is defined as any taxpayer that either (1) regularly purchases securities from, or sells securities to, customers in the ordinary course of a trade or business, or (2) regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

A security is defined as: (1) any share of stock in a corporation; (2) any partnership or beneficial ownership interest in a widely-held or publicly-traded partnership or trust; (3) any note, bond, debenture, or other evidence of indebtedness; (4) any interest rate, currency, or equity notional principal contract such as a notional principal contract that is based on the price of oil, wheat, or other commodity); and (5) any evidence of an interest in, or any derivative financial instrument in any currency or in a security described in (1) through (4) above, including any option, forward contract, short position, or any similar financial instrument in such a security or currency.

In addition, a security is defined to include any position if: (1) the position is not a security described in the preceding paragraph; (2) the position is a hedge with respect to a security described in the preceding paragraph; and (3) before the close of the day on which the position was acquired or entered into (or such other time as the Treasury Department may specify in regulations), the position is clearly identified in the dealer's records as a hedge with respect to a security described in the preceding paragraph.

---

[1] For purpose of this provision, a security is treated as sold to a person that is not related to the dealer even if the security is itself a contract between the dealer and a related person. Thus, for example, sections 267 and 707(b) of the Code are not to apply to any loss that is required to be taken into account under this provision.

A security, however, is not to include a contract to which section 1256(a) of the Code applies, unless such contract is a hedge of a security to which the provision applies. The special character rule of the bill (rather than the special character rule of section 1256(a)) will apply to any such contract that is a hedge of a security to which the provision applies.

A hedge is defined as any position that reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position that is reasonably expected to become a hedge within 60 days after the acquisition of the position.

Exceptions to the mark-to-market rules

Notwithstanding the definition of security, the mark-to-market rules generally do not apply to: (1) any security that is held for investment;[2] (2) any evidence of indebtedness that is acquired (including originated) by a dealer in the ordinary course of its trade or business but only if the evidence of indebtedness is not held for sale; (3) any security that is acquired by a floor specialist of a national securities exchange or a market maker of the National Association of Security Dealers Automated Quotation System, in connection with the specialist's or market maker's duties as a specialist or market maker;[3] (4) any security which is a hedge with respect to a security that is not subject to the mark-to-market rules (i.e., any security that is a hedge with respect to (a) a security held for investment, (b) an evidence of indebtedness described in (2) or (c) a security of a floor specialist or a market maker described in (3)); and (5) any security which is a hedge with respect to a position, right to income, or a liability that is not a security in the hands of the taxpayer.[4]

To extent provided in regulations to be promulgated by the Treasury Department, the exceptions to the mark-to-market rules for certain hedges do not apply to any security that is held by a taxpayer in its capacity as a dealer in securities. Thus, regulations may provide that the exceptions to the mark-to-market rules for certain hedges do not apply to securities that are entered into with customers in the ordinary course of a trade or business. A hedge that is identified as not subject to the mark-to-market rules will not be considered to be held for sale in the ordinary course of a trade or business.

In addition, the exceptions to the mark-to-market rules do not apply unless, before the close of the day on which the security (including any evidence of indebtedness) is acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations),[5] the security is clearly identified in the dealer's records as being described in one of the exceptions listed above.[6]

It is anticipated that the identification rules with respect to hedges will be applied in such a manner as to minimize the imposition of additional accounting burdens on dealers in securities. For example, it is understood that certain dealers in securities use accounting systems which treat certain transactions entered into between separate business units as if such transactions were entered into with unrelated third parties. It is anticipated that for purposes of the mark-to-market rules, such an accounting system generally will provide an adequate identification of hedges with third parties.

In addition to clearly identifying a security as qualifying for one of the exceptions to the mark-to-market rules listed above, a dealer must continue to hold the security in a capacity that qualifies the security for one of the exceptions listed above. If at any time after the close of the day on which the security was acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations), the security is not held in a capacity that qualifies the security for one of the exceptions listed above, then the mark-to-market rules are to apply to any changes in value of such security that occur after the security no longer qualifies for an exception.[7]

Conversely, different rules apply to a security that originally is held by the taxpayer in a capacity that subjects the security to the mark-to-market rules, but later becomes otherwise eligible for an exception from the mark-to-market rules. For example, assume that a security to which the mark-to-market rules apply is hedged (and thus the hedge is subject to the mark-to-market rules) and the security (but not the hedge) is sold before year end. In such case, the "naked" hedge generally will be subject to the mark-to-market rules at the year end.

However, the Treasury Department has authority to issue regulations that would allow the taxpayer to identify, on the date the security is sold, the "naked" hedge as a security to which one of the exceptions to the mark-to-market rules (assuming the "naked" hedge otherwise qualifies for the exception). In making this identification, it is anticipated that the taxpayer would be required to apply the mark-to-market rules to the "naked" hedge as of the date of the sale of the security, take any resulting gain or loss into account for the taxable year of sale, and treat the "naked" hedge as a security to which the exceptions to the mark-to-market rules apply.

Whether or not the taxpayer is allowed under regulations to make the identification described above (and whether or not the taxpayer makes the identification), any gain or loss attributable to the period after the date of sale of the security will not be subject to the special character rule of the bill if the hedge is not held by the taxpayer in its capacity as a dealer during such period. Thus, if the "naked" hedge is a capital asset in the hands of the taxpayer, any gain or loss recognized with respect to the "naked" hedge that is attributable to the period after the date of sale of the security will be capital gain or loss.

In proper identification

The bill provides that if (1) a dealer identifies a security as qualifying for an exception to the mark-to-market rules but the security does not qualify for that exception, or (2) a dealer fails to identify a position that is not a security as a hedge of a security but the position is a hedge of a security, then the mark-to-market rules are to apply to any such security or position, except that loss is to be recognized under the mark-to-market rules prior to the disposition of the security or position only to the extent of gain previously recognized under the mark-to-market rules (and not previously taken into account under this provision) with respect to the security or position.

Other rules

The bill provides that the uniform cost capitalization rules of section 263A of the Code and the rules of section 263(g) of the Code that require the capitalization of certain interest and carrying charges in the case of straddles do not apply to any security to which the mark-to-market rules apply because the fair market value of a security should include the costs that the dealer would otherwise capitalize.

In addition, a security subject to the provision is not to be treated as sold and reacquired for purposes of section 1091 of the Code. Section 1092 of the Code will apply to any loss recognized under the mark-to-market rules (but will have no effect if all the offsetting positions that make up the straddle are subject to the mark-to-market rules).

Furthermore, the bill provides that (1) the mark-to-market rules do not apply to any section 988 transaction (generally, a foreign currency transaction) that is part of a section 988 hedging transaction, and (2) the determination of whether a transaction is a section 988 transaction is to be made without regard to whether the transaction would otherwise be marked-to-market under the bill.

---

[2] To the extent provided in regulations to be promulgated by the Treasury Department, the exception to the mark-to-market rules for a security that is held for investment is not to apply to any notional principal contract or any derivative financial instrument that is held by a dealer in such securities.

[3] A floor specialist is defined as a person who (1) is a member of a national securities exchange, (2) is registered as a specialist with the exchange, and (3) meets the requirements for specialists established by the Securities and Exchange Commission.

A market maker is defined as a person who (1) is registered as a market maker with the National Association of Security Dealers, with respect to a security that is included in National Association of Security Dealers Automated Quotation System (NASDAQ), and (2) as of the last day of the taxable year, has been actively and regularly engaged as a market maker in the security for the lesser of (a) two years or (b) the period beginning 61 days after the security was first included on the NASDAQ and ending on such last day.

[4] For purpose of the mark-to-market rules, debt issued by a taxpayer is not a security in the hands of such taxpayer.

[5] It is anticipated that the Treasury regulations will permit a dealer that originates evidences of indebtedness in the ordinary course of a trade or business to identify such evidences of indebtedness as not held for sale based on the accounting practices of the dealer but in no event later than the date that is 30 days after the date that any such evidence of indebtedness is originated. Further, it is anticipated that the Treasury regulations will permit a dealer that enters into commitments to acquire mortgages to identify such commitments as being held for investment if the dealer acquires the mortgages and holds the mortgages as investments. It is anticipated that this identification of commitments to acquire mortgages will occur within a reasonable period after the acquisition of the mortgages but in no event later than the date that is 30 days after the date that the mortgages are acquired.

[6] A security is to be treated as clearly identified in a dealer's records as being described in one of the exceptions listed above if all of securities of the taxpayer that are not so described are clearly identified in the dealer's records as not being described in such exception.

For example, assume that, in the ordinary course of its trade or business, a bank originates loans that are sold if the loans satisfy certain conditions. In addition, assume that (1) the bank determines whether a loan satisfies the conditions within 30 days after the loan is made, and (2) if a loan satisfies the conditions for sale, the bank records the loan in a separate account on the date that the determination is made. For purposes of the bill, the bank is a dealer in securities with respect to the loans that it holds for sale. In addition, by identifying these loans as held for sale, the bank is considered to have identified all other loans as not held for sale. Consequently, the loans that are not held for sale are not subject to the mark-to-market rules.

[7] Any gain or loss that is attributable to the period that the security was not subject to the mark-to-market rules generally is to be taken into account at the time that the security is actually sold (rather than treated as sold by reason of the mark-to-market rules).

The bill also authorizes the Treasury Department to promulgate regulations which provide for the treatment of a hedge that reduce a dealer's risk of interest rate or price changes or currency fluctuations with respect to securities that are subject to the mark-to-market rules as well as with respect to securities, positions, rights to income, or liabilities that are not subject to the mark-to-market rules. It is anticipated that the Treasury regulations may allow taxpayers to treat any such hedge as not subject to the mark-to-market rules provided that such treatment is consistently followed from year to year.

Finally, the bill authorizes the Treasury Department to promulgate such regulations as may be necessary or appropriate to carry out the provisions of the bill, including rules to prevent the use of year-end transfers, related persons, or other arrangements to avoid the provisions of the bill. Such authority includes coordinating the mark-to-market rules with the original issue discount rules.

Effective Date

The provision applies to taxable years ending on or after December 31, 1992. A taxpayer that is required to change its method of accounting to comply with the requirements of the provision is treated as having initiated the change in method of accounting and has having received the consent of the Treasury Department to make such change.

The net amount of the section 481(a) adjustment is to be taken into account ratably over a 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992, to the extent that such amount does not exceed the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992.

The excess (if any) of (1) the net amount of the section 481(a) adjustment for the first taxable year ending on or after December 31, 1992, over (2) the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992, is to be taken into account ratably over a 4-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

The principles of section 8.03 (1) and (2) of Rev. Proc. 92-20, 1992-12 I.R.B. 10, are to apply to the section 481(a) adjustment. It is anticipated that section 8.03(1) of Rev. Proc. 92-20 will be applied by taking into account all securities of a dealer that are subject to the mark-to-market rules (including those securities that are not inventory in the hands of the dealer). In addition, it is anticipated that net operating losses will be allowed to offset the section 481(a) adjustment, tax credit carryforwards will be allowed to offset any tax attributable to the section 481(a) adjustment, and, for purposes of determining liability for estimated taxes, the section 481(a) adjustment will be taken into account ratably throughout the taxable year in question.

In determining the amount of the section 481(a) adjustment for taxable years beginning before the date of enactment of the mark-to-market rules, the identification requirements are to be applied in a reasonable manner. It is anticipated that any security that was identified as being held for investment under section 1236(a) of the Code as of the last day of the taxable year preceding the taxable year of change is to be treated as held for investment for purposes of the mark-to-market rules. It is also anticipated that any other security that was held as of the last day of the taxable year preceding the taxable year of change is to be treated as properly identified if the dealer's records as of such date support such identification.[8]

Finally, no addition to tax is to made under section 6654 or 6665 of the Code for any underpayment of estimated tax that is due before the date of enactment of the mark-to-market rules to the extent that the underpayment is attributable to the enactment of the mark-to-market rules. The amount of the first required payment of estimated tax that is due or after the date of enactment of the mark-to-market rules is to be increased by the amount of estimated tax that was not previously paid by reason of the preceding sentence.

2. Modify estimated tax requirements for individuals (sec. 3002 of the bill and sec. 6654 of the Code)

Present Law

Under present law, an individual taxpayer generally is subject to an addition to tax for any underpayment of estimated tax. An individual generally does not have an underpayment of estimated tax if he or she makes timely estimated tax payments at least equal to: (1) 100 percent of the tax liability of the prior year (the "100 percent of last year's liability safe harbor") or (2) 90 percent of the tax liability of the current year. Income tax withholding from wages is considered to be a payment of estimated taxes.

In addition, for taxable years beginning after 1991 and before 1997, the 100 percent of last year's liability safe harbor generally is not available to a taxpayer that (1) has an adjusted gross income (AGI) in the current year that exceeds the taxpayer's AGI in the prior year by more than $40,000 ($20,000 in the case of a separate return by a married individual) and (2) has an adjusted gross income (AGI) in excess of $75,000 in the current year ($37,500 in the case of a separate return by a married individual).

Reasons for Change

The committee believes that the application of the special rule that denies the use of the 100 percent of last year's liability safe harbor is unduly cumbersome in some circumstances. In order to simplify the calculation of estimated tax requirements for individuals, the special rule is replaced with a new, permanent safe harbor.

Explanation of Provision

The special rule that denies the use of the 100 percent of last year's liability safe harbor is repealed for taxable years beginning after 1992. In addition, the 100 percent of last year's liability safe harbor is modified to be 120 percent of last year's liability safe harbor.

Thus, under the bill, for taxable years beginning after 1992, any individual generallly does not have an underpayment of estimated tax if he of she makes timely estimated tax payments at least equal to: (1) 120 percent of the tax liability of the prior year or (2) 90 percent of the tax liability of the current year.

Effective Date

The provision is effective for estimated tax payments applicable to taxable years beginning after December 31, 1992.

3. Modify estimated tax payment rules for large corporations (sec. 3003 of the bill and sec. 6655 of the Code)

Present Law

A corporation is subject to an addition to tax for any underpayment of estimated tax. For taxable years beginning after June 30, 1992 and before 1997, a corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least equal 97 percent of the tax liability shown on the return for the current taxable year. A corporation may estimate its current year tax liability based upon a method that annualizes its income through the period ending with either the month or the quarter ending prior to the estimated tax payment date.

For taxable years beginning after 1996, the 97-percent requirement becomes a 91-percent requirement. The present-law 97-percent and 91-percent requirements were added by the Unemployment Compensation Amendments of 1992.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

Reasons for Change

The committee believes that corporate estimated tax requirements should be increased to require corporations to more timely remit their current year tax liabilities. In addition, the committee believes that in order to simplify and rationalize the calculation of annualized income for corporate estimated tax purposes, an additional set of annualization periods should be provided and applied consistently.

Explanation of Provision

For taxable years beginning after 1992, a corporation that does not use the 100 percent of last year's liability safe harbor for its estimated tax payments is required to base its estimated tax payments on 100 percent (rather than 97 percent or 91 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis.

The bill does not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

In addition, the bill modifies the rules relating to income annualization for corporate estimated tax purposes. Under the bill, annualized income is to be determined based on the corporation's activity for the first 3 months of the taxable year (in the case of the first and second estimated tax installments); the first 6 months of the taxable year (in the case of the third estimated tax installment); and the first 9 months of the taxable year (in the case of the fourth estimated tax installment). Alternatively, a corporation may elect to determine its annualized income based on the corporation's activity for either: (1) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 4 months of the taxable year (in the case of the second estimated tax installment); the first 7 months of the taxable year (in the case of the third estimated tax installment); and the first 10 months of the taxable year

---

[8] In addition, it is anticipated that in order for any security that is held on the date of enactment of the mark-to-market rules to qualify for one of the exceptions to the mark-to-market rules, the security must be identified as being described in one of the exceptions within a reasonable period after the date of enactment but in no event later than the date that is 30 days after the date of enactment.

(in the case of the fourth estimated tax installment); or (2) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 5 months of the taxable year (in the case of the second estimated tax installment); the first 8 months of the taxable year (in the case of the third estimated tax installment); and the first 11 months of the taxable year (in the case of the fourth estimated tax installment). An election to use either of the annualized income patterns described in (1) or (2) above must be made on or before the due date of the second estimated tax installment for the taxable year for which the election is to apply, in a manner prescribed by the Secretary of the Treasury.

Effective Date

The provision is effective for estimated tax payments with respect to taxable years beginning after December 31, 1992.

4. Expansion of 45-day interest-free period for certain refunds (sec. 3004 of the bill and sec. 6611 of the Code)

Present Law

No interest is paid by the Government on a refund arising from an income tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed (sec. 6611(e)).

There is no parallel rule for refunds of taxes other than income taxes (i.e., employment, excise, and estate and gift taxes), for refunds of any type of tax arising from amended returns, or for claims for refunds of any type of tax.

If a taxpayer files a timely original return with respectful to any type of tax and later files an amended return claiming a refund, and if the IRS determines that the taxpayer is due a refund on the basis of the amended return, the IRS will pay the refund with interest computed from the due date of the original return.

Reasons for Change

The committee believes that it is inappropriate for the payment of interest on tax refunds to be determined by the type of tax; all types of taxes should be treated similarly. In addition, taxpayers generally control the time of filing of an amended return or claim for refund. Consequently, the committee believes that it is appropriate to alter the interest rules with respect to amend returns and claims for refund.

Explanation of Provision

No interest is to be paid by the Government on a refund arising from any type of original tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed.

A parallel rule applies to amend returns and claims for refunds: if the refund is issued by the 45th day after the date the amended return or claim for refund is filed, no interest is to be paid by the Government for that period of up to 45 days (interest would continue to be paid for the period from the due date of the return to the date the amended return or claim for refund is filed). If the IRS does not issue the refund by the 45th day after the date the amended return or claim for refund is filed, interest would be paid (as under present law) for the period from the due date of the original return to the date the IRS pays the refund.

A parallel rule also applies to IRS-initiated adjustments (whether due to computational adjustments or audit adjustments). With respect to these adjustments, the IRS is to pay interest for 45 fewer days than it otherwise would.

Effective Date

The extension of the 45-day processing rule is effective for returns required to be filed (without regard to extensions) on or after October 1, 1992. The amended return rule is effective for amended returns and claims for refunds filed on or after October 1, 1992 (regardless of the taxable period to which they relate). The rule relating to IRS-initiated adjustments is applicable to refunds paid on or after October 1, 1992 (regardless of the taxable period to which they relate).

5. Tax treatment of certain FSLIC financial assistance (sec. 3005 of the bill and secs. 165, 166, 585, and 593 of the Code)

Present Law and Background

A taxpayer may claim a deduction for a loss on the sale or other disposition of property only to the extent that the taxpayer's adjusted basis for the property exceeds the amount realized on the disposition and the loss is not compensated for by insurance or otherwise (sec. 165 of the Code). In the case of a taxpayer on the specific charge-off method of accounting for bad debts, a deduction is allowable for the debt only to the extent that the debt becomes worthless and the taxpayer does not have a reasonable prospect of being reimbursed for the loss. If the taxpayer accounts for bad debts on the reserve method, the worthless portion of a debt is charged against the taxpayer's reserve for bad debts, potentially increasing the taxpayer's deduction for an addition to this reserve.

A special statutory tax rule, enacted in 1981, excluded from a thrift institution's income financial assistance received from the Federal Savings and Loan Insurance Corporation (FSLIC),[1] and prohibited a reduction in the tax basis of the thrift institution's assets on account of the receipt of the assistance. Under the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), taxpayers generally were required to reduce certain tax attributes by one-half the amount of financial assistance received from the FSLIC pursuant to certain acquisitions of financially troubled thrift institutions occurring after December 31, 1988. These special rules were repealed by FIRREA, but still apply to transactions that occurred before May 10, 1989.

Prior to the enactment of FIRREA, the FSLIC entered into a number of assistance agreements in which it agreed to provide loss protection to acquirers of troubled thrift institutions by compensating them for the difference between the book value and sales proceeds of "covered assets." "Covered assets" typically are assets that were classified as nonperforming or troubled at the time of the assisted transaction but could include other assets as well. Many of these covered assets are also subject to yield maintenance guarantees, under which the FSLIC guaranteed the acquirer a minimum return or yield on the value of the assets. The assistance agreements also generally grant the FSLIC the right to purchase covered assets. In addition, many of the assistance agreements permit the FSLIC to order assisted institutions to write down the value of covered assets on their books to fair market value in exchange for a payment in the amount of the write-down.

Under most assistance agreements, one or more Special Reserve Accounts are established and maintained to account for the amount of FSLIC assistance owed by the FSLIC to the acquired entity. The assistance agreements generally specify the precise circumstances under which amounts with respect to covered assets are debited to an account. Under the assistance agreements, these debit entries generally are made subject to prior FSLIC direction or approval. When amounts are so debited, the FSLIC generally becomes obligated to pay the debited balance in the account to the acquirer at such times and subject to such offsets as are specified in the assistance agreement.

In September 1990, the Resolution Trust Corporation (RTC), in accordance with the requirements of FIRREA, issued a report to Congress and the Oversight Board of the RTC on certain FSLIC-assisted transactions (the "1988/89 FSLIC transactions"). The report recommended further study of the covered loss and other tax issues relating to these transactions. A March 4, 1991 Treasury Department report ("Treasury report") on tax issues relating to the 1988/89 FSLIC transactions concluded that deductions should not be allowed for losses that are reimbursed with exempt FSLIC assistance. The Treasury report states that the Treasury view is expected to be challenged in the courts and recommended that Congress enact clarifying legislation disallowing these deductions.[2]

Reasons for Change

Allowing tax deductions for losses on covered assets that are compensated for by FSLIC assistance gives thrift institutions a perverse incentive to minimize the value of these assets when sold. The FSLIC, and not the institution, bears the economic burden corresponding to any reduction in value because it is required to reimburse the thrift institution for the loss. However, the tax benefit to the thrift institution and its affiliates increases as tax losses are enhanced. The thrift institution, therefore, has an incentive to minimize the value of covered assets in order to maximize its claimed tax loss and the attendant tax savings.

It is desirable to clarify, as of the date of the Treasury Report, that FSLIC assistance with respect to certain losses is taken into account as compensation for purposes of the loss and bad debt deduction provisions of the Code.

Explanation of Provision

General rule

Any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of an asset shall be taken into account as compensation for such loss for purposes of section 165 of the Code. Any FSLIC assistance with respect to any debt shall be taken into account for purposes of determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts. For this purpose, FSLIC assistance means any assistance or right to assistance with respect to a domestic building and loan association (as defined in section 7701(a)(19) of the Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).[3]

---

[1] Until it was abolished by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), FSLIC insured the deposits of its member savings and loan associations and was responsible for insolvent member institutions. FIRREA abolished FSLIC and established the FSLIC Resolution Fund (FRF) to assume all of the assets and liabilities of FSLIC (other than those expressly assumed or transferred to the Resolution Trust Corporation (RTC)). FRF is administered by the Federal Deposit Insurance Corporation (FDIC). The term "FSLIC" is used hereafter to refer to FSLIC and any successor to FSLIC.

[2] Department of the Treasury, *Report on Tax Issues Relating to the 1988/89 Federal Savings and Loan Insurance Corporation Assisted Transactions*, March, 1991 at pp. 16–17.

Thus, if a taxpayer disposes of an asset entitled to FSLIC assistance, no deduction is allowed under section 165 of the Code for a loss (if any) on the disposition of the asset to the extent the assistance agreement contemplates a right to receive FSLIC assistance with respect to the loss. Similarly, if a loan held by a taxpayer constitutes an asset entitled to FSLIC assistance, the thrift institution shall not charge off any amount of the loan covered by the assistance agreement against the bad debt reserve and no charge-off will be taken into account in computing an addition to the reserve under the experience method, to the extent the assistance agreement contemplates a right to receive FSLIC assistance on a write-down of such asset under the agreement or on a disposition. The institution also shall not be allowed to deduct such amount of the loan under the specific charge-off method.[4]

It is intended that the right to FSLIC assistance for purposes of this provision is to be determined by reference to the gross amount of FSLIC assistance that is contemplated by the assistance agreement with respect to the sale or other disposition, or write-down, without taking into account any offsets that might reduce the net amount FSLIC is obligated to pay under the agreement. For example, under an assistance agreement an institution's right to be reimbursed for a loss on the disposition or write-down of an asset may be reflected as a debit to a Special Reserve Account, while certain other items that will reduce the ultimate amount of assistance to be paid may be reflected as credits to the account. In such a case, the gross amount of FSLIC assistance contemplated by the agreement is the amount represented by the debit, without regard to any offset.

Financial assistance to which the FIRREA amendments apply

The provision does not apply to any financial assistance to which the amendments made by section 1401(a)(3) of FIRREA apply.

No inference

No inference is intended as to prior law or as to the treatment of any item to which this provision does not apply.

Effective Date

In general

The provision applies to financial assistance credited on or after March 4, 1991, with respect to (1) assets disposed of and charge-offs made in taxable years ending on or after March 4, 1991; and (2) assets disposed of and charge-offs made in taxable years ending before March 4, 1991, but only for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991.

For this purpose, financial assistance generally is considered to be credited when the taxpayer makes an approved debit entry to a Special Reserve Account required to be maintained under the assistance agreement to reflect the asset disposition or write-down. An amount will also be considered to be credited prior to March 4, 1991 if the asset was sold, with prior FSLIC approval, before the date.

An amount is not deemed to be credited for purposes of the provision merely because the FSLIC has approved a management or business plan or similar plan with respect to an asset or group of assets, or has otherwise generally approved a value with respect to an asset.

As an example of the application of the effective date provision, assume that a thrift institution is subject to an FSLIC assistance agreement that, through the use of a Special Reserve Account, operates to compensate the institution for the difference between the book and fair market values of certain covered assets upon their disposition or write-down. Further assume that on February 1, 1991 the thrift institution wrote down a covered asset that has a book value and tax basis of $100 to $60, the asset's fair market value. With FSLIC approval, the institution debited the Special Reserve Account prior to March 4, 1991, to reflect the write-down of $40, and properly submitted to the FSLIC a summary of the account that reflected that debit, along with other debits for the quarter ended March 31, 1991. The provisions would not apply to a loss claimed by the thrift institution with respect to the write-down of the covered asset on February 1, 1991. The same result would apply if the institution has sold the asset for $60 on February 1 with prior FSLIC approval. In this sale case, the provision would not apply even if there were no debit to the Special Reserve Account prior to March 4, 1991, so long as the FSLIC approved the amount of the reimbursable loss for purposes of providing assistance under the agreement.

Application to certain net operating losses.

The provision applies to the determination of any net operating loss[5] carried into a taxable year ending on or after March 4, 1991, to the extent that the net operating loss is attributable to a loss or charge-off for which the taxpayer has a right to FSLIC assistance which had not been credited before March 4, 1991.

For example, assume a calendar year thrift institution is a party to an FSLIC assistance agreement that compensates the institution for the amount that covered loans are written down or charged off pursuant to the agreement. The agreement provides that the institution must receive the prior approval of the FSLIC to write down a loan for purposes of this compensation. Further assume that the institution uses the experience method to account for bad debts for tax purposes, and that in 1990 it charged off $100 with respect to a covered loan. Assume that this charge-off initially reduced the taxpayer's bad debt reserve balance by $100 and allowed the taxpayer to increase its addition to its reserve by $100 to bring the reserve to an appropriate balance. The taxpayer deducted this amount and utilized $20 for the year ended in 1990 (i.e., the last taxable year of the taxpayer ending before March 4, 1991). The produced a net operating loss of $80 for the remainder. The net operating loss is carried forward to 1991 (a taxable year of the taxpayer ending on or after March 4, 1991). Assume that the taxpayer did not debit the Special Reserve Account prior to March 4, 1991. The net operating loss carried to 1991 would be redetermined talking into account the provisions. Applying the provisions to 1990 would result in disallowing the charge-off of the $100 loan against the experience method reserve, in effect disallowing the $100 addition to the reserve. In such case, the taxpayer would continue to owe no tax for 1990, but the $80 net operating loss would be disallowed. However, the taxpayer's tax liability for 1990 would not be redetermined under the provision.

As a further example, assume that the net operating loss described in the example directly above were carried back to, and absorbed in, an earlier year ending prior to March 4, 1991 (rather than being carried forward). In that case, the provision would not apply to reduce the net operating loss carryback.

Estimated taxes

Finally, no addition to tax is to be made under section 6654 or 6665 of the Code for any underpayment of estimated tax that is due before the day of enactment of the provision to the extent that the underpayment is attributable to the treatment of any FSLIC assistance credited before such date in manner other than that provided by this provision. The amount of the first required payment of estimated tax that is due on or after the date of enactment of the provision is to be increased by the amount of estimated tax that was not previously paid by reason of the preceding sentence. However, in providing this relief, no inference is intended as to prior law, the effect of the provision on prior law, or the treatment of any item to which this provision does not apply.

6. Reporting of amounts of property tax reimbursements paid to sellers of residences (sec. 3006 of the bill and sec. 6045(e) of the Code)

Present Law

Individual taxpayers who itemize deductions may deduct State and local real property taxes. Under Code section 164(d)(1), if real property is sold during any real property tax year, the part of the real property tax that is properly allocable to that part of the year that ends on the day before the date of sale is treated as imposed on the seller. The part of the real property tax that is properly allocable to that part of the year that begins on the date of sale is treated as imposed on the buyer.

Under present law, real estate transactions are required to be reported on a return to the IRS and on statements to the customers. In general, the primary responsibility for reporting is on the "real estate reporting person," that is, the person responsible for closing the transactions, including any title company or attorney who closes the transaction. If there is no person responsible for closing the transaction, the real estate reporting person is the first person who exists in the following order: the mortgage lender, the seller's broker, the buyer's broker, or such other person designated in regulations prescribed by the Secretary.

Reasons for Change

The committee believes that compliance with present law can be improved by reporting the apportionment of certain real estate taxes between the buyer and the seller of a residence. Such reporting will reduce the possibility that the seller and buyer both claim a deduction for the same amount of real estate taxes paid.

---

[3] FSLIC assistance for purposes of the provision does not include "net worth assistance". "Net worth assistance" is generally computed at the time of an acquisition, without targeting loss coverage to ultimate dispositions or write-downs with respect to particular assets.

[4] It is expected that, for purposes of the adjusted current earnings adjustment of the corporate alternative minimum tax, there will not be any net positive adjustment to the extent that FSLIC assistance is taken into account as compensation for a loss or in determining worthlessness and there is, therefore, no deductible loss or bad debt charge-off.

[5] For purposes of determining any alternate minimum tax net operating loss carryover to periods ending on or after March 4, 1991, it is expected that the principles described in the preceding footnote will apply.

Explanation of Provision

The bill provides that in the case of a real estate transaction involving a residence, the real estate reporting person is required to include on an information return and on the customer statements the portion of any real property tax that is treated as a tax imposed on the purchaser. The committee expects that the Treasury will promptly provide guidance with respect to the reporting requirement imposed by the bill. In connection therewith, the committee anticipates that such guidance will permit the real estate reporting person to report such portion by reference to specified line items on the HUD-1 form or any comparable form provided at the closing of the transaction.

Effective Date

The provision is effective for transactions after December 31, 1992.

7. Require taxpayers to include rental value of residence in income without regard to period of rental (sec. 3007 of the bill and sec. 280A(g) of the Code)

Present Law

Gross income for purposes of the Internal Revenue Code generally includes all income from whatever source derived, including rents. The Code (sec. 280A(g)) provides a *de minimis* exception to this rule where a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year. In this case, the income from such rental is not included in gross income and no deductions arising from such rental use are allowed as a deduction.

Reasons for Change

The *de minimis* exception allows a taxpayer to exclude from income large rental payments for the short-term rental of the taxpayer's residence. The committee believes that such amounts should be included in income of the taxpayer.

Explanation of Provision

The bill requires taxpayers to include in income the rental income received with respect to the rental of a residence without regard to the period of the rental. The rules of section 280A (c)(3) and (e) would govern the deductibility of expenses attributable to the rental of such property. The committee expects that the Department of the Treasury will issue regulatory relief to provide a de minimis exception from the operation of the statute.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

8. Increase recovery period for depreciation of nonresidential real property (sec. 3008 of the bill and sec. 168 of the Code)

Present Law

A taxpayer is allowed to recover, through annual depreciation allowances, the cost or other basis of nonresidential real property (other than land) that is used in a trade or business or that is held for the production of rental income. For regular tax purposes, the amount of the depreciation deduction allowed with respect to nonresidential real property for any taxable year generally is determined using the straight-line method and a recovery period of 31.5 years. For alternative minimum tax purposes, the amount of the depreciation deduction allowed with respect to nonresidential real property for any taxable year is determined using the straight-line method and a recovery period of 40 years.

Reasons for Change

The committee believes that the recovery period for nonresidential real property under present law results in depreciation allowances that are larger than the actual decline in value of the property. In order to more accurately measure the economic income derived from the use of nonresidential real property in a trade or business or an investment activity, the recovery period for the depreciation of such property should be increased.

Explanation of Provision

The bill requires the depreciation deduction allowed with respect to nonresidential real property for regular tax purposes to be determined by using a recovery period of 40 years. The bill does not change the determination of the depreciation deduction allowed with respect to nonresidential real property for alternative minimum tax purposes.

Effective Date

The proposal generally would apply to property placed in service on or after July 28, 1992. The proposal would not apply to property that is placed in service by a taxpayer before January 1, 1995, if (1) the taxpayer or a qualified person entered into a binding written contract to purchase or construct the property before July 28, 1992, or (2) construction of the property was commenced by or for the taxpayer or a qualified person before July 28, 1992.

9. Information reporting on State and local tax payments and refunds (sec. 3009 of the bill and sec. 6050E of the Code)

Present Law

Individual taxpayers who itemize deductions may deduct State and local income, real property, and personal property taxes. The refund, credit, or offset of such State or local taxes that were deducted (with a resulting tax benefit) in a previous year is includable in the taxpayer's gross income. There is no provision of present law that requires State and local governments to provide information reports to the IRS and the taxpayer on payments of State and local real property taxes or on refunds, credits, or offsets of such taxes.

Reasons for Change

The committee is concerned that there is significant overstatement of claims of the itemized deduction for State and local real property taxes. The committee believes that it is appropriate to require information reporting of payments of these taxes and of refunds, credits, or offsets of such taxes. The committee believes such information reporting will remind taxpayers of the proper tax treatment of refunds of real property taxes and will assist taxpayers and the IRS in ensuring that only State and local real property taxes actually paid are deducted.

Explanation of Provision

The bill requires any State or local government that imposes a real property tax to report to the individual who paid those taxes and to the IRS the amount of those taxes paid by the individual. These information reports shall set forth the amount of payments, credits, or offsets and the name, address, and taxpayer identification number of the individual paying such tax or receiving such payment, credit, or offset. In the case of payments made on behalf of the taxpayer by another entity, such as a mortgagee, that entity shall provide the information to the taxpayer and the IRS.

The information reports must be filed in accordance with the timetable generally applicable to other information returns. Consequently, the copy for the taxpayer must be provided by the last day of January of the year following the year these taxes are paid; the State and local government has one additional month (until the end of February) to supply the information return to the IRS.

In order to reduce the burden on the State and local governments, the bill provides that no information return need be provided to the individual taxpayer if it is determined (in the manner provided under Treasury regulations) that that individual taxpayer does not itemize deductions.

Effective Date

The provision is effective for payments made after December 31, 1993. Thus, State and local governments will first provide information returns to individual taxpayers by the end of January 1995, and to the IRS by the end of February 1995, on taxes that were paid in 1994.

10. Deduction for moving expenses (sec. 3010 of the bill and sec. 217 of the Code)

Present Law

An employee or self-employed individual may deduct from gross income certain expenses incurred as a result of moving to a new residence in connection with beginning work at a new location (sec. 217). The deduction is not subject to the floor that generally limits a taxpayer's allowable miscellaneous itemized deductions to those amounts that exceed 2 percent of his or her adjusted gross income. Any amount received directly or indirectly by such individual as a reimbursement of moving expenses must be included in the taxpayer's gross income as compensation (sec. 82), but a deduction is permitted for the amount that would otherwise qualify as deductible moving expenses under sec. 217.

Deductible moving expenses are the expense of transporting the taxpayer and members of his household, their household goods, and their personal effects from the old to the new residence; the cost of meals and lodging en route; the expense for pre-move househunting trips; temporary living expenses for up to 30 days (90 days in the case of foreign moves) [1] in the general location of the new job; and certain expenses related to both the sale of or settlement of a lease on the old residence and the acquisition of a lease or the purchase of a new residence in the general location of the new job.

The moving expense deduction is subject to a number of limitations. A maximum of $1,500 can be deducted for pre-move househunting and temporary living expenses in the general location of the new job. A maximum of $3,000 (reduced by any deduction claimed for househunting or temporary living expenses) can be deducted for certain qualified expenses for the sale and purchase of a residence or settlement of a lease. For foreign moves, the above limits are $4,500 and $6,000 respectively. If both a husband and wife begin new jobs in the same general location, the move is treated as a single commencement of work. If a husband and wife file separate returns, the maximum deduction available to each is one-half the amounts otherwise allowed.

---

[1] Section 217(h)(3) defines a foreign move as the commencement of work by the taxpayer at a new principal place of work located outside the United States.

Also, in order for a taxpayer to claim a moving expense deduction, his new principal place of work has to be at least 35 miles farther from his former residence than was his former principal place of work (or his former residence, if he has no former place of work).

Reasons for Change

The committee believes that no deduction is justified for certain expenses that do not directly relate to the cost of moving. Such expenses include those related to: (1) the sale of the old residence, (2) the settlement of a lease on the old residence, (3) the acquisition of a lease or the purchase of a new residence in the general location of the new job. Also, the committee believes that it is unfair to provide a deduction for such expenses under sec. 217 to some taxpayers while denying it to others.

Further, the committee believes that the expense of meals in this context are primarily a personal living expense rather than an expense incurred for business purposes and should be afforded similar tax treatment to other personal expenses, namely nondeductibility.

Explanation of Provision

The bill denies the moving expense deduction for: (1) qualified expenses for the sale and purchase of a residence or settlement of a lease and, (2) meal and entertainment expenses.

Effective Date

The provision is effective for taxable years beginning after December 31, 1992.

11. Increase excise tax on wagers (sec. 3011 of the bill and sec. 4401(a)(1) of the Code)

Present Law

An excise tax is imposed on the amount of certain wagers. The rate of tax is 0.25 percent for any wager authorized under the law of the State in which accepted and 2 percent for any other wager.

Wagers subject to the excise tax are those placed in a lottery conducted for profit or those with respect to a sports event or contest that are placed: (1) with a person engaged in the business of accepting wagers or (2) in a wagering pool conducted for profit. The term "lottery" does not include games in which usually: (1) wagers are placed, (2) winners are determined, and (3) prizes are distributed in the presence of all persons placing wagers. The term "lottery" also does not include drawings conducted by organizations exempt from tax under Code sections 501 or 521 if no part of the net proceeds of the games inures to the benefit of any private shareholder or individual.

No excise tax is imposed on wagers placed in a wagering pool conducted by a parimutuel wagering enterprise licensed under State law, in a coin-operated device, or in a State-conducted lottery (but only if the wager is placed with the State agency conducting the lottery).

Reasons for Change

The committee believes that it is appropriate to increase the rate of the excise tax on State-authorized wagers.

Explanation of Provision

The bill increases the rate of the excise tax on State-authorized wagers from 0.25 percent to 1 percent.

Effective Date

The provision is effective for wagers placed after the date of enactment.

12. Classification of certain interests in corporations as stock or indebtedness (sec. 3012 of the bill and sec. 385 of the Code)

Present Law

There presently is no definition in the Internal Revenue Code or the income tax regulations which can be used to determine whether an interest in a corporation constitutes debt or equity for Federal income tax purposes. The characterization of an investment in a corporation as debt or equity for Federal income tax purposes generally is determined under principles developed in case law by reference to numerous factors intended to identify the economic substance of the investor's interest in the corporation.

In 1969, Congress granted the Secretary of the Treasury the authority to prescribe such regulations as may be necessary or appropriate to determine whether an interest in a corporation is to be treated as stock or indebtedness for Federal income tax purposes (sec. 385). The regulations were to prescribe factors to be taken into account in determining, with respect to particular factual situations, whether a debtor-creditor relationship or a corporation-shareholder relationship existed. Proposed regulations under section 385 were issued in 1980 and 1981, although they were withdrawn in 1983. To date, no additional regulations have been issued.

Information returns must be filed for certain payments made during a calendar year. In general, every person who makes payments of dividends (or interest) aggregating $10 or more to any other person during any calendar year must file a Form 1099–DVI (or Form 1099–INT). Such information returns are not required in the case of payments of dividends or interest to corporations (secs. 6042, 6049).

Reasons for Change

It has come to the attention of the committee that certain issuers and holders may be taking inconsistent positions with respect to the characterization of a corporate instrument as debt or equity. For example, the issuer of a corporate instrument may treat an instrument as debt in order to be able to deduct as interest any amounts paid or accrued on the instrument, while a corporation that holds that instrument may treat it as equity in order to claim a dividends received deduction with respect to those same amounts. The committee believes that the integrity of the Federal income tax system should be protected against this potential for inconsistent debt-equity classifications by issuers and holders of corporate financial instruments.

Explanation of Provision

The bill provides that the characterization (as of the time of issuance) of a corporate instrument as stock or debt by the corporate issuer is binding on the issuer and on all holders. This characterization, however, is not binding on the Secretary of the Treasury. Neither a holder nor an issuer is excused from any interest or penalties that might result under present law from an improper characterization.

Except as provided in regulations, a holder who treats such instrument in a manner inconsistent with such characterization must disclose the inconsistent treatment on such holder's tax return.

The Secretary of the Treasury is authorized to require such information as is deemed necessary to implement the provision.

Effective Date

The provision applies to instruments issued after the date of enactment.

13. Treatment of pre-contribution gain on certain partnership redemptions (sec. 3013 of the bill and new sec. 737 of the Code)

Present Law

Generally, if a partner contributes appreciated property to a partnership, no gain is recognized to the contributing partner at the time of the contribution, and the contributing partner's basis in his partnership interest is increased by the basis of the contributed property at the time of the contribution. The pre-contribution gain is reflected in the difference between the partner's capital account and his basis in his partnership interest ("book/tax differential"). Gain recognized subsequently by the partnership with respect to that property must be allocated to the contributing partner to the extent of the remaining book/tax differential. In addition, if the property is subsequently distributed to another partner within 5 years of the contribution, the contributing partner generally will recognize gain as if the property had been sold for its fair market value at the time of the distribution (sec. 704(c)(1)(B)).

If a partnership distributes property to a partner, the partner does not recognize income except to the extent any cash received in the distribution exceeds such partner's basis of his partnership interest. The distributee partner's basis in distributed property is determined by reference to either the partnership's basis for the property or the partner's basis for his partnership interest.

Present law generally does not require a partner who contributes appreciated property to a partnership to recognize pre-contribution gain upon a subsequent distribution of other property to that partner even if the value of that other property exceeds the partner's basis in his partnership interest.[1]

Reasons for Change

The committee is concerned that a partner who contributes appreciated property to a partnership may be able to avoid or defer the recognition of gain with respect to that property through the mechanism of having the partnership distribute other partnership property to him in partial or complete redemption of his interest while the partnership continues to own the contributed property.

Explanation of Provision

The provision requires a partner who contributes appreciated property to a partnership to include pre-contribution gain in income to the extent that the value of other property distributed by the partnership to that partner exceeds his adjusted basis in his partnership interest. The provision applies whether or not the contributing partner's interest in the partnership is reduced in connection with the distribution. In accordance with the 5-year limitation of present law, the provision applies only if the distribution is made within 5 years after the contribution of the appreciated property. The bill provides rules for taking into consideration multiple contributions by the same partner within the five-year period and generally permits the netting of pre-contribution losses against pre-contribution gains. Generally, the character of the gain is determined by reference to the character of the net pre-contribution gain.

---

[1] Present law does limit the use of partnerships to make disguised sales of appreciated property by providing that if there is a direct or indirect transfer of money or property by a partner to a partnership, and a related transfer of money or other property by the partnership to the transferor partner or another partner, and the transfers, viewed together, are property characterized as a sale or exchange of property, then the transfers are treated as a transaction occurring between the partnership and a non-partner, or between non-partners (sec. 707(a)(1)(B)).

For example, assume A and B form a partnership. A contributes appreciated property X and B contributes property Y, which has a basis equal to its value at the time of contribution. Y is distributed to A within 5 years, at a time when there have been no intervening distributions or dispositions of property by the partnership. Under the provision, A includes in income his pre-contribution gain with respect to X to the extent the value of Y exceeds A's basis in his partnership interest.

Appropriate basis adjustments are to be made in the basis of the distributee partner's interest in the partnership and the partnership's basis in the contributed property to take account of gain recognized by the distributee partner.

Gain recognition generally is not required to the extent the partnership distributes property which had been contributed by the distributee partner. Rules are provided, however, to prevent avoidance of pre-contribution gain (under this provision and under the recognition provisions of present law) through the use of entities.

Under these rules, if the property distributed consists of an interest in an entity, gain recognition is required to the extent that the value of the interest in the entity is attributable to property contributed to the entity after the interest in it was contributed to the partnership. Similarly, the bill provides that if contributed property is distributed indirectly to a partner other than its contributor partner is subject to tax on the pre-contribution gain as if the property had been distributed directly rather than indirectly.

For example, assume that A and B form a partnership. A contributes appreciated property X and B contributes property Y, which is also appreciated. A also contributes the stock of C, a corporation with no substantial assets. Instead of distributing Y to A, the partnership contributes Y to C, then distributes the stock of C back to A. Under the provision, A must include in income pre-contribution gain with respect to X to the extent the value of the C stock (taking into account the value of Y) exceeds his basis in his partnership interest. In addition, B must include in income pre-contribution gain with respect to Y.

It is intended that the provision be coordinated with the rules governing partnership terminations (sec. 708).[2] Pre-contribution gain otherwise required to be recognized under the provision is not triggered by a constructive termination under section 708(b)(1)(B). A constructive termination does not change the application of the sharing requirements of 704(c) of present law to pre-contribution gain with respect to property contributed to the partnership before the termination. Partners will recognize gain in connection with any distribution of partnership property within 5 years following the constructive termination, to the extent of their respective shares of the pre-termination appreciation in the value of the partnership property that is not already required to allocated to the original contributor (if any) of the property.

Effective Date

The provision applies to partnership distributions on or after June 25, 1992.

14. Deny deduction relating to travel expenses paid or incurred in connection with travel of taxpayer's spouse or dependents (sec. 3014 of the bill and sec. 274 of the Code)

Present Law

In general, a taxpayer is permitted a deduction for all ordinary and necessary expenses paid or incurred during the taxable year (1) in carrying on any trade or business and (2) in the case of an individual, for the production of income. Such deductible expenses may include reasonable travel expenses paid or incurred while away from home, such as transportation costs and the cost of meals and lodging.

In the case of ordinary and necessary business expenses, if a taxpayer travels to a destination and while at that destination engages in both business and personal activities, travel expenses to and from such destination are deductible only if the trip is related primarily to the taxpayer's trade or business. If the trip is primarily personal in nature, expenses while at the destination that are properly allocable to the taxpayer's trade or business are deductible even though the traveling expenses to and from the destination are not deductible (Treas. reg. sec. 1.162-2(b)(1)).

Under Treasury regulations, if the taxpayer's spouse accompanies the taxpayer on a business trip, expenses attributable to the spouse's travel are not deductible unless it is adequately shown that the spouse's presence on the trip has a bona fide business purpose (Treas. reg. section 1.162-2(c)). The performance of some incidental service by the spouse does not cause the expenses to qualify as deductible business expenses. Under the regulations, the same rules apply to any other members of the taxpayer's family who accompany the taxpayer on such a trip.

In general, business expenses other than unreimbursed employee business expenses are deductible above-the-line and are not subject to the 2-percent floor on miscellaneous itemized deductions. Expenses for the production of income other than rental or royalty income are generally deductible below-the-line (if the activity does not constitute a trade or business) and are subject to the 2-percent floor on miscellaneous itemized deductions.

Gross income does not include the value of a working condition fringe (sec. 132(d)). A "working condition fringe" is any property or service provided to an employee of an employer to the extent that if an employee paid for the property or service, the amount paid would be deductible as an ordinary and necessary business expense (sec. 162) or a depreciation expense (sec. 167).

Reasons for Change

In most cases, there will be a substantial personal component to any travel expense paid or incurred with respect to a family member who is accompanying an individual who is traveling on business. No deduction for these expenses should be allowed in light of the large element of personal consumption and the difficulties of enforcing the present-law rules.

Explanation of Provision

The bill denies a deduction for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying a person on business travel, unless (a) the spouse, dependent, or other individual accompanying the person is a bona fide employee of the person paying or reimbursing the expenses, (b) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and (c) the expenses of the spouse, dependent, or other individual would otherwise be deductible. No inference is intended as to the deductibility of these expenses under present law.

Effective Date

The provision is effective for amounts paid or incurred after December 31, 1992.

15. Increase excise tax on certain ozone-depleting chemicals (secs. 3015 of the bill and secs. 4681-4682 of the Code)

Present Law

An excise tax is imposed on certain ozone-depleting chemicals. The amount of tax generally is determined by multiplying the base tax amount applicable for the calendar year by an ozone-depleting factor assigned to the chemical. Certain chemicals are subject to a reduced rate of tax for years prior to 1994.

Between 1992 and 1995 there are two base tax amounts applicable, depending upon whether the chemicals were initially listed in the Omnibus Budget Reconciliation Act of 1989 or whether they were newly listed in the Omnibus Budget Reconciliation Act of 1990. The base tax amount applicable to initially listed chemicals is $1.67 per pound for 1992, $2.65 per pound for 1993 and 1994, and an additional 45 cents per pound per year for each year thereafter. The base tax amount applicable to newly listed chemicals is $1.37 per pound for 1992, $1.67 per pound for 1993, $3.00 per pound for 1994, $3.10 per pound for 1995, and an additional 45 cents per pound per year for each year thereafter.

Reasons for Change

On February 11, 1992, President Bush announced that, in response to recent scientific findings, the United States unilaterally will accelerate the phaseout of substances that deplete the Earth's ozone layer. The President announced that the production of major CFC's, halons, methyl chloroform, and carbon tetrachloride generally will be eliminated by December 31, 1995. The President noted that the tax on ozone-depleting chemicals has helped the United States achieve a more rapid reduction in use of such chemicals than that called for under the Montreal Protocol on Substances that Deplete the Ozone Layer ("Montreal Protocol").

In light of the recent scientific evidence, the President's action, and in recognition of the importance of the tax on ozone-depleting chemicals as an economic incentive, the committee believes it is important to enhance the conservation effort and speed the search for safe substitutes by increasing the base rate of tax on ozone-depleting chemicals. The committee believes an increase in the base rate of tax will help market forces in finding substitutes. In addition, the committee is concerned that the market prices for ozone-depleting chemicals currently do not reflect many of the environmental and other social costs associated with their use. As a result, the quantities of these chemicals being produced and used may be greater than optimal. The committee believes the tax on ozone-depleting chemicals helps foster reduced use of ozone-depleting chemicals.

The committee, however, is concerned that an increase in the price of ozone-depleting chemicals used as medical sterilants may, at this time, have an undue effect in discouraging the use of these chemicals in such use and could lead to an increase in staphylococci and other bacterial infections.

---

[2] This coordination is intended to be consistent with the coordination provided with respect to the present-law pre-contribution gain rules in the case of a partnership termination. See Senate Finance Committee, Committee Print, Revenue Reconciliation Act of 1989 (Oct. 12, 1989) at 197-198.

Explanation of Provision

Base tax amount.—The bill increases the base tax amount of both initially listed chemicals and newly listed chemicals. The bill increases the base tax amount of initially listed and newly listed chemicals by $0.15 per pound for 1992, by $0.25 per pound for 1993, by $0.35 per pound for 1994, and by $0.45 per pound for 1995. For each year after 1995, the increase in the base tax amount for both initially and newly listed chemicals is $0.45 per pound. These increases in the base tax amounts are in addition to those currently scheduled to occur under present law, including the $0.45 per pound per year increases for years after 1994 for initially listed chemicals and the $0.45 per pound per year increases for years after 1995 for newly listed chemicals.

Medical sterilants.—The bill provides for a reduced rate of tax for 1992 (for sale or use on or after October 1, 1992) and 1993 for certain ozone-depleting chemicals used to sterilize medical devices. The tax applicable to such chemicals is determined by multiplying the otherwise applicable tax rate by the applicable percentage. The applicable percentage is 91.76 percent for sale or use in 1992 occurring on or after October 1, 1992, and 55.67 percent for calendar year 1993. A taxpayer who has paid tax on ozone-depleting chemicals used (on or after October 1, 1992) to sterilize medical devices at a rate higher than that required will receive a credit or refund (without interest) of such excess.

Rigid foam insulation and halons.—In addition, the bill reduces the applicable percentage used in the computation of the tax applied to chemicals used in rigid foam insulation in 1992 and 1993. The bill reduces the applicable percentage from 15 percent to 13.76 percent for 1992, and reduces the applicable percentage from 10 percent to 8.33 percent for 1993. Similarly, the bill reduces the applicable percentage applied to Halon-1211, Halon-1301, and Halon-2402 in 1992 and 1993. The following table contains the new applicable percentages.

	Applicable percentage	
	1992	1993
Halon-1211	4.58	2.78
Halon-1301	1.38	0.83
Halon-2402	2.29	1.39

The applicable percentages for 1992 apply only to sale or use after the effective date. The effect of this provision is to continue present-law rates on these chemicals for 1992 and 1993.

Effective Date

The provision is effective for taxable chemicals sold (or used) on or after October 1, 1992. Floor stocks taxes are imposed on taxable chemicals held on the effective dates of changes in the base tax amount.

SUBTITLE B. EXTENSION OF EXISTING PROVISIONS

1. Five-year extension of top estate and gift tax rates (sec. 3101 of the bill and sec. 2001 of the Code)

Present Law

The Federal estate and gift taxes are unified so that a single progressive rate schedule is applied to an individual's cumulative gifts and bequests. The generation-skipping transfer tax is computed by reference to the maximum Federal estate tax rate.

For 1992, the Federal estate and gift tax rates begin at 18 percent on the first $10,000 of taxable transfers and reach 55 percent on taxable transfers in excess of $3 million. For transfers occurring after 1992, the maximum Federal estate and gift tax rates are scheduled to decline to 50 percent on taxable transfers over $2.5 million.

In addition, the benefit of the graduated rates and the unified credit is phased-out at a 5-percent rate for taxable transfers in excess of $10,000,000 and $21,040,000.

Reasons for Change

At the present time, the committee believes it is inappropriate to permit existing rates for estate and gift taxes to be reduced.

Explanation of Provision

The proposal would defer for five years the estate and gift tax rate reductions that were scheduled to take effect after 1992 until after 1997. Also, the rate of tax on generation skipping transfers would remain at 55 percent until after 1997.

Effective Date

The provision is effective for decedents dying, gifts made, and generation skipping transfers occurring after December 31, 1992.

2. Extension of phaseout of personal exemption for high-income taxpayers (sec. 3102 of the bill and sec. 151 of the Code)

Present Law

Present law permits a personal exemption deduction from gross income for an individual, the individual's spouse, and each dependent. For 1992, the amount of this deduction is $2,300 for each exemption claimed. This exemption amount is adjusted for inflation. The deduction for personal exemptions is phased out for taxpayers with adjusted gross income (AGI) above a threshold amount (indexed for inflation) which is based on filing status. For 1992, the threshold amounts are $157,900 for married taxpayers filing joint returns, $78,950 for married taxpayers filing separate returns, $131,550 for unmarried taxpayers filing as head of household, and $105,250 for unmarried taxpayers filing as single.

The total deduction for personal exemptions which may be claimed by a taxpayer is reduced by 2 percent for each $2,500 (or portion thereof) by which the taxpayer's AGI exceeds the applicable threshold (the phaseout rate is 4 percent for married taxpayers filing separate returns). Thus, the deduction for personal exemptions claimed is phased out over a $122,500 range, beginning at the applicable threshold.

This provision does not apply to taxable years beginning after December 31, 1996.

Reasons for Change

The committee believes that the phaseout of the deduction for personal exemptions claimed by higher-income individuals is an effective means of ensuring that the individual income tax system remains a sufficiently progressive means of raising revenue. Accordingly, this provision should be made a permanent feature of the Federal individual income tax system.

Explanation of Provision

The bill extends permanently the present-law personal exemption phaseout applicable to higher-income taxpayers.

Effective Date

The bill is effective for taxable years beginning after 1996.

3. Extension of overall limitation on itemized deductions for high-income taxpayers (sec. 3103 of the bill and sec. 68 of the Code)

Present Law

Under present law, individuals who do not elect the standard deduction may claim itemized deductions (subject to certain limitations) for certain nonbusiness expenses incurred during the taxable year. Among these deductible expenses are unreimbursed medical expenses, casualty and theft losses, charitable contributions, qualified residence interest, State and local income and property taxes, unreimbursed employee business expenses, and certain other miscellaneous expenses.

Certain itemized deductions are allowed only to the extent that the amount exceeds a specified percentage of the taxpayer's adjusted gross income (AGI). Unreimbursed medical expenses for care of the taxpayer and the taxpayer's spouse and dependents are deductible only to the extent that the total of these expenses exceeds 7.5 percent of the taxpayer's AGI. Nonbusiness casualty or theft losses are deductible only to the extent that the amount of loss arising from each casualty or theft exceeds $100 and only to the extent that the net amount of casualty and theft losses exceeds 10 percent of the taxpayer's AGI. Unreimbursed employee business expenses and certain other miscellaneous expenses are deductible only to the extent that the total of these expenses exceeds 2 percent of the taxpayer's AGI.

The total amount of otherwise allowable itemized deductions (other than medical expenses, casualty and theft losses, and investment interest) is reduced by 3 percent of the amount of the taxpayer's AGI in excess of $105,250 in 1992 (indexed for inflation). Under this provision, otherwise allowable itemized deductions may not be reduced by more than 80 percent. In computing the reduction of total itemized deductions, all present-law limitations applicable to such deductions are first applied and then the otherwise allowable total amount of deductions is reduced in accordance with this provision.

The reduction of otherwise allowable itemized deductions does not apply to taxable years beginning after December 31, 1995.

Reasons for Change

The committee believes that the limitation on itemized deductions for higher-income individuals is an effective means of ensuring that the individual income tax system remains a sufficiently progressive means of raising revenue. In addition, the goal of personalizing the Federal income tax to reflect an individual's ability to pay taxes is promoted by a rule that imposes some limitation on the deductibility of amounts paid by higher-income individuals, yet generally allows full deductibility of these expenses on the margin. Accordingly, this provision should be permanently incorporated into the Federal individual income tax system.

Explanation of Provision

The bill extends permanently the present-law itemized deduction limitation applicable to higher-income individuals.

Effective Date

The bill is effective for taxable years beginning after 1995.

SUBTITLE C. TAXABLE YEAR ELECTION FOR PARTNERSHIPS, S CORPORATIONS, AND PERSONAL SERVICE CORPORATIONS (SECS. 3201–3204 OF THE BILL AND SECS. 280H, 444, AND 7519 OF THE CODE)

Present Law

In general

A partnership is generally required for Federal income tax purposes to use the taxable year that is used by a majority of its partners. An S corporation is generally required for Federal income tax purposes to use the calendar year as its taxable year. A personal service corporation also is generally required for Federal income tax purposes to use the calendar year as its taxable year.[1]

A partnership, S corporation, or personal service corporation, however, may elect to use a taxable year other than the required taxable year. In the case of a partnership, S corporation, or personal service corporation that is adopting a taxable year or changing a taxable year, the taxable year that may be elected generally may not result in a deferral period of more than three months. For this purpose, the deferral period generally is the number of months between (1) the beginning of the taxable year of the partnership, S corporation, or personal service corporation, and (2) the close of the first required taxable year that ends within such year.

A partnership, S corporation, or personal service corporation is required to obtain the approval of the Internal Revenue Service in order to change to a taxable year other than the required taxable year. A partnership, S corporation, or personal service corporation that terminates an election to use a taxable year other than the required taxable year may not make an election for any subsequent taxable year.

An election may not be made by a partnership, S corporation, or personal service corporation that is part of a tiered structure other than a tiered structure that is comprised of one or more partnerships or S corporations, all of which have the same taxable year. An electing partnership, S corporation, or personal service corporation that becomes part of a proscribed tiered structure is considered to have terminated its election.

Required payment for electing partnerships and S corporations

A partnership or S corporation that elects a taxable year other than the required taxable year is required to make a payment to the Internal Revenue Service (a "required payment") that is designed to compensate the Federal government for the deferral of tax that results from the use of a taxable year other than the required taxable year. The amount of the required payment for any taxable year for which an election is in effect (an "applicable election year") equals the excess (if any) of (1) the highest rate of tax in effect under section 1 of the Code plus 1 percentage point multiplied by the net base year income of the partnership or S corporation, over (2) the net required payment balance. The net required payment balance is the aggregate amount of required payments less refunds of required payments for all preceding taxable years for which an election was in effect.

The required payment is due on May 15 of the calendar year that follows the calendar year in which the applicable election year began. The required payment is required to be refunded by the Internal Revenue Service if certain conditions are satisfied. No interest is to be paid by the Internal Revenue Service with respect to a refund of a required payment.

Minimum distribution requirement for electing personal service corporations

A personal service corporation that elects a taxable year other than the required taxable year is required to satisfy a minimum distribution requirement that applies to applicable amounts paid by the personal service corporation.[2] If the minimum distribution requirement is not satisfied for any taxable year for which a taxable year election is in effect, the deduction otherwise allowed for applicable amounts paid or incurred during such taxable year is limited to the applicable amounts paid during the deferral period of the taxable year multiplied by a ratio, the numerator of which is the number of months in the taxable year and the denominator of which is the number of months in the deferral period of the taxable year.

The minimum distribution requirement is satisfied with respect to a taxable year only if the applicable amounts paid or incurred during the deferral period of the taxable year equal or exceed the lesser of (1) the applicable amounts paid during the preceding taxable year multiplied by a ratio, the numerator of which is the number of months in the deferral period of the taxable year and the denominator of which is the number of months in the taxable year, or (2) the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

A net operating loss carryback is not allowed to or from a taxable year of a personal service corporation for which a taxable year election is in effect.

Reasons for Change

The committee believes that the limitations on the taxable years that may be elected by partnerships, S corporations, and personal service corporations have resulted in an excessive burden on tax return preparers due to the concentration of workload during a limited portion of the year. In order to more evenly spread this workload throughout the year, the committee believes that a partnership, S corporation, or personal service corporation should be allowed to elect any taxable year, provided that the tax benefit from the deferral of income that is available through the use of a taxable year other than the required taxable year is eliminated through other means.

Explanation of Provision

In general

The bill allows a partnership, S corporation, or personal service corporation to elect any taxable year without regard to the length of the deferral period of the taxable year elected. If a partnership, S corporation, or personal service corporation, however, has annual reports or statements that (1) ascertain the income, profit, or loss of the entity, and (2) are used for credit purposes or are provided to the partners, shareholders, or other proprietors of the entity, then the entity may only elect a taxable year that covers the same period as such annual reports or statements.

The bill also repeals that provision of present law that prohibits a partnership, S corporation, or personal service corporation from electing a taxable year other than the required taxable year if an earlier taxable year election has been terminated. The bill continues to require a partnership, S corporation, or personal service corporation to obtain the approval of the Internal Revenue Service in order to change a taxable year (including, unlike peresent law, a change to the required taxable year).

The committee anticipates that the Internal Revenue Service will provide a procedure by which a partnership, S corporation, or personal service corporation may expeditiously obtain the approval of the Internal Revenue Service in order to change a taxable year (for example, by timely filing a form with the Internal Revenue Service). The committee anticipates that this "automatic consent" procedure will only apply to a partnership, S corporation, or personal service corporation that has not changed its taxable year within the past 6 calendar years, except that the 6-year limitation will not apply to any partnership, S corporation, or personal service corporation that has changed its taxable year in order to comply with the taxable year requirements contained in the Tax Reform Act of 1986.

The committee also anticipates that the "automatic consent" procedure will require any net operating loss of a personal service corporation that arises in a short period required to effect a change in taxable year to be deducted ratably over a 6-year period beginning with the first taxable year after the short period. In addition, the committee anticipates that the "automatic consent" procedure will require any excess of deductions over income of a partnership or S corporation that arises in a short period required to effect a change in taxable year to be taken into account by the partners or shareholders over a 6-year period beginning with the taxable year of the partners or shareholder that includes the last day of the first taxable year of the partnership or S corporation that occurs after the short period.

The bill also provides that a taxable year election is to remain in effect until the partnership, S corporation, or personal service corporation terminates its election and changes to the required taxable year.[3] A change from a taxable year that is not a required taxable year to another taxable year that is not a required taxable year is not treated as a termination of the taxable year election unless the taxable year is allowable by reason of a business purpose.

The bill provides that a partnership, S corporation, or personal service corporation is not to be considered part of a tiered structure solely because a trust the beneficiaries of which use the calendar year owns an interest in the partnership, S corporation, or personal service corporation. Consequently, an election of a taxable year other than the required taxable year may be made by a partnership, S corporation, or personal service corporation with respect to which a trust owns an interest if all of the beneficiaries of the trust use the calendar year and the partnership, S corporation, or personal service corporation is not otherwise considered to be part of a proscribed tiered structure.

Required payment for electing partnerships and S corporations

The bill increases the amount of the required payment that must be made by a partnership or S corporation that elects a taxable year other than the required taxable year (including any partnership or S corporation that has an election in effect on the date of enactment of the bill). Under the bill, the amount of the required payment for any applicable election year equals the excess (if any) of (1) the highest rate of tax in effect under section 1 of the Code as of the close of the first required taxable year ending within the applicable election year plus 2 percentage points, multiplied by the net base year income of the partnership or S corporation, over (2) the net required payment balance.

---

[1] For this purpose, a personal service corporation is defined as a C corporation the principal activity of which is the performance of services if (1) the services are substantially performed by employee-owners, and (2) more than 10 percent of the stock of the corporation is owned by employee-owners.

[2] The term "applicable amount" generally is defined as any amount paid to an employee-owner that is includable in the gross income of the employee-owner other than any dividend paid by the personal service corporation or any gain from the sale or exchange of property by the employee-owner to the personal service corporation.

[3] As under present law, a taxable year election is also terminated if: (1) the entity becomes part of a proscribed tiered structure; of (2) a partnership or S corporation willfully fails to comply with the required payment rules described below. In addition, the bill authorizes the Treasury Department to issue regulations which provide for the termination of a taxable year election if the entity does not comply with the annual financial statement requirement described above.

In addition, the bill requires an additional required payment for any new applicable election year of a partnership or S corporation. For this purpose, a new applicable election year is defined as any applicable election year that either (1) immediately follows a taxable year for which a taxable year election was not in effect, or (2) covers a different period than the preceding taxable year by reason of a change in the taxable year elected. If, however, the applicable election year described in the preceding sentence is a short taxable year that does not include the last day of a required taxable year, then the new applicable election year is the taxable year immediately following the short taxable year.

In the case of a new applicable election year that does not result from a change in the taxable year elected, the amount of the additional required payment equals 75 percent of the amount of the required payment for such applicable election year (determined without regard to the additional required payment). In the case of a new applicable election year that results from a change in the taxable year elected, the amount of the additional required payment equals 75 percent of the excess (if any) of (1) the amount of the required payment for such applicable election year (determined without regard to the additional required payment), over (2) the amount of required payment for such applicable election year (determined without regard to the additional required payment) determined by using the deferral ratio and the deferral period that applied to the taxable year that was used prior to the change.[4]

The additional required payment is required to be made on or before September 15 of the calendar year in which the new applicable election year begins. A partnership or S corporation that fails to make the additional required payment by the due date of such payment is treated as having terminated the taxable year election and changed to the required taxable year.

In determining the net base year income of a partnership or S corporation for purposes of the required payment (including the additional required payment), the base year is defined as the first taxable year of 12 months (or 52-53 weeks) of the partnership or S corporation that precedes the applicable election year.[5] In addition, in the case of a new applicable election year, the net income for the base year is to be increased by the excess (if any) of (1) the applicable payments taken into account in determining net income for the base year, over (2) 120 percent of the average amount of applicable payments made during the 3 taxable years immediately preceding the base year.[6]

The bill also requires interest to be paid by the Internal Revenue Service with respect to a refund of a required payment but only for the period that begins on the date that the refund is payable and that ends on the date of the payment of the refund.

Minimum distribution requirement for electing personal service corporations

The bill modifies the minimum distribution requirement that must be satisfied by a personal service corporation that elects a taxable year other than the required taxable year (including a personal service corporation that has an election in effect on the date of enactment of the bill). The minimum distribution requirement is satisfied with respect to a taxable year only if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of (1) 110 percent of the applicable amounts paid during the first preceding taxable year of 12 months (or 52-53 weeks)[7] multiplied by a ratio, the numerator of which is the number of months in the deferral period of the taxable year and the denominator of which is 12, or (2) 110 percent of the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

The bill also permits a personal service corporation to carry back a net operating loss from a taxable year for which a taxable year election was not in effect to a taxable year for which a taxable year election was in effect.

Effective Date

The provision applies to taxable years beginning after December 31, 1992.

SUBTITLE D.

1. Withholding on supplemental wage payments (sec. 330 of the bill)

Present Law

Under Treasury regulations (Treas. Reg. sec. 31.3402(g)-1), withholding on supplemental wage payments (such as bonuses, commissions, and overtime pay) that are not paid concurrently with wages (or that are paid concurrently with wages, but are separately stated) for a payroll period may be done at a rate of 20 percent (at the employer's election).

Reasons for Change

The committee believes that it is appropriate to raise the withholding rate on supplemental wage payments so that withholding more closely approximates the ultimate tax liability with respect to these payments.

Explanation of Provision

The elective withholding rate on supplemental wage payments is increased from 20 percent to 28 percent.

Effective Date

The provision is effective for payments of supplemental wages made after December 31, 1992.

2. Increase withholding on gambling winnings (sec. 3302 of the bill and sec. 3402(q) of the Code)

Present Law

In general, proceeds from a wagering transaction are subject to withholding at a rate of 20% if such proceeds exceed $1,000 and if the amount of such proceeds is at least 300 times as large as the amount wagered. The proceeds from a wagering transaction are determined by subtracting from the amount received the amount wagered. Any non-monetary proceeds that are received are taken into account at fair market value.

In the case of State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20% if such proceeds exceed $5,000, regardless of the odds of the wager. This rule applies only if the wager is placed with the State agency conducting the lottery or with its authorized agents or employees.

In the case of sweepstakes, wagering pools, or lotteries other than State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20% if such proceeds exceed $1,000, regardless of the odds of the wager.

No withholding tax is imposed on winnings from a slot machine, bingo, or keno.

Reasons for Change

The committee believes that it is appropriate to increase the rate of withholding on gambling winnings.

Explanation of Provision

The bill increases the rate of withholding on proceeds from a wagering transaction to 28%.

Effective Date

The provision is effective for payments made after December 31, 1992.

TITLE IV. SIMPLIFICATION PROVISIONS

SUBTITLE A. INDIVIDUAL TAX PROVISIONS

1. Rollover of gain on sale of principal residence in the case of divorce or separation (sec. 4101 of the bill and sec. 1034 of the Code)

Present Law

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

The determination whether property is used by a taxpayer as a principal residence depends upon all the facts and circumstances in each case, including the good faith of the taxpayer. No safe harbor is provided for sales of principal residences incident to divorce or marital separation.

Reasons for Change

In the case of a divorce or marital separation, the determination of principal residence for one or both spouses may be unduly complex for both the taxpayer and the Internal Revenue Service. The creation of a safe-harbor rule for certain sales pursuant to a divorce or marital separation will ease administration of the law while still preserving the policy that the rollover is available only for the sale of an individual's principal residence.

Explanation of Provision

The bill provides a safe harbor in the determination of principal residence in certain cases incident to divorce or marital separation. Specifically, the bill provides that a residence is treated as the taxpayer's principal residence at the time of sale if (1) the residence is sold pursuant to a divorce or marital separation and (2) the taxpayer used such residence as his or her principal residence at any time during the two-year period ending on the date of sale.

---

[4] In the case of a new applicable election year that results from a change in the taxable year elected, an additional required payment is required only if the deferral period of the new applicable election year exceeds the deferral period of the former applicable election year.

[5] The Treasury Department is authorized to promulgate regulations that provide for the application of the required payment rules if there is no taxable year of 12 months (or 52-53 weeks) of the partnership or S corporation that precedes the applicable election year. The committee anticipates that these regulations will annualize the results of any short taxable year that is used as the base year.

[6] In the event that there are not 3 taxable years immediately preceding the base year, the provision is to apply based on the number of taxable years immediately preceding the base year.

[7] The Treasury Department is authorized to promulgate regulations that provide for the application of the minimum distribution requirement if there is no preceding taxable year of 12 months (or 52-53 weeks) of the personal service corporation. The committee anticipates that these regulations will annualize the results of any short year that is taken into account for purposes of these rules.

Effective Date

The provision applies to sales of old residences (within the meaning of section 1034) after the date of enactment.

2. Election by parent to claim unearned income of certain children on parent's return (sec. 4102 of the bill and secs. 1(g)(7) and 59(j)(1) of the Code)

Present Law

The net unearned income of a child under 14 years of age is taxed to the child at the parents' statutory rate. Net unearned income means unearned income less the sum of $500 and the greater of: (1) $500 of the standard deduction or $500 of itemized deductions or (2) the amount of allowable deductions directly connected with the production of the unearned income. The dollar amounts are adjusted for inflation occurring after 1987.

In certain circumstances, a parent may elect to include a child's unearned income on the parent's income tax return if the child's income is less than $5,000. A parent making this election must include the gross income of the child in excess of $1,000 in income for the taxable year. In addition, the parent must report an additional tax liability equal to the lesser of (1) $75 or (2) 15 percent of the excess of the child's income over $500. The dollar amounts for the election are not adjusted for inflation.

A person claimed as a dependent cannot claim a standard deduction exceeding the greater of $500 or such person's earned income. For alternative minimum tax purposes, the exemption of a child under 14 years of age generally cannot exceed the sum of such child's earned income plus $1,000. The $500 amount is adjusted for inflation occurring after 1987 but the $1,000 amount is not.

Reasons for Change

The election by a parent to include a child's unearned income on a return is intended to eliminate the need to file a separate return for a child without reducing the family's total tax liability. Indexation of the underlying dollar amounts simplifies return preparation by making the election available to more taxpayers.

The restriction upon the exemption allowed to a child for alternative minimum tax purposes is intended to treat the family the same as if the child's income had been included on the parent's return. Indexation of this exemption amount achieves this goal and simplifies transfers by removing a tax consideration influencing the ownership of property within the family.

Explanation of Provision

The bill adjusts for inflation occurring after 1987 the dollar amounts involved in the election to claim unearned income on the parent's return. It likewise indexes the $1,000 amount used in computing the child's alternative minimum tax.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

3. Simplified foreign tax credit limitation for individuals (sec. 4103 of the bill and sec. 904 of the Code)

Present Law

In order to compute the foreign tax credit, a taxpayer computes foreign source taxable income and foreign taxes paid in each of the applicable separate foreign tax credit limitation categories. In the case of an individual, this requires the filing of IRS Form 1116, designed to elicit sufficient information to perform the necessary calculations.

In many cases, individual taxpayers who are eligible to credit foreign taxes may have only a modest amount of foreign source gross income, all of which is income from investments (e.g., dividends from a foreign corporation subject to foreign withholding taxes or dividends from a domestic mutual fund that can pass through its foreign taxes to the shareholder (see sec. 853)). Taxable income of this type ordinarily is subject to the single foreign tax credit limitation category known as passive income. However, under certain circumstances, the Code treats investment-type income (e.g., dividends and interest) as income in several other separate limitation categories (e.g., high withholding tax interest income, general limitation income) designed to accomplish certain policy objectives or forestall certain abuses. For this reason, any taxpayer with foreign source gross income is required to provide sufficient detail on Form 1116 to ensure that foreign source taxable income from investments, as well as all other foreign source taxable income, is allocated to the correct limitation category.

Reasons for Change

The committee believes that a significant number of individuals are entitled to credit relatively small amounts of foreign tax imposed at modest effective tax rates on foreign source investment income. For taxpayers in this class, applicable foreign tax credit limitations typically exceed the amounts of taxes paid. Therefore, relieving these taxpayers from application of the full panoply of foreign tax credit rules may achieve significant reduction in the complexity of the tax law without significantly altering actual tax liabilities. At the same time, however, the committee believes that the benefits of simplified treatment should be limited to cover those cases where the taxpayer is receiving a payee statement showing the amount of the foreign source income and the foreign tax.

Explanation of Provision

The bill allows individuals with no more than $200 ($400 in the case of married persons filing jointly) of creditable foreign taxes, and no foreign source income other than income that is in the passive basket, to elect a simplified foreign tax credit limitation equal to the lesser of 25 percent of the individual's foreign source gross income or the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year. (The committee intends that an individual electing this simplified limitation calculation not be required to file Form 1116 in order to obtain the benefit of the credit.) A person who elects the simplified foreign tax credit limitation is not allowed a credit for any foreign tax not shown on a payee statement (as that term is defined in sec. 6724(d)(2)) furnished to him or her. Nor is the person entitled to treat any excess credits for a taxable year to which the election applied as a carryover to another taxable year. Because the limitation for a taxable year to which the election applies can be no more than the creditable foreign taxes actually paid for the taxable year, it is also the case under the bill that no excess credits from another year can be carried over to the taxable year to which the election applies.

For purposes of the simplified limitation, passive income generally is defined to include all types of income that would be foreign personal holding company income under the subpart F rules, plus income inclusions from passive foreign corporations (as defined by the bill), so long as the income is shown on a payee statement furnished to the individual. Thus, for purposes of the simplified limitation, passive income includes all dividends, interest (and income equivalent to interest), royalties, rents, and annuities; net gains from dispositions of property giving rise to such income; net gains from certain commodities transactions; and net gains from foreign currency transactions that give rise to foreign currency gains and losses as defined in section 988. The statutory exceptions to treating these types of income as passive for foreign tax credit limitation purposes, such as the exceptions for high-taxed income and high-withholding-tax interest, are not applicable in determining eligibility to use the simplified limitation.

Although an estate or trust generally computes taxable income and credits in the same manner as in the case of an individual (Code sec. 641(b); Treas. Reg. sec. 1.641(b)-1), the simplified limitation does not apply to an estate or trust.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

4. Personal transactions by individuals in foreign currency (sec. 4104 of the bill and sec. 988 of the Code)

Present Law

When a U.S. taxpayer with a dollar functional currency makes a payment in a foreign currency, gain or loss (referred to as "exchange gain or loss") arises from any change in the value of the foreign currency relative to the U.S. dollar between the time the currency was acquired (or the obligation to pay was incurred) and the time that the payment is made. Gain or loss results because foreign currency, unlike the U.S. dollar, is treated as property for Federal income tax purposes.

Exchange gain or loss can arise in the course of a trade or business or in connection with an investment transaction. Exchange gain or loss can also arise where foreign currency was acquired for personal use. For example, the IRS has ruled that a taxpayer who converts U.S. dollars to a foreign currency for personal use—while traveling abroad—realizes exchange gain or loss or reconversion of appreciated or depreciated foreign currency (Rev. Rul. 74-7, 1974-1 C.B. 198).

Prior to the Tax Reform Act of 1986 (the "1986 Act"), most of the rules for determining the Federal income tax consequences of foreign currency transactions were embodied in a series of court cases and revenue rulings issued by the Internal Revenue Service ("IRS"). Additional rules of limited application were provided by Treasury regulations and, in a few instances, statutory provisions. Pre-1986 law was believed to be unclear regarding the character, the timing of recognition, and the source of gain or loss due to fluctuations in the exchange rate of foreign currency. The result of prior law as uncertainty of tax treatment for many legitimate transactions, as well as opportunities for tax-motivated transactions. Therefore, in 1986 Congress determined that a comprehensive set of rules should be provided for the U.S. tax treatment of transactions involving "nonfunctional currencies;" that is, currencies other than the taxpayer's "functional currency."

However, the 1986 Act provisions designed to clarify the treatment of currency transactions, primarily found in section 988, apply to transactions entered into by an individual only to the extent that expenses attributable to such transactions would be deductible under section 162 (as a trade or business expense) or section 212 (as an expense of producing income, other than expenses incurred in connection with the determination, collection, or refund of taxes). Therefore, the principles of pre-1986 law continue to apply to personal currency transactions.[1]

Reasons for Change

An individual who lives or travels abroad generally cannot use U.S. dollars to make all of the purchases incident to ordinary daily life. Instead, the local currency must often be used, yet the individual will not be treated for tax purposes as having changed his or her functional currency to the local currency. If it were necessary to treat foreign currency in this instance as property giving rise to U.S. dollar income or loss every time it was, in effect, "bartered" for goods or services, the U.S. individual living in or visiting a foreign country would have a significant administrative burden that may bear little or no relation to whether U.S.-dollar measured income has increased or decreased. An analogous issue arises for a corporation that has a qualified business unit ("QBU") in a foreign country but nevertheless uses the U.S. dollar as its functional currency pursuant to section 986(b)(3). Complexity concerns aside, Congress could have required in that case that gain or loss be computed on each transaction carried out in the local currency. Instead, however, Congress directed the Treasury to adopt a method of translation of the QBU's results that merely approximates the results of determining exchange gain or loss on a transaction-by-transaction basis.[2] The committee believes that individuals also should be given relief from the requirement to keep track of gains on an actual transaction-by-transaction basis in certain cases.

Explanation of Provision

In a case where an individual acquires nonfunctional currency and then disposes of it in a personal transaction, and where exchange rates have changed in the intervening period, the bill provides for nonrecognition of an individual's resulting exchange gain not exceeding $200. The bill does not change the treatment of resulting exchange losses. The committee understands that under other Code provisions, such losses typically are not deductible by individuals (e.g., sec. 165(c)).

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

5. Make income tax withholding rules parallel to rules for exclusion from income for combat pay (sec. 4105 of the bill and sec. 3401(a)(1) of the Code)

Present Law

Exclusion for combat pay

Gross income does not include certain combat pay of members of the Armed Forces (sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income (special rules apply if enlisted personnel are hospitalized as a result of injuries, wounds, or disease incurred in a combat zone). In the case of commissioned officers, these exclusions from income are limited to $500 per month of military pay.

Income tax withholding

There is no income tax withholding with respect to military pay for a month in which a member of the Armed Forces of the United States is entitled to the benefits of section 112 (sec. 3401(a)(2)). With respect to enlisted personnel, this income tax withholding rule parallels the exclusion from income under section 112: there is total exemption from income tax withholding and total exclusion from income. With respect to officers, however, the withholding rule is not parallel: there is total exemption from income tax withholding, although the exclusion from income is limited to $500 per month.

Reasons for Change

In most instances, the wage withholding rules closely parallel the inclusion in income rules. Consequently, most individuals whose income is subject to withholding may rely on withholding to fulfill their tax obligations. The differences between the withholding rules and the exclusion rules with respect to combat pay could cause affected taxpayers (primarily officers) to be surprised at the size of their additional tax liability at the time of filing their tax returns as a result of underwithholding. Paying the additional tax liability with their tax returns could lead to greater financial hardship than would withholding that is parallel to the exclusion rules.

Explanation of Provision

The bill makes the income tax withholding exemption rules parallel to the rules providing an exclusion from income for combat pay.

Effective Date

The provision is effective as of January 1, 1993.

6. Expanded access to simplified income tax returns (sec. 4106 of the bill)

Present Law

There are three principal tax forms that are utilized by individual taxpayers: Form 1040EZ, Form 1040A, and Form 1040.

Reasons for Change

Many individual taxpayers find the tax forms to be complex.

Explanation of Provision

The bill provides that the Secretary of the Treasury (or his delegate) shall take such actions as may be appropriate to expand access to simplified individual income tax forms and otherwise to simplify the individual income tax returns, including, if appropriate, expanding access to form 1040A to include itemizers who deduct charitable contributions, State and local taxes, and mortgage interest, as well as removing or raising the income caps applicable to that Form.

The bill also requires that the Secretary submit a report to the Congress on the actions undertaken pursuant to this provision, together with any recommendations he may deem advisable.

Effective Date

The report is due no later than one year after the date of enactment.

7. Simplification of tax treatment of rural letter carriers' vehicle expenses (sec. 4107 of the bill and sec. 162 of the Code)

Present Law

A taxpayer who uses his or her automobile for business purposes may deduct the business portion of the actual operation and maintenance expenses of the vehicle, plus depreciation (subject to the limitations of sec. 280F). If the taxpayer is an employee and these expenses are not reimbursed, the deduction is subject to the two-percent floor. Alternatively, the taxpayer may elect to utilize a standard mileage rate in computing the deduction allowable for business use of an automobile that has not been fully depreciated. Under this election, the taxpayer's deduction equals the applicable rate multiplied by the number of miles driven for business purposes and is taken in lieu of deductions for depreciation and actual operation and maintenance expenses.

An employee of the U.S. Postal Service may compute his or her deduction for business use of an automobile in performing services involving the collection and delivery of mail on a rural route by using, for all business use mileage, 150 percent of the standard mileage rate.

Reasons for Change

The filing of tax returns by rural letter carriers can be complex. Under present law, those who are reimbursed at more than the 150 percent rate must report their reimbursement as income and deduct their expenses as miscellaneous itemized deductions (subject to the 2-percent floor). Permitting the income and expenses to wash, so that neither will have to be reported on the rural letter carrier's tax return, will simplify these tax returns.

Explanation of Provision

The bill repeals the special rate of 150 percent of the standard mileage rate. In its place, the bill provides that the rate of reimbursement provided by the Postal Service to rural letter carriers is considered to be equivalent to their expenses. The rate of reimbursement that is considered to be equivalent to their expenses is the rate of reimbursement contained in the 1991 collective bargaining agreement, which may in the future be increased by no more than the rate of inflation.

Effective Date

The provision is effective for taxable years beginning after December 31, 1991.

8. Exemption from luxury excise tax for certain equipment installed on passenger vehicles for use by disabled individuals (sec. 4108 of the bill and sec. 4004(b)(3) of the Code)

Present Law

The Code imposes a 10-percent excise tax on the portion of the retail price of a passenger vehicle that exceeds $30,000. The tax also applies to separate purchases of component parts and accessories occurring within six months of the date the vehicle is placed in service.

Reasons for Change

It is appropriate to reduce the compliance burdens on handicapped persons.

Explanation of Provision

The bill provides that the luxury excise tax does not apply to a part or accessory installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, in order to compensate for the effect of the disability.

---

[1] See, e.g., Rev. Rul. 90-79, 1990-2 C.B. 187 (where the taxpayer purchased a house in a foreign country, financed by a foreign currency loan, and the currency appreciates before the house is sold and the loan is repaid, the taxpayer's exchange loss on repayment of the loan is not deductible under sec. 165 and does not offset taxable gain on the sale of the house).

[2] See Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess., *General Explanation of the Tax Reform Act of 1986* at 1096 (1987); Treas. Reg. sec. 1.985-3.

Persons entitled to a refund may request it from the seller at which they purchased the taxed item, who then obtains the refund as provided under present-law Code section 6416.

Effective Date

The provision is effective for purchases after December 31, 1990.

9. Simplification of earned income tax credit (sec. 4109 of the bill and secs. 32, 162, and 213 of the Code)

Present Law

Eligible low-income workers are able to claim a refundable earned income tax credit (EITC) of up to 17.6 percent of the first $7,520 of earned income for 1992 (18.4 percent for taxpayers with more than one qualifying child). The maximum amount of credit for 1992 is $1,324 ($1,384 for taxpayers with more than one qualifying child). This maximum credit is reduced by 12.57 percent of earned income (or adjusted gross income, if greater) in excess of $11,840 (the phase-out rate is 13.14 percent for taxpayers with more than one qualifying child). The EITC is totally phased out for workers with earned income (or adjusted gross income, if greater) over $22,370. The maximum amount of earned income on which the EITC may be claimed and the income threshold for the phaseout of the EITC are indexed for inflation. Earned income consists of wages, salaries, other employee compensation, and net self-employment income.

The credit rates for the EITC change over time under present law, as shown in the following table.

Year	One qualifying child		Two or more qualifying children	
	Credit rate	Phase-out rate	Credit rate	Phase-out rate
1992	17.6	12.57	18.4	13.14
1993	18.5	13.21	19.5	13.93
1994 and after	23.0	16.43	25.0	17.86

A supplemental young child credit is available to taxpayers with qualifying children under the age of one year. This young child credit rate is 5 percent and the phase-out rate is 3.57 percent. It is computed on the same income base as the ordinary EITC. The maximum supplemental young child credit for 1992 is $376. If a taxpayer claims the supplemental young child credit, the child that qualifies the taxpayer for such credit is not a qualifying individual for purposes of the dependent care tax credit (sec. 21).

A supplemental health insurance credit is available to taxpayers who provide health insurance coverage for their qualifying children. This health insurance credit rate is 6 percent and the phase-out rate is 4.285 percent. It is computed on the same income base on the ordinary EITC, but the credit claimed cannot exceed the out-of-pocket cost of the health insurance coverage. In addition, the taxpayer is denied an itemized deduction for medical expenses of qualifying insurance coverage up to the amount of credit claimed. The maximum supplemental health insurance credit for 1992 is $451.

Reasons for Change

The committee is concerned that the compliance burdens on EITC recipients are greater than is desirable due, in part, to certain rules related to claiming the supplemental credit components of the EITC. In particular, the determination of allowable medical expense deductions, allowable deductions for health insurance coverage of self-employed individuals, and eligibility for the dependent care credit may entail involved interpretations of legal rules. These complicated determinations may deter some eligible individuals from claiming the full amount of EITC to which they are entitled.

Explanation of Provision

The bill permits taxpayers to include all health insurance expenses as medical expenses, subject to the 7.5 percent of adjusted gross income floor on deductible medical expenses, regardless of whether these expenses are used to claim the health insurance component of the EITC. The bill also permits a self-employed taxpayer to claim the allowable deduction for health insurance costs and to use the full amount of these expenses that are related to coverage of dependent children to claim the health insurance component of the EITC.

The bill also permits taxpayers to claim the dependent care credit for expenses related to the care of a child for which the taxpayer claims the supplemental young child credit.

Effective Date

The bill is effective for taxable years beginning after December 31, 1991.

10. Rollover of gain on sale of principal residence in the case of frozen deposits (sec. 4101 of the bill and sec. 1034 of the Code)

Present Law

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sale price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034. The determination whether property is owned by a taxpayer as a principal residence depends upon all the facts and circumstances in each case.

Reasons for Change

The committee believes that the absence under present law of any relief from the two-year period after the date of sale of the old residence when the taxpayer has substantial frozen deposits could unfairly result in the loss of nonrecognition treatment to otherwise innocent taxpayers.

Explanation of Provision

The bill suspends the running of the two-year period after the date of sale of the old residence (referred to in sec. 1034 (a) and (c) other then (c)(4)) during any time that the taxpayer has frozen deposits during the two-year period beginning on the date of sale of the old residence. The period as suspended may not extend beyond the date that is four years after the date of sale of the old residence. A taxpayer is treated as having frozen deposits if the taxpayer's deposit in a financial institution may not be withdrawn due to: (1) the bankruptcy or insolvency of the financial institution or, (2) any requirement imposed by the State in which the financial institution is located by reason of the bankruptcy or insolvency (or threat thereof) of one or more financial institutions located in the State.

Effective Date

The provision applies to any residence sold or exchanged after December 31, 1990, and any residence sold or exchanged before that date if the two-year period had not expired before January 1, 1991.

SUBTITLE B. PENSION SIMPLIFICATION

A. SIMPLIFIED DISTRIBUTION RULES (SECS. 4201–4204 OF THE BILL AND SECS. 72(D) OF THE CODE)

Present Law

In general

Under present law as amended by the Unemployment Compensation Amendments Act of 1992 (P.L. 102–318) (the Unemployment Act) for years after 1992, a distribution of benefits from a tax-favored retirement arrangement generally is includible in gross income in the year it is paid or distributed under the rules relating to the taxation of annuities. A tax-favored retirement arrangement includes (1) a qualified pension plan (sec. 401(a)), (2) a qualified annuity plan (sec. 403(a)), and (3) a tax-sheltered annuity (sec. 403(b)). Special rules apply in the case of lump-sum distribution from a qualified plan, distributions that are rolled over to an individual retirement arrangement (IRA), and employer-provided death benefits.

Lump-sum distributions

Under present law, lump-sum distributions from qualified plans and annuities are eligible for special 5-year forward income averaging (sec. 402(d)). In general, a lump-sum distribution is a distribution within one taxable year of the balance to the credit of an employee that becomes payable to the recipient (1) on account of the death of the employee, (2) after the employee attains age 59½, (3) on account of the employee's separation from service, or (4) in the case of self-employed individuals, on account of disability. In addition, a distribution is treated as a lump-sum distribution only if the employee has been a participant in the plan for at least 5 years before the year of the distribution. Lump-sum treatment is not available for distributions from tax-sheltered annuity contracts.

A taxpayer is permitted to make an election with respect to a lump-sum distribution received on or after the employee attains age 59½ to use 5-year forward income averaging under the tax rates in effect for the taxable year in which the distribution is made. Only one such election on or after age 59½ may be made with respect to any employee.

Special transition rules adopted in the Tax Reform Act of 1986 are available with respect to an employee who attained age 50 before January 1, 1986. Under these rules, an individual, trust, or estate may elect to use 5-year forward income averaging (using present-law tax rates) or 10-year forward income averaging (using the tax rates in effect prior to the Tax Reform Act of 1986) with regard to a single lump-sum distribution, without regard to whether the employee has attained age 59½. In addition, an individual, trust, or estate receiving a lump-sum distribution with respect to such employee may elect to retain the capital gains character of the pre-1974 portion of the lump-sum distribution (using a tax rate of 20 percent).

Employer-provided death benefits

Under present law, the beneficiary or estate of a deceased employee generally can exclude up to $5,000 in benefits paid by or on behalf of an employer by reason of the employee's death (sec. 101(b)).

Recovery of basis

Qualified plan distributions other than lump-sum distribution generally are includible in gross income in the year they are paid or distributed under the rules relating to taxation of annuities (sec. 402). Amounts received as an annuity generally are includible in income in the year received, except to the extent they represent the return of the recipient's investment in the contract (i.e., basis) (sec. 72). Under present law, a pro-rata basis recovery rule generally applies, so that the portion of any annuity payment that represents nontaxable return of basis is determined by applying an exclusion ratio equal to the employee's total investment in the contract divided by the total expected payments over the term of the annuity.

The total expected payments depend on the form of the payment, e.g., a single-life annuity, an annuity with payments guaranteed for a specified number of years, or a joint and survivor annuity. For example, if benefits are paid in the form of an annuity during the life of the employee, the expected payments are calculated by multiplying the annual payment amount by the employee's life expectancy on the annuity starting date. If benefits are paid in the form of a joint and survivor annuity, then the total expected return depends on the life expectancies of both the primary annuitant and the person who is to receive the survivor annuity. The IRS has issued tables of life expectancies that are used to calculate expected returns.

Under a simplified alternative method provided by the Internal Revenue Service (IRS) (Notice 88-118) for payments from or under qualified retirement arrangements, the taxable portion of qualifying annuity payments is determined under a simplified exclusion ratio method. Under the simplified method, the portion of each annuity payment that represents nontaxable return of basis is equal to the employee's total investment in the contract (including the $5,000 death benefit exclusion under section 101(b), to the extent applicable), divided by the number of anticipated payments listed in a table published by the IRS. The number of anticipated payments listed in the table is based on the employee's age on the annuity starting date. The simplified method is available if (1) the annuity payments depend on the life expectancy of the recipient (or the joint lives of the recipient and his or her beneficiary), and (2) the recipient is less than age 75 on the annuity starting date or there are fewer than 5 years of guaranteed payments under the annuity.

Under both the pro rata and simplified alternative methods, in no event can the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Required distributions

Present law provides uniform minimum distribution rules generally applicable to all types of tax-favored retirement vehicles, including qualified plans and annuities, IRAs, and tax-sheltered annuities.

Under present law, a qualified plan is required to provide that the entire interest of each participant will be distributed beginning no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date is generally April 1 of the calendar year following the calendar year in which the plan participant or IRA owner attains age 70½. In the case of a governmental plan or a church plan, the required beginning date is the later of (1) such April 1, or (2) the April 1 of the year following the year in which the participant retires.

Reasons for Change

In almost all cases, the responsibility for determining the tax liability associated with a distribution from a qualified plan, tax-sheltered annuity, or IRA rests with the individual receiving the distribution. Under present law, this task can be burdensome. Among other things, the taxpayer must consider (1) whether special tax rules apply that reduce the tax that otherwise would be paid, (2) the amount to the taxpayer's basis in the plan, annuity, or IRA and the rate at which such basis is to be recovered, and (3) whether or not a portion of the distribution is excludable from income as a death benefit.

The number of special rules for taxing pension distributions makes it difficult for taxpayers to determine which method is best for them and also increases the likelihood of error. In addition, the specifics of each of the rules create complexity. For example, the present-law rules for determining the rate at which a participant's basis in a qualified plan is recovered often entail calculations that the average participant has difficulty performing. These rules require a fairly precise estimate of the period over which benefits are expected to be paid. The IRS publication on taxation of pension distributions (Publication 939) contains over 60 pages of actuarial tables used to determine total expected payments.

The original intent of the income averaging rules for pension distributions was to prevent a bunching of taxable income because a taxpayer received all of the benefits in a qualified plan in a single taxable year. Liberalization of the rollover rules in the Unemployment Act increased taxpayers' ability to determine the time of the income inclusion of pension distributions, and eliminates the need for special rules such as 5-year forward income averaging to prevent bunching of income.

The committee believes it is inappropriate to require all participants to commence distributions by age 70½ without regard to whether the participant is still employed by the employer. However, the accrued benefit of employees who retire after age 70½ generally should be actuarially increased to take into account the period after age 70½ in which the employee was not receiving benefits.

Explanation of Provisions

In general

The bill eliminates 5-year averaging for lump-sum distributions from qualified plans, repeals the $5,000 death benefit exclusion, and simplifies the basis recovery rules applicable to distributions from qualified plans. In addition, the bill modifies the rule that generally requires all participants to commence distributions by age 70½.

Special rules for lump-sum distributions

The bill repeals the special 5-year forward income averaging rule.

The bill preserves the transition rules adopted in the Tax Reform Act of 1986. The bill also retains the present-law treatment of net unrealized appreciation on employer securities and generally retains the definition of lump-sum distribution solely for such purpose.

Employer-provided death benefits

The bill repeals the exclusion from gross income of up to $5,000 in employer-provided death benefits.

Recovery of basis

Under the bill, the portion of an annuity distribution from a qualified retirement plan, qualified annuity, or tax-sheltered annuity that represents nontaxable return of basis generally is determined under a method similar to the present-law simplified alternative method provided by the Internal Revenue Service. Under the simplified method provided in the bill, the portion of each annuity payment that represents nontaxable return of basis generally is equal to the employee's total investment in the contract as of the annuity starting date, divided by the number of anticipated payments determined by reference to the age of the participant listed in the table set forth in the bill. The number of anticipated payments listed in the table is based on the employee's age on the annuity starting date. If the number of payments is fixed under the terms of the annuity, that number is to be used instead of the number of anticipated payments listed in the table.

The simplified method does not apply if the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity. If in connection with commencement of annuity payments, the recipient receives a lump-sum payment that is not part of the annuity stream, such payment is taxable under the rules relating to annuities (sec. 72) as if received before the annuity starting date, and the investment in the contract used to calculate the simplified exclusion ratio for the annuity payments is reduced by the amount of the payment. As under present law, in no event will the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Required distributions

The bill modifies the rule that requires all participants in qualified plans to commence distributions by age 70½ without regard to whether the participant is still employed by the employer and generally replaces it with the rule in effect prior to the Tax Reform Act. Under the bill, distributions generally are required to begin by April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½ or (2) the calendar year in which the employee retires. However, in the case of a 5-percent owner of the employer, distributions are required to begin no later than April 1 of the calendar year following the year in which the 5-percent owner attains age 70½. Distributions from an IRA are required to begin no later than April 1 of the calendar year following the year in which the IRA owner attains age 70½.

In addition, in the case of an employee (other than a 5-percent owner) who retires in a calendar year after attaining age 70½, the bill generally requires the employee's accrued benefit to be actuarially increased to take into account the period after age 70½ in which the employee was not receiving benefits under the plan. Thus, under the bill, the employee's accrued benefit is required to reflect the value of benefits that the employee would have received if the employee had retired at age 70½ and had begun receiving benefits at that time.

The actuarial adjustment rule and the rule requiring 5-percent owners to begin distributions after attainment of age 70½ does not apply, under the bill, in the case of a governmental plan or church plan.

Effective Date

The provisions generally apply to years beginning after December 31, 1992. The provision modifying the required distribution rules applies to years beginning after December 31, 1993.

B. INCREASED ACCESS TO PENSION PLANS

1. Modifications to simplified employee pensions and creation of PRIME accounts (secs. 4211-4212 of the bill, sec. 408(k)(6) of the Code, and new sec. 408(p) of the Code)

Present Law

Under present law, certain employers (other than tax-exempt and governmental employers) can establish a simplified employee pension (SEP) for the benefit of their employees under which the employees can elect to have contributions made to the SEP or to receive the contributions in cash (sec. 408(k)(6)). If an employee elects to have contributions made on the employee's behalf to the SEP, the contribution is not treated as having been distributed or made available to the employee. In addition, the contribution is not treated as an employee contribution merely because the SEP provides the employee with such an election. Therefore, an employee is not required to include in income currently the amounts the employee elects to have contributed to the SEP. Elective deferrals under a SEP are to be treated in the same manner as elective deferrals under a qualified cash or deferred arrangement and, thus, are subject to the $8,728 (for 1992) cap on elective deferrals.

The election to have amounts contributed to a SEP or received in cash is available only if at least 50 percent of the employees of the employer elect to have amounts contributed to the SEP. In addition, such election is available for a taxable year only if the employer maintaining the SEP had 25 or fewer eligible employees at all times during the prior taxable year.

Under present law, elective deferrals under SEPs are subject to nondiscrimination standards. The amount eligible to be deferred as a percentage of each highly compensated employee's compensation (i.e., the deferral percentage) is limited by the average deferral percentage (based solely on elective deferrals) for all nonhighly compensated employees who are eligible to participate. The deferral percentage for each highly compensated employee (taking into account only the first $222,220 (indexed) of compensation) cannot exceed 125 percent of the average deferral percentage for all other eligible employees. Nonelective SEP contributions may not be combined with the elective SEP deferrals for purposes of this test. An employer may not make any other SEP contributions conditioned on elective SEP deferrals. If the 125-percent test is not satisfied, rules similar to the rules applicable to excess contributions to a cash or deferred arrangement are applied.

If any employee is eligible to make elective SEP deferrals, all employees satisfying the participation requirements must be eligible to make elective SEP deferrals. An employee satisfies the participation requirements if the employee (1) has attained age 21, (2) has performed services for the employer during at least 3 of the immediately preceding 5 years, and (3) received at least $363 (indexed) in compensation from the employer for the year. An employee can participate even though he or she is also a participant in one or more other qualified retirement plans sponsored by the employer. However, SEP contributions are added to the employer's contribution to the other plans on the participant's behalf in applying the limits on contributions and benefits (sec. 415).

Reasons for Change

The tax incentives for pension plans under present law have not significantly improved pension coverage for employees of small businesses. One of the reasons small employers fail to establish pension plans for their employees is because of the administrative costs and burdens attributable to such plans.

The committee believes that further simplification and broadening of the rules applicable to plans of small employers rules will encourage more small employers to establish plans for their employees. In particular, the committee believes that making salary deferral SEPs available to a larger number of employers and providing a design-based qualification test for such SEPs will make such plans more attractive to small employers.

The committee also believes that a new model plan for small business, with simplified reporting, a design-based qualification test, and features combining the elements of IRAs and section 401(k) plans, will encourage small employers that do not maintain qualified pension plans to provide retirement benefits for their employees.

Explanation of Provisions

a. Simplified employee pensions (SEPs)

The bill conforms the eligibility requirements for SEP participation to the rules applicable to pension plans generally by providing that contributions to a SEP must be made with respect to each employee who has at least one year of service with the employer.

The bill modifies the rules relating to salary reduction SEPs by providing that such SEPs may be established by employers with 100 or fewer employees. The bill also repeals the requirement that at least half of eligible employees actually participate in a salary reduction SEP.

The bill also provides that an employer is deemed to satisfy the nondiscrimination requirements applicable to salary reduction SEPs if the plan satisfies the safe harbor nondiscrimination rules applicable to qualified cash or deferred arrangements and employees are notified of the availability and features of the SEP.

b. PRIME ("private retirement incentives matched by employers") accounts

The bill creates another simplified retirement plan targeted to small businesses called the PRIME ("private retirement incentives matched by employers") account (new sec. 408(p)). A PRIME account is an individual retirement plan with respect to which employees can make salary reduction contributions of up to $3,000 per year, with a 100 percent employer match up to 3 percent of the employee's compensation contributed to the account. No nondiscrimination rules apply to PRIME accounts. Simplified reporting requirements apply. PRIME accounts are subject to the same spousal consent rules applicable to defined contribution plans.

Only employers who normally employ fewer than 100 employees and who do not maintain a qualified plan or a SEP may establish PRIME accounts for their employees. All employees of the employer who have at least one year of service and who are reasonably expected to work at least 1,200 hours during the year must be eligible to participate in the PRIME account. All contributions to an employee's PRIME account are fully vested. Additional early withdrawal penalties apply to preretirement withdrawals during the first 3 years of participation.

A common trust fund or common investment fund of PRIME account assets generally is treated as a common trust fund or common investment fund of assets of a trust exempt from taxation under section 501(a) which is described in section 401(a). Accordingly, PRIME accounts can be invested by financial organizations in collective investment funds to the same extent, and under the same conditions, as qualified retirement plans. Any load or other fees imposed by any financial organization maintaining a PRIME account must be reasonable.

Effective Date

The provisions apply to years beginning after December 31, 1993.

2. Repeal of limitation on ability of nongovernmental tax-exempt employers to maintain cash or deferred arrangements (sec. 4213 of the bill and secs. 401(k) and 408(k)(6) of the Code)

Present Law

Under present law, if a tax-qualified profit-sharing or stock bonus plan meets certain requirements, then an employee is not required to include in income any employer contributions to the plan merely because the employee could have elected to receive the amount contributed in cash (sec. 401(k)). Plans containing this feature are referred to as cash or deferred arrangements. Tax-exempt organizations are generally prohibited from establishing qualified cash or deferred arrangements. Because of this limitation, many of such employers are precluded from maintaining broad-based, funded, elective deferral arrangements for their employees.

Reasons for Change

The committee believes that nongovernmental tax-exempt entities should be permitted to maintain qualified cash or deferred arrangements for their employees on the same basis as other employers.

Explanation of Provision

The bill allows tax-exempt organizations (other than State and local governments and their agencies and instrumentalities) to maintain cash or deferred arrangements. Thus, any organization, including an Indian tribe, previously denied eligibility on the ground that they are a tax-exempt organization (and not because they are a State or local government or agency or instrumentality thereof) is eligible to maintain a cash or deferred arrangement for its employees under the bill. As under present law, the limitation on the amount that may be deferred by an individual participating in both a cash or deferred arrangement and another elective deferral arrangement applies.

Effective Date

The provision applies to nongovernmental tax-exempt organizations with respect to years beginning after December 31, 1992. The provision does not affect the ability of certain State and local government employers to maintain qualified cash or deferred arrangements that were adopted before May 6, 1986.

3. Duties of master and prototype plan sponsors (sec. 4214 of the bill)

Present Law

The Internal Revenue Service (IRS) master and prototype program is an administrative program under which trade and professional associations, banks, insurance companies, brokerage houses, and other financial institutions can obtain IRS approval of model retirement plan language and then make these preapproved plans available for adoption by their customers, investors, or association members. Rules regarding who can sponsor master and prototype programs, the prescribed format of the model plans, and other matters relating to the program are contained in revenue procedures and other administrative pronouncements of the IRS.

The IRS also maintains related administrative programs that authorize advance approval of model plans prepared by law firms and others, i.e., the regional prototype plan program and volume submitter program.

Reasons for Change

As the laws relating to retirement plans have become more complex, employers have experienced an increase in the frequency and cost of amending plans and of the burdens of administering the plans. Master and prototype plans reduce these costs and burdens, particularly for small- to medium-sized employers, and improve IRS administration of the retirement plan rules. Today, the majority of employer-provided qualified retirement plans, including qualified cash or deferred arrangements (sec. 401(k) plans), simplified employee pensions (SEPs) and individual retirement arrangements (IRAs) are approved master and prototype plans. The Treasury and the IRS believe that the further expansion of the master and prototype program is desirable, but that statutory authority authorizing the IRS to define specifically the duties of master and prototype sponsors should be obtained before the program becomes more widely utilized.

Explanation of Provision

The bill authorizes the IRS to define the duties of organizations that sponsor master and prototype, regional prototype, and other preapproved plans, including mass submitters. These duties would become a condition of sponsoring preapproved plans. The bill is not intended to be interpreted as diminishing the IRS's administrative authority with respect to the master and prototype, regional prototype, or similar programs, including the authority to define who is eligible to sponsor prototype plans, or to create other rules relating to these programs. Rather, it is intended to create a system of sponsor accountability, subject to IRS monitoring, that will give adopters of master and prototype and other preapproved plans a level of protection, comparable to that in the regional prototype plan program, against failure of master and prototype and other plan sponsors to fulfill certain obligations.

The bill thus authorizes the IRS to prescribe duties of sponsors of prototype and other preapproved plans that include, but are not limited to, maintaining annually current lists of adopting employers and providing certain annual notices to adopting employers and to the IRS. While reflecting the IRS's own requirements in its regional prototype plan procedure, the bill does not require the IRS to mandate a master and prototype accountability system that is identical to the regional prototype plan procedure. The bill also authorizes the IRS to prescribe such other reasonable duties as are consistent with the objective of protecting adopting employers from a sponsor's failure to amend a plan in a timely manner or to communicate amendments or other notices required by the IRS's procedures.

The bill authorizes the IRS to define the duties of preapproved plan sponsors that relate to providing administrative services to the plans of adopting employers. This authorization is not intended to obligate sponsor to undertake the complete day-to-day administration of the plans they sponsor (although it does not preclude the IRS from mandating the performance of specific functions), but rather to protect employers against loss of qualification merely because they are unaware of the need to arrange for such services, or the unavailability of professional assistance from parties familiar with the sponsor's plan.

It is thus intended that, at a minimum, sponsors should (1) advise adopting employers that failure to arrange for administrative services to the plan may significantly increase the risk of disqualification and resulting sanctions, and (2) furnish employers with the name of firms that are familiar with the plan and can provide professional administrative service. This is not intended to preclude the sponsor from providing that service itself.

The bill should not be construed as creating fiduciary relationship or responsibilities under Title I of the Employee Retirement Income Security Act of 1974 (ERISA) that would not exist in the absence of the provision.

To the extent deemed reasonably necessary to carry out the purposes of this provision of the bill, the Secretary is authorized to issue regulations that permit the relaxation of the anti-cutback rules contained in ERISA (sec. 204(g)) and the Code (sec. 411(d)(6)) when employers replace and individually designed plan with an IRS model plan, provided that the rights of participants to accrued benefits under the individually designed plan are not significantly impaired. This discretion will facilitate the shift by employers from individually designed plans to IRS model plans.

Effective Date

The provision is effective on January 1, 1993.

NONDISCRIMINATION PROVISIONS

1. Definition of highly compensated employee and family aggregation rules (sec. 4221 of the bill and secs. 401(a)(17), 404(1), and 414(q) of the Code)

Present Law

In general

For purposes of the rules applying to qualified retirement plans under the code, an employee, including a self-employed individual, generally is treated as highly compensated with respect to a year if, at any time during the year or the preceding year, the employee: (1) was a 5-percent owner of the employer; (2) received more than $93,518 in annual compensation from the employer; (3) received more than $62,345 in annual compensation from the employer and was one of the top-paid 20 percent of employees during the same year; or (4) was an officer of the employer who received compensation greater than $56,111. These dollar amounts are adjusted annually for inflation at the same time and in the same manner as the adjustments to the dollar limit on benefits under a defined benefit pension plan (sec. 415(d)). If, for any year, no officer has compensation in excess of $56,111 (indexed), then the highest paid officer of the employer for such year is treated as highly compensated employee.

An employee is not treated as in the top-paid 20 percent, as an officer, or as receiving $93,518 or $62,345 solely because of the employee's status during the current year, unless such employee also is among the 100 employees who have received the highest compensation during the year.

Election to use simplified method

Employers are permitted to elect to determine their highly compensated employees under a simplified method. Under this method, an electing employer may treat employees who received more than $62,345 in annual compensation from the employer as highly compensated employees in lieu of applying the $93,518 threshold and without regard to whether such employees are in the top-paid group of the employer. This election is available only if at all times during the year the employer maintained business activities and employees in at least 2 geographically separate areas.

Treatment of family members

A special rule applies with respect to the treatment of family members of certain highly compensated employees. Under the special rule, if an employee is a family member of either a 5-percent owner or 1 of the top 10 highly compensated employees by compensation, then any compensation paid to such family member and any contribution or benefit under the plan on behalf of such family member is aggregated with the compensation paid and contributions or benefits on behalf of the 5-percent owner or the highly compensated employee in the top 10 employees by compensation. Therefore, such family member and employee are treated as a singly highly compensated employee. An individual is considered a family member if, with respect to an employee, the individual is a spouse, lineal ascendant or descendant, or spouse of a lineal ascendant or descendant of the employee.

Similar family aggregation rules apply with respect to the $228,860 limit on compensation that may be taken into account under a qualified plan (sec. 401(a)(17)) and for deduction purposes (sec. 404(1)). However, under such provisions, only the spouse of the employee and lineal descendants of the employee who have not attained age 19 are taken into account.

Reasons for Change

Under present law, the administrative burden on employers to comply with some of the basic rules applying to qualified retirement plans outweighs the small potential benefit of the rules. For example, the various categories of highly compensated employees require employers to perform a number of complex calculations that for many employers have largely duplicative results.

Explanation of Provisions

The bill provides that an employee is highly compensated with respect to a year if the employee (1) was a 5-percent owner of the employer at any time during the year or the preceding year, or (2) had compensation for the preceding year in excess of $50,000. The $50,000 threshold is adjusted for cost-of-living increases in the same manner and at the same time (and using the same base year) as the limitations on contributions and benefits (sec. 415(d)). Under the bill, as under present law, the dollar limit in effect for 1992 is $62,345. Thus, an employee would be highly compensated in 1993 if the employee's compensation for 1992 is in excess of $62,345.

Under the bill, if no employee is a 5-percent owner or had compensation for the preceding year in excess of $50,000 (indexed), then the highest paid officer for the year is treated as a highly compensated employee. This special rule does not apply for purposes of the nondiscrimination rules applicable to elective deferrals, matching contributions, and employee contributions (secs. 401(k) and (m)), and does not apply with respect to employees of tax-exempt organizations and State and local governments (sec. 457(e)(1)).

The bill repeals the family aggregation rules.

Effective Date

The provision generally is effective for years beginning after December 31, 1993. An employer may elect not to have such amendments apply to years beginning in 1994.

2. Election to treat base pay as compensation (sec. 4222 of the bill and 414(s) of the Code)

Present Law

Present law provides a definition of compensation that is to be used for nondiscrimination testing purposes (sec. 414(s)). Under this definition, compensation generally is defined as compensation used for purposes of the limits on contributions and benefits (sec. 415). Pursuant to statutory authority, final regulations provide alternative permissible definitions of compensation. The regulations permit certain items, such as bonuses and similar payments, to be excluded from the definition of compensation.

Reasons for Change

Many plans base benefits on base pay. Thus, the committee considers it appropriate to provide statutorily that base pay is a permissible definition of compensation.

Explanation of Provision

The bill permits an employer to elect to use base pay as a permissible definition of compensation for purposes of all provisions which specifically refer to section 414(s) of the Code. It is intended that base pay is defined generally as under Treasury regulations. Thus, subject to the applicable facts and circumstances, the employer could exclude from the definition of compensation, on a consistent basis, certain types of compensation, including (but not limited to) one or more of the following: any type of additional compensation for employees working outside their regularly scheduled tour of duty (such as overtime pay, premiums for shift differential, and call-in premiums); bonuses; or reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation, and welfare benefits. It is intended that the resulting definition may not discriminate in favor of highly compensated employees. The election applies for purposes of all applicable provisions and to all employees, and may be revoked only with the consent of the Secretary.

Effective Date

The provision is effective for years beginning after December 31, 1993.

3. Modification of additional participation requirements (sec. 4223 of the bill and sec. 401(a)(26) of the Code)

Present Law

Under present law, a plan is not a qualified plan unless it benefits no fewer than the lesser of (a) 50 employees of the employer or (b) 40 percent of all employees of the employer (sec. 401(a)(26)). These requirements may not be satisfied by aggregating comparable plans, but may be applied separately to different lines of business of the employer. A line of business of the employer does not qualify as a separate line of business unless it has at least 50 employees.

Reasons for Change

The minimum participation rule was adopted in the Tax Reform Act of 1986 because the Congress believed that it was inappropriate to permit an employer to maintain multiple plans, each of which covered a very small number of employees. Although plans that are aggregated for nondiscrimination purposes are required to satisfy comparability requirements with respect to the amount of contributions or benefits, such an arrangement may still discriminate in favor of highly compensated employees.

The committee believes that it is appropriate to better target the minimum participation rule by limiting the scope of the rule to define benefit pension plans and reducing the minimum number of employees required to be covered under such a plan.

Finally, the committee believes that the arbitrary requirement that a line of business must have at least 50 employees requires application of the minimum participation rule on an employer-wide basis in some cases in which the employer truly has separate lines of business.

Explanation of Provision

The bill provides that the minimum participation rule (sec. 401(a)(26)) applies only to defined benefit pension plans. In addition, the bill provides that a defined benefit pension plan does not satisfy the rule unless it benefits no fewer than the lesser of (1) 25 employees or (2) the greater of (a) 40 percent of all employees of the employer or (b) 2 employees (1 employee if there is only 1 employee). The excludable employee rule applies as under present law. As an illustration of the operation of the modification of the minimum participation rule, assume that an employer has 150 non excludable employees. Under present law, any plan of the employer is required to cover a minimum of 50 employees. Under the bill, any defined benefit plan of the employer is required to cover a minimum of 25 employees.

In the case of an employer with only 2 employees, the minimum participation rule under the bill is satisfied only if the plan covers both employees.

The bill provides that the requirement that a line of business has at least 50 employees does not apply in determining whether a plan satisfied the minimum participation rule on a separate line of business basis.

Effective Date

The provision is generally effective for years beginning after December 31, 1991. An employer may elect to have the provision apply as if it were include din section 1112(b) of the Tax Reform Act of 1986.

4. Simplification of nondiscrimination tests applicable under sections 401(k) and (m) (sec. 4224 of the bill and secs. 401(k) and (m) of the Code)

Present Law

A profit-sharing or stock bonus plan, a pre-ERISA money purchase pension plan, or a rural cooperative plan may include a qualified cash or deferred arrangement (sec. 401(k)). Under such an arrangement, an employee may elect to have the employer make payments as contributions to a plan on behalf of the employee, or to the employee directly in cash. Contributions made at the election of the employee are called elective deferrals. The maximum annual amount of elective deferrals that can be made by an individual is $8,728 for 1992. This dollar limit is indexed annually for inflation. A special nondiscrimination test applies to cash or deferred arrangements.

The special nondiscrimination test applicable to elective deferrals under qualified cash or deferred arrangements is satisfied if the actual deferral percentage (ADP) for eligible highly compensated employees for a plan year is equal to or less than either (1) 125 percent of the ADP of all nonhighly compensated employees eligible to defer under the arrangement, or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points. The ADP for a group of employees is the average of the ratios (calculated separately for each employee in the group) of the contributions paid to the plan on behalf of the employee to the employee's compensation.

Employer matching contributions and after-tax employee contributions under qualified defined contribution plans are subject to a special nondiscrimination test similar to the special nondiscrimination test applicable to qualified cash or deferred arrangements.

The special nondiscrimination test is satisfied for a plan year if the actual contribution percentage (ACP) for eligible highly compensated employees does not exceed the greater of (1) 125 percent of the ACP for all other eligible employees, or (2) the lesser of 200 percent of the contribution percentage of all other eligible employees, or such percentage plus 2 percentage points. The ACP for a group of employees for a plan year is the average of the ratios (calculated separately for each employee in the group) of the sum of matching and employee contributions on behalf of each such employee to the employee's compensation for the year.

To determine the amount of excess contributions and the employees to whom they are allocated, the elective deferrals of highly compensated employees are reduced in the order of their actual deferral percentage beginning with those highly compensated employees with the highest actual deferral.

Reasons for Change

The sources of complexity generally associated with the nondiscrimination requirements for qualified cash or deferred arrangements and matching contributions are the recordkeeping necessary to monitor employee elections, the calculations involved in applying the tests, and the correction mechanism, i.e., what to do if the plan fails the tests. None of these factors are new.

The committee believes that the complexity of nondiscrimination requirements, particularly after the Tax Reform Act of 1986 changes that imposed a dollar cap ($8,728 in 1992) on elective deferrals, is not justified by the marginal additional participation of rank-and-file employees that might be achieved by the operation of these requirements. It is believed that the result that the nondiscrimination rules are intended to produce can also be achieved by creating an incentive for employers to provide 100-percent matching contributions or nonelective contributions on behalf of rank-and-file employees. The committee believes that such contributions create a sufficient inducement to rank-and-file employee participation.

In addition, the committee believes that significant simplification that a design-based safe harbor test achieves may reduce the complexity of the qualified cash or deferred arrangement requirements enough to encourage additional employers to establish such plans, thereby expanding employee access to voluntary retirement savings arrangements. The adoption of a nondiscrimination safe harbor that eliminates the testing of actual plan contributions removes a significant administrative burden that may act as a deterrent to employers who would not otherwise set up such a plan. Thus, the adoption of a simpler nondiscrimination test may encourage more employers, who do not now provide any tax-favored retirement plan for their employees, to set up such plans.

A design-based nondiscrimination test provides certainty to an employer and plan participants that does not exist under present law. Under such a test, an employer will know at the beginning of each plan year whether the plan satisfies the nondiscrimination requirements for the year.

Explanation of Provision

In general

The bill modifies the present-law nondiscrimination test applicable to elective deferrals and employer matching and after-tax employee contributions to provide that the maximum permitted actual deferral percentage for highly compensated employees for the year is determined by reference to the actual deferral percentage for nonhighly compensated employees for the preceding, rather than the current, year. In the case of the first plan year of a qualified cash or deferred arrangement, the actual deferral percentage of nonhighly compensated employees for the previous year is deemed to be 3 percent or, at the election of the employer, the actual deferral percentage for such first plan year.

In addition, the bill adds alternative methods of satisfying the special nondiscrimination requirements applicable to elective deferrals and employer matching contributions. Under these safe harbor rules, a cash or deferred arrangement is treated as satisfying the actual deferral percentage test if the plan of which the arrangement is a part (or any other plan of the employer maintained with respect to the employees eligible to participate in the cash or deferred arrangement) meets (1) one of two contribution requirements and (2) a notice requirement. A plan satisfies the safe harbor with respect to matching contributions if (1) the plan meets the contribution and notice requirements under the safe harbor for cash or deferred arrangements and (2) the plan satisfies a special limitation on matching contributions. These safe harbors permit a plan to satisfy the special nondiscrimination tests through plan design, rather than through the testing of actual contributions.

The bill also modified the method of determining excess contributions under the present-law nondiscrimination test.

Safe harbor for cash or deferred arrangements

Contribution requirements.—A plan satisfies the contribution requirements under the safe harbor rule for qualified cash or deferred arrangements if the plan either (1) satisfies a matching contribution requirement or (2) the employer makes a nonelective contribution to a defined contribution plan of at least 3 percent of an employee's compensation on behalf of each nonhighly compensated employee who is eligible to participate in the arrangement without regard to whether the employee makes elective contributions under the arrangement.

A plan satisfies the matching contribution requirement if, under the arrangement: (1) the employer makes a matching contribution on behalf of each nonhighly compensated employee that is equal to (a) 100 percent of the employee's elective contributions up to 3 percent of compensation and (b) 50 percent of the employee's elective contributions from 3 to 5 percent of compensation; and (2) the level of match for highly compensated employees is not greater than the match rate for nonhighly compensated employees at any level of compensation.

Alternatively, if the matching contribution requirement is not satisfied at some level of employee compensation, the requirement is deemed to be satisfied if (1) the level of employer matching contributions does not increase as employee elective contributions increase and (2) the aggregate amount of matching contributions with respect to elective contributions up to that level of compensation at least equals the amount of matching contributions that would be made if matching contributions satisfied the percentage requirements. For example, the alternative test is satisfied if an employer matches 125 percent of an employee's elective contributions up to the first 3 percent of compensation, 25 percent of elective deferrals from 3 to 4 percent of compensation, and provides no match thereafter. This is because the employer match does not increase and the aggregate amount of matching contributions is at least equal to the matching contributions required under the general safe harbor rule.

Under the safe harbor, an employee's rights to employer matching contributions or nonelective contributions used to meet the contribution requirements are required to be 100-percent vested.

An arrangement does not satisfy the contribution requirements unless the requirements are met without regard to the permitted disparity rules (sec. 401(l)) and contributions used to satisfy the contribution requirements are not taken into account for purposes of determining whether a plan of the employer satisfies the permitted disparity rules.

Employer matching and nonelective contributions used to satisfy the contribution requirements of the safe harbor rules are nonforfeitable and subject to the restrictions on withdrawals that apply to an employee's elective deferrals under a qualified cash or deferred arrangement (sec. 401(k)(2) (B) and (C)).

The matching or nonelective contribution safe harbor requirements are deemed satisfied if the employer maintains another qualified plan that meets such requirements.

Notice requirement.—The notice requirement is satisfied if each employee eligible to participate in the arrangement is given written notice within a reasonable period before any year of the employee's rights and obligations under the arrangement. This notice must be sufficiently accurate and comprehensive to apprise the employee of his or her rights and obligations and must be written in a manner calculated to be understood by the average employee eligible to participate.

Alternative method of satisfying special nondiscrimination test for matching contributions

The bill provides a safe harbor method of satisfying the special nondiscrimination test applicable to employer matching contributions. Under this safe harbor, a plan is treated as meeting the special nondiscrimination test if (1) the plan meets the contribution and notice requirements applicable under the safe harbor method of satisfying the special nondiscrimination requirement for qualified cash or deferred arrangements, and (2) the plan satisfies a special limitation on matching contributions. After-tax employee contributions are tested separately under the ACP test.

The limitation on matching contributions is satisfied if (1) the matching contributions on behalf of any employee may not be made with respect to employee contributions or elective deferrals in excess of 6 percent of compensation and (2) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase.

Distribution of excess contributions

Under the bill, the total amount of excess contributions is determined in the same manner as under present law, but the distribution of excess contributions is required to be made on the basis of the amount of contribution by, or on behalf of, each highly compensated employee. Thus, under the bill, excess contributions are deemed attributable first to those highly compensated employees who have made the greatest dollar amount of elective deferrals under the plan.

For example, assume that an employer maintains a qualified cash or deferred arrangement under section 401(k). Assume further that the actual deferral percentage (ADP) for the eligible nonhighly compensated employee is 2 percent. In addition, assume the following facts with respect to the eligible highly compensated employees:

Employees	Compensation	Deferral	Deferral (percent)
A	$200,000	$7,000	3.5
B	200,000	7,000	3.5
C	70,000	7,000	10.0
D	70,000	5,250	7.5
E	70,000	2,100	3.0
F	70,000	1,750	2.5

Under these facts, the highly compensated employees' ADP is 5 percent, which fails to satisfy the special nondiscrimination requirements.

Under present law, the highly compensated employees with the highest deferral percentages would have their deferrals reduced until the ADP of the highly compensated employees is 4 percent. Accordingly, C and D would have their deferrals reduced to $4,025 (i.e., a deferral percentage of 5.75 percent). The reduction thus is $2,975 for C and $1,225 for D, for a total reduction of $4,200.

Under the bill, the amount of the total reduction is calculated in the same manner as under present law so that the total reduction remains $4,200. However, this total reduction of $4,200 is allocated to highly compensated employees based on the employees with the largest contributions. Thus, A, B, and C would each be reduced by $1,400 from $7,000 to $5,600. The ADP test would not be performed again.

Effective Date

The provision is effective for plan years beginning after December 31, 1993.

D. MISCELLANEOUS PENSION SIMPLIFICATION

1. Definition of leased employee (sec. 4231 of the bill and sec. 414(n) of the Code)

Present Law

An individual (a leased employee) who performs services for another person (the recipient) may be required to be treated as the recipient's employee for various employee benefit provisions if the services are performed pursuant to an agreement between the recipient and a third person (the leasing organization) who is otherwise treated as the individual's employer (sec. 414(n)). The individual is to be treated as the receipient's employee only if the individual has performed services for the recipient on a substantially full-trade basis for a year, and the services are of a type historically performed by employees in the recipient's business field.

An individual who otherwise would be treated as a recipient's leased employee will not be treated as such an employee if the individual participates in a safe harbor plan maintained by the leasing organization meeting certain requirements. Each leased employee is to be treated as an employee of the recipient, regardless of the existence of a safe-harbor plan, if more than 20 percent of an employer's nonhighly compensated workforce are leased.

Reasons for Change

The committee believes that the leased employee rules are complex and have unexpected and sometimes indefensible results, especially as interpreted under regulations proposed by the Secretary. For example, under the "historically performed" standard, the employees and partners of a law firm may be the leased employees of a client of the firm if they work a sufficient number of hours for the client and if it is not unusual for employers in that business field to have in-house counsel. While arguably meeting the present-law leased employee definition, the committee believes that situations such as this are outside the intended scope of the rules.

Explanation of Provision

Under the provision, the present-law historically performed test is repealed and replaced with a new rule defining who must be considered a leased employee. This change is made because the proposed regulations under the leased employee rules (sec. 414(n)) are overly broad in defining who may be a leased employee. Under the provision, the proposed regulations are no longer valid. One of the principal purposes for adopting the significant direction or control test is to relieve the unnecessary hardship and uncertainty created for employers in these circumstances. It is intended that the Secretary interpret and apply the new control test in a manner that is targeted to prevent clear abuses.

Under the provision, an individual is not considered a leased employee unless the individual is under the control of the recipient organization. The determination is based on all the facts and circumstances. Among the factors that are relevant in this determination are whether the recipient organization: (1) prescribes the individual's work methods; (2) supervises the individual; (3) sets the individual's working hours; and (4) sets the individual's level of compensation. Other factors that may be considered include those that are relevant for determining whether the employer is responsible for employment taxes on the compensation paid to the individual. The Secretary may designate other relevant factors. It is not necessary that all these factors indicate that the individual is under the control of the employer in order to find that such individual is a leased employer. Nor is it necessary that the recipient organization be responsible for employment taxes in order to find that the individual is a leased employee because, if the recipient organization is liable for employment taxes, the individual is an employee of the organization who generally must be taken into account. The provision does not alter the definition of a common-law employee, nor the rules that such employees are to be taken into account unless specifically excluded.

The committee does not intend the charges made by this provision to broaden the scope of the leased employee rules. Thus, to the extent an individual is not a leased employee under present law, such employee generally will not be a leased employee under the provision. For example, in those specific situations where the Internal Revenue Service has ruled that service relationships do not involve "leased employees" under the test of present law requiring the services to be of a type historically performed, in the business field of the recipient, by employees, the recipients of those rulings may continue to rely on them.

Effective Date

The provision is effective for years beginning after December 31, 1983. In applying the leased employee rules to years beginning before the effective date, it is intended that the Secretary use a reasonable interpretation of the statute to apply the leasing rules to prevent abuse.

2. Elimination of half-year requirements (sec. 4232 of the bill and secs. 72, 401, 402, 403, 4978, 219 and 408 of the Code)

Present Law

Under present law, a number of employee plan rules refer to the age of an individual at a certain time. For example, distributions under a qualified pension plan are generally required to begin no later than the April 1 following the year in which an individual attains age 70-½ (sec. 401(a)(9)). Similarly, an additional income tax on early withdrawals applies to certain distributions from qualified pension plans and IRAs prior to the time the participant or IRA owner attains age 59-½ (sec. 72(t)).

Reasons for Change

The Committee believes that changing half-year requirements to whole year requirements would make the pension rules easier to administer.

Explanation of Provision

The bill changes the half-year requirements to birthdate requirements. Those rules under present law that refer to age 59-½ are changed to refer to age 59, and those that refer to age 70-½ are changed to refer to age 70.

Effective Date

The provision applies to years beginning after December 31, 1993.

3. Cost-of-living adjustments (sec. 4233 of the bill and secs. 219, 401, 403, 408, and 415(d) of the Code)

Present Law

The rules relating to qualified plans contain a number of dollar limits that are indexed annually for cost-of-living adjustments (e.g., the dollar limit on benefits under a defined benefit plan (sec. 415(b), the limit on elective deferrals under a qualified cash or deferred arrangement (sec. 402(g), and the dollar amounts used in determining highly compensated employees (sec. 414(q)). The Secretary publishes annually a list of the amounts applicable under each provision for the year.

Reasons for Change

Due to the timing of the cost-of-living adjustments, the dollar amounts for each year are not known until after the start of the calendar year.

Explanation of Provision

The bill provides that the cost-of-living adjustment with respect to any calendar year is based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year. Thus, adjusted dollar limits will be published before the beginning of the calendar year to which they apply.

In addition, the bill provides that the dollar limits determined after application of the cost-of-living adjustments are generally rounded to the nearest $1,000. Dollar limits relating to elective deferrals and elective contributions to simplified employee pensions (SEPs) are rounded to the nearest $100.

Effective Date

The provision is effective for years beginning after December 31, 1992.

4. Plans covering self-employed individuals (sec. 4234 of the bill and sec. 401(d) of the Code)

Present Law

Prior to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) different rules applied to retirement plans maintained by incorporated employers and unincorporated employers (such as partnerships and sole proprietors). In general, plans maintained by unincorporated employers were subject to special rules in addition to the other qualification requirements of the Code. Most, but not all, of this disparity was eliminated by TEFRA. Under present law, certain special aggregation rules apply to plans maintained by owner-employees that do not apply to other qualified plans (sec. 401(d) (1) and (2)).

Reasons for Change

The remaining special aggregation rules for plans maintained by unincorporated employers are unnecessary and should be eliminated. Applying the same set of rules to all types of plans would make the qualification standards easier to apply and administer.

Explanation of Provision

The bill eliminates the special aggregation rules that apply to plans maintained by self-employed individuals that do not apply to other qualified plans.

Effective Date

The provision is effective for years beginning after December 31, 1992.

5. Full-funding limitation of multiemployer plans (sec. 4235 of the bill and sec. 412 of the Code)

Present Law

Under the Internal Revenue Code, subject to certain limitations, an employer may make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 150 percent of the plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the actuarial value of the plan's assets (sec. 412(c)(7)).

Plans subject to the minimum funding rules are required to make an actuarial valuation of the plan not less frequently than annually.

Reasons for Change

The committee believes that it is not necessary to apply the 150-percent of current liability full funding limit to multiemployer plans. The full funding limit is intended to limit employer deductions for liabilities that have not yet accrued. Employers who participate in multiemployer plans do not have the same incentive to make excessive contributions to the plan as is the case with single-employer plans.

Explanation of Provision

The bill amends the Internal Revenue Code to provide that the 150 percent of current liability limitation does not apply to multiemployer plans. In addition, the bill repeals the Internal Revenue Code annual valuation requirement for multiemployer plans and applies the prior-law rule that valuations generally be performed at least every 3 years.

Effective Date

The provision applies to years beginning after December 31, 1991.

6. Alternative full funding limitation (sec. 4236 of the bill and sec. 412 of the Code)

Present Law

Under present law, subject to certain limitations, an employer may make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 150 percent of the plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the actuarial value of the plan's assets (sec. 412(c)(7)).

The Secretary may, under regulations, adjust the 150-percent figure contained in the full funding limitation to take into account the average age (and length of service, if appropriate) of the participants in the plan (weighted by the value of their benefits under the plan). In addition, the Secretary is authorized to prescribe regulations that apply, in lieu of the 150 percent of current liability limitation, a different full funding limitation based on factors other than current liability. The Secretary may exercise this authority only in a manner so that in the aggregate, the effect on Federal budget receipts is substantially identical to the effect of the 150-percent full funding limitation.

Reasons for Change

The Secretary has not yet exercised his authority with respect to the full funding limitation. The committee finds it necessary to specify a revenue-neutral way of exercising such authority.

Explanation of Provision

In general

The bill provides that an employer may elect to disregard the 150-percent limitation if each plan in the employer's control group is not top-heavy and the average accrued liability of active participants under the plan for the immediately preceding 5 plan years is at least 80 percent of the plan's total accrued liability (the "alternative full funding limitation"). The Secretary is required to adjust the 150-percent full funding limitation (in the manner specified under the bill) for employers that do not use the alternative full funding limit to ensure that the election by employers to disregard the 150-percent limit does not result in a substantial reduction in Federal revenues for any fiscal year.

Notice requirement

Under the bill, employers electing to apply the alternative limitation generally must notify the Secretary by January 1 of the calendar year preceding the calendar year in which the election period begins. Under a special transition rule, in the case of any election period beginning on or after July 1, 1992, and before January 1, 1994, the notice requirement is deemed satisfied if the Secretary is notified of the election by October 1, 1992. In addition, the Secretary is required, by January 1, 1993, to notify defined benefit plans that have not made an election to apply the alternative limitation of any adjustment to the 150-percent full funding limitation required under the provision.

To the extent a defined benefit plan sponsor makes a contribution to a defined benefit plan with respect to the transition period that exceeds the full-funding limitation, as adjusted by the Secretary for the transition period, the sponsor is required to offset the excess contribution against allowable contributions to the plan in subsequent quarters in the taxable year of the sponsor. If no subsequent contributions may be made for the taxable year, the trustee of the defined benefit plan must return the excess contribution to the sponsor in that taxable year or the subsequent taxable year.

Effective Date

The provision is effective on the date of enactment.

7. Distribution from qualified cash or deferred arrangements maintained by rural cooperatives (sec. 4237 of the bill and sec. 401(k) of the Code)

Present Law

Under present law, a qualified cash or deferred arrangement can permit withdrawals by participants only after the earlier of (1) the participant's separation from service, death, or disability, (2) termination of the arrangement, (3) in the case of a profit-sharing or stock bonus plan, the attainment of age 59½, or (4) in the case of a profit-sharing or stock bonus plan to which section 402(a)(8) applies, upon hardship of the participant (sec. 401(k)(2)(B)). In the case of a rural cooperative qualified cash or deferred arrangement, which is part of a money purchase pension plan, withdrawals by participants cannot occur upon attainment of age 59½ or upon hardship.

Reasons for Change

It is appropriate to permit qualified cash or deferred arrangements of rural cooperatives to permit distributions to plan participants under the same circumstances as other qualified cash or deferred arrangements. Rural cooperatives could achieve the same results by modifying the structure of their plans. There is no justifiable reason to require rural cooperatives to incur the administrative costs of plan conversion when the same result can be achieved without imposing such costs.

Explanation of Provision

The bill provides that a rural cooperative plan that includes a qualified cash or deferred arrangement will not be treated as violating the qualification requirements merely because the plan permits distributions to plan participants after the attainment of age 59½[1]

Effective Date

The provision is effective as if included in the amendments made by section 1011(k)(9) of the Technical and Miscellaneous Revenue Act of 1988.

8. Limits on contribution and benefits under governmental plans (sec. 4238 of the bill and secs. 415 and 457 of the Code)

Present Law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan (sec. 415). The limits apply to plans maintained by private and public employers. Certain special rules apply to governmental plans.

In the case of a defined contribution plan, the annual additions to the plan with respect to each plan participant are limited to the lesser of (1) 25 percent of compensation, or (2) $30,000. The limit on the annual benefits payable by a defined benefit pension plan is generally the lesser of (1) 100 percent of compensation, or (2) $112,221 for 1992. The dollar limit is increased annually for inflation. The dollar limit is reduced actuarially if payment of benefits is to begin before the social security retirement age, and increased if benefits are to begin after that age.

Under special rules for plans maintained by State or local governments, such plans may provide benefits greater than those permitted by the limits on benefits applicable to plans maintained by private employers.

Reasons for Change

The limits on contributions and benefits create unique problems for plans maintained by public employers.

Explanation of Provision

The bill makes the following modifications to the limits on contributions and benefits as applied to governmental plans: (1) compensation includes employer contributions to certain employee plans under a salary reduction arrangement; (2) the 100 percent of compensation limitation does not apply; and (3) the defined benefit pension plan limitation does not apply to certain disability and survivor benefits. The bill also permits State and local government employers to maintain excess benefit plans (i.e., plans that provide benefits that cannot be provided under a qualified plan due to the limits on contributions and benefits) without regard to the limits on unfunded deferred compensation arrangements of State and local government employers (sec. 457). Benefits provided by such plans are subject to the same tax rules applicable to excess plans maintained by private employers (e.g., sec. 83).

Effective Date

The provision is effective for years beginning after the date of enactment. Governmental plans are treated as if in compliance with the requirements of section 415 for years beginning on or before the date of enactment.

9. Use of 501(c)(21) black lung trust assets to fund retiree health benefits (sec. 4239 of the bill and secs. 501(c)(21), 192(c), and 4951(f) of the Code)

Present Law

A qualified black lung benefit trust described in section 501(c)(21) of the Internal Revenue Code is exempt from federal income taxation. In addition, a deduction is allowed for contributions to a qualified black lung benefit trust to the extent such contributions are necessary to fund the trust.

Under present law, no assets of a qualified black lung benefit trust may be used for, or diverted to, any purpose other than (i) to satisfy liabilities, or pay insurance premiums to cover liabilities, arising under the Black Lung Acts, (ii) to pay administrative costs of operating the trust, or (iii) investment in U.S., State, or local securities and obligations, or in time demand deposits in a bank or insured credit union.

Under present law, excess trust assets may be paid into the national Black Lung Disability Trust Fund, or into the general fund of the U.S. Treasury.

Reasons for Change

Permitting excess assets in black lung trusts to be used to pay retiree accident and health benefits for miners will provide an additional source of funding to pay for promised health care benefits. This use of excess assets is appropriate provided there are safeguards to help ensure that sufficient funds will be available to pay for black lung benefit liabilities.

Explanation of Provision

The bill allows excess assets in qualified black lung benefit trusts to be used to pay accident and health benefits or premiums for insurance for such benefits (including administrative and other incidental expenses relating to such benefits) for retired coal miners and their spouses and dependents. The amount of assets available for such purpose is subject to a yearly limit as well as an aggregate limit. The yearly limit is the amount of assets in excess of 110 percent of the present value of the liability for black lung benefits determined as of the close of the preceding taxable year of the trust. The aggregate limit is the amount of assets in excess of 110 percent of the present value of the liability for black lung benefits determined as of the close of the taxable year of the trust ending prior to the effective date, plus earnings thereon. Each of these determinations is required to be made by an independent actuary.

The amounts used to pay retiree accident or health benefits are not includible in the income of the company, nor is a deduction allowed for such amounts.

Effective Date

The provision is effective for taxable years beginning after December 31, 1991.

---

[1] Age 59½ is changed to 59 under another provision of the bill, described above.

10. Penalties for failure to provide reports relating to pension payments (sec. 4240 of the bill and secs. 6652(e) and 6724 of the Code)

Present Law

Any person who fails to file an information report with the Internal Revenue Service on or before the prescribed filing date is subject to penalties for each failure. The general penalty structure provides that the amount of the penalty is to vary with the length of time within which the taxpayer corrects the failure, and allows taxpayers to correct a de minimis number of errors and avoid penalties entirely (sec. 6721). A different, flat-amount penalty applies for each failure to provide information reports to the IRS or statements to payees relating to pension payments (sec. 6652(e)).

Reasons for Change

Conforming the information-reporting penalties that apply with respect to pension payments to the general information-reporting penalty structure would simplify the overall penalty structure through uniformity and provide more appropriate information-reporting penalties with respect to pension payments.

Explanation of Provision

The bill incorporates into the general penalty structure the penalties for failure to provide information reports relating to pension payments to the IRS and to recipients. Thus, information reports with respect to pension payments would be treated in a similar fashion to other information reports.

Effective Date

The provision applies to returns and statements the due date for which is after December 31, 1992.

11. Contributions on behalf of disabled employees (sec. 4241 of the bill and sec. 415 of the Code)

Present Law

Under present law, an employer may elect to continue deductible contributions to a defined contribution plan on behalf of an employee who is permanently and totally disabled. For purposes of the limit on annual additions (sec. 415(c)), the compensation of a disabled employee is deemed to be equal to the annualized compensation of the employee prior to the employee's becoming disabled. Contributions are not permitted on behalf of disabled employees who were officers, owners, or highly compensated before they became disabled.

Reasons for Change

The committee believes it is appropriate to facilitate the provision of benefits for disabled employees, if it is done on a nondiscriminatory basis.

Explanation of Provision

The bill provides that the special rule for contributions on behalf of disabled employees is applicable without an employer election and to highly compensated employees if the defined contribution plan provides for the continuation of contributions on behalf of all participants who are permanently and totally disabled.

Effective Date

The provision applies to years beginning after December 31, 1992.

12. Affiliation requirements for employers jointly maintaining a VEBA (sec. 4242 of the bill and sec. 501(c)(9) of the Code)

Present Law

A voluntary employees' beneficiary association (VEBA) that satisfies certain requirements is entitled to tax-exempt status. The Code generally describes a VEBA as an association that provides for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual. The requirements a VEBA must comply with in order to be tax exempt are further specified in regulations.

Under Treasury regulations, membership in a VEBA is required to be limited to individuals whose eligibility is determined by reference to objective standards that constitute an employment-related common bond. Such a common bond exists if eligibility is determined by the following standards: (1) employment by a common employer (or affiliated employers); (2) coverage under one or more collective bargaining agreements; (3) membership in a labor union (or in one or more locals of a national or international labor union); or (4) employment by one or more employers in the same line of business in the same geographic locale.

Reasons for Change

VEBAs offer an effective mechanism for affiliated employers, particularly small employers, to band together for the purpose of providing certain employee benefits at lower cost than would otherwise be possible. The committee believes that the requirement under Treasury regulations that participating employers be in the same geographic locale is an arbitrary restriction on the ability of affiliated employers to maintain VEBAs.

Explanation of Provision

The bill provides that otherwise unrelated employers are treated as affiliated and, therefore, can maintain a tax-exempt VEBA if the employers (1) are in the same line of business, (2) act jointly to perform tasks which are integral to the activities of each of the employers, (3) act jointly to such an extent that the joint maintenance of a VEBA is not a major part of the joint activities, and (4) a substantial number of employers are tax exempt.

Under the bill, employers are considered affiliated, for example, under the following circumstances. The employers participating in the VEBA are in the same line of business and belong to an association that provides to its members a significant amount of each of the following services: (1) research and development relating to the members' primary activity; (2) education and training of members' employees; and (3) public relations. In addition, the employers are sufficiently similar (e.g., subject to similar regulatory requirements) that the association's service provide material assistance to all of the employers. The employers also demonstrate the importance of their joint activities by having meetings at least annually attended by substantially all of the employers. Finally, the employers maintain a common retirement plan.

On the other hand, it is not intended that the mere existence of a trade association is a sufficient basis for the member-employers to be considered affiliated, even if they are in the same line of business. It is also not sufficient if the trade association publishes a newsletter and provides significant public relations services, but only provides nominal amounts, if any, of other services integral to the employers' primary activity.

A group of employers are also not considered affiliated under the bill by virtue of the membership of their employees in a professional association.

Effective Date

The provision applies to years beginning before, on, or after the date of enactment. The provision is intended as a clarification of present law. However, it is not intended to create any inference as to whether any part of the Treasury regulations affecting VEBAs, other than the affiliated employer rule, is or is not present law.

13. Inclusion of union employees for coverage testing (sec. 4243 of the bill and secs. 410(b), 401(a)(4), and 414(r) of the Code)

Present Law

Under present law, employees covered by a collective bargaining agreement are excluded from consideration in testing whether a qualified plan satisfies the minimum coverage and nondiscrimination requirements (sec. 410(b)(3)(A)). Under regulations, such employees are counted for purposes of determining whether a line of business has at least 50 employees, the threshold number for designating a unit as a separate line of business for purposes of applying the coverage and nondiscrimination tests.

Reasons for Change

The present-law rule tests union employees separately in recognition of the collective bargaining process. The committee believes it is appropriate to permit union employees to be aggregated with other employees who are covered by the same plan.

Explanation of Provision

The bill provides that an employer can elect to include union employees who benefit under the plan on the same terms as other employees in testing whether a plan satisfies the minimum coverage and nondiscrimination tests. In addition, the bill clarifies that an employer can elect to include union employees who benefit under the plan on the same terms as other employees in applying the 50-employee test under the line of business rules.

Effective Date

The provision applies to years beginning after December 31, 1992.

14. Uniform retirement age (sec. 4244 of the bill and sec. 401(a)(4) of the Code)

Present Law

A qualified plan generally must provide that payment of benefits under the plan must begin no later than 60 days after the end of the plan year in which the participant reaches age 65. Also, for purposes of the vesting and benefit accrual rules, normal retirement age generally can be no later than age 65. For purposes of applying the limits on contributions and benefits (sec. 415), social security retirement age is generally used as retirement age. The social security retirement age as used for such purposes is presently age 65, but is scheduled to gradually increase.

Reasons for Change

Many plans base benefits on social security retirement age so that the benefits under the plan complement social security. Under present law, plans that do so may fail applicable nondiscrimination tests. The committee believes that the social security retirement age is an appropriate age for use under plans maintained by private employers.

Explanation of Provision

The bill provides that for purposes of the general nondiscrimination rule (sec. 401(a)(4)) the social security retirement age (as defined in sec. 415) is a uniform retirement age and that subsidized early retirement benefits and joint and survivor annuities based on an employee's social security retirement age (as defined in sec. 415) are treated as being available to employees on the same terms.

Effective Date

The provision is effective for years beginning after December 31, 1992.

15. Special rules for plans covering pilots (sec. 4245 of the bill and sec. 410(b) of the Code)

Present Law

Under present law, employees covered by a collective bargaining agreement are excluded from consideration in testing whether a qualified retirement plan satisfies the minimum coverage and nondiscrimination requirements (sec. 410(b)(3)(A)). Similarly, in the case of plan established pursuant to a collective bargaining agreement between airline pilots and one or more employers, all employees not covered by the collective bargaining agreement are disregarded for purposes of testing whether the plan satisfies the minimum coverage and nondiscrimination requirements (sec 410(b)(3)(B)). This provision applies only in the case of a plan that provides contributions or benefits for employees whose principal duties are customarily performed aboard aircraft in flight. Thus, a collective bargained plan covering only airline pilots is tested separately for purposes of the minimum coverage requirements.

Reasons for Change

Present law treats airline pilots covered by a collective bargaining agreement separately for purposes of testing whether a pension plan satisfies the minimum coverage requirements, but requires nonunion airline pilots to be considered with an employer's other employees for coverage purposes. It is understood that pilots are required to retire earlier than other workers under Federal regulations. Thus, it is believed that all pilots must accrue their benefits over a shorter period of time, regardless of whether they are members of a union.

Explanation of Provision

The bill provides that, in the case of a plan established by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States government, all employees who are not air pilots are excluded from consideration in testing whether the plan satisfies the minimum coverage requirements. In addition, the bill provides that this exception does not apply in the case of a plan that provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight.

Effective Date

The provision is effective for five beginning after December 31, 1992.

16. National Commission on Private Pension Plans (sec. 4246 of the bill)

Reasons for Provision

The committee believes that it is appropriate to review existing Federal incentives and programs that encourage and protect private retirement savings.

Explanation of Provision

The provision establishes a National Commission on Private Pension Plans to study national retirement income policy. The Commission is directed to submit a report to the Congress by Labor Day 1994, the 20th anniversary of the enactment of the Employee Retirement Income Security Act of 1974, setting forth its findings and recommendations for increasing the level and security of private retirement savings.

The provision authorizes appropriations through fiscal year 1994 for such sums as may be necessary to carry out the provision.

17. Church pension plans (sec. 4247 of the bill and secs. 401(a)(9), 401(h), 402(g), 403(b), 404(a), 411, and 414(e) of the Code)

Present Law

Plans maintained by churches and certain church-controlled organizations are exempt from certain of the qualification requirements applicable to pension plans under the Code pursuant to the Employee Retirement Income Security Act of 1974 (ERISA). For example, such plans are not subject to ERISA's vesting, coverage, and funding requirements. Church plans may elect to waive the exemption from the qualification rules.

Reasons for Change

The committee believes that plans maintained by churches and church-controlled organizations are subject to special problems not faced by plans maintained by other types of plans and that it is appropriate to address these problems.

Explanation of Provision

The bill makes a number of changes relating to the qualification requirements as applied to church plans.

The bill provides that church plans that are subject to pre-ERISA vesting rules under present law are subject to ERISA's vesting rules in effect immediately before the enactment of the Tax Reform Act of 1986. Thus, employer-provided benefits under such plans are required to vest at least as rapidly as under a 10-year cliff vesting schedule, or under a schedule that provides ratable vesting between 5 and 15 years of service. Employee contributions must be 100 percent vested at all times.

In the case of a church plan maintained by more than one employer, if one or more organizations maintaining a church plan fails to satisfy the qualification requirements, the plan is not disqualified with respect to the other organizations maintaining the plan that meet such requirements.

The bill modifies the definition of highly compensated employee applicable to church plans by providing that a person is not considered an officer or person whose principal duties consist of supervising the work of other employee if the employee receives less than $50,000 of compensation (indexed). In addition, certain employees covered by a collective bargaining agreement (sec. 410(b)(3)(A)) are excluded.

Tax-sheltered annuity contracts (sec. 403(b)) are permitted under present law to make distributions on account of disability. The bill modifies the definition of disability so that it is the same as that used for purposes of the rule relating to cash or deferred arrangements (sec. 401(k)(2)).

The bill permits self-employed ministers to participate in the denominational church plan. Such ministers are disregarded in applying applicable nondiscrimination rules.

The bill provides that church plans do not have to maintain separate accounts under a section 401(h) account for employees who are key employees merely because they are officers with annual compensation greater than a certain amount. Any benefits provided under the account are required to be taken into account for purposes of the limits on contributions and benefits as under present law.

The bill modifies the elective catch-up provision relating to section 403(b) annuities and retirement income accounts maintained by churches by repealing the limitation on the amount of such catch-up contributions based on years of service (sec. 402(b)(8)(A)(iii)).

The bill modifies the minimum distribution rules (sec. 401(a)(9) to permit church plans to pay a benefit at year-end (the so-called "13th check") based on favorable administrative or investment experience of the plan and to increase benefits by 5 percent annually.

The bill expands the present-law exception to the age 70-½ rule for church plans so that it applies to all church plans as defined in section 414(e).

Effective Date

The vesting provision is to be effective for years beginning after December 31, 1993. The provisions relating to plans maintained by more than one employer, the definition of highly compensated employee, self-employed ministers, and the forms of benefits under the minimum distribution rules are effective for years beginning on, after, or before December 31, 1991. The provision relating to the definition of disability is effective for years beginning after December 31, 1988. The provision relating to section 401(h) accounts is effective for years beginning after March 31, 1984. The provisions relating to catch-up contributions and the age 70-½ rule are effective as if included in the provision of the Tax Reform Act of 1986 to which the provision of the bill relates.

18. Coordinated deferral limit under deferred compensation plans of State and local governments and tax-exempt organizations (sec. 4248 of the bill and sac. 457 of the Code)

Present Law

Under present law, the limit on elective deferrals to a qualified cash-or-deferred arrangement (sec. 401(k)), simplified employee pension (SEP) (sec. 408(k)), or section 501(c)(18) plan is $8,728 (indexed). The limit on contributions to a nonqualified deferred compensation plan of State and local governments and tax-exempt organizations (a sec. 457 plan) generally is $7,500.

In addition, section 457 provides a coordinated contribution limit under which qualified elective deferrals are treated as contributions to a section 457 plan for purposes of the section 457 contribution limit, so that the sum of contributions to all such plans is limited to $7,500 (fixed). Thus, an individual that participates, for example, in both a section 457 plan and a section 401(k) plan may contribute no more than a total of $7,500 to both plans. However, an individual who participates only in a 401(k) plan may contribute up to $8,728 to such plan.

Reasons for Change

An individual who participates in both a section 457 plan and a plan under which qualified elective deferrals are permitted should be permitted to defer an aggregate amount equal to the maximum that could be contributed to any of such plans alone.

Explanation of Provision

The bill provides that an individual who participates in both a section 457 plan and a section 401(k) plan, SEP, or section 501(c)(18) plan may contribute no more than a total of $8,728 (indexed) to both plans. However, contributions to the section 457 plan still cannot exceed $7,500, as under present law.

Effective Date

The provision applies to years beginning after December 31, 1992.

19. Date for adoption of plan amendments (sec. 4249 of the bill)

Present Law

Under regulations, plan amendments to reflect changes in general must be made within the remedial amendment period. Such period generally ends at the time prescribed by law for filing the income tax return of the employer for the employer's taxable year in which the change in law occurs. The plan must be operated in accordance with the law at all times, and any plan amendment must apply retroactively to the period following the effective date of the change which it reflects.

Reasons for Change

The committee believes that plan sponsors should have adequate time to amend plan documents.

Explanation of Provision

The bill provides that any plan amendments required by the bill are not required to be made before the first plan year beginning on or after January 1, 1995, if (1) the plan is operated in accordance with the applicable provision, (2) the plan is amended to comply with the required changes no later than the first day of the first plan year beginning after December 31, 1994, and (3) the amendment is retroactive to the effective date of the applicable provision.

Effective Date

Date of enactment.

SUBTITLE C. PARTNERSHIP PROVISIONS

A. GENERAL PARTNERSHIP PROVISIONS

1. Simplified flow-through for large partnerships (sec. 4301 of the bill and new secs. 771–777 of the Code)

Present Law

Treatment of partnerships in general

A partnership generally is treated as a conduit for Federal income tax purposes. Each partner takes into account separately his distributive share of the partnership's items of income, gain, loss, deduction or credit. The character of an item is the same as if it had been directly realized or incurred by the partner. Limitations affecting the computation of taxable income generally apply at the partner level.

The taxable income of a partnership is computed in the same manner as that of an individual except that no deduction is permitted for personal exemptions, foreign taxes, charitable contributions, net operating losses, certain itemized deductions, or depletion. Elections affecting the computation of taxable income derived from a partnership are made by the partnership, except for certain elections such as those relating to discharge of indebtedness income and the foreign tax credit.

Capital gains

The net capital gain of an individual is taxed generally at the same rates applicable to ordinary income, subject to a maximum marginal rate of 28 percent. Net capital gain is the excess of net long-term capital gain over net short-term capital loss. Individuals with a net capital loss generally may deduct up to $3,000 of the loss each year against ordinary income. Net capital losses in excess of the $3,000 limit may be carried forward indefinitely.

A special rule applies to gains and losses on the sale, exchange or involuntary conversion of certain trade or business assets (sec. 1231). In general, net gains from such assets are treated as long-term capital gains but net losses are treated as ordinary losses.

A partner's share of a partnership's net short-term capital gain or loss and net long-term capital gain or loss from portfolio investments is separately reported to the partner. A partner's share of a partnership's net gain or loss under section 1231 generally is also separately reported.

Deductions

Miscellaneous itemized deductions (e.g., certain investment expenses) are deductible only to the extent that, in the aggregate, they exceed two percent of the individual's adjusted gross income.

In general, taxpayers are allowed a deduction for charitable contributions, subject to certain limitations. The deduction allowed an individual generally cannot exceed 50 percent of the individual's adjusted gross income for the taxable year. The deduction allowed a corporation generally cannot exceed 10 percent of the corporation's taxable income. Excess contributions are carried forward for five years.

A partner's distributive share of a partnership's miscellaneous itemized deductions and charitable contributions are separately reported to the partner.

Credits in general

Each partner is allowed his distributive share of credits against his taxable income. A refundable credit for gasoline used for exempt purposes is allowed. Nonrefundable credits for clinical testing expenses for certain drugs for rare diseases, for producing fuel from nonconventional sources, and for the general business credit are also allowed. The general business credit includes the investment credit (which in turn includes the rehabilitation credit), the targeted jobs credit, the alcohol fuels credit, the research credit, and the low-income housing credit.

The credits for clinical testing expenses and for the production of fuel from nonconventional sources are limited to the excess of regular tax over tentative minimum tax. Excess credits generally cannot be carried to another taxable year. The amount of general business credit allowable in a taxable year is limited to the excess of a partner's net income over the greater of (1) the tentative minimum tax for the year or (2) 25 percent of the taxpayer's net regular tax liability in excess of $25,000. The general business credit in excess of this amount is carried back three years and forward 15 years.

The benefit of the investment credit and the low-income housing credit is recaptured if, within a specified time period, the partner transfers his partnership interest or the partnership converts or transfers the property for which the credit was allowed.

Foreign taxes

The foreign tax credit generally allows U.S. taxpayers to reduce U.S. income tax on foreign income by the amount of foreign income taxes paid or accrued with respect to that income. In lieu of electing the foreign tax credit, a taxpayer may deduct foreign taxes. The total amount of the credit may not exceed the same proportion of the taxpayer's U.S. tax which the taxpayer's foreign source taxable income bears to the taxpayer's worldwide taxable income for the taxable year.

Unrelated business taxable income

Tax-exempt organizations are subject to tax on income from unrelated businesses. Certain types of income (such as dividends, interest and certain rental income) are not treated as unrelated business taxable income. Thus, for a partner that is an exempt organization, whether partnership income is unrelated business taxable income depends on the character of the underlying income. Income from a publicly traded partnership, however, is treated as unrelated business taxable income regardless of the character of the underlying income.

Special rules related to oil and gas activities

Taxpayers involved in the search for and extraction of crude oil and natural gas are subject to certain special tax rules. As a result, in the case of partnerships engaged in such activities, certain specific information is separately reported to partners.

A taxpayer who owns an economic interest in a producing deposit of natural resources (including crude oil and natural gas) is permitted to claim a deduction for depletion of the deposit as the minerals are extracted. In the case of oil and gas produced in the United States, a taxpayer generally is permitted to claim the greater of a deduction for cost depletion or percentage depletion. Cost depletion is computed by multiplying a taxpayer's adjusted basis in the depletable property by a fraction, the numerator of which is the amount of current year production from the property and the denominator of which is the property's estimated reserves as of the beginning of that year. Percentage depletion is equal to a specified percentage (generally 15 percent in the case of oil and gas) of gross income from production. Cost depletion is limited to the taxpayer's basis in the depletable property; percentage depletion is not so limited. Once a taxpayer has exhausted its basis in the depletable property, it may continue to claim percentage depletion deductions (generally referred to as "excess percentage depletion").

Certain limitations apply to the deduction for oil and gas percentage depletion. First, percentage depletion is not available to oil and gas producers who also engage (directly or indirectly) in significant levels of oil and gas retailing or refining activities (so-called "integrated oil and gas companies"). Second, the deduction for percentage depletion may be claimed by a taxpayer only with respect to up to 1,000 barrels-per-day of production. Third, the percentage depletion deduction may not exceed 100 percent of the taxpayer's net income for the taxable year from the depletable oil and gas property. Fourth, a percentage depletion deduction may not be claimed to the extent that it exceeds 65 percent of the taxpayer's pre-percentage depletion taxable income.

In the case of a partnership that owns depletable oil and gas properties, the depletion allowance is computed separately by the partners and not by the partnership. In computing a partner's basis in his partnership interest, basis is increased by the partner's share of any partnership-related excess percentage depletion deductions and is decreased (but not below zero) by the partner's total amount of depletion deductions attributable to partnership property.

Intangible drilling and development costs (IDCs) incurred with respect to domestic oil and gas wells generally may be deducted at the election of the taxpayer. In the case of integrated oil companies, no more than 70 percent of IDCs incurred during a taxable year may be deducted. IDCs not deducted are capitalized and generally are either added to the property's basis and recovered through depletion deductions or amortized on a straight-line basis over a 60-month period.

The special treatment granted oil and gas activities through the percentage depletion rules and the election to deduct IDCs may give rise to items of tax preference or (in the case of corporate taxpayers) an adjusted current earnings ("ACE") adjustment of the alternative minimum tax.[1] With respect to percentage depletion, any excess percentage depletion constitutes an amount of tax preference.

For IDCs, the tax preference item is based on a concept of "excess IDCs." In general, excess IDCs are the excess of IDCs deducted for the taxable year over the amount of those IDCs that would have been deducted had they been capitalized and amortized on a straight-line basis over 120 months commencing with the month production begins from the related well. The amount of tax preference is then computed as the difference between the excess IDC amount and 65 percent of the taxpayer's net income from oil and gas (computed without a deduction for excess IDCs).

Taxpayers other than integrated oil companies that incur oil and gas related amounts of tax preference and ACE adjustments are permitted an energy deduction in computing alternative minimum taxable income. The energy deduction generally is comprised of various specified percentages of IDC preference (and associated ACE adjustment) related to exploratory and development drilling and to a specified portion of percentage depletion preference (and associated ACE adjustment) related to marginally-producing depletable properties. The energy deduction may not offset more than 40 percent of pre-energy deduction alternative minimum taxable income.

Passive losses

The passive loss rules generally disallow deductions and credits from passive activities to the extent they exceed income from passive activities. Losses not allowed in a taxable year are suspended and treated as current deductions from passive activities in the next taxable year. These losses are allowed in full when a taxpayer disposes of the entire interest in the passive activity to an unrelated person in a taxable transaction. Passive activities include trade or business activities in which the taxpayer does not materially participate. (Limited partners generally do not materially participate in the activities of a partnership.) Passive activities also include rental activities (regardless of the taxpayer's material participation).[2] Portfolio income (such as interest and dividends), and expenses allocable to such income, are not treated as income or loss from a passive activity.

A partnership's operations may be treated as multiple activities for purposes of the passive loss rules. In such case, the partnership must separately report items of income and deductions from each of its activities.

Income from a publicly traded partnership is treated as portfolio income under the passive loss rules. In addition, loss from such a partnership is treated as separate from income and loss from any other publicly traded partnership, and also as separate from any income or loss from passive activities.

REMICs

A tax is imposed on partnerships holding a residual interest in a real estate mortgage investment conduit (REMIC). The amount of the tax is the amount of excess inclusions allocable to partnership interests owned by certain tax-exempt organizations ("disqualified organizations") multiplied by the highest corporate tax rate.

Contribution of property to a partnership

In general, a partner recognizes no gain or loss upon the contribution of property to a partnership. However, income, gain, loss and deduction with respect to property contributed to a partnership by a partner must be allocated among the partners so as to take into account the difference between the basis of the property to the partnership and its fair market value at the time of contribution. In addition, the contributing partner must recognize gain or loss equal to such difference if the property is distributed to another partner within five years of its contribution (sec. 704(c)). Under regulations, the amount of depreciation and gain or loss that is allocated under these rules is limited to the depreciation allowable to, or gain or loss recognized by, the partnership for tax purposes with respect to the contributed property (the "ceiling rule").

Election of optional basis adjustments

In general, the transfer of a partnership interest or a distribution of partnership property does not affect the basis of partnership assets. A partnership, however, may elect to make certain adjustments in the basis of partnership property (sec. 754). Under a section 754 election, the transfer of a partnership interest generally results in an adjustment in the partnership's basis in its property for the benefit of the transferee partner only, to reflect the difference between that partner's basis for his interest and his proportionate share of the adjusted basis of partnership property (sec. 743(b)). Also under the election, a distribution of property to a partner in certain cases results in an adjustment in the basis of other partnership property (sec. 734(b)).

Terminations

A partnership terminates if either (1) all partners cease carrying on the business, financial operation or venture of the partnership, or (2) within a 12-month period 50 percent or more of the total partnership interests are sold or exchanged (sec. 708).

Reasons for Change

The requirement that each partner take into account separately his distributive share of a partnership's items of income, gain, loss, deduction and credit can result in the reporting of a large number of items to each partner. The Schedule K-1, on which such items are reported, contains space for more than 40 items. Reporting so many separately stated items is burdensome for individual investors with relatively small, passive interests in large partnerships. In many respects such investments are indistinguishable from those made in corporate stock or mutual funds, which do not require reporting of numerous separate items.

In addition, the number of items reported under the current regime makes it difficult for the Internal Revenue Service to match items reported on the K-1 against the partner's income tax return. Matching is also difficult because items on the K-1 are often modified or limited at the partner level before appearing on the partner's tax return.

By significantly reducing the number of items that must be separately reported to partners, the provision eases the reporting burden of partners and facilities matching by the IRS. Moreover, the committee understands that the Internal Revenue Service is considering restricting the use of substitute reporting forms by large partnerships. Reduction of the number of items makes possible a short standardized form.

In addition, the rules governing allocations with respect to property contributed to a partnership and the rules regarding partnership terminations are ill-suited to large partnerships, whose interests are commonly transferred. By adopting a deferred sale approach for property contributions and by reducing the possibility of partnership terminations, the provision improves the administration of the tax rules governing large partnerships.

Explanation of Provisions

In general

The bill modifies the tax treatment of a large partnership (generally, a partnership with at least 250 partners, or an electing partnership with at least 100 partners) and its partners. The bill provides that each partner take into account separately the partner's distributive share of the following items, which are determined at the partnership level: (1) taxable income or loss from passive loss limitation activities; (2) taxable income or loss from other activities (e.g., portfolio income or loss); (3) net capital gain or loss to the extent allocable to passive loss limitation activities and other activities; (4) tax-exempt interest; (5) net alternative minimum tax adjustment separately computed for passive loss limitation activities and other activities; (6) general credits; (7) low-income housing credit; (8) rehabilitation credit; (9) credit for producing fuel from a nonconventional source; and (10) creditable foreign taxes and foreign source items.[3]

Under the bill, the taxable income of a large partnership is computed in the same manner as that of an individual, except that the items described above are separately stated and certain modifications are made. These modifications include disallowing the deduction for personal exemptions, the net operating loss deduction and certain itemized deductions.[4] All limitations and other provisions affecting the computation of taxable income or any credit (except for the at risk, passive loss and section 68 itemized deduction limitations, and any other provision specified in regulations) are applied at the partnership (and not the partner) level. Thus, for example, any investment interest of the partnership is limited at the partnership level, and any carryover is made at that level.

All elections affecting the computation of taxable income or any credit generally are made by the partnership.

---

[1] Section 1915 of H.R. 776, as passed by the House of Representatives, and section 2015 of the Senate amendment to H.R. 776, would substantially modify the alternative minimum tax as it applies to oil and gas operations.

[2] An individual who actively participates in a rental real estate activity and holds at least a 10 percent interest may deduct up to $25,000 of passive losses. The $25,000 amount phases out as the individual's income increases from $100,000 to $150,000.

The $25,000 allowance also applies to low-income housing and rehabilitation credits (on a deduction equivalent basis), regardless of whether the taxpayer claiming the credit actively participates in the rental real estate activity generating the credit. In addition, the income phaseout range for the $25,000 allowance for rehabilitation credits is $200,000 to $250,000 (rather than $100,000 to $150,000). For interests acquired after December 31, 1989 in partnerships holding property placed in service after that date, the $25,000 deduction-equivalent allowance is permitted for the low-income housing credit without regard to the taxpayer's income.

[3] In determining the amounts required to be separately taken into account by a partner, those provisions of the large partnership rules governing computations of taxable income are applied separately with respect to that partner by taking into account that partner's distributive share of the partnership's items of income, gain, loss, deduction or credit. This rule permits partnerships to make otherwise valid special allocations of partnership items to partners.

[4] A large partnership is allowed a deduction under section 212 for expenses incurred for the production of income, subject to 70-percent disallowance, as described below. No income from a large partnership is treated as fishing or farming income.

Capital gains

Under the bill, netting of capital gains and losses occurs at the partnership level. A partner in a large partnership takes into account separately his distributive share of the partnership's net capital gain or net capital loss.[5] Such net capital gain or loss is treated as long-term capital gain or loss.

A partner's distributive share of the partnership's net capital gain is allocated between passive loss limitation activities and other activities. The net capital gain is allocated to passive loss limitation activities to the extent of net capital gain from sales and exchanges of property used in connection with such activities, and any excess is allocated to other activities. A similar rule applies for purposes of allocating any net capital loss.

Any gains and losses of the partnership under section 1231 are netted at the partnership level. Net gain is treated as long-term capital gain and is subject to the rules described above. Net loss is treated as ordinary loss and consolidated with the partnership's other taxable income.

Deductions

The bill contains two special rules for deductions. First, miscellaneous itemized deductions are not separately reported to partners. Instead, 70 percent of the amount of such deductions is disallowed at the partnership level;[6] the remaining 30 percent is allowed at the partnership level in determining taxable income, and is not subject to the two-percent floor at the partner level.

Second, charitable contributions are not separately reported to partners under the bill. Instead, the charitable contribution deduction is allowed at the partnership level in determining taxable income, subject to the limitations that apply to corporate donors.

Credits in general

Under the bill, general credits are separately reported to partners as a single item. General credits are any credits other than the low-income housing credit, the rehabilitation credit and the credit for producing fuel from a nonconventional source. A partner's distributive share of general credits is taken into account as a current year general business credit. Thus, for example, the credit for clinical testing expenses is subject to the present law limitations on the general business credit. The refundable credit for gasoline used for exempt purposes and the refund or credit for undistributed capital gains of a regulated investment company are allowed to the partnership, and thus are not separately reported to partners.

In recognition of their special treatment under the passive loss rules, the low-income housing and rehabilitation credits are separately reported.[7] In addition, the credit for producing fuel from a nonconventional source is separately reported.

The bill imposes credit recapture at the partnership level and determines the amount of recapture by assuming that the credit fully reduced taxes. Such recapture is applied first to reduce the partnership's current year credit, if any; the partnership is liable for any excess over that amount. Under the bill, the transfer of an interest in a large partnership does not trigger recapture.

Foreign taxes

The bill retains present-law treatment of foreign taxes. The partnership reports to the partner creditable foreign taxes and the source of any income, gain, loss or deduction taken into account by the partnership. Elections, computations and limitations are made by the partner.

Tax-exempt interest

The bill retains present-law treatment of tax-exempt interest. Interest on a State or local bond is separately reported to each partner.

Unrelated business taxable income

The bill retains present-law treatment of unrelated business taxable income. Thus, a tax-exempt partner's distributive share of partnership items is taken into account separately to the extent necessary to comply with the rules governing such income.

Passive losses

Under the bill, a partner in a large partnership takes into account separately his distributive share of the partnership's taxable income or loss from passive loss limitation activities. The term "passive loss limitation activity" means any activity involving the conduct of a trade or business (including any activity treated as a trade or business under sec. 469(c)(5) or (6)) and any rental activity. A partner's share of a large partnership's taxable income or loss from passive loss limitation activities is treated as an item of income or loss from the conduct of a trade or business which is a single passive activity, as defined in the passive loss rules. Thus, a large partnership generally is not required to separately report items from multiple activities.

A partner in a large partnership also takes into account separately his distributive share of the partnership's taxable income or loss from activities other than passive loss limitation activities. Such distributive share is treated as an item of income or expense with respect to property held for investment. Thus, portfolio income (e.g., interest and dividends) is reported separately and is reduced by portfolio deductions and allocable investment interest expense.

In the case of a partner holding an interest in a large partnership which is not a limited partnership interest, such partner's distributive share of any items are taken into account separately to the extent necessary to comply with the passive loss rules. Thus, for example, income of a large partnership is not treated as passive income with respect to the general partnership interest of a partner who materially participates in the partnership's trade or business.

Under the bill, income from a publicly traded partnership continues to be treated as portfolio income.

Alternative minimum tax

Under the bill, alternative minimum tax ("AMT") adjustments and preferences are combined at the partnership level. A large partnership would report to partners a net AMT adjustment separately computed for passive loss limitation activities and other activities. In determining a partner's alternative minimum taxable income, a partner's distributive share of any net AMT adjustment is taken into account instead of making separate AMT adjustments with respect to partnership items. The net AMT adjustment is determined by using the adjustments applicable to individuals (in the case of partners other than corporations), and by using the adjustments applicable to corporations (in the case of corporate partners). Except as provided in regulations, the net AMT adjustment is treated as a deferral preference for purposes of the section 53 minimum tax credit.

Discharge of indebtedness income

If a large partnership has income from the discharge of any indebtedness, such income is separately reported to each partner. In addition, the rules governing such income (sec. 108) are applied without regard to the large partnership rules. Thus, for example, the large partnership provisions do not affect section 108(d)(6), which provides that certain section 108 rules apply at the partner level, or section 108(b)(5), which provides for an election to reduce the basis of depreciable property.

REMICs

For purposes of the tax on partnerships holding residual interests in REMICs, all interests in a large partnership are treated as held by disqualified organizations. Thus, a large partnership holding a residual interest in a REMIC is subject to a tax equal to the excess inclusions multiplied by the highest corporate rate. The amount subject to tax is excluded from partnership income.

Deferred sale treatment for contributed property

In general

For all partners contributing property to a large partnership (including partners who are disqualified persons, as described below), the bill replaces section 704(c) with a "deferred sale" approach.[8] Under the bill, a large partnership is treated as if it had purchased the property from the contributing partner for its then fair market value, thus taking a fair market value basis in the property. The contributing partner's gain or loss on the contribution (the "precontribution gain or loss")[9] is deferred until the occurrence of specified recognition events. In general, the character of the precontribution gain or loss is the same as if the property had been sold to the partnership by the partner at the time of contribution. The contributing partner's basis in his partnership interest is adjusted for precontribution amounts recognized under the provision. These adjustments generally are made immediately before the recognition event.

Recognition events

Certain events occurring at either the partnership or partner level cause recognition of precontribution gain or loss. Loss is not recognized, however, by reason of a disposition to a person related (within the meaning of sec. 267(b) or sec. 707(b)(1)) to the contributing partner.

---

[5] The term "net capital gain" has the same meaning as in section 1222(11). The term "net capital loss" means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchanges of capital assets. Thus, the partnership cannot offset any portion of capital losses against ordinary income.

Any excess of net short-term capital gain over net long-term capital loss is consolidated with the partnership's other taxable income and is not separately reported.

[6] The "70 percent" figure is intended to approximate the amount of such deductions that would be denied at the partner level as a result of the two-percent floor.

[7] The committee understands that the rehabilitation and low-income housing credits which are subject to the same passive loss rules (i.e., in the case of the low-income housing credit, where the partnership interest was acquired or the property was placed in service before 1990) could be reported together on the same line.

[8] In addition, new section 737 of the Code does not apply if the deferred sale rules apply.

[9] Precontribution gain is the excess of the fair market value of the contributed property at the time of contribution over the adjusted basis of such property immediately before such contribution. Precontribution loss is the excess of the adjusted basis of such property over its fair market value.

Transactions at partnership level.—The contributing partner recognizes precontribution gain or loss as the partnership claims an amortization, depreciation, or depletion deduction with respect to the property. The amount of gain (or loss) recognized equals the increase (or decrease) in the deduction attributable to changes in basis of the property occurring by reason of its contribution. Any gain or loss so recognized is treated as ordinary.

The contributing partner also generally recognizes precontribution gain or loss if the partnership disposes of the contributed property to a person other than the contributing partner. If such property is distributed to the contributing partner, its basis in the hands of the contributing partner equals its basis immediately before the contribution, adjusted for any gain or loss previously recognized on account of the deferred sales. No adjustment is made to the basis of undistributed partnership property on account of a distribution to the contributing partner.[10]

A contributing partner's deferred gain or loss is not recognized if the partnership disposes of the property in certain nonrecognition transactions: a like-kind exchange (sec. 1031); an involuntary conversion (sec. 1033); or a contribution to a partnership (sec. 721), provided the contributing partnership owns more than 50 percent of the recipient partnership.

Transactions at partner level.—A contributing partner recognizes precontribution gain or loss to the extent that he disposes of his partnership interest other than at death.[11] Such partner also recognizes precontribution gain or loss to the extent that the cash and fair market value of property (other than the contributed property)[12] distributed to him exceeds the adjusted basis of his partnership interest immediately before the distribution (determined without regard to any basis adjustment under the deemed sale rules resulting from the distribution).

The committee intends that the Secretary of the Treasury have regulatory authority to apply the deferred sale rules in the case of so-called "reverse 704(c)" situations, i.e., in cases where a partnership revalues its assets.[13]

Election of optional basis adjustments

Under the bill, a large partnership may still elect to adjust the basis of partnership assets with respect to transferee partners. The computation of a large partnership's taxable income is made without regard to the section 743(b) adjustment. As under present law, the section 743(b) adjustment is made only with respect to the transferee partner. In addition, a large partnership is permitted to adjust the basis of partnership property under section 734(b) if property is distributed to a partner, as under present law.

Terminations

The bill provides that a large partnership does not terminate for tax purposes solely because 50 percent of its interests are sold or exchanged within a 12-month period.

Partnerships and partners subject to large partnership rules

Definition of large partnership

A "large partnership" is any partnership with at last 250 partners in a taxable year ending on or after December 31, 1993.[14] Any partnership treated as a large partnership for a taxable year is so treated for all succeeding years, even if the number of partners falls below 250. Regulations may provide, however, that if the number of partners in any taxable year falls below 100, the partnership is not treated as a large partnership. Partnerships with at least 100 partners can elect to be treated as if they had 250 partners. The election applies to the year for which made and all subsequent years and cannot be revoked without the Secretary's consent.

Special rules for certain service partnerships

A large partnership does not include any partnership if substantially all the partners are: (1) individuals performing substantial services in connection with the partnership's activities, or personal service corporations the owner-employees of which perform such services; (2) retired partners who had performed such services; or (3) spouses of partners who had performed such services. In addition, the term "partner" does not include any individual performing substantial services in connection with the partnership's activities and holding a partnership interest, or an individual who formerly performed such services and who held a partnership interest at the time the individual performed such services.

Exclusion for commodity partnerships

The large partnership rules do not apply to any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures or forwards with respect to commodities.

Special rules for partnerships holding oil and gas properties

Election to use simplified reporting

In general, a large partnership that otherwise meets the qualifications for simplified reporting is not required to report information to its partners under the rules of that regime if it is substantially engaged in oil and gas related activities. Rather, such a partnership continues to report information to its partners as under present law. The bill permits such a partnership, however, to elect to utilize the simplified reporting regime, as modified for oil and gas purposes. If an election is made for any taxable year, it will also apply for all subsequent taxable years unless revoked with the consent of the Secretary.

A partnership is considered to be substantially engaged in oil and gas activities if at least 25 percent of the average value of its assets during the taxable year consists of oil or gas properties.[15] In making this determination, a partnership is treated as owning its proportionate share of assets of any partnership in which it holds an interest.

Simplified reporting treatment of large partnerships with oil and gas activities

The bill provides special rules for large partnerships with oil and gas activities that operate under the simplified reporting regime (i.e., either (1) large partnerships that are substantially engaged in oil and gas activities and which elect to use the regime, or (2) large partnerships that are not substantially engaged in oil and gas operations, but do have some oil and gas activities). These partnerships are collectively referred to herein as "oil and gas large partnerships." Generally, the bill provides that an oil and gas large partnership reports information to its partners under the general simplified large partnership reporting regime described above. To prevent the extension of percentage depletion deductions to persons excluded therefrom under present law, however, certain partners are treated as disqualified persons under the bill.

The treatment of a disqualified person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property is determined under the bill without regard to the special rules applicable to large partnerships. Thus, an oil and gas large partnership reports information related to oil and gas activities to a partner who is a disqualified person in the same manner and to the same extent that it reports such information to that partnership under present law. The simplified reporting rules of the bill, however, apply with respect to reporting such a partner's share of items related to non-oil and gas activities.

The bill defines two categories of taxpayers as disqualified persons. The first category encompasses taxpayers who do not qualify for the deduction for percentage depletion under section 613A (i.e., integrated oil and gas companies). The second category includes any person whose average daily production of oil and gas (for purposes of determining the depletable oil and natural gas quantity under section 613A(c)(2)) is at least 500 barrels for its taxable year in which (or with which) the partnership's taxable year ends. In making this computation, all production of domestic crude oil and natural gas attributable to the partner is taken into account, including such partner's proportionate share of any production of the large partnership.

A taxpayer that falls within a category of disqualified person has the responsibility of notifying any large partnership in which it holds a direct or indirect interest (e.g., through a pass-through entity) of its status as such. Thus, for example, if an integrated oil company owns an interest in a partnership which in turn owns an interest in an oil and gas large partnership, the company is responsible for providing the management of the large partnership information regarding its status as a disqualified person and details regarding its indirect interest in the large partnership.

Under the bill, an oil and gas large partnership computes its deduction for oil and gas depletion under the general statutory rules (subject to certain exceptions described below) under the assumptions that the partnership is the taxpayer and that it qualifies for the percentage depletion deduction. The amount of the depletion deduction, as well as other oil and gas related items, generally are reported to each partner (other than to partners who are disqualified persons) as components of that partner's distributive share of taxable income or loss from passive loss limitation activities.

---

[10] Amounts recognized by reason of these recognition events are taken into account in the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

[11] The committee intends that a deceased partner's successor in interest would not recognize any remaining precontribution gain or loss.

[12] If the contributed property consists of an interest in an entity, however, such interest will not be excluded from the computation to the extent that its value is attributable to property contributed to the entity after such interest was contributed to the partnership.

[13] *See* Treas. Reg. sec. 1.704-1(b)(2)(iv)(*f*).

[14] The number of partners is determined by counting only persons directly holding partnership interests in the taxable year, including persons holding through nominees; persons holding indirectly (e.g., through another partnership) are counted. It is not necessary for a partnership to have 250 or more partners at any one time in a taxable year for the partnership to constitute a large partnership.

[15] For this purpose, "oil or gas properties" means the mineral interests in oil or gas which are of a character with respect to which a deduction for depletion is allowable under section 611.

The bill provides that in computing the partnership's oil and gas percentage depletion deduction, the 1,000-barrel-per-day limitation does not apply. In addition, an oil and gas large partnership is allowed to compute percentage depletion under the bill without applying the 65-percent-of-taxable-income limitation under section 613A(d)(1).

As under present law, an election to deduct IDCs under section 263(c) is made at the partnership level. Since the bill treats those taxpayers required by the Code (sec. 291) to capitalize 30 percent of IDCs as disqualified persons, an oil and gas large partnership may pass through a full deduction of IDCs to its partners who are not disqualified persons. In contrast to present law, an oil and gas large partnership also has the responsibility with respect to its partners who are not disqualified persons for making an election under section 59(e) to capitalize and amortize certain specified IDCs. Partners who are disqualified persons are permitted to make their own separate section 59(e) elections under the bill.

Consistent with the general reporting regime for large partnerships, the bill provides that a single AMT adjustment (under either corporate or non-corporate principles, as the case may be) is made and reported to the partners (other than disqualified persons) of an oil and gas large partnership as a separate item. This separately-reported item is affected by a number of oil-and-gas factors: the tax preference for excess percentage depletion, the tax preference for excess IDCs, the adjusted current earnings adjustment, and the energy deduction.

Since an oil and gas large partnership computes a deduction for percentage depletion under the bill, it also is required to compute the amount of tax preference for excess percentage depletion. The preference item for excess IDCs also is computed by an oil and gas large partnership. In this case, the partnership compares the amount of excess IDCs it incurs with 65 percent of its net income from oil and gas. To the extent that the excess IDC amount exceeds the partnership's 65-percent-net-income-from-oil-and-gas amount, there is an amount of tax preference for excess IDCs which is factored into the amount reported as AMT adjustments to the partners.

Under the bill, the AMT energy deduction is computed by an oil and gas large partnership. The current-law special energy deduction is limited so that it may not reduce the taxpayer's pre-energy deduction alternative minimum taxable income by more than 40 percent. Under the bill, an oil and gas large partnership is treated as the taxpayer for this purpose. Thus, the limitation on the energy deduction is applied at the partnership level using the same 40-percent threshold.

The bill provides that in making partnership-level computations, any item of income, gain, loss, deduction, or credit attributable to a partner who is a disqualified person is disregarded. For example, in computing the partnership's net income from oil and gas for purposes of determining the IDC preference to be reported to partners who are not disqualified persons as part of the AMT adjustment, disqualified persons' distributive shares of the partnership's net income from oil and gas are not to be taken into account.

Regulatory authority

The Secretary of the Treasury is granted authority to prescribe such regulations as may be appropriate to carry out the purposes of the provisions.

Effective Date

The provisions generally apply to partnership taxable years ending on or after December 31, 1993. The deferred sale provision applies to any contribution of property (other than cash) made on or after the date of enactment to a large partnership. The committee intends that no inference be drawn as to the proper treatment of contributions of appreciated or depreciated property to a partnership made prior to the effective date.

2. Simplified audit procedures for large partnerships (sec. 4302 of the bill and secs. 6240, 6241, 6242, 6245, 6246, 6247, 6249, 6251, 6252, 6255, and 6256 of the Code)

Present Law

In general

Prior to 1982, regardless of the size of a partnership, adjustments to a partnership's items of income, gain, loss, deduction, or credit had to be made in separate proceedings with respect to each partner individually. Because a large partnership sometimes had many partners located in different audit districts, adjustments to items of income, gains, losses, deductions, or credits of the partnership had to be made in numerous actions in several jurisdictions, sometimes with conflicting outcomes.

The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") established unified audit rules applicable to all but certain small (10 or fewer partners) partnerships. These rules require the tax treatment of all "partnership items" to be determined at the partnership, rather than the partner, level. Partnership items are those items that are more appropriately determined at the partnership level than at the partner level, as provided by regulations.

Administrative proceedings

Under the TEFRA rules, a partner must report all partnership items consistently with the partnership return or must notify the IRS of any inconsistency. If a partner fails to report any partnership item consistently with the partnership return, the IRS may make a computational adjustment and immediately assess any additional tax that results.

The IRS may challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. But the IRS must still assess any resulting deficiency against each of the taxpayers who were partners in the year in which the understatement of tax liability arose.

Any partner of a partnership can request an administrative adjustment or a refund for his own separate tax liability. Any partner also has the right to participate in partnership-level administrative proceedings. A settlement agreement with respect to partnership items binds all parties to the settlement.

Tax Matters Partner

The TEFRA rules establish the "Tax Matters Partner" as the primary representative of a partnership in dealings with the IRS. The Tax Matters Partner is a general partner designated by the partnership or, in the absence of designation, the general partner with the largest profits interest at the close of the taxable year. If no Tax Matters Partner is designated, and it is impractical to apply the largest profits interest rule, the IRS may select any partner as the Tax Matters Partner.

Notice requirements

The IRS generally is required to give notice of the beginning of partnership-level administrative proceedings and any resulting administrative adjustment to all partners whose names and addresses are furnished to the IRS. For partnerships with more than 100 partners, however, the IRS generally is not required to give notice to any partner whose profits interest is less than one percent.

Adjudication of disputes concerning partnership items

After the IRS makes an administrative adjustment, the Tax Matters Partner (and, in limited circumstances, certain other partners) may file a petition for readjustment of partnership items in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court.

Statute of limitations

The IRS generally cannot adjust a partnership item for a partnership taxable year if more than 3 years have elapsed since the later of the filing of the partnership return or the last day for the filing of the partnership return.

Reasons for Change

Present audit procedures for large partnerships are inefficient and more complex than those for other large entities. The IRS must assess any deficiency arising from a partnership audit against a large number of partners, many of whom cannot easily be located and some of whom are no longer partners. In addition, audit procedures are cumbersome and can be complicated further by the intervention of partners acting individually.

Explanation of Provision

In general

The bill creates a new audit system for large partnerships. The bill defines "large partnership" the same way for audit and reporting purposes (generally partnerships with at least 250 partners) except that certain oil and gas partnerships exempted from the large partnership reporting requirements are large partnerships for the audit rules.

As under present law, large partnerships and their partners are subject to unified audit rules. The tax treatment of "partnership items" are determined at the partnership, rather than the partner, level. The term "partnership items" is defined as under present law.

Unlike present law, however, partnership adjustments generally will flow through to the partners for the year in which the adjustment takes effect. Thus, the current-year partners' share of current-year partnership items of income, gains, losses, deductions, or credits will be adjusted to reflect partnership adjustments that take effect in that year. The adjustments generally will not affect prior-year returns of any partners (except in the case of changes to any partner's distributive shares).

In lieu of flowing an adjustment through to its partners, the partnership may elect to pay an imputed underpayment. The imputed underpayment generally is calculated by netting the adjustments to the income and loss items of the partnership and multiplying that amount by the highest tax rate (whether individual or corporate). A partner may not file a claim for credit or refund of his allocable share of the payment.

Regardless of whether a partnership adjustment flows through to the partners, an adjustment must be offset if it requires another adjustment in a year after the adjusted year and before the year the offsetted adjustment takes effect. For example, if a partnership expensed a $1,000 item in year 1, and it was determined in year 4 that the item should have been capitalized and amortized ratably over 10 years, the adjustment in year 4 would be $700, apart from any interest or penalty. (The $900 adjustment for the improper deduction would be offset by $200 of adjustments for amortization deductions.) The year 4 partners would be required to include an additional $700 in income for that year. The partnership may ratably amortize the remaining $700 of expenses in years 4–10.

In addition, the partnership, rather than the partners individually, generally is liable for any interest and penalties that result from a partnership adjustment. Interest is computed for the period beginning on the return due date for the adjusted year and ending on the earlier of the return due date for the partnership taxable year in which the adjustment takes effect or the date the partnership pays the imputed underpayment. Thus, in the above example, the partnership would be liable for 4 years' worth of interest (on a declining principal amount).

Penalties (such as the accuracy and fraud penalties) are determined on a year-by-year basis (without offsets) based on an imputed underpayment. All accuracy penalty criteria and waiver criteria (such as reasonable cause, substantial authority, etc.) are determined as if the partnership were a taxable individual. Accuracy and fraud penalties are assessed and accrue interest in the same manner as if asserted against a taxable individual

Any payment (for Federal income taxes, interest, or penalties) that a large partnership is required to make is non-deductible.

If a partnership ceases to exist before a partnership adjustment takes effect, the former partners are required to take the adjustment into account, as provided by regulations. Regulations are also authorized to prevent abuse and to enforce efficiently the audit rules in circumstances that present special enforcement considerations (such as partnership bankruptcy).

Administrative proceedings

Under the large partnership audit rules, a partner is not permitted to report any partnership items inconsistently with the partnership return, even if the partner notifies the IRS of the inconsistency. The IRS could treat a partnership item that was reported inconsistently by a partner as a mathematical or clerical error and immediately assess any additional tax against that partner.

As under present law, the IRS could challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. Unlike under present law, however, partners will have no right individually to participate in settlement conferences or to the request a refund.

Partnership representative

The bill requires each large partnership to designate a partner or other person to act on its behalf. If a large partnership fails to designate such a person, the IRS is permitted to designate any one of the partners as the person authorized to act on the partnership's behalf. After the IRS's designation, a large partnership could still designate a replacement for the IRS-designated partner.

Notice requirements

Unlike under present law, the IRS is not required to give notice to individual partners of the commencement of an administrative proceeding or of a final adjustment. Instead, the IRS is authorized to send notice of a partnership adjustment to the partnership itself by certified or registered mail. The IRS could give proper notice by mailing the notice to the last known address of the partnership, even if the partnership had terminated its existence.

Adjudication of disputes concerning partnership items

As under present law, an administrative adjustment could be challenged in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court. However, only the partnership, and not partners individually, can petition for a readjustment of partnership items.

If a petition for readjustment of partnership items is filed by the partnership, the court with which the petition is filed will have jurisdiction to determine the tax treatment of all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates, and the proper allocation of such items among the partners. Thus, the court's jurisdiction is not limited to the items adjusted in the notice.

Statute of limitations

Absent an agreement to extend the statute of limitations, the IRS generally could not adjust a partnership item of a large partnership more than 3 years after the later of the filing of the partnership return or the last day for the filing of the partnership return. Special rules apply to false or fraudulent returns, a substantial omission of income, or the failure to file a return. The IRS would assess and collect any deficiency of a partner that arises from any adjustment to a partnership item subject to the limitations period on assessments and collection applicable to the year the adjustment takes effect (secs. 6248, 6501 and 6502).

Regulatory Authority

The Secretary of the Treasury is granted authority to prescribe regulations as may be necessary to carry out the simplified audit procedure provisions, including regulations to prevent abuse of the provisions through manipulation. The regulations may include rules that address transfers of partnership interests, in anticipation of a partnership adjustment, to persons who are tax-favored (e.g., corporations with net operating losses, tax-exempt organizations, and foreign partners) or persons who are expected to be unable to pay tax (e.g., shell corporations). For example, if prior to the time a partnership adjustment takes effect, a taxable partner transfers a partnership interest to a nonresident alien to avoid the tax effect of the partnership adjustment, the rules may provide, among other things, that income related to the partnership adjustment is treated as effectively connected taxable income, that the partnership adjustment is treated as taking effect before the partnership interest was transferred, or that the former partner is treated as a current partner to whom the partnership adjustment is allocated.

Effective Date

The provision applies to partnership taxable years ending on or after December 31, 1993.

3. Advance due date for furnishing information to partners (sec. 4303 of the bill and sec. 6031(b) of the Code)

Present Law

A partnership required to file an income tax return with the Internal Revenue Service must also furnish an information return to each of its partners on or before the day on which the income tax return for the year is required to be filed, including extensions. Under regulations, a partnership must file its income tax return on or before the fifteenth day of the fourth month following the end of the partnership's taxable year (on or before April 15, for calendar year partnerships). This is the same deadline by which most individual partners must file their tax returns.

Reasons for Change

Information returns that are received on or shortly before April 15 (or later) are difficult for individuals to use in preparing their tax returns (or in computing their payments) that are due on that date.

Explanation of Provision

The bill provides that a large partnership must furnish information returns to partners by the first March 15 following the close of the partnership's taxable year. Large partnerships would be only those partnerships subject to the simplified reporting rules for large partnerships, as described above.

The bill also provides that, if the partnership is required to provide copies of the information returns to the Internal Revenue Service on magnetic media, each schedule (such as each Schedule K-1) with respect to each partner is treated as a separate information return with respect to the corrective periods and penalties that are generally applicable to all information returns.

Effective Date

The provision is effective for partnership taxable years ending on or after December 31, 1993.

4. Partnership returns on magnetic media (sec. 4304 of the bill and sec. 6011 of the Code)

Present Law

Partnerships are permitted, but not required, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

Reasons for Change

Most entities that file large numbers of documents with the Internal Revenue Service must do so on magnetic media. Conforming the reporting provisions for large partnerships to the generally applicable information reporting rules will facilitate integration of partnership information into already existing data systems.

Explanation of Provision

The bill authorizes the Internal Revenue Service to require large partnerships and other partnerships with 250 or more partners to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

Effective Date

For partnerships that are large partnerships (as defined in the preceding reporting and audit provisions), the provision is effective for partnership taxable years ending on or after December 31, 1993. For partnerships that are not large partnerships (as defined) but that have 250 or more partners, the provision is effective for partnership taxable years ending on or after December 31, 1998.

B. Partnership Proceedings Under TEFRA[1]

1. Clarify the treatment of partnership items in deficiency proceedings (sec. 4311 of the bill and sec. 6234 of the Code)

Present Law

TEFRA partnership proceedings must be kept separate from deficiency proceedings involving the partners in their individual capacities. Prior to the Tax Court's opinion in

---

[1] Tax Equity and Fiscal Responsibility Act of 1982.

Munro v. *Commissioner*, 92 T.C. 71 (1989), the IRS computed deficiencies by assuming that all items that were subject to the TEFRA partnership procedures were correctly reported on the taxpayer's return. However, where the losses claimed from TEFRA partnerships were so large that they offset any proposed adjustments to nonpartnership items, no deficiency could arise from a non-TEFRA proceeding, and if the partnership losses were subsequently disallowed in a partnership proceeding, the non-TEFRA adjustments might be uncollectible because of the expiration of the statute of limitations with respect to nonpartnership items.

Faced with this situation in *Munro*, the IRS issued a notice of deficiency to the taxpayer that presumptively disallowed the taxpayer's TEFRA partnership losses for computational purposes only. Although the Tax Court ruled that a deficiency existed and that the court had jurisdiction to hear the case, the court disapproved of the methodology used by the IRS to compute the deficiency. Specifically, the court held that partnership items (whether income, loss, deduction, or credit) included on a taxpayer's return must be completely ignored in determining whether a deficiency exists that is attributable to nonpartnership items.

Reasons for Change

The opinion in *Munro* creates problems for both taxpayers and the IRS. For example, a taxpayer would be harmed in the case where he has invested in a TEFRA partnership and is also subject to the deficiency procedures with respect to nonpartnership item adjustments, since computing the tax liability without regard to partnership items will have the same effect as if the partnership items were disallowed. If the partnership items were losses, the effect will be a greatly increased deficiency for the nonpartnership items. If, when the partnership proceeding is completed, the taxpayer is ultimately allowed any part of the losses, the taxpayer will receive part of the increased deficiency back in the form of an overpayment. However, in the interim, the taxpayer will have been subject to assessment and collection of a deficiency inflated by items still in dispute in the partnership proceeding. In essence, a taxpayer in such a case would be deprived of a prepayment forum with respect to the partnership item adjustments. The IRS would be harmed if a taxpayer's income is primarily from a TEFRA partnership, since the IRS may be unable to adjust nonpartnership items such as medical expense deductions, home mortgage interest deductions or charitable contribution deductions because there would be no deficiency since, under *Munro*, the income must be ignored.

Explanation of Provision

The bill is intended to overrule *Munro* and allow the IRS to return to its prior practice of computing deficiencies by assuming that all TEFRA items whose treatment has not been finally determined had been correctly reported on the taxpayer's return. This will eliminate the need to do special computations, that involve the removal of TEFRA items from a taxpayer's return, and will restore to taxpayers a prepayment forum with respect to the TEFRA items. In addition, the bill provides a special rule to address the factual situation presented in *Munro*.

Specifically, the bill provides a declaratory judgment procedure in the Tax Court for adjustments to an oversheltered return. An oversheltered return is a return that shows no taxable income and a net loss from TEFRA partnerships. In such a case, the IRS is authorized to issue a notice of adjustment with respect to non-TEFRA items, notwithstanding that no deficiency would result from the adjustment. However, the IRS may only issue such a notice if a deficiency would have arisen in the absence of the net loss from TEFRA partnerships.

The Tax Court would be granted jurisdiction to determine the correctness of such an adjustment as well as to make a declaration with respect to any other item for the taxable year to which the notice of adjustment relates, except for partnership items and affected items which require partner-level determinations. No tax would be due upon such a determination, but a decision of the Tax Court would be treated as a final decision, permitting an appeal of the decision by either the taxpayer or the IRS. An adjustment determined to be correct would thus have the effect of increasing the taxable income that would be deemed to have been reported on the taxpayer's return. If the taxpayer's partnership items were then adjusted in a subsequent proceeding, the IRS would have preserved its ability to collect tax on any increased deficiency attributable to the nonpartnership items.

Alternatively, if the taxpayer chooses not to contest the notice of adjustment within the 90-day period, the bill provides that when the taxpayer's partnership items are finally determined, the taxpayer has the right to file a refund claim for tax attributable to the items adjusted by the earlier notice of adjustment for the taxable year. Although a refund claim is not generally permitted with respect to a deficiency arising from a TEFRA proceeding, such a rule is appropriate with respect to a defaulted notice of adjustment because taxpayers may not challenge such a notice when issued since it does not require the payment of additional tax.

In addition, the bill incorporates a number of provisions intended to clarify the coordination between TEFRA audit proceedings and individual deficiency proceedings. Under these provisions, any adjustment with respect to a non-partnership item that caused an increase in tax liability with respect to a partnership item would be treated as a computational adjustment and assessed after the conclusion of the TEFRA proceeding. Accordingly, deficiency procedures would not apply with respect to this increase in tax liability, and the statute of limitations applicable to TEFRA proceedings would be controlling.

Effective Date

The provision is effective for partnership taxable years ending after the date of enactment.

2. Permit the IRS to rely on partnership returns to determine the proper audit procedures (sec. 4312 of the bill and sec. 6231 of the Code)

Present Law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresidential alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

Reasons for Change

The IRS often finds it difficult to determine whether to follow the TEFRA partnership procedures or the regular deficiency procedures. If the IRS determines that there were fewer than 10 partners in the partnership but was unaware that one of the partners was a nonresident alien or that there was a special allocation made during the year, the IRS might inadvertently apply the wrong procedures and possibly jeopardize any assessment. Permitting the IRS to rely on a partnership's return would simplify the IRS' task.

Explanation of Provision

The bill permits the IRS to apply the TEFRA audit procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply. Similarly, the bill permits the IRS to apply the normal deficiency procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply.

Effective Date

The provision is effective for partnership taxable years ending after the date of enactment.

3. Statute of limitations (sec. 4313)

a. Suspend statute when an untimely petition is filed (sec. 4313(a) and sec. 6229 of the Code)

Present Law

In a deficiency case, section 6503(a) provides that if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, the period of limitations on assessment and collection is suspended until the decision of the Tax Court becomes final, and for 60 days thereafter. The counterpart to this provision with respect to TEFRA cases is contained in section 6229(d). That section provides that the period of limitations is suspended for the period during which an action may be brought under section 6226 and, if an action is brought during such period, until the decision of the court becomes final, and for 1 year thereafter. As a result of this difference in language, the running of the statute of limitations in a TEFRA case will only be tolled by the filing of a timely petition whereas in a deficiency case, the statute of limitations is tolled by the filing of any petition, regardless of whether the petition is timely.

Reasons for Change

Under present law, if an untimely petition is filed in a TEFRA case, the statute of limitations can expire while the case is still pending before the court. To prevent this from occurring, the IRS must make assessments against all of the investors during the pendency of the action and if the action is in the Tax Court, presumably abate such assessments if the court ultimately determines that the petition was timely. These steps are burdensome to the IRS and to taxpayers.

Explanation of Provision

The provision is designed to conform the suspension rule for the filing of petitions in TEFRA cases with the rule under section 6503(a) pertaining to deficiency cases. Under the provision, the statute of limitations in TEFRA cases would be suspended by the filing of any petition under section 6226, regardless of whether the petition is timely or valid, and the suspension will remain in effect until the decision of the court becomes final, and for one year thereafter. Hence, if the statute of limitations is open at the time that an untimely petition is filed, the limitations period will no longer continue to run and possibly expire while the action is pending before the court.

Effective Date

The provision is effective with respect to all cases in which the period of limitations has not expired under present law as of the date of enactment.

b. Suspend statute of limitations during bankruptcy proceedings (sec. 4313(b) of the bill and sec. 6229 of the Code)

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6503(h) provides for the suspension of the limitations period during the pendency of a bankruptcy proceeding. However, this provision only applies to the limitations periods provided in sections 6501 and 6502.

Under present law, because the suspension provision in section 6503(h) applies only to the limitations periods provided in section 6501 and 6502, some uncertainty exists as to whether section 6503(h) applies to suspend the limitations period pertaining to converted items provided in section 6229(f) when a petition naming a partner as a debtor in a bankruptcy proceeding is filed. As a result, the limitations period provided in section 6229(f) may continue to run during the pendency of the bankruptcy proceeding, notwithstanding that the IRS is prohibited from making an assessment against the debtor because of the automatic stay provisions of the Bankruptcy Code.

Reasons for Change

The ambiguity in present law makes it difficult for the IRS to adjust partnership items that convert to nonpartnership items by reason of a partner going into bankruptcy. In addition, any uncertainty may result in increased requests for the bankruptcy court to lift the automatic stay to permit the IRS to make an assessment with respect to the converted items.

Explanation of Provision

The bill clarifies that the statute of limitations is suspended for a partner who is named in a bankruptcy petition. The suspension period is for the entire period during which the IRS is prohibited by reason of the bankruptcy proceeding from making an assessment, and for 60 days thereafter. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective with respect to all cases in which the period of limitations has not expired under present law as of the date of enactment.

c. Extend Statute of Limitations for Bankrupt TMPs (sec. 4313(c) and sec. 6229 of the Code)

Present Law

Section 6229(b)(1)(B) provides that the statute of limitations is extended with respect to all partners in the partnership by an agreement entered into between the tax matters partner (TMP) and the IRS. However, Temp. Treas. Reg. secs. 301.6231(a)(7)-1T(l)(4) and 301.6231(c)-7T(a) provide that upon the filing of a petition naming a partner as a debtor in a bankrupty proceeding, that partner's partnership items convert to nonpartnership items, and if the debtor was the tax matters partner, such status terminates. These rules are necessary because of the automatic stay provision contained in 11 U.S.C. sec. 362(a)(8). As a result, if a consent to extend the statute of limitations is signed by a person who would be the TMP but for the fact that at the time that the agreement is executed the person was a debtor in a bankruptcy proceeding, the consent would not be binding on the other partners because the person signing the agreement was no longer the TMP at the time that the agreement was executed.

Reasons for Change

The IRS is not automatically notified of bankruptcy filings and cannot easily determine whether a taxpayer is in bankruptcy, especially if the audit of the partnership is being conducted by one district and the taxpayer resides in another district, as is frequently the situation in TEFRA cases. If the IRS does not discover that a person signing a consent is in bankruptcy, the IRS may mistakenly rely on that consent. As a result, the IRS may be precluded from assessing any tax attributable to partnership item adjustments with respect to any of the partners in the partnership.

Explanation of Provision

The bill provides that unless the IRS is notified of a bankruptcy proceeding in accordance with regulations, the IRS can rely on a statute extension signed by a person who would be the tax matters partner but for the fact that said person was in bankruptcy at the time that the person signed the agreement. Statute extensions granted by a bankrupt TMP in these cases will be binding on all of the partners in the partnership. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective for extension agreements entered into after the date of enactment.

4. Expand small partnership exception from TEFRA (sec. 4314 of the bill and sec. 6231 of the Code)

Present Law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

Reasons for Change

The mere existence of a C corporation as a partner or of a special allocation does not warrant subjecting the partnership and its partners of an otherwise small partnership to the TEFRA procedures.

Explanation of Provision

The bill permits a small partnership to have a C corporation as a partner or to specially allocate items without jeopardizing its exception from the TEFRA rules. However, the bill retains the prohibition of present law against having a flow-through entity (other than an estate of a deceased partner) as a partner for purposes of qualifying for the small partnership exception.

Effective Date

The provision is effective for partnership taxable years ending after the date of enactment.

5. Exclude partial settlements from 1-year assessment rule (sec. 4315 of the bill and sec. 6229(f) of the Code)

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6231(b)(1)(C) provides that the partnership items of a partner for a partnership taxable year become nonpartnership items as of the date the partner enters into a settlement agreement with the IRS with respect to such items.

Reasons for Change

When a partial settlement agreement is entered into, the assessment period for the items covered by the agreement may be different than the assessment period for the remaining items. This fractured statute of limitations poses a significant tracking problem for the IRS and necessitates multiple computations of tax with respect to each partner's investment in the partnership for the taxable year.

Explanation of Provision

The bill provides that if a partner and the IRS enter into a settlement agreement with respect to some but not all of the partnership items in dispute for a partnership taxable year and other partnership items remain in dispute, the period for assessing any tax attributable to the settled items would be determined as if such agreement had not been entered into. Consequently, the limitations period that is applicable to the last item to be resolved for the partnership taxable year shall be controlling with respect to all disputed partnership items for the partnership taxable year. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective for settlements entered into after the date of enactment.

6. Extend time for filing a request for administrative adjustment (sec. 4316 of the bill and sec. 6227 of the Code)

Present Law

If an agreement extending the statute is entered into with respect to a non-TEFRA statute of limitations, that agreement also extends the statute of limitations for filing refund claims (sec. 6511(c)). There is no comparable provision for extending the time for filing refund claims with respect to partnership items subject to the TEFRA partnership rules.

Reasons for Change

The absence of an extension for filing refund claims in TEFRA proceedings hinders taxpayers that may want to agree to extend the TEFRA statute of limitations but want to preserve their option to file a refund claim later.

Explanation of Provision

The bill provides that if a TEFRA statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims attributable to partnership items or affected items until 6 months after the expiration of the limitations period for assessments.

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

7. Provide innocent spouse relief for TEFRA proceedings (sec. 4317 of the bill and sec. 6230 of the Code)

Present Law

In general, an innocent spouse may be relieved of liability for tax, penalties and interest if certain conditions are met (sec. 6013(e)). However, existing law does not provide the spouse of a partner in a TEFRA partnership with a judicial forum to raise the innocent spouse defense with respect to any tax or interest that relates to an investment in a TEFRA partnership.

Reasons for Change

Providing a forum in which to raise the innocent spouse defense with respect to liabilities attributable to adjustments to partnership items (including penalties, additions to tax and additional amounts) would make the innocent spouse rules more uniform.

Explanation of Provision

The bill provides both a prepayment forum and a refund forum for raising the innocent spouse defense in TEFRA cases.

With respect to a prepayment forum, the bill provides that within 60 days of the date that a notice of computational adjustment relating to partnership items is mailed to the spouse of a partner, the spouse may request that the assessment be abated. Upon receipt of such a request, the assessment will be abated and any reassessment will be subject to the deficiency procedures. If an abatement is requested, the statute of limitations will not expire before the date which is 60 days after the date of the abatement. If the spouse files a petition with the Tax Court, the Tax Court will only have jurisdiction to determine whether the requirements of section 6013(e) have been satisfied. In making this determination, the treatment of the partnership items that gave rise to the liability in question will be conclusive.

Alternatively, the bill provides that the spouse of a partner may file a claim for refund to raise the innocent spouse defense. The claim must be filed within 6 months from the date that the notice of computational adjustment is mailed to the spouse. If the claim is not allowed the spouse may file a refund action. For purpose of any claim or suit under this provision, the treatment of the partnership items that gave rise to the liability in question will be conclusive.

Effective Date

The provision is effective as if included in the amendment made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

8. Determine penalties at the partnership level (sec. 4318 of the bill and sec. 6221 of the Code)

Present Law

Partnership items include only items that are required to be taken into account under the income tax subtitle. Penalties are not partnership items since they are contained in the procedure and administration subtitle. As a result, penalties may only be asserted against a partner through the application of the deficiency procedures following the completion of the partnership-level proceeding.

Reasons for Change

Many penalties are based upon the conduct of the taxpayer. With respect to partnerships, the relevant conduct often occurs at the partnership level. In addition, applying penalties at the partner level through the deficiency procedures following the conclusion of the unified proceeding at the partnership level increases the administrative burden on the IRS and can significantly increase the Tax Court's inventory.

Explanation of Provision

The bill provides that the partnership level proceeding is to include a determination of the applicability of penalties at the partnership level. However, the bill allows partners to raise any partner-level defenses in a refund forum.

Effective Date

The provision is effective for partnership taxable years ending after the date of enactment.

9. Clarify jurisdiction of the Tax Court (sec. 4319 of the bill and secs. 6225 and 6226 of the Code)

Present Law

Improper assessment and collection activities by the IRS during the 150-day period for filing a petition or during the pendency of any Tax Court proceeding, "may be enjoined in the proper court." Present law may be unclear as to whether this includes the Tax Court.

For a partner other than the Tax Matters Partner to be eligible to file a petition for redetermination of partnership items in any court or to participate in an existing case, the period for assessing any tax attributable to the partnership items of that partner must not have expired. Since such a partner would only be treated as a party to the action if the statute of limitations with respect to them was still open, the law is unclear whether the partner would have standing to assert that the statute of limitations had expired with respect to them.

Reasons for Change

Clarifying the Tax Court's jurisdiction simplifies the resolution of tax cases.

Explanation of Provision

The bill clarifies that an action to enjoin premature assessments of deficiencies attributable to partnership items may be brought in the Tax Court. The bill also permits a partner to participate in an action or file a petition for the sole purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired for that person. Additionally, the bill clarifies that the Tax Court has overpayment jurisdiction with respect to affected items.

Effective Date

The provision is effective for partnership taxable years ending after the date of enactment.

10. Treatment of premature petitions filed by certain partners (sec. 4320 of the bill and sec. 6226 of the Code)

Present Law

The Tax Matters Partner is given the exclusive right to file a petition for a readjustment of partnership items within the 90-day period after the issuance of the notice of a final partnership administrative adjustment (FPAA). If the Tax Matters Partner does not file a petition within the 90-day period, certain other partners are permitted to file a petition within the 60-day period after the close of the 90-day period. There are ordering rules for determining which action goes forward and for dismissing other actions.

Reasons for Change

A petition that is filed within the 90-day period by a person who is not the Tax Matters Partner is dismissed. Thus, if the Tax Matters Partner does not file a petition within the 90-day period and no timely and valid petition is filed during the succeeding 60-day period, judicial review of the adjustment set forth in the notice of FPAA is foreclosed and the adjustments are deemed to be correct.

Explanation of Provision

The bill treats premature petitions filed by certain partners within the 90-day period as being filed on the last day of the following 60-day period under specified circumstances, thus affording the partnership with an opportunity for judicial review that is not available under present law.

Effective Date

The bill is effective with respect to petitions filed after the date of enactment.

11. Clarify bond requirement for appeals from TEFRA proceedings (sec. 4321 of the bill and sec. 7485 of the Code)

Present Law

A bond must be filed to stay the collection of deficiencies pending the appeal of the Tax Court's decision in a TEFRA proceeding. The amount of the bond must be based on the court's estimate of the aggregate deficiencies of the partners.

Reasons for Change

The Tax Court cannot easily determine the aggregate changes in tax liability of all of the partners in a partnership who will be affected by the Court's decision in the proceeding. Clarifying the calculation of the bond amount would simplify the Tax Court's task.

Explanation of Provision

The bill clarifies that the amount of the bond should be based on the Tax Court's estimate of the aggregate liability of the parties to the action (and not all of the partners in the partnership). For purposes of this provision, the amount of the bond may be estimated by applying the highest individual rate to the total adjustments determined by the Tax Court and doubling that amount to take into account interest and penalties.

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

12. Suspend interest where there is a delay in computational adjustment resulting from TEFRA settlements (sec. 4322 of the bill and sec. 6601 of the Code)

Present Law

Interest on a deficiency generally is suspended when a taxpayer executes a settlement agreement with the IRS and waives the restrictions on assessments and collections, and the IRS does not issue a notice and demand for payment of such deficiency within 30 days. Interest on a deficiency that results from an adjustment of partnership items in TEFRA proceedings, however, is not suspended.

Reasons for Change

Processing settlement agreements and assessing the tax due takes a substantial amount of time in TEFRA cases. A taxpayer is not afforded any relief from interest during this period.

Explanation of Provision

The bill suspends interest where there is a delay in making a computational adjustment relating to a TEFRA settlement.

Effective Date

The provision is effective with respect to settlements entered into after the date of enactment.

SUBTITLE D. FOREIGN PROVISIONS

1. Deferral of tax on income earned through foreign corporations and exceptions to deferral (secs. 4401–4404 of the bill and secs. 453, 532, 542, 543, 551–558, 563, 851, 954, 1246–1247, 1291–1297, and 4982 of the Code)

Present Law

Direct and indirect operations

U.S. citizens and residents and U.S. corporations (collectively, "U.S. persons") are taxed currently by the United States on their worldwide income, subject to a credit against U.S. tax on foreign income based on foreign income taxes paid with respect to such income. Income earned by a foreign corporation, the stock of which is owned in whole or in part by U.S. persons, generally is not taxed by the United States until the foreign corporation repatriates those earnings by payment to its U.S. stockholders. Therefore, two different sets of U.S. tax rules apply to U.S. taxpayers that control business operations in foreign countries; which rules apply depends on whether the business operations are conducted directly, for example, through a foreign branch, or indirectly through a separately incorporated foreign company.[1]

U.S. persons that conduct foreign operations directly (that is, not through a foreign corporation) include income (or loss) from those operations on the U.S. tax return for the year the income is earned or the loss is incurred. The United States taxes that income currently. The foreign tax credit may reduce or eliminate the U.S. tax on that income, however.

U.S. persons that conduct foreign operations through a foreign corporation generally pay no U.S. tax on that income from those operations until the foreign corporation repatriates its earnings to the United States. The income appears on the U.S. owner's tax return for the year it comes home, and the United States imposes tax on it then. The foreign tax credit may reduce the U.S. tax.[2]

In general, two kinds of transactions, are repatriations that end deferral and trigger tax. First, in the case of any foreign corporation, an actual dividend payment ends deferral; any U.S. recipient must include the dividend income. Second, in the case of a "controlled foreign corporation" (defined below), an investment in U.S. property, such as a loan to the lender's U.S. parent or the purchase of U.S. real estate, is also treated as a repatriation that ends deferral (Code sec. 956). In addition to these two forms of repatriation, a sale of shares of a foreign corporation may trigger tax, sometimes at ordinary income tax rates (secs. 1246, 1248, and 1291).

Since 1937, the Code has set forth one or more regimes providing exceptions to the general rule deferring U.S. tax on income earned indirectly through a foreign corporation. Today the Code sets forth the following anti-deferral regimes: the controlled foreign corporation rules (secs. 951-964); the foreign personal holding company rules (secs. 551-558); passive foreign investment company (PFIC) rules (secs. 1291-1297); the personal holding company rules (secs. 541-547); the accumulated earnings tax (secs. 531-537); and rules for foreign investment companies (sec. 1246) and electing foreign investment companies (sec. 1247). The operation and application of these regimes are discussed in the following sections.

Controlled foreign corporations

General definitions

A controlled foreign corporation is defined in the Code generally as any foreign corporation if U.S. persons own more than 50 percent of the corporation's stock (measured by vote or value), taking into account only those U.S. persons that own at least 10 percent of the stock (measured by vote only) (sec. 957).[3] Stock ownership includes not only stock owned) directly, but also all stock owned indirectly or constructively (sec. 958).

Deferral of U.S. tax on undistributed income of a controlled foreign corporation is not available for certain kinds of income (sometimes referred to as "subpart F income") under the Code's subpart F provisions. When a controlled foreign corporation earns subpart F income, the United States generally taxes the corporation's 10-percent U.S. shareholders currently on their pro rata share of the subpart F income. In effect, the Code treats those U.S. shareholders as having received a current distribution out of the subpart F income. In this case, also, the foreign tax credit may reduce the U.S. tax.

Subpart F income typically is income that is relatively movable from one taxing jurisdiction to another and that is subject to low rates of foreign tax. Subpart F income consists of foreign base company income (defined in sec. 954), insurance income (defined in sec. 953), and certain income relating to international boycotts and other violations of public policy (defined in sec. 952(a)(3)-(5)). Subpart F income does not include the foreign corporation's income that is effectively connected with the conduct of a trade or business within the United States, which income is subject to current tax in the United States (sec. 952(b)).

Foreign base company income

In general.—Foreign base company income includes five categories of income: foreign personal holding company income, foreign base company sales income, foreign base company services income, foreign base company shipping income, and foreign base company oil-related income (sec. 954(a)). In computing foreign base company income, amounts of income in these five categories are reduced by allowable deductions (including taxes and interest) properly allocable, under regulations, to such amounts of income (sec. 954(b)(5)).

Foreign personal holding company income.—One category of foreign base company income is foreign personal holding company income (sec. 954(c)). For subpart F purposes, foreign personal holding company income generally includes interest, dividends, and annuities; some rents and royalties; related party factoring income; net commodities gains; net foreign currency gains; and net gains from sales or exchanges of certain other property.

This last category of net gains from sales of property generally includes the excess of gains over losses from sales and exchanges of non-income producing property and property that gives rise to interest, dividends, rents, royalties, and annuities. Thus, foreign personal holding company income includes gain on the sale of property that was held for investment purposes, but does not include gain on the sale of land, buildings, or equipment that was used by the seller in an active trade or business of the seller (Temporary Reg. sec. 1.954-2T(e)(3)). Stock and securities gains generally are treated as foreign personal holding company income. However, foreign personal holding company income does not include gains on property sales that are realized by regular dealers. Gains from the sale or exchange of property which, in the hands of the seller, is inventory property (sec. 1221(1)) are also excluded from foreign personal holding company income.

Income received by a foreign insurance company, including income derived from its investments of funds, generally is subject to taxation under section 953. (See discussion at "*Insurance income, in general*," below.) Treasury regulations specify that taxation of an insurance company's income under section 953 takes precedence over taxation of that income as foreign personal holding company income under section 954 (Proposed Treas. Reg. sec. 1.953-6(g)). When dividends, interest, or securities gains derived by a controlled foreign insurance company are not taxed under section 953, they generally are taxed as foreign personal holding company income under section 954.

Foreign personal holding company income under subpart F does not include certain dividends and interest received from a related corporation organized and operating in the same foreign country as the recipient, and certain rents and royalties received from a related corporation for the use of property within the country in which the recipient was created or organized (sec. 954(c)(3)). This exclusion, however, is restricted by a rule that takes into account the subpart F income of related-party payors. Under this rule, interest, rent, and royalty payments do not qualify for the exclusion to the extent that such payments reduce subpart F income of the payor.

Other categories of foreign base company income.—Foreign base company income also includes foreign base company sales and services income, consisting respectively of income attributable to related party purchases and sales routed through the income recipient's country if that country is neither the origin nor the destination of the goods, and income from services performed outside the country of the corporation's incorporation for or on behalf of related persons. Foreign base company income also includes foreign base company shipping income. Finally, foreign base company income generally includes "downstream" oil-related income, that is, foreign oil-related income other than extraction income.

Insurance income

In general.—Subpart F insurance income is another category of income that is subject to current taxation under subpart F (sec. 953). Subpart F insurance income includes any income attributable to the issuing (or reinsuring) of any insurance or annuity contract in connection with risks in a country other than that in which the insurer is created or organized.[4] For this purpose, a qualified insurance branch of a controlled foreign corporation may be treated as a corporation created or organized in the country of its location (sec. 964(d)).

The amount of income subject to current tax under subpart F as insurance income is the amount that would be taxed under subchapter L of the Code if it were the income of a domestic insurance company (subject to the modifications provided in sec. 953(b)). In addition, as described above, investment income associated with same-country risk insurance is also included in subpart F income as foreign personal holding company income. Thus, for an insurance controlled foreign corporation, deferral generally is limited to underwriting income from same-country risk insurance.

---

[1] To the extent that foreign corporations operate in the United States rather than in foreign countries, they generally pay U.S. tax like U.S. corporations.

[2] The foreign corporation itself generally will not pay U.S. tax unless it has income effectively connected with a trade or business carried on in the United States, or has certain generally passive types of U.S. source income.

[3] A controlled foreign corporation is defined differently in the case of a foreign corporation engaging in certain insurance activities (*see* secs. 953(c) and 957(b)).

[4] In addition, subpart F applies to income attributable to an insurance contract in connection with same-country risks as the result of an arrangement under which another corporation receives a substantially equal amount of premiums for insurance of other-country risks.

For purposes of subpart F insurance income, a controlled foreign corporation is specially defined to include, in addition to any corporation that meets the usual test of 50-percent ownership by 10-percent shareholders (discussed above), any foreign corporation that satisfies a test of 25-percent ownership by 10-percent shareholders if more than 75 percent of the corporation's gross premium income is derived from the reinsurance or issuance of insurance or annuity contracts with respect to third-country risks (sec. 957(b)).

Related person (captive) insurance income.—In addition, subpart F insurance income that is related person insurance income generally is taxable under subpart F to an expanded category of U.S. persons (sec. 953(c)). For purposes of taking into account such income under subpart F, the U.S. ownership threshold for controlled foreign corporation status is reduced to 25 percent or more. Any U.S. person who owns (directly or indirectly) any stock in a controlled foreign corporation, whatever the degree of ownership is treated as a U.S. shareholder of such corporation for purposes of this 25-percent U.S. ownership threshold and exposed to current tax on the corporation's related person insurance income.

Certain operating rules

Income inclusion.—When a controlled foreign corporation earns subpart F income, the United States generally taxes the corporation's U.S. shareholders currently on their pro rata share of the subpart F income (sec. 951).[5] In the case of a corporation that is a controlled foreign corporation for its entire taxable year, and a U.S. shareholder that owns the same proportion of stock in the corporation throughout the corporation's taxable year, the U.S. shareholder's pro rata share of subpart F income is the amount that would have been distributed with respect to the shareholder's stock if on the last day of the corporation's taxable year the controlled foreign corporation had distributed all of its subpart F income pro rata to all of its shareholders. The pro rata share definition provides for adjustments where the corporation is a controlled foreign corporation for less than the entire year or where actual distributions are made with respect to stock the shareholder owns for less than the entire year.

In addition, the United States generally taxes the corporation's U.S. shareholders currently on their pro rata share of the corporation's increase in earnings invested in U.S. property for the taxable year.

De minimis and full inclusion rules.—None of a controlled foreign corporation's gross income for a taxable year is treated as foreign base company income or subpart F insurance income if the sum of the corporation's gross foreign base company income and gross subpart F insurance income for the year is less than the lesser of 5 percent of its gross income, or $1 million (sec. 954(b)(3)(A)). The Code provides that if more than 70 percent of a controlled foreign corporation's gross income is foreign base company income and/or subpart F insurance income, then all of its income is treated as foreign base company income or insurance income (whichever is appropriate) (sec. 954(b)(3)(B)). This 70-percent full inclusion rule does not apply, however, to income of a company that is controlled foreign corporation only for purposes of the captive insurance company provision. (See Proposed Treas. Reg. sec. 1.953-6(k).)

Exception for certain income subject to high foreign taxes.—Income otherwise subject to current taxation as foreign base company income can be excluded from subpart F if the income not in fact routed through a controlled foreign corporation in which the income bore a materially lower tax than would be due on the same income earned directly by a U.S. corporation (sec. 954(b)(4)). Subpart F employs an objective test to determine whether income that has been earned through a controlled foreign corporation in fact has been subject to less tax than it would have borne if the income had been earned directly. Under this rule, subpart F income (other than foreign base company oil-related income) does not include items of income received by a controlled foreign corporation if the taxpayer establishes to the satisfaction of the Secretary that the income, measured under U.S. tax rules, was subject to an effective rate of foreign tax equal to at least 90 percent of the maximum U.S. corporate tax rate.

Section 954(b)(4) applies solely at the taxpayer's election. That is, the provision applies only if the taxpayer endeavors to establish to the Secretary's satisfaction that the income in question was subject to the requisite foreign tax, and the taxpayer succeeds in doing so. The Secretary may not apply the provision without the taxpayer's consent.

Treatment of investments in U.S. property.—As discussed above, a U.S. shareholder of a controlled foreign corporation generally is taxable on is pro rata share of the foreign corporation's subpart F income. In addition, a U.S. shareholder generally is taxable on its pro rata share of the foreign corporation's earnings and profits attributable to non-subpart F income to the extent of the increase for the year in such earnings that are invested in U.S. property (secs. 951(a)(1)(B) and 956). Such increase is measured by comparing the controlled foreign corporation's total amount of earnings invested in U.S property at the close of the current taxable year with the corresponding amount at the close of the preceding taxable year.

The increase for the current taxable year in the earnings of a controlled foreign corporation invested in U.S. property generally is computed by subtracting the amount of the corporation's investment in U.S. property at the end of the prior year (to the extent that amount would have been a dividend if it had been distributed) from its investment in U.S. property at the end of the current year (to the extent that amount would have been a dividend if it had been distributed).

In addition, where earnings previously taxed under sections 951(a)(1)(B) and 956 are actually distributed, without reduction of the controlled foreign corporation's investment in U.S. property, subsequent earnings are included in the U.S. shareholder's income under sections 951(a)(1)(B) and 956 with no further increase in U.S. investment. This rule is intended to account for the fact that, in effect, new savings are funding existing investments in U.S. assets, and should therefore be taxed.[6]

Distributions of previously taxed income.—Earnings and profits of a controlled foreign corporation that are (or previously have been) included in the incomes of the U.S. shareholders are not taxed again when such earnings are actually distributed to the U.S. shareholders (sec. 959(a)(1). Similarly such previously taxed income is not included in the incomes of the U.S. shareholders in the even that such earnings are invested in U.S. property (sec. 959(a)(2)). Previously taxed income actually distributed from a lower-tier controlled foreign corporation to a higher-tier controlled foreign corporation is disregarded in determining the subpart F income of the higher-tier controlled foreign corporation that is included in the income of the U.S. shareholders. In the event that stock in the controlled foreign corporation is transferred subsequent to the income inclusion but prior to the actual distribution of previously taxed income, the transferee shareholder is similarly exempt from tax on the distribution to the extent of the proven identity of shareholder interest.

Distributions by a controlled foreign corporation are allocating first to previously taxed income, then to other earnings and profits (sec. 959(c)). Therefore, a controlled foreign corporation may distribute its previously taxed income to its shareholders, resulting in no additional U.S. income taxation, before it makes any taxable dividend distributions of any current or accumulated non-subpart F earnings and profits.

Allowance of foreign tax credit.—U.S. corporate shareholders of a controlled foreign corporation who include subpart F income in their own gross incomes are also treated as having paid the foreign taxes actually paid by the controlled foreign corporation on that income, to the same general extent as if they had received a dividend distribution of that income (sec. 960). Therefore, the U.S. corporate shareholders may claim foreign tax credits for those taxes to the same general extent as if they had received a dividend. Actually distributions by a controlled foreign corporation are not treated as dividends, and thus generally do not carry further eligibility for deemed-paid foreign tax credits, to the extent that the distributions are of previously taxed income.[7]

Individual U.S. shareholders of a controlled foreign corporation who include subpart F income in their own gross incomes may elect to be taxed as corporations on their subpart F income (sec. 962). Therefore, electing individual U.S. shareholders, like corporate shareholders, may claim foreign tax credits for the foreign taxes actually paid by the controlled foreign corporation on that income to the same general extent as if they had received a dividend.

Adjustments to basis and computation of earnings and profits.—The inclusion of an amount of a controlled foreign corporation's subpart F income in the gross income of a U.S. shareholder generally results in a corresponding increase in the shareholder's basis in the stock with respect to which the subpart F income was included (sec. 961(a)). In addition, the distribution of previously taxed income to a U.S. shareholder of a controlled foreign corporation generally results in a corresponding decrease in the shareholder's basis in the stock (sec. 961(b)).

The determination of the earnings and profits (or deficit in earnings and profits) of a controlled foreign corporation follows rules that are substantially similar to those applicable to domestic corporations (sec. 964(a)). One specific similarity is that any illegal bribes, kickbacks, or other payments that are not deductible under section 162(c) (such as payments that would be unlawful under the Foreign Corrupt Practices Act of 1977 if paid by a U.S. person) are not taken into account to reduce earnings and profits (or increase a deficit in earnings and profits).

---

[5] Current taxation applies only if the foreign corporation is a controlled foreign corporation for an uninterrupted period of at least 30 days during the taxable year.

[6] "If this were not done it would be possible to retain the [U.S.] investments in the corporation and make actual distributions out of other property to the shareholders which would not be taxable to them." H.R. Rep. No. 1447, 87th Cong., 2d Sess. 64 n.1 (1962).

[7] Certain actual distributions of previously taxed income can carry further eligibility for foreign tax credits (secs. 960(a)(3) and(b)).

Attribution of ownership.—In determining stock ownership for purposes of the controlled foreign corporation rules, a U.S. person generally is considered to own a proportionate share of stock owned, directly or indirectly, by or for a foreign corporation, foreign partnership, or foreign trust or estate of which the U.S. person is a shareholder, partner, or beneficiary (sec. 958(a)).

Additional rules for constructive ownership apply for purposes of determining whether or not a U.S. person is a U.S. shareholder (within the meaning of sec. 951(b), as discussed above), whether or not the foreign corporation meets the relevant definition of control (within the meaning of secs. 957(a), 957(b), or 953(c)(1), as discussed above), and whether or not two persons are related (within the meaning of sec. 954(d)(3), as discussed above), but not for purposes of including amounts in a shareholder's gross income under section 951(a). These constructive ownership rules include, among other rules, provisions treating an individual as owning stock owned, directly or indirectly, by the individual's spouse, children, grandchildren, and parents; a 10-percent shareholder of a corporation as owning its proportionate share (100 percent, in the case of a more-than-50-percent shareholder) of stock owned, directly or indirectly, by the corporation; a partner or beneficiary as owning its proportionate share (100 percent, in the case of a more-than-50-percent partner or beneficiary) of stock owned, directly or indirectly, by the partnership or estate; a corporation as owning all stock owned, directly or indirectly, by 10-percent shareholders; a partnership or estate as owning all stock owned, directly or indirectly, by its partners or beneficiaries; and the holder of an option as owning the stock subject to the option (sec. 958(b)). However, these constructive ownership rules do not operate to treat stock owned by a nonresident alien individual as owned by a U.S. citizen or a resident alien individual (sec. 958(b)(1)).

Gain from certain sales or exchanges of stock in certain foreign corporations

If a U.S. person sells or exchanges stock in a foreign corporation, or receives a distribution from a foreign corporation that is treated as an exchange of stock, and, at any time during the five-year period ending on the date of the sale or exchange, the foreign corporation was a controlled foreign corporation and the U.S. person was a 10-percent shareholder (counting stock owned directly, indirectly, and constructively), then the gain recognized on the sale or exchange is included in the shareholder's income as a dividend, to the extent of the earnings and profits of the foreign corporation which were accumulated during the period that the shareholder held stock while the corporation was a controlled foreign corporation (sec. 1248).[8] For this purpose, earnings and profits of the foreign corporation do not include amounts that had already been subject to current U.S. taxation (whether imposed on the foreign corporation itself or the U.S. shareholders), such as amounts included in gross income under section 951, amounts included in gross income under section 1247 (applicable to foreign investment companies, which are discussed below), amounts included in gross income under section 1293 (applicable to certain passive foreign investment companies, which are discussed below), or amounts that were effectively connected with the conduct of a trade or business within the United States (sec. 1248(d)). The Code provides certain special rules to adjust the proper scope and application of section 1248 (sec. 1248(e)-(i)).

Amounts subject to treatment under section 1248, in accordance with their characterization as dividends, carry deemed-paid foreign tax credits that may be claimed by corporate taxpayers under section 902.

Foreign personal holding companies

In general

Congress enacted the foreign personal holding company rules (secs. 551–558) to prevent U.S. taxpayers from accumulating income tax-free in foreign "incorporated pocketbooks." If five or fewer U.S. citizens or residents own, directly or indirectly, more than half of the outstanding stock (in vote for or value) of a foreign corporation that has primarily foreign personal holding company income, that corporation will be a foreign personal holding company. In that case, all the foreign corporation's U.S. shareholders are subject to U.S. tax on their pro rata share of the corporation's undistributed foreign personal holding company income.

Operating rules

A foreign corporation is a foreign personal holding company if it satisfies both a stock ownership requirement (sec. 552(a)(2)) and a gross income requirement (sec. 552(a)(1)). The stock ownership requirement is satisfied if, at any time during the taxable year, more than 50 percent of either (1) the total combined voting power of all classes of stock of the corporation that are entitled to vote, or (2) the total value of the stock of the corporation, is owned (directly, indirectly, or constructively) by or for five or fewer individual citizens or residents of the United States. The gross income requirement is satisfied initially if at least 60 percent of the corporation's gross income is foreign personal holding company income. Once the corporation is a foreign personal holding company, however, the gross income threshold each year will be only 50 percent until the expiration of either one full taxable year during which the stock ownership requirement is not satisfied, or three consecutive taxable years for which the gross income requirement is not satisfied at the 50-percent threshold.

Foreign personal holding company income generally includes passive income such as dividends, interest, royalties (but not including active business royalties), and rents (if rental income does not amount to 50 percent of gross income) (sec. 553(a)). It also includes, among other things, gains (other than gains of dealers) from stock and securities transactions, commodities transactions, and amounts received with respect to certain personal services contracts. If a foreign personal holding company is a shareholder in another foreign personal holding company, the first company includes in its gross income, as a dividend, its share of the undistributed foreign personal holding company income of the second foreign personal holding company.

Excluded from characterization as foreign personal holding companies are corporations that are exempt from tax under subchapter F (sections 501 and following) of the Code, as well as certain corporations that are organized and doing business under the banking and credit laws of a foreign country (sec. 552(b)).

If a foreign corporation is a foreign personal holding company, all of its undistributed foreign personal holding company income is treated as distributed as a dividend on a pro-rata basis to all of its U.S. shareholders, including U.S. citizens, residents, and corporations (sec. 551(b)). That is, though only the five largest individual shareholders count in the determination of foreign personal holding company status, all individual shareholders as well as persons other than individuals may be subject to current tax on their pro rata shares of the undistributed income of the foreign personal holding company. The undistributed foreign personal holding company income that is deemed distributed is treated as recontributed by the shareholders to the foreign personal holding company as a contribution to capital. Accordingly, the earnings and profits of the corporation are reduced by the amount of the deemed distribution (sec. 551(d)), and each shareholder's basis in his or her stock in the foreign personal holding company is increased by the shareholder's pro rata portion of the deemed distribution (sec. 551(e)).

Attribution of ownership for characterization as a foreign personal holding company

The foreign personal holding company provisions contain constructive ownership rules that determines whether a foreign corporation is more than 50 percent owned by five or fewer U.S. citizens or residents. These rules generally treat an individual as owning stock owned, directly or indirectly, by or for his or here partners, brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants. However, ownership of stock actually owned by a nonresident alien is not attributed to the alien's U.S. brothers and sisters (whether by the whole or half blood), ancestors, and lineal descendants who do not own stock in the foreign corporation. For example, a foreign corporation 40 percent of whose shares belong to a U.S. citizen and 60 percent of whose shares belong to the nonresident alien sister of the U.S. citizen will be foreign personal holding company if it meets the other criteria for foreign personal holding company status. Similarly, ownership of stock actually owned by a nonresident alien will not be attributed to the alien's U.S. partners if the alien's U.S. partners do not own, directly or indirectly, any stock in the foreign corporation and if the alien's partners do not include members of the same family as a U.S. citizen or resident who owns, directly or indirectly, any stock in the foreign corporation. For example, if the nonresident alien partner of a U.S. citizen owns 60 percent of a foreign corporation, while a second U.S. citizen (who is wholly unrelated to the first U.S. citizen and to the nonresident alien) owns the remaining 40 percent, the foreign corporation is not a foreign personal holding company.

These constructive ownership rules also apply to deem income to be foreign personal holding company income in two cases: (1) when a foreign corporation has contracted to furnish personal services that an individual who owns (or who owns constructively) 25 percent or more in value of the outstanding stock of the corporation has performed, is to perform, or may be designated to perform; and (2) when an individual who owns (or who owns constructively) 25 percent or more in value of the outstanding stock of the corporation is entitled to use corporate property and when the corporation in any way receives compensation for use of that property. This latter rule prevents foreign corporations from avoiding foreign personal holding company status by generating what appear to be large amounts of rental income.

---

[8] A special limitation applies in the case of the sale or exchange by an individual of stock held as a long-term capital asset (sec. 1248(b)).

Passive foreign investment companies

The 1986 Act established an anti-deferral regime for passive foreign investment companies (PFICs) and established separate rules for each of two types of PFICs. One set of rules applies to PFICs that are "qualified electing funds," where electing U.S. shareholders include currently in gross income their respective shares of a PFIC's total earnings, with a separate election to defer payment of tax, subject to an interest charge, on income not currently received. The second set of rules applies to PFICs that are not qualified electing funds ("nonqualified funds"), whose U.S. shareholders pay tax on income realized from a PFIC and an interest charge which is attributable to the value of deferral.

Definition of passive foreign investment company

General definition.—A passive foreign investment company is any foreign corporation if (1) 75 percent or more of its gross income for the taxable year consists of passive income, or (2) 50 percent or more of the average fair market value of its assets consists of assets that produce, or are held for the production of, passive income (sec. 1296(a)).[9] Passive income for these purposes generally means income that satisfies the definition of foreign personal holding company income under subpart F (as discussed above); except as provided in regulations, however, passive income does not include certain active-business banking or insurance income, or certain amounts received from a related party (to the extent that the amounts are allocable to income of the related party which is not passive income, as discussed below) (sec. 1296(b)). Passive assets for this purpose are those assets that produce or are held for the production of passive income. Assets that are property which, in the hands of the foreign corporation, are inventory property (as defined in sec. 1221(1)), or are held by a regular dealer in that property, and are specifically identified as such inventory, are treated as nonpassive assets, even where that property generates foreign personal holding company income (as defined in sec. 954(c)), such as in the case of a securities broker-dealer that holds debt securities as inventory (Notice 88-72, 1988-1 C.B. 489, as modified by Notice 89-81, 1989-2 C.B. 399). In addition, transactions pursuant to certain securities sale and repurchase agreements (so-called "repos" and "reverses") may be characterized for tax purposes as loans rather than as sales and repurchases, and thus may give rise to interest income and expense for the parties to the transactions. The debt obligations deemed to be held, and the interest income deemed to be earned, pursuant to these agreements generally are treated as passive assets and income for purposes of the PFIC rules.

Look-through rules.—In determining whether foreign corporations that own subsidiaries are PFICs, look-through treatment is provided in certain cases (sec. 1296(c)). Under this look-through rule, a foreign corporation that owns, directly or indirectly, at least 25 percent of the value of the stock of another corporation is treated as owning a proportionate part of the other corporation's assets and income. Thus, amounts such as interest and dividends received from foreign or domestic subsidiaries are eliminated from the shareholder's income in applying the income test, and the stock or debt investment is eliminated from the shareholder's assets in applying the asset test.

In addition to the look-through rule applicable to 25-percent-owned subsidiaries, interest, dividends, rents, and royalties received from related persons that are not subject to section 1296(c) look-through treatment are excepted from treatment as passive income to the extent that, under regulations prescribed by the Secretary, those amounts are allocable to income of the payor that is not passive income (sec. 1296(b)(2)(C)).[10] As a corollary, the characterization of the assets that generate the income will follow the characterization of the income so that, for example, a loan to a related person will be treated as a nonpassive asset if the interest on the loan is treated as nonpassive income. Together, these rules provide that earnings of certain related corporations, which earnings would be excluded from foreign personal holding company income under the related-person same-country exception of subpart F (sec. 954(c)(3)) if distributed to the shareholders, are subject to look-through treatment whether or not the related party is 25-percent owned.

In addition, stock of certain U.S. corporations owned by another U.S. corporation which is at least 25-percent owned by a foreign corporation is treated as a nonpassive asset (sec. 1297(b)(8)). Under this rule, in determining whether a foreign corporation is a PFIC, stock of a regular domestic C corporation owned by a 25-percent owned domestic corporation is treated as an asset which does not produce passive income (and is not held for the production of passive income), and income derived from that stock is treated as income which is not passive income. Thus, a foreign corporation, in applying the look-through rule available to 25-percent owned corporations, is treated as owning nonpassive assets in these cases. This rule does not apply, however, if, under a treaty obligation of the United States, the foreign corporation is not subject to the accumulated earnings tax, unless the corporation agrees to waive the benefit under the treaty. This rule is designed to mitigate the potential disparate tax treatment between U.S. individual shareholders who hold U.S. stock investments through a U.S. holding company and those who hold those investments through a foreign holding company. If a foreign investment company attempts to use this rule to avoid the PFIC provisions, it will be subject to the accumulated earnings tax and, thus, the shareholders of that company essentially will be denied deferral on the earnings of the foreign company, with an effect in some ways similar to application of the PFIC provisions.

Special exceptions from PFIC classification apply to start-up companies (sec. 1297(b)(2)) and corporations changing businesses during the taxable year (sec. 1297(b)(3)). In both such cases, a corporation may have a substantially higher proportion of passive assets (and passive income, in some cases) that at other times in its history.

General rule—nonqualified funds

General rule.—United States persons who are shareholders in PFICs that are not "qualified electing funds" (or have not been qualified electing funds for all PFIC years in the holding period of the taxpayer) pay U.S. tax and an interest charge based on the value of tax deferral at the time the shareholder disposes of stock in the PFIC or on receipt of an "excess" distribution (sec. 1291). Under this rule, gain recognized on disposition of stock in a nonqualified fund or income on receipt of an "excess" distribution from a nonqualified fund is treated as ordinary income and is treated as earned pro rata over the shareholder's holding period of his or her investment. The portion treated as earned before the current year during the post-1986 period during which the foreign corporation was a PFIC is taxed at the highest applicable tax rate in effect for each respective year, and is subject to an interest charge. The interest charge is treated as interest for tax purposes. The total of such tax and interest is referred to as the "deferred tax amount."

Availability of foreign tax credits.—Distributions from nonqualified funds are eligible for direct and deemed-paid foreign tax credits (under secs. 901 and 902) under the following method. The U.S. investor first computes the total amount of creditable foreign taxes with respect to the distribution it receives. This amount includes the amount of direct foreign taxes paid by the investor with respect to the distribution (for example, any withholding taxes) and the amount of the PFIC's foreign taxes deemed paid by the investor with respect to the distribution under section 902 (if any) to the extent the direct and indirect taxes are creditable under general foreign tax credit principles and the investor chooses to claim those taxes as a credit. The investor then determines the amount of the creditable foreign taxes that are attributable to the portion of the distribution that is an excess distribution (the "excess distribution taxes"). This determination is made by apportioning the total amount of creditable foreign taxes between the amount of the distribution that is an excess distribution and the amount of the distribution that is not an excess distribution on a pro rata basis. For purposes of determining the amount of the distribution from the PFIC (and the amount of the excess distribution), the gross-up under section 78 is included in the amount of money or other property received.

The U.S. investor then allocates the excess distribution taxes ratably to each day in the holding period of its stock. To the extent the taxes are allocated to days in taxable years prior to the year in which the foreign corporation became a PFIC and to the current taxable year, the taxes are taken into account for the current year under the general foreign tax credit rules. To the extent the taxes are allocated to days in any other taxable year (that is, to days in years on which the deferred tax amount is imposed), then the foreign tax credit limitation provisions of section 904 are applied separately to those taxes. Under this rule, the taxes allocable to a particular year can reduce the increase in tax for that year on which interest is computed, but not below zero. In the event the taxes allocable to that year are in excess of any increase in tax, no interest will be due, but no carryover will be allowed since the foreign tax credit limitations are applied with respect to excess distributions occurring within each taxable year.

---

[9] A foreign corporation can elect to apply the asset test using the adjusted bases of the corporation's assets rather than the fair market value of its assets. Thus, under this election, a foreign corporation with less than 50 percent passive assets by adjusted basis will not be a PFIC (assuming the income test is not met), even if its assets are 50 percent or more passive by fair market value. The election, once made, is revocable only with the consent of the Secretary.

[10] A related person is defined by reference to the related person definition in subpart F (that is, sec. 954(d)(3)).

Definition of excess distribution.—An "excess" distribution is any current year distribution in respect of a share of stock that exceeds 125 percent of the average amount of distributions in respect of the share of stock received during the 3 preceding years (or, if shorter, the total number of years of the taxpayer's holding period prior to the current taxable year) (sec. 1291(b)). The determination of an excess distribution excludes from the 3-year average distribution base that part of a prior-year excess distribution that is considered attributable to deferred earnings (i.e., that part of the excess distribution that was not allocable to pre-1986 or pre-PFIC years or to the current year). Any gain from the sale or disposition of such stock is also treated as an excess distribution.

Anti-avoidance rules.—Regulatory authority is provided to disregard any nonrecognition provision of the Code on any transfer of PFIC stock (sec. 1291(f)). For example, regulations may treat a gift of stock in a nonqualified fund to a non-taxpaying entity, such as a charity or a foreign person, as a disposition for purposes of those rules in order that the deferred tax and interest charge attributable to that stock not be eliminated. Under proposed Treasury regulations, nonrecognition provisions may apply to the gain on a transfer of stock in a nonqualified fund that would otherwise qualify for the Code's nonrecognition provisions, but only to the extent that the transferee will be subject to the deferred tax and interest charge on a subsequent distribution by the PFIC or disposition of the PFIC stock.

Coordination with regulated investment company rules.—Proposed Treasury regulations permit a regulated investment company meeting certain requirements to mark to market its gain in PFIC stock of which it is a direct or indirect shareholder.

Qualified electing funds

General rule.—A U.S. person who owns stock in a PFIC may elect that the PFIC be treated as a "qualified electing fund" with respect to that shareholder (sec. 1295), with the result that the shareholder must include currently in gross income his or her pro rata share of the PFIC's total earnings and profits (sec. 1293). This inclusion rule generally requires current payment of tax, absent a separate election to defer tax.

Qualified fund election.—The election for treatment as a qualified electing fund, which is made at the shareholder level, is available only where the PFIC complies with the requirements prescribed in Treasury regulations to determine the income of the PFIC and to ascertain any other information necessary to carry out the purposes of the PFIC provisions. The effect of the election is to treat a PFIC as a qualified electing fund with respect to each electing investor so that, for example, an electing investor will not be subject to the deferred tax and interest charge rules of section 1291 on receipt of a distribution if the election has been in effect for each of the PFIC's taxable years for which the company was a PFIC and which includes any portion of the investor's holding period.

Inclusion of income.—The amount currently included in the income of an electing shareholder is divided between a shareholder's pro rata share of the ordinary income of the PFIC and not capital gain income of the PFIC. The characterization of income, and the determination of earnings and profits, is made pursuant to general Code rules with two modifications. These modifications apply only when the qualified electing fund is also a controlled foreign corporation and the U.S. investor in the fund is also a U.S. shareholder in the controlled foreign corporation (as both terms are defined under subpart F).

Under the first modification, if the U.S. investor establishes to the satisfaction of the Secretary that an item of income derived by a fund was subject to an effective rate of income tax imposed by a foreign country greater than 90 percent of the maximum rate of U.S. corporate tax, then that item of income is excluded from the ordinary earnings and net capital gain income of the fund for purposes of determining the U.S. investor's pro rata share of income.

Under the second modification, the qualified electing fund's ordinary earnings and net capital gain income do not include income from U.S. sources that is effectively connected with the conduct by the fund of a U.S. trade or business so long as that income is not exempt from U.S. taxation (or subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

Pro rata share of income.—Pro rata share of income generally is determined by aggregating a PFIC's income for the taxable year and attributing that income ratably over every day in the PFIC's year. Electing investors then include in income for the period in which they hold stock in the PFIC their daily ownership interest in the PFIC multiplied by the amount of income attributed to each day.

As a special rule, the Code permits that, to the extent provided in regulations, if a qualified electing fund establishes to the Secretary's satisfaction that it maintains records that determine investors' pro rata shares of income more accurately than allocating a taxable year's income ratably over a daily basis (for example, by allocating a month's income ratably over a daily basis), the fund can determine the investors' pro rata shares of income on that basis. This provision is designed to allow those funds that maintain appropriate records to more accurately determine U.S. investors' pro rata shares of income, which may be important in cases where the investors own their stock for only parts of a year.

Distributions and basis adjustments.—The distribution of earnings and profits that were previously included in the income of an electing shareholder under these rules is not treated as a dividend to the shareholder, but does reduce the PFIC's earnings and profits (sec. 1293(c)). The basis of an electing shareholder's stock in a PFIC is increased by amounts currently included in income under these rules, and is decreased by any amount that is actually distributed but treated as previously taxed under section 1293(c). (sec. 1293(d)).

Availability of foreign tax credit.—Foreign tax credits are allowed against U.S. tax on amounts included in income from a qualified electing fund to the same extent, and under the same rules, as in the case of income inclusions from a controlled foreign corporation (sec. 1293(f)).

The Code provides special rules to characterize income inclusions from qualified electing funds for foreign tax credit purposes. In the case of a qualified electing fund that is also a controlled foreign corporation, where the U.S. person that has the income inclusion is a U.S. shareholder in the corporation (as defined under the subpart F rules), look-through treatment determines the foreign tax credit limitation characterization of the income inclusion. In addition, where the qualified electing fund is a noncontrolled section 902 corporation (as defined in sec. 904(d)(2)(E)) with respect to the taxpayer, the income inclusion is treated for foreign tax credit purposes as a dividend, and thus, is subject to the separate limitation applicable to those dividends. Where neither of the above conditions is satisfied, the income inclusion is characterized as passive income for foreign tax credit purposes.

Election to defer current payment of tax.—U.S. investors in qualified electing funds may generally, subject to the payment of interest, elect to defer payment of U.S. tax on amounts included currently in income but for which no current distribution has been received (sec. 1294). An election to defer tax is treated as an extension of time to pay tax for which a U.S. shareholder is liable for interest.

The disposition of stock in a PFIC generally terminates all previous extensions of time to pay tax with respect to the earnings attributable to that stock. Disposition for this purpose generally means any transfer of ownership, regardless of whether the transfer constitutes a realization or recognition event under general Code rules. For example, a transfer at death or by gift of stock in a qualified electing fund is treated as a disposition for these purposes.

Special rules applicable to both types of funds

Coordination of section 1291 with taxation of shareholders in qualified electing funds.—Gain recognized on disposition of stock in a PFIC by a U.S. investor, as well as distributions received from a PFIC in a year the PFIC is a qualified electing fund, are not taxed under the rules applicable to nonqualified funds (that is, sec. 1291) if the PFIC is a qualified electing fund for each of the fund's taxable years which begin after December 31, 1986 and which includes any portion of the investor's holding period (sec. 1291(d)(1)). Therefore, if for any taxable year beginning after December 31, 1986, a foreign corporation is a PFIC but is not a qualified electing fund with respect to the U.S. investor, gains and distributions in any subsequent year will be subject to the rules applicable to nonqualified funds. The section 1291 coordinating provision as it relates to distributions prevents a fund from retaining its annual income while it is not a qualified electing fund, and then distributing the accumulated income in a subsequent year after it becomes a qualified electing fund without incurring any interest charge.

Any U.S. person who owns stock (directly or indirectly under the attribution rules) in a PFIC which previously was not a qualified electing fund for a taxable year but which becomes one for the subsequent taxable year may elect to be taxed on the unrealized appreciation inherent in his or her PFIC stock up through the first day of the subsequent taxable year, pay all prior deferred tax and interest, and acquire a new basis and holding period in his or her PFIC investment (sec. 1291(d)(2)). Thereafter, the shareholder is subject to the rules applicable to qualified electing funds.

An alternative election is available to shareholders in a controlled foreign corporation. Under this alternative, instead of recognizing the entire gain in the value of his or her stock, a U.S. person that holds stock (directly or indirectly under the attribution rules) in a controlled foreign corporation (as defined for subpart F purposes) that is a PFIC and that becomes a qualified electing fund can elect to include in gross income as a dividend his or her share of the corporation's earnings and profits accumulated after 1986 and since the corporation was a PFIC. Upon this election, the U.S. person's stock basis is increased by the amount included in income and the shareholder is treated as having a new holding period in his or her stock. Thereafter, the shareholder is subject to the rules applicable to qualified electing funds. The total amount treated as a dividend under the above election is an excess distribution and is to be assigned, for purposes of computing the deferred tax and interest charge, to the shareholder's stock interest on the basis of post-December 31, 1986 ownership.

Attribution of ownership.—In determining stock ownership, a U.S. person is considered to own his or her proportionate share of the stock of a PFIC owned by any partnership, trust, or estate of which the person is a partner or beneficiary (or in certain cases, a grantor), or owned by any foreign corporation if the U.S. person owns 50 percent or more of the value of the corporation's stock (sec. 1297(a)). However, if a U.S. person owns any stock in a PFIC, the person is considered to own his or her proportionate share of any lower-tier PFIC stock owned by the upper-tier PFIC, regardless of the percentage of his or her ownership in the upper-tier PFIC. Under regulations, any person who has an option to acquire stock may be treated as owning the stock.

Anti-avoidance rules.—The Code provides authority to the Secretary to prescribe regulations that are necessary to carry out the purposes of the PFIC provisions and to prevent circumvention of the interest charge (sec. 1297(d)). In addition, if a U.S. person is treated as owning stock in a PFIC by virtue of the attribution rules, regulations may treat any distribution of money or other property to the actual holder of the stock as a distribution to the U.S. person, and any disposition (whether by the U.S. person or the actual holder of the stock) which results in the U.S. person being treated as no longer owning the stock as a disposition by the U.S. person (sec. 1297(b)(5)).

Other anti-deferral regimes

Personal holding companies

In addition to the corporate income tax, the Code imposes a tax at the rate of 28 percent[11] on the undistributed income of a personal holding company (sec. 541). This tax substitutes for the tax that would have been incurred by the shareholders on dividends actually distributed by the personal holding company. A personal holding company generally is defined as any corporation (with certain specified exceptions) if (1) at least 60 percent of its adjusted gross income for the taxable year is personal holding company income, and (2) at any time during the last half of the taxable year more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals (sec. 542(a)).

This definition is very similar to that of a foreign personal holding company, discussed above, but does not depend on the U.S. citizenship or residence status of the shareholders. However, the specified exceptions to the definition of a personal holding company preclude the application of the personal holding company tax to, among others, any foreign personal holding company, most foreign corporations owned solely by nonresident alien individuals, and any PFIC (paragraphs (5), (7), and (10) of sec. 542(c)). Therefore, the personal holding company tax could apply to only a small class of foreign corporations, such as foreign corporations with at least 60 percent but less than 75 percent passive-type income, and majority owned by a group of five or fewer individuals of whom at least one is a U.S. person and at least one of whom is a nonresident alien.

Accumulated earnings tax

In addition to the corporate income tax, the Code also imposes a tax, at the rate of 28 percent, on the accumulated taxable income of any corporation (with certain exceptions) formed or availed of for the purpose of avoiding income tax with respect to its shareholders (or the shareholders of any other corporation), by permitting its earnings and profits to accumulate instead of being distributed (secs. 531, 532(a)). The specified tax-avoidance purpose generally is determined by the fact that the earnings and profits of the corporation are allowed to accumulate beyond the reasonable needs of the business (sec. 533). Like the personal holding company tax, the accumulated earnings tax acts as a substitute for the tax that would have been incurred by the shareholders on dividends actually distributed by the corporation.

The accumulated earnings tax does not apply to any personal holding company, foreign personal holding company, or PFIC (sec. 532(b)). These exceptions, along with the current inclusion of subpart F income in the gross incomes of the U.S. shareholders of a controlled foreign corporation, have resulted, in practice, in very limited application of the accumulated earnings tax to foreign corporations.

Foreign investment companies

A foreign investment company generally is defined as any foreign corporation that either is registered under the Investment Company Act of 1940 (as amended) as a management company or as a unit investment trust, or is engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in securities or commodities or any interest (including a futures or forward contract or option) in securities or commodities, at a time when 50 percent or more of the vote or value of the stock was held (directly or indirectly) by U.S. persons (sec. 1246(b)). In the case of the sale or exchange of stock in a foreign investment company, gain on the sale generally is treated as ordinary income to the extent of the taxpayer's ratable share of the undistributed earnings and profits of the foreign investment company (sec. 1246(a)). However, if a foreign investment company so elected by December 31, 1962, it can avoid the application of section 1246 to its shareholders by annually distributing at least 90 percent of its taxable income (determined as if the foreign corporation were a domestic corporation), and complying with other information-reporting and administrative requirements as the Secretary of the Treasury deems necessary (sec. 1247).

Coordination among anti-deferral regimes

The Code provides that, if an item of income of a foreign corporation would be includable in the gross income of a U.S. shareholder both under the controlled foreign corporation rules and under the foreign personal holding company rules, that item of income is included only under the controlled foreign corporation rules (sec. 951(d)). This rule of precedence operates only to the extent that the controlled foreign corporation rules and the foreign personal holding company rules overlap on an item-by-item basis. Income includible under only one set of rules (foreign personal holding company rules or subpart F rules) is includible under that set of rules. A taxpayer taxable under subpart F on amounts other than subpart F income (on such items as withdrawals from foreign base company shipping income and investments in U.S. property) is taxable under subpart F whether or not the taxpayer is also taxable on the undistributed foreign personal holding company income of the foreign corporation under the foreign personal holding company rules.

If an item of income of a foreign corporation would be includable in the gross income of a U.S. shareholder both under the controlled foreign corporation rules and under the rules relating to the current taxation of income from certain passive foreign investment companies, that item of income is included only under the controlled foreign corporation rules (sec. 951(f)). In addition, if an item of income of a foreign corporation would be includable in the gross income of a U.S. shareholder both under the controlled foreign corporation rules and under the rules relating to the current taxation of income from electing foreign investment companies, that item of income is included only under the foreign investment company rules (sec. 951(c)). Any amount that is taxable under only one set of rules is included in gross income pursuant to that set of rules.

In the case of a foreign corporation that is both a foreign personal holding company and a passive foreign investment company, to the extent that the income of the foreign corporation would be taxable to a U.S. person both under the foreign personal holding company rules and under section 1293 (relating to current taxation of income of certain passive foreign investment companies), that income is treated as taxable to the U.S. person only under the foreign personal holding company rules (sec. 551(g)).

In the case of a PFIC that is a qualified electing fund, the amount of income treated as a dividend on a sale or exchange of stock in a controlled foreign corporation (under sec. 1248) does not include any amount of income included previously under the qualified electing fund rules to the extent that that amount of income has not been distributed from the PFIC prior to the sale or exchange of the stock. In addition, section 1248 does not apply to the sale or disposition of stock in a PFIC that is not a qualified electing fund.

In the case of a PFIC that is a qualified electing fund and that owns stock in a second-tier PFIC that is also a qualified electing fund, amounts distributed by the second-tier fund to the first-tier fund that have been included previously in income by U.S. investors—because they are deemed to own stock in the second-tier fund—are not to be included in the ordinary earnings of the first-tier fund. This rule prevents U.S. persons from including amounts in income twice. This relief provision also applies in the case of a second- (or lower-) tier PFIC that is a qualified electing fund and that is also a controlled foreign corporation. In this case, amounts that are included in a U.S. person's income under the subpart F provisions and that would have been included under the qualified electing fund provisions (but for the coordination provision of sec. 951(f)) are prevented from being included in income again under this relief provision.

---

[11] Section 6001(a)(4) of the bill, which is a technical correction to the Omnibus Budget Reconciliation Act of 1990, would change the personal holding company tax rate to 31 percent, to conform to the increase in the top individual tax rate from 28 to 31 percent.

In the case of a PFIC that is not a qualified electing fund, the Code eliminates the potential for double taxation by providing for proper adjustments to excess distributions for amounts that are taxed currently under the Code's other current inclusion rules. Thus, for example, excess distributions will not include any amounts that are treated as previously taxed income under section 959(a) when distributed by a controlled foreign corporation that is also a PFIC that is not a qualified electing fund.

As noted above, the personal holding company tax does not apply to any foreign personal holding company or PFIC, and the accumulated earnings tax does not apply to any personal holding company, foreign personal holding company, or PFIC.

Section 1246 does not apply to the earnings and profits of any foreign investment company for any year after 1986 if the company is a PFIC for that year (sec. 1297(b)(7)). In addition, an electing foreign investment company under section 1247 is excluded from the definition of a PFIC (sec. 1296(d)).

Reasons for Change

Some of the different anti-deferral regimes were enacted or modified at different times and reflect historically different Congressional policies. Different regimes provide different thresholds (either by type of income or asset at the foreign corporation level, or of U.S. stock ownership at the shareholder level) to their application. They provide for different mechanisms by which U.S. stockholders are denied the benefits of deferral. Some of the regimes have features directed at policy goals applicable to foreign corporations owned by U.S. corporations (e.g., the allowance of indirect foreign tax credits); others have features primarily directed at issues applicable to foreign corporations owned by U.S. individuals (e.g., the basis of property acquired from a decedent). Some regimes preserve the character of the income earned in the hands of a foreign corporation while others do not. Some provide for movement of losses between years of a single foreign corporation or between multiple corporations while others do not. While a consistent theme of these regimes is to provide current taxation for certain types of interest, dividend, rental, royalty, and other similar income, the different regimes apply different criteria to these items of income to determine their current inclusion or noninclusion. Different regimes have different ordering rules for determining which dividends from foreign corporations subject to the regimes are subject to tax on repatriation and which are untaxed distributions of previously taxed income.

Simply because of the difference among the various anti-deferral regimes, U.S. taxpayers frequently are faced with the need to consult multiple sets of anti-deferral rules when they hold stock in a foreign corporation.

Moreover, the interactions of the rules cause additional complexity. There is significant overlap among the several regimes. This overlap requires the Code to provide specific rules of priority for income inclusions among the regimes, as well as additional coordination provisions pertaining to other operational differences among the several regimes. The overlapping or multiple application of anti-deferral regimes to a single corporation can result in significant additional complexity with little or no ultimate tax consequences.

Consolidation of the several anti-deferral regimes can achieve two major types of simplification. First, by reducing the number of separate definitions of entities among the anti-deferral regimes, taxpayers can be spared the burden of understanding and complying with a multiplicity of separate anti-deferral regimes with separate definitions and requirements. Moreover, where the committee believes that operating rules of one current inclusion regime provide taxpayers with appropriate income measurement rules not contained in another regime (e.g., the qualified deficit rules present in subpart F but absent in the PFIC rules), consolidation of the operating rules permits more uniform extension of those benefits to all taxpayers subject to a current inclusion regime.

Second, from an operational perspective, the number of anti-deferral regimes that can apply to any one shareholder in a foreign corporation can be reduced to one. As discussed above, the operational differences, including the overlapping applicability of the six present-law anti-deferral regimes, is a source of complexity. Under a consolidated regime, however, deferral can be denied for many corporations (whether in full or in part) solely though the provisions of subpart F. In the case of a controlled foreign corporation, for example, being subject to the rules for full denial of deferral (such as the PFIC or foreign personal holding company provisions under present law) can, if only a single set of rules applies, result in fewer additional compliance burdens and less administrative and operational complexity.

Another source of complexity under present law is the need for shareholders of controlled foreign corporations to make "protective" current-inclusion elections in order to avoid adverse future consequences under the interest-charge method should the controlled foreign corporation also prove to be a PFIC. By replacing elective current-inclusion treatment for PFICs that are also controlled foreign corporations by mandatory current inclusion through subpart F for passive foreign corporations that are also controlled foreign corporations, a consolidated regime can eliminate both the burdens of making protective elections and the risks of failing to do so.

The committee understands that the interest-charge method of the present-law PFIC rules is a significant source of complexity both separately and in its interaction with other provisions of the Code. Even without eliminating the interest-charge method, significant simplification can be achieved by minimizing the number of taxpayers that may be subject to the method and by making certain modifications that may reduce the complexity engendered by the interest-charge method. Further, because some taxpayers have argued that they would have preferred choosing the current-inclusion method afforded by the qualified fund election, but were unable to do so because they could not obtain required corporate-level information, the committee believes that the mark-to-market system provides a fair alternative method for measuring income and imposing an appropriate level of income tax.

Explanation of Provision

In general

The bill replaces the separate anti-deferral regimes of present law with a unified set of rules providing for either partial or full elimination of deferral depending on the circumstances. The bill preserves the present-law approach under which partial current taxation is a function of the type of income earned by the foreign corporation and a level of U.S. ownership in the corporation exceeding some threshold (as currently embodied in subpart F). The bill also preserves the present-law approach under which full current taxation is a function of a type of income or assets of the corporation exceeding some threshold (as currently embodied in subpart F, the PFIC rules, and the foreign personal holding company rules). The bill eliminates regimes that are redundant or marginally applicable, and ensures that no more than one set of rules generally will apply to a shareholder's interest in any one corporation in any one year.

Generally, the bill retains the subpart F rules as the foundation of its unified anti-deferral regime (with certain modifications described below and also in item 2., following, describing secs. 4411–4413 of the bill). It includes a modified version of the PFIC rules while eliminating the other regimes as redundant to one or the other. The bill's unified anti-deferral regime sets forth various thresholds for subjecting U.S. persons to full or partial inclusions of corporate income. In addition, where deferral is eliminated by U.S. shareholder inclusions of foreign corporate-level income, the bill applies a single set of rules (the subpart F rules) for basis adjustments, characterization of actual distributions, foreign tax credits, and similar issues. As under present law, the bill in some cases affords U.S. persons owning stock in foreign corporations a choice of technique for recognizing income from the elimination of deferral. However, in a greater number of cases than under present law, the bill provides only one method of eliminating deferral.

Replacement of current law regimes for full elimination of deferral

The bill creates a single definition of a passive foreign corporation (PFC) that will unify and replace the foreign personal holding company and PFIC definitions. The rules applicable to PFCs represent a hybrid of characteristics of the foreign personal holding company rules, the PFIC rules, and the controlled foreign corporation rules (subpart F), plus a new mark-to-market regime, as well as a variety of simplifying or technical changes to rules under the existing systems. The following discussion explains the differences between the PFIC provisions of present law and the PFC provisions applicable under the bill.

A PFC is any foreign corporation if (1) 60 percent or more of its gross income is passive income, (2) 50 percent or more of its assets (on average during the year, measured by value) produce passive income or are held for the production of passive income, or (3) it is registered under the Investment Company Act of 1940 (as amended) either as a management company or as a unit investment trust.[12] As under the PFIC rules, the foreign corporation is permitted to elect to measure its assets based on their adjusted bases rather than their value.

As under present law, passive income for this purpose is defined in the bill generally as any income of a kind which would be foreign personal holding company income as defined in section 954(c), subject to the current law exceptions for banking and insurance income and the current look-through rules for certain payments from related persons (current sec. 1296(b)(2)).[13]

---

[12] The committee understands that a mutual insurance company can be treated under the bill and under present law as a passive foreign corporation, notwithstanding the fact that such a company does not actually issue "stock."

[13] Thus, the bill retains the exception for income derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be

The bill adds a new exception to the definition of passive income. Under the bill, to the extent that any asset is properly treated as not held for the production of passive income (and therefore is treated as not a passive asset for purposes of the assets test), all income derived from the asset is treated as active income for purposes of the income test. Ordinarily the character of an asset as passive or active depends on the income generated by that asset. However, as explained above, some assets (for example, stocks or securities held for sale to customers in the ordinary course of business by a regular dealer in such property, and properly identified as inventory property) may be treated as active even though those assets generate, among other things, passive income. It is unclear whether this was intended when the PFIC rules were enacted.[14]

The bill establishes that, to the extent an asset is properly treated as active, all of the income from that asset is treated as active for purposes of the income test. The bill is not intended to change the outcome of the application of the asset test under present law. For example, the committee does not intend to limit the IRS's authority to prescribe limits, as it did in Notice 88–22, on the cases in which assets generating what could be passive income are treated as active assets.[15] In addition, the committee intends that where one item of property is properly viewed as two separate assets, a portion of the property can be treated as a passive asset that generates passive income while another portion of the same property can be treated as a nonpassive asset that generates nonpassive income. For example, assume that a taxpayer owns a six-story office building, and occupies two floors for use in its active business while renting out the other four floors. Assume that the two floors used in the active business are properly viewed as a nonpassive asset, while the four leased floors are properly viewed as a passive asset. The committee intends that the rental income from the four leased floors in this example be treated as passive income.

The committee has been informed that dealers in stocks and securities enter into securities sale and repurchase agreements (so-called "repos" and "reverses") and engage in securities lending and borrowing transactions. For example, the committee has been informed that securities dealers may engage in offsetting repro and reverse transaction—i.e., may run a "matched book" with respect to such transactions. In addition, the committee has been informed that securities dealers enter into reverse repos and securities borrowing transactions to cover short sales and failed deliveries of securities for settlement of trades, and use repos and securities loans to finance inventory positions. As noted above, repos and reverses may be characterized for tax purposes as loans rather than as sales and repurchases, and thus may give rise to interest income and expense for the parties to the transactions.

The bill provides a netting rule with respect to repos and reverse, if entered into in connection with a "matched book" by a foreign corporation that is engaged in the active conduct of a trade or business as a dealer in securities. Under this rule, offsetting debt liabilities and assets resulting from matched repos and reverses are netted, and only the net asset position (if any) is treated as an asset held by a foreign corporation for purposes of applying the PFC definition. Similarly, the bill provides that the offsetting interest expense and income resulting from matched repos and reverses is netted and the net income, if positive, is treated as an item of gross income under the PFC definition. The reduction in gross income or assets that may result from application of this provision to a corporation does not apply for any purpose other than testing a foreign corporation for PFC status.

The Committee anticipates that Treasury regulations will provide guidance as to what constitutes a "matched book;" what repo and reverse transactions are considered to offset each other in a "matched book;" what constitutes the entry into matched book transactions in the active conduct of a trade or business of being a dealer in securities; and how the netting procedure will be carried out to arrive at amounts of gross income and assets for PFC definitional purposes.

The Committee intends that, in practice, the effect of this provision shall be only to mitigate the effect of the PFC rules on a company insofar as it is actively engaged in the business of providing the services of a financial intermediary to unrelated parties, rather than used as a vehicle for investment in stock, securities, or other financial products on behalf of its shareholders or other related parties. The committee is aware of other instances in the Code and regulations where it is necessary to draw similar distinctions, and invites the Treasury to consider whether any tests employed in those provisions are suitable in light of the purposes of provision.

For example, rules under subpart F may require a determination whether a foreign corporation is a regular dealer within the meaning of section 954(c)(1)(B) in stocks, securities, or derivative financial products during its taxable year. As another example, under the PFIC rules of present law (as under the PFC rules in the bill) a foreign corporation, to the extent provided in regulations, may be exempted from passive characterization of its interest income from the active conduct of a banking business. Guidance has been issued under this provision analogous to the guidance that might be issued under the matched-book provision. As a third example, guidance has been issued under the foreign tax credit limitation regulations for identifying financial services entities.

As in the cases of the PFIC bank rules and the foreign tax credit limitation rules on financial services entities, the committee believes that the Treasury could consider a variety of activities that may indicate the existence of an active securities business.[16]

In addition, in appropriate circumstances the Treasury might consider it relevant that a foreign corporation is or is not registered or authorized in the country in which it conducts its principal securities dealer operations to conduct the bona fide securities activities that it performs in that country, and is subject to the appropriate securities regulatory authorities of that jurisdiction.

The foregoing list of possible approaches and factors to take into account is not intended to be exclusive of other approaches or factors not mentioned. Nor is it intended to suggest that the presence of any of the factors mentioned above, or the passing or failing of any test existing under present law, must be used by Treasury to determine the outcome of the question whether a foreign corporation is engaged in the active conduct of a trade or business as a dealer in securities. The committee does not intend to limit the Treasury's discretion to fashion rules suitable to the purposes of the provision.

In addition, the committee intends that a study be conducted by the Treasury Department as to the tax treatment for purposes of the PFC rules of securities sale and repurchase transactions and securities lending and borrowing transactions, and the consequences and merits of possible changes in such tax treatment. The committee intends that the Treasury study be completed within one year after the date of enactment of the bill.

In addition, the bill provides a clarification to present law. The bill clarifies that, as indicated in the legislative history of the 1988 act, the same-country exceptions from the definition of foreign-personal holding company income in section 954(c) do not apply in determining passive income for purposes of the PFIC definition.[17]

The bill modifies the present law application of the asset test by treating certain

---

subject to tax under subchapter L if it were a domestic corporation. The committee intends that in determining whether a corporation is "predominantly engaged" for this purpose, the Secretary may require a higher standard or threshold than the definition of an insurance company under Treasury Regulations section 1.801–3(a).

[14] Active asset treatment of certain securities held for sale to the public is confirmed in Notice 88–22, 1988–1 C.B. 489, 490, and S. Rep. No. 100–445, 100th Cong., 2d Sess. 281 (1988). The legislative history of the 1986 Act further suggested a view that all income from such inventory would be treated as active. "[S]ecurities held for sale to the public[] are assets that do not give rise to subpart F FPHC income by virtue of the dealer exception in sec. 954(c) * * *" Staff of the Joint Committee on Taxation, 100th cong., 1st Sess., *General Explanation of the Tax Reform Act of 1986*, at 1025 (1987).

[15] Under the Notice, for example, the IRS conditioned active asset treatment of securities inventories on compliance with an identification requirement and a reasonable needs requirement. 1988–1 C.B. at 490.

[16] Such activities might include: (a) purchasing or selling stock, debt obligations, commodity futures or other securities or derivative financial products (including notional principal contracts) from or to unrelated persons, and holding stock, debt obligations and other securities as inventory for sale to customers; (b) arranging notional principal contracts and other hedging transactions for, or entering into such transactions or any other derivative financial products with, unrelated persons who are customers; (c) arranging foreign exchange transactions for, or engaging in foreign exchange transactions with, unrelated persons who are customers; (d) underwriting issues of stocks, debt obligations or other securities under best-efforts or firm-commitment agreements with unrelated persons; (e) purchasing, selling, discounting, or negotiating on a regular basis for unrelated persons notes, drafts, checks, bill of exchange, acceptances or other evidences of indebtedness; (f) lending stocks or securities to unrelated persons; (g) providing finance leasing (which would not qualify as active leasing income under sec. 954(c)(2)(A)) to unrelated persons; (h) engaging in hedging activities directly related to bona fide securities activities described in items (a) through (g) of this list; (i) servicing mortgages; (j) investment banking activities; (k) providing financial or investment advisory services, investment management services, fiduciary services, trust services, or custodial services to unrelated persons; (l) providing margin or other financing for customers secured by securities or money market instruments, including repurchase agreements or financing in connection with any of the bona fide securities activities described in items (a) through (k) of this list; (m) disposing of any property (whether tangible or intangible, personal or real) that was used in the active conduct of the securities business, but only to the extent that the property was held in connection with a bona fide securities activity; and (n) any other activity that the Security may determine to be a bona fide securities activity that is commonly conducted by active foreign securities dealers in the ordinary course of their securities business.

[17] H.R. Rep. No. 100–795, 100th Cong., 2d Sess. 272 (1988); S. Rep. No. 100–445, 100th Cong., 2d Sess. 285 (1988)

leased property as assets held by the foreign corporation for purposes of the PFC asset test. This rule applies to tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months. Under the bill, the value of leased property for purposes of applying the assets test is the lesser of the fair market value of the property or the unamortized portion of the present value of the payments under the lease. Regulations are to provide for determining the unamortized portion of the present value of the payments. Present value is to be determined, under regulations, as of the beginning of the lease term, and, except as provided in regulations, by using a discount rate equal to the applicable Federal rate determined under the rules applicable to original discount instruments (sec. 1274(d)), substituting under those rules the term of the lease for the term of the debt instrument. In applying those rules, options to renew or extend the lease are not to be taken into account. Also, the special rule to be applied under section 1274(d)(2) in the case of a sale or exchange is disregarded. Property leased by a corporation is not taken into account in testing for PFC status under the asset test either if the lessor is a related person (as that term is defined under the foreign base company rules) with respect to the lessee, or if a principal purpose of leasing the property was to avoid the PFC provisions.

The bill also modifies the present law rules that provide an exception from the definition of a PFIC in the case of a company changing businesses. Under the bill, if a foreign corporation holds 25 percent or more of the stock of a second corporation that qualifies for the change-of-business exception (current sec. 1297(b)(3)), then in applying the look-through rules (current sec. 1296(c)), the first corporation may treat otherwise passive assets or income of the second corporation as active.[18]

The bill generally retains those provisions of current law the application of which depends upon whether a foreign corporation was a PFIC for years after 1986 (e.g., current sec. 1291(d)), but modifies these provisions to test whether the foreign corporation was a PFC for years after 1986. As a transitional definition, the bill provides that a foreign corporation that was treated as a PFIC for any taxable year beginning before the introduction of the bill is treated as having been a PFC for each such year.

The bill provides a new election that will allow certain passive foreign corporations to be treated as domestic corporations. A foreign corporation is eligible to make this election if (1) it would qualify for treatment as a regulated investment company (RIC) under the relevant provisions of the Code if it actually were a domestic corporation, (2) it meets such requirements as the Secretary may prescribe to ensure the collection of taxes imposed by the Internal Revenue Code on the passive foreign corporation, and (3) the electing passive foreign corporation waives all benefits which are granted by the United States under any treaty (including treaties other than tax treaties) and to which the corporation is otherwise entitled by reason of being a resident of another country. The rules governing such an election generally will be similar to those applicable to the election by a foreign insurance company to be treated as a domestic corporation under section 953(d). The rules governing the election under the PFC rules, however, will not include rules similar to the special rules applicable under section 953(d) for pre-effective-date earnings and profits (sec. 953(d)(4)(B)).

The bill provides a special rule regarding the application of the PFC rules to tax-exempt organizations that own stock in passive foreign corporations. The PFC rules, under the bill, apply to any stock held by a tax-exempt organization (under section 501) in a passive foreign corporation only to the extent that a dividend on that stock would be taken into account in determining the organization's unrelated business taxable income. To that extent, the PFC rules apply with respect to amounts taken into account in computing unrelated business taxable income in the same manner as if the organization were fully taxable. Even if a dividend on the PFC stock would not be taken into account in determining the organization's unrelated business taxable income, however, the committee intends that any U.S. corporation regardless of its tax-exempt status will be treated as a U.S. person for purposes of determining whether or not a PFC is U.S. controlled.

Tax treatment under full elimination of deferral

The benefits of deferral are eliminated with respect to the income of a PFC under three alternative methods: current inclusion, mark-to-market, or interest charge on excess distributions.

Current inclusion methods

Mandatory current inclusion.—If a passive foreign corporation is U.S. controlled, the bill will subject every U.S. person owning (directly or indirectly) stock in the PFC to income inclusions under a modified version of the controlled foreign corporation rules. If a PFC is not U.S. controlled, every U.S. person owning (directly or indirectly) 25 percent or more of the vote or value of the stock of the PFC will be subject to the same rules. Under the bill, the entire gross income of the passive foreign corporation (subject to applicable deductions) is treated as foreign base company income, and thus, is included (net of appropriate deductions) on a pro rata basis in the income of each U.S. person directly or indirectly owning stock in the PFC, under a modified application of the rules of section 951 and 961.[19] Actual distributions of earnings by such a PFC are treated similarly to distributions of previously taxed income under sections 959 and 961. These rules supersede all application of the present-law rules applicable to foreign personal holding companies, under which earnings are deemed distributed and then contributed to the capital of the foreign personal holding company.

In applying the subpart F inclusion rules to PFC inclusions, the bill applies the subpart F high-tax exception (under sec. 954(b)(4)) only to those shareholders in the PFC who are treated as "U.S. shareholders" of a controlled foreign corporation under the general rules of subpart F (i.e., those who own, whether directly, indirectly, or constructively, at least 10 percent of the voting power of the controlled foreign corporation). This limitation on the application of the controlled foreign corporation rules preserves present law to the extent that no high-tax exception is available to PFICs that are not also controlled foreign corporations. However, because the bill repeals the foreign personal holding company provisions of the Code, the effect of this high-tax exception is to increase the possibility for deferral in the case of a company that under present law meets the definitions of both a controlled foreign corporation and a foreign personal holding company.

Also in general conformity with present law, the bill permits the character of the PFC's income as either ordinary income or capital gain to be passed through to those shareholders of the PFC who are not treated as "U.S. shareholders" of a controlled foreign corporation under the general rules of subpart F (i.e., those who do not own, whether directly, indirectly, or constructively, at least 10 percent of the voting power of the controlled foreign corporation).

In addition, the bill modifies the application of subpart F to PFCs by including foreign base company income of a PFC in the income of U.S. persons without regard to otherwise applicable reductions pursuant to the export trade corporation rules (secs. 970 and 971). This modification to the application of the controlled foreign corporation rules preserves present law in that the PFIC provisions apply in full force to export trade corporations.

The committee is aware of the equity issues that have been raised with regard to the application of the PFIC rules to export trade corporations. Accordingly, the committee will schedule consideration of this matter at the earliest possible date.

A passive foreign corporation is treated under the bill as U.S. controlled for this purpose either if it would be treated as a controlled foreign corporation under the rules of subpart F, or if, at any time during the taxable year, more than 50 percent of the vote or value of the corporation's stock was owned directly or indirectly by five or fewer U.S. persons (including but not limited to individuals, and including all U.S. citizens regardless of their residence). Indirect stock ownership through foreign entities within the meaning of section 958(a)(2). In addition, for the purpose of determining whether a foreign corporation is U.S. controlled by virtue of the ownership of more than 50 percent of its stock by five or fewer U.S. persons, the constructive ownership principles of the present-law foreign personal holding company rules generally apply. In the case of pass-through entities such as partnerships, S corporations, estates, and trusts, the constructive ownership principles of the present-law foreign personal holding company rules apply except as provided in regulations. The committee contemplates that regulations may modify the constructive ownership rules, for example, in the case of a trust in which the beneficial interests may be contingent, subject to determination or adjustment within the discretion of the trustee, or otherwise variable or indeterminate.

Electric current inclusion.—A U.S. person not subject to the above mandatory current inclusion rules—that is, a U.S. person owning less than 25 percent of the stock in a PFC that is not U.S. controlled—may elect application of those rules. As under current law, the PFC is characterized as a "qualified electing fund" with respect to such a U.S. person. In the application of the elective current—inclusion rules, the passive foreign corporation is treated as a controlled foreign corporation with respect to the taxpayer, and the taxpayer is treated as a U.S. shareholder of the corporation. For foreign tax credit purposes, amounts included in the taxpayer's gross income under this modified application of the controlled foreign corporation rules are treated as dividends received from a foreign corporation which is not a controlled foreign corporation. Thus, an amount would be treated as a dividend from a noncontrolled section 902 corporation, or as passive income, depending on the shareholder's percentage ownership and status as an individual or a corporation.

---

[18] The bill retains the present law rules that provide an exception from the definition of a PFIC in the case of a start-up company (current sec. 1297(b)(2)). Under the bill, the committee intends that the start-up company exception be applied, where necessary to carry out the purposes of the PFC rules, by treating as one corporation all related foreign corporations that transferred assets to the start-up company.

[19] The treatment of PFC income as foreign base company income for purposes of subpart F is not intended to affect the application of look-through treatment of that income for purposes of the foreign tax credit limitation.

The application and operation of the shareholder-level election for treatment as a qualified electing fund generally are the same as under the present-law PFIC rules. The committee intends that, in the case of PFC stock owned through a foreign partnership, a partner-level election for treatment as a qualified electing fund will be permitted (except in the case of a foreign partnership that is subject to the simplified reporting rules available to certain large partnerships under subtitle C of the bill's simplification provisions).

Mark-to-market method

Less-than-25-percent shareholders of passive foreign corporations that are not U.S.-controlled, and who do not elect current inclusion ("nonelecting shareholders"), are subject under the bill to one of two methods for taxing the economic equivalent of the PFC's current income: the mark-to-market method or the interest-charge method. The mark-to-market method does not apply to the stock of a U.S. person in any PFC that is U.S. controlled (as discussed above), to the stock of a person choosing qualified electing fund treatment, or to stock of a U.S. person who is a 25-percent shareholder (as defined above).

Under the bill, nonelecting shareholders of a PFC with marketable stock are required to mark their PFC shares to market annually. Under the mark-to-market method, the U.S. person is required to include in gross income each taxable year an amount equal to the excess (if any) of the fair market value of the PFC stock as of the close of the taxable year over the adjusted basis of the stock. In the event the adjusted basis of the stock exceeds its fair market value, the U.S. person is allowed a deduction for the taxable year equal to the lesser of the amount of the excess or the "unreversed inclusions" with respect to the stock. The bill defines the term "unreversed inclusions" to mean, with respect to any stock in a passive foreign corporation, the excess (if any) of the total amount of mark-to-market gains with respect to the stock included by the taxpayer for prior taxable years, over the amount of mark-to-market losses with respect to such stock that were allowed as deductions for prior taxable years.

The adjusted basis of stock in a passive foreign corporation is increased by the amount of mark-to-market gain included in gross income, and is decreased by the amount of mark-to-market losses allowed as deductions with respect to such stock. In the case of stock owned indirectly by the U.S. person, such as through a foreign partnership, foreign estate or foreign trust (as discussed below), the basis adjustments for mark-to-market gains and losses apply to the basis of the PFC stock in the hands of the intermediary owner, but only for purposes of the subsequent application of the PFC rules to the tax treatment of the indirect U.S. owner. In addition, similar basis adjustments are made to the adjusted basis of the property actually held by the U.S. person by reason of which the U.S. person is treated as owning PFC stock.

All amounts of mark-to-market gain on PFC stock, as well as gain on the actual sale or distribution of PFC stock, are treated as ordinary income. Similarly, ordinary loss treatment applies to the deductible portion of any mark-to-market loss on PFC stock, as well as to any loss realized on the actual sale or other disposition of PFC stock to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to that stock. These loss deductions are treated as deductions allowable in computing adjusted gross income.

The source of any amount of mark-to-market gain on PFC stock is determined in the same manner as if the amount of income were actual gain from the sale of stock in the passive foreign corporation. Similarly, the source of any amount allowed as a deduction for mark-to-market loss on PFIC stock is determined in the same manner as if that amount were an actual loss incurred on the sale of stock in the passive foreign corporation.

Definition of "marketable stock."—The mark-to-market method under the bill only applies to passive foreign corporations the stock of which is "marketable." PFC stock is treated as marketable if it is regularly traded on a qualified exchange, whether inside or outside the United States. An exchange qualifies for this treatment if it is a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or if the Secretary is satisfied that the requirements for trading on that exchange ensure that the market price on that exchange represents a legitimate and sound fair market value for the stock. The committee intends that the Secretary may adopt a definition of the term "regularly traded" that differs from definitions provided for other purposes under the Code. Further, the committee intends that the Secretary not be bound by definitions applied for purposes of enforcing other laws, including Federal securities laws. Similarly, in identifying qualified foreign exchanges for these purposes, the committee intends that the Secretary not be required to include exchanges that satisfy standards established under Federal securities laws and regulations. PFC stock is also treated as marketable, to the extent provided in Treasury regulations, if the PFC continuously offers for sale or has outstanding any stock (of which it is the issuer) that is redeemable at its net asset value in a manner comparable to a U.S. regulated investment company (RIC).

In addition, the bill treats as marketable any stock in a passive foreign corporation that is owned by a RIC that continuously offers for sale or has outstanding any stock (of which it is the issuer) that is redeemable at its net asset value. The committee believes that the RIC's determination of PFC stock value for this non-tax purpose would ensure a sufficiently accurate determination of the fair market value of PFC stock owned by the RIC. The bill also treats as marketable any stock in a passive foreign corporation that is held by any other RIC, except to the extent provided in regulations. The committee believes that even for RICs that do not make a market in their own stock, but that do regularly report their net asset values in compliance with the securities laws, inaccurate valuations may bring exposure to legal liabilities, and this exposure may ensure the reliability of the values such RICs assign to the stock they hold in PFCs. However, the committee intends that Treasury regulations will disallow mark-to-market treatment for nonmarketable stock held by any RIC that is not required to perform such a net asset valuation at the close of each taxable year, that does not publish such a valuation, or that otherwise does not provide what the Secretary regards as sufficient indicia of the reliability of its valuations under the relevant circumstances.

Coordination with RIC rules.—The bill coordinates the application of the mark-to-market method with the tax rules generally applicable to RICs. The bill treats mark-to-market gain on PFC stock as a dividend for purposes of both the 90-percent investment income test of section 851(b)(2) and the 30-percent short-short limitation of section 851(b)(3). In addition, the bill permits RICs to determine their mark-to-market gain using a fiscal year ending on October 31 of each year, solely for purposes of determining their ordinary income for purposes of the excise tax on the undistributed income of regulated investment companies (sec. 4982). Reductions in value of the PFC stock between October 31 and the end of the RIC's normal taxable year are treated, to the extent provided in regulations, as occurring in the following taxable year for purposes of computing the RIC's investment company taxable income (sec. 852(b)) and the RIC's earnings and profits (sec. 852(c)).[20]

Marketable stock not directly owned by a U.S. person.—In the case of a controlled foreign corporation (including a passive foreign corporation that is treated under the bill as a controlled foreign corporation) that owns or is treated as owning stock in a passive foreign corporation, the mark-to-market method generally is applied as if the controlled foreign corporation were a U.S. person. For purposes of the application of subpart F to the controlled foreign corporation, mark-to-market gains are treated as if they were foreign personal holding company income of the character of dividends, interest, royalties, rents or annuities, and allowable deductions for mark-to-market losses are treated as deductions allocable to that category of foreign personal holding company income. The source of such income or loss, however, is determined by reference to the actual (foreign) residence of the controlled foreign corporation.

For purposes of the mark-to-market method, any stock in a passive foreign corporation that is owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate is treated as if it were owned proportionately by its partners or beneficiaries, except as provided in regulations.[21] Stock in a passive foreign corporation that is thus treated as owned by a person is treated as actually owned by that person for the purpose of applying the constructive ownership rule at another level. In the case of a U.S. person who is treated as owning stock in a passive foreign corporation by application of this constructive ownership rule, any disposition by the U.S. person or by any other person that results in the U.S. person being treated as no longer owning the stock in the passive foreign corporation, as well as any disposition by the person actually owning the stock of the passive foreign corporation, is treated under the bill as a disposition by the U.S. person of stock in the passive foreign corporation.

---

[20] Similar rules apply under present law for currency gains of RICs (secs. 4982(e)(5), 852(b)(8), and 852(c)(2)).

[21] For this purpose, the committee intends that proportionate ownership will take into account any special or discretionary allocations of the distributions or gains with respect to stock in the passive foreign corporation.

Transition to mark-to-market.—The bill provides certain transition rules for PFC stock that becomes subject to the mark-to-market method—that is, generally, marketable PFC stock with respect to which current inclusion rules do not apply. One method applies in general, another applies to PFC stock held by regulated investment companies, and a third method applies to PFC stock held by individuals who become subject to U.S. tax jurisdiction as the result of a change in residence or citizenship.

(1) The general rule applies in the case of marketable stock in a PFC that is held by the shareholder on the effective date of the bill, where the PFC was also a PFIC under present law but was not a qualified electing fund with respect to the shareholder for all post-1986 years in the taxpayer's holding period. Under this general rule, tax is imposed under the bill's mark-to-market rule on the amount of mark-to-market gain representing the stock's appreciation (if any) in the first post-effective date year. In addition, if the stock has not depreciated in the first post-effective date year, tax may be imposed on the full amount of mark-to-market gain representing the stock's appreciation prior to the effective date, as if the stock had been sold at the end of the last pre-effective-date year and taxed subject to present law's interest-charge method.

If on the other hand the stock has not appreciated during the first post-effective date year, tax is imposed only on the amount of the net mark-to-market gain representing the stock's appreciation between the beginning of the taxpayer's holding period and the last day of the first post-effective date year. In either case, the difference between the fair market value of the PFC stock at the close of the first taxable year under the bill and the shareholder's adjusted basis in the PFC stock, less the amount of that difference (if any) that represents appreciation during that first taxable year, is treated pursuant to the interest-charge method as having accrued ratably over the shareholder's holding period (ending prior to that first taxable year) in the stock of the PFC.

Both the amount of pre-effective-date appreciation included in gross income (in this case, generally the portion of appreciation treated as having accrued before 1987), and the amount excluded from gross income (but subject to the "deferred tax amount" under the interest-charge method) are treated as an unreversed inclusion for purposes of the application of the mark-to-market method in future years.

In addition, the bill provides an election to defer the payment of tax (similar to the election for qualified electing funds to defer the payment of tax under present law's section 1294) imposed as a result of the recognition of the pre-effective-date gain. Under the bill, this election is treated as terminated to the extent a future mark-to-market loss deducted is allocable to the unreversed inclusion for pre-effective-date appreciation. This election is also terminated to the extent of any distribution received by the shareholder that would be an excess distribution under the interest-charge rules if those rules applied to the stock. In either case, the bill contemplates that regulations will provide rules for determining the appropriate proportion of the deferred tax for which the extension will terminate. As under present law, any direct or indirect loan by the PFC to the shareholder is treated as a distribution for purposes of determining the extent to which the extension remains in effect. Also, the extension generally is terminated upon disposition of the PFC stock. To the extent provided in regulations, however, a disposition of PFC stock in a nonrecognition transaction does not terminate the extension; rather, the person acquiring the PFC stock succeeds to the transferor's treatment of the PFC stock under the mark-to-market rules.

(2) Regulated investment companies are subject to a special transition rule for the PFC stock they hold on the bill's effective date. Instead of applying the interest-charge method to the amount of pre-effective-date appreciation, RICs include the full amount of pre-effective-date appreciation under the mark-to-market method, and pay a separate nondeductible interest charge. No election to defer the payment of tax is available.

(3) In the case of a shareholder of PFC with marketable stock who becomes subject to the tax jurisdiction of the United States as a result of a change in residence or citizenship, no U.S. tax applies under the mark-to-market method or under the interest-charge method to the appreciation of the stock's value prior to the time that the shareholder becomes subject to the tax jurisdiction of the United States. The bill implements this rule by treating the greater of (i) the fair market value of the PFC stock at the time that the shareholder enters U.S. tax jurisdiction, or (ii) the shareholder's basis in the PFC stock, as the shareholder's basis in the PFC stock solely for purposes of the mark-to-market method.

Interest-charge method

Nonelecting shareholders[22] of a PFC with stock that is not marketable are subject to the interest-charge method, based on the PFIC interest-charge method that is currently provided in Code section 1291, with certain modifications.

First, although allowable foreign tax credits may reduce a U.S. person's net U.S. tax liability on an excess distribution, the interest charge computed on that excess distribution is computed, under the bill, without regard to reductions in net U.S. tax liability on account of direct foreign tax credits.

The PFIC provisions of present law, to the extent provided in regulations, impose recognition of gain in the case of a transfer of interest-charge PFIC stock in a transaction that would otherwise qualify for the nonrecognition provisions of the Code. The bill imposes that result as a general rule, except as otherwise provided in Treasury regulations. As noted above, under proposed Treasury regulations nonrecognition provisions may apply to the gain, but only to the extent that the transferee will be subject to the interest-charge method on a subsequent distribution by the PFC or disposition of the PFC stock.

In addition, the bill requires that proper adjustment be made to the basis of property, held by the U.S. person through which the U.S. person is treated as owning stock in the passive foreign corporation.

The PFIC provisions of present law apply rules for the attribution of ownership of PFIC stock to U.S. persons, including a rule that attributes PFIC stock owned by a corporation to any person who owns, directly or indirectly, 50 percent or more of the value of the stock of the corporation. Under the bill, the 50-percent threshold applies not only to stock owned directly or indirectly, but also to stock treated as owned by application of the family attribution rules of the personal holding company provisions (sec. 544(c)(2)).

The PFIC provisions of present law provide special rules for the application of the interest-charge method in the case of PFIC stock held by an U.S. person through an intermediary entity. These rules describe the dispositions that are treated as dispositions of PFIC stock by the U.S. person, and include rules to eliminate the possibility of double taxation (sec. 1297(b)(5)). The bill clarifies, that, under regulations, these rules apply to any transaction that results in the U.S. person being treated as no longer owning the PFC stock, as well as any disposition of the PFC stock by the entity actually owning the PFC stock. These rules apply regardless of whether the transaction involves a disposition of the PFC stock, and regardless of whether the parties to the transaction include the U.S. person, the entity actually owning the PFC stock, or some other entity. For example, these rules apply to the issuance of additional stock by an intermediary corporation to an unrelated party in a case where, by increasing the total outstanding stock of the intermediary corporation, the transaction causes the U.S. person to fall below the ownership threshold for indirect ownership of the PFC stock. The bill also clarifies that an income inclusion under the interest-charge method takes precedence over an income inclusion under subpart F resulting from the same disposition. The second clarification ensures that the interest charge is imposed without regard to the structure of the transaction.

Under the bill, the interest-charge method applies to any stock in a passive foreign corporation unless either the stock is marketable (and therefore the mark-to-market method applies) as of the time of the distribution of disposition involved, or the stock in the passive foreign corporation was subject to the current inclusion method (under the bill or under prior law) for each taxable year beginning after December 31, 1986 which includes any portion of the taxpayer's holding period in the PFC stock. In the event that PFC stock, not subject to the current inclusion method, becomes marketable during the taxpayer's holding period, the interest-charge method applies to any distributions and dispositions during the year in which the stock becomes marketable, as well as to the mark-to-market gain (if any) as of the close of that year. In the event that PFC stock was initially marketable, and later becomes unmarketable and subject to the interest-charge method, the taxpayer's holding period in the PFC for purposes of the interest-charge method is treated as beginning on the first day of the first taxable year beginning after the last taxable year for which the mark-to-market method applies to the taxpayer's stock in the PFC.

Under the bill, as under the present-law PFIC rules, stock in a foreign corporation generally is treated as PFC stock if, at any time during the taxpayer's holding period of that stock, the foreign corporation (or any predecessor) is a passive foreign corporation subject to the interest-charge method (current sec. 1297(b)(1)). (This rule is sometimes referred to as the "once-a-PFIC-always-a-PFIC" rule.) Under present law this rule generally does not affect a taxpayer holding stock in a foreign corporation if at all times during the holding period of the taxpayer with respect to the stock when the foreign corporation (or any predecessor) is a PFIC, qualified electing fund treatment applies with respect to the taxpayer. Under the bill, the similar once-a-PFC-always-a-PFC rule does not apply if during the taxpayer's entire holding period with respect to the stock when the foreign corporation (or any predecessor) is a PFC, either (a) mark-to-market treatment applies, (b) mandatory current inclusion of income applies (either because the corporation is U.S. controlled or because the taxpayer is a 25-percent shareholder), or (c) elective current inclusion of income applies.[23] Thus, for example, a shareholder of a controlled foreign corporation is subject to current inclusion with respect to all the corporation's income in any year for which the corporation is a PFC, but is subject to current inclusion only to the extent provided under subpart F in any year for which the controlled foreign corporation is not a PFC.

---

[22] All citizens (and residents) of the United States are included, irrespective of residence in a U.S. commonwealth or possession.

The bill also provides for full basis adjustment for partnerships and S corporations that own stock in a passive foreign corporation subject to the interest-charge method. Although tax is imposed on a distribution or disposition under the interest-charge method without including the distribution or disposition in gross income, thus precluding the natural basis adjustments for amounts included in gross income, the bill grants regulatory authority for appropriate basis adjustments to partnerships and S corporations based on the amount of income subject to tax under the interest-charge method and thereby excluded from gross income.

The bill includes a broad grant of regulatory authority, as does the present-law PFIC statute. In addition, the bill specifies that necessary or appropriate regulations under the PFC rules may include regulations providing that gross income should be determined without regard to the operation of the interest-charge method for such purposes as may be specified in the regulations. Such regulations may relieve pressure on many aspects of the Code that result from the operation of the interest-charge method other than through gross income. In addition, the bill specifies that necessary or appropriate PFC regulations may include regulations dealing with changes in residence status or citizenship by shareholders in passive foreign corporations (e.g., a resident alien becoming a nonresident, or a nonresident U.S. Citizen renouncing U.S. Citizenship). The committee intends that no inference be drawn from this explicit regulatory authority as to the Secretary's authority to issue similar regulations under the authority of the PFIC provisions of present law.

Modification or repeal of other antideferral regimes

While the bill includes in the passive foreign corporation rules most of the provisions that it preserves from the present-law PFIC, foreign personal holding company, and foreign investment company regimes, the bill modifies subpart F in one respect to reflect a present-law provision of the foreign personal holding company rules (sec. 553(a)(5)). The bill treats as foreign personal holding company income for subpart F purposes an amount received under a personal service contract if a person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract. The bill similarly treats as foreign personal holding company income for subpart F purposes any amount received from the sale or distribution or disposition of such a contract. This rule applies only if at some time during the taxable year 25 percent or more of the value of the corporation's stock is owned (directly, indirectly, or constructively) by or for the individual who may be designated to perform the services.[24] Income from such personal service contracts is not, however, treated as passive for foreign tax credit purposes.

The bill repeals the foreign personal holding company provisions, the PFIC provisions (except as modified and preserved as the passive foreign corporation provisions), and the foreign investment company provisions. The bill also excludes all foreign corporations from the application of the accumulated earnings tax and the personal holding company tax. The committee understands that the purposes of all the anti-deferral regimes are adequately served by the passive foreign corporation provisions as set forth in the bill, in conjunction with the controlled foreign corporation provisions as modified by the bill.

In addition, the bill denies installment sales treatment for any installment obligation arising out of a sale of stock in a passive foreign corporation that is subject to the interest-charge regime.

As a conforming amendment to the special rules applicable to RICs holding PFC stock, the bill confirms that the income of a RIC from either a controlled foreign corporation or a PFC, which income is derived from the active conduct of the business of investing in stocks or securities, is a type of income that counts toward meeting the 90-percent investment income test of section 851(b)(2).

In addition, as a conforming amendment to the elimination of the present-law PFIC rules, distributions from a PFC of amounts that previously were included in a shareholder's income under the elective current-inclusion rules of present law are treated, under the bill, as previously taxed income under the subpart F rules (sec. 959).

Effective Date

The provision generally is effective for taxable years of U.S. Persons beginning after December 31, 1992, and taxable years of foreign corporations ending with or within such taxable years of U.S. Persons.

The denial of installment sales treatment is effective for sales or dispositions after December 31, 1992.

The bill does not affect the determination of the basis of any stock that was acquired from a decedent in a taxable year beginning before January 1, 1993.

2. Treatment of controlled foreign corporations (secs. 4411–4413 of the bill and secs. 951, 952, 959, 960, 961, 964, and 1248 of the Code)

Present Law

Treatment of controlled foreign corporation earnings

In general

A U.S. shareholder generally treats dividends from a controlled foreign corporation as ordinary income from foreign sources that carries both direct and indirect foreign tax credits. Under look-through rules, the income and credits are subject to those foreign tax credit limitations which are consistent with the character of the income of the foreign corporation.

Several Code provisions result in similar tax treatment of a U.S. shareholder if it either disposes of the controlled foreign corporation stock, or the controlled foreign corporation realizes certain types of income (including income with respect to lower-tier controlled foreign corporations). First, under section 1248, gain resulting from the disposition by a U.S. person of stock in a foreign corporation that was a controlled foreign corporation with respect to which the U.S. person was a U.S. shareholder in the previous five years is treated as a dividend to the extent of allocable earnings.

Second, a controlled foreign corporation has subpart F income when it realizes gain on disposition of stock and, ordinarily, when it receives a dividend. Under sections 951 and 960, such subpart F income may result in taxation to the U.S. shareholder similar (but not identical) to that on a dividend from the controlled foreign corporation. In addition to provisions for characterizing income and credits in these situations, the Code also provides certain rules that adjust basis, or otherwise result in modifying the tax consequences of subsequent income, to account for these and other subpart F income inclusions.

Third, when in exchange for property any corporation (including a controlled foreign corporation) acquires stock in another corporation (including a controlled foreign corporation) controlled by the same persons that control the acquiring corporation, earnings of the acquiring corporation (and possibly the acquired corporation) may be treated under section 304 as having been distributed as a dividend to the seller.

For foreign tax credit separate limitation purposes, a controlled foreign corporation is not treated as a noncontrolled section 902 corporation with respect to any distribution out of its earnings and profits for periods during which it was a controlled foreign corporation and except as provided in regulations, the recipient of the distribution was a U.S. shareholder in such corporation.[1] The consequence of not being treated as a section 902 corporation is application of the so-called "look-through" rule. That is, dividends paid by such controlled foreign corporation to its U.S. shareholder are characterized for separate limitation purposes by reference to the character of the underlying earnings of the controlled foreign corporation.

---

[23] In the case of a PFC that was a PFIC prior to the effective date of the bill, even if the PFC is subject to either mark-to-market treatment or mandatory current inclusion, the once-a-PFC-always-a-PFC rule applies unless the PFIC was subject to elective current inclusion for the entire portion of the taxpayer's holding period prior to the effective date of the bill. In the case of a PFC that was *not* a PFIC prior to the effective date of the bill, the application of the once-a-PFC-always-a-PFC rule is determined without regard to the portion of the taxpayer's holding period prior to the effective date of the bill.

[24] This rule was included in the definition of foreign personal holding company income for purposes of subpart F prior to the amendments included in the 1986 Act.

[1] Under proposed regulations recently issued by the IRS, if a controlled foreign corporation distributes a dividend to an upper-tier controlled foreign corporation or to a United States shareholder that owns directly or indirectly more than 90 percent of the total combined voting power of the controlled foreign corporation at the time of the distribution, and the dividend is attributable to earnings and profits accumulated during a period in which the distributing corporation was a controlled foreign corporation but the 90 percent or more United States shareholder was not a United States shareholder of the corporation, the dividend generally would be treated as a dividend from a noncontrolled section 902 corporation. (Prop. Treas. Reg. sec. 1.904-4(g)(3)(ii)).

Lower-tier controlled foreign corporations

For purposes of applying the separate foreign tax credit limitations, receipt of a dividend from a lower-tier controlled foreign corporation by an upper-tier controlled foreign corporation may result in a subpart F income inclusion for the U.S. shareholder that is treated as income in the same limitation category as the income of the lower-tier controlled foreign corporation. The income inclusion of the U.S. shareholder may carry deemed-paid credits for foreign taxes paid by the lower-tier controlled foreign corporation, and the basis of the U.S. shareholder in the stock of the first-tier controlled foreign corporation is increased by the amount of the inclusion. If, on the other hand, the upper-tier controlled foreign corporation sells stock of a lower-tier controlled foreign corporation, then the gain generally is also included in the income of the U.S. shareholder as subpart F income and the U.S. shareholder's basis in the stock of the first-tier controlled foreign corporation is increased to account for the inclusion, but the inclusion is not treated for foreign tax credit limitation purposes by reference to the nature of the income of the lower-tier controlled foreign corporation. Instead it generally is treated as passive income.

If subpart F income of a lower-tier controlled foreign corporation is included in the gross income of a U.S. shareholder, no provision of present law allows adjustment of the basis of the upper-tier controlled foreign corporation's stock in the lower-tier controlled foreign corporation.

Subpart F inclusions in year of disposition

The subpart F income earned by a foreign corporation during its taxable year is taxed to the person who are U.S. shareholders of the corporation on the last day, in that year, on which the corporation is a controlled foreign corporation. In the case of a U.S. shareholder who acquired stock in a controlled foreign corporation during the year, such inclusions are reduced by all or a portion of the amount of dividends paid in that year by the foreign corporation to any person other than the acquirer with respect to that stock. The reduction is the lesser of the amount of dividends with respect to such stock received by other persons during the year or the amount determined by multiplying the subpart F income for the year by the proportion of the year during which the acquiring shareholder did not own the stock.

Distributions of previously taxed income

If in a year after the year of a subpart F income inclusion, a U.S. shareholder in the controlled foreign corporation receives a distribution from the corporation, the distribution may be deemed to come first out of the corporation's previously taxed income and, therefore, may be excluded from the U.S. shareholder's income. However, a distribution by a foreign corporation to a domestic corporation of earnings and profits previously taxed under subpart F is treated as an actual dividend, solely for purposes of determining the indirect foreign tax credit available to the domestic corporation (sec. 960(a)(3)).

In addition, the domestic corporation is permitted to increase its foreign tax credit limitation in the year of the distribution of previously taxed earnings and profits in an amount equal to the excess of the amount by which its foreign tax credit limitation for the year of the subpart F inclusion was increased as a result of that inclusion, over the amount of foreign taxes which were allowable as a credit in that year and which would not have been so allowable but for the subpart F inclusion (sec. 960(b)). The increase in the foreign tax credit limitation may not, however, exceed the amount of the foreign taxes taken into account under this provision with respect to the distribution of previously taxed earnings and profits. In order for this rule to apply, the domestic corporation either must have elected to credit foreign taxes in the year of the subpart F inclusion or must not have paid or accrued any foreign taxes in such year, and it must elect the foreign tax credit in the year of the distribution of previously taxed earnings and profits.

Treatment of United States source income earned by a controlled foreign corporation

As a general rule, subpart F income does not include income earned from sources within the United States if the income is effectively connected with the conduct of a U.S. trade or business by the controlled foreign corporation. This general rule does not apply, however, if the income is exempt from, or subject to a reduced rate of, U.S. tax pursuant to a provision of a U.S. treaty.

Reasons for Change

The committee believes that complexities have been caused by uncertainties and gaps in the statutory schemes for taxing gains on dispositions of stock in controlled foreign corporations as dividend income or subpart F income. These uncertainties and gaps may prompt taxpayers to refrain from behavior that would otherwise be the result of rational business decisions, for fear of excessive tax—for example, double corporate-level taxation of income. In many cases, concerns about excessive taxation can be allayed, but only at the cost of avoiding the simpler and more rational economic behavior in favor of tax-motivating planning.

The committee understands that, as a general matter, other aspects of the tax system may have interfered with rational economic decision making by promoting taxpayers to engage in tax-motivated planning in order to eliminate taxation in cases where income is in fact earned. Some such characteristics of the tax system have in the past been altered by Congress in order to reduce excessive interference by the tax system in labor, investment, and consumption decisions of taxpayer.[2] The committee believes that in the context of tax simplification, it generally is appropriate to reduce complexities caused by aspects of the rules governing controlled foreign corporations that provide for nonuniform tax results from dividends, on the one hand, and stock disposition proceeds to the extent earnings and profits underlie those proceeds, on the other.

In light of the bill's provisions extending section 1248 treatment of dispositions of stock in lower-tier companies, the committee believes it appropriate to repeal the limitation on look-through treatment (for foreign tax credit separate limitation purposes) of dividends from controlled foreign corporations to U.S. shareholders out of earnings from periods in which the payor was a controlled foreign corporation but the dividend recipient was not a U.S. shareholder of the controlled foreign corporation. By extending section 1248 treatment to dispositions of stock in lower-tier companies, the committee believes that earnings and profits (and related foreign tax credits) of lower-tier controlled foreign corporations cannot readily be transferred from the control of one U.S. taxpayer to another. Moreover, the committee believes that repeal of this limitation on look-through treatment will avoid significant complexity that would otherwise be engendered by practical application of the limitation.

The committee understands that the present-law provisions which permit an indirect foreign tax credit and an increased foreign tax credit limitation to be claimed in the event of a distribution of previously taxed earnings by a controlled foreign corporation are particularly difficult to administer. This difficulty arises because taxpayers are required to compute and keep track of excess foreign tax credit limitation accounts with respect to subpart F income inclusions on a foreign corporation by foreign corporation basis, as well as on a year by year basis. Additional complexities arise as taxpayers are required, as a result of distributions, to trace earnings and profits up chains of foreign corporations. The committee believes that affording regulatory authority to modify and simplify these rules may result in alleviating some of the system-wide recordkeeping and computations involved, without undermining the operation of the provision.

Explanation of Provisions

In general

The bill makes a number of modifications in the treatment of income derived from the disposition of stock in a controlled foreign corporation. The bill provides deemed dividend treatment for gains on dispositions of lower-tier controlled foreign corporations. Where the lower-tier controlled foreign corporation previously earned subpart F income, the bill permits the amount of gain taxed to the U.S. shareholder to be adjusted for previous income inclusions. Where proceeds from the sale of stock to a controlled foreign corporation that previously has earned subpart F income would be treated as a dividend under the principles of section 304, the bill expressly permits exclusion of the deemed section 304 dividend from taxation to the extent of the previously taxed earnings and profits of the controlled foreign corporation from which the property was deemed to be distributed. (Appropriate basis adjustments also are permitted to be made.) Where a controlled foreign corporation (whether or not it is a lower-tier controlled foreign corporation) earns subpart F income in a year in which a U.S. shareholder sells its stock, in a transaction that does not result in the foreign corporation ceasing to be a controlled foreign corporation, the bill contains statutory language providing for a proportional reduction in the taxation of the subpart F income in that year to the acquiring U.S. shareholder.

The bill contains three additional provisions related to controlled foreign corporations. First, the bill repeals the limitation on look-through treatment (for foreign tax credit separate limitation purposes) of dividends from controlled foreign corporations to U.S. shareholders out of earnings from periods in which the payor was a controlled foreign corporation, but the dividend recipient was not a U.S. shareholder of the controlled foreign corporation. Second, the bill provides regulatory authority to develop a simplified mechanism for computing indirect foreign tax credits and increases in foreign tax credit limitations resulting upon certain distributions by controlled foreign corporations of previously taxed earnings and profits. Third, the bill clarifies the effect of a treaty exemption or reduction of the branch profits tax on the determination of subpart F income.

---

[2] See, e.g., Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess. *General Explanation of the Tax Reform Act of 1986* at 6 et seq. (1987) ("General Reasons for the Act").

Lower-tier controlled foreign corporations

Characterization of gain on stock disposition

The bill provides that if a controlled foreign corporation is treated as having gain from the sale or exchange of stock in a foreign corporation, the gain is treated as a dividend to the same extent that it would have been so treated under section 1248 if the controlled foreign corporation were a U.S. person. This provision, however, does not affect the determination of whether the corporation whose stock is sold or exchanged is a controlled foreign corporation.

Thus, for example, if a U.S. corporation owns 100 percent of the stock of a foreign corporation, which owns 100 percent of the stock of a second foreign corporation, then under the bill, any gain of the first corporation upon a sale or exchange of stock of the second corporation is treated as a dividend for purposes of subpart F income inclusions to the U.S. shareholder, to the extent of earnings and profits of the second corporation attributable to periods in which the first foreign corporation owned the stock of the second foreign corporation while the latter was a controlled foreign corporation with respect to the U.S. shareholder.

As another example, assume that the U.S. corporation has always owned 40 percent of the voting stock and 60 percent of the value of all of the stock of a foreign corporation, which has always owned 40 percent of the voting stock and 60 percent of the value of all of the stock of a second foreign corporation. All the other stock of the foreign corporations has always been owned by foreign individuals unrelated to the U.S. corporation. In this case, the second foreign corporation has never been a controlled foreign corporation. Therefore, none of the gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend.

Gain on disposition of stock in a related corporation created or organized under the laws of, and having substantial part of assets in a trade or business in, the same foreign country as the gain recipient, even if recharacterized as a dividend under the bill, is not therefore excluded from foreign personal holding company income under the same-country exception that applies to actual dividends.

The bill provides that for purposes of this provision, a controlled foreign corporation is treated as having sold or exchanged stock if, under any provision of subtitle A of the Code, the controlled foreign corporation is treated as having gain from the sale or exchange of such stock. Thus, for example, if a controlled foreign corporation distributes to its shareholder stock in a foreign corporation, and the distribution results in gain being recognized by the controlled foreign corporation under section 311(b) as if the stock were sold to the shareholder for fair market value, the bill makes clear that for purposes of this provision, the controlled foreign corporation is treated as having sold or exchanged the stock.

The bill also repeals a provision added to the Code by the Technical and Miscellaneous Revenue Act of 1988[3] (the "1988 Act") which, except as provided by regulations, requires a recipient of a distribution from a controlled foreign corporation to have been a United States shareholder of that controlled foreign corporation for the period during which the earnings and profits which gave rise to the distribution were generated in order to avoid treating the distribution as one coming from a noncontrolled section 902 corporation. Thus, under the bill, a controlled foreign corporation is not treated as a noncontrolled section 902 corporation with respect to any distribution out of its earnings and profits for periods during which it was a controlled foreign corporation, whether or not the recipient of the distribution was a U.S. shareholder of the corporation when the earnings and profits giving rise to the distribution were generated.

Adjustments to basis of stock

The bill also provides that when a lower-tier controlled foreign corporation earns subpart F income, and stock in that corporation is later disposed of by an upper-tier controlled foreign corporation, the resulting income inclusion of the U.S. shareholders are, under regulations, adjusted to account for previous inclusions, in a manner similar to the adjustments currently provided to the basis of stock in a first-tier controlled foreign corporation. Thus, just as the basis of a U.S. shareholder in a first-tier controlled foreign corporation rises when subpart F income is earned and falls when previously taxed income is distributed, so as to avoid double taxation of the income on a later disposition, the committee intends that by regulation the subpart F income from gain on the disposition of a lower-tier controlled foreign corporation generally would be reduced by income inclusions of earnings that were not subsequently distributed by the lower-tier controlled foreign corporation. The committee intends that the Secretary will have sufficient flexibility in promulgating regulations under this provision to permit adjustments only in those cases where, by virtue of the historical ownership structure of the corporations involved, the Secretary is satisfied that the inclusions for which adjustments can be made can be clearly identified.

For example, assume that a U.S. person is the owner of all of the stock of a first-tier controlled foreign corporation which, in turn, is the sole shareholder of a second-tier controlled foreign corporation. In year 1, the second-tier controlled foreign corporation earns $100 of subpart F income which is included in the U.S. person's gross income for that year. In year 2, the first-tier controlled foreign corporation disposes of the second-tier controlled foreign corporation's stock and recognizes $300 of income with respect to the disposition. All of that income would constitute subpart F foreign personal holding company income. Under the bill, the Secretary is granted regulatory authority to reduce the U.S. person's year 2 subpart F inclusion by $100—the amount of year 1 subpart F income of the second-tier controlled foreign corporation that was included, in that year, in the U.S. person's gross income. Such an adjustment would, in effect, allow for a step-up in the basis of the stock of the second-tier controlled foreign corporation to the extent of its subpart F income previously included in the U.S. person's gross income.

As another example, assume the same facts as in the preceding paragraph except that in year 2, the first-tier controlled foreign corporation distributes the stock of the second-tier controlled foreign corporation to the U.S. person. Assume that as a result of the distribution, the first-tier controlled foreign corporation recognizes taxable income of $300 under section 311(b). This income represents subpart F income, $100 of which is due to no adjustment having been made to the basis of the second-tier controlled foreign corporation's stock for its year 1 subpart F income. The bill contemplates that in such a situation, the $300 of subpart F income would be reduced under regulations to $200 to account for the year 1 subpart F income inclusion.

Subpart F inclusions in year of disposition

If a U.S. shareholder acquires the stock of a controlled foreign corporation from another U.S. shareholder during a taxable year of the controlled foreign corporation in which it earns subpart F income, the bill reduces the acquirer's subpart F inclusion for that year by a portion of the amount of the dividend deemed (under sec. 1248) to be received by the transferor. The portion by which the inclusion is reduced (as is currently the case if a dividend was paid to the previous owner of the stock) would not exceed the lesser of the amount of dividends with respect to such stock deemed received (under sec. 1248) by other persons during the year or the amount determined by multiplying the subpart F income for the year by the proportion of the year during which the acquiring shareholder did not own the stock.

Avoiding double inclusions in other cases

The bill clarifies the appropriate scope of regulatory authority with respect to the treatment of cross-chain section 304 dividends out of the earnings of controlled foreign corporations that were previously included in the income of a U.S. shareholder under subpart F. The bill contemplates that in such a case, the Secretary in his discretion may by regulation treat such dividends as distributions of previously taxed income, with appropriate basis adjustments. The committee also anticipates that other occasions may arise where the exercise of similar regulatory authority may be appropriate to avoid double income inclusions, or an inclusion or exclusion of income without a corresponding basis adjustment. Therefore, the bill states that, in addition to cases involving section 304, the Secretary may by regulation modify the application of subpart F in any other case where there would otherwise be a multiple inclusion of any item of income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of the structure of a U.S. shareholder's holdings in controlled foreign corporations or by reason of other circumstances. The bill is not intended to create any inference as to the application of present law in these cases.

Foreign tax credit in year of receipt of previously taxed income

With respect to the present-law provisions which permit a foreign tax credit to be claimed in the case of a distribution of previously taxed income, the bill provides authority for Treasury regulations to establish a simplified method for computing the increase in foreign tax credit limitation that results from the application of these provisions. The committee understands that the Secretary has regulatory flexibility in the determination of the amount of creditable foreign taxes on or with respect to the accumulated earnings and profits of a foreign corporation from which a distribution of previously taxed income is made, which were not deemed paid by the domestic corporation in a prior taxable year.

The bill makes clear that the regulations may require taxpayers to use any simplified methods so established, rather than making the use of such methods elective by taxpayers. The bill does not mandate, however, that regulations provide such simplified methods, or in the case that such methods are provided, that they be made uniformly applicable to all taxpayers.

---

[3] P.L. 100-647, sec. 1012(a)(10).

For example, in certain situations the Treasury Secretary might deem it appropriate not to require taxpayers to trace specific items of previously taxed income of specific controlled foreign corporations and to associate those items with specific amounts of excess foreign tax credit limitations. Rather, regulations might allow for some sort of simplified approach for accounting for excess limitation amounts (allocated to the various foreign tax credit separate limitation categories from which they originally arose) and for utilization of portions of these amounts upon distributions of previously taxed income from the same categories.

Treatment of United States income earned by a controlled foreign corporation

The bill provides that an exemption or reduction by treaty of the branch profits tax that would be imposed under section 884 on a controlled foreign corporation does not affect the general statutory exemption from subpart F income that is granted for U.S. source effectively connected income. For example, assume a controlled foreign corporation earns income of a type that generally would be subpart F income, and that income is earned from sources within the United States in connection with business operations therein. Further assume that repatriation of that income is exempted from the U.S. branch profits tax under a provision of an applicable U.S. income tax treaty. The bill provides that, notwithstanding the treaty's effect on the branch tax, the income is not treated as subpart F income as long as it is not exempt from U.S. taxation (or subject to a reduced rate of tax) under any other treaty provision.

Effective Dates

Lower-tier controlled foreign corporations

The provision treating gains on dispositions of stock in lower-tier controlled foreign corporations as dividends under section 1248 principles applies to gains recognized on transactions occurring after date of enactment. The provision that expands look-through treatment, for foreign tax credit limitation purposes, of dividends from controlled foreign corporations, is effective for distributions after date of enactment.

The provision providing for regulatory adjustments to U.S. shareholder inclusions, with respect to gains of controlled foreign corporations from dispositions of stock in lower-tier controlled foreign corporations that previously had subpart F income, is effective for determining inclusions for taxable years of U.S. shareholders beginning after December 31, 1992. Thus, the bill permits regulatory adjustments to an inclusion occurring after the effective date to account for previous subpart F income inclusions occurring both prior to and subsequent to the effective date of the provision.

Subpart F inclusions in year of disposition

The provision permitting dispositions of stock to be taken into consideration in determining a U.S. shareholder's subpart F inclusion for a taxable year is effective with respect to dispositions occurring after date of enactment.

Distributions of previously taxed income

The provision allowing the Secretary to make regulatory adjustments to avoid double inclusions in cases such as those to which section 304 applies takes effect on date of enactment.

Foreign tax credit in year of receipt of previously taxed income

The provision granting regulatory authority to establish simplified methods for determining the amount of increase in foreign tax credit limitation resulting from a distribution of previously taxed income is effective as of the date of enactment.

Treatment of United States source income earned by a controlled foreign corporation

The provision concerning the effect of treaty exemptions from or reductions of the branch profits tax on the determination of subpart F income is effective for taxable years beginning after December 31, 1986.

3. Translation of foreign taxes into U.S. dollar amounts (sec. 4421 of the bill and secs. 905(c) and 986(a) of the Code)

Present Law

Translation of foreign taxes

Foreign income taxes paid in foreign currencies are required to be translated into U.S. dollar amounts using the exchange rate as of the time such taxes are paid to the foreign country or U.S. possession (sec. 986(a)(1)). This rules applies equally to foreign taxes paid directly by U.S. taxpayers, which are creditable only in the year paid or accrued (or during a carryover period), and to foreign taxes paid by foreign corporations that are deemed paid by a U.S. corporation receives a dividend or income inclusion.

Redetermination of foreign taxes

For taxpayers who utilize the accrual basis of accounting for determination creditable foreign taxes, accrued and unpaid foreign tax liabilities denominated in foreign currencies are translated into U.S. dollar amounts at the exchange rate as of the last day of the taxable year of accrual.[4] In certain cases where a difference exists between the dollar value of accrued foreign taxes and the dollar value of those taxes when paid, a redetermination (or adjustment) or foreign taxes is required.[5] Generally, such an adjustment may be attributable to one of three causes. One such cause would be a refund to foreign taxes. Second, a foreign tax redetermination may be required because the amount of foreign currency units actually paid differs from the amount of foreign currency units accrued. These first two cases generally give rise to a so-called "section 905(c) regular adjustment." Third, a redetermination may arise due to fluctuations in the value of the foreign currency relative to the dollar between the date of accrual and the date of payment giving rise to a so-called "section 905(c) translation adjustment."

As a general matter, a redetermination of foreign tax paid or accrued directly by a U.S. person requires notification of the Internal Revenue Service and a redetermination of U.S. tax liability for the taxable year for which the foreign tax was claimed as a credit. Exceptions to this rule apply for de minimis amounts for foreign tax redeterminations.[6] In the case of redeterminations of foreign taxes that qualify for the deemed-paid foreign tax credit under sections 902 and 960, taxpayers generally are required to make appropriate adjustments to the pools of earnings and profits and foreign taxes.[7]

Reasons for Change

If each foreign income tax payment is required to be translated at a separate daily exchange rate for the day of the payment, the number of currency exchange rates that are relevant to foreign tax credit calculations varies directly with the frequency of foreign income tax payments. Where U.S. corporations are deemed to pay a portion of the "pool" of foreign taxes paid by foreign corporations, the correct amount of tax in the pool is the product of each tax payment times the relevant translation rate. The longer the period between the time the income is earned and the time it is repatriated to the U.S. corporation (or otherwise included in the U.S. corporation's income), the greater the period over which the amounts to tax payments and translation rates are relevant to the determination of net U.S. tax liability.

The committee believes that the recordkeeping, verification, and examination burdens—both on the IRS and on taxpayers—association with the advantages of deferral and the foreign tax credit (including the indirect credit) are not insignificant. For example, if events that happened in one year affected only the return filed for that year, and each tax return was affected only by events that happened in the year for which that return was filed, then presumably tax-related records would need to be maintained only between the time the taxable year began and the year that the assessment period for that year expired. On the other hand, for example, if income earned in years 1 through 5 is taxed in year 6, then the amount of documentation relevant to the year-6 return potentially is increased five-fold, and the period over which the information must be maintained is at least five years longer.

U.S. persons who pay foreign income taxes directly and choose the benefits of the foreign tax credit have always been required to maintain detailed foreign tax payment documentation, including exchange rate data for the dates on which they paid foreign income taxes, and U.S. corporations that operate through foreign corporations have been required to maintain documentation regarding the earnings and foreign tax payments of the foreign corporations.[8] Some have argued, however, that relief is warranted for taxpayers that would otherwise bear the combined currency translation responsibilities applicable to direct foreign taxpayers with the extended recordkeeping responsibilities applicable to taxpayers that receive the benefits of deferral.

The committee believes that an appropriate response to this combination of burdens is to permit regulatory modification of the "time of payment" concept, in such a way that preserves the uniformity of treatment of branches and foreign subsidiaries of U.S. taxpayers, but permits recourse to reasonably accurate average translation rates for the period in which the tax payments are made. Simplification may be provided in this way by reducing, sometimes substantially, the number of translation calculations that are required to be made. There may be situations in which the use of an average exchange rate over a specified time period, to be applied to all tax payments made in that currency during that period, would provide results not substantially different than those that would be derived under present law. This could result, for example, where the value of a foreign currency as it relates to the U.S. dollar does not fluctuate significantly over the specified period.

---

[4] Temp. Treas. Reg. sec. 1.905T(b)(1).

[5] Temp. Treas. Reg. sec. 1.905-3T(c).

[6] Temp. Treas. Reg. sec. 1.905-3T(d)(1).

[7] Temp. Treas. Reg. sec. 1.905-3T(d)(2); Notice 90-26, 1990-1 C.B. 336.

[8] Also, note that in *Commissioner* v. *American Metal Co.*, 221 F.2d 134, 141 (2d. Cir.), *cert. denied*, 350 U.S. 879 (1955), where a foreign corporation kept its books in U.S. dollars, foreign taxes were translated as of their payment date.

In addition, the committee believes that in certain cases, taxpayers who are on the accrual basis of accounting for purposes of determining creditable foreign taxes should be permitted to translate those taxes into U.S. dollar amounts in the year to which those taxes relate, and should not be required to make adjustments or redeterminations to those translated amounts, if actual tax payments are made—within a reasonably short period of time—after the close of such year. Moreover, the committee believes that it is appropriate to mandate the use of an average exchange rate for the taxable year with respect to which such foreign taxes relate for purposes of translating those taxes. On the other hand, the committee believes that a foreign tax not paid within a reasonably short period after the close of the year to which the taxes relate should not be treated as a foreign tax for such year; in such a case permitting the foreign tax credit for that year is less a mechanism for preventing double taxation, and more one resulting in the avoidance of all tax. By drawing a bright line between those foreign tax payment delays that do and do not require a redetermination, the committee believes that a reasonable degree of certainty and clarity will be added to the law in this area. The committee anticipates that in most cases, the combination of translating accrued taxes in this manner and exempting certain translation differences from redetermination should significantly alleviate present-law complexities, but should not provide results that are materially different from those that would appropriately be reached under present law.

One of the fundamental premises behind the amendments enacted in 1986 with respect to the translation of foreign taxes was that foreign taxes paid by foreign corporations should be translated in the same manner as foreign taxes paid by foreign branches of U.S. persons. In keeping with that premise, the committee believes that any provision to allow the use of average exchange rates for this purpose or to allow for translation in years to which accrued taxes relate should be made equally applicable to foreign branches and subsidiaries.

Explanation of Provision

In general

The bill sets forth two sets of operating rules for the translation of foreign taxes. The first set establishes new rules for the translation of certain accrued foreign taxes. The other set modifies the rules of present law for translating all other foreign taxes.

Translation of foreign taxes

Translation of certain accrued foreign taxes

With respect to taxpayers who take foreign income taxes into account when accrued for purposes of determining the foreign tax credit, the bill generally permits foreign taxes to be translated at the average exchange rate for the taxable year to which such taxes relate. If tax in excess of the accrued amount is actually paid, such excess amount would be translated using the exchange rate in effect as of the time of payment.

This set of rules does not apply (1) to taxpayers that are not on the accrual basis for determining creditable foreign taxes, (2) with respect to taxes of an accrual-basis taxpayer that are actually paid in a taxable year prior to the year to which they relate, or (3) to the extent provided in regulations, to tax payments denominated in a currency determined to be an inflationary currency in accordance with such regulations. The committee intends that the Secretary will have discretion to define "inflationary" for this purpose so as to take into account the particular need under this provision to avoid distortions in the computation of the foreign tax credit. In addition, as discussed in detail below, this set of rules does not apply to, and thus a redetermination of foreign tax is required for, any foreign income tax paid after the date two years after the close of the taxable year to which such taxes relate.

For example, assume that in year 1 a taxpayer accrues 1,000 units of foreign tax that relate to year 1. Further assume that as of the end of year 1 the tax is unpaid and the currency involved is not treated as inflationary by the Secretary for translation purposes. In this case, the bill provides that the taxpayer would translate 1,000 units of accrued foreign tax into U.S. dollars at the average exchange rate for year 1.[9] If the 1,000 units of tax were paid by the taxpayer in either year 2 or year 3, no redetermination of foreign tax would be required. If, any portion of the tax so accrued remained unpaid as of the end of year 3, however, the taxpayer would be required to redetermine its foreign tax accrued in year 1 to account for the accrued but unpaid tax.

As another example, assume a taxpayer accrues 1,000 units of foreign tax in year 2, but pays the tax in year 1. Also assume that the tax relates to year 2. In this case, the taxpayer would translate the tax using the exchange rate as of the time the tax is paid (i.e., using the applicable year 1 exchange rate) since the tax is paid in a year prior to the year to which it relates.

As an illustration of what is meant by the taxable year to which taxes relate, assume that a foreign corporation is charged by a foreign government with an income tax of 100 units for 1993. Assume that the currency involved is not treated as inflationary by the Secretary for translation purposes under the bill. Due to a contest between the foreign government and the corporation that ends in 1994, the 100 units of tax are not paid until 1994. Assume that under the U.S. rules governing accrual, the foreign tax accrues for 1993 but does not do so until 1994.[10] Under the bill, the taxes will be translated at the rate in effect for 1993, because the taxes relate to 1993, even though they did not accrue until 1994. If instead the contest was over, and the taxes were accrued and paid, in 1998, the translation rate used would be that of 1998, rather than 1993 because 1998 is more than 2 years after the end of 1993. Now assume that the contest was over in 1998, but the taxes were deposited in 1994 and not accrued until 1998. These taxes are paid before the beginning of the year in which the taxes were accrued (1998), but after the year to which the taxes related (1993). Thus, under the bill, the taxes may be translated at the rate for the year (1993) to which the taxes relate. If the taxes are instead paid in 1996, under the bill they will be translated at the relevant rate for 1996 because 1996 is more than 2 years after the end of 1993.

As an additional illustration of what is meant under the bill as the taxable year to which taxes relate, assume that a foreign corporation accrues a foreign income tax of 100 units of noninflationary currency for 1993. Further assume that the actual amount of foreign tax liability of the foreign corporation for 1993 is 110 units, all of which is paid in 1994. Under the bill, the 110 units of foreign tax are translated at the rate in effect for 1993 because the taxes relate to 1993, even though the total tax liability for that year was not actually accrued by the taxpayer in 1993.

Finally, assume that under foreign law, a foreign income tax liability accrues in 1988 under a long-term contract method of accounting, but advance deposits of that liability accruing in 1998 are made in each of the years 1993 through 1997. The committee intends that if the payments in 1993 through 1997 are treated as relating to 1998, these payments are nevertheless to be translated at the relevant rates for 1993 through 1997. Although the bill provides a rule for translation of the taxes in this case, no change is intended as to the application of present law accounting rules determining the year for which the taxes are eligible for credit or deduction for U.S. income tax purposes.

Translation of all other foreign taxes

Foreign taxes not eligible for application of the preceding rules generally are translated into U.S. dollars using the exchange rates as of the time such taxes are paid. The bill grants the Secretary of the Treasury authority to issue regulations that would allow foreign tax payments made by a foreign corporation or by a foreign branch of a U.S. person to be translated into U.S. dollar amounts using an average U.S. dollar exchange rate for a specified period. The committee anticipates that the applicable average exchange rate would be the rate as published by a qualified source of exchange rate information for the period during which the tax payments were made.

Redetermination of foreign taxes

As revised by the bill, section 905(c) requires foreign tax redeterminations to occur in three cases: (1) if accrued taxes when paid (in foreign currency) differ from the amounts claimed (in foreign currency) as credits by the taxpayer, (2) if accrued taxes are not paid before the date two years after the close of the taxable year to which such taxes relate, and (3) if any tax paid is refunded in whole or in part. Thus, for example, the bill provides that if at the close of the second taxable year after the close of the accrual year any tax so accrued has not yet been paid, a foreign tax redetermination under section 905(c) is required for the amount of such unpaid tax. That is, the accrual of any tax that is unpaid as of that date would be retroactively denied. In cases where a redetermination is required, as under present law, the bill specifies that the taxpayer must notify the Secretary, who shall redetermine the amount of the tax for the year or years affected. No inference is intended as to when a redermination is required under present law for accrued but unpaid foreign taxes.

The bill provides that in the case of accrued taxes not paid within the date two years after the close of the taxable year to which such taxes relate, whether or not such taxes were previously accrued, any such taxes if subsequently paid are taken into account for the taxable year in which paid, and no redermination with respect to the original year of accrual is required on account of such payment. In such a case, those taxes would be translated into U.S. dollar amounts using the exchange rates in effect for the period during which such taxes are paid. Nothing in the bill is intended to change present law as to the length of time after the year to which the redermination relates within which rederminations may be made or required.[11]

---

[9] The same result would occur if the 1,000 units of tax were both accrued and paid in year 1.

[10] See, e.g., Rev. Rul. 84-125, 1984-2 C.B. 125.

[11] *See* sec. 6501(c)(5). *See also, e.g., Pacific Metals Corp. v. Commissioner*, 1 T.C. 1028 (1943); *Texas Co. (Caribbean) Ltd. v. Commissioner*, 12 T.C. 925 (1949).

Effective Date

This section of the bill generally is effective for taxes paid (in the case of taxpayers using the cash basis for determining the foreign tax credit) or accrued (in the case of taxpayers using the accrual basis for determining the foreign tax credit) in taxable years beginning after December 31, 1991. The bill's changes to the foreign tax redermination rules apply to taxes which relate to taxable years beginning after December 31, 1991. Thus, for example, the bill's amendments to the redermination rules do not apply to a foreign tax that relates to a taxable year beginning in or before 1991, even though it does not properly accrue until a taxable year beginning after December 31, 1991.

4. Foreign tax credit limitation under the alternative minimum tax (sec. 4422 of the bill and sec. 59(a) of the Code)

Present law

Computing foreign tax credit limitations requires the allocation and apportionment of deductions between items of foreign source and U.S. source income. Foreign tax credit limitations must be computed both for regular tax purposes and for purposes of the alternative minimum tax (AMT). Consequently, after allocating and apportioning deductions for regular tax foreign tax credit limitation purposes, additional allocations and apportionments generally must be performed in order to compute the AMT foreign tax credit limitation.

Reasons for Change

The process of allocating and apportioning deductions for purposes of calculating the regular and AMT foreign tax credit limitations can be complex. Taxpayers that have allocated and apportioned deductions for regular tax foreign tax credit purposes generally must reallocate and reapportion the same deductions for AMT foreign tax credit purposes, based on assets and income that reflect AMT adjustments (including depreciation). However, the differences between regular taxable income and alternative minimum taxable income are often relevant primarily to U.S. source income. As a result of the combined effects of these differences, the committee believes that foreign source alternative minimum taxable income generally will not differ significantly from foreign source regular taxable income. By permitting taxpayers to use foreign source regular taxable income in computing their AMT foreign tax credit limitation, the bill eliminates the need to reallocate and reapportion every deduction.

Explanation of Provision

The bill permits taxpayers to elect to use as their AMT foreign tax credit limitation fraction the ratio of foreign source regular taxable income to entire alternative minimum taxable income, rather than the ratio of foreign source alternative minimum taxable income to entire alternative minimum taxable income. Foreign source regular taxable income may be used, however, only to the extent it does not exceed entire alternative minimum taxable income. In the event that foreign source regular taxable income does exceed entire alternative minimum taxable income, and the taxpayer has income in more than one foreign tax credit limitation category, the committee intends that the foreign source taxable income in each such category generally shall be reduced by a pro rata portion of that excess.

The election under the bill is available only in the first taxable year beginning after December 31, 1992, for which the taxpayer claims an AMT foreign tax credit. A taxpayer will be treated, for this purpose, as claiming an AMT foreign tax credit for any taxable year for which the taxpayer chooses to have the benefits of the foreign tax credit, and in which the taxpayer is subject to the alternative minimum tax or would be subject to the alternative minimum tax but for the availability of the AMT foreign tax credit. The election applies to all subsequent taxable years, and may be revoked only with the permission of the Secretary of the Treasury.

Effective Date

The provision applies to taxable years beginning after December 31, 1992.

5. Inbound and outbound transfers (secs. 4423 and 4424 of the bill and secs. 367, 1057, and 1491–1494 of the Code)

Present Law

Outbound transfers

Corporate nonrecognition provisions

Certain types of exchanges relating to the organization, reorganization, and liquidation of a corporation can be made without recognition of gain to the corporation involved or to its shareholders. In 1932 Congress enacted an exception to the nonrecognition rules, which became section 367 of the 1954 Code, for the case where such an exchange involves a foreign corporation. The legislative history indicates that the exception was enacted in order to prevent tax avoidance that might have otherwise occurred upon the transfer of appreciated property outside U.S. tax jurisdiction.[1] Under that provision, in determining the extent to which gain (but not loss) was recognized in these exchanges, a foreign corporation was not considered a corporation unless it was established to the satisfaction of the IRS that the exchange was not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

The Code now provides that if a U.S. person transfers property to a foreign corporation in connection with certain corporate organizations, reorganizations, or liquidations, the foreign corporation will not, for purposes of determining the extent to which gain is recognized on such transfer, be considered to be a corporation (sec. 367(a)(1)). Various exceptions to the operation of this rule are provided, including a broad grant of authority to provide exceptions by regulation. The statutory language has changed substantially since 1932, but it has retained in large part its primary operative result—that of treating a foreign corporation as not a corporation. Since corporate status is essential to qualify for the tax-free organization, reorganization, and liquidation provisions, failure to satisfy the requirements of section 367 could result in the recognition of gain to the participant corporations and shareholders.

Excise tax on transfers to a foreign entity

At the same time that Congress enacted the original predecessor of current section 367, Congress also enacted an excise tax on outbound transfers that might not constitute income tax recognition events even after imposition of the anti-avoidance income tax rule adopted for corporate transactions. As in the case of the corporate nonrecognition override provision, the purpose of the excise tax was to check transfers of property in which there was a large appreciation in value to foreign entities for the purpose of avoidance of taxes on capital gains.[2] Therefore, as in the case of the corporate provision, the excise tax generally has been imposed only in certain cases where it has been believed necessary or appropriate to preserve U.S. tax on appreciated assets.

Under present law, the excise tax generally applies on transfers of property by a U.S. person to a foreign corporation—as paid-in surplus or as a contribution to capital—or to a foreign estate, trust, or partnership.[3] The tax is 35 percent of the amount of gain inherent in the property transferred, but not recognized for income tax purposes at the time of the transfer (sec. 1491). For income tax purposes, the basis of the property whose appreciation and transfer triggers the tax is not increased to account for imposition of the tax.

The excise tax does not apply in certain cases where the transferee is exempt from U.S. tax under Code sections 501–505 (sec. 1492(1)). In addition, the excise tax does not apply in some cases where income tax rules governing outbound transfers apply, either by their terms or by the election of the taxpayer. Thus, the excise tax does not apply to a transfer described in section 367, or to a transfer not described in section 367 but with respect to which the taxpayer elects (before the transfer) the application of principles similar to the principles of section 367 (sec. 1492(2)).

In addition, a taxpayer may elect (under regulations prescribed by the Secretary) to treat a transfer described in section 1491 as a sale or exchange of the property transferred and to recognize as gain (but not loss) in the year of the transfer the excess of the fair market value of the property transferred over the adjusted basis (for determining gain) of the property in the hands of the transferor (sec. 1057; Treas. Reg. sec. 7.0). to the extent that gain is recognized pursuant to the election in the year of the transfer, the transfer is not subject to the excise tax, and the basis of the property in the hands of the transferee will be increased by the amount of gain received (sec. 1492(3)). The legislative history of the elective income recognition provision indicates that the making of an election which has as one of its principle purposes the avoidance of Federal income taxes is not permitted.[4]

The excise tax is due at the time of the transfer (sec. 1494(a)). Under regulations, the excise tax may be abated, remitted, or refunded if the taxpayer, after the transfer, elects the application of principles similar to the principles of section 367 (sec. 1494(b)).

Inbound corporate transfers

Although the legislative history of the 1932 Act indicated a concern with outbound transfers, the statutory standard for determining that a transaction did not have as one of its principal purposes tax avoidance evolved through administrative interpretation into a requirement that, in the case of transfers into the United States by a foreign corporation, tax-free treatment generally would be permitted only if the U.S. tax on accumulated earnings and profits was paid.

---

[1] H.R. Rep. No. 708, 72d Cong., 1st Sess. 20 (1932).

[2] *Id.* at 52.

[3] The Internal Revenue Service has in the past wavered on the question whether this tax applies to a transfer to a foreign trust with respect to which the transferor is treated as the owner under the grantor trust rules. Compare Rev. Rul. 69-450, 1969-2 C.B. 168 (holding that such a transfer is subject to tax under section 1491); with Rev. Rul. 87-61, 1987-2 C.B. 219 (revoking Rev. Rul. 69-450, and holding that such a transfer is *not* subject to tax under section 1491).

[4] Staff of the Joint Committee on Taxation, 94th Cong., 2d Sess., General Explanation of the Tax Reform Act of 1976, at 226 (1976).

For example, in 1968, the IRS issued guidelines (Rev. Proc. 68-23, 1968-1 C.B. 821) as to when favorable rulings "ordinarily" would be issued. As a condition of obtaining a favorable ruling with respect to certain transactions, the section 367 guidelines required the taxpayer to agree to include certain items in income (the amount to be included was called the section 367 toll charge). For example, if the transaction involved the liquidation of a foreign corporation into a domestic parent corporation, a favorable ruling was issued if the domestic parent agreed to include in its income as a dividend for the taxable year in which the liquidation occurred the portion of the accumulated earnings and profits of the foreign corporation which were properly attributable to the domestic corporation's stock interest in the foreign corporation (Rev. Proc. 68-23, sec. 3.01(1); see also sec. 3.03(1)(b)).

Absence of a toll charge on accumulated earnings of a foreign corporation upon liquidation or asset reorganization into a U.S. corporation clearly would permit avoidance of tax. For example, if a U.S. corporation owns 100 percent of the stock of a U.S. subsidiary, no tax is imposed either on a dividend from the subsidiary to the parent (sec. 243) or the liquidation of the subsidiary into the parent (secs. 332 and 337). In each case, the earnings of the subsidiary already have been subject to U.S. tax jurisdiction, and the liquidation provisions allow nonrecognition of gain inherent in appreciated property of the subsidiary. On the other hand, if a U.S. corporation owns 100 percent of the stock of a foreign subsidiary, earnings of the subsidiary generally are not subject to current U.S. tax. Instead, tax generally is imposed on a dividend from the subsidiary to the parent, net of creditable foreign taxes. If a liquidation of the subsidiary could be accomplished tax-free under the Code, U.S. tax on its earnings would be avoided; more generally, the parent would be able to succeed to the basis and other tax attributes of the foreign corporation without having subjected to U.S. tax jurisdiction the earnings that gave rise to those tax attributes.

Outbound transfers since the Tax Reform Act of 1976

For purposes of the transactions described above, section 367 (and its predecessors) remained largely unchanged between 1932 and 1976. In 1976, however, a number of problems caused Congress to revise section 367. One result of the 1976 revision was to separate the provision into 2 sets of rules: one set dealing with outbound transfers, where the statutory aim is to prevent the removal of appreciated assets or inventory from U.S. tax jurisdiction prior to their sale (sec. 367(a)), and the other set dealing with both transfers into the United States and those which are exclusively foreign (sec. 367(b)).

Section 367(b) now provides, in part, that in the case of certain exchanges in connection with which there is no transfer of property described in section 367(a)(1), a foreign corporation will be considered to be a corporation except to the extent provided in regulations which are necessary or appropriate to prevent the avoidance of Federal income taxes.

Although it is clear that absence of a toll charge on accumulated earnings of a foreign corporation upon liquidation or reorganization into a U.S. corporation leads to avoidance of tax, and Congress in 1976 noted without disapproval the adoption of IRS positions that would prevent the avoidance of tax in these cases,[5] neither section 367(b) as revised in 1976, or its predecessors, were drafted in such a way that directly causes tax to be imposed on foreign earnings.

For example, assume that a U.S. corporation owns 100 percent of the stock of a liquidating foreign corporation, and, pursuant to regulations under section 367(b), the foreign corporation is not treated as a corporation for purposes of section 332. In that case, the U.S. corporation would be required under the Code to recognize the difference between the basis and the value of its stock in the foreign corporation. That gain, however, may be more or less than the accumulated earnings of the foreign corporation attributable to the period when the U.S. corporation owned the stock of the foreign corporation.

Perhaps as a result, neither the present temporary regulations nor the recently proposed regulations under section 367(b) mandate a tax based on the accumulated earnings of a foreign corporation that liquidates or reorganizes into a U.S. corporation. The temporary regulations allow the taxpayer to elect treatment of the foreign corporation as a corporation if the tax on earnings is paid. If the taxpayer chooses not to make the election, the foreign corporation is not treated as a corporation under the relevant nonrecognition provision (e.g., sec. 332, 354), but *is* treated as a corporation for other purposes, such as for purposes of the basis rules (secs. 334, 358, 362), and carryover provisions (sec. 381) (Temp. Treas. Reg. secs. 7.367(b)–5(b) and 7.367(b)–7(c)(2)). The proposed regulations generally require that the foreign corporation be treated as a corporation, and permit the taxpayer to elect either to pay the tax on earnings, or to pay tax on the gain; but if the latter option is chosen, adjustments must be made to either net operating loss carryovers, capital loss carryovers, or asset bases (Proposed Treas. Reg. sec. 1.367(b)–3(b)(2)).

Reasons for Change

Outbound transfers

The excise tax was intended to prevent U.S. taxpayers from transferring appreciated property to foreign entities in attempts to avoid the payment of a capital gains tax. During the 60 years since its enactment, the excise tax potentially due on a transfer has only roughly approximated the income tax consequences that would have flowed from gain recognition. In some cases the excise tax has been much harsher than that income tax.[6] Nevertheless, it is and has been the case that any taxpayer could properly avoid the excise tax by subjecting itself to the income tax. The committee understands that in some cases taxpayers are subject to the excise tax only because of inadvertent failure to elect to be subject to income tax. The committee understands that in order to defeat the tax avoidance possibilities of outbound transfers, in appropriate cases taxpayers need be subject to income tax on transfers of appreciated property to foreign entities, but not an excise tax.

Some have argued that partnership and trust provisions added to the Code since 1932 generally obviate any need for either the excise tax or any new alternative provision. The committee does not agree. Implementation of many of those provisions requires regulations that may or may not exist, and may or may not adequately prevent the tax avoidance that prompted enactment of the excise tax. The committee believes that other statutes, while representing an improvement over pre-1932 law from the standpoint of preventing abuses, do not in all cases represent an adequate backstop where there is a failure to elect gain recognition or application of section 367 principles.

Inbound transfers

The committee believes that the uncertainty surrounding the IRS authority to impose conditions on the treatment of a foreign corporation as a corporation, in cases other than outbound transfers, is not suited to prevent the avoidance of tax through the use of foreign corporations in the most straightforward fashion.

For example, assume that a U.S. corporation establishes a 100 percent-owned foreign corporation with capital of $100 cash. Assume that the foreign corporation spends $50 on operating assets and $50 on investment assets, and that the operating assets generate $100 of earnings and profits. Assume that the value and tax basis of operating assets maintained by the company remains at $50, while the value of the investment assets declines to $25, so that the stock in the foreign corporation is worth $175. Upon liquidation of the foreign corporation, assume that the taxpayer could avail itself of a gain limitation. Potentially, the taxpayer might achieve a double deduction of the $25 loss on the investment; once by sheltering $25 of earnings from taxation on repatriation, and again when the loss on the investment asset is realized upon disposition of that asset.[7]

The committee understands that the ambiguity of the statute in this case may foster complexity. For example, in the absence of regulations, the statute authorizes treatment of the foreign corporation as a corporation, and non-taxation of any earnings of the foreign corporation. To prevent this clear avoidance of tax, the IRS is authorized to provide for a different treatment of the foreign corporation by regulations. On one hand, it could be argued that the most the IRS can do in this case is to treat the transaction as if section 332 did not exist (resulting in gain recognition to the parent of $75). On the other hand, it could be argued that the Secretary is authorized to mandate the treatment of the foreign corporation as a corporation, subject to whatever regulations are necessary or appropriate to prevent the avoidance of tax on the repatriated earnings. One result of the ambiguity is a recently proposed regulation under which $75 of the earnings are taxed upon the liquidation, with the remaining $25 of earnings subject to future tax through a mandatory reduction of certain tax attributes, such as bases in the operating assets. The committee believes that requiring full taxation of the repatriated earnings is reasonable as a matter of the historic function of section 367 to prevent tax avoidance in inbound cases, and that such tax-avoidance can be prevented more directly and simply by explicitly authorizing the IRS to dispense with the gain limitation in appropriate cases.

Explanation of Provisions

Outbound transfers

The bill repeals the excise tax on outbound transfers. In its place, the bill requires the full recognition of gain on a transfer of property by a U.S. person to a foreign corporation as paid-in surplus, or as a contribution to capital, or to a foreign estate, trust, or partnership.[8] The Secretary may, however, in lieu of applying this full recognition rule, provide regulations under which principles similar to the principles of section 367 shall apply to any such transfer. Moreover, the Secretary may provide rules under which recognition of gain will not be triggered by section 1491 in cases where the Secretary is satisfied that application of other Code rules (such as those relating to partnerships or trusts) will prevent the avoidance of tax consistent with the purposes of the bill. Full recognition of gain can also be avoided in the case of a transfer described in section 367. The committee anticipates that prior to the promulgation of regulations, the Secretary generally will continue to permit taxpayers to elect the application of principles similar to the principles of section 367, provided the election is made by the time for filing the income tax return for the taxable year of the transfer.

---

[5] E.g., Staff of the Joint Comm. on Taxation, 94th Cong., 2d Sess., General Explanation of the Tax Reform Act of 1976, at 264 (1976).

[6] When the excise tax was enacted, the income tax on capital gains of individuals was 12.5 percent; the excise tax was 25 percent (Revenue Act of 1932, secs. 101 and 901).

[7] Cf. Tech. Advice Memo. 9003005 (Sept. 28, 1989).

Inbound transfers

The bill provides that in the case of certain corporate organizations, reorganizations, and liquidations described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a condition for nonrecognition by a party to the transaction, income shall be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This provision is limited in its application, under the bill, so as not to apply to a transaction in which the foreign corporation is not treated as a corporation under section 367(a)(1). Thus, the bill permits the IRS to provide by regulations for recognition of income, without regard to the amount of gain that would be recognized in the absence of the relevant nonrecognition provision listed above. As under current law, such regulations will be subject to normal court review as to whether they are necessary or appropriate for the prevention of avoidance of Federal income taxes.

In addition, the bill clarifies that rules for income recognition under section 367(b) may also be applied in a case involving a transfer literally described in section 367(a)(1), where necessary or appropriate to prevent the avoidance of Federal income taxes.[9]

Effective Date

The provision that amends the outbound rules and repeals the excise tax applies to transfers after date of enactment. The provision that amends section 367(b) applies to transfers after December 31, 1993.

SUBTITLE E. OTHER INCOME TAX PROVISIONS

A. SUBCHAPTER S CORPORATION PROVISIONS

1. Determination of whether an S corporation has one class of stock (sec. 4501 of the bill and sec. 1361 of the Code)

Present Law

Under present law, a small business corporation eligible to be an S corporation may not have more than one class of stock. Differences in voting rights are disregarded in determining whether a corporation has more than one class of stock. In addition, certain debt instruments may not be treated as a second class of stock for purposes of this rule.

On October 5, 1990, the Treasury Department issued proposed regulations[1] providing that a corporation has more than one class of stock if all of the outstanding shares of stock do not confer identical rights to distribution and liquidation proceeds, regardless of whether any differences in rights occur pursuant to the corporate charter, articles or bylaws, by operation of State law, by administrative action, or by agreement. The proposed regulations also provided that, notwithstanding that all outstanding shares of stock confer identical rights to distribution and liquidation proceeds, a corporation has more than one class of stock if the corporation makes non-conforming distributions (i.e., distributions that differ with respect to timing or amount with respect to each share of stock), with limited exceptions for certain redemptions and certain differences in the timing of distributions. The proposed regulations were to apply to taxable years beginning after December 31, 1982.

On August 8, 1991, the Treasury Department issued revised proposed regulations replacing the proposed regulations described above. The regulations were issued as final regulations on May 29, 1992 (Treasury Decision 8419). These regulations provide that a corporation is treated as having only one class of stock if all outstanding shares of stock confer identical rights to distribution and liquidation proceeds. Under the revised regulations, any distributions that differ in timing or amount are to be given appropriate tax effect in accordance with the facts and circumstances. These regulations generally apply to taxable years beginning after May 28, 1992.

Reasons for Change

The provision promotes simplification by clarifying that a corporation will not be ineligible to be an S corporation by reason of having more than one class of stock where the corporation has not issued shares of different classes (disregarding differences in voting rights) and applicable State corporate law does not provide for differing rights to distributions and liquidation proceeds.

Explanation of Provision

The bill provides that a corporation is treated as having only one class of stock if all outstanding shares of stock of the corporation confer identical rights to distribution and liquidation proceeds. Applicable State law, taking into account legally enforceable rights under the corporate charter, articles or bylaws, administrative action, and agreements relating to distributions or liquidation proceeds with respect to shares, determines whether the outstanding shares confer different rights to distributions or liquidation proceeds.

Where an S corporation in fact makes distributions which differ as to timing or amount, the bill in no way limits the Internal Revenue Service from properly characterizing the transaction for tax purposes. For example, if a distribution is properly characterized as compensation, the Service could require it to be so treated for tax purposes. Similarly, if a payment appearing as compensation should be properly characterized as a distribution, the Service could require it to be so treated for purposes of computing taxable income.

Effective Date

The provision applies to taxable years beginning after December 31, 1982.

2. Authority to validate certain invalid elections (sec. 4502 of the bill and sec. 1362 of the Code)

Present Law

Under present law, if the Internal Revenue Service determines that a corporation's Subchapter S election is inadvertently terminated, the Service can waive the effect of the terminating event for any period if the corporation timely corrects the event and if the corporation and shareholders agree to be treated as if the election had been in effect for that period. Present law does not grant the Internal Revenue Service the ability to waive the effect of an inadvertent invalid Subchapter S election.

In addition, under present law, a small business corporation must elect to be an S corporation no later than the 15th day of the third month of the taxable year for which the election is effective. The Internal Revenue Service may not validate a late election.

Reasons for Change

The bill promotes simplification by giving the Secretary the flexibility to validate an invalid S election where the failure to properly elect S status was inadvertent or untimely.

Explanation of Provision

Under the bill, the authority of the Internal Revenue Service to waive the effect of an inadvertent termination is extended to allow the Service to waive the effect of an invalid election caused by an inadvertent failure to qualify as a small business corporation or to obtain the required shareholder consents (including elections regarding qualified subchapter S trusts), or both. It is intended that the Internal Revenue Service be reasonable in granting waivers of inadvertent invalid elections so that a corporation whose election was inadvertently invalid would be treated as an S corporation as if the election had been effective.

The bill also allows the Internal Revenue Service to treat a late Subchapter S election as timely where the Service determines that there was reasonable cause for the failure to make the election timely. It is intended that the Internal Revenue Service adopt a standard similar to the standard currently set forth in Treasury regulation sec. 1.9100-1 in applying this provision.

Effective Date

The provision applies to taxable years beginning after December 31, 1982.[2]

3. Treatment of distributions by S corporations during loss year (sec. 4503 of the bill and secs. 1366 and 1368 of the Code)

Present Law

Under present law, the amount of loss an S corporation shareholder may take into account for a taxable year cannot exceed the sum of shareholder's adjusted basis in his or her stock of the corporation and the adjusted basis in any indebtedness of the corporation to the shareholder. Any excess loss is carried forward.

Any distribution to a shareholder by an S corporation generally is tax-free to the shareholder to the extent of the shareholder's adjusted basis of his or her stock. The shareholder's adjusted basis is reduced by the tax-free amount of the distribution. Any distribution in excess of the shareholder's adjusted basis is treated as gain from the sale or exchange of the stock.

Under present law, income (whether or not taxable) and expenses (whether or not deductible) serve, respectively, to increase and decrease an S corporation shareholder's basis in the stock of the corporation. These rules appear to require that the adjustments to basis for items of both income and loss for any taxable year apply before the adjustment for distributions applies.[3]

---

[8] By converting the excise tax to a recognition rule for income tax purposes, the committee does not intend to affect the outcome of the question, should the Internal Revenue Service choose to revisit it, of whether tax may be incurred upon a transfer of appreciated property to a foreign trust with respect to which the transferor is treated as the owner under the grantor trust rules.

[9] See Temp. Treas. Reg. sec. 7.367(b)-4(b); Proposed Treas. Reg. sec. 1.367(a)-3(a).

[1] Proposed Treasury Regulation sec. 1.1361-1(l)(2).

[2] This is the effective date of the present-law provision regarding inadvertent terminations.

These rules limiting losses and allowing tax-free distributions up to the amount of the shareholder's adjusted basis are similar in certain respects to the rules governing the treatment of losses and cash distributions by partnerships. Under the partnership rules (unlike the S corporation rules), for any taxable year, a partner's basis is first increased by items of income, then decreased by distributions, and finally is decreased by losses for that year.[4]

In addition, if the S corporation has accumulated earnings and profits,[5] any distribution in excess of the amount in an "accumulated adjustments account" will be treated as a dividend (to the extent of the accumulated earnings and profits). A dividend distribution does not reduce the adjusted basis of the shareholder's stock. The "accumulated adjustments account" generally is the amount of the accumulated undistributed post-1982 gross income less deductions.

Reasons for Change

The provision promotes simplification by conforming the S corporation rules regarding distribution to the partnership rules and by eliminating uncertainty regarding the treatment of distributions made during the year.

Explanation of Provision

The bill provides that the adjustments for distributions made by an S corporation during a taxable year are taken into account before applying the loss limitation for the year. Thus, distributions during a year reduce the adjusted basis for purposes of determining the allowable loss for the year, but the loss for a year does not reduce the adjusted basis for purposes of determining the tax status of the distributions made during that year.

The bill also provides that in determining the amount in the accumulated adjustment account for purposes of determining the tax treatment of distributions made during a taxable year by an S corporation having accumulated earnings and profits, net negative adjustments (i.e., the excess of losses and deductions over income) for that taxable year are disregarded.

The following examples illustrate the application of these provisions:

Example 1.—X is the sole shareholder of A, a calendar year S corporation with no accumulated earnings and profits. X's adjusted basis in the stock of A on January 1, 1992, is $1,000 and X holds no debt of A. During the taxable year, A makes a distribution to X of $600, recognizes a capital gain of $200 and sustains an operating loss of $900. Under the bill, X's adjusted basis in the A stock is increased to $1,200 ($1,000 plus $200 capital gain recognized) pursuant to section 1368(d) to determine the effect of the distribution. X's adjusted basis is then reduced by the amount of the distribution to $600 ($1,200 less $600) to determine the application of the loss limitation of section 1366(d)(1). X is allowed to take into account $500 of A's operating loss, which reduces X's adjusted basis to zero. The remaining $300 loss is carried forward pursuant to section 1366(d)(2).

Example 2.—The facts are the same as in Example 1, except that on January 1, 1991, A has accumulated earnings and profits of $500 and an accumulated adjustments account of $200. Under the bill, because there is a net negative adjustment for the year, no adjustment is made to the accumulated adjustments account before determining the effect of the distribution under section 1368(c).

As to A, $200 of the $600 distribution is a distribution of A's accumulated adjustments account to zero. The remaining $400 of the distribution is a distribution of accumulated earnings and profits ("E&P") and reduces A's E&P to $100. A's accumulated adjustments account is then increased by $200 to reflect the recognized capital gain and reduced by $900 to reflect the operating loss, leaving a negative balance in the accumulated adjustment account on January 1, 1993, of $700 (zero plus $200 less $900).

As to X, $200 of the distribution is applied against A's adjusted basis of $1,200 ($1,000 plus $200 capital gain recognized) reducing X's adjusted basis to $1,000. The remaining $400 of the distribution is taxable as a dividend and does not reduce X's adjusted basis. Because X's adjusted basis is $1,000, the loss limitation does not apply to X, who may deduct the entire $900 operating loss. X's adjusted basis is then decreased to reflect the $900 operating loss. Accordingly, X's adjusted basis on January 1, 1993, is $100 ($1,000 plus $200 less $200 less $900).

Effective Date

These provisions apply to distributions made in taxable years beginning after December 31, 1991.

4. Treatment of S corporation as shareholders in C corporations (sec. 4504(a) of the bill and sec. 1371 of the Code.

Present Law

Present law contains several provisions relating to the treatment of S corporations as corporations generally for purposes of the Internal Revenue Code.

First, under present law, the taxable income of an S corporation is computed in the same manner as in the case of an individual (sec. 1363(b)). Under this rule, the provisions of the Code governing the computation of taxable income which are applicable only to corporations, such as the dividends received deduction, do not apply to S corporations.

Second, except as otherwise provided by the Internal Revenue Code and except to the extent inconsistent with subchapter S, subchapter C (i.e., the rules relating to corporate distributions and adjustments) applies to an S corporation and its shareholders (sec. 1371(a)(1)). Under this second rule, provisions such as the corporate reorganization provisions apply to S corporations. Thus, a C corporation may merge into an S corporation tax-free.

Finally, an S corporation in its capacity as a shareholder of another corporation is treated as an individual for purposes of subchapter C (sec. 1371(a)(2)). The Internal Revenue Service has taken the position that this rule prevents the tax-free liquidation of a C corporation into an S corporation because a C corporation cannot liquidate tax-free when owned by an individual shareholder.[6] Thus, a C corporation may elect S corporation status tax-free or may merge into an S corporation tax-free but may not liquidate into an S corporation tax-free.[7] Also, the Service's reasoning would also prevent an S corporation from making an election under section 338 where a C corporation was acquired by an S corporation.

Reasons for Change

The provision promotes simplification by treating similar transactions in a similar manner for tax purposes.

Explanation of Provision

The bill repeals the rule that treats an S corporation in its capacity as a shareholder of another corporation as an individual. Thus, the liquidation of a C corporation into an S corporation will be governed by the generally applicable subchapter C rules, including the provisions of sections 332 and 337 allowing the tax-free liquidation of a corporation into its parent corporation. Following a tax-free liquidation, the built-in gains of the liquidating corporation may later be subject to tax under section 1374 upon a subsequent disposition. An S corporation will also be eligible to make a section 338 election (assuming all the requirements are otherwise met), resulting in immediate recognition of all the acquired C corporation's gains and losses (and the resulting imposition of a tax).

The repeal of this rule does not change the general rule governing the computation of income of an S corporation. For example, it does not allow an S corpration, or its shareholders, to claim a dividends received deduction with respect to dividends received by the S corporation, or to treat any item of income or deduction in a manner inconsistent with the treatment accorded to individual taxpayers.

No inference is intended regarding the present-law treatment of these transactions.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

5. S corporations permitted to hold subsidiaries (sec. 4504(b) of the bill and sec. 1361 of the Code)

Present Law

Under present law, an S corporation may not be a member of an affiliated group of corporations (other than by reason of ownership in certain inactive corporations). The legislative history indicates that this rule was adopted to prevent the filing of consolidated returns by a group which includes an S corporation.[8]

Reasons for Change

The provision promotes simplification by eliminating a barrier to using the S corporation form of entity and providing more appropriate treatment of corporations with subsidiaries, i.e., the prohibition of filing a consolidated return if S corporate status is elected rather than disqualification of the S election.

Explanation of Provision

The bill repeals the rule that an S corporation may not be a member of an affiliated group of corporations. Thus, an S corporation will be allowed to own up to 100 percent of the stock of a C corporation. However, an S corporation cannot be included in a group filing a consolidated return.

Under the bill, if an S corporation holds 100 percent of the stock of a C corporation that, in turn, holds 100 percent of the stock of another C corporation, the two C corporations may elect to file a consolidated return (if otherwise eligible), but the S corporation may not join in the election.

---

[3] See section 1366(d)(1)(A); H. Rep. 97-826, p. 17; S. Rep. 97-640, p. 18; Prop. Treas. Reg. sec. 1.1367-1(e).

[4] Treas. Reg. sec. 1.704-1(d)(2); Rev. Rul. 66-94, 1966-1 C.B. 166.

[5] An S corporation may have earnings and profits from years prior to its subchapter S election or from pre-1983 subchapter S years.

[6] See PLR 8818049, (Feb. 10, 1988).

[7] A tax is imposed with respect to LIFO inventory held by a C corporation becoming an S corporation.

[8] See S. Rpt. No. 1983 (85th Cong., 2d Sess., 1958), p. 88.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

6. Elimination of pre-1983 earnings and profits of S corporations (sec. 4504(c) of the bill)

Present Law

Under present law, the accumulated earnings and profits of a corporation are not increased for any year in which an election to be treated as an S corporation is in effect. However, under the subchapter S rules in effect before revision in 1982, a corporation electing subchapter S for a taxable year increased its accumulated earnings and profits if its earnings and profits for the year exceeded both its taxable income for the year and its distributions out of that year's earnings and profits. As a result of this rule, a shareholder may later be required to include in his income the accumulated earnings and profits when it is distributed by the corporation. The 1982 revision to subchapter S repeal this rule for earnings attributable to taxable years beginning after 1982 but did not do so for previously accumulated S corporation earnings and profits.

Reasons for Change

The provision promotes simplification by eliminating the need to keep records of certain generally small amounts of earnings arising before 1983.

Explanation of Provision

The bill provides that if a corporation is an S corporation for its first taxable year beginning after December 31, 1991, the accumulated earnings and profits of the corporation as of the beginning of that year are reduced by the accumulated earnings and profits (if any) accumulated in any taxable year beginning before January 1, 1983, for which the corporation was an electing small business corporation under subchapter S. Thus, such a corporation's accumulated earnings and profits will be solely attributable to taxable years for which an S election was not in effect. This rule is generally consistent with the change adopted in 1982 limiting the S shareholder's taxable income attributable to S corporation earnings to his share of the taxable income of the S corporation.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

7. Treatment of items of income in respect of a decedent held by an S corporation (sec. 4504(d) of the bill and sec. 1367 of the Code)

Present Law

Income in respect of a decedent (IRD) generally consists of items of gross income that accrued during the decedent's lifetime but were not yet includable in the decedent's income before his death under his method of accounting. IRD is includable in the income of the person acquiring the right to receive such item. A deduction for the estate tax attributable to an item of IRD is allowed to the person who includes the item in gross income (sec. 691(c)).

The cost or basis of property acquired from a decedent is its fair market value at the date of death (or alternate valuation date if that date is elected for estate tax purposes). This basis often is referred to as a "stepped-up basis". Property that constitutes a right to receive IRD does not receive a stepped-up basis.

The basis of a partnership interest of corporate stock acquired from a decedent generally is stepped-up at death. Under Treasury regulations, the basis of a partnership interest acquired from a decedent is reduced to the extent that is value is attributable to items constituting IRD.[9] Although S corporation income is included in the income of the shareholders in a manner similar to the inclusion of partnership income in the income of the partners, no comparable regulation provides for a reduction in the basis of stock of an S corporation acquired from a decedent where the S corporation holds items of IRD on the date of death of a shareholder. Thus, under present law, the treatment of an item of IRD held by an S corporation is unclear.

Reasons for Change

The provision promotes simplification by eliminating the uncertainty of present law, and by treating items of IRD held by a taxpayer directly, through a partnership, or through an S corporation in a similar manner.

Explanation of Provision

The bill provides that a person acquiring stock in an S corporation from a decedent will treat as IRD his pro rata share of any item of income of the corporation which would have been IRD if that item had been acquired directly from the decedent. Where an item is treated as IRD, a deduction for the estate tax attributable to the item generally will be allowed under the provisions of section 691(c). The stepped-up basis in the stock will be reduced by the extent to which the value of the stock is attributable to items consisting of IRD. This basis rule is comparable to the present-law partnership rule.

No inference is intended regarding the present-law treatment of IRD in the case of S corporations.

Effective Date

The provision applies with respect to decedents dying after date of enactment of the bill.

8. Certain trusts eligible to hold stock in S corporations (sec. 4505 of the bill and secs. 641 and 1361 of the Code)

Present Law

Under present law, trusts other than grantor trusts, voting trusts, certain testamentary trusts (for a 60-day or two-year period) and "qualified subchapter S trusts" may not be shareholders in a S corporation. A "qualified subchapter S trust" is a trust which is required to have only one current income beneficiary (for life). All the income (as defined for local law purposes) must be currently distributed to that beneficiary. The beneficiary is treated as the owner of the portion of the trust consisting of the stock in the S corporation.

Reasons For Change

The committee believes that a trust that provides for income to be distributed to (or accumulated for) individuals should be allowed to hold S. corporation stock. This will allow a person to establish a trust to hold S corporation stock and "spray" income among family members (or others) who are beneficiaries of the trust.

Explanation of Provision

In general

The bill allows stock in an S corporation to be held by certain trusts ("electing small business trust"). In order to qualify for this treatment, all beneficiaries of the trust must be individuals or estates (including the bankruptcy estate of an individual). No interest in the trust may be acquired by purchase. For this purpose, "purchase" means any acquisition of property with a cost basis (determined under section 1012). Thus, interests in the trust must be acquired by reason of gift, bequest, etc.

A trust must elect to be treated as an electing small business trust. An election applies to the taxable year for which made and can be revoked only with the consent of the Secretary of the Treasury or his delegate.

Each potential current beneficiary of the trust is counted as a shareholder for purposes of the 35-shareholder limitation (or if there were no potential current beneficiaries, the trust is treated as the shareholder). A potential current income beneficiary means any person, with respect to the applicable period, who is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. Where the trust disposes of all the stock in an S corporation, any person who first becomes so eligible during the 60 days before the disposition shall not be treated as a potential current beneficiary.

A qualified subchapter S trust with respect to which an election under section 1361(d)(2) is in effect, and an exempt employee's described in section 401(a) are not eligible to qualify as an electing small business trust.

Treatment of items relating to S corporation stock

The portion of the trust which consists of stock in one or more S corporations is treated as a separate trust for purposes of computing the income tax attributable to the S corporation stock held by the trust. The trust is taxed at the highest individual rate (currently 31 percent) on this portion of the trust's income. The taxable income attributable to this portion includes (i) the items of income, loss, or deduction allocated to it as an S corporation shareholder under the rules of subchapter S, (ii) gain or loss from the sale of the S corporation stock, and (iii) to the extent provided in regulations, any state or local income taxes and administrative expenses of the trust properly allocable to the S corporation stock. Otherwise allowable capital losses are allowed only to the extent of capital gains.

In computing the trust's income tax on this portion of the trust, no deduction is allowed for amounts distributed to beneficiaries, and no deduction or credit is allowed for any item other than the items described above. This income is not included in the distributable net income of the trust, and thus is not included in the beneficiaries' income. No item relating to the S corporation stock may be apportioned to any beneficiary.

On the termination of all or any portion of an electing small business trust the loss carryovers or excess deductions referred to in section 642(h) are to be taken into account by the entire trust, subject to the usual rules on termination of the entire trust.

Treatment of remainder of items held by trust

In determining the tax liability with regard to the remaining portion of the trust, the items taken into account by the subchapter S portion of the trust are disregarded. Although distributions from the trust are deductible in computing the taxable income on this portion of the trust, under the usual rules of subchapter J, the trust's distributable net income does not include any income attributable to the S corporation stock.

Effective Date

The provision applies to taxable years beginning after the date of enactment.

---

[9] Treas. Reg. sec. 1.742-1.

B. ACCOUNTING PROVISIONS

1. Modifications to the look-back method for long-term contracts (sec. 4511 of the bill and sec. 460 of the Code)

Present Law

Taxpayers engaged in the production of property under a long-term contract generally must compute income from the contract under the percentage of completion method. Under the percentage of completion method, a taxpayer must include in gross income for any taxable year an amount that is based on the product of (1) the gross contract price and (2) the percentage of the contract completed as of the end of the year. The percentage of the contract completed as of the end of the year is determined by comparing costs incurred with respect to the contract as of the end of the year with the estimated total contract costs.

Because the percentage of completion method relies upon estimated, rather than actual, contract price and costs to determine gross income for any taxable year, a "look-back method" is applied in the year a contract is completed in order to compensate the taxpayer (or the Internal Revenue Service) for the acceleration (or deferral) of taxes paid over the contract term. The first step of the look-back method is to reapply the percentage of completion method using actual contract price and costs rather than estimated contract price and costs. The second step generally requires the taxpayer to recompute its tax liability for each year of the contract using gross income as reallocated under the look-back method. If there is any difference between the recomputed tax liability and the tax liability as previously determined for a year, such difference is treated as a hypothetical underpayment or overpayment of tax to which the taxpayer applies a rate of interest equal to the overpayment rate, compounded daily.[1] The taxpayer receives (or pays) interest if the net amount of interest applicable to hypothetical overpayments exceeds (or is less than) the amount of interest applicable to hypothetical underpayment.

The look-back method must be reapplied for any item of income or cost that is properly taken into account after the completion of the contract.

The look-back method does not apply to any contract that is completed within two taxable years of the contract commencement date and if the gross contract price does not exceed the lesser of (1) $1 million or (2) one percent of the average gross receipts of the taxpayer for the preceding three taxable years. In addition, a simplified look-back method is available to certain pass-through entities and, pursuant to Treasury regulations, to certain other taxpayers. Under the simplified look-back method, the hypothetical underpayment or overpayment of tax for a contract year generally is determined by applying the highest rate of tax applicable to such taxpayer to the change in gross income as recomputed under the look-back method.

Reasons for Change

Present law may require multiple applications of the look-back method with respect to a single contract or may otherwise subject contracts to the look-back method even though the amounts necessitating the look-back computations are de minimis relative to the aggregate contract income. In addition, the use of multiple interest rates complicates the mechanics of the look-back method.

Explanation of Provision

Election not to apply the look-back method for de minimis amounts

The bill provides that a taxpayer may elect not to apply the look-back method with respect to a long-term contract if for each prior contract as determined using estimated contract price and costs is within 10 percent of the cumulative taxable income (or loss) as determined using actual contract price and costs.

Thus, under the election, upon completion of a long-term contract, a taxpayer would be required to apply the first step of the look-back method (the reallocation of gross income using actual, rather than estimated, contract price and costs), but would not be required to apply the additional steps of the look-back method if the application of the first step resulted in de minimis changes to the amount of income previously taken into account for each prior contract year.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 1.—A taxpayer enters into a three-year contract and upon completion of the contract, determines that annual net income under the contract using actual contract price and costs is $100,000, $150,000, and $250,000, respectively, for Years 1, 2, and 3 under the percentage of completion method. An electing taxpayer need not apply the look-back method to the contract if it had reported cumulative net taxable income under the contract using estimated contract price and costs of between $90,000 and $110,000 as of the end of Year 1; and between $225,000 and $275,000 as of the end of Year 2.

Election not to reapply the look-back method

The bill provides that a taxpayer may elect not to reapply the look-back method with respect to a contract if, as of the close of any taxable year after the year the contract is completed, the cumulative taxable income (or loss) under the contract is within 10 percent of the cumulative look-back income (or loss) as of the close of the most recent year in which the look-back method was applied (or would have applied but for the other de minimis exception described above). In applying this rule, amounts that are taken into account after completion of the contract are not discounted.

Thus, an electing taxpayer need not apply or reapply the look-back method if amounts that are taken into account after the completion of the contract are de minimis.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 2.—A taxpayer enters into a three-year contract and reports taxable income of $12,250, $15,000 and $12,750, respectively, for Years 1 through 3 with respect to the contract. Upon completion of the contract, cumulative look-back income with respect to the contract is $40,000, and 10 percent of such amount is $4,000. After the completion of the contract, the taxpayer incurs additional costs of $2,500 in each of the next three succeeding years (Years 4, 5, and 6) with respect to the contract. Under the bill, an electing taxpayer does not reapply the look-back method for Year 4 because the cumulative amount of contract taxable income ($37,500) is within 10 percent of contract look-back income as of the completion of the contract ($40,000). However, the look-back method must be applied for Year 5 because the cumulative amount of contract taxable income ($35,000) is not within 10 percent of contract look-back income as of the completion of the contract ($40,000). Finally, the taxpayer does not reapply the look-back method for Year 6 because the cumulative amount of contract taxable income ($32,500) is within 10 percent of contract look-back income as of the last application of the look-back method ($35,000).

Interest rates used for purposes of the look-back method

The bill provides that for purposes of the look-back method, only one rate of interest is to apply for each accrual period. An accrual period with respect to a taxable year begins on the day after the return due date (determined without regard to extensions) for the taxable year and ends on such return due date for the following taxable year. The applicable rate of interest is the overpayment rate in effect for the calendar quarter in which the accrual period begins.

Effective Date

The provisions apply to contracts completed in taxable years ending after the date of enactment.

2. Simplified method for applying uniform cost capitalization rules (sec. 4512 of the bill and sec. 263A of the Code)

Present Law

In general, the uniform cost capitalization rules require taxpayers that are engaged in the production of real or tangible personal property or in the purchase and holding of property for resale to capitalize or include in inventory the direct costs of the property and the indirect costs that are allocable to the property. In determining whether indirect costs are allocable to production or resale activities, taxpayers are allowed to use various methods so long as the method employed reasonably allocates indirect costs to production and resale activities.

Reasons for Change

The uniform cost capitalization rules require taxpayers to determine for each taxable year the costs of each administrative, service, or support function or department that are allocable to production or resale activities. If a taxpayer does not elect any of the simplified methods provided in Treasury regulations, this allocation may be unduly burdensome and costly.

Explanation of Provision

The bill authorizes (but does not require) the Treasury Department to issue regulations that allow taxpayers in appropriate circumstances to determine the costs of any administrative, service, or support function or department that are allocable to production or resale activities by multiplying the total amount of costs of any such function or department by a fraction, the numerator of which is the amount of costs of the function or department that was allocable to production or resale activities for a base period and the denominator of which is the total amount of costs of the function or department for the base period. It is anticipated that the regulations will provide that the base period is to begin no earlier than 4 taxable years prior to the taxable year with respect to which this simplified method applies.

---

[1] The overpayment rate equals the applicable Federal short-term rate plus two percentage points. This rate is adjusted quarterly by the IRS. Thus, in applying the look-back method for a contract year, a taxpayer may be required to use five different interest rates.

Effective Date

The provision applies to the taxable years beginning after the date of enactment of the bill. Thus, the regulations may permit the use of the simplified method for taxable years beginning after this date. The simplified method, however, may not be used for any taxable year that begins prior to the date that the Treasury Department publishes regulations that authorize the use of the simplified method and set forth the requirements that must be satisfied in order for the method to be used.

3. Treatment of certain amounts received by operators of licensed cotton warehouses (sec. 4513 of the bill and sec. 451 of the Code)

Present Law

A C corporation (other than a farm corporation) generally may not use the cash method of accounting if the corporation had average annual gross receipts for the 3-year period ending with the prior taxable year of more than $5,000,000. Corporations that are denied the use of the cash method of accounting generally must use an accrual method of accounting.

Reasons for Change

The committee believes that the use of an accrual method of accounting by operators of licensed cotton warehouses requires such taxpayers to pay tax on income related to the performance of certain services before the taxpayers are legally able to collect the fees for such services. Thus, the committee believes that it is appropriate to allow operators of licensed cotton warehouses to elect to defer the recognition of certain income, provided that they pay an interest charge with respect to the deferral.

Explanation of Provision

Income recognition

The bill allows the election of a special rule in the case of any taxpayer that is an operator of a licensed cotton warehouse and uses an accrual method of accounting to compute taxable income. Under the election, the taxpayer is not required to accrue amounts to be received for processing or storing cotton at the licensed cotton warehouse until such amounts are actually received. For this purpose, the term "licensed cotton warehouse" means any warehouse for the storage of cotton that is licensed under the United States Warehouse Act (7 U.S.C. 241, et seq.) or under any similar State law.

Interest charge

In addition, under the election, if any deferred amount is received during any taxable year, the tax liability of the taxpayer for the taxable year will be increased by an interest charge with respect to the deferred amount. The interest charge with respect to the deferred amount will be determined: (1) on the amount of the tax for such taxable year which is attributable to the deferred amount; (2) for the period beginning on the due date for the taxable year of the deferral and ending on the due date for the taxable year in which such deferred amount is received; and (3) by using the Federal short-term rate in effect under section 1274 as of the due date for the taxable year in which such deferred amount is received (compounded semiannually).

The term "deferred amount" means any amount that is includible in gross income for the taxable year but that would have been under includible in gross income for a prior taxable year but for this bill. The "taxable year of deferral" is the taxable year for which the deferred amount would have been includible in gross income but for this bill. The term "due date" means the date prescribed for filing the return of tax (without regard to extensions) for the taxable year.

The interest charge payable will be taken into account in computing the amount of any deduction allowable as interest paid or accrued during the taxable year that the interest charge is payable. In addition, the interest charge will not be treated as a tax for purposes of determining the taxpayer's regular tax liability under section 26.

Election

The bill will apply to a taxpayer only if the taxpayer makes an election to apply the bill. The election shall be made in a time and manner as prescribed by the Secretary of the Treasury. If made, the election will apply to the taxable year for which made and all subsequent years unless revoked with the consent of the Secretary.

Effective Date

The bill applies to amounts accrued in taxable years beginning after December 31, 1991.

C. TAX-EXEMPT BOND PROVISIONS

Overview

Interest on State and local government bonds generally is excluded from gross income for purposes of the regular individual and corporate income taxes if the proceeds of the bond are used to finance direct activities of these governmental units (Code sec. 103).

Unlike the interest on governmental bonds, described above, interest on private activity bonds generally is taxable. A private activity bond is a bond issued by a State or local governmental unit acting as a conduit to provide financing for private parties in a manner violating either (a) a private business use and payment test or (b) a private loan restriction. However, interest on private activity bonds is not taxable if (a) the financed activity is specified in the Code and (b) at least 95 percent of the net proceeds of the bond issue is used to finance the specified activity.

Issuers of State and local government bonds must satisfy numerous other requirements, including arbitrage restrictions (for all such bonds) and annual State volume limitations (for most private activity bonds) for the interest on their bonds to be excluded from gross income.

1. Simplification of arbitrage rebate requirement for governmental bonds (sec. 4521 of the bill and sec. 148 of Code)

Present Law

Subject to limited exceptions, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. No rebate is required if the gross proceeds of an issue are spent for the governmental purposes of the borrowing within the six months after issuance.

The six-month exception is deemed to be satisfied by issuers of governmental bonds (other than tax and revenue anticipation notes) and qualified 501(c)(3) bonds if (1) all gross proceeds that than an amount not exceeding the lesser of five percent of $100,000 are so spent within six months and (2) the remaining gross proceeds are spent within one year after the bonds are issued.

Reasons for Change

The principal Federal policy concern underlying the arbitrage rebate requirement is to limit the subsidy provided by tax-exempt bonds to amounts that are necessary to finance current governmental purposes by discouraging the earlier or larger than necessary issuance of tax-exempt bonds to profit by investing funds borrowed as low-cost tax-exempt rates in higher yielding taxable investments. The committee believes that if at least 95 percent of the proceeds of an issue are spent within six months, and the remainder within one year, opportunities for such arbitrage profit are significantly limited.

Explanation of Provisions

The $100,000 limit on proceeds that may remain unspent after six months for certain governmental and qualified 501(c)(3) bonds otherwise exempt from the rebate requirement is deleted. Thus, if at least 95 percent of the proceeds of these bonds is spent within six months after their issuance, and the remainder is spent within one year, the six-month exception is deemed to be satisfied.

Effective Date

This provision applies to bonds issued after the date of its enactment.

2. Simplification of compliance with 24-month arbitrage rebate exception for construction bonds (sec. 4522 of the bill and sec. 148 of the Code)

Present Law

In general, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. An exception is provided for certain construction bond issues if the bonds are governmental bonds, qualified 501(c)(3) bonds, or exempt-facility private activity bonds for governmentally owned property.

This exception is satisfied only if the available construction proceeds of the issue are spent at least at specified rates during the 24-month period after the bonds are issued. The exception does not apply to bond proceeds invested as part of a bona fide debt service fund or certain other investments (e.g., sinking funds), and after the 24-month expenditure period, to amounts invested as part of a reasonably required reserve or replacement fund. Issuers of these construction bonds also may elect to comply with a penalty regime in lieu of rebating if they fail to satisfy the exception's spend requirements.

Reason for Change

Bond proceeds invested in a bona fide debt service fund generally must be spent at least annually for current debt service. The short-term nature of investments in such funds results in only limited potential for generating arbitrage profits. If the spending requirements of the 24-month rebate exception are satisfied, the administrative complexity of calculating rebate on these proceeds outweighs the other Federal policy concerns addressed by the rebate requirement.

Explanation of Provision

This bill exempts earnings on bond proceeds invested in bona fide debt service funds from the arbitrage rebate requirement if the spending requirements of the 24-month exception are otherwise satisfied.

Effective Date

This provision applies to bonds issued after the date of its enactment.

3. Simultaneous issuance of certain discrete issues not aggregated (sec. 4523 of the bill and sec. 148 of the Code)

Present Law

In certain cases, the Treasury Department treats multiple issues of tax-exempt bonds paid from substantially the same source of funds as a single issue in applying the Code's tax-exempt bond restrictions when the bonds are issued within a relatively short period of time.

Reasons for Change

Requiring issues that simultaneously issue discrete issues of tax and revenue anticipation notes ("TRANs") and other governmental bonds to separate issuance of these bonds by 31 days adds administrative complexity and increases their costs of issuance.

Explanation of Provision

The bill provides that discrete issues of governmental bonds issued simultaneously will not be treated as a single issue in cases where one of the issues is a TRAN reasonably expected to satisfy the arbitrage rebate safe harbor of section 148(f)(4)(B)(iii).

Effective Date

This provision applies to bonds issued after the date of its enactment.

No inference is intended by this effective date as to the proper treatment of any bonds issued before the date of the provision's enactment.

4. Expand exception to pro rata disallowance of bank interest expense related to investment in tax-exempt bonds (sec. 4524 of the bill and sec. 265 of the Code)

Present Law

Banks and other financial institutions generally are denied a deduction for the portion of their interest expense (e.g., interest paid to depositors) that is attributable to investment in tax-exempt bonds acquired after August 7, 1986. This disallowance is computed using a pro-rata formula that compares the institution's average adjusted basis in tax-exempt bonds acquired after that date with the average adjusted basis of all assets of the institution.

An exception to this pro-rata disallowance rule is permitted for governmental bonds and qualified 501(c)(3) bonds issued by or on behalf of governmental units that issue no more than $10 million of such bonds during a calendar year (the "small-issuer exception").

Reasons for Change

Bonds issued by smaller governmental units are exempt from the general restrictions on banks and other financial institutions deducting costs of acquiring and carrying tax-exempt investments because banks are sometimes the only potential purchasers for bonds of these smaller governmental units. The committee believes that increasing the current $10 million annual issuance limit for eligible governments is appropriate. Further, expanding the exception to bonds of pools lending exclusively to qualified borrowers will expand the demand for the bonds of these smaller governments.

Explanation of Provision

The bill increases from $10 million to $25 million the amount of governmental and qualified 501(c)(3) bonds that an entity may issue annually while qualifying those bonds for the small-issuer exception to the general bank interest disallowance rule.

The bill also provides that pooled financing tax-exempt bonds (other than private activity bonds) may qualify for the small-issuer exception if—

(a) all of the proceeds of the pooled financing bonds (net of issuance costs associated with the bonds) are used exclusively to acquire from the issuer thereof bonds ("acquired bonds") eligible for the small-issuer exception,

(b) the acquired bonds are not designated under section 265(b)(3)(B)(i)(III) as "bank qualified" for purposes of the small-issuer exception;[1]

(c) the weighted average maturity of the pooled financing bonds does not exceed the weighted average maturity of the acquired bonds; and

(d) the issuer of the pooled financing bonds designates those bonds as "bank qualified" under section 265(b)(3)(i)(B)(III).

Effective Date

The provision is effective for bonds issued and acquired in calendar years beginning after December 31, 1992.

5. Modification of rules governing qualified 501(c)(3) bonds (sec. 4525 of the bill and secs. 141–150, 265, and 56 of the Code)

Present Law

Interest on State and local government bonds generally is excluded from income if the bonds are issued to finance direct activities of these governments (sec. 103). Interest on bonds issued by these governments to finance activities of other persons, e.g., private activity bonds, is taxable unless a specific exception is included in the Code. One such exception is for private activity bonds issued to finance activities of private, charitable organizations described in Code section 501(c)(3) ("section 501(c)(3) organizations") when the activities do not constitute an unrelated trade or business (sec. 141(e)(1)(G)).

Classification of section 501(c)(3) organization bonds as private activity bonds

Before enactment of the Tax Reform Act of 1986, States and local governments and section 501(c)(3) organizations both were defined as "exempt persons," under the Code bond provisions, and their bonds generally were subject to the same requirements. As exempt persons, section 501(c)(3) organizations were not treated as "private" persons, and their bonds were not "industrial development bonds" or "private loan bonds" (the predecessor categories to current private activity bonds).

Under present law, a bond is a private activity bond if its proceeds are used in a manner violating either (a) a private business test or (b) a private loan test. The private business test is a conjunctive two-pronged test. First, the test limits private business use of governmental bonds to no more than 10 percent of the proceeds.[2] Second, no more than 10 percent of the debt service on the bonds may be derived from private business users of the proceeds. The private loan test limits to the lesser of five percent or $5 million the amount of governmental bond proceeds that may be used to finance loans to persons other than governmental units.

Special restrictions on tax-exception for section 501(c)(3) organization bonds

As stated above, present law treats section 501(c)(3) organizations as private persons; thus, bonds for their use may only be issued as private activity "qualified 501(1)(3) bonds," subject to the restrictions of Code section 145. The most significant of these restrictions limits the amount of outstanding bonds from which a section 501(c)(3) organization may benefit to $150 million. In applying this "$150 million limit," all section 501(c)(3) organizations under common management or control are treated as a single organization. The limit does not apply to bonds for hospital facilities, defined to include only acute care, primarily inpatient, organizations. A second restriction limits to no more than five percent the amount of the net proceeds of a bond issue that may be used to finance any activities (including all costs of issuing the bonds) other than the exempt purposes of the section 501(c)(3) organization.

Legislation enacted in 1988 imposed low-income tenant occupancy restrictions on existing residential rental property that is acquired by section 501(c)(3) organizations in tax-exempt-bond-financed transactions. These restrictions require that a minimum number of the housing units comprising the property of 50 percent (60 percent in certain cases) of area median income for periods of up to 15 years. These same low-income tenant occupancy requirements apply to for-profit developers receiving tax-exempt private activity bond financing.

Other restrictions

Several restrictions are imposed on private activity bonds generally that do not apply to bonds used to finance State and local government activities. Many of these restrictions also apply to qualified 501(c)(3) bonds.

No more than two percent of the proceeds of a bond issue may be used to finance the costs of issuing the bonds, and these monies are not counted in determining whether the bonds satisfy the requirement that at least 95 percent of the net proceeds of each bond issue be used for the exempt activities qualifying the bonds for tax-exemption.

The weighted average maturity of a bond issue may not exceed 120 percent of the average economic life of the property financed with the proceeds.

A public hearing must be held and an elected public official must approve the bonds before they are issued (or the bonds must be approved by voter referendum).

If property financed with private activity bonds is converted to a use not qualifying for tax-exempt financing, certain loan interest penalties are imposed.

Both governmental and private activity bonds are subject to numerous other Code restrictions, including the following:

(a) The amount of arbitrage profits that may be earned on tax-exempt bonds is strictly limited, and most such profits must be rebated to the Federal Government.

(b) Banks may not deduct interest they pay to the extent of their investments in most tax-exempt bonds.

(c) Finally, interest on private activity bonds, other than qualified 501(c)(3) bonds, is a preference item in calculating the alternative minimum tax.

Reasons for Change

The committee believes a distinguishing feature of American society is the singular degree to which the United States maintains a private, non-profit sector of private higher education and other charitable institutions in the public service. The committee believes it is important to assist these private institutions in their advancement of the public good. The committee finds particularly inappropriate the restrictions of present law which place these section 501(c)(3) organizations at a financial disadvantage relative to substantially identical governmental institutions. For example, a public university generally has unlimited access to tax-exempt bond financing, while a private, non-profit university is subject to a $150 million limitation on outstanding bonds from which it may benefit. The committee is concerned that this and other restrictions inhibit the ability of America's private, non-profit institutions to modernize their educational facilities. The committee believes the tax-exempt bond rules should treat more equally State and local governments and those private organizations which are engaged in similar actions advancing the public good.

---

[1] The acquired bonds are taken into account in determining how many bonds are reasonably expected to be issued by the borrowers from the pool in the calendar year in which they are issued.

[2] No more than 5 percent of bond proceeds may be used in a private business use that is unrelated to the governmental purpose of the bond issue. The 10-percent debt service test, described below, likewise is reduced to 5 percent in the case of such "disproportionate" private business use.

Explanation of Provision

The bill would amend the tax-exempt bond provisions of the Code to conform generally the treatment of bonds for section 501(c)(3) organizations to that provided for bonds issued to finance direct State or local government activities. Certain restrictions, described below, that have been imposed on qualified 501(c)(3) bonds (but not on governmental bonds) since 1986, and that address specialized policy concerns, are retained.

Repeal of private activity bond classification for bonds for section 501(c)(3) organizations

The concept of an "exempt person" that existed under the Code bond provisions before 1986, is reenacted. An exempt person is defined as (a) a State or local governmental unit or (b) a section 501(c)(3) organization, when carrying out its exempt activities under Code section 501(a). Thus, bonds for section 501(c)(3) organizations will no longer be classified as private activity bonds. Financing for unrelated business activities of such organizations will continue to be treated as a private activity for which tax-exempt financing is not authorized.

As exempt persons, section 501(c)(3) organizations will be subject to the same limits as States and local governments on using their bond proceeds to finance private business activities or to make private loans. Thus, no more than 10 percent of the bond proceeds[3] may be used in a business use of a person other than an exempt person if the Code private payment test is satisfied, and no more than five percent ($5 million if less) may be used to make loans to such "nonexempt" person.

Repeal of most additional special restrictions on section 501(c)(3) organization bonds

Present Code section 145, which establishes additional restrictions on qualified 501(c)(3) bonds, is repealed, along with the restriction on bond-financed costs of issuance for section 501(c)(3) organization bonds (sec. 147(h)). This eliminates the $150-million-per-organization limit on nonhospital bonds for section 501(c)(3) organizations.

Retention of certain specialized requirements for section 501(c)(3) organization bonds

As stated above, the bill retains certain specialized restriction on bonds for section 501(c)(3) organizations. First, the bill retains the requirement that existing residential rental property acquired by a section 501(c)(3) organization in a tax-exempt-bond-financed transaction satisfy the same low-income tenant requirements as similar housing financing for for-profit developers. Second, the bill retains the present-law maturity limitations applicable to bonds for section 501(c)(3) organizations, and the public approval requirements applicable generally to private activity bonds. Third, the bill continues to apply the penalties on changes in use of tax-exempt-bond-financed section 501(c)(3) organization property to a use not qualified for such financing.

Finally, the bill makes no amendments, other than technical conforming amendments, to the tax-exempt bond preference, or the provisions generally disallowing interest paid by banks on monies used to acquire or carry tax-exempt bonds.

Effective Date

The bill applies to bonds issued after December 31, 1992.

6. Authority for Treasury Department to exempt certain taxpayers from tax-exempt interest reporting requirement (sec. 4526 of the bill and sec. 6012 of the Code)

Present Law

Present law requires all individuals to report on their income tax returns the amount of interest on State and local government bonds they receive.

Reasons for Change

The Treasury Department should be authorized to exempt taxpayers from requirements to compile and report information on income tax returns if the Secretary determines that such information is not useful to the administration of the tax laws.

Explanation of Provision

The bill authorizes the Treasury Department to provide exceptions from the requirement that taxpayers report interest on state and local government bonds on their Federal income tax returns in cases where the Secretary determines that such information is not useful to the administration of the tax laws.

Effective Date

This provision is effective for taxable years beginning after the date of enactment.

7. Bonds for the United Nations (sec. 4527 of the bill)

Present Law

Interest on State and local government bonds generally is excluded from income for purposes of the regular individual and corporate income taxes if the proceeds of the bonds are used to finance direct activities of these governmental units. Present law also excludes the interest on State and local government bonds ("private activity bonds") when a governmental unit incurs debt as a conduit to provide financing for private parties, if the financed activities are specified in the Internal Revenue Code (the "Code"). Tax-exempt bonds may not be issued to finance private activities not specified in the Code.

Private activity bonds are bonds (1) more than 10 percent of the proceeds of which satisfy a private business use and payment test, or (2) more than five percent ($5 million, if less) of the proceeds are used to finance loans to persons other than State or local governmental units.

Under the tax-exempt bond rules, all persons and entities other than states and local governments are treated as private parties, eligible for financing only if specifically authorized. No such authorization exists for the United Nations or any other foreign government entity.

Reasons for Change

The committee believes that the unique status of the United Nations organization justifies the extension of tax-exempt financing to it for certain limited purposes. However the committee believes that these bonds generally should be subject to the same restrictions as other private activity bonds, including the State private activity bond volume limitations.

Explanation of Provision

The bill authorizes the issuance by a State or local government of tax-exempt private activity bonds when at least 95 percent of the net proceeds will be used to finance the construction or acquisition of real property used for offices (and functionally related and subordinate land and space for supporting activities) for use by the United Nations and its agencies and instrumentalities. These bonds will be subject to the State private activity bond volume limit of the State where the bonds are issued and to all other private activity bond rules (except the rehabilitation requirement on acquisition of existing property).

Effective Date

The provision applies to bonds issued after the date of enactment.

8. Repeal of expired provisions (sec. 4528 of the bill and sec. 148 of the Code)

Present Law

Present law includes two special exceptions to the arbitrage rebate and pooled financing temporary period rules for certain qualified student loan bonds. This exception applied only to bonds issued before January 1, 1989.

Explanation of Provision

These special exceptions are deleted as "deadwood."

Effective Date

This provision is effective on the date of enactment.

9. Treasury Department regulatory authority to integrate arbitrage rebate and yield restriction requirements (sec. 4529 of the bill and sec. 148 of the Code)

Present Law

In general

Interest on State and local government bonds generally is tax-exempt. Interest is not tax-exempt if the bonds are arbitrage bonds. Arbitrage bonds are bonds more than a minor portion of the proceeds of which is invested at a yield that is materially higher than the bond yield during periods other than prescribed "temporary periods." (Exceptions are provided for, *inter alia*, proceeds such as those invested in a reasonably required reserve or replacement fund.)

Rebate requirement

In general, arbitrage profits earned on investments unrelated to the governmental purpose for which tax-exempt bonds are issued must be rebated to the Federal Government. This requirement primarily affects earnings during such periods and earnings on such specially treated proceeds as those invested as part of a reasonably required reserve or replacement fund (which are not subject to yield restriction).

For certain governmental and qualified 501(c)(3) bonds for construction projects, a special penalty alternative may be elected in lieu of complying with the rebate requirement. Under this elective regime, penalties are imposed unless set expenditure targets are met at six-month intervals. These expenditure targets are:

(1) at least 10 percent of the available construction proceeds of the bond issue must be spent within six months after the bonds are issued;

(2) at least 45 percent of those proceeds must be spent within 12 months after the bonds are issued;

(3) at least 75 percent of those proceeds must be spent within 18 months after the bonds are issued; and

(4) 100 percent (less certain allowable retainage) of those proceeds must be spent within two years after the bonds are issued.

---

[3] This limit would be reduced to five percent in the case of disproportionate private use as under the present-law governmental bond disproportionate private use limit.

Temporary periods

Regulatory temporary periods

In general, Treasury Department regulations prescribe the applicable temporary periods for bond proceeds. For most bonds, the initial temporary period is three years from the date on which the bonds are issued. An issuer qualifies for this unrestricted investment period only if the issuer reasonably expects to satisfy three tests:

(1) *Expenditure test.*—At least 85 percent of the spendable proceeds of the issue must be expected to be spent within three years after the bonds are issued.

(2) *Time test.*—A substantial binding commitment to commence with the project to be financed must be entered into within six months after the bonds are issued.

(3) *Due diligence test.*—After the binding commitment is entered into, work to complete the project must proceed with due diligence.

Treasury Department regulations also establish shorter temporary periods for special types of proceeds (e.g., loan repayments) and types of bonds (e.g., tax and revenue anticipation notes).

Statutory temporary periods

The Internal Revenue Code (the Code) provides specific temporary periods in three cases. First, the initial temporary period on pooled financing bonds is limited to six months, and the temporary period on repayments of loans financed with such bonds is limited to three months.[4] Pooled financing bonds are bonds the proceeds of which are to be used to make loans to two or more persons.

Second, the Code provides that the initial temporary period for bonds that are advance refunded terminates no later than the date on which the refunding occurs. Third, the Code limits the initial temporary period on advance refunding bonds to 30 days.

Proposed and temporary Treasury Department regulations

On May 18, 1992, the Treasury Department issued proposed and temporary regulations which would allow most regulatory temporary periods to be extended indefinitely if (1) the bond proceeds were expended, determined after the fact, in a manner that actually qualified the bonds for the temporary period claimed by the issuer, and (2) all arbitrage profits on the bond issue were rebated to the Federal Government. For example, the three-year initial temporary period described above could be extended if the expenditures, time, and due diligence tests were actually complied with and arbitrage profits were rebated.

The proposed regulations do not apply to the three types of bonds for which statutory temporary periods are prescribed. Additionally, the proposed regulations do not apply to construction bond issues for which the penalty alternative to the rebate requirement is elected.

Reasons for Change

The committee believes that Treasury Department regulatory authority waiving the yield restriction requirement in appropriate, non-abusive, circumstances may assist in easing compliance with the tax-exempt bond rules and eliminate duplicative administrative burdens.

Explanation of Provision

The bill provides the Treasury Department with express legislative authority to waive by regulation most statutory tax-exempt bond yield restriction requirements, provided that all arbitrage profits on the bond issue are rebated to the Federal Government. This authority does not extend to either (1) yield restriction of the proceeds of bonds involved in advance refunding transactions or (2) construction bond issues for which the special three-percent penalty-in-lieu-of-rebate penalty is elected.

The committee intends that the Treasury department will give due consideration to regulatory action designed to preclude earlier or larger than necessary issuance of tax-exempt bonds or other abuse in this area. Specifically, the committee intends that the Treasury may impose "look-back" requirements, based on actual expenditures of bond proceeds, as a condition to waiving otherwise applicable yield restriction requirements. For example, the committee believes specifically that a look-back provision may be needed if the yield restriction requirement were waived for pooled financing bonds. If a look-back requirement were developed for these bonds, Treasury should look for guidance to the spend-down schedule set forth in the Code for certain construction bonds.

In taking this action, the committee intends no inference as to the Treasury Department's authority in actions previously taken in its proposed regulations, described above.

Effective Date

The provision is effective on the date of enactment.

D. INSURANCE PROVISIONS

1. Treatment of certain insurance contracts on retired lives (sec. 4531 of the bill and sec. 817(d) of the Code)

Present Law

Life insurance companies are allowed a deduction for any net increase in reserves and are required to include in income any net decrease in reserves. The reserve of a life insurance company for any contract is the greater of the net surrender value of the contract or the reserve determined under Federally prescribed rules. In no event, however, may the amount of the reserve for tax purposes for any contract at any time exceed the amount of the reserve for annual statement purposes.

Special rules are provided in the case of a variable contract. Under these rules, the reserve for a variable contract is adjusted by (1) subtracting any amount that has been added to the reserve by reason of appreciation in the value of assets underlying such contract, and (2) adding any amount that has been subtracted from the reserve by reason of depreciation in the value of assets underlying such contract. In addition, the basis of each asset underlying a variable contract is adjusted for appreciation or depreciation to the extent the reserve is adjusted.

A variable contract generally is defined as any annuity or life insurance contract (1) that provides for the allocation of all or part of the amounts received under the contract to an account that is segregated from the general asset accounts of the company, and (2) under which, in the case of an annuity contract, the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account, or, in the case of a life insurance contract, the amount of the death benefit (or the period of coverage) is adjusted on the basis of the investment return and the market value of the segregated asset account. A pension plan contract that is not a life, accident, or health, property, casualty, or liability insurance contract is treated as an annuity contract for purposes of this definition.

Reasons for Change

The committee believes that certain contracts which provide insurance on retired lives should be treated as variable contracts in order to simplify the treatment of such contracts and to provide a more accurate measure of the income of life insurance companies with respect to such contracts.

Explanation of Provision

The bill provides that a variable contract is to include a contract that provides for the funding of group term life or group accident and health insurance on retired lives if: (1) the contract provides for the allocation of all or part of the amounts received under the contract to an account that is segregated from the general asset account of the company; and (2) the amounts paid in, or the amounts paid out, under the contract reflect the investment return and the market value of the segregated asset account underlying the contract.

Thus, the reserve for such a contract is to be adjusted by (1) subtracting any amount that has been added to the reserve by reason of appreciation in the value of assets underlying such contract, and (2) adding any amount that has been subtracted from the reserve by reason of depreciation in the value of assets underlying such contract. In addition, the basis of each asset underlying the contract is to be adjusted for appreciation or depreciation to the extent that the reserve is adjusted.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

2. Treatment of modified guaranteed contracts (sec. 4532 of the bill and new sec. 817A of the Code)

Present Law

Life insurance companies are allowed a deduction for any net increase in reserves and are required to include in income any net decrease in reserves. The reserve of a life insurance company for any contract is the greater of the net surrender value of the contract or the reserve determined under Federally prescribed rules. The net surrender value of a contract is the cash surrender value reduced by any surrender penalty, except that any market value adjustment required on surrender is not taken into account. In no event, however, may the amount of the reserve for tax purposes for any contract at any time exceed the amount of the reserve for annual statement purposes.

In general, assets held for investment are treated as capital assets. Any gain or loss from the sale or exchange of a capital asset is treated as a capital gain or loss and is taken into account for the taxable year in which the asset is sold or exchanged.

Reasons for Change

Life insurance companies have recently begun issuing annuity contracts, life insurance contracts, and pension plan contracts that provide for a guaranteed interest rate for a specified period of time and a market value adjustment (both positive and negative) in the event that the owner of the contract surrenders the contract prior to the end of the guaranteed interest period. These contracts are commonly referred to as modified guaranteed contracts.

If the premium or other consideration received under a modified guaranteed contract is allocated to an account that is segregated from the general asset accounts of the life insurance company, then the reserve for the contract and the assets in the segregated account generally are required to be taken into account at market value for annual statement (i.e., state regulatory accounting) purposes. The tax reserve for a modified guaranteed contract, however, does not reflect market fluctuations in the assets underlying the contract, and gain or loss in the assets is not recognized unless the assets are disposed of.

---

[4] This six-month period is increased to two years in the case of construction bonds subject to the special expenditure targets, described above, regardless of whether the issuer elects the penalty alternative to the rebate requirement.

The committee believes that it is appropriate to conform the Federal income tax treatment of modified guaranteed contracts with the annual statement treatment of such contracts in order to simplify the accounting for such contracts and to provide a more accurate measure of the income of life insurance companies with respect to such contracts. Nonetheless, the committee continues to believe that mark-to-market treatment is not appropriate for the general account assets of a life insurance company.

Explanation of Provision

The bill provides three special rules that apply to modified guaranteed contracts issued by life insurance companies. First, in determining the amount of the reserve for a modified guaranteed contract, any market value adjustment that is required on surrender of the contract is to be taken into account in calculating the net surrender value of the contract. Second, gain or loss with respect to an asset that is held as part of a segregated account under a modified guaranteed contract is treated as ordinary gain or loss. Third, any such asset that is held as of the close of any taxable year is treated as sold for its fair market value on the last business day of the taxable year and any gain or loss is required to be taken into account for such taxable year (the "mark-to-market requirement").[1]

If gain or loss is taken into account by reason of the mark-to-market requirement, then the amount of gain or loss subsequently realized as a result of a sale, exchange, or other disposition of the asset, or as a result of the application of the mark-to-market requirement is to be appropriately adjusted to reflect such gain or loss. In addition, the bill authorizes the Treasury Department to issue regulations that provide for the application of the mark-to-market requirement at times other than the close of a taxable year or the last business day of a taxable year.

A modified guaranteed contract is defined as any life insurance contract, annuity contract, or pension plan contract[2] that is not defined as a variable contract under section 817 of the Code and that satisfies the following requirements. First, all or a part of the amounts received under the contract must be allocated to an account, which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time by reference to market values. Second, reserves for the contract are valued at market for annual statement purposes.[3]

The Treasury Department is authorized to issue regulations (or other forms of guidance): (1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B); (2) to determine the interest rates applicable under sections 807(c)(3) and 807(d)(2)(B) with respect to a modified guaranteed contract annually, calculating such rates as appropriate for modified guaranteed contracts and using a method that approximates the yield on the assets underlying the contract, and to the extent appropriate for such a contract, to modify or waive section 811(d); and (3) as may be necessary or appropriate to carry out the purposes of this section.

Further, the committee is concerned about preventing the use of the provision to recharacterize gain or loss as ordinary in certain types of transactions. The committee is particularly concerned about characterization of gain or loss as ordinary under the provision in transactions that would otherwise either (1) have to meet the requirements of the hedging exception to the straddle rules to receive this treatment, or (2) be treated as capital transactions under present law. For example, it may be appropriate to treat assets transferred to a segregated account as purchased at fair market value by the account. It is the committee's intent that ordinary treatment under the provision be limited to gain or loss on those assets properly taken into account in calculating the reserve for Federal tax purposes (and necessary to support such reserves) for modified guaranteed contracts, and that future Treasury regulations provide rules for limiting such treatment with respect to other assets (such as assets representing surplus of the company). The Treasury Department is authorized to issue future regulations to carry out this intent, to be effective at all times following the effective date of the provision.

Effective Date

The provision applies to taxable years beginning after December 31, 1991. A taxpayer that is required to (1) change its calculation of tax reserves to take into account market value adjustments and (2) mark to market its segregated assets in order to comply with the requirements of the provision is treated as having initiated changes in method of accounting and as having received the consent of the Treasury Department to make such changes.

The section 481(a) adjustments required by reason of the changes in method of accounting are to be combined and taken into account as a single net adjustment for the taxpayer's first taxable year beginning after December 31, 1991.

E. COOPERATIVE PROVISIONS

1. Discharge of indebtedness income from prepayment of REA loans (sec. 4541 of the bill and sec. 501(c)(12) of the Code)

Present Law

Internal Revenue Code

Under section 501(c)(12) of the Code, a rural electric cooperative generally is exempt from Federal income tax if at least 85 percent of the cooperative's income is derived from members. Cancellation of indebtness income generally must be taken into account in determining the percentage of a cooperative's income derived from members. Section 501(c)(12)(B)(iv) provided, however, that the 85-percent test is applied without regard to any cancellation of indebtedness income arising from the prepayment of a loan pursuant to sections 306A, 306B, or 311 of the Rural Electrification Act ("REA Act"), as in effect on January 1, 1987.

1990 Farm Act

Section 2387 of the Food, Agriculture, Conservation, and Trade Act of 1990 (the "1990 Farm Act") amended section 306B of the REA Act. Under such amendment, rural electric cooperatives that merge with another rural electric cooperative that previously prepaid REA loans under the 1988 or 1989 Budget Reconciliation Acts may prepay REA loans at a discount, provided the prepayment occurs within one year of such merger. Because this amendment occurred after January 1, 1987, the cancellation of indebtedness income arising from such prepayments would not be excluded in applying the 85-percent test under present law.

Reasons for Change

Because the amendment to section 306B of the REA Act by the 1990 Farm Act occurred after January 1, 1987, the prepayment of REA loans at a discount under such amendment may cause a rural electric cooperative to violate the 85-percent test and thereby lose its exemption. Thus, present law could effectively prevent the loan prepayments that the 1990 Farm Act intended to encourage. The committee believes that the 85-percent test should not be a barrier to the prepayment of REA loans at a discount under the amendment to Section 306B of the REA Act by the 1990 Farm Act.

Explanation of Provision

The bill provides that the 85-percent test of section 501(c)(12) is applied without regard to cancellation of indebtedness income arising from the prepayment of REA loans under section 306B(b) of the REA Act, as in effect on January 1, 1991. For purposes of determining whether section 306B(b) of the REA Act remains in effect as on January 1, 1991, the renumbering of such subsection, the addition of a caption to such subsection, or any amendments to subsection 306B(a) shall be disregarded.

Effective Date

The provision is effective with respect to prepayments of REA loans made after December 31, 1992.

2. Treatment of certain amounts received by telephone cooperatives (sec. 4542 of the bill and secs. 501(c)(12) and 512 of the Code)

Present Law

Mutual or cooperative telephone companies ("telephone cooperatives") are exempt from Federal income tax if 85 percent or more of their income consists of amounts collected from members for the sole purpose of meeting losses and expenses (sec. 501(c)(12)(A)). In applying this 85-percent test, certain income received by a telephone cooperative is disregarded, including income received from a nonmember telephone company for the performance of communication services which involve members of the telephone cooperative, certain pole rental income, and income from the sale of display listings in a telephone directory furnished to members of the telephone cooperative (sec. 501(c)(12)(B)).

Tax-exempt organizations generally are subject to the unrelated business income tax (UBIT) on income from a trade or business that is not substantially related to the organization's tax-exempt purposes. Under special rules, certain investment income (e.g., interest, dividends, royalties, and certain rents) generally is exempt from UBIT, although some tax-exempt organizations, such as social clubs described in section 501(c)(7) and certain mutual benefit organizations, are subject to UBIT on their investment income.

---

[1] The wash sale rules of section 1091 of the Code are not to apply to any loss that is required to be taken into account by reason of the mark-to-market requirement.

[2] The provision only applies to a pension plan contract that is not a life, accident, or health, property, casualty, or liability contract.

[3] If a contract ceases to be treated as one for which reserves are valued at market for annual statement purposes, but the assets underlying the contract remain part of the segregated account, then the assets will continue to be subject to the mark-to-market requirement.

Reasons for Change

In view of regulatory changes in the telecommunications industry affecting the division of revenues between long-distance carriers and local phone companies, the committee believes that it is appropriate to modify the tax treatment for purposes of sections 501(c)(12) and 512 of certain revenues received by telephone cooperatives.

In general, the committee believes that income received indirectly from members through a nonmember telephone company for communication services indirectly provided to members should qualify as member-source income for purposes of the 85-percent test of section 501(c)(12). Consistent with the present-law exclusion of directory income, the committee believes that certain income from services related to telecommunications (e.g., billing and collection services provided to long-distance telephone companies) should be excluded from the computation of the 85-percent test. Finally, the committee believes that a telephone cooperative should not lose its tax-exempt status where it derives investment income to be used for repair or replacement in an amount greater than that allowed under the 85-percent test, so long the excess is subject to tax and such income does not become a predominant source of income of the cooperative.

Explanation of Provision

The bill amends section 501(c)(12) to provide that 50 percent of the income received by a telephone cooperative from a nonmember telephone company for performing communication services—e.g., fees received for originating (or terminating) a long-distance call placed by (or to) a member—are treated as collected from the members of the telephone cooperative for the sole purpose of meeting the losses and expenses of the telephone cooperative.[1] The remaining 50 percent of income received by a telephone cooperative from a nonmember telephone company is, as under present law, excluded from the 85-percent test under section 501(c)(12)(B)(i).

The bill also excludes from the 85-percent test under section 501(c)(12) amounts received by a telephone cooperative from billing and collection services performed for another telephone company.[2]

In addition, the bill provides that telephone cooperatives will not lose their tax-exempt status under section 501(c)(12) if they earn certain investment "reserve income" in excess of 15 percent of their total income, but only if such reserve income (when added to other income not collected from members) does not exceed 35 percent of the cooperative's total income. For purposes of this provision, "reserve income" is defined as income that otherwise would be excluded from UBIT under section 512(b) (e.g., interest and dividends) and that is set aside for the repair or replacement of telephone facilities of the cooperative. Under the provision, tax-exempt telephone cooperatives are subject to the UBIT on such reserve income between the 15-percent and 35-percent range.[3]

Effective Date

The provision is effective for amounts received or accrued after December 31, 1992.

3. Treatment of certain housing cooperatives (sec. 4543 of the bill and secs. 277 and 1388 of the Code)

Present Law

Deductions by Membership Organizations

Under section 277, costs incurred by a "membership organization" attributable to furnishing services, insurance, goods or other items of value to its members are deductible in any taxable year only to the extent of any income the organization has derived from its members. The Internal Revenue Service has held that section 277 applies to housing cooperatives,[1] while certain courts have held that section 277 does not apply to cooperatives that are subject to tax under subchapter T of the Code.[2] It is not clear whether housing cooperatives are subject to subchapter T.

Tax Treatment of Cooperatives

A cooperative is an organization, usually a corporation, which benefits its members and patrons by selling goods to them, purchasing products from them, and returning any income in excess of costs to them. A cooperative that is subject to subchapter T may exclude any patronage dividends paid to its members and patrons from its taxable income (sec. 1382). For a cooperative other than an "exempt cooperative",[3] a patronage dividend must be determined solely by reference to the net earnings of the organization from business done with or for its patrons. The Eighth Circuit has held that a nonexempt cooperative may not use patronage losses to offset nonpatronage income. See *Farm Services Cooperative v. Commissioner*, 611 F.2d 1270 (8th Cir. 1980).

Reasons for Change

The committee is concerned about the uncertainty regarding whether section 277 applies to housing cooperatives. The committee also believes that the tax rules specifically designed for cooperatives in subchapter T should apply to housing cooperatives. While the committee believes that the taxation of housing cooperatives should be governed by general tax rules for cooperatives, the committee believes that those tax rules should be clarified to prohibit nonpatronage income from being reduced by patronage losses. Accordingly, the committee decided to clarify the rules applicable to housing cooperatives governing the deduction of nonpatronage losses under subchapter T by codifying the Eighth Circuit approach in *Farm Services Cooperative*. The committee also decided to specify that certain common transactions of housing cooperatives will be treated as generating patronage income. In this regard, the committee believes that special treatment should be accorded to limited equity cooperatives since these cooperatives typically are owned by low or moderate income individuals.

Explanation of Provision

The provision clarifies that section 277 does not apply to a "cooperative housing corporation".[4] The provision, however, adopts a rule in subchapter T similar to section 277 that patronage losses of the corporation cannot offset earnings that are not patronage earnings.

For this purpose, the provision specifically treats the following items as "patronage earnings": (1) interest on reasonable reserves established in connection with the corporation, including reserves required by a government agency or lender, (2) rents from laundry and parking to the extent attributable to use of the facilities by tenant-stockholders (as defined in section 216(b)(2)) and their guests, and (3) in the case of certain "limited equity cooperative housing corporation",[5] rental income attributable to housing projects operated by such corporations.

No inference shall be drawn from the provision regarding the deductibility of patronage losses under present law.

Effective Date

The provision applies to taxable years beginning after the date of enactment.

4. Treatment of safe harbor leases of membership organizations (sec. 4544 of the bill and sec. 277 of the Code)

Present Law

Deductions of membership organizations

Under section 277, a membership organization operated primarily to furnish services or goods to its members may deduct costs attributable to such operations only to the extend of income derived from members. In essence, section 277 prohibits using losses incurred from transactions with members to offset income derived from transactions with nonmembers.

Safe harbor leases

The Economic Recovery Tax Act of 1981 ("ERTA") provided rules intended to permit full utilization of tax benefits. Under these rules (known as the "safe harbor lease rules"), the putative "lessor" in the transaction was treated as the property owner for Federal income tax purposes (regardless of the transaction's economic substance) and thereby was entitled to cost recovery deductions and investment credits. Thus, a person (i.e., lessee) who complied with these rules could, by entering into a nominal sale and safe-harbor leaseback, effectively sell some of the tax benefits associated with the property, while retaining the benefits and burdens of ownership. The safe harbor lease rules were repealed by the Tax Equity and Fiscal Responsibility Act of 1982.

---

[1] Amounts received by a telephone cooperative from a nonmember telephone company (e.g., long-distance carrier) for performing communication services often are referred to as "access charges." Thus, under the bill, 50 percent of such access charges received by a telephone cooperative from another telecommunications company are treated as member-source income for purposes of the 85-percent test of section 501(c)(12).

[2] Telephone cooperatives (and other local telephone companies) often serve as billing and collection agents for other telecommunications companies. (That is, a telephone cooperative bills, and collects from, its members not only charges for local phone service provided by the cooperative but also charges for amounts owed to a long-distance carrier for the member's long-distance calls.) Telephone cooperatives are compensated for performing billing and collection services, generally by retaining a portion of the long-distance charges collected from members. Similar to the present-law treatment of certain pole rental income and directory listing (e.g., "yellow pages") revenue, the bill treats such billing and collection revenues as excluded form the 85-percent test under section 501(c)(12).

The bill provides that, for purposes of the UBIT, no inference is intended regarding the treatment of income from billing and collection services.

[3] Income that is not taken into account under section 501(c)(12)(B) likewise is disregarded for purposes of the 15-percent and 35-percent thresholds.

[1] See Rev. Rul. 90-36, 1990-1 C.B. 59.

[2] See *Landmark v. United States*, 92-1 Tax Cas. (CCH) para. 50,058 (Ct. Cl. 1992); *Farm Services Cooperative v. Commissioner*, 70 T.C. 145, 155-58, (1978), *rev'd on other grounds*, 611 F.2d 1270 (8th Cir. 1980).

[3] An "exempt cooperative" is a farmers' cooperative association described in section 521(b)(1). An exempt cooperative may allocate to its patrons and deduct, not only earnings from patronage activities, but also dividends on capital stock and earnings from nonpatronage sources (sec. 1382(c)).

[4] Under section 216(b)(1), a cooperative housing corporation generally is a corporation (i) that has one class of stock, (ii) each of the stockholders of which is entitled, solely by reason of ownership of stock, to occupy a dwelling owned or leased by the cooperative, (iii) no stockholder of which is entitled to receive any distribution not out of earnings and profits of the cooperative, and (iv) 80 percent or more of the gross income for the taxable year of which is derived from tenant-stockholders.

[5] Generally, a cooperative housing corporation is a "limited equity cooperative housing corporation" if the amount paid by a tenant stockholder for stock in the corporation cannot exceed the sum of (i) the consideration paid by the first tenant-stockholder, adjusted for cost of living, (ii) payments of improvements to the dwelling unit, and (iii) payments to amortize corporate indebtedness arising from the acquisition or development of real property (sec. 143(k)(9)(D)(i)).

Reasons for Change

The committee understands that a number of electric generating cooperatives subject to section 277 entered into safe harbor leases in reliance upon ERTA. Under these leases, the cooperative typically (a) sold personal property to a corporation in exchange for cash equal to a portion of the value of transferring the tax benefits from the property to the cooperation and an interest bearing, installment note, and (b) then leased the property back from that corporation for a rental that equaled the payments on the note. Thus, the transaction created both interest income (from the installment note) and rental expense (from the leaseback).

The committee understands that the Internal Revenue Service has asserted that the interest income on the installment note is not derived from members, but the rental expense must be allocated between income derived from members and nonmembers (based on the amount of electricity furnished to members and nonmembers respectively). As a result, a cooperative that does most of its business with members is treated as receiving amounts of interest income which can be offset only by the relatively small amount of rental expense allocable to nonmember business, resulting in significant additional tax liability to the cooperative.

The committee believes that the safe harbor lease rules were intended to be available to cooperatives notwithstanding Section 277. The committee believes, however, that the safe harbor lease should not result in a cooperative avoiding taxation on its nonmember income. Accordingly, the committee believes that the net difference between interest income and the rental expense arising from safe-harbor leases should both be allocated between member and nonmember income.

Explanation of Provision

The bill provides that the interest income and rental expense from the sale and leaseback of the property under a safe harbor lease are to be first netted and the difference allocated between members and nonmembers in proportion to the business done with each group.

Effective Date

The provision is effective for all taxable years beginning before, on, or after the date of enactment.

F. INTANGIBLES

1. Amortization of goodwill and certain other intangibles (sec. 4551 of the bill and secs. 167, 1060, 1253, and new sec. 197 of the Code)

Present Law

In determining taxable income for Federal income tax purposes, a taxpayer is allowed depreciation or amortization deductions for the cost or other basis of intangible property that is used in a trade or business or held for the production of income if the property has a limited useful life that may be determined with reasonable accuracy. No depreciation or amortization deductions are allowed with respect to goodwill or going concern value.

Reasons for Change

The Federal income tax treatment of the costs of acquiring intangible assets is a source of considerable controversy between taxpayers and the Internal Revenue Service. Disputes arise concerning: (1) whether an amortizable intangible asset exists; (2) in the case of an acquisition of a trade or business, the portion of the purchase price that is allocable to an amortizable intangible asset; and (3) the proper method and period for recovering the cost of an amortizable intangible asset.

It is believed that much of the controversy that arises under present law with respect to acquired intangible assets could be eliminated by specifying a single method and period for recovering the cost of most acquired intangible assets and by treating acquired goodwill and going concern value as amortizable intangible assets. It is also believed that there is no need at this time to change the Federal income tax treatment of self-created intangible assets, such as goodwill that is created through advertising and other similar expenditures.

Accordingly, the bill requires the cost of most acquired intangible assets, including goodwill and going concern value, to be amortized ratably over a 16-year period. It is recognized that the useful lives of certain acquired intangible assets to which the bill applies may be shorter than 16 years, while the useful lives of other acquired intangible assets to which the bill applies may be longer than 16 years. The 16-year amortization period was selected so that, prospectively applied, the bill would be approximately revenue neutral over the next five fiscal years.

In addition, it is desirable to facilitate the settlement of controversies that have arisen or may arise with respect to intangibles assets that were acquired in past open years by providing an election to clarify the treatment of such property.

Explanation of Provision

In general

The bill allows an amortization deduction with respect to the capitalized costs of certain intangible property (defined as a "section 197 intangible") that is acquired by a taxpayer and that is held by the taxpayer in connection with the conduct of a trade or business or an activity engaged in for the production of income. The amount of the deduction is determined by amortizing the adjusted basis (for purposes of determining gain) of the intangible ratably over a 16-year period that begins with the month that the intangible is acquired.[1] No other depreciation or amortization deduction is allowed with respect to a section 197 intangible that is acquired by a taxpayer.

In general, the bill applies to a section 197 intangible acquired by a taxpayer regardless of whether it is acquired as part of a trade or business. In addition, the bill generally applies to a section 197 intangible that is treated as acquired under section 338 of the Code. The bill generally does not apply to a section 197 intangible that is created by the taxpayer if the intangible is not created in connection with a transaction (or series of related transactions) that involves the acquisition of a trade or business or a substantial portion thereof.

Except in the case of amounts paid or incurred under certain covenants not to compete (or under certain other arrangements that have substantially the same effect as covenants not to compete) and certain amounts paid or incurred on account of the transfer of a franchise, trademark, or trade name, the bill generally does not apply to any amount that is otherwise currently deductible (i.e., not capitalized) under present law.

No inference is intended as to whether a depreciation or amortization deduction is allowed under present law with respect to any intangible property that is either included in, or excluded from, the definition of a section 197 intangible. In addition, no inference is intended as to whether an asset is to be considered tangible or intangible property for any other purpose of the Internal Revenue Code.

Definition of section 197 intangible

In general

The term "section 197 intangible" is defined as any property that is included in any one or more of the following categories: (1) goodwill and going concern value; (2) certain specified types of intangible property that generally relate to workforce, information base, know-how, customers, suppliers, or other similar items; (3) any license, permit, or other right granted by a governmental unit or any agency of instrumentality thereof; (4) any covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof); and (5) any franchise, trademark, or trade name.

Certain type of property, however, are specifically excluded from the definition of the term "section 197 intangible." The term "section 197 intangible" does not include: (1) any interest in a corporation, partnership, trust, or estate; (2) any interest under an existing futures contract, foreign currency contract, national principal contract, interest rate swap, or other similar financial contract; (3) any interest in land; (4) certain computer software; (5) certain interests in films, sound recordings, video tapes, books, or other similar property; (6) certain rights to receive tangible property or services; (7) certain interests in patents or copyrights; (8) any interest under an existing lease of tangible property; (9) any interest under an existing indebtedness (except for the deposit base and similar items of a financial institution); (10) a franchise to engage in any professional sport, and any item acquired in connection with such a franchise; (11) certain purchased mortgage servicing rights; and (12) if the taxpayer elects, intangibles acquired from a "qualified research entity".

In addition, the Treasury Department is authorized to issue regulations that exclude certain rights of fixed duration or amount from the definition of a section 197 intangible.

Goodwill and going concern value

For purposes of the bill, goodwill is the value of a trade or business that is attributable to the expectancy of continued customer patronage, whether due to the name of a trade or business, the reputation of a trade or business, or any other factor.

In addition, for purposes of the bill, going concern value is the additional element of value of a trade or business that attaches to property by reason of its existence as an integral part of a going concern. Going concern value includes the value that is attributable to the ability of a trade or business to continue to function and generate income without interruption notwithstanding a change in ownership. Going concern value also includes the value that is attributable to the use or availability of an acquired trade or business (for example, the net earnings that otherwise would not be received during any period were the acquired trade or business not available or operational).

---

[1] In the case of a short taxable year, the amortization deduction is to be based on the number of months in such taxable year.

Workforce, information base, know-how, customer-based intangibles, supplier-based intangibles and other similar items.

Workforce.—The term "section 197 intangible" includes workforce in place (which is sometimes referred to as agency force or assembled workforce), the composition of a workforce (for example, the experience, education, or training of a workforce), the terms and conditions of employment whether contractual or otherwise, and any other value placed on employees or any of their attributes. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of a highly-skilled workforce is to be amortized over the 16-year period specified in the bill. As a further example, the cost of acquiring an existing employment contract (of contracts) or a relationship with employees or consultants (including but not limited to any "key employee" contract or relationship) as part of the acquisition of a trade or business is to be amortized over the 16-year period specified in the bill.

Information base.—The term "section 197 intangible" includes business books and records, operating systems, and any other information base including lists or other information with respect to current or prospective customers (regardless of the method of recording such information). Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the intangible value of technical manuals, training manuals or programs, data files, and accounting or inventory control systems is to be amortized over the 16-year period specified in the bill. As a further example, the cost of acquiring customer lists, subscription lists, insurance expirations,[2] patient or client files, or lists of newspaper, magazine, radio or television advertisers is to be amortized over the 16-year period specified in the bill.

Know-how.—The term "section 197 intangible" includes any patent, copyright, formula, process, design, pattern, know-how, format, or other similar item. For this purpose, the term "section 197 intangible" is to include package designs, computer software, and any interest in a film, sound recording, video tape, book, or other similar property, except as specifically provided otherwise in the bill.[3]

Customer-based intangibles.—The term "section 197 intangible" includes any customer-based intangible, which is defined as the composition of market, market share, and any other value resulting from the future provision of goods or services pursuant to relationships with customers (contractual or otherwise) in the ordinary course of business. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of customer base, circulation base, undeveloped market or market growth, insurance in force, mortgage servicing contracts,[4] investment management contracts, or other relationships with customers that involve the future provision of goods or services, is to be amortized over the 16-year period specified in the bill. On the other hand, the portion (if any) of the purchase price of an acquired trade or business that is attributable to accounts receivable or other similar rights to income for those goods or services that have been provided to customers prior to the acquisition of trade or business is not to be taken into account under the bill.[5]

In addition, the bill specifically provides that the term "customer-based intangible" includes the deposit base and any similar asset of a financial institution. Thus, for example, the portion (if any) of the purchase price of an acquired financial institution that is attributable to the checking accounts, savings accounts, escrow accounts and other similar items of the financial institution is to be amortized over the 16-year period specified in the bill.

Supplier-based intangibles.—The term "section 197 intangible" includes any supplier-based intangible, which is defined as the value resulting from the future acquisition of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of a favorable relationship with persons that provide distribution services (for example, favorable shelf or display space at a retail outlet), the existence of a favorable credit rating, or the existence of favorable supply contracts, is to be amortized over the 16-year period specified in the bill.[6]

Other similar items.—The term "section 197 intangible" also includes any other intangible property that is similar to workforce, information base, know-how, customer-based intangibles, or supplier-based intangibles.

Licenses, permits, and other rights granted by governmental units

The term "section 197 intangible" also includes any license, permit, or other right granted by a governmental unit or any agency or instrumentality thereof (even if the right is granted for an indefinite period or the right is reasonably expected to be renewed for an indefinite period).[7] Thus, for example, the capitalized cost of acquiring from any person a liquor license, a taxi-cab medallion (or license), an airport landing or takeoff right (which is sometimes referred to as a slot), a regulated airline route, or a television or radio broadcasting license is to be amortized over the 16-year period specified in the bill. For purposes of the bill, the issuance or renewal of a license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof is to be considered an acquisition of such license, permit, or other right.

Covenants not to compete and other similar arrangements

The term "section 197 intangible" also includes any covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete; hereafter "other similar arrangement") entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof). For this purpose, an interest in a trade or business includes not only the assets of a trade or business, but also stock in a corporation that is engaged in a trade or business or an interest in a partnership that is engaged in a trade or business.

Any amount that is paid or incurred under a covenant not to compete (or other similar arrangement) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof) is chargeable to capital account and is to be amortized ratably over the 16-year period specified in the bill. In addition, any amount that is paid or incurred under a covenant not to compete (or other similar arrangement) after the taxable year in which the covenant (or other similar arrangement) was entered into is to be amortized ratably over the remaining months in the 16-year amortization period that applies to the covenant (or other similar arrangement) as of the beginning of the month that the amount is paid or incurred.

For purposes of this provision, an arrangement that requires the former owner of an interest in a trade or business to continue to perform services (or to provide property or the use of property) that benefit the trade or business is considered to have substantially the same effect as a covenant not to compete to the extent that the amount paid to the former owner under the arrangement exceeds the amount that represents reasonable compensation for the services actually rendered (or for the property or use of property actually provided) by the former owner. As under present law, to the extent that the amount paid or incurred under a covenant not to compete (or other similar arrangement) represents additional consideration for the acquisition of stock in a corporation, such amount is not to be taken into account under this provision but, instead, is to be included as part of the acquirer's basis in the stock.

Franchises, trademarks, and trade names

The term "section 197 intangible" also includes any franchise, trademark, or trade name. For this purpose, the term "franchise" is defined, as under present law, to include any agreement that provides one of the parties to the agreement the right to distribute, sell, or provide goods, services, or facilities, within a specified area.[8] In addition, as provided under present law, the renewal of a franchise, trademarks, or trade name is to be treated as an acquisition of such franchises, trademark, or trade name.[9]

The bill continues the present-law treatment of certain contingent amounts that are paid or incurred on account of the transfer of a franchise, trademark, or trade name. Under these rules, a deduction is allowed for amounts that are contingent on the productivity, use, or disposition of a franchise, trademark, or trade name only if (1) the contingent amounts are paid as part of a series of payments that are payable at least annually throughout the term of the transfer agreement, and (2) the payments are substantially equal in amount or payable under a fixed formula.[10] Any other amount, whether fixed or contingent, that is paid or incurred on account of the transfer of a franchise, trademark, or trade name is chargeable to capital account and is to be amortized ratably over the 16-year period specified in the bill.

---

[2] Insurance expirations are records that are maintained by insurance agents with respect to insurance customers. These records generally include information relating to the type of insurance, the amount of insurance, and the expiration date of the insurance.

[3] See below for a description of the exceptions for certain patents, certain computer software, and certain interests in films, sound recordings, video tapes, books, or other similar property.

[4] Certain purchased mortgage servicing rights are excluded from the definition of a section 197 intangible under special rules described below.

[5] As under present law, the portion of the purchase price of an acquired trade or business that is attributable to accounts receivable is to be allocated among such receivables and is to be taken into account as payment is received under each receivable or at the time that a receivable becomes worthless.

[6] See below, however, for a description of the exception for certain rights to receive tangible property or services from another person.

[7] A right granted by a governmental unit or an agency or instrumentality thereof that constitutes an interest in land or an interest under a lease of tangible property is excluded from the definition of a section 197 intangible. See below for a description of the exceptions for interests in land and for interests under leases of tangible property.

[8] Section 1253(b)(1) of the Code.

[9] Only the costs incurred in connection with the renewal, however, are to be amortized over the 16-year period that begins with the month that the franchise, trademark, or trade name is renewed. Any costs incurred in connection with the issuance (or an earlier renewal) of a franchises, trademark, or trade name are to continue to be taken into account over the remaining portion of the amortization period that began at the time of such issuance (or earlier renewal).

Exceptions to the definition of a section 197 intangible

In general.—The bill contains several exceptions to the definition of the term "section 197 intangible." Several of the exceptions contained in the bill apply only if the intangible property is not acquired in a transaction (or series of related transactions) that involves the acquisition of assets which constitute a trade or business. It is anticipated that the Treasury Department will exercise its regulatory authority to require any intangible property that would otherwise be excluded from the definition of the term "section 197 intangible" to be taken into account under the bill under circumstances where the acquisition of the intangible property is, in and of itself, the acquisition of an asset which constitutes a trade or business or a substantial portion of a trade or business.

The determination of whether acquired assets constitute a substantial portion of a trade or business is to be based on all of the facts and circumstances, including the nature and the amount of the assets acquired as well as the nature and amount of the assets retained by the transferor. It is not intended, however, that the value of the assets acquired relative to the value of the assets retained by the transferor is determinative of whether the acquired assets constitute a substantial portion of a trade or business.

For purposes of the bill, a group of assets is to constitute a trade or business if the use of such assets would constitute a trade or business for purposes of section 1060 of the Code (i.e., if the assets are of such a character that goodwill or going concern value could under any circumstances attach to the assets). In addition, the acquisition of a franchise, trademark or trade name is to constitute the acquisition of a trade or business or a substantial portion of a trade or business.

In determining whether a taxpayer has acquired an intangible asset in a transaction (or series of related transactions) that involves the acquisition of assets that constitute a trade or business or a substantial portion of a trade or business, only those assets acquired in a transaction (or a series of related transactions) by a taxpayer (and persons related to the taxpayer) from the same person (and any related person) are to be taken into account. In addition, any employee relationships that continue (or covenants not to compete that are entered into) as part of the transfer of assets are to be taken into account in determining whether the transferred assets constitute a trade or business or a substantial portion of a trade or business.

Interests in a corporation, partnership, trust of estate.—The term "section 197 intangible" does not include any interest in a corporation, partnership, trust, or estate. Thus, for example, the bill does not apply to the cost of acquiring stock, partnership interests, or interests in a trust or estate, whether or not such interests are regularly traded on an established market.[11]

Interests under certain financial contracts.—The term "section 197 intangible" does not include any interest under an existing futures contract, foreign currency contract, notional principal contract, interests rate swap, or other similar financial contract, whether or not such interest is regularly traded on an established market. Any interest under a mortgage servicing contract,[12] credit care servicing contract or other contract to service indebtedness issued by another person, and any interest under an assumption reinsurance contract[13] is not excluded from the definition of the term "section 197 intangible" by reason of the exception for interest under certain financial contracts.

Interests in land.—The term "section 197 intangible" does not include any interest in land. Thus, the cost of acquiring an interest in land is to be taken into account under present law rather than under the bill. For this purpose, an interest in land includes a fee interest, life estate, remainder, easement, mineral rights, timber rights, grazing rights, riparian rights, air rights, zoning, variances, and any other similar rights with respect to land. An interest in land is not to include an airport landing or takeoff right, a regulated airline route, or a franchise to provide cable television services.

The costs of acquiring licenses, permits and other rights relating to improvements to land, such as building construction or use permits, are amortized over the life of the improvement in accordance with present law.

Certain computer software.—The term "section 197 intangible" does not include computer software (whether acquired as part of a trade or business or otherwise) that (1) is readily available for purchase by the general public; (2) is subject to a non-exclusive license; and (3) has not been substantially modified. In addition, the term "section 197 intangible" does not include computer software which is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

For purposes of the bill, the term "computer software" is defined as any program (i.e., any sequence of machine-readable code) that is designed to cause a computer to perform a desired function. The term "computer software" includes any incidental and ancillary rights with respect to computer software that (1) are necessary to effect the legal acquisition of the title to, and the ownership of, the computer software, and (2) are used only in connection with the computer software. The term "computer software" does not include any data base or similar item (other than a data base or item that is in the public domain and that is incidental to the software[14] regardless of the form in which it is maintained or stored.

If a depreciation deduction is allowed with respect to any computer software that is not a section 197 intangible solely by reason of the exceptions described in the preceding paragraph,[15] the amount of the deduction is to be determined by amortizing the adjusted basis of the computer software ratably over a 36-month period that begins with the month that the computer software is placed in service. For this purpose, the cost of any computer software that is taken into account as part of the cost of computer hardware or other tangible property under present law is to continue to be taken into account in such manner under the bill. In addition, the cost of any computer software that is currently deductible (*i.e.*, not capitalized) under present law is to continue to be taken into account in such manner under the bill.

Certain interests in films, sound recordings, video tapes, books, or other similar property.—The term "section 197 intangible" does not include any interest (including an interest as a licensee) in a film, sound recording, video tape, book, or other similar property (including the right to broadcast or transmit a live event) if the interest is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

Certain rights to receive tangible property or services.—The term "section 197 intangible" does not include any right to receive tangible property or services under a contract (or any right to receive tangible property or services granted by a governmental unit or an agency or instrumentality thereof) if the right is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

If a depreciation deduction is allowed with respect to a right to receive tangible property or services that is not a section 197 intangible, the amount of the deduction is to be determined in accordance with regulations to be promulgated by the Treasury Department. It is anticipated that the regulations may provide that in the case of an amortizable right to receive tangible property or services in substantially equal amounts over a fixed period that is not renewable, the cost of acquiring the right will be taken into account ratably over such fixed period. It is also anticipated that the regulations may provide that in the case of a right to receive a fixed amount of tangible property or services over an unspecified period, the cost of acquiring such right will be taken into account under a method that allows a deduction based on the amount of tangible property or services received during a taxable year compared to the total amount of tangible property or services to be received.

For example, assume that a taxpayer acquires from another person a favorable contract right of such person to receive a specified amount of raw materials each month for the next three years (which is the remaining life of the contract) and that the right to receive such raw materials is not acquired as part of the acquisition of assets that constitute a trade or business or a substantial portion thereof (i.e., such contract right is not a section 197 intangible). It is anticipated that the taxpayer may be required to amortize the cost of acquiring the contract. Alternatively, if the favorable contract right is to receive a specified amount of raw materials during an unspecified period, it is anticipated that the taxpayer may be required to amortize the cost of acquiring the contract right by multiplying such cost by a fraction, the numerator of which is the amount of raw materials received under the contract during any taxable year and the denominator of which is the total amount of raw materials to be received under the contract.

---

[10] Section 1253(d)(1) of the Code.

[11] A temporal interest in property, outright or in trust, may not be used to convert a section 197 intangible into property that is amortizable more rapidly than ratably over the 16-year period specified in the bill.

[12] Certain purchased mortgage servicing rights are excluded from the definition of a section 197 intangible under special rules described below.

[13] See below for description of the treatment of assumption reinsurance contracts.

[14] For example, a data base would not include a dictionary feature used to spell-check a word processing program.

[15] Computer software acquired from a qualified research entity, as described below may also be excluded from the definition of a section 197 intangible. The cost of any intangible assets acquired in such an acquisition, including any computer software, is to be taken into account under present law.

It is also anticipated that the regulations may require a taxpayer under appropriate circumstances to amortize the cost of acquiring a renewable right to receive tangible property or services over a period that includes all renewal options exercisable by the taxpayer at less than fair market value.

Certain interests in patents or copyrights.—the term "section 197 tangible" does not include any interest in a patent or copyright which is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

If a depreciation deduction is allowed with respect to an interest in a patent or copyright and the interest is not a section 197 intangible, then the amount of the deduction is to be determined in accordance with regulations to be promulgated by the Treasury Department. it is expected that the regulations may provide that if the purchase price of a patent is payable on an annual basis as a fixed percentage of the revenue derived from the use of the patent, then the amount of the depreciation deduction allowed for any taxable year with respect to the patent equals the amount of the royalty paid or incurred during such year.[16]

Interests under leases of tangible property.—The term "section 197 intangible" does not include any interest as a lessor or lessee under an existing lease of tangible property (whether real or personal).[17] The cost of acquiring an interest as a lessor under a lease of tangible property where the interest as lessor is acquired in connection with the acquisition of the tangible property is to be taken into account as part of the cost of the tangible property. For example, if a taxpayer acquires a shopping center that is leased to tenants operating retail stores, the portion (if any) of the purchase price of the shopping center that is attributable to the favorable attributes of the leases is to be taken into account as a part of the basis of the shopping center and is to be taken into account in determining the depreciation deduction allowed with respect to the shopping center.

The cost of acquiring an interest as a lessee under an existing lease of tangible property is to be taken into account under present law (see section 178 of the Code and Treas. Reg. sec. 1.162-11(a)) rather than under the provisions of the bill.[18] In the case of any interest as a lessee under a lease of tangible property that is acquired with any other intangible property (either in the same transaction or series of related transactions), however, the portion of the total purchase price that is allocable to the interest as a lessee is not to exceed the excess of (1) the present value of the fair market value rent for the use of the tangible property for the term of the lease,[19] over (2) the present value of the rent reasonably expected to be paid for the use of the tangible property for the term of the lease.

Interests under indebtedness.—The term "section 197 intangible" does not include any interest (whether as a creditor or debtor) under any indebtedness that was in existence on the date that the interest was acquired.[20] Thus, for example, the value of assuming an existing indebtedness with a below-market interest rate is to be taken into account under present law rather than under the bill. In addition, the premium paid for acquiring the right to receive an above-market rate of interest under a debt instrument may be taken into account under section 171 of the Code, which generally allows the amount of the premium to be amortized on a yield-to-maturity basis over the remaining term of the debt instrument. This exception for interests under existing indebtedness does not apply to the deposit base and other similar items of a financial institution.

Professional sports franchises.—The term "section 197 intangible" does not include a franchise to engage in professional baseball, basketball, football, or other professional sport, and any item acquired in connection with such a franchise. Consequently, the cost of acquiring a professional sports franchise and related assets (including any good will, going concern value, or other section 197 intangibles) is to be allocated among the assets acquired as provided under present law (see, for example, section 1056 of the Code) and is to be taken into account under the provisions of present law.

Purchased mortgage servicing rights.—The term "section 197 intangible" does not include any right to service indebtedness that is secured by residential real property (a "purchased mortgage servicing right"), unless such right is acquired in a transaction (or series of related transactions) involving the acquisition of assets (other than such right or other such purchased mortgage servicing rights) constituting a trade or business or a substantial portion of a trade or business.

Certain property acquired from a qualified research entity.—At the election of the taxpayer, the term "section 197 intangible" does not include any intangible property that is acquired in a qualifying acquisition from a qualified research entity.

A qualified research entity must satisfy certain requirements intended to limit qualification to certain research-intensive startup entities. First, the excess of the fair market value of the gross assets of the entity over the adjusted issue price of short term debt (debt that has a maturity of one year or less at the time of issuance) must not exceed $50 million.

Second, the entity must not have had any gross receipts (other than earnings on short-term investments of reasonable working capital) during any period more than five years prior to the acquisition. Furthermore, during the entity's entire period of existence on or before the acquisition date, the aggregate amount of expenditures for research and experimentation (within the meaning of section 174 of the Code) which are technological in nature[21] is at least $500,000 and is also at least 30 percent of its aggregate gross receipts (other than earnings on short term investments of reasonable working capital).

Third, at all times during the existence of the entity on or before the acquisition date, at least 50 percent of the fair market value of its equity must be held directly by five or fewer non-corporate persons and at least 50 percent of the fair market value of its equity must be owned by individuals on a look-through basis (other than ownership attributed through a corporation).

The bill provides special attribution rules, aggregation rules, and rules relating to predecessors, as well as rules for applying each of the requirements in the case of a sole proprietorship.

An acquisition from a qualified research entity qualifies for the elective treatment only if substantially all of the section 197 intangibles acquired in the transaction (or a series of related transactions) were created by the qualified research entity or were acquired by that entity in a transaction (or a series of series of related transactions) that themselves would have qualified for the election (apart from the effective date). Thus, for example, a qualified research entity may not act directly or indirectly as a conduit to transfer property from an entity that is not a qualified research entity.

Regulatory authority regarding rights of fixed term or duration.—The bill authorizes the Treasury Department to issue regulations that exclude a right received under a contract, or granted by a governmental unit or an agency or instrumentality thereof, from the definition of a section 197 intangible if (1) the right is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business (or a substantial portion thereof) and (2) the right either (A) has a fixed duration of less than 16 years or (B) is fixed as to amount[22] and property amortizable (without regard to this provision) under a method similar to the unit of production method. Generally, it is anticipated that the mere fact that a taxpayer will have the opportunity to renew a contract or other right on the same terms as are available to others, in a competitive auction or similar process that is designed to reflect fair market value and in which the taxpayer is not contractually advantaged, will not be taken into account in determining the duration of such right or whether it is for a fixed amount. However, the mere facts that competitive bidding occurs at the time of renewal and that there are or may be modifications in price (or in terms or requirements relating to the right that increase the cost to the bidder) shall not be within the scope of the preceding sentence unless the bidding also actually produces a fair market value price comparable to the price that would obtain if the rights were purchased in an arm's length transaction. Furthermore, it is expected that, as under present law, the Treasury Department will take into account all the facts and circumstances, including any facts indicating an actual practice of renewals or expectancy of renewals.

---

[16] See *Associated Patentees, Inc.*, 4 T.C. 979 (1945); and Rev. Rul. 67-136, 1967-1 C.B. 58.

[17] The bill provides that a sublease is to be treated in the same manner as a lease of the underlying property. Thus, the term "section 197 intangible" does not include any interest as a sublessor or sublessee of tangible property.

[18] The lease of a gate at an airport for the purpose of loading and unloading passengers and cargo is a lease of tangible property for this purpose. It is anticipated that such treatment will serve as guidance to the Internal Revenue Service and taxpayers in resolving existing disputes.

[19] In no event is the present value of the fair market value rent for the use of the tangible property for the term of the lease to exceed the fair market value of the tangible property as of the date of acquisition. The present value of such rent is presumed to be less than the value of the tangible property if the duration of the lease is less than the economic useful life of the property.

[20] For purposes of this exception, the term "interest under any existing indebtedness" is to include mortgage servicing rights to the extent that the rights are stripped coupons under section 1286 of the Code. See Rev. Rul. 91-46, 1991-34 I.R.B. 5 (August 26, 1991).

[21] For this purpose it is intended that software development costs qualify as expenditures for research and experimentation under the same standards as applied to the cost of developing other products and processes. I.R.S. Notice 87-12, 1987-1 C.B. 432. *See* Prop. Regs. 1.174-2(a)(6).

[22] For example, an emission allowance granted a public utility under Title IV of the Clean Air Act Amendments of 1990 is a right that is limited in amount within the meaning of this provision.

For example, Company A enters into a license with Company B to use certain know-how developed by B. The license is for five years and provides that it cannot be renewed by A except on terms that are fully available to A's competitors and will reflect an arm's length price determined at the time of renewal. The license does not constitute a substantial portion of a trade or business and is not entered into as part of a transaction (or series of related transactions) that constitute the acquisitions of a trade or business or substantial portion thereof. It is anticipated that in these circumstances the regulations will provide that the license is not a section 197 intangible because it is of fixed duration of less than 16 years.

The regulations may also prescribe rules governing the extent to which renewal options and similar items will be taken into account for the purpose of determining whether rights are fixed in duration or amount.

It is also anticipated that such regulations may prescribe the appropriate method of amortizing the capitalized costs of rights which are excluded by such regulations from the definition of a section 197 intangible.

Exception for certain self-created intangibles

The bill generally does not apply to any section 197 intangible that is created by the taxpayer if the section 197 intangible is not created in connection with a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion thereof.

For purposes of this exception, a section 197 intangible that is owned by a taxpayer is to be considered created by the taxpayer if the intangible is produced for the taxpayer by another person under a contract with the taxpayer that is entered into prior to the production of the intangible. For example, a technological process or other know-how that is developed specifically for a taxpayer under an arrangement with another person pursuant to which the taxpayer retains all rights to the process or know-how is to be considered created by the taxpayer.

The exception for "self-created" intangibles does not apply to the entering into (or renewal of) a contract for the use of a section 197 intangible. Thus, for example, the exception does not apply to the capitalized costs incurred by a licensee in connection with the entering into (or renewal of) a contract for the use of know-how or other section 197 intangible. These capitalized costs are to be amortized over the 16-year period specified in the bill.

In addition, the exception for "self-created" intangibles does not apply to: (1) any license, permit, or other right that is granted by a governmental unit or an agency or instrumentality thereof; (2) any covenant not to compete (or other similar arrangement) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof); and (3) any franchise, trademark, or trade name. Thus, for example, the capitalized costs incurred in connection with the development or registration of a trademark or trade name are to be amortized over the 16-year period specified in the bill.

Special rules

Determination of adjusted basis

The adjusted basis of a section 197 intangible that is acquired from another person generally is to be determined under the principles of present law that apply to tangible property that is acquired from another person. Thus, for example, if a portion of the cost of acquiring an amortizable section 197 intangible is contingent, the adjusted basis of the section 197 intangible is to be increased as of the beginning of the month that the contingent amount is paid or incurred. This additional amount is to be amortized ratably over the remaining months in the 16-year amortization period that applies to the intangible as of the beginning of the month that the contingent amount is paid or incurred.

Treatment of certain dispositions of amortizable section 197 intangibles

Special rules apply if a taxpayer disposes of a section 197 intangible that was acquired in a transaction or series of related transactions and, after the disposition,[23] the taxpayer retains other section 197 intangibles that were acquired in such transaction or series or related transactions.[24] First, no loss is to be recognized by reason of such a disposition. Second, the adjusted bases of the retained section 197 intangibles that were acquired in connection with such transaction or series of related transactions are to be increased by the amount of any loss that is not recognized. The adjusted basis of any such retained section 197 intangible is increased by the product of (1) the amount of the loss that is not recognized solely by reason of this provision, and (2) a fraction, the numerator of which is the adjusted basis of the intangible as of the date of the disposition and the denominator of which is the total adjusted bases of all such retained section 197 intangibles as of the date of the disposition.

For purposes of these rules, all persons treated as a single taxpayer under section 41(f)(1) of the Code are treated as a single taxpayer. Thus, for example, a loss is not to be recognized by a corporation upon the disposition of a section 197 intangible if after the disposition a member of the same controlled group as the corporation retains other section 197 intangibles that were acquired in the same transaction (or a series of related transactions) as the section 197 intangible that was disposed of. It is anticipated that the Treasury Department will provide rules for taking into account the amount of any loss that is not recognized due to this rule (for example, by allowing the corporation that disposed of the section 197 intangible to amortize the loss over the remaining portion of the 16-year amortization period).

Treatment of certain nonrecognition transactions

If any section 197 intangible is acquired in a transaction to which section 332, 351, 361, 721, 731, 1031, or 1033 of the Code applies (or any transaction between members of the same affiliated group during any taxable year for which a consolidated return is filed),[25] the transferee is to be treated as the transferor for purposes of applying this provision with respect to the amount of the adjusted basis of the transferee that does not exceed the adjusted basis of the transferor.

For example, assume that an individual owns an amortizable section 197 intangible that has been amortized under section 197 for 4 full years and has a remaining unamortized basis of $300,000. In addition, assume that the individual exchanges the asset and $100,000 for a like-kind amortizable section 197 intangible in a transaction to which section 1031 applies. Under the bill, $300,000 of the basis of the acquired amortizable section 197 intangible is to be amortized over the 12 years remaining in the original 16-year amortization period for the transferred asset and the other $100,000 of basis is to be amortized over the 16-year period specified in the bill.[26]

Treatment of certain partnership transactions

Generally, consistent with the rules described above for certain nonrecognition transactions, a transaction in which a taxpayer acquires an interest in an intangible held through a partnership (either before or after the transaction) will be treated as an acquisition to which the bill applies only if, and to the extent that, the acquiring taxpayer obtains, as a result of the transaction, an increased basis for such intangible.[27]

For example, assume that A, B and C each contribute $700 for equal shares in partnership P, which on January 1, 1993, acquires as its sole asset an amortizable section 197 intangible for $2,100. Assume that on January 1, 1997, (1) the sole asset of P is the intangible acquired in 1993, (2) the intangible has an unamortized basis of $1,500 and A, B, and C each have a basis of $500 in their partnership interests, and (3) D (who is not related to A, B, or C) acquires A's interest in P for $800. Under the bill, if there is no section 754 election in effect for 1997, there will be no change in the basis or amortization of the intangible and D will merely step into the shoes of A with respect to the intangible. D's share of the basis in the intangible will be $500, which will be amortized over the 12 years remaining in the amortization period for the intangible.

On the other hand, if a section 754 election is in effect for 1997, then D will be treated as having an $800 basis for its share of P's intangible. Under section 197, D's share of income and loss will be determined as if P owns two intangible assets. D will be treated as having a basis of $500 in one asset, which will continue to be amortized over the 12 remaining years of the original 16-year life. With respect to the other asset, D will be treated as having a basis of $300 (the amount of step-up obtained by D under section 743 as a result of the section 754 election) which will be amortized over a 16-year period starting with January of 1997. B and C will each continue to share equally in a $1,000 basis in the intangible and amortize that amount over the remaining 12-year life.

---

[23] For this purpose, the abandonment of a section 197 intangible or any other event that renders a section 197 intangible worthless is to be considered a disposition of a section 197 intangible.

[24] These special rules do not apply to a section 197 intangible that is separately acquired (i.e., a section 197 intangible that is acquired other than in a transaction or a series of related transactions that involve the acquisition of other section 197 intangibles). Consequently, a loss may be recognized upon the disposition of a separately acquired section 197 intangible. In no event, however, is the termination or worthlessness of a portion of a section 197 intangible to be considered the disposition of a separately acquired section 197 intangible. For example, the termination of one or more customers from an acquired customer list or the worthlessness of some information from an acquired data base is not to be considered the disposition of a separately acquired section 197 intangible.

[25] The termination of a partnership under section 708(b)(1)(B) of the Code is a transaction to which this rule applies. In such a case, the bill applies only to the extent that the adjusted basis of the section 197 intangibles before the termination exceeds the adjusted basis of the section 197 intangibles after the termination. (See the example below in the discussion of "Treatment of Certain Partnership Transactions.")

[26] No inference is intended whether any asset treated as a section 197 intangible under the bill is eligible for like kind exchange treatment.

[27] This discussion is subject to the application of the anti-churning rules which are discussed below.

As an additional example, assume the same facts as described above, except that D acquires both A's and B's interests in P for $1,600. Under section 708, the transaction is treated as if P is liquidated immediately after the transfer, with C and D each receiving their pro rata share of P's assets which they then immediately contribute to a new partnership. The distributions in liquidation are governed by section 731. Under the bill, C's interest in the intangible will be treated as having a $500 basis, with a remaining amortization period of 12 years. D will be treated as having an interest in two assets: one with a basis of $1,000 and a remaining amortization period of 12 years, and the other with a basis of $600 and a new amortization period of 16 years.

As discussed more fully below, the bill also changes the treatment of payments made in liquidation of the interest of a deceased or retired partner in exchange for goodwill. Except in the case of payments made on the retirement or death of a general partner of a partnership for which capital is not a material income-producing factor, such payments will not be treated as a distribution of partnership income. Under the bill, however, if the partnership makes an election under section 754, section 734 will generally provide the partnership the benefit of a stepped-up basis for the retiring or deceased partner's share of partnership goodwill and an amortization deduction for the increase in basis under section 197.

For example, using the facts from the preceding examples, assume that on January 1, 1997, A retires from the partnership in exchange for a payment from the partnership of $800, all of which is in exchange for A's interest in the intangible asset owned by P. Under the bill, if there is a section 754 election in effect for 1997, P will be treated as having two amortizable section 197 intangibles: one with a basis of $1,500 and a remaining life of 12 years, and the other with a basis of $300 and a new life of 16 years.

Treatment of certain reinsurance transactions

The bill applies to any insurance contract that is acquired from another person through an assumption reinsurance transaction (but not through an indemnity reinsurance transaction).[28] The amount taken into account as the adjusted basis of such a section 197 intangible, however, is to equal the excess of (1) the amount paid or incurred by the acquirer/reinsurer under the assumption reinsurance transaction,[29] over (2) the amount of the specified policy acquisition expenses (as determined under section 848 of the Code) that is attributable to premiums received under the assumption reinsurance transaction. The amount of the specified policy acquisition expenses of an insurance company that is attributable to premiums received under an assumption reinsurance transaction is to be amortized over the period specified in section 848 of the Code.

Treatment of amortizable section 197 intangible as depreciable property

For purposes of chapter 1 of the Internal Revenue Code, an amortizable section 197 intangible is to be treated as property of a character which is subject to the allowance for depreciation provided in section 167. Thus, for example, an amortizable section 197 intangible is not a capital asset for purposes of section 1221 of the Code, but an amortizable section 197 intangible held for more than one year generally qualifies as property used in a trade or business for purposes of section 1231 of the Code. As further examples, an amortizable section 197 intangible is to constitute section 1245 property, and section 1239 of the Code is to apply to any gain recognized upon the sale or exchange of an amortizable section 197 intangible, directly or indirectly, between related persons.

Treatment of certain amounts that are properly taken into account in determining the cost of property that is not a section 197 intangible

The bill does not apply to any amount that is properly taken into account under present law in determining the cost of property that is not a section 197 intangible. Thus, for example, no portion of the cost of acquiring real property that is held for the production of rental income (for example, an office building, apartment building or shopping center) is to be taken into account under the bill (i.e., no goodwill, going concern value or any other section 197 intangible is to arise in connection with the acquisition of such real property). Instead, the entire cost of acquiring such real property is to be included in the basis of the real property and is to be recovered under the principles of present law applicable to such property.

Modification of purchase price allocation and reporting rules for certain asset acquisitions

Sections 338(b)(5) and 1060 of the Code authorize the Treasury Department to promulgate regulations that provide for the allocation of purchase price among assets in the case of certain asset acquisitions. Under regulations that have been promulgated pursuant to this authority, the purchase price of an acquired trade or business must be allocated among the assets of the trade or business using the "residual method."

Under the residual method specified in the Treasury regulations, all assets of an acquired trade or business are divided into the following four classes: (1) Class I assets, which generally include cash and cash equivalents; (2) Class II assets, which generally include certificates of deposit, U.S. government securities, readily marketable stock or securities, and foreign currency; (3) Class III assets, which generally include all assets other than those included in Class I, II, or IV (generally all furniture, fixtures, land, buildings, equipment, other tangible property, accounts receivable, covenants not to compete, and other amortizable intangible assets); and (4) Class IV assets, which include intangible assets in the nature of goodwill or going concern value. The purchase price of an acquired trade or business (as first reduced by the amount of the assets included in Class I) is allocated to the assets included in Class II and Class III based on the value of the assets included in each class. To the extent that the purchase price (as reduced by the amount of the assets in Class I) exceeds the value of the assets included in Class II and Class III, the excess is allocable to assets included Class IV.

It is expected that the present Treasury regulations which provide for the allocation of purchase price in the case of certain asset acquisitions will be amended to reflect the fact that the bill allows an amortization deduction with respect to intangible assets in the nature of goodwill and going concern value. It is anticipated that the residual method specified in the regulations will be modified to treat all amortizable section 197 intangibles as Class IV assets and that this modification will apply to any acquisition of property to which the bill applies.

Section 1060 also authorizes the Treasury Department to require the transferor and transferee in certain asset acquisitions to furnish information to the Treasury Department concerning the amount of any purchase price that is allocable to goodwill or going concern value. The bill provides that the information furnished to the Treasury Department with respect to certain asset acquisitions is to specify the amount of purchase price that is allocable to amortizable section 197 intangibles rather than the amount of purchase price that is allocable to goodwill or going concern value. In addition, it is anticipated that the Treasury Department will exercise its existing regulatory authority to require taxpayers to furnish such additional information as may be necessary or appropriate to carry out the provisions of the bill, including the amount of purchase price that is allocable to intangible assets that are not amortizable section 197 intangibles.[30]

General regulatory authority

The Treasury Department is authorized to prescribe such regulations as may be appropriate to carry out the purposes of the bill including such regulations as may be appropriate to prevent avoidance of the purposes of the bill through related persons or otherwise. It is anticipated that the Treasury Department will exercise its regulatory authority where appropriate to clarify the types of intangible property that constitute section 197 intangibles.

Effective Date

In general

The provision generally applies to property acquired after the date of enactment of the bill. As more fully described below, however, a taxpayer may elect (1) to apply the bill to all property acquired after July 25, 1991, or (2) if the taxpayer acquired section 197 intangibles on or before July 25, 1991, to clarify the treatment of all section 197 intangibles acquired on or before the date of enactment for purposes of all "open taxable years". A taxpayer may not, however, make both of the foregoing elections. In addition, a taxpayer that does not make either of the above elections may elect to apply present law (rather than the provisions of the bill) to property that is acquired after the date of enactment of the bill pursuant to a binding written contract in effect on the date of enactment of the bill and at all times thereafter until the property is acquired. Finally, special "anti-churning" rules may apply to prevent taxpayers from converting existing goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not have been allowable under present law into amortizable property to which the bill applies.

---

[28] An assumption reinsurance transaction is an arrangement whereby one insurance company (the reinsurer) becomes solely liable to policyholders on contracts transferred by another insurance company (the ceding company). In addition, for purposes of the bill, an assumption reinsurance transaction is to include any acquisition of an insurance contract that is treated as occurring by reason of an election under section 338 of the Code.

[29] The amount paid or incurred by the acquirer-reinsurer under an assumption reinsurance transaction is to be determined under the principles of present law. (See Treas. Reg. sec. 1.817-4(d)(2).)

[30] There is no intention to codify any aspect of the existing regulations under section 1060 or other provisions. In addition, it is expected that the Treasury Department will review the operation of the regulations under sections 1060 and 338 in light of new section 197.

Election to apply bill to property acquired after July 25, 1991

A taxpayer may elect to apply the bill to all property acquired by the taxpayer after July 25, 1991. If a taxpayer makes this election, the bill also applies to all property acquired after July 25, 1991, by any taxpayer that is under common control with the electing taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of the Code) at any time during the period that began on November 22, 1991, and that ends on the date that the election is made.[31]

The election is to be made at such time and in such manner as may be specified by the Treasury Department,[32] and the election may be revoked only with the consent of the Treasury Department.

Special election to settle the treatment of section 197 intangibles for purposes of all "open taxable years"

In general

A taxpayer that acquired an "amortizable section 197 intangible"[33] on or before July 25, 1991 is allowed to make an election pursuant to which such taxpayer would be required, with respect to all "amortizable section 197 intangibles" acquired on or before the date of enactment and during any year for which a Federal income tax return has been filed before June 16, 1992 (a "return year"), to amortize 75 percent of the basis of such intangibles that were actually claimed as amortizable intangible asset basis on such taxpayer's Federal income tax return for the year of acquisition. If amortization was not claimed with respect to any one or more amortizable section 197 intangibles acquired in a year until the return for the next following year (or if a different basis, period, or method of amortization for any such asset was claimed on such next following year's return), then such return for the next following year shall be the governing return for all the prior year's acquisitions, provided it was filed before June 16, 1992.[34]

The method and period of such amortization under the election will be the same as reported by the taxpayer on its relevant return. The remaining 25 percent of the basis of such intangibles, as well as the entire basis of any amortizable section 197 intangibles acquired in such year that were not treated as amortizable on such return, would be treated as non-amortizable goodwill and would only be recovered at the time that the trade or business to which the goodwill relates is disposed of (or becomes worthless). The allocation of basis between amortizable intangibles and non-amortizable intangibles as reflected on the relevant return will be binding on the electing taxpayer and the IRS. For purposes of the rules described in this paragraph regarding the basis of intangibles claimed as amortizable and the allocation of basis on the return, an amended return for a return year shall be treated as a return, but only if filed on or before July 25, 1991. In addition, any settlement or closing agreement with respect to the year of acquisition (or the immediately following year, if applicable) shall be treated as the relevant return for purposes of the 25 percent basis reduction and other rules if it is entered into before the date the election is made. In applying the 25 percent basis reduction and the rules for determining period and method of amortization, there are certain exceptions for years involving an irrevocable resolution of issues, described below.[35]

Except as described herein, no other submission or document will be treated as a return for purposes of this provision or will govern the treatment of section 197 assets for purposes of the election.

Treatment of assets for which there is an irrevocable resolution of proper Federal income tax treatment

Notwithstanding the general rule requiring a 25 percent reduction in the basis of amortized section 197 intangibles, if a taxpayer makes the election no 25 percent reduction in the basis of previously amortized amortizable section 197 intangibles will occur for any period for which there is an irrevocable resolution with respect to the Federal income tax treatment of such assets by reason of a closing agreement, settlement agreement, or final judicial decision, as described below. For this purpose, only certain situations will be considered to be an irrevocable resolution. In each case, an irrevocable resolution will not have occurred unless the proper treatment of an amortizable section 197 intangible had been raised and such closing agreement, settlement agreement, or final judicial decision expressly addressed and resolved the issue of such treatment.

First, if a taxpayer, on or before the date the election is made, has entered a final closing agreement under section 7121 that governs the amortization of particular section 197 intangibles, such closing agreement shall be considered an irrevocable resolution of the proper Federal income tax treatment for the period or periods it covers. The treatment of such intangibles for such periods shall be undisturbed by any election under this section.

Second, if a final agreement on Form 870-AD has been entered by the taxpayer and the IRS on or before the date the election is made, that addresses the treatment of one or more intangible assets, then the basis and method of amortization reflected in such Form 870-AD shall not be disturbed by the election for the period or periods it covers. However, it shall be a condition of making the election that such basis and method shall govern for all such years of the taxpayer with respect to the assets covered by such agreement.

Third, if a taxpayer's case has reached a final judicial determination on or before the date of making the election, then, with respect to the particular acquisitions covered by that final determination, the basis and method of amortization reflected in that final determination also shall not be disturbed. It shall be a condition of making the election that such basis and method shall govern for all years covered by the decision and for all subsequent years of the taxpayers with respect to the assets and the acquisition covered by such determination.

If a closing or settlement agreement does not determine the treatment of the asset for all years, then the agreement governs only the years to which it applies. However, if such an agreement covers the year of acquisition (or the next year, if relevant) and thus is treated as the "return" for that year, the 25 percent basis reduction, method and period of amortization for any years not covered by the agreement is determined by reference to that agreement. If a judicial decision does not cover all years, it shall be observed for the year or years to which it applies and for all following years.

Treatment of acquisitions for which no return has been filed before June 16, 1992

If a taxpayer makes the election for all "open taxable years", such taxpayer will also be required to apply the rules of section 197, as contained in the bill, to all "amortizable section 197 intangibles" acquired on or before the date of enactment for which a return has not been filed prior to June 16, 1992. However, 25 percent of the adjusted basis of each such intangible shall for all purposes be treated as goodwill with respect to which no deduction for amortization or depreciation is allowable. Thus, for example, 25 percent of the excess of purchase price over the amount properly allocable to assets that are not "amortizable section 197 intangibles" will be treated as nonamortizable goodwill; and 75 percent of such excess will be amortized on a straight line basis over 16 years.

---

[31] However, with certain exceptions, an amortization deduction is not to be allowed under the bill for goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill if: (1) the section 197 intangible is acquired after July 25, 1991; and (2) either (a) the taxpayer or a related person held or used the intangible on July 25, 1991; (b) the taxpayer acquired the intangible from a person that held such intangible on July 25, 1991, and, as part of the transaction, the user of the intangible does not change; or (c) the taxpayer grants the right to use the intangible to a person (or a person related to such person) that held or used the intangible on July 25, 1991. See below for a more detailed description of these "anti-churning" rules.

[32] It is anticipated that the Treasury Department will require the election to be made on the timely filed Federal income tax return of the taxpayer for the taxable year that includes the date of enactment of the bill.

[33] For purposes of the election, property is considered an "amortizable section 197 intangible" if it meets the requirements of new section 197 for amortization over 16 years but for the effective date of new section 197. Taxpayers making the election will not be permitted to treat property acquired from a qualified research entity prior to the date of enactment as having been excluded from the definition of such section 197 property.

[34] For example, assume an acquisition occurred in 1986 and the taxpayer's return for the year of the acquisition claimed amortization for no amortizable section 197 intangibles. (This could occur, for example, because the acquisition occurred at year end and no amortization would be taken for that year, or because additional time was necessary to obtain information (such as an appraisal) necessary to file a return). In its return for the year 1987, the taxpayer identified and claimed amortization for some amortizable section 197 intangibles. In such a case, the return for 1987 is the relevant return for purposes of determining the basis and method of amortization of all amortizable section 197 intangibles acquired in 1986.

The same result would occur if the taxpayer on its return for 1986 had claimed amortization for some amortizable section 197 intangibles acquired that year but claimed amortization for any other, newly identified, amortizable section 197 intangible on the return for 1987, or otherwise changed the allocation of amortized basis or the method of amortization for any such intangible.

[35] If a taxpayer makes the election, the election applies only to items for which the taxpayer claimed amortization on its relevant return (or amended return) as an asset that would be an amortizable section 197 intangible. The 25 percent basis reduction does not apply (and the election does not itself settle any dispute) with respect to any item that was reported by the taxpayer in some other manner (e.g., as basis of tangible property, or as a currently deductible expense of any kind) even though the IRS may assert that such item should be reclassified as a section 197 intangible.

However, if there has been a settlement or closing agreement prior to the date the election is made that is the referent for the 25 percent basis reduction and for the period and method of amortization under the rules of the election, then the identification and treatment of the asset in such agreement shall govern whether such asset is an amortizable section 197 intangible.

Election applies for purposes of all "open taxable years"

If a taxpayer makes the election, the 25 percent basis reduction will apply for all purposes of computing tax for all "open taxable year" is a taxable year for which either (1) the statute of limitations for assessment has not expired before June 16, 1992, and there has been no closing agreement, settlement agreement or final judicial determination entered before the date of the election with respect to such year which irrevocably resolves the treatment for such year of all deductions with respect to section 197 intangibles[36] or (2) as of June 16, 1992, a claim for refund is pending with the IRS,[37] or a refund suit is pending in a Federal court, that involves or may involve the proper Federal income tax treatment of section 197 intangibles. For this purpose, a claim for refund will be treated as pending on June 16, 1992, if prior to that date such a claim was properly filed by the taxpayer and denied by the IRS and the time for filing a suit for refund under section 6532 has not expired as of June 16, 1992.

In determining whether an agreement or final judicial determination irrevocably resolves the treatment for a year of all deductions with respect to section 197 intangibles, the rules described above regarding irrevocable resolutions shall apply.[38]

In determining whether a claim for refund or refund suit involves or may involve the proper Federal income tax treatment of section 197 intangibles, the following rules shall apply. A refund claim or suit involves the proper tax treatment of section 197 intangibles if the taxpayer has raised such treatment in such claim or suit or if the IRS, in response to any refund claim, has raised such treatment as an issue (in each case before June 16, 1992). In addition, any refund claim or suit pending before June 16, 1992 is one that may involve the proper tax treatment of section 197 intangibles (even if such treatment has not been raised by either party before June 16, 1992) if the taxpayer has claimed amortization of any such intangible during any taxable period that would affect the determination of any offsets to such claim for refund, and the case is in a procedural posture where such offsets could still be raised. In such a situation, a taxpayer making the election will be required to apply the election to any such intangibles for purposes of determining offsets to the claim for refund.

No deficiency or interest will arise for any year for which the time for asserting a deficiency has expired. However, in the case of a year that is an open taxable year due to the existence or a refund claim or suit, as described above, the 25 percent basis reduction shall apply for purposes of determining the amount of any refund after all offsets (including such 25 percent reduction) are considered.

Furthermore, if amortization deductions claimed in a year that is not an open taxable year would affect the determination of tax for a year that is an open taxable year (for example, because of their effect on the amount of a net operating loss carryforward or carryback to such an open taxable year) then the 25 percent basis reduction and the rules for determining period and method of amortization shall be taken into account for purposes of determining the tax liability for such open taxable years.

Tax and interest must be paid with election and before January 1, 1993

Underpayments of tax that are attributable to the election will be subject to interest. The election must be made before January 1, 1993, in such manner as the Treasury Department may prescribe and will not be valid unless any additional tax due with respect to all return years together with all applicable interest is paid before January 1, 1993. The election can be revoked only with the consent of the Secretary.

Persons under common control

In the case of two or more persons that, at any time between February 14, 1992 and the date of enactment are under common control within the meaning of subparagraphs (A) and (B) of section 41(f)(1), the election is valid only if made by the common parent corporation (or an equivalent person) and then applies to all such persons. In the case of a group of corporations that filed a consolidated return for any open taxable year, the parent corporation would be required to make the election for such taxable year. A corporation that is no longer part of a consolidated group would be eligible to make the election for all open taxable years that the corporation was not a member of a group that filed a consolidated return. The Treasury Department shall prescribe rules for applying the election to persons who were under common control for some but not all years to which the election might apply.

Statute of limitations and other rules

The statute of limitations on the assessment of tax with respect to any taxable year affected by the election shall expire no sooner than two years after the election is made.

If a taxpayer makes the election, the anti-churning rules, described in more detail below, will apply to an acquisition of a section 197 intangible that is non-amortizable under current law, if such acquisition occurs after July 25, 1991, in an open taxable year which is not a return year.

Elective binding contract exception

A taxpayer may also elect to apply present law (rather than the provisions of the bill) to property that is acquired after the date of enactment of the bill if the property is acquired pursuant to a binding written contract that was in effect on the date of enactment and at all times thereafter until the property is acquired. This election may not be made by any taxpayer that is subject to either of the elections described above that apply the provisions of the bill to property acquired before the date of enactment of the bill.

The election is to be made at such time and in such manner as may be specified by the Treasury Department,[39] and the election may be revoked only with the consent of the Treasury Department.

Anti-churning rules

Special rules are provided by the bill to prevent taxpayers from converting existing goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not have been allowable under present law into amortizable property to which the bill applies.

Under these "anti-churning" rules, goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill may not be amortized as an amortizable section 197 intangible if: (1) the section 197 intangible is acquired by a taxpayer after the date of enactment of the bill; and (2) either (a) the taxpayer or a related person held or used the intangible at any time during the period that begins July 25, 1991, and that ends on the date of enactment of the bill; (b) the taxpayer acquired the intangible from a person that held such intangible at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill and, as part of the transaction, the user of the intangible does not change; or (c) the taxpayer grants the right to use the intangible to a person (or a person related to such person) that held or used the intangible at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill. The anti-churning rules, however, do not apply to the acquisition of any intangible by a taxpayer if the basis of the intangible in the hands of the taxpayer is determined under section 1014(a) (relating to property acquired from a decedent).

For purposes of the anti-churning rules, a person is related to another person if: (1) the person bears a relationship to that person which would be specified in section 267(b)(1) or 707(b)(1) of the Code if those sections were amended by substituting 20 percent for 50 percent; or (2) the persons are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of the Code). A person is treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

In addition, in determining whether the anti-churning rules apply with respect to any increase in the basis of partnership property under section 732, 734, or 743 of the Code, the determinations are to be made at the partner level and each partner is to be treated as having owned or used the partner's proportionate share of the partnership property. Thus, for example, the anti-churning rules do not apply to any increase in the basis of partnership property that occurs upon the acquisition of an interest in a partnership that has made a section 754 election if the person acquiring the partnership interest is not related to the person selling the partnership interest.[40]

---

[36] In addition, the statute of limitations for a taxable year is to be treated as expired for purposes of this election if, as of June 16, 1992, the taxpayer has agreed to extend the statute of limitations for such taxable year solely with respect to issues that do not involve the proper treatment for Federal income tax purposes of acquired intangibles that are defined as section 197 intangibles under the bill.

[37] For example, such a claim includes one for which the statute of limitations with respect to such claim is extended under section 6511(d)(2) (which may similarly be a situation in which the statute of limitations for assessment is extended pursuant to section 6501).

[38] *See, Treatment of assets for which there is an irrevocable resolution of proper Federal income tax treatment, supra.*

[39] It is anticipated that the Treasury Department will require the election to be made on the timely filed Federal income tax return of the taxpayer for the taxable year that includes the date of enactment of the bill.

[40] In addition to these rules, it is anticipated that rules similar to the anti-churning rules under section 168 of the Code will apply in determining whether persons are related. (See Prop. Treas. Reg. 1.168-4 (February 16, 1984).) For example, it is anticipated that a corporation, partnership, or trust that owned or used property at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill and that is longer in existence will be considered to be in existence for

These "anti-churning" rules are not to apply to any section 197 intangible that is acquired from a person with less than a 50-percent relationship to the acquirer to the extent that: (1) the seller recognizes gain on the transaction with respect to such intangible; and (2) the seller agrees, notwithstanding any other provision of the Code, to pay a tax on such gain which, when added to any other Federal income tax imposed on such gain, equals the product of such gain and the highest rate of tax imposed by section 1 or 11 of the Code, whichever is applicable. The seller is treated as satisfying the second requirement if the excess of (1) the total tax liability for the year of the transaction over (2) what its tax liability for such year would have been had the sale of the intangible (but not the remainder of the transaction) been excluded from the computation equals or exceeds the product of the gain on that asset times the relevant maximum rate.

The bill also contains a general anti-abuse rule that applies to any section 197 intangible that is acquired by a taxpayer from another person. Under this rule, a section 197 intangible may not be amortized under the provisions of the bill if the taxpayer acquired the intangible in a transaction one of the principal purposes of which is to (1) avoid the requirement that the intangible be acquired after the date of enactment of the bill or (2) avoid any of the anti-churning rules described above that are applicable to goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill.

Finally, the special rules described above that apply in the case of a transactions described in section 332, 351, 361, 731, 1031, or 1033 of the Code also apply for purposes of the effective date. Consequently, if the transferor of any section 197 property is not allowed an amortization deduction with respect to such property under this provision, then the transferee is not allowed an amortization deduction under this provision to the extent of the adjusted basis of the transferee that does not exceed the adjusted basis of the transferor. In addition, this provision is to apply to any subsequent transfers of any such property in a transaction described insection 332, 351, 361, 731, 1031, or 1033.

2. Modify special treatment of certain liquidation payments (sec. 4552 of the bill and secs. 736(b) and 751(c) of the Code)

Present Law

Payments for purchase of goodwill and accounts receivable

A current deduction generally is not allowed for a capital expenditure (i.e., an expenditure that yields benefits beyond the current taxable year). The cost of goodwill acquired in connection with the assets of a going concern normally is a capital expenditure, as is the cost of acquiring accounts receivable. The cost of acquiring goodwill is recovered only when the goodwill is disposed of, while the cost of acquiring accounts receivable is taken into account only when the receivable is disposed of or becomes worthless.

Payments made in liquidation of partnership interest

The tax treatment of a payment made in liquidation of the interest of a retiring or deceased partner depends upon whether the payment is made in exchange for the partner's interest in partnership property. A liquidating payment made in exchange for such property is treated as distribution by the partnership (sec. 736(b)). Such distribution generally results in gain to the retiring partner only to the extent that the cash distributed exceeds the partner's adjusted basis in his partnership interest.

A liquidating payment not made in exchange for the partner's interest in partnership property receives either of two possible treatments. If the amount of the payment is determined without reference to partnership income, it is treated as a guaranteed payment and is generally deductible (sec. 736(a)(2)). If the amount of payment is determined by reference to partnership income, the payment is treated as a distributive share of partnership income, thereby reducing the distributive shares of other partners (which is equivalent to a deduction) (sec. 736(a)(2)).

A special rule treats amounts paid for goodwill of the partnership (except to the extent provided in the partnership agreement) and unrealized receivables as not made in exchange for an interest in partnership property (sec. 736(b)(2)(B)). Thus, such amounts may be deductible. Unrealized receivables include unbilled amounts, accounts receivable, depreciation recapture, market discount, and certain other items (sec. 751(c)).

Sale or exchange of a partnership interest

The sale or exchange of a partnership interest results in capital gain or loss to the transferor partner, except to the extent that ordinary income or loss is recognized with respect to the partner's share of the partnership's unrealized receivables and substantially appreciated inventory items (sec. 741). It is often unclear whether a payment by a partnership to a retiring partner is made in sale or exchange of, or in liquidation of, a partnership interest.

Reasons for Change

In general

By treating a payment for unstated goodwill and unrealized receivables as a guaranteed payment or distributive share, present law in effect permits a deduction for an amount that would otherwise constitute a capital expenditure. This treatment does not measure partnership income properly. It also threatens to erode the rule requiring capitalization of such payments generally. Under present law, a prospective buyer of a business may structure the transaction so as to currently deduct such an amount by first entering into a partnership with the seller and then liquidating the seller's partnership interest.

Section 736 was intended to simplify the taxation of payments in liquidation. Instead, it has created confusion as to whether a particular payment is a payment in liquidation or is made pursuant to a sale of the partnership interest to the continuing partners. The proposal reduces this confusion by eliminating a primary difference between sales and liquidations.

The special treatment of goodwill was apparently predicated on the assumption that the adverse positions of the taxpayers will result in a stated price equal to the true value of the goodwill. That assumption is false. If the value of the preferential rate (if any) and the income deflection are not equal, the stated goodwill and total retirement payments will likely be set so as to maximize the combined tax savings for both retiring and continuing partners.

It is recognized, however, that general partners in service partnerships do not ordinarily value goodwill in liquidating partners. Accordingly, such partners may continue to receive the special rule of present law.

Unrealized receivables

When originally enacted, the term "unrealized receivables" was limited to unbilled amounts and accounts receivable. The tax deferral resulting from immediate deduction of amounts paid for these items is relatively short because payment is usually received in the near future. Such deferral is considerably longer, however, with respect to the deduction of other items now included in the expanded definition of unrealized receivables, such as depreciation recapture of business assets, which are slow to give rise to ordinary income.

Explanation of Provision

In general

The bill generally repeals the special treatment of liquidation payments made for goodwill and unrealized receivables. Thus, such payments would be treated as made in exchange for the partner's interest in partnership property, and not as a distributive share or guaranteed payment that could give rise to a deduction or its equivalent. The bill does not change present law with respect to payments made to a general partner in a partnership in which capital is not a material income-producing factor.

The determination of whether capital is a material income-producing factor would generally be made under principles of present and prior law.[1] For purposes of this provision, capital is not a material income-producing factor where substantially all the gross income of the business consists of fees, commissions, or other compensation for personal services performed by an individual. The practice of his or her profession by a doctor, dentist, lawyer, architect, or accountant will not, as such, be treated as a trade or business in which capital is material income-producing factor even though the practitioner may have a substantial capital investment in professional equipment or in the physical plant constituting the office from which such individual conducts his or her practice so long as such capital investment is merely incidental to such professional practice.

In addition, the bill does not affect the deductibility of compensation paid to a retiring partner for past services.

Unrealized receivables

The bill also repeals the special treatment of payments made for unrealized receivables (other than unbilled amounts and accounts receivable) for all partners. Such amounts would be treated as made in exchange for the partner's interest in partnership property. Thus, for example, a payment for depreciation recapture would be treated as made in exchange for an interest in partnership property, and not as a distributive share or guaranteed payment that could give rise to a deduction or its equivalent.

Effective Date

The provision generally applies to partners retiring or dying after February 14, 1992. The provision does not apply to any partner who retires after February 14, 1992, if a written

---

purposes of determining whether the taxpayer that acquired the property is related to such corporation, partnership, or trust.

As a further example, it is anticipated that in the case of a transaction to which section 338 of the Code applies, the corporation that is treated as selling its assets will not be considered related to the corporation that is treated as purchasing the assets if at least 80 percent of the stock of the corporation that is treated as selling its assets is acquired by purchase after July 25, 1991.

[1] E.g., sections 401(c)(2) and 911(d) of the Code and old section 1348(b)(1)(A) of the Code.

contract to purchase the partner's interest in the partnership was binding on February 14, 1992, and at all times thereafter until such purchase. For this purpose, a written contract is to be considered binding only if the contract specifies the amount to be paid for the partnership interest and the timing of any such payments.

G. OTHER SIMPLIFICATION PROVISIONS

1. Close partnership taxable year with respect to decreased partner, etc. (sec. 4561 of the bill and sec. 706(c) of the Code)

Present Law

The partnership taxable year closes with respect to a partner whose entire interest is sold, exchanged, or liquidated. Such year, however, generally does not close upon the death of a partner. Thus, a decedent's entire share of items of income, gain, loss, deduction and credit for the partnership year in which death occurs is taxed to the estate or successor in interest rather than to the decedent on his or her final income tax return. See, *Estate of Hesse* v. *Commissioner*, 74 T.C. 1307, 1311 (1980).

Reasons for Change

The rule leaving open the partnership taxable year with respect to a deceased partner was adopted in 1954 to prevent the bunching of income that could occur with respect to a partnership reporting on a fiscal year other than the calendar year. Without this rule, as many as 23 months of income might have been reported on the partner's final return. Legislative changes occurring since 1954 have required most partnerships to adopt a calendar year, reducing the possibility of bunching. Consequently, income and deductions are better matched if the partnership taxable year closes upon a partner's death and partnership items are reported on the decedent's last return.

Present law closes the partnership taxable year with respect to a deceased partner only if the partner's entire interest is sold or exchanged pursuant to an agreement existing at the time of death. By closing the taxable year automatically upon death, the provision reduces the need for such agreements.

Explanation of Provision

The bill provides that the taxable year of a partnership closes with respect to a partner whose entire interest in the partnership terminates, whether by death, liquidation or otherwise.

The committee does not intend to change present law with respect to the effect upon the partnership taxable year of a transfer of a partnership interest by a debtor to the debtor's estate (under Chapters 7 or 11 of Title 11, relating to bankruptcy).

Effective Date

The provision applies to partnership taxable years beginning after December 31, 1992.

2. Treatment of built-in losses for purposes of the corporate alternative minimum tax (sec. 4562 of the bill and sec. 56(g) of the code)

Present Law

For purposes of the regular corporate tax, if at the time of an ownership change, a corporation has a net operating loss or a net unrealized built-in loss, the use of such losses in post-change periods is limited. A corporation has a net unrealized built-in loss if the aggregate adjusted bases of the assets of the corporation exceed the fair market value of the assets immediately before the change of ownership (sec. 382).

For purposes of the adjusted current earnings (ACE) component of the corporate alternative minimum tax (AMT), if a corporation with a net unrealized built-in loss undergoes an ownership change in a taxable year beginning after 1989, the adjusted basis of each asset of such corporation generally is adjusted to each asset's fair market value (sec. 56(g)(4)(G). This rule essentially eliminates, rather than limits, the use of built-in losses for ACE purposes. The net operating loss of a corporation, on the other hand, is not eliminated for AMT purposes after a change of ownership.

Reasons for Change

Present law complicates the treatment of built-in losses of a corporation after a change of ownership by providing different rules for regular and alternative minimum tax and by providing rules different than those applicable to net operating losses. The present-law alternative minimum tax rules applicable to build-in losses requires a significant amount of additional recordkeeping.

Explanation of Provision

The bill repeals the ACE rule relating to the treatment of build-in losses after a change of ownership. Thus, for ACE purposes, the treatment of built-in losses would be similar to the treatment of net operating loss carryovers (in the same way that the treatment of built-in losses is similar to the treatment of net operating losses for regular tax purposes).

Effective Date

The provision is effective for changes of ownership occurring after December 31, 1991.

3. Increase transfer to the Reforestation Trust Fund (sec. 4563 of the bill)

Present Law

The Secretary of the Treasury is required to transfer receipts from certain import duties on plywood and lumber to the Reforestation Trust Fund in maximum amounts of $30 million for each fiscal year. In addition, the Trust Fund earns interest on investments of any cash balance. Monies in Congressional appropriations for reforestation and timber stock improvement in publicly owned national forests.

Reasons for Change

The committee believes the reforestation of Federally owned land is important both to the environment and to insure a domestic timber supply for future generations. The committee wants to insure that sufficient funds are available for reforestation expenses.

Explanation of Provision

The bill increases from $30 million to $45 million the maximum amount that may be transferred to the Reforestation Trust Fund for any fiscal year. Of the additional $15 million, $14 million is allocated for qualifying expenditures in Oregon.

Effective Date

The provision is effective for the 1993 Federal fiscal year and thereafter.

4. Private foundation common investment fund (sec. 4564 of the bill and new sec. 501(n) of the Code)

Present Law

Code section 501(c)(3) requires that an organization be organized and operated exclusively for an exempt purpose in order to qualify for tax-exempt status under that section.

Section 501(f) provides that an organization is treated as organized and operated exclusively for charitable purposes if it is comprised solely of members that are educational institutions and is organized and operated solely to hold, commingle, and collectively invest (including arranging for investment services by independent contractors) in stocks and securities, the moneys contributed thereto by the members, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members.

Reasons for Change

The committee believes it is appropriate to extend to private foundations and community foundations to present-law rules that permit educational institutions to form tax-exempt cooperative service organizations to provide for collective investment of their assets.

Explanation of Provision

The bill provides that a cooperative service organization comprised solely of members that are tax-exempt private foundations and community foundations[1] shall be treated as organized and operated exclusively for charitable purposes if: (1) it has at least 20 members; (2) no one member holds (after the organization's second taxable year) more than 10 percent (by value) of interests in the organization; (3) it is organized[2] and controlled by its members, but no one member by itself controls the organization or any other member; (4) the members are permitted to dismiss any of the organization's investment advisors, if (following reasonable notice) members holding a majority of interest in the account managed by such advisor vote to remove such advisor; and (5) the organization is organized and operated solely to hold, commingle, and collectively invest (including arranging for investment services by independent contractors) in stocks and securities, the monies contributed by the members, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members.[3]

A cooperative service organization meeting the criteria of the proposed modification would be subject to the present-law excise tax provisions applicable to private foundation (e.g., sec. 4941 rules governing self-dealing arrangements), other than sections 4940 and 4942.[4] In addition, each member's allocable share (whether or not distributed) of the capital gain net income and gross investment income of the organization for any taxable year of the organization is treated, for purposes of the excise tax imposed under present-law section 4940, as capital gain net income and gross investment income of the member for the taxable year of such member in which the taxable year of the organization ends.[5]

---

[1] For purposes of the provision, "community foundations" are a form of charitable trust or fund (which generally are established to attract large contributions of a capital or endowment nature for the benefit of a particular community or area) as to which section 170(b)(1)(A)(vi) applies. See Treas. Reg. sec. 1.170A-9(e)(10).

The committee expects that members will present the organization with verification of their status as tax-exempt private or community foundations at the time they become members (i.e., when they make an initial investment). The committee intends that a reasonable time period (such as 60 days) should be allowed for withdrawal by a member that subsequently ceases to qualify as a tax-exempt private or community foundation.

[2] The committee intends that an organization in existence at the time of enactment will meet the requirement that it be "organized" by members if its initial board of directors or trustees are officers of private or community foundations that become members of the organization within a reasonable period after enactment of the bill.

[3] The committee intends that an organization will be deemed to be organized and operated solely to collectively invest in stocks and securities if its income is derived solely from investing in stocks and securities, and ordinary and routine investments in connection with a stock and securities portfolio.

A cooperative service organization described in the provision qualifies for tax-exempt status under section 501(c)(3) only if the other applicable requirements of that section (e.g., prohibition of private inurement, political activities, and substantial lobbying) are satisfied.

[4] In addition, the bill provides that the present-law expenditure responsibility requirements of section

Effective Date

The provision applies to taxable years ending on or after December 31, 1992.

5. Determinations of gas produced from qualifying sources under the nonconventional fuels production credit (sec. 4565 of the bill and sec. 29 of the Code)

Present Law

Nonconventional fuels are eligible for a production credit ("the section 29 credit") equal to $3 per barrel or Btu oil barrel equivalent[1] (the credit amount generally is adjusted for inflation, except for gas produced from a tight formation). Fuels qualifying for the credit must be produced domestically from a well drilled, or a facility placed in service, before January 1, 1993. The production credit is available for qualifying fuels sold before January 1, 2003.

Qualifying fuels include (1) oil produced from shale and tar sands, (2) gas produced from geopressured brine, Devonian shale, coal seams, a tight formation, or biomass (i.e., any organic material other than oil, natural gas, or coal (or any product thereof), and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when such as feedstocks. The amount of the credit is determined without regard to any production attributable to a property from which gas from Devonian shale, coal seams, geopressured brine, or a tight formation was produced in marketable quantities before 1980.

As a general rule, the determination of whether any gas is produced from geopressured brine, Devonian shale, coal seams, or a tight formation is made in accordance with section 503 of the Natural Gas Policy Act of 1978 (the "NGPA").[2] The term "gas from a tight formation" means only gas from a tight formation which either, as of April 20, 1977, was committed or dedicated to interstate commerce (as defined in section 2(18) of the NGPA, as in effect on the date of enactment of the Omnibus Budget Reconciliation Act of 1990, or is produced from a well drilled after November 5, 1990.

Under section 503 of the NGPA,[3] if any State or Federal agency[4] make any final determination that a well produces certain "high-cost natural gas,"[5] that determination is applicable unless it is reversed by the Federal Energy Regulatory Commission (FERC) under special procedures established by the NGPA.[6]

Under the regulatory authority granted to it by the NGPA, FERC has furnished the following definitions of certain types of high-cost natural gas. Natural gas produced from geopressured brine is natural gas which is dissolved before initial production of the natural gas in subsurface brine aquifers with at least 10,000 parts of dissolved solids per million parts of water and with an initial reservoir geopressure gradient in excess of 0.465 pounds per square inch for each vertical foot of depth.[7]

Occluded natural gas produced from coal seams means naturally occurring natural gas from entrapment from the fractures, pores and bedding planes of coal seams.[8]

Natural gas produced from Devonian shale means natural gas produced from fractures, micropores and bedding planes of shales deposited during the paleozoic Devonian Period. Shales deposited during such period are defined as either (1) the gross Devonian age stratigraphic interval encountered by a well bore, at least 95 percent of which has a gamma ray index of 0.7 or greater; or (2) generally, one continuous interval within the gross Devonian age stratigraphic interval, encountered by a well bore, as long as at least 95 percent of the selected Devonian shale interval has a gamma ray index of 0.7 or greater.[9] When measuring the Devonian age stratigraphic interval, the gamma ray index at any point is calculated by dividing the gamma ray log value at that point by the gamma log value at the shale base line established over the entire Devonian age interval penetrated by the well bore.

In general, guidelines for making a determination that a formation is a tight formation are as follows: (1) The estimated average *in situ* gas permeability, throughout the pay section, is expected to be 0.1 millidarcy or less; (2) the stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed the production rate set forth by FERC in regulations;[10] and (3) no well drilled into the recommended tight formation is expected to produce, without stimulation, more than 5 barrels of crude oil per day.[11] The FERC regulations establishing a definition of tight formation also set forth determination and review requirements similar to those provided by the NGPA for high-cost natural gas.

Any Federal or State agency that makes a determination that a formation is a tight formation or that a well produces high-cost natural gas is required to provide timely notice in writing of such determination to FERC.[12] The notice must include such substantiation and be in such a manner as FERC may, by ruling, require.

The NGPA provides that FERC will reverse any final State or Federal agency determination that a formation is a tight formation or that a well produces high-cost natural gas if (1) FERC finds that such determination is not supported by substantial evidence in the record upon which such determination was made; and (2) the preliminary finding and required notice thereof is made within 45 days after the date on which FERC received notice of the determination by the State or Federal agency and the final finding is made within 120 days after the date of the preliminary finding.[13] If (1) FERC finds that a State or Federal agency determination is not consistent with information contained in FERC's public records, and which is not part of the record upon which the State or Federal agency's determination was made, and (2) the preliminary finding by FERC and required notice thereof is made within 45 days after the date on which FERC received notice of the determination and the final finding is made within 120 days after the date of the preliminary finding, FERC may remand the matter to the State or Federal agency for consideration of such information.[14] If the agency, after consideration of the information transmitted to it by FERC, affirms its previous determination, such determination, as so affirmed, is subject to additional review by FERC. Such findings and remands by FERC may be subject to judicial review.[15]

In general, any final determination by a State or Federal agency (or by FERC) that a formation is a tight formation or that a well produces high-cost natural gas which is no longer subject to FERC or judicial review is thereafter binding with respect to such natural gas.[16]

In 1989, the Natural Gas Wellhead Decontrol Act[17] was enacted. That Act repealed Title I of the NGPA, effective on January 1, 1993. It also repealed FERC's determination review responsibility under section 503 of the NGPA. The legislative history to the Natural Gas Wellhead Decontrol Act stated that the Senate Committee on Energy and Natural Resources did not intend, by repealing sections of the NGPA referenced in section 29 of the Internal Revenue Code, to reflect an adverse judgment as to the merits of the tax credits for any categories of natural gas production that might be affected by such action.[18] In view of this indication that Congress did not intend the 1989 legislation to limit the availability of the section 29 credit, FERC initially announced that it would continue to process well determinations until January 1, 1993, in order to allow producers to obtain tax credits that are dependent upon such determinations even if the gas has been otherwise decontrolled.[19] FERC has subsequently announced that it will continue to process well determinations received by June 30, 1993 if they are filed with jurisdictional agencies by December 31, 1992.[20]

Reasons for Change

The committee understands that the Internal Revenue Code requires certain formations and wells to be determined as qualifying for the section 29 credit under relevant provisions of the Natural Gas Policy Act of 1978. The committee further understands that based on the repeal of that statute, effective January 1, 1993, and based on pub-

---

4945(d)(4)(B) will not apply to grants made by private foundations to the cooperative service organization and that such grants will be deemed to be qualifying distributions for purposes of 4942.

[5] Each member's allocable share of the organization's expenses are passed through to the member for purposes of determining the deductions allowed by section 4940(c)(3) in computing the member's net investment income.

[1] A barrel-of-oil equivalent generally means that amount of the qualifying fuels which has a Btu content of 5.8 million.

[2] P.L. 95-621, Nov. 9, 1978.

[3] 15 U.S.C. sec. 3413 (1988).

[4] Under the NGPA, a State or Federal agency having regulatory jurisdiction with respect to the production of natural gas is authorized to make determinations for qualification under certain categories of natural gas. Such an agency, however, may waive its authority to make such determinations by entering into an agreement with FERC allowing FERC to be the determination-making body. (15 U.S.C. 3413(c) (1988).)

[5] Under the NGPA, high-cost natural gas includes gas produced from geopressured brine, coal seams, or Devonian shale. In addition, the NGPA grants FERC the authority to treat other types of natural gas as high-cost natural gas if the gas is produced under such other conditions that FERC determines to present extraordinary risks or costs. Under this authority, FERC treats gas produced from a tight formation as high-cost natural gas. (15 U.S.C. sec. 3317(c) (1988).)

[6] 15 U.S.C. sec. 3413(a)(1) (1988).

[7] 18 C.F.R. sec. 272.103(c).

[8] 18 C.F.R. sec. 272.103(d).

[9] 18 C.F.R. sec. 272.103(e).

[10] *See* table in 18 C.F.R. sec. 271.703(c)(1)(B).

[11] 18 C.F.R. sec. 271.703(c).

[12] 15 U.S.C. sec. 3413(a)(2) (1988).

[13] 15 U.S.C. sec. 3413(b)(1) (1988).

[14] 15 U.S.C. sec. 3413(b)(2) (1988).

[15] 15 U.S.C. sec. 3413(b)(4) (1988).

[16] 15 U.S.C. sec. 3413(d) (1988).

[17] P.L. 101-60, July 26, 1989.

[18] S. Rep. No. 101-39, 101st Cong., 1st Sess. 9 (1989).

[19] F.E.R.C. Order No. 523, 55 Fed. Reg. 17425, April 25, 1990.

[20] F.E.R.C. Order No. 539, 57 Fed. Reg. 13009, April 15, 1992.

lished statements by the Federal Energy Regulatory Commission, it may be that certain wells, the production from which should qualify for the credit, will not be subject to FERC determination. In order to ensure that qualifying gas production from such wells in fact will receive the credit, the committee believes that it is necessary to continue the well and formation determination process for periods after FERC discontinues its role in this process.

Because the sole purpose for well and formation determinations following the repeal of Title I of the NGPA will be for section 29 tax credit qualification, the committee believes it is appropriate to mandate that the Treasury Department be the determination-making body for periods for which FERC ceases making such determinations. Moreover, the committee believes it appropriate to require Treasury to make determinations using guidelines substantially consistent with those presently employed by FERC.

Explanation of Provisions

With respect to determinations required under the Internal Revenue Code of whether gas is produced from geopressured brine, Devonian shale, coal seams, or from a tight formation, in the event that such a determination is not made by the Federal Energy Regulatory Commission in accordance with section 503 of the Natural Gas Policy Act of 1978 due to the expiration of that statute, the bill requires the Secretary of Treasury to make such determinations. For this purpose, the bill mandates that any such determination by the Treasury Department be based on the guidelines for making determinations set forth in the Natural Gas Policy Act of 1978 (and in regulations thereunder) prior to its repeal.

In addition, the bill clarifies that for purposes of the section 29 credit, the definitions of gas produced from geopressured brine, Devonian shale, coals seams, or from a tight formation are as established by the Federal Energy Regulatory Commission under the Natural Gas Policy Act of 1978 prior to repeal of provisions of that statute relating to such definitions.

Effective Date

With respect to well and formation determinations required to be made by the Treasury Department, the bill is effective for determinations with respect to which no such determination is made by the Federal Energy Regulatory Commission as a result of the repeal of relevant provisions of the Natural Gas Policy Act of 1978.

Subtitle F—Estate and Gift Tax Provisions

1. Waiver of right of recovery for certain marital deduction property (sec. 4601 of the bill and secs. 2207A and 2207B of the Code)

Present Law

For estate and gift tax purposes, a marital deduction is allowed for qualified terminable interest property (QTIP). Such property generally is included in the surviving spouse's gross estate. The surviving spouse's estate is entitled to recover the portion of the estate tax attributable to such inclusion from the person receiving the property, unless the spouse directs otherwise by will (sec. 2207A). For this purpose, a will provision specifying that all taxes be paid by the estate is presently sufficient to waive the right of recovery.

The gross estate includes the value of previously transferred property in which the decedent retains enjoyment or the right to income (sec. 2036). The estate is entitled to recover from the person receiving the property a portion of the estate tax attributable to the inclusion (sec. 2207B). This right may be waived only by a provision in the will (or revocable trust) specifically referring to section 2207B.

Reasons for Change

The committee understands that persons utilizing standard testamentary language often inadvertently waive the right of recovery with respect to QTIP. Similarly, the committee believes that persons waiving a right to contribution are unlikely to refer to the Code section granting the right. Accordingly, the committee believes that allowing the right of recovery (or right to contribution) to be waived only by specific reference to the right of recovery (or right to contribution) would simplify the drafting of wills by better conforming with the testator's likely intent.

Explanation of Provision

The bill provides that the right of recovery with respect to QTIP is waived to the extent that language in the decedent's will or revocable trust specifically so indicates. Thus, a general provision specifying that all taxes be paid by the estate is no longer sufficient to waive the right of recovery. The bill also provides that the right of contribution for property over which the decedent retained enjoyment or the right to income is waived by a specific indication, but specific reference to section 2207B would no longer be required.

Effective Date

The provision applies to decedents dying after the date of enactment.

2. Inclusion in gross estate of certain gifts made within three years of death (sec. 4602 of the bill and secs. 2035 and 2038 of the Code)

Present Law

The first $10,000 of gifts of present interests to each donee during any one calendar year are excluded from Federal gift tax.

The value of the gross estate includes the value of any previously transferred property if the decedent retained the power to revoke the transfer (sec. 2038). The gross estate also includes the value of any property with respect to which such power is relinquished during the three years before death (sec. 2035). This rule has been interpreted to include in the gross estate certain transfers made from a revocable trust within three years of death.[1] Such inclusion subjects gifts that would otherwise qualify under the annual $10,000 exclusion to estate tax.

Reasons for Change

The inclusion of certain property transferred during the three years before death is directed at transfers that would otherwise reduce the amount subject to estate tax by more than the amount subject to gift tax, disregarding appreciation occurring between the times of gift and death. Because all amounts transferred from a revocable trust are subject to the gift tax, the committee believes that inclusion of such amounts is unnecessary where the transferor has retained no power over the property transferred out of the trust. The committee understands that repeal of such inclusion eliminates a principal tax disadvantage of funded revocable trusts, which are generally used for nontax purposes.

Explanation of Provision

The bill provides that a transfer from a trust over which the grantor held the power to revoke would be treated as if made directly by the grantor. Thus, an annual exclusion gift from such trust is not included in the gross estate. It is intended that no inference be drawn from the provision with respect to the treatment of transfers from revocable trusts under present law.

The bill also revises section 2035 to improve its clarity.

Effective Date

The provision applies to dependents dying after the date of enactment.

3. Definition of qualified terminable interest property (sec. 4603 of the bill and secs. 2044, 2056(b)(7), and 2523(f) of the Code)

Present Law

A marital deduction is allowed for qualified terminable interest property (QTIP). Property is QTIP only if the surviving spouse has a qualifying income interest for life (e.g., the spouse is entitled to all of the income from the property, payable at least annually). QTIP generally is includible in the surviving spouse's gross estate.

The United States Tax Court has held that, in order to satisfy the QTIP requirements, the income accumulating between the last distribution date and the date of the surviving spouse's death (the "accumulated income") must be paid to the spouse's estate or be subject to a power of appointment held by the spouse. *See Estate of Howard v. Commissioner*, 91 T.C. 329, 338 (1988), *rev'd*, 910 F.2d 633 (9th Cir. 1990). In contrast, proposed Treasury regulations presently provide that an income interest may constitute a qualifying income interest for life even if the accumulated income is not required to be distributed to the surviving spouse or the surviving spouse's estate. *See* Prop. Treas. Reg. secs. 20.2056(b)-7(c)(1), 25.2523(f)-1(b).

Reasons for Change

The committee believes that an income interest may constitute a qualifying income interest for life even if the accumulated income is not required to be distributed to the surviving spouse or the surviving spouse's estate. Moreover, the committee wishes to alleviate the uncertainty caused by the Tax Court opinion in *Estate of Howard* as to when a trust qualifies for the marital deduction. This uncertainty makes planning difficult and necessitates closing agreements designed to prevent the whipsaw that would occur if a deduction is allowed for property that is not subsequently included in the spouse's estate.

Explanation of Provision

Under the bill, an income interest does not fail to be a qualified income interest for life solely because the accumulated income is not required to be distributed to the surviving spouse. Such income is includible in the surviving spouse's gross estate.

It is intended that no inference be drawn from the provision with respect to the definition of a qualified income interest for life under present law.

Effective Date

The provision applies to decedents dying, and gifts made, after date of enactment. However, the bill does not include in the surviving spouse's gross estate property transferred before the date of enactment for which no marital deduction was claimed.

---

[1] See, e.g., *Jalkut Estate v. Commissioner*, 96 T.C. 675 (1991) (transfers from revocable trust to permissible beneficiaries of the trust includable in the grantor's gross estate); LTR 9117003 (same).

4. Inclusion of property qualifying for the marital deduction in the gross estate (sec. 4604 of the bill and secs. 2056(b) and 2523 of the Code)

Present Law

A marital deduction against the estate and gift tax generally is permitted for the value of property passing between spouses. No marital deduction is permitted, however, if, upon termination of the spouse's interest, possession or enjoyment of the property passes to another person (the "terminable interest rule"). Certain exceptions to this rule may apply if the spouse receives a general power of appointment over, or an income interest in, a "specific portion" of property (sec. 2056(b) (5), (6), (7)). The spouse is subject to transfer tax on property over which he or she holds a general power of appointment.

A Treasury regulation defines a "specific portion" to be a fractional or percentage share of a property interest (Treas. Reg. sec. 20.2056(b)-5(c)). Finding this regulation invalid, courts have held that the term "specific portion" includes a fixed dollar amount. *See Northeastern Pennsylvania National Bank & Trust Co. v. United States*, 387 U.S. 213 (1967); *Estate of Alexander v. Commissioner*, 82 T.C. 34 (1984), *aff'd*, No. 8401600 (4th Cir. April 3, 1985). Under the court holdings, appreciation in certain marital deduction property may be includible in neither spouse's estate.

Reasons for Change

The marital deduction postpones the imposition of the estate or gift tax until the property is transferred outside the marital unit. The exceptions to the terminable interest rule insure that the value of all property qualifying for the marital deduction is subject to transfer tax in the hands of the recipient spouse. By invalidating the Treasury regulation having this effect, the court holdings create uncertainty. Reversal of the holdings makes the law more certain by unequivocally implementing the policy underlying the marital deduction.

Explanation of Provision

The bill provides that, for purposes of the marital deduction, a "specific portion" only includes a portion determined on a fractional or percentage basis. Thus, a trust does not qualify under the exceptions to the terminable interest rule unless the required income interest and general power of appointment are expressed as a fraction or a percentage of the property.

It is intended that no inference be drawn from the provision with respect to definition of "specific portion" under present law. The bill does not generally affect the marital deduction allowed for a pecuniary formula marital deduction bequest. *See, e.g.*, Rev. Rul. 64-19, 1964-1 C.B. 682.

Effective Date

The provision generally applies to gifts made, and decedents dying, after date of enactment. The provision does not apply to a transfer under a will or revocable trust executed before the date of enactment if either (1) on that date the decedent was under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of death, or (2) the decedent dies within three years after the date of enactment. The provision applies, however, if the will or trust is amended after the date of enactment in any respect that increases the amount of the transfer qualifying for the marital deduction or alters the terms by which the interest passes.

5. Requirements for qualified domestic trust (sec. 4605 of the bill and sec. 2056A of the Code)

Present Law

A deduction generally is allowed for Federal estate tax purposes for the value of property passing to a spouse. The Technical and Miscellaneous Revenue Act of 1988 ("TAMRA") denied the marital deduction for property passing to a noncitizen spouse outside a qualified domestic trust ("QDT"). An estate tax is imposed on corpus distributions from a QDT.

TAMRA defined a QDT as a trust that, among other things, required all trustees be U.S. citizens or domestic corporations. This provision was modified in the Omnibus Budget Reconciliation Acts of 1989 and 1990 to require that at least one trustee be a U.S. citizen or domestic corporation and that no corpus distribution be made unless such trustee has the right to withhold any estate tax imposed on the distribution (the "withholding requirement").

Reasons for Change

Wills drafted under the TAMRA rules must be revised to conform with the withholding requirement, even though both the TAMRA rule and its successor ensure that a U.S. trustee is personally liable for the estate tax on a QDT. Reinstatement of the TAMRA rule for wills drafted in reliance upon it reduces the number of will revisions necessary to comply with statutory changes, thereby simplifying estate planning.

Explanation of Provision

A trust created before the enactment of the Omnibus Budget Reconciliation Act of 1990 is treated as satisfying the withholding requirement if its governing instrument requires that all trustees be U.S. citizens or domestic corporations.

Effective Date

The provision applies as if included in the Omnibus Budget Reconciliation Act of 1990

6. Election of special use valuation of farm property for estate tax purposes (sec. 4606 of the bill and sec. 2032A of the Code)

Present Law

For estate tax purposes, an executor may elect to value certain real property used in farming or other closely held business operations at its current use value rather than its highest and best use (sec. 2032A). A written agreement signed by each person with an interest in the property must be filed with the election.

Treasury regulations require that a notice of election and certain information be filed with the Federal estate tax return (Treas. Reg. sec. 20.2032A-8). The administrative policy of the Treasury Department is to disallow current use valuation elections unless the required information is supplied.

Under procedures prescribed by the Secretary of the Treasury, an executor who makes the election and provides substantially all of the information requested on the estate tax return but fails to provide all required information may supply the missing information within a reasonable period of time (not exceeding 90 days) after notification by the Secretary of the Treasury.

Reasons for Change

The committee understands that executors commonly fail to include with the filed estate tax return a recapture agreement signed by all persons with an interest in the property or all information required by Treasury regulations. The committee believes that allowing such signatures or information to be supplied later is consistent with the legislative intent of section 2032A and eases return filing.

Explanation of Provision

The bill extends the procedures allowing subsequent submission of information to any executor who makes the election and submits the recapture agreement, without regard to compliance with the Treasury regulations. Thus, the bill allows the current use valuation election if the executor supplies the required information within a reasonable period of time (not exceeding 90 days) after notification by the IRS. During that time period, the bill also allows addition of signatures to a previously filed agreement.

Effective Date

The provision applies to decedents dying after the date of enactment.

7. Income taxation of accumulation trusts (sec. 4607 of the bill and secs. 644 and 665-669 of the Code)

Present Law

In general

A nongrantor trust is treated as a separate taxpayer for Federal income tax purposes. Such trust is generally treated as a conduit with respect to amounts distributed currently and taxed as an individual with respect to undistributed income. The conduit treatment is achieved by allowing the trust a deduction for amounts distributed to beneficiaries during the taxable year to the extent of distributable net income and by including the distributions in the beneficiaries' income.

Distributions of accumulated income

A distribution of previously accumulated income is taxed under the "throwback rules", which provide that beneficiaries are taxed on distributions of previously accumulated income from trusts in substantially the same manner as if the income had been distributed when earned or accrued.

Distributions of appreciated property

If property is sold within two years of its contribution to a trust, the gain that would have been recognized had the contributor sold the property is taxed at the contributor's marginal tax rates (sec. 644). In effect, section 644 treats such gains as if the contributor had realized the gain and then transferred the net after-tax proceeds from the sale to the trust as corpus.

Treatment of multiple trusts

Under section 643(f), two or more trusts are treated as one trust if (1) the trusts have substantially the same grantor or grantors and substantially the same primary beneficiary or beneficiaries, and (2) a principal purpose for the existence of the trusts is the avoidance of Federal income tax. For trusts that were irrevocable as of March 1, 1984, section 643(f) applies only to subsequent contributions to corpus.

Reasons for Change

The throwback rules and section 644 are designed to eliminate the potential tax reduction arising from taxation at the trust, rather than the beneficiary, level. When those provisions were enacted, a taxpayer could reduce substantially overall tax liability by transferring property to one or more trusts, where it would be taxed at lower income tax brackets. In 1984, Congress curtailed the tax avoidance use of multiple trusts, and in 1986, substantially decreased the amount of income taxed at the lower trust income tax brackets. Accordingly, the committee determined that the insignificant potential tax reduction available through the transfer of property to trust no longer warranted the complex computations required by the throwback rules and section 644.

Explanation of Provision

The bill exempts amounts distributed by domestic trusts after December 31, 1992, from the "throwback rules." It also provides that precontribution gain on property sold by a domestic trust is no longer taxed at the contributor's marginal tax rates. The provision does not apply to a trust created before March 1, 1984, unless the taxpayer establishes that the trust would not have been aggregated under the standard contained in section 643(f).

Effective Date

The change in the throwback rules applies to taxable years beginning after December 31, 1992. The modification in section 644 applies to sales or exchanges after December 31, 1992.

8. Estate tax recapture from cash leases of specially valued property (sec. 4608 of the bill and sec. 2032A of the Code)

Present Law

A Federal estate tax is imposed on the value of property passing at death. Generally, the value of property is its fair market value, i.e., the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.

Under section 2032A of the Code, the executor may elect to value certain "qualified real property" used in farming or another qualifying trade or business at its current use value rather than its highest and best use. If, after the special use valuation election is made, the heir who acquired the real property ceases to use it in its qualified use within 10 years (15 years for individuals dying before 1982) of the decedent's death, an additional estate tax is imposed in order to "recapture" the benefit of the special use valuation.

Some courts have held that cash rental of specially valued property after the death of the decedent is not a qualified use and, therefore, results in the imposition of the additional estate tax under section 2032A(c). *Martin* v. *Commissioner*, 783 F.2d 81 (7th Cir. 1986) (cash lease to unrelated party); *Williamson* v. *Commissioner*, 93 T.C. 242 (1989) (cash lease to family member).

Reasons for Change

The purpose of special use valuation under section 2032A was to promote the continuation of family farms and other closely-held family businesses. The committee believes that a cash lease by a qualified heir to a "member of the family" (as defined in section 2032A(e)(1)) is consistent with this purpose, provided the "family member" continues to operate the farm or closely held business. Accordingly, the committee wishes to clarify that a cash lease by a qualified heir to a "member of the family" (who continues to operate the farm or closely held business) does not trigger the additional estate tax under section 2032A(c).

Explanation of Provision

The bill provides that the cash lease of specially valued real property by a qualified heir to a "member of the family" (who continues to operate the farm or closely held business) does not cause the qualified use of such property to cease for purposes of imposing the additional estate tax under section 2032A(c).

Effective Date

The provision is effective for cash rentals after December 31, 1976.

9. Interest rate on intra-familial loans made in connection with land sales (sec. 4609 of the bill and secs. 483 and 7872 of the Code)

Present Law

Treatment of Gift Loans

In 1984, the U.S. Supreme Court held that interest-free demand loans made to a child by his parents constituted a transfer of property by gift and was subject to the gift tax. The amount of the gift was the reasonable value of the use of the money lent without charge, rather than the principal amount of the loan. See *Dickman* v. *Commissioner*, 465 U.S. 330 (1984).

Congress codified the *Dickman* holding in the Deficit Reduction Act of 1984 in section 7872, effective generally for term loans made after June 6, 1984, and demand loans outstanding after June 6, 1984. Under section 7872, a below-market interest rate loan (a "below-market loan") is recharacterized as an arm's length transaction in which the lender (i) made a loan to the borrower in exchange for a note requiring the payment of interest at the "applicable Federal rate" (as determined under section 1274(d)), and (ii) made a payment to the borrower equal to the amount of the interest "foregone" by the lender.

A demand loan is treated as a below-market loan if interest is payable at a rate below the applicable Federal rate. A term loan is a below-market loan if the amount of the loan exceeds the present value of all payments due under the loan (determined as of the date of the loan by using a discount rate equal to the applicable Federal rate). For this purpose, a demand loan is any loan which is payable in full at any time upon the demand of the lender and a term loan is any loan which is not a demand loan. With respect to gift loans that are term loans, however, the loan will be treated as a demand loan for income tax purposes and as a term loan for gift tax purposes (sec. 7872(d)(2)).

Land Transfers Between Related Parties

Under section 483 of the Code, a deferred payment contract will generally have unstated interest unless the interest rate provided in the debt instrument is at least equal to the applicable Federal rate. In determining the amount of unstated interest under section 483, a special six percent rate may be substituted for the applicable Federal rate with respect to certain land sales between family members (i.e., "qualified sales") to the extent that the sales price for such sale does not exceed $500,000 (sec. 483(e). This special safe harbor rate does not apply, however, where any party to the sale is a nonresident alien individual.

Two United States Courts of Appeal have recently divided as to whether the special six percent "safe-harbor" rate under section 483(e) could be applied in valuing an installment sales contract for estate and gift tax purposes. See *Ballard* v. *Commissioner*, 854 F.2d 185 (7th Cir. 1988) (holding that six percent rate under section 483(e) could be used for gift tax purposes); *Krabbenhoft* v. *Commissioner*, 939 F.2d 529 (8th Cir. 1991) (holding that section 483(e) did not apply for gift tax purposes).

Reasons for Change

The committee understands that the application of section 483(e) for transfer tax purposes is presently ambiguous. The committee therefore wishes to clarify that the special safe harbor rate under section 483(e) is applicable for transfer tax purposes.

Explanation of Provision

The bill amends section 7872 to provide that the special six percent safe harbor rate under section 483(e) applies for transfer tax purposes to loans made in connection with qualified sales. Accordingly, to the extent that the sales price for a qualified sale to a U.S. resident does not exceed $500,000, the applicable Federal rate for determining the total foregone interest or whether a loan is a below market loan shall not exceed 6 percent, compounded semiannually. It is not intended that any inference be drawn from the bill with respect to the application of section 483(e) under present law.

Effective Date

The provision applies with respect to interest accruing after July 31, 1993.

SUBTITLE G—EXCISE TAX SIMPLIFICATION

A. MOTOR FUEL EXCISE TAX PROVISIONS

1. Consolidate provisions imposing diesel and aviation fuel excise taxes (sec. 4701 of the bill and secs. 4041 and 4091 of the Code)

Present Law

Code section 4091 imposes a tax on the sale of diesel and aviation fuel by a "producer." The term producer generally includes refiners, compounders, blenders, and wholesalers who are registered with the Internal Revenue Service. The term also includes persons to whom diesel or aviation fuel has been sold tax-free.

As a backup, section 4041 imposes a tax on certain sales or uses of diesel and aviation fuel if a taxable sale of such fuel has not occurred under section 4091.

Reasons for Change

Consolidating the diesel and aviation tax rules into one section of the Code will make the rules easier to find and understand.

Explanation of Provision

The bill combines the diesel and aviation fuel tax provisions currently divided between Code sections 4041 and 4091 into a revised section 4091. The use of diesel and aviation fuel in a taxable use by producers will be taxed under section 4091, and the definition of producer is clarified to include purchasers in tax-reduced sales.

The bill also simplifies the Code by eliminating two unnecessary provisions, sections 4041(b)(1)(B) and (j) of the Code. These provisions are redundant.

Effective Date

The provision is effective for sales or uses on or after January 1, 1993.

2. Permit refund of tax to taxpayer for diesel and aviation fuel resold to certain exempt purchasers (sec. 4702(a) of the bill and sec. 6416(b) of the Code)

Present Law

As a general matter, purchasers who use tax-paid fuels for an exempt use are entitled to a refund or credit. Purchasers of tax-paid fuels generally are not permitted a refund or credit if they resell the fuels to another person who subsequently uses them in an exempt use.

However, persons who buy and then resell (a) fuel subject to the special motor fuel or gasoline taxes and (b) certain other articles are permitted a refund or credit (in place of the ultimate users claiming the credit or refund) if they resell the fuel or article for use in the following exempt uses: (1) export, (2) supplies for aircraft or vessels, (3) use by a State or local government, or (4) use by a nonprofit educational organization for its exclusive use.

Reasons for Change

Diesel and aviation fuel sales are not subject to the special refund or credit procedures. The general rules require users of such fuels for exempt purposes to bear the burden of filing for the refund or credit themselves and, therefore, makes such purchases more difficult compared to purchases of gasoline and special motor fuels.

Explanation of Provision

The bill allows a refund or credit to sellers of diesel and aviation fuel who purchase the fuels tax-paid and resell the fuels without payment of tax for any of the exempt uses described above.

Effective Date

The provision is effective for sales on or after January 1, 1993.

3. Consolidate refund provisions for fuel excise taxes (sec. 4702(b) of the bill and secs. 6420, 6421, and 6427 of the Code)

Present Law

As a general matter, purchasers who use fuels for an exempt use are entitled to a refund if the fuels have been purchased tax-paid. The refund provisions for the fuels excise taxes are found in several sections of the Code.

In general, a purchaser entitled to a refund may file a quarterly refund claim for any of the first three quarters of the purchaser's tax year, if the claim exceeds a threshold dollar amount (with the lowest threshold being $750). The threshold amounts differ for different fuels and different exempt uses. A purchaser cannot file a quarterly claim for refund for its fourth quarter, but must file the claim as a credit on that year's income tax return.

There is an expedited procedure for gasohol blenders claiming a refund of part of the excise tax included in the price of the gasoline used for blending into gasohol.

Finally, only an income tax credit, and not a refund, may be claimed for excise taxes on gasoline and special motor fuel used on a farm for farming purposes.

Reasons for Change

Consolidating the credit and refund provisions for fuel excise taxes into one section in the Code will make these provisions easier to find and understand. Standardizing the refund procedures will reduce confusion and allow taxpayers to obtain refunds more quickly.

Explanation of Provision

The bill consolidates the user credit and refund provisions for the fuels excise taxes into one section of the Code. The bill also combines the three refund procedures for fuels taxes into a uniform refund procedure. The new uniform refund procedure permits an exempt user to aggregate its refund claims for all fuels taxes and file for a refund in any calendar quarter in which the amount of the aggregate claim exceeds $750. The uniform refund procedure also permits such a user to file for a refund for its fourth quarter rather than apply for a credit.

The special expedited procedure for gasohol blenders is unchanged.

Effective Date

The provision is effective for sales on or after January 1, 1993.

4. Repeal waiver requirement for fuel tax refunds for cropdusters and other fertilizer applicators (sec. 4702(c) of the bill and sec. 6420 of the Code)

Present Law

In general, farmers who use gasoline and aviation fuel on a farm are entitled to a refund of the tax that has been paid on that fuel. Cropdusters and other fertilizer applicators that use gasoline and aviation fuel on a farm are entitled to a refund of the tax paid on that fuel in lieu of the farmer, but only if the owner or operator of the farm waives its right to a refund for such fuel.

Reasons for Change

Eliminating the waiver will reduce the paperwork burden of a taxpayer seeking a refund.

Explanation of Provision

The bill eliminates the waiver requirement for fuels tax refunds for cropdusters and other fertilizer applicators.

Effective Date

The provision is effective for fuels purchased on or after January 1, 1993.

5. Authorize exceptions from information reporting for certain sales of diesel and aviation fuel (sec. 4703 of the bill and sec. 4093(c)(4) of the Code)

Present Law

Certain producers and importers and purchasers are required to file information returns for reduced-tax sales of diesel and aviation fuel.

Reasons for Change

Allowing the Internal Revenue Service to exempt certain classes of taxpayers from the mandatory information return requirement will simplify its administration of the registration requirements and eliminate unnecessary paperwork for taxpayers.

Explanation of Provision

The bill permits the IRS by regulation to provide exceptions to the mandatory information return requirement for certain sales of diesel and aviation fuel.

Effective Date

The provision applies to sales on or after January 1, 1993.

B. PROVISIONS RELATING TO DISTILLED SPIRITS, WINES, AND BEER (SECS. 4711–4721 OF THE BILL, SECS. 5008(C) 5044, 5053, 5055, 5115, 5175(C), 5207(C), 5222(B), 5384(B) OF THE CODE, AND NEW SEC. 5418 OF THE CODE)

Present Law

Return of imported bottled distilled spirits

Pressent law provides that when tax-paid distilled spirits which have been withdrawn from bonded premises of a distilled spirits plant are returned for destruction or redistilling, the excise taxes are refunded (sec. 5008(c)). This provision does not apply to imported bottled distilled spirits, since they are withdrawn from customs custody and not from bonded premises.

Bond for exported distilled spirits

Bond generally must be furnished to the Department of the Treasury when distilled spirits are removed from bonded premises for exportation without payment of tax. These bonds are cancelled or credited when evidence is submitted to the Department of the Treasury that the distilled spirits have been exported (sec. 5175(c)).

Distilled spirits plant records

Distilled spirits plant proprietors are required to maintain records of their production, storage, denaturation, and other processing activities on the premises where the operations covered by the records are carried on (sec. 5207(c)).

Transfers from breweries to distilled spirits plants

Under present law, beer may be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, but only if the brewery is contiguous to the distilled spirits plant (sec. 5222(b)).

Posting of sign by wholesale liquor dealers

Wholesale liquor dealers (i.e., dealers, other than wholesale dealers in beer alone, who sell distilled spirits, wines, or beer to other persons who re-sell such products) are required to post a sign conspicuously on the outside of their place of business indicating that they are wholesale liquor dealers (sec. 5115).

Refund of tax for wine returned to bond

Under present law, when unmerchantable wine is returned to bonded production premises, tax that has been paid is returned or credited to the proprietor of the bonded wine cellar to which the wine is delivered (sec. 5044). In contrast, when beer is returned to a brewery, tax that has been paid is returned or credited, regardless of whether the beer is unmerchantable (sec. 5056(a)).

Use of ameliorating material in certain wines

The Code contains rules governing the extent to which ameliorating material (e.g., sugar) may be added to wines made from high acid fruits and the product still be labelled as a standard, natural wine. In general, ameliorating material may not exceed 35 percent of the volume of juice and ameliorating material combined (sec. 5383(b)(1)). However, wines made exclusively from loganberries, currants, or gooseberries are permitted a volume of ameliorating material of up to 60 percent (sec. 5384(b)(2)(D)).

Domestically produced beer for use by foreign embassies, etc.

Under present law, domestically produced distilled spirits and wine may be removed from bond, without payment of tax, for transfer to any customs bonded warehouse for storage pending removal for the official or family use of representatives of foreign governments or public international organizations (secs. 5066 and 5362(e)). A similar rule also applies to imported distilled spirits, wine, and beer.) No such provision exists under present law for domestically produced beer.

Withdrawal of beer for destruction

Present law does not specifically permit beer to be removed from a brewery for destruction without payment of tax.

Records of exportation of beer

Present law provides that a brewer is allowed a refund of tax paid on exported beer upon submission to Department of the Treasury of certain records indicating that the beer has been exported (sec. 5055).

Transfer to brewery of beer imported in bulk

Imported beer brought into the United States in bulk containers may not be transferred from customs custody to brewery premises without payment of tax. Under certain circumstances, distilled spirits imported into the United States in bulk containers may be transferred from customs custody to bonded premises of a distilled spirits plant without payment of tax (sec. 5232).

Reasons for Change

In addition to imposing taxes, the Internal Revenue Code regulates many aspects of the alcoholic beverage industry. These regulations date in many cases from the Prohibition Era or earlier. In 1980, the method of collecting excise taxes on alcoholic beverages was changed from a system under which Treasury Department inspectors regularly were present at production facilities to a bonded premises system, which more closely tracks the systems used in connection with other Federal excise taxes. Many of the recordkeeping requirements and other regulatory measures imposed in connection with these taxes have not been modified to conform to these collection system changes. In addition, modification of statutory provisions is warranted in view of advances in technology used in the alcoholic beverage industry and environmental protection concerns.

Explanation of Provisions

Return of imported bottled distilled spirits

The procedures for refunds of tax collected on imported bottled distilled spirits returned to bonded premises are conformed to the rules of domestically produced and imported bulk distilled spirits. Thus, refunds are available for all distilled spirits on their return to a bonded distilled spirits plant.

Bond for exported distilled spirits

For purposes of cancelling or crediting bonds furnished when distilled spirits are removed from bonded premises for exportation, the Department of the Treasury is authorized to permit records of exportation to be maintained by the exporter, rather than requiring submission of proof of exportation to Treasury in all cases.

Distilled spirits plant records

Distilled spirits plant proprietors are permitted to maintain records of their activities at locations other than the premises where the operations covered by the records are carried on (e.g., corporate headquarters), provided that the records are available for inspection by the Treasury Department during business hours.

Transfers from breweries to distilled spirits plants

The bill allows beer to be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, regardless of whether the brewery is contiguous to the distilled spirits plant.

Posting of sign by wholesale liquor dealers

The requirement that wholesale liquor dealers post a sign outside their place of business indicating that they are wholesale liquor dealers is repealed.

Refund of tax for wine returned to bond

The bill deletes the requirement that wine returned to bonded premises be "unmerchantable" in order for tax to be refunded to the proprietor of the bonded wine cellar to which the wine is delivered.

Use of ameliorating material in certain wines

The wine labelling restrictions are modified to allow any wine made exclusively from a fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) to contain a volume of ameliorating material not in excess of 60 percent.

Domestically produced beer for use by foreign embassies, etc.

The bill extends to domestically produced beer the present-law rule applicable to domestically produced distilled spirits and wine (and imported distilled spirits, wine, and beer) which permits these products to be withdrawn from the place of production without payment of tax for the official or family use of representatives of foreign governments or public international organizations.

Withdrawal of beer for destruction

The bill allows beer to be removed from a brewery without payment of tax for purposes of destruction, subject to Treasury Department regulations.

Records of exportation of beer

The bill repeals the requirement that proof of exportation be submitted to the Treasury Department in all cases as a condition of receiving a refund of tax. This proof will continue to be required to be maintained at the exporter's place of business.

Transfer to brewery of beer imported in bulk

The bill extends the present-law rule applicable to distilled spirits imported into the United States in bulk containers to beer imported into the United States in bulk containers, so that imported beer may, subject to Treasury regulations, be withdrawn from customs custody for transfer to a brewery without payment of tax.

Effective Date

These provisions of the bill generally are effective beginning 180 days after date of the bill's enactment. The provision deleting the requirement that wholesale liquor dealers post a sign outside their place of business is effective on the date of the bill's enactment.

C. OTHER EXCISE TAX PROVISIONS

1. Authority for IRS to grant exemptions from registration requirements (sec. 4731 of the bill and sec. 4222 of the Code)

Present Law

Under section 4222, certain sales of articles subject to Federal excise taxes may not be made without payment of tax unless the manufacturer, the first purchaser, and the second purchaser (if any) are all registered under regulations prescribed by the Secretary.

Reasons for Change

Allowing the Internal Revenue Service to exempt certain classes of taxpayers from the registration provisions. Also, the provision will reduce the paperwork burden for affected taxpayers.

Explanation of Provision

The bill will allow the IRS to provide exemption from generally applicable excise tax registration requirements for certain classes of taxpayers.

Effective Date

The provision applies to sales after the 180th day after the date of enactment.

2. Firearms excise tax exemption for small manufacturers (sec. 4732 of the bill and sec. 4282 of the Code)

Present Law

Present law imposes an 11-percent excise tax on the manufacturing (or importing) of rifles and shotguns and on ammunition (shells and cartridges), and also imposes a 10-percent excise tax on pistols and revolvers (sec. 4181).

Revenues from these taxes are appropriated, in the fiscal year following receipt, to the Federal Aid to Wildlife Program for support of state wildlife programs.

Reasons for Change

Exempting small manufacturers and importers of firearms from the excise tax on firearms and ammunition will reduce the tax paperwork burden on small businesses that produce or import fewer than 50 such items per year.

Explanation of Provision

The bill exempts small manufacturers and importers from the 11-percent excise tax on firearms (rifles and shotguns) and ammunition and the 10-percent excise tax on pistols and revolvers, if such manufacturer or importer manufactures or imports less than 50 such articles per year.

Effective Date

The provision is effective for articles sold after September 30, 1983. In the case of any taxable year ending before the date of enactment, the period for claiming a credit or refund of any overpayment of tax resulting from the proposed exemption from tax will not expire before one year after the date of enactment.

3. Repeal temporary reduction in a tax on piggyback trailers (sec. 4733(a) of the bill and sec. 4051(d) of the Code)

Present Law

Piggyback trailers and semitrailers sold within the 1-year period beginning on July 18, 1984 were permitted a temporary reduction in the retail excise tax on trailers.

Explanation of Provision

The bill repeals the temporary reduction in tax on piggyback trailers as "deadwood."

Effective Date

The provision is effective on the date of enactment.

4. Expiration of excise tax on deep seabed minerals (sec. 4733(b) of the bill and secs. 4495–4498 of the Code)

Present Law and Background

The Deep Seabed Mineral Resources Act (the "Resources Act," P.L. 96–283), imposed an excise tax on certain hard minerals mined on the deep seabed. The tax revenues were intended to fund obligations of the United States under a contemplated Law of the Sea Convention.

The tax was scheduled to terminate on the earlier of the date on which a U.N. international deep seabed treaty took effect with respect to the United States, or June 28, 1990 (10 years after the date of enactment of the tax). Since the United States did not sign the treaty, the excise tax provisions expired on June 28, 1990.

Explanation of Provision

The bill deletes the deep seabed hard minerals excise tax provisions as "deadwood."

Effective Date

The provision is effective on the date of enactment.

5. Exemption for certain ferries from excise tax on ship passenger departures (sec. 4734 of the bill and sec. 4472 of the Code)

Present Law

An excise tax of $3 per passenger is imposed on ship passenger departures on a "covered voyage." A covered voyage includes transportation on (1) a commercial passenger vessel which extends over one or more nights, or (2) a commercial vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial waters of the United States (i.e., more than 3 miles from shore), during which passengers embark or disembark the vessel in the United States. The latter circumstances includes such vessels that leave a U.S. port and return the same day.

The tax does not apply to either (1) a voyage on any vessel owned or operated by the United States or a State or local government (e.g., State or local government ferry boats), or (2) a voyage of less than 12 hours between two U.S. ports. A passenger vessel is any vessel having a berth or stateroom accommodations for more than 16 passengers. The tax is imposed only once on a passenger's covered voyage—either upon embarking or disembarking.

The tax on ship passengers was enacted in the Omnibus Budget Reconciliation Act of 1989, effective on January 1, 1990. Revenues from the tax go to the General Fund of the Treasury.

Reasons for Change

The committee believes that the current exemption for voyages of less than 12 hours between two U.S. ports generally should be expanded to also include certain ferry boat voyages of less than 12 hours between a port in the United States and a port outside the United States.

Explanation of Provision

The bill expands the current exemption from the ship passenger tax for voyages of less than 12 hours between two U.S. ports to also include ferry boat voyages of less than 12 hours between a port in the United States and a port outside the United States. For this purpose, the term "ferry boat" means any vessel if normally no more than 50 percent of the passengers on any voyage of such vessel return to the port where such voyage began on the first return of such voyage to such port.

Effective Date

The provision generally applies to voyages beginning after December 31, 1989. However, there will be no refunds of tax paid; and if tax has been collected, it will have to be remitted to the Government.

6. Application of aircraft fuels excise tax or air passenger and air freight taxes to certain corporate aircraft (sec. 4735 of the bill and sec. 4282 of the Code)

Present Law

Fuels taxes are imposed on fuels used by "noncommercial aviation" aircraft. For aviation gasoline, the tax is 15 cents per gallon, and for nongasoline (jet) fuels, the tax is 17.5 cents per gallon. "Noncommercial aviation" means the use of an aircraft other than in a business of transporting persons or property for compensation or hire. The term also includes the use of an aircraft which is "properly allocable" to any transportation exempt from the air passenger or air freight taxes under sections 4281 or 4282.

Section 4281 exempts small aircraft (maximum certificated takeoff weight of 6,000 pounds or less) from the air passenger and air freight taxes, unless operated on an established line. Under section 4282, the air passenger and air freight taxes do not apply to transportation by air for other members of an "affiliated group" (as defined in sec. 1504(a), without any exclusions under sec. 1504(b)). In such cases where the air passenger or air freight taxes do not apply, the aircraft is subject to the fuels tax applicable to noncommercial aviation.

Reasons for Change

The committee believes that the aviation excise taxes on business aircraft used by corporate affiliated groups should be properly allocated on a flight-by-flight basis.

Explanation of Provision

The bill clarifies the application of the aviation excise taxes to business aircraft used by corporate affiliated groups to require the Internal Revenue Service to apply the applicable taxes on a flight-by-flight basis for an affiliated group as for a stand alone corporation.

Effective Date

The provision is effective on the date of enactment.

SUBTITLE H. ADMINISTRATIVE PROVISIONS

A. GENERAL PROVISIONS

1. Simplify employment tax reporting for household employees (sec. 4801 of the bill and secs. 3102, 3121, 3306 and 6654 of the Code)

Present Law

An employer who pays a household employee wages of $50 or more in a calendar quarter for household work must withhold social security taxes (including medicare taxes) from wages paid to the employee during the quarter. The employer must also pay an amount of tax that matches the tax withheld from the employee's wages. The employer must file an Employer's Quarterly Tax Return (Form 942) each quarter and a Wage and Tax Statement (Form W-2) at the end of the year.

In addition, an employer must pay Federal unemployment taxes if he or she paid cash wages to household employees totalling $1,000 or more in a calendar quarter in the current or preceding year. The employer must file an Employer's Annual Federal Unemployment Tax Return (Form 940 or Form 940-EZ) at the end of the year.

Reasons for Change

Employer return requirements are confusing and burdensome for many individuals, who may be employers only because they employ a domestic employee on an intermittent basis. Streamlining the return requirements would reduce the filing burden for individuals employing domestic employees.

Explanation of Provision

The bill changes the threshold for withholding and paying social security taxes with respect to domestic service employment from $50 a quarter to $300 a year. The bill requires an individual who employs only household employees (regardless of the amount of the remuneration) to report any social security or Federal unemployment tax obligation for wages paid to such employees on his or her income tax return for the year. The bill includes a household employer's social security and unemployment taxes in the estimated tax provisions. The bill also authorizes the Secretary to enter into agreements with States to collect State unemployment taxes in the same manner.

The bill provides that the Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this provision. These regulations may treat domestic service employment taxes as taxes imposed by chapter 1 of subtitle A for purposes of coordinating the assessment and collection of domestic service employment taxes with the assessment and collection of domestic employers' income taxes.

Effective Date

The provision is effective for remuneration paid in calendar years beginning after December 31, 1992.

2. Clarify that reproductions from digital images are reproductions for recordkeeping purposes (sec. 4802 of the bill and sec. 6103(p) of the Code)

Present Law

Reproductions of a return, document, and certain other matters have the same legal status as the original for purposes of judicial and administrative proceedings. It is unclear whether reproductions made from digital images are also accorded the same legal status as originals.

Reasons for Change

Reducing the IRS' need to maintain hardcopy originals of documents would simplify the administration of the tax laws. As part of its systems modernization plan, the IRS intends to store returns, documents, and other materials in digital image format. This plan will permit the IRS to respond much more quickly to taxpayers' inquiries about the status of their accounts. It will facilitate implementation of this plan to clarify that reproductions made from such images would be accorded the same legal status as other reproductions.

Explanation of Provision

The bill provides that the term reproduction includes a reproduction from a digital image. The bill also requires the Comptroller General to conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document.

Effective Date

The provision is effective on the date of enactment.

3. Repeal of authority to disclose whether a prospective juror has been audited (sec. 4803 of the bill and sec. 6103(h)(5) of the Code)

Present Law

In connection with a civil or criminal tax proceeding to which the United States is a party, the Secretary must disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service (sec. 6103(h)(5)).

Reasons for Change

This disclosure requirement, as it has been interpreted by several recent court decisions, has created significant difficulties in the civil and criminal tax litigation process. First, the litigation process can be substantially slowed. It can take the Secretary a considerable period of time to compile the information necessary for a response (some courts have required searches going back as far as 25 years). Second, providing early release of the list of potential jurors to defendants (which several recent court decisions have required to permit defendants to obtain disclosure of the information from the Secretary) can provide an opportunity for harassment and intimidation of potential jurors in organized crime, drug, and some tax protester cases. Third, significant judicial resources have been expended in interpreting this procedural requirement that might better be spent resolving substantive disputes. Fourth, differing judicial interpretations of the nature of this provision have caused confusion. In some instances, defendants convicted of criminal tax offenses have obtained reversals of those convictions because of failures to comply fully with this provision.

Explanation of Provision

The bill repeals the requirement that the Secretary disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject to an audit or other tax investigation by the Internal Revenue Service.

Effective Date

The provision is effective for judicial proceedings pending on, or commenced after, the date of enactment.

4. Repeal TEFRA audit rules for S corporations (sec. 4804 of the bill and secs. 6037, 6241, 6242, 6243, 6244, and 6245 of the Code)

Present Law

An S corporation generally is not subject to income tax on its taxable income. Instead, it files an information return and the shareholders report their pro rata share of the S corporation's income and deductions on their own tax returns.

The Subchapter S Revision Act of 1982 generally made the TEFRA partnership audit and litigation rules applicable to S corporations. These rules require the determination of all "Subchapter S items" at the corporate, rather than the shareholder, level. These rules also require a shareholder to report all Subchapter S items consistently with the corporation's information return or to notify the IRS of any inconsistency. Temporary regulations contain an exception from these rules for "small S corporations," i.e., those with five or fewer shareholders, each of whom is a natural person or an estate.

Reasons for Change

An S corporation generally is limited to 35 investors. In addition, the vast majority of both existing and newly formed S corporations are expected to qualify for the small S corporation exception from the unified audit and litigation provisions. Consequently, a unified audit procedure is an unnecessary requirement for S corporations.

Explanation of Provision

The bill repeals the unified audit procedures for S corporations. The bill retains, however, the requirement that shareholders report items in a manner consistent with the corporation's return.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

5. Clarify statute of limitations for items from passthrough entities (sec. 4805 of the bill and sec. 6501(a) of the Code)

Present Law

Passthrough entities (such as S corporations, partnerships, and certain trusts) generally are not subject to income tax on their taxable income. Instead, these entities file information returns and the entities' shareholders (or beneficial owners) report their pro rata share of the gross income and are liable for any taxes due.

Some believe that present law may be unclear as to whether the statute of limitations for adjustments that arise from distributions from passthrough entities should be applied at the entity or individual level (i.e., whether the 3-year statute of limitations for assessment runs from the time that the entity files its information return or from the time that a shareholder timely files his or her income tax return). (Compare *Fehlhaber* v. *Comm.*, 94 TC 863 (1990) with *Kelly* v *Comm.*, 877 F.2d 7567 (9th Cir. 1989)).

Reasons for Change

Uncertainty regarding the correct statute of limitations hinders the resolution of factual and legal issues and creates needless litigation over collateral matters.

Explanation of Provision

The bill clarifies that the return that starts the running of the statute of limitations for a taxpayer is the return of the taxpayer and not the return of another person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

B. TAX COURT PROVISIONS

1. Clarify jurisdiction of Tax Court with respect to overpayment determinations (sec. 4811 of the bill and sec. 6512(b) of the Code)

Present Law

The Tax Court may order the refund of an overpayment determined by the Court, plus interest, if the IRS fails to refund such overpayment and interest within 120 days after the Court's decision becomes final. Whether such an order is appealable is uncertain.

In addition, it is unclear whether the Tax Court has jurisdiction over the validity or merits of certain credits or offsets (e.g., providing for collection of student loans, child support, etc.) made by the IRS that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Reasons for Change

Clarification of the jurisdiction of the Tax Court and the appealability of orders of the Tax Court would provide for greater certainty for taxpayers and the Government in conducting cases before the Tax Court. Clarification will also reduce litigation.

Explanation of Provision

The bill clarifies that an order to refund an overpayment is appealable in the same manner as a decision of the Tax Court. The bill also clarifies that the Tax Court does not have jurisdiction over the validity or merits of the credits or offsets that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Effective Date

The provision is effective on the date of enactment.

2. Clarify procedures for administrative cost awards (sec. 4812 of the bill and sec. 7430 of the Code)

Present Law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

No time limit is specified for the taxpayer to apply to the IRS for an award of administrative costs. In addition, no time limit is specified for a taxpayer to appeal to the Tax Court an IRS decision denying an award of administrative costs. Finally, the procedural rules adjudicating a denial of administrative costs are unclear.

Reasons for Change

The proper procedures for applying for a cost award are uncertain in some instances. Clarifying these procedures will decrease litigation over these procedural issues and will provide for expedited settlement of these claims.

Explanation of Provision

The bill provides that a taxpayer who seeks an award of administrative costs must apply to the IRS for such costs within 90 days of the date on which the final decision of the IRS as to the determination of the tax, interest, or penalty is mailed to the party. The bill also provides that a taxpayer who seeks to appeal an IRS denial of an administrative cost award must petition the Tax Court within 90 days after the date that the IRS mails the denial notice.

The bill clarifies that dispositions by the Tax Court of petitions relating only to administrative costs are to be reviewed in the same manner as other decisions of the Tax Court.

Effective Date

The provision is effective on the date of enactment.

3. Clarify Tax Court jurisdiction over interest determinations (sec. 4813 of the bill and sec. 7481(c) of the Code)

Present Law

A taxpayer may seek a redetermination of interest after certain decisions of the Tax Court have become final by filing a petition with the Tax Court.

Reasons for Change

It would be beneficial to taxpayers if a proceeding for a redetermination of interest supplemented the original deficiency action brought by the taxpayer to redetermine the deficiency determination of the IRS. A motion, rather than a petition, is a more appropriate pleading for relief in these cases.

Explanation of Provision

The bill provides that a taxpayer must file a "motion" (rather than "a petition") to seek a redetermination of interest in the Tax Court.

Effective Date

The provision is effective on the date of enactment.

4. Clarify net worth requirements for awards of administrative or litigation costs (sec. 4814 of the bill and sec. 7430 of the Code)

Present Law

Any person who substantially prevails any action brought by or against the United States in connection with in the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

A person who substantially prevails must meet certain net worth requirements to be eligible for any award of administrative or litigation costs. In general, only an individual whose net worth does not exceed $2,000,000 is eligible for an award, and only a corporation or partnership whose net worth does not exceed $7,000,000 is eligible for an award. (The net worth determination with respect to a partnership or S corporation applies to all actions that are in substance partnership actions or S corporation actions, including unified entity-level proceedings under sections 6226 or 6228, that are nominally brought in the name of a partner or a shareholder.)

Reasons for Change

Although the net worth requirements are explicit for individuals, corporations, and partnerships, it is not clear which net worth requirement is to apply to other potential litigants. It is also unclear how the individual net worth rules are to apply to individuals filing a joint tax return. Clarifying these rules will provide certainty for potential claimants and will decrease needless litigation over procedural issues.

Explanation of Provision

The bill provides that the net worth limitations currently applicable to individuals also apply to estates and trusts. The bill also provides that individuals who file a joint tax return shall be treated as one individual for purposes of computing the net worth limitations. Consequently, the net worths of both spouses are aggregated for purposes of this computation. An exception to this rule is provided in the case of a spouse otherwise qualifying for innocent spouse relief.

Effective Date

The provision applies to proceedings commenced after the date of enactment.

C. Permit IRS to Enter Into Cooperative Agreements With State Tax Authorities (sec. 4821 of the bill and new sec. 7524 of the Code)

Present Law

The IRS is generally not authorized to provide services to non-Federal agencies even if the cost is reimbursed (62 Comp. Gen. 323,335 (1983)).

Reasons for Change

Most taxpayers reside in States with an income tax and, therefore, must file both Federal and State income tax returns each year. Each return is separately prepared, with the State return often requiring information taken directly from the Federal return. Permitting the IRS to enter into agreements that are designed to promote efficiency through joint tax administration programs with States would reduce the burden on taxpayers because much of the same information could be used by both Governments.

For example, the burden on taxpayers could be significantly reduced through joint electronic filing of tax returns, whereby a taxpayer electronically transmits both Federal and State returns to one location. Joint Federal and State electronic filing could simplify and shorten return preparation time for taxpayers. Also, State governments could benefit from reduced processing costs, while the IRS could benefit from the potential increase in taxpayers who would elect to file electronically because they would be able to fulfill both their Federal and State obligations simultaneously.

Explanation of Provision

The bill provides that the Secretary is authorized to enter into cooperative agreements with State tax authorities to enhance joint tax administration. These agreements may include (1) joint filing of Federal and State income tax returns, (2) single processing of these returns, and (3) joint collection of taxes (other than Federal income taxes).

The bill provides that these agreements may require reimbursement for services provided by either party to the agreement. Any funds appropriated for tax administration may be used to carry out the responsibilities of the IRS under these agreements, and any reimbursement received under an agreement shall be credited to the amount appropriated.

Any disclosure of any Federal return or return information is governed by the provisions of section 6103, and any cooperative agreement involving any Federal return or return information is subject to and must comply with the provisions of section 6103. No agreement may be entered into that does not provide for the protection of confidentiality of taxpayer information that is required by section 6103. State tax returns or return information processed for a State by the IRS pursuant to a cooperative agreement are not subject to the confidentiality provisions of section 6103, but remain subject to the State confidentiality laws.

Effective Date

This provision is effective on the date of enactment.

D. Employment tax status of fishermen (sec. 4831 of the bill and secs. 3121(b)(20) and 6050A of the Code)

Present Law

Under present law, service as a crew member on a fishing vessel is generally excluded from the definition of employment for purposes of income tax withholding on wages and for purposes of FICA and FUTA taxes if the operating crew of the boat normally consists of fewer than 10 individuals, the individual receives a share of the catch based on the total catch, and the individual does not receive cash remuneration other than proceeds from the sale of the individual's share of the catch. Such crew members are subject to the tax on self-employment income.

Special reporting requirements apply with respect to the operators of boats on which such crew members perform services. In particular, the operator of the boat is required to report the identity of each individual performing such services, the percentage of each such individual's share of the catch and the percentage of the operator's share of the catch, information regarding the value of any catch received in kind, and if the individual receives a share of the proceeds of the catch, the amount so received.

Reasons for Change

The committee believes that providing a statutory definition for determining whether the crew of a fishing boat normally consists of 10 or fewer individuals would make the provision easier to apply and administer. Providing that the exemption continues to apply if an individual receives a small amount of cash in addition to a share of the catch would recognize long-standing industry tradition.

Explanation of Provision

The operating crew of a boat is to be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals. In addition, the exemption applies if the crew member receives, in addition to the cash remuneration permitted under present law, cash remuneration which does not exceed $100 per trip, is contingent on a minimum catch, and is paid solely for additional duties (e.g., mate, engineer, or cook) for which additional cash remuneration is traditional. The reporting requirements are revised to require reporting with respect to any such additional cash remuneration. As under present law, crew members to which the provision applies are subject to self-employment tax.

Effective Date

The provision applies to remuneration paid on or after January 1, 1992. In addition, the provision applies to remuneration paid after December 31, 1984, and before January 1, 1993, unless the payor treated such remuneration when paid as being subject to wage withholding and employment taxes.

TITLE V. TAXPAYER BILL OF RIGHTS 2

SUBTITLE A. TAXPAYER ADVOCATE

1. Establishment of Position of Taxpayer Advocate Within Internal Revenue Service (sec. 5001 of the bill and sec. 7802 of the Code)

Present Law

The Office of the Taxpayer Ombudsman was created by the IRS in 1979. The Taxpayer Ombudsman's duties are to serve as the primary advocate, within the IRS, for taxpayers. As the taxpayer's advocate, the Taxpayer Ombudsman participates in an ongoing review of IRS policies and procedures to determine their impact on taxpayers, received ideas from the public concerning tax administration, identifies areas of the tax law that confuse or create an inequity for taxpayers, and supervises cases handled under the Problem Resolution Program. Under current procedures, the Taxpayer Ombudsman is selected by the Commissioner of the IRS and serves at his discretion.

Reasons for Change

In order to ensure that the Taxpayer Ombudsman has the necessary stature within the IRS to represent fully the interests of taxpayers, it is believed that the position should be elevated to a position comparable to that of the Chief Counsel. In addition, in order to ensure that the Congress is systematically made aware of recurring and unresolved problems and difficulties taxpayers encounter in dealing with the IRS, the Taxpayer Ombudsman should have the authority and responsibility to make independent reports to Congress in order to advise the tax-writing Committees of those areas.

Explanation of Provision

The bill establishes a new position, Taxpayer Advocate, within the IRS. This replaces the position of Taxpayer Ombudsman. The Advocate reports directly to the Commissioner. Compensation of the Advocate is at a level equal to that of the IRS Chief Counsel.

The bill also establishes the Office of Taxpayer Advocate within the IRS. All problem resolution officers are part of that office, and are under the supervision and direction of the Taxpayer Advocate. The functions of the office are (1) to assist taxpayers in resolving problems with the IRS, (2) to identify areas in which taxpayers have problems in dealings with the IRS, (3) to propose changes (to the extent possible) in the administrative practices of the IRS that will mitigate those problems, and (4) to identify potential legislative changes that may mitigate those problems.

The Taxpayer Advocate is required to make two annual reports to the tax-writing Committees. The first report is to contain the objectives of the Taxpayer Advocate for the next calendar year. This report is to contain full and substantive analysis, in addition to statistical information. This report is due not later than October 31 of each year.

The second report is on the activities of the Taxpayer Advocate during the previous fiscal year. The report must identify the initiatives the Taxpayer Advocate has taken to improve taxpayer services and IRS responsiveness, contain recommendations received from individuals who have the authority to issue a TAO, contain a summary of at least 20 of the most serious problems which taxpayers have in dealing with the IRS, describe in detail the progress made in implementing these recommendations, include recommendations for such administrative and legislative action as may be appropriate to resolve such problems, and to include other such information as the Taxpayer Advocate may deem advisable. The Commissioner is required to establish internal procedures that will ensure a formal IRS response to all recommendations submitted to the Commissioner by the Taxpayer Advocate. This report is due not later than June 30 of each year.

Effective Date

The provision is effective on the date of enactment. The first annual reports of the Taxpayer Advocate are due in June and October, 1993.

2. Expansion of Authority to Issue Taxpayer Assistance Orders (sec. 5002 of the bill and sec. 7811 of the Code)

Present Law

Section 7811(a) authorizes the Taxpayer Ombudsman to issue a Taxpayer Assistance

Order (TAO). TAOs may order the release of taxpayer property levied upon by the IRS and may require the IRS to cease any action, or refrain from taking any action if, in the determination of the Taxpayer Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered.

Reasons for Change

The requirement that the significant hardship be as a result of the manner in which the internal revenue law are being administered has resulted in confusion as to the circumstances which justify the issuance of a TAO. The most frequent situation where a TAO may be needed, but may not be authorized under present law, involves income tax refunds that are needed to relieve severe hardship of taxpayers. Another example involves the re-issuance of refund checks which have been sent by the IRS to an address at which the taxpayer no longer resides. While the mailing of the check to the incorrect address might in no way be due to the fault of the IRS, the normal delays in reissuing such a check may cause great hardship for the taxpayer. Also, the IRS Collection Division may take an enforcement action when the taxpayer has had no actual notice of the deficiency and is not afforded any opportunity to obtain an administrative review of the validity of the tax deficiency. In cases like these, it may be appropriate for the Taxpayer Advocate to issue a TAO to temporarily stay the IRS collection action in order to allow for a review of the appropriateness of the proposed action.

Explanation of Provision

The bill provides the Taxpayer Advocate with broader authority to affirmatively take any action (as permitted by law) with respect to taxpayers who would otherwise suffer a significant hardship as a result of the manner in which the IRS is administering the tax laws. For example, the Taxpayer Advocate's scope of power will specifically include (i) the authority to abate assessments, (ii) grant or expedite refund requests, and (iii) stay collection activity. The bill also provides that a TAO may specify a time period within which the TAO must be followed. Finally, the bill provides that only the Taypayer Advocate, the Commissioner of the IRS, or a superior of those two positions, as well as a delegate of the Taxpayer Advocate, may modify or rescind a TAO. The Taxpayer Advocate is not intended to have the power to make determinations concerning the substantive tax treatment of any item.

Effective Date

The provision is effective on the date of enactment.

SUBTITLE B. MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

1. Notification of Reasons for Termination or Denial of Installment Agreements (sec. 5101 of the bill and sec. 6159 of the Code)

Present Law

Section 6159 authorizes the IRS to enter into written installment agreements with taxpayers to facilitate the collection of tax liabilities. In general, the IRS has the right to terminate (or in some instances, alter or modify) such agreements if the taxpayer provided inaccurate or incomplete information before the agreement was entered into, if the taxpayer fails to make a timely payment of an installment or another tax liability, if the taxpayer fails to provide the IRS with a requested update of financial condition, if the IRS determines that the financial condition of the taxpayer has changed significantly, or if the IRS believes collection of the tax liability is in jeopardy. If the IRS determines that the financial condition of a taxpayer that has entered into an installment agreement has changed significantly, the IRS must provide the taxpayer with a written notice that explains the IRS determination at least 30 days before altering, modifying or terminating the installment agreement. No notice is statutorily required if the installment agreement is altered, modified, or terminated for other reasons.

Reasons for Change

The committee believes that the IRS generally should notify taxpayers if an installment agreement is denied, altered, modified, or terminated.

Explanation of Provision

The bill requires the IRS to notify taxpayers 30 days before altering, modifying, or terminating any installment agreement for any reason other than that the collection of tax is determined to be in jeopardy. The IRS must include in the notification an explanation of why the IRS intends to take this action. The bill also requires that the IRS notify taxpayers 30 days before denying any installment agreement for any reason other than that the collection of tax is determined to be in jeopardy. The committee intends that notice of denial of an installment agreement be given to a taxpayer so that the taxpayer can discuss the denial with the IRS before it is formalized. Any insufficiency in the explanation of the denial has no effect on the availability of an installment agreement to the taxpayer.

The provision is effective six months after the date of enactment.

2. Administrative Review of Denial of Requests for, or Termination of, Installment Agreements (sec. 5102 of the bill and sec. 6159 of the Code)

Present Law

A taxpayer whose request for an installment agreement is denied can appeal to successively higher levels of Collection Division management, including the District Director. The IRS is currently testing an appeal process for various collection actions, including installment agreements, that will permit taxpayers to appeal these collection actions to Appeals Division personnel.

Reasons for Change

The committee believes that taxpayers should be able to obtain an independent administrative review of denials of requests for, or termination of, installment agreements.

Explanation of Provision

The bill requires the IRS to establish additional procedures for administrative review of denials of requests for installment agreements and terminations of installment agreements.

Effective Date

The provision is effective on January 1, 1993.

SUBTITLE C. INTEREST

1. Expansion of Authority to Abate Interest (sec. 5201 of the bill and sec. 6404 of the Code)

Present Law

Any assessment of interest on any deficiency attributable in whole or in part to any error or delay by an officer or employee of the IRS (acting in his official capacity) in performing a ministerial act may be abated.

Reasons for Change

The committee believes that it is appropriate to expand the authority to abate interest to situations other than ministerial acts. Therefore, the committee expands the authority to abate interest to any unreasonable error or delay.

Explanation of Provision

The bill generally expands the authority of the IRS to abate interest. The bill permits the IRS to abate interest with respect to any unreasonable error or delay by an officer or employee of the IRS. Only taxpayers who meet the net worth requirements referenced in section 7430(c)(4)(A)(iii) are eligible for interest abatement.

Effective Date

The provision applies to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of enactment.

2. Extension of Interest-Free Period for Payment of Tax After Notice and Demand (sec. 5202 of the bill and sec. 6601 of the Code)

Present Law

In general, a taxpayer must pay interest on late payments of tax. An interest-free period of ten days is provided to taxpayers who pay the tax due within ten days of notice and demand.

Reasons for Change

The ten-day interest-free period was designed to give taxpayers time to receive the notice and pay the amount due. Because it may be very difficult for some taxpayers to remit payment within the ten-day period, particularly if the mail has delayed delivery of the notice, the IRS must recompute interest and send another notice to taxpayers.

Explanation of Provision

The bill extends the interest-free period provided to taxpayers for the payment of the tax liability reflected in the notice from 10 days to 21 days, provided that the total tax liability shown on the notice of deficiency is less than $100,000.

Effective Date

The provision applies in the case of any notice and demand given after the date six months after the date of enactment.

SUBTITLE D. JOINT RETURNS

1. Disclosure of Collection Activities With Respect to Joint Returns (sec. 5301 of the bill and sec. 6103(e) of the Code)

Present Law

The IRS does not disclose collection information to spouses that have filed a joint return.

Reasons for Change

The committee believes that it is appropriate to permit the IRS to discuss with one spouse the efforts it has made to collect the joint return tax liability from the other spouse.

Explanation of Provision

If a tax deficiency with respect to a joint return is assessed, and the individuals filing the return are no longer married or no longer reside in the same household, the bill permits the IRS to disclose in writing (in response to a written request by one of the individuals) to that individual whether the IRS has attempted to collect the deficiency from the other individual, the general nature of the collection activities, and the amount (if any) collected.

Effective Date

The provision is effective on the date of enactment.

2. Joint Return May Be Made After Separate Returns Without Full Payment of Tax (sec. 5302 of the bill and sec. 6013 of the Code)

Present Law

Taxpayers who file separate returns and subsequently determine that their tax liability would have been less if they had filed a joint return are precluded by statute from reducing their tax liability by filing jointly if they are unable to pay the entire amount of the joint return liability before the expiration of the three-year period for making the election to file jointly.

Reasons for Change

Not all taxpayers are able to pay the full amount owed on their returns by the filing deadline. In such circumstances, the IRS encourages the taxpayer to pay the tax as soon as possible or enter into an installment agreement. However, taxpayers who file separate returns and subsequently determine that their tax liability would have been less if they had filed a joint return are precluded from reducing their tax liability by filing jointly if they are unable to pay the entire amount of the joint return liability. This rule may be unfair to taxpayers experiencing financial difficulties.

Explanation of Provision

The bill repeals the requirement of full payment of tax liability as a precondition to switching from married filing separately status to married filing jointly status.

Effective Date

The provision applies to taxable years beginning after the date of the enactment.

SUBTITLE E. COLLECTION ACTIVITIES

1. Modifications to Lien and Levy Provisions (sec. 5401 of the bill and secs. 6323 and 6343 of the Code)

i. Withdrawal of public notice of lien

Present Law

The IRS must file a notice of lien in the public record, in order to protect the priority of a tax lien. A notice of tax lien provides public notice that a taxpayer owes the Government money. The IRS has discretion in filing such a notice, but may withdraw a filed notice only if the notice (and the underlying lien) was erroneously filed or if the underlying lien has been paid, bonded, or become unenforceable.

Reasons for Change

The committee believes that it is appropriate to give the IRS discretion to withdraw a notice of lien in other situations as well.

Explanation of Provision

The bill allows the IRS to withdraw a public notice of tax lien prior to payment in full by the indebted taxpayer if the Secretary determines that (1) the filing of the notice was premature or otherwise not in accordance with the administration procedures of the IRS, (2) the taxpayer has entered into an installment agreement to satisfy the tax liability with respect to which the lien was filed, (3) the withdrawal of the lien will facilitate collection of the tax liability, or (4) the withdrawal of the lien would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States. The bill also requires that, at the written request of the taxpayer, the IRS make reasonable efforts to give notice of the withdrawal of a lien to credit reporting agencies specified by the taxpayer, as well as to financial institutions and creditors whose names and addresses have been provided to the IRS by the taxpayer.

Effective Date

The provision is effective on the date of enactment.

ii. Return of levied property

Present Law

The IRS is authorized to return levied property to a taxpayer only when the taxpayer has overpaid its liability to tax, interest, and penalty.

Reasons for Change

There are several situations where the IRS cannot return levied-upon amounts even when it believes doing so would be equitable and in the best interests of the taxpayer and the Government. For example, if the IRS enters into an installment agreement and, in contradiction to the terms of the installment agreement, the IRS levies on the taxpayer's property, the IRS is prohibited from returning the property to the taxpayer.

Explanation of Provision

The bill allows the IRS to return property (including money deposited in the Treasury) that has been levied upon if the Secretary determines that (1) the levy was premature or otherwise not in accordance with the administrative procedures of the IRS, (2) the taxpayer has entered into an installment agreement to satisfy the tax liability, (3) the return of the property will facilitate collection of the tax liability, or (4) the return of the property would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States.

Effective Date

The provision is effective on the date of enactment.

iii. Modifications in certain levy exemption amounts

Present Law

Property exempt from levy includes personal property with a value of up to $1,650, and books and tools necessary for the taxpayer's trade, business, or profession with a value of up to $1,100.

Reasons for Change

The committee believes that these amounts should be indexed for inflation.

Explanation of Provision

The bill increases the exemption amounts to $1,700 for personal property and $1,200 for books and tools. Both these amounts are indexed for inflation commencing with calendar year 1993.

Effective Date

The provision is effective on the date of enactment.

2. Offers-in-Compromise (sec. 5402 of the bill and sec. 7122 of the Code)

Present Law

The IRS has the authority to settle a tax debt pursuant to an offer-in-compromise. IRS regulations provide that such offers can be accepted if: the taxpayer is unable to pay the full amount of the tax liability and it is doubtful that the tax, interest, and penalties can be collected or there is doubt as to the validity of the actual tax liability. Amounts over $500 can only be accepted if the reasons for the acceptance are documented in detail and supported by an opinion of the IRS Chief Counsel.

Reasons for Change

Because of the requirements for accepting offers-in-compromise, IRS employees may classify accounts as currently-not-collectable, rather than accept part payment through an offer-in-compromise. The committee believes that an expanded offer-in-compromise program would benefit taxpayers by making it possible to liquidate a debt with the Government more rapidly.

Explanation of Provision

The bill allows acceptance of an offer-in-compromise where the compromise would be in the best interest of the Government. The bill also increases from $500 to $50,000 the amount requiring a written opinion from the Office of Chief Counsel. Compromises below the $50,000 threshold must be subject to continuing quality review by the IRS.

Effective Date

The provision is effective on the date of enactment.

3. Notification of Examination (sec. 5403 of the bill and sec. 7605 of the Code)

Present Law

In general, the IRS notifies taxpayers in writing prior to commencing an examination and encloses a copy of Publication 1, "Your Rights as a Taxpayer," with the notice. Sometimes, however, the IRS uses the telephone to schedule an examination.

Reasons for Change

The committee understands that the IRS may be approaching taxpayers, requesting the taxpayer's books and records, but not notifying taxpayers of examination. The committee believes that taxpayers should always receive written notice of an examination.

Explanation of Provision

The bill requires the IRS to notify a taxpayer in writing prior to commencing an examination under all subtitles of the Code and to provide the taxpayer with an explanation of the examination process prior to commencing the examination. Such notice will include an explanation of the process as described in section 7521. The bill exempts from this requirement any examination with respect to which the Secretary determines (1) that it is in connection with a criminal investigation, (2) that the collection of the tax is in jeopardy, (3) that the requirements are inconsistent with national security needs, or (4) that the requirements would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity. This provision does not preclude the IRS from using the telephone to attempt to schedule an examination, so long as the written notice required by this provision has previously been given.

Effective Date

The bill is effective on the date of enactment.

4. Modification of Certain Limits on Recovery of Civil Damages for Unauthorized Collection Activities (sec. 5404 of the bill and sec. 7433 of the Code)

Present Law

A taxpayer may sue the United States for up to $100,000 of damages caused by an officer or employee of the IRS who, with respect to the collection of any Federal tax with respect to the taxpayer, recklessly or intentionally disregards provisions of the Code or the Treasury regulations promulgated thereunder.

Reasons for Change

The committee believes that the cap for damages caused by IRS employees should be raised.

Explanation of Provision

The bill increases the cap to $1 million with respect to reckless or intentional acts. In addition, it permits a taxpayer to sue the United States for damages caused by an IRS employee who, with respect to the collection of any Federal tax with respect to the taxpayer, negligently disregards the provisions of the Code or the Treasury regulations promulgated thereunder, subject to a cap of $100,000 in damages.

Effective Date

The provision applies to actions by IRS employees that occur after the date of enactment.

5. Designated Summons (sec. 5405 of the bill and sec. 6503(k) of the Code)

Present Law

The period for assessment of additional tax with respect to most tax returns, corporate or otherwise, is three years. The IRS and the taxpayer can together agree to extend the period, either for a specified period of time or indefinitely. The taxpayer may terminate an indefinite agreement to extend the period by providing notice to the IRS.

During an audit, the IRS may informally request that the taxpayer provide additional information necessary to arrive at a fair and accurate audit adjustment, if any adjustment is warranted. Not all taxpayers cooperate by providing the requested information on a timely basis. In some cases the IRS seeks information by issuing an administrative summons. Such a summons will not be judicially enforced unless the Government (as a practical matter, the Department of Justice) seeks and obtains an order for enforcement in Federal court. In addition, a taxpayer may petition the court to quash an administrative summons where this is permitted by statute.[1]

In certain cases the running of the assessment period is suspended during the period when the parties are in court to obtain or avoid judicial enforcement of an administrative summons. Such a suspension is provided in the case of litigation over a third-party summons (sec. 7609(e)) or litigation over a summons regarding the examination of a related party transaction. Such a suspension can also occur with respect to a corporate tax return if a summons is issued at least 60 days before the day on which the assessment period (as extended) is scheduled to expire. In this case, suspension is only permitted if the summons clearly states that it is a "designated summons" for this purpose. Only one summons may be treated as a designated summons for purposes of any one tax return. The limitations period is suspended during the judicial enforcement period of the designated summons and of any other summons relating to the same tax return that is issued within 30 days after the designated summons is issued.

Under current internal procedures of the IRS, no designated summons is issued unless first reviewed by the Office of Chief Counsel to the IRS, including review by an IRS Deputy Regional Counsel for the Region in which the examination of the corporation's return is being conducted.

Reasons for Change

The committee recognizes that issuance of a designated summons is a serious step in the examination of a tax return, given the fact that litigation over the summons would suspend the running of the period for assessing additional tax against the taxpayer under audit. The committee is informed that, in recognition of the seriousness of such a step, the IRS has adopted procedures to ensure high-level IRS review before any such summons is issued. The committee believes that the Code should, however, mandate review in order to assure that careful consideration is given before issuing such a summons.

Under the designated summons rules, summons enforcement litigation can suspend the running of the period for assessing additional tax on a corporation, even though the summons is issued to a person other than that corporation. The committee believes that the corporation should receive prompt written notice of the issuance of such a summons.

Explanation of Provision

The bill requires that issuance of any designated summons with respect to a corporation's tax return must be preceded by review of such issuance by the Regional Counsel, Office of Chief counsel to the IRS, for the Region in which the examination of the corporation's return is being conducted.

In addition, the bill requires that the corporation whose return is in issue be promptly notified in writing in any case where the Secretary issues a designated summons (or another summons, the litigation over which suspends the running of the assessment period under the designated summons procedure) to a third party. It is expected that the IRS generally will meet this requirement by issuing such notice on the same day that it issues such summons, and by transmitting such notice to the corporation in a manner reasonably designed to bring it to the prompt attention of an agent of the corporation responsible for communicating with the IRS in connection with the examination.

The committee does not intend the notice requirement to imply that any summons issued to an unrelated third party, the purpose of which is to obtain information regarding comparable transactions involving unrelated parties, would require disclosure to the taxpayer of any information relating to the unrelated third party that would otherwise remain confidential under any other provision of the law.

Effective Date

The provision applies to summonses issued after date of enactment.

SUBTITLE F. INFORMATION RETURNS

1. Phone Numbers of Person Providing Payee Statement Required to be Shown on Such Statement (sec. 5501 of the bill and secs. 6041, 6041A, 6042, 6044, 6045, 6049, 6050B, 6050H, 6050I, 6050J, 6050K and 6050N of the Code)

Present Law

Information returns must contain the name and address of the payor.

Reasons for Change

Taxpayers often need to contact payors issuing information returns in order to resolve questions about the accuracy of the information provided to the IRS. Currently, payors are only required to provide their names and addresses on information returns. As a result, taxpayers may have difficulty in contacting the payor and resolving questions quickly.

Explanation of Provision

The bill requires that information returns contain the name, address, and phone number of the payor's information contact. A payor has the option of providing the name, address, and phone number of the department with the relevant information. It is intended that the telephone number provide direct access to individuals with immediate resources to resolve a taxpayer's questions in an expeditious manner.

Effective Date

The provision applies to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

2. Civil Damages for Fraudulent Filing of Information Returns (sec. 5502 of the bill and new sec. 7434 of the Code)

Present Law

Federal law provides no private cause of action to a taxpayer who is injured because a false or fraudulent information return has been filed with the IRS asserting that payments have been made to the taxpayer.

Reasons for Change

Some taxpayers may suffer significant personal loss and inconvenience as the result of the IRS receiving fraudulent information returns, which have been filed by persons intent on either defrauding the IRS or harassing taxpayers.

Explanation of Provision

The bill provides that, if any person willfully files a false or fraudulent information return with respect to payments purported to have been made to another person, the other person may bring a civil action for damages against the person filing that return. A copy of the complaint initiating the action must be provided to the IRS. Recoverable damages are limited to the greater of $5,000 or the amount of actual damages (including the costs of the action). The court must specify in its judgment the correct amount (if any) that should have been reported on the information return. An action seeking damages under this provision must be brought within four years after the filing of the false or fraudulent information return, or one year after the false or fraudulent information would have been discovered by the exercise of reasonable care, whichever is later.

Effective Date

The provision applies to false or fraudulent information returns filed after the date of enactment.

3. Requirement to Verify Accuracy of Information Returns (sec. 5503 of the bill and sec. 6201 of the Code)

Present Law

Deficiencies determined by the IRS are generally afforded a presumption of correctness.

Reasons for Change

Taxpayers may encounter difficulties when a payor issues an erroneous information return and refuses to correct the information and report the change to the IRS.

Explanation of Provision

The bill provides that, in any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return (Form 1099) filed by a third party and the taxpayer has fully cooperated with the IRS (including providing timely access to and inspection of all witnesses, information, and documents within the control of the taxpayer which are reasonably requested by the IRS), the Government must present reasonable and probative information concerning the deficiency (in addition to the information return itself). One way in which the taxpayer must cooperate with the IRS is to bring the reasonable dispute over the item of income to the attention of the IRS within a reasonable period of time.

Effective Date

The provision is effective on the date of enactment.

SUBTITLE G. MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

1. Preliminary Notice Requirements (sec. 5601 of the Bill and sec. 6672 of the Code)

---

[1] Petitions to quash are permitted, for example, in connection with the examination of certain related party transactions under section 6038A(e)(4), and in the case of certain third-party summonses under section 7609(b)(2).

Present Law

A "responsible person" is subject to a penalty equal to the amount of trust fund taxes that are not collected or paid to the government on a timely basis. An individual the IRS has identified as a responsible person is permitted an administrative appeal on the question of responsibility.

Reasons for Change

Some employees may not be fully aware of their personal liability under section 5566 for the failure to pay over trust fund taxes. The committee believes that IRS could take additional efforts to assist the public in understanding its responsibilities.

Explanation of Provision

The bill requires the IRS to issue a notice to an individual the IRS had determined to be a responsible person with respect to unpaid trust fund taxes at least 60 days prior to issuing a notice and demand for the penalty. The statute of limitations shall not expire before the date 90 days after the date on which the notice was mailed. The provision does not apply if the Secretary finds that the collection of the penalty is in jeopardy.

Effective Date

The provision applies to failures occurring after the date of enactment.

2. No Penalty if Prompt Notification of IRS (sec. 5602 of the bill and sec. 6672 of the Code)

Present Law

A responsible person may be subject to a penalty equal to 100 percent of the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

Reasons for Change

Indivuals have been held liable for this penalty even after they have brought their employer's failure to pay to the attention of the IRS.

Explanation of Provision

The bill provides that a reasonable person who notifies the IRS within 21 days of the failure to pay over trust fund taxes to the Government is not liable for this penalty, so long as the notification is made prior to the IRS's contracting the business about the failure to pay over the taxes, and provided that the person is not a significant owner (of a 5-percent or more interest). The provision does not apply if the failure to pay is part of a plan to defraud the Government. Moreover, the provision applies only once to a taxpayer in that taxpayer's lifetime and once to a business in its existence. The provision shall not apply if the effect would be to leave no financially responsible person liable for the penalty.

Effective Date

The provision applies in the case of failures to collect and pay over tax that occur after the date of enactment.

3. Disclosure of Certain Information Where More Than One Person Subject to Penalty (sec. 5603 of the bill and sec. 6103(e) of the Code)

Present Law

The IRS may not disclose to a responsible person the IRS's efforts to collect unpaid trust fund taxes from other responsible persons, who may also be liable for the same tax liability.

Reasons for Change

The committee believes that it is appropriate to permit the IRS to disclose to a responsible person whether the IRS is imposing the penalty on any other responsible person, and whether the IRS has been successful in collecting the penalty against such a person.

Explanation of Provision

The bill requires the IRS, if requested in writing by a person considered by the IRS to be a responsible person, to disclose in writing to that person the name of any other person the IRS has determined to be a responsible person with respect to the tax liability. The IRS is required to disclose in writing whether it has attempted to collect this penalty from other responsible persons, the general nature of those collection activities, and the amount (if any) collected. Failure by the IRS to follow this provision does not absolve any individual for any liability for this penalty.

Effective Date

The provision is effective on the date of enactment.

4. Penalties relating to Failure to Collect and Pay Over Tax (sec. 5604 of the bill and sec. 6672 of the Code)

i. Public information requirements

Present Law

Under section 6672, a "responsible person" is subject to a penalty equal to the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

Reasons for Change

Some employees may not be fully aware of their personal liability under section 6672 for the failure to pay over trust fund taxes. The committee believes that IRS could take additional efforts to assist the public in understanding its responsibilities.

Explanation of Provision

The bill requires the IRS to print warnings on payroll tax deposit coupon books and appropriate tax returns indicating that certain employees may be liable for this penalty, and to develop a special information packet relating to this penalty.

Effective Date

The provision is effective on the date of enactment.

ii. Board members of tax-exempt organizations

Present Law

Under section 6672, "responsible persons" of tax-exempt organizations are subject to a penalty equal to the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

Reasons for Change

Individuals who serve on the boards of tax-exempt organizations, on a voluntary or honorary basis, are often concerned that they will be held liable for unpaid taxes of the organization as a responsible person, even though their service may be strictly voluntary in nature, and they may not be involved in the day-to-day operations and financial decisions of the organization. The committee believes that the IRS has not made adequate efforts to clarify the rules applicable to tax-exempt organizations.

Explanation of Provision

The bill clarifies that the section 6672 responsible person penalty is not to be imposed on volunteer, unpaid members of any board of trustees or directors of a tax-exempt organization to the extent such members are solely serving in an honorary capacity, do not participate in the day-to-day or financial activities of the organization, and do not have actual knowledge of the failure. However, the provision shall not apply if the effect would be to leave no financially responsible person liable for the penalty. The bill requires the IRS to develop materials to better inform board members of tax-exempt organizations (including voluntary or honorary members) that they may be treated as responsible persons. The IRS is required to make such materials routinely available to tax-exempt organizations. The bill also requires the IRS to clarify its instructions to IRS employees on application of the responsible person penalty with regard to honorary or volunteer members of boards of trustees or directors of tax-exempt organizations.

Effective Date

The provision is effective on the date of enactment.

iii. Prompt notification

Present Law

The IRS is not required to notify promptly taxpayers who fall behind in depositing trust fund taxes.

Reasons for Change

The IRS may take from six months to two years before making an initial contact with taxpayers who have fallen behind in their trust fund tax deposits, and additional months or years before the IRS takes direct enforcement action. During this period, the tax liabilities and related interest and penalties can increase significantly and collection becomes more difficult. Individuals often find out many years later, when the amount of tax due is large, that the IRS has determined that they are liable for the entire tax liability as a responsible person. Early notice of such failures could permit more rapid correction of the failure to make correct deposits.

Explanation of Provision

The bill requires the IRS, to the maximum extent practicable, to notify all taxpayers with delinquent taxes described under section 6672 of the Code within 30 days after the return was filed reflecting the delinquency or within 30 days of the first indication that there has been a failure to make timely and complete deposit, whichever is earlier. If the taxpayer is an entity, the Secretary shall notify the entity and the entity shall be required to notify, within 15 days of such notification by the Secretary, all officers, general partners, trustees or other managers of the failure to make a timely and complete deposit. Failure to provide this notice does not absolve any individual from any liability for this penalty.

Effective Date

The provision is effective on the date of enactment.

SUBTITLE H. AWARDING OF COSTS AND CERTAIN FEES

1. Motion for Disclosure of Information (sec. 5701 of the bill and sec. 7430 of the Code)

Present Law

A taxpayer that successfully challenges a determination of deficiency by the IRS may recover attorneys' fees and other administrative and litigation costs if the taxpayer qualifies as a "prevailing party." A taxpayer qualifies as a prevailing party if it (1) establishes that the position of the United States was not substantially justified; (2) substantially prevails with respect to the amount in controversy or with respect to the most significant issue or set of issues presented; and (3) meets certain net worth and (if the taxpayer is a business) size requirements.

Reasons for Change

The committee believes that taxpayers should receive assistance from the IRS in determining whether the position of the IRS was substantially justified.

Explanation of Provision

The bill provides that once a taxpayer has substantially prevailed, the taxpayer may file a motion for an order requiring the disclosure (within a reasonable period of time) of all information and copies of relevant records in the possession of the IRS with respect to the taxpayer's case and the substantial justification for the position taken by the IRS. Disclosure under this provision is subject to the confidentiality restrictions of section 6103. The provision does not require the disclosure of privileged or otherwise nondisclosable information.

Effective Date

The provision is effective for notices made and proceedings commenced after the date of enactment.

2. Increased Limit on Attorney Fees (sec. 5702 of the bill and sec. 7430 of the Code)

Present Law

Attorneys' fees recoverable by prevailing parties as litigation or administrative costs are limited to a maximum of $75 per hour.

Reasons for Change

The committee believes that these amounts should be raised and indexed for inflation.

Explanation of Provision

The bill raises the statutory rate to $110 per hour, indexed for inflation beginning after 1992.

Effective Date

The provision applies to notices made and proceedings commenced after the date of enactment.

3. Failure to Agree to Extension Not Taken Into Account (sec. 5703 of the bill and sec. 7430 of the Code)

Present Law

To qualify for an award of attorney's fees, the taxpayer must have exhausted the administrative remedies available within the IRS.

Reasons for Change

The IRS has taken the position in regulations that attorney's fees cannot be awarded if the taxpayer has not agreed to extend the statute of limitations. In *Minahan* v. *Commissioner*, 88 T.C. 492 (1987), the Tax Court held that regulation invalid insofar as it provides that a taxpayer's refusal to consent to extend the statute of limitations is to be taken into account in determining whether the taxpayer has exhausted administrative remedies available to the taxpayer.

Explanation of Provision

The bill provides that any failure to agree to an extension of the statute of limitations cannot be taken into account for purposes of determining whether a taxpayer has exhausted the administrative remedies for purposes of determining eligibility for an award of attorney's fees.

Effective Date

The provision applies to proceedings commenced after the date of enactment.

SUBTITLE I. OTHER PROVISIONS

1. Required Content of Certain Notices (sec. 5801 of the bill and sec. 7522 of the Code)

Present Law

The Code requires the IRS to describe the basis for and identify the amounts of tax due, interest, penalties, and any other additional amounts owed in the notice of deficiency sent to taxpayers.

Reasons for Change

If the IRS cannot associate a taxpayer's payment with a balance due, the IRS generally deposits the money and may not inform the taxpayer of the overpayment. For example, a check that is separated from a balance-due income tax return, which is subsequently lost, may not get credited to that taxpayer's account.

Explanation of Provision

The provision requires that the IRS set forth the components of and explanation for each specific adjustment that is the basis for the total tax deficiency. An inadequate description does not invalidate the notice.

Effective Date

The provision applies to notices sent after the date six months after the date of enactment.

2. Treatment of Substitute Returns for Purposes of the Penalty for Failure To Pay Taxes (sec. 5802 of the bill and sec. 6651 of the Code)

Present Law

Section 6651(a)(2) provides that the IRS may assess a penalty for failure to pay tax from the due date of the return until the tax is paid. If no return is filed by the taxpayer and the IRS files a substitute return under section 6020, the tax on which the penalty is measured is considered a deficiency assessable under section 6212 or 6213, and the failure to pay penalty begins to accumulate ten days after the IRS sends the taxpayer a notice and demand for payment of the tax.

Reasons for Change

Under the current penalty system, there is an inequity between voluntarily-filed delinquent returns and substitute returns. Taxpayers who file delinquent returns must pay a failure to file penalty from the due date of the return, whereas the taxpayer who forces the IRS to utilize a substitute return is not assessed the penalty until billed by the IRS.

Explanation of Provision

The bill applies the failure to file penalty to substitute returns in the same manner as the penalty applies to delinquent filers.

Effective Date

The provision applies in the case of any return the due date for which (determined without regard to extensions) is after the date of enactment.

3. Relief From Retroactive Application of Treasury Department Regulations (sec. 5803 of the bill and sec. 7805 of the Code)

Present Law

Treasury may prescribe the extent (if any) to which regulations shall be applied without retroactive effect.

Reasons for Change

The committee believes that it is generally inappropriate for Treasury to issue retroactive regulations.

Explanation of Provision

Proposed, temporary and final regulations are generally required to have an effective date no earlier than the earliest of the following: (i) the date of filing such regulation with the Federal Register, (ii) the date on which any proposed or temporary regulation to which such regulation relates was filed with the Federal Register, and (iii) the date on which any notice substantially describing the expected contents of such regulation was issued to the public. However, with respect to statutes enacted on or after the date of enactment of this provision, a regulation which relates to such statute and which is issued within twelve months of such statute's enactment date may apply as of the date of such statute's enactment. Further, this provision may be superseded by a legislative grant authorizing the Treasury to prescribe the effective date with respect to any regulation. The Treasury may issue retroactive regulations to prevent abuse of the statute. The Treasury may also issue retroactive regulations to correct a procedural defect in the issuance of a regulation. The Treasury may provide that taxpayers may elect to apply a regulation retroactively.

The bill does not apply to regulations prescribed under Code section 986(a)(1)(C) or 986(a)(4) (as amended by the bill). The bill also does not apply to any regulation relating to internal Treasury Department policies, practices, or procedures. Present law with respect to rulings is unchanged.

There may be additional instances in which retroactive application of Treasury regulations has created undue hardship. The bill does not preclude the Congress from both examining these cases and providing any appropriate relief in the future.

Effective Date

The provision applies with respect to any temporary or proposed regulation filed with the Federal Register on or after July 28, 1992, and any temporary or proposed regulation filed with the Federal Register before July 28, 1992, with respect to which a final regulation has not been filed with the Federal Register before that date. The special rule for regulations issued within twelve months shall only apply with respect to statutes enacted on or after the date of enactment.

4. Required Notice to Taxpayers of Certain Payments (sec. 5804 of the bill)

Present Law

If the IRS receives a payment without sufficient information to properly credit it to a taxpayer's account, the IRS may attempt to contact the taxpayer. If contact cannot be made, the IRS places the payment in an unidentified remittance file.

Reasons for Change

If the IRS cannot associate a taxpayer's payment with a balance due, the IRS generally deposits the money and may not inform the taxpayer of the overpayment. For example, a check that is separated from a balance-due income tax return, which is subsequently lost, may not get credited to that taxpayer's account.

Explanation of Provision

The bill requires the IRS to make reasonable efforts to notify, within 60 days, those taxpayers who have made payments which the IRS cannot associate with any outstanding tax liability.

Effective Date

The provision is effective on the date of enactment.

5. Unauthorized Enticement of Information Disclosure (sec. 5805 of the bill and new sec. 7524 of the Code)

Present Law

There is no statutory disincentive for enticing a tax professional to disclose information about clients in exchange for forgiving the taxes of the professional.

Reasons for Change

The committee believes that enticement of this nature is inappropriate. Therefore, to prevent agents from intervening on behalf of a tax professional to compromise the professional's tax liability in exchange for information regarding the professional's clients, the committee decided generally to preclude the admissibility of such "enticed" information and to provide a right of action to the professional's affected clients against the Government.

Explanation of Provision

The bill provides that, if a Government employee intentionally compromises the determination or collection of any tax due from a tax professional in exchange for certain information concerning a taxpayer who is the professional's client, the information so obtained is not admissible in any judicial proceeding in which the taxpayer is a party, except to rebut a false representation made at trial by the taxpayer. This provision applies only to information conveyed by the taxpayer to the professional for purposes of obtaining advice regarding the taxpayer's tax liability. In addition, the taxpayer may bring a civil action for damages against the United States in a district court of the United States without regard to the amount in controversy. The taxpayer must bring such an action within two years after the date the right of action accrues.[2] Upon a finding of liability, damages shall equal the lesser of $500,000 or the sum of (i) actual economic damages sustained by the taxpayer as a proximate result of the information disclosure, and (ii) the costs of the action. The district court must stay any proceeding with respect to such an action pending completion of any ongoing investigation or prosecution of the taxpayer (which the Commissioner has certified is ongoing to the court).

This provision is intended to apply only where a direct nexus exists between the enticement of the information from the tax professional and the compromise of the professional's tax liability. It is not intended to apply to examination and collection activities of the IRS done in the ordinary course of its determination or collection of tax.

The remedies provided by this provision shall not apply to information conveyed to an attorney, certified public accountant or enrolled agent for the purpose of perpetrating a fraud or crime.

Effective Date

The provision applies to actions taken after the date of enactment.

SUBTITLE J. FORM MODIFICATIONS; STUDIES

A. FORM MODIFICATIONS

1. Explanation of Certain Provisions (sec. 5901 of the bill)

Present Law

Section 6159 authorizes the IRS to enter into written installment agreements with any taxpayer. Section 7122 authorizes the IRS to accept offers in compromise from taxpayers in certain situations. Section 6161 authorizes the IRS to extend the time for payment of tax.

Reasons for Change

Some taxpayers may not have the ability to pay their tax liability when it is due. The Code provides several alternatives to taxpayers in this situation, including installment agreements, offers in compromise, and extensions of time for the payment of taxes. These options are available to the taxpayer at the discretion of the IRS. The committee believes that taxpayers are entitled to be advised of the relief potentially available to them, and to apply for that relief if they think they qualify under IRS guidelines.

Explanation of Provision

The bill requires the IRS to take such actions as may be appropriate (including improved publicity) to ensure that taxpayers are aware of the availability of installment agreements, offers in compromise, and the extension of time to pay tax. The IRS must do so in both the income tax return instructions and collection notices.

Effective Date

The provision is effective on the date of enactment.

2. Improved Procedures for Notifying IRS of Change of Address or Name (sec. 5902 of the bill)

Present Law

Generally, the IRS posts the new address of a taxpayer only upon the filing of the subsequent tax return which contains a new address or if the taxpayer submits a Form 8822, *Change of Address*, to the IRS.

Reasons for Change

Taxpayers frequently encounter problems with the IRS as a result of changing their addresses, and not having IRS examination and collection correspondence forwarded to their new address. Under current procedures, the IRS does not routinely update all of its records with new address information. The IRS has a form which taxpayers can use to notify the IRS of their new address, but this form is seldom utilized by individual taxpayers. Similar problems arise with a taxpayer's change of name (due to events such as marriage or divorce).

Explanation of Provision

The bill requires the IRS to provide improved procedures for taxpayers to notify the IRS of changes in names or addresses. In addition, the bill requires that the IRS institute procedures before June 30, 1993 for the timely updating of all IRS records with change of address information provided to the IRS by taxpayers.

Effective Date

The provision is effective on the date of enactment.

3. Rights and Responsibilities of Divorced Individuals (sec. 5903 of the bill)

Present Law

The IRS provides information on the rights and responsibilities of divorced individuals in Publication 504, *Tax Information for Divorced or Separated Individuals*. This publication is not as widely utilized as Publication 1, *Your Rights As a Taxpayer*.

Reasons for Change

The committee believes that the IRS must do a better job of advising divorced taxpayers of their responsibilities and rights under the Federal tax system.

Explanation of Provision

The bill requires the IRS to include a section on the rights and responsibilities of divorced individuals in Publication 1, *Your Rights As a Taxpayer*.

Effective Date

The provision is effective on the date of enactment.

B. STUDIES

1. Pilot Program for Appeal of Enforcement Actions (sec. 5911 of the bill)

Present Law

A taxpayer who disagrees with an IRS collection action generally can only appeal to successively higher levels of management in the Collection Division. Certain cases involving the 6672 penalty, offers-in-compromise, and employment tax issues may, however, be appealed to the Appeals Division.

Reason for Change

Disputes arise relating to enforcement decisions involving notices of lien, levies, seizures, and decisions not to grant installment agreements. These disputes often arise in cases where the taxpayers did not receive actual notice of the deficiency, often due to divorce and/or change of address.

Explanation of Provision

The bill requires the IRS to establish a one-year pilot program to evaluate the merits of allowing an independent appeal, by the taxpayer, to the Appeals Division of enforcement actions (including lien, levy, and seizure actions) where the deficiency was assessed without the actual knowledge of the taxpayer, where the deficiency was assessed without an opportunity for administrative appeal, and in other appropriate circumstances.

Effective Date

The IRS is required to report to the tax-writing committee by June 30, 1993, on the effectiveness of this pilot program.

2. Study on Taxpayers With Special Needs (sec. 5912 of the bill)

Present Law

The IRS is responsible for providing timely and accurate assistance to taxpayers who want to comply with Federal tax laws.

Reasons for Change

Taxpayers with special needs may experience difficulty in complying with the requirements of the tax system. For example, hearing-impaired taxpayers may have difficulty in obtaining tax assistance from the IRS. Elderly taxpayers may have difficulty in getting tax assistance concerning the tax treatment of Social Security benefits. In addition, some elderly taxpayers could benefit from having tax forms and instructions printed in large-sized print. Non-English speaking taxpayers could benefit from having certain work-sheets and instructions printed in their primary language.

Explanation of Provision

The bill requires the IRS to conduct a study of work to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the tax laws.

Effective Date

The report (and any recommendation) must be submitted to the tax-writing committees by June 30, 1993.

3. Reports on Taxpayer Rights Education Program (sec. 5913 of the bill)

Present Law

The IRS is currently conducting a program to educate revenue officers concerning the rights of taxpayers.

Reasons for Change

The committee believes that it is appropriate for the Congress to be provided the additional information regarding this program.

Explanation of Provision

The bill requires the IRS to report to the tax-writing Committees on its taxpayer rights education program for its officers and employees, including the scope and content of the program, and on the effectiveness of the program.

Effective Date

The report on the scope and content of the taxpayer-rights education program must be submitted to the tax-writing committees by April 1, 1993, and the report on the effectiveness of the program must be submitted by June 30, 1993.

---

[2] The general accrual rule applied under the Federal Tort Claims Act (28 U.S.C. sec. 2401(b)) is to be applied to actions under this provision; *i.e.*, the right of action does not accrue until a claimant has had a reasonable opportunity to discover all of the essential elements of a possible cause of action. See, e.g., *Rosales* v. *United States*, 824 F.2d 799 (9th Cir. 1987); *Zeidler* v. *United States*, 601 F.2d (10th Cir. 1979).

4. Biennial Reports on Misconduct By IRS Employees (sec. 5914 of the bill)

Present Law

As mandated by the Inspector General Act, every six months the Inspector General of the Department of the Treasury receives information from the IRS for the Secretary of the Treasury's semiannual report to Congress on employee misconduct. The Inspector General Act, in part, requires that these reports include summary information and descriptions of significant investigative activities and a summary of matters referred to prosecuting authorities and the prosecutions and convictions that have resulted.

Reasons for Change

The IRS Inspection Division investigates allegations and complaints by taxpayers about misconduct by IRS employees that are not covered by the Inspector General Act and reported to Congress. Further, these investigations and the resulting disciplinary actions, if any, are not reported to the public.

Explanation of Provision

The bill requires the IRS to report to the tax-writing committees in June every two years on all cases involving complaints about IRS employee misconduct and on the disposition of those complaints.

Effective Date

The first report must be submitted during June 1993.

5. Study of Notices of Deficiency (sec. 5915 of the bill)

Present Law

Under section 6212, the IRS is required to send a notice of tax deficiency to taxpayers by registered or certified mail.

Reasons for Change

In spite of the requirement of section 6212, many taxpayers still do not receive actual notice from the IRS of their tax deficiency. Generally, if a registered or certified letter is returned to the IRS by the Postal Service as undeliverable, the IRS continues its collection efforts.

Explanation of Provision

The bill requires the GAO to study the effectiveness of current IRS efforts to notify taxpayers with regard to tax deficiencies under section 6212, the number of registered or certified letters and other notices returned to the IRS as undeliverable, any follow-up action taken by the IRS to locate the taxpayers, the effect that failures to receive actual notice have on taxpayers, and recommendations on how the IRS can better notify taxpayers of tax deficiencies.

Effective Date

The report and recommendations must be furnished by June 30, 1993.

6. Notice and Form Accuracy Study (sec. 5916 of the bill)

Present Law

The IRS is responsible for providing accurate and instructive notices, forms, and instructions to taxpayers to assist them in complying with Federal tax laws.

Reasons for Change

Some taxpayers experience difficulty in complying with the requirements of the Federal tax system, due to inaccurate notices, forms, and instructions. The IRS has formed various working groups to improve the accuracy of its communications with the public, but these efforts have not been totally successful.

Explanation of Provision

The bill requires the GAO to study annually the accuracy of 25 of the most commonly used IRS forms, notices, and publications. In conducting its review, the GAO is to seek and consider the comments of organizations representing taxpayers, employers, and tax professionals.

Effective Date

The initial report (and any recommendations) must be submitted to the tax-writing committees by June 30, 1993.

7. IRS Employees' Suggestions Study (sec. 5917 of the bill)

Present Law

The IRS maintains several programs to encourage and reward employees who make suggestions for improving the administration of the tax system.

Reasons for Change

Although the IRS recognizes and pays employees for the value of their suggestions, the IRS does not always implement their recommendations. Worthwhile ideas for lessening the burdens on taxpayers and for improving tax administration may be neglected. Problems that are not solved may lead to frustration on the part of taxpayers and IRS employees.

Explanation of Provision

The bill requires the GAO to conduct a review of the IRS employee suggestion programs. The study is to include a review of all suggestions that were accepted and rewarded by the IRS, an analysis as to how many of these suggestions were implemented, and why the remaining suggestions were not implemented.

Effective Date

The report (and any recommendations) must be submitted to the tax-writing committees by June 30, 1993.

TITLE VI. TECHNICAL CORRECTIONS

SUBTITLE A. REVENUE PROVISIONS

I. Technical Corrections to the Revenue Reconciliation Act of 1990

A. INDIVIDUAL INCOME TAX PROVISIONS

1. Minimum tax rate on certain nonresident aliens (sec. 6101(a)(2) of the bill, sec. 11102 of the 1990 Act, and sec. 897 of the Code)

Present Law

The Revenue Reconciliation Act of 1990 (the "1990 Act") increased the alternative minimum tax rate on individuals from 21 percent to 24 percent

Explanation of Provision

The bill conforms the rate of the minimum tax on the U.S. real property gains of nonresident aliens to the 24 percent minimum tax rate enacted in the 1990 Act.

2. Tax rate of personal holding companies (sec. 6101(a)(4) of the bill, sec. 11101 of the 1990 Act, and sec. 541 of the Code)

Present Law

A corporation that is treated as a personal holding company is subject, in addition to the regular corporate tax, to a 28-percent tax on its undistributed personal holding company income for the taxable year. The present-law rate of 28 percent was set by the Tax Reform Act of 1986.[1] This rate reflected the maximum rate of tax on individuals in that Act.

The 1990 Act increased the maximum rate of tax on individuals from 28 percent to 31 percent effective for taxable years beginning after December 31, 1990.

Explanation of Provision

The bill provides that the increase in the individual maximum tax rate to 31 percent also applies to the personal holding company tax rate, effective for taxable years beginning after December 31, 1990.

3. Definition of AGI for the earned income tax credit and the supplemental earned income tax credit for health insurance premiums (sec. 6101(a)(5) of the bill, sec. 11111 of the 1990 Act, and sec. 32 of the Code)

Present Law

Under present law, a supplemental earned income tax credit (EITC) is available to certain taxpayers for qualified health insurance expenses. Qualified health insurance expenses for which the credit is available are amounts paid during the taxable year for health insurance coverage that includes one or more qualifying children. These expenses include only those expenses relating to the cost of coverage (i.e., premium cost) paid with after-tax dollars. The maximum credit is $428 in 1991. The credit is phased out as adjusted gross income (AGI) (or earned income, if greater) exceeds $11,250 in 1991. Earned income amounts taken into account in computing the maximum credit and the beginning point of the phase-out range are indexed for inflation.

The calculation of this supplemental child health insurance credit is generally the same as the calculation of the basic EITC. Thus, the same eligibility criteria and income phase-in and phase-out requirements apply. There is no family size adjustment with respect to the health insurance credit.

Present law provides that the amount of expenses taken into account in determining the deduction for health insurance costs of self-employed individuals (sec. 162(l)) is reduced by the amount (if any) of the supplemental child health insurance credit allowable to the taxpayer (sec. 162(l)(3)(B)). This so-called "double-dip" provision creates a calculation problem because the amount of the EITC, the supplemental young child credit, and the child health insurance credit cannot be determined until AGI is determined; however, AGI is determined with reference to the deduction for health insurance costs of self-employed individuals. Thus, the operation of the double-dip provision creates a circularity that increases the complexity of the child health credit.

Explanation of Provision

Under the bill, for purposes of the EITC, the supplemental young child credit, and the supplemental child health insurance credit, AGI is calculated assuming that the taxpayer is entitled to the full deduction for health insurance costs under section 162(l). Then, after the maximum child health credit is determined, the double-dip rule (sec. 162(l)(3)(B)) operates as it does under present law.

B. EXCISE TAX PROVISIONS

1. Application of the 2.5-cents-per-gallon tax on fuel used in rail transportation to States and local governments (sec. 6101(b)(3) of the bill, sec. 11211(b)(4) of the 1990 Act, and sec. 4093 of the Code)

Present Law

The 1990 Act increased the highway and motorboat fuels taxes by 5 cents per gallon, effective on December 1, 1990. The 1990 Act continued the exemption from these taxes for fuels used by States and local governments.

The 1990 Act also imposed a 2.5-cents-per-gallon tax on fuel used in rail transportation, also effective on December 1, 1990. Because of a drafting error in the 1990 Act, the 2.5-cents-per-gallon tax on fuel used in rail transportation incorrectly applies to States and local governments.

---

[1] See P.L. 99-514, sec. 104 (b)(8)

Explanation of Provision

The bill clarifies that the 2.5-cents-per-gallon tax on fuel used in rail transportation does not apply to such uses by States and local governments.

2. Deposit of certain aviation tax revenues in Airport and Airway Trust Fund (sec. 6101(b)(5) of the bill, sec. 11213 of the 1990 Act, and sec. 9502(e)(1) of the Code)

Present Law

The 1990 Act increased the aviation excise tax rates (except for the international air departure tax rate) by 25 percent, and extended those taxes for five years, effective December 1, 1990, through December 31, 1995. From December 1, 1990 through 1992, the statement of managers on the 1990 Act indicated that the revenues attributable to the increased portion of the aviation taxes were to be retained in the General Fund; these revenues will be deposited in the Airport and Airway Trust Fund for 1993 through 1995. The statute as enacted in the 1990 Act omitted this agreement with respect to the taxes other than those imposed on aviation fuels (i.e., the revenues attributable to the increase in the air passenger ticket tax and the air cargo tax).

Explanation of Provision

The bill clarifies that revenues from all aviation excise taxes attributable to the increased rates imposed by the 1990 Act on taxable events during periods before January 1, 1993, will be retained in the General Fund. The amendment does not affect revenues attributable to the tax rates imposed before enactment of the 1990 Act and extended by that Act. (This provision is also included in H.R. 4691 as passed by the House of Representatives on May 19, 1992.)

3. Small winery production credit and bonding requirements (secs. 6101(b) (7), (8), and (9) of the bill, sec. 11201 of the 1990 Act, and sec. 5041 of the Code)

Present Law

A 90-cents-per-gallon credit is allowed to wine producers who produce no more than 250,000 gallons of wine in a year. The credit may be claimed against the producers' excise or income taxes.

Wine producers must post a bond in amounts determined by reference to expected excise tax liability as a condition of legally operating.

Explanation of Provision

The bill clarifies that wine produced by eligible small wineries may be transferred without payment of tax to bonded warehouses that become liable for payment of the wine excise tax without losing credit eligibility. In such cases, the bonded warehouse will be eligible for the credit to the same extent as the producer otherwise would have been.

The bill further clarifies that the Treasury Department has broad regulatory authority to prevent the benefit of the credit from accruing (directly or indirectly) to wineries producing in excess of 250,000 gallons in a calendar year. The committee specifically understands that this authority extends to all circumstances in which wine production is increased with a purpose of securing indirect credit eligibility for wine produced by such large producers.

The bill also clarifies that the Treasury Department may take the amount of credit expected to be claimed against a producer's wine excise tax liability into account in determining the amount of required bond.

4. Floor stocks refunds for certain cigarette taxes (sec. 6101(b)(10) of the bill and 11202 of the 1990 Act)

Present Law

A floor stocks tax, equal to the amount of the rate increase, is imposed when the rates of Federal excise taxes (other than retail taxes) are increased. The cigarette excise tax rates are scheduled to increase on January 1, 1993. Refunds of this tax, as with the underlying excise tax, are permitted in certain cases.

Explanation of Provision

The bill clarifies that the Treasury Department may make refunds of the cigarette floor stocks tax to be imposed on January 1, 1993, to manufacturers rather than to the persons that actually pay the tax, if the manufacturers demonstrate that the benefit of the refund accrues to the person actually paying the tax.

C. OTHER REVENUE-INCREASE PROVISIONS OF THE 1990 ACT

1. Deposits of Railroad Retirement Tax Act taxes (sec. 6101(c)(3) of the bill, sec. 11334 of the 1990 Act, and sec. 6302(g) of the Code)

Present Law

Employers must deposit income taxes withheld from employees' wages and FICA taxes that are equal to or greater than $100,000 by the close of the next banking day. Under the Railroad Retirement Solvency Act of 1983, the deposit rules for withheld income taxes and FICA taxes automatically apply to Railroad Retirement Tax Act taxes (sec. 226 of P.L. 98-76).

Explanation of Provision

The bill conforms the Internal Revenue Code to the Railroad Retirement Solvency Act of 1983 by stating in the Code that these deposit rules for withheld income taxes and FICA taxes apply to Railroad Retirement Tax Act taxes.

2. Treatment of salvage and subrogation of property and casualty insurance companies (sec. 6101(c)(4) of the bill and sec. 11305 of the 1990 Act)

Present Law

For taxable years beginning after December 31, 1989, property and casualty insurance companies are required to reduce the deduction allowed for losses incurred (both paid and unpaid) by estimated recoveries of salvage and subrogation attributable to such losses. In the case of any property and casualty insurance company that took into account estimated salvage and subrogation recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, 87 percent of the discounted amount of the estimated salvage and subrogation recoverable as of the close of the last taxable year beginning before January 1, 1990, is allowed as a deduction ratably over the first 4 taxable years beginning after December 31, 1989. This special deduction was enacted in order to provide such property and casualty insurance companies with substantially the same Federal income tax treatment as that provided to those property and casualty insurance companies that prior to the Revenue Reconciliation Act of 1990 did not take into account estimated salvage and subrogation recoverable in determining losses incurred.

Explanation of Provision

The bill provides that the earnings and profits of any property and casualty insurance company that took into account estimated salvage and subrogation recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, is to be determined without regard to the special deduction that is allowed over the first 4 taxable years beginning after December 31, 1989. The special deduction is to be taken into account, however, in determining earnings and profits for purposes of applying sections 56, 902(c)(1) and 960 of the Internal Revenue Code of 1986. This provision is considered necessary in order to provide those property and casualty insurance companies that took into account estimated salvage and subrogation recoverable in determining losses incurred with substantially the same Federal income tax treatment as that provided to those property and casualty insurance companies that prior to the 1990 Act did not take into account estimated salvage and subrogation recoverable in determining losses incurred.

3. Information with respect to certain foreign-owned or foreign corporations: Suspension of the statute of limitations during certain judicial proceedings (sec. 6101(c)(5) of the bill, secs. 11314 and 11315 of the 1990 Act, and secs. 6038A and 6038C of the Code)

Present Law

Any domestic corporation that is 25-percent owned by one foreign person is subject to certain information reporting and recordkeeping requirements with respect to transactions carried out directly or indirectly with certain foreign persons treated as related to the domestic corporation ("reportable transactions") (sec. 6038A(a)). In addition, the Code provides procedures whereby an IRS examination request or summons with respect to reportable transactions can be served on foreign related persons through the domestic corporation (sec. 6038A(e)). Similar provisions apply to any foreign corporation engaged in a trade or business within the United States, with respect to information, records, examination requests, and summonses pertaining to the computation of its liability for tax in the United States (sec. 6038C). Certain noncompliance rules may be applied by the Internal Revenue Service in the case of the failure by a domestic corporation to comply with a summons pertaining to a reportable transaction (a "6038A summons") (sec. 6038A(e)), or the failure by a foreign corporation engaged in a U.S. trade or business to comply with a summons issued for purposes of determining the foreign corporation's liability for tax in the United States (a "6038C summons") (sec. 6038C(d)).

Any corporation that is subject to the provisions of section 6038A or 6038C has the right to petition a Federal district court to quash a 6038A or 6038C summons, or to review a determination by the IRS that the corporation did not substantially comply in a timely manner with the 6038A or 6038C summons (sec. 6038A(e)(4) (A) and (B); sec. 6038C(d)(4)). During the period that either such judicial proceeding is pending (including appeals), and for up to 90 days thereafter, the statute of limitations is suspended with respect to any transaction (or item, in the case of a foreign corporation) to which the summons relates (secs. 6038A(e)(4)(D), 6038C(d)(4)).

The legislative history of the 1989 Act amendments to section 6038A states that the suspension of the statute of limitations applies to "the taxable year(s) at issue."[2] The legislative history of the 1990 Act, which added section 6038C to the Code, uses the same language.[3]

---

[2] H. Rep. No. 247, 101st Cong., 1st Sess. 1301 (1989); "Explanation of Provisions Approved by the Committee on October 3, 1989," Senate Finance Committee Print, 101st Cong., 1st Sess. 118 (October 12, 1989).

Explanation of Provision

The bill modifies the provisions in sections 6038A and 6038C that suspend the statute of limitations to clarify that the suspension applies to any taxable year for which the determination of the amount of tax imposed is affected by the transaction or item to which the summons relates.

The Committee intends that, under the bill, a transaction or item would affect the determination of the amount of tax imposed for the taxable year directly at issue, as well as for any taxable year indirectly affected through, for example, net operating loss carrybacks or carryforwards. The Committee does not intend that, under the bill, a transaction or item would affect the determination of the amount of tax imposed for any taxable year other than the taxable year directly at issue solely by reason of any similarity of issues involved. Similarly, the Committee does not intend that, under the bill, a transaction or item would affect the determination of the amount of tax imposed on any taxpayer unrelated to the taxpayer to whom the summons is directed.

4. Rate of interest for large corporate underpayments (secs. 6101(c) (6) and (7) of the bill, sec. 11341 of the 1990 Act, and sec. 6621(c) of the Code)

Present Law

The rate of interest otherwise applicable to underpayments of tax is increased by two percent in the case of large corporate underpayments (generally defined to exceed $100,000), applicable to periods after the 30th day following the earlier of a notice of proposed deficiency, the furnishing of a statutory notice of deficiency, or an assessment notice issued in connection with a nondeficiency procedure.

Explanation of Provision

The bill provides that an IRS notice that is later withdrawn because it was issued in error does not trigger the higher rate of interest. The bill also corrects an incorrect reference to "this subtitle". ±

D. EXPIRING TAX PROVISIONS

1. Exclusion for employer-provided educational assistance (sec. 6101(d)(1) of the bill, sec. 11403 of the 1990 Act, and secs. 127 and 132 of the Code)

Present Law

Employer-provided educational assistance is excludable from gross income to the extent that the value of the assistance does not exceed $5,250 and certain other requirements are satisfied (sec. 127). Prior to the 1990 Act, the exclusion did not apply to graduate level courses. The 1990 Act eliminated this restriction. The Omnibus Budget Reconciliation Act of 1989 provided that educational assistance that is not excludable under section 127 due to the dollar limitation on the exclusion and the restriction on graduate level courses is excludable from gross income if and only if it qualifies as a working condition fringe benefit (sec. 132(h)).

Explanation of Provision

The bill amends the fringe benefit rules to reflect the fact that the graduate level course restriction has been repealed.

2. Research credit provision: Effective date for repeal of special proration rule (sec. 6101(d)(2) of the bill and sec. 11402 of the 1990 Act)

Present Law

The Omnibus Budget Reconciliation Act of 1989 effectively extended the research credit for nine months by prorating certain qualified research expenses incurred before January 1, 1991. The special rule to prorate qualified research expenses applied in the case of any taxable year which began before October 1, 1990, and ended after September 30, 1990. Under this special proration rule, the amount of qualified research expenses incurred by a taxpayer prior to January 1, 1991, was multiplied by the ratio that the number of days in that taxable year before October 1, 1990, bears to the total number of days in such taxable year before January 1, 1991. The amendments made by the 1989 Act to the research credit (including the new method for calculating a taxpayer's base amount) generally were effective for taxable years beginning after December 31, 1989. However, this effective date did not apply to the special proration rule (which applied to any taxable year which began prior to October 1, 1990—including some years which began before December 31, 1989—if such taxable year ended after September 30, 1990).

Section 11402 of the Omnibus Budget Reconciliation Act of 1990 extended the research credit through December 31, 1991, and repealed the special proration rule provided for by the 1989 Act. Section 11402 of the 1990 Act was effective for taxable years beginning after December 31, 1989. Thus, in the case of taxable years beginning before December 31, 1989, and ending after September 30, 1990 (e.g., a taxable year of November 1, 1989 through October 31, 1990), the special proration rule provided by the 1989 Act would continue to apply.

Explanation of Provision

The bill repeals for all taxable years ending after December 31, 1989, the special proration rule provided for by the 1989 Act.

E. Energy Tax Provision: Alternative Minimum Tax Adjustment Based on Energy Preferences (secs. 6101(e)(2) and (6) of the bill, sec. 11531(a) of the 1990 Act, and sec. 56(h) of the Code)

Present Law

In computing alternative minimum taxable income (and the adjusted current earnings (ACE) adjustment of the alternative minimum tax), certain adjustments are made to the taxpayer's regular tax treatment for intangible drilling costs (IDCs) and depletion. A special energy deduction is also allowed. The special energy deduction is initially determined by determining the taxpayer's (1) intangible drilling cost preference and (2) the marginal production depletion preference. The intangible drilling cost preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the adjustments for IDCs. The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to depletion adjustments attributable to marginal production. The intangible drilling cost preference is then apportioned between (1) the portion of the preference related to qualified exploratory costs and (2) the remaining portion of the preference. The portion of the preference related to qualified exploratory costs is multiplied by 75 percent and the remaining portion is multiplied by 15 percent. The marginal production depletion preference is multiplied by 50 percent. The three products described above are added together to arrive at the taxpayer's special energy deduction (subject to certain limitations).

The special energy deduction is not allowed to the extent that it exceeds 40 percent of alternative minimum taxable income determined without regard to either this special energy deduction or the alternative tax net operating loss deduction. Any special energy deduction amount limited by the 40-percent threshold may not be carried to another taxable year. In addition, the combination of the special energy deduction, the alternative minimum tax net operating loss and the alternative minimum tax foreign tax credit cannot generally offset, in the aggregate, more than 90 percent of a taxpayer's alternative minimum tax determined without such attributes.

Explanation of Provisions

Interaction of special energy deduction with net operating loss and investment tax credit

The bill clarifies that the amount of alternative tax net operating loss that is utilized in any taxable year is to be appropriately adjusted to take into account the amount of special energy deduction claimed for that year. This operates to preserve a portion of the alternative tax net operating loss carryover by reducing the amount of net operating loss utilized to the extent of the special energy deduction claimed, which if unused, could not be carried forward.

In addition, the bill contains a similar provision which clarifies that the limitation on the utilization of the investment tax credit for purposes of the alternative minimum tax is to be determined without regard to the special energy deduction.

Interaction of special energy deduction with adjustment based on adjusted current earnings.

The bill provides that the ACE adjustment is to be computed without regard to the special energy deduction. Thus, the bill specifies that the ACE adjustment is equal to 75 percent of the excess of a corporation's adjusted current earnings over its alternative minimum taxable income computed without regard to either the ACE adjustment, the alternative tax net operating loss deduction, or the special energy deduction.

F. Estate Tax Freezes (sec. 6101(f) of the bill, sec. 11602 of the 1990 Act, and secs. 2701–04 of the Code)

Present Law

Generally

The value of property transferred by gift or includible in the decedent's gross estate is its fair market value. Fair market value is generally the price at which the property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts (Treas. Reg. sec. 20.2031). Chapter 14 contains rules that supersede the willing buyer, willing seller standard (Code secs. 2701–04).

Preferred interests in corporation and partnerships

Valuation of retained interests

Scope.—Section 2701 provides special rules for valuing certain rights retained in conjunction with the transfer to a family member of an interest in a corporation or partnership. These rules apply to any applicable retained interest held by the transferor or an applicable family manner immediately after the transfer of an interest in such entity. An "applicable family member" is, with respect to any transferor, the transferor's spouse, ancestors of the transferor and the spouse, and spouses of such ancestors.

---

[3] "Legislative History of Ways and Means Democratic Alternative," House Ways and Means Committee Print (WMCP: 101-37), 101st Cong., 2nd Sess. 58 (October 15, 1990); Report language submitted by the Senate Finance Committee to the Senate Budget Committee on S. 3299, 136 *Cong. Rec.* S 15629, S. 15700 (1990).

An applicable retained interest is an interest with respect to which there is one of two types of rights ("affected rights"). The first type of affected right is a liquidation, put, call, or conversion right, generally defined as any liquidation, put, call, or conversion right, or similar right, the exercise or nonexercise of which affects the value of the transferred interest. The second type of affected right is a distribution right[4] in an entity in which the transferor and applicable family members hold control immediately before the transfer. In determining control, an individual is treated as holding any interest held by the individual's brothers, sisters and lineal descendents. A distribution right does not include any right with respect to a junior equity interest.

Valuation.—Section 2701 contain two rules for valuing applicable retained interests. Under the first rule, an affected right other than a right to qualified payments is valued at zero. Under the second rule any retained interest that confers (1) a liquidation, put, call or conversion right and (2) a distribution right that consists of the right to receive a qualified payment is valued on the assumption that each right is exercised in a manner resulting in the lowest value for all rights (the "lowest value rule"). There is no statutory rule governing the treatment of an applicable retained interest that confers a right to receive a qualified payment, but with respect to which there is no liquidation, put, call or conversion right.

A qualified payment is a dividend payable on a periodic basis and at a fixed rate under cumulative preferred stock (or a comparable payment under a partnership agreement). A transferor or applicable family member may elect not to treat such a dividend (or comparable payment) as a qualified payment. A transferor or applicable family member also may elect to treat any other distribution right as a qualified payment to be paid in the amount and at the times specified in the election.

Inclusion in transfer tax base.—Failure to make a qualified payment valued under the lowest value rule within four years of its due date generally results in an inclusion in the transfer tax base equal to the difference between the compounded value of the scheduled payments over the compounded value of the payments actually made. The Treasury Department has regulatory authority to make subsequent transfer tax adjustments in the transfer of an applicable retained interest to reflect the increase in a prior taxable gift by reason of section 2701.

Generally, this inclusion occurs if the holder transfers by sale or gift the applicable retained interest during life or at death. In addition, the taxpayer may, by election, treat the payment of the qualified payment as giving rise to an inclusion with respect to prior periods.

The inclusion continues to apply if the applicable retained interest is transferred to an applicable family member. There is no inclusion on a transfer of an applicable retained interest to a spouse for consideration or in a transaction qualifying for the martial deduction but subsequent transfers by the spouse are subject to the inclusion. Other transfers to applicable family members result in an immediate inclusion as well as subjecting the transferee to subsequent inclusions.

Minimum value of residual interest

Section 2701 also establishes a minimum value for a junior equity interest in a corporation or partnership. For partnerships, a junior equity interest is an interest under which the rights to income and capital are junior to the rights to income and capital are junior to the rights of all other classes of equity interests.

Trusts and term interests in property

The value of a transfer in trust is the value of the entire property less the value of rights in the property retained by the grantor. Section 2702 provides that in determining the extent to which a transfer of an interest in trust to a member of the transferor's family is a gift, the value of an interest retained by the transferor or an applicable family member is zero unless such interest takes certain prescribed forms.

For a transfer with respect to a specified portion of property, section 2702 applies only to such portion. The section does not apply to the extent that the transfer is incomplete.

Explanation of Provisions

Preferred interests in corporations and partnerships

Valuation

The bill provides that an applicable retained interest conferring a distribution right to qualified payments with respect to which there is no liquidation, put, call, or conversion right is valued without regard to section 2701. The bill also provides that the retention of such right gives rise to potential inclusion in the transfer tax base. In making these changes, it is understood that Treasury regulations could provide, in appropriate circumstances, that a right to receive amounts on liquidation of the cooperation or partnership constitutes a liquidation right within the meaning of section 2701 if the transferor, alone or with others, holds the right to cause liquidation.

The bill modifies the definition of junior equity interest by granting regulatory authority to threat a partnership interest with rights that are junior with respect to either income or capital as a junior equity interest. The bill also modifies the definition of distribution right by replacing the junior equity interest exception with an exception for a right under an interest that is junior to the rights of the transferred interest. As a result, section 2701 does not affect the valuation of a transferred interest that is senior to the retained interest, even if the retained interest is not a junior equity interest.

The bill modifies the rules for electing into or out of qualified payment treatment. A dividend payable on a periodic basis and at a fixed rate under a cumulative preferred stock held by the transferor is treated as a qualified payment unless the transferor elects otherwise. If held by an applicable family member, such stock is not treated as a qualified payment unless the holder so elects.[5] In addition, a transferor or applicable family member holding any other distribution right may treat such right as a qualified payment to be paid in the amounts and at the times specified in the election.

Inclusion in transfer tax base

The bill grants the Treasury Department regulatory authority to make subsequent transfer tax adjustments to reflect the inclusion of unpaid amounts with respect to a qualified payment. This authority, for example, would permit the Treasury Department to eliminate the double taxation that might occur if, with respect to a transfer, both the inclusion and the value of qualified payment arrearages were included in the transfer tax base. It would also permit elimination of the double taxation that might result from a transfer to a spouse, who, under the statute, is both an applicable family member and a member of the transferor's family.

The bill treats a transfer to a spouse falling under the annual exclusion the same as a transfer qualifying for the marital deduction. Thus, no inclusion would occur upon the transfer of an applicable retained interest to a spouse, but subsequent transfers by the spouse would be subject to inclusion. The bill also clarifies that the inclusion continues to apply if an applicable family member transfers a right to qualified payments to the transferor.

The provision clarifies the consequences of electing to treat a distribution as giving rise to an inclusion. Under the bill, the election gives rise to an inclusion only with respect to the payment for which the election is made. The inclusion with respect to other payments is unaffected.

Trust and term interests in property

The bill conforms section 2702 to existing regulatory terminology by substituting the term "incomplete gift" for "incomplete transfer." In addition, the bill limits the exception for incomplete gifts to instances in which the entire gift is incomplete. The Treasury Department is granted regulatory authority, however, to create additional exceptions not inconsistent with the purposes of the section. This authority, for example, could be used to except a charitable trust that meets the requirements of section 664 and that does not otherwise create an opportunity for transferring property to a family member free of transfer tax.

G. MISCELLANEOUS PROVISIONS

1. Conforming amendments to the repeal of the *General Utilities* doctrine (secs. 6101(g)(1) and (2) of the bill, sec. 11702(e)(2) of the 1990 Act, and secs. 897(f) and 1248 of the Code)

Present Law

As a result of changes made by recent tax legislation, gain is generally recognized on the distribution of appreciated property by a corporation to its shareholders. The Technical Corrections subtitle of the 1990 Act and technical correction provisions in prior acts made various conforming amendments arising out of these changes. For example, the 1990 Act made a conforming change to section 355(c) to state the treatment of distributions in section 355 transactions in the affirmative rather than by reference to the provisions of section 311. In addition, the Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act") made a conforming change to section 1248(f) to update the references to the nonrecognition provisions contained in that subsection. One of the changes was to change the reference to "section 311(a)" from "section 311".

Explanation of Provisions

The bill makes three conforming changes to the Code.

First, section 897(f), relating to the basis in a United States real property interest distributed to a foreign person, is repealed as deadwood. the basis of the distributed property is its fair market value in accordance with section 301(d).

---

[4] A distribution right generally is a right to a distribution from a corporation with respect to its stock, or from a partnership with respect to a partner's interest in the partnership.

[5] With respect to gifts made in 1990, the bill provides that this election may be made by the due date (including extensions) of the transferor's 1991 gift tax return.

Second, section 1248(f) is amended to add a reference to section 355(c)(1), which provides generally for the nonrecognition of gain or loss on the distribution of stock or securities in certain subsidiary corporations. This retains the substance of the law as it existed before the conforming change to section 355(c) made by the 1990 Act.

Third, section 1248 is amended to clarify that, notwithstanding the conforming changes made by the 1988 Act, with respect to any transaction in which a U.S. person is treated as realizing gain from the sale or exchange of stock of a controlled foreign corporation, the U.S. person shall be treated as having sold or exchanged the stock for purposes of applying section 1248. Thus if a U.S. person distributes appreciated stock of a controlled foreign corporation to its shareholders in a transaction in which gain is recognized under section 311(b), section 1248 shall be applied as if the stock had been sold or exchanged at its fair market value. Under section 1248(a), part of all of the gain may be treated as a dividend. Under the bill, the rule treating the distribution for purposes of section 1248 as a sale or exchange also applies where the U.S. person is deemed to distribute the stock under the provisions of section 1248(i). Under section 1248(i), gain will be recognized only to the extent of the amount treated as a dividend under section 1248.

These amendments are not intended to affect the authority of the Secretary to issue regulations under section 1248(f) providing exceptions to the rule recognizing gain in certain distributions (cf. Notice 87-64, 1987-2 C.B. 375).

2. Effective date and LIFO adjustment for purposes of computing adjusted current earnings (sec. 6101(g)(4) of the bill, sec. 11701 of the 1990 Act, sec. 7611(b) of the 1989 Act, and sec. 56(g) of the Code)

Present Law

For purposes of computing the adjusted current earnings (ACE) component of the corporate alternative minimum tax, taxpayers are required to make the LIFO inventory adjustments provided in section 312(n)(4) of the Code. Section 312(n)(4) generally is applicable for purposes of computing earnings and profits in taxable years beginning after September 30, 1984. The ACE adjustment generally is applicable to taxable years beginning after December 31, 1989.

Explanation of Provision

The bill clarifies that the LIFO inventory adjustment required for ACE purposes shall be computed by applying the rules of section 312(n)(4) only with respect to taxable years beginning after December 31, 1989. The effective date applicable to the determination of earnings and profits (September 30, 1984) is inapplicable for purposes of the ACE LIFO inventory adjustment. Thus, the ACE LIFO adjustment shall be computed with reference to increases (and decreases, to the extent provided in regulations) in the ACE LIFO reserve in taxable years beginning after December 31, 1989.

3. Low-income housing credit (sec. 6101(g)(5) of the bill, sec. 11701(a)(11) of the 1990 Act, and sec. 42 of the Code)

Present Law

The amendments to the low-income housing tax credit contained in the Omnibus Budget Reconciliation Act of 1989 generally were effective for the building placed in service after December 31, 1989, to the extent the building was financed by tax-exempt bonds ("a bond-financed building"). This rule applied regardless of when the bonds were issued.

A technical correction enacted in the Omnibus Budget Reconciliation Act of 1990 limited this effective date to buildings financed with bonds issued after December 31, 1989. Thus, the technical correction applied pre-1989 Act law to a bond-financed building placed in service after December 31, 1989, if the bonds were issued before January 1, 1990.

Explanation of Provision

The bill repeals the 1990 technical correction. The bill provides, however, that pre-1989 Act law will apply to a bond-financed building if the owner of the building establishes to the satisfaction of the Secretary of the Treasury reasonable reliance upon the 1990 technical correction.

The committee intends that, in the case of buildings placed in service before the date of the bill's enactment, reasonable reliance may be established by a showing of compliance with the law as in effect for those buildings before enactment of the amendments made by the bill.

H. EXPIRED OR OBSOLETE PROVISIONS ("DEADWOOD PROVISIONS")

(Sec. 6001(h) of the bill and secs. 11801–11816 of the 1990 Act)

Present Law

The 1990 Act repealed and amended numerous sections of the Code by deleting obsolete provisions ("deadwood"). These amendments were not intended to make substantive changes to the tax law.

Explanation of Provision

The bill makes several amendments to restore the substance of prior law which was inadvertently changed by the deadwood provisions of the 1990 Act. These amendments include (1) a provision restoring the prior-law depreciation treatment of certain energy property (sec. 168(e)(3)(B)(vi)); (2) a provision restoring the prior-law definition of property eligible for expensing (sec. 179(d)); (3) a provision restoring the prior-law rule providing that if any member of an affiliated group of corporations elects the credit under section 901 for foreign taxes paid or accrued, then all members of the group paying or accruing such taxes must elect the credit in order for any dividend paid by a member of the group to qualify for the 100-percent dividends received deduction (sec. 243(b)); and (4) the provisions relating to the collection of State individual income taxes (secs. 6361–6365).

The bill also makes several nonsubstantive clerical amendments to conform the Code to the amendments made by the deadwood provisions. None of these amendments is intended to change the substance of pre-1990 law.

II. Other Tax Technical Corrections

A. Hedge Bonds (sec. 6102(b) of the bill, sec. 11701 of the 1990 Act, and sec. 149(g) of the Code)

Present Law

The 1989 Act provided generally that interest on hedge bonds is not tax-exempt unless prescribed minimum percentages of the proceeds are reasonably expected to be spent at set intervals during the five-year period after issuance of the bonds (sec. 149(g)). A hedge bond is defined generally as a bond (1) at least 85 percent of the proceeds of which are not reasonably expected to be spent within three years following issuance and (2) more than 50 percent of the proceeds of which are invested at substantially guaranteed yields for four years or more.

This restriction does not apply to hedge bonds, however, if at least 95 percent of the proceeds are invested in other tax-exempt bonds (not subject to the alternative minimum tax). The 95-percent investment requirement is not violated if investment earnings exceeding five percent of the proceeds are temporarily invested for up to 30 days *pending reinvestment* in taxable (including alternative minimum taxable) investments.

Explanation of Provision

The bill clarifies that the 30-day exception for temporary investments of investment earnings applies to amounts (*i.e.*, principal and earnings thereon) temporarily invested during the 30-day period immediately preceding redemption of the bonds as well as such periods preceding reinvestment of the proceeds.

B. Withholding on Distributions from U.S. Real Property Holding Companies (sec. 6102(c) of the bill, sec. 129 of the Deficit Reduction Act of 1984, and sec. 1445 of the Code)

Present Law

Under the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), a foreign investor that disposes of a U.S. real property interest generally is required to pay tax on any gain on the disposition. For this purpose a U.S. real property interest generally includes stock in a domestic corporation that is a U.S. real property holding corporation ("USRPHC"), or was a USRPHC at any time during the previous five years.

A sale or exchange of stock in a USRPHC is an example of a disposition of a U.S. real property interest. In addition, provisions of subchapter C of the Code treat amounts received in certain corporate distributions as amounts received in sales or exchanges, giving rise to tax liability under the FIRPTA rules when a foreign person receives such a distribution from a present or former USRPHC. Thus, amounts received by a foreign shareholder in a USRPHC in a distribution in complete liquidation of the USRPHC are treated as in full payment in exchange for the USRPHC stock, and are therefore subject to tax under FIRPTA (sec. 331; Treas. Reg. sec. 1.897-5T(a)(2)(iii)). Similarly, amounts received by a foreign shareholder in a USRPHC upon redemption of the USRPHC stock are treated as a distribution in part or full payment in exchange for the stock, and are therefore subject to tax under FIRPTA (sec. 302(a); Treas. Reg. sec. 1.897-5T(a)(2)(ii)). Third, amounts received by a foreign shareholder in a USRPHC in a section 301 distribution from the USRPHC that exceeds the available earnings and profits of the USRPHC, are treated as gain from the sale or exchange of the shareholder's USRPHC stock to the extent that they exceed the shareholder's adjusted basis in the stock; such amounts are therefore also subject to tax under FIRPTA (sec. 301(c)(3); Treas. Reg. sec. 1.897-5T(a)(2)(i)).

FIRPTA withholding

The Tax Reform Act of 1984 established a withholding system to enforce the FIRPTA tax. Unless an exception applies, a transferee of a U.S. real property interest from a foreign person generally is required to withhold the lesser of ten percent of the amount realized (purchase price), or the maximum tax liability on disposition (as determined by the IRS) (sec. 1445).

Although the FIRPTA withholding requirement by its terms generally applies to all dispositions of U.S. real property interests, and subchapter C treats amounts received in certain distributions as amounts received in sales or exchanges, the FIRPTA withholding provisions also provide express rules for withholding on certain distributions treated as sales or exchanges. Generally, distributions in a transaction to which section 302 (redemptions) or part II of subchapter C (liquidations) applies are subject to 10 percent withholding.[6] Although a section 301 distribution in excess of earnings and profits is also treated as a disposition for purposes of computing the FIRPTA liability of a foreign recipient of the distribution, there is no corresponding withholding provision expressly addressed to the payor of such a distribution.

Explanation of Provision

The bill clarifies that FIRPTA withholding requirements apply to any section 301 distribution to a foreign person by a domestic corporation that is or was a USRPHC, which distribution is not made out of the corporation's earnings and profits and is therefore treated as an amount received in a sale or exchange of a U.S. real property interest. (The bill does not alter the withholding treatment of section 301 distributions by such a corporation that *are* out of earnings and profits.) Under the bill, the FIRPTA withholding requirments that apply to a section 301 distribution not out of earnings and profits are similar to the requirements applicable to redemption or liquidation distributions to a foreign person by such a corporation. The provision is effective for distributions made after the date of enactment of the bill. No inference is intended as to the FIRPTA withholding requirements applicable to such a distribution under present law.

C. Treatment of Credits Attributable to Working Interests in Oil and Gas Properties (sec. 6102(d) of the bill, sec. 501 of the Tax Reform Act of 1986, and sec. 469 of the Code)

Present Law

Under present law, a working interests in an oil and gas property which does not limit the liability of the taxpayer is not a "passive activity" for purposes of the passive loss rules (sec. 469). However, if any loss from an activity is treated as not being a passive loss by reason of being from a working interest, any net income from the activity in subsequent years is not treated as income from a passive activity, notwithstanding that the activity may otherwise have become passive with respect to the taxpayer.

Explanation of Provision

The bill provides that any credit attributable to a working interest in an oil and gas property, in a taxable year in which the activity is no longer treated as not being a passive activity, will not be treated as attributable to a passive activity to the extent of any tax allocable to the net income from the activity for the taxable year. Any credits from the activity in excess of this amount of tax will continue to be treated as arising from a passive activity and will be treated under the rules generally applicable to the passive activity credit.

D. Clarification of Passive Loss Disposition Rule (sec. 6102(e) of the bill, sec. 501 of the Tax Reform Act of 1986, sec. 1005(a)(2)(A) of the Technical and Miscellaneous Revenue Act of 1988, and sec. 469(g)(1)(A) of the Code)

Present Law

The Tax Reform Act of 1986 provided that if a passive activity is disposed of in a transaction in which all gain or loss is recognized, any overall loss from the activity in the year of disposition is recognized and allowed against income (whether active or passive income).[7] The language of the 1986 Act provided that any loss was allowable, first, against income or gain from the passive activity, second, against income or gain from all passive activities, and finally, against any other income or gain. This rule was rewritten by the technical corrections portion of the Technical and Miscellaneous Revenue Act of 1988. The statutory language (as amended by the 1988 Act) providing for the computation of the overall loss for the taxable year of disposition is not entirely clear where the activity is disposed of at a gain.

Explanation of Provision

The bill clarifies the rule relating to the computation of the overall loss allowed upon the disposition of a passive activity. The bill provides that, in a transaction in which all gain or loss is recognized on the disposition of a passive activity, any loss from the activity for the taxable year (taking into account all income, gain, and loss, including gain or loss recognized on the disposition) in excess of any net income or gain from other passive activities for the taxable year is treated as a loss which is not from a passive activity. The provision applies to taxable years beginning after December 31, 1986.

E. Taxation of Excess Inclusions of a Residual Interest in a REMIC for Taxpayers Subject to Alternative Minimum Tax with Net Operating Losses (sec. 6102(i) of the bill, sec. 671 of the Tax Reform Act of 1986, and sec. 860E of the Code)

Present Law

Residual Interests in a REMIC

A real estate mortgage investment conduit ("REMIC") is an entity that holds real estate mortgages. All interests in a REMIC must be "regular interests" or "residual interests." A regular interest is an interest the terms of which are fixed on the start-up day, which unconditionally entitles the holder to receive a specified principal amount, and which provides that interest amounts are payable based on a fixed rate (or a variable rate to the extent provided in the Treasury regulations). A residual interest is any interest that is so designated and that is not a regular interest in a REMIC.

Generally, the holder of a residual interest in a REMIC takes into account his daily portion of the taxable income or net loss of such REMIC for each day during which he held such interest. The taxable income of any holder of a residual interest in a REMIC for any taxable year cannot be less than the excess inclusion for the year (sec. 860E). Thus, in general, income from excess inclusions cannot be offset by a net operating loss (or net operating loss carryover) in computing the taxpayer's regular tax.

Alternative minimum tax

Taxpayers are subject to an alternative minimum tax which is payable, in addition to all other tax liabilities, to the extent it exceeds the taxpayer's regular tax. The tax is imposed at a rate of 24 percent (20 percent in the case of a corporation) on alternative minimum taxable income in excess of an exemption amount. Alternative minimum taxable income generally is the taxpayer's taxable income, as increased or decreased by certain adjustments and preferences.

Because the determination of a taxpayer's alternative minimum taxable income begins with taxable income, a taxpayer holding a residual interest in a REMIC may have positive alternative minimum taxable income even where the taxpayer has a net operating loss for the year.

Explanation of Provision

The bill provides that the present law rule, that the taxable income of a REMIC residual interest shall not be less than its excess inclusions, shall not apply for purposes of the alternative minimum tax. Accordingly, the bill permits a net operating loss (and net operating loss carryovers) to offset income from excess inclusions in computing alternative minimum taxable income. Under the bill, all taxpayers subject to the alternative minimum tax will pay a tax on excess exclusions at the alternative minimum tax rate, regardless of whether the taxpayer has a net operating loss. The provision is effective for taxable years beginning after December 31, 1986.

F. Conforming Amendments Relating to Pension Reemployment Rights of Members of the Uniformed Services (sec. 6102(j) of the bill and sec. 414 of the Code)

Legislative Background and Present Law

Veterans' bill

H.R. 1578 ("Uniformed Services Employment and Reemployment Rights Act of 1991") was passed by the House of Representatives on May 14, 1991. The bill was referred to the Senate Committee on Veterans' Affairs on May 16, 1991. On November 7, 1991, S. 1095 ("Uniformed Services Employment and Reemployment Rights Act of 1991") was reported by the Senate Committee on Veterans' Affairs (S. Rept. 102-203), and is pending before the Senate.

H.R. 1578, as passed by the House, and S. 1095, as reported by the Senate Committee on Veterans' Affairs, each amend chapter 43 of title 38, United States Code, to provide for reemployment rights and benefits for individuals who serve in the uniformed services (i.e., the United States Armed Forces or the commissioned corps of the Public Health Service). Each of the bills provides, among other things, that service in the uniformed services is considered service with the employer for retirement plan benefit accrual purposes; the employer that reemploys the individual is liable for funding any resulting obligation; and the reemployed individual is entitled to any accrued benefits derived from employee contributions to the extent that the individual makes payments to the plan with respect to the contributions.

Internal Revenue Code

Under the Internal Revenue Code, overall limits are provided on contributions and benefits under certain retirement plans. Annual additions with respect to each participant under a qualified defined contribution plan generally are limited to the lesser of $30,000 or 25 percent of compensation. Annual deferrals with respect to each participant under an eligible deferred compensation plan (sec. 457) generally are limited to the lesser of $7,500 or 33⅓ of includible compensation. There is no provision under present law that permits contributions or deferrals to exceed these annual limits in the case of required contributions with respect to a reemployed member of the uniformed services.

Other requirements for which there is no special provision for required contributions with respect to a reemployed member of the uniformed services include the qualified plan nondiscrimination and coverage rules.

Explanation of Provision

The provision amends the Internal Revenue Code to provide special rules in the case of certain required contributions ("make-up contributions") with respect to a reemployed member of the uniformed services. The provision applies only with respect to contributions to a qualified defined contribution plan or eligible deferred compensation plan (sec. 457) that are required under chapter 43 of title 38, United States Code ("title 38"), as in effect on January 1, 1993.

---

[6] Under other rules, dividend distributions (i.e., distributions are to which sec. 301(c)(1) applies) to foreign persons by U.S. corporations, including USRPHCs, are subject to 30-percent withholding under the Code. Under treaties the withholding on a dividend may be reduced to as little as 5 or 15 percent.

[7] See S. Rept. 99-313, p. 725.

Under the provision, if any contribution is made by an employer under a qualified defined contribution plan or eligible deferred compensation plan ("individual account plan") with respect to an individual, and such contribution is required by reason of the individual's rights under title 38, then such contribution is not subject to the generally applicable plan contribution limits in the year in which made.[8] In addition, a plan under which such make-up contribution is made will not be treated as failing to meet any requirement applicable to individual account plans (e.g., nondiscrimination rules, including the special ADP and ACP tests applicable to qualified cash or deferred arrangements) by reason of the making of such contribution, nor will the make-up contribution be taken into account in applying the plan contribution limits to any other contribution made during the year. Required contributions are deductible by the employer in the year made, notwithstanding the generally applicable deduction limit on plan contributions (sec. 404(a)), and such contributions are not taken into account in determining the deductibility of other plan contributions made during the year.

A special rule applies in the case of make-up contributions of salary reduction and employer matching amounts. Under the provision, a plan that provides for elective deferrals will be treated as meeting the requirements of title 38 if the employer permits reemployed servicepersons to make additional elective deferrals under the plan during the period which begins on the date of reemployment and has the same length as the period of the individual's absence due to uniformed service (but in no case more than 5 years). The amount of the additional deferrals may not exceed the amount of deferrals that the individual would have been permitted to make under the plan had the individual continued to be employed by the employer during the period of uniformed service and received compensation at the same rate as received from the employer immediately before such service.

The employer is required to match any additional elective deferrals at the same rate that would have been required had the deferrals actually been made during the period of uniformed service. Additional deferrals and employer matching contributions are treated as required employer contributions from the plan qualification rules described above.

The provision clarifies that nothing in title 38 is to be construed as requiring any earnings to be credited to an employee with respect to any contribution before such contribution is actually made. In addition, nothing in title 38 requires any make-up allocation of any forfeiture, or of any employer contribution which was either (1) voluntary (such as a discretionary profit-sharing contribution) or (2) the total amount of which was determined without reference to the number of, or compensation of, plan participants before being allocated to the accounts of participants. For example, make-up contributions would not be required under a plan that provides for a contribution of a set dollar amount, as set percentage of profits, each year. However, make-up contributions would be required under a plan that provides for contributions based on a percentage of participants' compensation. Any election by an employer to provide credit for such amounts (to the extent permitted under title 38) is subject to applicable nondiscrimination and other plan qualification standards.

The provision also provides that a plan may suspend repayment of a plan loan for the period of uniformed service without adverse consequences to the individual.

Because make-up contributions under the bill are not made retroactively, but only after a serviceperson's reemployment, amended tax and information returns generally will not be required.

Effective Date

The provision is effective only if the amendments to chapter 43, title 38, United States Code, described above (or substantially similar amendments to such chapter) are enacted in the 102nd Congress. In such case, the provision applies in cases in which the employee is reemployed on or after August 1, 1990.

G. Exclusion From Income For Combat Zone Compensation (sec. 6102(1)(4) of the bill and sec. 112 of the Code)

Present Law

The Code provides that gross income does not include compensation received by a taxpayer for active service in the Armed Forces of the United States for any month during any part of which the taxpayer served in a combat zone (or was hospitalized as a result of such service) (limited to $500 per month for officers). The heading refers to "combat pay," although that term is no longer used to refer to special pay provisions for members of the Armed Forces, nor is the exclusion limited to those special pay provisions (hazardous duty pay (37 U.S.C. sec. 301) and hostile fire or imminent danger pay (37 U.S.C. sec. 310)).

Explanation of Provision

The bill modifies the heading of Code section 112 to refer to "combat zone compensation" instead of "combat pay". The bill also makes conforming changes to cross-references elsewhere in the Code.

H. Limitation on Deduction for Certain Interest Paid by Corporation to Related Person (sec. 6102(f)(2) of the bill, sec. 7210(a) of the 1989 Act, and sec. 163(j) of the Code)

Present Law

Subject to certain limitations, a taxpayer may deduct interest paid or accrued on indebtedness within a taxable year (sec. 163(a)). The 1989 Act added a so-called "earnings stripping" limitation on interest deductibility with respect to certain interest paid by corporations to related persons (sec. 163(j)). If the provision applies to a corporation for a taxable year, it disallows deductions for certain amounts of "disqualified interest" paid or accrued by the corporation during that year. If in a taxable year a deduction is disallowed, under the provision, for an amount of interest paid or accrued in that year, the disallowed amount treated under the earnings stripping provision as disqualified interest paid or accrued in the succeeding taxable year.[9]

In order for the earnings stripping provision to apply to a corporation for a taxable year, two thresholds must be exceeded. To exceed the first threshold, the corporation must have "excess interest expense" as that term is defined in the Code for this purpose. To exceed the second threshold, the corporation must have a ratio of debt to equity as of the close of the taxable year in question (or on any other day prescribed by the Secretary in regulations) that exceeds 1.5 to 1. Excess interest expense is the excess (if any) of the corporation's net interest expense over the sum of 50 percent of the adjusted taxable income of the corporation plus any excess limitation carryforward from a prior year. Excess limitation is the excess (if any) of 50 percent of adjusted taxable income over net interest expense.

Explanation of Provision

The bill provides that the debt-equity threshold does not apply for purposes of applying the earnings stripping provision to a carryover of excess interest expense from a prior taxable year. Thus, the bill clarifies that excess interest carried forward from a year in which the debt-equity ratio threshold is exceeded may be deducted in a subsequent year in which that threshold is not exceeded, but only to the extent that such interest would not otherwise be treated as excess interest expense in the carryforward year.

For example, assume that in year 1 $20 of a corporation's interest expense is nondeductible due to the operation of the earnings stripping provision. The corporation carries forward the $20 of interest deduction that it could not use in year 1. Assume that in year 2 the corporation has a debt-equity ratio of 1 to 1 and $50 of current net and gross interest expense, all of which is disqualified interest, and that it earns $400 of adjusted taxable income. The bill is intended to clarify that the $20 of interest carried forward from year 1 is deductible in year 2. This is because $70, the sum of the current net interest expense for year 2 ($50) plus the interest expense carried over from year 1 ($20), does not exceed one-half of adjusted taxable income in year 2.

As another example, assume that in year 2 the corporation has a debt-equity ratio of 1 to 1 and $50 of current net and gross interest expense, all of which is disqualified interest, and that it earns $80 of adjusted taxable income. The bill is intended to clarify that the $20 of interest carried forward from year 1 is not deductible in year 2. This is because the current net interest expense for year 2 ($50) exceeds by $10 one-half of adjusted taxable income in year 2 ($80 divided by 2, or $40). Therefore, treating the year 1 carryover as an interest expense in year 2 causes the corporation to have excess interest expense equal to $30. But for the debt-equity safe harbor, the corporation would have a $30 interest expense disallowance in year 2 if the carried over amount were treated as having been paid in year 2. Under the bill, no actual year 2 interest can be disallowed. However, under these facts, none of the interest carried over from year 1 can be deducted in year 2. Instead, the interest carried over from year 1 is carried forward for potential deduction (subject to the same rules that applied to the carryforward in year 2) in a year subsequent to year 2.

---

[8] However, the amount of any make-up contribution cannot exceed the aggregate amount of employer contributions that would have been permitted under the plan contribution limits had the individual continued to be employed by the employer during the period of uniformed service.

[9] Disqualified interest is interest paid by a corporation to related persons that are not subject to U.S. tax on the interest received. (If, in accordance with a U.S. income tax treaty, interest income of a related person is subject to a reduced rate of U.S. tax, a portion of the interest paid to the related person is deemed to be interest on which no tax is imposed.)

As a third example, assume that in year 2 the corporation has a debt-equity ratio of 1 to 1 and $50 of current net and gross interest expense, all of which is disqualified interest, and that it earns $110 of adjusted taxable income. The bill is intended to clarify that $5 of interest carried forward from year 1 is deductible in year 2, and the other $15 of interest carried forward from year 1 is not deductible in year 2. This is because the current net interest expense for year 2 ($50) is $5 less than one-half of adjusted taxable income in year 2 (one-half of $110, or $55). Therefore, even if the debt-equity safe harbor had not been met in year 2, the corporation would have had $5 of excess limitation in year 2 had there been no carryover amount from year 1. On the other hand, treating the year 1 carryover as an interest expense in year 2 causes the corporation to have excess interest expense equal to $15. This $15 may be carried forward to a subsequent year.

I. Branch-Level Interest Tax (sec. 6102(f)(3) of the bill, sec. 1241 of the 1986 Act, and sec. 884 of the Code)

Present Law

Interest paid (or treated as if paid) by U.S. trade or business (i.e., a U.S. branch) of a foreign corporation is treated as if paid by a U.S. corporation and, hence, is U.S. source and subject to U.S. withholding tax of 30 percent, unless the tax is reduced or eliminated by a specific Code or treaty provision. The Treasury has regulatory authority to limit U.S. sourcing, and hence U.S. withholding, to the amount of interest reasonably expected to be deducted in arriving at the U.S. branch's effectively connected taxable income.

To the extent a U.S. branch of a foreign corporation has allocated to it under Treasury Regulation section 1.882-5 an interest deduction in excess of the interest actually paid by the branch (this generally occurs where the indebtedness of the U.S. branch is disproportionately small compared to the total indebtedness of the foreign corporation), the excess is treated as if it were interest paid on a notional loan to a U.S. subsidiary (the U.S. branch, in actuality) from its foreign corporate parent (the home office). This excess is subject to the 30-percent tax, absent a specific Code exemption or treaty reduction (sec. 884(f)(1)(B)).

These branch-level interest taxes, along with the branch profits tax, were intended to reflect the view that a foreign corporation doing businesses in the United States generally should be subject to the same substantive tax rules that apply to a foreign corporation operating in the United States through a U.S. subsidiary.[10] Where a U.S. corporation pays interest to its foreign corporate parent, that interest, like the interest deducted by a U.S. branch of a foreign corporation, is also generally subject to a 30-percent U.S. withholding tax unless the tax is reduced by treaty. In the case of a U.S. subsidiary of a foreign parent corporation, the withholding tax applies without regard to whether the interest payment is currently deductible by the U.S. subsidiary. For example, deductions for interest may be delayed or denied under section 163, 263, 263A, 266, 267, or 469. but it is still subject (or not subject) to withholding when paid without regard to the operation of those provisions.

Explanation of Provision

The bill provides that the branch level interest tax on interest not actually paid by the branch applies to any interest which is allocable to come which is effectively connected with the conduct of a trade or business in the United States. Similarly, in the case of interest paid by the U.S. branch, the bill provides regulatory authority to limit U.S. sourcing, and hence U.S. withholding, to the amount of interest reasonably expected to be allocable to income which is effectively connected with the conduct of a trade or business in the United States. Thus, where an interest expense of a foreign corporation is allocable to U.S. effectively connected income, but that interest expense would not have been fully deductible for tax purposes under another Code provision had it been paid a U.S. corporation, the bill clarifies that such interest is nonetheless treated for branch level interest tax purposes like a payment by a U.S. corporation to a foreign corporate parent. Similarly, with regard to the Treasury's regulatory authority to treat an interest payment by a foreign corporation's U.S. branch as though not paid by a U.S. person for source and withholding purposes, the bill clarifies that the authority extends to interest payments in excess of those reasonably expected to be allocable to U.S. effectively connected income of the foreign corporation.

J. Determination of Source in Case of Sales of Inventory Property (sec. 6102(f)(4) of the bill, sec. 211 of the 1986 Act, and sec. 865(b) of the Code)

Present Law

Prior to the 1986 Act, the source of income derived from the sale of personal property generally was determined by the place of sale (commonly referred to as the "title passage" rule) (see, e.g., Treas. Reg. sec. 1.861-7, T.D. 6258, 1957-2 C.B. 368). While the 1986 Act generally replaced the place-of-sale rule for sales of personal property with a residence-of-the-seller rule (sec. 865(a)), the Act did not change the place-of-sale rule for most sales of inventory property (sec. 865(b)).

Before and after the 1986 Act, statutory rules for sourcing income from inventory sales have included those covering income from (i) purchasing inventory property outside the United States (other than within a U.S. possession) and selling it in the United States (sec. 861(a)(6)); (ii) purchasing inventory property in the United States and selling it outside the United States (sec. 862(a)(6)); (iii) selling outside the United States inventory property which has been produced by the taxpayer in the United States (or selling in the United States inventory property which has been produced by the taxpayer outside the United States) (sec. 863(b)(2)); and (iv) purchasing inventory property in a U.S. possession and selling it in the United States (sec. 863(b)(3)). Prior to the 1986 Act, these provisions were not limited in application to income from sales of inventory property, but rather covered sales of personal property generally.

In addition to statutory rules for sourcing items of income from transactions involving inventory property specified in the Code, such as those listed above, the Code both before and after the 1986 Act has contained other sourcing rules that do not make specific reference to property sales, both includes general regulatory authority to allocate and apportion between U.S. and foreign sources items of gross income, expenses, losses, and deductions other than those specified in sections 861(a) and 862(a) (sec. 863(a)). In carving income from the sale inventory property out of the general residence-of-the-seller rule of section 865, section 865(b) makes reference to the above statutory rules making specific reference to inventory property, but not to the general great of regulatory authority in section 863(a).

Explanation of Provision

The bill modifies the general provision relating to the sourcing of income from the sale of personal property (section 865) so that the cross-reference to sourcing rules applicable to inventory property includes a reference to all of section 863, rather than simply to section 863(b). The bill thus clarifies that, to the extent that the Secretary had general regulatory authority to provide rules for the sourcing of income from the sales of personal property prior to the 1986 Act, the Secretary retains that authority under present law with respect to inventory property. For example, this bill is not intended to increase the Secretary's regulatory authority under section 863(a) beyond the authority that he had under the law in effect prior to the enactment of the 1986 Act. The committee does not intend that any inference be drawn from this bill either as to the correctness of, or as to the post-1986 Act implications of, any judicial decision interpreting the scope of that pre-1986 Act authority.

K. Repeal of Obsolete Provisions (sec. 6102(f)(5) of the bill, sec. 10202 of the 1987 Act, and secs. 6038(a)(1)(F) and 6038A(b)(4) of the Code)

Present Law

A U.S. person who controls a foreign corporation must report certain information related to that foreign corporation as may be required by the Treasury Secretary (Code sec. 6038). Information reporting is also required with respect to certain foreign-owned domestic corporations (Code sec. 6038A). Included under each of these information reporting provisions is a requirement to report such information as the Treasury Secretary may require for purposes of carrying out the provisions of section 453C. Section 453C, relating to certain indebtedness treated as payment on installment obligations (the so-called "proportional disallowance rule"), was repealed in the Revenue Act of 1987.

Explanation of Provision

The bill repeals as obsolete the information reporting requirements of sections 6038 and 6038A relating to section 453C.

III. ADDITIONAL PENSION TAX TECHNICAL CORRECTIONS: ROLLOVER AND WITHHOLDING ON NONPERIODIC PENSION DISTRIBUTIONS

(Sec. 6103 of the bill and secs. 402(a)(31), 402(c), and 3405(c) of the Code)

Present Law

Under present law, as amended by the Unemployment Compensation Amendments Act of 1992 (P.L. 102-318) (the Unemployment Act) for years beginning after December 31, 1992, any part of the taxable portion of a distribution from a qualified pension or annuity plan or a tax-sheltered annuity (other than a minimum required distribution) can be rolled over tax free to an individual retirement arrangement (IRA) or another qualified plan or annuity, unless the distribution is one of a series of substantially equal payments made (1) over the life (or joint lives) of the participant and his or her beneficiary, or (2) over a specified period of 10 years or more (sec. 402).

A qualified retirement or annuity plan must permit participants (and other distributees) to elect to have any distribution that is eligible for rollover treatment paid directly to an eligible retirement plan specified by the participant (sec. 401(a)(31)). An eligible rollover distribution from a tax-deferred annuity plan can be paid directly to another tax-deferred annuity plan. A distribution paid directly to an IRA is not taken into account for purposes of the rule limiting rollovers from one IRA to another to no more than one per year (sec. 408(d)(3)(B)) because it is not a rollover from one IRA to another IRA.

---

[10] Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess., *General Explanation of the Tax Reform Act of 1986*, at 1036 (1987).

The plan administrator must notify participants of the direct rollover option within a reasonable period of time before a distribution is made. It is expected that the plan administrator will identify the portion of each distribution that is an eligible rollover distribution.

Withholding is imposed at a rate of 20 percent on any distribution that is eligible to be rolled over but that is not paid directly to an eligible retirement plan. Withholding is not required on employer securities. If a participant does not elect to have an eligible rollover distribution paid directly to an eligible retirement plan, the participant may roll over the distribution within 60 days as under prior law.

The following examples illustrate present law:

Example 1.—Suppose a participant receives a nonperiodic distribution of $10,000 from a tax-qualified plan. The distribution is an eligible rollover distribution. If the participant elects to have the distribution paid directly to an eligible retirement plan specified by the participant, the distribution will not be includable in income in the year of the distribution.

Example 2.—Same as example 1, except that if the participant does not elect to have the distribution paid directly to an eligible retirement plan, then the participant receives $8,000, and $2,000 is withheld by the plan administrator and deposited with the IRS. Because the distribution is an eligible rollover distribution, the participant may roll the distribution ($10,000) over to an IRA or other eligible retirement plan within 60 days. If the participant does so, the distribution will not be includable in income in the year of the distribution. The $2,000 withheld will offset the participant's Federal tax liability attributable to other income, or be refunded to the participant after he or she has filed an income tax return for the year.

Example 3.—Same as example 2, except that after electing to receive the distribution the participant decides to roll over only $8,000 ($10,000 less then amount withheld). In this case, the participant must include $2,000 in income for the year of the distribution.[1]

Explanation of Provisions

The bill clarifies that an eligible rollover distribution paid directly to an eligible retirement plan pursuant to section 401(a)(31) is considered to be a plan distribution followed by an immediate rollover (a "direct rollover"). Accordingly, because a direct rollover is considered a distribution, any applicable espousal consent rules must be satisfied just as if the distribution were paid directly to the participant. Alternative forms of distribution available under the transferor plan need not be preserved under the transferee plan.[2] In addition, because the direct rollover also is considered a rollover, the amount paid directly to an eligible retirement plan is not includable in income in the year of the distribution, and special NUA treatment no longer applies with respect to employer securities included in such transfer.

The bill clarifies that a distribution that is one of a series of periodic payments scheduled to be made over the life (or joint lives) of the participant and his or her beneficiary, or over a specified period of 10 years or more, is not an eligible rollover distribution, even if the form of the distribution may be modified by the participant. Whether distributions subsequent to any modification in the form of distribution (e.g., acceleration) are eligible rollover distributions is to be determined without regard to any distributions made before such modification.

The bill provides that a participant (or other distribute) is permitted to elect a direct rollover with respect to any portion of an eligible rollover distribution. Thus, a plan may not provide that a participant can directly roll over only the total amount of the distribution or none of the distribution. Withholding at a rate of 20 percent applies to the portion of the distribution not directly rolled over.

The bill clarifies that the portion of any eligible rollover distribution that represents unrealized appreciation in employer securities generally is subject to the provisions requiring the employer to offer the option of a direct rollover, notwithstanding the special rules pertaining to net unrealized appreciation (NUA) in employer securities. For example, suppose a plan participant receives a distribution of employer securities with a value of $15,000, $5,000 of which represents NUA. The total amount is subject to the direct rollover requirements and must be paid, if the participant elects, directly to an eligible retirement plan.

As under present law with respect to participant rollovers, to the extent that amounts attributable to appreciation in employer securities are paid directly to an eligible retirement plan, special NUA treatment no longer applies with respect to such securities. Furthermore, in the case of a distribution other than a lump-sum distribution, if any portion of a distribution that represents unrealized appreciation in employer securities is paid directly to an eligible retirement plan, special NUA treatment does not apply to the portion of the distribution that is paid to the participant. As under present law, withholding is not required with respect to employer securities distributed to the participant.

The bill provides that the following plan distributions are not eligible rollover distributions: (1) hardship distributions of amounts attributable to elective deferrals under qualified cash-or-deferred arrangements (sec. 401(k)) or tax-deferred annuity plans (sec. 403(b)); (2) withdrawals of elective deferrals that are qualified first-time homebuyer or educational distributions exempt from the additional tax on early withdrawals (sec. 401(k)(2)(B)(i)(V)); (3) corrective distributions of excess deferrals and contributions under qualified cash-or-deferred arrangements; (4) deemed distributions of loans described in section 72(p)(2) that are in default,[3] and (5) certain dividends paid to a plan with respect to employer securities and distributed in cash to participants or their beneficiaries (sec. 404(k)). In addition, so-called "P.S. 58" costs for group term life insurance are not eligible rollover distributions. Because such distributions are not eligible rollover distributions, they cannot be rolled over, are not subject to the direct rollover requirement, and are not subject to 20-percent withholding.

The bill provides that other corrective or deemed distributions similar to those described in the preceding paragraph are not eligible rollover distributions to the extent they are specifically identified by the Secretary in regulations. It is intended that the Secretary interpret this grant of regulatory authority restrictively, consistent with Congress' intent in the Unemployment Act to expand the number of distributions eligible for rollover treatment. The Secretary may find it appropriate in certain cases to exempt distributions from the direct rollover and 20-percent withholding requirements but preserve the ability of participants to roll over the distributions themselves.

The bill provides a de minimis exception to the direct rollover requirement, so that a plan does not have to permit a direct rollover of, or withhold upon at a 20-percent rate, distributions of $500 or less. The bill also provides that a plan does not have to permit a direct rollover of, or withhold upon at a 20-percent rate, and distribution to an alternate payee pursuant to a qualified domestic relations order (QDRO) within the meaning of section 414(p)(1). As under present law, such distributions can be rolled over by the participant if the distribution otherwise qualifies as an eligible rollover distribution. It is intended that the Secretary will provide appropriate rules to prevent abuse of the de minimis exception.

The bill provides that if the portion of any eligible distribution that is a minimum required distribution (sec. 401(a)(9)) is de minimis in relation to the portion of such distribution that is not directly rolled over, withholding at a rate of 20 percent applies to the entire portion of the distribution received by the participants. As under present law, such de minimis portion may not, however, be rolled over directly or by the participant to an eligible retirement plan. An amount will be considered de minimis in relation to the portion of the distribution paid to the participant if it represents no more than 10 percent of such portion.

The bill provides that a qualified defined benefit plan is an eligible retirement plan to which direct rollovers may be made, provided the plan permits the acceptance of such rollovers.

The bill provides that social security supplements described in section 411(a)(9) will be disregarded for purposes of determining whether a distribution is one of a series of substantially equal periodic payments. For example, if a participant is entitled to annuity payments of $500 per month for life, supplemented by monthly payments of $200 per month until he or she attains social security age, each monthly payment of $700 received before the social security age and each monthly payment of $500 received after such age are considered to be one of a series of substantially equal periodic payments for life. As such, none of the distributions are eligible rollover distributions. Other temporary periodic payments (e.g., certain disability benefits) similar in nature to social security supplements will be disregarded to the extent they are specifically identified by the Secretary in regulations. It is intended that the exception for temporary periodic payments be interpreted narrowly, consistent with Congress' intent in the Unemployment Act to expand the number of distributions eligible for rollover treatment.

The bill clarifies that, in the case of a series of periodic payments, the requirement that a written explanation be provided to recipients of eligible rollover distributions (sec. 402(f)) is deemed satisfied if notice is provided within a reasonable period of time before the first payment of such series subject to the requirements of section 401(a)(31), as amended by the Unemployment Compensation Amendments Act of 1992. Similarly, an election by a distributee to have distributions paid directly to an eligible retirement plan applies to all distributions after the election is made and before the election is revoked.

---

[1] The participant may also have to pay a 10 percent additional early withdrawal tax on the $2,000 if he or she has not yet attained age 59½.

[2] A direct rollover is to be distinguished from a trustee-to-trustee transfer under other provisions of the Code.

[3] This exception does not apply to loans that are treated as distributions when made under section 72(p)(1).

In the case of a series of periodic payments that began before the effective date of the Unemployment Act, the notice and election requirements under the Act apply to the first payment of the series after December 31, 1992.

The bill clarifies that a distribution on or after January 1, 1993, generally is not an eligible rollover distribution if, taking into account distributions prior to January 1, 1993, it would not be an eligible rollover distribution. For example, if the first payment of a series of periodic distributions scheduled to be paid over a period of 15 years was received on January 1, 1983, distributions in such series received on or after January 1, 1993 are not eligible rollover distributions, even though payments will continue for only 5 more years after such date.

The bill provides that plan amendments to comply with the pension provisions under the Unemployment Act generally are not required to be made before the first plan year beginning on or after January 1, 1995, if (1) the plan is operated in accordance with the applicable provisions of the Act, (2) the plan is amended to comply with the required changes no later than the first day of the first plan year beginning after December 31, 1994, and (3) the amendment is retroactive to the effective date of the applicable provisions.

Finally, the bill provides that the delayed effective date for the direct rollover and withholding provisions applicable to certain tax-deferred annuity plans of State or local governments is extended to apply to qualified retirement plans and tax-sheltered annuity plans of State and local governments.

Effective Date

The provisions are effective as if included in the Unemployment Compensation Amendments Act of 1992 (P.L. 102-318).

SUBTITLE B. SOCIAL SECURITY, INCOME SECURITY AND HUMAN RESOURCES AND MEDICARE PROVISIONS

PARTS I AND II—SOCIAL SECURITY AND INCOME SECURITY TECHNICAL CORRECTIONS (SEC. 6201 AND SECS. 6211-6214 OF THE BILL)

1. Redesignation of certain SSI provisions

Explanation of Provision

Two subparagraphs of the Social Security Act dealing with SSI are erroneously designated. The change would correct the erroneous designation.

2. Technical corrections related to OASDI in the Omnibus Budget Reconciliation Act of 1990

Explanation of Provision

The provision: (a) corrects two references to the definition of disability for widows in the Social Security Act to bring them into conformance with the provisions of the Omnibus Budget Act of 1990 (OBRA 90); (b) redesignates provisions of the Social Security Act related to representative payees to conform with provisions of OBRA 90; (c) clarifies the provision of OBRA 90 that establishes streamlined procedures for approval of fees for representatives of claimants for title II (social security) and title XVI (SSI) benefits; (d) eliminates a technical error in the language of the OBRA 90 provision eliminating advance tax transfers to the social security trust funds.

3. Corrections related to the income security and human resources provisions of the Omnibus Budget Reconciliation Act of 1990

Explanation of Provision

The provision makes several technical and conforming changes related to provisions enacted under OBRA 90 affecting designations of sections of law and appropriate cross references under Title XVI of the Social Security Act, and deletes a clause of Title XVI concerning representative payees that was inadvertently retained when a comparable provision in Title II was deleted by OBRA 90.

4. Correction of unemployment compensation amendments of 1992

The provision corrects a drafting error in the Unemployment Compensation Amendments of 1992 relating to Federal unemployment compensation accounts.

PART III—MEDICARE MISCELLANEOUS AND TECHNICAL AMENDMENTS

SUBPART A—AMENDMENTS RELATING TO PART A OF THE MEDICARE PROGRAM

1. Clarification of DRG payment window expansion (sec. 6221)

Present Law

Services provided by a hospital (or an entity wholly owned or operated by the hospital) to an inpatient of a hospital during the three days prior to admission are not separately reimbursed under part B of Medicare if they are diagnostic services or otherwise related to the admission.

Explanation of Provision

Clarify that this provision does not apply to hospitals that are not paid on the basis of diagnosis related groups (DRGs).

2. Essential Access Community Hospital Program (sec. 6222)

Present Law

(a) The Secretary of Health and Human Services is required to make grants to up to seven states to participate in the Essential Access Community Hospital (EACH) program.

(b) The Secretary may designate an urban hospital as an essential access community hospital if it meets the criteria for designation as a rural referral center.

(c) The Secretary may designate a hospital as an essential access community hospital if it is located in a state receiving an EACH program grant.

(d) Rural primary care hospitals are required to have written policies governing the provision of services, and have a physician, physician assistant, or nurse practitioner responsible for the execution of those policies.

(e) Medicare inpatient hospital benefits are subject to the inpatient hospital deductible and to coinsurance after 60 days of hospitalization during a spell of illness.

Explanation of Provision

(a) The number of states eligible for grants under the EACH program would be increased from seven to nine.

(b) The Secretary would be authorized to designate an urban hospital as an essential access community hospital if the hospital otherwise meets the criteria for designation.

(c) A State receiving a grant under the EACH program would be authorized to designate as an essential access community hospital or a rural primary care hospital a facility in an adjoining state if the facility was otherwise eligible for designation. The Secretary would be authorized to designate a facility as an essential access community hospital or a rural primary care hospital if the facility is not in a state receiving an EACH program grant if the facility is a member of a rural health network of a state receiving a grant.

(d) The requirements for written policies and procedures and the supervision of those procedures in rural primary care hospitals would be amended to clarify that the requirements are similar to those for hospitals. Specifically, rural primary care hospitals would be required to appoint a physician, as defined in section 1861(r)(1) of the Social Security Act, to supervise the implementation of the policies.

(e) The applicability of the inpatient hospital deductible and coinsurance to stays in rural primary care hospitals would be clarified. Other minor drafting errors would be corrected.

3. Treatment of certain military facilities (sec. 6223)

Present Law

Other than Indian Health Service hospitals, hospitals owned by, or under contract to, the Federal government are not eligible for reimbursement under Medicare. Uniformed services treatment facilities are private hospitals under contract to the federal government. The Assistant Secretary of Defense for Health Affairs has been directed to prepare a report on joint military/civilian health centers.

Explanation of Provision

The Secretary of Health and Human Services would be prohibited from taking action to recover certain amounts paid by medicare to uniformed services treatment facilities in Boston, Baltimore, and Seattle for services that were provided between October 1, 1986 and December 31, 1989, to members of the uniformed services or their dependents who were also eligible for medicare. The Secretary of Health and Human Services, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs shall conduct a study of the feasibility and desirability of establishing a joint medical facility among the Department of Defense, Department of Veterans Affairs, and other public and private entities. The study shall include the need to make changes in the Medicare and Medicaid programs in order to facilitate the establishment of such joint medical facility.

4. Nursing home reform technical (sec. 6224)

Present Law

The Omnibus Budget Reconciliation Act (OBRA) of 1990 included a clerical error in the nursing home reform provisions pertaining to the period of resident assessment.

Explanation of Provision

The clerical error would be corrected.

SUBPART B—AMENDMENTS RELATING TO PART B OF THE MEDICARE PROGRAM

1. Physician payment provisions (sec. 6231)

Present Law

(a) Overvalued Procedures.—OBRA 90 subjected all unsurveyed overvalued services to a 6.5 percent reduction unless the law specifically exempted them from the reduction. Unsurveyed services are those not included in earlier surveys conducted to determine relative values of physicians' services; these unsurveyed services were considered to be overvalued.

(b) Radiology Services.—OBRA 90 reduced the conversion factor for radiology services

paid on the basis of a radiology fee schedule to a geographically adjusted amount, not to exceed 9.5 percent. However, as drafted, OBRA 90 contained an error that permits the conversion factors for services below the target to increase.

(c) Anesthesia Services.—OBRA 87 established a fee schedule for anesthesia services based on a relative value guide for anesthesia services and local conversion factors. OBRA 90 reduced local conversion factors to a geographically adjusted amount, not to exceed 9.5 percent. However, as drafted, OBRA 90 contained an error that permits the conversion factors for services below the target to increase.

(d) Assistants at Surgery.—OBRA 90 specified that payment to a physician serving as an assistant at surgery cannot exceed 16 percent of the payment made for the global surgical service.

(e) Technical Components of Diagnostic Services.—OBRA 90 capped the reasonable charge for technical components of specified diagnostic services at the national median charge for the service in all localities.

(f) Statewide Fee Schedules.—OBRA 90 required the Secretary to treat the States of Nebraska and Oklahoma as statewide payment localities if they met certain requirements specified in the law. Each member of the Congressional delegation from those states and organizations representing urban and rural physicians would have to agree to the Statewide locality provision.

(g) Reciprocal Billing Arrangements.—OBRA 90 permitted physicians to submit a claim for a service provided by a second physician when the first physician was not available to provide the service. Such billing was permitted only in cases where the arrangement is temporary and reciprocal.

(h) Study of Aggregation Rule for Claims of Similar Physician Services.—OBRA 90 required the Secretary to study the effects of aggregating physician claims and report to Congress by December 31, 1992.

Explanation of Provision

(a) Overvalued Procedures.—The list of services specifically exempted from the 6.5 percent reduction contained certain errors. The provision deletes some procedures from the list of exempted services and corrects errors in the names of other services. The procedures deleted from the list of exempted services are: lobectomy; enterectomy; colectomy; cholecystectomy; and sacral laminectomy.

(b) Radiology Services.—The provision would specify that conversion factors below the geographically adjusted amount could not be increased. The provision makes other technical changes to OBRA 90.

(c) Anesthesia Services.—The provision would specify that conversion factors below the geographically adjusted amount could not be increased. The provision makes other technical changes to OBRA 90.

(d) Assistants at Surgery.—The provision clarifies that balance-billing limits apply to physicians serving as assistants at surgery.

(e) Technical Components of Diagnostic Services.—The provision specifies that the limits on payment for the technical component of diagnostic services do not apply to services whose payments were reduced under the OBRA 89 overvalued procedure list.

(f) Statewide Fee Schedules.—Due to constitutional concerns relating to the separation of powers between the executive and the legislative branches, the provision would eliminate the OBRA 90 requirement for agreement from members of Congress and stipulate instead that Nebraska and Oklahoma were statewide localities in 1991.

(g) Reciprocal Billing Arrangements.—The provision would amend OBRA 90 to clarify services that may be covered under reciprocal billing. All physician services, including services incident to physician services, would be covered. The provision would also permit reciprocal billing arrangements that are both informal or reciprocal (as in current law) or involve per diem or other fee for-time compensation.

(h) Study of Aggregation Rule for Claims of Similar Physician Services.—The provision would change the date that the study must be submitted to Congress from December 31, 1992 to December 31, 1993.

OBRA 90 also contains a number of technical and drafting errors that are corrected through minor and conforming amendments.

2. Ambulatory surgical centers (sec. 6232)

Present Law

(a) Payment Amounts.—Current law requires the Secretary to update ambulatory surgery center payment rates by July 1, 1987 and annually thereafter, as determined appropriate by the Secretary.

The OBRA 90 conferees had intended to include a provision requiring an annual update to ASC rates, but it was omitted from the law.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—OBRA 90 included a provision capping payments for IOLs at $200 in 1991 and 1992. As drafted, the statutory language could be interpreted as limiting payments for cataract surgery to $200. The OBRA 90 conferees also agreed to a provision providing for a process by which the fee for new technology intraocular lenses (IOLs) could be adjusted. Statutory language reflecting this agreement was inadvertently omitted from OBRA 90.

Explanation of Provision

(a) Payment Amounts.—The provision would set the update for ambulatory surgery services, beginning with fiscal year 1994, at the CPI–U for the 12 month period ending with March of the preceding year. The Secretary would be required to conduct a survey, based on a representative sample of procedures and facilities, beginning by July 1, 1993 and updated every 5 years thereafter, of the actual audited costs of ambulatory surgery facilities. The survey results would be used in establishing payment rates. The Secretary would be required to consult with appropriate trade and professional organizations in updating the list of procedures that can be performed in ambulatory surgery centers.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—The Secretary would be required to develop and implement a process for reviewing reimbursement for new technology intraocular lenses (IOLs). In order to be considered a new technology IOL, the device would have to be approved by the FDA. The Secretary would also be required to consider specific circumstances in determining whether to adjust the payment amount for new technology IOLs. The provision also specifies administrative procedures for reviewing and approving new technology IOLs.

3. Durable medical equipment (sec. 6233)

Present Law

(a) Updates to Payment Amounts.—OBRA 90 contains a drafting error that specified that the update to the Durable Medical Equipment fee schedule for 1991 and 1992 was minus 1 percent.

(b) Potentially Overused Items and Advance Determinations of Coverage.—OBRA 90 included two provisions regarding special carrier review of potentially overutilized items and advance determinations of coverage for certain items. These two provisions were combined in drafting so that they do not properly reflect the conference agreement.

(c) Study in Variations in Durable Medical Equipment Supplier Costs.—OBRA 90 provided for a system of upper and lower limits on DME fees. The OBRA 90 conferees agreed to a study of regional variations in DME equipment supplier costs which was not included in the statutory language.

(d) Oxygen Retesting.—OBRA 90 included a provision requiring periodic retesting of beneficiaries receiving oxygen if their initial blood gas reading value was at or above a partial value of 55.

Explanation of Provision

(a) Updates to Payment Amounts.—The provision would correct the OBRA 90 error by specifying that the 1991 and 1992 update is the CPI–U minus one percentage point.

(b) Potentially Overused Items and Advance Determinations of Coverage.—The provision would modify OBRA 90 with respect to treatment of potentially overused items. The Secretary may add items to the list of potentially overused items if they are marketed directly to beneficiaries, if offers to waive coinsurance are made, if items have been subject to consistent patterns of overutilization, or if a high proportion of claims for an item are denied based on absence of medical necessity. Payment for items on this list cannot be made unless the carrier has subjected the claim to special scrutiny or has determined in advance whether an item is medically necessary and covered by Medicare. Carriers would also be required to make advance coverage decisions for customized items and to meet criteria developed by the Secretary to assure that advance coverage decisions are made on a timely basis.

(c) Study in Variations in Durable Medical Equipment Supplier Costs.—The provision would require HCFA to collect data on supplier costs for DME and analyze them to determine costs attributable to service and product components and the extent to which they vary by type of equipment and geographic region. The HCFA administrator would be required to submit a report and recommendations for a geographic cost adjustment index for DME supplies and an analysis of the impact of such an index on Medicare payments.

(d) Oxygen Retesting.—The provision corrects the OBRA 90 language regarding the arterial blood gas values to require retesting when a beneficiary's initial value is at or above 56.

As drafted, OBRA 90 included several minor technical errors. Technical corrections are made to Sections 4152 and 4153.

4. Other Part B items and services (sec. 6234)

Present Law

(a) Revision of Information on Part B Claims.—Each Part B claim for which the entity submitting the claim knows or has reason to believe that there has been a referral by physician must include the name and provider number of the referring physician and must indicate whether the referring physician is an investor in the entity.

(b) Consultation for Social Workers.—OBRA 90 provided for direct reimbursement for the services of clinical psychologists and clinical social workers. The Secretary was required to develop criteria for psychologists' services under which psychologists would be required to consult with a patient's attending physician.

(c) Reports on Hospital Outpatient Payment.—OBRA 87 required the Prospective

Payment Assessment Commission (ProPAC) to conduct a study of Medicare payment for hospital outpatient services. Part of the study was to be submitted to Congress by July 1, 1990 and part by March 1, 1991. Section 1135(d)(6) of the Social Security Act also requires the Secretary to report to the Congress on the development of a prospective method for ambulatory surgery services.

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Departments.—Payment for outpatient radiology and diagnostic services is limited to a blend of the hospital's costs and physician fee schedule that would apply if the procedure were performed in a physician's office.

(e) Payments to Nurse Practitioners in Rural Areas.—OBRA 90 provided for direct reimbursement of nurse practitioners and clinical nurse specialists in rural areas. While current law excludes the services of physician assistants, nurse midwives, certified registered nurse anesthetists, and psychologists from the definition of inpatient hospital care, payments for nurse practitioners and clinical nurse specialists were not included in this provision.

(f) Other Technical and Conforming Amendments.—Elderly or disabled employees and their spouses who are covered by employer health plans are not required to enroll in the same enrollment period applicable to others. However, they cannot enroll while enrolled in an employer group health plan. Coverage for such individuals begins generally on the first day of the month in which the individual is no longer enrolled in an employer group health plan. The OBRA 90 conferees intended to modify this provision, but statutory language to that effect was omitted from the law.

Explanation of Provision

(a) Revision of Information on Part B Claims.—The provision would require that the claim form include the unique physician identification number (UPIN) and would repeal the requirement that claims indicate whether the referring physician is an investor in the entity.

(b) Consultation for Social Workers.—Clinical social workers would be required to consult with a patient's attending physician in the same manner as clinical psychologists.

(c) Reports on Hospital Outpatient Payment.—The provision repeals Section 6137 of OBRA 89 and Section 1135(d)(6) of the Social Security Act.

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Departments.—The provision would clarify that outpatient payment limits apply to diagnostic services and that the physician component of the limit is based on the resource based relative value scale.

(e) Payments to Nurse Practitioners in Rural Areas.—The provision would add the services of nurse practitioners and clinical nurse specialists to the list of services excluded from the definition of inpatient hospital services.

(f) Other Technical and Conforming Amendments.—The provision would modify the special enrollment period to allow individuals who have employer group health coverage to enroll in Part B at any time they are enrolled in the group health plan, rather than after they leave the plan.

If an individual enrolled in Part B while enrolled in the group health plan or in the first month after leaving the plan, Medicare coverage would begin on the first day of the month in which the individual enrolled (or, at the option of the individual) on the first day of any of the following three months).

Sections 4154 through 4164 of OBRA 90 include a number of minor and technical drafting errors, which are corrected through various technical and conforming amendments.

SUBPART C—AMENDMENTS RELATING TO PARTS A AND B (SEC. 6241)

Present Law

(a) Health Maintenance Organizations (HMOs).—OBRA 90 required the Secretary to submit a proposal to Congress by January 1, 1992 providing for a more accurate method for HMOs paid on a risk basis. The Secretary was required to publish a proposed rule by March 1, 1992. The Comptroller General was required to review and report to Congress by May 1, 1992 on recommendations to modify the proposed methodology. OBRA 90 also contained a number of minor and technical drafting errors.

(b) Peer Review Organizations (PROs).—OBRA 90 required Peer Review Organizations (PROs) to provide notice to State licensing entities when a physician is found to have furnished services in violation of Section 1154(a) of the Social Security Act. This subsection includes requirements that PROs review the quality of medical care and determine whether certain services are covered by Medicare. As drafted, OBRA 90 requires PROs to notify State boards in the case of a variety of administrative findings, as well as in the case of a problem regarding quality of care.

(c) Survey and Certification Requirements.—The Secretary is prohibited from imposing user fees on facilities for determining compliance with any requirement of Medicare. Current law could be interpreted to mean that user fees imposed pursuant to the Clinical Laboratory Improvement Act (CLIA) are prohibited. In addition, there are minor drafting errors regarding the survey and certification process.

Explanation of Provision

(a) Health Maintenance Organizations.—The provision would require the Secretary to revise the payment methodology for HMOs for contract years beginning with 1994. In making revisions, the Secretary would be required to consider (1) the difference in costs associated with beneficiaries with different health status; (2) the effects of using alternative geographic classifications; and (3) the difference in costs associated with beneficiaries for whom Medicare is the secondary payor. The Secretary would be required to submit a proposal to Congress on the revised payment methodology by January 1, 1993. The Secretary would also be required to publish a proposed rule before March 1, 1993 and the Comptroller General would be required to review and report to the Congress by May 1, 1993 on the appropriateness of the proposed rule. By August 31, 1992, the Secretary would be required to publish a final rule for contract years beginning on or after January 1, 1994.

(b) Peer Review Organizations.—PROs would not be required to notify State boards regarding administrative matters, but would continue to be required to notify them in cases of unnecessary or poor quality care. In addition, drafting errors in OBRA 90 would be corrected.

(c) Survey and Certification Requirements.—The law prohibiting user fees would be amended to clarify that user fees imposed under the Clinical Laboratory Improvement Act are not subject to the general ban on user fees.

The provision would correct minor and technical errors relating to a home dialysis demonstration program authorized under OBRA 90 and Medicare secondary payer requirements in OBRA 90. In addition, the provision would correct minor and technical errors in Sections 4201 through 4207 of OBRA 90.

SUBPART D—MEDICARE SUPPLEMENTAL INSURANCE POLICIES (SEC. 6251)

Present Law

Section 1882 of the Social Security Act, as most recently amended by the Omnibus Budget Reconciliation Act (OBRA) of 1990, provides for minimum standards for Medicare supplemental insurance (Medigap) policies.

(a) Preventing duplication.—The OBRA 1990 amendments strengthen prohibitions against the sale of duplicative coverage to Medicare beneficiaries. The sale of a Medigap policy to an individual already covered under a Medigap policy is prohibited, as is, in general, the sale of a Medigap policy to a Medicaid beneficiary. Insurers are required to obtain written information from applicants regarding existing health insurance coverage.

The language also appears to prohibit the sale of any health benefits that duplicate any health coverage (including Medicare) to which a Medicare beneficiary is entitled. This might include coverage provided under an employer group health plan, long-term care policies, hospital indemnity polices, and dread disease policies.

(b) Loss ratios and refund of premiums.—The OBRA 1990 amendments increased the minimum loss ratio standard for individual Medigap insurance policies from 60 percent to 65 percent. The standard is 75 percent for group policies. Policy issuers are required to provide a refund or credit against future premiums if needed to meet the loss ratio requirements. Loss ratios must be computed and reported in accordance with a uniform methodology specified by the National Association of Insurance Commissioners (NAIC).

(c) Pre-existing condition limitations.—The OBRA 1990 amendments prohibit medical underwriting and certain other practices with respect to medicare supplemental insurance policies for which an individual age 65 or older applies during the six month period beginning with the first month during which the individual is first enrolled for benefits under part B.

(d) Other miscellaneous technical corrections.—The conference report to accompany OBRA 1990 states the intent of the conferees that the National Association of Insurance Commissioners, in promulgating changes to the Model Medigap Regulations to conform with Federal requirements, would delete from section 12(C) all that follows "unless", which is an exception to limitations on certain sales commissions. The OBRA 1990 amendments also include a number of minor and technical drafting errors.

Explanation of Provision

(a) Preventing duplication.—The duplication provision would be clarified to continue to specifically prohibit the sale of a Medigap policy to an individual already covered under a Medigap policy and to prohibit, in general, the sale of a Medigap policy to a Medicaid beneficiary. Prior law would be restored with respect to the sale of other health insurance policies. That is, the sale of any health insurance, other than a Medigap policy, would not be considered duplicative if benefits are paid without regard to other health insurance coverage for which the individual is eligible. Other minor and technical drafting errors would be corrected.

(b) Loss ratios and refund of premiums.—The provision would clarify that the OBRA 1990 loss ratio standard would apply to policies sold or renewed after the effective date of

the provision. With respect to a refund or credit for policies issued prior to the effective date of the provision, the calculation would be based on aggregate benefits provided and premiums collected for all policies issued by an insurer in a state and based only on aggregate benefits provided and premiums collected under the policies after the effective date. Other minor and technical drafting errors would be corrected.

(c) Pre-existing condition limitations.—The provision would be clarified to apply to any policy that becomes effective during the six month period beginning with the first month that an individual who is 65 years of age or older is first enrolled for benefits under part B, irrespective of when the policy is issued or whether the application is submitted prior to the beginning of the six month period.

(d) Other miscellaneous technical corrections.—The statutory language would be clarified to restate the intent of the conferees that certain language be deleted from section 12(C) of the NAIC Model Regulations pertaining to sales commissions. The effective dates for various provisions would be modified so that in general, the effective dates would be the earlier of the date the state adopts standards required in OBRA 1990 or one year after the NAIC promulgates standards in accordance with OBRA 1990 requirements. The NAIC standards were promulgated on July 30, 1991. Other minor and technical drafting errors would be corrected.

SUBTITLE C. TARIFF AND CUSTOMS PROVISIONS

A. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULES (SEC. 6301 OF THE BILL)

1. Removal of German Democratic Republic (GDR) from Column 2 Rate List of Harmonized Tariff Schedule of the United States (HTSUS)

Present Law

General Note 3(b) to the HTSUS listed the "German Democratic Republic" among the countries subject to higher column 2 rates of duty. On October 2, 1991, the President acted to remove this designation (Presidential Proclamation 6343).

Explanation of Provision

Following German reunification, on October 31, 1990 most-favored-nation (MFN) column 1 tariff treatment already granted to West Germany was extended automatically to the former East Germany (GDR). The bill recognizes these developments by eliminating reference to the GDR from the HTSUS. Inclusion of this provision is necessary, notwithstanding the action of the President on October 2, 1991, in view of the Legislative Branch's exclusive authority with regard to import duties under Article I, section 8 of the Constitution.

2. Tapestry and upholstery fabrics

Present Law

The Customs and Trade Act of 1990, P.L. 101–382 (hereinafter referred to as "the Trade Act of 1990"), added several new subheadings to headings 5111 and 5112 of the HTSUS for tapestry fabrics and upholstery fabrics of a weight exceeding 300 grams per square meter. This had the effect of reducing the tariff rate from 36.1 *ad valorem* to seven percent *ad valorem* for these fabrics. New HTSUS subheading 5112.19.10 was renumbered as 5112.19.20 in the Omnibus Budget Reconciliation Act of 1990, P.L. 101–508 (hereinafter referred to as "the Budget Reconciliation Act").

Explanation of Provision

Addition of the words "of a weight exceeding 300 g/m2" to HTSUS subheading 5112.19.20 had the effect of inadvertently raising the column 1 duty rate on certain lighter weight tapestry and upholstery fabrics, which are now classified in subheading 5112.19.60 due to the weight criterion in subheading 5112.19.20. The bill deletes those words in order to restore prior HTSUS tariff treatment. The change applies retroactively to allow importers to apply for reassessment of duties levied since October 1, 1990.

3. Gloves

Present Law

In the Budget Reconciliation Act, HTSUS subheading 6216.00.47 was deleted; subheading 6216.00.49 was redesignated as 6216.00.52 and was indent so that its description aligned with that of subheading 6261.00.46 (which had been redesignated from 6216.00.44). The Budget Reconciliation Act also redesignated subheading 6116.10.25 as 6116.10.45. The tariff treatment of these gloves had been modified by the Trade Act of 1990.

Explanation of Provision

When the above changes were made, the superior text "Other", place just above the deleted 6261.00.47, inadvertently was not stricken. The bill strikes the word "Other". The bill also redesignates new HTSUS subheading 6116.10.45 as 6116.10.48 in order to avoid reusing a previously-used subheading number. These corrections will avoid confusion in classifying goods and comparing trade data.

4. Agglomerate stone floor and wall tiles

Present Law

The Trade Act of 1990 added a new HTSUS subheading 6810.19.12 for agglomerate marble floor tiles. This had the effect of reducing the applicable tariff rate from 21 percent *ad valorem* to 4.9 percent *ad valorem* for these types of tiles. The provision as written applies only to geological marble and not to other types of materials that may be commonly referred to as "marble" but are not recognized as such by the Explanatory Notes to the Harmonized Commodity Description and Coding System, as interpreted and applied by the U.S. Customs Service.

Explanation of Provision

The bill changes the description for HTSUS subheading 6810.19.12 from "agglomerate marble tiles" to floor and wall tiles of stone agglomerated with binders other than cement. This rewording covers tiles produced from chips or dust of various natural stones mixed with a plastic resin binding material. The change applies retroactively to allow importers to apply for reassessment of duties levied since January 1, 1989.

5. 2,4-Diaminobenzenesulfonic acid

Present Law

Under HTSUS heading 9902.30.43, which grants a duty suspension to 2,4-Diaminobenzenesulfonic acid, "2921.51.50" is cited as the HTSUS subheading under which imports of this chemical enter.

Explanation of Provision

The above cited subheading number is incorrect. The bill provides the correct HTSUS subheading (2921.59.50) under which imports of 2.4-Diaminobenzenesulfonic acid enter.

6. Machines used in the manufacture of bicycle parts

Present Law

The Trade Act of 1990 suspended the duty on machines used to manufacture bicycle wheels by adding a new HTSUS heading, 9902.84.79. The machines covered include "wheeltruing" and "rim punching" machines. Heading 9902.84.79 refers only to HTSUS subheading 8479.89.90, which covers "machines and mechanical appliances."

Explanation of Provision

The bill reflects that wheeltruing machines are covered by HTSUS subheading 9031.80.00 and rim punching machines are covered by HTSUS subheading 8462.49.00. These two additional subheadings are now referenced in heading 9902.84.79. The change applies retroactively to allow importers to apply for reassessment of duties levied since October 1, 1990.

7. Copying machines and parts

Present Law

HTSUS heading 9902.90.90 provides duty-free treatment for parts and accessories of electrostatic copying machines. The Trade Act of 1990 amended this subheading to cover parts and accessories intended for attachment to electrostatic copiers. Heading 9902.90.90 refers to subheading 8472.90.80 as the provision that covers parts and accessories for attachment to electrostatic copiers.

Explanation of Provision

The bill provides that parts intended for attachment to electronic copiers are covered by HTSUS subheading 8473.40.40. This additional subheading is now referenced in heading 9902.90.90. The change applies retroactively to allow importers to apply for reassessment of duties levied since January 1, 1989.

B. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES (SEC. 6302 OF THE BILL)

Present Law

The Trade Act of 1990 provided that, in the case of agricultural products of the United States processed and packed in foreign trade zones, the *ad valorem* merchandise processing fee (MPF) would be applied solely to the value of the *foreign* material used to make the container; it exempted the value of the *domestic* agricultural products from the MPF. Customs has ruled that, for all products not covered by this provision and in the absence of an express provision to the contrary, the MPF would be assessed on both the domestic and foreign value of the merchandise entering from foreign trade zones.

Explanation of Provision

This provision clarifies that the MPF is to be applied only to the *foreign* value of the merchandise entered from a foreign trade zone. It is the intention of the Committee that the phrase "the merchandise subject to duty" shall be construed in its broadest sense. Thus, the phrase would encompass imported merchandise that enters duty-free under Chapters 1–97 of the HTSUS. The provision applies to all unliquidated entries from foreign trade zones beginning December 1, 1986. The provision also provides that the provision made by section 111(b)(2)(D)(iv) of the Trade Act of 1990 regarding the application of the MPF to processed agricultural products will also apply to all unliquidated entries from Foreign Trade Zones beginning December 1, 1986.

C. TECHNICAL AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988 (SEC. 6303 OF THE BILL)

Present Law

Section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. 2902 (hereinafter referred to as "the Trade Act of 1988"), provides the President the authority to proclaim certain tariff reductions pursuant to trade agreements with foreign countries. Paragraph (a)(2) provides the President the authority to reduce tariff rates in existence as of August 23, 1988, at which time the Tariff Schedules of the United States (TSUS) were in effect. Pursuant to Title I, Subtitle B of the Trade Act of 1988, the TSUS were replaced by the HTSUS effective January 1, 1989. Tariff negotiations in the Uruguay Round of Multilateral Trade Negotiations have been conducted on the basis of tariff rates under the HTSUS rather than the TSUS.

Explanation of Provision

The bill amends the Trade Act of 1988 to reflect the fact that any tariff reductions that might be proclaimed by the President pursuant to section 1102(a) of the Trade Act of 1988 will be based upon the tariff rates under the HTSUS as of January 1, 1989.

D. TECHNICAL AMENDMENT TO THE TRADE ACT OF 1990 (SEC. 6304)

Present Law

The Trade Act of 1990 provides for transportation in bond of Canadian lottery material.

Explanation of Provision

The bill replaces the phrase "entered or withdrawn from warehouse for consumption" in the "Effective Date" section of the Trade Act of 1990 with "entered for transportation in bond". This had been done to clarify that Canadian lottery material is not entered into the United States for consumption.

E. TECHNICAL AMENDMENT REGARDING CERTAIN BENEFICIARY COUNTRIES (SEC. 6305 OF THE BILL)

Present Law

The Trade Act of 1990 amended the Caribbean Basin Economic Recovery Act to provide duty reductions on certain leather products. An identical provision was included in the Andean Trade Preference Act.

Explanation of Provision

The bill clarifies that such duty reductions apply only to products that are made of leather, not to textile and apparel articles subject to textile agreements.

F. CLARIFICATION OF FEES FOR CERTAIN CUSTOMS SERVICES (SEC. 6306 OF THE BILL)

Present Law

19 U.S.C. 58(c) authorizes the Customs Service to provide reimbursable services to air couriers operating in express consignment carrier facilities and in centralized hub facilities. In September 1990, Customs interpreted the present statute to prevent Customs from providing reimbursable services during daytime hours to centralized hub facilities. In June 1992, the Comptroller General also ruled that, under current law, Customs could not provide daytime reimbursable services to centralized hub facilities.

Explanation of Provision

This provision is intended to make a technical correction in existing law to clarify that Customs may provide daytime reimbursable services to centralized hub facilities during daytime hours, just as the agency currently provides to express consignment carrier facilities. The provision also clarifies that Customs may be reimbursed for all services related to the determination to release cargo, and not just "inspectional" services. These services, which include the costs of Customs inspectors and aids, canines, and entry data processors, are reimbursable regardless of whether they are performed on site or not. In many cases these services are not provided at the express consignment carrier facility or centralized hub facility but are related to the release determination and, therefore, are properly reimbursable. It is not intended that the services subject to reimbursement pursuant to 19 U.S.C. 58c are to be expanded beyond those related to the release determination if such other services are already covered by general user fees under 19 U.S.C. 58c(a). Services covered by this provision continue to be the same services subject to reimbursement prior to the effective date of these provisions.

It is the intention of the Committee that the Customs Service's allocation of full-time employees, as provided in appropriation bills, shall not be reduced or affected in any way by this provision. The Committee intends reimbursable services positions to be in addition to positions currently allocated to Customs.

TITLE VII. INCOME SECURITY AND RELATED PROGRAMS

SUBTITLE A. MISCELLANEOUS IMPROVEMENTS IN THE OASDI PROGRAM

1. Use of Social Security Numbers by State and Local Court Systems for Jury Selection Purposes (sec. 7001 of the bill)

Present Law

The Privacy Act of 1974 prohibits States from requiring individuals to provide social security numbers for identification purposes unless the State was doing so prior to January 1, 1975, or unless the State is specifically permitted to do so under Federal law (e.g., for tax administration, drivers license and motor vehicle registration).

Explanation of Provision

Courts typically use computerized jury source lists within their jurisdiction to select jurors. The proposal would allow them to use the social security numbers of prospective jurors to eliminate duplicate names and the names of convicted felons from the jury source lists.

2. Repeal of the Facility of Payment Provision (sec. 7002 of the bill)

Present Law

The maximum family benefit (MFB) is a limit on the total amount of social security benefits that can be paid to a worker and his or her dependents. As a general rule, if there is cause to reduce the benefit of one dependent member of a family that is subject to the MFB because of excess earnings or some other factor, the amount reduced is redistributed and paid to the other dependent family members. However, if all the dependents are living in the same household, the check of the individual affected by the reduction is not actually reduced or withheld, and no actual redistribution occurs. This procedure, known as the facility of payment provision, was originally intended as an administrative simplification, but adds complexity and confusion in today's computerized administrative environment.

Explanation of Provision

The facility of payment provision would be repealed so that a family member's benefit could be reduced when appropriate and benefits redistributed within the MFB to other family members.

3. Conform Social Security Definition of Disability for Children to the SSI Definition for Children (sec. 7003 of the bill)

Present Law

The basic definition of disability, inability to engage in any substantial gainful activity by reason of a physical or mental impairment, is the same under the Social Security Disability Insurance program and the Supplemental Security Income program. In the SSI program, however, the law further provides that children under the age of 18 are considered disabled if they suffer an impairment of "comparable severity" to one that would prevent an adult from working. The Disability Insurance program has no similar provision applicable to children, although under the program there are certain limited circumstances in which a child must establish disability prior to attaining age 18.

Explanation of Provision

The proposal would establish a "comparable severity" definition of disability for children under the Disability Insurance program that is identical to the definition in the SSI program.

4. Increased Penalties for Unauthorized Disclosure of Social Security Information (sec. 7004 of the bill)

Present Law

The Social Security Act contains provisions prohibiting the unauthorized disclosure of personal and other information obtained in administering the Act. The Act provides that any person who violates these provisions and makes an unauthorized disclosure can be found guilty of a misdemeanor and, upon conviction, punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both. Under the Act, these penalty provisions are also applicable to anyone who fraudulently attempts to obtain information as to the date of birth, employment, wages, or benefits of another individual.

Explanation of Provision

The proposal would make unauthorized disclosure of information and fraudulent attempts to obtain personal information under the Social Security Act a felony. Each occurrence of a violation would be punishable by a fine not exceeding $10,000, imprisonment not exceeding 5 years, or both.

SUBTITLE B. FOSTER CARE; SUBSTANCE ABUSE PREVENTION AND TREATMENT; AND RELATED PROGRAMS

PART I—FOSTER CARE, ADOPTION, AND CHILD WELFARE SERVICES

GENERAL DISCUSSION

Over the last several years, committees of Congress, representatives of State organizations involved in the delivery of child welfare services, advocacy groups interested in the welfare of children, and many other organizations and individuals have been focusing their attention on the problems that confront the Nation's child welfare and foster care systems.

As a result of these deliberations, there is a growing consensus that the child welfare and foster care systems are in trouble, and in need both of reform and substantial additional resources to respond to the growing number of children who are victims of abuse and neglect.

As witnesses at the Committee's hearings on this issue have testified, many of these children are coming into the child welfare system as the result of parental substance abuse. A number of States have reported dramatic increases in the number of children being placed in foster care as the result of substance abuse. Data also show that there are growing numbers of very young children (infants under age 1) entering the foster care system. Hearings by the Finance Committee developed extensive testimony on the problem of increasing numbers of infants who have been damaged by parental substance abuse, and who are simply being abandoned by their parents.

Although substance abuse is a factor in a great many foster care cases, there are also many children who enter the system as the result of problems of other kinds, such as a poor single parent's incapacity to cope with and nurture her children, sexual or physical abuse, neglect, lack of housing, or untreated psychological or emotional problems of either child or parent.

Comprehensive national data on children in the child welfare and foster care systems are not available. However, statistics from individual States reflect what experts agree is a nationwide phenomenon of increasing, and increasingly complex, foster care caseloads.

For example, between 1984 and 1989 New York's caseload increased from 27,000 to 62,000. And although recently the caseload in the State has slowed, there are areas in New York City where more than 10 percent of all infants are being placed in foster care. Many of them are the fragile children of substance abusers, children who typically remain in foster care for extended periods of time.

In Illinois, the caseload continues to grow rapidly, with an increase of more than 20 percent in the last year.

Last year in the State of Texas there were more than 90,000 investigations of abuse and neglect, an increase of more than 10 percent over the prior year. Substance abuse has been found to be a factor in nearly half of all cases.

In Los Angeles County, the number of children in foster care has increased by 80 percent over the last five years, and more than 2,500 drug-exposed infants were referred to the county's Department of Children's Services last year.

Nationwide the number of children in foster care has increased by 50 percent over the last five years, and now exceeds 400,000.

Children who have entered the foster care system are not leaving it at the same rate as in the early 1980's. For example, statistics from California indicate that children entering foster care in January 1988 stayed longer in placement than those entering in January 1985. In three years, the proportion of children still in foster care after 18 months increased 43 percent.

Reports of child abuse climbed to 2.7 million in 1991, more than three times the number in 1980.

Sources of Federal funding for child welfare and foster care services.—Currently, Federal funding for child welfare and foster care services is available to the States under the following Social Security Act programs:

(1) The social services block grant (title XX). It is estimated that States use about 25 percent of the $2.8 billion in title XX funds for child welfare-related services (the rest of the money goes for a wide variety of social services such as child care, and homemaker and respite care services for the aged, blind and disabled).

(2) The child welfare services program (title IV–B), which provides matching grants to States for a variety of child welfare services of their choosing. The program is authorized at a level of $325 million. The appropriation for fiscal year 1992 is $274 million.

(3) The foster care and adoption assistance programs (title IV–E), which provide Federal matching at the Medicaid matching rate to States for cash maintenance payments on behalf of AFDC-eligible foster care children and special needs children who are adopted. Fifty percent Federal matching is available for administering these programs, and for certain costs related to placing children in foster care. States may draw down Federal matching payments on an open-ended entitlement basis. The appropriation for fiscal year 1992 is $2.4 billion.

(4) The independent living program, which provides grants to States for programs to help young people in foster care make the transition from foster care to independent living. In fiscal year 1992, States may draw down their share of $70 million in Federal entitlement funds for this purpose.

State funding.—Despite these sources of Federal funding, the child welfare and foster care systems are largely funded by State and local governments. According to the best data available, about 60 percent of the costs of these systems are borne by State and local governments. Over the last decade, States and localities have been particularly hard hit by the combination of rapid growth in the number of reports of child abuse and neglect, the increase in foster care caseloads, and the erosion of the real value of the title XX social services block grant, which is a major source of Federal funding for preventive services. Over the period 1977–1992 title XX funding declined in real terms by 55.4 percent.

Funding for title IV–B, of which, at the time of the child welfare reform legislation of 1980, was expected to grow significantly in order to assist States in providing preplacement preventive services and other services to promote family and child welfare, has grown only modestly since 1981. And although Federal matching for foster care placement and administrative costs under title IV–E grew substantially from $30 million in 1981 to $747 million in 1991, States have been using these new 50 percent matching funds to implement the requirements mandated by the 1980 child welfare reform legislation (the Adoption Assistance and Child Welfare Act of 1980), a process that is still incomplete.

a. Funding for foster care related services (sec. 7101 of the bill)

Present Law

Title IV–B of the Social Security Act authorizes $325 million a year to be used by the States to provide child welfare services. The fiscal year 1992 appropriation for child welfare services is $273.9 million. States generally have broad discretion in determining the nature of the services they wish to provide, and the population to which they will be provided. The Federal matching share is 75 percent. Funds are allocated to the States under a formula that takes into account the State's relative number of children under age 21 and per capita income.

States are not required to report how they use title IV–B funds, and there are no official data available at the Federal level that show the purposes for which States are using Federal dollars. States may provide services without regard to family income.

As noted above, at the time the Child Welfare and Adoption Assistance Act of 1980 was enacted, it was envisaged that the IV–B program would become a major source of funding for services aimed at preserving families and preventing foster care placement. However, an analysis of State child welfare plans conducted by the American Public Welfare Association concludes that in fiscal year 1990, only 4 percent of all funding for child welfare services will come from Federal title IV–B funding.

Explanation of Provision

Funding.—As the problems facing the child welfare and foster care systems have become more acute, State and local agencies have become increasingly interested in developing new strategies to try to strengthen families and prevent family disruption, as well as to reunite families after a child has been placed in foster care.

As Charles Hayward, Secretary of the Delaware Department of Services for Children, Youth, and Their Families, told the Committee on Finance at a hearing last year:

Child welfare programs "have become little more than emergency rooms responding—as we will continue to do—to reports of child abuse and neglect. We are using our limited resources to provide the most expensive treatment and intervention approaches in acute family crises. In short, we are doing too little too late. We need to do more. The future of America's families is at stake."

The Committee's bill is designed to respond to the need of the States for increased funding for child welfare services, while seeking to direct the use of these new funds for specific kinds of services that States are beginning to find most successful in strengthening and preserving families.

Title IV–B is amended to provide entitlement matching funds to States to enable them to develop and provide innovative services programs aimed at preventing unnecessary placement in foster care; helping families to be reunited after a child has been in foster care; promoting planned living arrangements for children who have been placed in foster care, including placement in adoption, where appropriate; and other family support services that the State may choose to provide.

States will be entitled to their share of $150 million in fiscal year 1993, $250 million in fiscal year 1994, $300 million in fiscal year 1995, $350 million in fiscal year 1996, and $400 million in fiscal year 1997 and years thereafter. The Federal matching share will remain at 75 percent. Allotment of funds will be on the same basis as is used under the current title IV–B program (which reflects the size of the State's population under age 21 and per capita income).

Services.—Funds may be used for the planning, development, expansion, and operation of the following services:

(1) preplacement preventive services designed to help children at risk of foster care placement remain with their families (including adoptive families) where appropriate;

(2) reunification services designed to help children return to the families (including adoptive families) from which they have been removed, where appropriate;

(3) followup services designed to sustain and further strengthen families (including adoptive families) after a child has returned home from foster care placement;

(4) where appropriate, services to help children be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

(5) respite care to provide assistance for any foster care family or adoptive family and any other family that the State agency determines needs such care in order to preserve family stability, with priority to the family of a child with a medical condition or physical, mental, or emotional handicap that requires special assistance (as determined by the Secretary); and

(6) family support services to strengthen the functioning of a family (including an adoptive or foster care family), including services designed to improve parenting skills.

State and local agencies throughout the country are trying out service programs that shift the emphasis from child rescue to preserving the family as a whole. It is the intent of the Committee to encourage the development of these services programs so that they will be widely available to the families that need them.

One type of service that fits this description is what are known as "family preservation" services. Although there are a number of different family preservation program "models" in more than 30 States across the Nation, these programs have certain characteristics in common. When the agency receives a report about child neglect or abuse, if it determines that such intervention is appropriate, it will immediately provide intensive services to the family to try to prevent the need for placement in foster care. These services may include practical concrete services, family therapy, and individual psychological support and counseling. They are characterized by small caseloads for the caseworker, 24-hour a day availability of staff, and by the fact that they are ordinarily provided in the home. In some States, this same intensive approach to services is also being adapted for use in programs to reunite children who have been placed in foster care with their parents. Michigan's Families First program is an example of this approach.

The Committee also anticipates that States will choose to use funds provided by this bill to establish "family support centers," which are aimed at helping families before serious trouble occurs. The State of Maryland, for example, has established such centers in a number of communities around the State where young men and women who want help in becoming better parents may come to receive health and nutrition counseling, encouragement and assistance in completing their education, training in job skills, and guidance in child-rearing skills.

Evaluation.—An authorization of $8 million a year for five years will be provided to enable the Secretary of HHS to evaluate State programs receiving funds under this program. The Secretary will be allowed to conduct these evaluations through contracts with independent research organizations.

States may also use funds available to them under the new Part B funding authority to conduct their own evaluations of their services programs under regulations of the Secretary.

The Secretary must develop procedures to facilitate the coordination of evaluation efforts undertaken by HHS and by the States and must provide technical assistance to the States in planning and designing their evaluations.

In designing the evaluations conducted by the Department of HHS, the Secretary must consult with representatives of organizations representing State and local program administrators; private, nonprofit organizations with an interest in child welfare; and with individuals and organizations that have experience in evaluating child welfare or other related services programs.

Evaluations by the Secretary and by the States must use outcome measures of children and families that can be compared with similar outcome measures of children and families that did not receive these services. The Secretary must assure that an appropriate portion of the evaluations conducted by him will use experimental and control groups.

Beginning in fiscal year 1995, the Secretary must issue an annual report to the Ways and Means and Finance Committees on the status and findings of all evaluations undertaken by the Department. The report shall also include a summary description of State evaluations paid for with these Federal funds.

The Committee expects that both the Secretary of Health and Human Services and the States will use funds made available to them under this bill to rigorously evaluate these new programs, so that at the end of the five-year period during which these evaluations are authorized, there will be the kind of evidence necessary to design even more effective strategies to protect families and children.

By December 1, 1996, based on evaluations conducted by the Secretary and the States, the Secretary must submit a report to the Ways and Means and Finance Committees with recommendations for legislation to improve services provided to families and children under title IV–B so as to strengthen families, to reduce the number of cases in which it is necessary to remove a child from home and place the child in foster care, to promote the reunification of families of children who have been placed in foster care, and to promote planned, permanent living arrangements for children, including adoption, where appropriate.

State plan/reporting requirements.—In order to receive funding for services, each State must submit, on an annual basis, an amendment to its title IV–B plan. The plan amendment must be approved by the Secretary, and must include a detailed description of how the State intends to use its share of the new money. In addition, the State must submit an annual report to the Secretary that summarizes activities actually carried out with funds made available under this legislation. The State must also develop a statement of goals that it expects to achieve over the 5-year period 1993–1997, which must be submitted to the Secretary by January 1, 1993.

State maintenance of effort.—As a condition of receiving funds under this program, States must provide the Secretary with written assurances that State and local funds expended for the purpose of providing child welfare services (excluding foster care maintenance and adoption assistance payments) will be maintained at a level that equals or exceeds the level of funding for these services in fiscal year 1991.

b. Demonstration projects to improve coordination of services (sec. 7102 of the bill)

Present Law

There are a large number of categorical programs serving families and children. However, little systematic effort has been made to coordinate them at the Federal, State, or local level.

Explanation of Provision

The Committee provision addresses the problem of poor coordination of services for families and children by providing Governors with an incentive to develop programs to improve the coordination of services at the State and local levels of government. In addition, it is intended to promote coordination at the Federal level by requiring the Secretaries of Health and Human Services, Education, and Agriculture, as well as the Attorney General, to work together to develop recommendations for the improved delivery of services.

It is the Committee's hope that the Nation's Governors, who placed such an instrumental role in reforming the welfare system, will now turn their attention to the child welfare and foster care systems, and, by their example, will show the way to reform of these systems as well.

As an incentive, beginning October 1, 1992, the Secretary will be required to permit up to 15 States to use Federal title IV–E foster care administrative and child placement (entitlement) matching funds (not to exceed $3 million per year for any one State) to conduct pilot projects to improve the coordination of assistance for families and children. Applications for approval of projects must be submitted by the Governor.

Projects may last up to three years. They must provide for improved coordination of the child welfare, foster care, and adoption assistance programs with several or all of the following programs designed to assist families and children: programs under the Social Security Act (Aid to Families with Dependent Children, Child Support Enforcement, JOBS, Medicaid, and Maternal and Child Health), WIC, education programs, mental health programs, juvenile justice programs, substance abuse programs, programs for the developmentally disabled, and other programs determined by the State and approved by the Secretary.

At the present time, many, if not most, families receiving child welfare services also receive welfare assistance through the Aid to Families with Dependent Children program. The Family Support Act of 1988 made a wide variety of services available to these families, and the Committee hopes that States will look for ways to link these systems together to help families before a crisis arises. The Committee believes that State and local governments can achieve significant improvement in their delivery of services to families by better integration of these Social Security Act services, as well as other services listed above.

In determining which States are to receive demonstration grants, the Committee anticipates that the Secretary will give priority to demonstration projects that are Statewide where he believes that this will best serve the purpose of the provision. Although the Committee recognizes that the amount of funding provided to a State under this bill will not by itself pay for major new Statewide programs, it is hoped that it will provide Governors with an incentive to look for ways to improve the delivery of services on a Statewide basis.

Any State approved by the Secretary to operate such a demonstration project will be required to conduct an evaluation and report the results of the evaluation to the Secretary. States may use regular IV–E administrative/placement matching funds for evaluation.

States receiving grants will be required to identify both Federal and State legislative and non-legislative policies (including administrative structures) that impede or inhibit coordination of the delivery of services to families and children. States must provide the Secretary with information on the steps they have taken or intend to take to eliminate or reduce problems in coordination that result from State or local statutes and policies. They must also provide the Secretary with information on barriers they have identified in Federal legislation and policy that limit States' ability to coordinate services for families and children.

The Secretaries of HHS, Agriculture, and Education, and the Attorney General, will be required to review Departmental policies to determine what changes in regulations and procedures can be made without legislative changes to improve coordination of services for children and families at the Federal, State, and local levels. In undertaking this review, they must consult with representatives of State and local governments.

A report including recommendations for making both legislative and nonlegislative changes to improve coordination must be submitted to the Congress by July 1, 1993, and must include a description of any technical assistance that the Departments will provide to the States to assist them in program coordination.

c. Measure to facilitate adoption (sec. 7103(a) of the bill)

Present Law

Under present law, there must be a review of the status of each foster care child at least every six months by a court or by an administrative panel to determine the necessity for and appropriateness of the child's placement in foster care, as well as the extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

Explanation of Provision

Present law is amended to require, in the case of a child who is legally free for adoption, that the court or administrative body conducting the case review must determine and document for the child the specific steps being taken by the State agency to find an adoptive family for the child, or must make a finding that adoption placement would be inappropriate for the child. This provision is effective for reviews conducted on or after October 1, 1993.

d. Federal matching for certain adopted children (sec. 7103(b) of the bill)

Present Law

Title IV–E provides Federal matching for foster care maintenance payments made on behalf of an AFDC-eligible child. If the foster child is subsequently adopted by a family that is not an AFDC family, and that adoption is disrupted, the child is no longer considered to be an AFDC-eligible child. Therefore, when the child returns to foster care, it is no longer eligible for Federally-matched foster care payments, and is also not eligible for adoption assistance payments if it is placed for adoption with a subsequent family.

Explanation of Provision

Beginning October 1, 1992, States will be allowed to claim title IV–E matching in the case of a child who has previously been determined to be eligible for adoption assistance payments under title IV–E, but who has returned to foster care because the adoption has been set aside by the court. The child would be eligible for foster care maintenance payments, as well as for adoption assistance to facilitate adoption by a second family.

e. Tax deduction for costs of adopting a special needs child (sec. 7104 of the bill)

Present Law

Taxpayers are not allowed to deduct expenses related to adopting a child in determining their Federal income tax liability.

Explanation of Provision

Taxpayers may deduct certain allowable expenses (up to a maximum of $3000) of adopting a special needs child. Allowable expenses include reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses directly related to the legal adoption of the child which are eligible for reimbursement under the title IV–E adoption assistance program. Title IV–E defines a special needs child as a child with respect to whom the State has determined that there exists a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or medical condition or physical, mental, or emotional handicap) that makes it difficult to find an adoptive home for the child.

The provision is effective for adoptions occurring after December 31, 1992.

f. Study of "reasonable efforts" (sec. 7105 of the bill)

Present Law

In order for a State to be eligible for title IV-E funding, the State plan must specify that, in each case, reasonable efforts will be made prior to the placement of a child in foster care to prevent the need for foster care and make it possible for the child to return home (sec. 471(a)(15)). The statute also provides that for each child entering foster care after October 1, 1983, a judicial determination must be made that there were reasonable efforts to prevent placement in foster care (sec. 472(a)(1)).

Explanation of Provision

Not later than 90 days following enactment, the Secretary of HHS must establish an Advisory Committee to study the implementation of the current law requirement that reasonable efforts must be made to prevent the need for removal of a child from the child's home, and to make it possible for the child to return home. The Advisory Committee must submit a report to the Secretary and the Congress with recommendations for improving the implementation of this requirement by January 1, 1994.

The Advisory Committee shall consist of no fewer than 9 members and shall include representatives of: private, nonprofit organizations with an interest in child welfare (including organizations that provide child protective, foster care, or adoption services); hospitals with a significant number of boarder babies; State and local public agencies with responsibility for child protective, foster care, or adoption services; and State and local judicial bodies with jurisdiction over family law.

g. Require placement in least restrictive, most appropriate setting (sec. 7106(a) of the bill)

Present Law

Current law (sec. 475(5)(A)) requires that each State's child welfare and foster care programs must provide for a case plan for each foster care child that is designed to achieve placement in "the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interests and special needs of the child."

Explanation of Provision

The current law requirement specifying that each child must have a case plan designed to achieve placement in "the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interests and special needs of the child" will be modified to require placement in "the least restrictive (most family like) *and most appropriate* setting available and in close proximity to the parents' home, consistent with the best interests and special needs of the child". The provision is effective October 1, 1992.

It is generally agreed by individuals working in the field of foster care that if a child must be placed outside the family home, it is ordinarily desirable that the child be placed in a family-like situation. In most cases this means placement in a foster family home. However, in writing the "least restrictive" requirement in 1980, the Congress included language, quoted above, that also requires that the placement be "consistent with the best interests and special needs of the child."

It has come to the attention of the Committee that, despite this language requiring placement consistent with the best interests and special needs of the child, there has sometimes been a tendency on the part of State and local agencies to equate the requirement for placement in the "least restrictive" setting as tantamount to requiring placement in a foster home despite the fact that for a particular child, an alternative setting might be more appropriate.

For example, the Committee is aware of situations where youths have been placed in foster homes that are ill-equipped to deal with their emotional or other needs, with the result that a youth may be moved from one unsatisfactory foster home to another before his or her problems become so acute that alternative placement is recognized as necessary.

The Committee's amendment is designed to emphasize the need for States to evaluate each child's needs and situation, and to balance the requirement for placement in the least restrictive setting with the need to place the child in a setting that is appropriate to the child's needs. In most cases this will be in a foster home, but this should not be the presumption without considering the needs of the child. The Committee believes that each child's needs should be evaluated on an individual basis, and the placement that is selected for the child should take into account the kind of setting and services that are most appropriate for the child.

h. Participation by citizen review volunteers (sec. 7106(b) of the bill)

Present Law

The statute requires the review of the status of each child in foster care no less frequently than every six months by either a court or by administrative review to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

In addition, each child in foster care must have a dispositional hearing held in a court of competent jurisdiction or by an administrative body appointed or approved by the court within 18 months after the original placement, and periodically thereafter, to determine the future status of the child.

Currently, 22 States use citizen volunteers to review foster care cases and to make recommendations at administrative reviews and court hearings. There is no specific statutory language authorizing citizen participation in these processes.

Explanation of Provision

The statute is amended to specify that, to the extent determined appropriate by the State, case reviews may include the participation by citizen volunteers in making recommendations at either the court or administrative reviews and dispositional hearings described above. The provision is effective upon enactment.

i. Demonstration projects to facilitate return home for an AFDC child (sec. 7107 of the bill)

Present Law

Under present law, if a child is removed from an AFDC home and placed in foster care, the family is not eligible for an AFDC payment on behalf of the child until the month that the child returns home. If the child is the only dependent child in the family, the family will not be eligible for any AFDC payment until the month that the child returns home.

Explanation of Provision

The Secretary of HHS shall enter into an agreement with up to 6 States to conduct demonstration projects to test and evaluate whether family reunification can be facilitated by allowing a family to receive AFDC for the month prior to the month in which a child returns home from foster care (in an amount which the family would be eligible to receive if the child were living in the home). For that month, States may also provide for a payment to meet special needs, such as a bed or other furniture or equipment that the child may need. Demonstration projects may last up to 3 years. No project may be conducted after January 1, 1997.

j. Enhanced federal funding for data collection systems (sec. 7108 of the bill)

Present Law

There is no provision for enhanced Federal matching to encourage States to develop and install statewide data collection and information retrieval systems to administer the title IV-B and title IV-E programs, or for implementing a provision included in the 1986 Budget Reconciliation Act requiring States to establish Statewide information systems.

The 1986 legislation included an amendment mandating certain studies and reports to Congress related to the feasibility of establishing a system for the collection of certain foster care and adoption data. The amendment, which added a new section 479 to the Social Security Act, required the Secretary of HHS to establish an Advisory Committee on Adoption and Foster Care Information.

On October 1, 1987, the Advisory Committee submitted to the Congress the results of a study which identified the types of data necessary to assess on a continuing basis the incidence, characteristics and status of adoption and foster care. On May 26, 1989, the Secretary of HHS submitted to Congress a report, due on July 1, 1988, proposing a method of establishing, administering and financing a system for the collection of data relating to adoption and foster care in the United States. However, HHS has not yet promulgated regulations providing for the implementation of the information system. The law requires final implementation of the system no later than October 1, 1991.

Explanation of Provision

Effective January 1, 1993, States may claim 90 percent Federal matching funds for costs of planning, designing, developing, or installing a statewide data collection and information retrieval system (including the full cost of the hardware components of such system) that is approved by the Secretary for purposes of administering the title IV-B child welfare and title IV-E foster care and adoption assistance programs, and that meets the requirements of section 479.

To be eligible for Federal matching funds, a system must be determined by the Secretary as likely to provide more efficient, economical, and effective administration of the title IV-E and title IV-B programs.

Matching will be available until September 30, 1995, by which time a system meeting the requirements of section 479 must be in place. Systems must be capable of interfacing with the State's AFDC system to verify AFDC eligibility of a foster care child. Title IV-E Federal administrative matching funds may be used to pay for operating costs with respect to IV-E eligible children. Title IV-B funds may also be used to pay for operating costs (although they may not be used to draw down IV-E matching funds).

k. Extend and improve the independent living program (sec. 7109 of the bill)

Present Law

In 1985 the Committee on Finance approved the establishment of the independent living program to help youths make the transition from foster care to independent living. The amendment was included in the Budget Reconciliation Act of 1985. As amended, it allows States to provide services to all youths age 16 who are in foster care, including those who are not receiving title IV-E maintenance payments. States may also provide services to youths up to age 21 whose foster care payments ceased after they attained age 16.

Independent living program services may include those that enable participants to seek a high school diploma or take part in vocational training; provide training in daily living skills, budgeting, locating housing and career planning; provide for counseling; coordinate services; establish outreach programs; and provide an independent living plan in the youth's case plan.

The statute authorizes $50 million dollars in entitlement funding for fiscal year 1990 (increased from $45 million in prior years); $60 million in 1991; and $70 million in 1992. For fiscal years 1991 and 1992, States are required to provide 50 percent Federal matching for amounts above $45 million. The program is not authorized beyond fiscal year 1992.

Explanation of Provision

The independent living program, designed to assist foster care youths in making the transition from foster care to independent living, will be modified to:

(1) extend the program permanently; and

(2) allow youths in independent living programs to accumulate assets sufficient to enable them to establish their own households (as determined by the State agency) without losing eligibility for maintenance payments or Medicaid.

These provisions are effective October 1, 1992.

A study of the program by Westat, Inc., under contract with the Department of HHS, found that youths who had been in foster care were a troubled population. In the study population, two-thirds of 18-year-olds did not complete high school or a GED, and 61 percent had no job experience. In addition, 38 percent had been diagnosed as emotionally disturbed, 17 percent had a drug abuse problem, 9 percent had a health problem, and 17 percent of the young women were pregnant. The group also lacked placement stability. During the time they were in foster care 58 percent experienced at least three living arrangements and approximately 30 percent of the youth had been in substitute care for an average of nine years.

Housing is also a significant problem. According to a 1985 study, an estimated 7500 youth who were discharged from foster care were homeless in New York City. A 1984 study found that more than one in four children who grew up in foster care and were then questioned as young adults reported severe or moderate housing problems.

It is the belief of the Committee that the changes in the independent living program contained in this bill will enable States to provide assistance to foster care youths in addressing these and other serious problems that they commonly encounter.

l. Improvements in child welfare training (sec. 7110 of the bill)

Present Law

Title IV-B of the Social Security Act (section 426(a)(C)) authorizes such sums as may be necessary to enable the Secretary of Health and Human Services to make grants to public or private nonprofit institutions of higher education for training personnel for work in the field of child welfare.

Explanation of Provision

The current child welfare statute authorizing Federal funding for child welfare training is amended to ensure that students who receive training under this provision actually work in the child welfare system, and to make students and institutions more accountable for the use of funds by reinforcing the link between child welfare study and actual practice in the child welfare field. The amendment would:

(1) require students receiving stipends to: participate in a related field placement on a regular basis, and to commit to and complete full-time post-graduation employment in a public or private non-profit child welfare agency (one year for each year of support received);

(2) require institutions receiving funds to: provide appropriate student supervision and support, including formal agreements with local child welfare agencies for the onsite training of recipients; develop and implement curricula which reflect current knowledge and best practices in delivering child welfare services, and consult with child welfare agencies in developing such curricula; and implement a system to track (for a period of three years) students who receive training in family and child welfare services to determine the percentage of trainees who secure and retain employment in the child welfare field; and

(3) allow those already working in the child welfare system (including either a public or private non-profit agency) to be eligible for stipends in order to complete degree requirements.

These provisions are effective for grants awarded on or after January 1, 1993.

In addition, the Secretary of HHS is required, not later than April 1, 1993, to publish final regulations establishing guidelines to assist States in using Federal matching funds that are authorized under current law for the purpose of providing training for individuals who are employed or preparing for employment by State and local child welfare agencies.

The Secretary is also required to develop and publish a model staff recruitment, training, and staff retention program for use by such agencies, by April 1, 1993.

The present law authority to match State expenditures for training of foster and adoptive parents and for training staff of approved child care institutions providing care to foster and adopted children, which will expire at the end of fiscal year 1992, is extended for three years.

m. Health care plans for foster children (sec. 7111 of the bill)

Present Law

The State agency is required to have a case plan for each foster child in its care. The case plan must include, to the extent available and accessible, the health and education records of the child, including the names and addresses of the child's health and educational providers; the child's school record; a record of the child's immunizations; the child's known medical problems; and other relevant health and education information concerning the child.

Explanation of Provision

Each child's case plan must also include a record indicating that the child's foster care provider was advised (where appropriate) of the child's eligibility for early and periodic screening, diagnostic, and treatment services under title XIX (Medicaid). The provision applies to case plans established or reviewed on or after January 1, 1993.

n. Demonstration projects (secs. 7112 and 7113 of the bill)

Present Law

There is no specific statutory authority for demonstration projects under the foster care and adoption assistance programs.

Explanation of Provision

The Secretary of Health and Human Services is authorized to approve up to 10 demonstration projects under which States will be given more flexible spending authority and will not be required to meet certain requirements of the child welfare and foster care programs.

Demonstrations may include:

(1) projects to prevent family dissolution;

(2) Projects to promote reunification of a foster child with the child's own family;

(3) projects to expedite permanent placement of children who are in foster care, are boarder babies, were abandoned at or shortly after birth, have parents addicted to drugs, or were abused;

(4) projects to train individuals who live in a community to provide family support services to other families in the community with children at risk of being placed in foster care.

(5) Projects that provide "adult mentoring" services by adult volunteers to at-risk children or young adults who are in need of additional, on-going contact with adult role models, such as "The Club" (Career and Life United in Boston), sponsored by the Action for Boston Community Development Inc.; or

(6) projects to test an innovative approach to other significant child welfare services issues.

Projects may be statewide or may be operated in part of a State. The Secretary must approve at least 2 and not more than 4 applications by States with populations of less than 1.5 million; at least 3 and not more than 5 by States with populations between 1.5 and 7 million, and at least 2 and not more than 4 by States with populations over 7 million. The Secretary must approve no more than 4 applications for any one geographical region of the country.

States that apply for demonstration grants must commit to carrying out the project for not less than two and not more than five consecutive fiscal years.

States that are approved to conduct Statewide demonstration projects will receive a grant that reflects the sum of the amount paid to the State for fiscal year 1992 for child welfare services and foster care; the State's share of any increase in the appropriation for the child welfare program over the level for 1992; and 20 percent of the amount that would have been payable to the State for the immediately preceding fiscal year under the child welfare program if the State were not authorized to conduct a demonstration project. (For projects that are not Statewide, these amounts will be adjusted to reflect the portion of the State's foster care caseload that is within the area being served by the demonstration.)

All demonstrations must be evaluated by an entity or entities selected by the secretary. The cost of evaluations (over and above ordinary State reporting costs) will be paid by the Secretary.

In addition, the State of New York would be allowed to conduct a deficit-neutral demonstration project to test how to enhance the practices and procedures that will expedite the discharge of children from foster care, including the appropriate reunification of children with their families, or the adoption of children by suitable adoptive parents. In order for the demonstration to be approved, the State must agree to conduct an evaluation approved by the Secretary.

o. Quality reviews (secs. 7114, 7115 and 7116 of the bill)

Present Law

Section 427 of the Social Security Act sets forth specified child protections that must be in place in order for a State to receive its allotment of appropriated title IV–B (child welfare) funds in excess of $141 million. These "incentive funds" have grown in importance, rising from just 10 percent ($15.3 million) of the total amount appropriated for title IV–B in 1982, to 49 percent ($132.9 million) of the appropriation for 1992.

In 1980, following the enactment of the Adoption Assistance and Child Welfare Act of 1980, the Department of Health and Human Services identified a total of 18 child protections required by section 427. In what came to be known as "427 reviews," the caseload of each State receiving incentive funds is examined to determine compliance with these child protections. States are not required to initiate this review process, but nearly all States have elected to do so.

Three separate case record surveys are conducted in each state (an initial, subsequent, and triennial review) by a team composed of Federal, regional, and State personnel. Each of these reviews demands a higher level of compliance, and a State must have successfully passed the preceding review before proceeding to the next one.

If a State is found out of compliance, the Department issues a disallowance against the State's allotment of incentive funds for the coming fiscal year. States may appeal the disallowance to the Departmental Appeals Board, but the Department routinely withholds from a State the amount of the disallowance until the appeals process is completed.

The "427 review" process has been criticized on various grounds, and the Congress several times has acted to restrict HHS from disallowing Federal funds because a State failed to review.

In addition to the "427 reviews," the Department reviews expenditures made under the title IV–E foster care and adoption assistance programs. Section 471(a)(13) requires States to arrange for periodic and independent audits of their activities under titles IV–B and IV–E at least every three years. Section 471(b) allows the Secretary to withhold or reduce payments to States upon a finding that a State plan no longer complies with State plan requirements, or, in the State's administration of the plan, there is substantial failure to comply with its provisions.

In practice, the Secretary may disallow expenditures for Federal reimbursement under title IV–E as a result of several review procedures. These include audits conducted pursuant to section 471(a)(13); audits conducted by the HHS Inspector General; regional office reviews of quarterly expenditure reports submitted by States as part of the claims reimbursement process; or Federal financial reviews. States may appeal disallowances to the Departmental Appeals Board.

Explanation of Provision

The Secretary of Health and Human Services is required to submit to the Committee on Finance and the Committee on Ways and Means recommendations for legislation to establish a system for (1) the review of each State child welfare program, and (2) the provision of technical assistance to State programs. The term "child welfare program" is defined to mean all activities engaged in by the State under parts IV–B and IV–E of the Social Security Act.

Recommendations must include provisions requiring each State child welfare program to be reviewed periodically to determine whether and the degree to which the program complies with State plan requirements, and the extent to which the amounts claimed to have been expended by the State for foster care maintenance payments and adoption assistance are eligible for Federal reimbursement. In addition, recommendations must specify the criteria that are to be used to assess whether the State's program has complied with Federal requirements, and the degree of such compliance.

In developing the recommendations, the Secretary must consult with representatives of State agencies administering child welfare programs; representatives of private, nonprofit organizations which have an interest in child welfare; and such other individuals as the Secretary may determine. The recommendations are due prior to May 1, 1993.

The provision of the Omnibus Budget Reconciliation Act of 1989 that prohibits the Secretary from collecting any funds from States as a result of a disallowance made in connection with a section 427 triennial review for any year prior to 1991 would be amended to extend the prohibition to apply to reviews for any fiscal year prior to 1993. In addition, the prohibition would apply to all reviews, not just triennial reviews.

The Department of HHS would be required to pay claims as submitted by a State within 90 days of receipt unless a deferral or disallowance has been issued within that time period.

p. Commission on childhood disability (sec. 7117 of the bill)

Present Law

The Social Security definition of disability that is applicable to adults in both the Title II Disability Insurance and Title XVI Supplemental Security Income programs requires that an individual be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last at least 12 months or result in death. To be found disabled, an adult must have impairments that either meet or equal published listings of severely disabling conditions, or be found because of a combination of medical and vocational factors (age, education, work experience) to be unable to engage in any kind of substantial work.

The SSI program which provides for benefits to disabled children under age 18, modifies this definition by providing that a child is disabled if he or she suffers from any medically determinable physical or mental impairments. Prior to the Supreme Court decision in the *Zebley* case, SSA published childhood medical listings of impairments that children had to meet or equal to be found disabled. *Zebley* required that SSA revise its regulation to provide for the childhood equivalent of vocational factors used in the determination of adult disabilities. SSA published regulations in February, 1991 that require the assessment of children's abilities to engage in age appropriate activities. This assessment is required to determine if children are disabled in circumstances where their impairments are severe but do not meet or equal the medical listings.

Explanation of Provision

The Secretary of Health and Human Services would be required to establish a 15 member Commission on the Evaluation of Disability in Children within 90 days of enactment. The Commission would be charged, in consultation with the National Academy of Sciences, with conducting a study of the effects of the current definition of disability as it applies to children and making recommendations as to any appropriate changes in the definition. The Commission would also be charged with studying whether the need by families for assistance in meeting high costs of medical care for children with serious physical or mental impairments, whether or not they are eligible for disability benefits under title XVI, might appropriately be met through expansion of Federal health assistance programs.

The Commission would be composed of recognized experts in fields of medicine dealing with children, psychology, education and rehabilitation, law, disability program administration, and other fields of expertise as determined by the Secretary. It would be required to report its findings and recommendations, including any recommendations for legislative or administrative change, to the Committee on Finance and the Committee on Ways and Means by September 1, 1994.

PART II—SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAMS) (SEC. 7121 OF THE BILL)

Present Law

Neither title IV–B (Child Welfare Services program) nor title XIX (Medicaid) currently provides for the establishment of comprehensive substance abuse prevention and treatment programs for pregnant women and parents with children.

Explanation of Provision

Title IV–B is amended to authorize $75 million for fiscal years 1993 and 1994, $100 million for fiscal years 1995 and 1996, and $125 million for fiscal year 1997 in entitlement matching funds to pay for non-medical substance abuse treatment support services for pregnant women and caretaker parents with children. Support services include home visitation services, nutrition services, child care, and parenting education; substance abuse prevention, treatment, and followup services; and any other services determined by the State to be necessary and appropriate to support the participation of an individual in the program. Funds may also be used for the costs of developing and administering a program.

Funds are allocated to States under the same formula that is used for other title IV–B services (which reflects per capita income and child population). Federal matching is at the Medicaid matching rate. The Governor is given the authority to determine which agency in the State will administer the programs.

Medicaid-eligible pregnant women and caretaker parents and their children will be eligible for both existing medical services (funded through the Medicaid program) and substance abuse treatment support services (funded through the new title IV–B program). The State may also use these new funds to pay for support services to other low income pregnant women and caretaker parents and their children, regardless of their eligibility for Medicaid. States are required to give priority for participation in these programs to individuals who are referred to them by the State child welfare agency.

In order to be eligible for funds, the Governor must provide the Secretary of HHS with assurances that services provided with these funds will be coordinated with services provided under the Medicaid and Maternal and Child Health programs, and must report annually on the status of the programs funded under this title. States must also maintain their current level of spending for substance abuse treatment support services.

To be eligible for Federal funding, a program must make available (either directly or through arrangements with others) substance abuse prevention, treatment, and follow-up services; prenatal, gynecological, and pediatric medical services; home visitation; nutrition services; transportation services; child care; parenting education; and such other social and medical services as are determined to be necessary by the State and are allowed under regulations of the Secretary. Services may be provided in either residential or non-residential facilities.

The creation of comprehensive substance abuse programs will be optional with the States. Programs may be established in those areas that the State determines have particular need for such programs.

PART III—AID TO FAMILIES WITH DEPENDENT CHILDREN

1. AFDC assets test (sec. 7131 of the bill)

Present Law

Under provisions of the Omnibus Budget Reconciliation Act of 1981, a family is ineligible for aid if its resources (reduced by any obligations or debts with respect to such resources) exceed $1,000 or such lower amount as the State may determine. This limit does not include a home owned and occupied by the family, or the ownership interest in an automobile (up to such limit as the Secretary prescribes in regulations).

Explanation of Provision

With respect to AFDC recipients, States may, at their option, disregard amounts (non to exceed $8,000) placed in a designated account (including an individual retirement account) or other mechanism approved by the State agency for the purpose of enabling a member of the family to attend a post-secondary education institution or training program. At their option, States may also disregard amounts set aside to enhance employability by other means (such as purchase of an automobile necessary for work), or to purchase a home.

Amounts withdraw from these accounts and used for a nonqualifying purpose must be counted as unearned income.

The provision is effective beginning October 1, 1993. The Secretary of HHS is required to conduct a study of the use made of the provision. Any recommendations the Secretary may have with respect to modifications of the provision must be submitted to the Committee on Finance and the Committee on Ways and Means by January 1, 1997. No new accounts may be approved after September 30, 1997.

2. Disregard of Income and Resources Related to Self-Employment (sec. 7132 of the bill)

Present Law

There is no provision in the AFDC statute that allows a State to disregard income and resources related to ownership and operation of commercial enterprises.

Explanation of Provision

In determining a family's eligibility for AFDC, States may, at their option, exclude as a resource the first $10,000 of the net worth (assets reduced by liabilities with respect thereto) of all microenterprises owned in whole or in part by a member of the family.

In addition, they may consider as earned income to the family only the net profits of such microenterprises. The term "net profits" is defined to mean the gross receipts of the business, minus amounts paid as principal or interest on a loan to the microenterprise, transportation expenses, inventory costs, amounts expended to purchase capital equipment, cash retained by the microenterprise for future use by the business, taxes paid by reason of the business, any premiums paid for insurance against loss and the losses incurred by the business that are not reimbursed by the insurer by reason of a deductible, and the reasonable costs of obtaining one motor vehicle necessary for the conduct of the business.

These special rules for counting income and resources may apply with respect to any microenterprise for a period not to exceed two years.

The term "microenterprise" is defined to mean a commercial enterprise which has five or fewer employees, one or more of whom owns the enterprise.

States that choose this option must ensure that caseworkers are able to properly advise recipients of aid of the option of forming a microenterprise, and will encourage individuals who are interested to participate in a program designed to assist them in such an effort.

The provision is effective October 1, 1992.

3. Delay in AFDC–UP Mandate for Outlying Jurisdictions (sec. 7133 of the bill)

Present Law

The Family Support Act of 1988 required all States to implement the AFDC Unemployed Parent (AFDC–UP) program by October 1, 1990. The requirement for Puerto Rico, Guam, and the Virgin Islands is effective October 1, 1992.

Explanation of Provision

The requirement for implementation of the Unemployed Parent program is delayed until such time as the limitations on Federal matching payments to these jurisdictions for purposes of making AFDC maintenance payments are repealed (section 1108(a) of the Social Security Act).

4. State Option to Use Retrospective Budgeting Without Monthly Reporting (sec. 7134 of the bill)

Present Law

In determining AFDC benefits for recipients, States have the option of using retrospective budgeting under which benefits are based on the family's income and circumstances in a prior month, rather than the current month. However, they may use retrospective budgeting only in cases where families are required to report monthly on their income, resources, and other relevant factors.

Explanation of Provision

Beginning with fiscal year 1993, States would be allowed to determine AFDC benefits using retrospective budgeting without regard to whether the family is required to make monthly reports.

PART IV—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

1. Temporary Increase in Federal Matching Rate (sec. 7141 of the bill)

Present Law

The Family Support Act of 1988 provided for replacement of the Work Incentive (WIN) program with a new Job Opportunities and Basic Skills Training (JOBS) program. The legislation provides Federal matching funds to the States through a capped entitlement mechanism aimed at assuring each State its share of Federal entitlement dollars. The amount of the entitlement is $600 million in fiscal year 1989, $800 million in 1990, $1 billion in 1991, 1992, and 1993, $1.1 billion in 1994, and $1.3 billion in 1995.

The Federal match for the JOBS program is 90 percent for expenditures up to the amount allotted to the State for the WIN program in fiscal year 1987. For additional amounts, the Federal match is at the Medicaid matching rate, with a minimum Federal match of 60 percent for non-administrative costs and for personnel costs for full-time staff working on the JOBS program. The match for other administrative costs is 50 percent. State matching for amounts above the 1987 WIN allocation must be in cash. States receive an amount equal to their WIN allotment for fiscal year 1987 ($126 million for all States). Additional funds are allocated on the basis of each State's relative number of adult recipients.

Explanation of Provision

The Federal matching rates on Federal funding above the WIN allocation are increased by 15 percentage points in fiscal year 1993, 10 percentage points in 1994, and 5 percentage points in 1995. In addition, the cap on funding for fiscal years 1993 and 1994 is increased by $100 million (to $1.1 billion in 1993 and $1.2 billion in 1994). A maintenance of effort provision would require that State and local funds expended for the costs of operating a JOBS program be maintained at their prior year levels.

2. Provision Affecting Indian Tribes (sec. 7142 of the bill)

Present Law

The Family Support Act of 1988 provides Federal funding for JOBS programs administered by Indian tribes whose applications for funding have been approved by the Secretary of HHS. The formula for funding each program is based on the number of adult members of the Indian tribe that receive AFDC. This formula excludes those Indians who live on the Indian reservation but belong to another tribe.

Explanation of Provision

All Indians who live on the reservation, regardless of whether they are members of the tribe, will be counted in determining the tribe's allocation of funds. The provision is effective October 1, 1993.

3. Modification of Work Supplementation Program (sec. 7143 of the bill)

Present Law

Title IV-F of the Social Security Act provides for two kinds of work programs for AFDC recipients. Under the work supplementation program a State may reserve the sums that would otherwise be payable to participants in AFDC and use such sums instead for the purpose of providing and subsidizing jobs as an alternative to the AFDC grant. Jobs may be provided to an AFDC recipient either by the AFDC agency or by any other employer. In practice, States have generally used the work supplementation program to subsidize wages of recipients who take jobs with private employers.

Under the Community Work Experience program (CWEP), a State may require an individual to work in a public job in exchange for the welfare grant, with the number of hours that an individual may be required to work limited to the amount of AFDC payable with respect to the individual's family divided by the greater of the Federal minimum wage or the applicable State minimum wage.

Under both programs, recipients may not be assigned to any established unfilled position vacancy.

Explanation of Provision

Under the work supplementation program, the prohibition against assigning an individual to an unfilled position vacancy is repealed. Assignments to work supplementation positions must be in the private sector. The provision is effective with respect to assignments made on or after October 1, 1992.

PART V—COMMUNITY WORKS PROGRESS DEMONSTRATIONS

(sec. 7151 of the bill)

A Community Works Progress demonstration program is established under title XI of the Social Security Act. The Secretary of HHS, in consultation with the Secretary of Labor, will administer the program. The Secretary must award grants to 3 urban projects and 2 projects that are Statewide. Demonstrations may last up to 4 years. Entities that will be eligible to apply for grants include both public and private nonprofit organizations.

Approvable projects will include those projects that the Secretary determines will serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and child care.

For each of fiscal years 1994, 1995, 1996, and 1997, each entity that has an application for a grant approved by the Secretary shall be entitled to payments in an amount equal to its expenditures to carry out the demonstration. The amounts authorized shall be $100 million in each of fiscal years 1994, 1995, 1996, and 1997. No more than 25 percent of funds may be used for capital costs.

In awarding grants, the Secretary shall consider the following factors: unemployment rate; proportion of population receiving public assistance; per capita income; degree of involvement and commitment demonstrated by public officials; the likelihood that the project will be successful; the contribution that the project is likely to make toward improving the life of residents in the community; geographic distribution; the extent to which the project will emphasize the development of projects encouraging team approaches to work on real, identifiable projects; the extent to which private and community agencies will be involved; and such other criteria as the Secretary may establish.

Those eligible to participate in projects will include individuals who are receiving, eligible to receive, or at risk of becoming eligible to receive, AFDC; individuals receiving, eligible to receive, or (while participating in a project) have exhausted, unemployment compensation; and non-custodial parents of children who are receiving AFDC.

Participants who are receiving benefits under the unemployment compensation and aid to families with dependent children programs will receive, in addition to such benefits, compensation in an amount equal to 10 percent of the average of the amount of AFDC and unemployment compensation paid to recipients of these benefits in the area served by the project. To the extent feasible, participants will receive compensation in the form of a single check for wages rather than in the form of separate benefit checks. Individuals not receiving either unemployment compensation or AFDC will be compensated in an amount equal to the Federal minimum wage, or the applicable State minimum wage, whichever is greater.

The Secretary may approve an application that provides for an alternative method of compensation so long as it does not reduce the amount received by a participant below the minimum wage and assures a bonus payment to AFDC and unemployment compensation beneficiaries who participate in the project.

In order to assure that each individual will have time to seek alternative employment or to participate in an alternative employability enhancement activity, no individual may participate for more than 32 hours a week.

Individuals participating in projects will be eligible for assistance to meet necessary costs of transportation and child care, as well as necessary costs of uniforms or other work materials.

Approved demonstrations must ensure that the project will not result in displacement of currently employed workers and will not impair any contracts for services or any collective bargaining agreements existing at the time the project commences. There must also be assurances that there will be consultation with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by the project.

In approving grants, the Secretary must assure that there will be rigorous evaluation of the projects. Up to 3 percent of the amount granted to each entity may be used for this purpose. Interim reports to the Finance and Ways and Means Committees are due annually, with a final report due four years after the first grant is awarded.

The Secretary must publish the grant application notice no later than January 1, 1993.

PART VI—SUPPLEMENTAL SECURITY INCOME

1. Prevention of Adverse Effects on SSI Eligibility When Spouse or Parent is Absent Due to Military Service (sec. 7161 of the bill)

Present Law

If the parent or spouse of family members who receive SSI payments resides in the household and then is required to be absent from the household because of an active military duty assignment, this absence can cause the family member to lose benefits or eligibility for SSI. This is because absence from the household causes more of the income of the absent member to be attributed to those receiving SSI in the household. Also, if the military duty assignment involves armed conflict, the service member may receive hazardous duty pay. This additional income, if sent back to the household, can also reduce the SSI payments or cause ineligibility of family members.

Explanation of Provision

The proposal would ensure that service members' absence from their households on active military duty and receipt of hazardous duty pay would not result in a reduction in SSI benefit amounts or a loss of SSI eligibility for their spouses or children at home.

2. SSI Eligibility for Children of Armed Forces Personnel in Puerto Rico and U.S. Territories (sec. 7162 of the bill)

Present Law

SSI benefits are generally continued for children who are U.S. citizens and who accompany their parents on U.S. military assignments to foreign countries. Benefits do not continue if the parents are stationed in Puerto Rico or in the territories or possessions of the United States.

Explanation of Provision

The proposal would continue SSI benefits to children who are U.S. citizens if they received SSI benefits in the United States and then accompany their parents on U.S. military assignment to Puerto Rico or territories or possessions of the United States. The provision is effective upon enactment.

3. Definition of Disability for Children under Age 18 Applied to All Individuals under Age 18 (sec. 7163 of the bill)

Present Law

The SSI law provides a definition of disability applicable to children. The SSI program defines a child as someone who is under age 18, except for individuals under age 18 who are married or are heads of household.

Explanation of Provision

The proposal would extend the SSI childhood definition of disability to any person under age 18. The provision is effective October 1, 1992.

4. Valuation of Certain In-Kind Support and Maintenance When There Is a Cost of Living Adjustment in SSI Benefits (sec. 7164 of the bill)

Present Law

Under present law, a person who lives in the household of another person and receives in-kind support and maintenance (ISM) from the household has his or her SSI benefit reduced by an amount equal to one-third of the full Federal SSI benefit. Regulations provide for a similar reduction when an individual lives in his or her own household and receives in-kind support and maintenance, or lives in another person's household and receives food or shelter, but not both.

Under the two-month retrospective accounting system that generally governs SSI benefit calculations, the values of the deductions for receipt of ISM are determined using the Federal SSI benefit level that was in effect two months prior to the current month. As a result, when a cost of living adjustment (COLA) increases the Federal benefit level and an individual's benefit payment each January, the amount deducted because of ISM from the individual's January and February benefits remains based on the lower Federal benefit level for November and December. In March, when retrospective accounting causes the deduction for ISM to be recalculated and increased based on the higher January Federal benefit standard, the individual's benefit is then decreased. This is confusing for SSI recipients, whose benefits are increased in January and February due to the COLA, then are decreased beginning in March due to retrospective accounting for ISM.

Explanation of Provision

The proposal would require the use of the Federal benefit level for the current month in determining the value of ISM to be used in calculating an individual's SSI payment for that month. This would ensure that benefits beginning in January contain the proper COLA increase and would eliminate the benefit reduction for ISM that now occurs in March. The provision is effective with respect to benefits paid after calendar year 1992.

5. Elimination of Obsolete Provisions Relating to Treatment of the Earned Income Tax Credit (sec. 7165 of the bill)

Present Law

Beginning in 1991, the Earned Income Tax Credit (EITC) was excluded from the tests of income and resources under the SSI program by the Omnibus Budget Reconciliation Act of 1990. However, provisions of Title XVI of the Social Security Act, which authorizes the SSI program, were not changed to conform.

Explanation of Provision

The change would delete provisions of Title XVI that define EITCs as earned income for SSI purposes, and that provide for adjustment to SSI benefits for individuals who receive advance payment of EITCs.

PART VII—OTHER INCOME SECURITY PROVISIONS

1. Measurement and Reporting of Welfare Dependency (sec. 7171 of the bill)

Present Law

Currently there is no mechanism to collect statistical data that can be used to assess welfare dependency in the United States.

Explanation of Provision

The Secretary of Health and Human Services is required to develop indicators and rates related to the level of welfare dependency in the United States, and predictors that are correlated with welfare dependency. In addition, the Secretary must assess the data needed to report annually on these indicators, rates, and predictors, including the ability of existing data collection efforts to provide such data, and any additional data collection needs.

Not later than two years after the date of enactment, the Secretary must provide an interim report with conclusions resulting from the development and assessment described above to designated Committees of Congress.

A temporary Advisory Board on Welfare Dependency will be created, composed of 12 members with equal numbers appointed by the House of Representatives, the Senate, and the President. The Board will be composed of experts in the fields of welfare research and statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues. The Board will provide advice and recommendations to the Secretary on the development of indicators, rates, and predictors of welfare dependence, and the identification of data collection needs and existing data collection efforts. It will also provide advice on the development and presentation of the annual welfare dependency report.

The Secretary will be required to prepare an annual report on welfare dependency that attempts to identify indicators, rates, and predictors of welfare dependency and trends in dependency, and provide information and analysis on the causes of dependency. The first report is due not later than 3 years after the date of enactment.

2. Extend National Commission on Children (sec. 7172 of the bill)

Present Law

The National Commission on Children was established in 1987 as a bipartisan commission to develop recommendations for public and private sector policies to improve opportunities for children and youths to become healthy, secure, educated, economically self-sufficient, and productive adults. Its final report, "Beyond Rhetoric: A New American Agenda for Children and Families," was issued on June 24, 1991. The Commission is still in the process of developing information to inform the public about the status of children and on proposals to address their needs through public and private sector programs.

Explanation of Provision

The proposal would allow the Commission to complete its work by extending the terms of the members to December 31, 1992, and by providing Commission staff until March 31, 1993 to close down the Commission's operations. It also eliminates a conflict in provisions of OBRA 90 regarding an interim reporting date for the Commission by specifying the correct date in 1990.

3. Require Study of Program Coordination (sec. 7173 of the bill)

Present Law

Although the AFDC, food stamp, and medicaid programs all serve low income families, the eligibility rules and procedures for these programs vary significantly.

Explanation of Provision

Not later than six months after the date of enactment, the Secretary of HHS and the Secretary of Agriculture are required to report jointly to the President and the Congress on (1) program rules which govern the AFDC, food stamp, and medicaid programs; (2) how the program rules differ; (3) which rules require statutory action in order to achieve uniformity; and (4) which rules could be made uniform without statutory change.

The rules to be included in the report must include all rules related to administrative procedures, resources, definitions of countable income, and definitions of income disregards and exemptions. Income eligibility rules are not to be included.

4. Declaration of Citizen Alien Status (sec. 7174 of the bill)

Present Law

Section 1137(d) of the Social Security Act specifies that States must require, as a condition of eligibility for the AFDC, medicaid, unemployment compensation, and food stamp programs, a declaration in writing by each adult individual (or, in the case of a child, by another individual on the child's behalf), stating whether the individual is a citizen or national of the U.S., and if not, that the individual is in a satisfactory immigration status.

Explanation of Provision

The statute would be amended to allow one adult member of a family or household to sign a declaration on behalf of other adults in the household. In addition, in the case of a newborn child, an adult would be permitted to sign a declaration on behalf of the child no later than the next redetermination of the eligibility of the family or household. The provision is effective October 1, 1992.

5. Exclusion of Income Received by Indians from Interests Individually Held in Trust or Restricted Lands (sec. 7175 of the bill)

Present Law

Under present law, up to $2,000 per payment received by an Indian from tribally-owned trust lands is exempted from consideration under SSI, AFDC, and other Federal welfare programs. This income is distributed on a per capita basis to tribal members, but the land which produces the income is owned by the tribe as a whole and managed by the Bureau of Indian Affairs. The value of individually-owned trust or restricted Indian lands is excluded from resources under the SSI and AFDC programs, but income paid to the Indian owner from leases of these lands is counted as income.

Explanation of Provision

In determining eligibility and benefit levels under the SSI and AFDC programs, up to $4,000 per year of income paid to an Indian would be exempted when that income is derived from leases of individually-owned trust or restricted Indian lands. The provision is effective October 1, 1992.

6. Extension of Demonstration to Expand Job Opportunities (sec. 7176 of the bill)

Present Law

The Family Support Act of 1988 established a demonstration project under which not less than 5 nor more than 10 nonprofit organizations were authorized to conduct demonstration projects to create employment opportunities for certain low-income individuals. The amount authorized for these grants is $6.5 million for each of fiscal years 1990, 1991, and 1992.

Explanation of Provision

The demonstration project would be continued for 2 additional years. Prior to January 1, 1994, the Secretary must issue a final report to the Congress, including an evaluation of the projects and any recommendation the Secretary determines to be appropriate.

7. Disclosure of Information to Railroad Retirement Board (sec. 7177 of the bill)

Present Law

The Railroad Unemployment Repayment Tax requires railroad employers to repay loans made from the Railroad Retirement Account to the Railroad Unemployment Insurance Account. The Railroad Retirement Board (RRB) does not have access to tax return information filed under the Railroad Unemployment Repayment Tax provision.

Explanation of Provision

The proposal would amend the Internal Revenue Code to allow the RRB to obtain Railroad Unemployment Repayment Tax information needed to assure and verify proper repayment of the loans. The provision is effective upon enactment.

8. Provision Relating to Misuse of Social Security and Related Symbols (sec. 7178 of the bill)

Present Law

The misuse of words, letters, symbols and emblems of the Social Security Administration (SSA) and the Health Care Financing Administration (HCFA) is prohibited by law, in order to prevent organizations from conducting mailings or solicitations that might create the false impression among recipients that a product was endorsed, approved or authorized by SSA or HCFA. The Secretary of Health and Human Services is authorized to impose civil monetary penalties for misuse, not to exceed $5,000 per violation or, in the case of a broadcast or telecast, $25,000 per violation. The total amount of penalties that may be imposed on an individual or organization is limited to $100,000 a year.

Explanation of Provision

The proposal would strengthen the deterrent against mass mailings that use deceptive practices by making each piece of mail violation, and by eliminating the $100,000 ceiling on annual penalties. It would add the names, letters, symbols, or emblems of the Supplemental Security Income (SSI) and Medicaid programs as protected items. It would also add a more inclusive prohibition against the use of the names or symbols that are presented in a manner which "reasonably could be interpreted or construed as conveying" a relationship to SSA or HCFA.

The Department of Justice would no longer have to issue a formal declination of action before the Secretary could pursue a civil monetary penalty. The Secretary of HHS would be required to report annually to the Congress concerning deceptive practices involving SSA and actions taken against violations.

The provision is effective with respect to violations occurring after the date of enactment.

TITLE VIII. MISCELLANEOUS REVENUE PROVISIONS

SUBTITLE A. PROVISIONS RELATING TO CONTRIBUTIONS TO CHARITIES

1. Repeal application of minimum tax to gifts of all appreciated property (sec. 8001 of the bill and sec. 57(a)(6) of the Code)

Present Law

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the fair-market value of property contributed to a charitable organization.[1] However, in the case of a charitable contribution of inventory or other ordinary-income property, short-term capital gain property, or certain gifts to private foundations, the amount of the deduction generally is limited to the taxpayer's adjusted basis in the property.[2] In the case of a charitable contribution of tangible personal property, a taxpayer's deduction is limited to the adjusted basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose (sec. 170(e)(1)(B)(i)).

For purposes of computing alternative minimum taxable income (AMTI), the deduction for charitable contributions of capital gain property (real, personal, or intangible) is disallowed to the extent that the fair-market value of the property exceeds its adjusted basis (sec. 57(a)(6)). However, in the case of a contribution made in a taxable year beginning in 1991 or made before July 1, 1992, in a taxable year beginning in 1992, this rule does not apply to contributions of tangible personal property.

Reasons for Change

The committee believes that the temporary AMT exception for contributions of appreciated tangible personal property has induced additional charitable giving. Thus, by permanently extending this rule and expanding it to apply to all appreciated property gifts, taxpayers will be allowed the same charitable contribution deduction for both regular tax and alternative minimum tax purposes. This will provide an additional incentive for taxpayers to make contributions of appreciated property.

In addition, to reduce uncertainty and disputes arising out of charitable contributions of property, the committee believes that the Treasury Department should develop a proposed procedure under which the Secretary's position as to the value of tangible personal property can be ascertained for Federal income tax purposes prior to the donation of such property to a charity.

Explanation of Provision

Permanent AMT relief for donated appreciated property

The bill permanently repeals section 57(a)(6). Thus, the difference between the fair-market value of donated appreciated property (real, personal, or intangible property) and the adjusted basis of such property is not treated as a tax preference item for alternative minimum tax (AMT) purposes. If a taxpayer makes a gift to charity of property (other than inventory or other ordinary income property, short-term capital gain property, or certain gifts to private foundations) that is real property, intangible property, or tangible personal property the use of which is related to the donee's tax-exempt purpose, the taxpayer is allowed to claim a deduction for both regular tax and AMT purposes in the amount of the property's fair-market value (subject to present-law percentage limitations).[3]

Treasury report on advance valuation procedure

The Treasury Department is directed to report to Congress not later than one year after enactment on the development of a procedure under which taxpayers could elect to seek agreement with the IRS as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization, including the setting of possible threshold amounts for claimed value (and the payment of fees by taxpayers), possible limitations on applying the procedure only to items with significant artistic or cultural value, and recommendations for legislative action needed to implement the proposed procedure.

Effective Date

the provision is effective for contributions made in calendar years ending on or after December 31, 1992 The Secretary of Treasury is required to report to Congress not later than one year after enactment on the development of an advance valuation procedure for certain charitable contributions of tangible personal property.

2. Allocation and apportionment of deductions for charitable contributions (sec. 8002 of the bill and new sec. 864(g) of the Code)

Present Law

Taxpayers may elect to claim a credit against U.S. tax liability for certain foreign taxes which they incur. The foreign tax credit is limited to the amount of U.S. tax otherwise payable on foreign source taxable income. Thus, the foreign tax credit is not available against U.S. tax on U.S. source taxable income. A shift in the source of net income from foreign to U.S. may increase net U.S. tax for some taxpayers by reducing the foreign tax credit limitation and thus the amount of the foreign tax credit which may be claimed.

For purposes of the foreign tax credit limitation, foreign source taxable income generally is computed by (1) determining the items of gross income that are from foreign sources, and then (2) subtracting from those items the taxpayer's deductions that are allocated or apportioned to foreign source gross income. A shift in the allocation or apportionment of expenses from U.S. source to foreign source gross income decreases foreign source taxable income, and thus, may increase U.S. tax by reducing the foreign tax credit limitation.

In general, the primary statutory rule for allocating and apportioning deductions between foreign and domestic income is that there shall be deducted from foreign and domestic source gross income, respectively, the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income (secs. 861(b), 862(b), and 863(b)). In addition, for a taxpayer that is a member of an affiliated group of corporations, expenses that are not directly allocated or apportioned to any specific income producing activity generally must be allocated and apportioned under a so-called "one-taxpayer rule"—that is, as if all of the members of the affiliated group were a single corporation (sec. 864(e)(6)).

---

[1] The amount of the deduction for a taxable year with respect to a charitable contribution may be reduced depending on the type of property, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)).

[2] Sections 170 (e)(3) and (e)(4) provide for an augmented deduction for certain corporate contributions of inventory property for the care of the ill, the needy, or infants, and for scientific research.

[3] Contributions of inventory or other ordinary income property, short-term capital gain property, and certain gifts to private foundations continue to be governed by present-law rules.

Charitable contribution deductions generally are treated as not definitely related to any gross income or income producing activity, and therefore are apportioned ratably and subject to the one-taxpayer rule.[4]

Regulations proposed in March 1991 would alter the general rule requiring ratable apportionment of charitable contributions in cases where the use of the contribution is restricted either to purely domestic or purely foreign uses.[5] Under the proposal, a charitable contribution deduction generally would be allocated solely to U.S. source gross income if the taxpayer both designates the contribution for use solely in the United States and reasonably believes that the contribution would be so used. Conversely, a charitable contribution deduction would be allocated solely to foreign source gross income if the taxpayer knows or has reason to know that the contribution would be used solely outside the United States or that the contribution necessarily may be used only outside the United States.

Reasons for Change

The committee understands that to the extent a taxpayer's charitable contribution deductions are apportioned to foreign source income, a reduction in the taxpayer's allowable foreign tax credit may occur. The committee is concerned that the limitation on the foreign tax credit resulting from the present-law apportionment of such deductions might discourage certain taxpayers with multinational business operations from making donations to charities. The committee also is concerned that the approach for allocating and apportioning charitable deductions set forth in the 1991 proposed Treasury regulations would have the effect of creating an inappropriate distinction between contributions put to foreign charitable uses, on the one hand, and domestic charitable uses, on the other. In order to provide an incentive for multinational companies to make charitable donations, and to avoid creating a disparity between charities on the basis of the location of their beneficiaries, the committee believes it is appropriate to mandate that a specified portion of all charitable contribution deductions be allocated solely to U.S. source gross income.

Explanation of Provision

Under the bill, for purposes of computing the source of taxable income for the foreign tax credit limitation, taxpayers are permitted to allocate 55 percent of their charitable contribution deductions to gross income from U.S. sources. The remaining 45 percent of charitable contribution deductions must be apportioned ratably between U.S. source gross income and foreign source gross income. As under present law, all corporations included in an affiliated group are treated as a single corporation for purposes of the ratable apportionment of the residual 45 percent of charitable contribution deductions.

For example, assume that a corporation (which is not a member of an affiliated group of corporations) earns $1,000,000 of gross income from foreign sources and $500,000 of gross income from domestic sources for a taxable year. Further assume that it makes charitable contributions that are deductible during the year in the amount of $100,000. Under the bill, $55,000 (55 percent of $100,000) of the charitable contributions are allocated to U.S. source gross income. The residual amount of charitable contributions, $45,000, is subject to ratable apportionment on the basis of gross income. Thus, of this residual amount, $30,000 is apportioned to foreign source gross income and $15,000 is apportioned to U.S. source gross income. Of the total amount of charitable contributions, $70,000 is allocated and apportioned to U.S. source gross income and $30,000 is allocated and apportioned to foreign source gross income.

Now assume that the corporation has a wholly owned domestic subsidiary which earns $500,000 of gross income for the taxable year, all from sources outside the United States, and makes no deductible charitable contributions. In this case, the parent corporation's charitable contributions are allocated and apportioned as follows. As under the previous example, 55 percent are allocated directly to domestic source gross income. The residual amount, however, is apportioned under the one-taxpayer rule. Thus, of the residual amount, $33,750 is apportioned to foreign source gross income and $11,250 is apportioned to U.S. source gross income. Of the total amount of charitable contributions, $66,250 is allocated and apportioned to U.S. source gross income and $33,750 is allocated and apportioned to foreign source gross income.

Effective Date

The provision is effective for charitable contributions made on or after July 1, 1993.

3. Substantiation and information disclosure requirements for certain charitable contributions (secs. 8003-8004 of the bill and sec. 170 of the Code)

Present Law

An individual taxpayer who itemizes deductions must separately state (on Schedule A to the Form 1040) the aggregate amount of charitable contributions made by cash or check and the aggregate amount made by donated property other than cash or check.

A taxpayer is not required to provide specific information on his or her return regarding a claimed charitable contribution made by cash or check; nor in such a case is a donee organization required to file an information return with the IRS, regardless of the amount of cash or check involved. However, taxpayers must provide certain information (on Form 8283) if the amount of the claimed contribution for all noncash contributions exceeds $500.[6]

A payment (regardless of whether it is termed a "contribution") in exchange for which the payor receives an economic benefit is not deductible under section 170, except to the extent that the taxpayer can demonstrate that the payment exceeded the fair-market value of the benefit received from the charity.[7]

The Internal Revenue Code does not require a tax-exempt organization that is eligible to receive tax-deductible contributions to state explicitly, in its solicitations for support from members or the general public, whether an amount paid to it is deductible as a charitable contribution or whether all or part of the payment constitutes consideration for goods or services furnished by the organization to the payor.[8] In contrast, tax-exempt organizations that are *not* eligible to receive tax-deductible contributions are required to state expressly in certain fundraising solicitations that contributions or gifts to the organization are not deductible as charitable contributions for Federal income tax purposes (sec. 6113).

Reasons for Change

Difficult problems of tax administration arise with respect to fundraising techniques in which an organization that is eligible to receive deductible contributions provides goods or services in consideration for payments from donors. Organizations that engage in such fundraising practices often do not inform their donors that all or a portion of the amount paid by the donor may not be deductible as a charitable contribution. Consequently, the committee believes that there will be increased compliance with present-law rules governing charitable contribution deductions if taxpayers who claim charitable contributions of $100 or more are required to obtain substantiation from the donee indicating the amount of the contribution and whether any goods, service, or privilege were received by the donor in exchange for making the contribution. In addition, the committee believes it is appropriate that, in all cases where a charity receives a *quid pro quo* contribution (i.e., a payment made partly as a contribution and partly in consideration for goods or services furnished to the payor by the donee organization) the charity should inform the donor that the deduction under section 170 is limited to the amount by which the payment exceeds the value of goods or services furnished, and provide a good faith estimate of the value of such goods or services.

Explanation of Provision

The provision includes two parts:

(1) *Substantiation requirement.*—Section 170 is amended to provide that no deduction is

---

[4] Treas. Reg. sec. 1.861-8(e)(9)(iv); Notice 89-91, 1989-2 C.B. 408, 409.

[5] Proposed Treas. Reg. sec. 1.861-8(e)(12), INTL-116-90, 1991-1 C.B. 949.

[6] If the claimed deduction for a noncash gift exceeds $5,000 per item or group of similar items (other than certain publicly traded securities) a qualified appraiser must sign the Form 8283, and an authorized representative of the donee charity also must sign the Form 8283, acknowledging receipt of the gift and providing certain other information. In certain situations, information reporting by the donee charity is required if it subsequently disposes of donated property (sec. 6050L).

[7] See Rev. Rul. 67-246, 1967-2 C.B. 104.

Under current IRS practice, certain small items and token benefits (e.g., key chains and bumper stickers) that have insubstantial value are disregarded, such that the full amount of the contribution is deductible. Rev. Proc. 90-12, 1990-1 C.B. 471, provides that tokens or benefits given to the donor in connection with a contribution will be considered to have insubstantial value if (1) the payment occurs in the context of a fundraising campaign in which the charity informs patrons how much of their payment is a deductible contribution, *and* (2) *either* (a) the fair-market value of all the benefits received in connection with the payment is not more than two percent of the payment, or $50, *whichever is less, or* (b) the payment made by the patron is $25 or more (adjusted for inflation) and the only benefits received in connection with the payment are token items (e.g., key chains or mugs) which bear the organization's name or logo and which (in the aggregate) are within the limits for "low-cost items" under section 513(h)(2).

[8] However, Schedule A to the Form 1040 (and the accompanying instructions) inform taxpayers that if they made a contribution and received a benefit in return, the value of that benefit must be subtracted in calculating the charitable contribution deduction.

allowed under that section for any contribution of $100 or more[9] unless the taxpayer has written substantiation from the donee organization of the contribution (including a good faith estimate of the value of any good or service that has been provided to the donor in exchange for making the gift to the donee).[10]

This provision does not impose an information reporting requirement upon charities; rather, it places the responsibility upon taxpayers who claim an itemized deduction for a contribution of $100 or more to request (and maintain in their records) substantiation from the charity of their contribution (and any good or service received in exchange).[11] Taxpayers may not simply rely on a cancelled check as substantiation for a donation in excess of $100.

Under the provision, the substantiation must be obtained by the taxpayer prior to filing his or her return for the taxable year in which the contribution was made (or if earlier, the due date, including extensions, for such return).[12] Substantiation is not required if the donee organization files a return with the IRS (in accordance with Treasury regulations) reporting information sufficient to substantiate the amount of the deductible contribution.

(2) *Information disclosure for quid pro quo contributions.*—Charitable organizations that receive *quid pro quo* contributions (meaning a payment made partly as a contribution and partly in consideration for goods or services furnished to the donor) will be required, in connection with the solicitation or receipt of the contribution, to (1) inform the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money (and the value of any property other than money) contributed by the donor over the value of the goods or services provided by the organization, and (2) provide the donor with a good faith estimate of the value of goods or services furnished to the donor by the organization.[13]

The disclosure requirement applies to all *quid pro quo* contributions regardless of the dollar amount of the contribution involved (i.e., even in cases with donations less than $100, and the disclosure must be made by the charity in connection with either the solicitation or receipt of the contribution. Thus, for example, if a charity receives a $75 contribution from a donor, in exchange for which the donor receives a dinner valued at $40, then the charity must inform the donor that only $35 is deductible as a charitable contribution. However, the provision will not apply if only *de minimis*, token goods or services are given to a donor (see Rev. Proc. 90–12, discussed above), nor will the provision apply to transactions that have no donative element (e.g., sales of goods by a museum gift shop that are not, in part, donations).

The provision also provides that penalties ($10 per contribution, but capped at $5,000 per particular fundraising event or mailing) may be imposed upon charities that fail to make the required disclosure, unless the failure was due to reasonable cause. The penalties will apply if an organization either fails to make any disclosure in connection with a *quid pro quo* contribution or makes a disclosure that is incomplete or inaccurate (e.g., an estimate not determined in good faith of the value of goods or services furnished to the donor).

Effective Date

The provision is effective for contributions made on or after January 1, 1993.

4. Corporate sponsorship payments received by tax-exempt organizations in connection with public events (sec. 8005 of the bill and sec. 513 of the Code)

Present Law

Although exempt from Federal income tax, tax-exempt organizations generally are subject to the unrelated business income tax (UBIT) on income derived from a trade or business regularly carried on[14] that is not substantially related to the performance of the organization's tax-exempt functions (secs. 511–514). Contributions or gifts received by tax-exempt organizations generally are not subject to the UBIT. However, present-law section 513(c) provides that an activity (such as advertising) does not lose its identity as a separate trade or business merely because it is carried on within a larger complex of other endeavors.[15] If a tax-exempt organization receives sponsorship payments in connection with conducting a public event, the solicitation and receipt of such sponsorship payments may be treated as a separate activity. The Internal Revenue Service (IRS) has taken the position that, under some circumstances, such sponsorship payments may be subject to the UBIT.[16]

Reasons for Change

The committee believes that the UBIT should not apply to the receipt of sponsorship payments (in return for which the sponsor is identified) by tax-exempt organizations in connection with their conduct of public events, provided that substantially all activities in conducting the event are not subject to the UBIT and the net proceeds from the event are used for a charitable, educational, or other purpose described in section 170(c)(2)(B). In such a case, acknowledging support of a sponsor generally is incidental to the tax-exempt organization receiving such support. However, this safe-harbor rule should not apply to payments in exchange for which the tax-exempt organization provides advertising or promotion of the payor's specific products or services.

Explanation of Provision

Under the bill, the term "unrelated trade or business" does not include the activity of soliciting and receiving qualified sponsorship payments with respect to any qualified public event.

"Qualified sponsorship payments" are defined as any payment by a person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use of the name or logo or such person's trade or business in connection with a qualified public event. For purposes of the provision, use of a name or logo or a person's trade or business in connection with a public event does not include advertising or promotion of such person's particular products or services. For example, advertising or promotion of a sponsor's products or services not within the safe harbor provided for by the bill includes a call to action to purchase the sponsor's products, superlative description or qualitative claim about the company (or its products or services), direct comparison with other companies, price or value information, inducements to buy, or endorsements.[17]

The term "qualified public event" is defined as any public event conducted by an organization described in paragraph (3), (4), (5), or (6) of section 501(c),[18] if (1) substantially all the activities of the organization in conducting the event are not subject to the UBIT (e.g., the activities are substantially related to the exempt purposes of the organization, the activities are not regularly carried on, or the volunteer labor or some other present-law UBIT exception applies); and (2) the net proceeds from the event are used for a purpose described in section 170(c)(2)(B).[19]

Examples of public events governed by the provision include intercollegiate athletic events, concerts, museum exhibitions, State and agricultural fairs, fine-arts festivals, and charitable golf tournaments (provided that the other requirements of the provision are satisfied). Identifying a sponsor of a qualified public event (or incorporating the sponsor's name into the official name of the event) will fall within the safe harbor provided for by the provision, even if the amount of the sponsorship payment owed by the sponsor is contingent upon a factor such as attendance or broadcast ratings.

---

[9] Separate payments shall generally be treated as separate contributions and shall not be aggregated for the purposes of applying the $100 threshold. In cases of contributions paid by withholding from wages, the deductions from each paycheck shall be treated as separate payments.

[10] If the donee organization provided no goods or services to the taxpayer in consideration of the taxpayer's contribution, the written substantiation must include a statement to that effect.

[11] In the case where a taxpayer makes a noncash contribution, the taxpayer is required to obtain from the charity a receipt that describes the donated property (and indicates whether any good or service was given to the taxpayer in exchange), but the provision does not require the charity to value the property it receives from the donor.

[12] The provision requires that the written acknowledgment provide information sufficient to substantiate the amount of the deductible contribution, but the acknowledgment need not take any particular form. Thus, for example, acknowledgments may be made by letter, postcard, or computer-generated forms. Further, a donee organization may prepare separate acknowledgment for each contribution, or may provide donors with periodic (e.g., annual) acknowledgments that set forth the required information for each contribution of $100 or more made by the donor during the period.

The committee expects that a charitable organization that knowingly provides a false written substantiation to a donor will be subject to the penalties provided for by section 6701 for aiding and abetting an understatement of tax liability.

[13] It is intended that the disclosure be made in connection with the solicitation or receipt of the contribution, such that the disclosure is reasonably likely to come to the attention of the donor. For example, a disclosure of the required information in small print set forth within a larger document might not meet the requirement.

[14] In determining whether a trade or business is regularly carried on, regard must be had to the frequency and continuity with which the business activities are conducted and the manner in which such activities are pursued. Specific business activities of a tax-exempt organization will ordinarily be deemed to be regularly carried on if they manifest a frequency and continuity, and are pursued in a manner, generally similar to comparable commercial activities of taxable entities. See Treas. Reg. sec. 1.513–1(c)(1).

[15] See *United States v. American College of Physicians*, 475 U.S. 834 (1986) (holding that activity of selling advertising in medical journal was not substantially related to the organization's exempt purposes and, as a separate business under section 513(c), was subject to tax).

[16] See Announcement 92-15, 1992-5 I.R.B. 51 (announcing proposed audit guidelines distinguishing sponsorship payments in return for which there is mere acknowledgement of sponsor—and thus no UBIT liability—in contrast to sponsorship payments in return for which substantial economic benefits are conferred upon the sponsor and UBIT liability may be asserted by the IRS).

[17] The committee intends that corporate sponsorship announcements or representations that meet the Public Broadcasting System (PBS) National Program Funding Standards and Practices generally will be considered permissible identification of a sponsor by use of its name or logo (or that of a division or subsidiary) and not advertising or promotion of the sponsor's particular products or services for purposes of the safe-harbor rule provided for by the bill. See *PSB National Program Funding Standards and Practices* (February 1990).

[18] In addition, State colleges and universities described in section 511(d)(2)(B) would be eligible for the UBIT exception provided for by the proposal.

[19] The purposes enumerated in section 170(c)(2)(B) are "religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sport competition (but only if no part of its activities involve the provision or athletic facilities or equipment), or for the prevention of cruelty to children or animals."

No inference is intended as to the tax treatment under present-law rules of sponsorship (or other) payments not governed by the provision, or sponsorship payments received in connection with events held prior to the date of enactment.[20]

Effective Date

The provision is effective for sponsorship payments received in connection with events conducted after the date of enactment.

SUBTITLE B. FOREIGN PROVISIONS

1. Pass-through treatment for certain dividends paid by a regulated investment company to foreign persons (sec. 1801 of the bill and secs. 871, 881, 897, 1441, and 1422 of the Code)

Present Law

Regulated investment companies

A regulated investment company ("RIC") is a domestic corporation that, at all times during the taxable year, is registered under the Investment Company Act of 1940 as a management company or as a unit investment trust, or has elected to be treated as a business development company under that Act (sec. 851(a)).

In addition, to qualify as a RIC, a corporation must elect such status and must satisfy certain tests (sec. 851(b)). These tests include a requirement that the corporation derive at least 90 percent of its gross income from dividends, interest, payments with respect to certain securities loans, and gains on the sale of other disposition of stock or securities of foreign currencies, or other income derived with respect to its business of investment in such stock, securities, or currencies.

A RIC generally is treated as a conduit for Federal income tax purposes. Conduit treatment is accomplished by permitting a RIC to deduct dividends paid to its shareholders in computing its taxable income. The amount of any distribution generally is not considered as a dividend for purposes of computing the dividends paid deduction unless the distribution is pro rata, with no preference to any share of stock as compared with other shares of the same class (sec. 562(c)). For distributions by RICs to shareholders who made initial investments of at least $10,000,000, however, the distribution is not treated as non-pro rata or preferential solely by reason of an increase in the distribution due to reductions in administrative expenses of the company.

A RIC generally may pass through to its shareholders the character of its long-term capital gains. It does this by designating a dividend it pays as a capital gain dividend to the extent that the RIC has net capital gain (i.e., net long-term capital gain over net short-term capital loss). These capital gain dividends are treated as long-term capital gain by the shareholders. A RIC generally also can pass through to its shareholders the character of tax-exempt interest from State and municipal bonds, but only if, at the close of each quarter of its taxable year, at least 50 percent of the value of the total assets of the RIC consists of these obligations. In this case, the RIC generally may designate a dividend it pays as an exempt-interest dividend to the extent that the RIC has tax-exempt interest income. These exempt-interest dividends are treated as interest excludable from gross income by the shareholders.

The Internal Revenue Service has stated its position that if a RIC has two or more classes stock and it designates the dividends that it pays on one class as consisting of more than that class's proportionate share of a particular type of income, the designations are not effective for Federal tax purposes to the extent that they exceed the class's proportionate share of that type of income (Rev. Rul. 89-81, 1989-1 C.B. 226). Thus, in order to achieve all the tax effects provided under the Code for such RIC dividends, a capital gain dividend or an exempt-interest dividend must be pro rata within a class of RIC stock, and, with respect to any one class of RIC stock, generally cannot (under the Service's interpretation of present law) exceed that proportion of the relevant capital gain or exempt interest income of the RIC that the amount of dividends paid to shareholders of that class of stock bears to the total amount of dividends paid by the RIC.

U.S. source investment income of foreign persons

Under the Code, the United States generally imposes a flat 30-percent tax, collected by withholding, on the gross amount of U.S. source investment income payments, such as interest and dividends, to nonresident alien individuals and foreign corporations ("foreign persons") (secs. 871(a), 881, 1441, and 1442). Under treaties, the United States may reduce or eliminate such taxes. Even taking into account U.S. treaties, however, the tax on a dividend generally is not entirely eliminated. Instead, U.S. source portfolio investment dividends received by foreign persons generally are subject to U.S. withholding tax at a rate of at least 15 percent.

Interest

There is no 30-percent gross-basis U.S. tax with respect to U.S. source bank deposit interest that is not effectively connected with the conduct of a trade or business within the United States. Nor is there such a tax on the amount includible in gross income as original issue discount on an obligation payable 183 days or less from the date of original issue (without regard to the period held by the taxpayer).

Nor is there 30-percent gross-basis U.S. tax on so-called "portfolio interest." Portfolio interest includes interest (including original issue discount) which would be subject to the gross-basis U.S. tax but for the fact certain requirements are met with respect to the obligation on which the interest is paid, and with respect to the interest recipient (or the location of the interest recipient). Pursuant to these requirements, the obligation must be in registered form or be "foreign-targeted". The U.S. person who otherwise would be required to withhold tax must receive a statement that the beneficial owner of the obligation is not a United States person. If the obligation was issued by a corporation or a partnership, the recipient of the interest must not be a "10-percent shareholder" of the corporation or partnership. A corporate recipient of the interest must be neither a controlled foreign corporation receiving interest from a related person, nor (unless the obligor is the United States) a bank receiving the interest on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business. The payment of interest must not be to any person within a foreign country (and must not be a payment addressed to, or for the account of, persons within a foreign country) with respect to which the Treasury Secretary has determined that exchange of information is inadequate to prevent evasion of U.S. income tax by U.S. persons. This last requirement does not currently affect the exemption from tax on interest, as no such determinations have been made to date.

Capital gains

Under the Code, foreign persons generally are not subject to U.S. tax on gains realized on the disposition of stock or securities issued by a U.S. person (other than a "U.S. real property holding corporation," as described below), unless the gain is effectively connected with the conduct of a trade or business in the United States. This exemption does not apply, however, to the extent that the foreign person is a nonresident alien individual present in the United States for a period or periods aggregating 183 days or more during the taxable year. Foreign persons receiving capital gain dividends from U.S. RICs have been treated as receiving capital gains not subject to U.S. tax, rather than dividends subject to the ordinary U.S. withholding tax on dividends (see Rev. Rul. 69-244, 1969-1 C.B. 215).

Under the Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA"), as amended, gain or loss or a foreign person from the disposition of a U.S. real property interest is subject to net basis tax as if the taxpayer were engaged in a trade or business within the United States and the gain or loss were effectively connected with such trade or business. In addition to fee ownership of U.S. real property, U.S. real property interests include (among other things) any interest in a domestic corporation unless the taxpayer establishes that the corporation was not, during a 5-year period ending on the date of the disposition of the interest, a U.S. real property holding corporation (which is defined generally to mean a corporation the fair market value of whose U.S. real property interests equals or exceeds 50 percent of the sum of the fair market values of its real property interests and any other of its assets used or held for use in a trade or business).

Under FIRPTA, a distribution by a real estate investment trust ("REIT") to a foreign person is, to the extent attributable to gain from sales or exchanges the the REIT of U.S. real property interests, treated as gain recognized by the foreign person from the sale or exchange of a U.S. real property interest. Under Treasury regulations, a REIT is generally required to withhold tax upon such a distribution to a foreign person, at a rate of 34 percent times the maximum amount of that distribution that could be designated by the REIT as a capital gain dividend (Treas. Reg. sec. 1.1445-8(a)(2), (b)(1), and (c)(2)).

In view of the nature of a REIT, an interest in a REIT may in some cases be considered to be a U.S. real property interest. However, an interest in a domestically-controlled REIT is not considered a U.S. real property interest. Also, the foreign ownership percent of taxable appreciation in the value of a U.S. real property interest held by a domestically-controlled REIT is subject to tax in the hands of the REIT under special FIRPTA rules upon distribution of the U.S. real property interest by the REIT.

---

[20] In addition, the committee is concerned about the tax treatment of royalties and other payments that may be received by the U.S. Olympic Committee and Atlanta Committee for the Olympic Games, Inc., in connection with the 1996 Games of the XXVI Olympiad. The committee expects that, under general UBIT rules (see Rev. Rul. 82-178, 1981-2 C.B. 135), royalty income derived from licensing Olympic trademarks, emblems, and designations, as well as all income from broadcasting, filming, and videotaping the Olympics will be treated as exempt from the UBIT.

Reasons for Change

The committee recognizes that there is a distinction between the U.S. tax treatment of certain U.S. source portfolio interest, bank deposit interest, short term original issue discount, and capital gains income earned *directly* by foreign investors, on the one hand, and the U.S. tax treatment of dividends earned by foreign investors on their stock investments in RICs that realize the same types of interest and gain income, on the other. The committee believes that this distribution is inappropriate because it discourages small foreign investors from investing in, and obtaining the advantages of diversification and expert management available through the use of, U.S. mutual funds. The committee believes that the tax treatment of interest on certain debt obligations, and short-term capital gains, generally should "flow through" to shareholders of RICs. At the same time, however, the committee believes that investors should not be able, by interposing a RIC between themselves and their investments in U.S. debt obligations and stock, to circumvent existing provisions designed to preclude abuse of the rules that reduce U.S. tax on investments by foreign persons.

Explanation of Provision

In general

Under the provision, a RIC that earns certain interest income which would not be subject to U.S. tax if earned by a foreign person generally may, to the extent of such income, designate a dividend it pays as deriving from such interest income. A foreign person who is a shareholder in the RIC generally would treat such a dividend as exempt from gross-basis U.S. tax, just as if the foreign person had earned the interest directly. Similarly, a RIC that earns an excess of net short-term capital gains over net long-term capital losses, which excess would not be subject to U.S. tax if earned by a foreign person, generally may, to the extent of such excess, designate a dividend it pays as deriving from such excess. A foreign person who is a shareholder in the RIC generally would treat such a dividend as exempt from gross-basis U.S. tax, just as if the foreign person had realized the excess directly.

Interest-related dividends

Under the bill, a RIC could, under certain circumstances, designate all or a portion of a dividend as an "interest-related dividend," by written notice mailed to its shareholders not later than 60 days after the close of its taxable year. An interest-related dividend received by a foreign person generally would generally be exempt from U.S. gross-basis tax under sections 871(a), 881, 1441 and 1442.

This exemption would not apply, however, to the extent that the foreign person is a 10-percent shareholder (as defined in the portfolio obligation rules) with respect to the RIC. The exemption would not apply to a dividend on shares of RIC stock unless the withholding agent has received a statement, as required under the portfolio interest rules, that the beneficial owner of the shares in not a U.S. person. The exemption would not apply to a dividend paid to any person within a foreign country (or dividends addressed to, or for the account of, persons within such foreign country) with respect to which the Treasury Secretary has determined, under the portfolio interest rules, that exchange of information is inadequate to prevent evasion of U.S. income tax by U.S. persons.

In addition, the exemption generally would not apply to dividends paid to a controlled foreign corporation to the extent such dividends are attributable to income received by the RIC on a debt obligation of a person with respect to which the recipient of the dividend is a related person. Nor would the exemption generally apply to dividends to the extent such dividend is attributable to income received by the RIC on indebtedness issued by any corporation or partnership with respect to which the recipient of the dividend is a 10-percent shareholder with respect to any entity the obligations of which are held by the RIC. In these two cases, however, the RIC remains exempt from its withholding obligation unless the RIC knows that the dividend recipient is such a controlled foreign corporation or 10-percent shareholder. To the extent that an interest-related dividend received by a controlled foreign corporation is attributable to interest income of the RIC that would be portfolio interest if received by a foreign corporation, the dividend would be treated as portfolio interest for purposes of the de minimis rules, the high-tax exception, and the same country rules of subpart F (see sec. 881(c)(4)).

The aggregate amount designated as interest-related dividends for the RIC's taxable year (including dividends so designated that are paid after the close of the taxable year but treated as paid during that year as described in section 855) generally is limited to the qualified net interest income of the RIC for the taxable year. The qualified net interest income of the RIC equals the excess of (a) the amount of qualified interest income of the RIC over (b) the amount of expenses of the RIC properly allocable to such interest income.

Qualified interest income of the RIC is the sum of bank deposit interest that currently is exempt from the gross-basis tax under section 871, short term original discount that is currently exempt from the gross-basis tax under section 871, and any interest (including original issue discount on an obligation) which is in registered form, unless it is earned on an obligation issued by a corporation or partnership in which the RIC is a 10-percent shareholder.

Where the amount designated as an interest-related dividend is greater than the qualified net interest income described above, then the portion of the distribution so designated which constitutes an interest-related dividend will be only that proportion of the amount so designated as the amount of the qualified net interest income bears to the amount so designated.

By reason of the pro rata distribution rule of current law, the designation of all or a portion of any distribution as a qualified interest dividend generally must be pro rata with respect to all shares of the company of the same class, and may not apply specially to any share of stock as compared with any other shares of stock of the company in that same class. If the RIC has more than one class, moreover, the committee similarly does not intend to permit a RIC to designate dividends as interest-related dividends disproportionately as between classes. The committee understands that this intent is consistent with present law as interpreted by the Internal Revenue Service in Rev. Rul. 89–81. Even if the Internal Revenue Service were to have erred in its interpretation of present law, however, the committee intends for the rule announced in Rev. Rul. 89-81 to apply in the case of dividends designated as interest-related dividends under the provisions of this bill.

For example, assume that a RIC with only one class of stock has $5000 of qualified net interest income for the taxable year, and $5000 of other income. Assume that the RIC properly pays as a dividend $10,000 pro rata to its 1000 equal shareholders, half of whom are foreign, resulting in a $10 dividend to each shareholder. Under the bill, the RIC could designate a maximum of $5 of the amount of the dividend to any foreign shareholder as an interest-related dividend.

As another example, assume that a RIC with the same income as above has two classes of stock—common and preferred—and properly pays a dividend of $8000 to the common stockholders, and $2000 to the preferred shareholders. Under the bill, the RIC can designate $1000 of the preferred stock dividend, on a pro rata basis, as an interest-related dividend, and $4000 of the common stock dividend, on a pro rata basis, as an interest-related dividend. However, if only $3000 of the common stock dividend is designated an interest-related dividend, the difference between $3000 and $4000 could not be used to increase the $1000 cap on the amount of the preferred stock dividend may for tax purposes, be so designated.

Short term capital gain dividends

Under the bill, a RIC could also, under certain circumstances, designate all or a portion of a dividend as a "short term capital gain dividend," by written notice mailed to its shareholders not later than 60 days after the close of its taxable year. For purposes of the U.S. gross-basis tax, a short term capital gain dividend received by a foreign person generally would be exempt from U.S. gross-basis tax under sections 871(a), 881, 1441 and 1442. This exemption would not apply to the extent that the foreign person is a nonresident alien individual present in the United States for a period or periods aggregating 183 days or more during the taxable year. In this case, however, the RIC remains exempt from its withholding obligation unless the RIC knows that the dividend recipient has been present in the United States for such period.

The aggregate amount designated as short term capital gain dividends for the RIC's taxable year (including dividends so designated that are paid after the close of the taxable year but treated as paid during that year as described in section 855) is generally limited to the excess of (a) the RICs' net short-term capital gains over net long-term capital losses, less (b) the amount of expenses of the RIC allocable to such net gains. Where the amount so designated is greater, however, than this excess, then the portion of the distribution so designated which constitutes a short term capital dividend will be only that proportion of the amount so designated as the amount of the excess bears to the amount so designated. In addition, as in the case of interest-related dividends, the designation of all or a portion of any distribution as a short term capital gain dividend generally must be pro rata with respect to shares of the same class, and governed by a rule of proportionality as between different classes.

As is true under current law for distributions from REITs, the bill provides that any distribution by a RIC to a foreign person shall, to the extent attributable to gains from sales or exchanges by the RIC of an asset (for example, stock) that is considered a U.S. real property interest, be treated as gain recognized by the foreign person from the sale of exchange of a U.S. real property interest. As under current law in the case of a REIT, the committee intends that the RIC shall be required to deduct and withhold, under section 1445, a tax equal to 34 percent of the amount of the dividend so treated. The bill also extends the special rules for domestically-controlled REITs to domestically-controlled RICs.

Effective Date

In general, the provision is effective with respect to taxable years of RICs beginning after date of enactment. However, the provision exempting an interest in a domestically-controlled RIC from treatment as a U.S. real property interest is effective on the date of the provision is enacted.

2. Election not to apply 90-percent limitation on alternative minimum tax foreign tax credit (sec. 8102 of the bill, and sec. 59(a)(2) and new sec. 965 of the Code)

Present Law

In general

Under present law, U.S. citizens, residents, and corporations are subject to U.S. taxation on their worldwide incomes. The U.S. tax on foreign income may be offset by a credit for foreign income taxes incurred. Foreign corporations, including foreign corporations controlled by U.S. taxpayers, generally are subject to U.S. taxation only on income earned in the United States.

"Deferral" refers to the practice of not taxing the income of a U.S.-controlled foreign corporation until that income is distributed to the controlling U.S. shareholders. The term "deferral" is employed because the net U.S. tax liability—equal to the difference between the U.S. tax and the credit for foreign taxes—is "deferred" until such income is distributed as a dividend.

The controlled foreign corporation (subpart F) rules of the Code provide for exceptions to the general rule of deferral (sec. 951-964). Certain U.S. shareholders of a controlled foreign corporation are subject to current U.S. taxation on their pro rata portions of the foreign corporation's "subpart F income." Subpart F income typically is income that is relatively movable from one taxing jurisdiction to another and that is subject to low effective rates of foreign tax.

Alternative minimum tax foreign tax credit

Under present law, taxpayers are subject to an alternative minimum tax ("AMT"), which is payable, in addition to all other tax liabilities, to the extent that it exceeds the taxpayer's regular income tax liability. The tax is imposed at a flat rate of 20 percent, in the case of corporate taxpayers, on alternative minimum taxable income ("AMTI") in excess of a phased-out exemption amount. The rate for noncorporate taxpayers is 24 percent. Alternative minimum taxable income is the taxpayer's taxable income increased for certain tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the exclusion or deferral of income resulting from the regular tax treatment of those items.

Taxpayers are permitted to reduce their AMT liability by an AMT foreign tax credit. The AMT foreign tax credit for a taxable year is determined under principles similar to those used in computing the regular tax foreign tax credit, except that (1) the numerator of the AMT foreign tax credit limitation fraction is foreign source AMTI[1] and (2) the denominator of that fraction is total AMTI.[2]

The AMT foreign tax credit for any taxable year generally may not offset a taxpayer's entire pre-credit AMT. Rather, the AMT foreign tax credit generally is limited to 90 percent of AMT computed without an AMT net operating loss deduction, an AMT energy preference deduction, or an AMT foreign tax credit.[3] For example, assume that a corporation has $10 million of AMTI, has no AMT net operating loss or energy preference deductions, and is subject to the AMT. In the absence of the AMT foreign tax credit, the corporation's tax liability would be $2 million. Accordingly, the AMT foreign tax credit cannot be applied to reduce the taxpayer's tax liability below $200,000. Any unused AMT foreign tax credit may be carried back 2 years and carried forward 5 years for use against AMT in those years under the principles of the foreign tax credit carryback and carryforward set forth in section 904(c).

Reasons for Change

The committee recognizes that, in certain cases, the 90-percent limitation on the use of the AMT foreign tax credit may not allow for sufficient relief of double taxation. However, the committee understands that, because of the availability of deferral, the timing of U.S. taxation on active business income earned through controlled foreign corporations can be at the discretion of the U.S. shareholder. Therefore, the committee believes that it is appropriate to link legislative relief from the 90-percent limitation on the use of the AMT foreign tax credit to the unavailability of deferral on income earned through controlled foreign corporations.

Explanation of Provision

In general

Under the bill, a domestic corporation is permitted to elect to be exempt from the 90-percent limitation on the utilization of the AMT foreign tax credit. As explained more fully below, any corporation that does so elect, and any other domestic corporation that is related to the electing corporation, thereby foregoes the benefits of deferral with respect to the income of all controlled foreign corporations of which they are U.S. shareholders.

Domestic corporations affected by an election

The election may be made by any domestic corporation. If the election is made, the loss of deferral applies to all domestic corporations that are members of an expanded affiliated group of corporations, as defined for purposes of this election, that includes the electing corporation. On the other hand, only corporations that actually make the election are entitled to the exemption from the 90-percent limit on the use of the AMT foreign tax credit.

Under the bill, membership in an expanded affiliated group is determined by applying the affiliated group definitions of section 1504, substituting a greater-than-50-percent stock ownership threshold for the 80-percent ownership threshold. The bill treats foreign corporations as includible corporations solely for the purpose of determining whether any domestic corporation is a member of the group. Under the bill, membership in the expanded affiliated group is determined by treating stock owned by attribution under the rules of section 1563 as owned directly. Under the bill, a corporation is considered to be controlled if *either* the 50-percent vote *or* the 50-percent value test is met. Finally, under the bill stock is disregarded for purposes of determining expanded affiliated group membership if it is limited and preferred as to dividends and does not participate in corporate growth to any significant extent.

Loss of deferral

As described above, the benefits of deferral are foregone by any domestic corporation included in an expanded affiliated group that includes an electing corporation. Generally, all of the earnings and profits for the taxable year of a controlled foreign corporation with respect to which the domestic corporation is a U.S. shareholder are treated as subpart F income, for purposes of determining the amount of subpart F income to be included in the income of the domestic corporation pursuant to section 951. Under the bill, as under present law, subpart F income does not include earnings and profits attributable to income from sources within the United States which is effectively connected with the conduct of a U.S. trade or business (except to the extent that the income is exempt from tax or subject to a reduced rate of taxation pursuant to a U.S. treaty obligation). Nor does subpart F income include any foreign trade income of a foreign sales corporation (FSC). Such income remains taxable to the FSC to the extent provided under current law. Also as under present law, subpart F income is not reduced on account of certain illegal payments.

Under the bill, as under present law, certain amounts of earnings and profits are not included in subpart F income if it is established to the satisfaction of the Treasury Secretary that those amounts of earnings could not have been distributed to the U.S. shareholders because of currency or other restrictions or limitations imposed under the laws of any foreign country. The committee intends that such legal restrictions or limitations be taken into account only if they are publicly promulgated, generally applicable to all similarly situated persons (whether controlled or uncontrolled), and not actually avoided by the foreign corporation or other persons, and if the process prescribed by local law for obtaining a waiver of such restrictions, if any, has been exhausted. No inference is intended regarding the meaning of the corresponding provision of current law.

Under the bill, as under the present-law rules of subpart F, earnings and profits are determined without regard to the adjustments for LIFO inventories, installment sales, and the completed contract method of accounting that generally apply to the determination of earnings and profits, except, under regulations, to the extent that the failure to make such adjustments would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation.

For the second taxable year subject to the provision, and any subsequent taxable year, amounts of subpart F income included in the gross income of the U.S. shareholder are reduced by the shareholder's pro rata share of any deficits in earnings and profits in post-effective-date taxable years which precede that year, and for which the foreign corporation was a controlled foreign corporation.

---

[1] This is modified on an elective basis by section 4422 of the bill.

[2] Similar to the regular tax foreign tax credit, the AMT foreign tax credit is subject to the separate limitation categories set forth in section 904(d). Under the AMT foreign tax credit, however, the determination of whether any income is high taxed for purposes of the high-tax-kick-out rules (sec. 904(d)(2)) is made on the basis of the applicable AMT rate rather than the highest applicable rate of regular tax.

[3] Certain domestic corporations operating solely in one foreign country with which the United States has an income tax treaty in effect are not subject to the 90-percent limitation on the use of the AMT foreign tax credit if certain other specified criteria are satisfied (sec. 59(a)(2)(C)).

In addition, deficits in earnings and profits (taking into account the same adjustments to earnings and profits that apply for purposes of determining subpart F income under the election) for years beginning prior to the effective date of the bill will reduce amounts of subpart F income included in the gross incomes of U.S. shareholders only to the extent that those deficits would have reduced subpart F inclusions under the qualified deficit rules of present law.

The election under the bill applies to the taxable year for which it is first effective and to all subsequent taxable years, and may be revoked only with the permission of the Secretary of the Treasury. In the event that an expanded affiliated group is enlarged, whether by incorporation or acquisition, any prior election under the bill by any member of the expanded affiliated group will have deferral consequences for the new member, and any prior election under the bill by a new member will have deferral consequences for the entire expanded affiliated group.

Effective Date

The provision is effective for taxable years of domestic corporations beginning after December 31, 1992, and taxable years of controlled foreign corporations ending with or within such taxable years of domestic corporations.

3. Income from investments by domestic gas or electric utilities in foreign gas or electric utilities (sec. 8103 of the bill and sec. 864 and new sec. 965 of the Code)

Present Law

In general

As explained above, U.S. persons generally are subject to U.S. taxation on their worldwide incomes. The U.S. tax on foreign income may be offset by a credit for foreign income taxes incurred. Foreign corporations, including foreign corporations controlled by U.S. taxpayers, generally are subject to U.S. taxation only on income earned in the United States. In limited cases, income of a U.S.-controlled foreign corporation is included, under Code section 951, in the income of U.S. persons owning stock of the foreign corporation. Such inclusions are sometimes referred to as "subpart F" inclusions.

Where stock in a foreign corporation is owned by a U.S. shareholder, the shareholder's income subject to U.S. tax generally includes the foreign corporation's earnings only to the extent of dividends received from the foreign corporation by the U.S. shareholder. When a dividend is paid, a U.S. corporation owning at least 10 percent of the voting stock of the foreign corporation is treated as if it had paid a share of the foreign income taxes paid by the foreign corporation (sec. 902(a)). This is sometimes referred to as the "indirect" or "deemed-paid" foreign tax credit. The income of the dividend recipient is increased, or "grossed up," by the amount of the indirect credit (sec. 78). An indirect foreign tax credit generally is also available to a U.S. corporate shareholder meeting the requisite ownership threshold with respect to inclusions of subpart F income from controlled foreign corporations (sec. 960(a)).[1]

A U.S. corporation may also be deemed to have paid taxes paid by a second- or third-tier foreign corporation. That is, where a first-tier foreign corporation pays a dividend to a 10-percent-or-more U.S. corporate shareholder, then for purposes of deeming the U.S. corporation to have paid foreign tax, the first-tier foreign corporation may be deemed to have paid a share of the foreign taxes paid by a second-tier foreign corporation of which the first-tier foreign corporation owns at least 10 percent of the voting stock, and from which the first-tier foreign corporation received dividends. The same principle applies to dividends from a second-tier or third-tier foreign corporation. No taxes paid by a second- or third-tier foreign corporation are deemed paid by the first- or second-tier foreign corporation, respectively, unless the product of the percentage ownership of voting stock at each level from the U.S. corporation down equals at least 5 percent (sec. 902(b)). Under present law, foreign taxes paid below the third tier of foreign corporations are not eligible for the indirect foreign tax credit.

Foreign tax credit limitation

The foreign tax credit is limited by the amount of U.S. tax otherwise payable on foreign source taxable income. For purposes of the foreign tax credit limitation, foreign source taxable income is computed by (1) determining the items of gross income that are from foreign sources, and then (2) subtracting from those items the taxpayer's deductions that are allocated or apportioned to foreign source gross income. Generally it is left to the Treasury to provide detailed rules for the allocation and apportionment of expenses.

In the case of interest expense, the Code and the regulations generally are based on the approach that money is fungible and that interest expense is properly attributable to all business activities and property of a taxpayer, regardless of any specific purpose for incurring an obligation on which interest is paid. (Exceptions to the fungibility concept are recognized or required, however, in particular cases.) The Code provides that for interest allocation purposes all members of an affiliated group of corporations generally are to be treated as a single corporation (the so-called "one-taxpayer rule"), and that allocation must be made on the basis of assets rather than gross income.

The term "affiliated group" in this context is defined by reference to a modified version of the rules for determining whether corporations are eligible to file consolidated returns. An affiliated group generally excludes any corporation that is foreign, and any corporation less than 80 percent of the stock of which is owned by members of the affiliated group (see Treas. Reg. sec. 1.861-11T(d)(6)(i)).

Example

Assume that a U.S. corporation owns 10 percent of the voting stock of a foreign corporation. Assume that each corporation owns operating assets valued at $10,000 for these purposes, each has debt to unrelated parties of $5000, and each has interest expense of $500 on that debt. Assume that none of this interest would be directly allocated to any particular stream of gross income under current law. Assume that the stock of the foreign corporation that is owned by the U.S. corporation is valued at $500 for purposes of the U.S. parent's allocation of interest. All the operating assets of the U.S. corporation produce U.S. source income, and all the operating assets of the foreign corporation produce foreign source, general limitation income. A foreign country levies tax on the income of the foreign subsidiary at a 34-percent rate.

Assume that in 1993, the U.S. corporation earns $1,000, before taking into account interest deductions, in taxable income from its U.S. operations, and receives a dividend from its foreign subsidiary. Assume that the amount of the dividend plus the section 78 gross-up for indirect foreign tax credits equals $50, and that the amount of the foreign tax credit associated with that dividend is $17. The entire amount of the foreign source income of the U.S. corporation is subject to the general foreign tax credit limitation. Total taxable income of the U.S. corporation for 1993 is $550—$1,000 from U.S. operations, plus $50 foreign source, general limitation income, less $500 of interest expense. Assume that U.S. tentative tax on this amount is $187, and that the only income tax credit to which the U.S. corporation is entitled is the foreign tax credit.

The amount of foreign source taxable income, and therefore foreign tax credit limitation, depends on how the $500 of interest expense of the U.S. corporation is apportioned between U.S. and foreign source gross income. On these facts, the U.S. corporation has $10,500 worth of assets, about 5 percent of which generate foreign source general limitation income, and the other approximately 95 percent of which generate U.S. source income. Therefore, about 5 percent of its interest expense, or $23.81, would be apportioned to foreign source general limitation income. Foreign source taxable income is $26.19 ($50 minus $23.81). The foreign tax credit limitation is $8.90, computed as $26.19 of foreign source taxable income divided by entire taxable income ($550), multiplied by the tentative U.S. tax of $187. Final U.S. tax for 1993 equals $178.10 ($187 minus $8.90). Total worldwide tax on the $550 of income equals $195.10 ($178.10 plus $17), even though the U.S. corporation and its foreign subsidiary are both subject to local nominal tax rates of 34 percent. It may be argued that the $8.10 excess of tax over the tax which would be computed at the nominal 34-percent rates constitutes double taxation of $23.81 of the U.S. corporation's income.

Reasons for Change

The committee believes that the U.S. tax law should not be a barrier to direct investments in foreign regulated gas and electric utilities by U.S. persons engaged (directly or indirectly through subsidiaries) in the same business domestically. The committee believes that current law, and in particular the interest allocation rules of current law, imposes such a barrier to such investments that take the form of ownership of stock in the foreign utility company. The committee understands that a number of planning techniques designed to avoid this problem are unavailable where both the U.S. corporation and the foreign issuer are regulated gas and electric utility companies. First, the committee understands that in such a case the foreign government or regulatory body may not permit U.S. interests to obtain a controlling share in the foreign utility. Second, the legal and capital structures of such utilities, and the prices such utilities charge for services, are also regulated, and typically beyond the control of a U.S. investor.

While the committee believes that tax law should not impose artificial barriers to direct investments in foreign utility operations, the committee believes that if the Code is amended so that the U.S. regulated gas and electric utility investor is entitled to elect a regime under which interest allocation rules are applied taking into account the assets, income, and expenses of foreign utilities operations in which the U.S. person is a direct investor, then it is appropriate to link that election with loss of the U.S. investor's deferral of U.S. tax on the income generated by foreign operations in which the U.S. person is a direct investor.

---

[1] Unlike the indirect foreign tax credit for actual dividend distributions, the indirect credit for subpart F inclusions can be available to individual shareholders in certain circumstances if an election is made (sec. 962).

Explanation of Provision

In general

The bill provides that certain U.S. affiliated groups predominantly engaged in regulated gas or electric utility operations may elect, for purposes of allocating interest to determine their foreign tax credit limitations, to treat their investments in the stock of certain foreign utility companies as if the U.S. affiliated group owned a proportionate share of the foreign utility's assets, and incurred a proportionate share of the foreign utility's interest expense. If the election is made, the U.S. affiliated group is taxable currently on its share of the earnings of certain foreign corporations in which it owns stock. Thus the bill permits the U.S. affiliated group to make an election whereby, in exchange for foregoing the benefits of deferral, it avoids double-counting the amount of interest expense treated as the cost of holding the assets of the foreign utility companies in whose stock the U.S. affiliated group has invested.

Qualified utility group

An election under the bill can only be made with respect to a qualified utility group. Once made, the election applies to the year for which made and all subsequent years unless revoked with the consent of the Secretary. The bill defines such a group as any affiliated group (within the meaning of the one-taxpayer rule applicable for interest allocation purposes) with respect to which four criteria are met.

First, at least 80 percent of the group's gross income must be attributable to the production, transmission, or distribution of electricity, or the distribution of gas. Second, no more than 65 percent of the average daily total capital of the group for the taxable year can take the form of debt. Third, at least one member of the group must be regulated by one or more State regulatory commissions with respect to the distribution of gas or electricity. Fourth, if the affiliated group is a member of an "expanded affiliated group," as that term is described in Item 2, above ("Election not to apply 90-percent limitation on alternative minimum tax foreign tax credit"), then the affiliated group cannot be considered a qualified utility group if the first three criteria are not met with respect to the expanded affiliated group.

Foreign regulated gas or electric utilities

If the election is made, then the bill changes, among other things, the interest allocation treatment of certain investments by qualified utility group members in foreign corporations that are foreign regulated gas or electric utilities. In order to be an investment that gives rise to this interest allocation change, the investment must be in the form of direct ownership of voting stock in the foreign corporation, in a proportion sufficient to permit the group member to receive deemed-paid credits for taxes paid by the foreign corporation. Thus, the investment must include direct ownership by members of the qualified utility group of at least 10 percent of the voting stock of the foreign regulated gas or electric utility.

In order for the foreign corporation to be a foreign gas or electric utility, at least 80 percent of its gross income must be attributable to the production, transmission, or distribution of electricity, or the distribution of gas. No more than 65 percent of the average daily total capital of the corporation for the taxable year can take the form of debt. Finally, the activities of the foreign corporation described above must be regulated by one or more regulatory commissions established pursuant to foreign law.

Effect of the election

Making the election results in a number of consequences. These include the loss of deferral on the earnings of certain foreign corporations, and modification of the rules under which interest is allocated for purposes of computing the foreign tax credit limitation.

Loss of deferral

Any investment of a member of the qualified utility group, or of any member of the expanded affiliated group (as that term is described in Item 2, above ("Election not to apply 90-percent limitation on alternative minimum tax foreign tax credit")) to which any member of the qualified utility group belongs, which investment may result in the member being entitled to credits for foreign income taxes paid by a foreign corporation, results in treatment of the foreign corporation as a controlled foreign corporation of which the group member is a U.S. shareholder. (Thus, second- and third-tier foreign corporations may be treated as controlled foreign corporations as a result of the election.) Second, all of the earnings of all foreign corporations that are (or are treated under the election) as controlled foreign corporations are treated as subpart F income, as described in Item 2, above ("Election not to apply 90-percent limitation on alternative minimum tax foreign tax credit")

Interest allocation

Under the bill, the interest expense of any qualified utility group which is subject to the election is allocated and apportioned based upon two hypothetical allocations and apportionments taking into account the assets and interest expense of any foreign regulated gas or electric utility that is a member of the so-called "expanded group." The "expanded group" for purposes of allocating interest is the qualified utility group, plus any foreign regulated gas or electric utility in which the qualified utility group members directly own voting stock in a proportion sufficient to permit the qualified utility group members to receive credits for foreign income taxes paid by the foreign corporation. (Thus, only the assets and expenses of first-tier foreign corporations are taken into account for this purpose.)

First, a hypothetical interest allocation is performed as if the qualified utility group members had directly owned their pro rata shares of the assets of, and had directly incurred their pro rata shares of the interest expenses of, the foreign corporations in the expanded group. The pro rata shares generally are determined, for this purpose, by reference to the same proportion that determines the pro rata share income inclusions under sub part F (as applied after taking into account the election). They are to be appropriately reduced, however, to take into account the extent (if any) to which subpart F inclusions are reduced because of the blocked income rule.

The amount of interest that would be allocated and apportioned to foreign source gross income on the basis of adding the pro rata share of any foreign regulated gas or electric utility's interest and assets to the interest and assets of the qualified utilities group, as described above, is then reduced to arrive at the amount of qualified utility group interest actually allocated and apportioned to foreign source income. The reduction equals the amount resulting from a second hypothetical allocation and apportionment, namely, the amount of interest that would be allocated and apportioned to foreign source gross income taking into account only the pro rata share of the assets of the foreign regulated gas or electric utility, and the pro rata share of the interest expense incurred by the foreign regulated gas or electric utility. If there is more than one such foreign corporation in the expanded group, they are treated as a single corporation for this purpose.

If the amount of interest that would be allocated and apportioned to foreign source gross income, taking into account only the interest and assets of the foreign regulated gas or electric utility (or utilities), is equal to or greater than the amount that would be so allocated and apportioned considering the expanded group as a whole, then the interest expense of the members of the qualified utility group generally will not be apportioned to gross income from foreign sources. On the other hand, if the latter amount is greater than the former, then the interest expense of the qualified utility group generally will be apportioned to gross income from foreign sources to the extent of the difference.[2]

Consistent with the rules governing interest allocation under current law, it is intended that borrowings between the qualified utility group and the affected foreign regulated gas or electric utilities, and stockholdings in the foreign regulated gas or electric utilities, will be eliminated for purposes of determining the total interest expense of the relevant corporations, computing the reduction in foreign-allocated interest expenses to account for foreign regulated gas or electric utilities, and computing appropriate asset ratios.

Examples

Assume that a member of a group of U.S. corporations, an affiliated group for purposes of the one-taxpayer interest allocation rules, owns 10 percent of the stock of a foreign corporation. Assume that each corporation owns operating assets valued at $10,000 for these purposes, each has debt to unrelated parties of $5000, and each has interest expense of $500 on that debt. Assume that none of this interest would be directly allocated to any particular stream of gross income under current law. All of the operating assets of the U.S. corporation produce U.S. source income, and all of the operating assets of the foreign corporation produce foreign source, general limitation income. A foreign country levies tax on the income of the foreign subsidiary at a 34-percent rate. The U.S. affiliated group is a qualified utility group, and the foreign corporation is a foreign regulated gas or electric utility. Together the qualified utility group and the foreign corporation form an "expanded group" as that term is used in the provision.

Assume that the affiliated group and the foreign corporation are calendar year taxpayers, and that the qualified utility group makes an election for its 1993 taxable year under the bill. Assume that the foreign corporation's pre-tax earnings and profits for 1993 equal $500. Assume that the foreign corporation has no earnings or foreign income taxes in any prior year, and that the foreign corporation bears $170 in foreign income taxes for 1993. Assume that the qualified utility group earns $1000, before taking into account interest deductions, in taxable income from its U.S. operations.

---

[2] In either case, allocation and apportionment of interest expense of the qualified utility group to gross income from foreign sources may still occur pursuant to the Secretary's existing regulatory authority, including the authority to make direct allocations. The bill is not intended to change the scope of that authority, except insofar as other changes in the law brought about by the bill (e.g., the loss of deferral) would necessitate adjustments in the interest allocation regulations.

Under the bill, the qualified utility group includes an additional $50 in income under subpart F (taking into account $17 of the foreign corporation's foreign taxes deemed paid under Code section 960 and the resulting gross-up), its pro rata share of the $500 of pre-tax earnings and profits of the foreign corporation. Thus, pre-credit U.S. tax on the qualified utility group equals 34 percent of $550, or $187. Further under this bill, the qualified utility group is treated for interest allocation purposes as having $11,000 in assets, $1000 of which generate foreign source income, and having $550 in interest expense. One eleventh, or $50, of this interest expense is hypothetically apportioned to foreign source gross income. That expense is then reduced by the amount of the pro rata portion of the interest expense of the foreign corporation ($50) that would be apportioned to foreign source income taking into account only the pro rata portion of the assets of the foreign corporation ($1000). In the example, all of those assets produce foreign source income, so the reduction is the full amount of the $50 pro rata share of the foreign corporation's interest expense is allocated or apportioned to foreign source gross income. For purposes of computing the foreign tax credit limitation, then, the qualified utility group's foreign source taxable income equals $50, the full amount of the subpart F inclusion under the bill. The foreign tax credit limitation equals one eleventh of $187, or $17, which is the full amount of foreign taxes deemed paid by the qualified utility group.

As another example, assume the same facts as above, except that the foreign corporation has only $400 of interest expense. Assume no changes in the assets, earnings and profits, or taxes of the foreign corporation. As a consequence, $9.09 of interest expense incurred by the qualified utility group is allocated and apportioned to foreign source gross income ($49.09, or one eleventh of $540, minus $40). Foreign source taxable income is thus $40.91, or $50 minus $9.09. the foreign tax credit limitation of the qualified utility group is $13.91, or $187 times $40.91 divided $550.

Effective Date

The provision applies to taxable years of domestic corporations beginning after December 31, 1992, and to taxable years of foreign corporations which end with or within such taxable years of domestic corporations.

4. Commodities income of a controlled foreign corporation (sec. 8104 of the bill and sec. 954(c) of the Code)

Present Law

As explained above, when a U.S.-controlled foreign corporation earns so-called "subpart F income," the United States generally taxes the corporation's 10-percent U.S. shareholders currently on their pro-rata share of that income.

One category of income that is considered subpart F income is "foreign personal holding company income." Foreign personal holding company income generally consists of passive types of income such as interest, dividends, annuities, and net gains from the disposition of certain types of property. Subject to a number of exceptions, foreign personal holding company income includes the excess of gains over losses from transactions (including futures, forward, and similar transactions) in any commodities. Under one such exception, gains and losses from commodities transactions are not taken into account for purposes of measuring foreign personal holding company income if they are "active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation's business is as an active producer, processor, merchant, or handler of commodities.[1]

Current temporary regulations interpret the statute by determining the amount of business that is "substantially all" of the CFC's business using a taxable income test.[2] Under the regulations, substantially all of a controlled foreign corporation's business is considered to be as an active producer, processor, merchant, or handler of commodities if its active commodities business operations give rise to at least 85 percent of its taxable income for the taxable year.

The legislative history to the Tax Reform Act of 1986 specified that the exception for active producers, processors, merchants, and handlers of commodities applies only to foreign corporations actively engaged in commodities business.[3] It does not apply to foreign corporations primarily engaged in such financial transactions as the trading of futures. In order to be engaged in the active conduct of a commodities business, a controlled foreign corporation generally must hold commodities as inventory or similar property and incur substantial expenses in the ordinary course of a commodities business.[4] Regularly taking delivery of physical commodities generally indicates the existence of an active commodities business, but it does not of itself determine the issue. Other characteristics of companies actively engaged in commodities business include: engaging in substantial processing activities and incurring substantial expenses with respect to commodities prior to their sale, including (but not limited to) concentrating, refining, mixing, crushing, aerating, and milling; engaging in significant activities and incurring substantial expenses relating to the physical movement, handling, and storage of commodities, including (but not limited to) preparation of contracts and invoices, arrangement of freight, insurance, or credit, arrangement for receipt, transfer, or negotiation of shipping documents, arrangement of storage or warehousing, and dealing with quality claims; owning and operating physical facilities used in the activities described above; owning or chartering vessels or vehicles for the transportation of commodities; and producing the commodities sold.[5]

Reasons for Change

Under current law, a single corporation may engage in the active businesses of processing wheat into flour and of processing oranges into juice concentrate, without generating subpart F income. Similarly, a single corporation may engage in the steel business without generating subpart F income under current law. By contrast, a single corporation that engages in both the active wheat processing business and the steel business loses deferral on its wheat business income. Furthermore, a single corporation engaged in the active wheat processing business, that also earns commodities income from other activities which do not satisfy the active business requirements for exclusion from subpart F, generates subpart F income from both activities if the active wheat business did not constitute substantially all of its business as interpreted by Treasury regulations. The Committee believes that a controlled foreign corporation should be permitted to avoid subpart F treatment of its active wheat business income in both of the latter two cases, whether or not the active wheat processing business constitutes substantially all of its business. On the other hand, the committee believes that it is appropriate to continue to subject to current U.S. income tax net gains from primarily financial transactions involving commodities that do not qualify for the present-law exception for bona fide hedging transactions.

Explanation of Provision

The bill expands the exception from the definition of foreign personal holding company income for active business gains and losses from the sale of commodities. Under the provision, active business gains and losses from the sale of commodities by a controlled foreign corporation as an active producer, processor, merchant, or handler of commodities are not taken into account for purposes of determining the foreign corporation's foreign personal holding company income. Thus, the bill eliminates the "substantially all" requirement of present law. As under present law, the exception does not apply to any gains or losses of a foreign corporation derived from primarily financial transactions (e.g., the trading of commodities futures), even if the foreign corporation also is engaged in an active commodities business as a producer, processor, merchant, or handler.

The bill does not alter the present-law criteria for determining whether a foreign corporation is an active producer, processor, merchant, or handler of commodities. Thus, for example, in order to exclude commodity gains and losses under the active business exception, a controlled foreign corporation must hold the commodity giving rise to the gain or loss as inventory or similar property, and must regularly engage in the production, processing, or handling and storage of the commodity.

Effective Date

The provision is effective for taxable years of foreign corporations beginning after December 31, 1992.

5. Treasury study on competitiveness (sec. 8105 of the bill)

Present Law

The United States imposes taxes that affect economic behavior, as do other countries.

Reasons for Change

The U.S. economy is the world's largest and by some measures U.S. citizens are better off than those of other countries. By other measures, however, some believe that the U.S. economy is losing ground. The U.S. growth rate of per capita gross domestic product (GDP) has been lower than that of many other developed countries for the past two decades. The growth in labor productivity in manufacturing has lagged behind that of other countries for the past three decades. The saving and investment rates are among the lowest of all developed countries.[1] In addition, the nation has experienced large trade deficits for a number of years.

---

[1] Other exceptions to the subpart F income classification of commodities gains and losses include an exception for bona fide hedging transactions and an exception for certain foreign currency gains and losses.

[2] Temp. Treas. Reg. sec 1.954-2T(f)(3)(iv).

[3] S. Rep. No. 99-313, 99th Cong., 2d Sess. 367 (1986).

[4] Temp. Treas. Reg. sec. 1.954-2T(f)(3)(iii).

[5] S. Rep. No. 99-313, at 367-368.

The committee is concerned that these trends may forebode a reduced standard of living for U.S. residents relative to that of other countries and poor performance of U.S. companies. The committee believes that if the United States is to compete effectively in this world, the committee must know how our tax laws affect the ability of American companies trying to sell goods and services here and around the globe. Specifically, the committee wants to know more about how our neighbors and competitors across the world treat savings under their tax laws, how they tax capital, how they treat research expenses, how they treat corporate earnings, and how they tax the foreign income of multinational corporations.

The committee is particularly interested in the implications for American competitiveness of recent developments in Western Europe. The twelve member nations of the European Communities ("EC") are engaged in a concerted effort to create a single internal market under the authority of the 1987 Single European Act. As part of this plan, they have taken steps to harmonize their value-added taxes, they have adopted directives on certain income tax issues, and the Commission of the European Communities has been considering the question of whether there is a need for greater harmonization of business taxation in the member states.[2] The committee wishes to examine whether unification of the EC's internal market warrants a tax policy response by the United States.

Given its duties to write legislation affecting U.S. taxation, among other issues, the committee is vitally concerned with all aspects of the interaction of tax policy and American economic well-being, including the interaction among tax policy, changes in foreign economic behavior, and the position of the United States relative to that of other countries.

Every government must strike a balance between collecting revenue in an evenhanded manner, making sure that everyone pays their fair share, and providing an environment conducive to economic growth. By comparing the tax systems of other countries with our own, the committee can glean a better idea of what works and what doesn't. To gain understanding of alternative tax systems, the committee held a hearing on July 21, 1992, and took testimony from three distinguished experts, Mr. John Isaac, the former deputy director of the Board of Inland Revenue of the United Kingdom, Mr. Yoshi Nakamura, the deputy director of the International Economic Affairs Department of the Japan Federation of Economic Organizations (Keidanren), and Dr. Albert J. Raedler, a professor at the International Tax Institute, University of Hamburg, and other witnesses. The committee gained substantial insight into the structure of the revenue systems of the United Kingdom, Japan, and Germany.

Many economists and other analysts believe that the cost of capital is an important determinant of the level of investment and, hence, of future growth. The testimony that the committee has heard is inconclusive as to how the cost of capital in the United States compares to that of other countries. The testimony also is inconclusive as to the role of tax policy in explaining potential differences in the cost of capital.

The committee wishes to benefit from whatever the Treasury Department may be able to say about this subject after careful study over the coming year. It is critical for the Congress to have as much information as possible on the relationship between tax policy and economic growth.

Explanation of Provision

Under the bill, the Secretary of the Treasury is to conduct a study of tax issues relating to the maintenance and enhancement of the competitiveness of the American economy in light of changing economic policies in Europe and the increasing globalization of the world economy.

Effective Date

The provision requires a Treasury report on the study by January 1, 1994. The report is to be submitted to the Senate Committee on Finance and the House Committee on Ways and Means.

SUBTITLE C. OTHER REVENUE PROVISIONS

1. Expansion of education savings bond provisions (sec. 8201 of the bill and sec. 135 of the Code)

Present Law

Code section 135 provides that interest income earned on a qualified U.S. Series EE savings bond issued after December 31, 1989, is excludible from gross income if the proceeds of the bond upon redemption do not exceed qualified higher education expenses paid by the taxpayer during the taxable year.[1] "Qualified higher education expenses" include tuition and required fees for the enrollment or attendance of the taxpayer, the taxpayer's spouse or a dependent of the taxpayer at an eligible educational institution.[2] A taxpayer cannot qualify for the interest exclusion by paying for the education expenses of another person (such as a grandchild or other relative) who is not a dependent of the taxpayer.

The exclusion provided by section 135 is phased out for certain higher-income taxpayers. A taxpayer's AGI for the year the bond is redeemed (not the year the bond was issued) determines whether or not the phaseout applies. For taxpayers filing a joint return, the phaseout range is for AGI between $60,000 and $90,000 (adjusted for inflation). For single taxpayers and heads of households, the phaseout range is for AGI between $40,000 and $55,000 (adjusted for inflation).

To prevent taxpayers from effectively avoiding the income phaseout limitation (through the issuance of bonds directly in the child's name), section 135(c)(1)(B) provides that the interest exclusion is available only with respect to U.S. Series EE savings bonds issued to taxpayers who are at least 24 years old.

The interest rate on Series EE savings bonds varies, depending on how long the bonds are held. The interest rate on such bonds held for more than five years is based on the market rate for Treasury outstanding obligations with five years to maturity. Bonds held for less than five years earn interest on a fixed, graduated scale (generally below current rates on comparable Treasury instruments). Interest earned on Series EE bonds is paid when the bonds are redeemed.

Reasons for Change

To assist students in meeting the costs of higher education, the committee believes it is appropriate to expand the present-law education savings bond provisions.

Explanation of Provision

The bill expands the definition of "qualified higher education expenses" under section 135 to include tuition and required fees paid by a taxpayer for the enrollment or attendance of *any* individual (not simply dependents) at an eligible educational institution.

The bill also repeals the present-law AGI phaseout limitation under section 135 (and the related rule requiring that bonds be issued to a person who is at least 24 years old). Thus, interest earned on a Series EE savings bond is not subject to tax regardless of the taxpayers's AGI during the year the bond is redeemed if, during that year, the taxpayer pays for qualified higher education expenses of any individual and such expenses exceed the proceeds (principal plus interest) received upon redemption.[3]

The bill also clarifies that the section 135 exclusion does not apply unless the taxpayer includes, on the return on which the exclusion is claimed, the name, address, and taxpayer identification number of the person for whom qualified education expenses were paid.

Effective Date

The provision applies to U.S. Series EE savings bonds issued after December 31, 1989, and redeemed after December 31, 1992.

2. Exclusion from gross income for amounts paid under a life insurance contract by reason of terminal illness (sec. 8202 of the bill and secs. 101, 816, and 7702 of the Code)

Present Law

Under present law, gross income does not include amounts received under a life insurance contract if the amounts are paid by reason of the death of the insured.

Reasons for Change

The committee believes that the devastation caused by the catastrophic health care costs of the terminally ill is a critical problem for individual consumers. The early payment of death benefits under a life insurance contract provides at least one source of funds for those individuals who face these enormous costs. However, the unclear tax treatment of such accelerated death benefits under present law may discourage some life insurance policyholders from utilizing this option. Therefore, the committee believes it is appropriate to provide that the exclusion of life insurance proceeds from gross income is extended to the payment of such proceeds in the event of terminal illness of the insured.

---

[1] See Joint Committee on Taxation, *Comparison of the Tax Systems of the United States, the United Kingdom, Germany, and Japan* (JCS-13-92), July 20, 1992.

[2] See, e.g., *Report of the Committee on Independent Experts on Company Taxation* (1992), also known as the "Ruding Committee Report," after the Chairman of the Committee, Onno Ruding.

[1] If the aggregate redemption amount (i.e., principal plus interest) of all Series EE bonds redeemed by a taxpayer during the taxable year exceeds the qualified education expenses incurred, then the excludable portion of interest income is based on the ratio that the education expenses bears to the aggregate redemption amount (sec. 135(b)).

[2] Eligible education institutions are defined in section 1201(a) and 481(a)(1)(C) and (D) of the Higher Education Act of 1965, as in effect on October 21, 1988, and in the Carl D. Perkins Vocational Education Act (subparagraph (C) or (D) of section 521(3)), as in effect on October 21, 1988. An eligible educational institution does not include proprietary institutions.

"Qualified higher education expenses" do not include expenses with respect to any course or other education involving sports, games, or hobbies other than as part of a degree program (sec. 135(c)(2)(B)).

[3] Present-law section 135(b) prorates the excludible interest when aggregate proceeds from bonds redeemed by a taxpayer during the taxable year exceed qualified education expenses paid by the taxpayer during that year. Consistent with this rule, the committee expects that the Treasury Department will prescribe procedures for allocating the income exclusion provided for by section 135 in cases where, with respect to a particular taxable year, two (or more) taxpayers redeem savings bonds and claim to have paid qualified education expenses for the same student, but the aggregate redemption proceeds received by the taxpayers exceed the student's qualified education expenses.

Description of Proposal

The provision extends the present-law exclusion for life insurance proceeds to amounts paid or advanced to an individual under a life insurance contract if the insured under the contract is terminally ill.

An insured is considered terminally ill for this purpose if the insured has been certified by a licensed physician as having an illness or physical condition that can reasonably be expected to result in death in 12 months or less.

The provision also clarifies that, for purposes of the provisions relating to the taxation of life insurance companies, a qualified terminal interest rider is treated as life insurance. A qualified terminal interest rider means any rider or addendum, or other provision of, a life insurance contract that provides for payments to an individual in the event of terminal illness.

The issuance of a qualified terminal illness rider with respect to any life insurance contract is not treated as a modification or material change under the contract for purposes of sections 7702 or 7702A of the Code. The committee intends no inference as to the effect of the issuance of a terminal illness rider under present law for purposes of section 7702 or 7702a.

Under the provision, applicants for, or recipients of, benefits under certain public assistance programs are not required to take into account the right to receive accelerated death benefits in determining eligibility for such benefits.

Effective Date

The provision generally is effective for taxable years beginning after December 31, 1989. The provision treating qualified terminal illness riders as life insurance for insurance company tax purposes and the provision providing that the issuance of such a rider is not a modification or material change in a life insurance contract are effective for taxable years beginning before, on, or after December 31, 1989. The provision relating to the effect of the availability of life insurance benefits in the event of terminal illness on eligibility for public assistance benefits is effective on January 1, 1990.

3. Offset losses against gains on the sale of a principal residence (sec. 8203 of the bill and sec. 1016 of the Code)

Present Law

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

A loss on the sale of a personal residence is not deductible.

Reasons for Change

The committee believes that there should be more symmetric treatment of losses and gains on the sale of a principal residence.

Explanation of Provision

The bill provides that if the taxpayer suffers a loss upon the sale of a principal residence and the taxpayer purchases a new principal residence within the replacement period specified in Code sec. 1034, then the basis of the replacement residence is increased by the amount of any loss not recognized on the sale of the old residence.

Effective Date

The provision is effective with respect to losses on sales or exchanges of old residences after the date of enactment, for determining recognized gain on principal residences sold or exchanged after December 31, 1993.

4. Prohibition of State "source tax" on periodic pension distributions (sec. 8204 of the bill)

Present Law

Under present law, States are not prohibited under Federal law from imposing income tax ("source tax") on the pension income earned within the State but paid to an individual who is no longer a resident of the State.

Reasons for Change

The committee believes that, in the case of periodic distributions from qualified pension plans and IRAs, the burden on individuals to comply with income taxes imposed by States in which they no longer reside outweighs the interest of the States in collecting such income taxes. States generally should not be prohibited from taxing distributions from nonqualified deferred compensation arrangements to the extent that such distributions are attributable to income earned within the State.

Explanation of Provision

The bill prohibits a State from imposing income tax on certain periodic pension distributions made to any individual who is not a resident or domiciliary of the State. A distribution is exempt from State income taxation if it is a payment from a qualified plan that is part of series of substantially equal periodic payments (not less frequently than annually) made (1) for the life or life expectancy of the recipient and his or her beneficiary, or (2) over a specified period of 10 years or more.

For purposes of the bill, a qualified plan includes (1) a qualified employees' trust (sec. 401(a)), (2) a simplified employee pension (SEP) (sec. 408(k)), (3) a qualified annuity plan (sec. 403(a)), (4) a tax-deferred annuity contract (sec. 403(b)), (5) an individual retirement arrangement (IRA) (sec. 408), and (6) an eligible deferred compensation plan of a State and local government or tax-exempt organization (sec. 457).

States are not prohibited from taxing distributions from nonqualified deferred compensation arrangements to the extent such distributions are attributable to income earned within the State. In addition, the prohibition against State income taxation generally does not apply to nonperiodic distributions from a qualified plan. However, an individual who has attained age 59½ can make a one-time election to exempt distributions totaling no more than $25,000 (indexed) in a taxable year.

Effective Date

The provision applies to taxable years beginning after the date of enactment.

5. Employer tax credit for FICA paid on tip income (sec. 8205 of the bill and sec. 38 of the Code)

Present Law

Under present law, all employee tip income is treated as employer-provided wages for purposes of the Federal Unemployment Tax Act (FUTA) and the Federal Insurance Contributions Act (FICA). For purposes of the minimum wage provisions of the Fair Labor Standards Act (FLSA), reported tips are treated as employer-provided wages to the extent they do not exceed one-half of such minimum wage.

Reasons for Change

The committee believes that it is appropriate to ease the payroll tax burden of employers in tipped industries.

Explanation of Provision

The bill provides a business tax credit (sec. 38) in an amount equal to the employer's FICA tax obligation (7.65 percent) attributable to reported tips in excess of those treated as wages for purposes of satisfying the minimum wage provisions of the FLSA. To prevent double dipping, no deduction is allowed for any amount taken into account in determining the credit. The bill prohibits carryback of unused FICA credits (sec. 39) to a taxable year ending before the date of enactment.

Effective Date

The provision is effective for tips received and wages paid after the date of enactment.

6. Tax exemption of veterans' benefits (sec. 8206 of the bill and sec. 134 of the Code)

Present Law

Section 134 of the Code (as added by the Tax Reform Act of 1986) provides that qualified military benefits are excludable from gross income. In general, a qualified military benefit is an allowance or in-kind benefit received by a member or former member of the uniformed services of the United States (or their spouses or dependents) and which was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice. In general, qualified benefits do not include modifications to benefits occurring after September 9, 1986. Qualified in kind benefits may be modified without affecting excludability.

The Treasury Department has recently stated that the following veterans' benefits are excludable from income: income arising from VA home mortgage debt waivers and similar debt waiver programs; disability-related payments, including all cost-of-living adjustments that have been made since 1986; and all in-kind benefits provided by the VA as of September 9, 1986, regardless of any subsequent modifications to those benefits.[1]

Reasons for Change

The committee believes that legislation is necessary to address recent confusion regarding the Federal tax treatment of veterans' benefits.

Explanation of Provision

Veterans' benefits administered by the Secretary of Veterans' Affairs are excludable from gross income.

Effective Date

The provision is effective for years beginning after December 31, 1984.

7. Study of recovery period for the depreciation of semi-conductor manufacturing equipment (sec. 8207 of the bill)

Present Law

Equipment used in the manufacture of semi-conductors is treated as 5-year property under the accelerated cost recovery system as modified by the Tax Reform Act of 1986. Consequently, the depreciation deductions for semi-conductor manufacturing equipment are determined by using a 5-year recovery period, the applicable convention, and the 200-percent declining balance method switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

---

[1] Letter from Fred T. Goldberg, Jr., Assistant Secretary of the Treasury for Tax Policy, to Mr. Jesse Brown, Executive Director, Disabled American Veterans (July 2, 1992).

The Department of Treasury is required to monitor and analyze the actual experience of taxpayers with respect to depreciable assets and to report the findings to Congress.

Reasons for Change

The committee understands that some studies have indicated that a shorter cost recovery period for semi-conductor manufacturing equipment may be appropriate. Therefore, the committee believes that the Department of Treasury should be required to study the decline in value over time of equipment used in the manufacture of semiconductors in order to determine whether the 5-year recovery period and class life of present law provides an accurate measure of the economic income of manufacturers of semi-conductors.

Explanation of Provision

The Department of Treasury is required to study the appropriate recovery period and class life under section 168 of the Code for semi-conductor manufacturing equipment. The results of the study are to be submitted to the House Committee on Ways and Means and the Senate Committee on Finance before April 1, 1993.

Effective Date

The provision is effective on the date of enactment.

8. Permit a common trust fund to convert to a regulated investment company and a regulated investment company to convert to a common trust fund without taxation (secs. 8208 and 8209 of the bill and secs. 584 and 852 of the Code)

Present Law

A common trust fund is a fund maintained by a bank exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, guardian, or custodian of certain accounts and in conformity with rules and regulations of the Board of Governors of the Federal Reserve System or the Comptroller of the Currency pertaining to the collective investment of trust funds by national banks (sec. 584(a)).

A common trust fund is not subject to tax and is not treated as a corporation (sec. 584(b)). Each participant in a common trust fund includes in income his proportionate share of the common trust fund income, whether or not the income is distributed or distributable (sec. 584(c)).

No gain or loss is realized by the fund upon admission or withdrawal of a participant. Participants generally treat their admission to the fund as the purchase of such interest. Withdrawals from the fund generally are treated as the sale of such interest by the participant (sec. 584(e)).

A regulated investment company (RIC) also is treated as a conduit for Federal income tax purposes. Present law is unclear as to the tax consequences when a common trust fund transfers its assets, or converts its status, to a RIC. There is a tax when a RIC transfers its assets, or converts its status, to a common trust fund.

Reasons for Change

Banks are inhibited from converting common trust funds into RICs by the possibility of the conversion being taxable and by State laws that treat an unnecessary imposition of an income tax on trust fund participants as a breach of the banks' fiduciary obligations. The committee believes that a common trust fund should be permitted to transfer its assets on a tax-free basis to a RIC, subject to certain limitations. The committee likewise believes that a RIC should be permitted to transfer its assets on a tax-free basis to a common trust fund subject to certain limitations.

Explanation of Provision

Common Trust Fund to RIC

In general, the bill permits a common trust fund to transfer substantially all of its assets to one RIC without gain or loss being recognized by the fund or its participants. The fund must transfer its assets to the RIC solely in exchange for shares of the RIC, and the fund must then distribute the RIC shares to the Fund's participants in exchange for the participant's interests in the fund.

In determining whether a transfer is solely in exchange for shares of the RIC, the assumption of liabilities by the RIC is to be ignored. A special rule, however, requires gain to be recognized to the extent the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the RIC.

The basis of any asset that is received by the RIC will generally be the basis of the asset in the hands of the fund prior to transfer (increased by the amount of gain recognized by reason of the rule regarding the assumption of liabilities). In addition, the basis of any RIC shares that are received by a fund participant will generally be the participant's basis in the interests exchanged (increased by the amount of gain recognized by reason of the rule regarding the assumption of liabilities).

The tax-free transfer is not available to a common trust fund with assets that are not diversified (under the requirements of section 368(a)(2)(F)(ii) without regard to the exclusion requirements of section 368(a)(2)(F)(iv) and without including Government securities as securities of an issuer for purposes of the 25 and 50 percent tests). The tax-free transfer also is not available to any common trust fund that had previously received assets from a RIC in a tax-free transfer that is described (below) in this new provision.

No inference is intended as to the tax consequences under present law when a common trust fund transfers its assets or converts its status, to a RIC.

RIC to Common Trust Fund

In general, the bill permits a RIC to transfer substantially all of its assets to one common trust fund without gain or loss being recognized by the RIC or its shareholders. The RIC must transfer its assets to the common trust fund solely in exchange for interests in the common trust fund, and the RIC must then distribute the interests to the RIC's shareholders in exchange for the shareholder's shares in the RIC.

In determining whether a transfer is solely in exchange for interests in the common trust fund, the assumption of liabilities by the common trust fund is to be ignored. A special rule, however, requires gain to be recognized to the extent the assumed liabilities exceed the aggregate adjusted basis (in the hands of the RIC) of the assets transferred to the common trust fund.

The basis of any asset that is received by the common trust fund will generally be the basis of the asset in the hands of the RIC prior to transfer (increased by the amount of gain recognized by reason of the rule regarding the assumption of liabilities). In addition, the basis of any interests in a common trust fund that are received by a RIC shareholder will be the shareholder's basis in the shares exchanged (but not increased by the amount of gain recognized by reason of the rule regarding the assumption of liabilities).

The tax-free transfer is not available to a RIC with assets that are not diversified (under the requirements of section 368(a)(2)(F)(ii) without regard to the exclusion requirements of section 368(a)(2)(F)(iv) and without including Government securities as securities of an issuer for purposes of the 25 and 50 percent tests). The tax-free transfer also is not available to any RIC that had previously received assets from a common trust fund in a tax-free transfer that is described (above) in this new provision.

No inference is intended as to the tax consequences under present law when a RIC transfers its assets, or converts its status, to a common trust fund.

Effective Date

The provision is effective for transfers after the date of enactment.

9. Exemption from truck excise tax for certain nonprofit educational organizations (sec. 8210 of the bill and secs. 4053 and 6416(b) of the Code)

Present Law

Present law imposes a 12-percent retail excise tax (sec. 4051) on the first sale of heavy highway trucks and truck trailers (including parts or accessories sold on or in connection with the truck or truck trailer). The tax does not apply to trucks weighing 33,000 pounds or less or to trailers weighing 26,000 pounds or less (gross vehicle weight). The tax is scheduled to expire after September 30, 1999. Revenues from the tax are transferred to the Highway Trust Fund.

Reason for Change

The committee concluded that, under certain limited circumstances, the truck excise tax should not apply to nonprofit educational organizations where the truck or truck trailer is assembled by students.

Explanation of Provision

The bill provides an exemption from the truck excise tax for trucks or truck trailers assembled by students and sold as a part of a program included in the regular curriculum of a nonprofit education organization, if the proceeds from the sale are used solely for the purpose of defraying costs incurred in such program.

A credit or refund (under sec. 6461(b) is allowed if such truck tax is actually paid by such an educational organization.

Effective Date

The provision is effective for sales after the date of enactment.

10. Treatment of cancellation of certain student loans (sec. 8211 of the bill and sec. 108(f) of the Code)

Present Law

In the case of an individual, gross income subject to Federal income tax does not include amounts discharged from the cancellation or discharge of certain student loans, provided that the discharge was pursuant to a provision of the loan under which the indebtedness would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers (sec. 108(f)).

Student loans eligible for the exclusion from gross income under section 108(f) include any loan to an individual to assist the individual in attending an educational institution that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on, but only if the loan was made by (1) the United States (or an instrumentality or agency thereof), (2) a State (or any political subdivision thereof), (3) an educational organization which originally received the funds from which the loan was made from the United States or a State, or (4) certain tax-exempt public benefit corporations whose employees have been deemed to be public employees under State law (sec. 108(f)(2)).

Section 108(f) does not apply to student loans made by an educational organization from funds that were not originally provided to the organization by the United States or a State government.

Reasons for Change

The committee believes that it is appropriate to expand present-law section 108(f), so that certain student loan cancellation programs at private educational institutions receive Federal income tax treatment comparable to that of similar programs at public institutions. This provision will promote the establishment of programs that encourage students to serve in occupations and geographic areas with unmet needs.

Explanation of Provision

Section 108(f) is expanded so that an individual's gross income does not include discharge-of-indebtedness income from the cancellation of a loan made by an educational organization (which maintains a regular faculty and body of students at the place where educational activities are regularly carried on) to assist the individual in attending the educational organization, provided that the loan was made pursuant to a program of the education organization designed to encourage its students to serve in occupations or geographic areas with unmet needs, and provided that funds for the discharge are not directly (or indirectly) provided by the student's employer. In addition, an exclusion from gross income is provided for discharges of loans made by any organization exempt from tax under section 501(a) to refinance student loans originally made by a governmental body or educational organization meeting the requirements of section 108(f).

As under present-law, the section 108(f) exclusion will apply only if the discharge of indebtedness was pursuant to a provision of the loan under which all or part of the loan would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers.

Effective Date

The provision is effective for discharges of indebtedness after the date of enactment.

11. Mount Rushmore Commemorative Coin Act (sec. 8212 of the bill and sec. 8 of the Mount Rushmore Commemorative Coin Act, 31 U.S.C. 5112 note)

Present Law

Under the Mount Rushmore Commemorative Coin Act (P.L. 101–332), the Secretary of the Treasury is to issue Mount Rushmore commemorative coins (five dollar gold coins, one dollar silver coins, and half dollar clad coins) for sale to the public. All sales require a surcharge per coin ($35 for the five dollar gold coins, $7 for the one dollar coins, and $1 for the half dollar coins).

Of the total revenues received from the surcharges, one half is to be paid promptly to the Mount Rushmore National Memorial Society of Black Hills ("the Society") to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial. The other half of the revenues from the surcharges is to be returned to the Federal Treasury for purposes of reducing the national debt.

Reasons for Change

The committee decided to direct that the Society receive money from the surcharge revenues in a specified advance from the Treasury rather than receiving monies as the sales are made.

Explanation of Provision

The bill directs that the Society is to be paid during fiscal year 1993 an advance from the Treasury in the amount of $18,750,000. Any amount received from the surcharge revenues above the $18,750,000 is to be returned to the Federal Treasury for the purposes of reducing the national debt.

However, prior to enactment of this Act, any amount of surcharges that have been received by the Treasury and paid into the Treasury for purposes of reducing the national debt shall be paid out of the Treasury during fiscal year 1993 to the net amount extent necessary to comply with the directive to pay the society the $18,750,000 under this Act. Amounts paid pursuant to this procedure shall be out of funds not otherwise appropriated.

Effective Date

The provision is effective on the date of enactment.

12. Treatment of fringe benefits of airline affiliate employees (sec. 8213 of the bill and sec. 132 of the Code)

Present Law

Under present law, the gross income of an employee of an airline or a qualified affiliate of an airline does not include the value of air transportation provided as a non-additional-cost service under section 132.

In general, a qualified affiliate is a corporation at least 80 percent of which is owned by an airline and that is engaged in an airline related service (e.g., ticketing and reservations, baggage handling).

Reasons for Change

The committee believes that qualified affiliates should not be limited to organizations that operate in corporate form.

Expanation of Provision

The definition of qualified affiliate is amended to include any entity that is at least 80 percent owned (directly or otherwise) by one or more companies that operate an airline. As under present law, to be qualified by the affiliate must be predominantly engaged in airline-related services.

Effective Date

The provision is effective for years beginning after December 31, 1992.

13. Allow certain investment expenses to be deducted for AMT purposes (sec. 8214 of the bill and sec. 56(b) of the Code)

Present Law

Individuals are subject to an alternative minimum tax imposed at a 24-percent rate on the taxpayer's alternative minimum taxable income. In computing alternative minimum taxable income, no deduction is allowed for miscellaneous itemized deductions. Investment expenses deductible under section 212 are generally treated as a miscellaneous itemized deduction and thus are not deductible in computing the minimum tax. Under the regular tax, miscellaneous itemized deductions (including investment expenses) are deductible only to the extent they exceed two percent of the individual's adjusted gross income.

Reasons for Change

The committee believes that in order to more accurately measure the economic income of partners in partnerships for AMT purposes, section 212 expenses that flow from partnerships should be allowed to offset investment income from partnerships.

Explanation of Provision

Under the bill, a certain amount of the distributive share of section 212 expenses of a partner in a partnership is deductible by an individual for AMT purposes. The aggregate amount deductible for AMT purposes is limited to the lesser of (1) the aggregate of the individual's adjusted investment income from partnerships or (2) the excess of the aggregate of the taxpayer's distributive shares of section 212 expenses over two percent of the taxpayer's adjusted gross income. For purposes of the bill, "adjusted investment income" means investment income (as defined by sec. 163(d)(4)(B) so as not to be reduced by sec. 212 expenses) reduced by investment interest (as defined by section 163(d)(3) so as not to be reduced by the limitation applicable to investment interest).

For example, assume that for 1993, the only items of taxable income of an individual are from an interest in a partnership. For the year, the partnership reports $30,000 of investment income, $10,000 of section 212 expenses, and $25,000 of investment interest to the individual. Under the bill, the individual would be allowed to deduct $5,000 of section 212 expenses for AMT purposes ($30,000 investment income less $25,000 investment interest).

As a further example, assume that for 1993, the individual described in the example above also receives a salary of $270,000. Under the bill, the individual would be allowed to deduct $4,000 of section 212 expenses for AMT purposes ($10,000 less 2 percent of adjusted gross income of $300,000 ($6,000)).

Effective Date

The provision is effective for taxable years beginning after 1992.

14. Treatment of unpaid child support (sec. 8215 of the bill and secs. 108 and 166 of the Code)

Present Law

Individual taxpayers generally are allowed a deduction for a debt that becomes worthless, provided that the debt was created or acquired in connection with the taxpayer's trade or business. However, individuals may not claim a bad-debt deduction for a nonbusiness debt that becomes worthless (sec. 166(d)).

A taxpayer generally realizes income by the nongratuitous discharge of an indebtedness owned by the taxpayer (sec. 61(a)(12)).

The Internal Revenue Service (IRS) is required to withhold from a tax refund otherwise due an individual an amount equal to delinquent child support payments if it receives notice from a State child support agency that the individual owes past-due support (1) that has been assigned to the State as a condition of eligibility for Aid to Families with Dependent Children (AFDC), or (2) for certain non-AFDC families with minor children (sec. 6402(c)). Refunds so withheld generally are remitted to the State that has been assigned the right to collect the past-due support under the Social Security Act.

Reasons for Change

The committee believes it is appropriate to allow a bad-debt deduction to certain parents that have not received past-due child support payments. The committee also believes it is appropriate to impute discharge of indebtedness income to a parent who fails to pay required child support payments, which should provide an additional incentive for delinquent parents to make such payments.

Explanation of Provision

The bill allows certain taxpayers who are owed past-due child support payments of at least $500 to claim a bad-debt deduction.[1] Under the provision, the past-due payments generally must be delinquent for at least one year. The deduction claimed may not exceed $5,000 per child per year, and is not available to a taxpayer whose adjusted gross income (AGI) exceeds $50,000.[2]

The deduction applies with respect to child support payments[3] owed with respect to a qualifying child[4] of the taxpayer, if such payments are required to be paid to the taxpayer under a support instrument that is (1) a decree of divorce or separate maintenance or a written instrument incident to such a decree, (2) a written separation agreement, or (3) a decree of a court or administrative agency requiring a parent to make payments for the support or maintenance of one or more children of such parent. Under the provision, the deduction is allowed only if the taxpayer has not assigned the collection rights to the support payments to a State AFDC agency under section 402(a)(26) of the Social Security Act (42 U.S.C. 602(a)(26)).

The deduction provided for by the bill is allowed in determining AGI (above-the-line), regardless of whether the taxpayer itemizes deductions or claims the standard deduction. In addition, the provision requires the inclusion of the amount of unpaid child support payments in the gross income of the delinquent parent by reason of discharge of indebtedness.[5]

Under the provision, if the child support is collected after the deduction is taken, the taxpayer claiming such a deduction is required to include the payment in gross income for the taxable year in which the payment is received (and the taxpayer making the subsequent payment is entitled to a deduction for the taxable year in which such payment is made).

The bill especially provides that it shall not be construed to affect the right of an individual or State to receive any child support payment, or the obligation of an individual to pay child support.

Effective Date

The provision is effective for taxable years beginning after December 31, 1992.

15. Treatment of certain residual-market insurance companies under the alternative minimum tax (sec. 8216 of the bill and sec. 56(d) of the Code)

Present Law

Many States have established not-for-profit associations to provide automotive or other types of property or casualty insurance to persons who otherwise could not obtain or afford such insurance. These associations, which are commonly referred to as residual-market insurance associations, generally are subject to Federal income tax on any income that is not derived from the exercise of an essential government function or that does not accrue to the State or a political subdivision thereof (sec. 115).

A residual-market insurance association that is subject to Federal income tax may be subject to the alternative minimum tax. Under the alternative minimum tax, the alternative tax net operating loss deduction may only offset 90 percent of alternative minimum taxable income (determined without regard to the alternative tax net operating loss deduction).

Reasons for Change

The committee believes that not-for-profit, residual-market insurance associations serve an important social policy objective by providing insurance to persons who otherwise could not obtain or afford such insurance. Consequently, the committee believes that these associations should be provided relief from the alternative minimum tax limitation on the use of net operating losses.

Explanation of Provision

Any insurance company that is created by a State or an instrumentality thereof and that is operated on a not-for-profit basis exclusively to provide coverage to persons for high-risk needs where coverage is not otherwise available or affordable may use its alternative tax net operating loss deduction to offset 100 percent (rather than 90 percent) of alternative minimum taxable income.

Effective Date

The provision applies to taxable years ending after the date of enactment of the Act.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN (for himself and Mr. PACKWOOD):

S. 3120. A bill to amend title XIX of the Social Security Act to make technical corrections and clarifications related to sections 4401 through 4801 of the Omnibus Budget Reconciliation Act of 1990, and to make conforming medicare amendments; to the Committee on Finance.

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 3121. A bill to grant Federal recognition to the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians, to clarify the status of members of the Bands, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. BENTSEN (for himself, Mr. JOHNSTON, and Mr. BREAUX):

S. 3122. A bill to establish a commission, with Federal, State, and private representation, for the purpose of promoting the environmental and economic interests of the Gulf of Mexico; to the Committee on Environment and Public Works.

By Mr. SEYMOUR:

S. 3123. A bill to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions; to the Committee on Finance.

By Mr. AKAKA:

S. 3124. A bill to amend the Consolidated Farm and Rural Development Act and the Farm Credit Act of 1971 to establish a program to aid beginning farmers and ranchers, to improve the operation of the Farmers Home Administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MCCAIN (for himself and Mr. DECONCINI):

S. 3125. A bill to amend the Southern Arizona Water Rights Settlement Act of 1982; to the Select Committee on Indian Affairs.

By Mr. EXON (for himself and Mr. KERREY):

S. 3126. A bill to extend a time limitation with respect to the economic development plan of the Ponca Tribe of Nebraska; to the Select Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JOHNSTON (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 328. Resolution to authorize testimony and production of documents by an employee of the Senate in Marian Mixon v. U.S. Department of the Treasury; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN (for himself and Mr. PACKWOOD):

S. 3120. A bill to amend title XIX of the Social Security Act to make technical corrections and clarifications related to sections 4401 through 4801 of the Omnibus Budget Reconciliation Act of 1990, and to make conforming medicare amendments; to the Committee on Finance.

MEDICAID TECHNICAL CORRECTIONS AND CLARIFICATION ACT OF 1992

• Mr. BENTSEN. Mr. President, today Senator PACKWOOD and I are introducing a package of amendments to title XIX of the Social Security Act to clarify and make technical corrections to the Medicaid provisions included in the Omnibus Budget Reconciliation Act of 1990. The bill also includes conforming amendments to the nursing home reform provisions in title XVIII of the

---

[1] Under the bill, the $500 threshold applies to the total of past-due payments owed with respect to all qualifying children of the taxpayer. If this threshold is exceeded, the total amount, including the first $500 (but not exceeding $5,000 per child) is deductible.

[2] The $500, $5,000, and $50,000 amounts are adjusted for inflation after 1992.

[3] The term "child support payment" is defined as a payment for support of a qualifying child, if such payment is either (1) any periodic payment of a fixed amount, or (2) any payment of a medical or educational expense, insurance premium, or similar item.

[4] For purposes of the provision, the term "qualifying child" means a child of with respect to whom a deduction is allowable to the taxpayer under section 151 for the taxable year (generally applying to any son, stepson, daughter, or stepdaughter of the taxpayer over half of whose support for the year was received from the taxpayer and (1) whose gross income for the year is less than the personal exemption amount, or (2) is younger than 19 years old or is a student younger than 24 years old).

[5] On the taxpayer's return claiming the deduction provided for by the provision, the taxpayer is required to include the taxpayer identification number (TIN) of each child with respect to whom support payments are owed and the delinquent parent (unless the taxpayer certifies that the delinquent parent's TIN is not known). The provision also requires the taxpayer claiming the deduction to notify the delinquent parent of the amount of the deduction claimed and that the delinquent parent is required to include such amount in gross income for the taxable year beginning in the preceding calendar year. The IRS is required to provide this notice if the delinquent parent's address is not known to the taxpayer but is available to the IRS.

Social Security Act—Medicare. The Congressional Budget Office has informed us that the amendments will involve no additional cost to the Medicaid or Medicare programs.

I fully expect that all interested parties will view these amendments as improvements of current law, and hope that our colleagues will support them. Most of the amendments are strictly minor and technical corrections. Some, however—particularly those relating to the prescription drug rebate program—are intended to clarify ambiguities or correct problems that have surfaced as the law has been implemented. Accordingly, we are introducing the amendments well in advance of their consideration by the Finance Committee so that interested parties have ample time to review and comment on these provisions and, if necessary, identify any unintended consequences of the proposed modifications to current law.●

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 3121. A bill to grant Federal recognition to the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottowa Indians, to clarify the status of members of the Bands, and for other purposes; to the Select Committee on Indian Affairs.

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS AND LITTLE RIVER BAND OF OTTOWA INDIANS ACT

Mr. RIEGLE. Mr. President, I am pleased to join Senator LEVIN as a cosponsor of legislation to provide Federal recognition for the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians. These tribes have a strong case for seeking Federal recognition through Congress, and I support them.

The members of these tribes are descendants of those who signed the 1836 Treaty of Washington and the 1855 Treaty of Detroit. They have maintained tribal governments through the present and have had continuous dealings with the Federal Government.

The variety of recognition processes the Federal Government has created since the 1930's have not worked correctly with regard to these tribes. In 1935, these tribes applied for recognition under the Wheeler-Howard Act and met all requirements to be recognized, but were denied formal recognition because of budgetary shortfalls and problems with the bureaucracy. They maintained viable tribal governments through the intervening years and have attempted to obtain recognition through the current Federal approval process.

Both the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians have a long and rich history that extends well before the first Europeans entered the Great Lakes area. These tribes have a strong cultural identity that has survived many years of hostility from European settlers and the U.S. Government. I believe that we have an obligation to do what we can to mend our relationship with these tribes and I am hopeful that Congress will move forward with this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians are descendants of, and political successors to, signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit.

(2) The Grand Traverse Band of Ottawa and Chippewa Indians, the Sault Saint Marie Tribe of Chippewa Indians, and the Bay Mills Band of Chippewa Indians, whose members are also descendants of the signatories to the 1836 Treaty of Washington and the 1855 Treaty of Detroit, have been recognized by the Federal Government as distinct Indian tribes.

(3) The Little Traverse Bay Bands of Odawa Indians consist of at least 1,000 eligible members who continue to reside close to their ancestral homeland in what is now Emmett and Charlevoix Counties, Michigan.

(4) The Little River Band of Ottawa Indians consists of at least 500 eligible members who continue to reside close to their ancestral homeland in what is now Manistee and Mason Counties, Michigan.

(5) The Bands filed for reorganization of their existing tribal governments in 1935 under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"). Federal agents who visited the Bands, including Commissioner of Indian Affairs, John Collier, who authored the Act, attested to the continued social and political existence of the Bands and concluded that the Bands were eligible for reorganization. Due to a lack of Federal appropriations to implement the provisions of such Act, the Bands were denied the opportunity to reorganize.

(6) In spite of such denial, the Bands continued their political and social existence with viable tribal governments. The Bands, along with other Michigan Odawa/Ottawa groups, including the tribes described in paragraph (2), formed the Northern Michigan Ottawa Association in 1948. The Association subsequently pursued a successful land claim with the Indian Claims Commission.

(7) Between 1948 and 1975, the Bands carried out their governmental functions through the Northern Michigan Ottawa Association.

(8) In 1975, the Northern Michigan Ottawa Association petitioned under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act), to form a government on behalf of the Bands. Again in spite of the Bands' eligibility, the Bureau of Indian Affairs failed to act on their request.

(9) The United States Government, the government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Bands from 1836 to the present.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Bands" means the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians;

(2) the term "member" means those individuals eligible for enrollment in the Bands pursuant to section 5; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 4. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—Federal recognition is hereby extended to the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians. All laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), which are not inconsistent with any specific provisions of this Act shall be applicable to the Bands and their members.

(b) FEDERAL SERVICES AND BENEFITS.—The Bands and their members shall be eligible, on and after the date of the enactment of this Act, for all Federal services and benefits furnished to federally recognized tribes or their members without regard to the existence of reservations for the Bands.

SEC. 5. MEMBERSHIP.

Not later than 18 months after the date of the enactment of this Act, the Bands shall submit to the Secretary membership rolls consisting of all individuals eligible for membership in such Bands. The qualifications for inclusion on the membership rolls of the Bands shall be determined by the membership clauses in such Bands' respective governing documents, in consultation with the Secretary. Upon completion of the rolls, the Secretary shall immediately publish notice of such in the Federal Register. The Bands shall ensure that such rolls are maintained and kept current.

SEC. 6. CONSTITUTION AND GOVERNING BODY.

(a) CONSTITUTION.—

(1) ADOPTION.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall conduct, by secret ballot, elections for the purpose of adopting new constitutions for the Bands. The elections shall be held according to the procedures applicable to elections under section 16 of the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act").

(2) INTERIM GOVERNING DOCUMENTS.—Until such time as new constitutions are adopted under paragraph (1), the governing documents in effect on the date of the enactment of this Act shall be the interim governing documents for the Bands.

(b) OFFICIALS.—

(1) ELECTION.—Not later than 6 months after the Bands adopt constitutions and bylaws pursuant to subsection (a), the Secretary shall conduct elections by secret ballot for the purpose of electing officials for the Bands as provided in the Bands' respective constitutions. The elections shall be conducted according to the procedures described in subsection (a), except to the extent that such procedures conflict with the Bands' constitutions.

(2) INTERIM GOVERNMENTS.—Until such time as the Bands elect new officials pursuant to paragraph (1), the Bands' governing

bodies shall be those governing bodies in place on the date of the enactment of this Act, or any new governing bodies selected under the election procedures specified in the respective interim governing documents of the Bands.

By Mr. BENTSEN (for himself, Mr. JOHNSTON, and Mr. BREAUX):

S. 3122. A bill to establish a commission, with Federal, State, and private representation, for the purpose of promoting the environmental and economic interests of the Gulf of Mexico; to the Committee on Environment and Public Works.

GULF OF MEXICO COMMISSION ACT

• Mr. BENTSEN. Mr. President, I am introducing the Gulf of Mexico Commission Act of 1992, which will initiate a long-term effort to coordinate and manage one of the Nation's most economically vital and environmentally threatened resources—the Gulf of Mexico. I want to thank my distinguished colleagues from Louisiana, Senators BENNETT JOHNSTON and JOHN BREAUX, for joining me in introducing legislation that is intended to facilitate the goal of ensuring that the Gulf of Mexico receives the level of attention and support that it so richly deserves. The purpose of this act is to establish a Gulf of Mexico Commission that is comparable to existing Commissions for the Great Lakes and Chesapeake Bay.

Mr. President, the Gulf of Mexico is a national resource of major economic dimensions. It supplies more than half of our Nation's domestic fish and seafood. More than 90 percent of United States and Mexican oil production is derived from offshore drilling in the gulf. Payments to the U.S. Treasury from Outer Continental Shelf production leases have totaled $80 billion over the past 30 years, a sum exceeded only by Federal income tax revenues. Forty-five percent of our Nation's domestic import-export tonnage—$24 billion in shipments—passes through the gulf every year. Its recreation and resort industries contribute $10 billion yearly to our Nation's economy. Its shores are home to millions of Americans in five States. Its wetlands are habitat for three-quarters of North America's migratory waterfowl. Its depths are a breeding ground for numerous sport and commercial fish and shellfish.

Tragically, Mr. President, the Gulf of Mexico also is a resource in serious ecological jeopardy.

Three-fourths of the North American landmass drains its industrial, chemical, commercial, agricultural, automotive, and household wastes into the gulf. Discharge from marine vessels and oil spills sludge her waters. Debris from 33 nations accumulates on her shores. Oceanographers have determined that a large dead zone of oxygen depletion has developed in gulf waters off the coasts of Texas and Louisiana.

Concerns about human health have produced permanent or conditional closure of 3.4 million acres of shellfish-growing gulf beds. Further, erosion throughout the entire gulf is steadily devouring wetlands and barrier islands, thereby imperiling aquaculture, the gulf intracoastal waterway, and hurricane protection. In fact, I and several of my colleagues have been working very hard to address a severe erosion problem at Sargent Beach, TX, which poses an imminent threat to the gulf intracoastal waterway and its significant commercial traffic.

Mr. President, there is a serious imbalance between the significance of these issues and the attention devoted to them. It is clear that the substantial resources of the Gulf of Mexico are not receiving an appropriate level of support and attention.

Presently, the General Accounting Office is developing a comprehensive study of the level of Federal assistance provided to the Gulf of Mexico, in comparison to that provided to other estuaries like the Great Lakes, Chesapeake Bay and Gulf of Maine. That study will further compare the level of Federal assistance to the scope of the resource base found in each area. This study, though not yet complete, will provide important information that will facilitate the activities of the Commission. Preliminary findings made by the GAO and the Congressional Research Service support the contention that the gulf's resources do not receive an appropriate level of Federal support.

In this vein, Mr. President, I do not intend to minimize the significance of other navigable waterways, or to suggest that the level of support and attention directed at those waterways is inappropriate. Rather, I am asserting that the Gulf of Mexico does not receive the level of Federal, State, and local support that is commensurate with the significant impact of the gulf's resources on our Nation's environment and economy.

Fortunately, other Members of the House and Senate have also recognized the urgent need to address the current and long term problems faced by the gulf and have introduced relevant legislation. I applaud these efforts. In my view, the different bills are complementary and I look forward to working with my colleagues in both Houses to fashion legislation which combines the various ideas under a common and important theme—the preservation and development of the Gulf of Mexico.

Although the Gulf of Mexico Commission will have Federal representation, there is a distinct emphasis on State and local representation. I firmly believe that the various Gulf States should decide how best to preserve and develop the Gulf of Mexico, with input from the Federal Government.

Ultimately, I expect that the commission's findings and recommendations will form the basis for an interstate compact agreement that reflects a consensus among the five Gulf States as to a specific level of authority to be vested in the commission to act on their behalf and in the best interests of the gulf. Once such agreement is formalized, it may be submitted to Congress and the executive branch for approval as required by the Constitution. Then, the commission can officially represent the interests of the gulf and its surrounding States to the extent allowed in the interstate compact.

As set forth in this legislation, the Gulf of Mexico Commission would be a conduit through which all interested parties will work together to promote the environmentally sensitive preservation and development of the valuable resources found in the gulf region. The commission will take a balanced and comprehensive approach to reaching this goal that will effectively serve the gulf's long term best interests.

The commission will help guide the development, use, management, and conservation of the gulf in ways compatable with the gulf's industrial, commercial, agricultural, aquatic, residential, and recreational uses. To accomplish this objective, the commission will work closely with all governments, agencies, and organizations whose goals are to promote the preservation and development of the gulf's resources.

For example, the commission would strongly support programs such as the Environmental Protection Agency's Gulf of Mexico Program and those conducted by the Department of Commerce through the National Oceanic and Atmospheric Administration and the National Marine Fisheries Service. Various other programs sponsored by Federal agencies such as the Departments of Energy, Interior, and Agriculture, as well as those sponsored by State and local governments, and private organizations, will be strongly supported. Ideally, the commission will be in a position to advocate increase funding for such programs and promote their various objectives.

The commission will strongly encourage the participation of the Mexican Government in the commission's activities and I hope that those Mexican states bordering the Gulf of Mexico will be especially active in supporting the commission's activities.

Mr. President, I would like to emphasize that the commission will not interfere with the myriad of positive activity already taking place with respect to the gulf, but will work diligently to promote and enhance these activities, while carefully examining the expediency of others. In the Great Lakes and Chesapeake Bay regions, their respective commissions have successfully worked with various Federal, State, and local agencies and organizations to promote the best interest of those areas. I fully expect that a similar system of cooperative management can—and should—be implemented with respect to the Gulf of Mexico. With the support of Congress, the Gulf States, the private sector and the Government of Mexico, the Gulf Coast Commission can facilitate the development of such a system.

I urge all of my colleagues to join us in the effort to establish this Commission.●

Mr. BREAUX. Mr. President, I rise to join Senator BENTSEN as a cosponsor of the Gulf of Mexico Commission Act of 1992. This legislation is a recognition of the value of the Gulf of Mexico to our economy and our environment and it is a first step in undoing some of the damage that has been done to the gulf over the years.

As an environmental and commercial resource, the Gulf of Mexico is almost unparalleled in its significance to the United States as a whole. It is also a resource that has been ignored and overlooked for too long. The bill that we are introducing today is a visionary proposal and I am proud to be a part of the effort.

More than 50 percent of our Nation's domestic fish and seafood are pulled out of the gulf each year. Seventy-five percent of North America's migratory waterfowl depend on the gulf's wetlands as habitat.

More than 90 percent of the United States' and Mexico's oil production is derived from offshore drilling in the gulf.

Twenty-four billion dollars' worth of domestic import-export shipments go through gulf ports every year. This is equal to almost half of such annual tonnage.

The gulf's recreational and resort industries contribute $10 billion yearly to our Nation's economy and to the citizens of the five states that make up the gulf coast.

As a source of revenue to the Federal Government over the last 30 years the Gulf of Mexico has been second only to income tax revenue. Over $80 billion in payments to the Federal Treasury have come from Outer Continental Shelf oil production leases in the gulf.

Despite the incredible value of this resource to our economy, our way of life and the North American ecosystem, we have shown poor stewardship in protecting its value for current and future generations of Americans. The Mississippi River, which runs through Louisiana and empties into the gulf, carries with it vast amounts of agricultural, commercial, chemical, industrial, and municipal wastes from three-quarters of the land area of the lower 48 states. Biological "dead zones" have been discovered in the gulf's waters and the refuse of dozens of foreign nations have washed up on our shores. Millions of acres of shellfish beds have been closed for some period of time.

Man's activity in the gulf and in coastal areas has led to erosion of one of our most precious environmental resources—coastal wetlands. My State of Louisiana, which contains 40 percent of the Nation's coastal wetlands, is losing 40-60 square miles of coastal wetlands every year. Loss in Louisiana alone accounts for 80 percent of the coastal wetlands loss in the lower 48 states.

The legislation that we are introducing today is the first step in turning things around for the gulf. We need to begin to manage this resource on all levels for all of its potential uses, so that we can maintain its incredible value. My Cajun predecessors depended on the resources of the gulf for their way of life. I want those same resources to be available for my children and for their children. I don't want my generation's dependence on the gulf's resources to impair its value for them.

Our bill will establish a Gulf of Mexico Commission modeled on the successful commissions that have done so much to resuscitate the Great Lakes and the Chesapeake Bay. This commission will work to coordinate the activities of all of the Federal agencies involved in conserving, managing and using the gulf's resources and, most importantly, it will include representatives of State and local governments from the Gulf States.

In the case of the Great Lakes and the Chesapeake Bay, similar commissions drafted interstate agreements, known as compacts, that guided and continue to guide the rational use of these resources with the support of Federal recognition and sanction. It is our hope in introducing this legislation today that a similar process will be borne out for the management of the Gulf of Mexico.

Earlier in this Congress, I joined Senator BENTSEN and other Gulf States Senators in asking the General Accounting Office to measure the value of the Gulf of Mexico to our economy and way of life. At the same time, we asked GAO to take a look at the resources that are devoted to conserving the gulf's environmental resources and managing its economic potential. That report is not completed yet, but I am confident that it will show how badly needed this legislation really is.

Mr. President, I would again congratulate Senator BENTSEN for this important step forward. I urge my colleagues from all across this Nation, who will benefit from the gulf's resources, to join us in cosponsoring and supporting this legislation.

By Mr. DOLE (for Mr. SEYMOUR):

S. 3123. A bill to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions; to the Committee on Finance.

MODIFICATION OF INVOLUNTARY CONVERSION RULES

● Mr. SEYMOUR. Mr. President, I am introducing today a bill that will provide some relief to the victims of Presidentially declared disasters. While this legislation will not lessen the heartache and suffering that these people have endured, these simple revisions to the tax code will hopefully assist disaster victims in rebuilding their lives more quickly.

As you may recall, searing brush fires cut a swath through 1,900 acres in California's East Bay communities last October 20. This whirlwind firestorm claimed 25 lives and destroyed over 3,000 homes, leaving most victims with nothing more than the clothes on their backs. And, if this was not enough, victims now face Federal tax rules that inhibit their ability to restore their devastated lives.

My bill, Mr. President, provides three very simple, but effective, revisions to the tax code in an effort to help victims who have lost homes and/or personal property in Presidentially declared disasters.

First, my bill extends the time to rebuild or purchase a principal residence from 2 to 4 years, allowing victims more time to reinvest their insurance proceeds without being unfairly penalized by the Internal Revenue Service. And because entire communities are normally destroyed in these disasters, the rebuilding effort is made much more difficult and time-consuming.

Second, my bill allows an aggregate reporting of all items lost in a disaster, as opposed to an item by item listing as required by current law. In many cases, victims have lost hundreds, if not thousands, of personal items. It is extremely unfair to force disaster victims to endure this very cumbersome, if not impossible, task.

Third, my legislation allows insurance proceeds from personal property and real property to be lumped together in one common fund. Under current law, proceeds from personal property losses must be used to replace personal property. Likewise, real property proceeds must be used to replace real property. Simply, this provision allows the victim to allocate insurance proceeds to replace real and personal property as the victim sees fit, without the fear of incurring a taxable gain.

The victims of the Oakland firestorm, as well as other disasters, have had their lives turned upside down. In these instances, priorities certainly change. It is, therefore, important that we give these victims the flexibility to make these changes.

While my legislation was prompted by the Oakland firestorm of last October, it is important to keep in mind that my bill will assist victims of each and every Presidentially declared disaster occurring on or after September 1, 1991. And, we can provide these relief with little cost. The Joint Tax Committee estimates the revenue loss of this legislation as negligible.

Mr. President, there is not one State in our Nation that has not been hit by one disaster or another. And, most definitely, we can expect another disaster to disrupt our lives again. While in some cases we may predict the proximate location of an expected hurricane along the eastern seaboard and gulf coast, a tornado in the Midwest, or an earthquake in California, it is truly impossible to predict the death and destruction handed down by Mother Nature.

I urge my colleagues to support this important legislation.

I ask unanimous consent that the text of my bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR CERTAIN DISASTER-RELATED CONVERSIONS.

(a) IN GENERAL.—Section 1033 of the Internal Revenue Code of 1986 (relating to involuntary conversions) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR PRINCIPAL RESIDENCES DAMAGED BY PRESIDENTIALLY DECLARED DISASTERS.—

"(1) IN GENERAL.—If the taxpayer's principal residence or any of its contents is compulsorily or involuntarily converted as a result of a Presidentially declared disaster—

"(A) TREATMENT OF INSURANCE PROCEEDS.—

"(i) EXCLUSION FOR UNSCHEDULED PERSONAL PROPERTY.—No gain shall be recognized by reason of the receipt of any insurance proceeds for personal property which was part of such contents and which was not scheduled property for purposes of such insurance.

"(ii) OTHER PROCEEDS TREATED AS COMMON FUND.—In the case of any insurance proceeds (not described in clause (i)) for such residence or contents—

"(I) such proceeds shall be treated as received for the conversion of a single item of property, and

"(II) any property which is similar or related in service or use to the residence so converted (or contents thereof) shall be treated for purposes of subsection (a)(2) as property similar or related in service or use to such single item of property.

"(B) EXTENSION OF REPLACEMENT PERIOD.—Subsection (a)(2)(B) shall be applied with respect to any property so converted by substituting '4 years' for '2 years'.

"(2) PRESIDENTIALLY DECLARED DISASTER.—For purposes of this subsection, the term 'Presidentially declared disaster' means any disaster which, with respect to the area in which the residence is located, resulted in a subsequent determination by the President that such area warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

"(3) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term 'principal residence' has the same meaning as when used in section 1034, except that no ownership requirement shall be imposed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property compulsorily or involuntarily converted as a result of disasters for which the determination referred to in section 1033(h)(2) of the Internal Revenue Code of 1986 (as added by this section) is made on or after September 1, 1991, and to taxable years ending on or after such date.●

By Mr. AKAKA:

S. 3124. A bill to amend the Consolidated Farm and Rural Development Act and the Farm Credit Act of 1971 to establish a program to aid beginning farmers and ranchers, to improve the operation of the Farmers Home Administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARMING OPPORTUNITY ACT

● Mr. AKAKA. Mr. President, today I am introducing the Farming Opportunity Act, a bill to target credit assistance to those who need it most—beginning farmers.

Anyone familiar with farming should be alarmed by the dramatic decline in the number of farmers and the advancing age of our farm population. Last month the Census Bureau announced that the average age of our farmers continues to grow older and that farm population has once again declined.

The average farmer is 52 years of age, compared to an average of 33 years for nonfarmers. Today, there are twice as many farmers over the age of 60 as there are below the age of 35. As our aging farm population retires, we must ask ourselves: Where will the next generation of farmers come from?

Clearly we are not doing enough to attract rural youth to farming. All too often, young people with farm backgrounds don't follow in their parents' footsteps. Often this occurs at their parents' urging. Farming simply has too many barriers to remain attractive to young people.

Gone are the days when, if you had land, labor, and a little cash, you could make a go at farming. Modern farms are capital intensive businesses. Ask struggling young farmers about the greatest challenge they face, and the near-universal response you will hear is "access to credit."

The Federal Government simply has not done enough to help beginning farmers establish themselves or remain in business. In part, this is because the Farmers Home Administration has forsaken its central mission of extending credit to beginning farmers until their operations can become viable. The legislation I introduce today is a companion measure to H.R. 2401, introduced by Representative PENNY, and is designed to redirect the lending priorities of the Farmers Home Administration.

Under this bill, a new FmHA loan program would be established to assist persons interested in pursuing farming, ranching and aquaculture as their primary occupation. It specifically targets the beginning farmer—individuals who have not previously operated a farm or have operated farms for less then 5 years.

To relieve assistance under the Farming Opportunity Act, an applicant must agree to participate in loan assessment, borrower training and financial management programs under the Department of Agriculture. An applicant must be able to demonstrate that after 10 years the farming operation will be viable without further FmHA loans. Finally, the measure creates a special downpayment loan program so that these farmers can achieve the dream of owning their own farm.

Nowhere would such a program have greater benefit that in Hawaii. Due to a number of recent developments, we have an abundance of idle farmland and a growing rural labor pool.

Last Friday, the big island's second largest sugar plantation, Mauna Kea Agribusiness, announced that it would cease farming sugarcane. Beginning in November, nearly 9,000 acres of caneland will be converted to other agricultural uses.

One-third of the land producing sugarcane 20 years ago is no longer being cultivated today. By the time that Mauna Kea's sugar operations have come to an end, Hawaii's cane acreage will have declined by 85,000 acres. If past experience is a guide, only 12 percent will be planted in other crops.

There is an ample supply of good farmland in Hawaii. In addition to the changes planned by Mauna Kea Sugar, there is evidence that additional farm acreage may be available soon. As a means of raising capital in order to reduce its debt, the big island's Hamakua Sugar Co. has announced plans to sell nearly 2,000 acres at Laupahoehoe. The land will be subdivided into small agricultural lots and offered for sale to current and former Hamakua employees, and to nearby residents.

In another development, the 9,600-acre Mauna Kea Ranch was recently subjected to a foreclosure sale. While the new landowner has not announced its intentions about the use of this property, ranching or agriculture appears to be the only conceivable land use. Further reductions in Hawaii's sugar acreage remain a possibility, as the Hawaiian sugar industry gets caught in a squeeze between static or declining sugar prices and higher production costs.

Rising unemployment, especially on the neighbor islands, means that there is a labor pool capable of becoming the next generation of Hawaii's farmers. On the big island, unemployment is 3.1 percent above the statewide average. Molokai is 4.3 percent above the State average, while Maui's unemployment is 1.3 percent above the State as a whole.

The neighbor island economy has been hard hit by a downturn is sugar and tourism. The Farming Opportunity Act can offer a shot in the arm for our lagging economy. Many sugar workers have spent their lives in agriculture, and I want to ensure that they can continue to find employment in farming.

Agriculture has always been the economic backbone of rural Hawaii. The decline of sugar means that we must turn to other crops if we are to preserve the economic health of the neighbor islands. The best way to achieve this transition is to promote new ventures in diversified agriculture by targeting credit assistance to beginning farmers.

There is no magic answer to the problems that precipitated Mauna Kea's decline. But I am committed to finding solutions that will maintain a strong and healthy economy in rural Hawaii.

Fortunately, Hawaii has an abundance of good agricultural land as well as ambitious young people capable of farming successfully. What is lacking is a credit program specifically designed for the needs of beginning farmers. Through the Farming Opportunity Act, we can establish a new generation of farmers who will produce diversified crops that are in demand in mainland and overseas markets.

Mr President, I ask unanimous consent that a copy of the bill be printed in the RECORD at the conclusion of my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Farming Opportunity Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; short title.
Sec. 2. Limitation on aggregate indebtedness.
Sec. 3. Federal-State beginning farmer partnership.
Sec. 4. Beginning farmer and rancher program.
Sec. 5. Graduation of borrowers with operating loans or guarantees to private commercial credit.
Sec. 6. Time period within which county committees are required to meet to consider applications for farm ownership and operating loans and guarantees and beginning farmer plans.
Sec. 7. Period for certification of eligibility for loans.
Sec. 8. Processing of applications for farm operating loans.
Sec. 9. Simplified application for guaranteed loans of $50,000 or less.
Sec. 10. Graduation of seasoned direct loan borrowers to the loan guarantee program.
Sec. 11. Debt service margin requirements.
Sec. 12. Targeting of loans to members of groups whose members have been subjected to gender prejudice.
Sec. 13. Recordkeeping of loan success rates by gender.
Sec. 14. Effective date.

SEC. 2. LIMITATION ON AGGREGATE INDEBTEDNESS.

The first sentence of section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended by striking "and 310D" and inserting "310D, and 310E".

SEC. 3. FEDERAL-STATE BEGINNING FARMER PARTNERSHIP.

(a) COORDINATION OF ASSISTANCE FOR ELIGIBLE BEGINNING FARMERS AND RANCHERS.—Section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) is amended by adding at the end the following new subsection:

"(i)(1) Within 60 days after any State expresses to the Secretary, in writing, a desire to coordinate the provision of financial assistance to eligible beginning farmers and ranchers in the State, the Secretary and the State shall conclude a joint memorandum of understanding that shall govern how the Secretary and the State are to coordinate the assistance.

"(2) The memorandum of understanding shall provide that if a State beginning farmer program makes a commitment to provide an eligible beginning farmer or rancher (as defined in section 310E(e)) with financing to establish or maintain a viable farming or ranching operation, the Secretary shall, subject to applicable law, normal loan approval criteria, and the availability of funds, provide the farmer or rancher with—

"(A) a downpayment loan under section 310E;

"(B) a guarantee of the financing provided by the State program; or

"(C) such a loan and such a guarantee.

"(3) The Secretary may not charge any person any fee with respect to the provision of any guarantee under this subsection.

"(4) As used in paragraph (1), the term 'State beginning farmer program' means any program that is—

"(A) carried out by, or under contract with, a State; and

"(B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming or ranching operations.".

(b) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT; PURPOSE.—Within 18 months after the date of the enactment of this Act, the Secretary of Agriculture shall establish an advisory committee, to be known as the "Advisory Committee on Beginning Farmers and Ranchers", which shall provide advice to the Secretary on—

(A) the development of the program of coordinated assistance to eligible beginning farmers and ranchers under section 309(i) of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section);

(B) ways to maximize the number of new farming and ranching opportunities created through the program;

(C) ways to encourage States to participate in the program;

(D) the administration of the program; and

(E) other methods of creating new farming or ranching opportunities.

(2) MEMBERSHIP.—The Secretary shall appoint the members of the Advisory Committee which shall include representatives from the following:

(A) The Farmers Home Administration.

(B) State beginning farmer programs (as defined in section 309(i)(3) of the Consolidated Farm and Rural Development Act).

(C) Commercial lenders.

(D) Private nonprofit organizations with active beginning farmer or rancher programs.

(E) The Cooperative Extension Service.

(F) Community colleges or other educational institutions with demonstrated experience in training beginning farmers or ranchers.

(G) Other specialists in lending or technical assistance for beginning farmers and ranchers.

SEC. 4. BEGINNING FARMER AND RANCHER PROGRAM.

(a) OPERATING LOANS; GUARANTEES OF OPERATING LOANS.—Subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.) is amended by adding at the end the following new section:

"SEC. 318. ASSISTANCE TO BEGINNING FARMERS AND RANCHERS.

"(a) IN GENERAL.—

"(1) ASSISTANCE.—The Secretary shall provide assistance in accordance with this section to enable individuals to conduct viable farming or ranching operations.

"(2) INDIVIDUAL DEFINED.—As used in this section, the term 'individual' means—

"(A) a natural person who has not operated a farm or ranch or has operated a farm or ranch for not more than 5 years; or

"(B) an entity (other than a corporation)—

"(i) all of whose owners or members are related by blood or marriage; and

"(ii) each of whose owners and members has not operated a farm or ranch or has operated a farm or ranch for not more than 5 years.

"(b) SUBMISSION OF PLAN OF FARM OPERATION.—An individual may seek assistance under this section for a proposed or ongoing farming or ranching operation by submitting to the county committee of the county in which the operation is (or is to be) located, not later than 60 days before the assistance is to be first provided, a plan that—

"(1) describes, for each of the first 5 years for which assistance under this section is sought for the operation—

"(A) how the operation is to be conducted;

"(B) the types and quantities of commodities to be produced by the operation;

"(C) the production methods and practices to be employed by the operation;

"(D) the conservation measures to be taken in the operation;

"(E) the equipment needed to conduct the operation (including any expected replacements for the equipment) and, with respect to each item of needed equipment, whether the individual owns, leases, or otherwise has access to the item, or proposes to purchase, lease, or otherwise gain access to the item;

"(F) the expected income and expenses of the operation;

"(G) the expected credit needs of the operation, including the types and amounts of assistance to be sought under this section; and

"(H) the site or sites at which the operation is (or is to be) located; and

"(2) projects the financial status of the operation after assistance under this section has been provided for such period, not to exceed 10 years, as is necessary for the operation to become financially viable without further assistance from the Secretary.

"(c) DETERMINATIONS BY THE COUNTY COMMITTEE; APPROVAL OF PLAN.—The county committee shall approve a plan submitted by an individual in accordance with subsection (b) if the county committee determines that—

"(1) the individual has not operated a farm or ranch, or has operated a farm or ranch for not more than 5 years;

"(2) during the 5-year period ending with the submission of the plan, the individual has had sufficient education and experience to indicate that the individual is able to conduct a successful farming or ranching operation, as the case may be;

"(3) the individual owns, leases, or has a commitment to have leased to the individual the site or sites of the operation;

"(4) there is, or will be, available to the individual equipment sufficient to conduct the operation in accordance with the plan;

"(5) the individual agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require; and

"(6) the individual meets the requirements of paragraphs (1) and (3) of section 311(a).

"(d) DETERMINATION BY THE SECRETARY; APPROVAL OF APPLICATION FOR ASSISTANCE.—The Secretary shall approve an application for assistance under this section for an operation described in a plan approved by a county committee under subsection (c) if the Secretary determines that—

"(1) the operation (taking into account the types of agricultural commodities produced, and the average size of similar operations, in the area in which the operation is (or is to be) located) would generate income sufficient to cover the expenses of the operation, debt service, and adequate family living expenses of the individual, to the extent that other income would not cover the living expenses, if the operation received assistance under this section as provided for in the plan; and

"(2) not later than 10 years after first receiving assistance under this section, the operation will be financially viable without further assistance from the Secretary.

"(e) PROVISION OF ASSISTANCE.—

"(1) DETERMINATION OF COMMITMENT PERIOD.—

"(A) INITIAL DETERMINATION.—On approval of an application under subsection (d), the Secretary shall, subject to subparagraph (C), determine the period during which assistance under this section is to be provided for the operation described in the application (referred to in this subsection as the 'commitment period').

"(B) AUTHORITY TO EXTEND PERIOD; NO AUTHORITY TO REDUCE PERIOD.—At any time, the Secretary may, subject to subparagraph (C) and subsections (f) and (g), extend the duration of the commitment period. The Secretary may not reduce the duration of the commitment period.

"(C) LIMITATION.—The duration of any commitment period (including any extensions thereof) shall not exceed 10 years.

"(2) OPERATING LOANS; LOAN GUARANTEES.—

"(A) IN GENERAL.—To the extent that an applicant whose application is approved under subsection (d) is unable to obtain sufficient credit from commercial or cooperative lenders to finance the operation described in the application at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is (or is to be) located, for loans for similar purposes and periods of time) the Secretary shall, subject to the availability of funds for the loans and to subsections (f) and (g), make a commitment to the applicant—

"(i) for each of the 1st, 2nd, 3rd, and 4th years of the commitment period—

"(I) to make a loan under this subtitle to the applicant at the interest rate charged to low income, limited resource borrowers under this subtitle, in the amount specified in the plan contained in the application; or

"(II) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application)—

"(aa) a guarantee under section 309(h) for the repayment of 100 percent of the loan principal and interest; and

"(bb) if the Secretary determines that, despite the provision of the guarantee referred to in item (aa), the applicant will not qualify for such a loan, an interest subsidy payment sufficient to ensure that the effective rate of interest payable by the applicant on the loan equals the rate of interest charged to low income, limited resource borrowers on insured operating loans under this subtitle of comparable size and maturity;

"(ii) for each of the 5th, 6th, 7th, and 8th years of the commitment period—

"(I) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest; and

"(II) if the Secretary determines that, despite the provision of the guarantee referred to in subclause (I), the applicant will not qualify for such a loan, then—

"(aa) to offer the lender an interest subsidy payment in the amount necessary to ensure that the applicant qualifies for such a loan but not more than the amount necessary to ensure that the effective rate of interest on the loan equals the rate of interest charged to low income, limited resource borrowers on insured operating loans under this subtitle of comparable size and maturity; or

"(bb) if funds are not available for the interest subsidy payment described in item (aa), to provide to the applicant a loan under this subtitle that is comparable to one for which a person not receiving assistance under this section (but otherwise in the same situation as the applicant) would be eligible; and

"(iii) for each of the 9th and 10th years of the commitment period, to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of not more than 90 percent of the loan principal and interest.

"(B) SPECIAL RULE.—In the case of an application approved under subsection (d) with respect to which the commitment period is less than 10 years, the Secretary shall make the commitments described in subparagraph (A) for such portions of the commitment period as the Secretary considers appropriate.

"(3) LOANS OR GUARANTEES FOR NEW OR IMPROVED EQUIPMENT.—The Secretary shall make a commitment to any applicant whose application is approved under subsection (d) to provide the applicant with loans under this title or loan guarantees under section 309(h) to finance the acquisition, improvement, or repair of equipment needed in the operation described in the application if the plan contained in the application provides for the commitment, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purposes at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is (or is to be) located, for loans for similar purposes and periods of time) without a credit guarantee from the Farmers Home Administration.

"(4) PRIORITY IN PURCHASE OF INVENTORY EQUIPMENT; LOANS OR GUARANTEES FOR SUCH PURCHASES IN CERTAIN CASES.—During the commitment period, the Secretary shall—

"(A) accord the applicant whose application is approved under subsection (d) priority in the purchase of equipment in the inventory of the Farmers Home Administration necessary for the success of the operation described in the application; and

"(B) provide the applicant with loans under this title or loan guarantees under section 309(h) to finance the purchases if the plan contained in the application provides for the assistance, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for the purpose at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is (or is to be) located, for loans for similar purposes and periods of time) without a credit guarantee from the Farmers Home Administration.

"(5) OTHER KINDS OF ASSISTANCE.—During the commitment period, the Farmers Home Administration, the Agricultural Extension Service, the Soil Conservation Service, and the other entities of the Department of Agriculture shall provide the applicant with such other assistance and information as may be needed in developing and implementing the operation described in the application.

"(6) NO LOAN GUARANTEE FEES.—The Secretary may not charge a fee to any lender in connection with any loan guarantee provided in accordance with this subsection.

"(f) ANNUAL PLAN REVISIONS REQUIRED AS CONDITION OF CONTINUED ASSISTANCE.—The Secretary shall not provide assistance under this section for an operation for any particular year after the first year for which the assistance is provided, unless—

"(1) not later than 60 days before the assistance is to be first provided for the particular year, the plan describing the operation has been revised, based on the experience of the year preceding the particular year, to provide the information required by subsection (b) for the 5-year period beginning with the particular year (or, if shorter, the period beginning with the particular year and ending with the year in which the plan projects the operation as becoming financially viable); and

"(2) the county committee has approved the revised plan.

"(g) EFFECTS OF AVOIDABLE FAILURE TO ACHIEVE GOALS.—

"(1) TERMINATION OF COMMITMENTS.—The Secretary shall revoke any commitment for assistance made to an applicant under this section if the operation of the applicant fails, for 2 consecutive years, to meet the goals specified in the plan, unless the failure is due to circumstances beyond the control of the applicant and has not materially reduced the likelihood of the operation becoming financially viable.

"(2) SUSPENSION OF ELIGIBILITY FOR ASSISTANCE.—During the 3-year period that begins with the date the commitments made to an applicant are revoked under paragraph (1), the applicant shall not be eligible for assistance under this section.".

(b) DOWN PAYMENT LOAN PROGRAM.—Subtitle A of such Act (7 U.S.C. 1922 et seq.) is amended by adding at the end the following new section:

"SEC. 310E. DOWN PAYMENT LOAN PROGRAM.

"(a) IN GENERAL.—Notwithstanding any other section of this subtitle, the Secretary shall establish within the farm ownership loan program under this subtitle a program under which loans are made under this section to eligible beginning farmers and ranchers for down payments on farm ownership loans.

"(b) LOAN TERMS.—

"(1) PRINCIPAL.—Each loan made under this section shall be of an amount equal to 30 percent of the price of the farm or ranch to be acquired, unless the borrower requests a lesser amount.

"(2) INTEREST RATE.—The interest rate on any loan made under this section shall not exceed the lesser of—

"(A) 25 percent of the current average market yield on outstanding marketable obligations of the United States with maturities of 10 years; or

"(B) 3 percent.

"(3) DURATION.—Each loan under this section shall be made for a period of 10 years or less, at the option of the borrower.

"(4) REPAYMENT.—Each borrower of a loan under this section shall repay the loan to the Secretary in equal annual installments.

"(5) NATURE OF RETAINED SECURITY INTEREST.—The Secretary shall retain an interest in each farm or ranch acquired with a loan made under this section, which shall—

"(A) be secured by the farm or ranch;

"(B) be junior only to such interests in the farm or ranch as may be conveyed at the time of acquisition to the person from whom the borrower obtained a loan used to acquire the farm or ranch; and

"(C) require the borrower to obtain the permission of the Secretary before the borrower may grant an additional security interest in the farm or ranch.

"(c) LIMITATIONS.—

"(1) BORROWERS REQUIRED TO MAKE MINIMUM DOWN PAYMENT.—The Secretary shall not make a loan under this section to any borrower with respect to a farm or ranch if the contribution of the borrower to the down payment on the farm or ranch will be less than 10 percent of the price of the farm or ranch.

"(2) MAXIMUM PRICE OF PROPERTY TO BE ACQUIRED.—The Secretary shall not make a loan under this section with respect to a farm or ranch the price of which exceeds $250,000.

"(3) PROHIBITED TYPES OF FINANCING.—The Secretary shall not make a loan under this section with respect to a farm or ranch if the farm or ranch is to be acquired with financing that contains any of the following conditions:

"(A) The financing is to be amortized over a period of less than 30 years.

"(B) A balloon payment will be due on the financing during the 10-year period beginning on the date the loan is to be made by the Secretary.

"(d) ADMINISTRATION.—The Secretary shall, to the maximum extent practicable—

"(1) facilitate the transfer of farms and ranches from retiring farmers and ranchers to persons eligible for insured loans under this subtitle;

"(2) make efforts to widely publicize the availability of loans under this section among—

"(A) potentially eligible recipients of the loans;

"(B) retiring farmers and ranchers; and

"(C) applicants for farm ownership loans under this subtitle;

"(3) encourage retiring farmers and ranchers to assist in the sale of their farms and ranches to qualified beginning farmers and ranchers by providing seller financing; and

"(4) coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers.

"(e) ELIGIBLE BEGINNING FARMER OR RANCHER DEFINED.—As used in this section, the term 'eligible beginning farmer or rancher' means an individual—

"(1) who is eligible for assistance under this title;

"(2) who has operated a farm or ranch for not less than 5 nor more than 10 years;

"(3)(A) in the case of an owner or operator of a farm or ranch, who, individually or with the immediate family of the owner or operator—

"(i) materially and substantially participates in the farm or ranch; and

"(ii) provides substantial day-to-day labor and management of the farm or ranch consistent with the practices in the State and county in which the farm or ranch is located; and

"(B) in the case of an individual seeking to own or operate a farm or ranch, who, individually or with the immediate family of the individual, will—

"(i) materially and substantially participate in the farm or ranch; and

"(ii) provide a majority of the day-to-day labor and management of the farm or ranch;

"(4) who agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require;

"(5) who does not own land or who, directly or through interests in family farm corporations, owns land the aggregate acreage of which does not exceed 15 percent of the median acreage of the farms or ranches, as the case may be, in the county in which the individual is to obtain land is located, as reported in the most recent census of agriculture taken under section 142 of title 13, United States Code;

"(6) who demonstrates that the available resources of the individual and the spouse (if any) of the individual are not sufficient to enable the individual to continue farming or ranching on a viable scale; and

"(7) in the case of an individual whose application for assistance under section 318 has been approved by the Secretary, the individual meets the requirements of section 310F(b)(1).".

(c) AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN BEGINNING FARMERS AND RANCHERS.—Subtitle A of such Act (7 U.S.C. 1922 et seq.) is amended by adding after the section added by subsection (b) the following new section:

"SEC. 310F. AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN BEGINNING FARMERS AND RANCHERS.

"(a) ASSISTANCE PROHIBITED FOR A LIMITED PERIOD.—Except as otherwise provided in this section, if the Secretary approves the application of an individual for assistance under section 318, the Secretary may not make a loan under this subtitle to the individual or provide a guarantee under section 309(h) with respect to any farm real estate loan made to the individual.

"(b) AVAILABILITY OF DOWN PAYMENT LOANS.—After the applicable period, the Secretary may make an insured loan under this subtitle, or a down payment loan under section 310E, to an individual referred to in subsection (a) if—

"(1) throughout the applicable period, the individual conducted an operation for which assistance is provided under section 318 in accordance with the plan contained in the application for the assistance;

"(2) the plan provides for such a loan; and

"(3) the individual is otherwise eligible for the loan.

"(c) AVAILABILITY OF LOAN GUARANTEES.—After the applicable period, the Secretary may guarantee under section 309(h) the repayment of a commercial or cooperative loan made to an individual referred to in subsection (a) if—

"(1) throughout the applicable period, the individual conducted the operation for which assistance is provided under section 318 in accordance with the plan contained in the application for the assistance;

"(2) the plan provides for such a loan guarantee; and

"(3) the individual is otherwise eligible for the loan guarantee.

"(d) APPLICABLE PERIOD DEFINED.—As used in this section, the term 'applicable period' means—

"(1) in the case of an individual who, at the time the application referred to in this section was approved, had not operated a farm for more than 3 years, the first 5 years for which the individual is provided assistance under section 318; or

"(2) in any other case, the first 3 years for which the individual is provided assistance under section 318.".

(d) TARGETING OF FUNDS.—

(1) FARM OPERATING LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b) of such Act (7 U.S.C. 1994(b)) is amended by adding at the end the following new paragraph:

"(5) In expending the following percentages of the funds available for insured operating loans under subtitle B for any fiscal year beginning after the date of the enactment of this paragraph, the Secretary shall, to the maximum extent practicable, give priority to making such loans under section 318:

"(A) Not less than 20 percent, for the first 6 months of the 1st such fiscal year.

"(B) Not less than 30 percent, for the first 6 months 2nd and 3rd such fiscal years.

"(C) Not less than 40 percent, for the first 6 months 4th and 5th such fiscal years.

"(D) Not less than 50 percent, for the first 6 months of each of the succeeding fiscal years.".

(2) FARM OWNERSHIP LOANS.—

(A) PERCENTAGE OF INSURED FARM OWNERSHIP LOAN FUNDS RESERVED FOR BEGINNING FARMERS OR RANCHERS.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding at the end the following new subparagraph:

"(D)(i) To the extent not inconsistent with an exercise of authority under section 355, not less than the applicable percentage of the amounts available for insured farm ownership loans for any fiscal year shall be for such loans to beginning farmers or ranchers.

"(ii) For purposes of clause (i), the term 'applicable percentage' means—

"(I) 50 percent, for the first 6 months of each of the fiscal years 1994 and 1995; and

"(II) 80 percent for the first 6 months of each succeeding fiscal year, thereafter.".

(B) FUNDS RESERVED FOR DOWNPAYMENT LOAN PROGRAM.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraph added by subparagraph (A) the following new subparagraph:

"(E)(i) To the extent not inconsistent with an exercise of authority under section 355, not less than the applicable percentage of the amounts reserved for beginning farmers or ranchers under subparagraph (D) for any fiscal year shall be for downpayment loans under section 310E.

"(ii) For purposes of clause (i), the term 'applicable percentage' means—

"(I) 50 percent, for the first 6 months of each of the fiscal years 1994 and 1995; and

"(II) 80 percent for the first 6 months of each succeeding fiscal year, thereafter.".

(C) CERTAIN UNOBLIGATED DOWNPAYMENT LOAN PROGRAM FUNDS AVAILABLE FOR ANY TYPE OF INSURED FARM OWNERSHIP LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraph added by subparagraph (B) the following new subparagraph:

"(F) To the extent not inconsistent with an exercise of authority under section 355, any funds reserved for downpayment loans under section 310E for a fiscal year by reason of subparagraph (E) that are not obligated by the end of the 2nd quarter of the fiscal year shall be available throughout the remainder of the fiscal year for any type of insured farm ownership loans, with priority to be given to beginning farmers and ranchers.".

(3) PORTIONS OF FARM OWNERSHIP LOAN GUARANTEE FUNDS TARGETED TO BEGINNING FARMERS OR RANCHERS.—Section 346(b)(2) of such Act (7 U.S.C. 1994(b)(2)) is amended by adding at the end the following new subparagraph:

"(F) Not less than 25 percent of the amounts appropriated for guarantees of farm ownership loans for the first 6 months of each of the fiscal years 1994, 1995, 1996, and 1997 shall be for guarantees of farm ownership loans to beginning farmers or ranchers.".

(4) INTEREST RATE ASSISTANCE PROGRAM.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraphs added by paragraph (1) of this subsection the following:

"(G) Not less than 40 percent of the amounts available for the interest rate reduction program under section 351 shall be reserved for the first 6 months of each fiscal year for assistance to beginning farmers or ranchers.".

(e) DEADLINE FOR ISSUANCE OF REGULATIONS.—Not later than October 1, 1993, the Secretary of Agriculture shall issue such interim final or final regulations as may be necessary to implement the amendments made by this section.

SEC. 5. GRADUATION OF BORROWERS WITH OPERATING LOANS OR GUARANTEES TO PRIVATE COMMERCIAL CREDIT.

Subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.) (as amended by section 4(a) of this Act) is further amended by adding at the end the following new section:

"SEC. 319. GRADUATION OF BORROWERS ASSISTED UNDER THIS SUBTITLE TO PRIVATE COMMERCIAL CREDIT.

"(a) GRADUATION PLAN.—The Secretary shall establish a plan, in coordination with activities under sections 359, 360, 361, and 362, to encourage each borrower with an outstanding loan under this subtitle or with respect to whom there is an outstanding guarantee under this subtitle to graduate to private commercial or other sources of credit.

"(b) LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR ASSISTANCE UNDER THIS SUBTITLE.—Notwithstanding any other provision of this subtitle:

"(1) GENERAL RULE.—Except as provided in paragraph (2), the Secretary may not—

"(A) make a loan to a borrower under this subtitle for any year after the 10th year for which such a loan is made to the borrower; or

"(B) guarantee for any year a loan made to the borrower for a purpose specified in this subtitle, after the 15th year for which loans under this subtitle are made to, or such a guarantee is provided with respect to, the borrower.

"(2) TRANSITION RULE.—If, as of the date of the enactment of this section, the Secretary has made loans to a borrower under this subtitle for 10 or more years, or has provided guarantees for 10 or more years with respect to 1 or more loans made to the borrower for a purpose specified in this subtitle, the Secretary may not make a loan to the borrower under this subtitle, or provide such a guarantee with respect to a loan made to the borrower for a purpose specified in this subtitle, after the 5th year occurring after such date of enactment for which a loan is made under this subtitle to, or such a guarantee is provided with respect to, the borrower.".

SEC. 6. TIME PERIOD WITHIN WHICH COUNTY COMMITTEES ARE REQUIRED TO MEET TO CONSIDER APPLICATIONS FOR FARM OWNERSHIP AND OPERATING LOANS AND GUARANTEES AND BEGINNING FARMER PLANS.

Section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982) is amended—

(1) in subsection (c), by striking "The committee" and inserting "Subject to subsection (e), the committee"; and

(2) by adding at the end the following new subsection:

"(e) The county committee shall meet to consider approval of an application received by the committee for a loan under this title, a guarantee under section 309(h), or a plan of farm operation under section 318, within—

"(1) 5 days after receipt if at the time of the receipt there is at least 1 other such application or plan pending; or

"(2) 15 days after receipt if at the time of the receipt there are no other such applications or plans pending.".

SEC. 7. PERIOD FOR CERTIFICATION OF ELIGIBILITY FOR LOANS.

Section 333(2)(A)(iii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)(iii)) is amended by striking "2 years" and inserting "5 years".

SEC. 8. PROCESSING OF APPLICATIONS FOR FARM OPERATING LOANS.

Section 333A(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(a)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by inserting "(other than under subtitle B)" after "under this title"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Within 10 calendar days after the Secretary receives an application for an operating loan or loan guarantee under subtitle B, the Secretary shall notify the applicant of any information required before a decision may be made on the application. On receipt of such an application, the Secretary shall request from other parties such information as may be needed in connection with the application.

"(ii) Within calendar 15 days after the date an agency of the Department of Agriculture receives a request for information made pursuant to clause (i), the agency shall provide the Farmers Home Administration with the requested information.

"(iii) If, within 20 calendar days after the date a request is made pursuant to clause (i) with respect to an application, the Farmers Home Administration has not received the information requested, the Farmers Home Administration county office shall notify the applicant, in writing, as to the outstanding information.

"(iv) A county committee shall notify the district office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 days after receipt, and the reasons the application is pending.

"(v) A district office that receives a notice provided under clause (iv) with respect to an application shall immediately take steps to ensure that final action is taken on the application within 15 days after the date of the receipt of the notice.

"(vi) The district office shall report to the State office of the Farmers Home Administration each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 days after receipt by the county committee, and the reasons the application is pending.

"(vii) Each month, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on a State-by-State basis, as to each application for an operating loan or loan guarantee under subtitle B on which final action had not been taken within 60 days after receipt by the county committee, and the reasons final action had not been taken.".

SEC. 9. SIMPLIFIED APPLICATION FOR GUARANTEED LOANS OF $50,000 OR LESS.

Section 333A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall provide to lenders a short, simplified application form for guarantees, made under this title, of loans the principal of which is $50,000 or less.

"(2) In developing such an application, the Secretary shall consult with commercial and cooperative lenders. The Secretary shall ensure that—

"(A) the form can be completed either manually or electronically;

"(B) the form minimizes the documentation required to accompany the form;

"(C) the cost of preparation of the form is minimal; and

"(D) the form can be prepared and processed in an expeditious manner.".

SEC. 10. GRADUATION OF SEASONED DIRECT LOAN BORROWERS TO THE LOAN GUARANTEE PROGRAM.

Section 333A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a) (as amended by section 109 of this Act) is further amended by adding at the end the following new subsection:

"(g)(1) The Secretary shall, for each seasoned direct loan borrower, annually review the loans of each borrower. If, based on the review, the Secretary determines that a borrower would be able to obtain a loan, guaranteed by the Secretary, from commercial or cooperative lenders at reasonable rates and terms for loans for similar purposes and periods of time, the Secretary shall require the borrower to apply for and accept the commercial or cooperative loan, as a condition of obtaining assistance under this title.

"(2) Not later than 180 days after the date of enactment of this subsection, and annually thereafter, the Secretary may direct all county offices to make available to approved lenders a listing of all seasoned direct loan borrowers, as provided in regulations issued by the Secretary.

"(3) On request and on application for a guaranteed loan to an approved lender by a seasoned direct loan borrower, the Farmers Home Administration shall provide the approved lender with all current and past documentation relating to the approval and the continued compliance with the terms of the direct loan currently held by a seasoned direct loan borrower.

"(4) To the extent necessary for the borrower to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender, the Secretary shall provide interest rate reductions as provided for under section 351.

"(5) For purposes of this subsection:

"(A) The term 'approved lender' means a lender approved prior to the date of enactment of this subsection by the Secretary under the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations (as in effect on January 1, 1991).

"(B) The term 'seasoned direct loan borrower' means a borrower receiving a direct loan under this title who has maintained a satisfactory borrowing relationship with the Farmers Home Administration for at least 24 consecutive months.''.

SEC. 11. DEBT SERVICE MARGIN REQUIREMENTS.

Section 339 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1989) is amended—

(1) by striking "SEC. 340. The" and inserting the following:

"SEC. 339. RULES AND REGULATIONS.

"(a) In General.—The"; and

(2) by adding at the end the following new subsections:

"(b) Adequate Income.—Notwithstanding subsection (a), in providing farmer program loan guarantees under this title, the Secretary shall consider the income of the borrower adequate if the income is equal to or greater than the income necessary—

"(1) to make principal and income payments on all debt obligations of the borrower, in a timely manner;

"(2) to cover the necessary family living expenses; and

"(3) to pay all other obligations and expenses of the borrower not financed through debt obligations referred to in paragraph (1), including expenses of replacing capital items (determined after taking into account depreciation of the items).

"(c) Certified Lenders Program.—

"(1) In general.—The Secretary shall establish a program under which the Secretary shall guarantee loans (other than loans with respect to which a guarantee is provided under section 318) for any purpose specified in subtitle B that are made by lending institutions certified by the Secretary.

"(2) Certification requirements.—The Secretary shall certify any lending institution that meets such criteria as the Secretary may prescribe by regulation, including the ability of the institution to properly make, service, and liquidate the loans of the institution.

"(3) Condition of certification.—As a condition of such certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each certified lender to ensure that the conditions of the certification are being met.

"(4) Effect of certification.—Notwithstanding any other provision of law, the Secretary shall—

"(A) guarantee 80 percent of a loan made by a certified lending institution as described in paragraph (1), without requiring the county committee to certify that the borrower meets the eligibility requirements or such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this title;

"(B) permit a certified lending institution to make all decisions, with respect to loans guaranteed by the Secretary under this subsection, relating to creditworthiness and loan closing; and

"(C)(i) permit certified lending institutions to attach a guarantee on behalf of the Secretary if the Secretary fails to approve or reject the loan application within 14 calendar days of the date the lending institution presented the application to the Secretary; and

"(ii) if the Secretary rejects the loan application within 14 calendar days of the date the lending institution presented the application to the Secretary, state, in writing, the reasons the application was rejected.''.

SEC. 12. TARGETING OF LOANS TO MEMBERS OF GROUPS WHOSE MEMBERS HAVE BEEN SUBJECTED TO GENDER PREJUDICE.

Section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)) is amended by striking "or ethnic" and inserting ", ethnic, or gender".

SEC. 13. RECORDKEEPING OF LOAN SUCCESS RATES BY GENDER.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding at the end the following new section:

"SEC. 369. RECORDKEEPING OF LOAN SUCCESS RATES BY GENDER.

"The Secretary shall classify, by gender, records of applicants for loans and guarantees under this title, and the default and delinquency rates for the loans and guarantees.''.

SEC. 14. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on the date of the enactment of this Act.•

By Mr. McCAIN (for himself and Mr. DeCONCINI):

S. 3125. A bill to amend the Southern Arizona Water Rights Settlement Act of 1982; to the Select Committee on Indian Affairs.

SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT AMENDMENTS ACT

• Mr. McCAIN. Mr. President, I am pleased to join with my colleague, the senior Senator from Arizona, Senator DeConcini, in introducing today a series of amendments to the Southern Arizona Water Rights Settlement Act of 1982 [SAWRSA]. All members of Arizona's delegation in the House, Representatives Ed Pastor, Jim Kolbe, Jay Rhodes, Bob Stump, and Jon Kyl, are introducing identical legislation.

This legislation is extremely important to the State of Arizona and to the citizens of the Tucson metropolitan area and of the Tohono O'odham Indian Nation in southern Arizona. It is important because it is about water, the fundamental element to any vision of life in the Sonoran desert. No city, no farm, no mine, no Indian reservation can survive today or in the future without water.

Seventeen years ago, the United States filed a lawsuit against the city of Tucson and other water users in the Tucson metropolitan area on behalf of the Tohono O'odham Nation and 2 of its 11 political subdivisions: the San Xavier and Schuk Toak districts.

That litigation, *U.S.* v. *Tucson*, raised fundamental questions about the sources and allocation of the area's water supplies. The prospect of years of litigation on these questions threatened the economic health and development of the Indian and non-Indian economies of southern Arizona.

After years of negotiations, Congress enacted the Southern Arizona Water Rights Settlement Act [SAWRSA] in 1982. SAWRSA was intended to provide a fair and equitable settlement of the Tohono O'odham Nation's water rights claims and to ensure conservation and wise management of water resources.

However, 10 years after SAWRSA was signed into law, the act has not been fully implemented, and U.S. versus Tucson has not been dismissed.

The legislation we introduce today would amend SAWRSA in an effort to deal with the ambiguities and issues that were unanticipated in 1982 and that have frustrated full implementation of the 1982 settlement and prevented dismissal of U.S. versus Tucson.

SAWRSA must be amended if the United States is to fulfill its trust obligations and commitments to the Tohono O'Odham Nation, and if it is to meet its parallel trust obligations to individual members of the Nation who own allotments of trust land within the San Xavier District.

SAWRSA must also be amended if we are to ensure that the more than one half million people in the Tucson metropolitan area can achieve the certainty about the sources and extent of their water supplies that is essential to managing those supplies effectively into the future.

To understand SAWRSA, why it has not been fully implemented, and why the litigation it was designed to end has not yet been dismissed, a brief review of the history of SAWRSA is necessary.

BACKGROUND: SAWARSA

The city of Tucson has long been the largest city in the United States entirely dependent on pumped groundwater for its municipal and industrial water supply. That water supply comes from several well fields located in the Santa Cruz and Avra/Altar Valley basins in eastern Pima County.

These two basins also supply water used by a number of copper mines, located adjacent to the San Xavier Reservation, whose combined production in 1980 was one-fourth of the total produced in the United States in that year. Other major water users are the Cortaro-Marana Irrigation District and the Farmers Investment Co.

By 1980 the consumptive use of groundwater pumped from the two water basins was exceeding renewable supplies by a ratio of more than four to one. This imbalance had resulted in long-term declines in local groundwater levels which raised concerns about increased pumping costs, reduction in well capacity, diminished water quality, and increased risk of land surface subsidence.

Recognizing the significance of the groundwater overdraft problem, water users in southern Arizona sought to implement conservation measures on a voluntary basis. Agricultural users worked to improve irrigation efficiency, mines realized considerable conservation through a variety of methods, and municipal customers of the city of Tucson, through voluntary conservation programs, reduced their average daily per capita demand from 205 gallons in 1974 to 140 gallons in 1979.

Further relief for the overdrawn groundwater basins is expected with the completion of the Central Arizona Project [CAP]. Authorized by Congress in 1968, the CAP is a massive system of 337 miles of canals and 14 pumping stations that will delver water from the Colorado River to supplement the existing water supplies of municipal, industrial, Indian, and agricultural users in central and southern Arizona. CAP is scheduled to begin water deliveries in the Tucson area by the end of 1992.

When the Interior Department's Bureau of Reclamation began construction of the CAP in 1972, ground water use in Arizona was largely unregulated. In the late 1970's, mindful of the groundwater overdraft problem, Interior Secretary Andrus insisted that Arizona place limitations on ground water use as a condition for continued funding for the Central Arizona Project. Interior also required that water users who contract for CAP water must reduce their groundwater pumping by one acre-foot for each acre-foot of Colorado River water they use.

Subsequently, the Arizona legislature enacted a landmark Groundwater Management Act. This act established the Arizona Department of Water Resources to enforce a new groundwater code, which identified four geographic units as Active Management Areas [AMA] to administer various uses and limitations on groundwater.

The Tucson Active Management Area [TAMA] corresponds to the geographic boundaries of the Upper Santa Cruz Valley Basin and the Avra/Altar Valley Basin. The goal of the TAMA is to achieve safe yield, a balance between ground water recharge and withdrawals, by January 1, 2025.

With a groundwater management regime established and construction of the Central Arizona Project under way, achievement of a settlement of the Federal and Indian claims to water in the Tucson, AMA became the principal goal of Tucson and other major water interests in the area.

BACKGROUND: SAN XAVIER INDIAN COMMUNITY

The San Xavier Indian Community, known in the O'odham language as Wa:k, has been at its present location on the Santa Cruz River just south of Tucson since pre-Columbian times. Among the Tohono O'odham, the San Xavier community was one of the few communities fortunate enough to have a perennial river water supply which allowed them to stay permanently in one location.

The San Xavier community has always depended upon the perennial surface water supply of the Santa Cruz River for its survival and for the maintenance of irrigated agriculture. It was the only village in southern Arizona using an irrigation system at the time of first contact with the Spaniards in the 1690's.

On July 1, 1874, the San Xavier Reservation was established by executive order signed by President Ulysses S. Grant. The Schuk Toak District was originally established by executive order signed by Woodrow Wilson on January 14, 1916 and later re-established by executive order on February 1, 1917, as a part of the Sells Tohono O'odham, then known as Papago, Reservation.

The San Xavier Reservation, which is coterminous with the San Xavier District, and the Schuk-Toak District of the Sells Reservation, are located in eastern Pima County, adjacent to the Tucson metropolitan area. The San Xavier Reservation includes approximately 72,000 acres located east of the 2.8 million-acre Sells Reservation, and lies primarily within the Upper Santa Cruz Basin. The Schuk Toak District, the easternmost district within the Sells Reservation, is located in the Avra/Altar Valley Basin.

In 1887 Congress passed the General Allotment Act, which provided for Indian reservation lands to be divided among individual Indians and held in trust by the United States for 25 years, then deeded to the individual Indians.

In 1890 the United States issued allotments totalling 46,622 acres to individuals and heads of families at San Xavier. Family heads received 160 acres, 20 acres of farmlands, 50 to 80 acres of timber and the balance in "mesa" land, useful primarily for grazing. These allotted lands remain in trust and today comprise roughly 59 percent of the area of the San Xavier Reservation. Of the estimated 1,600 Indians enrolled at San Xavier, about 1,300 hold allotments or fractions of allotments.

Beginning in the 1890's, non-Indian farmers in the Upper Santa Cruz Basin began diverting for their own use the surface and ground water upon which the San Xavier community depended. As the surface flows in the Santa Cruz River disappeared, and the groundwater table sank, irrigated farming at San Xavier declined from an historic maximum of between 2,000 and 3,000 acres to zero in 1987.

LITIGATION

In 1975 the United States sued the city of Tucson and other non-Indian water users, seeking to prevent the further depletion of the surface and ground water supply at the San Xavier Reservation, seeking to recover damages for the past appropriation of the surface and groundwater supply, and asking the Federal court to adjudicate the Indians' reserved water rights as against all other water users.

Shortly after the United States filed its action, the Tohono O'odham Nation and several individual San Xavier allottees brought a separate action of their own in Federal court, making essentially the same claims that the Federal trustee had made on their behalf. The two separate actions were subsequently consolidated and captioned U.S. versus Tucson.

Between 1975 and 1982 the parties in U.S. versus Tucson engaged in negotiations aimed at bringing about a settlement of the litigation. These negotiations led to enactment of the Southern Arizona Water Rights Settlement Act [SAWRSA] in October, 1982.

SAWARSA

SAWRSA provides for the Tohono O'odham Nation to receive 66,000 acre-feet of water annually. Of this amount, the United States is to deliver 27,000 acre-feet of Colorado River water to San Xavier and 10,800 acre-feet to Schuk Toak through the works of the Central Arizona Project.

SAWRSA requires the United States to rehabilitate the existing cooperative farm which, when water is available for irrigation, is operated by allottees at San Xavier solely for their benefit, and to construct irrigation works for a new, tribal farm to take the CAP water.

The settlement requires the city of Tucson to provide the United States with 28,200 acre-feet of reclaimed water, which the Secretary is required to exchange for an equivalent amount of water suitable for agriculture. Twenty-three thousand acre-feet of this water is allocated to San Xavier, and 5,200 acre-feet is allocated to Schuk Toak. The Secretary is not required to deliver this water until U.S. versus Tucson is dismissed.

If the United States is not able to deliver any of the 66,000 acre-feet in any year after October 1992, it must pay the tribe the value of the undelivered quantity of water. This requirement, too, is conditioned upon dismissal of U.S. versus Tucson.

SAWRSA establishes a $15,000,000 trust fund for the Tohono O'odham Nation, the interest from which the Nation can use to develop its land and water resources.

The act also set up a $10,500,000 cooperative fund into which the State of Arizona contributed $2,750,000, the city of Tucson $1,500,000, Anamax, Cyprus-Pima, ASARCO, Duval Corp., and Farmers Investment Co. contributed a combined $1,000,000, and the United States contributed $5,250,000 for the purpose of providing the Secretary with funds to pay the ongoing costs of implementing the settlement and fulfilling his responsibilities under the act.

In return for the water, farm improvements, and trust fund, SAWRSA requires the Nation to agree to stipulate to the dismissal of U.S. versus Tucson and to file in court "the allottee class representatives' petition" to dismiss the case. The Nation is required to waive and release all claims of water rights or injuries to water rights, and to waive and release all future claims of water rights.

SAWRSA further requires the Nation to agree to limit pumping groundwater to 10,000 acre feet per year from San Xavier and to the the 1981 pumping level from Schuk Toak. It requires the Nation to agree to comply with a water management plan established by the Secretary of the Interior.

The Nation's use of its settlement water, including the right to sell or lease it, is limited to within the Tucson Active Management Area [TAMA].

SAWRSA'S FLAW

With the benefit of hindsight, it is now clear that SAWRSA did not adequately recognize and address potential problems inherent in the division of land ownership at San Xavier between the Nation and its allottees. This fact is reflected by the limited references in the statute and its legislative history with respect to allottees and to the waiver of allottee claims.

The only references in SAWRSA to allottees are in one section. Section 307(a)(1)(B) requires that an "allottee class representatives' petition" to dismiss U.S. versus Tucson be filed with the court. Section 307(e) states that the settlement provided in the act "shall be deemed to fully satisfy any and all claims of water rights or injuries to water rights of all individual members of the Tribe that have a legal interest in lands of the San Xavier Reservation and the Schuk Toak District". Section 307(e) further states that "Any entitlement to water of any individual member of the Papago Tribe shall be satisfied out of the water resources provided in this title."

Neither the report by the House Committee on Interior and Insular Affairs (H. Rept. 97-422), nor the report on the committee of conference (H. Rept. 97-855), on SAWRSA, contains any explanation or reference to these provisions. It is apparent that the settlement parties assumed, absent objections by the allottees who had joined in filing U.S. versus Tucson, that the allottees at San Xavier would receive a fair share of water and benefits and thus supported the settlement.

Subsequent to enactment of SAWRSA, the city of Tucson, State, and local interests timely performed all of their obligations under the settlement and the tribe agreed to dismiss U.S. versus Tucson. However, a dispute developed between allottees and the San Xavier District Council with the Tohono O'odham Nation. Central to the dispute are disagreements over the Nation's new farm and over the ownership of the settlement water. In 1990, after years of unsuccessful efforts to resolve these issues, the San Xavier District Council, the San Xavier Allottee's Association, and the San Xavier Farm Board joined in filing with the court their objections to the dismissal of U.S. versus Tucson.

The allottees contend that SAWRSA required their consent as a condition for dismissal of U.S. versus Tucson, that they have not consented and will not consent without guarantees that they will receive a fair share of the settlement's benefits. The allottees assert that the General Allotment Act of 1887 and decisions by the Federal 9th Circuit Court of Appeals in U.S. versus Walton establish a constitutionally protected allottee property interest in the Nation's reserved water rights, and with that interest a separate allottee right to seek damages against third parties.

After the allottees filed their objections, the court stayed action on the case to permit further negotiations between the Nation and the San Xavier District and the allottees. After these efforts were unsuccessful, the Secretary of the Interior, seeking to fulfill SAWRSA's mandate to pursue dismissal of U.S. versus Tucson and to implement the settlement to avoid penalties for not delivering water by October 1992, began new negotiations in the fall of 1991 in search of an agreement on amendments that would satisfy the respective concerns of the Nation, the San Xavier District, and the San Xavier Allottees' Association.

After more than 6 months of intensive negotiations under Interior's auspices, the Nation, the city of Tucson, and local interests agreed to a series of proposals to amend the 1982 act to their satisfaction. However, the Allottees Association and the San Xavier District object to these proposals, essentially because they view the amendments as not recognizing their asserted rights to the Nation's water and do not otherwise adequately protect their interests. In the negotiations, the allottees' assertion of ownership of a share of the Nation's water, as opposed to a right to use such water, was a principal obstacle to efforts to reach an overall agreement.

The city of Tucson, the Tohono O'odham Nation, the Arizona Department of Water Resources, and the Southern Arizona Water Resources Association [SAWARA], a broad-based community organization concerned about water issues in southern Arizona, asked me and other Members of the Arizona congressional delegation to introduce their proposals to amend SAWRSA and thereby give the Congress a basis upon which to try and fashion a final settlement acceptable to all parties. I am pleased today to honor that request.

SAWRSA AMENDMENTS

Mr. President, the package of amendments that we introduce today would generally preserve and continue the terms of the settlement made in 1982, with the following modifications:

All settlement requirements previously tied to dismissal of U.S. versus Tucson, such as the delivery of water, completion of delivery systems, and payment of damages, would become effective obligations without regard to dismissal.

The Secretary would be required to rehabilitate and extend the allottees' existing farm by a date certain, or pay specified penalties. The amount of the settlement water which allottees could use on their farm would be determined when the Secretary decides, within 6 months of enactment of the amendments, how large the extended farm would be.

The Cooperative Fund would be revived and continued, and the Nation's trust fund would be preserved.

The legislation would unambiguously extinguish the water rights of the Nation and the allottees, other than the rights established in SAWRSA. Both the Nation and the allottees would be given recourse to the Claims Court as their only means of redressing any uncompensated claim or grievance, with claims only against the United States. Tribal Court or any other forum of competent jurisdiction would remain available to resolve disputes between the Nation and the allottees.

SAWRSA now limits the Nation to pumping no more than 10,000 acre-feet of groundwater per year from the San Xavier District, with no provisions for underground storage and recovery. The amendments would allow limited in lieu storage of any groundwater not pumped in a given year. Withdrawals of stored groundwater in San Xavier could not exceed 10,000 acre-feet in any year or 50,000 acre-feet over any 10-year period. The amendments would also allow direct underground storage and recovery of surface water, in a manner similar to that provided for under current State law. Comparable provisions are made for pumping groundwater from the Eastern Schuk Toak District.

SAWRSA now requires that all of the Nation's water be used within the boundaries of the Tucson Active Management Area [AMA]. The amendments would allow the Nation to use up to 16,000 acre-feet of water per year within the territorial jurisdiction of the Nation outside the AMA. The amendments would also allow the Nation to make short-term (up to 15 years) leases of its water outside the AMA, after giving a right of first refusal to users within the AMA.

If the amendments are enacted, the city of Tucson would enter into a short-term lease of the Nation's CAP water. This leased water would be in place of, rather than in addition to, water which the city would otherwise order within its own CAP allocation. The price of the water, yet to be negotiated, would be somewhat below the per-acre-foot price that the city would otherwise pay under its subcontract. This provision would allow the Nation to realize a financial return on its CAP allocation and would allow the city to realize a savings in the purchase of CAP water, without increasing the costs to any other party.

The amendments would not determine the outcome of the existing dispute between the Nation and the allottees, but would leave it to be resolved by other means. The allottees could seek damages in the Claims Court and that court would determine whether the allottees hold reserved water rights separate from the water rights of the Nation. If amendments to SAWRSA are enacted, the allottees' claims could be pursued in the Claims Court while both the Nation and the allottees were receiving the benefits of the settlement.

HEARING

Because Congress did not recognize or address the problems that have held up implementation of the SAWRSA for 10 years, it is surely time we do so.

Therefore, Mr. President, I very much appreciate the willingness of Chairman INOUYE of the Select Committee on Indian Affairs to schedule a joint hearing on this legislation on August 6 with the House Committee on Interior and Insular Affairs.

This hearing will give the committees an opportunity to hear testimony from the administration, the Tohono O'odham Nation, the State of Arizona, the city of Tucson and other area non-Indian water users, and the San Xavier District Council, the San Xavier Allottees Association, and the San Xavier Cooperative Association on the proposed SAWRSA amendments.

I am hopeful that the hearing will produce the kind of information and insight that will assist the committees in developing amendments to SAWRSA that will enjoy the support of all parties.

I will be particularly interested in hearing constructive criticisms and positive suggestions and recommendations for dealing with those issues that have stymied previous efforts to reach an agreement acceptable to all parties.

After 10 years, it is time that the people of the Tohono O'odham Nation receive the benefits they were promised in 1982. It is time that the city of Tucson, and all the other entities that have complied with the provisions of the 1982 Act, realize the benefits that the settlement was to provide them.

That the entire Arizona congressional delegation has joined in introducing the proposed SAWRSA amendments reflects a longstanding, bipartisan approach to settling water rights disputes in our State. These issues are fundamentally important to Arizona's future, and should be resolved with a minimum of political partisanship.

All of us share a common interest in the fair allocation and wise management of water resources in Arizona. Similarly, we share an interest in a fair, final, and workable settlement. I look forward to working with all parties to achieve such a settlement.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southern Arizona Water Rights Settlement Amendments Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Southern Arizona Water Rights Settlement Act of 1982 was enacted October 12, 1982, to settle the water rights claims of the Papago Tribe (now Tohono O'Odham Nation) with respect to the San Xavier Reservation and the Eastern Schuk Toak District and to resolve pending lawsuits concerning these claims by final dismissal;

(2) after the Southern Arizona Water Rights Settlement Act of 1982 was enacted, the Nation and the United States timely entered into the October 11, 1983, agreement to fulfill most of the conditions stated in sections 306(a), 306(b), 307(a)(1)(C) and 307(a)(1)(D) of the Southern Arizona Water Rights Settlement Act of 1982; the United States and city of Tucson timely entered into the Reclaimed Water Agreement to fulfill the conditions stated in section 307(a)(1)(A) of the Southern Arizona Water Rights Settlement Act of 1982; the State of Arizona, city of Tucson, the United States and others timely entered into the Cooperative Fund Agreement and timely contributed the required funds to the Cooperative Fund to fulfill the conditions stated in sections 307(a)(1)(B), 313(b)(1), 313(b)(2), and 313(b)(3)(A) of the Southern Arizona Water Rights Settlement Act of 1982; the Trust Fund authorized by section 309 of the Southern Arizona Water Rights Settlement Act of 1982 has been established and fully funded; however, the lawsuits have not, as yet, been finally dismissed; and

(3) circumstances have arisen since the enactment of the Southern Arizona Water Rights Settlement Act of 1982 on October 12, 1982, which require enactment to clarify the original provisions of the Southern Arizona Water Rights Settlement Act of 1982, to extend or adjust the deadlines for performance of certain obligations thereunder, to preserve, protect, and enhance the water resources and other related benefits granted to the Nation, and to accomplish other purposes.

SEC. 3. AMENDMENT TO SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT ACT.

The Southern Arizona Water Rights Settlement Act of 1982 (Public Law 97-293) is amended to read as follows:

"CONGRESSIONAL FINDINGS

"SEC. 301. The Congress finds that—

"(1) water rights claims of the Tohono O'Odham Nation with respect to the San Xavier Reservation and the Eastern Schuk Toak District are the subject of existing and prospective lawsuits against numerous parties in southern Arizona, including major mining companies, agricultural interests, and the city of Tucson;

"(2) these lawsuits not only will prove expensive and time consuming for all participants, but also could have a profound adverse impact upon the health and development of the Indian and non-Indian economies of southern Arizona;

"(3) the parties to the lawsuits and others interested in the settlement of the water rights claims of the Tohono O'Odham Indians within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area have diligently attempted to settle these claims and the Federal Government, by providing the assistance specified in this title, will make possible the execution and implementation of a permanent settlement agreement;

"(4) it is in the long-term interest of the United States, the State of Arizona, its political subdivisions, the Nation, and the non-Indian community of southern Arizona that the United States Government assist in the implementation of a fair and equitable settlement of the water rights claims of the Tohono O'Odham Indians respecting certain portions of the Tohono O'Odham Reservation;

"(5) the settlement contained in this title will—

"(A) provide the necessary flexibility in the management of water resources and will encourage allocation of those resources to their highest and best uses; and

"(B) ensure conservation and management of water resources in a manner consistent with the goals and programs of the State of Arizona and the Nation.

"DEFINITIONS

"SEC. 302. For purposes of this title:

"(1) The term 'acre-foot' means the amount of water necessary to cover one acre of land to a depth of one foot.

"(2) The term 'Central Arizona Project' or 'CAP' means the project authorized under title III of the Colorado River Basin Project Act (82 Stat. 887; 43 U.S.C. 1521 et seq.).

"(3) The term 'Nation' means the Tohono O'Odham Nation (formerly the Papago Tribe) organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476).

"(4) The term 'Secretary' means the Secretary of the Interior.

"(5) The term 'subjugate' means to prepare land for the growing of crops through irrigation.

"(6) The term 'Tucson Active Management Area' or 'TAMA' means the area of land corresponding to the area initially designated as the Tucson Active Management Area pursuant to the Arizona Groundwater Management Act of 1980 (laws 1980, fourth special session, chapter 1).

"(7) The term 'December 11, 1980, agreement' means the Central Arizona Project water delivery contract between the United States and the Nation.

"(8) The term 'value' means the value attributed to the water based on the Nation's anticipated or actual use of the water, or its fair market value, whichever is greater.

"(9) The term 'October 11, 1983, agreement' means the contract between the United States and the Nation to provide water and to settle claims to water under the Southern Arizona Water Rights Settlement Act of 1982.

"(10) The term 'allottees' means all of those individuals who hold—

"(A) a beneficial property interest held in trust by the United States in an Indian allotment located on the San Xavier Reservation; or

"(B) fee simple title in such lands which were formerly held in trust.

"(11) The term 'exempt well' means a water well having a pump with a maximum capacity of not more than 35 gallons per minute the water from which is used for the supply, service, and activities of households and private residences, landscaping, livestock watering, and irrigation of not more than 2 acres of land for the production of—

"(A) plants and crops for sale or human consumption; or

"(B) feed for livestock or poultry.

"(12) The term "nonexempt well' means a water well other than an 'exempt well'.

"(13) The term 'Eastern Schuk Toak district' means the portion of the Schuk Toak district of the Nation which lies within the Tucson active management area.

"(14) For purposes of section 306(e) only, the term 'shortage year' means a calendar year for which the Secretary has declared a 'shortage' on the Colorado River pursuant to the December 11, 1980, agreement and applicable Federal law.

"(15) The term 'nonshortage year' means a calendar year other than a 'shortage year'.

"(16) The term 'water management plan' means a plan which is adopted pursuant to section 303(a)(3).

"(17) The term 'delivery system' means—

"(A) the 'CAP link pipeline'; and

"(B) the pipelines, canals, aqueducts, conduits, and other facilities for water delivery, including pumping plants, which are external to the boundaries of the farm on which the water is to be distributed.

"(18) The term 'CAP link pipeline' means the pipeline from the San Xavier Turnout No. 2 of the Tucson Aqueduct of the Central Arizona Project to and including the flow control structure at the southwest corner of field 155.

"(19) The term 'distribution system' means the irrigation systems, canals, laterals, farm ditches, and irrigation works which are internal to the farm boundaries and which are needed to distribute water within the farm.

"(20) The term 'farm' means those lands designated to be served by a distribution system.

"(21) The term 'cooperative farm' means that farm, on lands in which allottees hold an interest, to be served by the 'existing distribution system' and the 'extension of the existing distribution system', as those terms are used in paragraphs (2)(A) and (2)(B) of section 303(a).

"(22) The term 'CAWCD' means the Central Arizona Water Conservation District.

"(23) The term 'lawsuits' means civil action no. 75-39 TUC (which is a consolidation of civil action no. 75-51 and civil action no. 75-39) in United States District Court for the District of Arizona entitled United States of America, et al. against City of Tucson, et al.

"(24) The term 'reclaimed water agreement' means the contract between the United States and the city of Tucson to provide for delivery of reclaimed water to the Secretary dated October 11, 1983.

"(25) The term 'cooperative fund agreement' means the contract among the United States, the State of Arizona, and others to provide for contributions to the cooperative fund and for other purposes dated October 11, 1983.

"(26) The term 'short-term lease' means a nonrenewable lease of water with a term no longer than 15 years.

"(27) The term 'claims of water rights' means—

"(A) any and all claims of water rights or injuries to water rights (including water rights in both ground water and surface water) within the Tucson active management area and that part of the Upper Santa Cruz Basin not within said area, from time immemorial to the date of enactment of the Southern Arizona Water Rights Settlement Amendments Act of 1992, which the Nation has against the United States, the State of Arizona, and any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona; and

"(B) any and all future claims of water rights (including water rights in both ground water and surface water) within the Tucson active management area and that part of the Upper Santa Cruz Basin not within said area, from and after the date of enactment of the Southern Arizona Water Rights Settlement Amendments Act of 1992, which the Nation has against the United States, the State of Arizona, and any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, under the laws of the United States or the State of Arizona.

"WATER DELIVERIES TO NATION FROM CAP; MANAGEMENT PLAN; REPORT ON WATER AVAILABILITY; CONTRACT WITH NATION

"SEC. 303. (a) If the Nation has agreed to the conditions set forth in sections 306(a) and 306(b), the Secretary shall—

"(1) not later than 60 days after the Nation gives the Secretary notice of the quantity and point or points of delivery at a turnout on the Central Arizona Project Aqueduct, or, if the delivery is to a distribution system described in paragraph (2), after the deadline for completion of that distribution system—

"(A) annually deliver from the main project works of the Central Arizona Project 27,000 acre-feet of water suitable for agricultural use in accordance with the provisions of section 304(a) to the San Xavier Reservation or other points of delivery at turnouts on the Central Arizona Project Aqueduct designated by the Nation; and

"(B) annually deliver from the main project works of the Central Arizona Project 10,800 acre-feet of water suitable for agricultural use in accordance with the provisions of section 304(a) to the eastern Schuk Toak district or other points of delivery at turnouts on the Central Arizona Project Aqueduct designated by the Nation;

"(2) perform the following:

"(A) Not later than 54 months after the Secretary makes the determination described in subparagraph (E), complete the CAP link pipeline and improvement of the existing distribution system for the cooperative farm.

"(B) Not later than 72 months after the Secretary makes the determination described in subparagraph (E), complete the extension of the existing distribution system for the cooperative farm.

"(C) Not later than 60 months after the date of the enactment of the Southern Arizona Water Rights Settlement Amendments Act of 1992, complete the design and construction of a distribution system and delivery system in the eastern Schuk Toak district, as necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (1)(B).

"(D) Not later than 48 months after the Secretary approves final designs submitted by the Nation, complete the construction within the San Xavier Reservation of a distribution system and delivery system as necessary for the efficient distribution for agricultural purposes of the portion of the water referred to in subparagraph (1)(A) that is not used in the distribution systems referred to in subparagraphs (A) and (B).

"(E) Not later than 180 days after the date of enactment of the Southern Arizona Water Rights Settlement Amendments Act of 1992, determine the size of the cooperative farm, after giving the Nation and allottees opportunity to comment.

"(3) Establish a water management plan for the San Xavier Reservation and the eastern Schuk Toak district. The water management plan shall be developed and implemented under a contract entered into pursuant to section 309. The water management plan shall include a requirement for measurement of ground water withdrawals; reasonable recordkeeping; measures designed to provide for efficient use in each use authorized under section 306(c)(1) and to prevent waste; and provisions for direct and in lieu storage as specified in section 306(f):

"(A) The contract shall provide that in any case where the Secretary determines that the Nation's performance under the contract is in material noncompliance with the provisions of sections 302(18), 303(a)(3), 306(a), 306(e), or 306(f), the Secretary may, after providing notice and a hearing on the record to the Nation pursuant to regulations adopted under the Indian Self Determination Act (25 U.S.C. 450f et seq.), and after determining that the Nation has not taken corrective action as prescribed by him, rescind such contract and assume or resume control of the development and implementation of the water management plan, or invoke any other available remedy.

"(B) The Nation, by its water code, may manage, regulate, and control the water resources granted herein, including without limitation, establish permit requirements, regulations, conditions, and limitations on the recovery and use of water: *Provided, However*, That such water code may not permit recovery of water in excess of the limitations stated in the water management plan.

"(4) Any of the deadlines provided in paragraph (2)(A) through (D) may be extended by the Secretary upon a finding that the deadline cannot be met by reason of—

"(A) a material breach by the contractor of a relevant contract;

"(B) inability of the contractor, under a relevant contract, to perform by reason of force majeure as defined in that contract; or

"(C) unavoidable delays in compliance with applicable environmental laws:

Provided, However, That the finding shall include the length of the delay and shall state a new deadline for completion which shall not exceed the length of the delay so caused. In the event that any of the deadlines established in paragraphs (2)(A) through (2)(D), as extended, are not met, damages, measured by the value of the quantity of water to be delivered to the completed facilities, shall be payable as provided in section 304(c).

"(5) There are authorized to be appropriated up to $3,500,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indices applicable to the type of construction involved for those features of the irrigation systems described in paragraphs (2)(A), (2)(B), (2)(C), and (2)(D) which are not authorized to be constructed under any other provision of law.

"(6) The Secretary of the Treasury, with the consent of the Secretary, is authorized to pay to the Nation a sum of money equivalent to the remaining cost to the United States of fulfilling its obligations under paragraph (2)(D) of section 303(a). The Nation is authorized to use the principal amount, and all investment income thereon as follows:

"(A) Subjugation of land, development of water resources, and the construction, operation, maintenance, and replacement of the facilities within the San Xavier Reservation which are not the obligation of the United

States under this Act, or under any other provision of law.

"(B) To acquire land within the TAMA which may be lawfully used for agricultural purposes and to fund thereon each of the activities stated in subparagraph (A). Any lands acquired by the Nation under this subparagraph may be taken into trust by the Secretary, for the benefit of the Nation, and be deemed a Federal Indian reservation for all purposes.

"(C) For any other tribal governmental purpose.

"(b) The implementation of this Act is a time sensitive matter for the United States. The United States has committed to timely deliver to the Nation, its members and the allottees the benefits required to be delivered hereunder by specified deadlines. Significant environmental investigation and study relative to the implementation of this Act has been performed, culminating in the environmental impact statement—San Xavier Development Project, Southern Arizona Water Rights Settlement Act, Statement No. INT DES 80-50 (Bureau of Reclamation, United States Department of the Interior, filed October 26, 1988). Additional environmental study would be of diminished utility and the benefit of potential additional study is outweighed by the overriding necessity to deliver water, or its equivalent benefits, to the Nation. Thereafter, notwithstanding any other provision of law to the contrary, the environmental impact statement is deemed to constitute compliance with the National Environmental Policy Act (42 U.S.C. 4321 et seq.) for all actions taken under this Act, and such actions shall not constitute major Federal action under the National Environmental Policy Act.

"(c)(1) In order to encourage the Nation to develop sources of water on the Sells Tohono O'odham Reservation, the Secretary shall, if so requested by the Nation, carry out a study to determine the availability and suitability of water resources within the Sells Tohono O'odham Reservation but outside the Tucson Active Management area and that part of the Upper Santa Cruz Basin not within that area.

"(2) The Secretary shall, in cooperation with the Secretary of Energy, or, with the appropriate agency or officials, carry out a study to determine—

"(A) the availability of energy and the energy requirements which result from the enactment of the provisions of the Southern Arizona Water Rights Settlement Amendments Act of 1992; and

"(B) the feasibility of constructing a solar powerplant or other alternative energy producing facility to meet such requirements.

"(d) The Nation shall have the right to withdraw ground water from beneath the San Xavier Reservation and the Eastern Schuk Toak District subject to the limitations of sections 306(a), 306(e), and 306(f).

"(e) Nothing contained in this title shall diminish or abrogate any obligations of the Secretary to the Nation under the December 11, 1980, agreement, nor be construed as a waiver, release, or extinguishment of any claim of the Nation where such claim arises hereunder.

"(f) Nothing contained in sections 303(d) and 306(c) shall be construed to establish whether or not the Federal reserved rights doctrine applies, or does not apply, to ground water.

"DELIVERIES UNDER EXISTING CONTRACT, ALTERNATIVE WATER SUPPLIES; OPERATION AND MAINTENANCE

"SEC. 304. (a) The water delivered from the main project works of the Central Arizona Project to the San Xavier Reservation and to the Eastern Schuk Toak District or at points of delivery on the Central Arizona Project Aqueduct as provided in section 303(a), shall be delivered in such amounts, and according to such terms and conditions, as are set forth in the December 11, 1980, agreement, and the October 11, 1983, agreement, except as otherwise provided under this section.

"(b) Where the Secretary, pursuant to the terms and conditions of the agreements referred to in subsection (a), is unable, during any year, to deliver from the main project works of the Central Arizona Project any portion of the full amount of water specified in section 303(a)(1)(A) and section 303(a)(1)(B), the Secretary shall acquire and deliver an equivalent quantity of water from the following sources or any combination thereof—

"(1) agricultural water from the Central Arizona Project which has been contracted for but has been released or will be unused by the contractor during the period in which the Secretary will acquire the water;

"(2) any water available for delivery through the Central Arizona Project which exists by reason of the augmentation of the water supply available for use and distribution through the Central Arizona Project by subsequent Acts of Congress; and

"(3) water from any of the following sources or any combination thereof within the TAMA and that part of the Upper Santa Cruz Basin not within that area in the State of Arizona—

"(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

"(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands or interests referred to in subparagraph (A) shall be made only to the extent such water may be transported within the TAMA pursuant to applicable laws of the State of Arizona.

"(c) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section or paragraphs (1)(A) and (1)(B) of section 303(a), he shall pay damages in an amount equal to the value of such quantities of water as are not acquired and delivered.

"(d) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (b) without the consent of the owner thereof. No private lands may be acquired under subsection (b)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water right the use of which is recognized by State law. In acquiring any private lands under subsection (b)(3)(A), the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any 1 of the 5 years preceding the date of acquisition. Nothing in this section shall—

"(1) authorize the Secretary to acquire or disturb the water rights of any Indian tribe, band, group, or community; or

"(2) limit the Nation's rights to acquire lands in accordance with section 303(a)(6).

"(e)(1) To meet the obligations referred to in paragraphs (1)(A) and (1)(B) of section 303(a), the Secretary shall, as part of the main project works of the Central Arizona Project—

"(A) design, construct, and, without cost to the Nation, operate, maintain, and replace such facilities as are appropriate, including any aqueduct and appurtenant pumping facilities, powerplants, electric power transmission facilities, and facilities for storage, reregulation, and other measures which may be necessary for such purposes; and

"(B)(i) If the water is to be used in a distribution system referred to in section 303(a)(2), deliver the water at a point or points agreed to by the Secretary and the Nation at the boundary of the farm on which the water is to be distributed; or

"(ii) if the water is to be used, other than as stated in clause (i), deliver the water at a turnout or turnouts on the Central Arizona Project aqueduct designated by the Nation.

"(2) There is hereby authorized to be appropriated by this title in addition to other sums authorized to be appropriated by this title, a sum equal to that portion of the total costs of phase B of the Tucson Aqueduct of the Central Arizona Project which the Secretary determines to be properly allocable to construction of facilities for the delivery of water to Indian lands as described in subparagraphs (A), (B), (C), and (D) of paragraph (2) of section 303(a). Sums allocable to the construction of such facilities shall be reimbursable as provided by the Act of July 1, 1932 (Public Law 72-240; 25 U.S.C. 386(a)).

"(f) To facilitate the delivery of water to the San Xavier and the Eastern Schuk Toak District of the Sells Papago Reservation under this title, the Secretary is authorized—

"(1) to enter into contracts or agreements for the exchange of water, or for the use of aqueducts, canals, conduits, and other facilities for water delivery, including pumping plants, with the State of Arizona or any of its subdivisions, with any irrigation district or project, or with any authority, corporation, partnership, individual, or other legal entity; and

"(2) to use facilities constructed in whole or in part with Federal funds.

"RECLAIMED WATER; ALTERNATIVE WATER SUPPLIES

"SEC. 305. (a)(1) Having acquired reclaimed water in accordance with the reclaimed water agreement, the Secretary shall annually deliver 23,000 acre feet of water suitable for agricultural use to the San Xavier Reservation or other points of delivery and annually deliver 5,200 acre feet of water suitable for agricultural use to the Eastern Schuk Toak District or other points of delivery.

"(2) If any of the water referred to in paragraph (1) is to be used in an on-reservation distribution system, the water shall be delivered to the distribution system upon completion of the system in which the water is to be used.

"(3) If any of the water referred to in paragraph (1) is to be used other than as stated in subparagraph (2), the water shall be delivered 60 days after the Nation and the Secretary agree upon the delivery point or points for such water.

"(4) Not later than 365 days after the enactment of the amendments, the Secretary shall notify the Nation of the long-term source of the water referred to in paragraph (1).

"(b)(1) The obligation of the Secretary referred to in subsection (a) to deliver water suitable for agricultural use may be fulfilled by voluntary exchange of that reclaimed water for any other water suitable for agricultural use or by other means. To make available and deliver such water, the Secretary acting through the Bureau of Reclamation shall design, construct, operate, maintain, and replace such facilities, including facilities for storage, reregulation, or other measures, as are appropriate. The costs of design, construction, operation, maintenance, and replacement of on-reservation systems for the distribution of the water referred to in subsection (a) are the responsibility of the Nation.

“(2) The Secretary shall not construct a separate delivery system to deliver reclaimed water referred to in subsection (a) to the San Xavier Reservation and the Eastern Schuk Toak District.

“(3) To facilitate the delivery of water under this title, the Secretary shall, to the extent possible, utilize unused capacity of the main project works of the Central Arizona Project without reallocation of costs.

“(c) The Secretary may, as an alternative to, and in satisfaction of the obligation to deliver the quantities of water to be delivered under subsection (a), acquire and deliver pursuant to agreements authorized in section 307(b), an equivalent quantity of water from the following sources or any combination thereof—

“(1) agricultural water from the Central Arizona Project which has been contracted for but has been released or will be unused by the contractor during the period in which the Secretary will acquire the water;

“(2) any water available for delivery through the Central Arizona Project which exists by reason of the augmentation of the water supply available for use and distribution through the Central Arizona Project by subsequent Acts of Congress; and

“(3) water from any of the following sources or any combination thereof within the TAMA in the State of Arizona and that part of the Upper Santa Cruz Basin not within that area—

“(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

“(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands referred to in subparagraph (A) shall be made only to the extent such water may be transported within the TAMA pursuant to State law.

“(d) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section, he shall pay damages in an amount equal to the value of such quantities of water as are not acquired and delivered.

“(e) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (c) without the consent of the owner thereof. No private lands may be acquired under subsection (c)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water the right to the use of which is recognized by State law. In acquiring said private lands, the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any 1 of the 5 years preceding the date of acquisition. Nothing in this section shall—

“(1) authorize the Secretary to acquire or disturb the water rights of any Indian tribe, bank, group, or community; or

“(2) limit the Nation's rights to acquire lands in accordance with section 303(a)(6).

“LIMITATION ON PUMPING FACILITIES FOR WATER DELIVERIES; DISPOSITION OF WATER

“SEC. 306. (a) The Secretary shall be required to carry out his obligation under subsections (b), (c), and (e) of section 304 and under section 305 only if the Nation, in addition to the October 11, 1983, agreement, agrees to—

“(1) limit pumping of ground water from beneath the San Xavier Reservation to not more than 10,000 acre feet per year;

“(2) limit the quantity of ground water pumped from beneath the eastern Schuk Toak District to not more than 3,200 acre feet per year; and

“(3) comply with the water management plan under section 303(a)(3).

Notwithstanding any provision of this title, the Nation shall have the right to drill exempt wells and withdraw ground water therefrom in the San Xavier Reservation and the Eastern Schuk Toak District. Ground water withdrawn from such exempt wells shall not be subject to the pumping limitations prescribed in sections 306(a), 306(e), or 306(f).

“(b) The Secretary shall be required to carry out his obligations with respect to distribution systems under paragraphs (2)(A) through (2)(D) of section 303(a) only if the Papago Tribe agrees to—

“(1) subjugate, at no cost to the United States, the land for which those distribution system are to be planned, designed, and constructed by the Secretary; and

“(2) assume responsibility, through the tribe or its members or an entity designated by the tribe as appropriate, following completion of those distribution systems and upon delivery of water under this title, for the operation, maintenance, and relacement of those systems in accordance with the first section of the Act of August 1, 1914 (38 Stat. 583; 25 U.S.C. 385).

“(c)(1) The Nation shall have the right to devote all water supplies under this title whether delivered by the Secretary or pumped by the Nation, to any use, including but not limited to agricultural, municipal, industrial, commercial, mining, or recreational use whether within or outside the territorial jurisdiction of the Nation so long as such use is within the TAMA and that part of the Upper Santa Cruz Basin not within such area: *Provided*, That—

“(A) the Nation may use up to 16,000 acre-feet of Central Arizona Project water annually within the territorial jurisdiction of the Nation outside the TAMA and that part of the Upper Santa Cruz Basin not within such area;

“(B) the San Lucy Farm is deemed, for purposes of section 306(c)(1) to be within the territorial jurisdiction of the Nation; and

“(C) Central Arizona Project water under short-term lease from the Nation may be used during the term of the lease outside the TAMA and that part of the Upper Santa Cruz Basin not within such area, but in no event outside Pima, Pinal, or Maricopa Counties, State of Arizona.

“(2) The Nation may sell, exchange, lease, or temporarily dispose of water, but the Nation may not permanently alienate any water right. In the event the Nation sells, exchanges, leases, or temporarily disposes of water, such sale, exchange, lease, or temporary disposition shall be pursuant to a contract which has been accepted and ratified by a resolution of the Nation's legislative council and approved and executed by the Secretary as agent and trustee for the Nation. Such contract shall specifically provide that an action may be maintained by the contracting party against the United States and the Secretary for the breach thereof. The proceeds from any sale, exchange, lease, or disposition of water by the Nation shall be used for social or economic programs or for tribal administrative purposes which benefit the Nation. Section 306(c)(1) applies to water sold, exchanged, leased or disposed of by the Nation.

“(A) The Secretary shall amend the December 11, 1980, agreement to—

“(i) extend the term of such contract to December 31, 2099, and to provide for its subsequent renewal upon the same terms and conditions as the December 11, 1980, agreement, as amended, and

“(ii) authorize the Nation to lease or to enter into an option or options to lease, under the provisions of section 306(c)(2), the water to which the Nation is entitled under the December 11, 1980, agreement, as amended, for terms not exceeding 100 years and to renew such leases.

“(B) Notwithstanding any other provision of law, the amendments to the December 11, 1980, agreement set forth in section 3069(c)(2)(A) are hereby authorized, approved, and confirmed.

“(C) Any Water lease entered into by the Nation shall specifically provide that the lessee shall not be obligated to pay water service capital charges or any other charges or payment for such CAP water to the United States or to the CAWCD.

“(D) For the purpose of determining allocation and repayment of costs of the Central Arizona Project as provided in article 9.3 of contract numbered 14–07–W–243 between the United States of America and CAWCD dated December 15, 1972, and any amendment or revision thereof, the costs associated with the delivery of Central Arizona Project water to the lessee or lessees under the leases or options to lease herein authorized shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

“(E) The Nation is authorized to lease or enter into an option or options to lease, under the provisions of section 306(c)(2), the water to which the Nation is entitled under section 305 for terms not exceeding 100 years and to renew such leases.

“(F) The use or nonuse of water by any lessee from the Nation shall have no effect upon the Nation's rights in water as established by this title and any other applicable law.

“(3) Prior to any short-term lease of water outside the territorial jurisdiction of the Nation and outside the TAMA, the Nation shall offer for 60 days a right of first refusal with respect to any such lease to water users within the TAMA. Notice of an offer of right of first refusal shall be given by publication in a daily newspaper of general circulation in the city of Tucson and delivery to the city of Tucson, the Arizona Department of Water Resources, and the Tucson Active Management Area Water Augmentation Authority.

“(d) Nothing in section 306(c) shall be construed to establish whether or not reserved water may be put to use, or sold for use, off any reservation to which reserved water rights attach.

“(e)(1) Notwithstanding the agreement entered into pursuant to section 306(a), if, in any shortage year the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under section 304 or paragraphs (1)(A) and (2)(A) of section 303(a), the Nation may in that year pump an additional quantity of ground water from the San Xavier Reservation equivalent to the number of acre-feet of water delivered by the Secretary to the San Xavier Reservation in the most recent nonshortage year less the amount of acre feet of water delivered in the shortage year; and the Nation may in that year pump an additional quantity of ground water from the eastern Schuk Toak District equivalent to the number of acre feet of water delivered by the Secretary tgo the eastern Schuk Toak District in the most recent non-shortage year less the amount of acre feet of water delivered in the shortage year. Nothing in this section shall affect the Secretary's obligations under section 304(c).

"(2) If water delivered pursuant to section 305 is CAP water with a priority higher than non-Indian irrigation, subsection (e)(1) shall apply with regard to failure of the Secretary to deliver such water.

"(f)(1) The water management plan shall include provisions, consistent with this section, for the establishment and maintenance of a separate underground storage project for the San Xavier Reservation (San Xavier Storage Project) and a separate underground storage project for the Eastern Schuk Toak District (Schuk Toak Storage Project) for the following purposes:

"(A) To permit the in lieu storage and recovery of ground water.

"(B) To permit the underground storage of water delivered by the Secretary and the subsequent recovery of an equivalent quantity of water.

"(C) To maintain records of the amounts of water stored underground and recovered each year.

"(2) Each underground storage project shall have 2 subaccounts: a direct storage subaccount and an in lieu storage subaccount.

"(A) There shall be credited to the San Xavier direct storage subaccount each year the amount of water, delivered by the Secretary, that is actually stored underground within the San Xavier Reservation. There shall be credited to the Schuk Toak direct storage subaccount each year the amount of water, delivered by the Secretary, that is actually stored underground within the Eastern Schuk Toak District.

"(B) There shall be credited to the San Xavier in lieu storage subaccount as of the end of each calendar year the number of acre-feet of ground water by which the number 10,000 exceeds the number of acre-feet of ground water withdrawn that year by nonexempt wells within the San Xavier Reservation. There shall be credited to the Schuk Toak in lieu storage subaccount as of the end of each calendar year, the number of acre-feet of ground water by which the number 3,200 exceeds the number of acre feet of ground water withdrawn that year by nonexempt wells within the Eastern Schuk Toak District.

"(C) Upon instruction of the Nation, by resolution of its legislative council, the San Xavier in lieu storage subaccount shall be initially credited with up to 50,000 acre-feet of water and the Schuk Toak in lieu storage subaccount shall be initially credited with up to 16,000 acre-feet of water.

"(3) In addition to the quantity of ground water pumped within the limitations of the agreement entered into pursuant to section 306(a), the Nation may—

"(A) annually recover, within the San Xavier Reservation, all or part of the cumulative acre-feet of ground water credited to the San Xavier in lieu storage subaccount: *Provided however*, That—

"(i) the quantity of ground water recovered shall not exceed 10,000 acre feet in any year; and

"(ii) the quantity of ground water recovered shall not exceed 50,000 acre-feet in any 10-year period; and

"(B) annually recover, within the Eastern Schuk Toak District, all or part of the cumulative acre-feet of ground water credited to the Schuk Toak in lieu storage subaccount: *Provided however*, That—

"(i) the quantity of ground water recovered shall not exceed 32,000 acre-feet in any year; and

"(ii) the quantity of ground water recovered shall not exceed 16,000 acre feet in any 10-year period.

"(4) The Nation may recover all or part of the cumulative acre feet of water credited to the direct storage subaccounts.

"(5) The Nation, by its water code, may manage, regulate and control the recovery of water pursuant to the underground storage project provisions of the water management plan: *Provided, however*, That the water code may not permit recovery of water in excess of the limitations stated in the water management plan.

"(6) The Nation shall register each year as a debit to the in lieu storage subaccount of each underground storage project the amount of water recovered from in lieu storage and shall register each year as a debit to the direct storage subaccount of each project, the amount of water recovered from direct storage. If an initial credit or credits are established pursuant to paragraph (2)(C), an additional 10 percent of the water recovered from each in lieu storage subaccount each year shall be registered as a debit to that subaccount until the total amount so debited equals the initial credit.

"(7) Direct storage subaccount credits may be assigned, sold, exchanged, or transferred in whole or in part by the Nation for withdrawal and use within the TAMA, outside the territorial jurisdiction of the Nation.

"(8) In lieu storage subaccount credits may be assigned, sold, exchanged, or transferred in whole or in part by the Nation for withdrawals and use within the TAMA, outside the territorial jurisdiction of the Nation only if the laws of Arizona specifically permit the transfer of the in lieu storage subaccount credits created hereunder.

"(9) The water management plan shall include provisions—

"(A) requiring the use of a water measuring device on each nonexempt well measure withdrawals from that well;

"(B) establishing a system for the reporting of withdrawals from nonexempt wells;

"(C) for enforcement and implementation of the underground storage project provisions of the plan; and

"(D) for the annual exchange of water storage and water recovery information, including the status of water storage subaccounts, with the Arizona Department of Water Resources, the city of Tucson, and the Tucson Active Management Area Water Augmentation Authority.

"OBLIGATION OF THE SECRETARY; CONTRACT FOR RECLAIMED WATER; DISMISSAL AND WAIVER OF CLAIMS OF NATION

"SEC. 307. (a)(1) The waiver and release of claims of water rights contained in section 3.1 of the October 11, 1983, agreement shall take effect upon the date of enactment of the Southern Arizona Water Rights Settlement Amendments Act of 1992, notwithstanding the provisions of section 307(d).

"(2) The requirements of subparagraphs (A), (B), (C), and (D) of section 307(a)(1) having been substantially met, the Secretary shall, if the Nation has agreed to the conditions set forth in section 306(a), be required to carry out his obligations under subsections (b), (c), and (e) of section 304 and under section 305.

"(b) The Secretary is authorized and required, if necessary or desirable, to enter into agreements with other individuals or entities to acquire and deliver water from such sources set forth in section 305(c) if through such contracts as exercised in conjunction with the reclaimed water agreement it is possible to deliver the quantities of water required in section 305(a).

"(c) Nothing in this section shall be construed as a waiver or release by the Nation of any claim where such claim arises under this title.

"(d) The settlement provided in this title shall be deemed to fully satisfy any and all claims of water rights or injuries to water rights (including water rights in both ground water and surface water) of the Nation, all allottees and all individual members of the Nation in the San Xavier Reservation and in the Eastern Schuk Toak District. Any entitlement to water of any allottee or any individual member of the Nation shall be satisfied out of the water resources provided to the Nation in this title.

"(e) There are extinguished all the claims of the Tohono O'Odham Nation, its individual members, and the allottees for—

"(1) damages for deprivation of water rights;

"(2) claims of water rights; and

"(3) those claims that were asserted in the lawsuits.

"(f) Consent is given to the Nation and to individual members of the Nation and allottees to maintain actions, individually or as a class, against the United States in the United States Claims Court pursuant to section 1491 of title 28, United States Code, to recover damages, if any, for the extinguishment of claims under subsection (e): *Provided, however*, That the exclusive remedy shall be money damages and that nothing in this subsection shall be deemed to create any claims against the United States.

"(g) The Attorney General of the United States of America is authorized and directed to forthwith petition the District Court for the District of Arizona to dismiss the lawsuits on the ground that the lawsuits have been legislatively settled, and on any additional grounds the Attorney General deems appropriate.

"ESTABLISHMENT OF TRUST FUND; EXPENDITURES FROM FUND

"SEC. 308. (a) Pursuant to appropriations, the Secretary of the Treasury has paid to the authorized governing body of the Nation the sum of $15,000,000 to be held in trust for the benefit of such Nation and invested in interest bearing deposits and securities including deposits and securities of the United States.

"(b) The authorized governing body of the Nation, as trustee for such Nation, may only spend each year the interest and dividends accruing on the sum held and invested pursuant to subsection (a). Such amount may only be used by the Nation for the subjugation of land, development of water resources, and the construction, operation, maintenance, and replacement of related facilities on the Tohono O'Odham Reservation which are not the obligation of the United States under this or any other Act of Congress.

"APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

"SEC. 309. The functions of the Secretary under this title shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; 25 U.S.C. 450) to the same extent as if performed by the Bureau of Indian Affairs.

"EXTENSION OF STATUTE OF LIMITATIONS AND EXCLUSIVE REMEDY

"SEC. 310. (a) Except as otherwise provided in section 307, notwithstanding section 2415 of title 28, United States Code, any action relating to water rights of the Tohono O'odham Nation or any member of such Nation brought by the United States for, or on behalf of, such Nation or member of such Nation, or by such Nation on its own behalf, shall not be barred if the complaint is filed prior to January 1, 1985.

"(b) Exclusive jurisdiction for any claims by the Tohono O'odham Nation, its individual members or the allottees against the United States, its agents or employees, arising out of the enactment or implementation of this title, is vested in the claims court and the exclusive remedy is money damages: *Provided however*, That this section does not create any claims against the United States, its agents or employees.

"ARID LAND RENEWABLE RESOURCE ASSISTANCE

"SEC. 311. If a Federal entity is established to provide financial assistance to undertake arid land renewable resources projects and to encourage and assure investment in the development of domestic sources of arid land renewable resources, such entity shall give first priority to the needs of the Nation in providing such assistance. Such entity shall make available to the Nation—

"(1) price guarantees, loan guarantees, or purchase agreements;

"(2) loans; and

"(3) joint venture projects,

at a level to adequately cultivate a minimum number of acres as determined by such entity to be necessary to the economically successful cultivation of arid land crops and a level to contribute significantly to the economy of the Nation.

"COOPERATIVE FUND

"SEC. 312. (a) There is established in the Treasury of the United States a fund to be known as the "Cooperative Fund" for purposes of carrying out the obligations of the Secretary under sections 303, 304, and 305 of this title, including—

"(1) operation, maintenance, and repair costs related to the delivery of water under sections 303, 304, 305;

"(2) any costs of acquisition and delivery of water from alternative sources under section 304(b) and 305(c); and

"(3) any damages payable by the Secretary under section 304(c) or 305(d) of this title.

"(b)(1) The Cooperative Fund shall consist of—

"(A) amounts appropriated to the Fund under paragraph (2) of this subsection; and

"(B) $5,250,000 to be contributed as follows:

"(i) $2,750,000 which has been contributed by the State of Arizona;

"(ii) $1,500,000 which has been contributed by the city of Tucson; and

"(iii) $1,000,000 which has been contributed jointly by the Anamax Mining Company, the Cyprus PIMA Mining Company, the American Smelting and Refining Company, the Duval Corporation, and the Farmers Investment Company; and

"(C) interest accruing to the Fund under subsection (a) which is not expended as provided in subsection (c).

"(2) There are hereby authorized to be appropriated to the Cooperative Fund—

"(A) $5,250,000;

"(B) such sums (up to $16,000,000) which the Secretary determines, by notice to the Congress, are necessary to meet his obligations under this title; and

"(C) such additional sums as may be provided by Act of Congress.

"(c) Only interest accruing to the Cooperative Fund may be expended. Interest accruing to the fund shall, without further appropriation, be available for expenditure.

"(d) The Secretary of the Treasury shall be the trustee of the Cooperative Fund. It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(e)(1) Notwithstanding the provisions of section 312(e), if no funds contributed to the Cooperative Fund pursuant to section 312(b)(1)(B) (or accrued interest thereon) have been returned to any of the contributors, the Cooperative Fund shall not be terminated: *Provided however*, That if the final judgment in the lawsuits does not dismiss all claims against the defendants named therein the Cooperative Fund shall be terminated and the Secretary of the Treasury shall return all amounts contributed to the Fund (together with a ratable share of the remaining accrued interest) to the respective contributors.

"(2)(A) If the share contributed to the Cooperative Fund by the United States under section 312(b)(3) has been deposited in the General Fund of the Treasury pursuant to section 312(e), there is hereby authorized to be appropriated to the Cooperative Fund the amount so deposited in the General Fund of the Treasury, adjusted to include an amount representing the additional interest which would have been earned by the Cooperative Fund if that portion had not been deposited in the General Fund of the Treasury.

"(B) If the final judgment in the lawsuits does not dismiss all claims against the defendants named therein, the share of the Cooperative Fund contributed by the United States shall be deposited in the General Fund of the Treasury.

"(f) Payments for damages arising under sections 304(c) and 305(d) shall not exceed in any given year the amounts available for expenditure in any given year from the Cooperative Fund established under this section. In the event interest accruing to the Cooperative Fund is insufficient in any given year to pay such damages, the Nation may seek an award of damages in excess of payments actually made by the Secretary in the United States Claims Court under section 1505 of title 28, United States Code: *Provided*, That any funds appropriated by Congress to pay damages after a suit has been instituted by the Nation shall be an offset against the award.

"AMENDMENTS TO 1980 AND 1983 AGREEMENTS AND FORCE MAJEURE

"SEC. 313. (a) The Secretary is authorized and directed to amend the December 11, 1980 agreement and the October 11, 1983 agreement to conform such agreements to the provisions of this title.

"(b) In the event of the Secretary being rendered unable, wholly or in part, by force majeure to carry out his obligations under the October 11, 1983, agreement or to make payments of the amount due thereunder, the obligations thereunder of the Secretary so far as they are affected by such force majeure shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall so far as possible be remedied with all reasonable dispatch. The term 'force majeure' as used in this section shall mean acts of God, strikes, lock-outs, or other industrial disturbances, acts of public enemies, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, flood washouts, arrests and restraint from rulers and people, interruptions by government not due to defaults of the parties, civil disturbances, explosions, breakage or accident to machinery or transmission facilities. Nothing contained in this subsection shall be construed as requiring the Secretary or the Nation to settle a strike against its will.

"SHORT TITLE

"This title may be cited as the 'Southern Arizona Water Rights Settlement Act'.".●

By Mr. EXON (for himself and Mr. KERREY):

S. 3126. A bill to extend a time limitation with respect to the economic development plan of the Ponca Tribe of Nebraska; to the Select Committee on Indian Affairs.

PONCA RESTORATION ECONOMIC DEVELOPMENT PLAN

● Mr. EXON. Mr. President, I rise today to introduce legislation to make a technical amendment to the Ponca Restoration Act, Public Law No. 101-484, 104 stat. 1167 (1990) (codified at 25 U.S.C. sec. 983 et seq.). The amendment simply extends the period of time the tribe has to submit an economic development plan by 1 year.

It was my pleasure, along with Senator Kerrey, to introduce the original Ponca restoration bill in 1989. Section 10 of that act directs the Secretary of the Interior to establish an economic development plan with the tribe. Section 10(a)(3) directs that the Secretary submit the economic development plan to Congress within 2 years of enactment—by October 31, 1992.

The amendment would extend the 2-year deadline for submission by a year, and is necessary because the Ponca Act was signed into law on October 31, 1990, in the very early stages of fiscal year 1991. No appropriations were provided to fund the Ponca's economic development plan that year and the tribe had to wait a full year—until fiscal year 1992—for the appropriation of its planning funds. By extending the submission deadline by 1 year, the tribe and the Secretary will be allowed a full 2 years to develop and submit the plan, in keeping with the original intent of the Congress.

I applaud the Poncas for their efforts to date. The restoration of a tribe is often exhausting and painstaking work.

I feel this amendment would certainly provide the necessary assistance to the Poncas so that full restoration is possible. I urge my colleagues to support this bill.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE WITH RESPECT TO PONCA ECONOMIC DEVELOPMENT PLAN.

Section 10(a)(3) of the Ponca Restoration Act (25 U.S.C. 983h(a)(3)) is amended by striking "2" and inserting "3".●

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. THURMOND, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 68, a bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces.

S. 1312

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1312, a bill to suspend temporarily the duty on octadecyl isocyanate.

S. 2134

At the request of Mr. NUNN, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Utah [Mr. GARN], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 2134, a bill to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee.

S. 2181

At the request of Mr. BUMPERS, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 2181, a bill to improve the capacity of rural communities to respond to homelessness, to establish effective program delivery models for prevention and remediation of homelessness in rural areas, to collect data on the extent and characteristics of homelessness in rural areas, and for other purposes.

S. 2318

At the request of Mr. BENTSEN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2318, a bill to amend title XVIII of the Social Security Act to make technical corrections relating to the Omnibus Budget Reconciliation Act of 1990.

S. 2387

At the request of Mr. LEAHY, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 2387, a bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children (WIC) and of Head Start programs, to expand the Job Corps Program, and for other purposes.

S. 2394

At the request of Mr. HARKIN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2394, a bill to amend title XVIII of the Social Security Act and title III of the Public Health Service Act to protect and improve the availability and quality of health care in rural areas.

S. 2553

At the request of Mr. INOUYE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2553, a bill to amend the Civil Liberties Act of 1988 to increase the authorization for the Trust Fund under the Act, and for other purposes.

S. 2643

At the request of Mr. BENTSEN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2643, a bill to amend title XVIII of the Social Security Act to limit modification of the methodology for determining the amount of time that may be billed for anesthesia services under such title, and for other purposes.

S. 2763

At the request of Mr. ROTH, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2763, a bill to establish the Mike Mansfield Fellowship Program for intensive training in the Japanese language, government, politics, and economy.

S. 2887

At the request of Mr. MCCONNELL, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2887, a bill to amend title IV of the Social Security Act to provide that the Secretary of Health and Human Services shall enter into an agreement with the Attorney General of the United States to assist in the location of missing children.

S. 2895

At the request of Mr. ADAMS, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2895, a bill to provide a program for rural development for communities and businesses in the Pacific Northwest and northern California, to provide retraining assistance for workers in the Pacific Northwest and northern California who have been dislocated from the timber harvesting, log hauling and transportation, saw mill, and wood products industries, to provide cost share and forest management assistance to private landowners in the Pacific Northwest and northern California in order to ensure the long-term supply of Pacific yew for medicinal purposes, to preserve Federal watersheds and late-successional and old-growth forests in the Pacific Northwest and northern California, to provide oversight of national forest ecosystem management throughout the United States, to provide for research on national forest ecosystem management, and for other purposes.

S. 2986

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2986, a bill to place certain conditions on the operation of Federal Advisory Committees for national park system units.

S. 3009

At the request of Mr. DOMENICI, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3065

At the request of Mr. HARKIN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 3065, a bill to revise and extend the Rehabilitation Act of 1973, and for other purposes.

SENATE CONCURRENT RESOLUTION 132

At the request of Mrs. KASSEBAUM, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Concurrent Resolution 132, a concurrent resolution expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of United Nations security guards to assure that humanitarian relief gets to those most in need.

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the names of the Senator from Illinois [Mr. DIXON], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

SENATE RESOLUTION 328—AUTHORIZING TESTIMONY AND PRODUCTION OF DOCUMENTS

Mr. JOHNSTON (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 328

Whereas, in the case of Marian Mixon v. U.S. Department of the Treasury, MSPB Docket No. AT-1221-92-0714-W-1, pending before the United States Merit Systems Protection Board, counsel for the Internal Revenue Service has requested the testimony of Anna Mayfield, an employee of the Senate on the staff of Senator Thad Cochran;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Anna Mayfield is authorized to testify and produce documents in Marian Mixon v. U.S. Department of the Treasury, except concerning matters for which a privilege should be asserted.

AMENDMENTS SUBMITTED

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1993

BUMPERS AMENDMENT NO. 2832

Mr. BUMPERS proposed an amendment to the bill (H.R. 5373) making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes; as follows:

On page 55, strike line 7, and insert in lieu thereof the following: "$1,460,784,000, to remain available until expended: *Provided*, That of this amount, from funds appropriated for the superconducting super collider, $516,000,000 shall be applied to deficit reduction.".

HATFIELD (AND OTHERS) AMENDMENT NO. 2833

Mr. HATFIELD (for himself, Mr. Mitchell, Mr. Exon, Mr. Levin, Mr. Metzenbaum, Mr. Kennedy, Mr. Wellstone, Mr. Cranston, proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 82, strike out line 19 and all that follows through page 83, line 5, and insert in lieu thereof the following:

Sec. 507. (a) Hereafter, funds made available by this Act or any other Act for fiscal year 1993 or for any other fiscal year may be available for conducting a test of a nuclear explosive device only if the conduct of that test is permitted in accordance with the provisions of this section.

(b) No test of a nuclear weapon may be conducted before July 1, 1993.

(c) On and after July 1, 1993, a test of a nuclear weapon may be conducted—

(1) only if—

(A) The President has submitted the annual report required under subsection (d);

(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

(2) only if the test is conducted during the period covered by the report.

(d)(1) Not later than March 1 of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

(i) will not be in the United States stockpile of active nuclear weapons;

(ii) will remain under the control of the Department of Defense; and

(iii) will not be transferred to the Department of Energy for dismantlement.

(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C) that does not have any such feature and, as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

(G) An assessment of the number and type of nuclear weapon tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

(3) For the purposes of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: "The Congress disapproves the report of the President on nuclear weapons testing, dated."

(The blank space being appropriately filled in).

(4) No report is required under this subsection after 1996.

(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

(A) Only those nuclear warheads in which a modern safety feature has been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

(B) For the purposes of subparagraph (A), "joint resolution" means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: "The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated ."

(The blank space being appropriately filled in).

(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

(f) No underground test of nuclear weapons may be conducted by the United States after September 30, 1996.

(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

(h) In this section, the term "modern safety feature" means any of the following features:

(1) An insensitive high explosive (IHE).

(2) Fire resistant pits (FRP).

(3) An enhanced detonation safety (ENDS) system.

BURDICK AMENDMENT NO. 2834

Mr. JOHNSTON (for Mr. Burdick) proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 52, after line 15, add the following:

"Sec. . Utilizing processes required under the National Environmental Policy Act, the Secretary of the Interior is directed to conduct a formal analysis, by no later than March 31, 1994, of alternatives for the design, construction, and operation of the Sykeston Canal as a functional replacement for Lonetree Reservoir, pursuant to section 8(a)(1) of Public Law 89-108, as amended by the Garrison Diversion Reformulation Act of 1986, Public Law 99-294. The resulting Definitive Plan Report/Environmental Impact Statement shall be utilized by the Secretary for the development of a Record of Decision which is to contain the Secretary's recommendation for proceeding with the final design and construction of the Sykeston Canal, consistent with the provisions of the Garrison Diversion Reformulation Act, the National Environmental Policy Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, and the Boundary Waters Treaty of 1909. For purposes of this section, the Secretary shall take into account the results of studies conducted by the Secretary of the Army with respect to the stabilization of Devils Lake, North Dakota."

BUMPERS AMENDMENT NOS. 2835 AND 2836

Mr. BUMPERS proposed two amendments to the bill H.R. 5373, supra, as follows:

Amendment No. 2835

At the appropriate place in the amendment, insert the following: "Except in the acquisition of components necessary for the Solenoidal Detector Collaboration (SDC) or the Gammas, Electrons, and Muons Detector Collaboration (GEM), no Federal funds appropriated to the Department of Energy for fiscal year 1993 or thereafter may be used, directly or indirectly, to purchase components for the superconducting super collider that are manufactured outside the United States, except pursuant to a contract that was open to competitive bidding.".

AMENDMENT NO. 2836

At the appropriate place in the amendment, insert the following: "None of the funds made available by this Act shall be obligated for the superconducting super collider after June 1, 1993, unless the President has certified to the Congress that commitments for contributions from international sources meet or exceed a total of $650,000,000 for fiscal years 1993, 1994, and 1995. No components for the superconducting super collider purchased with United States tax dollars and manufactured outside the United States shall be counted as a contribution from international sources for the purpose of meeting the $650 million foreign contribution requirement."

FEDERAL COURTS STUDY COMMITTEE IMPLEMENTATION OF 1992

HEFLIN AMENDMENT NO. 2837

Mr. JOHNSTON (for Mr. HEFLIN) proposed an amendment to the bill (S. 1569) to implement the recommendations of the Federal Courts Study Committee, and for other purposes, as follows:

On page 20, line 25, beginning with "unless" strike out all through line 2 on page 21 and insert in lieu thereof "if the council certifies that sufficient judicial resources exist to establish such a panel, taking into account such factors as".

On page 21, line 9, strike out "Administrative Office of the United States Courts" and insert in lieu thereof "Judicial Conference of the United States".

On page 26, line 21, insert "convicted of a crime" before "confined".

On page 27, line 12, insert "(1)" before "The Attorney".

On page 27, line 16, insert "convicted of a crime" before "confined".

On page 27, insert between lines 19 and 20 the following:

"(2)(A) The Attorney General or court shall consider the following standards in determining whether or not administrative remedies are plain, speedy and effective:

"(i) advisory role of employees and inmates or representatives of prisoner rights in formulating a plan of administrative remedies;

"(ii) maximum time limits for written responses to grievances;

"(iii) safeguards to avoid reprisals against any grievant or participant in the resolution of a grievance; and

"(iv) independent review of the disposition of grievances by an outside entity.

"(B) If the Attorney General or court finds that the administrative remedies are not in substantial compliance with the standards under subparagraph (A), the State shall prove either to the Attorney General or court that alternate procedures developed by the State accomplish the same objectives of providing a plain, speedy and effective administrative remedy.

On page 27, line 21, insert "or court" after "General".

On page 27, line 23, insert "or court" after "General".

On page 28, strike out lines 8 through 13 and insert in lieu thereof:

Section 157(c)(1) of title 28, United States Code, is amended by adding at the end thereof the following: "A party shall be deemed to consent to the findings of fact and conclusions of law submitted by a bankruptcy judge unless the party files a timely objection. If a timely objection is not filed, the proposed findings of fact and conclusions of law submitted by the bankruptcy judge shall become final and the bankruptcy judge shall enter an appropriate order thereon.".

On page 35, line 23, strike out "Claims Court" and insert in lieu thereof "Court of Federal Claims".

On page 38, line 20, strike out "Claims Court" and insert in lieu thereof "Court of Federal Claims".

On page 42, beginning with line 7, strike out all through line 18 on page 43 and insert in lieu thereof the following:

SEC. 303. VICTIMS' RIGHTS FUNDING.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.";

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The Fund shall be available as follows:

"(1) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(2) Of the next $100,000,000 deposited in the Fund in a particular fiscal year—

"(A) 49.5 percent shall be available for grants under section 1403; and

"(B) 45 percent shall be available for grants under section 1404(a).

"(3) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(4) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(5) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under paragraphs (1) through (4) shall be available as follows:

"(A) 47.5 percent shall be available for grants under section 1403.

"(B) 47.5 percent shall be available for grants under section 1404(a).

"(C) 5 percent shall be available for grants under section 1404(c).".

On page 53, line 14, strike out "Claims Court" and insert in lieu thereof "Court of Federal Claims".

On page 59, line 4, strike out "Claims Court" and insert in lieu thereof "Court of Federal Claims".

On page 70, strike out lines 8 through 12 and insert in lieu thereof the following:

TITLE XI—COURT OF FEDERAL CLAIMS

SEC. 1101. SHORT TITLE.

This title may be cited as the "Court of Federal Claims Technical and Procedural Improvements Act of 1992".

SEC. 1102. COURT DESIGNATION.

(a) IN GENERAL.—Chapters 7, 51, 91, and 165 of title 28, United States Code, is amended by—

(1) striking "United States Claims Court" each place it appears and inserting "United States Court of Federal Claims"; and

(2) striking "Claims Court" each place it appears and inserting "Court of Federal Claims".

(b) OTHER PROVISIONS OF LAW.—Reference in any other Federal law or any document relating to—

(1) the "United States Claims Court" shall be deemed to refer to the "United States Court of Federal Claims"; and

(2) the "Claims Court" shall be deemed to refer to the "Court of Federal Claims".

SEC. 1103. SOCIAL SECURITY AMENDMENTS.

Section 178 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) For the purpose of construing section 3121(i)(5) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(i)(5)) and section 209(h) of the Social Security Act (42 U.S.C. 409(h)), the annuity of a Court of Federal Claims judge on senior status after age 65 shall be deemed to be an amount paid under section 371(b) of this title for performing services under the provisions of section 294 of this title.".

SEC. 1104. ELIGIBILITY FOR INSURANCE AND ANNUITIES PROGRAMS.

Chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 179. Insurance and annuities programs

"For the purpose of construing the provisions of title 5, a judge of the United States Court of Federal Claims shall be deemed to be a 'judge of the United States' as designated in section 2104(a) of title 5.".

SEC. 1105. MILITARY RETIREMENT PAY FOR RETIRED JUDGES.

(a) IN GENERAL.—Chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 180. Military retirement pay for retired judges

"Section 371(e) of this title shall be applicable to judges of the United States Court of Federal Claims, and for the purpose of construing section 371(e) of this title, a judge of the United States Court of Federal Claims shall be deemed to be a judge of the United States as defined by section 451 of this title.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following:

"179. Insurance and annuities programs.

"180. Military retirement pay for retired judges.".

SEC. 1106. RECALL OF COURT OF FEDERAL CLAIMS JUDGES ON SENIOR STATUS.

(a) IN GENERAL.—Section 375 of title 28, United States Code, is amended—

(1) in the first sentence of subsection (a)(1) by striking ", a judge of the Claims Court," and ", judge of the Claims Court,";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) For purposes of paragraph (1) of this subsection, a certification may be made, in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located.";

(3) by amending paragraph (3) of subsection (a) to read as follows:

"(3) For purposes of this section, the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984."; and

(4) in subsection (f) by—

(A) striking ", a judge of the Claims Court,"; and

(B) striking ", a commissioner of the Court of Claims,".

(b) RECALL OF RETIRED JUDGES.—Section 797 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting "section 178 of this title or under" after "under"; and

(2) in the second sentence of subsection (d) by striking "civil service".

SEC. 1107. LAW CLERKS AND SECRETARIES.

The first sentence of section 794 of title 28, United States Code, is amended by inserting after "may approve" the following: "for district judges".

SEC. 1108. SITES FOR HOLDING COURT.

(a) IN GENERAL.—Section 798(a) of title 28, United States Code, is amended to read as follows:

"(a) The United States Court of Federal Claims is authorized to utilize facilities and hold court in Washington, District of Columbia, and throughout the United States (including its territories and possessions) as necessary for compliance with sections 173 and 2503(c) of this title. The facilities of the Federal courts, as well as other comparable facilities administered by the General Services Administration, shall be made available for trials and other proceedings outside of the District of Columbia.".

(b) FOREIGN COUNTRY.—

(1) REDESIGNATION.—Subsection (b) of section 798 of title 28, United States Code, is redesignated as subsection (c).

(2) HEARING IN A FOREIGN COUNTRY.—Section 798 of title 28, United States Code, is amended by inserting after subsection (a) the following:

"(b) Upon application of a party or upon the judge's own initiative, and upon a showing that the interests of economy, efficiency and justice will be served, the chief judge may issue an order authorizing a judge of the court to conduct proceedings, including evidentiary hearings and trials, in a foreign country whose laws do not prohibit such proceedings, except that an interlocutory appeal may be taken from such an order pursuant to the provisions of section 1292(d)(2) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.".

(c) APPEAL JURISDICTION.—Section 1292(d)(2) of title 28, United Sates Code, is amended by inserting after "When" the following: "the chief judge of the United States Court of Federal Claims issues an order under the provisions of section 798(b) of this title, or when".

SEC. 1109. JURISDICTION.

Section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) If the certification of a claim pursuant to this Act is technically defective, a court or agency board of contract appeals may permit the certification to be corrected at any time prior to a final decision by the court or agency board of contract appeals unless the failure properly to certify in the first instance was fraudulent, in bad faith, or with reckless or grossly negligent disregard of the requirements of the relevant statutes or regulations.

"(B) If the contracting officer did not challenge the validity of the certification and the court or agency board of contract appeals permits the defective certification to be corrected under this section, interest shall accrue on the claim under section 611 of this Act from the date the claim was first submitted to the contracting officer.

"(C) This paragraph shall be effective with respect to cases filed with any court or agency board of contract appeals under section 607, 608, or 609 of this Act on or after the date of the enactment of this paragraph.".

SEC. 1110. AWARDABLE COSTS.

Section 1919 of title 28, United States Code, is amended by—

(1) striking "district court or" and inserting "district court,"; and

(2) inserting after "Trade" the following: ", or the Court of Federal Claims".

SEC. 1111. PROCEEDINGS GENERALLY.

Section 2503 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d) For the purpose of construing sections 1821, 1915, 1920 and 1927 of this title, the United States Court of Federal Claims shall be deemed to be a court of the United States.".

SEC. 1112. SUBPOENAS AND INCIDENTAL POWERS.

(a) IN GENERAL.—Section 2521 of title 28, United States Code, is amended by—

(1) amending the section heading to read as follows:

"§ 2521. Subpoenas and incidental powers";

(2) inserting "(a)" before "Subpoenas requiring"; and

(3) adding at the end thereof the following new subsections:

"(b) The United States Court of Federal Claims shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(c) The United States Court of Federal Claims shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree or command as is available to a court of the United States. The United States marshal for any district in which the Court of Federal Claims is sitting shall, when requested by the chief judge of the Court of Federal Claims, attend any session of the Court of Federal Claims in such district.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 165 of title 28, United States Code, is amended by amending the item relating to section 2521 to read as follows:

"2521. Subpoenas and incidental powers.".

SEC. 1113. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE XII—EFFECTIVE DATE

SEC. 1201. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act shall be effective on and after January 1, 1993.

(b) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any provision of this Act, all sums expended pursuant to this Act shall be subject to the availability of appropriations.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Tuesday, August 4, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 2617, the Indian Dams Safety Act of 1992.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Credit will hold a hearing on S. 3119, the USDA National Appeals Division Act of 1992. The hearing will be held on Monday, August 10, 1992, at 9:30 a.m. in SR-332. Senator KENT CONRAD will preside.

For further information please contact Suzy Dittrich at 224-5207.

ADDITIONAL STATEMENTS

MAKING SYRIA ACCOUNTABLE

• Mr. DECONCINI. Mr. President, I was greatly disturbed by the contents of a July 28, 1992, op ed the New York Times. The author, David Twersky, chronicled the friendly relations that exist between the United States and Syria. The serious issues raised in the article are concerns which I have shared for many years.

I was also deeply troubled at the contemporaneous release of the latest Amnesty International on Syria entitled "Syria: Indefinite Political Imprisonment." Both point to the continuing repressive policies pursued under the Assad regime and the need for increased vigilance and pressure on the part of the world community. We must continue to lead the steady drumbeat for Syria to respect human rights and allow the most basic of civil liberties for its people.

As a result of the release of the American hostages in Lebanon last year, President Bush chose to portray Syria as a nation that is now entering the international community as a willing, peaceful, and law-abiding member. I wonder how the President comes by with such wishful thinking. While he may choose to see the Syrian Government any way he pleases, the reality of the situation is clear—the government of President Hafez al-Assad remains as uncooperative and terror-based as ever.

Syria's continued occupation of Lebanon, support for terrorist groups, and drug trafficking are but a few of the atrocities that members of the current administration choose to overlook as they, in Twersky's terms, "cozy up to Syria."

When I was in Damascus in 1989, I presented President Assad with a list of the names of political and religious prisoners—mostly Jewish—which I asked to be freed from the oppression that they are forced to endure at the hands of the Syrian Government. These people, along with other minorities in

Syria, are forced to abide by laws in a society with few personal freedoms. They must live in poor conditions, unable to leave Syria, even for travel, or to speak freely. As I expected, I have never received a response to my letter. Yet the terror continues.

This spring, I wrote to Secretary of State James Baker and discussed published reports of drug trafficking in the Bekaa Valley actively supported by Syria's military through its de facto occupation of Lebanon. The State Department estimates that 49 metric tons of opium have come from the valley. A story in the New Republic stated that, "Between 20 percent and 35 percent of heroin imported into the United States comes from Syrian-occupied Lebanon." And yet we maintain a dialog with Syria.

Mr. President, what more must Assad and the Syrian Government do before this administration realizes that any form of cooperation that the Syrians choose to offer eventually is turned to a Syrian advantage in consolidating gains made elsewhere. I sincerely hope—for the sake of a real peace in the Middle East—that the Bush administration wakes up before it is too late.

I ask that a copy of the July 29, 1992, opinion piece from the New York Times, entitled "The Risks of Cozying Up to Syria," be printed in the RECORD at this point.

The article follows:

THE RISKS OF COZYING UP TO SYRIA

(By David Twersky)

When will Congress focus a spotlight on the Administration's crazy tilt toward Syria? Senate hearings into the seamy underside of U.S.-Syrian ties, set for this week, have been postponed because of concern that Damascus might cut off the emigration of Syrian Jews.

This delay, which came after Jewish groups urged Senator John Kerry to hold off until more Jews leave Syria, means Syrian Jews are being held hostage, to guarantee Congressional silence about the U.S.-Syrian relationship. This reflects the hollowness of Syrian moderation.

Concern about Jews remaining in Syria is understandable. But if we are to avoid disaster, the Congressional inquiry into accusations of Syrian involvement in terrorism and drug trafficking and into Syria's arms buildup should go forward. The Bush Administration is making the same mistake it made with Iraq in the late 1980's. In both cases, the Administration decided that a brutal dictatorship was crucial to peace efforts. The U.S. looked the other way as Saddam Hussein harbored terrorists and built a huge arsenal—as President Hafez al-Assad of Syria is doing now.

Washington's see-no-evil approach is aimed at securing and sustaining Syrian support for U.S. policies in the Mideast. This support contributed to the anti-Iraq front, the peace process and to Syria's decision to allow a controlled exodus of its Jewish population. This has been accomplished without the U.S. removing Syria from the State Department list of terrorism-sponsoring states. (Taking Iraq off the list in the early 80's was the biggest error in U.S. policy toward Baghdad.)

But nothing has come free. Evidence of U.S. complicity or disinterest in Syria's drug trafficking, terrorism and expansionism is mounting. State Department officials have described Syrian missile acquisitions as "defensive" and equivocated about the narcotics problem. When the Justice Department indicted two Libyans for the Pan Am 103 bombing, Mr. Bush appeared overanxious to let the Syria off the hook, declaring that it had received "a bum rap." Congressional investigators say the Drug Enforcement Administration has not cooperated with inquiries into Syria's ties to narcotics trafficking.

With the postponement of hearings, the Senate investigators will have to wait to explore the following reports and accusations, among others:

High-level Syrians involved in narco-terrorism visited Washington last fall, and two Syrian generals were given a tour of D.E.A. facilities last year. The secret visitors were said to have included Yussef Haider, a man with links to drugs and terrorism, and Mohammed Machlauf, his business partner and Mr. Assad's brother-in-law.

A Senate staffer said the F.B.I. told her someone named Haider was here last year at the time in question—just as the Administration was seeking to negotiate the release of hostages in Syrian-occupied territory in Lebanon and to persuade Damascus to attend the peace talks.

There is evidence of Syrian involvement in Lebanese heroin trafficking and terrorism, and questions about Syria's possible links to the Pan Am 103 bombing are unresolved. Senate investigators are looking at documents, including letters of transit purportedly sold to drug dealers by Syria's Defense Minister.

Pentagon and Congressional experts complain that the State Department has refused to confront Syria on its purchases of ballistic missiles. Syria has spent most of the $2 billion in grants it received from the Saudis on weapons, including Scud-C missiles from North Korea and M-9 missile equipment from China.

It is bad for America, and for the Syrian Jews the U.S. helped set free, to let these and other questions go unasked.●

AFTER THE FIRE: AN NABJ JOURNAL SPECIAL REPORT

● Mr. SIMON. Mr. President, one of the more significant publications to give insights into the Los Angeles riots following the acquittal of Rodney King is the NABJ Journal, the official publication of the National Association of Black Journalists.

To the credit of the publication, they not only printed reactions from black journalists, but also an article by Mrs. Kapson Yim Lee, the editor of the Korea Times, published in Los Angeles.

The other two articles are by Sylvester Monroe, an African-American who reports for Time magazine from Los Angeles, who tells his immediate reaction to the unbelievable verdict in the Rodney King situation; and comments by Bryan Jenkins, a reporter for KCOP–TV, the only African-American who covered the entire Rodney King trial.

Everyone will not agree with every detail by these reporters, but they give insights into what is happening in our society and, I believe, important insights.

We look with wonderment and sadness as Bosnia is caught in the midst of ethnic turmoil, as is too much of Eastern Europe and parts of Africa, but we need to reach out to one another with greater understanding in our own country also.

As one who was involved in the civil rights struggle a few decades ago, it was exciting to see this Nation move ahead, and we did move ahead. Some have forgotten that.

But it is also true that in the last 12 years, in large part because of insensitive national leadership, not only have we failed to achieve greater progress, I believe that history will record that we have slipped in moving toward greater understanding of one another.

I learned of the Rodney King verdict when my wife and I encountered Senator FRANK LAUTENBERG on the street, and he told us that he had just heard that the officers were acquitted. He said it with a sense of great regret, that such an injustice could occur. I immediately responded, "There will be riots." And my wife said, "I almost feel like rioting myself."

We were three whites bemoaning what had happened. While all three of us have been in the fight for greater justice, we have not experienced what many black Americans have experienced, and we could only imagine, at that point, what their reaction might be. The NABJ Journal account by these three journalists is well worth reading.

I ask that the three articles that I have referred to be placed into the RECORD at this point.

The articles follow:

MEDIA IGNORED KOREAN SIDE OF STORY

(By Kapson Yim Lee)

I was born in Seoul, Korea. I came to the United States 20 years ago, and have lived in Los Angeles ever since. My husband used to own a market in central Los Angeles. I have a son in college, whose heroes are African American leaders such as Malcolm X and Spike Lee.

I have felt a tremendous empathy for the plight of Korean merchants as I edited stories for my newspaper, The Korea Times, concerning conflicts between the two minority groups—Koreans and blacks.

On the morning after the Rodney King verdicts, I saw a building burning just two blocks from our newspaper office. Along with other reporters and editors, I went outside and helplessly watched the black smoke billowing over the roofs.

Then I saw a young black male motorist—my son's age—slowing down alongside the curb. Shaking his fist, he yelled at us, "We gonna kill you, kill all of you!"

Like a frightened chicken, I hurried back to my office. Yes, I was scared, scared to death.

I had never been so scared since the outbreak of the Korean War.

I believe the anger of the black motorist and his hostility toward me—toward all Koreans—is a creation of the mainstream media.

Before Korean Americans and African Americans had a chance to get to know each other—to learn each other's culture and history—the media had pitted the two minorities against each other.

They did this by denying Korean merchants their humanity.

They repeatedly gave simplistic, sensational and unbalanced coverage.

Two examples come to my mind: news stories consistently equated the Soon Ju Du case with the Rodney King verdicts. While the African American side of the story was given, the Korean side was not covered.

Latasha Harlins was a 15-year-old African American girl who was shot and killed by Korean American merchant Soon Ja Du, owner of the Empire Liquor Store.

Almost every article that dealt with Korean-black tension stated that Soon Ja Du shot and killed a 15-year-old black girl in a dispute over a $1.79 orange juice and that Judge Joyce A. Karlin gave her a five-year probation.

What those articles left out was the fact that for many months before the incident, gang members terrorized the Du family with shoplifting, vandalism and brutal physical force.

Mrs. Du grabbed the gun after she was punched four times by Latasha Harlins and knocked to the ground twice.

Judge Karlin sentenced Mrs. Du to a five-year probation and community service because she took into account the total picture and believed that Mrs. Du acted in self-defense.

One may agree or disagree with the judge's ruling. But it is outrageous that all the stories have consistently left out the other important facts that drove the Korean woman to do what she did.

The Du case is also not a race-related one. It is one of the countless homicides that took place in Los Angeles, where more than 50 different languages are spoken.

Court records show that there was no evidence of racism. Even the Harlins family said that the shooting was not racially motivated.

Yet, news stories or the TV coverage I have watched, singled out Mrs. Du as a Korean. They don't do that with other races.

ABC-TV's Nightline of May 1 clearly typified how casually the powerful networks inflame the crisis when countless Koreans and blacks are victimized by looting and burning.

I still cannot believe how Ted Koppel—with his prominence and stature—violated the basic principle of journalism of balanced coverage. In discussing black-Korean tension, he invited only African American leaders and encouraged them to criticize Korean American merchants without any Korean present.

If I were a young black man reading the Los Angeles Times and watching television programs such as Ted Koppel's I'd feel enraged, too.

Send a loud message to the mainstream media, especially the Los Angeles Times and television stations in Los Angeles, to become responsible citizens of the multicultural community.

These powerful institutions must have reporters and editors who are linguistically and culturally competent to cover race relations.

Just because Korean immigrants do not speak English well should not mean that their views should be left out.

The media must become responsible citizens of this nation by drawing a sensible policy in training their staff members and to stop compounding racial tensions.

I WANTED TO SMACK SOMEBODY WHITE

(By Sylvester Monroe)

My first reaction to the not-guilty verdicts ending the trial of four Los Angles police officers charged with the videotaped beating of Rodney King was overwhelming sadness. It was followed immediately by a sick feeling in the pit of my stomach, as if something inside me was dying. But huddled around the television in the Time bureau with a dozen or so of my colleagues and friends—all but one of them white—the sickness quickly turned to anger.

I am not a violent man, and I have never intentionally hurt anyone, but every time I heard the words, "Not guilty!" repeated in that unbelieved legal litany, a part of me wanted to turn around and smack somebody white. It wasn't that I was surprised by the verdicts. Stunned maybe, but not surprised. Like many other African Americans I have expected the worst, while hoping against hope that I would be wrong. Like so many others, I wanted to believe that this time the system would work for us. But each time the bailiff read he words "Not guilty!" what echoed back inside my head "——k Niggers!" And once again, I knew that the system had failed black people.

I also knew that once again I would have to take to the streets and try to make sense of something quite senseless. I would have to set aside my own feelings to report on the feelings of others. And as I contemplated it, my anger, which had been sickness and sadness, was transformed yet again into frustration.

The frustration began to build as my white colleagues began approaching me to say how 'ashamed' they felt over the verdicts. What I had wanted to say to them was "You should be!" But just as I had controlled the urge to strike them physically, I also knew that I could not assualt them verbally either.

My frustration increased as I headed to South Central L.A. and saw angry people flooding the streets, marching and carrying signs that read. "It's a white man's world," and "No justice, no peace." It increased as I watched their anger build to rage and the first bricks and bottles being thrown at passing white motorists. It grew even larger, when I saw a young black man shouting at a line of mostly white police officers pushing him and several other people back from a burning building.

IN COURT, I HELD BACK RAGE

(By Bryan Jenkins)

The day of the verdict, I was set up to do a "live cut-in," interrupting our station's programming for a special report on the jury's decision regarding the four police officers charged in the Rodney King beating.

The Simi Valley courthouse was a beehive of activity. Hoards of television, radio and print journalists were settling into their spots some in front of TV court monitors upstairs in the media room, others downstairs in front of the Simi Valley courthouse with a crowd of about 100 onlookers.

Imagine the silencing effect of dropping a cover over a bird in a cage. That's the kind of hush that dropped over the entire courthouse when the judge walked into that Simi Valley courtroom at 3:15, the afternoon of April 29.

"Timothy Wind, not guilty . . . Theadore Briseno, not guilty . . . Stacy Koon, not guilty . . . Laurence Powell, not guilty . . ."

My ears heard but my mind kept saying "It's just a bad dream, wake up!" The finality of the verdicts began to register when I saw the officers hugging their attorneys on the court monitor. I froze. I was like every drop of blood drained from my body. Every nerve ending went dead. What seemed like an eternity were only seconds that passed before a voice in my earpiece yelled out, "We're coming to you in 30 seconds." In my 34 years on this Earth, one of the hardest things I have ever had to do came at that moment. To have to fight tears at the height of personal rage and deliver an objective analysis of what had occurred.

During the seven-week trial, my father kept telling me the officers were going to go free, no matter how damaging the evidence seemed to be. I thought to myself, I can understand that his perspective was shaped by the overt racism he grew up with as a child of the Jim Crow era.

To be honest, my own experience growing up in Los Angeles was pockmarked with run-ins with Los Angeles Police Department officers. I never committed a crime, but I can recall several occasions where I was stopped, forced to lie on the ground—shotgun to the back of my head—for driving the wrong kind of car, being in the wrong neighborhood, or supposedly matching the description of some suspect.

Yet, I kept telling my father (and tried to convince myself) that "This is 1992!" In an age where even white folks complained about police abuse, here was an incident captured on videotape, so ugly, so vicious, that it shocked the entire nation. Drawing outrage from President Bush himself. How could these four officers defend what appeared to be so blatantly cruel and unjust?

That in mind, I told my father, "The evidence is overwhelming and the jury can't ignore it. You'll see."

What I saw during the seven-week trial: Rodney King's criminal background flaunted before the jury while the officers' records were largely kept secret. Two of the officers had been subjects of prior complaints of abuse. Laurence Powell, who wielded his baton most prominently on the video-tape, had been incriminated that night by a police dispatcher. Transcripts revealed the dispatcher had chastised Powell about previous episodes of abuse. The jury was not allowed to hear that.

I listened as each officer who took the stand tried to defend the others, remembering vividly the details that would help their brothers and conveniently forgetting the specifics that could hurt them. At points, the videotape would seem to prove that some of the officers were lying.

Officer Theodore Briseno, one of the four charged who testified that the other three were out of control, was characterized by the others as an opportunist trying to save his own neck. His rookie partner, who supported his testimony, was described by other officers as too green to have an opinion.

I watched the LAPD commander, who helped write the department's use-of-force policy, testify that the beating was totally unjustified. And I listened as three so-called experts, of lesser rank within the department, told the jury that every blow was by the book.

The two California highway patrol officers at the scene told the jury of their shock at seeing what they called an unprovoked attack on King. Nurses who treated Rodney King after the beating testified on how officers joked about King playing hardball and losing.

Prosecutors hammered away at alleged racism on the part of Officer Powell, point out his reference to a call involving a black family as quote "something out of 'Gorillas in the Mist'." (To this day, Powell has refused to explain to me what he meant by that remark, except to say that it was not racist.)

I sat in disbelief as defense attorneys argued that we were all deceived by the videotape of the beating, that in fact Rodney King was in control of the situation. That a frame-by-frame analysis of the videotape would show the officers were actually responding to acts of aggression on the part of King. Yes, so-called use-of-force experts would say, King was even aggressive at points when he was seen backing away with his hands over his face and when he was lying face down on the ground.

Given all that had been said during the trial, I was still convinced that any 12 people, black or white, would let their own eyes be the final decider of truth.

My father said the truth was that 10 whites, one Latino and one Filipino were not going to send four white minions of the law to jail for beating up a black ex-con, even if they'd seen it happen right in front of them. As much as I wanted to believe that the times and the society that made him feel that way had changed, it hurt me to my heart to discover I was wrong and he was right.●

BLUE CROSS/BLUE SHIELD: A WISCONSIN SUCCESS STORY

● Mr. KOHL. Mr. President, as a member of the Government Affairs Permanent Subcommittee on Investigations, I fully support Chairman NUNN's examination of fraud and inefficiency within the Blue Cross/Blue Shield system. The recent failure of West Virginia's Blue Cross/Blue Shield plan merits our most concerted investigation. We must prevent further mishaps.

In order to ensure the health of these insurance companies, however, we must do more than highlight what has gone wrong. I think we should also look at what has been done right. There are several Blue Cross/Blue Shield companies with exemplary records. If we want to improve the system, we should try to emulate the successful participants.

Blue Cross/Blue Shield of Wisconsin is noteworthy. In an independent study by the Weiss Research Co., Wisconsin was given a high rating relative to other Blue Cross/Blue Shield plans.

Wisconsin's plan does not display the warning signs of a weak company. Its investment portfolio is sound and conservative. Its subsidiaries are financially successful and fully accountable to the appropriate oversight agencies. Its board of directors is comprised almost entirely of outsiders, with the exception of one member.

Along with possessing these essential ingredients of a strong insurance company, Blue Cross/Blue Shield United of Wisconsin goes even farther; it is an outstanding corporate citizen. It has made a commitment to provide jobs in Milwaukee's central city and to confront disproportionate unemployment in the minority community. A recent Milwaukee Journal article noted that the company has the second largest percentage of minority employees among large Milwaukee employers.

Wisconsin State law contributes to the solid record of our Blue Cross/Blue Shield plan. In the early 1970's, the State legislature extended insurance statutes to the Plan. Many States treat Blue Cross/Blue Shield plans differently from private insurance companies. Also, unlike some other States, Wisconsin law gives its commission of insurance regulatory power over the plan's subsidiaries. Wisconsin has a strong track record of effective, efficient insurance regulation.

Mr. President, I believe the Permanent Subcommittee on Investigations will help to close the book on Blue Cross/Blue Shield failures. In the future, I hope we will see more success stories like Wisconsin's.●

THE CASE OF THE MISSING BLACK JUDGES

● Mr. SIMON. Mr. President, the distinguished senior judge of the U.S. Court of Appeals for the Third Circuit, the former chief judge of that circuit, recently spoke to the National Bar Association in St. Louis, and part of his remarks appeared on the op-ed page of the New York Times.

His article focuses on the lack of African-American judicial nominees. I would add that President Bush has not nominated a single Asian-American for any Federal judgeship. He is the first President in 30 years not to do so.

Judge Higginbotham has a reputation of both candor and sensitivity, and his statement shows, once again, that we're not doing what we should as a free people to demonstrate that the diversity of our people is reflected in our institutions.

I ask to insert his excellent statement into the RECORD at this point.

The article follows:

[From the New York Times, July 29, 1992]

THE CASE OF THE MISSING BLACK JUDGES

(By A. Leon Higginbotham)

PHILADELPHIA.—Suppose someone wanted to steal back past achievements, rein in present gains and cut off future expectations among African-Americans about participation in the judicial process. That person would have found it difficult to devise a better plan than nominating Clarence Thomas to the Supreme Court while decreasing the number of African-American judges on the Federal bench.

The confirmation of Clarence Thomas forced the nation to pay attention to many issues, from the Senate's role in confirming Supreme Court Justices to sexual harassment of women in the workforce. But the Thomas confirmation proceedings diverted our attention from one vital issue: Thanks to Presidents Ronald Reagan and George Bush, African-American judges on the United States Courts of Appeals have been turned into an endangered species and are now on the edge of extinction.

For more than 99 percent of Federal litigants, the 13 Courts of Appeals are effectively the courts of last resort. Last term, the Supreme Court heard slightly more than 100 cases. In the same period, the Courts of Appeals decided 41,000 cases; in addition, they had 32,000 cases pending on their dockets at the end of the year.

For 145 years, the Federal courts in the continental United States—the Supreme Court, Courts of Appeals and District Courts—were entirely made up of white males. The first woman, Florence Allen, was appointed by Franklin D. Roosevelt, in 1934, and the first African-American, William H. Hastie, in 1949, by Harry S Truman.

During his eight years in office, Dwight D. Eisenhower, however, did not appoint a single African-American to any Federal court in the continental U.S. As for the Courts of Appeals, John F. Kennedy appointed one African-American, Thurgood Marshall, and Lyndon B. Johnson appointed two, Spottswood W. Robinson 3d and Wade H. McCree Jr. Neither Richard Nixon nor Gerald R. Ford appointed any African-Americans to the Courts of Appeals.

Presidents Nixon and Ford did appoint a total of nine African-Americans to the District Courts. President Reagan appointed six, and President Bush has appointed nine. By contrast, Jimmy Carter appointed 28 to these same courts. He appointed more African-Americans in four years than Presidents Nixon, Ford, Reagan and Bush combined appointed in the course of nearly 20 years.

President Carter also took significant steps in his appointments to the Courts of Appeals. When he became President in 1977, there were only two African-American judges on the Courts of Appeals. In four years in office, he appointed nine, including the first African-American woman, Amalya L. Kearse. Their presence made the Federal judiciary far stronger than it otherwise would have been.

Moreover, to the extent that the appointment of judges is a barometer of a President's feelings about placing historically excluded groups in positions of power, Jimmy Carter showed that he had complete confidence in African-Americans.

President Reagan apparently felt otherwise and President Bush apparently does, too. On taking office, they both asserted that they wanted a far more "conservative" Federal court system. In that, they have succeeded admirably. But in the process they have turned the Courts of Appeals into what Judge Stephen Reinhardt of the Court of Appeals for the Ninth Circuit has called "a symbol of white power."

In eight years of office, out of a total of 83 appellate appointments, Ronald Reagan found only one African-American whom he deemed worthy of appointment, Lawrence W. Pierce. President Bush's record is just as abysmal. Of his 32 appointments to the Courts of Appeals, he also has been able to locate only one African-American he considered qualified to serve: Justice Clarence Thomas.

Since Justice Thomas moved from the Court of Appeals to the Supreme Court, no African-Americans appointed by President Bush remain on the Courts of Appeals. As Judge Reinhardt has said: "In President Bush's view, Clarence Thomas is apparently all there is out there. Clarence Thomas is black America to our President."

By 1993, six of the 10 African-Americans sitting on the Courts of Appeals will be eligible for retirement. As the African-American judges appointed by President Carter have retired, Presidents Reagan and Bush have replaced them largely with white judges in their 30's and early 40's. Why is it important for the Federal bench to be pluralistic? Pluralism, more often than not, creates a milieu in which the judiciary, the litigants—indeed, our democratic system—benefit from the experience of those whose backgrounds reflect the breadth of the American experience.

I do not want to be misunderstood. Pluralism does not mean that only a judge of the same race as a litigant will be able to adjudicate the case fairly. Rather, by creating a pluralistic court, we make sure judges will reflect a broad perspective. For example, speaking of Justice Thurgood Marshall, Justice Sandra Day O'Connor said: "At oral arguments and conference meetings, in opinions and dissents, Justice Marshall imparted not only his legal acumen but also his life experiences, pushing and prodding us to respond not only to the persuasiveness of legal argument but also the power of moral truth."

Judicial pluralism is important for another reason. It is difficult to have a court that in the long run has the respect of most segments of the population if the court has no or minuscule pluralistic strands. Of course, pluralism does not absolutely and forever guarantee an effective and fair judiciary. Nothing really does. However, pluralism is a sine qua non in building a court that is both substantively excellent *and* respected by the general population. In other words, judicial pluralism breeds judicial legitimacy. Judicial homogeneity, by contrast, is more often than not a deterrent to, rather than a promoter of, equal justice for all.

Many Americans have rightly condemned South Africa's wretched system of apartheid. but we should also ask ourselves: How is it that in President F.W. de Klerk's less than three years in office, one of his 31 appointments to South Africa's courts is a black lawyer while of the 115 Bush and Reagan appointments to the Courts of Appeals in 12 years, only two have been African-American?

I am forced to conclude that the record of appointments of African-Americans to the Courts of Appeals during the past 12 years demonstrates that, by intentional Presidential action, African-American judges have been turned into an endangered species, soon to become extinct.•

TAIWAN AND TRADE: STATEMENT OF THE HONORABLE FREDRICK F. CHIEN

• Mr. DASCHLE. Mr. President, on May 9, 1992, Taiwan's Minister of Foreign Affairs, the Honorable Fredrick F. Chien, delivered a major speech in Taipei on the Republic of China's international trade and economic growth policy. It is a statement of commitment to open, mutually beneficial international relationships. It is a statement about free enterprise and democracy. It is a statement about responsibility.

Foreign Minister Chien's speech reflects Taiwan's increasing role in the economy of its own Asian-Pacific region as well as the global economy. It offers new approaches to attacking the poverty of the third world. And, finally, it addresses Taiwan's trade relations with the United States.

Foreign Minister Chien's May 9, 1992, speech is an important reminder of the unique challenges and opportunities facing Taiwan in the trade arena. I commend it to my colleagues and ask that it be printed in the RECORD.

The material follows:

A VIEW FROM TAIPEI: GLOBAL IMPLICATIONS OF THE ROC ECONOMY

(Address by Hon. Fredrick F. Chien)

Ladies and Gentlemen: I want to take just a few minutes to provide some perspective on the Republic of China's economic situation as it bears upon our foreign policy and international relationships. There is no need for me to belabor the essential facts about our present national economic conditions and policy, as others with us today will address those details. Let me simply begin by stating this axiom: today, increasingly, economic considerations are the driving force behind diplomacy, the world over. Whether we are talking about bilateral relations countries, a particular nation's global role, multi-national regional trade arrangements, or whatever, the commercial and financial element bears heavily upon the course of contemporary international politics. We cannot escape the fact. Like everyone else, we have to operate within the context of reality.

Realistically, the ROC's financial strength and sustained economic growth is the compelling feature of our foreign policy. It is the sound basis upon which our future role will be constructed in the international arena. This is not so-called "dollar diplomacy" in the negative sense; it is practical recognition of the very real force which defines politics among nations. It reflects our intent and willingness to share our resources generously with others who need help, and who can help us in return.

Practically speaking, in order to function internationally, the ROC must strive to make as many friends as possible. Our diplomatic efforts to maintain old ties and develop new friends are pragmatic and in earnest. Ours is a policy of vision, as well as necessity.

Based upon a realistic assessment of our national interests and present circumstances, we seek to consolidate and reinforce our cooperation with those countries with whom we have formal diplomatic ties. In addition, we are striving to develop ties with countries which do not currently have formal relations with us. To date, we have 83 representative offices in 54 such countries. These offices facilitate bilateral cooperation in areas like trade, culture, technology, and environmental protection. We seek to establish semi-official relations with these countries.

My country's economic success in the past two decades has merited admiration and careful study by both developing and developed nations. Our achievements, in face of many adversities, give us international credibility and respect. Though the island of Taiwan is small and our natural resources are scarce, our ability and contributions are acknowledged worldwide. Others now recognize the practical value of interacting with us.

What the ROC has done, is doing, and can do on the international stage is of obvious consequence to East Asia and the Pacific, as well as to the world more generally. Our success in the post-1949 years lay in creating a vital and energetic society, extending social justice; expanding prosperity; and engaging the enthusiastic support and commitment of our middle class, our skill technicians, and our young.

The ROC's commitment to maintaining a free, fair, and prosperous society is our most important national asset. We wholeheartedly embrace the historically-proven "winning formula" of free market economics plus democracy. It has brought us spectacular results, and we are eager to contribute by sharing that experience with others.

Our purpose, in large part, is to invest our hard-won resources toward the expansion of prosperity and security. In the process, we hope to develop symmetrical, mutually beneficial relations with others. Today we have trading relations with more than 140 countries; and we are the ninth largest investor in overseas enterprises. These worldwide cooperative ties, in themselves, represent de facto recognition of our existence and our relevance to the global system. Gradually, over time, our role as a developmental model and as a net benefactor to the international system has become better understood. Our substantive contributions can be instructive as well as compensatory. Taiwan's own developmental experience in national growth, social cohesion, and political maturity offers valuable lessons for those who care to examine them.

We hope to play a very constructive role in the international context. As one example, my government in 1988 established an "International Economic Cooperation and Development Fund" (IECDF) with an appropriation of US$1.2 billion for economic aid to friendly developing countries. In addition, we currently have 36 teams of technical experts working in 25 countries on various agricultural, social, and resource development projects. Other notable international programs include our Chiang Ching-kou Fundation for International Scholarly Exchange, and the ROC Fund for International Disaster Relief.

We want to see democracy and free enterprise flourish in our own Asian-Pacific region. We want to help cultivate peace and stability; economic cooperation; and integrated approaches towards dealing with common problems like conservation of energy, environmental, and natural resources. That is why we actively participate in regional multilateral forums like the Pacific Economic Cooperation Conference (PECC) the Asia Pacific Economic Cooperation Group (APEC), and the Asian Development Bank (ADB). On a larger scale, our application to join the General Agreement on Tariffs and Trade (GATT) as a customs territory has been pending for more than two years. Our contributions to those organizations through the years have been, and will be, constructive and generous. As the region's 4th largest trading partner, and the world's 14th, we are a logical and necessary participant in such forums.

Our commercial activity is no longer directed primarily at North America. In fact, ROC trade and investments in recent years reflect growing global diversity. Much of this activity has been right here in our own region. We take seriously our responsibilities and our rights as a member of the greater Asian-Pacific community. Although our political status among most of our neighbors is unique, our practical role is significant and growing. The quest by others for our cooperation in providing technology, private investment, and technical training programs is increasing. And the interest in my government's development assistance programs has been enthusiastic. We are quite willing to engage with others in common efforts to advance the position of the Pacific Basin nations, individually and collectively.

As the general tendency towards regional cooperation continues, Taiwan's active involvement in area-wide cooperative planning and development will grow more essential. My country applauds the principle of greater cooperation among free market nations, for the sake of promoting our shared interests and goals.

A strong factor in the dynamism of this region is the increasing flow of investment and trade between the market economies of Northeast and Southeast Asia. The ROC has become the second-largest investor, after Japan, in Southeast Asia, particularly in Malaysia, Indonesia, Thailand, and the Philippines. Also, our exports to these four countries have grown substantially just in the past three years.

Hundreds of our private manufacturers have already set up large and small factories for textiles, footwear, etc. In Southeast Asia, where they can be closer to their markets and where labor costs are less expensive. Our official Industrial Development and Investment Center reports that, since 1988, more than US$8 billion worth of projects in Thailand, Malaysia, the Philippines and Indonesia involving Taiwan interests were approved by those governments. In March of this year, the Philippines signed an official investment guarantee agreement with us, similar to accords we already have with Singapore and Indonesia. Business links with Southeast Asia will continue, strengthening the forces of free enterprise and democracy in our neighborhood.

Commercial cooperation with Central America took a dramatic step forward last year when Vice President Li visited Costa Rica, Nicaragua, and Honduras. All three nations offered to sign investment guarantee agreements with us; and all have received low-interest loans through our IECDF fund. We have been participating in the Fund for the Economic and Social Development of Central America, donating US$150 million to help finance social and economic programs in those countries which are members of the Central American Bank for Economic Integration. We will have a seat on the Board of Directors of the Bank. Taiwan's entrepreneurs will likely engage in various construction projects, training programs, and technical services with Central American enterprises. During the March visit of Nicaragua's President Chamorro to Taipei, we signed agreements to provide medical aid and technical assistance for that country's agriculture and industrial sectors. So we foresee a new chapter in ROC relations with these forward-looking governments of Central America.

In Africa, we continue our judicious approach towards cooperation with stable and friendly governments and multilateral institutions. Only a few months ago, we resumed full diplomatic relations with the Central African Republic. It will benefit from our technological assistance in developing its rich agricultural and mineral resources. South Africa and Malawi are also close friends. Still others have sought our help through expressions of friendship and support. We hope that democratic government and free enterprise may become even more firmly rooted on the African continent in years to come.

We have made significant advances in Europe over the past year. Britain and France, among other West European nations, have shown strong interest in our new National Construction Plan and sent cabinet-level officials to Taipei for consultations. Our trade with the seven countries of Eastern Europe grew approximately 50 percent in 1991 over that of 1990. We now have trade offices in Hungary and Czechoslovakia, and plan to open one in Poland soon. Some of our most recent progress has come in dealing with the free Baltic nations. Last November, Latvia, Lithuania, and Estonia signed government-to-government agreements with us to exchange trade representative offices with consular functions. These offices will promote commercial, cultural, and scientific relations. In January, Latvia chose to upgrade our new office to the "Consulate-General of the Republic of China in Riga, the Republic of Latvia," further facilitating our bilateral cooperation. We intend to encourage our manufacturers to do more business with the Baltic Republics, which share our core philosophy of democracy, free enterprise, and freedom for the individual.

Of course, our commercial relations with the United States remain substantial and strong, with two-way trade totaling over US$36 billion last year. Our bilateral trade surplus, which once was over US$16 billion, has fallen by ten percent annually in recent years, to approximately US$8.2 billion in 1991. Taiwan's six-year Construction Plan offers major opportunities to U.S. firms, as one of the best overseas markets for American projects. Already, U.S. companies have won a third of the contracts let out last year under this program, worth about US$1 billion.

This March, the President's Export Council delegation from Washington visited Taipei for discussions on Construction Plan projects, and on upgrading industrial technology in Taiwan. The visiting delegation declared U.S. willingness to enhance economic cooperation with Taiwan on an equal and reciprocal basis.

ROC's entrepreneurs show steady interest in the United States as well. One-third of our country's overseas investments last year went to the United State, where some fourteen hundred Taiwan firms have set up either manufacturing plants or branch offices. Much of the manufacturing capital has gone into production of high-tech computers, other electronics, and petrochemical goods. By some calculations, several billions of dollars already have gone into partnerships with U.S. firms. While our commercial ties have always been strong, in recent years they reflect increasing maturity and complexity, to our mutual advantage.

In sum, our foreign policy reflects the vitality, creativity, and diversity needed to deal effectively with new circumstances here at home and abroad. That policy, while rightfully serving our own practical needs, also demonstrates a certain moral responsibility we accept as a successful practitioner of capitalism and democracy. "Realpolitik"—imbued with a responsible degree of compassion for the needs of our friends—aptly describes our international policy at this time.

We support and will encourage the continued integration of responsible regional approaches to common Asian problems. The Republic of China will do her part. We intend to remain a major player in the regional and global trading systems, with all that entails.

We harbor no illusions. We understand and accept the responsibilities, just as we expect sincere and substantive responses from those who would be our partners. Together, we can accomplish a great deal for the benefit of mankind, in this generation. Let us resolve to keep this common purpose clearly before us. Thank you.•

BUDGET DEFICIT REAPS A HIGH PRICE

• Mr. SIMON. Mr. President, recently, the president of the American Society for Public Administration, Thomas D. Lynch, had a letter to the editor in the Chicago Tribune that outlined some of the reasons that we have to get hold of this deficit.

We need a bipartisan assault on the deficit rather than a bipartisan ignoring of the deficit.

We cannot ignore the reality of the deficit, as we approach the end of this fiscal year and as we soon approach the beginning of a new Congress that I hope will be more responsive to the deficit.

I ask to insert the Thomas D. Lynch letter into the RECORD at this point.

The letter follows:

[From the Chicago Tribune, July 24, 1992]

BUDGET DEFICIT REAPS A HIGH PRICE

(By Thomas D. Lynch)

WASHINGTON.—As president of the American Society for Public Administration, I represent the professional public managers who carry out the policies of our elected leadership. However, the continuing yearly bipartisan budget deficits are profoundly limiting our ability to administer these policies. We believe that the American people should demand that their elected representative act responsibly in reducing the deficit and the growing national debt.

Look at the figures. In the current fiscal year, there is a $400 billion deficit; the federal government is spending 37 percent over the year's revenues. But what about next year? Like baseball managers, presidents always predict the next year will be better. So the perennially optimistic White House is now predicting that for the next fiscal year the federal government need only spend 30 percent more than it receives.

The total national debt has ballooned from an unprecedented $1 trillion under President Reagan and the 97th Congress to $4.1 trillion under President Bush and the 102nd Congress. Furthermore, for the first time in U.S. history, a president admits that the yearly deficit is likely to continue well into the future.

Economists Ethan S. Harris and Charles Steindel noted that the huge federal deficit was the key component of low American savings rates. Further, they said that by 1989 the low savings rate had cost the economy about 15 percent of its capital stock and about 5 percent of its potential gross national product.

Even if the economic impact of the deficit is ignored, it continues to erode future national policy options. Each year, we must spend more money for interest on the national debt, leaving less money available for other needs.

As a result of the unavoidable requirement to pay the interest on the national debt, other national policy priorities are squeezed out—unless a national emergency exists. To address emergencies such as war, failed financial institutions or the recently passed urban aid legislation, deficits are forgotten.

However, burdened by large interest payments, the only way the federal government could address new and even continuing domestic or defense policy concerns would be during a state of emergency. A more deliberate policy over a period of years, such as increasing the national human and capital infrastructure, becomes increasingly difficult because the unceasing national payment to service the debt crowds out such options.

One important consequence of an increasing deficit-inspired debt is a national *de facto* policy of transferring the nation's wealth from the middle class and poor to the rich and from the young to the old. Charles A. Bowsher, U.S. comptroller general, noted that servicing the national debt is the largest transfer of American wealth in U.S. history. At a time when the middle class is shrinking and baby boomers are growing older, this added economic reality vitiates the intent of our progressive income tax.

Our representatives are not elected to make easy decisions that guarantee their return to elected positions. They are elected to make decisions that further the public good. As public managers we will continue to carry out the policies set by our democratic process, but these budget policies are irresponsible. We urge the American people to demand more from our elected leaders; the public trust calls for nothing less.●

TRIBUTE TO W.F. "BILL" JAMES

● Mr. BOND. Mr. President, Senator DANFORTH and I would like to pay tribute to Mr. W.F. "Bill" James who has devoted his life unselfishly to his family, church, and community.

Bill James is testimony of what individuals can do to help improve oneself, as well as, the lives of others. As a county agent for the University of Missouri extension in southeast Missouri, he has assisted in the betterment of agriculture, home economics, elderly, and our Nation's most important resource, youth. He became known as a helper to the farmers, a friend to the elderly and youth, and a leader to the community.

In addition to his professional achievements, Mr. James still devoted time to volunteering his services. For nearly two decades, he has served as superintendent of Sunday school at the Presbyterian Church in Clarkton, MO. Mr. James has assisted in organizing a senior and nutrition center for the poor and needy. He has served on the local council for the aging, delivering meals to the elderly and coordinating local nondenominational prayer services. He has also organized the local poverty program and has worked as a Rotarian. These just represent a portion of the volunteer services Bill James has contributed in his lifetime.

Senator DANFORTH and I would like our colleagues to know that this dedicated Missourian is representative of the Americanism which still exists in this great Nation today. Our Nation has been blessed because of people like Mr. W.F. "Bill" James. We commend his lifetime of service and extend our appreciation for his compassion toward his fellow man.●

A TRIBUTE TO PSYCHOLOGY ON THE OCCASION OF THE CENTENNIAL OF THE AMERICAN PSYCHOLOGICAL ASSOCIATION: A CENTURY OF SCIENCE AND SERVICE

● Mr. INOUYE. Mr. President, as the American Psychological Association [APA] celebrates its 100th anniversary, and is reflecting on its past and looking at the future of psychology and its opportunities to promote human understanding and to serve human needs, I would like to take this opportunity to invite each of my colleagues to visit a very special museum exhibition about the science of psychology at the Experimental Gallery, Smithsonian Institution.

EXHIBITION ON PSYCHOLOGY AND HUMAN BEHAVIOR AT THE EXPERIMENTAL GALLERY OF THE SMITHSONIAN INSTITUTION

For thousands of years, people have pondered the mysteries of human behavior. Now, for the first time, museum visitors can explore their own psychological processes—thoughts, feelings, and attitudes—in an exciting hands-on museum exhibition developed by the APA called "Psychology: Understanding Ourselves, Understanding Each Other."

This hands-on exhibition opened at the Experimental Gallery in the Arts and Industries Building of the Smithsonian Institution in Washington, DC, on May 18, 1992, and will run through Labor Day, September 7, 1992. Following its display at the Smithsonian, the exhibition will tour nine science museums throughout the United States, including the Science Place, Dallas; the Carnegie Science Center, Pittsburgh; Exploratorium, San Francisco; Science Museum of Minnesota, St. Paul; Museum of History and Science, Louisville; Museum of Science, Boston; Cincinnati Museum of Natural History, Cincinnati; and Oregon Museum of Science and Industry, Portland. The exhibition's tour is managed by the Association of Science-Technology Centers.

Planned to coincide with the APA's centennial, the exhibition is designed to introduce the general public to the breadth, depth, and diversity of over 100 years of psychological research. This is the first major museum exhibition ever devoted to this scientific discipline.

Through a variety of unique experiments and activities, museum visitors are able to experience, touch, and examine psychology in action. For example, in one exhibit, visitors experience the interaction between mind and body by participating in a video game based on the tortoise and hare race. Visitors can make the tortoise win by controlling their galvanic skin response [GSR] through increased relaxation. In another exhibit, visitors are asked to walk only on the black squares of a checkerboard floor. At the end of the walkway, visitors are asked if they followed the instructions and why or why not. Video footage of controversial research on compliance, such as Stanley Milgram's famous obedience experiments of the 1960's, is presented, and the social and ethical implications of this type of research are explored.

The exhibition offers many exciting activities for families, including a play space area in which children 4 years and younger, and their adult companions, can play and do simple developmental tasks. Trained staff guide visitors in observing aspects of child development and enable parents to conduct miniexperiments with their own youngsters.

Throughout the exhibition's run at the Smithsonian, there will be family days, films, puppet shows, and other programs for children and adults that will challenge visitors to examine their own behavior and the ways in which human beings are similar but at the same time unique. Topics for these special programs will include child development, parent-teen communication, substance abuse, maturing and aging, sex and gender, and ethnic and cultural differences in parenting and childrearing styles.

"Psychology: Understanding Ourselves, Understanding Each Other," was developed by the APA in collaboration with the Ontario Science Centre, Toronto, Canada, and is funded in part by the National Science Foundation, the William T. Grant Foundation, the Alfred P. Sloan Foundation, the National Institute of Mental Health, and the Office of the Associate Administrator for Prevention, Alcohol, Drug Abuse, and Mental Health Administration.

Again, Mr. President, I wish to commend the APA on the occasion of its centennial, and to recommend to my colleagues the Smithsonian Institution Experimental Gallery exhibition, "Psychology: Understanding Ourselves, Understanding Each Other," which offers a look at the breadth, depth, and diversity of over 100 years of psychological research.●

THE INAUGURAL ADDRESS OF MALI'S DEMOCRATICALLY ELECTED PRESIDENT, ALPHA OUMAR KONARE

● Mr. SIMON. Mr. President, there is a tendency, when we talk about Africa, to concentrate on the problems of Africa, and they are very real. 28 of the 42 poorest nations in the world are from Africa, and the problems of hunger and drought in Somalia and across the southern part of Africa cause concerns for all of us who follow that.

But one of the little understood realities in Africa is that democracy is spreading. Multipart systems are the reality, and in more and more of Africa democratically elected leaders are emerging.

Recently, the excellent publication, AFRICANews published the inaugural address of the new democratically elected President of Mali, Alpha Oumar Konare.

It is an example of what is taking place in the way of change.

He gives tribute to those who made possible democracy. He also gives specific tribute in his inaugural address to the leaders of the opposition parties.

I urge my colleagues in the Senate and the House to read his remarks, and I ask to insert them into the RECORD at this point.

The remarks follow:

THE INAUGURAL ADDRESS OF MALI'S DEMOCRATICALLY ELECTED PRESIDENT, ALPHA OUMAR KONARE

Today, thanks to God, thanks to the sacrifices of our martyrs and thanks to the blessings of our ancestors, the sovereign people of Mali have entrusted me with the heavy but exalted mission of guiding the destiny of our country. I am ready to assume this awesome honor. At this moment when our people are turning to a page of hope in their glorious history, I would like to greet and thank the brotherly and friendly countries that have helped us, demonstrated their solidarity and made this day possible.

I would like especially to thank their excellencies, the heads of state, the prime ministers, ministers, special envoys and foreign personalities who have greatly honored us today by coming to demonstrate their brotherhood, esteem and solidarity. The Malian people will always remember it.

This day represents for us a stage in the long struggle, which our people have been waging for more than half a century now, for greater control of their own future, happiness, prosperity, in order to escape a gloomy wave of poverty, despair, exclusion and death.

This day has been achieved after the bloody days in January and March 1991, after the great rallies and marches that preceded these bloody days, when the united democratic movement presented its demands on the streets of our towns. This day has been achieved following the underground struggle which many of us waged for 23 years. Today is the aftermath of our metamorphic pains. This day must bring back some memories, but it also brings a strong responsibility to make a change for the great majority.

As an elected president of a people who have suffered and who, for several decades now, have been expecting better, I want to be the man who will bring hope. I do not want to be a peddler of illusion. I want the people to believe that with me things can change, that actions will speak louder than words.

I am not a father of the nation. Let me pay tribute to the fathers of our nation who have contributed to our political awareness and who have led our country to independence. I am only a son, a son among others, who is today called upon to play the elder's role without being the eldest. I need the help of everyone—fathers, mothers, brothers and sisters, sons and daughters—because nothing can change all those social ties that must continue to function alongside new responsibilities.

I know that our people are capable of doing great things, provided that [the great things] are reconciled with the set of values that has characterized [us] historically, such as hard work, solidarity and a social creativity that has enabled us to produce active balances between individual perspectives and our collective destiny. These values also include dignity, a sense of past commitments and responsibility.

I want to be an instrument of reconciliation. To achieve this—and I will commit myself resolutely to this—democratic institutions need to be strengthened to guarantee the participation of everyone while laws are being written; a law-abiding state must ensure that the law is applied to everyone; and an active policy of social and national integration must be formulated.

One of our priorities will be to provide social peace and stability. It is essential that the states' authority be asserted, controlled and accepted by all. We shall ensure that the laws are known to all and that no one is above them. I will scrupulously see to the respect of the constitution, the separation of powers and the indispensable basic freedoms of the mass media.

The means to this reconciliation will be the revival of our economy through the liberation of and support of individual and collective economic initiatives. Justice and solidarity must back one another to share the wealth produced. The fight against corruption and waste and the decentralization of authority will form the living framework for the participation of the greater number of people in state affairs.

Finally, the effective accomplishment of African integration, the readiness shown by our people as early as 1960 to give up all or part of their sovereignty in favor of African unity, is irreversible.

These are the terms of the five-year contract I have signed with the Malian people, a contract of shared, rigorous efforts. I would like it to be a contract that defines the necessary collaboration, the desirable affinities and the reciprocal responsibilities that are necessary for the harmonious development of our country. For the time being, the nation's unity depends on the successful and strict implementation of the provisions of the National Pact signed on April 11. The pact cannot exalt the victory of one group over another. It offers a change to strengthen the democratic process. My compatriots of the northern region can count on my commitment to ensure that both peace and unity last forever. The means to this will be development, solidarity and justice.

National unity can also be achieved by the completion of the reconciliation of the Malian people with their army. A lot has been done in this direction, but a lot remains to be done. No democracy can be built with a worried army which has been made to feel guilty. I would hereby like to assure officers, NCOs, corporals and soldiers of our army of our complete solicitude [for them]. Together we shall strengthen the republican virtues of our army.

Finally, reconciliation depends on an independent, credible and fair system of justice. Judgments will gain greater credibility. Justice also needs to be exercised in a climate of tranquillity.

During the next few days I will appoint a prime minister. Together we shall form a government made up of men and women from different political parties, all determined to bring changes for the improvement of people's living conditions. This arrangement seems necessary to create conditions for a genuine education in democracy.

The prime minister will negotiate specific contracts of substance and fairness with academics, labor unions and professional organizations—all the social partners and all the people involved in our country's development.

Consultation will be the watchword of our policy. I have no doubt that all the democrats who fought for the advent of a new era that would herald an improvement in people's living conditions will understand that the most serious danger that could threaten the democratic process is to demand from the state what we know it does not have.

The government of the republic has no right to cheat our people with empty promises that will not be honored. It will, however, have to operate in accordance with the rules of discipline, good management, openness, solidarity and justice.

Everybody knows the catastrophic heritage of the former regime; everybody is aware of the courage with which the Transition Committee for the Salvation of the People [CTSP], led by Amadou Toumani Toure, and the government of Soumana Sacko set about restoring life, confidence and health to our country. May thanks be given to them always for this.

May thanks be given to Lt. Col. Amadou Toumani Toure, for whom our country's honor and the honor of his word as an officer served as a political creed and a guide for action during the 14 months in which many difficulties arose—difficulties which his dynamic courage and patriotism managed to confront and overcome.

Mr. Chairman of the CTSP, the nation will always be grateful to you for making it understand that it has no need of a savior or a supreme guide. It will always be grateful to you for restoring confidence in the sons of Mali so that they could supervise the democratic process. In doing this, you adopted the tradition of change that is necessary for any democratic process. The lesson that you are teaching everyone will guide us. I wish you a very long life and a lot of satisfaction for you and your entire team. I am convinced that together we will always strengthen the basis for a democratic Mali. I am convinced that tomorrow you will be one of the best mediators of the country and one of the great messengers of the Malian nation.

Your Excellencies, ladies and gentlemen, yesterday I invited Malians both at home and abroad to be united more than ever before and to build a future of hope. I call upon the men and women of our country, the old and young—yes the young—always to defend the ideals of March 1991, which include making an effort, working and respecting others. I call on all the forces of change to show more unity, and to not confuse battles or enemies. I call on Almamy Sylla, Amadou Ali Niangado, Baba Akhib Haidara, Demba Diallo, Idrissa Traore, Moutaga Tall, Mamadou Batourou Diaby and Tieoule Konate [presidential candidates]—all worthy representatives of our people—and all the other political leaders to stand with us, so that together we can lift Mali up. Today is the time for practicing democracy. It is also a time for tolerance. Today, our country is shaken by different shades of opinion. This is normal for a sick person. But it is also a sign of life. Mali is a big boat and none of its occupants should want it to capsize. Mali can shake, but Mali will never capsize again.

Difficulties are assailing us today. More serious tests may appear tomorrow. I am convinced that we have the means to overcome them. It is a great honor for me and my entire team to be called upon to confront these trying moments. We will face them with our people, mobilized in a calm and determined manner. Nobody will build Mali except Malians.

My dear fellow citizens, today a brighter future is being launched for Mali and Africa, I hope. And I will work towards it. Long live the republic, long live democratic Mali in a united Africa.•

FAIRPORT CELEBRATES 125 YEARS

• Mr. D'AMATO. Mr. President, I rise today in honor of the Fairport Village's 125th anniversary of their founding which will be celebrated in style this Saturday, August 8, 1992, with a parade hosted by the Fairport Fire Department. This monumental occasion calls for a gala celebration and Fairport is geared up and ready to celebrate in an appropriate fashion.

Fairport is a village of approximately 6,000 residents located on 1¼ square miles of land within the town of Perinton, county of Monroe, State of New York.

Fairport's beginnings date back to 1812, when a hamlet located in the northern part of Perinton was known as Perrintonville. It consisted of seven log cabins, a block house, and a frame house. Economic growth surged after the decision was made to construct the Erie Canal through the drained lowlands and Perrintonville.

In 1827, the name was changed from Perrintonville to Fairport after several travelers of the Erie Canal stopped for the night and described the hamlet to others as a "fair port." The Erie Canal was thriving and the political and economic center of Perinton was moved from the surrounding area to Fairport. Warehouses filled with potatoes, grains, apples, and other foodstuffs lined the canal. Commercial traffic increased steadily as ships and barges stopped to load goods on what was Fairport's Main Street.

Fairport thrived and incorporated on April 30, 1867. Over time, Fairport has gone through many changes. Shortly after the beginning of the 20th century, the old Erie Canal was widened to make the barge canal. As a result, many old buildings along the banks of the south side of the canal were moved or demolished. Many of Fairport's beautiful homes were built during the last quarter of the 19th century. Victorian architecture is noticeable throughout the village. Flour and sawmills, carriage and manufacturing shops, and handsome homes have provided a rich past for the community of today. Canal life in Fairport continued to grow strongly until the 1950's when railroads began cutting into canal commerce.

During the past two decades dramatic changes have been made in the commercial area using a canal town theme. New businesses of the 1990's have replaced those of the past and many of the homes have been restored to their original beauty. Today, the canal banks support public parks and docking facilities. Once again the village has taken on the reputation it had when the fair port first evolved. Fairport residents are proud of the lovely village which even now reflects ties with its historical past.

Fairport has a long, proud tradition and has become a community with much to celebrate. I wish to add my voice in commemoration of this momentous occasion. Many community members have contributed to the development of Fairport. I wish to congratulate and thank them for making New York State the great place that it is to live and prosper.•

SACRIFICIAL LAMB

Mr. SIMON. Mr. President day after day after day what we see happening in the People's Republic of China is discouraging.

The most recent was the harsh sentence given to former Communist Party official, Bao Tong, who had made clear that he was for political reform in China.

That is not a safe position to take there.

Why this administration continues to cuddle up to the dictators of the People's Republic of China is beyond me.

I hope any Member of the House and Senate who has any questions about China will read the editorial from the Los Angeles Times titled, "Sacrificial Lamb."

I ask unanimous consent to insert it into the RECORD at this point.

SACRIFICIAL LAMB

Beijing needed a high-profile scapegoat for its murderous handling of the Tian An Men Square demonstrations in 1989. Three years later it has found one: Former Communist Party official Bao Tong was sentenced this week to seven years on trumped-up charges that he leaked state secrets and created "counter-revolutionary incitement" during the demonstrations.

Chinese authorities conducted the trial in private barring even Bao's family until his sentencing. No wonder. Bao was arrested in May, 1989, before the June massacre. By design, Beijing obfuscated the specifics of his political crimes, never saying what secrets he allegedly leaked. It ignored requests from the Unites States and other governments to have independent observers present. Bao can appeal, but in China this typically is a dead-end process.

Bao was the sacrificial lamb in the political machinations of aging hard-liners, desperate to protect status quo politics. He is the highest-ranking official to be put on trial as a result of the Tian An Men massacre. Bao was chief aide to former Communist Party chief Zhao Ziyang, who himself has been under house arrest for his attempt during the demonstrations to meet with students. Bao, a former member of the party's Central Committee, was among younger party members trying to refashion China within the system, a strategy supported at the time by leaders such as Deng Xiaoping.

Imprisoning Bao is clearly aimed at further squelching free political expression in China. Truly confident leaders would not be intimidated by such dissent.

WILLIAM F. WOO REMARKS AT THE ELIJAH P. LOVEJOY HUMAN RIGHTS AWARD CEREMONY

• Mr. SIMON. Mr. President, recently, the Reverend Robert Tabscott, a Presbyterian minister who has championed preserving the heritage of another Presbyterian minister, Elijah P. Lovejoy, handed me the remarks made by William F. Woo, editor of the St. Louis Post-Dispatch, when Mr. Woo received the Elijah P. Lovejoy Human Rights Award last year.

The ceremony was aboard a riverboat on the Mississippi.

Lovejoy was killed by a mob in Alton, IL, 145 years ago because he dared to stand up publicly and forcefully against the practice of slavery. Illinois was, in theory, a free State, but the sentiment for slavery was very strong in much of Illinois, and the sensitivity to freedom was not as strong as it should have been.

Lovejoy became the first martyr to freedom of the press in the history of our country.

In his remarks, Mr. Woo observes:

> Lovejoy came upon something very basic to liberty; and that is while liberty may be authorized by law, it cannot be made real unless it is lived, often at great risk, as a part of a life; and that unless you live it, the concept is without worth or meaning.

He also discusses Socrates and praises "the public virtue of compassion for those whose small, vulnerable, often abused lives, eked out in infinitely fragile circumstances, pass unnoticed by a political community that is focused on constituencies and not on people."

I ask that the entire statement by Mr. Woo be entered into the RECORD at this point.

The statement follows:

REMARKS OF WILLIAM F. WOO AT THE ELIJAH P. LOVEJOY HUMAN RIGHTS AWARD, NOVEMBER 16, 1991, ABOARD THE TOM SAWYER RIVERBOAT

The great river upon which we are embarked this afternoon was laid down about 2 million years ago, at the beginning of the Pleistocene Epoch, when sabre toothed tigers and wooly mammoths walked the land, long before the first people made their way across the Bering Straits. Since the Ice Ages, it has bisected the continent, dividing it and defining the boundaries of human activity.

A strong brown god is what Eliot called the Mississippi, and to this day, despite our best efforts to tame it and to abuse it and to trivialize it, the river retains its power to stir our imagination with images and metaphors and symbols. "The river is within us," Eliot wrote, and when we look out upon it, we think of beginnings and endings and of time, which except for cosmologists has neither beginning nor end.

Once the river marked the divide between the land of the people who had come before and were there and of the ones who came inexorably after, moving westward. It delineated the frontier, which was the work applied to it by those whose destinies were manifest. It served as the western boundary of the Louisiana Purchase, by which the United States government presumed to take perpetual ownership of nearly 1 million square miles of earth.

And on November 7, 1837, 154 years and 10 days ago, it divided, at this place where we are gathered in midstream, a state where men and women lived free from one in which they lived in chattel slavery, treated under the law like other pieces of movable property, such as pigs or wagons or the stools beside the hearths. In our history, we have drawn many distinctions between the varying degrees of liberty; but never was the contrast so stark, nor the results of it so cruel and devastating, as it was then.

Elijah Parish Lovejoy lived on the Missouri side of the river, where some men and some women were at liberty to own other men, women and children, to buy and sell them for labor or for breeding stock. The evil of it was not immediately apparent to him. The newspaper of which he was a partner carried advertisements for slaves, much as the Post-Dispatch today carries advertisements for automobiles.

But in time, Lovejoy came to change his views and to speak out against slavery and to write about it. By then he had become a minister and had gone to another paper. He had become an abolitionist, a voice of conscience and an offense to the status quo. A mob sacked his paper, destroying everything except the printing press.

And so Elijah Lovejoy crossed the river to live in a free state. And there, almost immediately, Lovejoy came upon something very basic to liberty; and that is while liberty may be authorized by law, it cannot be made real unless it is lived, often at great risk, as a part of a life; and that unless you live it, the concept is without worth or meaning. For on the day that Lovejoy arrived in Illinois, the printing press that he had brought with him was thrown into the river at Alton, by people who did not wish him to live and express a life of conscience.

Lovejoy persisted, and we are familiar with what happened. The freedom of the press to publish abolitionist views was bitterly debated, not only in Alton but throughout the state of Illinois. Many people, then as today, were prepared for liberty to be authorized but not practiced. Another mob broke into Lovejoy's paper and destroyed everything, including the press.

A third press was ordered and delivered, but this one, too, was thrown into the Mississippi from the docks of Alton. A fourth press arrived and went into a warehouse for safekeeping. "The contest has commenced here and here it must be finished," Lovejoy said: ". . . if I fall, my grave shall be made in Alton."

Another mob formed and the warehouse was stormed. A torch was put to the roof. Lovejoy and another man ran out and toppled the ladder. The ladder was put up again, and one more time Lovejoy came forward; and he was shot to death. Five bullets pierced his body.

November 7, 1837. In two days, Lovejoy would have been 35 years old. So he was a young man, a father; doubtless, he was frightened and did not wish to die.

But Elijah Parish Lovejoy had crossed the river, and he did not shrink from the consequences of that decision. And that is why we remember him. He did not die merely for his opinions, he died for the right to publish them in the newspaper.

His story reminds me of another martyr to free opinion, someone far larger in the eyes of history than Lovejoy. I am thinking of Socrates, who was condemned to die in 339 B.C. for the crime of talking. Officially, Socrates was executed for corrupting youth and making light of the gods, but in truth, he was killed for talking and helping other people to think, an action that remains dangerous to this day.

After he had been found guilty by the Athenian court, Socrates was given the opportunity to plead for a punishment other than death. And what he had to say, I think, was remarkably to the point of our assembly here today.

If a man is willing to throw away his arms on the battlefield or do many other things in the face of danger, he may escape death, Socrates said. The difficulty was not to avoid death but to avoid unrighteousness, which runs faster than death. Unrighteousness: Let's not be afraid of, or embarrassed by, large words and concepts. For Elijah Lovejoy, unrighteousness would have meant writing about things other than the abolition of slavery.

There was no greater good, said Socrates, than to discourse daily on virtue; indeed, it was the only good, for the unexamined life was not worth living. What does this mean for those of us who are journalists? I think it means a great deal. It does not mean idle speculation or posturing about right and wrong, no more in the columns of our newspapers than in the squares or markets of Athens in the Age of Pericles. Socrates was not talking about discourse unrelated to the moral lives of the people.

What he had in mind, we may conclude, was liberty and its perversion, and the stench upon it brought by the systematic dehumanization of a people, a system that as Lovejoy pointed out corrupted the oppressor no less than it ruined the victim. He had in mind, we may conclude, the public virtue of confronting homelessness and joblessness and despair in a land where speculators raid and loot and destroy corporations and spend more on the luxury of their dogs in a week than many good men and women bring home to feed their children in a month; the public virtue of holding the face of racism and bigotry to the light and doing so again and again, though the business and political leaders say, you would divide a town merely to sell more papers; the public virtue of compassion for those whose small, vulnerable, often abused lives, eked out in infinitely fragile circumstances, pass unnoticed by a political community that is focused on constituencies and not on people.

What Socrates had in mind, we may conclude, included a journalism that I and my colleagues should practice but so often do not. There is a price for such journalism, and it can be as high as the price Elijah Lovejoy paid, although it rarely is. But too often the price of criticism, of being shut out of favor or access to power and influence, of being cut out of the pack is prohibitive enough. Unrighteousness still runs swiftly. Socrates was talking about a life on the other side of the river.

Nothing evil can happen to the good man either living or dead, he said, as he accepted the sentence of execution. Socrates had three sons, two described as small, the other as older. He wished them lives of virtue, not comfort, lives on the side of the river that Elijah Parish Lovejoy would know and experience, and for which, after Lovejoy's death, we continue to honor him.

I am deeply touched by this award in his name, and I thank you for giving it to me. Now let me say to you that I accept it. Acceptance carries with it an obligation and responsibility on my part. I cannot accept this award unless I am willing to live on the far side of the river and to do the journalism that is required there. I shall try not to let you down, or Lovejoy, who made his grave in Alton and who died young, beside this river, for liberty. Thank you.•

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 3124 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. AKAKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m. on Tuesday, August 4; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each and with Senator LEVIN recognized for up to 10 minutes; that at 10 a.m. tomorrow, the Senate proceed to the consideration of Calendar Item No. 578, H.R. 5518, the Department of Transportation and related agencies appropriations for fiscal year 1993; and that on Tuesday, the Senate stand in recess from 12:30 p.m. until 2:15 p.m. to accommodate the party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:45 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 8:28 p.m., recessed until Tuesday, August 4, 1992, at 9:45 a.m.

EXTENSIONS OF REMARKS

IAN ROSS CALLS FOR A NATIONAL TECHNOLOGY AGENDA

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. BROWN. Mr. Speaker, "America's future is being foreclosed in part because we are experiencing the erosion of our high-technology industry." This is a warning offered by one of America's most thoughtful industrialists, Ian M. Ross, president emeritus of AT&T Bell Laboratories, and reflects the continuing decay in the international leadership of our high technology industries.

In his recent article "A National Technology Agenda," published in the Bridge, Dr. Ross carefully steps through key attributes of high technology that will increasingly challenge American firms as they struggle to remain competitive, and which point to the need for a coherent national technology policy. The nine attributes identified by Dr. Ross include the need for: First, a large knowledge base; second, large capital investment; third, a highly skilled work force; fourth, large economies of scale; fifth, accelerated time cycles; sixth, large market shares; seventh, strong inter-firm linkages; eighth, low-margin commodity products to support investment and advance skills critical to high-margin technologies; and ninth, overcoming barriers to entering or reentering high-tech businesses.

If Government and industry do not work together to meet the challenge, Dr. Ross cautions that the future of the Nation will be bleak. In the darker, but possible scenarios, he notes that the loss of high technology industries can result in our trade falling back to natural resource commodities and our work force becoming deskilled and unable to keep up with nations that have much more supportive, synergistic policies.

To reverse this negative course, Dr. Ross calls for a national technology agenda. He argues that the Nation must create an environment for high-tech industries that is at least as favorable as in other nations by facilitating investment in R&D, plant and worker training; establishing fair trade with other nations; and strengthening our national education system. He asserts that we must stimulate, and in some cases repatriate, our high-volume electronics industries which form the basis for many other high value industries. He notes that we must change our culture to support the coordination of precompetitive technology development and encourage consortia, alliances, and collaborations. And he calls for a renewed commitment to a total quality program, including high-quality manufacturing skills.

Many of the actions that Dr. Ross calls for parallel the provisions of the National Technology Competitiveness Act of 1992 (H.R. 5231), introduced by Mr. VALENTINE and recently reported out of the Committee on Science, Space, and Technology. This is legislation that recognizes the very attributes of high technology articulated by Dr. Ross and responds with the same policy priorities that he recommends.

As the article by Dr. Ross is both timely and insightful, I would like to submit excerpts to the CONGRESSIONAL RECORD:

[Excerpts from the Bridge, vol. 22, No. 2, Summer 1992]

A NATIONAL TECHNOLOGY AGENDA

(By Ian M. Ross)

America's future is being foreclosed. The promise of prosperity is being broken. Foreboding reports are numerous: The United States has gone from the world's leading creditor to the world's leading debtor; real wages for the majority of Americans have fallen; the nation has faced a persistent trade deficit; our students have consistently shown comparatively low academic achievement; we have been frustrated by our inability to solve problems of poverty at home, or to help the economically disadvantaged abroad; we have been vexed by the deterioration of our cities, roads, and bridges, along with the transfer of our choicest assets and properties to foreign ownership; and we have endured an ominous recession, a recession from which jobs did not return, consumer confidence did not rebuild, and business did not rebound, as we would have liked. All these reports suggest a single question: Will our standard of living survive?

A country's standard of living has many dependencies. A major one, will recognized as a driver of productivity, prosperity, and economic growth in advanced nations, is such high-technology industries as electronics, aerospace, chemicals, and biotechnology. Consider the ubiquitous role of high tech: Our national security depends on state-of-the-art technology for weapons and intelligence. Our health care depends on sophisticated instruments for diagnosis and treatment, as well as on advanced pharmaceuticals. We eat well because America has been "greened" by agricultural science. We have commerce and personal mobility because of the myriad technologies embodied in cars, planes, boats, and trains. We communicate and stay informed thanks to complex telecommunications networks. Service and manufacturing jobs are everywhere dependent on computers and automation. Even the quality of our leisure time is based on consumer electronics and the technological wizardry of the entertainment industry. The things we need, need technology, and the providers of the things we need are those who possess the best technologies, the high technologies. In the world of today, and increasingly in the world of the future, the technology rich are the "haves," and the technology poor are the "have-nots."

THE NINE ATTRIBUTES

High-technology industry has at least nine key attributes that, to different degrees in different sectors of the industry, define its requirements and dynamics. The drive of corporations and nations to cultivate these attributes helps explain the past and predict the future; it also provides a basis for developing a national technology agenda.

The first attribute is the large knowledge base needed by high-tech industry. Basic technology generation needs research, often over long periods. The development of such new technologies as genetic engineering or nuclear power can take decades. There is a need to acquire a deep experience base; charactieristically, one finds a broad buildup of intellectual property in high technology. This translates into heavy investment in R&D. To cite some examples, it can take $1 billion to bring to market an advanced electronic switching system for a telecommunications network, or a new jet engine for commercial airliners. In the semiconductor field, it takes about $200 million to develop a new-generation product, such as a memory chip, and the needed investment is not diminishing: by the end of the decade, we expect this number to triple. On average, it takes about 12 years and over $200 million for a pharmaceutical firm to developing a new drug.

The second attribute of high-tech industry is the need for large capital investment. The advanced manufacturing equipment not complex process management required for production drive large capital demands across most high-tech industries. In the semi-conductor industry, for example, a fabrication line can today cost about half a billion dollars; by the start of the next century, it is expected to cost about $2 billion. In the mid-1980s, the chemical industry had to capitalize at over $90,000 per worker, compared with an average of $43,000 for all manufacturing.

The third attribute is the need for a highly skilled work force. It is not always possible to apply the classical tradeoffs of labor for capital; advanced equipment and automation are essential. Mechanization has always been a path to productivity, but the use of advanced manufacturing machinery is today often the only path to a high-tech product. Thus, high-tech production and service jobs will increasingly require technical literacy and strong basic skills. As a corollary, the labor market itself has split into the higher-wage, highly skilled jobs that revolve around the core intellectual content of the product, and the low-wage, "tail-end" assembly jobs.

The fourth attribute concerns the large economies of scale inherent in many high-tech areas. Capital intensive manufacture and heavy investment in R&D tend to economies of scale, since large fixed costs must be amortized. Even a "big ticket" item such as a new commercial aircraft requires production of 400 to 500 units to break even.

The fifth attribute is accelerated time cycles. In some high-tech sectors, the rapid pace of technological progress has compressed product life cycles to years and shortened the life span of factories, thus amplifying the effects of economies of scale. Semiconductors and optical communications products—the underpinning technologies of the Information Age—double their capacity per unit cost every 12 to 18 months, a spectacular pace for any human endeavor. Technical progress is not new, but such speed and

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

magnitude of progress have been experienced only in high technologies during the last few decades.

The sixth attribute follows from the prior attributes: it is the need for large market share. In an effort to maximize market size, high-tech businesses must seek global markets and become fewer in number. To the economist this latter trend is called "fewness," and it reflects the simple fact that large market share cannot be held by many. High-tech sectors are increasingly ruled by a global business oligopoly. For example, about 12 major corporations supply more than 80 percent of the world's telecommunications network products. Similarly, the world's automobiles and commercial aircraft are produced by a small number of giant corporations. Looking at the high-tech segments of the textile industry, we see that about 90 percent of all U.S. synthetic fiber is produced by 10 companies.

The seventh attribute is that there are strong linkages, both horizontal and vertical, in high-tech industries. There is a web of customer and supplier relationships that knit high-tech businesses closely together. Horizontal linkages are seen in the dependency of financial services on computers and communications, or of aircraft and automobile production on hundreds of subcontracted industries. A premier example of horizontal linkages is provided by electronic systems, which, as already pointed out, are at the core of almost every high-tech industry, from aerospace to manufacturing, from medicine to entertainment. And these linkages continue to grow: in the past decade, the cost of electronic systems in some American cars has tripled as a percentage of the total cost; at least one European car manufacturer already claims electronics accounts for 20 percent of its auto costs. By the mid-1990s, it is projected that 30 to 35 percent of auto costs will be in electronic components and systems. Electronic systems are vertically dependent on advanced semiconductors and vice versa. Both are dependent on materials and manufacturing equipment and skills, and all are dependent on basic research, which in turn relies on the education system for its talent, and on the prosperity of our society for its funding. These are important linkages; weakness in any link affects the strength of the whole.

The eighth attribute is the importance of commodity, low-margin products. There is temptation to exit low-margin, high-volume, commodity-type areas, a temptation the United States yielded to in consumer electronics. We would prefer to work in higher-margin, but usually lower-volume, areas such as computers. But this, as already noted, is a dangerous strategy because high-volume, commodity production has many values: it generates large revenues needed to support investment, it advances our skills in high-volume manufacturing, and it increasingly drives leading-edge technology. Furthermore, there is growing evidence that high-volume commodities form a base for expansion into the higher-margin areas, as demonstrated in the current challenge to the computer industry coming from high-volume electronics. Another example is found in the Japanese auto industry's progression from economy cars to luxury-class autos, or the advances made by Japan in multiple video and image areas (including film) arising from competencies in precision optics or mircromechanics gained from a base position in cameras. Indeed, it may not be possible to sustain a position in the higher-margin products without a strong position in that base.

The ninth attribute is concerned with the barriers to entering or reentering high-tech businesses. If we were to talk to a classical economist, we might hear the following logic: if a country that is currently manufacturing an item finds it can be obtained cheaper elsewhere, it is in the best interest of the consumer to buy the product from the foreign supplier. Later, if the supplying country were to corner the market and raise the price, the buying country should simply go back into production. This logic encounters difficulties when the high-tech attributes are considered. In trying to reenter a high-tech field, a manufacturer would lack the knowledge base, and would have to absorb large losses while building the market volume needed to compete. In modern economics, these are recognized barriers to entry into industries with large economies of scale. In particular, where technology moves very rapidly, those who drop out of the race—or even fall behind for only a short period—find it very difficult to catch those who have continued to run. This pace affects business plans in major ways: long-term commitment and staying power are often essential to success in a high-tech enterprise.

From these nine attributes, we can make two observations relevant to a technology agenda. Regardless of a country's natural wealth, there is an opportunity for a poor or emerging country to increase productivity, create wealth, and raise its standard of living by creating comparative economic advantage through high-tech industry. This opportunity becomes an imperative in most nations that care about their people.

The second observation relates to a threat to established high-tech industry in advanced nations. In effect, industries in these nations often find themselves competing against foreign governments. Given the tactics discussed above, they can find their overseas markets foreclosed and their domestic markets eroded. In consequence, the advanced nation's industry may be less able to afford investment. Thus, the industry falls behind, further eroding its position, and the process starts feeding on itself, potentially moving at a very rapid pace. Even though only a few industry sectors may be targeted by foreign competitors, the "linkage" and "commodity base" attributes can undermine strength in nontargeted sectors. Finally, once an industry is lost, the advanced nation is then itself faced with barriers to reentry. This is how the "haves" become the "have-nots," and this is the course we are on!

THE BETTER WAY—A NATIONAL TECHNOLOGY AGENDA

The starting point for a national technology agenda is to declare that leadership in high-technology industries is a national objective. This must be a bipartisan objective, led by the President, supported by Congress, endorsed by business, and recognized as vital by the American people. The connection between leadership in high-tech industry and an increased standard of living must be understood and supported by all. The resultant benefits to all Americans must be proclaimed, perhaps debated, but ultimately accepted by the nation as a whole. This is not "picking winners and losers"; rather, it is choosing to be a winner instead of a loser!

THE ELEMENTS OF A NATIONAL TECHNOLOGY AGENDA

First, we must establish a level playing field for our high-tech industry, a field at least as favorable as that in other advanced nations:

We need to facilitate investment in R&D, plant, and worker training. For more than a decade, the real cost of capital to business—not just the interest on debt—has been higher, by a factor of two or more, for U.S. firms than for many foreign competitors. In consequence, our competitors are out-investing America in R&D and plant, and are investing for a longer-term payoff. We must employ a range of tactics aimed at making capital available at lower cost. Balancing the national budget and creating incentives for Americans to save will serve this objective. New tax and fiscal policies, such as investment tax credits, R&D tax credits, and accelerated depreciation schedules, are needed. This will, of course, require difficult trade-offs—trade-offs of short-versus long-term gain, of consumption versus savings—in order to create the proper environment for capital formation if our high-tech industry is to flourish.

We need to establish fair trade in our global markets.

We need to strengthen our national education system as a means to create a globally competitive work force. High-tech jobs are knowledge intensive, not just in the research laboratory, but also on the factory floor or at the business workstation. National technical literacy is a clear priority. However, we cannot wait for improvement in our school systems to produce results in the workplace, since this can take decades. We need to seek short-term remedies together with permanent, long-term cures.

Second, we must stimulate, and in some cases repatriate, our high-volume electronics industries. While high-volume electronics is not the only industry that we may want to bring back onshore, it is a critical one, and exemplifies strategies that can be used for high-tech repatriation. Reentering manufacture of mature products in the face of large, established foreign competitors is a tough, uphill fight. There are opportunities, however, where the technology or the marketplace is going through major changes or discontinuities.

In these cases the barriers to entry are somewhat equalized for all players, providing openings for those with ingenuity and determination. Examples of technology discontinuities that may be expected include broadband communications, intelligent vehicle and highway systems, advanced displays, speech and image processing, and high-definition television.

There is the possibility, however, that relying on technology discontinuities will not be enough in some areas. With effectively zero United States manufacturing market share, and recognizing the large size and rapid growth of our foreign competitors, the barriers in consumer electronics may be too high to be surmounted, at least in a timely way, by relying only on emerging markets. We may need our government to ensure technology transfer from Asia for consumer electronics, and we may need to arrange import and export agreements on specific products while our manufacturing capability matures. Were we to decide on this type of action, proposals must be embraced cautiously, with full understanding of the hazards, and with strict limitations on duration and scope.

Third, we must make changes to our culture to support the coordination of precompetitive technology development, and to encourage the formation of consortia, alliances, and collaborations. Other nations have benefited from the economics of cooperating in the early phases of technology development, even extending the benefits to the development and manufacturing phases; yet they have retained the ability to compete fiercely in the marketplace. We in the United States have been late to recognize this opportunity and to learn how to cooperate and compete at the same time. We have, however, made some progress in this direction. The administration has concluded that it is proper for government to encourage and fund generic, precompetitive technology. The task of identifying strategic technologies that are candidates for such treatment has already been accomplished: the White House, the Department of Defense, the Department of Commerce, and the Council on Competitiveness have, with remarkable consensus, published lists of strategic technologies. And not only is there domestic agreement in these lists, but America's view is essentially the same as the Japanese and European Community views. So again there is no issue of picking winners and losers. What remains is to select areas that are appropriate for cooperative programs between government, industry, and academia—and to make them work. In this too we have already made some progress, although there is still much to be learned from our successes and failures. Sematech has provided a model by demonstrating that U.S. institutions can cooperate in developing generic technology for the semiconductor industry. But we lack a process for selecting specific areas for cooperation. We need at least a forum in which enthusiastic, knowledgeable, and influential members of government and business can meet and recommend suitable action. It is important to note that forums without enthusiastic membership are doomed to fail.

We must not too narrowly interpret this agenda item. It does not imply that the United States should not continue to build international partnerships. Some of the high-tech industries of the future will be the property of large, worldwide consortia. But in any worldwide consortium, the United States must have a strong and equitable position. This agenda item does say that America must maximize its domestic strength through cooperation, and thus be a strong, not a weak, player in global high-tech activities.

Fourth, we need a renewed commitment to a total quality program, including high-quality manufacturing skills. We have erred in the past by not insisting on product quality as essential to customer satisfaction, corporate profitability, and international competitiveness. In some cases, we have lost sight of customer needs in designing and delivering products. The Malcolm Baldrige Award is an example of an instrument that can build quality awareness in U.S. business. We know today what has to be done, and we have an increasing number of examples of success. What we need is total commitment.

This agenda is not foreign to the American Way. We have long benefited from encouraging such broad classes of industry as aerospace and agriculture. What is proposed here is the encouragement of the very broadest class of industry, one that leads to improved living standards for all our people. This can be achieved by providing an environment that nurtures the basic attributes of the industry. No special targeting is needed.

How practical is this technology agenda? I believe we have the resources to carry out this program. Our basic science and technology are the envy of much of the world. Our research universities are the first choice for aspiring scientists and engineers from around the globe. Our North American market is large enough to provide a powerful competitive base. Our best factories meet world-class quality standards, and our best workers and managers can compete with anybody. Our productivity is still unmatched in many areas. Our country is rich in natural resources, and our agriculture is without equal. With these assets, what can get in the way? What must we do?

Clearly, our national priorities must be recordered, and a number of tough decisions must be made. To begin, the leaders of government, industry, and academia must embrace the concept of leadership in high-tech industry as a national goal. This concept must be discussed and understood widely so that the electorate can support the administration, the Congress, and business in the actions that must be taken. We must decide to save and to invest adequately for the future of our industry, albeit at the expense of some short-term benefits. Economic advantage must be given proper weight relative to military advantage. We must, as a people, value wealth creation over consumption, and demand industry promotion as our ultimate goal. We must build a degree of understanding and trust between government and industry so they can work effectively together in the national interest. We must take the tough decisions, country by country, to establish conditions of fair trade that serve U.S. interests. With the support of government, industries must learn to cooperate in the precompetitive phases of their activities while competing vigorously in the world marketplace. We must identify and implement short-term and long-term measures to improve our education and training. And all this must be done promptly, while we still have an asset base strong enough on which to build.

EULOGY FOR JEANNE HYDE

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. MYERS of Indiana. Mr. Speaker, on July 28, Jeanne Hyde, the wife of our colleague HENRY HYDE, passed away after a long illness. Many of us were privileged to know Jeanne. To know her was to admire and love her. At her Mass of Christian burial, her son Robert Hyde of Irving, TX, delivered a eulogy to his mother that was so very appropriate. I would like to share it with my colleagues—especially those who knew Jeanne as did my wife Carol and I:

EULOGY FOR JEANNE HYDE

(Eulogy by Robert Hyde)

Thank you all for your many kindnesses and comforts that you have provided our family during these sorrowful months.

Your support and prayers have lightened our burdens in incalculable ways. We are very much in your debt, so thank you and bless you.

Prior to this year, I never contemplated delivering a eulogy.

I sincerely hope that the next occasion is many years away.

I find this to be a very bittersweet effort.

On one occasion during my mother's last remaining days, I told her that I was preparing her eulogy and asked her if she wanted me to mention anything in particular.

Her only concern was—and always seemed to be—not for herself but whether I could manage well enough on my own under these difficult circumstances.

It is difficult, however its a very small sacrifice to perform compared to the mountains of sacrifices my mother had made during her life.

She was and remains a Godly person.

One personal insight I'd like to share with you has to do with God's Commandment to "Honor Thy Father and Mother." During our youth this commandment often posed quite a challenge—however, after these short months—honoring my parents is now quite easy.

We recognize this obvious fact, that we are supposed to feel this pain, sorrow and sense of loss. Something would be very wrong if we did not feel this way.

The ache exists because we are still bound to this Earth.

One of the most discomforting aspects of our sense of loss involves our inability to correctly articulate the very contradictory and mixed feelings that exist within ourselves.

On one hand, we will all miss her very terribly because we all loved our mother very—very much.

It becomes a very painful effort to mention her within the past tense.

On the other hand, our Catholic faith tells us to be glad and have a joyful heart because she in now, deservedly, in heaven.

We know that she is completely free of the many pains of this world and is now enjoying everlasting life.

She deserved our love, respect, honor, and admiration.

She, in fact, made it very easy for us to love her.

I first "met" my mother on December 11, 1952. She was almost 26 years of age.

Since that date she has been a constant source of inspiration.

She taught all her children that we were part of a Catholic family.

She taught us all the worthy values through her own constant example.

She taught us the meaning and value of virtue, of honesty, of the selflessness of hard work, of humor and of joy, of being Irish and of the importance of having a sense of proportion.

She taught us that even though the world often seems to reward those individuals who choose avarice over charity, anger over justice, pride over modesty and stupidity over thought; that it was our mission to follow God's will through the gift of His Holy Grace.

Service to others is love and the absence of service to others can quickly develop into the slavery of sin.

She taught us the joy of giving and of compassion for others, for friends and for family, for neighbors and even strangers.

Best of all, she taught us to seek forgiveness from others that we have ±injured as well as giving forgiveness to all our trespassers gladly and with an open and kindly heart, regardless of whether it is accepted or not.

She taught us that the most important time for oneself is not within the past nor the future but in the present.

She taught us that it is most important to make a positive difference in other people's lives as often as one possibly can.

She told us to avoid taking people for granted, to use every opportunity that comes our way during our life's brief journey.

She showed us the way to live and how to face sufferings with courage and misfortune with gracious integrity.

We have learned much from both of our loving parents.

We have learned that one's spiritual comfort is far more important than the momentary material contentments of this world.

Our mother was unfettered by material possessions, her thoughts and deeds throughout her days were for others.

We've learned that in order to appreciate the gift of joy, one must endure periods of anguish and distress.

During these last few weeks our mother taught us how to die.

She died in the same manner in which she lived, at peace, in readiness and in the state of Grace.

It was very obvious that Jesus was with her and though the strength of her flesh continued to dwindle—as all flesh must decline—one could not help but observe the peace of her wonderful faith and the majestic nobility of her very precious spirit.

Like the saints, my mother accepted the challenge to run the "great race".

She has finished the course.

She had kept the faith.

Very early in her life Christ gave her His receipt for everything.

When she had returned it—seemingly early—to Him, the receipt was in full and complete payment.

Love has dignity and honor.

There is nothing love cannot face, there is no limit to its faith, its hope and endurance. Love will never come to an end, will never vanish away.

We should not be bewildered about our own personal burdens—as if it is something extraordinary.

These ordeals give us a share of Christ's sufferings and that is a cause for joy.

Salvation was the theme which the prophets pondered and explored.

Through Christ's own sacrifice, salvation is made available to us all.

We are called out of darkness into our Lord's marvelous good light.

We are healed by His Redemptive Presence, today and throughout all tomorrows.

Christ suffered on our behalf.

He set us an example and we are all called to follow in His path.

Our spiritual inheritance, for which we are born, is a legacy that can never be tarnished much less destroyed if we keep our faith strong and pure.

We are commanded by Christ to Love one another as He has loved us.

My mother understood and accepted this Holiest of laws.

To her it was accepted as a fundamental condition of her being.

To her this law wasn't something remote or profound. It was as natural as breathing.

Through her actions, strong faith and spiritual readiness she has received her heavenly reward of everlasting life.

Scholars and theologians have often speculated and debated on the experience of the moment of death.

One author, C.S. Lewis, likens the event to a final stripping away of a well worn and cherished garment.

This author thought that the now unrestrained spirit would be enjoying the complete cleansing of pure and instantaneous liberation.

At the hour of death, one moment you are of Earth—perhaps in pain/perhaps not—and the next moment the sting of death was gone, gone like a bad dream, never again to be of any account.

At this instant the mortal flesh enters a new "life."

Suddenly, all is well.

All her doubts within the twinkling of an eye become trivial.

Her spirit may now be saying to herself: "Yes, of course, it was always like this! The extraction hurt more and more and then the tooth was out. One dies and dies and then you are beyond death. How could I ever have doubted it!"

Now her soul stands upright and can converse with those heavenly spirits about her.

The awe and mystery of it all is simply another cause for joy.

These spirits seem extraordinary to mortal eyes and yet they are not unfamiliar.

Till that very hour most humans have not the faintest conception of how these spirits would look and many individuals might have even doubted their existence.

But when my mother saw these beings she understood that she had always known them, and realized what part each one of them had played in her life even when she supposed herself alone, so that she could say to him, one by one, not Who Are You?—but, So It Was You All The Time!

This meeting will wake all the memories of a dim consciousness that had once perplexed her solitudes from infancy until now.

All such questions and feelings will at last, be fully explained.

That central music in every pure experience which had always just evaded memory was now, at last, recovered.

She not only saw God's holy saints and angels but she also saw Him.

His cool light is clarity itself and wears the form of a Man.

She is caught up into an existence where pain and pleasure take on a transfinite value and where all Earth's "arithmetic" is dismayed.

There is much more I'd like to say to you all but my mother asked me to be brief and I'll remain her obedient son.

Again, thank you all for your thoughts and prayers.

God's blessing of peace to you all.

THE BLOODSHED IN BOSNIA CONTINUES—ETHNIC CLEANSING INTENSIFIES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. LANTOS. Mr. Speaker, the savage war in the Balkans continues as the Serbian Nationalists and their Communist leaders continue their campaign of ethnic cleansing. As mayhem reins, as families are ripped apart, and as hundreds of thousands of refugees flee the war-torn region for their lives, the world stands by—and does nothing.

The leaders of Europe have failed in their efforts to end the bloodbath. Their impotence in this shocking matter has been tragic. It is they who bear the greatest responsibility for brokering an end to the war that rages in their backyard, within hailing distance of the autobahn and the affluent beaches of Italy's eastern coast. And yet they seem unable to muster the political and diplomatic wherewithal to end this nightmare. Where is the leadership?

The Bush administration, for its part, has been pitiful in responding to this crisis. It took thousands of deaths and tens of thousands of casualties before the administration took the first step of imposing limited economic sanctions against the Serbian Communists. Its early misguided policy of supporting the status quo in Yugoslavia prior to the armed conflict has in large part contributed to the carnage that shocks us daily. Where is the outrage? Where is the response? Where is the action?

Warnings of an imminent crisis and demands for action, primarily sanctions, were sounded early and often by Congress. They were met with deafening silence from the administration.

I introduced two bills designed to send Serbia a strong message that its ruthless and lawless actions against its independent neighbors would not be tolerated. H.R. 3518, which would impose sanctions against Serbia, and H.R. 448, which would deny recognition to Serbia and Montenegro until they suspend their aggressive activities, enjoy a great deal of support among my colleagues.

The toll of human tragedy in Bosnia and other parts of the former Yugoslavia is immeasurable. The Serbian Communists are perpetrating intolerable human rights abuses against civilians and the reports of these heinous acts are getting worse. I was shocked and disgusted by recent accounts that Serbians were deporting thousands of Moslems and Croats in sealed freight trains. Condemnation of this despicable act must ring in every corner of the international community.

The image of civilians—young children, the old and infirm—being herded into cattle cars brings to mind another war, another unspeakable horror. It reminds us in no uncertain terms of the extent to which this conflict has spun out of control, and how much more deadly and catastrophic it has become.

The Jewish Community Relations Board of San Francisco has issued a statement that underscores the scale and severity of the human rights abuse taking place in Bosnia and in parts of the former Yugoslavia and calls for an entirely appropriate response on the part of the administration. I insert it in today's RECORD. In light of the catastrophe taking place in Europe, I ask my colleagues to give this excellent statement the serious attention it deserves.

JEWISH COMMUNITY CONDEMNS REPORTED ETHNIC CLEANSING IN BOSNIA-HERZEGOVINA"

(Statement by Sandy Svetcov, chairman, Jewish Community Relations Council, San Francisco)

The San Francisco-based Jewish Community Relations Council, representing more than 60 synagogues and Jewish organizations, strongly condemns the reported deportations of thousands of Muslim and Croat civilians in sealed freight trains allegedly carried out in the last five weeks by Serbian forces in Bosnia-Herzegovina.

If the accounts of thousands of civilians having been forced from their homes at gunpoint and packed into sealed cattle cars without food or water leading to the deaths of many children and elderly are accurate, then this represents not just an excess of war—which is abominable in itself—but a monstrous violation of human rights which must be stopped.

We call upon President George Bush and Secretary of State James Baker to promptly investigate these reports and if they turn out to be authentic then we urge immediate and rigorous measures be taken by the United States and the world community to put a stop to these heinous criminal actions.

The images of cattle car deportations and ethnic cleansing are forever etched in the minds of the Jewish people. Our memories prompt us to urge a most energetic response by the United States and United Nations.

EARLY TRADE BETWEEN INDIANS AND NONINDIANS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102-188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the "Year of the American Indian." This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we, as a Congress, have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a recollection of Wolf Calf, a member of the Piegan Tribe, as published in a book entitled "Native American Testimony." The editorial comment which precedes the article is provided also.

SOME STRANGE ANIMAL

The "sky dogs," as the people of the far western plains called horses, inspired a cultural revolution. Suddenly tribes could cut their hunting time by a significant fraction and roam great distances to trade and raid. The costume art of the Plains Indian blossomed; tipis became taller, and their furnishings very elaborate. Ceremonies increased in complexity. Personal wealth was tallied in mounts.

Whereas in 1730 the southern Blackfoot were relatively defenseless against attacks by mounted northern Shoshoni, three generations later they had become lords of the northern Plains. Around the turn of the nineteenth century, Wolf Calf, a Piegan—the southernmost of the three Blackfoot tribes—told the Plains Indian scholar George Bird Grinnell this story of the tribe's first sight of horses and of a chief whose name appropriately changed from Dog to Many Horses.

The first horses we ever saw came from west of the mountains. A band of the Piegans were camped on Belly River, at a place that we call "Smash the Heads," where we jumped buffalo. They had been driving buffalo over the cliff here, so that they had plenty meat.

They had come over the mountains to hunt buffalo a Kutenai who had some horses, and he was running buffalo; but for some reason he had no luck. He could kill nothing. He had seen from far off the Piegan camp, but he did not go near it, for the Piegans and the Kutenais were enemies.

This Kutenai could not kill anything, and he and his family had nothing to eat and were starving. At last he made up his mind that he would go into the camp of his enemies and give himself up, for he said, "I might as well be killed at once as die of hunger." So with his wife and children he rode away from his camp up in the mountains, leaving his lodge standing and his horses feeding about it, all except those which his woman and his three children were riding, and started for the camp of the Piegans.

They had just made a big drive, and had run a great lot of buffalo over the cliff. There were many dead in the piskun [corral] and the men were killing those that were left alive, when suddenly the Kutenai, on his horse, followed by his wife and children on theirs, rode over a hill nearby. When they saw him, all the Piegans were astonished and wondered what this could be. None of them had ever seen anything like it, and they were afraid. They thought it was something mysterious. The chief of the Piegans called out to his people: "This is something very strange. I have heard of wonderful things that have happened from the earliest times until now, but I never heard of anything like this. This thing must have come from above (i.e., from the sun), or else it must have come out of the hill (i.e., from the earth). Do not do anything to it; be still and wait. If we try to hurt it, maybe it will ride into that hill again, or maybe something bad will happen. Let us wait."

As it drew nearer, they could see that it was a man coming, and that he was on some strange animal. The Piegans wanted their chief to go toward him and speak to him. The chief did not wish to do this; he was afraid; but at last he started to go to meet the Kutenai, who was coming. When he got near to him, the Kutenai made signs that he was friendly, and patted his horse on his neck and made signs to the chief. "I give you this animal." The chief made signs that he was friendly, and the Kutenai rode into the camp and were received as friends, and food was given them and they ate, and their hunger was satisfied.

The Kutenai stayed with these Piegans for some time, and the Kutenai man told the chief that he had more horses at his camp up in the mountains, and that beyond the mountains there were plenty of horses. The Piegan said, "I have never heard of a man riding an animal like this." He asked the Kutenai to bring in the rest of his horses; and one night he started out, and the next day came back driving all his horses before him and they came to the camp, and all the people saw them and looked at them and wondered. . . .

This young man . . . finally became head chief of the Piegans. His name at first was Dog, and afterward Sits-in-the-Middle, and at last Many Horses. He had so many horses he could not keep track of them all. After he had so many horses, he would select ten boys out of each band of the Piegans to care for his horses. Many Horses had more horses than all the rest of the tribe. Many Horses died a good many years ago. These were the first horses the Piegans saw.

When they first got horses, the people did not know what they fed on. They would offer the animals pieces of dried meat, or would take a piece of backfat and rub their noses with it, to try to get them to eat it. Then the horses would turn away and put down their heads, and begin to eat the grass of the prairie. . . .

White people had begun to come into this country, and Many Horses' young men wanted ropes and iron arrowpoints and saddle blankets, and the people were beginning to kill furs and skins to trade. Many Horses began to trade with his own people for these things. He would ask the young men of the tribe to kill skins for him, and they would bring them to him and he would give them a horse or two in exchange. Then he would send his relations in to the Hudson's Bay post to trade, but he would never go himself. The white men wanted to see him, and sent word to him to come in, but he would never do so.

At length, one winter, these white men packed their dog sledges with goods and started to see Many Horses. They took with them guns. The Piegans heard that the whites were coming, and Many Horses sent word to all the people to come together and meet him at a certain place, where the whites were coming. When these came to the camp, they asked where Many Horses' lodge was, and the people pointed out to them the Crow painted lodge. The whites went to this lodge and began to unpack their things—guns, clothing, knives, and goods of all kinds.

Many Horses sent two men to go in different directions through the camp and ask all the principal men, young and old, to come together to his lodge. They all came. Some went in and some sat outside. Then these white men began to distribute the guns, and with each gun they gave a bundle of powder and ball. At this same time, the young men received white blankets and the old men black coats. Then we first got knives, and the white men showed us how to use knives; to split down the legs and rip up the belly—to skin for trade.

WOLF CALF,
Piegan.

NATO, DOWN AND (SOON) OUT

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. FRANK of Massachusetts. Mr. Speaker, for the first time in more than 50 years the United States faces a world in which there is no enemy or combination of enemies capable physically of destroying our civilization. Correctly understood, this should free up enormous resources for civilian purposes, both private and public sectors. Of course we will remain the strongest Nation in the world. The point is that we are able to do so in the current world situation at a far lower cost than it previously took us just to stay even with our major adversary.

But the Bush administration seems unhappy at the prospect of freeing up these resources. It seems convinced that we should continue to spend tens of billions of dollars unnecessarily. No where is this more mistaken view clearer than in their insistence that we continue to spend vast sums maintaining American forces on the continent of Western Europe, despite the complete absence of the physical threat which called that presence into being.

In the New York Times recently, Daniel Plesch and David Shorr of the British American Security Information Council published an insightful article on this subject. As they note, NATO has outlived its usefulness and the administration's continued insistence on maintaining it gets in the way of the kind of enlightened foreign policy we should be pursuing both in our own interest and in that of the values we seek to advance in the world. I ask that their interesting article be printed here.

NATO, DOWN AND (SOON) OUT

WASHINGTON.—With war raging in the former Yugoslavia, the institutions that are supposed to promote security in Europe are overdue for a hard look.

NATO and the Conference on Security and Cooperation in Europe should be judged on whether they can bring stability and avert future conflict in Central and Eastern Europe.

The organization with the least to contribute to the new political order is NATO, and its recent behavior has only weakened its case for a major role. NATO points with pride to its decision in June to offer peacekeeping services to the 52-nation conference on security. As the situation in Bosnia-Herzegovina demonstrates, however, peacekeeping is applicable only when a truce has been achieved.

NATO's bind over peacekeeping symbolizes the fading relevance of the alliance, whose leaders have failed to realize that large military structures are of little use in the new Europe. Instead, they are struggling obsessively to protect NATO's military primacy.

A glimpse at the alliance's agenda shows why its priorities are misplaced and why its military organization should be mothballed by the end of the decade. The force structure should be disbanded, with a plan for reconstitution if danger, now remote, arises.

In NATO's highest councils, topic No. 1 is the plan for a new army corps France and Germany announced in October. The initiative has been inflated to nearly crisis proportions in Washington, where concern runs high that both countries will ultimately turn their backs on NATO (and the U.S.) and build their own military force as part of the European Community's plans for political union. But with the threat from the old Warsaw Pact gone, it seems absurd to debate who should defend Western Europe.

The wish of former East bloc countries to join NATO is often cited as evidence of NATO's value. Such an emphasis on admitting countries to the club as they prove their democratic mettle overlooks the more urgent goal—which is not in NATO's competence—of preventing other societies from coming apart at the seams.

The potential admission of Poland to NATO in the year 2000 is small consolation to citizens in Bosnia-Herzegovina, Nagorno-Karabakh, Trans-Dniester or South Ossetia, where demagogues are whipping up nationalist, racist and religious hatreds into war frenzy.

It is beginning to dawn on the international community that its hopes of avoiding more tragedies like Yugoslavia lie with the Conference on Security and Cooperation in Europe, where all the countries of North America, Europe and the former Soviet Union have seats at the table.

In the last two years and until the recent summit meeting in Helsinki, most Western leaders, especially the U.S. and Britain, resisted proposals to reshape the unwieldy conference into a problem-solving political forum that would go beyond its traditional role of codifying principles and give it a lot more clout. In Helsinki, the delegates approved a more extensive set of political mechanisms to enable the conference to spot conflicts earlier and respond to them more flexibly. The question is whether governments will use the new apparatus.

The phasing out of NATO need not mean the end of U.S. involvement in Europe. The U.S. may want to maintain a military link to the Continent by keeping a symbolic presence of 20,000 to 30,000 troops there. The priority, however, should be to build an economic and political presence. Besides, Germany is no more likely than the Philippines to welcome American troops forever.

So far, it seems, the U.S. is trapped in its own old thinking, a far cry from the response that transformed Europe after World War II. America is indeed weak if all it can offer is a military defense; we should be weaving closer ties through more generous aid and frequent exchanges between businessmen and farmers in the U.S. and Eastern Europe.

By retiring NATO to an honorable place in history, we can focus our energies more usefully on the primary task of international diplomacy—helping rival nations grope their way toward co-existence and cooperation.

HONORING ANDY STASIUK UPON HIS RETIREMENT AS MANAGING EDITOR OF THE STAR LEDGER

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. ROE. Mr. Speaker, I take great pleasure in rising today to pay special tribute and national recognition to an outstanding citizen who for over 40 years has devoted his career and extraordinary talents to informing, illuminating, and inspiring the citizens of Newark and the entire State of New Jersey. Mr. Henry "Andy" Stasiuk will retire on September 1 after 44 years of exemplary service from the leading daily news publication in New Jersey, the Star Ledger in Newark, where he has been managing editor since 1965.

In tribute to this pillar of journalistic integrity, there will be a reception held Sunday, August 9 at the Livingston Country Club in Livingston, NJ. At this laudatory reception attended by people from across the State, Andy's friends and family will gather to congratulate him on his long and productive career. Andy came to the Star Ledger as a part-time reporter in 1948 after working for a weekly paper, the Teaneck Sun. He became a full-time reporter in 1952 and covered political campaigns and elections. In 1954, he rose to the post of assistant city editor and shortly thereafter became city editor, a post which he held until 1965 when he was elevated to the position of managing editor.

From this station, Andy worked closely with the Star Ledger's nationally recognized editor, Mort Pye, to build the paper's circulation into the largest in the State of New Jersey at 488,000 daily and 707,000 Sunday subscribers. With the growing circulation, there was an unending improvement in the quality and stature of the paper. Andy maintained a close tab on the daily operations of the paper keeping his office in the newsroom. Known for his dynamic personality, he worked diligently to enhance the Ledger's service to it's readers.

Today, the Star Ledger, whose motto is "The Newspaper for New Jersey," is known across the country as one of the finest daily newspapers in the Nation. This reputation was built through the hard work and dedication of men like Mort Pye and Andy Stasiuk.

Andy also served his country for 3½ years as a combat pilot in the U.S. Navy during World War II. For daring and bravery in the Pacific Theater, he received the Silver Star, numerous other military honors and decorations.

In his leisure, Andy built a vacation home with his own hands in the forests of northern Maine, where he spends his time boating and swimming. In his retirement, Andy plans to remain active doing consulting work, traveling, and playing golf. He will move to Las Vegas where he plans to build a home.

In the past half century, Andy has been witness to many dramatic changes in history and many singular events. Through it all, he has maintained his objectivity and retained the confidence of New Jersey's leaders, in business, the State Legislature, Congress, Governors, Democrats and Republicans alike.

Mr. Speaker, I would like to join with Andy's wife Mary, his seven children and five grandchildren, and all his friends in wishing him well in the new life ahead of him. He is truly a unique and exemplary citizen.

WHY IS SADDAM HUSSEIN CONTINUING TO CHALLENGE THE U.N. RESOLUTIONS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. ASPIN. Mr. Speaker, last week I spoke to the House about the disturbing trends in United States policy toward Iraq. I would like to continue that discussion today by suggesting why Saddam Hussein is blatantly challenging U.N. authority.

While Iraqi belligerence and noncompliance is nothing new, the scope and magnitude of recent challenges are unprecedented. Since June, Iraq has:

Rejected the border demarcation recommended by the U.N. Boundary Commission and stopped attending meetings of the Commission;

Impaired U.N. relief efforts by blocking visas and transportation and refused to sign an extension of the memorandum of understanding [MOU], which expired June 30, for United Nations and relief personnel in Iraq;

Engaged in a growing terrorist campaign against U.N. personnel in the Kurdish enclave;

Launched a new military offensive against the Shi'a in the south, including attacks with fixed-wing aircraft; and

Impeded U.N. inspectors' access to the Ministry of Agriculture.

Judging by press reports, even the Bush administration has noticed this trend. One unnamed official was quoted as saying a "season of challenge" has begun. The only thing wrong with that discovery was its timing. The season opened some time ago. What is going on? There are a number of theories.

SADDAM IS WEAK

According to this school of thought, the sanctions and other international pressures are finally getting to Saddam. Prices have escalated sky high and the monetary system is in shambles. He has already effectively conceded part of the north of the country to the Kurds and fears that barring aggressive military action the same will happen with the Shi'a in the south.

In early July press reports swept Washington that Saddam had been assassinated—lending credence to the Saddam is weak theory. While many of the reports proved exaggerated, something did happen which subsequently prompted the execution of more than 140 of Saddam's army officers. Proponents of the Saddam is weak theory believe that the coup was a legitimate move against Saddam which his security forces foiled only at the last minute.

According to this theory, this is Saddam's last gasp—a desperate move to regain the advantage and preserve his power by demonstrating strength to his people.

SADDAM IS STRONGER

According to this theory, Saddam believes that he is acting from a position of strength—he has survived the worst and is now prepared to move more aggressively. Despite the sanctions, Saddam Hussein continues to rebuild his country at an impressive pace. He has successfully manipulated the sanctions to keep himself, his security forces, and his key cronies comfortable. He is convinced, with some basis in fact, that international support for the sanctions and other actions against Iraq is waning.

Saddam is stronger supporters also have an explanation for the attempted coup in early July. They say that if the coup was legitimate, it was discovered early and was never a serious threat. Some go so far as to say that the coup might have been a deliberate ruse to permit a minor purge of troublesome army officers.

According to the Saddam is stronger theory, Saddam Hussein believes he is about to win the waiting game. Now that the worst is over, a stronger Saddam will continue to challenge the United Nations more aggressively until the conditions of the U.N. resolutions and the sanctions are removed.

PRESIDENT BUSH IS PREOCCUPIED

Proponents of this theory suggest that Saddam's actions are based on his reading of the American political scene. No doubt Saddam Hussein, a CNN junkie himself, has followed the President's dropping ratings and worsening election prospects with glee. He clearly relishes the thought that he might outlast George Bush.

In an interview July 27 Iraq's Deputy Prime Minister Tariq Aziz referred repeatedly to George Bush's rating of 22 percent, indicating that Saddam Hussein enjoyed far greater support from the Iraqi people.

Saddam may believe that George Bush is handicapped by his election campaign and therefore unable to stand up to his challenges—creating a window of opportunity for Saddam to move aggressively.

THE SADDAM THEORIES: MISSING THE OBVIOUS

While all this speculation is fascinating, I believe it misses the point. Saddam is aggressively opposing the United Nations authority for one good reason. It works. Through his persistent belligerence Saddam Hussein is:

Projecting an image of strength to the people and further convincing them that his overthrow is hopeless;

Delaying inspections to allow time to remove or disguise evidence of his unconventional weapons programs;

Dragging out the implementation of the resolutions in the hope that international support for maintaining sanctions will diminish;

Using "cheat-and-retreat" tactics to chip away at the authority and effectiveness of the U.N. resolutions; and

Strengthening his internal control by evading the sanctions and manipulating humanitarian assistance to support his security forces and cronies.

This latest standoff regarding the Agricultural Ministry is a case in point—Saddam Hussein gained a lot and lost nothing. In an interview on July 27 Iraqi Deputy Prime Minister Tariq Aziz described their success this way:

> I believe this confrontation was very useful because it revealed power * * *. This means that when an inspection team that comes and behaves in a provocative manner and tries to insult us, it will know that the consequences will be very difficult for it. The entry into a building took 22 days, including all that happened. I believe that this experience will reflect positively on guaranteeing the considerations which we have been seeking in our conflict with the Security Council.

Until Saddam is convinced that continued intransigence hurts more than it helps, he will keep on doing it. Weak, strong, or indifferent, he will do it because it works.

PROMOTE AND SUPPORT HIGH SPEED RAIL DEVELOPMENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. MAZZOLI. Mr. Speaker, last week, regrettably, the House voted down legislation which would encourage private investment in high-speed rail systems. The measure that I fully supported, offered by the gentleman from Pennsylvania [Mr. COYNE] would remove tax-exempt bonds for high-speed rail projects from any existing dollar limitations imposed on State bond issues for private purposes.

Mr. Speaker, urban transportation gridlock has practically become a way of life. The need for alleviating this near paralysis and for providing safe and economical alternatives to intercity highway and air transportation routes is enormous.

In my view, and in the view of many, high-speed rail systems offer one answer to the mounting bottlenecks on our Nation's highways and in our Nation's skies. High-speed rail can play a significant role in helping meet the need for an efficient national transportation system that a vibrant American economy dictates.

This vision of the impending role of high-speed rail is nowhere more apparent than at the local level. In my hometown of Louisville, KY, the city of Louisville established a railroad study task force in 1990, that studies, researches and plans for the future transportation needs of Louisville and Jefferson County.

The task force, joined by many other interested citizens, devotes itself to examining ways to revive modern rail passenger service. Their study includes all phases of rail passenger service, including high speed and long distance, commuter and light rail.

Mr. Speaker, the residents of Louisville and Jefferson County overwhelmingly acknowledge the advantages of rail—its speed, it cost effectiveness, its efficient use of space, its environmental soundness, and its ability to create jobs.

The enthusiasm and momentum for passenger rail service are growing in Louisville and across the country. I remain hopeful that Congress will seize the opportunity and help make this exciting initiative a reality.

COMMENDING LT. GEN. SAMUEL E. EBBESEN

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. DE LUGO. Mr. Speaker, today, Lt. Gen. Samuel E. Ebbesen assumes command of the 2d U.S. Army at Fort Gillem, GA. I congratulate this Virgin Islander and commend him on this important achievement in service to our Nation.

Born in St. Croix, VI, on September 15, 1938, Samuel Ebbesen was commissioned a second lieutenant in 1961 through the Reserve Officer Training Corps. He holds a bachelor of arts degree in political science from City College of New York and a masters degree in public administration from Auburn University. He has attended U.S. Army Command and General Staff College and the Air War College.

General Ebbesen has served as commander, 6th Infantry Division (Light), Fort Wainwright, AK; assistant division commander, maneuver, 6th Infantry Division (Light), Fort Wainwright, AK; deputy chief, legislative liaison, Office of the Chief of Legislative Liaison, U.S. Army, Washington, DC; Chief of Staff, I Corps, Fort Lewis, WA; commander, 1st Brigade, 101st Airborne Division (Air Assault), Fort Campbell, KY; deputy chief, plans and operations division, and later executive officer, Office of the Chief, Legislative Liaison, Office of the Secretary of the Army, Washington, DC; commander, 2d Battalion, 32d Infantry, 7th Infantry Division; Executive officer, 2d Brigade, 7th Infantry Division; and G3, 7th Infantry Division, Fort Ord, CA.

He has been awarded the Legion of Merit with three oak leaf clusters, the Bronze Star Medal with "V" device with two oak leaf clusters, and the Meritorious Service Medal with oak leaf cluster. He is the recipient of the Air Medal and the Army Commendation Medal with two oak leaf clusters.

The 2d U.S. Army General Ebbesen will command oversees and evaluates the training of Army Reserve and Army National Guard units and provides combat ready units for deployment worldwide. The 2d U.S. Army has responsibility for the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, as well as Puerto Rico and the Virgin Islands.

As General Ebbesen assumes his new command, I know that all Virgin Islanders share my pride in this native son who has earned this recognition in service to his country. It is an honor and trust certainly befitting this man of such proven ability.

SHOULD STATE EXECUTIONS RUN ON SCHEDULE?

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. EDWARDS of California. Mr. Speaker, on April 21, 1992, Robert Alton Harris was executed by cyanide gas at San Quentin Prison in California. The execution was carried out despite a courageous order from Federal Judge Marilyn Hall Patel delaying the execution until a hearing 10 days later on the issue of whether or not execution by cyanide gas was cruel and unusual punishment prohibited by the U.S. Constitution. Meeting at 3 a.m. on Tuesday, April 21, the U.S. Supreme Court ruled that despite Judge Patel's order, the execution must go ahead.

In the New York Times article below, Judge John P. Noonan, U.S. Court of Appeals, Ninth Circuit, forcefully argues that it was treason to the Constitution "for the Federal courts to abstain from exercising their jurisdiction" in the face of the issue of whether the execution by cyanide gas violated the U.S. Constitution.

Mr. Speaker, Judge Noonan, a most respected jurist, is a former constitutional law professor at Boalt Hall School of Law, University of California. I commend his remarks to all of my colleagues:

[From the New York Times, Apr. 27, 1992]

SHOULD STATE EXECUTIONS RUN ON SCHEDULE?

(By John T. Noonan)

SAN FRANCISCO.—"Treason to the Constitution" is a strong charge. It was the phrase employed in 1821 in argument before Chief Justice John Marshall to describe a Federal court's failure to exercise its jurisdiction in a case properly brought before it. On Saturday evening April 18, a courageous Federal judge, Marilyn Hall Patel, refused to commit treason to the Constitution and, in a suit brought under the Civil Rights Act, ordered a hearing on whether death by cyanide gas was cruel and unusual punishment prohibited by the Constitution. Her order also affected the execution of Robert Alton Harris, the condemned murderer scheduled to die on April 21. The state immediately appealed to my court, the Ninth Circuit.

The established standards, built up over the years by the judiciary, are these: First, "cruel and unusual" means "cruel and unusual" in today's terms. Not even the most doctrinaire "original intent" jurist maintains that the determination is to be made as of 1791, when the Bill of Rights became part of the Constitution. Since Weems v. United States in 1909, we have been committed to an evolving standard of human decency.

Second, a good index of what is cruel and unusual is what the state legislatures allow. In 1992, just three states authorize cyanide gas as the only means of inflicting capital punishment. One, Arizona, is in the process of abandoning the method, and another, Maryland, has not had an execution since 1961. It is a serious question whether the consensus of all the other legislatures shows that California's means of carrying out the death penalty violates the constitutional norm.

Third, any "unnecessary suffering" in imposing the death penalty is forbidden by the Constitution. The Constitution permits capital punishment: it does not permit torture. Judge Patel was presented Saturday night with a mass of affidavits asserting that the use of the gas chamber did lead to a tortured death. It is an important question whether this evidence could be rebutted.

Concluding as a matter of common sense that these questions could not be answered on a Saturday night, Judge Patel set a hearing to be held in 10 days where testimony could be taken and the arguments pro and con fully explored. Pending the hearing, she prohibited the use of lethal gas to execute anyone. The immediate beneficiary was Robert Alton Harris.

He was only one of 323 death-row inmates in California on whose behalf the civil rights action was brought. The state, anxious for him to meet his date with death, claimed that the case was really "a Harris case," unfairly brought at the last moment to throw his execution off track. The state's contention brought into focus an issue now before the country—not the death penalty itself, but whether the precedents, built up over this century for guarding everyone's civil rights are to be suspended or set aside to assure the orderly keeping of an execution date. About 3 a.m. on Tuesday, the U.S. Supreme Court decided that the Harris execution must stay on track. Federal courts must no longer exercise their jurisdiction in ways that would derail it.

Profound ambivalence had existed. We are a country with a Constitution and a Bill of Rights, which we celebrate and cherish and which the courts enforce. We are a country with a Civil Rights Act that no one wants to appeal. But we are also a country where some states by vote have determined that atrocious crimes may be punished by death.

Prompt enforcement of that penalty conflicts with the precedents built up under the Constitution, Bill of Rights and Civil Rights Act. If death penalties are to be inflicted according to a state's schedule, these protections must give way. A Federal court must even commit "treason to the Constitution" and abstain from exercising its jurisdiction.

So, at least, is the present position of the U.S. Supreme Court, Justices Harry A. Blackman and John Paul Stevens dissenting. That Court has resolved the national ambivalence and decided that it is intolerable for a Federal court to delay an execution to decide a constitutional question. Robert Alton Harris was a casualty of this decision. Was the Constitution, too?

SURVIVING DIFFICULT TIMES IN THE PORK INDUSTRY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of my colleagues in Congress an inspiring example of the hard-working constituents of the 18th District of Illinois.

The Edge family of Chandlerville, IL, proves that the good, old-fashioned successful family business is not obsolete. With approximately 130,000 hogs marketed annually, their business is among the largest hog operations in the country. Their farm, Triple Edge Pork, Inc., performs contract finishing, onsite finishing, contract farrowing, and farrowing operations. This comprehensiveness allows them to remain competitive in an increasingly tight market.

At this time, I would like to insert an article from Hogs Today by Karen Brown McMahon which gives an indepth account of the admirable efforts of the Edge family to perserve a solid family business.

[From Hog Today, July-August 1992]

AT A CROSSROADS—CRITICAL CHOICES AHEAD EVEN FOR THIS THRIVING HOG BUSINESS

(By Karen Brown McMahon)

It's decision time at Triple Edge Pork, Inc. The central Illinois hog business achieved steady growth during the past decade. They tried new partnerships for producing pork and found success. Today the family's hog operations run the gamut—contracting for finishing, farrow-to-finish and sow contracting.

As margins narrow and the pork industry consolidates, the Edge family look ahead with uncertainty. Which enterprise will maintain profitability, which will not?

"We're at a crossroads," says Milton Edge. "Should we put in more sows of our own or build finishers? Or should we go with sow contracts?

"I don't know where we have to be three to five years down the road," he adds. "I've heard that by the year 2000, only 5,000 people will control the hog business. If that's the case, it's not very many people."

If future success is based on size, the Chandlerville, Ill., business may have a foot in the door. It ranks among the larger hog operations in the U.S.— marketing roughly 130,000 hogs annually. Milton and his wife Hazel along with their son Stan and his wife Kim, own the business.

Is their current size big enough to sustain a role in the future?" "We don't know," admits Milton. "I think the large [producers] will get larger. And I think there will always be small producers. They will be efficient."

"We don't have the deep pockets that big companies have," adds Stan. Unprofitable operations can't be written off against other enterprises. The majority of their income is from hogs.

The Edges now grapple with the future of four areas where they produce hogs. Here's a look at each:

CONTRACT FINISHING

The Edges' contract-finishing business showed big growth in the past few years. They now finish 80,000 hogs a year on contracts. Most of the feeder pigs are purchased. They also contract finish some of the overflow pigs from their own farrowing units.

The Edges contract with 30 farmers. When hog prices dropped, they weeded out less profitable contracts to reach the group they use now. The larger units especially manage to keep death loss under 3 percent, an ADG of 1.6–1.7 lb. and feed efficiency at 3 lb. for animals from 40 to 240 lb.

"We're trying to get away from so many Cargill open-front buildings and get more into modified-open-front, totally slatted type buildings," Milton says. "We've also cut down on people. Back when hogs were $60, we could get away with anything. There is no room for error in the markets today."

The family business has stayed away from long-term contracts tied into new finishing facilities. "There are a lot of people looking for someone to build buildings," Milton says. "They want you to commit to keeping a building full for five years to guarantee payment on the building."

Instead, the Edges could be out of the contracting business in five months, Milton says. Yet he doesn't expect this to happen as long as costs stay in line. But the bottom line for staying in the contracting business is showing profit. As margins narrow, buying pigs and paying to finish them may not cut it. That leads to another question the Edges now consider. Should they put up their own finishing units?

ON-SITE FINISHING

Gradually the Edges have built up their own finishing capabilities to handle 50,000 head. Last year they put in facilities for 5,000 hogs. Now they wonder if they should keep on this route. "You're talking big dollars if we put up those buildings," Stan admits.

A vastly improved efficiency makes this option attractive. The Edges report a tremendous difference in feed conversion and cost of production between their new finishing facilities and contract operations. "Feed conversion in the new buildings is 2.6 or 2.7," Milton says.

Production costs run $10.65/head more in open-front buildings than in new facilities, he adds. "You turn the building three times a year and that is over $31/head. You can build a building for $120/head."

Fewer medications are used in the new facilities. While this means lower costs, it also may mean survival in the future. "If they ever take some of the major drugs off the market, you just won't feed hogs in [open-front] facilities," Milton says.

The Edges expect their new finishing buildings to last 20 years. The buildings are naturally ventilated, total slats, shallow pit and lagoon. They use concrete where possible.

CONTRACT FARROWING

This winter, the Edges received their first feeder pigs from a sow-contract operation in Missouri. The Edges own the sows and provide the feed. The contractee owns the facilities and is responsible for labor and insurance.

The prospects for this arrangement look good to the Edges. "I'd like to get into more sow contracting," Stan says. "We can get good-quality pigs at a set cost. The only thing that changes is feed costs."

Cost of production remains one drawback for this option. Stan says they produce a pig for $32 in their own farrowing units. A sow-contract unit costs $40–$45 per pig.

Yet the cost of getting into a sow-contracting agreement runs less than starting up a farrowing unit. The Edges have experience in that, too.

FARROWING OPERATIONS

Milton bought into a sow cooperative in the late 1970s. When the arrangement didn't work out, he and his family bought out the other partners in 1981. The Edges remodeled the operation and expanded farrowing from 750 to 1,300 sows.

Three years ago, they purchased another farrowing unit. After remodeling and repopulating the facility, they farrow 780 sows.

"I think in the long haul, it will be the farrow-to-finisher who will make it," Stan says. "the margins will get skinnier. You make a little money on the pigs, a little on the finishers."

While the Edges consider their future, they closely monitor the production and finances of their hog businesses. Stan says they could not manage so many contracts without computer records.

Recently, the Edges remodeled offices in their small retail feed business to house two computers. Hazel and Kim keep track of the production and financial records.

So for now, the debate on the Edge farm continues. Their careful analysis of the business and finances will help guarantee the Edges a solid spot in the pork industry's future.

HONORING THE U.S. CADET NURSE CORPS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mrs. LOWEY of New York. Mr. Speaker, I rise to honor the 50th anniversary of the U.S. Cadet Nurse Corps. The corps played an indispensable role during World War II and in the post war years by providing skilled nurses to treat the many casualties of that conflict.

During World War II, we faced a crippling shortage of skilled nurses as more and more were called overseas to help with the war effort. The corps was able to fill this void with able and skilled young eager to serve their country.

Franklin Delano Roosevelt brought the corps into existence in 1943 when he signed into law the Bolton Act, named for it's original sponsor Congresswoman Frances P. Bolton. The corps allotted Federal funds to provide young women with a chance to go to nursing school, uniforms, and a stipend to support them as they studied. In exchange, they agreed to stay in either military or essential civilian nursing through the remainder of the war.

Although most of the young women who graduated from nursing school on corps scholarships were not called overseas, they all provided crucial skills in either military or civilian hospitals on the home front. After the war was over, the need for highly skilled nurses diminished, and the crops was disbanded.

Army Surgeon General Norman T. Kirk pointed out the unique contribution of the Cadet Nurse Corps to the war effort. He said:

> "[the Corps] stabilized the civilian home front nursing service at a time when the military demands would have disrupted a less efficient organization, [and] they assumed nursing responsibilities in Army hospitals second only to our own Army nurses."

As their 50th anniversary draws near, we should take time out to pay tribute to the dedicated group of women who promised to stay in nursing in service of their country for as long as was necessary to win the war that raged when they entered service. Their contribution was critical to the many young men for whom they cared. It was a contribution we should never forget. By stepping into uniform for their country, the Nurses Corp played an essential role in ending the war. They should be honored for their efforts.

RESTORE THE NAVY'S HONOR

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. COX of California. Mr. Speaker, more than any other of the military services, the Navy has been called upon in recent years to project American power to the far corners of the globe. Carrier aviators from the flight deck of the U.S.S. *Independence* provided the first tangible form of deterrence during Operation Desert Shield. From the first night of Operation Desert Storm, when the U.S.S. *Wisconsin* fired its Tomahawk cruise missiles with such great accuracy, the U.S. Navy performed superbly in the Persian Gulf war—not only making us proud, but keeping us secure and free. Even now, the *Independence* battle group waits dutifully on station in the Persian Gulf, while the *Saratoga* battle group sails to take up position, in the event they are called upon to once again become an instrument of national policy. The Navy has always been there to protect our vital interests overseas, and to defend us from attack at home.

Today, however, it is the Navy itself that is under attack. Today, as never before in America's history, the popular press and politicians are indiscriminately denigrating the entire service. The well-publicized transgressions of a relative few have provided the patina of respectability to numerous noisy critics who place little value on protecting the national security, and less still on the honor of those in the Navy who have so faithfully carried out the task.

Ironically, it is for the ideal of freedom that so many Navy men and women have long sacrificed their own freedoms, and their own lives. Even in peacetime, sailors today routinely spend 6 months at a time aboard ship, at every corner of the globe. In times of conflict, they are always at risk, often under fire, and in many cases wounded, captured by the enemy, or killed. They deserve our full measure of respect for the sacrifices they and their families have made for so many years of hard work, training, faithful service, and combat. As individuals, each is entitled to the same fundamental fairness that they have worked so hard to guarantee all of us in a free society. Sadly, however, it appears that many of them are being treated unfairly indeed.

Some of the most grievous wrongs ever committed in American politics and Government were justified by noble purposes. The Army-McCarthy hearings, just as the Japanese internment during World War II, waived concerns about justice for individuals in order to wage a broader war. It is to be hoped that the lessons of history will not be lost upon us today—and that the rights of individuals will be protected even as some in the media and in politics proclaim that "heads must roll."

In a society that paroles murderers, gives drug dealers a second chance, and affords even Members of Congress the fifth amendment when they are suspected of law breaking, it would be tragic indeed if even one naval officer were peremptorily presumed guilty, stripped of his career, and professionally humiliated for having been in proximity to a crime. I do not know whether that is happening. Still, one cannot help but wonder when so many officers with such fine careers are relieved of their commands and positions of responsibility when they have not been charged—let alone found guilty—of any civil offense or infraction against the Uniform Code of Military Justice.

It is time that someone in this body rose to the defense of common sense, even handed-ness, and the American way of fair play. We need not apologize for any person's misdeed to speak up for the truly heroic deeds that so many in our Navy have performed. Today, I would like to single out four naval officers, stationed in my home State of California, who are deserving of some special recognition in light of recent events.

Capt. Richard S. Braden, recently the chief of staff to commander, Fighter Airborne Early Warning Wing, U.S. Pacific Fleet, has been serving his country in the U.S. Navy for nearly a quarter century. With over 4,500 flight hours, over 400 carrier arrested landings, five cruises and 6 years at sea to his credit, he is one of our Nation's most experienced naval aviators. His extensive career also includes service as an instructor pilot, as a key staff member in Navy program planning, as commanding officer of a carrier airborne early warning squadron aboard the U.S.S. *Kitty Hawk,* and as commander of the Carrier Airborne Early Warning Training Squadron at NAS Oceana. Captain Braden's record is bristling with awards and commendations, including four Meritorious Service Medals.

Capt. George L. Moe, recently the commanding officer of Fighter Squadron 124, served as operations officer for the U.S.S. *Midway* throughout that ship's extensive participation in the Persian Gulf war. He was awarded the Bronze Star for his actions as air resources coordinator for four carrier battle groups in theater during that conflict. Captain Moe has over 3,200 flight hours, 800 carrier arrested landings, and has made eight cruises while accumulating over 8 years of time at sea. Earlier in his career, as commanding officer of Fighter Squadron 1, then-Commander Moe earned his squadron the Admiral Clifton Award, gaining them recognition as the finest fighter squadron in the Navy. Twice during his tenure, that squadron earned the coveted battle "E" for being the most combat-ready fighter squadron in the Pacific Fleet. His numerous other awards include three Meritorious Service Medals, the Navy Commendation Medal, and the Navy Achievement Medal. Captain Moe has been selected to command one of the Navy's 13 carrier air wings.

Comdr. David M. Tyler, recently the commanding officer of Fighter Squadron 51, has over 5,700 flight hours and 600 carrier arrested landings. Additionally, he has logged over 6 years at sea, including four deployments. As an airwing strike leader, Commander Tyler served with distinction during Operation "Praying Mantis," flying from the deck of the U.S.S. *Enterprise* while it was deployed to the Persian Gulf. Earlier in his career, he was recognized as "Instructor of the Year" while attached to Training Air Wing 5. He was also considered as the prime candidate to become the next commanding officer of the Navy's "Blue Angels" Flight Demonstration Team. His personal awards include two Navy Commendation Medals and the Navy Achievement Medal.

Comdr. Robert H. Clement, recently the commanding officer of Fighter Squadron 111, has over 17 years of distinguished military service, 2,600 flight hours, and over 600 carrier arrested landings. He has deployed on six cruises encompassing over 4 years at sea. Graduating top in his class from flight school, he was one of the first junior officers to fly the F–14 Tomcat. Later, Commander Clement was one of the few selected to attend the Navy's prestigious Fighter Weapons School. As an adversary pilot, Commander Clement helped to provide Navy fighter pilots the critical air combat training required to ensure their undisputed success during Operation Desert Storm. In service to his Nation, Commander Clement has been awarded two Navy Commendation Medals and the Meritorious Unit Commendation, among others.

These four naval officers are fine men. Their collective careers represent over 80 years of dedicated naval service, including 18 years of family separation while they were deployed at sea. Our country has invested over $80 million to train them and to keep them combat ready. Mr. Speaker, let us hope that the same good judgment that causes us to condemn the acts of those who have stained the handsome Navy shield will permit us to recognize the tremendous debt of gratitude we owe to patriots such as these. I highlight them specifically, because I have been made aware of their records; but their circumstances are emblematic of many, many other extraordinarily skilled and loyal Navy officers.

Let us keep them in mind, each individually, as we in this Congress do our part to restore the Navy's honor. They have serviced us well over many, many years. If we can restore their dignity, we can restore that of the Navy. They, and the Navy, deserve no less.

TO COMMEMORATE THE BICENTENNIAL OF THE TOWN OF HAWLEY, MA

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. OLVER. Mr. Speaker, I rise to commemorate the bicentennial of the town of Hawley, MA. Situated in the green hills of western Massachusetts, Hawley has outstanding natural beauty and proud traditions.

Hawley was first settled in 1771 through the efforts of people from the towns of Springfield and Hatfield. Those first settlers included the Longley, White, Stiles, Rice, and Scott families, some of whose descendants continue to pay a prominent role in the town. The people of Plantation No. 7, as it was originally known, cleared the farms, harnessed the rivers and built the mills, providing a livelihood for the population.

On February 1, 1792, the town was incorporated and named in honor of Joseph Hawley of Northampton, a leader of western Massachusetts throughout the Revolution. Hawley's early prosperity was based on its agriculture, its water power, and the iron ore of Forge Hill. Hawley's government was then, as it is today, in the hands of the annual town meeting, that pure form of democracy which has found its fullest expression in New England.

In the latter part of the 19th century and through the middle of this century, Hawley saw many of its people leave for the West or for the growing urban centers, yet it has retained a strong sense of its history, which is manifested in this yearlong bicentennial celebration. A bicentennial parade will be held on August 8 to celebrate the accomplishments of the citizens of Hawley. Mr. Speaker, I ask my colleagues to join me in congratulating the town of Hawley on its 200th year.

TO EXPRESS THE APPRECIATION OF THE ENVIRONMENTAL AND ENERGY STUDY CONFERENCE TO JIM KETCHAM-COLWILL

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. WISE. Mr. Speaker, as House Chairman of the Environmental and Energy Study Conference, I would like to thank James F. Ketcham-Colwill as he leaves the study conference after 7½ years of superb service.

Jim is taking a position with the Environmental Protection Agency.

As you know, the study conference does not take positions. Its job is to provide the more than 300 of us in the House and 90 Senators who are conference members with objective analysis of environmental, energy, and natural resources issues. Jim's contribution to that work is nearly legendary.

Jim's careful, thorough, and tireless reporting have been of enormous assistance to Congress in clarifying the science, the politics, and the policy choices of the issues we face. Jim has on many occasions worked nearly 24 hours straight to provide us with the publications on which we so rely.

Congress is clarifying the science, the politics, and the policy choices of the issues we face. Jim has on many occasions worked nearly 24 hours straight to provide us with the publication on which we so rely.

Over the years, Jim has developed an invaluable expertise in critical areas such as air and water pollution and solid and hazardous waste. Jim's depth of knowledge and institutional memory will be sorely missed.

We are pleased, however, that Jim has chosen to remain in Government; and we will continue to benefit from his expertise at EPA.

We thank Jim for his important contribution to the splendid reputation the study conference enjoys, and wish him and his family all the best for the future.

TRIBUTE TO WILLIAM DALE CLARK

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. WELDON. Mr. Speaker, it is with special privilege that I rise today to offer my congratulations to William Dale Clark of Malvern, who has been selected as this year's Outstanding Postal Employee with Disabilities from the Postal Service's Eastern Region.

Mr. Clark, a Lansdale postal employee, was chosen from among a number of nominees throughout the eastern region, which extends from south Jersey to South Carolina, and as far west as Kentucky. He is one of five regional winners who was honored at a special luncheon tribute in Washington, DC, on July 15. It is honorees such as Clark who "serve as an example for all of us and represent the value and importance of disabled employees in our work life," said Postmaster General Marvin Runyon.

As a fireman-laborer, Clark wears many hats: That of truck driver, electrician, vehicle mechanic, carpenter, custodian, grounds keeper, and even handyman. According to his supervisor, Postmaster Jerry Strothers, Clark performs exceedingly well at his job despite being physically challenged, and therefore, it is no wonder that he is considered to be the "backbone" of the Lansdale postal facility.

Clark joined the U.S. Postal Service in 1984, and he has unquestionably excelled in his career, gaining the respect and admiration of many. It is a pleasure to recognize such a fine employee and an impressive individual, and I certainly hope that his diligence will be imitated in workplaces everywhere. Once again, I offer my sincere congratulations, and I commend Mr. Clark for his determination and a job well done.

FISCAL YEAR 1993 COMMERCE, JUSTICE, STATE APPROPRIATIONS

HON. THOMAS C. SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. SAWYER. Mr. Speaker, on July 28, 1992, the House of Representatives passed H.R. 5678, the fiscal year 1993 Commerce, Justice, State Appropriations bill.

As chairman of the Subcommittee on Census and Population, which has jurisdiction over Federal holiday commissions, I am pleased to note that the legislation before us contains full funding for the Martin Luther King, Jr. Federal Holiday Commission. The King Commission, established in 1984, has worked tirelessly to institutionalize the King holiday and coordinate holiday activities across the Nation. When the Commission first began its work, only 17 States observed the King holiday. Today, through the Commission's efforts, all but two States have made Dr. King's birthday a paid holiday, and over 100 foreign countries celebrate the occasion as well. Thirty-four States, and a growing number of cities, now have King Holiday Commissions of their own.

The Commission received no Federal funding prior to 1990. This modest appropriation of $300,000 will greatly assist the Commission as it prepares for a historic and significant year in 1993. The Commission is planning expanded programs and activities to recognize the 10th anniversary of the establishment of the King holiday, the 25th anniversary of Dr. King's assassination, and the 30th anniversary of Dr. King's historic "I Have A Dream" speech at the Lincoln Memorial.

The Commission's goals through 1993 include the establishment of a clearinghouse and library on the King holiday; wider recognition and observance of the holiday by business and industry, schools, and law enforcement facilities; holding a Regional Educational Conference; ensuring observance of the holiday in all 50 States; and establishment of additional State and city holiday commissions.

I commend the committee for recognizing the particular importance of the King Commission's work in the coming year and for ensuring that the Commission will have an adequate appropriation to carry out its programs.

H.R. 5678 also contains an appropriation of $205,000 for the Christopher Columbus Quincentenary Jubilee Commission. While this amount is $15,000 below the Commission's request, I believe that it will enable the Commission to meet its basic operating expenses as it prepares for a very important year in 1993.

The Columbus Commission, also established in 1984, has worked to develop and coordinate activities that will focus attention on the anniversary of Christopher Columbus' maiden voyage to the New World. Next year, 1993 is an important year for the Commission because it will be its last full fiscal year of authorization. While the Commission must raise private funds to support its wide range of programs, the modest appropriation contained in this legislation will greatly assist the Commission as it prepares for an important year in 1993. In addition, it ensures that the Commission will be able to meet its primary expenses such as staff salaries, rent, and other administrative costs.

Even though the quincentennial year itself is passing, the Commission is pursuing a wide range of programs to complete its mission. Its plans for 1993 include coordinating the National Maritime Celebration, and serving as a clearinghouse of information and compiling an official record of worldwide activities and impressions of the quincentenary. The Commission will also pursue its efforts to establish a Columbus Scholars Program, which seeks to bring students from around the world together for accelerated instruction in history, geography, foreign languages, and international affairs.

As many of you know, the Columbus Commission suffered from poor management in the past under its former chairman, However, I am confident that under the leadership of its current chairman, Frank Donatelli, the Commission has been operating in a fiscally responsible manner. In order to carry out useful activities related to this historic event, the Commission needs the continued support of Congress.

I urge the committee to support the levels of funding contained in H.R. 5678 for these two Federal Commissions during its conference with the Senate.

LEONARD P. MULLINS RECEIVES OLIN E. TEAGUE AWARD

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, August 3, 1992

Mr. MONTGOMERY. Mr. Speaker, in a ceremony on Wednesday in the House Veterans' Affairs Committee hearing room, Mr. Leonard P. Mullins will receive this year's Olin E. Teague award for his efforts on behalf of disabled veterans.

The Teague award is presented annually to a VA employee, or group of employees working as a team, whose achievements have been of special benefit to veterans with service-connected injuries.

Mr. Mullins is the vocational rehabilitation and counseling officer at the VA regional office in Louisville, KY. He is being cited, in part, for his involvement with the Cain Center for the Disabled Inc. The Cain Center is a nonprofit, tax-exempt organization that provides suitable living accommodations for the disabled. Mr. Mullins worked tirelessly with the Paralyzed Veterans of America and the Disabled American Veterans to identify seriously disabled veterans who are in need of housing that will enable them to live and function independently. He gained approval from the board of directors at the Cain Center for veterans and their families to use this housing while they pursue their vocational rehabilitation programs.

The first individual to benefit from this unique plan is a veteran who lost a leg in the Persian Gulf war. This individual has relocated to Louisville, KY, to pursue a degree from the University of Louisville under the VA's vocational rehabilitation program.

Mr. Speaker, the name Olin E. "Tiger" Teague is synonymous with exemplary service to the Nation's veterans. The late "Tiger" Teague served on the House Veterans' Affairs Committee for 32 years, 18 as its distinguished chairman. No one who opposed him on veterans issues ever had to ask why he was called Tiger. He set the standards by which we can best serve all veterans.

I know my colleagues join me in offering our deep appreciation to Mr. Mullins for his concern, dedication, and innovation in meeting the special rehabilitation needs of disabled veterans. We congratulate him for the excellence of his work and for the distinguished award he received.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, August 4, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 5

8:30 a.m.

Foreign Relations

Western Hemisphere and Peace Corps Affairs Subcommittee

To hold hearings on S. 2918, to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people.

SD-419

9:00 a.m.

Select on POW/MIA Affairs

To continue hearings to examine unanswered questions and United States efforts with regard to U.S. prisoners of war and soldiers missing in action, focusing on live sightings.

SH-216

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the semi-annual review of the Resolution Trust Corporation.

SD-538

Governmental Affairs

Business meeting, to consider pending calendar business.

SD-342

Judiciary

Constitution Subcommittee

To hold oversight hearings on the implementation of the Hate Crime Statistics Act (P.L. 101-275).

SD-226

Labor and Human Resources

To hold hearings to examine the use of television as a means of facilitating school readiness programs for preschool and elementary children.

SD-430

2:00 p.m.

Foreign Relations

To hold hearings on the nominations of Kent N. Brown, of Virginia, to be Ambassador to the Republic of Georgia, Richard Monroe Miles, of South Carolina, to be Ambassador to the Republic of Azerbaijan, Mary C. Pendleton, of Virginia, to be Ambassador to the Republic of Moldova, David Heywood Swartz, of Virginia, to be Ambassador to the Republic of Byelarus, Henry Lee Clarke, of California, to be Ambassador to the Republic of Uzbekistan, William H. Courtney, of West Virginia, to be Ambassador to the Republic of Kazakhstan, Stanley T. Escudero, of Florida, to be Ambassador to the Republic of Tajikistan, Joseph S. Hulings III, of Virginia, to be Ambassador to the Republic of Turkmenistan, and Edward Hurwitz, of the District of Columbia, to be Ambassador to the Republic of Kyrgyzstan.

SD-419

Judiciary

To hold hearings on S. 640, to regulate interstate commerce by providing for a uniform product liability law.

SD-226

AUGUST 6

9:00 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold oversight hearings on high-speed ground transportation.

SR-253

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on the activities and programs of the Defense Commissary Agency, Department of Defense.

SD-342

Small Business

Business meeting, to mark up H.R. 5191, to encourage private concerns to provide equity capital to small business concerns.

SR-428A

Select on Indian Affairs

Business meeting, to mark up S. 2833, to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe and the United States, and various other issues pertaining to the Crow Indian Reservation, S. 2836, to promote economic development on Indian reservations by making loans to States to assist States in constructing roads on Indian reservations, and the proposed "Buy Indian Act"; to be followed by hearings on proposed legislation to settle water rights claims in southern Arizona.

SR-485

10:00 a.m.

Foreign Relations

Business meeting, to mark up S. 2064, to impose a one-year moratorium on the performance of nuclear weapons tests by the U.S. unless the Soviet Union conducts a nuclear weapons test during that period, and to consider pending nominations and treaties.

SD-419

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 2890, to provide for the establishment of the Civil Rights in Education: Brown v. Board of Education National Historic Site in the State of Kansas, H.R. 2109, to direct the Secretary of the Interior to conduct a study of the feasibility of including Revere Beach, located in the city of Revere, Massachusetts, in the National Park System, S. 2244, to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict, H.R. 3665, to establish the Little River Canyon National Preserve in Alabama, S.J. Res. 161, to authorize the Go For Broke National Veterans Association to establish a memorial to Japanese-American War Veterans in D.C. or its environs, and S. 2549, to establish the Hudson River Artists National Historical Park in New York.

SD-366

AUGUST 7

9:30 a.m.

Governmental Affairs

To hold oversight hearings on the Chief Financial Officer Act (P.L. 101-576) and Army audit.

SD-342

Joint Economic

To hold hearings to examine the employment-unemployment situation for July.

SD-628

10:00 a.m.

Veterans' Affairs

Business meeting, to mark up S. 2575, to revise certain pay authorities that apply to nurses and other health care professionals, S. 2973, to improve the care and services furnished to women veterans who have experienced sexual trauma, S. 2774, to revise certain administrative provisions relating to the United States Court of Veterans Appeals, and proposed legislation relating to veterans home loan programs.

SR-418

AUGUST 10

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To hold hearings on S. 3119, to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department.

SR-332

Governmental Affairs

To hold hearings to examine the health risks posed to police officers who use traffic radar guns.

SD-342

AUGUST 11

2:00 p.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings on proposed legislation authorizing funds for activities of the Independent Counsel Law of the Ethics in Government Act of 1978.

SD-342

2:30 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 2505, to revise the Land and Water Conservation Fund Act of 1965 to authorize expansion of the existing entrance fee program at units of the National Park System to all areas administered by the Secretary of the Interior and certain Forest Service recreation areas administered by the Secretary of Agriculture, S. 2723 and H.R. 4999, to revise the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, S. 3100, to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and H.R. 4276, to revise the Historic Sites, Buildings, and Antiquities Act to place certain limits on appropriations for projects not specifically authorized by law.

SD-366

AUGUST 12

9:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2762, to assure the preservation of the northern spotted owl and the stability of communities dependent on the resources of the public lands in Oregon, Washington, and northern California.

SD-406

9:30 a.m.

Select on Indian Affairs

Business meeting, to mark up S. 2975, to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona; to be followed by an oversight hearing on Indian trust fund management.

SR-485

10:00 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

SEPTEMBER 22

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations by the American Legion.

334 Cannon Building

CANCELLATIONS

AUGUST 5

10:00 a.m.

Finance

To resume hearings to examine the state of U.S. trade policy, focusing on proposed legislation to open foreign markets to U.S. exporters and to modernize the operations of the U.S. Customs Service.

SD-215

SENATE—*Tuesday, August 4, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity.—Psalm 133:1.

E Pluribus Unum—Out of Many One.

God of peace, infuse the Senate with an understanding of and desire for its power as a united institution. The compromise which resolved the deadlock in constitutional debate two centuries ago produced the Senate which was to be "a living symbol of the union of the States." Though we know diversity is of the essence of democracy, unity is the bond which makes the United States democracy strong.

Elections are always divisive, but we pray, dear God, You will not allow this national election to fragment our democratic institutions beyond repair. The Senate is the most powerful legislative body in the world. Protect its decimation by unworthy partisanship. Fission produced the atom bomb; fusion the hydrogen bomb, infinitely more powerful. Move upon the Senate that the power of 100 Senators will be fused, not dissolved into two or many irreconcilable parts.

Mighty God of love, heal our brokenness, silence our negative rhetoric, calm our anger, prevent opponents from becoming enemies. Restore us in peace and unity.

In the name of the Lord of Heaven and Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 4, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time of the two leaders is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, this morning there will be a period for morning business until 10 a.m., at which time the Senate will begin consideration of the transportation appropriations bill. It is my hope we can complete action on that bill today, and I now encourage all Senators who intend to offer amendments to the bill to be present this morning to offer their amendments so that we can move early on the bill and complete action, hopefully, during the day today.

I will either today during the day or tomorrow make a further statement to Members of the Senate about the schedule for the remainder of this week and for the remainder of this legislative period. I hope and expect that this will be a very productive session, during which many important bills will be considered and disposed of by the Senate.

THE JOURNAL

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order—the Senator from Michigan will note—the transaction of morning business is not to extend beyond the hour of 10 a.m. By unanimous consent, the Senator from Michigan is to be recognized to speak for up to 10 minutes.

EXTENSION OF MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that morning business be extended to allow for my 10-minute special order, and that it be further extended for 5 additional minutes so that Senator LIEBERMAN can also speak as though in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BOSNIA

Mr. LEVIN. Mr. President, the sickening reports of genocidal conduct in Bosnia go on day after day. Just last Sunday in the Long Island Newsday, the front page headline was "Death Camps of Bosnia," and inside are the eyewitness accounts of genocidal behavior in what anybody, I think, would consider death camps inside of Bosnia.

To quote the Sunday edition of Newsday:

> In one concentration camp, a former iron mining complex of Omarska in northwest Bosnia more than 1,000 Muslim and Croat civilians were held in metal cages without sanitation, adequate food or exercise or access to the outside world, according to a former prisoner who asked to be identified only as Meho. The prisoners at the camp, he said, include the entire political and cultural elite of the city of Prijedor. Armed Serbian guards would take Serbian prisoners in groups of 10 or 15 every few days to a nearby lake, and they would hear a volley of rifles and they would never come back.

The Newsday article continues:

> "I think that if these places are not death camps, we might have access to them," said Pierre Andre Conad, head of the International Committee of the Red Cross delegation of Zagreb to oversee conditions in northern Bosnia.

That last sentence is worth repeating because this comes from the head of the International Red Cross in Zagreb. He said, "I think that if these places are not death camps, we might have access to them."

Guards at a second camp, according to this Newsday article, a former prisoner said, "killed 3,000 people between early May and mid-June by slitting their throats or with firing squads and then going on a rampage against towns and people living nearby."

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Then in yesterday's Newsday, the following:

> According to an eyewitness report quoted by the Bosnian Muslim charity organization merhamet, 2 weeks ago thousands of men were also being held in an open outdoor pit that had been used as a mine for mining iron ore. Last week the U.N. High Commissioner for Refugees issued a report quoting a guard as telling a U.N. monitor—

This is a guard now telling a U.N. monitor—

> that the authorities planned to kill the prisoners at Omarska by exposing them to the elements.

There is another passage from Sunday's Newsday that is worth including in the RECORD, although it is incredible. This is even happening 50 years after Adolf Hitler's activities. But this is an eyewitness saying that instead of tossing the bodies into the river, the prisoners drive them to an animal feed plant. He said the prisoners did not actually throw the corpses in the oven, but they had every reason to believe the bodies were being cremated for animal feed. He said that day the air in the town stunk so badly that you could not open the window.

Today's New York Times:

> "Violations of humanitarian law and the basic human rights perpetrated by all parties to the conflict have reached such a point that they become common practice," said the Red Cross in a statement issued at its Geneva headquarters. * * * The Red Cross President Cornelio Sommaruga said at the United Nations conference in Geneva that all the ethnic groups fighting in Bosnia had been cleansing entire regions of members of the opposing ethnic groups.

He said that "whole populations are being terrorized, minorities intimidated, civilians interned on a massive scale, hostages taken and tortured."

Mr. President, so far, the response of the world to this genocidal behavior has been a diplomatic shuffle. Some are arguing that we cannot be the world's policeman, and that is true. But the United Nations was created for situations like this, and we must lead at the United Nations.

The President can call—and I urge him to call—for an emergency session at the United Nations, to consider enforcing the resolutions of the United Nations and to consider enforcing them with the U.N. military force, if necessary.

There are two areas where U.N. military force is appropriate. First, it is to protect the U.N. personnel, that is, in Bosnia, seeking to deliver humanitarian aid; and second, to protect the International Red Cross as it insists on access, access that it is entitled to under international law, to those prison camps.

The Serbian forces say they cannot guarantee the safety of the International Red Cross at those camps to which they have been denied access. Well, the U.N. force can attempt to provide safety for a Red Cross humanitarian effort to reach those camps. Every civil war is not an international crime, but genocide is an international crime, ethnic cleansing is an international crime, and the United Nations is there in order to provide some international law.

Genocide begets genocide. We have seen it over and over again. This genocide will not end here. There will be another genocide in response to it, unless the United Nations takes action now to intervene now, to do what the world did not do in Europe in the 1930's. Some say, well, how are we sure that it is really happening, that genocide is really occurring in those camps, that eyewitnesses say are death camps? Well, all you have to do is listen to the State Department this morning. It acknowledges what is going on.

Richard Boucher, department spokesman, says:

> Our own reports, information similar to press reports, made it clear that "Serbian forces" are maintaining what they call detention centers for Croatians and Muslims, and there have been abuses, tortures, and killings taking place in those areas.

Mr. Boucher says:

> The United States offers "wholehearted" support to the International Red Cross to gain access to some of these camps.

Our support is not wholehearted. It is faint, it is inadequate, until we go to the United Nations in an emergency session and urge the international community to enforce—and that means with military force, if necessary—the resolutions of the United Nations and the laws of the international community.

A few years ago, this Senate finally ratified the genocide convention. That genocide convention, in article III describes which acts shall be punishable, and defines genocide as one of those acts. Article VIII says that "Any contracting party"—that is us—may call upon the competent organs of the United Nations to take such action under the charter of the United Nations as they consider appropriate for the suppression and prevention of acts of genocide or any of the acts enumerated in article III.

Those acts are, where a group with intent to destroy in whole or in part a national ethnic racial or religious group, kills members of the group, causes serious bodily or mental harm to members of the group, deliberately inflicts on the group conditions of life calculated to bring about its physical destruction in whole or in part. That is what is happening now in Bosnia before the world's eyes.

If we lay this genocide convention side by side with the eyewitness reports from those camps in Bosnia, we have more than enough allegations, allegations which have been acknowledged by the State Department to be supported by evidence of genocide now going on in Bosnia. It is time for the United Nations to ask to enforce its resolutions to stop these genocide acts from continuing. They will spread, they will engulf ultimately more than just what is involved now. They could ultimately engulf the world. They are international crimes.

The Red Cross is entitled to go to those camps; they are entitled to get humanitarian assistance into Sarajevo. The United Nations now must act. Our President now must get the United Nations to act by seeking an emergency session of the Security Council at the United Nations to review the events in Bosnia and to consider military enforcement of the resolution of the United Nations.

Mr. President, I yield the floor.

(Mr. BRYAN assumed the chair.)

Mr. LIEBERMAN. Mr. President, I am proud to rise and speak after my colleague, the Senator from Michigan, and I thank him for his concern, for his words and for his suggestions. I want to add a few words to what he has said.

We are, all of us, awakening in the civilized world each morning now to horror after horror from Bosnia-Hercegovina as news filters out about the inhumanity of Serbian aggression in that cursed land.

Mr. President, we are nearing the end of the 20th century, living with all of the latest wonders of science and technology. Citizens of the nations around the globe are linked by a communications network that puts us in instant touch with one another. A shuttle is circling in space overhead with astronauts pushing the edge of our knowledge of the universe even further. Yet, here at this time, at the end of the 20th century, we are confronted with the terrifying knowledge that people are still capable of stoneage barbarism, of inflicting unspeakable pain on one another.

The litany of horror in Bosnia-Hercegovina reads like the pages of a history book about events in Europe 50 years ago: Houses of worship, in this case mosques, being destroyed to demoralize the people who worship there; people being singled out by a religion, in this case Muslim, herded on to overcrowded trains and shipped out as part of a perverse ethnic cleansing campaign; children being cut down by machine gun fire, selected and pulled out of a rescue convoy, because of the spelling of their last names, in this case, Muslim or Croat; a grandmother being shot at the funeral of her grandchild; and concentration camps, death camps, where civilians are stacked like animals in metal cages, starved, tortured and executed.

Our modern communications system tells us each day and brings home to us each day this startling and horrible news, and the question is: Will we react to it?

Mr. President, we are challenged here in these stories to be true to our values as Americans. We cannot sit idly by as this parade of horrors occurs.

It matters not the race or religion or nationality of these innocent victims. What matters is that there are such victims attacked by such aggressors. We cannot stand by any more than we would stand on a street corner and watch someone across the street being brutally beaten by an aggressor.

It matters now that we have the power, working with our allies in Europe, to do something about this and, therefore, Mr. President, it is our moral obligation to do so.

I know that there are those who say this is not America's fight. Well, in the first place, it is America's fight, because America has always taken its strength not just from its military or economic force but from the force of our principles and values.

Second, all of us should remember the history of this century that on two occasions we in this country turned away from early signs of conflict in Europe, early stories of barbaric behavior, only to pay an enormous price in the blood of Americans as we got into two world wars. And remember that this is a test of the post-cold war world and of the United Nations and of America as the only remaining superpower on Earth.

If we, together with our allies, cannot stop the aggression, the trains of terror, the death camps, the slaughter of children here, what will happen elsewhere? If we have no interest, no authority to become involved here, do we not abdicate our interest and authority to become involved as ethnic and nationalistic aggression spreads throughout the other nations of the former Soviet Union where stability hangs by a single and fragile thread?

No, Mr. President, it is not only in our moral interest, it is in our strategic interest as Americans to act and act now.

I have addressed my colleagues in this Chamber before on several occasions about this crisis in Bosnia-Hercegovina. I repeat here today my call for stronger action by our Nation. We must do more than utter words of condemnation. We must take action.

I join with my colleague from Michigan in urging the President to take personal charge of this crisis, to speak to the Nation and the world about America's resolve to work with our allies toward a solution to this nightmare.

Specifically, the President should move to call a special session of the Security Council to investigate the latest news about these death camps, and to seek a resolution that demands more than an inspection, more than an expression of concern; a resolution that demands the closure of these death camps. We have the ability, as Americans, to use our sophisticated technology, that of our intelligence services, to prove that these death camps exist.

Mr. President, we have to go beyond that. We have to tighten the embargo of Serbia by increasing our surveillance of ships going in and out of the Adriatic Sea.

We should call for the stationing of UN inspectors in Serbia to monitor the effectiveness of the embargo.

We should, as our colleague from Washington, Senator GORTON, suggested the other day, cease the embargo on arms sales to the former Yugoslavian nation and arm the Bosnians so they can defend themselves.

And we should seek a resolution from the United Nations authorizing the use of force, multilateral force, to protect the shipment of humanitarian aid—food and medical supplies—to people who are being starved and dying. The air and naval forces of the United States of America must be prepared to assist in any such military action as part of an international effort.

Finally, we should, as a last resort, consider coalition air strikes against Serbian military bases as a way to convince Milosevic to stop his campaign of terror against the Muslims and the Croats, and convince him that his aggression has serious consequences for his military.

Mr. President, finally the goal of this effort must be to incrementally build and sustain economic, diplomatic, and military pressure in the Serbian regime to convince its leader that peaceful negotiations are the only way out of this conflict.

We are not involved here to win a war. We are not involved here as we were in Kuwait. We should be involved with our allies to put the kind of military pressure on the Serbs that will bring them to the table to negotiate an end to this aggression, an end to this horror, and the beginning of the experiencing of what we hoped and dreamed would be a new world order in Europe.

I thank the Chair and I yield the floor.

PRESIDENT ROBINSON'S ADDRESS TO THE IRISH PARLIAMENT—"IRISH IDENTITY IN EUROPE"

Mr. KENNEDY. Mr. President, on July 8, President Mary Robinson became only the second President of Ireland in the 70 years of Irish freedom to address a joint session of the two Houses of the Irish Parliament.

The occasion of her address was the dramatic and decisive recent vote by the people of Ireland in favor of the current progress toward European unity. At this turning point for Ireland's future, President Robinson's address is an eloquent and progressive call for the citizens of her country to take full advantage of the opportunities that lie ahead for the role of Ireland in Europe and the larger international community.

President Robinson was speaking to those on both sides of the recent vote—those who supported a role for Ireland in the new Europe and those who opposed it. But her address is also a larger message to peoples in many different lands, including the United States, as we struggle to reconcile enduring values with changing times.

President Robinson emphasized that Ireland's becoming part of a greater Europe does not mean becoming a lesser Ireland. As she stated: "We have to remember that this is not a static community we are members of; it is also one we shape and define by our participation."

Like the peoples of the other European nations moving toward closer relations with one another, the Irish will face many challenges. President Robinson's timely words are a strong indication that Ireland will meet these challenges creatively and constructively, in ways which will benefit Ireland, Europe, and all nations, and be a source of great pride to future generations.

President Robinson also spoke of Ireland's close and abiding ties to the Irish beyond Europe. She discussed the important work of the International Fund for Ireland, which many of us in Congress continue to support, in healing the divisions between North and South in Ireland. America and its 44 million citizens of Irish descent will continue to support Ireland in dealing with its current challenges and embracing new opportunities.

President Robinson's vision of a new Ireland is instructive and inspiring, and I ask unanimous consent that her important address to the Irish Parliament may be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

"IRISH IDENTITY IN EUROPE"—ADDRESS TO THE HOUSES OF THE OIREACHTAS BY THE PRESIDENT OF IRELAND, MARY ROBINSON, JULY 8, 1992

I speak to you today as a constituent part of this Oireachtas. I have exercised my right to address you because this seems to me a unique moment in our history. You as elected representatives and I as President of Ireland have witnessed the people we are privileged to represent vote in favour of the move towards European Union. But I want to say at the outset that I have very much in mind today those who voted against. Through you, who are representatives of all the people, I speak to them also. I feel for the conscience and concern they brought to their decision. I know, as you do, that the dissent of one time is the dialogue of another. All of us today in Ireland—those who voted yes and those who voted no—now face the future. And it is that prospect, both bright and challenging, which I want to speak about. Under the Constitution the President can exercise a right of address. It can be exercised in two ways. Either the President can speak to the nation, or to the Oireachtas. I very deliberately chose the second. First of all, I was for many years a member of the Seanad. I think of those years and my time there with affection and gratitude. But more importantly, it seemed to me that by coming here and talking to you I could hope to participate with you in a process of reflection; and we need to reflect. This is a crucial moment in our history. It is vital that we consider it: that we bring to it all the Irish gifts of insight and argument. We need to reflect not simply on how we perceive the move towards European Union but on how we perceive ourselves in it. We need to reflect not merely on the shape of the emerging Europe, but on how we shape ourselves within it. I think we owe to coming Irish generations something we received in abundance from past ones: articulate self-definition at a time of re-definition.

It seems to me that this Oireachtas—which has played such a vital part in building and sustaining a modern, democratic Irish state—is central to that process of reflection. This assembly of selected representatives, from its beginnings in a time of upheaval and danger, has always caught the attention of the country by stating its concerns. Now, as it considers the new context of Europe, I know it will do the same. And as part of that Oireachtas I feel that now, once again, our obligation is also our opportunity. To borrow the words of Eamon de Valera, whose name is so associated with this Oireachtas: "We of this time, if we have the will and the active enthusiasm, have the opportunity to inspire and move our generation".

The more we reflect on it, the more I think we can see how vital this moment is. "The Irish race" said Michael Davitt, "have a place in the world's affairs". Today—through the signal given by our people in favour of a move towards European Union—that place has been confirmed and one perspective has been created from two aspects of our identity: our early heritage as shapers of European civilisation and our contemporary achievement as a modern state within it. Today as never before we are able to heal the distance between these opposite ends of our history. Once, we reached out to Europe to sustain its Christian flowering. We were part of that remarkable outward-bound adventure of Irish scholarship which Cardinal Tomás Ó Fiaich has told us of in his book *Gaelscrínte San Eoraip*. That extraordinary initiative as he describes it—lasting from the 6th to the 12th century—has left a shining mark on the continent to this day. I think we can note the fact that it was by their openness to Europe that our forebears enriched the Irishness of our tradition. And that they did so by performing—to quote Davitt again—"the great humanising service rendered to society by the Celtic people of Ireland in the childhood of European civilisation". I find it poignant and appropriate to quote these words in the parliament of a sovereign state, where our presences witness the existence of a contemporary democracy, and on an occasion which recalls the fact that we have come to a new context with our oldest values intact.

James Connolly formulated a central question for us. "Who are the Irish?" he asked. The question remains with us, challenging us to find new answers, which still retain what was best and most distinctive in our past. We have long known better than merely to look inward and to interpret ourselves in the framework of historical stresses. From the foundation of this state—from the League of Nations to the European Community and to our recent participation in the UN environment conference in Rio—we have been ready to play our part internationally. And I think this is the moment to stress that our presence in Europe itself is not simply a presence in the Community. It is also our involvement as a founder member of the Council of Europe, with its concern for social issues, for education and the environment, and its commitment—through the Court of Human Rights—to protection of individual rights, and its value as a framework which has a particular relevance to the countries of Central and Eastern Europe. In these roles we have shown what we can be at our best: a nation which has learned from history but is not limited by it.

The Irish legal system, for example, has responded well to the significance of Community law as an integrating force. Indeed we have a strength in our legal system that we should not underestimate. Alone among the twelve Member States we combine a common law tradition with a written Constitution. Given that Community law functions both at the European and national levels, the Irish legal system provides a legal bridge to other English speaking jurisdictions such as the United States, Canada and Australia.

Nevertheless the Europe which is unfolding will not be a place of tidy assumptions or quiet acceptances; and I think we should be prepared for that. It is a theatre of concerns where diversity will bring tensions, and where tensions can lead on to the enrichment of mutual understanding. These are not smooth issues: but since the answers will shape the new Europe, we should not shirk the questions. We are, for instance, a country which has held on principle to a policy of non-involvement in military alliances; yet we have a proper sense of responsibility to our partners. How do we balance these things? We need to debate this honestly, aware that the balance we strike and the approach we take can be both constructive and exemplary. Nor should we be afraid that our debate on this—or any other—issue will be interpreted as an un-European attitude; in fact the reverse. An open debate which takes as its fundamental point our history as a small country with a tradition of neutrality and an instinctive sympathy for the Third World, and which takes into account the changing context in Europe, our growing commitment to our partners and our distinguished record of service in UN peace-keeping, cannot but be valued and valuable.

Our honest reflection on this matter which is central to our concerns can be of importance not just to us but to those who might be applicants, potential applicants or those who are neighbours of the Community. We have to remember that this is not a static Community we are members of; it is also one we shape and define by our participation. The more of its particular values each country brings to it, the more it becomes a Community which can show its respect for differences of tradition; and the less likely it is to be a place where conformity takes precedence over conscience. We have deep concerns about peace-keeping and peace-making. Let us debate those concerns openly; and let us not assume the debate will be unwelcome.

But what of the additional anxiety that we run the risk of losing a treasured and hard-won cultural identity in the European monolith? Again, why not face this issue squarely? It is not negligible—this worry about whether the distinctive and individual—or even the eccentric and quirky—will survive in a powerful centre. Each one of us in Ireland understands what John Hewitt, the Northern poet, meant when he wrote: "This is our country also, nowhere else". Nevertheless I believe that the answer to these fears is around us in the everyday witness of where our nation has its deepest roots. If identity was rooted only in language, if it was rooted only in history, if it was defined purely by a version of events, then perhaps we might have cause for concern. And if the Irish experience were a matter of abstract belief we might have something to fear. But our identity is all these things with one addition. That addition is the Irish people and so our abstractions have a human dimension. Rooted in that source, I don't think we have anything to fear from the larger context. In fact the opposite.

I want to put this in the most practicable way possible. I think we have a special characteristic of life in this country which is both an outcome of history and remains a profound resource of life in Ireland. If I had to describe this characteristic I would say that we do not divide the purposes of our nation from the values of our community. And this is nowhere more evident than in the powerful continuum of voluntary effort which is so much part of the texture of Irish life. Indeed I can say from my own observation that it is a striking feature of day-to-day life in all parts of this island. Over the past year and a half I have witnessed the strength of this effort: in education, in health, in the care of the disabled and the elderly. I have been in towns where sports halls seem to have gone up overnight; magically. Where children have been taught skills and self-sufficiencies which reveal their natural independence. Where the unemployed train in centres which respect their individuality and worth. Where the terminally ill have found care and dignity in their last hours.

This voluntary commitment has one of its most moving dimensions in human care. But it goes well beyond it into the cherishing of the environment as well as the person. I have been astonished and delighted to see how the silences of our past are being reversed in town after town, day after day, in heritage centres, museums, libraries, local histories. Buildings are being restored, plant life is being recorded, historic events are being dramatised for schoolchildren. And all of this has implications not just for our past heritage, but for our most important heritage-in-the-making: our young people. It is in this area that we see an optimistic conjunction of different resources: of voluntary effort, of the input of state and semi-state agencies such as FÁS and Bord Fáilte and of European funding. I would also want to mention here the International Fund for Ireland which has become a sustaining presence in border areas. In these interdependences, as they come into play in projects which have enormous meaning for our regional and national life, we see an imaginative interaction of resources and human commitment.

It is usual to lay these voluntary efforts at the door of pragmatic necessity: to say that scarce resources make them essential. I believe this is an inadequate explanation. Having seen them, I am sure they come from something much deeper and more constant in our identity. I see them as bringing together within a single vision of action both strong community values and distinctively Irish ones. I also believe these efforts form an important element in the initiatives we can take in Europe. They are a factor in the balance between the centre and the margins, between the individual and the bureaucracy. I do not think it is any coincidence that Irish men and women hold key positions in vital European voluntary networks: the Transnational European Rural Network, the European Women's Lobby, the European

Council of Aids Service Organizations, the European Anti-Poverty Network, the European Network for the Unemployed and the variety of European networks representing those of all our populations with disabilities. These names are not abstractions; they are signs for compassion, generosity, and problem-solving. And the linkages these networks establish cannot but humanise bureaucracy and create dialogue rather than paperwork, consultation rather than anonymity.

These networks have a further implication. In the ratio of our size to our resources, the contribution of Irish voluntary organisations and individuals to developing countries has been outstanding. Working often in difficult conditions, under considerable stresses, Irish individuals, and the organisations they represent, have provided friendship and a voice for many defenceless people. I want to pay tribute to them today. The witness of love and compassion given by our priests and nuns, our doctors, nurses, teachers and other voluntary workers of all denominations, and by all those who commit their energies unselfishly to working for a more equal world, is something we can be proud of. At a practical level, their expertise provides a necessary lifeline of communication and understanding. Through their organisations, they already have a working relationship with other such agencies in Europe. Just as they have made us understand here in Ireland the needs of developing countries, now they continue that process in a wider context. The relation between a powerful community of nations and an afflicted and struggling part of our world can never be easy and will falter if such communicative skills and imaginative sympathies are missing.

I think it helps to realise that the influence of Europe works in both directions. The reality of modern Ireland is that there is, at this moment, a young and well-trained Irish work force in European capitals. They bring with them the visible distinctions bestowed on them by our educational system. But this is not all. They themselves are just part of a wider traffic of young people to and from the continent: students at primary and secondary level; at third level through the Erasmus scheme. They go there in the care of teachers who have a generous appreciation of what that traffic will mean for all our futures. Through them, through the new emphasis on languages, our students are now part of a Europe they can lay claim to as well as visit. Most importantly, they also bring with them something less visible: an imaginative feel for suffering and the quick sympathies which are the bright offerings of a dark history.

We also have a business community whose enterprise and improvisation has been crucial on the eve of the opening of the Single European Market. And how exciting that we are beginning to talk about an economic corridor between North and South, where promotions and industrial commitments can draw on common resources: where industry becomes part of understanding.

But in this matter, as in every other one to do with Europe, our attitude is vital. We need to realise we will not be subsumed by Europe; we will not be diminished by a wider theatre of action. Albert Camus was a great presence in post-war literature. Nevertheless his statement that "the opposite of a civilised people is a creative people" is not one I agree with. In the Europe of which he was an ornament I believe we will prove him wrong: we can be both civilised and creative.

And new friendships will never replace old ones. I realise how important it is, in the new setting, that we do not forget past loyalties and traditional enrichments. When James Joyce went to Europe, he set out on a historic paradox of exile and recall. He reclaimed his birthplace by leaving it. He went away with the purpose, so he wrote later, of creating "the uncreated conscience of my race". We stand at a distance from that time; but we can still be struck by that phrase. I had in mind all our exiles, all our emigrants—past and present—when I put the light in the window at Áras an Uachtaráin. I was not prepared for the power and meaning which a modest emblem would have. But we have reason to know in Ireland how powerful symbols are; that they carry the force of what they symbolise. Joyce's words remind us—that light reminds us—that the community of Irish interest and talent and memory extends far beyond our boundaries, far beyond Europe's boundaries.

The dreams and insights we foster on these shores, the images of landscape which enter people's hearts, and the friendships and family ties, are carried forever beyond them. Through this absent community, our national constituency and culture are present in wider ones. I put the light in the window to show that the dialogue between the absent and the present is one of remembrance at all times. This presence of the local in the spacious context; this strengthening of a sense of home by the fact of absence is itself an emblem for how strong our national experience is, how much it is cherished by those who take it with them. I know we can take that emblem with us to the new Europe, never forgetting in those surroundings how strong our bonds are with other countries, and other continents.

When we reflect on the constituent parts of the modern Ireland, I think we find ourselves at the heart of the European debate. Ireland is the first country to signify its willingness to ratify the movement towards European Union—whatever shape that may finally take. As a modern state, we have the democratic right to do so. But of course it can be argued that we are not only a modern state. As a people we reach back in time to hardships and dangers. At some mysterious point, time becomes history and a people becomes a nation. Few of us, however scholarly, would venture a guess as to when that happened. But I know that most of us would feel our Irish language was deeply and intimately involved in such a transformation. It remains today an index and register of our nationhood. Through its continuance we avoid the desolate spectacle of Maire MacEntee's eloquent lines:

Níl cuimhne féin ar a ainm
Fiú cerbha díobh ní feasach ann

His name is not even remembered
Nor is his kindred known there

I know there are fears that this Irish possession may be eroded in Europe. But this is the very moment when fear must not become fatalism. Why should the Irish language be threatened by Europe, when what we have, in fact, is an opportunity to take it with us as a precious and enduring frame of our self-perception. Providing, of course, that within this self-perception is also our sense of tolerance, our love for diversity, our cherishing of other traditions. Provided we always have in mind that no one is less Irish for not speaking it. And on the other hand, we can never presume to know who will speak it, or to whom it will be dear. From the poets of Slieve Luachra in Kerry in the 18th century to those like Edward Bunting in the North of Ireland in the 19th, the language has had powerful friends and unpredictable ones. Now we must look for those friends in this generation. After all, the new environmental movement has caught the imagination of young people everywhere. Their sense of the vulnerability of this planet has moved and persuaded us all. Now we need to persuade our young Irish people that a language also is a part of our environment, it is a living thing, subject to stresses and neglect, likely to be mourned if it becomes extinct and entitled—I believe—to the same excited sense of care and protection.

In this context—of the Irish language and Europe—it seems to me particularly appropriate to quote one of my predecessors, Douglas Hyde: "The Ireland of today" he said, "is the descendant of the Ireland of the 7th century, then the school of Europe and the torch of learning". It is our language which makes that link and proves that descent.

In my address at my inauguration as President you will recall that I said I had a cultural journey to undertake to appropriate the wonderful wealth of the Irish language. I said I also hoped others would follow me—those who, like myself, were somewhat out of practice in Irish—and that we would progress together to enjoy and take pleasure in our own beautiful language. I did set out on that journey and many people have since told me that this example had encouraged them to follow me; and they in turn have encouraged me further. We are progressing together, helping one another and inviting others to join us on this cultural journey as befits Irish people.

But there is more than fidelity to our Irish heritage involved when we give this example—there is fidelity to our European heritage as well. The cultural wealth of each individual community is part of the heritage of the Community of Communities and the wealth of the Community of Communities is part of the wealth of each individual community. It is vitally important that the individuality and distinctiveness of each region of the Community should be defended and sustained.

We bring with us also our wealth of expression in the English language. I find it poignant that in a private letter Maria Edgeworth once lamented the bitterness of Irish life. "It is impossible to draw Ireland as she now is in a book of fiction" she wrote, "realities are too strong and party passions too violent". And like so many other citizens of this country, I am grateful that this did not deter our writers in the end. In novels, short stories, poems and plays, they have added immeasurably to the self-realisation of the Irish people. It is to them, to their obstinate sense of their art, that we owe a wider concept of Irishness. They persuaded us, through the beauty and force of their expression—often controversially received—that nationality is something which admits of the rebellious affections of a James Joyce, of the dual-language lyricism of Samuel Beckett, and the anarchic intelligence of a Myles na Gopaleen. That it encompasses the subversions of our artists as well as the steadfastness of our patriots. Our writers have truly—as Patrick Kavanagh said—lived in important times. And their self-questioning is something which lives with us as a challenge and a bequest. "For all my searching back" says Kate O'Brien of her portrait of her relatives, "and for all my will to reach them, I have not found the heart of any one of them".

In fact it is our writers, our artists, our composers and our craftsmen and women who have been at the heart of the Irish identity—often before any of the rest of us. Even as I speak, a new generation is continuing to do this in a new golden age for all kinds of Irish creativity which I have referred to with pride on my visits abroad. Because of them we bring to Europe the important argument that a community and a nation need not be a smooth or acceptable continuum. It can also be an assembly of valuable and shifting tensions.

But no act of cultural possession or self-possession precludes change. Our receptiveness to change is a mark of our confidence as a modern state. There are changes all around us today which are an enrichment of our national life and which are going to serve us well as we take them into the fast-changing European environment. There has been, for instance, a radical change in the role and status of women. Because of legislative and economic advances women now play a greater part in the structures which sustain the community. I have observed, and stated on other occasions, that as they take more of a part in our national life they are actually changing the institutions and occasions they participate in. They bring to their various commitments—and they are a great part of the voluntary effort I spoke of—an exemplary relation between the individual and the group. They are often open, consultative and progressive in institutions which especially benefit by such attitudes.

In all this talk of a new circumstance and a challenging future it would be quite wrong to minimise the fact that there are tensions and sorrows in this country even as I speak. They come from oppositions and traditional sources of misunderstanding. They also come from the profound inhumanity of protracted violence. I know the violence in Northern Ireland grieves every one of you as elected representatives, just as it grieves me. I know I speak for you in assuring the people of Northern Ireland, of all traditions, of our deep commitment to dialogue and to friendship. It gives me a chance to say how deeply I appreciate the welcome I received when I went there. It also allows me to say that of all the occasions of my Presidency I do not think any has moved me more than the visits I made to Northern Ireland and the visits made in turn to me by community groups—by young people, by women, by business people, by representatives of rural and urban concerns from Northern Ireland.

I said at my inauguration that I wanted Áras an Uachtaráin to be a place of storytelling. And I assure you that it was never more so than on these occasions. These different groups, with all their diverse interests and areas of expertise and their deep cross-community respect for one another, brought their stories to one another, not just to me. I found that open-mindedness both moving and challenging.

I want to finish by saying how grateful I am for the opportunity you have given me today to reflect on our Irish identity at an important moment. It has been a privilege to do so in the presence of elected representatives and in this place which symbolises so much of what we have achieved. Having said that, I am deeply aware that I have given you just one perspective, just one individual witness on a complex and vital subject. I also know how much this whole reflective process will benefit from the expert views and observations, the insight and concrete evidence you in this Oireachtas will bring to bear on it.

The generation which founded this State could not have foreseen this occasion; and yet by their courage they helped to guarantee it. I know we have them in mind today—these forebears of the modern Irish state and all those others who by their efforts and dedication brought it about. I believe if they could see us—a sovereign democratic state reflecting on our place in a community of European nations—they would be satisfied. It is right, by way of honouring their memory, that we remember James Connolly's question today. Who we are as Irish people is about to be challenged and confirmed by new circumstances. I believe we are ready. Nevertheless it seems important that we continue to reflect on that challenge with a sense of what we bring to Europe, rather than what we lose by being part of it. That we assert our future in terms of the best values of our past. That we do not take a passive view of our role in Europe. Today, we answer that question about our Irish identity much more confidently because of those in the past who asked it. And I believe that future generations on this island have an equivalent right.

TO IMPROVE NEW MEXICO'S SOUTHWEST VALLEY INFRASTRUCTURE

Mr. BINGAMAN. Mr. President, I'm dismayed that the fiscal year 1993 VA/HUD/independent agencies appropriations bill does not include funding to correct the severe water and wastewater infrastructure deficiencies in the valley southwest of Albuquerque. This area extends about 5 miles along the west side of the Rio Grande, and includes the unincorporated communities of Bernalillo County. Over the last 20 years, population in the Southwest Valley has increased sharply, straining the natural resources and diminishing its water quality. The city of Albuquerque and Bernalillo County desperately need a Federal contribution to complete the design of water and wastewater systems for the Southwest Valley. The lack of acceptable water and wastewater systems there poses a serious health threat. I find it unconscionable that as this country approaches the 21st century, there are still Americans living with 19th century plumbing facilities. I plan to pursue this issue when the bill reaches the floor. Thank you, Mr. President.

TRIBUTE TO JUDGE WILLIAM S. SESSIONS

Mr. THURMOND. Mr. President, I rise today to pay tribute to a man who is well-known and respected here in the Senate and in America's law enforcement community—Judge William S. Sessions, Director of the Federal Bureau of Investigation.

Mr. President, we are all aware of the importance that accurate, reliable, and accessible information plays in fighting crime and taking criminals off of our streets. Without such information, American law enforcement officials would be greatly hindered in their efforts to make America safe. Judge Sessions has been a major force for improvement in America's crime information network, and he was recently recognized for his valuable work by Search, the National Consortium for Justice Information and Statistics.

Each year, Search—which is committed to identifying and solving criminal justice information policy and technology problems—honors an individual who has made a substantive contribution to improving the state of criminal justice information in our Nation with the prestigious "O.J. Hawkins Award." Judge Sessions, this year's recipient, is an outstanding choice.

Throughout its long history, the FBI has been a storehouse of information on criminals, as well as a place where non-Federal agencies can turn for help on many different matters. Over the years, countless State and local cases have been solved, thanks to assistance from the FBI, especially in the area of criminal justice information.

This ability to provide information has been strongly enhanced, thanks to Director Sessions' leadership. With his hands-on guidance, the FBI has done much to improve the already excellent information services it offers. During Judge Sessions' tenure, the Bureau has worked to increase local and State access to their data; revitalized the National Crime Information Center; dramatically improved the capability and response times of the integrated automated fingerprint identification system, and supported the interstate identification index. In addition, it has promoted DNA technology in crime fighting.

What all of this means to our Nation is that the partnership between the FBI and State and local agencies has become even stronger. Thanks to the work of Judge Sessions and other law enforcement leaders, crime fighters across America have better, more effective tools to use in their war against crime.

Mr. President, I join Search in saluting Director Sessions for his leadership and contributions to improving criminal justice information. He is a man of integrity, ability, and dedication, and his vision as Director of the FBI makes him truly deserving of this recognition.

IRVING J. SELIKOFF TRIBUTE

Mr. LAUTENBERG. Mr. President, I rise today in memory of a dear friend of mine, Prof. Irving J. Selikoff. Irving's uncompromised dedication to medical research and education in disease caused by hazardous materials paved the way for new standards of occupational safety. He was an extremely committed individual and I have learned a great deal about life, ethics, and public policy from him.

Dr. Selikoff's commitment to making the world a better place to live has been an inspiration to me and has further spurred my efforts to improve the public health. Mr. President, Dr. Irving Selikoff passed away on May 20, 1992, but he left us a legacy of medical knowledge that will continue to change the way people across the Nation live for many years to come. He will be missed.

Mr. President, on August 3, 1992, the industrial union department of the AFL-CIO adopted a resolution in memory of Dr. Selikoff. I want to share these words with my colleagues and I ask unanimous consent that it be included in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION IN MEMORY OF DR. IRVING J. SELIKOFF, JANUARY 15, 1915–MAY 20, 1992

Dr. Selikoff was a legend among workers. No other physician had as close a relationship with so many working people. He saw himself as a public servant, proud of working for a city medical school and being paid by the people.

He was first recognized as a scientist while serving in a public tuberculosis hospital, where he conducted the clinical trials for Isoniazid. This drug brought the "white plague", then the most serious disease in the workplace, under control. He started a clinic in Paterson, New Jersey, a community of textile workers. There, in response to disease among his own patients, all union members, he linked lung scarring and cancer to working with asbestos.

When he understood the importance of this finding, he left his clinic and established at Mt. Sinai School of Medicine a program designed to end the asbestos scourge with tools of science and medicine placed in the hands of unions. Soon his work on asbestos and many other workplace pollutants impacted every affiliate of the Industrial Union Department.

Dr. Selikoff studied and counseled workers and their families in Baltimore, Charleston, Lansing, Duluth, Midland, Norfolk, Nitro, Port Allegheny, New York's Chinatown, the Rocky Mountains and the mountains of Vermont, Canada's Mohawk reservation and hundreds of other places. He became known as a great scientist, but he never stopped being a doctor who worked tirelessly every day of the week, examining chartered plane loads of workers on Sunday and bringing clinics to wherever workers gathered, whether in the union hall at night or the convention on Saturday.

He knew that doctors need to understand the workplace and the labor movement. He required all his students to work in or with the Industrial Union Department. He gave us a network of physicians and scientists who continue to help us, whether in the clinic or before the Congress.

He knew that labor and science function internationally. He gave us a community of university allies in thirty countries under the aegis of Collegium Ramazzini and its Institute for Occupational and Environmental Health Research.

He knew that we seldom could achieve zero exposure to most toxic substances in the workplace. He helped us create the Workplace Health Fund to assist workers at risk, become partners in cancer treatment research and develop special programs of education.

Dr. Selikoff gave us an agenda for the future, and a Center at Mt. Sinai, the Selikoff Fund of the Workplace Health Fund, and the Ramazzini Institute for Occupational and Environmental Health Research to carry out the agenda. It is up to those of us who benefitted from his life work to continue to support the institutions he created.

SAFE DRINKING WATER ACT MORATORIUM

Mr. PRESSLER. Mr. President, today I rise in support of S. 2900, a bill to provide relief to States and municipalities across the country faced with the soaring costs of complying with Federal drinking water regulations. This bill would place a moratorium on the promulgation and implementation of any new regulations under the Safe Drinking Water Act—the act—until the Environmental Protection Agency [EPA] conducts a thorough, 12-month review of the costs, benefits, and regulatory alternatives to current Federal rules.

The ultimate goal of this bill is to require Congress, the Environmental Protection Agency, States, and municipalities to reconsider the act, before it is reauthorized. Mr. President, I strongly support the moratorium contained in S. 2900. The goals of the act are actually being undermined by the newest drinking water regulations, because Federal, State, and local funding is woefully inadequate to implement them.

I share the concerns of my colleagues and constituents regarding the safety of our Nation's drinking water supply. Mr. President, the World Health Organization regards U.S. drinking water as among the best protected in the world. I fully appreciate the central role played by the Safe Drinking Water Act among the laws protecting this vital national resource. I also am committed to improving the quality of America's drinking water supply, and to establishing more comprehensive safeguards against contamination in the future. The fact is, however, we do not currently face a crisis in our Nation's drinking water supply. We, therefore, have both the time and the obligation to review any unsatisfactory aspects of the act and regulatory program.

During the period of review sought by this bill, continued drinking water safety would be assured by the regulations already in place, and by section 1(d) of the legislation. Section 1(d) requires the Administrator of the EPA, in consultation with the States, to proceed with the regulation of any contaminant during the moratorium if necessary to protect human health. Because of the importance of this provision, I referred the bill to the South Dakota Department of Environment and Natural Resources for its appraisal. The Department came out strongly in favor of the bill and had this to say of the provision found in section 1(d), "We particularly support giving the Administrator the flexibility to carry out any of these rules which he believes require immediate implementation because of the threat to human health." Mr. President, I ask unanimous consent this letter be printed in the RECORD following my remarks.

The trouble with the act stems almost entirely from amendments passed in 1986 and 1988. These amendments accelerated the pace of regulation, giving the EPA specific deadlines to issue drinking water rules for 83 contaminants. Thereafter, the EPA was charged with regulating an additional 25 contaminants every 3 years. Since 1986, the EPA has implemented regulations controlling 35 contaminants. That number is to reach 62 by the end of this year. This number will increase to 83 by November 1993, and reach 111 by 1997.

The cost of monitoring contaminants under the act has escalated sharply with this sudden increase in regulated contaminants. Unfortunately, it seems the regulatory program devised by the EPA has significantly aggravated these costs. For instance, currently public water systems may be burdened with testing for contaminants that do not even exist in their water systems. Also, some contaminants are listed for mandatory testing before the EPA Administrator has determined whether they actually cause a significant adverse effect on human health.

Furthermore, current standards often incorporate enormously large safety factors, resulting in unnecessarily and occasionally prohibitively expensive compliance costs. The South Dakota Department of Environment and Natural Resources rightly insists it is time to determine what constitutes an acceptable and affordable level of health risk in our Drinking Water Program.

The EPA estimates that compliance with the stringent new treatment, monitoring, and reporting requirements of the most recent regulations could cost Americans $2.5 billion annually. Capital exenditures to meet these standards could total another $10 billion. Hardest hit in all of this will be the smaller, rural systems that have had the most difficulty historically meeting Federal drinking water requirements.

The EPA estimates 45,000 of the 60,000 systems serving fewer than 10,000 people in the United States will have to improve facilities and equipment to meet the new drinking water requirements. These systems will account for approximately $6 billion of the estimated $10 billion in capital expenditures. The 1986 amendments, however, provided a mere $10 million a year for 5 years in EPA technical assistance to these smaller systems. Current funding has fallen below even this figure.

According to a Government Accounting Office report on the costs of implementing Safe Drinking Water Act regulations, the EPA now recognizes its estimates, which I have just outlined, are low. First, it had assumed all water systems affected by the new regulations comply with current regulations and do not, therefore, face additional compliance expenditures. Second, the EPA's estimates do not include costs for replacing lead pipes and other plumbing fixtures that inevitably will be required under the lead and copper corrosion rule. Finally, the EPA's estimates do not include the costs for regulating all of the 83 contaminants, the costs for disinfecting surface water and ground water supplies, or the costs of controlling disinfection byproducts.

How high will the real costs of implementing the 1986 amendments to the act climb? It is impossible to say, but a recent study published by the American Water Works Association estimates the compliance costs for the proposed radon rule alone likely will exceed the $2.5 billion annual figure the EPA has estimated for its entire regulatory program.

The EPA estimates that the startup costs to States for administering the new requirements will be $185 million. This is in addition to the $129 million it would currently cost on a yearly basis to fully implement existing drinking water requirements. Since current Federal grants to States total only $32 million annually and States currently spend $63 million per year on their drinking water programs, a 1992 funding gap of $34 million—in addition to the $185 million startup costs—exists for 1992 alone.

Under the new regulations, annual State costs will climb to $152 million after 1992, yet requested Federal funding for State programs for fiscal year 1993 has only reached $59 million. This means the annual deficit will rise to $62 million beginning in 1993. Where do we expect States to find this money? User fee increases will not even cover increased monitoring costs for many systems. Are we forcing States to raise taxes? Do we intend this? Or should we establish a small community revolving loan program under the act? I agree with the South Dakota Department of Environment and Natural Resources which envisions such a program modeled on the successful State Revolving Fund for waste waster. Clearly, we must make funding a top priority in the reauthorization review sought by S. 2900.

Let me share with you some information on the financial impact these regulations will have on water systems serving fewer than 500 people in my home State of South Dakota. The monitoring costs for each of these small systems could approach $6,000 annually, according to the South Dakota Department of Environment and Natural Resources. This figure compares to current annual costs of $500 or less. Such an increase is substantial for many smaller municipalities, and quite beyond the means of small housing developments and trailer parks. Let us not forget we now require compliance from all water systems, public or private, which serve as few as 25 people or 15 homes.

The capital costs for obtaining treatment equipment in South Dakota is expected to be higher still. While only a small percentage of South Dakota water systems are believed to be in violation of current drinking water standards, it is uncertain how many will be in violation of the latest drinking water regulations, scheduled to be implemented by the end of this year. The potential costs of these standards are demonstrated by the treatment costs for South Dakota associated with one listed contaminant—sulfate. The South Dakota Department of Environment and Natural Resources estimates the capital costs for implementing the proposed regulations for sulfate will total $40–$50 million. On top of these startup expenses, operation and maintenance costs for the requisite treatment equipment will be extremely high. Thankfully, the EPA has deferred implementation of sulfate regulations, but the case illustrates the potential for capital costs under the new regulations.

Mr. President, I want to make it clear that S. 2900 does not seek simply to postpone the inevitable expense of implementing necessary safe drinking water regulations. Rather, this measure is intended to awaken Congress to the fiscal implications of its 1986 amendments to the Safe Drinking Water Act. Let me repeat, the heavy financial burden placed upon the States and communities of this country is threatening the very health goals which the amendments were enacted to achieve. The EPA already has expressed concern over the increased incentive communities have to falsify compliance data in seeking to avoid large expenditures under the act. The EPA also is concerned that overwhelming program costs may reduce significantly the effectiveness of State enforcement efforts, laboratory capabilities, and water system inspections and sanitary surveys. Another potential problem, according to the EPA, is that some States may be forced to return primacy for administering and enforcing the drinking water program to the EPA, which can ill afford to take over this additional role at the moment.

Mr. President, the bill which I today commend to my colleagues provides for the continued safety of the Nation's drinking water supply. It also provides a vital opportunity for Congress, the Environmental Protection Agency, and the States and municipalities of this country to reassess the legislative and regulatory basis of the Safe Drinking Water Act, before we embark on the greatly increased spending required by the most recent rules.

Today we stand at a crossroads in the implementation of the Safe Drinking Water Act. At the end of this year, the recently adopted phase II, phase V and the lead/copper rules are scheduled to take effect, subjecting States and water systems around the country to the large financial obligations which I have described. Mr. President, I agree with the distinguished author of this legislation that it is time for Congress to acknowledge that our drinking water laws need to be reviewed. It is possible we were wrong when we passed these amendments in 1986.

Over the past year I have received constituent letters expressing apprehension over impending regulations under the act. The South Dakota Department of Environment and Natural Resources and the South Dakota Municipal League also have expressed concerns with the implementation of the Safe Drinking Water Act amendments. These are the organizations charged with ensuring drinking water quality. They have the expertise in protecting our water supply and we should listen to what they have to say. These two groups strongly support S. 2900. I refer my colleagues to the letter from the South Dakota Department of Environment and Natural Resources which I included in the RECORD earlier, and I ask unanimous consent that the following letter from the South Dakota Municipal League also be included in the RECORD. Let me quote from this letter. The Municipal League states, "The moratorium on the promulgation and implementation of drinking water regulations until the Environmental Protection Agency conducts a number of studies is just what we need. This is a near perfect response to our concerns."

Mr. President, until now, State drinking water programs have generally been able to meet the cost of Safe Drinking Water Act rules adopted since 1986. The recent adoption of phase II, phase V, and the lead/copper rules, however, will seriously jeopardize the ability of States and municipalities to meet the requirements of the act. In preparation for these new rules the legislature in my home State has adopted a water user fee system which went into effect on the first of July, but it is clear the revenue generated by this measure will not meet the costs of the new drinking water regulations in South Dakota. State and municipal officials estimate that South Dakota will need $73 million over the next 10 years to cover its portion of anticipated South Dakota water projects. A significant portion of this money is required by the safe drinking water amendments.

Mr. President, the number of water systems falling under the jurisdiction of the act has grown more than fivefold since the original law was passed—from 40,000 in 1974 to 217,000 today. In the process, even tiny communities have become subject to its enormous compliance costs. It is these communities about which I am especially concerned. Roughly 93 percent of the violations of existing drinking water regulations occur in small water systems. This provides an excellent rationale for placing these small communities under regulation, but it also reveals the need to modify the law and regulations to take account of their extremely limited means.

Mr. President, the current regulatory and funding structure of the Safe Drinking Water Act places a disproportionate and dangerously large burden on States and smaller communities which typically lack adequate financial and technical resources to devote to water treatment and monitoring. Let me echo the concern of the South Dakota Department of Environment and Natural Resources in saying that it is time to give both public water systems and State drinking water programs a breather. A moratorium on new rules under the Safe Drinking Water Act is needed.

Congress passed a law to protect our drinking water, but has not provided the necessary funding. As a result, the goal of increased public health safety is being endangered. Local resources are stretched to the point of questionable effectiveness and small communities face unrealistic expenditure requirements.

Mr. President, I cannot answer all of the questions we are faced with under the Safe Drinking Water Act. I only know that the implementation of the act has become a major burden to the States and localities of this country, and that this is a problem Congress can no longer afford to ignore. At stake is the safety of our drinking water supply. It is only proper, therefore, that we should undertake the reconsideration of the safe drinking water law to which S. 2900 commits us.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES,
Pierre, SD, July 1, 1992.

MS. LINDA BENNING,
Legislative Assistant, Office of Senator Larry Pressler, Washington, DC.

DEAR LINDA: You asked for our reaction to S. B. 2900 which would establish a moratorium on further drinking water rules until the Safe Drinking Water Act was reauthorized.

The Western Governor's Association at its June meeting called on the Congress and EPA to "address the need to make the program affordable for small supply systems and to the households which in the end must pay for the solution to the problems."

The WGA also called upon Congress to provide adequate funding to the states for SDWA implementation, to provide flexibility to states in adoption of these requirements, to reevaluate the mandate that EPA promulgate regulations for 25 new contaminants every three years, and to "direct EPA to determine the cost of implementation of the SDWA in a comprehensive manner . . . which special attention paid to impacts on small community water systems."

Additionally, the Governors' Forum on Environmental Management in its "Statement and Recommendations Concerning the Federal Safe Drinking Water Act" recommended that "Until the Safe Drinking Water Act is re-authorized, Congress should take appropriate action to ensure that States and localities are not required to implement new regulatory requirements unless they address significant risks and the resources are provided to help implement them. . . . Congress should re-authorize the Safe Drinking Water Act as soon as feasible and eliminable the current provisions that require specified numbers of contaminants be regulated without regard to the risk they represent. The Forum recommends this be done by enacting substitute provisions that would focus Federal and State resources on the most significant remaining risks."

Finally, the South Dakota Rural Development Council recently approved the following wording:

"Congress should consider, and EPA should support, a moratorium on any new rules, starting immediately, until the SDWA is amended."

The Department of Environment and Natural Resources supports a moratorium in the implementation of further rules under the SDWA until the act is reauthorized. The cumulative impact of environmental regulation on small towns and rural America is a serious burden. These particular rules will impact on every water system in the state on testing capability in the state.

In the last legislative session, South Dakota laid the groundwork for implementation of these rules by adopting a fee system which goes into effect July 1, 1992, for additional staff to implement the program. However, we have no wish to carry out unnecessary regulations simply because we have prepared for them.

Requiring the Administrator, Environmental Protection Agency, to determine whether these contaminants actually can cause a significant adverse effect on human health would seem to be a good step to take before including them on the list for mandatory testing. We support consideration of the funding needs of states and political subdivisions of states to meet these requirements.

We particularly support giving the Administrator the flexibility to carry out any of these rules which he believes require immediate implementation because of the threat to human health. And we welcome the requirement that the Administrator take this action "in consultation with the States."

I trust this information is helpful.

Sincerely,

ROBERT E. ROBERTS,
Secretary.

PIERRE, SD, *July 1, 1992.*

Senator LARRY PRESSLER,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR PRESSLER: Thank you for providing me the opportunity to review S 2900. The moratorium on the promulgation and implementation of drinking water regulations until EPA conducts a number of studies is just what we need. This is a near perfect response to our concerns. The Safe Drinking Water Act reauthorization was going to place a tremendous financial burden on our municipalities.

In reviewing S 2900, I found one section that I think needs some improvement. Subsection (d) Issuance of Regulations is unclear. What is "in consultation with the States?" I believe we need to spell out just what the State's role is.

Senator, this bill is a big leap forward and I want to thank you for taking such an active role in this issue. The municipalities of South Dakota are most grateful.

Respectfully,

ROBERT H. MILLER,
Executive Director.

NEW MEXICO'S OLYMPIANS IN BARCELONA

Mr. DOMENICI. Mr. President, during the past week and a half we have witnessed some remarkable events in Barcelona at the site of the 25th summer Olympics. We have cheered on our Olympic athletes as they ran, swam, jumped, and rowed their way through their respective events. Our hearts leapt as we have shared their joy and elation in victory; we have been equally as touched by their anguish in defeat.

Through it all, our athletes have competed with honor and dignity. Regardless of how many medals our athletes may bring back to the United States, I think all Americans can be very proud of all the members of the U.S. Olympic team. They are a credit to us all, and I salute them.

Mr. President, there are more than 600 athletes on the roster of the U.S. Olympic team. I admire them all, but I would like to take a moment to recognize the seven New Mexicans who are members of the team. These disciplined seven represented both the United States and the State of New Mexico with extraordinary talent, and I am very proud of each and every one of them.

I think after Sunday evening, most of America is now familiar with one of New Mexico's athletes, Trent Dimas of Albuquerque. We were thrilled by Trent's dazzling performance on the high bar in the men's gymnastics competition, which earned him a well deserved gold medal. Some people have called him Dimas Trent, but it is Trent Dimas.

The 21-year-old gymnast won the only medal for the men's gymnastics team with a breathtaking routine that included three releases above the bar and a twisting backflip dismount. It was an exciting routine to watch. I think most of us thought Trent's routine deserved to score a perfect 10.

Trent said that it was a moment he will never forget. "My routine seems almost like a dream now," he said afterwards, "but getting the medal is clear and sharp." Frankly, I know that both the routine and the medal are clear and sharp to those of us who had the thrill of watching Trent compete. All the hard work and sacrifices of Trent and his family have definitely paid off, and I congratulate Trent for a job well done. It was an exciting moment for Trent and for the United States.

Another New Mexican has been equally as impressive in the swimming competitions. With his performance in the 400-meter freestyle relay, Tom Jager, of Tijeras NM, was one of the United States' first gold medal winners in Spain.

With his typical speed and grace in the water, Tom and his teammates in the freestyle relay—Matt Biondi, Joe Hudepohl, and Jon Olsen—swam to Olympic gold with a time of 3 minutes, 16.74 seconds. This time is 21-hundredths of a second off the world record the United States set at the 1988 Olympics in Seoul. Tom was a member of that record-setting, medal-winning team as well.

I think it is remarkable to note that Tom is one of only two American swimmers to win gold medals in three Olympics. Tom won his first Olympic medal in 1984, where he competed in the 400-meter freestyle team event and the 400 medley relay. Tom shone again in the 1988 Olympics, where he served as team captain for the U.S. swim team. In Seoul, Tom won gold medals in the 400-meter freestyle relay and 400 medley relay. He also won a silver medal in the 50-meter freestyle—an event in which he is the current world record holder.

Tom competes with intensity, dignity, and with a certain flair that has made him one of our finest swimmers. He has set the highest standard of competition. It is always a pleasure to watch Tom in the water, and this Olympics proved to be no exception.

While New Mexico has never been known for its abundance of water, we had another athlete who also competed in a water sport, and finished very, very well. Teo Bielefeld, from Santa Fe, is a member of the U.S. rowing team that rowed for an outstanding run in the four with coxswain on Saturday afternoon.

Teo, who rows sweep for the team, and his teammates finished fourth in the competition with an outstanding time of 6:06:03, missing a bronze medal by a scant 3 seconds. The race was considered to be quite fast this year, and the competition was furious.

I think it is worth noting that Teo has been rowing for less than 10 years, and this is his first Olympic competition. His successes in national and international competition read like those of a seasoned veteran. He won a gold medal at the 1991 Head-of-the-Charles regatta, and was a member of the national championship crew in eight in 1990.

He can now add his performance in the Olympics to that impressive list. I think the team's performance was exemplary, and Teo and his teammates can be very pleased with the race they rowed.

While we are short on water, New Mexico is long on clean air and wide-open horizons—conditions that beckon to any runner. It is therefore no surprise that we have several New Mexicans competing in track events. Shelly Steely and Aaron Ramirez both hail from Albuquerque, and also happen to be one of the few married couples competing in Barcelona.

Aaron ran a strong race but fell short of qualifying for the 10,000-meter competition—an event in which the United States has not been considered a dominant force. Nevertheless, Aaron showed typical Olympic caliber perseverance, and I hope he will continue to run so we can watch him again in Atlanta in 1996.

Believe me, there is good reason to look for Aaron in 1996—he was ranked second in the United States in both the 5,000 and 10,000 meters for 1991, and finished in the top 10 in the 1991 Grand Prix final. While I share his disappointment that he did not qualify in his event, I also share his faith in his own ability. Whether he chooses to run again in 1996, I admire what he has accomplished in his first Olympic competition.

Shelly Steely is also competing in her first Olympics, and can now add her Olympic experience to her other impressive national and international victories. Shelly finished seventh in the 3,000 meter competition, giving the United States two spots in the top 10 for the race—a very good finish, and one in which Shelly can take considerable pride.

Shelly is another athlete I look forward to watching as she continues to compete. She won the 1991 U.S. Outdoor Championships in the 3,000 meter, and finished the year ranked third in the U.S. in the 3,000 and first in the 5,000. She is a true competitor, and I commend her and her performance in the Olympics.

The United States was also well represented by a New Mexican in the field events. Carla Garrett of Albuquerque, competing in her first Olympics, finished 22d in the women's discus throwing competition. Carla is ranked third in the event in the United States, winning her event in the U.S. Olympic festival and finishing fourth at the U.S. Outdoor Championships.

I think it is interesting to note that Carla is also an accomplished weightlifter as well. She won three silver medals at the 1991 World Weightlifting Championships, and is currently the U.S. champion. In fact, Carla qualified for the 1992 world championships, but chose to give up her spot on the team to concentrate on discus throwing.

Carla was a fierce competitor in this strenuous and difficult event. The strength and balance required to successfully throw a discus make it a particularly challenging competition. Regardless of the outcome of the event, Carla should be proud of her performance.

The last—but by no means least—New Mexican on the Olympic team is Lance Ringnald, a gymnast from Albuquerque. Lance was the alternate for the men's gymnastics team, but his leadership is a definite asset to any team. Lance was also a member of the 1988 Olympic team that finished 11th in Seoul, where Lance also finished 35th in the individual all-around.

Lance has long been a dominant force in gymnastics, winning the high bar, second on the parallel bars, vault, and ring, second place team, and third in all-around at the Olympic Cup. He also won the all-around, along with Olympian Kim Zmeskal, at the 1990 McDonald's International Mixed Pairs. At the 1991 U.S. Championships, he won the high bar, third on the floor exercise and vault, fourth on the parallel bars, and fifth all-around. Lance has won more than 40 medals in international competition since 1985.

We are very proud of Lance in New Mexico, and we have been pleased to see him represent the United States in two Olympic competitions. He is an athlete of remarkable talent and dignity, and all these awards and accomplishments could not have happened to a nicer young man.

Mr. President, let me again reiterate how proud we all are of our athletes competing in Barcelona. The color of the medal—or even the winning of a medal—is not what is important in the Olympics; it is an honor in itself to compete and to represent one's native country. The United States is represented honorably by more than 600 men and women of every race, creed, color, and religion. Their goal is the same—to compete to the best of their ability, and to enjoy the spirit of competition. That is the spirit of the Olympics.

I commend Teo Bielefeld, Trent Dimas, Carla Garrett, Tom Jager, Aaron Ramirez, Lance Ringnald, and Shelly Steely for their exemplary performances. Their feats have truly been Olympian, and we are very proud of them.

LAB INDUSTRY PARTNERSHIP PROGRAMS

Mr. LIEBERMAN. Mr. President, I want to commend the fine work by the chairman, the distinguished Senator from Louisiana, and his ranking minority member on the Energy and Water Development Subcommittee of the Appropriation Committee. They have once again done an excellent job in putting together a very important appropriations bill, at a time of great fiscal constraint.

As a member of the group of Senators that put together a national economic leadership strategy at the beginning of July, I am particularly pleased by the increase in funding for the LAB industry partnership programs, which received an increase in funding of some $89 million—from $50 to $141 million.

I am also appreciative of the increase in funding for the environmental technology R&D program, from $50 million last year to $330 million this year. Both of these programs were part of the economic leadership strategy and reflect the commitment by the committee to keep America competitive in new high tech industries.

Mr. President, the new international competition will be over who gets the high wage jobs, which will create economic growth for our Nation. Unfortunately, America is falling behind and losing many of the good jobs to our competitors. By funding programs like the LAB industry partnerships and the environmental technology programs, we are helping to ensure that we will be able to compete in an increasingly competitive international market.

We are a great Nation of great potential, and for the last few years, we have not realized that potential. The culture of "now-nowism," to quote OMB Director Richard Darman, put America behind in the economic competition race. The bottom line in the eighties was the fast buck. And this bottom line eclipsed what should have been a concern about improving the assembly line and America's manufacturing base.

If we do not successfully change that philosophy, we will not compete. Our standard of living and our economic stature will continue to decline. It is clear to me that the chairman of the subcommittee and his ranking member have understood and accepted this challenge. Their funding of the programs I mentioned are a testimony to that commitment.

WYOMING'S MUSICAL AMBASSADORS

Mr. SIMPSON. Mr. President, for over 30 years Wyoming's musical ambassadors, the Troopers Junior Drum and Bugle Corps, have captivated audiences from coast to coast with their thrilling musical talent, precision marching and stunning color guard.

This world-renowned nonprofit organization from the Cowboy State is made up of 120 of the Nation's top high school and college age musicians. Thousands of hours are spent perfecting their performance, and when summer arrives the Troopers tour the United States, attending various competitions with other drum and bugle corps.

I, along with my colleagues Senator Malcolm Wallop and Representative Craig Thomas, were truly honored to see this fine group of young people perform Friday, July 31, 1992, on the grounds of the U.S. Capitol. Their inspirational musical review was—as always—impressive and deeply moving.

Following their performance in Washington, DC, the Troopers were once again on the road headed for Allentown, PA, for a competition, and then to Boston and then to Indiana and Wisconsin. It is truly a hectic schedule, and a tremendous personal commitment and sacrifice of time by these outstanding young men and women.

Mr. President, it is always a pleasure to see young people at their best. Our Nation's youth are the future of our country. My home State of Wyoming has always been proud of this very special organization and its unselfish and talented managers and performers. I do not doubt that my colleagues would join me in honoring them for the dedication and drive that makes them the fine musicians, fine people and fine Americans that they are. The Troopers are indeed a shining example of what America's youth has to offer to us and our Nation's future. I salute them.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1993

The PRESIDING OFFICER. The Senate will now proceed to the immediate consideration of H.R. 5518, which the clerk will now report.

The bill clerk read as follows:

A bill (H.R. 5518) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 5518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

Immediate Office of the Secretary

For necessary expenses of the Immediate Office of the Secretary, $1,435,000.

Immediate Office of the Deputy Secretary

For necessary expenses of the Immediate Office of the Deputy Secretary, **[**$427,000**]** *$550,000.*

Office of the General Counsel

For necessary expenses of the Office of the General Counsel, **[**$7,140,000**]** *$7,240,000.*

Office of the Assistant Secretary for Policy and International Affairs

For necessary expenses of the Office of the Assistant Secretary for Policy and International Affairs, **[**$9,080,000**]** *$9,100,000.*

Office of the Assistant Secretary for Budget and Programs

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, **[**$2,921,000**]** *$2,840,000,* including not to exceed $40,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine.

Office of the Assistant Secretary for Governmental Affairs

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, **[**$2,340,000**]** *$2,420,000.*

Office of the Assistant Secretary for Administration

For necessary expenses of the Office of the Assistant Secretary for Administration, **[**$31,268,000**]** *$33,000,000,* of which **[**$3,668,000**]** *$4,613,000* shall remain available until expended.

Office of the Assistant Secretary for Public Affairs

For necessary expenses of the Office of the Assistant Secretary for Public Affairs, **[**$1,546,000**]** *$1,757,000.*

Executive Secretariat

For necessary expenses of the Executive Secretariat, $965,000.

Contract Appeals Board

For necessary expenses of the Contract Appeals Board, **[**$636,000**]** *$620,000.*

Office of Civil Rights

For necessary expenses of the Office of Civil Rights, $1,520,000.

Office of Essential Air Service

For necessary expenses of the Office of Essential Air Service, **[**$1,545,000**]** *$1,600,000.*

Office of Small and Disadvantaged Business Utilization

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $953,000: *Provided,* That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

Office of Intelligence and Security

For necessary expenses of the Office of Intelligence and Security, **[**$1,265,000**]** *$1,300,000.*

Transportation Planning, Research, and Development

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, to remain available until expended, $3,025,000.

Office of Commercial Space Transportation

Operations and Research

For necessary expenses for operations and research activities related to commercial space transportation, $4,364,000, of which $1,200,000 shall remain available until expended: *Provided, That notwithstanding any other provision of law, there may be credited to this account up to $300,000 received from user fees established for regulatory services.*

Working Capital Fund

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed **[**$94,000,000**]** *$93,000,000* shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriations Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation.

Payments to Air Carriers

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $38,600,000, to remain available until expended and to be derived from the Airport and Airway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs in excess of $38,600,000 for the Payments to Air Carriers program in fiscal year 1993: *Provided further*, That none of the funds in this Act shall be available for service to communities not receiving such service during fiscal year 1991, unless such communities are otherwise eligible for new service, and provide the required local match: *Provided further*, That none of the funds in this Act shall be available to increase the service levels to communities receiving service unless the Secretary of Transportation certifies in writing that such increased service levels are estimated to result in self-sufficiency within three years of initiation of the increased level of service.

Rental Payments

For necessary expenses for rental of headquarters and field space and related services assessed by the General Services Administration, [$111,970,000] *$130,000,000*: *Provided*, That of this amount, [$16,225,000] *$19,000,000* shall be derived from the Highway Trust Fund, [$29,887,000] *$38,000,000* shall be derived from the Airport and Airway Trust Fund, [$481,000] *$501,000* shall be derived from the Pipeline Safety Fund, and [$16,000] *$160,000* shall be derived from the Harbor Maintenance Trust Fund.

Minority Business Resource Center Program

For the cost of direct loans, $300,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $7,500,000. In addition, for administrative expenses to carry out the direct loan program, $400,000.

COAST GUARD

Operating Expenses

[(INCLUDING TRANSFER OF FUNDS]

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; [$2,553,739,000, of which $156,600,000 shall be transferred from the Department of Defense;] *$2,567,000,000*, of which [$25,000,000] *$34,000,000* shall be derived from the Oil Spill Liability Trust Fund; and of which [$30,000,000] *$34,500,000* shall be expended from the Boat Safety Account: *Provided*, That the number of aircraft on hand at any one time shall not exceed two hundred and twenty-three, exclusive of planes and parts stored to meet future attrition: *Provided further*, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation.

Acquisition, Construction, and Improvements

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, [$384,600,000] *$325,000,000*, of which [$19,250,000] *$35,640,000* shall be derived from the Oil Spill Liability Trust Fund; of which [$104,500,000] *$88,250,000* shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 1997; [$53,400,000] *$25,000,000* shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 1995; [$67,650,000] *$57,000,000* shall be available for other equipment, to remain available until September 30, 1995; [$122,550,000] *$119,000,000* shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 1995; and [$36,500,000] *$35,750,000* shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 1993.

Environmental Compliance and Restoration

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, [$21,500,000] *$27,000,000*, to remain available until expended.

Alteration of Bridges

For necessary expenses for alteration or removal of obstructive bridges, [$11,000,000] *$14,100,000*, to remain available until expended.

Retired Pay

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $519,700,000.

Reserve Training

[(INCLUDING TRANSFER OF FUNDS)]

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; [$74,100,000, of which $50,000,000 shall be transferred from the Department of Defense] *$73,000,000*.

Research, Development, Test, and Evaluation

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, [$27,930,000] *$28,000,000*, to remain available until expended, of which [$4,550,000] *$5,595,000* shall be derived from the Oil Spill Liability Trust Fund: *Provided*, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

Boat Safety

(AQUATIC RESOURCES TRUST FUND)

For payment of necessary expenses incurred for recreational boating safety assistance under Public Law 92–75, as amended, [$30,000,000] *$34,500,000*, to be derived from the Boat Safety Account and to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

Operations

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, establishment of air navigation facilities and the operation (including leasing) and maintenance of aircraft, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, lease or purchase of four passenger motor vehicles for replacement only, [$4,538,000,000] *$4,545,000,000*, of which [$2,279,321,000] *$2,272,500,000* shall be derived from the Airport and Airway Trust Fund: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further*, That none of these funds shall be available for new applicants for the second career training program: [*Provided further, That, of the funds available under this head, $2,000,000 shall be made available for the Mid-American Aviation Resource Consortium in Minnesota to operate an air traffic controller training program: Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard setting organization to assist in the development of aviation safety standards] *Provided further*, That none of the funds provided shall be made available for pay raises in fiscal year 1993 for FAA employees whose responsibilities include noise abatement policy function, managing aircraft route design or changes, or responsibility for preparing, managing, or overseeing the environmental impact statement mandated by section 9119 of Public Law 101–508 until the final report on such impact statement is issued: *Provided further*, That of the funds provided, up to $50,000 shall be made available to the New Jersey Coalition Against Aircraft Noise for the provision of technical assistance, in according with the provisions of title 5, United States Code, in reviewing and assessing the draft environmental impact statement issued pursuant to section 9119 of Public Law 101–508.

Facilities and Equipment

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized by the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301 et seq.), including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease or transfer of aircraft from funds available under this head; to be derived from the Airport and Airway Trust Fund, [$2,459,860,000] *$2,429,500,000*, of which [$2,275,903,000] *$2,238,500,000* shall remain available until September 30, 1995, and of which [$183,957,000] *$191,000,000* shall remain available until September 30, 1994: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That with appropriations made for the Airway Science program, as authorized below in this section, the Federal Aviation Administration may hereafter enter into competitive grant agreements with institutions of higher education having airway science curricula, for the Federal share of the allowable direct costs of the following categories of items, to the extent that such items are in support of airway science curricula: (a) the construction, purchase, or lease with option to purchase, of buildings and associated facilities, and (b) instructional materials and equipment. Such funds are hereby authorized to be appropriated and may remain available until expended. The Federal Aviation Administration shall establish guidelines for determining the direct costs allowable under grants to be made pursuant to this section. The maximum Federal share of the allowable cost of any project assisted by such grants shall be [50] *80* percent: *Provided further*, That such Federal share shall be considered as having taken effect on October 1, 1991.

Research, Engineering, and Development
(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301 et seq.), including construction of experimental facilities and acquisition of necessary sites by lease or grant, [$236,856,000] *$229,500,000*, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

Grants-in-Aid for Airports
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, [$1,800,000,000] *$2,000,000,000*, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of [$1,850,000,000] *$1,800,000,000* in fiscal year 1993 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended, of which not to exceed [$196,313,800] *$198,173,199* shall be available for letters of intent issued prior to June 30, 1992.

Aviation Insurance Revolving Fund

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under title XIII of the Federal Aviation Act of 1958.

Aircraft Purchase Loan Guarantee Program

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for activities under this head the obligations for which are in excess of $9,970,000 during fiscal year 1993. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on General Operating Expenses

Necessary expenses for administration, operation, *including motor carrier safety program operations*, and research of the Federal Highway Administration not to exceed [$351,200,000] *$403,200,000* shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided*, That not to exceed [$115,000,000] *$116,543,000* of the amount provided herein shall remain available until expended: *Provided further*, That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities, and private sources, for training expenses incurred for non-Federal employees.

Highway-Related Safety Grants
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(HIGHWAY TRUST FUND)
(INCLUDING TRANSFER OF FUNDS)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402 administered by the Federal Highway Administration, to remain available until expended, $10,000,000 to be derived from the Highway Trust Fund: *Provided*, That not to exceed $200,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $10,000,000 in fiscal year 1993 for "Highway-Related Safety Grants".

National Recreational Trails Grants
(NATIONAL RECREATIONAL TRAILS TRUST FUND)

For necessary expenses to carry out the provisions of sections 1301 and 1302 of Public Law 102-240, $3,000,000, to be derived from the National Recreational Trails Trust Fund and to remain available until expended.

[Railroad-Highway Crossings Demonstration Projects]

[For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $4,580,000, of which $3,053,333 shall be derived from the Highway Trust Fund.]

Federal-Aid Highways
(LIMITATION ON OBLIGATIONS)
(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of [$16,690,000,000] *$18,006,250,000* for Federal-aid highways and highway safety construction programs for fiscal year 1993: *Provided, That notwithstanding 23 U.S.C. 157(b), the obligation limitation established in this Act shall apply to obligations made under 23 U.S.C. 157.*

Federal-Aid Highways
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, [$18,800,000,000] *$19,000,000,000* or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

Right-of-Way Revolving Fund
(LIMITATION ON DIRECT LOANS)
(HIGHWAY TRUST FUND)

During fiscal year 1993 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $42,500,000.

[Motor Carrier Safety

[For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939-940), $51,500,000, of which $3,929,000 shall remain available until expended.]

Motor Carrier Safety Grants
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424, $65,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $65,000,000 for "Motor Carrier Safety

Grants", of which not to exceed $3,000,000 shall be available for activities authorized by section 4008 of Public Law 102–240.

[Baltimore-Washington Parkway

[For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970 and section 1069 of Public Law 102–240 for the Baltimore-Washington Parkway, to remain available until expended, $10,000,000.

[Intermodal Urban Demonstration Project

[(HIGHWAY TRUST FUND)

[For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $4,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

[Highway Safety and Economic Development Demonstration Projects

[(HIGHWAY TRUST FUND)

[For necessary expenses to carry out construction projects as authorized by Public Law 99–500 and Public Law 99–591, $8,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

[Highway Safety Improvement Demonstration Project

[(HIGHWAY TRUST FUND)

[For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development, $7,500,000, to be derived from the Highway Trust Fund and to remain available until expended.

[Highway Widening Demonstration Project

[For necessary expenses to carry out a demonstration project to improve U.S. Route 202 in the vicinity of King of Prussia, Pennsylvania, as authorized by Public Law 100–202, $800,000, to remain available until expended.

[Highway Widening and Improvement Demonstration Project

[(HIGHWAY TRUST FUND)

[For up to 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $1,680,000, to be derived from the Highway Trust Fund and to remain available until expended.

[Climbing Lane and Highway Safety Demonstration Project

[(HIGHWAY TRUST FUND)

[For 80 percent of the expenses necessary to carry out a highway project on U.S. Route 15 in the vicinity of Tioga County, Pennsylvania, for the purpose of demonstrating methods of improved highway and highway safety construction, $4,800,000, to be derived from the Highway Trust Fund and to remain available until expended.

[Alabama Highway Bypass Demonstration Project

[(HIGHWAY TRUST FUND)

[For 80 percent of the expenses necessary for the construction of a highway bypass project in the vicinity of Jasper, Alabama, for the purpose of demonstrating methods of improved highway and highway safety construction, $4,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

[Kentucky Bridge Demonstration Project

[(HIGHWAY TRUST FUND)

[For 80 percent of the expenses necessary to replace the Glover Cary Bridge in Owensboro, Kentucky, for the purpose of demonstrating methods of improved highway and highway safety construction, $8,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

[Virginia HOV Safety Demonstration Project

[(HIGHWAY TRUST FUND)

[For 80 percent of the expenses necessary to construct High Occupancy Vehicle lanes on Interstate Route 66 between U.S. Route 50 and U.S. Route 29, including the construction of an interchange at Interstate Route 66 and the Route 234 Manassas bypass for the purpose of demonstrating methods of increasing highway capacity and safety by the use of highway shoulders to construct HOV lanes, $2,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

[Urban Highway Corridor and Bicycle Transportation Demonstration Projects

[(HIGHWAY TRUST FUND)

[For 80 percent of the expenses necessary to improve and upgrade the M–59 urban highway corridor in southeast Michigan for the purpose of demonstrating methods of improving congested urban corridors that have been neglected during construction of the Interstate system, $3,860,000, to be derived from the Highway Trust Fund and to remain available until expended, together with $380,000, to be derived from the Highway Trust Fund and to remain available until expended, to provide for 80 percent of the expenses necessary for a bicycle transportation demonstration project in Macomb County, Michigan.

[Urban Airport Access Safety Demonstration Project

[(HIGHWAY TRUST FUND)

[For 80 percent of the expenses necessary to improve and upgrade access to Detroit Metropolitan Airport in southeast Michigan, $4,800,000, to be derived from the Highway Trust Fund and to remain available until expended, for the purpose of demonstrating methods of improving access to major urban airports.

[Pennsylvania Reconstruction Demonstration Project

[(HIGHWAY TRUST FUND)

[For 80 percent of the expenses necessary to upgrade, widen, and reconstruct the sections of Pennsylvania Route 56 known as Haws Pike and the Windber By-Pass, for the purpose of demonstrating methods of promoting economic development and highway safety, $8,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

[Pennsylvania Toll Road Demonstration Project

[(HIGHWAY TRUST FUND)

[For necessary expenses for the Monongahela Valley Expressway, $4,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That these funds, together with funds made available from the Highway Trust Fund, for Federal participation in the toll highway project being carried out under section 129(j) of title 23, United States Code, in the State of Pennsylvania shall be subject to section 129(j) of such title, relating to Federal share limitation.]

Highway [Demonstration] Projects

[(HIGHWAY TRUST FUND)]

For up to 80 percent of the expenses necessary for certain highway and bicycle transportation projects and parking facilities, including feasibility and environmental studies, that demonstrate methods of improving safety, reducing congestion, or promoting economic development, [$90,600,000] *$274,800,000*, to be derived from [the Highway Trust Fund] *General Funds* and to remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Operations and Research

[For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, as amended) and the National Traffic and Motor Vehicle Safety Act, $76,890,000, to remain available until September 30, 1995.]

Operations and Research

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under 23 U.S.C. 403, *the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, as amended), the National Traffic and Motor Vehicle Safety Act*, and section 2006 of the Intermodal Surface Transportation Efficiency Act of 1991, to be derived from the Highway Trust Fund, [$43,250,000] *$127,840,000*, to remain available until September 30, 1995.

Highway Traffic Safety Grants

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 153, 402, 406, [408, and 410] *and 408*, section 2007 of the Intermodal Surface Transportation Efficiency Act of 1991, and section 209 of Public Law 95–599, as amended, to remain available until expended, [$152,000,000] *$150,000,000*, to be derived from the Highway Trust Fund: *Provided*, That, notwithstanding subsection 2009(b) of the Intermodal Surface Transportation Efficiency Act of 1991, none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1993, are in excess of [$130,300,000] *$133,000,000* for programs authorized under 23 U.S.C. 402, of which [$112,000,000] *$118,000,000* shall be for "State and community highway safety grants", $12,000,000 shall be for section 153 "Safety belt and motorcycle helmet use" grants, [$2,000,000 shall be for section 410 "Alcohol-impaired driving countermeasures" grants,] and [$4,300,000] *$3,000,000* shall be for the "National Driver Register": *Provided further*, That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of [$7,700,000] *$13,500,000* for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further*, That not to exceed $5,153,000 may be available for administering "State and community highway safety grants" and $150,000 may be available for administering section 410: *Provided further*, That, notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982 through 1993: *Provided further, That the unexpended balances available for drunk driving prevention programs under 23 U.S.C. 410 shall be available for alcohol-impaired driving countermeasures programs under 23 U.S.C. 410, as amended by Public Law 102-240: Provided further, That, notwithstanding any other provision of law, amounts available herein for alcohol-impaired driving countermeasures programs under 23 U.S.C. 410 shall not be subject to any obligation limitation.*

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, **[**$17,385,000**]** *$17,802,000*, of which **[**$1,895,000**]** *$2,995,000* shall remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further*, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further*, That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

LOCAL RAIL FREIGHT ASSISTANCE

For necessary expenses for rail assistance under section 5(q) of the Department of Transportation Act, as amended, $8,000,000, to remain available until expended.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, **[**$40,090,000**]** *$51,319,000*, of which **[**$1,335,000**]** *$11,840,000* shall remain available until expended: *Provided*, That there may be credited to this appropriation funds received from non-Federal sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities other than State rail safety inspectors participating in training pursuant to section 206 of the Federal Railroad Safety Act of 1970: *Provided further, That up to $700,000 shall be made available to support, by financial assistance agreement, railroad-highway grade crossing safety programs, including Operation Lifesaver: Provided further, That $100,000 is available until expended to support by financial assistance agreement railroad metallurgical and welding studies at the Oregon Graduate Institute.*

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, **[**$14,800,000**]** *$4,450,000*, to remain available until expended**[**: *Provided*, That up to $600,000 shall be made available to support, by financial assistance agreement, railroad-highway grade crossing safety programs, including Operation Lifesaver: *Provided further*, That $100,000 is available until expended to support by financial assistance agreement railroad metallurgical and welding studies at the Oregon Graduate Institute.**]**

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and the Rail Safety Improvement Act of 1988, $204,100,000.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 601, to remain available until expended, **[**$405,000,000**]** *$496,000,000*, of which $331,000,000 shall be available for operating losses incurred by the Corporation and for labor protection costs, and of which **[**$74,000,000**]** *$165,000,000*, not to become available until July 1, 1993, shall be available for capital improvements: *Provided*, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further*, That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1993: *Provided further*, That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e) **[**: *Provided further*, That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 75 per centum of the short-term avoidable costs of operating such service in the third year of operation: *Provided further*, That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Amtrak sources.**]**

MANDATORY PASSENGER RAIL SERVICE PAYMENTS

To enable the Secretary of Transportation to pay obligations and liabilities of the National Railroad Passenger Corporation, $146,000,000, to remain available until expended: *Provided*, That this amount is available only for the payment of: (1) tax liabilities under section 3221 of the Internal Revenue Code of 1986 due in fiscal year 1993 in excess of amounts needed to fund benefits for individuals who retired from the National Railroad Passenger Corporation and for their beneficiaries; (2) obligations of the National Railroad Passenger Corporation under section 358(a) of title 45, United States Code, due in fiscal year 1993 in excess of its obligations calculated on an experience-rated basis; and (3) obligations of the National Railroad Passenger Corporation due under section 3321 of the Internal Revenue Code of 1986.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That no new loan guarantee commitments shall be made during fiscal year 1993: *Provided further*, That, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or securities sold under authority of this section shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That any underwriting fees and related expenses shall be derived solely from the proceeds of the sales: *Provided further, That to enable the Secretary of Transportation to pay obligations and liabilities of the Columbus and Greenville Railway under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 resulting from the waiver of obligations and liabilities as authorized by section 349 of this Act, $411,578.*

[CONRAIL COMMUTER TRANSITION ASSISTANCE

[For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $7,000,000, to remain available until expended.**]**

[AMTRAK CORRIDOR IMPROVEMENT LOANS

[For the cost of direct loans to the Chicago, Missouri and Western Railroad, or its successors, to replace existing jointed rail with continuous welded rail between Joliet and Granite City, Illinois, $844,200: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $3,500,000: *Provided further*, That any loan authorized under this section shall be structured with a maximum 20-year payment at an annual interest rate of 4 per centum: *Provided further*, That the Federal Government shall hold a first and prior purchase money security interest with respect to any materials to be acquired with Federal funds: *Provided further*, That any such loan shall be matched on a dollar for dollar basis by the State of Illinois: *Provided further*, That any such loan shall be made available no later than thirty days after enactment of this Act.**]**

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT

(liquidation of contract authorization)

[(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

[None of the funds in this Act shall be available for the planning or execution**]** *For payment of obligations incurred in carrying out the provisions* of the National Magnetic Levitation Prototype Development program as defined in subsections 1036(b) and 1036(d)(1)(A) of the Intermodal Surface Transportation Efficiency Act of 1991, *$9,000,000 to be derived from the Highway Trust Fund and to remain available until expended: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $45,000,000 for the National Magnetic Levitation Prototype Development Program.*

High-Speed Ground Transportation

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of the High-Speed Ground Transportation program as defined in subsections 1036(c) and 1036(d)(1)(B) of the Intermodal Surface Transportation Efficiency Act of 1991, $2,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $5,000,000 for the "High-Speed Ground Transportation" program.

FEDERAL TRANSIT ADMINISTRATION

Administrative Expenses

For necessary administrative expenses of the Federal Transit Administration's programs authorized by the Federal Transit Act and 23 U.S.C. chapter 1 in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, **[$13,400,000]** *$14,000,000*: *Provided*, That no more than **[$38,550,000]** *$39,000,000* of budget authority shall be available for these purposes.

Formula Grants

For necessary expenses to carry out the provisions of sections 9, 16(b)(2), and 18 of the Federal Transit Act, to remain available until expended, **[$755,125,000]** *$650,975,000*: *Provided*, That no more than **[$1,820,000,000]** *$1,682,000,000* of budget authority shall be available for these purposes: *Provided further*, That, notwithstanding any other provision of law, of the funds provided under this head for formula grants no more than **[$720,000,000]** *$802,278,000* may be used for operating assistance under section 9(k)(2) of the Federal Transit Act.

University Transportation Centers

For necessary expenses for university transportation centers as authorized by section 11(b) of the Federal Transit Act, to remain available until expended, $2,025,000: *Provided*, That no more than $6,000,000 of budget authority shall be available for these purposes.

Transit Planning and Research

For necessary expenses for transit planning and research as authorized by section 26 of the Federal Transit Act, to remain available until expended, **[$29,000,000]** *$30,000,000*: *Provided*, That no more than **[$85,000,000]** *$90,000,000* of budget authority shall be available for these purposes.

Trust Fund Share of Transit Programs

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21(a) of the Federal Transit Act, **[$1,150,000,000]** *$1,120,000,000*, to remain available until expended and to be derived from the Highway Trust Fund: *Provided*, That **[$25,150,000]** *$25,000,000* shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's administrative expenses account: *Provided further*, That **[$1,064,875,000]** *$1,031,025,000* shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's formula grants account: *Provided further*, That $3,975,000 shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's university transportation centers account: *Provided further*, That **[$56,000,000]** *$60,000,000* shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's transit planning and research account.

Discretionary Grants

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

[For necessary expenses for discretionary grants as authorized by section 21(b) of the Federal Transit Act, to remain available until expended, $132,000,000: *Provided*, That no more than $1,857,000,000 $1,725,000,000 of budget authority shall be available for these purposes**]** *None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $1,725,000,000 in fiscal year 1993 for grants under the contract authority in Section 21(b) of the Federal Transit Act: Provided*, That notwithstanding any provision of law there shall be available for fixed guideway modernization **[$640,000,000]** *$690,000,000*, there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities **[$320,000,000]** *$345,000,000*, and there shall be available for new fixed guideway systems **[$897,000,000]** *$690,000,000*, of which—

not less than **[$35,000,000]** *$30,000,000* for the Atlanta MARTA North Line Extension Project;

not less than $25,000,000 for the Baltimore LRT Extensions Project;

not less than **[$45,000,000]** *$20,000,000* for the South Boston Piers Transitway Project;

not less than **[$25,000,000]** *$20,000,000* for the Chicago Central Area Connector Project;

not less than $1,500,000 for the Cleveland Dual Hub Corridor Project;

not less than **[$50,000,000]** *$21,000,000* for the Dallas South Oak Cliff LRT Project;

not less than **[$40,000,000]** *$90,000,000* for the Honolulu Rapid Transit Starter Line of Projects;

not less than **[$40,000,000]** *$28,000,000* for the Houston Regional Bus Plan Program of Projects;

not less than $10,000,000 for the Jacksonville ASE Extension Project;

not less than $110,000,000 for the Los Angeles Metro Rail MOS–2 and MOS–3 Projects;

not less than $10,000,000 for the Maryland Commuter Rail Project, of which $3,000,000 shall be available for the Waldorf Corridor;

not less than **[$5,434,000]** *$5,300,000* for the Miami Metromover Stage I Completion-Omni/Brickell Project **[**and not less than $2,966,000 to restore urban initiative funds provided to Miami in Public Law 98–473 but transferred to the Metromover Project in 1989**]**;

not less than **[$35,000,000]** *$71,700,000* for the New Jersey Urban Core Project;

not less than **[$10,000,000]** *$18,700,000* for the New York Queens Connection Project;

not less than **[$2,900,000]** *$2,000,000* for the Orlando OSCAR LRT Project;

not less than $700,000 for the Philadelphia Cross County Commuter Rail Project;

not less than $17,000,000 for the Pittsburgh Busway Projects;

not less than **[$49,000,000]** *$80,000,000* for the Portland Westside LRT Project;

not less than $1,000,000 for the Sacramento LRT Extension Project;

not less than **[$2,000,000]** *$1,000,000* for the San Diego Mid-Coast Extension Project;

not less than $45,000,000 for the San Francisco Airport BART Extension Project and the Tasman Corridor LRT Project;

not less than **[$18,000,000]** *$10,000,000* for the Seattle-Tacoma Commuter Rail Project;

not less than $3,000,000 for the Salt Lake City South LRT Project;

not less than **[$51,000,000]** *$25,000,000* for the St. Louis METRO Link Projects; **[**and

[not less than $5,500,000 for the Florida Tri-County Commuter Rail Project.**]**

not less than $11,100,000 for the Hawthorne-Warwick Commuter Rail Project;

not less than $3,000,000 for the Lakewood, Freehold, and Matawan or Jamesburg Commuter Rail Project; and,

not less than $30,000,000 for the Boston, Massachusetts to Portland, Maine Commuter Rail Project.

Mass Transit Capital Fund

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21(b) of the Federal Transit Act, administered by the Federal Transit Administration, $1,500,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

Interstate Transfer Grants—Transit

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, **[$75,000,000]** *$82,000,000*, to remain available until expended.

Washington Metro

For necessary expenses to carry out the provisions of section 14 of Public Law 96–184 and Public Law 101–551, **[$165,000,000]** *$182,000,000*, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

Operations and Maintenance

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, **[$11,100,000]** *$10,550,000*, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Hazardous Materials Safety

For expenses necessary to discharge the functions of Hazardous Materials Safety and for expenses for conducting research and development, $13,016,000, of which $1,350,000 shall remain available until expended: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, and for reports publication and dissemination.

[RESEARCH AND SPECIAL PROGRAMS

[For expenses necessary to discharge the functions of the Research and Special Programs Administration, and for expenses for conducting research and development, $21,335,000, of which $165,000 shall be derived from the Pipeline Safety Fund, and of which $1,824,000 shall remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for airline statistics; and up to $1,600,000 in funds received from user fees established to support the electronic tariff filing system: *Provided further*, That not less than $1,282,000 in fees shall be collected under section 106(c)(11) of the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. App. 1805(c)(11)) and deposited in the general fund of the Treasury as offsetting receipts.]

AVIATION INFORMATION MANAGEMENT

For expenses necessary to discharge the functions of Aviation Information Management, $2,618,000: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for aviation information management: Provided further, That, notwithstanding any other provision of law, there may be credited to this appropriation up to $1,000,000 in funds received from user fees established to support the electronic tariff filing system: Provided further, That the Department of Transportation shall prepare and publish on a monthly basis in automatic data processing tape format the United States International Air Travel Statistics data base previously published through March 1991. The Department may partially defray costs of preparation and publication of such statistics by charging a fair and reasonable fee for obtaining such information; Provided further, That there may be credited to this appropriation funds received from such user fees.

EMERGENCY TRANSPORTATION

For expenses necessary to discharge the functions of Emergency Transportation and for expenses for conducting research and development, $955,000, of which $73,000 shall remain available until expended: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, and for reports publication and dissemination.

RESEARCH AND TECHNOLOGY

For expenses necessary to discharge the functions of Research and Technology and for expenses for conducting research and development, $1,470,000, of which $350,000 shall remain available until expended: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, and for reports publication and dissemination.

PROGRAM AND ADMINISTRATIVE SUPPORT

For expenses necessary to discharge the functions of Program and Administrative Support, $5,989,000, of which $175,000 shall be derived from the Pipeline Safety Fund: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, and for reports publication and dissemination: Provided further, That no employees other than those compensated under this appropriation shall serve in the Office of the Administrator, the Office of Policy and Programs, the Office of Civil Rights, the Office of Management and Administration, and the Office of the Chief Counsel.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, [$14,100,000] *$15,577,000*, to be derived from the Pipeline Safety Fund, of which $7,700,000 shall remain available until expended.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out the training and planning programs authorized by section 117A and section 118 of the Hazardous Materials Transportation Act, as amended, $12,000,000 to be derived from the Emergency Preparedness Fund, to remain available until expended, of which $850,000 shall be available to carry out a training curriculum as authorized by section 117A(g) (other than paragraph (7)) of the Hazardous Materials Transportation Act, as amended: Provided, That amounts made available by section 117A(h)(6)(B) and (i) of the Hazardous Materials Transportation Act, as amended, shall not apply in determining the maximum amount which may be obligated in fiscal year 1993: Provided further, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $12,000,000 in fiscal year 1993 for "Emergency Preparedness Grants".

[For necessary expenses to carry out a training curriculum as authorized by section 117A of the Hazardous Materials Transportation Act, as amended, $850,000, to be derived from the Emergency Preparedness Fund and to remain available until expended.]

ALASKA PIPELINE TASK FORCE

(OIL SPILL LIABILITY TRUST FUND)

For necessary expenses to support a Presidential Task Force audit of the Trans-Alaska Pipeline System, as required by title VIII of the Oil Pollution Act of 1990, [$360,000] *$750,000*, to be derived from the Oil Spill Liability Trust Fund and to remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, [$38,000,000] *$40,000,000*.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, [$3,200,000] *$3,400,000*: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $36,000,000, of which not to exceed $1,000 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b), and not to exceed $1,500 for official reception and representation expenses, $43,930,000: *Provided*, That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such: *Provided further*, That $7,300,000 in fees collected in fiscal year 1993 by the Interstate Commerce Commission pursuant to 31 U.S.C. 9701 shall be made available to this appropriation in fiscal year 1993.

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act.

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

For administrative expenses of the Panama Canal Commission, including not to exceed $11,000 for official reception and representation expenses of the Board; not to exceed $5,000 for official reception and representation expenses of the Secretary; and not to exceed $30,000 for official reception and representation expenses of the Administrator, $51,150,000, to be derived from the Panama Canal Revolving Fund: *Provided*, That none of these funds may be used for the planning or execution of non-administrative and capital programs the obligations for which are in excess of $530,000,000 in fiscal year 1993: *Provided further, That notwithstanding any other provision of law or treaty, none of the funds appropriated under this heading may be used for the planning or execution of annuity payments to the Government of Panama in excess of $50,000,000 until the Secretary of State and the Secretary of Transportation, in consultation with the Commandant of the United States Coast Guard, certifies in writing to the Congress that (1) the Government of Panama has taken adequate steps to investigate and, where appropriate, penalize Panamanian flag ships which have been reported by other nations to have violated the provisions of Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) and (2) the Government of Panama has taken sufficient steps so as to ensure improved compliance with the provisions of Annex V of such treaty on the part of Panamanian flag ships: Provided further*, That funds available to the Panama Canal Commission shall be available for the purchase of not to exceed thirty-five passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama), the purchase price of which shall not exceed $18,000 per vehicle.

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States portion of tolls paid for use of the Saint Lawrence Seaway, pursuant to Public Law 99-662, **[$10,400,000]** *$10,250,000*, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $200,000 shall be available for expenses of administering the rebates.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $51,663,569: *Provided*, That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Funds for the Panama Canal Commission may be apportioned notwithstanding 31 U.S.C. 1341 to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236–244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18.

[SEC. 305. None of the funds for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.**]**

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation status of any change in the current Federal status of the Volpe National Transportation Systems Center, and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center: *Provided*, That the Secretary may plan for further development of the Volpe National Transportation Systems Center and for other compatible uses of the Center's real property: *Provided*, That any such planning does not alter the Federal status of the Center's research and development operation.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 310. (a) **[**For fiscal year 1993 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year**]** *For fiscal year 1993, the Secretary of Transportation shall distribute $900,000,000 of the obligation limitation for Federal-aid highway and highway safety construction programs to the States in the ratio which sums authorized to be appropriated for 23 U.S.C. 157 that are apportioned to each State for such fiscal year bear to the total of the sums authorized to be appropriated for 23 U.S.C. 157 that are apportioned to all the States for such fiscal year. Further, the Secretary shall distribute $600,000,000 of the obligation limitation for Federal-aid highways and highway safety construction program to the States in the ratio which sums authorized to be appropriated under sections 6023(b)(10) and 1103 through 1108 of Public Law 102–240 that are allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated under sections 6023(b)(10) and 1103 through 1108 of Public Law 102–240 that are allocated to all the States for such fiscal year. Further, the Secretary shall distribute the remainder of the obligation limitation for Federal-aid highways and highway safety construction programs to the States in the ratio which sums authorized to be appropriated for Federal-aid highway and highway safety construction programs, other than programs authorized under 23 U.S.C. 125 and 23 U.S.C. 157 and programs authorized under sections 6023(b)(10) and 1103 through 1108 of Public Law 102–240 that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highway and highway safety construction programs, other than programs authorized under 23 U.S.C. 125 and 23 U.S.C. 157 and programs authorized under sections 6023(b)(10) and 1103 through 1108 of Public Law 102–240, that are apportioned or allocated to all the States for such fiscal year.*

(b) During the period October 1 through December 31, 1992, no State shall obligate more than 25 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 15 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1993, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 103(e)(4), 104 and 144 of title 23, United States Code, and under sections 1013(c) and 1015 of Public Law 102–240; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the intelligent vehicle highway systems program, and amounts made available under sections 1040, 1047, 1064, 5003, 6001, 6004, 6005, 6023, and 6024, of Public Law 102–240, **[**and**]** not more than $6,800,000 for section 6006 of Public Law 102–240, *not more than $2,400,000 for section 6015 of Public Law 102–240, and amounts necessary for section 5002 of Public Law 102–240.*

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1993 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code; **[**obligations under section 157 of title 23, United States Code;**]** projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, sections 131(b), 131(j), and 404 of Public Law 97–424, **[**and sections 1103 through 1108 of Public Law 102–240;**]** projects authorized by Public Law 99–500, Public Law 99–591 and Public Law 100–202; or projects covered under subsections 149 (b) and (c) of Public Law 100–17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1993 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1993, an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104 and 144 of title 23, United States Code, and 1013(c) and 1015 of Public Law 102–240, and

(2) for highway assistance projects under section 103(e)(4) of title 23, United States Code,

which are not obligated on the date such State completes obligation of the amount so distributed.

(f) During the period August 2 through September 30, 1993, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104 and 144 of title 23, United States Code, **[**and 1013(c)**]** and 1015 of Public Law 102–240, and

(2) for highway assistance projects under section 103(e)(4) of title 23, United States Code,

which would not be obligated in fiscal year 1993 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1993, has the amount distributed to such State under paragraph (a) for fiscal year 1993 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred [and twenty] political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 312. Not to exceed [$400,000] *$800,000* of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 313. The limitation on obligations for the programs of the Federal Transit Administration shall not apply to any authority under section 21 of the Federal Transit Act, previously made available for obligation, or to any other authority previously made available for obligation under the Discretionary Grants program.

SEC. 314. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

SEC. 315. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 316. Every 30 days, the Federal Transit Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Federal Transit Act, including the grant number, the grant amount, and the transit property receiving each grant.

SEC. 317. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, training, salaries, or research, and related costs thereof including necessary capital expenses, including site acquisition, construction and equipment, are available for such purposes to be conducted through contracts, grants, or financial assistance agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

SEC. 318. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

SEC. 319. ESSENTIAL AIR SERVICE COMPENSATION.—Notwithstanding any other provision of law, the Secretary of Transportation shall make payment of compensation under subsection 419 of the Federal Aviation Act of 1958, as amended, only to the extent and in the manner provided in appropriations Acts, at times and in a manner determined by the Secretary to be appropriate, and claims for such compensation shall not arise except in accordance with this provision.

SEC. 320. The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended, to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act: *Provided*, That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 321. The Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided*, That no appropriation shall be increased or decreased by more than [8] *12* per centum by all such transfers: *Provided further*, That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 322. Such sums as may be necessary for fiscal year 1993 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act.

SEC. 323. VESSEL TRAFFIC SAFETY FAIRWAY.—None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 324. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to Federal Aviation Administration design and performance specifications, the purchase of which was assisted by a Federal airport aid program, airport development aid program or airport improvement program grant. The Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by the Federal Aviation Administration in accordance with agency criteria.

SEC. 325. NATIONAL WEATHER GRAPHICS SYSTEM.—None of the funds made available in this Act may be used by the Federal Aviation Administration for a new National Weather Graphics System.

SEC. 326. None of the funds in this Act shall be available to award a multiyear contract for production end items that (1) includes economic order quantity or long lead time material procurement in excess of $10,000,000 in any one year of the contract or (2) includes a cancellation charge greater than $10,000,000 which at the time of obligation has not been appropriated to the limits of the government's liability or (3) includes a requirement that permits performance under the contract during the second and subsequent years of the contract without conditioning such performance upon the appropriation of funds: *Provided*, That this limitation does not apply to a contract in which the Federal Government incurs no financial liability from not buying additional systems, subsystems, or components beyond the basic contract requirements.

SEC. 327. REVOCATION OR SUSPENSION OF DRIVERS' LICENSES OF INDIVIDUALS CONVICTED OF DRUG OFFENSES.—

(a) IN GENERAL.—Section 159 of title 23, United States Code, is amended to read as follows:

"§ 159. Revocation or suspension of drivers' licenses of individuals convicted of drug offenses

"(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

"(1) BEGINNING IN FISCAL YEAR 1994.—For each fiscal year the Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) of section 104(b) on the first day of each fiscal year which begins after the second calendar year following the effective date of this section if the State does not meet the requirements of paragraph (3) on such date.

"(2) BEGINNING IN FISCAL YEAR 1996.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) of section 104(b) on the first day of each fiscal year which begins after the fourth calendar year following the effective date of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

"(3) REQUIREMENTS.—A State meets the requirements of this paragraph if—

"(A) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

"(i) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

"(I) any violation of the Controlled Substances Act, or

"(II) any drug offense; and

"(ii) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted; or

"(B) the Governor of the State—

"(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the effective date of this section a written certification stating that the Governor is opposed to the enactment or enforcement in the State of a law described in subparagraph (A), relating to the revocation, suspension, issuance, or reinstatement of drivers' licenses to convicted drug offenders; and

"(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i).

"(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

"(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 1995.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under paragraph (1), (3), or (5) of section 104(b) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 1995.—No funds withheld under this section from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds which would have been originally apportioned under section 104(b)(5)(A) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are apportioned under paragraph (2).

"(B) Funds which would have been originally apportioned under paragraph (1), (3), or (5)(B) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(c) DEFINITIONS.—For purposes of this section—

"(1) DRIVER'S LICENSE.—The term 'driver's license' means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

"(2) DRUG OFFENSE.—The term 'drug offense' means any criminal offense which proscribes—

"(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act; or

"(B) the operation of a motor vehicle under the influence of such a substance.

"(3) CONVICTED.—The term 'convicted' includes adjudicated under juvenile proceedings.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall take effect November 5, 1990.

[SEC. 328. CONTROL OF OUTDOOR ADVERTISING.—Section 131(n) of title 23, United States Code, is amended by adding at the end the following new sentence "Funds apportioned to a State under section 104 of this title shall not be treated for purposes of the preceding sentence as being available to the State for making such a payment except to the extent that the State, in its discretion, expends such funds for such a payment.".

[SEC. 329. None of the funds in this Act shall be available for planning or executing any rules or regulations to add Passenger Facility Charges to the cost of travel benefits commonly known as "frequent flyer award certificates" or any other bonus program offered by any airline.

[SEC. 330. None of the funds provided in this Act shall be made available for planning and executing a passenger manifest program by the Department of Transportation that only applies to United States flag carriers.

[SEC. 331. None of the funds provided in this Act shall be made available for any criminal history records check program under the Federal Aviation Act of 1958, as amended.

[SEC. 332. None of the funds in this Act shall be available for the planning or implementation of any change in the current Federal status of the Federal Aviation Administration's flight service stations at Red Bluff Airport in Red Bluff, California, Tri-City Airport in Bristol, Tennessee, and Bert Mooney Airport in Butte, Montana.]

SEC. 328. Notwithstanding any other provision of law, the Federal Aviation Administration has the authority to enter into grants with the City of Kissimmee, Florida; the Douglas County Port Authority and the Chelan County Port Authority, Washington; and the Jackson-Madison County Airport Authority, Tennessee to assist in the construction of non-Federal air traffic control towers: Provided, That funds for such towers shall be derived from the unobligated balances of the "Facilities and Equipment" account of the Federal Aviation Administration.

[SEC. 333. Section 1064(e) of Public Law 102–240 is amended by adding "For further purposes of this section, the access road from United States Business Route 75 to the Sugar Island Ferry Service in Chippewa County, Michigan, and the access road from Michigan State Route 31 to the Beaver Island Ferry Service in Charlevoix County, Michigan, shall be treated as principal arterials.".]

SEC. 329. Notwithstanding any other provision of law, funds provided in this or subsequent Acts for necessary expenses to carry out the provisions of section 1069 of Public Law 102–240 are to remain available until expended.

[SEC. 334. From funds appropriated to the Department of Transportation or made available by this Act or any other Act, the Secretary of Transportation shall, notwithstanding any other provision of this Act or any other Act, make available not to exceed $3,000,000 for a transportation resource center at Barry University, Miami Shores, Florida.

[SEC. 335. Of the amounts available under the urban high density program for the project designated in the State of Indiana, such amounts may be used for the reconstruction of an interchange of the subject project with the Borman Expressway.]

SEC. [336] *330.* Notwithstanding any other provision of law, funds made available from the withdrawal of the I-205 bus lanes under section 142 of Public Law 100-17, and previously appropriated funds from the withdrawal are available for locally designated transit projects in Portland, Oregon until expended.

SEC. [337] *331.* (a) Title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421-1433) is amended by adding at the end the following new section:

["SEC. 614. DUTY TIME OF FLIGHT ATTENDANTS.

["(a) RULEMAKING PROCEEDING.—Not later than 60 days after the date of the enactment of this section, the Secretary shall initiate a rulemaking proceeding for the purpose of establishing limitations on duty time for flight attendants, including minimum rest requirements.

["(b) FINAL REGULATIONS.—Except in any case in which the prohibitions referred to in subsection (c) take effect, the Secretary shall issue, not later than 240 days after the date of the enactment of this section, final regulations establishing limitations on duty time for flight attendants, including minimum rest requirements as follows:

["(1) For domestic and international flights, at no point during a duty period shall a flight attendant exceed a maximum of 14 hours of scheduled duty time, plus a maximum of 2 additional hours spent deadheading to return to the flight attendant's domicile. A scheduled minimum rest period (after such duty period) shall equal at least 10½ consecutive hours, block-in to block-out.

["(2) For short-range intercontinental flights, at no point during a duty period shall a flight attendant exceed a maximum of 16 hours of scheduled duty time, plus a maximum of 2 additional hours spent deadheading to return to the flight attendant's domicile. A scheduled minimum rest period (after such duty period) shall equal at least 12½ consecutive hours, block-in to block-out.

["(3) For long-range intercontinental nonstop flights, duty time shall not exceed the scheduled duty time by more than 4 hours and, in any event, shall be no greater than 20 hours of actual duty time. A scheduled minimum rest period (after such duty period) shall equal the scheduled length of the duty period.

["(4) For all flight attendants a minimum of eight 24 consecutive hour rest periods, block-in to block-out per bid month, and at least one 24 hour consecutive rest period within every 7 calendar days. For trip pairings exceeding 7 days in length with no scheduled 24-hour rest period, a minimum of a scheduled 48-hour consecutive rest period will be provided upon return to domicile.

["(5) For all flight attendants, at least a continuous 1 hour rest break on any flight or segment thereof scheduled for 9 hours or more of flight time in a designated rest area.

["(c) MANDATED PROHIBITIONS.—If the Secretary does not initiate a rulemaking proceeding under subsection (a) before the 60th day following the date of the enactment of this section or does not issue final regulations under subsection (b) before the 240th day following such date of enactment, no air carrier may after such date operate an aircraft using a flight attendant who has been on duty more hours, or who has had fewer hours of rest, than those required by paragraphs (1) through (5) of subsection (b).

["(d) MODIFICATION OF MANDATED PROHIBITIONS.—The Secretary may issue regulations modifying the prohibitions contained in paragraphs (1) through (5) of subsection (b) if the Secretary determines that such modifications are in the interest of safety and transmits a copy of the modifying regulations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The modifying regulations may not take effect until the expiration of the 90-day period beginning on the date of the transmittal of the modifying regulations to such committees.

["(e) DEFINITIONS.—In this section, the following definitions apply:

["(1) AIR CARRIER.—The term 'air carrier' means any air carrier which is subject to the provisions of part 121 or part 135 of title 14 of the Code of Federal Regulations.

["(2) DESIGNATED REST AREA.—The term 'designated rest area' means a passenger seat of an aircraft assigned for crew rest purposes.

["(3) DOMESTIC FLIGHT.—The term 'domestic flight' means any flight or segment of a flight worked by a flight attendant totally within the continental United States.

["(4) DUTY TIME.—The term 'duty time' means all time worked for an air carrier with respect to flight duties and shall begin at the required report time and shall end when released by the carrier. Duty time accrues until the crewmember is scheduled for a required rest period by the carrier. Time spent deadheading, either on an aircraft or by surface transportation, to or from an assignment by an air carrier, time spent ferrying, and time spent attending meetings and training shall also be considered duty time. Duty time continues during in-flight rest periods contained in subsection (b)(5).

["(5) INTERNATIONAL FLIGHT.—The term 'international flight' means any flight worked by a flight attendant for which a take off or landing is scheduled outside the continental United States, excluding intercontinental flights.

["(6) SHORT-RANGE INTERCONTINENTAL FLIGHT.—The term 'short-range intercontinental flight' means an intercontinental flight scheduled for less than 14 hours flight time.

["(7) LONG-RANGE INTERCONTINENTAL NONSTOP FLIGHT.—The term 'long-range intercontinental nonstop flight' means a single nonstop intercontinental flight scheduled for 14 hours or more of flight time.

["(8) REPORT TIME.—The term 'report time' means a time period of at least 30 minutes prior to the scheduled departure time of the first flight or segment of a flight in a flight attendant's duty period or the time the flight attendant is required to report to work, whichever is earlier.

["(9) REST.—The term 'rest' means uninterrupted time free from all duty, block-in to block-out.

["(10) SCHEDULED FLIGHT TIME.—The term 'scheduled flight time' means the elapsed time of a flight of an air carrier based on the times shown in schedules published for the air carrier.

["(11) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

["(f) TREATMENT OF DUTY PERIOD WITH DOMESTIC AND INTERNATIONAL FLIGHT SEGMENTS.—A duty period with domestic, international, and intercontinental flight segments shall be treated as intercontinental flying for the purpose of calculating duty and rest requirements under this section if the majority of the flight time during that duty period is on an intercontinental segment and domestic/international flying if the majority of the flight time during that duty period is on a domestic or international segment.".

[(b) The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by adding at the end of the matter relating to title VI the following:

["Sec. 614. Duty time of flight attendants.

["(a) Rulemaking proceeding.

["(b) Final regulations.

["(c) Mandated prohibitions.

["(d) Modification of mandated prohibitions.

["(e) Definitions.

["(f) Treatment of duty period with domestic and international flight segments.".]

"SEC. 614. DUTY TIME OF FLIGHT ATTENDANTS.

"(a) RULEMAKING PROCEEDING.—Not later than 60 days after the date of the enactment of this section, the Secretary shall initiate a rulemaking proceeding for the purpose of establishing limitations on duty time for flight attendants, including minimum rest requirements.

"(b) FINAL REGULATIONS.—Except in any case in which the prohibitions referred to in subsection (c) take effect, the Secretary shall issue, not later than 240 days after the date of the enactment of this section, final regulations establishing limitations on duty time for flight attendants, including minimum rest requirements as follows:

"(1) For domestic and international flights, at no point during a duty period shall a flight attendant be scheduled to exceed a maximum of 14 hours of duty time, plus a maximum of 2 additional hours spent deadheading to return to the flight attendant's domicile. A scheduled minimum rest period (after such duty period) shall, at the discretion of the air carrier—

(A) equal at least 10½ consecutive hours, block-in to block-out; or

(B) not be less than minimum requirements for other flight crewmembers set forth under Federal aviation regulations for domestic air carriers.

"(2) For long-range intercontinental nonstop flights, duty time shall not exceed the scheduled duty time by more than 4 hours and, in any event, shall be no greater than 20 hours. A scheduled minimum rest period (after such duty period) shall equal at least the scheduled length of the duty period.

"(3) For all flight attendants, a minimum of 8 scheduled 24-consecutive-hour rest periods, block-in to block-out per bid month, and at least 1 scheduled 24-consecutive-hour rest period within every 7 calendar days. For trip pairings exceeding 7 days in length with no scheduled 24-hour rest period, a minimum of a scheduled 48-consecutive-hour rest period will be provided upon return to domicile.

"(4) For all flight attendants, at least a continuous 1-hour rest break in a designated rest area on any flight scheduled for 9 hours or more of flight time.

"(c) MANDATED PROHIBITIONS.—If the Secretary does not initiate a rulemaking proceeding under subsection (a) before the 60th day following the date of the enactment of this section or does not issue final regulations under subsection (b) before the 240th day following such date of enactment, no air carrier may after such date operate an aircraft using a flight attendant who has been on scheduled duty more hours, or who has had fewer scheduled hours of rest, than those required by paragraphs (1) through (4) of subsection (b).

"(d) MODIFICATION OF MANDATED PROHIBITIONS.—The Secretary may issue regulations modifying the prohibitions contained in paragraphs (1) through (4) of subsection (b) if the Secretary determines that such modifications are in the interest of safety and transmits a copy of the modifying regulations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The modifying regulations may not take effect until the expiration of the 90-day period beginning on the date of the transmittal of the modifying regulations to such committees.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) AIR CARRIER.—The term 'air carrier' means any air carrier which is subject to the provisions of part 121 or part 135 of title 14 of the Code of Federal Regulations.

"(2) DESIGNATED REST AREA.—The term 'designated rest area' means a passenger seat, sleeper seat, or bunk of an aircraft assigned for crew rest purposes.

"(3) DOMESTIC FLIGHT.—The term 'domestic flight' means any flight or segment of a flight worked by a flight attendant totally within the continental United States.

"(4) DUTY TIME.—The term 'duty time' means all time worked for an air carrier with respect to flight duties and shall begin at the required report time and shall end when released by the carrier. Time spent deadheading (either on an aircraft or by surface transportation) to or from an assignment by an air carrier, time spent ferrying, and time spent attending meetings and training shall also be considered duty time. Duty time continues during in-flight rest periods referred to in subsection (b)(5).

"(5) INTERNATIONAL FLIGHT.—The term 'international flight' means any flight worked by a flight attendant for which a take off or landing is scheduled outside the continental United States, excluding intercontinental flights.

"(6) SHORT-RANGE INTERCONTINENTAL FLIGHT.—The term 'short-range intercontinental flight' means an intercontinental flight scheduled for less than 14 hours flight time.

"(7) LONG-RANGE INTERCONTINENTAL NONSTOP FLIGHT.—The term 'long-range intercontinental nonstop flight' means a single nonstop intercontinental flight scheduled for 14 hours or more of flight time.

"(8) REPORT TIME.—The term 'report time' means a time period prior to the scheduled departure time of the first flight or segment of a flight in a flight attendant's duty period or the time the flight attendant is required to report to work, whichever is earlier.

"(9) REST.—The term 'rest' means uninterrupted time free from all duty, block-in to block-out.

"(10) SCHEDULED FLIGHT TIME.—The term 'scheduled flight time' means the elapsed time of a flight of an air carrier based on the times shown in schedules published for the air carrier.

"(11) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(f) TREATMENT OF DUTY PERIOD WITH DOMESTIC, INTERNATIONAL, AND INTERCONTINENTAL FLIGHT SEGMENTS.—A duty period with domestic, international, and intercontinental flight segments shall be treated as intercontinental flying for the purpose of calculating duty and rest requirements under this section if the majority of the flight time during that duty period is on an intercontinental segment or shall be treated as domestic or international flying if the majority of the flight time during that duty period is on a domestic or international segment.".

(b) The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by adding at the end of the matter relating to title VI the following:

"Sec. 614. Duty time of flight attendants.

"(a) Rulemaking proceeding.

"(b) Final regulations.

"(c) Mandated prohibitions.

"(d) Modification of mandated prohibitions.

"(e) Definitions.

"(f) Treatment of duty period with domestic, international, and intercontinental flight segments.".

[SEC. 338. ADDITIONAL INVESTMENTS IN AMERICA.

[(a) Effective upon the date of enactment of this Act, the fiscal year 1993 discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 are amended for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget and Impoundment Act of 1974, as follows:

[(1) the outlay limit for the domestic category shall be increased by $400,000,000; and

[(2) the outlay limit for the international category shall be reduced by $400,000,000.

[(b) Notwithstanding any other provision of law, the Office of Management and Budget and the Congressional Budget Office shall recalculate all adjustments to fiscal year 1993 discretionary spending limits required under section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 based on the amendments required in subsection (a) and shall report the revised limits to the Congress in the report to Congress for this Act that is required under section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985, and such revised limits shall be valid as if made pursuant to section 251(b) of that Act.

[(c) The Congress reaffirms that the deficit reduction assigned to the Committees on Appropriations in the 1993 Concurrent Budget Resolution (H. Con. Res. 287) shall be achieved. The total of the first four domestic discretionary appropriations bills passed by the House is $154,000,000 below their outlay targets. Additional savings are expected to be made from the six remaining non-defense bills. The Congress intends and commits that the final appropriations bills for fiscal year 1993 sent to the President will fully comply with their existing deficit reduction target.

[SEC. 339. DEFICIT REDUCTION.

[Any savings achieved under discretionary spending limits established under section 601(a)(2)(C) of the Congressional Budget Act of 1974 for fiscal year 1993 as a result of appropriations under this Act or any other appropriation Act shall be applied to reducing the Federal deficit for that fiscal year.]

SEC. 332. None of the funds provided in this Act or prior Appropriations Acts for Coast Guard Acquisition, Construction and Improvements shall be available after the fifteenth day of any quarter of any fiscal year beginning after December 31, 1992, unless the Commandant of the Coast Guard first submits a quarterly report to the House and Senate Appropriations Committee on all major Coast Guard acquisition projects including projects executed for the Coast Guard by the United States Navy and vessel traffic service projects: Provided, That such reports shall include an acquisition schedule, estimated current and future year funding requirements, and a schedule of anticipated obligations and outlays for each major acquisitions project: Provided further, That such reports shall rate on a relative scale the cost risk, schedule risk, and technical risk associated with each acquisition project and include a table detailing unobligated balances to date and anticipated unobligated balances at the close of the fiscal year and the close of the following fiscal year should the Administration's pending budget request for the acquisition, construction and improvements account be fully funded: Provided further, That such reports shall also provide abbreviated information on the status of shore facility construction and renovation projects: "Provided further, That all information submitted in such reports shall be current as of the last day of the preceding quarter".

SEC. 333. Public Law 98–63, 97 Stat. 329, is amended as follows:

"(3) The provisions of subsection (1) of this section shall terminate on December 31, 1983. The provisions of subsection (2) of this section shall terminate three years from the enactment of this section unless construction of the I–287 bypass and the construction of high occupancy vehicle lanes or auxiliary lanes on I–287 from, the I–287 intersection with State Route 22 in Somerset County to the I–287 intersection with I–80 in Morris County in New Jersey or any other feasible, suitable alternative has been commenced. In the event construction has been commenced subsection (2) of this section will terminate ten years from the enactment of this section, or when construction of I–287 bypass and the construction of high occupancy vehicle lanes or auxiliary lanes on I–287 from the I–287 intersection with State Route 22 in Somerset County to the I–287 intersection with I–80 in Morris County in New Jersey or any other feasible, suitable alternative is completed, whichever occurs first.

"(4) Notwithstanding any other provision of law, procedural or substantive, 100 per centum Federal highway trust funds moneys are hereby allocated as part of the State's allocation, and are immediately available for obligation to the State of New Jersey for the construction of the I–287 bypass and the construction of high occupancy lanes or auxiliary lanes on I–287 from the I–287 intersection with State Route 22 in Somerset County to the I–287 intersection with I–80 in Morris County in New Jersey or any other feasible, suitable alternative, such appropriation as may be made available by Congress from general appropriations to cover 100 per centum of the cost of the I–287 bypass or the alternative route: Provided, That such appropriation shall not exceed New Jersey's apportionment using the apportionment factor contained in revised table 5 of the Committee Print Numbered 102–24 of the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 334. For the purpose of carrying out a demonstration of the construction of public toll roads in Orange County, California, authorized by 23 U.S.C. 129(d), there is hereby appropriated $12,000,000 for the Secretary to enter into an agreement to make a loan or loans not to exceed $120,000,000 to the public entity or entities with the statutory duty to construct such facilities, to be available upon the completion of construction of such facilities for five years from the date capitalized interest funds are exhausted and only if and to the extent revenues from toll operations and standard reserves are less than revenue necessary for debt service established under the eligibility criteria applicable thereto and no more than 20 percent of the total loan amount would be payable in any one year of operation: Provided, That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highway and highway safety construction programs: Provided further, That such loan or loans in Section 334 of the bill, page 91, line 20, after the word "loans", insert: "shall draw interest at the 30 year United States Treasury Bond rate on the date such loan or loans" are made and shall be repaid in not more than 30 years. Notwithstanding any other provisions of law, such loan or loans shall not constitute a guarantee of the payment of principal or interest with respect to any indebtedness heretofore or hereafter issued by said public entity or entities.

SEC. 335. The Federal Highway Administration (FHWA) shall execute an agreement with the State of Virginia (regarding Federal Aid Project–Q–RS 1046(101) re. Fairfax County, Virginia) pursuant to which loan repayment can be concluded by September 30, 1997.

SEC. 336. Section 1023 of the Intermodal Surface Transportation Efficiency Act (Publc Law 102–240) is amended by adding a new subsection (h) as follows:

(h) PUBLIC TRANSIT VEHICLES.—

(1) TEMPORARY EXEMPTION.—The second sentence of section 127 of title 23, United States Code, relating to axle weight limitations for vehicles using the National Highway System of Interstate and Defense Highways, shall not apply, for the 2-year period beginning on the date of enactment of this Act, to any vehicle which is regularly and exclusively used as an intrastate public agency transit passenger bus. The Secretary may extend such 2-year period for an additional year.

(2) STUDY.—The Secretary shall conduct a study on the maximum axle weight limitations on the National Highway System of Interstate and Defense Highways established under section 127 of title 23, United States Code, or under state laws, as they apply to public transit vehicles. The study shall determine whether or not public transit vehicles should be exempted from the requirements of section 127 or state laws or if such laws should be modified with regard to public transit vehicles. In making such determination, the Secretary shall consider current transit vehicle design standards, the implications of the Americans with Disabilities Act and Clean Air Act requirements on such design standards, and the potential impact of revised design standards on transit ridership capacity, operating and replacement costs, air quality concerns, and highway wear and tear.

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the result of the study conducted under paragraph (2), together with recommendations.

SEC. 337. None of the funds made available in this Act or in any other Act making funds available to the Federal Transit Administration, shall be used to withhold funds for any section 3 or section 9 operating or capital grants for the city of Phoenix, Arizona based on the inclusion of a "preference in hiring" provision in the employees protective arrangements developed pursuant to 49 U.S.C. 1609(c) and the Federal Transit Administration shall within 30 days of enactment of this provision award any such pending grant application: Provided That the Secretary of Labor has certified that fair and equitable arrangements have been adopted for the protection of employees.

SEC. 338. For fiscal years 1992 and 1993, funds provided under section 18 of the Federal Transit Act shall be exempt from requirements for any non-Federal share, in the same manner as specified in section 1054 of Public Law 102–240.

SEC. 339. Notwithstanding any other provision of law or other requirement, the city of Indianapolis, Indiana is authorized to retain any funds not used under the authority of Facility Grant IN–03–0057 and IN–23–9001 and to use such funds in accordance with the requirements of section 9 of the Federal Transit Act of 1964 as amended.

SEC. 340. Notwithstanding any other provision of law limiting appropriations for the Westside Light Rail Project in Portland, Oregon, funds provided for the Westside Light Rail Project, may be expended, pursuant to section 3(a)(1)(c) of the Federal Transit Act of 1964, as amended, for the development and acquisition of low floor light rail vehicles, and the incremental costs associated with the introduction of the vehicles and facilities modifications on the current alignment.

SEC. 341. URBANIZED AREA TREATMENT FOR THE LAKE TAHOE BASIN.—(a) Section 9(s) of the Federal Transit Act is amended by adding at the end, the following: "For the purposes of this section, the Lake Tahoe Basin (as defined in Public Law 96–551) shall be treated as an urbanized area".

(b) Section 133(d)(3)(C) of title 23, United States Code, is amended by adding at the end, the following: "For the purposes of this section, the Lake Tahoe Basin (as defined in Public Law 96–551) shall be treated as an urbanized area.".

SEC. 342. ADVANCE ACQUISITION OF RIGHTS-OF-WAY.—Section 108 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "of the Federal-aid highway systems, including the Interstate System," and inserting "Federal-aid highway";

(2) in subsection (a) by striking "for expenditure on any of the Federal-aid highway systems, including the Interstate System," and inserting "which may be expended on such highway";

(3) in subsection (c)(2) by inserting "and passenger transit facilities" after "highways";

(4) in subsection (c)(3) by striking "highway" in the first sentence, and the first place it appears in the second sentence and inserting "project"; and

(5) in subsection (c)(3) by striking "on the federal-aid system of which such project is to be part," and inserting "of the type funded".

SEC. 343. Notwithstanding any other provisions of law, any unspent balance of funds previously earmarked for the Long Island Expressway Fourth Lane project shall be applied instead to the Robert Moses Causeway rehabilitation project and to the Loop Parkway Bridge replacement.

SEC. 344. (a) DENIAL AND REVOCATION.—Chapter 121 of title 46, United States Code, is amended by adding at the end of the following new section:

"§12123. Denial and revocation of endorsements

"The Secretary of Transportation is authorized to deny the issuance or renewal of a trade or recreational endorsement on a certificate of documentation issued under this chapter and to revoke such endorsement if the Secretary finds that the vessel's owner has not paid an assessment of a civil penalty after final agency action for a violation of law for which an assessment has been made by the Secretary.".

(b) LIMITATIONS ON VESSEL OPERATIONS.—Section 12110(c) of title 46, United States Code is amended by striking all of the first sentence through the first comma and inserting in lieu thereof the following: "When a vessel is operated after the Secretary has denied issuance or renewal of an endorsement or revoked the endorsement under section 12123 of this title and before the endorsement is reinstituted, or is employed in a trade for which an endorsement is required, without a certificate of documentation with an appropriate endorsement for that trade,".

(c) TECHNICAL AMENDMENTS.—(1) Section 12103(a) of title 46, United States Code, is amended by striking "On" and inserting in lieu thereof "Except as provided in section 12123 of this title, on".

(2) The analysis for chapter 121 of title 46, United States Code, is amended by adding at the end the following new item:

"12123. Denial and revocation of endorsements.".

SEC. 345. Chapter 26 of title 33, United States Code, is amended by adding the following new section:

"§1321(b)(12). Withholding clearance

"If any owner, operator, or person in charge of a vessel is liable for a civil penalty under this subsection, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a civil penalty under this subsection, the Secretary of the Treasury, upon the request of the Secretary of the department in which the Coast Guard is operating or the Administrator, shall with respect to such vessel refuse or revoke—

"(A) the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91);

"(B) a permit to proceed under section 4367 of the Revised Statutes of the United States (46 U.S.C. App. 313); and

"(C) a permit to depart required under section 443 of the Tariff Act of 1930 (19 U.S.C. 1443);

as applicable. Clearance or a permit refused or revoked under this paragraph may be granted upon the filing of a bond or other surety satisfactory to the Secretary of the department in which the Coast Guard is operating or the Administrator.".

SEC. 346. (a) WAIVER.—Notwithstanding any other provision of law, the obligations and liabilities of the Columbus and Greenville Railway under section 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, shall be suspended for the period begging October 1, 1992, and ending September 30, 1994.

(b) REPAYMENT.—The obligations and liabilities of the Columbus and Greenville Railway suspended under subsection (a) shall be repaid to the United States by the Railway on or before October 1, 1997. Payments shall be deposited to the Treasury as miscellaneous receipts.

SEC. 347. HIGH PRIORITY CORRIDORS.—Paragraph (18) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended to read as follows:

"(18) Corridor from Indianapolis, Indiana, through Evansville, Indiana, Memphis, Tennessee, Shreveport/Bossier, Louisiana, and to Houston, Texas.".

SEC. 348. Notwithstanding any other provision of law, none of the funds in this Act or previous Acts shall be used for the widening of U.S. Highway 93 between Somers and Whitefish, Montana, until the Federal Highway Administration has completed a feasibility study of design alternatives: Provided, That such study shall be completed by September 30, 1993, and shall be conducted in consultation with the Montana Department of Transportation and local authorities in Flathead County, Montana: Provided further, That such study shall address the cost, safety, aesthetics, and land use planning impacts of each design alternative.

SEC. 349. The Secretary of Transportation is directed to rule pursuant to FAR part 93.223, which states "Slots may be withdrawn at anytime to fulfill the Department's operational needs, such as * * * essential air service operations * * *", that the four slots currently in use and providing service between Chicago/O'Hare Airport and Oshkosh Wittman Airport, Oshkosh, Wisconsin, remain for service between these two airports, and may not be used for service elsewhere, thus maintaining service between these two communities, whether by the current service provider or by some other replacement carrier which is satisfactory to the community of Oshkosh, Wisconsin.

SEC. 350. Section 345 of the Department of Transportation and related Agencies Appropriations Act, 1992, is amended by adding at the end thereof the following:

"(d)(1) In addition to its functions under subsection (b), the Metropolitan New York Aircraft Noise Mitigation Committee shall review aircraft noise complaints within the airspace over the States of New York and Connecticut lying within a 110-nautical-mile radius of La Guardia Airport, and advise the Administrator with regard to aircraft noise mitigation within such radius, and the locations and boundaries of noise impact areas defined by such complaints. The Committee shall obtain the participation of citizens, community associations, and other public organizations concerned with aircraft noise in carrying out the functions of the Committee under this section.

"(2) The Administrator, from time to time, shall consult with the Committee regarding aircraft noise mitigation and such aircraft noise complaints. The Committee shall make recommendations to the Administrator regarding such aircraft noise mitigation and complaints.

"(3) Any vacancy in a position on the Committee shall be filled in the same manner as the original appointment to that position.

"(4) The Chairman of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

"(5) Costs and other expenses incurred by the Committee in carrying out its functions under this section shall be paid from appropriations to the Department of Transportation for administrative expenses.

"(6) The Metropolitan New York Aircraft Noise Mitigation Committee shall be permanent.".

SEC. 351. EXEMPTION MORATORIUM ON AGRICULTURAL PRODUCTS.—None of the funds provided in this Act or any other Act for fiscal year 1993 shall be used by the Interstate Commerce Commission to grant any exemption pursuant to 49 U.S.C. 10505(a), which pertains to the transportation of agricultural commodities, including timber and forest products: Provided, That for purposes of this prohibition, the term "transportation" shall include any matter affecting the movement by rail of such commodities including, but not limited to, the transportation of empty freight cars used for such commodities, demurrage rules or rates affecting such commodities or bills of lading utilized for shipments of such commodities.

SEC. 352. CARRIAGE OF OIL IN PRINCE WILLIAM SOUND.—Section 5005(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2735(a), 104 Stat. 553) is amended—

(1) by striking "tank vessel operating on Prince William Sound, or" and inserting in lieu thereof "tanker loading cargo at"; and

(2) by inserting "and a response plan for such a facility," after "(43 U.S.C. 1651 et seq.).".

TITLE IV

HIGHWAY TECHNICAL CORRECTIONS

SEC. 401. Section 1107 of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking in subsection (b) projects (167), (168), (174), (178), (179), (183), (184), and (185) and inserting in lieu thereof the following:

"(167) NELSON COUNTY.—Grading and surfacing from U.S. Highway 2 at Michigan southerly to ND Highway 15 at McVille and on FAS 3220 from ND 1 easterly to the county line.

"(168) STUTSMAN COUNTY.—Widening and surfacing from I-94 north and east through Spiritwood, then north to ND Highway 9, FAS 4718 from ND 20 east to FAS 4745, and FAS 4712 from ND 20 to ND 9.

"(174) MCKENZIE COUNTY.—Grading and surfacing of FAS 2750 from U.S. 85 west.

"(178) RENVILLE/WARD COUNTY.—Grading and surfacing, starting 3 miles west of ND 28 on FAS 3828, thence one mile west and four miles north and then west to FAS 3809.

"(179) MORTON COUNTY.—Grading and surfacing of FAS 3025 and FAS 3020 from ND 49 southeasterly to FAS 3033.

"(183) MORTON COUNTY.—For a bypass around the west side of Fort Lincoln State Park from Mandan South.

"(184) ROLETTE COUNTY.—Grading and surfacing from U.S. 281 around the access loop roads and parking facilities in the International Peace Garden.

"(185) OLIVER COUNTY.—Grading and surfacing of FAS 3331 from ND 200A at Hensler southerly to ND 25 and FAS 3304 from FAS 3331 east to FAS 3339 and FAS 3339.".

SEC. 402. The Intermodal Surface Transportation Efficiency Act of 1991 is amended by inserting at the end of section 1107 a new subsection to read as follows:

"(i) The State of North Dakota may elect to utilize the total amount of funds authorized for such State under section 1107(b) in any given year for any project or projects in the State of North Dakota as authorized under section 1107."

SEC. 403. The Intermodal Surface Transportation Efficiency Act of 1991 is amended by inserting at the end of section 1107 a new subsection to read as follows:

"(j) Any balance of funds authorized by this section that remain after construction is completed on any project authorized by subsection (b) in North Dakota may be transferred and used to pay the costs of any projects authorized by subsection (b) in North Dakota."

SEC. 404. Delete the first sentence of section 6058(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) and substitute: "The Federal share payable on account of activities carried out under section 6056, as well as operational test activities carried out under this part (other than section 6056), shall not exceed 80 percent of the cost of such activities.".

SEC. 405. Section 1006(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended in the item numbered 56 by striking "I–55" and inserting "I–59".

SEC. 406. The Secretary shall revise the Manual of Uniform Traffic Control Devices to include—

(a) a standard for a minimum level of retroreflectivity that must be maintained for pavement markings and signs, which shall apply to all roads open to public travel; and

(b) a standard to define the roads that must have a center line or edge lines or both, provided that in setting such standard the Secretary shall consider the functional classification of roads, traffic volumes, and the number and width of lanes.

SEC. 407. (a) TECHNICAL CHANGE.—Section 1014(c)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended—

(1) in the heading, by striking "91" and inserting "81"; and

(2) by striking "United States Route 91 from Belleville, Kansas" and inserting "United States Route 81 from Concordia, Kansas,".

(b) INNOVATIVE PROJECTS.—The table in subsection (b) of section 1107 of the Intermodal Surface Transportation Efficiency Act of 1991 is amended in the item numbered 154, by striking "7–15 miles Belleville to Concordia" and inserting "from Concordia to the Nebraska border".

(c) EXPENDITURE OF FUNDS.—Section 1014(c) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by adding at the end the following new paragraphs:

"(4)(A) Except as provided in subparagraph (B), notwithstanding any other provision of law, the amounts made available for the construction of the Hutchinson Bypass between United States Route 50 and Kansas Route 96 in the vicinity of Hutchinson, Kansas, under section 1107(b) shall be expended prior to the expenditure of the amount obligated for such purpose pursuant to paragraph (1) of this subsection.

"(B) If the appropriate official of the State of Kansas determines that in order to carry out to completion the construction project described in paragraph (A), the expenditure of an amount obligated pursuant to paragraph (1) of this subsection is necessary, the State may expend such amount.

(5) Notwithstanding any other provision of law, the amounts allocated to the State of Kansas for fiscal years 1996 through 1997 pursuant to section 160 of title 23, United States Code, and not obligated under this subsection or any other provision of this Act, shall remain available to the State of Kansas to carry out activities eligible for funding under title 23, United States Code.".

SEC. 408. HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROJECT.—Subsection (c)(1) of section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 144 note) is amended by striking "on rural Federal-aid highways" and inserting "on public roads".

SEC. 409. PERIOD OF AVAILABILITY.—Section 118(b)(1) of title 23, United State Code, is amended—

(1) in the first sentence by inserting "(other than Massachusetts)" after "in a State"; and

(2) in the last sentence by striking "before" and inserting "after".

SEC. 410. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—Section 129 of title 23, United States Code, is amended as follows—

(1) in subsection (b) by striking "approved under section 103(b) or (b) of this title as a part of one of the Federal-aid systems" and inserting in lieu thereof "classified as a public road"; and

(2) by amending subsection (c)(2) to read as follows—"(2) The operation of the ferry shall be on a route classified as a public road within the State and which has not been designated as a route on the Interstate System. Projects under this subsection may be eligible for both ferry boats carrying cars and passenger and ferry boats carrying passengers only."

SEC. 411. The Intermodal Surface Transportation Efficiency Act of 1991, section 1069(y) is amended by adding at the end of the last sentence: "Funds provided to carry out the provisions of this section are to remain available until expended."

SEC. 412. NONDISCRIMINATION.—Section 140(b) of title 23, United States Code, is amended in the last sentence by striking "¼ of 1 percent" and inserting "½ of 1 percent".

SEC. 413. HELL GATE BRIDGE.—Notwithstanding any other provision of law, the Hell Gate Viaduct shall be considered a federally-owned bridge solely for the purposes of determining the Federal share under section 1021(d) of Public Law 102–240 as regards the project to upgrade, repair and paint the Hell Gate Viaduct authorized by section 1107 of Public Law 102–240.

SEC. 414. Notwithstanding any other provision of law, the funds provided for projects in Idaho by sections 1104 and 1107 of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240, December 18, 1991, may be obligated for any such projects.

SEC. 415. Notwithstanding any other provision of law, the State of Nevada may elect to utilize the total amount of funds authorized for such State under sections 1104(b), 1105(f), 1107(b), and 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240 within any given fiscal year for any project or projects in the State of Nevada as authorized under said sections.

TITLE V
TRANSIT TECHNICAL CORRECTIONS

SEC. 501. Section 3012 of Public Law 102–240 is amended by adding at the end of section 8(h)(4) the following sentence: "Any transit project that has an approved draft Environmental Impact Statement would be exempt from complying with highway National Environmental Policy Act requirements.".

SEC. 502. MATCHING SHARE FOR TRANSFERRED FUNDS.—(a) Section 8(k) of the Federal Transit Act is amended by—

(1) adding after "funds" both times it appears, the following: ", including obligation authority and liquidating cash appropriations,"; and

(2) adding at the end: "The provisions of title 23, United States Code, regarding the non-Federal share shall apply to title 23 funds used for transit projects and the provisions of the Federal Transit Act regarding non-Federal share shall apply to Federal Transit Act funds used for highway projects.".

(b) Section 134(k) of title 23, United States Code is amended by—

(1) adding after "funds" both times it appears, the following: ", including obligation authority and liquidating cash appropriations,"; and

(2) adding at the end: "The provisions of title 23, United States Code, regarding the non-Federal share shall apply to title 23 funds used for transit projects and the provisions of the Federal Transit Act regarding non-Federal share shall apply to Federal Transit Act funds used for highway projects."

(c) Section 3(h) of the Federal Transit Act is amended by adding a new subparagraph as follows:

"(7) Sums apportioned under this subsection shall be available for obligation for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be reapportioned among urbanized areas eligible under paragraphs (1), (2) and (3) in accordance with the apportionment formula contained in section 3(h) for the succeeding fiscal year.".

(d) Section 3 of the Federal Transit Act is amended by adding at the end the following new subsection:

"(n) Funds made available under this section which are deobligated may be used for any purpose under this section.".

(e) Section 8(h)(5) of the Federal Transit Act is amended by striking in the first sentence "under this title" and inserting instead: "under title 23, United States Code".

(f) Section 8(i)(4) of the Federal Transit Act is amended by striking "pursuant to this title" and inserting instead: "pursuant to title 23, United States Code".

(g) Section 8(m)(1) of the Federal Transit Act is amended by striking in the first sentence "under this title" and inserting instead "under title 23, United States Code".

(h) Section 8(p) of the Federal Transit Act is amended by adding at the end the following: "Sums apportioned under this subsection shall be available for obligation for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be reapportioned among the states for the succeeding fiscal year.".

(i) Section 8 of the Federal Transit Act is amended by adding the following new subsection (q):

"(q) The statewide planning and programming requirements of section 135, title 23, United States Code, shall apply to grants made under section 3, 9, 9B, 16 and 18 of this Act.".

(j) Section 12(l)(1)(B) of the Federal Transit Act is amended by striking "regulations" and inserting instead "guidelines".

(k) Section 16(c)(4) of the Federal Transit Act is amended by striking "regulations" and inserting instead "guidelines".

(l) Section 18(c) of the Federal Transit Act is amended by adding at the end the following: "All funds made available under this section may be used for operating assistance, whether derived from the Mass Transit Account of the Highway Trust Fund under section 21(a)(1) or from general fund appropriations authorized under section 21(a)(2).

(m) Section 21(a)(1) of the Federal Transit Act is amended by inserting after "sections", "8".

(n) Section 21(a)(2) of the Federal Transit Act is amended by inserting after "sections", "8".

(o) Section 21(c) of the Federal Transit Act is amended by striking "subsection 8(p)" and inserting instead "subsection (a)".

(p) Section 21(c)(1) of the Federal Transit Act is amended by striking "8(f)" and inserting instead "8(n)".

(q) Section 21(d)(3) of the Federal Transit Act is amended by striking "1996" and inserting instead "1997".

(r) Section 26(a)(2)(A) of the Federal Transit Act is amended by adding at the end: "Sums apportioned under this subsection shall be available for obligation for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year."

SEC. 503. SPECIAL RULE FOR TRANSPORTATION MANAGEMENT AREAS THAT DO NOT CONTAIN AN URBANIZED AREA OVER 200,000 POPULATION.—Funds attributed to a transportation management area, established under section 134 of title 23, United States Code, and not containing an urbanized area over 200,000, under 23 U.S.C. 133(d) (3) (A) (ii), shall be obligated in that transportation management area.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1993".

Mr. LAUTENBERG addressed the Chair.

The **PRESIDING OFFICER**. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, as the chairman of the Transportation Appropriations Subcommittee, I am pleased to bring before the Senate H.R. 5518, the appropriations bill for the Department of Transportation and related agencies for fiscal year 1993.

Last year, in the ISTEA legislation, the Congress made the most far-reaching changes in the Federal Surface Transportation Program since the creation of the Interstate Highway Program. This bill keeps the faith with those changes by providing funds for flexible, multimodal, productive investment in critical national transportation infrastructure.

Before us today is a responsible and balanced package that works within the extraordinary constraints we are working under this year. I wish that this bill could do more—much more. The Nation has consistently underinvested in our physical infrastructure. Since the early 1980's, the Federal share of infrastructure investment has declined, and State and local governments are finding it harder and harder to pick up the slack.

Today, Mr. President, we are paying the price for our lax attention to these infrastructure needs. Our Nation's roads and skies are experiencing unprecedented levels of congestion. Long waits on the highway are now complemented by long waits on the runway. Despite dramatic growth in the volume of air traffic, we have not added one new airport to our national aviation system in 16 years.

Inadequacies in our transportation system are not merely a matter of personal inconvenience. These deficiencies threaten the economic viability of our Nation. They hamper our ability to move products, to produce jobs, and, ultimately, to compete in the international marketplace.

Our international trade competitors know this well and are making infrastructure investments that are leaving the United States way behind. For example, in infrastructure spending expressed as a percentage of gross domestic product, Germany spends 15 times as much as the United States. Japan spends 23 times as much as we do. In fact, Mr. President, the United States ranks an incredible 55th of the world's nations in per capita infrastructure spending.

Unfortunately, the severe budget constraints imposed on all domestic spending—including transportation infrastructure spending—prevented us from proposing substantial changes to our spending this year. I opposed the constraints when they were proposed in the Budget Act, and I have consistently supported efforts to eliminate or alter the budget walls that prevent the badly needed shift of national priorities from defense to domestic needs.

Unfortunately, efforts to provide additional infrastructure spending by removing the budget walls have been stymied. I will not stop trying to increase substantially Federal infrastructure investment. And while I am proud of this bill and the increased investments it makes in infrastructure, I am committed to doing more.

Given the budget constraints the Committee had to work under, we made a careful and diligent examination of the budget requests proposed by the President and the requests of many Senators and concerned citizens. The bill was produced after extensive testimony received during numerous hearings over a 3-month period on 12 separate agencies within the Department of Transportation.

The Transportation Subcommittee is charged with providing adequate operating and procurement funding for the Coast Guard and the Federal Aviation Administration, while simultaneously investing in our Nation's basic transportation infrastructure—its highways, airports, and mass transit systems.

The bill before us, I am pleased to say, takes some critical steps to address our infrastructure needs, not only by investing in our traditional highway, aviation, rail, and water programs but in investing in important projects utilizing new technologies that will be critical to the transportation needs of the future; new technologies such as maglev—magnetically levitated rail systems—intelligent vehicles/intelligent highway systems, and the complete electrification of the Northeast corridor. These technological enhancements all promise to relieve congestion both on the highways and in the air, as well as reduce air pollution and improve mobility. We believe we will reduce our dependence on foreign oil imports.

The bill before us obligates $1.8 billion for the Airport Improvements Grants Program and sets the Federal-aid obligation ceiling at $18.2 billion, which is $1.3 billion more than the 1992 level. These funds will benefit every State and enable every region of the country to get on with the important job of fixing the crumbling roads and bridges and expanding our airports' ground capacity.

The bill also includes more than $7.2 billion for operations, acquisitions, and research for the Federal Aviation Administration, and proposes almost $3 billion in operations, acquisitions, and research for the Coast Guard. These funds will ensure safety in the air and at sea and move these agencies forward in executing their critical responsibilities.

Mr. President, while I am pleased with the package before us, I must admit that the Subcommittee on Transportation faced some tough choices. I want to thank every member of the committee for their support and forbearance through the process.

We believe this bill represents a responsible and balanced package, given the constraints of the budget resolution and our allocation, and considering the large number of requests we received from our colleagues—765 requests from 85 Senators, which is an increase of almost 200 requests from last year. Obviously, we were not able to provide for every request. We have, however, done the best we could to accommodate Members' priorities.

A great number of those requests were not included in the administration's budget; many were not included in the House version of the transportation bill; and many were not authorized. Because of the extraordinary number of requests, this subcommittee, like many others, had to adopt a no "new start" rule.

The need for this rule was especially acute in the highway area, where I could only continue, or in some cases complete funding for projects that had previously received funding from this subcommittee. We could not consider projects that had already received contract authority from the surface transportation bill. I am afraid that there was no other way to pare down the $1.2 billion in requested highway demonstration projects.

Let me note that the President's budget for transportation proposed several cuts, some of which were devastating to certain critical programs. These cuts were achieved largely by severely reducing operating subsidies for Amtrak, eliminating some highway projects, and cutting mass transit operating subsidies by over 70 percent.

The administration's proposal did include increased funding for the Coast Guard's operating and capital expenses, and increases for the Federal Aviation Administration's operating and capital accounts.

In other words, Mr. President, as in previous years, the President's budget proposed to pay for the recognized necessary increases for the Coast Guard and the FAA by severely reducing financial assistance for mass transit and Amtrak, and by reducing highway expenditures as well. This, to me, was not acceptable.

Mr. President, at this time, I would like to state for the RECORD the highlights of the bill.

COAST GUARD

For the Coast Guard, the bill provides $3.6 billion in new budget authority. Funding for Coast Guard operations will be $13.3 million above the House-passed level. Funding for Coast Guard acquisitions will be $33.5 million below the House-passed level, but includes many critical programs to help the Coast Guard restore its deteriorating shore facilities and replace aging vessels and aircraft.

HIGHWAYS

In the Federal Highway Administration, I would note that the bill before you has an obligation ceiling of $18.31 billion, an increase of $2.3 billion over last year. I believe that this is a positive affirmation that this subcommittee, while working within a tight funding environment, will make the much-needed investments in our Nation's crumbling roads and bridges and will make every effort to relieve congestion and provide an efficient, safe highway system. This obligation ceiling is distributed according to the prescribed formula contained in the Surface Transportation Act. Thus, the increased spending will benefit each and every State.

AMTRAK

For Amtrak, the bill contains $331 million for operations, $146 million in mandatory payments, and $165 million for capital grants. The bill is consistent with the committee's goal of providing adequate support for capital acquisitions in order to boost revenues and move Amtrak toward self-sufficiency. The bill also includes funding for improvements to the Northeast corridor, including the electrification of the final segment from New Haven to Boston. This project represents the single largest enhancement to intercity rail service in the United States in many years. It promises to greatly reduce air and highway congestion throughout the northeast, as well as minimize air pollution in the region. It will also further improve Amtrak's profitability, and thus further minimize the need for a Federal operating subsidy.

FEDERAL AVIATION ADMINISTRATION

For the FAA, the bill provides an increase of $185 million for operations, an increase of 4.2 percent over the 1992 enacted level. This includes funding for an additional 150 air traffic controllers, and fully funds the requested levels for safety inspectors, aircraft certification personnel, and civil aviation security staff.

In the facilities and equipment area, the bill provides $2.42 billion. Most of this will go to the modernization and expansion of our national airspace system by upgrading our air route traffic control centers, airport towers, and flight service facilities.

In the research area, there is $230 million to support continued research and development of automated explosive and sabotage detection systems, aging aircraft and satellite technology, aviation weather technology, and pilot fatigue.

For the Airport Improvement Grants Program, the bill contains $1.8 billion.

FEDERAL TRANSIT ADMINISTRATION

Finally, Mr. President, in the transit area, the bill continues transit operating assistance at $802 million, a freeze of last year's level; $690 million for new starts; $690 million for modernization of our older transit systems; and $34.5 million for discretionary bus purchases. All of these amounts follow the prescribed formulas contained in the Intermodal Surface Transportation Efficiency Act, or ISTEA.

As Members are aware, during consideration of this bill on the House floor, the House adopted the Obey amendment, which added $400 million in outlays for high priority transportation programs. The funds contained in the Obey amendment were derived from the international affairs function. Thus, the Obey amendment served to tear down the firewalls between foreign aid and domestic spending.

The bill before you does not include the Obey amendment, since it would cause the bill to exceed its 602(b) ceiling and would subject the bill to a 60-vote point of order. However, it should be noted that, through the generosity of the chairman and the commitment of the entire Appropriations Committee to improve our infrastructure, the 602(b) allocation for the Senate Transportation Subcommittee was well above that of the House subcommittee prior to the adoption of the Obey amendment.

As a result, the bill before you is only $55 million in outlays below the House-passed bill, even with the House's adoption of the Obey amendment. I should say, however, that I believe if additional funds were available to the subcommittee, that they could be spent wisely because they are needed.

Included in the recommendation before you are titles IV and V. Title IV contains technical corrections to the highway program in ISTEA. Title V contains technical corrections to the transit portions of ISTEA. All of the technical amendments in title IV have been cleared by both the majority and minority leadership of the Environment and Public Works Committee. All of the technical amendments in title V have been cleared by the majority and minority leadership of the Banking, Housing, and Urban Affairs Committee.

As stated, the Transportation Subcommittee had a discretionary spending ceiling of $13.2 billion in budget authority and $33.86 billion in outlays. The bill before you, as scored by CBO, spends the entire allocation in outlays. For that reason, any amendment changing funding levels in the bill will require offsets that are neutral in outlays.

Once again, I want to note my deep appreciation to all the members of the subcommittee for their assistance with this bill. I particularly want to thank my colleague, Senator D'AMATO, the ranking member of the Transportation Subcommittee, for his input and his help.

And I also want to note at this time the exceptional support that we get from the chairman of the full Appropriations Committee, Senator BYRD, who, as all of us know, is a staunch and steadfast advocate for increased investment in our Nation's infrastructure.

I would note again, Mr. President, the bill as scored by the Congressional Budget Office is right on its 602(b) allocation for outlays.

So I remind my colleagues that any amendment affecting outlays must be accompanied by an offset.

PRIVILEGE OF THE FLOOR

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that during the Senate consideration of H.R. 5518, John Jaskot, an aide detailed to the subcommittee from the Department of Transportation, be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the committee amendments to be considered and agreed to en bloc now be adopted; that they be considered as original text for the purpose of further amendment; and that except for the committee amendment starting on page 19, line 18 through line 21, be adopted at this time and that no points of order be waived thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to, en bloc, except committee amendment on page 19, line 18 through line 21.

Mr. LAUTENBERG. Mr. President, at this point, the bill is open for amendments, for those Senators who want to offer amendments. I note that the distinguished Senator from Maryland is here. I am advised that she has an amendment which we will be hearing about shortly. But I also encourage all of our colleagues to come on down, as they say, and bring their amendments, because there are transportation commitments that have to be made, which the States are anxiously waiting for, which the communities are anxiously watching, because they want to know what they should be doing in planning for an October 1 year beginning.

As I said in my comments, the bill is not all that we would like it to be, principally because we have not been able to break the firewall between domestic, foreign, and defense spending.

The needs are there, and it is without debate, Mr. President, that we note that included in the needs are more jobs for America, that people are out of work, concerned about the present and worried about the future. And the best way to solve those problems is for them to be able to get back to work.

If they are back to work, then it reduces some of the pressures that we see on the budget deficit. It also permits America to be more competitive, to do away with unproductive waiting in traffic for job travel and for goods to move. There are so many benefits to getting our investments in infrastructure going, insufficient as they may be.

It does take some planning. There are people, again, sitting on unemployment lines, anxious to get to work, and word from this Chamber that we understand the problems, that we want to move it along, would be a very good sign.

So, Mr. President, once again I ask my colleagues to please come down to the floor and offer their amendments so that we can move this commitment to a better, more productive, more pollution-free America, and to tell our competitors that we are going to get on the job. This is one significant way, one very helpful way to do it.

With that, I note, Mr. President, as I earlier said, that one of the truly diligent colleagues we have in this body is the distinguished Senator from Maryland. It is hoped that before too long we will have to be very specific in the way we address our colleagues, because when we say "she" or "her amendments," it is expected it will be more frequently used.

But for the moment, we have the good fortune to have on both sides of the aisle women in the Senate who bring something special to the job. It proves, given the chance, there is not a job in the world, including what is purportedly the top job, that could not be handled by a woman.

But for the moment, we ask that Senator MIKULSKI make her presentation. There are very few things she brings to this body that are not worthy of serious consideration, and we will start by asking Senator MIKULSKI to step, as they say, to the plate first and offer her amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Ms. MIKULSKI. I thank the Chair.

Mr. President, I thank the Senator for those kind personal words. But I also want to thank the Senator for the leadership he has provided in bringing the transportation appropriations bill before the Senate. The Senator's leadership has been significant in rebuilding America, rebuilding America in a way that generates jobs today and will generate jobs tomorrow; jobs today in the construction industry, doing real work, building highways, byways, subways, beltways, that enable people to get to work on time and at the same time provide much needed jobs.

At the same time, the Senator has funded the U.S. Coast Guard, which many people do not understand is in the Department of Transportation, but it is a dual-use Agency. In peacetime, we have them defending us in the environment, defending us in the drug war. And when we are at war, like in Desert Storm, they move under the supervision of the U.S. Navy.

The Senator has also been there in terms of airport and passenger safety. The Senator has not turned his back on continued fighting of terrorism around the world, whether it is in hijacking or other atrocious things that have been done.

I salute the Senator for his leadership, and I intend to enthusiastically back this appropriations bill and to lend my name when the vote is called on its final passage.

But, Mr. President, I also have an amendment that I think would add to the improvement of this country in generating jobs today and jobs tomorrow.

AMENDMENT NO. 2838

(Purpose: To require country of origin labeling with respect to automobile equipment)

Ms. MIKULSKI. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report the amendment offered by the Senator from Maryland.

The bill clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes an amendment numbered 2838.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . LABELING REQUIREMENT FOR AUTOMOBILES.

(a) SHORT TITLE.—This section may be cited as the "American Automobile Labeling Act".

(b) LABEL REQUIREMENT.—(1) Each manufacturer of a new automobile distributed in commerce for sale in the United States shall cause to be affixed and each dealer shall cause to be maintained, on each such automobile manufactured in any model year after model year 1993 in a prominent place, a label—

(A) indicating the percentage (by value) of automobile equipment on such automobile which originated in the United States;

(B) indicating the city, State (where appropriate), and country where such automobile is assembled; and

(C) in the case of any country (other than the United States) in which 15 percent or more of the automobile equipment (by value) on such automobile originated, indicating the names of a least the 2 countries in which the greatest amount of such equipment (by value) originated.

(2) The percentages required to be indicated by this section may be rounded to the nearest 5 percent.

(c) FORM AND CONTENT OF LABEL.—The form and content of the label required under subsection (b), and the manner in which such label shall be affixed, shall be prescribed by the Secretary by rule. The Secretary may permit a manufacturer to comply with this section by allowing such manufacturer to disclose the information required under this section on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

(d) REGULATIONS.—The Secretary, in consultation with the Secretary of Commerce and the Secretary of the Treasury, shall promulgate such regulations as may be necessary to carry out this section, including regulations to establish a procedure to verify the labeling information required by this section.

(e) VIOLATIONS AND PENALTIES.—Any manufacturer of automobiles distributed in commerce for sale in the United States who willfully fails to affix to any new automobile so manufactured or imported by him for sale in the United States the label required by this section, or any dealer who fails to maintain such label as required by the section, shall be fined not more than $1,000. Such failure with respect to each automobile shall constitute a separate offense.

(f) DEFINITIONS.—For purposes of this section—

(1) The term "manufacturer" means any person engaged in the manufacturing or assembling of new automobiles, including any person importing new automobiles for resale and any person who acts for and is under the control of such manufacturer, assembler, or importer in connection with the distribution of new automobiles.

(2) The term "person" means an individual, partnership, corporation, business trust, or any organized group of persons.

(3) The term "automobile" includes any passenger car, passenger van, or any other vehicle with respect to which the labeling requirements of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) apply.

(4) The term "automobile equipment" means any system, part, or component of an automobile installed on or attached to such automobile at the time of its initial shipment by the manufacturer to a dealer for sale to an ultimate purchaser.

(5) The term "originated in the United States", in referring to automobile equipment, means the value added in the United States to the equipment.

(6) The term "new automobile" means an automobile the equitable or legal title to which has never been transferred by a manu-

facturer, distributor, or dealer to an ultimate purchaser.

(7) The term "dealer" means any person or resident located in the United States, including any territory of the United States, or the District of Columbia, engaged in the sale or the distribution of new automobiles to the ultimate purchaser.

(8) The term "commerce" means commerce between any place in a State and any place in another State, or between places in the same State through another State.

(9) The term "Secretary" means the Secretary of Transportation.

(10) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone and American Samoa.

(11) The term "value added" means the value that is directly related to the production of the automobile equipment. Such term does not include value that is related to the production or sale of assembled vehicles, such as advertising costs, interest payments, royalties paid, depreciation charges, profits, and other such similar accounting categories of the manufacturer.

Ms. MIKULSKI. Mr. President, I want to inform the Senate that this legislation has been cleared by the authorizing committee.

Mr. President, I call my amendment "Stick up for America" legislation. Mr. President, what my legislation does is provide automobile labeling that will inform the American people about what is the American content, the American content in terms of its labor and in terms of its parts.

Mr. President, it is time to stick up for America, not stick it to America. It is time to stick up for America and to practice pocketbook patriotism. My legislation would require auto makers to put an easy-to-read sticker on every car sold in America. This sticker will state the city and country where the car was assembled and the percentage of American parts that went into making that car.

My bill will not only help the American car worker but the American car buyer. Every citizen deserves this information.

This is what the label would look like.

When you walk into the showroom and you take a look at the current label on a car that gives EPA mileage, gives the model of the car, and a whole lot of other information as well, such as how much the air conditioning costs and does it have four wheel drive, right at the bottom there will be a section that says "parts" and "assembly," parts in terms of the percentage made in the U.S.A. and then also its assembly location. And then, if there are other things from other countries, it will tell you.

Mr. President, I know where the dress I am wearing was made. It is labeled. I know where my VCR and TV were made. I even know where my coffee pot was made. But if you are going to spend anywhere from $15,000 to $35,000 on an automobile, I think you ought to know where it was made.

People say, well, it might be difficult to label. We now label a soup can on how many calories it has. Certainly, we can label a car to tell us how much American labor and parts it has.

Millions of Americans today would be happy to buy an American car. They want to buy American because they want to build America. They believe that manufacturing is the key. They want to buy American cars because they know our economy depends upon jobs in the automobile industry. They want to practice pocketbook patriotism. But buying American is easier said than done.

You cannot go by the nameplate anymore. There are Mercurys built in Mexico and Chevys built in Canada. There are Hondas built in Ohio and Toyotas built in California. Soon there are going to be BMW's built in South Carolina. It is confusing, and people are frustrated. They have asked me to do something, and that is why I proposed this legislation.

I see this as a consumer rights amendment. People who want to practice pocketbook patriotism have the right to know. They need the information so they can make an informed choice.

Mr. President, on June 24, the Commerce Committee held a hearing on this legislation. At the hearing were representatives of the UAW, the Public Citizen, and the Made in U.S.A. Foundation, all of whom strongly supported this legislation and say it is needed. The Presiding Officer chaired that committee. The Senator heard the compelling case that was made.

We have also made the improvements that were suggested by those who wanted to offer constructive suggestions.

I am happy that Senators on both sides of the aisle are cosponsors of this legislation. It is a simple amendment. It merely proposes to give car buyers the information they need.

What I also like is this legislation does not attack anyone, nor punish any nation.

If people want to buy a foreign car, that is their choice. And if they want to buy an American car, I want to make sure they have the opportunity to know what they are doing. We know the American automobile workers build some of the best cars in the world, and for those citizens who choose to buy American, they have that opportunity.

In my own hometown of Baltimore, they build a minivan that is an American success story. I went to the union hall outside that GM plant earlier this year to announce my plan. The workers were for me, and they said we need to make sure that we have that informed choice.

I feel good about this legislation. I know that what it will do is help provide American jobs and provide Americans an opportunity to make an informed choice.

I urge my colleagues to support this amendment, and I thank the distinguished chairman and ranking minority member for allowing me to offer it.

Mr. LAUTENBERG. Mr. President, the majority and the minority management of the subcommittee are prepared to accept the Mikulski amendment. I could not agree more with the Senator than when she makes the comment about letting the people who want to make the choice have the information from which to make their decision an informed decision.

I think she is right that most people want to support products that are made in this country. That does not mean that the products that meet the need coming from abroad are not going to be considered. They certainly are. It is a competitive world out there. This amendment not only tells the buyer what the content of the vehicle is about—I note with particular interest that the Senator from Maryland reminds us that on a can of soup the calorie count is often stated. We know how often that is ignored. But, nevertheless, people have the opportunity to make the decision, and that is not what I think will happen with this amendment when it gets put into place.

Mr. President, this amendment is almost identical to a bill introduced by the distinguished Senator from Maryland earlier this year when she wrote an amendment, a bill, that required that new cars sold in the United States show a label identifying the percentage of the manufactured content associated with the vehicle.

As the Senator noted, the authorizing committee on both sides of the aisle have cleared this amendment. The Commerce Committee held hearings on the bill, and it is noteworthy that Senator HOLLINGS, the chairman of the Commerce Committee, is a cosponsor.

So since there are no objections on either side, I urge the amendment be agreed to and note that we are pleased to accept it.

The PRESIDING OFFICER. The Chair, hearing no further debate, without objection, the amendment (No. 2838) offered by the Senator from Maryland is agreed to.

The amendment (No. 2838) was agreed to.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. I thank the Senator for accepting the amendment.

Mr. LAUTENBERG. We thank the Senator from Maryland.

Mr. President, we have a series of technical amendments that have been cleared. I ask unanimous consent that they be considered at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2839

(Purpose: To make technical corrections to the bill)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2839.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 45, beginning on line 7, strike all through the end of line 15, and reinsert the identical language at the beginning of line 10, page 46.

On page 49, beginning on line 3, strike all through the end of line 19, and insert the following:

"For necessary expense to carry out section 117A(i)(3)(B) of the Hazardous Materials Transportation Act, as amended, $700,000 to be derived from the Emergency Preparedness Fund, to remain available until expended: *Provided*, That no more than $11,300,000 shall be made available for obligation in fiscal year 1993 for amounts made available by section 117A(h)(6)(B) and (i) (1), (2), and (4) and 118 of the Hazardous Materials Transportation Act, as amended: *Provided further*, That such amounts shall only be available to the Secretary of Transportation."

Beginning on page 97, line 25, strike: "the Secretary finds that the" and insert the word "that".

On page 98, beginning on line 22, immediately after the section number, strike all through the end of line 1, page 99, and insert the following:

"Section 311(b) of the Federal Water Pollution Control Act is amended by adding a new paragraph to read as follows:

"'(12) WITHHOLDING CLEARANCE—"

Mr. LAUTENBERG. Mr. President, I ask for approval of the amendment.

The PRESIDING OFFICER. The Chair, hearing no further debate, and without objection, the amendment offered by the Senator from New Jersey is agreed to.

The amendment (No. 2839) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2840

(Purpose: To make corrections to section 410 of title 23, United States Code)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside, and the clerk will report the amendment.

The legislative clerk read as follow:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2840.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —ALCOHOL TRAFFIC SAFETY GRANTS

SEC. _01. MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.

Section 410 of title 23, United States Code, is amended—

(1) by striking subsection (g);

(2) by redesignating subsections (c) thru (f) as (d) through (g), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—No State may receive grants under this section in more than 5 fiscal years beginning after September 30, 1992. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year the State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year a program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.".

SEC. _02. BASIC GRANT ELIGIBILITY.

Section 410(d) of title 23, United States Code, as so redesignated by section -01 of this title, is amended—

(1) by striking "4 or more of the following:" and inserting in lieu thereof "5 or more of the following:"; and

(2) in subsection (1)(C), by striking "within the time period specified in subparagraph (F)"; and

(3) by adding at the end the following new paragraph:

"(6) Establishment of a mandatory sentence, which shall not be subject to suspension or probation, of (A) imprisonment for not less than 48 consecutive hours, or (B) not less than 10 days of community service, of any person convicted of driving while intoxicated more than once in any 5-year period.".

SEC. _03. AMOUNT OF BASIC GRANTS.

Section 410(e) of title 23, United States Code, as redesignated by section _01 of this title, is amended to read as follows:

"(e) AMOUNT OF BASIC GRANT.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (d) shall equal 30 percent of the amount apportioned to such State for fiscal year 1992 under section 402 of this title.".

SEC. _04. SUPPLEMENTAL GRANTS.

Section 410(f) of title 23, United States Code, as so redesignated by section _01 of this title, is amended by striking "A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section" each place it appears and inserting in lieu thereof "Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title".

SEC. _05. ADMINISTRATIVE EXPENSES.

Section 410(g) of title 23, United States Code, as so redesignated by section _01 of this title, is amended by striking ", and the remainder shall be apportioned among the several States".

SEC. _06. AUTHORIZATION OF APPROPRIATIONS.

Section 410(j) of title 23, United States Code, is amended to read as follows:

"(j) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $25,000,000 for each of fiscal years 1993 through 1997. Amounts made available to carry out this section shall remain available until expended and shall not be subject to any obligation limitation for State and community highway programs.".

SEC. _07. EFFECTIVE DATE OF AMENDMENT; TRANSITION RULES.

(a) EFFECTIVE DATE.—(1) The amendments made by sections _01 through _06 shall take effect October 1, 1992.

(b) STATES ELIGIBLE FOR BASIC GRANTS UNDER SECTION 410 BEFORE DATE OF ENACTMENT.—A State that received a basic grant in fiscal year 1992 under section 410 of title 23, United States Code, as in effect on September 30, 1992, and that continues to meet the criteria for a basic grant, as in effect on September 30, 1992, shall be eligible for a basic grant under such section 410, as amended by this title.

(c) TRANSFER OF REMAINING FUNDS TO NEW PROGRAM.—Funds apportioned in fiscal year 1992 from which grants were not awarded under section 410 of title 23, United States Code, as in effect on September 30, 1992, shall be available for carrying out section 410 of title 23, United States Code, as amended by this title, on and after October 1, 1992.

Mr. LAUTENBERG. Mr. President, this amendment makes certain technical changes to the section 410 alcohol incentive grant program. The changes have the approval of the majority and the minority leadership of the Senate Commerce Committee, the authorizing committee.

I am proud to be the sponsor of this amendment since I served as the primary author of the original section 410 program some years ago. These changes are strongly endorsed by MADD, Mothers Against Drunk Driving, and by the National Association of Governors' Highway Safety Representatives.

This amendment restores to the section 410 program its most critical component; that is, the provisions that provide the States with a true incentive to enact tough laws against drunk driving. That is what we want to do. We want to enforce—not only enact laws but enforce—those laws.

I point out that the appropriations bill before the Senate does not include any new funding for the section 410 program. This is not left out because I or the committee do not attach a priority to the program. Rather, it reflects the fact that additional funding for the program is not needed at this time.

The appropriations bill before us includes a provision that makes unused funds from the old section 410 program, roughly $8 million, available for new grants under the new section 410 program. In addition, only about $78 million of the $25 million that was provided for this program under ISTEA last year will be utilized in fiscal 1992. As a result, the combination of unused ISTEA money and the unused money from the old section 410 program should be more than adequate to fund full grants to all of the eligible States in fiscal year 1993.

Mr. President, I think all know what a valuable service Mothers Against Drunk Driving has done for the country. Unfortunately, a significant majority of those in leadership in Mothers Against Drunk Driving know only too well the tragedy of loss or damage or injury that comes from a drunk driver on the road, and they have worked diligently to try to prevent similar tragedies from occurring in other families and other places. We strongly support their efforts, Mr. President. I take pride in the fact that I was a primary author of the minimum 21 drinking age bill across this country.

It is believed that we saved several thousand youngsters from dying, several thousand annually, several thousand families from mourning, grieving, feeling the pain and suffering that goes with the loss of a young family member, a son, brother, nephew, or grandchild. The one thing that has given me some occasion for sadness is when I see the law violated. I note that the law enforcement agencies either do not have the capacity, or are not engaged in enforcement of the 21 drinking age law; that if they were more active, if they could be more diligent—and this is not a criticism of law enforcement, it is criticism of a system that says that laws that are upon the books do not always get the attention they deserve. It is believed by responsible agencies in Government and outside Government that thousands more young people would live to see their later years if we were more persistent in enforcement of the under 21 drinking age requirement, that prohibition.

So we thank the Mothers Against Drunk Driving for their help on the amendment before us.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2840) was agreed to.)

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida [Mr. GRAHAM].

AMENDMENT NO. 2841

(Purpose: To add a section to the bill)

Mr. GRAHAM. On behalf of myself and Senator Bond, I send an amendment to the desk.

The PRESIDING OFFICER. The pending committee amendment will be set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself and Mr. BOND, proposes an amendment numbered 2841.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . EMPLOYEE CONSIDERATIONS IN AIRLINE ROUTE TRANSFERS.

(a) IN GENERAL.—

(1) Title IV of the Federal Aviation Act of 1958 is amended by adding at the end of section 401(h) the following new paragraph:

"(4) EMPLOYEE CONSIDERATIONS.—(i) If a certificate transfer is approved, the air carrier to which the route authority is being transferred shall hire in each class or craft, no less than the number of employees from the air carrier transferring the certificate, in order of seniority, which the Secretary determines in the order approving the transfer are required to appropriately operate the certificate authority being transferred. The hired employees shall be afforded the seniority integration protections specified in Tiger International Seaboard Acquisition Case, CAB Docket 33712.

"(ii) On complaint by any employee or by the representative of any group of the employees affected by a transaction specified in subparagraph (i), the United States District Court for the district in which the complainant resides or has its principal place of business or for the District of Columbia, shall order the air carrier or carriers acquiring the route authority, or other persons, to provide the seniority integration protections specified in that paragraph. The pendency of a representation dispute before the National mediation Board shall not deprive the court of jurisdiction. The court may assess against the surviving air carrier or carriers, reasonable attorneys' fees and other litigation costs reasonably incurred in any case under the section in which the complainant has substantially prevailed.".

(b) DUTY TO HIRE PROTECTED EMPLOYEES.—Section 43 of the Airline Deregulation Act of 1978 is amended by the deleting in subsection (d)(1) thereof the number "10" and inserting in place thereof the number "17".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) shall apply with respect to any application filed with the Secretary of Transportation requesting approval of a transfer in whole or in part of any certificate on or after July 26, 1991.

Mr. GRAHAM. Mr. President, the Senate today is considering legislation to fund the Department of Transportation which has as one of its chief responsibilities the regulation of air commerce.

Under the leadership of the Assistant Secretary for Policy and International Affairs, the DOT is charged with ensuring safe and efficient travel for consumers in both domestic and international air travel. But the decisions and actions of the DOT go beyond affecting consumers.

The DOT's policies have tremendous impact on employees of the airline industry. Unfortunately, the DOT seems to shun any responsibility for what happens to those employees as a result of its policies and actions.

The best example is the story of what happened to the former employees of Pan American World Airways when the airline went bankrupt in December 1991, and the DOT took responsibility for overseeing the transferring of Pan Am's route authority to other carriers. Thousands of American employees of the airline were left jobless, and remain jobless today. I make the distinction "American" employees for a reason, Mr. President.

Based on information I have received from numerous former American Pan Am employees, foreign Pan Am workers are keeping their jobs and Americans are being let go wholesale. And foreign individuals are being offered exclusive opportunities to interview for jobs previously held by Americans.

One gentleman I met in Miami had worked for 30 years with Pan Am, most recently as a crew chief in a German-based Pan Am maintenance shop.

When Pan Am went bankrupt and another airline began to fly the route, he lost his job, but the Germans working at the same station did not.

According to a special study by the Congressional Research Service, a predominance of foreign countries have statutory protections for their citizens when a business changes ownership.

I would like to submit the Congressional Research Service's findings at the conclusion of my remarks for the RECORD.

The current administration will tell you that they care about American jobs and are putting forth policies that put Americans first.

What is the American Government doing to assist the employees of the airline industry?

The Secretary of Labor has provided some retraining money and, without great enthusiasm, the President has agreed to legislation extending unemployment benefits, but that is the extent of this administration's policy of putting Americans first.

Mr. President, these professionals and proud Americans do not want a handout. They want a job.

In a hearing of the Senate Aviation Subcommittee on April 30, 1992, the Department of Transportation claimed that the airline industry is deregulated and, therefore, the Department of Transportation has no responsibility to these employees. This is not the case.

International route authorities are a public franchise granted to air carriers by the Federal Government. The international airline industry remains highly regulated through bilateral treaties between our governments and those to which our carriers fly.

The very fact that the Department of Transportation has had to approve the transfer of Pan Am's route authority to other U.S.-based carriers is evidence that this industry remains regulated.

Mr. President, the underlying bill is an appropriations measure for the Department of Transportation. I expect there will be those who oppose my amendment as authorizing on an appropriations bill. But the amendment Senator Bond and I propose is central to the appropriations policies of Congress.

If we do not direct DOT to ensure some minimal job protections to airline employees in this legislation, then we will have to appropriate more dollars in other appropriations measures to pay for the administration of unemployment benefits and for job training programs.

Since December 1991, 5,248 former Pan Am workers have filed for unemployment compensation in the State of Florida. The estimated cost for those unemployment benefits to date is $13.5 million. Another $7 million has been spent by the U.S. Department of Labor to retrain former Pan Am workers in Florida.

In New York State, 4,688 unemployment claims have been filed by former Pan Am workers. The U.S. Department of Labor has contributed $6 million for retraining these individuals.

Furthermore, the Pension Benefit Guaranty Corp.—itself facing major financial liabilities which Congress must address—has been forced to take over the underfunded pension program for Pan Am retirees at a cost of $900 million.

Legislation I have introduced—and am offering as an amendment today—seeks to ensure protection for airline workers in the event of an international route transfer.

The amendment requires the Department of Transportation to evaluate how many jobs are necessary to run the international route which one carrier is seeking to take over from another.

A commensurate number of employees from the original carrier would then be guaranteed the first right to those jobs when the new carrier began hiring. This puts teeth into the Department of Transportation's responsibility to ensure that a route transfer is in the best public interest.

According to statements made by the DOT, the Department will not take steps to ensure job protection in an international route transfer unless: First, the stability of the national air transportation system is threatened; or second, special circumstances exist that require protective provisions to encourage fair and equitable working conditions.

Despite the thousands of individuals unemployed as a result of recent airline bankruptcies, mergers, and takeovers, I do not see any sign that the DOT perceives much of a problem.

During the confirmation process for his new position as Secretary of Transportation, Andrew Card stated that the DOT does not even keep information on what is happening to employees when a route is transferred.

This means a carrier can bid on a route and pledge to take so many employees from the original carrier to sweeten the offer, but DOT has no way of knowing if they keep their word.

I wonder if the Secretary of Transportation has even talked to the Secretary of Labor regarding the cost to her agency of DOT's apparent disregard for employees in route transfers.

These jobs are not simply disappearing either.

There seems to be a disturbing trend toward bypassing mature workers with years of valuable experience for younger individuals that bring little liability in terms of salary and benefit demands.

What does that mean to the individuals who have devoted their entire career to the airline industry?

These people made America the leader in international flight.

Now they must find new jobs which provide comparable salaries, health insurance and retirement benefits, not an easy task in today's economy, especially for older workers.

What we are talking about, Mr. President, is simple.

The Department of Transportation must reevaluate its sense of responsibility to the individual—if not for simple compassion reasons, for economic reasons—to save the government money.

I urge my colleagues to support this amendment.

I ask unanimous consent to have a comparative summary printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Laws Protecting Employees on the Transfer or Sale of a Business—Comparative Summary

It is common in many countries to protect the rights of employees of businesses that are sold or transferred. The chief feature of these provisions is the continuation or transfer of contracts of employment with the new owner. In some other countries, a similar result is achieved by means of collective bargaining agreements and other labor relations practices.

The result of both these approaches may be characterized as making the new owners "step into the shoes of the old owners," but the transfer of employment in most cases is not a guarantee of the continuation of the employment. As the old owner could have terminated the employment for causes such as loss of business, etc., so can the new employer. The crux of the right provided is that the transfer itself cannot be a good cause for dismissing the employees of the business being acquired. There must be other valid reasons for the dismissals.

The European Community (EC) is an exponent of the automatic transference of contracts of employments to the new owner. As part of its social mandate for providing an improved standard of living for workers, in 1977 the Council of the EC formulated a Directive for safeguarding employees' rights in the event of a transfer of an undertaking.[1] This Directive has been implemented in the national laws of most of the member states.

The continuity of employment ensured in the EC Directive is predicated on the continuation of the business by the new employer. It does not prohibit dismissals of employees "for economic, technical or organizational reasons entailing changes in the work force." These grounds are subject to careful scrutiny by the courts and their application has been restricted. However, there is no general right of re-employment for those dismissed on valid economic grounds.

Direct rights for the transfer of employment contracts are also granted in Argentina, Brazil, Canada, Chile, Switzerland, Syria, Turkey, and several countries in French-speaking Africa. In Argentina and Chile, if the business of the new employer is substantially changed or previous jobs are eliminated, the employees are entitled to indemnification upon dismissal. The Canada Labour Code also allows the continuation of the bargaining rights of transferred employees but does not provide any right of rehire for terminated employees. Syria guarantees the employment of those transferred to a new owner. Swedish employment protection laws and labor relations practices require the new owners of a business to follow the terms of the labor contract in force at the time of the transfer.

Japan does not provide for the automatic transfer of employment contracts. However, there is a related law that protects the employment rights of seamen after a change in the ownership of their ship. Based on the analogy of this Law and on general notions of the role of employees in an enterprise, the majority view among Japanese jurists is that a contract of employment is deemed to be transferred to the new owner. The new employer may then dismiss surplus employees.

Israeli law considers employment to be a matter of personal contract between parties. A 1985 measure to allow the automatic transfer of employment contracts has not yet been enacted.

(Prepared by Kersi B. Shroff, Senior Legal Specialist, American-British Law Division, Law Library of Congress, January 1992.)

Mr. GRAHAM. Mr. President, on behalf of Senator Bond and myself, the amendment sent to the desk relates to the fair treatment of airline employees. We are all aware of the tremendous changes which have occurred within the aviation industry, and today's newspapers are carrying further accounts of the significant restructuring which is going forth.

---

[1] A copy is appended.

One of the principles in the Airline Deregulation Act of the late 1970's was the interests of airline employees whose efforts and skills had largely created the system, and that the value which the system had should not be compromised.

This is an amendment which has been reviewed by the managers of the bill, and I believe is acceptable to them, to further assure this fair treatment of airline employees. I urge its adoption.

Mr. LAUTENBERG. Mr. President, I have been a cosponsor of this legislation, and I believe that it is fair. I commend the Senator from Florida for his persistence in bringing to our attention this inequity.

In this case, however, because the authorizing committee has expressed some concern—the Commerce Committee—I think it appropriate that we hold some time available for them to consider whether or not they have any objections. I do not know whether the Senator from Florida has had an opportunity to present it to the Commerce Committee and whether or not there has been a response. I would be interested to know that.

Mr. GRAHAM. The Commerce Committee has held hearings on this matter, and has taken public testimony on this issue.

Mr. LAUTENBERG. Does the Senator know whether or not they have cleared it for addition to this bill?

Mr. GRAHAM. It has not been marked up by the Commerce Committee.

Mr. LAUTENBERG. Then, Mr. President, I note that we are obliged to give the authorizing committee an opportunity for review.

I ask the Senator whether or not he has any other amendments that he would like to offer at this time. We can put this one aside. Failing that, we would have to wait for other amendments, and then we would just go into a quorum call. So I leave it up to the Senator from Florida.

Mr. GRAHAM. Mr. President, I do not have further amendments to offer at this time.

If it is the desire of the manager of the bill to set aside this amendment pending further debate, that would, of course, be acceptable to the Senator from Florida.

Mr. LAUTENBERG. Mr. President, we are advised that the Commerce Committee is reviewing it at this time, and perhaps we will have an answer very shortly. Without that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, first of all, I apologize to my colleague the manager of the bill, Senator LAUTENBERG from New Jersey, for arriving at this point in time. But we just had a meeting with the President at a caucus. I know that he understands that.

Mr. President, I am pleased and delighted to be able to join with my colleague, Senator LAUTENBERG, in support of this appropriations bill for the Department of Transportation and related agencies. I think under very difficult circumstances, with the budget constraints and enormous demands that have been made upon the committee, he has done an outstanding job.

I have to tell you that the majority staff director, Pat McCann and Peter Rogoff and Joyce Rose, could not have been of more assistance. We are deeply appreciative, given again, the tremendous needs for infrastructure and for transportation and all of the things that this bill accomplishes. On the minority staff, Anne Miano, Dorothy Pastis, and Sandra Hershey have been of indispensable aid in crafting this package.

The bill provides essential funding for all of our Nation's transportation modes, highways, aviation, mass transit and rail, as well as vital research funds for high-speed rail and maglev rail transportation.

Mr. President, there are many things I think that we wanted do with this bill. The Coast Guard is a problem in terms of funding, and there are other areas that we would like to fund. But again, there are tremendous demands and needs and the resources are scarce.

I think we have gone a long way toward meeting the basic, essential needs, and certainly I think that this bill, if speedily adopted, can have a very beneficial impact and can allow certain of our States to begin to plan right now for the implementation of programs that will not only help our Nation's infrastructure but put people to work and make it easier for people and business and commerce to flourish.

I will just bring up one thing. I am appreciative that a program that I have been pushing, which is alternative fuels for various of our transit modalities, has been included to the extent that we have included funds for buses, and we have indicated in certain areas that they have to be for alternative fuel.

I cannot understand for the life of me how it is that we have major transit systems in this Nation still contributing the most pollution, single-most pollution, than any other factor in their cities. These cities are going to be under some very tough Federal regulations. And they are going to come running to the Congress, and they are going to say: "Oh, please, please, give us some kind of relief from the harshness of the environmental laws which will preclude development, which will preclude transportation." And yet these communities are not willing to get rid of these old diesel buses and move into the alternative fuel areas.

I want to thank Senator LAUTENBERG for affording us the flexibility, where we have put forward as a criteria for some of these dollars to be used, and we did in Nassau County, Long Island, as it related to 49 buses that they are going to buy. But that is the tip of the iceberg.

We have the transit people in New York City—and I have to tell you, for 6 years I have been doing nothing but fighting with them. I do not think we should really—maybe in conference we can suggest it—give them a penny for buses unless they take those diesel buses out.

This business about building clean diesel fuel buses, that is nonsense, and putting traps in for $7,500 to collect the pollutions, and the traps do not work, and they pour and spew forth the fumes out there. We should not be financing that kind of thing.

I think we have an opportunity to turn around the environmental situation. It can make a significant contribution to cleaning up the environment, No. 1. No. 2, we have more natural gas and alternative fuels. We can develop those industries here. And if our mass transit systems are not going to do it, then who is going to do it? It would aid in helping, then, all of the private sector will have these kinds of alternative fuels made available so they can become more economically viable as the kind of alternatives that make sense.

I hear these people advancing environmental considerations. Here is a way we can actually save money, save hundreds and hundreds of millions of dollars just if our Nation's mass transit systems were to adopt reasonable requirements and implement them, instead of paying hundreds of millions of dollars for fossil fuel that we import into this country, developing our natural gas alternative systems, ethanol systems, et cetera. It makes sense economically and environmentally and it creates jobs and keeps economic strength here in this country.

So I say that is one of the areas I still am not happy with. I think we can move better and faster and we have not seen enough energy in that area.

Mr. President, again I urge my colleagues to support this important bill.

I want to thank the chairman, Senator LAUTENBERG, for the job he has done, and for I think the flexibility that he has attempted and has maintained throughout the formation and bringing this bill to the floor.

I urge my colleagues to support this bill.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank my colleague from New York.

It is always interesting to note that when it comes to transportation, any party differences, even occasional regional differences, that we do not have many, because each of us is very familiar, as is the occupant of the chair, that what is good for each of our States is also good for the region. And I think the reverse is also true. That is, what is good for New Jersey, what is good for New York, what is good for Connecticut is helpful to our region.

I appreciate the diligence of the Senator from New York on behalf of transportation programs and his work in that regard. So I hope that with his admonition, with his encouragement, that people from both sides of the aisle will be stimulated to get their amendments up here so that we can consider them.

The fact is that, as the Senator from New York [Mr. D'AMATO] said, we are talking about something that could be described as a jobs bill in its very core. There are programs and there are people, both ready to be worked upon and to get started with. People who are trained, people who have been out of work—the construction trades have a very poor employment record right now and many of them could get to work overnight. There are programs that have been sitting on the shelves waiting for funding, and we have tried to make it as easy as we can for the States and the communities.

Frankly, Mr. President, I think that we do ourselves and the States across this country a disservice if we do not move as rapidly as we can. The programs are there. Without exception every State has an interest in transportation funding. The longer we put it aside, the later is this session likely to run with things yet undone. It would be bordering on tragic if we did not move ahead with something that has had the kind of massaging that these numbers had, the kind of interest, the kind of review.

As I pointed out in my remarks, there were over 800 requests from almost 100 percent of the people in the Senate. We have attempted to support these programs in the best way possible. As a consequence of that, Mr. President, we have something ready to go to help people get back to work, to help communities straighten out their congestion problems, to help clean their air, and to move America along.

So any delays here I think just do that, delay, and avoid making the kind of progress that we so desperately need.

The floor is open. The bill is open for amendment. I have one here to offer.

Mr. President, I ask unanimous consent we lay aside the pending Graham amendment so we may consider this amendment and any other amendments that are presently ready to go.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2842

Mr. LAUTENBERG. Mr. President, this is a technical amendment to title IV. I send this amendment to the desk for Mr. DURENBERGER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. DURENBERGER, proposes an amendment numbered 2842.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"Notwithstanding any other provision of law, the funds provided for projects in Minnesota by sections 1103, 1105, 1106, 1107, and 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, December 18, 1991) may be obligated for any of such projects."

Mr. LAUTENBERG. I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2842) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR—H.R. 5518

Mr. D'AMATO. Mr. President, I have a unanimous-consent request that Sandra Hershey, a congressional fellow in my office, be accorded the privilege of the floor during the duration of Senate consideration of H.R. 5518, fiscal year 1993 Department of Transportation appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2843

(Purpose: To allow for the repurchase of preferred stock)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This has been cleared with the minority.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], proposes an amendment numbered 2843.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert on page 103, line 19, before title IV of the bill:

"Notwithstanding the provisions of any other law, rule, or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary. In determining the redemption or repurchase amount the Secretary shall take into consideration the market value of the stock and may accept payment in an amount less than the par value of such stock.".

Mr. LAUTENBERG. This amendment is noncontroversial. It allows for the repurchase of the preferred stock held originally by DOT. It does not require any repurchasing. It allows for it to be entirely at the discretion of the Secretary of Transportation. There is no cost implication for this bill.

I ask we move ahead. I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2843) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Mr. President, I want to just take a moment to commend the distinguished chairman and the Subcommittee on Appropriations for the excellent job that they are doing in difficult times, as far as availability of funds is concerned. I would imagine that if the Appropriations Committee honored every request that they had in this season of requests there would be far fewer dollars available than the amount of the request, and that is normal. I think the committee has done an especially good job in meeting the needs of the priorities of transportation in this country.

I would like to address to the chairman for just one moment one aspect of this legislation which deals with the vessel traffic safety system that the Coast Guard is implementing for various ports and highly congested traffic areas that deals with ship traffic that comes into major ports. The Port of New Orleans, as many of the ports, is a highly congested port with a great deal of traffic, every day serving hundreds of ships that come up and out the Mississippi River which carries goods and cargo to and from the Port of New Orleans which is the top two- or three-fourths in the Nation with regard to the volume of traffic that they handle.

The vessel traffic service is a new system that guides ships, particularly in difficult ports, safety to and from their destination. This vessel traffic service, commonly referred to as a VTS system, is something that is a high priority in the ports. In fact, the Coast Guard, through the Port Needs Study, has identified the Port of New Orleans as the No. 1 VTS candidate in the United States.

My question to the chairman is—I am concerned if we will have enough money in the appropriations bill to allow the Coast Guard to move forward with implementation of these systems as they come on line and ready to proceed with the various ports in the Nation. I was wondering if the distinguished chairman can comment on my inquiry.

Mr. LAUTENBERG. Mr. President, the distinguished Senator from Louisiana, long a friend and supporter of the Coast Guard, and wanting to keep his port city of New Orleans not only active but safe, avoiding spills, avoiding damage wherever it is possible, is reaching out for something that we would like to see in place across the country.

My interest in VTS I think is well known, well reported in the RECORD, as chairman of this subcommittee. What I say with the *Exxon Valdez* and what we have seen in spills in the New York Harbor tells me that we have to do more than we are doing and, unfortunately, the Coast Guard has not had a very aggressive nor successful record in obligating funds for the VTS system in New York or Puget Sound, San Francisco, and elsewhere, and now the VTS in New Orleans, as the Senator said, is No. 1 in terms of the priorities for the Coast Guard and for VTS.

We have in the bill $4.3 million for new systems to move ahead. That includes an opportunity to get the design and engineering for VTS New Orleans underway.

Unfortunately, it does not appear at this time that the Coast Guard can obligate any funds in 1993 beyond that which is already provided for in the bill. But the Coast Guard knows that VTS New Orleans is ranked first for funding, and I pledge to the Senator that we will continue to remind the Coast Guard of the Senator's interest, the needs for the Port of New Orleans, a significant point of entry for cargo, for goods, in our country and for jobs in the region.

So we are certainly in concert with the Senator in wanting to get this done.

Mr. BREAUX. Will the Senator yield for a further question?

Mr. LAUTENBERG. I will be happy to yield.

Mr. BREAUX. I appreciate what the chairman is doing. I think what he is doing is telling the Coast Guard that we have to get on with this process; that we are not satisfied as a committee and as Congress for the delays and the lack of aggressiveness on the part of the Coast Guard to move forward with these projects; that the Senator and the chairman is hesitant to appropriate funds if they in fact are not going to be using them; and that you are concerned about their lack of aggressiveness in this area.

I am wondering if the chairman would be agreeable to considering, between now and the time that the bill is finally sent to the President for signature—sometimes in a conference if there is a case that can be made that there are, in fact, some VTS systems that are in fact ready to be implemented in fiscal year 1993—would the chairman at least be willing to consider the possibility of working with the House, which I understand has a larger amount of money in it, to consider those systems which, in fact, the Coast Guard would be ready to move on as a possible compromise with the House?

Mr. LAUTENBERG. Certainly, the Senator asks a reasonable question. The House does have more money in the bill for New Orleans. That is something we looked very carefully at, keeping the Senator's request in mind. We will take the opportunity to discuss the situation again with the Coast Guard to see if we can get them moving. I think it is very important.

The last thing the Port of New Orleans or ports around the country need are oilspills or vessel collisions, hazardous materials being spilled in the waterways. We will certainly try in conference to meet the obligation that the House has provided that the funds can be employed as we would expect them to be.

Mr. BREAUX. I thank the chairman for his response. I yield the floor.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, let me first say to my colleagues who may be waiting, this is an opportunity, if you have an amendment or you want to bring something to our attention, to come and do it now. We urge you to do that because at some point in time—and sooner rather than later—I intend to move to third reading. That is not to preclude people. I know the chairman of the committee intends to do that, and I am going to support him.

I intend to preserve all the rights of my colleagues. If they have an amendment—and I know there are some—let us do it. I do not intend—and of course the minority leader can ask somebody else to do it—to sit on this floor and protect people's rights if they are not going to really offer an amendment. I just have to say that. I think it is not right, and it is not fair. So that is a different matter.

If somebody is in a committee, et cetera, and asks for a particular period of time and sends us notice, that I understand. But I do not feel I have an obligation—I do not know whether Senate rules suggest I do. So I am going to tell you, if you are on the Republican side and you have an amendment, you had better bring it down. And either we will accept it, if we can—we certainly would like to do that—or, if we cannot, we will let you know and people will do what they have to do.

MILOSEVIC'S BALKAN GENOCIDE

Mr. D'AMATO. Mr. President, I would like to take this opportunity to say I am not now going to introduce a resolution, but I am prepared at some point in time—maybe even on this bill. I wish to introduce a resolution which condemns the genocidal actions of the Serbian forces and their ongoing aggression against the Bosnian, Croatian, and Albanian people in the Balkans. It calls for the President to urge the United Nations to form a tribunal to try Milosevic and other officials for the war crimes which they are committing.

Mr. President, I said early on, when we dealt with another dictator and killer, Saddam Hussein, we should not have stopped until he was turned over as a war criminal, and we should have had an international war tribunal. I think had we done that he would have been gone, he would have been turned over for trial, or simply disposed of. But I think we missed the chance to send a clear message that the world community is prepared to deal with dictators and murderers who would use their power in this way.

At some point in time, Milosevic will stop his marauding. What do we do when we have to sit with him at a gathering and treat him as some kind of civilized leader, instead of the barbarian killer he really is?

What the Serbs are doing is an international crime; and what the world community is failing to do is also an international crime. What is worse, is that there are innocent women and children who are being slaughtered as a result of our lack of action.

I wonder how it is that we talk about genocide; we condemn genocide. We condemn the individual acts of brutality that are brought to our attention, those that were committed in the Holocaust, and we say, "Never again." And here we see before us the most brutal kind of genocide being practiced against people because of their race, their religion, or their ethnic background. That the Serbs are practicing "ethnic purification," is incredible—and we do nothing about it! Like in World War II, the same kind of extermination camps are now being established by the Serbs in Bosnia.

What the United Nations should be looking to do is finding ways to disrupt the transportation of innocent women and children to these death camps. I remember a time in our history when we refused to bomb the rail lines going to the death camps at Treblinka and other camps where millions were sent to their deaths. We had the ability to do it and we didn't.

I want to tell you, if a European command and United Nations forces cannot knock out some of those railroads that are carrying innocent women and children to their death, or certainly to be enslaved in the most incredible, horrible manner, then something is terribly wrong. If we do not go about the business of setting up an international tribunal to say to those who are carrying on this marauding that we will hold them accountable and they will be tried for their crimes, then all of this business about the world community standing up for what is right is just a lot of political rhetoric.

I think they ought to be ashamed of themselves.

So, Mr. President, I am going to share with you what this resolution proposes. Since the Serbs began the war in Bosnia, approximately 50,000 people have been killed. Over 1.8 million people have been driven from their homes. As recently as this past weekend, we read reports of the deaths of several orphans at the hands of Serbian forces. Imagine, just trying to get youngsters who are orphans out of the war zone. These murderers are killing them—killing children. When is the killing going to stop? I suggest it is not going to stop unless we have the courage to do something meaningful rather than just speak about it.

Moreover, the Serbian forces are practicing "ethnic cleansing"—this is a new term—in the areas of Bosnia under Serbian control. In one report, Muslims were removed from their village, taken by train to a refugee center, and families were forcefully separated, with the men taken to a holding center in a local sports stadium and the women and children forced to leave the country.

Other reports indicate that the Serbs are running two camps in Bosnia, where people are being starved to death and executed as a part of Serbia's drive for Milosevic's master Serbian race. Milosevic's ethnic cleansing is pure genocide. This bloodthirsty dictator seeks the wholesale destruction of all the people alien to his master race.

As his forces roam the Bosnian countryside looking for victims, he sits back in Belgrade denying any connection to the killing. Nothing presently being done is scaring him, nothing presently being done is forcing him to stop the killing, and nothing presently being done is going to influence him to stop the killing, maiming, and expulsion of entire populations and the conquering of his neighbors' land.

Like Hitler before him, the only thing that will make Milosevic stop is force. Force is how he governs. Force is how he lives, and force will be how he falls. Like other dictators and murderers before him, he must face the wrath of a civilization that condemns genocide. Just as the world gathered to stop Hitler, we must do so again. Milosevic must be stopped.

During World War II, the allies refused to bomb the rail links to the extermination camps in Europe. The result was the Holocaust. Today, we must not repeat the mistakes of the past. We must, if necessary, use force to cut off those rail links and those roads to these camps, and to cripple the Serbian extermination trains and convoys.

When the killing ends, Milosevic must not be allowed to simply grow old in his dacha in Serbia. He must be tried for his part in the war crimes against the innocents±. Imagine the killing of orphans, just because they are of another religion or another ethnic culture. He must be tried for crimes against humanity. This is the only course for the world to take.

Just as Hitler's henchmen were tried and executed for crimes against humanity, so, too, should Milosevic and his henchmen. Justice must be served, and the memory of the thousands of victims of Serbian genocide cannot be forgotten.

What value did Nuremberg have in explaining the crimes of the Nazis if we fail to stop another genocide from taking place? Obviously, its value was to demonstrate to the world's leaders that there are standards which we expect and, when one goes beyond these, that they will face the consequences. We simply cannot allow innocent Bosnians and Croatians to be exterminated in another holocaust.

Mr. President, what I am most concerned about is that this is not going to stop here, that there are millions of ethnic Albanians in Kosova who will be the next target on Milosevic's list. What do we have to do to get the world community to wake up and to move to do something?

I suggest that the United Nations should take steps to stop the slaughter of the innocents.

Mr. President, there is an interesting editorial in the New York Times. I ask unanimous consent that it be included in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MILOSEVIC ISN'T HITLER, BUT . . .

"Greater Serbia." "Ethnic cleansing." Civilians transported in sealed buses and railway cars. And now, perhaps, concentration camps. The chilling reports from Bosnia directly evoke this century's greatest nightmare, Hitler's genocide against Jews, Gypsies and Slavs.

The parallel, mercifully, is not complete. Serbia's leader, Slobodan Milosevic, does not directly threaten the entire European continent. He does not have one of the world's largest economies at his disposal. His aggressive designs are limited to the Balkans.

But by standing aside while he implements his version of the Final Solution, the world sets a frightening precedent for a dozen other areas of ethnic tension. It's not too late to send a firmer message—through diplomatic ultimatums, backed by the threat of armed intervention. Mr. Milosevic recognizes only one language, military force; the rest of the world may soon have to speak it.

Serbian atrocities are one parallel with Nazi Germany. Another is Europe's peace at any price response. At Munich in 1938, Britain and France agreed to a "peace plan" that forced Czechoslovakia to surrender part of its territory, the Sudetenland, to Hitler. Today, the European Community wants Bosnia to agree to a "political solution" that would surrender part of its territory to Bosnian Serb forces loyal to Mr. Milosevic.

Europe brushes aside Bosnia's request for international enforcement of a cease-fire as a precondition to political talks. Instead, Europe treats Serbian commandos as if they had the same legitimacy as Bosnia's elected Government. Like their predecessors at Munich, Europe's negotiators proceed as if Serbia were negotiating in good faith, despite a string of broken promises and violated cease-fires.

Even now, Mr. Milosevic might be convinced to stay his terror squads by a credible threat of force. Although Yugoslavia's rump army is Europe's third largest, and is fighting on favorable terrain, it is no match for the larger, high-tech forces of NATO or the West European Union.

Yet Britain's Prime Minister, John Major, again rules out military action. His Foreign Minister goes further, asserting that no state would even consider using force against Serbian aggression.

Do Europe's leaders think that if Mr. Milosevic gets what he wants in Bosnia, that will be the end of it? There can be little doubt that he will pursue his "ethnic cleansing" campaign in other parts of the former Yugoslavia, like Kosovo or Macedonia. Or that a successful pogrom in Bosnia will inspire demagogues elsewhere in Europe to adopt the same tactics. Bosnia's Croats and Muslims, the Red Cross reports, already respond to Serbian atrocities with their own gross abuse of human rights.

Diplomacy has one last chance. Later this month, an international conference on Bosnia convenes in London. Not just the European Community, but also the U.S., Russia and the U.N. will be represented. They need to demonstrate that they have learned something from the tragic errors that led to the Second World War. Mr. Milosevic is only a minor-league Hitler. The London Conference must not become a minor-league Munich.

Mr. D'AMATO. It is entitled "Milosevic Isn't Hitler, But . . ." It says:

Greater Serbia. The "ethnic cleansing." Civilians transported in sealed buses and railway cars. And now, perhaps, to concentration camps.

The chilling reports from Bosnia directly evoke this century's greatest nightmare, Hitler's genocide against Jews, Gypsies and Slavs.

> The parallel, mercifully, is not complete. Serbia's leader, Slobodan Milosevic, does not directly threaten the entire European continent.

I find that a chilling statement. "The parallel, mercifully, is not complete." I wonder what the editorial writers were talking about. It gets this Senator angry. Do they mean because he does not threaten the whole of Europe that it is not mercifully complete?

It is pretty doggone complete to the family that has been separated and interned. It is pretty complete to the widows and orphans. It is pretty complete to the mother and children who are separated and whose husband they will never see again. It is pretty complete to the 1,800,000 people who have been scattered to the winds. It is pretty complete to those who are being executed, tortured, buried alive, and being killed simply because of their religion or their ethnic background.

I have to tell you, something, Mr. President. We are not doing enough. I am not calling for some simplistic solution. I am not going to suggest that we send troops, or become involved in an ugly civil war. But I am going to suggest that the United Nations and that the world community has an obligation to do much more than they are doing now.

Do we know it is not easy, that it is complex, that it is difficult? Of course, we know that. But to sit back and allow this to continue and only have a group of diplomats come together and wring their hands in despair and try to say that one side is as guilty as another—and I have heard people in the United Nations suggest that at times. This is simply wrong. It is simply not factual.

What are we going to do to stop that killing machine? Do we have an obligation? Yes, we do. Do we have ethnic groups' representatives who live here in this country? Sure we do. Do we have a special responsibility? You better believe we do.

I think that it is absolute lunacy to allow our failure to move forward in the diplomatic community and not to have the kind of forceful leadership that will bring about a coalition that, if necessary, will enforce a total economic embargo against Yugoslavia, of the Serbian community, and shut them down, see to it that no fuel gets into that community, see to it that the pressure is built up to the point that the Serbs understand that they must end this war. And if we have to use some measure of military might at selected targets where the death camps are operating, then we may have to do it as a world community.

But just to simply turn aside and see 1.8 million-plus people scattered to the hills and to see the termination of men, women, villages, and individuals, and the most innocent of all—children—orphans. To just go on and do business as usual is totally wrong. It has become more and more bloody. Maybe we will have to wait to see more on TV before we do something, before we are forced to do the right thing. I think we should be ashamed of ourselves, individually and collectively for our inaction.

I am proud of myself because I do not think that I myself do nearly enough as I can to try to sensitize this Government and others to try to help in this desperate situation. Giving speeches is not enough.

So, Mr. President, I am going to ask that my colleagues look at the resolution which I may be offering to this bill or to another bill. If they can make some suggestions to improve upon it, I will be pleased to entertain them. But I certainly do not think and I am not just going to sit by and allow this to take place. We cannot just make believe that everything is fine and well, and pretend that we do not have a stake in this because there are too many leaders during the Holocaust who said the same thing: It is not the place of the United States to do anything, when not only Jews, but other people, only because of their religion or other convictions were being slaughtered.

We have people here in this Senate Chamber who said, "That is not my business. What business do we have becoming involved?" They were wrong. It is. I think it is our obligation to act, and not to just go along like everything is fine and wonderful. We should all feel a very heavy burden and feel a responsibility to try to make a difference and try to come to the rescue, particularly of those who are being killed for no other reason other than what their religious or ethnic background may or may not be.

I thank my ranking member for giving me this opportunity to make this statement.

Mr. LAUTENBERG. Mr. President, I am grateful to the Senator from New York for having reminded us about the nature of our responsibility in this horrible situation. Few, if any, could fail to be shocked by the horror that we see, picture after picture in the newspapers, interviews on television of families losing loved ones, of children orphaned by the war, trying to escape further violence, being assaulted by sniper fire in a bus, two children killed as the bus tried to spirit them away from the conflict, the countless numbers of those killed, assaulted, because a mad leader decided that he wanted the territory badly enough to kill or maim the occupants and to chase them from what had been their homes for decades, maybe even centuries.

The Senator from New York is right. For us to stand by silently and witness, click our tongues, shake our heads, wring our hands is hardly sufficient response to what this horror calls for.

Mr. President, we had earlier heard some remarks on this floor by the distinguished Senator from Michigan, Mr. LEVIN, and the occupant of the Chair, Senator LIEBERMAN, from Connecticut. Then Senator LEVIN and Senator LIEBERMAN approached me and asked if we could find time during the presentation of this bill for them to offer a resolution not dissimilar to that which the Senator from New York has just indicated that his interest would have him do.

So I thought that he was very helpful by recommending that those who want to speak, who want to participate, do so. And perhaps, with the active interest of the Senator from Michigan and the Senator from Connecticut and the Senator from New York, certainly I would want to be a cosponsor of any measure that declares that we are pained to the point of taking an appropriate action.

I think we have to be very careful when, on the floor of the U.S. Senate, we start defining what is appropriate action to engage ourselves in directly. An armed conflict? But to do nothing commits a violation of ethics and morality that I do not think the United States or any of the free countries in the world should stand for.

I am disappointed, I must say, Mr. President, that we have not heard from the national leadership the kind of commitment that says that we ought to intervene in a way that counts, but rather to look to our friends, so-called, from Europe, who manage to be relatively quiescent as these events occur, that they have not stepped up to their responsibilities, so, therefore, somehow or other, it justifies our inaction, that we stand by, and you see pictures of infants being slaughtered by gunfire, bombs, and by sniper fire, indiscriminately visited upon innocent people.

I hope, Mr. President, that we hear something more, frankly, from the White House than we have heard about what to do here that satisfies the American people's obligation to humanity. We know that when Saddam Hussein rattles the sword, we are ready to go do something about it—still a little tepid response, still a little slow, trying, frankly, to shield our responses by looking to the United Nations.

I remember back in 1990, when the United Nations was motivated, was moved by the interests and actions of the United States, and I said it before and I say it again, even though I disagreed at the time, President Bush took a decisive and positive action, and he marshaled the forces internationally, and he committed the United States then to a course of action, which ultimately resulted in at least temporary stoppage of the plans and the hopes of Saddam Hussein to take over that part of the world.

Those plans and those dreams have not, apparently, been extinguished, and that is too bad. But we are ready to take some action there. In the old

Yugoslavia, Bosnia, and Croatia, people are being killed—innocent people—for no reason, other than their ethnicity or religion, their culture. We are too wise for that anymore.

We have seen what happens in conflict after conflict, the most memorable of which, because of the magnitude of the killing, was World War II. But we have seen it in other places, in Cambodia and other parts of Asia, Europe, and in Africa. The fact is that killing cannot be tolerated. In what amounts to a world that has experienced so much pain and so much suffering, the forces of nature do enough with starving populations in countries that are so disadvantaged they cannot feed their people.

But here we can make a difference, and here I would hope that we will take a decisive action. Again, I am not defining the action, but something that says: Stop that killing, or we will intervene in a way that hurts, because that is the only thing, apparently, Mr. Milosevic understands. But to stand by and watch and, once again, shake our heads about the horror is immoral, and it is indecent and cannot be permitted.

So I commend the Senator from New York, and my friends, also, from Michigan, and the occupant of the chair from Connecticut, for wanting us to go on record to say, for God's sake, let us do something to stop this. I certainly will lend my support to such an action.

We are awaiting further amendments. I understand the Senator from Vermont has an amendment. I think this would be an excellent time to offer it.

AMENDMENT NO. 2844

(Purpose: To provide flexibility in funding certain highway projects)

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 2844.

At the appropriate place in title IV, insert the following new section:

SEC. . FEDERAL SHARE.

Section 1021(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 120 note) is amended—

(1) by striking "and" before "(2)";

(2) by striking the period at the end and inserting a comma; and

(3) by adding at the end the following: "and (3) the Federal share established by section 120(k) of such title, as in effect on the day before the date of enactment of this Act, with respect to section 143 of title 23.

Mr. JEFFORDS. Mr. President, I do not believe this amendment will be controversial. During the passage of the so-called ISTEA or the Intermodal Surface Transportation Efficiency Act of 1991, there was a deletion of a provision which allowed growth centers that were selected by the States to be able to take advantage of the funding shares that were provided in the previous law. This amendment restores the flexibility to the States on funding projects designed to spur economic growth.

In Vermont, there are, I know, three areas where this is involved, one of them which is already underway. This does not in any way affect the amount of money a State receives. But it will allow those projects already approved to continue utilizing the funding matches that are in the law.

I do not believe there is any opposition to this on either side of the aisle. We have made the ranking member and the chairman of the authorizing committee aware of this. They have expressed no opposition.

Mr. LAUTENBERG. Mr. President, the amendment by the Senator from Vermont is one that passes the test, as far as I am concerned. I think it is a good amendment, and we will be happy to accept it on this side.

Mr. D'AMATO. We have no objection and are in support of the amendment.

Mr. LAUTENBERG. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2844) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2845

(Purpose: To reduce an appropriation)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 2845.

On page 2, line 16, strike "$9,100,000" and insert in lieu thereof "$8,733,000".

Mr. GRAHAM. Mr. President, as the Senate will recall, last week we had an extended debate on the issue of holding general administration and overhead costs for Federal agencies at the current level of funding.

The purpose of this amendment and others to follow is that it will help to accomplish these tasks as it relates to the Department of Transportation.

The Department of Transportation budget is so constructed that there are several areas within the budget in which general administration and overhead are distributed and, therefore, it takes a series of amendments in order to accomplish this objective. It would be my intention, if this first amendment is adopted, to suggest that the other amendments be adopted en bloc, if that is the will of the managers of the bill.

Mr. President, we had an extended discussion last week on the urgency of this Congress moving beyond rhetoric, beyond the advocacy of procedural matters toward actually taking some steps to reduce the Federal budget deficit. It was suggested that one area that has been recognized as an appropriate one to commence that reduction process, by virtually every observer, has been the general administration and overhead budgets of Federal agencies.

This was illustrated in the Grace Commission Report. The House of Representatives has established its own special committee to look for areas of reduction. This was recommended within that report.

Presidential candidate Gov. Bill Clinton has recommended a 3-percent across-the-board cut in executive agencies. I note from today's newspapers' account of television commercials that are being aired by President Bush that he has placed first priority on regaining control of the American budget and to do so by reductions in spending.

So from all points of the political compass, there is agreement that one of the directions to begin the process of budget deficit reduction is in the overhead accounts.

The approach that I suggested last week was one of holding those accounts to their current year, fiscal year 1992, levels.

I suggested that there were two approaches that might be taken—that approach of holding the budgets, and the other being a scalpel approach, trying to go inside the specifics and details of each of these agencies and identifying specific areas to be cut.

Probably we are not far away, Mr. President, from having to operate with both a meat axe and a scalpel. For today, I am suggesting that we merely operate with a lid; that is, that we hold these budgets at the level at which the agencies are operating today.

Yes, that is going to mean that any increases in salaries, increases in personnel, increases in new initiatives will have to be accomplished by reprioritizing what the agency is already doing. But, Mr. President, that is exactly what a family has to do, what a business or what most other levels of government—cities, counties, States—are having to do, given their economic circumstances today. It is not, in my judgment, and it was not in the judgment of the Senate last week as it related to the Departments of Commerce, Justice, and State an inappropriate request to make of Federal agencies.

The first agency amendment which is at the desk, Mr. President, refers to the Office of the Assistant Secretary for Policy and International Affairs. The reason that this particular division is being offered first is because it happens to be the first of the overhead agencies which has an increase recommended over the current year funding.

I might point out that the immediate Office of the Secretary is being held to current year funding levels, for which I applaud the subcommittee. The same is true of the immediate Office of the Deputy Secretary which is being held to current year level of funding.

Mr. President, the Office of the Assistant Secretary for Policy and International Affairs is the chief policy officer of the Department and is in charge of economic regulation of the airline industry, responsible for the analysis, development, articulation of view of policies and plans for domestic international programs, licensing, consumer protection regulations, airline mergers and acquisitions, route awards and special investigations and other designated functions.

That Department is currently operating on a budget of $8,733,000. The recommendation is $9,100,000. The amendment would be to return this agency to its current year level of funding, $8,733,000, resulting in a saving to the taxpayers of $367,000.

Mr. President, that is not a large amount in the context of a Federal budget of $1.5 trillion, but a small step toward our goal of bringing some discipline to our Federal spending.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we note the Senator's interest in containing expansion of the budget and certainly agree. This amendment is acceptable.

What I would say is that as we go to conference, we will examine very carefully to make sure that there are no impairments on safety or functioning of systems between our country and other countries. But I think that the Senator certainly is on the right track. We are prepared to accept this amendment on this side.

Mr. D'AMATO. We have no objection.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2845) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAHAM. Mr. President, I have a series of other amendments which accomplish the same policy objective with the Office of the Assistant Secretary for Public Affairs; the Office of the Assistant Secretary for Governmental Affairs; the Office of the Assistant Secretary for Budget and Programs; the Office of General Counsel; the Contracts and Appeals Board; the Office of Civil Rights; the Office of Essential Air Service; and the Office of Commercial Space Transportation Operations and Research.

If it is agreeable to the managers of the bill, I will offer those amendments and ask that they be considered en bloc.

Mr. LAUTENBERG. Mr. President, this side is prepared to accept the amendments, en bloc. I commend the Senator for expediting the process, for calling our attention once again to the fact that despite the fact that we have curtailed in transportation many of the accounts, they are fixed in at limits that were established for the 1992 fiscal year on travel and other expenses and I, again, commend the Senator from Florida for his diligence on these programs, on the expenses and, thus, the budget deficit.

So we will take these amendments to conference, examine very carefully what the Senator is attempting to do, and that is curtail our expenses, spend less on programs wherever we can. We will just be concerned about the functioning of the Department in a way that is consistent with the safety objectives and the functions that they have to maintain.

AMENDMENTS NOS. 2846 THROUGH 2853

Mr. GRAHAM. Mr. President, I send the amendments to the desk and ask for their immediate consideration, en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes amendments numbered 2846 through 2853, en bloc.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2846

On page 3, line 15, strike "$1,757,000" and insert in lieu thereof "$1,546,000".

AMENDMENT NO. 2847

On page 3, line 5, strike "$2,420,000" and insert in lieu thereof "$2,320,000".

AMENDMENT NO. 2848

On page 2, line 21, strike "$2,840,000" and insert in lieu thereof "$2,726,000".

AMENDMENT NO. 2849

On page 2, line 11, strike "$7,240,000" and insert in lieu thereof "$7,000,000".

AMENDMENT NO. 2850

On page 3, line 21, strike "$620,000" and insert in lieu thereof "$590,000".

AMENDMENT NO. 2851

On page 3, line 24, strike "$1,520,000" and insert in lieu thereof "$1,462,000".

AMENDMENT NO. 2852

On page 4, line 3, strike "$1,600,000" and insert in lieu thereof "$1,545,000".

AMENDMENT NO. 2853

On page 5, line 1, strike "$4,364,000" and insert in lieu thereof "$4,275,000".

The PRESIDING OFFICER. Is there further debate on the amendments?

If not, the question is on agreeing to the amendments, en bloc.

The amendments (Nos. 2846 through 2853), en bloc, were agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:15 P.M.

Mr. LAUTENBERG. Mr. President, pursuant to the previous order, I ask unanimous consent that the Senate stand in recess until the hour of 2:15.

There being no objection, the Senate, at 12:29 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ADAMS).

ORDER OF PROCEDURE

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, was leader's time reserved?

The PRESIDING OFFICER. Yes, it was.

Mr. DOLE. Mr. President, I first yield to the distinguish Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

COMMENDATION OF SHANNON MILLER'S PERFORMANCE IN THE 25TH OLYMPIAD

Mr. NICKLES. Mr. President, I send a resolution to the desk on behalf of myself and Senator BOREN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 329) to commend Shannon Miller on her performance in the 25th Olympiad.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. NICKLES. Mr. President, on behalf of myself and my colleague, Senator BOREN, who I believe will be here momentarily, I wish to point out to my colleagues the outstanding accomplishments of a native Oklahoman, and that is Shannon Miller of Edmond, OK, for her incredible performance at the 1992 summer Olympics. All Oklahomans and, indeed, all Americans, I believe, should be very proud of our representative.

Shannon won five Olympic medals: two silver, one in the individual all-around, and one for her performance on the balance beam, and three bronze medals in floor exercise, uneven bars, and the team competition. She matched the Olympic record for a U.S. gymnast set by Mary Lou Retton in the 1984 Olympics, which was boycotted by the Soviets. As her coach Steve Nunno said, "We're on top of the world."

All Oklahomans are proud of her for her determination in setting an example for our State, the United States, and the rest of the world.

Shannon set out a goal not only to make the Olympics but also to bring home the goal—medals for the United States. Shannon's Olympic debut was impressive. She was the only American woman to win an individual medal.

With gymnastics being dominated by the Eastern bloc countries over the years, Shannon Miller's performance is exceptional. Hopefully, the world will now see that plain old hard work and determination are the ingredients for real success.

Her coach said, "Shannon wants to continue to lead the Nation and set the example for other gymnasts in the country." Let us all congratulate her on the outstanding performance at this year's summer Olympics and encourage her in her quest to win a gold medal in the 1996 summer Olympics.

Mr. DOLE. Mr. President, I wonder if I might ask that this not be charge to leader time.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is granted. This will not be charged against the leader's time. It will be as if in morning business.

Is there objection to that request? The Chair hears none, and it is so ordered.

The Senator from Oklahoma [Mr. BOREN].

Mr. BOREN. Mr. President, I thank the Chair.

I want to associate myself with the comments that have just been made by my colleague from Oklahoma. I am proud to join him in cosponsoring this resolution.

Mr. President, it is with a sense of special honor and pride that I rise to recognize the achievements of the extraordinary young woman, Olympic gymnast Shannon Miller of Edmond, OK.

In every competition and sport there exists a defining moment: in football, it is the impossible catch or rush that leads to a touchdown; in baseball, the home run with the bases loaded; in basketball, the defying slam dunk. In gymnastics, it is the harmonious combination of grace and immense strength and flips, twists, and turns under spectacular pressure. Shannon Miller exemplified that trait in every performance at Barcelona, bringing home 5 medals for America.

In the mold of past Olympic greats, Shannon continues the tradition of excellence in Olympic gymnastics. Her elegance and jaw-dropping technical brilliance have amazed us all. Moreover, Shannon's passion for her sport and her uncommon dedication, apparent both in her courageous struggle through dark moments of injury and in her striking intensity in every event, have certainly paid off.

Electrifying the crowd in Barcelona and television audiences around the world, whether on the balance beam, the uneven bars, the vault, or the floor, Shannon has served as an inspiration to young and old alike. I salute a great Oklahoman and American—now a great Olympian—upon her return home. We all extend to her a warm and hearty welcome. Shannon, all Oklahomans and Americans are proud of you, you represent the best of our Oklahoma spirit.

Mr. President, as I say, I am proud to join my colleague in sponsoring this resolution and join with him in inviting our colleagues to get to meet Shannon Miller tonight as she comes to the Capitol for a visit.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 329) was agreed to.

HEALTH CARE

Mr. DOLE. Mr. President, I want to take a couple of minutes because there was a press conference early this morning in S. 207 by a number of my colleagues on the other side of the aisle. In fact, I think about 10 of my colleagues—on health care.

I thought it was going to be a press conference about their health care plan that they plan to bring to the floor today or tomorrow or next week. But instead, it was a 30-minute attack on President Bush, and on Republicans. And this time the attack was on health care.

I thought it was going to be a press conference about their health care plan that they plan to bring to the floor today or tomorrow or next week. But instead, it was a 30-minute attack on President Bush, and on Republicans. And this time the attack was on health care.

Their claim was that, in effect, we are callous, that the Republicans are callous, and indifferent; that we do not know anything about health care. We are supposed to believe that the reverse is true of our colleagues on the other side, that they have all the answers, altogether; and that if they could just get this passed, they would pass it.

I would just remind my colleagues that they control the Congress, that they have controlled the Congress for about 38 years; 38 in the House, and 32 out of 38 in the Senate. And we are still waiting for the health care bill. Maybe 38 years is not long enough, and maybe they want to wait another 38. It seems to me that there has been ample time.

What do we have now? No fewer than six plans pending by my colleagues on the other side. Some may be good. I do not think any of these plans are perfect.

But let us look at the first one. It has bipartisan support. Probably the one that we ought to pass this year is the one that has been proposed by Senator BENTSEN, and Senator COHEN, Senator DURENBERGER, Senator GORTON, Senator HATCH, Senator KASTEN, Senator MCCAIN, and Senator NICKLES—Democrats and Republicans. I think that one we ought to pass this year.

The bill offered by the distinguished majority leader has 10 cosponsors. The bill offered by the Senator from Minnesota [Mr. WELLSTONE] has two. The Senate bill offered by Senator ROCKEFELLER has no cosponsors. The Senate bill offered by Senator KERREY of Nebraska has one cosponsor. The bill offered by the Senator from South Dakota [Mr. DASCHLE] has two cosponsors. They are all a little different.

They were all there this morning attacking the Republicans.

I just challenge the Democrats to bring up this bill, whatever it is, bring it up this afternoon, tomorrow, or next week, whatever, and let us see if the Democrats can get together. But before they do, they have to explain the bill to the American people. That is where the problem lies. It is going to cost a lot of money, put a lot of people out of work, and put a lot of businesses out of work. And they will have to pay 6 to 9 percent payroll tax. A lot of employers cannot pay a payroll tax.

So it seems to me that they are going to think now the best offense is to go out and attack somebody else. If we did that, we would be accused of negative politics by the liberal media in this country. It is all right for Democrats to do that because they are all objective; never say anything that is not positive.

I do not know how many of my colleagues there were there. I would like to have them furnish that for the RECORD, if they have ever sued Walter Reed or Bethesda, or the Capitol physician's office about 100 yards from here.

So if they want to start playing these games, I think we had better be accurate. The Democrats talk a good line but that is about all there is. They cannot reach a consensus on their side, and they are going to be going to any length to avoid dealing with the hidden payroll tax, and their pay or play proposal.

They say we have no interest in health care. I will yield to my colleague, the Senator from Rhode Island, in a minute. He can point that out because he has been the leader on our side for the past couple of years.

The Republican plan may not be perfect either. We have a lot of ways to go with any of these plans. But we do provide secure coverage to all Americans. We do make insurance more affordable. We do reduce redtape, we do reduce administrative costs through streamlining the current paperwork maze; we do revolutionize the private insurance by eliminating their ability to cherry pick or cancel insurance from claims that are filed.

We also reform the malpractice laws, which they do not do at all.

We also have a defensive medicine in addition to helping the small malpractice claims, and also we expand service in underserved areas which we think is very important in rural areas, and in urban areas where they have a doctor shortage or shortage of clinics.

So, Mr. President, I would challenge my colleagues on the other side of the aisle in the best way I know, and the best way I know is to bring out their plan, the one that they say 57 Senators in spirit are for.

We are all for health care. We are all for more affordable health care. We are all for more accessible health care. We are not for more Government bureaucracy, putting people out of business; we are not for putting people out of work; we are not for letting the bureaucrats in Washington decide who is going to receive benefits and how much they are going to cost, deciding who is going to be out of a job, deciding who is going to be out of work.

It does not create types of Government health insurance, or use the Government bureaucracy to regulate prices and regulate care.

We have heard all kinds of estimates on how much this Democratic proposal will cost. Was it $80 billion the first year? It is up to $200 billion over 5 years, $200 billion in new taxes, $200 billion; we have to pay for it somehow.

So, again, I would say to my friends on the other side, we appreciate their delayed interest in health care. We appreciate that they have enough to have a press conference. Let them bring it to the floor and bring it up. Let us see how many votes they have for more bureaucracy, and for putting small businesses, small businessmen and small business women out of business, and for a payroll tax of 6 to 9 percent, and for all the other things that is wrong with their plan. They will provide something that is wrong with our plan, too. That is the point I want to make.

I have said for some time, we are going to have a health care bill, bipartisan, after this election, and maybe we ought to stop playing games, sort of preconvention games, preelection games. If they want to do it, bring it up. But we are prepared to offer our alternative.

Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 21 seconds remaining.

Mr. DOLE. Mr. President, I yield my remaining time to the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Maine [Mr. COHEN].

Mr. CHAFEE. Mr. President, I wonder if I might have 15 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, first I want to thank our distinguished leader for the remarks that he made.

This morning a press conference was held by the Democrats in connection with health care. This is the exchange that took place that just shocked me.

The question was asked of the junior Senator from West Virginia, why do you not just move forward on health care? Do you have the votes?

The answer: In spirit we have 57 Democrats with us. We have not moved forward because there is no interest in this issue on the part of Republicans. We have tried to work on a bipartisan basis with them for a year and a half, but Republicans show no interest in health care.

Mr. President, that is a shocking statement, and I just cannot believe that this is an accurate transcript of what the Senator from West Virginia said because I would be surprised if he said anything like that.

Mr. President, as Al Smith used to say, let us take a look at the RECORD.

In the latter part of April, the middle of April, April 12, the majority leader castigated the Republicans for not moving forward on health care. I do not know why the majority leader has to castigate the minority for not moving forward on a subject. After all, he controls the floor and the flow of legislation. Nonetheless, that is what he said. The administration is not interested. We cannot do anything.

I had a colloquy with the majority leader at that time. I first noted that it is very odd that this, being a coequal branch of Government, which has taken the lead on a host of things varying from MFN for China, banning that which they are currently involved in, to child care, or civil rights, whatever the subject might be. We do not have to have the White House to move ahead on legislation.

I asked the majority leader would he be willing to move ahead in a bipartisan spirit, and he indicated he would. Then, Mr. President, the Republican leader and I, and other Republican Senators, followed up with a letter to the majority leader. I would like to read from it. April 27:

> DEAR GEORGE: During recent debate on the budget resolution, considerable time was spent on the issue of health costs and the need for reform of our health care system. During that discussion you stated your desire to end the partisan politics surrounding health care reform and to begin working together on a solution. We are writing to ask that we join together.
>
> We strongly believe in the need for health care reform. While there are many differences of opinion about some aspects of reform, there is much more agreement than is commonly acknowledged.

This is a key point:

> We are encouraged by the striking similarities between provisions in the recent proposal outlined by the President, the bill introduced by the Republican health care task force, the bill introduced by the chairman of the Finance Committee, and the proposal introduced by the Senate Democratic leadership.
>
> If one examines the elements of each of these proposals, it appears we all agree on a number of critical steps that can be taken to slow the rate of growth in our health care expenditures. * * * These steps include: insurance market reform; small group purchasing; community health center and national health service corps expansion; encouraging the use of managed care; preemption of State mandated benefit laws; changes in the Tax Code to address inequities—specifically allowing the self-employed and individuals purchasing health care to deduct either the full amount or some portion of their health insurance; State experimentation; medical liability reform; reduction in administrative costs; encouraging primary and preventive care; expanding outcomes research.

There are some 11 of these points, Mr. President. And then we go on the say:

> We hope that neither party will allow the temptation of using this issue as a campaign issue to take priority over enacting something that will at least move us closer to the goal of reducing costs and ensuring that all Americans have access to health care.
>
> Thus, we are writing to ask you to join us in an effort to create a bipartisan proposal.

It was signed by Senator DOLE and myself, Senator SIMPSON, and a series of other Senators.

Mr. President, to that, we received a letter from the majority leader dated April 29, 2 days later. "Thank you for your letter," signed by several Senators.

> I appreciate the opportunity.* * * Therefore, I suggest we meet with you and your colleagues this Friday, at 1:45 in my office. * * *

So we met at the end of April. Nothing happened. Now, at that meeting, Mr. President, the majority leader agreed to appoint representatives from his party. We agreed to appoint representatives from our party. The majority leader made it clear that he was not going to restrict the negotiations, if you will, solely to 11 points. Agreeable. Nothing happened.

So we wrote back 2 weeks later, Senator DOLE and myself:

> Two weeks ago, we met with you to discuss ways to forge a bipartisan consensus on health care reform this year.
>
> As you recall, we agreed to appoint a group of Senators to discuss the common elements of the various health care reform proposals that have been put forward, in the hope that we can make some progress toward enacting a bill. We eagerly await your decision on which Democrats will serve on this very useful group.
>
> We look forward to hearing from you. * * *

Five days later, a letter from the majority leader:

> In response to the letter of May 15 from you and Senator Chafee, I am appointing the following members to serve on the Task Force on Health Care Reform.
>
> Senator Rockefeller will serve as chairman. The other members will be Senators Daschle, Kennedy, Kohl, Pryor, Riegle, and Wellstone.
>
> I look forward to your announcement of the Republican members of the task force.

June 8, Senator DOLE wrote back:

> Thank you . . .
>
> I have appointed the following individuals . . . Senator Chafee as the chairman of our group. The other members will be: Senators Hatch, Durenberger, McCain, Bond, Mack, Cohen, and Domenici. Senator Packwood and myself will also participate on occasion.

We suggest when to meet, and we suggest that we convene an initial meeting of the group on Wednesday, July 10, or Thursday, July 11 at 2:30 or 4 p.m.

Well, Mr. President, we met. Actually, we met on July 11. Every single Republican member was there. The Democrats were three-quarters of an hour late, and only a handful showed up. It became apparent, Mr. President, that the Democratic members did not want to move forward on those 11 points. We tried to get them to decide what they did want to move forward on. They said that the staffs would have to meet.

Frankly, Mr. President, it was a very discouraging meeting. It appeared to all of us on the Republican side that there was not much willingness to do something, that somehow there had to be an agreement on what you might call a major reform of health care, but the trouble is that they did not know what the major form they wanted was. So the meeting, frankly, got nowhere.

Following that, we set up another meeting. Staffs met to talk, and not much came of it. So we had a second meeting 2 weeks later. At that point, the discouragement, at least from our side, became deeper.

Again, what we were saying is let us agree on these 11 points and, by the way, Mr. President, these 11 points are not totally similar. Yes, we have medical liability reform in considerable detail. They have medical liability reform, but not in much detail. So just working out these 11 points themselves constitutes a real challenge.

But, no, I think we can only—others will comment on this. I notice the distinguished Senator from Maine who was part of both of those meetings here, and he can aptly characterize it. As chairman, I must say I came away totally discouraged, and it appeared there was not an interest in moving forward. I do not want to say that necessarily this is being reserved as a political issue, but certainly that crossed my mind.

Mr. President, here is a situation—everybody can continue talking about health care. Everybody has a bill in. Some of the big talkers have several bills in. I do not mean that in the derogatory fashion, "some of the big talkers." Some of those are deeply interested in this subject. But the trouble is that there is no consensus, and so we can continue on the present path, which is talk and argue and everybody have their own plan, or we can move ahead where there is consensus on some points. Is that going to cure everything in health care? No; but it is going to represent a dramatic improvement over the existing situation.

The distinguished majority leader has had a bill in since the end of last year. He now has 10 cosponsors out of 57 Democratic Senators—10 cosponsors. The junior Senator from Minnesota talks frequently on the floor about health care. His wonderful program has two cosponsors—two.

The newly selected Senator from Pennsylvania, in his campaign, talked a good deal about health care. He has no plan presented before the Senate. The Republicans have a plan. We have more cosponsors of our plan than any other single plan—23 cosponsors.

Mr. President, here is the choice: The choice is to bicker, to try to make political points, to continue the politicking on this issue and have nothing done, and to cast aspersions to the other side, as reportedly was done this morning in the press conference in room 207 by the Democratic Senators. That is one way of approaching it. That is certainly not the approach I want to take, nor is it the approach the members of our task force wish to take.

The other approach is to see if we cannot move forward on the points we agree upon. If the Democrats have a proposal here that can pass, bring it on; let us hear it.

But they do not. Since 1987, they have had control of this Chamber. And we have not seen any health care program presented or passed. Presented, yes; none passed.

But we believe that the way to proceed is to take these points of commonality, agree on those, and move forward. And then we will find other points that we can agree upon. That is the best service we can do to those citizens of our country who are deserving of better health care at a lower cost than presently exists in our Nation.

Mr. President, I still have some time. I yield that time to the Senator from Maine.

The PRESIDING OFFICER. The Senator has 2 minutes and 30 seconds remaining.

Mr. COHEN. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. Does the Senator from Rhode Island yield time to the Senator?

Mr. CHAFEE. I will yield the Senator some of my time, and he is taking 5 more minutes.

The PRESIDING OFFICER. Did you yield the entire 2½ minutes?

Mr. CHAFEE. Yes; so he will have 7½ minutes.

The PRESIDING OFFICER. And the Senator has requested 5 additional minutes.

The Senator has requested 5 minutes additional by unanimous consent.

Is there objection? Hearing no objection, it is so ordered.

The Senator is recognized for 7½ minutes.

RESOLVING THE HEALTH CARE CRISIS

Mr. COHEN. I thank the President. I hope I do not have to take that much time, but I believe there are a number of comments that have to be made with regard to the issue raised by the Senator from Rhode Island.

I, frankly, was astonished, absolutely astonished, by a statement which was repeated to me—and perhaps it is not accurate; perhaps it is a paraphrase, or perhaps it is a misattribution—which had apparently been made by the Senator from West Virginia. He can clear the record on this if I am mistaken.

For any Democratic member of the bipartisan health care task force to suggest that the Republican members of the task force are unwilling to negotiate or to meet with the Democratic members to try and remedy the health care crisis in this country is simply untrue.

As I listened to that statement, I could not help but reflect upon the message of "1984": If you repeat a falsehood long enough, that falsehood eventually will be taken as the truth. So you can have hate equaling love, and war meaning peace, and ignorance meaning wisdom, and slavery equaling freedom, and 2 plus 2 equaling 5 or 6 or 7, or whatever the totalitarians would like to have it mean.

Mr. President, for anyone to suggest that the Republican Members have been unwilling to negotiate in good faith is a falsehood of the first order, and it ought to be rejected clearly and unequivocally on this floor.

I have worked with the Senator from Rhode Island and the members of the Republican Health Care Task Force for almost 2 years now. We have met regularly once a week every Thursday. We have met for well in excess of an hour—often an hour and a half—every Thursday morning without fail. And we have tried to develop a consensus within our own group.

These are complicated and complex issues. And we have tried to deal with these issues in a fair-minded fashion. We have come up with proposals that we think would enjoy broad bipartisan support: Relief for small business—I believe that is in the bill sponsored by the Senator from Texas [Mr. BENTSEN]—managed care, malpractice reform, and insurance market reform.

These are all issues that we could take action on today. But whenever we suggest this to the Democratic majority, they say: "Oh, no; we don't want any piecemeal approach."

Even though we can provide immediate relief to the small business community—and small businesses are losing their insurance every day—the Democrat's answer is that we cannot take a step-by-step piecemeal approach. It has to be comprehensive. Therefore, there will be no action taken this year, and everyone on that side of the aisle knows it.

We have an opportunity to provide needed relief right now, and it can be done right now. We do not need the President for this. This body can move ahead on its own as we did yesterday on nuclear testing, an issue of immense complexity involving this country and several other countries, certainly.

Mr. President, if there is gridlock here, I hope that no one on the majority side is going to lay that gridlock at the doorstep of the Republican Party. That charge is simply false. It ought to be rejected.

I see the Senator from Texas—I have referred to the Senator from Texas earlier in my comments—and I think that he would agree that there are issues which we can agree upon and move forward on now, tomorrow, and next week, and not wait until next year to find out the outcome of the Presidential election.

There was another comment that was made during the Democratic Convention, and since I cannot recall it specifically, I will only paraphrase what one Member said. He said: We should have nothing but contempt for President Bush as it relates to his action on the health care front.

I was astonished to hear that statement made, frankly, that we should have nothing but contempt. I had to ask myself: Who has been in charge all these years? Who has had the majority in the Senate all these years? Who has had the majority in the House all these years? And why do not the American people have contempt for those majorities?

It is a complicated issue. There are complex issues that have to be negotiated. We stand ready, willing, and able to meet with the Democratic majority, and we have done so. Unfortunately, what we have found is a very large stone wall to crack our heads up against.

So, Mr. President, I hope that this will not degenerate into the kind of bickering, as the Senator from Rhode Island has suggested, that is now being leveled against this institution. We have an opportunity to reach an effective—and I believe fair-minded—compromise. And I do not like to see these kinds of charges being made by the majority, as they try to place blame upon the Republicans for a failure to arrive at some agreed resolution.

I hope that we can see this kind of talk cease and desist for the balance of the year.

I yield back the remainder of my time.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator yielded back 1 minute and 55 seconds.

Mr. CHAFEE. Mr. President, it seems to me it is just plain not fair to tell the Americans who are seeking relief now in health care costs that they have to wait until Congress and perhaps the administration can reach an agreement on a comprehensive, all-inclusive health care reform package.

That is like saying we cannot make any reductions in the deficit until we come up with a plan that gets us to zero deficit.

Continuing along the course we are on—which is to do nothing—is to continue to saddle our children and ourselves with costs that are continuing to skyrocket.

Apparently, there is a gridlock here. The gridlock is that the Democrats do not want to move forward until they get something perfect. They have the power to do that.

I should not even use the word gridlock, because there is nobody here to lock them. They have charge. Why do they not move forward, if they have such a wonderful plan?

But the truth is, they do not have a plan, as I mentioned previously, a plan they can agree on.

So, Mr. President, I hope that they will accept the proposals that we have put forward on the 11 points of commonality, expand on them, and do something this year to help contain health care costs in the United States of America.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island has yielded the floor.

Does the Senator from Oklahoma seek recognition?

Mr. BOREN. Mr. President, I was, but my colleague from Nebraska is here and has some time constraints, and I would like to yield the floor to him first and then I will seek recognition.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I come to the floor because I have read an earlier statement the distinguished Republican leader made. He referenced me. I ask unanimous consent I be allowed to speak for 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I come to the floor because earlier in responding to some statements that were made by myself and other Democrats who were, in fact, responding to some statements that the President had made about health care, the distinguished Republican leader mentioned me by name and specifically indicated that I have only one cosponsor, Senator MOYNIHAN, to a proposal known as Health USA, and that in and of itself is evidence Democrats really do not have the solution and that the gridlock—I heard my friend from Rhode Island saying—is really between the Republicans and Democrats here in the Senate.

I am here to argue, Mr. President, that is not the case and it is not gridlock between the Republicans and Democrats that is causing the problem. Indeed, there is room for compromise between myself and the distinguished junior Senator from Kansas. Senator KASSEBAUM has a proposal. It is not exactly like mine, but it is close enough that it seems to me there is room for compromise there. I have listened to other proposals made on the Republican side. Senators DASCHLE and WOFFORD have a proposal on my side that is very close to mine. We could move relatively easily to a compromise.

The impasse, Mr. President, is between the Congress and the President. I say with respect to my friends on the other side of the aisle, the President's proposal that he made in January was made only after it appeared that health care was going to be an important political issue, and he talked about bringing something to Congress in January and to date has not done so.

It has been Congress that is working individually, in small groups, trying to reach agreement on comprehensive health care reform. And I for one do not want to stall things. I am prepared to move on incremental reform.

The problem is some incremental reform makes things worse. If you are trying to do something about the need to control the cost of health care and you have an incremental reform that increases the cost of health care, it is difficult to go along with that until you have a mechanism that gets everybody covered and gives us the capacity to control the cost. And that is the problem.

We have increasing demand for new services, increasing demand for new programs, and it is relatively easy just to say, terrific, we can do it, knowing we can deficit-finance 30 percent of it and get away with it.

The problem is not the Republican Members of the U.S. Senate or the Republican Members of the House of Representatives. The problem that we have is the President of the United States, who has a proposal in part, but because he is unwilling, it seems to me, to deal with the need to say "no" to somebody when you are controlling costs—because I do not believe you are going to control costs without confronting the rising costs of the entitlement programs. Unless there is a willingness to say no to friends in the insurance industry and others who essentially want to maintain the status quo, it is going to be difficult to get the kind of reform I believe is necessary to give us a sense we are not only going to have a program that is going to allow us to be economically competitive but one that is going to allow us to continue to maintain high quality health care.

I do not believe the gridlock exists between the Republicans of this Senate and the Democrats of this Senate. I believe the gridlock in this case is the President's unwillingness to come and fight the tough battles that need to be fought in health care reform.

I thank my friend from Oklahoma for yielding the floor.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired. Who seeks recognition?

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2854

(Purpose: To waive section 111 of title 23 with respect to the establishment of a duty free shop on I-15 at Sweetgrass, MT)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. BURNS (for himself and Mr. BAUCUS), proposes an amendment numbered 2854.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . The Historic United States Customs building located adjacent to Interstate Route I-15 in Sweetgrass, Montana, and the border with Canada is hereby exempt from the restrictions contained in section 111 of title 23, United States Code, prohibiting use of and access to rights-of-way on the Interstate System: *Provided*, That, such exemption shall be only for the purpose of permitting the use of such facility for the sale of only those articles which are for the export and for consumption outside the United States: *Provided further*, That, such right-of-way access be developed in conjunction with the overall redesign planning work that is underway to relieve the congestion problems at the Sweetgrass border crossing.

Mr. D'AMATO. Mr. President, the purpose of this is to waive section 111 of title XXIII with respect to the establishment of a duty-free shop on I-15 at Sweetgrass, MT. I offer this amendment on behalf of Senator Burns.

It has been cleared by the majority.

Mr. BURNS. Mr. President, this amendment would allow the duty-free shop at Sweetgrass, MT, to be located in the historic U.S. Customs building. The location is not only historic, it is safer, more practical, and more economically beneficial than the current setup.

The border crossing at Sweetgrass is congested for a number of reasons, one of them being that duty-free transactions currently take place between vehicles on the Interstate adjacent to the present port facility because the duty-free shop is not located adjacent to the border. The fact that people are getting out of their vehicles and moving about on an Interstate to collect their duty-free goods is a clear violation of any number of U.S. safety regulations. The historic U.S. Customs building is located on the righthand side of Interstate 15 just south of the border crossing compound. If it were the duty-free shop, northbound travelers could egress from I-15, conduct their duty-free business and reenter north of the border beyond U.S. jurisdiction. Canadian officials have expressed interest in this arrangement, but no discussions can proceed until section 111 is waived. This amendment waives section 111 in order to allow for the development of a safer, more economically viable alternative.

The use of the historic U.S. Customs building as a duty-free shop is supported by the U.S. Customs Service District Director and the Board of County Commissioners of Cascade County, MT. Its local supporters maintain that the development of the building will have a direct economic benefit creating 20 new jobs and a payroll in excess of $250,000 a year. Just another example of how our Nation's transportation infrastructure provides and supports economic growth.

Finally, the amendment provides that in granting this exemption the access must be developed in conjunction with the redesign effort currently underway for the entire border crossing facility. That effort should be aided by a study of all border crossings which I, and a number of other Senators, included in the Intermodal Surface Transportation Efficiency Act of 1991. This bill provides for funding of that study up to $2.4 million under the Federal-aid highway obligation ceiling for fiscal year 1993. A comprehensive redesign of the Sweetgrass border crossing is being discussed by various United States and Canadian officials, including transportation, customs and INS officials as well as the local community interests. There is no doubt that something must be done to insure that commercial traffic can flow more freely between the United States and Canada at Sweetgrass, but this amendment does not attempt to address the entire situation. Hopefully, the study and the efforts of the State and local officials will do that. This amendment just makes sure that the historic U.S. Customs building as a duty-free shop can be part of the larger redesign by waiving the Federal prohibition of use of and access to rights-of-way on the Interstate system.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2854) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2855

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 2855.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On bill page 114, line 21, insert the following new section:

"(a) Notwithstanding any other provisions of law, tolls collected for motor vehicles on any bridge connecting the borough of Brooklyn, New York, and Staten Island, New York, shall continue to be collected for only those vehicles exiting from such bridge in Staten Island.''

Mr. D'AMATO. Mr. President, for the past 6 years, a system of Westbound only motor vehicle tolls has been in place on the Verranzano Narrows Bridge between Staten Island, NY, and Brooklyn.

This system has been a success. Trucks and cars no longer back up across Staten Island increasing carbon monoxide and other air pollutant problems in the adjacent, densely populated residential areas. One-way tolls were acknowledged as an outstanding success by former MTA chairman, Bob Kiley. However, now the Triboro Bridge and Tunnel Authority of the MTA is on the verge of reversing this progress. Later this year, after public hearings are held, I fully expect steps to be taken to restore two-way tolls. That is why I offer this amendment.

My amendment would simply maintain the status quo that is working for all.

There are now 21 toll booths serving the westbound public. Only 11 toll booths would serve the public in each direction for two-way tolls. This would mean longer lines and more congestion.

Trucks operate more efficiently under one-way tolls. Driver overtime is being eliminated—drivers not sitting in traffic—goods are being delivered more expeditiously, and consumers reap the benefits of lower priced goods.

In 1986, a survey of drivers showed 95 percent of respondents favored one-way tolls. On the average they saved 30 minutes round trip.

The Triborough Bridge and Tunnel Authority projects an annual increase of 3 to 4 percent increase in volume of motor vehicles using the bridge. More traffic will back up in future with two-way tolls.

The Federal legislation creating one-way tolls has been vital in securing fairer treatment for the people of Staten Island who, for years, suffered the brunt of traffic congestion and air pollution as motor vehicles queued-up across the Staten Island Expressway to pay east-bound tolls. The one-way westbound tolls have created smoother, more efficient traffic flow for many other bridge users.

The six American Automobile Association affiliated auto clubs operating in the State of New Jersey support my amendment. In the AAA's position that traffic flow has improved for returning New Jersey drivers. The AAA's traffic engineers recently conducted a study confirming that one-way tolls are more efficient than the previous system.

Borough president Guy Molinari and city council president Andy Stein have joined me in calling on local officials of the Metropolitan Transportation Authority's Triborough Bridge and Tunnel Authority to examine fairly this issue.

City council President Stein wrote to the TBTA:

> I have long supported the one-way toll as more efficient and less harmful to the environment * * * public review of the decision must be thorough and complete. A strategy of ignoring the public can only create an atmosphere of mistrust and recrimination that will serve no one's interest.

Although this may seem a local issue it has twice before been the subject of Federal legislation. Thus this is an appropriate amendment.

It has been cleared by the majority.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2855) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I send an amendment to the desk on behalf of Senator SYMMS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. D'AMATO. Mr. President, might I ask unanimous consent—I ask the amendment be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2856

Mr. D'AMATO. Mr. President, I send two amendments to the desk and ask for their immediate consideration. The first one, on behalf of Senator MOYNIHAN and myself, would provide some $900,000 be made available to reimburse the city for funds granted for planning activities related to the proposed 42d Street trolley.

The PRESIDING OFFICER. Are these to be considered en bloc or separately?

Mr. D'AMATO. Separately.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from New York [Mr. D'AMATO] for Mr. MOYNIHAN for himself and Mr. D'AMATO, proposes an amendment numbered 2856.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On line 15 of page 39, strike the period and insert the following new text: '': *Provided further*, That of the funds made available to carry out the national program under section 26(b) of the Federal Transit Act, not less than $900,000 shall be made available to reimburse the city of New York for funds granted for planning activities related to the proposed 42d Street trolley.''.

Mr. D'AMATO. Mr. President, this amendment has been cleared by both sides. It is not controversial.

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2856) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2857

Mr. D'AMATO. Mr. President, I send an amendment to the desk on behalf of Senator MOYNIHAN and myself to provide some $200,000 for badly needed planning funds. It has been cleared by both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from New York [Mr. D'AMATO] for Mr. MOYNIHAN for himself and Mr. D'AMATO, amendment numbered 2857.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Page 60, line 15, is amended by striking the period at the end and inserting the following new text: '', and $200,000 for the Commission to Promote Investment in America's Infrastructure authorized by section 1081 of Public Law 102–240.''.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2887) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. ADAMS. Mr. President, parliamentary inquiry. It is my understanding the pending amendment has been set aside and that the floor is open for statements, comments, or potential amendments on the bill.

Mr. LAUTENBERG. I ask, Mr. President, if the Senator will set aside his request for the moment. We are just about ready to present an amendment—how much time does the Senator need?

Mr. ADAMS. Two minutes.

Mr. LAUTENBERG. I have no objection.

The PRESIDING OFFICER. The Senator is correct in his interpretation and he may proceed.

Mr. ADAMS. Mr. President, this appropriations bill holds major significance for the State of Washington. Rapid population growth in the Pacific Northwest has put enormous pressure on the transportation infrastructure in the Seattle/Tacoma metropolitan area. Recent studies by the Texas Transportation Institute and the Federal Highway Administration have ranked Seattle's traffic congestion as the sixth worst in the country. Seattle's hourglass geography, created by its hilly terrain, Puget Sound, and Lake Washington, make additional road building extremely expensive where it is even possible at times. This bill funds alternative solutions for Seattle such as the Seattle/Tacoma commuter rail and intelligent vehicle/highway systems.

Of critical importance to central Puget Sound is a provision to allocate $10 million to a commuter rail project between Seattle and Tacoma. This commuter rail alone will not solve the whole traffic problem along the Seattle/Tacoma I-5 corridor, but it will help a great deal.

Both the House and the Senate reports direct that $5 million in intelligent vehicle/highway systems [IVHS] be used for Seattle. This funding gives State and local traffic planners another means to attack traffic congestion through making better use of the existing transportation system. As I have mentioned, Seattle does not have the room to build many more roads. IVHS works and can be put to especially good use in conjunction with the area's leadership in constructing HOV lanes and the downtown bus tunnel, enforcing comprehensive land use planning and promoting an extensive light rail transit system.

I would also like to thank the committee for acknowledging and funding $5 million for the Highway 101 Tri-State—Washington, Oregon, and California—Scenic Highway. In Washington State these funds would be used in an area which has been affected by the downturn in the timber industry. This area of the Pacific coast is immensely beautiful and the funds will enhance area tourism. I would also like to point out that the committee report designates $2 million for the Wenatchee Multimodal Center which includes intercity buses, local transit, taxis, railroad, and bike/pedestrian trail connections. The report also places construction at the following Washington State airports on the FAA priority list: Spokane International Airport, East Air Park, Bellingham Airport, Bowerman Field, and Pearson Airpark.

Finally, I would like to thank Senator LAUTENBERG and the rest of the committee for the excellent work they have done in crafting this bill.

The present occupant of the Chair, when he was Governor of West Virginia, and I worked on transportation problems for many, many years, both in his State and mine, particularly when I was Secretary of Transportation.

I want to commend the Senator from New Jersey for his excellent help and support in this project.

It is absolutely necessary we obtain experience in the whole area of public transportation. Notice I do not call this mass transportation but public transportation because it involves a variety of programs and projects. I deeply appreciate the authorization last year to start the process for the Seattle-Tacoma metropolitan light rail—core rapid transportation system. We have not obtained funding for it this year, but we understand the problems that are involved with the light rail and the commuter rail are a key part to get experience to establish a regional system.

I would like to point out there is an inadvertent misstatement in the committee report, which I will ask the staff later that it be corrected, on the amounts necessary for matching funds.

I would like to also state, Mr. President, we appreciate the chairman of the committee placing in the bill the $5 million in intelligent vehicle highway systems (IVHS) to be used in Seattle. This funding gives State and local traffic planners another means to attack traffic congestion by making better use of the existing system.

As I have mentioned, Seattle just does not have the room to build any more roads and IVHS works and can be put to especially good use in conjunction with the area's leadership in constructing HOV lanes and the downtown bus tunnel, which has turned out to be an extraordinarily successful project for the entire area. We hope projects similar to the bus tunnel will be copied in other cities that are suffering from problems of how to handle traffic and congestion in downtown areas.

Also, commuter rail and IVHS complement comprehensive use planning and the promotion of the light rail transit system—core-rapid—which will take years to develop. We all are looking forward to developing this most modern technology.

I thank the committee for acknowledging and funding Highway 101, which is the Tri-State Washington-Oregon-California Scenic Coastal Highway. In Washington State these funds, Mr. President, will be used in areas that have been affected by the downturn in the timber industry. We are trying to save jobs and make jobs in this area. This is an immensely beautiful area. This will not only provide temporary relief but enhance tourism.

Senator LAUTENBERG and the rest of the committee have done an excellent job in crafting this bill. As one who spent his life in transportation, I would like to say particularly to Senator LAUTENBERG we appreciate the Senator's help in transportation problems both rural and urban. This bill is an important step forward. I hope the Members will vote for this bill.

I appreciate the time. I yield the floor.

Mr. LAUTENBERG. Mr. President, I say to the Senator from Washington that it is with considerable regret that I note this will be the last appropriations transportation bill that he will be working with, but I assure him the mission he set out to accomplish many years ago on behalf of the transportation infrastructure for this country will not be forgotten; that we will be always interested in his view with his expert knowledge on solving transportation problems. We are pleased he was here to see some of the action we took on behalf of the State of Washington. And we look forward to many years of contact, despite the fact that it will not be quite as formal.

Mr. ADAMS. I thank the Senator from New Jersey for his kind remarks, and I look forward to enjoying that relationship.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I now make the unanimous-consent request that the pending amendment be set aside so that I might send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2858

(Purpose: To provide a temporary exemption for the State of Oklahoma with respect to certain requirements relating to access)

Mr. BOREN. Mr. President, I send an amendment to the desk on behalf of myself and Senator NICKLES and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for himself and Mr. NICKLES, proposes an amendment numbered 2858.

Mr. BOREN. Mr,. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the title I, insert the following new section:

SEC. . TEMPORARY EXEMPTION.

(a) RESTRICTION ON APPORTIONMENT.—The restriction on apportionment of funds in section 127(a) of title 23, United States Code, shall not apply to the State of Oklahoma during the period beginning on the date of enactment of this act and ending on May 31, 1993.

(b) STATE AUTHORITY.—The restriction of the authority of States in section 127(b) of title 23, United States Code, to control the access certain motor vehicles to and from the Interstate Highway System shall not apply to the State of Oklahoma during the period specified in subsection (a).

Mr. BOREN. Mr. President, I have discussed this amendment with the distinguished managers of the bill. Let me summarize very briefly the situation we now face.

For 17 years, there has been a legal dispute between the State of Oklahoma and the Federal Government, namely, the Federal Highway Administration, about truck weights in our State. The State had a law which the State has argued for some time was grandfathered into place by Federal legislation and by Federal practice. The Federal Highway Administration argues to the contrary, and this has been a matter of negotiation for 17 years. It is a gray area in the law, frankly.

But now the Federal Highway Administration has said the talks have gone on long enough; they do not accept the State's point of view. Therefore, they wish to begin the process of levying a penalty against the State by withholding up to $65 million in Federal highway funds. Needless to say, this would be a devastating blow to our State.

Our legislature will meet again in January. By law it must complete its meeting by May 31 of next year. This amendment simply states we would have that amount of time to come into compliance with the Federal law; that the sanction would not be levied against the State during the time the legislature was in session.

Mr. President, I understand the department may be prepared to issue a letter to us indicating the State would have 1 year from the notice of noncompliance in which to avoid a penalty and bring itself into compliance. If that works out between now and the meeting of the conference committee, this amendment would not be necessary. But if we are unable to resolve it through a letter from the Federal Highway Administration, then it would be necessary to protect the State, to allow the legislature to at least have this one session to bring the State into compliance, since our legislature is not now in session.

I think this is purely a matter of equity. We understand, and I informed the distinguished manger of the bill, if we are able to work this out through a letter, the amendment would not be necessary, could be dropped in conference. We have every reason to believe we can work it out that way, but since a large amount of money is involved and it is so critical to my State, I did want to offer this amendment at this time that would give us some time to negotiate this matter with the Department of Transportation between now and the conference committee. It is my hope, with that understanding, with that background, the managers of the bill might be able to accept the amendment.

Mr. LAUTENBERG. Mr. President, the Senator from Oklahoma, as usual, makes a cogent case, and we would like to be as accommodating as we can. Of course, it is subject to DOT rules, and we are awaiting word from them.

Mr. President, the Senator's explanation is absolutely clear, and the record will reflect an understanding that we have. With that, with the admonition that the Senator from Oklahoma expressed so clearly, I tell you that the majority has accepted this amendment, and I assume the minority also has cleared the amendment for the Senators from Oklahoma.

Mr. D'AMATO. Mr. President, let me suggest that there is some question with respect to Department of Transportation, and we will be looking for a confirmation. If that confirmation comes through, of course, we will fight to retain it in the conference. If it does not, and if they are opposed, that will be a different matter; so as long as the Senator understands that.

Mr. BOREN. The Senator does understand it.

I thank my colleagues for their accommodation in this matter and for allowing us to take this action at this time. It does at least allow us some breathing room to try to work this matter out with Department of Transportation.

Mr. President, if there is no other discussion, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2858) was agreed to.

Mr. BOREN. I moved to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I thank both managers of the bill. I thank them for allowing me to present this amendment at this time.

AMENDMENT NO. 2859

(Purpose: To allow States to use funds authorized by the Congestion Mitigation and Air Quality Improvement Program to research, develop, and test technologies to control highway related emissions which contribute to the nonattainment of any ambient air quality standard or the impairment of visibility within an urbanized area with a population of over 50,000)

Mr. D'AMATO. At this time the distinguished Member from Arizona, Senator MCCAIN, is here and has asked me to introduce an amendment on his behalf to allow States to use funds authorized by the Air Congestion Mitigation and Air Quality Improvement Program to research, develop and test technologies to control highway-related emissions.

This amendment has been cleared on both sides.

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. MCCAIN, proposes an amendment numbered 2859.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following new paragraph:

"( ) Projects to research, develop and test technologies to control highway related emissions which contribute to the nonattainment of any ambient air quality standard or the impairment of visibility within an urbanized area shall be deemed to be eligible under the Congestion Mitigation and Air Quality Improvement Program."

Mr. D'AMATO. Mr. President, as I indicated, the Senator is here. We want to commend the Senator for putting forth this amendment at this time. It has been cleared by both sides.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 2859) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

HEALTH CARE

Mr. MCCAIN. Mr. President, I rise to address the Senate for a few minutes concerning very serious allegations that were made this morning. In fact, it is of interest, that one of the allegations was made by——

Mr. LAUTENBERG. Mr. President, will the Senator yield for just a moment?

Mr. MCCAIN. I yield without losing my right to the floor.

Mr. LAUTENBERG. Mr. President, I advise the Senator that we were in the middle of structuring an agreement and certainly we do not want to inhibit the Senator from making his statement, but because the Senator from Missouri is under a significant time constraint, we were going to try to deal with an amendment that he had. There is, unfortunately, very little time for him to offer. He is here and can speak for himself.

Mr. MCCAIN addressed the Chair.

Mr. LAUTENBERG. I understand that there has been some resolution and therefore would not ask the indulgence of the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona may proceed.

Mr. MCCAIN. I thank the Presiding Officer.

Concerning some statements that were made this morning, including one by the Senator from West Virginia [Mr. ROCKEFELLER] he says "It absolutely overwhelms me and saddens me profoundly, and I can find no reason why a man who was elected President of the United States, who has been Vice President for 8 years, can be so callous, so indifferent, so knowledgeable and takes so little action with respect to health care. I look upon his actions with disdain," et cetera.

Later the question was asked, "Why don't you move forward on health care? Don't you have the votes?"

The answer as told to me by Senate staff: "In spirit, we have 57 Democrats. We haven't moved forward because there is no interest in this issue on the part of Republicans. We tried to work on a bipartisan basis with them for a year and a half but the Republicans show no interest in health care."

"We have tried to work on a bipartisan basis with them for a year and a half but Republicans show no interest in health care."

The Senator is wrong. I was in the room. I was in the room twice with the Senator from West Virginia when we begged and pleaded with the Senator from West Virginia that we pass legislation which was already passed by the Senate of the United States, as part of a Finance Committee package, which was already passed and which we were in agreement on.

I understand the desperation associated with 12 years out of the Presidency. I do not understand a gross misrepresentation of the facts and what is actually taking place.

Mr. President, I worked long and hard on health care issues. So has the Republican task force. I view these statements as an absolute insult to those of us who have worked for years and years and tried to get bipartisan agreement.

Mr. President, there was a package that was passed by the Senate of the United States which would give instant relief to the small businessmen and women and their employees in this country immediately—immediately. If I act like I am angry, it is because I am.

Mr. President, we agreed, we agreed on legislation that passed this body that requires insurance companies to eliminate business practices that unfairly penalize small firms, their employees, and individuals with existing health care problems. One of the greatest impediments that small businesses and those who work for them in America face today is that they are unable to obtain, many times, insurance because of practices of unfairly penalizing them because of existing health care problems. There is legislation which has already passed the U.S. Senate that contains a proposal to increase funding for critical public health care programs, such as community health care centers, and a child immunization program.

If the Senator from West Virginia tomorrow will introduce legislation to increase funding for community health care programs and childhood immunization programs, we can pass it.

When he says there is no interest on the part of Republicans, I am here to tell him that we have interest—and in his desperation, I am shocked, shocked, shocked.

I want to give this proposal of ours, give States the ability to develop universal access plans and cost containment initiatives by using funds from existing Federal programs, such as Medicaid, Medicare, public health service, encourage the growth of managed care programs, care plans by preempting State laws which hamper the growth of innovative systems devised by insurers and businesses to establish coordinated care plans and provide better, more cost-efficient care, help small businesses band together to form purchasing groups to obtain more generous, less expensive benefits for their employees.

Again, Mr. President, that legislation passed this body. It is being tried in Cleveland where small business people are able to pool their assets and acquire health insurance for small business people. Let us bring it up. Let us pass it. Again, it has already been passed once. Let us bring it up again.

Of course, there is one area that the Senator from West Virginia and others do not want to touch, and that of course is malpractice reform. Twenty-five percent of every dollar that is spent by a doctor today on medical care today, 25 percent of every doctor's health practice, has to do with defensive medicine and the medical liability crisis, because the doctor, the physician is worried about malpractice. Malpractice reform is a critical factor in the eyes of any expert if we are going to indeed bring about complete reform of the health care system and bring about the reduction in cost.

Mr. President, I simply am dumbfounded. I was in the room with several members of the Democratic health care task force. I was in the room with them, literally begged them to consider these options, these measures, which would give immediate relief to small business people and their employees in this country.

So the assertion that says we tried to work on a bipartisan basis with them for a year and a half, but Republicans show no interest in health care, Mr. President, flies in the face of the facts.

I understand that this is an election year. I understand that the rhetoric is high. I understand that personal insults are even being traded back and forth not only amongst candidates but amongst their surrogates.

But, Mr. President, health care is not the place for this kind of partisanship. The facts are clear. We stand ready to sit down and pass legislation again which has already passed this body once, which would give immediate relief to the backbone of the economy in my State, and that is the small businessmen and women and their employees of America, and in my State.

I stand ready to do it. I know I speak for the Senator from Rhode Island [Mr. CHAFEE], and everyone else. We would like to sit down. We wanted to. We had several meetings. There were 11 areas which were delineated, those on the other side, various, in which we were in agreement. We could get no discussion, no agreement, because—I do not know why. I will not question the reasons why.

But for a statement such as this to be made, that the President of the United States and Republicans are not interested in enacting health care reform, is simply almost incredible to me. In fact, it is incredible.

So, Mr. President, I would say again, the statements made are not accurate, in the slightest. Those statements made have nothing to do with what has actually taken place.

I urge my colleagues on the other side of the aisle to sit down together with us, and we can get at least something done this year before this body and this Congress goes out of session.

I yield the floor.

Mr. GRAHAM. Will the Senator from Arizona yield for a question?

Mr. MCCAIN. I am glad to yield to the Senator from Florida for a question.

Mr. GRAHAM. Mr. President, it has been said that the most specific statement made by candidate Bush, who was running for the Presidency in 1988, relative to his health care program occurred during the course of the debate in October 1988. Vice President Bush was asked a question by a reporter for the Orlando Sentinel as to what his principal health care proposal would be.

The answer to that question was that the centerpiece of health care policy would be to open up Medicaid to allow for a buy-in by the working poor. Does that statement of the campaign of 1988 comport with the understanding of the Senator from Arizona of the centerpiece commitment?

Mr. McCAIN. Frankly, I am very pleased that the Senator from Florida followed so closely the 1988 campaign. I am pleased that he would notice all of those details, which were probably provided to him by the Democratic Senatorial Campaign Committee.

Be that as it may, the President of the United States has called for a comprehensive health care reform package embodied in many of the programs that I just stated. He has a clear and steadfast position on it, particularly those that can and have proven to help small businessmen and women and their employees in this country, which I just articulated, the ability of small business people to pool assets so that they can be eligible for insurance, portability of insurance for their employees from one job to another, flexibility as far as requiring insurance companies not to raise premiums because of the so-called preexisting conditions, and others. They have been made many times by the President of the United States, these proposals, as well as by the Republican health care task force.

But I will tell you what—also, in answer to the Senator from Florida—we have not proposed. We have not proposed socialized medicine, now called play or pay which was put in the State of Massachusetts and never even put into effect because of the devastating effect it had on that State's economy. It has been tried.

The President of the United States, nor members of the Republican health care task force, will never agree to such a proposal. Just like I would never agree to the catastrophic health care proposal which I believe the Senator from West Virginia played a key role in, which was soundly rejected after a year's work by this Senator in efforts to repeal an onerous tax that was put on the seniors of this country.

So, no, we do not want to repeat, and this President does not want to repeat, the Catastrophic Health Insurance Program which was a disaster; nor does he or would he support the so-called play or pay proposal, which will be a 7- to 9-percent tax increase on every small business employer in this country. No, I do not want to raise taxes, nor does the President of the United States.

So my answer to the Senator from Florida is that I do not recollect what the President of the United States might have said over 4 years ago in the course of campaign, but I know what the President's position is and that he has a coherent and comprehensive health care program for this country, which I believe at least parts of which—which was my point—we are in agreement on and could sit down together, because we have already agreed on it once, and pass, and it would give immediate relief to people in this country who need it the most.

Mr. GRAHAM. Mr. President, I will ask a second question. My special knowledge of that statement was in large part because of my knowledge of the reporter who propounded that question at the debate, and the attention that it received at the time as being the centerpiece of the President's health care proposal. Assuming you accept that characterization, what would you describe; and to your knowledge, what has occurred since October 1988 toward the achievement of the goal of opening up Medicaid as a program for the working poor?

Mr. McCAIN. It is my understanding, in response to the Senator from Florida, that majorities in both Houses of Congress are not of the President's party, and both of those Houses of Congress have not come forward with any proposal yet that can be enacted by the Congress and signed by the President of the United States. That is my understanding of that issue and every other issue concerning health care.

Meanwhile, the costs of health care skyrocket, and the burden increases on all levels and all income levels of America as we speak, because of our inability to sit down and work out together, particularly on portions of a health care reform package which was already passed once by the Senate of the United States, which the Senator from West Virginia refused to consider in a meeting that I had with him—in fact, two meetings I had with him and other members of the Democratic health care task force.

Mr. GRAHAM. To your knowledge, has the President, or a representative of his administration on his behalf, submitted a program to expand Medicaid to make it available to the working poor?

Mr. McCAIN. I am familiar with the fact that the President has put forward a comprehensive health care program, which naturally would affect working poor and nonworking poor at all levels of our society. I am not familiar with all of the specifics of the President's proposal, but I certainly am with many of them, including those that I say were passed by this body and sent over to the other body and, unfortunately, not accepted in the other body, as part of the finance package.

Mr. ROCKEFELLER. Mr. President, I hope the Senator from Arizona would remain for just a moment, because I want to clear something up. He has raised some points in good faith. He did not actually quote from part of the press conference this morning, but the purpose of the press conference was to do something very genuine in the mind of this Senator, and the other eight or nine of us who were there, which was to take on the President on his apparent lack of interest in health care.

At no point—and it never passed through my mind—was I ever referring to the Republicans in the U.S. Senate and, to the contrary, I made the point, using the Pepper Commission as an example. I could have used the children's commission and other examples.

I believe there are Republican Senators in the Senate who very much want to be a part of a health care solution and comprehensive health care reform. Not only the Senator from Arizona, but I would think particularly of Senator DURENBERGER, Senator CHAFEE, Senator HATCH, and others are people who have spent a lifetime with interest in trying to get comprehensive health care reform. I want to make it very clear to the Senator from Arizona that whenever I was referring to "them," "them" was in the White House. "Them" did not refer to Republicans in the Senate.

Mr. McCAIN. Would the Senator answer a question?

Mr. ROCKEFELLER. In a moment.

What is truly perplexing to me, and it really is a mystery—it saddens me and baffles me. I do not know what it is that is on the President's mind when he gets to the subject. But here is this enormous calamity called the American health care system, which works only if you have no money or lots of money, but not for anybody in between; and there appears to be a genuine lack of interest about taking any leadership which would in turn then free up, embolden, not just Senate Republicans but also, frankly, those of us on the Democratic side of the aisle of the Senate to accomplish much-needed health care reform. I do not understand where the President is coming from on this.

I cannot tell you how many people who are Republicans, who are friends of mine—some of whom work in the White House—who have expressed profound frustration to me directly, and even went so far, several of them, as to say when I was looking at running for the Presidency last spring and early summer, when I decided not to do so, expressed regret, not in that they were hoping to vote for me, but I took some pressure off of the President on health care. I do not understand.

If you are President or Vice President and potentially President for another 4 years, you are interested in creating a legacy. You want to do something for your country. Here is the second largest economic human financial disaster facing our country. The President appears to have no interest.

When in fact the Pepper Commission was finishing its deliberations, a bipartisan group—Senator DURENBERGER was on it and was outstanding—the White House, under the Bush administration—and Sununu made some of these calls, Darman made some—in the last few days, they called all of the members of the Pepper Commission—not everyone; two or three they did not call—saying do not vote for that Rockefeller plan. We do not want to have a bipartisan solution to health care. We do not want bipartisan cooperation. We were barely able to pass that by an 87 vote.

I am truly saddened by this, I say to my good friend. I am confounded by it. Particularly, if one has been a chief executive, when you have a responsibility which is so overwhelming, you tackle it forthrightly and you do it on a bipartisan basis. You cannot do health care or achieve comprehensive health care reform without bipartisanship. We on the Democratic side have been desperately frustrated, because we know there are Senators like the Senator from Arizona, the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. HATCH], and certainly the Senator from Rhode Island [Mr. CHAFEE], who want very much and have worked many years for that kind of health care reform.

So I just want to make it clear to my friend from Arizona that any "them" refers only to the White House, not to Republicans in the Senate, the majority of whom, from the point of view of the junior Senator from West Virginia, deal in good faith on the subject of the comprehensive health care reform.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would say to my friend from West Virginia, then, that he should—I was not at his press conference, but I take it that his statement, then, means that the following is inaccurate.

As relayed to me, question asked to Senator ROCKEFELLER:

Why don't you just move forward on health care? Don't you have the votes?

Answer:

In spirit, we have 57 Democrats with us. We have to move forward because there is no interest in this issue on the part of Republicans. We have tried to work on a bipartisan basis with them for a year and a half, but Republicans show no interest in health care.

That clearly indicates that it is in the spirit of the remarks that I made, and it is hard for me to understand how that coincides with the remarks that the Senator from West Virginia just finished making.

I think that there is a little problem here that the Senator from West Virginia might have. He says the President has not come forward with a comprehensive health plan. What he meant to say is—the way I interpret his remarks—he has not come forward with a plan that is acceptable to the Senator from West Virginia.

In fact, the President has many times proposed some solutions to health care issues. A series of bills have been proposed by the White House. The President gave a major speech in Cleveland announcing his support for small business market reform. Congress should act on these.

I say to my colleague from West Virginia, again—and I do not want to prolong the debate because of the fact that I know we have other pressing matters at hand—that the fact is that we have tried to sit down and work with the Senator from West Virginia and his colleagues to get passed again what was already passed by the U.S. Senate. And it is clear that there was no interest on the part of the Senator from West Virginia and his colleagues to move forward with legislation which was basically already agreed upon by this body on one other occasion.

I am sorry about that, but that is the fact. I wish that it were different. And I would say to the Senator from West Virginia and others: We are ready. We are ready to move forward with small business market reform, and other very important pieces of legislation, recognizing that there are certain issues, such as malpractice reform and many others, which simply cannot be negotiated at this time.

But I say that something is better than nothing, particularly as far as the small businessmen and women and their employers in this country are concerned.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

BUSH NAMES MEDICAID BUY AS HIS HEALTH PLAN IN 1988

Mr. GRAHAM. Mr. President, in 1988, President Bush had a health plan. An article from the September 26, 1988, New York Times describes Bush's support for a Medicaid buy in. Annie Groer of the Orlando Sentinel asked Bush how he would help the 37 million uninsured. Mr. President, I ask that the article from the New York Times be included in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Orlando Sentinel]

Q. All right, the next question will be asked by Anne Groer and it'll go to the Vice President. You have two minutes to answer, Sir.

HEALTH INSURANCE

Q. Mr. Vice President, you said you want a kinder, gentler Presidency, one that helps the less fortunate. Today, 37 million Americans, including many working families with aging parents and young children, cannot afford any health insurance but earn too much to qualify for Medicaid. What will you do to provide protection for them and how will you pay for it?

BUSH: One thing I will not do is sock every business in the country and thus throw some people out of work. I want to keep this economic recovery going—more Americans at work today than at any time in history, a greater percentage of the workforce.

[From the New York Times, Sept. 26, 1988]

What I will do is permit people to buy into Medicaid. I believe that's the answer. I am proud to have been part of an Administration that passed the first catastrophic health bill. And in that there's some Medicaid—some provisions—that will be very helpful to the kind of people we're talking about here. But we've got to keep going forward without killing off the engine and throwing people out of work. So the answer lies, it seems to me, in full enforcement of the catastrophic program. It lies, to me, in flexibility in Medicaid so people at the lowest end can buy in there and get their needs covered. I do not want to see us mandate across-the-board that every company has to do this, because I really think that marginal operators are going to go say, "We can't make it," and I think then you're going to see that people are put out of work. All of these programs—and this costs on his is—was—I saw an estimate—I'd love to know what he thinks—35, 40 billion dollars—and it seems to me that somebody pays that. There isn't any such thing as something free out there. It either gets passed along as increased prices or it gets passed along by people being put out of work so the business can continue to compete. So I think we ought to do it in the Medicaid system. I think we ought to do it by full enforcement of the catastrophic health insurance. I think we ought to do it by everybody doing what they can do out of conscience. It's a terrible problem. In terms of flexibility on private insurances. But I just don't want to mandate it and risk putting this—setting the recovery back.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I wanted to first just make a few comments about health care; really, more about the health care debate we have had on the floor of the Senate.

Mr. President, I listened to the comments of the Senator from Rhode Island, and I think they were important comments. I only caught the very end of his address on the Senator floor, and I did want to respond to a few things he said.

First, about the press conference. For my own part, I think what has happened with health care policy in our country is unfortunately the most concrete example you could ever find of gridlock in Washington. And the consequences are really tragic.

I think you tried to speak about this on the floor just a few moments ago, Mr. President; namely, we have to have a President and House of Representatives and a Senate that work together, and we have to have real leadership.

Now, the problem is that for most people—the vast, vast, vast majority of people in Minnesota, and every single State, all across the country—this is not an abstract issue. They are really not all that interested in partisan advantage. And, frankly, I do not even know if they are all that interested in some of the technical debate that we get—single payer, all payer, no payer, and all the rest.

But for sure, people have told us every time we go home: We want you all to pass good public policy that will respond to the concerns and circumstances of our lives, and we put health care right at the top of the agenda.

Now, Mr. President, I think the two challenges that people have laid out for us are actually very simple and straightforward.

One: Please, Senators and please, Mr. President, make sure that health care is available for us. So many of us fall between the cracks. So many of us—and again, I think, Mr. President, you tried to refer to this—so many of us are not poor enough for Medicaid, and even if we are on Medicaid, it is no longer comprehensive coverage.

We are not old enough for Medicare. And even if they were old enough for Medicare, it is not comprehensive coverage.

Take it from me. I had two parents with Parkinson's disease, and I know what happened when we could no longer take care of them at home and they had to go into nursing homes. It was very expensive. They spent the end of their lives worrying about that expense and just depleting their savings. They never made that much, and they wanted it to go to their grandchildren.

Or people are not well-off enough to purchase a decent health insurance plan. It is not just the people who have no health insurance; it is the people who are underinsured, as well.

So I think what people are saying to us is: Pass health care legislation that makes health care available for us; and, second of all—second of all—make sure there is cost control. It is bankrupting our economy.

I do not think people say it quite that way. But what people do say is: "I can't make it as a small business person;" or, "I can't make it as a large business person;" or, "We can't continue to pay all of this money in taxes for health care."

That is what people are saying.

Mr. President, I will not go on and on and on, but my point is simple. I think that when the Senator from Arizona tried to speak to what the President is talking about with health care policy, it does not connect to what people are saying they need. Some vouchers, maybe some tax credits; it is not clear how we really finance it. Hopefully, some small business reform.

But you see, what people are saying is: "Don't come to our community and say you have something for small business, but not for big business; or you have something for small business, but not for older Americans; or you have something for our children, but not older Americans; or something for older Americans, and not for children."

People are asking for universal health care coverage. That is what has been lacking.

I think what we tried to say today is really quite important. No matter what the proposal we talk about is—and this is the problem—the Senator from Rhode Island said if the Senator from Minnesota has a great bill that is a single-payer bill, why are there only two cosponsors? People are not lining up as cosponsors, and people are hesitant to bring any kind of comprehensive health care coverage because the President of the United States has already said, ipso facto, he will veto it all.

How can you govern that way? People are calling for major change. They are calling for comprehensive change. And I think that is where the leadership is lacking.

I believe the comments you made this morning, Mr. President, and the comments that many others made—many of us here in the Senate, as Democrats—were appropriate, right on the mark, and go to the heart of what the debate is about.

The people will make the decision come November.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I understand this request has been agreed to on both sides. The distinguished Senator from New York [Mr. D'AMATO] is present.

It is as follows: I ask unanimous consent that the only amendments remaining in order to H.R. 5518, the Department of Transportation appropriations bill, other than the excepted committee amendment, be the following, with relevant second-degree amendments in order, with no motion to recommit in order, that no points of order be waived by this agreement; and with any time on the amendments equally divided and controlled in the usual form:

The Leahy amendment, directing FHWA to waive local match requirements for repairing eight bridges; the Graham amendment—and I understand that is pending—on relocation of airline employees; the Bond-Nickles-Graham amendment, having to do with minimum allocation of funds; the Metzenbaum amendment on the FAA; the Stevens amendment concerning State matching construction for the Alaska-Canada Highway; and Mr. STEVENS has a second amendment, which is a collegiate training initiative; an amendment by Mr. WELLSTONE concerning rulemaking for the Federal railroads; an amendment by Senator KASSEBAUM concerning ditch lights; an amendment by Mr. LEVIN with respect to donor State funding; a Symms amendment on trails; and a DeConcini amendment concerning the Intermodal Surface Transportation Efficiency Act, section 6015 study.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr., BYRD. Mr. President, I thank the Chair, and I thank all Senators.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I believe Senators indicated previously they were ready to move with their amendments. I urge, if they are here—we are ready to try to dispose of them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. There is no amendment pending at the present time.

AMENDMENT NO. 2860

(Purpose: To prohibit certain travel until notices of proposed rulemaking are published in Federal Register)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2860.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . After March 31, 1993, none of the funds appropriated by this Act shall be available for the purposes of travel by the Secretary of Transportation or the Administrator of the Federal Railway Administration unless prior to that date the Federal Railroad Administration has published in the Federal Register Notices of Proposed Rulemaking for both of its pending administrative proceedings under docket numbers HM-175A and HM-201.

Mr. WELLSTONE. Mr. President, I am proposing an amendment to the Transportation appropriations bill today to compel the Federal Railroad Administration to move forward with pending regulations regarding tank car safety. Recent events in Minnesota have highlighted the need for continued action to ensure the safety of our Nation's railroads. In June a train carrying hazardous chemicals derailed in Duluth, MN-Superior, WI. It was on the border. As a result of the derailment, several tank cars fell into the Bemidji River. One of those tank cars leaked hazardous material, including a large quantity of benzene, into the river. This spill was one of the worst in recent history. It necessitated the evacuation of Duluth and Superior and resulted in the formation of a chemical cloud which was suspected of being a serious health hazard to the population of these cities.

These cities were successfully evacuated, and I personally know the mayor of Duluth, the chief of police, and other local officials involved acted with the greatest efficiency in responding to an emergency situation. But it was frightening. I mean, nursing homes were evacuated; hospitals were evacuated; it was terrifying.

At this time the National Transportation Safety Board is still investigating the cause of the spill. Also, the EPA is still investigating the spill's long-term effects on the environment and the region's population.

Mr. D'AMATO. Will the Senator mind just an inquiry? And I do not mean to be disruptive. I am not even going to comment on the appropriateness of what the Senator is attempting to do. I believe when he asked for the study to be undertaken—why, I cannot really tell, but fine. But I have to tell my colleague, I ask him to consider, if he might, at least amending the language as it relates to "None of the funds * * * shall be available for the purposes of travel by the Secretary of Transportation or the Administrator of the Federal Railroad Administration unless prior to that date it has published in the Federal Register Notices of Proposed Rulemaking.

I just tell the Senator, if he wants to order them or say it has to be done, from this Senator's vantage point that is fine, without getting to the merits of it. But when my colleague says he is going to withhold funds, that is a very arbitrary kind of thing.

I am just going to suggest, possibly, if the Senator would consider redrafting this, and we can take it up. There are some other colleagues, by the way, who have a real time constraint, and I think they are going to ask if the Senator might let them get in ahead of him. But just think about it.

Mr. WELLSTONE. Let me just say to the Senator from New York, I would like to complete my statement.

Mr. D'AMATO. Sure.

Mr. WELLSTONE. I understand. When the Senator talks about the time constraints—and might I consider a somewhat different approach—let me just say something to the Senator from New York which I think he will appreciate. We are talking about tank cars that leaked a large quantity of benzene in the State of Minnesota.

Mr. D'AMATO. I am not against the purpose of the amendment.

Mr. WELLSTONE. I understand. We are talking about requests that have been made more than once to the Federal Railroad Administration to promulgate some rules. That is the language in the committee report.

Mr. D'AMATO. I would be willing not only to take up the report language but the bill language, but I am trying to suggest that maybe there is a better way to accomplish what the Senator wants to do. I want to aid him in this.

Mr. WELLSTONE. I appreciate it. If the Senator would permit me to do so, I would like to complete my analysis of it and make the case for this amendment. And then we will see.

At this time, as I said, the EPA is also investigating the spill's long-term effect on the environment. Since the morning of the accident, I have been involved in the Federal response and follow up activities, and I have encountered numerous questions from citizens in Minnesota about what happened and how such an awful spill can be avoided in the future.

The amendment before the Senate today—and that is why I said to the Senator from New York that I wanted to continue with this—directly addresses the issues of rail safety which became evident because of this event. It would compel the Federal Railroad Administration to issue regulations regarding tank car safety which have been bottled up in the bureaucracy.

The FRA's delay in issuing these regulations is not a new issue before the Congress. In fact, the committee report, as I was explaining to the Senator from New York, on the pending legislation recognizes the failure of the FRA to move foreward on a series of important regulations.

In the case of the Duluth-Superior spill, it is possible it could have been prevented. It could have been prevented by more stringent safety regulations governing tank cars and inspections. The chemicals that leaked were in the older tank car. Chemicals in newer tank cars that were involved in the accident withstood the derailment; they did not leak. These newer tank cars meet more stringent safety standards. At least two rulemakings pending before the FRA bear directly on this situation. And this is the why of this amendment.

One regulation concerns the level of safety of tank cars and whether to phase out grandfather clauses that allow hazardous materials to be transported in older tank cars that do not meet current safety requirements. This is HM-175A.

Another rulemaking involves the detection and repair of cracks, pits, corrosion, lining flaws, thermal protection flaws, and other defects of tank cars. That is HM-201.

Congress had enacted laws requiring the FRA to ensure that tankcars do not pose serious hazards to our communities similar to the Duluth-Superior spill. It is clear that the FRA has been dragging its feet implementing these laws. The Congress has passed the laws, but we are not getting the rulemaking.

These two rulemakings are a case in point. The first rulemaking, HM-175 (A), has been pending since May 1990 when an advance notice of proposed rulemaking was published. The second rulemaking, HM-201, has been pending since December, 1987, and I want to repeat this, has been pending since December of 1987, almost 5 years since an advance notice of proposed rulemaking was published.

Mr. President, I was shocked to learn of this situation. The Congress has passed the laws to ensure rail safety, but the FRA has been moving glacially in implementing these laws. More recently, there appeared to be a complete halt to action on this matter as rulemaking HM-175(a) was caught up in the regulatory moratorium imposed by President Bush. The amendment I am proposing would mandate that the FRA take action and proceed with this rulemaking. I think this is a very reasonable amendment.

I believe this unusual action is necessary to ensure that the FRA meets the rail safety objectives which Congress has mandated by law. That is what I am trying to accomplish. There are probably thousands of tank cars of the type involved in the Minnesota spill continuing to carry hazardous chemicals. While action by the FRA on these rulemakings may not be able to undo these past events, it might prevent them from recurring in Minnesota and other communities throughout this Nation. That, Mr. President, is why I offer this amendment. I yield the rest of my time.

The PRESIDING OFFICER (Mr. DIXON). The Senator yields the floor. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I can certainly understand the frustration that the Senator rightfully has pointed out to many who are looking for implementation of these safety measures. I know that there are others who want to be heard on this. But if I might, for some comity of at least two Members, one who has a time schedule and has been very, very patient, Senator BOND, and the other Senator, Senator GRAHAM, if I might suggest that it may be an appropriate time for my colleagues if they want to start that process to ask unanimous consent that the pending matter and the other matters that are at the desk be laid aside for the purposes of addressing the committee amendment to which they would like to offer an amendment. Then we can return to the Senator from Minnesota.

Then, if it be in order, might I make that request on behalf of my colleague from Missouri and my colleague from Florida?

Mr. WELLSTONE. Will the Senator yield?

Mr. D'AMATO. Yes; certainly.

Mr. WELLSTONE. I think the Senator's request is very reasonable. I would be willing to lay this amendment aside temporarily so that the Senator from Missouri could proceed with his amendment. There is much more I would like to say, but I think if they would expedite matters, I will be pleased to do so. I will be willing to lay this aside temporarily.

Mr. EXON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Reserving the right to object, and I may not on the point before the Senator right now, if I could be heard for just a brief period of time to explain the position of the subcommittee of jurisdiction of the Commerce Committee on the matter raised by the Senator from Minnesota. There is another matter that we have been working on with the Senator from Kansas [Mrs. KASSEBAUM] with regard to lights, so-called ditch lights on trains.

The PRESIDING OFFICER. Does the distinguished senior Senator from Nebraska wish to be heard at this point in time? Does he want recognition to be heard on the question of the amendment offered by the Senator from Minnesota?

Mr. EXON. I advised the Chair that I reserved the right to object to the unanimous-consent agreement that I understood was being posed by the Senator from New York. It was in the effort to expedite things by making a statement as to where I stand on this as the chairman of the subcommittee of jurisdiction in hopes to move the process along. I will advise the Chair. I am speaking along the lines of reserving my right to object to the unanimous-consent request which I advise the Chair I think is in the rights of the Senator from Nebraska, and I was explaining why I may not object when I was interrupted by the Chair. Now what is the position of the Chair?

The PRESIDING OFFICER. I apologize to my friend, the distinguished senior Senator from Nebraska. I did not mean to interrupt him. If the Senator does not yet object, let us see what the request is from our friend, the Senator from New York, and then perhaps the Senator from Nebraska will know whether he wants to object or not.

The Senator from New York.

Mr. D'AMATO. Mr. President, on behalf of a number of my colleagues, Senator BOND, Senator GRAHAM, I believe Senator LEVIN, ask that pending business, as well as the underlying amendment, be set aside for the purposes of addressing the committee amendment for purpose of an amendment dealing with the reallocation formula. This would permit the Senators to make his statement and then we could return to the pending amendment where the Senator from Nebraska could obviously raise his point. Certainly, I will protect him to see that he has an opportunity, as I know the chairman of the subcommittee would also do.

The PRESIDING OFFICER. Is there any objection to the request?

Mr. EXON. Mr. President, reserving the right to object, and I shall not object since I have had the assurances just given by the Senator from New York to accommodate the Senator from Missouri. I do not object.

Mr. D'AMATO. Mr. President, I understand Senator BOND, unfortunately, has just left. So while we were attempting to accommodate him and the Senator from Florida, I will withdraw my request. Let me thank the Senator from Nebraska and the Senator from Wisconsin for attempting to afford us that opportunity. We have lost that opportunity. So we will return then to the pending business. I withdraw that request.

The PRESIDING OFFICER. The Senator from New York withdraws his unanimous-consent request.

The amendment of the Senator from Minnesota is before the Senate.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The distinguished senior Senator from Nebraska.

Mr. EXON. Mr. President, do I understand the situation is now that the Senator from Missouri had to leave and we could not accommodate him as we attempted to; is that correct?

The PRESIDING OFFICER. The Senator from Nebraska is correct. The unanimous-consent request has been withdrawn by the Senator from new York State.

Mr. EXON. Mr. President, let me be as brief as I can with regard to the amendment that is pending, as I understand it, offered by my friend and colleague from Minnesota, which has to do with matters under the jurisdiction of the Surface Transportation Subcommittee in Commerce. I understand also in conversations I have just had with my good friend and colleague from the State of Kansas, Senator KASSEBAUM, that she has another amendment that falls into the same general category of jurisdiction of the Subcommittee on Surface Transportation, and then the Commerce Committee as a whole.

I do have concerns with the amendment offered by the Senator from Minnesota, regardless of how it is worded. It might be possible and proper to word this amendment in such a fashion that it would not be legislation on an appropriations bill. It may be very possible to change the wording of whatever the amendment is from the Senator from Kansas. I have not seen that amendment, nor have I seen the amendment that was just offered, as I understand it, by the Senator from Minnesota.

Suffice it to say, I believe the Senator from Minnesota and the Senator from Kansas have legislation that I believe I could say our subcommittee undoubtedly supports. We held a hearing last Thursday, I believe, on the ditch-lighting proposition. Ditch lighting is additional lights placed on the front end of locomotives for safety and other purposes. I believe if I can sense the feeling of the subcommittee we probably support that.

We also generally support what the Senator from Minnesota has been trying to do on his piece of legislation.

I might be able to accommodate him by allowing this to expedite it. If it is not resolved in the meantime, in the case of the Senator from Minnesota, if we get the Federal Railroad Administration to act, that would solve the matter.

I simply suggest possibly it might be far better for the Senator from Minnesota and the Senator from Kansas, again not having known the language of their amendments—I know what they are trying to do—to have that as a sense-of-the-Senate resolution which would carry the message that the Senators are trying to get across and then we could possibly report both of these measures out of the subcommittee and get it approved by the full Commerce Committee in regular markup.

I guess what I am saying is with all the other delays we have, with the time as short as it is, I would have to tell the two Senators I happen to feel this is in some form of another legislation on an appropriations bill that should not come as a full amendment, and I am suggesting that they both consider possibly a sense-of-the-Senate resolution which probably might satisfy their needs. That is what I wish to impart to my two friends.

I would like to ask the Senator from Minnesota to respond to that and also the Senator from Kansas.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, my amendment has not yet been submitted, but the Senator from Nebraska has correctly stated it. On the other hand, I do not think sense-of-the-Senate language conveys what I would wish to accomplish with the language of this amendment.

On the other hand, Mr. President, I am very sympathetic with the argument we should not legislate on appropriations measures. Unfortunately, frequently, we do. I think it is not wise. But I would suggest, Mr. President, one reason we resort to this is sometimes we do not have any other opportunity.

I should like to suggest to the Senator from Nebraska that a much more appropriate piece of legislation would be the Railway Safety Act, and if he could assure me the opportunity to bring up this amendment—it is out of committee. I believe—at the time it comes to the floor, that would be an appropriate place and I would be happy to address it there. If I could get that assurance, I would not propose my amendment. That would certainly be something with which I could agree. I do not know about the Senator from Nebraska.

Mr. EXON. I appreciate the remarks of the Senator from Kansas. I look to my friend from Minnesota, who is nodding his head. I must say I am in sympathy with what both of these Senators are trying to do. If the two Senators would agree to withhold at least temporarily the laying down of their amendment, I will check the situation with regard to timing. I do have the responsibility of checking with my chairman, Senator HOLLINGS, the chairman of the full committee. I have the responsibility of checking with the ranking members, the Republican members on the committee and other members on the subcommittee, to see if they agree with this Senator's opinion that both of these things should move forward.

If I could have time to do that, then I might be able to assure these two Senators that we could accommodate them in some fashion, possibly along the lines just suggested by the Senator from Kansas, that the amendment they intend to offer would, indeed, be in order on the rail safety bill.

I do not want to mislead her or someone else that we are talking about putting it on a bill which might not come up within a reasonable period of time. I am simply saying, Mr. President, if the Senator from Kansas and the Senator from Minnesota would give the Senator from Nebraska an hour, an hour-and-a-half, without laying down this measure, we could possibly resolve this matter to the satisfaction of both Senators, since both Senators are proposing legislation that is under the jurisdiction of the transportation subcommittee.

Mr. WELLSTONE. Mr. President, first of all, let me echo the words of the Senator from Kansas. A sense-of-the-Senate amendment would not suffice.

I have had the opportunity, as someone new to the Senate, to watch the Senator from Nebraska up close, and I really believe he can understand why I have proposed this amendment. We are talking about one of the worst hazardous chemical spills in the country in the State of Minnesota, my State. We are talking about tank cars that leaked a huge amount of benzene.

As the Senator from Nebraska knows better than anybody, over and over and over again efforts have been made to get the Federal Railroad Administration to publish these rules, and so I really am at the point, given what has happened in my State, where I would like to push this forward.

Mr. President, I think I heard the Senator from Nebraska say he thought maybe we could have some discussion and we might be able to work out some kind of a reasonable agreement. In which case, Mr. President, I would suggest the absence of a quorum and hope that we could then discuss this.

Mr. EXON. Before the Senator suggests the absence of a quorum——

The PRESIDING OFFICER. The Senator from Minnesota has suggested the absence of a quorum.

Mr. EXON. I do not believe he did. He said he suggested, will the Senator withhold his suggestion.

Mr. WELLSTONE. I certainly will.

Mr. EXON. I have just been advised of something that I want to tell the Senator from Minnesota but more importantly the Senator from Kansas, and that is why I raised some caution flags a moment ago on making commitments I could not live up to.

The rail safety bill that I indicated to the Senator from Kansas would be germane presents some problems. The rail safety bill has passed the Senate. It has passed the House of Representatives. The House of Representatives has also passed the conference equivalent, and the bill is back over here, or coming over here very shortly for what we assume will be final passage.

Now, the Senator from Minnesota and the Senator from Kansas know full well the potential problems that entails. I am not saying it is a total impossibility. But as both Senators know, since the bill has passed both Houses, the committees of jurisdiction have completed action, it has been referred back to the House and they have passed it, under that kind of a parliamentary situation you can readily recognize how difficult it would be to open it all up again.

I am not saying it is impossible, but it is difficult. I simply say once again if we could have a little bit of time on the amendment offered by the Senator from Kansas, we could work out something.

The PRESIDING OFFICER. If I could suggest, I wonder whether this discussion will bear fruit in these exchanges on the offering of the amendment by the distinguished Senator from Minnesota. I wonder whether we would not all be served better, and the Senate served better, if we did have that quorum call and have a discussion between the parties to see whether we could resolve the problem.

Mr. EXON. Who has the floor?

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. EXON. I thank the Chair. I simply suggest possible a quorum call would be in order. If we cannot resolve it immediately to expedite things, I suspect possibly the Senator from Minnesota might agree to temporarily setting his amendment aside so we could work with other matters, with the understanding that it would come back again.

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2860, AS MODIFIED

Mr. WELLSTONE. Mr. President, I send to the desk a modification of my amendment. There was a spelling error in the original amendment.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 2860), as modified, is as follows:

At the appropriate place in the bill, insert the following:

SEC. . After March 31, 1993, none of the funds appropriated by this Act shall be available for the purposes of travel by the Secretary of Transportation or the Administrator of the Federal Railroad Administration unless prior to that date the Federal Railway Administration has published in the Federal Register Notices of Proposed Rulemaking for both of its pending administrative proceedings under docket numbers HM-175A and HM-201.

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

AMENDMENT NO. 2861

Mr. D'AMATO. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be laid aside. The Clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. STEVENS, proposes an amendment numbered 2861.

Mr. D'AMATO. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

ALCAN HIGHWAY

SEC. . Notwithstanding any other provision of law, the Secretary of Transportation shall waive the State matching share for the construction of any international road project for which funds are earmarked in the Intermodal Surface Transportation Efficiency Act of 1991 or in the fiscal year 1992 appropriations bill for the Department of Transportation.

Mr. D'AMATO. Madam President, I offer this amendment on behalf of Senator STEVENS. It is technical assistance in dealing with the Alcan Highway. It has been cleared by the majority and the authorizing committees have no objection.

Mr. LAUTENBERG. We have no objection, Madam President, from this side. We support the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2861) was agreed to.

Mr. LAUTENBERG. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Madam President, while we have this continuum of blank space with not an awful lot doing except watching the clock tick, I ask my colleagues, the list of amendments is agreed to, to come forward and bring up their amendments and to see what we can do to dispose of them so that we can conclude the business on transportation for this day.

We have agreed that tomorrow there is an amendment due by Senator BOND. There is a unanimous-consent agreement that we will have an amendment presented by Senator BOND which will be debated, and that the rest of the business affecting the transportation bill should be concluded, with everybody's effort, by this day. So time is available, and I urge colleagues on both sides of the aisle to come forward.

Mr. SIMON. Will the chairman of the subcommittee yield?

Mr. LAUTENBERG. I will be happy to yield to my distinguished friend from Illinois.

Mr. SIMON. Madam President, I will not mention specifically a project in Chicago, the central area connector project that I know the Senator from New Jersey has been very helpful on. The House has $25 million allocated. The Senate has $20 million. The House, in addition, has $30 million from this $400 million they took from international affairs that I recognize is a somewhat unusual factor here. But I hope that my distinguished colleague from New Jersey, who has provided such great leadership on transportation, would be somewhat sympathetic to the House figure.

I am not asking for any commitments and I know he is not in the situation to give any. Any sympathy he can give for this particular Chicago project will be appreciated.

Mr. LAUTENBERG. Madam President, our distinguished colleague from Illinois always makes a persuasive case. I do not like to offer him sympathy, but I would offer a very careful ear. I heard his concerns and we will look very carefully during the conference at what the House has proposed.

Mr. SIMON. My colleague from New Jersey has provided a very diplomatic answer. If Jim Baker does step aside as Secretary of State, I will nominate FRANK LAUTENBERG.

Mr. LAUTENBERG. I appreciate those comments. I am not looking for short-term employment.

Mr. SIMON. I thank my colleague.

Mr. LAUTENBERG. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2862

Mr. D'AMATO. Madam President, on behalf of Senator STEVENS, I am offering an amendment that will empower the Administrator of the Federal Aviation Administration to continue the collegiate training initiative program by entering into new agreements.

I send this amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. STEVENS, proposes an amendment numbered 2862.

Mr. D'AMATO. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) The Administrator of the Federal Aviation Administration may hereafter continue the Collegiate Training Initiative Program, by entering into new agreements, and by maintaining existing agreements, with post-secondary educational institutions, as defined by the Administrator, whereby such institutions prepare students for the position of air traffic controller with Department of Transportation, as defined in 5 U.S.C. 2109.

(b) The Administrator may establish standards for the entry of institutions into such program and for their continued participation in it.

(c) The Administrator may appoint persons who have successfully completed a course of training in such program to the position of air traffic controller noncompetitively in the excepted service, as defined in 5 U.S.C. 2103. Persons so appointed shall serve at the pleasure of the Administrator, subject to 5 U.S.C. 7511(e) (pertaining to adverse actions). However, an appointment under this subsection may be converted from one in the excepted service to a career-continual or career appointment in the competitive civil service, as defined in 5 U.S.C. 2102, when the incumbent achieves full performance level air traffic controller status, as determined by the Administrator. The authority conferred by this subsection to make new appointments in the excepted service shall expire at the end of five years from the date of enactment of the Act, except that the Administrator may determine to extend such authority for one or more successive one-year periods thereafter.

Mr. D'AMATO. Madam President, the majority has cleared this amendment, and there is no objection from any of the authorizing committees. I hope we can move toward its adoption.

Mr. LAUTENBERG. Madam President, there is no objection on this side. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2862) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISCRETIONARY BRIDGE PROGRAM

Mr. DURENBERGER. Madam President, I am pleased that the committee report directed $10 million to Minnesota through the discretionary bridge program. However, after consulting with the Minnesota Department of Transportation and my colleague, Mr. WELLSTONE, we are in agreement that Minnesota is best served by the completion of the Bloomington Ferry Bridge which received Federal funds through this program in fiscal years 1991 and 1992. Therefore, I am urging the committee to direct these scarce resources to the Bloomington Ferry Bridge. Although I agree that the Wabasha Bridge in St. Paul is a worthy project, it is my understanding that it is not ready for construction funds at this time. I had hoped to secure planning funds for the bridge this year, but I understand the tight budget constraints the committee faces. Therefore, I hope that the committee recognizes the priority of the Wabasha Bridge, as the State of Minnesota has informed me that this project will be its priority request for discretionary bridge funds in fiscal year 1994.

Currently, the Bloomington Ferry Bridge is Minnesota's No. 1 priority. Therefore, it is my intention to enable the State to complete construction of this important project on schedule. The completion of the Bloomington Ferry Bridge is urgent to provide a full service river-crossing prior to major reconstruction of Interstate 35 West, a parallel route.

Madam President, I urge the committee to instead direct $10 million in discretionary bridge funds to the Bloomington Ferry Bridge.

Mr. WELLSTONE. Madam President, I join my colleague from Minnesota, Mr. DURENBERGER, in asking the committee to correct language in its report regarding the discretionary bridge program. This program was severely underfunded in the Intermodal Surface Transportation Efficiency Act of 1991. The Governor of the State of Minnesota, as well as Mr. DURENBERGER and myself all recognize the need for funds to reconstruct the Wabasha Bridge. However, I agree that we have a commitment to pursue the completion of projects currently in the program. To that end, Senator DURENBERGER and I will continue to work together to seek future funding for the Wabasha Bridge.

I thank my colleagues, and especially Chairman LAUTENBERG, for directing these much needed funds to Minnesota. However, I hope they agree that we should meet the needs of projects currently under construction and therefore give the Bloomington Ferry Bridge precedence under the discretionary bridge program.

Mr. LAUTENBERG. I am pleased to have been of help to my colleagues from Minnesota in this matter. Madam President, I agree that our infrastructure investments are best served by completing ongoing projects rather than starting new ones without a substantial funding source. Therefore, I support the justification for redirecting the $10 million to reflect the current priorities of the State of Minnesota and I will support my colleagues' request during conference negotiations.

Mr. D'AMATO. Madam President, I want to thank my colleagues from Minnesota for bringing this matter to the attention of the committee. I agree that current priorities should be met. I understand that the State of Minnesota, Mr. DURENBERGER, and Mr. WELLSTONE are in agreement that the Bloomington Ferry Bridge should receive priority consideration. My colleagues may be assured that I support their request and I will pursue this funding request when we conference on this bill with the House.

AVIATION MAGNET SCHOOLS

Mr. BUMPERS. Madam President, I would like to engage the distinguished chairman of the Transportation Subcommittee in a colloguy about a matter that the Senate attempted to dispose of last year. The fiscal year 1992 Transportation appropriations bill included language that permits the Federal Aviation Administration to grant funds for the purchase of aviation-related books and other materials for secondary schools. The FAA was amenable to the language being included and everyone understood that the purpose of the provision was to facilitate the establishment of four aviation magnet schools by providing a mechanism for a Federal contribution. It took too long, almost a year, for the FAA to publish regulations for the program. Now the regulations have been published and the FAA, among other things, has placed a $50,000 cap on grants to any one school. That amount is simply not enough to carry out the purpose of the program. It is my understanding that the FAA has sufficient resources to fund this program adequately. Does the chairman agree?

Mr. LAUTENBERG. I do agree with the Senator from Arkansas. The committee did authorize the FAA to establish this program last year and I know that supporters of aviation magnet schools have relied on that authorization to raise money to acquire land and facilities, and to plan for the operation of the magnet schools. I would urge the FAA to rewrite the regulations to conform to the intent of Congress and to provide adequate funding for the grant program.

Mr. BUMPERS. I thank the Chairman.

NEW BERN BRIDGE OVER THE NEUSE RIVER IN NORTH CAROLINA

Mr. SANFORD. I would like to discuss with the distinguished Senator from New Jersey a project of extreme importance to me and my home State of North Carolina. Would the Senator allow me to speak for a moment on the need for a new bridge over the Neuse River in New Bern, NC?

Mr. LAUTENBERG. I would be glad to entertain any remarks by my good friend from North Carolina.

Mr. SANFORD. I have requested $10 million for right-of-way and construction of a new bridge to carry U.S. 17 over the Neuse River at New Bern, NC. U.S. 17 is the major north-south highway east of Interstate 95 in North Carolina and eastern North Carolina's economy depends upon this artery. It is also significant militarily as it links the Virginia ports and installations with the North Carolina bases at Cherry Point and Camp Lejeune.

The existing two-lane drawbridge was built in 1951. It carries over 23,500 cars and 1,390 trucks a day. On the average, at least one vehicle crosses the bridge every 4 seconds. In a 12-month period, the drawbridge opens 1,412 times, for generally 5 to 10 minutes each opening. Due to the poor condition of the draw machinery, the bridge has occasionally become stuck in the open position, resulting in unacceptably long delays for motorists. Some of these delays have disrupted emergency service. The bridge also has numerous problems ranging from concrete deterioration throughout the deck and heavy rusting and pitting of structural steel. For these reasons, the Federal Highway Administration has given this bridge a sufficiency rating of 7.

It is my understanding that for a bridge to be eligible to receive bridge discretionary funds it must have a sufficiency rating lower than 10. I have also been told that the bridge discretionary funds are available for bridge repair, rehabilitation, or replacement. As the current bridge over the Neuse River has a rating of 7, and a replacement is needed, my request for a Neuse River Bridge qualifies for the bridge discretionary funds.

The total cost of the replacement bridge over the Neuse River is estimated at $33 million. This bridge is critical to the communities in eastern North Carolina, and I hope that $10 million could be made available from the bridge discretionary funds for the Neuse River Bridge.

Mr. LAUTENBERG. I thank the Senator for bringing this to my attention. I regret that in my efforts to draft the Transportation appropriations bill, the Neuse River Bridge was overlooked. Based upon what you have said, the Neuse River Bridge is indeed consistent with our criteria for discretionary bridge funds and would be an excellent recipient of those funds. I assure you that I will work with the House to get $10 million for the Neuse River Bridge during conference.

Mr. SANFORD. I am very grateful to the Senator from New Jersey, and I appreciate his willingness to work with me on this issue.

STATEMENT ON TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL

Mr. SASSER. Madam President, the Senate Budget Committee has examined H.R. 5518, the Transportation and Related Agencies Appropriations bill, and has found that the bill is under its 602(b) allocations in budget authority by $244 million and is under its 602(b) allocations in outlays by $1 million.

I compliment the distinguished manager of the bill, Senator LAUTENBERG, and the distinguished ranking member of the subcommittee, Senator D'AMATO, for all of their hard work.

Madam President, I have a table from the Budget Committee showing the official scoring of the transportation and related agencies appropriations bill and I ask unanimous consent that it be printed in the RECORD at the appropriate point.

The table follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5518—TRANSPORTATION SUBCOMMITTEE SPENDING TOTALS—SENATE REPORTED

[In millions of dollars]

Bill summary	Budget authority	Outlays
Domestic discretionary	12,557	33,548
Senate 602(b) allocation	12,800	33,548
Difference	−243	0
Defense discretionary	403	315
Senate 602(b) allocation	403	316
Difference	0	−1
Mandatory total	564	566
Senate 602(b) allocation	564	566
Difference	−0	0
Bill total	13,523	34,429
Senate 602(b) allocation	13,767	34,430
Difference	−244	−1
Domestic discretionary above (+) or below (−):		
President's request	179	38
House—passed bill	−113	−226
Senate—reported bill		
Defense discretionary above (+) or below (−):		
President's request	403	315

SENATE BUDGET COMMITTEE SCORING OF H.R. 5518—TRANSPORTATION SUBCOMMITTEE SPENDING TOTALS—SENATE REPORTED—Continued

[In millions of dollars]

Bill summary	Budget authority	Outlays
House—passed bill	403	315
Senate—reported bill	....	....

Mr. SASSER. Madam President, I join in support of H.R. 5518, the fiscal year 1993 Transportation appropriations bill. As a member of the Committee on Appropriations, I have had the distinct privilege of serving on the Transportation Subcommittee. Over the past few months, I have witnessed the care, skill, and dedication that the subcommittee chairman, Senator LAUTENBERG, brings to improving our Nation's infrastructure. If anyone can start up America's vital transportation network, I am confident Senator LAUTENBERG is up to the task.

Last year's enactment of the Intermodal Surface Transportation Act signaled the dawn of a new transportation era in this Nation. Among other accolades, the ISTEA was hailed as the blueprint for integrating America's critical energy, environmental, and transportation objectives. The intermodalism that formed the heart of that historic legislation must become the springboard for transportation changes today, and the benchmark for innovations tomorrow.

The fiscal year 1993 Transportation appropriations bill, in one sense, represents the first downpayment on the goals and policies of ISTEA. More importantly, the fiscal year 1993 Transportation appropriations bill defines the congressional resolve and commitment to the people of this Nation. In large cities and small towns alike, transportation is the tie that binds. It is the critical link that gets us to those places that matter most in our lives—our schools, our churches, our jobs, and to the communities that we call home.

Madam President, just as the world is a different place today in 1992, so, too, is our Nation's transportation network. Our Nation has come full circle in the interstate construction era. We in the Congress now have a unique opportunity to shape the future through thoughtful, responsible, and innovative transportation legislation. The fiscal year 1993 Transportation appropriations bill is the first step of many yet to come.

Madam President, the fiscal year 1993 Transportation appropriations bill contains critical funding for every mode of transit. It is up to us in the Congress, as well as State and local governments, private interests, and the public to make intermodalism a reality in our daily lives. In this context, I am pleased that H.R. 5518 recognizes several Tennessee initiatives which, I believe, hold true to the intermodal goals of ISTEA.

The Chattanooga downtown circular transportation system combines the best of energy efficiency and environmental consciousness. The battery operated, nonpolluting vehicles that compromise the Chattanooga system will serve as a transportation model for the Nation. By intercepting traffic flow before it enters downtown Chattanooga, these innovative, pollution-free vehicles alleviate congestion, conserve energy, and fully comply with the Americans With Disabilities Act provisions.

Another project in my State of Tennessee that will demonstrate intermodalism at its best is that at Memphis' Central Station. Central Station is undergoing an ambitious, well-deserved facelift. Upon completion of the renovation, Central Station will not only continue as the home of Amtrak, but also light rail trolleys, Greyhound bus service, and extended taxi operations. Upon completion, Memphis Central Station promises to be an intermodal transportation showcase.

Madam President, the Intermodal Surface Transportation Efficiency Act set the tone for transportation innovation. The fiscal year 1993 Transportation appropriations bill now begins the process of defining our Nation's transportation agenda for tomorrow starting today. Again, I congratulate Senator LAUTENBERG for his diligence and tireless effort in presenting to the Senate this outstanding fiscal year 1993 Transportation appropriations bill.

NORTHEAST CORRIDOR HIGH-SPEED RAIL FUNDING

Mr. LIEBERMAN. Madam President, I rise to strongly support the important efforts by the subcommittee chairman, the Senator from New Jersey [Mr. LAUTENBERG] and his ranking member [Mr. D'AMATO], to fund the Northeast corridor passenger railroad improvement project between New York and Boston. They have been the mainstays in putting this project together, and assuring that it move ahead. This is one of the most important transportation projects—probably the most important—now being attempted in the United States. If completed, the Northeast corridor will be the first high-speed rail project in this country, located in a market area that desperately needs it and that will support its success. Without their leadership and commitment, this effort to complete and upgrade the corridor would never have been undertaken. They have our deep appreciation for their foresight.

We know, too, that the subcommittee faces serious funding problems this year, and that a number of priorities will not be met. However, we note that the corridor project has nonetheless been kept moving ahead so that the electrification component, for which the contract is already let, can be completed, as well as other critical elements.

It is a critical project for the entire Northeast, and will significantly improve transportation both north and south of New York. We have the most congested highways and airways in the country. High-speed ground transportation is vital if we are to have any hope of improving our congestion problems. We also have some of the worst air quality problems in the country—the Northeast corridor is one of the most important solutions available in tackling that problem. It will be crucial to the success of related transportation projects, such as the extension of passenger service to Maine, for the corridor to be completed. Regional businesses need the improved travel times this project offers to improve efficiency and productivity. And the economic development opportunities the project offers are vital to continued economic progress in the area. The subcommittee has been an advocate on each of these points.

And I particularly thank Senator LAUTENBERG. We are very grateful for his vision in putting this effort together. We Members from the region served want to pledge our support to him in keeping it together. We thank him for providing the funding so that the project can continue to advance this year. We are ready to help him in any way we can.

Mr. HATFIELD. Madam President, I would like to compliment the Senator from New Jersey [Mr. LAUTENBERG] and Senator D'AMATO for providing a fiscal year 1993 Transportation appropriations bill and report that addresses the challenge of our Nation's infrastructure.

I recognize the extreme pressure the committee was under given the inflated number used in the House Transportation Appropriations Subcommittee provided by the Obey amendment.

Fortunately, our full Appropriations Committee was able to provide a significant increase in the allocation to the Transportation Subcommittee seeing the vital importance associated with building and rebuilding our Nation's infrastructure.

I would also like to compliment the staff who worked long and hard to put this package together.

I will take a minute and highlight a couple of things in the bill.

One is the subcommittee's recommendation of $80 million for Portland, OR's, Westside light rail. This funding is vital to maintain the schedule to construct this line within their budget. $515 million in Federal funds will be needed to complete the line and this is an excellent start.

One important component of the Westside project that has been approved by the committee is the introduction of low-floor car technology. This initiative follows recommendations made in the Americans With Disabilities Act [ADA] and is strongly supported by the Consortium for Citizens With Disabilities.

Also, adequate funding for the Coast Guard has been provided to maintain current services. I am concerned about the level of funding for the Coast Guard's AC&I account. I hope to be able to work with the committee to improve that AC&I number in conference.

Mr. LAUTENBERG. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2863

(Purpose: To increase funding for national recreational trails grants and reduce funding for the Northeast Corridor Improvement Program)

Mr. D'AMATO. Madam President, I send an amendment to the desk on behalf of Senator SYMMS and ask for its immediate consideration.

I ask unanimous consent that the present pending business be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO] for Mr. SYMMS, proposes an amendment numbered 2863.

Mr. D'AMATO. Madam President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 60, line 15, strike the period and insert "; and, notwithstanding any other provision of law, not distribute $15,000,000 of the obligation limitation established by this Act for Federal-aid highways and highway safety construction: *Provided*, That such undistributed obligation limitation shall be available for administrative costs and allocation to States under section 1302(d) of the Symms National Recreational Trails Act of 1991.".

Mr. SYMMS. Madam President, I want to begin by complimenting the Appropriations Committee, and particularly the chairman and ranking member of the Transportation Subcommittee, for the work they have done putting this legislation together. While there are some earmarks for particular projects in both the highway and transit sections, overall the bill is pretty light on what some would call pork, and with one exception, the managers have done a commendable job of carrying forward the program changes Congress adopted last year in the Intermodal Surface Transportation Efficiency Act [ISTEA].

Unfortunately, one important program in ISTEA is barely included in the committee bill and is funded at a level that's hardly worth pursuing. My amendment will correct that problem. Last year, Congress established the National Recreational Trails trust fund. This supports a program for the maintenance and construction of recreational trails on Federal, State, and private lands, utilizing fuel taxes already paid by off-highway recreational vehicle users.

Because of the interest and determination of my colleagues on the Environment and Public Works Committee, we successfully created a trails funding program that will send trails trust fund dollars to the folks at the State level using these trails. This is where this money is needed and where it belongs.

Eligible State recreational trails advisory boards, composed of both motorized and nonmotorized recreation interest, will decide which particular trails improvement projects are funded. Many of these boards have already formed and are ready to get to work.

The Federal Highways Administration and the Department of Transportation also are ready to begin this program—the National Advisory Committee called for in ISTEA will be announced by early September.

All that DOT and the States need now is a reasonable amount of money to get the program started.

Trail construction and maintenance are costly and, far too often, are neglected at the expense of the safety and environmental soundness of the recreational experience. Volunteers do a tremendous amount of work, but they just can't do it all—the Forest Service alone estimates more than $270 million backlog of trail maintenance.

When a trail is either poorly maintained, or perhaps never constructed properly in the first place, everyone suffers. Access to certain areas becomes more difficult, the scenic beauty of the area is harder to enjoy, unnecessary erosion can occur, and the likelihood of an accident on the trail increases.

The new National Recreational Trails trust fund addresses this problem by employing the same principle that currently guides the construction and maintenance of our roads and highways. Motorists in America pay Federal taxes on every gallon of gas they use on the highway. That money is then dedicated to the construction and safety of those highways. I believe the Federal Government owes it to the people of America to fully dedicate those funds to highways.

We need to know how much money is collected in nonhighway recreational fuel taxes. To answer this question we obtained estimates from several different sources: The motorized recreation industry estimates $75 million, OMB estimates $30–$56 million, and CRS estimates $41 million. The conference committee on ISTEA decided to go with OMB's low-ball estimate of $30 million each year.

The $3 million suggested by the Senate Appropriations Committee is appreciated, but this is a national program; $3 million spread across 50 States will be spread so thinly that it will not be worth the small increases in staff time to pursue the even smaller allocations of money. The States are ready to administer these allocations if a reasonable amount of money will get out on the trails where it belongs.

My goal was, and is, to establish a trails improvement fund along the lines of the Pittman-Robertson or Wallop-Breaux funds. I hope this goal is shared by each of my Senate colleagues and we can pass this amendment to provide just half of the authorized $30 million appropriation to get the program started.

I have discussed this amendment with the managers of the bill, and I believe they are prepared to accept it. In addition, I understand my colleagues, the managers of the bill, will do everything possible to hold to this amount in conference.

I have asked the Coalition for Recreational Trails to provide the Senate with information about the National Recreational Trails trust fund. Each of my colleagues should have received a copy the CRT brochure describing this program, but I ask unanimous consent that it be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

NATIONAL RECREATIONAL TRAILS TRUST FUND

WHAT THE NEW TRAILS ACT DOES

Establishes a new federal assistance program for state trail programs (currently capped at $30 million annually);

Funds the federal-aid program through a transfer out of the Highway Trust Fund of motor fuel taxes attributable to non-highway recreational uses, principally operation of snowmobiles, off-road motorcycles, four wheel drives, and ATVs (currently determined to constitute 3/10 of 1% of all Highway Trust Fund receipts—an estimated $43.5 million in 1991);

Permits use of federal assistance for maintenance of existing trails, development of certain trail and trail-side facilities, construction of new trails (with some limits on federal lands), acquisition of trail corridors from willing sellers, on urban trail linkages and for certain other safety and environmental purposes;

Establishes a National Recreational Trails Advisory Committee;

Requires states to (1) create a state recreational trails advisory board, (2) utilize state non-highway recreation motor fuel taxes for trails, (3) designate a state official responsible for the trails program and (4) use the funds to meet the goals of the Trails Act;

Provides for a study to determine the amount of fuel tax which is attributable to non-highway recreational activities nationally and in each state.

HOW THE FUND WORKS

Virtually all motorized trail enthusiasts purchase fuel at retail gas stations, paying

14 cents per gallon in federal excise tax—a tax imposed to build roads from which these activities are excluded. The Trails Act provides for a portion of these taxes to be transferred to a new National Recreational Trails Trust Fund;

The Secretary of Transportation may use up to 3% of the funds for administrative purposes and to conduct a study of non-highway recreational motor fuel use;

All other funds are apportioned to the states for trail and trail-related purposes. A maximum of 7% of each state's allocation may be used for administrative costs;

Motorized and nonmotorized recreation must each receive the benefit of at least 30 percent of a state's allocated monies. Also, no less than 40 percent of a state's allocation must be spent in a manner which gives preference to project proposals which provide for the greatest number of recreational purposes and which provide for innovative trail corridor sharing to accommodate both motorized and nonmotorized users;

Use of the funds should be consistent with needs established by state trail plans and each state's comprehensive outdoor recreation plan. Funds received by the states may be used to make grants to trail organizations, city and county governments and other agencies, including federal units;

Each state has four years to utilize the available funds: after that time, funds will be reprogrammed among all eligible states.

Federal assistance to the states, though, represents just a portion of the resources needed to assure good trails for Americans. The Trails Act helps increase those resources in another important way. To remain eligible for federal money, each state must allocate a portion of its state motor fuel tax receipts attributable to non-highway recreational use to trails within three years. Since the rate of state taxation of motor fuels is some 50% higher than the federal rate, this should mean millions in new state trails spending.

HOW THE FUND WILL BE ADMINISTERED:

To have a basic understanding of the financial procedures used to administer the trails fund, it is essential to know that programs administered by the Federal Highway Administration are reimbursable programs: that is, the federal government only reimburses states for costs actually incurred. The authorized amounts distributed to the states through apportionment represent lines of credit upon which states may draw as they advance trails fund projects. They draw on the line of credit by obligating or committing some portion of it for a project.

It is up to the states to provide the initial cash to get a project under way. The full project need not be completed before a state begins to receive reimbursement from the federal government. States may submit vouchers to FHWA as costs are incurred for portions of project work completed. Depending upon the type of project, the time elapsing from obligation to reimbursement can vary from a few days to several years. Progress payments are permitted as long as a project agreement has been executed.

INTRODUCTION TO THE NATIONAL RECREATIONAL TRAILS TRUST FUND

In December 1991, President Bush signed into law the Intermodal Surface Transportation Efficiency Act (PL 102-240). Title I. Part B of the act creates a new federal trails assistance program administered by the Federal Highway Administration (FHWA). Championed by leading national trails groups since 1987, the new program is designed to supplement and assist current federal, state, local and volunteer trail effort. Through financial and technical assistance and through improved communications among all trails interests, the new program is intended to expand the quantity of recreational trails in America and improve the quality of those trails. This fund will be used for trails for motorized recreationists and trails for nonmotorized recreationists. It also provides an opportunity for various trail-user groups to unite to improve trails for all users.

COALITION FOR RECREATIONAL TRAILS NATIONAL MEMBERS

American Hiking Society.
American Horse Council.
American Motorcyclist Association.
American Recreation Coalition.
American Trails.
Back Country Horsemen of America.
Bicycle Institute of America.
Bikecentennial.
Blue Ribbon Coalition.
Cycle America Regional Directories.
International Association of Snowmobile Administrators.
International Mountain Bicycling Association.
International Snowmobile Industry Association.
The League of American Wheelmen.
Motorcycle Industry Council.
National Association of State Trail Administrators.
National Campers and Hikers Association.
National Recreation and Park Association.
The Rails-to-Trails Conservancy.
Recreation Vehicle Dealers Association.
Specialty Vehicle Institute of America.
Student Conservation Association.
United 4 Wheel Drive Associations.
United Ski Industries Association.

Mr. SYMMS. As you can see, the CRT includes 25 trail-user organizations—from the American Horse Council to the United 4-Wheel Drive Association. All of these groups support the amendment I am offering today.

I also ask unanimous consent to have printed in the RECORD a copy of a letter signed by myself and 12 of my colleagues supporting full funding for the National Recreational Trails trust fund.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, DC, July 21, 1992.

Hon. FRANK LAUTENBERG,
Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR FRANK: Your assistance during passage of the Intermodal Surface Transportation Efficiency Act [ISTEA] was very valuable. One important section of the new transportation bill establishes the National Recreational Trails Trust Fund [NRTTF] by utilizing nonhighway recreational fuel taxes. ISTEA authorizes $30 million in annual program spending under the Symms Recreational Trails Act. This program brings trail users together at the state level to address recreational trail maintenance and construction needs.

Please support full funding of the NRTTF in the FY 1993 transportation appropriations bill, H.R. 5518.

Respectfully,

Steve Symms, Bob Dole, John Warner, Al Simpson, Larry E. Craig, Quentin Burdick, Daniel P. Moynihan, Dave Durenberger, Orrin Hatch, Harry Reid, Bob Smith, Conrad Burns, and Jim Jeffords.

Mr. SYMMS. Madam President, I want to thank the Senators who signed this letter. Their leadership in the future will be very important to recreational trails funding.

I also truly appreciate Senator LAUTENBERG and Senator D'AMATO's willingness to work with me on this important amendment. And I want to reiterate my view that $15 million is the absolute bottom line in terms of the funding necessary to get this program out of the starting blocks and demonstrating its effectiveness. I urge my colleagues to stick to that amount in conference.

Mr. D'AMATO. Madam President, this matter has been cleared on both sides of the aisle. What this would do is provide funding in the bill for the national recreational trails, which has been a project which Senator SYMMS and others have worked on for many years.

I hope that it will bring a great deal of tangible use of these trails to the citizens of our country.

We urge its adoption.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I have looked at the amendment. We want to try to do what we can to assure the Senator from Idaho that his interests in these trails will be looked on favorably, and acted upon as recommended and suggested in the amendment.

We have no objection. We urge its adoption.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment.

The amendment (No. 2863) was agreed to.

Mr. LAUTENBERG. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2860, AS FURTHER MODIFIED

Mr. WELLSTONE. Madam President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the Wellstone amendment, No. 2860.

Mr. WELLSTONE. Madam President, I send a modified amendment to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment (No. 2860), as further modified, is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Not later than September 30, 1993, the Secretary of Transportation shall issue proposed rules under Docket No. HM-175A (Specifications for Tank Cars) and Docket No. HM-201 (Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws, and Other Defects of Tank Cars).

Mr. WELLSTONE. Madam President, I wish to thank both the Senator from New Jersey and the Senator from New York for their patience. I appreciate their help in working out this amendment.

I would also like to thank Senator EXON from Nebraska.

The reason I had been involved in this discussion on the floor of the Senate and introduced this amendment is that I am very concerned about rail safety issues. And given the chemical spill in the State of Minnesota, I felt that we really needed to get the agency moving forward with rulemaking.

I think this amendment does that.

I thank both Senators for their support.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I thank the Senator from Minnesota for his diligence here, because the issue of rail safety, especially the carrying of hazardous materials, is one that all of us are concerned about.

The books are replete with reports of accidents where a rail car spewed toxics and affected large areas of a community; people had to be evacuated, people were hurt and, in some cases, death took place to people living nearby.

So I commend the Senator from Minnesota. He is without a doubt persistent in his support for what he believes to be right for his constituents' interests. I thank him very much for having labored so diligently to work out a compromise that starts this process rolling after so many years of dormancy here.

So we thank the Senator. I have absolutely no objection to the amendment, and hope that we can agree on its passage.

Mr. D'AMATO. Madam President, we are pleased to support the amendment.

Mr. WELLSTONE. I thank both Senators.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2860), as further modified, was agreed to.

Mr. LAUTENBERG. Madam President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Madam President, I see we have really at this time two amendments that we might be able to dispose of, maybe three, before we conclude business on this bill today. I believe, hopefully, we will be able to work our an agreement to take up two matters which will require votes tomorrow. So, since there is a brief hiatus, I would like to take this opportunity. I say to my colleague from New Jersey, the chairman of the committee, if at any point in time we have any action to do, I will suspend my remarks. They re going to be brief.

Earlier today I talked about the introduction of legislation which would call for the creation of an international court and would authorize us to use our influence to seek that creation and also to urge the U.N. to take some real, concerted action to stop the slaughter and mayhem that is taking place in what used to be Yugoslavia.

I pointed with some particular reference to Milosevic, the leader of the Serbian forces, as being the chief architect of this ethnic purification program which has brought about 1.8 million refugees and the loss of life of tens of thousands. In most cases these are innocent civilians—women and children. We see the graphic pictures of children being murdered, orphans who are being transported to safety. What a tragedy.

Yet, as we deplore this and we wring our hands—we find so similar to a situation—and we did not have the graphic pictures of the murders, of the mayhem that was taking place, we did not have the daily accounts—50 or 60 years ago. That does not excuse the failure of this country to provide safe haven or an opportunity to stop that slaughter of the innocents, the genocide of the Holocaust that took place then.

But it seems to me now it is so much more difficult to deny what is taking place and to withhold meaningful steps to bring an end to this horror. I understand it is difficult. I am not suggesting—because the first question is, are we ready to send American troops there and commit them? I think there are steps that can and should be taken that do not involve the sending of land forces per se. That does involve the kind of economic cutoff and sanctions imposed with real will and vigor that will stop fuel and supplies, et cetera, from getting to those forces who are killing innocent children. All economic activities with this barbaric state should be brought to a halt so his people and others will begin to see they have to pay a price.

Yes, if selective military must be used in various areas, particularly the use of air power, then it should be used also. If it means we have to knock out the fuel storage depots and the supply lines and take these kinds of steps to bring to an end this grinding, incredible killing machine, to bring to an end the deportation in boxcars, sealed boxcars, of innocent women and children to death camps—we cannot stand by idly as if nothing is taking place. This is wrong. This is wrong.

I received a phone call from a Member of Congress. Actually my office did. I have been on the floor all day dealing with this bill. I can almost say that what she is trying to raise only authorizes going after Milosevic and the Serbian forces and military officials. I think it should be broadened, and I am working now with a group, a bipartisan group, because it should include all of those who are responsible for committing atrocities against innocent women and children.

Make no mistake about this, I am going to offer this tomorrow. I am going to go forward, and I am going to press for a vote. It may embarrass people. They may say, well, if you put it on this bill, you will tie this bill up. I do not care. That is not going to dissuade this Senator.

I am looking to work with all of my colleagues, Republicans and Democrats, to craft language that will encompass all of those who are responsible so they will be tired as war criminals. That is what they are. They are war criminals. If the United Nations cannot move and if we cannot urge this kind of action and have our Government undertake the trial of these killers as war criminals, then I suggest—we missed that opportunity once with Saddam Hussein—that we do not miss it again. Had we undertaken that kind of action against Saddam, we would have been sending a clear message that those international thugs who use their government to become engaged in this kind of barbaric activity just cannot run up the white flag of surrender, come to a truce, and not be held accountable for the slaughter of the innocent.

We should think about this. We hear about a different world. I hope it will be one holding people accountable for this kind of inhuman action, this barbaric conduct. It is not good enough to simply bring a cessation here and say all is well and then recognize and bring this mass killer to the world councils and treat him as a person of respect.

Imagine, we will be calling him President, Slobodan Milosevic, "Mr. President." Can you imagine? He should be hunted down, and those who are committing these atrocities, and brought to justice. It is not good enough just to bring this killing machine to an end. Should we? Yes. And we should employ everything possible to do that. I think we have a responsibility.

But if we just simply say, oh, well, he stopped this killing and we do not hold him and his cohorts accountable and those who may be on the other side engaged in this activity—you have to hold people accountable—why, then, we will never have that day and age when the rule of law will be supreme and there is conduct that will be expected of those people who want to be dealt with as legitimate States and their leaders to be dealt with as the leaders and presidents of their people.

You just cannot have a person anoint himself as the President, I laugh when I hear this thing: President Saddam Hussein. We used to call him President. He was a dictator. Of course, now no one would argue with you if you said that he was a butcher and a killer. But I remember being criticized on this floor because I called him the Butcher of Baghdad.

I remember when his Foreign Minister called over here, my colleagues took me aside and said, "Oh, Alfonse, you should not call him these names. Imagine his sensitivities." Here is a guy who used poison gas on people.

The same thing here. When are we going to wake up? Do we need to play this? I just put this as an aside. I think it is laughable when they have this other fellow in Syria, Hafez Assad, we call him President Assad. What do you mean President? He is a dictator. He is a killer also. He rules by sheer brute force. I do not understand these niceties. Maybe the diplomatic corps has to refer to him in that manner, but I wonder how it is we in the Congress, should we really be calling Hafez Assad the President? Why do we not call him what he is, the dictator or ruler.

If we want to be charitable, we do not have to call him a mass killer. I understand that, although I do not intend to be charitable. I do not think that we serve the cause of peace and human rights any benefit by being less than candid when we are dealing with these creatures who would grind people into the ground, who would take their lives and the lives of their families simply because of their religion or their ethnic background.

So I just want it to be known that I will be offering this amendment tomorrow with a number of my colleagues.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, earlier today we had an exchange on the floor between the Presiding Officer, the Senator from Minnesota, Senator EXON, the Senator from Nebraska, and myself regarding some amendments to the appropriations bill pending before us regarding various concerns the Senator from Minnesota and the Senator from Kansas had regarding railroad issues.

I would ask that the amendment which was on the unanimous-consent list for consideration regarding ditch lights for locomotives be withdrawn from that list because we have worked out an agreement with the Senator from Nebraska that this amendment will be added at the time of the Amtrak reauthorization which, it is my understanding, is hoped to be considered next week.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Let me just say, Mr. President, what I believe is important. I think that we do not realize the number of fatalities that occur from rail car accidents at crossings that are not marked by lights and gates and so forth. Many of these are in more rural areas, but that is not necessarily the case. Out of some 5,000 accidents last year, there were 602 fatalities.

I think that one of the things that can be done to improve this situation is to add more lights to the locomotives. The only requirement now is just a single light on the top of the locomotive. Ditch lights or some other bright lights—strobe light has been suggested and is being done with Burlington Northern, in some instances—would add another dimension of light that I hope could be of some benefit in preventing this type of accident.

So without going into a lengthy discussion of this, I am pleased that Senator EXON has agreed to consider this and support this amendment on the Amtrak reauthorization. I believe it is an important amendment. I think it is important to all us. Each State has some fatalities due to this type of accident. It seems to me for a relatively small cost, we could take some steps that can prevent this type of tragedy.

Mr. President, I yield the floor and suggest the absence of a quorum.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2864

(Purpose: To direct the Federal Highway Administration to reimburse the State of Vermont for a portion of the non-Federal share of interstate highway reconstruction projects, in an amount not to exceed $1.4 million)

Mr. LAUTENBERG. Mr. President, I have an amendment Senator LEAHY asked us to propose. It has been reviewed in detail with the minority side. We have no problem with it. It calls for the Highway Administration to deal with some bridges that are deficient in the State of Vermont. We do not have any problems with it, and I assume that we can dispose of this fairly quickly.

Does the minority have any comments?

Mr. D'AMATO. Mr. President, we have no opposition and are supportive of the amendment.

Mr. LAUTENBERG. Mr. President, on behalf of Senator LEAHY, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. LEAHY, proposes an amendment numbered 2864.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the "General Provisions" title of the bill insert:

"Notwithstanding any other provision of law, the State of Vermont shall be reimbursed, in an amount not to exceed $1.4 million, for its share of work performed on major and minor reconstruction of roadways and bridges on United States Interstate Routes 89 and 91, in Vermont."

Mr. LAUTENBERG. I ask that the Leahy amendment be agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2864) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I have two amendments that are technical in nature: One on behalf of Senator MOYNIHAN, and the other on behalf of Senator SEYMOUR.

They have been cleared.

AMENDMENT NO. 2865

Mr. D'AMATO. Mr. President, on behalf of Senator MOYNIHAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. MOYNIHAN, proposes an amendment numbered 2865.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37 line 12 strike "$9,000,000" and insert in lieu thereof "$45,000,000".

Mr. LAUTENBERG. I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2865) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2866

Mr. D'AMATO. I have another amendment on behalf of Senator SEYMOUR, a technical amendment, that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. If there is no objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. SEYMOUR, proposes an amendment numbered 2866.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 92—

On line 22 following "loans" strike the following: "in section 334 of the bill, page 91, line 20, after the word "loans", insert:"

On line 25 strike the quotation mark following "loans".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2866) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FIFTH FREEDOM RIGHTS

Mr. GORTON. Mr. President, the State of Washington has an integral and critical economic and commercial relationship with the Pacific rim. None of the Pacific rim countries is more important to the economy of Washington than Japan. Business with Japan is not only important in its own right; Japan also serves as the transportation hub to all of Asia. For example, today, Seattle's only direct access to China—Beijing and Shanghai—is on Northwest Airlines via Tokyo. In addition, using Tokyo's Narita Airport as a convenient and essential hubbing facility, Washington has same plane connecting service to virtually all of Asia.

These critical commercial links are authorized pursuant to a 40-year-old air services treaty between Japan and the United States that has been a critical facilitator in the explosion of trade between the entire United States and Asia.

Recently, however, Japan has made threatening and unwelcome statements regarding Northwest's rights to continue using Japan as a consolidation point for service beyond Japan into Asia, in this case specifically, from New York to Osaka and beyond to Sydney, Australia. Japan has stated that unless passengers on flights between Osaka and Sydney satisfy certain unilaterally imposed percentage of citizenship criteria, Northwest will have to terminate the service.

Our State and Transportation Departments have examined this service, and believe that it is clearly authorized by the United States-Japan air services agreements. Thus, any unilateral attempt by Japan to terminate this service would be a treaty violation, and inevitably will become a major trade dispute. It also could be a precedent for other treaty violations of a like nature in the future.

Mr. President, in an overall trade relationship in which Japan enjoys huge surpluses year after year, it is particularly distressing that such action would even be considered in one of the few sectors—air transportation—in which the United States runs a surplus with Japan.

So far, the administration has done a solid job of defending U.S. trade interests in this dispute. We must watch this issue very closely. Not only is United States commercial access to Asia at stake; this also is a test of whether Japan intends to move forward in liberalizing trade between our two nations, or whether it intends to take a major step backward.

I urge my colleagues to encourage Secretary Card and Secretary Baker to be steadfast in defense of U.S. aviation interests, as I have done.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate resumes consideration of H.R. 5518, the transportation appropriations bill, at 12:30 p.m. on Wednesday, August 5, the only amendments remaining in order of the listed amendments including the excepted committee amendment be the following: that no second-degree amendments be in order, other than the Bond amendment, which will be offered to the committee excepted amendment, and a possible Danforth second-degree amendment, and that the time for debate on the amendments be equally divided and controlled in the usual form; that at 12:30 p.m., there be 25 minutes remaining for debate on the Graham-Bond amendment No. 2841; that when that time is used or yielded back, Senator DANFORTH be recognized to offer a second-degree amendment relevant to the Graham-Bond amendment on which there be 20 minutes for debate; that when that time is used or yielded back, the Graham-Bond amendment No. 2841 and the Danforth second-degree amendment thereto be temporarily laid aside and Senator BOND or his designee be recognized to offer his listed amendment regarding minimum allocation of funds; that there be 1 hour for debate on the Bond amendment; that at 2:15 p.m. the Senate proceed to vote on or in relation to the Bond amendment; that upon the disposition of the Bond amendment, the Senate dispose of the excepted committee amendment, as amended, if amended; that the Senate then vote on or in relation to the Danforth second-degree amendment, followed by a vote on or in relation to the Graham-Bond amendment; that upon disposition of the Graham-Bond amendment and any of the listed amendments agreed upon by the managers, the Senate proceed to third reading and final passage of the bill. Further, that the first rollcall vote be 15 minutes in duration and any succeeding votes to dispose of listed amendment and the bill be 10 minutes in duration; and that once this agreement is entered and agreed upon, the Senate then proceed to the consideration of Calendar No. 572, H.R. 5503, the Department of Interior appropriations bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DOLE. Reserving the right to object, and I shall not object, if there should be any votes—there will be one vote on the Interior bill this evening. If there should be any votes demanded tomorrow morning, would they come at 2:15 also on the Interior bill?

Mr. MITCHELL. We will be pleased to try to accommodate a Senator in that regard, if it is at all possible, and I see no reason not to.

Mr. DOLE. I understand there will be one to take 2 or 3 hours. It seems to me we would not be wasting any time if we could agree to that.

Mr. MITCHELL. Mr. President, the entire objective of this agreement has been to accommodate Senators who are concerned about votes this evening and tomorrow morning.

It would be my intention to accommodate them as the Senator suggested.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, that when the Senate resumes consideration of H.R. 5518, making appropriations for the Department of Transportation, at 12:30 p.m., Wednesday, August 5, the only amendments remaining in order, including the excepted committee amendment, be the following, and that no second degree amendment be in order except the Bond amendment (which will be offered to the excepted committee amendment) and a possible Danforth second degree amendment:

Bond: minimum allocation of funds.

Metzenbaum: FAA.

Levin: donor state funding.

DeConcini: Intermodal Surface Transportation Efficiency Act, section 6015 Study,

Ordered further, that the time for debate on the amendments be equally divided and controlled in the usual form; that at 12:30 p.m., there be 25 minutes remaining for debate on the Graham/Bond amendment #2841; that Senator Danforth then be recognized to offer a second degree amendment relevant to the Graham/Bond amendment on which there shall be a limit of 20 minutes for debate;

Ordered further, upon the conclusion or yielding back of time, amendment #2481 and the Danforth second degree amendment be laid aside and Senator Bond or his designee be recognized to offer his listed amendment regarding minimum allocation of funds; that there be 1 hour for debate on the Bond amendment; that at 2:15 p.m., the Senate proceed to vote on or in relation to the Bond amendment; that upon disposition of the Bond amendment, that upon disposition of the Bond amendment, the Senate then dispose of the excepted committee amendment, as amended if amended; further, that the Senate vote on or in relation to the Danforth second degree amendment, followed by a vote on or in relation the Graham/Bond amendment;

Ordered further, upon disposition of the Graham amendment, and any of the listed amendments agreed upon by the managers, the Senate proceed to third reading and passage of the bill;

Ordered further, that no motion to recommit be in order, and that no points of order be waived by this agreement;

Ordered further, that the first rollcall vote be 15 minutes in duration and any succeeding votes to dispose of listed amendments and the bill be 10 minutes in duration.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, FISCAL YEAR 1993

The PRESIDING OFFICER. The clerk will report H.R. 5503.

The legislative clerk read as follows:

A bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 5503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, **[**$531,967,000, subject to authorization**]** *$545,517,000*, and $2,500,000 from unobligated balances appropriated under this heading in Public Law 99–591 for insect and disease control projects, including grasshoppers, which balances may be applied to any activity provided for under this heading and of which the following amounts shall remain available until expended: not to exceed $1,450,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–6a(i)), and $33,500,000 for the Automated Land and Mineral Record System Project: *Provided*, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors; and in addition, $12,430,000 for Mining Law Administration program operations to remain available through September 30, 1993, to be reduced by amounts collected by the Bureau of Land Management and credited to this appropriation from annual mining claim holding fees: *Provided further*, That the sum herein appropriated shall be reduced as mining claim holding fees are received during fiscal year 1993 so as to result in a final fiscal year 1993 appropriation estimated at not more than **[**$531,967,000**]** *$545,517,000*: *Provided further*, That in addition to funds otherwise available, not to exceed $5,000,000 from annual mining claim holding fees shall be credited to this account for the costs of administering the mining claim holding fee program, and shall remain available until expended **[**: *Provided further*, That none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any mining or mill site claim located under the general mining laws unless the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before the date of enactment of this Act, and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by that date.**]**

FIRE PROTECTION

For necessary expenses for fire management, emergency rehabilitation, firefighting, fire presuppression, and other related emergency actions by the Department of the Interior, **[**$119,560,000, subject to authorization**]** *$119,310,000*, to remain available until expended: *Provided*, That such funds also are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further*, That unexpended balances of amounts previously appropriated for this purpose under the heading "Firefighting", Bureau of Land Management, may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND

For emergency rehabilitation and wildfire suppression activities of the Department of the Interior, $113,640,000**[**, subject to authorization,**]** to remain available until expended: *Provided*, That such funds also are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further*, That notwithstanding any other provision of law, persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation.

In addition, for emergency rehabilitation and wildfire suppression activities of the Department of the Interior, $51,200,000**[**, subject to authorization**]**, to remain available until expended: *Provided*, That these funds, or any portion thereof, shall be available beginning in fiscal year 1993 only (1) to the extent that the President notifies the Congress *in an official budget request* of his designation of any or all of these amounts as emergency requirements under the Balanced Budget and Emergency Deficit Control Act of 1985; and (2) if the amounts annually appropriated under this heading, but not designated as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, have been at least equal to the most recent ten-year historical average, less any enacted cost saving program reforms: *Provided further*, That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, **[**$13,225,000, subject to authorization**]** *$17,763,000*, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901–07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94–579 including administrative expenses and acquisition of lands or waters, or interests therein, *and for activities author-*

ized under Public Law 102–259 to be carried out by the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, [$25,940,000] *$24,550,000* to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; [$83,122,000] *$83,932,000*, to remain available until expended: *Provided*, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEMS HEALTH AND RECOVERY

The Secretary of the Interior shall establish a special fund from the Federal share of moneys received from the disposal of salvage forest products or timber prepared for sale pursuant to this section. This fund shall be available, without further appropriation, for the purposes of planning and preparing salvage timber for disposal, the administration of timber sales pursuant to this section, and the subsequent site preparation and reforestation.

There is hereby appropriated an amount of $1,000,000 to establish this fund.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,747,000, [subject to authorization], to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93–153, [subject to authorization], to be immediately available until expended: *Provided*, That notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further*, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, [subject to authorization], to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, *That appropriations herein made, in fiscal year 1993 and thereafter, may be expended for surveys of Federal lands and on a reimbursable basis for surveys of Federal lands and for protection of lands for the State of Alaska: Provided further, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed*: *Provided further*, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards: *Provided further*, That notwithstanding any other provisions of law, that effective upon the date of enactment of this Act for the fiscal year 1993 and every year thereafter, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the Mining Law of 1872 (30 U.S.C. 28–28(e)), and the filing requirements contained in Section 314(a) of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1744(a)) and the related requirements of Section 314(c) of FLPMA (43 U.S.C. 1744(c)), the claimant shall pay an annual holding fee of $100.00 to the Secretary of the Interior or his designee on or before August 31 of each year in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the following year beginning on September 1: *Provided further*, That the fee established by this Act in lieu of the assessment work requirements for the assessment year ending at noon on September 1, 1993, shall be due and payable to the Secretary on or before June 30, 1993, except that such fee otherwise due and payable for this period shall be waived by the Secretary or his designee if the claimant files an affidavit of assessment work by June 30, 1993, showing the labor required by 30 U.S.C. 28 was completed for the assessment year ending at noon September 1, 1993, before the effective date of this Act: *Provided further*, That such fee otherwise due and payable for the assessment year ending at noon on September 1, 1993, for mill and tunnel sites shall be waived by the Secretary or his designee if the claimant files a notice of intention to hold the site by June 30, 1993: *Provided further*, That for every unpatented mining claim, mill or tunnel site located after the date of enactment of this Act, the locator shall pay $100.00 to the Secretary of the Interior or his designee at the time the location notice is recorded with the Bureau of Land Management to hold such claim for the year in which the location was made: *Provided further*, That the co-ownership provision of 30 U.S.C. 28 will remain in effect except that the annual holding fee shall replace the assessment work requirements and expenditures: *Provided further*, That failure to make the annual payment of the holding fee required by this Act shall conclusively constitute an abandonment of the unpatented mining claim, mill or tunnel site by the claimant: *Provided further*, That nothing in this Act shall change or modify the requirements of Section 314(b) of FLPMA (43 U.S.C. 1744(b)) or the requirements of Section 314(c) of FLPMA (43 U.S.C. 1744(c)) related to filings required by Section 314(b), which shall remain in effect: *Provided further*, That the Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this Section as soon as practicable after the effective date of this Act.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93–408, [$530,211,000] *$530,977,000*, of which $10,687,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended; and of which $1,000,000 shall be for contaminant sample analysis, and shall remain available until expended.

CONSTRUCTION [*and anadromous fish*]

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; [$47,513,000] *$90,351,000*, to remain available until expended.

NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION FUND

To conduct natural resource damage assessments and restoration activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (P.L. 101–380), and the Act of July 27, 1990 (P.L. 101–337); [$5,000,000] *$4,365,000*, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, and for activities authorized under Public Law 98–244 to be carried out by the National Fish and Wildlife Foundation, [$67,397,000] *$77,115,000*, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided, That $2,988,000 in unobligated funds previously appropriated to this account are hereby transferred to the Fish and Wildlife Service construction account.*

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended by Public Law 100–478, $6,621,000 for Grants to States, to be derived from the Cooperative Endangered Species Conservation Fund, and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), [$11,849,000] *$12,964,000*.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), $1,201,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, [$7,500,000] *$11,000,000*, and in fiscal year 1992 and thereafter, amounts received during the immediately preceding fiscal year under section 6 of the Migratory Bird Treaty Act (16 U.S.C. 707) as penalties or fines or from forfeitures of property or collateral, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 130 passenger motor vehicles, of which 112 are for replacement only (including 43 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed [$559,000] *$600,000* for the Roosevelt Campobello International Park Commission, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93–408, [$992,059,000, subject to authorization] *$988,730,000*, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $60,000,000 to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100–203, *and an additional amount of $14,000,000 for the U.S. Army Post at the Presidio, California*: *Provided*, That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation[: *Provided further*, [That of the funds provided herein, $775,000 is available for the National Institute for the Conservation of Cultural Property]: *Provided further*, That none of the funds appropriated in this Act may be used to implement any increase in Government housing rental rates in excess of ten per centum more than the rental rates which were in effect on September 1, 1992, for such housing.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, [$22,715,000, subject to authorization] *$23,791,000*.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), [$36,931,000] *$36,931,000* to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1994: *Provided, That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance, in fiscal year 1993 and thereafter, as authorized under 16 U.S.C. 470w(2)*: *Provided further*, That pursuant to section 105(1) of the Compact of Free Association, Public Law 99–239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), [$237,806,000, subject to authorization] *$206,455,000*, to remain available until expended, and $7,705,000 to be derived from amounts made available under this head in Public Law 99–190 for engineering and construction of the Burr Trail National Rural Scenic Road: *Provided*, That not to exceed $7,000,000 shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989[: *Provided further*, [That of the funds provided under this heading, $1,700,000 shall be available for site acquisition and site preparation for the Lincoln Center in Springfield, Illinois: *Provided further*, [That of the amounts provided under this heading, $2,000,000 shall be available for the design of and to initiate construction of a pedestrian walkway and interpretative Park (A Walk on the Mountain) in cooperation with the city of Tacoma, Washington]: *Provided further, That up to $140,000 of the funds provided under this head, to be derived from the Historic Preservation Fund, established by the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), shall be available until expended to correct deficiencies at the Botto House American Labor Museum National Historic Landmark: Provided further, That of the funds provided under this heading, not to exceed $680,000 shall be made available to the City of Hot Springs, Arkansas, to be used as part of the non-Federal share of a cost-shared feasibility study of flood protection for the downtown area which contains a significant amount of National Park Service property and improvements.*

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1993 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, [$106,500,000] *$119,271,000* to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $28,456,000 is for the State assistance program including $3,456,000 to administer the State assistance program: *Provided*, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States $75,000 shall be available in 1993 for administrative expenses of the State grant program.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, [$13,556,000] *$20,806,000*, of which [$6,500,000] *$12,806,000* shall remain available until expended.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 445 passenger motor vehicles, of which 307 shall be for replacement only, including not to exceed 345 for police-type use, 15 buses, and 4 ambulances; *to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option*; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided, That hereafter, any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: Provided further,* [That none of the funds in this Act may be used to upgrade the Burr Trail National Rural Scenic Road in Utah: *Provided further,*] That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further, That in fiscal year 1993 and thereafter, the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses*: *Provided further*, That notwithstanding any other provision of law, the National Park Service may recover all costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further*, That funds previously appropriated for acquisition of a landscaped parking lot for the Martin Luther King National Historic Site may be used by the National Park Service to acquire the [vacant lot] *property* on the north side of Irwin Street between Jackson and Boulevard as specified in Public Law 100-202.

United States Geological Survey

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; [$587,668,000] *$570,821,000*, of which $64,032,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for purchase of not to exceed 22 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the United States Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

Minerals Management Service

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; [$197,514,000] *$194,014,000*, of which not less than $67,115,000 shall be available for royalty management activities; and an amount not to exceed $5,000,000 for the Technical Information Management System of Outer Continental Shelf (OCS) Lands Activity, to be credited to this appropriation and to remain available until expended, from additions to current preset receipts and from additional fee collections relating to OCS administrative activities performed by the Minerals Management Service over and above what the Minerals Management Service currently collects to offset its costs for these activities: *Provided*, That $1,500,000 for computer acquisitions shall remain available until September 30, 1994: *Provided further*, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further*, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further*, That notwithstanding any other provision of law, $10,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due: *Provided further*, That notwithstanding any other provision of law, [$155,275,000] *$76,850,000* shall be deducted from Federal onshore mineral leasing receipts prior to the division and distribution of such receipts between the States and the Treasury and shall be credited to miscellaneous receipts of the Treasury: *Provided further*, That, notwithstanding any other provision of law, in fiscal year 1993 and thereafter, the Minerals Management Service shall have the authority to collect and expend all collections from user fees resulting from the Minerals Management Service providing the services of its Oil and Hazardous Materials Simulated Environmental Test Tank testing facility in Leonardo, New Jersey, and these collections shall be credited to this account to remain available until expended, and used to offset operation and maintenance costs associated with providing such services: *Provided further*, That the fifth proviso under the heading "Leasing and Royalty Management" for the Minerals Management Service in Public Law 101-512 (104 Stat. 1926) is amended by striking the words "this account" after the words "shall be credited to" and inserting in lieu thereof "the leasing and royalty management account of the Minerals Management Service".

OIL SPILL RESEARCH

For necessary expenses to carry out the purposes of the Oil Spill Liability Trust Fund, pursuant to *Title I, section 1016, and* Title VII of the Oil Pollution Act of 1990, $5,377,000, which shall be derived from the Fund, to be available until expended, to carry out the purposes of the Fund in accordance with Title VII of that Act.

Bureau of Mines

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, [$173,056,000] *$176,513,000*, of which [$107,506,000] *$97,013,000* shall remain available until expended: *Provided*, That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, other contributions, and fees from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 15 passenger motor vehicles, of which 11 shall be for replacement only; $112,674,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1993: *Provided*, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1993 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training[: *Provided further*, [That the funds provided herein to implement and operate the Applicant Violator System shall be used only to the extent that system is in compliance with the January 24, 1990 Settlement Agreement between Save Our Cumberland Mountains, Inc. and Manuel Lujan, Jr., Secretary, United States Department of the Interior, et al.]

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 22 passenger motor vehicles, of which 16 shall be for replacement only, [$188,041,000] *$191,041,000* to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided*, That of the funds herein provided up to $22,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 per centum shall be used for emergency reclamation projects in any one State and funds for Federally-administered emergency reclamation projects under this proviso shall not exceed $15,000,000[: *Provided further*, [That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office]: *Provided further*, That pursuant to Public Law 97–365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95–87, administrative expenses may not exceed 15 per centum: Provided further, That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95–87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement.*

[administrative provision

[None of the funds available to the Office of Surface Mining Reclamation and Enforcement shall be expended to create or maintain more than one Deputy Director position.]

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, or institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices; maintaining of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, [$1,354,151,000] *$1,335,944,000*, including [$271,038,000] *$270,938,000* for school operations costs of Bureau-funded schools and other education programs which shall become available for obligation on July 1, 1993, and shall remain available for obligation until September 30, 1994, and [$53,954,000] *$50,291,000* for housing improvement and road maintenance, to remain available until expended, and of which, funds obligated as grants to schools pursuant to Public Law 100–297 shall be made on July 1 and December 1 in lieu of the payments authorized to be made on October 1 and January 1 of each calendar year, and of which not to exceed [$71,954,000] *$71,985,000* for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1994; and the funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1993 as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee; and of which $2,000,000 for litigation support shall remain available until expended, $4,937,000 for self-governance tribal compacts shall be made available on completion and submission of such compacts to the Congress, and shall remain available until expended; and of which $1,190,000 for expenses necessary to carry out the provisions of section 19(a) of Public Law 93–531 (25 U.S.C. 640d–18(a)), shall remain available until expended: *Provided*, That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further*, That $200,000 of the funds made available in this Act shall be available for cyclical maintenance of tribally owned fish hatcheries and related facilities: *Provided further, That notwithstanding any other provision of law, funds provided for forestry in this and future acts, shall be available for a program of technical, including on the ground, assistance to the Alaska Public Law 93–638 contractors under Section 313 of Public Law 101–630 through contracts, grants, or agreements in accordance with the Indian Self-Determination Act (25 U.S.C. 450 et seq.): Provided further, That notwithstanding any other provision of law, any locality qualified to select land as a native village under the Alaska Native Claims Settlement Act (Public Law 92–203 as amended) shall be eligible to participate in funding for the Indian roads program: Provided further, That for the purpose of Indian Reservation road construction, all public Indian reservation roads (as defined in 23 U.S.C. 101), identified in the 1990 Bureau of Indian Affairs Juneau Area Transportation Study (and in any subsequent update of such Transportation Study) shall be included as Bureau of Indian Affairs system adjusted miles in the Bureau of Indian Affairs highway trust fund formula for distribution for fiscal year 1993: Provided further, That this provision shall expire upon implementation by the Secretary of the Interior of a relative needs based highway trust fund allocation formula pursuant to 23 U.S.C. 202(d): Provided further*, That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for all such tribes or individuals have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the affected tribe or individual has been provided with an accounting of such funds: *Provided further*, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further*, That $300,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation: *Provided further*, That the Task Force on Bureau of Indian Affairs Reorganization shall continue activities under its charter as adopted and amended on April 17, 1991: *Provided further*, That any reorganization proposal shall not be implemented until the Task Force has reviewed it and recommended its implementation to the Secretary and such proposal has been submitted to and approved by the Committees on Appropriations, except that the Bureau may submit a reorganization proposal related only to management improvements, along with Task Force comments or recommendations to the Committees on Appropriations for review and disposition by the Committees: *Provided further*, That to provide funding uniformity within a Self-Governance Compact, any funds provided in this Act with availability for more than one year may be reprogrammed to one year availability but shall remain available within the Compact until expended: *Provided further*, That notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated: *Provided further*, That any savings realized by such changes shall be available for use in meeting other priorities of the tribes: *Provided further*, That the obligated and unobligated balances associated with the housing improvement program and the road maintenance program shall be transferred to this account from "Construction", and shall remain available until expended.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; and preparation of lands for farming, [$152,446,000 *$141,746,000*, to remain available until expended: *Provided*, That $1,482,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided further*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further*, That none of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to transfer, through agreement, memorandum of understanding, demonstration project or other method, the Safety of Dams program of the Bureau of Indian Affairs to the Bureau of Reclamation: *Provided further*, That nothing herein shall prevent the Bureau of Indian Affairs or tribes from using, on a case-by-case basis, the technical expertise of the Bureau of Reclamation: *Provided further*, That none of the funds provided for the Safety of Dams program are available for transfer pursuant to sections 101 and 102 of this Act.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, 100-383, 100-512, 100-580, 101-618, 101-602, 101-486, 100-585 and 102-171, including funds for necessary administrative expenses, [$39,109,000] *$35,109,000*, to remain available until expended[: *Provided*, [That of the funds provided herein $4,000,000 shall be available (1) to liquidate obligations owed tribal and individual Indian payees of any checks cancelled pursuant to section 1003 of the Competitive Equality Banking Act of 1987 (Public Law 100-86 (101 Stat. 659)), 31 U.S.C. 3334(b), and (2) to restore to Individual Indian Monies trust funds amounts invested in defaulted savings and loan associations not covered by Federal deposit insurance, including any interest on these amounts that may have been earned, but was not because of the default and the Bureau's delay in restoring the amounts lost.]

NAVAJO REHABILITATION TRUST FUND

For Navajo tribal rehabilitation and improvement activities in accordance with the provisions of section 32(d) of Public Law 93-531, as amended (25 U.S.C. 640d-30), including necessary administrative expenses, $4,000,000, to remain available until expended.

TECHNICAL ASSISTANCE OF INDIAN ENTERPRISES

For payment of management and technical assistance requests associated with loans and grants approved under the Indian Financing Act of 1974, as amended, $1,987,000.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of expert assistance loans authorized by the Act of November 4, 1963, as amended, and the cost of direct loans authorized by the Indian Financing Act of 1974, as amended, $2,500,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $11,300,000.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans $8,864,000, as authorized by the Indian Financing Act of 1974, as amended: *Provided*, That such costs including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal any part of which is to be guaranteed not to exceed $68,800,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan program, $906,000, which may be transferred to and merged with the appropriations for Operation of Indian Programs.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, the Technical Assistance of Indian Enterprises account, the Indian Direct Loan Program account, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 258 passenger carrying motor vehicles, of which not to exceed 212 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, [$81,151,000] *$78,831,000*, of which (1) [$77,105,000] *$74,205,000* shall be available until expended for technical assistance, including maintenance assistance, *disaster recovery*, drug interdiction and abuse prevention, and brown tree snake control and research; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) [$4,046,000] *$4,626,000* shall be available for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further*, That $1,025,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets).

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495), and grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; [$26,796,000] *$20,809,000*, to remain available until expended, including [$18,596,000] *$18,009,000* for operations of the Government of Palau: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1993 shall be credited as an offset against fiscal year 1993 payments made pursuant to the legislation approving the Palau Compact of Free Association (Public Law 99-658), if such Compact is implemented before October 1, 1993: *Provided further*, That not less than $300,000 of the grants to the Republic of Palau, for support of governmental functions, shall be dedicated to the College of Micronesia in accordance with the agreement between the Micronesian entities.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compacts of Free Association, $20,457,000, to remain available until expended, as authorized by Public Law 99-239: *Provided*, That the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101 of Public Law 101-219.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, [$63,633,000] *$65,904,000*, of which not to exceed $7,500 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, [$31,941,000] *$31,468,000*.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, [$23,741,000] *$23,958,000*.

CONSTRUCTION MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Construction Management, [$2,191,000] *$2,260,000*.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100-497, [$2,190,000] *$2,480,000*.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 18 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior Firefighting Fund" shall have been exhausted: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further*, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Eastern Gulf of Mexico for Outer Continental Shelf Lease Sale 137 or for Sale 151 in the April 1992 proposal for the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992-1997.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Atlantic for Outer Continental Shelf Lease Sale 164 in the April 1992 proposal for the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992-1997.

[SEC. 112. None of the funds made available by this Act may be used for the implementation or financing of agreements or arrangements with entities for the management of all lands, waters, and interests therein on Matagorda Island, Texas, which were purchased by the Department of the Interior with federally appropriated amounts from the Land and Water Conservation Fund.

[SEC. 113. The provision of section 112 shall not apply if the transfer of management or control is ratified by law.]

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, [$186,657,000] *$178,723,000*, to remain available until September 30, 1994.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, **[$136,929,000]** *$160,591,000*, to remain available until expended, as authorized by law.

EMERGENCY PEST SUPPRESSION FUND

For necessary expenses for emergency suppression of pests, **[$42,315,000]** *$20,000,000*, to remain available until expended: *Provided*, That these funds, or any portion thereof, shall be available beginning in fiscal year 1993 only to the extent that the President notifies the Congress *in an official budget request* of his designation of any or all of these amounts as emergency requirements under section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Forest Service Fire Protection", "Emergency Forest Service Firefighting Fund", and "Land Acquisition", **[$1,312,937,000]** *$1,306,077,000*, to remain available for obligation until September 30, 1994, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l-6a(i)): *Provided*, That unobligated and unexpended balances in the National Forest System account at the end of fiscal year 1992, shall be merged with and made a part of the fiscal year 1993 National Forest System appropriation, and shall remain available for obligation until September 30, 1994: *Provided further*, That timber volume authorized or scheduled for sale during fiscal year 1992, but which remains unsold at the end of fiscal year 1992, shall be offered for sale during fiscal year 1993 in addition to the fiscal year 1993 timber sale volume to the extent possible: *Provided further*, That up to $5,000,000 of the funds provided herein for road maintenance shall be available for the planned obliteration of roads which are no longer needed.

FOREST SERVICE FIRE PROTECTION

For necessary expenses for firefighting on or adjacent to National Forest System lands or other lands under fire protection agreement, and for forest fire management and presuppression on National Forest System lands, **[$192,785,000]** *$188,785,000*, to remain available until expended: *Provided*, That unexpended balances of amounts previously appropriated for this purpose under the heading "Forest Service Firefighting", Forest Service, may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

EMERGENCY FOREST SERVICE FIREFIGHTING FUND

For necessary expenses for emergency rehabilitation, presuppression due to emergencies or economic efficiency, and wildfire suppression activities of the Forest Service, $187,000,000, to remain available until expended: *Provided*, That such funds are available for repayment of advances from other appropriation accounts previously transferred for such purposes.

In addition, for necessary expenses for emergency rehabilitation, presuppression due to emergencies, and wildfire suppression activities of the Forest Service, $188,000,000, to remain available until expended: *Provided*, That these funds, or any portion thereof, shall be available beginning in fiscal year 1993 only (1) to the extent that the President notifies the Congress *in an official budget request* of his designation of any or all of these amounts as emergency requirements under the Balanced Budget and Emergency Deficit Control Act of 1985; and (2) if the amounts annually appropriated under this heading, but not designated as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, have been at least equal to the most recent ten-year historical average, less any enacted cost saving program reforms: *Provided further*, That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, **[$241,449,000]** *$256,570,000*, to remain available until expended, of which **[$82,401,000]** *$84,063,000* is for construction and acquisition of buildings and other facilities; and **[$159,048,000]** *$172,507,000* is for construction and repair of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1993 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That not to exceed $110,669,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, **[$62,072,000]** *$62,490,000*, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,190,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $105,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 127 passenger motor vehicles of which 31 will be used primarily for law enforcement purposes and of which 101 shall be for replacement only, of which acquisition of 81 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 47 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (d) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (e) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (f) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Forest Service Firefighting appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction: *Provided*, That no funds shall be made available under this authority until funds appropriated to the "Emergency Forest Service Firefighting Fund" shall have been exhausted.

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

All funds received for timber salvage sales may be credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest, *and for timber sales preparation to replace sales lost to fire or other causes, and sales preparation to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availibility equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales program described above: Provided, That notwithstanding any other provision of law, moneys received from the timber salvage sales program in fiscal year 1993 and subsequent fiscal years shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended.*

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 102–116.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law, money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93–153 (30 U.S.C. 185(1)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93–408.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: *Provided*, That this limitation shall not apply to hardwood stands damaged by natural disaster: *Provided further*, That landscape architects shall be used to maintain a visually pleasing forest.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until the studies required in Public Law 100–202 have been submitted to the Congress: *Provided*, That any special use authorization shall not be executed prior to the expiration of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt of the required studies by the Speaker of the House of Representatives and the President of the Senate.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of administering a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Rock Creek, Madera County, California, until a study has been completed and submitted to the Congress by the Forest Service in consultation with the United States Fish and Wildlife Service, the United States Army Corps of Engineers, the California State Water Resources Control Board, the California Department of Fish and Game and other interested public parties regarding the project's potential cumulative impacts on the environment, together with a finding that there will be no substantial adverse impact on the environment. Findings from the study must be presented at no less than three public meetings.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101–2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

[None of the funds available in this Act shall be used for preparation of timber sales on the Shawnee National Forest, Illinois.]

Notwithstanding section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Secretary of Agriculture may negotiate sales of Pacific yew at not less than appraised value, to parties manufacturing taxol in the United States in accordance with the requirements of section 505 of the Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in humans. Moneys received from the sale of Pacific yew are hereby appropriated and made available until expended by the Forest Service to fund the costs associated with the harvest of Pacific yew.

[Notwithstanding any other provision of law, the Forest Service shall establish an office in Ohio for the purpose of representing and administering the Wayne National Forest on a forest-wide basis.

[The Forest Service may offer for sale salvageable timber in Region 6 in fiscal year 1993: *Provided*, That for forests known to contain the Northern spotted owl, such salvage sales may be offered as long as the offering of such sale will not render the area unsuitable as habitat for the Northern spotted owl.]

Timber salvage activity in spotted owl habitat is to be done in full compliance with existing environmental and forest management laws.

Pursuant to section 405 (a) and (b), and section 410 (a) and (b) of Public Law 101–593, funds up to $500,000 for start-up expenses and $537,000 for matching funds shall be available to establish a National Forest Foundation. Funding shall be limited to $78,000 from Forest Research, $90,000 from State and Private Forestry, $638,000 from National Forest System, $90,000 from Forest Service Fire Protection, and $141,000 from Construction.

As a pilot effort, for the purpose of achieving ecologically defensible management practices, the Kaibab, Dixie, Coconino and Tonto National Forests are authorized to apply the value or a reasonable portion of the value of timber removed under a stewardship end result contract as an offset against the cost of stewardship services received including, but not limited to, site preparation, replanting, silviculture programs, recreation, wildlife habitat enhancement, and other multiple-use enhancements on selected projects. Timber removed shall count toward meeting the Congressional expectations for the annual timber harvest. The tract value of the timber removed shall be considered as money received for purposes of computing 25 per centum payments to local governments under 16 U.S.C. 500. Such payments shall be made directly to the local government by the contractor. The amount and timing of the payment shall be specified in the contract by the Forest Service.

Hereafter, funds appropriated to the Department of Agriculture, Forest Service may be used to pay transportation, lodging, and subsistence expenses of employees who assist scientific, professional, or technical employees and who are bona fide students of accredited colleges or universities who are pursuing courses related to the field in which employed.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defensible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, [$412,597,000] *$422,669,000*, to remain available until expended, of which $3,100,000 is available for the fuels program [and $600,000 to be derived by transfer from previously appropriated and unobligated balances in the "Fossil Energy Construction" account:] *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That section 303 of Public Law 97–257 is further amended by changing the number for the Pittsburgh Energy Technology Center to "285", changing the number for the Morgantown Energy Technology Center to "270", [and] inserting at the end of enumeration (2) "and not less than 27 employees shall be assigned to the Bartlesville Project Office;", *inserting as enumeration (3) "Not less than 170 employees shall be assigned to the Office of the Strategic Petroleum Reserve;" and inserting as enumeration (4) "Not less than 91 employees shall be assigned to the Office of the Naval Petroleum Reserves".*

Of the funds provided herein, $2,000,000 shall be available for a grant for the National Research Center for Coal and Energy.

Of the funds herein provided, [$32,800,000] *$29,000,000* is for implementation of the June 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided*, That 35 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1993: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expended in normal business practice: *Provided further*, That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further*, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1992, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $238,094,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, revenues received from use and operation of the Naval Petroleum Reserves Numbered 1, 2, and 3 and the Naval Oil Shale Reserves and estimated to total $525,853,000 for fiscal year 1993 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in carrying out naval petroleum and oil shale reserve activities: *Provided further*, That the sum herein appropriated shall be reduced as such revenues are received so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, [$591,859,000] *$571,288,000*, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1993 determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided*, That [$240,365,000] *$220,150,000* shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided further*, That notwithstanding section 3003(d)(2) of Public Law 99–509 such sums shall be allocated to the eligible programs in the same proportion for each program as in fiscal year 1992: *Provided further*, That [$2,000,000] *$1,000,000* of the amount under this heading shall be for metal casting research consistent with the provisions of Public Law 101–425: *Provided further*, That [$18,091,000] *$17,991,000* of the amount provided under this heading shall be available for continuing research and development efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99–190), and implementation of steel and aluminum research authorized by Public Law 100–680: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not accepted as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds: *Provided further*, That up to [$38,700,000] *$28,700,000* of the amount provided under this head is for electric and hybrid vehicle battery research to be conducted on a cooperative basis with non-Federal entities, such amounts to be available only as matched on an equal basis by such entities: *Provided further*, That the Department of Energy, for a period of up to five years after the completion of individual projects may provide appropriate protections, including exemptions from subchapter II of chapter 5 of title 5, United States Code, against the dissemination of information that results from activities conducted by the United States Advanced Battery Consortium or its contractors, *or participants in the hybrid vehicle propulsion development program and their contractors* and that would be a trade secret on commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in the United States Advanced Battery Consortium *or in the hybrid vehicle propulsion development program.*

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $14,565,000, to remain available until expended.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $9,247,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $176,600,000, to remain available until expended, including $125,625,000 to be derived by transfer from funds deposited in the "SPR petroleum account" as a result of the Desert Storm sale of the Strategic Petroleum Reserve, as authorized under 42 U.S.C. 6241: *Provided*, That appropriations herein made shall not be available for leasing of facilities for the storage of crude oil for the Strategic Petroleum Reserve unless the quantity of oil stored in or deliverable to Government-owned storage facilities by virtue of contractual obligations is equal to 700,000,000 barrels.

SPR PETROLEUM ACCOUNT

Notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve]: *Provided*, That no funds available in fiscal year 1993 in this, or any previous or subsequent appropriations Act, or made available in this account pursuant to 42 U.S.C. 6247(b) as a result of any drawdown and distribution of the Reserve under the provisions of 42 U.S.C. 6241 may be used in fiscal year 1993 for leasing, exchanging, or otherwise acquiring other than by direct purchase crude oil from a foreign government, a foreign State-owned oil company, or an agent of either except pursuant to the procedures of section 174, part C, title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.), as contained in section 6 of Public Law 101–383:] *Provided, That the Secretary of Energy may contract, without regard to 42 U.S.C. 6249(b)(2)(B) and 6244b: Provided further, That restrictions on leasing, exchanging, or otherwise acquiring except by direct purchase crude oil from a foreign government, a foreign sale-owned oil company, or an agent of either which are contained under the SPR Petroleum heading in Public Law 101–512 shall not apply for fiscal year 1993: Provided further, That the requirements of 42 U.S.C. 6240 (d) and (g) shall not apply in fiscal year 1993: Provided further*, That outlays in fiscal year 1993 resulting from the use of funds in this account shall not exceed [$145,000,000] *$137,000,000*.

ENERGY INFORMATION ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the activities of the Energy Information Administration, [$83,427,000] *$82,627,000*, to remain available until expended, of which [$44,000,000] *$49,000,000* shall be derived from available unobligated balances in the Biomass Energy Development account: *Provided, That any of the funds remaining in the Biomass Energy Development account shall be available to the Department of Energy for administering the alcohol fuels loan guarantee program.*

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

Notwithstanding any other provision of law, the Secretary of Energy may enter into a contract, agreement, or arrangement, including, but not limited to, a Management and Operating Contract as defined in the Federal Acquisition Regulations (17.601), with a profit-making or non-profit entity to conduct activities at the Department of Energy's research facilities at Bartlesville, Oklahoma.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVI and section 208 of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation, and erection of modular buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; [$1,559,615,000] *$1,518,553,000*, together with payments received during the fiscal year pursuant to 42 U.S.C. 300aaa–2 for services furnished by the Indian Health Service: *Provided*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act): *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation [*Provided further*, That of the funds provided for new, continuation, and expanded grants, contracts, or cooperative agreements under Public Law 93-638, an appropriate amount shall be reserved and available only for contract support costs:] *Provided further*, That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That [$323,404,000] *$318,249,000* for contract medical care shall remain available for expenditure until September 30, 1994: *Provided further*, That of the funds provided, not less than $11,077,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $35,000 per year of obligated service in return for full-time clinical service: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That of the funds provided, [$6,000,000] *$5,000,000* shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for expenditure until September 30, 1994: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act and Public Law 100–713 shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, and for expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVI and section 208 of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of modular buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, [$338,596,000] *$329,079,000*, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–53) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That with the exception of Indian Health Service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further*, That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further*, That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further*, That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: *Provided further*, That the appropriation structure for the Indian Health Service may not be altered without the advance approval of the House and Senate Committees on Appropriations.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act of 1988, [$81,274,000] *$81,205,000*, of which $59,813,000 shall be for subpart 1, $16,838,000 shall be for subparts 2 and 3, and $1,200,000 shall be for collection and analyses of data on Indian education: *Provided*, That $1,750,000 available pursuant to section 5323 of the Act shall remain available for obligation until September 30, 1994.

OTHER RELATED AGENCIES

Office of Navajo and Hopi Indian Relocation

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, [$28,935,000] *$27,935,000*, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

Institute of American Indian and Alaska Native Culture and Arts Development

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by Public Law 99–498, as amended (20 U.S.C. 56, Part A), [$9,812,000] *$8,512,000*, of which not to exceed $350,000 for Federal matching contributions, to remain available until expended, shall be paid to the Institute endowment fund: *Provided*, That of the funds made available, $1,500,000 is provided as a Federal matching contribution to the capital endowment fund: *Provided further*, That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress: *Provided further*, That the Institute shall act as its own certifying officer.

Smithsonian Institution

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; [$298,656,000] *$290,645,000*, of which not to exceed [$27,633,000] *$27,481,000* for the instrumentation program, collections acquisition, Museum Support Center equipment and more, exhibition reinstallation, the National Museum of the American Indian, and the repatriation of skeletal remains program shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further*, That none of the funds appropriated herein shall be made available for acquisition of land at the Smithsonian Environmental Research Center before the date of the enactment of an Act authorizing the use of funds for that purpose.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $7,900,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, [$24,400,000] *$24,900,000*, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, [$17,330,000] *$18,100,000*, to remain available until expended.

National Gallery of Art

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, [$51,663,000] *$51,438,000*, of which not to exceed $3,120,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized [$3,600,000] *$3,750,000*, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

Woodrow Wilson International Center for Scholars

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $6,252,000.

National Foundation on the Arts and the Humanities

National Endowment for the Arts

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$145,839,000] *$144,245,000* shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$30,116,000] *$30,500,000*, to remain available until September 30, 1994, to the National Endowment for the Arts, of which [$13,300,000] *$13,000,000* shall be available for purposes of section 5(l): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

National Endowment for the Humanities

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$152,108,000] *$152,669,000* shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, of which [$5,600,000] *$3,750,000* for the Office of Preservation shall remain available until September 30, 1994.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$26,826,000] *$26,009,000*, to remain available until September 30, 1994, of which [$14,700,000] *$14,000,000* shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $29,000,000, including not to exceed $250,000 as authorized by 20 U.S.C. 965(b).

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $791,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $7,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89–665, as amended, $2,757,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109 and not to exceed $50,000 for expenses necessary to fund an increase in the pay level for all appointed members to a rate which is equivalent to the rate for Executive Schedule Level IV, [$5,400,000] *$6,100,000*.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92–332 (86 Stat. 401), $535,000, to remain available until September 30, 1994.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92–578, as amended, $2,686,000 for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92–578, as amended, [$4,947,000] *$4,847,000*, to remain available until expended.

LAND ACQUISITION AND DEVELOPMENT FUND

The Pennsylvania Avenue Development Corporation is authorized to borrow from the Treasury of the United States [$6,500,000] *$2,500,000*, pursuant to the terms and conditions in paragraph 10, section 6, of Public Law 92–576, as amended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96–388, as amended, [$21,450,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions] *$18,504,000*.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 307. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 308. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 309. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 310. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves will be done only to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

SEC. 311. None of the funds appropriated by this Act may be used to ensure that hardwood saw timber harvested from Federal lands east of the 100th meridian is marked in such a manner as to make it readily identifiable at all times before its manufacture.

[SEC. 312. Section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751), is hereby amended by adding at the end the following new subsections:

["(c)(1) Notwithstanding any other provision of law, the Secretary of Agriculture, with respect to National Forest lands in the 16 contiguous western states (except National Grasslands) administered by the United States Forest Service where domestic livestock grazing is permitted under applicable law, and the Secretary of the Interior with respect to public domain lands administered by the Bureau of Land Management where domestic livestock grazing is permitted under applicable law, shall establish beginning with the grazing season which commences on March 1, 1993, an annual domestic livestock grazing fee equal to fair market value: *Provided*, That the fee charged for any given year shall not increase nor decrease by more than 33.3 percent from the previous year's grazing fee.

["(2)(A) For purposes of this subsection, the term 'fair market value' is defined as follows:

$$\text{Fair Market Value} = \frac{\begin{matrix}\text{Appraised}\\ \text{Base Value}\\ \text{Forage}\\ \text{Value}\\ \text{Index}\end{matrix}}{100}$$

["(B) For the purposes of subparagraph (A)—

["(i) the term 'Forage Value Index' means the Forage Value Index (FVI) computed annually by the Economic Research Service, United States Department of Agriculture, and set with the 1992 FVI equal to 100; and

["(ii) the term 'Appraised Base Value' means the 1983 Appraisal Value conclusions for mature cattle and horses (expressed in dollars per head or pair month), as determined in the 1986 report prepared jointly by the Secretary of Agriculture and the Secretary of the Interior entitled 'Grazing Fee Review and Evaluation', dated February 1986, on a westwide basis using the lowest appraised value of the pricing areas adjusted for advanced payment and indexed to 1992.

["(3) Executive Order No. 12548, dated February 14, 1986, shall not apply to grazing fees established pursuant to this Act.

["(d) The grazing advisory boards established pursuant to Secretarial action, notice of which was published in the Federal Register on May 14, 1986 (51 Fed. Reg. 17874), are hereby abolished, and the advisory functions exercised by such boards, shall, after the date of enactment of this sentence, be exercised only by the appropriate councils established under this section.

["(e) Funds appropriated pursuant to section 5 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1904) or any other provision of law related to disposition of the Federal share of receipts from fees for grazing on public domain lands or National Forest lands in the 16 contiguous western States shall be used for restoration and enhancement of fish and wildlife habitat, for restoration and improved management of riparian areas, and for implementation and enforcement of applicable land management plans, allotment plans, and regulations regarding the use of such lands for domestic livestock grazing. Such funds shall be distributed as the Secretary concerned deems advisable after consultation and coordination with the advisory councils established pursuant to section 309 of this Act and other interested parties.".]

SEC. 312. Such sums as may be necessary for Federal employee pay raises for programs funded by this Act or subsequent Interior and Related Agencies Appropriations Acts hereafter shall be absorbed within the levels appropriated in such Acts.

SEC. 313. Notwithstanding any other provision of law, the Secretary of the Interior shall transfer to the Department of Health and Human Services the Pine Hill School Health Center in Pine Hill, New Mexico for Indian health purposes, and compensation for such transfer is waived.

SEC. 314. None of the funds provided in this Act may be expended by the Forest Service or the Bureau of Land Management to increase fees charged for communication site use of lands administered by the Forest Service or Bureau of Land Management by more than 15 per centum per user in fiscal year 1993 over the levels in effect on January 1, 1989.

SEC. 315. Notwithstanding any other provision of law, payments to States pursuant to 16 U.S.C. 500 for National Forests affected by decisions relating to the Northern Spotted Owl from fiscal year 1993 receipts shall not be less than 85 per centum of the average annual payments to States, based on receipts collected on those National Forests during the five-year baseline period of fiscal years 1986 through 1990: *Provided*, That in no event shall these payments exceed the total amount of receipts collected from the affected National Forests during fiscal year 1993.

SEC. 316. Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development outside the boundaries of National Forest System lands.

SEC. 317. Notwithstanding any other provision of law, in fiscal year 1993 and thereafter, appropriations or funds available to the Department of the Interior or the Forest Service, Department of Agriculture, may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their employment and that are necessary to comply with State or Federal laws, regulations, or requirements.

[SEC. 318. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands in the State of Texas which will be exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.]

SEC. [319] *318*. Notwithstanding any other provision of law, the payment to be made by the United States Government pursuant to the provision of subsection (a) of title II of the Act of August 28, 1937 (50 Stat. 876) to the Oregon and California land-grant counties in the State of Oregon from fiscal year 1993 receipts derived from the Oregon and California grant lands shall not be less than 85 percent of the average annual payment made to those counties of their share of the Oregon and California land-grant receipts collected during the five-year baseline period of fiscal years 1986 through 1990: *Provided*, That in no event shall this payment exceed the total amount of receipts collected from the Oregon and California grant lands during fiscal year 1993.

[SEC. 320. The amounts otherwise provided in this Act for the following accounts and activities are hereby reduced by the following amounts:

[DEPARTMENT OF THE INTERIOR

[BUREAU OF LAND MANAGEMENT

[MANAGEMENT OF LANDS AND RESOURCES

[Expenses, $9,754,000.

[NATIONAL PARK SERVICE

[OPERATION OF THE NATIONAL PARK SYSTEM

[Expenses, $12,372,000.

[CONSTRUCTION

[Expenses, $2,424,422.

[UNITED STATES GEOLOGICAL SURVEY

[SURVEYS, INVESTIGATIONS, AND RESEARCH

[Expenses, $4,646,000.

[BUREAU OF MINES

[MINES AND MINERALS

[Expenses, $2,661,000.

[OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

[REGULATION AND TECHNOLOGY

[Expenses, $808,000.

[BUREAU OF INDIAN AFFAIRS

[OPERATION OF INDIAN PROGRAMS

[Expenses, $12,583,000.

[CONSTRUCTION

[Expenses, $579,000.

[RELATED AGENCIES

[DEPARTMENT OF ENERGY

[FOSSIL ENERGY RESEARCH AND DEVELOPMENT

[Expenses, $690,000.

[STRATEGIC PETROLEUM RESERVE

[Expenses, $805,000.

[OTHER RELATED AGENCIES

[NATIONAL GALLERY OF ART

[Salaries and expenses, $694,000.

[SEC. 321. BUY AMERICAN REQUIREMENTS.

[(a) COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated or transferred pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

[(b) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—

[(1) IN GENERAL.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

[(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

[SEC. 322. None of the funds made available in this Act may be used to record or process any claimed rights-of-way under section 2477 of the Revised Statutes (43 U.S.C. 932).]

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1993".

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that at such time as an amendment to the bill is offered by Mr. DOMENICI there be a time limit thereon of not to exceed 10 minutes to be equally divided between Mr. Domenici and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, did the Chair put the request I promulgated with respect to a time limit on an amendment by Mr. DOMENICI?

The PRESIDING OFFICER. That request has been agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the amendment Mr. DOMENICI will offer.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that immediately upon the disposition of the amendment by Mr. DOMENICI, Mr. REID be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I bring before the Senate today the fiscal year 1993 Department of the Interior and related agencies appropriation bill.

The allocations for the subcommittee total $13,230,000,000 in budget authority and $13,193,000,000 in outlays. This bill is nearly at its allocation with respect to outlays and is $195 million under its allocation for budget authority. The bill contains no delayed obligations. When compared to the budget request, the committee recommendations represent an increase of $418.4 million above the President's proposals. Senators should note, however, that the President proposed to reduce funding for the programs in this bill nearly $300 million below the fiscal year 1992 level. The 602(b) allocation is 6.2 percent below the CBO baseline for budget authority and 3.9 percent below the CBO outlay baseline for programs under the subcommittee's jurisdiction. So, as a starting point, the subcommittee is unable to keep pace with the cost of doing business. In total, the subcommittee's recommendations are $119.5 million above the fiscal year 1992 level, an increase of just 1 percent.

This bill is at its limit. Any further amendments that add money to the bill's total or increase the spending rate for items already in the bill must be accompanied by an offsetting amendment to reduce spending elsewhere in the bill. Offsets must be outlay neutral so as not to cause the bill to exceed its 602(b) allocation. Amendments to increase spending that are not offset will be subject to a 60-vote point of order under the Budget Act.

This bill was difficult to fashion given the difficult budgetary constraints all subcommittees are operating under this year. The subcommittee has attempted to fund adequately the base programs of the agencies, while addressing meritorious projects recommended by Senators, as well as by Congressmen, State officials, local citizens, and the agencies themselves, who sometimes feel shortchanged in the administration's budget formulation process.

The bill before you is the result of a bipartisan effort, and I would like to thank Senator NICKLES and his staff for their cooperation in formulating the recommendations before the Senate today. Our task was not an easy one. The demands for funding far exceed the allocation available to the subcommittee. The subcommittee received nearly 3,000 requests for projects of interest to Members of the Senate. In just the week preceding markup, some 70 letters, many containing multiple requests, were received by the subcommittee. Nearly every Member of the Senate has expressed an interest in one project or another in this bill.

I would like to highlight some items of interest in the bill. These include:

Total funding in the bill from the land and water conservation fund for Federal land acquisition and State outdoor recreation grants is $283,426,000. This amount is approximately $33 million below the fiscal year 1992 appropriation and $82 million below the President's request for the coming fiscal year.

Total funding for construction in the Fish and Wildlife Service, the Park Service, the Bureau of Indian Affairs, the Forest Service, and the Indian Health Service, all of which contain the bulk of construction funds in the bill, amounts to $1,024,201,000. This total is $57,292,000, or 5.3 percent, below the fiscal year 1992 appropriation for these same construction accounts and $177,983,000 above the President's request for the same. Nearly 70 percent of the increase over the budget for these purposes is associated with education, health and irrigation construction for Indian tribes.

Within the construction and land acquisition budgets of the Fish and Wildlife Service, the National Park Service, and the Forest Service, we have done some rearranging to reflect Senators' priorities, but the net effect of this bill is a reduction in those accounts of $9,282,000 below the President's requests. In addition, the funding recommendations for construction in each of these agencies is below 1992 levels, as is land acquisition for all except the Park Service.

The committee has funded firefighting within the domestic discretionary totals in the same amounts and manner as requested by the President. Members should note that any perceived increase in the subcommittee's outlay allocation from fiscal year 1992 to fiscal year 1993 is more than consumed by having to fund fire in this manner.

The operating accounts for most agencies grow in strict dollar terms compared to fiscal year 1992, but not at a rate sufficient to keep pace with inflation nor increased program responsibilities imposed by new legislation. The actual dollars for the Geological Survey, the Minerals Management Service, the Forest Service, and Fossil Energy research and development are below 1992 appropriations.

The Interior bill contains a health care program confronted with the same cost increases experienced by the general public. The committee recommendations for Indian health care services increase 6 percent above the President's request. With a program experiencing medical inflation in the range of 8 percent and population growth of 3 percent annually, the subcommittee is unable to maintain current services. The administration has chosen to characterize these expenditures as low-priority, or unnecessary. I believe Indians denied medical care due to a lack of funds would disagree.

The subcommittee faced extreme difficulty in formulating a bill that complied with the subcommittee's 602(b) allocations. Consequently, the bill contains several reductions that the agencies will be required to distribute, in addition to absorbing 50 percent of the cost of the Federal employee pay raise that will take effect in January 1993.

With respect to specific program and policy issues in the bill, the Senate should note:

The bill includes a provision which imposes a $100 fee for mining holding claims as proposed by the administration. This provision generates $41,275,000 in revenues which will be deposited in the Treasury.

The bill contains none of the mining claim patent moratoria language which was in the House bill.

The bill contains no increase in grazing fees which the House has proposed to raise.

The bill does contain a provision within the Minerals Management Service which would deduct approximately 25 percent of the cost of the mineral royalty collection program from the total receipts prior to distributing those receipts to the States. This net receipts proposal keeps the States' share of the total program costs at the same rate as last year, and approximately half of the level proposed by the House. The method for allocating the costs has remained unchanged from that proposed by the administration. Maintaining this program at last year's rate costs this bill some $40 million in outlays when compared to the House bill. Efforts to reduce this program to zero percent will require additional reductions of $38 million elsewhere in the bill.

The bill does retain all House bill language related to Outer Continental Shelf oil and gas leasing moratoria. This continues the current moratoria, which covers the areas included in the President's policy statements on OCS, as well as the Mid and South Atlantic, the eastern Gulf of Mexico north of 26 degrees, and the North Aleutian Basin in Alaska.

The bill consolidates and redirects fossil energy research and development to conform with an emerging national energy strategy.

The bill further supports the goals of the national energy strategy through the development of advanced technologies within the energy conservation program which will significantly reduce energy consumption in the transportation, industrial, building, and utility sectors.

The bill contains significant increases necessary to restore the current level of operating and facility construction funding necessary to address the most critical health and safety, education, natural resource and economic development needs of our Native American population.

The bill before you contains a reduction of $59 million in the Forest Service road construction program.

The bill includes no specific legislative protection regarding timber harvest and the spotted owl in the Pacific Northwest. Timber salvage language added by the House has been changed to direct the Forest Service to comply with existing environmental and forest land management laws.

Mr. President, in closing, I believe this is a balanced bill. It attempts to address issues of concern to many States. Programs are not in all cases funded at the most desirable level. But the allocation won't allow us to add funding without offsets.

Mr. President, I ask unanimous consent that a clarification of several items in the Senate report accompanying this bill (S. Rept. 102-345) be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE REPORT 102-345 CLARIFICATIONS

On page 30, in the section dealing with National Park Service construction, the distribution of funding between the planning column and the construction column is misprinted. The funds for Isle Royale are for construction, the funds for the Barataria levee at Jean Lafitte are for planning, and the funds for the Chalmette unit at Jean Lafitte are for construction.

On page 52, the funding for central office operations of the Bureau of Indian Affairs is a decrease of $50 thousand, since the funding for Close-Up is an increase to the budget, and not an earmark of available funds.

On page 70, increased funding is provided for rural development in the northeast and midwest. The report should reference a total of $4 million for rural development in these regions, to maintain the program at the fiscal year 1992 level.

On page 82, the total increase for facilities construction in the Forest Service is $4,263,000, as identified in the table, and not $3,763,000 as referenced in the narrative. The pieces in the narrative should also include an offset of $104 thousand for an elevator at the Timberline lodge. Completion of the rewiring at the lodge is a higher priority than the elevator proposed in the budget.

On page 87, the allocation reduction in the fossil energy program is $7 million, not $5 million as printed.

On page 100, the operating level for the Strategic Petroleum Reserve is $176.6 million, not $238 million as noted. The $238 million level is for the Naval Petroleum Reserve.

Mr. NICKLES. Mr. President, I am pleased to support the chairman's remarks, and his introduction of the committee recommendations for the fiscal year 1993 Interior appropriations bill. I want to thank the chairman for his efforts in bringing the Interior bill to the Senate floor. His efforts to present us with a fine, balanced product with attentive consideration to the member requests is commendable. I want to compliment the Senator from West Virginia for the excellent work he has done in assembling this bill.

A tremendous amount of work and energy goes into putting the Interior bill together. There seems to be no end to the number of requests—3,000—from individual members, doubling from 5 years ago—if only the dollars grew proportionately.

Under Senator BYRD'S guidance the subcommittee is staying within the 602(b) allocations of $13.23 billion for budget authority and $13.193 billion for outlays. It is apparent that the chairman has done an excellent job of meshing the subcommittee priorities, the agency needs, and the member requests.

I would like to mention the difficulty encountered in keeping the agency base programs intact while funding many of the Members' important State requests. It has required close scrutiny of programs and projects resulting in several reduction recommendations. Our recommendations, while at the outlay allocation limit, carefully balance appropriations and revenue generation impacts in fiscal year 1993 and in future years. The committee's recommendations will contribute to a balanced Federal budget while continuing to provide the expected Government services. To bring the bill within the allocations, criteria was established which did not provide funding for new wildlife refuges, new visitor centers—not including replacements, university facilities for scientific research, new forest supervisor and ranger district offices, new research facilities, additional fish and wildlife cooperative research units, and feasibility studies for new park units beyond what is included in the budget request.

The Interior appropriations bill for fiscal year 1993 is 1 percent over the fiscal year 1992 enacted level. To name a few of the 40 agencies funded by the Interior bill: the Bureau of Land Management is increased by 2.7 percent; the Fish and Wildlife Service is decreased by 1.8 percent; the National Park Service is decreased by 1.5 percent; the Bureau of Indian Affairs is increased by 1 percent; the Forest Service is decreased by 1 percent; the Department of Energy agencies are increased by 1 percent; and Indian Health Service is increased by 8.3 percent.

The Congressional Budget Office is scoring our bill throughout the process. We are getting more information and reaction from them continually. The limiting factor on the Interior bill is budget outlays of $13.193 billion. If amendments are offered to our bill, outlay offsets will be necessary.

There are several controversial issues which have been discussed and debated over the past 6 months and which have contributed to the difficulty in drafting this bill. Some of these issues include acquisition of new lands, facility maintenance needs, public timber supply levels, mining holding fees, funding moratorium on mining patents, grazing fees, and mineral receipts.

During our committee deliberations, deep concerns have been expressed over the changing uses of public lands and its resources. Such shifts have drastic effects on local rural communities and economies and on the funding of local governments. While keeping within our limitations, the committee recommendation has recognized the importance of programs to employment, the economies, the infrastructure, and the social fabric of many rural communities.

Mr. President, again I wish to thank the chairman with whom I have worked very closely. The Senator from West Virginia and his staff have made this a bipartisan effort which makes the task certainly much easier and achievable.

Mr. INOUYE. Mr. President, I wish to raise once again a concern which I expressed to the distinguished chairman last year regarding the regional petroleum product reserves [RPR]. Public Law 101-383 (42 U.S.C. 6240(g)) set forth a requirement that 10 percent of the fill for the strategic petroleum reserve would be placed in an RPR during a 3-year demonstration. Report language was included in the fiscal year 1992 Interior appropriations bill to clarify that import-dependent regions such as Hawaii would be the priority sites for the RPR. This year the administration requested a waiver of the 10-percent requirement set forth in 42 U.S.C. 6240(g). The House rejected the waiver, but the Senate bill grants the waiver. I strongly urge the distinguished chairman and members of the subcommittee to revisit this issue during conference.

Hawaii is the most oil-dependent State in America and is also 7,000 miles from the SPR. An oil disruption would devastate Hawaii's economy. For these reasons, I believe the RPR demonstration program should proceed. I respectfully request that the Senate conferees consider receding from their position.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending committee amendments be laid aside temporarily so as to allow Mr. DOMENICI to offer the amendment on which there has already been a time agreement ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, that the bill, as thus amended, be regarded for the purpose of amendment as original text, provided that no point of order shall have been considered to have been waived by agreeing to this request, and that the following committee amendments be excepted from this en bloc adoption request:

One, the BLM patent moratorium language beginning on page 3, line 14 at the colon, and continuing through the period at the end of line 5 on page 4; two, title III general provisions, section 312, page 101, lines 11 through 15.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc, with the following exceptions:

Amendment beginning on page 3, line 14 at the colon, and continuing through the period at the end of line 5 on page 4.

Amendment of title III, General Provisions, section 313, page 101, lines 11 through 15.

Mr. DOMENICI. Mr. President, I will shortly send the unprinted amendment to the desk. I want the Senate to know that, on Friday past, I spoke 20 or 25 minutes on this subject. That is why I have agreed tonight to 5 minutes. My friend, the chairman of the Appropriations Committee, Senator BYRD, spoke at length on this subject. We hope that Senators voting on this are aware of what we said there.

I will offer the amendment on behalf of myself, Senators BYRD, COCHRAN, BENTSEN, D'AMATO, DURENBERGER, NICKLES, GRAMM of Texas, STEVENS, REID, CRAIG, BOND, DECONCINI, and SIMPSON.

Mr. President, in addition to the three or four things I am going to quote, this amendment will have additional items in it, but I want to give the Senate a sense of what we are talking about.

One, a finding that the National Commission on Children, in their report, states:

> The news and entertainment media have a tremendous potential to educate children and expose them to other cultures and new ideas and recommends that the recording industry continue enhance its efforts to avoid a distribution of inappropriate material to children.

That is a quote from a very bipartisan commission headed by Senator ROCKEFELLER.

In addition, the Carnegie Council on Adolescent Development, in their executive summary, states:

> The news and entertainment media are significant influences on the attitudes and behavior of young adolescents. Great efforts, short of censorship, should be made to purge the media, particularly television and rock music programs, of their orgy of mindless violence. The news and entertainment media should be enlisted in efforts to promote health and reduce substance abuse, violence, irresponsible sexual behavior, and to provide a better understanding of sound nutrition and physical exercise.

We have some other very significant findings, and then we conclude that—

> The Senate supports the concept that corporate America and the officials of all American institutions can and should contribute positively to individual thought and conduct as key contributors to a healthy, responsible society, and individual human dignity; two, believes that corporate and institutional entities, their management and stockholders, advertisers and sponsors, should exercise positive and constructive oversight of their activities, without the sole test of their contributions based on profits, sales, and publicity.
>
> We strongly suggest that corporate America and the officials of American institutions weaken the moral fiber of the Nation by hiding behind faceless masks of such corporations and institutions in a relentless search for profits, sales, and publicity, without regard to the moral content of their product and services.

We then conclude:

> We strongly encourage the officers, employees, and shareholders of all-American corporations and institutions to insist upon the acceptance of personal responsibility for the moral flavor, content, and repercussion of activities, products, and services of their corporations and institutions.

Mr. President, I believe sooner or later—and the sooner the better—we are going to have a renaissance of values in America.

It seems to me that tonight the Senate is going on record, saying that American business, America's institutions and boards of directors, presidents and CEO's and chairmen of the boards, all have a personal responsibility to see to it, as we have stated here, that they exercise concern in their product, service, and whatever it is they are selling to the American public, because they are influencing the molding of young lives.

Having said that, I want to thank Senator SIMPSON, who provided this Senator with an exact excerpt of the speech given to Time-Warner by a distinguished actor named Charlton Heston. From that, I concluded that it was in order to produce this kind of amendment for the Senate to vote on.

I am prepared to vote soon, and I think it is an important statement that the Senate will be making tonight.

It is clear that the problems of the United States cannot be solved by new laws. What about old values? That is what we are talking about. We need help. The American citizens need help. The young people need help. And we urge individual responsibility from those who are making profit by selling the kinds of services that mold the lives of our young people and their thoughts.

AMENDMENT NO. 2867

(Purpose: To declare the sense of the Senate with respect to corporate responsibility)

Mr. DOMENICI. Having said that, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. BYRD, Mr. COCHRAN, Mr. BENTSEN, Mr. D'AMATO, Mr. DURENBERGER, Mr. NICKELS, Mr. GRAMM, Mr. STEVENS, Mr. REID, Mr. GRAIG, Mr. BOND, Mr. DECONCINI, and Mr. SIMPSON, proposes an amendment numbered 2867.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . CORPORATE RESPONSIBILITY.

(a) FINDINGS.—The Senate finds that—

(1) the National Commission on Children report states that "The news and the entertainment media have tremendous potential to educate children and expose them to other cultures and new ideas" and recommends "that the recording industry continue and enhance its efforts to avoid the distribution of inappropriate materials to children";

(2) the National Commission on Children report states that "In a free society, there will always be tension between freedom of expression and upholding common social values. Censorship is the antithesis of what we embrace. Forging common values will never depend solely on laws, but also on persuasion and example. Success will require thoughtful action and self-restraint by individuals and major institutions with the ability or potential to influence children's moral development. This makes the task of parents, public leaders, educators, media executives, entertainers, and advertisers more difficult, but no less important.";

(3) the Carnegie Council on Adolescent Development's executive summary of its publication Fateful Choices: Healthy Youth for the 21st Century states that, "the news and entertainment media are significant influences on the attitudes and behavior of young adolescents * * * Great efforts, Short of censorship, should be made to purge the media, particularly television and rock music programs, of their orgy of mindless violence. * * * The news and entertainment media should be enlisted in efforts to promote health, to reduce substance abuse, violence, irresponsible sexual behavior, and to provide a better understanding of sound nutrition and physical exercise.";

(4) the Massmutual American Family Values Program 1991 study states "Parents are challenged by the entertainment industry, while three out of four respondents think parents should be the primary influences on children, 68 percent think television, movies, rock music and videos are the biggest influence on developing children's values. While parents understand their own responsibility in teaching family values, a significant number indicated that the entertainment media could help by providing better role models for both parents and children.";

(5) in the June 1992 *Journal of the American Medical Association* article "Television and Violence," the author, Dr. Brandon S. Centerwall, states, "In a recent meta-analysis of randomized, case-control, short-term studies, exposure to media violence caused, on the average, a significant increase in children's aggressiveness as measured by observation of their spontaneous, natural behavior following exposure.";

(b) DECLARATION.—The Senate—

(1) supports the concept that corporate America and the officials of all American institutions can and should contribute positively to individual thought and conduct as key contributors to a healthy, responsible society and individual human dignity;

(2) believes that corporate and institutional entities, their management and stockholders, as well as their advertisers and sponsors, should exercise positive and constructive oversight of their activities without the sole test of their contributions based on profits, sales, and publicity;

(3) strongly believes that corporate America and the officials of all American institutions weaken the moral fiber of the nation by hiding behind the faceless masks of such corporations and institutions in a relentless search for profits, sales and publicity without regard to the moral content of their products and services;

(4) believes that the exercise of citizenship encompasses individual and community actions to promote responsible behavior and values; and

(5) strongly encourages the officers, employees, and shareholders of all American corporations and institutions to insist upon the acceptance of personal responsibility for the moral flavor, content and repercussions of the activities, products and services of their corporations and institutions.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. BYRD. Mr. President, on July 18, 1992, Mr. Charlton Heston delivered an unusual address to the shareholders of the Time-Warner Corp. regarding his views of the lyrics of songs being distributed under the label of that company. His point was that the music not only was inciteful for those who would take the law into their own hands, but was immoral and unacceptable from any reasonable standard of morality.

The day previously, Ms. Beverly Sills, a member of the Time-Warner Board, had also taken exception to Time-Warner's unwarranted defense of the rap artist Ice-T.

For American corporations to pander to the lowest common denominators on the moral scale and purvey material which must surely weaken and attack the moral standards and fiber of our society is more than distressing. It speaks directly to the question of the responsibility of the officers of our corporations and institutions. What influences do they think they are setting loose on the younger generations of Americans? Do they ever stop to think about the consequences of the products they are purveying on the behavior of our youth?

Do they have any concept of the effect that such products might have on the integrity of the family? Do they understand the challenge these products pose to the parents who are trying to instill moral values and standards on their children?

Mr. President, the meeting of the Time-Warner Corp. shareholders highlighted this problem, and the resolution we are offering calls the attention of the public and the shareholders of companies to their responsibility concerning the moral content of such products. The officials of all American institutions weaken our Nation's moral fiber if they hide behind the faceless masks of their institutions and do not step up to their personal responsibility over the basic moral content of such products. If they do not accept responsibility for such content, who will?

If this evasion of responsibility permeates our society, we are in danger of creating a new generation devoid of moral rudders, a generation which hears over our airwaves the refrain that anything goes. We all have to accept personal responsibility for the moral flavor, content and repercussions of the activities, products and services which corporations and institutions market. We must be particularly mindful of the impacts of these things on the youth of our society. I commend Mr. Heston for forcing this point across in the public way that he did at the meeting of shareholders of Time-Warner on July 18, and believe that if more of our people would step up to this challenge, we could begin changing the kind of products that are having such a deleterious effect on our society, its integrity, standards and family values.

Mr. President, I yield the remainder of my time to the Senator from Arizona.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute and 15 seconds.

Mr. BYRD. I yield that time to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank the President pro tempore.

I join in this amendment of the Senator from New Mexico and the Senator from West Virginia. I think it is proper that we express a view here of outrage from the standpoint of the first amendment. The first amendment has never guaranteed any speech whatever. You cannot yell or scream "fire" in a theater. The Supreme Court ruled that many, many years ago.

There is a limit of what can be perpetrated on the American public in any society based on the freedom of speech.

The Senator from New Mexico and the Senator from West Virginia have offered as a resolution what I think is very proper. I would only like to add to that resolution. If I had my amendment here, I would ask them to take it, and I am sure they would.

My amendment adds four paragraphs praising the police officers—as well as Charlton Heston—who have gone out and demonstrated in a very law-abiding way the outrage of the American public toward the Time-Warner Corp. for this type of musical endeavor. I am pleased that they have decided to rethink their policy, because there is no reason or justification for this.

But in addition to Charlton Heston and the two distinguished Senators who are offering this—and I hope unanimously, this body votes for it—are the police officers who stood up immediately and brought to the attention of the American public just how egregious is this particular song, if you want to call it a song. I have a hard time calling it a song. I know my distinguished colleague from West Virginia is a musician, and I am sure he cannot call it a real song.

This expression was so dramatically repugnant to our society, and not just the police officers. But they stood up early on and came to a conclusion that the conscience of America had to draw the line. And, indeed, we are drawing the line this evening.

I compliment the Senator from West Virginia and the Senator from New Mexico for their bold action tonight.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. All of the time has expired for the Senator from West Virginia.

Mr. DOMENICI. Mr. President, I ask unanimous consent to add Senator MURKOWSKI as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, technically I have 5 minutes. That is not the way it should be. I spoke for 4 minutes, and it did not come out of the time.

I yield back 4 minutes, and I have 1 minute remaining. I yield 30 seconds to the Senator from Wyoming, and the remaining time to the Senator from Alaska.

Mr. SIMPSON. Mr. President, I thank Senator BYRD and Senator DOMENICI for their work. Senator DOMENICI has expressed it well.

Let me say to those who have problems here with the first amendment, a sacred right which all of us possess, it does not preclude the condemnation of the speech of others which acts to desensitize civilized society.

The lyrics of the little ditty called "KKK Bitch"—if anyone wishes to have me send them a copy, I shall. They will find it beyond disgust. We ought to name names, and Charlton Heston did that. The name is Time-Warner, and the song, if you can call it that—I shall send you the lyrics. You will be totally appalled, not just politically, but as a person with any sensitivity whatsoever.

And if we do not speak for the United States in Congress, who does?

Mr. STEVENS. Mr. President, I congratulate Senator DOMENICI and Senator BYRD for bringing to the Senate a resolution which expresses in public, here on the floor of the Senate, the very sentiments we have been expressing to one another in the cloakrooms and in private.

It is time for us to speak out.

I thank my friend.

Mr. BYRD. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I want to clarify, there are no names in this amendment, either by way of those we speak of nor by way of names that we commend. This is generally to the American business community and institutions at large, anywhere they exist. It is that kind of a sense of this institution. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment 2867 offered by the Senator from New Mexico. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from Nebraska [Mr. EXON], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Utah [Mr. HATCH], and the Senator from Kansas [Mrs. KASSEBAUM] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] and the Senator from North

Carolina [Mr. HELMS] would each vote "yea."

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—89

Adams
Akaka
Baucus
Bentsen
Bingaman
Boren
Bradley
Brown
Bryan
Bumpers
Burns
Byrd
Coats
Cochran
Cohen
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NOT VOTING—11

Biden
Bond
Breaux
Burdick
Chafee
Conrad
Exon
Gore
Hatch
Helms
Kassebaum

So the amendment (No. 2867) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, under the order entered, the Senator from Nevada is to be recognized, and I hope he will yield to me briefly.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada [Mr. REID] is recognized to offer an amendment.

Mr. REID. Mr. President, I yield at this time to the manager of the bill.

PRIVILEGE OF THE FLOOR

Mr. BYRD. Mr. President, on behalf of Mr. DOMENICI, I ask unanimous consent that the privilege of the floor during the consideration of the pending bill be granted to Mr. Mike Ford, a member of Mr. DOMENICI'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NUMBERED 2869 THROUGH 2880

Mr. BYRD. Mr. President, I have a series of amendments on behalf of Senators which I shall now enumerate:

A Byrd-Nickles technical amendment to correct the citation for provision in the strategic petroleum reserve account related to the sale of naval petroleum reserve oil;

A Byrd-Nickles technical amendment which is a clarification of oil spill research appropriation language;

A Byrd-Nickles amendment pertaining to the Bureau of Indian Affairs, as a clarification of bill language related to allocation of funds provided for general assistance;

A Byrd amendment on NPS, with bill language clarifying use of Fayette Station Bridge funds;

A Leahy amendment to restore $500,000 of reduction taken for Forest Service, Green Mountains land acquisition, Vermont;

A Chafee amendment to add $1,500,000 for Fish and Wildlife Service land acquisition at Block Island, RI;

A Glenn amendment to add $50,000 for NPS—Dayton Aviation Heritage Commission;

A Specter amendment to add $200,000 to restore Fish and Wildlife funding for continued research at the Monell Chemical Senses Laboratory in Philadelphia;

A Inouye amendment on the Flathead Indian irrigation project to clarify use of prior year funds for nonconstruction purposes;

A Craig amendment to add Idaho Panhandle and Kootenai National Forests as sites for land management stewardship contracts;

A Baucus/Burns amendment to reallocate $750,000 from Lewis & Clark NF land acquisition to Forest Service construction for Helena Ranger District site ($650,000) and to NPS tourism office ($100,000);

A Bingaman amendment to transfer $150,000 from NPS operations for Mimbres National Monument to BLM construction to begin rehabilitation of the "Boots and Saddles" historic fort sites.

Mr. President, I offer these amendments en bloc, which have been agreed upon by my colleague, the ranking minority member of the committee, Mr. NICKLES, and I ask unanimous consent that they be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The Senator from West Virginia [Mr. BYRD] proposes amendments, en bloc, numbered 2869 through 2880.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendments be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2869

On page 75, line 22 of the bill, strike "6244b" and replace it with "6249b".

AMENDMENT NO. 2870

On page 29, line 5 of the bill, strike the following: "the Oil Spill Liability Trust Fund, pursuant to".

On page 29, line 7 of the bill, insert the following before the word "Fund": "Oil Spill Liability Trust".

On page 29, line 8 of the bill, insert a period after the word "expended" and strike "to carry out the purposes of the Fund in accordance with title VII of that Act."

AMENDMENT NO. 2871

On page 38, line 12 of the bill, strike the word "who" and insert after the word "individuals", the following: "within the service area of such tribe".

On page 38, line 17 of the bill, insert after the word "tribes": ": *Provided further*, That any such change must be part of a comprehensive tribal plan for reducing the long-term need for general assistance payments: *Provided further*, That any such tribal plan must incorporate, to the greatest extent feasible, currently existing social service, educational training, and employment assistance resources prior to changing general assistance eligibility or payment standards which would have the effect of increasing the cost of general assistance: *Provided further*, That any net increase in costs to the Federal government which result solely from tribally-increased payment levels shall be met exclusively from funds available to the tribe from within its tribal priority allocation".

AMENDMENT NO. 2872

On page 21, line 23, before the period, insert the following: ": *Provided further*, That of the funds provided under this heading, $4,200,000 shall be available to the State of West Virginia for replacement construction of the Fayette Station Bridge in the New River Gorge National River".

AMENDMENT NO. 2873

On page 58, line 7, strike "$62,490,000" and insert in lieu thereof: "$62,990,000".

AMENDMENT NO. 2874

On page 16, line 4, strike "$77,115,000" and insert in lieu thereof: "$78,615,000".

AMENDMENT NO. 2875

On page 18, line 24, strike "$988,730,000" and insert in lieu thereof: "$988,780,000".

AMENDMENT NO. 2876

On page 14, line 17, strike "$530,977,000" and insert in lieu thereof: "$531,177,000".

AMENDMENT NO. 2877

On page 39, line 12 of the bill, insert after the word, "Affairs", the following: "*Provided further*, That funds appropriated in fiscal year 1991 (Public Law 101–512) and fiscal year 1992 (Public Law 102–154) and allocated by the Bureau of Indian Affairs to the Flathead Agency Irrigation Division for irrigation construction, including funds to provide continuous monitoring and recording instrumentation of the movement, quantities, and distribution of irrigation water in the various on-reservation streams and irrigation canals, shall be made available on a nonreimbursable basis and shall not be included as funds subject to the appropriation limit established in the Act of May 25, 1948 (62 Stat. 269), as amended by the Act of October 8, 1964 (78 Stat. 1042)".

AMENDMENT NO. 2878

On page 67, line 23, after the word "Dixie", insert the following: ", Idaho Panhandle, Kootenai".

AMENDMENT NO. 2879

On page 58, line 7, reduce the italicized number by $750,000;

On page 57, line 12 and page 57, line 13, increase the italicized numbers by $650,000; and

On page 18, line 24, increase the italicized number by $100,000.

AMENDMENT NO. 2880

On page 6, line 7, strike "$17,763,000" and insert "$17,913,000".

On page 18, line 24, strike "$988,730,000" and insert "$988,580,000".

AMENDMENT NO. 2880

Mr. BINGAMAN. Mr. President, I am proposing an amendment to the fiscal year 1993 Interior appropriations bill that will shift $150,000 in funding from the National Park Service to the Bureau of Land Management. Before I provide the details for what this entails, Mr. President, I want to reiterate that this amendment does not increase or decrease the total appropriation for the Interior Department. It is budget neutral, and merely shifts funding from one account to another in order to accomplish several public lands goals in New Mexico.

The Senate bill includes $500,000 for the National Park Service to operate and maintain the Mimbres National Monument. However, the Park Service has informed me that the work they have planned at Mimbres—administrative operations and research and planning efforts—could easily be accomplished with $350,000 in funding. In contrast, the Bureau of Land Management did not receive any funding for their very important work on the Boots and Saddles initiative. Boots and Saddles refers to the seven historic military forts in New Mexico that the BLM is studying, stabilizing, protecting and interpreting for public use and enjoyment. In order to work on two sites, Fort Cummings and Fort Craig, BLM needs $150,000 in its funding in fiscal year 1993. These moneys will allow BLM to issue construction and architectural and engineering contracts and to conduct associated project administration and facilities maintenance. Therefore, I am proposing an amendment to the fiscal year 1993 Interior bill that will allow the National Park Service to transfer $150,000 of funding to the Bureau of Land Management.

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments (Nos. 2869 through 2880) were agreed to.

Mr. REID. Mr. President, I ask unanimous consent to temporarily lay aside the first committee excepted amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Parliamentary inquiry. Mr. President, it is my understanding that the pending business is the second committee excepted amendment.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2868

(Purpose: To make improvements in mining law)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. DOMENICI, Mr. DECONCINI, and Mr. BRYAN proposes an amendment numbered 2868.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of line 15, page 101, add the following new section:

( ) MINING PROVISIONS.—

(1) PAYMENT OF FAIR MARKET VALUE.—Any person receiving a patent pursuant to the Act commonly known as the Mining Law of 1872 (sections 2319 et seq. of the Revised Statutes) shall pay fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land.

(2) LIMITATIONS.—

(A) IN GENERAL.—Any land patented after the date of enactment of this Act pursuant to section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42) shall be used only for mineral exploration, mineral development, mining, mineral processing, benefication, or uses reasonably incident to those uses, except with the approval of the Secretary.

(B) REVERSION.—Title to the land referred to in subparagraph (A) shall revert to the United States if the land is used for any unauthorized or unapproved use, and the unauthorized or unapproved use is not discontinued within a time period specified by the Secretary (but not earlier than 90 days after the Secretary gives the owner of the land written notice to discontinue the unapproved use) and if the Secretary elects to enforce the reversionary interest. The reversion shall be made effective if the Secretary files a declaration of reversion in the office of the Bureau of Land Management designated by the Secretary of the Interior, and records the declaration in the county recorder's office of the county in which the lands subject to a reversion under this paragraph are situated. Not later than 30 days after recording the declaration of reversion, the Secretary shall serve on the owner of the reverted lands a recorded copy of the declaration, in the same manner that a summons and complaint are served under the Federal Rules of Civil Procedure under title 28, United States Code.

(C) RENOUNCING OF REVERSIONARY INTEREST.—If the Secretary finds that it would not be in the best interest of the United States to exercise the reversion for any reason, including any case in which—

(i) any portion of the lands included in the patent have been used for solid waste disposal or for any other purpose that may result in the disposal, placement, or release of a hazardous substance; or

(ii) continuance of the reverter serves no public purpose,

the Secretary may renounce the reversionary interest of the United States in the lands included in the patent by filing and recording a declaration of renouncement in the same offices in which a declaration of reverter would have been filed. In the event the Secretary fails to file and record a declaration of reverter within 8 years after an authorized use commences on the patented lands, the reversionary interest of the United States shall terminate.

(D) REQUIREMENT FOR PATENTS.—Each patent to land acquired under section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42 (shall state that the patent is subject to the provisions of this subsection.

(3) RECLAMATION.—Any land patented after the date of enactment of this Act shall be subject to the mining reclamation law of the State in which the land is located. In the absence of applicable State mining reclamation law, the land shall be subject to Federal mining reclamation law. Each patent shall recite that as a condition of the patent, the land patented shall be reclaimed to comply with Federal law or to comply with the mining reclamation law of the State in which the land is located.

(4) DEFINITIONS.—As used in this subsection:

(A) HAZARDOUS SUBSTANCE.—The term "hazardous substance" has the same meaning provided the term under section 101(14) of the Comprehensive Response, Compensation and Liability Act (42 U.S.C. 9601(14)).

(B) SECRETARY.—Unless specifically designated otherwise, the term "Secretary" means—

(i) the Secretary of the Interior with respect to patents issued for lands over which the Bureau of Land Management has jurisdiction; or

(ii) the Secretary of Agriculture with respect to patents issued for lands within national forests.

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ON VISION THINGS AND MADMEN: BUSH'S SORRY RECORD ON IRAQ

Mr. CRANSTON. Mr. President, on March 7, 1991, President Bush gave his State of the Union Address to Congress. It was a singularly unremarkable speech, given the drama of the time, high noon in Baghdad and all that.

There was one statement, however, that did stand out, implausible as it was for those of us who remembered the Bush administration's coddling of Saddam Hussein.

It stood out too for those of us who remembered the glorified labor relations dispute between one-time CIA asset Manuel Noriega and his former boss, President Bush.

And it stood out for those of us who remember the drunken Argentine dirty war that Gen. Leopoldo Galtieri who, having supped at the banquet of praise of the Reagan-Bush crowd—National Security Adviser Richard V. Allen and Defense Secretary Caspar Weinberger called him "impressive" and a "majestic personality"—attached militarily our treasured NATO ally, Great Britain.

The phrase that stood out from President Bush's lips was this: "It's time to put an end to micromanagement of foreign and security assistance programs, micromanagement that humiliates our friends and allies and hamstrings our diplomacy."

Mr. President, I am sure my colleagues are all well aware of Representative HENRY B. GONZALEZ' pathbreaking investigation into the provision of credit and assistance to Iraq by the administration in the run-up to the gulf war.

I am also sure that they are aware of the false and misleading testimony given by Bush administration envoy Ambassador April Glaspie to the Senate Foreign Relations Committee, in which she portrayed our diplomacy's efforts in Churchillian terms, when State's real performance better resembled that of Neville Chamberlain.

I mention these, Mr. President, as the backdrop for today's story in the Washington Post.

Just when one feels he or she has heard it all; that every possible variation of incompetence, deceit or ill-intent has been aired, this administration's record pops up like burnt toast to the distaste of all of us who hunger for a real new and better world order.

According to today's Post, in an excellent article by reporter R. Jeffrey Smith, part of the Bush administration sought to establish a military assistance program with Baghdad just 3 months before Saddam invaded Kuwait.

The case that was made for such help, that it would increase U.S. access and influence, is a familiar argument, one that the administration trots out as a multipurpose justification for otherwise unjustifiable programs.

The proposal was finally nixed by the State Department, apparently afraid of the domestic political repercussions that would have come as a result of this logical outgrowth of the administration's pro-Saddam policies.

This outcry, this micromanagement, bewailed by the President in his State of Union Message, helped keep what was a foreign policy blunder from becoming a burlesque.

As the Post account correctly notes, today's revelation adds a military dimension to previous revelations of United States support for expanding United States-Iraq commercial ties and continuing the sharing of sensitive United States intelligence information with Baghdad when Saddam was building up his war machine.

Mr. President, one of the continual dangers we in this Chamber face in the area of foreign policy is that in ceding ground due to administration requests for flexibility in foreign policy, we are really giving them a free hand.

President Bush claims that congressional micromanagement humiliates our friends and allies. He worries that by exercising our constitutional role we are hamstringing U.S. policy.

Mr. President, the record shows that this administration, and the one that preceeded it, has a desperately poor record in determining who are our real friends and allies.

We've fought two wars—in the gulf and in Panama—based on those mistakes, while our long-time friend Great Britain was left to its own resources in beating back a challenge from Argentina's military brownshirts.

As far as worries about hamstringing U.S. foreign and security policies, perhaps that would be a concern. If we had them.

I ask unanimous consent that a copy of the Post article be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 4, 1992]

PENTAGON SOUGHT EXCHANGE WITH IRAQ

(By R. Jeffrey Smith)

The Department of Defense and the Joint Chiefs of Staff sought to establish a military training and exchange program with Iraq less than three months before that country's armed forces invaded Kuwait in August 1990, internal Pentagon documents show.

The department's proposal called for training Iraqi soldiers in land mine countermeasures, aerial reconnaissance and field operations, plus arranging reciprocal visits to war colleges and other exchanges, the classified documents state. The aim, one document shows, was to increase U.S. "access and influence" with the Iraqi military.

The Joint Chiefs suggested starting the exchanges in response to a secret directive by President Bush in October 1989 ordering consideration "on a case-by-case basis" of non-lethal, military assistance to Iraq. But the State Department evidently blocked the plan out of concern that it would provoke a domestic political outcry, the documents show.

The documents, which were surrendered by the administration to Democratic legislators investigating U.S. policy toward Iraq before the Persian Gulf War, add a military dimension to previous revelations of U.S. support for expanding U.S.-Iraqi commercial ties and continuing the sharing of sensitive U.S. intelligence information with Baghdad when the government there was building up its war machine.

Spokesmen for the Defense Department and Joint Chiefs of Staff yesterday declined to comment on the plan. But a House Foreign Affairs subcommittee chairman, Sam Gejdenson (D-Conn.) said the documents raise new questions about Washington's willingness to enhance Baghdad's military prowess when other Middle East nations viewed Iraqi forces as a growing regional menace.

"Even after [Iraqi President] Saddam Hussein threatened [in April 1990] to 'burn half of Israel' with binary chemical weapons, attempted [in March 1990] to smuggle nuclear triggers, and moved missile bases [in early 1990] closer to Israel, the Department of Defense wanted to provide him with military assistance," Gejdenson said. "What could DOD have have been thinking?"

According to the documents, the plan was put forward in response to Bush's National Security Directive (NSD) 26 of October 1989. The directive called for establishing new military ties and various other U.S. "incentives" aimed at moderating Iraqi behavior and promoting long-term stability in the Middle East.

Attempting to pull Iraq closer to the West, the Bush administration approved an additional $1 billion in agricultural trade credits for Iraq, expanded U.S. exports of sensitive high-technology goods and fended off congressional calls to punish Iraq with trade sanctions for human rights abuses and the gassing of ethnic Kurds.

The roots of the plan evidently lay in a June 29, 1989, cable to Washington from Joseph Wilson III, who on that day was acting U.S. ambassador in Baghdad. Wilson said in the cable that "now is the time to test the sincerity" of recent Iraqi statements favoring a broader dialogue with Washington by approving some "low-cost" exchanges urged by the Iraqi Ministry of Defense.

"We are under no illusion about the Iraqis. This is a police state," the cable said. But it added that Iraqi leaders had recently shown "a modicum of political maturity" by promising not to use chemical weapons first in war and by promptly compensating Washington for an Iraqi warplane's accidental attack on the USS Stark in May 1987.

Five months later, the U.S. Central Command in Tampa said in a cable to Washington that "we concur with Ambassador [to Iraq April] Glaspie that implementation of low-level, non-lethal military assistance would greatly facilitate developing an improved military dialogue with and access to the senior military leadership and the government of Iraq."

The cable from the Central Command, then headed by Army Gen. H. Norman Schwarzkopf, listed 10 separate initiatives that should be pursued with Iraq. They ranged from supplying Army field manuals and English language textbooks to training Iraqi personnel in military medicine, mine countermeasures, aviation security and "IR [infrared] countermeasures for the [Iraqi] president's aircraft."

As head of the Central Command, Schwarzkopf was responsible for U.S. military action in most of the Middle East and Persian Gulf. Fourteen months later, he directed the international military campaign that ousted Iraqi forces from Kuwait.

In January 1990, a secret cable to Schwarzkopf from the director of strategic plans and policy for the Pentagon's Joint Staff reported that "notwithstanding the President's NSD 26 declaration" favoring the idea, the State Department has decided "the U.S. domestic political climate . . . [was not] supportive of increased military relations" with Iraq.

In view of the State Department's concerns, the Pentagon was unable to obtain a formal presidential determination that would have made Iraq eligible to receive direct U.S. military assistance, according to the cable. The cable therefore advised Schwarzkopf to get around the political obstacles by beginning military training, staff visits and "other localized contact" with Iraq that would not be funded by the Defense Department.

A Central Command spokesman said yesterday he was unfamiliar with the Joint Staff proposal or the earlier Schwarzkopf plan.

There is evidence that neither plan was realized. A Joint Chiefs of Staff position paper, written for an interagency meeting of senior administration officials on May 29, 1990, reported for instance that "U.S. military-to-military relations with Iraq are nearly nonexistent."

But senior military officials continued to favor establishing such ties. The May 29 paper asserted that "allowing low-level, nonlethal military-to-military exchanges would be a positive tool for U.S. policy in the region." It also noted the Joint Chiefs' opposition to halting trade with Iraq, which some legislators were seeking then because of Iraqi threats against Israel.

VOTING RIGHTS IMPROVEMENT ACT OF 1992

Mr. MITCHELL. Mr. President, certain provisions of the Voting Rights Act of 1965, which relate to bilingual election requirements, are to expire under the terms of that act on Thursday, August 6. There is now pending on the calendar an act to amend the Voting Rights Act of 1965, with respect to those bilingual election requirements. It is Calendar Order No. 581, and the bill is H.R. 4312.

Because of the importance of the legislation and the immediacy of the expiration, I have sought to obtain consent from our colleagues to bring this legislation before the Senate, so that action could be taken on it prior to the expiration date.

I have been advised by the distinguished Republican leader that there is objection by one or more Republican Senators to bringing the bill before the Senate at this time, and that my request for unanimous consent to do so would be objected to.

Accordingly, Mr. President, I have informed the distinguished Republican leader and the interested Senators on both sides of the aisle, and on both sides of the issue, that no alternative remains for me but to file a cloture petition on the motion to proceed to the bill, so that we can, if the Senate chooses to invoke cloture and terminate the debate on that motion, then proceed to act on the bill and amend it accordingly.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I now move to proceed to H.R. 4312, a bill to amend the Voting Rights Act of 1965 with respect to bilingual election requirements, and I send to the desk a cloture motion on the motion to proceed, and I ask that the cloture motion be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on motion to proceed to H.R. 4312, a bill to amend the Voting Rights Act of 1965 with respect to bilingual election requirements:

George Mitchell, Frank Lautenberg, Paul Wellstone, Daniel K. Inouye, Howard M. Metzenbaum, Alan Cranston, Herb Kohl, Dale Bumpers, Lloyd Bentsen, Dennis DeConcini, Barbara A. Mikulski, Tom Daschle, Charles S. Robb, Claiborne Pell, Paul Simon, Bob Kerrey, Edward M. Kennedy.

Mr. MITCHELL. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. MITCHELL. Mr. President, I ask unanimous consent that, with respect to the vote on the cloture motion just filed, the live quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent, notwithstanding the failure to adjourn the Senate prior to the motion to proceed to the act to amend the Voting Rights Act of 1965, that it have been in order to so proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

A message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 959. An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson;

S. 2759. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve certain nutrition programs, to improve the nutritional health of children, and for other purposes; and

H.R. 5566. An act to provide additional time to negotiate settlement of a land dispute in South Carolina.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2060. A bill to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act, and for other purposes (Rept. No. 102–358).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1675. A bill to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and household goods freight forwarders, and for other purposes (Rept. No. 102–359).

S. 2701. A bill to authorize appropriations for fiscal year 1993 for the Maritime Administration, and for other purposes (Rept. No. 102–360).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Carolyn P. Chiechi, of Maryland, to be a judge of the U.S. Tax Court for a term expiring 15 years after she takes office; and

David Laro, of Michigan, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON:

S. 3127. A bill to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for Mr. HATCH):

S. 3128. A bill to amend the Higher Education Act of 1965 to encourage lifelong learning by permitting students attending a program of postsecondary education on a less than half-time basis to receive Pell Grants and Guaranteed Student Loans, and authorizing the Student Loan Marketing Association to originate loans to enable students to borrow up to $25,000 under a Lifelong Learning Line of Credit for education and job training that shall be repaid based on the borrower's ability to pay, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself, Mr. COCHRAN, and Mr. REID):

S. 3129. A bill to create a National Commission on School Finance to Meet the National Education Goals; to the Committee on Governmental Affairs.

By Mr. WOFFORD:

S. 3130. A bill to authorize the Administrator of the Environmental Protection Agency to award grants to political subdivisions of States for environmental testing and characterization in enterprise zones, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PACKWOOD (for himself, Mr. KENNEDY, Mr. STEVENS, Mr. BRADLEY, and Mrs. KASSEBAUM):

S.J. Res. 329. a Joint resolution to designate February 4, 1993 and February 3, 1994, as "National Women and Girls in Sports Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NICKLES (for Mr. BOREN (for himself and Mr. NICKLES)):

S. Res. 329. A resolution to commend Shannon Miller for her performance in the 25th Olympiad; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON:

S. 3127. A bill to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf, and for other purposes; to the Committee on Energy and Natural Resources.

OUTER CONTINENTAL SHELF DEEP WATER PRODUCTION INCENTIVES ACT

• Mr. JOHNSTON. Mr. President, I rise today to introduce the Outer Continental Shelf Deep Water Production Incentives Act. This legislation is intended to address the serious decline in oil and gas leasing and development activity in the areas of the Outer Continental Shelf, such as the Gulf of Mexico, where the program historically has been active. The legislation does not address the controversial issues of OCS leasing moratoria or lease buybacks.

Mr. President, the political and economic climate in this country is not favorable to oil and gas development on the Outer Continental Shelf. The OCS Leasing Program has been embroiled in years of controversy and strife. As a result, oil and gas production has taken place in only limited areas of the OCS: the central and western Gulf of Mexico and off southern California.

The Outer Continental Shelf provides important oil and gas resources for our Nation. Approximately 10 percent of domestic oil and 25 percent of domestic gas is produced from the OCS. The OCS contains approximately one-fourth of all domestic estimated oil and gas reserves. The central and western Gulf of Mexico account for 90 percent of the oil and 99 percent of the gas produced from the OCS.

The fact that our domestic oil and gas industry is in serious trouble was made evident to me by the disturbing results of the most recent OCS lease sale in the central Gulf of Mexico, offshore Louisiana. That sale, held in May of this year, produced the lowest amount in bids in over 20 years. Out of 5213 tracts offered for sale, only 151 actually received bids. The sale compared poorly with sales in recent years. Last year, for example, almost five times the amount of bonus bids was received on a roughly comparable sale.

This alarming decrease in OCS activity coincides with signs that the oil and gas industry in this country is in decline. The active rotary rig count has fallen to levels not seen since 1942. Domestic exploration budgets are being slashed, with greater decreases projected for the future. Major companies are expected to increase spending overseas by over 9 percent this year at the expense of domestic exploration and production.

This translates into lost jobs. Thousands of people are being laid off. The oil and gas industry has lost over 400,000 jobs over the last 10 years, more than the steel and automobile industries combined. Experts predict that 40,000 to 50,000 jobs will be lost in the industry this year. One economist at Louisiana State University projects that 2500 oil field workers in Louisiana will lose their jobs this year alone.

Mr. President, this legislation is intended to address this grave situation by providing incentives for production of resources in deep waters on the Outer Continental Shelf. The legislation provides that royalty payments will not be required on production from leases in water depths of 200 meters or more until such time as the capital investment costs related to the production have been recovered by the lessee out of proceeds from such lease. The provision applies to leases from which royalties are first received by the Secretary after the date of enactment of the legislation. The royalty relief does not apply in any calendar year when the price of oil exceeds $34 per barrel for two consecutive quarters.

Mr. President, the deep waters of the OCS, and particularly the Gulf of Mexico, hold promise for having substantial oil and gas reserves that could prove crucial to our domestic energy security. According to Department of the Interior estimates, there are some 11 billion barrels of oil equivalent in the Gulf of Mexico in waters of a depth of 200 meters or more.

At the same time, the costs of producing these resources are substantial and increase significantly with water depth. One industry estimate places capital investment costs for a conventional fixed leg platform in 800 feet of water at $360 million, compared to costs of nearly $1 billion for a conventional tension leg platform in 3,000 feet of water.

This legislation should help to provide the incentives necessary for production of important oil and gas resources in the deep waters such as those of the central and western Gulf of Mexico by allowing lessees to recover their capital investment prior to the imposition of royalty payments. The bill will provide a much-needed jump-start for the domestic industry. It will also yield much-needed oil and gas resources for our Nation at a time when imports continue unabated.

Mr. President, this bill represents only one approach to addressing this problem. Other proposals have been made regarding modification of Federal OCS royalty requirements as a means of providing incentives for deep water production. Included among these are proposals to tie the Federal OCS royalty rate for deep water leases to the price of oil and to lower Federal royalty rate for a fixed period of time for deep water leases. I look forward to hearing more about these alternative approaches as we consider the best means to address this serious situation.

I urge my colleagues to join me in supporting this important legislation. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3127

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Outer Continental Shelf Deep Water Production Incentives Act."

SEC. 2. The Outer Continental Shelf Lands Act, as amended, is amended by redesignating section 8(a)(3) as section 8(a)(3)(A) and by adding at the end thereof the following:

"(B)(i) Notwithstanding any other provision of this Act, with respect to any lease located in water depth of 200 meters or greater from which royalties are first received by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Production Incentives Act, no royalty payment shall be required on production from such lease until the capital investment costs related to such production have been recovered by the lessee out of proceeds from such lease.

"(ii) For purposes of this subparagraph, capital investment costs shall include exploration costs incurred after the acquisition of the lease and development costs, as defined by the Secretary. Such capital investment costs shall not include any amounts paid as bonus bids.

"(iii) The provisions of this subparagraph shall not apply in any calendar year when the arithmetic average of the daily drive postings on the New York Mercantile Exchange for West Texas Intermediate crude oil exceeds $34.00 per barrel for two consecutive quarters.

"(iv) The $34.00 per barrel price of crude oil referred to in clause (iii) of this subparagraph shall be increased during any calendar year after 1993 by the percentage if any by which the consumer price index for the preceding calendar year, as defined in section (1)(f)(4) of title 26 of the United States Code, exceeds the consumer price index for calendar year 1993.

"(v) Nothing contained in this subparagraph shall affect the amount of any payment to a state made pursuant to this Act.".

SEC. 3. The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this Act within 120 days after the date of enactment of this Act.

By Mr. DOLE (for Mr. HATCH):

S. 3128. A bill to amend the Higher Education Act of 1965 to encourage lifelong learning by permitting student attending a program of postsecondary education on a less than half-time basis to receive Pell grants and guaranteed student loans, and authorizing the Student Loan Marketing Association to originate loans to enable students to borrow up to $25,000 under a lifelong learning line of credit for education and job training that shall be repaid based on the borrower's ability to pay, and for other purposes; to the Committee on Labor and Human Resources.

LIFELONG LEARNING ACT

• Mr. HATCH. Mr. President, over the past months we have focused our attention on improving the education of our youth; but, today I want to focus that attention on learning for Americans of all ages. On behalf of President Bush, I am introducing the Lifelong Learning Act of 1992.

The Lifelong Learning Act of 1992 would provide students who would not otherwise qualify for financial aid because of their less than half-time academic workload with the financial backing they need to return to school.

The fifth National Education Goal states:

> Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

This legislation accentuates the need for all citizens to actively pursue continuing education.

Society always benefits when citizens are committed to a life of learning. But, in an economy characterized by rapidly changing technology, organizations, services, and manufacturing, the sill requirements of new jobs are outstripping the sill levels of our labor force and education in the form of job training has become even more significant. More than ever, we need workers who are literate, creative problem solvers, and who can adapt to ever changing technologies. One way Americans can learn to adjust to these changes is through continual, lifelong education.

Gone are the days when a march across a stage to receive a high school or even a college diploma signaled the end of formal education. The ideas incorporated in this legislation can help create a dynamic Nation of citizen learners.

This bill can help advance these opportunities. Although some of the concepts embodied in the President's proposal were incorporated into the Higher Education Act, the idea of lifelong learning should still be at the forefront of our discussions on education and competitiveness.

The search for knowledge should continue well past our youth. It says something important about our national character when adults, even senior adults, seek out learning opportunities in both formal and informal settings. I commend President Bush for following up on this key aspect of his America 2000 plan.

Mr. President, I ask unanimous consent that the test of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Lifelong Learning Act of 1992."

ELIGIBILITY OF LESS THAN HALF-TIME STUDENTS FOR PELL GRANTS

SEC. 111. Section 411(b) of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq., hereinafter referred to as "the Act") is amended—

(1) in paragraph (2)(B), by inserting after "full-time basis" the first time it appears the following: "(including a student who attends an institution of higher education on a less than half-time basis)"; and

(2) by striking out paragraphs (6) and (7).

ELIGIBILITY OF LESS THAN HALF-TIME STUDENTS FOR LOANS

SEC. 112. (a) FISL PROGRAM.—Section 427 of the Act is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) made to a student who (A) is an eligible student under section 484, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and"; and

(B) in paragraph (2)—

(i) in subparagraph (B)(i), by striking out the semicolon at the end thereof and inserting in lieu thereof "and subsection (d);"; and

(ii) in subparagraph (C), by inserting immediately after the subparagraph designation the following: "subject to subsection (d),"; and

(2) by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR LESS THAN HALF-TIME STUDENTS.—A borrower who is attending an eligible institution on a less than half-time basis (as determined by the institution)—

"(1) shall be required—

"(A) without regard to the borrower's less than half-time attendance, to repay any loan received while attending an eligible institution on at least a half-time basis; and

"(B) to commence repayment of any loan received under this part while attending on a less than half-time basis immediately upon ceasing such attendance; and

"(2) may receive deferments under subsection (a)(2)(C) for a loan received while attending on a less than half-time basis.".

(b) GSL PROGRAMS.—Section 428(b) of the Act is amended—

(1) in paragraph (1)—

(A) in the matter preceding clause (i) of subparagraph (A), by striking "who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution)" and inserting "who is enrolled at an eligible institution";

(B) in subparagraph (E)—

(i) by inserting immediately after "subject to" the following: "paragraph (7), and"; and

(ii) by inserting a comma immediately after "this paragraph" the first place it appears; and

(C) in subparagraph (M), by inserting immediately after the subparagraph designation the following: "except as provided in paragraph (7),"; and

(2) by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR LESS THAN HALF-TIME STUDENTS.—A borrower who is attending an eligible institution on a less than half-time basis (as determined by the institution)—

"(A) shall be required—

"(i) without regard to the borrower's less than half-time attendance, to repay any loan received while attending an eligible institution on at least a half-time basis; and

"(ii) to commence repayment of any loan received under this part while attending on a less than half-time basis immediately upon ceasing such attendance; and

"(B) may receive deferments under paragraph (1)(M) for a loan received while attending on a less than half-time basis.".

STUDENT LOAN MARKETING ASSOCIATION AMENDMENTS

SEC. 113. LIFELONG LEARNING LINE OF CREDIT.—Section 439 of the Act is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraph (3) and (4), respectively; and

(B) by inserting immediately after paragraph (1) the following: "(2) through such corporation, to enable postsecondary students, including working men and women desiring to upgrade their job skills, and unemployed individuals, or those not in the labor force, who are seeking new skills, to borrow funds as described in subsection (r);"

(2) in subsection (d)(1)—

(A) in subparagraph (D), by striking out "and" at the end thereof;

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting immediately after subparagraph (D) the following:

"(E) to issue obligations to carry out the purposes of subsection (r), in the amount specified therein; and"; and

(3) by adding at the end thereof the following new subsection:

"(r) LIFELONG LEARNING LINE OF CREDIT.—(1) ORIGINATION OF LOANS.—In order to enhance the lifetime education and training opportunities available to all Americans, including working men and women desiring to upgrade their job skills, or unemployed individuals, or those not in the labor force, who are seeking new skills, the Association is authorized to originate loans for students who are enrolled at eligible institutions (including those students who are enrolled on a less than half-time basis), as part of a line of credit under the terms and conditions described in this subsection. For purposes of this subsection, the Association may, with the approval of the Secretary of the Treasury, issue obligations in an amount not to exceed $100,000,000 for fiscal year 1993 and each succeeding fiscal year. Additional obligations may be issued, subject to such approval, if needed to satisfy the demand for Lifelong Learning Loans. Such obligations shall have such maturities, and bear such rates of interest, as may be determined by the Association.

"(2) LOAN LIMITS.—A student who is enrolled at an eligible institution, and the parents of a dependent student so enrolled, may borrow up to $25,000 in the aggregate. Such aggregate shall apply to the sum of all loans made under this subsection to a student and to a parent for the benefit of such student. In no case may loans made under this subsection for a period of enrollment exceed the student's cost of attendance for such period of enrollment.

"(3) LOAN TERMS AND REPAYMENT.—(A) The Secretary shall negotiate an agreement with the Association specifying the terms of loans originated under this subsection, which shall include the establishment of income-contingent repayment schedules satisfactory to the Secretary and the Association for such loans. Such agreements shall also specify the maximum interest rate that the Association may charge, and such other terms as may be required to accomplish the purposes of this subsection.

"(B) The Secretary may establish in regulations the procedures necessary for the efficient collection of loans made under this subsection. Notwithstanding any other provision of law, the Secretary may enter into such arrangements with other Federal agencies as the Secretary determines are necessary to support the efficient administration of the program by the Association.

"(4) ELIGIBLE PROVIDERS OF TRAINING.—The Secretary, in consultation with the Secretary of Labor, may specify in regulations such other types of providers of training not currently eligible to participate in programs under this part, such as community-based organizations, public or private agencies, and private sector employers, that, along with other institutions, may be considered eligible for participation for purposes of loans made under this subsection, provided that the Secretary determines that adequate controls on program integrity and accountability can be maintained, and that participation would supplement, and not supplant, current expenditures for training by such providers.

"(5) OTHER TERMS AND CONDITIONS.—The Secretary, in consultation with the Association, may establish in regulations such other terms and conditions for loans under this subsection as are consistent with the purposes of this subsection.".

STUDENT ELIGIBILITY

SEC. 114. Section 484(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding subsection (a), in order to be eligible to receive a loan under part B of this title (other than a loan under section 428C) a student who is enrolled at an eligible institution on a less than half-time basis (as determined by the institution) shall be—

"(A) enrolled in a program of study leading to a degree or certificate; or

"(B) enrolled in training designed to prepare students for gainful employment in a recognized occupation.".

FEASIBILITY STUDY

SEC. 115. (a) Notwithstanding any other provision of law, the Secretary, in consultation with the Secretary of Labor, shall examine the feasibility of using advanced automated technology to integrate the multiple data systems relating to the benefits available to students under Federal postsecondary education and training programs.

(b) The Secretary of Education shall report his findings to Congress within one year of the date of enactment of this Act.

(c) There are authorized to be appropriated $1,000,000 to carry out the study authorized by this section.

PROVISION TO ENSURE BUDGET NEUTRALITY; INDEPENDENT STUDENT DEFINITION

SEC. 116. Section 480(d) of the Act is amended to read as follows:

"(d) INDEPENDENT STUDENT.—(1) The term 'independent,' when used with respect to a student, means any individual who—

"(A) is 26 years of age or older by December 31 of the award year; or

"(B) meets the requirements of paragraph (2).

"(2) Except as provided in paragraph (3), an individual meets the requirements of this paragraph if such individual—

"(A) is an orphan or ward of the court;

"(B) is a veteran of the Armed Forces of the United States;

"(C) is a graduate or professional student;

"(D) is a married individual;

"(E) has legal dependents other than a spouse;

"(F) is a single undergraduate student with no dependents who—

"(i) did not live with his or her parents for more than six weeks in the aggregate during the calendar year preceding the award year;

"(ii) declares that he or she will not live with his or her parents for more than six weeks in the aggregate during the first calendar year of the award year; and

"(iii) prior to the disbursal of assistance under this title, demonstrates to the student financial aid administrator self-sufficiency during each of the two calendar years preceding the award year by demonstrating annual total income (excluding resources from parents, student financial assistance, and living allowances from programs established under the National and Community Service Act of 1990) that is equal to or exceeds the amount specified in the Department of Labor's Lower Living Standard Income Level applicable to each of such two calendar years, adjusted for a family size of one; or

"(G) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"(3) A student financial aid administrator may, in unusual circumstances, determine that an individual who meets the requirements of paragraphs (1) and (2) is a dependent student, provided that such determination is documented.".

EFFECTIVE DATES

SEC. 117. (a) The amendments made by section 111 shall be effective for award year 1993–1994 and succeeding award years.

(b) The amendments made by section 112 shall be effective for loans made in accordance with section 427 or 428 for periods of instruction beginning on or after October 1, 1992, and for loans made in accordance with section 428A on or after October 1, 1992.

(c) The amendments made by sections 113 and 115 shall be effective on enactment.

(d) The amendments made by sections 114 and 116 shall be effective for academic years beginning on or after July 1, 1993.

THE LIFELONG LEARNING ACT OF 1992—SECTION-BY-SECTION ANALYSIS

The "Lifelong Learning Act of 1992" would provide all Americans the flexibility they need to pursue postsecondary education and improve their employment skills, while balancing their current commitments to jobs and families.

Section 111. Section 111 of the bill would amend section 411(b) of the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*, hereinafter referred to as "the Act") to eliminate restrictions in current law regarding the eligibility of less than half-time students for Pell Grants.

Section 112. Section 112 of the bill would amend sections 427 and 428(b) of the Act to extend eligibility for Stafford, SLS, and PLUS Loans to less than half-time students (and their parents, in the case of PLUS Loans), and to specify special rules regarding deferments and the beginning of the repayment period for these students so that these provisions would not be prone to abuse by individuals merely seeking to delay indefinitely the repayment of student loans borrowed for half-time or full-time study.

Section 113. Section 113 of the bill would authorize the Student Loan Marketing Association ("Sallie Mae") to originate loans to enable students and their parents to borrow up to $25,000 as part of a line of credit for education and job training that would be repaid based on a schedule that takes into account the borrower's ability to pay. Amounts borrowed under the line of credit could not exceed the student's cost of attendance.

The Secretary of Education would negotiate an agreement with Sallie Mae specifying the terms for amounts borrowed under the line of credit, and would be authorized to establish by regulation the procedures necessary for the efficient collection of these amounts, including, as necessary to support the efficient administration of the program, arrangements with other Federal agencies.

The Secretary of Education, in consultation with the Secretary of Labor, would also be authorized to permit, through regulations, the participation of a broader variety of providers of training under the Lifelong Learning Line of Credit than are currently eligible to participate under the Act, such as community-based organizations, public or private agencies, and private sector employers. Before permitting such an expansion of providers, the Secretary of Education would be required to determine that adequate controls on program integrity and accountability can be maintained, and that participation would supplement, and not supplant, current expenditures for training by such providers. The same procedures used to ensure that Higher Education Act participation is limited to schools that provide education or training of sufficient quality, such as the provisions of the "Job Training 2000 Act," which the President transmitted on April 28, 1992, would apply to these providers.

Section 114. Section 114 of the bill would amend section 484(b) of the Act to permit a student who is enrolled on a less than half-time basis to receive a Stafford or SLS Loan, or loans under the Lifelong Learning Line of Credit, if he or she is enrolled in a program of study leading to a degree or certificate or enrolled in training designed to prepare students for gainful employment in a recognized occupation.

Section 115. Section 115 of the bill would require the Secretary of Education to examine the feasibility of applying advanced automated technology to integrate the data systems relating to Federal postsecondary education and vocational training programs, and would authorize $1 million for this purpose.

Section 116. Section 116 of the bill would amend section 480(d) of the Act to modify the definition of an "independent student." These amendments are necessary to ensure budget neutrality under the 1990 Budget Agreement's Pay-As-You-Go requirements.

Under current law, a student is considered to be independent if he or she is 24 years of age or older by December 31 of the award year; is an orphan or ward of the court; is a veteran; is a graduate or professional student, or is married, and declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents during the first calendar year of the award year;

has legal dependents other than a spouse; is a single undergraduate student who was not claimed as a dependent for income tax purposes by his or her parents for the two calendar years preceding the award year and demonstrates total self-sufficiently by showing annual total resources (excluding resources from parents and student financial assistance and living allowances from programs established under the National and Community Service Act of 1990) of $4,000; or is a student for whom a student financial aid administrator makes a documented determination of independence due to unusual circumstances.

Section 116 of the bill would alter this definition by increasing the age at which a student would be automatically considered to be independent to age 26, and would eliminate the difficult-to-verify declaration required of graduate, professional, and married students (as well as make conforming changes to the definition due to this change by eliminating paragraphs (3) and (4) of section 480(d)). In addition, this amendment would require that a single undergraduate student with no dependents not live with his or her parents for more than six weeks during the calendar year preceding the award year, declare that he or she will not live with his or her parents during the first calendar year of the award year for a similar period, and show his or her self-sufficiency during each of the two calendar years preceding the award year by demonstrating annual total income (excluding resources from parents and student financial assistance and living allowances from programs established under the National and Community Service Act of 1990) of at least an annually adjusted amount.

Increasing the age at which a student would be automatically considered to be independent to age 26 would significantly reduce the number of students receiving artificially reduced expected family contributions despite their true dependency status, and is consistent with the Administration's position that the student and his or her parents should shoulder the primary responsibility for financing the student's postsecondary education. Eliminating the declaration regarding parental tax information currently required of graduate, professional, and married students recognizes that the tax returns necessary to verify this declaration are not available in sufficient time to permit any meaningful verification of this declaration. In addition, the current requirements for a single undergraduate student to establish independent student status by demonstrating that he or she has a certain minimum level of "resources" are too generous, because such resources could include student financial aid, and are set at an insufficient level to allow a student to be truly self-supporting.

A student financial aid administrator would also be authorized to make a documented determination that, in unusual circumstances, an individual who meets the statutory definition of an independent student is in fact dependent. This is consistent with the aid administrator's authority in current law to make a documented determination that a student is independent in unusual circumstances, even though the student does not meet the statutory definition.

Pay-As-You-Go Requirement

The effect of this draft bill on the deficit is:

FISCAL YEARS

[In millions of dollars]

	1992	1993	1994	1995	1996	1997	1992-1997
Outlays	0	33	−85	105	−108	111	442

The Omnibus Budget Reconciliation Act of 1990 (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if not fully offset. The Lifelong Learning Act of 1992 would decrease direct spending. Considered alone, it meets the pay-as-you-go requirements of OBRA.

However, the President's FY 1993 Budget includes several proposals that are subject to the pay-as-you-go requirement. Although in total these proposals would reduce the deficit, some individual proposals increase the deficit. Therefore, this bill should be considered in conjunction with the other proposals in the FY 1993 Budget.

Section 117. Section 117 sets out the effective dates for the bill.●

By Mr. BINGAMAN (for himself, Mr. COCHRAN, and Mr. REID):

S. 3129. A bill to create a National Commission on School Finance To Meet the National Educational Goals; to the Committee on Governmental Affairs.

NATIONAL COMMISSION ON SCHOOL FINANCE TO MEET THE NATIONAL EDUCATION GOALS ACT

● Mr. BINGAMAN. Mr. President, school districts across the United States already strapped for resources are now faced with the new challenge of the national education goals. The current system for financing the primary and secondary education system, which is the principal responsibility of the States, is heavily decentralized with variations from school to school, district to district, and State to State. While individual States have been grappling with school finance disparities among their localities, there are important differences in the States' ability and willingness to devote resources to education among the States. With more than 15,000 school districts in the United States that vary widely in nature, authority, and responsibilities, it is a daunting task for a district looking for a model for reform of finance policies to meet the national education goals.

The national education goals outlined by President Bush and supported by the Congress represent the emergence of a Federal role in the American educational system. Traditionally, local education agencies have had the major responsibility in the kindergarten through 12th grade system, but burgeoning enrollment along with changing demographics have pushed the system to the brink.

While enrollment has increased, funding has stagnated, and in some cases has been reduced. Finance remains a prominent issue. While the Federal share of education finance for kindergarten through 12th grade is only approximately 7 to 8 percent, some States utilize up to half, or more, of their budgets on education.

The adoption of the national education goals necessitates an examination of education finance policies and procedures. The promise of national goals by the year 2000 is hollow if we do not realistically address the need to finance the programs to accomplish the goals. Many local school districts, barely able to provide basic school supplies, may not be able to afford the new resources or educational technology necessary to meet the national goals.

S. 1275 will create a National Commission on School Finance To Meet the National Education Goals to study ways in which current finance methods can be improved, or if the situation warrants, replaced by alternate finance methods. School finance policies must be efficient in increasingly tight economic times. It has been 20 years since the last comprehensive and objective study of school finance policies and practices was completed. Current education finance trends and policies must be reexamined with a national scope.

Issues such as finance policy inequity, the impact of Federal education assistance programs, and the cost-effectiveness of specific educational resources must be addressed.

The inequity of finance policies is a contentious issue more and more often settled in the already overburdened court system. Recently, States such as Texas, Kentucky, and New Jersey have been ordered by the judiciary to alter their school finance formulas. A national analysis of these court cases, and the implications of their rulings, would be highly useful to State and national policymakers.

The cost-effectiveness of educational resources and methods and their relationships to costs and outcomes are poorly understood. Efficiency in addressing major educational concerns will be a key to allowing the American educational system to compete on a global scale, as increasingly it must. The bottom line is that we need to know what works and what does not, especially for those students who are in disadvantaged school districts, where every dollar is at a premium.

The Commission is vital to understanding the effectiveness of our primary and secondary education systems compared to our trading partners, and competitors, such as Japan and the European Community. This bill would require the Commission to study the expenditure levels and intergovernmental financial responsibilities of other industrialized nations. As adults, today's primary and secondary students in New Mexico will not only be competing for jobs against students in Texas and Rhode Island, but also against students in Berlin and Osaka.

A national challenge requires a national response. The National Commission on School Finance to Meet the National Education Goals will allow those who are attempting to meet the challenges of the national education goals to draw upon the resources of the Federal Government. Finally, the Commission will issue a report recommending, to the extent a consensus exists, the appropriate role of the Federal Government in supporting school and State finance reform. An interim report will be required within 18 months of the date of enactment and a final report within 2 years of such date.●

● Mr. COCHRAN. Mr. President, I am pleased to join the distinguished Senator from New Mexico [Mr. BINGAMAN] as a cosponsor of the bill he is introducing today to establish a Commission to study education spending at the Federal, State, and local level, and in the private sector in attainment of the national education goals.

This Commission will be charged with the task of analyzing the disparity in financing and program quality among schools in the same school district, among schools in the same State, and from State to State.

The Commission will collect information showing what we are currently spending on elementary and secondary education in this country, along with reliable international comparisons. The Commission will assess the relationship between spending and educational achievement; local and State commitment to education; the degree to which Federal education programs address equalization; and it will assess the impact education technology has had on diminishing disparities.

It will also make recommendations for alternative funding options to ensure that all students have an opportunity to obtain the best education.

The Commission will be directed to present an interim report to Congress in 2 years and a final report within 3 years.

As we map a course to achieve the national education goals, our efforts must ensure that all children benefit from the reforms. I believe that this Commission will provide us with information that will be very helpful in defining the appropriate Federal role in education finance. It will also give us valuable information about education funding and its relevance to educational achievement.

I urge Senators to support this bill.●

By Mr. WOFFORD:

S. 3130. A bill to authorize the Administrator of the Environmental Protection Agency to award grants to political subdivisions of States for environmental testing and characterization in enterprise zones, and for other purposes; to the Committee on Environment and Public Works.

ENTERPRISE ZONE ENVIRONMENTAL RESTORATION ACT

Mr. WOFFORD. Mr. President, today I am introducing the Enterprise Zone Environment Restoration Act of 1992 in order to ease the development of enterprise zones through quicker characterization of potential environmental problems. As the Nation needs to develop enterprise zones so that economic opportunities become available to Americans who need them now, potential environmental obstacles can impede a community's economic revitalization.

This legislation enables municipalities and other government entities to receive Environmental Protection Agency funding for environmental testing and characterization of property that they own in an enterprise zone. The Enterprise Zone Environmental Enhancement Act of 1992 authorizes the Environmental Protection Agency Administrator, in consultation with the Secretary of Housing and Urban Development, to establish a grant program to provide funds to municipalities and other government entities. These public entities, from big city governments to community development corporations, can then determine what environmental problems exist on their enterprise zone sites and then address those problems in a rational, logical manner.

Environmental testing and characterization need to take place at the beginning of the process before further development can increase the costs of remediation. Enterprise zones can be located in areas where industrial and commercial activities have occurred for many years, if not centuries. The environmental legacy at such sites can present serious problems to enterprise zone development.

I believe that giving municipalities and other public entities the ability to find potential environmental obstacles on their property is an important step in community redevelopment.

Mr. President, I ask unanimous consent that a copy of the legislation be inserted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enterprise Zone Environmental Restoration Act of 1992".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 3. GRANT PROGRAM.

(a) IN GENERAL.—The Administrator, in consultation with the Secretary, shall establish a grant program to award grants for environmental testing and characterization on land owned by municipalities or other political subdivisions of States that the Administrator determines to be appropriate. Subject to the availability of funds, the Administrator shall award a grant to any municipality (or other political subdivision of a State that the Administrator determines to be appropriate) that submits an approved application and that has jurisdiction over—

(1) an area that has been designated as an enterprise zone pursuant to section 701 of the Housing and Community Development Act of 1987 (42 U.S.C. 11501); or

(2) an area that receives a similar designation under any other Federal law.

(b) ADMINISTRATION OF GRANT PROGRAM.—The Administrator, in consultation with the Secretary, shall promulgate such regulations as are necessary to carry out the grant program established under subsection (a). In promulgating the regulations the Administrator shall—

(1) determine which activities constitute environmental testing and characterization; and

(2) establish a procedure for the submission and approval of an application for a grant.

(c) FUNDING.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, and 1996 to carry out the purposes of this Act.

By Mr. PACKWOOD (for himself, Mr. KENNEDY, Mr. STEVENS, Mr. BRADLEY, and Mrs. KASSEBAUM):

S.J. Res. 329. Joint resolution to designate February 4, 1993, and February 3, 1994, as "National Women and Girls in Sports Day"; to the Committee on the Judiciary.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

● Mr. PACKWOOD. Mr. President, today, my colleagues Mr. KENNEDY, Mr. STEVENS, Mr. BRADLEY, and Mrs. KASSEBAUM and I are introducing a joint resolution to designate February 4, 1993 and February 3, 1994, as "National Girls and Women in Sports Day." In the House of Representatives, a similar resolution will be introduced by Congresswoman SUSAN MOLINARI.

As we watch the 1992 Olympics in Barcelona, we remember the outstanding performances of Jackie Joyner-Kersee, Florence Griffith Joyner, Bonnie Blair, Janet Evans, the U.S. Women's Basketball Team and many others in the 1988 Olympic games. They were a source of inspiration and pride to Americans.

Ours is a culture rich in sports tradition and sports heritage. And this year, as female athletes soar to new heights, it is easy to forget the time when women did not participate in the Olympics—or even high school athletics. For years, the lessons learned and experiences gained from participating in sports were often denied to half of our citizens. Not until 1972, with the passage of title IX of the education amendments, were women assured equal opportunities to participate in high school and college athletics. Title IX forever changed the course of women's participation in athletics. It is important to recognize how far women have come in their athletic achievements, while not forgetting that inequities still exist.

That is why we have joined together for the past 6 years to cosponsor "National Girls and Women in Sports Day": to encourage women and girls to participate in sports, to continue to work for equal opportunities and to celebrate the great progress made by women in sports.

On February 4, 1993, and February 3, 1994, a woman athlete will be presented with the Flo Hyman Award in honor of the Olympic volleyball star who died suddenly in 1986. Last year, the award was presented to golfing great, Nancy Lopez—inducted into the Ladies' Professional Golf Association Hall of Fame in 1987.

It is our hope that this annual celebration will inspire future generations of women athletes to strive for the excellence exemplified by Nancy Lopez, Flo Hyman, and other female athletes. Mr. President, I offer this joint resolution designating February 4, 1993, and February 3, 1994, as "National Girls and Women in Sports Day" and invite my colleagues to join me in recognizing our women athletes.●

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CRANSTON, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 880

At the request of Mr. INOUYE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 880, a bill to amend title XVIII of the Social Security Act to provide for improved reimbursement of clinical social worker services covered under medicare.

S. 1451

At the request of Mr. BIDEN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 2083

At the request of Mr. CRAIG, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2083, a bill to provide for an extension of regional referral center classifications, and for other purposes.

S. 2372

At the request of Mr. CRANSTON, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2372, a bill to amend section 1718 of title 38, United States Code, to provide that the compensation of veterans under certain rehabilitative services programs in State homes not be considered to be compensation for the purposes of calculating the pensions of such veterans.

S. 2484

At the request of Mr. KASTEN, the names of the Senator from New Mexico [Mr. DOMENICI], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2682

At the request of Mr. WARNER, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2826

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 2826, a bill to reaffirm the obligation of the United States to refrain from the involuntary return of refugees outside the United States.

S. 2887

At the request of Mr. MCCONNELL, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2887, a bill to amend title IV of the Social Security Act to provide that the Secretary of Health and Human Services shall enter into an agreement with the Attorney General of the United States to assist in the location of missing children.

S. 2900

At the request of Mr. DOMENICI, the names of the Senator from Utah [Mr. HATCH], the Senator from Utah [Mr. GARN], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2900, a bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act) until certain studies and the reauthorization of the Act are carried out, and for other purposes.

S. 2914

At the request of Mr. DURENBERGER, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2930

At the request of Mr. BUMPERS, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2930, a bill to prohibit the expenditure of funds for certain National Aeronautics and Space Administration programs.

S. 2931

At the request of Mr. BUMPERS, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2931, a bill to prohibit the expenditure of funds for certain Department of Energy programs.

S. 2932

At the request of Mr. BUMPERS, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2932, a bill to prohibit the expenditure of funds for certain Department of Defense programs.

S. 2933

At the request of Mr. BUMPERS, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2933, a bill to prohibit the expenditure of funds for certain Department of Defense programs.

S. 2934

At the request of Mr. BUMPERS, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2934, a bill to prohibit the expenditure of funds for certain Intelligence programs.

S. 2941

At the request of Mr. RUDMAN, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 2967

At the request of Mr. GARN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2967, a bill to increase the amount of credit available to fuel local, regional and national economic growth by reducing the regulatory burden imposed upon depository institutions, and for other purposes.

S. 2969

At the request of Mr. KENNEDY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2969, a bill to protect the free exercise of religion.

S. 3002

At the request of Mr. ROCKEFELLER, the names of the Senator from Michigan [Mr. RIEGLE], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 3002, a bill to amend title XIX of the Social Security Act to provide for optional coverage under State medicaid plans of case-management services for individuals who sustain traumatic brain injuries, and for other purposes.

S. 3003

At the request of Mr. KERRY, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 3003, a bill to amend the Marine Mammal Protection Act of 1972 to authorize the Secretary of State to enter into international agreements to establish a global moratorium to prohibit harvesting of tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals, and for other purposes.

S. 3009

At the request of Mr. DOMENICI, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3020

At the request of Mr. MCCONNELL, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 3020, a bill to repeal the prohibition in the District of Columbia on individuals carrying self defense items such as MACE.

S. 3087

At the request of Mr. PRYOR, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 3087, a bill to amend the Social Security Act to improve and clarify provisions prohibiting misuse of symbols, emblems, or names in reference to Social Security, Supplemental Security Income, Medicare, Medicaid, or the Department of Health and Human Services.

S. 3091

At the request of Mr. GORTON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 3091, a bill to amend the Public Health Service Act to establish a program to fund maternity home expenses and improve programs for the collection and disclosure of adoption information, and for other purposes.

SENATE JOINT RESOLUTION 265

At the request of Mr. SEYMOUR, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of Senate Joint Resolution 265, a joint resolution to designate October 9, 1992, as "National School Celebration of the Centennial of the Pledge of Allegiance and the Quincentennial of the Discovery of America by Columbus Day".

SENATE JOINT RESOLUTION 315

At the request of Mr. SEYMOUR, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 315, a joint resolution to designate September 16, 1992, as "National Occupational Therapy Day".

SENATE RESOLUTION 301

At the request of Mr. SIMON, the names of the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Resolution 301, a resolution relating to ongoing violence connected with apartheid in South Africa.

SENATE RESOLUTION 314

At the request of Mr. DECONCINI, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Resolution 314, a resolution concerning the provision of humanitarian aid to civilian populations in and around Sarajevo.

SENATE RESOLUTION 329—COMMENDING SHANNON MILLER FOR HER PERFORMANCE IN THE 25TH OLYMPIAD

Mr. NICKLES (for Mr. BOREN, himself and Mr. NICKLES) submitted the following resolution; which was considered and agreed to:

S. RES. 329

Resolved, That Shannon Miller be congratulated for her outstanding performances at the summer Olympic games of the 25th olympiad, where she won two silver medals and three bronze medals in women's gymnastic competition—the most Olympic medals ever won by an American gymnast in a nonboycotted Olympics. Her triumphs in national and international competition make Oklahomans everywhere, as well as all Americans, very proud. We thank her for raising our spirits, and we look forward to her future accomplishments.

AMENDMENTS SUBMITTED

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

MIKULSKI AMENDMENT NO. 2838

Ms. MIKULSKI proposed an amendment to the bill (H.R. 5518) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes, as follows:

At the appropriate place, insert the following new section:

SEC. . LABELING REQUIREMENT FOR AUTOMOBILIES.

(a) SHORT TITLE.—This section may be cited as the "American Automobile Labeling Act".

(b) LABEL REQUIREMENT.—(1) Each manufacturer of a new automobile distributed in commerce for sale in the United States shall cause to be affixed and each dealer shall cause to be maintained, on each such automobile manufactured in any model year after model year 1993 in a prominent place, a label—

(A) indicating the percentage (by value) of automobile equipment on such automobile which originated in the United States;

(B) indicating the city, State (where appropriate), and country where such automobile is assembled; and

(C) in the case of any country (other than the United States) in which 15 percent or more of the automobile equipment (by value) on such automobile originated, indicating the names of a least the 2 countries in which the greatest amount of such equipment (by value) originated.

(2) The percentages required to be indicated by this section may be rounded to the nearest 5 percent.

(c) FORM AND CONTENT OF LABEL.—The form and content of the label required under subsection (b), and the manner in which such label shall be affixed, shall be prescribed by the Secretary by rule. The Secretary may permit a manufacturer to comply with this section by allowing such manufacturer to disclose the information required under this section on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

(d) REGULATIONS.—The Secretary, in consultation with the Secretary of Commerce and the Secretary of the Treasury, shall promulgate such regulations as may be necessary to carry out this section, including regulations to establish a procedure to verify the labeling information required by this section.

(e) VIOLATIONS AND PENALTIES.—Any manufacturer of automobiles distributed in commerce for sale in the United States who willfully fails to affix to any new automobile so manufactured or imported by him for sale in the United States the label required by this section, or any dealer who fails to maintain such label as required by the section, shall be fined not more than $1,000. Such failure with respect to each automobile shall constitute a separate offense.

(f) DEFINITIONS.—For purposes of this section—

(1) The term "manufacturer" means any person engaged in the manufacturing or assembling of new automobiles, including any person importing new automobiles for resale and any person who acts for and is under the control of such manufacturer, assembler, or importer in connection with the distribution of new automobiles.

(2) The term "person" means an individual, partnership, corporation, business trust, or any organized group of persons.

(3) The term "automobile" includes any passenger car, passenger van, or any other vehicle with respect to which the labeling requirements of section of the Automobile Information Disclosure Act (15 U.S.C. 1232) apply.

(4) The term "automobile equipment" means any system, part, or component of an automobile installed on or attached to such automobile at the time of its initial shipment by the manufacturer to a dealer for sale to an ultimate purchaser.

(5) The term "originated in the United States", in referring to automobile equipment, means the value added in the United States to the equipment.

(6) The term "new automobile" means an automobile the equitable or legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(7) The term "dealer" means any person or resident located in the United States, including any territory of the United States, or the District of Columbia, engaged in the sale or the distribution of new automobiles to the ultimate purchaser.

(8) The term "commerce" means commerce between any place in a State and any place in another State, or between places in the same State through another State.

(9) The term "Secretary" means the Secretary of Transportation.

(10) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the

Virgin Islands, the Canal Zone and American Samoa.

(11) The term "value added" means the value that is directly related to the production of the automobile equipment. Such term does not include value that is related to the production or sale of assembled vehicles, such as advertising costs, interest payments, royalties paid, depreciation charges, profits, and other such similar accounting categories of the manufacturer.

LAUTENBERG AMENDMENT NOS. 2839 AND 2840

Mr. LAUTENBERG proposed two amendments to the bill H.R. 5518, supra, as follows:

Amendment No. 2839

On page 45, beginning on line 7, strike all through the end of line 15, and reinsert the identical language at the beginning of line 10, page 46.

On page 49, beginning on line 3, strike all through the end of line 19, and insert the following:

"For necessary expenses to carry out section 117A(i)(3)(B) of the Hazardous Materials Transportation Act, as amended, $700,000 to be derived from the Emergency Preparedness Fund, to remain available until expended: *Provided*, That no more than $11,300,000 shall be made available for obligation in fiscal year 1993 for amounts made available by section 117A(h)(6)(B) and (i) (1), (2), and (4) and 118 of the Hazardous Materials Transportation Act, as amended: *Provided further*, That such amounts shall only be available to the Secretary of Transportation."

Beginning on page 97, line 25, strike: "the Secretary finds that the" and insert the word "that".

On page 98, beginning on line 22, immediately after the section number, strike all through the end of line 1, page 99, and insert the following:

"Section: 311(b) of the Federal Water Pollution Control Act is amended by adding a new paragraph to read as follows

"'(12) Withholding Clearance—"

Amendment No. 2840

At the appropriate place, insert the following new title:

TITLE —ALCOHOL TRAFFIC SAFETY GRANTS

SEC. 01. MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.

Section 410 of title 23, United States Code, is amended—

(1) by striking subsection (g);

(2) by redesignating subsections (c) thru (f) as (d) through (g), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) Maximum Period of Eligibility; Federal Share for Grants.—No State may receive grants under this section in more than 5 fiscal years beginning after September 30, 1992. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year the State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year a program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.".

SEC. 02. BASIC GRANT ELIGIBILITY.

Section 410(d) of title 23, United States Code, as so redesignated by section -01 of this title, is amended—

(1) by striking "4 or more of the following:" and inserting in lieu thereof "5 or more of the following:"; and

(2) in subsection (1)(C), by striking "within the time period specified in subparagraph (F)"; and

(3) by adding at the end the following new paragraph:

"(6) Establishment of a mandatory sentence, which shall not be subject to suspension or probation, of (A) imprisonment for not less than 48 consecutive hours, or (B) not less than 10 days of community service, of any person convicted of driving while intoxicated more than once in any 5-year period.".

SEC. 03. AMOUNT OF BASIC GRANTS.

Section 410(e) of title 23, United States Code, as redesignated by section 01 of this title, is amended to read as follows:

"(e) Amount of Basic Grant.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (d) shall equal 30 percent of the amount apportioned to such State for fiscal year 1992 under section 402 of this title.".

SEC. 04. SUPPLEMENTAL GRANTS.

Section 410(f) of title 23, United States Code, as redesignated by section 01 of this title, is amended by striking "A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section" each place it appears and inserting in lieu thereof "Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title".

SEC. 05. ADMINISTRATIVE EXPENSES.

Section 410(g) of title 23, United States Code, as so redesignated by section 01 of this title, is amended by striking ", and the remainder shall be apportioned among the several States".

SEC. 06. AUTHORIZATION OF APPROPRIATIONS.

Section 410(j) of title 23, United States Code, is amended to read as follows:

"(j) Authorization of Appropriations.—For purposes of carrying out this section, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $25,000,000 for each of fiscal years 1993 through 1997. Amounts made available to carry out this section shall remain available until expended and shall not be subject to any obligation limitation for State and community highway programs.".

SEC. 07. EFFECTIVE DATE OF AMENDMENTS; TRANSITION RULES.

(a) Effective Date.—(1) The amendments made by sections 01 through 06 shall take effect October 1, 1992.

(b) States Eligible for Basic Grants Under Section 410 Before Date of Enactment.—A State that received a basic grant in fiscal year 1992 under section 410 of title 23, United States Code, as in effect on September 30, 1992, and that continues to meet the criteria for a basic grant, as in effect on September 30, 1992, shall be eligible for a basic grant under such section 410, as amended by this title.

(c) Transfer of Remaining Funds to New Program.—Funds apportioned in fiscal year 1992 from which grants were not awarded under section 410 of title 23, United States Code, as in effect on September 30, 1992, shall be available for carrying out section 410 of title 23, United States Code, as amended by this title, on and after October 1, 1992.

GRAHAM (AND BOND) AMENDMENT NO. 2841

Mr. GRAHAM (for himself and Mr. Bond) proposed an amendment to the bill H.R. 5518, supra; as follows:

At the end of the bill, add the following new section:

SEC. . EMPLOYEE CONSIDERATIONS IN AIRLINE ROUTE TRANSFERS.

(a) In General.—

(1) Title IV of the Federal Aviation Act of 1958 is amended by adding at the end of section 401(h) the following new paragraph:

"(4) Employee considerations.—(i) If a certificate transfer is approved, the air carrier to which the route authority is being transferred shall hire in each class or craft, no less than the number of employees from the air carrier transferring the certificate, in order of seniority, which the Secretary determines in the order approving the transfer are required to appropriately operate the certificate authority being transferred. The hired employees shall be afforded the seniority integration protections specified in Tiger International Seaboard Acquisition Case, CAB Docket 33712.

"(ii) On complaint by an employee or by the representative of any group of the employees affected by a transaction specified in subparagraph (i), the United States District Court for the district in which the complainant resides or has its principal place of business or for the District of Columbia, shall order the air carrier or carriers acquiring the route authority, or other persons, to provide the seniority integration protections specified in that paragraph. The pendency of a representation dispute before the National Mediation Board shall not deprive the court of jurisdiction. The court may assess against the surviving air carrier or carriers, reasonable attorneys' fees and other litigation costs reasonably incurred in any case under the section in which the complainant has substantially prevailed.".

(b) Duty to Hire Protected Employees.—Section 43 of the Airline Deregulation Act of 1978 is amended by deleting in subsection (d)(1) thereof the number "10" and inserting in place thereof the number "17".

(c) Effective Date.—The amendments made by subsections (a) shall apply with respect to any application filed with the Secretary of Transportation requesting approval of a transfer in whole or in part of any certificate on or after July 26, 1991.

DURENBERGER AMENDMENT NO. 2842

Mr. LAUTENBERG (for Mr. Durenberger) proposed an amendment to the bill H.R. 5518, supra, as follows:

TITLE IV

SEC. .

"Notwithstanding any other provision of law, the funds provided for projects in Minnesota by sections 1103, 1105, 1106, 1107, and 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, December 18, 1991) may be obligated for any of such projects."

LAUTENBERG AMENDMENT NO. 2843

Mr. LAUTENBERG proposed an amendment to the bill H.R. 5518, supra, as follows:

Insert on page 103 line 19, before title IV of the bill:

"Notwithstanding the provisions of any other law, rule, or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary. In determining the redemption or repurchase amount the Secretary shall take into consideration the market value of the stock and may accept payment in an amount less than the par value of such stock.".

JEFFORDS AMENDMENT NO. 2844

Mr. JEFFORDS proposed an amendment to the bill H.R. 5518, supra, as follows:

At the appropriate place in title IV, insert the following new section:

SEC. . FEDERAL SHARE.

Section 1021(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 120 note) is amended—

(1) by striking "and" before "(2)";

(2) by striking the period at the end and inserting a comma; and

(3) by adding at the end the following: "and (3) the Federal share established by section 120(k) of such title, as in effect on the day before the date of enactment of this Act, with respect to section 143 of title 23.

GRAHAM AMENDMENTS NOS. 2845 THROUGH 2853

Mr. GRAHAM proposed nine amendments to the bill H.R. 5518, supra, as follows:

AMENDMENT NO. 2845

On page 2, line 16, strike "$9,100,000" and insert in lieu thereof "$8,733,000".

AMENDMENT NO. 2846

On page 3, line 15, strike "$1,757,000" and insert in lieu thereof "$1,546,000".

AMENDMENT NO. 2847

On page 3, line 5, strike "$2,420,000" and insert in lieu thereof "$2,320,000".

AMENDMENT NO. 2848

On page 2, line 21, strike "$2,840,000" and insert in lieu thereof "$2,726,000".

AMENDMENT NO. 2849

On page 2, line 11, strike "$7,240,000" and insert in lieu thereof "$7,000,000".

AMENDMENT NO. 2850

On page 3, line 21, strike "$620,000" and insert in lieu thereof "$590,000".

AMENDMENT NO. 2851

On page 3, line 24, strike "$1,520,000" and insert in lieu thereof "$1,462,000".

AMENDMENT NO. 2852

On page 4, line 3, strike "$1,600,000" and insert in lieu thereof "$1,545,000".

AMENDMENT NO. 2853

On page 5, line 1, strike "$4,364,000" and insert in lieu thereof "$4,275,000".

BURNS (AND BAUCUS) AMENDMENT NO. 2854

Mr. D'AMATO (for Mr. BURNS, for himself and Mr. BAUCUS) proposed an amendment to the bill H.R. 5518, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . The historic United States Customs building located adjacent to Interstate Route I–15 in Sweetgrass, Montana, and the border with Canada is hereby exempt from the restrictions contained in section 111 of title 23, United States Code, prohibiting use of and access to rights-of-way on the Interstate System: *Provided*, That, such exemption shall be only for the purpose of permitting the use of such facility for the sale of only those articles which are for the export and for consumption outside the United States: *Provided further*, That, such right-of-way access be developed in conjunction with the overall redesign planning work that is underway to relieve the congestion problems at the Sweetgrass border crossing.

D'AMATO AMENDMENT NO. 2855

Mr. D'AMATO proposed an amendment to the bill H.R. 5518, supra, as follows:

On bill page 114, line 21, insert the following new section:

"(a) Notwithstanding any other provisions of law, tolls collected for motor vehicles on any bridge connecting the borough of Brooklyn, New York, and Staten Island, New York, shall continue to be collected for only those vehicles exiting from such bridge in Staten Island."

MOYNIHAN (D'AMATO) AMENDMENTS NOS. 2856 AND 2857

Mr. D'AMATO (for Mr. MOYNIHAN, for himself and Mr. D'AMATO) proposed two amendments to the bill H.R. 5518, supra, as follows:

AMENDMENT NO. 2856

On line 15 of page 39, strike the period and insert the following new text: ": *Provided further*, That of the funds made available to carry out the national program under section 26(b) of the Federal Transit Act, not less than $900,000 shall be made available to reimburse the city of New York for funds granted for planning activities related to the proposed 42d Street trolley.".

AMENDMENT NO. 2857

Page 60, line 15 is amended by striking the period at the end and inserting the following new text: ", and $200,000 for the Commission to Promote Investment in America's Infrastructure authorized by section 1081 of Public Law 102–240.".

BOREN (AND NICKLES) AMENDMENT NO. 2858

Mr. BOREN (for himself and Mr. NICKLES) proposed an amendment to the bill H.R. 5518, supra, as follows:

At the appropriate place in the title I, insert the following new section:

SEC. . TEMPORARY EXEMPTION.

(a) RESTRICTION ON APPORTIONMENT.—The restriction on apportionment of funds in section 127(a) of title 23, United States Code, shall not apply to the State of Oklahoma during the period beginning on the date of enactment of this Act and ending on May 31, 1993.

(b) STATE AUTHORITY.—The restriction of the authority of States in section 127(b) of title 23, United States Code, to control the access of certain motor vehicles to and from the Interstate Highway System shall not apply to the State of Oklahoma during the period specified in subsection (a).

MCCAIN AMENDMENT NO. 2859

Mr. D'AMATO (for Mr. MCCAIN) proposed an amendment to the bill H.R. 5518, supra, as follows:

At the appropriate place, insert the following new paragraph:

"( ) Projects to research, develop, and test technologies to control highway related emissions which contribute to the nonattainment of any ambient air quality standard or the impairment of visibility within an urbanized area shall be deemed to be eligible under the Congestion Mitigation and Air Quality Improvement Program."

WELLSTONE AMENDMENT NO. 2860

Mr. WELLSTONE proposed an amendment to the bill H.R. 5518, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . After March 31, 1993, none of the funds appropriated by this Act shall be available for the purposes of travel by the Secretary of Transportation or the Administrator of the Federal Railway Administration unless prior to that date the Federal Railway Administration has published in the Federal Register Notices of Proposed Rulemaking for both of its pending administrative proceedings under docket numbers HM–175A and HM–201.

STEVENS AMENDMENTS NOS. 2861 AND 2862

Mr. D'AMATO (for Mr. STEVENS) proposed two amendments to the bill H.R. 5518, supra, as follows:

AMENDMENT NO. 2861

ALCAN HIGHWAY

SEC. . Notwithstanding any other provision of law, the Secretary of Transportation shall waive the State matching share for the construction of any international road project for which funds are earmarked in the Intermodal Surface Transportation Efficiency Act of 1991 or in the fiscal year 1992 appropriations bill for the Department of Transportation.

AMENDMENT NO. 2862

SEC. . COLLEGIATE TRAINING INITIATIVE.

(a) The Administrator of the Federal Aviation Administration may hereafter continue the Collegiate Training Initiative Program, by entering into new agreements, and by maintaining existing agreements, with post-secondary educational institutions, as defined by the Administrator, whereby such institutions prepare students for the position of air traffic controller with Department of Transportation, as defined in 5 U.S.C. 2109.

(b) The Administrator may establish standards for the entry of institutions into such program and for their continued participation in it.

(c) The Administrator may appoint persons who have successfully completed a course of training in such program to the position of air traffic controller noncompetitively in the excepted service, as defined in 5 U.S.C. 2103. Persons so appointed shall serve at the pleasure of the Administrator, subject to 5 U.S.C. 7511(e) (pertaining to adverse actions). However, an appointment under this subsection may be converted from one in the excepted service to a career-continual or career appointment in the competitive civil service, as defined in 5 U.S.C. 2102, when the incumbent achieves full performance level air traffic controller status, as determined by the Administrator. The authority conferred by this subsection to make new appointments in the excepted service shall expire at the end of five years from the date of enactment of the Act, except that the Administrator may determine to extend such authority for one or more successive one-year periods thereafter.

SYMMS AMENDMENT NO. 2863

Mr. D'AMATO (for Mr. SYMMS) proposed an amendment to the bill H.R. 5518, supra, as follows:

On page 60, line 15, strike the period and insert "; and, notwithstanding any other provision of law, not distribute **$15,000,000** of the obligation limitation established by this Act for Federal-aid highways and highway safety construction: *Provided*, That such undistributed obligation limitation shall be available for administrative costs and allocation to States under section 1302(d) of the Symms National Recreational Trails Act of 1991.".

LEAHY AMENDMENT NO. 2864

Mr. LAUTENBERG (for Mr. LEAHY) proposed an amendment to the bill H.R. 5518, supra, as follows:

In the "General Provisions" title of the bill insert:

"Notwithstanding any other provision of law, the State of Vermont shall be reimbursed, in an amount not to exceed $1.4 million, for its share of work performed on major and minor reconstruction of roadways and bridges on United States Interstate Routes 89 and 91, in Vermont.".

MOYNIHAN AMENDMENT NO. 2865

Mr. D'AMATO (for Mr. MOYNIHAN) proposed an amendment to the bill H.R. 5518, supra, as follows:

On page 37, line 12, strike "$9,000,000" and insert in lieu thereof "$45,000,000".

SEYMOUR AMENDMENT NO. 2866

Mr. D'AMATO (for Mr. SEYMOUR) proposed an amendment to the bill H.R. 5518, supra; as follows:

On page 92—

On line 22 following "loans" strike the following: "in section 334 of the bill, page 91, line 20, after the word "loans", insert:"

On line 25 strike the quotation mark following "loans".

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

DOMENICI (AND OTHERS) AMENDMENT NO. 2867

Mr. DOMENICI (for himself, Mr. BYRD, Mr. COCHRAN, Mr. BENTSEN, Mr. D'AMATO, Mr. DURENBERGER, Mr. NICKLES, Mr. GRAMM, Mr. STEVENS, Mr. REID, Mr. CRAIG, Mr. BOND, Mr. DECONCINI, Mr. SIMPSON, Mr. MURKOWSKI, and Mr. COATS) proposed an amendment to the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, as follows:

At the appropriate place, insert the following:

SEC. . CORPORATE RESPONSIBILITY.

(A) FINDINGS.—The Senate finds that—

(1) the National Commission on Children report states that "The news and the entertainment media have tremendous potential to educate children and expose them to other cultures and new ideas" and recommends "that the recording industry continue and enhance its efforts to avoid the distribution of inappropriate materials to children";

(2) the National Commission on Children report states that "In a free society, there will always be tension between freedom of expression and upholding common social values. Censorship is the antithesis of what we embrace. Forging common values will never depend solely on laws, but also on persuasion and example. Success will require thoughtful action and self-restraint by individuals and major institutions with the ability or potential to influence children's moral development. This makes the task of parents, public leaders, educators, media executives, entertainers, and advertisers more difficult, but no less important.";

(3) the Carnegie Council on Adolescent Development's executive summary of its publication Fateful Choices: Healthy Youth for the 21st Century states that, "The news and entertainment media are significant influences on the attitudes and behavior of young adolescents * * * Great efforts, short of censorship, should be made to purge the media, particularly television and rock music programs, of their orgy of mindless violence. * * * The news and entertainment media should be enlisted in efforts to promote health, to reduce substance abuse, violence, irresponsible sexual behavior, and to provide a better understanding of sound nutrition and physical exercise.";

(4) the Massmutual American Family Values Program 1991 study states "Parents are challenged by the entertainment industry. While three out of four respondents think parents should be the primary influences on children, 68 percent think television, movies, rock music, and videos are the biggest influence of developing children's values. While parents understand their own responsibility in teaching family values, a significant number indicted that the entertainment media could help by providing better role models for both parents and children.";

(5) in the June 1992 Journal of the American Medical Association article "Television and Violence," the author, Dr. Brandon S. Centerwall, states, "In a recent meta-analysis of randomized, case-control, short-term studies, exposure to media violence caused, on the average, a significant increase in children's aggressiveness as measured by observation of their spontaneous, natural behavior following exposure.";

(b) DECLARATIONS.—The Senate—

(1) supports the concept that corporate America and the officials of all American institutions can and should contribute positively to individual thought and conduct as key contributors to a healthy, responsible society and individual human dignity;

(2) believes that corporate and institutional entities, their management and stockholders, as well as their advertisers and sponsors, should exercise positive and constructive oversight of their activities without the sole test of their contributions based on profits, sales, and publicity;

(3) strongly believes that corporate American and the officials of all American institutions weaken the moral fiber of the nation by hiding behind the faceless masks of such corporations and institutions in a relentless search for profits, sales and publicity without regard to the moral content of their products and services;

(4) believes that the exercise of citizenship encompasses individual and community actions to promote responsible behavior and values; and

(5) strongly encourages the officers, employees, and shareholders of all American corporations and institutions to insist upon the acceptance of personal responsibility for the moral flavor, content and repercussions of the activities, products and services of their corporations and institutions.

REID (AND OTHERS) AMENDMENT NO. 2868

Mr. REID (for himself, Mr. DOMENICI, Mr. DECONCINI, and Mr. BRYAN) proposed an amendment to the reported amendment on page 101, line 15, to the bill H.R. 5503, supra; as follows:

At the end of line 15, page 101, add the following new section:

( ) MINING PROVISIONS.—

(1) PAYMENT OF FAIR MARKET VALUE.—Any person receiving a patent pursuant to the Act commonly known as the Mining Law of 1872 (sections 2319 et seq. of the Revised Statutes) shall pay fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land.

(2) LIMITATIONS.—

(A) IN GENERAL.—Any land patented after the date of enactment of this Act pursuant to section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42) shall be used only for mineral exploration, mineral development, mining, mineral processing, benefication, or uses reasonably incident to those uses, except with the approval of the Secretary.

(B) REVERSION.—Title to the land referred to in subparagraph (A) shall revert to the United States if the land is used for any unauthorized or unapproved use, and the unauthorized or unapproved use is not discontinued within a time period specified by the Secretary (but not earlier than 90 days after the Secretary gives the owner of the land written notice to discontinue the unapproved use) and if the Secretary elects to enforce the reversionary interest. The reversion shall be made effective if the Secretary files a declaration of reversion in the office of the Bureau of Land Management designated by the Secretary of the Interior, and records the declaration in the county recorder's office of the county in which the lands subject to a reversion under this paragraph are situated. Not later than 30 days after recording the declaration of reversion, the Secretary shall serve on the owner of the reverted lands a recorded copy of the declaration, in the same manner that a summons and complaint are served under the Federal Rules of Civil Procedure under title 28, United States Code.

(C) RENOUNCING OF REVERSIONARY INTEREST.—If the Secretary finds that it would not be in the best interest of the United States to exercise the reversion for any reason, including any case in which—

(i) any protion of the lands included in the patent have been used for solid waste disposal or for any other purpose that may result in the disposal, placement, or release of a hazardous substance; or

(ii) continuance of the reverter serves no public purpose,

the Secretary may renounce the reversionary interest of the United States in the lands included in the patent by filing and recording a declaration of renouncement in the same offices in which a declaration of reverter would have been filed. In the event the Secretary fails to file and record a declaration of reverter within 8 years after an authorized use commences on the patented lands, the reversionary interest of the United States shall terminate.

(D) REQUIREMENT FOR PATENTS.—Each patent to land acquired under section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42 (shall state that the patent is subject to the provisions of this subsection.

(3) RECLAMATION.—Any land patented after the date of enactment of this Act shall be subject to the mining reclamation law of the State in which the land is located. In the absence of applicable State mining reclamation law, the land shall be subject to Federal mining reclamation law. Each patent shall recite that as a condition of the patent, the land patented shall be reclaimed to comply with Federal law or to comply with the mining reclamation law of the State in which the land is located.

(4) DEFINITIONS.—As used in this subsection:

(A) HAZARDOUS SUBSTANCE.—The term "hazardous substance" has the same meaning provided the term under section 101(14) of the Comprehensive Response, Compensation and Liability Act (42 U.S.C. 9601(14)).

(B) SECRETARY.—Unless specifically designated otherwise, the term "Secretary" means—

(i) the Secretary of the Interior with respect to patents issued for lands over which the Bureau of Land Management has jurisdiction; or

(ii) the Secretary of Agriculture with respect to patents issued for lands within national forests.

BYRD (AND NICKLES) AMENDMENT NOS. 2869 THROUGH 2871

Mr. BYRD (for himself and Mr. NICKLES) proposed three amendments to the bill H.R. 5503, supra, as follows:

AMENDMENT NO. 2869

On page 75, line 22 of the bill, strike "6244b" and replace it with "6249b".

AMENDMENT NO. 2870

On page 29, line 5 of the bill, strike the following: "the Oil Spill Liability Trust Fund, pursuant to".

On page 29, line 7 of the bill, insert the following before the word "Fund": "Oil Spill Liability Trust".

On page 29, line 8 of the bill, insert a period after the word "expended" and strike "to carry out the purposes of the Fund in accordance with title VII of that Act."

AMENDMENT NO. 2871

On page 38, line 12 of the bill, strike the word "who" and insert after the word "individuals", the following: "within the service area of such tribe".

On page 38, line 17 of the bill, insert after the word "tribes": ": *Provided further*, That any such change must be part of a comprehensive tribal plan for reducing the long-term need for general assistance payments: *Provided further*, That any such tribal plan must incorporate, to the greatest extent feasible currently existing social service, educational training and employment assistance resources prior to changing general assistance eligibility or payment standards which would have the effect of increasing the cost of general assistance: *Provided further*, That any net increase in costs to the Federal government which result solely from tribally-increased payment levels shall be met exclusively from funds available to the tribe from within its tribal priority allocation".

BYRD AMENDMENT NO. 2872

Mr. BYRD proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 21, line 23, before the period, insert the following: ": *Provided further*, That of the funds provided under this heading, $4,200,000 shall be available to the State of West Virginia for replacement construction of the Fayette Station Bridge in the New River Gorge National River".

LEAHY AMENDMENT NO. 2873

Mr. BYRD (for Mr. LEAHY) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 58, line 7, strike "$62,490,000" and insert in lieu thereof: "$62,990,000".

CHAFEE AMENDMENT NO. 2874

Mr. BYRD (for Mr. CHAFEE) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 16, line 4, strike "$77,115,000" and insert in lieu thereof: "$78,615,000".

GLENN AMENDMENT NO. 2875

Mr. BYRD (for Mr. GLENN) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 18, line 24, strike "$988,730,000" and insert in lieu thereof: "$988,780,000".

SPECTER AMENDMENT NO. 2876

Mr. BYRD (for Mr. SPECTER) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 14, line 17, strike "$530,977,000" and insert in lieu thereof: "$531,177,000".

BYRD AMENDMENT NO. 2877

Mr. BYRD proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 39, line 12 of the bill, insert after the word, "Affairs", the following: ": *Provided further*, That funds appropriated in fiscal year 1991 (Public Law 101-512) and fiscal year 1992 (Public Law 102-154), and allocated by the Bureau of Indian Affairs to the Flathead Agency Irrigation Division for irrigation construction, including funds to provide continuous monitoring and recording instrumentation of the movement, quantities, and distribution of irrigation water in the various on-reservation streams and irrigation canals, shall be made available on a non-reimbursable basis and shall not be included as funds subject to the appropriation limit established in the Act of May 25, 1948 (62 Stat. 269), as amended by the Act of October 8, 1964 (78 Stat. 1042)".

CRAIG AMENDMENT NO. 2878

Mr. BYRD (for Mr. CRAIG) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 67, line 23, after the word "Dixie", insert the following: ", Idaho Panhandle, Kootenai".

BAUCUS (AND BURNS) AMENDMENT NO. 2879

Mr. BYRD (for Mr. BAUCUS, for himself and Mr. BURNS) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 58, line 7, reduce the italicized number by $750,000;

On page 57, line 12, and page 57, line 13, increase the italicized numbers by $650,000; and

On page 18 line 24, increase the italicized number by $100,000.

BINGAMAN AMENDMENT NO. 2880

Mr. BYRD (for Mr. BINGAMAN) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 6, line 7, strike "$17,763,000"" and insert "$17,913,000".

On page 18, line 24, strike "$988,730,000" and insert "$988,580,000"

NOTICE OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee markup of H.R. 5191, the Small Business Equity Enhancement Act of 1992. The markup will take place on Thursday, August 6, 1992, at 9:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Patty Forbes, counsel to the Small Business Committee at 224-5175.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of the hearing is to receive testimony on S. 3127, the Outer Continental Shelf Deep Water Production Incentives Act.

The hearing will take place on Tuesday, August 11, 1992, beginning at 9:30 a.m. in room 366 of the Senate Dirksen Office Building in Washington, DC. Witnesses will testify by invitation only.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, room 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patricia Beneke of the committee staff at (202) 224-2383.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on Tuesday, August 11, 1992, at 2 p.m., in room 342 of the Dirksen Senate Office Building, on "Reauthorization of the Independent Counsel Law."

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Social Security and Family Policy of the Committee on Finance be authorized to meet during the session of the Senate on August 4, 1992, at 3 p.m. to hold a hearing on the administration's welfare reform proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, August 4, 1992, at 2:30 p.m. to hold a hearing on the nomination of Ilana Diamond Rovner, to be U.S. circuit judge for the Seventh Circuit, John G. Heyburn II, to be U.S. district judge for the Western District of Kentucky, Alfred V. Covello, to be U.S. district judge for the District of Connecticut, Michael J. Melloy, to be U.S. district judge for the Northern District of Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, August 4, at 2:30 p.m. to hold a confirmation hearing on U.S. Arms Control and Disarmament Agency nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on August 4, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, on S. 2617, the Indian Dams Safety Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., August 4, 1992, to receive testimony on S. 2577, to provide for the exchange of certain Federal lands within the State of Utah, between the State of Utah and the Secretary of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, August 4, 1992, at 2 p.m., in open session, and possibly closed, to receive testimony on the disposition of U.S. and Commonwealth of Independent States [CIS] strategic nuclear warheads under the START I Treaty and the June 17, 1992, United States-Russian joint understanding on further reductions in strategic offensive arms.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON LABOR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, August 4, 1992, at 9:30 a.m., for a hearing on "Will You Have a Pension When You Retire."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Tuesday, August 4, 1992, at 9 a.m. in room 216 of the Hart Senate Office Building for hearings to examine the government's process of live-sighting investigations of POW/MIA's in Southeast Asia.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, August 4, 1992, to hold a hearing on "Asian Organized Crime: Part 4."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, August 4, at 10 a.m. to hold a hearing on bilateral investment treaties; and two protocols to treaties with Finland and Ireland.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on August 4, 1992, at 11 a.m. to consider S. 2808/H.R. 5318, the United States-China Act of 1992: Senate Joint Resolution 317, a resolution approving the extension of most-favored-nation treatment to the Republic of Albania; an original bill to establish a Treasury asset forfeiture fund; a request for the International Trade Commission to investigate the competitiveness of United States mackerel products in foreign markets; and the nominations of Carolyn P. Chiechi and David Laro to be judges of the United States tax court.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

INTERBANK CREDIT EXPOSURE

• Mr. RIEGLE. Mr. President, just as a bank should not loan its entire capital to an single commercial real estate developer, it should not put its entire capital at risk through credit extended to another bank. An article in today's American Banker points to the potential dangers of interbank credit exposure in the market for swaps. Interbank exposure creates a risk that the failure of a single large bank could bring down other banks and endanger the entire financial system.

To contain such dangers, Congress enacted section 308 of the FDIC Improvement Act of 1991, which requires the Federal Reserve Board to prescribe standards that have the effect of limiting the risks posed by one depository institution's exposure to other depository institutions. Properly implemented, section 308 will do the job.

I ask to include a copy of the article in the RECORD.

The article follows:

[From American Banker, Aug. 4, 1992.]

SWAPS: THE NEXT DEBACLE FOR BANKING?

(By Kelley Holland)

Could the next major disaster for the world's big banks be looming in the swaps market?

"A worst-case scenario would be a very large firm with a lot of swaps unable to perform vis-a-vis a whole variety of counterparties who aren't well capitalized," says Mary Schapiro, a member of the Securities and Exchange Commission. "It would be a chain reaction coming out from the hub of a wheel."

LAST THINGS BANKS WOULD NEED

After debacles in commercial real estate, leveraged buyouts, and Latin debt, U.S. banks hardly need another dose of trouble. But regulators from Ms. Schapiro to New York Fed President Gerald Corrigan have expressed concern that swaps have the potential to rock world financial markets.

In theory, swaps are fairly simple: One company hedges interest rate risk or foreign-currency risk by agreeing to exchange its obligations—such as a floating-rate payment—for one that better suits its balance sheet, such as a fixed-rate payment.

But in practice, the swaps market is a byzantine web with thousands of credit relationships among the world's financial institutions.

Indeed, the market is enormous. In last year's second half alone, banks and other dealers created basic interest rate swaps and currency swaps with underlying principal of $1.027 trillion. Banks frequently participate in these transactions to hedge their own portfolios and to make profits as dealers.

The figure doesn't include more complex derivative products, such as commodity swaps based on fluctuations in the prices of oil and metals or forward contracts based on the performance of international stock indexes. Including these could significantly increase the total—and the risk.

Single swap transactions can be huge.

$2 BILLION DEALS?

J.P. Morgan & Co., for example, is rumored to have created a few swap contracts with notional values of as much as $2 billion each. Morgan officials declined to comment on specific transactions.

Swaps and other derivatives can be designed to hedge almost any exposure, which is precisely what makes them so useful. A company with operations in Germany and investments in Japan could buy an interest rate swap based on the performance of a Nikkei stock index with payments made in German marks.

One problem: Such individualized contracts can't readily be traded on any secondary market. That makes the swaps business tough for regulators to monitor.

"When you trade through an exchange, there's a clearing house, and . . . regulators [have] access to position size," said the SEC's Ms. Schapiro, who was formerly general counsel for a futures industry trade group and a onetime futures industry regulator. "Not knowing size and credit risk really poses some concerns about the impact of a credit going down.

"An exchange isn't fool-proof ," she said, "but it gives you time to get some innocent bystanders out of the way."

SNOWBALL POTENTIAL

Regulators also worry that problems with derivatives could spread quickly. A senior bank regulator who asked not to be named says it is easy to envisage a situation in which a major dealer has large amounts of swap contracts with six regional banks. Two of these, in turn, could have lots of swaps, and other credit relationships with a smaller bank.

If the major dealer were to fold, to take the simplest leg of a potential collapse, the direct bank counterparties would be hit hard.

But the shock waves would be felt as well by the smaller bank, which had no direct exposure to the dealer.

Such a series of problems "would be scary as hell," the regulator said.

One thing that most disturbs regulators is their limited access to information on the derivatives activities of the banks they are charged to watch.

Without data on the unregulated markets, they have little warning about potential credit problems and no time to prescribe remedies, such as higher reserves.

INTERLOCKED MARKETS

Transactions get even more complicated when derivatives contracts in one market—such as interest rate swaps—are offset with foreign-currency or stock market index products in other markets for hedging or other business reasons. The parties that would be implicated in a collapsed swap then multiply.

Another fear: The technology for tracking derivatives at some banks may not have kept pace with the market's explosive growth. Regulators fear that banks themselves may not truly know the extent of their exposures.

What could cause problems with derivatives in the first place?

Credit quality—the usual suspect—tops the list. Nearly 60% of chief financial officers in a recent survey ranked credit quality as their chief concern about derivatives, said Michael Rulle, a managing director at Lehman Brothers Inc., in a recent speech.

BIG BUCKS, PLUS CONCENTRATION

There appears to be plenty to fret about. At the end of 1991, the top 30 U.S. bank holding companies were owed a total of $150 billion by counterparties in various interest rate and currency swaps.

What's more, the exposures are concentrated. "There might be about 20 major players worldwide where the bulk of price-making is done," said a banker.

Market risk is also a concern, chiefly because it could trigger credit problems.

For example, a bank may enter into an interest rate swap with a company that wants to make payments based on floating rates and to receive fixed rates.

The bank agrees to pay a 6% fixed rate, then turns around and hedges the commitment through a separate contract with a company that agrees to pay the bank a 6.1% fixed rate in return for a floating-rate payment from the bank.

VULNERABLE TO RATE BOUNCES

For a while, everyone is happy.

The companies have the types of interest payments they desire, while the bank pockets the difference between the two fixed-payment rates. In addition, the dealer collects any fees that it might have negotiated for arranging the transaction.

But if interest rates suddenly soared, the first company—if unable to keep up its floating-rate payments—would default. The bank in the middle would be left having to make suddenly high interest payments to the second company while receiving a fixed rate of only 6.1%.

One problem contract is unlikely to sink a company or ripple out to many other parties.

But if the first company has a series of floating-rate arrangements and the bank in the middle has done likewise, scores of players could be hurt.

LIQUIDITY IS A PROBLEM

Market risk is heightened by the fact that the swaps markets are not extraordinarily liquid. If a major dealer were to fail, others might stay out of the market until all the dealer's contracts were sold or nullified. That could upset trading activity in other contracts.

Consider what happened when Drexel Burnham Lambert went bankrupt. It had a derivatives portfolio estimated by one banker to have a notional value of as much as $50 billion.

The market weathered Drexel's woes—but there were some tense moments as bankers tried to get Drexel to settle up its swaps exposure. Its counterparties included many banks and thrifts.

HARD BARGAINING

One market participant said there was talk of locking all the swap parties in a room until they agreed to terms for dealing with their Drexel exposures. Ultimately, some banks settled their Drexel swaps at 70 cents on the dollar, according to traders who were in the market.

Proponents of swaps—who are represented by the International Swap Dealers Association—say a similar situation today would be easily handled. The markets, they say, have become more liquid, enabling parties who do not want to wait for a bankruptcy court ruling to sell their contracts to other derivatives users.

"We buy swaps all the time" in situations like that, said John Stomber, head of interest rate and currency swaps at Deutsche Bank Capital Corp.

But it's not always that easy.

BANK BROKER IN A PICKLE

J.P. Morgan has been trying for months to broker the sale of several swap contracts between Olympia & York Developments Ltd. and Dai-Ichi Kangyo Bank. The sale, by auction, has been postponed four times and is now scheduled for late this month.

A Morgan spokesman said negotiations are continuing on disposition of the swaps. But several swaps traders say very little interest exists in buying the contracts because their terms do not conform to the standard format developed by the trade group ISDA, a fairly common condition.

In fact, sources said, potential buyers of the O&Y swaps could pick up some loan exposure to the troubled real estate concern. That's because payments on some of the swaps are contingent on O&Y's paying off its loans.

Several bankers said they are just as eager as regulators to limit risks in the derivatives market. ISDA created its standardized contract, which tries to standardize terms for most dealers, as early as 1986, and it continues to push for safety features in the market, they said.

NO 'NEW RISKS'

"Is [the market] riskless? Absolutely not," said Mark Brickell, a vice president at J.P. Morgan and a director of ISDA.

But he added: "The risks in the transactions are the same we have been managing in traditional bank products. Swap traders may be clever, but they haven't invented any new risks."

Bankers also contend that their derivatives clients' credit quality is generally higher than the quality of their loan clients. Borrowers are often companies too small or too risk-laden to go into the capital markets on their own.

Swap participants, by contrast, often bypass bank loan departments. They use derivatives only to manage interest rate or currency risks associated with issuing their securities.

FEARING ONE BIG COLLAPSE

Indeed, default rates on swaps have been low. An ISDA survey published last Wednesday showed that the notional value of losses on swaps was less than half of 1% of the notional value of the dealers' swaps portfolios.

However, even the highest-quality counterparties can run into trouble if they need cash and find that their highly customized contracts are illiquid.

All it would take is one big disaster, some swappers fear, for regulators to start laying heavy hands on the market. In any case, the regulators' worries about the arcane world of derivatives is unlikely to vanish any time soon.●

HONORING PETER CAESAR ALBERTI

● Mr. D'AMATO. Mr. President, I rise today to honor a man who, like so many others who came to this country, gave up a successful career for an unknown prospect, coming to America. Peter Caesar Alberti is considered the first Italian to settle in America, some 357 years ago. The years since have shown many Italians have contributed much greatness to America. I have come here today to commemorate the memory of this brave man, in this, the 500th anniversary of the voyage of another great Italian, Christopher Columbus.

Immigrants had been coming to America for about 100 years when Mr. Alberti arrived in America. Most, though, had come from northern Europe. Peter Caesar Alberti came from Venice, Italy, where he was a very successful merchant. He joined the Dutch West India Co., set up in Amsterdam. In 1635, he sailed with the company to America, landing at what is now Battery Park in New York. He took up residence first on what is now called Broad Street, then moved to Brooklyn. He died a few years later.

Since that time 5 million Italians have crossed the Atlantic, with more than 20 million of their descendants now in residence in the United States. Many have gone on to become noted artists, scientists, authors, businessmen, engineers, public officials, and regular, hard-working Americans. As an Italian-American, I am extremely proud of the contributions made by the children of Italy and their descendants to this great country.

Peter Caesar Alberti would be the first of many great people to serve this country. I call upon my colleagues to rise with me today and praise the courage of those first Americans to cross the Atlantic. In particular, Peter Caesar Alberti, who gave up a good life in beautiful Venice to take on the challenge of coming to the new world. I salute Mr. Alberti, and the heritage of Italian-Americans that has flourished ever since.•

SAM HINDSMAN DAY

• Mr. PRYOR. Mr. President, on Friday, July 31, Arkansas observed "Sam Hindsman Day." This most deserved tribute recognizes 45 years of service by Sam Hindsman to the people of our State.

Following an illustrious college coaching career that spanned 20 years and resulted in the first "NAIA Coach of the Year Award in 1954," as well as induction into the Arkansas Sports Hall of Fame in 1981, Sam joined State government.

From 1973 to the present, Sam has served as the director of the Bureau of Standards for the State of Arkansas. He has had oversight of the activities of the weights and measures division and the laboratory standards division.

Selected as a delegate to numerous international meetings by the Office of Weights and Measures of the National Bureau of Standards, Sam was elected chairman of the National Conference on Weights and Measures in 1984.

He was instrumental in creating and developing a Petroleum Testing Program and laboratory facility that is considered a role model for the country.

On the occasion of his retirement from State government, I want to join his many friends, colleagues and associates in paying tribute to Sam. I wish he and his wife, Mary Lou, all the best. He has earned the gratitude of his State for a job well done.•

F/A-18 UPGRADE PROGRAM

• Mr. D'AMATO. Mr. President, I want to share with my colleagues the results of my investigation into the genesis, drafting, and presentation of the "Cost and Operational Effectiveness Analysis Summary for F/A-18 Upgrade Program," the supposed summary of the nonexistent F/A-18E/F COEA. The COEA Summary, widely circulated by the Navy on Capitol Hill, was represented as a contractor-generated study to congressional staff until it was revealed that the Assistant Secretary of the Navy, Research, Development, and Acquisition, had provided it to the Under Secretary of Defense, Acquisition, as an authoritative analysis immediately prior to the Defense Acquisition Board review of the F/A-18E/F.

This embarrassing revelation prompted the Navy to reverse itself. Suddenly, the Navy claimed the COEA Summary as its own, a direct contradiction of what it had been telling House and Senate staff for more than a month. Pressed to name a specific author, the Navy trotted out the program executive officer—tactical aircraft programs and the F/A-18 program manager.

An interview in my office was arranged. The Deputy Assistant Secretary of the Navy, Air Programs, and the program executive officer—tactical aircraft programs, so many strings were attached to a meeting with the F/A-18 program manager that, in disgust, I reluctantly dropped my request to meet with him, told the following tale:

First, the COEA Summary was conceived on Thursday, April 30, 1992. All taskings were verbal.

Second, sources were limited to the major aircraft review I and II submissions—which, among other things, blessed the A-12 months before its termination—and a side-by-side comparison of the F/A-18 and F-14—which, the interviewees were careful to note, was tainted by old data.

Third, notes, the original draft, and revisions No. 1-4 of the COEA Summary no longer exist. Revision No. 5 was submitted up the chain of command without cover. The Assistant Secretary of the Navy forwarded it with a cover memo to the Under secretary of Defense on Monday, May 4, 1992. The DAB held the F/A-18E/F Milestone IV/II review on May 6, 1992—the last-minute timing of the COEA Summary seems to confirm that it was intended to head off criticism by the DOD Inspector General who, prior to the DAB, had challenged the lack of a COEA.

My conclusion: The Navy has failed to present anything to me that disproves their original assertion that the COEA Summary was a contractor sales pitch If the Navy crafted this document, they left no trace. All we have is revision No. 5 on blank paper with no indication of author or source, a pile of data of questionable pedigree, and the after-the-fact assertions of individuals whose careers depend on providing right answers.

Without a COEA we lack a comparative analysis of available naval aviation options and a means of establishing cost and performance thresholds for the F/A-18E/F. Yet, the Navy has just committed $194 billion to the program. If the taxpayer is to avoid a fleecing, we must be careful to cap development and production costs, tie funding to an event-based schedule, and insist upon flying prototypes.

I applaud the House and Senate Armed Services Committees moves in this direction, and look forward to a fusion of their respective positions on the F/A-18E/F in the coming Defense authorization conference.•

CHRISTA McAULIFFE FELLOWSHIP PROGRAM

• Mr. SMITH. Mr. President, I rise today to recognize the participants in the 1991 Christa McAuliffe Fellowship Program.

Christa McAuliffe inspired our country and especially our students to "reach for the stars." Her call for excellence challenged us to create a vision for the education we offer to our students. Christa and her fellow astronauts aboard the shuttle *Challenger* possessed tremendous courage and dedication, and today we continue to honor that spirit. In 1986, the Department of Education chose to remember the determination and commitment Christa embodied by establishing the Christa McAuliffe Fellowship Program. The program recognizes outstanding teachers nationwide by providing fellowships to enable and encourage them to develop innovative educational projects.

The 1991 fellows are a diverse and talented group of individuals. They represent all 50 States and 6 territories. Each completed a year- or semester-long project, ranging from developing hands-on science curriculum to creating a teacher and student mentor program. These unique projects all served to broaden the horizons and enhance the understanding of the students they touch. The 1991 fellows are invaluable assets to our country; they freely share their knowledge and abilities with their students, their fellow educators and their communities. They, like Christa McAuliffe, inspire and motivate their students to pursue excellence in all their endeavors.

I am proud and honored to recognize the 1991 Christa McAuliffe Fellows for their admirable contributions to American education. I ask that the attached list of Fellows be entered into the RECORD.

The list follows:

1991 Christa McAuliffe Fellows Congressional Record List

(By State)

AL: Carolyn G. Wright.
AK: Nancy Carson Norman.
AZ: Debra Bjorna.
AR: Patricia L. Hesse.
CA: Jeanne Hanna.
CA: Robert A. Morrey.
CA: David N. Tokofsky.
CO: Marilee Sharon Frickey.
CT: Patricia Bishop McKean.
DE: Renee Genbauffe O'Leary.
DC: Geraldine C. Okwesa.
FL: Marilyn F. Hays.
FL: Geraldine H. Williams.
GA: Nancy Nail Housand.
GA: Eileen Moore Johnson.
HI: Pauline W.U. Chinn.
ID: Joyce Hopper Greenfield.
IL: Nancy Bullard.
IN: Theresa Winfrey Greenwood.
IA: Lola P. Mapes.
KS: Brad Williamson.
KY: Jo Price Craven.
LA: John I. Swang.
ME: David B. Dougan.
MD: Susan Jane Hanson.
MA: Lloyd O. Long.
MA: Patrick C. Smith.
MI: Lynn Katsaros.
MI: Cynthia M. Leson-Whalen.
MN: Lorraine Dorothy Martin.
MS: Katherine D. Owens.
MO: Carolyn Kay Young.
MT: Sherry Ann Jones.
NE: Virgil Wayne King.
NV: M. Katheryn Grimes.
NH: Deborah Lynn Sisson.
NJ: Mary F. Capriotti.
NJ: Michael Levy.
NM: Marvin Lloyd Martin.
NY: John C. Gallo.
NY: Robert E. Lent.
NC: Sally Coleman Besaw.
NC: Lester Rogers Moats.
ND: Janice M. Schultz.
OH: Beryl B. McGowan.
OH: Sandra J. Scholl.
OK: Roxy Ann Merklin.
OR: Jonathan Yoder.
PA: Concetta Petrone.
PA: Douglas Randall Ross.
RI: Judith Anne Sweeney.
SC: Patricia E. Smith.
SD: Jerry J. Opbroek.
TN: Elizabeth S. Smedley.
TX: Leslie Manning Francis.
TX: Sara R. Valenzuela.
UT: Linda J. Preston.
VT: Ann Jean Sorrell.
VA: Brion George Patterson.
WA: Susan Gail Wertz.
WV: Donna Hardy Linkous.
WI: Linda K. Klein.
WI: Karen D. Lea.
WY: Brent J. Weigner.
AS: Popoai A. Aab.
GU: Michael C. Gogo.
MP: Angelita Buniag.
MP: Sharon Lee Robbins.
PW: Myers China Techitong.
PW: Ignacia Yobech.
PR: Migdalia Cruz.
VI: William Andrews Wilson.•

IN HONOR OF A GREAT TEACHER

• Mr. D'AMATO. Mr. President, I rise to pay tribute to Norwahidah Barry, who has made outstanding contributions to the lives of the students of the St. Mary's Star of the Sea Catholic School in Far Rockaway, NY.

Mrs. Barry has been a kindergarten teacher for many years. She is a friend to her students as well as a teacher whose guidance has played a significant role in the enlightenment of her students.

She has devoted her life to cultivating the creativity and curiosity of children, and has held firmly to her conviction that the lives of children in and out of school are intertwined. In this regard, Mrs. Barry has been instrumental in starting new programs to help her students, ranging from having older students help in class, to starting a self-help program for her students. She is so committed that when the mother of one of her students was stricken, Mrs. Barry allowed the girl to stay with her.

For her numerous accomplishments as a teacher, Norwahidah Barry has been offered jobs that pay more money. But her commitment to her students has led her to stay with them. It is time for us to pay tribute to a woman whose contributions and selfless giving have made a difference to her community and her country. Mrs. Barry, I salute you.•

IRV KUPCINET, "MR. CHICAGO," CELEBRATES HIS 80TH BIRTHDAY

• Mr. DIXON. Mr. President, my distinguished Illinois colleague, Senator PAUL SIMON, joins me in wishing Irv Kupcinet, the 57-year Chicago journalist and columnist, a glorious 80th birthday. Kup, as he is known in Chicago and all over the world, has made, and continues to make, an enormous and remarkable contribution to the lives of his millions of viewers and readers, many of whom start their day by reading Kup's column first.

Long a mainstay of electronic and print media, Kup's career began in 1935 as a sportswriter. Kup pioneered the television talk show, winning a legion of Emmy Awards as well as the Penultimate Peabody Award over the show's nearly three-decade run. In all of this, Kup kept his philosophy successfully simple: Let the guests do the talking. Thousands of famous celebrities, politicians, sports figures, and authors did just that over a wide range of topics. Indeed, Kup closed every show with his trademark—thanks for joining me for the lively art of conversation.

Mr. President, Kup's column itself is soon to mark its 50th year in print. I continue to chuckle with delight when I read it in the Chicago Sun-Times, not only because everyone you know seems to be mentioned in it at one time or another, but also because of Kup's famous and witty epigrams. Kup often scrambles the names of people, places and events with a Chicago diction like no one else can.

Kup, and his wife Essee, have long been honored as extraordinary philanthropists, most notably on behalf of artists and arts organizations. Indeed, they helped to found the Chicago Academy for the Arts, one of only a handful of performing arts high schools in the country. Kup's annual purple heart cruise raises money and awareness for the sake of forgotten veterans.

I have only scratched the surface in revealing the substance of Kup's long, distinguished, honorable and enthusiastic career and his numerous civic contributions.

Steve Neal, in a recent Chicago Sun-Times commentary, summarizes Kup's exceptional life. I ask that it be entered into the record.

The article follows:

[From the Chicago Sun-Times, July 31, 1992]

FROM ROOSEVELT TO BUSH, KUP'S BEEN TOPS

He is still ahead of the game.

When Democratic presidential nominee Bill Clinton addressed a $1 million fund-raiser on Tuesday in the Chicago Hilton and Towers, it was closed to the news media. Except for one.

Sun-Times columnist Irv Kupcinet was in the room, chatting with Clinton about his strategy for the general election. Kup then worked the room. Earlier this summer, he reported that Clinton was about to choose Albert Gore as his running mate.

For more than a half-century, Kup has watched history from a ringside seat, reporting with insight, wit and historical perspective. Though he is nationally renowned as a show-business columnist, he is also recognized as one of the more accomplished newsmen of his time. The man for all seasons is 80 today.

From Franklin D. Roosevelt to George Bush, he has known 10 presidents of the United States. Kup covered FDR's presidency and attended his off-the-record briefings in the Oval Office. When Otto Preminger cast a reporter for a bit role in "Advise and Consent," Kup got the part.

His sources are still the best. White House chief of staff Samuel K. Skinner is a longtime confidant. Clinton's campaign manager, Dave Wilhelm, is also a friend.

Kup met future President Gerald R. Ford when they were teammates on the 1935 College All-Star football team. Kup, a quarterback who played at North Dakota, stood behind Ford, a center from Michigan. "I had a somewhat different view of the president of the United States," he quips.

He has known Ronald Reagan since the future president was a promising young actor. When Kup met Reagan, the future president was a liberal Democrat and outspoken defender of FDR's New Deal.

But Kup's favorite president is Harry Truman, whose portrait hangs behind his desk at the Sun-Times.

Truman gave Kup the scoop that he wouldn't seek re-election in 1952. Kup met Truman when he was a U.S. senator and reported his nomination for vice president at Chicago Stadium in 1944. Truman confided to Kup that he fired Gen. Douglas MacArthur during the Korean War because MacArthur "wanted to use the atomic bomb against the Chinese." Truman once handed Kup a card on which he wrote: "Kup, you're entitled to admission, the front and back door is always open."

It was with Truman that Kup first met Gen. Dwight D. Eisenhower. Later, Kup was the first reporter to interview Ike and his four surviving brothers simultaneously, which provided a revealing glimpse of one of America's more famous families. Kup also broke the story of Gov. Adlai Stevenson's decision to seek the presidency against Eisenhower.

At the 1956 Democratic National Convention, Kup showed remarkable presience. "Brightest young hope to emerge from the conclave," Kup wrote, was Sen. John F. Kennedy of Massachusetts. Kup noted the "terrific impact" of JFK's nominating speech for Adlai E. Stevenson. "In racetrack parlance, tab this one for '60," Kup wrote. Sure enough, JFK won that year.

Kennedy once said that a good journalist is "willing to take the long view, undisturbed by prejudices and slogans of the moment, who attempts to make an honest judgment on difficult events" and "seeks to distinguish the real from the illusory, the longrange from the temporary, the significance from the petty." He could have been describing Kup.●

S. 3121—FEDERAL RECOGNITION OF ODAWA AND OTTAWA INDIAN TRIBES

● Mr. LEVIN. Mr. President, yesterday I was joined by my colleague from Michigan, Senator RIEGLE in introducing S. 3121, legislation to provide Federal recognition for the Little River Band of Ottawa Indians and the Little Traverse Bay Banks of Odawa Indians. Both of these tribes are descendants of the tribes that signed the 1836 Treaty of Washington and the 1855 Treaty of Detroit. This legislation seeks to reaffirm the Federal trust responsibility to these two tribes which the most recognized Indian scholar in the United States, University of Colorado Prof. Vine Deloria, Jr., has gone on record as stating were never terminated. Identical legislation has been introduced in the House by Representative DALE KILDEE, Representative ROBERT DAVIS, and Representative GUY VANDER JAGT.

Mr. President, historical documentation proves that these tribes have had a government-to-government relationship with the United States since Americans first entered the Great Lakes. Both are signatories to treaties with the United States and both maintained distinct political and cultural structures from that time to the present. Additionally, both tribes petitioned for recognition of their governments under the Indian Reorganization Act in 1935 and it was the U.S. Government's failure to act on this petition, claiming budgetary constraints and bureaucratic redtape, that has brought about the necessity for this legislation.

Mr. President, numerous Indian law experts have found that these two tribes are technically, federally recognized and eligible for services as a result of such recognition. Yet, the administration to date, has not provided such recognition, using a series of historical and legal technicalities as its excuse. No one questions that fact that these tribes signed treaties with the United States and that they have upheld their end of the agreement. Mr. President, I urge speedy enactment of this legislation. It is long overdue. I ask unanimous consent that the full text of the bill be included in the RECORD.

The text of S. 3121 follows:

S. 3121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians are descendants of, and political successors to, signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit.

(2) The Grand Traverse Band of Ottawa and Chippewa Indians, the Sault Saint Marie Tribe of Chippewa Indians, and the Bay Mills Band of Chippewa Indians, whose members are also descendants of the signatories to the 1836 Treaty of Washington and the 1855 Treaty of Detroit, have been recognized by the Federal Government as distinct Indian tribes.

(3) The Little Traverse Bay Bands of Odawa Indians consist of at least 1,000 eligible members who continue to reside close to their ancestral homeland in what is now Emmett and Charlevoix Counties, Michigan.

(4) The Little River Band of Ottawa Indians consists of at least 500 eligible members who continue to reside close to their ancestral homeland in what is now Manistee and Mason Counties, Michigan.

(5) The Bands filed for reorganization of their existing tribal governments in 1935 under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"). Federal agents who visited the Bands, including Commissioner of Indian Affairs, John Collier, who authored the Act, attested to the continued social and political existence of the Bands and concluded that the Bands were eligible for reorganization. Due to a lack of Federal appropriations to implement the provisions of such Act, the Bands were denied the opportunity to reorganize.

(6) In spite of such denial, the Bands continued their political and social existence with viable tribal governments. The Bands, along with other Michigan Odawa/Ottawa groups, including the tribes described in paragraph (2), formed the Northern Michigan Ottawa Association in 1948. The Association subsequently pursued a successful land claim with the Indian Claims Commission.

(7) Between 1948 and 1975, the Bands carried out their governmental functions through the Northern Michigan Ottawa Association.

(8) In 1975, the Northern Michigan Ottawa Association petitioned under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act), to form a government on behalf of the Bands. Again in spite of the Bands' eligibility, the Bureau of Indian Affairs failed to act on their request.

(9) The United States Government, the government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Bands from 1836 to the present.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Bands" means the Little Trasverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians;

(2) the term "member" means those individuals eligible for enrollment in the Bands pursuant to section 5; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 4. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—Federal recognition is hereby extended to the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians. All laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), which are not inconsistent with any specific provisions of this Act shall be applicable to the Bands and their members.

(b) FEDERAL SERVICES AND BENEFITS.—The Bands and their members shall be eligible, on and after the date of the enactment of this Act, for all Federal services and benefits furnished to federally recognized tribes or their members without regard to the existence of reservations for the Bands.

SEC. 5. MEMBERSHIP.

Not later than 18 months after the date of the enactment of this Act, the Bands shall submit to the Secretary membership rolls consisting of all individuals eligible for membership in such Bands. The qualifications for inclusion on the membership rolls of the Bands shall be determined by the membership clauses in such Bands' respective governing documents, in consultation with the Secretary. Upon completion of the rolls, the Secretary shall immediately publish notice of such in the Federal Register. The Bands shall ensure that such rolls are maintained and kept current.

SEC. 6. CONSTITUTION AND GOVERNING BODY.

(a) CONSTITUTION.—

(1) ADOPTION.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall conduct, by secret ballot, elections for the purpose of adopting new constitutions for the Bands. The elections shall be held according to the procedures applicable to elections under section 16 of the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act").

(2) INTERIM GOVERNING DOCUMENTS.—Until such time as new constitutions are adopted under paragraph (1), the governing documents in effect on the date of the enactment of this Act shall be the interim governing documents for the Bands.

(b) OFFICIALS.—

(1) ELECTION.—Not later than 6 months after the Bands adopt constitutions and bylaws pursuant to subsection (a), the Secretary shall conduct elections by secret ballot for the purpose of electing officials for the Bands as provided in the Bands' respec-

tive constitutions. The elections shall be conducted according to the procedures described in subsection (a), except to the extent that such procedures conflict with the Bands' constitutions.

(2) INTERIM GOVERNMENTS.—Until such time as the Bands elect new officials pursuant to paragraph (1), the Bands' governing bodies shall be those governing bodies in place on the date of the enactment of this Act, or any new governing bodies selected under the election procedures specified in the respective interim governing documents of the Bands.•

TRIBUTE TO NICHOLASVILLE

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to the town of Nicholasville in Jessamine County.

The town of Nicholasville holds a very special place among the rolling hills of central Kentucky both geographically as well as historically. Named after the "father of Kentucky's first constitution," Revolutionary War Col. George Nicholas, Nicholasville is home to some of the Commonwealth's most unique sights.

Nobody can argue that Nicholasville is not a safe place to live, thanks to Sargent & Greenleaf Inc., the county's largest employer and manufacturer of locks. Not surprisingly, the Nicholasville company houses the world's largest lock collection. Jessamine County is also home to the historic High Bridge, built in 1876, which is the highest bridge over a navigable stream in the United States.

Nicholasville has a bounty of small town charm yet its location to Lexington affords the citizens the opportunity to sample big city attractions by driving north 13 miles.

There is no doubt about it, Nicholasville is a boomtown. The town's population grew 31 percent between 1980 and 1990. I am confident in the citizens' ability to maintain strong economic growth while retaining its small-town values and charm.

Mr. President, I ask that an article from the Louisville Courier-Journal to be printed in the CONGRESSIONAL RECORD.

The article follows:

NICHOLASVILLE

(By Richard Wilson)

NICHOLASVILLE, KY.—Every weekday morning around 8, officials from the nearby courthouse, some downtown businessmen and a few retirees file into Hemphill's Pharmacy for morning coffee and conversation. Topics range from politics to University of Kentucky basketball; rumor and fact are frequently inseparable.

"If you're a regular, and don't check in (every morning), someone will call to see where you are," Bob Thompson, the property valuation administrator, said.

About the same time, countless other Nicholasville residents jump into their cars and quickly become part of the line of traffic streaming up U.S. 27 to Lexington.

Life in Nicholasville, the Jessamine County seat, is a mixture of small-town comfort and the hustle and bustle of the suburban bedroom community. But the trend is definitely suburban. The boundaries of the fast-growing Central Kentucky community continue to creep north toward the Fayette County line, even as Lexington's sprawling suburbs reach south.

The urban-suburban relationship was shaped by geography and economics; Nicholasville is only 13 miles south of Lexington, and the horse farms that rim Lexington on the north and west all but forced new growth to the south.

Many longtime residents, such as former federal judge Bernard T. Moynihan Jr., recall bygone days when everyone in the county knew everyone else. "I practiced law here for many years, and back then you seldom had to ask who somebody was on a jury. I suspect that's no longer true," said Moynihan, who returned to private practice after retiring from the bench in 1984.

But two top local officials—Nicholasville Mayor Sam Corman and Jessamine County Judge-Executive W. Neal Cassity—contend the small-town intimacy hasn't been completely lost.

"Even though we've grown tremendously in the last several years, we haven't outgrown our small-town atmosphere and our ability for everybody to pitch in and help out when something happens that affects the whole community," said Corman.

"It's still a place where you pretty much know everything up front, like who's expecting a new child, who's getting married, or later down the road, how that marriage is getting on," Cassity said.

Between 1980 and 1990, Nicholasville's population jumped nearly 31 percent—from 10,400 to 13,603 residents. That made it the fastest-growing town in Central Kentucky and one whose growth was exceeded by only a handful of other Kentucky cities. During the same decade, Jessamine County's population grew 17 percent—from 26,065 to 30,508 residents. Only Boone and Grant Counties grew faster.

Local officials believe that many of the new residents are "foreigners" from Lexington who fled that city's congestion for a slower pace, cheaper land and lower taxes.

Bill McClelland and his wife, Betty, moved here in 1984 after he retired from Lexington's Blue Grass Army Depot. McClelland said that he was looking for a townhouse and "fell in love" with one he found in Nicholasville's Orchard subdivision.

"We really enjoy it here. It's just a small town, everything is kind of convenient, and the people are friendly. It's not too far from Lexington if you want to do some big shopping, but of course most of what I want is here," McClelland said.

Two other former Fayette countians, Danny and Phyllis Bruce, also moved to Nicholasville with their family several years ago. Danny Bruce, a mail carrier who commutes to Lexington, said they were seeking a slower pace and found it.

"People are friendlier down here. They're not scared to death that somebody's going to do something to them," he said.

"One of the things that kind of shocked us when we first moved down here is you can go anywhere and write a check and they say 'Thank you.' They don't ask you for all your history. Very seldom do they even ask you for identification. That makes it kind of nice. You feel like maybe you might be trusted. Nowadays, that is strange."

But the town's emergence from a sleepy, rural community has produced its share of strain. A four-lane bypass, completed in 1987 around the city's western edge, was supposed to relieve Main Street of bumper-to-bumper traffic and free the town from being one of Kentucky's most congested. That hasn't happened, said local historian Elexene Mastin Cox.

"We don't think the bypass has changed things at all because traffic is still bumper-to-bumper. Maybe that's because people just don't like all of the traffic lights on the bypass," she said.

Nicholasville got its first shopping centers several years ago, at the north and south ends of town. Initially, some downtown merchants feared that the centers, which include a Wal-Mart and Kmart, would hurt their businesses. Bob Kanatzar, operator of VonGrunigen's True Value Hardware, one of the town's oldest businesses dating back to 1895, was one who worried. "But I'm doing as much (business) now as I ever did," Kanatzer added.

Downtown parking remains a problem, and lucky drivers who find spaces have frequently solved only part of their problem. They must still try to get back into traffic when they are ready to leave their Main Street spots.

"It's wise to park close to a stoplight so you can get out when it turns red," said Cassity.

The city has no Main Street parking meters, but shoppers are asked to park for no more than two hours. Even so, parking tickets are the exception, rather than the rule.

Unlike many small towns in the Bluegrass, Nicholasville has no empty Main Street storefronts. "It's amazing. Someone will go out of business, but before you know it, the space is taken by someone else," Cassity said.

Jessamine County's 3.4 percent unemployment rate in May was bettered in Central Kentucky only by Fayette's 3.2 percent. Jessamine's unemployment is the state's sixth lowest.

But there are other problems.

The state has directed Nicholasville to build a new sewage-treatment plant to handle an overload at its existing facility. While several sites are under consideration, local groups are opposing construction near their areas.

Recreational facilities also need to be expanded, and new school space is needed for a county system that has been growing an average of nearly 100 students a year for the past 30 years. Construction of at least one new school, and the expansion of others, is under discussion. The community also has no large auditorium, a shortcoming that has forced Jessamine County High School to hold its commencement in the University of Kentucky's Memorial Coliseum in recent years. Also, the city got its first motel only last year.

New construction also has caused major drainage problems in some parts of the city, and folks would like a community swimming pool.

The city's police force has nearly doubled in the past decade, to 29 sworn officers today. Chief Ken Harp said that with the city's growth has come more specialized law enforcement, especially in trying to curb drug trafficking. "We watch it closely. You can't stop it (drug traffic). About all you can do is try to slow it down," Harp said.

Burglary and thefts have also increased in recent years, and last month the town achieved a dubious distinction when some 40 people were arrested in a drug bust and the robbery of a local branch bank was foiled.

Although an industrial park that opened south of town several years ago houses nearly a dozen businesses, Nicholasville has not been nearly as aggressive in economic development as some other Central Kentucky towns. But that too is changing.

Unlike their predecessors, who hardly spoke to each other, Corman and Cassity are working together to bring new jobs to the city and county.

"When we were elected (in 1990), we looked around and saw that every city around Nicholasville was getting spinoffs from Toyota (the Georgetown auto manufacturing plant), and we weren't getting any," Corman said. The mayor recently named a six-man economic-development authority to recruit industry. A couple of prospects have shown interest in relocating to the town.

Any new jobs will be welcome since Malone & Hyde, a grocery distributing firm, announced earlier this year that it was closing, costing the community more than 200 jobs. Cassity, however, noted that the opening of Kentucky Veterans Center near Wilmore replaced many of those jobs.

Corman is convinced that Nicholasville can handle its growth, primarily through annexation. "If you don't annex and go out and bring in new property to the city so that you can have a handle on growth, you're going to be in trouble. You can't let growth just be uncontrollable," he added.

As for its mushrooming subdivisions, the city has adopted new "impact fees" that force developers to pay up front for new sewer and water hookups, Corman said.

The city's growth, residents say, is probably inevitable. But recruiting of new industry is not so welcome.

"I don't think the average person supports new industry at all," said George Compton, who operates a watch and clock repair shop. Compton said many residents fear costly incentives that may be offered, and the necessary increased taxes to pay for them.

"But I've always thought there's nothing I can do about it. So we'll just have to see if it works for the best or worst," he said.

OUR TOWNS

Population (1990): Nicholasville, 13,608; Jessamine County, 30,508.

Per capita income (1989): $13,651, or $172 below the state average.

Jobs (1989): Employment, 7,094; manufacturing, 1,598; wholesale and retail trade, 1,971; services, 955; state and local government, 930; contract construction, 920.

Big employers: Sargent & Greenleaf Inc. (locks), 272 employees; Hospital Specialty Co. (sanitary napkins, disposable diapers), 250; Gulf States Paper Corp. (folding cartons), 220; Thompson International (plastic injection molding), 186.

Media: Newspaper—Jessamine Journal (weekly); radio stations—MNVL-AM (country) and WJMM-AM (country, gospel).

Transportation: Roads—U.S. 27, Ky. 29, 39 and 169. Air—none. Nearest commercial airline service—Lexington's Blue Grass Airport, 17 miles northwest of Nicholasville. Rail—Southern Railway. Trucking—37 companies serve the city.

Education: Jessamine County public schools, 5,841 students. An estimated 320 youngsters attend two local private schools and various private schools in Fayette County. Asbury College, a private liberal-arts school, is located seven miles away at Wilmore.

Topography: Rolling to rugged along the Kentucky River around the southern edge of the county.

FAMOUS FACTS AND FIGURES

Jessamine County was formed in 1798 by Col. John Price, but the origin of its name is still debated. Some say the county was named for the jasmine flower, which grows along woodland creek banks. Others say it was named for Jessamine Douglas, the daughter of early surveyor and settler James Douglas. The state's 36th county, it was originally part of Fayette County.

Nicholasville, also formed in 1798, was named for Revolutionary War Col. George Nicholas, who is often called "the father of Kentucky's first constitution."

Nicholasville contains the world's largest lock collection, it is housed in the lobby of Sargent & Greenleaf Inc. Among the thousands of items on display are a padlock from the Crusades, keys and locks from Buckingham Palace and a personal safe used by Diamong Jim Brady.

The historic High Bridge, built in 1876 four miles southwest of Wilmore on Ky. 29 and spanning the Kentucky River, is the highest bridge over a navigable stream in the United States.

The Valley View Ferry, which crosses the Kentucky River between Jessamine and Madison counties, began operation in 1875 and is the oldest continuous business in the state. The ferry is now jointly owned by Jessamine, Madison and Fayette counties.

Noted Jessamine countians include Gen. William O. Butler, a U.S. congressman from 1839 to 1843. Butler served in the War of 1812 on Gen. Andrew Jackson's staff and was cited for heroism in the Mexican War. John Watts represented Central Kentucky in Congress from 1951 to 1971. Bernard T. Moynahan Jr., a local lawyer, is a former U.S. attorney and federal judge. Dr. Lena Madesin Phillips founded the National Federation of Business and Professional Women's Clubs.●

HONORING THE VILLAGE OF MANCHESTER, NY AFTER 100 YEARS

● Mr. D'AMATO. Mr. President, I rise today to speak in celebration of the village of Manchester's 100 years of incorporation. On August 16, 1892, a unanimous vote of the residents of the area to be incorporated, in accordance with the law enacted by the New York State Legislature, established the village of Manchester. A town with a lively and interesting history, as well as good, hard working, and friendly people, Manchester has managed to thrive over the past 100 years. I take pride in raising my voice in celebration of the anniversary of this great town.

In addition to being incorporated in 1892, the town also received a railroad station, an important step for a town in that time. Over time, the town received streetlights, several stores, a new school, telephone service, a volunteer fire department, a water system, and all the hallmarks that bring people together.

Before, during, and after the two World Wars, the town continued to grow. More businesses opened, and more people came. A New York State Thruway exit was added in 1953, making Manchester easily accessible to anyone. Manchester now has a population of over 1,500 people. Primarily a residential area, the area is sought out to provide good housing at reasonable prices in a pleasant setting. Many diverse ethnic groups have come together to make a peaceful community where the families are close, and neighbors are willing to help one another.

I am proud to represent Manchester and towns like it. It is people like the good people of Manchester who make up the fabric of American life. I ask my colleagues, and all Americans to recognize the value of Manchester and celebrate the ability of this town to bloom and prosper over a century of change. I salute the residents, and congratulate the village of Manchester on its 100th birthday.●

STATEHOOD FOR THE DISTRICT OF COLUMBIA

● Mr. SIMON. Mr. President, in national capitals around the world, the local residents have voting representation in their national legislatures. Everywhere, but in the United States. Congress has applauded and fostered self determination in Eastern Europe, the former Soviet Union, Africa, and other countries. But this is not something we practice here at home. When we voted on a series of issues directly affecting the District of Columbia last week, there was no voting representative of the District among us. That situation ought to be changed.

The New York Times last week editorialized in favor of statehood for the District of Columbia. As an original cosponsor of legislation to make the District of Columbia our 51st State, I commend it to the attention of all Senators.

I ask that the New York Times editorial be printed in the RECORD immediately following my remarks.

The editorial follows:

[From the New York Times, July 21, 1992]

THE STATE OF MISGOVERNMENT

Representative Eleanor Holmes Norton's speech to the Democratic Convention gave fresh evidence of how the Federal Government treats Washington, D.C.: like a plantation.

The District's elected officials have only taken power. They can't pass a budget or even reschedule garbage collection without groveling before Congress. The District has 608,000 people, more than Alaska, Wyoming or Vermont. Yet Representative Norton is denied a vote in the Congress that runs her city. As she told the Democrats, "It is too late in the century for Americans to accept colonial rule at the very seat of government."

The remedy is to admit the District as the 51st state, as called for the in the Democratic platform. Congress can do its part by passing the New Columbia Statehood Admission Act, which Ms. Norton introduced more than a year ago.

The hardships the District of Columbia endures are evident in the annual budget process. Congress can prevent the District from spending even locally raised revenues in ways that citizens see fit. During budget hearings, members of Congress grandstand on municipal issues and meddle with the city's finances on behalf of special interests. Extortionate threats to hold up budget passage are common.

The need for autonomy was highlighted in a recent encounter between Mayor Sharon Pratt Kelly and Representative Thomas J. Bliley of Virginia, the ranking Republican on the House committee that supervises the District. Mr. Bliley berated Mayor Kelly for what he said was foot-dragging or crime.

He is in no position to criticize. he is currently in court challenging a District law intended to reduce the number of weapons on the streets. The law imposes "strict liability" for semiautomatic rifles and pistols, allowing victims to recover damages from manufacturers and dealers even though they had nothing to do with gun crimes.

Assault weapons are sold legally in Mr. Bliley's state. And Virginia is a main source of origin for guns confiscated in the District. Mr. Bliley forced the District's City Council to repeal the law by threatening to block Federal aid. When voters reinstated the law, Mr. Bliley brought his suit. The suit was dismissed: Mr. Bliley has appealed. In essence, this suit argues that Congress's control supersedes the right to self-government.

The citizens of Washington, D.C., deserves relief from this kind of imperial arrogance. Statehood is the way to provide it.●

SUPERCONDUCTING SUPER COLLIDER

● Mr. KERRY. Mr. President, the vote last night on the superconducting super collider [SSC] was a very difficult one for me, as I am sure it was for many of my colleagues.

During my service in the Senate, I have been a strong supporter of science and technology programs because I recognize the great importance of a comprehensive research and development foundation to our national economic security and our ability to remain competitive in the international marketplace.

I am assured by a large number of capable scientists that the SSC will make a valuable contribution to advancing scientific knowledge. I am persuaded that is true. I know that the SSC will expand the frontier of particle physics, and that many preeminent scientists and other knowledgeable persons agree with the scientific rationale for the project.

Today, however, we must examine such projects considerably more carefully than in earlier times. We do not have the luxury that we may have had 20 or even 10 years ago: To look at a project purely for its value to science. We cannot fund every science project that is presented to us without using another measuring stick.

Today, we must consider the often contradictory priorities of reducing a daunting $350 billion Federal deficit—which will be added this year to the overwhelming $4 trillion national debt—and maintaining the U.S. lead in the many areas of science and technology.

Am I comfortable with the choice presented yesterday on the SSC vote? Emphatically I am not. The central reason is this: Basic science research and technology are critical to our ability to maintain our competitive edge where we still have it, and to recover it in high tech fields where it is slipping away. The SSC is not the only such project funded or assisted by the Federal Government. Therefore, it would be a tremendous mistake to assume that those who voted against further funding of the SSC do not support a very significant Federal activity in science, research, and technological development. In fact, a strong case can be made that a vote for the SSC was a vote against science of a more practical nature with a direct relationship to ensuring and promoting our scientific and technological edge. As the budget ratchet tightens in coming years, I am afraid it will be increasingly difficult to provide funding for such important and beneficial R&D programs.

I wish we could fund each and every worthy science project that comes before the Senate. But given the enormous fiscal crisis we face, we must begin to make the tough decisions—choosing only the very best science projects with the most anticipated value per dollar spent. Until we get our fiscal house in order, it is imperative that we be vigilant of the costs of science projects because the total amount in the Federal budget available for science, R&D and technology is likely not to increase—and may be cut.

When deciding on whether to support this project, I had to ask myself three questions: Is this a top science priority for the Federal Government? What do we expect to realize for our investment—is it enough? Can we afford it now?

Is this a top priority for science research? The DOE prepared an internal review of the top 11 DOE science projects and the super collider ranked just 10 among 11 projects. The DOE report says that the SSC should be deemphasized since it contributes little to directly enhancing our Nation's ability to compete in science and trade.

A national survey of U.S. corporate vice presidents for research and development ranked the SSC last among the five top U.S. science projects, which included the human genome project, the national aerospace plane, strategic defense initiative [SDI] research, and the space station. In addition, the national science research society, Sigma Xi, comprising over 160 top scientists from business, academia, and government, ranked the SSC last as well. Clearly, this is not the highest science priority.

Even if it isn't the highest priority, I am persuaded the SSC is likely to yield some scientific data that would be very helpful to scientists and researchers. But that leads to the next question: What can we realize for our investment—and is it enough given the cost of the project?

One of the answers to this question is that the SSC is not expected to have very many or very direct spinoff effects or to enhance our manufacturing industries. Do I believe all science projects such as the SSC must have immediate and widespread spin-off effects? No; I do not. I believe in science for science's sake. But at a time when resources are scarce, and public officials at least temporarily must choose among worthy projects, obtaining maximum benefit for every Federal dollar expended, including ancillary benefits, takes on added importance.

Finally, taking into account what we anticipate receiving as the products of this project, can we afford the SSC? There are two factors which together suggest the answer to this question. The first has to do with the seemingly limitless capability of the project to generate ever higher costs. The other is, of course, our severely and increasingly strained Federal budget.

Several years ago, the Department of Energy came to Congress and said it could build the SSC for less than $5 billion in taxpayers' money with an additional $1.7 billion—approximately 25 percent of total estimated projects costs—in foreign contributions.

Today, DOE's own internal audit says it will cost no less than $8.6 billion in taxpayers' dollars. Other outside estimates run as high as $11.6 billion.

The General Accounting Office has presented some disturbing facts about the lack of oversight and improper management of the project. GAO testified that DOE does not have in place an integrated management system for monitoring the SSC project's cost and schedule performance, making it impossible to calculate the potential impact of cost and schedule changes.

What we do know is that one of the first buildings completed in this first year of construction on the project was nearly 20 percent over budget, and that does not count the overruns of at least one subcontractor which, according to GAO, chose not to pass on its cost overruns to DOE. GAO notes that there likely are other excessive costs not yet computed in the current cost overrun figures.

In addition to GAO's concerns, the DOE's own inspector general reported that the engineering and construction management costs alone would produce a 200-percent cost overrun totaling over $264 million. The potential for runaway cost overruns is evident and DOE has done little to address it effectively.

Regarding foreign contributions, DOE still is counting on the $1.7 billion from other nations it pledged to Congress would be forthcoming at the inception of the project. Unfortunately for the U.S. taxpayer, after 4 years of DOE lobbying and negotiations, only India has pledged $50 million and no funds have been collected to date.

The rapidly and apparently uncontrollable cost escalations are running head-on into the Federal budget deficit, expected to near $400 billion in the current fiscal year. That deficit amount must be reduced significantly until it is eliminated. Otherwise, debt service will destroy the Federal budget completely and there will be no funding of any kind for science, research, and technology.

Burgeoning cost estimates, lack of effective managerial oversight over contractor costs, failure of foreign contributions to materialize—and the likelihood that they never will—and the destructive impact on funding for more valuable science which will have a far greater effect on enhancing America's technological and competitive edge all demonstrate a compelling reason to vote against the SSC at this time for this price.

Yesteday's vote was a variety I predict will become increasingly and uncomfortably common: what I will call, for want of a better term, a tough choice vote. For me it was a very tough choice.

For me this was not a case of voting against a project I believe to have no merit. I am persuaded that the project has the potential to add greatly to the body of scientific knowledge.

My vote does not in any way indicate I believe the Federal Government should not be funding, or substantially aiding in the funding of, pure science research. To the contrary, I strongly support Federal involvement in such efforts.

I did not cast my vote because I believe Massachusetts is not being treated fairly by the SSC project. While we in the Congress must constantly seek the well-being of those constituents we represent, it would be terribly irresponsible and shortsighted to define that well-being strictly in the crass statistics of tax dollars paid in by taxpayers in any State versus tax dollars returned to the State by the U.S. Treasury—particularly with respect to any single project or program.

I voted to halt the SSC Program yesterday because I do not believe it will yield the return on investment that we must demand until we have emerged from our recession and set ourselves firmly on a glidepath to a balanced budget. I voted to half the program because the funding it will extract from the Federal budget, as long as the project remains in place, inevitably will reduce—in large dollar denomination bills—what we have available to spend on other critical domestic needs, including other very valuable science and research programs.

Some of the SSC supporters who have been laboring to save the program have been too free in my judgment with the charge that those who were contemplating voting to halt it deserved charter membership in the Flat Earth Society, and are willing to let the United States atrophy intellectually and scientifically while the rest of the developed world goes skipping right past us.

Balderdash. I take a back seat to no one in recognizing that science and research are baseline essentials for our economy and its competitiveness. I voted to protect precious resources for other science projects. I also will note that Japan, Germany, and other developed nations are making great strides in these respects, and not a single one of them believes it to be necessary to fund or construct a super collider.

To my colleagues in the House and the Senate, I simply will say that there are a lot more votes such as this one waiting for us. They will not be easy. We will be forced to defer projects and efforts we would like very much to support. We will be paying an awful price for the fiscal irresponsibility of the Reagan-Bush years. Those projects we do support—and you can count on my support for the best, the best managed, and the most promising science and research projects—will have to pass a harder set of tests. My sad conclusion is that the SSC, despite its significant merits, is unable to pass this new and stiff test.•

TRIBUTE TO MOONLITE BAR-B-Q

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the owners, workers and patrons of Moonlite Bar-B-Q in Owensboro, KY.

The work of Catherine and Hugh Bosley, Sr. in creating the Moonlite Bar-B-Q is a true American success story. It is their hard work and willingness to take a risk that serves as an inspiration to all citizens.

Moonlite Bar-B-Q was founded by the Bosleys in 1963 and turned a profit that very same year and has continued to do so every year since. It is the family's dedication to the business which has turned this once small restaurant into an operation which currently employs over 130 people.

One hundred and thirty employees may sound like quite a lot for a barbecue restaurant, but it takes that many to cook and serve the 20,000 pounds of meat each week at Moonlite.

The success of Moonlite has had a positive effect on the entire city. Not only are the appetites of the residents of Owensboro, as well as the patrons who drive as many as 70 miles to get a taste of the delicious barbecue, satisfied; the success of the restaurant has also helped the local farmers. Moonlite Bar-B-Q buys as much produce as it can from local farmers.

I salute the Bosley's managerial philosophy of working side-by-side with their employees. We can all learn from their success.

Mr. President, I ask that an article from the Louisville Courier-Journal be printed in the CONGRESSIONAL RECORD.

The article follows:

FAMILY BARBECUE BUSINESS IS ALL SMOKE AND CAREERS

(By Judith Egerton)

OWENSBORO, KY.—It began as a roadside barbecue joint. It's now a diversified business with more than two dozen food products carrying its poetic trademark—Moonlite Bar-B-Q.

The Moonlite Bar-B-Q Inn, owned by Catherine and Hugh Bosley Sr. and four of their five children, has grown from $20,000 in annual sales to a $5 million a year enterprise.

From a simple sandwich stand, the company has expanded into wholesale food distribution, mail order, cafeteria management and corporate catering.

The Bosleys seized the opportunity to own their own business in 1963 when Hugh Bosley Sr.'s employer, Fleischmann Distilling Corp., laid him off. Neither he nor Catherine had ever worked in a restaurant or cooked barbecue.

To swing the $50,000 needed to buy the business, the Bosleys sold their home, used the $5,000 profit as a down payment and borrowed the rest.

Catherine quit her job at another distillery and began working at the barbecue stand, baking pies and waiting tables while her husband cooked mutton, beef and pork over pits of burning hickory logs.

Until the debt was repaid, the Bosleys and their children lived next door with Catherine Bosley's mother.

Did the debt and the risk of starting a new business scare them?

"Scare me!" exclaimed Catherine Bosley recently "Let me tell you, I went from a size 14 to a size 8."

The Bosleys don't recall how long it took to pay off their initial investment, but they remember that their business made a profit that first year and every year since. And they've never had to borrow money again.

"We all worked day and night and we paid cash for everything we bought," Catherine Bosley said.

The restaurant that once served 50 people a day now feeds as many as 2,400 in one day and regularly employs 130, including various and sundry Bosley grandchildren. As the business grew, the Bosley's oldest son, Hugh Jr., designed and led the restaurant's expansion until it now seats 350.

Catherine Bosley said Moonlite has been successful for several reasons:

It started with a good reputation, established by original owners Betty and Sadie Bertram and their cook, Glen Bruington, who taught the Bosleys how to barbecue meat with hickory logs.

Each of the Bosley's children manages a specific segment of the business and all strive to get along. If there's disagreement, the family meets and votes on the issue.

The Bosleys work alongside their employees, most of whom have been with the company 10 or more years. Customers like seeing the same faces when they visit the restaurant, Catherine Bosley said.

Moonlite offers barbecue beef, pork, chicken and mutton. But in Daviess County, the most popular barbecue meat is mutton.

Owensboro's barbecue mutton heritage dates back to at least the early 1800s when Dutch pioneers, who settled in Daviess County, brought their sheep with them. The first written reference to barbecue mutton in Kentucky hails back to 1806, when two families barbecued a whole sheep for the wedding of Thomas Lincoln and Nancy Hanks, Abraham Lincoln's parents.

The Bosleys cook 20,000 pounds of meat each week at Moonlite—enough to fill 20 pickup trucks. The stainless-steel ovens, which rise two stories above pits of burning hickory logs, are so large that 2,000 pounds of mutton and 2,000 pounds of beef and pork can be cooked at one time. During the Thanksgiving and Christmas season, the restaurant cooks an additional 5,000 turkeys and hams special-ordered by customers.

Although barbecue draws fans year around, patriotic holidays are the most popular times for barbecue. The only time when the Moonlite sells more barbecue than the Fourth of July or Labor Day weekends is during the second week in May when Owensboro holds its International Barbecue Festival.

Besides barbecue, Moonlite also is known for its burgoo, corn muffins and fresh vegetables served on its daily buffets.

Ken Bosley said the restaurant makes 80 gallons of the thick spicy soup daily. It also buys as many vegetables as it can from area farmers who sell them cabbage, corn, squash, tomatoes, lettuce, berries, watermelon, cantaloupe and others. During the summer, about 50 percent of the vegetables served at the restaurant come from local farmers.

Dick and Shelby White of Nebo, Ky., recently drove 70 miles to eat lunch at the Moonlite.

"There are other barbecue places, but this is the place. You never have to worry—the food is always good," said Dick White, whose plate was heaped with chopped barbecue mutton.

The restaurant business accounts for 60 percent of the company's sales. About 25 percent is derived from its wholesale food segment, about 10 percent from catering church picnics and other events, such as the annual political gathering at Fancy Farm, and about 5 percent from mail-order operations and the restaurant equipment business.

Restaurant sales have topped out, said Ken Bosley, a son who oversees the wholesale segment of the business, so the company is focusing on catering and wholesale distribution for its future growth.

The company plans to add to its list of clients who hire Moonlite to cater company picnics and expand its wholesale food distribution from a 150-mile radius to a 300-mile radius that will include St. Louis, Nashville, Indianapolis and Cincinnati.

Moonlite sells five-pound boxes of barbecue to convenience stores in Kentucky and five surrounding states. And through eight distributors, it sells Moonlite sauce, burgoo and about 30 other products to nearly 600 retail stores and supermarkets.

The latest products are microwaveable containers of barbecue, burgoo, chili and bean soup. The 7.5-ounce containers of barbecue retail for $1.99 up to $2.19 and have enough meat for two or three sandwiches, said Ken Bosley, who oversees the wholesale segment of the business.

Moonlight also supplies Roman Catholic churches all over the state with barbecued meat and side dishes for fund-raising events. For example, one order recently from St. Peter's Church in Stanley, Ky., called for 3,750 pounds of mutton, 500 pounds of pork, 160 pounds of beef and 19 cases of chicken.

The company, which now mails barbecue to former Owensboro residents and other customers all over the world, wants to expand that segment of business, too. Recently, Moonlight mailed brochures to every U.S. Embassy abroad that operates a commissary, Ken Bosley said.

In addition to the food-related income, the Bosleys, also make money from the restaurant's name. Shirts, hats, cookbooks, hickory wood chips and numerous other items are for sale in a small gift area in the restaurant.

Moonlight barbecue has its celebrity fans, too.

In the past 30 years, most Kentucky governors and politicians have feasted on Moonlight's barbecue. So have entertainers and stars such as Reba McIntyre and Emmy Lou Harris. Even movie idol Kevin Costner slipped in for dinner one night.

"We have every kind of customer from farmers to millionaires," said Catherine Bosley.

People from all walks of life feel comfortable in the restaurant and like its reasonable prices, she said.

She tells customers: "Make your self at home. This is a family restaurant."

As to the health concerns some people have about eating less fat and less meat, the restaurant offers a limited menu of about six items. The buffet also has a selection of salads and seven vegetables for diners who choose to avoid meat.

Wayne Hines is one of Moonlight's most loyal customers, despite his 1984 heart-bypass surgery. He ate at the Moonlight before he drove to Nashville for the surgery and he's been eating there nearly every day since, he said.

Hines said he eats barbecue whenever he wants, but he does try to avoid eating fries or potato chips.

"People who come to the Moonlight aren't worried about their diet," Catherine Bosley said.●

INTERNATIONAL KIDNAPING

● Mr. SIMON. Mr. President, I am deeply troubled by the June, 1992, Supreme Court decision in U.S. versus Alvarez-Machain. I believe that the Court's decision subverts the principles of international law and the objectives of U.S. international narcotics control efforts.

I have written a column which fully explains my concerns about this decision and I ask it be placed in the RECORD.

The article follows:

SHOULD INTERNATIONAL KIDNAPPING BE LEGAL?

U.S. Supreme Court decisions generally receive attention in our country, and not much notice beyond our borders, but one recent opinion received more attention and comment in other nations than in our own, and it was a bad decision.

In a 6-3 decision, the Supreme Court said it was legal for the United States to violate international law and go into Mexico to kidnap a Mexican citizen suspected of killing a U.S. drug agent.

Mexico had refused to send him to the United States because the murder had been committed in Mexico, but Mexico had said they would prosecute him. But Mexico, like almost all developed nations but unlike the United States, does not have a death penalty. So the United States went into Mexico and seized Dr. Humberto Alvarez-Machain and brought him into the United States to prosecute him.

The reaction of Mexico and other nations of the world varied between disbelief and outrage. That anger became magnified when our Supreme Court approved the U.S. action, based on an 1886 case in which an American citizen fled to Peru after embezzling $50,000.

But in the 1886 case, U.S. officials seized a U.S. citizen, not a Mexican citizen, and it occurred in Peru at a time when the government there almost did not exist because of a civil war.

I assume the Mexican physician is probably guilty.

But what kind of precedent does seizing him set?

Can we violate what the nations of the world consider international law whenever we feel so inclined?

We are not talking about two nations at war with each other, but two countries whose leaders meet regularly and profess that we want to improve relations.

Could Great Britain come in and seize an American citizen without the approval of our government? Could Iraq? Where does this stop?

We should not abide by international law only when it suits our whims. What is becoming increasingly clear is that nations need stabilizing international norms that they will follow, and the United States has arrogantly said through its administration and its Supreme court, "We'll follow international laws and traditions only when it is convenient to us."

In a dissent on the Court, Justice John Paul Stevens said: "A critical flaw pervades the Court's entire opinion. It fails to differentiate between the conduct of private citizens, which does not violate any treaty obligation, and conduct expressly authorized by the Executive Branch of the Government, which unquestionably constitutes a flagrant violation of international law, and in my opinion, also constitutes a breach of our treaty obligations."

His dissent was right; the Court's decision was wrong.

If some other nation kidnaps a U.S. citizen off the streets of Peoria, we would be outraged. Properly so. When the United States does it to another nation, they are outraged and U.S. citizens should be also.

We can correct this short-sightedness with a change in the law, and some of us will attempt to do precisely that.●

ORDERS FOR WEDNESDAY, AUGUST 5, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9 a.m. on Wednesday, August 5; that when the Senate reconvenes on Wednesday, August 5, the Journal of proceedings be deemed to have been approved to date, the call of the calendar be waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired; that following the time for two leaders, there then be a period for morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator LEVIN recognized for up to 15 minutes and Senators RIEGLE and MOYNIHAN for up to 5 minutes each; and that at 9:30 a.m., the Senate resume consideration of H.R. 5503, the Interior appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M. TOMMOROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand adjourned until 9 a.m. on Wednesday, August 5.

The motion was agreed to, and the Senate, at 8:43 p.m., adjourned until Wednesday, August 5, 1992, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 4, 1992:

DEPARTMENT OF TRANSPORTATION

MARION CLIFTON BLAKEY, OF MISSISSIPPI, TO BE ADMINISTRATOR OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, VICE JERRY RALPH CURRY, RESIGNED.

DEPARTMENT OF JUSTICE

GERALD PAUL REGIER, OF VIRGINIA, TO BE ADMINISTRATOR OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, VICE ROBERT W. SWEET, JR., RESIGNED.

CHARLES A. FELTON, OF FLORIDA, TO BE U.S. MARSHAL FOR THE MIDDLE DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS VICE RICHARD L. COX, RESIGNED.

J. KEITH GARY, OF TEXAS, TO BE U.S. MARSHAL FOR THE EASTERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. RONALD R. FOGLEMAN, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. HOWELL M. ESTES, III [redacted] U.S. AIR FORCE.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST UNDER THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JOHN R. DAILEY [redacted], USMC.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS ASSISTANT COMMANDANT OF THE MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 5044.

To be general

LT. GEN. WALTER E. BOOMER, [redacted] USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. CHARLES C. KRULAK [redacted], USMC.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION [redacted]

FRANCIS P. AHEARN, JR, [redacted]
JEREMIAH J. ASHCROFT, II, [redacted]
ANTHONY W. AUGUSTINO, [redacted]
CHRISTOPHE L. BAKER, [redacted]
LARRY E. BANDY, [redacted]
BEN H. BELL, [redacted]
DAVID M. BIENVENU, [redacted]
MARTIN O. BINN, [redacted]
STEVEN K. BOWMAN, [redacted]
THOMAS G. BOWMAN, [redacted]
STEPHEN R. BROWN, [redacted]
THOMAS W. BULL, II, [redacted]
WALTER BURZINSKI, [redacted]
KEITH D. BUSHEY, [redacted]
MICHAEL D. CAVALLARO, [redacted]
STEPHEN F. CHERRY, [redacted]
DOMINIC P. COLAPIETRO, [redacted]
TOMMY L. COLLINS, [redacted]
THOMAS J. CONWAY, [redacted]
LARRY B. COPELAND, [redacted]
JOHN P. COTTER, [redacted]
THOMAS R. DALTON, [redacted]
MARK L. DANIN, [redacted]
ALAN H. DAVIS, [redacted]
RAY C. DAWSON, [redacted]
BRUCE E. DERRY, [redacted]
KENNETH R. DERRY, [redacted]
ALBERT M. DEWITT, [redacted]
JAMES M. DUNN, [redacted]
GLENN W. DYER, [redacted]
GEORGE W. ENDERS, [redacted]
RONALD J. FENTON, [redacted]
PERCY E. FOSTER, JR, [redacted]
FREDERICK A. FREELAND, [redacted]
FRANK M. GALLAGHER, JR, [redacted]
JERRY D. GARNER, [redacted]
FRANCIS E. GILLESPIE, III, [redacted]
MICHAEL T. GILMAN, [redacted]
RICHARD A. GILSON, [redacted]
LORRAINE D. GOODRICH, [redacted]
ROBERT C. GROBER, [redacted]
CHARLES T. HAGER, [redacted]
DAVID R. HARMAN, [redacted]
WALTER P. HAVENSTEIN, [redacted]
JAMES A. HOMAN, [redacted]
JOHN C. HOWLAND, [redacted]
DANNY R. HUNDLEY, [redacted]
RICHARD M. HUSTY, JR, [redacted]
JOSEPH R. JELINSKI, JR, [redacted]
BENTLEY P. JENKINS, [redacted]
RICHARD A. JOYCE, [redacted]
MICHAEL KROMM, [redacted]
ROBERT P. KUDWA, [redacted]
DAN S. LUNSFORD, [redacted]
MARTIN E. LYMAN, [redacted]
BRADLEY T. MACDONALD, JR, [redacted]
MARK G. MAYDAK, [redacted]
THOMAS J. MILLER, [redacted]
BROGE A. MINER, [redacted]
STEPHEN P. MINIHAN, [redacted]
MICHAEL J. MORAN, [redacted]
DENNIS R. MOTTA, [redacted]
RONALD H. MUSCHEL, [redacted]
LYNDA J. NEITHAMMER, [redacted]
KATHLEEN E. NEWBOLD, [redacted]
ELVIN E. NEWHOUSE, [redacted]
THOMAS J. NICHOLSON, [redacted]
JOHN R. NORTH, [redacted]
MICHAEL W. OBOYLE, [redacted]
DOUGLAS V. ODELL, JR, [redacted]
EMILE E. PARADIS, [redacted]
SHELBY J. PENNIX, JR, [redacted]
JAMES E. PICONE, [redacted]
JOHN R. PIERCE, [redacted]
GARY E. PULLIN, [redacted]
FRANCIS E. QUINLAN, [redacted]
CHRISTOPHE L. REARS, [redacted]
DISNEY H. REECE, [redacted]
DAVID B. REYNOLDS, JR, [redacted]
LARRY R. RICE, [redacted]
NICHOLAS H. ROMAH, JR, [redacted]
GERARD H. RUDDEN, [redacted]
ROBERT O. RUMBLE, [redacted]
THOMAS P. RYAN, [redacted]
ROGER A. SAGER, [redacted]
KARL T. SCHWELM, [redacted]
GERALD M. SCIENSKI, [redacted]
WALTER J. SEBASTIAN, JR, [redacted]
JAMES S. SHI, [redacted]
PETER J. SHIMONIS, JR, [redacted]
LARRY N. SNOW, [redacted]
ROBERT W. SPRUELL, [redacted]
TERRY W. STARK, [redacted]
DENNIS K. STAVER, [redacted]
DOROTHY L. STOVERKENDRICK, [redacted]
ROGER J. STUDEBAKER, [redacted]
MICHAEL P. SULLIVAN, [redacted]
THOMAS P. SULLIVAN, [redacted]
MARIO J. SUMMA, [redacted]
WILLIAM F. SUTHERLAND, [redacted]
CANDELARIO TREVINO, JR, [redacted]
RODELL L. URBAN, [redacted]
JAMES S. VINTAR, [redacted]
CRAIG S. VOSSEKUIL, [redacted]
JOHN D. WAKEFIELD, [redacted]
BRADLEY C. WALKER, [redacted]
KENNETH J. WALTERS, [redacted]
LARRY D. WALTERS, [redacted]
MILO J. WARNER, III, [redacted]
KENNETH D. WATTS, [redacted]
HENRY J. WEILAND, [redacted]
LOUIS P. WEIN, [redacted]
MICHAEL J. WEISS, [redacted]
DONALD S. WHITEHEAD, [redacted]
BYRON D. WICKS, [redacted]
JANICE K. WILLIAMS, [redacted]
PATRICIA A. WILLIAMS, [redacted]
DOUGLAS A. WILSON, [redacted]
TIMOTHY O. WILSON, [redacted]
GEORGE P. WOODROOF, [redacted]
MARGARET M. WRYNN, [redacted]
BENJAMIN K. YOSHIOKA, [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE:

DENTAL CORPS

To be major

PHILLIP L. ADAY [redacted]
JOHN M. BALAS, JR [redacted]
GEORGE R. BARBER, [redacted]
MICHAEL D. BARNES, [redacted]
MARK R. BAUS, [redacted]
LOUIS F. CAMPANA, [redacted]
WUSE H. CARA, [redacted]
GEORGE H. CLAYTON, [redacted]
GARY A. COOPER, [redacted]
JACK M. COZBY, [redacted]
DEBORAH L. DALVIT, [redacted]
RICHARD F. DRUCKMAN, [redacted]
KENNETH N. DUNN, [redacted]
ANNETTE DUSSEAU, [redacted]
JEFFRE ECHELBERGER [redacted]
HARIS EHLAND, [redacted]
BILAL ELKAWA, [redacted]
ROGER S. FIEDLER, [redacted]
CHRISTOPH FIELDING [redacted]
WALTER B. FINGAR, [redacted]
JAY P. FISHER [redacted]
STEVE P. GARN [redacted]
MICHAEL E. GARVIN, [redacted]
MICHELLE R. GORES, [redacted]
LARRY S. GURLEY, [redacted]
JIHAD I. HADDAD, [redacted]
KELLY L. HALL [redacted]
GRANT D. HENSLEY, [redacted]
PHILLIP A. HICKS [redacted]
NAOMI J. HOROWITZ, [redacted]
DAVID J. KRYSZAK, [redacted]
ROCKY F. LUPARDUS, [redacted]
MICHAEL P. MAHONEY, [redacted]
GLEN D. MAYLATH, [redacted]
ERNEST T. MEYER, [redacted]
ROBERT J. MILLER, [redacted]
MICHAEL J. MOLLOY, [redacted]
JOHN B. MOODY, [redacted]
ROBERT B. NEESE [redacted]
RICHARD J. RIEHM, [redacted]
WALTER F. RONGEY, [redacted]
WILLIAM F. RUNYON, [redacted]
JOHN D. SMITH, [redacted]
SAUNDRA G. STEIN, [redacted]
STEVEN A. TAYLOR, [redacted]
ROBERT R. THRASHER, [redacted]
PRESTON Q. WELCH, [redacted]
JOE L. WELLS, [redacted]
LAWRENCE WILLIAMS, [redacted]
MATTHEW A. WILLIAMS, [redacted]

MEDICAL CORPS

To be major

KEVIN C. ABBOTT, [redacted]
JAMES D. ALEXANDER, [redacted]
JEFFREY J. ANDERSON [redacted]
MAUREEN A. ARENDT, [redacted]
GREGORY J. ARGYROS, [redacted]
JOHN H. ARMSTRONG, [redacted]
KENNETH S. AZAROW, [redacted]
MATTHEW BACHINSKI, [redacted]
JEFFERY J. BAEUERLE [redacted]
DEAN E. BAIRD, [redacted]
CAROL L. BAREKMAN, [redacted]
ALAN J. BARKER, [redacted]
JIMMY L. BARROW, [redacted]
JOHN J. BAUER, [redacted]
ANN Y. BAYLOR, [redacted]
JEFFREY S. BEARD [redacted]
STEPHEN F. BELL [redacted]
CONRAD S. BELNAP, [redacted]
RICHARD A. BENEDIKT, [redacted]
AMY E. BENSON, [redacted]
MARK A. BERMAN, [redacted]
TRACY L. BIEDIGER, [redacted]
CHRISTOPHER BLACK, [redacted]
BRADLEY A. BOEHM, [redacted]
ERIN M. BOHEN, [redacted]
KAREN J. BOWEN, [redacted]
KERRY M. BRADY, [redacted]
JONATHAN BRAIMAN [redacted]
PHILIP A. BRANTON, [redacted]
JAMES M. BRASSARD [redacted]
STEVEN E. BRAVERMAN, [redacted]
LAUREL BROADHURST, [redacted]
JOHN J. BROZETTI, [redacted]
MICHAEL R. BRUMAGE, [redacted]
THOMAS R. BURKLOW, [redacted]
KAREN L. BURMEISTER, [redacted]
JENNIFER L. CADIZ [redacted]
BERT C. CALLAHAN, [redacted]
KEVIN R. CANNARD, [redacted]
DOMENIC M. CANONICO, [redacted]
LINDA M. CARDINAL, [redacted]
GAIL E. CAROME, [redacted]
VALERIE A. CARREGAL [redacted]
FRED A. CARUSO, [redacted]
STEPHEN P. CASTLE [redacted]
ROSEMARY CHACKO, [redacted]
INGRID A. CHAMALES, [redacted]
LAWRENCE E. CHANCE, [redacted]
PAUL S. CHANG, [redacted]
WILLIAM H. CHAPMAN, [redacted]
ANTHONY B. CHAPPELL, [redacted]
JOHN M. CHO, [redacted]
STEFANIE CHRISTIAN [redacted]
PATRICK W. CLAPPER, [redacted]
DONALD A. COLACCHIO, [redacted]
JOHN R. COLEMAN, [redacted]
DAVID M. COMPTON, [redacted]
MARY C. CONAWAY, [redacted]
JAMES E. COOK, [redacted]
ERNEST E. COPE, I [redacted]

CHARLES C. COREY [redacted]
LISE A. COTE, [redacted]
WILLIAM E. COWARD, [redacted]
KELLY L. COZZA, [redacted]
THOMAS G. CRABTREE, [redacted]
ROBERT G. CREATH, [redacted]
JAMES E. CREMINS [redacted]
BRIAN J. CRISP, [redacted]
SCOTT T. CROFT, [redacted]
DAVID J. CROYLE, [redacted]
WILLIAM M. CURTIN, [redacted]
PAUL J. CUTTING [redacted]
LYNN F. DAHL, [redacted]
MICHAEL C. DAINES, [redacted]
BRET A. DANIELS [redacted]
ROBIN DAUMKOWALSKI, [redacted]
MELVIN J. DAVIS [redacted]
MICHAEL E. DAVIS, [redacted]
WILLIAM B. DAVIS, [redacted]
BERNARD M. DEGNAN, [redacted]
FRANCOISE J. DEGNAN, [redacted]
HARRIETT DEISSLER [redacted]
MARSHALL DENKINGER, [redacted]
JACK L. DEPRIEST [redacted]
DAVID J. DESILETS [redacted]
CARROLL J. DIEBOLD, [redacted]
RICHARD DOMBROSKI, [redacted]
PAUL J. DOUGHERTY, [redacted]
ANIL K. DUTT, [redacted]
NORBERT DUTTLINGER, [redacted]
DARYL G. DYKES, [redacted]
CAROL J. EBERSOLE [redacted]
JAMES M. ECKLUND, [redacted]
CURTIS A. ERICKSON, [redacted]
RANDALL A. ESPINOSA, [redacted]
EVAN M. EVANS, [redacted]
KEVAGHN P. FAIR, [redacted]
MARY F. FARLEY, [redacted]
ANTHONY J. FASCIANO, [redacted]
JERRY L. FENWICK [redacted]
EDUARDO FERNANDEZ, [redacted]
FELICIA H. FIGA, [redacted]
MICHAEL J. FINGER [redacted]
LAURA M. FINK, [redacted]
JOEL T. FISHBAIN [redacted]
JAMES M. FITTS [redacted]
RICHARD C. FLEMING, [redacted]
DIANE M. FLYNN, [redacted]
VINCENT P. FONSECA, [redacted]
JOHN L. FONTANA, [redacted]
DANIEL P. FOSMIRE [redacted]
MILTON A. FOWLER, [redacted]
THOMAS B. FRANCIS [redacted]
HOWARD A. FRIEDMAN, [redacted]
WILLIAM J. FROHNA, [redacted]
JEFFREY M. GAMBEL [redacted]
STEVEN N. GANGE, [redacted]
THOMAS P. GARIGAN, [redacted]
JOHN L. GARMAN, II, [redacted]
JOSEPH C. GASS [redacted]
BENNY T. GEE, [redacted]
CARL A. GIBSON, [redacted]
WILLIAM GILLILAND, [redacted]
MICHAEL J. GIORGI [redacted]
GREGORY M. GLENN, [redacted]
JONATHAN A. GOLD, [redacted]
ROBERT H. GOLDBACH, [redacted]
ROBERT C. GONG, [redacted]
GUSTAVO A. GONZALEZ, [redacted]
STEVEN E. GRADWOHL, [redacted]
ROSS H. GREENBERG [redacted]
JOHN J. GRIFFIN [redacted]
BRANDT P. GROH, [redacted]
NICHOLAS P. GROSSO, [redacted]
COLLEEN P. GUIRY, [redacted]
RICHARD G. GUNTER, [redacted]
CARTER J. HALE [redacted]
STEVEN W. HAMMOND, [redacted]
JOHN W. HANKS, [redacted]
GREGORY HARRINGTON, [redacted]
KATHY L. HARRINGTON, [redacted]
KENNETH C. HARRIS, [redacted]
ROBERT M. HARRIS [redacted]
RALPH A. HARTMAN, [redacted]
ROMAN A. HAYDA, [redacted]
PATRICK T. HEALEY [redacted]
WILLIAM L. HEIMER, [redacted]
STEVEN R. HENDERSON, [redacted]
MARK A. HENLEY, [redacted]
ARTH HERPOLSHEIMER [redacted]
STUART J. HETRICK [redacted]
KENNETH HIGBY, [redacted]
CHRIST HIMMELHEBER, [redacted]
SIVANTHINI HINES [redacted]
ROGER M. HINSON, [redacted]
VINCENT B. HO, [redacted]
DAVID P. HOCHSCHILD, [redacted]
THEO W. HODGE, [redacted]
SHARON C. HOGAN, [redacted]
WILLIAM D. HOLLAND, [redacted]
DALLAS W. HOMAS, [redacted]
PAMELA B. HOMAS, [redacted]
WILLIAM J. HORAM, [redacted]
EDMUND H. HORNSTEIN, [redacted]
LEONARD N. HOWARD, [redacted]
THOMAS E. HOWARD, [redacted]
JAMES S. HU [redacted]
CRAIG M. HUDAK, [redacted]
MARK A. HUGHES, [redacted]
PAUL E. HUUN, [redacted]
DIANE S. HYNES, [redacted]
DOROTHY M. JACKSON, [redacted]
RICHARD JACONETTE [redacted]
DAVID J. JAFFE [redacted]
LINDA K. JAMES, [redacted]
DOUGLAS L. JARVIS [redacted]
JODY L. JENKINS [redacted]
JAMES R. JEZIOR [redacted]
FREDERICK D. JONES, [redacted]
RALPH E. JOSEPH [redacted]
BARBARA JOSLOW, [redacted]
WILLIAM J. KAISER, [redacted]
JOSEPH J. KAPLAN, [redacted]
ROBERT J. KAZRAGIS [redacted]
LYNN M. KEENAN [redacted]
RICHARD L. KIEFER, [redacted]
CHRISTOPHER K. KIM, [redacted]
RICHARD W. KNIGHT, [redacted]
STEVEN J. KNORR [redacted]
PHILLIP KOHANSKI [redacted]
JOHN F. KRAGH, [redacted]
STEPHEN J. KRIVDA [redacted]
TIMOTHY R. KUKLO, [redacted]
PAUL KUPCHA, [redacted]
JOAN C. LAKY, [redacted]
ALBERT T. LAMBERT [redacted]
ALEXANDER LAMBERT, [redacted]
FRANCIS J. LANDRY [redacted]
WILLIAM L. LANG, [redacted]
DONALD J. LAZAS [redacted]
EDWARD K. LEAHY [redacted]
KEVIN E. LEAHY, [redacted]
ROBERT G. LECKIE, [redacted]
HON S. LEE, [redacted]
MARK S. LEE, [redacted]
NICOLE LEE, [redacted]
MICHELLE A. LEFF [redacted]
JEROME P. LIMOGE [redacted]
MAURICE D. LINKOUS, [redacted]
JOHN T. LITTELL [redacted]
JULIA E. LITTLE [redacted]
ERNEST G. LOCKROW, [redacted]
ARTHUR W. LOESEVITZ, [redacted]
KEVIN D. LOKKESMOE, [redacted]
DANIEL I. LOUBE, [redacted]
MARK A. LOWRY, [redacted]
MICHAEL H. LUSZCZAK, [redacted]
BENOIT A. LUYCKX, [redacted]
JULIA A. LYNCH, [redacted]
JOHN T. MADONNA, [redacted]
RAMY A. MAHMOUD, [redacted]
RANDALL J. MALCHOW, [redacted]
BEVERLY I. MALINER [redacted]
TIMOTHY M. MALLON, [redacted]
RAUL MARIN, [redacted]
SARAH S. MARLOWE, [redacted]
JESUS A. MARQUEZ [redacted]
WILLIAM S. MARSH [redacted]
CHARLES F. MARTIN [redacted]
BILL J. MATHIAS [redacted]
JOHN P. MATLOCK, [redacted]
MARK A. MAULDIN, [redacted]
JEFFREY L. MAXCY [redacted]
EUGENE F. MAY, [redacted]
JOHN M. MCCABE, [redacted]
EZRA L. MCCONNELL, [redacted]
TRACY S. MCGEE, [redacted]
JOSEPH F. MCKEON [redacted]
JENNIFER J. MCNEIL [redacted]
WILLIAM L. MEHSERLE [redacted]
GERARD F. MELANSON [redacted]
MARK D. MENICH, [redacted]
CHRISTOPHER MEYER, [redacted]
RANDLE T. MIDDLETON, [redacted]
PAUL R. MILLER [redacted]
JOHN H. MITCHELL, [redacted]
JOHN C. MOAD, [redacted]
WILLIAM T. MONACCI, [redacted]
PAUL D. MONGAN, [redacted]
CHERYL C. MOORE, [redacted]
LEON E. MOORES, [redacted]
ALLEN F. MOREY [redacted]
MICHAEL J. MORRIS, [redacted]
SHARYL J. MORRIS [redacted]
CHRISTOPHE MULLETT [redacted]
MICHAEL E. MULLINS [redacted]
KEVIN P. MURPHY, [redacted]
MARK G. MURPHY, [redacted]
MICHAEL J. MURRAY, [redacted]
MARK A. MYERS, [redacted]
ROBERTO N. NANG, [redacted]
JOHN D. NG, [redacted]
PETER E. NIELSEN [redacted]
BRENT C. NIMETH, [redacted]
CYNTHIA M. NORRIS, [redacted]
JOSEPH E. OBOYLE [redacted]
JAMES E. OBRIEN [redacted]
JAMES P. OLSON, [redacted]
ENRIQUE A. PALMER, [redacted]
AZRA N. PAPPA [redacted]
JEFFREY V. PAUL [redacted]
MARK F. PEAKE, [redacted]
KIMBERLY A. PEELE [redacted]
DANIEL G. PENON, [redacted]
JONATHAN A. PERKINS [redacted]
JOANNE L. PERRON, [redacted]
JOHN C. PESTANER [redacted]
MELISSA H. PETERS [redacted]
LINDSEY G. PETERSON [redacted]
STEPHEN PETTERUTI [redacted]
STEPHEN C. PHILLIPS [redacted]
WILLIAM J. PHILLIPS [redacted]
BRUCE E. PICHOFF [redacted]
JOSEPH S. PINA [redacted]
SIMON H. PINCUS, [redacted]
ELLIOT PINERO, [redacted]
JOSEPH N. PIPER [redacted]
MATTHEW R. PLYMYER [redacted]
CORNELIO J. PORRAS, [redacted]
JEFFREY H. PORTNER [redacted]
MARK S. PSARAKIS [redacted]
JOSEPH P. PULCINI [redacted]
WILLIAM B. REECE, [redacted]
DAVID R. RIVERA, [redacted]
LUIS F. RODRIGUEZ, [redacted]
DAVID A. ROHRER, [redacted]
NEREIDA ROMERO, [redacted]
GAYLORD S. ROSE, [redacted]
ERIKA ROSENBERG, [redacted]
JOHN R. ROWE [redacted]
ERIC J. RUBEL [redacted]
MICHAEL E. RUFF, [redacted]
MONICA RUIZDURANT, [redacted]
MARTIN J. RUOCCO, [redacted]
UHL S. SALVATORE, [redacted]
GLENN D. SANDBERG, [redacted]
ADRIAN I. SANDERS, [redacted]
PHILIP H. SCAGLIONE, [redacted]
DAVID T. SCHACHTER, [redacted]
GORDON R. SCHALLY, [redacted]
DOMINIQUE SCHIFFER, [redacted]
TIMOTHY SCHOFIELD, [redacted]
MARK J. SCHULTZ [redacted]
RICHARD B. SCHWARTZ [redacted]
ERICH M. SELZER, [redacted]
KEVIN C. SHANDERA, [redacted]
CYNTHIA M. SHAPPEL, [redacted]
JOHN M. SHEPHERD [redacted]
GEOFFREY SHERRILL [redacted]
TRACEY B. SHIRK, [redacted]
KEITH M. SHONNARD, [redacted]
MICHAEL J. SIGMON, [redacted]
JEFFREY L. SILVEIRA [redacted]
MORRIS M. SILVER, [redacted]
BRENT A. SMITH, [redacted]
JOHN J. SMUCNY, [redacted]
DIANE R. SOMMER, [redacted]
BARBARA A. SPINELLI, [redacted]
LAWRENCE B. STACK, [redacted]
SCOTT A. STANEK, [redacted]
CHRISTOPHE STANLEY, [redacted]
LEA D. STERN, [redacted]
JAMES B. STEVENS [redacted]
WILLIAM R. STEVENS, [redacted]
DAVID A. STEVENSON, [redacted]
BRETT C. STOLL, [redacted]
WAYNE A. STOUTENGER, [redacted]
VIRGINIA A. STOWELL, [redacted]
CAROLYN A. SULLIVAN, [redacted]
ALLEN J. TAYLOR, [redacted]
AMY M. TAYLOR, [redacted]
MARK J. TEDESCO, [redacted]
JOACHIM J. TENUTA, [redacted]
JOHN A. THAYER, [redacted]
HAROLD C. THOMAS, [redacted]
DOUGLAS H. TODD, [redacted]
LUIS N. TORRES, [redacted]
MICHAEL L. TUGGY, [redacted]
JAMES J. TUREK [redacted]
ROBERT M. TUTTLE, [redacted]
DANIEL J. VANDERIET [redacted]
JAN J. VANDERLINDE, [redacted]
ALL VANSTEENBERGEN, [redacted]
VIC VELANOVICH, [redacted]
PETER A. VEVON, [redacted]
VIRG VILLEPONTEAUX [redacted]
RICHARD P. VINSON, [redacted]
ANN E. VOCKROTH, [redacted]
JOHN H. VOCKROTH, [redacted]
ERIC D. VOGEL, [redacted]
SCOTT VOGELGESANG, [redacted]
DAVID W. VOIGT, [redacted]
DAVID A. VOLGAS, [redacted]
HUNG Q. VU, [redacted]
KENNETH K. VU, [redacted]
BRAD E. WADDELL, [redacted]
KENT R. WALKER, [redacted]
DOUGLAS S. WALSH, [redacted]
WINSTON J. WARME, [redacted]
ROBERT C. WARREN, [redacted]
STEPHEN A. WARSH, [redacted]
PAULA E. WEGERT, [redacted]
STEVEN J. WEGERT [redacted]
MARTIN H. WEINRAUCH, [redacted]
NADJA Y. WEST, [redacted]
GARY G. WHARTON, [redacted]
PHILIP D. WILEY, [redacted]
SCOTT C. WILLIAMS, [redacted]
LAWRENCE A. WILSON, [redacted]
ROBERT W. WILSON, [redacted]
THOMAS P. WINKLER [redacted]
JAMES D. WOLFF [redacted]
PETER WONG, [redacted]
MICHAEL D. WOOD, [redacted]
DAVID A. WORTHY, [redacted]
ANNE A. YACKOVICH, [redacted]
ROBERT T. YAVORSKI, [redacted]
LAWRENCE L. YEE, [redacted]
JANE Y. YEUN [redacted]
STEVEN C. YUILL, [redacted]
JOHN S. YUNGMEYER, [redacted]
MARK G. ZIEMBA, [redacted]
JOSHUA M. ZIMMERMAN, [redacted]

HOUSE OF REPRESENTATIVES—*Tuesday, August 4, 1992*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we walk the path of life, we are eternally grateful, O God, that Your spirit is with us to judge and forgive and nurture and to show the way. And as we see the heavenly vision of what can be and what should be, we are surrounded by friends and colleagues who encourage and support us in all the great moments of life. When we are alone or anxious about the way ahead, we are thankful that there are friends who lift us up and give us strength, and when we experience the fullness and the joys in living we are given assurance by the presence of our friends and our families. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Kansas [Mr. NICHOLS] come forward and lead the House in the Pledge of Allegiance.

Mr. NICHOLS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1300

Mr. RAVENEL. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill, H.R. 1300.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4437. An act to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100-202.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 776. An act to provide for improved energy efficiency; and

H.R. 2152. An act to enhance the effectiveness of the United Nations international driftnet fishery conservation program.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 776) "An act to provide for improved energy efficiency" and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. BINGAMAN, Mr. WIRTH, Mr. CONRAD, Mr. SHELBY, Mr. WALLOP, Mr. HATFIELD, Mr. DOMENICI, Mr. MURKOWSKI, Mr. NICKLES, and Mr. BURNS, for all titles except title XIX of H.R. 776 and title XX of the Senate amendment;

Mr. GLENN and Mr. STEVENS, for subtitle B of title VI of the Senate amendment (Federal energy management);

Mr. HOLLINGS and Mr. DANFORTH, for subtitles A, B, and C of title XII (Outer Continental Shelf revenue sharing) and section 19111 (pipeline safety issues) of the Senate amendment;

Mr. RIEGLE and Mr. GARN, for title XV of the Senate amendment (Public Utility Holding Company Act Reform);

Mr. BURDICK and Mr. CHAFEE, for the following provisions of H.R. 776, section 2481 (transshipment of plutonium), title XXVIII (nuclear plant licensing), subtitle A of title XXIX (below regulatory concern), and section 3009 (exemption from annual charges);

Mr. CRANSTON and Mr. SPECTER, for sections 6101 and 6102 (building energy efficiency) of title VI of the Senate amendment; and

Mr. BENTSEN, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BOREN, Mr. DASCHLE, Mr. BREAUX, Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, and Mr. CHAFEE, for title XIX of H.R. 776 and title XX of the Senate amendment; to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1569. An act to implement the recommendations of the Federal Courts Study Committee, and for other purposes;

S. 2087. An act to prohibit certain use of the terms "Visiting Nurse Association" "Visiting Nurse Service", "VNA", and "VNS"; and

S. Con. Res. 132. Concurrent resolution expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of United Nations security guards to assure that humanitarian relief gets to those most in need.

DISPENSING WITH CALL OF THE PRIVATE CALENDAR TODAY

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with today, Tuesday, August 4, 1992.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO SIT ON WEDNESDAY, AUGUST 5, 1992, DURING 5-MINUTE RULE

Mr. BROWN. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology be permitted to sit on Wednesday, August 5, 1992, while the House is in session under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO HAVE UNTIL MIDNIGHT, WEDNESDAY, AUGUST 5, 1992, TO FILE REPORT ON H.R. 5231, NATIONAL COMPETITIVENESS ACT OF 1992

Mr. BROWN. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology may have until midnight, Wednesday, August 5, 1992, to file a late report on H.R. 5231, the National Competitiveness Act of 1992.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

HEALTH CARE: THE UNAFFORDABLE BASIC NECESSITY

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, the soaring cost of health care is picking the pockets of working Americans. Health care stands alone as the basic necessity that is eroding our workers' incomes.

In the last decade food, housing, and clothing costs have risen around 40 percent. Health care costs increased at more than twice that rate.

Escalating doctors' fees, hospital charges, and prescription drugs are scuttling the American dream. College educations, home ownership, and retirements have been victimized by spiraling medical inflation.

Clearly, cost containment is the key to health care reform. We know this and so do the American people. The only ones who disagree are the healthy and the wealthy.

Unless we act now, health care will become the basic necessity working Americans cannot afford.

MARCUS CICERO ON A BALANCED BUDGET

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, I would like to quote the Roman philosopher and statesman Marcus Cicero who offered these words many years before Christ:

> The budget should be balanced. The treasury should be filled. Public debts should be reduced. The arrogance of officialdom should be tempered and controlled.

Today, these words of wisdom still ring true.

This Nation is facing another astronomical fiscal year deficit.

Our total Federal deficit is quickly approaching $4 trillion.

And an arrogant Congress does not act to mend the economic woes which confront this Nation. It is still business as usual in this House—spend, spend, spend.

Mr. Speaker, we cannot afford to continue down this road of fiscal irresponsibility.

We must have the courage to make the tough decisions, to cut out unnecessary Federal spending, to stop the exponential growth of the Government, and to reclaim the Congress for the American people.

TRUST ME

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, in the movie "Blaze" a mother tells her young daughter living on 12 Pole Creek, "Never trust a man who says 'trust me.'"

That is why I look with interest upon President Bush's campaign slogan, "Trust me."

"Trust me" when we talk about economic performance, the worst economic performance at any time since World War II.

The President says "trust me" when it comes to job growth. He created the worst job growth performance record at any time in the last 20 years.

"Trust me" when it comes to economic stimulation, and yet he offers only a capital gains tax cut for the wealthy while the middle income steadily loses ground.

"Trust me," the President says. Well, on 12 Pole Creek if you drive up with a bumper sticker that says, "Trust me," they look a little bit askance. That is good advice for this election, too.

EQUAL TREATMENT FOR FLORIDA

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the move is on—8 of the 10 fastest growing metro areas are in Florida. The statistics continue to grow, and so does Florida's struggle for fair treatment. The Sunshine State remains the mother of all provider States at the bottom of the list in return on its tax dollar—56th out of 56 in some cases, behind all the States as well as Guam, the Virgin Islands, American Samoa, Puerto Rico, and the District of Columbia. Floridians are additionally left with the daunting costs of providing extra social services for winter residents—or snowbirds—and immigrants. Attempts by our State delegation to secure a fair share of Federal resources for transportation, education, and other social services have met with resistance. When the 1990 census arrived, many believed that relief for Florida, and all growth States, would follow. But the odds are still stacked against us, as undercount figures have remained the figures of choice in devising new formulas.

Mr. Speaker, we now read that statistical corrections may yet be used for undercounted States. That is great news for my district which has the first and third fastest growing metropolitan areas in the country. We need fairer formulas, we need equal treatment for all growth States.

□ 1210

WHAT IS REALLY TEARING DOWN AMERICA?

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, yesterday President Bush said that the Clinton-Gore ticket was "tearing down America." It seems to me the White House is simply hyperventilating again.

What is tearing down America is the economic policy of the Bush administration. White House economic policy has produced the slowest economic growth of any postwar Presidential term. White House economic policy has produced the smallest job creation under any U.S. President since the end of World War II.

Mr. Speaker, those of us in Congress can debate economic policy with the White House, but the historical fact is very simple: No Congress since World War II has been able to change any President's budget by more than 3 percent. That stark fact demonstrates that the economic direction of this country simply will not change until we have a new President who does understand the true problems facing the economy in the post-cold war era.

AMERICAN COMPANY MAKES INROADS INTO JAPANESE CONSUMER ELECTRONICS INDUSTRY

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, for my export 1-minute today, this Member would like to discuss how an American company is making inroads into the Japanese consumer electronics industry.

Mr. Speaker, in a short period of time Japanese consumer electronic producers have devastated the American consumer electronics industry by reverse engineering American inventions such as the video camera and the fax machine.

These Japanese companies like Sony have perfected the process of taking a new technology and developing a cheaper and better way to make the technology available to consumers.

Now, Mr. Speaker, these companies are the new leaders in consumer electronics technology like digital cassettes and high definition television. And, now, according to a July 22, 1992 article in the Journal of Commerce, Japanese companies have invented the extremely important new technology of flash chips.

Flash chips may revolutionize the portable computer industry, but surprisingly, American semiconductor producers may dominate the market for these chips. This surprising turnaround is primarily the result of an American firm, Intel Corp., which learned from the Japanese the importance of reverse engineering. We must assure that their lead is not stolen by unfair trade or industrial practices.

Mr. Speaker, as MIT economist Lester Thurow says in his important new book "Head to Head":

> [t]he moral of the story is clear. Those who can make a product cheaper can take it away from the inventor. In today's world it does very little good to invent a new product if the inventor is not the cheapest producer of that product.

PRESIDENT BUSH AND THE CHARACTER ISSUE

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, the leading economic indicators are down, the economy is grinding to a halt, and every time the Government records the economic slide, the Bush campaign dives into the sleaze. But what is the President's reaction?

First, blame. Blame the Congress, the credit crunch, the Federal Reserve, our allies, and Saddam Hussein, and fail to take personal responsibility for his own mismanagement of the economy.

Second, wave the veto pen; this time, toward the Senate, because its urban aid bill helps the cities and the underclass without giving a capital gains tax cut for the rich, although it contains six of the seven proposals he asked for in his State of the Union speech.

And, third, distract. Pummel his opponent's health care cost containment proposal, using that old assault, "socialized medicine," to cover up the President's unwillingness to confront the health care profiteers.

This record of blaming, vetoing legislation, and distracting the debate, is not helping America, is not helping the Bush campaign, and it really is not Presidential.

Mr. Speaker the character issue looming over President Bush is this: Will he take responsibility for the mistakes of his administration and his Presidential campaign, and exercise real leadership to reverse our country's declining economic fortunes?

TRIBUTE TO NEW ORLEANS COUNCIL OF BOY SCOUTS OF AMERICA

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, in keeping with our offering of the Pledge of Allegiance a few moments ago, this August marks the centennial of the Pledge of Allegiance. On the 22d of that month, the Boy Scouts of America New Orleans Council will lead a national celebration of its 100th birthday. During the halftime show of the New Orleans Saints and Houston Oilers football game in the Louisiana Superdome, they will lead a salute to the pledge. The New Orleans Area Council's vast membership includes nearly 25,000 boys and 5,000 volunteer leaders. I would like to commend the patriotism of these young men as well as recognize their initiative in leading the commemoration of this historic event.

CALIFORNIA, FIRST STATE TO GO BANKRUPT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, supply-side suffering has finally trickled down in California; $11 billion budget deficit, the first State to go bankrupt.

Things are so bad in California, the politicians are rummaging through the budget debris trying to find the black box.

Aerospace plants have shut down, housing sales have dropped. The only people working are firefighters. California banks will not even accept the State's IOU's. In fact, the bankers feel so low they could walk underneath a closed door with their top hats on, folks.

But the President said, "Don't worry. I have a new two-phased program. Phase I, trust me; phase II, dial 9-1-1."

THE ECONOMY IS STRUGGLING DUE TO OVERREGULATION

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the people of this Nation are angry today, especially at their Federal Government, and I do not blame them. The Federal Government has overspent and overregulated to such an extent that our economy is really struggling today. The blame for this is being placed on people in politics, and the President is being blamed for everything in the world. However, I would respectfully submit that the blame is being misplaced.

The Federal bureaucracy is so insulated and so protected that no one can control it, not even the President. For years we have been told to take the politics out of everything, and we have left so little under political control today that the people have just about lost control of their own Government.

If the people really want the economy to boom again, we have got to decrease our national debt and do away with thousands of Federal rules and regulations. We are adding a billion dollars a day to our debt, and we added 67,000 pages of fine-print Federal regulation last year alone. So we are still heading in exactly the wrong direction.

Mr. Speaker, we do not need more big Government liberalism. If we really want to change, the surest and best way is to greatly reduce the number and power of Federal regulators.

UNIFORM PROTECTION OF REPRODUCTIVE RIGHTS ACT OF 1992

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, I rise today to indroduce legislation, the Uniform Protection of Reproductive Rights Act of 1992. Like so many others in this body and around our Nation I have struggled long and hard with the difficult and vexing issue of abortion. Like many of you, I believe strongly both in a woman's right to control her reproductive destiny as well as in the importance of upholding the sanctity and value of human life. The challenge, of course, is how to fairly balance these two important and sometimes mutually competing interests.

As I have watched and participated in the ongoing social debate on this issue, I have been distressed that what I perceive as two extreme positions have dominated the debate. On the one hand, there are those who would entirely strip women of the right to choose in all except the most extreme cases and on the other hand there are those who believe that the fetus has no rights whatsoever until 6 months of pregnancy or beyond. I believe that neither of these positions strikes the correct balance and if the polls are to be believed, the overwhelming majority of the American people agree with me.

The American people, with their instinctive fairness and good judgment, know that, as difficult as this issue is, we must nonetheless, in a pluralistic society like ours, seek out the common ground for even the most intractable and vexing of problems. That is what I sought to do in the legislation I offer today. The Uniform Protection of Reproduction Rights Act of 1992 would protect a woman's unrestricted right to have an abortion through 12 weeks of fetal gestation. After that time, abortion would still be permissible in cases of rape or incest, threat to the life or health of the mother, and in cases of severe fetal deformity. I sincerely believe that an approach such as the one I propose today offers a new path through the division and confrontation that has beset our society on the question of abortion and I urge my colleagues to give it their consideration.

CONGRESS OUGHT TO BE TRYING TO SOLVE PROBLEMS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, this is the first Presidential election that has occurred since I have been a Member of Congress. I have to tell you that I am pretty disappointed in the way that Congress behaved during this period of time. I am pretty tired of the posturing that goes on here day after day; everybody rises and carries on a political conversation.

Mr. Speaker, we ought to be doing something. We came here to solve problems. The Democrats get up and accuse the President of missing everything, the Republicans are trying to accuse the Democrats.

Mr. Speaker, we really ought to be trying to solve some problems. I came here to do that. We ought to be talking about the economy. Let us do something about it. We spend a lot of time talking about the deficit. Why do we not do something about it? Everybody says, "We don't need a constitutional amendment. We'll fix it." Where is it?

□ 1220

We talked a little bit here about health care, we complain about health care, criticize the President about health care, and I say, "Let's do something about it."

Mr. Speaker, it is time the Congress did something besides posture themselves during this Presidential election. This is not a political rally. Let us solve some of the problems we came here to resolve.

THE LAND OF THE FREE AND THE HOME OF THE BRAVES

(Mr. BROWDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWDER. Mr. Speaker, every major league baseball game starts off with a glorious rendition of the Star Spangled Banner, our national anthem. "Oh Say Can You See. * * *" Unfortunately, somebody is trying to change that line to "Oh, No, You Cannot See. * * *"

Somebody is trying to black out televised baseball games of the Atlanta Braves.

That is not right. That is not baseball, hot dogs, and apple pie. That is just plain not American.

Mr. Speaker, I plan to talk more about this issue during our Special Orders.

But for now, let me speak for the small towns and rural areas of Alabama, the Southeast and people all across America that Congress has a responsibility to keep this the land of the free, and the home of the Braves.

PLAY OR PAY HEALTH CARE PLAN: A THREAT TO AMERICAN JOBS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, the American public needs to be warned about Gov. Bill Clinton's health care reform plan.

Under Governor Clinton's play-or-pay plan, employers would be required to provide health insurance for all their employees. If employers fail to do so, they would be forced to pay a payroll tax to enroll their employees in a public health insurance plan.

This plan should be called play or pay and pay and pay, because the American worker is going to pay dearly for it.

Studies show this approach would put 9 million American jobs at risk.

Mandating employers to provide health insurance in the current market is only mandating bankruptcies.

But most importantly, his plan doesn't cover indigents and people who are not working. It also ignores retired senior citizens who are just trying to get by and have serious concerns about health care. The play-or-pay plan doesn't even touch them and is not a universal solution to our health care crisis.

No, Mr. Speaker, what we need is a health care strategy that provides both accessibility and affordability for all. And without cost containment measures, any health care plan will be doomed to fail.

INSTEAD OF JUST TALKING ABOUT FAMILY VALUES, LET'S DO SOMETHING ABOUT THEM

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, family values; that has become the catchword of the political season. It has also been the object of catcalls.

Now family values are too important to be treated glibly or rhetorically. They are also not the worthy object of scorn for somehow being out of fashion or even old-fashioned.

Mr. Speaker, today we have a chance to really do something about family values. We can adopt and pass the Child Support Recovery Act which makes it more difficult for parents to skip on court-ordered support payments which they are required to pay, and tomorrow we can pass the Family Preservation Act which changes welfare programs to keep families together and to eliminate or lessen the need to have foster care. It also enhances adoption assistance. In addition, we can pass the Child Hunger Relief Act, which would allow improving changes to be made in the Food Stamp Program and the Emergency Food Aid Program.

But again, Mr. Speaker, instead of just talking about family values, today and tomorrow this Congress can do something about family values.

LEADERSHIP OF SECRETARY OF STATE BAKER IN THE CAUSE OF HUMAN RIGHTS AND DEMOCRACY

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. During this election year, Mr. Speaker, this administration has taken a lot of heat on a number of issues, and I have taken my own potshots at the administration for some of their foreign policy decisions, but today I would like to compliment Secretary of State Jim Baker, for, not only his speech, but a positive policy stand on human rights concerning the country of Burma.

Recently, Jim Baker went and spoke in front of a gathering of ASEAN, which is a group of Asian nations, Southeast Asian nations, including Malaysia, including Indonesia, including Singapore and the countries in that area, Thailand, and Jim Baker took a very tough stand on democracy in Burma. He did exactly what we expect of our leaders and our representatives. He told the ASEAN nations that the United States would be working toward democracy and freedom in Burma and that all good and decent people in that area should work together to bring freedom to these people that have been plagued with one of the worst tyrannies in the world today. Unfortunately the reaction of the ASEAN country friends, or allies, was less than favorable to Secretary of State Baker's remarks.

Let us work together with our friends and allies to promote democracy in Burma and elsewhere, and let us applaud our country and our leaders, like Secretary of State Baker, when they stand for American leadership in the cause of human rights and democracy.

BRING THE TROOPS HOME

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, we have troops in Kuwait again, about 2,000 of them, going up to 4,000, and these troops should not be in Kuwait. And why are they there? Because President Bush has been embarrassed. He failed the first time to get Saddam Hussein, and now Saddam Hussein has called the shots on inspection, and they rejected having the American inspectors go into that agriculture department.

Same situation in Panama. When the rebels took Noriega, the Bush administration refused to take them off their hands, turned around and sent the troops in.

It cost us 26 young Americans' lives, and Noriega is still alive on the taxpayers' dole.

The United Nations should make the decisions on this, not unilaterally by the United States. We should do it by strategic bombing, by going after him.

President Bush says that he will not aim for him, so I ask, "If you're not going to aim for him, who are you going to aim for?"

Mr. Speaker, we do not want to hit the Iraqi people. They did not do anything wrong.

Bring the troops home.

CREATIVE RHETORIC BUT NOT CREATIVE SOLUTIONS

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, creative rhetoric, but not creative solutions; that is what we have been offered by the Clinton-Gore ticket. We have heard a number of speeches given over the past several weeks. When Mr. Clinton spoke in San Diego, he talked about the broken record that the Republican offer of liberal, liberal, liberal; tax and spend, tax and spend, tax and spend. That is great rhetoric, but when it came to a meeting he was attending with some young students, he was confronted with, "What are you going to do to deal with the problems of the inner cities? What are you going to do with the problem of education?"

Mr. Speaker, candidate Clinton's response was, "Spend more money, spend more money, spend more money."

The fact of the matter is the only creative solutions which he has supported are those which we, President Bush, the Republicans and Congress, have offered. I hope the American people get that message loudly and clearly.

WE SHOULD NOT LIMIT ACCESS TO BASEBALL

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, during the last century, there have been many changes in the world. We have experienced world wars, depressions, recessions, natural disasters, riots in our cities, political scandals, and the unsuspected fall of governments throughout the world. But, to paraphrase W.P. Kinsella from one of his many books about baseball, there has always been one constant, one thing that we could always count on to bring us together—baseball.

Most Americans, Mr. Speaker, have watched major league baseball on one of the so-called superstations.

□ 1230

These stations have given Americans all over the world access to baseball, some who would not normally have those privileges. Because these stations have paid millions of dollars to major league baseball and taken the necessary technological steps to make their program schedule blackout proof, millions of common, hard-working Americans with cable access have been able to watch baseball on a regular basis.

Now major league baseball is seeking legislation which will ultimately black out up to 500 baseball games around the country. The logic of this escapes me. The superstations have done more to promote the welfare of baseball than any other phenomena of the past 15 years. Limiting access to these games, Mr. Speaker, will only mean that people will lose interest in the game and deprive themselves of one of the great pleasures of life.

Mr. Speaker, today I am joining my colleague, the gentleman from Alabama, in introducing legislation to stop it and take this idea whose time has not come away from the consideration of the Congress.

THREAT OF NEW TAXES RAISES QUESTION—CAN AMERICA AFFORD THE DEMOCRATIC TICKET

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, it is clear from looking at the policy proposals of the Democrats that America cannot afford the Democratic ticket.

The Democratic ticket has proposed $150 billion in tax increases. New research indicates the Democratic ticket would favor a tax increase in gasoline, a tax increase on heating oil, a tax increase on natural gas, a tax increase on electricity, and a tax increase on coal. Some of those tax increases would go to give $50 billion to the big city Democratic machines and their unionized bureaucracies.

Further research indicates the Democratic ticket would favor a 700-percent increase in foreign aid spending to $100 billion a year. America simply cannot afford the Democratic ticket.

TIME FOR UNITED STATES INTERVENTION IN YUGOSLAVIA

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, no one wants more than I that we turn our attentions to problems at home, but we cannot turn our backs on dire events overseas. The headlines of today say, "U.S. Verifies Killings in Serb Camps." Another one says, "Bosnian Refugees Recount Atrocities in Prison Camps."

The stories differ in details, but the outlines of their stories coincide with chilling clarity. These Croatian and Moslem refugees speak of being held in detention camps where they witnessed beatings and shootings of prisoners by masked Serbian guards.

Mr. Speaker, it is time for action. It is time for a full-scale fact-finding commission. An intensification of the boycott and further intervention is necessary.

Yesterday a United States Representative was quoted as saying, "They condemn torture and killings in Serbian detention camps, but a State Department spokesman refused to discuss the possibility that the latest abuses could lead to Western military intervention in Yugoslavia."

Mr. Speaker, rhetoric will not save innocent souls. We have learned that in the past. It is time for the United States to act.

ECONOMIC CHANGES NEEDED IN RURAL AMERICA

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the last Republican who spoke was inventive but hardly factual on the subject of foreign aid. He knows and the American people ought to know that the President is proposing to veto the Foreign Aid Bill passed by Congress because he says it does not contain enough money for foreign aid. So that is where the priority is for foreign aid, on that side of the aisle, down at this White House by Republicans who want to spend all the money overseas and do not want to take care of things here at home.

Yesterday, in my State of North Dakota, Agriculture Secretary Madigan dropped by. We are real popular these days. That is the second Cabinet Secretary in 2 weeks, both of them stopping to campaign for President Bush.

Here is what Mr. Madigan said: "Family farmers have never had it so good."

I wish the Cabinet Secretary would stop and look and listen for a while. There is no looting, no rioting, and no burning on the streets of rural America, but there is enormous despair because the policies of this administration have failed in rural America. We need change in rural America, and we need it soon. We do not need Cabinet Secretaries out there campaigning; we need Cabinet Secretaries coming to rural America to take a look at how policies work and propose real constructive changes to make life better for people who live in rural America.

ALLEGED PROPOSALS FOR INCREASED FOREIGN AID SPENDING

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we hear a lot of interesting discussions on this floor about how there should be more concentration on the needs of rural America and urban America, you name it, and these are things which are of domestic concern. That is absolutely the case. We do need to focus on the needs of our country right now.

The question for many of us now is how the new Democratic ticket, that is, the Clinton-Gore ticket, plans to do that when one of the things they are calling for is $100 billion a year to be spent on foreign aid.

Right now we spend something in the range of $10 to $12 billion on foreign aid. This would be a sevenfold increase in the amount of money being spent on foreign aid, and yet the Democratic ticket has advanced that as an idea that they think should be considered.

I would suggest that an administration that is prepared to spend $100 billion on foreign aid probably is not going to be able to meet these concerns.

Mr. DORGAN of North Dakota. Mr. Speaker, if the gentleman will yield, will the gentleman give us his source for this $100 billion?

Mr. WALKER. Sure. AL GORE's book.

Mr. DORGAN of North Dakota. And you say he is proposing that?

Mr. WALKER. It is from AL GORE's book.

Mr. DORGAN of North Dakota. That is not true. That is simply not true.

THE "CHILDREN'S INITIATIVE"

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, obviously this is the year when there is a tremendous emphasis on the importance of family values, but I believe the most fundamental family value is to protect our children, to care for them, to protect them, to feed them.

How can we talk about family values in this country when there are 1.5 million children in our society who are at risk in hunger? How can we talk about family values when there are 5 million children who each day go hungry in the United States of America, and how can we talk about family values when there are 2.7 million children who are abused or neglected?

The main challenge is to deal with those children in our society.

There is an initiative that will hopefully come before the House this week. The "Children's Initiative," H.R. 5600, is an effort not just to talk about family values but to do something about it, to try to keep families together, to prevent child abuse, and to prevent childhood hunger.

The time has come not just to talk about family values but to do something about it.

Mr. Speaker, I rise today to let the House know that a very important opportunity will be afforded to all Members on the floor this Thursday. There is a great deal of political emphasis this year on family values. The most fundamental family value is to protect our children. This week, each of my colleagues will have the opportunity to make a tremendous impact in helping families and children in our society. What investment could possibly be more important, more urgent and more timely than efforts to keep families together, to prevent child abuse, and to prevent childhood hunger? That is what the Children's Initiative, H.R. 5600, is all about.

This is breakthrough legislation: Legislation that addresses the 12.5 million hungry and at-risk children in this country; legislation that deals with the basic protection of the nearly 2.7 million children reported abused or neglected in 1991. Mr. Speaker, this bill does not just talk about family values, it invests in America's families and children.

This legislation will affect millions and millions of the most needy and most vulnerable in society. This bill shames the rhetoricians because we take action, and we have found a way to pay for the bill. The financing mechanism, a surtax on the richest one-tenth of 1 percent of the Nation, will raise enough money to pay for both pared-down versions of the Family Preservation Act and the Mickey Leland bill which comprise the Children's Initiative, and it will also decrease the deficit by $1.2 billion over 5 years.

This bill is sound social and fiscal policy. Here is your chance to help right now. I urge your strong support of this pro-family measure when it comes to the floor for consideration this Thursday. Don't just talk about it. Let's do it.

SUPPORT URGED FOR BILL TO PHASE OUT OCCUPATIONAL TAX ON THE LIQUOR INDUSTRY

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, I rise today to urge support of H.R. 5649 which was brought up under suspension yesterday. I was unable to speak during the debate, but am taking this opportunity to voice my strong support of this legislation. This bill would phase out the occupational tax on the liquor industry. As the Member of Congress who represents, perhaps, the most recognized wine producing region in the country, I urge my colleagues to support in easing the burden of an industry which has been hard hit by drought and pestilence. The special occupational tax serves as another levy on an already overtaxed industry. In 1987, with no hearings, the tax was increased from $110 to $1,000 per year. The 1,000-percent increase has fallen exceptionally hard on the family owned and operated wineries that I represent. We should be doing everything we can to ease the burden on these small businesses not adding to it. I urge all Members to support the phasing out of this unfair tax burden by supporting H.R. 5649.

LOAN GUARANTEES FOR ISRAEL

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, I am very encouraged by recent news reports that the United States and Israel are close to reaching agreement on loan guarantees to facilitate the resettlement of Jews from the former Soviet Union.

As Americans, we take pride in our country's recently successful effort to secure emigration opportunities for Jews facing the threat of anti-Semitism. The lowering of exit barriers, however, must mark only a beginning of our involvement in a great human rights endeavor. The task of integrating potentially over a million men, women, and children into the life of a small nation poses monumental challenges. The economy of Israel must be transformed to provide meaningful employment opportunities in new and expanded industries. Immigrant families must be sheltered—requiring substantial housing construction in Israel in the years ahead.

Israelis, to their credit, do not seek large sums in immigration-related grants and loans from the United States but rather request our assistance in facilitating their access to credit markets. Loan guarantees will enable Israel to obtain financing at reasonable cost without burdening our own taxpayers.

Americans support Israel's commitment to providing a haven for Jews from former Soviet lands. Loan guarantees provide a tangible cost-free way for the United States to extend a helping hand at a critical time in Israel's history.

I am hopeful that a resolution of the impasse over loan guarantees can be announced during Prime Minister Rabin's forthcoming visit to the United States. Prime Minister Rabin is to be commended for his commitment to the peace process and for his constructive approach to the issue of settlements in the occupied territories. As Israel embraces policies encouraging negotiation and compromise, the United States has every reason to participate actively in helping Israel achieve its domestic goal of successful immigrant absorption.

□ 1240

PROVIDING FOR DISPOSITION OF SENATE AMENDMENT TO H.R. 2977, PUBLIC TELECOMMUNICATIONS ACT OF 1991

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 535 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 535

Resolved, That upon adoption of this resolution it shall be in order to consider a motion to take from the Speaker's table the bill (H.R. 2977) to authorize appropriations for public broadcasting, and for other purposes, with the Senate amendment thereto, and to concur in the Senate amendment. The motion shall be debatable for not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 535 makes it in order to move to take H.R. 2977 from the Speaker's table with the Senate amendment and concur in the Senate amendment. The motion is to be debatable for up to 1 hour and the debate is equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

Mr. Speaker, House Resolution 535 provides a procedural mechanism to speed up the final consideration of the Public Telecommunications Act of 1992. It permits the House to move to adopt the Senate amendments and send the bill to the President without having to go to conference. The House passed this bill last November under suspension of the rules and the Senate recently passed it, with amendments, by a vote of 84 to 11.

Briefly, this bill authorizes a modest increase in funding for the next 3 years for public broadcasting. It also contains provisions to improve the efficiency and the accountability of the board; increase public broadcasting services to underserved audiences—including the visually and hearing impaired; prohibit the broadcasting of indecent programming; and promote affordable training programs for employees at public broadcast stations.

Mr. Speaker, the public broadcasting system provides many educational and cultural benefits to the American people. Its mission, which began 23 years ago, has more than fulfilled its promise to promote education, community awareness and technological innovation. I urge passage of the rule and the bill so that we may continue to fulfill our long-standing commitment to national public radio and television.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the committee, Mr. MOAKLEY, has fully explained the provisions of this rule.

This is important legislation whose purpose is to authorize appropriations for public broadcasting. The Corporation for Public Broadcasting is currently authorized through fiscal year 1993 under 2-year advance reauthorizations. This legislation would reauthorize the Corporation for fiscal years 1994 through 1996.

Mr. Speaker, the Government provides public broadcasting with about 17 percent of its total funding, and the remainder comes from State and local governments, corporate underwriting, individual contributions, colleges, and other sources. In addition to providing funding for Corporation for Public Broadcasting Program activities, the bill would authorize $42 million for each of the 3 years for capital investments in public television and radio facilities. It would also make changes to the Board of Directors, reducing the number of from 10 to 9 to avoid tie votes. Board members' would be staggered so that three terms expire every 3 years.

Mr. Speaker, the Senate made a number of changes to our bill. In lieu of going to conference, the rule provides that the House will vote on a motion to concur in the Senate amendment and pass the bill. I urge the adoption of the rule.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON SITUATION IN SARAJEVO

(Mr. MURTHA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURTHA. Mr. Speaker, I would like to give the House a report of my trip to Sarajevo over the weekend. I left at 2 o'clock on Friday and flew into Rhein Main and then got on a C-130 and flew into Sarajevo.

The fighting the day before was intense. When I got there it had let up, even though you could hear mortar rounds and sniper fire in the distance. As a matter of fact, the bus holding the children that was attacked the day we were there went by us, and they inadvertently, or on purpose, hit these small children.

The important point about what is going on is that they can close the airport at any time. It would be impossible for us to keep it open without a substantial force. As a matter of fact, I think any possibility of military intervention on a small scale would be counterproductive.

The hills around Sarajevo remind me of Beirut. It is not like the desert where it is open. Our particular weapons which are so effective in an open territory would be almost impossible for us to get to positions that are covered by foliage and that are hidden in the area.

The United Nations is doing a phenomenal job in feeding the people. We have just enough airplanes going in every day to feed the people there. As a matter of fact, they have 3 days supply of food in Sarajevo, which is only a minor part of the overall refugee problem.

I am convinced that we have to allow the European Community to take the lead, that we have to do it under the United Nations, and any unilateral action by the United States would be a mistake. For us to intervene militarily would take massive U.S. forces, and my recommendation to the President would be to let the Europeans handle it and to let this thing be settled under the United Nations.

Mr. Speaker, it is a tragic situation. All of us feel badly about it. I visited a refugee center where an old fellow, 83 years old, said he was a child in World War I, and that was terrible; he was in World War II and it was a tragic situation; and this is worse.

They are forcing people out of their homes. You can see the houses that have been destroyed by the mortar and artillery fire. Of course, there are no windows in any of the homes surrounding the airport at Sarajevo, and I assume that is true of any place that has been attacked in Bosnia.

We have got a real problem facing us with winter coming on, with nobody having any opportunity to be warm at all. Of course, the weather would keep food from being distributed.

So I can only say that it is a tough situation, but the Europeans have to take more of a lead, and, of course, the United Nations has to advise us on what we should do. But I certainly would be against any massive military intervention by the United States in that area.

□ 1250

TELECOMMUNICATIONS ACT OF 1992

Mr. DINGELL. Mr. Speaker, pursuant to House Resolution 535, I offer a motion.

The Clerk read as follows:

Mr. DINGELL moves to take from the Speaker's table the bill H.R 2977, to authorize appropriations for public broadcasting, and for other purposes, with the Senate amendment thereto, and to concur in the Senate amendment.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 535, the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes, and the gentleman from New

Jersey [Mr. RINALDO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield myself 5 minutes. Mr. Speaker, I rise in support of the motion to concur in the Senate amendment to H.R. 2977, and to urge my colleagues to do likewise. Although I have reservations about several of the provisions added by the Senate, which I will address later, on balance I believe that the amendments should be accepted by this body so that the legislation can proceed to the President for his signature.

I should note that our colleague, the Honorable ED MARKEY, the able chairman of the committee's Subcommittee on Telecommunications and Finance, is unable to be with us today. I ask unanimous consent that his statement be inserted into the RECORD at this point, and very much regret his absence.

Mr. Speaker, last November, the House passed its version of H.R. 2977, authorizing appropriations for the Corporation for Public Broadcasting, and for other purposes. CPB is the private corporation that was created by the Congress to implement the provisions of the Public Broadcasting Act more than 20 years ago.

By any measure, CBP has done a magnificent job. Today, public television and radio bring programming material to millions of Americans—from educational programming for children to news and public affairs programming. Both public television and public radio add to the diversity of programming that is available to the American people, and help to ensure that all Americans have access to high quality, informative programming that otherwise would not be available to them.

As amended by the Senate, H.R. 2977 authorizes $310 million for fiscal year 1994, $375 million for fiscal year 1995, and $425 million for fiscal year 1996. While ultimately it may not be possible for Congress to provide funds at these levels, in my view these figures represent responsible authorization levels. Both public television and radio are partners in our national effort to improve America's education. Public broadcasting has the potential to contribute much more—but only if adequate resources are made available.

I would like to address several of the amendments that were added to H.R. 2977 by the other body.

The first is the so-called objectivity and balance amendment that was a manager's amendment offered by the chairman of the Senate's Communications Subcommittee, Senator INOUYE. Although the amendment mandates new procedural requirements, it most certainly does not establish new policy. Recipients of Federal funds for public broadcasting have always been held accountable for the funds that they receive; this provision does not change that requirement in any manner. Specifically, the amendment does not expand the Corporation's authority with regard to objectivity and balance as that authority has been interpreted by the courts, including the U.S Court of Appeals for the District of Columbia Circuit in *Accuracy in Media, Inc,* v. *FCC.*, 521 F. 2d 288, (D.C. Cir. 1975), cert. denied, 425 U.S. 934 (1976).

Rather, the amendment requires CPB to establish new procedures that will facilitate public broadcasting's accountability to Congress and to the American people. The amendment requires that Corporation to review its current efforts to meet the responsibilities outlined in section 396(g)(1)(A) of the Communications Act—including adherence to objectivity and balance in programs of a controversial nature—to solicit the views of the public on the services provided by public broadcasters, and to review national programming to determine whether it meets congressional mandates. On the basis of the information gathered above, it can act to address any discovered imbalances or unmet needs through program grants made pursuant to clauses (ii)(II), (iii)(II), and (iii)(III) of section 396(k)(3)(A) of the act and through dissemination of information on identified concerns throughout the public broadcasting system.

Moreover, the terms of this amendment do not have any bearing on the Corporation's awarding of community service grants to public television and radio stations pursuant to clauses (ii)(I) and (iii)(I) of section 396(k)(3)(A) of the Communications Act. This amendment neither enhances nor diminishes the Corporation's existing authority with respect to its awarding of CSG's to public television and radio stations.

While the amendment refers to national program production and acquisition grants [NPPAG's], it does not authorize the Corporation to impose restrictions or conditions on the use or expenditure of NPPAG grants different from the types it currently imposes. For example, CPB cannot tell a public station what programming it must produce or acquire; it cannot require that stations pool funds at the national level for the production of programming that the Corporation's Board determines should be produced: it cannot require that, as a condition for receiving the NPPAG grant, the station provide a particular program or type of program, and most importantly, it cannot require that a station broadcast any program or prohibit the broadcast of any program.

Rather, the Corporation may provide information, engage in discussions with stations, and advise stations, based on the Board's review of national public broadcasting programming and its analysis of public comment, as to areas of national programming that stations may consider for special emphasis.

Neither Congress nor CPB can substitute their own judgment for that of local radio and television licensees who must ultimately decide on the mix of programming that best meets the needs and interests of the communities. Those licensees are held accountable by the Federal Communications Commission during the course of renewing their licenses, and nothing in this amendment should be permitted to interfere with the discretion of those licensees as they discharge their obligations and responsibilities to the communities they were licensed to serve.

The second Senate-passed amendment that I would like to address is the so-called Byrd amendment. This amendment, which was added to the bill on the Senate floor by an overwhelming majority, prohibits indecent programming on most commercial and public radio and television stations between the hours of 6 a.m. and 12 midnight.

Now I understand the sentiments that led to the adoption of this amendment. Some of the stuff that is on commercial radio is, quite simply, appalling. Much of the material that appears on television is no better. I wish we had at our disposal a constitutional mechanism that would protect our children from programming material of this type.

But the Byrd amendment is clearly unconstitutional. The courts have spoken. The adoption of this amendment simply repeats the action of the Congress in 1988, when the Helms amendment was added to an appropriations bill. That amendment, which imposed a 24-hour-a-day ban on indecent speech, was overturned by the court in *Action for Children's Television* v. *FCC.*, 932 F.2d 1504 (D.C. Cir. 1991) cert. denied, 112 S. Ct. 1281 (1992). I insert the entire text of this decision into the RECORD at this point.

[U.S. Court of Appeals for the District of Columbia Circuit, No. 88-1916]

ACTION FOR CHILDREN'S TELEVISION, *et al.*, PETITIONERS v. FEDERAL COMMUNICATIONS COMMISSION AND UNITED STATES OF AMERICA, RESPONDENTS; CHILDREN'S LEGAL FOUNDATION, *et al.*, INTERVENORS

Argued January 28, 1991.

Decided May 17, 1991.

Timothy B. Dyk for Capital Cities/ABC, Inc., and CBS, Inc., with whom Henry Geller and Donna Lampert, for Action for Children's Television, John A. Powell and C. Edwin Baker, for American Civil Liberties Union, James Popham, for Association of Independent Television Stations, Inc., Steven A. Lerman, Dennis P. Corbett and Laura B. Humphries, for Infinity Broadcasting Corporation, Fritz E. Attaway, for Motion Picture Association of America, Inc., Henry L. Baumann and Stephen A. Bookshester, for National Association of Broadcasters, Howard Monderer, for National Broadcasting Company, Inc., Theodore A. Miles and Karen

Christensen, for National Public Radio, Andrew Jay Schwartzman and Jan G. Levine, for People for the American Way, Jonathan D. Blake, for Post-Newsweek Stations, Inc., Paula A. Jameson and Nancy H. Hendry, for Public Broadcasting Service, J. Laurent Scharff, for Radio-Television News Directors Association, Jane E. Kirtley, for The Reporters Committee for Freedom of the Press, and Bruce W. Sanford, for Society of Professional Journalists were on the joint brief, for petitioners Action for Children's Television, et al. Molly Pauker, for National Broadcasting Company, Inc., Lois Schiffer, for National Public Radio, Martin Wald and Janet E. Milne, for Post-Newsweek Stations, Inc., and James M. Smith, for Radio-Television News Directors Association, also entered appearances for petitioners.

Eric M. Lieberman, with whom John Crigler, William J. Byrnes, and Edward de Grazia were on the brief, for petitioner The Pacific Foundation and Interveners PEN American Center, Allen Ginsberg, et al.

Robert L. Pettit, General Counsel, Federal Communications Commission, with whom Daniel M. Armstrong, Associate General Counsel, Jane E. Mago, Sue Ann Preskill, and Laurence N. Bourne, Counsel, Federal Communications Commission, and Barbara L. Herwig and Jacob M. Lewis, Attorneys, Department of Justice, were on the brief, for respondents.

James P. Mueller, for Children's Legal Foundation and American Family Association, Peggy M. Coleman, for American Family Association, and Paul J. McGeady, for Morality in Media, Inc., were on the joint brief, for interveners and amicus curiae.

Bruce A. Taylor and Benjamin W. Bull entered an appearance for intervenor Children's Legal Foundation, et al.

Before: Mikva, Chief Judge, Edwards and Thomas, Circuit Judges.

Opinion for the Court filed by Chief Judge Mikva.

Mikva, Chief Judge: This case presents constitutional challenges to a Federal Communications Commission ("FCC" or "the Commission") order, promulgated at the direction of Congress, barring all radio and television broadcasts of "indecent" material. We believe that the disposition of this case is governed by our prior decision in *Action for Children's Television* v. *Federal Communications Commission*, 852 F.2d 1332 (D.C. Cir. 1988), in which we rejected vagueness and overbreadth challenges to the Commission's definition of indecency but found that the Commission's curtailment of "safe harbor" broadcast periods impermissibly intruded on constitutionally protected expression interests. Accordingly, we grant the petition for review.

I.

The particulars of this case are best understood within the history of government efforts to regulate the broadcast of indecent material. Since 1927, federal law has prohibited the broadcast of "any obscene, indecent, or profane language." 18 U.S.C. §1464 (1988); see also Radio Act of 1927, §29, 44 Stat. 1172 (1927) (original prohibition against utterance of "obscene, indecent, or profane language"). In 1975, the Commission essayed to "authoritatively construe[]" the term "indecent" and to distinguish it from the modern definition of obscenity, as formulated by the Supreme Court in *Miller* v. *California*, 413 U.S. 15 (1973). See *Pacifica Found*, 56 F.C.C. 2d 94, 97 (1975). The Commission defined indecency as "language that describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities and organs," and emphasized that its primary regulatory interest lay in protecting children from "language which most parents regard as inappropriate for them to hear." Id. at 98. The Supreme Court upheld the Commission's finding that a radio station's afternoon broadcast of a George Carlin comedy monologue entitled "Filthy Words" was indecent under section 1464. See *Federal Communications Comm'n* v. *Pacifica Found.*, 438 U.S. 726, 738-41 (1978).

The Commission, by its own account, subsequently "took a very limited approach to enforcing the prohibition against indecent broadcasts." In re *Infinity Broadcasting Corp. of Pennsylvania*, 3 FCC Rcd 930 (1987) [hereinafter Reconsideration Order]. The Commission essentially restricted its enforcement efforts to material broadcast before 10:00 p.m. that involved "the repeated use, for shock value, of words similar or identical to those satirized in the Carlin 'Filthy Words' monologue." Id. at 930. Between 1975 and 1987, no broadcasts at all were found actionable under this narrow prohibition. See id.

By 1987, however, the Commission had concluded that "the highly restrictive enforcement standard employed after the 1975 *Pacifica* decision was unduly narrow as a matter of law and inconsistent with our enforcement responsibilities under Section 1464." Id. Returning to the generic definition of indecency it had developed in *Pacifica*, the Commission issued three rulings declaring material that would not have violated the "Filthy Words" test to be indecent. See *Pacifica Found*, 2 FCC Rcd 2698 (1987); *The Regents of the Univ. of California*, 2 FCC Rcd 2703 (1987); *Infinity Broadcasting Corp. of Pennsylvania*, 2 FCC Rcd 2705 (1987); see also *New Indecency Enforcement Standards to be Applied to All Broadcast and Amateur Radio Licensees*, 2 FCC Rcd 2726 (1987) (summarizing Commission policies). Significantly, two of the cited broadcasts had aired after 10:00 p.m., the time period previously identified by the Commission as a "safe harbor" during which the risk of children in the broadcast audience was thought to be minimal. See id. at 2726. On reconsideration, the Commission affirmed its warnings with respect to the three broadcasts and noted, in response to requests for more specific rules regarding time channeling, that 12:00 midnight was its "current thinking" as to when the risk of children in the broadcast audience could reasonably be thought minimized. *See Reconsideration Order*, 3 FCC Rcd at 934, 937 n.47.

Reviewing the Commission's order, we first rejected petitioners' vagueness and overbreadth challenges to the Commission's generic definition of indecency. *See Action for Children's Television* v. *FCC*, 852 F.2d 1332, 1338-40 (D.C. Cir. 1988) [hereinafter *ACT I*]. However, we vacated the Commission's rulings that the two post-10:00 p.m. broadcasts were indecent. In addition to calling the Commission's findings "more ritual than real" and its underlying evidence "insubstantial," id. at 1341-42, we opined that a "reasonable safe harbor rule" was constitutionally mandated. Id. at 1343 n.18. Accordingly, we instructed the Commission to determine on remand, "after a full and fair hearing, . . . the times at which indecent material may be broadcast." Id. at 1344.

Before the Commission could carry out this court's mandate, Congress intervened. On October 1, 1988, two months after the ACT I decision issued, the President signed into law a 1989 appropriations bill containing the following rider:

"By January 31, 1989, the Federal Communications Commission shall promulgate regulations in accordance with section 1464, title 18, United States Code, to enforce the provisions of such section on a 24 hour per day basis."

Pub. L. No. 100-459, §608, 102 Stat. 2228 (1988) (emphasis added). Concluding that "[t]he directive of the appropriations language affords us no discretion," the Commission promulgated a new rule pursuant to section 1464 prohibiting all broadcast of indecent materials. See *Enforcement of Prohibitions Against Broadcast Obscenity and Indecency in 18 U.S.C. §1464*, 4 FCC Rcd 457 (1988) [hereinafter Order], codified at 47 CFR §73.3999 (1990) (restrictions on the transmission of obscene or indecent language). The Commission also "abandon[ed its] plans to initiate a proceeding in response to the concerns raised by" the ACT I panel. *Order*, 4 FCC Rcd at 457.

A panel of this court granted petitioners' motion to stay enforcement of the ban pending judicial review. See *Action for Children's Television* v. *FCC*, No. 88-1916 (D.C. Cir. Jan. 23, 1989). Six months later, while briefing on the validity of the Commission's order was underway in this court, the Supreme Court issued an opinion finding a blanket ban on indecent commercial telephone message services unconstitutional. *Sable Communications of Cal., Inc.* v. *FCC*, 492 U.S. 115, 109 S. Ct. 2829 (1989). Believing that Sable left open the possibility that indecent broadcasts may be proscribed if the Commission could prove that no less restrictive measure would effectuate the government's compelling interests, the Commission sought and obtained a remand from this court in order to assemble the relevant data supporting a total ban. *Action for Children's Television* v. *FCC*, No. 88-1916 (D.C. Cir. Sept. 13, 1989) (remanding record to the FCC for a "full and fair hearing on the issue of the propriety of indecent broadcasting").

The Commission subsequently solicited public comments on the validity of a total ban on broadcast indecency. See *Enforcement of Prohibitions Against Broadcast Indecency in 18 U.S.C. §1464*, 4 FCC 8358 (1989). After receiving and reviewing the comments, the Commission issued a comprehensive report concluding that "a 24-hour prohibition on indecent broadcasts comports with the constitutional standard the Supreme Court enunciated in Sable for the regulation of constitutionally protected speech." *Enforcement of Prohibitions Against Broadcast Indecency in 18 U.S.C. §1464*, 5 FCC Rcd 5297, 5297 (1990). Finding a "reasonable risk that significant numbers of children ages 17 and under listen to radio and view television at all times" without "active" parental supervision, the Commission concluded that no alternative to a total ban would effectuate the government's compelling interest in protecting children from broadcast indecency. See id. at 5297, 5306. Current proceedings before this court followed issuance of the Commission's report.

II.

Petitioners, an amalgam of broadcasters, industry associations, and public interest groups, present several constitutional challenges to the Commission's action. First, they claim (some more spiritedly than others) that the Commission's definition of indecency is unconstitutionally vague and overbroad. Second, they contend that a total ban on broadcast indecency cannot withstand constitutional scrutiny. We address petitioners' contentions in turn.

A. Vagueness and overbreadth challenges

Petitioners contend that the Commission's definition of indecency—"language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs," *Order*, 4 FCC Rcd at 457—is unconstitutionally vague. A statute or regulation is void for vagueness if it "'either forbids or requires the doing of an act in terms so vague that [persons] of common intelligence must necessarily guess at its meaning and differ as to its application.'" *Roberts* v. *United States Jaycees*, 468 U.S. 609, 629 (1984) (quoting *Connally* v. *General Construction Co.*, 269 U.S. 385, 391 (1926)).

We have already considered and rejected a vagueness challenge to the Commission's definition of indecency. In Act I, we noted that the Supreme Court, entertaining a similar challenge in Pacifica, had quoted various elements of the definition with approval and had ultimately affirmed the Commission's application of the definition to the broadcast under review. See *Act I*, 852 F.2d at 1338–39. In our view, the Supreme Court's decision in Pacifica dispelled any vagueness concerns attending the definition. See id. at 1339 ("[I]f acceptance of the FCC's generic definition of 'indecent' as capable of surviving a vagueness challenge is not implicit in Pacifica, we have misunderstood Higher Authority and welcome correction."); cf. *Information Providers' Coalition* v. *FCC*, No. 90–70379, Slip Op. at 2935–37 (9th Cir. March 21, 1991) (rejecting vagueness challenge to similar definition of indecency in dial-a-porn context). Our holding in ACT I precludes us from now finding the Commission's generic definition of indecency to be unconstitutionally vague.

Some of the petitioners raise the additional claim that the definition of indecency is unconstitutionally overbroad. They contend that, because the Commission fails to recognize "serious merit" as an absolute defense to a charge of indecency, the definition sweeps even constitutionally protected expression within its ambit. See *Houston* v. *Hill*, 482 U.S. 451, 459 (1987) (noting that statutes "that make unlawful a substantial amount of constitutionally protected conduct may be held facially invalid even if they also have legitimate application").

We rejected an identical overbreadth challenge in ACT I. We noted that indecent material qualifies for First Amendment protection regardless of merit, but that even material with "significant social value" may have a strong negative impact on children. See *Act I*, 852 F.2d at 1340. We thus found the Commission's method of identifying material suitable for broadcast only during the late night, safe harbor hours—whereby merit is treated as a "relevant factor in determining whether material is patently offensive" but "does not render such material per se not indecent"—to be permissible. See id. at 1339–40. Given that our decision today reaffirms the need for safe harbor periods during which indecent material may be broadcast and invalidates the Commission's attempt to ban such broadcasts altogether, we have no reason to revisit ACT I's conclusion that the Commission's generic definition of indecency comports with constitutional overbreadth requirements.

B. Challenge to total ban on broadcast indecency

Petitioners' core challenge is to the constitutional validity of a total ban on the broadcast of indecent material. Their contentions are two-fold: First, they claim that, under Supreme Court and circuit precedent, the government may not completely suppress indecent speech in any medium. Second, they argue that even if a total ban could theoretically be justified, the Commission's action here fails to satisfy the strict scrutiny standard recently reaffirmed by the Supreme Court in Sable.

We agree with petitioners that circuit precedent compels our rejection today of a total ban on the broadcast of indecent material. In ACT I, we stated that: "Broadcast material that is indecent but not obscene is protected by the first amendment; the FCC may regulate such material only with due respect for the high value our Constitution places on freedom and choice in what the people say and here." 852 F.2d at 1344. Addressing the scope of permissible regulation, we explained that: "Content-based restrictions ordinarily "may be sustained only if the government can show that the regulation is a precisely drawn means of serving a compelling state interest." [citation omitted] The Supreme Court has recognized a government's interest in "safeguarding the physical and psychological well-being of a minor" as "compelling." [citations omitted] But that interest, in the context of speech control, may be served only by carefully-tailored regulation." Id. at 1343 n.18.

We found that the Commission's elimination of the post-10:00 p.m. "safe harbor" period failed to satisfy these constitutional standards. Specifically, we concluded that:

"[T]he precision necessary to allow scope for the first amendment shielded freedom and choice of broadcasters and their audiences cannot be accomplished, we believe, unless the FCC adopts a reasonable safe harbor rule."

Id. We therefore instructed the Commission, on remand, to "afford broadcasters clear notice of reasonably determined times at which indecent material safely may be aired." Id. at 1343.

Our holding in ACT I that the Commission must identify some reasonable period of time during which indecent material may be broadcast necessarily means that the Commission may not ban such broadcasts entirely. The fact that Congress itself mandated the total ban on broadcast indecency does not alter our view that, under ACT I, such a prohibition cannot withstand constitutional scrutiny. While "we do not ignore" Congress' apparent belief that a total ban on broadcast indecency is constitutional, it is ultimately the judiciary's task, particularly in the First Amendment context, to decide whether Congress has violated the Constitution. See Sable, 109 S. Ct. at 2838. Moreover, we note that introduction of the appropriations rider preceded issuance of our decision in ACT I; thus, the relevant congressional debate occurred without the benefit of our constitutional holding in that case. See 134 CONG. REC. S9911–S9915 (daily ed. July 26, 1988).

Nothing else in the intervening thirty-four months has reduced the precedential force of ACT I. Indeed, the Supreme Court's decision in Sable, striking down a total ban on indecent commercial telephone messages, affirmed the protected status of indecent speech and reiterated the strict constitutional standard that government efforts to regulate the content of speech must satisfy. See Sable, 109 S. Ct. at 2836 (noting that "[s]exual expression which is indecent but not obscene is protected by the First Amendment," and stating that the government may "regulate the content of constitutionally protected speech in order to promote a compelling interest if it chooses the least restrictive means to further the articulated interest"). See also *Consolidated Edison Co.* v. *Public Serv. Comm'n*, 447 U.S. 530, 540 (1980). Even the Commission, prior to congressional enactment of the appropriations rider, shared this view. See *Reconsideration Order*, 3 FCC Rcd at 931 (dismissing suggestion that section 1464 should be read to totally prohibit the broadcast of indecent material, as such a reading would "run afoul of [the] constitutional premise" that the Commission "may only do that which is necessary to restrict children's access to indecent broadcasts" and "may not go further so as to preclude access by adults who are interested in seeing or hearing such material").

Thus, neither the Commission's action prohibiting the broadcast of indecent material, nor the congressional mandate that prompted it, can pass constitutional muster under the law of this circuit.

III.

We appreciate the Commission's constraints in responding to the appropriations rider. It would be unseemly for a regulatory agency to throw down the gauntlet, even a gauntlet grounded on the Constitution, to Congress. But just as the FCC may not ignore the dictates of the legislative branch, neither may the judiciary ignore its independent duty to check the constitutional excesses of Congress. We hold that Congress' action here cannot preclude the Commission from creating a safe harbor exception to its regulation of indecent broadcasts.

Our decision today effectively returns the Commission to the position it briefly occupied after ACT I and prior to congressional adoption of the appropriations rider. The Commission should resume its "plans to initiate a proceeding in response to the concerns raised" in ACT I, which it "abandon[ed]" following Congress' mandate. *Order*, 4 FCC Rcd at 457. We direct the Commission, in "redetermin[ing], after a full and fair hearing, * * * the times at which indecent material may be broadcast," to carefully review and address the specific concerns we raised in ACT I: among them, the appropriate definitions of "children" and "reasonable risk" for channeling purposes, the paucity of station- or program-specific audience data expressed as a percentage of the relevant age group population, and the scope of the government's interest in regulating indecent broadcasts. See *ACT I*, 852 F.2d at 1341–44.

For the foregoing reasons, the petition for review is granted, the order under review is vacated, and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

Mr. SPEAKER, I am a realist. If we were to have a separate vote on this amendment, the outcome would be obvious. After all, it is August of an election year, and no one wants to go on record as supporting indecent programming.

The sad fact is that the Byrd amendment will not rid our Nation's airwaves of indecent programming. The courts have seen to that. What the Byrd amendment will do is force the FCC to undertake a lengthy rulemaking proceeding, at taxpayer expense, that is preordained to fail. While I suppose there are certain benefits that accrue to Members of the House and Senate by forcing the agency down this path, we should all be cognizant of the cost and likely outcome.

Mr. SPEAKER, at this point I would like to insert the text of a letter that I received from the American Civil Liberties Union [ACLU] regarding the Byrd amendment. While I am not a member of that association and do not always support its positions, in this case the ACLU analysis is right on point.

AMERICAN CIVIL LIBERTIES UNION,
Washington, June 12, 1992.

DEAR REPRESENTATIVE: In approving S. 1504, the Public Telecommunications Act, last week, the Senate added an amendment that would prohibit indecent programming on most commercial and public radio and television stations from 6 a.m. to 12 midnight. The amended bill will soon be considered in the House, perhaps as early as Monday. The American Civil Liberties Union urges that this amendment, which violates the First Amendment's guarantees of freedom of speech, be deleted from the bill, as it effectively deprives adults of access to constitutionally protected materials.

Congress has a responsibility not to enact unconstitutional legislation, and this provision is unconstitutional. The Supreme Court has unambiguously declared that "[s]exual expression which is indecent but not obscene is protected by the First Amendment." *Sable Communications* v. *FCC*, 492 U.S. 115, 126 (1989). Moreover, government cannot restrict access to protected expressive materials under a child-protection theory because "the result is to reduce the adult population * * * to reading what is fit for children." Id at 128, quoting, *Bulter* v. *Michigan*, 352 U.S. 310, 383 (1957). The Senate's proposed safe-harbor rule would limit more adult programming to the hours of midnight to 6 a.m., putting the broadcasts off limits to children and most adults alike.

In reviewing a similar restriction on the hours during which indecent programming may be broadcast, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the Constitution mandates "reasonable safe harbor rules." *Action for Children's Television* v. *FCC*, 852 F.2d 1332, 1343 n.18 (D.C. Cir 1988). Such reasonableness must include "due respect for the high value our Constitution places on freedom and choice in what the people say and hear." Id. at 1344. To be constitutional, such a rule "would give effect to the government's interest in promoting parental supervision of children's listening, without intruding excessively upon the licensee's range of discretion of the fare available for mature audiences and even children whose parents do not wish them sheltered from indecent speech." Id.

By extending the prohibition on indecent programming to midnight, the Senate bill violates these principles by restricting what may be broadcast to hours when most viewers and listeners are asleep and effectively denies adults access to constitutionally protected material. The restriction should be abandoned.

Sincerely,

ROBERT S. PECK,
Legislative Counsel.

Mr. Speaker, the Senate's acceptance of the Byrd amendment is unfortunate. But it constitutes only a small portion of the bill before us, H.R. 2977. The proper course for the House to follow is to concur in the Senate amendment to H.R. 2977 and clear the bill for the President's signature. I urge my colleagues to join me in supporting this motion and help to ensure that public television and public radio can continue to serve the American public in a manner that informs, enlightens, and entertains them.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the motion to concur in the Senate amendment to H.R. 2977. Last November, this House passed H.R. 2977, the Public Telecommunications Act, with a showing of strong bipartisan support.

Like the House bill, the Senate amendment addresses the authorization levels for the Corporation for Public Broadcasting for fiscal years 1994 through 1996. The Senate amendment authorizes the Corporation at $310 million for fiscal year 1994, $375 million for fiscal year 1995, and $425 million for fiscal year 1996.

I am pleased at the assurances made to the Congress by the Corporation that a significant portion of the appropriated funds will be directed toward educational programs and services, as well as the expansion of radio services.

When the Corporation was first created, Congress specified that the public broadcasting system must receive no more than 40 percent of its money from the Federal Government. In fact, today, our contribution amounts to only 15 percent of its operating expenses.

Most importantly the Senate amendment includes a number of administrative checks to ensure that the Corporation acts in the best interests of its national audience and is accountable for the use of Federal funds. It requires the Corporation to adhere to its statutory objectivity and balance mandate in the distribution of programming grants and report to Congress on its effort to carry out the mandate.

The Senate amendment further requires federally funded programs to be disclosed to the public; it requires the corporation to maintain a public file containing information concerning national programming; and it requires the independent television service [ITVS] to award its production grants on a geographically diverse basis. Finally, the Senate amendment also seeks to improve the quality of programming on both public and commercial television.

Mr. Speaker, I believe that the Public Telecommunications Act will enable the system to fulfill its commitment to providing much-needed educational and radio expansion services.

Accordingly, I urge my colleagues to support the motion to concur in the Senate amendment.

Mr. Speaker, I reserve the balance of my time.

□ 1300

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I am pleased to rise in support of this bill to provide funding for the Corporation for Public Broadcasting and the Public Telecommunications Facilities Program.

Our public broadcasting network provides the American viewing and listening public with diverse and innovative noncommercial programming of the highest quality.

I am particularly interested in the way that public broadcasting is finding new and exciting ways to make telecommunications technology work for us, especially in bringing educational programming to the classrooms of rural America. Educators seem to be among the biggest fans of public television, probably because they have seen first hand this medium's potential.

Last year, Ms. Pam Montgomery from my home State was named a "Teacher of the Year" by President Bush. When I met with Ms. Montgomery after she received her award, she told me that she believed part of her success as a teacher came from the effective use of educational TV in her classroom.

After seeing a videotape of Mrs. Paula Malcolm using "Reading Rainbow" in her classroom at Hill Elementary School in Munford, AL, I have become a believer.

The education potential of public broadcasting is not limited to the formal classroom. As part of the annual Sakura Festival in Tuscaloosa, AL, this spring, children had a chance to learn about the Japanese tradition of kite-building at the Children's Hands-on Museum by watching a "3-2-1 Contact" show on the subject.

These kids learned aerodynamics, Japanese folk culture, and created a kite which is a work of art and now hangs in a place of honor in the lobby of the museum.

Jane Ingram, director of programs of the Children's Hands-on Museum, credits Alabama public television's educational services coordinator for making the program available.

Alabama public television has a longstanding commitment to education. I should note that the executive director of APT, Judy Stone, has just been elected to the board of directors of PBS and I am expecting great things from her.

In addition to the services which I just mentioned, APT delivers to the 1.5 million households in Alabama GED exam preparation programs, the learn to read literacy program, and coverage of issues of unique interest to us.

Many of you will remember the exclusive interview of President Jimmy Carter that was produced by the news and public affairs division of APT and which aired on 200 public television stations.

I am particularly pleased to see that the PTFP is reauthorized. It seems to me that as we place greater and greater faith in public broadcasting as an effective tool to help educate the American public with innovative programming, we should provide this medium with adequate infrastructure support.

There are still many rural areas in this country that are not served by public radio and TV and public broadcasting systems that need funds to expand their services and modernize their equipment. Unfortunately, the self-styled "Education President" zeroed out this important program and it was left to this Congress to restore its funding.

The bottom line seems to be that investing in our public broadcasting network is one of the most cost-effective methods of ensuring continued educational and informational services to all of our constituents.

Again, I strongly support this bill and I urge my colleagues to do likewise.

Mr. RINALDO. Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the Committee on Energy and Commerce.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend the chairman of the full Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL]; the chairman of the Subcommittee on Telecommunications and Finance, [Mr. MARKEY]; the ranking Republican of the Committee on Energy and Commerce, the gentleman from New York [Mr. LENT]; and the ranking Republican on the Subcommittee on Telecommunications and Finance, the gentleman from New Jersey [Mr. RINALDO], for their work on this issue.

Mr. Speaker, when I stood in the well to address the House on this legislation in November, I expressed some concern as to the objectivity and the balance of some of the programming aired over our public television stations.

I continue to consider objectivity and balance to be the standard by which our public television stations should govern themselves. I am happy to note that this bill, as amended by the Senate, contains the objectivity and balance provisions for which I have long argued.

I think, Mr. Speaker, this is a much improved bill. The Corporation for Public Broadcasting, through its funding of programming by the Public Broadcasting Service, continues to provide the country with a great variety of entertainment and educational programming. CPB is also at the forefront of technological innovations in merging video presentation and education efforts. They are to be commended.

Let there be no mistake about it. I am a fan of public broadcasting; I am not out to kill "Big Bird." But let us also make no mistake about the fact the concerns I raised were legitimate and deserving of the solution proposed in this bill.

In my opinion, PBS has become too centralized, making programming decisions which serve a very diverse American public without enough input from that viewing public. I firmly believe that input from member stations to PBS central is critical in interpreting and serving the viewing needs of the American consumer. I would like to see, and many of my colleagues would like to see, more of that kind of input.

For example, when PBS distributed shows like "After the Warming," "Global Change," and others that showed public television viewers the alarmist side of global warming, there was not anything on the other side of that coin. "The Greenhouse Conspiracy," which was a critically acclaimed documentary that uses science to virtually take apart a good deal of this alarmist global warming theory, and theories that were the basis for a lot of the PBS programs, was not shown. The reason given was a lack of production values.

Individual stations were forced to procure this program and the balance it represented, if they could, if they could afford it, by themselves.

Science is useful to the extent it constitutes a search for objective truth. Certainly programming on science-based issues should reflect the debate, if there is one, in a scientific community, but it must be based, as all science is, on the isolation of some objective and verifiable fact, not simply the rhetoric of political interest groups, and not the purported facts that they cite for otherwise unsupported positions.

That is when we need objectivity and balance, when there is significant debate over a particular subject.

Mr. Speaker, I want to commend Mr. Bruce Christenson, the president of PBS, for his willingness to engage in what I believe is helpful dialogue with the Congress over this issue and similar ones.

In authorizing the Corporation for Public Broadcasting, Congress mandated that CPB was to "facilitate the full development of public telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature."

The Senate amendment before us today provides the way through which those goals can be enforced without the unintended intrusion of Government censorship. The Senate amendment requires that CPB annually report to Congress every organization receiving a grant from CPB, including all programs produced under such grants. The Senate amendment also requires the newly formed independent production service, the independent television service [ITVS], to make annual reports as to its program funding, in order to ensure that programming produced with Federal funds reaches the audience it is intended to reach, and in a manner which maximizes the benefits to that audience.

The Senate amendment further requires CPB to actively expand its efforts to provide objectivity and balance in programming and to report to Congress on these efforts.

Clearly one of the benefits of public broadcasting is its ability to provide objective public affairs programming, offer in-depth coverage and analysis and, to a very large extent, it is successful in doing it. These amendments do not require that specific programs be funded or aired according to a specific schedule, but these amendments are valuable because they require CPB and PBS to focus on balance and objectivity.

Again, this is an improved bill. I am pleased to support it. I urge my colleagues to do the same.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Speaker, I rise in strong support of H.R. 2977, the bill authorizing reauthorization for public broadcasting.

Mr. Speaker, I rise in strong support of H.R. 2977, the bill reauthorizing the Corporation for Public Broadcasting. Eight months ago, the House of Representatives approved legislation to fund the CPB, which supports noncommercial radio and television services. Now that the Senate has worked its will, I hope we can move this bill forward quickly.

Mr. Speaker, I firmly believe the system we have developed that includes space on the public airwaves for noncommercial, educational uses of television and radio has succeeded and that we should do everything we can to preserve it.

Too many of my constituents have told me how disturbed they are by the quantity and quality of violence on commercial television. I share that concern and was moved by the words of Mr. Newton Minow, a former chairman of the Federal Communications Commission, when he said:

> In 1961, I worried that my children would not benefit much from television. But in 1991, I worry that my grandchildren will actually be harmed by it.

He pointed out that the programming on public television has been the answer to that worry, as it struggles to provide outstanding public service while remaining in the role of a perpetual beggar in the richest country in the world.

Mr. Bruce Christensen, the president of the Public Broadcasting Service, has also made the case for public broadcasting very eloquently, calling the public airwaves a:

> National resource like * * * public lands. Multiple use of that resource requires public

policies that take into account the need for commercial development as well as reserve part of our communications spectrum for public uses just as we preserve national forests and parks.

Mr. Speaker, I ask that my colleagues give H.R. 2977 and public broadcasting their support. I am inserting Mr. Christensen's speech into the RECORD so that my colleagues will have the benefit of his remarks.

THE CASE FOR PUBLIC TELEVISION

[Remarks of Bruce L. Christensen, President, Public Broadcasting Service (PBS)]

Thank you Gil and your National Press Club colleagues for inviting me to speak to you this afternoon. It's a pleasure to be here with so many friends and colleagues.

This has been a particularly trying time for those of us who work in public broadcasting. One of my public television colleagues put it this way, "When you're doing the Lord's work, you don't expect to get the hell beaten out of you."

This statement should tell you two things about those of us who work in this institution. First, we are a self righteous crowd who believe that what we are doing is essential to democracy itself. And second, we are constantly surprised when our assumed virtues turn out to be someone else's blackest sins.

The journalist in the audience should certainly recognize and perhaps even empathize with this experience.

The institution of public television has taken upon itself the responsibility to be E. B. White's definition of a "saving radiance in the sky." Its driving force is public service. It exists to provide a public good to the citizens of this nation.

That's pretty highfalutin stuff! Where do we in public television get that notion?

Like Tevye's response in "Fiddler on the Roof," the idea comes from tradition! And, I might say, it comes from practice.

Public broadcasting pioneers petitioned the FCC in the early fifties for space to be reserved on the public's airwaves for noncommercial, educational uses of television and radio. They succeeded in making the case that, although commercial broadcasting was important, it should not be the only use of the public's airwaves.

These pioneers argued that the only way to adequately care for the public interest in broadcasting was to create a separate noncommercial system of television and radio stations that had education rather than commercial profit as its bottom line.

Their case was based on the premise that commercial broadcasting could not adequately serve two masters—profit and public interest, at least not in the competing commercial network model that evolved in the United States.

These pioneers won the day. Channels were reserved in both the television and the underdeveloped FM radio spectrum for a class of licenses that the Federal Communications Commission would call, noncommercial, educational radio and television and they have become America's public broadcasting stations.

By any measure these pioneers might apply, public broadcasting has been a success. There are 344 public television stations around the country owned by 176 different licensees. Public radio has more than 500 stations. These public TV and radio stations are owned and operated by community boards, universities, state broadcasting authorities and even local school districts.

More than five million people donate their time, money and professional skills as volunteers, subscribers and local board members, making public broadcasting one of the largest membership organizations in the country.

The public is the source of our strength and we are accountable to them daily for the programs that we air.

Financially, the institution exceeds 1.6 billion dollars in annual revenue with about 17 percent of that amount coming from the federal government.

Most agree that some of the very best children's programs, news and public affairs broadcasts, drama, history, art and music programs appear on public television and public radio. And, more than 100-million people each week use one or more of these services. The answer to the question of whether public broadcasting is a successful and valuable public good is a resounding, "Yes."

The questions we must answer today, however, are different than those asked forty years ago. Do citizens of our nation any longer need a noncommercial, educational broadcasting system? Has technology, as George Will argued, overcome the need for public television? Is the institution off course, pursuing a political agenda, as charged by some in the Congress?

Based on the Senate vote two weeks ago of 84 to 11 in favor of reauthorizing the Corporation for Public Broadcasting for another three years, we might easily say, "Our importance to the American people has been overwhelmingly confirmed."

That is the case, but if a sense of victory is all that we take from this experience then we are missing an extremely important lesson.

The lesson (in the words of another of my colleagues) is that: "For public broadcasting, the era of assumed virtue is over." I would argue that the era of assumed virtue is over for all institutions with "public" in their title, but that's another speech.

What I would like to do today is to accept the premise and make the case for funding public television, outlining for you how we will put technology to work in new ways to serve the public interest through the end of this decade and into the twenty-first century.

Two words continue to define the need for public broadcasting. They are education and noncommercial. The public good offered by this institution lies in its ability to treat the American people as citizens of a nation rather than as consumers in a marketplace. No other commercial radio or television services have as their bottom line the educational value of their program service to the audiences served.

"Aha," you say, "You've overlooked those wonderful services on The Discovery and The Learning Channel."

No, I haven't. These channels, like all the others on cable, exist solely to make a profit. If they fail at this objective, they will be replaced.

Those who argue for private goods (in essence the marketplace) to replace public goods, make a profound mistake by assuming the result will somehow be better. We don't have to look very far to see the difference between marketplace rules and responsible public interest regulation The Savings and Loan and airline industries could have used less of the former and more of the latter.

To assert absolute marketplace superiority only creates confusion in our ability to even talk about the value of what the Constitution calls "the general welfare." The term welfare itself, for example, is so charged with political rhetoric as to make useful discussion about its meaning to our society impossible.

We have lost the language of public service and adopted marketplace lexicon to describe our social aspirations. I cringe when I hear people talk about education as a product, teachers as service providers, principals and administrators as marketers and managers.

The purpose of education is not to sell goods or services to parents for the benefit of their children. The general welfare of this nation demands that public—not private—attention be paid to the care and nurturing of its most precious resource—the minds of its children.

The same thing has happened in broadcasting. What began as a grand design to serve the public interest, convenience and necessity, found itself (at least as far as television is concerned) portrayed as nothing more than another household appliance—"a toaster with pictures"—was the phrase used by one recent FCC Chairman to describe his view of television and its relationship to our society. This view framed an argument stating that the time for any regulation of the medium had passed and that spectrum value should be determined by the marketplace.

This view would sell the public airwaves to the highest bidder. Buyers then would be free to pursue the highest commercial return for their investment. That's "the American way!"

That is only part of the American way. The other part argues for equity, for bridges in communications policy that serve the needs of all Americans. It argues that the public airwaves are a national resource like its public lands. Multiple use of that resource requires public policies that take into account the need for commercial development as well as reserve part of our communications spectrum for public uses just as we preserve national forests and parks.

Fortunately for the American people, current members of the FCC agree on the need for sound, well-reasoned public policies for the use of the airwaves. The arguments that hold sway, however, are still based primarily on economic models that give only modest recognition to the social consequences of communications policy decisions.

Earlier I said that the terms education and noncommercial define public broadcasting's importance to this society.

Our emphasis on education has led some to charge that public broadcasting is an elitist institution, that it serves only those who are well educated and wealthy. Nothing could be further from the truth. Kevin Kline said it best when he said, "If education is elitist, then public television is elitist." The desire for education occurs at all levels of our society and public television has become an indispensable educational resource.

Right now, local stations serve 30 million elementary students each week and our telecourses are used by two out of three colleges. We're training teachers in how to use science programming in the classroom and delivering advance high school courses to students in 23 states via satellite.

But, let me tell you where we are going. We are developing plans to launch a math channel for teachers, parents and students and hope to have it ready in 1994. We are connecting high school students across the country in an electronic debate of national election issues this fall.

In December of 1993, when we move to a new satellite delivery system, public television will have the capacity to send as many as fifty-five different channels of video and over 200 channels of CD quality audio to our stations as well as to the schools, workplaces and homes of this nation.

The educational capacity of public television will take a giant leap forward in the middle of this decade, adding two-way interactive facilities. America will have an educational technology capability second to none in the world.

Ours is the challenge to wisely use this capacity to teach—to make the knowledge of past generations available to every individual who seeks it. Because, in addition to using the words noncommercial and educational to define public broadcasting's value to our society, we must add the terms universal access and quality.

Universal access stands for two things. First, regardless of ability to pay, everyone should have access to the finest of humankind's knowledge and experience through their choice to tuning to a particular channel on the dial.

Second, that those who have something to say to their fellow citizens can get reasonable access to today's forum for such conversations. The creators of public broadcasting saw it as the venue for such dialogue.

Beyond accessibility is the basic issue of staying in touch with each other. As audiences continue to be splintered into niches for sports, comedy, movies and cartoons, only public television offers a unifying hearth to examine our culture as a whole. This is fundamental to our mission, and I believe it's fundamental to the continued vigor of this experiment in democracy.

The concept of universal access in public broadcasting embodies the dual right of equitable service to all the people; and the responsibility to offer opinions and points of view generally ignored on television and radio. To do so means that we sometimes create waves. And, I suppose that is inevitable.

For some of our critics, even the right of universal access is questionable. Like Marie Antoinette when speaking of another commodity in public demand, they respond, "let them buy cable."

The fact that cable is unavailable or unaffordable in forty percent of American homes carries no weight with folks at the Heritage Foundation who see all things as a matter of economic choice.

Other critics object to public broadcasting's role as presenter of ideas, visions and discussion that vary from the mainstream offerings of commercial television. For them we appear to be a vehicle for ideology.

Others argue that those in the heartland of this great nation shouldn't be forced to watch programs that are geared to major metropolitan regions of the country. The creators of public broadcasting devised an ingenious answer to questions about "What's appropriate for my community."

They structured the institution to leave the ultimate choice to local communities themselves. No one in public broadcasting can force any station to air a program that the station doesn't believe meets its community standards.

PBS makes decisions about programs in the national schedule. In ninety-nine percent of the cases stations all across the country accept and air the programs selected. Occasionally, a particular program is judged by an individual station, not to fit the viewing standards of its community. Their judgment prevails. Local station control and responsibility for what airs in their community is the foundation of accountability in public television.

Complaints of bias about a small number of programs have come from the far left as well as from the right.

The left contends that public broadcasting has been captured by the established business interests of this nation. They give as evidence the numbers of programs on business and commercial topics as well as the choice of guests and presenters on news programs like the MacNeil/Lehrer NewsHour.

Most of the arguments from the right portray public television as captive of the "liberal left." Politica documentaries and some cultural programming addressing homosexual themes have been roundly criticized as being unworthy of taxpayer support.

I am astonished how absurd this argument sounds when it is made against other public funded activities. No one ever asks how many taxpayers want to pay the salaries of policemen who beat-up the people they arrest. Nowhere among the solutions to the problem identified is elimination of funding for the police force.

When the Supreme Court hands down a decision with which many taxpayers, perhaps even a majority, disagree, no one suggests that the court's funding authorization and appropriations be reduced.

Neither should eliminating public financing for our arts.or public broadcasting institutions be the solution of first choice when addressing their perceived problems.

It was to the assertions of bias that CPB Board Chairman Sheila Tate responded in her speech last week in San Francisco at public television's annual meeting. She promised (and I join her and support the CPB Board's efforts) to address any perceived or real bias in public broadcasting's programs.

As in all things political, self interest will have to be carefully weighed by CPB in its evaluation of those who charge that such bias exists. And, those of us in public broadcasting must openly listen to and act on suggestions to improve the quality of our service to the American people.

CPB's board of directors must certify that our institution is acting in the public interest. And, together with our viewers and listeners, they must affirm our continued merit of federal support. That support is essential if we are to maintain the noncommerical, educational nature of our services in the decades to come.

Our unique base of federal, state, business and individual member support creates a unique mix of funding sources that sustain this institution. This mix gives us editorial independence from any single funding source, while making the contributions of each essential in our ability to offer the range and quality of services we provide each day.

Tight financial times put a greater burden on those in the public sector to clearly articulate the value of their institutions to those whose support they seek.

The case for public television includes its role as the nation's story teller, creating the national shared experience of reliving America's CIVIL WAR one hundred and thirty years after it happened.

The case for public television includes that of being teacher to millions of children and adults each week, helping them learn everything from their ABC's to Japanese to Probability Statistics to the natural wonders of the universe.

The case of public television includes that of provocateur: asking viewers to face ethical, political and moral dilemmas of such profound complexity that the only way to escape, as Fred Friendly says, is by thinking.

The case for public television includes that of being America's town square, where voices and visions ignored elsewhere in the medium, can be seen, evaluated and judged. If found wanting, dismissed, but not for lack of a platform. Free speech only has meaning in a democracy if the right for all voices to be heard in the most powerful medium of our age is continually affirmed.

The case for public broadcasting rests on the American concept of citizenship, of providing equal opportunity and access to the richness of our cultural, artistic, philosophical and religious heritage.

From its structure to its mission of public service, the case for public broadcasting continues as strong and as bright today as it was forty years ago when our founding pioneers first petitioned to create noncomercial, educational radio and television services to meet the intellectual, artistc and spiritual needs of this nation.

The American people have a right to see and hear noncommercial, educational broadcasting services. They, also have the responsibility to secure the blessings of those services for themselves and for their posterity.

Like I said at the beginning, that's pretty highfalutin stuff!

The marvelous thing about it for those of us who work in public broadcasting is that it's all true. Public service is the driving forces at PBS. Our agenda is to provide those television services that are essential to this society for its democratic well being. We couldn't ask for a better or more challenging job.

☐ 1310

Mr. RINALDO. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to the motion.

Mr. Speaker, when this House voted nearly 2 months ago against a balanced budget amendment to the Constitution, many in opposition insisted that Congress can exercise self-control and reduce spending.

Today, those who insisted that they can control their voracious appetites for our tax dollars have an opportunity to put our money where their mouths are.

We are discussing a $1.1 billion 3-year authorization for what we must admit is a frill. This program is not vital to our national well-being, it does not feed hungry children, it does not expand economic growth, it does not uncover a cure for cancer; most assuredly it does absolutely nothing to reduce our uncontrolled $400 billion annual deficit or to reduce our nearly $4 trillion dollar national debt.

Funding this program is especially wrong because it is not something that only Government can do, or even something that Government does best. Public broadcasting has been made obsolete by the proliferation of cable which makes channels available for local access and educational programming, not to mention arts and entertainment, all of which fills the niche created by taxpayer-subsidized public broadcasting. Technology makes public broadcasting no longer necessary.

The only difference between for-profit cable, broadcast networks, and public broadcasting is that the private companies respond to consumer demand and competition. The private alternatives are competitive and they produce a broad range of quality programming at a profit. This programming would be actually broader if public broadcasting would go out of business and they would take up some of the better programs that are now subsidized by the taxpayers. Unfortunately we are being asked to fund a 37-percent increase for a federally subsidized alternative to profitable cable television, as well as video tapes, and other electronic alternatives.

With the collapse of communism, much has been done to reeducate people in the former Soviet bloc. We could learn from their experience that State-sponsored corporations and industries are not in the interest of a society. How ironic if we prevailed over socialism overseas only to be bankrupted by it at home, because no one in this body is willing to cut any Government program whatsoever, even one that is a service that can be provided by the private sector.

So now is the time for this body to demonstrate its ability to keep its word to the American public. We have been challenged to stop needless spending; this is a defining moment. We said we did not need a balanced budget amendment to do it. Let us do it now. Let us begin the long trek back to fiscal sanity by cutting at least this chunk of unnecessary spending that is not absolutely necessary.

The Federal Government is going broke, and we are going to spend another billion taxpayer dollars on subsidizing information and entertainment? Give me a break. Vote against this bill.

Mr. MARKEY. Mr. Speaker, I rise in strong support of H.R. 2977, the Public Telecommunications Act of 1991. This legislation, which originally passed the House last November, authorizes the appropriation of funds for the Corporation for Public Broadcasting [CPB] for fiscal years 1994 through 1996. This legislation will ensure that the public broadcasting system can continue to serve Americans with high quality, diverse, and innovative programming, community service, and technological innovation.

Since its inception in 1967, CPB and the public broadcasting community has succeeded in developing programming that challenges the hearts and minds of Americans of all ages and walks of life. But public broadcasters have not limited their efforts to creating and airing innovative programming. Public broadcasters have achieved excellence in numerous areas. They have pioneered technological developments, initiated community outreach and educational projects, widened communications access for disabled Americans, and enhanced and extended public broadcasting to unserved and underserved audiences. Looking toward the future, public broadcasters have pledged to use their technological and programming expertise for enhanced educational projects and expansion of radio service.

The funds authorized by this bill will provide the public broadcasting system with the resources critical to the achievement of these goals. The legislation authorizes CPB appropriations of $310 million for fiscal year 1994, $375 million for fiscal year 1995, and $425 million for fiscal year 1996. The bill also authorizes continued funding of the Public Telecommunications Facilities Program [PTFP] at $42 million for each of fiscal years 1992, 1993, and 1994. PTFP's grant funds will enable public television and radio broadcasters to reach areas not already served and to maintain and modernize existing facilities. The bill also expands the role of PTFP in broadening access to telecommunications services of underserved audiences, including deaf and hearing impaired and blind and visually impaired people.

In addition, the bill includes provisions to increase the managerial efficiency of the CPB Board; to enhance reporting requirements for CPB and the independent television service; to clarify that the Children's Television Act of 1990 applies to both commercial and noncommercial broadcasters; to improve the EEO performance of public broadcasting stations; and to enable CPB to fund affordable training programs.

The bill we are considering today also incorporates several provisions adopted by the Senate last month. These changes, which reflect the development of a bipartisan approach to these issues, will improve CPB's ability to serve the public.

First, in a new provision, the bill clarifies the existing statutory mandate of the CPB Board to facilitate the development of high quality, diverse, innovative, and creative programming that also is objective and balanced. Specifically, the bill requires the CPB Board to give the public the opportunity to comment on programming, to review national programming on a regular basis with an eye toward identifying needs not met by such programming, to take steps the CPB deems appropriate to meet its responsibilities regarding grant awards for national programming, and to report to Congress and public broadcasting stations on its efforts in that area. By facilitating citizen comment and reaction to public television and radio programming, this review process will strengthen the public broadcasting system. It will enable CPB to address unmet needs and unexposed points of view more efficiently and make it more responsive to its audience.

A second new provision requires CPB to maintain a public file that contains information concerning the funds given out by CPB and the independent television service for the production of national programming. This requirement will facilitate public access to information on CPB, without jeopardizing its independence in carrying out its mandated responsibilities. Much of the information that will appear in CPB's public file already is collected and available. This provision merely centralizes it and promotes greater public access and accountability.

Other new provisions in the bill will promote public broadcasting's participation in new educational telecommunications initiatives. Specifically, the bill requires CPB to prepare reports on the most effective way to establish and implement a ready-to-learn public television channel and to use telecommunications facilities for distance learning projects in rural areas.

Finally, this legislation includes new provisions that impose a ban on indecent programming on broadcast television and radio between the hours of 6 a.m. and 12 midnight; that require CPB to expand the text of the identification that follows programs funded by CPB; that require ITVS, to the maximum extent practicable, to award grants to recipients representing the widest possible geographic distribution; and that permit CPB Board members to sit until their successor is confirmed or for the remainder of the calendar year.

Mr. Speaker, this legislation is a consensus package that permits CPB and public broadcasters to continue to provide exceptional programming and services to the American people. I want to thank the full committee chairman, Mr. DINGELL, for his continuing guidance and support in this area, and the ranking Republican member of the subcommittee, Mr. RINALDO, for his hard work and cooperation on this legislation. Further, I want to acknowledge the helpful efforts of the public broadcasting community, including among others, the Corporation for Public Broadcasting, America's Public Television Stations, and National Public Radio.

I urge my colleagues to support this important legislation so that the President may give it his immediate consideration.

Mr. MCMILLEN of Maryland. I'm pleased to support the reauthorization of funding for the Corporation for Public Broadcasting for fiscal years 1994–96, and congratulate Chairman MARKEY for his efforts on this legislation.

Public television provides a truly unique service to the public, and remains an important source of educational, cultural and public affairs programming for the Nation. It has also proven extremely effective in serving the public interest.

Unlike commercial broadcasting, public broadcasting can operate without being tied to the dictates of program ratings. The buffer from such forces has a demonstrated record, one which has been crucial in maintaining diversity and program quality.

The educational impact of the CPB extends far beyond "Sesame Street." For example, it provides college courses—broadcast daily—for which adults can receive credit. This addition to the high-quality entertainment for which public broadcasting is so well-known.

Maryland's public television service provides an excellent example of such educational investments. MPT's "College of the Air" has helped tens of thousands of students gain credit toward their degrees through telecourses. By working with numerous institutions of higher learning in our region, it is one of the most successful programs in the Nation.

For more than 20 years, Maryland Public Television [MPT] has provided excellent service to the citizens of my district and State. MPT proves how the Federal, State, and private funds that support public broadcasting benefit our citizens.

We, in Maryland, are proud of the achievements of our public television, and the benefits it provides. The problems raised in the other body by a handful of individuals has been troubling to me, but I am pleased that an agreement satisfactory to all concerned was able to be worked out. The representatives of CPB and America's public TV stations are to be commended for their efforts in securing this agreement.

Again, I commend the chairman on this legislation, and urge my colleagues to support reauthorization legislation.

Mr. SWIFT. Mr. Speaker, I would like to address in particular one important provision of this legislation as the significance of it may have escaped the attention of the Members.

For the first time in 14 years, we are amending in the 1934 Communications Act the declaration of policy which describes the goals and states the purpose of the Corporation for Public Broadcasting. Through the declaration, we are amending and expanding the CPB's underlying mandate in a significant way by stating—

> It is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies.

What we are doing in this provision is planning for the future. We are clearly on the edge of a number of exciting and challenging breakthroughs in communication technologies. In particular, digital compression and improved satellite broadcast technology should make multi-channel, direct-to-the-home satellite broadcast service [DBS] a strong competitor to existing cable systems within the next few years.

DBS will almost certainly be a national or regional broadcast service. And it will therefore be difficult to reconcile our traditional concept of localism, of local broadcasters holding up a mirror to reflect the needs and aspirations of their local community, with this new technology. But the DBS technology will serve very well to reach diverse communities of interest—that may be dispersed geographically—but have common interests, needs, and concerns.

It is these dispersed communities, whether they are ethnic communities, cultural communities, or others with common interests or educational needs, that can be well-served in the aggregate where on a purely local level their needs would not likely be served by local broadcasters or cable companies.

In the cable bill that the House just passed, there is a provision that I sponsored which requires that DBS operators reserve—at no more than the direct cost of transmitting the signals—4 to 7 percent of their capacity for noncommercial use. That noncommercial set-aside is to be used by public telecommunications entities and educational institutions to serve the public needs, including those communities of interest that may be underserved by existing over-the-air broadcasting.

I commend the authors of this legislation for including this statement of public policy; that the public has the right to noncommercial programming that reflects their needs and concerns—as individuals and as members of communities of common interests. To extend this public right to new communications technologies as they come on line is a most appropriate extension of the goals of the 1934 Communications Act of an informed citizenry and the universal availability of information.

Mr. SCHEUER. Mr. Speaker, I rise in strong support of this reauthorization bill.

Mr. Speaker, this reauthorization recognizes that public broadcasting is an invaluable resource for all Americans, but particularly for our children.

Mr. Speaker, American children watch an average of between 4 and 6 hours of television every day. Given this fact, it is crucial that these children have an attractive alternative to violent programming, sports, and cartoons. CPB-funded programs such as "Reading Rainbow" and "Sesame Street" fill that niche. These programs are really after-school education, and they contribute to the development of brilliant young minds across our country. This reauthorization will allow public broadcasting to expand its educational program hours and stay on the cutting edge of program quality.

This authorization will also foster the public broadcasting community's partnership with our Nation's schools and universities. In addition to the programs which run on public television and radio stations, CPB has funded innovative instructional video tapes and laster discs for classroom ruse. WNET—channel 13—an outstanding public television station in New York City, has established a summer institute program which trains teachers to use these public broadcasting tools as a supplement to their daily lessons.

CPB and public broadcasters have also used satellite-delivery technology to bring their programming into the American classroom. Mr. Speaker, this innovation breaks down the traditional barriers of geography and income, enabling all American students to learn foreign languages, study current events, or prepare for advanced placement exams through interactive programming. With our support these types of programs will flourish, and assist us in our mission to improve American schools and universities.

Excellent educational programming exists on cable television—Arts & Entertainment, the Discovery channel. However, public broadcasting is the only free, over-the-air source with a congressional mandate to serve the public. It reaches all Americans, regardless of income or geography, with programming of superb quality—quality which is rarely equaled by over-the-air broadcast TV.

For a quarter-century, the public broadcasting community has produced the finest programming on television and radio—programs such as "The Civil War," "Nova," "Washington Week in Review," and "The American Experience." This authorization recognizes these achievements, and paves the way for future successes. I urge my colleagues to support this legislation.

Mr. RICHARDSON. Mr. Speaker, just over a year ago, the House Telecommunications Subcommittee, began its work to pass a reauthorization bill for the Corporation for Public Broadcasting [CPB]. Today, I believe we have a final product that will strengthen and expand a public broadcasting system enjoyed by millions of Americans in their homes and in their schools.

Today, Congress will do its part: Make a financial commitment of $1.1 billion to public broadcasting over the next 3 fiscal years 1994–96. I strongly believe, and the Telecommunications Subcommittee has clearly stated, that the public broadcasting community needs to match this financial commitment with a commitment of its own to expand service and resources to stations serving rural and minority audiences.

I want to commend the Corporation for Public Broadcasting [CPB] and the public radio community for undertaking a thorough review of all its radio grant programs. I appreciate the time and effort made by both CPB and National Public Radio [NPR] to see that my concerns about committing additional resources to rural and minority stations have been addressed.

The recommendations made by CPB's radio advisory committee will ensure that a significant portion of the increased funding provided to CPB under H.R. 2977 will be used for reaching underserved and unserved public radio audiences.

CPB's plans are to continue successful expansion grant programs, step, program acquisition, and sole service grants, increase funds to existing rural and minority sole-service stations, and provide additional funds for extending signals to hard-to-reach areas. The investment in these programs for fiscal year 1994 will be $5.7 million—more than the entire increase allocated to public radio for that year. I am pleased that the public radio community has made good on its personal commitment to me on these issues.

Specifically, CPB's program will: Increase the size of CPB grants for stations operating in exceptionally rural communities and for stations serving minority audiences; extend the reach of public radio programming by providing grants specifically for acquisition of national radio programming for satellite interconnected stations not currently receiving CPB support; and create a fund for stations extending their service to otherwise unserved listeners via repeaters, translators, and boosters.

Mr. Speaker, these initiatives are very important, and they will strengthen the Nation's public radio system. I look forward to the completion of CPB's review of its television grant programs, which is now underway, and hope that its recommendations will address many of these same issues.

I would urge my colleagues to support this bill. An aggressive Federal commitment to public broadcasting is needed now more than ever before. H.R. 2977 deserves the enthusiastic support of the full House.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 535, the previous question is ordered on the motion.

The question is on the motion offered by the gentleman from Michigan [Mr. DINGELL].

The motion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter on H.R. 2977, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2782, PROVIDING ERISA DOES NOT PREEMPT CERTAIN STATE LAWS

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 536 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 536

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2782) to amend the Employee Retirement Income Security Act of 1974 to provide that such Act does not preempt certain State laws, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. Consideration of the bill, and amendments thereto, shall not exceed four hours. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 536 is the rule providing for consideration of H.R. 2782, which would amend the Employee Retirement and Income Security Act of 1974 to provide that the act does not preempt certain State laws.

This in an open rule, providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

In addition to the 1 hour of general debate, the rule limits the time for consideration of the bill for amendment to 4 hours.

The Committee on Rules felt, after hearing testimony, that this restriction gives a fair and reasonable amount of time for a bill to which no amendments were offered in the subcommittee or the full committee, and especially since, as we all know well, we have a very limited amount of time before the end of the session to complete work on a large number of bills.

Finally, Mr. Speaker, the resolution provides for one motion to recommit.

Mr. Speaker, H.R. 2782 amends the Employee Retirement Security Act—popularly known as ERISA—to clarify that State laws in three specific areas are not to be included in the overall ERISA preemption of State law:

First, the issue of prevailing wages on State contracts; second, the establishment of minimum requirements and certification for apprenticeship; and third, the collection of certain unpaid contributions to pension plans.

Unfortunately, the admirable goal of ERISA to provide a uniform Federal standard for pension plans has had an unintended effect on some State laws. In passing ERISA, Congress never intended to interfere in such areas which are traditionally regulated by State governments and particularly those State laws protecting employee rights as well as benefits.

There have been several recent court decisions which the Committee on Education and Labor believes have gone far beyond the original intent of Congress, making it necessary in the committee's mind to amend the 1974 law and clearly state that these three situations are not preempted by the ERISA statute.

Mr. Speaker, as the Committee on Rules heard, this bill is not without controversy, and Members who are opposed to the bill or to any parts of it will, under this rule, have the opportunity to seek to amend it.

To repeat, House Resolution 536 is an open rule, and I urge its adoption so that we may proceed to the consideration of H.R. 2782.

□ 1320

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from California for yielding me this time.

Mr. Speaker, the rule contains a 4-hour time limit for the consideration of the amendments. It is for that reason that this is a restrictive rule. It seems to me that my colleagues on the other side cannot seem to stop—occasionally they come out with this—stammering over the words "open rule."

I do appreciate the fact that the gentleman from Montana [Mr. WILLIAMS] did request a bipartisan rule. It came about doing due in part to a lunch we had downstairs in which we discussed the importance of trying to move in the direction of open rules.

It is unfortunate that the gentleman's subcommittee could not report out a bill that has the same kind of bipartisan support.

Unfortunately, the bill is another assault by the leadership on American business. At a time when our economy is struggling to create jobs under the weight of stifling Federal regulations, this bill will force small businesses to comply with an array of new State regulations. These regulations will, at a minimum lead to the likely elimination of employee health and pension benefits and, possibly, to the loss of more jobs.

It makes absolutely no sense, Mr. Speaker, to drive up the cost of labor when millions of Americans are desperately looking for work. The President's advisors are right to recommend a veto of H.R. 2782 unless significant changes are made. I hope very much these changes will be made in the amendment process.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I rise in support of this rule.

This legislation returns to the States that right to set standards for contractors on State public works programs, standards with respect to prevailing wages, apprenticeship, and training requirements.

In addition, the bill reinstates State laws authorizing mechanic liens and other tools for multiemployer plans to collect delinquent employer contributions.

A series of recent Federal cases have held that these laws were preempted by the Employee Retirement Income Security Act of 1974 which we call ERISA.

The bill that this rule brings to the floor has 165 cosponsors and generally enjoys bipartisan support.

At the urging of our minority members, the rule provides for an hour of general debate, 4 hours of debate on amendments; although I might point out that no amendments or substitutes were offered in either my subcommittee or the full committee markup.

As a result of concerns that were raised by some of my colleagues on the minority side at the full committee markup, however, agreed-upon language was incorporated in the committee report, and today I understand a perfecting amendment will be offered by the gentleman from Michigan [Mr. HENRY], which I expect we can support.

Mr. Speaker, many of my colleagues have come to me since I became chairman of the Subcommittee on Labor-Management Relations of the Committee on Education and Labor at the beginning of this Congress to express their concerns that ERISA's broad preemption of State law has had some unintended consequences, particularly in the area of health care. They have urged the subcommittee to reexamine what Congress did in 1974 when we passed ERISA.

I want to assure my colleagues that we have begun this process. There are several areas, including unfair claims practices, for health and disability claims, State-mandated benefits and multiemployer welfare arrangements [MEWA's], in which legislation is pending before the subcommittee that requires us to scrutinize carefully the broad sweep of ERISA preemption.

In some cases we may well conclude that while preempting State law was the correct approach, we nonetheless need a Federal law instead to deal with the problem. In others, we may conclude that a narrow exemption from ERISA is justified.

In either case, I anticipate that perhaps later this year or early next year this body will be considering other legislation addressing some additional preemption issues.

So I tell my colleagues that this bill relates to a rather narrow subject matter, exempting from ERISA's preemption provisions of State-prevailing wage, apprenticeship and training, and mechanics' lien laws.

Although there are other important preemption issues, we will have the opportunity to discuss and consider those things at a later date.

For now, it seems critically important to the millions of workers on State public works projects that this bill be passed with haste, without burdening it with unrelated issues.

Although I support this open rule, I am hopeful that my colleagues in both the discussion and the amending process will stick to the narrow and specific provisions which this bill intends to address.

Mr. DREIER of California. Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 5, FAMILY AND MEDICAL LEAVE ACT OF 1991

Mr. FORD of Michigan. Mr. Speaker, pursuant to rule XX of the rules of the House and by direction of the Committee on Education and Labor and the Committee on Post Office and Civil Service, I move to take from the Speaker's table the Senate bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes, insist on the House amendment thereto, and agree to the conference asked by the Senate.

MOTION OFFERED BY MR. FORD OF MICHIGAN

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. FORD of Michigan moves to insist on the House amendment and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. FORD] is recognized for 1 hour.

Mr. FORD of Michigan. Mr. Speaker, I have no requests for time, and I yield back my time.

The SPEAKER pro tempore. Without objection, the motion offered by the gentleman from Michigan [Mr. FORD] is agreed to.

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Education and Labor, for consideration of titles I, III, and IV—except section 404—of the Senate bill, and titles I, III, and IV of the House amendment, and modifications committed to conference:

Messrs. FORD of Michigan, CLAY, MILLER of California, KILDEE, WILLIAMS, MARTINEZ, OWENS of New York, HAYES of Illinois, SAWYER, and PAYNE of New Jersey, Mrs. UNSOELD, Mr. WASHINGTON, Mr. SERRANO, Mrs. MINK, Messrs. OLVER, PASTOR, GOODLING, and PETRI, Mrs. ROUKEMA, and Messrs. ARMEY, FAWELL, BALLENGER, BARRETT, BOEHNER, and EDWARDS of Oklahoma.

From the Committee on Post Office and Civil Service, for consideration of title II of the Senate bill, and title II of the House amendment, and modifications committed to conference:

Mr. CLAY, Mrs. SCHROEDER, Ms. OAKAR, Messrs. SIKORSKI, ACKERMAN, GILMAN, and MYERS of Indiana, and Mrs. MORELLA.

From the Committee on House Administration for consideration of section 404 of the Senate bill, and title V of the House amendment, and modifications committed to conference:

Mr. CLAY, Ms. OAKAR, and Messrs. GEJDENSON, THOMAS of California, and ROBERTS.

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

PROVIDING THAT ERISA DOES NOT PREEMPT CERTAIN STATE LAWS

The CHAIRMAN pro tempore. Pursuant to House Resolution 536 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2782

The Chair designates the gentleman from Ohio [Mr. ECKART] as Chairman of the Committee of the Whole and requests the gentleman from Texas [Mr. ANDREWS] to assume that chair temporarily.

□ 1336

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2782) to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws, with Mr. ANDREWS of Texas, Chairman pro tempore in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. ANDREWS of Texas). Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule the gentleman from Montana [Mr. WILLIAMS] will be recognized for 30 minutes and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2782, this bill that restores to the States their traditional right to prescribe rules for State public works contractors in the areas of apprenticeship, training, and prevailing wages. These long-established rights have been wiped out by a series of recent Federal court decisions interpreting the Employee Retirement Income Security Act of 1974 [ERISA] as preempting State laws.

As New York State's commissioner of labor pointed out at a subcommittee hearing last year, the effect of the court decisions is particularly troubling—they repudiate the ability of States to set the terms of their own contracts—contracts in which the money being spent is State money and the projects being done are State projects.

In addition, State laws have provided additional tools for multiemployer plans to collect delinquent contributions, including mechanics' liens, bonds, or other types of security. Recently, with the approval of the Supreme Court, courts have interpreted ERISA to preclude the States from enforcing these laws as well.

H.R. 2782 restores States' rights in these critical areas and is strongly supported by the National Association of Governmental Labor Officials [NAGLO], and the National Association of State Apprenticeship Directors [NASAD], the National Electrical Contractors Association, and the Building and Construction Trades Department of the AFL-CIO.

When the Subcommittee on Labor-Management Relations, which I chair, held its hearing on the bill last year, considerable debate took place about whether Congress intended to preempt the types of laws affected by this bill. At both subcommittee and full committee markup, that debate continued.

There is no question that the scope of ERISA preemption is broad—all laws that relate to employee benefit plans. But at the same time, several types of State laws were expressly saved from preemption, including State insurance, banking, and securities laws. In addition, since 1974, Congress has amended ERISA to allow States to regulate multiple employer welfare arrangements [MEWA's] and, in recognition of the States' traditional role over marital property, excluded from ERISA preemption qualified domestic relations orders issued by State courts.

I was not around when ERISA was passed. I cannot read the minds of those who shaped its provisions. But I can say this. There is not one word in the legislative history of ERISA that could lead one to conclude that Congress affirmatively intended to strip States of their longstanding power to determine what terms and conditions a contractor who voluntarily bids on a State public works project must meet.

Nor is there any support in the legislative history for the proposition that State laws authorizing mechanics' liens, surety bonds, and other collection tools should not apply to the delinquent contribution obligations of companies who participate in multiemployer plans. In fact, when ERISA was amended in 1980 to establish a Federal collection mechanism, the legislative history of the Multiemployer Pension Plan Amendment Act of 1980 specifically discussed this new Federal tool as an addition to current State protections.

If the framers of ERISA, in their zeal to protect employers from inconsistent State regulation of benefit plans, actually did think about these particular situations and really did intend to block these State laws, then Congress was wrong and it is time to change the law. H.R. 2782 simply recognizes that ERISA should not interfere with well-established and traditional areas of State concern such as apprenticeship training, prevailing wages, and mechanics' liens.

I have heard a lot of hyperbole about what this bill would do to the Federal regulatory scheme established in ERISA. Do not believe it.

First, H.R. 2782 would not allow broad State mandates to be imposed on all contracts or all plans. The bill deals only with a very specific and narrow type of State law—State prevailing wage laws applicable only to contractors who successfully bid on publicly financed or publicly assisted State or local projects. These laws do not affect all employers—only the ones who voluntarily bid on public works projects.

Second, H.R. 2782 would reinforce and strengthen the longstanding role of the States in apprenticeship and training, and would not, as critics argue, stifle innovation and undermine the expansion of these programs. Although ERISA includes apprenticeship and other training programs as a form of employee welfare benefits, the substantive rules governing these programs are actually provided for under another Federal statute, the National Apprenticeship Act, also referred to as the Fitzgerald Act, that was passed back in 1937. Consistent with the regulatory scheme established in the Fitzgerald Act, 28 States have been chosen to regulate apprenticeship through State apprenticeship councils, using State-appropriated funds. In each case, these State programs have been approved by the Department of Labor. So the State laws at issue in H.R. 2782 are part of a 55-year-old Federal-State partnership.

Finally, H.R. 2782 would, as its opponents claim, overturn the current situation in which a single uniform remedy for collecting delinquent contributions would be utilized. But you see that is the point. Prior to Federal preemption of State law, multiemployer plans had access to a variety of collection remedies, including mechanics liens laws—some of which by the way have been around from the 19th century—and so-called little Miller Acts which provide for collection through contract bonds or surety bonds. More than one type of collection mechanism is necessary since the needs of the plan vary industry to industry. For example, the building and construction industry is characterized by thousands of relatively small, mobile employers who work on short-term projects and who can easily go out of business or simply disappear. The ERISA remedy for delinquent contributions; that is, suing the employer and trying to collect a money judgment after the fact, simply does not work in most cases. The purpose of the bill is to restore long-standing State remedies that have been invaluable as a collection tool for multiemployer pension, health, and welfare plans.

In conclusion, Mr. Chairman, I want to point out that the State laws that are restored by its provisions affecting apprenticeship, training, prevailing wages, and mechanics liens and surety bonds are of vital importance to the workers of America. We must act swiftly to restore these protections that the courts have taken away. I urge a "yes" vote on H.R. 2782.

Mr. Chairman, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today in connection with H.R. 2782 we take up a subject that stands as a pillar of this Nation's voluntary employee benefit system. This pillar, erected in 1974 at the enactment of ERISA, the Employee Retirement Income Security Act, is the preemption of differing and inconsistent State benefit laws which can stifle the adoption and expansion of pension, health, training, and other ERISA benefit plans.

The provisions of H.R. 2782, as reported by the Committee on Education and Labor, will severely weaken the preemption foundation which our former colleague and coauthor of the 1974 legislation, Representative John Erlenborn, has called the keystone of ERISA. Most of us were not present at ERISA's creation, but we must not lose sight of the important principles involved. This is the lynch pin.

Since pension and welfare benefits are generally based upon a voluntary system, ERISA preemptions has retained the freedom for employers to establish uniform benefit plans across State lines. In this atmosphere free from myriads of State laws, employees through collective bargaining and other means can also pursue their common objectives and achieve multistate benefit portability.

Let me tell you why H.R. 2782 will turn the clock backward. Back to pre-ERISA days when union plans and employers with multistate operations were faced with the prospect of being required to meet conflicting, and therefore, costly requirements. Then, as now, the only viable option to avoid a drastic reduction in benefits was to allow the preemption of the pension and welfare benefits filed by the Federal Government.

FIFTY STATE BENEFIT LAWS ALLOWED IN GUISE OF PREVAILING WAGES

The bill's first assault on the ERISA preemption pillar is the provision which exempts from ERISA preemption "any State law providing for the payment of prevailing wages." Because the term "prevailing wages" is not defined, the scope of the State laws exempted from ERISA is not limited to traditional programs setting wages in connection with public works projects. In addition, it is clear from a plain reading of this provision that the exemption may apply to "any state law" regulating, or otherwise affecting, an ERISA employee benefit plan with the only condition being that such a law also provide for the payment of prevailing wages.

Because of the breadth of this language, the exemption goes significantly beyond that needed to merely reverse the narrow set of court decisions which proponents claim is the intent of the provision.

It should be well understood that the courts did not preempt prevailing wages per se, but only the portion under which the State or locality misused their laws to regulate ERISA employee benefit plans. In addition, both the minority and majority portions of the committee report are in agreement that what might be called benefit neutral prevailing wage laws are not intended to be preempted by ERISA. During the amending process, I will support the efforts of my colleague, Representative HARRIS FAWELL, to make this point clear under ERISA.

But this means that we should declare dead on arrival the broad loophole in preemption that is created by the loose language of this bill. In the guise of prevailing wage laws, the bill would allow States to negate ERISA by mandating specific ERISA benefits or by even mandating that all employers in a State establish or contribute to a specific pension, health, or other ERISA plan. Whether intended by the sponsors or not, this could open a Pandor's box in which States could enact their own mininational health insurance laws or minipension laws including competing plan termination insurance programs like that administered by the PBGC under title IV of ERISA.

It is hard for me to believe that the proponents intend for ERISA to be stood on its head like this. Especially since, in testimony before our committee, the head of the AFL-CIO Building and Construction Trades Department stated:

> Since ERISA's enactment we have remained staunch defenders on broad preemption. On balance, employee benefit plans, plan participant and plan sponsors have been well-served by the exclusive Federal regulatory scheme for employee benefits.

Hopefully, in the end, all of us in this Chamber can agree to clarify ERISA without destroying it.

BILL JETTISONS NATIONAL APPRENTICESHIP PLANS AND STIFLES EXPANSION

The second provisions, like the first, carve out a preemption loophole, this time for "any State law * * * establishing minimum standards * * * [or] regarding the establishment, maintenance, or operation of apprenticeship or other training programs."

The bill's exception to ERISA preemption for apprenticeship programs goes significantly beyond that need to merely reverse the Hydrostorage and several other court decisions which proponents say is their intent. Since apprenticeship or other training programs are specifically defined as "employee welfare benefit plans" under ERISA, the courts have determined in these decisions that ERISA preempts the several State laws, rules, regulations, and administrative orders involved.

I want to stress, however, that these decisions do not jeopardize the many aspects of the apprenticeship programs now operating in the States. To the contrary, the courts have gone to great lengths to limit the reach of preemption only to instances in which the state laws have clearly mandated specific plan operations or mandated that employers participate in a particular plan.

In contrast, by going beyond the Hydrostorage decision, the reach of the bill's exception to preemption would allow States to regulate not only appenticeship and training programs connected with State public works projects, but also any training program of any employer. While such State laws are now typically limited to construction-related occupations, the broad language of the bill leaves an open invitation for States to extend their jurisdiction to occupations under other single and multiple employer plans, whether union or nonunion.

If the intent of the bill were merely to overturn the Hydrostorage decision, then its scope would be limited to programs relating to public works projects. In Hydrostorage, California had adopted State apprenticeship standards which required construction employers on publicly funded work to participate in and contribute to a particular union apprenticeship program, and the State further established the manner in which such participation and funding would take place. The California law required Hydrostorage to apply to a union apprenticeship committee for permission to train apprentices and to sign an agreement to train its apprentices solely in accordance with the union apprenticeship program. The court of appeals acted to invalidate the State law because it required construction contractors on public works projects to become bound by a specific apprenticeship plan. The State law went beyond the traditional realm of setting minimum State apprenticeship standards by requiring direct contractor participation in and contribution to specific apprenticeship plans.

As with other benefits under ERISA, these kinds of varying State laws will stifle innovation, increase the hassle and costs of setting up such programs, and, ultimately, reduce the number of programs. At a time when all agree that worker training is crucial, this change would be a serious mistake. In its report "Workforce 2000," the Federal Government predicts the loss of American jobs to foreign workers caused by a critical shortage of trained and skilled U.S. craft-workers. Attempting to encourage more training by the private sector, the Federal Bureau of Apprenticeship Training [BAT] will approve apprenticeship programs even if a State program will not, if the Federal BAT feels that the State's disapproval is unjustified. Thus the very ERISA apprenticeship and training programs used by employers to maintain their qualification under Federal Davis-Bacon projects could be disallowed for any other training purposes under more restrictive State laws.

I would also like to point out that any State or local government regulation or involvement in ERISA apprenticeship or training programs is not preempted, if they are otherwise authorized under other Federal legislation. Therefore, it should be understood that so-called school-to-work transition programs, often referred to as "youth apprenticeship programs," would not be affected by ERISA preemption because, in general, such initiatives would not rise to the level of an "employee welfare benefit plan" as that term is defined under ERISA.

Finally, it is important that we recognize that State laws would take precedence over the ERISA fiduciary standards requiring the prudent investment of trust funds and the operation of apprenticeship and training plans for the exclusive benefit of participants and beneficiaries. I know of no reason, and no reason has been stated, why the States should be given license to overturn ERISA or impose fiduciary duties on such plans which conflict with the ERISA requirements.

LOOPHOLE FOR CONFISCATORY REMEDIES

In a manner similar to the prevailing wage and apprenticeship provisions, the bill's exception to ERISA preemption for collection remedies goes significantly beyond that needed to merely reverse the Iron Workers and related court decisions relating to so-called mechanics' lien remedies.

In an unprecedented manner, the bill exempts from ERISA any State law providing means for collecting multiemployer plan contributions. These could be criminal or civil laws which could be made to apply not just to delinquent employers, but to any third party as well; for example, property owners and contractors could be made liable for the delinquencies of subcontractors.

There is no requirement under the amendment that third parties be assured of due process or even advance notice of the potential for liability. Such laws could even take a form requiring the bonding of contributing employers or third parties, in advance of a contributor incurring actual contribution obligations. Such remedies would impinge upon the carefully balanced funding standards applicable to multiemployer plans under ERISA.

CONCLUSION

As I've discussed, the provisions of H.R. 2782 are not limited to overturning a few court decisions which upheld ERISA's preemption of intrusive and inconsistent State laws regulating employee benefit plans. Instead, in its present form, H.R. 2782 will extend broad powers to the States to negate the uniform regulation of employee benefit plans under ERISA by mandating benefits, controlling employee training, and imposing unfair remedies.

This shredding of the uniformity and predictability of ERISA regulation will severely impair the ERISA preemption keystone which has served our Nation well for nearly 18 years. With America's workers and employers facing the competitive pressures of the global economy, now is not the time to discourage the establishment and maintenance of plans under our voluntary pension and welfare benefit system.

Therefore, I urge my colleagues to support the efforts of Representative HARRIS FAWELL and myself to construct a bill which will reinforce the pillar of ERISA preemption.

□ 1340

Mr. WILLIAMS. Mr. Chairman, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, this bill was indeed an intricate one and a troublesome one, but I do believe that there will be a Henry amendment coming along which will at least eliminate, probably, two of the more contentious issues that we have before us. This bill of course, as has already been indicated, is a bill which exempts from ERISA certain preemptions which have been there for 18 years. I am going to just center on what I believe will be the prime issue here, and that is in reference to the ERISA preemption of certain employee welfare benefit plans over the last 18 years known as apprenticeship and other training programs.

□ 1350

A lot of people were not aware that for the last 18 years ERISA has had jurisdiction over employee welfare benefit plans, including apprenticeship programs, and there have been no problems of which I was aware until such time as a case occurred in California called the Hydrostorage case. Very simply, the Hydrostorage case was a case whereby a contractor, a multistate contractor, came to California; he had a contract for a public works project, but under the law of California, via the councils that actually represent the Federal National Apprenticeship Act, he was told that he was not going to be able to get that contract which had been awarded to him "unless you go along and you sign into a union apprenticeship contract."

Now, he happened to be a nonunion employer. It also dictated, of course, all the terms and conditions of that apprenticeship agreement. The Hydrostorage people said, "Well, that isn't right. You have got a Federal law here, ERISA, which you obviously are breaching because clearly under the preemption of ERISA anything that relates to an employee welfare benefit plan by State law or county law or local law is preempted." And I think they also might have said that there is another Federal law, the Fitzgerald Act, which is a national apprenticeship act going back to the year 1937 which sets forth guidelines for apprenticeship programs. I do not think they have ever set forth guidelines that would say you have got to join the union in order to be able to get a contract. Maybe somebody wants to educate me on that statement.

But this man, being kind of feisty, said, "Well, I am going to take you to court. I think you are wrong." He did, and he won. He won the case.

In that particular case the court said, "You can't do something like that. Obviously, this is an employee welfare benefit plan. It has been an employee welfare plan for 18 years. Nobody has tried to do this kind of stuff before. Why are you?"

So they ruled in favor of Hydrostorage. So I submit that this bill was brought to Congress in response to failures, not the failure of ERISA but rather failures which occurred in organized labor in the marketplace. With less than 21 percent of all construction workers belonging to unions, organized labor is running scared and running straight to Congress, to their good old friends in Congress to rescue them. They always do, on that side of the aisle, and you are proving to be consistent, even though wrong. Today over 70 percent of the construction performed in the United States is being performed by open-shop construction firms, the unions have lost in the marketplace. To gain a competitive edge in public work projects, the unions sought to deny openshop contractors and their employees access to registering apprenticeship programs, which they must have before they can get Davis-Bacon work or Little Davis-Bacon work.

Consequently, for them to be competitive, when their efforts to manipulate the State apprenticeship council approval process in five States unions were stymied by the unions, the court which said to the union people, "Oh, you can't do things like that," and all the unions came to Congress to see their cousins.

Just last week this body amended the supplemental appropriations bill to prohibit the Department of Labor from revising the apprenticeship regulations, and without consideration for the need for revisions to improve and strengthen the apprenticeship system, this House, true to its rescuing of Labor, voted to block the Department of Labor from ever revising a regulation.

If we need improved apprenticeship regulations, the improvement should be implemented, I think, uniformly at the Federal level, not independently in each State and each locality. I do not mean to say that there has to be a complete recitation of what you have to live up to, but the guidelines ought to be given here, and competitors, people who have to compete in this Nation, ought not to have to worry about what county and what city or what State they happen to be in, because there they are going to get you; depending on who has the upper hand there, they are going to get either the union view or the nonunion view. Right now at least you can always go to DOL and say, "Hey, I can't get in in California. They won't let me, but will you please approve my apprenticeship plan? It beats all your guidelines."

Now we are throwing all of that away. I hope those Members who are listening back in their offices will look long and hard at what is trying to be accomplished by organized labor here.

Mr. WILLIAMS. Mr. Chairman, before yielding time to my colleagues, I yield myself such time as I may consume to say this:

I just want to respond to the gentleman from Illinois, who seems to have a visceral dislike for the fact that, under both State and Federal laws, workers in this country have a right to organize and bargain collectively if they so choose.

There is nothing, I say to my colleagues, in this bill before us which empowers workers to do that or, once they have done it, which empowers their unions. With this legislation, we simply return the authority to the States and allow State law to be the determinant with regard to various agreements, but we do not herein, as indicated by the gentleman from Illinois, empower unions to do anything. We simply allow State laws to be primary.

Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I want to thank my friend, the gentleman from Montana, for yielding me the time, and I rise in support of this bill.

I am not sure that this is what would be called a simple bill, but it seems to me it is a righteous bill. It seems to me it has the correct spirit and the correct goal, which is to protect employees and to protect their pension rights.

If I understand this bill correctly, the bill would basically say that in the cases of State prevailing wage, employee benefit program, and fringe benefit programs and in the case of State apprenticeship and training programs and where mechanics' liens are used under State laws to make sure that payments are made by contractors for the various employee health, welfare, and pension programs, in those cases ERISA, the Employment Retirement and Security Act, would not be used to preempt those State laws. I think that is very salutary.

I would like particularly to concentrate on the aspect of mechanics' liens. I remember years ago when my father was alive, when he had a small company, and when periodically contractors for whom he dealt and worked did not pay him. My father sometimes would have to invoke a mechanics' lien. He was a tile setter, a terrazzo worker, and he would then put a lien on that property which guaranteed him ultimately some type of payment for the work he did and for his materials.

If I understand this correctly, a mechanic's lien in certain States is permitted to be used not just for subcontractors who are not paid by their contractors, but where the employees are not themselves paid or where the pension and benefit contributions that the contractors have agreed to pay are not paid into the program.

It just seems to me that we ought to continue the use of these State mechanics' lien laws of their guarantee to the employee an opportunity to make sure that his or her pension plan is properly funded.

Mr. Chairman, there will be a lot of debate today on this subject, but I certainly support the bill, and I thank the chairman of the subcommittee for the time.

Mr. WILLIAMS. Mr. Chairman, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. BALLENGER], also a distinguished member of the committee.

Mr. BALLENGER. Mr. Chairman, let me just say, first of all, that there will be some positive changes made in this bill by amendment, but the apprenticeship parts of this bill are still bad.

Let me also say that workers have the right to not unionize if they so wish. At the present time, if a unionized State such as California has control of the State apprenticeship program under unions, then open shops can be precluded from having an apprenticeship program.

□ 1400

The only appeal from this is under ERISA in the courts. This bill does away with that appeal.

Mr. Speaker, I would like to give an example of a fellow who tried.

Walther Electric is located in California. In 1966, the owner attempted to enroll employees in an apprenticeship program at the local community college. The unions ran the program and did not allow the nonunion employees to participate.

In 1976, Walther received a tentative approval to train apprentices. However, they could not train their own employees because they were nonunion.

In 1983, Walther wrote letters to the State apprenticeship council and the Governor. They did not receive any responses, and every job site they worked on was picketed.

In 1985, Walther started a private training program, but did not receive any credit for their program on public works jobs.

In 1986, Walther designed an apprenticeship program identical to the union program and filed an application for acceptance.

In 1988, Walther's program was accepted and the unions appealed. Walther's apprenticeship program approval was denied after the appeal. Walther worked with the California Department of Apprenticeship Standards in amending the program so that Walther's program had all the same rates as the unions. They were still denied acceptance for their program.

In 1990, Walther submitted their program for approval to the Bureau of Apprenticeship Training with the U.S. Department of Labor. In 2 to 3 weeks the bureau approved Walther's program for Federal work. However, the State program would not approve Walther's program for State work.

In 1992, Walther has a lawsuit in the California Court of Appeals to force the State program to approve their program through the ERISA preemption.

The present law has been used to protect open shops in Nevada, three times in California, and in Minnesota, and has been supported by the Supreme Court.

Without the ERISA preemption, union run State plans can make this a precedent to private employment. Union run apprenticeship programs could mandate registered apprenticeship for all State public construction, but also eventually private work as well, with no appeal.

Mr. Speaker, this is a bad law. Support the Fawell amendment.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I take this time for the purpose of entering into a colloquy with the gentleman from Montana [Mr. WILLIAMS].

Mr. Chairman, I would like to make the House aware of a serious problem recently brought to my attention which has arisen despite the Multiemployer Pension Plan Amendments Act of 1980 and the Employee Retirement Income Security Act of 1974. The underlying assumption for the success of multiemployer pension plan participation is that, throughout the life of the plan, new employers will join and the number of employees covered will grow at least to the level of participants who retire. In the agricultural industry, however, this has not been the case. There have been disincentives for employers to stay in plans in this industry. Due to changes in industry, reductions in plan participants, overall unfunded liabilities, and insufficiency of collecting withdrawal liabilities, small multiemployer pension plans are facing significant losses. These plan participants are being subjected to contributions now skyrocketing to unfeasible levels. While the 1980 act includes exemptions to cover those employers that meet certain criteria for plans undergoing reorganization, the exemptions available are limited in scope. For struggling plans that do not qualify for these exemptions, there is no alternative but to turn over their assets to the already troubled Pension Benefit Guarantee Corporation.

Where cooperative efforts exist between unions and management, all means should be examined to identify areas where exemptions can be applied to assist plans that wish to remain viable and to prevent bailout by the Pension Benefit Guarantee Corp. There is a strong need to look both at the exemptions under title IV of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to determine whether further relief is possible for adjustments in accrued benefits under plans undergoing reorganization that do not meet current exemption criteria. I would ask the chairman to address the possibility of committee oversight and examination of the exemptions under the Multiemployer Pension Protection Amendments Act to address such situations.

Mr. WILLIAMS. Mr. Chairman, if the gentleman will yield, as the gentleman from California [Mr. PANETTA] knows, my committee and I are pleased that the gentleman has brought this matter forward to us. We understand that the gentleman has valid and just concern. Clearly, the considerable changes in the economy since the enactment of the Multiemployer Pension Protection Amendment Act of 1980 and the conditions mentioned by the gentleman, warrant an examination of the effects of the act and may warrant a full examination of the possibility of adjusting for exemptions for plans that are becoming insolvent. I will urge my colleagues on the committee to further look into the concerns of the gentleman from California [Mr. PANETTA] and others.

Mrs. ROUKEMA. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY], also a member of the committee.

Mr. HENRY. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, let me first of all express my appreciation to the gentleman from Montana [Mr. WILLIAMS], who has outlined some of the legislative history of this bill and the need for it. What has happened is that the ERISA preemption has come through various circumstances into conflict with ERISA's preemption provisions, with historic practices relative to State Davis-Bacon laws on public projects, into conflict with long established State practices relative to collection remedies, and likewise come into conflict with provisions pertaining to apprenticeship councils in apprenticeship programs in various States.

I agree that in these three discrete areas, remedy is needed. For that I commend the gentleman from California [Mr. BERMAN], who has taken the lead on this and worked very, very hard to bring this bill through committee and to the floor.

I also want to state my strong agreement, however, with many of the concerns which were articulated by the gentlewoman from New Jersey [Mrs. ROUKEMA], who I think has cited some of the problems with the bill as it was reported from committee.

However, I think we should make clear that during our committee deliberations it was agreed upon that certain amendments would be made in order and supported likely by both sides, which would try to refine the scope of this act.

Mr. Chairman, I would simply like to point out for those Members listening to this debate that I think by the time we have approached final passage, in all likelihood the range of concern, the range of division, the range of debate, will have been significantly narrowed, and that very shortly when we are opening the bill to amendment I will have an amendment which addresses to the best of my knowledge in whole the concerns that have been raised relative to the public-private issues on extending ERISA in terms of mandating benefits, and also fully addresses the problems relative to remedy collections.

It is my understanding that we will have very clear delineation as to what is involved there because of the importance of the issue, and then that will narrow the questions before us to issues pertaining to State apprenticeship councils.

Mr. Chairman, I think for purposes of trying to help Members who are watching this by way of our communications system, to be aware of the fact that very quickly I believe much of the range of differences in the committee will be narrowed.

The CHAIRMAN pro tempore (Mr. ANDREWS of Texas). The gentlewoman from New Jersey [Mrs. ROUKEMA] has 9 minutes remaining, and the gentleman from Montana [Mr. WILLIAMS] has 16 minutes remaining.

Mrs. ROUKEMA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. GOODLING], the ranking member on the full committee.

Mr. GOODLING. Mr. Chairman, I rise to speak in opposition to the content of H.R. 2782 as currently written. This bill was not amended in subcommittee or full committee, because the proponents were unwilling to address the serious concerns that were then expressed about its far-reaching effects.

First, the bill oversteps the stated intentions of its authors. It would seriously weaken ERISA's preemption cornerstone by creating a loophole for States to mandate health, pension, and other welfare benefits. The breadth of the "any law" language in the bill would permit States, in the guise of prevailing wage laws, to subvert ERISA by mandating specific ERISA benefits or by even mandating that all employers in a State establish or contribute to a specific pension health or other ERISA plan.

Because the term "prevailing wages" is not defined, the scope of the State laws exempted from ERISA is not limited to traditional programs setting wages and benefits in connection with public works projects. This lack of restriction on the "any law" language would permit State laws to regulate ERISA employee benefit plans in the context of private contracts or employment as well as State and local public works.

The Congressional Budget Office [CBO] estimates that the bill could increase the cost to the Federal Government under Davis-Bacon projects and federally assisted construction projects where the Federal Government provides States with matching funds. The prospect of increased Federal costs should give all of us reason to be cautious not to pass this bill without thoroughly correcting its many flaws.

Flaws are also exposed in the bill's section giving States wide latitude to erect new multiemployer plan collection remedies. We should all be concerned that this reckless language could result in overturning the collection remedies for withdrawal liability which were carefully crafted in 1980 under the Multiemployer Pension Plan Amendments Act.

The bill also creates a loophole which would limit employer training and apprenticeship programs. The laws in at least one State already prohibit parallel apprenticeship programs to coexist. In addition, because of the broad language in the bill, existing State laws could be expanded to establish education and training standards that the programs of all employers must meet.

Since we are speaking about training programs, let me make one point perfectly clear. The point is that school-to-work transition programs, which we often refer to as youth apprenticeship programs, are not affected by ERISA preemption. This is because such programs do not rise to the level of an employee welfare benefit plan as defined under ERISA. Even if they did, there is a specific provision exempting federally related programs from ERISA preemption. Under ERISA section 514(d), it states that nothing in ERISA shall be construed to alter, amend, modify, invalidate, impair, or supersede any law of the United States. Therefore, any apprenticeship or training program authorized under Federal law, even if it involves a State-based program, is unaffected by ERISA.

Since a major purpose of ERISA is to create an environment in which employers are encouraged to establish employee benefit plans, an environment in which cost savings can be achieved through uniform plan administration, it just does not make sense to throw overboard ERISA apprenticeship and training programs. Rather than facilitate savings in order to promote the extension of training and apprenticeship programs, this bill will promote bureaucracy and stifle the freedom to negotiate training benefits which employers and employees now have under the ERISA preemption doctrine.

I urge my colleagues to see the importance of ERISA in promoting and protecting the benefits that American workers now enjoy.

Unless H.R. 2782 is significantly improved, it should be defeated. I look forward to reviewing these changes.

□ 1410

The President will be encouraged to veto the bill in its present form by the Secretaries of Labor and Health and Human Services. I hope my colleagues will pay careful attention to amendments that will be offered by the gentleman from Illinois [Mr. FAWELL] and the gentlewoman from New Jersey [Mrs. ROUKEMA].

I think the bill could be improved on the floor and we could have something that would help workers rather than harm and hinder workers, which I believe, the way it is presently written, this legislation will do.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

I do want to note, in a response to the gentleman from Pennsylvania, who just spoke, that I listened with some care to what he was saying. The gentleman raised some interesting points.

But what the membership needs to understand is that there were no amendments offered to this bill in either the subcommittee or the full committee level. Members that came forward to us with amendments, such as the gentleman from Michigan [Mr. HENRY], have been satisfied that their amendments have been worked out. And if I understand the amendment of the gentleman from Michigan [Mr. HENRY], we will be accepting it here on the floor.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I will be speaking later on this subject, but I just think in the wake of the comments of the gentleman from Pennsylvania, it is important to note, he raised essentially three objections to this bill.

One was a belief that this bill extended to cover purely private projects. The gentleman from Michigan has pointed out that he will have an amendment which addresses that subject and that it will no longer be an issue.

Second, he raised the issue of mandating specific kinds of fringe benefits. The gentleman from Michigan will be offering an amendment, which the majority and the committee and subcommittee will be supporting, which will eliminate that issue. That eliminates two of the three issues referred to by the gentleman from Pennsylvania.

On the third issue, the gentleman made reference to, he hates to see ERISA apprenticeship programs overthrown by this bill. I, for the life of me, do not understand what that means. What is an ERISA apprenticeship program? What kind of apprenticeship program that now exists would be overthrown by this bill?

I would suggest there are no apprenticeship programs now in effect.

Mr. WILLIAMS. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, having lost many jobs in the steel industry and having seen many of our pensioners come up and just read the paper someday where there just are not the funds in those pensions and people have been able to, in essence, really steal some of that pension money through a lot of technical, legal ways in which they can never be indicted for or held accountable for, I was concerned about one area of this particular law. And I am going to ask the committee to work with me and maybe even hold hearings on this.

I have it in the form of an amendment today, but I would have not offered that amendment if the respective sides would not have been willing to accept it. And the fact is, there is a question on whether or not it would be germane.

But we allow up to five waivers for cause by the Internal Revenue Service on contributions by companies who are hard pressed, five annual waivers. And they usually, in the economic climate that we have now, have good grounds to justify these waivers and we find ourselves 5 years down the road with pension accounts that are underfunded.

The Government is sitting and looking at massive liability. And I want to see us change that to where the companies make quarterly reports to their beneficiaries. They are already making a quarterly contribution, but I want to see us limit and restrict the waivers on these IRS requests to no more than five quarterly waivers in any given 2-year period.

Within a 2-year period, we should be able to ascertain what are the financial prospects of a company before we let them go the gambit of 5 years. The Government is picking up the tab and, in many cases, most of these pension plans are underfunded.

I would like to know, if I could have a colloquy with the distinguished chairman of the subcommittee, Mr. Chairman, I would like to know if it is possible that this matter in the form of legislation I have introduced could be addressed and a hearing could be held to look at the strength of these pension plans and how these restrictions on an annual basis for these waivers might perhaps be a tell tale sign that we could more readily ascertain at a more expedient date, No. 1, and, No. 2, maybe work something out legislatively to soften that blow.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, the gentleman brought this amendment forward to us. It appears, as the gentleman indicated in his earlier remarks just a moment ago, that the amendment appears not be germane to this act, but the gentleman's comments are germane to the issue before us.

Our subcommittee has, not just under my chairmanship but previously, given a lot of concern to the very issue, both specifically and generally, that the gentleman raises. I appreciate his bringing it again to the attention of the full House and assure the gentleman that both the subcommittee and the full committee recognize the problem that the gentleman brings to us, that we know full well that many thousands, if not millions of workers in the United States are in great concern that their pension fund may not be secure.

Therefore, my subcommittee will, of course, continue to focus on the issue the gentleman brings to us.

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman. I appreciate those comments. And in discussing it with other Members in the Congress, I believe the staff of the gentleman's subcommittee is probably the most knowledgeable and learned in this particular field.

I do not know if my particular approach might even be the best, but I believe the spirit and intent of what I would like to accomplish is absolutely very important.

I do not know if I heard any answer to that question. I would like to see the committee at least hold a hearing on this. I would like to be able to work with the staff and have my staff work with the committee staff and see if we can get some results.

I say to my colleagues, I think this is a very important issue, one that we should be concerned with. We have tremendous exposure to the taxpayers in these areas, and we might not only soften the blow on our workers but take some of the ripoff off our taxpayers.

□ 1420

Mr. FAWELL. Mr. Chairman, I ask unanimous consent that, in place of the gentlewoman from New Jersey [Mrs. ROUKEMA], I be allowed to continue to yield time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. FAWELL] has 4 minutes remaining.

Mr. FAWELL. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, we have debated many pieces of business legislation, but the bill we are about to consider may be the most important one. In 1974, Congress recognized the value of having one set of regulations govern employee benefits. That is why Congress enacted the Employee Retirement Security Act of 1974, better known as ERISA. It was the clear intent of those who wrote this law to preempt all State and local regulations that relate to employee benefits. The measure we're about to consider, H.R. 2782, would create broad exceptions to the ERISA preemption, signaling the beginning of the end of the voluntary private benefit system.

As other speakers before me have mentioned, ERISA was created to end the problems companies faced when operating employee welfare plans across State lines. The advantage that ERISA offers both employers and employees is the ability to administer benefits under one set of rules. ERISA allows companies as large as General Motors or as small as the one I own, which has only six employees, to provide such diverse benefits as health coverage, profit sharing, and day care under the same set of regulations. The predictability of ERISA has allowed for the development of such diverse benefits, while at the same time lowering administrative costs of providing employee welfare plans.

H.R. 2782 would carve out exceptions to the broad preemptive power of ERISA under the guise of prevailing wages and apprenticeships. If these exceptions are allowed to become law, companies that operate in different States will find their employee benefits subject to 50 different State laws. For example, the bill exempts under ERISA, "any State law providing for the payment of prevailing wages." Because the term "prevailing wages" is not defined in the bill, the States would not be limited to the traditional definition of prevailing wage statutes. Creative legislators will seize on this and begin to mandate employee benefits under prevailing wage provisions.

As a former member of the Ohio House of Representatives, I know that there are legislators in State houses all over the country that would love to see the ERISA preemption abolished. Many States are facing horrible fiscal problems, and employee benefits would be a tempting source of revenues. Social legislation that the States could never afford to pay for would be forced onto companies in the form of mandates.

If Congress were to enact H.R. 2782, it would be an open invitation to the

States to enact mandates, regulations, and taxes on employee welfare plans. Rather than face 50 different sets of regulations, companies will take the only rational course—they will drop their employee benefit and pension plans.

For 18 years, ERISA has served both employers and employees well, by creating a national framework for workplace benefits. ERISA does not determine what employee benefits should be. Rather, it creates a set of rules which allows workers and management to determine what types of benefits best fit the needs of each. Proponents of H.R. 2782 are using three Federal court cases—all of which were decided correctly—to begin a process that would destroy the current employee benefit system.

H.R. 2782 represents part of the overall trend of legislation considered by this Congress. The liberals who control Congress have passed bill after bill which undermine the ability of our Nation's business sector to compete against foreign competition and create jobs.

Examine just the legislation that has come out of the Education and Labor Committee—ADA, the Civil Rights Act, parental leave, OSHA reform, striker replacement, electronic monitoring, and now ERISA preemption. All add billions of dollars to the cost of doing business—billions that could have been invested in new plants, equipment, and other job creating activities.

These bills are just a small part of the regulatory agenda offered by the liberal majority in Congress. There's the Clean Air Act, FIFRA, RICRA, the so-called banking reform—the list is endless. Add in the 1990 budget agreement, which contained the largest tax increase in history, along with the various State and local tax increases, and it's no wonder our economy is not growing. All available capital is being used to comply with Government regulations and pay taxes.

ERISA is one Federal law that is working, and that is the problem. The liberals who run Congress and their special interest friends do not like the outcome of this law, because it prevents them from enacting their social agenda on the private sector. Instead of serving inside-the-beltway special interests, ERISA serves the best interests of both employers and employees. Rather than take this destructive step, I want to urge my colleagues in the House to oppose H.R. 2782.

Mr. WILLIAMS. Mr. Chairman, I reserve the balance of my time.

Mr. FAWELL. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY].

The CHAIRMAN. The gentleman from Iowa [Mr. GRANDY] is recognized for 2 minutes, the balance of the time.

Mr. GRANDY. Mr. Chairman, ERISA is one of the more complicated areas of law we in Congress deal with. More often than not, it is an area that is willingly left to actuaries and fiduciaries to ponder. But there is one area of ERISA that is unambiguous and extremely easy to understand and that is the area we are debating today—the ERISA preemption.

Section 514 of ERISA clearly states that ERISA preempts "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." This language has repeatedly and consistently been upheld in court decisions which fully recognize that the intent of Congress in developing ERISA was to exercise the broadest possible preemption in the regulation of employee benefit plans. This tenet of ERISA has successfully eliminated the threat of conflicting or inconsistent State and local regulations on the administration of employee benefit plans.

What we are talking about, in plain English, is the ability of businesses to offer their employee benefits on a uniform basis around this country. For 18 years, the ERISA preemption has helped to increase the number and type of benefit plans offered across America in a cost effective manner by providing a uniform national mechanism for governing benefit plans and for remedying benefit plan abuses. This uniformity has provided the predictability necessary to encourage employers to establish and continue to maintain employee benefit plans on a voluntary basis.

H.R. 2782 would reopen the Pandora's box of conflicting and/or inconsistent State and local regulation of employee benefit plans because the broad language of this legislation constitutes a near elimination of preemption. Employer-sponsored plans would be exposed to increased and costly litigation and greatly increased administrative expenses as a result of having to conform benefit plans to varying State requirements arising from mandated benefit laws.

I find it particularly ironic that at the very time we are recognizing that out-of-control State mandates have contributed significantly to runaway health insurance costs, that administrative simplification is a valuable cost control mechanism, and that uniform claims processing will further restrain costs, we are here debating legislation that will increase costs, reduce access, and reverse the significant gains made in the development of employee benefits in this country.

The absolute last thing we need is legislation that would further increase costs and reduce access to health care. Make no mistake about it, H.R. 2782 would both increase health care costs and restrict access to health insurance coverage.

This ill-advised legislation, and its companion legislation H.R. 1602, are aimed at providing special interest exclusions to the uniformity standard developed under section 514 of ERISA. The Senate version of this effort has combined these two bills into a single package S. 794. Mr. Chairman, I am strongly opposed to this attempt to open the cornerstone provision of ERISA, the State preemption provision, which has contributed significantly to the development of employee benefit programs, and urge Members to vote against this ill-timed legislation.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of this bill is simply to correct what many of us believe is a misreading of ERISA by the courts. That misreading has devastated the worker apprenticeship and training programs in many States. These court decisions directly run counter to our Nation's pressing needs for upgrading the skills of our work force. We are trying with this legislation to restore State law, which we believe was originally intended when ERISA was first passed.

There are going to be "many bugaboos," raised about the effect of what we are trying to do here, but I assure my colleagues that the effect of it is narrow. It is specific, and is not meant to give weighted leverage and assistance to unions or employers, workers or their bosses. It is simply meant to reestablish State law preeminence. It is, I think, a good States rights bill.

Mr. PANETTA. Mr. Chairman, I am pleased that the House Veterans' Affairs Committee has outlined the need to provide flexibility in the implementation of H.R. 5193. Specifically, the committee has highlighted the opportunities presented by the Silas B. Hays Hospital at Fort Ord, CA. This legislation takes the important step of establishing expanded sharing of health care services between medical facilities of the Department of Defense [DOD] and the Department of Veterans Affairs [VA] to account for downsizing and closing medical facilities at defense installations.

As the committee notes, while Fort Ord will experience a large reduction in force as a consequence of the move of the 7th Infantry Division (Light), there will remain a significant population that relies on the Silas B. Hays Hospital. The report for H.R. 5193 further states that the VA/DOD sharing law, as augmented by this bill, provides the means to consider actively and seriously a restructuring of the existing military medical facility, under one of several possible models, to serve veterans, active duty military and their families, and military retirees and their families. It has become evident that with the Army's current proposal to close the hospital when the 7th Division departs, the result would be higher costs for both the Federal Government and area retirees, veterans, and military personnel. Because the Silas B. Hays Hospital is undergoing a restructuring, this flexibility needs to be provided here.

The Fort Ord Community Task Force has conducted an exhaustive examination of all areas of importance to the population surrounding the base and recently released a comprehensive report relating to the reuse of the fort. As the report indicates, the Silas B. Hays Hospital serves Navy, Fort Hunter Liggett and Presidio personnel and their families, totaling 14,000 personnel, and 24,000 military retirees and their families in addition to the significant veteran population. Clearly, there exists a strong opportunity here to implement the provisions of this legislation on an innovative basis.

I commend the House Veterans' Affairs Committee on their recognition of the unique situation at Silas B. Hays Hospital. It is imperative that joint sharing agreements between the DOD and VA be undertaken to ensure that the best possible care is available to those individuals who have come to count on the services provided at the Hays Hospital and at other similar hospitals throughout the Nation.

Mr. CHANDLER. Mr. Chairman, I rise in opposition to H.R. 2782.

For the past several years, I, along with many of my colleagues from both sides of the aisle have been working extensively to improve employee benefit programs and find a solution to the health care crisis in America. This bill serves to undermine those efforts.

The Employee Retirement Income Security Act [ERISA] has served as the cornerstone upon which many outstanding benefit programs have been developed. The last thing we need is to weaken ERISA.

One of the principal reasons for Congress' enactment of ERISA in 1974 was to foster growth of employee benefit plans by promoting uniform Federal regulation of those plans. In order to accomplish this goal, Congress recognized the importance of eliminating the threat of conflicting or inconsistent State and local regulations of employee benefit plans.

Mr. Chairman, there are companies headquartered in the State of Washington that have operations in nearly all 50 States. Imagine the administrative nightmare, let alone the cost, in administering 50 different benefit plans or complying with 50 different State laws. That is what we can expect if H.R. 2782 is enacted.

H.R. 2782 opens the door to allowing States to ignore ERISA and broadly regulate benefit plans under the guise of prevailing wage, apprenticeship, and contribution collection laws. This legislation would limit flexibility and would discourage the creation and the maintenance of employee benefit plans.

Mr. Chairman, H.R. 2782 should be defeated because it undermines one of the most fundamental and desirable features of ERISA—the uniform Federal regulation of employee benefit plans. ERISA's preemption of State laws that relate to employee benefits is working and should not be disrupted.

Enactment of H.R. 2782 will only invite conflict and increase the already high cost of employee benefits. Ultimately, it is employees who will suffer as employers are forced to control these costs in the form of reduced wages or other compensation. I urge my colleagues to vote "no" on H.R. 2782.

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 2782, a bill to amend the Employee Retirement Income Security Act [ERISA], the law that governs most private pension programs. H.R. 2782 will restore an individual State's basic right to determine the conditions and protection it will extend to its workers and their families.

ERISA was originally designed as a pension protection law. It protects the interests of millions of American workers and their families by setting minimum standards for pension plans in private industry. For example, ERISA insures—among other things—that workers get coverage if they are entitled to it, that there are adequate funds to pay out benefits when they are due, that funds are managed wisely, that employees and their families understand their rights and obligations, and that workers' rights are protected in the event that a plan is terminated. Workers who feel that they have been unfairly denied some form of their employee benefits—who feel, for example, that they have been unfairly covered or terminated by an insurance carrier—can appeal through ERISA.

Recently, however, Federal courts have rendered decisions striking down State laws protecting workers. The courts have done this by broadly interpreting ERISA to mean that it can override State laws and that States cannot get involved in employer-employee issues. This presents a clear and present danger to the basic right of States to determine how workers on their own public works projects should be treated.

As a result of these recent court rulings, States are uncertain of their jurisdiction. For example, the California Apprenticeship Council is in essence not proving any new apprenticeship programs until its authority is clarified. This was not Congress' original intent when it enacted ERISA back in 1974. As a result, we are now at a point where Congress must intervene if the original intent of ERISA is to remain intact.

If H.R. 2782 is enacted, it will clarify the interpretation of ERISA so that it does not override States rights and work to the disadvantage of workers involved with State contracts. Under H.R. 2782, ERISA will not replace State laws governing employee benefit programs of local contractors in three areas, prevailing wages, State apprenticeship training, and State mechanic's liens and collections.

H.R. 2782 will clarify ERISA by restoring a State's right to determine how State money is spent on State projects, and to decide how local contractors treat their workers. H.R. 2782 will only apply to employers who voluntarily bid on State contracts. It will not affect private contracts, just public workss projects.

If H.R. 2782 is not enacted, States will be more and more limited in their ability to protect workers. For example, they will not be able to continue requiring public works contractors to comply with various worker protection requirements. They will not be able to provide additional tools so that multiemployer pension plans can collect delinquent contributions from those employers who ignore their contribution obligations.

Enactment of H.R. 2782 will help to block an all too prevalent trend, the steady erosion of the rights of the American worker. I urge my colleagues on both sides of the aisle to support its final passage.

Mrs. KENNELLY. Mr. Chairman, I rise today in support of H.R. 2782, which would amend ERISA to clarify that three types of State laws are not preempted or voided by ERISA, first State laws concerning apprenticeship training on public works projects; second, State laws requiring payment of prevailing wages on public works projects; and third, State mechanic's lien laws and related means by which State laws enable workers to recover promised wages and benefits for work performed on building and construction projects.

Mr. Chairman, some courts have applied these preemption provisions of ERISA to strike down State public works apprenticeship and prevailing wage laws, even though those wage laws do not conflict with ERISA and there is no indication that Congress' intent was to preempt a State's right to contract for public works. Connecticut is among those States that meet Federal standards for apprenticeship programs and it also has a prevailing wage law.

ERISA's provisions were intended to protect benefit plans from multiple government regulation by establishing benefit regulation as an exclusive concern of the Federal Government. The Federal Government sets prevailing wage standards and other terms for its public works contracts.

This bill which I cosponsored clarifies many of these concerns. I commend my colleagues on the Subcommittee on Labor-Management Relations and Mr. BERMAN of California and Mr. HENRY of Michigan for their hard work. I urge my colleagues to support passage of this important legislation.

Mr. LEVINE of California. Mr. Chairman, I rise today as a cosponsor of this bill and to urge my colleagues to vote in favor of passage. I would first like to commend my colleague from Los Angeles, Mr. BERMAN, for taking swift actions to address the problems caused by Federal court decisions in General Electric versus New York State Department of Labor, Hydrostorage versus Northern California Boilermakers Local Joint Apprenticeship Committee, and Iron Workers Mid-South Pension Fund versus Terotechnology Corporation.

In 1974, the ERISA law was passed by this body for the purpose of protecting employees' benefit plans from abuses by employers. Since its enactment, the courts' decisions have consistently disregarded congressional intent in formulating their decisions on this issue. They have, instead, deprived States of their rights to control how to spend State funds on public construction projects. Perhaps worse, the courts have denied employees working on these public projects protections that are clearly their interests.

This bill will clarify once and for all that employee benefit rights do not preempt any State law providing for payment of prevailing wages or standards for training programs.

This legislation is needed to return to the States their tool of the mechanic's lien law, which has also recently been preempted by the courts. These laws seek to ensure that workers received compensation, wages, and benefits to which they are entitled. Mr. Chairman, in today's recessionary economy, such a guarantee for working men and women is essential. Many of the lucky few who have employment these days are living paycheck to paycheck—one small step away from economic ruin. Without lien laws, families are placed in constant danger that the labor they perform will not be compensated. Placing families in such unreasonably tentative positions is unfairly stressful. This bill is necessary to ensure that no work goes unjustly uncompensated.

Let me tell you what this bill does not do: It does not undermine the Federal regulatory scheme for employee benefit plans; it does not allow the States to regulate employee pension or health plans; it does not require employers to create or maintain such plans; it does not dictate the terms of such plans; and it does not regulate the administration or operation of such plans.

Contrary to opponents claims, the prevailing wage provisions in this bill do not affect private contacts at all. Only public State contracts that are voluntarily bidded on would come under the scope of this provision.

I urge my colleagues to join me in support of this much-needed measure.

Mrs. MINK. Mr. Chairman, I rise today in support of H.R. 2782 which clarifies the preemption clause in the Employee Retirement Income Security Act or ERISA.

When ERISA was passed in 1974, providing for the preemption clause it was not intended to be interpreted so broadly as to include State apprenticeship programs, State prevailing wage, and mechanic's lien laws. Standards of wages, worker training, and legal remedies to recover wages should be controlled by the States.

Our central concern in 1974 was the uniform application of pension and welfare benefit plans. It was enacted to assure that pension plans provided basic benefits including portability, and to protect employees from conflicting regulations.

Congress felt very strongly that a Federal regulatory plan covering employee pension and benefits plans was necessary to assure that workers were treated fairly and received benefits they rightfully earned. However, at no time did Congress provide that apprenticeship programs, prevailing wages, or mechanic's lien laws should be considered an employee benefit which was preempted by ERISA.

Yet various court decisions have invalidated these State laws as preempted under ERISA. Clearly ERISA should not be interpreted to preempt these State laws. Standards for public works contracts using State and local funds should be set by State laws and administered by State and local regulation.

While many prevailing wage laws include the value or cost of employee benefits, such as health insurance, pensions, and training benefits in the determination of prevailing wages, use of these factors in determining wages does not in itself alter the benefits package and therefore should not be deemed as preemptive.

Similarly, the longstanding State role in apprenticeship programs has also been jeopardized by the ninth circuit court interpretation of the ERISA preemption. The court's decision that State-sponsored apprenticeship standards constitute an employee benefit plan which are preempted by ERISA has seriously undermined State efforts to provide job training and employment opportunities through apprenticeships.

Congress did not intend ERISA to deprive State and local governments of their traditional right and power to regulate wages or to set the terms and conditions under which States contract for public works projects. Congress did not intend ERISA to upset the longstanding State role in apprenticeship. And, we did not intend ERISA to block multiemployer pension, health and welfare plans from use of State law liens and other State means for collecting delinquent contributions.

Mr. Chairman, States must regain the ability to enact laws regarding apprenticeship programs and prevailing wage policies without being obstructed by an over broad interpretation of a Federal statute, ERISA, that was never intended to restrict traditional areas of State regulation. The enactment of H.R. 2782 is necessary to ensure that these rights of States are preserved.

This legislation does not seek to weaken the original intent of the Federal preemption or the Federal regulatory power designed to govern employee benefit plans. This bill overturns court decisions governing ERISA's preemption of prevailing wage rates, apprenticeship programs, and mechanic's lien laws, and restores to States the power to enact laws and regulations in these three areas. This restoration of States' powers is important in order to allow for the State enhancement of the workers' wages, training, and legal remedies.

Mr. Chairman, I urge my colleagues to vote for H.R. 2782, and to overturn these errors of interpretation made by the courts.

Mr. WILLIAMS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has now expired.

Under the rule, the bill shall be considered for amendment under the 5-minute rule. Consideration of the bill and all amendments thereto shall not exceed a total of 4 hours.

The Clerk will read.

The Clerk read as follows:

H.R. 2782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ERISA PREEMPTION RULES NOT TO APPLY TO CERTAIN ADDITIONAL STATE LAWS.

Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end the following new paragraphs:

"(9) Subsection (a) shall not apply to—

"(A) any State law providing for the payment of prevailing wages;

"(B) any State law—

"(i) establishing minimum standards for the certification or registration of apprenticeship or other training programs,

"(ii) regarding the establishment, maintenance, or operation of a certified or registered apprenticeship or other training program, or

"(iii) making certified or registered apprenticeship or other training an occupational qualification; or

"(C) any State law providing additional remedies or means for collection of contributions to a multiemployer plan.".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply to actions taken on or after the date of the enactment of this Act.

Mr. WILLIAMS (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. BERMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as the author of H.R. 2782, I want to take this opportunity to rise to urge my colleagues to support this important legislation. Its purpose is very simple. It is to restore the right of States to protect their workers in three critical areas: prevailing wages, apprenticeship and training, and remedies for the collection of delinquent plan contributions.

Contrary to what we have heard from some of the previous speakers during general debate, this bill is narrow legislation intended to clarify that section 514 of ERISA, the preemption provision, was never intended to preempt State law in these three areas. It has never been my intention to address concerns beyond these three areas. I might add, parenthetically, and I include this in what is not my intent, it is not my intent or it is not the intent of anyone on this side to offer any amendment dealing with insurance company practices and State remedies. I will oppose any efforts that may be made to expand the bill beyond the very narrow provisions of this legislation, if they are brought up today.

I will, however, support an amendment to be offered by my colleague, the gentleman from Michigan [Mr. HENRY] to narrow the language of the bill; that is, to even further narrow the language of the bill with regard to State prevailing wage laws and State remedies for delinquent plan contributions.

The gentleman from Michigan expressed certain concerns at the committee markup of H.R. 2782. I am delighted that the amendment he will offer, which I support, allays his concerns, and that he is prepared to support this important legislation upon adoption of this amendment.

What section 514 provides, as others have pointed out, is that with certain exceptions ERISA shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan.

I might point out, everybody talks about this being the first effort to exempt anything from ERISA preemption. That is not correct. The original ERISA law excluded regulation of the insurance industry and other items from the exercise of preemption. That is why we still have State regulation of insurance. There have been amendments to ERISA dealing with employee benefit plans and dissolution of marriages, and State community property laws which are exempted from preemption have certain aspects otherwise covered by ERISA.

□ 1430

And there have been court cases which have concluded in a number of different areas that section 514 does not, does not preempt these areas of ERISA.

I think my colleagues would be amazed to learn the range of State laws that have been invalidated on the basis of that short sentence—in areas where Congress has never purported to legislate. Relentless efforts have been made to overturn an array of State laws establishing labor standards and other protections for workers. I know that as a former State legislator myself I am well aware of the case that was made on behalf of State legislation in those areas—and consequently the tremendous harm resulting to workers as a result of some of these interpretations of ERISA preemption.

I know first hand from my discussions with California workers the price they have paid and will continue to pay as a result of preemption of, first, State prevailing wage laws, second, State law establishing standards for apprenticeship programs, and third, State laws providing remedies or means for collecting contributions to multiemployer plans. I am convinced that the harm caused by the interpretation of ERISA as to these issues is so significant that action on our part is required.

On the issue of State prevailing wage law, certainly the interest of the State in establishing minimum standards for employment on publicly funded or assisted projects should be clear. The 31 States that have enacted State prevailing wage laws have, in so doing, acted out of an interest in setting the terms on which they will do business with contractors.

But in 1989, the second circuit in General Electric versus New York State Department of Labor invalidated the fringe benefit provisions of New York's prevailing wage law.

The notion that Congress would willfully bar the States from enacting and enforcing laws effectuating State interests in an area which ERISA does not in any way lay claim to cover, is a strange one to me.

I would like to find the part of the committee print or the part of the floor debate on ERISA back in 1974 where someone said that State prevailing wage laws insofar as they attempt to provide prevailing and comparable fringe benefits was intended to be wiped out by this.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. FAWELL. Mr. Chairman, will the gentleman yield on that question?

Mr. BERMAN. I am happy to yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, the concept is, as I understand it, that obviously when under the guise of prevailing wages, and understandably so, you have so-called prevailing benefit programs which are and meet the definition of employee benefit programs under ERISA, then you, of course, do run into ERISA preemption.

Mr. BERMAN. If I may reclaim my time, it is just unfathomable to me that this body back in 1974 or the other body could have debated this issue without any reference to the existence of 31 State laws requiring prevailing wages on public projects, and never made one reference to the fact that the fringe benefit portions of those laws would be wiped out by the passage of this bill with its preemption clause. It just does not wash. It does not make sense that this was not contemplated at the time.

The notion that Congress would willfully bar the States from enacting and enforcing laws effectuating State interests in an area which ERISA does not in any way lay claim to cover is a strange one to me. I cannot believe this was the intent of Congress in enacting ERISA.

Likewise, every one of the 50 States has enacted laws setting standards for the certification or training of apprentices. States have a patent interest in the development of a skilled work force which is likely to guarantee safer workplaces. This is the basis of State regulation of employer conduct in the establishment and maintenance of apprenticeship programs—and it is fully consistent with the Federal-State scheme of the 50-year-old Fitzgerald Act.

If we do not want that act to apply anymore, the intent of that act, then the amendment should be to the Fitzgerald Act and not by construing the preemption clause of ERISA.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has again expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. ERISA certainly does not purport to set standards for apprenticeship programs. Yet in Hydrostorage, Inc. versus Northern California Boilermakers, the ninth circuit in 1989 invalidated California apprenticeship standards on ERISA preemption grounds.

In this area, too, we see State laws that have in many instances been on the books for decades thrown out on preemption grounds, leaving a vacuum in their wake, and in essence nullifying the Fitzgerald Act. H.R. 2782 provides essential clarification on this issue, as well, spelling out that ERISA does not preempt State law establishing apprenticeship program standards, making certified or registered apprenticeship or other training and occupational qualification, or regarding the establishment, maintenance, or operation of apprenticeship programs.

The third and final element of H.R. 2782 provides that ERISA does not preempt State law providing additional remedies or means for collection of contributions to multiemployer plans.

It is quite clear to me that preservation of State collection remedies was explicitly intended by Congress to be an integral part of the ERISA scheme for assisting plans in collecting contributions. Congress reaffirmed this intention in the Multiemployer Pension Plan Amendments Act of 1980 after the original passage of ERISA. Yet in Carpenters Southern California Administrative Corporation versus El Capitan Development Company, the California Supreme Court invalidated California mechanics lien law on ERISA preemption grounds.

There is a long history of bipartisan support for effective means of maintaining the fiscal integrity of multiemployer plans. There is certainly no disagreement among plan trustees whether they be employer or labor on this issue; to the contrary, State remedies and means for collecting unpaid contributions simply provide fiduciaries with the necessary tools to protect the plans for which they are responsible. Yet the El Capitan case—and the fifth circuit decision in the Iron Workers Mid-South Pension Fund case—have severely undermined the fiscal soundness of many plans.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has again expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. I have statistics about the depletion of health and pension fund reserves because of the failure of mobile, seasonal contractors who come to one place, leave that place after a job is done, never make the required contributions, thereby jeopardizing the beneficiaries of the health and pension plans that they are supposed to be contributing to and socking it to the contractors who are meeting their obligations and making the contributions by depleting their resources. This is grossly unfair. Liens and surety bonds are the only meaningful way to provide remedies for this kind of conduct of the State labor standards.

State labor standards and remedies that have been on the books for decades have been wiped out; lower court cases which were first brought to my attention several years ago have not been reversed.

These cases certainly do not square with my notion of federalism, and I certainly suspect that they are at odds with all of the rhetoric heard regularly in this Chamber about returning government to the people at State and local levels.

AMENDMENT OFFERED BY MR. HENRY

Mr. HENRY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HENRY: Page 2, strike lines 9 and 10 and insert the following:

"(A) any State prevailing wage law to the extent that it applies to public projects, if such law permits the payment of the cash equivalent of aggregate employee benefit plan contributions or costs and does not mandate the maintenance of, or regulate the benefits or operations of, any employee benefit plan;

Page 3, strike lines 11 through 13 and insert the following:

(C) any State law providing for a mechanics' lien or other lien, bonding, or other security for the collection of delinquent contributions to a multiemployer plan, except that this subparagraph shall not apply in the case of any such lien, bonding, or other security unless the plan seeking to enforce such lien, bonding, or other security provides notice thereof to any person obligated thereunder.

Mr. HENRY. Mr. Chairman, this amendment seeks to make three changes to the bill as brought to the committee. And the amendment enjoys the support of the gentleman from California [Mr. BERMAN], for which I am thankful, and I appreciate the support of the Members on both sides of the aisle who have helped draft this language.

The amendment, as I said, makes three changes. No. 1, it clarifies that State prevailing wage benefit laws permitted under ERISA are only those that apply to public projects.

□ 1440

This is the issue of greatest concern to many in the business community, in terms of the potential use of this bill to mandate benefits across the board.

The amendment limits the bill to prevailing wage laws which apply to public projects.

Second, it permits those States' prevailing wage benefit laws to go forward only if they allow contractors to meet an aggregate package of wages and benefit contributions or cost and do not mandate that specific benefits be maintained.

In other words, the State law must allow contractors to substitute either cash or other benefits in place of any otherwise specified benefits.

Third, it narrows the State collection law remedies to those listed in the amendment, mechanics' liens, other forms of liens, bonds, or other security. There was concern about the breadth of the language in the bill that it might invite any number of new State remedies.

The amendment limits the bill to collection remedies which are well known and were used prior to recent court decisions. One of the central concerns with H.R. 2782 has been that it could broadly undermine ERISA preemption by allowing States and local governments to mandate benefits laws which would not apply only to public sector projects but to private sector activities as well. For example, concern has been raised that a State might impose mandated benefits on all employers under the guise of a prevailing wage law.

The amendment is intended to prevent the bill from being used to allow broad mandated benefits laws. The exception to ERISA's preemption with this amendment only applies to laws providing for prevailing wages on public projects. We intend, by that language, to allow State Davis-Bacon-type laws, but not to allow broad mandated benefits laws which apply to private sector activity.

The scope of State Davis-Bacon laws varies. They are not coextensive with the Federal law nor with each other. The types of public nexus required are spelled out in the committee report in footnote 4.

We are not, however, opening the door to mandated benefits for private activity which does not have this nexus to a public agency.

The bill with the amendment does not reverse the decision in ABC versus Baca and Chamber of Commerce versus Bragdon, which was the issue of great concern to the business community in that it was an effort by local communities to impose mandated benefits on purely private activities through the local code or zoning ordinance.

Mr. Chairman, I would like to invite the gentleman from California [Mr. BERMAN] and the gentleman from Montana [Mr. WILLIAMS], the chairman of our subcommittee, to join me in a colloquy about the amendments I am offering.

During committee markup, I raised a number of concerns about the language of H.R. 2782, which my amendment addresses.

First of all, I was concerned that the bill could be viewed as exempting from ERISA's preemption State and local laws requiring employers to provide prevailing employee benefits on private building and construction projects. My amendment clarifies that the bill does not save such private project laws from ERISA's preemption.

I would ask the gentleman from California [Mr. BERMAN] if he agrees.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I am happy to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, yes I do agree. But State prevailing wage laws to the extent that they apply to public projects would be exempted from ERISA preemption even after your amendment is adopted.

The committee report at footnote 4 on page 4 provides examples of the types of work covered by the 31 State public prevailing wage laws, including projects financed in whole or in part by public moneys, projects financed by public bonds, projects financed with public guarantees, projects constructed pursuant to a contract with a public agency, or on land provided by a public agency, and projects which are to be dedicated or leased to a public agency or public use upon completion of construction. Some States also include industrial bond financing.

Mr. HENRY. The gentleman is correct. My amendment would preserve H.R. 2782's exemption of public project prevailing wage laws from ERISA preemption in the manner set forth by the gentleman.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I am happy to yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, that is my understanding as well. The committee report, and that footnote in particular as well as the examples cited by the gentleman should be read in conjunction with this amendment, because it remains operative as to the types of public project prevailing wage laws which are intended to be exempted from ERISA preemption.

Mr. HENRY. I was also concerned that some State public prevailing wage laws could be construed as mandated benefit laws. The amendment would allay this concern by saving from preemption only those State laws which do not mandate the maintenance of, or regulate the benefits or operations of, any employee benefit plan. Employers would be permitted to satisfy the employee benefits component of a prevailing wage by paying the equivalent in cash or benefits to the workers.

Mr. BERMAN. This is my interpretation of the amendment as well.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

(By unanimous consent, Mr. HENRY was allowed to proceed for 1 additional minute.)

Mr. WILLIAMS. Mr. Chairman, if the gentleman will yield further, I also want to concur with what has been said by my colleagues concerning this amendment and point out that during the committee markup of this bill, the gentleman from Michigan [Mr. HENRY] raised certain issues, and even though the markup proceeded without amendment, we agreed to try to address his concerns and are herein doing that. I think we have worked hard to reach an agreement, and I am delighted we have been able to do so with the gentleman from Michigan [Mr. HENRY] and his side of the aisle, in the dialog which indeed reflects my understanding of the amendment, and I support its adoption.

Mr. HENRY. I thank the gentleman. If I may just continue, finally, I was concerned that the contribution collection remedies provision of the bill was too broad. It was not clear to me what "additional remedies or means for collection of contributions * * *" could be interpreted to encompass.

The amendment narrows the exemption to State laws providing for a mechanics' lien or other lien, bonding, or other security for the collection of delinquent contributions, and it further requires that a plan seeking to enforce such lien, bonding, or security, must provide notice to any person obligated thereunder.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has again expired.

(By unanimous consent, Mr. HENRY was allowed to proceed for 1 additional minute.)

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I am happy to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, the gentleman correctly states my understanding of the impact of narrowing the contribution collection remedies provision.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I am happy to yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, yes, I concur with that.

Mr. HENRY. I want to thank the gentlemen for their helpfulness, and I thank them for their patience in resolving this issue.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. HENRY].

The amendment was agreed to.

Mr. MARTINEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of H.R. 2782.

Mr. Chairman, having served on a local city council both as a councilman and as mayor—and then in the State legislature, I have always had greater confidence in local government to regulate and set standards regarding, first, public work wages and benefits, second, standards of apprenticeship, and third, mechanics liens.

H.R. 2782 returns to the States the rights they have always enjoyed before an inappropriate interpretation was made by the courts.

Mr. Chairman, my colleagues argue that this bill mandates employee benefits, increases health care costs, decreases the ability of employers to implement education and training, and severely weakens ERISA's preemption. Nothing could be farther from the truth.

This bill allows the States to do what they have been doing all along in reality, the ERISA preemption they talk about gives employers rather than the States the right to set standards and conditions for wage, benefits, and apprenticeships.

Further, they say that broad language opens floodgates for multiplicity of overlapping and conflicting State regulations of employee benefits. This is misleading. Wages and benefits are and always will be set by the cost of living and the standard of living in a particular area and will always be differing unless national corporations and companies set national standards—which is what will happen if this bill is not passed. This legislation lets the market work.

I urge my colleagues to join me in supporting this important legislation and in opposing all weakening amendments.

H.R. 2782 does three things:

First, this bill lets States require that bidders on State public construction projects conform to State prevailing benefit standards. This affects only firms that chose to bid on those State contracts.

Second, the bill restores State ability to determine standards for apprenticeship programs. Since the 1937 Fitzgerald Act, apprenticeships have been under joint State and Federal control. All 50 States regulate apprenticeships, and 27 do it via Department of Labor-approved State apprenticeship councils. And 23 do some regulating with the DOL having responsibility for formal registration of apprenticeships.

In 1989, a court ruled in Hydrostorage versus Northern California Boilermakers Local Joint Apprenticeship Committee that ERISA preempts State ability to require contractors to meet State apprenticeship standards in State public work projects. This legislation simply restores State jurisdiction over apprenticeship training programs.

Third, this legislation restores what are popularly known as mechanics liens. All 50 States have mechanics liens laws. Many of those laws date back to the 19th century.

These laws allow laborers who perform work or services—such as architects, contractors, and skilled craftsmen—to obtain a lien on property to secure payment. In a 1990 court case, the Iron Workers Mid-South Pension Fund versus Terotechnology Corporation, the court ruled that ERISA preempted the ability under State law to obtain a lien to ensure that a firm made pension contributions that had been agreed to. This decision has had broad impact in undermining such protections.

I want to make four points about this bill. First, this is a modest and conservative bill that merely reverses several court decisions that have occurred largely since 1989. The legislation simply restores what had been the law for many years—in some cases going back to the 19th century.

Second, this legislation retains our Nation's heritage of strong federalism. While a few Republicans are pushing for inside-the-beltway rules and regulations, this legislation strengthens the federalism that has served our Nation so well. It allows the States to continue to function as laboratories of democracy, competing to provide more efficient and productive public policies.

Third, States should be able to continue to exercise control over how they spend State funds for State public works. This is both fair and efficient.

And finally, the prevailing wage elements in this legislation apply only to employers who voluntarily bid on State contracts. It does not apply to other employers doing business in the State.

Mr. Chairman, the States, not the Federal Government are in a better position to regulate these matters and to set standards. I want to make it emphatically clear that the Federal Government has no appropriate rule in regulating the matters covered by this legislation. I urge my colleagues to join me in supporting this legislation that restores ERISA to its original intent.

☐ 1450

AMENDMENT OFFERED BY MR. FAWELL

Mr. FAWELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FAWELL: Page 3, strike lines 1 through 10.

Mr. FAWELL. Mr. Chairman, as I indicated in my opening remarks, the real issue left—if the two amendments which have already been accepted by this body do what we think they do—the only issue really left is shall we reverse the Hydrostorage case out there in California. I want to deal with that. It is darned intricate, I know. Labor law is dry, but I will try to make it as interesting as I can.

In Hydrostorage, the State law which was set aside in that holding went beyond generally accepted areas of State concern in regard to apprenticeship plans and imposed specific benefit requirements on construction employers. In that case, California had adopted State apprenticeship standards which mandated that construction employers, as a condition to obtaining publicly funded work, must participate in and contribute to a particular union apprenticeship program. The State further established the manner in which such participation and funding would take place, requiring that, in this instance, a nonunion contractor also contribute to the union coffers.

Now, the California law required Hydrostorage to apply to a union apprenticeship committee for permission to train apprentices and to sign an agreement to train apprentices solely in accordance with the union apprenticeship program. If this was not done Hydrostorage, a multi-State builder trying to compete and trying to adjust to the various jurisdictions as multi-State people have to do each time, was not, under California law, going to get any public projects work in California. That was clear.

Admittedly, this kind of raw union power in control of State apprenticeship councils does not abound everywhere, and I do not condemn the State Apprenticeship Councils. They represent the Federal Government agency which delegates authority to them to set forth basic commonsense standards; but they do not have the authority to try to tell people which particular apprenticeship contract they have got to take. It simply sets basic concepts.

State Apprenticeship Councils do not, to my knowledge, mandate that you have to go to a nonunion apprenticeship plan or a union one. The Hydrostorage case is an example of how State councils—controlled by construction unions, however, in this particular case, and I am sure there are other instances where it would not be true—freeze out nonunion apprenticeship plans by exceeding the Federal Bureau of Apprenticeship and Training, known as BAT guidelines. They have been stopped from doing this in California under a court decision and elsewhere because ERISA so far has exclusive jurisdiction of employee welfare benefit programs. For the last 18 years, ERISA has included apprenticeship and other training programs as part of employee benefit plans.

Nobody worried about it until the Hydrostorage case came along. Now it is a very celebrated case and it has done allegedly great harm to this Nation.

Indeed, for 18 years, I repeat, apprenticeship and other training programs have functioned well under the jurisdiction of ERISA and under the National Apprenticeship Act, which is the basic Federal law of apprenticeship, with regulations on apprenticeship contained in 20 CFR section 29.

Now, the court invalidated the State law because it required construction contractors on public works projects to become bound by a specific, in this case a union apprenticeship, plan. The State law went beyond the traditional realm of setting minimum State apprenticeship guidelines under the National Apprenticeship Act by requiring direct contractor participation in and contribution to specific union apprenticeship plans. As such, it violated the preemption clause of ERISA which clearly has stated for 18 years that "apprenticeship or other training programs" are "employee welfare benefit plans" under the jurisdiction of ERISA.

Apprenticeship plans are important benefits which many employers, construction employers specifically, both union and nonunion, create through employee/employer negotiations. We need apprentices and we need good plans, and in light of today's economic reality, we need them on a multi-State and multi-locality basis.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for an additional 3 minutes.)

Mr. FAWELL. Currently, States do not have the right, as I see it, certainly under Federal or State law, to mandate which apprenticeship plans an employer has to accept or the basic terms and conditions of apprenticeship plans, under either ERISA or the Fitzgerald Act.

However, H.R. 2782 goes far in excess of just repealing Hydrostorage. It forges new law with a decided big labor bias by exempting from ERISA preemption any State law—criminal law or civil law—which establishes minimum standards, including union standards, for the certification of apprenticeship or other trading programs.

That is not so bad, but then it goes on, and thereby cuts off control of standards, as I see it, of the Fitzgerald Act insofar as State apprenticeship councils are concerned, as well as cutting off ERISA.

But there is more. It also allows any State law to be exempt from ERISA preemption regarding the establishment and operation of certified apprenticeships or other training programs.

If a State, or county, or city wants to include standards which allow States to pass laws like California did, well, that is OK. We are condoning what California just did with what we are doing here.

It even goes so far as to exempt from ERISA preemption any State law—now, get this—making certified apprenticeships or other training programs occupational qualifications. Licensure is with us—occupational qualifications of public or private jobs. You have got to go to the union if they are in control. You have got to go and look at that apprenticeship program.

State law is defined here as any local government. Now, ERISA was formed so that employers who are multination and multistate do not have to readjust with a particular employee benefit plan, including apprenticeship plans, every time they go from Peoria, IL, to Naperville, IL, to San Francisco, or wherever they may be.

□ 1500

That is exactly what we are doing here—making it real easy for competition in this great land of ours.

In Hydrostorage, the court rightly denied the attempt to mandate that contractors had to signup with union apprenticeship plans and contribute to union plans. The court also correctly pointed out that ERISA is a comprehensive remedial statute which is, in the works of the court, "designed to protect the interests of employees in pension and welfare plans, including apprenticeships and other training programs."

The court also pointed out that ERISA was designed to protect employers from conflicting and inconsistent State and local regulation of such apprenticeship plans. One thing is for sure, if H.R. 2782 should pass and be signed into law, one could kiss goodbye to any nonunion apprenticeship plans in California and you could bet those plans will be loaded with special interests for unions, too.

The CHAIRMAN. The time of the gentleman from Illinois [Mr FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 2 additional minutes.)

Mr. FAWELL. One thing is for sure, if H.R. 2782 should pass, in even its abbreviated form, and be signed into law, one could kiss goodbye to any nonunion apprenticeship programs in California. That we know. And you could bet those plans will be loaded with special interests for unions, too.

More, we are opening the door to all of America to be plagued with that which has afflicted California, and I think we ought to give a lot of thought to this.

Let me close with this paragraph—I have others, but in the interest of time I am going to wind it down—we have a problem in, they tell me, 5 or 6 States where the State Apprenticeship Councils have abused the authority provided by the Federal Government. The courts have appropriately addressed the issue.

The court stood by the Fitzgerald Act and stand by ERISA, where you can have, as I see it, an oasis of freedom because the Federal Government does not set all kinds of bureaucratic rules and regulations, but instead says to the employer and to the employee in freedom, "Do what you have to do, create the kind of employee benefit plan that fits you. You don't have to necessarily worry about every country or every State where you might go and have some business to conduct."

Now, rather than stand by the Fitzgerald Act and stand by ERISA, Congress is going to create a problem in 50 States by enabling every State licensing law or building requirement to impose haphazard and discriminatory requirements under the guise of apprenticeship, and "worry, minorities, worry, women, because you will find it is not always easy to get by the apprenticeship rules of the unions." If you are interested in providing your constituents with access to quality apprenticeship programs, you go in exactly the opposite direction of this most unfortunate bill.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I would be glad to yield to the gentleman from California.

(On request of Mr. BERMAN and by unanimous consent, Mr. FAWELL was allowed to proceed for 2 additional minutes.)

Mr. FAWELL. I yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I just want to try to join the issue here on the point the gentleman from Illinois makes, because I hear his passionate arguments but I truly do not understand them.

I would like to go to California with the gentleman from Illinois and pass the vast number of nonunion construction contracts that existed before Hydrostorage case and that exist after Hydrostorage. This is about conforming to State standards, standards promulgated with the notion of training workers to come into the work force and protecting their health, and safety, and quality of the product.

That is what this is about. In the late 1930's, Congress passed the Fitzgerald Act. It set forth some Federal guidelines. It told the States to implement those guidelines. I would like the gentleman to name for me one guideline promulgated according to the Fitzgerald Act and pursuant to the Fitzgerald Act that the States have overturned or that would be overturned by this amendment, just one guideline, so that we can understand what is really at stake here, because I would suggest that the gentleman's argument——

Mr. FAWELL. If I may reclaim my time, which may be expiring, first of all, the State Apprenticeship Councils are the agents for and representing, of course, the Federal Government. So it is, I assume—I am not intimately familiar with how they set their guidelines—but they are, in effect, setting guidelines. If they are out of line, I am sure that if they came before the national DOL, I suppose there would be an issue. In Hydrostorage, the guidelines had nothing to do, had very little to do, with training or protecting health. They said, in just plain English, "I am sorry, you know, unless you submit to the union plan, you are not going to be allowed to even have a chance to enter into this public contract." That is where I am objecting. I am not objecting to commonsense standards. And, by the way, there are not many cases where these kinds of complaints are leveled.

There are only about six or seven States that, as I understand it from the people who work in the apprenticeship plans, that have been out of bounds, have been beginning to try to mandate what could be called special interests. And in all those cases, usually it is unions who have a control, and they want their plans to be followed.

When you have a union plan, they will be even able to eliminate, for instance, the use of helpers, just as this body the other day came to the rescue of unions again when we said "Hey, you don't pass regulations in the Department of Labor because we like the definition of apprentice that happens to be in the regulations right now. We don't want you to think about anything else that might allow helpers to be an expected definition."

Mr. WILLIAMS. Mr. Chairman, I move to strike the last word, and I rise to oppose the amendment.

Mr. Chairman and colleagues, the case for restoring comprehensive State apprenticeship programs to the status that they enjoyed prior to the case that the gentleman from Illinois has raised—that is, the Hydrostorage case—and similar cases, is very strong. Protection of apprentices and apprenticeship programs historically, understand, has been a State function, beginning in Wisconsin in 1911.

A majority of the States since then have chosen to regulate apprenticeship at the local level, using State employees paid through State apprenticeship funds. Each of these State apprenticeship councils is approved through the U.S. Department of Labor. They are charged with full responsibility for regulating apprenticeship programs within their own State's jurisdiction. The idea that ERISA preempts these State apprenticeship councils is extremely peculiar. After all, the Fitzgerald Act, the Federal law of the land, is predicated upon a split Federal-State responsibility for regulating apprenticeships. Moreover, once the State apprenticeship council is recognized by the U.S. Department of Labor, the State council is legally obligated to regulate apprenticeship programs within their State. Thus, the court decisions dealing with apprenticeship preemption have created what is a peculiar and very odd conflict between the two Federal statutes.

On the one hand Congress has explicitly authorized States to regulate apprenticeship programs. Again I remind you we did that under the Fitzgerald Act. On the other hand the courts have now concluded that States cannot regulate apprenticeship programs under ERISA.

We hold that makes no sense.

Let me suggest to my colleagues on the other side that, if you oppose the State role in promoting apprenticeship training and protection programs, then move to amend the Fitzgerald Act, but let us not hold the State programs hostage using the shaky argument of preserving congressional intent under ERISA.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Illinois.

Mr. FAWELL. I thank the gentleman for yielding.

Mr. Chairman, the Fitzgerald Act, of course, is a Federal act that tries to do, in its own way, what ERISA tries to do, and that is to have a uniformity. So that indeed every time someone shall go to another State or even to another county—I can see in my area of Illinois, if one is out in the suburbs, there is a certain kind of a climate insofar as apprenticeship plans are concerned. Go into the city of Chicago and there is another type of climate.

The whole concept of ERISA and the whole concept of Fitzgerald is that we should approach this, indeed, from a Federal viewpoint so that we do not hack to death all of the various people who are trying to compete and to come up with employee benefit programs and have some uniformity to it, yes.

Mr. WILLIAMS. Reclaiming my time, Mr. Chairman, let me conclude this moment of opposition to the gentleman's amendment by telling my colleagues, reciting for my colleagues the States which want authority over this matter and, therefore, support this bill which provides them with authority over this matter and, therefore, would oppose the gentleman's amendment.

□ 1510

And we have heard from all of these States through the National Association of State Apprenticeship Directors.

Now I hope my colleagues will bear with me. I know that much of the debate on this bill gets tied up in legal terminology, and it requires a certain familiarity with the basis of the subject in order to understand it, and so it might be helpful to some of our colleagues that are listening to this debate to know which States would like to control their own apprenticeship matters, and, therefore, in my judgment would oppose the amendment of the gentleman from Illinois [Mr. FAWELL]—Arizona, California, Connecticut——

The CHAIRMAN. The time of the gentleman from Montana [Mr. WILLIAMS] has expired.

(By unanimous consent, Mr. WILLIAMS was allowed to proceed for 2 additional minutes.)

Mr. WILLIAMS. Delaware, Florida, Hawaii, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, my State of Montana, Nevada, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington. There are also some territories, very importantly, that would also be included in this list.

My colleagues, these States are torn between the Fitzgerald law, the Federal law, which requires them to have authority on these matters, and a court test which says they cannot. Our bill attempts to return to the States the right over these matters. The amendment of the gentleman from Illinois [Mr. FAWELL] would gut that.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words and speak both to the author of the amendment and, more importantly perhaps, to my chairman.

I am concerned about this issue, as many of my colleagues know, and I am trying to find some sort of accommodation, compromise, that will meet all of our concerns.

The author of the amendment, the gentleman from Illinois [Mr. FAWELL], has indicated his concerns about State mandates that would put all of these plans under union dictates, and it is my understanding that people on the other side, the chairman and others who have worked on this, have said that is not the purpose of this legislation, that, for example, they say that the Department of Labor could institute some regulations that would avoid that kind of a mandate.

Do I understand the chairman? Is that correct?

If that is correct, before the gentleman answers that part of it, I want to ask the second part of my question.

If that is correct, then why can we not put some language here, either in the body of the bill or in the report language, that would indicate clearly that this is not, should not be, a concern of ours on the minority side because I think the gentleman from Illinois [Mr. FAWELL] has made a perfectly legitimate argument here, that that would be the consequence unless we take some corrective action or specific action in the language or the report language to avoid that.

The gentleman says that is not his intention. Then we ought to have some way to put the language into the bill here.

If the amendment of the gentleman from Illinois [Mr. FAWELL] goes too far, and I do not believe it does, but if it does go too far, then we ought to be able to modify it in some way.

Mr. WILLIAMS. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. Mr. Chairman, I will yield to the gentleman now, but I do have a second part to my question.

Mr. WILLIAMS. Mr. Chairman, it is not the committee, and I do not believe one can hold, upon passage of this legislation, that it would be congressional intent to empower one group or another. What we are attempting to do is return that authority simply to the States.

Now if any language that the gentlewoman would have in mind would remove part of that authority from the State, then I would oppose that.

Mrs. ROUKEMA. Then, reclaiming my time, Mr. Chairman, let me go on to the second part of my question. I am not sure that the gentleman from Montana [Mr. WILLIAMS] answered, but I think perhaps the second part is equally important, if not more important, and that is our concern regarding the fiduciary standards.

The gentleman seems to think that that is a problem because that is the heart of this preemption question, as far as I am concerned, what will be the consequence of his language and the preemption, the abandonment of preemption, with respect to fiduciary standards. That is a cause of great concern on our side.

Mr. BERMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentlewoman from New Jersey [Mrs. ROUKEMA] for yielding to me, and I should point out that the Department of Labor's ability to monitor how funds are spent to enforce the reporting and disclosure requirements of ERISA, to audit those funds is retained. There is nothing in this bill that impacts on the Federal Government's ability to do these things. They are covered by ERISA, these plans, all the authority given to the Department of Labor under ERISA, to ensure that fiduciary obligations are met, are left untouched by this bill. To say otherwise is to create a strawman.

I read the Hydrostorage case, and then I listened to the gentleman from Illinois [Mr. FAWELL] talk about it. I do not see anything in the Hydrostorage case that talks about union versus nonunion. It talks about whether a particular contractor is willing to meet the standards put there for apprenticeship programs. Maybe he has talked to the company. Maybe the company told him something. Maybe he has talked to the lawyer. I read the written decision, and it is not in there, and we are creating, really, a bogeyman there in terms of creating a situation that just does not exist on the facts of this case.

Mrs. ROUKEMA. Mr. Chairman, it seems to me that the gentleman has opened the door here to permit the States to go as far as they will on this subject.

Mr. FAWELL. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Illinois.

Mr. BERMAN. They are still covered by ERISA.

Mr. FAWELL. Mr. Chairman, I repeat once again, in Hydrostorage they were told very, very plainly that their own nonunion apprenticeship plan did not mean a darn thing. They had to accept the union plan.

The CHAIRMAN. The time of the gentlewoman from New Jersey has expired.

(By unanimous consent, Mrs. ROUKEMA was allowed to proceed for 2 additional minutes.)

Mrs. ROUKEMA. Mr. Chairman, I continue to yield to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Now, when a nonunion employer is told that unless he decides he will go over and accept that particular apprenticeship program, he will contribute to that union fund, he will take all the other conditions that may be in that apprenticeship program when he has his own certified program, I think that that is terribly unreasonable. Obviously, what this means is that the entity that controls the apprenticeship programs ultimately controls the flow of labor obviously, and, if those kinds of plans are allowed to exist in California or in any other State, then we are going to have a discrimination, obviously, on the basis of whether they are or are not in the union plan.

Mr. BERMAN. Mr. Chairman, will the gentlewoman yield to me just for a comment?

Mrs. ROUKEMA. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentlewoman from New Jersey [Mrs. ROUKEMA] for yielding to me.

I have the Hydrostorage case in front of me. I would like to know where in Hydrostorage it says that this contractor was kept from getting a contract because this contractor did not engage union labor. Nowhere in the opinion does it say that. If this contractor wants to do business in California, and this involves dealing with construction of water storage facilities, and there are regulations about how many apprentices one can have working on this very complicated project compared to journeymen, and what kinds of standards they should have for employing apprentices, and what kinds of contributions they should make to the fund that is involved in training, I think that is California's business. As long as the fiduciary obligations and the regulation of these plans by ERISA and by the Department of Labor is kept intact, which it is in this bill that is before us now, I do not see why I, the gentleman from Illinois [Mr. FAWELL], and the people on that side of the aisle, the people who have spoken over and over again about the right of the States to make some decisions for themselves about basic health and safety regulations, and not have everything sucked up by the Federal Government, would object to this.

□ 1520

Mr. FAWELL. I have the case here. I have read it three or four times.

Mr. BERMAN. I have it here.

Mr. FAWELL. It consistently points out that the boilermakers' plan had to be accepted. The State apprenticeship council made that very clear, and I think a lady we both respect a great deal sitting not too far from the gentleman will admit that that is what that plan required. They had to accept the boilermakers' plan. They as nonunion people had to contribute to that plan.

Mr. ANDREWS of New Jersey. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my friend, the gentleman from Illinois [Mr. FAWELL], is correct when he says that sometimes the cases and the technicalities are dry, but he is also right when he implies that the consequences of these decisions are very, very important.

Mr. Chairman, here is the way I understand these issues. If a State is building a turnpike exit ramp and that State through its statutes or rules decides it wants to promote the idea of worker training and apprenticeship by requiring anyone who bids on the right to build that turnpike exit ramp to have an apprenticeship program, we are faced with two questions that are framed by this bill.

The first question is who gets to decide whether they can do that; and the second question is what has Congress already decided in ERISA in 1974.

We have heard some good arguments made expressly and impliedly today as to whether that is good or bad public policy. I think it is good public policy that we promote worker training and apprenticeship by requiring those bidding on public works contracts at the State level to have apprenticeship programs. It is exactly the kind of argument that should be taking place in the New Jersey State Legislature, in the Illinois State Legislature, in the Texas State Legislature, and in all the State legislatures across the country.

The question of whether that is good or bad economic policy does not belong here, it belongs there.

The second question is what did Congress already decide in 1974? Look at the language of the statute. Look at the legislative history. Look at the committee hearings.

I would submit to the committees that there is no sustainable ground to contend that Congress in 1974 intended to preempt and make that decision. Least of all did Congress intend to move that decision over to the Federal courts.

If we do not clarify the scope of Federal preemption by adopting this bill and opposing this amendment, what we in effect are saying is that not only should that decision about whether that public works contract should promote apprenticeship, not only should that decision not be made by the State legislatures, it should be made by the Federal courts in a never ending string of decisions about what the scope of preemption is.

That is not where that decision belongs. It is an important decision of economic policy and it belongs in the State legislatures.

Mr. Chairman, I would be happy to yield to my friend, the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, these are intricate areas of law and the facts, too. In hydrostorage the State apprenticeship council simply said no parallel plans will be even considered, would not allow them, would not open up their minds. You can have a certified apprenticeship program and you simply do not have a chance in California to bid.

Mr. ANDREWS of New Jersey. Mr. Chairman, reclaiming my time, if someone in the California Legislature finds that objectionable, they should introduce legislation to overturn it. Not here, not by us.

Mr. FAWELL. Mr. Chairman, if the gentleman will yield further, I beg to differ. Of course we know that the Fitzgerald Act is there and that State apprenticeship agency is an agent of theirs. It is not purely a California creature.

Obviously we find that it is counterproductive to having uniformity. Also fairness is involved, and also we are concerned about the union involved and accounting for money and things of that sort. But we are only saying why should it be that only one union is the one that is allowed to work on these projects? That is all.

Mr. ANDREWS of New Jersey. Mr. Chairman, reclaiming my time, I would disagree with the merits of the gentleman's point. But more important than that, if the gentleman from Illinois [Mr. FAWELL] wishes to pursue those merits, the gentleman should either introduce legislation to amend the Fitzgerald law or he should introduce legislation to amend ERISA and expressly make those points.

To permit the Federal courts to implicitly overturn matters of State economic policy is not what ERISA intended to do and it is not good public policy.

Mr. FAWELL. Mr. Chairman, if the gentleman will yield for one last reply, ERISA, as I mentioned earlier, is an oasis of freedom. It contemplates that in an employee benefit program, and they specifically include apprenticeship programs and other training programs, it says you, the employer, and you, the workers, and, yes, the union, too, get together and work this out. It says GE, you have thousands of employees all over America, you can get that plan. You can keep it. You do not have to change it when you go to Peoria or San Francisco. We have certified that it is good. It is a sound plan.

All of that is blown out the window by what you are doing here.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ANDREWS] has expired.

(By unanimous consent, Mr. ANDREWS of New Jersey was allowed to proceed for 2 additional minutes.)

Mr. ANDREWS of New Jersey. Mr. Chairman, I yield to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, one does not even have with ERISA a battle between States rights and the Federal Government because the Federal Government has more or less pulled back and said insofar as employee benefit plans are concerned—now, with pension plans they have higher fiduciary standards. I do believe there are more standards. But what they have said is for once we let freedom reign. We let the employers and the union and the employees work together, create their own plan, no matter what, if it is an employee benefit plan.

Mr. Chairman, do you know what happened? I listened to all those States reciting how many States would like to regain some power.

Mr. Chairman, John Dent, the Congressman who led the fight for ERISA back in 1974, said, and correctly, that the preemption was the crowning achievement of ERISA.

Yes, it was, because we finally had all the States agree that in this one area, for the benefit of everyone, for the workers and the employers alike, that we ought to be able to create something which the people created, you got it, and then when you go to Peoria or San Francisco or Portland, you can keep it.

Mr. ANDREWS of New Jersey, Mr. Chairman, reclaiming my time, we oppose the amendment of the gentleman from Illinois [Mr. FAWELL] because we disagree over what ERISA is and what it should be. ERISA is not an omnibus national uniform Labor Relations Act. It regulates health plans and pension plans and other kinds of plans between the employer and employee.

If the gentleman from Illinois [Mr. FAWELL] wishes to pursue the economic policies he is arguing today, introduce legislation and let us debate it on the merits. Let us not permit the superlegislature of the Federal courts to rewrite labor law on a State-by-State basis.

Mr. ARMEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is for me a personal privilege and pleasure to rise in support of the Fawell amendment. I have had the unsavory duty to sit on the Committee on Education and Labor for 8 years and watch the unseemly workings of that committee and behold with discouragement the shameless pandering to special interests that I have seen on that committee. But there has been one shining star working on behalf of the public interest, and that is the gentleman from Illinois [Mr. FAWELL].

Mr. Chairman, I have had the privilege of sitting next to the gentleman from Illinois [Mr. FAWELL], of seeing his margin notes, seeing his underlining, seeing his careful study of even the most insidious of fine print written into the bill by the AFL–CIO's Legal Foundation as they drafted it on behalf of their water carriers on the committee. I can tell you that I have no doubt in my mind there is no member of this committee that is more able, more dedicated nor more professional in his committed service to the public's interest in defiance of special interests than the gentleman from Illinois [Mr. FAWELL].

Mr. Chairman, when I first got on the Committee on Education and Labor, I was confused. As a labor bill would be brought up by the majority, and only those that were introduced by a member of the majority were ever brought up, I would naturally ask myself the question, how will the working men and women of America be served by this legislation?

□ 1530

I can never, in all my 8 years, think of one bill that did service to the real working men and women in their real jobs in the real country. And I was confused.

Finally, I got a tip. I read in Time magazine, on June 22, 1987, a gentleman by the name of Howard Samuels, who was the president of the AFL–CIO's Legal Foundation, as he, according to Time, boasted that they, they being the AFL–CIO Legal Foundation, according to Mr. Samuels, and I quote, "We control the committees and the agenda on the floor."

In all the 8 years I have been on this committee, I have seen not one speck of evidence that might refute Mr. Samuels' candid observation of their special, self-interested power with the majority of this committee.

And so I look at the bills taken up by the majority with a different view. I ask, if it is, in fact, written at the AFL–CIO on behalf of itself or their other big labor organizations, who will be served?

Certainly they want to do some service to their declining ability to organize free American workers into unions where their money is siphoned off for any number of purposes, much of which to promote political candidates that will work contrary to the interests of the workers, as Mr. Beck found out, to help the union lawyers, Harvard-trained union lawyers who maybe never have spent time in their life on a job getting their hands dirty, who sit in big offices here in Washington, DC, looking for chances to impose lawsuits on the work force of this country and the employers of this country for big labor stipends. Yes, they work on behalf of them. But who works on behalf of the working men and women of this country?

Let me tell my colleagues what this is about. When I was 18 years old, I went to work for a construction company. We were a backward State. We had the idea that people that had worked on the job for years would know about that job and could train young people. I went to work as an apprentice lineman, dangerous work, hard work, heavy work.

Mike Berg, who had worked on that job for 20 years, taught me how to climb a pole and how to keep safe on that pole. He had been there doing that job, and he cared about whether or not I would live or die. And he was accountable, if something happened to me.

Others on the crew, men, working men and women who knew the job and did the job taught us youngsters how to do it.

The CHAIRMAN. The time of the gentleman from Texas [Mr. ARMEY] has expired.

(By unanimous consent, Mr. ARMEY was allowed to proceed for 2 additional minutes.)

Mr. ARMEY. And they kept us safe because they cared about our physical abilities.

Then we had a bureaucrat from the State who came out to supervise us and to teach us how to be safe. His name was Gill Mowers. he had never climbed a pole in his life. He did not understand a come-along from a coffin hoist. But he had had a course in first aid. So that if, in fact, we followed Mr. Mowers' advice instead of Mike Berg's and we injured ourselves, somebody would be able to put a bandage on us. And we learned not to listen to these goofy bureaucrats from the State but to listen to the real people on the job.

Now, today, my young nephew is still, after 3 years, in an apprenticeship training program administered by the Gill Mowers of the world. He has not yet found a job because the union has not placed him in a job. What right of that young man to work, as a free American, has been served by these apprenticeship programs? The sponsors of the legislation have had the gall to stand here and say, "We have spoken to the people in charge of the apprenticeship programs in every State in the Union and they want this."

Well, hell, yes, they want it. That is their bread and butter. Do they care about the guys that are trying to get a job out there? They care about themselves.

The union bosses want it because they do not want anybody working on a job in this country where they cannot rake off some of their money to support their political cronies whether the workers like it or not.

I am telling my colleagues, I have come to the conclusion that if, in fact, the Committee on Education and Labor majority brings a bill to this floor, it is an intellectual and moral sham on behalf of some self-serving special interests that are practicing the politics of greed and wrapping it in language of love and destroying the chance of our children to learn a trade and work in this country.

Vote for the gentleman from Illinois, [Mr. FAWELL]. Vote for America's general public interest instead of a bunch of union bosses in Washington, DC, that do not even have the decency to care about the people who pay their salaries.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the language before us. It is very simple legislation, for those who will take the time to read it.

It is quite obvious that the speaker who was just in the well approaches an issue like this so angry before he gets to it that he probably does not have much success with reading it.

I would like to extend my sympathies, as the chairman of that committee, to any Member who has served 8 long unsatisfying years on a committee he hates in a state of confusion. There is a solution to that, I might suggest to the gentleman. It is not within my power, however, to solve his problem. It is something he has to do for himself.

The legislation before us today is one of the shortest and simplest bill I have ever brought to the floor of the House. It has a narrow purpose—to restore three kinds of State laws that were mistakenly preempted by ERISA, the Employee Retirement Income Security Act of 1974. These laws are important to the States, they are important to the multiemployer plans that are affected by them, and they are critically important to the millions of workers—largely construction workers—who are protected by them. And none of them was intended by the Congress to be preempted.

The first kind of State law we would preserve are State prevailing wage laws, which protect local labor standards against being undercut by public works. Thirty-one States have such laws, which protect contractors and construction workers by requiring the State to determine what wages and benefits are typically paid in an area, and then to see to it that State-subsidized construction work is bid and performed at compensation levels no lower than those found to be prevailing.

How does ERISA, the pension protection law, impact on prevailing wage laws? ERISA says that it supersedes any State law "insofar as it relates to any benefit plan." Thus, though there is no real conflict between the State laws and Federal law, because they require the payment of prevailing benefits they relate to benefit plans and are preempted.

Even those who do not sympathize with the purposes of the Davis-Bacon Act should defend and support the right of State governments and their subdivisions to regulate their own State-funded or State-subsidized construction and public works. Without a clear Federal purpose, which is absent in this case, the Federal Government should not attempt to control how the States spend their own construction dollars.

The second kind of State law we would preserve are the 50 State apprenticeship laws. In a weird misreading of not just one, but two Federal laws, and without a shred of support in the legislative history of ERISA, the courts have preempted every State law that sets minimum standards for the training and certification of apprentices.

As you know, America's apprenticeship system is the product of a 55-year-old Federal-State partnership established by the Fitzgerald Act in 1937. The act encourages the States to "form and promote standards of apprenticeship," which they have done, without exception, throughout six decades. The result is the finest occupational training system in the Nation, and perhaps the world.

But suddenly, a few years ago, the courts began striking down State apprenticeship laws as preempted by ERISA. Why? Because the act's definition of employee benefit plan includes apprenticeship or other training programs and all State laws that relate to employee benefit plans are preempted, the courts have invalidated the Federal-State apprenticeship system.

These decisions have been devastating. The State standards protect the health and safety both of apprentices and their fellow workers and the public. Journeyman to apprentice ratios are critical both to construction quality and to the proper training of apprentices. Minimum requirements for on-the-job training and related classroom training are the heart and soul of quality apprenticeship. They ensure that apprentices will become versatile, experienced, and highly skilled journeymen.

The courts are tearing down this system, but they have nothing with which to replace it. The 93d Congress, which wrote ERISA, could not have intended and did not intend this result.

The third kind of law which we would restore are State remedies for failure to pay contributions to employee benefit plans. The most important such remedy is the mechanics' lien, the traditional means by which workers secure payment of their wages and benefits for the work they perform in erecting or repairing a building or other property.

Mechanics' liens give the workers a property interest in the real property they improve with their work, until their wages and benefits are paid.

This secured interest is critically important in the construction industry, where employers are mostly small, geographically mobile contractors who hire their employees on a short term, per project basis. It is common for these contractors to go bankrupt, to dissolve, or simply to disappear.

Many contractors routinely change their names and legal identities. Some will change their business name several times a year. Without a lien on the property to secure their wages, workers and their benefit plans would often go unpaid. The States have recognized this harm and taken action to prevent it. And no Federal interest warrants undoing the protections the States have developed.

The administration recognizes the importance of these State laws. The Department of Labor's position paper on H.R. 2782 states, in part:

> We agree that it is important for multiemployer plans to have effective collection remedies. Not only does the inability to secure payment from delinquent employers undermine the plans, but it adversely affects the other contributing employers who may have to make up the shortfall.

DOL goes on to say that exempting such remedies from ERISA preemption "would not require plans to comply with inconsistent administrative/regulatory schemes imposed by various State laws."

I urge my colleagues to join with me in restoring State sovereignty in these three well-defined areas by voting for H.R. 2782.

Mr. GUNDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know if there is anyone in this body who is more conscientious and sincere in his efforts than our colleague, the gentleman from Illinois [Mr. FAWELL]. I mean that sincerely and personally.

But sometimes we come up with different interpretations. Sometimes we come up with different conclusions. And in this case, I simply have to disagree with my colleague from Illinois, and I have to oppose his amendment. And I want to call on my colleagues on both sides of the aisle to oppose his amendment as well.

When we began consideration of this bill in the Committee on Education and Labor, as my colleagues have heard, if they listened to the debate, there were three major issues. There was the prevailing wage issue, which thanks to our friend, the gentleman from Michigan [Mr. HENRY], I think we have come up with an accommodation on language.

There was the mechanics' lien issue, which I think there has been little debate about. And there is the apprenticeship issue.

I feel very strongly about the apprenticeship issue. I feel very strongly, and I want to say to my Republican colleagues, everything that we have been advocating as Republicans on apprenticeship has been sending it back to the States.

My colleague, the gentleman from Pennsylvania [Mr. GOODLING] and I have introduced apprenticeship language or apprenticeship legislation that sends primarily the bulk of that responsibility back to the States. The Department of Labor and President Bush have sent up legislation on apprenticeship that sends the bulk of that back to the States with only the concept of some basic guidelines here at the Federal level in a leadership role.

The reality of all of that is that every one of the States are running apprenticeship programs today.

In a week or two, we are all going to be back here. We are going to be debating an entirely different issue. It is going to be debating an entirely different issue. It is going to be the Freedom of Choice Act. Every one of my colleagues is going to say to those advocating the Freedom of Choice Act, "For gosh sakes, let the States set the standards."

My only plea to my colleagues today is, be consistent. Today also let the States set the standards.

My good friend, the gentleman from Illinois [Mr. FAWELL], suggests that somehow that the Fitzgerald Act prevents us from allowing the States to set standards in apprenticeship programs. I just disagree with him. I am going to read to my colleagues.

Under the Fitzgerald Act, it says, "The Secretary of Labor is authorized and directed to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices."

□ 1540

It goes on and gives a number of different options, including "to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship. * * *" So all the way back to the Fitzgerald Act the concept of States setting standards in this area has always been in existence.

The fact is today States have the ability and the authority to set standards, to establish wages, to set terms and conditions of indentures, and other regulations. That is part of the problem of why this bill is here, because we are in a no man's land right now. With the Hydrostorage case we have, in essence, said, "States, you cannot do it. You cannot set standards on apprenticeship programs if in any way, shape, or form they can be interpreted to be wages or benefits."

At the same time, unless we are all going to advocate a national apprenticeship program running from Washington, and I cannot believe any Republican would advocate that in 1992, we have a problem, because we then have a conflict. We have a conflict between the concept of allowing States to regulate apprenticeship programs and ERISA.

If the Members believe that ERISA ought never be preempted under any case, under any circumstance, under any condition, then vote no on this bill. But I happen to think that in this case it is far better to take ERISA out of apprenticeship and have 50 States design and adapt their own unique apprenticeship programs than it is for us to say, "We are going to have ERISA, apprenticeship programs be damned."

We can disagree on that, but it would seem to me that we do much more to help people by taking those apprenticeship programs to the State.

The reality is that the legislation before us for that very reason has been endorsed by the National Association of State and Territorial apprenticeshipship Directors. It has been endorsed by the National Association of Government Labor Officials.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GUNDERSON was allowed to proceed for 4 additional minutes.)

Mr. GUNDERSON. Mr. Chairman, if the Members will look at most of the cases, whether it be the Hydrostorage case or the other examples that are being used here today, I want to again plead to my Republican colleagues, most of these cases were disputes that occurred in California. Most of these cases were cases that occurred when the State Apprenticeship Council in California was under the direction of then-Gov. Ronald Reagan.

We might not always agree with what Ronald Reagan did or did not do, but certainly he had the ability through the appointments to change who is on that State Apprenticeship Council in California. I think that concept of letting States decide who is going to be on their apprenticeship council and the conditions they are going to set makes all the sense in the world. If we have, God bless them, a prounion State that sets all kinds of prounion standards for apprenticeships, then take that industry and move it to a nonunion State. That is the risk they run. We can travel with our feet in this country. There is no economic advantage for a State to lock up an apprenticeship program so tight under the mold of being union that it destroys the apprenticeship program altogether.

What would be jeopardized if we passed this amendment is not only the rest of the legislation, but as my staff talked to our State apprenticeship director in Wisconsin, we go beyond just the Hydrostorage case. If this amendment is adopted, the Members are then not going to give any State the authority to regulate the ratios of journeymen to apprentices. Do the Members want that? They are not going to give any State the authority to regulate wages of any kind for apprenticeships. Do we want that? We are not going to give the States the authority to regulate the amount of classrooms required or the amount of on-hands job experience required. Do we want that?

In 1992 when both candidates for President, when both parties, when everybody in this country is crying out for a comprehensive manpower policy in this country, are we going to today, just to show that we are antiunion, destroy every initiative in the apprenticeship programs that is moving in the direction of the States and empowering the States to deal with the whole concept of high school and prep tech and the 50 percent of the public that does not graduate from college? I hope not.

I plead with my colleagues on both sides of the aisle, do not make this a labor issue. Do not make this a union versus management issue. Make this manpower issue. Make it a States rights issue that gives those States the authority to develop their manpower programs, their training and retraining programs, of which apprenticeship is one key part. Vote "no" on the Fawell amendment, and pass this bill on a bipartisan basis.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I am happy to yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I appreciate the gentleman's statement. I want to commend the statement of the gentleman in the well, and draw the attention of my colleagues that this was the type of bipartisan agreement and consideration that we heard in both subcommittee and full committee. The antiunion vituperative comments that have come out today were not evident at subcommittee or full committee, and as chairman, I am frankly surprised by them, but delighted by the bipartisan, thoughtful statement of the gentleman in the well.

Mr. GUNDERSON. Mr. Chairman, I appreciate the gentleman's remarks.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I am happy to yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, I obviously have the greatest respect for the gentleman from Wisconsin, and it pains me that he is on the other side of this argument.

First of all, I want to make it clear that the administration, of course, oppose this bill and will continue to oppose it as long as these kinds of provisions are in there.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. GUNDERSON] has expired.

(By unanimous consent, Mr. GUNDERSON was allowed to proceed for 2 additional minutes.)

Mr. GUNDERSON. I yield to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I just want to get the gentleman's attention. ERISA, of course, has been going for 18 years and nobody has really complained in regard to the fact that it does say to employers and employees, "You folks get together, with unions too, and work out this thing that is called an apprenticeship program," and we do not want to have to put you and the employees at the disadvantage of having, as this bill would prescribe, to have every State government, every county government, every local village or city having the right to come up with its own apprenticeship program.

Would the gentleman not say that over the years, and by the way, the Hydrostorage case just recently came out, and the gentleman is right in saying that there are not many that are complaining about the present system until we had this problem in California, and they wanted to solve it by changing everything.

They could even change, for instance, as I understand an apprenticeship program, the State apprenticeship council can dictate into that apprenticeship program that which I know the gentleman is against, the concept of putting into ice and stone the definition of "apprentice," and elbowing out the definition of "helpers;" indeed, in those States, and there are about five or six that give a lot of problems here, that is what they can do.

As I know apprenticeship programs, when we have standards, even such as X number of apprentices to journeymen, people are not filing lawsuits over those kinds of things. They are filing lawsuits when somebody with ERISA, or a GE with 3,000 employees, I know the gentleman has undoubtedly considered those points, but the gentleman's reply would be appreciated.

Mr. CHAIRMAN. The time of the gentleman from Wisconsin [Mr. GUNDERSON] has again expired.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by our good colleague on the committee, the gentleman from Illinois [Mr. FAWELL], and in support of H.R. 2782.

First, let me take exception to the remarks that were made by the gentleman from Texas [Mr. ARMEY] in his vehement antiunion address.

I would like to inform the gentleman that I do not believe our committee is controlled by any other outside force other than our constituents, who send us there to represent their respective interests.

I want the gentleman to know that in this particular measure is one of the best examples of how the members of the committee on both sides of the aisle worked for many months in working out the details of the legislation to correct what we believe is an erroneous series of court decisions interpreting the original act, working with the minority, the gentleman from Michigan [Mr. HENRY] in trying to work out amendments that would make it much more palatable for everyone involved in this legislation.

□ 1550

And I almost know that in 1974, had the gentleman from Texas been here, he would have opposed the original act. It was not intended at that time that we would supersede 31 State laws in various degrees concerning the implementation of their labor protection acts. And even though the courts found that that was the case, then let us set that aside. That argument is now gone from us.

But I would hope the gentleman from Texas and every member of the committee and every Member of the House would respect the rights of the States to protect their labor people, their wage earners in the respect that they have in the various labor agreements. All we attempt to do is say that if we erroneously in 1974, this body, this Congress said that we should supersede all of these 30, and yes 50, States in their labor laws, that today we intend to correct that action. And it surprises me that the gentleman from Texas, who is constantly on the floor arguing for States rights, States right, that he would stand up here and say that now in this regard we do not recognize the States rights when they are out protecting the people who work for a living in those States.

We are saying that those State laws respecting employee benefits, prevailing wages, when they are protecting the contributions to their retirement plans, when they are talking about retraining programs and training programs, they have a right to adopt the maximum protection that they want, and that this Congress, this body will establish today that we do not have the right, we do not have the desire to overrule. And that the mechanics lien laws in the States, contractors and employees of those contractors shall continue to be protected.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding.

Let me just remind the gentleman that it was not my assertion that the committee is controlled by the unions, but it was that of Howard Samuels, the chairman of the Legal Foundation of the AFL-CIO in Time magazine on June 22, 1987. So if the gentleman argues with that contention, the argument should be with Mr. Samuels.

Mr. MURPHY. Or Time-Warner magazine.

Mr. ARMEY. I am just relating to the gentleman Mr. Samuels' assertion.

Mr. HAYES of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not come here before Members with any prepared statement, but I do come before Members with some various experience in the area of this discussion. I am one who remembers, as a leader of labor, when ERISA was passed. As a matter of fact, I was a member of the Illinois State Federation of Labor and argued for that kind of a bill and legislation for protection for working people.

I am somewhat shocked at some of the remarks of my colleague from the State of Illinois, from which I come. Maybe I should not be because we have sat on the committee now together. I have been there for some 9 years. I have always had the view, and he proves it here today, that he represents not only a different part of the State of Illinois from me, but his views represent a different group in our society.

It seems to me that he is more inclined to agree with some employers, not all of them, because I have negotiated with employer who agree with the position that we are taking here in the promotion of this bill we are talking about today.

I do not understand why we cannot be more broad in our views and try to legislate based on all aspects of our society. After all, when you stand up here and bash unions, you must realize that they only represent roughly 16 percent of the working force in this great Nation of ours. So we are talking about legislation that not only benefits union workers but those outside of unions. We are talking in the main about workers in the building trades.

I have not always agreed with some of the positions taken by some of the leaders of the building trade organizations, because there was a time when there were barriers based on race and gender that even barred us from being a part of the apprenticeship programs which we are talking about protecting here today.

I see nothing wrong with the restoration of some of the things in the power of ERISA that have been taken away by the action of the courts through the years that we are talking about.

And I hear us talking about labor lawyers, and the fact that they come from here in the city of Washington, DC. Most companies have lawyers, and employers have legal representatives that certainly make more money and are much richer than the lawyers that represent unions or the people who represent the people who are the lawyers here who are Members of this Congress.

So I think we ought to at least tell the truth when we stand up here and stand up for that which is right. Support all of the people. We pay the taxes for this organization, this great Nation of ours which supports the Members of Congress through our taxes. God knows we should not have this situation. Most of the members of the construction trade do not live in the city; they live in the suburbs where some of our Members come from and represent their interest.

Please oppose, with all of the vigor we can muster, this amendment. I am surprised it takes this kind of energy. I hope we can demonstrate some of this when we start talking about trying to solve the economic crisis that confronts the building trades, the industrial trades in all of the sections of this country. I want to see some of this kind of vigor about a public works program, and yes, about rebuilding our infrastructure which requires the usage of building trades people.

I do not want to ask for any more time. I just want Members to vote down this amendment and vote for the bill itself.

Mr. Chairman, I rise in support of H.R. 2782, and against any amendments intended to disrupt the original direction of this bill. As you know, Mr. Chairman, this bill restores a number of very important and long-established worker protections under State law which have been preempted by ERISA in a series of court cases. It would restore State laws that required the payment of prevailing wages in construction, apprenticeship training laws, and laws establishing remedies for collecting contributions to multiemployer plans, which have all been thrown out on ERISA preemption grounds.

This legislation is critical to the protection of worker rights, and I urge my colleagues to support H.R. 2782 and to vote against any damaging and disrupting amendments to the bill.

Mr. WILLIAMS. Mr. Chairman, I ask unanimous consent that all debate on this amendment end by 4:15. That is within 15 minutes.

Mr. ARMEY. Reserving the right to object, Mr. Chairman——

Mr. WILLIAMS. Mr. Chairman, I withdraw my unanimous-consent request, in the interest of comity.

□ 1600

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Fawell amendment and in vigorous support of the passage of H.R. 2782, which clarifies the preemption clause of ERISA.

Mr. Chairman, I happened to have been a Member of Congress at the time ERISA was passed in 1974, and I recall the very vigorous debate that ensued for many years with respect to the ability of the Congress to understand the importance of a uniform piece of legislation that governed all of the employee pension benefit plans. One of the struggles that came up for discussion repeatedly was the fact that we had a very mobile work force that moved from State to State, and in some cases could not benefit from pension plans and contributions that they had made in one State when they moved to another, and as a consequence, Congressman John Dent of Pennsylvania, the chair of that subcommittee at that time, worked very hard to pass the first legislation on ERISA.

I do not recall at any point during that debate, or any time during my service in Congress during that time, that there was any intent on the part of Congress to control what the States and local governments did with other aspects of benefits that the employees might gain from such as training, apprenticeships, prevailing wages, and mechanic liens, and so in rejoining the Congress 2 years ago, I was quite surprised to find this raging debate as a result of various court decisions that had interpreted ERISA far beyond the scope and breadth that was intended in 1974.

The argument today is very simple. Is this Congress going to return to the original intent of ERISA as enacted by the Congress in 1974, or is it going to allow the courts to legislate in the field that so traditionally belongs to the State and local governments?

I find it very amusing that we find ourselves today on this side of the aisle defending the rights of States to have exclusive jurisdiction over matters that pertain to matters relating to workers, because it has so traditionally been the argument of Members on the other side of the aisle to argue that States' rights should have a preeminent policy in governing this country, and yet that is really the issue today.

Do we want the courts to interpret a congressional enacted law to specify that ERISA preempts the States from deciding what kind of prevailing wages and under what circumstances governing their government contracts on the local scene should prevail, or should this be manipulated and autocratted by the Federal bureaucracy?

Similarly with the apprenticeship programs which have been clearly put in place by the Federal Government with strict standards allowing the States to form these joint committees, and I remind the opposition, those in support of the Fawell amendment, that these joint committees are not union committees. They are joint committees, at least those that I am familiar with in my own State, with management and labor coming together understanding the mandate of this Congress under the Fitzgerald law that there be strong apprenticeship programs, training people, not for the purpose of just having training but because it is essential to the products that we want to produce with Federal dollars and tax dollars so that it can stand up to the strict mandates of construction standards and worker safety and so forth and so on.

So it seems to me very simple that what we are asking the Congress to do is to reinstate the intent of the law as it was originally passed in 1974, and to leave to the States these areas of wages, training, apprenticeship, and the enforcement of mechanics liens to the local governments who best know their own local circumstances and, therefore, ought to be given the opportunity to enact laws and to make them applicable to their work force at home.

I hope that the Congress will look at this not for the heat of the debate that has been engendered this afternoon, but for the very simple essence of what we are trying to do, and that is to restore the act as it was, nullify what the Supreme Court and other courts have said in this instance which expand it.

I mean, I have heard so many people argue that you should not let the Supreme Court write law or stretch the meaning of laws that Congress passes. Well, this was clearly a case in which the courts did exactly that. So let us restore that original premise, allow the States States' rights in an area which has traditionally been theirs, and vote for the passage of H.R. 2782.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Frankly, I rise in opposition to the tone of the remarks and the insinuation that a committee of this House, the Committee on Education and Labor, and the people that serve on that committee, to be in any way controlled by any particular group.

That committee is a good committee, and I respect the leadership that the gentleman from Michigan [Mr. FORD] has brought to the Education and Labor Committee; fair-mindedness, the wisdom and deliberate consideration of this by the subcommittee chairman, the gentleman from Montana [Mr. WILLIAMS], the heart and soul really as represented by people like our friend from Chicago, the gentleman from Illinois [Mr. HAYES], who has served on that committee.

I think that the members of the Education and Labor Committee have a tough job, and I think they worked some very long hours dealing with topics that are obviously highly emotional. I regret that Members who do not get their way in terms of policy on such committee, but if that committee is solely and wholly defending a particular interest group, especially labor, they have had a very tough go of it the last decade especially when I observe what has happened to working people in this country and with regard to national policy the last decade.

So I just want to make it clear with regard to this Education and Labor Committee and the excellent job they do and I have a great deal of respect for both their dedication and work product. I have a great esteem for the work that is done on a day-by-day basis for the bread and butter of people across this country in terms of labor representation, and I think that the demise of labor in this country and the nonapplication of the National Labor Relations Act, which we are not debating today, but some remarks may lead those viewing this debate to believe such was the issue, we are not debating that. I thought that labor's role in the free enterprise system and the rights of workers was something that most of us would have taken for granted in 1980. But I guess the question today, 12 years later, is that it is clear to me that such labor rights, the rights of working men and women, no longer can be taken for granted.

You know, so many economic problems in this country in terms of where we are at would be, I think, resolved if we just empowered and gave people the opportunity to receive a decent living, working wage, in this country. But sadly that is not the case today, and so we are faced again on the floor of this House to come to the defense of working men and women with regard to their retirement benefits.

When the 1974 ERISA law was passed, the purpose of this act was to try to project retirement benefits. Employee Retirement Income Security Act is intended to safeguard the retirement benefits, because people were promised benefits, and they were denied them.

The employees of Minneapolis Moline, White Motor Co. in our communities in Minnesota, was front and center in terms of working people being promised benefits and denied them.

In the process of passing this and the application of this ERISA law today 18 years later, in the enthusiasm to enforce this law, all of a sudden the Department of Labor is going to eliminate the States' role in terms of a host of labor policies, mechanic's lien laws; the issue, for instance, of prevailing wages, and, finally, apprenticeship councils and apprenticeship rules and guidelines are going to be undercut.

The National Government does not spend all of the money on the education and training in these States, but somehow there are people in this body apparently, and the courts, and the Department of Labor who think we ought to have the preeminent position to dictate from inside the beltway here what goes on in all 50 States, that the States that spend the money that have the successful programs, ought to have less to say. Think about it. What the apprenticeship programs across this country are, and they need more of, not less apprenticeship programs.

Do you want to discourage these States by dictating from Washington once again what goes on without money or very little money?

You know, the construction trades are being pushed out front for criticism in this process, especially those who are members of labor unions, and the respective apprenticeship programs. The U.S. building trades constitute the most productive construction workers in the world. That being the case being made, and if that is the case, I think we ought to let them continue to do what they have done so successfully. We need this particular type of competitive advantage and success. We need that type of training and skill on as a competitive American advantage today. We ought to leave them do the job they do, the apprenticeship program that are being well done, and we ought to act on this bill and change the law to modify the court interpretation which I think is inappropriate impact and, overreaching and provide the proper intent, to protect the retirement benefits of workers.

We ought to leave the State apprenticeship councils to do their tasks, and the State councils to accomplish the good apprenticeship programs that they have created and developed, not use the apprenticeship programs as some sort of a spoils system at the national level where the winner is going to take all and dictate, and I think, in the end, cause a deterioration of many of these good apprenticeship programs.

So vote against this amendment and vote for the bill before the House today.

Mr. Chairman, I rise in support of H.R. 2782, which will set straight the application of the Employee Retirement Income Security Act [ERISA] and reverse the egregious interpretation by the courts of the preemption clause contained in the 1974 ERISA law. No one would have guessed or thought that is was the intent or effect of the national ERISA law to prevent States from determining the wages that should be paid on State construction projects paid for with State funds. I do not believe that anyone would say that this was the case. That was not part of the debate or issue of difference, but the courts aided by the Reagan and Bush administrations have used this good law [ERISA] to achieve and implement unrelated and unreasonable policies.

Could it have been the intention of anyone in the 1974 Congress enacting this law to undercut State apprenticeship programs which promote training, work, quality, productivity, and job opportunities? Of course not. The amendment before the House today will maintain the integrity of our national apprenticeship programs. Today such apprenticeship programs are threatened by the Bush administration's Labor Department which has attempted to ignore a congressional prohibition last year which barred the issuance of new regulations governing apprenticeship programs which would abolish journeyman-apprentice ratios, minimum hours of classroom instruction, and abolish State employer-employee apprenticeship councils. The Bush administration's Labor Department has even gone so far as to propose the creation of an entirely new category of so-called helpers who are guaranteed to provide a pool of low-wage labor for contractors and all such actions under the rubric of ERISA as interpreted by the Reagan-Bush courts and administrations. Fortunately for apprentices, last week the House defeated the Stenholm amendment to the supplemental appropriations bill which would have given the Labor Department a green light to go forward with its ill-advised new rules.

Mr. Speaker, Congress in the 1974 ERISA Act and since has consistently rejected such wholesale thoughtless implementation of and negative reach applied to this important law. Yet another example is the attempt to gut State mechanic's lien laws which benefit workers by securing the payment for work already performed which is being interpreted to be preempted by ERISA. Mr. Speaker, the measure before the House is the vehicle to straighten out the abuse, the misuse, and the distortions which have undercut the ERISA language and workers as a result of court decisions abetted by the antiworker rights administrations.

It is absolutely essential that we pass this bill and enact it into law to make certain that the rights for workers and their families are protected, especially in this period of economic distress.

It is ironic that the basic ERISA law so important to safeguard workers' retirement benefits, to provide certainly and prevent the ripoff of workers' pensions has been converted into a law which adversely affects workers' rights. It is a travesty that this law [ERISA], a great labor victory, has been turned into a scourge to punish workers.

If we do not enact this bill, worker training, which is so important during this period of high unemployment, will be jeopardized. Furthermore, during this prolonged recession and structural economic period of change, job opportunities in construction, already limited, will be ratchetted down from fair compensation. Congress should not permit courts to decide based wholly on the ERISA statute that States cannot set a fair prevailing wage rate on construction projects paid for with State and local funds. By the same token, Congress must not allow conservative courts to strike down State mechanic's lien laws that may be the only way for workers to receive pay for work already performed.

Mr. Chairman, I strongly support this measure and urge passage of this bill.

□ 1610

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment. I have had brought to my attention a number of proposals that people would like to make at the State level and elsewhere to protect the rights of working people, retired people, divorced spouses, and others. They find themselves not only preempted from doing so, but accidentally preempted.

No one, I believe, argues that the kind of very far-reaching preemption that now is considered to exist was intended.

Clearly, ERISA is not just a preemption. It is a preemption with a penumbra outside of the ninth amendment. So I hope on the merits we will allow the States to act sensibly. No one is arguing for the right of the States to interfere with the scheme set forward to protect pension rights.

What we have is people trying to take advantage of I believe some inadvertence, and we are trying to correct it.

But I want to also talk about States rights in general, because I think what we are seeing today ought to further help us lay to rest the notion that the Republican Party is the party of States rights and localism.

In fact, there are virtually no people left in American politics today who prefer things being done at the State level, nor are there people who prefer them being done at the Federal level. What almost all of us prefer is that the issue be decided at that level where we will get the outcome we best like, and I think that is perfectly reasonable.

We do not live in 1790. Some of us from time to time evince a severe wish that we did, but most of us do not, and in fact none of us do. We live in a very different time from the time of the Constitution. While we have people in this body who are Hamiltonians on Monday, Wednesday, and Friday, and Jeffersonians on Tuesday, Thursday, and Saturday, resting of course on Sunday, neither position is terribly relevant. We have a unified economy. We have instant communication. We have various forms of travel.

So in fact when you look at this interconnected American economy, the sensible position is to say, given my values, given my view of efficiency, how should this problem be best dealt with and how should that problem be best dealt with, and there is nothing the matter with that.

What I find wanting is the pose of people who claim to be for States rights and for local activity and against the Federal Government, unless they do not like the outcome.

We have today a number of people in this body who profess conservatism, denouncing the notion of States rights and arguing for a Federal regime.

I think that the gap between their professions of today and their principles on other days is quite wide.

But I would caution some of my colleagues, let us not get too carried away with the States rights sweater. I do not mind wearing it today, but let us not plan to live in it for the rest of our lives.

We will be dealing with other issues where many of us will argue that there ought to be a preemption. The point I am making is that the error here I think is the inconsistency in pretending to hold to a general position, when in fact no one does.

We will be arguing about whether or not we should be preempting credit, and some of us will be arguing that we should not have the Federal law preempt credit.

On the other hand, there are areas where we want the Federal law preempted. In particular, I would warn my conservative friends they ought to be a little bit careful, because it is conceivable that Bill Clinton will be President.

The vigor with which many of my conservative friends are today defending the Federal Government obviously is related to the specifics of the Federal Government. We have the most antilabor administration in power today that we have had in a long time. Well, I take it back. We have the second most antilabor administration. The Reagan administration was the most. These people are a close second.

What we have are people who because they so enthusiastically support the antiunion stance of the current administration that they are prepared to impute to the Federal Government a wisdom and a perfection that they will not long believe in if things change.

Now, that was perfectly OK to say as long as George Bush was running the game, "I want it to be this way, but with Bill Clinton I want it to be that way."

But I warn my friends, be careful with some of the words you are using, because there may very well be a change.

In fact, what we have gotten is very little on the merits. We have gotten denunciations of the very temerity of organized labor for even trying to exercise its viewpoint. How dare they act as if the Constitution of the United States applied to them?

No one has been defending the argument that there should be preemption on the merits because it is so inherently weak.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentlewoman has already once stricken the requisite number of words on this amendment. Without objection, the gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 5 minutes.

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, I must address this question of States' rights and how it relates to the preemption issue. I know that my colleagues on the Banking Committee, both in Minnesota and from Massachusetts, were not referring to me when they were talking about inconsistencies on States' rights; so I think I can speak with some credibility on this subject, and also as the ranking member of this subcommittee.

Aside from the rhetoric that may have gotten away from some of us, I want to make it very clear to our colleagues here that we are not arguing some abstraction on the subject, or some discrepancy on the subject of States' rights versus preemption.

We are not talking about States' rights. Contrary to what we have heard here, actually most State programs, apprenticeship programs, are going to continue with this bill or with the amendment of the gentleman from Illinois [Mr. FAWELL], either way. Most of those State programs are going to continue. That is not what is at issue here. The issue is the scope of certain mandates here and how it covers either union or nonunion apprenticeship programs and their relationship to welfare benefit programs, and that brings us to ERISA and the preemption issue.

Yes, ERISA preemption on a bipartisan basis since 1974 has said that there is an overriding public good and interest here and that we cannot have a cohesive voluntary pension system if everybody is going off in all different directions, and so they gave the right to preemption and it has served us very well over the years. So do not confuse certain fealties to States' rights versus Federal mandates with the ERISA preemption argument.

My concern here, as I know it is that of the gentleman from Illinois [Mr. FAWELL] as well, is ultimately for what the impact regardless of how the mandates are interpreted in the individual States, what the impact is going to be overall, whether or not they will be consistent with the fiduciary and the reporting responsibilities under ERISA. That is the final and ultimate issue that we are concerned with today and it is not to be trivialized by an argument between States' rights or Federal mandates.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentlewoman for yielding to me.

She is correct, and my references to a certain logical gap in people's positions, I was not referring to her.

I would have to say to my friend, the gentlewoman from New Jersey, that I realize she cannot be held responsible personally for the arguments that she happens to get burdened with on her side, but she cannot expect us to refrain from commenting on them, either.

Mrs. ROUKEMA. Well, reclaiming my time, Mr. Chairman, I am very happy to be associated with the gentleman from Illinois [Mr. FAWELL] here on this amendment, because I think he has targeted on a proper issue here.

Finally, I just want to say to all my colleagues, whether you understand the history of the Hydrostorage case or the whole history of ERISA since 1974 or not, you must understand that what we are trying to protect is the voluntary pension system here, protect the fiduciary responsibilities, make sure that they are well funded and not corrupt and create a system whereby we can expand those voluntary programs, rather than correct them.

Our concern is that the more States go on their individual ways, the more we are going to contract the system and the more small businesses particularly are going to opt out of the program.

Finally, Mr. Chairman, I simply want to say that senior officials at DOL have again reiterated to me and our side that a veto will be recommended if this Fawell amendment is defeated.

Support the Fawell amendment.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have got to say that this is a very interesting debate. Before he leaves the floor, and maybe the gentleman is not leaving the floor, the gentleman from Massachusetts in his presentation, I congratulate him because he is an honest man. If you read his book, he is very honest about his feelings and about what he was saying. I think I interpreted from his speech that he feels that the Constitution is irrelevant in today's times.

□ 1620

And he is very honest about that. I wish other Members of the House were just as honest.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Mr. Chairman, in fact I alluded to the Constitution with some reference, for instance, supporting the right of people in organized labor to lobby and make representations. What I said I thought was irrelevant, frankly, was a distinction I would have made explicit, the distinction between interstate and intrastate commerce. My view is not only that I think it is essentially irrelevant, I think virtually every Member of this House does. That is the distinction between the interstate and intrastate commerce that made sense in the economy physically of 1790. I think is far less relevant today, and I believe it can be easily documented that every other Member of the House thinks that as well, only that part.

Mr. DELAY. With that, I am very interested in this debate because I am struggling with the States' rights issue, and therefore I yield to the gentleman from Texas to better explain his position.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Chairman, I appreciate having a little bit of time to correct the RECORD.

One of the fun things about debate on the floor of the House is, no matter what you say, it is fun to stay and see how it gets spun around by the other people in the debate. I have been spinning like a top here, thanks with the help from my good friend, CHARLIE HAYES, of course, the gentleman from Illinois, who had a distinguished career as a union official before coming to Congress. He spoke eloquently on behalf of union officials, as one might expect.

I think we at least ought to correct the RECORD. I have no problem with union members, I have no problem with unionization, I have no problem with collective bargaining. What I have a problem with is union bosses who sit fat and sassy in Washington offices, taking union dues from hard-working men and women and then sponsor legislation that does no good for those men and women in the world who are paying the union dues, but takes care of the union bosses in Washington, DC. If in fact they were representing their members, they would not find, one, their members declining in number; and, two, being virtually impossible, without coercion by the Federal Government, to recruit people to membership.

Furthermore, I would like to make the point this is not about restricting a State's right to define its own apprenticeship program for its own workers; it is about whether or not a State like California that may have a whacky apprenticeship program will have the right to impose the requirements of that program upon the workers from a same State like Texas or Alabama or Wyoming or any other State.

And finally, let me just say, if in fact the liberals in this body find it somewhat incongruous for them to understand our protecting State rights in the way we are today, I might say I find it fascinating that they would dare to come before Congress and the American people and protest our judicial activism even in fact when they do not find it there.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Illinois.

Mr. FAWELL. I thank the gentleman for yielding.

Mr. Chairman, debate like this is good no matter sometimes how we get heated up. The gentleman from Massachusetts [Mr. Frank] made one statement, I do want to clear the record there; he said, in reference to apprenticeship programs, that we are talking about an accidental preemption. By no means. I mean, 18 years ago it was carved in very, very clearly that these types of programs and other training programs would absolutely be covered by ERISA. And ERISA has been an outstanding success. I think it is getting a bum rap.

It is not States rights versus Federal rights. It is a tremendous program dealing with employee benefit program. And apprenticeship was put in there, and there were no problems, there have been no real problems. The Federal apprenticeship programs, of course, as a Federal program, are not preempted. They are getting along very well. The apprenticeship programs back in the States where we are helping children, in high school, in community colleges, et cetera, they are working very well. We are talking—and the only reason we are here, I guess—is because we suddenly have this problem flare up that is the first one in 18 years.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DELAY] has expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 1 additional minute.)

Mr. DELAY. I continue to yield to the gentleman from Illinois.

Mr. FAWELL. I again thank the gentleman for yielding.

We suddenly have this problem of flare-up that really is the first one in 18 years in California, where understandably unions are in trouble. You look at your constituents, and I think 70 percent are nonunion construction trades. If you tell them how you are going to vote, they are not going to agree with that. They like ERISA, they understand what it is. It has worked very well. It is no accident. It is just unfortunate that we even have to be here to debate it.

Once again I made my say, and I thank the gentleman.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Mr. Chairman, I just want to say to my friend from Texas—he objected to how he was characterized—I would agree if anyone said he was spinning like a top, that was inappropriate. In his use of States rights, I think he is more like a yo-yo.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. DELAY. If I have any time left, I yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, to respond to the point just made by the gentleman from Illinois, there is a fundamental difference between ERISA regulation of apprenticeship programs. There is no argument that ERISA has obligations.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DELAY] has again expired.

(On request of Mr. BERMAN and by unanimous consent, Mr. DELAY was allowed to proceed for 1 additional minute.)

Mr. DELAY. I continue to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, there is no question, and no one is arguing, that ERISA does not have provisions that govern disclosure, reporting, fiduciary obligations for apprenticeship plans. The question is whether it was ever intended that ERISA preempt every single aspect of enforcement under a scheme that the Congress passed 50 years ago which said that we at the Federal level will make certain guidelines, the States will implement, enforce, and participate in these programs. We never intended to wipe out the Fitzgerald Act when we passed the ERISA preemption. We intended have some regulation. That regulation continues after this bill passes. That regulation will be clarified if Mrs. ROUKEMA offers an amendment, which we are prepared to accept. There is a fundamental distinction between a Federal role and preemption of any State role, and it is the latter that we are focused on in this legislation.

Mr. DELAY. Mr. Chairman, reclaiming my time, I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for yielding.

I just wanted to say the gentleman from Massachusetts is erudite, is very fascinating, and also very rapid, and it is hard for me to keep up with it. But, please, vote "yes" on Fawell for the American working men and women.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FAWELL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FAWELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 266, not voting 28, as follows:

[Roll No. 359]

AYES—140

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehner
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Gilchrest
Goodling
Goss
Gradison
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Holloway
Hopkins
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Laughlin
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Porter
Quillen
Ramstad
Ravenel
Ray
Rhodes
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sarpalius
Schaefer
Sensenbrenner
Shaw
Shuster
Skeen
Smith (OR)
Smith (TX)
Snowe
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Valentine
Vucanovich
Walker
Weber
Wolf
Wylie
Young (FL)
Zeliff

NOES—266

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hefner
Henry
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moran
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett

Pickle
Poshard
Price
Pursell
Rahall
Rangel
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Vento
Visclosky
Walsh
Washington
Waters
Waxman
Weldon
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Zimmer

NOT VOTING—28

Ackerman
Broomfield
Campbell (CO)
Clay
Collins (MI)
Conyers
Coughlin
Dickinson
Ford (TN)
Gephardt
Geren
Gingrich
Glickman
Hatcher
Hertel
Kleczka
Meyers
Mrazek
Nichols
Schulze
Serrano
Towns
Traxler
Vander Jagt
Volkmer
Weiss
Wheat
Whitten

☐ 1649

Messrs. NAGLE, OWENS of Utah, GALLO, and SAXTON changed their vote from "aye" to "no."

Mr. McCANDLESS and Mr. LEACH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Chairman, I missed the last vote on the Fawell amendment. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA:

Page 3, line 10, strike "or".

Page 3, insert after line 10 the following:

to the extent that such law does not conflict with any right, requirement, or duty established under this title; or"

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, my amendment makes an important change to clarify that the all important ERISA fiduciary duties and prudent investment requirements will continue to apply to both union jointly trusted plans as well as non-union plans.

The fiduciary provisions go to the heart of ERISA, and we should not leave this Chamber today until we make sure that the exception to ERISA preemption will not allow these crucial protections to be overturned or put into conflict under State laws.

My amendment would preserve the reporting, disclosure, fiduciary, and enforcement standards under Title I of ERISA.

I would also like to point out that any State or local government regulations or involvement in ERISA apprenticeship or training programs is not preempted, if they are otherwise authorized under other Federal legislation. Therefore, it should be understood that so-called school-to-work transition programs, often referred to as "youth apprenticeship programs," would not be affected by ERISA preemption because, in general, such initiatives would not rise to the level of an "employee welfare benefit plan" as that term is defined under ERISA.

Finally, it is important that we recognize that State laws would take precedence over the ERISA fiduciary standards requiring the prudent investment training plans for the exclusive benefit of participants and beneficiaries. I know of no reason, and no reason has been stated, why the States would be given license to overturn ERISA or impose fiduciary duties on such plans which conflict with the ERISA requirements.

Mr. WILLIAMS. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I commend the gentlewoman. I personally believe that even if no amendment were adopted, the fiduciary rules would remain viable. But I agree with the gentlewoman that we do not want to give the States the right to undercut ERISA's fiduciary protections, and I believe the gentlewoman's amendment accomplishes that result.

Our side is, therefore, pleased to accept her amendment.

Mr. ORTON. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Utah.

Mr. ORTON. Mr. Chairman, I rise in support of the gentlewoman's amendment and in support of H.R. 2782.

Mr. Chairman, many of my colleagues today have characterized this issue as labor versus business. It is not. The question before us today is States rights. This issue is States versus Federal Government.

The Employment Retirement Income Security Act of 1974 [ERISA] established preemption of State laws for only one purpose—to establish one standard set of rules governing retirement pension plans. It is to protect the integrity of retirement plans not to prohibit States from establishing other protective statutes they deem necessary.

Over the past few years, the courts have interpreted this preemption clause in ERISA to extend to State statutes involving apprenticeship programs, prevailing wages, and mechanics liens. I believe this interpretation is contrary to the intent of ERISA.

I find it mildly amusing that 20 years ago during the ERISA debate, Democrats and Republicans found themselves divided over the issue of preemption: Republicans arguing ardently against preemption and Democrats in favor. Today we have switched sides and the debate continues.

My support of H.R. 2782 is not parochial. Passage of this act will have little or no impact on labor or business in Utah. The Utah State Legislature has chosen not to enact prevailing wage laws or apprenticeship programs, but other States have enacted such laws.

The States should have the right to decide for themselves if they need to enact laws to protect their workers. Utah has decided against it, other States have found it necessary to adopt such measures. We in Washington shouldn't make that determination for the States.

I have consistently opposed Federal preemption of State action in all circumstances other than those mandated in the Constitution. I urge you to support States rights and vote in favor of H.R. 2782.

Mr. ATKINS. Mr. Speaker, I rise in support of this legislation, H.R. 2782.

In 1974, Congress amended the Employment Retirement Income Security Act [ERISA]. We did so in order to eliminate the threat of conflicting and inconsistent State and local regulation. The very purpose of the amendments was to protect the pensions of workers.

But in adopting these amendments the drafters utilized broad language preemptive of State law and regulation. Indeed, at the time of their adoption, some concern was expressed that in our attempt to ensure uniform protection of workers' pensions, we might have crafted language which could have the unintentional effect of precluding essential legislation. Accordingly, Congress was authorized a task force to be established under ERISA which was given the specific agenda of reviewing the effects of the 1974 law. Unfortunately, that task force never came to fruition. As a result, we never revisited the effects of the 1974 preemption scheme in an orderly fashion.

And unfortunately, our earlier error followed by our omission has served to undercut worker protection.

Having evaded our oversight responsibilities, the Federal courts, known in the past few years for loudly criticizing judicial activism and raising the flag of behalf of State rights, have struck again and again in a judicially active manner to decimate the ability of the States in traditional areas of State regulation to protect workers.

Massachusetts is one of 31 States which has its own prevailing wage law with respect to employment on projects funded in whole or in part by State government. Unless we amend ERISA through the proposed legislation, however, Massachusetts will not be able to exercise its expressed desire to protect wage standards, equalize competition among bidding contractors, and maintain quality work standards.

Massachusetts has long had a mechanics' lien law which permits workers to secure payment for their work on services. This law has also been declared preempted by the Federal courts—again rendering Massachusetts unable to provide State protective regulation.

Finally, Massachusetts has a comprehensive apprenticeship law which ensures that certain training standards are met on public works projects. Unless we pass this legislation, given the overreaching of the Federal courts in other areas of the country, Massachusetts will be unable to ensure that its public works projects incorporate those standards.

Mr. Chairman, I arise in support of this legislation. Preemption of these areas has only become an issue because we have let the courts misread our intent and permitted the courts to become legislators. We must reclaim that right and responsibility.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey [Mrs. ROUKEMA].

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LANCASTER) having assumed the chair, Mr. ECKART, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2782) to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws, pursuant to House Resolution 536, he reported the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, August 3, 1992, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 5649, and

H.R. 5475, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PHASEOUT OF THE OCCUPATIONAL TAXES RELATING TO DISTILLED SPIRITS, WINE, AND BEER

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5649.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5649.

The vote was taken by electronic device, and there were—yeas 200, nays 207, answered "present" 2, not voting 25, as follows:

[Roll No. 360]

AYES—200

Abercrombie
Allen
Anderson
±Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Ballenger
Barnard
Bateman
Beilenson
Berman
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boxer
Brewster
Brooks
Brown
Bunning
Bustamante
Cardin
Clement
Clinger
Coble
Coleman (TX)
Collins (IL)
Coyne
Cunningham
DeFazio
DeLauro
Dellums
Dicks
Dixon
Downey
Duncan
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Fascell
Fawell
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Geren
Gibbons
Gilman
Gonzalez
Gordon
Goss
Green
Guarini
Hall (OH)
Hayes (IL)
Hochbrueckner
Hopkins
Horn
Horton
Hoyer
Hubbard
Hughes
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Jones (GA)
Jones (NC)
Kanjorski
Kennelly
Kildee
Klug
Kolbe
Kolter
Kostmayer
Lantos
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McDermott
McEwen
McGrath
McMillan (NC)
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Murphy
Natcher
Ortiz
Owens (NY)
Packard
Pallone
Panetta
Pastor
Paxon
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Porter
Quillen
Ramstad
Rangel
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Rogers
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Sanders
Santorum
Savage
Sawyer
Saxton
Scheuer
Schumer
Sensenbrenner
Shaw
Shays
Sikorski
Sisisky
Slaughter
Smith (FL)
Smith (NJ)
Solarz
Stark
Stearns
Stokes
Sundquist
Swett
Swift
Taylor (MS)
Taylor (NC)
Thomas (CA)
Torres
Traficant
Unsoeld
Vento
Visclosky
Vucanovich
Washington
Waxman
Weiss
Weldon
Wolpe
Yates
Yatron
Young (AK)
Zeliff
Zimmer

NOES—207

Alexander
Allard
Anthony
Aspin
Atkins
AuCoin
Bacchus
Baker
Barrett
Barton
Bennett
Bentley
Bereuter
Bevill
Boehner
Boucher
Browder
Bruce
Bryant
Burton
Byron
Callahan
Camp
Campbell (CA)
Carper
Carr
Chandler
Chapman
Coleman (MO)
Combest
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Cramer
Crane
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Ewing
Fazio
Fields
Gallegly
Gekas
Gephardt
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gradison
Grandy
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Holloway
Houghton
Huckaby
Hunter
Hutto
Hyde
Ireland
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kaptur
Kasich
Kennedy
Kopetski
Kyl
LaFalce
Lancaster
LaRocco
Laughlin
Leach
Lehman (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Luken
Marlenee
Martin
McCloskey
McCollum
McCrery
McCurdy
McDade
McHugh
McMillen (MD)
McNulty
Michel
Miller (OH)
Moakley
Moorhead
Morrison
Murtha
Myers
Nagle
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (UT)
Oxley
Parker
Patterson
Payne (NJ)
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Poshard
Price
Pursell
Rahall
Ravenel
Ray
Reed
Regula
Richardson
Roberts
Roemer
Rohrabacher
Rose
Rowland
Sangmeister
Sarpalius
Schaefer
Schiff
Schroeder
Sharp
Shuster
Skaggs
Skeen
Skelton
Slattery
Smith (IA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stenholm
Studds
Stump
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thomas (WY)
Torricelli
Upton
Valentine
Walker
Walsh
Weber
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Young (FL)

ANSWERED "PRESENT"—2

Lagomarsino
Waters

NOT VOTING—25

Ackerman
Broomfield
Campbell (CO)
Clay
Collins (MI)
Conyers
Coughlin
Dickinson
Ford (TN)
Hatcher
Hertel
Kleczka
Meyers
Mrazek
Nichols
Roe
Schulze
Serrano
Thornton
Towns
Traxler
Vander Jagt
Volkmer
Wheat
Whitten

□ 1717

Mrs. SCHROEDER and Messrs. ATKINS, RICHARDSON, FAZIO, RAHALL, HALL of Texas, WILLIAMS, EVANS, NEAL of Massachusetts, OLVER, MOAKLEY, CRANE, and OWENS of Utah changed their vote from "yea" to "nay."

Messrs. BLILEY, HUGHES, BILIRAKIS, HAYES of Illinois, WELDON, PORTER, DICKS, FROST, INHOFE, and JAMES, and Mrs. VUCANOVICH changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LANCASTER). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the motion to suspend the rules on which the Chair has postponed further proceedings.

PROVIDING POLICIES WITH RESPECT TO APPROVAL OF BILLS PROVIDING FOR PATENT TERM EXTENSIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5475, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 5475, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 278, nays 131, answered "present" 1, not voting 24, as follows:

[Roll No. 361]

YEAS—278

Abercrombie
Alexander
Allen
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Boucher
Brewster
Brooks
Browder
Brown
Bryant
Bunning
Burton
Bustamante
Callahan
Camp
Cardin
Carper
Carr
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Cox (CA)
Coyne
Cramer
Cunningham
Dannemeyer
Davis
de la Garza
DeLauro
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dornan (CA)
Downey
Dreier
Duncan
Dwyer
Dymally
Early
Eckart
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hayes (LA)
Hefner
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (TX)
Jones (GA)
Jones (NC)
Kanjorski
Kasich
Kildee
Klug
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Livingston
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Martin
Matsui
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Perkins
Peterson (FL)
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Santorum
Sarpalius
Sawyer
Schaefer
Schiff
Sensenbrenner
Shuster
Skaggs
Skeen
Skelton
Slattery
Smith (IA)
Smith (NJ)
Smith (TX)
Solarz
Solomon
Spence
Spratt
Staggers
Stearns
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traficant
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wilson
Wolf
Wolpe
Wylie
Yatron
Young (AK)

NAYS—131

Allard
Andrews (ME)
Atkins
Bacchus
Baker
Beilenson
Berman
Blackwell
Borski
Boxer
Bruce
Byron
Clement
Collins (IL)
Costello
Cox (IL)
Crane
Darden
DeFazio
DeLay
Dellums
Dorgan (ND)
Durbin
Edwards (CA)
Evans
Fawell
Flake
Franks (CT)
Gejdenson
Gekas
Goss
Green
Hamilton
Hastert
Hayes (IL)
Hefley
Huckaby
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kaptur
Kennedy
Kennelly
Kolbe
Lantos
Leach
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Markey
Marlenee
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McDermott
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moody
Myers
Oakar
Olin
Orton
Owens (NY)
Owens (UT)
Panetta
Pelosi
Penny
Peterson (MN)
Poshard
Rahall
Ramstad
Rangel
Reed
Roemer
Ros-Lehtinen
Sabo
Sanders
Sangmeister
Savage
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Slaughter
Smith (FL)
Smith (OR)
Snowe
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Torres
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weber
Weiss
Williams
Wise
Wyden
Yates
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Campbell (CA)

NOT VOTING—24

Ackerman
Broomfield
Campbell (CO)
Clay
Collins (MI)
Conyers
Coughlin
Dickinson
Ford (TN)
Hatcher
Hertel
Kleczka
Meyers
Mrazek
Nichols
Roth
Schulze
Torricelli
Towns
Traxler
Vander Jagt
Volkmer
Wheat
Whitten

□ 1727

Mr. MINETA and Mr. FLAKE changed their vote from "yea" to "nay."

Mr. HANSEN and Mr. GORDON changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HUTTO). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, August 5, 1992.

VETERANS' COMPENSATION RATE AMENDMENTS OF 1992

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4244) to amend title 38, United States Code, to increase, effective as of December 1, 1992, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, as amended.

The Clerk read as follows:

H.R. 4244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Rate Amendments of 1992".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) 3.2 PERCENT INCREASE.—Section 1114 is amended—

(1) by striking out "$83" in subsection (a) and inserting in lieu thereof "$86";

(2) by striking out "$157" in subsection (b) and inserting in lieu thereof "$162";

(3) by striking out "$240" in subsection (c) and inserting in lieu thereof "$248";

(4) by striking out "$342" in subsection (d) and inserting in lieu thereof "$353";

(5) by striking out "$487" in subsection (e) and inserting in lieu thereof "$503";

(6) by striking out "$614" in subsection (f) and inserting in lieu thereof "$634";

(7) by striking out "$776" in subsection (g) and inserting in lieu thereof "$801";

(8) by striking out "$897" in subsection (h) and inserting in lieu thereof "$926";

(9) by striking out "$1,010" in subsection (i) and inserting in lieu thereof "$1,042";

(10) by striking out "$1,680" in subsection (j) and inserting in lieu thereof "$1,734";

(11) by striking out "$2,089" and "$2,927" in subsection (k) and inserting in lieu thereof "$2,156" and "$3,021", respectively;

(12) by striking out "$2,089" in subsection (l) and inserting in lieu thereof "$2,156";

(13) by striking out "$2,302" in subsection (m) and inserting in lieu thereof "$2,376";

(14) by striking out "$2,619" in subsection (n) and inserting in lieu thereof "$2,703";

(15) by striking out "$2,927" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$3,021";

(16) by striking out "$1,257" and "$1,872" in subsection (r) and inserting in lieu thereof "$1,297" and "$1,932", respectively; and

(17) by striking out "$1,879" in subsection(s) and inserting in lieu thereof "$1,939".

(b) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking out "$100" in clause (A) and inserting in lieu thereof "$103";

(2) by striking out $169" and "$52" in clause (B) and inserting in lieu thereof "$174" and "$54", respectively;

(3) by striking out "$69" and "$52" in clause (C) and inserting in lieu thereof "$71" and "$54", respectively;

(4) by striking out "$80" in clause (D) and inserting in lieu thereof "$83";

(5) by striking out "$185" in clause (E) and inserting in lieu thereof "$191"; and

(6) by striking out "$155" in clause (F) and inserting in lieu thereof "$160".

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking out "$452" and inserting in lieu thereof "$466".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 1311 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$636	W-4	$912
E-2	655	0-1	805
E-3	673	0-2	831
E-4	715	0-3	890
E-5	734	0-4	941
E-6	750	0-5	1,037
E-7	786	0-6	1,170
E-8	831	0-7	1,264
E-9	[1] 868	0-8	1,386
W-1	805	0-9	1,486
W-2	837	0-10	[2] 1,631
W-3	862		

[1] "If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $936.

[2] "If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,747.";

(2) by striking out "$71" in subsection (b) and inserting in lieu thereof "$73";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191"; and

(4) by striking out "$90" in subsection (d) and inserting in lieu thereof "$93".

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking out "$310" in clause (1) and inserting in lieu thereof "$320";

(2) by striking out "$447" in clause (2) and inserting in lieu thereof "$461";

(3) by striking out "$578" in clause (3) and inserting in lieu thereof "$596"; and

(4) by striking out "$578" and "$114" in clause (4) and inserting in lieu thereof "$596" and "$118", respectively.

(b) SUPPLEMENTAL DIC for DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking out "$185" in subsection (a) and inserting in lieu thereof "$191";

(2) by striking out "$310" in subsection (b) and inserting in lieu thereof "$320"; and

(3) by striking out "$157" in subsection (c) and inserting in lieu thereof "$162".

SEC. 7. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this Act shall take effect on December 1, 1992.

The SPEAKER pro tempore (Mr. HUTTO). Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 4244, the bill now under consideration, and on the four other bills that will follow this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1730

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

As my colleagues may know, compensation payments to veterans with service-connected disabilities, and dependency and indemnity compensation [DIC] for widows and children of veterans who die of service related disabilities are not subject to increase through automatic indexing. Therefore, each year our committee must review these programs and report to the House a bill to provide specific cost-of-living adjustments in the compensation and DIC rates.

H.R. 4244 was introduced by the chairman of our Subcommittee on Compensation, Pension and Insurance, the gentleman from Ohio [Mr. APPLEGATE].

Before yielding to the gentleman for an explanation of the bill, I want to thank him for his leadership on this bill and the next veterans bill we will consider, which is H.R. 3236, and to thank the gentleman from Arizona [Mr. STUMP] for his cooperation in bringing this bill and others to the floor.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, before I begin my explanation of this bill I would first like to thank the distinguished chairman, SONNY MONTGOMERY, for bringing these bills to the floor in such a timely fashion and for his excellent leadership of the committee. I also want to thank my good friend and ranking minority member, BOB STUMP, for the fine bipartisan support and assistance he and his staff provided in bringing this legislation to the House.

H.R. 4244, as reported by our committee, would provide a 3.2-percent cost-of-living adjustment [COLA] in the rates of compensation for veterans suffering from service-connected disabilities and in the existing rates of dependency and indemnity compensation [DIC] paid to survivors of veterans whose deaths are service connected. The new rates would become effective on December 1 of this year.

Although we will not know the actual change in the Consumer Price Index until October, we will do whatever is needed to adjust that percentage to insure that the COLA we enact fully offsets the eroding effects of inflation. I might add, as a final note, that, since this COLA is already included in the Congressional Budget Office baseline, the pay-as-you-go effects of its enactment are zero. There follows a more detailed explanation of the bill as reported:

DISCUSSION OF THE REPORTED BILL

Sections 2 through 7 of H.R. 4244 would provide, effective December 1, 1992, a 3.2 percent cost-of-living adjustment in the rates of compensation and dependency and indemnity compensation.

Should the proposed 3.2 percent rate increase be enacted, the changes in compensation and DIC rates effective December 1, 1992 would be as follows:

COMPENSATION AND DIC RATES EFFECTIVE DEC. 1, 1992

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$83	$86
(b) 20 percent	157	162
(c) 30 percent	240	248
(d) 40 percent	342	353
(e) 50 percent	487	503
(f) 60 percent	614	634
(g) 70 percent	776	801
(h) 80 percent	897	926
(i) 90 percent	1,010	1,042
(j) 100 percent	1,680	1,734
Higher statutory awards for certain multiple disabilities:		
(k)(1) Additional monthly payment for anatomical loss, or loss of use of, any of these organs: one foot, one hand, blindness in one eye (having light perception only), one or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss	68	68
(k)(2) Limit for veterans receiving payments under (a) to (j) above	2,089	2,156
(k)(3) Limit for veterans receiving benefits under (l) to (n) below	2,927	3,021
(l) Anatomical loss or loss of use of both feet, one foot and one hand, blindness in both eyes (5/200) visual acuity or less), permanently bedridden or so helpless as to require aid and attendance	2,089	2,156
(m) Anatomical loss or loss of use of both hands, or of both legs, at a level preventing natural knee action with prosthesis in place or of 1 arm and 1 leg at a level preventing natural knee or elbow action with prosthesis in place or blind in both eyes, either with light perception only or rendering veteran so helpless as to require aid and attendance	2,302	2,376
Percentage of disability or subsection under which payment is authorized:		
(n) Anatomical loss of both eyes or blindness with no light perception or loss of use of both arms at a level preventing natural elbow action with prosthesis in place or anatomical loss of both legs so near hip as to prevent use of prosthesis, or anatomical loss of 1 arm and 1 leg so near shoulder and hip to prevent use of prosthesis	2,619	2,703
(o) Disability under conditions entitling veterans to two or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less) or deafness rated at 40 percent or total deafness in one ear (impairment of either or both ears service-connected) in combination with blindness having light perception only or anatomical loss of both arms so near the shoulder as to prevent use of prosthesis	2,927	3,021
(p)(1) If disabilities exceed requirements of any rates prescribed, Secretary of Veterans Affairs may allow next higher rate or an intermediate rate, but in no case may compensation exceed	2,927	3,021
(p)(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 30 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of one ear or service-connected loss or loss of use of an extremity the next intermediate rate is payable, but in no event may compensation exceed	2,927	3,021
(p)(3) Blindness with only light perception or less with bilateral deafness (hearing impairment in either one or both ears is service-connected) rated at 10 or 20 percent disabling, the next intermediate rate is payable, but in no event may compensation exceed	2,927	3,021
(p)(4) Anatomical loss or loss of use of three extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of	2,927	3,021
(q)[This subsection repealed by Public Law 90–493.]		
(r)(1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	1,257	1,297
(r)(2) If the veteran, in addition to need for regular aid and attendance is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	1,872	1,932
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	1,879	1,939
(t)[This subsection repealed by Public Law 99–576.]		

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 pecent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veterans is rated 30, 40, 50, 60, 70, 80 or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate)	
	From	To
If and while veteran is rated totally disabled and—		
Has a spouse	$100	$103
Has a spouse and child	169	174
Has no spouse, 1 child	69	71
For each additional child	52	54
For each dependent parent	80	83
For each child age 18–22 attending school	155	160
Has a spouse in nursing home or severely disabled	185	191

Pay grade	Increase (monthly rate)	
	From	To
E–1	$616	$636
E–2	635	655
E–3	652	673
E–4	693	715
E–5	711	734
E–6	727	750
E–7	762	786
E–8	805	831
E–9	[1]841	[1]868
W–1	780	805
W–2	811	837
W–3	835	862
W–4	884	912
0–1	780	805
0–2	805	831
0–3	862	890
0–4	912	941
0–5	1,005	1,037
0–6	1,134	1,170
0–7	1,225	1,264
0–8	1,343	1,386
0–9	1,440	1,486
0–10	[2]1,580	[2]1,631

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Cheif Petty Office of the Coast Guard, at the applicable time designated by section 402 of this title, the suriving spouse's rate shall be $936.

[2] If the vetean served as Chairman or Vice-Chairman of the Joint Cheifs of Staff, Chief of the Army, Chief of Naval Operations, Cheif of Staff of the Air Force, Commandant of the Marine Corps or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spous's rate shall be $1,747.

When there is no suriving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the decreased veteran. These rates are increasd as follows

	Increase (monthly rate)	
	From	To
One child	$310	$320
Two children	447	461
Three children	578	596
Each additional child	114	118

I urge my colleagues to pass this bill.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4244, the Veterans' Compensation Rate Amendments of 1992.

I want to take this opportunity to thank DOUG APPLEGATE, chairman of the Subcommittee on Compensation, Pension and Insurance, and the gentleman from Mississippi, Chairman SONNY MONTGOMERY, for their leadership in promptly moving this bill through the committee.

As our colleague, DOUG APPLEGATE, has stated, this bill provides for a 3.2-percent increase rate to service-connected disabled veterans, their dependents and survivors.

I recommend that my colleagues support this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member of the Subcommittee on Hospitals and Health Care of the Committee on Veterans Affairs.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 4244.

Mr. Speaker, I, too, want to lend my support to H.R. 4244, the veterans' compensation rates amendments, to provide a 3.2-percent cost-of-living increase in the rates of veteran's compensation and dependency and indemnity compensation [DIC].

I wish to reiterate a point made by Chairman MONTGOMERY, that compensation rates for our Nation's veterans and DIC rates for their dependents are not subject to automatic indexing and must be considered by the House in separate legislation each year.

As many of my colleagues will recall, last Congress, over 2 million disabled veterans were temporarily denied a COLA when the Senate failed to act on relevant legislation due to the addition of controversial agent orange provisions. Fortunately, a clean COLA bill was eventually passed.

Nevertheless, this action underscored the importance of ensuring that our veterans do not suffer unjustly because their COLA bill is used as a vehicle to bring other legislation before the full House for a vote.

I urge my colleagues to support H.R. 4244.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am pleased to rise in support of H.R. 4244, the Veterans' Compensation Rate Amendments of 1992.

I want to thank the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of our Committee on Veterans' Affairs, and the distinguished ranking minority member, the gentleman from Arizona [Mr. STUMP], as well as the subcommittee chairman, the gentleman from Ohio [Mr. APPLEGATE] for bringing the bill before us and for his commitment to the health and welfare of all our veterans.

H.R. 4244 authorizes a 3.2-percent cost-of-living adjustment increase in both service-connected disabled veterans monthly compensation rate and the dependency and indemnity compensation benefits to survivors of such veterans, all of which will become effective December 1, 1992.

While the administration would oppose a bill raising the COLA's over the Consumer Price Index, the CBO has recently predicted that the CPI increase will be about 3.2 percent, the same as the COLA increase proposed in the measure now before us.

Accordingly, Mr. Speaker, I urge my colleagues to fully support this important measure. It is the very least we can do for our disabled veterans.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentlewoman from South Carolina [Mrs. PATTERSON], a member of the committee.

Mrs. PATTERSON. Mr. Speaker, I rise today in support of H.R. 4244, legislation to provide a 3.2-percent cost-of-living adjustment [COLA] for service-connected disabled veterans, their dependents and survivors. The legislation before us today illustrates our continuing commitment to America's disabled veterans and their families.

I want to commend the chairman of the Veterans' Affairs Committee, G. V. (SONNY) MONTGOMERY, and the ranking member, BOB STUMP, for their leadership and fundamental commitment to our Nation's veterans. Mr. Speaker, it is imperative that the sacrifices of our veterans never be forgotten. I know that the veterans disabled by virtue of their service to our country, and their survivors, deserve no less. I ask my colleagues to join me in supporting this legislation.

Mr. MONTGOMERY. Mr. Speaker, I want to thank the gentlewoman from South Carolina for what she said as a member serving on our committee.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR], who has worked with our veterans and has been very supportive of veterans. Her family is made up of a number of veterans back in Ohio.

Ms. OAKAR. Mr. Speaker, first of all I want to compliment the gentleman from Mississippi for his leadership and the minority leader on the other side and my friend and colleague, the gentleman from Ohio [Mr. APPLEGATE] for this very important compensation benefit.

Very often when we talk about cost of living adjustments, we certainly always target Social Security recipients, but we sometimes leave out veterans' cost-of-living adjustments, Federal retirees, railroad retirees and others.

This is especially important, because it relates to those veterans who were disabled and must be compensated and their survivors, the spouses, who deserve this cost-of-living adjustment.

Mr. Speaker, I really want to compliment the gentleman from Mississippi, because once again, as we know, very often when people talk about disability, they are talking about Social Security disability, but they leave out veterans. That is why the gentleman is assuring us that they will not be left out with respect to this cost-of-living adjustment, not only for the veterans, but their survivors. I think it is real critical.

We had a study of our Select Committee on Aging, Mr. Speaker, and we found that poverty among our older Americans is not decreasing. It is actually increasing with respect to certain groups, and more and more of our older Americans become near poor and they do not qualify for lots of things that I suppose they should. That is why if you just give them what is due to them and their spouses, we will prevent this kind of poverty.

So this is why I think this is so important. It is the least we should be doing, and I want to compliment all of you involved. This is a very, very important bill and I hope people realize its importance, because we are really going to help many, many of these deserving Americans from perhaps poverty and poverty levels, and that is not the way we want to treat our veterans nor their spouses.

☐ 1740

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have blue sheets at the desk here on the 5 bills that we will present here today. We would hope that Members would come by to the desk because these sheets totally explain these bills that we hope will be passed.

Mr. Speaker, again I want to thank the gentleman from Ohio [Mr. APPLEGATE], for the quick movement of this legislation, along with the gentleman from Arizona [Mr. STUMP].

As Mr. APPLEGATE said, it is a clean COLA bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. HUTTO). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4244, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2322) to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the Senate bill?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1992".

SEC. 2. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1992, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Rate Amendments of 1991 (Public Law 102–152; 105 Stat. 895). The increase shall be made in such rates and limitations as in effect on November 30, 1992, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1992, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (2 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 214(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1992, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2)(A) as increased under this section.

MOTION OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MONTGOMERY moves to strike out all after the enacting clause of the Senate bill (S. 2322) and insert in lieu thereof the provisions of H.R. 4244, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4244) was laid on the table.

VETERANS RADIATION EXPOSURE AMENDMENTS OF 1992

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3236) to improve treatment for veterans exposed to radiation while in military service, as amended.

The Clerk read as follows:

H.R. 3236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Radiation Exposure Amendments of 1992".

SEC. 2. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR CERTAIN RADIATION-EXPOSED VETERANS AND ELIMINATION OF LATENCY-PERIOD LIMITATIONS.

(a) In General.—Section 1112(c) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "to a degree" and all that follows through "subsection)";

(2) in paragraph (2), by adding at the end the following new subparagraphs;

"(N) Cancer of the salivary gland.

"(O) Cancer of the urinary tract.";

(3) by striking out paragraph (3); and

(4) by redesignating paragraph (4) as paragraph (3).

(b) Effective Date.—The amendments made by subsection (a) shall take effect on October 1, 1992.

SEC. 3. INDENTIFICATION OF CERTAIN ACTIVITIES RELATING TO EXPOSURE TO IONIZING RADIATION.

The Veterans' Dioxin and Radiation Exposure Compensation Standards Act (38 U.S.C. 1154 note) is amended by adding at the end the following new section:

"IDENTIFICATION OF ACTIVITIES INVOLVING EXPOSURE BEFORE JANUARY 1, 1970

"Sec. 10. (a) In General.—(1) In order to determine whether activities (other than the tests or occupation activities referred to in section 5(a)(1)(B)) resulted in the exposure of veterans to ionizing radiation without the benefit of monitoring systems during the service of such veterans that occurred before January 1, 1970, the Advisory Committee established under section 6 shall—

"(A) review all available scientific studies and other relevant information relating to the exposure of such veterans to ionizing radiation during such service;

"(B) identify any activity during which significant numbers of veterans received exposure without the benefit of monitoring; and

"(C) on the basis of such review, submit to the Secretary of Veterans Affairs a report containing the recommendation of the Advisory Committee on the feasibility and appropriateness for the purpose of the determination under this paragraph of any additional investigation with respect to any activity of such veterans during such service.

"(2) Upon the request of the Advisory Committee, the Secretary of•Veterans Affairs (after seeking such assistance from the Secretary of Defense as is necessary and appropriate) shall make available to the Advisory Committee records and other information relating to the service referred to in paragraph (1) that may assist the Advisory Committee in carrying out the review and recommendation referred to in that paragraph.

"(3) The Advisory Committee shall submit to the Secretary of Veterans Affairs the report referred to in paragraph (1)(B) not later than April 1, 1993.

"(b) Investigation Plan and Report.—(1) Upon receipt of the report referred to in subparagraph (B) of subsection (a)(1), the Secretary of Veterans Affairs shall—

"(A) identify which of the activities referred to in that subparagraph, if any, that the Secretary intends to investigate more fully for the purpose of making the determination referred to in that subsection; and

"(B) prepare a plan (including a deadline for the plan) to carry out that investigation and make that determination.

"(2) Not later than August 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

"(A) a list of the activities identified by the Secretary pursuant to paragraph (1)(A) and the basis of such identification;

"(B) a copy of the report of the Advisory Committee referred to in subsection (a)(1)(B); and

"(C) the plan referred to in paragraph (1)(B).".

SEC. 4. REVIEW OF BRONCHIO-ALVEOLAR CARCINOMA.

(a) Advisory Committee Review—The Secretary of Veterans Affairs shall direct the Advisory Committee on Environmental Hazards to review pertinent scientific data relating to bronchio-alveolar carcinoma to determine whether such disease entity should be considered to be radiogenic. Based on its review, the Advisory Committee shall report its findings to the Secretary.

(b) Decision by Secretary.—The Secretary, based on the Advisory Committee's findings, shall, not later than April 1, 1993, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the Secretary's decision as to whether such disease entity should be presumed to be service connected if suffered by a radiation-exposed veteran (as defined by section 1112(c)(4)(A) of title 38, United States Code).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. Montgomery] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. Stump] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. Mr. Speaker, before yielding to my colleague, the Hon. Lane Evans, the chief sponsor of the bill, I want to acknowledge his work on behalf of veterans who have disabilities that may have resulted from active-duty service during the period that I have mentioned. Lane has been one of the leading spokesmen in the Congress on the issue of radiation and its impact on those who served in the military.

I also want to thank the gentleman from New Jersey, Mr. Chris Smith, who worked with Mr. Evans, and also the gentleman from Ohio [Mr. Applegate], who reported this bill out of his subcommittee, and I also acknowledge the gentleman from Georgia [Mr. Rowland], and the gentleman from Arkansas [Mr. Hammerschmidt], who were chiefly responsible for Public Law 100-321, passed by the Congress and signed by the President on May 5, 1988, the Radiation-Exposed Veterans Compensation Act of 1988.

Mr. Speaker, these members, and others on the committee, deserve much credit for the time and attention they have given to this important issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Evans].

Mr. EVANS of Illinois. I thank the committee chairman for yielding time to me and for his support of H.R. 3236, the Veterans' Radiation Amendments of 1992.

This bill is the companion of S. 775, which passed the Senate last fall. It has the bipartisan support of 77 of our colleagues and the strong endorsement of the major veteran service organizations. And the provisions of the bill reflect the latest scientific evidence, including the National Academy of Sciences' BEIR 5 Report.

This legislation would make several important changes to existing law so that veterans exposed to ionizing radiation during service are treated more fairly.

First, current law specifies that a disease must manifest within 40 years of exposure to radiation in order to be presumed related to the exposure. H.R. 3236 would eliminate the latency period between exposure to radiation and manifestation of disease in order for the disease to be considered a service-connected disability. The elimination of latency periods is strongly supported by recent research as well as the VA.

Second, the bill would add cancers of the salivary gland and urinary tract to the list of 13 presumptive conditions. Again, such action reflects the most recent scientific evidence and is based, in part, on long-term studies of Japanese survivors of the atomic explosions at Hiroshima and Nagasaki in World War II.

Third, many of the activities that may have exposed servicemembers to radiation are not covered by existing law. This means that a veteran exposed to ionizing radiation while disposing of radioactive wastes aboard U.S. Navy ships could not receive the same benefits as a veteran exposed during the occupation of Nagasaki. The bill attempts to rectify this problem by directing the Secretary to examine the latest scientific evidence to determine which activities may have exposed servicepersons to ionizing radiation prior to 1970.

Specifically, the VA's Advisory Committee on Environmental Hazards will be required to review the information concerning exposure to radiation and to identify those activities that might have exposed servicepersons to ionizing radiation without the benefit of monitoring. The advisory board will submit its conclusions to the Secretary by April 1, 1993. Subsequently, the Secretary will submit his report to Congress by August 1, 1993, detailing those activities to be more fully investigated, a plan to conduct such investigations, and a copy of the advisory committee's report.

Fourth, the bill requires VA's Advisory Committee on Environmental

Hazards to examine the relationship between a rare form of lung cancer and exposure to ionizing radiation. This provision represents an amendment offered by Mr. SMITH. Accordingly, I would like to again thank CHRIS for his efforts on behalf of radiation-exposed veterans.

This bill recognizes America's responsibility to atomic veterans and seeks to end their uphill battle for medical care and compensation by offering assistance to these veterans in their time of need.

For these reasons, I strongly urge you to support passage of H.R. 3236 as amended, the Veterans' Radiation Amendments of 1992.

Mr. STUMP. Mr. Speaker, I ask unanimous consent that I be permitted to revise my remarks on this bill and the three subsequent bills that will be presented here.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3236, as amended.

I want to applaud the gentleman from Illinois, Mr. LANE EVANS, the gentleman from New Jersey, Mr. CHRIS SMITH, and the gentleman from Ohio, Mr. DOUG APPLEGATE for their contributions to the formulation of this bipartisan bill, and would like to express my support for its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 3236, as amended.

Mr. Speaker, I urge my colleagues to support H.R. 3236, as amended, the veterans' radiation exposure amendments.

This bill expands the current list of 13 cancer-related diseases eligible for compensation under Public Law 100–321, the Radiation-Exposed Veterans Compensation Act of 1988, to include cancer of the salivary gland and cancer of the urinary tract. Additionally, H.R. 3236 removes the current requirement that any of these diseases suffered by radiation-exposed veterans be manifested within 40 years after exposure.

It is only fair that our Nation's veterans who were exposed to various levels of ionizing radiation during World War II, as well as during subsequent nuclear testing, be justly compensated for their suffering.

I urge my colleagues to support H.R. 3236.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey, Mr. CHRIS SMITH, the ranking member on the subcommittee.

Mr. SMITH of New Jersey. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in very strong support of this legislation, the Veterans' Radiation Exposure Amendments of 1992.

Mr. Speaker, I would like to take a moment to commend the fine work of my colleague, the gentleman from Illinois, LANE EVANS, for his leadership in crafting this important legislation, and also the contributions made to this measure by the gentleman from Ohio [Mr. APPLEGATE] the chairman of the subcommittee, and my good friend, the ranking member of the subcommittee and the full committee, the gentleman from Arizona [Mr. STUMP].

□ 1750

I want to especially, too, thank the gentleman from Arizona for offering on my behalf during the markup in the subcommittee the amendment that reflected a compromise on my bill, H.R. 4458, which would have added bronchiolo-alveolar carcinoma to the list of illnesses presumed to be service-connected for veteran compensation purposes. I regret that the subcommittee did not report the bill intact. I am very grateful to the gentleman from Arizona [Mr. STUMP] and the gentleman from Ohio [Mr. APPLEGATE] for their cooperation in crafting this compromise legislation.

Mr. Speaker, section 4 of H.R. 3236 calls on the Secretary of Veterans Affairs to direct the Advisory Committee on Environmental Hazards to review the scientific data on bronchiolo-alveolar carcinoma to determine whether it is needed radiogenic. Furthermore, the amendment calls on the Secretary to report to Congress the findings of the advisory committee and report his decision on whether it should be presumed service connected.

This health issue, Mr. Speaker, was brought to my attention by Joan McCarthy of Monmouth County, the courageous and very persistent widow of Tom McCarthy who died from bronchiolo-alveolar carcinoma, a very rare form of nonsmoker's lung disease. Tom McCarthy, for the record, participated in the atomic test, Operation Wigwam, and I have worked with Joan for years, and the she tried unsuccessfully to receive compensation when he was alive, and after, through the Veterans Affairs veterans appeals process.

Mr. Speaker, passage of today's bill represents, I would suggest, a major step toward compensation for those who suffer and for those who have already died from this debilitating and deadly disease.

I thank my colleagues and the gentleman from Mississippi [Mr. MONTGOMERY] especially, in closing, for his work on the bill.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE], a member of our committee and the chairman of the subcommittee that reported this legislation out.

Mr. APPLEGATE. Mr. Speaker, once again I thank the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the full committee, and again this is legislation that did move through my Subcommittee on Compensation and Pensions, and, as the distinguished author of H.R. 3236, the gentleman from Illinois [Mr. EVANS], my good friend who is also vice chairman of the committee, has indicated, this bill provides further improvements in benefits for veterans who were exposed to ionizing radiation during military service. This is excellent legislation, and I want to highly commend the gentleman from Illinois [Mr. EVANS] for his continued leadership in this area. LANE EVANS is someone who is a very persistent young man, and persistence, I always say, eventually pays off, but in his dogged determination to see to this, why he was after me constantly, and so those people who will ultimately be compensated because of this are going to be forever grateful for this dogged determination.

I also want to express my appreciation again to the gentleman from Arizona [Mr. STUMP], my good friend who is always there when we need him in his bipartisan way, and I appreciate his leadership, and I also want to acknowledge the good work of the gentleman from New Jersey [Mr. SMITH]. He, too, was one that came before the subcommittee and brought a constituent in who talked about a problem, and we did address that, and we were able to incorporate that through the support of the gentleman from Illinois [Mr. EVANS] to see that that was made a part of it.

Mr. Speaker, I can assure each of my colleagues that our subcommittee is going to continue to monitor this subject of the adverse health risks associated with exposure to ionizing radiation and that we are going to do whatever is necessary to ensure that those who suffer from disabilities associated with their military service are going to continue to be properly compensated, and I would urge my colleagues to give strong support to this measure.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 3236, the veterans' radiation exposure amendments, and I wish to thank the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of the House Committee on Veterans' Affairs, and the committee's ranking minority member, the gentleman from Arizona [Mr. STUMP], and the gentleman from Illinois [Mr. EVANS] for introducing this legislation and for his unceasing efforts on behalf of our veterans suffering from disabilities. I also commend the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the gentleman from New Jersey [Mr. SMITH], and the subcommittee chairman, the gentleman from Ohio [Mr. APPLEGATE], for their work on this measure.

The measure would amend the Radiation-Exposed Veterans Compensation Act of 1988, which provides long-overdue compensation to veterans exposed to radiation while in military service, to expand the list of diseases deemed to have been caused by exposure to radiation. In addition, the 40-year timeframe in which listed diseases must manifest themselves would be approximately dropped under this bill.

Finally, this bill would direct the Advisory Committee on Environmental Hazard to undertake a study to determine whether military activities before 1970 which were not monitored for radiation exposure would warrant additional investigation.

Mr. Speaker, I commend the Veteran's Affairs Committee for its attention to the problem of Veterans' diseases resulting from exposure to radiation. Accordingly, I urge my colleagues to unanimously support this measure.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Congressional Budget Office has estimated that this bill will have a direct spending impact of $2 million in fiscal year 1993. I share the concern of my colleagues who are reluctant to vote for bills that have direct spending impact without offsetting savings.

Now, Mr. Speaker, wherever the gentleman from California [Mr. PANETTA] or the gentleman from Ohio [Mr. GRADISON] are tonight, perhaps in the Committee on the Budget, I want to assure them and my colleagues that we will remedy the small, minor cost impact of this bill with enactment of H.R. 5006, which is a bill I hope we will bring up next week. The bill contains substantial cost savings provisions. The savings contained in that bill will offset the cost of this bill and other bills that we will bring up tonight and before the August recess.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I would like to take a minute, too, if I could, to say that we shower our Members here with a lot of compliments and all, but I would also like to extend a compliment to the gentleman from New York [Mr. GILMAN] who is always there. He is not a member of the committee, but every veterans' bill, piece of legislation, that comes up on the floor of the House, BEN GILMAN is there. He is up there to support the veterans of this country, and I do not know anybody that has any more compassion for the veterans of this country, and I think that they do indeed owe him a great debt of gratitude, and we always, always look forward to his support and need it.

Mr. MONTGOMERY. Mr. Speaker, I appreciate what the gentleman from Ohio [Mr. APPLEGATE] said, and say "Ditto." The gentleman from New York [Mr. GILMAN] is a warm, kind, wonderful person, and we are proud he is in the Congress working on these veterans' bills.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 3236, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPANDED VA/DOD HEALTH CARE SHARING

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5193) to improve the delivery of health care services to eligible veterans and to clarify the authority of the Secretary of Veterans Affairs.

The Clerk read as follows:

H.R. 5193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXPANSION OF AUTHORITY FOR HEALTH-CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE.

(A) SHARING AGREEMENTS.—The Secretary of Veterans Affairs may enter into an agreement with the Secretary of Defense under this section to expand the availability of health-care sharing arrangements with the Department of Defense under section 8111(c) of title 38, United States Code, during the period before October 1, 1996. Under such an agreement—

(1) the head of a Department of Veterans Affairs medical facility may enter into agreements under section 8111(d) of that title with (A) the head of a Department of Defense medical facility, (B) with any other official of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility, or (C) with a contractor of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility; and

(2) the term "primary beneficiary" shall be treated as including—

(A) with respect to the Department of Veterans Affairs, any person who is described in section 1713 of title 38, United States Code; and

(B) with respect to the Department of Defense, any person who is a covered beneficiary under chapter 55 of title 10, United States Code.

(b) REQUIREMENT FOR IMPROVEMENT IN SERVICES FOR VETERANS.—A proposed agreement authorized by subsection (a)(1) that is entered into by the head of a Department of Veterans Affairs medical facility may take effect only if the Chief Medical Director finds, and certifies to the Secretary, that implementation of the agreement—

(1) will result in the improvement of services to eligible veterans at the facility; and

(2) will not result in the denial of, or a delay in providing, access to care for any veteran at that facility.

(c) EXPANDED SHARING AGREEMENTS WITH DOD. Under an agreement under subsection (a), guidelines under section 8111(b) of title 38, United States Code, may be modified to provide that, notwithstanding any other provision of law, any person who is a covered beneficiary under chapter 55 of title 10 and who is furnished care or services by a facility of the Department of Veterans Affairs under an agreement entered into under section 8111 of that title, or who is described in section 1713 of title 38, United States Code, and who is furnished care or services by a facility of the Department of Defense, may be authorized to receive such care or services—

(1) without regard to any otherwise applicable requirement for the payment of a copayment or deductible; or

(2) subject to a requirement to pay only part of any such otherwise applicable copayment or deductible, as specified in the guidelines.

(d) EXPIRATION.—The authority to provide services pursuant to agreements entered into under subsection (a) expires on October 1, 1996.

(e) CONSULTATION WITH VETERANS SERVICE ORGANIZATIONS.—In carrying out this section, the Secretary of Veterans Affairs shall consult with organizations named in or approved under section 5902 of title 38, United States Code.

(f) ANNUAL REPORT.—(1) For each of fiscal years 1993 through 1996, the Secretary of Defense and the Secretary of Veterans Affairs shall include in the annual report of the Secretaries under section 8111(f) of title 38, United States Code, a description of the Secretaries' implementation of this section.

(2) In the report under paragraph (1) for fiscal year 1996, the Secretaries shall include the following:

(A) An assessment of the effect of agreements entered into under subsection (a) on the delivery of health care to eligible veterans.

(B) An assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the armed forces, dependents of members or former members of a uniformed service, and beneficiaries under section 1713 of title 38, United States Code.

(C) Any plans for administrative action, and any recommendations for legislation, that the Secretaries consider appropriate to include in the report.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

With the enactment of Public Law 97–174 in 1982, Congress cemented a relationship between VA and military medicine which has seen healthy growth for over a decade. That act permits the directors of VA and DOD health care facilities to negotiate agreements under which the parties may, subject to reimbursement under a flexible formula, share health care resources.

Congress limited the scope of this largely untested concept through a provision stating that direct patient care could only be provided to primary beneficiaries of the sharing partner. Thus, VA hospitals could only provide direct care services to active duty members and retirees, but not to CHAMPUS-eligible dependents, and DOD facilities could not be used to provide direct care to CHAMPVA-eligible beneficiaries.

H.R. 5193 authorizes VA and DOD to expand medical services provided through these cost-sharing agreements.

Today, 150 VA hospitals have sharing agreements with DOD facilities. Under these agreements, more than 3,000 services are shared. These agreements are very cost effective. Millions of dollars are saved by VA and DOD each year.

H.R. 5193 would permit VA to provide services on a space-available basis to any CHAMPUS beneficiary. VA could not provide that care, however, unless the VA's Chief Medical Director finds that the agreement would improve services to veterans at that facility. In addition, the Director would have to show that the agreement would not limit access to care for veterans.

I want to emphasize that H.R. 5193 requires the VA to consult with the veterans service organizations in carrying on this expansion of sharing authorities.

Since the enactment of this limited provision of law in 1982, it has proven to be very beneficial to both departments, and we believe it is time to remove the limitation placed on the departments almost 10 years ago.

Mr. Speaker, I reserve the balance of my time.

□ 1800

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5193, a bill which expands, on a time-limited basis, existing VA/DOD health care sharing agreements.

This legislation has received broad support from the veterans' service organizations. One of the primary reasons is that it clearly maintains veterans' priority for care at VA facilities. H.R. 5193 also effectively encourages sharing of resources at a time when VA faces serious fiscal constraints. In these times of budget austerity, VA needs to look to new and innovative ways to provide cost-effective service to its veterans beneficiary population.

I join Chairman MONTGOMERY in thanking the chairman and ranking minority member of the House Armed Services Committee for their assistance with this legislation.

I urge my colleagues to support H.R. 5193.

Mr. Speaker, as our chairman mentioned, this is one of the better things we have done. Chairman MONTGOMERY deserves the lion's share of credit for this bill because it has been his idea and he has worked diligently toward bringing it to its achievement.

I urge my colleagues to support H.R. 5193.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the chairman of the Subcommittee on Hospitals and Health Care of the Committee on Veterans' Affairs.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise today in strong support of H.R. 5193, a bill to expand current health care sharing agreements between the Department of Veterans Affairs [VA] and the Department of Defense [DOD].

This legislation authorizes the Secretary of Veterans Affairs to provide services on a space-available basis to any CHAMPUS beneficiary under VA/DOD sharing agreements, and permits the VA to provide such services in areas where there is no DOD health care facility or where such a facility will be closing. In addition, DOD would be authorized to provide health care services to CHAMPVA beneficiaries under sharing agreements.

It is important to point out that while a certain amount of concern still exists regarding the treatment of dependents, the majority of the veterans' services organizations support H.R. 5193. Furthermore, this bill is carefully crafted and contains explicit provisions to ensure that veterans remain the highest priority for care by the VA. In no way would VA facilities be permitted to deny or delay veteran's access to health care.

This legislation benefits both the VA and DOD and is very timely in light of several factors. The numerous base closings in these times of force reduction are leaving military retirees and their dependents without direct access to health care facilities. Second, a 10-year trend of underfunding of the VA health care system has taken a devastating toll and placed its future in peril.

The status quo is no longer a feasible option. Unless the Congress explores other means of generating funds for the VA health care system, we will be responsible for contributing to its demise.

It is thus imperative that current VA/DOD health care sharing agreements be expanded systemwide in order to preserve and improve the ability of the VA to care for its veteran population. Additionally, this proposal will allow the VA to expand on its services to women, a much needed improvement, which cannot be accomplished in the current budget scenario.

H.R. 5193 enhances an already successful relationship between VA and DOD health care facilities. I appreciate the leadership and support of Chairman MONTGOMERY and ranking member STUMP. I strongly urge my colleagues to support this bill.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5193, a bill which will expand Veterans Affairs and Department of Defense health care sharing agreements in order to improve veterans' health care. I wish to thank the distinguished chairman of the committee, Mr. MONTGOMERY, its distinguished ranking minority member, Mr. STUMP and the ranking member of the Veterans Health Subcommittee, the gentleman from Arkansas, [Mr. HAMMERSCHMIDT] for bringing this legislation before us.

Mr. Speaker, the Department of Veterans Affairs and Department of Defense health sharing law of 1982 permit military retirees to obtain treatment at DOD health facilities and active duty members to obtain treatment in VA facilities. Through cost sharing and resource pooling, veterans have access to the full array of health care services which may not be offered by their local VA health center. H.R. 5193 will enhance the benefits of CHAMPUS and CHAMPVA recipients by permitting them to participate in the DOD/VA share agreements.

This bill protects veterans' interests by requiring the Secretary of Veterans Affairs to consult with veterans' service organizations before implementing the CHAMPUS/CHAMPVA sharing provisions. In addition, it requires the chief medical director to certify that the CHAMPUS/CHAMPVA cost sharing agreement benefits veterans.

Therefore, Mr. Speaker, I urge my colleagues to support this measure as it seeks to improve health care during these times of deficits and budget cuts and I commend the House Veterans' Affair Committee for their consistent & Dedicated Support of our Nations veterans.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I want to thank the ranking minority member of the subcommittee, the gentleman from Arkansas, [Mr. HAMMERSCHMIDT], and the gentleman from Arizona, the ranking minority member of the full committee, for their work and leadership on the bill.

Since this bill was jointly referred to the Armed Services Committee, I also want to thank the chairman of the committee, the gentleman from Wisconsin [Mr. ASPIN] and the ranking minority member of the committee, the gentleman from Alabama, [Mr. DICKINSON], for their cooperation in expediting this measure, and to thank Mrs. BYRON of Maryland, chairman of the Personnel Subcommittee and Mr. BATEMAN, the ranking minority member of the subcommittee, who also handled the bill.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I urge adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5193.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

THOMAS T. CONNALLY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5491) to designate the Department of Veterans Affairs medical center in Marlin, TX, as the "Thomas T. Connally Department of Veterans Affairs Medical Center."

The Clerk read as follows:

H.R. 5491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Department of Veterans Affairs medical center in Marlin, Texas, is designated as the "Thomas T. Connally Department of Veterans Affairs Medical Center".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the medical center referred to in section 1 is deemed to be a reference to the "Thomas T. Connally Department of Veterans Affairs Medical Center".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill was introduced by the gentleman from Texas [Mr. EDWARDS]. The gentleman is one of the new members of our committee. He has done an outstanding job. He took the place of Marvin Leath of Texas, also a great American, serving on the Committee on Veterans' Affairs.

The gentleman from Texas [Mr. EDWARDS] got his training under the late Tiger Teague of Texas, and we are glad to have the gentleman from Texas [Mr. EDWARDS] explain this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS of Texas. Mr. Speaker, I thank the chairman for his kind words.

Mr. Speaker, I rise today to urge my colleagues to support H.R. 5491, which would rename the VA medical center in Marlin, TX, after former Senator Tom Connally of Texas.

I want to express my special appreciation to the distinguished gentleman from Mississippi [Mr. MONTGOMERY] and to the distinguished gentleman from Arizona [Mr. STUMP], the ranking minority member of the Committee on Veterans' Affairs, for their special efforts on behalf of this legislation making it possible for us to be on the floor with this bill today.

Mr. Speaker, Senator Connally was a longtime resident of Marlin and a dedicated advocate for veterans. He had a distinguished record of public service. He served in the Texas House of Representatives from 1901 to 1904 and then worked as prosecuting attorney for Falls County, TX, from 1906 through 1910.

□ 1810

Tom Connally served in the House from 1917 through 1929. He was then elected to the U.S. Senate in 1928 and served there until he retired in 1953.

The Senator served as a sergeant major in the 2d Regiment, Texas Volunteer Infantry during the Spanish-American War. While in the U.S. House of Representatives, he voted to declare World War I and then took a leave of absence to serve as a captain and adjutant of the 22d Infantry Brigade.

Senator Connally was a well-respected Member of the U.S. Senate. As chairman of the Committee on Foreign Relations, he devised foreign policies to protect the freedoms for which he personally fought. The then Senate majority leader, Lyndon B. Johnson, in a tribute to Senator Connally upon his retirement, called him this:

> * * * A man of great warmth, of deep perception, of broad humanity * * *. At international conferences, in the United Nations, in world councils, his keen mind and his powers of oratory have been a mighty force for the United States. His grasp of the present and his high vision of the future have brought to the entire globe a picture of America at its best. Tom Connally is a man among men, a statesman who belongs to the ages.

Mr. Speaker, this bill is supported by all members of the Texas delegation, 27 Congressmen and 2 Senators. The renaming is also endorsed by all major veterans service organizations from the State of Texas. This overwhelming support indicates the wide-reaching respect that Senator Connally achieved as a public servant.

In closing, I want to thank all of the citizens of Marlin for their efforts, month after month, in trying to get this bill to the floor. Without their help and their commitment to renaming this facility, we would not be here today.

Senator Tom Connally was a fine statesman and soldier. I believe that the renaming of this VA hospital is a fitting tribute for such an American patriot. In fact, I can think of few honors that any American veteran would feel more honored to have than to have a VA medical center named in his honor.

Senator Connally left a great legacy for this country, and this VA hospital will leave a great legacy for Senator Connally.

Mr. Chairman, I thank you for your support in this legislation.

Mr. MONTGOMERY. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MOAKLEY].

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5334, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–781) on the resolution (H. Res. 537) providing for the consideration of the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5491, a bill to name the Department of Veterans Affairs medical center in Marlin, TX, for Thomas T. Connally.

I urge my colleagues to support this legislation, which is a fitting tribute to the distinguished gentleman who devoted his life to service to his country, State, and family.

Mr. Speaker, I yield such time as he may consume to the ranking minority member of the Subcommittee on Hospitals and Health Care, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise today in support of H.R. 5491, a bill to designate the VA medical center in Marlin, TX, as the "Thomas T. Connally VA Medical Center."

As Representative Edwards explained in greater detail, Senator Connally spent a total of 36 years serving his constituents as a legislator in both bodies of this Congress. Senator Connally's accomplishments over the course of his lifetime are numerous, and it is only fitting that he be honored by naming the Marlin VA medical facility after him.

I urge my colleagues to support H.R. 5491.

Mr. MONTGOMERY. Mr. Speaker, I rise in total support of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I would like to take a moment to thank the gentleman from Texas [Mr. EDWARDS] for all his work in bringing this honor to Mr. Connally. He did a good job on this, and we thank him.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5491.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ADMINISTRATION OF VETERANS EDUCATION BENEFITS TECHNICAL REORGANIZATION ACT

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5619) to reorganize technically chapter 36 title 38, United States Code, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administration of Veterans Education Benefits Technical Reorganization Act".

SEC. 2. TECHNICAL REORGANIZATION OF CHAPTER 36.

Chapter 36 of title 38, United States Code, is amended to read as follows:

"CHAPTER 36—ADMINISTRATION OF EDUCATION BENEFITS

"SUBCHAPTER I—DEFINITIONS

"Sec. 3601. Definitions.

"SUBCHAPTER II—PROGRAM SELECTION; ENROLLMENT

"Sec. 3611. Selection of program.
"Sec. 3612. Applications; approval.
"Sec. 3613. Disapproval of enrollment in certain courses.
"Sec. 3614. Change of program.
"Sec. 3615. Education outside the United States.

"SUBCHAPTER III—SPECIAL SUPPLEMENTAL ASSISTANCE

"Sec. 3621. Elementary and secondary education and preparatory educational assistance.
"Sec. 3622. Tutorial assistance.
"Sec. 3623. Educational and vocational counseling.
"Sec. 3624. Work-study allowance.
"Sec. 3625. Education loans.

"SUBCHAPTER IV—STATE APPROVING AGENCIES

"Sec. 3631. Designation and responsibility of State approving agency.
"Sec. 3632. Cases in which Secretary acts as State approving agency.
"Sec. 3633. Cooperation.
"Sec. 3634. Reimbursement of expenses.
"Sec. 3635. Evaluations of agency performance; qualifications and performance of agency personnel.

"SUBCHAPTER V—COURSE APPROVAL

"Sec. 3641. Scope of approval.
"Sec. 3642. Approval of accredited courses.
"Sec. 3643. Approval of nonaccredited courses.
"Sec. 3644. Approval of training on the job.
"Sec. 3645. Period of operation for approval.
"Sec. 3646. Notice of approval of courses.
"Sec. 3647. Disapproval of courses.

"SUBCHAPTER VI—CONDITIONS AND LIMITATIONS ON PAYMENTS

"Sec. 3651. Payment based on approved course enrollment and satisfactory pursuit.
"Sec. 3652. Discontinuance for unsatisfactory attendance, conduct, or progress.
"Sec. 3653. Measurement of courses.
"Sec. 3654. Bar to concurrent educational assistance.
"Sec. 3655. Limitation on period of assistance under two or more programs.
"Sec. 3656. Payment to persons incarcerated.
"Sec. 3657. Advance payment of educational assistance or subsistence allowance.
"Sec. 3658. Overpayments.
"Sec. 3659. Payments for less than half-time training.

"SUBCHAPTER VII—CORRESPONDENCE AND APPRENTICESHIP OR OTHER ON-JOB TRAINING

"Sec. 3661. Correspondence courses.
"Sec. 3662. Apprenticeship or other on-job training.

"SUBCHAPTER VIII—EDUCATIONAL AND TRAINING INSTITUTION REPORTING; COMPLIANCE

"Sec. 3671. Reports by educational and training institutions; reporting fee.
"Sec. 3672. Liability of institutions for overpayments.
"Sec. 3673. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements.
"Sec. 3674. Limitation on certain advertising, sales, and enrollment practices.

"SUBCHAPTER IX—GENERAL ADMINISTRATIVE PROVISIONS

"Sec. 3681. Compliance surveys.
"Sec. 3682. Funding of contract educational and vocational counseling.
"Sec. 3683. Use of other Federal agencies.
"Sec. 3684. Control by agencies of the United States.
"Sec. 3685. Conflicting interests.
"Sec. 3686. Advisory committee.
"Sec. 3687. Procedures relating to computer matching program.

"SUBCHAPTER I—DEFINITIONS

"§3601. Definitions

"(a) Except as provided otherwise, for purposes of this chapter and chapters 30, 32, and 35:

"(1) The term 'cooperative program' means, other than when referring to a farm cooperative program, a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion.

"(2) The term 'educational institution' means, except as provided in section 3501(a)(6) for purposes of chapter 35 of this title, any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, scientific or technical institution, or other institution furnishing education for adults.

"(3) The term 'institution of higher learning' means—

"(A) a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree, except that in any case in which there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency;

"(B) a hospital offering educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree; or

"(C) an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized as such by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.

"(4) The term 'program of education' means—

"(A) any curriculum or any combination of unit courses or subjects pursued at an educational institution for the attainment of a predetermined and identified educational, professional, or vocational objective;

"(B) any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field; or

"(C) any unit course or subject, or combination of courses or subjects, pursued at an educational institution required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section 7(i)(1) of the Small Business Act (15 U.S.C. 636(i)(1)).

"(5) The term 'standard college degree' means an associate or higher degree awarded by—

"(A) an institution of higher learning that is accredited as a collegiate institution by a regional or national accrediting agency recognized by the Secretary of Education under section 3642 of this title;

"(B) an institution of higher learning that is a 'candidate' for accreditation as that term is used by such a regional or national accrediting agency; or

"(C) an institution of higher learning upon completion of a course which is accredited by an agency recognized by the Secretary of Education under section 3642 of this title to accredit specialized degree-level programs.

"(6) The term 'training establishment' means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university, any State department of education, any State apprenticeship agency, any

State board of vocational education, any joint apprenticeship committee, the Bureau of Apprenticeship and Training established pursuant to the Act of August 16, 1937 (commonly referred to as the "National Apprenticeship Act") (29 U.S.C. 50-50b; 50 Stat. 664), or any other agency of the Federal Government authorized to supervise such training.

"(b) For purposes of this chapter, the term 'individual' means any veteran or other person eligible for or entitled to benefits under chapter 30, 32, 35, or this chapter.

"SUBCHAPTER II—PROGRAM SELECTION; ENROLLMENT

"§ 3611. Selection of program

"Subject to the provisions of this chapter and other applicable provisions of this title, each individual may select a program of education to assist the individual in attaining an educational, professional, or vocational objective at any educational institution (approved in accordance with this chapter) selected by the individual that will accept and retain the individual as a student or trainee in any field or branch of knowledge which such institution finds the individual qualified to undertake or pursue.

"§ 3612. Applications; approval

"(a) Any individual who desires to initiate a program of education under this chapter, chapter 30, 32, or 35 shall submit an application to the Secretary which shall be in such form, and contain such information, as the Secretary shall prescribe.

"(b) The Secretary shall approve such application unless the Secretary finds that—

"(1) such individual is not eligible for or entitled to the educational assistance for which application is made;

"(2) the individual's selected educational institution or training establishment fails to meet any requirement of this chapter;

"(3) the individual's enrollment in, or pursuit of, the program of education selected would violate any provision of this chapter; or

"(4) the individual is already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered.

"(c) The Secretary shall notify the individual of the approval or disapproval of the person's application.

"§ 3613. Disapproval of enrollment in certain courses

"(a) The Secretary shall not approve the enrollment of an individual in—

"(1) any bartending course or personality development course;

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

"(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the individual submits justification showing that the course will be of bona fide use in the pursuit of the individual's present or contemplated business or occupation; or

"(4) any independent study program except one leading to a standard college degree.

"(b) Except as provided in sections 3034(d) and 3241(b) of this title and section 2136(c) of title 10, the Secretary shall not approve the enrollment of an individual in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the individual is seeking.

"(c) The Secretary shall not approve the enrollment of an individual in any course to be pursued by radio or by open circuit television, except that the Secretary may approve the enrollment of an individual in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

"(d)(1)(A) Except as provided in paragraphs (2) and (3) and subject to subparagraph (B) of this paragraph, the Secretary shall not approve the enrollment of any person, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10.

"(B) The Secretary may waive the provisions of this paragraph, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the person involved and the Federal Government.

"(2) The provisions of paragraph (1)(A) shall not apply in the case of any course offered by an educational institution if the total number of persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), unless the Secretary has a reason to believe, as to a particular course, that the enrollment of such persons may be in excess of 85 percent of the total student enrollment in that course.

"(3) Paragraph (1) does not apply with respect to enrollment of a person—

"(A) in a course of special educational assistance prescribed in section 3621 of this title (other than enrollment by an individual on active duty for the purpose of attaining a secondary school diploma or an equivalency certificate);

"(B) in a course of tutorial assistance described in section 3622 of this title;

"(C) in a farm cooperative training course; and

"(D) in a course offered under contract with the Department of Defense as described in section 3645(b)(6) of this title.

"§ 3614. Change of program

"(a) Except as provided in subsections (b) and (c), an individual may make not more than one change of program of education, except an individual whose program has been interrupted or discontinued due to the individual's own misconduct, neglect, or lack of application is not entitled to any such change.

"(b) The Secretary, in accordance with procedures that the Secretary may establish, may approve a program change other than the change authorized under subsection (a) if the Secretary finds that—

"(1) the program of education which the individual proposes to pursue is suitable to the individual's aptitudes, interests, and abilities; and

"(2) in any instance where the individual has interrupted, or failed to progress in, the individual's program due to the individual's misconduct, neglect, or lack of application, there exists a reasonable likelihood with respect to the program which the individual proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

"(c) The Secretary may also approve additional changes in program if the Secretary finds such changes are necessitated by circumstances beyond the control of the eligible veteran or eligible person.

"(d) As used in this section, the term 'change of program of education' does not include a change from the pursuit of one program to pursuit of another where the first program is prerequisite to, or generally required for, entrance into pursuit of the second.

"§ 3615. Education outside the United States

"(a) An individual may not enroll in any course at an educational institution not located in a State unless such course is pursued at an institution of higher learning and the course is approved by the Secretary.

"(b) The Secretary may deny or discontinue educational assistance in the case of any individual enrolled in an institution of higher learning not located in a State if the Secretary determines that such enrollment is not in the best interest of the individual or the Federal Government.

"(c) For the purposes of this section, the term 'State' includes, in the case of an individual entitled to educational assistance under chapter 35 of this title, the Republic of the Philippines.

"SUBCHAPTER III—SPECIAL SUPPLEMENTAL ASSISTANCE

"§ 3621. Elementary and secondary education and preparatory educational assistance

"(a)(1) In the case of any individual who is eligible for or entitled to educational assistance under chapter 35 and who—

"(A) has not received a secondary school diploma (or an equivalency certificate), or

"(B) in order to pursue a program of education for which the individual would otherwise be eligible, needs refresher courses, deficiency courses, or other preparatory or special educational assistance to qualify for admission to an appropriate educational institution,

the Secretary may, without regard to so much of the provisions of section 3612 of this title as prohibit the enrollment of an individual in a program of education in which the individual is already qualified, approve the enrollment of such individual in an appropriate course or courses or other special educational assistance program.

"(2) The provisions of paragraph (1)(A) shall, in the case of any enlisted member of the Armed Forces who is a chapter 32 participant, also apply to the enrollment of such member in a course, courses, or program of education for the purpose of attaining a secondary school diploma (or an equivalency certificate) during the last six months of the member's first enlistment and at any time thereafter.

"(3) The provisions of paragraph (1)(B) shall, in the case of an individual not on active duty who is entitled to educational assistance under chapter 32, also apply to the individual's enrollment in refresher or deficiency courses or other preparatory or special educational assistance program.

"(b) The Secretary may, without regard to so much of the provisions of section 3612 of this title as prohibit the enrollment of an individual in a program of education in which the individual is already qualified, and pursuant to such regulations as the Secretary shall prescribe, approve the enrollment of such individual entitled to educational assistance under chapter 30 or 32 in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment during and since the period of such individual's active military service), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.

"§ 3622. Tutorial assistance

"(a) In the case of any individual who—

"(1) is enrolled in and pursuing a postsecondary program of education on a half-time or more basis at an educational institution; and

"(2) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education,

the Secretary may approve individualized tutorial assistance for such individual if such assistance is necessary for the individual to complete such program successfully.

"(b) The Secretary shall only pay the tutorial assistance allowance authorized by section 3019, 3234, or 3533(b) of this title, as applicable, to an individual receiving tutorial assistance approved pursuant to subsection (a) upon certification by the educational institution in which the individual is enrolled that—

"(1) the individualized tutorial assistance is essential to correct a deficiency of the individual in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

"(2) the tutor chosen to perform such assistance is qualified to do so and is not the individual's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and

"(3) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

"§ 3623. Educational and vocational counseling

"(a) The Secretary shall make available to a person described in subsection (b), upon such person's request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the Secretary determines necessary to aid the person in selecting—

"(1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective; or

"(2) an employment objective that would be likely to provide such person with satisfactory employment opportunities in the light of the person's personal circumstances.

"(b) For the purposes of this section, the term 'person' means a person who—

"(1) is eligible for educational assistance under chapter 30, 31, 32, or 35 of this title or chapter 106 or 107 of title 10;

"(2) was discharged or released from active duty under conditions other than dishonorable if not more than one year has elapsed since the date of such last discharge or release from active duty; or

"(3) is serving on active duty with the Armed Forces in a State and is within 180 days of the estimated date of such person's discharge or release from active duty under conditions other than dishonorable, including a person who is making a determination of whether to continue as a member of the Armed Forces.

"(c) In any case in which the Secretary has rated the person as being incompetent, the counseling services described in subsection (a) shall be required to be provided to the person before the selection of a program of education or training.

"(d) At such intervals as the Secretary determines necessary, the Secretary shall make available information concerning the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the Secretary determines practicable.

"(e) The Secretary shall take appropriate steps (including personal notification where feasible) to acquaint all persons described in subsection (b) with the availability and advantages of counseling services under this section.

"§ 3624. Work-study allowance

"(a)(1) Persons utilized under the authority of subsection (b) shall be paid an additional educational assistance allowance (hereafter referred to as 'work-study allowance'). Such work-study allowance shall be paid in an amount equal to the applicable hourly minimum wage times the number of hours worked during the applicable period. The payment shall be made in return for the person's agreement to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period, required in connection with—

"(A) the outreach services program under subchapter IV of chapter 3 of this title as carried out under the supervision of a Department of Veterans Affairs employee;

"(B) the preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Department of Veterans Affairs;

"(C) the provision of hospital and domiciliary care and medical treatment under chapter 17 of this title;

"(D) any other activity of the Department of Veterans Affairs as the Secretary shall determine appropriate; or

"(E) in the case of a person who is receiving educational assistance under chapter 106 of title 10, activities relating to the administration of such chapter at Department of Defense, Coast Guard, or National Guard facilities.

"(2) A person shall be paid in advance an amount equal to 40 percent of the total amount of the work-study allowance agreed to be paid under the agreement in return for the person's agreement to perform the number of hours of work specified in the agreement.

"(3) For the purposes of paragraph (1) and subsection (e), the term 'applicable hourly minimum wage' means—

"(A) the hourly minimum wage under section 6(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)); or

"(B) the hourly minimum wage under comparable law of the State in which the services are to be performed, if such wage is higher than the wage referred to in clause (A) and the Secretary has made a determination to pay such higher wage.

"(b) Notwithstanding any other provision of law, the Secretary shall, subject to subsection (e), utilize, in connection with the activities specified in subsection (a)(1), the services of persons who are pursuing programs of rehabilitation, education, or training under chapter 30, 31, 32, or 35 (other than a course of special restorative training and only if pursued in a State) of this title or chapter 106 of title 10, at a rate equal to at least three-quarters of that required of a full-time student. In carrying out this section, the Secretary, wherever feasible, shall give priority to veterans with disabilities rated at 30 percent or more for purposes of chapter 11. In the event a person ceases to be at least a three-quarter-time student before completing such agreement, the person may, with the approval of the Secretary, be permitted to complete such agreement.

"(c) The Secretary shall determine—

"(1) on the basis of a survey which the Secretary shall conduct annually of each Department regional office, the number of persons whose services the Department can effectively utilize, and the types of services that such persons may be required to perform, during an enrollment period in each geographical area where Department activities are conducted; and

"(2) which persons shall be offered agreements under this section in accordance with criteria contained in regulations which the Secretary shall prescribe, including criteria based on—

"(A) the need of the person to augment the veteran's educational assistance or subsistence allowance;

"(B) the availability to the person of transportation to the place where the person's services are to be performed;

"(C) the motivation of the person; and

"(D) in the case of a disabled veteran pursuing a course of vocational rehabilitation under chapter 31 of this title, the compatibility of the work assignment to the veteran's physical condition.

"(d) While performing the services authorized by this section, persons shall be deemed employees of the United States for the purposes of the benefits of chapter 81 of title 5 but not for the purposes of laws administered by the Office of Personnel Management.

"(e)(1) Subject to paragraph (2) of this subsection, the Secretary may, notwithstanding any other provision of law, enter into an agreement with a person under this section, or a modification of such an agreement, whereby the person agrees to perform services of the kind described in clauses (A) through (E) of subsection (a)(1) and agrees that the Secretary shall, in lieu of paying the work-study allowance payable for such services, as provided in subsection (a), deduct the amount of the allowance from the amount which the person has been determined to be indebted to the United States by virtue of such person's participation in a benefits program under chapter 30, 31, 32, *34*, 35, or this chapter (other than an education loan under section 3625), or under chapter 106 of title 10 (other than an indebtedness arising from a refund penalty imposed under section 2135 of such title).

"(2)(A) Subject to subparagraph (B), the provisions of this section (other than those provisions which are determined by the Secretary to be inapplicable to an agreement under this subsection) shall apply to any agreement authorized under paragraph (1).

"(B) For the purposes of this subsection, the Secretary may—

"(i) waive, in whole or in part, the limitations in subsection (a) concerning the number of hours and periods during which services can be performed by the person and the provisions of subsection (b) requiring the person's pursuit of a program of rehabilitation, education, or training;

"(ii) in accordance with such terms and conditions as may be specified in the agreement under this subsection, waive or defer charging interest and administrative costs pursuant to section 5315 of this title on the indebtedness to be satisfied by performance of the agreement; and "(iii) notwithstanding the indebtedness offset provisions of section 5314 of this title, waive or defer, until the termination of an agreement under this subsection, the deduction of all or any portion of the amount of indebtedness covered by the agreement from future payments to the person as described in section 5314.

"(3)(A) Subject to subparagraphs (B) and (C), an agreement authorized under this subsection shall terminate in accordance with the provisions of this section and the terms and conditions of the agreement which are consistent with this subsection.

"(B) Subject to subparagraph (C), in no event shall an agreement under this subsection continue in force after the total amount of the person's indebtedness described in paragraph (1) has been recouped, waived, or otherwise liquidated.

"(C) If the Secretary finds that a person was without fault and was allowed to perform services described in the agreement after its termination, the Secretary shall, as reasonable compensation therefor, pay the person at the applicable hourly minimum wage rate for such services as the Secretary determines were satisfactorily performed.

"(4) The Secretary shall promulgate regulations to carry out this subsection.

"§ 3625. Education loans

"(a)(1)(A) Subject to subparagraph (B) of this paragraph, an individual who is pursuing a program of education in a State shall be entitled to an education loan under this section in an amount determined under, and subject to the terms, conditions, and requirements specified in this section.

"(B) Except in the case of an individual to who section 3462(a)(2), as in effect on the date of enactment of this section, or section 3512(f) of this title, is applicable, no loan may be made under this section after September 30, 1981.

"(2)(A) Subject to subparagraph (C) of this paragraph, the amount of the loan to which an individual shall be entitled under this section for any academic year shall be equal to the amount needed by such individual to pursue a program of education at the institution at which the individual is enrolled, as determined under subparagraph (B) of this paragraph.

"(B)(i) The amount needed by an individual to pursue a program of education at an institution for any academic year shall be determined by subtracting (I) the total amount of financial resources (as defined in clause (ii) of this subparagraph) available to the individual which may be reasonably expected to be expended by such individual for educational purposes in any year from (II) the actual cost of attendance (as defined in clause (iii) of this subparagraph) at the institution in which such individual is enrolled.

"(ii) The term 'total amount of financial resources' of any individual for any year means the total of the following:

"(I) The annual adjusted effective income of the individual less Federal income tax paid or payable by such individual with respect to such income.

"(II) The amount of cash assets of the individual.

"(III) The amount of financial assistance received by the individual under the provisions of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(IV) Educational assistance received by the individual under this title other than under this section.

"(V) Financial assistance received by the individual under any scholarship or grant program other than those specified in subclauses (III) and (IV).

"(iii) The term 'actual cost of attendance' means, subject to such regulations as the Secretary may prescribe, the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and an allowance for such other expenses as the Secretary determines by regulation to be reasonably related to attendance at the institution at which the individual is enrolled.

"(C) The aggregate of the amounts any individual may borrow under this section may not exceed $376 multiplied by the number of months of educational assistance such individual was entitled to receive under section 3461 of this title, as in effect on the date before the date of enactment of this section, but not in excess of $2,500 in any one regular academic year.

"(3) An eligible individual shall be entitled to a loan under this section if such individual—

"(A) is in attendance at an educational institution on at least a half-time basis and (i) is enrolled in a course leading to a standard college degree, or (ii) is enrolled in a course, the completion of which requires six months or longer, leading to an identified and predetermined professional or vocational objective, except that the Secretary may waive the requirements of clause (ii) of this subparagraph, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the individual and the Federal Government;

"(B) enters into an agreement with the Secretary meeting the requirements of paragraph (4) of this subsection; and

"(C) satisfies any criteria established under paragraph (7) of this subsection.

No loan shall be made under this section to an individual pursuing a program of correspondence, or apprenticeship or other on-job training.

"(4) Any agreement between the Secretary and an individual under this section—

"(A) shall include a note or other written obligation which provides for repayment to the Secretary of the principal amount of, and payment of interest on, the loan in installments (i) over a period beginning nine months after the date on which the borrower ceases to be at least a half-time student and ending ten years and nine months after such date, or (ii) over such shorter period as the Secretary may have prescribed under paragraph (7) of this subsection;

"(B) shall include provision for acceleration of repayment of all or any part of the loan, without penalty, at the option of the borrower;

"(C) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at a rate prescribed by the Secretary, at the time the loan is contracted for which rate shall be comparable to the rate of interest charged students at such time on loans insured by the Secretary of Education under part B of title IV of the Higher Education Act of 1965, but in no event shall the rate so prescribed by the Secretary exceed the rate charged students on such insured loans, and shall provide that no interest shall accrue prior to the beginning date of repayment; and

"(D) shall provide that the loan shall be made without security and without endorsement.

"(5)(A) Except as provided in subparagraph (B) of this paragraph, whenever the Secretary determines that a default has occurred on any loan made under this section, the Secretary shall declare an overpayment, and such overpayment shall be recovered from the individual concerned in the same manner as any other debt due the United States.

"(B) If an individual who has received a loan under this section dies or becomes permanently and totally disabled, then the Secretary shall discharge the individual's liability on such loan by repaying the amount owed on such loan.

"(C) The Secretary shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by paragraph (7)(A) of this subsection to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such report shall include—

"(i) data regarding the cumulative default experience, and the default experience during the preceding fiscal year, with respect to such loans; and

"(ii) data regarding the default experience and default rate with respect to loans made under this subsection.

"(6) Payment of a loan made under this subsection shall be drawn in favor of the individual and mailed promptly to the educational institution in which such individual is enrolled. Such institution shall deliver such payment to the individual as soon as practicable after receipt thereof. Upon delivery of such payment to the individual, such educational institution shall promptly submit to the Secretary a certification, on such form as the Secretary shall prescribe, of such delivery, and such delivery shall be deemed to be an advance payment under section 3657(d) of this title for purposes of section 3671(b) of this title.

"(7)(A) The Secretary shall conduct, on a continuing basis, a review of the default experience with respect to loans made under this subsection.

"(B)(i) To ensure that loans are made under this subsection on the basis of financial need directly related to the costs of education, the Secretary may, by regulation, establish (I) criteria for eligibility for such loans, in addition to the criteria and requirements prescribed by paragraphs (3) and (4) of this subsection, in order to limit eligibility for such loans to individuals attending educational institutions with relatively high rates of tuition and fees, and (II) criteria under which the Secretary may prescribe a repayment period for certain types of loans made under this subsection that is shorter than the repayment period otherwise applicable under paragraph (4)(A)(i) of this subsection. Criteria established by the Secretary under subclause (I) of the preceding sentence may include a minimum amount of tuition and fees that an individual may pay in order to be eligible for such a loan (except that any such criterion shall not apply with respect to a loan for which the individual is eligible as a result of an extension of the period of eligibility of such individual for loans under this section provided for by section 3462(a)(2), as in effect on the date before the date of enactment of this section).

"(ii) In prescribing regulations under clause (i) of this subparagraph, the Secretary shall take into consideration information developed in the course of the review required by subparagraph (A) of this paragraph.

"(iii) Regulations may be prescribed under clause (i) of this subparagraph only after opportunity has been afforded for public comment thereon.

"(b)(1) There is hereby established in the Treasury of the United States a revolving fund to be known as the 'Department of Veterans Affairs Education Loan Fund' (hereinafter in this subsection referred to as the 'Fund').

"(2) The Fund shall be available to the Secretary, without fiscal year limitation, for the making of loans under this section.

"(3) There shall be deposited in the Fund (A) by transfer from current and future appropriations for readjustment benefits such amounts as may be necessary to establish and supplement the Fund in order to meet the requirements of the Fund, and (B) all collections of fees and principal and interest (including overpayments declared under subsection (a)(5) of this section) on loans made under this section.

"(4) The Secretary shall determine annually whether there has developed in the Fund a surplus which, in the Secretary's judgment, is more than necessary to meet the needs of the Fund, and such surplus, if any, shall be deemed to have been appropriated for readjustment benefits.

"(5)(A) A fee shall be collected from each individual obtaining a loan made under this section for the purpose of insuring against defaults on loans made under this section; and no loan shall be made under this section until the fee payable with respect to such loan has been collected and remitted to the Secretary. The amount of the fee shall be established from time to time by the Secretary, but shall in no event exceed 3 percent of the total loan amount. The amount of the fee may be included in the loan to the individual and paid from the proceeds thereof.

"SUBCHAPTER IV—STATE APPROVING AGENCIES

"§ 3631. Designation and responsibility of State approving agency

"(a) Unless otherwise established by the law of the State concerned, the chief executive of each State is requested to create or designate a State department or agency as the 'State approving agency' for such State for the purposes of this chapter and chapters 30, 32, and 35.

"(b) Each designated State approving agency shall be responsible for the approval of courses offered by educational institutions or training establishments operating within such agency's respective State jurisdiction. Such course approval shall be in accordance with the provisions of this chapter and chapter 35, applicable regulations prescribed by the Secretary, and such other regulations and policies as the State approving agency may adopt.

"(c)(1) If any State fails or declines to create or designate a State approving agency, or fails to enter into an agreement under section 3634 of this title, the provisions of this chapter which refer to the State approving agency shall, with respect to such State, be deemed to refer to the Secretary.

"(2) In the case of courses subject to approval by the Secretary under section 3632 of this title, the provisions of this chapter which refer to a State approving agency shall be deemed to refer to the Secretary.

"§ 3632. Cases in which Secretary acts as State approving agency

"(a)(1) The Secretary shall act as a State approving agency and be responsible for the approval of courses of education offered by any agency of the Federal Government authorized under other laws to supervise such education.

"(2) The Secretary may approve any course in any other educational institution in accordance with the provisions of this chapter and chapter 35.

"(b) In the case of programs of apprenticeship in which—

"(1) the standards have been approved by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (popularly known as the National Apprenticeship Act) (29 U.S.C. 50a), as a national apprenticeship program for operation in more than one State; and

"(2) the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State,

the Secretary shall act as a State approving agency and shall be responsible for the approval of all such programs.

"§ 3633. Cooperation

"(a) The Secretary and each State approving agency shall take cognizance of the fact that definite duties, functions, and responsibilities are conferred upon the Secretary and each State approving agency under the educational programs established under chapters 30, 32, 35, and this chapter. To assure that such programs are effectively and efficiently administered, the cooperation of the Secretary and the State approving agencies is essential. It is necessary to establish an exchange of information pertaining to activities of educational institutions, and particular attention should be given to the enforcement of approval standards, enforcement of enrollment restrictions, and fraudulent and other criminal activities on the part of persons connected with educational institutions in which individuals are enrolled under such chapters.

"(b) The Secretary shall furnish the State approving agencies with copies of Department of Veterans Affairs informational material relating to the carrying out of their duties.

"(c) Each State approving agency shall furnish the Secretary with a current list of educational institutions specifying courses which it has approved, and, in addition to such list, it shall furnish such other information to the Secretary as it and the Secretary may determine to be necessary to carry out the purposes of this chapter and chapters 30, 32, and 35 of this title and chapter 106 of title 10.

"§ 3634. Reimbursement of expenses

"(a)(1)(A) Subject to subparagraph (B) of this paragraph and paragraphs (2) through (4), the Secretary may enter into contracts or agreements with State and local agencies to pay such State and local agencies for reasonable and necessary expenses of salary and travel incurred by employees of such agencies and an allowance for administrative expenses in accordance with the formula contained in subsection (b) incurred in—

"(i) rendering necessary services in ascertaining the qualifications of educational institutions for furnishing courses of education to persons under this chapter and chapters 30, 32, and 35 of this title and chapter 106 of title 10, and in the supervision of such educational institutions; and

"(ii) furnishing, at the request of the Secretary, any other services in connection with such chapters.

"(B) Each such contract or agreement shall be conditioned upon compliance with the standards and provisions of such chapters.

"(C) The Secretary may also reimburse such agencies for work performed by their subcontractors where such work has a direct relationship to the requirements of such chapters and has had the prior approval of the Secretary.

"(2)(A) The Secretary shall make payments to State and local agencies, out of amounts available for the payment of readjustment benefits, for—

"(i) the reasonable and necessary expenses of salary and travel incurred by employees of such agencies in carrying out contracts or agreements entered into under this section;

"(ii) expenses approved by the Secretary that are incurred in carrying out employee training activities described in section 3635(a)(4) of this title (except for administrative overhead expenses allocated in such activities); and

"(iii) the allowance for administrative expenses described in subsection (b).

"(B) The Secretary shall make such a payment to an agency within a reasonable time after the agency has submitted a report pursuant to paragraph (3)(A).

"(C) Subject to paragraph (4), the amount of any such payment made to an agency for any period shall be equal to the amount of—

"(i) the reasonable and necessary expenses of salary and travel certified by such agency for such period in accordance with paragraph (3);

"(ii) the allowance for such period for administrative expenses described in subsection (b); and

"(iii) the amount of expenses approved by the Secretary that are incurred in carrying out the employee training activities described in section 3635(a)(4) of this title for such period (except for administrative overhead expenses allocated to such activities).

"(3)(A) Each State and local agency with which a contract or agreement is entered into under this section shall submit to the Secretary on a monthly or quarterly basis, as determined by the agency, a report containing a certification of the reasonable and necessary expenses incurred for salary and travel by such agency under such contract or agreement for the period covered by the report. The report shall be submitted in the form and manner required by the Secretary.

"(B) The Secretary shall transmit to the Congress on a quarterly basis a report that summarizes—

"(i) the amounts for which certifications were made by State and local agencies in the reports submitted under subparagraph (A) with respect to the quarter for which the report is made; and

"(ii) the amounts of the payments made by the Secretary for such quarter with respect to such certifications and with respect to administrative expenses.

"(4) The total amount made available under this section for any fiscal year may not exceed $12,000,000. For any fiscal year in which the total amount that would be made available under this section would exceed $12,000,000 except for the provisions of this paragraph, the Secretary shall provide that each agency shall receive the same percentage of $12,000,000 as the agency would have received of the total amount that would have been made available without the limitation of this paragraph.

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) shall be paid in accordance with the following formula:

"Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$693.
Over $5,000 but not exceeding $10,000.	$1,247.
Over $10,000 but not exceeding $35,000.	$1,247 for the first $10,000 plus $1,155 for each additional $5,000 or fraction thereof.

"Total salary cost reimbursable under this section	Allowable for administrative expense
Over $35,000 but not exceeding $40,000.	$7,548.
Over $40,000 but not exceeding $75,000.	$7,548 for the first $40,000 plus $999 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000.	$14,969.
Over $80,000	$14,969 for the first $80,000 plus $872 for each additional $5,000 or fraction thereof.

"(c) Each State and local agency with which the Secretary contracts or enters into an agreement under subsection (a) shall report to the Secretary periodically, but not less often than annually, as determined by the Secretary, on the activities in the preceding 12 months (or the period which has elapsed since the last report under this subsection was submitted) carried out under such contract or agreement. Each such report shall describe, in such detail as the Secretary shall prescribe, services performed and determinations made in connection with ascertaining the qualifications of educational institutions in connection with this chapter and chapters 30, 32 and 35 of this title and chapter 106 of title 10 and in supervising such institutions.

"§ 3635. Evaluations of agency performance; qualifications and performance of agency personnel

"(a) The Secretary shall—

"(1)(A) conduct, in conjunction with State approving agencies, an annual evaluation of each State approving agency on the basis of standards developed by the Secretary in conjunction with the State approving agencies, and (B) provide each such agency an opportunity to comment on the evaluation;

"(2) take into account the results of annual evaluations carried out under clause (1) when negotiating the terms and conditions of a contract or agreement under section 3634 of this title;

"(3) supervise functionally the provision of course-approval services by State approving agencies under this chapter;

"(4) cooperate with State approving agencies in developing and implementing a uniform national curriculum, to the extent practicable, for training new employees and for continuing the training of employees of such agencies, and sponsor, with the agencies, such training and continuation of training; and

"(5) prescribe prototype qualification and performance standards, developed in conjunction with State approving agencies, for use by such agencies in the development of qualification and performance standards for State approving agency personnel carrying out approval responsibilities under a contract or agreement entered into under section 3634(a) of this title.

"(b)(1) Each State approving agency carrying out a contract or agreement with the Secretary under section 3634(a) of this title shall—

"(A) apply qualification and performance standards based on the standards developed under subsection (a)(5); and

"(B) make available to any person, upon request, the criteria used to carry out its functions under a contract or agreement entered into under section 3634(a) of this title.

"(2) In developing and applying standards described in subsection (a)(5), the State approving agency may take into consideration the State's merit system requirements and other local requirements and conditions.

"(3) The Secretary shall provide assistance in developing such standards to a State approving agency that requests it.

"SUBCHAPTER V—COURSE APPROVAL

"§ 3641. Scope of approval

"A course approved for purposes of educational assistance benefits provided under laws administered by the Department of Veterans Affairs, as of or after the date of enactment of the Administration of Veterans Education Benefits Technical Reorganization Act, shall be deemed approved for the purposes of such laws unless disapproved under this chapter.

"§ 3642. Approval of accredited courses

"(a) A State approving agency may approve the courses offered by an educational institution if—

"(1) such courses have been accredited and approved by a nationally recognized accrediting agency or association;

"(2) such courses are conducted under the Act of February 23, 1917 (20 U.S.C. 11–28; 39 Stat. 929) (relating to vocational education); or

"(3) such courses are accepted by the State department of education for credit for a teacher's certificate or a teacher's degree.

"(b) For the purposes of this chapter, the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations that the Secretary determines to be reliable authority as to the quality of training offered by an educational institution, and the State approving agencies may, upon concurrence, utilize the accreditation of such accrediting associations or agencies for approval of the courses specifically accredited and approved by such accrediting association or agency. In making application for approval, the institution shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the school. The catalog or bulletin shall specifically state its progress requirements for graduation and must include as a minimum the information required by paragraphs (6) and (7) of section 3643(b) of this title.

"(c) As a continuing condition of approval under this section, the State approving agency must find that—

"(1) the educational institution keeps adequate records showing the progress of each individual and showing that the institution has and enforces satisfactory standards relating to the individual's progress and conduct; and

"(2) the educational institution maintains a written record of the previous education and training of the individual and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the individual and the Secretary so notified.

"§ 3643. Approval of nonaccredited courses

"(a) A course that has not been approved by a State approving agency pursuant to section 3642 of this title and that is offered by a public or private, profit or nonprofit, educational institution shall not be approved for the purposes of this chapter unless the educational institution offering such course submits to the appropriate State approving agency a written application for approval of such course in accordance with the provisions of this chapter.

"(b) Such application shall be accompanied by not less than two copies of the institution's current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

"(1) Identifying data, such as volume number and date of publication.

"(2) Names of the institution and its governing body, officials and faculty.

"(3) A calendar of the institution showing legal holidays; beginning date and ending date of each quarter, term, or semester; and other important dates.

"(4) Institution policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course.

"(5) Institution policy and regulations relative to leave, absences, class cuts, makeup work, tardiness, and interruptions for unsatisfactory attendance.

"(6) Institution policy and regulations relative to standards of progress required of the student by the institution, including a description of the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, the probationary period, if any, allowed by the institution, and conditions of reentrance for those students dismissed for unsatisfactory progress, and a statement regarding progress records kept by the institution and furnished by the student.

"(7) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.

"(8) Detailed schedules of charges for tuition, books, supplies, tools, student activities, laboratory use, services, rentals, deposits, and of all other fees and charges.

"(9) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom.

"(10) A description of the available space, facilities, and equipment.

"(11) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, and approximate period of time required for completion of, and clock hours to be spent on, each subject or unit.

"(12) Policy and regulations of the institution relative to granting credit for previous educational training.

"(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

"(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and other private schools in the State with recognized accepted standards.

"(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

"(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

"(4) The institution maintains a written record of the previous education and training of the individual and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the individual and the Secretary so notified.

"(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absence, grading policy, and rules of operation and conduct is furnished the individual upon enrollment.

"(6) Upon completion of training, the individual is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

"(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

"(8) The institution complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building, and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

"(9) The institution is financially sound and capable of fulfilling its commitments for training.

"(10) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency (A) has ascertained from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice, and (B) has, if such an order has been issued, given due weight to that fact.

"(11) The institution does not exceed its enrollment limitations as established by the State approving agency.

"(12) The institution's administrators, directors, owners, and instructors are of good reputation and character.

"(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the individual fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion, and such policy must provide that the amount charged to the individual for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length.

"(14) Such additional criteria as may be deemed necessary by the State approving agency.

"(d) The Secretary may waive, in whole or in part, the requirements of subsection (c)(13) in the case of an educational institution which—

"(1) is a college, university, or similar institution offering postsecondary level academic instruction that leads to an associate or higher degree;

"(2) is operated by an agency of a State or of a unit of local government;

"(3) is located within such State or, in the case of an institution operated by an agency of a unit of local government, within the boundaries of the area over which such unit has taxing jurisdiction; and

"(4) is a candidate for accreditation by a regional accrediting association,

if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, that such requirements would work an undue administrative hardship because the total amount of tuition, fees, and other charges at such institution is nominal.

"§ 3644. Approval of training on the job

"(a) Any State approving agency may approve a program of training on the job (other than a program of apprenticeship) only if it finds that—

"(1) the job which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training on the job and not on such factors as length of service and normal turnover; and

"(2) the provisions of subsections (b) and (c) are met.

"(b) Each training establishment offering training for which approval is sought for the purposes of this chapter shall submit to the appropriate State approving agency a written application for approval which, in addition to furnishing such information as is required by the State approving agency, contains a certification that—

"(1) the wages to be paid the individual—

"(A) upon entrance into training, are not less than wages paid nonveterans in the same training position and are at least 50 percent of the wages paid for the job for which the individual is to be trained; and

"(B) will be increased in regular, periodic increments until, not later than the last full month of the training period, they are at least 85 percent of the wages paid for the job for which such individual is being trained; and

"(2) there is reasonable certainty that the job for which the individual is to be trained will be available to the individual at the end of the training period.

"(c) As a condition for approving a program of training on the job (other than a program of apprenticeship), the State approving agency must find upon investigation that the following criteria have been met:

"(1) The training content of the program is adequate to qualify the individual for appointment to the job for which the individual is to be trained.

"(2) The job customarily requires full-time training for a period of not less than six months and not more than two years.

"(3) The length of the training period is not longer than that customarily required by the training establishments in the community to provide a person with the required skills and to arrange for the acquiring of job knowledge, technical information, and other facts which the individual will need to learn in order to become competent on the job for which the individual is being trained.

"(4) Provision is made for related instruction for the individual who may need it.

"(5) There is in the training establishment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

"(6) Adequate records are kept to show the progress made by each individual toward the individual's job objective.

"(7) No program of training will be considered bona fide if given to an individual who is already qualified by training and experience for the job.

"(8) A signed copy of the training agreement for each individual, including the training program and wage scale as approved by the State approving agency, is provided to the individual and to the Secretary and the State approving agency by the employer.

"(9) The program meets such other criteria as may be established by the State approving agency.

"(d) Pursuant to regulations prescribed by the Secretary in consultation with the Secretary of Labor, the Secretary shall actively promote the development of programs of training on the job (including programs of apprenticeship) for the purposes of this section and shall utilize the services of disabled veterans' outreach program specialists under section 4103A of this title to promote the development of such programs.

"§ 3645. Period of operation for approval

"(a) Except as provided in subsection (b), the Secretary shall not approve the enrollment of any individual in any course offered by an educational institution if such course has been in operation for less than two years.

"(b) Subject to subsection (c), subsection (a) shall not apply to—

"(1) any course to be pursued in a public or other tax-supported educational institution;

"(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution;

"(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality, or has made a complete move with substantially the same faculty, curricula, and students, without change in ownership;

"(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree;

"(5) any course offered by a proprietary nonprofit educational institution which qualifies to carry out an approved program of education for the educationally disadvantaged consisting of courses leading to an elementary or secondary school diploma (or an equivalency certificate), preparatory courses needed for qualification for admission to an appropriate educational institution, or tutorial assistance (including those courses offered at other than the institution's principal location) if the institution offering such course has been in operation for more than two years; or

"(6) any course offered by an educational institution under a contract with the Department of Defense that—

"(A) is given on, or immediately adjacent to, a military base;

"(B) is available only to active duty military personnel or their dependents, or both, and members of the Selected Reserve of the Ready Reserve eligible for educational assistance under chapter 106 of title 10; and

"(C) has been approved by the State approving agency of the State in which the base is located;

except that the Secretary may waive the requirements of this clause, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, that it is in the interest of the person concerned and the Federal Government.

"(c) Notwithstanding the provisions of paragraphs (1), (2), (3), and (4) of subsection (b), the provisions of subsection (a) shall apply to any course offered by a branch or extension of—

"(1) a public or other tax-supported institution if the branch or extension is located outside of the area of the taxing jurisdiction providing support to such institution; or

"(2) a proprietary profit or proprietary nonprofit educational institution if the branch or extension is located beyond the normal commuting distance of such institution,

except that Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, that it is in the interest of the person concerned and the Federal Government.

"§ 3646. Notice of approval of courses

"The State approving agency, upon determining that an educational institution has complied with all the requirements of this chapter, shall issue a letter to such institution setting forth the courses which have been approved for the purposes of this chapter and shall furnish an official copy of such letter and any subsequent amendments to the Secretary. The letter of approval shall be accompanied by a copy of the catalog or bulletin of the institution, as approved by the State approving agency, and shall contain the following information:

"(1) The date of the letter and the effective date of approval of the courses.

"(2) The proper address and name of each educational institution.

"(3) The authority for approval and conditions of approval, referring specifically to the approved catalog or bulletin published by the educational institution.

"(4) The name of each course approved.

"(5) Where applicable, enrollment limitations such as maximum numbers authorized and student-teacher ratio.

"(6) The signature of the responsible official of the State approving agency.

"(7) Such other fair and reasonable provisions considered necessary by the appropriate State approving agency.

"§ 3647. Disapproval of courses

"(a) Any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the appropriate State approving agency. An educational institution which has its courses disapproved by a State approving agency shall be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

"(b)(1) Each State approving agency shall notify the Secretary of each course which it has disapproved under this section and, in the case of a disapproval of a previously approved course, shall include in such notice the reasons for such disapproval.

"(2) The Secretary shall notify the State approving agency of the Secretary's disapproval of any educational institution for the purposes of chapter 31.

"SUBCHAPTER VI—CONDITIONS AND LIMITATIONS ON PAYMENTS

"§ 3651. Payment based on approved course enrollment and satisfactory pursuit

"(a) An individual shall receive the benefits of this chapter or chapter 30, 32, and chapter 35 while enrolled in a program of education offered by an educational institution only if—

"(1) the course or courses comprising such program are approved as provided in this chapter by the State approving agency for the State in which such educational institution is located, or by the Secretary; or

"(2) such course or courses are approved by the Secretary—

"(A) for the enrollment of the particular person in a specialized course of vocational training under the provisions of section 3536 of this title; or

"(B) for special restorative training under subchapter V of chapter 35.

"(b) Educational assistance or subsistence allowances for persons pursuing a program of education or training, other than a program by correspondence, in an educational institution under chapter 30, 31, 32, or 35 shall be paid as provided in such chapter and this chapter, as applicable, only for the period of such person's enrollment in, and pursuit of, such program, but no amount shall be paid—

"(1) except as provided in subsection (c), to any person for any period when such person is not pursuing such person's course in accordance with the regularly established policies and regulations of the educational institution, with the provisions of such regulations as may be prescribed by the Secretary pursuant to subsection (d), and with the requirements of this chapter or chapter 30, 31, 32, or 35, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution;

"(2) to any person for auditing a course;

"(3) to any person for a course for which the grade assigned is not used in computing the requirements for graduation, including a course from which the student withdraws, unless—

"(A) the person withdraws because he or she is ordered to active duty; or

"(B) the Secretary finds there are mitigating circumstances, except that, in the first instance of withdrawal (without regard to withdrawals described in subparagraph (A) of this clause) by a person from a course or courses with respect to which such person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof; or

"(4) to any person for pursuit of a program of education exclusively by correspondence as authorized under section 3661 of this title or for the pursuit of a correspondence portion of a combination correspondence-residence course leading to a vocational objective where the normal period of time required to complete such correspondence course or portion is less than six months, with the certification of the normal period of time required to complete the course being made to the Secretary by the educational institution.

"(c) The Secretary may, subject to such regulations as the Secretary shall prescribe, continue to pay allowances to persons referred to in subsection (b)(1)—

"(1) during periods when the schools are temporarily closed under an established policy based upon an Executive Order of the President or because of an emergency situation;

"(2) during periods between consecutive school terms where such persons transfer from one approved educational institution to another approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days; or

"(3) during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the person on a semester, term, or quarter basis if the interval between such periods does not exceed one calendar month.

"(d)(1) The Secretary may, pursuant to regulations which the Secretary shall prescribe, determine and define enrollment in, pursuit of, and attendance at, any program of education or training or course by a person for any period for which the person receives an educational assistance or subsistence allowance under this chapter or chapter 30, 31, 32, or 35 for pursuing such program or course.

"(2) Except as provided in subchapter VII relating to correspondence, apprenticeship, and other on-job training courses—

"(A) subject to such reports and proof as the Secretary may require to show a person's enrollment in and satisfactory pursuit of such person's program, the Secretary may withhold payment of benefits to such person until the required proof is received and the amount of the payment is appropriately adjusted; and

"(B) the Secretary may accept such individual's monthly certification of enrollment in and satisfactory pursuit of such person's program as sufficient proof of the certified matters.

"(e) A person enrolled under chapter 30, 31, 32, or 35 or under this chapter shall, without delay, report to the Secretary, in the form prescribed by the Secretary, such enrollment and any interruption or termination of the education of such person. The date of such interruption or termination shall be the last date of pursuit, or, in the case of correspondence training, the last date a lesson was serviced by a school.

"§ 3652. Discontinuance for unsatisfactory attendance, conduct, or progress

"(a) The Secretary shall discontinue the educational assistance allowance of any individual if, at any time, the Secretary finds that according to the regularly prescribed standards and practices of the educational institution, the individual's attendance, conduct, or progress is unsatisfactory.

"(b) The Secretary may renew the payment of the educational assistance allowance only if the Secretary finds that—

"(1) the individual will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such individual's reenrollment and certified it to the Department; or

"(2) in the case of a proposed change of either educational institution or program of education by the individual—

"(A) the cause of the unsatisfactory attendance, conduct, or progress has been removed;

"(B) the program proposed to be pursued is suitable to the individual's aptitudes, interests, and abilities; and

"(C) if a proposed change of program is involved, the change meets the requirements for approval under section 3614 of this title.

"§ 3653. Measurement of courses

"(a) For the purposes of this chapter and chapters 30, 32, and 35—

"(1) an institutional trade or technical course offered on a clock-hour basis, not leading to a standard college degree, involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of 30 hours per week of attendance is required with no more than two and one-half hours of rest periods and not more than five hours of supervised study per week allowed, but if such course is approved pursuant to section 3642(a)(1) of this title, then 22 hours per week of attendance, with no more than two and one-half hours of rest period per week allowed and excluding supervised study, shall be considered full time;

"(2) an institutional course offered on a clock-hour basis, not leading to a standard college degree, in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of 25 hours per week net of instruction and not more than five hours of supervised study (which may include customary intervals not to exceed ten minutes between hours of instruction) is required, but if such course is approved pursuant to section 3642(a)(1) of this title, then 18 hours per week net of instruction (excluding supervised study), which may include customary intervals not to exceed ten minutes between hours of instruction, shall be considered full time;

"(3) an academic high school course requiring 16 units for a full course shall be considered a full-time course when—

"(A) a minimum of four units per year is required, with a unit being not less than 120 sixty-minute hours or their equivalent of study in any subject in one academic year; or

"(B) an individual is pursuing a program of education leading to an accredited high school diploma at a rate which, if continued, would result in receipt of such a diploma in four ordinary school years;

"(4) an institutional undergraduate course offered by a college or university in residence on a standard quarter- or semester-hour basis shall be considered a full-time course when a minimum of 14 semester hours per semester or the equivalent thereof (including such hours for which no credit is granted but which are required to be taken to correct an educational deficiency and which the educational institution considers to be quarter or semester hours for other administrative purposes), for which credit is granted toward a standard college degree, is required, except that where such college or university certifies, upon the request of the Secretary, that—

"(A) full-time tuition is charged to all undergraduate students carrying a minimum of less than 14 such semester hours or the equivalent thereof; or

"(B) all undergraduate students carrying a minimum of less than 14 such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes,

then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than 12 semester hours or the equivalent thereof, then 12 semester hours or the equivalent thereof shall be considered a full-time course;

"(5) a program of apprenticeship or a program of other on-job training shall be considered a full-time program when the individual is required to work the number of hours constituting the standard workweek of the training establishment, but a workweek of less than 30 hours shall not be considered to constitute full-time training unless a lesser number of hours has been established as the standard workweek for the particular establishment through bona fide collective bargaining;

"(6) an institutional course offered as part of a program of education, not leading to a standard college degree, under section 3621(a)(2) of this title shall be considered a full-time course on the basis of measurement criteria provided in clause (2), (3), or (4), as determined by the educational institution; and

"(7) an institutional course not leading to a standard college degree, offered by a fully accredited institution of higher learning in residence on a standard quarter- or semester-hour basis, shall be measured as full time on the same basis as provided in clause (4) if—

"(A) such course is approved pursuant to section 3642 of this title; and

"(B) a majority of the total credits required for the course is derived from unit courses or subjects offered by the institution as part of a course, so approved, leading to a standard college degree.

"(b) For the purposes of subsection (a), the term 'in residence on a standard quarter- or semester-hour basis' means study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit. For the purposes of the preceding sentence, the term 'standard class session' means one hour (or 50-minute period) of academic instruction, two hours (or two 50-minute periods) of laboratory instruction, or three hours (or three 50-minute periods) of workshop training.

"(c) Notwithstanding paragraphs (1) and (2) of subsection (a), an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis (with full-time measured on the same basis as provided by clause (4) of such subsection), if—

"(1) the academic portions of such courses require outside preparation and are measured on not less than one quarter or one semester hour for each 50 minutes net of instruction per week per quarter or semester;

"(2) the laboratory portions of such courses are measured on not less than one quarter or one semester hour for each two hours (or two 50-minute periods) of attendance per week per quarter or semester; and

"(3) the shop portions of such courses are measured on not less than one quarter or one semester hour for each three hours (or three 50-minute periods) of attendance per week per quarter or semester,

except that in no event shall such a course be considered a full-time course when less than 22 hours per week of attendance is required.

"(d) The Secretary shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under this chapter or chapter 30, 32, or 35.

"(e) Notwithstanding any other provision of this title, an institutional undergraduate course leading to a standard college degree offered by a college or university in residence shall be considered to be a full-time course if—

"(1) the educational institution offering such course considers such course to be a full-time course and treats such course as a full-time course for all purposes, including—

"(A) payment of tuition and fees;

"(B) the awarding of academic credit for the purpose of meeting graduation requirements; and

"(C) the transfer of such credits to an undergraduate course meeting the criteria set forth in subsection (a)(4);

"(2) less than 50 percent of the persons enrolled in such course are receiving educational assistance under this title;

"(3) such course would qualify as a full-time course under subsection (a)(4), except that it does not meet the requirements of such subsection with respect to weekly class instruction; and

"(4) the course requires—

"(A) pursuit of standard class sessions for each credit at a rate not less frequent than every two weeks; and

"(B) monthly pursuit of a total number of standard class sessions equal to that number of standard class sessions which, during the same period of time, is required for a course qualifying as a full-time course under subsection (a)(4).

"(f)(1) For the purpose of measuring clock hours of attendance or net of instruction under clause (1) or (2), respectively, of subsection (a) for a course—

"(A) which is offered by an institution of higher learning, and

"(B) for which the institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree pursued in residence on a standard quarter- or semester-hour basis,

the number of credit hours (semester or quarter hours) represented by such unit courses or subjects shall, during the semester, quarter, or other applicable portion of the academic year when pursued, be converted to equivalent clock hours, determined as prescribed in paragraph (2). Such equivalent clock hours then shall be combined with actual weekly clock hours of training concurrently pursued, if any, to determine the total clock hours of enrollment.

"(2) For the purpose of determining the clock-hour equivalency described in paragraph (1), the total number of credit hours being pursued shall be multiplied by the factor resulting from dividing the number of clock hours which constitute full time under clause (1) or (2) of subsection (a), as appropriate, by the number of semester hours (or equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.

"§ 3654. Bar to concurrent educational assistance

"(a) No person shall be paid educational assistance allowance under chapter 30, 32, 35, or this chapter, or chapter 106 or 107 of title 10, or subsistence allowance under chapter 31, for pursuit of a course of education or training if—

"(1) the person is on active duty and such course of education or training is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service); or

"(2) the course of education or training is being paid for under chapter 41 of title 5 and such person's full salary is being paid to the person while pursuing such course of education or training.

"(b) No person may receive benefits concurrently under two or more of the following provisions of law:

"(1) This chapter and chapters 30, 31, 32, and 35.

"(2) Chapters 106 and 107 of title 10.

"(3) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. 2141 note).

"(4) The Hostage Relief Act of 1980 (Public Law 96-449, 5 U.S.C. 5561 note).

"(5) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399).

"§ 3655. Limitation on period of assistance under two or more programs

"(a) The aggregate period for which any person may receive assistance under two or more of the provisions of law listed below may not exceed 48 months (or the part-time equivalent thereof):

"(1) The War Orphans' Educational Assistance Act of 1956.

"(2) This chapter and chapters 30, 32, and 35, and the former chapters 33 and 34.

"(3) Chapters 106 and 107 of title 10.

"(4) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 10 U.S.C. 2141 note).

"(5) The Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note).

"(6) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399).

"(b) No person may receive assistance under chapter 31 in combination with assistance under any of the provisions of law cited in subsection (a) in excess of 48 months (or the part-time equivalent thereof) unless the Secretary determines that additional months of benefits under chapter 31 are necessary to accomplish the purposes of a rehabilitation program (as defined in section 3101(6) of this title) in the person's case.

"§ 3656. Payment to persons incarcerated

"(a)(1) Notwithstanding sections 3015, 3231, and 3532 of this title, section 2131 of title 10, and any other provision of law other than paragraph (2) of this subsection and subsection (b) of this section, the amount of the educational assistance allowance paid to a person who is pursuing a program of education under this chapter or chapter 30, 32, or 35 of this title or chapter 106 of title 10 while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed—

"(A) such amount as the Secretary determines, in accordance with regulations which the Secretary shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the cost of necessary supplies, books, and equipment; or

"(B) the applicable monthly educational assistance allowance prescribed for a person under this chapter or chapter 30, 32, or 35 of this title or chapter 106 of title 10, as applicable,

whichever is the lesser.

"(2) The amount of the educational assistance allowance payable to a person while so incarcerated shall be reduced to the extent that the tuition and fees of the person for any course are paid under any Federal program (other than a program administered by the Secretary) or under any State or local program.

"(b) Subsection (a) shall not apply in the case of any person who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such person's conviction of a felony.

"§ 3657. Advance payment of educational assistance or subsistence allowance

"(a) The educational assistance or subsistence allowance advance payment provided for in this section is based upon a finding by the Congress that persons receiving such assistance or allowance under this chapter or chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10 may need additional funds at the beginning of a school term to meet the expenses of books, travel, deposits, and payment for living quarters, the initial installment of tuition, and the other special expenses which are concentrated at the beginning of a school term.

"(b)(1) Subject to the other provisions of this subsection, and under regulations which the Secretary shall prescribe, such a person shall be paid an educational assistance allowance or subsistence allowance, as appropriate, advance payment.

"(2) Such advance payment shall be made in an amount equivalent to the allowance for the month or fraction thereof in which pursuit of the program will commence, plus the allowance for the succeeding month.

"(3) In the case of a person on active duty, who is pursuing a program of education, the advance payment shall be in a lump sum based upon the amount payable for the entire quarter, semester, or term, as applicable.

"(4) The Secretary may not make an advance payment under this section—

"(A) to any person intending to pursue a program of education on less than a half-time basis; or

"(B) to any other person unless the individual requests such payment and the Secretary finds that the educational institution at which such person is accepted or enrolled has agreed to, and can satisfactorily, carry out the provisions of paragraphs (2) and (3) of subsection (d) and the provisions of subsection (e).

"(5) The application for advance payment, to be made on a form prescribed by the Secretary, shall—

"(A) in the case of an initial enrollment of a person in an educational institution, contain information showing that the person—

"(i) is eligible for educational benefits;

"(ii) has been accepted by the institution; and

"(iii) has notified the institution of such person's intention to attend that institution; and

"(B) in the case of a re-enrollment, contain information showing that the person—

"(i) is eligible to continue such person's program of education or training; and

"(ii) intends to re-enroll in the same institution,

and, in both cases, shall also state the number of semester or clock-hours to be pursued by such person.

"(c) For purposes of the Secretary's determination whether any person is eligible for an advance payment under this section, the information submitted by the institution or the person shall establish such person's eligibility unless there is evidence in such person's file in the processing office establishing that the person is not eligible for such advance payment.

"(d) The advance payment authorized by this section shall, in the case of any person, be—

"(1) drawn in favor of the person;

"(2) mailed to the educational institution listed on the application form for temporary care and delivery to the individual by such institution; and

"(3) delivered to the person upon such person's registration at such institution,

but in no event shall such delivery be made earlier than thirty days before the program of education is to commence.

"(e)(1) Upon delivery of the advance payment pursuant to subsection (d), the institution shall submit to the Secretary a certification of such delivery.

"(2) If such delivery is not effected within 30 days after commencement of the program of education in question, such institution shall return such payment to the Secretary forthwith.

"§ 3658. Overpayments

"(a) Whenever the Secretary finds that an overpayment has been made to any person the amount of such overpayment shall constitute a liability of such person to the United States.

"(b) If any person fails to enroll in or pursue a course for which an educational assistance or subsistence allowance advance payment is made, the amount of such payment and any amount of subsequent payments which, in whole or in part, are due to erroneous information required to be furnished under section 3657 of this title, shall become an overpayment and shall constitute a liability of such person to the United States.

"(c) Any overpayment referred to in subsection (a) or (b) may be recovered, unless waived pursuant to section 5302 of this title, from any benefit otherwise due such person under any law administered by the Department of Veterans Affairs or may be recovered in the same manner as any other debt due the United States.

"§ 3659. Payments for less than half-time training

"Payment of educational assistance allowance in the case of an individual pursuing a program of education under chapter 30, 32, or 35 of this title on less than a half-time basis shall be made in an amount computed for the entire quarter, semester, or term not later than the last day of the month immediately following the month in which certification is received from the educational institution that such individual has enrolled in and is pursuing a program at such institution. Such lump sum payment shall be computed at the rate provided time under the applicable chapter of this title.

"SUBCHAPTER VII—CORRESPONDENCE AND APPRENTICESHIP OR OTHER ON-JOB TRAINING

"§ 3661. Correspondence courses

"(a)(1) Each individual (other than a child described in section 3501(a)(1)(A) of this title) who enters into an enrollment agreement to pursue a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of 55 percent (or 100 percent in the case of an individual receiving benefits under chapter 32) of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the individual.

"(2) For purposes of paragraph (1), the term 'established charge' means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the individual, whichever is the lesser.

"(3) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

"(4) The period of entitlement of any individual who is pursuing any program of education exclusively by correspondence shall be charged with one month for each payment of educational assistance to such individual that is equal to the amount of monthly educational assistance the individual would otherwise receive for full-time pursuit of an institutional course under chapter 30, 32, 35, or this chapter, as applicable.

"(5) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, funds in the Department of Veterans Affairs readjustment benefits account shall be available for payments under paragraph (1) for pursuit of a program of education exclusively by correspondence.

"(b) The enrollment agreement shall fully disclose the obligation of both the institution and the individual concerned and shall prominently display the provisions for affirmance, termination, refunds, and the conditions under which payment of the allowance is made by the Secretary to the individual. A copy of the enrollment agreement shall be furnished to each such individual at the time such individual signs such agreement. No such agreement shall be effective unless such individual shall, after the expiration of ten days after the enrollment agreement is signed, have signed and submitted to the Secretary a written statement, with a signed copy to the institution, specifically affirming the enrollment agreement. In the event the individual at any time notifies the institution of such individual's intention not to affirm the agreement in accordance with the preceding sentence, the institution, without imposing any penalty or charging any fee shall promptly make a full refund of all amounts paid.

"(c)(1) In the event the individual elects to terminate enrollment under an affirmed enrollment agreement, the institution (other than one subject to the provisions of section 3643 of this title) may charge the individual a registration or similar fee not in excess of 10 percent of the tuition for the course, or $50, whichever is less.

"(2) Where the individual elects to terminate the agreement after completion of one or more but less than 25 percent of the total number of lessons comprising the course, the institution may retain such registration or similar fee plus 25 percent of the tuition for the course.

"(3) Where the individual elects to terminate the agreement after completion of 25 percent but less than 50 percent of the lessons comprising the course, the institution may retain the full registration or similar fee plus 50 percent of the course tuition.

"(4) If 50 percent or more of the lessons are completed, no refund of tuition is required.

"(d) No educational assistance allowance shall be paid to an individual enrolled in and pursuing a program of education exclusively by correspondence until the Secretary shall have received—

"(1) from the individual a certificate as to the number or lessons actually completed by the individual and serviced by the educational institution; and

"(2) from the training establishment a certification or an endorsement on the individual's certificate, as to the number of lessons completed by the individual and serviced by the institution.

"§ 3662. Apprenticeship or other on-job training

"(a) An individual shall be paid a training assistance allowance as prescribed by subsection (b) of this section while pursuing a full-time—

"(1) program of apprenticeship approved by a State approving agency as meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (popularly known as the National Apprenticeship Act) (29 U.S.C. 50a); or

"(2) program of other on-job training approved under the provisions of section 3644 of this title.

"(b)(1) Except as provided in paragraphs (2) and (3), the amount of the monthly training assistance allowance payable to an individual pursuing a full-time program of apprenticeship or other on-job training is—

"(A) for each of the first six months of the individual's pursuit of such program, 75 percent of the full-time rate of the monthly educational assistance allowance otherwise payable to such individual under the applicable chapter;

"(B) for each of the second six months of the individual's pursuit of such program, 55 percent of such full-time rate of monthly educational assistance allowance; and

"(C) for each of the months following the first 12 months of the individual's pursuit of such program, 35 percent of such full-time rate of monthly educational assistance allowance.

"(2) The monthly training assistance allowance payable under chapter 35 to an individual pursuing a program described in subsection (a) shall be $294 for the first six months, $220 for the second six months, $146 for the third six months, and $73 for the fourth and any succeeding six-month periods of training.

"(3) In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of monthly educational assistance allowance payable under this chapter to the individual shall be limited to the same proportion of the applicable rate determined under paragraph (1) as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

"(4)(A) Except as provided in subparagraphs (B) and (C), for each month that an individual is paid a monthly training assistance allowance, the individual's entitlement under the chapter applicable to the individual shall be charged at the rate of—

"(i) 75 percent a month in the case of payments made in accordance with paragraph (1)(A);

"(ii) 55 percent a month in the case of payments made in accordance with paragraph (1)(B); and

"(iii) 35 percent a month in the case of payments made in accordance with paragraph (1)(C).

"(B) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (3).

"(C) For each month an individual is paid a monthly training assistance allowance under paragraph (2), the individual's under entitlement shall be charged at the rate of a month for each month that an individual is paid.

"(c) For the purpose of this chapter—

"(1) the terms 'program of apprenticeship' and 'program of other on-job training' shall have the same meaning as 'program of education', as defined in section 3601 of this title; and

"(2) a training assistance allowance shall be considered to be an educational assistance allowance.

"(d) No training assistance allowance shall be paid to an individual enrolled in and pursuing a program of apprenticeship or other on-job training until the Secretary shall have received—

"(1) from such individual a certification as to such individual's actual attendance during such period; and

"(2) from the training establishment a certificate, or an endorsement on the individual's certificate, that such individual was enrolled in and pursuing a program of apprenticeship or other on-job training during such period.

"SUBCHAPTER VIII—EDUCATIONAL AND TRAINING INSTITUTION REPORTING; COMPLIANCE

"§ 3671. Reports by educational and training institutions; reporting fee

"(a)(1) Except as provided in paragraph (2), each educational institution offering a course in which a person is enrolled under this chapter, chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 shall, without delay, report to the Secretary, in the form prescribed by the Secretary, such enrollment and any interruption or termination of the education of each such person. The date of such interruption or termination will be the last date of pursuit, or, in the case of correspondence training, the last date a lesson was serviced by a school.

"(2)(A) In the case of a program of independent study pursued on less than a half-time basis in an educational institution, the Secretary may approve a delay by the educational institution in reporting the enrollment or reenrollment of a person until the end of the term, quarter, or semester if the educational institution requests the delay and the Secretary determines that it is not feasible for the educational institution to monitor interruption or termination of the person's pursuit of such program.

"(B) An educational institution which, pursuant to subparagraph (A), is delaying the reporting of the enrollment or reenrollment of a person shall provide the person with notice of the delay at the time that the person enrolls or re-enrolls.

"(3)(A) Subject to subparagraph (B), an educational institution offering courses on a term, quarter, or semester basis may certify the enrollment of a person who is not on active duty in such courses for more than one term, quarter, or semester at a time, but not for a period extending beyond the end of a school year (including the summer enrollment period).

"(B) Subparagraph (A) shall not apply with respect to any term, quarter, or semester for which a person is enrolled on a less than half-time basis and shall not be construed as restricting the Secretary from requiring that an educational institution, in reporting an enrollment for more than one term, quarter, or semester, specify the dates of any intervals within or between any such terms, quarters, or semesters.

"(b) The Secretary, before making payment of a reporting fee to an educational institution, as provided for in subsection (c), shall require such institution to certify that—

"(1) it has exercised reasonable diligence in determining whether such institution or any course offered by such institution approved for the enrollment of persons under this chapter or chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10 meets all the requirements of this chapter; and

"(2) it will, without delay, report any failure to meet any such requirement to the Secretary.

"(c)(1) The Secretary may pay to any educational institution, or to any joint apprenticeship training committee acting as a training establishment, furnishing education or training under either this chapter or chapter 30, 31, 32, 35 of this title or chapter 106 of title 10 a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the Secretary by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying $7 by the number of persons enrolled under this chapter or chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10, or $11 in the case of those persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 3657 of this title, on October 31 of that year; except that the Secretary may, where it is established by such educational institution or joint apprenticeship training committee that the enrollment of such persons on such date varies more than 15 percent from the peak enrollment of such persons in such educational institution or joint apprenticeship training committee during such calendar year, establish such other date as representative of the peak enrollment as may be justified for such educational institution or joint apprenticeship training committee.

"(2) The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable.

"(3) No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Secretary against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 3672 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction.

"§ 3672. Liability of institutions for overpayments

"(a) Whenever the Secretary finds that an overpayment has been made to a person as the result of—

"(1) the willful or negligent failure of an educational institution to report, as required under this chapter or chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10, to the Department of Veterans Affairs excessive absences from a course, or discontinuance or interruption of a course by the person; or

"(2) the willful or negligent false certification by an educational institution,

the amount of such overpayment shall constitute a liability of the educational institution to the United States.

"(b) Any overpayment referred to in subsection (a) may be recovered, except as otherwise provided in section 3671(c)(3) of this title, in the same manner as any other debt due the United States.

"(c)(1) Any overpayment amount collected from a person pursuant to this chapter shall be reimbursed to the educational institution which is liable pursuant to this section to the extent that collection was made from the educational institution for such overpayment.

"(2) Nothing in this section or any other provision of this title shall be construed as—

"(A) precluding the imposition of any civil or criminal liability under this title or any other law; or

"(B) requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

"§ 3673. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

"(a) OVERCHARGES BY EDUCATIONAL INSTITUTIONS.—If the Secretary finds that an educational institution has—

"(1) charged or received from any person receiving educational assistance or subsistence allowance for pursuing a program of education under any of the laws administered by the Department of Veterans Affairs any amount for any course in excess of the charges for tuition and fees which such institution requires similarly circumstanced nonveterans not receiving assistance under such laws who are enrolled in the same course to pay; or

"(2) instituted a policy or practice with respect to the payment of tuition, fees, or other charges in the case of persons receiving educational assistance or subsistence allowance under any of the laws administered by the Department of Veterans Affairs, and the Secretary finds that the effect of such policy or practice substantially denies to such persons the benefits of the advance allowances under section 3657 of this title,

the Secretary may disapprove such educational institution for the enrollment of any such person not already enrolled therein.

"(b) DISCONTINUANCE OF ALLOWANCES.—(1) The Secretary may discontinue the educational assistance or subsistence allowance of any person if the Secretary finds that the program of education or any course in which the person is enrolled fails to meet any of the requirements of this chapter or chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10, or if the Secretary finds that the educational institution offering such program or course has violated any provision, or fails to meet any requirement, of such chapters.

"(2) Except as provided in paragraph (3), any action by the Secretary under paragraph (1) to discontinue (including to suspend) assistance provided to any person under the chapters referred to in paragraph (1) shall be based upon evidence that the person is not or was not entitled to such assistance. Whenever the Secretary so discontinues any such assistance, the Secretary shall concurrently provide written notice to such person of such discontinuance and the person's right thereafter to be provided a statement of the reasons for such action and an opportunity to be heard thereon.

"(3)(A) The Secretary may suspend educational assistance to persons already enrolled, and may disapprove the enrollment or reenrollment of any person, in any course as to which the Secretary has evidence showing a substantial pattern of persons who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because—

"(i) the course approval requirements of this chapter are not being met; or

"(ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter, chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10.

"(B) Action may be taken under subparagraph (A) only after—

"(i) the Secretary provides to the State approving agency concerned and the educational institution concerned written notice of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements;

"(ii) such institution refuses to take corrective action or does not within 60 days after such notice (or within such longer period as the Secretary determines is reasonable and appropriate) take corrective action; and

"(iii) the Secretary, not less than 30 days before taking action under such subparagraph, provides to each person already enrolled in such course written notice of the Secretary's intent to take such action (and the reasons therefor) unless such corrective action is taken within such 60 days (or within such longer period as the Secretary has determined is reasonable and appropriate), and of the date on which the Secretary intends to take action under such subparagraph.

"(c) EXAMINATION OF RECORDS.—Notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to persons who received an educational assistance or a subsistence allowance under any of the laws administered by the Department of Veterans Affairs as well as the records of other students which the Secretary determines necessary to ascertain institutional compliance with the requirements of such laws, shall be available for examination by duly authorized representatives of the Government.

"(d) FALSE OR MISLEADING STATEMENTS.—Whenever the Secretary finds that an educational institution has willfully submitted a false or misleading claim, or that a person, with the complicity of an educational institution, has submitted such a claim, the Secretary shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action.

"§ 3674. Limitation on certain advertising, sales, and enrollment practices

"(a) The Secretary shall not approve an educational assistance or subsistence allowance under any of the laws administered by the Department of Veterans Affairs with respect to the enrollment of any person in any course offered by an institution which utilizes advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation.

"(b) To ensure compliance with this section, any institution offering courses approved under this chapter for enrollment shall maintain a complete record of all advertising, sales, or enrollment materials (and copies thereof) utilized by or on behalf of the institution during the preceding 12-month period, including any direct mail pieces, brochures, printed literature used by sales persons, films, video tapes, and audio tapes disseminated through broadcast media, material disseminated through print media, tear sheets, leaflets, handbills, fliers, and any sales or recruitment manuals used to instruct sales personnel, agents, or representatives of such institution. Such record shall be available for inspection by the State approving agency or the Secretary.

"(c) The Secretary shall, pursuant to section 3683 of this title, enter into an agreement with the Federal Trade Commission to utilize, where appropriate, its services and facilities, consistent with its available resources, in carrying out investigations and making the Secretary's determinations under subsection (a). Such agreement shall provide that cases arising under subsection (a) or any similar matters with respect to any requirement of any of the laws administered by the Department of Veterans Affairs shall be referred to the Federal Trade Commission which, in its discretion, will conduct an investigation and make preliminary findings. The findings and results of any such investigations shall be referred to the Secretary who shall take appropriate action in such cases within 90 days after such referral.

"SUBCHAPTER IX—GENERAL ADMINISTRATIVE PROVISIONS

"§ 3681. Compliance surveys

"(a) Except as provided in subsection (b), the Secretary shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of persons receiving an educational assistance or education subsistence allowance under any of the laws administered by the Department of Veterans Affairs if at least 300 of such persons are enrolled in such course or courses under such laws or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of such chapters. The Secretary shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

"(b) The Secretary may waive the requirement in subsection (a) for an annual compliance survey with respect to an institution if the Secretary determines, based on the institution's demonstrated record of compliance with the applicable provisions of laws administered by the Department of Veterans Affairs, that the waiver would be appropriate and in the best interest of the United States.

"§ 3682. Funding of contract educational and vocational counseling

"(a) Subject to subsection (b), educational or vocational counseling services obtained by the Department of Veterans Affairs by contract and provided to a person under section 3623 of this title or to a person applying for or receiving benefits under section 1524, this chapter, or chapter 30, 32, or 35 of this title, or chapter 106 of title 10, shall be paid for out of funds appropriated, or otherwise available, to the Department of Veterans Affairs for payment of readjustment benefits.

"(b) Payments under this section shall not exceed $5,000,000 in any fiscal year.

"§ 3683. Use of other Federal agencies

"In carrying out the Secretary's functions under any of the laws administered by the Department of Veterans Affairs that provide educational assistance or an education subsistence allowance, the Secretary may utilize the facilities and services of any other Federal department or agency. Any such utilization shall be pursuant to an agreement with the Federal department or agency concerned. Payment to cover the cost thereof shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

"§ 3684. Control by agencies of the United States

"(a) Except as provided in section 3635 of this title and subsection (b), no department, agency, or officer of the United States, in carrying out this chapter, shall exercise any supervision or control, whatsoever, over any State approving agency, or State educational agency, or any educational institution.

"(b) Nothing in this section shall be deemed to prevent any department, agency, or officer of the United States from exercising any supervision or control which such department, agency, or officer is authorized by law to exercise over any Federal educational institution or to prevent the furnishing of an educational assistance or a subsistence allowance under any of the laws administered by the Department of Veterans Affairs in any institution over which supervision or control is exercised by such other department, agency, or officer under authority of law.

"§ 3685. Conflicting interests

"(a) Every officer or employee of the Department of Veterans Affairs who has, while such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any educational institution operated for profit in which a person was pursuing a program of education or course under any of the laws administered by the Department of Veterans Affairs shall be immediately dismissed from such officer's or employee's office or employment.

"(b) If the Secretary finds that any person who is an officer or employee of a State approving agency has, while such person was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, an educational institution operated for profit in which a person was pursuing a program of education or course under any of the laws administered by the Department of Veterans Affairs, the Secretary shall discontinue making payments under section 3634 of this title to such State approving agency unless such agency shall, without delay, take such steps as may be necessary to terminate the employment of such person, and such payments shall not be resumed while such person is an officer or employee of the State approving agency, the State department of veterans' affairs, or the State department of education.

"(c) A State approving agency shall not approve any course offered by an educational institution operated for profit, and, if any such course has been approved, shall disapprove each such course, if it finds that any officer or employee of the Department of Veterans Affairs or the State approving agency owns an interest in, or receives any wages, salary, dividends, profits, gratuities, or services from, such institution.

"(d) The Secretary may, after reasonable notice and public hearings, waive in writing the application of this section in the case of any officer or employee of the Department of Veterans Affairs or of a State approving agency, if the Secretary finds that no detriment will result to the United States or to persons by reasons of such interest or connection of such officer or employee.

"§ 3686. Advisory committee

"(a) There shall be a Veterans' Advisory Committee on Education formed by the Secretary which shall be composed of persons who are eminent in their respective fields of education, labor, and management and of representatives of institutions and establishments furnishing education to persons enrolled under this chapter or chapter 30, 32, or 35. The committee shall also include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, the post-Vietnam era, and the Persian Gulf war. The Assistant Secretary of Education for Postsecondary Education (or such other comparable official of the Department of Education as the Secretary of Education may designate) and the Assistant Secretary of Labor for Veterans' Employment shall be ex officio members of the advisory committee.

"(b) The Secretary shall consult with and seek the advice of the committee from time to time with respect to the administration of this chapter and chapters 30, 32, and 35. The committee may make such reports and recommendations as it considers desirable to the Secretary and the Congress.

"(c) The committee shall remain in existence until December 31, 1993.

"§ 3687. Procedures relating to computer matching program

"(a)(1) Notwithstanding section 552a(p) of title 5 and subject to paragraph (2) of this subsection, the Secretary may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under an educational assistance program provided for in chapter 30 or 32 of this title or in chapter 106 of title 10 in the case of any person or take other adverse action against such person, based on information produced by a matching program with the Department of Defense.

"(2) The Secretary may not take any action referred to in paragraph (1) of this subsection until—

"(A) the person concerned has been provided a written notice containing a statement of the findings of the Secretary based on the matching program, a description of the proposed action, and notice of the person's right to contest such findings within 10 days after the date of the notice; and

"(B) the 10-day period referred to in subparagraph (A) of this paragraph has expired.

"(3) In computing the 10-day period referred to in paragraph (2) of this subsection, Saturdays, Sundays, and Federal holidays shall be excluded.

"(b) For the purposes of subsection (q) of section 552a of title 5, compliance with the provisions of subsection (a) of this section shall be considered compliance with the provisions of subsection (p) of such section 552a.

"(c) For purposes of this section, the term 'matching program' has the same meaning provided in section 552a(a)(8) of title 5.".

SEC. 3. REPEAL OF CHAPTER 34.

Chapter 34 of title 38, United States Code, is repealed.

SEC. 4. CONFORMING AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 38.—Title 38, United States Code, is amended as follows:

(1) Section 7722(b) is amended by striking out "veteran-student services under section 3485" and inserting in lieu thereof "services under section 3624".

(2) Section 1524(b)(2)(B)(iii) is amended by striking out "3452(b) and 3452(f)" and inserting in lieu thereof "3601(a)(4) and (a)(3)".

(3) Section 1712A(d) is amended by striking out "who are", the second place it appears, through "title)" and inserting in lieu thereof "described in section 3624".

(4) Section 3002(3) is amended to read as follows:

"(3) The term 'program of education' has the meaning given such term in section 3601.".

(5) Section 3011(a)(1)(B) is amended, in the matter preceding clause (i), by striking out "is" and inserting in lieu thereof "was".

(6) Section 3012(a)(1)(B) is amended by striking out "is" and inserting in lieu thereof "was".

(7) Section 3013 is amended by striking out "section 3695" each place it appears and inserting in lieu thereof "section 3655."

(8) Section 3016(b)(1) is amended by striking out "is" and inserting in lieu thereof "was".

(9) Section 3019(a) is amended by striking out "3492" and inserting in lieu thereof "3622".

(10) Section 3032(c) is amended to read as follows:

"(c) Subject to section 3662 of this title, an individual entitled to educational assistance under this chapter and not serving on active duty may pursue a full-time program of apprenticeship or other on-job training under this chapter.".

(11) Section 3032(d) is amended by inserting the following new sentence before the first sentence: "An individual entitled to educational assistance under this chapter and not serving on active duty may pursue a cooperative program under this chapter.".

(12) Section 3032(e) is amended to read as follows:

"(e) Subject to section 3661 of this title, an individual entitled to educational assistance under this chapter may enter into an agreement to pursue, and may pursue, a program of education exclusively by correspondence under this chapter.".

(13) Section 3034(a) is amended to read as follows:

"(a) The provisions of chapter 36 shall be applicable to the provision of educational assistance under this chapter.".

(14) Section 3101(3) is amended to read as follows:

"(3) The term 'program of education' has the meaning given such term in section 3601(a)(4) of this title.".

(15) Section 3104(a)(4) is amended by striking out "3485" and inserting in lieu thereof "3624".

(16) Section 3108 is amended—

(A) in subsection (f)(1)(A), by striking out "or 34", "either", and "or chapter 34";

(B) in subsection (f)(1)(B), by striking out "or 34"; and

(C) in subsection (i), by striking out "section 3680(d)" and inserting in lieu thereof "section 3657".

(17) Section 3116(b)(2) is amended by striking out "section 3687" and inserting in lieu thereof "section 3662".

(18) Section 3202(1) is amended—

(A) in subparagraph (A)—

(i) by striking out "is" and inserting in lieu thereof "was"; and

(ii) by inserting ", as in effect before January 1, 1990," after "of this title";

(B) in subparagraph (D)(ii)—

(i) by striking out "is entitled under section 3452(a)(3)(C) of this title" and inserting in lieu thereof "was entitled";

(ii) by inserting after "title," the following: "as in effect before January 1, 1990,"; and

(iii) by striking out "is eligible" and inserting in lieu thereof "was eligible".

(19) Section 3202 is amended—

(A) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The term 'program of education' has the meaning given such term in section 3601(a)(4) of this title.";

(B) in paragraph (4), by striking out "3452(c)" and inserting in lieu thereof "3601(a)(2)"; and

(C) in paragraph (5), by striking out "3452(e)" and inserting in lieu thereof "3601(a)(6)".

(20) Section 3231 is amended—

(A) in subsection (a)(1), by striking out "section 3695" and inserting in lieu thereof "section 3655";

(B) in subsection (a)(2), by striking out "section 3233" and inserting in lieu thereof "3662";

(C) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) An individual entitled to benefits under this chapter shall also be entitled to the special supplemental assistance provided under subchapter III of chapter 36 if such individual meets the conditions set forth in such subchapter.";

(D) in subsection (d)(1), by inserting the following new sentence before the first sentence: "An individual entitled to educational assistance under this chapter and not serving on active duty may pursue a cooperative program under this chapter.";

(E) by striking out subsection (e) and redesignating subsection (f) as subsection (e); and

(F) by striking out "; loan eligibility" in the section heading.

(21) Section 3233 is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"Subject to section 3662 of this title, an individual entitled to educational assistance under this chapter and not serving on active duty may pursue a full-time program of apprenticeship or other on-job training under this chapter. The amount of the monthly benefit payable to an individual for such pursuit (and the entitlement charged therefor) shall be determined in accordance with the provisions of section 3662.".

(22) Section **3243** *3234* is amended—

(1) by amending subsection (a) to read as follows:

"(a) An individual entitled to benefits under this chapter shall also be entitled to a tutorial assistance allowance for individualized tutorial assistance approved by the Secretary under section 3622(a). Such allowance shall be in addition to the amount of other benefits paid under this chapter and, subject to section 3622(b), shall be paid to an individual for the cost of tutorial assistance received, not to exceed $100 per month, until a maximum of $1,200 is used.";

(2) in subsection (b), by striking out "educational assistance" the second time it appears and inserting in lieu thereof "tutorial assistance allowance"; and

(3) in subsection (c), by striking out "amount of assistance" and inserting in lieu thereof "tutorial assistance allowance".

(23) Section 3241 is amended—

(A) by amending subsection (a) to read as follows:

"(a) The provisions of chapter 36 shall be applicable to the provision of educational assistance under this chapter."; and

(B) by striking out subsection (c).

(24) Section 3501(a) is amended—

(1) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'program of education' has the meaning given such term by section 3601(a)(4) of this title except to the extent such meaning would be inconsistent with the express provisions of this chapter."; and

(2) by striking out paragraphs (9), (10), and (11).

(25) Section 3512(f) is amended to read as follows:

"(f)(1) An eligible person (as defined in section 3501(a)(1) (B), (C), or (D) of this title) shall be permitted to use any of such person's unused entitlement for the purposes of eligibility for an education loan, pursuant to the provisions of subchapter III of chapter 36 of this title as in effect on the date of enactment of the Administration of Veterans Education Benefits Technical Reorganization Act, after the delimiting date otherwise applicable to such person, if such person was pursuing an approved program of education on a full-time basis at the time of the expiration of such person's eligibility.

"(2) Notwithstanding any other provision of this chapter or chapter 36 of this title, an eligible person whose delimiting period is extended under paragraph (1) may continue to use any unused loan entitlement under this paragraph as long as the eligible person continues to be enrolled on a full-time basis in pursuit of the approved program of education in which such eligible person was enrolled at the time of expiration of such eligible person's eligibility (A) until such entitlement is exhausted, or until the expiration of two years after the date of the expiration of the delimiting date otherwise applicable to such eligible person under subsection (b)(2), whichever is later, or (B) until such eligible person has completed the approved program of education in which such eligible person was enrolled at the end of the otherwise applicable delimiting period, whichever is sooner.".

(26) Subchapter III of chapter 35 is repealed, and the table of sections for chapter 35 is amended by striking out the items relating to subchapter III of such chapter.

(27) Section 3532 is amended—

(A) in subsection (c)(3), by striking out "section 3688" in the last sentence and inserting in lieu thereof "section 3653"; and

(B) by striking out subsection (e).

(28) Section 3533 is amended—

(A) in subsection (a)(1)—

(i) by striking out "provided an eligible veteran under section 3491(a)" and inserting in lieu thereof "described in section 3621"; and

(ii) by striking out "**prescribed by** *in the manner prescribed by*" and all that follows through the period and inserting in lieu thereof "in accordance with section 3532, as determined by the Secretary."; and

(B) in subsection (b), by striking out "section 3492" and inserting in lieu thereof "section 3622".

(29) Section 3534 is amended—

(A) in subsection (a), by striking out "section 3687" and inserting in lieu thereof "section 3662"; and

(B) in subsection (b), by striking out "section 3686 (other than subsection (a)(2))" and inserting in lieu thereof "section 3661".

(30) Section 3535 is amended by striking out "subchapter I of".

(31) Section 3537 is amended to read as follows:

"§ 3537. Work-study allowance

"The Secretary may use, and pay a work-study allowance for, the services of an eligible person pursuant to the requirements, terms, and conditions set out in section 3624.".

(32) Chapter 35 is amended by adding the following new section after section 3537:

"§ 3538. Administration

"The provisions of chapter 36 shall be applicable to the provision of educational assistance under this chapter.".

(B) The table of sections for chapter 35 is amended by inserting after the item relating to section 3537 the following new item:

"3538. Administration.".

(33) Section 3561 is amended by striking out "section 3520" and inserting in lieu thereof "section 3623".

(34) Section 4102A(b)(3)(A) is amended by striking out "section 3687" and inserting in lieu thereof "section 3662".

(35) Section 4103A(c)(2) is amended by striking out "section 3687" and inserting in lieu thereof "section 3662".

(36) Section 4213 is amended by striking out "34,".

(37) Section 5113 is amended—

(A) in subsection (a), by striking out "34,"; and

(B) in subsection (b), by striking out "section 3680(g)" and inserting in lieu thereof "section 3651".

(38) Section 5307(c) is amended by striking out "or that portion" and all that follows through "of this title".

(39) Section 3034 is amended by striking out subsection (c) and redesignating subsection (d) as subsection (c). Section 3032(f)(1) is amended by striking out "section 3034(d)" and inserting in lieu thereof "section 3034(c)".

(40) Section 3532(a)(2) is amended by inserting "in accordance with section 3659" after "paid".

(b) AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) Section 2131(c)(2) is amended by striking out "section 1795" and inserting in lieu thereof "section 3655".

(2) Section 2136(b) is amended to read as follows:

"(b)(1) The provisions of chapter 36 of title 38 (other than sections 3686, 3621(a), 3622, and 3625) are applicable to the provision of educational assistance under this chapter.

"(2) The term 'individual', as used in such chapter 36, shall be deemed for purposes of applying those provisions to this chapter, to refer to a person eligible for educational assistance under this chapter.".

(3) Section 2136(c)(1) is amended by striking out "1673(b)" and inserting in lieu thereof "3613(b)".

(c) OTHER PROVISIONS OF LAW.—Any reference to any section or subchapter of chapter 34 or 36 of title 38, United States Code, as in effect on the date before the date of the enactment of this Act, in any law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Veterans Affairs shall be deemed to be a reference to the comparable provision, if any, that appears in chapter 36 of such title as enacted by this Act.

SEC. 5. TECHNICAL NATURE OF AMENDMENTS.

The status of any veteran with respect to benefits under chapters 30, 32, 34, 35, and 36, United States Code, shall not be affected by the amendments made by, or other provisions of, this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is our last bill. We have passed some mighty good bills here in the last few minutes.

I would like to have the chairman of the Subcommittee on Education, Training and Employment, the gentleman from Minnesota [Mr. PENNY] to explain this technical bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, the purpose of H.R. 5619, which was ordered reported by the full committee on July 23, is to clarify and reorganize the administrative provisions governing veterans' education programs. Because of the expiration of the Vietnam-era GI bill and the implementation of the Montgomery GI bill, a technical reorganization is necessary. This bill would make no substantive changes to existing law, would in no way affect current programs or program participants, and has no cost.

I want to thank the ranking minority member of the Subcommittee on Education, Training, and Employment, CHRIS SMITH, and all members of the subcommittee for their cooperation in developing this legislation. I also want to express my appreciation to the chairman of the full committee, SONNY MONTGOMERY, and to the ranking minority member of the full committee, BOB STUMP, for their leadership and assistance.

I also want to take this opportunity to extend my sincere thanks to Joe Womack of the committee staff and to Dean Gallin of the VA General Counsel's Office for their invaluable assistance in developing this bill. They have been hard at work on this very complicated endeavor for over a year, and I appreciate their efforts.

Passage and enactment of H.R. 5619 would improve implementation and administration of veterans' educational assistance programs, and I urge my colleagues to support this measure.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5619, a bill to reorganize chapter 36 of title 38. This chapter contains administrative provisions relating to veterans' educational programs, and the only changes this legislation would make are technical, not substantive.

While this legislation may not be the most interesting, it is a necessary housekeeping measure, if our laws are to be understandable and well organized.

I commend Mr. PENNY, chairman of the Subcommittee on Education, Training and Employment, and Mr. SMITH, the subcommittee's ranking minority member, for their attention to the form, as well as the substance, of this chapter of the code.

Future users of these provisions, if they knew who to commend, would certainly do so as well. Also, I thank Mr. MONTGOMERY, chairman of the full committee, for his timely action by bringing the bill to the floor as soon as it was ready.

Mr. Speaker, I urge my colleagues to approve H.R. 5619.

Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to thank my colleagues who have the next bill for having to wait. And, Mr. Speaker, I would like to thank you for the excellent job you have done tonight.

Mr. SMITH of New Jersey. Mr. Speaker, I rise with Mr. PENNY to urge the House to approve H.R. 5619.

I want to reassure my colleagues that, despite the size of this bill, its content is limited to purely technical changes in the law governing veterans' education benefits.

Mr. Chairman, over the years, numerous amendments have been passed to chapter 36 of title 38. However, not until today has the Congress undertaken a comprehensive reorganization of the chapter which simplifies and makes necessary corrections in the law. These changes will correct punctuation errors and make the entire document more user-friendly.

Finally, I too, would like to commend the hard work of Joe Womack from the committee and Dean Gallin of the Department of Veterans Affairs General Counsel's Office. Both labored to complete this technical reorganization and deserve our thanks.

Mr. Chairman, I support this reorganization and endorse the bill.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5619, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended was passed.

A motion to reconsider was laid on the table.

□ 1820

REGARDING LAND CLAIMS OF PUEBLO OF ISLETA INDIAN TRIBE

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1206) to confer jurisdiction on the U.S. Claims Court with respect to land claims of Pueblo of Isleta Indian Tribe, as amended.

The Clerk read as follows:

H.R. 1206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JURISDICTION.

Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052), or any other law which would interpose or support a defense of untimeliness, jurisdiction is hereby conferred upon the United States Claims Court to hear, determine, and render judgment on any claim by Pueblo of Isleta Indian Tribe of New Mexico against the United States with respect to any lands or interests therein which the State of New Mexico or any adjoining State held by aboriginal title or otherwise which were acquired from the tribe without payment of adequate compensation by the United States. As a matter of adequate compensation, the United States Claims Court may award interest at a rate of 5 percent per year to accrue from the date on which such lands or interests therein were acquired from the tribe by the United States. Such jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946, and all such claims must be filed within three years after the date of the enactment of this Act. Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedy.

SEC. 2. CERTAIN DEFENSES NOT APPLICABLE.

Any award made to any Indian tribe other than the Pueblo of Isleta Indian Tribe of New Mexico before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission or any other authority, with respect to any lands that are the subject of a claim submitted by the tribe under section 1 shall not be considered a defense, estoppel, or set-off to such claim, and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claim.

The SPEAKER pro tempore (Mr. HUTTO). Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New Mexico [Mr. SCHIFF], who serves on the subcommittee which brought forward this bill, we are very careful in the subcommittee that I chair, and on which the gentleman from Pennsylvania [Mr. GEKAS] serves as the ranking minority member. We do have a duty to safeguard the Government purse, but we also have a very important responsibility. Government is not perfect. No set of rules is perfect; no decision making bodies are perfect. We are an appeal body. There are cases when rules that were well designed, and are even, in fact, well executed, work individual injustices in some cases.

I think it is a mark of the strength of our democracy that this Congress carries out the responsibility, entrusting it primarily to the subcommittee we serve on, but ultimately to be ratified by the membership, it entrusts us the responsibility of recognizing, no matter how good we are, there will be exceptions. It is a responsibility which we take very seriously.

From time to time, we believe that there are individual cases of either individuals or groups of people where justice, to be served, requires us to make some exceptions. We believe this is one case for the Puebla of Isleta.

Mr. Speaker, the ranking minority member will now have something to say, and then we will hear from the sponsor, who has done such a good job, the gentleman from New Mexico [Mr. SCHIFF].

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise first for an initial statement in appreciation of the gentleman from Massachusetts [Mr. FRANK] and his adequate coverage of the issue.

Mr. Speaker, it is important, I believe, and it will be substantiated by the other speakers, I know, that what we are about here is not awarding damages or awarding any kind of compensation, but merely allowing a mistake of long tenure to be rectified, and to allow a claim to be heard. That is what we are trying to do here.

Mr. Speaker, for the purpose of elucidating what I have just said, I yield such time as he may consume to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding to me, and I thank the chairman of our subcommittee for his kind remarks. It is a privilege to serve on the subcommittee with both of these gentlemen.

Mr. Speaker, I want to say first that I am rising in support of H.R. 1206. This is a bill which, if it becomes law, does not expressly award any type of damages directly. There is no money out of the Treasury if this bill does in fact become law.

Mr. Speaker, what this bill does do is allow the Puebla of Isleta, which is located in New Mexico, to file a claim under the Indian Claims Commission Act of 1946. In other words, it would waive the present statute of limitations which would bar such a claim.

Mr. Speaker, I want to say that even though this does not award damages itself, I am normally reluctant to see waivers in statutes of limitation. I think that the Government is entitled to the protection of such acts, along with any individual or corporation in this country, or other entity.

However, I have studied this matter very, very carefully. I have determined that in the period of time in which the Indian Claims Commission Act was passed and in the years during which the statute of limitations was open and available, that a number of Indian tribes and pueblos around the country in fact did not receive proper information about their ability to file under this act for the taking by the Federal Government of aboriginal lands.

As a result of that, I have found that the Congress of the United States previously has granted an exemption to the statute of limitations in several other cases under these exact same circumstances. The circumstances at the time were everything from lack of communication with Indian tribes and pueblos to heavy reliance, on their part, on the Bureau of Indian Affairs for most of their activities, rather than on Indian counsel.

That is the reason why this waiver has been granted by the Congress in the past to other native American groups, and I am seeking for the Puebla of Isleta the same waiver which has been granted by the Congress in other situations.

Mr. Speaker, I urge adoption of H.R. 1206.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. SKEEN] for further elucidation of the issue.

Mr. SKEEN. Mr. Speaker, I rise today in strong support of H.R. 1206, which would permit the Pueblo of Isleta to file a claim for possession of Aboriginal Lands under the Indian Claims Commission Act of 1951. I am an original cosponsor of this bill, introduced by Republican SCHIFF.

This legislation does not grant the Isleta Pueblo's claim to the lands in dispute. It merely gives the Isleta their day in court. Isleta previously filed a limited claim under the Claims Commission Act, but their claim was not based on aboriginal use or occupancy, as a result of poor advice they received from the Bureau of Indian affairs several years ago. Isleta's claim based on aboriginal use and occupancy has never been heard by a court of law.

The Isleta request is similar to Zuni Pueblo's enactment of special legislation in 1978. In both cases, the Pueblos failed to file aboriginal use claims because of incomplete and erroneous advice from the Bureau of Indian Affairs [BIA]. Given their lack of familiarity with the legal intricacies of this 1951 law, the Isleta followed the BIA's bad advice. This is but one example of the fact that justice is not served when the BIA assumes the role of legal advisor to the tribes, especially when the land claim suit involves the U.S. Government.

In addition to the Zuni case, there is further precedent for this legislation. Legislation authorizing the Wichita Indian Tribe to file with the Indian Claims Commission was passed in 1978, and more recently, Congress passed laws enabling the Cow Creek Indians of Oregon, the Cherokee Nation of Oklahoma, the Sioux Tribes, the Fort Berthold Reservation, the Blackfoot Tribe, and the Gross Ventre Tribe to file claims with the Indian Claims Commission. The Islets surely deserve equal treatment.

H.R. 1206 also contains a provision enabling the court to grant the Isleta interest for lands used. It does not mandate interest payments, but merely give the court jurisdiction to determine payment. It seems to me that if the U.S. Government has confiscated Isleta land, it has violated its fiduciary duty. Interest payments are a fair way to compensate the Pueblo for the use of the land since its confiscation.

Let me stress again that H.R. 1206 does not endorse the claim of the Isleta Pueblo. Rather, it grants the Isleta the chance to present the merits of their case in court and the opportunity to correct a long-standing injustice.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 1206, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

OFFICE OF GOVERNMENT ETHICS AMENDMENT OF 1992

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2828) to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics, as amended.

The Clerk read as follows:

H.R. 2828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Government Ethics Amendment of 1992".

SEC. 2. REMOVAL OF THE CAP ON THE AUTHORIZATION OF APPROPRIATIONS.

Section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking "and";

(2) in paragraph (2) by striking "each of the 5 fiscal years thereafter." and inserting "the fiscal year ending September 30, 1990; and"; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) such sums as may be necessary for each of the 4 fiscal years thereafter.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill reauthorizes the Office of Government Ethics, which, Lord knows, has plenty to do these days.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KANJORSKI] to discuss the bill further.

Mr. KANJORSKI. Mr. Speaker, at a hearing held by the Subcommittee on Human Resources on this bill, the General Accounting Office testified that there is no question that the existing authorization for the Office of Government Ethics does not provide the resources necessary for OGE to effectively discharge its expanded responsibilities.

The General Accounting Office also testified that with additional staffing, the OGE would have a better chance of: effectively conducting the necessary oversight of the more than 300 agency ethics programs it has been charged to review; promulgating regulations addressing the standards of conduct for executive branch employees, and developing regulations for confidential financial disclosure.

Currently, the Office of Government Ethics authorization is capped at $5 million. In fiscal year 1992, however, $6.3 million was appropriated to the Office, $1.3 million over their authorizing level. Removing the existing limitation on the authorization for appropriation will give the Office of Government Ethics the flexibility it needs to adjust to its new responsibilities.

I should note, that as a general rule, I prefer to authorize a specific dollar amount rather than the "such sums as may be necessary" that is contained in the legislation before us today. Nevertheless, because of the rapidly changing demands on the Office, and the fact that this authorization sunsets at the end of fiscal year 1994, I believe that during this limited time of transition, the bill is a reasonable one and should be adopted.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Pennsylvania [Mr. KANJORSKI], in combination with the gentleman from Massachusetts [Mr. FRANK], has adequately described the pertinent points of the issue. It is simply a matter of we mandate. Now let us accommodate that mandate.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 2828, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary and the Committee on Post Office and Civil Service be discharged from further consideration of the Senate bill (S. 1145) to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Government Ethics Amendment of 1991".

SEC. 2. REMOVAL OF THE CAP ON THE AUTHORIZATION OF APPROPRIATIONS.

Section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking "and";

(2) in paragraph (2) by striking "each of the 5 fiscal years thereafter." and inserting "the fiscal year ending September 30, 1990; and "; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) such sums as may be necessary for each of the 4 fiscal years thereafter.".

□ 1830

MOTION OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FRANK of Massachusetts moves to strike out all after the enacting clause of the Senate bill, S. 1145, and insert in lieu thereof the provisions of H.R. 2828 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2828) was laid on the table.

CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS OF OKLAHOMA CLAIMS ACT OF 1992

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4209) to amend the act entitled "An Act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma", approved December 23, 1982, as amended.

The Clerk read as follows:

H.R. 4209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cherokee, Choctaw, and Chickasaw Nations of Oklahoma Claims Act of 1992".

SEC. 2. AUTHORIZATION.

The Act entitled "An Act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma", approved December 23, 1982, (Public Law 97-385) is amended—

(1) in subsection (a)—

(A) by striking "and" the second place it appears;

(B) by striking "jurisdiction is hereby conferred" through "Arkansas River Navigation System", and inserting in lieu thereof the following: "the navigational easement of the United States, and the decisions in United States against Cherokee Nation of Oklahoma, 480 U.S. 700 (1987), and Cherokee Nation of Oklahoma against United States, 937 F2d 1539 (10th Cir. 1991), the Secretary of the Treasury shall pay to such extent and in such amounts as are provided in advance in appropriations Acts, to the Choctaw, Chickasaw, and Cherokee Nations, respectively, such sums as shall be determined in valuation proceedings brought in the United States Claims Court or the United States District Court for the Eastern District of Oklahoma for damages resulting from the use and occupation by the United States of that portion of the bed and banks of the Arkansas River owned by each such respective Nation pursuant to treaties with the United States as confirmed by the decision in Choctaw Nation against Oklahoma, 397 U.S. 620 (1970)";

(C) by striking "Cherokee domain" and inserting in lieu thereof the following: "each such Nation's respective domain";

(D) by striking "consent of said Cherokee Nation" and inserting in lieu thereof the following: "consent of such Nation";

(E) by striking "and also on any claim which the Cherokee Nation of Oklahoma" and inserting in lieu thereof the following: "and also on any claim which each such Nation";

(F) by striking "Cherokee Nation tribal lands" and inserting in lieu thereof the following: such Nation's tribal lands";

(G) by striking "said Cherokee Nation of Oklahoma therefor" and inserting in lieu thereof the following: "such Nation therefor";

(H) by striking "being held by said Cherokee Nation" and inserting in lieu thereof the following: "being held by such Nation";

(I) by striking "said Cherokee Nation in fee simple" and inserting in lieu thereof the following: such Nation in fee simple"; and

(J) by striking the subsection designation; and

(2) by striking subsection (b).

The SPEAKER pro tempore. (Mr. HUTTO). Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, which is an important bill that I believe tries to do justice to people who have not been treated fairly, comes to us because of the very committed advocacy of the gentleman from Oklahoma [Mr. SYNAR], a member of the Committee on the Judiciary and a strong voice for fairness and against arbitrarines.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, first let me thank the gentleman from Massachusetts for this opportunity, and also the gentleman from Pennsylvania [Mr. GEKAS] for working with us on this legislation.

Mr. Speaker, I introduced H.R. 4209 on behalf of the entire Oklahoma congressional delegation and the Cherokee, Chickasaw, and Choctaw tribes. The legislation enables these tribes to go to court to argue that they deserve compensation for the taking of their property. Unlike any other native American tribes, the Cherokees, Choctaws, and Chickasaws have title in fee simple to that portion of the Arkansas River which passes through their lands. Title to the river was granted to the tribes through treaties with the U.S. Government in exchange for the tribes leaving their aboriginal homelands.

Unknowingly, the Federal Government authorized construction of the Kerr-McClellan waterway on the river in the 1940's without compensating the tribes. In 1970 when litigation finally settled the fact that these three tribes were the owners of the Arkansas riverbed and that the project should not have been built without their consent, the Government refused to compensate them for their losses. The losses the tribes incurred include valuable minerals and resources taken from the river as well as the lost opportunity to exploit these resources themselves.

The bill does not appropriate any funds to compensate the tribes. In fact, not one dime can be paid out without the consent of Congress since any monetary damages that might be awarded are subject to congressional appropriations and the pay-as-you-go budget rules. The Congress, and this administration particularly, have worked to strengthen the rights of landowners against Government takings of their property without just compensation. In this context the Cherokee, Choctaw, and Chickasaw tribes are no different.

Accordingly, they should be compensated for the wrongful taking of their property. H.R. 4209 will ensure that happens. I urge my colleagues to support the legislation.

Mr. GEKAS. Mr. Speaker, I yield myself such time a I may consume.

Mr. Speaker, the gentleman from Oklahoma [Mr. SYNAR] demonstrates that there is an abundance of goodwill and intent on the part of Members of Congress and previous Congresses and the administration to accommodates those native American tribes.

Mr. RHODES. Mr. Speaker, I rise today in full support of H.R. 4209.

As with most Indian issues, the historical background of this case is both enlightening and troubling. The Judiciary Committee hearing record on H.R. 4209 provides an exhaustive account of the history of this case. I will not repeat the historical facts here, but suffice it to say that my position on H.R. 4209 was significantly influenced by them.

I believe the following points are worth noting as we consider H.R. 4209:

First, concern has been expressed that passage of H.R. 4209 would somehow set a bad precedent. I disagree. In the 1946 Indian Claims Commission Act, Congress established the precedent for compensating Indian tribes in claims based on fair and honorable dealings. H.R. 4209 is intended to enable the Cherokee, Chickasaw, and Choctaw nations to be treated like other tribes. Every other tribe located along navigable waterways—the Sioux tribes along the Missouri River, for example—has received at least some compensation from the United States for damages to property interests caused by construction of navigational water projects.

Moreover, the claim that passage of H.R. 4209 would set a bad precedent is equally specious in light of the fact that no other tribe in the country acquired title to their land in the manner of the tribes involved here: Title to their lands west of the Mississippi River, including the bed of the Arkansas River, was negotiated by treaty and conveyed in fee patent. Furthermore, precedent exists from as early as 1949 for compensating non-Indian owners of private property for damages resulting from the exercise of the navigational servitude.

Second, this administration has consistently supported the protection of private property rights against the undue exercise of constitutional powers over them. Witness the administration's position in the recent Lucas case in the Supreme Court. Yet here, the Justice Department seeks to interpose a questionable interpretation of the theory of navigational servitude to prevent the tribes from being compensated for damages to the nations' property from the McClellan-Kerr project—damages that would be indisputably compensable if caused by a private party instead of the Federal Government.

Finally, it is significant that the claims authorized by Congress under Public Law 97-385 include claims based on fair and honorable dealings that are not otherwise recognized by any existing rule of law or equity. The fair and honorable dealing cause of action was originally created by Congress in the Indian Claims Commission Act of 1946 and was meant to make the United States accountable in moral, rather than legal, terms for damages to Indian property. The Government's treatment of the nations' property interests in the Arkansas riverbed fall squarely within the class of cases Congress contemplated when it authorized fair and honorable dealing claims under the Indian Claims Commission Act and Public Law 97-385.

Since the early 19th century the United States and the Cherokee, Chickasaw, and Choctaw nations have had a relationship based on treaties, statutes, and fee patent title to the tribes' lands. That relationship and rights vested in the nations thereby formed the basis for the nations' exclusive governmental and proprietary interest on the Arkansas River, including navigation, throughout the 19th century. H.R. 4209 enables the United States to be accountable to the nations under the fair and honorable dealings tenet without undermining the legal doctrine of navigational servitude. H.R. 4209, as amended by the Subcommittee on Administrative Law and Governmental Relations, embodies the proper expression of public policy compelled by conduct of the United States in this matter.

Mr. Speaker, this is not a question of what is legally required of the Federal Government. Rather, it is a question of our moral and equitable obligations to these tribes. The title to the land in question continues to be held in trust for the tribes by the United States. Failure to compensate them for the Federal use of their land is a gross breach of that trust.

With that in mind, I urge all my colleagues to support passage of H.R. 4209.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 4209, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CHILD SUPPORT RECOVERY ACT OF 1992

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1241) to impose a criminal penalty for flight to avoid payment of arrearages in child support, as amended.

The Clerk read as follows:

H.R. 1241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Recovery Act of 1992".

SEC. 2. FAILURE TO PAY LEGAL CHILD SUPPORT OBLIGATIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 11 the following:

"CHAPTER 11A—CHILD SUPPORT

"Sec.
"228. Failure to pay legal child support obligations.

"§ 228. Failure to pay legal child support obligations.

"(A) OFFENSE.—Whoever willfully fails to pay a past due support obligation with respect to a child who resides in another State shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT.—The punishment for an offense under this section is—

"(1) in the case of a first offense under this section, a fine under this title or imprisonment for not more than 6 months, or both; and

"(2) a fine under this title or imprisonment for not more than 2 years, or both, in any other case.

"(c) RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663 of this title in an amount equal to the past due support obligation as it exists at the time of sentencing.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'past due support obligation' means any amount—

"(A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

"(B) that has remained unpaid for a period longer than one year, or is greater than $5,000; and

"(2) the term 'State' includes the District of Columbia, and any other possession or territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 11 the following:

"11A. Child support .... 228".

SEC. 3. DISCRETIONARY CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (20);

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting after paragraph (20) the following:

"(21) comply with the terms of any court order or order of an administrative process pursuant to the law of a State, the District of Columbia, or any other possession or territory of the United States, requiring payments by the defendant for the support and maintenance of a child or of a child and the parent with whom the child is living; or".

SEC. 4. CRIMINAL CHILD SUPPORT ENFORCEMENT.

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

"PART P—CRIMINAL CHILD SUPPORT ENFORCEMENT

"SEC. 1601. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance may make grants under this part to States, for the use by States, and local entities in the States to develop, implement, and enforce criminal interstate child support legislation and coordinate criminal interstate child support enforcement efforts.

"(b) USES OF FUNDS.—Funds distributed under this part shall be used to—

"(1) develop a comprehensive assessment of existing criminal interstate child support enforcement efforts, including the identification of gaps in, and barriers to, the enforcement of such efforts;

"(2) plan and implement comprehensive long-range strategies for criminal interstate child support enforcement;

"(3) reach an agreement within the State regarding the priorities of such State in the enforcement of criminal interstate child support legislation;

"(4) develop a plan to implement such priorities; and

"(5) coordinate criminal interstate child support enforcement efforts.

"SEC. 1602. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I—

"(1) shall prepare the application required under section 1602; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

SEC. 1603. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

SEC. 1604. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a local entity shall submit an application to the office designated under section 1602(b).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the local entity is eligible to receive the funds requested.

"(b) DISTRIBUTION TO LOCAL ENTITIES.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to a local entity with an approved application within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

SEC. 1605. DISTRIBUTION OF FUNDS.

"The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the project described in the application submitted under section 1602(a) for the fiscal year for which the project receives assistance under this part.

SEC. 1606. EVALUATION

"(a) IN GENERAL.—(1) Each State and local entity that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or local entity involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local entity may use not more than 5 percent of the funds it receives under this part of develop an evaluation program under this section.

SEC. 1607. DEFINITIONS.

"For purposes of this part, the term 'local entity' means a child support enforcement agency, law enforcement agency, prosecuting attorney, or unit of local government.".

"(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—CRIMINAL CHILD SUPPORT ENFORCEMENT

"Sec. 1601. Grant authorization.
"Sec. 1602. State applications.
"Sec. 1603. Review of State applications.
"Sec. 1604. Local applications.
"Sec. 1605. Distribution of funds.
"Sec. 1606. Evaluation.
"Sec. 1607. Definitions.

"PART Q—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

"(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating the last three paragraphs sequentially as paragraphs (7), (8), and (9); and

(2) by adding at the end the following new paragraph:

"(10) There are authorized to be appropriated $10,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out projects under part P.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1241 is a very significant bill, and it offers my colleagues in this House an opportunity to do something constructive for American families.

The bill is a bipartisan effort, and I want to truly commend the gentleman from Illinois [Mr. HYDE], who really spearheaded the efforts on this bill for the last several years. I think it is testament to his legislative perspicacity that he created this bill and worked so closely to get it passed, and to his own personal fortitude and integrity that he is here this evening to be here for the bill. It is appropriate, I guess, that this is a bill that strengthens families, because families is something I know is important to the gentleman from Illinois, and we do all grieve for him for his recent loss.

The bill would create a simple and straightforward criminal statute that would punish any person who willfully fails to pay a past-due support obligation to a child who resides in another State.

The bill also creates a grant program under which the Bureau of Justice Assistance may make grants to States and local entities to develop and implement this legislation and coordinate criminal interstate child support enforcement efforts.

Mr. Speaker, the need for this legislation is clear. Many of our States have done their best, and they have made willful failure to pay child support a crime punishable in some States by up to 10 years in prison. But the ability of those States to enforce such laws outside their own boundaries is hobbled by a labyrinth of extradition laws and snarls of redtape. As a result, skipping out on child support is one of the easiest crimes to get away with in America today.

At our hearings we heard of instance after instance where spouses, usually husbands, did not want to pay, went to another State, waited just until the legal process was able to catch up with him, and then went to another State and started the procedure all over again. Now this sounds very almost legal, but when you hear the mothers and see in your own mind's eye their children unable to get support, paying lawyers large sums of money, not only the financial wounds they suffer but the psychological wounds are enormous. And that is what this bill is intended to deal with.

Every year more than $5 billion in child support goes unpaid, forcing many families onto public assistance, especially AFDC and Medicaid. And it is unfair to ask the American taxpayers, Mr. Speaker, these people, the taxpayers who work so hard to support their own families, insure their own bills, to carry the burden of a deadbeat parent as well. We must help the States to collect the support these children desperately need by taking the incentive out of moving interstate to avoid payment. After all, simply put, a child's right to support should not end at the State line.

H.R. 1241 has been developed in consultation with the American Commission on Interstate Child Support, and reflects a preliminary recommendation made by the Commission with regard to the adoption of a Federal criminal statute. It enjoys the support of ACES, the Association for Children for Enforcement of Support, which has been an organization that deserves a heck of a lot of credit for moving this legislation. It also has the support of the National Child Support Advocacy Coalition, and millions of custodial parents across this Nation.

These days we talk about family values, Mr. Speaker, and they mean many different things to many people. But I am sure we are all in agreement that part of family values is owning up to your responsibilities as a parent. The millions who do not and who now get away with it will have perhaps the fear of the law, perhaps the fear of God put into their bones by this legislation and thereby we will all increase our support of family values by passing this legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1840

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today is a very special day for me. Few things are more troubling than the misery inflicted on innocent children by parents who cast aside child support obligations. I am especially incensed by those thousands and thousands of delinquent parents who make a mockery of State law by fleeing across State lines to avoid enforcement actions by State courts and child support agencies. I have long felt the need to make such interstate flight a Federal crime—in fact I first introduced a bill along the lines of H.R. 1241 in 1987. Only this year has the legislation finally reached the floor. To that I owe the leadership of two men, both colleagues and friends—CHARLES SCHUMER and JACK BROOKS. Without CHARLIE's active support of the bill as chairman of the House Judiciary Committee's Subcommittee on Crime and Criminal Justice, and without JACK's support as chairman of the full Judiciary Committee, my quest would have remained unfulfilled. I am grateful, and so are, I think I may fairly say, all those custodial parents and children who will benefit from the enactment of H.R. 1241.

Too often as soon as delinquent fathers move to new States, they seem to vanish as far as State enforcement agencies are concerned. It is not that States have no mechanisms available, it is that these mechanisms lose their effectiveness when a father moves to a new State. I know that all States have enacted the Uniform Reciprocal Enforcement of Support Act in one version or another to facilitate interstate enforcement of child support orders. However, a recent study revealed that URESA cases sent by Michigan courts to other States and only a 41-percent change of yielding an order in the other State. URESA is necessary, and many dedicated State employees work tirelessly to make it effective. But URESA is a poor substitute for a State's internal enforcement mechanism.

In a society as mobile as ours, divorced parents will all too frequently live in different States. We are told that within only 3 years of a divorce, there is a 25-percent change of this occurring. However, what is not inevitable is that delinquent fathers can find comfort in the limitations of URESA or that they be allowed to flee from State to State to frustrate State enforcement actions.

I felt that H.R. 1241, proposing Federal criminal penalties for interstate flight to avoid child support payments, was a necessary and proper response. The bill makes it a Federal crime for a parent to willfully fail to pay child support obligations to a child residing in another State. Penalties for a first offense include a fine of up to $5,000 and/or imprisonment of up to six months; for a second or subsequent offense, these figures can increase to $250,000 and 2 years imprisonment.

H.R. 1241's goal is to strengthen, not to supplant, State enforcement efforts. The deterrent value of a relentless FBI, of a Federal penitentiary, should prevent interstate flight in the first place, should keep parents where State courts and agencies can effectively get at them. But make no mistake, when interstate flight does occur, I want to make sure that the Federal Government pursues and if necessary puts behind bars those men warped enough to prefer constant movement to caring for their children.

I urge all my colleagues to vote for H.R. 1241. Let us make America a happier and more secure place for all our children.

Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as a member of the Crime Subcommittee on which I serve with the chairman, the gentleman from New York [Mr. SCHUMER], I rise in support of this bill. Mr. Speaker, before the Crime Subcommittee over the 2 years approximately that I have served on it, we have received numerous requests to federalize various State and local matters into Federal crimes, and I have to say that as a whole, if not entirely before now, I have not supported such requests, because the Federal courts themselves are already stretched near the breaking point with drug cases and other cases now brought under Federal law.

Law enforcement remains primarily the responsibility of State and local government. Nevertheless, I support this bill, because I have come to two conclusions. The first conclusion is the seriousness of the problem.

It is my belief that a leading reason, if not in fact the No. 1 reason, for the increasing number of children slipping into the poverty that is shown on all of the statistics released lately are children in households with single parents not receiving child support. We all know the devastating effects of poverty on these children.

Second of all, I have come to the conclusion that the existing reciprocal support statutes between States are simply bogged down and unable to perform with the efficiency we would like to see. I understand that many dedicated personnel in the State and county and levels attempt to enforce these laws, but they inherently provide too many difficulties.

Therefore, I have come to the conclusion in this one case, at least, federalizing the offense, making willful failure to pay child support while crossing State lines a criminal offense under Federal law, is justified, and I urge all of my colleagues to vote in favor of this bill.

Mr. FAZIO. Mr. Speaker, I rise in support of H.R. 1241, the Child Support Recovery Act, which will make it a Federal crime to fail to pay child support for a child who lives in another State.

More and more American children under age 18 are growing up with single mothers. According to the Census Bureau, from 1970 to 1988, the number of children living with only 1 parent grew from 11.9 to 25 percent. In spring of 1990, 10 million American mothers had their children under age 21 living with them.

Too many of these single parent families have incomes that do not even reach the poverty level. This means that they are very likely to be dependent on public assistance in order to make ends meet. The responsibility for these families falls on the taxpayers.

In 1989, our Government spent $21 billion for social, health and welfare services for teenage mothers who were unable to support their children alone. Although child support payments can make all the difference in the world, $10 to 20 billion in child support goes uncollected each and every year.

Collecting child support is especially difficult when both parents do not live in the same State. In these cases, less than half of the eligible mothers receive their regular child support payments. This is mostly due to laws and processes that differ from State-to-State. There has to be a national standard.

H.R. 1241 establishes such a standard. It represents a major new commitment on the part of Congress to address the problem of parents who do not live up to their responsibilities to properly care for their children.

H.R. 1241 applies only to child support obligations that are not paid for more than 1 year, or that amount to more than $5,000. It makes the first offense punishable by as many as 6 months in jail, and a $5,000 fine. For a second conviction, the penalty increases to 2 years in prison and a $250,000 fine.

Parents must be responsible for the financial welfare of their children. H.R. 1241 is a big step in this direction. I urge my colleagues on both sides of the aisle to support its passage.

Mr. EWING of Illinois. Mr. Speaker, I rise in strong support of H.R. 1241, Representative HYDE's legislation which would make it a crime for a parent to cross State lines in order to avoid making court-ordered child support payments.

In order to help my colleagues understand the magnitude of this problem, I would like to offer some grim statistics. There are some 10 million women raising children without their father in the household. Nearly one-quarter of all children in America live with only one parent. Only about half of all women who are entitled to receive child support payments are actually receiving their full payments, one-quarter are receiving partial payments, and the remaining quarter are not receiving any of their court-ordered payments.

Failure by parents to make their court-ordered child support payments is a tragedy. It is a tragedy for millions of single parents and the youngsters they raise alone. Indeed, it is a tragedy for our entire country. No child should live in poverty simply because an irresponsible parent has chosen to ignore his moral and legal responsibilities.

I have heard critics of this legislation say that some fathers cannot meet their child support payments because of their own financial problems. This could be true in some cases, but the facts show that most divorced fathers are able to make those payments. On average, court-ordered payments make up 13 percent of a father's income. Furthermore, a study has shown that the rate of nonpayment is about the same whether the parent makes $20,000 or $50,000.

State officials in most cases do an admirable job of trying to track down delinquent parents. However, it becomes extremely difficult for them to pursue nonpayers when they move from State to State. This is why H.R. 1241 is so important. It would make it a Federal crime to travel from State to State to avoid child support payments. A first offense would be punishable by a fine of up to $5,000 and/or imprisonment for up to 6 months. This will certainly provide a strong incentive to delinquent parents to live up to their responsibilities.

This bill will also help relieve some of the financial burdens of State governments. When a parent fails to meet his or her child support payments, many families are forced to depend on State welfare programs. Passage of this legislation will take single-parent families off the welfare roles.

Mr. Speaker, it's about time delinquent parents live up to their duties, it's about time they meet their court-ordered child support payments. We must pass this legislation for all those children and single parents who are living in poverty because of negligent parents who choose to ignore their responsibilities. We must pass this legislation for the future of our children.

Mr. HOYER. Mr. Speaker, I rise today in very strong support of H.R. 1241, a bill which will impose a criminal penalty for flight to avoid paying child support. I would like to thank and commend Mr. HYDE for introducing this important legislation, and the chairmen of the full and subcommittee Mr. BROOKS and Mr. SCHUMER, for expeditiously bringing this legislation to the floor. I am pleased to be cosponsor of this measure.

Mr. Speaker, my staff will tell you that there is no subject which evokes more anger from me than that of the shame of parents who refuse to take financial responsibility for their children. Even more shameful is a parent who will go so far as to leave a State where he or she has been ordered to pay child support in order to avoid payment to the custodial parent.

While I was a practicing attorney, I had a case where a father moved to at least four States, in order to avoid payment of his child support. Because he was a self-employed house painter, he was able to avoid being tracked through work records—he was undoubtedly getting paid in cash. I am pleased to say, that he has subsequently returned to Maryland, where he is now under direct court supervision to pay the support he has neglected to pay for over 6 years.

Clearly, Mr. Speaker, this was a criminal act. There are single parents across this country who must work two jobs, or who are forced to go on welfare because the absent parent refuses to support his or her children. This bill will make it a Federal crime to fail to pay child support when the child resides in another State. The incentive for a noncustodial parent to leave a State in order to avoid support payments will be eliminated. Very frankly, the threat of a 6-month prison sentence and a substantial fine ought make a parent think twice about skirting his or her financial obligations.

As evidence of the importance of this legislation, Governor Clinton said in his acceptance speech that he would like to address the fathers in this country who have abandoned their children by neglecting to pay child support. He said, "Take responsibility for your children or we will force you to do so. Because governments don't raise children; parents do. And you should."

My colleagues, Governor Clinton was absolutely right, and Mr. HYDE is absolutely right. This bill deserves the support of all of my colleagues and I strongly urge its passage.

Mr. HOAGLAND. Mr. Speaker, as the House today considers the Child Support Recovery Act of 1992, I want to commend the subcommittee chairman, Mr. SCHUMER and Mr. HYDE for their diligent pursuit of means to protect the growing number of American children who live in single-parent homes. Many of these children are tragically hurt because a noncustodial parent's child support payments are in arrears. Financial support from noncustodial parents is essential to helping support children.

The bill before us would make it a Federal crime to fail to pay child support for a child who lives in another State. It will address the problem of interstate enforcement of nonpayment of child support obligations by creating a criminal statute that would punish any person who willfully fails to pay support payments that are a year or longer overdue, or in an amount greater than $5,000.

It has been estimated that as much as $5 billion in support goes uncollected every year, with half of all women getting none or only part of what courts have ordered. Currently, it is very difficult to collect child support when a parent leaves the state of the former spouse. Two legal systems have to be contended with and some delinquent parents actually skip from State to State to avoid their obligations.

In general, I am extremely hesitant to federalize additional crimes. Our Federal court system is overloaded. I generally prefer to leave enforcement of these issues to the States. But I support the Schumer/Hyde effort. The issue of overdue child support payments must be addressed now. It is too important to families that are already torn apart and stretched in many directions to postpone help any longer.

In trying to steer away from adding more Federal crimes to the books, I pursued many suggestions on other ways to provide that help. The Interstate Commission on Child Support, in a preliminary report submitted to Congress, raised some of the same concerns that I share. But I have not been able to craft a solution that would leave the majority of the cases in the States' jurisdiction, and refer only the cases that the States could not resolve to the Federal courts. Most States have already adopted the uniform laws governing many aspects of child support payments—for example, the Uniform Interstate Family Support Act and the Uniform Reciprocal Enforcement of Support Act. But the States do not regularly implement these laws.

So I am afraid H.R. 1241 is a solution much more likely to succeed than the others. The administrative office of the U.S. courts estimates that as few as 500 cases will be filed in Federal district court annually.

Single-parent families, more frequently than not headed by women, need these back payments to make ends meet. I think it is important that we act to make sure that they have the recourse they need. I urge my colleagues to support H.R. 1241.

Mrs. LLOYD. Mr. Speaker, I rise in support of H.R. 1241—to make it a Federal crime to fail to pay child support for 1 year or to accrue a child support debt of $5,000. I am a cosponsor of this bill and a strong proponent of its provisions.

This is a profamily bill to protect America's children. Legally both parents are responsible for the financial support of their children. State laws generally require noncustodial parents to make payments to custodial parents for the support of dependent children once a support order is issued.

It is sad, but true, however, that many noncustodial parents, who are ordered by the courts to provide child support, never make full payments and flee the State to avoid repercussions. These parents, usually fathers, are shirking their moral and financial responsibilities to provide for their children's upbringing. As a result, these children often live in poverty and go without the basic food, clothing, and shelter that loving and caring parents willingly provide.

While parents often turn to the courts for help and assistance, unfortunately, in far too many cases, being awarded child support is not nearly the same as actually receiving child support payments. In fact, in 1990, one-quarter of women awarded child support received no money at all, and another quarter received only partial payment.

To remedy this, H.R. 1241 would make it a Federal crime for a parent or legal guardian to willfully fail to pay child support obligations to a child residing in another State. This bill puts teeth in State garnishment laws. A delinquent parent will be less likely to flee a State, and the children whom so desperately need help, when faced with the prospect of being charged with a felony.

Some may view this bill as harsh. I don't. What I view as harsh is the shameful neglect of children by parents who bring them into this world and then choose not to provide for them by moving from State to State to avoid child support enforcement actions. Nationwide, $5 million in support goes uncollected each year. This is a national disgrace—and children are the ones who suffer. We can no longer turn our back to the cries for help from parents, usually mothers, who are working hard to support their children while the fathers resume their lives elsewhere without concern for their own kids.

Nonpayment of child support should be a crime because children are far too precious a resource to be abandoned without penalty. Studies indicate that it is usually the case that when a family breaks up, the mother and children will not maintain the standard of living that they had when the family was together and that the father achieves after the separation. If court ordered child support was paid in full this should not be the case nearly so often. I urge support of H.R. 1241.

Mrs. MINK. Mr. Speaker, I rise today in strong support of H.R. 1241, a bill to impose a criminal penalty for flight to another State to avoid payment of arrearages in child support.

H.R. 1241 is an important and long overdue social statement, namely that intentional flight to avoid financial responsibility under a court-ordered payment of child support will no longer be tolerated, and the Federal Government is making it a criminal offense.

H.R. 1241 is necessary legislation for the many children whose noncustodial parent is delinquent in court-ordered child support payments, and necessary for the taxpayers who end up shouldering the financial responsibility for these children that should be borne by both of their natural parents.

Many of our Nation's poor are children. Many of these children live in single-parent homes usually headed by women in which the father does not provide any financial support. A recent GAO study found that of the 9.9 million child support cases on record in 1990, 2.5 million reported that the noncustodial parent lived in a different State. Of these interstate cases, 34 percent or over 800,000 did not receive child support payments, almost double the amount for situations where both parents reside in the same State.

Something must be done. The current politics of noninvolvement cannot be tolerated any longer. The financial, psychological, and emotional impact on children of being abandoned by a parent is devastating. As a Nation, we cannot stand idly by and convey to these offspring that their Nation is abandoning them as well.

The concerns of millions of women who are single parents and heads of households have been ignored, simply brushed aside for far too long. The effect of this failure to respond to the concerns of these women means also a failure to respond to the needs of their children. This is unconscionable.

H.R. 1241 finally responds to these needs and accomplishes two very important objectives: it subjects a noncustodial parent to criminal sanctions when fleeing to another State to avoid court-ordered child support payments, and it conveys a long-delayed message to women and children that they are not alone in their struggle to obtain court-ordered child support payments from a noncustodial parent who refuses to pay.

Further, I ask that Congress be vigilant in the implementation of H.R. 1241 to see that Federal judges are assiduous in their judgment of the intent of a parent who chooses to move out of State. There is room for doubt here, and our judges should adhere to the benefit of the children involved, so there is no question that we are all serious about solving this shameful problem.

Mr. Speaker, I urge my colleagues to support H.R. 1241, which is not just a women's bill, but it is a children's bill. It is legislation that emphasizes responsibility, obligation, and decency, and deserves our full support.

Mr. HYDE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 1241, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 18, United States Code, to provide penalties for willful refusal to pay child support, and for other purposes.".

A motion to reconsider was laid on the table.

FEDERAL EMPLOYEES HUMANITARIAN LEAVE ACT OF 1992

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2675) to amend title 5, United States Code, to provide for the granting of leave to Federal employees wishing to serve as bone-marrow or organ donors, and to allow Federal employees to use sick leave for purposes relating to the adoption of a child, as amended.

The Clerk read as follows:

H.R. 2675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Humanitarian Leave Act of 1992".

SEC. 2. AVAILABILITY OF PAID LEAVE TO SERVE AS A BONE-MARROW OR ORGAN DONOR.

(a) IN GENERAL.—Subchapter II of chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"§ 6327. Absence in connection with serving as a bone-marrow or organ donor

"(a) An employee in or under an Executive agency is entitled to leave without loss of or reduction in pay, leave to which otherwise entitled, credit for time or service, or performance or efficiency rating, for the time necessary to permit such employee to serve as a bone-marrow or organ donor.

"(b) Not to exceed 7 days of leave may be used under this section by an employee in a calendar year.

"(c) The Office of Personnel Management may prescribe regulations for the administration of this section.

"(d) Leave under this section may not be used after September 30, 1994.".

(b) TECHNICAL AMENDMENTS.—(1) Section 6129 of title 5, United States Code, is amended by inserting "6327," after "6326,".

(2) The table of sections for chapter 63 of title 5, United States Code, is amended by adding after the item relating to section 6326 the following:

"6327. Absence in connection with serving as a bone-marrow or organ donor.".

SEC. 3. USE OF SICK LEAVE IN ADOPTING A CHILD.

(a) IN GENERAL.—Section 6307 of title 5, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c)(1) Sick leave provided by this section may be used for purposes relating to the adoption of a child.

"(2) Sick leave may not be used for purposes relating to the adoption of a child, pursuant to this subsection, after September 30, 1994."; and

(3) in subsection (d) (as so redesignated by paragraph (1)), by inserting "or for purposes relating to the adoption of a child," after "ailment,".

(b) TECHNICAL AMENDMENT.—Section 6129 of title 5, United States Code, is amended by striking "6307 (a) and (c)," and inserting "6307 (a) and (d),".

(c) ELECTION TO HAVE ANNUAL LEAVE RESTORED.—(1) The Office of Personnel Management shall prescribe regulations under which any employee who used or uses annual leave for an adoption-related purpose, after September 30, 1991, and before the date as of which sick leave first becomes available for such purpose as a result of the enactment of this section, may, upon appropriate written application, elect to have such employee's leave accounts adjusted to reflect the amount of annual leave and sick leave, respectively, which would remain had sick leave been used instead of all or any portion of the annual leave actually used, as designated by the employee.

(2) An application under this subsection may not be approved unless it is submitted—

(A) within 1 year after the date of the enactment of this Act or such later date as the Office may prescribe;

(B) in such form and manner as the Office shall require; and

(C) by an individual who is an employee as of the time of application.

(3) For the purpose of this subsection, the term "employee" has the meaning given such term in section 6301(2) of title 5, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2675, the Federal Employees Humanitarian Leave Act of 1992, would allow Federal employees to use sick leave for the purposes of adopting a child. The bill would also authorize 7 days of administrative leave for Federal employees who become either bone-marrow or organ donors.

During fiscal year 1991, 524 employees used approximately 28,000 hours of sick leave for adoption purposes, under an experimental program authorized by Public Law 101–509. This amounts to an average of about 53 hours, or almost 7 days per employee.

Both male and female employees took advantage of the program, with women using about 60 percent of the leave and men using the remainder.

Mr. Speaker, the amendment adopted by the Committee on Post Office and Civil Service would make the sick leave for the adoption program retroactive to October 1, 1991, when the original program expired, and require that both programs authorized by the bill expire on October 1, 1994.

The committee included this sunset date in response to the administration's concern that these programs not be made permanent until the Office of Personnel Management can finish its comprehensive review of all types of leave available to Federal employees.

OPM is scheduled to provide Congress with the results of that review in April of next year.

Mr. Speaker, the Subcommittee on Compensation and Employee Benefits, which Mr. ACKERMAN chairs, has been contacted by many Federal employees who are in the process of adopting children and who would like to make use of this program.

I want to thank my colleagues Mr. ACKERMAN, Mrs. BYRON, Mr. WOLF and Mr. YOUNG of Florida, for their efforts and support of H.R. 2675. I urge my colleagues to support those Federal employees who are making the effort to adopt children or who are donating bone marrow or organs by supporting H.R. 2675.

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the Chair for the opportunity to make a few observations about H.R. 2675. I would first like to thank the gentleman from New York [Mr. ACKERMAN] chairman of the Subcommittee on Compensation and Employee Benefits, for introducing this bill, the Federal Employees Humanitarian Leave Act. I would also like to recognize the chairman of the Committee on Post Office and Civil Service for moving this important bill so quickly after subcommittee markup.

This bill, Mr. Speaker, would give Federal employees an additional 7 days of sick leave when they qualify as bone marrow donors or organ donors. Donation of bone marrow or an organ is vitally important, not to the donor—the Federal employee—but to the recipient. Provisions in H.R. 2675 granting Federal employees an additional 7 days over and above accrued sick leave for recuperation purposes after such a donation will, undoubtedly, make it easier for employees to make such a donation.

Mr. Speaker, I would like to commend our colleague, the gentleman from Florida, Mr. BILL YOUNG for his extraordinary efforts to register donors in the National Marrow Donor Program and also the more than 50 colleagues and more than 3,000 congressional employees who have taken the required blood test to be listed on this registry.

There are more than 16,000 people awaiting bone marrow transplants. The donation of bone marrow or an organ is kept confidential—neither the donor nor the recipient know the other's identity. However, I would like to recognize that our colleague, the gentleman from Florida, CRAIG JAMES, within the month donated his bone marrow.

Mr. Speaker, additionally, H.R. 2675 provides for the use of sick leave when Federal employees adopt a child; the provision is made retroactive to October 1, 1991. Federal employees are granted sick leave during the birth of a child. It does not seem equitable that biological parents would merit sick leave during the birth of a child and adopting parents would have to use annual leave during the adoption process. Adoption of a child is just as significant and merits the same provisions of leave. I commend our colleague, the gentleman from Virginia [Mr. WOLF] for his initiative in authorizing a pilot program to implement a Governmentwide adoption-sick leave policy.

As a cosponsor of H.R. 2675, I urge all our colleagues to support this humanitarian measure. The administration has no objection to this important bill.

Mr. WOLF. Mr. Speaker, today I rise in support of H.R. 2675, the Federal Employee Humanitarian Leave Act of 1991. As an original cosponsor of H.R. 2675 and as a member representing thousands of Federal employees, I strongly urge my colleagues to support passage of this measure which will help hundreds of Federal employees and their families.

As the ranking member on the House Select Committee on Children, Youth, and Families, I have worked to advance the interests of the American family through promotion of pilot programs and sponsorship of legislation highlighting the need for flexible work policies and other arrangements that make employers and managers more responsive to the changing needs of today's work force. In May 1990, I introduced legislation that would provide for a 1-year pilot program to test the feasibility of granting sick leave for Federal employees wishing to adopt a child. Prior to that, current law allowed only Federal workers who were biological parents to use sick leave for prenatal doctor visits. Federal employees attempting to adopt a child were required to use their annual leave when making the necessary, and often expensive, arrangements with attorneys and social workers as part of the adoption process.

Adoption is a very personal decision for a family, one that is made with reflection on what is best for the family and what is best for the child. The purpose of my legislation was to eliminate the impediment to adoption faced by Federal workers by placing adoptive parents in the Federal work force on an equal footing with biological parents.

Included as an amendment to the fiscal year 1991 Treasury, Postal Service, and general Government appropriations bill, my legislation authorized a 1-year pilot adoption leave program to be implemented Governmentwide and studied by the Office of Personnel Management. The results of OPM's analysis of the adoption leave program in fiscal year 1991 revealed that almost 500 children were adopted by Federal employees from 76 agencies who used nearly 28,000 hours of sick leave. The hours used per employee ranged anywhere from 4 to 502 hours depending on the nature of each individual adoption case.

I was pleased to know the adoption leave program was so well received and utilized by hundreds of Federal employees wanting to start, or add to, their families. Unfortunately, however, many Federal employees participating in the pilot program who were in the process of adopting a child were left suspended when the program expired September 30, 1991.

By being sensitive to the reality of the time required to adopt a child, the Federal Government achieves a win-win situation for itself and its employees. I strongly urge Members of the House to support H.R. 2675, to enable those Federal workers who are currently in the pipeline to adopt, or those interested in adopting, the opportunity to engage in what can be an extremely rewarding endeavor—the adoption of a child.

Aside from improving the quality of life for families of Federal employees, H.R. 2675 also can help save lives by granting sick leave for Federal workers who serve as bone marrow donors. The National Bone Marrow Donor Program is a registry of over 560,000 volunteers who have agreed to serve as marrow donors in the event a compatible match can be found. Bone marrow transplants are a viable cure for fatal blood disorders and cancers including leukemia, aplastic anemia, and severe immunodeficiency. Marrow transplants are used to treat patients whose bodies have ceased producing normal blood cells. By replacing the diseased marrow with new, healthy marrow patient survival rates have increased from less than 15 percent to between 45 percent and 80 percent. The odds of finding a compatible match are about 20,000 to 1, and only 20 percent of the over 10,000 people needing a transplant will find a suitable donor.

By providing an incentive to Federal workers to volunteer to be blood and marrow donors, a tremendous opportunity exists to increase the size and diversity of the donor registry and I commend our colleague, Representative BYRON, for introducing H.R. 658 last year to allow Federal employees to become bone marrow donors. Each day in this country 24 people die who could be saved by a bone marrow transplant. The reason for these deaths is that there is a lack of donors in the various bone marrow registries in the United States and worldwide. Last year, I joined with the Siegfried Foundation and National Marrow Donor Program in sponsoring a testing drive in Arlington, VA, to recruit donors and raise awareness about the need for donors especially in the Washington area where more than 25 residents need transplants.

I believe H.R. 2675 is life enhancing and life saving legislation which demonstrates the Federal Government's commitment to being a responsive and caring employer, one that will strengthen and promote the interests of the American family.

Through my efforts on the Select Committee on Children, Youth, and Families, and as ranking minority member of the Treasury Postal Appropriations Subcommittee, I have worked over the years to promote flexible work policies and innovative work arrangements such as flexitime, job sharing, leave sharing, telecommuting, and child care at Federal facilities. These programs allow the Federal Government to be family-friendly and attract and retain a high quality, high performance work force. By serving as a model to private industry, the Federal Government can, through programs like adoption leave and leave for bone marrow testing, effectively demonstrate the long-term benefits to employers of recognizing the increased demands of work and family on employees.

I would like to express my appreciation to Mr. ACKERMAN, the chairman of the Post Office and Civil Service Subcommittee on Compensation and Employee Benefits, Mr. MYERS, the ranking minority member and all the members of the committee for their efforts in moving forward with this important legislation.

I urge Members to support passage of H.R. 2675. It is good policy for the Government, it helps those in desperate need of treatment, and it works to strenghten the cornerstone of our Nation—the American family.

Mrs. BYRON. Mr. Speaker, I rise in support of H.R. 2675, the Federal Employees Humanitarian Leave Act of 1991.

I am especially pleased to have been the sponsor of the bone marrow provision introduced as a separate bill but then incorporated into H.R. 2675. Under the legislation, Federal employees would be allowed to use up to 7 days of paid administrative leave per year to serve as potentially qualified bone marrow donors. This time is generally needed for further blood tests and, if found to be a compatible donor, for the marrow extraction procedure itself.

Today, more than 16,000 men, women, and children await bone marrow transplants. Everyday brings new hope, however. Just recently, our colleague, Congressman CRAIG JAMES, served as a bone marrow donor. His willingness to participate in the donor program may bring one of these individuals closer to living a healthy and longer life.

Despite these encouraging glimmers of hope, the challenge is great for finding appropriate transplant matches. The pool of potential donors must be expanded. By providing a donor leave program for its 3.5 million employees, the Federal Government could set an example that would encourage other public and private sector employers and their employees to enroll in the National Bone Marrow Registry Program. The cost to the Federal Government would be minimal, based on my calculations, perhaps less than $13,000 a year.

Increasing the number of registered potential donors is the best hope for many thousands of people battling leukemia, Hodgkin's disease, and a variety of other blood diseases. The Federal Government is in a good position to set a modest humanitarian leave policy that will hopefully save lives. I urge the adoption of this legislation.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of H.R. 2675, legislation I am an original cosponsor of to allow Federal employees to take up to 7 days of paid leave per calendar year to donate bone marrow.

I want to commend the chairman of the Post Office and Civil Service Subcommittee on Compensation and Employee Benefits for bringing this legislation to the House and for holding a hearing last April 1 so that we could present the very compelling case to give Federal employees the time off they need to save a life.

I also want to thank the committee's ranking Republican, my colleague from New York, Mr. GILMAN, my colleague from Maryland, Mrs. MORELLA, and my colleague from Virginia, Mr. MORAN, for their steadfast support of the National Marrow Donor Program and for helping to advance this bill.

As you know, there is much good news to report about the National Marrow Donor Program. More than 650,000 Americans have taken the quick and simple blood test required to be listed in the National Registry. This includes more than 50 of our colleagues in the House and Senate and more than 3,000 congressional employees.

It was with great pride last week I announced that my colleague from Florida, CRAIG JAMES, had become the first Member of Congress to donate bone marrow to an unrelated patient in need of a transplant. I know that CRAIG did not have to worry about taking paid or unpaid leave, vacation time or sick leave to donate his marrow, and I doubt that any of our colleagues would give any staff member a problem about taking whatever time off would be required for them to become a bone marrow donor.

One of my own staff members is in the final workup phase to becoming a donor later this year and she knows that she can have whatever time off is required for the predonation testing and for the actual harvesting of the marrow. There can be no better reason to provide time off than to allow one person to save the life of another.

Mr. Speaker, when we first established the National Registry in 1987, our primary goal was to build a large, ethnically diverse registry of donors to increase the odds of finding matched unrelated donors for the more than 10,000 Americans suffering from leukemia and more than 60 other blood disorders that could be treated and cured with a marrow transplant. With the support of my colleagues in the House, we have made available the Federal support required to administer the program and to recruit more than 650,000 donors on our way to our goal of 1 million.

Early in the Registry's history, we were matching an average of one patient and donor per month for a lifesaving transplant. Today, as many as 50 matches occur per month. In the 4½ years since the Registry was activated, almost 1,400 transplants have been completed here and abroad with donors found in our Registry.

As the number of matched donors increases, we are now faced with many important issues related to the transplantation procedure, and this includes ensuring that donors are able to have the time off required to donate marrow. As our Nation's, and perhaps the world's, single largest employer, the Federal Government can set an important example for other public and private employers by granting leave to marrow donors so they are not required to use their own vacation or sick leave to save the life of another person.

With me during our hearing before the committee last April was Dr. Dennis Confer, the interim medical director for the National Marrow Donor Program and one of our Nation's most respected transplanters, who explained in detail the donation procedure and why it is important that donors undergo the medical tests and procedures required to donate marrow free from the anxiety associated with asking supervisors for time off.

Included in my testimony before the committee were statements from three Federal and postal employees who discussed their experiences in requesting time off to donate marrow. All three expressed their excitement about having the opportunity to save a life. Two had to use vacation or sick leave for the time off required for the procedure. The third, an employee at the Department of Heath and Human Services in the Washington area, recounted the tremendous support she received from her supervisors who granted her administrative leave for whatever time was required for the donation.

Her experience should be shared by all Federal employees who donate marrow. The National Marrow Donor Program is a true national treasure and resource established by this Congress. It is a federally authorized and sponsored program and as such we should do all we can to encourage Federal employees to join the National Registry. The committee's hearing, and the testimony our colleagues received that day, emphasize the need for uniform Federal leave policies and the important role they would play not only in alleviating donor anxiety but also in encouraging more Federal employees to join the Registry.

Mr. Chairman, four States—Minnesota, Oregon, Maine, and Washington—have enacted employee leave laws for State employees who are marrow donors. Fifteen other States have had similar legislation under consideration during legislative sessions this year. In addition, a number of our Nation's largest private corporations, including 3M, BP America, and General Mills, have adopted corporatewide leave policies for employees who are called upon to donate marrow.

By enacting this legislation today, we will establish a uniform leave policy for Federal employees that will become a standard I am confident will be widely accepted and adopted throughout the public and private sectors. The actions we take in Congress and the Federal Government often serve as the models for others. This was certainly the case several years ago when the CHAMPUS Program, and other Federal health insurance programs, agreed to cover the cost of unrelated marrow transplantation. This example was soon followed by a large number of private health insurance companies which agreed to begin covering these costs.

Bone marrow harvesting is carefully scheduled several weeks in advance to assist employees and employers arrange their schedules. At a minimum, a collection date is scheduled 6 weeks in advance and only altered if there is a sudden change in a patient's condition.

The search coordinating unit at the National Marrow Donor Program informs me that there has never been a donor who has declined to donate because of difficulty in getting time off from work. However, there have been cases where it has been inconvenient or has caused a donor to use their vacation or sick leave time. Search coordinators have told me about a school teacher who had difficulty getting time off to donate because a principal did not want to bring in a substitute teacher, about at least half a dozen nurses who had difficulty convincing hospital administrators to rework their work schedules, and about a pharmacist whose supervisor refused to change his schedule.

The committee received for the record a statement from a postal employee in Lynwood, WA, who had to use his sick leave for the time required to donate marrow. Included with his statement were two letters from his postmaster saying, "Thank you for the generosity you have shown in volunteering as a marrow donor. Your willingness to help another person in this way is a tremendous contribution to the community." The postmaster also said, "We are proud of the way in which our postal family reaches out to help those in need in our communities." But in both letters, the postmaster said that unfortunately, the donor must either use vacation time, sick leave, or leave without pay for the time associated with donating marrow.

Mr. Speaker, let us enact this legislation today that truly thanks our Federal employees for the compassion and generosity with which they reach out to give hope and life to another person in need. Those who are willing to donate their marrow should do so free from concern or anxiety about vacation or sick leave or about how their time off will affect their performance rating. Victoria Renneckar, an employee of the Bureau of Alcohol, Tobacco and Firearms in Washington, who testified during the hearing in April about her experience as a bone marrow donor, and the 1,400 other Americans who have donated marrow are true heroes and we should do all that we can to treat them as such.

Their few days off the job mean the difference between life and death for a patient somewhere else in our Nation or the world suffering from leukemia or any one of 60 other fatal blood disorders. I can think of no greater reason to provide time off for our Federal employees.

Mr. HOYER. Mr. Speaker, I rise in strong support of H.R. 2675, the Federal Employees Humanitarian Leave Act of 1991. In addition to allowing Federal employees to use paid leave to serve as either a bone marrow or organ donor, H.R. 2675 would continue to provide sick leave to employees trying to adopt children.

Given the difficulty of finding suitable matches for bone marrow and organ transplants, we should not impede the process further by adhering to inflexible leave policies.

This should be true for adoptions as well. As a member of the Treasury-Postal Subcommittee on Appropriations, Congressman FRANK WOLF and I worked with Congressman ACKERMAN to help start the first program allowing Federal employees to use sick leave for purposes of adoption. During the course of this program nearly 524 employees used sick leave to meet with adoption agencies, and appear at court proceedings and other meetings related to the adoption.

Although this was a temporary program designed to test whether it was practical or not, Congressman ACKERMAN's subcommittee hearings clearly showed this program was successful.

I commend my colleague, Congressman ACKERMAN, for all the work he has done to bring this legislation to the floor today. It is not often that we can vote on a bill which, indisputably, saves lives and promotes real family values. H.R. 2675 does both, and I urge its passage.

□ 1850

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

Mr. MCCLOSKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 2675, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HELEN DAY U.S. POST OFFICE BUILDING

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5479) to designate the facility of the U.S. Postal Service located at 1100 Wythe Street in Alexandria, VA, as the "Helen Day United States Post Office Building."

The Clerk read as follows:

H.R. 5479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 1100 Wythe Street in Alexandria, Virginia, is designated as the "Helen Day United States Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Helen Day United States Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5479, to designate the facility of the U.S. Postal Service at 1100 Wythe Street in Alexandria, VA as the "Helen Day United States Post Office Building."

Mrs. Helen Day served as a community activist in Alexandria, VA, for more than 50 years as well as a teacher in the public school system for the majority of that time. She participated in over 20 community organizations including the Girl Scouts, the Alexandria Community YWCA, and United Way. She also founded the Hopkins House and was secretary of the Council of Social Agencies. Her service to the people of Alexandria is unparalleled. It is truly fitting to name the 1100 Wythe Street post office after Mrs. Day.

Mr. Speaker, I would note that the sponsor of this legislation is the gentleman from Virginia [Mr. MORAN].

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5479 designating the postal facility on Wythe Street in Alexandria, VA, as the "Helen Day Post Office."

Mrs. Day was well known in Alexandria as a teacher in the public school system and a community activist. She was actively involved with the Girl Scouts, Council of Social Agencies, the Alexandria Community YWCA, and numerous other civic organizations.

I commend our colleague, the gentleman from Virginia [Mr. MORAN], for his thoughtful remembrance of this active woman with whom he worked for many years.

I urge my colleagues to support H.R. 5479.

Mr. McCLOSKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, Helen Day taught in the Alexandria school system from 1925 to 1971. For 40 years that school system was completely segregated. She was one of the leaders of the integration of the Alexandria school system through the human relations council.

She also was one of the founding members of the Hopkins House Settlement House in Alexandria, which was one of the few refuges for minorities who at that time, in 1939, when it was started, were clearly treated as second-class citizens.

Through the Hopkins House, Helen founded the first black Girl Scout troops in Alexandria. She had been integrally involved in youth activities throughout her life.

Mr. Speaker, she recently passed away this year, but she left her mark on Alexandria. It would be a fitting tribute to her, a memorial to her, to have the post office in the neighborhood that she contributed so much to, whose character both physically and spiritually she shaped through her lifelong commitment.

I thank the chairman for yielding time and certainly strongly support this bill to name the post office facility at 1100 Wythe Street after Helen L. Day.

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5479.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CLIFTON MERRIMAN POST OFFICE BUILDING

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5453) to designate the Central Square facility of the U.S. Postal Service in Cambridge, MA, as the "Clifton Merriman Post Office Building."

The Clerk read as follows:

H.R. 5453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Central Square facility of the United States Postal Service located at 770 Massachusetts Avenue in Cambridge, Massachusetts, shall be known and designated as the "Clifton Merriman Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Clifton Merriman Post Office Building".

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5453 to designate the facility of the U.S. Postal Service located at Central Square in Cambridge, MA, as the "Clifton Merriman Post Office."

Clifton Merriman honorably served both the U.S. Postal Service and the U.S. Army. Mr. Merriman began his employment with the Postal Service in 1919 in Cambridge, MA, where he worked for more than 40 years. Mr. Merriman became the first African American to be appointed to a higher management position within the Boston Postal Division. In addition to his dedication to the Postal Service, Clifton Merriman was one of the most highly decorated African-American soldiers in World War I.

Mr. Speaker, I note that this legislation is sponsored by the distinguished gentleman from Massachusetts [Mr. KENNEDY].

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5453, designating the post office in Cambridge, MA as the "Clifton Merriman Post Office Building."

After serving our Nation with distinction in World War I, Mr. Merriman began his career as a postal employee in 1919.

I commend the gentleman from Massachusetts [Mr. KENNEDY] for introducing this bill honoring Mr. Merriman and I urge my colleagues to support H.R. 5453.

Mr. McCLOSKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, let me say to the gentleman from Indiana [Mr. McCLOSKEY] and the gentlewoman from Maryland [Mrs. MORELLA], that the gentlewoman from the great State of Maryland used to reside very close to where the Cambridge Post Office sits today and is indeed a friend of the Eighth Congressional District, a former resident. I am delighted to say that I still have the honor of representing her mother. I am not so sure I ever get her vote, but nevertheless, I do appreciate the fact that I have the privilege of serving her.

Mr. Speaker, I would like to take this opportunity to thank my good friend, the gentleman from Indiana [Mr. McCLOSKEY], chairman of the Subcommittee on Postal Operations and Services of the Committee on Post Office and Civil Service for bringing this bill to the floor today.

The gentleman from Indiana [Mr. McCLOSKEY) and his staff have been very kind in the way that they have handled this particular issue, and I know that the gentleman from Indiana [Mr. McCLOSKEY) is very familiar with the Cambridge Post Office, as he came up to have a hearing on some of the Post Office issues pertaining to the way the Office was run earlier this year, and he has done yeoman work in getting some of those issues straightened out; so I very much want to thank the gentleman from Indiana for his efforts.

This bill is very simple and straightforward. It names the U.S. Post Office at Central Square in Cambridge MA, located in my district, after the late Clifton Merriman—a distinguished citizen, and a highly decorated veteran.

Mr. Merriman worked for over 40 years with the Postal Service—beginning in 1919. He was the first African-American to be appointed to a senior management position within the Boston Postal District. His accomplishments in the post office, and his longstanding commitment to his church and the civic affairs of the Cambridge community were a great source of pride for his friends, family, and neighbors.

Fueling that pride was the additional knowledge that Clifton Merriman was also one of the most highly decorated black soldiers of World War I. As a sergeant in the American Expeditionary Force, Mr. Merrimans' bravery on the battlefields of France earned him the Distinguished Service Cross, and two medals from the French Government.

Mr. Speaker, during his lifetime, Mr. Merriman served his community well as a model employee, distinguished veteran, and an outstanding role model. His contribution to the Postal Service and the community of Cambridge will be long remembered by dedicating the U.S. Post Office at Central Square in Cambridge in his name. It is appropriate that we pass this bill today in honor of a fine American, Clifton Merriman.

□ 1900

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to thank the gentleman from Virginia [Mr. MORAN], for his kind remembrance of Helen L. Day and commemorating the post office facility, and the gentleman from Massachusetts [Mr. KENNEDY] for his support of the designation of the building, the Clifton Merriman Post Office Building.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5453.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES
Washington, DC, August 4, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the District of Massachusetts.

After consultation with my General Counsel I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

With great respect, I am

Sincerely yours,

DONALD K. ANDERSON
Clerk,
House of Representatives.

COMMUNICATION FROM CHAIRMAN OF THE SUBCOMMITTEE ON EMPLOYMENT AND HOUSING OF THE COMMITTEE ON GOVERNMENT OPERATIONS

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Subcommittee on Employment and Housing of the Committee on Government operations:

EMPLOYMENT AND HOUSING
SUBCOMMITTEE,
Washington, DC, August 4, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House, the Capitol.

DEAR MR. SPEAKER:This is to notify you pursuant to Rule (950) of the Rules of the House that the Subcommittee on Employment and Housing of the Committee on Government Operations has been served with a subpoena for documents relating to the Subcommittee's investigation of the U.S. Department of Housing and Urban Development, issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the Clerk. I will make the determinations required by the Rule.

Sincerely,

TOM LANTOS,
Chairman.

COMMUNICATION FROM THE CHAIRMAN OF THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Permanent Select Committee on Intelligence:

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE
Washington, DC, August 4, 1992.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On July 24, 1992, I notified you, pursuant to Rule L of the Rules of the House, that the Permanent Select Committee on Intelligence had been served with a subpoena issued by the United States District Court for the District of Columbia. After consultation with the General Counsel to the Clerk of the House it has been determined that compliance with this subpoena would be consistent with the privileges and precedents of the House.

I also want to notify you pursuant to Rule L that the Committee has been served with an additional subpoena by the United States District Court for the District of Columbia in connection with the same trial which produced the subpoena about which I notified you on July 24. After further consultation with General Counsel to the Clerk, I will notify you of my determination on the additional subpoena as required by the Rule.

Sincerely,

DAVE MCCURDY,
Chairman.

LARKIN I. SMITH GENERAL MAIL FACILITY AND LARKIN I. SMITH POST OFFICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4539) to designate the general mail facility of the U.S. Postal Service in Gulfport, MS, as the "Larkin I. Smith General Mail Facility" and the building of the U.S. Postal Service in Poplarville, MS, as the "Larkin I. Smith Post Office Building," as amended.

The Clerk read as follows:

H.R. 4539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATIONS.

(a) GULFPORT FACILITY.—The general mail facility of the United States Postal Service located at 1110 Highway 49 in Gulfport, Mississippi, shall be known and designated as the "Larkin I. Smith General Mail Facility".

(b) POPLARVILLE FACILITY.—The building of the United States Postal Service located at 301 South Main Street in Poplarville, Mississippi, shall be known and designated as the "Larkin I. Smith Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to—

(1) the facility referred to in section 1(a) shall be deemed to be a reference to the Larkin I. Smith General Mail Facility; and

(2) the building referred to in section 1(b) shall be deemed to be a reference to the Larkin I. Smith Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4539 as amended, to designate the general mail facility of the U.S. Postal Service in Gulfport, MS as the "Larkin I. Smith General Mail Facility" and the U.S. Postal Service building in Poplarville, MS, as the "Larkin I. Smith Post Office Building."

Larkin Smith served as a distinguished Member of the U.S. House of Representatives during the 101st Congress before his untimely death. Prior to his election to Congress, Mr. Smith was the deputy sheriff in the Pearl River County Sheriff's Department in Poplarville and was later appointed chief of police of Gulfport. Larkin Smith's devotion to public service was longstanding and both Gulfport and Poplarville, MS consider Larkin Smith as a member of their community. It is fitting that the general mail facility in Gulfport and the Poplarville post office be named in his honor.

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4539, a bill to remember our late colleague, the gentleman from Mississippi, Larkin Smith, by naming the general mail facility of the U.S. Postal Service in Gulfport, MS, and the postal facility in Poplarville after him.

It is to the credit of our colleague from Mississippi, Mr. TAYLOR, for giving us the opportunity to memorialize our beloved former colleague, Congressman Larkin Smith.

I urge my colleagues to support H.R. 4539.

Mr. Speaker, it is to the credit of our colleague, the gentleman from Mississippi [Mr. TAYLOR], that he has given us the opportunity to memorialize our beloved former colleague who served such a short time and died in such an untimely manner, the gentleman from Mississippi, Larkin Smith.

Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. I thank the gentlewoman from Maryland for yielding to me.

Mr. Speaker, Larkin Smith began his career of public service at a very young age as a deputy sheriff in Pearl River County. After a few years of his excellent work, his talents were recognized in Harrison County and he became a deputy sheriff in Harrison County, MS.

After only a very short period as a deputy sheriff, again his talents were recognized and he was chosen as chief of police for Gulfport, MS.

A few years later, while still in his early thirties, Larkin Smith was elected as the first Republican sheriff of Harrison County, MS. Four years later he was reelected by a rather large margin.

One year later he was chosen from a field of 12 candidates as congressman from the Fifth Congressional District.

Larkin's life is the epitome of a person who has brought himself up by his bootstraps. At a very young age, as a teenager, his only brother, who was paralyzed from the neck down, Larkin took it upon himself not only to take care of his parents but his brother as well.

He served as a model for our young people that when something tough gets in your way, you find a way over it or find a way around it, but you continue to make the most of your abilities and you do not give any reason to keep you from accomplishing your goal.

Larkin's goal was to serve in the U.S. Congress. Three years ago this month, after visiting a Little League world series game in Hattiesburg, MS, on his way home, Larkin's two-seat plane crashed into the DeSoto National Forest, ending a short but brilliant career in the U.S. Congress.

We seek today to honor him in his home town of Poplarville, MS, and also in his adopted town of Gulfport, MS.

I would like to thank my colleagues, the entire Mississippi delegation, for cosponsoring this measure, as well as 29 other Members of the House of Representatives.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 4539, the bill to designate a post office in Poplarville, MS, as the Larkin I. Smith Post Office, and a mail facility in Gulfport, MS, as the Larkin I. Smith General Mail Facility.

I want to thank our colleague from Mississippi, GENE TAYLOR, for introducing the bill and the gentleman from Indiana [Mr. McCLOSKEY] for bringing it to the floor, along with the ranking minority member, Mr. HORTON.

Larkin Smith came to Congress in 1989 with a background in law enforcement. He first was a deputy sheriff in his hometown of Poplarville with the Pearl River County Sheriff's Department. He then became chief of police in Gulfport and later was elected sheriff of Harrison County.

He served only a short time in Congress, but he quickly established the fact that he had some strong ideas on how to fight the war on drugs and on how to improve the criminal justice system. He won a seat on the Judiciary Committee and impressed Republicans and Democrats alike with his grasp of the issues, and with his wonderful personality.

He was a very popular figure on the Mississippi gulf coast and was already becoming a leader here in Congress on law and order issues.

Larkin Smith was truly a rising star. We miss him in Mississippi and in this Chamber. I am proud to join in this tribute to our friend. I know Members on both sides of the aisle will join in supporting this legislation.

Mrs. MORELLA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 4539, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the general mail facility of the U.S. Postal Service in Gulfport, MS, as the 'Larkin I. Smith General Mail Facility' and the building of the U.S. Postal Service in Poplarville, MS, as the 'Larkin I. Smith Post Office Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

□ 1910

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 2675, H.R. 5479, H.R. 5453, and H.R. 4539.

The SPEAKER pro tempore (Mr. HUTTO). Is there objection to the request of the gentleman from Indiana?

There was no objection.

FARM ANIMAL AND RESEARCH FACILITIES PROTECTION ACT OF 1991

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2407) entitled the "Farm Animal and Research Facilities Protection Act of 1991," as amended.

The Clerk read as follows:

H.R. 2407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Enterprise Protection Act of 1992".

SEC. 2. ANIMAL ENTERPRISE TERRORISM.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 42 the following:

"§ 43. Animal enterprise terrorism

"(a) OFFENSE.—Whoever—

"(1) travels in interstate or foreign commerce, or uses of causes to be used the mail or any facility in interstate or foreign commerce, for the purpose of causing physical disruption to the functioning of an animal enterprise; and

"(2) intentionally causes physical disruption to the functioning of an animal enterprise by intentionally stealing, damaging, or causing the loss of, any property (including animals or records) used by the animal enterprise, and thereby causes economic damage exceeding $10,000 to that enterprise, or conspires to do so;

shall be fined under this title or imprisoned not more than one year, or both.

"(b) AGGRAVATED OFFENSE.—

"(1) SERIOUS BODILY INJURY.—Whowever in the course of a violation of subsection (a) causes serious bodily injury to another individual shall be fined under this title or imprisoned not more than 10 years, or both.

"(2) DEATH.—Whoever in the course of a violation of subsection (a) causes the death of an individual shall be fined under this title and imprisoned for life or for any term of years.

"(c) RESTITUTION.—An order of restitution under section 3663 of this title with respect to a violation of this section may also include restitution

"(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense; and

(2) the loss of food production or farm income reasonably attributable to the offense.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'animal enterprise' means—

"(A) a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing;

"(B) a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

"(C) any fair or similar event intended to advance agricultural arts and sciences;

"(2) the term 'physical disruption' does not include any lawful disruption that results from lawful public, governmental, or animal enterprise employee reaction to the disclosure of information about an animal enterprise;

"(3) the term 'economic damage' means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, or the loss of profits; and

"(4) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.

"(e) NON-PREEMPTION.—Nothing in this section preempts any State law.".

(b) CLERICAL AMENDMENT.—The item relating to section 43 in table of sections at the beginning of chapter 3 of title 18, United States Code, is amended to read as follows:

"43. Animal enterprise terrorism.".

SEC. 3. STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL ENTERPRISES.

(a) STUDY.—The Attorney General and the Secretary of Agriculture shall jointly conduct a study on the extent and effects of domestic and international terrorism on enterprises using animals for food for fiber production, agriculture, research, or testing.

(b) SUBMISSION OF STUDY.—Not later than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Agriculture shall submit a report that describes the results of the study conducted under subsection (a) together with any appropriate recommendations and legislation to the Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume, and I do rise in support of H.R. 2407, as amended.

Mr. Speaker, the introduced version of this legislation has been cosponsored by more than 360 of our colleagues.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. STENHOLM], the chairman of the subcommittee that worked on this legislation.

Mr. STENHOLM. Mr. Speaker, I am pleased that the House is today taking up the Animal Enterprise Protection Act of 1992, legislation that I introduced last year that now has 264 cosponsors.

This bill is the result of months of negotiations with all those interested in this issue.

We have worked in good faith with representatives of the animal welfare community, and with those concerned about protecting legitimate undercover activities.

We have recently worked with the Judiciary Committee to resolve the differences between the version of the bill reported by that committee and the version reported by the Agriculture Committee.

As a result of these negotiations, I believe we have a better bill, superior to the introduced bill.

I join Chairman DE LA GARZA in thanking Chairman BROOKS and Mr. SCHUMER for working with us to produce a bill that is better for the effort.

H.R. 2407 is designed to foster and promote food production and animal research by protecting animals and animal enterprises from acts of violence and destruction.

This bill is intended to penalize terrorist activity, violent activity, directed, against biomedical researchers, farmers and ranchers, meat packers and processors, livestock auctions, and others who handle animals.

These intimidating and destructive acts are escalating both in number each year and in their level of violence.

Such actions not only threaten existing food production and research, and impede advances, they have created a growing atmosphere of fear among farmers and researchers, people to whom the Nation owes so much.

Those who choose to disrupt lawful agricultural and scientific research activities through violent means should face legal actions that are commensurate with their actions.

The true victims of the illegal acts of terrorism are not only agricultural and biomedical research, but all members of society.

The ultimate cost is levied against those who enjoy an abundant and nutritious food supply or wait for better treatments or preventive measures for disease and disability—those whose very lives may be at stake.

Federal protection of animal facilities is essential.

Crimes against agricultural and research facilities are both interstate and international in scope.

Since 1988, 25 States have enacted laws increasing the penalties for crimes against research and agricultural facilities; however, State and local law enforcement agencies are not equipped to conduct interstate or international investigations.

The States alone cannot solve the problem; we must call on the resources of the Federal Government to address these criminal activities.

Mr. Speaker, I want to make very clear to my colleagues that H.R. 2407 will penalize only violent behavior.

It will provide penalties for anyone causing damage greater in value than $10,000 to an animal enterprise.

The animal enterprises covered by this bill include: commercial and academic enterprises that use animals for food or fiber production, agriculture, research, or testing; zoos, aquariums, circuses, rodeos, and lawful competitive animal events; and fairs or similar events intended to advance agricultural arts and sciences.

The bill provides three levels of penalties. If there is damage exceeding $10,000, the punishment can be a 1-year jail sentence. If someone is hurt during an attack on an animal enterprise, the punishment can be a 10-year jail sentence. If someone is killed during an attack on an animal enterprise, the punishment can be as high as a lifetime jail sentence.

And in most instances, given the current sentencing guidelines, someone convicted under this legislation will be required to provide restitution to the animal enterprise for the reasonable cost of repeating any experimentation and the loss of food production or farm income.

Mr. Speaker, this legislation, as modified to address the concerns of all interested in this issue, maintains my commitment to all 264 cosponsors to stop the devastating and intimidating acts of violence against animal enterprises.

I urge all of my colleagues to vote for this vital legislation to protect the property, work, and lives of those who work with animals.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2407, and I am not quite as optimistic as the gentleman from Texas [Mr. STENHOLM] is as to whether this is a stronger or weaker bill than what passed out of the House committee, but I do support it. I happen to think that it has been somewhat diluted, but I understand, in order to get something passed here, one has to compromise, and the fact is this is the result of a compromise, and the fingerprints of another committee are on this bill, and I understand what it takes to pass this legislation because I think it is important that we pass it.

Mr. Speaker, farmers' research facilities are being accosted these days by some people who are extremists, and we have got to draw the line and detail what in fact is a crime, and what is not a crime, and what the circumstances are.

So, Mr. Speaker, I rise in support of this legislation, and I would also note that the National Association for Biomedical Research has a letter in support of this legislation, the National Cattlemen have signed off on this version of the bill, and the administration does support this bill, in fact, affirmatively.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume, and I do so to thank the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], and all the members of the Committee on the Judiciary, and I have a communication from the gentleman from Texas that I include for the RECORD at this point.

Mr. Speaker, the text of the letter is as follows:

COMMITTEE ON THE JUDICIARY,
Washington, DC, July 30, 1992.

HON. E DE LA GARZA,
Chairman, Committee on Agriculture,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the bill H.R. 2407, the Farm Animal and Research Facilities Protection Act of 1991. I am pleased to have been able to reach an agreement with you on this legislation, and would have no objections to your calling it up on the Suspension Calendar.

The compromise we have reached will amend title 18, the criminal law section of the U.S. Code. Title 18 surely is the proper place for this matter, and I appreciate your concurrence in this.

I want to reassure you that we will continue to monitor the problems which gave rise to this legislation and to work in a cooperative manner with your Committee. Your Committee has done an excellent job in building a record upon which our two Committees could base this final compromise.

While the criminal law falls within the jurisdiction of the Committee on the Judiciary pursuant to Rule X, I wish to assure you that the Committee on Judiciary acknowledges the jurisdictional interest of the Committee on Agriculture in this legislation and any future legislation affecting farm animals and research facilities. I appreciate your willingness to work with this Committee in reaching this fair result.

With every good wish, I am

Sincerely,
JACK BROOKS,
Chairman.

Mr. Speaker, I am pleased to rise in support of H.R. 2407, as amended, the Animal Enterprise Protection Act of 1992. The introduced version of this legislation has been cosponsored by more than 260 of our colleagues.

H.R. 2407, as amended, makes it a Federal offense to commit a violent act against any research, agricultural, or exhibition facility housing animals that results in economic or research losses totalling $10,000 or more. The bill requires restitution for damages, stiff fines, and/or imprisonment in the case of criminal conviction.

The goal of this bill is simple: to impose stiff Federal penalties that will deter radical animal rights extremists from committing these violent and terrorist acts against innocent researchers, farmers, and others who use animals for legitimate research, food production or exhibition activities.

It is unfortunate that this bill is even necessary. However, it has become all too clear in recent years that current Federal and State laws are not discouraging acts of violence and vandalism against researchers, exhibition facilities, farmers, and the livestock and meat industries. Over the past decade there have been more than 100 violent terrorist acts reported against various types of animal facilities.

Scientists should not have to conduct legitimate research to improve human health and animal productivity behind security gates—research that may very well lead to life-saving medical breakthroughs.

Farmers and ranchers should not have to live in fear that their property will be vandalized. Legitimate entertainment and educational facilities should not have to worry that events will be subject to violent sabotage.

The bill we bring to the House floor today represents a carefully crafted compromise. We have sought to address legitimate concerns raised by animal welfare organizations. We have worked openly and cooperatively with our colleagues on the House Judiciary Committee, which received a sequential referral of the bill.

I would like to thank the distinguished chairman of the Committee on the Judiciary, Mr. BROOKS, as well as the chairman of the Subcommittee on Crime and Criminal Justice, Mr. SCHUMER, and their staff for their cooperation and willingness to work with us in drafting acceptable language to address their areas of concern and interest. By working together, we have produced a bill that achieves the original goals of the cosponsors in a manner consistent with the scope of the U.S. Criminal Code.

Mr. Speaker, I also want to commend the gentleman from Texas [Mr. STENHOLM] for his leadership on this issue. As chairman of the House Agriculture Subcommittee on Livestock, Dairy and Poultry, Mr. STENHOLM has helped focus public attention on the problem of terrorist acts against animal facilities for several years now.

As sponsor of the core bill in both the 101st and 102d Congresses, Mr. STENHOLM has worked hard for the passage of this legislation. I commend the gentleman for his leadership in crafting this compromise bill which meets the concerns of those of us who cosponsored the original legislation and the concerns of others interested in this issue.

Mr. Speaker, this bill will provide working men and women who raise or use animals for the benefit of all Americans with an appropriate level of legal protection against terrorist-type groups. I urge my colleagues to support H.R. 2407.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York [Mr. SCHUMER], the chairman of the Subcommittee on Crime and Criminal Justice, and I wish to thank him and the staff for their cooperation in this effort.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Texas [Mr. DE LA GARZA], and first I thank the distinguished chairman of the Committee on Agriculture and the chairman of the subcommittee, the gentleman from Texas [Mr. STENHOLM], for their understanding and working with us so that we could come up with a compromise bill. I also would note that the letter from the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary, which Chairman DE LA GARZA has graciously included for the RECORD, will simply signify, aside from the chairman's support, that this new offense will be codified in title 18, not title 14, which the original bill provided. There have been discussions between the two committees, the Committee on Agriculture and the Committee on the Judiciary, about the jurisdictional implications of this change, Mr. Speaker, and that is why we have placed the letter in the RECORD.

Mr. Speaker, I am in support of this bill. The bill has certainly primarily been a product of the Committee on Agriculture, but we in the Committee on the Judiciary have had the opportunity to review it on a sequential referral. The Committee on the Judiciary reported the bill out with a number of important changes from the Committee on Agriculture's version. Many, though not all, of these changes have been incorporated into the manager's amendment that is now before the House, and I believe that this amendment reflects the view of the Committee on the Judiciary that this new criminal provision should be tough, but it should be faily drafted, it should not just reach out everywhere, and that is why I am supporting the bill.

The core problem addressed by H.R. 2407 is that of violent attacks by extremist groups. As modified by the manager's amendment, the bill is now focused specifically on these attacks.

I might add, Mr. Speaker, as we had our discussions in the Committee on the Judiciary, no one objected to a placing as a Federal crime these types of attacks.

□ 1920

The trouble was legislation as drafted originally went way beyond that and might extend to a fight between two scientists in an animal laboratory, et cetera, and that is why we felt the need to add changes to the bill. Only actual disruptions of enterprises that use animals will be covered. That is opposed to the original draft of the bill, which would have made it a Federal crime to copy documents without authorization, or just be present on the premise, an animal enterprise without permission. Trespass would be a crime under this.

Most important, the manager's amendment restricts the scope of the bill to serious offenses. Trivial incidents, like schoolchildren playing a prank or a lab worker stealing test tubes, will be left where they should, to the State and local systems. This avoids an unnecessary extension of Federal jurisdiction and ensures that scarce Federal law enforcement resources will not be wasted.

On the other hand, I want to note that the gentleman from Texas [Mr. STENHOLM] and the gentleman from Texas [Mr. DE LA GARZA] have pointed out a very real problem, a problem that is not just a mirage, a problem that indeed would warrant Federal intervention, and the core of the bill indeed that they drafted I believe remains and in my opinion is just as strong as it was when it came out of the committee. In other words, the focus is narrower, but just as tough on the area of true focus.

A number of Members' offices have been calling my office to ask why the compromise bill does not say anything about whistleblower protection. The answer is that it does not need to protect whistleblowers explicitly, because legitimate whistleblowing activity cannot possibly be criminalized by this bill.

The whistleblower exemption was tacked onto the original bill, H.R. 2407, but under this new narrowly drafted bill, there is no need for whistleblower protection and the bill accomplishes that objective.

I note that the humane societies, labor unions, and other organizations that rely on whistleblowers share this opinion.

Mr. Speaker, in conclusion I would like to congratulate our chairman, the gentleman from Texas [Mr. DE LA GARZA], and the primary sponsor of H.R. 2407, the gentleman from Texas [Mr. STENHOLM], on the success of their bill, and thank them sincerely on behalf of myself and the gentleman from Texas [Mr. BROOKS], for their spirit of cooperation in accommodating the concerns of the Committee on the Judiciary.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consumer to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of the compromise version of H.R. 2407 that is being offered today under the suspension of rules. While I would have preferred that we were considering the legislation that came out of the House Agriculture Committee, it is my hope that the final passage of H.R. 2407 in this form will send a message to those within the animal rights community that refuse to work within the system to protect animal welfare, that their radical actions will be treated with the seriousness they deserve.

I joined my colleague, CHARLIE STENHOLM, as an original sponsor of this legislation during both the 101st and the 102d Congresses because I believe that agricultural producers and their support industries as well as scientific researchers deserve to be protected from illegal, terrorist-like attacks by so-called animal rights activists. This legislation would make it a Federal crime to cause damage or loss of property in excess of $10,000 to a wide range of enterprises including production agriculture, research facilities, zoos, rodeos, fairs or expositions and any other event associated with animal or livestock.

Mr. Speaker, I and the other Members in this body who represent agricultural interests do not tolerate instances of abuse or cruelty to livestock used for any purpose and will continue to work with the agricultural community to educate producers and the mainstream animal welfare groups to draw attention to problems when necessary. However, I have little tolerance for those who resort to the extreme of blowing up or destroying research facilities and the years of research involved in many of the documented instances. The same goes for those individuals who find it necessary to heckle and intimidate youngsters involved in 4-H livestock programs.

Again, I am pleased that the House is finally taking action on this important piece of legislation and am hopeful that this compromise bill will have the broad support of the House. While this legislation may not put a stop to all of the outrageous, destructive acts carried out in the name of animal liberation, it is a step in the right direction toward doing something about the cases that can be solved.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I too want to join in the feeling of good will that has surrounded the compromise measure that is now before us on this very important issue. The gentleman from Texas [Mr. STENHOLM] and many others who are originators of the push to come to this point have consulted with others and have consolidated their thinking, and we are in very good shape. We should all feel very good about it.

Mr. Speaker, the important thing to remember in this is that we strike with this legislation that perfect balance between recognizing that animal rights groups have the right to picket, have the right to write and demonstrate and bring their pet projects, not meaning to use that word, to the fore, but in the meantime we must protect against the violence that some extremists and animal rights groups have been evidencing across the landscape for too long.

Mr. CHANDLER. Mr. Speaker, I strongly support H.R. 2407, the Farm Animal and Research Facilities Protection Act.

Farmers, breeders, and researchers must be protected from the criminal activities of animals rights extremists. Property rights, farm facilities and valuable medical research are jeopardized by these attacks.

More than 100 cases of animal and environmental extremist violence have been documented in the last 10 years. These attacks cost nearly $100 million of damage to farms, ranches, rodeos, circuses, zoos, pet breeders, fur farmers, and biomedical laboratories.

Unfortunately, the Pacific Northwest has not been spared from this violence. In 1991, animal rights extremists attacked an Oregon State University research facility. They burned a building destroyed records and issued death threats against researchers. Five days later, the same group claimed credit for burning a feed storage facility in Edmonds, WA.

These two attacks resulted in $1 million in damages. In both cases, the arsonists issued a news release. They even left videotapes of their attack on the University for local television and radio stations. And these terrorists promised to attack again.

We must establish an adequate deterrent to put an end to these assaults. The Farm Animal and Research Facilities Protection Act is that deterrent. The act would provide Federal protection, resources and expertise to investigate and arrest radical activists who use violence to further their cause.

I have always advocated the Humane treatment of animals. However, terrorists have no place in American society: They belong in jail. This bill is a necessary step in that direction. We must put an end to the criminal and violent attacks of extremists.

Mr. Speaker, I strongly urge my colleagues to support the Farm Animal and Research Facilities Protection Act.

Mr. GUNDERSON. I rise in support of H.R. 2407, a bill designed to send a clear message to subversive groups that terrorism aimed at animal enterprises will not be tolerated.

The legislation before us today represents 3 years of work. I want to compliment the members of the Agriculture and Judiciary Committees for their diligent work in fashioning this compromise.

Groups that damage or steal property are not truly concerned about the welfare of animals. They are interested in disrupting the activities at the facility, be it a farm or ranch, rodeo, or university research laboratory, in an attempt to frighten people into quitting. More than 100 violent acts have occurred in the last 10 years against farmers and researchers, acts that are escalating both in number and their level of violence each year. Computer records, representing years of research findings have been destroyed. Animals have been stolen. Researches have received hate mail and even death threats.

Food animal production facilities are the newest targets in this terrorism. The food production industry is a critical segment of our national security and economy.

You might hear arguments that terrorist acts are committed to bring animal abuse and neglect to the attention of the public. When looking at animal agriculture, let's use some common sense. Does it stand to reason that farmers or ranchers would not take the best care of their animals? It's their livelihood. They couldn't make money if the animals are not healthy and well cared for. Farmers and ranchers ought to be able to work without fear of thefts, threats or vandalism.

The bill extends this same security to others involved in lawful enterprises using animals, including 4-H competitions, rodeos, circuses, dog and cat shows. It does not protect unlawful activities, such as dog and cock fights.

The bill also maintains current whistleblower protections for employees at facilities where violations of the Animal Welfare Act, or other laws designed to ensure the proper care and handling of animals, occur.

Mr. Speaker, this is a good compromise, a good effort at addressing a problem of increasing seriousness. I ask my colleagues to support H.R. 2407.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 2407, the Animal Enterprise Protection Act of 1992.

I want to commend the sponsor of the bill, the gentleman from Texas [Mr. STENHOLM] and the gentleman from New York [Mr. SCHUMER] for working out this compromise version of the bill. I know when we considered the bill in the Judiciary Committee a few weeks ago, there was much disagreement on how the bill should look. I am pleased that we have been able to work out these differences.

I am very pleased that the sponsors also dealt with a problem I have been raising over the last several years, violence and terrorism against abortion clinics. Under the definitions, "animal enterprise" includes "a commercial or academic enterprise that uses animals for research, or testing."

Webster's dictionary defines "animal" as "any of a kingdom (anamalia) of living beings, typically differing from plants in capacity for spontaneous movement and rapid motor response to stimulation." Women clearly qualify as animals as they are living beings not plants and have spontaneous movement and rapid motor response to stimulation. Women seeking services at abortion clinics are tested as a matter of course and some may even be part of a research program. They are undoubtedly protected by this bill.

Over the past several years, I have been terribly frustrated by the inability and unwillingness of the executive branch to provide fundamental protections to women wishing to carry out their constitutional right to obtain an abortion. By adopting this bill, we say no to terrorism against abortion clinics, as well as other animal facilities. I commend the gentlemen from Texas and New York for their leadership on this issue.

Mr. CLINGER. Mr. Speaker, I rise today in favor of H.R. 2407 as an original cosponsor of the bill. My reasons for cosponsoring this bill arise from both gratitude and concern—gratitude felt toward the farmers of this country and concern over the violent acts they have had to endure while feeding our great Nation. The unlawful attacks initiated by animal rights activists against these same farmers can be described as nothing short of criminal, and should be treated as such by our Federal Government. Arson, destruction of property, and death threats cannot and should not be tolerated by a nation that exists as a champion of personal freedom and justice.

Unfortunately, farmers have not been the only group forced to suffer these criminal attacks. Biomedical researchers, who have been so instrumental in the elimination of disease and the overall good health of our country, have encountered the same type of destructive behavior. Violent and destructive forms of protest should not be tolerated.

Granted, the emotions involved in an issue as delicate as that of the rights of animals may be strong. Such strong emotions make the existence of heated protests understandable. What it does not excuse, however, is the violent protest of any individual that threatens the safety of another American citizen. It is for this reason that I am voting for, and urge all of you to vote for, H.R. 2407.

Mr. COLEMAN of Missouri. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 2407, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to protect animal enterprises."

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 544) to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Research Facilities Protection Act of 1991".

SEC. 2. PROTECTION OF ANIMAL RESEARCH FACILITIES.

The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3359) is amended by adding at the end the following new title:

"TITLE XXVI—ANIMAL RESEARCH FACILITIES

"SEC. 2601. SHORT TITLE.

"This title may be cited as the 'Animal Research Facilities Protection Act of 1991'.

"SEC. 2602. FINDINGS.

"Congress finds that—

"(1) there has been an increasing number of illegal acts committed against animal facilities;

"(2) these actions not only abridge the property rights of the owner of the facility, they may also damage the public interest by jeopardizing crucial scientific biomedical, or agricultural research;

"(3) these actions can also threaten the public safety by exposing communities to contagious diseases;

"(4) these actions may substantially damage federally funded research;

"(5) disruption of scientific research supported by the Federal Government can result in the potential loss of physical and intellectual property;

"(6) Federal protection of animal research facilities is necessary to prevent and eliminate burdens on commerce; and

"(7) the welfare of animals as well as productive use of Federal research funds require regulation to prevent unauthorized possession, alteration, destruction, or transportation of research records, test data, research materials, equipment, research animals, or any combination thereof.

"SEC. 2603. PROHIBITED ACTS.

"(a) IN GENERAL.—It shall be unlawful for any person—

"(1) to steal, cause the unauthorized release or the intentional loss of any animal from a research facility;

"(2) to damage, vandalize, or steal any property in or on a research facility;

"(3) to break and enter any research facility with an intent to destroy, alter, duplicate, or obtain the unauthorized possession of records, data, materials, equipment, or animals;

"(4) to enter, obtain access, or remain on a research facility with the intent to commit an act described in paragraph (1) or (2);

"(5) to aid, abet, counsel, command, induce, or procure the commission of an act described in paragraph (1), (2), (3), or (4); or

"(6) knowing an offense described in paragraph (1) has occurred, to receive, relieve, comfort, or assist the offender in order to prevent the offender's apprehension, trial, or punishment.

"(b) SCOPE OF AUTHORITY DEFENSE.—It shall be a defense to any provision under this section that the person engaging in such acts is a Federal, State, or local law enforcement official acting within the scope of their official duties, or the person is acting under the authorization of a law enforcement official and the action is within the scope of the law enforcement official.

"SEC. 2604. PENALTIES.

"(a) IN GENERAL.—

"(1) GENERAL VIOLATIONS.—Any person who violates any provision of section 2603 shall be subject to a fine of not more than $5,000 or imprisoned for not more than 1 year, or both, for each such violation.

"(2) WILLFUL VIOLATIONS CAUSING HARM.—If the violation causes harm to person or property and is willful and malicious, the person shall be subject to a fine of not more than $10,000 or imprisoned for not more than 10 years, or both, for each such violation.

"(3) LIFE-THREATENING VIOLATIONS.—If as a result of the violation, the life of any person is placed in jeopardy, the person shall be fined not more than $25,000, or imprisoned for not more than 20 years, or both, for each such violation.

"(b) REASONABLE COSTS.—

"(1) DETERMINATION.—The United States District Court or the United States Magistrate, as the case may be, shall determine the reasonable cost of replacing materials, data, equipment, or animals, and records that may have been damaged or cannot be returned, and the reasonable cost of repeating any experimentation that may have been interrupted or invalidated as a result of a violation of section 2603.

"(2) LIABILITY.—Any persons convicted of a violation described in paragraph (1) shall be ordered jointly and severally to make restitution to the research facility in the full amount of the reasonable cost determined under paragraph (1).

"SEC. 2605. COURT JURISDICTION.

"The United States District Courts, the District Court of Guam, the District Court of the Virgin Islands, the Highest Court of American Samoa, and the United States courts of the other territories are vested with jurisdiction specifically to enforce, to prevent, and to restrain violations of this title, and shall have jurisdiction in all other kinds of cases arising under this title.

"SEC. 2606. PRIVATE RIGHT OF ACTION.

"(a) IN GENERAL.—Any research facility injured in its business or property by reason of a violation of this title shall have a private right of action to recover actual and consequential damages, and the cost of the suit (including a reasonable attorney's fee), from the person or persons who have violated any provision of this title.

"(b) CONSTRUCTION.—Nothing in this title shall be construed to affect any other rights of a person injured in its business or property by reason of a violation of this title. Subsection (a) shall not be construed to limit the exercise of any such rights arising out of or relating to a violation of this title.

"SEC. 2607. STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL FACILITIES.

"(a) CONDUCT OF STUDY.—The Secretary of Agriculture and the Attorney General shall jointly conduct a study on the extent and effects of domestic and international terrorism on animal research production, and processing facilities and all other facilities in which animals are used for research, food production, exhibition, or pets.

"(b) REPORT.—Not later than 1 year after the date of enactment of this title, the Secretary and Attorney General shall submit a report that describes the results of the study conducted under subsection (a), together with any appropriate recommendations and legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"SEC. 2608. EFFECT ON FEDERAL AND STATE LAWS.

"Nothing in this title shall be construed to affect or preempt any Federal or State law or regulation.".

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike all after the enacting clause of the Senate bill, S. 544, and to insert in lieu thereof the provisions of H.R. 2407, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to protect animal enterprises."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2407) was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2407 and S. 544.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4906) to amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration, and to amend the Farm Credit Act of 1971 for other purposes, as amended.

The Clerk read as follows:

H.R. 4906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Credit Improvement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Section 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

Sec. 101. Beginning farmer and rancher program.
Sec. 102. Processing of applications for farm operating loans.
Sec. 103. Time period within which county committee is required to meet to consider applications for farm ownership and operating loans and guarantees and beginning farmer plans.
Sec. 104. Debt service margin requirements; certified lender program.
Sec. 105. Federal-State beginning farmer partnership.
Sec. 106. Graduation of borrowers with operating loans or guarantees to private commercial credit.
Sec. 107. Simplified application for guaranteed loans of $50,000 or less.
Sec. 108. Targeting of loans to members of groups whose members have been subjected to gender prejudice.
Sec. 109. Recordkeeping of loans by borrower's gender.
Sec. 110. Increase in period during which county committee loan eligibility certification continues in effect.
Sec. 111. Limitation on aggregate indebtedness.
Sec. 112. Graduation of seasoned borrowers to the loan guarantee program.
Sec. 113. Deadline for issuance of regulations.

TITLE II—AMENDMENTS TO THE FARM CREDIT ACT OF 1971

Sec. 201. Valuation of reserves of production credit associations.
Sec. 202. Elimination of authority of Farm Credit System Insurance Corporation to appoint nonvoting member of Farm Credit System Funding Corporation Board.
Sec. 203. Expansion of water and sewer lending authority of banks for cooperatives.
Sec. 204. Equity voting for one director of each bank for cooperatives.
Sec. 205. Per diem compensation of bank directors.
Sec. 206. Frequency of examinations of system institutions.
Sec. 207. Authority to examine system institutions.
Sec. 208. Repeal of prohibition against guarantee of certain instruments of indebtedness.
Sec. 209. Clarification of treatment of Farm Credit Administration operating expenses.
Sec. 210. Approval of competitive charters.

TITLE III—TECHNICAL CORRECTIONS

Sec. 301. Technical corrections.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

TITLE I—AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 101. BEGINNING FARMER AND RANCHER PROGRAM.

(a) OPERATING LOANS; GUARANTEES OF OPERATING LOANS.—Subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941–1947) is amended by adding at the end the following:

"SEC. 318. ASSISTANCE TO BEGINNING FARMERS AND RANCHERS.

"(a) IN GENERAL.—The Secretary shall provide assistance in accordance with this section to enable individuals to conduct viable farming or ranching operations. For purposes of this section, the term 'individual' means a natural person or an entity (other than a corporation) (1) all of whose owners or members are related by blood or marriage, and (2) none of whose owners or members has operated a farm or ranch for more than 5 years.

"(b) SUBMISSION OF PLAN OF FARM OPERATION.—An individual may seek assistance under this section for a proposed or ongoing farming or ranching operation by submitting to the county committee of the county in which the operation is (or is to be) located, not later than 60 days before such assistance is to be first provided, a plan which—

"(1) describes, for each of the first 5 years for which assistance under this section is sought for the operation—

"(A) how the operation is to be conducted;

"(B) the types and amounts of commodities to be produced by the operation;

"(C) the production methods and practices to be employed by the operation;

"(D) the conservation measures to be taken in the operation;

"(E) the equipment needed to conduct the operation (including any expected replacements therefor) and, with respect to each item of needed equipment, whether the individual owns, leases, or otherwise has access to the item, or proposes to purchase, lease, or otherwise gain access to the item;

"(F) the expected income and expenses of the operation;

"(G) the expected credit needs of the operation, including the types and amounts of assistance to be sought under this section; and

"(H) the site or sites at which the operation is (or is to be) located; and

"(2) projects the financial status of the operation after assistance under this section has been provided for such period, not exceeding 10 years, as is necessary for the operation to become financially viable without further assistance from the Secretary.

"(c) DETERMINATIONS BY THE COUNTY COMMITTEE; APPROVAL OF PLAN.—The county com-

mittee shall approve a plan submitted by an individual in accordance with subsection (b) if the county committee determines that—

''(1) the individual has not operated a farm or ranch, or has operated a farm or ranch for not more than 5 years;

''(2) during the 5-year period ending with the submission of the plan, the individual has had sufficient education and experience to indicate that the individual is able to conduct a successful farming or ranching operation, as the case may be;

''(3) the individual owns, leases, or has a commitment to have leased to the individual the site or sites of the operation;

''(4) there is, or will be, available to the individual equipment sufficient to conduct the operation in accordance with the plan;

''(5) the individual agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require; and

''(6) the individual, or in the case of an entity, each owner or member of the entity meets the requirements of paragraphs (1) and (3) of section 311(a).

''(d) DETERMINATION BY THE SECRETARY; APPROVAL OF APPLICATION FOR ASSISTANCE.—The Secretary shall approve an application for assistance under this section for an operation described in a plan approved by a county committee under subsection (c) if the Secretary determines that—

''(1) the operation (taking into account the types of agricultural commodities produced, and the average size of similar operations, in the area in which the operation is, or is to be, located) would generate income sufficient to cover the expenses of the operation, debt service, and adequate family living expenses of the individual, to the extent that other income would not cover such living expenses, if the operation received assistance under this section as provided for in the plan; and

''(2) not later than 10 years after first receiving assistance under this section, the operation will be financially viable without further assistance from the Secretary.

''(e) PROVISION OF ASSISTANCE.—

''(1) DETERMINATION OF COMMITMENT PERIOD.—

''(A) INITIAL DETERMINATION.—Upon approval of an application under subsection (d), the Secretary shall, subject to subparagraph (C) of this paragraph, determine the period during which assistance under this section is to be provided for the operation described in the application (in this subsection referred to as the 'commitment period').

''(B) AUTHORITY TO EXTEND PERIOD; NO AUTHORITY TO REDUCE PERIOD.—At any time, the Secretary may, subject to subparagraph (C) of this paragraph and subsections (f) and (g), extend the duration of the commitment period. The Secretary may not reduce the duration of the commitment period.

''(C) LIMITATION.—The duration of any commitment period (including any extensions thereof) shall not exceed 10 years.

''(2) OPERATING LOANS; LOAN GUARANTEES.—

''(A) IN GENERAL.—To the extent that an applicant whose application is approved under subsection (d) is unable to obtain sufficient credit from commercial or cooperative lenders to finance the operation described in the application at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time), the Secretary shall, subject to the availability of funds therefor and subject to subsections (f) and (g), make a commitment to the applicant—

''(i) for each of the 1st, 2nd, 3rd, and 4th years of the commitment period—

''(I) to make a loan under this subtitle to the applicant at the interest rate charged to low income, limited resource borrowers under this subtitle, in the amount specified in the plan contained in the application; or

''(II) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application)—

''(aa) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest; and

''(bb) if the Secretary determines that, despite the provision of the guarantee referred to in item (aa), the applicant will not qualify for such a loan, an interest subsidy payment sufficient to ensure that the effective rate of interest payable by the applicant on the loan equals the rate of interest charged to low income, limited resource borrowers on insured operating loans under this subtitle of comparable size and maturity;

''(ii) for each of the 5th, 6th, 7th, and 8th years of the commitment period—

''(I) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest; and

''(II) if the Secretary determines that, despite the provision of the guarantee referred to in subclause (I), the applicant will not qualify for such a loan, then—

''(aa) to offer the lender an interest subsidy payment in the amount necessary to ensure that the applicant qualifies for such a loan but not more than the amount necessary to ensure that the effective rate of interest on the loan equals the rate of interest charged to low income, limited resource borrowers on insured operating loans under this subtitle of comparable size and maturity; or

''(bb) if funds are not available for the interest subsidy payment described in item (aa), to provide to the applicant a loan under this subtitle that is comparable to one for which a person not receiving assistance under this section (but otherwise in the same situation as the applicant) would be eligible; and

''(iii) for each of the 9th and 10th years of the commitment period, to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of not more than 90 percent of the loan principal and interest.

''(B) SPECIAL RULE.—In the case of an application approved under subsection (d) with respect to which the commitment period is less than 10 years, the Secretary shall make the commitments described in subparagraph (A) for such portions of the commitment period as the Secretary deems appropriate.

''(3) LOANS OR GUARANTEES FOR NEW OR IMPROVED EQUIPMENT.—The Secretary shall make a commitment to any applicant whose application is approved under subsection (d) of this section to provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance the acquisition, improvement, or repair of equipment needed in the operation described in the application if the plan contained in the application provides for the commitment, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purposes at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

''(4) PRIORITY IN PURCHASE OF INVENTORY EQUIPMENT; LOANS OR GUARANTEES FOR SUCH PURCHASES IN CERTAIN CASES.—During the commitment period, the Secretary shall—

''(A) accord the applicant whose application is approved under subsection (d) priority in the purchase of equipment in the inventory of the Farmers Home Administration necessary for the success of the operation described in the application; and

''(B) provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance such purchases if the plan contained in the application provides for such assistance, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purpose at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

''(5) OTHER KINDS OF ASSISTANCE.—During the commitment period, the Farmers Home Administration, the Agricultural Extension Service, the Soil Conservation Service, and the other entities of the Department of Agriculture shall provide the applicant with such other assistance and information as may be needed in developing and implementing the operation described in the application.

''(6) NO LOAN GUARANTEE FEES.—The Secretary may not charge a fee to any lender in connection with any loan guarantee provided in accordance with this subsection.

''(f) ANNUAL PLAN REVISIONS REQUIRED AS CONDITION OF CONTINUED ASSISTANCE.—The Secretary shall not provide assistance under this section for an operation for any particular year after the first year for which such assistance is provided, unless—

''(1) not later than 60 days before such assistance is to be first provided for the particular year, the applicant has revised the plan describing the operation, based on the experience of the year preceding the particular year, to provide the information required by subsection (b) for the 5-year period beginning with the particular year (or, if shorter, the period beginning with the particular year and ending with the year in which the plan projects the operation as becoming financially viable); and

''(2) the county committee has approved the revised plan.

''(g) EFFECTS OF AVOIDABLE FAILURE TO ACHIEVE GOALS.—

''(1) TERMINATION OF COMMITMENTS.—The Secretary shall revoke any commitment for assistance made to an applicant under this section if the applicant's operation fails, for 2 consecutive years, to meet the goals specified in the plan, unless the failure is due to circumstances beyond the control of the applicant and has not materially reduced the likelihood of the operation becoming financially viable.

''(2) SUSPENSION OF ELIGIBILITY FOR ASSISTANCE.—During the 3-year period that begins with the date the commitments made to an applicant are revoked under paragraph (1), the applicant shall not be eligible for assistance under this section.''.

(b) DOWN PAYMENT LOAN PROGRAM.—Subtitle A of such Act (7 U.S.C. 1922–1934) is amended by adding at the end the following:

"SEC. 310E. DOWN PAYMENT LOAN PROGRAM.

''(a) IN GENERAL.—Notwithstanding any other section of this subtitle, the Secretary shall establish within the farm ownership loan program under this subtitle a program under which loans are made under this section to eligible beginning farmers and ranchers for down payments on farm ownership loans.

''(b) LOAN TERMS.—

''(1) PRINCIPAL.—Each loan made under this section shall be of an amount equal to 30 per-

cent of the price of the farm or ranch to be acquired, unless the borrower requests a lesser amount.

"(2) INTEREST RATE.—The interest rate on any loan made under this section shall not exceed the minimum interest rate at which loans are made under subtitle C.

"(3) DURATION.—Each loan under this section shall be made for a period of 10 years, or less, at the option of the borrower.

"(4) REPAYMENT.—Each borrower of a loan under this section shall repay the loan to the Secretary in equal annual installments.

"(5) NATURE OF RETAINED SECURITY INTEREST.—The Secretary shall retain an interest in each farm or ranch acquired with a loan made under this section, which shall—

"(A) be secured by the farm or ranch;

"(B) be junior only to such interests in the farm or ranch as may be conveyed at the time of acquisition to the person from whom the borrower obtained a loan used to acquire the farm or ranch; and

"(C) require the borrower to obtain the permission of the Secretary before the borrower may grant an additional security interest in the farm or ranch.

"(c) LIMITATIONS.—

"(1) BORROWERS REQUIRED TO MAKE MINIMUM DOWN PAYMENT.—The Secretary shall not make a loan under this section to any borrower with respect to a farm or ranch if the contribution of the borrower to the down payment on the farm or ranch will be less than 10 percent of the price of the farm or ranch.

"(2) MAXIMUM PRICE OF PROPERTY TO BE ACQUIRED.—The Secretary shall not make a loan under this section with respect to a farm or ranch the price of which exceeds $250,000.

"(3) PROHIBITED TYPES OF FINANCING.—The Secretary shall not make a loan under this section with respect to a farm or ranch if the farm or ranch is to be acquired with other financing which contains any of the following conditions:

"(A) The financing, other than that provided by the Secretary under this section, is to be amortized over a period of less than 30 years.

"(B) A balloon payment will be due on the financing during the 10-year period beginning on the date the loan is to be made by the Secretary.

"(d) ADMINISTRATION.—The Secretary shall, to the maximum extent practicable—

"(1) facilitate the transfer of farms and ranches from retiring farmers and ranchers to persons eligible for insured loans under this subtitle;

"(2) make efforts to widely publicize the availability of loans under this section among—

"(A) potentially eligible recipients of such loans;

"(B) retiring farmers and ranchers; and

"(C) applicants for farm ownership loans under this subtitle;

"(3) encourage retiring farmers and ranchers to assist in the sale of their farms and ranches to eligible beginning farmers or ranchers by providing seller financing; and

"(4) coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers.

"(e) ELIGIBLE BEGINNING FARMER OR RANCHER DEFINED.—As used in this section, the term 'eligible beginning farmer or rancher' means an individual—

"(1) who is eligible for assistance under this subtitle;

"(2) who has operated a farm or ranch for not less than 5 nor more than 10 years;

"(3)(A) in the case of an owner or operator of a farm or ranch, who, individually or with the immediate family of the owner or operator—

"(i) materially and substantially participates in the farm or ranch; and

"(ii) provides substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; and

"(B) in the case of an individual seeking to own or operate a farm or ranch, who, individually or with the immediate family of the individual, will—

"(i) materially and substantially participate in the farm or ranch; and

"(ii) provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located;

"(4) who agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require;

"(5) who—

"(A) does not own land; or

"(B) directly or through interests in family farm corporations, owns land the aggregate acreage of which does not exceed 15 percent of the median acreage of the farms or ranches, as the case may be, in the county in which the individual is to obtain land is located, as reported in the most recent census of agriculture taken under section 142 of title 13, United States Code;

"(6) who demonstrates that the available resources of the individual and the spouse (if any) of the individual are not sufficient to enable the individual to continue farming or ranching on a viable scale; and

"(7) in the case of an individual whose application for assistance under section 318 has been approved by the Secretary, the individual meets the requirements of section 310F(b)(1).".

(c) AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN BEGINNING FARMERS AND RANCHERS.—Subtitle A of such Act (7 U.S.C. 1922–1934) is amended by adding after the section added by subsection (b) of this section the following:

"SEC. 310F. AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN BEGINNING FARMERS AND RANCHERS.

"(a) ASSISTANCE PROHIBITED FOR A LIMITED PERIOD.—Except as otherwise provided in this section, if the Secretary approves the application of an individual for assistance under section 318, the Secretary may not make a loan under this subtitle to the individual or provide a guarantee under section 309(h) with respect to any farm real estate loan made to the individual.

"(b) AVAILABILITY OF DOWN PAYMENT LOANS.—After the applicable period, the Secretary may make an insured loan under this subtitle, or a down payment loan under section 310E, to an individual referred to in subsection (a) of this section if—

"(1) throughout the applicable period, the individual conducted an operation for which assistance is provided under section 318 in accordance with the plan contained in the application for such assistance;

"(2) the plan provides for such a loan; and

"(3) the individual is otherwise eligible for the loan.

"(c) AVAILABILITY OF LOAN GUARANTEES.—After the applicable period, the Secretary may guarantee under section 309(h) the repayment of a commercial or cooperative loan made to an individual referred to in subsection (a) of this section if—

"(1) throughout the applicable period, the individual conducted the operation for which assistance is provided under section 318 in accordance with the plan contained in the application for such assistance;

"(2) the plan provides for such a loan guarantee; and

"(3) the individual is otherwise eligible for the loan guarantee.

"(d) APPLICABLE PERIOD DEFINED.—As used in this section, the term 'applicable period' means—

"(1) in the case of an individual who, at the time the application referred to in this section was approved, had not operated a farm for more than 3 years, the first 5 years for which the individual is provided assistance under section 318; or

"(2) in any other case, the first 3 years for which the individual is provided assistance under section 318.".

(d) TARGETING OF FUNDS.—

(1) FARM OPERATING LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b) of such Act (7 U.S.C. 1994(b)) is amended by adding at the end the following:

"(5) In expending the following percentages of the funds available for insured operating loans under subtitle B for any fiscal year beginning after September 30, 1993, the Secretary shall, to the maximum extent practicable, give priority to making such loans under section 318:

"(A) Not less than 20 percent, for the first 6 months of fiscal year 1994.

"(B) Not less than 30 percent, for the first 6 months of each of fiscal years 1995 and 1996.

"(C) Not less than 40 percent, for the first 6 months of each of fiscal years 1997 and 1998.

"(D) Not less than 50 percent, for first 6 months of each of the succeeding fiscal years.".

(2) FARM OWNERSHIP LOANS.—

(A) PERCENTAGE OF INSURED FARM OWNERSHIP LOAN FUNDS RESERVED FOR BEGINNING FARMERS OR RANCHERS.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding at the end the following:

"(D)(i) To the extent not inconsistent with an exercise of authority under section 355, not less than the applicable percentage of the amounts available for insured farm ownership loans for any fiscal year shall be for such loans to beginning farmers or ranchers.

"(ii) For purposes of clause (i), the term 'applicable percentage' means—

"(I) 50 percent, for the first 6 months of each of the fiscal years 1994 and 1995; and

"(II) 80 percent, for the first 6 months of each succeeding fiscal year.".

(B) FUNDS RESERVED FOR DOWNPAYMENT LOAN PROGRAM.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraph added by subparagraph (A) of this paragraph the following:

"(E)(i) To the extent not inconsistent with an exercise of authority under section 355, not less than the applicable percentage of the amounts reserved for beginning farmers or ranchers under subparagraph (D) for any fiscal year shall be for downpayment loans under section 310E.

"(ii) For purposes of clause (i), the term 'applicable percentage' means—

"(I) 50 percent, for the first 6 months of each of the fiscal years 1994 and 1995; and

"(II) 80 percent, for the first 6 months of each succeeding fiscal year.".

(C) CERTAIN UNOBLIGATED DOWNPAYMENT LOAN PROGRAM FUNDS AVAILABLE FOR ANY TYPE OF INSURED FARM OWNERSHIP LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraph added by subparagraph (B) of this paragraph the following:

"(F) To the extent not inconsistent with an exercise of authority under section 355, any funds reserved for downpayment loans under section 310E for a fiscal year by reason of subparagraph (E) of this paragraph that are not obligated by the end of the 2nd quarter of the fiscal year shall be available throughout the remainder of the fiscal year for any type of insured farm ownership loans, with priority to be given to beginning farmers and ranchers.".

(3) PORTIONS OF FARM OWNERSHIP LOAN GUARANTEE FUNDS TARGETED TO BEGINNING FARMERS OR RANCHERS.—Section 346(b)(2) of such Act (7

U.S.C. 1994(b)(2)) is amended by adding at the end the following:

"Not less than 25 percent of the amounts appropriated for guarantees of farm ownership loans for each of the fiscal years 1994, 1995, 1996, and 1997 shall be available during the first 6 months of the respective fiscal year for guarantees of farm ownership loans to beginning farmers or ranchers.".

(4) INTEREST RATE ASSISTANCE PROGRAM.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraphs added by paragraph (2) of this subsection the following:

"(G) Not less than 40 percent of the amounts available for the interest rate reduction program under section 351 shall be reserved for the first 6 months of each fiscal year for assistance to beginning farmers or ranchers.".

SEC. 102. PROCESSING OF APPLICATIONS FOR FARM OPERATING LOANS.

Section 333A(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(a)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by inserting "(other than under subtitle B)" after "under this title"; and

(3) by adding after and below the end the following new subparagraph:

"(B)(i) Within 10 calendar days after the Secretary receives an application for an operating loan or loan guarantee under subtitle B, the Secretary shall notify the applicant of any information required before a decision may be made on the application. Upon receipt of such an application, the Secretary shall request from other parties such information as may be needed in connection with the application.

"(ii) Within 15 calendar days after the date an agency of the Department of Agriculture receives a request for information made pursuant to clause (i), the agency shall provide the Farmers Home Administration with the requested information.

"(iii) If, within 20 calendar days after the date a request is made pursuant to clause (i) with respect to an application, the Farmers Home Administration has not received the information requested, the Farmers Home Administration county office shall notify the applicant, in writing, as to the outstanding information.

"(iv) A county office shall notify the district office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 calendar days after receipt by the Secretary, and the reasons therefor.

"(v) A district office that receives a notice provided under clause (iv) with respect to an application shall immediately take steps to ensure that final action is taken on the application within 15 calendar days after the date of the receipt of the notice.

"(vi) The district office shall notify the State office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 calendar days after receipt by the Secretary, and the reasons therefor.

"(vii) Each month, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on a State-by-State basis, as to each application for an operating loan or loan guarantee under subtitle B on which final action had not been taken within 60 calendar days after receipt by the Secretary, and the reasons therefor.".

SEC. 103. TIME PERIOD WITHIN WHICH COUNTY COMMITTEE IS REQUIRED TO MEET TO CONSIDER APPLICATIONS FOR FARM OWNERSHIP AND OPERATING LOANS AND GUARANTEES AND BEGINNING FARMER PLANS.

Section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982) is amended—

(1) in subsection (c), by striking "The committee" and inserting "Subject to subsection (e), the committee"; and

(2) by adding at the end the following:

"(e) The county committee shall meet to consider approval of an application received by the committee for a farm ownership or farm operating loan under this title, a guarantee under section 309(h), or a plan of farm operation under section 318, within—

"(1) 5 calendar days after receipt if at the time of the receipt there is at least 1 other such application or plan pending; or

"(2) 15 calendar days after receipt if at the time of the receipt there are no other such applications or plans pending.".

SEC. 104. DEBT SERVICE MARGIN REQUIREMENTS; CERTIFIED LENDER PROGRAM.

Section 339 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1989) is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following:

"(b) Notwithstanding subsection (a), in providing farmer program loan guarantees under this title, the Secretary shall consider the income of the borrower adequate if the income is equal to or greater than the income necessary—

"(1) to make principal and interest payments on all debt obligations of the borrower, in a timely manner;

"(2) to cover the necessary family living expenses; and

"(3) to pay all other obligations and expenses of the borrower not financed through debt obligations referred to in paragraph (1), including expenses of replacing capital items (determined after taking into account depreciation of such items).

"(c) CERTIFIED LENDER PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary shall guarantee loans (other than loans with respect to which a guarantee is provided under section 318) for any purpose specified in subtitle B that are made by lending institutions certified by the Secretary.

"(2) CERTIFICATION REQUIREMENTS.—The Secretary shall certify any lending institution which meets such criteria as the Secretary may prescribe in regulations, including the ability of the institution to properly make, service, and liquidate its loans.

"(3) CONDITION OF CERTIFICATION.—As a condition of such certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each certified lender to ensure that the conditions of such certification are being met.

"(4) EFFECT OF CERTIFICATION.—Notwithstanding any other provision of law, the Secretary shall—

"(A) guarantee 80 percent of an approved loan made by certified lending institutions as described in paragraph (1), subject to county committee certification that the borrower meets the eligibility requirements or such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this title;

"(B) permit certified lending institutions to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection, relating to creditworthiness and loan closing, and to accept appropriate certifications, as provided by regulations issued by the Secretary, that the borrower is in compliance with all requirements of law or regulations promulgated by the Secretary; and

"(C) be deemed to have guaranteed 80 percent of a loan made by a certified lending institution as described in paragraph (1), if the Secretary fails to approve or reject the application within 14 calendar days after the date that the lending institution presented the application to the Secretary. If the Secretary rejects the application within the 14-day period, the Secretary shall state, in writing, the reasons the application was rejected.".

SEC. 105. FEDERAL-STATE BEGINNING FARMER PARTNERSHIP.

(a) COORDINATION OF ASSISTANCE FOR ELIGIBLE BEGINNING FARMERS AND RANCHERS.—Section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) is amended by adding at the end the following:

"(i)(1) Within 60 days after any State expresses to the Secretary, in writing, a desire to coordinate the provision of financial assistance to eligible beginning farmers and ranchers in the State, the Secretary and the State shall conclude a joint memorandum of understanding which shall govern how the Secretary and the State are to do so.

"(2) The memorandum of understanding shall provide that if a State beginning farmer program makes a commitment to provide an eligible beginning farmer or rancher (as defined in section 310E(e)) with financing to establish or maintain a viable farming or ranching operation, the Secretary shall, subject to applicable law, normal loan approval criteria, and the availability of funds, provide the farmer or rancher with—

"(A) a downpayment loan under section 310E;

"(B) a guarantee of the financing provided by the State program; or

"(C) such a loan and such a guarantee.

"(3) The Secretary may not charge any person any fee with respect to the provision of any guarantee under this subsection.

"(4) As used in paragraph (1), the term 'State beginning farmer program' means any program which is—

"(A) carried out by, or under contract with, a State; and

"(B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming or ranching operations.".

(b) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT; PURPOSE.—Within 18 months after the date of the enactment of this section, the Secretary of Agriculture shall establish an advisory committee, to be known as the "Advisory Committee on Beginning Farmers and Ranchers", which shall provide advice to the Secretary on—

(A) the development of the program of coordinated assistance to eligible beginning farmers and ranchers under section 309(i) of the Consolidated Farm and Rural Development Act;

(B) ways to maximize the number of new farming and ranching opportunities created through such program;

(C) ways to encourage States to participate in such program;

(D) the administration of such program; and

(E) other methods of creating new farming or ranching opportunities.

(2) MEMBERSHIP.—The Secretary shall appoint the members of the Advisory Committee which shall include representatives from the following:

(A) The Farmers Home Administration.

(B) State beginning farmer programs (as defined in section 309(i)(3) of the Consolidated Farm and Rural Development Act).

(C) Commercial lenders.

(D) Private nonprofit organizations with active beginning farmer or rancher programs.

(E) The Cooperative Extension Service.

(F) Community colleges or other educational institutions with demonstrated experience in training beginning farmers or ranchers.

(G) Other specialists in lending or technical assistance for beginning farmers and ranchers.

SEC. 106. GRADUATION OF BORROWERS WITH OPERATING LOANS OR GUARANTEES TO PRIVATE COMMERCIAL CREDIT.

Subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941–1947) is amended by adding after the section added by section 101(a) of this Act the following:

"SEC. 319. GRADUATION OF BORROWERS ASSISTED UNDER THIS SUBTITLE TO PRIVATE COMMERCIAL CREDIT.

"(a) GRADUATION PLAN.—The Secretary shall establish a plan, in coordination with activities under sections 359, 360, 361, and 362, to encourage each borrower with an outstanding loan under this subtitle or with respect to whom there is an outstanding guarantee under this subtitle to graduate to private commercial or other sources of credit.

"(b) LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR ASSISTANCE UNDER THIS SUBTITLE.—Notwithstanding any other provision of this subtitle:

"(1) GENERAL RULE.—Except as provided in paragraph (2), the Secretary may not—

"(A) make a loan to a borrower under this subtitle for any year after the 10th year for which such a loan is made to the borrower; or

"(B) guarantee for any year a loan made to the borrower for a purpose specified in this subtitle, after the 15th year for which loans under this subtitle are made to, or such a guarantee is provided with respect to, the borrower.

"(2) TRANSITION RULE.—If, as of the date of the enactment of this section, the Secretary has made loans to a borrower under this subtitle for 5 or more years, or has provided guarantees for 10 or more years with respect to 1 or more loans made to the borrower for a purpose specified in this subtitle, the Secretary may not make a loan to the borrower under this subtitle, or provide such a guarantee with respect to a loan made to the borrower for a purpose specified in this subtitle, after the 5th year occurring after such date of enactment for which a loan is made under this subtitle to, or such a guarantee is provided with respect to, the borrower.".

SEC. 107. SIMPLIFIED APPLICATION FOR GUARANTEED LOANS OF $50,000 OR LESS.

Section 333A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a) is amended by adding at the end the following:

"(f)(1) The Secretary shall provide to lenders a short, simplified application form for guarantees under this title of loans the principal amount of which is $50,000 or less.

"(2) In developing the application, the Secretary shall—

"(A) consult with commercial and cooperative lenders; and

"(B) ensure that—

"(i) the form can be completed manually or electronically, at the option of the lender;

"(ii) the form minimizes the documentation required to accompany the form;

"(iii) the cost of completing and processing the form is minimal; and

"(iv) the form can be completed and processed in an expeditious manner.".

SEC. 108. TARGETING OF LOANS TO MEMBERS OF GROUPS WHOSE MEMBERS HAVE BEEN SUBJECTED TO GENDER PREJUDICE.

Section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)) is amended by striking "or ethnic" and inserting ", ethnic, or gender".

SEC. 109. RECORDKEEPING OF LOANS BY BORROWER'S GENDER.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008c) is amended by adding at the end the following:

"SEC. 369. RECORDKEEPING OF LOANS BY BORROWER'S GENDER.

"The Secretary shall classify, by gender, records of applicants for loans and guarantees under this title.".

SEC. 110. INCREASE IN PERIOD DURING WHICH COUNTY COMMITTEE LOAN ELIGIBILITY CERTIFICATION CONTINUES IN EFFECT.

Section 333(2)(A)(iii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)(iii)) is amended by striking "2 years" and inserting "5 years".

SEC. 111. LIMITATION ON AGGREGATE INDEBTEDNESS.

Section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended by striking "and 310D of this title" and inserting "310D, and 310E".

SEC. 112. GRADUATION OF SEASONED BORROWERS TO THE LOAN GUARANTEE PROGRAM.

Section 333A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a) is amended by adding after the subsection added by section 107 of this Act the following:

"(g) GRADUATION OF SEASONED BORROWERS TO THE LOAN GUARANTEE PROGRAM.—

"(1) IN GENERAL.—The Secretary shall annually review the operating loans made under section 312 to each seasoned borrower, and if, based on the review, the Secretary determines that the borrower is able to obtain a loan, guaranteed by the Secretary, from commercial or cooperative lenders at reasonable rates and terms, and for purposes and periods of time similar to those for which the operating loan was made to the borrower, then the borrower shall be ineligible to receive a new operating loan under section 312 for similar purposes, unless the borrower demonstrates to the Secretary that the borrower is unable to obtain such a guaranteed loan.

"(2) LISTING OF SEASONED BORROWERS.—Within 180 days after the date of the enactment of the Agricultural Credit Improvement Act of 1992, and annually thereafter, the Secretary may direct all county offices to make available to qualified lenders a listing of all seasoned borrowers, as provided in regulations issued by the Secretary.

"(3) QUALIFIED LENDERS.—Upon request and upon application for a guaranteed loan to a qualified lender, by a seasoned borrower, the Farmers Home Administration shall provide the lender with all current and past documentation relating to the approval and the continued compliance with the terms of the direct operating loan then held by the borrower.

"(4) INTEREST RATE.—To the extent necessary for the borrower to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender, the Secretary shall provide interest rate reductions under section 351.

"(5) DEFINITIONS.—As used in this subsection:

"(A) SEASONED BORROWER.—The term 'seasoned borrower' means a borrower—

"(i) to whom a loan has been made under section 312; and

"(ii) who has maintained a satisfactory borrowing relationship with the Farmers Home Administration for at least 24 consecutive months.

"(B) QUALIFIED LENDER.—The term 'qualified lender' means a lender approved by the Secretary under—

"(i) the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations, January 1, 1991, edition;

"(ii) the certified lender program established under section 339(c); or

"(iii) any program that is a successor to either of such programs.".

SEC. 113. DEADLINE FOR ISSUANCE OF REGULATIONS.

Not later than September 30, 1993, the Secretary of Agriculture shall issue interim final regulations to implement the amendments made by this title.

TITLE II—AMENDMENTS TO THE FARM CREDIT ACT OF 1971

SEC. 201. VALUATION OF RESERVES OF PRODUCTION CREDIT ASSOCIATIONS.

Section 2.3(b) of the Farm Credit Act of 1971 (12 U.S.C. 2074(b)) is amended to read as follows:

"(b) APPLICATION OF EARNINGS.—At the end of each fiscal year, each production credit association shall apply the amount of the earnings of the association for the fiscal year in excess of the operating expenses of the association (including provision for valuation of reserves against loan assets in accordance with generally accepted accounting principles)—

"(1) first to the restoration of the impairment (if any) of capital; and

"(2) second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.".

SEC. 202. ELIMINATION OF AUTHORITY OF FARM CREDIT SYSTEM INSURANCE CORPORATION TO APPOINT NONVOTING MEMBER OF FARM CREDIT SYSTEM FUNDING CORPORATION BOARD.

Section 4.9(d)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2160(d)(2)) is amended—

(1) in the paragraph heading, by striking "REPRESENTATIVES" and inserting "REPRESENTATIVE";

(2) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(3) in subparagraph (B), as so redesignated, by striking "persons" and all that follows through "Insurance Corporation" and inserting "person so designated".

SEC. 203. EXPANSION OF WATER AND SEWER LENDING AUTHORITY OF BANKS FOR COOPERATIVES.

Section 3.7(f) of the Farm Credit Act of 1971 (12 U.S.C. 2128(f)) is amended—

(1) by striking "the installation, expansion, or improvement of" and inserting "installing, maintaining, expanding, improving, or operating"; and

(2) by striking "to extend" and inserting "extending".

SEC. 204. EQUITY VOTING FOR ONE DIRECTOR OF EACH BANK FOR COOPERATIVES.

Section 3.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2123(a)) is amended by inserting ", and, notwithstanding section 3.3(d), the bylaws may provide for 1 director to be elected on the basis of 1 vote for each share of voting stock of the bank" before the period.

SEC. 205. PER DIEM COMPENSATION OF BANK DIRECTORS.

(a) IN GENERAL.—Section 4.21 of the Farm Credit Act of 1971 (12 U.S.C. 2209) is amended to read as follows:

"SEC. 4.21. COMPENSATION OF DIRECTORS.

"Each member of the board of directors of a System bank may receive compensation only for days during the year in which engaged in the performance of duties of such a director, and in an amount not exceeding $300 for each such day, adjusted annually to reflect any increase in the cost of living since the end of 1991, as determined under regulations prescribed by the Farm Credit Administration.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1993.

SEC. 206. FREQUENCY OF EXAMINATIONS OF SYSTEM INSTITUTIONS.

Section 5.19(a) of the Farm Credit Act of 1971 (12 U.S.C. 2254(a)) is amended by striking the 1st and 2nd sentences and inserting "Not less frequently than once every 3 years, Farm Credit Administration examiners shall examine each institution of the Farm Credit System at such times as the Farm Credit Administration Board may determine.".

SEC. 207. AUTHORITY TO EXAMINE SYSTEM INSTITUTIONS.

(a) AUTHORITY OF FARM CREDIT SYSTEM INSURANCE CORPORATION.—Section 5.59(b) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–8(b)) is amended to read as follows:

"(b) EXAMINATION OF SYSTEM INSTITUTIONS.—

"(1) EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—If the Board of Directors deems it necessary to examine an insured System bank, a production credit association, an association making direct loans under the authority provided under section 7.6, or any System institution in receivership, the Board may, using Farm Credit Administration examiners, conduct the examination using reports and other information on the System institution prepared or held by the Farm Credit Administration.

"(B) REQUEST FOR ADDITIONAL EXAMINATION OR OTHER INFORMATION.—If the Board determines that such reports or information are not adequate to enable the Corporation to carry out the duties of the Corporation under this part, the Board shall request the Farm Credit Administration to examine or to obtain other information from or about the System institution and provide to the Corporation the resulting examination report or such other information.

"(2) APPOINTMENT OF EXAMINERS.—If the Farm Credit Administration informs the Corporation that the Farm Credit Administration is unable to comply with a request made under paragraph (1)(B) with respect to a System institution, the Board may appoint examiners to examine the institution.

"(3) POWERS AND REPORT.—Each examiner appointed under paragraph (2) shall make such examination of the affairs of the System institution as the Board may direct, and shall make a full and detailed report of the examination to the Corporation.

"(4) APPOINTMENT OF CLAIM AGENTS.—The Board of Directors of the Corporation shall appoint claim agents who may investigate and examine all claims for insured obligations.".

(b) DUTIES OF THE FARM CREDIT ADMINISTRATION.—Section 5.19 of such Act (12 U.S.C. 2254) is amended by adding at the end the following:

"(d) Upon receipt of a request made under section 5.59(b)(1)(B) with respect to a System institution, the Farm Credit Administration shall—

"(1) furnish for the confidential use of the Corporation reports of examination of the institution and other reports or information on the institution; and

"(2)(A) examine, or obtain other information on, the institution and furnish for the confidential use of the Corporation the report of the examination and such other information, or

"(B) if the Farm Credit Administration Board determines that compliance with the request would substantially impair the ability of the Farm Credit Administration to carry out the other duties and responsibilities of the Farm Credit Administration under this Act, notify the Board of Directors of the Farm Credit System Insurance Corporation that the Farm Credit Administration will be unable to comply with the request.".

SEC. 208. REPEAL OF PROHIBITION AGAINST GUARANTEE OF CERTAIN INSTRUMENTS OF INDEBTEDNESS.

Section 4.16 of the Farm Credit Act of 1971 (12 U.S.C. 2204) is hereby repealed.

SEC. 209. CLARIFICATION OF TREATMENT OF FARM CREDIT ADMINISTRATION OPERATING EXPENSES.

Section 5.15(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2250(b)(1)) is amended—

(1) by inserting ", for purposes of sequestration," after "regard"; and

(2) by striking "or any other law".

SEC. 210. APPROVAL OF COMPETITIVE CHARTERS.

Section 5.17(a) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)) is amended by adding at the end the following:

"(13)(A) Subject to subparagraph (B), the Farm Credit Administration may approve an amendment to the charter of any institution of the Farm Credit System operating under title I or II, which would authorize the institution to exercise lending authority in any territory—

"(i) in the geographic area served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (where such geographic area was a part of the association's territory as of the date of such reassignment); and

"(ii) in which the charter of an institution that is not seeking the charter amendment authorizes such institution to exercise the type of lending authority that is the subject of the charter request.

"(B) The Farm Credit Administration may approve a charter amendment under subparagraph (A) only upon the approval of—

"(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

"(ii) a majority of the stockholders of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(iii) the respective boards of directors of the Farm Credit Banks which, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).

"(14)(A) Subject to subparagraph (B), the Farm Credit Administration may approve a request to charter an association of the Farm Credit System to operate under title II where the proposed charter—

"(i) will include any of the geographic area included in the territory served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (where such geographic area was a part of the association's territory as of the date of such reassignment); and

"(ii) will authorize the association to exercise lending authority in any territory in such geographic area in which the charter of an association that is not requesting the charter authorizes such association to exercise the type of lending authority that is the subject of the charter request.

"(B) The Farm Credit Administration may approve a charter request under subparagraph (A) only upon the approval of—

"(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

"(ii) a majority vote of the stockholders (if any) of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholder's meeting; and

"(iii) the respective boards of directors of the Farm Credit Banks which, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).".

TITLE III—TECHNICAL CORRECTIONS

SEC. 301. TECHNICAL CORRECTIONS.

(a) CORRECTION OF REFERENCE TO SECTION 1236 OF THE FOOD SECURITY ACT OF 1985.—Title I of the Department of the Interior and Related Agencies Appropriations Act, 1991 is amended, in the item designated "CONSTRUCTION AND ANADRONOMOUS FISH" under the heading "UNITED STATES FISH AND WILDLIFE SERVICE", by striking "title 16 U.S.C. section 3832(a)(6)" and inserting "section 1232(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(6))".

(b) SECTION 1245(b) OF THE FOOD SECURITY ACT OF 1985.—

(1) CORRECTION.—Section 1245(b) of the Food Security Act of 1985 (16 U.S.C. 3845(b)) is amended by striking "(A) through (G)" and inserting "A through G".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall take effect immediately after section 1443 of the Food, Agriculture, Conservation, and Trade Act of 1990 took effect.

(c) SECTION 307(a)(6)(B) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) is amended by striking clause (ii), and by redesignating clauses (iii) through (viii) as clauses (ii) through (vii), respectively.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by subsection (a) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(d) SECTION 310D(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 310D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1934(a)) is amended by striking "304(d)(1)" and inserting "304(a)(1)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by subsection (a) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(e) SECTION 312(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) REPLACEMENT OF UNEXECUTABLE AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—

(A) CORRECTION.—Section 1818(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101–624; 104 Stat. 3830) is amended to read as follows:

"(b) OPERATING LOAN PURPOSES.—The first sentence of section 312(a) (7 U.S.C. 1942(a)) is amended—

"(1) by striking 'and' at the end of clause (11); and

"(2) by inserting ', and (13) borrower training under section 359' before the period at the end.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the Food, Agriculture, Conservation, and Trade Act of 1990 at the time such Act became law.

(2) REPEAL OF UNEXECUTABLE AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Subsection (b) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102–237; 105 Stat. 1866) is hereby repealed, and the Consolidated Farm and Rural Development Act shall be applied and administered as if such subsection had never become law.

(f) AMENDMENTS TO SECTION 331E OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 331E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981e) is amended—

(A) in subsection (a), by striking "Disaster Relief Act of 1974" and inserting "the Robert T. Stafford Disaster Relief and Emergency Assistance Act"; and

(B) in subsection (b), by inserting "Robert T. Stafford" before "Disaster Relief".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect immediately after subsection (d) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(g) SECTION 335(e)(1)(A)(i) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTIONS TO AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Paragraph (1) of section 501(f) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102–237; 105 Stat. 1867) is amended—

(A) by inserting "the 1st place such term appears" before "and all that follows"; and

(B) by striking "borrower-owner (as defined in subparagraph (F)" and inserting "the borrower-owner (as defined in subparagraph (F))".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect immediately after subsection (f) of section 501 of the Food, Agriculture, Conservation, and Trade Act of 1990 took effect.

(h) SECTION 352(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 352(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(a)) is amended by redesignating the second paragraph (4) as paragraph (5).

(i) SECTION 352(b)(2) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 352(b)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(b)(2)) is amended by striking "borrower's" and inserting "borrower-owner's".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by subsection (f) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(j) SECTION 702(h)(2) OF THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Section 702(h)(2) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102–237; 105 Stat. 1881) is amended by inserting "section" before "2388(h)(3)".

(k) SECTION 306C(b)(1) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 306C(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c(b)(1)) is amended by striking "or connecting such systems to the residences of such individuals" and inserting ", connecting such systems to the residences of such individuals, or installing plumbing and fixtures within the residences of such individuals to facilitate the use of the water supply and waste disposal systems".

(l) SECTION 306C OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c) is amended by adding at the end the following:

"(f) Within 30 days after the date of the enactment of this subsection, the Secretary shall issue interim final regulations, with a request for public comments, implementing this section.".

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments and repeal made by this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4906 is the Agriculture Credit Improvement Act of 1992. This legislation continues our commitment to keep our agriculture sector on a solid financial footing. In doing so, this bill seeks to address the changing credit needs of farmers and ranchers and our rural communities.

This legislation has evolved from public hearings over the past 2 years held by the Subcommittee on Conservation, Credit, and Rural Development, chaired by the gentleman from Oklahoma [Mr. ENGLISH].

At these hearings, we heard about the financial obstacles that face people who want to start an agricultural enterprise. We also heard about the paperwork and redtape involved in getting approval of farm program loans through Farmers Home Administration [FmHA]. H.R. 4906 seeks to address these and other agricultural credit needs.

The most significant provisions in title I of H.R. 4906 address the credit needs of beginning farmers and ranchers. As our farming population ages and many farmers near retirement, younger people who want to farm are finding it increasingly difficult to obtain affordable credit to buy into these farm operations.

H.R. 4906 establishes a pragmatic operating loan program for beginning farmers and ranchers. Under our proposal, a person meeting the strict eligibility criteria could qualify for low-interest loans for up to 10 years. These operating loans would be renewed annually as long as the applicant meets the objectives of the borrower's approved financial plan.

H.R. 4906 also establishes a new 10-year down payment loan program for the purchase of farmland by beginning farmers and ranchers. In rural America, ownership of your own farm or ranch is no less important than home ownership is to the city dweller.

I want to stress that the funding of the new beginning farmer programs are authorized out of current FmHA farm lending resources. No increase in appropriated funds is necessary to fund these programs. H.R. 4906 also directs the Secretary of Agriculture to coordinate these programs with States that have established complementary beginning farmer programs.

The bill also addresses a number of problems associated with time delays and paperwork requirements for approval of a FmHA guaranteed loan. The bill will speed processing time and reduce paperwork for both borrowers and lenders.

In addition, H.R. 4906 makes several other changes in FmHA operating procedures. For example, it modifies the method of calculating the debt service margin requirement for FmHA loans and it addresses gender discrimination in lending.

Probably the most significant administrative change we make is to limit for the first time the cumulative number of years a person can participate in the farm lending programs. It has become clear to many that FmHA has been allowed to stray from its original purpose as a temporary lender of last resort to become a de facto permanent source of credit for far too many borrowers.

It is time to bring FmHA back to its original purpose. Accordingly, the bill sets a 10-year limit for participation in direct FmHA loans and a 15-year cumulative limit for individual participation in direct and guaranteed FmHA loans.

Title II of H.R. 4906 makes several, mostly technical changes in the authorities of the Farm Credit System, the Government sponsored enterprise [GSE] that serves the lending needs of the agricultural sector. These measures do not include any provisions included in H.R. 3298—the so-called Farm Credit System/GSE bill—which was considered by the House last year and which we hope to bring to the floor in the near future.

I would point out that a couple of provisions in title II are directed at the needs of rural communities. H.R. 4906 expands the lending authority of the banks for cooperatives to make loans for rural water and waste water systems, and it will allow system institutions to guarantee instruments of indebtedness which are exempt from Federal taxation which will help spur certain kinds of rural development activities.

Title III of H.R. 4906 makes various needed technical corrections to the Food Security Act of 1985, the Consolidated Farm and Rural Development Act, and the Food, Agriculture, Conservation, and Trade Act of 1991.

I want to commend the members of the House Agriculture Subcommittee on Conservation, Credit, and Rural Development for their work on this issue and their contributions to this legislation. I want to also commend the leadership and work of the subcommittee chairman, Mr. ENGLISH, and the ranking minority member, Mr. SMITH of Oregon, in drafting the legislation. And I must also single out Mr. PENNY for his significant contributions to the beginning farmer provisions.

Mr. Speaker, this legislation is a small but important step to help beginning farmers with limited resources get a start in farming. I am confident there is a new generation of talented farmers out there if we as a Nation are willing to give them a helping hand to get started. The beginning farmer provisions in this bill extend that helping hand within current budget resources. I urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Oklahoma [Mr. ENGLISH], who has done yeoman work in this endeavor and has worked to the point that brings us here today.

Mr. ENGLISH. Mr. Speaker, there is no question that the average age of our family farmers in America today continues to increase. I know in the country it is some 56 years of age. In my own State of Oklahoma it is some 58 years of age. Without question, unless we bring more young people into agriculture, the family farming concept is in danger of ending.

With that in mind, we looked for some way to use the very limited resources that our Federal Government has in consolidating those in a new program, a program that would in fact make a commitment, a long-term commitment by the U.S. Government, to those farmers who have two things: first of all, that have the background, the experience, and/or the education that would give us good reason to believe that they would be successful in a career in agriculture; and, second, they must put together a viable plan, one that has a farming operation that gives us every reason to believe would be successful if carried out.

We are also very painfully aware that in the past when young people have had the opportunity to get into agriculture without substantial resources to support them, either from their families or certainly support from financial institutions, we have found that the rate of failure has been very high. This is particularly true in the last decade.

The first 3 years is the most critical period for most of these beginning farmers. But many have in the past gone out and borrowed large amounts of money, purchased land, purchased equipment, and then found that their debt load is simply too great and the return for their crops has simply been too little.

☐ 1930

What this plan attempts to do, Mr. Speaker, is to set up a program in which we begin our farmers through operating loans, through leased land. And it is anticipated that many of these young farmers, beginning farmers, would enter into lease-purchase arrangements with older farmers that are looking to retire and, through the first 5 years, get on their feet through leased property and through low interest operating loans that would gradually be phased out.

The second period, over the second 5 years, would then be in a position to begin purchasing land. And at the end of this 10-year period, would then be expected to be on their feet, be in a position to continue without support of the Federal Government.

So unlike our programs of the past, which have only 1-year commitments which are very limited and to which very limited resources have been available, this is a program for a 10-year commitment and one that eases beginning farmers into the occupation and work with and through a 10-year period. And so long as they uphold their end of the bargain, the U.S. Government is making the commitment that they, too, will stick with these beginning farmers.

I am also very happy to say, Mr. Speaker, that the General Accounting Office, in studying this new approach, has told us that this will be very taxpayer friendly; namely, that they feel that the success rates will be greater. And certainly this will be far better for the taxpayers of this county, cost far less money than the programs that we have seen in the past. So it is a program we think has great benefit.

Let me also say, Mr. Speaker, that the gentleman from Minnesota [Mr. PENNY], who is the cosponsor of this legislation and one who has done an enormous amount of work in the beginning farmer concept, is one that I certainly want to recognize and appreciate for the fine work that he has done and for the cooperation.

And let me say also that for the gentleman from Missouri [Mr. COLEMAN] and the gentleman from Oregon [Mr. SMITH], who are members of the Committee on Agriculture, the ranking member of the full committee and the subcommittee, have also been tremendous in the contributions that they have made toward this endeavor. It is truly a bipartisan proposal and one that has passed unanimously through the House Committee on Agriculture.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4906.

I would like to take this time to commend the gentleman from Oklahoma [Mr. ENGLISH], who is the chairman of the Subcommittee on Conservation, Credit, and Rural Development, for bringing this bill to the full committee and to the floor, and the gentleman from Minnesota [Mr. PENNY] for his sponsorship and interest in this subject matter.

I know even the most conservative members of my farm constituency, when asked what we could do to help the farm community, often characterize in their response to "help beginning farmers," because they know how hard it is.

In fact, I was in the living room of one of our farmers the other day and he said, "You know, unless you inherit the property or have somebody to bankroll you to start with, you can't make it in farming today."

And I think this is what this bill is all about. It recognizes the aging population of so many of our farmers. And that is true, we are having a hard time attracting young people, the newer generation of farmers into farming.

It is difficult, and one of the reasons it is difficult is the limited resources available to those who want to start a farm operation.

As the gentleman from Oklahoma [Mr. ENGLISH] explained, what this bill does is it does what the Farmers Home Administration has traditionally been set up to do. And that is to provide limited resource loans to those people who do not have it. But if they do pass muster and they do present a plan and they are and do have the background, they are a good reason to support with a loan.

This is not just throwing money at somebody and saying, "Come back whenever you need some more." This is a set procedure that, first of all, requires for the appropriate background to be made but also to be given an operating commitment of 10 years. We are going to stick with this individual. And for the first 3 years, they are going to have operating loans so that they, we the taxpayers, we the Farmers Home Administration, can see what kind of farmers, indeed, that they will make.

After they have a proven track record, then they can apply for a down payment on some property of their own. And again, within that 10-year framework, we can analyze and help these people make their way through the farming operations that they wanted to embark on.

So, Mr. Speaker, I see this as a traditional role of the Farmers Home Administration, to provide a hand up and to provide assistance to those who do have limited resources.

I also want to point out that this bill has some other matters in it which the administration does not oppose, and I would also want to report to my colleagues that the administration's position is one of nonopposition of this suspension.

Mr. Speaker, I think this is a good bill, a necessary bill, and one which will help, I think, the next generation of farmers in this country get on their feet in the most constructive way.

Mr. Speaker, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Speaker, I rise in support of H.R. 4906, the Agricultural Credit Improvement Act of 1992.

As a farmer, I know how difficult it can be to get the credit you need for planting, for buying new equipment, to keep the farm going 1 more year. And as a woman, I know it is even more difficult to get the credit you need—and deserve. More often than not, women trying to get into or stay in and succeed at farming have had many hurdles placed in their paths. So although it is unfortunate, it is not surprising that only 6 percent of American farms are run by women.

And even though these women-operated farms tend to have low debt-to-asset ratios—making them good credit risks—the women who run them have difficulty getting the credit they need to raise their farm income and further improve their operations.

This bill reaches out to these women farmers. The Agricultural Credit Improvement Act will ensure that individuals who have been discriminated against because of gender can participate in FmHA programs for socially disadvantaged groups.

In addition, this bill will greatly help beginning farmers and ranchers of both genders. For example, FmHA will target some existing funds for special programs, and will establish a new farm operating loan program for people who have owned or operated their farms for 5 years or less. And, FmHA will also create a down payment loan program to help farmers and ranchers with 5- to 10-years experience with land purchases.

The bill also revises existing FmHA programs by placing limits on participation in FmHA loan programs and establishing a certified lenders program. These revisions will streamline and simplify the application process and encourage the transition to private credit for those who may be eligible. Both the Farmers Home Administration and loan recipients will benefit from these important changes.

Mr. Speaker, programs to assist farm owners and operators, especially those programs that target socially disadvantaged groups, must include women who want to get into or stay in farming. I believe this bill is a step in the right direction, and I encourage my colleagues to support it.

Mr. DE LA GARZA. Mr. Speaker, I yield 3 minutes to our distinguished colleague, the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, first and foremost, I want to thank the chairman for his leadership on this issue. I want to thank the chairman of our subcommittee, the gentleman from Oklahoma [Mr. ENGLISH] for his cooperation over the last number of months, as we have attempted to put together this farm credit legislation, and as well to the ranking Republican on the committee for his strong interest in this arena.

We started some months ago to establish what we hoped would be a major restructuring of our Farmers Home Administration policies. Our goal was to see to it that more of those funds be dedicated to beginning farmers and ranchers so that we could assure the continuation of our family farm structure on into the future. And all members of our committee showed strong support for this concept at the outset and strong support for the legislation, as we brought it through the committee.

□ 1950

Mr. Speaker, I want to stress today that I believe this bill is one of the most important pieces of credit legislation to come out of the Committee on Agriculture in a number of years. Too much so in the last 10 years, the credit bills that have been considered by our committee have dealt with farm foreclosures and the credit crisis. Because of these external circumstances, the committee was placed in a reactive mode. We can now move forward to establish policies which focus on the future.

Mr. Speaker, I offered the beginning farmer bill 4 years ago to establish a system within the Farmers Home Administration to help young farmers start in the high-capital business of farming. The average age of farmers in my home State of Minnesota is 60 years old. The face of agriculture will change greatly during the next decade as many of these farmers retire.

As this land transfer occurs, it is possible that existing farms will simply grow larger and larger. Instead, I would hope that young farmers and ranchers will have the financing and the resources available to take over their family's farm or to purchase other land and to start their own operation.

This legislation may also slow the decline of small towns that are so dependent on trade with farmers. Some rural experts say that for every five or six farmers who leave the land, a business on Main Street closes its doors. This is not just an issue of who will farm the land, but who will live in rural America.

The Agricultural Credit Improvement Act redirects Farmers Home Administration resources into downpayments, ownership, and operating loans for beginning farmers and ranchers. In addition, the agency is expected to work actively with these new procedures to help these young farmers graduate to commercial lenders within 10 years.

The legislation also encourages and facilitates coordination with State level Young Farmer Assistance Programs. The transfer of productive agricultural assets from retiring to aspiring farmers may be the most important agricultural credit issue we face in the coming years. I am proud to have taken an active role in this legislation, and I urge my colleagues to support passage of the bill.

Mr. GUNDERSON. Mr. Speaker, I rise in support of H.R. 4906. This bill, in addition to other things, establishes within the Farmers Home Administration an operating, equipment, and downpayment loan program especially for beginning farmers and ranchers.

The average age of a Wisconsin farmer is 50.3 years according to the latest Census of Agriculture, up from 48.4 years in 1982. The number of farms in Wisconsin declined from 90,000 in 1982 to 81,000. Half as many new farmers are entering the business as are exiting and Wisconsin is experiencing a replacement deficit.

At a conference I held in my district in May, the biggest concerns facing Wisconsin farmers, next to good dairy prices, are the increasing average age of farmers and the drop in the number of farms.

This bill will help remedy this situation. The bill—

Establishes expedited FmHA loan application procedures;

Simplifies applications for guaranteed loans of $50,000 or less;

Modifies debt service margin requirements; and

Helps graduate FmHA direct loan borrowers to private sector financing guaranteed by the Secretary of Agriculture, to make way for new beginning farmer applicants.

This bill will give new farmers a financial means to overcome the tremendous hurdles of starting a farming operation, while also providing them with the guidance and expertise to become financially independent. I believe, with this legislation, we send future and new farmers across the country the signal that agriculture is important, the occupation is honorable, we want to see it profitable, and we want to encourage new entrants.

I applaud my colleagues on the Agriculture Committee for their insightful consideration of this legislation and urge my colleagues to vote for it.

Mr. PANETTA. Mr. Speaker, I rise in support of this measure and commend the chairman of the Agriculture Subcommittee on Conservation, Credit, and Rural Development, Mr. ENGLISH, and the chairman of the Agriculture Committee, Representative DE LA GARZA, for all their tremendous work in the development and consideration of the bill. It is exciting that the focus of this legislation concerns new Farmers Home Administration [FmHA] loan programs to assist beginning farmers and ranchers get started in the business.

The new beginner farmer and rancher program will authorize the FmHA to provide a 10-year commitment for annual operating loans to eligible individuals with not more than 5 years of experience in farming or ranching. It will require that loans made during the first 4 years of the commitment period be at a reduced interest rate. The measure will also earmark funding within FmHA's direct and guaranteed farm operating loan programs for the beginning farmers or ranchers to purchase equipment, seed, livestock, and other inputs. Further, a new downpayment loan program would be authorized for the purchase of farmland by beginning farmers or ranchers and earmarks funding within FmHA's direct farm ownership loan program for this program.

In particular, I would like to add that I appreciate Mr. ENGLISH's support in accepting an amendment that I offered at full committee that would make it possible for California farmers and ranchers to participate in these new programs. Agriculture in the State of California is extremely labor intensive because of the types of crops, like specialty crops, that are produced. California's farms are usually larger than those in other regions of the country and employ more workers to harvest crops, such as avocados, which cannot be machine harvested.

I am very pleased that this new legislation will serve the great State of California and provide the opportunity for new farmers and ranchers to participate. This bill is an important step to help beginning farmers with limited resources get started, and address our future long-term agricultural needs.

Mr. BEREUTER. Mr. Speaker, the legislation, H.R. 4906, certainly has both positive features and some sections which are problematic which should not be enacted in their current forum. This Member certainly does support the efforts to provide credit for young, enthusiastic, and hardworking individuals who have the desire to own and operate a farm.

The declining number of young farmers entering the profession is one of the main concerns of agriculture producers in this Member's district in Nebraska and throughout the country. In 1987, less than 15 percent of the farm operators in the United States were under the age of 35, and nearly one-half were over 55.

By providing needed operating and purchase loan programs for young qualified farmers and ranchers, the beginning farmer provisions of H.R. 4906, the Agricultural Credit Improvement Act, properly address this alarming trend. In addition, the bill's provisions strike a fair balance between providing needed benefits to young farmers and ranchers without making them overly dependent upon the program.

For instance, the direct and guaranteed operating loan program requires, importantly, that beginning farmers "graduate" to private financing after no more than 15 years, and the downpayment loan program requires applicants to obtain 60 percent of the purchase price of a farm or ranch from commercial lenders or other financing sources.

However, while this Member supports provisions to establish a new beginning farmer and rancher program, this Member has substantial concern and would oppose certain provisions added with respect to the Farm Credit System, specifically:

Authority granted to banks for cooperatives explicit authority to guarantee bonds backed by sewer and water loans; and

Reduction of required examination frequency of Farm Credit System institutions from once a year to at least once every 3 years.

The first provision pertaining to sewer and water loan bonds is admittedly an expansion of current authority. Banks for cooperatives are currently allowed to make loans for sewer and water projects. The bill would allow these entities to take the financing process one step further and potentially start a new secondary market.

Since this provision also raises serious tax questions, and requires changes to the Tax Code, I doubt whether such a provision will have the force of law even if enacted. However, that is not a certainty.

This Member, however, is concerned about the provision since it gives the wrong party the right authority. I don't question efforts to provide more financing for rural areas. What this Member finds objectionable or at least questionable is the failure of the bill's sponsors to grant the guarantee authority to existing secondary markets, such as the Federal Agricultural Mortgage Corporation, known as Farmer Mac. At a time when the Federal Government's liability for guaranteed loans and bonds already exceeds several billion dollars, more thought should have been given as to which entity should guarantee the loans.

This Member also believes it to be particularly ill-advised to relax the examination requirement for Farm Credit System institutions. In the last 4 years, Congress has taken steps to ensure appropriate regulation for the Nation's savings and loans, banks, and other financial institutions. Reducing the examination requirement for Farm Credit System institutions—a system which received $4 billion in Federal assistance in 1987—is unwise and at least deserves further study before legislative action. Regular examination requirements should be in place for all financial institutions, regardless of the financial strength of an institution at a given point in time.

Mr. Speaker, despite the beginning farmer initiatives which are good, these problematic provisions on the FCA must be corrected, at least in conference, before this Member can ultimately support H.R. 4906.

Mr. SMITH of Oregon. Mr. Speaker, I would like to rise in support of H.R. 4906, the Agricultural Credit Improvement Act of 1992.

Throughout the hearing process on H.R. 4906, many have contributed to the development and improvement of this fine legislation. The end product is one which will encourage new and beginning farmers to join the again ranks of our Nation's agricultural producers.

During subcommittee consideration, I had intended to offer a noncontroversial amendment that maintains the status quo with respect to the Farm Credit System's treatment of patronage equity as permanent capital. I am unaware of any opposition to the substance of this amendment.

However, Chairman DE LA GARZA requested that I defer because this provision is included in the Senate GSE legislation, S. 1709. I understand his desire that all GSE-related matters be handled under the umbrella of S. 1709 and H.R. 3298, the House counterpart. The chairman has assured me that he agrees with the merits of this provision and will either include it in any future House GSE legislative action, or will work to include it in conference with the Senate.

Under the Farm Credit System's cooperative structure, local lending associations—ACA's, PCA's, FLBA's FLCA's—own stock in their district's Farm Credit Bank [FCB]. Earnings by the FCB are either retained by the FCB or paid as dividends to the associations.

If the FCB retains the earnings, the FCB and its owner/associations agree to allocate some portion of the earnings to the stock held by the associations. The bank retains the earnings and the value of the association's stock increases.

For regulatory permanent capital purposes only, the FCB and its associations agree on which portion of the association's stock is counted as regulatory permanent capital by the FCB and which portion is counted by the association. There is no double counting.

Current Farm Credit Administration [FCA] regulations require that beginning in 1993, associations may no longer count their investment in the bank as regulatory permanent capital. Practically, this would require FCB's to download excess association stock to associations, resulting in a tax liability for the association or the associations would be forced to raise interest rates to farmers and ranchers to build the necessary regulatory permanent capital.

On April 28, 1992, the FCA Board voted to set aside this regulation for 2 years. If allowed to become effective, the FCA regulation would decrease the amount of capital in the system and could cause higher rates or lessen the amount of credit available for farmers and ranchers.

This amendment would have merely codified current system capital practices and permanently override the FCA regulations. System banks and associations could continue to agree on where to allocate the associations' investment for regulatory permanent capital purposes.

Mr. Speaker, this legislation has been carefully crafted. I urge by colleagues to give it thoughtful consideration and encourage its swift passage.

Mr. COLEMAN of Missouri. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 4906, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RURAL ELECTRIFICATION ADMINISTRATION IMPROVEMENT ACT OF 1992

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5237) to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, to establish a grant program to improve the provision of health care services and educational services in rural areas by enabling providers of such services to obtain access to modern interactive telecommunications systems, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Electrification Administration Improvement Act of 1992".

SEC. 2. DISCOUNTED LOAN PREPAYMENT.

(a) IN GENERAL.—Subsection (a) of section 306B of the Rural Electrification Act of 1936 (7 U.S.C. 936b(a)) is amended to read as follows:

"(a) DISCOUNTED PREPAYMENT BY BORROWERS OF ELECTRIC LOANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a direct or insured loan made under this Act shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

"(2) EXCEPTION.—On request of the borrower, an electric loan made under this Act, or a portion thereof, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

"(A) the outstanding principal balance on the loan; or

"(B) the loan's present value discounted from the face value at maturity at the rate established by the Administrator.

"(3) DISCOUNT RATE.—The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

"(4) TAX EXEMPT FINANCING.—If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish that are reasonable and necessary to carry out this subsection.

"(5) ELIGIBILITY.—

"(A) IN GENERAL.—A borrower that has prepaid an insured or direct loan shall remain eligible for assistance under this Act in the same manner as other borrowers, except that—

"(i) a borrower that has prepaid a loan, either before or after the date of the enactment of this subsection, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Administrator, to apply for or receive direct or insured loans under this Act for 60 months after the prepayment; and

"(ii) a borrower that prepaid a loan before such date of enactment at a discount rate greater than that provided by paragraph (3), shall not be eligible—

"(I) except at the discretion of the Administrator, to apply for or receive such direct or insured loans until 120 months after the date of the prepayment; or

"(II) to apply for or receive such direct or insured loans until the borrower has repaid to the Federal Government the sum of—

"(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

"(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

In cases where a borrower and the Administrator have entered into an agreement with respect to a prepayment occurring before such date of enactment, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this Act.

"(B) DISTRIBUTION BORROWERS.—A distribution borrower not in default on the repayment of loans made or insured under this Act shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this Act, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

"(6) DEFINITIONS.—As used in this subsection:

"(A) DIRECT LOAN.—The term 'direct loan' means a loan made under section 4.

"(B) INSURED LOAN.—The term 'insured loan' means a loan made under section 305.".

(b) CONFORMING AMENDMENT.—Section 306B(b) of such Act (7 U.S.C. 936b(b)) is amended by striking "(b) Notwithstanding" and inserting the following:

"(b) MERGERS OF ELECTRIC BORROWERS.—Notwithstanding".

SEC. 3. REPEAL OF SECTION 412.

Section 412 of the Rural Electrification Act of 1936 (7 U.S.C. 950b) is hereby repealed.

SEC. 4. REPEAL OF SECTION 311.

Section 311 of the Rural Electrification Act of 1936 (7 U.S.C. 940a) is hereby repealed.

SEC. 5. GRANTS TO ENABLE PROVIDERS OF HEALTH CARE AND EDUCATIONAL SERVICES IN RURAL AREAS TO IMPLEMENT INTERACTIVE TELECOMMUNICATIONS SYSTEMS.

(a) FINDINGS.—The Congress finds that—

(1) interactive telecommunications systems hold the potential to alleviate many of the problems rural Americans face in obtaining access to adequate health care and expanded educational services; and

(2) access to such systems by providers of health care services and educational institutions in rural areas would greatly increase their ability to provide more comprehensive health care and education to rural, underserved populations.

(b) GRANT PROGRAM.—Subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by adding at the end the following:

"CHAPTER 3—IMPROVEMENT OF HEALTH CARE SERVICES AND EDUCATIONAL SERVICES THROUGH TELECOMMUNICATIONS

"SEC. 2338. GRANT PROGRAM.

"(a) ESTABLISHMENT.—The Administrator of the Rural Electrification Administration (in this chapter referred to as the 'Administrator') shall establish a program for providing grants to any qualified consortium to assist the consortium in obtaining access to modern interactive telecommunications systems through the public switched network.

"(b) DEFINITIONS.—

"(1) QUALIFIED CONSORTIUM.—As used in this chapter, the term 'qualified consortium' means a consortium which—

"(A) provides health care services or educational services in a rural area of a qualified State; and

"(B) is composed of—

"(i) a tertiary care facility, rural referral center, or medical teaching institution, or an educational institution accredited by the State;

"(ii) any number of institutions that provide health care services or educational services; and

"(iii)(I) in the case of a consortium seeking a grant under this chapter to improve health care services, not less than 3 rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities; or

"(II) in the case of a consortium seeking a grant under this chapter to improve educational services, not less than 3 educational institutions accredited by the State.

"(2) QUALIFIED STATE.—The term 'qualified State' means a State which has adopted, within 1 year after the date final regulations are prescribed to carry out this chapter, a plan for the upgrading and modernization of the rural telecommunications infrastructure of the State which, among other things—

"(A) provides for the elimination of party line service in rural areas of the State;

"(B) encourages and improves the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas of the State;

"(C) provides for an enhancement in the quality and availability of educational opportunities for students in rural areas of the State;

"(D) provides for improvement in the quality of medical care provided, and access to medical care afforded, to people in rural areas of the State;

"(E) provides incentives for local telephone exchange carriers to improve the quality of telephone service and access to advanced telecommunications services for subscribers in rural areas of the State, including facsimile document transmission, multifrequency tone signaling services, interactive audio and video transmissions, voicemail services, and other telecommunications services;

"(F) provides for the full participation of rural areas in the modernization of the telecommunications network through the implementation of joint coordinated network planning, design, and cooperative implementation among all local telephone exchange carriers in the provision of public switched network infrastructure and services;

"(G) provides for the achievement, preservation, and enhancement of universal service by bringing reasonably priced, high-quality, advanced telecommunications network capabilities to the people of the rural areas of the State, including through the sharing of public switched network infrastructure and functionality by local telephone exchange carriers at the request of local telephone exchange carriers lacking economies of scale or scope to provide such infrastructure or functionality on their own;

"(H) provides for the achievement of such goals within 10 years after the adoption of the plan; and

"(I) does not alter the boundaries of any local telephone exchange company franchised service area designated or recognized by the State, or the equivalent in the State.

"(3) RURAL AREA.—The term 'rural area' has the meaning given such term in section 203(b) of the Rural Electrification Act of 1936.

"(4) TELEPHONE SERVICE.—The term 'telephone service' has the meaning given such term in section 203(a) of the Rural Electrification Act of 1936.

"(c) SELECTION OF GRANT RECIPIENTS.—

"(1) APPLICATION REQUIREMENT.—

"(A) IN GENERAL.—Any qualified consortium that provides services in a State and desires to obtain a grant under this chapter shall submit to a State agency designated by the Governor of the State an application in such form, containing such information and assurance, and at such time, as the Administrator may require.

"(B) Contents of application.—The application shall contain or be accompanied by—

"(i) a copy of the State plan described in subsection (b)(2);

"(ii) the plan of the applicant, for obtaining access to interactive telecommunications systems, which—

"(I) specifies, consistent with subsection (f), the uses to be made of such systems;

"(II) demonstrates that the systems will be capable of being readily connected to the established public switched network; and

"(III) is compatible with the State plan; and

"(iii) a commitment by the State to make a grant to the applicant in an amount equal to 20 percent of the funds required to carry out the plan of the applicant, conditional upon a commitment by the Administrator to make 1 or more grants to the applicant under this chapter in an amount equal to 80 percent of the funds required to carry out the plan of the applicant.

"(2) Review and comment.—The State agency shall review the application and the applicant's plan and, after any revisions made by the applicant are incorporated, transmit to the Administrator the application and plans, and the comments of the State agency.

"(3) Selection of grantees.—The Administrator shall—

"(A) review the applications and plans transmitted pursuant to paragraph (2);

"(B) consider the comments of the State agency with respect to the application; and

"(C) make grants in accordance with paragraph (4) to each applicant therefor that complies with the requirements of this chapter and the regulations prescribed by the Administrator to carry out this chapter.

"(4) Priorities.—Priority for grants under this chapter shall—

"(A) be accorded to applicants whose applications demonstrate—

"(i) the greatest likelihood of successfully and efficiently carrying out the activities described in subsection (f)(1);

"(ii) the participation of the local telephone exchange carrier in providing and operating the telecommunications transmission facilities required by the plan; and

"(iii) unconditional financial support from the local community; and

"(B) so as to ensure, to the extent possible, that various regions of the United States benefit from the use of the grants.

"(d) Maximum Amount of Grant.—The amount of each grant under this chapter shall not exceed $1,500,000.

"(e) Distribution of Grants.—Grants to any qualified consortium under this chapter shall be disbursed over a period of not more than 3 years.

"(f) Use of Funds.—

"(1) In general.—Grants under this chapter may be used to support the costs of activities involving the sending and receiving of information to improve health care services or educational services in rural areas, including—

"(A) in the case of grants to improve health care services—

"(i) consultations between health care providers;

"(ii) transmitting and analyzing x-rays, lab slides, and other images;

"(iii) developing and evaluating automated claims processing, and transmitting automated patient records; and

"(iv) developing innovative health professions education programs;

"(B) in the case of grants to improve educational services—

"(i) developing innovative education programs and expanding curriculum offerings;

"(ii) providing continuing education to all members of the community;

"(iii) providing the means for libraries of educational institutions or public libraries to share resources;

"(iv) providing the public with access to State and national data bases;

"(v) conducting town meetings; and

"(vi) covering meetings of agencies of State government; and

"(C) in all cases—

"(i) transmitting financial information; and

"(ii) such other related activities as the Administrator deems to be consistent with the purposes of this chapter.

"(2) Limitation on acquisition of interactive telecommunications equipment.—Not more than 40 percent of the amount of any grant made under this chapter may be used to acquire interactive telecommunications end user equipment.

"(3) Limitation on use of consultants.—Not more than 5 percent of the amount of any grant made under this chapter may be used to employ or contract with any consultant or similar person.

"(4) Prohibitions.—Grants made under this chapter may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications service for hire.

"(g) Limitations on Authorization of Appropriations.—

"(1) Grants to improve rural health care services.—For grants under this chapter to improve health care services, there are authorized to be appropriated to the Administrator not to exceed $30,000,000 for each fiscal year.

"(2) Grants to improve rural educational services.—For grants under this chapter to improve educational services, there are authorized to be appropriated to the Administrator not to exceed $20,000,000 for each fiscal year.

"(3) Availability of funds.—Sums appropriated pursuant to this subsection are authorized to remain available until expended.".

(c) Elimination of Preference for Rural Telephone Bank Loans for Borrowers Located in States With Plans for Upgrading Rural Telecommunications Infrastructure.—Section 408(b)(2) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(2)) is amended by inserting "which is not located in a qualified State (as defined in section 2338(b)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990)" after "any borrower".

SEC. 6. INCREASE IN LIMITATION ON POPULATION OF RURAL AREAS FOR PURPOSES OF TELEPHONE LOANS.

(a) In General.—Section 203(b) of the Rural Electrification Act of 1936 (7 U.S.C. 924(b)) is amended by striking "one thousand five hundred" and inserting "10,000".

(b) Conforming Amendment.—Section 13 of such Act (7 U.S.C. 913) is amended by inserting "(except in title II)" before "shall be deemed to mean any area".

SEC. 7. SENSE OF THE CONGRESS.

It is the sense of the Congress that persons who are eligible for telephone loans under the Rural Electrification Act of 1936 and are interested in upgrading telecommunications in rural areas should obtain financial assistance under such Act through a subsidiary in order to limit the assets subject to the lien requirements of such Act.

SEC. 8. REGULATIONS.

Within 180 days after the date of the enactment of this Act, the Administrator of the Rural Electrification Administration and the Governor of the Rural Telephone Bank shall prescribe such regulations as may be necessary to carry out the amendments made by this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. PORTER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. PORTER. Mr. Speaker, is either one of the gentlemen opposed to the bill? If not, I am opposed to the bill, and would like to claim the time in opposition.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. PORTER] will be recognized for 20 minutes in opposition.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the time allotted to me be divided in half with the gentleman from Missouri [Mr. COLEMAN].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5237, and tell our distinguished colleagues in this House that this is a continued commitment to rural America and the needs of rural America. It is in fact committing us to further enhance and improve life in rural America with everything that it entails, from jobs, from homes, for roads, for schools, for health care, for all the family values that we cherish. This is another small item in trying to enhance all of those areas for those that live in rural America and produce basically all our food and fiber.

Mr. Speaker, I rise in support of H.R. 5237, and recommend its adoption by the Members of the House. This legislation, which was approved by the Committee on Agriculture on June 25, has two main purposes which I would like to briefly describe.

The first purpose of H.R. 5237 is to allow prepayment of outstanding indebtedness by Rural Electrification Administration [REA] borrowers.

This provision will simply allow local rural electric coperatives the option of prepaying their REA loan. This will serve to reduce the Federal Government's exposure to future repayment risk and free the cooperative from the rules and regulations of the REA.

Perhaps, more importantly, at a time when we have a 2-year-long waiting list of requests for REA loans, we should allow financially healthy REA borrowers to prepay their loans so that other, more needy cooperatives will have greater access to the REA program.

An REA prepayment program has been authorized before, primarily in reconciliation legislation. However the prepayment provisions of H.R. 5237 are different from past prepayment programs. The bill authorizes prepayments based on the present value of the debt owed to the Government, discounted from the face value of the debt at a discount rate equal to the cost of funds to the Treasury.

Cooperatives prepaying their debt to the Federal Government under this program will be ineligible to apply for futher REA program loans for 5 years following the prepayment. This prepayment program will result in no cost to the Federal Government. I repeat, both the Congressional Budget Office and the Office of the Management and Budget report that the prepayment provision in H.R 5237 will not incur any cost to the Federal Government.

The second purpose of H.R. 5237 is to promote interactive telecommunications systems in rural areas.

This provision, first proposed in H.R. 5238, a bill introduced by Subcommittee Chairman GLENN ENGLISH, would require the Administrator of REA to establish a grant program to help eligible States implement interactive telecommunications systems for improving health care and educational services in rural areas. A State would qualify by establishing a program meeting the criteria outlined in the bill, thus ensuring a long-term program targeted to the health and educational needs of rural areas of the State.

The need for this grant program is obvious. A growing number of residents in remote rural areas lack access to many educational and medical information technologies taken for granted by urban citizens. Many rural areas simply do not have the telecommunications infrastructure urban areas enjoy. This legislation is a modest attempt to encourage the upgrading of rural telecommunications infrastructure and better meet the informational needs of our rural citizens.

Mr. Speaker, I would like to take this opportunity to commend and compliment Congressman ENGLISH, who serves as the chairman of our Subcommittee on Conservation, Credit and Rural Development, for proposing this legislation and guiding it through the markup process.

Several changes have been made in this legislation to address various jurisdictional and budget concerns.

As introduced, section 4 of H.R. 5237 would have amended the credit reform provisions of the Congressional Budget Act of 1974, an issue within the jurisdiction of the Committee on Government Operations. The Committee on Agriculture has deleted this provision, and I want to express my appreciation to Chairman CONYERS of the Committee on Government Operations for his cooperation in helping us clear this bill for floor consideration.

In addition, H.R. 5237, as reported out by the Committee on Agriculture, contained a section regarding REA lien accommodations. This provision has been stricken from the legislation before us today due to its direct spending and pay-as-you-go implications. Let me state again, the lien accommodation provision has been stricken entirely from this bill.

I would like to thank Chairman PANETTA of the Committee on Budget and Budget Committee staff on both sides of the aisle for their assistance in addressing the budget implications of the Committee-reported bill. I am pleased to report that both the Congressional Budget Office and the Office of Management and Budget agree the cost of the bill before us is zero.

Mr. Speaker, I am pleased to bring this legislation to the floor today. This legislation prudently continues and expands our Nation's commitment to improving life in rural America at no direct cost to the taxpayer. I urge my colleagues to support the passage of H.R. 5237.

Mr. Speaker, I yield 8 minutes to the gentleman from Oklahoma [Mr. ENGLISH], the distinguished chairman of the subcommittee, who has done yeoman work in this endeavor.

Mr. ENGLISH. Mr. Speaker, I am very pleased to speak on behalf of H.R. 5237, the Rural Electrification Administration Improvement Act of 1992, and specificially H.R. 5237 would amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone services in rural areas and to establish a grant program to improve the provisions of health care and educational services in rural America by enabling providers of such services to obtain access to modern interactive telecommunications systems.

Mr. Speaker, we had heard recently from three studies, one conducted by the Office of Technology Assessment, one by the Aspen Institute, and one back in 1988 by the Department of Commerce. All three of these studies tell us that unless we modernize and improve the telecommunications systems of rural communities, that those communities are doomed. That is a very sad fact of life.

Economic development in rural communities is tied directly to the communications systems of these rural communities, so what this legislation does is that it takes a page from those studies and recognizes the importance of improving telecommunications systems in all of our rural communities.

We have had some communities that have advanced new, modern systems. We can see what tremendous benefits they bring to those communities and to the people who live in them. I speak, for instance, in my own district, in the Panhandle of Oklahoma, of an experiment that has been underway with fiber optic systems and with digital switching. The fiber optic systems in those rural communities have tied together a number of rural schools.

This allows those rural schools to share teachers, and those teachers will be able to utilize those facilities, see the students in several different school systems separated by numerous miles, and be able to teach each of those students as if those students were in their own classroom. It is a two-way exchange. The students not only see the teacher, the teacher sees the students. The teacher is able to communicate as if those students were in that classroom.

There are great savings not only to the local community and to the State, but certainly there is a great savings as far as the young people themselves and being able to remain in their local communities to be able to have the opportunity to go to school systems that, quite frankly, might not be able to deliver the same quality of education that they are able to do today.

This is something that we would like to see expanded throughout the Nation, to bring those savings to rural schools and to taxpayers in virtually every State, to put ourselves in a position that the quality of education in rural communities can be improved.

Certainly the same is true as far as health care is concerned. We have many of our rural communities today whose rural hospitals are in trouble. Many are closing. They are unable to provide the kind of expertise that is necessary by the people who are living in those communities.

In Lubbock, TX, we have found that at Texas Tech, through an experimental program in their hospital there, they have linked up rural hospitals with the specialists at Texas Tech. They are able to deliver medical services to those rural hospitals in a way that simply was not dreamed of just a few short years ago.

This has worked extremely well for the people in those rural communities, as well as for the use of the specialists' time. The quality of health care that is being delivered means that more people are staying at home instead of traveling to urban areas over several miles and having to utilize urban facilities. Those rural hospitals today are full of patients, when most of our rural hospitals are going wanting. Again, it is a better utilization of the taxpayers' dollars, better utilization of our rural communities, and gives new life to rural communities throughout this country.

Of course, what this means to businesses in those communities, it brings new life, new opportunities, and we feel that this is vital to the development of rural communities throughout this Nation.

The Rural Electrification Administration Improvement Act of 1992 is just that—an improvement. This bill is about improvement of rural America—improvement in the quality of lives through health and education and a technical improvement in providing access to the private money market for REA borrowers who so chose.

Many believe that REA has completed its job because rural America has electricity and telephone service. However, should Congress walk away from one of the greatest success stories in modern history? That is what some would propose. Does it make sense to no longer provide funding for the Interstate Highway System because it is complete? Does it make sense to abandon the Mass Transit System in large cities because the cities now have buses? Nonsense. For the same reason, it does not make any sense to abandon REA because rural areas now have electric and telephone service.

In fact, it is even more important today that Congress participate in this partnership with American business to provide an adequate infrastructure for our Nation. The decline in economic vitality in rural America has made it difficult for many of these rural communities to maintain an infrastructure necessary for commerce and to ensure that their citizens have access to basic services, such as health care and education.

Rural America has arrived at a critical juncture. There has been a mass exodus of over 5 million rural residents during the last decade. The 1970's saw the number of persons living on farms in the United States decline by 25 percent. A recent report by the Department of Agriculture's Economic Research Service and the Department of Commerce's Bureau of the Census estimates that a further drop of 24 percent in the country's farm population occurred in the 1980's. This results in overcrowding in the urban centers, placing stress on the urban educational and health services. This bill will help to relieve this population loss and in turn will help all of America—rural and urban.

With the 21st century fast approaching, the choice can only be one that creates opportunity for growth and an incentive to invest in a new generation of rural Americans. Revamping the basic components of rural America's infrastructure will be the wisest investment toward a more viable and prosperous future for all Americans.

Now, let me speak on some of the specific provisions of the bill.

First, there is no cost to this legislation. The provisions which were scored by the Congressional Budget Office and the Office of Management and Budget have been stripped out of this version of the bill.

Because previously identified provisions were stripped from the legislation, Congressional Budget Office [CBO] has issued a letter, and I quote:

> Because the proposed version of the bill for consideration on the House floor does not contain those lien assistant provisions, the bill would not affect direct spending or receipts. Thus, pay-as-you-go procedures would not apply to the amended bill.

Further, the only cost provisions identified by the Office of Management and Budget [OMB] were these same provisions which were removed.

Second, it puts to better use some practical and cost effective educational and health programs through telecommunication links between urban and rural schools or hospitals. This visual and vocal two-way communication has been proven in pilot projects throughout the United States as being cost effective.

This two-way interactive communication has been endorsed and strongly recommended for implementation in various reports from the U.S. Department of Commerce, the Office of Technology Assessment, and the Aspen Institute.

Third, it shares limited health and education resources. This two-way interactive telecommunication enables rural schools and hospitals to share personnel, expertise, and talent in providing better use of limited local monetary resources.

Fourth, it requires State participation. In order for a State to participate in the program, the State must submit a plan to the Rural Electrification Administration to modernize its rural telecommunications facilities to ensure that it is capable of providing this link.

This bill also requires that the State match the Federal funds in a 80/20 ratio.

Fifth, it allows Rural Electric Cooperatives [REC's] to repay loans at cost to the Treasury in order to relieve current program backlog and allow entry into the private loan market.

Sixth, it was unanimously passed by the Committee on Agriculture.

For all of these above reasons, I ask for my colleagues support for H.R. 5237.

□ 1950

Mr. Speaker, I reserve the balance of my time.

Mr. PORTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation would increase the population size of eligible cities, villages, or boroughs from 1,500 to 10,000 people and, Mr. Speaker, that would make Palm Beach, FL, Falls Church, VA, and even Rancho Mirage, CA possible recipients of REA assistance. These are hardly rural America.

The population base would increase from 5.6 million people served to 45.4 million people, an enormous expansion of the REA reach.

The legislation would also allow borrowers who took advantage of the opportunity to prepay their loans at great discounts to reenter the system after waiting for a period of years. In a letter from Secretary of Agriculture Ed Madigan to the distinguished chairman of the Agriculture Committee, the Secretary notes that in 1987, "electric and telephone loan program borrowers prepaid $727 million of outstanding REA direct loans," those are low-cost 2 percent and 5 percent interest loans, "for $427 million, thereby receiving a discount of $299 million on the deal."

Prepaying borrowers were also given a special Federal income tax break. This arrangement was made with the understanding that the borrowers would not return to the REA system, but this legislation, Mr. Speaker, makes these same borrowers eligible again for more taxpayer-assisted and subsidized REA loans without having to first or ever pay back the benefits they have already received.

This is a direct giveaway of tax dollars to private interests of about $350 million.

Mr. Speaker, this bill would also authorize a new $50 million grant program for high-tech telecommunications equipment for medical and educational organizations, and that duplicates other Federal programs already in existence such as the Rural Development Administration.

Mr. Speaker, the legislation also includes language which would hold harmless distribution borrowers responsible for the financial problems of their system's generation and transmission plants of which they are voting members of the board of directors. The provision would obligate the agency to continue lending to the distribution borrowers, whether or not a GNT REA debt is being repaid. This provision highlights one particular State where the GNT in bankruptcy litigation owes the Government over $1.1 billion.

This legislation, if enacted with this provision, could weaken the Government's case and set a dangerous precedent for future situations. Other situations already exist in Indiana, in Arizona, and Louisiana, and the cost is estimated to the Government at perhaps $150 million or more.

Mr. Speaker, nearly 100 percent of all farms in rural areas now have reliable electric and telephone service at reasonable rates. REA electric and telephone utilities are by and large financially successful and stable and able to borrow in the private credit markets. Some are now large billion-dollar corporations that serve suburban areas.

REA lending has been heavily subsidized at a great cost to the taxpayer. This bill undermines the transition to private credit from Federal subsidies by financially strong borrowers. It increases the number of eligible borrowers, the amount of Federal subsidies to borrowers, the budget cost and borrowers' reliance on REA. This is another prime example, Mr. Speaker, of an originally highly needed and effective Federal program in 1936 that continues to live long after its objectives have been achieved. It gives private industry highly subsidized loans paid for by the taxpayers, and it undermines private credit markets.

The bill gives REA new and expanded life when we should instead be phasing the agency out. I would urge Members to oppose this unwise legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGLISH. Mr. Speaker, I yield 3 minutes to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Speaker, I thank the gentleman for yielding the time to me, and I rise to enter into a colloquy with the chairman of the subcommittee.

I say to the gentleman from Oklahoma [Mr. ENGLISH] the subcommittee chairman that the section of H.R. 5237 that addresses prepayment of REA loans by distribution borrowers is very important to the rural electric consumers in my district and in my State. It is my understanding that this provision is at no cost to the Federal Government. Is that also your understanding, I ask the gentleman from Oklahoma?

Mr. ENGLISH. If the gentlewoman will yield, yes, I agree that this section has no budgetary impact. In fact, in a hearing which I chaired on June 2, 1992, concerning this legislation, the gentlewoman from Indiana questioned then-acting REA Administrator Michael Liu on this very issue. And the Administrator's response was, and let me quote, "If the rate is at the cost of money to the Treasury at the discount for that specific portion, there would not be a budget impact."

Ms. LONG. I also have in front of me a letter concerning this legislation from the Congressional Budget Office dated July 23, 1992 that states "CBO also estimates no budgetary impact for the bill's provision related to discounted prepayments of certain REA loans."

Mr. Speaker, I also want to have verified for the Record that this legislation in no way allows distribution co-ops to get out of any other obligations that they have with the Federal Government, and that this provision has nothing to do with any ongoing or future litigation between the Justice Department and any REA borrower.

Mr. ENGLISH. This is correct. I might add, and I know the gentlewoman joins me in saying that we encourage the Justice Department to use all proper legal efforts to recoup any financial obligations to the Federal Government.

Ms. LONG. I thank the subcommittee chairman for clarifying these important points, for bringing the bill to the floor today, and I urge my colleagues to support the bill.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise in support of the bill for the purposes that the gentleman from Illinois has talked about, and that is reducing the size of the program.

Most people understand the role of the rural electric, and that is to provide power to areas of low density. Most areas are now served, but indeed there are many of these member-owned systems that still serve very low-density areas. In my State some as low as three users per mile. So there is a great difference in the systems, some more prosperous than others.

Many of us would like to see these loans be made on a more selective basis, and I agree with that. The purpose of this bill is designed to provide that opportunity for those systems to buy out their loans, to get their loans through the private sector, through CFC or other sources of credit. The bill was designed to give a loan accommodation. And I am sorry that has not continued to be a part of the bill in that that makes it possible for these systems to borrow money from outside with the loan accommodation to the rural electric loans.

OMB, for reasons that I do not understand, has long been opposed to the notion of selling out these loans, letting them buy them at a discount, and at the same time wishing that the program would get smaller. It seems to me that those are conflicting views, and if indeed, as has been the case in the past, the rural electrics have bought out their loans, have financed them in the private sector, and I favor that, and that is the design and the objective of this bill.

So Mr. Speaker, I urge my fellow Members to support this bill and to provide this opportunity.

Mr. PORTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania [Mr. SANTORUM].

Mr. Speaker, I thank the gentleman for yielding me the time.

I would say to the gentleman from Wyoming that if he wants to make the program smaller that I would not allow the 50 people who have sold out their loans 5 years ago back into the program. I mean, if your intent is really honest in reducing this program, you do not do what this bill is going to do for some future people to allow them to discount their loans, to get out, and then subsequently after they have gotten out let them back in for more money at subsidized rates. So I think there is a bit of disingenuousness here when we talk about reducing the size of the program when in fact we are letting people who have already supposedly healthy companies that already have gotten out to then come back in.

☐ 2000

The point that I want to make, and I want to commend the gentleman from Illinois for his fine statement in attacking point by point. The point that I just have to scratch my head about, and I would say to the chairman of the Committee on Agriculture, I am concerned about rural America. I think we need to help rural America as we do need to help urban America and all America.

What we have done, I think, with rural electric and particularly this bill is taken out a nuclear bomb when a BB gun is needed.

What we have not done is show where the priorities are in rural America, where the help is really needed, and gone after and tried to help those. What we have done is opened it up to Palm Beach, FL, and Falls Church, VA, and the list goes on.

In particular, the bill expands eligibility for telephone loans to small cities by making communities of 10,000 eligible for rural electric loans. This is a program that was just written up, these telephone loans, just written up in the Wall Street Journal about a year ago.

Let me read some of the telephone companies that have been operating under this rural electric provision, and now we want to expand this program. This is from a May 23, 1991, Wall Street Journal article, and it talks about:

> Dell Telephone Cooperative Inc., and REA borrower in remote West Texas, is still "struggling," its manager says, to keep 772 customers in 10,500 square miles of "cactus, rattlesnakes and scorpions" in touch with the Information Age. To hear June Barker, its assistant manager, tell it, though, she has a bigger challenge: how to invest the little co-op's mounting pile of cash—$5.8 million, at last report. I am trying to keep it local, but there isn't enough banks in my local community to invest it in.

And it goes on to say:

> Lured by the riches, big telephone holding companies are swallowing up many of their plump little country cousins. In the past three years, they have taken over more than 50 phone companies—and happily taken on their low-interest REA debts while going back for more. Last year, $183 million in REA telephone loans, almost half the total, were captured by just five companies, including four listed on the New York Stock Exchange.

This is hardly pinpointing problems in rural America.

> Telecommunications giant GTE Corp., for example, borrowed $42 million at 5 percent interest for its Micronesian subsidiary in the South Pacific—even though GTE wound up with $431 million in cash on hand after paying out $1.1 billion in 1990 dividends.

The story continues:

> In West Texas, Dell Telephone borrowed $703,000 at 5% interest two years ago to bring radio-telephone service to an isolated reach of the Rio Grande Valley. One new customer: a 103-year-old woman rancher. At the time, Dell had a hoard of $5.6 million in cash—$7,200 per customer.

Yet, they were able to go out and borrow $703,000 at 5 percent interest.

And it goes on, and it says:

> Few REA borrowers can match Guadalupe Valley Telephone Cooperative Inc., which still owes the government $5.4 million, for entrepreneurial verve and grandiose ambition. It has flourished without raising its local rate of $7.25 a month in 18 years, as commuters from growing San Antonio

> moved into the goat pastures and live-oak groves in the central-Texas Hill Country.
>
> Toll revenues have so enriched Guadalupe that its money managers must be on guard—against making too much money on investments. Otherwise, Guadalupe might, as a co-op, lose its tax-exempt status. At year end, its portfolio included $5.5 million in mortgage-backed securities and $3.4 million in bank deposits. To hold down taxable income, the managers put $6.7 million in tax-free bonds and stashed another $3.1 million in noninterest-bearing checking accounts.

I mean, these are the people we want to expand the program to. The story goes on and says that they tried to buy a failed savings and loan to hide some more of their assets some other places, but they could not do that. The regulators stopped them from doing that, so they had a fallback plan. Here is the fallback plan: They decided to share the wealth with the 15,000 member customers as never before.

> Last year, it doled out $3 million in so-called patronage credits; one customer with multiple access lines reaped an $8,000 windfall. This year will bring a $4.5 million bonanza, which averages out to $300 per customer, more than enough to cover the basic monthly rate.

So these people are going to get money back from the phone company, and yet we are going to try to expand the loan program. Some people who seldom call long distance will dial for free. I mean, and this is the program that we want to expand in this country.

Many telecommunications holding companies are faring as well as Guadalupe, partly because their newly acquired subsidiaries remain eligible for REA credit under a once-a-borrower, always-a-borrower ruling.

Thus, we have Hilton Head, and places like Palm Beach and places like Manassas and Falls Church who, once they qualified 50 years ago, when they were rural areas, can continue to have the money come raking on in at very low interest.

> The last half of the 1980s was a period of booming profits for holding companies, an REA analysis shows. Century Telephone's profits shot up 117% between 1985 and 1989, and Telephone & Data Systems posted a 93% increase. Thanks to REA subsidies, the holding companies, administration officials contend, are draining dollars out of rural America while saving on borrowing costs. In 1989 alone, the companies collected $439 million in dividends from their rural subsidiaries. GTE's Contel Corp. unit took $70 million out of a large California subsidiary.

This is a quote from the REA Administrator: "For every dollar we send to Main Street, these holding companies take $2.40 in dividends back to Wall Street." And we expand this program to include cities up to 10,000, and this game on Wall Street is going to continue.

This is a program that, as the gentleman from Illinois said, has outlived its livelihood in many, many ways. We need to narrow this program down. We need to focus in on where the problem is in rural America instead of doling out money, glad-handing through all of rural America.

That is only one of the provisions that we expand here. We asked for $50 million in grants to these same people. Now, these people that I have been describing here are going to be eligible for $50 million grants to improve access to telecommunications for health-care purposes.

Now, listen, I think people in rural America should have access to health care like anybody else, but the fact is that REA, as far as I know, and the gentleman can correct me, has never been a grant program. This is something brand new. And I will be happy to yield to the gentleman if he can tell me that it is. Is this a first-time grant? Have we ever given grants before?

Mr. ENGLISH. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I am afraid the gentleman has gotten way, way off the beat. This goes to the schools and to the hospitals under the program, and it is a matching program with the States.

Mr. SANTORUM. It is only in areas where cooperatives exist?

Mr. ENGLISH. Wait a minute, let me finish my statement. This has nothing to do with the telephone companies. The telephone companies receive none of these funds. It is for the communities. That is basically who it is directed to.

Mr. SANTORUM. Who is it administered through?

Mr. ENGLISH. If I could, it would be administered through the same person the gentleman is talking about that he is quoting so much that he seems to have so much faith in; namely, the administrator. It works then with the local communities, and the States have to put up money, and it has nothing to do with telephone companies.

I know the gentleman is enjoying his oratory talking about beating up on telephone companies, but this has to do with rural communities.

Mr. SANTORUM. Reclaiming my time, I am not beating up on telephone companies. I commend these people. I think this is wonderful that they can run their programs so efficiently and effectively that they can save millions of dollars. What they should not be doing is coming back to Washington to help us subsidize their very grand scheme of squirreling money aside and giving money back to their consumers. They should be put on an even footing as the people in my district who pay very high telephone rates, and people in my district who pay the third highest utility charges than any utility in the country and are in one of the most depressed areas, the steel valley areas of Pittsburgh, who cannot get the manufacturing back into their districts, as I am sure the gentlewoman from Cleveland will tell you, cannot get them back here because of high utility rates and because of the problems that are facing us, and yet we are subsidizing all those plants moving south for lower utility rates subsidized by rural electric.

I just think, when it comes to this, and as I mentioned before, about letting people back into the system who were given the opportunity at a discounted rate to get out, because they, as the gentleman from Wyoming said, these were companies that have gotten big and made profits, and so according to the gentleman from Wyoming, they decided to buy out. Now we are going to let them come back in and get some more at the trough.

I just think, you know, this program has gotten out of hand. We need to focus our resources, and maybe some means-testing is necessary.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, let us try to get back to reality a little bit. If the people who are opposed to this legislation think rural America is like Palm Beach, FL, we have got an educational process that has broken down around here, because we are not talking about that. We are talking about the small towns in north Missouri that are going without.

I would invite both of these gentlemen to north Missouri. They want to talk about Palm Beach being eligible under this bill, well so will Trenton, so will Maryville, so will Albany, and he talks about the things that the urbanites do not get. I represent a district that is half urban-suburban and half small towns, so I can talk about both of them with some clarity and understanding, and when I make a call in Kansas City, 70 miles away into Kansas in the metropolitan area, I do not pay any fee or charge or additional toll.

□ 2010

But if you go up to Bethany, MO, in Harrison County and call 15 miles down the road to Albany, you pay a toll, because you are on a rural telephone system, and it probably will not be a private call, either. It will probably be multiparty, people listening in to your conversation because they do not have the ability like the other telephone companies to have single line service.

To hear the gentleman talk about this bill, you would think that the national debt would grow by the hundreds of billions of dollars. If I am not mistaken, the Office of Management and Budget has said that this bill costs nothing. If I am wrong about that, I hope the gentleman brings that out and shows me those CBO figures, because my understanding is that CBO has scored this as zero.

This is not Palm Beach, FL. This is depressed rural America that needs jobs and needs a telecommunications system that can bring it about.

The gentleman from Oklahoma [Mr. ENGLISH] has cited the requirements. While we are proud of our educational system out in rural America, we know it can be improved. He is seeing firsthand what the university can do down in Oklahoma to provide foreign language programs not just to his State, but to other States around the rural areas, because they do not have the money to hire somebody to teach German or another foreign language, but they have got that at the university. They can put it on satellite. They can go through the telephone system, a whole lot of technology going on.

Talk about the rural hospitals, yes, we have rural hospitals. When we fought for so long to get equalization on reimbursement on Medicare, some of them can actually keep their doors open. It was not always that the rural hospitals got the same amount of reimbursement that the urban hospitals got on the same Federal program.

Now, was that fair when we had to compete with those same individuals or personnel and pay them to the urban hospitals?

The SPEAKER pro tempore (Mr. HUTTO). The time of the gentleman from Missouri has expired.

Mr. COLEMAN of Missouri. I yield myself 1 additional minute.

Our rural hospitals need better equipment and better telecommunications systems. We are talking about lifesaving equipment.

Now, maybe some people can get up and make fun about that. They can go down and belittle the program that has brought telephones and communications to people whose lives are probably not just enriched every day, but probably saved every day.

We can always talk about the exceptions. We can get the Wall Street Journal articles. I bet I could get an article on every program the Federal Government has and make it look foolish.

We are talking about the broad brush of things here on what we are trying to accomplish.

Every program we have in the Federal Government can be improved upon. We need to improve the programs, but I do not think making generalized statements and extracting and extrapolating, using these code words, Palm Beach. What do we connote with Palm Beach? If I said Carrollton, would anybody think what that would be? It is the county seat of Carroll County in northwest Missouri.

So let us get on with the business. I support this bill.

Mr. PORTER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I would say to the gentleman from Missouri, if he would listen to my comments, my comments were not damning the entire program. My comments were that there is obviously a need for reform. There is nothing in this bill that does anything about reform. In fact, it goes the other way. It expands the program.

What we need to do here is to start narrowing the focus of the program to hit the Carrolltons, to hit the areas that are really hurting.

We used Palm Beach, and I apologize if that was a code word. It was a code word that was unknown to me before I got up here.

But what I will say is that there are a lot of communities who could qualify under this program who are not in need of the program, but yet can get in the queue just like everybody else and try to get money at the trough. That is what I am saying, if we are going to expand this program, which may be necessary in the form of hospitals and may be necessary in the form of communications, we should do so in a way that we target the areas of need. We do not have the money and resources, No. 1, to do it any other way.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. PORTER. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. If the problem is, as many times it is said, that we are squeezing out the Carrolltons and the areas that are really in trouble by allowing these big corporations and other very healthy REA places to get in there and get these loans, then the problem is one that needs to be addressed, and that is all I was saying to the gentleman.

There is nothing in this legislation that I can see that addresses that problem.

Mr. ENGLISH. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I am happy to yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Speaker, the gentleman again is in error in what he is saying. I just want to state that flat out.

The point, No. 1, the prepayment provisions are exactly that, to give people the opportunity to pay off their loans and get out of the program.

Mr. SANTORUM. And let them back in again.

Mr. ENGLISH. Mr. Speaker, if the gentleman will let me continue, that is exactly what the gentleman says that he wants to do. That is fine.

The second thing, as far as anyone coming back in, one of the requirements for them to come in is every dollar of cost there is to the Federal Government, the cost to the Federal Government for getting out and trying to come back in, those people have to pay.

Mr. SANTORUM. I have an administration policy letter that says in fact the cost of letting these people out was $299 million and that cost today if they were to pay back the undiscounted portion would be roughly $350 million. Those are the figures I have.

Mr. ENGLISH. The prepayment provision, it states in there, the cost to the Department of the Treasury, that is what we are costing, whatever it costs the Treasury for these people whenever they prepay and get out, for them to come back in, that is what they are going to have to pay. It is a penalty for them. They go to the very bottom of the list. I doubt there will be many that will want to do it, to be honest with you. There were 30, not 50.

Mr. SANTORUM. Those are numbers we have from the administration, and that is one of the reasons the Administration is opposing this program, because these people were supposed to be out permanently. That was the deal.

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. ENGLISH] has 1 minute remaining, and the gentleman from Missouri [Mr. COLEMAN] has 4 minutes remaining.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 3 minutes, if the gentleman needs it, to the gentleman from Oklahoma [Mr. ENGLISH].

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. ENGLISH] is recognized for a total of 4 minutes.

Mr. ENGLISH. Mr. Speaker, to try to put this back into perspective, the gentleman from Pennsylvania talked a good deal about large companies cash on hand, and things of that sort. One year ago we heard reports along those leins. In fact, the very Wall Street Journal that the gentleman referred to caused this subcommittee, the subcommittee that I chair to have a hearing. We brought the Administrator up. We asked him about excessive funds. We asked him to identify those companies with excessive funds. He could not do it, or did not do it or would not do it, for whatever reason. That is Mr. Burns, the gentleman that was being quoted.

We asked the General Accounting Office to conduct a survey to identify, if they could, companies that had excessive funds, or why they had large amounts of funds on hand. They conducted their survey and reported back to us. The companies that they surveyed, and they took those with the largest amounts on hand, they could not identify a single one that they said had excessive funds.

Do you know why they had funds on hand? Some were beginning projects. They were just beginning to build projects.

Others felt that the program was going to be shut down and they were saving up their money because they felt they were desperately going to need it in the future.

We had many who had conservative boards; but of the kind of extreme situations the gentleman is referring to, we did not get any of those kinds of reports from the General Accounting Office, and no abuse in those particular areas.

As far as any grants are concerned, that is subject to appropriations and that goes directly to the communities that are involved, to the hospitals and to the schools that would be involved, none here.

The program itself, let me say, the gentleman referred to some of the other programs we have in the Federal Government. This program since it has been in for the telephone companies, and that is what the gentleman was making reference to, since 1949 there has not been a single one of those loans go bad, not a single one.

Would we not like to see that kind of record for much of the other borrowing that is taking place in the Federal Government?

And let me say with regard to subsidies, and that is really the only thing we are talking about. It is my understanding that the subsidy for the telephone program is something like $7 million a year.

Now, when we start looking at some of the utilities in the urban areas, and the gentleman was talking about utilities, I just kind of wonder how many tax breaks do we have going to those utilities as opposed to some of these small programs aimed at rural America, trying to benefit rural America.

Maybe the gentleman would do far better if he is interested in saving money or certainly protecting the taxpayer if he looked at some of the other programs, those that hit some of the more urban areas of this country.

I really find difficulty in understanding why the gentleman wants to destroy a program that has been successful, a program that we are simply trying to expand to bring better health care and better education to the rural communities of this country, one that is costing $7 million.

□ 2020

Does that really justify all the blunderbuss that we heard today against this program? You know, let us face it, philosophically the gentleman is opposed to the program. Philosophically, the administration is opposed to the program. They have told us that privately. There is not really a cost here, they are just opposed to the program. They do not like it, they do not want it expanded.

So let us come out and talk about it in reality. But we think both Democrats and Republicans in the House Agriculture Committee which represent rural areas, we think rural America should have a chance, we think that our rural schools and rural hospitals should have some level that is comparable to the urban areas. We think you ought to be able to hook up a fax machine, as far as some of the rural areas of this country are concerned. Certainly we think we should be able to have a 9-1-1 service in some of the rural communities and be able to have credit card verification.

You know, right now about all we have got is an Andy Griffith party line, and you are trying to tell us that we should not be able to improve it. I think that is sad, Mr. Speaker.

Mr. PORTER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I would say to the gentleman that, No. 1, I appreciate his stating that this bill does expand the program, as he said in his closing remarks. It does expand the program, No. 1.

No. 2, if it is so lucrative to run a private utility, then why are not the REA people getting off and doing the same thing as the private utility companies are doing? If the breaks are that good for private utilities, then why do they not just classify themselves as a private utility and do that?

The problem is the breaks are not as good as they are with the private utility. Two-percent loans and 5-percent loans are unheard of for a lot of these private companies.

The point is this is a program that has gone wild in a lot of areas that do not need this kind of subsidy.

All I am trying to do—I am concerned about those people who decide to live hundreds of miles from civilization and have to use a party line. I am sorry if they have to use a party line, if they choose to live a hundred miles away from technology because they want to get away from it. They should not come to the Federal Government complaining about having no technology there.

So I mean there is a point where this becomes a little bit ridiculous.

So my sense is that as long as we are cleaning up some basic standards for these people, No. 1, and No. 2, we are taking and targeting the poor areas, that is what we need to be doing.

Mr. PORTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me say we are not opposed to rural areas of our country having the opportunity for electric or telephone service. The question is who is going to pay for it? Not whether they should have it or not. This program is in existence since 1936, 56 years ago. One hundred percent of all farms in rural areas have adequate, reliable electric and telephone service. How long do we continue to pay these subsidies? Can we afford a $50 million program for any program for any purpose. I am an appropriator.

The answer to that is I do not think so. If you are telling me this costs $7 million a year, I will tell you it costs billions of dollars per year for the appropriation for the REA. It is not a small program, it is a huge program.

Finally, let me say that, sure, 2-percent loans do not go bad. Who would let a 2-percent loan go bad? Obviously, they are extremely desirable in a time of high interest rates.

Finally, Mr. Speaker, I believe that the Department of Agriculture will recommend to the administration that if this bill is adopted, that it be vetoed by the President.

Mr. COLEMAN of Missouri. Mr. Speaker, I would yield myself the balance of my time just to say for the record that rural areas, please include us in civilization. You know, if we live 100 miles from a city, you are not civilized? That is not right. I do not think the gentleman really meant to say that. Maybe he does; let him say it.

He would be awfully wrong if he did. If he intended to say that people who do not live in urban areas are not civilized, that is.

The point of the matter is that we have a philosophical difference here. I can appreciate and understand why some people from the Chicago area and from other areas that do not have some rural communities and constituencies would not appreciate, understand, be aware of the needs that we feel exist.

Therefore, they have opposed the REA in the past, the same people who wanted to, I think, eliminate the whole program. It is not just this bill. It is a philosophical difference.

I do not have any time remaining, but I would like to thank the gentlemen who participated, because they had a good faith argument. But we have on our side, I think, truth and civilization is on our side.

Mr. DE LA GARZA. Mr. Speaker, in my remaining time I would like to say we cannot legislate from newspaper articles. We have to get the facts. We cannot use code words. We cannot say 2-percent loans when they are not making any 2-percent loans. The fact is that this program—and my distinguished colleague from Missouri [Mr. COLEMAN] very eloquently expressed it—it is a philosophical difference. But this great experiment was started, and it has worked, and it is still continuing to work. The unfortunate thing is that there is still need. There are in my congressional district places where they are without telephone, without power. Saying that, "There was an article that says that one company went astray and had some money," or did not have some money, that may well be true. We are not denying that there are or have been an abuse here or an abuse there. But the oversight continues, and the commitment continues, and this is our commitment to rural America.

Mr. SMITH of Oregon. Mr. Speaker, I rise to speak about H.R. 5237, the Rural Electrification Administration Act of 1992.

This legislation includes the original language of H.R. 5237 and H.R. 5238, the Revitalization of Health and Education in Rural America Act of 1992. H.R. 5237 contains a number of provisions suggested by the rural electric and telephone cooperatives for Oregon and from across the Nation.

The bill language on lien accommodation was intended to provide incentives to electric borrowers to seek lending from alternative private sources, thus allowing greater use of increasingly-sought-after Rural Electrification Administration loan funds. However, due to budget scoring considerations, this provision has been deleted for the H.R. 5237.

Language was included that permits Rural Electrification administration borrowers to repay their REA loans at a discount based upon the current cost of money to the Federal Government. This will allow and encourage REA borrowers to sever their borrowing relationship with the Government and pursue funding in the private sector. These borrowers would not be allowed to seek REA loans for a 5-year period.

The committee has trimmed other provisions, such as the clarification of the treatment of rural telephone bank credit by removing from credit reform, simply because of cost consequences.

H.R. 5237 creates a new grant program, subject to appropriations, intended to utilize telecommunications technology to improve educational and health care services in our rural communities. During subcommittee consideration, we removed a provision that would have incurred additional spending by extending interest rate subsidies to borrowers participating in the program. Again, the committee has recognized its fiscal responsibility by foregoing this feature of the legislation.

Mr. Speaker, every effort has been made to streamline the original proposals that make up this bill and to minimize its costs. I urge each member to give H.R. 5237 thoughtful consideration.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 5237, the Rural Electrification Administration Improvement Act. This bill recognizes the immense value of telecommunications technology to rural health care providers and, most importantly, their patients.

The number one concern among my rural constitutes is access to affordable and complete health care. By providing grants designed to help rural health care providers "network" their telecommunications systems, this bill seeks to address both concerns.

By stimulating the "networking" of rural health care facilities, H.R. 5237 will promote cost-sharing among rural hospitals, community health centers, and tertiary care facilities. Most importantly, this bill will enable rural health care providers to have access to the latest in medical technology by linking these providers with the medical technology and health care providers from the larger metropolitan facilities.

Using the same method of providing a grant for several institutions to network their telecommunications systems, H.R. 5237 also will enable rural educational institutions to share library resources, utilize national and State databases, and greatly expand the students' choice of curriculums. With the help of these grants, for example, students at Tri-County Consolidated School near DeWitt, in Nebraska could read about international events in foreign periodicals, and through enhanced telecommunications, they could learn from the best scholars in all subjects.

Finally, Mr. Speaker, H.R. 5237 makes several important improvements to the Rural Electrification Act. By providing greater flexibility to rural electric cooperatives through lien accommodation and loan prepayment programs, this bill seeks to facilitate the transition of rural electric cooperatives from public to private financing. In addition, these improvements will help to ease the backlog in current REA loan applications by opening alternative avenues of financing.

Mr. Speaker, this Member supports the passage of H.R. 5237 and also encourages other Members to vote for this legislation.

Mr. GUNDERSON. Mr. Speaker, most Americans, no matter where they live, can get reasonably priced electric service because of the Rural Electrification Act of 1936. This is especially true in my home State, Wisconsin. The electric co-ops today have the responsibility for providing electric service to more than half of the State's rural population. As important as rural cooperatives are in providing power to agricultural, commercial, and recreational areas, they also contribute to the overall State economy as businesses in their own right. Last year Wisconsin rural electric cooperatives paid $3.9 million in total taxes and more than $10.7 million was paid out in interest.

While the Rural Electrification Program has been highly successful, the work is not completed. Each year, rural electric systems are required to borrow funds to make critical improvements and to expand their systems. Today we pass the Rural Electrification and Improvement Act designed to encourage investment in economic development and to eliminate barriers caused by the vastness of space and distance often associated with communities in rural areas.

This legislation includes a buyback provision which allows cooperatives to buy out their REA loans at a discounted rate. This will help cooperatives that are able and interested, to seek private sources at no cost to the Government. This provision would allow the highly successful Federal-private partnership already in place to run even better.

In addition, this legislation would establish a grant program to help rural communities modernize their telecommunication infrastructure by providing grants to qualified health and education consortia. These grants could be used for such beneficial projects as improving health care services, transmitting x rays and patient records, developing innovative education programs, and sharing library resources.

I plan to continue to work with the committee and the rural cooperatives to build on this legislation and explore ways to reduce barriers to access to private sources of credit and to streamline the accommodation review process.

Mr. MARLENEE. Mr. Speaker, I rise in support of H.R. 5237, the Rural Electrification Administration Improvement Act.

I can remember only too well the Dark Ages—the days before the REA brought electricity to the farm. I grew up in a small tarpaper shack in Daniels County not far from the Canadian border and how could I forget the day that they came to hook up our farm? Electricity was magic to those of us who grew up without it.

Rural America owes a lot to the REA's. No more use for a hand pump to bring cold water out of the ground to heat on the woodstove. No more need for those dangerous kerosene lanterns. No more need for batteries in the root cellar.

REA's continue to serve their communities well. In addition to affordable electricity, many of them now provide reliable telecommunications service.

In my State of Montana, there are 26 individual cooperatives serving nearly 100,000 rural Montanans. That's no small change. It accounts for over 10 percent of our State's population. Nationwide, 936 rural electric distribution systems across 75 percent of America's landmass directly serve 25 million Americans.

The fact is, rural America could not survive without the REA's. That is why I strongly support this bill.

H.R. 5237 helps put REA's on a level playing field with their counterparts. In simple terms, it allows them to do what any American is free to do: borrow money from the private sector.

By freeing cooperatives to obtain private financing if they so desire, other cooperatives who cannot afford private financing will have a better shot at REA loans. There exists right now a backlog of $745 million in insured electric loan applications. And a recent industry survey indicated that the demand for insured electric loans may increase by 18 percent next year.

These are loans that are vital to the future of REA's. Without them, rural development will be at risk.

The language in this bill is intended to lessen demand for REA loans by authorizing REA borrowers to pay off outstanding indebtedness on the condition they will not be eligible for further REA financing for 5 years.

Co-ops who prepay their loans will be able to do so at the same rate that Government pays.

Moreover, I point out that H.R. 5237 will be enacted at no cost to the taxpayer. Cost provisions have been stripped out of the bill.

H.R. 5237 also contains provisions that will enhance telecommunications in rural America, thereby boosting educational and health opportunities for these people. The bill allows telecommunication links between urban and rural schools or hospitals. Clearly, space and distance are two major barriers to modern health care and education opportunities in these areas. H.R. 5237 will help overcome those barriers.

REA's are one of America's greatest success stories and I urge my colleagues to help maintain that success by passage of this important legislation.

The SPEAKER pro tempore (Mr. HUTTO). All time has expired.

The question is on the motion offered by the gentleman from Texas [Mr. DE

LA GARZA] that the House suspend the rules and pass the bill, H.R. 5237, as amended.

The question was taken.

Mr. PORTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill that was presently under consideration, H.R. 5237, and also on H.R. 4906 which was passed earlier today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXPORT-IMPORT BANK CHARTER RENEWAL ACT OF 1992

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5739) to reauthorize the Export-Import Bank of the United States.

The Clerk read as follows:

H.R. 5739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Export-Import Bank Charter Renewal Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CHARTER RENEWAL

Sec. 101. Declaration of policy.
Sec. 102. Extension of authority of the Export-Import Bank.
Sec. 103. Reauthorization of the Tied Aid Credit Fund.
Sec. 104. Increase in aggregate loan, guarantee, and insurance authority of the Export-Import Bank.
Sec. 105. Use of loan guarantees.
Sec. 106. Report on export policy.
Sec. 107. Financing and marketing study.
Sec. 108. One stop financing shops.
Sec. 109. Insurance-related business stemming from bank activities.
Sec. 110. Conditional allowance of assistance for exports to Angola.

TITLE II—OTHER PROVISIONS

Sec. 201. Appointment and compensation of bank personnel.
Sec. 202. Increase in membership of advisory committee.
Sec. 203. Elimination of limitations on financing for exports to the Soviet Union.
Sec. 204. Financing of high technology exports to emerging democracies.
Sec. 205. Report on demand for trade finance for the Baltic states, the Soviet Union and its successor states, and central and eastern Europe.
Sec. 206. Export-Import Bank financing of sales of defense articles or services.
Sec. 207. GAO study of the participation of the Export-Import Bank in sales of defense articles and services to foreign countries.
Sec. 208. Study on competitive effects of requiring exports financed by the Export-Import Bank to be carried on United States flagged vessels.
Sec. 209. Assistance for exports by small businesses.
Sec. 210. Effective date.

TITLE III—ENTERPRISE FOR THE AMERICAS INITIATIVE

Sec. 301. Purpose.
Sec. 302. Definitions.

Subtitle A—Enterprise for the Americas Facility

Sec. 311. Establishment.
Sec. 312. Purpose.
Sec. 313. Eligibility for benefits under the facility.

Subtitle B—Sales, Reductions, or Cancellations of Loans

Sec. 321. Loans eligible for sale, reduction, or cancellation.
Sec. 322. Authorization of appropriations.
Sec. 323. Deposit of proceeds.
Sec. 324. Eligible purchaser.
Sec. 325. Debtor consultation.

Subtitle C—Reports and Consultations

Sec. 331. Annual report to and consultations with Congress.

TITLE I—CHARTER RENEWAL

SEC. 101. DECLARATION OF POLICY.

The Congress finds that—

(1) as the world's largest economy, the United States has an enormous stake in the future of the global trading system;

(2) exports are a crucial force driving the United States economy;

(3) during 1991, the value of United States exports increased by 7.1 percent from the 1990 level to $421,600,000,000, supporting more than 7,000,000 full-time United States jobs, and affecting the lives of all of the people of the United States;

(4) exports also support the global strategic position of the United States;

(5) a significant part of a country's influence is drawn from the reputation of its goods, its industrial connections with other countries, and the capital it has available for investment, and trade finance is a critical component of this equation;

(6) the growth in United States exports has increased the demand for financing from the Export-Import Bank of the United States;

(7) during 1991, the value of exports assisted by the Export-Import Bank rose 28.7 percent, from $9,700,000,000 to $12,100,000,000, the highest level since 1981;

(8) the Export-Import Bank used its entire budget authority provided for 1991, and still could not meet all of the demand for its financing assistance; and

(9) accordingly, the charter of the Export-Import Bank, which is scheduled to expire on September 30, 1992, must be renewed in order that the Bank continue to arrange competitive and innovative financing for the foreign sales of United States exporters.

SEC. 102. EXTENSION OF AUTHORITY OF THE EXPORT-IMPORT BANK.

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "1992" and inserting "1997".

SEC. 103. REAUTHORIZATION OF THE TIED AID CREDIT FUND.

(a) REAUTHORIZATION.—Section 15(e)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(e)(1)) is amended by striking "and 1992" and inserting "through 1997".

(b) TECHNICAL CORRECTION.—Paragraph (7) of section 101(b) of the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2494), and the amendment made thereby, are hereby repealed, and the Export-Import Bank Act of 1945 shall be applied and administered as if such paragraph had never been enacted.

SEC. 104. INCREASE IN AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY OF THE EXPORT-IMPORT BANK.

Section 7(a)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)(1)) is amended by inserting "in fiscal year 1992, $45,833,333,333 in fiscal year 1993, $51,666,666,666 in fiscal year 1994, $57,500,000,000 in fiscal year 1995, $63,333,333,333 in fiscal year 1996, and $69,166,666,666 in fiscal year 1997" after "$40,000,000,000".

SEC. 105. USE OF LOAN GUARANTEES.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended in the fifth sentence by inserting after the first semicolon the following: "that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990;".

SEC. 106. REPORT ON EXPORT POLICY.

(a) IN GENERAL.—The Export-Import Bank of the United States shall—

(1) not later than May 31 of each year, submit to the Congress a report on the relationship of export financing to the strategic position of the United States on exports of goods and services; and

(2) not later than June 30 of each year, appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives to testify on issues addressed in the report.

(b) CONTENTS.—

(1) IN GENERAL.—Each report under subsection (a) shall address—

(A) the state of the competitiveness of United States export financing, focusing, in particular, on the efforts of the Bank and other United States export financing agencies;

(B) the implementation of the strategic plan developed by the Trade Promotion Coordinating Committee;

(C) other specific recommendations of the Bank to improve the United States balance of trade; and

(D) the adequacy of Government export financing programs and recommendations for improving such programs.

(2) POLICY BASIS FOR REPORTS.—Portions of each report under this section may incorporate or be based on relevant reports and testimony produced by the Export-Import Bank of the United States or other agencies, but the policy views shall be those of the Bank.

SEC. 107. FINANCING AND MARKETING STUDY.

(a) FINANCING AND MARKETING COMMITTEE.—

(1) ESTABLISHMENT.—The Export-Import Bank of the United States, in consultation with the Secretary of the Treasury and other appropriate Federal departments and agencies, shall establish a committee to be known as the Financing and Marketing Committee (in this section referred to as the "Committee").

(2) MEMBERSHIP.—The Committee shall consist of the following members:

(A) The President and Chairman of the Bank, who shall be the chairperson of the Committee.

(B) 6 individuals appointed by the chairperson of the Committee from among representatives of depository institutions, State and local offices which promote trade and exports, senior executives of small private firms capable of exporting intangible goods and services, and consultants on export policies.

(3) PROHIBITION AGAINST COMPENSATION.—The members of the Committee may not receive compensation by reason of their service on the Committee.

(b) STUDY.—The Committee shall conduct a study designed to identify policies which, if implemented by the Export-Import Bank of the United States, would facilitate the export of intangible goods and services.

(c) REPORT.—

(1) IN GENERAL.—Before the end of the 2-year period beginning with the date of the enactment of this Act, the Committee shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results of the study required by subsection (b).

(2) CONTENTS.—The report referred to in paragraph (1) shall include—

(A) an analysis and review of the foreign market potential for the products and services of United States high technology firms and other firms capable of exporting intangible goods and services;

(B) an analysis of the export financing needs of such firms;

(C) an identification and review of the practices used by commercial lenders to finance the sale of intangible goods and services in the United States;

(D) an identification and evaluation of the effectiveness of the programs of the member countries of the Organisation for Economic Cooperation and Development for financing the export of intangible goods and services;

(E) a review of the evaluation and lending guidelines of the Export-Import Bank to determine if the guidelines are appropriate for meeting the needs of such firms; and

(F) recommendations on how the Bank can market its assistance to such firms.

SEC. 108. ONE STOP FINANCING SHOPS.

The Export-Import Bank Act of 1945 (12 U.S.C. 635-635i-4) is amended by adding at the end the following:

"SEC. 17. COOPERATION ON EXPORT FINANCING PROGRAMS.

"The Bank shall, subject to appropriate memoranda of understanding—

"(1) provide full and current information on all of its programs and financing practices to—

"(A) the Small Business Administration and other Federal agencies involved in promoting exports and marketing export financing programs; and

"(B) State and local export financing organizations that indicate a desire to participate in export promotion;

"(2) undertake a program to provide training for personnel designated in such memoranda with respect to such financing programs; and

"(3) cooperate with the Small Business Administration, such other Federal agencies, and such State and local organizations in colocating personnel of such agencies and organizations at the same sites in offices throughout the country so that potential exporters may obtain, through a 'one-stop shop', working capital to produce products or services for export, and financing and insurance for the export of such products or services.".

SEC. 109. INSURANCE-RELATED BUSINESS STEMMING FROM BANK ACTIVITIES.

Section 2(d) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(d)) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) In the case of any long-term loan or guarantee of not less than $10,000,000, sought from or provided by the Bank in connection with the financing of an export to a foreign country, the Bank shall seek to ensure that the foreign country accords United States insurance companies a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction with respect to which such loan or guarantee is provided.

"(3) If the Bank becomes aware that a fair and open competitive opportunity is not available to any United States insurance company in a foreign country with respect to which the Bank is considering a loan or guarantee, the Bank—

"(A) may approve or deny the loan or guarantee after considering whether such a denial would be likely to insure that the foreign country accords fair and open competitive opportunities to United States insurance companies; and

"(B) shall forward information regarding any foreign country that denies United States insurance companies a fair and open competitive opportunity to the Secretary of Commerce and the United States Trade Representative for consideration of a recommendation to the President that access to export credit of the United States for such country should be restricted.

"(4) If the Bank approves a loan or guarantee notwithstanding information confirming denial of competitive opportunities for United States insurance companies, the Bank shall forward such information to the United States Trade Representative who shall include notice of such approval and the reason for such approval in the annual report on significant foreign barriers as required by section 181 of the Trade Act of 1974.

"(5) For purposes of this section:

"(A) The term 'United States insurance company'—

"(i) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized (or in the case of a holding company, subsidiaries of which are authorized) by a State to engage in the business of issuing insurance contracts or reinsuring the risk under-written by insurance companies; and

"(ii) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in clause (i).

"(B) The term 'fair and open competitive opportunity' means, with respect to the provision of insurance by a United States insurance company, that the company—

"(i) has received notice of the opportunity to provide such insurance; and

"(ii) has been evaluated for such opportunity on a nondiscriminatory basis.".

SEC. 110. CONDITIONAL ALLOWANCE OF ASSISTANCE FOR EXPORTS TO ANGOLA.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended—

(1) in paragraph (2)(B)(ii), by striking "People's Republic of Angola.";

(2) by striking paragraph (11) and redesignating paragraph (12) as paragraph (11); and

(3) in paragraph (11), as so redesignated, by striking "Notwithstanding any determination by the President under paragraph (2) or (11), the" and inserting "The".

TITLE II—OTHER PROVISIONS

SEC. 201. APPOINTMENT AND COMPENSATION OF BANK PERSONNEL.

Section 3(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)) is amended by adding at the end the following:

"(9) APPOINTMENT AND COMPENSATION OF PERSONNEL.—The Board of Directors shall fix the compensation of, and appoint and direct, employees of the Bank other than the directors. The Board may set and adjust rates of basic pay for such employees without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code. The Board of Directors may provide additional compensation and benefits to employees of the Bank if the same type of compensation or benefits are then being provided by any Federal bank regulatory agency or, if not then being so provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Bank, the Board of Directors shall, in consultation with the Federal bank regulatory agencies, seek to maintain comparability with the total amount of compensation and benefits provided by such agencies to employees of such agencies, except that the Board shall not apply this sentence to reduce the total amount of compensation and benefits provided to any employee as of the date of the enactment of this paragraph.".

SEC. 202. INCREASE IN MEMBERSHIP OF ADVISORY COMMITTEE.

Section 3(d)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)(1)(A)) is amended by striking "twelve" and inserting "15".

SEC. 203. ELIMINATION OF LIMITATIONS ON FINANCING FOR EXPORTS TO THE SOVIET UNION.

Section 2(b)(2)(B)(ii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)(B)(ii)) is amended by striking "Czechoslovak Socialist Republic.", "Estonia.", "German Democratic Republic.", "Hungarian People's Republic.", "Latvia.", "Lithuania.", "People's Republic of Albania.", "People's Republic of Bulgaria.", "Polish People's Republic.", "Socialist Federal Republic of Yugoslavia.", "Socialist Republic of Romania.", and "Union of Soviet Socialist Republics (including its captive constituent republics).".

SEC. 204. FINANCING OF HIGH TECHNOLOGY EXPORTS TO EMERGING DEMOCRACIES.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is amended by adding at the end the following:

"(H)(i) It is further the policy of the United States to foster the development of democratic institutions and market economies in countries seeking such development, and to assist the export of high technology products and services to such countries.

"(ii) In exercising its authority, the Bank shall develop a program for providing loans, guarantees, and insurance with respect to the export of high technology products and services primarily to eligible East European countries (within the meaning of section 4 of the Support for Eastern European Democracy (SEED) Act of 1989).

"(iii) Up to $125,000,000 of the amounts available for the loan, guarantee, and insurance programs of the Bank may be used to carry out the program described in clause (ii).

"(iv) As part of the ongoing marketing and outreach efforts of the Bank, the Bank shall, to the maximum extent practicable, inform high technology companies, particularly small business concerns (as defined in section 3 of the Small Business Act), about the programs of the Bank for United States companies interested in exporting high technology products and services to any eligible East European country (within the meaning of section 4 of the Support for Eastern European Democracy (SEED) Act of 1989).

"(v) In carrying out clause (iv), the Bank shall—

"(I) work with other agencies involved in export promotion and finance; and

"(II) invite State and local governments, trade centers, commercial banks, and other appropriate public and private organizations to serve as intermediaries for the outreach efforts.".

SEC. 205. REPORT ON DEMAND FOR TRADE FINANCE FOR THE BALTIC STATES, THE SOVIET UNION AND ITS SUCCESSOR STATES, AND CENTRAL AND EASTERN EUROPE.

(a) FINDINGS.—The Congress finds that—

(1) United States export participation in the emerging markets in the former Soviet Union, central and eastern Europe, and the Baltic states holds definite potential for preserving and creating jobs in the United States and strengthening the competitiveness of United States exports;

(2) export assistance for United States goods destined for emerging republics is an investment in the development and establishment of their market economies, a critical element in maintaining existing United States businesses which export to the regions in which such republics are located, and a significant factor in the economic future of the United States and such republics;

(3) the Export-Import Bank of the United States has a unique opportunity to play a leading role in assisting United States exporters to participate in the rapidly changing and highly competitive markets in the former Soviet Union, central and eastern Europe, and the Baltic states;

(4) it is in the interest of the United States for the Export-Import Bank of the United States to—

(A) monitor carefully the export assistance programs and terms offered by foreign governments for competitive exports; and

(B) make every effort to offer United States business export assistance for transactions in the former Soviet Union, central and eastern Europe, and the Baltic states, that is comparable to the assistance being provided by other governments.

(b) REPORT.—Not later than December 31, 1992, the Export-Import Bank of the United States shall transmit to the Congress a report analyzing the present and future demand for loans, guarantees, and insurance for trade between the United States and the Baltic states, between the United States and the Soviet Union, and between the United States and central and eastern Europe, and shall make recommendations for the promotion of trade between the United States and such countries. As used in this section, the term "Soviet Union" includes all successor states (other than the Baltic states) to the Soviet Union.

SEC. 206. EXPORT-IMPORT BANK FINANCING OF SALES OF DEFENSE ARTICLES OR SERVICES.

(a) EXTENSION OF AUTHORITY.—Section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)(vi)) is amended by striking "1992" and inserting "1994".

(b) ADDITIONAL CRITERIA FOR NATIONAL INTEREST WAIVER.—Section 2(b)(6)(D)(i) of such Act (12 U.S.C. 635(b)(6)(D)(i)) is amended—

(1) by striking "and" at the end of subclause (I);

(2) by redesignating subclause (II) as subclause (III); and

(3) by inserting after subclause (I) the following:

"(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and".

(c) CONFORMING AMENDMENTS.—Section 2(b)(6) of such Act (12 U.S.C. 635(b)(6)) is amended—

(1) in subparagraph (A), by striking "and defense services" and all that follows through "progress" and inserting "or services to any country";

(2) in subparagraph (B)—

(A) by striking ", and section 32 of the Arms Export Control Act,";

(B) in clause (iii), by striking "481(h)(5)" and inserting "490(e)"; and

(C) in clause (v), by striking "and services" and inserting "or services";

(3) in subparagraph (C)(ii), by striking "defined in section 481(i)" and inserting "determined under section 490(h) or 481(e), as appropriate,";

(4) in subparagraph (D)(i)(III), as so redesignated by subsection (b) of this section, by striking "determination has" and inserting "determinations have";

(5) in subparagraph (D)(ii), by striking "sentence" and inserting "clause";

(6) in subparagraph (E), by striking "security assistance for purposes of section 502B" and inserting "assistance under the Foreign Assistance Act of 1961 for purposes of section 691(a)(2) of that Act"; and

(7) in subparagraph (G)—

(A) by striking "subparagraphs (B), (C), (D), and (F)" and inserting "this paragraph"; and

(B) by striking "and services" and inserting "or services".

(d) REPEAL.—Section 32 of the Arms Export Control Act (22 U.S.C. 2772) is repealed.

SEC. 207. GAO STUDY OF THE PARTICIPATION OF THE EXPORT-IMPORT BANK IN SALES OF DEFENSE ARTICLES AND SERVICES TO FOREIGN COUNTRIES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the participation of the Export-Import Bank of the United States in financing sales of defense articles and services (as defined in section 2(b)(6)(F) of the Export-Import Bank Act of 1945) to foreign countries.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that—

(1) summarizes the participation referred to in subsection (a), including—

(A) participation that was approved by the Board of Directors of the Bank and the reasons therefor; and

(B) participation that was disapproved by the Board of Directors of the Bank and the reasons therefor;

(2) assesses whether (and, if so, the extent to which) the countries purchasing defense articles and services the financing of the sales of which was participated in by the Bank—

(A) failed to comply with the restrictions imposed by the United States on the end use of such defense articles and services; or

(B) used any such defense articles and services to engage in a consistent pattern of gross violations of internationally recognized human rights; and

(3) assesses the theoretical and practical, political and economic, pros and cons of such participation.

SEC. 208. STUDY ON COMPETITIVE EFFECTS OF REQUIRING EXPORTS FINANCED BY THE EXPORT-IMPORT BANK TO BE CARRIED ON UNITED STATES FLAGGED VESSELS.

Within 3 months after the date of the enactment of this Act, the Export-Import Bank of the United States shall prepare and submit to the Congress a report on the effects of the Act of March 26, 1934, (46 U.S.C. App. 1241-1; 48 Stat. 500), on the competitiveness of exports financed by the Bank, which, among other things, focuses on the following:

(1) The diversion of cargoes from ports where there are no vessels documented under the laws of the United States to ports where there are such vessels, and the costs of the diversion.

(2) The frequency with which exemption is provided, and the rationale for providing exemption, from the requirements of such section.

(3) The extent to which such requirements promote or impair the economic interests of the United States.

(4) The United States industries most affected and least affected by such requirements.

(5) The seasonal variations (if any) in the effects of such requirements.

(6) The variations (if any) in the effects of such requirements on the various regions of the United States.

(7) The time, money, and other resource costs involved in complying with, obtaining exemption from, and administering such requirements, including any price increases resulting directly from such costs.

(8) The extent to which such requirements have caused the mode of transportation of exports to shift from vessels documented in the United States to air carriers.

SEC. 209. ASSISTANCE FOR EXPORTS BY SMALL BUSINESSES.

(a) IN GENERAL.—Section 2(b)(1)(E)(v) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(v)) is amended by inserting "directly" after "exports".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 210. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments and repeal made by this title shall take effect on October 1, 1991.

TITLE III—ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 301. PURPOSE.

The purpose of this title is to encourage and support improvement in the lives of the people of Latin America and the Caribbean and economic growth through interrelated initiatives to promote debt reduction, investment reforms, trade liberalization, and community-based conservation and sustainable use of the environment.

SEC. 302. DEFINITIONS.

As used in this title:

(1) FACILITY.—The term "Facility" means the Enterprise for the Americas Facility.

(2) IMF.—The term "IMF" means the International Monetary Fund.

Subtitle A—Enterprise for the Americas Facility

SEC. 311. ESTABLISHMENT.

There is hereby established in the Department of the Treasury the Enterprise for the Americas Facility.

SEC. 312. PURPOSE.

The purpose of the Facility is to support the objectives described in section 301 through the administration of debt reduction operations for countries that meet investment reforms and other policy conditions.

SEC. 313. ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

(a) REQUIREMENTS.—To be eligible for benefits under the Facility, a country must—

(1) be a Latin American or Caribbean country;

(2) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

(A) an IMF standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, an IMF monitored program or its equivalent; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association;

(3) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) ELIGIBILITY DETERMINATIONS.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

Subtitle B—Sales, Reductions, or Cancellations of Loans

SEC. 321. LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.

(a) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN EXPORT-IMPORT BANK LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this subtitle, sell to any eligible purchaser any loan or portion thereof made to any eligible country (as determined pursuant to section 313) or any agency thereof, before January 1, 1992, pursuant to the Export-Import Bank Act of 1945, and on receipt of payment from the eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(1) a debt-for-equity swap, debt-for-development swap, or debt-for-nature swap by an eligible purchaser; or

(2) a debt buy-back by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development through an Enterprise for the Americas Environmental Fund established under or consistent with section 608 of the Agricultural Trade Development and Assistance Act of 1954,

if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(b) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this subtitle.

(c) TREATMENT UNDER SECURITIES LAWS.—Any sale made pursuant to this subtitle by the Export-Import Bank of the United States of a loan (including any interest therein) to an eligible purchaser under section 324 shall be a transaction not required to be registered pursuant to section 5 of the Securities Act of 1933. For purposes of the Securities Act of 1933, the Export-Import Bank of the United States shall not be deemed to be an issuer or underwriter with respect to any subsequent sale or other disposition of such loan (include any interest therein) or any security received by an eligible purchaser pursuant to any debt-for-equity swap, debt-for-development swap, debt-for-nature swap, or debt buyback.

(d) ADMINISTRATION.—The Facility shall notify the Export-Import Bank of the United States of purchasers the President has determined to be eligible under section 324, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(e) LIMITATIONS.—The authorities of this section may be exercised beginning in fiscal year 1992 and only to such extent as provided for in advance in appropriations Acts for fiscal year 1992 or thereafter, as necessary to implement section 13201 of the Budget Enforcement Act of 1990.

SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

For the sale, reduction, and cancellation pursuant to section 321 of loans or portions thereof made pursuant to the Export-Import Bank Act of 1945, there are authorized to be appropriated to the President such sums as may be necessary, which shall remain available until expended.

SEC. 323. DEPOSIT OF PROCEEDS.

The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this subtitle shall be deposited in the United States Government account or accounts established for the repayment of such loan.

SEC. 324. ELIGIBLE PURCHASER.

As used in this title, the term "eligible purchaser" means—

(1) in the case of the sale of a loan for the purpose of facilitating a transaction referred to in section 321(a)(1), a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in the transaction; and

(2) in the case of the sale of a loan for the purpose of facilitating a transaction described in section 321(a)(2) by an eligible country, the eligible country.

SEC. 325. DEBTOR CONSULTATION.

Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this subtitle of any loan made to an eligible country, the President shall consult with the country concerning, among other things, the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, debt-for-nature swaps, or debt buybacks.

Subtitle C—Reports and Consultations

SEC. 331. ANNUAL REPORT TO AND CONSULTATIONS WITH CONGRESS.

(a) ANNUAL REPORT.—Not later than December 31 of each year, the President shall transmit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the President of the Senate an annual report on the operation of the Facility for the prior fiscal year.

(b) CONSULTATIONS.—The President shall consult with the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the President of the Senate on a periodic basis to review the operation of the Facility and the eligibility of countries for benefits under the Facility.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield 3 minutes for purposes of debate to the gentleman from Virginia [Mr. MORAN], a very fine Member.

Mr. MORAN. I thank the very thoughtful and considerate gentlewoman from Ohio.

Mr. Speaker, I rise in strong support of the Export-Import Bank charter renewal, brought to us by the very distinguished and capable chairwoman of the Subcommittee on International Development, Finance, Trade and Monetary Policy of the Committee on Banking, Finance and Urban Affairs.

Mr. Speaker, two considerations underlie the context for this legislation: First, we are in a prolonged recession; and, second, our economy has irretrievably become globalized. This is why we need this legislation.

Between 1985 and 1991, the dollar value of U.S. exports doubled from $219 to $421 billion. Since 1989, exports have accounted for up to 40 percent of our economic growth.

The Export-Import Bank has played a critical role in helping many U.S. firms compete and successfully sell their products and services abroad. In 1991 the value of the Eximbank-assisted exports rose 28.7 percent, from $9.7 to $12.1 billion.

□ 2030

This growth in exports translated into the creation of more than 40,000 new U.S. jobs for a total of more than 7 million full-time jobs attributable to exports. More jobs might have been created had this bank not exhausted its entire budget authority.

Mr. Speaker, we need to renew the Bank's charter. The fact is that today exports are an essential part of our national economy, and the Eximbank plays a very important role in exports financing.

I have an amendment included in this bill that will open up Eximbank financing to professional services and high technology products. These firms have experienced problems in securing Exim financing primarily because of the requirement for collateral that is geared toward tangible assets that heavy industrialized firms can more easily pledge. The amendment will set up a commission that will include representatives of the high tech community that is designed to address and rectify these obstacles to the exportation of emerging American technology.

Mr. Speaker, I strongly support and urge my colleagues to support the Eximbank charter renewal, and I thank the very kind, and considerate and capable chairwoman of our subcommittee, the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation does propose, indeed, to renew the charter of the Export-Import Bank which is scheduled to expire this September 1992. Mr. Speaker, the whole thrust of this legislation is to ensure that our country is globally competitive so that we can keep up with the other world's financial tools that many countries have, and the Export-Import Bank is such a major tool of ours.

The administration communicated with the House and the Senate in April 1992 proposing that the Export-Import Bank charter be renewed for a period of 6 years. The subcommittee had a number of hearings, and we had terrific witnesses, and so, as a result of these hearings and the fact that we asked the General Accounting Office to study the issues relevant to charter renewal, and we received that GAO report at the various hearings, we also consulted with numerous associations related to business concerned with international finance and trade from the standpoint of large and small exporters, our exporters, our U.S. exporters, industry, labor, banking, insurance, State government, and nonprofit organizations, and what we found was that the exports are increasing rapidly. U.S. exports expanded from $277 billion in 1986 to $422 billion in 1991. That is an increase of 85.6 percent, and, according to the Export-Import Bank's 1991 annual report, these exports support at least 7 million jobs and a considerable proportion of U.S. economic growth.

For example, Mr. Speaker, I would like to use my own area as an example. In northeast Ohio Government agencies estimate that between 20 and 25 percent of manufacturing equipment is tied directly to export markets. Our State of Ohio, for example, ranks third in the value of exports nationally, and I am very, very proud to say that in calendar year 1991 the Export-Import Bank financed 165 million dollars' worth of Ohio-based exports.

And, Mr. Speaker, I want to use the example of the need that small businesses in particular, and larger businesses, have for the Export-Import Bank because there are some people in the past who have not seen the value of this wonderful financial tool. I want to use as an example one of the finest small business organizations in the country. It has 12,000 small businesses who are members. It is called COSE, and this particular organization is the Council of Smaller Enterprises in Cleveland, OH, and we received a letter from its executive director, John Polk, indicating how important this institution is to the export opportunities for our small businesses, and one of the things in the letter which I would like to submit for the RECORD, one of the things that the director reminds me of, is that one of the founding members of this organization, Margaret Kahliff, also served as one of the directors of the Export-Import Bank, and, when I was a newer Member of Congress a few years back, she was the one who visited my office and made me understand the importance of this Export-Import Bank. So, Mr. Speaker, I want to submit that for the RECORD.

The letter referred to is as follows:

COUNCIL OF SMALLER ENTERPRISES,
Cleveland, OH, August 4, 1992.
Hon. MARY ROSE OAKAR,
2231 Rayburn House Office Building, Washington, DC.

DEAR CONGRESSWOMAN OAKAR: On behalf of COSE and our 12,000 small business members, let me express our strong support for H.R. 5739, which would renew the charter of the Export/Import Bank of the United States.

COSE has been a supporter of Ex/Im as a valuable tool in assisting small employers in gaining access to the international market, a vital effort if we are to reduce our trade deficit and strengthen our competitiveness in the world market. You are undoubtedly aware that Margaret Ware Kahliff, a founding member of the COSE Board, also served as a Director of the Ex/Im Bank.

We commend you for your leadership in seeking to re-authorize the Ex/Im Bank as a stronger institution, and one which will continue to support the internationalization of our small business community.

Sincerely,

JOHN J. POLK,
Executive Director.

Mr. Speaker, Margaret is now a resident of Elyria, OH, and she was one of the founding members of this great organization.

The other issue that I think is important is because we have heard this criticism: "Well, you know, it doesn't help small business as much as it should, and it gives, sometimes, to large corporations." I want to mention one large corporation that has taken advantage of the Export-Import Bank financing, and this is an organization that does not have its international headquarters in my district. I, frankly, wish it did, but I want to just use this as an example as to how this networks throughout the country and how it helps so many various businesses throughout the country.

And let me give the example of Boeing and the importance of exporting U.S. commercial aircraft. Over the last 5 years, Mr. Speaker, Boeing Commercial Airplane Group spent an average of $10 billion a year on goods and services produced by suppliers throughout the United States, and in 1991 Boeing had over 5,000 such suppliers. More than two dozen of these suppliers are in my own State of Ohio, and in the city of Cleveland, Cleveland Pneumatic Co. and Figgie International and Eaton Corp. all get business because Boeing is able to get opportunities at the Export-Import Bank and then network to smaller suppliers such as the ones I mentioned.

So, Mr. Speaker, we feel very, very strongly that this is a very, very important financing tool, not only for the country, but it certainly is an important financing tool in my own State.

I think this charter renewal is consensus legislation that all Members can support. I am delighted to have it with the minority leader of the subcommittee, the gentleman from Iowa [Mr. LEACH] who works closely with our Democratic members, and of course my friend and colleague, the gentleman from Ohio [Mr. WYLIE] who is the ranking minority member of the Committee on Banking, Finance and Urban Affairs. This is consensus legislation. When we go into our markups, we try very, very hard to have bipartisan support so that we can renew the Bank's efforts to help American firms, American workers pursue the historic new trade opportunities of this postcold war era.

Our subcommittee also found that requests for funding assistance from the Export-Import Bank have risen rapidly. In 1991, the Bank used up all of its authorized resources and still could not satisfy the demand.

Very heartening, also, is the judgment of the export community, as expressed in our hearings by Thomas Mullany of Rockwell International Corp., representing the Coalition on Employment Through Exports that:

> Under the superb leadership of current Eximbank Chairman John Macomber, the Bank has become more responsive and innovative in its efforts to promote U.S. Exports.

The alternative is that the Bank will run out of authority to make commitments on October 1 1992, placing U.S. exporters at a severe competitive disadvantage, which we feel is unacceptable.

CONTENTS OF LEGISLATION

For these purposes, the subcommittee drafted a streamlined bill, containing two titles. A third title was added in the markup by amendment.

Title I, on the charter renewal, would extend both the general authority and the war chest authority of the Bank for 5 years, increase the Bank's aggregate ceiling for total financing, support the continued use of the Commercial Bank guarantee program, encourage the use of U.S. insurance companies in providing maritime insurance on Eximbank-financed exports, provide for one-stop centers to assist small- and medium-sized exporters with financing assistance, and seek to tie the Bank's programs into any overall export strategy.

Title II of the print repeats title VI of H.R. 3428, with a couple of minor technical and clarifying amendment, one of which represents agreement between the Committees on Foreign Affairs and Banking with respect to the ban on bank financing of military articles—A provision of common concern. These provisions from our International Financial Institutions bill—H.R. 3428—have already been approved by our subcommittee, on September 25 1991, and by the full Banking Committee on June 18, 1992, House Report 102-657.

Title III also transfers excerpts from H.R. 3428 on the enterprise for the Americas Initiative, especially as it relates to the role of the Export-Import Bank.

Mr. Speaker, at this point I close this portion of my remarks by thanking the Democrat Members and the Republican Members who have supported this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the distinguished gentlewoman from Ohio [Ms. OAKAR]. She has been a wonderful leader on this particular issue, and I think her comments about Margaret Kahliff are also very appropriate. Mrs. Kahliff is one of the country's most energetic and successful business people, and certainly we are all proud of her brother, Senator BUMPERS, who served this Congress with such distinction.

□ 2040

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. WYLIE], the ranking member of our committee and certainly the leading commentator and expert on banking issues on our side of the aisle.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Iowa for yielding me this courtesy and for his complimentary remarks about my stewardship on the Committee on Banking, Finance and Urban Affairs.

Mr. Speaker, I do rise in support of the charter renewal for the Export-Import Bank.

Mr. Speaker, I would also compliment the gentlewoman from Ohio [Ms. OAKAR] and the gentleman from Iowa [Mr. LEACH] who have done most of the work on this bill, both of whom are highly regarded for their knowledge and leadership on export financing.

The gentlewoman from Ohio [Ms. OAKAR] has explained the bill very well. But from my perspective I feel strongly enough that I would like to say that the Export-Import Bank is one of the best tools the United States has to develop new markets abroad for U.S. exports. It has also been instrumental in combating the unfair export financing of other countries.

Increased exports provide a whole host of benefits to the U.S. economy. The more U.S. products we sell overseas, the more jobs we create here at home. Furthermore, increased exports help reduce the trade deficit, which lessens our country's reliance on foreign capital.

U.S. manufacturers of capital goods have been one of the major beneficiaries of Eximbank programs and the recent export boon. A strong performance in U.S. manufactured exports requires a competitive export financing system, including an aggressive and properly funded Export-Import Bank.

I am also quite pleased with the way the Bank has expanded its role and clientele to include small businesses, particularly with the Working Capital Guarantee Program which helps small businesses produce and market exports. The Bank's new slant toward small businesses is much needed—especially in States like Ohio.

A debt restructuring provision for Latin American and the Caribbean countries is also a part of this bill. The authority to sell and reduce the amount of Export-Import Bank debt owed by these countries was requested by the administration as part of the President's Enterprise for the Americas Initiative. The Eximbank is all about encouraging U.S. exports and helping U.S. businesses gain a foothold in merging markets. That is one of the major goals of the EAI [Enterprise for Americas Initiative] to help spur U.S. exports to our southern neighbors. The debt reduction authority is an appropriate and timely addition to this charter renewal legislation.

In addition to removing all of the Eastern and Central European countries from the list of Marxist-Leninist nations prohibited from using Eximbank services, the bill also removes Angola from the Marxist-Leninist list. In light of recent progress Angola has made in forcing the withdrawal of Cuban military troops, the United States will now consider lifting some of the sanctions it had imposed on that country. It should be noted, however, that Angola will not be allowed to receive financing from the Eximbank until the President certifies that free and fair elections have been successfully completed.

The administration is supportive of this legislation, albeit with a few reservations which hopefuly will be worked out in conference committee. I urge support of H.R. 5739.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the 5 years since the Congress last renewed the Eximbank charter, trade throughout the world has become increasingly interdependent, competitive, and critical to U.S. economic health. As Eximbank President John Macomber testified in May:

> Since 1988, over 70 percent of U.S. economic growth has come from expanding exports. In 1991 alone, Eximbank supported about $12 billion worth of U.S. exports. Since its inception in 1934, $260 billion.

In this circumstance, it is crucial that Congress support programs and agencies which promote manufacturing growth, and thus jobs, in our country. The Export-Import Bank is the most emblematic of such agencies. Exim's role in financing the export of U.S. manufacturing is increasingly important, in part because exports are a growing percentage of the American business enterprise, in part because the general trend in American banking is against the provision of credit to the manufacturing sector of the U.S. economy.

It is my particular hope that the Eximbank will play an active role in Eastern and Central Europe. The earlier U.S. businesses can access these markets, the more profoundly U.S. interests, business and strategies, will be served.

In addition to the charter extension, this bill contains a portion of the President's highly acclaimed Enterprise for the Americas Initiative [EAI]. The particular EAI provision in this bill grants the President the authority to conduct debt sales and reduction of Eximbank debt owed by some Latin American and Caribbean countries. The savings from this debt restructuring will help promote environmental and other progressive development programs and provide a more favorable climate for private investment and free enterprise.

The President's initiative in general, and this provision specifically, is consistent with the bill's goal of increasing export opportunities for U.S. companies. Debt restructuring will free up more dollars to be used to buy U.S. exports. The countries of Latin America and the Caribbean are important trading partners with $1 out of every $7 of U.S. exports going to the region.

In this context, I personally cannot overstate the importance of the President's initiative. It is good foreign policy, good immigration policy, and good economics.

Another provision of this bill strikes 12 countries from the lst of Marxist-Leninist countries to which the Eximbank may not lend. In essence, this will enable all of the former Eastern bloc nations and the former Soviet Union to become eligible for Eximbank financing, and subsequently open up these countries as new markets for United States goods and services. With so many United States exporting companies trying to gain a foothold in the former Soviet Union and Eastern Europe, the question of how to conduct trade with countries that don't have convertible currencies becomes increasingly complex. Institutions like the Eximbank can, with the backing of the U.S. Government, establish important ties between U.S. companies and interested purchasers in the region.

Mr. Speaker, Export-Import Bank has distinguished itself as a flexible institution that responds to private sector demand and market trends. This legislation will ensure that U.S. exporters are able to compete with other countries' subsidy-focused export credit agencies.

Mr. Speaker, the administration enthusiastically, although as the gentleman from Ohio [Mr. WYLIE] has noted, with a caveat or two, supports this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would also like to express the judgment of the export-import community as expressed in our hearings by Thomas Mullany of Rockwell International Corp. representing a Coalition on American Employment Through Exports. Mr. Speaker, I also want to sanction what my friend, the gentleman from Iowa [Mr. LEACH], said.

Mr. Speaker, Mr. Mullany said:

> Under the superb leadership of current Eximbank Chairman John Macomber, the bank has become more responsive and innovative in its efforts to promote U.S. exports.

Mr. Speaker, that is really the name of the game, to promote exports. Frankly, as I think my friend, the gentleman from Iowa [Mr. LEACH], alluded to, I personally wish that we could even remove the cap even farther than it is so that we would have even more businesses able to take advantage of what I think is one of the most important financial tools for our businesses that are interested in exporting their products.

□ 2050

Our country will never be competitive globally, if we do not give our businesses the opportunities with these financial incentives and institutions that give them the means to export their products and, at the same time, that keep those jobs back here in the United States of America.

So this is very important, I think, significant, particularly at this time when we are at a crossroads in terms of various organizations and various countries being extremely competitive, when the European Community is uniting and offering even more competition in exporting. This is especially a significant piece of legislation at this point in time for American businesses.

I am very, very happy that we were able to work things out so that both sides agree with the legislation without any debate. So I am hoping we can pass this legislation unanimously to send the proper signals to our business community that say to them, "We want you to compete in the global markets, and we want you, at the same time, to keep those jobs back home."

That is the name of the game, and that is why this particular institution is so relevant.

Mr. Speaker, I include for the RECORD a summary of the Export-Import Charter Renewal Act of 1992.

SECTION-BY-SECTION SUMMARY OF THE EXPORT-IMPORT CHARTER RENEWAL ACT OF 1992

Section 1. Short title. Act to be cited as the "Export-Import Bank Charter Renewal Act of 1992." Also contains Table of Contents of the bill.

TITLE I—CHARTER RENEWAL

SEC. 101. Declaration of Policy. Section 101 provides a factual context for consideration of the renewal of the charter of the Export-Import Bank of the United States, which expires on September 30, 1992. The declaration cites the importance of exports to employment in this country (exports directly support more than 7 million full time jobs) and to U.S. economic growth (U.S. exports climbed 85.6 percent from 1986 to 1991). The vital role of the Export Import Bank in these developments is indicated by the statement taken from the Bank's most recent Annual Report that the institution's entire budget authority for 1991 was utilized and the Bank still could not meet the demand for financing assistance.

SEC. 102. Extension of Authority of the Export-Import Bank. This section amends section 8 of the Export-Import Bank Act of 1945 to renew the operating charter of the Bank by extending the date of its authorization from September 30, 1992 until September 30, 1997.

SEC. 103. Reauthorization of the Tied Aid Credit Fund. Section 103(a) extends the so-called "War Chest Fund" for dealing with tied aid credits from 1992 to 1997 at the same amount as authorized in fiscal years 1991 and 1992, thus authorizing appropriations of $500 million in each of the five years for these purposes.

Section 103(b) repeals a duplicative section of the International Development and Finance Act of 1989 relating to this subject that was inadvertently enacted.

SEC. 104. Increase in the Aggregate Loan, Guarantee and Insurance Authority of the Export-Import Bank. This section increases the overall aggregate of programs that may be outstanding in the Export-Import Bank from its present ceiling of $40 billion, at the rate of $5.8 billion per year, to a total of $69.2 billion in 1997. The purpose of lifting this ceiling is to provide adequate latitude for the Bank to increase its programs in response to expanding opportunities in international trade.

SEC. 105. Use of Loan Guarantees. Section 105 urges the Bank, in making its decisions to allocate resources under the new "credit reform" budget, to consider not only the subsidy costs of such programs, but also the value of having commercial banks involved in financing exports, because of their locations throughout the country and the ancillary services they provide to U.S. exporters.

SEC. 106. Report on Export Policy. This section requires the Export-Import Bank to submit an annual report to Congress on the competitiveness of U.S. export financing and its relationship to any overall strategic plan developed by federal agencies to promote and finance the sale of U.S. products and services abroad. The section also calls for testimony on such reports before the appropriate committees of Congress.

SEC. 107. Study on policies to facilitate exports of intangible products and services. Section 107 would establish a committee under the auspices of the Export-Import Bank to conduct a 2-year study to identify policies which, if implemented, would facilitate the export of intangible goods and services from the United States.

SEC. 108. One-Stop Financing Shops. This section would have the Bank, in cooperation with other federal and state agencies, establish "one-stop" centers for dispensing information on export and pre-export financing by way of such programs as loans, guarantees, insurance, and contribute information, training and personnel to such centers.

SEC. 109. Insurance-related business stemming from Bank activities. Section 109 would amend section 2(d) of the Export-Import Bank Act to provide that, in any long-term loan or guarantee transaction of $10 million or more, the Bank will seek to ensure that U.S. insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in such transactions. If such opportunities are denied, a report would be forwarded to the Secretary of Commerce and the United States Trade Representative for consideration of whether export credit to such country should be restricted.

SEC. 110. Conditional allowance of assistance for exports to Angola. This section would strike the country of Angola from the list of Marxist-Leninist countries maintained in section 2(b)2(B)(ii) of the Export-Import Bank Act, removing this restriction from export financing to Angola by the Bank.

TITLE II—OTHER PROVISIONS

NOTE: Under the "credit reform" budget system, enacted by the "Credit Reform Act of 1990," (Public Law 101-964, October 27, 1990), authorization is required for a subsidy amount sufficient to support the program levels of the Export-Import Bank. However, section 505(a) of that Act contains an all-purpose authorization for "such sums as may be necessary to pay the costs associated with such direct loan obligations or loan guarantee commitments."

(Conference Report on the "Omnibus Budget Reconciliation Act of 1990," House Report 101-964, page 645). As a result of section 505(a), authorizations of specific subsidy amounts in support of the Export-Import Bank program levels for the current or future fiscal years are not necessary in this legislation.

Title II is virtually identical to Title VI of H.R. 3428, the "International Development, Finance and Trade Act of 1992," approved by the Committee on Banking, Finance and Urban Affairs on June 18, 1992 (House Report 102-657).

SEC. 201. Appointment and Compensation of Bank Personnel. This section would amend sec. 3(c) of the Export-Import Bank Act to permit the Bank, without increasing its budget, to compensate its personnel in a manner comparable to employees of the bank regulatory agencies under the Financial Institutions Reform, Recovery and Enforcement Act of 1990 (FIRREA).

SEC. 202. Increase in membership of Advisory Committee. Section 202 would amend section 3(d)1(A) of the Ex-Im Bank Act to increase membership of the Bank's advisory committee from 12 to 15. The Advisory Committee was created by section 613 of the Export-Import Bank Amendments of 1983. Its members are appointed by the President of the Bank upon recommendation of the Bank's Board of Directors.

SEC. 203. Elimination of limitation on financing for exports to the former Soviet Union. This section contains a proposal made in the Russian Freedom Aid Package submitted by the President to Congress on April 3, 1992: to strike from the list of "Marxist-Leninist Countries" 12 nations in Central and Eastern Europe and in the territory of the former Soviet Union that the Administration has determined no longer practice this form of government.

SEC. 204. Financing of high technology exports to emerging democracies. This section would add to section 2(b)1 of the Export-Import Bank Act a new subsection calling upon the Bank to develop, in cooperation with high technology companies, small business, and federal, state, and local agencies involved in export promotion, a program for increasing export of higher technology products and services to emerging democratic countries, especially those of Eastern Europe that are subject to the SEED program (Support for Eastern European Democracy) begun in 1989. This section also provides that up to $125 million of the Bank's loan, guarantee, and insurance resources may be used to carry out this program.

SEC. 205. Report on demand for trade finance for Central and Eastern Europe, the Baltic States and the independent states that have replaced the Soviet Union. Section 205 states Congressional findings that export participation in the economies of the areas referred to above is important for job preservation and creation in the U.S., and that ExImBank financing assistance is a significant factor in the current and future U.S. business presence in these nations. As a consequence, the section requires the Export-Import Bank to prepare a report on the potential demand for trade financing in the Baltic States, the former Soviet Union and any successor states, together with any recommendations for promotion of trade with these states.

SEC. 206. Prohibition on financing the exports of defense articles. The section would prohibit the Export-Import Bank from financing the exports of any defense articles or services to developed, as well as developing countries, except under a previously enacted exception for Presidentially determined anti-narcotics purposes, and then only after the President, after consultation with non-governmental organizations, determines that any previous assistance of this kind has not been used to violate internationally recognized human rights.

SEC. 207. Study by the General Accounting Office on financing of defense articles and services. This section proposes that, six months after enactment, the G.A.O. report to the Speaker of the House and the President of the Senate on whether the countries that may have purchased defense articles financed by the Ex-Im Bank in the past have complied with end-use restrictions imposed by the U.S. or have used any such articles to violate human rights.

SEC. 208. Study of competitive effects of carriage of exports on U.S. flag vessels. Section 208 calls for short-term study of the competitive effect of requiring U.S. exports to be carried aboard U.S. flagged vessels, as required by the Act of March 26, 1934.

SEC. 209. Reporting by ExImBank on assistance rendered to small business. This section amends section 2(b)(1)(E)(v) of the Export-Import Bank Act by adding the word "directly," so that after October 1, 1992, reports to Congress on export financing by the Bank to small business, under the 10 percent set-aside provisions enacted in 1983, tabulate only assistance provided directly to small firms, and not include funds coming to small firms as subcontractors of other firms that may be recipients of financing the Bank.

SEC. 210. Effective date. Prescribes an effective date for this title of October 1, 1991.

TITLE III—ENTERPRISE FOR THE AMERICAS INITIATIVE

NOTE: This title is excerpted from Title III of H.R. 3428, the International Development, Trade and Finance Act of 1992, as approved by the Subcommittee on International Development, Finance, Trade and Monetary Policy on September 25, 1991 and by the House Committee on Banking, Finance and Urban Affairs on June 18, 1992 (House Report 102-657).

SEC. 301. Purpose of the Enterprise for the Americas Initiative. Section 301 states the purpose of this legislation as an effort to improve the lives of the people of Latin America and the Caribbean areas through a set of interrelated initiatives to promote investment, debt reduction and environmental protection to be known as the Enterprise for the Americas Initiative (EAI).

SEC. 302. Definitions. Defines such terms as "Facility" as used in the title.

SEC. 311. Establishment of Enterprise for the Americas facility. Creates, at the Department of the Treasury, a facility for administering the debt reduction aspects of the Enterprise for the Americas Initiative ("EAI").

SEC. 312. Purpose. The purpose of the facility proposed in section 311 is to support the objectives of the EAI, as set forth in section 301, by administering the debt reduction, cancellation, exchange and sale features described in the statute.

SEC. 313. Eligibility for benefits under the facility. Conditions for eligibility for debt reduction are itemized in this section, as follows: participating nations must be Latin American or Caribbean nations; substantial progress should be made toward an agreement for a program (if appropriate) with the International Monetary Fund or the IBRD; substantial progress should be made toward a loan arrangement with the Inter-American Development Bank; there are indications of progress toward establishing an open investment regime and progress toward an agreement with the country's commercial bank lenders. The President shall determine if the eligibility requirements have been met.

SEC. 321. Loans or assets eligible for sale, reduction or cancellation. Provide for loans, or portions thereof, made pursuant to the Export-Import Bank Act of 1945 to be reduced or canceled for purposes of the EAI.

SEC. 322. Authorization of appropriation. Authorizes such sums as are necessary, subject to the appropriations process, and without fiscal year limitation, for purposes of implementing the debt reduction aspects of this legislation.

SEC. 323. Deposit of proceeds. Provides technical procedures for deposit of funds received from purchasers under debt reduction arrangements administered by the Facility.

SEC. 324. Eligible purchaser. Defines eligible purchasers of loans in terms of presentation of a plan satisfactory to the President regarding debt-for-equity, debt-for-development, or debt-for-nature arrangements.

SEC. 325. Debtor consultation. This sections provides that, before concluding any debt reduction arrangement, the President must consult with the debtor country concerned.

SEC. 331. Annual report to and consultation with Congress. Provides that the President should consult with the appropriate House (Banking) and Senate Committees with regard to the operation of the Facility, and submit an annual report to Congress.

Mr. IRELAND. Mr. Speaker, I rise in support of H.R. 5739, a bill that will renew the charter of the Export-Import Bank for 5 more years. The Eximbank has played an instrumental role in financing the export of U.S. goods and services, enabling American businesses to compete successfully in a global marketplace.

I want to commend Ms. OAKAR, who chairs the Subcommittee on International Development, Finance, Trade and Monetary Policy, and Mr. LEACH, ranking Republican, for their leadership and quick action on this timely legislation. H.R. 5739 recognizes not only the importance of exporting to the U.S. economic viability, but offers changes that promise to enhance our Nation's competitiveness.

Increasingly, smaller businesses have attempted to penetrate export markets abroad. As innovators and job creators, the participation of American small businesses in international trade is crucial to our Nation's economic growth and competitiveness. The distribution of Eximbank financing, however, has not reflected the value or needs of America's small exporters, and remains biased toward big business.

To remedy this inequity, in 1983, a bipartisan effort by Congress resulted in the passage a small business set-aside requiring the Eximbank to provide a percentage of their budget authority to small concerns. As a result of our efforts, we hoped to see a redirection of Eximbank loans, guarantees, and insurance from big businesses to small exporters.

Unfortunately, Eximbank has continually flouted congressional intent and met the set-aside by providing financing to large exporters, such as Boeing, who subcontract to small businesses. This type of indirect support was clearly not what the Members who worked so hard to address the needs of small exporters had in mind. It is only through direct access to loans, guarantees, and insurance that small exporters can successfully negotiate and secure contracts abroad.

Mr. Speaker, I commend the gentleman from New York [Mr. LAFALCE] for addressing this issue. As a result of his efforts this legislation clarifies statutory language to allow only financing that goes directly to small exporters to be used by Eximbank to meet the set-aside requirement.

Another provision included in this bill deserves recognition as well, and I congratulate the gentleman from New York for his leadership again. This provision will require the cross-training of Eximbank and Small Business Administration employees to educate them on the types of financing Eximbank provides. Including SBA employees in the learning process will enhance understanding of complex Eximbank programs, promote cooperation between the agencies, and expand outreach to small businesses interested in and capable of exporting.

My hope is, Mr. Speaker, that these changes will help bring the priorities of the Eximbank closer in line with those of Congress and that we will see a real increase in small business participation in Eximbank programs.

Mr. Speaker, the importance of exporting to the future of our economy calls not only for support of this legislation, but for our continued interest in the operations of the Export-Import Bank as they serve this Nation's commercial interests. Therefore, I would like to make my colleagues aware of a recent development at Eximbank that warrants our future attention.

Less than 2 weeks ago, the Export-Import Bank announced a plan to federalize the servicing of their insurance programs. Because insurance accounts for the lion's share of the Bank's small business support, I am particularly concerned.

Currently, the Eximbank is under contract with a private association that has been doing a good job of managing the Bank's insurance programs for a number of years. I am always wary of a move to deprivatize a program that has received little criticism, especially if doing so threatens to disrupt and erode service to the consumer. An interruption in export financing has potentially devastating affects: the loss of business, confidence, and trust between the exporter and importer. American businesses cannot affort to suffer such set-backs.

I urge my colleagues to follow this issue closely and keep pressure on the Eximbank to ensure that the driving force dictating its action is the interests of the exporters they serve.

Mr. BEREUTER. Mr. Speaker, I rise in support of H.R. 5739. It is urgent and important to move forward with this 5-year reauthorization of the export financing programs of the Export-Import Bank of the United States, which expire on September 30, 1992.

Strong and expanding exports are a key to renewed economic growth for the United States. Export markets are changing rapidly with the many changes in the world's political and economic situation. Stable export finance programs must be in place to allow U.S. firms to enter and remain in these markets on a competitive basis. The Export-Import Bank, with its direct loan, guarantee, and insurance programs, is a cornerstone of that stability for the export sector and for the private financial institutions that are active in trade finance. The war chest, also reauthorized in this legislation, has been and continues to be an important instrument of leverage to obtain and enforce agreements among OECD countries that limit predatory use of tied aid and export finance.

I therefore strongly support the reauthorization of the Eximbank's programs and the reauthorization of substantial sums for war chest use, whenever and wherever necessary to deter unfair, trade-distorting use of mixed credits by other countries in violation of international guidelines adopted in the OECD. The overall lending authority in the bill, I note, would allow present program levels to be maintained and even expanded, subject to annual authorizations for the subsidy amount required to be set aside under credit reform calculations.

I believe it is important to move forward with measures to improve the climate for United States exports to Latin America and the Caribbean, our fastest growing export region. I therefore note that it is appropriate and desirable that this legislation include the provision of the Enterprise for the Americas which provides authority for the President to restructure Eximbank debts of eligible countries in the region, when such restructuring contributes to a better climate for United States exports and jobs.

I urge support of this important export-promoting legislation.

Mr. SISISKY. Mr. Speaker, I would like to voice my support and enthusiasm for one very small but very important provision of this bill reauthorizing the Expert-Import Bank's charter—H.R. 5739. This legislation contains an amendment to the charter that will help ensure the proper functioning of the Bank's small business set-aside program.

Specifically, the amendment reiterates congressional intent that only direct assistance to small exporters may count against the set-aside. In the past, inclusion of so-called indirect assistance, such as small business subcontracts on Boeing exports financed by the bank, has resulted in a misleading overstatement of Eximbank's compliance with this set-aside. This is a problem that I have long sought to remedy as chairman of the export subcommittee of the Committee on Small Business.

As the representative of a region that lives and breathes small business, I am a committed soldier in the struggle to advance the interests of small business in Congress. In particular, as chairman of the export subcommittee, I am seriously concerned about the obstacles that prevent more small businesses from exporting.

It is often said that increasing U.S. competitiveness is crucial to the long-term prosperity and well-being of our country. To do that, getting our exporters to be more competitive will not be enough; we must also get more of our best competitors to export. Well, we all know that our best competitors are often small businesses. We must tap the tremendous potential of small business to repair this country's trade imbalance and lead our economy into the twenty-first century.

The Eximbank has a critical role to play in this endeavor. The lack of export financing is a serious impediment to the small exporter, and financing difficulties are a significant deterrent to businesses who might be interested in exploring foreign markets. Yet many banks have withdrawn almost entirely from international trade, and they are especially reluctant to lend to small business. There is a crying need for Eximbank to step into the breach and meet the demand of small business for export financing.

It is perhaps not surprising that Eximbank has not done all it can in this regard. We all recognize that it is much easier for the Bank to deal with big business than with smaller companies. Eximbank does not have to provide any outreach to the corporate conglomerates; they already have offices in Washington with full-time personnel advancing their interests. It is also much easier for the Bank to make loans and guarantees in the enormous amounts requested by big business; small businesses require more attention and just as much paperwork for transaction amounts that, by comparison, must seem penny ante.

While this state of affairs may not be surprising, it cannot be condoned. We cannot let the extra bother dissuade us from our mission to give America's small business an even break. Yes, it does take a special effort to make sure that government works as well for small business as it does for big business. But this effort is neither extraordinary nor heroic: we all have a right to expect that government will work efficiently and enthusiastically for all our citizens, including small businesses.

In recognition of the additional effort that is called for, Congress instituted a 10 percent small business set-aside for the Eximbank in 1983. According to a GAO study I requested, the Bank now appears to be providing around 13 percent to this total to financing to small businesses, down for 14 percent in 1990. However, this compliance is due almost entirely to the insurance program, which is contracted out to a private association. Only around 2 percent of financing under programs administered direct by Eximbank is for small business exports.

Earlier this year, the Bank announced a reform package to revamp its small business program. Already, the Bank says, there has been a significant increase in small business applications. I am delighted at this good news. I've got to tell you that I will be even more delighted when I learn that small businesses see Eximbank as an eager partner in facilitating exports, rather than a primary source of frustration.

We in Congress must remain vigilant to ensure that Eximbank does right by small business. H.R. 5739's amendment to the Bank's small business set-aside is an important tool for that task. It will help ensure that Congress can fairly and accurately monitor the Bank's progress toward the goal of greater participation by small exporters.

Ms. OAKAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 5739.

The question was taken; (and two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

CONVEYING REAL PROPERTY TO BLACK HILLS WORKSHOP AND TRAINING

Mr. ENGLISH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3453) to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF LAND TO BLACK HILLS WORKSHOP AND TRAINING CENTER, INC.

(a) IN GENERAL.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and any other law which requires that property of the United States be used for a particular purpose, the Administrator of General Services (hereinafter in this section referred to as the "Administrator") shall convey to the Black Hills Workshop and Training Center, Inc., of Rapid City, South Dakota (hereinafter in this section referred to as the "Center"), all right, title, and interest of the United States in certain property under the control of the General Services Administration and described in subsection (b).

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in section 4, T.I.N., R. 7E, BHM, Rapid City, Pennington County, South Dakota, and consists of that portion of Lot 3 that has been determined to be excess property and one and one-half acres of Lot 2 from the southern boundary to a line 200 feet north of the southern boundary, as depicted on a map prepared by Fisk Engineering Inc., and approved by the Forest Service on October 2, 1990.

(c) TERMS.—A conveyance of property under this section shall be—

(1) by quitclaim deed;

(2) completed by the Administrator by as soon as practicable after receipt by the Administrator, by not later than 120 days after the date of the enactment of this Act, of payment in an amount equal to the fair market value of the property, as that value is established by an independent appraisal obtained by the Administrator under subsection (d); and

(3) subject to such other terms and conditions as the Administrator determines to be appropriate.

(d) APPRAISAL.—The Administrator shall obtain an independent appraisal of the property required to be conveyed under this section by not later than 60 days after the date of the enactment of this Act.

(e) PROCEEDS FROM DISPOSITION OF PROPERTY.—Funds received as payment for the property shall be treated as proceeds from a sale of surplus property.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 20 minutes, and the gentleman from California [Mr. COX] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before my colleagues H.R. 3452, introduced by Mr. JOHNSON of South Dakota. The purpose of the bill is to enable the Black Hills Workshop and Training Center to purchase a small amount of excess Federal land so that it can expand the operation of its present center, which is located next to the federally owned land. The center would pay fair market value. The amendment makes merely technical and perfective changes.

This center is a nationally accredited, nonprofit, taxexempt organization that has been training disabled adults and children for many years. There is today a sizable waiting list of those seeking assistance. The center would be qualified to receive the property at no cost as a transfer for educational purposes under the Federal Property and Administrative Services Act; but the processing of such a transfer might take from 6 to 10 months, without any assurance the property would actually become available for such a transfer. The center, however, needs to begin construction on the expansion this year before the onset of severe weather.

The other body passed a similar measure, S. 1770, on November 26, 1991.

The Congressional Budget Office advised then that enactment would lead to an increase of Federal receipts in the neighborhood of $100,000 as a result of the center's paying for the land. Under H.R. 3453, the exact amount will be determined by an independent appraiser.

Mr. Speaker, ordinarily the Committee on Government Operations does not favor special legislation outside the disposal system provided by existing law. The present measure, however, is uniquely eligible for an exception. First, the center is willing to pay to the Government fair market value for this excess property. Second, as a nonprofit tax-exempt educational institution, the center would be qualified to obtain the property at no cost under the Federal Property Act. Third, the public benefit which the center is rendering is exceptionally meritorious and compelling. Fourth, there is need for prompt action to enable construction of the expansion to begin this year. The bill, will in fact, sets time limits to assure that the parties will perform their respective functions expeditiously.

Mr. Speaker, I urge adoption of H.R. 3453, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. COX of California. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to lead the Republican side of the aisle in support of this legislation which so constructively addresses a problem faced by so many average Americans.

I have long been interested in this legislation, which will help disabled Americans obtain jobs while actually improving the Treasury's revenues.

The bill enjoys broad support. It, of course, has the support of the South Dakota delegation. It is supported by the ranking Republican and the ranking Democrat on the Committee on Government Operations. It is supported by the Bush administration and by the Forest Service.

As my colleague, the distinguished gentleman from Oklahoma [Mr. ENGLISH] has explained, this bill will allow the transfer of 5 acres of surplus forest land near Rapid City, SD, to the Black Hills Workshop and Training Center.

This center provides high quality training services to more than 300 disabled Americans. The center has also helped to place those individuals in jobs: positions in electronics, manufacturing, woodworking and food services in the Rapid City area.

This kind of training program is largely supported by the private sector, and it is a model of what we ought to be doing across the Nation, if we are going to keep our work force in America competitive.

The land transfer authorized by this bill will allow the Black Hills program to reach a much larger constituency.

Finally, while this Congress has continued its deficit spending in so many other bills, even today, this bill is a refreshing change. This bill does not increase the deficit. In fact, this bill actually will decrease in a small way Federal spending, as a result of the offer of the Black Hills Center to pay fair market value for the land.

The taxpayers will be getting full value, in other words, for this land transfer. As a result, I am happy to join with my colleagues in supporting passage of this very sensible land transfer measure.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I would simply like to rise and compliment my friend for playing a role in bringing about what is clearly a bipartisan way of dealing with the deficit. I would argue if, in fact, this is going to decrease the deficit, we should be fighting desperately to find more land transfer opportunities for us so that we can turn the corner on this crisis.

I thank the gentleman for yielding to me and compliment him and my friend, the gentleman from Oklahoma.

Mr. COX of California. Mr. Speaker, I thank my colleague from California.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ENGLISH. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota

Mr. JOHNSON of South Dakota. Mr. Speaker, I want to thank the gentleman and the Committee on Government Operations as well as the chairman of the Subcommittee on Government Activities and Transportation, the gentlewoman from California [Mrs. BOXER] and the gentleman from California [Mr. COX] for his great assistance and cooperation in bringing H.R. 3453 to the floor today.

□ 2100

Mr. Speaker, I introduced this noncontroversial legislation last year in an effort to help the Black Hills Workshop and Training Center of Rapid City, SD, purchase 2¼ acres of neighboring land which the Forest Service has declared as surplus. Similar legislation has already passed the other body. I look forward to House passage of this legislation as well.

The Black Hills Workshop and Training Center is a private, nonprofit accredited corporation which provides services to more than 300 disabled adults and children. The workshop has been tremendously successful in providing important services, such as vocational training and community adjustment, to disabled persons. In fact, their success has caused the need for this legislation, which would allow them to expand their facility to accommodate the more than 60 people currently on their waiting list. The property is immediately adjacent to the workshop and part of the Forest Service land in the Rapid City area.

This workshop has been working with the Forest Service now for almost 2 years in their effort to expand, and the Forest Service has assisted by declaring this 2¼ acres excess property. While the workshop would be the likely recipient of this excess Federal property, the regular GSA review and disposal process would further delay the workshop in expanding while at the same time preventing them from providing the service to the disabled. The workshop has agreed to pay their fair market value of this small plot of land, and fair market value language is included in the legislation to ensure the Federal Government receives a fair return on the sale.

Again, I want to thank the Government on Government Operations for bringing this bill to the floor in a timely fashion, and I urge passage of the full House to my colleagues.

Mr. Speaker, I yield back the balance of my time.

Mr. ENGLISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Oklahoma [Mr. ENGLISH] that the House suspend the rules and pass the bill, H.R. 3453, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of the Senate bill (S. 770) to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE TO BLACK HILLS WORKSHOP AND TRAINING CENTER.

(a) IN GENERAL.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary of Agriculture shall convey to the Black Hills Workshop and Training Center, Inc., of Rapid City, South Dakota, at fair market value, certain surplus real property located in the Black Hills National Forest and described in subsection (b).

(b) DESCRIPTION.—The real property referred to in subsection (a) is located in Section 4, T.IN., R.7E, BHM, Rapid City, Pennington County, South Dakota, and consists of that portion of Lot 3 that has been declared surplus and one and one-half acres of Lot 2 from the southern boundary to a line 200 feet north of the southern boundary, as depicted on a map prepared by Fisk Engineering Inc. and approved by the Forest Service on October 2, 1990.

MOTION OFFERED BY MR. ENGLISH

Mr. ENGLISH. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ENGLISH moves to strike all after the enacting clause of the Senate bill, S. 1770, and to insert in lieu thereof the provisions of H.R. 3452, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (3453) was laid on the table.

GENERAL LEAVE

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the special order today by the gentleman from New York [Mr. FISH]

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RESOLUTION CALLING FOR AN ETHICS PROBE OF CHAIRMAN GONZALEZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, I introduce this resolution with great reluctance. But quite frankly I don't know what else to do. Over 2½ months ago, in an effort to keep this above politics, I quietly wrote the Speaker about my concerns over the unauthorized disclosures by Chairman GONZALEZ, urging quick and decisive action. I got no response, even Attorney General Barr indicated in a letter to the Speaker that because of Mr. GONZALEZ' unauthorized disclosures, the administration must cease furnishing him classified information.

Eleven days ago in another letter to the Speaker, I reiterated my concerns, and noted that since my original letter, there had been more unauthorized disclosures by Mr. GONZALEZ that were drawn from very sensitive and highly classified CIA documents. These latest disclosures prompted letters to House leaders from the Director of Central Intelligence, Robert Gates, and Adm. William Studeman, who is temporarily serving as the acting Director of Central Intelligence.

Both Gates and Studeman have indicated that Mr. GONZALEZ has unilaterally disclosed classified intelligence information. So have representatives of the State Department and Treasury Department with respect to classified information emanating from their agencies which they gave Chairman GONZALEZ in a good faith effort to comply with his requests.

Mr. Speaker, the information that Mr. GONZALEZ has been disclosing was furnished to him with the understanding that it be properly protected. The key to successful oversight of intelligence matters is trust. Without it, the whole process breaks down. Failure to act on this matter provides the executive branch with a legitimate reason to withhold information—information that is crucial to meaningful oversight.

Failure to address this problem immediately will also cause serious damage to our Intelligence activities overseas. Put yourself in the shoes of a friendly country or third parties who have been helping our intelligence officers carry out their mission. Letting this go on unaddressed creates the perception that Congress is a sieve and we are unconcerned about the security interests of our allies and the lives of our intelligence officers and their agents.

We must remember that in this highly interdependent world we can't go it alone. Terrorism is a case in point. Most terrorism against U.S. citizens occurs overseas. To combat it, we need the cooperation of our allies. That kind of cooperation is going to dry up—if we continue to let leaks like this go unpunished.

Failure of the House to hold Mr. GONZALEZ accountable places him above the law. Moreover, this steady stream of leaks by a senior Member of this body reflects very badly on the public reputation and dignity of the House as an institution, quite apart from any consideration of the merits of Chairman GONZALEZ' speculations on the meaning and significance of the information he has been disclosing. For the leadership of the House to continue to tolerate this highly questionable behavior has other far-reaching and disturbing ramifications. It feeds what I fear is a growing and very troubling perception of the relative ease with which any Member can disclose classified information with impunity.

Mr. Speaker, every Member of this institution must abide by our rules and procedures. When a member of a committee wishes to bring classified executive branch information before the House, rule 29 provides the vehicle of a secret session to do so. That information must remain protected unless the House votes to disclose it. In short, I believe that Mr. GONZALEZ' conduct does not reflect creditably on the House and violates clause 1 of House rule 43, which deals with Members' code of conduct. It also violates clause 2 of House rule 43, which enjoins all Members to adhere to the spirit and the letter of the rules of this body.

It is against this backdrop, Mr. Speaker, that I introduce this resolution today. Enough is enough. It is time for action. Every day of inaction risks further disclosures and further damage to national security interests and to the vitality and effectiveness of the legislative oversight process.

H. RES. —

Whereas on March 2, 1992, Representative Henry B. Gonzalez knowingly and willfully inserted in the Congressional Record documents of the Executive Branch bearing markings indicating that they were classified for reasons of national security;

Whereas on July 7, 1992, Representative Gonzalez willfully disclosed information from a purported Central Intelligence Agency intelligence document which he publicly acknowledged at that time to be classified;

Whereas the Director of Central Intelligence, Robert M. Gates, has indicated in writing that Representative Gonzalez's "statement in the Congressional Record on 7 July 1992 included information from a TOP SECRET compartmented and particularly sensitive document" to which the Central Intelligence Agency had given his committee staff access;

Whereas the Director of Central Intelligence further stated in writing to Representative Gonzalez, regarding his July 7, 1992, statement in the Congressional Record, that, "Because of the sources and methods underlying that information, I will ask for a damage assessment to determine the impact of the disclosure. I regret that you chose to discuss information from classified documents without attempting to determine if we could work out a way to satisfy . . . our need to protect intelligence sources and methods";

Whereas the Acting Director of Central Intelligence, Admiral William O. Studeman, has confirmed in writing to Representative Gonzalez that portions of statements in the Congressional Record by Representative Gonzalez on July 21 and 27, 1992, "were drawn from classified intelligence documents, some of which are Top Secret, compartmented, and particularly sensitive";

Whereas the Acting Director of Central Intelligence has stated in writing to Representative Gonzalez, regarding his statements in the CONGRESSIONAL RECORDS of July 21 and 27, 1992, that, "I have asked the Office of Security of the Central Intelligence Agency to undertake a review of your statements in order to determine the impact of the disclosures of intelligence information on intelligence sources and methods";

Whereas the Department of State has confirmed in writing that, over a number of days, Representative Gonzalez "inserted into the CONGRESSIONAL RECORD the full text of at least fourteen classified documents generated by the Department of State," and the Department of State indicated further that those documents "contain classified information involving sensitive diplomatic discussions";

Whereas the Treasury Department has indicated in writing "very serious concerns" over Representative Gonzalez's "disclosures of classified information in the CONGRESSIONAL RECORD" which included information from a classified Treasury Department document;

Whereas on numerous other occasions Representative Gonzalez has knowingly and willfully disclosed in the CONGRESSIONAL RECORD information from Executive Branch documents which are apparently classified for reasons of national security;

Whereas the classified documents in question were apparently made available to the Committee on Banking, Finance and Urban Affairs by Executive Branch agencies in good faith cooperation with a committee investigation and with the expectation that access would be restricted to persons with appropriate security clearances;

Whereas the public disclosure of information from the classified documents in question was not necessary for legitimate legislative oversight, and the Committee on Banking, Finance and Urban Affairs apparently has not voted to disclose publicly those classified documents;

Whereas the public disclosure of the contents of the classified documents in question appears to be detrimental to the national security and foreign policy interests of the United States;

Whereas the conduct of Representative Gonzalez raises serious questions of possible violations of Clauses 1 and 2 of Rule XLIII (Code of Official Conduct) and possibly Clause 2(k)(7) of Rule XI (Rules of Procedures for Committees) of the House;

Whereas the knowing, unilateral and unauthorized disclosure of classified information by Representative Gonzalez seriously imperils the spirit of mutual cooperation and trust between the Congress and the Executive Branch so critical to effective legislative oversight;

Whereas the nature and gravity of the conduct of Representative Gonzalez is such that the reputation and dignity of the House as an institution and the integrity of its proceedings, especially its oversight activities, may well be adversely affected;

Whereas Representative Gonzalez willfully continues to disclose publicly information from classified documents; and

Whereas in the interest of a prompt and fair resolution of the serious questions raised regarding the apparent unauthorized disclosure of classified information in seeming violation of the Rules of the House of Representatives: Now, therefore, be it

Resolved, That the Committee on Standards of Official Conduct is directed to investigate whether Representative Gonzalez has, during the Second Session of the One Hundred and Second Congress, publicly disclosed classified information in the CONGRESSIONAL RECORD, and in so doing violated the Rules of the House of Representatives or any duly constituted committees. All other committees, and all Members, officers, or employees of the House who may have information relevant to this investigation are directed to cooperate promptly with the Committee on Standards subject to procedures the Committee shall adopt necessary to protect from unauthorized disclosure classified information which may be transmitted to the Committee pursuant to this investigation. The Committee on Standards of Official Conduct shall promptly report its findings and any recommendations to the House.

AMERICA'S CONTINUING LEADERSHIP ROLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER of California. Mr. Speaker, I have taken out this special order this evening, and I know we may be competing with the Olympics, but it is interesting when we look at the leader in medals. It is the Commonwealth of Independent States, so it seems to me that it is very appropriate to take some time to talk about what is a very important, once-in-a-lifetime opportunity. We all know, having witnessed the now very famous revolution of 1989, when we saw the Berlin Wall crumble and other nations throughout Eastern and Central Europe fall. Then a little more than a year ago, we witnessed the demise of the Soviet Union.

In fact, it was a year ago this month that we saw these great changes in the former Soviet Union take place, and who would have guessed that the multifarious Republics of the then-Soviet Union would break up in the way that they have? Very few people would have predicted the kinds of changes which we have seen, which frankly have taken place under what I believe to be the great leadership of President George Bush, and the groundwork for this, of course, was laid by Ronald Reagan.

We have before us a very pressing, challenging, and difficult issue that must be addressed in light of those changes. It is no secret that we in the United States are faced with some very serious domestic problems. We got the unfortunate news today that the Index of Leading Economic Indicators for the month of June dropped by two-tenths of 1 percent. We have seen in my State of California an unemployment rate in excess of 10 percent. The unemployment rate in California has come about in large part due to the great success of freedom and democracy over the repression and totalitarianism which had been led by the Bolshevik Revolution of 1917.

The fact that we have won has played a role in the understandable reduction in defense expenditures, and we, in a strange way, are paying the price domestically for the success that we, as the last bastion of freedom in the world, have had over the past several years.

During the decades since the Bolshevik Revolution, and really since World War II, we have seen the United States expend $4.3 trillion to try to contain communism. As we all know, we have only succeeded in containing it, but it has been basically obliterated, with very few exceptions, throughout the world.

The challenge that we face today, Mr. Speaker, is how we are going to play a role as the world's leader and example of freedom in trying to ensure that the former Soviet Union, the now Commonwealth of Independent States, how is it that we will be able to ensure that these very fragile democracies are able to move dynamically toward a market-oriented economy, freedom, and democracy?

As we look at the challenge, it is a great one. I have not been a strong proponent of foreign aid. In fact, I have consistently opposed the massive foreign assistance packages which we have seen in the years that I have had the privilege of serving as a Member of Congress.

One of the things that has to be realized, though, is that having spent that $4.3 trillion trying to contain communism, we must recognize that we have got to set an example, and we have to play a leadership role for the emerging democracies.

□ 2110

Just yesterday, President Bush sent a letter in which he encouraged us to support what has become known as the Freedom Support Act which will provide much-needed assistance to the Russian Republic, the Ukraine, Armenia, and others of the New Commonwealth of Independent States. It seems to me that again, this is the opportunity of a lifetime, and I hope very much that we will be able to fashion legislation which I will be able to support to try and wean those who have tried to live in a command-and-control economy for decades to a market system. So as we get the requests which have come from the President and from a number of other people to support this, I hope very much that we will be able to look at some very creative ways in which we can, I believe, improve this legislation.

I have five basic provisions which I hope will be incorporated in the Freedom Support Act so that I will be able to support it, and so that many of my colleagues will be able to support it.

The first is basically what is known as the index of economic freedoms. We now know that there is still in place in the former Soviet Union what is known as the nomenclatura, a bureaucracy which continues to attempt to perpetuate itself, and it is important that we do everything that we can to break that up. In determining whether or not United States assistance should be provided for an independent State in the former Soviet Union, I hope that our President will consider property rights, regulations, and informal sector, wage and price controls, taxation, trade policy, restriction on investments, and capital flows, and the size of the State sector and the degree of government ownership of a wide range of industry, banking, and others. I think that we need to have, as an important provision in the Freedom Support Act, this index of economic freedom so that we can ensure that we are moving in the direction of a free market there.

The second provision that I am calling for is the establishment of what is known as a business information center. One of the things we found as a challenge is we know that there are business opportunities that exist in the emerging democracies. There are many Western investors here in the United States who would like to have the opportunity to invest in the Commonwealth of Independent States. So the idea of a business information center is to establish this system for the States of the former Soviet Union using the services of the United States Information Services Company. It will be run by the program coordinator for AID to the former Soviet Union, and will serve as a central clearinghouse and data resource service for United States businesses and businesses in the former Soviet Union.

Mr. Speaker, the third provision that I am hoping to be able to see us implement is what I call the SBA, the Small Business Administration international business education program. It establishes a program in coordination with the Agency for International Development to use the Small Business Development Center, and one of the very important aspects of the senior corps of retired executives to make management training available to businessmen and women, and to government officials from the former Soviet Union, the idea being that we have many retired executives who have utilized what is known as the SCORE program, the senior corps of retired executives, and they have been able to help people here in the United States who have been trying to put together the wherewithal and the expertise to begin their businesses. We have this great resource here. Rather than simply funneling money to the former Soviet Union, why do we not utilize this very already successful SCORE program, senior corps of retired executives to help people in the former Soviet Union.

Mr. Speaker, the fourth is known as the Center for Political Education. It establishes a center through the United States Information Agency to provide leaders in the former Soviet Union with training, a hands-on experience with the United States Congress, political campaigns, the media and businesses. The congressional Gift of Democracy Fellowships would be awarded to two nongovernment organizations to develop and administer this center. There have been a number of private organizations which have done this type of thing with the emerging democracies of Eastern and Central Europe, and I always argued when we were bringing activists from Solidarity and other reform movements in Central and Eastern Europe that if they intern for a while on Capitol Hill, they may want to go back to Communist totalitarianism in their country because of the frustrations that many of us feel around here. But the fact of the matter is, it has been a great opportunity for people to experience this training, media, government, and business. So I hope very much that we are able to utilize this concept of a Center for Political Education.

The fifth provision, Mr. Speaker, calls for the establishment of something which has been very successful in dealing with a wide range of other countries. Since I have been here in the Congress, I have had the privilege of serving on the Mexico-United States Interparliamentary Conference. It is an annual meeting which sees Members of this body and members of the Mexican legislature meet and discuss common problems, deal with the challenges and the relationships between our two governments in trying to encourage the building of ties within the private sector. One of the main items of discussion we had in the United States-Mexico Interparliamentary Conference over the past couple of years, has been the establishment of a North American free trade agreement, which is something that will be debated here on the floor of the Congress tomorrow, and has been discussed widely. If we were to establish a United States-Russian Interparliamentary Conference, it seems to me that this would create a great opportunity for us to discuss the challenges that we face as two nations, and at the same time create an opportunity for us to try to reduce some of the tremendous barriers that still exist, especially in the area of trade among the Republics and the United States and others in the West.

These five provisions which I am proposing, Mr. Speaker, I believe will go a long way in the realization that hard-earned taxpayer dollars in the United States cannot be simply thrown at the problem of those who are struggling to emerge from totalitarianism in the Commonwealth of Independent States. It seems to me that we have an obligation to utilize these five very creative proposals to try and bring about the kind of success that is there.

Yes, this is a once-in-a-lifetime opportunity. What are the consequences if we do not provide this kind of support? I believe that it has a direct correlation on the economic success here in the United States, and quite frankly our survival. There are many who want to bring about a reduction in the level of defense expenditures, and if we are going to ensure that we can do that, it is up to us to do everything possible to encourage the movement toward democracy and free markets.

So, this package, I believe, is a creative way in which we can try to deal with that problem. We have seen President Yeltsin, just 6 weeks ago, stand right behind me here, Mr. Speaker, in front of you and behind me, and deliver an extraordinary address to this country.

On his visit, when he was here, he and President Bush signed an unprecedented agreement designed to bring about the elimination of those SS-18 heavy missiles, and we know that there are thousands of nuclear warheads still pointed at the United States. And if we are going to totally eliminate that as a threat, we have an obligation to do what we can to try and encourage these people into a market-oriented economy.

Many would ask why should we not just say that it has happened, the opportunity is now there for them to do it, and let them sink or swim.

□ 2120

The problem with the prospect of sinking, Mr. Speaker, as with the military capability that still exists in the former Soviet Union and the potential threat that is offered by some who would like to move back to a Communist totalitarian system means we have to do what we can to counter that.

There are forces within the former Soviet Union, some of which still wield a great deal of influence there. There are people the likes of Col. Viktor Alksnis, the Darth Vader of the Soviet military, who would like to see us shift back to the past, and there are many who would love to see this precious experiment which we have been enjoying for 207 years, nearly 207 years, and which is just beginning in its embryonic stages in the Commonwealth of Independent States, they would like to see it fail, so that is why we clearly, having expended that $4.3 trillion over the past several decades, have an obligation to do what we can to help them.

Mr. Speaker, I am opposed to blindly sending what I call nonexistent foreign aid dollars, but it is right that this is a once-in-a-lifetime opportunity, and we should only do it if we can ensure that those dollars do not go to the bureaucracy but, in fact, play a role in leading these people to attain the kind of self-sufficiency which they must have.

Mr. Speaker, I am including at this point in the RECORD a letter which I referred to earlier that has come from President Bush. It was to me, but I assume it went to my colleagues also.

THE WHITE HOUSE,
Washington, DC, August 3, 1992.

DEAR DAVID: As the House moves to consider the FREEDOM Support Act (H.R. 4547), I wanted to convey to you my strong backing for the bill and my hope that it will have the support of you and your colleagues.

I submitted the Administration's FREEDOM Support Act proposal in April and requested prompt Congressional action. On July 2, the Senate passed its version of the bill, S. 2532, by a bipartisan vote of 76 to 20. The Senate and House bills differ from the measure I proposed to Congress, but they contain most of the basic authorities which I requested. I hope that, working together, we can produce a conference report that serves as a bipartisan foundation for our assistance effort.

I am convinced that we now stand at a critical moment in history. Together with our allies, we have the once-in-a-lifetime opportunity to help consolidate democracy and free markets in Russia, Ukraine, Armenia, and other states and to turn former enemies into permanent friends and partners. Most important, we have the chance not only to help the peoples of Russia and the new independent states escape the long nightmare of communism, but also to secure for us and our children a future that is infinitely safer and more prosperous.

Six weeks ago, Russian President Yeltsin came to Washington. Together we defined a new era in our relations. In signing with me the Washington Charter, President Yeltsin made clear and unequivocal commitments to democracy, free markets, and security cooperation that no Soviet leader could have possibly contemplated. After tough negotiations, we signed a historic nuclear arms reduction package that will achieve the greatest measure of security for the United States since the dawn of the nuclear age.

President Yeltsin also reaffirmed his determination to build a free market in Russia and to push ahead with his program of radical economic reforms. Together, President Yeltsin and I established a new framework for vastly expanded U.S.-Russia trade and investment that will benefit our businesses and our workers for years to come. We signed new Tax and Bilateral Investment Treaties that will help our firms enter the Russian market, and the U.S. granted Most Favored Nation status to Russia.

President Yeltsin has boldly and unambiguously committed his government to the values that all Americans hold dear: democracy, freedom, and free markets. He has promised to uncover the darkest secrets of the communist past and to help resolve our deep concerns about American MIAs, POWs, and the KAL 007 tragedy. Now it is time for America to do its part to assist Russia, Ukraine, Armenia, and the other new states to make the historic transition from tyranny to freedom. Together, the Administration and Congress must send a clear message that we stand with them at this difficult hour, when they need our help most.

To those who say America cannot afford to assist these reformers at a time of domestic difficulty, I respond that no such false choice exists. We can—we must—meet challenges both at home and abroad.

The FREEDOM Support Act is not just another foreign aid bill. It is first and foremost an act of national self-interest, a direct investment in the political, economic, and security future of the American people. Having spent over $4.3 trillion to defend ourselves from Soviet totalitarianism during the Cold War, we can ill afford not to invest in democracy in Russia and Ukraine so that we can permanently reduce our defense burden. The resulting savings would be available for investment here at home. And by acting now to engage Russia and the new states, American firms, workers, and products will be well-positioned to take advantage of this large and rich market.

If we do not act now, we collectively will have failed to live up to the challenges and the strategic opportunity—perhaps the greatest this century—that this new relationship gives us. Now it is time for the House to join the Senate and pass the FREEDOM Support Act and then to meet in conference and pass a bill I can sign into law. To desert Russia, Ukraine, Armenia, and the other states at this time of need would be a tragic mistake for which history will surely judge us harshly. I therefore urge your support for early passage of the FREEDOM Support Act.

Sincerely,

GEORGE BUSH.

I hope very much we will be able to move ahead with this package and benefit not just the people of the Commonwealth of Independent States but the American people as well.

THIS NATION'S UNEMPLOYMENT CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HAYES] is recognized for 60 minutes.

Mr. HAYES of Illinois. Mr. Speaker, might I put at ease your mind and the minds of the staff people who are still here and those Members of the House who have reserved time who are to follow me that I am not going to take the whole 1 hour.

Mr. Speaker, I rise to alert this Congress that our Nation is undergoing a real unemployment crisis which clearly constitutes an economic emergency. The calls of our unemployed, desperate citizens have gone unheard for too long and I have witnessed too many people suffer. During this recession I have seen many of our Nation's families not only lose their jobs, but also their health care benefits, and a dramatic reduction in their quality of life. While Congress has debated whether to continue funding for the space station and to send aid abroad, many of this Nation's citizens are facing real troubles like how they will finance their children's education, pay the mortgage, the rent, car note, insurance, utilities, food, and clothes. The unfortunate reality about this recession is the fact that it may only be the beginning of a long, sad, trend of permanent job losses because of the economic policies of the Reagan/Bush era. While our President has been instituting backward economic policies, many Americans have lost their jobs permanently to cheap laborers abroad, and have ultimately been abandoned and left out in the cold.

What has the Congress done to help the unemployed? Well, as usual we have passed a series of unemployment compensation extensions, which I supported, but this is no solution to this crisis. In fact the last extension we passed does nothing to help the long-term unemployed. We also passed the urban aid package, which is only a small attempt to stimulate growth. Why have not we created real jobs for the American worker that will provide our proud citizens with a self-sustaining way of life?

While our President has tried to blanket the truth about this Nation's unemployment crisis, the reality is that our unemployment rate has soared and many Americans continue to suffer. Last year around this time the number of unemployed Americans was around 8.7 million. Today that number has risen to nearly 10 million or 7.8 percent, and the figure for African-Americans is at an even more distressing rate of 14.9 percent. For urban centers the rate is almost double that. What has been the reaction of our President? Absolutely nothing.

With a 9-percent unemployment rate in the city of Chicago, my constituents are being overwhelmed by this feverish wave of joblessness. They, like many Americans across the Nation, not only worry about their survival, but they also suffer from a sense of hopelessness, and depression. Many suffer inescapable social and economic alienation and family dissolution. It is no wonder why drugs, crime, and homelessness plague our urban streets. These times are hard, people are frustrated, and depression spurs unfortunate consequences. A jobs program is the answer to restore the sense of self worth, pride, and financial security in the attitudes of American citizens, and that is what is expected of this Congress today.

My colleagues, if any of you have been around as long as I have to have lived through the Great Depression of the 1930's, you will remember a time of increasingly high unemployment, high crime, feelings of hopelessness and despair, family dissolution and abandonment. I lived through the 1930's and I remember those desperate economic times, and it is sad for me to say, but the recessionary times of today closely resemble those of the 1930's. With the financial greed of the 1980's comparable to that of the 1920's we must not think that this recession is minor and temporary. Wake up Congress to the calls of your constituents and let's stand up to our responsibilities and implement a jobs program, a public works program like those that grew out of the Great Depression.

During the Depression, an array of public works programs were implemented. Some of those programs were the Federal Civil Works Administration projects [CWA] initiated by an Executive order in 1933. This program employed nearly 2 million workers and within 1 year that figure increased to 4.3 million people. There were the Public Works Administration projects that employed even more people to both heavy construction and labor-intensive projects.

□ 2130

Additionally, we must not forget the [CCC] Civilian Conservation Corps for the youth. I was a CCC worker and if it were not for that program my family would have had an even harder time feeding all of my 11 sisters and brothers. The 1930's were very desperate times, and it called for a progressive initiative of both Congress and the administration at that time. Right now, I say that these times are also crying out for some progressive action out of today's Congress.

There are many jobs bills currently pending before this Congress. The Vehicles await our action. I have a bill, the Infrastructure Improvement and Job Opportunities Act pending before Congress.

I would like to see some action on this bill or others before I leave this Congress, since this is my final term.

This bill will create employment opportunities at local job projects that renovate the infrastructure of this Nation's roads, bridges, public housing, public schools, and historic sites. Our Nation's infrastructure is decaying and needs improvement. While driving down some of the pothole-infected streets of my home town of Chicago, and even the Nation's Capitol's roads, the need for repair is more than obvious. This bill would not only accomplish cleaning up our Nation's infrastructure and employing this Nation's citizens, it too, provides real training that will later translate into real and permanent jobs. The crisis is great and we must respond. My bill does not have to be the vehicle, there have been over 100 jobs related bills introduced in this Congress.

I know that many of my colleagues all endlessly complain about the cost of a jobs bill and I understand the fiscal restraints we are faced with. However, who stood on this floor and complained about the cost of the political deployment of United States troops to Kuwait earlier this week? Who stood on this floor and complained about the obscene cost related to the savings and loan bailout? The very same folks that will oppose an effort to put this Nation back to work. The return that will be realized when the workers of American have jobs will be great. We must and can find the necessary financing.

The phone calls have been flooding in indicating the real magnitude and unacceptable duration of this crisis. Federal intervention is now of uptmost importance and the survival of the people we represent is at stake. I call on this Congress to address the real problems of this country and to implement a job program before we recess.

IS THE GOVERNMENT UNDERMINING THE PATENT SYSTEM?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, our trade negotiators are busy with discussions at the General Tariffs and Trade meetings in Geneva, as the final touches are put on the Uruguay round and the GATT trade talks. What they should remember in these negotiations is the central importance of the American patent system to the economic well being of the Nation. Patents are, and have been, the engine of our technological leadership.

Americans live in a society that has many choices of desirable products in the stores, so it is easy to forget the role of patents in making so many products available to the consuming public in making our lives easier.

Inventors who are well known to us from years past fully understood the importance of the patent system. One of those who understood its significance was Dr. Edwin Land, inventor and founder of Polaroid who said, "I must emphasize that the kind of company that I believe in cannot come into being and cannot continue its existence except with the full support of the patent system."

Another example of support for the patent system came from Irving Shapiro, chairman of E.I. duPont de Nemours & Co., who pointed out that "Du Pont had worked on the development of nylon for twelve years and spent almost $27 million in research utilizing the basic patents originated by Wallace Caruthers." He went on, "More than three million people have jobs in the production of nylon textile and plastic products, and all of this traces back to the handful of key patents behind the invention and development of this one product." Those words were spoken years ago, but they still hold true today.

In today's market, tracking patent trends is used as a tool to judge the competitiveness of a firm, and to help in decisions on mergers and acquisitions of companies.

Protecting intellectual property, which includes patents as well as copyrights and trademarks, has become a big business. The Financial Times reported that Lane Mason, principal analyst at Dataquest, a high-technology firm of San Jose, CA, stated that "It's a booming business and there is lots of money to be made in it if you have a patent."

He estimated that, "Last year, publicly known licensing fees that were paid in the semiconductor industry alone came to roughly $800 million, compared with about $300 million in 1986.

Mr. Mason also said, "Intellectual property is becoming a new commodity that's being priced at whatever the market can bear." The Financial Times noted that "The aggressive stance of the patent holders is such that some in the industry believe there would even be a shift in the balance of power away from companies which succeed on the strength of their low-cost manufacturing and marketing ability, in favor of those which have patented technologies."

Mobil Oil, according to Business Week, discovered the importance of patents when Mobil executives realized after a patent search that, "Their competitors were often better at patenting applications for the very materials Mobil had discovered." Mobil executives realized the error, and with more budget and effort, were able to protect Mobil's products by utilizing the patent system.

Mobil's plight was not unusual. American companies many times have not protected themselves adequately with the patent system.

The Washington Post reported in 1989 that the U.S. International Commission reported that "431 companies suffered aggregate worldwide losses of almost $24 billion in 1986 because of inadequate intellectual property protection." That figure increases each year.

If patents are so important to our economy, then how are we doing with new patents, and what are the problems with the system?

First, we are not doing so well with patents. According to the United States Patent and Trademark Office, four of the top five firms filing for United States patents are from Japan. They are Hitachi, Toshiba Corp., Canon, and Mitsubishi. General Electric Co. was fifth. In fact, Eastman Kodak and IBM were seventh and ninth on the list, and the balance of the top 10 filers were Japanese.

Of 96,514 patents granted in 1991, foreign patentees received 45,000 patents. The Washington Sunday Times reported that 21,000 patents went to Japanese firms, which meant "Japan is the leader among foreign nations for the 17th year in a row."

The New York Times reported in an article entitled "In The Realm of Technology, Japan Looms Ever Larger" reported that "High-quality patents are seen by many experts as potent indicators of a nations future prosperity because they signal the emergency of important new technologies that will be under the patent holder's exclusive control for many years." The explanation offered was "Superior scientificate papers are considered important to a nation's industrial health because inventors increasingly rely on basic research to compete effectively in the international race for commerical innovations."

The article noted the rise of Japan in sophisticated technology areas. It showed the United States with 104,541 influential patents and Japan with 76,984 influential patents.

The countries in Europe that are pushing the intellectual property process in GATT are lagging far behind the United States in influential patents: Germany has 17,643, France 7,672, Belgium 330, Sweden 1,124, Great Britain 8,795, Canada 1,156, Italy 1,106, Switzerland 5,002, the Netherlands 5,737, the former U.S.S.R. 400, South Korea 400, and Taiwan has 1,000 influential patents.

Quick addition of those figures reveals that the top 15 countries for influential patents, not counting Japan and the United States, have only 50,365 influential patents. Adding in Japan's 76,984 patents brings to 127,349 a grand total of influential patents for the top 14 countries in the world versus the United States of 104,541.

Led by Germany, in the intellectual patent discussions at GATT, those 14 countries are pushing a radical change for the American patent system, and surely will erode our lead in influential patents. They are pushing for the European or world system of first-to-file instead of the American system of first-to-invent.

As one of my intellectual property lawyer friends remarked on a recent television show, the joke in Geveva is "The Germans negotiate with themselves and then come out and tell you how it is going to be in intellectual property." Judging by these figures of influential patents, the Americans should be negotiating and telling the other 14 countries how it is going to be.

A friend of mine in the automobile industry commented that "Patents are a scary threat for American industry with foreign countries taking so many patents, we could easily in ten years be paying royalties to Japan for everything we want to do." He is right.

Patents are the backbone of American industry and they are also the source of job creation and wealth. Business Week noted in a recent article "Global Innovation: Who's In The Lead?" that business strategy is often detected by tracing patent trends.

Reviewing the patent figures the New York Times listed in the article I mentioned earlier, it clearly shows the preeminence of the United States, but also reveals how quickly we can lose our lead in the patent field—and as an industrial nation.

Those figures from the New York Times raised an interesting question. Why are we working so hard to give away an advantage in patents? The United States has pushed over the years a number of conventions on patents with what I would guess, was a desire to ensure the dominance of the American patent system and help American firms do business around the world. But that does not apply today in our talks since the American system is the best in the world.

Our patent system is unique. The December 2, 1991, issue of Business Week explained the U.S. advantages in an article "Is It Time To Reinvent The Patent System?" The article stated that "Many domestic companies favor the first-to-invent system because it gives them an edge. A U.S. patent cannot be rejected or overturned because someone shows up claiming to have invented it first outside the U.S."

In fact, the Patent Commissioner Harry F. Manbeck Jr., has been quoted as saying "The U.S. system is not functioning improperly or ineffectually * * *. We wouldn't make any changes were it not necessary to compromise."

That compromise he mentioned are the GATT talks on intellectual property. The article noted, "The nature of those compromises is a key part of the drive for patent reform. The World Intellectual Property Organization and trade negotiators are working to harmonize the world's patent laws. Harmonization, by its very function, means the standards are lowered. The unique U.S. system has worked to make the United States an industrial and technological power until now.

The U.S. Patent Office and many American companies now appear willing to switch to first-to-file and end the secrecy of patent applications in exchange for broader protection for new drugs and faster examinations elsewhere."

What good will faster examinations do, if the patent is not protected? It is well known by American companies how the first-to-file operates in Japan. The National Journal explained "It is up to those who think a patent should not be granted to oppose it. And to permit such opposition, applications are laid open for public inspection 18 months after they are filed."

American stories abound on how the Japanese Government uses the system forming consortium to work on patent information. Allied Signal, is a large company from my district, and one of the firms used to make up the Dow Jones Industrial Average, learned how this works. It had its Metglas patent infringed on by companies working in such a consortium. In Japan, laying open the patent system after 18 months invites imitators to file on a patent.

The National Journal explained what happens when the Japanese file around a patent. It noted that "Multiple patents enable Japanese companies to surround an American technological advance with Japanese patents, effectively rendering the U.S. patent useless."

Inventors tell me that the first-to-file system will invalidate the inventors' notebook. They feel that under this system, anyone who is adept at infringing on patents will prosper and certainly will put the lone American inventor at a distinct financial disadvantage.

It takes a resource of time and money for a patent to realize its full potential, and with the harmonized system it will be difficult for the individual American inventor.

Along with the GATT talks, the patent system has taken a beating here in the United States. In 1982 we changed the fees on filing a patent and instituted maintenance fees. We no longer automatically give a 17-year grant, but one for 4 years. If the maintenance fees are paid, then an applicant can have a 17-year grant.

According to my friend, Bill Schlesinger, Jr., who is a patent attorney and an inventor holding 118 patents, "Nearly 40 percent of the patents granted to individuals in the past 9 years have expired for failure to pay the extension or maintenance fees required before the end of the 4-year grant."

He explained, "Many inventors become discouraged, when they have been unsuccessful initially in marketing their inventions. Four years is insufficient time to find out if they have something worthwhile."

My friend stated, "Fallout from the impact of these new fees has carried over the U.S. Government patents. Remember, those patents are paid for by the taxpayers. Over 50 percent of these U.S. patents issuing in the last 9 years have been allowed to expire even though the potential value of these inventions by the government could have been maintained for the full 17 years had the maintenance fees been paid." When a patent is released it then goes into the public domain for anyone to pick it up.

The fees, according to Bill, were increased in 1990 by 69 percent by tacking the change onto the budget bill. The budget of the Patent and Trademark Office has increased 350 percent in the past 10 years while the workload of patent applications has increased only 60 percent.

In a letter to Congress, my friend pointed out a stunning fact that "U.S. Government fees to obtain and maintain a U.S. patent have increased more than 4,000 percent in the last 12 years."

American patent fees are higher than any country in the world. Our inventors pay the fees, as do our businesses, but remember many foreign firms who patent in the United States are subsidized by their governments. Now we are raising the fees again by another $12 or $13 million, which will be a severe financial problem for our inventors. One of the Big Three automakers dropped 100 patents because of the high costs of fees.

Perhaps we should examine more closely how the increased fees actually have been used. The Patent Office supposedly installed a computer system to simplify the process of patent searches. What they did was invest in an old cast-off system from an airline and then found out after spending $400 million or so that it didn't work. That money is wasted and we still do not have a functioning system, while we are financially strangling our inventors.

I believe there is an another important point that added to this financial fiasco. During the budget summit of 1990, Members of Congress recommended increasing user fees for Federal agencies to aid in decreasing the budget deficit by $120 billion over the next 5 years.

At that time the Patent Office share was determined to be $500 million or 0.1/10th percent of the total deficit reduction amount. Increasing user fees by 25 percent covered the Patent Office share, but it became a financial burden for the inventors—the very people whose work we rely on for ideas to create products and industries which employ other Americans.

This Federal Government action is certainly a far cry from the way inventors have been treated since the Constitution was signed. As a class inventors were the only group of people protected in the Constitution. In 1787, Congress was empowered to promote the progress of science and the useful arts. The first U.S. Patent was granted in 1790 to Samuel Hopkins for an improvement in making potash and pearl ash in making soap.

As my friend, Bill Schlesinger, pointed out, "With this patent, the United States, a small struggling nation, was on its way to becoming, through it inventive genius, the greatest industrial power in the world." Today the United States has granted over 5 million patents which have resulted in new products and new industries giving employment to millions of Americans.

We must realize that the patent system is the secret of our industrial might, it is the goose that laid the golden eggs, which are our patents. If we do not act soon to protect our system and American inventors by changing our fee system, we will be killing the goose that laid the golden eggs.

If we change to a first-to-file system, we will no longer be protecting our inventors as a class as the Constitution originally spelled out. We will be putting them directly into a tough battle to protect their ideas for the United States with foreign companies countries who are subsidized by their governments. Surely, we can do better than this to protect the inventors who are the real secret of the American system.

Remember, that Japan determined in the 1930's and again just 10 years ago that the secret of American industrial might was our patent system.

If we kill the golden goose then literally all Americans will suffer financially. We will then pay our patent royalties to firms from foreign countries.

The American people should rally to the side of our inventors and stop this nonsense. I am on their side.

□ 2150

FRANCIS GILDERNEW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FISH] is recognized for 60 minutes.

Mr. FISH. Mr. Speaker, on May 14, I received a letter from Mr. Edward G. Brady, a constituent, in which he notified me that on April 16, Holy Thursday, Mr. Francis Gildernew, of Poughkeepsie, NY, in my congressional district, was arrested by FBI and Immigration and Naturalization Service agents.

"The arrest was made at Francis' home by some 8 to 12 agents, who entered the home with drawn guns. Mr. Gildernew was handcuffed and taken to the Varick Street Detention Center." Mr. Brady goes on to say "Francis' wife learned at 11 a.m. on Good Friday (April 17th) that cash bail of $50,000 was set and had to be paid by 3 p.m. that afternoon if Francis was to be released in time for the Easter holiday."

It was in this way I learned that the civil rights conflict which has tragically torn the social fabric of Northern Ireland for over 24 years, had borne its bitter fruit across the Atlantic Ocean in the 21st Congressional District, in rural upstate New York.

What had he done to be held in the Varick Street Detention Center for 6 days? Why, when bail was set, was it set at $50,000 in cash?

Mr. Speaker, while my outrage at the handling of Mr. Gildernew, a respected member of the Poughkeepsie, NY, business community, by our Government agents is new, my sense of injustice at the British handling of the Catholic minority in Northern Ireland is not.

In 1978, I was one of two members of the House Judiciary Committee to investigate immigration and judicial conditions in Northern Ireland. The title of the report issued about that investigation is: "Northern Ireland: A Role for the United States."

This report covers our inquiry into the current troubles in Northern Ireland, from their inception in the civil rights marches of October 1968, led by Catholics seeking an end to discrimination in voting, housing, and employment; to the Downing Street Declaration of August 1969, marking the British assumption of the maintenance of law and order in Northern Ireland; to the hunger strikes in the H blocks of Long Kesh Prison, which resulted in the death of Bobby Sands, an elected member of Parliament, and nine other prisoners.

The memories of these harsh happenings were refreshed in my mind at the time of the arrest of my constituent, Francis Gildernew. It was action by his family that had provided the spark which lit the fuse for the civil rights marches of 1968, which in turn, exploded into the tragedy that has been ongoing in Northern Ireland for the past 24 years.

In 1967—when Francis Gildernew was only 15—a 15-unit housing project was built in his hometown in County Tyrone, with the understanding that 8 units would be allocated to Protestants and 7 to Catholics. After Protestant families had been placed in 14 of these houses, and the 15th was to go to an unmarried Protestant, Gildernew's mother, with a family of 10, directed his sister to go live in that 15th house. She stayed there for 9 months, until she and her three children were forcibly evicted in 1968. This triggered the civil rights marches in October 1968.

It should come as no surprise, therefore, that the Gildernew family became a high profile target for Protestant Loyalists. The family was threatened by the Loyalists, and at one time had to flee to the Irish Republic. At another time, their house was fired upon either by Loyalists or British forces, narrowly missing Mrs. Gildernew. Then, a bomber was placed under a truck on the farm of Gildernew's brother, Patrick. Another brother, Anthony, was abducted by British paratroopers and told he was to be summarily executed. Fortunately the British troops fired blank ammunition.

This, then, is the violent social climate in which young Gildernew was raised: A climate which saw him arrested at least 10 times before he was 23 years old, each time held for several days and subjected to intense questioning.

British soldiers, introduced into Northern Ireland in 1969 as peacekeepers, were at first welcomed as saviors by the Catholic population. But this attitude turned to hostility when it was realized that these soldiers, supposedly there only to keep the peace, were in fact engaging in constant searches of Catholic homes and were applying the law repressively against Catholics. A guerrilla conflict then erupted between the British troops and the Irish Republican Army. By the end of July 1971, 12 British soldiers had been killed on the streets of Northern Ireland.

In August 1971, the Special Powers Act was used to introduce internment to Northern Ireland, under which a person could be deprived of liberty without charge or trial. Under this act, those suspected of antigovernment activity were arrested and interned in what was the equivalent of prisoner of war compounds. In August of that year, 342 men were arrested. Within 6 months, total arrests had risen to 2,357, with another 1,600 detainees released after interrogation.

In 1972, Britain abolished Northern Ireland's Parliament, and direct rule of Northern Ireland was assumed by Westminster. One of the early moves under direct British rule was the replacement of the Special Powers Act by the Northern Ireland (Emergency Provisions) Act of 1973, which was developed by a commission chaired by Lord Diplock.

It has been accurately said that:

> Both the Special Powers Act, and the Northern Ireland (Emergency Provisions) Act, constitute an effective abrogation of the rule of law, in the sense that under them the security authorities retained the power to arrest and detain anyone they pleased without having to give any justification and without fear of being called to account in respect to any decisions later shown to have been justified.—K. Boyle, T. Hadden, and P. Hillyard. "Law & State. The Case of Northern Ireland" (1975).)

It should be noted that at the time of the 1976 arrest of Francis Gildernew, in conjunction with the Emergency Provisions Act, the Prevention of Terrorism—Temporary Provisions—Act of 1976 was also used. This act allows for the deportation of individuals suspected of terrorism from Great Britain back to Northern Ireland. It also allows for the detention incommunicado, and questioning for up to 7 days, of any person suspected of a breach of the act.

It was on May 1, 1976, that Gildernew, then 23 years of age, was arrested without warrant in Northern Ireland and questioned about a land mine which had been found near the hamlet of Benburb. After 3 days of interrogation he was released. In the hope of finding work, he then flew to Birmingham, England. He was arrested at the airport by members of the notorious Birmingham Constabulary who were awaiting his arrival.

For 6 days he was questioned by the Birmingham police. Questioned? Let me quote from a British Commission report, "Report of the Enquiry Into Allegations Against the Security Forces of Physical Brutality in Northern Ireland Arising Out of Events on the 9th of August, 1971," Cmnd. 4823, 58–67 (1971), the Compton Committee, of the sort of questioning that was, and I fear might well still be, used:

> 1. Subjecting a detainee to continuous and monotonous noise of a volume to isolate them from communication.
>
> 2. Depriving a detainee of sleep during the early days of interrogation.
>
> 3. Depriving a detainee of food and water other than one pound of bread and one pint of water at six hour intervals.
>
> 4. Making the detainee stand against the wall in a required position. This means facing the wall, legs apart, and hands raised against the wall for long periods of time. Long periods of time can be as long as six or eight hours.

This is called being spread eagled, and from those who have suffered it, including my constituent, Mr. Gildernew, I have been told it is the most excrutiating torture.

In addition to these interrogation methods, Francis Gildernew has told me he was repeatedly beaten, and at one time held and pressed forcefully over the back of a chair until it was impossible for him to breathe.

After 6 days of this form of questioning this young man confessed. He signed an already prepared confession that he had placed the land mine, and that he was a member of the Provisional Irish Republican Army.

I suspect that given the methods of interrogation used, anyone in this Chamber, even though he or she had never even set foot in Ireland, would confess to exactly the same charges.

Francis Gildernew has told me he is innocent of the charges to which he confessed. And I believe him. The question of his guilt or innocence, however, has never been properly adjudicated. The fact is, he did not get what would be considered a fair trial by American standards.

I wish to stress that his confession was extracted from him by the notorious and feared Birmingham West Midland Police Force. This is exactly the same force, using exactly the same methods of interrogation, who were responsible for the imprisonment for life of the so-called Birmingham Six. These six innocent men were beaten into confessing crimes they had not committed. Finally exonerated and released on March 14, 1991, these innocent men had served 16 years in a British prison. Even more recently, there is the case of Judith Ward, who was released from prison on May 11, of this year, after serving 18 years for terrorist crimes. She, too, was exonerated. Another example of wrongful imprisonment was the case of the Guilford 4 who were finally exonerated and released after serving 15 years in prison.

Following his confession, Francis Gildernew, was immediately returned to Northern Ireland where he was convicted and sentenced to 12 years imprisonment. Of that term he served 8 years in the Maze Prison, Long Kesh.

It should be noted, I believe, that after 6 days of torture and being forced to confess to crimes he did not commit, Francis Gildernew was tried in what is known as a Diplock court. These courts are so named after Lord Diplock, previously mentioned. In the Diplock courts, trials are conducted without juries for crimes classified as scheduled offenses. Scheduled offenses, as defined by the Northern Ireland Emergency Provisions Act, are crimes committed to achieve political ends.

The ironic outcome of this concept is that a common thug, committing a common crime, would receive a jury trial, while anyone accused of a politically motivated crime would not.

It might be worth noting that at the beginning of 1968, prior to the start of the troubles, the total prison population in Northern Ireland had been only 727. By 1974, this count had soared to 2,448. Also prior to the troubles, there had been only one prison for men, the Crumlin Road Prison, built over 100 years ago in the middle of Belfast, and the Armagh prison for women, built about the same time in the city of Armagh.

The rising number of prisoners caused the Government to begin emergency building of the temporary detention camps of Long Kesh—now the Maze Prison—and later, a similar temporary facility at Magillian. These temporary facilities were of a compound type, each compound holding several dormitories, dining and recreation huts, and an open space for exercising. Each compound was surrounded by a high wire fence, and these surrounded by a strong security fence with watch towers manned by British soldiers at various points. It was in these temporary detention areas that the permanent H block cells were built, after questions regarding health conditions and prisoner control were raised. They were called H blocks because they were built in the form of an H.

It must be remembered that throughout this period 1971–1976, prisoners in these compounds were recognized as special category political prisoners. They wore civilian clothing, visits with their family were permitted, and they could purchase items if they had the funds. They were essentially prisoners of war, and were so considered both by themselves and by the government.

At the time of Francis Gildernew's arrest in 1976, the recommendations of a "Committee to Consider, in the Context of Civil Liberties and Human Rights, Measures to Deal with Terrorism in Northern Ireland", chaired by Lord Gardiner, were just being instituted. That report urged the removal of special category status for all of those imprisoned for charges of a political nature, which took place after March 1, 1976.

Francis Gildernew was actually imprisoned for an offense which occurred in 1975. He believed he was entitled to recognition as a special-category political prisoner. The two men accused and tried with him for the alleged land mine attack were both formally recognized as special category political prisoners. However, an additional charge of membership in the IRA, which continued beyond March 1, 1976, was added to the charges against Mr. Gildernew. By this device, Mr. Gildernew, who was entitled to special-category status and treatment as a political prisoner, was denied such status on the additional charge. So, imprisoned for political offenses for which he was entitled to special-category status even under British law, Francis Gildernew found he would be treated as a common criminal.

It was the British Government decision to eliminate special status that gave rise to the prison protest which became known as the blanket protest. Stripped of their civilian clothing, but refusing to wear prison uniforms, the political prisoners lived naked in their cells with only one blanket.

The blanket protests in turn gave rise to the hunger strikes, in which Mr. Gildernew also volunteers to participate. Beginning in May 1981, Bobby Sands and nine other prisoners died during these hunger strikes. After the strikes were over, these prisoners were again allowed to wear their own clothes. Though the British Government does not acknowledge political status today, it is fair to observe that if people are arrested in a special way, detained in a special way, interrogated in a special way, tried before a special court and sent to a special prison, they are in effect receiving special status.

Upon his release from prison in 1984, Francis Gildernew came to the United States. After 8 years in Long Kesh, after 3 years on the blanket, after participating in the hunger strikes, and after a lifetime of strife, he longed for a new start in a new land, the United States of America. It was the same longing which motivated our fathers, our grandfathers, and our great-grandfathers.

Francis entered this country legally on a visitor's visa. On the basis of his marriage to an American citizen, Sharon Ann Tierney, in April 1985, he became eligible for, sought and was granted an adjustment to permanent resident status. He worked as a carpenter and they saved their money until they could realize their dream of owning a business of their own. They purchased a restaurant/bar in Poughkeepsie now known as Gildernew's Irish House. It is the story of so many immigrants to this great land. It is the very essence of the American Dream. It is what makes our land the envy of every other—a land where, through hard work, the average man's dream can come true.

But all this changed. On the morning of April 16, 1992, Francis Gildernew was arrested in his home in Poughkeepsie, NY, by 8 to 12 federal agents, who stormed into his house, guns drawn. He was shackled and jailed in New York City.

Why would this happen to a man who led an exemplary life in this country since 1984? Why would it happen to a man who had not even gotten a traffic ticket in his 8 years in the United States? These are good questions.

The INS warrant for his arrest charged Gildernew with fraud. It is alleged he had committed fraud in applying for his green card when he answered "no" to the question of whether he had ever been convicted of a crime of moral turpitude in his home country.

And why did he answer "No"? Because he believed he had been a political prisoner, even under Britain's own rules.

The question must arise, after 8 years in this country, why did the INS and the FBI suddenly appear, guns drawn, to serve a warrant for his arrest? After all, the alleged fraud of which he is accused occurred years ago.

I asked Mr. Gildernew this. He said he believes it is due to his prominent advocacy of the adoption of MacBride principles contract compliance legislation by the State of New York. The thrust of this legislation is that no company doing business in Northern Ireland could be awarded a contract with the State of New York unless it complies with the MacBride principles of nondiscrimination. MacBride principles legislation has been passed by 12 States and 30 cities, and is pending in numerous others.

As the author and principal sponsor of the MacBride principles bill in the House of Representatives, I am very sensitive to this issue and am well aware of the British dislike of the idea. It is hard to avoid the inference that a respected businessman, admitted for lawful entrance to the United States, places himself in danger for agreeing with his Congressman's position on this issue.

It is unconscionable that Mr. Gildernew could be victimized by the American Government for espousing his belief in human rights and his support for legislation requiring nondiscrimination.

Mr. Speaker, I believe the time is long overdue for a reassessment of our Government's attitude toward British policies in Northern Ireland. For too long have we allowed a so-called special relationship to blunt our sense of fairness and justice as it relates to the human rights of the Catholic minority in Northern Ireland. I suggest that should the horrors which I have attempted to outline tonight, have been committed by any nation other than Great Britain, we would have long since imposed sanctions against it.

Francis Gildernew is only one person caught up in our national indifference to the cruelty being perpetrated upon the Catholic minority in Northern Ireland. We, as a nation which in 1966 waived in nearly 2 million illegal aliens who had committed just as much or more fraud than he is accused of, should cease harassing and attempting to deport a hard-working man like Francis Gildernew.

We cannot survive as the envied land of a second chance if we allow our own system of justice to be brutalized and made indifferent to human suffering. I for one, believe that the Americans I know do not want our land to become blind to the concept of mercy or calloused toward the suffering of others. They do not wish our symbol of justice to be that of Joseph Doherty, a man held without charge, in a prison without bail, for 9 long years, only to be spirited back to Northern Ireland.

Mr. ENGEL. Mr. Speaker, I want to congratulate my colleague from New York for organizing this important special order in support of Francis Gildernew. Unfortunately, the court system and the Justice Department have too often implemented British foreign policy here in the United States. I am deeply concerned that Mr. Gildernew's situation will turn into the legal travesty that Joseph Doherty's became.

I strongly believe that Mr. Gildernew has been subjected to harassment because he has been active in the MacBride principles campaign in the United States. He has lived here in the United States since 1984 and has been a law-abiding citizen.

Why, after all these years, did the FBI and the INS decide to act on information that they have undoubtedly had in their possession for years? I think the reason is very clear: Mr. Gildernew supports policies opposed by the British Government. The British Government doesn't like to admit that it has allowed and even condoned biased hiring practices in the North of Ireland for decades. It doesn't like to admit that it treats Catholics in the North as second-class citizens in a system that smacks of the apartheid policies of the South African Government. It doesn't like to admit that Amnesty International, one of the world's leading human rights organizations, regularly condemns British human rights practices in the North.

Francis Gildernew has first-hand knowledge of these abuses. Before the age of 23 he was arrested at least 10 times under the Special Powers Act which provides for arrest without a warrant. In 1976, he was arrested, again without a warrant, and questioned about the placing of a landmine near the village of Benburb. After 3 days, he was released without being formally charged with a crime.

Mr. Gildernew then flew to Birmingham, England to look for a job where he was arrested again. Over a 6-day period he was subjected to a variety of tortures at the hands of the Birmingham police. He was beaten repeatedly and pressed forcibly over the back of a chair until he could not breathe.

Eventually, Mr. Gildernew signed a confession to a crime he consistently maintains he did not commit. Considering the abysmal record of the British judicial system, I believe Mr. Gildernew. The Birmingham Six, the Guildford Four, and Judith Ward have convinced me that the British court system frequently fails to uphold justice with tragic human consequences. The Birmingham Six gave up 16 years of their lives because they were convicted of crimes which it was later demonstrated they did not commit. Judith Ward served 18 years in a British prison for a crime she did not commit. Is it any wonder that the British judicial system comes under international criticism?

Mr. Gildernew was convicted on the basis of his confession and sentenced to 12 years in prison. In 1984, he came to the United States certifying that he had not been convicted of a crime of moral turpitude. Because he had not committed any crime and because he did not wish to end up in an interrogation room in British-controlled Ireland again, he felt that this was a justified action.

Mr. Gildernew has lived here in the United States with his American-born wife even since. He has not even received a traffic ticket in those 8 years. Why now, after 8 years, have the FBI and the INS decided to arrest Mr. Gildernew? The FBI and the INS cooperate extensively with British security forces in the North. The information about Mr. Gildernew's prison record under British jurisdiction has been available since his release in 1984. Why have these agencies waited so long to act?

There is little doubt in my mind that the timing of Mr. Gildernew's arrest was politically motivated. His activism on behalf of the Macbride principles campaign angered the British Government who in turn have taken advantage of the United States special relationship with the United Kingdom to have him arrested. If enforcing British discrimination against Catholics is the price of that relationship, maybe we should reconsider our relations with Britain.

As Mr. Gildernew's case is adjudicated, I strongly feel that the broader picture must be taken in account. The background of British abuse and injustice, the years wrongfully imprisoned, and his exemplary record here in the United States must all be taken to account. For justice to be done we must not emulate the injustices perpetrated in the North of Ireland.

Mr. MANTON. Mr. Speaker, I rise today to join my colleague and fellow cochairman of the ad hoc Committee on Irish Affairs, HAM FISH in this important special order he has organized to draw attention to the plight of Mr. Francis Gildernew.

Francis Gildernew came to the United States, like so many other Irish-Catholics from Northern Ireland, to escape persecution. His problems there had begun in 1967 when his family became a target for Protestant Loyalists simply because they protested discrimination against Catholics in a local housing project. In the years that followed, Francis was arrested 10 times without charge. Subsequent to each arrest Mr. Gildernew was held for several days and subjected to persistent questioning.

On the occasion of his 11th warrantless arrest, Mr. Gildernew was questioned about a land mine found in the village of Benburb. Like they had routinely done before, the police held Mr. Gildernew for 3 days and then released him. To escape this continued persecution, Mr. Gildernew attempted to flee to England; however, he was arrested at the airport by the Birmingham constabulary. He was then interrogated and beaten. After 6 days of this treatment, Mr. Gildernew signed a prepared confession, in which he admitted to planting the land mine in Benburb. Mr. Gildernew was then tried without a jury, because his case was classified as a scheduled offense, which was defined as a crime committed to achieve political ends.

Mr. Speaker, it is important to note that the tactics used by the Birmingham police in Mr. Gildernew's case were not unusual. Warrantless arrests and interrogations without the benefit of counsel or the right to silence are commonplace in Northern Ireland, as are trials without a jury and forced confessions. Leading human rights organizations including Amnesty International have cited Northern Ireland for persistent police misconduct and judicial irregularities. While the convictions of celebrated prisoners like the Maguires, the Birmingham Six, and the Guilford Four have recently been quashed, we must be mindful that other victims of the criminal justice system in Northern Ireland continue to suffer.

After his release from jail, Mr. Gildernew settled in the United States where he married an American citizen, Sharon Ann Tierney, and obtained his green card. After working for 4 years as a carpenter, Mr. Gildernew seemed to have achieved his dream. He had saved enough money to buy a restaurant and bar and most importantly, he now lived in a country where peaceful protests were not met with official harassment.

However, Francis Gildernew's dream was shortlived. On April 19, a team of INS and FBI agents burst into his home and at gunpoint arrested Francis and told his wife he would be subject to immediate deportation, because he allegedly committed fraud on his green card application.

Unfortunately, it has been rumored that the only reason Mr. Gildernew has been prosecuted under immigration law is because of his outspoken support for passage of the MacBride principles which are designed to hasten an end to employment discrimination against Catholics in Northern Ireland.

Mr. Speaker, the failings of the criminal justice system in Northern Ireland are well known. Mr. Gildernew's convictions are thus more than suspect. However, if we were to accept Mr. Gildernew's conviction as valid, he would still be entitled to stay in the United States because even the British Government considers his so called offense political in nature and the political exception clause of our Immigration Act provides political asylum for individuals whose offenses are political in nature.

Mr. Speaker, Francis Gildernew's case is now before the courts. It is time for the American judicial system to differentiate itself from that of the United Kingdom. It is time to show that no matter what your ethnicity, you are entitled to fair treatment under U.S. laws, including our immigration laws. It is time to show that individuals in our country will not be subject to official harassment simply because they speak their mind on political matters.

Mr. Speaker, the freedom of our people is grounded in the simple principle which is inscribed above the entrance to the Supreme Court building: "Equal Justice Under Law." If our government singles out Francis Gildernew for unusual treatment because he is seeking protection from our ally the United Kingdom, we all suffer. I urge the Justice Department to cease the proceedings against Francis Gildernew and provide him the status he so clearly deserves.

Mr. GILMAN. Mr. Speaker, I would like to commend my good friend, the distinguished cochairman of the ad hoc congressional Committee on Irish Affairs, the gentleman from New York [Mr. FISH], for holding today's special order as well as for his continued and longstanding dedication to the issue of human rights, peace and justice in Northern Ireland.

As a cochairman of the ad hoc committee, I have been long involved in the struggle for peace, justice, and freedom in Northern Ireland. Tragically, the situation in Northern Ireland today remains deeply troubled.

However, I was shocked to learn that the hate, mistrust, and rampant violations of human rights have spilled over across the Atlantic to the mid-Hudson Valley. On April 16, 1992, Francis Gildernew, a native of Tyrone County who had first come to our country in 1984, was arrested by some 8 to 12 FBI and Immigration and Naturalization Service Agents and charged with fraud in applying for his green card.

On the surface, this case appears to be fairly simple. Francis Gildernew had in fact spent 8 years in prison in Northern Ireland, and had in fact answered "no" when asked on his green card application whether he had ever been convicted of a crime of moral turpitude in his home country.

However, as one who has been closely involved in the situation in Northern Ireland, I can say that there is much more that needs to be said in Francis Gildernew's defense.

Francis entered this country legally on a visitor's visa, and subsequently married an American citizen, Sharon Ann Tierney in April 1985, at which point he was granted an adjustment to permanent resident status. Throughout the past 8 years, Gildernew has been an outstanding member of the community. He began working as a carpenter, and eventually, he and his wife saved enough money to purchase a business, a bar in Poughkeepsie now called Gildernew's Irish House. Throughout this period, Francis has epitomized the American dream, that anyone, regardless of their origins, can come to the land of freedom and pursue their dream. Additionally, it should be noted that Francis, in the time that he has spent in the United States, has never even received as much as a parking ticket.

However, there is the question of his time spent in a political prison in Northern Ireland. However, some background is necessary at this point. As my friend from New York has pointed out, Francis Gildernew came from a family whose plight in 1968 sparked the now famous civil rights marches of that time in Northern Ireland. Coming from such a family, it is predictable that he would face harassment throughout his life.

On May 23, 1976, Francis Gildernew was arrested without warrant in Northern Ireland and questioned regarding a land mine that had been found near the hamlet of Benburb. After 3 days of interrogation, he was released. Following this experience, he flew to Birmingham, England to look for employment, and was arrested at the airport. After 6 days of questioning, which included beatings and torture, Francis Gildernew signed a prepared confession that he had placed the land mine and was a member of the IRA.

Mr. Speaker, Francis Gildernew states that he was innocent of these charges and was forced into a confession. Further, I might add that his trial was conducted before a Diplock court, a court with no jury reserved for political and terrorist cases.

Based on recent events in Northern Ireland, such as the review and overturning of several convictions obtained under the same conditions as Francis Gildernew suffered, I would tend to look skeptically upon the British Government's claims that Gildernew was indeed guilty.

One only has to look at the cases of the Birmingham Six and the Guildford Four, to see the similarities between the cases.

During an ad hoc congressional Committee for Irish Affairs and congressional human rights caucus hearing on the shoot-to-kill incidents in Northern Ireland, Amnesty International stated that "the United Kingdom's handling of major human rights issues has seriously undermined confidence in the country's legal standards. Some of those standards in fact clearly fall short of international standards."

During that hearing we heard tragic testimony from another victim of justice in Northern Ireland, Margaret Carraher, whose husband was killed by police in 1990. Only recently were any charges at all brought against those involved in the killing.

Additionally, a similar hearing held 2 years ago by the human rights caucus concerning the Birmingham Six was enormously successful. I was particularly pleased that the six men were released with their convictions overturned.

It is my hope that our special order tonight will give the Immigration and Naturalization Service, as well at the FBI, cause to reconsider their actions in the Gildernew case, and further to refrain from such acts in the future.

Once again, I would like to take this opportunity to thank the gentleman from New York for reserving time for this important debate.

Mrs. LOWEY of New York. Mr. Speaker, I rise to join my colleagues in showing congressional support for Francis Gildernew, who is now confronting unjust deportation hearings. I join my colleagues in this action with the understanding that our words will be presented in court as part of the defense of Mr. Gildernew.

This is not the first time my colleagues and I have had to come to the floor to protest the unwise intervention of foreign policy considerations in our judicial system. We took to the floor to protest the treatment of Sean Mackin, who was facing deportation to certain death. In the end, an immigration judge finally ruled in his favor and he and his family are now continuing their lives in New York. We also repeatedly gave our support to Joe Doherty, who now languishes in a British jail after several United States court rulings in his favor were overturned by our own Justice Department.

Now, we take to the floor on behalf of another individual, whose only crime seems to have been his work for peace and justice in Ireland. Francis Gildernew came to our country in 1984, when he married an American citizen and opened a business in New York. His life was abruptly disrupted on April 19, 1992, when armed FBI and INS agents stormed his house and arrested him. They charged that he had lied on his green card application, that he had claimed never to have been convicted of a crime in his home country.

Francis Gildernew was convicted of a crime in Ireland, but that conviction stemmed from a confession extracted after a week of brutal torture. That confession was in fact a prepared text that he was forced to sign by the same police force that has admitted to extracting false confessions during another case, the case of the Birmingham Six. We cannot allow this mockery of justice to unfairly force Mr. Gildernew to leave his new life behind.

Francis Gildernew's life would be placed in grave jeopardy if he is forced to return to Ireland. He has received the same death threats as others who have fallen at the hands of the ultra-nationalist death squads. There should be no doubt about it. Deporting Mr. Gildernew amounts to signing his death warrant.

There is no doubt that these entire deportation proceedings are politically motivated. Mr. Gildernew is facing deportation because of the active role he has played in recent efforts to win passage of the MacBride principles in New York State. The MacBride principles, which many of us support at the Federal level, would embarrass the British Government because they would have to admit that a high level of discrimination in Northern Ireland does indeed exist. Rather than let that happen, that administration is trying to silence people like Francis Gildernew, by harassing him, by taking away permits needed to continue his business, and by trying to deport him.

I thank my colleague, Congressman FISH, and the other Members who have joined us today. It is my sincere hope that our words will ensure that justice prevails and that the harassment of Mr. Gildernew will come to an end.

Mr. KENNEDY. Mr. Speaker. I would like to thank my colleague, Mr. FISH for organizing this special order on behalf of Francis Gildernew today.

Mr. Speaker, Mr. Gildernew is the latest example of the administration's flawed policy toward Northern Ireland. Time and time again, the administration has ignored the plight of, and discrimination against, Catholics living in Northern Ireland. Time and time again, the administration has ignored the civil rights and human rights violations committed against Catholics living in Northern Ireland. We see it in the way the administration gives little, if any, priority in its foreign policy agenda to solving the conflict in Northern Ireland. We saw it with the deportation of Joseph Doherty, and we are seeing it now with the attempt to deport Francis Gildernew from the United States on highly questionable grounds.

In April, Mr. Gildernew was arrested by FBI and INS agents for allegedly committing fraud by not disclosing a supposed conviction in Northern Ireland on his green card application. Mr. Speaker, after being tortured for 6 days in 1976, Mr. Gildernew signed a prepared confession stating that he planted a land mine near the hamlet of Benburb and was a member of the IRA. When filling out his green card application to this country, as far as he was concerned, he was innocent of the fraudulent charges a Diplock court convicted him of in a hostile environment on the basis of the forced confession.

Mr. Gildernew is a native of County Tyrone. His family's struggle against unfair housing regulations ignited the civil rights campaign in Northern Ireland. Ever since then, the Gildernew family had been targeted by Loyalists forces in Northern Ireland. Before his crime in 1976, Francis Gildernew had been arrested and held without charge on at least 10 different occasions.

Mr. Speaker, this latest attack on Mr. Gildernew clearly shows that he is being targeted for his continued fight for civil rights in his homeland. After his release from Long Kesh Prison where he served 8 years of a 12-year sentence, Mr. Gildernew moved to this country out of fear of his life. Since arriving here, Mr. Gildernew began a family and has operated a successful business in New York State. He has continued to speak out against the systematic and unjust treatment of Catholics in Northern Ireland. Now it is widely believed that he is coming under fire from this administration for exercising his constitutionally protected right of free speech for trying to win passage of the MacBride principles in New York.

Mr. Speaker, the administration cannot allow its special relationship with the British Government to bias its responses to issues dealing with Northern Ireland. Instead of taking sides, the administration should act as impartial mediators in trying to find a solution to the conflict. Instead of ignoring the gross injustices in Northern Ireland, the administration must speak out against them.

Mr. Speaker, I urge the Bush administration to stop the deportation proceedings against Francis Gildernew. If deported, he will undoubtedly be targeted for reprisals by Loyalist forces just as Liam Ryan, a naturalized American citizen and 20-year resident of New York, was assassinated by pro-British loyalists in 1989, upon his return to Northern Ireland. We must not allow this to happen. I call on the Bush administration to act fairly and justly—stop the deportation proceedings against Francis Gildernew.

ORDER OF BUSINESS

Mr. WALKER. Mr. Speaker, I ask unanimous consent that I be permitted to precede the gentleman from Georgia [Mr. GINGRICH] in the order of special orders tonight, and then to allow him to follow immediately after me.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONGRESS MUST GET ITS ACT TOGETHER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, much has been said and much has been written in recent days and weeks about the anger of the American people in regard to what they see going on in the country and the inability of our political system to respond to the problems that they see in their lives, and they see across this country, and across the world. Indeed, Mr. Speaker, we do live in revolutionary times where the lives of people are changing enormously almost every day, where they have real reason to be concerned about the future for themselves and for their children, where massive changes are taking place politically that we have seen in places like what was formerly the Soviet Union and what is today a series of independent states, where the economic changes are enormous, where we see a change from a national economy to a global economy, where we see a change into some kind of a postindustrial era where wealth will be created in a different way than it has been created throughout the 20th century. They see a technological revolution in which machines of infinite capacity are becoming a major part of our lives and where machines have really become intelligent parts of our economic structure. And they see a change in the cultural life, a revolution in our cultural lives, that is sweeping into their families that affects their communities, affects their neighborhoods and, ultimately, affects the world.

Mr. Speaker, all of those changes are impacting every day on the lives of the American people, and yet what they see in Government too often is an inability to respond. It is in many ways an inability even to recognize that there are changes taking place, and, therefore, people become discouraged with what they see and hear in Government.

What they are particularly concerned about is that they think Government is not only not doing the right things; in many cases they think Government is doing all of the wrong things, and one of the things that I find people angriest about is the fact that the Federal debt is increasing at a massive rate and that the Federal deficits that add to that debt are continuing to increase at almost an uncontrollable pace.

Mr. Speaker, American people do not understand why Congress cannot get its act together. They do not understand why the President cannot do more to end the Federal debt and deficit because they know that it is beginning to impact on the lives of themselves and their children. They know intuitively that if we begin to add up all those huge figures that are in the national debt that it comes to some $16,000 per person, or $64,000 for every family of four in the country.

□ 2200

They realize that if they themselves accumulate $64,000 in debt in their name, that is a big burden for them to carry. They know that there is something wrong with a Government that is accumulating it in their name and then trying to tell them that somehow it is not something to be concerned about.

They also recognize that the deficit each year is impacting upon themselves and their families; that for every man, woman, and children in the country, that the deficit this year will amount to something on the order of $1,200. This means that for a family of four, we will have $4,800 in deficit for every taxpayer.

Many taxpayers do not pay $4,800 in total taxes in a year, so virtually everything that they are paying into the Federal Government is immediately being thrown into a deficit package of some sort.

That is beginning to make people very angry, and they are very angry with a Congress that refuses to deal with it. They are angry at a President that they do not think has done enough in their view to deal with this. They would like to see Congress doing more and they would like to see the Government as a whole doing more.

What they see too often is that Congress is doing very little. We argue about balanced budget amendments to the Constitution, but the fact is we never pass one. We argue about spending bills, but the fact is the spending goes up, not down.

We often do real harm in what happens in the House of Representatives and in the Senate because we not only pass spending bills that are wildly out of control when you look at the whole pattern of debt and deficit, but they contain massive amounts of waste that are then reported to the American people, and they certainly contain a lot of political pork, in other words, money which is spent to feather the nests of Members of Congress, hopefully to help them get elected.

This is an unacceptable situation at a time when debt amounts to $64,000 for every family of four and where deficits are $4,800 for every family of four. They would like to see something done.

Well, I think what we need to do is look beyond the kind of typical rhetoric and typical measures that have come before Congress and have been debated. In revolutionary times you need some revolutionary solutions to the problems that we face.

I believe the time has come to involve the American people directly in solving some of the problems that are before us. I believe the American people are prepared to deal with the debt problem and deal with the deficit problem if they are given a chance to do so. I believe that they have lost confidence in the Congress to act, but they are prepared to act on their own, and I think it is time that we give them the opportunity.

A few weeks ago colleagues of mine and I put in a bill called the Fundamental Competitiveness Act of 1992. That bill was designed to do a number of things, most of which were aimed at trying to give our businesses the clout they need in order to compete in the world economy. It is a good bill. It has attracted about 40 or 50 cosponsors at the present time.

But there is one provision of that bill that I think is rather unique, and it is this thing I want to discuss tonight, because it is a revolutionary concept to deal with debt and deficit.

In fact, I took that section out of the bill and introduced it as a separate piece of legislation today because I think it needs to be focused upon as a separate item for consideration by the Congress, and hopefully the American people.

That particular portion is known as the Debt Reduction Act of 1992. It deals not just with deficits, but deals with debt. It deals with the almost $4 trillion in debt that has been accumulated on behalf of the American people by this Government. It says that we need to begin to reduce the debt.

It is not enough anymore simply to talk about reducing deficits and getting to a balanced budget. We have to have a plan to deal with the debt because the debt is beginning to eat us alive. We will spend nearly $300 billion this year doing nothing but paying interest on the debt. That is more money than we spend for defense, it is more money than we spend for almost any other category of spending in the Federal Government. It is vastly too much money.

The problem is that we cannot even deal with the deficits in Congress, let alone the debt.

So here is the proposal. The proposal on how to do the Debt Reduction Act of 1992 is this:

Under the Debt Reduction Act of 1992 every American taxpayer when they filled out their 1040 form each year would be given the option of allocating up to 10 percent of the money that they were paying in taxes to buy down the permanent national debt. The money would be put into a trust fund and the trust fund would be used only for the purpose of buying down the national debt.

This would not be money to just buy down deficit, it would actually buy down the amount of debt of the Federal Government.

Now, it is not quite that simple, however, because the problem is that if you are buying down the debt on one end and just spending it away on the other you do not get anywhere. So the other part of the Debt Reduction Act of 1992 is that for every dollar the American people designate for debt reduction, it would automatically be reduced from spending at the other end of the equation. So that in one fell swoop the American people on their own 1040 form would have the opportunity to reduce both the debt by buying it down and reduce the deficit by automatic spending cuts across the board on all Federal programs except Social Security and interest payments, but virtually all Federal programs, including most of the entitlements, and we would begin to get real reductions in spending.

Now, I do not expect you to take my word for it. What I did was have the Congressional Budget Office make a run on this. We assumed that the program would work optimally. We assumed that everybody who is filling out their tax form would take their 10 percent.

If you assume that as a premise, this is the plan which balances the budget in 5 years. In a 5-year period of time you have reduced spending enough while you are buying down debt to balance the budget in that 5-year period.

Not only that, if you look at it over a 10-year period, by the end of 10 years, based upon the static economic models that we use to do all of these calculations in the Congress, at the end of a 10-year period you have a $1 trillion surplus in the operating account of the Federal Government.

Now, believe me, I do not believe we will ever have a trillion dollar surplus. As soon as you balance the budget, you have some money left over, it is going to get spent for other kinds of items. But I simply point that out to say that under the static economic analysis that we use in the Congress, this program shows that you not only end up balancing the budget, but you actually end up accumulating surpluses in the outyears.

Beyond that, the analysis also shows that you begin to bring down the permanent national debt. What I asked the CBO to do was look at it for a 10-year period. That is what they did. I also then asked the Republican Study Committee staff, the experts and economists there, to look at this matter over a period of a little longer, so that we would get some idea of how the debt would come down.

In 12 years two-thirds of the permanent national debt is eliminated under this plan. Again, that is a plan working optimally. That is with the idea that everybody would participate.

But the idea here is that you can in fact reduce debt, you can reduce deficit, and you can bring the budget into balance and find a way to have the American people involved in the whole process.

I think that is the unique aspect here, the American people would make this determination. It would not be the easiest of choices. Obviously it would be an easy choice for people to say, "OK, I want to do something about debt and I am going to check this off," if you did not have the spending cuts at the other side. But everybody who checks off will have to know that when they are buying down the debt, they are also going to cause a spending cut in many programs, most programs, in fact, some of which would affect them directly.

The cuts would not be minor. Some of the cuts would probably be in the range of 4 to 5 percent every year that the debt reduction program was working at the optimal level.

But I will tell you that when I talk to businessmen across the country who are faced with these revolutionary times, 4 and 5 percent reductions in their budgets are almost a typical means of operating. They are having to do that in order to become more productive and in order to become more competitive.

So this is not something which is not going on in the country. In this country, in every community, in almost every neighborhood, there are businesses that are making that level of cut every year. If the American people are determined that their Government do what is happening across the country, this is a way to get it done, with the American people making the original choice and with the budget responding as the choice is made.

So this is an approach. It has been tested by CBO, it has been looked at by the Republican Study Committee economists. It has been talked about with a number of audiences. I must admit that I am finding a good deal of excitement about it. I have had a number of people who have come to me and said finally someone is talking about what is really important, and that is the debt.

□ 2210

Very few politicians have had the courage to stand up and talk about debt and what we are really worried about out here is debt. Sure, we want to concentrate on deficits because they are adding to the debt. But the bottom line is what we are really concerned about is the fact that we have added all this debt onto the backs of ourselves and our children and our grandchildren.

If you really give us an opportunity to do something about debt, we will take that opportunity. Congress can, under the Debt Reduction Act of 1992, begin that process, give people the simple choice on their tax form of buying down the permanent national debt, give them the chance to do so in the context that it will also cut spending.

Let the American people become a part of the process. If Congress cannot do the job because we are so tied to pork and perks, let the American people become a part of the equation.

If we cannot balance budgets here by passing constitutional amendments, let the American people into the process. If we cannot reduce the spending bills, let the American people into the equation.

And then our job becomes one of basically trying to find the ways in which you operate within the more limited funds that the American people are designating. Surely we can do that much. Surely Congress has the capability, once the funds are limited, to find ways to make programs work.

The fact is, what we can do is, we can eliminate whole programs that do not make any sense anymore, and we would, if we really had to make those kinds of tough choices.

The fact is that we can cut out a lot of wasteful spending in a lot of agencies that now go on forever spending money that we do not have. We would do that if we really had to face tough choices.

It is possible to do these things if, in fact, we are given the mandate. It appears to me that the only mandate that Congress is going to listen to is a mandate from the people.

The Debt Reduction Act of 1992 provides that kind of an opportunity. It says, buy down the debt and cut spending. The two working together balance the budget, reduce the permanent national debt by two-thirds in 12 years, and give America an opportunity to move into the global economy in a strengthened position.

In revolutionary times, we need revolutionary solutions. The idea behind the Debt Reduction Act is indeed revolutionary. It is a brandnew idea. Nobody has ever tried it before.

But it appears to me as though it would be something that would work because the enthusiasm of the American public for this kind of an idea, at least insofar as I have been able to test it thus far, is such that giving them the opportunity will produce real results.

So, Mr. Speaker, I would hope that as we wind down this session of Congress, we might take a look at some real changes, something that really would make a difference in the debt and deficit situation.

I would urge Congress to take a look and perhaps pass in the next few weeks the Debt Reduction Act of 1992.

THE CHOICE BETWEEN DEMOCRATS AND REPUBLICANS

The SPEAKER pro tempore (Mr. HUTTO). Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to speak not for that length of time, I do not think, but about the 1992 election and the notion that what the American people want to do is vote about our future, our children's future and our country's future.

The American people know that elections in the end are about the future. They are about where is the country going, what is going to happen to your job, what is going to happen to your take-home pay, what is going to happen to your opportunities and to your family's opportunities, and under what circumstances are you going to be living, what kind of a neighborhood will you be in, what will the rules of the game be by which your Government decides whether or not you have a chance to go out and find work or whether or not you can create a small business.

And I want to suggest that this may become, in September and October, a very different principle of campaign than any we have seen in a long time. Right now the news media is talking a great deal about negative campaigning and politicians are talking about negative campaigning, and there is a pretty good amount of attacking each other going on. But I think, frankly, we are going to discover pretty quickly that that is not the most effective way for the American people to make their choice about the future, that we do not need a campaign that focuses on negatives and attacks. What we need is a clear campaign that contrasts the difference between the two parties, that contrasts the difference between the values, the principles, and the policies represented by the two parties, and that allows the American people to analyze those values, to analyze those policies, to look at those commitments, and then to decide whether or not the future, not the future of politicians, not the future of Republicans, not the future of Democrats, but the future for all Americans, the future for the individual voter, for that voter's family, for their children, for their families' community, whether or not that future will be better with the victory of the Republican team or the Democratic team.

I want to suggest from my side of the aisle, and I would hope over the next few weeks, that we could develop an opportunity to debate this in a positive way, to really have an exchange of ideas, to have a discussion about facts, to talk openly between Democrats and Republicans. I would suggest that when you consider the key facts of this campaign, that I believe that you will decide to vote for the Republican ticket because it best represents your values, principles, and hopes.

I think there are 5 big facts that clearly define the choice for 1992. Fact one, the American people's values and principles are best represented by Republicans and are undermined by liberal Democrats. Fact two, if we are to get back on the right track of prosperity, safety, family, learning, and health, America needs the reforms the Republican ticket is committed to implement.

Fact three, the block everything Democratic Congress has consistently stopped the reforms the American people want. Fact four, America cannot afford the Democratic ticket. We cannot afford their taxes, their values, and their commitments to their interest groups. And fact five, only by voting on November 3 can we end 38 years of Democratic control of the Congress and ensure the election of a Republican team committed to implementing our values, our principles, and our reforms.

Let me go back and start. The American people's values and principles are best represented by Republicans and are undermined by liberal Democrats. Let us take some examples.

The balanced budget amendment, supported by about two-thirds of all Americans, opposed by about 17 percent. Almost everybody who has paid attention knows the deficit is a huge problem. The debt is a big problem, that interest on the debt is mounting up.

The head of the Democratic ticket says, in the Boston Globe on June 12, that he opposed the balanced budget amendment. The head of the Democratic ticket says, in June in the New York Times, June 11, the balanced budget proposal, "termed harmful." And the Democratic ticket, the Democratic candidate said that he would "oppose a balanced budget amendment proposal that is now before Congress because it would place too many restrictions on government spending." That is from the New York Times, June 11, "too many restrictions on government spending."

There is a clear difference in values. The Republican team believes that at a one trillion, five hundred billion dollars in the Federal budget, maybe we need a few restrictions on Government spending.

The Democratic ticket's leader said that a "balanced budget amendment to the Constitution would have too many restrictions."

By the way, as a second example of the difference in the two tickets, the Democratic ticket has produced a $150 billion tax increase. A $150 billion tax increase, I am told, that is larger than either Walter Mondale's proposed tax increase or Michael Dukakis' proposed tax increase.

□ 2220

A $150 billion tax increase, according to the one study, would lead to 1,300,000 additional workers being laid off, would put us right back into a recession, and would probably push the unemployment rate to close to 10 percent.

That is the Democratic tax increase, for a budget which as $1 trillion 500 billion, we are told by the Democratic candidate for President, should not be balanced by a constitutional amendment because "it would place too many restrictions on government spending."

What kind of taxes might be increased? It depends on where we go for our information. We took the Democratic vice presidential candidate's new book and we looked at what the vice presidential candidate of the Democrats wrote, on the grounds that he should be allowed to be quoted directly from his own words in his own book.

We turned to page 349 to see what kind of taxes he might increase, and here is what he said:

> Production of gasoline, heating oil, and other oil-based fuels, coal, natural gas, and electricity generated from fossil fuels would trigger incremental payments of the CO2 tax, according to the carbon content of the fuels produced.

This is his very first proposal under what he calls "a global Marshall Plan." He says:

> Accordingly, I propose, one, that we create an environmental security trust fund with payments into the fund based on the amount of CO2 put in the atmosphere.

Then he goes on, as I said, to talk about production of gasoline, heating oil, and other oil-based fuels, coal, natural gas, and electricity generated from fossil fuels.

That means one Democratic definition of a millionaire might be a person who drove a car or a motorcycle or a lawnmower, heated their house with heating oil, had air conditioning or heat generated by electricity, or used the electric light, used natural gas in any form, had a coal furnace; a pretty wide range of people to raise taxes on.

Of course, we would not get the entire $150 billion in taxes out of that particular idea, but he suggests later that they would reduce the amount of taxes paid on incomes and payrolls in the same year. I will let the Members decide how likely the Democratic Congress is to give money back once they have gotten it.

The point is, the Democratic ticket is on record favoring an aggregate increase of $150 billion a year. If a person is in rural America or suburban America or anywhere except the downtown central city, if they drive to work, if they drive for vacations, if they drive for a living, they are talking about a tax increase on gasoline, diesel fuel, virtually anything which generates carbon dioxide, CO_2.

I would suggest to the Members that if they go out to the average American and say, "How important is your car to you? How important is it to be able to buy gasoline?" They would find that 70 to 75 percent of the American people would oppose a gasoline tax increase. That is why, as I said, that the first big fact is that the American people's values and principles are best represented by Republicans and undermined by liberal Democrats, I think we have clear, specific examples.

The other half of that, of course, is the example I started with, the balanced budget amendment to the Constitution. If every Democrat who had cosponsored that balanced budget amendment had voted for it, that is, the people who put their name on the bill, if they had come to the floor and voted the way they wrote their name down on the bill, it would have passed the House.

However, the Democratic leadership, supported by the Democratic presidential candidate, opposed the constitutional amendment to a balanced budget, which, as I said earlier, is about almost a 4 to 1 issue in which the American people favor the constitutional amendment that the Democrats opposed.

Let me carry it a step further and suggest to the Members that most Americans believe that we certainly have enough foreign aid. Many Americans believe we have too much foreign aid. I get a lot more letters at home in Georgia from people who are angry about foreign aid. I get relatively few letters saying, "Please send more of our money overseas."

However, if we look on page 304 of the Democratic Vice-Presidential candidate's new book, we will find he talks about the size of the Marshall plan, and what expenditures we would have today if we had the same size foreign aid program.

He says, "A similar percentage today would be almost $100 billion a year." That is almost 7 times, according to his figures, the size of the current foreign aid program.

He suggests on page 305,

> Proposals which are today considered too bold to be politically feasible will soon be derided as woefully inadequate to the task at hand, yet, while public acceptance of the magnitude of the threat is indeed curving upward and will eventually rise almost vertically as awareness of the awful truth suddenly makes the search for remedies an all-consuming passion, it is just as important to

> recognize that at the present time we are still in a period when the curve is just starting to bend. Ironically, at this stage the maximum that is politically feasible still falls short of the minimum that is truly effective.

What is he saying here? He is saying on page 304 and 305 that we ought to dramatically increase our foreign aid program; that there are dictatorships all over the Third World that need American money; that he in effect would bribe them into doing good things for their environment. These are dictatorships that often do pretty bad things to human beings in their country. He is saying that he would transfer wealth from the industrial nations. He suggests $100 billion as the number he puts in his book. That would be a 700 percent, almost 700 percent increase in foreign aid spending.

That is the Vice-Presidential candidate who has figured out a way to spend an additional $100 billion. As I said, they talked about a $150 billion tax increase. That leaves $50 billion left for America.

The Democratic presidential candidate has already promised that to the big cities. He went to a meeting of the Democratic mayors, the big city mayors who have so thoroughly mismanaged their big cities, and they were asking for $35 billion. In what was one of the most amazing examples of pandering, he actually offered them $15 billion more than they asked for, or $50 billion, when they were only asking for $35 billion.

Those other Members who have over the months watched the efforts that many of us have made to get across just how badly managed the Democratic big city machines are will remember references to the Reader's Digest article, "How the Unions Stole the Big Apple," and the story in the January Reader's Digest which tells about the $57,000 a year public school janitor in New York City who is required by his union contract to mop the school floor 3 times a year; that is, $19,000 per mopping.

This is not one of those made-up stories. Reader's Digest quotes the name of the school, the name of the janitor, the name of the principal. They quote the principal, who points out that the janitor is required to mop the cafeteria once a week but they have 5 meals a day, so there are 25 meals in the cafeteria in between each mopping, and the principal goes on to state that he has students who study around the filth.

In this setting a reform-oriented candidate who is deeply committed to making sure the taxpayers' money was spent, somebody who was committed to a constitutional amendment to require a balanced budget, might say to the Mayor of New York that he has to reform his machine; that $29 billion a year in city spending by New York alone is enough money that they ought to be able to get the job done.

However, in fact, one of the first groups to endorse the Democratic ticket was the American Federation of State, County and Municipal Employees. That is one of the major unions of city employees, and their commitment was to get more money for the cities to promote more featherbedding, and to be in a position where the work rules can continue to be extraordinarily inefficient and extraordinarily ineffective.

I think if we were to say to the average American, would you be willing to have a $150 billion tax increase that might include gasoline, electricity, and heating fuel in order to have $100 billion in additional foreign aid for the Third World and $50 billion to go to the Democratic big city machines to prop up their bureaucracies and their welfare? Probably that position would be about a 7 to 10 percent support in the country, and probably somewhere between 70 and 80 percent of the American people would say that that is not a very good deal, that they do not want their taxes raised, and that in fact, all things considered, they would still support a balanced budget amendment to the Constitution in order to control spending.

Let me make the second point. If we are to get back on the right track of prosperity, safety, family, learning and health, America needs the reforms the Republican ticket is committed to implement. There are two parts to this. Part one is the past. For the past 4 years we House Republicans have been working with President Bush to bring a range of reforms to the floor of the House.

We have tried to pass the constitutional amendment to require a balanced budget. We have tried to pass the line item veto. We have tried to pass education reform. We have worked to pass health reform. We have worked to pass malpractice and liability reform on the trial lawyers, so we could lower the cost of litigation in America and lower the cost of health care and lower the cost of doing business.

We have tried on a number of occasions to pass a tax cut bill to encourage work and saving and investment to create jobs to help us get out of the recession.

□ 2230

We tried to pass a $5,000 tax credit for first-time home buyers to help them buy homes to get out of the recession. We have tried to pass a number of steps on reform, and in case after case after case the Democratic leadership, the block-everything-Democrats have stopped us from passing these reforms.

Our reaction has not been to quit. We in fact are developing a reform program that includes health reform. The bill has already been introduced and the President has already come up and endorsed it. It includes a welfare reform program. That is a bill that has already been introduced and that will require people to work, require people to study, and set a limit on how long they can stay on welfare so that you will never again have generations on welfare. It includes a program on education to break open the system and have the kind of experiments that we need in order to be able to have the America 2000 program, to encourage schools to find better ways to teach our children so we can compete in the world market.

We have item after item where the Republicans are committed to bringing these bills to the floor. Congressman BOB MICHEL, the Republican leader, has already pledged publicly that if he is elected Speaker, on the very first day he becomes Speaker we would cut the congressional committee staff by 50 percent, we would abolish four select committees, and we would pass a bill to apply to the Congress every law which applies to the rest of the country.

Now I think there are two sides to this. Side No. 1 is what I called fact 2, that we do need to have real reforms. Any reasonable person who watches the evening news in any big city knows from the level of violence, the level of drug addiction, the level of problems we are faced with that we need reforms. And any reasonable person knows if you look at the economy, if you talk to our friends and relatives, if you talk to local businesses that the economy is not strong enough, it is not growing enough, we are not creating jobs enough, and so we need reforms. Anyone who looks at the American schools in the context of the world market knows that we need reforms. And anyone who knows how expensive health care is, how difficult it is sometimes to get access to health care knows that we need reforms.

Again, all of that, the argument is not about whether or not we need reforms. The Republican Party and the Republicans in the House have been bringing in and introducing reform legislation. But fact No. 3 is that the block-everything Democratic Congress has consistently stopped the reforms the American people want.

You want to reform the habeas corpus laws so we can be tougher on murderers and drug dealers. The Democrats blocked you. You want to pass term limitations so that you can have some control over the Congress. Democrats have blocked it. You want to pass a rule to require that Members of Congress raise half of their money in the congressional district that they represent. The Democrats have blocked it.

I am not saying this to be partisan. I am saying that as a matter of fact, if people will go to their local library, pick up the CONGRESSIONAL RECORD or pick up the Congressional Quarterly, look at the record of the votes that were cast and they will see that again and again and again it has been the block-everything Democratic Congress which has consistently stopped the reforms which most Americans want. And as I said earlier, maybe the best case, the best example is the balanced budget amendment to the Constitution which would have become law, been passed out of the House and gone to the Senate except that 12 Democrats were convinced by their leadership to vote against the very bill which they had cosponsored. So when I say block-everything Democratic Congress, it is because I believe I can make the case, and I will be glad in future evenings to defend the case that on issue after issue over the last 4 years, on vote after vote, the historic record is clear. The Republicans have been trying to pass a series of reforms on jobs, crime, drugs, education, welfare, health, and in a variety of other fields, and in case after case, day by day, vote by vote, it has been the block-everything Democratic Congress which has blocked those reforms.

Fact 4, America cannot afford the Democratic ticket. We cannot afford their taxes, their values and their commitments through interest groups.

Let us just take a couple of examples. How many Americans can afford a higher gasoline tax? Well, the Democratic ticket is proposing one. How many Americans can afford a tax on electricity? Well, the Democratic ticket is proposing one. How many Americans can afford a $150 billion tax increase on an already weak economy, a tax increase which would almost certainly kill, as one study indicated, 1,300,000 jobs. That is 1,300,000 additional Americans out of work. How many Americans can afford to take money out of their wallet and send it to the New York City bureaucracy? How many Americans can afford the kind of mess we currently have in our litigation system where malpractice threatens every single health professional, where liability litigation and other litigation threatens every business, and where we are diverting from working Americans to trial lawyers an amount of money which is ridiculous, and which makes us the country which has the most lawsuits, the country that spends the most on lawsuits and, in fact, by one study we spend four times as much money on lawsuits and the legal system as we spend on basic research.

Finally, the point I would make is that all of this is up to the voters, that what this campaign is about is not personality, it is not goodness, it is not pandering. What this campaign is about is not being negative in the sense of whispering and sneers about each other. What this campaign is about is America's future, our children's future and our own future. What this campaign is about is looking carefully at the two teams, recognizing that they are teams. Recognizing, for example, that while the Democrats did not want to put Congress on display in New York, it is a fact that the Democrats took control of the House when their presidential candidate was 7 years old, and the Democrats took control of the House when their vice presidential candidate was 6 years old. It is a fact that they have controlled the House ever since. Now, from first grade to the presidential nomination is a long time. That is how long the Democrats have been in charge of the House.

So, when you see a post office scandal, or a bank scandal, when you see the kind of stories you are seeing coming out about the House, remember that you are talking about 38 years of the Democrats running the House without a single break, without any disruption of their monopoly. When you look at who do the candidates speak to, what promises do they make, what are their commitments, what are their values, remember that these things have a real impact. It is very important to recognize that words have meaning, that in the long run policies have repercussions, that ignorance can be destructive, and especially in foreign policy, and that if the difference between Republican and Democratic words, policies and experiences become acted out, what will America be like in the first 3 months of 1993 if the Republicans are given control of the House and the Senate and the White House. What would we pass? And on the other side, what would a Democratic President working with a Democratic Congress pass?

The last time we had a Democratic President and a Democratic Congress, they ended up with 22-percent interest rates, 13-percent inflation. The unemployment rate ultimately reached almost 11 percent. And the whole system of the American economy and the structure of American society began to fall apart. We ended up in what was called malaise, and the country voted for dramatic change.

For 4 years President Bush has vetoed the bills which would have made the economy even sicker, the bills which would have transferred power even more to the lawyers, the bills which would have imposed quotas, the bills which would have imposed quotas, the bills which would have created even more difficulties in the American economy.

If instead of having that veto we have a President who campaigns promising the unions, the big city machines, the leftwing activists and the trial lawyers that this is their chance to get there, if instead of somebody who may have once signed one tax bill we have somebody who is eagerly promising us in advance that they will gleefully, cheerfully sign $150 billion in taxes, more than Walter Mondale, more than Michael Dukakis, that they are ready right now to get that pen out and sign that massive $150 billion tax increase, if instead of an effort to have a balanced budget amendment we have a ticket, the Democratic ticket which is already promising $50 billion to the big cities, and $150 billion potentially in foreign aid, then what will the American economy look like? And then if instead of having the Republicans nominating conservative judges, judges who believe in the Constitution, judges who are committed to relatively careful, cautious decisions we have a Democratic ticket in which TEDDY KENNEDY and Jesse Jackson and other liberals are the primary suggestors of who ought to be appointed, and go back and read what TEDDY KENNEDY, and HOWARD METZENBAUM, and other liberal Democrats said about the Reagan and the Bush judges at the nomination in the Senate, and ask yourself if these are the primary advisers of the Democratic ticket, then what kind of very, very leftwing judges are we going to get, and how is that going to change things?

☐ 2240

Is it not likely in the first 90 days of Democratic Congress and a Democratic President that what we are going to see is a dramatic expansion of the Federal judiciary so that literally hundreds of prounion, proliberal, protrial lawyer attorneys can be appointed to brand new judgeships? In that setting, I believe the policy choices are very real and very clear.

I do not think we have to run a negative campaign. I think we have to run a campaign of contrast. I think we have to define the difference in policies, in values, in goals and commitments and in allies. I think we have to indicate that there is going to be a change.

The question is whether the change will be for the better or the change will be for the worse, and we have to ask the American people to look very carefully at what each team stands for, to look very carefully at what each team is promising to do, to look very carefully at who the various interest groups and allies and supporters of each team are, and then to decide who can do the best job for you and your family, for your children and your country, and I believe when you consider the key facts of this campaign, not the personalities, not the glibness, not the key facts of this campaign, I believe you will decide to vote for the Republican ticket, because it best represents your values, your principles, your hopes.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER of California) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, today.

Mr. WALKER, for 60 minutes, today.

Mr. MICHEL, for 5 minutes, today.

(The following Members (at the request of Mr. PENNY to revise and extend their remarks and include extraneous material:)

Mr. BROWDER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HOYER, for 60 minutes each day, today and on August 5, 6, and 7.

Ms. NORTON, for 60 minutes each day, today and on August 5.

Mr. HAYES of Illinois, for 60 minutes, on August 5.

Mr. OWENS of New York, for 60 minutes each day, on August 5, 6, 7, 10, 11, and 12.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mr. GEKAS in two instances.
Mr. WELDON.
Mr. GALLEGLY.
Mr. RINALDO.
Mr. SOLOMON.
Mr. GREEN of New York.
Mr. RHODES.
Mr. BOEHLERT.
Mr. LIGHTFOOT.
Mr. GUNDERSON.
Mr. SHUSTER in two instances.
Mr. GILMAN in two instances.
Mr. CLINGER.

(The following Members (at the request of Mr. PENNY) and to include extraneous matter:)

Mr. TORRICELLI.
Mr. ENGEL.
Mr. PANETTA.
Mr. RANGEL.
Mr. GEJDENSON.
Mr. CLEMENT.
Mr. ORTIZ.
Mr. TRAFICANT.
Mr. OBERSTAR.
Mr. DONNELLY.
Mr. MATSUI.

SENATE BILLS REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1569. An act to implement the recommendations of the Federal Courts Study Committee, and for other purposes; to the Committee on the Judiciary.

S. 2087. An act to prohibit certain use of the terms "Visiting Nurse Association," "Visiting Nurse Service," "VNA", and "VNS"; to the Committee on the Judiciary.

S. 2624. An act to authorize appropriations for the Interagency Council on the Homeless, the Federal Emergency Management Food and Shelter Program, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

S. Con. Res. 132. Concurrent resolution expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of U.N. security guards to assure that humanitarian relief gets to those most in need; to the Committee on Foreign Affairs.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5566. An act to provide additional time to negotiate settlement of a land dispute in South Carolina.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 959. An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson; and

S. 2759. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve certain nutrition programs, to improve the nutritional health of children, and for other purposes.

ADJOURNMENT

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, August 5, 1992, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the U.S. dollars utilized by them for official foreign travel during the second quarter of 1992, pursuant to Public Law 95–384, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Dennis Eckart	4/11	4/14	Italy		628.00						628.00
	4/14	4/16	Greece		609.00						609.00
	4/16	4/18	England		277.00						277.00
Commercial air fare							3,284.00				3,284.00
John Orlando	4/11	4/14	Italy		628.00						628.00
	4/14	4/16	Greece		609.00						609.00
	4/16	4/18	England		277.00						277.00
Commercial air fare							3,284.00				3,284.00
Richard Frandsen	4/11	4/14	Italy		628.00						628.00
	4/14	4/16	Greece		609.00						609.00
	4/16	4/18	England		277.00						277.00
Commercial air fare							3,284.00				3,284.00
Cardiss Collins	4/11	4/18	Korea		1,416.00						1,416.00
Commercial air fare							4,892.00				4,892.00
David Schooler	4/11	4/18	Korea		1,416.00						1,416.00
Commercial air fare							4,892.00				4,892.00
Douglas Bennett	4/11	4/18	Korea		1,416.00						1,416.00
Commercial air fare							4,892.00				4,892.00
Committee total					8,790.00		24,528.00				33,818.00

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
P.A. Abbruzzese	4/2	4/5	Luxembourg		620.00						620.00
Military transportation											
	5/14	5/18	Canada		972.00						972.00
Military transportation											
	6/28	7/2	Russia		1,450.00						1,450.00
Commerical transportation							3,443.00				3,443.00
Hon B. Blaz	4/26	4/28	Philippines		546.00						546.00
Commerical transportation							487.00				487.00
N. Bloomer	5/14	5/18	Canada		972.00						972.00
Military transportation											
J.J. Brady	5/14	5/18	Canada		972.00						972.00
Military transportation											
M.J. Camp	5/4	5/8	Egypt		748.00						748.00
	5/8	5/10	Algeria		417.00						417.00
	5/10	5/11	Morocco		143.50						143.50
	5/11	5/15	Senegal		876.00						876.00
Commercial transportation							6,169.70				6,169.70
M. Dymally	6/9	6/10	Canada		98.00				25.00		123.00
Commercial transportation							447.00				447.00
	6/27	6/29	Senegal		717.00						717.00
	6/30	6/31	Mali		456.00						456.00
	7/1	7/3	Mauritania		150.00						150.00
	7/4	7/5	Senegal		478.00						478.00
Commerical transportation							5,265.90				5,265.90
M. Ennis	4/26	4/30	Latvia		[3]1,033.00						1,033.00
	4/30	5/1	Germany								
Commercial transportation							3,575.30				3,575.30
	5/14	5/18	Canada		972.00						972.00
Military transportation											
Hon. D. Fascell	4/3	4/5	Luxembourg		620.00						620.00
Military transportation											
	5/14	5/18	Canada		972.00						972.00
Military transportation											
S. Fletcher	5/30	6/12	Brazil		[3]3,245.00						3,245.00
Commercial transportation							1,293.00				1,293.00
M. Gueye	5/12	5/12	France								
	5/12	5/16	Senegal		920.00						920.00
	5/16	5/18	Mali		338.00						338.00
	5/18	5/19	Mauritania		210.00						210.00
	5/19	5/23	Ivory Coast		1,110.00						1,110.00
Commercial transportation							6,312.40				6,312.40
V. Johnson	4/19	4/21	Guatemala		233.00						233.00
	4/21	4/24	Mexico		573.00						573.00
Commercial transportation							1,498.00				1,498.00
G. Kapen	4/5	4/8	Portugal		540.00						540.00
Commercial transportation							2,294.00				2,294.00
D. Laufman	4/20	4/22	England		554.00						554.00
	4/22	4/25	Spain		[3]674.00						674.00
Commercial transportation							5,226.00				5,226.00
Hon. J. Leach	4/10	4/11	Austria		184.91						184.91
	4/11	4/13	Ukraine		523.09						523.09
	4/13	4/19	Russia		1,377.00						1,377.00
	4/19	4/19	Luthuania								
	4/19	4/20	Germany		65.00						65.00
Military transportation											
J. McCormick	4/20	4/21	Japan		474.00						474.00
	4/21	4/22	China		185.00						185.00
	4/23	4/25	Bangladesh		[3]628.10						628.10
	4/25	4/27	Thailand		396.00						396.00
	4/27	4/28	Indonesia		[3]229.00						229.00
	4/28	4/29	Malaysia		[3]301.00						301.00
	4/29	5/2	Singapore		377.00						377.00
Commercial transportation							6,876.00				6,876.00
M. Manatt	5/16	5/19	Bahamas		575.00						575.00
Commercial transportation							448.00				448.00
Hon. J. Miller	6/7	6/10	Chile		645.00						645.00
Commercial transportation							3,169.00				3,169.00
R. Nuccio	4/19	4/21	Guatemala		[3]224.00						224.00
	4/21	4/24	Mexico		573.00						573.00
Commercial transportation							1,498.00				1,498.00
R.S. Oliver	5/14	5/18	Canada		972.00						972.00
Military transportation											
	5/21	5/24	Hungary		621.00				163.62		784.62
Commercial transportation							3,479.40				3,479.40
B. Paolo	5/4	5/8	Egypt		748.00						748.00
	5/8	5/16	Algeria		1,000.00						1,000.00
Commercial transportation							5,717.00				5,717.00
M. Poloyac	5/14	5/18	Canada		972.00						972.00
Military transportation											
J. Roberts	5/14	5/18	Canada		972.00						972.00
Military transportation											
	6/28	7/2	Russia		1,450.00						1,450.00
Commercial transportation							3,443.00				3,443.00
D. Schlieker	5/14	5/18	Canada		972.00						972.00
Military transportation											
E. Schwartz	4/20	4/21	Japan		474.00						474.00
	4/21	4/22	China		185.00						185.00
	4/23	4/25	Bangladesh		[3]628.10						628.10
	4/25	4/27	Thailand		[3]396.00						396.00
	4/27	4/28	Indonesia		229.00						299.00
	4/28	4/29	Malaysia		[3]301.00						301.00
	4/29	5/2	Singapore		[3]377.00						377.00
Commercial transportation							6,876.00				6,876.00
Hon. R. Torricelli	4/19	4/21	Guatemala		233.00						233.00
	4/21	4/24	Mexico		573.00						573.00
Commercial transportation							1,458.00				1,458.00
J. Weber	4/3	4/5	Luxembourg		620.00						620.00
Military transportation											
	5/14	5/18	Canada		972.00						972.00
Military transportation											
P. Weir	4/20	4/24	Mexico		600.00						600.00
Commercial transportation							1,366.50				1,366.50

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Total, 2d quarter											112,192.52

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Represents refunds of unused per diem.

DANTE B. FASCELL, Chairman, July 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Jack Brooks	4/3	4/5	Luxembourg		620.00		(3)				620.00
Committee total					620.00						620.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military transportation.

JACK BROOKS, Chairman, July 22, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Helen Delich Bentley	5/25	5/27	Yugoslavia		(3)		(4)				
Jill Brady	6/26	7/4	Scotland		[5] 1,450.00		[6] 3,518.00				4,968.00
Lieslie Dierauf	5/17	5/22	Hong Kong	11,710.40	1,512.00		[6] 2,900.00				4,412.00
James K. McCallum	5/18	5/26	Japan	370,573	2,844.00		[6] 2,798.00				5,642.00
Thomas O. Melius	6/2	6/10	Brazil	6.596.280,00	2,259.00		[6] 2,824.00				5,083.00
Charles O. Moore	6/2	6/10	Brazil	6.596.280,00	2,259.00		[6] 2,824.00				5,083.00
Rodney H. Moore	5/22	5/26	Japan	163,814	1,264.00		[6] 3,250.00				4,514.00
Committee total					11,588.00	18,114.00					29,702.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] No per diem requested.

[4] Transportation paid by traveler.

[5] Cash advance issued by U.S. Department of State prior to travel.

[6] Commercial airfare.

WALTER B. JONES, Chairman, July 24, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Barbara-Rose Collins	4/14	4/16	Senegal		690.00						690.00
	4/16	4/21	Cote d'Ivorie		1,052.00						1,052.00
	4/21	4/26	Ghana		2,609.25		[3] 4,136.00				6,745.35
Committee total					4,351.35		4,136.00				8,487.35

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Total commercial airfare.

ROBERT A. ROE, Chairman, July 23, 1992.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4061. A letter from the Department of the Air Force, transmitting notification that the performance of the C-17 full scale development [FSD] contract will continue for a period exceeding 10 days; to the Committee on Armed Services.

4062. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council for North American Affairs for defense articles and services (Transmittal No. 92-33), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4063. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Korea (Transmittal No. 17-92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

4064. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4065. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1997 resulting from passage of S. 1150, pursuant to Public Law

101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

4066. A letter from the Secretary of Labor, transmitting a report on activities under the Freedom of Information Act during calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4067. A letter from the Comptroller General of the United States, transmitting a copy of report entitled, "Thrift Resolutions; FSLIC 1988 and 1989 Assistance Agreement Costs Subject to Continuing Uncertainties"; jointly, to the Committees on Banking, Finance and Urban Affairs and Government Operations.

4068. A letter from the President and CEO, Resolution Trust Corporation, transmitting the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section ("The 1988-89 FSLIC Assistance Agreements"); jointly, to the Committees on Banking, Finance and Urban Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5263. A bill to authorize the Secretary of Veterans Affairs to conduct a demonstration project to determine the cost-effectiveness of certain health-care authorities (Rept. 102-779, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4567. A bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes; with an amendment (Rept. 102-780, Pt. 1). Ordered to be printed.

Ms. SLAUGHTER: Committee on Rules. House Resolution 537. Resolution providing for the consideration of the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes (Rept. 102-781). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5237. A bill to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, and for other purposes; with an amendment (Rept. 102-782, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 4906. A bill to amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration, and to amend the Farm Credit Act of 1971 for other purposes; with an amendment (Rept. 102-783). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWETT:

H.R. 5756. A bill to protect reproductive rights; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. HAMILTON, and Mr. GILMAN):

H.R. 5757. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize appropriations for foreign assistance programs for fiscal year 1993, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BOEHLERT:

H.R. 5758. A bill to prohibit the expenditure of Federal funds for the purchase of components for the superconducting super collider that are manufactured outside the United States unless U.S. firms were allowed to compete for the contract; to the Committee on Science, Space, and Technology.

By Mr. BROWN:

H.R. 5759. A bill to expand Federal efforts to develop technologies for applications of high-performance computing and high-speed networking, to provide for a coordinated Federal program to accelerate development and deployment of an advanced information infrastructure, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. DARDEN (for himself, Mr. BROWDER, Mr. JONES of Georgia, Mr. ERDREICH, Mr. CRAMER, Mr. TALLON, Mrs. LLOYD, Mr. THOMAS of Georgia, Mr. JENKINS, Mr. ROWLAND, Mr. RAY, and Mr. BARNARD):

H.R. 5760. A bill to express the sense of the Congress with respect to sports blackouts; to the Committee on Energy and Commerce.

By Mr. DELLUMS:

H.R. 5761. A bill to impose sanctions on South Africa; jointly, to the Committees on Ways and Means, Foreign Affairs, Public Works and Transportation, and Banking, Finance and Urban Affairs.

By Mr. HEFLEY:

H.R. 5762. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of such act to germicides; to the Committee on Energy and Commerce.

By Mr. HUCKABY (for himself and Mr. EMERSON):

H.R. 5763. A bill to provide equitable relief to producers of sugarcane sujbect to proportionate shares; to the Committee on Agriculture.

H.R. 5764: A bill to amend the U.S. Warehouse Act to provide for the use of electronic cotton warehouse receipts; to the Committee on Agriculture.

By Mr. IRELAND:

H.R. 5765. A bill to amend the Internal Revenue Code of 1986 to exempt from the tax on generation-skipping transfers certain transfers to grandchildren of siblings of the transferor; to the Committee on Ways and Means.

By Mr. KOSTMAYER:

H.R. 5766: A bill to require the promulgation of standards for the cleanup of radiologically contaminated sites; to the Committee on Energy and Commerce.

By Mr. LAUGHLIN:

H.R. 5767: A bill to authorize the foreign sale of certain U.S. flag tank vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. LIGHTFOOT:

H.R. 5768: A bill to establish a blue ribbon commission to eliminate duplicative and noncompetitive Federal regulations; to the Committee on Government Operations.

By Mr. MCCRERY:

H.R. 5769: A bill to provide for the revitalization of small business concerns, promote job growth, and for other purposes; jointly, to the Committees on Energy and Commerce, Small Business, Banking, Finance and Urban Affairs, Ways and Means, the Judiciary, Education and Labor, Rules, and Government Operations.

By Mr. ROEMER (for himself and Mr. JOHNSON of South Dakota):

H.R. 5770. A bill to prohibit the use of U.S. Government aircraft for political or personal travel, to limit certain benefits for senior Government officers, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Government Operations.

By Mr. SHAW (for himself and Mr. COYNE):

H.R. 5771. A bill to amend title XVIII of the Social Security Act to extend the period during which Medicare-dependent, small rural hospitals receive additional payments under the Medicare Program for the operating costs of inpatient hospital services, to revise the criteria for determining whether hospitals are eligible for such additional payments, and to provide additional payments under the Medicare Program to other Medicare-dependent hospitals; to the Committee on Ways and Means.

By Mr. SKEEN:

H.R. 5772. A bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act) until certain studies and the reauthorization of the act are carried out, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WALKER:

H.R. 5773. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; jointly, to the Committees on Ways and Means and Government Operations.

By Mr. RANGEL:

H.J. Res. 535. Joint resolution designating September 9, 1992, as "Haitian Freedom Day"; to the Committee on Post Office and Civil Service.

By Mr. GILMAN (for himself, Mr. HALL of Ohio, Mr. EMERSON, Mr. WHEAT, Mr. DYMALLY, Mr. SOLARZ, Mr. LAGOMARSINO, Mr. WEISS, Mr. DORGAN of North Dakota, Mr. PENNY, Mr. HASTERT, Mr. MCNULTY, Mr. FALEOMAVAEGA, Mr. WOLF, Mr. BEREUTER, Mr. GILCHREST, Mr. MCHUGH, Mr. SMITH of New Jersey, and Mr. WOLPE):

H. Con. Res. 352. Concurrent resolution expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of United Nations security forces to assure that humanitarian relief gets to those most in need; to the Committee on Foreign Affairs.

By Mrs. LOWEY of New York (for herself, Mr. SOLARZ, Mr. SMITH of Florida, Mr. YATES, Mr. BACCHUS, Mr. HORTON, Mr. LEHMAN of Florida, Mr. CONYERS, Mr. WOLPE, Mr. SWETT, Mr. MCNULTY, Ms. PELOSI, Mr. SCHEUER, Ms. MOLINARI, Mr. CHANDLER, Mrs. KENNELLY, Mr. LAGOMARSINO, Mr. KOPETSKI, and Mr. WAXMAN):

H. Res 538. Resolution commending the heroic individuals who acted to rescue Jews during the Holocaust and the Jewish Foundation for Christian Rescuers, which perpetuates the altruism and moral courage of such individuals; to the Committee on Foreign Affairs.

By Mr. MICHEL (for himself, Mr. GINGRICH, Mr. LEWIS of California, Mr. ED-

WARDS of Oklahoma, Mr. WEBER, Mr. VANDER JAGT, Mr. SOLOMON, and Mr. GRADISON):

H. Res. 539. Resolution directing the Committee on Standards of Official Conduct to conduct an investigation regarding possible unauthorized disclosures of classified information in violation of Rules of the House of Representatives; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. IRELAND introduced a bill (H.R. 5774) for the relief of LeeAnn Bassett Helmick, Lynn Bassett Holland, and Louise Bassett Meyling; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 428: Mr. KASICH.

H.R. 629: Mr. MCCANDLESS.

H.R. 1025: Mr. GEREN of Texas.

H.R. 1536: Mr. YOUNG of Florida.

H.R. 1541: Mr. YOUNG of Florida.

H.R. 1886: Mr. WHEAT.

H.R. 2643: Mr. INHOFE.

H.R. 3221: Mr. IRELAND, Mr. BILBRAY, Mrs. LLOYD, and Mr. ALEXANDER.

H.R. 3462: Mr. SWETT and Mr. PAXON.

H.R. 3705: Mr. BOEHNER.

H.R. 4045: Mr. COLORADO.

H.R. 4094: Mr. SKEEN and Mr. WELDON.

H.R. 4204: Mr. FISH, Mr. COBLE, Mr. SPENCE, Mr. DARDEN, and Mr. NEAL of North Carolina.

H.R. 4224: Mr. INHOFE.

H.R. 4315: Mr. INHOFE.

H.R. 4353: Mr. JONTZ.

H.R. 4507: Mr. KILDEE, Mr. BILBRAY, Mr. ROE, Mr. SENSENBRENNER, and Mr. MCCOLLUM.

H.R. 4585: Mr. PRICE, Mr. HERTEL, Mrs. JOHNSON of Connecticut, Mr. MFUME, Mr. STARK, and Mr. ACKERMAN.

H.R. 4617: Mr. INHOFE.

H.R. 4618: Mr. INHOFE.

H.R. 4619: Mr. INHOFE.

H.R. 4620: Mr. INHOFE.

H.R. 4621: Mr. INHOFE.

H.R. 4622: Mr. INHOFE.

H.R. 4623: Mr. INHOFE.

H.R. 4625: Mr. INHOFE.

H.R. 4626: Mr. INHOFE.

H.R. 4627: Mr. INHOFE.

H.R. 4628: Mr. INHOFE.

H.R. 4629: Mr. INHOFE.

H.R. 4630: Mr. INHOFE.

H.R. 4631: Mr. INHOFE.

H.R. 4632: Mr. INHOFE.

H.R. 4633: Mr. INHOFE.

H.R. 4634: Mr. INHOFE.

H.R. 4635: Mr. INHOFE.

H.R. 4636: Mr. INHOFE.

H.R. 4637: Mr. INHOFE.

H.R. 4638: Mr. INHOFE.

H.R. 4639: Mr. INHOFE.

H.R. 4640: Mr. INHOFE.

H.R. 4641: Mr. INHOFE.

H.R. 4642: Mr. INHOFE.

H.R. 4643: Mr. INHOFE.

H.R. 4644: Mr. INHOFE.

H.R. 4645: Mr. INHOFE.

H.R. 4646: Mr. INHOFE.

H.R. 4647: Mr. INHOFE.

H.R. 4648: Mr. INHOFE.

H.R. 4649: Mr. INHOFE.

H.R. 4650: Mr. INHOFE.

H.R. 4651: Mr. INHOFE.

H.R. 4652: Mr. INHOFE.

H.R. 4653: Mr. INHOFE.

H.R. 4654: Mr. INHOFE.

H.R. 4655: Mr. INHOFE.

H.R. 4656: Mr. INHOFE.

H.R. 4657: Mr. INHOFE.

H.R. 4658: Mr. INHOFE.

H.R. 4659: Mr. INHOFE.

H.R. 4660: Mr. INHOFE.

H.R. 4661: Mr. INHOFE.

H.R. 4662: Mr. INHOFE.

H.R. 4663: Mr. INHOFE.

H.R. 4664: Mr. INHOFE.

H.R. 4665: Mr. INHOFE.

H.R. 4666: Mr. INHOFE.

H.R. 4667: Mr. INHOFE.

H.R. 4668: Mr. INHOFE.

H.R. 4669: Mr. INHOFE.

H.R. 4670: Mr. INHOFE.

H.R. 4671: Mr. INHOFE.

H.R. 4672: Mr. INHOFE.

H.R. 4673: Mr. INHOFE.

H.R. 4674: Mr. INHOFE.

H.R. 4675: Mr. INHOFE.

H.R. 4676: Mr. INHOFE.

H.R. 4678: Mr. INHOFE.

H.R. 4679: Mr. INHOFE.

H.R. 4680: Mr. INHOFE.

H.R. 4681: Mr. INHOFE.

H.R. 4682: Mr. INHOFE.

H.R. 4683: Mr. INHOFE.

H.R. 4684: Mr. INHOFE.

H.R. 4755: Mr. MCEWEN, Mr. HOBSON, and Mr. BACHUS.

H.R. 4797: Mr. SCHIFF.

H.R. 4851: Mr. INHOFE.

H.R. 4852: Mr. INHOFE.

H.R. 4853: Mr. INHOFE.

H.R. 4854: Mr. INHOFE.

H.R. 4855: Mr. INHOFE.

H.R. 4856: Mr. INHOFE.

H.R. 4857: Mr. INHOFE.

H.R. 4858: Mr. INHOFE.

H.R. 4859: Mr. INHOFE.

H.R. 4860: Mr. INHOFE.

H.R. 4861: Mr. INHOFE.

H.R. 4862: Mr. INHOFE.

H.R. 4863: Mr. INHOFE.

H.R. 4864: Mr. INHOFE.

H.R. 4865: Mr. INHOFE.

H.R. 4866: Mr. INHOFE.

H.R. 4867: Mr. INHOFE.

H.R. 4868: Mr. INHOFE.

H.R. 4869: Mr. INHOFE.

H.R. 4870: Mr. INHOFE.

H.R. 4871: Mr. INHOFE.

H.R. 4872: Mr. INHOFE.

H.R. 4873: Mr. INHOFE.

H.R. 4874: Mr. INHOFE.

H.R. 4875: Mr. INHOFE.

H.R. 4876: Mr. INHOFE.

H.R. 4877: Mr. INHOFE.

H.R. 4878: Mr. INHOFE.

H.R. 4924: Mr. JACOBS.

H.R. 4962: Mr. PAYNE of Virginia and Mr. LIGHTFOOT.

H.R. 4963: Mr. PAYNE of Virginia and Mrs. UNSOELD.

H.R. 5216: Mr. SCHAEFER.

H.R. 5238: Mr. BLACKWELL.

H.R. 5240: Mr. OLVER.

H.R. 5424: Mr. LANTOS.

H.R. 5456: Mr. REED.

H.R. 5478: Mr. ANDREWS of Texas, Mr. VALENTINE, Mr. ROWLAND, Mr. BREWSTER, Mr. RAHALL, and Mr. SKEEN.

H.R. 5494: Mr. ATKINS.

H.R. 5509: Mr. ZELIFF and Mr. GALLEGLY.

H.R. 5531: Mrs. COLLINS of Illinois, Mr. ACKERMAN, Mr. TOWNS, and Ms. PELOSI.

H.R. 5542: Mr. SKEEN and Mr. GEREN of Texas.

H.R. 5600: Mr. HATCHER, Mr. MARTINEZ, Mr. PENNY, Mr. ATKINS, and Mr. PETERSON of Minnesota.

H.R. 5612: Mr. JACOBS and Mr. ATKINS.

H.R. 5626: Mr. BATEMAN and Mr. SHARP.

H.R. 5681: Mr. TRAFICANT, Mr. RAHALL, Mrs. SCHROEDER, and Mr. ACKERMAN.

H.R. 5682: Mr. IRELAND and Mr. LEWIS of Florida.

H.R. 5719: Mr. HAYES of Louisiana, Mr. JEFFERSON, and Mr. TAUZIN.

H.R. 5733: Mr. HERGER, Mr. DORNAN of California, Mr. SOLOMON, and Mr. GEREN of Texas.

H.R. 5745: Mr. BILIRAKIS, Mr. RAVENEL, Mr. HANCOCK, Mr. NICHOLS, and Mrs. COLLINS of Illinois.

H.J. Res. 422: Mr. BLILEY, Mr. DEFAZIO, Mrs. VUCANOVICH, Mr. DELLUMS, Mr. MURPHY, Mr. BURTON of Indiana, Mr. LAROCCO, Mr. MCCLOSKEY, and Mr. MONTGOMERY.

H.J. Res. 483: Mr. YOUNG of Florida.

H.J. Res. 500: Mr. BALLENGER, Mr. EMERSON, Mr. FASCELL, Mr. HAYES of Illinois, Mr. HOYER, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. LANTOS, Mr. MINETA, Mr. MONTGOMERY, Ms. OAKAR, Mr. OLVER, Mr. PALLONE, Mr. REED, Mr. SMITH of Florida, Mr. TALLON, and Mr. THOMAS of Georgia.

H.J. Res. 523: Mr. ENGEL, Mr. PALLONE, and Mr. CAMP.

H. Con. Res. 223: Mr. AUCOIN, Mrs. KENNELLY, Mr. KOPETSKI, and Mr. TORRICELLI.

H. Con. Res. 301: Mr. BEREUTER, Ms. MOLINARI, and Mr. SANTORUM.

H. Con. Res. 344: Mr. SKAGGS, Mr. FOGLIETTA, Mr. GUARINI, Ms. SNOWE, Mr. MATSUI, Mr. OWENS of Utah, Mr. ESPY, Mr. SHAYS, Ms. NORTON, Mr. ANDREWS of Maine, Mr. WHEAT, Mr. PORTER, Ms. KAPTUR, Mr. CARDIN, and Mr. JOHNSTON of Florida.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1300: Mr. RAVENEL.

EXTENSIONS OF REMARKS

HORROR IN THE FORMER YUGOSLAVIA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. GREEN of New York. Mr. Speaker, for over a year now, the world has witnessed daily horrors in former Yugoslavia. Since June 1991, Yugoslavia has broken into at least five new states, with violent episodes leaving more than 50,000 dead, hundreds of thousands near starvation, and creating over 2 million refugees.

The war currently raging in Bosnia-Hercegovina is bringing with it new atrocities. Yesterday we heard reports of two orphans—a 14-month-old boy and a 3-year-old girl—killed by sniper attack on a bus attempting to seek freedom from the war for the children. After the gun attack, 9 of the surviving 48 children were separated, identified as Serbian, and prevented from traveling onwards as the savage and inhumane ethnic cleansing policies of the Serbian government were carried out.

Today, Bosnian refugees are providing horrifying accounts of factories, schools, and stores turned into prison camps where Muslim and Croatian refugees are warehoused, tortured, and killed. Stories are surfacing of atrocious camp conditions, where disease is rampant, water contaminated, and food extremely scarce.

Mr. Speaker, the world has stood silently by for too long. The West seems to be at a loss for words and action. Europe, sadly and tragically, has failed to lead.

As a longstanding member of the U.S. Holocaust Memorial Council, I cannot help but recall the similar horrors visited upon Jews, Gypsies, homosexuals, and other minority groups during Hitler's reign. I call upon President Bush to increase pressure in Europe to act decisively to end the Milosevic reign of terror. I commend for my colleagues attention the following piece from today's New York Times:

[From the New York Times, Aug. 4, 1992]

MILOSEVIC ISN'T HITLER, BUT . . .

"Greater Serbia." "Ethnic cleansing." Civilians transported in sealed buses and railway cars. And now, perhaps, concentration camps. The chilling reports from Bosnia directly evoke this century's greatest nightmare, Hitler's genocide against Jews, Gypsies and Slavs.

The parallel, mercifully, is not complete. Serbia's leader, Slobodan Milosevic, does not directly threaten the entire European continent. He does not have one of the world's largest economies at his disposal. His aggressive designs are limited to the Balkans.

But by standing aside while he implements his version of the Final Solution, the world sets a frightening precedent for a dozen other areas of ethnic tension. It's not too late to send a firmer message—through diplomatic ultimatums, backed by the threat of armed intervention. Mr. Milosevic recognizes only one language, military force; the rest of the world may soon have to speak it.

Serbian atrocities are one parallel with Nazi Germany. Another is Europe's peace at any price response. At Munich in 1938, Britain and France agreed to a "peace plan" that forced Czechoslovakia to surrender part of its territory, the Sudetenland, to Hitler. Today, the European Community wants Bosnia to agree to a "political solution" that would surrender part of its territory to Bosnian Serb forces loyal to Mr. Milosevic.

Europe brushes aside Bosnia's request for international enforcement of a cease-fire as a precondition to political talks. Instead, Europe treats Serbian commandos as if they had the same legitimacy as Bosnia's elected government. Like their predecessors at Munich. Europe's negotiators proceed as if Serbia were negotiating in good faith, despite a string of broken promises and violated cease-fires.

Even now, Mr. Milosevic might be convinced to stay his terror squads by a credible threat of force. Although Yugoslavia's rump army is Europe's third largest, and is fighting on favorable terrain, it is no match for the larger, high-tech forces of NATO or the West European Union.

Yet Britain's Prime Minister, John Major, again rules out military action. His Foreign Minister goes further, asserting that no state would even consider using force against Serbian aggression.

Do Europe's leaders think that if Mr. Milosevic gets what he wants in Bosnia, that will be the end of it? There can be little doubt that he will pursue his "ethnic cleansing" campaign in other parts of the former Yugoslavia, like Kosovo or Macedonia. Or that a successful pogrom in Bosnia will inspire demagogues elsewhere in Europe to adopt the same tactics. Bosnia's Croats and Muslims, the Red Cross reports, already respond to Serbian atrocities with their own gross abuse of human rights.

Diplomacy has one last chance. Later this month, an international conference on Bosnia convenes in London. Not just the European Community, but also the U.S., Russia and the U.N. will be represented. They need to demonstrate that they have learned something from the tragic errors that led to the Second World War. Mr. Milosevic is only a minor-league Hitler. The London Conference must not become a minor-league Munich.

TRIBUTE TO JOHN CULLINAN

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. WELDON. Mr. Speaker, I rise today to pay special tribute to one of my constituents, John Cullinan, who was recently selected as Amtrak Police Department's "Officer of the Year" for 1991.

Mr. Cullinan has spent the last 16 years in law enforcement, and he has been recognized by his superiors for his excellent police work in 10 separate incidents. Mr. Cullinan has acted courageously both on and off duty, and thus, it is no wonder that he was chosen to receive this distinguished honor over approximately 300 officers nationwide.

Mr. Cullinan's willingness to serve and dedication to duty are truly outstanding. It is refreshing to see that someone who has given so much to the community is being so warmly recognized. It certainly makes me proud to have a citizen of his caliber residing in my district and my home town. I congratulate Mr. Cullinan, and I am pleased to share with my colleagues the following article from the Philadelphia Inquirer that explains in greater detail his fine displays of heroism:

[From the Philadelphia Inquirer, July 26, 1992]

HEROISM IS ALL IN A DAY'S WORK FOR AMTRAK OFFICER OF THE YEAR

(By Marilou Regan)

When Amtrak Police Officer John Cullinan spotted three men on a platform in North Philadelphia in April 1991, he knew something was wrong. Train after train passed, but the trio never got aboard.

His instincts proved to be correct when he later saw the shattered station door. Cullinan drew his gun and called for backup on a burglary in progress.

Long before his backup arrived, Cullinan had two 6-foot, 200 pound men in custody and the third trapped in the station.

About two weeks later, Cullinan was on patrol in North Philadelphia when he was flagged down and told there were two children trapped in a burning house.

He wet himself down with a hose and went in to try to save the children.

Only when he couldn't stand the heat and smoke anymore did he come out. The children were, it turned out, safe with some neighbors.

Cullinan, 33, of Aston, is modest about his derring-do. To the five-year veteran of the Amtrak force, it's all in a day's work.

"I think it's all in the course of going to work and putting in my eight hours," he said. "I don't want it to seem like I'm the Super Cop of the '90s."

But Cullinan's superiors think he is super and have recognized him for his excellent police work in 10 separate incidents.

Based on his impressive record, Cullinan was named the Amtrak Police Department's Officer of the Year for 1991 over about 300 officers nationwide. He was honored at a luncheon last month.

"It's a pretty big deal, I guess," Cullinan said. "But if it wasn't for my training and the help from my fellow officers, none of this would have been possible."

Cullinan's record reads like the diary of a super hero.

He put his finger into the gunshot wound of a man who had been shot in the chest and kept it there until help arrived. He saved a man from choking on french fries at 30th Street Station. He arrested five people in three separate flimflam incidents at 30th Street. He intervened when a drug dealer

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

held a knife to the throat of another man on a train platform.

"It seems like every time I turned around last year, something was happening," Cullinan said.

"I guess it was luck on my part."

But Cullinan's superior credits his actions to more than just luck.

"John is a young, aggressive officer who deserves the credit for all of this," said Chief Inspector Robert Bagosy. "He really is a good guy and a motivated and excellent police officer. He's pro-active in his patrol work, and he's always on the lookout."

Cullinan's observational skills came in handy recently when he saw two juveniles boarding a train to Wilmington.

"I said to myself, 'If these guys aren't drug dealers, I'll eat my uniform,'" he recalled.

Lucky for him and his digestive tract, he was right.

When the boys disembarked in Delaware, officers there "made a substantial drug arrest," said Cullinan, who called ahead to that stop.

Cullinan, who has spent the last 16 years in law enforcement, can't seem to get it out of his system, even when he's off duty.

While attending a recent concert with his wife at the Mann Music Center, Cullinan went out to heed nature's call.

When he finally came back after an hour, his wife asked, "I thought you were going to the bathroom. Where were you?"

"You won't believe it," he said, after assisting security guards in capturing an unruly patron.

EARLY TRADE BETWEEN INDIANS AND NON-INDIANS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the "Year of the American Indian." This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we, as a Congress, have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a recollection of an anonymous member of the Jicarilla Apache Tribe, as published in a book entitled "Native American Testimony." The editorial comment which precedes the article is provided also.

BUTTOCKS BAGS AND GREEN COFFEE BREAD

(In this humorous story from the Jicarilla Apache of northern New Mexico, the "white people" referred to are probably not the Spanish, who set up a mission among the Jicarilla in the mid-eighteenth century, but the Americans. In 1854, United States troops quelled the Jicarilla rebels, but in 1878, some warriors took to cattle rustling again. In 1887, the tribe was placed on the northern New Mexico reservation where they live today as successful cattle ranchers.)

When the white people first came to this country, they gave the Indians hats, pants, shoes, and coats. Dishes and blankets were also given out, and food, such as flour, sugar, and coffee.

These foolish people received some too. They heard the other people say "buttocks bag" [pants were called *tlatsizis*, "buttocks bag"], and they asked, "What is this bag for? What do you put in it?"

"Why, you throw your buttocks in it," was the answer.

So they decided to do it. They put the pants in a low place and got up on a cliff above them. They hopped in place, getting ready to jump. Then they tried to get in the pants. Their feet missed, and they fell. Then they tied the pants around themselves, but the leg part hung down behind. Some put the pants on backward; some had the legs hanging down in front. That's the way they went around. They put the shirts on. Some wore them in the right way; some put them on backward. The hats they used for carrying water. They didn't know what hats were for. They thought a hat was some kind of dipper. They didn't know what all those things were.

They wouldn't keep gloves. They said, "This must be Bear's hand." The shoes they wouldn't keep either. "These must be the bear's moccasins," they said.

They didn't know what flour was either. They just threw it away. They kept nothing but the sack and emptied out the flour. All the Indians did this, even those who were not foolish. And the baking powder they threw away too.

At first they tried to eat bacon. They made soup of it and ate too much of it. A lot of them died from eating it.

At first they tried to make the flour into a mush. They tried to use it like cornmeal. But it was too sticky, and they threw it away. The brown sugar they liked though. Some of the children ate it like candy. They tasted the salt. They knew what that was. The white people gave them beans too. The beans they recognized. They knew how to eat them.

They were all given green coffee. This is what all the Apaches did with it, not just the foolish ones. They boiled the green beans for two days. They didn't get any softer. The people couldn't eat it. So they pounded it up and thought they would make a mush of it. It didn't taste good even though they stirred sugar into it. So they tried to make bread of it after grinding it. That didn't taste good either. They gave it up then and threw it away.

ANONYMOUS,
Jicarilla Apache.

INTRODUCTION OF THE INFORMATION INFRASTRUCTURE AND TECHNOLOGY ACT OF 1992

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. BROWN. Mr. Speaker, research and development focused on high-performance computing and networking constitute a key ingredient necessary to ensure the Nation's future economic competitiveness. Our information infrastructure will play as important a role in the Nation's economic development in the 21st century as did roads, canals, and railroads in the 19th century. Other technologically advanced nations are well aware of the importance of information technologies and have targeted them for vigorous development.

The pace of change in these high-technology fields is rapid. To stay at the forefront requires sustained support for innovative research and development in hardware, software, and network technologies, as well as for basic research and education in computer and computational sciences. Coordinated and collaborative R&D activities among industry, academia and Government are also essential for spurring technological progress.

In order to improve coordination and expand Federal R&D in high-performance computing and networking, last year the Congress initiated and passed the High-Performance Computing Act of 1991, Public Law 102–194, which established the High-Performance Computing Program. The components of the multiagency R&D Program include development of software for exploiting the capabilities of the most advanced computers for scientific and engineering problems; encouragement of the purchase of early production and prototype supercomputers by Federal R&D agencies; establishment of a multigigabit national computer network to link Government, industry, and the education community, and to provide access to databases and research facilities; and expansion of basic research and education in computer and computational sciences.

In order to capture the promise of research developments in high-performance computing and networking, increased attention must be directed toward applications of the technologies. Therefore, I have introduced today the Information Infrastructure and Technology Act of 1992, a companion to S. 2937 recently introduced by Senator ALBERT GORE. This legislation builds on the High-Performance Computing Act by stimulating new and wide-ranging applications of the research accomplishments arising from the High-Performance Computing Program. The bill will provide support for development of computing and networking applications in such areas of importance as education, manufacturing, and public health.

Overall responsibility for creating a national plan for information infrastructure development is assigned by the bill to the White House's Office of Science and Technology policy. This plan is intended to involve participation by the Federal R&D agencies in a coordinated multiagency effort to develop software and hardware for applications to education at all levels and to teacher training, including applications of networking technologies; to develop advanced computer-integrated, electronically networked manufacturing technologies and to disseminate such technologies to industry; to develop testbed networks for sharing medical data and imagery, along with developing software needed for manipulation and visualization of medical data; and to develop technologies for creation of digital libraries of electronic information, including advanced storage and retrieval systems and standards for electronic data storage and transmission.

The bill assigns responsibilities to particular Federal R&D agencies in the areas of education, manufacturing, health care, and libraries on the basis of traditional agency missions and current R&D activities. A description of these agency roles and the authorization levels in the bill are summarized at the end of this statement.

Mr. Speaker, the Information Infrastructure and Technology Act in concert with the High-Performance Computing Act, enacted last year, will advance information technologies which are transforming the conduct of science and engineering and which offer unparalleled opportunities in education, economic development, and public health. The public investment represented by these programs will provide an enormous return to society and will contribute to the welfare of all our citizens.

SUMMARY OF AGENCY RESPONSIBILITIES IN THE INFORMATION INFRASTRUCTURE AND TECHNOLOGY ACT

The Information Infrastructure and Technology Act of 1992 focuses on applications of high-performance computing and networking in K-12 education, in libraries, in health care, and in industry, particularly manufacturing. The bill authorizes a total of $1.15 billion over five years.

The bill establishes a multi-agency Information Infrastructure Development Program to be coordinated by the White House Office of Science and Technology Policy (OSTP). This program would ensure the widest possible application of high-performance computing and high-speed networking technology. The Program would assign different agencies responsibility for developing applications of this technology in various areas, develop plans and budgets for developing such applications, and ensure interagency cooperation and coordination. In addition, the bill assigns a new Associate Director at OSTP responsible for overseeing Federal efforts to disseminate Federal scientific and technical information.

The bill calls upon the National Science Foundation (NSF) to fund projects to connect primary and secondary schools to the NSFNET, a national computer network connecting hundreds of colleges and universities around the country. In addition, NSF is to develop educational software and provide teacher training.

The National Institute of Standards and Technology (NIST) at the Commerce Department is given responsibility for developing networking technology for manufacturing.

The National Institutes of Health (NIH), in conjunction with NSF and other agencies, is to develop applications of advanced computer and networking technology for health care. This includes networks to link hospitals, doctor's offices, and universities so health care providers and researchers can share medical data and imagery, like CAT scans and X-rays. NIH would also develop new software for manipulating medical imagery and data.

The bill provides funding to both NSF and NASA to develop technology for "digital libraries", huge data bases that store text, imagery, video, and sound are accessible over computer networks like NSFNET. The bill also funds development of prototype "digital libraries" around the country.

AUTHORIZATIONS BY AREA AND AGENCY

[In millions of dollars]

Agency	Fiscal year—					
	1993	1994	1995	1996	1997	Total
NSF:						
Education	20	40	60	80	100	300
Libraries	10	20	30	40	50	100
NIST: Manufacturing	30	40	50	60	70	250
NIH: Health care	20	40	60	80	100	300
NASA: Libraries	10	20	30	40	50	150
Total	90	160	230	300	370	1,150

SUPPORT FOR HOUSE CONCURRENT RESOLUTION 246

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. TORRES. Mr. Speaker, the House will soon take action on House Concurrent Resolution 246. Today, I rise in support of House Concurrent Resolution 246, introduced by my colleagues Representatives Henry Waxman and House Majority Leader Richard Gephardt.

House Concurrent Resolution 246 will signal to President Bush that Congress will not approve a trade agreement, including the North American Free Trade Agreement [NAFTA] and the Uruguay round of the General Agreement on Tariffs and Trade [GATT], that jeopardizes U.S. health, safety, labor, or environmental standards.

Because a NAFTA has the potential to dramatically reorganize California's manufacturing base as well as forcing the State, and localities, to comply with international standards on consumer products or environmental protection, I support House Concurrent Resolution 246.

For my home district in California, House Concurrent Resolution 246 will go a long way in preventing further loss of manufacturing jobs in the furniture industry.

Several years ago, California adopted stiff regulations on emission standards to improve air quality. As result, many furniture manufacturers have left southern California to relocate to Mexico to avoid compliance on emission standards.

By 1990, there were over 230 furniture and woodworking factory plants in Tijuana, the Mexican city which borders San Diego, CA. These 230 plants have made the furniture manufacturing industry the second largest industry in Tijuana.

As for California, the loss of furniture manufacturers has resulted in the loss of thousands of jobs.

Mr. Speaker, our environmental laws on air quality, dolphin protection, consumer safety laws on pesticide contents, and labor rights; these are the U.S. laws that House Concurrent Resolution 246 seeks to protect. And, as the House takes action on House Concurrent Resolution 246, I urge all my colleagues to vote in favor of this measure.

TRIBUTE TO THE HONORABLE RICHARD SCHULZE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to one of our most distinguished colleagues, who will be retiring this year after 18 years of exemplary service in the U.S. House of Representatives, the Honorable Richard Schulze, from my home State of Pennsylvania.

Dick Schulze has represented the Fifth Congressional District in Southeastern Pennsylvania in an exceptional manner over the years. Dick was a small businessman for a quarter-century before coming to Congress and was very active in civic and community affairs, serving for several years in the Pennsylvania House of Representatives. He has been a hard-working legislator who has always been very responsive to the needs of his constituents.

Dick has been one of the House's foremost experts in the area of disarmament, as he was appointed during his first term as an adviser to the Conference on Disarmament, and to the ongoing Strategic Arms Limitation Talks, in Geneva, Switzerland.

As a member of the House Ways and Means Committee since 1977, Dick has served as a leading spokesman for small businesspeople and for middle-income tax relief. Several of his legislative proposals have been adopted into major tax bills, including the taxpayer bill of rights during the 100th Congress. Dick Schulze has pushed for tax simplification, removing paperwork burdens on taxpayers and proposals to make America more competitive in overseas markets.

The commitment to fair trade has been one of Dick's top priorities during his tenure in Congress. He pushed fervently for provisions aimed at streamlining the trade policy decisionmaking process and to provide U.S. firms with greater access to overseas markets. A number of these provisions pushed for by Congressman Schulze were included in the omnibus trade bill signed into law by President Reagan. Dick's commitment to saving American jobs and maintaining a strong domestic economy through his legislative proposals has been second to none. His leadership on these issues will sorely be missed.

Mr. Speaker, I ask all of my colleagues to join me in thanking Dick Schulze for his many years of hard work and dedication in the U.S. Congress. He has served not only his constituents but the entire Nation with great honor and distinction. His shoes will be very hard to fill.

CONGRATULATIONS TO JUDGE ISAAC McNATT

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to the Honorable Isaac McNatt as he is honored on the occasion of his retirement.

Judge McNatt was born on November 19, 1916, the fourth oldest child and oldest boy in the family of nine children born to Peter and Joanna Johnson McNatt. Judge McNatt's father was a sharecropper—tenant farmer—and Pentecostal preacher in Bladen County, North Carolina and his mother was a housewife and substitute school teacher.

In June 1932, Judge McNatt graduated from Fayetteville High School in North Carolina, and went on to Hampton Institute in Hampton, Virginia.

He worked as a full time orderly in the Dean's Office at Hampton and took classes that didn't interfere with his job duties. For five years, from 1932–1937, Judge McNatt worked year round, staying on campus during the summer to work on the school grounds and earn enough money to continue school the following fall.

In September, 1938, Judge McNatt began teaching history at Armstrong High School, a segregated black school run by Cumberland County officials in North Carolina. He spent the summer of 1939 at St. John's, and then returned to North Carolina to teach from 1939 to 1942. During that time, World War II had involved the United States and Judge McNatt felt it was his duty to serve. After encountering problems trying to enlist in the U.S. Navy due to the existing policy of segregation, Judge McNatt became a Seaman First Class in the Navy in December, 1942. Taking a leave from law school, he received his induction notice and served as part of the 80th Seabee Battalion. the battalion was shipped to Trinidad to help build an air base on the West Indian island for German subseeking blimps to land. Here blacks and whites were forced to wait on separate lines to be served at canteens and with four times as many whites, black sailors waited four times as long.

Judge McNatt and his fellow sailors called on the NAACP, the CIO, and the ACLU who defended them in a famous trail before the Naval Review Board. Led by future Supreme Court Justice Thurgood Marshall, the team of lawyers fought for honorable discharges for their clients.

1946 was a big year for Judge McNatt, as he was admitted to the New York Bar, and married Gladys Martin, a Columbia University graduate student. He opened an office for the private practice of law on Amsterdam Avenue in New York City and practiced there for 36 years before moving his office to Teaneck, New Jersey in 1968. McNatt was actively involved in the integration and civil rights battles of the 1960's in Teaneck.

Judge McNatt was one the leaders of Teaneck's Fair Housing Committee with Archie Lacey and Thomas Boyd. They teamed with Teaneck mayor Matty Feldman to eliminate the discriminatory practice of "blockbusting" and helped lead Teaneck to becoming the first town in America to voluntarily integrate its public schools. He also played a large role in the famous March on Washington, led by Dr. Martin Luther King, serving as chairman of the Bergen County delegation.

Judge McNatt became Teaneck's first black councilman in 1964 and was re-elected in 1966 and 1970 also serving as the first black Deputy Mayor in Teaneck. In 1979, he became Teaneck's municipal court judge and in 1982, was appointed a Worker's Compensation Judge.

Mr. Speaker, I am proud to join in paying tribute to Judge Isaac McNatt. I am sure he will continue to provide invaluable service to his community and truly make a difference in society. I extend my best wishes to him on this most special occasion.

HONORING ASSEMBLYWOMAN GERALDINE L. DANIELS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to Assemblywoman Geraldine L. Daniels who will retire from office when her current term expires, after serving six terms as Harlem's representative in the New York State Assembly. A native New Yorker born in East Harlem, Assemblywoman Daniels has served in the New York State Legislature since 1980.

As an African-American and a woman, Assemblywoman Daniels has accomplished many firsts. She was the first black woman to chair a standing committee in the assembly, the Committee on Social Services; the first African-American to chair the Majority Steering Committee; and in 1991, became the first woman in the history of the New York State Assembly to chair the Majority Democratic Conference.

Among her many achievements in the legislature, Assemblywoman Daniels takes special pride in a resolution she authored and whose passage she engineered designating 1993 as Black History Year in New York State. It is a most appropriate commemoration of the 130th anniversary of the issuance of the Emancipation Proclamation which in 1863 freed African-Americans from slavery. She hopes to make her resolution a national observance by a mandate from Congress. She is also encouraging prominent black leaders to have their churches, schools, and organizations promote programs to commemorate the anniversary.

In Assemblywoman Daniels' view, the commemoration of Black History Year in 1993 is a fitting time for African-Americans to reflect on their past and current achievements and chart a course for their survival and progress in the next 130 years. Assemblywoman Daniels is also urging corporations and advertising agencies to cooperate with African-American media in their efforts to produce special editions and programs during the year 1993.

Assemblywoman Daniels' career in politics and public service began in the early 1960's when she first served as a delegate to State and national Democratic conventions and has continued up to this year's National Democratic Convention in New York City. She has also served as a State committee member from 1968 to 1980.

As a legislator, Assemblywoman Daniels is credited with a number of important accomplishments. She was responsible for the renaming of the Harlem State Office Building to the Adam Clayton Powell, Jr. State Office Building. She helped increase the amount of earned income allowed to retired State government employees. Over the years, she has aided in the delivery of over $5 billion in funding to programs and institutions in her central Harlem community.

Assemblywoman Daniels has served as chair of the Subcommittee on Preventive Health Care of the Assembly Committee on Health, and has staunchly advocated preventive health care programs and reduction of health care costs.

Assemblywoman Daniels is a member of the New York State Legislative Women's Caucus which she chaired in 1989 and 1990. She is a member of the New York Branch N.A.A.C.P., the Martin Luther King Jr. Democratic Club in Central Harlem, a board member of the New York Urban League, Manhattan branch, and chairperson of the New York County Democratic Committee.

Assemblywoman Daniels is the recipient of numerous awards and citations including the Sojourner Truth Award from the Negro Business and Professional Women of New York, and has been named Woman of the Year by many organizations.

Mr. Speaker, for the edification of my colleagues, I would like to present the text of the New York State legislative resolution authorized by Assemblywoman Daniels proclaiming 1993 as Black History Year in the State of New York.

RESOLUTION

Whereas, it is the sense of this legislative body that those who give positive definition to the profile and disposition of our American manner, do so profoundly strengthen our shared commitment to the exercise of freedom; and

Whereas, Attendant to such concern and fully in accord with its long-standing traditions, it is the intent of this legislative body to memorialize Governor Mario M. Cuomo to proclaiming 1993 as Black History Year in the State of New York; and

Whereas, As the representative from the 70th Assembly District has written: "1993 will enable us to reflect on our past and current achievements and to draw a blueprint and chart a course for the survival and progress of Black Americans for the next 130 years. We must face the future with a plan that will benefit positively our children"; and

Whereas, With the advent of Black History Month commencing in February, 1991, the representative from Harlem's 70th Assembly District has proposed that African-American churches and organizations declare throughout the United States the year of 1993 as Black History Year; and

Whereas, 1993 commemorates the 130th anniversary of the signing of the Emancipation Proclamation in 1863, freeing African-Americans from physical slavery; and

Whereas, 1993 provides an opportunity to recognize the gains achieved in the struggle for civil rights in America; it further affords ample time for the re-assessment of goals as Black Americans prepare for the next 130 years; and

Whereas, it is the sense of this legislative body to urge that corporations and advertising agencies cooperate with Black media in the promulgation of 1993 as Black History Year in the State of New York; and

Whereas, it is further hoped that Black churches and organizations contemplate and prepare year long events for 1993; and

Whereas, Through its avowed commitment to the ideals and principles upon which the Emancipation Proclamation was first issued, the commemoration of 1993 as Black History Year so clearly advances that spirit of united purpose and shared concern which is the unalterable manifestation of our American experience; now, therefore, be it

Resolved, That this legislative body pause in its deliberation and memorialize Governor Mario M. Cuomo to proclaim 1993 as Black History Year in the State of New York, fully confident that such procedure mirrors our shared commitment to preserve, to enhance and to yet effect that patrimony of freedom which is our American heritage; and be it further

Resolved, That a copy of this resolution, suitably engrossed, be transmitted to the Honorable Mario M. Cuomo, Governor of the state of New York.

(Adopted in the New York State Assembly on June 17, 1992.)

IN CELEBRATION OF THE 62D WEDDING ANNIVERSARY OF ALBERT AND PAULINE MENIN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. ENGEL. Mr. Speaker, I rise today to extend my congratulations to my constituents, Mr. and Mrs. Albert and Pauline Menin of Bronx, NY, who will be celebrating 62 years of a wonderful marriage on August 17, 1992.

Albert and Pauline Menin were married on August 17, 1930. Although life began for Albert in Russia and Pauline was born in Turkistan, fate brought them together in the Bronx after their immigration. Success and devotion are qualities they both possess, qualities that shine through in their marriage as well as in their outstanding contributions to the community.

Mr. Menin is an interior decorator serving the New York City area, including many diplomatic embassies. Over the years, he has managed a successful business while devoting much time and energy to his community. Mr. Menin served as president of the East Mid-Manhattan Chamber of Commerce and still serves on its board of directors. He also served with distinction on the New York City Community Planning Board No. 8.

He has been president of Lincoln Park B'nai B'rith Lodge in Yonkers, an associate of National Hadassah, and an active member of Lincoln Park Jewish Center, where he currently serves on the board of directors. Presently, Mr. Menin is a board member of the Westchester County Division of the Hebrew Home for the Aged in Riverdale. In addition, Albert Menin was cited for his fundraising efforts on behalf of the 23d Community Council and the New York Police Athletic League and Youth Organization. Finally, he has been a member of the Yorkville Lions Club for over 20 years where he has served various elective positions including president and Lion of the Year.

Mrs. Menin has been equally involved in the community. Her extensive activities date back to the period immediately following World War II and has touched the lives of many in the New York City area. Following World War II, Mrs. Menin was an active member of the Civilian Defense Department in the Bronx. As president of the Bronx Parents Association, Mrs. Menin's efforts went toward opening a new library for the Bronx community in 1950. She was also president of the Yonkers Chapter of the B'nai B'rith, the Hadassah Hadar Group, and the Lincoln Park Jewish Center Sisterhood, where she also sits on the board of directors with her husband.

While the Menin's role as community leaders has been unprecedented through the years, perhaps their greatest success is the wonderful family they have raised. They are the parents of two wonderful daughters, Phyllis and Sandra. In addition, they are the proud grandparents of seven, all of whom received masters degrees and attended Ivy League schools.

Although, it may not make national headlines, the Menin's 62d wedding anniversary can be viewed as symbolically significant to all of us. At a time when our society is experiencing so much hardship and apathy, we can look to the Menins for inspiration. I hope their tremendous accomplishments send out a message that we can all make a difference.

To all of the family and friends of this outstanding couple, please enjoy August 17 as a day of celebration and commitment. And to Albert and Pauline, my sincere thanks for all you have done for your community.

BILATERAL INTERNATIONAL AVIATION AGREEMENTS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. OBERSTAR. Mr. Speaker, there has been considerable debate in this body over the effect of U.S. Government policy on competition between U.S. air carriers. In light of the declining number of U.S. carriers and the need to maintain service within the United States such debate is critical to ascertain what type of corrective action is required.

However, today I rise to address a topic of equal importance to the competitiveness and financial condition of U.S. carriers but one that receives far less attention—I am referring to the bilateral international aviation agreements.

These agreements, which are negotiated by the State Department, have the same status as treaties. When there are disagreements between two countries about the rights of their carriers under an aviation bilateral, the proper course of action is for the parties to enter into consultations.

Hence, I was quite disturbed to learn that the Japanese Government has been threatening to take unilateral action to terminate the valid authority of a United States carrier to serve an international route.

In 1991, Northwest Airlines decided to expand its New York-Osaka service to Sydney, Australia. The new Osaka-Sydney service, which began in October 1991, was extraordinarily popular from the outset. Australia is a very popular vacation destination for Japanese tourists, and until March 1992 there was no other airline service in the market. Northwest devoted substantial resources to this undeveloped market, discovered a tremendous untapped demand, and has been operating this new service quite successfully. Only after Northwest tested and fully developed this market did Japan Air Lines decide to begin Osaka-Sydney service in March 1992. The Japanese Government then undertook numerous measures, such as limiting the availability of timely landing and takeoff slots at Japanese airports, designed to frustrate Northwest's ability to develop United States-Australia through-traffic. Despite the adverse impact of the Japanese Government's actions, Northwest has continued to develop successfully the United States-Australia market. However, the Government of Japan is now threatening to force Northwest entirely off the route it built, claiming that the Osaka-Sydney leg of the trip is too successful under the terms of the aviation bilateral between our countries.

Mr. Speaker, Japan's current effort to prevent Northwest from continuing service demonstrates that Japan simply will not tolerate effective United States competition in its markets, and illustrates the lengths to which it is willing to go—including violating international agreements—to protect those markets. The United States Government must not allow the Japanese Government to violate or threaten to violate international trade agreements, whether in aviation or other fields.

This trade battle must be fought now—lest the Japanese continue on this path.

BLUE RIBBON COMMISSION TO ELIMINATE DUPLICATIVE AND NONCOMPETITIVE FEDERAL REGULATIONS

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. LIGHTFOOT. Mr. Speaker, the American people are fed up with the bureaucracy. They want action, and they're getting nothing but partisan bickering from Washington.

Federal Bureaucracy and regulations have gotten out of control. There are four Federal agencies involved in wetlands regulations. Overregulation by OSHA has jeopardized the viability of many small businesses in my district and has gone so far as to put a volunteer fire department out of business.

One of the major reasons I first ran for Congress was to fight the growing bureaucracy, which is stifling economic development and job growth. Therefore, I am introducing legislation to establish a blue ribbon commission to eliminate duplicative and noncompetitive Federal regulations.

This commission will be similar to the President's private sector survey on cost control, otherwise known as the Grace Commission. This Commission will have the freedom to review Federal regulations and reduce overlap between agencies, as well as look for ways to minimize overly burdensome regulations hurting small businesses.

The Commission would identify and address opportunities for increased efficiency and reduced costs in regulations issued by the Federal Government that can be achieved by executive action or legislation without jeopardizing safety or environmental quality.

My goal is not to drastically alter any Federal law or regulation but to streamline these regulations. It will be easier for businesses and individuals to comply with the regulations and it will save taxpayers' dollars.

NICARAGUA: SANDINISTAS STILL IN CHARGE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. SHUSTER. Mr. Speaker, I rise today to express my concern over the situation in Nicaragua. Our Nation's assistance to President Chamorro, critical to putting that war-torn country back on its feet, has been over $1 billion from 1990 through 1992. I am concerned after attaining a major foreign policy success in the election of Violeta Chamorro as President of Nicaragua in 1989, about a number of issues that threaten Nicaragua's progress toward prosperity and pluralism.

Let me briefly outline the issues of my concern:

The growing divorce between the Government and the democratic forces which brought Violeta Chamorro to power: UNO, the National Opposition Union, a fractious coalition of 15 political organizations opposed to the Sandinistas, is less unified every day, while the Chamorro government relies increasingly on the Sandinistas to get things done.

Sandinista military and security services: Under army chief Humberto Ortega, Sandinista power remains intact. The intelligence service—[DGSE, now renamed the DID] is totally unreformed, and has been placed under the administration of the army. In fact, President Chamorro's daily intelligence briefings are first cleared through Humberto Ortega's office.

The Ortega brothers: While Daniel Ortega heads the Sandinista party, Humberto has a firm grip on the Chamorro government. How long will Violeta Chamorro allow these two wolves in sheep's clothing to circulate? At the very least, she should limit Humberto Ortega's term as chief of the army and the intelligence service.

The daily La Prensa called for Ortega's resignation recently, based on evidence implicating the army chief in the murder of Jean Paul Genie. On July 2, foreign investigators named Ortega's bodyguards as prime suspects in the murder. Judge Ojeda of the 7th criminal court ruled that the bodyguards should be tried for murder and Ortega for coverup. Removal of Humberto Ortega, or a plan to limit his tenure, would help reassure people that the Chamorro government is sincere about its commitment to pluralism as well as the rule of law.

A draft law to reform the police is currently before the national assembly. The police chief is Rene Vivas, who held the same position prior to 1989. All his department commanders are Sandinistas as well. Real reform in this area would help alleviate concern over the extent of Sandinista control in this organization. The Nicaraguan Government's plan to reform the police, however, as presented to Secretary of State Baker, did not provide for any change in its Sandinista personnel. The plan presented by Vivas left him in charge, did not change any department commanders, and included Roger Mayorga as head of the antinarcotics unit. Mayorga was the Deputy to Lenin Cerna, the notorious commander of the Sandinista intelligence and security apparatus, during the 1980's.

Restoring rights of property: This is the most difficult issue for the Chamorro government. There has been some progress in this area recently. Resolution of pending cases will be critical to Nicaragua's economic well-being. Without full property rights, the possibilities of attracting foreign investment are zero. Besides the problem of property rights, foreign businesses will not invest in Nicaragua because they cannot assure their own safety in an environment of sporadic political violence.

Arms shipments: On May 20, 1992, an arms shipment including sniper ammunition was intercepted at the Nicaraguan-Honduran border. The shipment was intended for the FMLN. Chamorro is unwilling or unable to stop arms shipments. The huge quantity of Sandinista-controlled arms, estimated at well over 100,000 AK–47 assault rifles and millions of rounds of ammunition, has led to fears that Nicaragua may start exporting this commodity to wider markets.

Contra assassinations: More than 100 ex-Contras have been killed since the Chamorro government came to power in 1989. One of the few surviving Contra leaders, Ruben, recently claimed publicly that the Sandinistas are conducting an extermination campaign. A group of Contras has called for OAS and U.N. monitors to prevent more killings. In the year before November 1991, the OAS identified 919 cases of abuses against former Contras or their supporters. Members of the Sandinista police, army, or party were responsible for 86 percent of the incidents, but few, if any, of the incidents are being pursued by the Government.

A State Department human rights report noted numerous credible reports of demobilized resistance leaders killed by police, army, or Sandinista militants during 1991. There are also numerous allegations linking Humberto Ortega to the well-publicized killing of Enrique Bermudez, the former Contra leader, in 1991. The Government investigation was so inept, however, that a special Presidential commission criticized police for their flaws and lack of progress.

Mr. Speaker, all of us would agree that the Nicaraguan government of Violeta Chamorro is far better, for all its faults, than its Sandinista predecessor. It is prudent, however, to make sure the large amounts of taxpayer dollars to her government are being well-spent. It is in everyone's interest to stop the arms flow from Nicaragua, rid the administration of its overwhelming Sandinista influence in key areas, and adhere to honest and impartial rule of law.

TRIBUTE TO ARMANDO RAMIREZ

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to one of our unsung heroes in America, Armando Ramirez, currently a Drug Enforcement Administration [DEA] resident in charge, in Brownsville, TX. Armando will soon be leaving his current station of Brownsville to go to Panama, assuming the title of country attaché.

As country attaché, Armando will work closely with the Panamanian Ambassador, as well as his Panamanian counterparts, to coordinate American Drug Enforcement Administration policy in Panama. Although Armando has only been in Brownsville for just over 3 years, he will be missed mightily. He has been well known in the Rio Grande Valley, since his days in Laredo, and he has served the DEA there, before going on to Houston, McAllen, and New Orleans, LA.

Armando knows, as we all do, that drug use in our Nation makes us less than we can be. He has seen the abuses and tragedy brought about by drug use and drug trafficking in our country. The Drug Enforcement officials, both in our country and aboard, serve each of us with particular distinction. These agents carry the burden of enforcing a policy which demands constant sacrifice. Part of that sacrifice includes laying their lives on the line, each and every day. For their work, they are awarded little public notice, due largely to the danger associated with such notice.

Armando has dedicated his adult life to the eradication of drug trafficking and use, in order to make America a better place. He knows that this task is one of the most difficult endeavors to undertake, but he has dedicated his life to it. I urge my colleagues to commend him for the work of his life, and for the venture he will undertake in Panama.

Armando was recently presented a proclamation form the city of Brownsville, citing his valor and his dedication to duty. He is incredibly well liked in Brownsville, and all south Texans consider his a hometown favorite. His lovely wife, Olga will join Armando in Panama, and I would like to take this opportunity to pay tribute to Olga, and their three daughters, Diana, Anna, and Rosa. Good luck, Armando. Good luck to all of you.

TRIBUTE TO KELLEY MENIGHAN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today before my colleagues to pay tribute to a very talented, intelligent, and exceptional woman, Kelley Menighan, who has been chosen to star as the new Emily Stewart on the CBS soap opera "As the World Turns".

Kelley is the 25-year-old daughter of former Youngstown residents James and Susan Androsek Menighan. Kelley has previously starred in several well-known roles including NBC's "Santa Barbara" and the Kenney Roger's miniseries "Gambler IV: Luck of the Draw." She graduated from Southern Methodist University with a degree in theater. She was employed by Trikilis Productions in Los Angeles for 2 years.

I am not surprised to hear that Kelley has achieved such great success. I have been best friends with her father, James, since we played football and basketball together in junior high school. In fact, I was his campaign manager once during a junior high school run for student body president. "Jimmy," who was an All-City quarterback for the Wilson Redmen in 1959 and one of Ohio's all-time outstanding, virtual athletes, is now a very successful insurance agent in Chicago. He was a star quarterback at DePauw University and in my opinion is their No. 1 graduate alumnus. This is quite a distinction since Vice President DAN QUAYLE is also an alumnus of Depauw University.

Trikilis Productions is owned and operated by another hard-working Youngstown native Michael "Mickey" Trikilis. Mickey is another one of my good friends and is a person I greatly admire. Mickey grew up in a hard area where all the stakes were against him. He had a dream, and even though odds were against him, Mickey had the guts and the courage to pursue his goals. The end result of his persistance in Hollywood is Trikilis Productions. I predict, Mr. Speaker, that Trikilis Productions will become one of Hollywood's top production companies in the years to come. Now, even though Mickey is currently living in Hollywood, he has never forgotten his hometown, Youngstown, OH. He, his lovely wife Melissa, and their outstanding daughters Taylor and Kristin, continue to contribute to the valley area through his company. Mickey also employs Kathleen, 27, who is another upstanding daughter in the Menighan family.

James and his beautiful wife Sue are also the proud parents of Caroline, 20, who is a broadcast journalism major at Ithaca College in New York. I wish to extend my congratulations to Kelley on her many fine achievements and wish her continued success in the future. The Menighan and the Trikilis families are wonderful examples of what results from determination, motivation, and hard work. These upstanding, fine Youngstown natives make me proud to represent my district and I wish them all the best in all of their future endeavors.

MAPLEWOOD, NJ WELCOMES HOME RON KARNAUGH, OLYMPIC SWIMMER

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. RINALDO. Mr. Speaker, the United States is proud of the accomplishments of our superb Olympic athletes, who made up one of the strongest teams it has sent to represent our country at the international games in Barcelona. One of the athletes who carried the banner of the United States was Ron Karnaugh of Maplewood, NJ.

A gifted athlete and outstanding student, Ron Karnaugh was ranked first in the world in the 200 meter swimming medley, and the expectations were high when he entered the Olympic competition. In the 1988 summer games, he finished third in the Olympic trials and continued his quest to reach the medley swim finals 4 years later. This dedicated and remarkable young man put off his studies at medical school in order to practice and qualify for another opportunity to represent the United States in the Olympics.

Millions of Americans and people throughout the world viewing the Olympics on television were pulling for Ron Karnaugh to win an Olympic medal. They had learned that his father had suffered a fatal heart attack while watching the opening ceremonies. Ron Karnaugh said he owed it to his parents and to his supporters in Maplewood to stay in the competition, despite the emotional trauma of losing his father. Ron Karnaugh gave it all he had in competing against the greatest medley race swimmers in the world.

It is that spirit of determination and courage that makes the people of Maplewood, NJ, proud of Ron Karnaugh. They demonstrated their hometown pride and faith by raising $25,000 to pay for the costs of his training and to send Ron Karnaugh's family to Barcelona to watch him compete. It was a dream that almost came true, right up to the finish line.

Allan Brown, who organized the committee to send Ron Karnaugh's family to Barcelona, summed it up for the people of Maplewood when he said, "We are all satisfied he swam in the finals. He's our Olympian and we love him."

Regardless of where he finished in the swimming competition, Ron Karnaugh's assured of a hometown victory celebration he will never forget. Bands, school children, athletes, coaches, businessmen and women, and all the many families who supported Ron Karnaugh in his journey to the Olympics, will give a parade in his honor on August 29.

Mr. Speaker, I join with the citizens of Maplewood in saluting Ron Karnaugh for his performance as one of the world's top swimmers and for the manner in which he represented our country and the people of Maplewood, NJ at the 1992 summer Olympics.

TRIBUTE TO ERIC E. BROSIUS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to Eric E. Brosius of Northumberland, PA, on the occasion of his attaining the rank of Eagle Scout. Eric is the son of E. Eugene and Gretchen Brosius.

Eric is a member of Boy Scout Troop 342 in Northumberland and is a graduate of the Northumberland Christian School. For his Eagle Scout project, Eric decided to refurbish a living unit at the Haven Ministry Center, a homeless shelter in Sunbury, PA. Eric, knowing the importance of the center, wanted to perform a project that would assist in its mission.

Noticing that a number of the rooms in the shelter were in various states of disrepair, Eric went right to work on a living unit which had wallpaper and paint that were peeling, a soiled carpet, and a bathroom that needed to be repainted.

Coordinating his plans with the shelter's manager, Eric contacted local paint suppliers and a carpet dealer to donate materials for the project. With the help of friends and fellow Scouts, Eric organized, supervised, and worked with them to carry out the project. Walls and ceilings were scraped, sanded, repaired, and painted, and a new rug was cut, fitted, and installed. The new unit is now an attractive and pleasant place for the homeless to stay, thanks to Eric's hard work and diligence.

Mr. Speaker, I ask all of my colleagues to join me in congratulating Eric on his outstanding example of community service, which has earned him the award of Eagle Scout. I am sure that his family, friends, and fellow Scouts are proud of Eric's achievements, and no doubt wish him well in his future civic and educational endeavors.

CONGRATULATING LT. COL. CHARLES A. JOYNER, JR., ON HIS RETIREMENT FROM THE CORPS OF ENGINEERS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. CLEMENT. Mr. Speaker, I rise today to honor a dedicated soldier and public servant who has faithfully served his country and performed his duties with efficiency, courage, and distinction.

Lt. Col. Charles A. Joyner, Jr., who retires as deputy district engineer of the Nashville district on August 31, is a Tullahoma, TN native who received his undergraduate and graduate engineering degrees from Texas A&M.

After receiving his commission in the U.S. Army Corps of Engineers and serving in a variety of assignments in the U.S. and abroad, he was named deputy district engineer of the Nashville district in July 1989.

During his service to the Nashville district he was responsible for managing and supervising the engineering, design, planning, construction, operations and maintenance of 19 locks, dams, and recreation civil works water resource projects. He also managed the permitting and regulatory functions of 133,000 miles of waterways, channels and one million acres of wetlands. Additionally, he supervised the management of emergency operations in support of natural disasters and mobilization.

As contracting officer for 25 contracts exceeding $14 million, he ensured all remained on schedule and within budget. He developed and implemented one of the first working command operating budgets at district level in the U.S. Army Corps of Engineers.

While directing the New Madrid earthquake response plan, he instituted a review of the operational project mobilization plans, and continued the Ohio River Division's Corrective Action Program, which has been recognized by Headquarters U.S. Army Corps of Engineers, Washington, DC as an outstanding national security emergency preparedness program.

Under Lieutenant Colonel Joyner's leadership, the district initiated the Ohio River division's first contract with the National Industry for the Handicapped, contracting with Goodwill Industries for messenger and mailroom service, and operation of supply room and facsimile service. This contract generated positions for eight physically handicapped individuals and resulted in recognition of the Nashville district as Goodwill's Contractor of the Year.

Lt. Col. Charles Joyner's exceptional leadership skills, dedication, and professionalism have led to the Nashville district's corps-wide reputation for excellence in commercial activities studies, value engineering, equal employment opportunities, and total resource utilization.

STOP THE SLAUGHTER IN SOMALIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. GILMAN. Mr. Speaker, today I am introducing House Concurrent Resolution 353 a resolution that calls attention to the devastating crisis in Somalia. On April 7, I introduced House Resolution 422, a resolution that addressed the problems facing Somalia earlier this year. Recently, my good friend and colleague, the Senator from Kansas, Mrs. KASSEBAUM, returned from Somalia and the Select Committee on Hunger, 2 weeks ago, held a hearing reviewing her findings. The resolution before you reflects her expert observations and updates the April resolution, House Resolution 422.

Somalia is a nation in the throes of self-destruction. Since the fall of dictator Siad Barre in January of 1991, the people of Somalia have been gripped by a humanitarian emergency among the worst the world has ever seen. The battle in the capital city of Mogadishu between General Mohamed Farah Aideed and interim President Ali Mahdi Mohamed has left over 10,000 civilians dead and almost 30,000 wounded in 4 months of vicious fighting. Millions more face starvation, and there have been reports that 80 percent of the children in some areas of the country are critically malnourished.

Over the past decade, we have all been witness to the tragic cycle of drought, famine and civil war that has touched the lives of millions of people throughout the Horn of Africa. But Somalia over the last 4 months deserves a special page in the history of human misery.

Food supplies around the country are dangerously low, and the violent breakdown of civil order has made delivery of significant food shipments all but impossible. Hospitals in the capital city are overflowing and stocks of the most basic medicines are dwindling. Somalia doctors and nurses, working without pay to salvage the lives of thousands from the wreckage, are themselves living hand to mouth. To escape the terror, thousands have fled Mogadishu without food, water, or shelter and are living on barren patches of land surrounding the city.

House Concurrent Resolution 352, seeks to add the voice of this House to the chorus calling for peace in Somalia. It urges all the warring parties in Somalia, to guarantee the safety of emergency aid and relief personnel and commends the Secretary General of the United Nations Boutros Boutros-Ghali and President Bush for their efforts.

While initiatives on the political side proceed, efforts to step up emergency relief activities must not delay. The international community owes a great debt of gratitude to the handful of relief workers and private organizations still operating in Somalia, upon whose shoulders has rested truly the weight of the world. One can hardly imagine circumstances more difficult or more dangerous than those in Mogadishu through recent months. And I would also draw attention to the excellent work of our own office of Foreign Disaster Assistance for their continuing efforts to get food and medicine in those in need.

The U.N. response to the humanitarian crisis in Somalia, however, has not been adequate. To that end, this resolution also urges the President to work with the security council to deploy security forces to protect the humanitarian relief effort even in the absence of the consent of the warring factions. Innocent Somalis cannot be allowed to suffer for the moral myopia of their leaders blinded by the desire for power.

While peace in Somalia may be elusive, this must not deter our efforts to secure it. Accordingly, I ask my colleagues to support House Concurrent Resolution 352, so that we may begin to forge some order from the chaos in the streets of Mogadishu and bring an end to the months of senseless destruction.

Mr. Speaker, I ask that House Concurrent Resolution 352 be printed in full at this point in the RECORD.

H. CON. RES. 352

Whereas as a result of the civil conflict in Somalia, at least 30,000 people have died, hundreds of innocent civilians, many of them children, continue ton in some areas of the country are critically malnourished.

Over the past decade, we have all been witness to the tragic cycle of drought, famine and civil war that has touched the lives of millions of people throughout the Horn of Africa. But Somalia over the last 4 months deserves a special page in the history of human misery.

Whereas the President has expressed strong support for the United Nations proposals; and

Whereas, although the Congress has expressed strong support for more active efforts to deliver humanitarian relief to the suffering people of Somalia, the situation has continued to deteriorate: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns in the strongest possible terms the senseless killing and wanton destruction wrought by the political factions in Somalia;

(2) strongly urges these factions to abide by the United Nations cease-fire and to allow the deployment of security forces to protect humanitarian relief deliveries and workers;

(3) commends the dedicated and energetic efforts of United Nations Secretary-General Boutros Boutros Ghali, and his Special Envoy to Somalia, Ambassador Mohammed Sahnoun;

(4) pays tribute to the courageous and heroic actions of the relief agencies working in Somalia;

(5) calls upon the international community, through the United Nations, and in particular the United Nations specialized agencies, to immediately expand relief efforts in Somalia;

(6) recognizes with appreciation the July 27, 1992, statement of the President urging the United Nations to deploy a sufficient number of security forces to permit relief supplies to move into and within Somalia, and committing funds for such an effort; and

(7) urges the President to work with the United Nations Security Council to deploy such security forces immediately, with or without the consent of the Somali factions, in order to assure that humanitarian relief gets to those most in need, particularly the women, children and elderly of Somalia.

CURBING GOVERNMENT WASTE AND ABUSE

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. ROEMER. Mr. Speaker, today the American taxpayers continue to be victimized by wasteful and irresponsible spending on the part of executive officials. It is not surprising that recent polls show public confidence in government to be at an all time low. Our Nation currently suffers from a $400 billion deficit, a Federal debt that exceeds over one-half of our gross domestic product, and few prospects exist for reducing either one of these statistics. While many people in Government have devoted their energies toward relieving the burden of excessive spending, others are content to live extravagantly at the taxpayers' expense. Those committed to deficit reduction realize that America must establish priorities for using its resources. In my opinion, needs for education, health care, and sound economic growth far outweigh the needs for granting privileges to the privileged.

Mr. Speaker, today I am introducing the Senior Government Officer Benefit Limitation Act—legislation that would end this pattern of waste and abuse among high-ranking government officials. My bill would eliminate some of their most egregious uses of the taxpayer money, including air flights for personal and political reasons; lavish dining rooms for senior Government officials; exclusive golf courses and athletic facilities, and the permissive use of luxury vehicles. The legislation would also reduce the total number of noncareer senior executives and require them, like millions of other Americans, to pay a fee for their medical services. The hardworking people of this country should not have to pay for these special benefits, and until we eliminate these expenses, we should not expect the taxpayers to have any faith in government's ability to handle money.

I would like to demonstrate the need for this legislation by highlighting the extravagant practices of some senior administration officials. President Bush's former Chief of Staff, John Sununu, is particularly well known for abusing the taxpayer's money. Between April 1989 and April 1991, Governor Sununu made 66 flights on military aircraft—over half of which were for personal or political reasons. Although President Bush may have a new chief of staff, the American people will never regain these wasted tax dollars.

Governor Sununu's successor in the Bush administration has also received handsome privileges under the current system. A "60 Minutes" segment recently revealed that Samuel Skinner, while Secretary of Transportation, made 150 plane trips over a 3-year period which cost over $1 million. I wish I could say that these flights helped Mr. Skinner faithfully carry out the duties of his office, but I am obliged to report otherwise. When Mr. Skinner was not flying Government aircraft on golf trips, he was traveling home at Government expense.

Between 1977 and 1989, the General Accounting Office conducted three separate investigations on the misuse of Government aircraft. Each time the conclusion was the same: with all of its loopholes, the system is extremely vulnerable to fraud and abuse. Mr. Speaker, it is time that we stop subsidizing administration officials' personal vacations, and start bringing some integrity back into the manner in which Government conducts business.

Government officials currently maintain a host of privileges at expense to the taxpayer. At an annual cost of $5.7 million, the executive branch leases approximately 300 luxury vehicles and employs approximately 190 chauffeurs. These assets are available to high level officials for attending any meeting defined as "official."

At an annual cost of $4 million, 11 executive agencies maintain dining rooms and kitchens for the exclusive use of senior Government executives. Gourmet food is served at 1950's prices—executives can dine on lobster tail, clam chowder, and dessert for a mere $4.95.

The Federal Government has also entered into the business of subsidizing athletics—not for our Nation's youth, but for the golf games of high ranking Government employees. At a cost of $6 million per year, we currently operate 220 exclusive 18-hole golf courses—exclusive because the general taxpaying public is denied access to the premises.

In addition, the Government spends $15.8 million annually to operate and maintain 164 physical fitness facilities. Because many of the facilities are reserved for senior executive officials, these clubs fail to benefit most Government employees. Millions of dollars are spent for a few high ranking officials at the exclusion of many workers in need of physical fitness.

Mr. Speaker, the legislation I am introducing would send a message to the citizens of this country that the Government is committed to ending this uncontrolled spending. It would also relay the fact that we are willing to cut something that every American knows should be eliminated—perks for the high ranking officials of Government.

Under my legislation, unrestricted use of Government aircraft would be brought under tight controls. With the exception of the President, Vice President and their families, every official must certify that travel on Government aircraft is necessary for official purposes. On a quarterly basis, each executive agency would report these certifications to the Administrator of General Services and to the Congress, so that they may be reviewed and made public.

In addition, no funds would be made available to an executive agency for the purpose of operating a golf course. Any such golf course would have to be self-supporting and open to the public.

With the exception of the President and Vice President, this legislation would eliminate all appropriations for the exclusive dining rooms maintained for senior Government officers.

Furthermore, this bill would ensure that Government officials begin driving their own cars. Unless you are the head of an executive agency, an agency's second-in-command, or an Assistant Secretary or higher, you would not receive any funding for a chauffeur or luxury vehicle. In the future, bureaucrats would have to drive themselves to work just like the people who pay their salaries.

Mr. Speaker, in light of the today's staggering health care costs, the bill also provides that senior officials pay a fee for their health care services. It is time that these officials join our Nation's people in bearing the high costs of health care.

Lastly, this legislation would reduce the total number of noncareer Senior Executive Service positions. Beginning on October 1, 1992, there would be a 5-percent cut in the number of jobs an agency can grant to noncareer appointees. This would allow for more professionalism and less cronyism.

Mr. Speaker, the American people deserve to have a system of Government based on fairness and justice. My legislation seeks to bring integrity and a sense of priorities back to the people of Government, and I urge my colleagues to give this bill every consideration. The future of our Nation depends upon our ability to use resources for intelligent action rather than mindless waste.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Government Officer Benefit Limitation Act of 1992".

SEC. 2. PROHIBITION OF PERSONAL OR POLITICAL USE OF UNITED STATES GOVERNMENT AIRCRAFT.

(a) In General.—(1) Notwithstanding any other provision of law, no aircraft which is owned or leased by the United States Government (including military aircraft) may be used for—

(A) any personal, political, or authorized special use travel; or

(B) any official travel which is mixed with personal or political activities.

(2) For purposes of this section the term "authorized special use" means use of a Government aircraft for the travel of an executive agency officer or employee, where the use of the Government aircraft is required because of bona fide communications or security needs of the agency or exceptional scheduling requirements.

(b) Exception.—Subsection (a) shall not apply to use of aircraft by the President, the Vice President, or either of their immediate families, if the full costs, including the costs of operating and maintaining such aircraft, for such travel are reimbursed to the United States Government.

(c) Reports on Use.—(1) Each executive agency which maintains or uses Government owned or leased aircraft (including military aircraft) shall—

(A) require each traveler to certify that any travel on such aircraft is necessary for official purposes; and

(B) beginning on October 15, 1992, and on the fifteenth day of every third month thereafter, submit a report to the Administrator of General Services and to the Congress with regard to the preceding 3-month period that—

(i) certifies that the use of such aircraft complied with Office of Management and Budget Circular A-126 as modified by the provisions of this Act; and

(ii) identifies each traveler on such aircraft.

(2) After the receipt of each report, the Administrator shall review each certification to ensure that the use of such aircraft complied with Office of Management and Budget Circular A-126 as modified. The Administrator shall make the information in any such report available to the public.

(3) Notwithstanding any other provision of law, amounts available to an executive agency may not be used in a fiscal year to lease aircraft, or to operate aircraft owned or leased by the agency, if the agency has not submitted all reports under paragraph (1) for the preceding fiscal year.

SEC. 3. GOLF COURSES.

(a) Limitation.—No funds appropriated or otherwise made available to any executive agency may be expended to equip, operate, or maintain any golf course owned or operated by an executive agency. Any such golf course shall be operated by concessionaire contract and open to use by the general public.

(b) Exception.—Subsection (a) shall not apply to any golf course located in a remote or isolated area.

SEC. 4. EXECUTIVE DINING FACILITIES.

No funds appropriated or otherwise made available to any executive agency may be expended to subsidize the costs to equip, operate, or maintain dining rooms or kitchen facilities for the exclusive use of senior Government officers or to purchase or prepare food for consumption by such officers. This section shall not apply to dining rooms, facilities, or food for—

(1) the exclusive use or consumption of the President, the Vice President, or either of their immediate families; or

(2) use to carry out the official representational functions of the President or of the Vice President, or for those official activities conducted by executive branch departments or agencies for which representation funds have been authorized and appropriated.

SEC. 5. LUXURY VEHICLES FOR TRANSPORTING GOVERNMENT OFFICERS.

(a) Luxury Vehicles.—No funds appropriated or otherwise made available to any executive agency may be expended to acquire, through lease or purchase, luxury vehicles for the purpose of transporting senior Government officers, except for—

(1) a Government officer as authorized under section 1344 of title 31, United States Code;

(2) a Government officer who holds the office of Assistant Secretary or higher; or

(3) the head of any executive agency and the second highest ranking officer in such agency.

(b) Drivers.—No funds appropriated or otherwise made available to any executive agency may be expended to employ drivers for the exclusive use of transporting senior Government officers, except the officers described under subsection (a).

(c) Purchase or Lease of Luxury Vehicles.—The General Services Administration, in consultation with the Office of Management and Budget shall prescribe regulations and uniform guidelines for the purchase or lease of luxury vehicles for or by the United States Government, that shall ensure the least cost to the United States Government. On October 1, 1993, and on October 1 of each year thereafter, the General Services Administration shall submit a report to the Congress on—

(1) executive agency compliance with such regulations;

(2) the number of all vehicles purchased or leased by each executive agency;

(3) the costs of vehicle purchases or leases;

(4) the type of each such vehicle and the purpose for which it is used; and

(5) the identification of Federal officers and employees who used such vehicles.

(d) DEFINITION.—For purposes of this section the term "luxury vehicle" means a class IV or V sedan (as classified under section 101–38.101–1 of title 41 of the Code of Federal Regulations as in effect on the date of the enactment of this Act) or other large sedan-type vehicle with above standard features.

SEC. 6. PHYSICAL FITNESS FACILITIES.

(a) COSTS AND FEES.—

(1) IN GENERAL.—Subject to the provisions of subsection (c), all costs to equip, operate, and maintain physical fitness facilities for use by Federal employees shall be fully paid by the users of such facilities and no appropriated funds made available to any executive agency shall be expended for the costs of membership or other fees for the use of physical fitness facilities, including exercise equipment and classes.

(2) LIMITATION ON APPLICATION.—Paragraph (1) shall apply with respect to a physical fitness facility only if, except as provided in subsection (c), all employees of a Federal agency are not eligible to use the facility under substantially the same terms.

(b) DEFINITION.—For purposes of this section the term "physical fitness facility" means any facility used for physical exercise that provides equipment and services for such use in addition to lockers and showers.

SEC. 7. MEDICAL SERVICES.

(a) FEES.—The head of each executive agency shall charge a nominal fee established under subsection (b) to any employee of such agency for access to medical services provided by the Public Health Service, the employing agency, any other Federal agency, or other medical service provider for which no charge is otherwise paid by such employee. Such fee shall be retained or paid to the agency providing such medical service to defray the costs of operating facilities for such service.

(b) ESTABLISHMENT OF FEES.—The Secretary of Health and Human Services, in consultation with the Office of Personnel Management shall establish the fees to be charged for access to medical services described under subsection (a).

SEC. 8. REDUCTION OF NONCAREER SENIOR EXECUTIVE SERVICE POSITIONS AND SCHEDULE C POSITIONS.

(a) LIMITATIONS.—The total number of Senior Executive Service positions in all executive agencies filled by noncareer appointees and the total number of positions in all executive agencies of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations, shall each be reduced—

(1) on no later than October 1, 1992, by 5 percent of the respective total numbers of such positions as existed on September 30, 1991;

(2) on no later than October 1, 1993, by an additional 5 percent of the respective total numbers of such positions as existed on September 30, 1991; and

(3) on no later than October 1, 1994, by an additional 5 percent of the respective total numbers of such positions as existed on September 30, 1991.

(b) CONFORMING AMENDMENTS.—Sections 3133 and 3134 of title 5, United States Code, are amended by adding at the end of each section the following new subsection:

"(f) This section is subject to the limitations of section 8 of the Senior Government Officer Benefit Limitation Act of 1992.".

SEC. 9. DEFINITIONS.

For purposes of this Act the term—

(1) "executive agency" has the same meaning as such is defined under section 105 of title 5, United States Code, and includes the Executive Office of the President; and

(2) "senior government officer" means any person—

(A) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5, United States Code;

(B) employed in a position in an executive agency, including any independent agency, at a rate of pay payable for level I of the Executive Schedule or employed in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule;

(C) employed in an executive agency in a position that is not referred to under paragraph (1) (other than a position that is subject to pay adjustment under section 1009 of title 37, United States Code) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5304 of title 5, United States Code (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for level V of the Executive Schedule; or

(D) appointed by the President to a position under section 105(a)(2) (A) or (B) of title 3, United States Code, or by the Vice President to a position under section 106(a)(1) (A) or (B) of title 3, United States Code.

SEC. 10. REPORT.

(a) IN GENERAL.—No later than September 30, 1993, and on September 30 of each year thereafter the Office of Management and Budget shall submit a report to the Congress on the compliance of the executive branch of Government with the provisions of this Act.

(b) SENIOR POSITION REDUCTIONS.—No later than September 30, 1992, and again on September 30, 1993, the Office of Management and Budget shall submit a report to the Congress on the compliance of the executive branch of Government with the provisions of section 8 of this Act.

SEC. 11. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act shall be effective on and after October 1, 1992.

(b) EXCEPTION.—The President, the Office of Management and Budget, and the Office of Personnel Management shall take such necessary actions on and after the date of the enactment of this Act to carry out the provisions of sections 8(1) and 10(b) of this Act.

INTRODUCING THE AMERICAN JOBS FAIRNESS ACT OF 1992

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. BOEHLERT. Mr. Speaker, today, I have introduced legislation designed to make sure that U.S. tax dollars are not used to export American jobs overseas. One of the most bizarre schemes in the history of government contracting has begun to unfold in Ellis County, TX as managers for the superconducting super collider project has been negotiating sole-sourced sweetheart deals with foreign manufacturers.

SSC supporters like to say that the SSC is a jobs program. What they don't mention is that if the Department of Energy has its way, many of these jobs will go overseas.

Currently, the managers of the SSC are negotiating sole-source contracts with companies in Korea, Russia, and the People's Republic of China. No American firms will even be allowed to compete for the contracts and these deals would export hundreds of millions of dollars worth of work abroad—all paid for with U.S. tax dollars. The Boehlert American Jobs Fairness Act would prohibit sole-sourcing contracts to foreign firms and require that any contracts for SSC components manufactured abroad be the result of competitive bidding open to U.S. firms.

Regardless of whether you support or oppose continued construction of the SSC, I hope all Members will join me in insuring that if the SSC goes forward that American firms and workers will be on an even playing field for access to SSC contracts with foreign companies. Please cosponsor the American Jobs Fairness Act of 1992.

TRIBUTE TO WALLY LAMB

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. GEJDENSON. Mr. Speaker, I rise today to acknowledge the accomplishment of Mr. Wally Lamb of Norwich, CT. He was a schoolmate of mine at Norwich Free Academy [NFA] and at the University of Connecticut. Mr. Lamb's first novel, "She's Come Undone", was recently published and has achieved critical and commercial success.

Writing this novel took Mr. Lamb 8 years. Finally, last June, Pocket Books bought the book for an amount unprecedented for a writer's first novel. This sum demonstrates the belief the company has in Mr. Lamb's ability.

Mr. Lamb, an English literature teacher at NFA, was also instrumental in establishing a writer center at the Academy. The center is a unique educational element that has won widespread acclaim for its innovation and productivity. Under his tutelage, students' works, individually and collectively, have received a number of literary awards.

The publisher has already offered an advance payment to Mr. Lamb for his second book, which should be in print within two years. Work on this novel has barely commenced and Mr. Lamb will take a sabbatical from his teaching position to devote his time to its completion.

Mr. Lamb should be commended for his success and I wish him the best of luck on his next endeavor.

FLUOR DANIEL HONORED

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. RICHARDSON. Mr. Speaker, strong competition in the American business world is healthy. Those domestic-based businesses that are able to adapt to the ever-changing needs of the consumer and maintain high standards of success deserve to be congratulated. The Fluor Daniel Co. has been named the No. 1 engineering and construction company in the United States for the fifth consecutive year by Engineering News-Record magazine. They have brought a wealth of jobs and opportunity to New Mexico and I ask that my colleagues recognize the excellence in American engineering strength they have provided nationwide.

The Fluor Daniel Co. has prospered in New Mexico for over 30 years. The company's diverse projects include teleconferencing centers in Albuquerque and Los Alamos, a gas plant in Blanco, recycling facilities in Albuquerque, a compressor station in Gallup, research and development sites in Los Alamos, and a copper flat project in Hillsboro.

This diversification was a key element in helping the company win the designation as the No. 1 engineering and construction firm in the United States for the fifth consecutive year. Over 400 contractors competed in the contest in which Fluor Daniel held a $3 billion-lead over its closest competitor. According to survey results the company's total 1991 contracts were $21.3 billion, up 18 percent from the previous year. Fluor Daniel is the first contractor to hold the title for more than 3 consecutive years.

Fluor Corp. is the largest publicly traded, international engineering, construction, maintenance and technical services company based in the United States. Fluor Daniel, the company's principal subsidiary, currently operates on six continents with a work force of more than 19,000 salaried employees and thousands of craft workers.

Fluor Daniel is a working blueprint of an American-operated business that has survived and flourished in a global economy. I urge my colleagues to join me in recognizing their success and congratulating Fluor Daniel in once again being named the top engineering and construction company in the Nation.

H.R. 5475, SPECIAL PATENT TERM EXTENSIONS

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. SYNAR. Mr. Speaker, today I voted against H.R. 5475, special patent term extensions. In evaluating the patent term extensions, I considered several factors which I had expressed throughout the debate of these bills in the Judiciary Committee. I firmly believe that the Congress has the authority and the responsibility to consider patent term extensions and should not yield that ultimate responsibility to any agency of the executive branch.

Prior to this bill, the House and the Judiciary Committee have approached the extension of patents on an individual basis without a specific set of standards by which to manage the filing and consideration of such extensions. Because of the lack of standards by which to objectively evaluate each extension requested to be cosponsored, I did cosponsor several extension bills. This cosponsorship, as I made clear at the time, was to ensure that extension requests obtained the hearings necessary to determine whether or not a patent extension was appropriate.

Extension of such exclusive rights needs to be carefully reviewed to ensure that the extension is absolutely necessary to protect innovation and that consumers continue to benefit from adequate competition. There are obviously competing interests in all of these cases. Patent protection is a very valuable economic tool and does provide significant benefits to the patentholder.

During the first hearing on these extensions in October 1991, I articulated the factors I would consider. The considerations included: First, the company/person seeking the extension had a very heavy burden of proof; second, if the request was based on Government action or inaction, there must be direct, intentional, and, in some case, egregious governmental action that clearly impaired the use or development of the patent rights; third, the situation must be so unique that it does not set up a precedent either for additional patent extension requests or for similar cases in other governmental approved programs or products; and, fourth, the competitive impact of the extension.

While I appreciate the case made by each of the proponents of the patent extensions, I do not believe that the factors I consider to be relevant have been met. My colleagues may come to a different conclusion based on their own standards. In some instances, it is possible that delay may have occurred; however, the delay was not necessarily intentional or egregious.

I do not intend to argue that the FDA is always perfect or that it acts appropriately in all cases. As part of Health and Human Services, the Congress clearly has the responsibility of oversight of the FDA. It does seem to me, however, that we have set up the FDA so that the public health and safety can be protected through testing and approval procedures developed by the agency. This is one of the most important functions in today's society given the tremendous advances made in medical and food products even in the past 25 years.

If we intend to get into micromanaging the procedures and processes of every single drug and food approval, then I suggest that the only way to do that is to actually legislate the procedures and processes the FDA will use in every case. Needless to say, I do not want to have that occur.

I regret that the standards established in this bill were not contained in separate legislation. The standards developed are excellent and would provide more objective standards by which to evaluate future patent term extensions. I agree with the conclusion that these standards should not necessarily be applied retroactively to the consideration of the present requests for patent term extensions.

I do believe that my decision as to the validity of the need for these patent extensions must be based on the factors I have concluded are appropriate in light of the lack of presently applicable objective standards. Therefore, I have concluded that the case simply has not been made in these extension requests that there was egregious delay or negligent delay on the part of the FDA. This failure and the absence of other compelling factors do not justify the intervention of Congress.

IN HONOR OF JIM B. NIELSON

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. PANETTA. Mr. Speaker, I rise today in honor of Jim B. Nielson, of the Watsonville Elks Lodge No. 1300, who has been nominated to serve as Grand Esteemed Loyal Knight. Jim Nielson is the first member in the 79-year existence of the Watsonville Elks Lodge to serve as an officer of grand lodge and am honored to recognize his accomplishments.

Jim has been a member of the Watsonville, CA Lodge No. 1300 for 56 years and has served in all areas of leadership and elected offices in the Benevolent and Protective Order of Elks. In 1943 he served as exalted ruler, and was named Elk of the Year in 1956 and 1988. He also served the California-Hawaii Elks as tiler, trustee, and president from 1955 to 1956, and also on the major project board of trustees for 6 years, and is district leader emeritus. From 1950 to 1951 he served the grand lodge as district deputy grand exalted ruler for the California west central district. He has also been a member of the State Association from 1974 to 1977.

It is evident that Jim has been an outstanding citizen in the community and a true leader within the Elks Lodge. He has been a source of inspiration to all those around him and I am thankful for his exceptional contributions.

Mr. Speaker, I now ask my colleagues to join me in recognizing Jim Nielson for his service in the Benevolent and Protective Order of the Elks of the United States of America and in the community of Watsonville.

THE PERSON WHO GOT IT RIGHT ABOUT THE COLD WAR

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. SHUSTER. Mr. Speaker, today I rise to note the signal contribution to Soviet historiography of Mr. Robert Conquest.

While most Western scholars have revised their opinions about the former Soviet Union during the past 2 years, Robert Conquest never had to change his views. His exposure of the Soviet Empire, most notably in "The Great Terror: Stalin's Purge in the Thirties," painted a dark and brutal picture of the true nature of Soviet leaders. Conquest's portrayal of Lenin and his heirs was at variance with that of his colleagues', who—particularly in the era of detente—preferred to overlook Soviet communism's warts. Mr. Conquest presently is in an ideal position for a man of his background: He is now doing research using sensitive KGB files in Moscow.

At this point I would like to enter into the RECORD an article on Mr. Conquest from the August 2, 1992, edition of Insight magazine.

THE HISTORIAN WHO CAME IN FROM THE COLD

(By Jonas Bernstein)

(Summary: While most Western scholars of the Soviet Union either fawned or ignored the grisly facts, Robert Conquest exposed the Soviet empire for what it was. His role as historian in absentia for the Soviet people has made him a celebrity in postcommunist Russia. Now Conquest is part of a project that could shed even more new light—preservation of the Communist Party archives.)

The scene is the lobby of Moscow's Intourist Hotel one afternoon in early May. Various guests, bartenders, and babushkas who bus the tables, along with the usual assortment of pimps and prostitutes, sit or stand around in their normal desultory fashion. No one is paying much attention to the MTV-type videos blasting out from the TV next to the bar; such fare is no longer exotic in postcommunist Moscow.

Suddenly the programming switches to an English-language documentary, voiced-over in Russian. Titled Red Empire, its subject is the history of the Soviet state. One by one, heads turn toward the TV to hear the story of what happened to their society during the 70 dark years. The strange thing is that the man on the screen—a man who might be called Russia's main chronicler of Stalin's repression—is a British historian, Robert Conquest.

It is a safe bet that Conquest is today better known in the republics of the former Soviet Union than in his native Britain or in the United States, his adopted home. While his works had been well-known in dissident circles for years, they first reached the general Soviet public in 1989, when glasnost permitted his two most important works (previously banned, needless to say) to appear in Russian.

The Great Terror: Stalin's Purge in the Thirties, published in the West in 1969, was serialized in its entirety in the political-literary journal Neva, and major sections of his 1986 book, The Harvest of Sorrow: Soviet Collectivization and the Terror-Famine, were printed in several Russian publications, including Novy Mir, and in several Ukrainian journals. A revised version of The Great Terror, using information that became available under glasnost, was published in the West in 1990 and has since been translated into Russian.

The reviews were, for the most part, rave: "When you read Conquest, you feel him very close to us," read one, published in Literaturnaya Gazeta. "He writes with pain about the sufferings of the Russian people under the heel of despotism." Even Pravda, then still the Communist Party organ, saw fit to print some positive comments about him. Since that time, Conquest, now a senior research fellow at the Hoover Institution in Palo Alto, Calif., and scholar-curator of its Russian and East European collection, has been back and forth to Russia and Ukraine, making numerous television appearances in both countries. In fact, says fellow Hooverite and Russian specialist John Dunlop, "we recently had a visit from some people who work for Russian television, and they interviewed me. And when I recommended that they talk to Bob, they said, "Well, you know, he's on television so often now that we don't see any point."

Of his fame among the Russians, Conquest says: "They've done me proud. I hadn't been there for many years, because the notion in the old days that you had to go there to find out things was not a good idea. You learned more looking through other people's eyes. . . . So I didn't go until '89. But it was terrific to be there."

With an appreciation of irony befitting a man who is also a wickedly witty writer of limericks, Conquest seems most pleased by the backhanded compliment he received in 1989 from a die-hard Communist apparatchik. "I was denounced in the Central Committee by the old Stalinist A. B. Chakovsky. He said, 'Look at who is leading in our literature. Conquest—anti-Sovietchik No. 1!' A frightful old Stalinist. But otherwise I've been getting great applause."

In essence, Conquest's role before the collapse of the Soviet Union might best be described as surrogate historian for the people of the Soviet empire. In Harvest of Sorrow, he reconstructed the story of Stalin's deliberate starvation of millions of people during the 1929–1932 collectivization of agriculture, including 5 million in Ukraine alone. As he notes, "only someone beyond the controls of the Soviet Union's totalitarian apparatus was really able to put together the story of the Soviet state's war against its own population. Even by '89 only a certain amount of new material had come out. And of course, none of their own historians—who, of course, are going to have to write the full, long story—have yet had a chance to do so. It had to be done abroad. It's an anomaly that your history has to be written by a foreigner. But it's perfectly true."

Conquest, to be sure, has numerous admirers in the West as well, mostly in Britain and the U.S. He is actually a dual national, son of an American father and an English mother. "I think I lost [my U.S. citizenship] for a little bit by joining the British army during the [Second World] War," recalls Conquest, who didn't get to America until he was over 30.

It was thanks to his military service that Conquest, who first made a name for himself in Britain as a poet, became a Soviet expert. "Through an army course, I learned Bulgarian, and I was in the [British legation] in Bulgaria after the war, as press attache. And then when I got back to the Foreign Office, they put me into one of the research departments concerned with facts about Russia and the Stalinist bloc." In 1956 he went to the London School of Economics and began the research that would result in 17 books on Soviet and international affairs.

His ranks of admirers include Ronald Reagan, Richard Nixon, George Bush and Margaret Thatcher, all of whom sent congratulatory notes to a dinner held in his honor in San Francisco at the beginning of July. "When the history of the West's victory in the Cold War comes to be written a special place will go to Robert Conquest," wrote Thatcher. "His scholarship and eloquence have always been put to the service of a remorseless search for truth."

At the dinner was human rights activist Yelena Bonner, widow of Andrei Sakharov, who presented Conquest with a gift quite apt for a historian known for his use of compelling, overwhelming detail: a list of the files—totaling 578 volumes—that the KGB had accumulated on her and Sakharov and then destroyed.

The recurring theme of these testimonials was that Conquest is among a handful of Western intellectuals who got it right about the Soviet Union. "The attitude of the overwhelming majority of Western literati towards the communist state ranged from open adulation to silence about such facts as mass murders, mass deportations, artificial famines and slave labor camps," said Polish poet and Nobel laureate Czeslaw Milosz in his speech. "Altogether it belongs to the strangest phenomena in the history of our century . . . People who dared, as did Robert Conquest, to wake up the world conscience were usually branded ultraconservatives, cold warriors, etc. If that sort of activity was a privilege of the conservatives, they should be proud of their willingness to call a spade a spade."

For Conquest, calling a spade a spade made him a controversial figure in the academic world. "When his first book . . . Power and Policy in the USSR, was published in 1961, and even more so in the mid- to late sixties, critics attacked this kind of Kremlinology, saying it made the assumption, without any evidence, that all the power in the Soviet Union was held at the top," says Charles Fairbanks, research professor of international relations at Johns Hopkins University's School of Advanced International Studies in Washington. "And there was a lot of nastiness: The phrase was often used about Conquest that he is a 'political journalist' as opposed to a 'political scientist."

Conquest recalls that when The Great Terror came out in 1969, it was, in fact, well-received. "I keep reading that it was rejected and so on, but it wasn't at all. It was received very well, right up to the far left—the [British weekly] New Statesman and so on. There were very few quibbles with it."

The quibbles, however, began to come in the 1970s and into the 1980s, when there were several waves of "revisionism" in Soviet studies. With the first, the Brezhnev regime began to be viewed as having both a degree of legitimacy and "pluralistic" features. A second wave of revisionism began to cast Stalin in a new light. Some scholars, for example, insisted that Stalinism came as much from the grass roots as from the top. Others argued that the regime was too poorly organized at the level of the masses to be considered "totalitarian." Still others argued that Conquest's estimates of the number of people victimized in the years of the Great Terror (1936–38)—at least 7 million arrests, out of which more than 1 million were executed and another 2 million died or were killed in labor camps—were far too high. Duke University Sovietologist Jerry Hough, for example, in his 1979 book, How the Soviet Union Is Governed, an extensive revision of Merle Fainsod's How Russia Is Ruled, put the death toll considerably lower: "A figure in the low hundreds of thousands seems much more probable than one in the high hundreds of thousands, and even ten thousands is quite conceivable."

Unfortunately for the revisionists, within a matter of several years came glasnost, and from the horse's mouth came figures even higher than those Conquest had postulated 15 years earlier. In 1989, the KGB itself reported that between 1935 and 1941, the NKVD, its Stalinist predecessor, arrested nearly 20 million people, 7 million of whom were killed or died as a result of their incarceration.

Conquest says that in his examination of the evidence of the Stalinist era, the repression usually turned out to be worse than it appeared at first glance: "What I noticed working on this is that if you've got the general report, when you get the details they're always worse. I mean, I'd occasionally say in my first edition that so-and-so died naturally. Well, it always turned out that he hadn't: He'd been killed or commited suicide. It always seemed worse. Gen. [Dimitri] Volkogonov [currently Boris Yeltsin's top defense adviser], who wrote The Life of Stalin, a few years ago was criticizing me for overstating. Now he's criticizing me for understating. He's moved over, because he's got more of the materials. And also a spokesman from the KGB, the chap in charge of the rehabilitation [of victims of the Stalin era], is now giving much higher figures than I did, for executions in particular. And now they're publishing stuff which is—well, for example, in Izvestiya the other day, the headline was 'The Communist Party was not a party; it was a criminal conspiracy.' Imagine a Sovietologist saying that back in the old days; it would have been thought to be very contrary to decent behavior."

Conquest is not given to public gloating about having been right. "Well, to be fair, the real figures haven't been fully established," he says of the revisionist estimates. "Because it's very difficult to do, and it also gets involved in the war losses, because there wasn't a census—at least there wasn't a proper one—until '57. So there are one or two legitimate quibbles here and there. It's really a matter of 2 or 3 million here or there. But once you say that—'Just a matter of 2 or 3 million here or there'—that shows you what the regime was like."

In private, Conquest apparently has not always been so magnanimous toward his critics. One of his old chums, British author Kingsley Amis, writes in his memoirs that when Conquest's American publisher suggested changing the title of The Great Terror for its new edition, "Bob answered in terms that get a lot of his character into small compass. 'Well, perhaps I Told You So, You F---ing Fools. How's that?'"

Conquest believes that even with the collapse of the Soviet Union, it is still important to dispel "this notion that there was nothing very odd about the Soviet Union, that it was sort of a normalish political organization." The idea, for instance, that Stalin's regime derived its legitimacy from the grass roots, from the masses. In fact, he says, "they got a bunch of the nastiest people in the land—if you like, at the grass roots—who wanted promotion. They wrote the letters and made the demonstrations. It was rather as if every village in a country like England or America was run by the poison-pen letter writer. Well, there are grass roots poison-pen letter writers, sure. And [the regime] encouraged it. And, of course, there were ignorant fanatics who just thought, 'We've got the truth, so we can do anything to anybody, and that's all right.' It was a mixture of careerists and fanatics.

"On the other hand, the population was given a hell of a time. I mean, not only physically. They were sort of buffaloed day and night into how wonderful the regime was, how everyone else loves it except you. You know, 30 years of that is really hard going. Some of their best people today say, 'You know, I have a little Stalin in me which I'm trying to get rid of.' There was this permanent pressure of fear, and the inculcation of an entirely false world. After 1930, at least, the reality in Russia and the theoretical, official 'reality' were totally different. It was a country of posters rather than realities. For example, huge pictures of the great Stalin, saying, 'Thanks for a happy childhood!' Do you know that they recently published a series of photographs that were found in the secret police files of children of 'enemies of the people.' Their parents were shot, and then they were sent off to police orphanages and so on. And their names were changed, but [the regime] kept their file numbers so they could always track them down."

The only silver lining in the Stalin purges, Conquest says, is that it elevated to power a group of mediocrities who would eventually be unable to hold on to power. Indeed, their incompetence became the hallmark of the Brezhnev period, which the Russians now aptly call the "era of stagnation." "I think the regime brought up to the level of the privileged class—the people who administered everything—very stupid people. A Russian said to me after the failed coup of last August, 'We've been ruled by morons for 40 years: this is the first time it's paid off.' Which is a good point."

Today, the Hoover Institution has begun a project, in conjunction with the Russian government's archival commission, to preserve on microfilm the Communist Party archives. Conquest is a member of a board of historians from both Russia and the West who will advise on what kinds of documents should take priority.

Yet based on his experience in researching his books, Conquest warns that scholars may be too optimistic about what the archives will reveal.

Take, for example, the unsolved case of the murder of Sergei Kirov, the Leningrad party boss, in 1934. Stalin used it as a pretext for the purges of the late 1930s, and many, if not most, scholars believe that Stalin himself ordered the murder. Conquest reached this conclusion in his 1989 book, The Kiss of Joseph the Terrible: Stalin and the Kirov Murder. But will a smoking gun in this and other such cases be found in the archives?

"No," says Conquest. "I don't think for a moment that Stalin wrote it down. Just like David Irving and company couldn't find Hitler's signature to the Holocaust." In the Soviet bureaucracy, he notes, "there were six layers of secrecy; 'Top Secret' was the third down. The top one was 'Word of Mouth Only.'" Additionally, he notes, "Top Secret' documents are still full of falsehoods. There are documents by the demographers of the 1930s, where they don't refer to the famine of '33; they say, 'There's been a drop in the population where kulak activity has been intense.' Things like that. They falsified the census of '39, in secret documents. And, of course, even secret documents assume the guilt of all the people referred to. Secret documents are filled with falsehoods, although there are some things they give away, or suggest."

He does believe, however, that the archives could shed new light on some old questions. "We may get more—although we haven't yet—about the negotiations between Stalin and the Nazis earlier on. There's been some stuff, for example, which I used in my Stalin book, about Stalin saying in the Politburo in October '39 that the Nazis are not totally fanatical capitalists like Chamberlain and others; they're really not just petit bourgeois. He was coming around to the idea of convergence, and saying so."

For Conquest, the material emerging from the archives of the defunct Soviet state, including recently released material suggesting that Lenin had a zeal for terror and murder not much different from Stalin's all goes back to one basic lesson about communism: "Just how much damage a mad idea can do. It was an experiment, and it didn't work. It was based on a theory on how to manage an economy and on the idea of class war, and it was all simply untrue—a lot of nonsense."

At the close of his speech at the dinner in his honor in July, Conquest addressed the question of how, in the future, such error can be avoided. "The lesson—the lesson—seems to lie in education. We are often told this, but not often in any but a vague way. For the education we need is one which teaches students above all to be skeptical about those who interpret all human actions as nothing but a struggle for power; to avoid the certitudes of pseudoscience; to question all will-o'-the-wisp doctrine. In fact, to think, to aim for intellectual responsibility; to avoid formulas and factiousness.

"I am afraid that much of the education we now find does not, to put it mildly, even approach these criteria. Indeed, it is an educated, or half educated, stratum whose minds are still infested with what in computers we would call a virus, which distorts their calculations. Kafka once wrote that the two great causes of human troubles were impatience and laziness: These are just the phenomena which produce the destructive fantasies we must counter at all costs. We in the West still have much to learn, and to unlearn, from the events in the former communist countries."

FROM THE U.S. CONGRESS TO THE INCORPORATED VILLAGE OF PHILMONT, NY: HAPPY 100TH BIRTHDAY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. SOLOMON. Mr. Speaker, nestled in the upper Hudson Valley in my home district of upstate New York there lies the incorporated village of Philmont.

The village of Philmont represents one of the finest examples of hometown Americana you could ever find. Incorporated a century ago, Philmont stands proudly on the picturesque High Falls and is home to 1,623 of the friendliest people you could ever meet.

Philmont's location on the Ockawamick Creek provided the necessary power to make the village an ideal industrial center in the mid-1800's. Thanks to the innovation and vision of George P. Philip, a dam was constructed above the High Falls to harness the enormous hydraulic potential of this area. His wealth and foresight resulted in the construction of several mills that employed hundreds from the local village and gave Philmont the prominence it would later use to incorporate.

From the fine woolen products of Mr. Philip's mills to the Philmont Paper Mills, Philmont is truly an example of the American pioneer spirit that made our country strong.

Although the mills that made this community so prominent in days past are gone now, the spirit and values that drove them are alive and well.

Today, Philmont is still a thriving community as it was a hundred years ago. The Philmont Volunteer Fire Co. stands as proudly as it did upon its formation in 1896, dedicated and ready to serve the village.

From the members of the Philmont Rod and Gun Club to the American Legion Minkler-Seery Unit No. 252, Philmont represents the American way of life that our Founding Fathers envisioned when they chartered our mighty Nation over 200 years ago.

Mr. Speaker, I ask you and the entire House to pay our tribute to the incorporated village of Philmont on its 100th birthday.

SALUTE TO DORILL AND JACKIE WRIGHT

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. GALLEGLY. Mr. Speaker, I rise today to honor two dear friends, Dorill and Jacquelyn Wright, who will soon be celebrating their 50th wedding anniversary.

Dorill and Jackie have been institutions in their hometown of Port Hueneme for more than a quarter-century. During that time, Dorill has served his fellow residents in many capacities, perhaps most notably as a city councilman and mayor, and both he and Jackie have been active in a variety of civic and municipal affairs as well.

Dorill and Jackie were both born and raised in Missouri, and were married in 1942, just before Dorill joined the Army Air Corps. After serving during World War II, he returned to the University of Missouri in 1946 and earned a degree in electrical engineering 3 years later.

The Wrights moved to Ventura County in 1949 when Dorill began his career with the Navy, first as a research engineer at the Naval Civil Engineering Laboratory, Port Hueneme, and then in a succession of managerial positions at the Pacific Missile Test Center, Point Mugu. When he retired in 1976, Dorill was Director of the Technical Support Department, overseeing some 450 engineers and support personnel.

But it is for their civic involvement that Dorill and Jackie will be long remembered. Dorill has served as a city councilman in Port Hueneme since 1970, and as mayor between 1974 and 1990. He also has served on such agencies as the board of elders of his Oxnard Christian Church, the Salvation Army Advisory Board, the Boy Scouts executive board, the League of California Cities, the California Coastal Commission, and the California Central Coast World Trade Center.

Jackie also has served her community, including serving for the past dozen years on the city's Recreation and Fine Arts Commission, as well as being active in Hueneme Beautiful, the Oxnard Community Concert Series, and their church.

Finally, Mr. Speaker, it is altogether fitting that the reception honoring Dorill and Jackie on August 9 will be held at Port Hueneme's beautiful Dorill B. Wright Cultural Center. I ask my colleagues to join me in honoring Dorill and Jackie as they celebrate their 50th anniversary.

ELDERLY ONLY PUBLIC HOUSING

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. DONNELLY. Mr. Speaker, I am inserting for the CONGRESSIONAL RECORD an article from yesterday's New York Times on the subject of mixed populations in elderly only housing projects.

Mr. Speaker, this longstanding issue will begin to be resolved if the House passes H.R. 5334, the Housing and Community Development Act, tomorrow. The article demonstrates the enormous problems that have developed across the country since public housing projects which the elderly thought were originally designed for them become populated by nonelderly individuals. It focuses on a public housing project in my congressional district where the policy, in the words of public housing authorities nationwide, "has proved a volatile mix." Reports of crimes—from disturbances in the hallways to rapes and assaults—are the result of this new mixed population policy.

Since the days of President Franklin Roosevelt, public housing agencies have been able to designate buildings as being available for only elderly tenants. But in the past few years, a combination of several policy changes has resulted in this dangerous mixing of populations in public housing projects.

As a result of these changes, last year I introduced H.R. 3425, which would permit public housing agencies to designate buildings as elderly only. Since the introduction of that bill, Congressman KLECZKA introduced H.R. 4435. Both Congressman KLECZKA and I developed a compromise on that issue, which is contained in the bill coming to the floor tomorrow.

I urge support for that compromise, and urge all members to read the attached article so that they can see the need for tomorrow's important legislation.

VOLATILE MIX IN HOUSING: ELDERLY AND MENTALLY ILL

(By Tamar Lewin)

BOSTON.—Alma Singleton, 73 years old, used to play cards every evening in the community room at the Codman Apartments, a six-story public housing complex for the elderly.

"We'd play poker, we'd have little parties, there were always people down here," said Ms. Singleton, a retired waitress who has lived at Codman for eight years. "On hot nights, we'd leave our doors open to get the breeze. We looked out for each other and there was a sense of community."

But the Codman community, like public housing for the elderly in dozens of other cities, has been badly splintered in recent years by a huge influx of younger disabled people, many of them afflicted with chronic mental illness or drug or alcohol problems, who are placed among the elderly because they have nowhere else to go.

More than a quarter of the Codman residents—and more than half the tenants moving in—are now such younger disabled people. And since March, when a 90-year-old resident was raped inside in her apartment by a mentally ill 38-year-old resident, the Codman community room has been deserted. And residents keep their doors tightly locked. "I don't answer my door for anybody now," Ms. Singleton said.

Public housing officials around the country say the mix of fragile older people and younger people with mental disabilities has proved volatile. They report problems from assaults, thefts and fires to thousands of everyday clashes. Elderly people used to being among their own kind now say they have to put up with younger neighbors who panhandle, litter, have loud late-night parties and, on occasion, urinate in the elevator or appear naked in the hallways.

There is no single explanation for the sea change in the population of the nation's 375,000 public housing units for the elderly. Rather, it results from a combination of aggressive advocacy on behalf of the homeless, the continuing removal of mental patients from institutions, and a policy of including people with chronic mental illness, recovering alcoholics and drug addicts among those considered "disabled" under fair-housing laws.

Nationwide, about a quarter of the residents in public housing for the elderly are now younger disabled people, said Gordon Mansfield, the Department of Housing and Urban Development's Assistant Secretary for Fair Housing and Equal Opportunity. While public housing for the elderly has, for decades, comfortably accommodated a small number of younger people with physical disabilities, most of the young people moving in these days have mental disabilities.

PRIORITY FOR THE DISABLED

Most cities have two kinds of public housing for low-income people: family housing, with large apartments, and senior housing, with studio and one-bedroom apartments. Single people with physical disabilities, often needing the same barrier-free architecture as older people, have long been eligible for senior housing, and now that people with mental disabilities fall under the same legal category, they too, go into housing for the elderly. Generally, public housing tenants pay 30 percent of their income as rent.

Mr. Mansfield estimates that half the applicants now on waiting lists for apartments designed for the elderly are younger disabled people, most of them mentally ill or drug or alcohol abusers. And the concentration is increasing, since applicants who are homeless or in danger of becoming homeless—many of whom are mentally ill or drug or alcohol abusers—have priority over senior citizens who have spent years on the waiting list.

"It's a disaster," said William McGonagle, deputy administrator of the Boston Housing Authority. "We're pitting two very poor and very vulnerable segments of our society against each other. It's a bad mix, and it's not fair to either population."

The mixing of the two groups has also become a concern for nonprofit groups and businesses that operate Federally subsidized housing for the elderly, like religious groups. Although they do not yet have as many younger mentally disabled tenants as public housing authorities, they, too, are confused and frustrated about the Federal fair-housing policy.

LEGISLATION CONSIDERED

Congress is now considering legislation allowing public housing authorities and others who operate Federally subsidized housing to designate some buildings as elderly-only, as long as they do not evict younger tenants already in place. But the legislation,which is likely to be acted on the first week of August, also requires that there be no loss of housing for the disabled, and mandates that public housing authorities that create elderly-only buildings must tell the Housing and Urban Development Department their plans for providing adequate alternative housing for people with disabilities.

But advocates for the mentally ill say they doubt that such alternatives will be found because, they say, it is the dearth of affordable rentals that left the mentally ill so desperate for public housing.

"It's a mistake to look at this situation without looking at how public housing has deteriorated in the Reagan and Bush years," said Bonnie Milstein of the Mental Health Law Project in Washington. "In 1978, 7 percent of the Federal budget went to housing, but by 1988, it was 0.7 percent."

By 1989, there were 4.1 million more low-income renters than low-rent apartments available, and the gap between supply and demand has been widening.

Brian M. Smith, the housing developer for a Burlington, Vt., community mental health program, cited a recent study by the University of Vermont's Center for Community Change, finding that a person living on Federal disability income could not get market-rate housing for 30 percent of that income in a single county in the nation. On average, the study found, it required two-thirds of the monthly check to rent an efficiency apartment.

"For mentally ill folks here in Vermont, who get $486 a month, the alternatives to living in public housing with elderly folks is paying all your money for rent and going to the Salvation Army, or soup kitchens, to eat," Mr. Smith said.

He and Ms. Milstein also argue that it would be unfair to write policies that exclude people with mental disabilities.

"Some people with mental disabilities do very well in housing for the elderly," Ms. Milstein said. "Others do not do as well, because they need more services, or because of their life style. But despite the stereotype, most mentally ill people are not dangerous."

Although some older people may prefer elderly-only housing, she said, that preference is a luxury that should not be indulged while so many younger people are homeless. And Ms. Milstein said, just as it would be illegal for housing managers to indulge tenants' preference to live with others of their own race, "it shouldn't be acceptable when it comes to disability discrimination either."

Still, Claire Freeman, chief executive of the Cuyahoga Metropolitan Housing Authority, which runs 12,000 public-housing units in Cleveland, said it becomes difficult to maintain a building for the elderly when more than 10 percent of the tenants are mentally disabled.

"We get mentally ill people who are stabilized on medication in an institution, so they're released, but six or eights weeks later, they stop taking the medication, their problem becomes manifest again, often coupled with drug use, and you get the 90-year-old woman coming home from church, being confronted by a schizophrenic crack user," she said. "They may push the seniors around, or defecate or urinate in the hallway. And we're a housing authority, so we don't have social services to help them."

NEW TYPE OF INSTITUTION

In some projects in certain cities, some say, the concentration of people with mental disabilities has become so great as to create a new kind of mental institution—one without doctors, nurses or social workers.

"Advocates for the mentally ill talk about mainstreaming, but when you create a place where 80 percent of the residents are mentally ill, that's not mainstreaming, that's reinstitutionalization," said Mary Ann Russ, executive director of the Council of Large Public Housing Authorities in Washington. "People with disabilities clearly need affordable housing, but clumping them with the elderly is not a good solution for anyone."

But some experts say mixed-housing can work, with social-service support. In Seattle, at Stewart Manor, a 75-unit building where about 4 or 5 residents are mentally ill, the manager, Leonard Langford—himself a former social worker who once worked at the local psychiatric hospital—has 20 hours a week of social-work help.

"When people start hearing voices, screaming and yelling, we call our social workers," Mr. Langford said. "What we need most is funding for an on-site social worker and an activity director. But I don't think this mix is bad. I'd say we have a healthy building where everybody pretty much is trying to live together."

Many people with mental disabilities, too, argue that living among the elderly is a valuable option.

"I'm quiet, I'm kind, I deserve to be here," said Sandy Fallman, a 42-year-old woman with obsessive-compulsive disorder, who has lived in public housing for the elderly in Marblehead, Mass, for five years. "I would be so much sicker, so much more of a burden, if I didn't have this opportunity. It has kept me mostly out of the hospital.

But older public-housing residents around the country have a litany of complaints about their younger neighbors, often involving upsetting confrontations with people who are noisy, smelly or threatening.

"The timid ones don't come out of their apartments anymore," said Mary Ellen Williams, and older tenant at Bohn Tower in Cleveland. It's like a prison for them. We have always had some younger people with physical disabilities, and some who are retarded, and that mix is good. It gives a kind of liveliness. But now I get on the elevator, and someone's muttering about blowing up the building, or what they're going to do with their knife."

And some younger residents are not entirely comfortable living among their elders.

"When I first moved here, everybody looked at me like I was a rhino in Africa," said Barbara Young, a 48-year old, arthritic resident of the Holgate Apartments in Boston. "I like loud music. I like my TV set on at 3 A.M. I think it would work better if we had the seniors on one side of the building and the disabled on the other."

The legislation now before Congress would let public housing directors make just such arrangements.

"Housing authorities could designate certain buildings, or portions of buildings for the elderly, as long as there was still adequate housing for which the mentally disabled would be eligible," said Ms. Russ. "The legislation would also allow lots of alternatives for people with mental disabilities, including vouchers for private housing in the community, which many of them would prefer. And it would provide some funding for social services, which is critical."

HELPING THE ELDERLY TO HANDLE, AND AVOID, CRIME

WASHINGTON, Aug. 2.—In the early morning hours a year ago, 83-year-old Aline Bienvenu of St. Martinville, La., was snatched from her bed by an intruder, bound, gagged and smashed in the mouth, sending five of her teeth to the floor.

"It just totally devastated her," said Estelle Labbe, the victim's niece. The attack brought on a succession of mild strokes that impaired Miss Bienvenu's speech.

After the attack, the St. Martin Parish Sheriff's Department responded in an extraordinary way. Under a new program to help elderly crime victims, the department provided a counselor when investigators questioned Miss Bienvenu, paid to replace the window broken in the attack, financed her dental work and visited her for weeks afterward to make sure she was doing well.

SPECIAL TREATMENT

Law-enforcement agencies who have long recognized a need for special treatment of juveniles in the criminal justice system are beginning to realize that the elderly can also benefit from special attention.

And with the growing number of elderly people in this country—some studies predict that the percentage the population that is elderly will increase from 15 percent today to 18 percent by the turn of the century—there should be increased emphasis on protecting older people from crime, experts say.

The St. Martin program, for instance, is part of a nascent movement called Triad to fight crime against the elderly and help them fight back. The program is named for the efforts of three groups: the National Sheriffs' Association, the International Association of Chiefs of Police and the American Association of Retired Persons.

Using the advice of advocates for the elderly, law-enforcement officials sponsor crime prevention seminars, victim and witness assistance programs and "reassurance programs" intended to provide moral support and to reduce fears. They also recruit and train elderly volunteers to help the police and sheriffs.

Triad programs have been set up in 50 locations in 19 states, including Louisiana, New Jersey, Kentucky, Nevada, Georgia and Florida.

Word of the program has reached Capitol Hill, where Congress is considering legislation that would authorize $6 million to fund 20 pilot programs nationwide like the one that helped Ms. Bienvenu. The money would be used to pay the salary of project coordinators, to buy safety items like door locks and to pay for the production of pamphlets, videotapes and public service announcements.

At the St. Martin Parish Sheriff's Department, which was the first to start a Triad program two years ago, officers are made aware of the special needs of older people.

"You have to be aware that the glare from light and background noises sometimes bother them, and you often need to speak slower and in a deeper tone of voice, because many of them can't hear high-pitched voices well," said Capt. Audrey Thibodeaux. "There are certain things you can do during an investigation that can calm them down."

While crime rates against the elderly remained stable or in some cases decreased between 1980 and 1990, a study published in 1987 by the Bureau of Justice Statistics said that elderly victims of violent crime were more likely than younger victims to face attackers armed with guns, to be victimized in their homes and to report that the offenders were strangers. The study also showed that violent-crime victims 75 and older were more likely to be injured, and less likely than younger victims to try to protect themselves during a crime incident.

Aside from the Triad programs, many police departments around the country have established programs to help protect the elderly and to give them special assistance if they become victims.

New York City, for example, last month set up 10-block strips near senior centers and high-rise buildings with many elderly residents called "safe corridors." The areas, one in each of the five boroughs, have extra police officers to encourage the elderly to shop, bank and "do things they used to be scared to do," said Lieut. Richard Kuberski of the New York City Police Department public information division.

Some of the local merchants take part in the safe corridor program by establishing special early-morning hours for seniors. Each of the city's precincts also sponsor programs in which senior citizens may have police escorts to take them shopping.

"It makes me feel I can go shopping with such ease," said Pecola Jones, who is 68, walks with crutches and cares for her bedridden 72-year-old husband in a high-rise in the Crown Heights section of Brooklyn. "I don't have to worry about nobody bothering me. I look forward to it."

The District of Columbia imposes stiffer penalties—1.5 times the maximum fine—for those who commit crimes against people ages 60 and older, said Detective Anthony Zavosky, of D.C. Metropolitan Police Department.

In high-crime areas, senior citizens look out for each other.

"We all work together," said Dixie Clark, who has lived in her northwest Washington apartment 10 years. "Everybody watches out for strangers hanging around. We get tag numbers when we see strange cars."

THE PASSING OF C. VICTOR RAISER AND SON

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 4, 1992

Mr. MATSUI. Mr. Speaker, I rise today to express my deepest and heartfelt sympathy for the unexpected and tragic passing of my dear friend, C. Victor Raiser II, and his son, Montgomery.

No words can ease the pain of losing two such courageous people. Vic will be sorely missed, but long remembered for his numerous achievements while he was with us. He made outstanding contributions to the Democratic Party and provided undivided leadership in his profession and his community. Vic's tireless dedication reflected the faith he had for the Democratic Party. He was the national finance cochairman for the Clinton for President campaign, where his successful efforts raised and allocated campaign contributions across the country. As the past national finance chairman of the Democratic National Committee, he led our fellow Democrats to a convention that has inspired and provided a sense of unity to all Americans across the country. Vic was also greatly influential in his commitment on the boards of the Democratic Business Council, the Center for National Policy and the Democratic Leadership Council.

As a community leader, Vic extended his involvement in a variety of other organizations around the metropolitan area, such as serving as the chairman of the American Mobile Satellite Corp., vice chairman of Mobile Telecommunication Technologies Corp., and member of the board of directors of the National Symphony Orchestra.

Vic was a native of Indianapolis, graduated from Princeton University and received his law degree from the University of Virginia. He then pursued his career in Buffalo before moving to Washington where his experience and accomplishments as a businessman followed him. His expertise in communications and corporate law enabled Vic to quickly rise to the top of his field. Until 1991 he was counsel to the prestigious law firm of Jones, Day, Reavis, and Pogue and, at the time of his death, he was serving as a consultant with them.

Montgomery was born in Buffalo and grew up in Washington. He was a graduate of St. Albans School and a June 1992 graduate of Princeton University. No doubt that, although Monty's time with us was all too brief, Monty brought pride and joy to all who were fortunate to know him.

Mr. Speaker, the passing of Vic and Monty Raiser is truly a grave tragedy. I am indeed grieved by their loss, but comforted with the knowledge that we will be together always by our everlasting memories. At this time, I invite my colleagues to join me in paying tribute and extending sincere condolences to their beloved wife and mother, Molly; daughter and sister Skye; other members of their family; friends, and colleagues. May their warmth and spirit live forever.

HOUSE OF REPRESENTATIVES—*Wednesday, August 5, 1992*

The House met at 10 a.m.

The Venerable Frederick C. Byrd, Archdeacon, Episcopal Diocese of Upper South Carolina, Columbia, SC, offered the following prayer:

Almighty God, gracious and loving Father, we humbly stand in Your presence at the beginning of another day.

You have given us this good land for our heritage. You have made us stewards in this land of the free.

May we never take this freedom for granted. May we accept the responsibility to preserve our rich resources and to seek justice and peace for all our people in this land and beyond our borders.

Bless the Members of this House in particular that in their many deliberations and decisions they may reflect what is good and noble, worthy of Your holy name, and worthy of our great America.

In our Lord's name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from South Carolina [Mr. DERRICK] come forward and lead the House in the Pledge of Allegiance.

Mr. DERRICK led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE VENERABLE FREDERICK C. BYRD, ARCHDEACON

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, I am delighted to welcome our guest chaplain and my good friend, the Reverend Frederick C. Byrd.

The Venerable Byrd is a native of Ridge Spring, SC. He was educated in the Ridge Spring public schools and graduated from Clemson University. He holds a master's degree in divinity from Virginia Seminary in nearby Alexandria.

For more than 20 years, the Venerable Byrd has served in the affairs of the Episcopal Diocese of Upper South Carolina. First, he ministered as the vicar of St. Luke's Church in Newberry for 11 years.

Now, the Venerable Byrd officiates as the diocese's archdeacon in Columbia. In this capacity, he organizes and develops programs for the diocese's more than 26,000 baptized members.

The Venerable Byrd is supported by a loving family that includes, his mother, Addie Byrd; his brother, Joseph Byrd; and 30 "godchildren." One of them, Mr. Judd Warren is in the House Chamber today.

The archdeacon has worked hard to promote education in South Carolina. He is also supportive of the YMCA, the Boy Scouts, and the Girl Scouts.

Mr. Speaker, it is my pleasure to welcome the Venerable Byrd to the U.S. House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate insists upon its amendment to the amendment of the House to the amendment of the Senate to the bill (H.R. 429) "An act to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes" disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. BRADLEY, Mr. BINGAMAN, Mr. WIRTH, Mr. FOWLER, Mr. WALLOP, Mr. HATFIELD, Mr. DOMENICI, Mr. BURNS, Mr. CRAIG, and Mr. SEYMOUR, to be the conferees on the part of the Senate.

DEMOCRATIC LEADERSHIP EXHORTED TO SCHEDULE FREEDOM OF CHOICE ACT

(Mr. GREEN of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of New York. Mr. Speaker, last week the New York Times printed an op-ed piece concerning the Freedom of Choice Act by my friend Tanya Melich, executive director of the New York State Republican Family Committee. Ms. Melich writes:

> The Freedom of Choice Act offers Congress an opportunity to resolve one of the most bitter issues of our time. By codifying the principles of the 1973 Roe v. Wade decision, the act would do through Federal statute what Roe did through judicial decision. It would return a woman's right to choose to end her pregnancy back to its status prior to the 1989 [Webster] decision, which the Supreme Court used to begin dismantling Roe.
>
> The act would allow states to continue passing laws regulating minors' access to and Medicaid financing of abortions. It would not settle the continuing conflict over these issues. But by guaranteeing the right to an abortion, a woman's reproductive freedom would no longer be at the Court's mercy.

Ms. Melich closes her essay by throwing down the gauntlet to the Democratic leadership: Show the American public that, behind the Presidential campaign rhetoric, there is the will to act on this crucial legislation. I join her in calling on the Democratic leadership to schedule consideration of the Freedom of Choice Act in a fair and timely manner. American women demand and deserve no less.

BEST JOBS BILL IS TO BUY U.S. MADE GOODS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, the best jobs bill for America is to buy U.S. made goods. So I say, "Shoppers of America, become our trade ambassadors."

Now, we know potatoes have been in the news quite a lot lately. Last week I walked into my house back in Toledo, OH, and my mom was proudly standing in the middle of the kitchen, holding up this bag of Idaho potatoes. The America flag is emblazoned on the packaging which reads, "We support America," packed in Idaho, the Idaho Potato Packers Corp., Blackfoot, ID. Though Toledo and Blackfoot are 1,500 miles apart, my mom knew she helped an Idaho family by her purchase. She understood the connection.

Japan's trade deficit with the United States has also been in the news of late. It just keeps going up, $1 billion more over last year, and as that deficit rises so does unemployment in America, now nearly 8 percent, and in some districts like my own, way over that.

So help your laid off friends by buying U.S. made products, including potatoes, and cars, and clothing. It is good for America. It is good for jobs, and it might even help some elected officials learn how to spell.

MOBILE, ALABAMA'S POINT OF LIGHT

(Mr. CALLAHAN asked and was given permission to address the House

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, I rise to join with President Bush and Vice President Quayle in honoring the Rape Crisis Center of Mobile, AL, as the daily "Point of Light" on August 4. The Vice President presented the award yesterday in Mobile.

The Rape Crisis Center, founded in 1977, employs two staff members and has 55 volunteers to counsel and provide support for rape victims and to educate the community about the critical issue of sexual assault. Roughly half the volunteers are survivors of rape, family members, or friends of rape victims.

The center's volunteers are required to undergo extensive training in counseling, medical, and legal procedures. At least one volunteer is on call 24 hours a day, 7 days a week, all year. The volunteer on call often accompanies the victim to the hospital, offering emotional support during the medical examination and treatment. The volunteer then follows up at least twice with each victim and her family, referring them to professional counseling and other resources, as well as providing moral support for the victim during the court process.

The center hosts a weekly support group, offers three public awareness seminars a month for law enforcement and medical personnel.

The Rape Crisis Center is truly deserving of this honor and of our gratitude for their generous service to others. Unfortunately, volunteers seldom receive commendations for their work, and it was the President's desire to institute a program to focus attention on those who give unselfishly of their time. The daily point of light is a wonderful instrument for recognition. I am extremely proud that my constituents were given this public tribute in respect.

□ 1010

RECOGNIZING THE SELECTION OF "A SAFE PLACE" AS A POINT OF LIGHT

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the President's Daily Point of Light Program recognizes individuals and organizations that contribute to our Nation and address pressing needs through volunteer service. I am very proud that recently, President Bush recognized "A Safe Place" in Waukegan, IL, as one of America's points of light.

Since 1980, A Safe Place has worked to end domestic violence by teaching effective, nonconfrontational family communication. Its volunteers provide battered women and children with a decent, safe place to live, opportunities for economic advancement, and a sense of well-being. Through its outstanding program of support and counseling, a safe place has helped many individuals overcome tragedy and build new lives.

Mr. Speaker, A Safe Place exemplifies America's volunteer spirit. I am privileged to represent a congressional district that includes such a fine organization and I am proud to salute its dedicated volunteers, who have distinguished themselves by reaching out to those in need.

EXPENSES OF SPECIAL PROSECUTOR WALSH

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Iran-Contra has reared its ugly head once again. This time it is not Poindexter, North, or Shultz; this time it is the special prosecutor, that is right, Lawrence Walsh.

Walsh charged the taxpayers $25,000 for breakfast in bed. Tell me, Mr. Speaker, what was he eating? Golden eggs?

It sure as hell was not Wheaties.

Mr. Speaker, Walsh also charged the taxpayers $40,000 for dinners. Who were his dinner guests every night? The Green Bay Packers?

Mr. Walsh and his chief deputy also charged the taxpayers $300,000 for living expenses. Tell me, Mr. Speaker, who was he rooming with, Baron Hilton?

Mr. Speaker, with investigators like that, I think Congress would be much better off hiring Michael Millken.

STILL NO SOLUTION TO OUR DEFICIT AFTER 55 DAYS

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, 55 days have passed since the defeat of the balanced budget amendment by the Democrats in this House.

In its stead, the Budget Committee chairman, Mr. PANETTA, promised, and I quote him: "I will bring to the floor an enforcement procedure to move us to a balanced budget with tough enforcement."

Fifty-five days is more than enough time to initiate a deficit solution. Yet the Democrat leaders, who spoke the loudest against the balanced budget amendment, have been silent since its defeat.

Where are your leaders now, you who voted not to balance the budget? Where is the vote on the plan you promised would solve the deficit, Mr. Committee Chairman?

I will tell you where.

Members who opposed the amendment currently sponsor legislation that would cost the taxpayer about an additional $137 billion. They are too busy making the deficit worse to take time to make it better.

Mr. Speaker, it is high time for accountability. The American people are going to be made aware that the Democrats who control the House of Representatives are the reason this Republican President is held hostage in his attempt to get the economy growing and in his efforts to balance the budget.

A NEW FOUNDATION FOR HEALTH CARE

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute.)

Mr. JOHNSTON of Florida. Mr. Speaker, our existing health care system is fundamentally flawed. It produces soaring costs and fragments our communities. We must challenge ourselves to reconsider the underlying principles—economic, social, and moral—of our health care system.

We need to build a new foundation for health care, a durable foundation integrated in the fabric of our communities. If we are serious about cost containment, we must refocus our health care resources at a local level. We need to build community-based coalitions between patients, doctors, hospitals, and insurers to manage our health care and our health care costs.

America needs a new foundation for health care; America needs community-based health care reform.

FREEDOM OF CHOICE ACT: THE ONLY WAY

(Mr. JONES of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. JONES of Georgia. Mr. Speaker, the American people now have the freedom of reproductive choice and they want to keep it. The Freedom of Choice Act is the only way to assure that Americans will continue to have that right, free from the imposition of Government interference in this most personal and private decision.

The Freedom of Choice Act will allow States to impose regulations that are medically necessary to assure that abortions are performed safely, and it will allow States to prohibit abortions after viability, unless it is necessary to protect the mother's life or health.

Mr. Speaker, our well-intentioned, zealous colleagues who would impose their moral and religious beliefs on others are not respectful of the most basic American belief of individual responsibility. They do not understand that while most Americans do not consider abortion to be an easy choice, they want the right to make that choice themselves, and not have it made by the Government.

LEGISLATION TO ELIMINATE PERKS OF EXECUTIVE BRANCH OFFICIALS

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROEMER. Mr. Speaker, yesterday I introduced legislation that would put an end to wasteful and irresponsible spending on the part of our senior executive officials. The American taxpayers have been forced to finance a variety of extravagances for administration officials, including lavish dining rooms, exclusive athletic facilities, chauffeur-driven luxury vehicles, and—the most egregious offense—flights on military aircraft for personal and political reasons. Abuse of these privileges extends to the highest members of the Bush administration—the President's chief of staff, Samuel Skinner, and his former chief of staff, John Sununu, have cost the taxpayers over $1.7 million in air travel which consisted of personal and political trips combined with official business.

My legislation would eliminate many of the perks that are currently enjoyed by high-ranking executive officials. The bill would place strict controls and reporting requirements on the use of Government aircraft, and it would severely limit the liberal and unnecessary use of chauffeurs, limousines, and other luxury vehicles. It would end Government subsidies for exclusive dining rooms, golf courses, and athletic facilities, and it would compel executive officials to pay a fee for their health care benefits. Lastly, the legislation would stem the growing number of senior executive positions by imposing a 5-percent cut on the number of schedule C and senior executive service appointees.

Mr. Speaker, my legislation would not only save Americans millions of wasted tax dollars, but it would bring integrity and a sense of priorities back to the people of Government. We are currently burdened with an enormous Federal deficit, woefully inadequate investments in education, health care, and technology, and lack of confidence in Government's ability to serve the Nation. If we are to restore the taxpayers' faith in our system of Government, we must start by eliminating these privileges to a privileged few.

I urge my colleagues to join me in supporting this legislation. If we stop this wasteful use of taxpayer money by our senior executive officials, we can start on the road to a more just and responsible government.

GRIDLOCK

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, and my colleagues, few people can remember a time when relations between the White House and the Congress have been as bad as they are at the present time.

And, we realize the Federal Government is in gridlock.

In a five-part series this week in the Washington Post we are reminded that our legislative scorecard thus far might read: The soaring Federal deficit—gridlock; violent crime—gridlock; health care reform—gridlock; campaign finance reform—gridlock, and revitalizing our Nation's schools—gridlock.

Congress blames the Bush administration. The executive branch blames the Congress.

President Bush and the Congress are sliding downward in the polls being taken nationwide.

This is my 18th year in Congress. I've never seen such gridlock—unwillingness by both sides to work together. Disputes in Washington often arise from principled differences over the issues.

But too often these disputes are eclipsed by more self-serving interests, including political gain.

I urge that the White House and we in Congress during the remaining few weeks of this 102d Congress work together to pass meaningful legislation for our people this year and in the future.

□ 1020

SUPPORT URGED FOR HOUSE CONCURRENT RESOLUTION 246 TO SAVE AMERICAN JOBS

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, fiddling like Nero, George Bush is negotiating a trade agreement that will send America's manufacturing jobs to Mexico while our families cry out for jobs and the economic chasm deepens.

Tomorrow, the House will have the opportunity to say no to exporting our good jobs and yes to selling our products abroad. Tomorrow, we will vote on a measure to level the playing field and give the most productive workers in the world—America's workers—a chance.

This measure declares that Congress will not agree to any trade agreement that allows the exploitation of our environmental, health, and worker safety laws as a means to export the jobs of American workers.

For far too long, unfair trade has been very costly to our Nation. A steel depression in my northwest Indiana district has cost more than 38,000 jobs. We must insist that any new agreements are fair to our workers, our families, and our Nation's future.

President Bush should make no mistake about it; we will not support a sellout of the middle class and the American dream.

INTRODUCTION OF THE VACCINE ACCESS AND REGISTRY ACT

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, it is unconscionable to me that so many American children are becoming sick and so many children are dying of diseases which can be easily prevented by vaccines.

In many neighborhoods which I represent in upstate New York, 40 percent of our 2-year-olds are behind on scheduled vaccinations. Babies are getting sick with whooping cough and meningitis at a rate of more than a case every week.

Why? One reason, documented recently by the children's defense fund, is the skyrocketing cost of children's vaccines. Physicians in New York and most other States, for example, must pay over $13 a dose for polio vaccine which could be purchased in bulk by States for as little as $2 a dose.

The high cost of vaccines is forcing some parents to choose between getting their babies vaccinated and putting food on the table.

I am introducing today the Vaccine Access and Registry Act. Under this bill every family in America could afford to have their children vaccinated. Under this bill, States will be able to purchase vaccines at a bulk rate, saving more than 75 percent of the retail price.

We save at least $10 in health care costs for every $1 spent for vaccines. With this legislation we can make critical vaccines available to every child in America at the lowest possible cost.

WE CANNOT AFFORD 4 MORE YEARS OF GEORGE BUSH

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. And now in the twilight of his Presidency, Mr. Speaker, George Bush would have us believe he is dedicated to creating American jobs. The people I represent in Illinois know better. They know that the Reagan-Bush trade policies have gutted the industrial Midwest. In Illinois we have lost 21 percent of our manufacturing jobs during the Reagan-Bush Presidency. The Reagan-Bush approach leaves American college graduates hopelessly searching for good-paying jobs, and the Bush policies have destroyed the confidence of consumers and businessmen. Mr. Speaker, when our country needs an aggressive policy to keep and create good jobs, President Bush proposes a new Mexican trade agreement to grease the skids for more jobs to head south of the border.

The President and his Republican Party would like to blame Congress for these problems, but it is the classic Republican dogma of supply-side economics and economic elitism that has brought us this mess.

As a fellow told me last week in Illinois, "We just can't afford 4 more years of George Bush."

ONE BILL THE PRESIDENT CANNOT VETO

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I say to my colleagues, if you're not awake this morning, pick up the Washington Post and read the profile of President Bush's man for family planning. This is a real wakeup call to America because the gentleman the President has appointed and put in charge of family planning doesn't believe in family planning, doesn't even believe in the birth control pill that's been around since 1960. These kinds of zealots are the reason that they have imposed the gag rule, the reason that we've seen veto after veto, and the reason that we've seen more people having to resort to abortion, whether they wanted to or not, because safe, available, user-friendly family planning has not been made available in this country.

Mr. Speaker, the United States and Saudi Arabia were called by the World Council on Population the two nations that went backward on family planning in the 1980's, thanks to appointments like this. Well, thank goodness for Bill Clinton because he is one Bill that the President cannot veto, and we know he is going to be a lot more enlightened on this and appoint people who are in touch with the 20th century and not living in the 19th.

CHARACTER IS AN ISSUE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Well, well, well, well, here we go again, Mr. Speaker, discussing politics in the well of the House, bashing our President and praising Gov. Bill Clinton. Let me tell the gentlewoman from Colorado something:

We all know the Gennifer Flowers story was true. I've heard the tapes, believe me, there is not a newsperson in the whole world who's heard the audio tapes or read the hard copy who believes Flowers was merely "a friendly acquaintance." Clinton's laughable term of endearment.

Gennifer Flowers will probably be in Playboy magazine in January for the inauguration issue, win or lose. According to the news, she has signed a $500,000 contract with Penthouse to be in the November election issue. How utterly weird. If this man Clinton is elected, my colleagues, your high school kids and junior high school kids will certainly have a supernegative role model in the White House, because of what his own senior guru Betsy Wright calls bimbo eruptions. Mr. Speaker and colleagues, character is an issue, maybe the key issue.

I hold here the draft dodger's December 3, 1969, letter to Col. Eugene Holmes, at that time commander of the University of Arkansas' ROTC.

President Bush's deputy campaign manager Mary Matalin is correct. Governor Clinton is a world no-class womanizer/adulterer, and has told bold-faced lies about it. And he is a classic draft dodger. I believe character is the most important issue in the race for the White House and as an issue will increase in intensity as a national point of focus.

Mary Matalin is certainly my hero in the Bush campaign, because she has the guts to tell the truth about this slick Governor who has raised taxes 128 times in Arkansas. The dominant media culture, Mr. Speaker, does not believe adultery counts. That is, of course, a Hollywood deeply held evil belief—the Hollywood left, that is. And the liberal left of course does not care about draft dodging at all. The liberal media dweebs just about all dogged it during the Korean and Vietnamese fighting. Just check out dominant media culture executives in their midforties to midfifties and ask their branch of service. You'll get a long stare and the rare exception proves the rule. They didn't go to Vietnam or NATO and, by the way, only 4 percent ever go to church. If the Bush-Quayle campaign people are going to shy away from taking on this critically important character issue, then I will carry the heavy water for them.

This disgraced draft dodger is not going to be elected Commander in Chief if this California Congressman has any way under the Sun to stop him.

Mr. Speaker, can any of my colleagues gainsay the facts?

Mr. Speaker, as I did last Thursday, July 30, I ask permission to put into this House's permanent historical record, Governor Clinton's whining and dishonorable letter to Col. Eugene Holmes admitting that he deceived that Army officer in order to cause a third, repeat a third, young-Arkansas man, repeat man, to replace Clinton in the draft quota for Hot Springs. The other young heroes stepped forward for the dodger in June 1968 and April 1969. Read it and weep, loyal Americans.

UNIVERSITY COLLEGE,
Oxford, England, December 3, 1969.

DEAR COL. HOLMES: I am sorry to be so long in writing. I know I promised to let you hear from me at least once a month, and from now on you will, but I have had to have some time to think about this first letter. Almost daily since my return to England I have thought about writing, about what I want to and ought to say.

First, I want to thank you, not just for saving me from the draft, but for being so kind and decent to me last summer, when I was as low as I have ever been. One thing which made the bond we struck in good faith somewhat palatable to me was my high regard for you personally. In retrospect, it seems that the admiration might not have been mutual had you known a little more about me, about my political beliefs and activities. At least you might have thought me more fit for the draft than for ROTC.

Let me try to explain. As you know, I worked for two years in a very minor position on the Senate Foreign Relations Committee. I did it for the experience and the salary but also for the opportunity, however small, of working every day against a war I opposed and despised with a depth of feeling I had reserved solely for racism in America before Vietnam. I did not take the matter lightly but studied it carefully, and there was a time when not many people had more information about Vietnam at hand than I did.

I have written and spoken and marched against the war. One of the national organizers of the Vietnam Moratorium is a close friend of mine. After I left Arkansas last summer, I went to Washington to work in the national headquarters of the Moratorium, then to England to organize the Americans here for demonstrations here Oct. 15 and Nov. 16.

Interlocked with the war is the draft issue, which I did not begin to consider separately until early 1968, for a law seminar at Georgetown. I wrote a paper on the legal arguments for and against allowing, within the Selective Service System, the classification of selective conscientious objection, for those opposed to participation in a particular war, not simply to "participation in war in any form." From my work I came to believe that the draft system itself is illegitimate. No government really rooted in limited, parliamentary democracy should have the power to make its citizens fight and kill and die in a war they may oppose, a war which even possibly may be wrong, a war which, in any case, does not involve immediately the peace and freedom of the nation. The draft was justified in World War II because the life of the people collectively was at stake. Individuals had to fight, if the nation was to survive, for the lives of their countrymen and their way of life. Vietnam is no such case. Nor was Korea, an example where, in my opinion, certain military action was justified but the draft was not, for the reasons stated above.

Because of my opposition of the draft and the war, I am in great sympathy with those who are not willing to fight, kill, and maybe die for their country (i.e., the particular policy of a particular government) right or wrong. Two of my friends at Oxford are conscientious objectors. I wrote a letter of recommendation for one of them to his Mississippi draft board, a letter which I am more proud of than anything else I wrote at Oxford last year. One of my roommates is a draft resister who is possibly under indictment and may never be able to go home again. He is one of the bravest, best men I know. His country needs men like him more than they know. That he is considered a criminal is an obscenity.

The decision not to be a resister and the related subsequent decisions were the most difficult of my life. I decided to accept the draft in spite of my beliefs for one reason: to maintain my political viability within the system. For years I have worked to prepare myself for a political life characterized by both practical political ability and concern for rapid social progress. It is a life I still feel compelled to try to lead. I do not think our system of government is by definition corrupt, however dangerous and inadequate it has been in recent years. (The society may be corrupt, but that is not the same thing, and if that is true we are all finished anyway.)

When the draft came, despite political convictions, I was having a hard time facing the prospect of fighting a war I had been fighting against, and that is why I contacted you. ROTC was the one way left in which I could possibly, but not positively, avoid both Vietnam and resistance. Going on with my education, even coming back to England, played no part in my decision to join ROTC. I am back here, and would have been at Arkansas Law School because there is nothing else I can do. In fact, I would like to have been able to take a year out perhaps to teach in a small college or work on some community action project and in the process to decide whether to attend law school or graduate school and how to put what I have learned to use.

But the particulars of my personal life are not nearly as important to me as the principles. After I signed the ROTC letter of intent I began to wonder whether the compromise I had made with myself was not more objectionable than the draft would have been, because I had no interest in the ROTC program in itself and all I seemed to have done was to protect myself from physical harm. Also, I began to think I had deceived you, not by lies—there were none—but by failing to tell you all the things I'm writing now. I doubt that I had the mental coherence to articulate them.

At that time, after we had made our agreement and you had sent my 1-A deferment to my draft board, the anguish and loss of self respect and self confidence really set in. I hardly slept for weeks and kept going by eating compulsively and reading until exhaustion brought sleep. Finally, on September 12, I stayed up all night writing a letter to the chairman of my draft board, saying basically what is in the preceding paragraph, thanking him for trying to help me in a case where he really couldn't and stating that I couldn't do the ROTC after all and would he please draft me as soon as possible. I never mailed the letter, but I did carry it on me every day until I got on the plane to return to England. I didn't mail the letter because I didn't see, in the end, how my going in the army and maybe going to Vietnam would achieve anything except a feeling that I had punished myself and gotten what I deserved. So I came back to England to try to make something of this second year of my Rhodes Scholarship.

And that is where I am now, writing to you because you have been good to me and have a right to know what I think and feel. I am writing too in the hope that my telling this one story will help you to understand more clearly how so many fine people have come to find themselves still loving their country but loathing the military, to which you and other good men have devoted years, lifetimes, of the best service you could give. To many of us, it is no longer clear what is service and what is disservice, or if it is clear, the conclusion is likely to be illegal.

Forgive the length of this letter. There was much to say. There is still a lot to be said, but it can wait. Please say hello to Col. Jones for me.

Merry Christmas.

Sincerely,

BILL CLINTON.

CRIMES OF OMISSION

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, the real point here is that around the Nation, the people of this Nation are afraid.

Our young people are afraid to go to school.

Our women are afraid to walk the streets.

And our senior citizens are afraid to leave their homes.

They are afraid of the extraordinary number of crimes that are being committed. They have lost their rights as citizens to move about freely and without fear.

But in Washington, what does our President, the recent convert to the credo of change, do?

He commits a crime of omission.

He blocks the omnibus crime bill designed to do what is right: Catch, convict, and can those who break this Nation's laws.

He blocks more policemen for our streets.

He blocks severe sentences for violent offenders.

He blocks tough boot camps for first-time offenders.

He blocks new measures to keep our children safe at school.

And yes, he kowtows to special interests by blocking a reasonable waiting period for the purchase of handguns.

Mr. Speaker, if we are to regain control of our neighborhoods, we need a President who will take control of the national agenda—a President who will move us forward rather than running in place.

We need a President who will fight back hard against crime, not aid and abet the criminals by standing in the way of positive change.

□ 1030

PROVIDING FOR CONSIDERATION OF H.R. 5334, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 537 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 537

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 8 of rule XXI are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 5(a) of rule XXI are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed and only by the named proponent or a designee, shall be considered as read when offered, shall be debatable for 20 minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments printed in the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MURTHA). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 537 is a modified open rule providing for the consideration of H.R. 5334, the Housing and Community Development Act of 1992.

The rule waives points of order against consideration of the bill under clause 8 of rule XXI, which requires a Congressional Budget Office estimate to be included in any measure providing for changes in direct spending or receipts.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance, and Urban Affairs.

Further, the rule makes in order the Banking, Finance, and Urban Affairs Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purposes of amendment. Points of order under clause 5(a) of rule XXI, which prohibits appropriations in a legislative bill, are waived against the substitute.

No amendments to the substitute are to be in order except those printed in the report of the Committee on Rules. The amendments are each debatable for 20 minutes and are not subject to amendment nor to a demand for a division of the question. All points of order are waived against the amendments in the report.

The amendment to be offered by Chairman GONZALEZ is an en bloc amendment made up of 14 separate amendments which have been accepted by the bipartisan leadership of the Committee on Banking, Finance, and Urban Affairs. The amendment to be offered by Representative TORRES would require Truth in Lending disclosures for mortgage refinancing.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 5334, the bill for which the Rules Committee has recommended this rule, reauthorizes much needed programs of the Department of Housing and Urban Development and the Farmer's Home Administration.

Despite the valiant leadership of the Banking Committee and Chairman GONZALEZ, housing opportunities for low-income families in this Nation remain scarce. Coupled with the decline in safe, affordable housing is the breakdown of community infrastructures. H.R. 5334 seeks to meet these needs through expanded housing resources and community development programs to help restore the vitality of our Nation's neighborhoods.

The HOPE for youth: Youthbuild Program created in H.R. 5334 combines these worthy goals. Youthbuild would employ the skills and energies of economically disadvantaged young adults to build permanent housing for the homeless and low income families. The results of the hands-on Youthbuild Program will be tangible: Affordable housing, and a trained, educated work force of young adults who are directly involved in helping their communities.

H.R. 5334 also authorizes $3.4 billion for the community development block grants, including funding for microenterprises to foster self-sufficiency and economic development initiatives in depressed urban and rural areas. Like the Youthbuild Program, this represents a vital investment in the future of our communities.

Mr. Speaker, I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this most important legislation.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very sad day for me for two reasons. First, this is the last housing bill that will come before us under the leadership of the distinguished ranking Republican member of the Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio [Mr. WYLIE], who will retire at the end of this session. He has done a terrific job and will be sorely missed.

The second reason has to do with the fact that I served on the Committee on Banking, Finance and Urban Affairs for nearly a decade, and I have come to admire the chairman of that committee, the gentleman from Texas [Mr. GONZALEZ], for his fairness. That is why I am concerned about the fact that this is the first time since the gentleman from Texas [Mr. GONZALEZ] took over the chairmanship of the Subcommittee on Housing in 1981 that we are faced with a closed rule on a major housing bill. Granted, many of the amendments that were submitted to the Committee on Rules yesterday are included in the en bloc amendment that will be offered by the chairman of the committee.

One of those amendments, Mr. Speaker, would significantly improve the single-family property disposition homeless initiative, and I want to thank Chairman GONZALEZ for including that in his en bloc amendment.

Regrettably, Mr. Speaker, there are two important amendments that are neither contained in the en bloc amendment nor permitted under this rule. One amendment would cap the potential environmental liability of mortgage lenders and insured depository institutions that acquired contaminated property through such means as foreclosures or by operation of law but did not cause the underlying environmental problem.

The amendment is similar but actually a more tempered version of the bill introduced by our colleague, the gentleman from New York [Mr. LAFALCE], which currently has, Mr. Speaker, 271 cosponsors. Let me repeat that. There are 271 cosponsors on Mr. LAFALCE's bill, which is similar to the amendment which I hope to offer. A similar amendment passed the Senate twice with broad bipartisan support and with no opposition at all.

Mr. Speaker, this housing bill offers one of the few chances we will have this year to address what Federal Reserve Board Chairman Alan Greenspan has stated is a major contributor to the so-called credit crunch.

Most of my colleagues also agree that this problem needs to be addressed, yet legislation to limit liability has languished in this body for more than 2 years. Now is the time to act, Mr. Speaker, and I urge my colleagues to join with me in defeating the previous question so that my amendment can be considered as a part of H.R. 5334.

A second and equally important amendment not made in order by this rule is one offered by three very hardworking gentleman, the gentleman from Louisiana [Mr. BAKER], the gentleman from Georgia [Mr. BARNARD], and the gentleman from North Carolina [Mr. NEAL]. The three of them made a compelling case before the Committee on Rules yesterday on the need for their amendment to rectify a serious problem undermining the solvency of the Federal Home Loan Bank System. The problem has led to declining earnings, which threaten the ability of the bank system to provide mortgage lending to low-and moderate-income families. It is a problem that can no longer be ignored.

Mr. Speaker, this rule fails to make in order a number of other very relevant and germane amendments that would strengthen the bill and ensure strong bipartisan support. Two such amendments were offered by my hardworking colleague, the gentleman from California [Mr. RIGGS], a member of the Committee on Banking, Finance and Urban Affairs.

It has become increasingly apparent to me, Mr. Speaker, that my colleagues on the other side of this aisle may actually not want a housing bill. The administration has threatened to veto H.R. 5334 in its form, and the rule denies us the chance to offer amendments which can in fact get the President to sign this bill.

One way to achieve that strong bipartisan support is to vote down the previous question so that my amendment to cap the environmental liability of lending institutions can be contained as part of H.R. 5334.

Again, Mr. Speaker, I urge a "no" vote on the previous question.

Mr. Speaker, I reserve the balance of my time.

☐ 1040

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I thank the chairwoman for yielding.

Mr. Speaker, I support the rule and I will support the bill. I want to commend Chairman GONZALEZ and Vice Chairman WYLIE. It is his last year here in the Congress. The gentleman has been a great Member from Ohio, and we will surely miss him.

I want to thank these gentlemen for including two of my amendments in the en bloc amendments that this rule does cover. I also want to give thanks to Frank DeStefano of the committee who worked very hard with my staff and other Members around the Congress trying to develop some of their housing programs.

When I came to Congress I tried to do something about foreclosures. As sheriff, I had to evict an awful lot of steelworkers who ended up losing their homes, who had 25-year mortgages and had paid 15 or 20 years at 6 percent, and those interest rates were up to 22 percent and all of a sudden, bang, the banks—1 or 2 months of missed payments—foreclosed on their homes.

So when I came here I introduced the Emergency Home Ownership Counseling Assistance Act, and, with the help of the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE], much of that has been made law in the form of amendments into these housing bills.

Now the bank must give a 45-day notice. Now there is a monetary agency that monitors the banks so they give that 45-day notice. Now there are grants to nonprofit agencies who counsel families who have foreclosure problems.

The Washington Post said that they have been able to sit down, these nonprofit agencies, and intervene and help to save the family homes. It is also saving about $27,000 each time a mortgage is saved and wards off a foreclosure.

In addition to that we have created an 800 number for people who have trouble with their mortgage payments. All they have to do now is call that 800 number and there is an agency out there that will sit down with the homeowner, sit down with the bank or the lender, and work out a payment schedule, and it is working.

But what my amendment does today, and I thank the amendment for, is some of these housing counseling agencies have not really had training. Some of them are great, great counselors, but there are others just coming on board that need more knowledge about mortgages, more knowledge about tenancy laws, rental laws, more knowledge about our Federal requirements, and Federal laws and stipulations.

In that regard they have included in this particular bill an amendment that would require the certification of these housing counselors. HUD, the Department of Housing and Urban Development, must set up a program and hire an agency to provide this training program for housing counselors all over America.

Mr. Speaker, let me say this: This is a good piece of legislation. We have had some good housing bills, but if we are going to stop foreclosure, we are going to have to provide some assistance to the American people. I think we are doing it without a lot of money, we are doing it with a good program, not cash, and it makes sense.

The second amendment is a buy American amendment that deals with fraudulent labels. If you have a housing contract in America, and you have a buy American agreement, and you are supposed to buy those products in America, if you say they are made in America, make sure they are really made in America, or my language will have you handcuffed to a chain link fence and have you flogged. Madam Chairwoman, that is what this one does, and thank you for including my two amendments in the en bloc amendments.

Mr. DREIER of California. Mr. Speaker, the gentleman from Ohio [Mr. WYLIE] has served as ranking minority member of the Committee on Banking, Finance and Urban Affairs for a decade, and has done a terrific job. This is the last housing bill that will be considered under the leadership of the gentleman, and we will sorely miss him.

Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I thank my friend, the gentleman from California [Mr. DREIER], who served with distinction on the Committee on Banking, Finance and Urban Affairs before he went to the Committee on Rules, for yielding the time, and also for his gracious remarks concerning my service on the Committee on Banking, Finance and Urban Affairs and my work on housing legislation.

I want to thank the gentleman from Ohio [Mr. TRAFICANT] for acknowledging the work that we have done and for the fact that the gentleman does have two amendments in here which I think are very worthwhile and which I supported.

Mr. Speaker, I rise in support of the rule which the Committee on Rules has recommended for H.R. 5334, the Housing and Community Development Act of 1992.

Normally, I favor an open rule on all bills. As a general principal, I think the process works best when Members—Democrats and Republicans alike—are allowed to offer amendments they deem worthwhile. However, after discussing the issue at length with Chairman GONZALEZ and the chairman of the Committee on Rules and after taking into consideration our legislative schedule and the desirability of passing a housing reauthorization bill, I think that a structured rule for H.R. 5334 is necessary.

I would like to say that Chairman GONZALEZ has been most accommodating in his willingness to work with the minority in fashioning a manager's amendment that we believe adequately addresses most of the concerns of Members who filed amendments and addresses most, not all, but most of the concerns of the administration. Although I had hoped that all of the amendments filed would be made in order, I must say that I understand why some were not. And those that were not are controversial for reasons on which reasonable people can differ. I favored the amendment the gentleman from California refers to with reference to lender liability for environmental cleanup. The issue of the jurisdiction of the Energy and Commerce Committee comes into question. That is an issue which could reduce the chances of passing the bill, not so much on the merits but on procedure and form.

Among the amendments included in the manager's amendment are two I filed on behalf of the administration. One would provide for a 4-percent across-the-board reduction in authorized amounts; another would strike the provisions in the bill which consolidate the section 8 voucher certificate programs. In addition, the chairman and I were able to agree on a flat 20-percent matching requirement for the HOME Program.

I want to reiterate that normally I favor open rules on all bills, but there are enough good provisions in this bill to keep the process of authorizing housing legislation moving. This rule is probably the best, given the complexity of housing legislation, the Committee on Rules could draft. Chairman GONZALEZ and I are of the same opinion that what is important now is to keep the process moving. Accordingly, I support adoption of the rule so that we may proceed directly to consideration of H.R. 5334, the Housing and Community Development Act of 1992.

Mr. DREIER of California. Mr. Speaker, I yield 4 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], the distinguished ranking member of the Subcommittee on Housing and Community Development.

Mrs. ROUKEMA. Mr. Speaker, I rise in reluctant opposition to this rule on H.R. 5334, the Housing and Community Development Act of 1992.

Normally, housing authorization bills are accompanied by an open rule so that Members would have the opportunity to address issues of concern in an uninhibited and unencumbered manner. Indeed some of the amendments had merit.

Yesterday, at the Rules Committee hearing, I did testify in support of an open rule. However, I can appreciate the concerns expressed by the committee and the leadership that with so few legislative days remaining, we must work expeditiously to move bills through the floor.

While opposed to the rule, I do support the bill:

Now, let me turn briefly to the administration's position on this bill because later in general debate we are likely to hear that the administration is opposed to this bill in its current form.

I regret that the administration has taken this position on such an important piece of legislation.

Yesterday, in the middle of the Rules Committee hearing on this bill, we were presented with the statement of administration policy [SAP] which expressed opposition to the bill.

This statement is almost identical to a letter the chairman of the Housing Subcommittee received from HUD as we reported out H.R. 5334 and reviews the same arguments which have been presented, debated, and rejected by the Banking Committee.

It is truly a shame that very important programs in this bill, including the streamlining of the McKinney Homeless Programs, and the extremely important remedy we have included for the problem of mixing the disabled and mentally ill with the elderly in public and assisted housing. These are major concerns which must be addressed ASAP and in my opinion override the administrations objections.

But perhaps more than that, at a time when the administration is being buffeted by bad news at the polls and in the economy, a bill like this which does promote economic activity and will create jobs is being downplayed.

Not only does this bill reauthorize important housing programs such as the HOME Partnership created 2 years ago which will help lead to the creation of much needed new home construction and rehabilitation jobs, but it also includes programs such as the CDBG Program which will help create additional infrastructure jobs at the local level.

In addition to the economic stimulation and job creation implications of this bill, H.R. 5334, and the leadership amendment coming up, also includes many initiatives proposed by HUD itself. These include: Choice in tenant management, 1-for-1 public housing replacement, cutoff of subsidy for vacant housing, safe havens, vouchers and certificates for home ownership, lower spending levels, and a modified plan to help remove barriers to affordable housing.

I appreciate the Secretary's disappointment with the funding level for his HOPE Program. But, what is wrong with a $400 million authorization for a home ownership which is just 1-year-old and has no record of success?

I support Secretary Kemp's argument over the prohibition on the 57-percent closing cost rule for FHA mortgages. But we tried twice to reverse that and we lost.

Finally, the concern for the HOME match is laudable but a significant improvement over current match requirement.

Clearly, the very important housing programs in this bill, the potential economic stimulation, and the gains made on behalf of the administration far outweigh the few remaining concerns.

Mr. Speaker, I urge support for this legislation.

☐ 1050

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

I would like to take a personal moment to add my own sorrow that the gentleman from Ohio [Mr. WYLIE] is leaving. In the three terms that I have been here, I have come to respect him greatly for his hard work, his dedication, and his friendship.

Not only will we miss him here in the House, but he will be missed by the people of the country.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

I would like to join in associating my remarks with the gentlewoman from New Jersey [Mrs. ROUKEMA], who very accurately points to one of the problems that we have with this bill. While she is not as concerned about it as I am, it is the question of funding for HOPE, which I think Secretary Kemp wants us to address.

We went through a major battle on the appropriations bill that was here just recently, and it seems to me that if we are going to provide an opportunity for 80,000 low-income Americans to have the chance to attain the American dream of home ownership, it is essential that we move ahead in a bold and very dynamic way to try and provide that opportunity for them to attain the dream.

I would also like to expand further on the issue which I am going to raise in my attempt to defeat the previous question here. As we look at some of the quotes that were provided in testimony by the Chairman of the Federal Reserve Board, Alan Greenspan, it is very striking that he believes that a major part of the credit crunch is due to this question of lender liability.

What he said in testimony 6 months ago in the Senate, he said:

> In the surveys that we have taken through our various Federal Reserve Banks, we have clearly concluded that lender liability is a factor in the restraint of credit.

While I know there has been a commitment by a number of Members here to try and move ahead with dealing with this legislation, as I said in my opening remarks, 271 bipartisan cosponsors, it passed the Senate without any opposition whatsoever, and yet Chairman Greenspan's statement was as follows:

> I would hope that the lender liability issue can be resolved as expeditiously as one can do it through the legislative process.

That was delivered on January 29 of this year, fully 6 months ago.

So it seems to me that this is our one opportunity to deal with a pressing issue that is facing our financial markets and those who are trying to have the opportunity to own property.

Mr. Speaker, I yield 4 minutes to the gentleman from Westerville, OH, Mr. KASICH, who has done a great deal of work on this issue. He is adjacent to the gentleman who is the ranking member of the committee from Columbus, the gentleman from Ohio [Mr. WYLIE].

Mr. KASICH. Mr. Speaker, I appreciate the gentleman yielding time to me.

This comes from the July 26 Columbus Dispatch, a story that appeared there datelined Chicago:

> You will forget her name. You will forget her face. And the last mark she left—a blood stain on the pavement in front of her apartment building at Cabrini-Green—was washed away Friday.
>
> Late Thursday, Laquanda Edwards lost her dream to flee the random violence she so feared. Her mother will never be able to answer the plea her 15-year-old daughter made just Monday:
>
> Momma, please, get me out of here.
>
> Laquanda Edwards was shot once in the back of the head by a sniper in the heart of the Chicago Housing Authority's Cabrini-Green housing complex.
>
> She was on her way to a store to pick up a bottle of milk.
>
> She became part of a grim roll call that includes Rachel Durr, 19, shot in the head last summer as she crossed a street; Anthony Felton, 9, shot in the back as he stood with friends; Winston Edwards, 22, shot in the face.
>
> There are at least half a dozen more. The list of wounded is longer.

This is unbelievable, my colleagues. This is not Iraq, and it is not Sarajevo, and it is not Bosnia. It is a housing complex in Chicago, IL.

When my colleagues read this article, the entire article, which I will put in the RECORD, they will all be shocked with what they see.

I want to take a few minutes to compliment the gentleman from Texas [Mr. GONZALEZ] and my friend, the gentleman from Ohio [Mr. WYLIE], for the effort they make in the housing programs. I think they have some good ideas in this bill.

I think the former Member from New York, Mr. Kemp, his ideas on HOPE, I think, are excellent ideas.

But I want to say to my colleagues today that we are not even scratching the surface. This is a war that is going on in our cities. It is a war that literally threatens all of us. It is a war that is threatening the next generation of Americans who, believe it or not, cannot go outside of their apartments at night fearful that in this public housing complex—and it is not unique in America—that some sniper who is dealing drugs on the top of some building is going to shoot them.

We need a Desert Storm attitude when it comes to solving the problems in these inner cities and solving the problems when it comes to public housing, solving the problems when it comes to housing for all people in this country.

Is it going to take more money? Of course, it is going to take some money. There is no question about it.

I voted for the urban aid emergency package. Some of my colleagues did not, thought money was wasted. Probably some of that money will be wasted, because some of that money was passed through outdated, outmoded bureaucratic structures.

What we are going to have to do in this country and what we are going to have to do in this Congress is to work together, Republicans and Democrats, to break down conventional thinking, to begin to think unconventionally in somewhat radical terms, in terms of not only how we spend money but what ideas we develop, what unconventional, imaginative, human spirit-oriented ideas that we can develop in this country that can begin to solve this problem, that can begin to allow us to win a war against this kind of random violence that is not even imaginable in the United States of America.

So while I intend to support the efforts of the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE] and continue to support the efforts of Mr. Kemp, none of it is enough.

We have got to free ourselves from conventional thinking, and we have got to put aside partisan politics as we enter this next Congress and develop unique ideas for not only saving ourselves but saving the children of this country.

Mr. Speaker, I include for the RECORD a copy of the article from which I quoted.

[From the Columbus Dispatch, July 26, 1992]

DREAM IS SHATTERED BY GUNMAN

CHICAGO.—You will forget her name. You will forget her face. And the last mark she left—a blood stain on the pavement in front of her apartment building at Cabrini-Green—was washed away Friday.

Late Thursday, Laquanda Edwards lost her dream to flee the random violence she so feared. Her mother will never be able to answer the plea her 15-year-old daughter made just Monday:

"Momma, please, get me out of here."

Laquanda Edwards was shot once in the back of the head by a sniper in the heart of the Chicago Housing Authority's Cabrini-Green housing complex.

She was on her way to a store to pick up a bottle of milk.

On Friday, in the cramped apartment Laquanda Edwards shared with her mother and three brothers, Lueella Edwards stared at a photo of her smiling daughter clutching a diploma at her recent 8th-grade graduation.

HER DREAM WAS TO MOVE

"It was the first part of the ticket out of here," Lueella Edwards said. "She would say, 'I just want to be free to walk outside.'

"She wanted to move to Palatine. That was her dream every day. This week she was sadder than ever, and on Monday she just said she couldn't take it anymore."

But like the others who have died on the streets surrounding the notorious Cabrini-Green housing complex, Laquanda Edwards' hopes were lost to a faceless killer.

She became part of a grim roll call that includes Rachel Durr, 19, shot in the head last summer as she crossed a street; Anthony Felton, 9, shot in the back as he stood with friends; Winston Edwards, 22, shot in the face.

There are at least half a dozen more. The list of wounded is longer.

AN AMERICAN WAR ZONE

These aren't the war-torn streets of Sarajevo, but the fear of lurking snipers is the same. Perched above the complex's sidewalks and playgrounds, they sit in abandoned high-rise apartments armed with high-powered rifles fitted with telescopic sights.

They pick their targets at random as soon as the sun begins to set.

The culprits are gang members, police and residents say, teenagers with too much time on their hands and little hope of leaving public housing. They use fear and intimidation to protect the drug trade on their turf. They control buildings unsecured by Chicago Housing Authority patrols, wielding weapons with impunity.

Police sources say the shot that killed Edwards most likely came from the upper floors of a partially occupied 11-story building controlled by two of Cabrini-Green's most powerful gangs. Cabrini-Green residents call it "snipe tower," a favorite nest for killers.

"You can't go out at night near there," said Michael, 15. "They have Uzis, deer rifles, Tech-9s. They just sit up there and spray.

"If you're out there, you're dead."

LEAVING IS ONLY WAY OUT

Chicago Housing Authority officials acknowledge the danger but say they can offer no solutions other than the periodic security sweeps that usually net only a handful of firearms.

"Cabrini is a reflection of the city at large," said Robert Whitfeld, the Chicago Housing Authority's chief operating officer. "Just this morning we had a report of a police car being sniped at on State Street.

"If they are sniping at police cars, they'll shoot at everything. It's unfortunate and I'm sorry. If we lose one resident a year, that is too many. But it is a problem we do not know how to solve. We don't have enough police and adequate security. Unfortunately, the only solution is to leave."

Laquanda Edwards knew that. Her mother took a summer job as a janitor to help her family earn enough for the $525-a-month rent they needed to move to Palatine, where her brother and sister-in-law live.

But by Friday night, Laquanda's belongings had been cleared out of the bedroom she shared with her mother.

"I threw them all away," Lueella Edwards said. "My baby wanted so badly to get out of here, and now she is gone."

□ 1100

Mr. DREIER of California. Mr. Speaker, I yield 6½ minutes to the gentleman from Baton Rouge, LA, Mr. BAKER, who was a coauthor of this very important amendment, which unfortunately was not allowed. That is one of the reasons we want to defeat the legislation.

Mr. BAKER. Mr. Speaker, regrettably, the House Rules Committee failed to make an order on an amendment that I have proposed with many other hard working members to modernize the Federal Home Loan Bank System.

At both the subcommittee and full committee mark up of the Housing and Community Development Act of 1992, we discussed and proposed legislation in the form of an amendment to modernize the Federal Home Loan Bank System. At the request of the chairman, we withdrew this proposal for consideration at a later date. We strongly believe that the Federal Home Loan Bank Modernization Act of 1992 should be a component of any legislation to enhance housing opportunities during the 102d Congress, whether it be the housing reauthorization or the Government sponsored enterprises legislation.

Throughout several hearings this year, including those for H.R. 4073, the Emergency Community Development Act of 1992; those for H.R. 5334, the Housing and Community Development Act of 1992; and those 3 days of hearings on H.R. 4973—now amended and perfected—the Federal Home Loan Bank Modernization Act of 1992, we have underscored the problems of the Federal Home Loan Bank System: Declining advances, declining earnings, declining dividends, and declining savings association membership. In addition to directly impacting the availability of housing related finance in the financial marketplace, these results directly impact the percentage of the Federal Home Loan Bank System [FHLB System] earnings that are dedicated to the Affordable Housing Program [AHP] and the Community Investment Program [CIP].

We have the opportunity this year to modernize the FHLB System and to accomplish the following goals: First, to enhance the availability of housing related finance so that more people may realize their dream of homeownership; second, to equalize the antiquated membership rules so that they may reflect the current market participants in housing related finance; third, to increase the earnings of the Federal Home Loan Bank System; and, fourth, to strengthen existing AHP and CIP programs by restoring the System to profitability.

The FHLB System dates back to 1932 when 12 regional banks were first established to enhance the availability of housing related finance during difficult economic times. The role of the FHLB System has changed dramatically over the past 60 years. Prior to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA], the Federal Home Loan Bank Board served the savings and loan industry as a regulator [the Board], as an insurer—Federal Savings and Loan Insurance Corporation or FSLIC—and as a provider of funds—the regional banks. FIRREA transferred the roles of the regulator of the savings associations and of the district FHLB's to the Office of Thrift Supervision [OTS] and to the Federal Housing Finance Board [FHFB] respectively. Finally, FIRREA transferred the role of the insurer for savings associations to the Federal Deposit Insurance Corporation [FDIC]. Today the FHLB System provides loans, called advances to member savings associations, commercial banks, community banks, credit unions and insurance companies for residential housing finance. The System also provides interest rate risk management services, provides annual funding for the savings and loan rescue, and finances programs for affordable housing.

Regrettably, the FHLB System's profitability has steadily declined over the past several years. In 1989, the FHLB System posted record earnings of $1.8 billion. In 1990, the figure dropped to $1.43, and then to $1.15 billion in 1991. By most every approximation, the earnings this year will total only $700 million to $800 million. The first reason for this decline is that the membership of the FHLB System was historically, and is currently, geared predominantly toward the savings and loan industry. The number of savings and loans has dropped from 2,934 at the time of FIRREA, to same 2,100 today. The OTS further expects that the total number of savings associations will be approximately 1,800 after the industry contraction is complete. While savings and loans once dominated the housing finance industry, commercial banks and community banks have now steadily outpaced them. The FHLB System must be modernized to accommodate these changes.

The second drain on the FHLB System's profitability is its yearly $300 million contribution to pay off a designated percentage of the interest on the obligations of the Resolution Funding Corporation [REFCORP] which provides independent funding for the RTC. FIRREA structured this payment so that the FHLB System initially contribute the aggregate amount of systemwide retained earnings at the time of FIRREA, which amounted to $2.1 billion, and then follow on a yearly basis with a fixed $300 million assessment. As originally contemplated in FIRREA, this fixed assessment amounted to 20 percent of systemwide earnings. Because of the declining membership and earnings of the FHLB System today, this fixed contribution now amounts to approximately 34 percent of the System's earnings and may far exceed 40 percent next year.

Our legislative proposal, the Federal Home Loan Bank Modernization Act of 1992, restores profitability, provides access to those genuinely in the business of housing related finance, and enhances existing AHP and CIP programs.

First, our legislation provides for equal voluntary access and uniform membership requirements for all FHLB System members. This transition includes equalizing the minimum stock purchase requirements, as well as equalizing the ongoing stock-to-borrowing requirement. To date, these inequities have tied up an unnecessary amount of savings association capital through the initial stock contribution to the FHLB System, as well as discouraged nonsavings association members from borrowing because of the egregiously high ongoing stock-to-borrowing ratios. Our proposal also eliminates the existing priority that restricts a district bank from extending new advances in an aggregate amount to nonsavings association borrowers that would exceed 30 percent of that district bank's total advances.

Second, our proposal modifies the FHLB System's annual contribution to REFCORP to the lesser of 20 percent of systemwide earnings or $300 million. The proposal provides the Federal Housing Finance Board with authority to establish procedures for a backup payment in the event that 20 percent of systemwide earning does not yield $300 million in any given year. More specifically, to the extent that 20 percent of systemwide earnings does not yield $300 million, the FHFB will impose an assessment on savings association insurance fund members at a rate necessary to equal the deficiency. This assessment will be transferred to the funding corporation no later than the date by which any payment by the FHLB's is due for such year. Unfortunately, the effect of FIRREA was to tax the FHLB System for the problems of the savings and loan industry, rather than taxing the savings and loan industry directly. Our proposal adjusts this mechanism only to the extent that 20 percent of FHLB systemwide earnings does not exceed $300 million.

We again stress that it is essential to act on the Federal Home Loan Bank Modernization Act of 1992 in the short time we have remaining this year. The Congressional Budget Office, the Office of Thrift Supervision, and the Federal Housing Finance Board continue to recognize the shortcomings in the profitability of the FHLB System in the current residential housing finance market. This proposal has support from the regulators, the district banks, and most FHLB System members.

We have the opportunity to make dramatic improvements to the Federal Home Loan Bank System. The System plays an integral role in the delivery of housing related finance, yet the Congress has ignored the System's decline since the passage of FIRREA. At a time of nationwide mergers and acquisitions, the FHLB System provides an attractive alternative for community lending institutions. The components of our proposal, when taken together, provide the necessary changes to modernize the Federal Home Loan Bank System, and to restore the System to profitability. It is our hope and intention that we can act on this proposal this year.

Mr. Speaker, I ask the distinguished gentleman from California [Mr. DREIER] if he would join me in a brief colloquy, since I was not present for the full deliberations of the Committee on Rules.

It was my understanding that, at a later hour, there were discussions with the distinguished chairman from the Committee on Banking relating to the possibility of a markup on the Federal home loan bank bill, known as the Baker-Neal proposal, at a later time. I would ask the gentleman, is my understanding correct?

Mr. DREIER of California. Will the gentleman yield?

Mr. BAKER. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, let me say to my friend, the gentleman from Louisiana, at the outset, that when he was in the room I had asked the question of our colleague, the gentleman from Georgia [Mr. BARNARD] as to whether or not we would be able to move in a timely manner in addressing this.

He is retiring. His fear is that with as many as 150-plus new Members of Congress coming in, as we go through the orientation, he predicted that we would not be able to address this until June 1993. That, of course, led many of us to have concern.

Mr. BAKER. That was an optimistic projection.

Mr. DREIER of California. Many of us were concerned.

The gentleman from Texas [Mr. FROST], who was on the committee, told us he was sympathetic with the goals of this amendment, and in fact had had a conversation with the chairman of the Committee on Banking, the gentleman from Texas [Mr. GONZALEZ], and had an assurance that we would see not just hearings but we would see a bill moved ahead before the end of this Congress.

I will be happy to yield to the distinguished chairman of the committee, Mr. GONZALEZ, to see if he could confirm that conversation the gentleman from Texas [Mr. FROST] reported to us in the Committee on Rules.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. BAKER. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman for yielding to me, and I am glad he did ask me. This is something I have repeatedly said.

The gentleman was present at the Committee on Rules hearing in which I again reassured, and I am quite surprised and disappointed that the gentleman from Louisiana [Mr. BAKER] would take it out on the rule. I would mention for the RECORD that I have received a letter from the Kansas-Nebraska League of Savings Institutions in which they oppose this, because they have not been heard.

I just want to say that there was a good reason why the Committee on Rules did not provide a rule. First, we could have attacked this on germaneness at this point, but I did not want to do that. I have assured everybody concerned that as soon as we hear from the industry, such as these people from Kansas and Nebraska that are very concerned about this and its impact, as it is presently written, that we are going to proceed as soon as it is humanly possible. We are not going to wait until next year. That assurance has been given time and time again. I am just surprised that it is acted as if it has not already been given and sworn to.

I would asks the gentleman from California [Mr. DREIER] if that answers the gentleman's question.

Mr. DREIER of California. I would say to the chairman, yes, it does.

Mr. BAKER. Mr. Speaker, I thank the gentleman for his comments.

Certainly, with all deference to the chairman, and with all deference to his opinion in the matter, I would say that we did have 3 days of hearings. We did withdraw voluntarily consideration of this amendment at subcommittee and at full committee in discussion with the chairman in order to have those hearings.

Our understanding at that point was that we would then move to markup of the matter at a later hour. There has been some indication by various members of the savings and loan industry that they have problems with the legislation. Frankly, that is not my job at this moment. My job is to make sure the system stays whole and that the consumer is protected.

With those statements, I am most appreciative of the chairman's willingness to conduct a markup, and I am grateful for his willingness to proceed.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would simply like to say, on the amendment regarding the lender liability provision which I referred to earlier, I hope very much that we are able to defeat the previous question and make this amendment in order.

Mr. Speaker, I would like to read briefly a letter that just came out yesterday from Mr. Casey, the president of the Resolution Trust Corporation. In his letter he said:

> As of July 1, 1992, the Resolution Trust Corporation had identified approximately 1,200 properties with potential hazardous substance problems, as defined in the proposal, which are likely to be difficult to sell. These properties have a total book value of approximately $2 billion. Our conservative estimate is that $250 to $375 million would be saved from reduced holding costs and higher sales prices.
>
> To maximize it performance, the RTC needs this type of legislation.

I am referring, of course, to legislation which has 271 cosponsors. An overwhelming number of organizations have demonstrated their support for it. As Al Greenspan said, this is the best way for us to effectively deal with the credit crunch.

I hope very much that we will defeat the previous question and make our amendment in order so we can proceed with this measure.

RESOLUTION TRUST CORPORATION,
Washington, DC, August 4, 1992.

Hon. DAVID DREIER,
House of Representatives, Washington, DC.

DEAR MR. DREIER: I want to extend my appreciation for your efforts and leadership in attempting to limit lender liability associated with the presence of hazardous substances on properties held by the Resolution Trust Corporation. I am encouraged that you will request that the House Committee on Rules to make in order a rule to allow for the consideration of a lender liability provision that is of the utmost importance to the Resolution Trust Corporation. This provision, which passed the Senate on July 1, 1992, is an essential component in assisting the RTC to minimize the cost of the thrift cleanup to the taxpayers.

As you know, while acting as receiver or conservator, the RTC regularly inherits real estate and loans with collateral which has been contaminated by hazardous substances or underground storage tanks. Subtitle D of S. 2733, the Federal Housing Enterprises Regulatory Reform Act of 1992, would protect the RTC from incurring hazardous substance and underground storage tank liability, and would therefore limit the taxpayers' costs associated with resolving failed and failing depository institutions.

As of July 1, 1992, the RTC had identified approximately 1,200 properties with potential hazardous substance problems, as defined in the proposal, which are likely to be difficult to sell. These properties have a total book value of approximately $2 billion. Our conservative estimate is that $250 to $375 million would be saved from reduced holding costs and higher sales prices.

To maximize its performance, the RTC needs this type of legislation to be assured that actions it takes to protect its security interest do not constitute a degree of participation in management of assets which would trigger liability under hazardous substance laws. Subtitle D would exempt the RTC and the first subsequent purchaser of contaminated properties from the RTC liability for hazardous substance clean-up where it did not cause the contamination. The RTC supports this legislation because it would limit the liability of the RTC and its subsequent purchasers for hazardous substance clean-up.

Thank you again for your consideration of this vital issue. The adoption of the provision will help us improve the performance of the RTC while minimizing the cost of the thrift clean-up to the taxpayers.

With best wishes.

Sincerely,

ALBERT V. CASEY,
President and CEO.

Mr. Speaker, I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MURTHA). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 244, nays 163, not voting 27, as follows:

[Roll No. 362]

YEAS—244

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hayes (IL)
Hayes (LA)
Hefner
Hoagland
Horn
Hoyer
Hubbard
Hughes
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Stallings
Stark
Stenholm
Stokes
Studds
Swett

Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Unsoeld
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—163

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Myers
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—27

Barnard
Bentley
Broomfield
Collins (MI)
Condit
Conyers
Davis
Dickinson
Edwards (OK)
Ford (TN)
Gillmor
Hatcher
Hertel
Hochbrueckner
Ireland
Lowery (CA)
Moran
Neal (NC)
Nichols
Schulze
Staggers
Torricelli
Towns
Traxler
Vander Jagt
Volkmer
Whitten

☐ 1128

Messrs. WYLIE, ERDREICH, GILMAN, and HUCKABY changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DREIER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 154, not voting 29.

[Roll No. 363]

AYES—251

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hoagland
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Unsoeld
Valentine
Vento
Visclosky
Washington
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NOES—154

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nowak
Nussle
Orton
Owens (UT)
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—29

Barnard
Bentley
Collins (MI)
Condit
Conyers
Davis
Dickinson
Edwards (OK)
Foglietta
Ford (TN)
Hatcher
Hertel
Hochbrueckner
Houghton
Ireland
Jefferson
Jones (GA)
Lowery (CA)
Moran
Nichols
Owens (NY)
Schulze
Schumer
Torricelli
Towns
Traxler
Vander Jagt
Volkmer
Waters

☐ 1146

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5487, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5487) making appropriations for agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1993, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. KANJORSKI). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. SKEEN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 5487 be instructed to insist on the House position on the Senate amendment numbered 43.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes, and the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes.

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not intend to take much time in explaining the nature and purpose of my motion. The House-passed bill providing appropriations for Agriculture, rural development, FDA, and related programs for fiscal year 1993, provides for $329,500,000 for the Farmers Home Administration section 502 unsubsidized loan guarantee program. This is the same amount which was agreed to and appropriated for the fiscal year 1992 program. The Senate-passed bill only provides $200 million, a reduction of $129,500,000 below the House level. My motion to instruct simply requests that our House conferees adhere to the House level of funds in order to assure that a reasonable number of low- and moderate-income rural area home purchasers are given the opportunity to purchase modest and affordable housing.

Mr. Speaker, I urge adoption of the motion.

□ 1150

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Certainly I support the gentleman's motion to instruct. Let me also, if I may, very briefly mention one other thing. The most recent farm bill has a big black eye in the market promotion program. The committee, I think quite rightly, recognized that this is not a good program and it should not stand at $200 million, so it cut its funding to $75 million.

Unfortunately, the other body increased that funding back to $175 million. It would be my hope that the conferees would insist on the $75 million provision that this committee so responsibly established. I would encourage them to do so.

Mr. Speaker, I must say that I will be quite active in my opposition to the conference report if in fact the number comes back at a figure higher than $75 million.

Mr. SKEEN. Mr. Speaker, I urge the adoption of my motion to instruct.

The SPEAKER pro tempore (Mr. KANJORSKI). Does the gentleman from Mississippi [Mr. WHITTEN] request time?

Mr. WHITTEN. Mr. Speaker, I have no objection to the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New Mexico [Mr. SKEEN].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. WHITTEN, TRAXLER, MCHUGH, NATCHER, and DURBIN, Ms. KAPTUR, Messrs. PRICE, MRAZEK, SMITH of Iowa, SKEEN, MYERS of Indiana, and WEBER, Mrs. VUCANOVICH, and Mr. MCDADE.

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1671, WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT OF 1991

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1671) to withdraw certain public lands and to otherwise provide for the operation of the waste isolation pilot plant in Eddy County, NM, and for other purposes, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan? The Chair hears none and, without objection, appoints the following conferees:

From the Committee on Interior and Insular Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. MILLER of California, VENTO, KOSTMAYER, RICHARDSON, LAROCCO, YOUNG of Alaska, RHODES, and HEFLEY.

From the Committee on Energy and Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. DINGELL, SHARP, SYNAR, SWIFT, BRUCE, LENT, MOORHEAD, and DANNEMEYER.

Except that, solely for consideration of section 9 (a) and (c) of the Senate bill, and section 14 (a) and (b) of the House amendment, Mr. SCHAEFER is appointed in lieu of Mr. DANNEMEYER.

From the Committee on Armed Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. ASPIN, SPRATT, and SISISKY, Mrs. SCHROEDER, Mrs. LLOYD, and Messrs. DICKINSON, SPENCE, and KYL.

There was no objection.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 537 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5334.

□ 1153

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes, with Mr. HEFNER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, today we are considering H.R. 5334, the Housing and Community Development Act of 1992, which contains the reauthorization of all the urban and rural federally subsidized housing and community development programs for fiscal year 1993. Two years ago this body passed landmark housing legislation—the National Affordable Housing Act of 1990. H.R. 5334 makes technical and programmatic changes to the 1990 Housing Act, expands upon existing housing assistance programs, and provides new approaches to several issues, including mixed populations in public and assisted housing.

I want to thank all of my colleagues on the Banking Committee for their efforts on this bill. I particularly want to note my appreciation for my friends and colleagues CHALMERS WYLIE and MARGE ROUKEMA. As ranking member on the Banking Committee, CHALMERS WYLIE has provided leadership and bipartisan cooperation on this, and so many of our past housing bills. As ranking member of the Subcommittee on Housing and Community Development, MARGE ROUKEMA has also provided much appreciated leadership and cooperation in moving this legislation forward. In addition, I want to thank GERRY KLECZKA who has made tremendous contributions to the bill in working out a solution that is fair to all concerned to the complex problem of mixing elderly and nonelderly in public and assisted housing.

This bill reauthorizes a home ownership program I have sought—the national homeownership trust; it includes the HOPE programs the administration seeks; and it improves on the home investment partnership, the New Housing Production Program created in 1990 to reverse the neglect and intentional degradations of such programs by the past administration. As I mentioned above, a new initiative in this year's bill provides a solution to the thorny problems of mixing the elderly and the nonelderly disabled in public and assisted housing. It also includes an extension of CDBG funding, Indian housing programs and rural housing programs. Finally, the legislation provides initiatives for the prevention of homelessness and for the rehabilitation of vacant public housing units. This legislation represents a balanced and integrated package of initiatives and existing programs that will not only provide new home ownership opportunities for those currently unable to take advantage of such opportunities, but will also provide much needed rental housing for thousands.

If the en bloc amendment is adopted, the bill will authorize for fiscal year 1993, a total of $28.8 billion for federally subsidized housing and community development programs which are administered by HUD and the Farmers Home Administration in both urban and rural areas. Of the $28.8 billion, the bill will authorize the following: $16.9 billion for HUD public and assisted housing programs, including $8.8 billion for section 8 contract renewals and amendments; $384 million for the HOPE home ownership programs; $520.7 million for the National Home Ownership Trust Program for first-time home buyers; $2.1 billion for the HOME Program; $856.6 million for the preservation of federally assisted housing; $1.9 billion for elderly and disabled advances and rental assistance; $1.2 billion for the FmHA rural housing loan and grant programs; $3.3 billion for the Community Development Block Grant Program; and $705.9 million for the HUD McKinney homeless programs.

H.R. 5334 represents a bipartisan effort to reauthorize all the federally assisted housing and community development programs which are critical to our Nation's urban and rural areas. The committee has incorporated, for instance, several initiatives proposed by the administration, including the safe havens for homeless individuals demonstration program, to assist homeless persons with mental illness and substance abuse problems, the consolidation of two existing homeless programs into the supportive housing programs to effectively deliver housing and services to the homeless, the merger of the activities under the Shelter Plus Care Program to simplify the program application process, and funding for the administration's HOPE programs. The bill also includes changes to improve the HOME Program, and to the Public Housing Program and provides a solution to the complicated issue of mixing elderly and nonelderly in public and assisted housing. Finally, the committee bill establishes a rural homelessness grant program and amends the farmer home property disposition program to assist the homeless in rural areas.

I urge my colleagues to support this bill and join me in demonstrating Congress' commitment to providing safe, decent, sanitary, and affordable housing to all of our citizens.

COMPARISON OF AUTHORIZATIONS, APPROPRIATIONS, AND ADMINISTRATION'S BUDGET REQUESTS

	Fiscal year—						
	1992 authorization	1992 administration request	1992 appropriations[1]	1993 administration request	1993 H.R. 5334	1993 House appropriations	1993 revision, H.R. 5334
Title I—Housing Assistance:							
Subtitle A—General Provisions	14,709,400,000	14,887,429,000	15,646,640,000	14,538,123,919	15,158,946,956	13,970,319,000	14,552,589,078
Subtitle B—Public and Indian Housing	2,112,100,000	2,155,844,000	2,450,000,000	2,282,436,000	2,218,320,000	2,307,436,000	2,129,587,200
Subtitles C/D—Section 8/Other Programs	265,165,000	372,113,000	271,375,000	242,265,000	275,771,600	371,025,000	266,740,736
Subtitle E—Homeownership Programs	1,376,500,000	1,124,948,000	355,200,000	1,000,000,000	942,360,000	351,000,000	904,665,600
Title I total	18,463,165,000	18,540,334,000	18,723,215,000	18,062,824,919	18,595,398,556	16,999,780,000	17,853,582,614
Title II—Home Program	2,086,000,000	1,000,000,000	1,500,000,000	700,000,000	2,169,440,000	600,000,000	2,082,662,400
Title III—Preservation Program	858,000,000	718,462,000	618,462,000	1,161,998,000	892,320,000	1,000,000,000	856,627,200
Title IV—Multifamily Strategies							
Title V—Mortgage Insurance	0	0	506,151,000	638,736,000	638,736,000	634,353,000	615,186,560
Title VI—Elderly and Disabled Housing	1,732,000,000	377,750,000	1,270,727,000	331,470,081	2,345,685,184	1,447,550,000	2,251,857,777
Title VII—Rural Housing	1,191,566,500	772,695,618	926,285,608	647,120,900	1,241,229,424	1,056,561,000	1,191,580,251
Title VIII—Community Development	3,308,500,000	2,946,900,000	3,581,900,000	2,927,976,000	3,442,920,000	4,029,476,000	3,321,203,200
Title IX—Regulatory and Misc. Programs	28,934,000	43,000,000	33,000,000	42,750,000	29,536,000	32,600,000	28,354,560
Title X—McKinney Homeless Programs	659,000,000	535,733,000	449,960,000	537,278,000	739,560,000	537,278,000	709,785,600
Title XI—New Towns Demonstration					(2)		(2)
Total	28,327,165,500	24,934,874,618	27,609,700,608	25,050,153,900	30,094,825,164	26,337,598,000	28,910,840,161
Title I—Housing Assistance:							
Subtitle A—General Provisions:							
Public Housing Grants	574,500,000	0	573,983,000	0	597,480,000	609,000,000	573,580,800
Indian	237,800,000	0	227,170,000	0	247,312,000	257,320,000	237,419,520
Sec. 8—Certificates	1,960,800,000	0	915,750,000	0	2,039,232,000	851,500,000	1,957,662,720
Sec. 8—Multicultural Tenant Assist					(2)		(2)
CIAP	2,242,500,000	2,266,967,000	2,800,975,000	2,291,750,000	2,332,200,000	3,000,000,000	2,238,912,000
Sec. 8—Property Disposition/restore	438,100,000	266,682,500	88,884,000	110,000,000	455,624,000	93,032,000	437,399,040
Sec. 8—Loan Management/restore	166,900,000	348,750,000	257,000,000	202,400,000	173,576,000	202,000,000	166,632,960
Sec. 8—Expiring Contracts	7,100,000,000	7,024,589,000	7,355,128,000	7,261,632,000	7,261,632,000	6,346,135,000	6,971,166,720
Sec. 8—Contract Amendments	1,690,200,000	2,615,590,500	2,488,250,000	1,918,800,550	1,918,800,550	1,616,304,000	1,842,048,528
P.H. Lease Adjust./Amend	216,100,000	112,000,000	112,000,000	21,755,000	21,755,000	140,555,000	20,884,800
Sec. 8—P.H. Replacements	82,500,000	0	(35,997,548)	0	85,800,000	0	82,368,000
Section 23 Conversions		35,150,000	16,666,000	25,535,406	25,535,406	25,535,000	24,513,990
Weed & Seed Proposal				(39,929,948)			
Moving to Opportunity Proposal				(38,151,899)	(2)		(2)
P.H. Homeownership 5(h)/Voucher Proposal				(45,023,994)			
Sec. 8—Vouchers		2,145,600,000	777,500,000	2,690,813,463		813,500,000	(959,254,733)
Sec. 8—Elderly Coordinators		(16,250,000)	(16,250,000)	15,437,500		15,438,000	
Certificates/Voucher Opt-outs		31,100,000	16,667,000	0			
Rent Supp./RAP Conversions		41,000,000	16,667,000	0			
Low-Inc. Hsng. Authorization—Subtotal	14,709,400,000	14,887,429,000	15,646,640,000	14,538,123,919	15,158,946,956	13,970,319,000	14,552,589,078
HOPE for Family Self-Sufficiency	(25,000,000)		(3)	(4)	(25,000,000)	(25,900,000)	(24,000,000)
Subtitle A—Subtotal	14,709,400,000	14,887,429,000	15,646,640,000	14,538,123,919	15,158,946,956	13,970,319,000	14,552,589,078
Subtitle B—Public and Indian Housing:							
Pub. Hsng. Operating Subsidies	2,086,000,000	2,155,844,000	2,450,000,000	2,282,436,000	2,169,440,000	2,282,436,000	2,082,662,400
Pub. Hsng. Income Deductions					(2)		(2)
Pub. Hsng. Vacancy Reduction	(5)			0	(6)		(6)
Pub. Hsng. Resident Mgmt	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(2)	(4,750,000)	(2)
P.H. Family Investment Centers	26,100,000	0	0	0	27,144,000	25,000,000	26,058,240
P.H. Early Child Dev. Grants	(15,700,000)	(5,000,000)	(5,000,000)	(4,750,000)	21,736,000	(5,000,000)	20,866,560
Indian P.H. Early Child Dev. Grants	(5,200,000)				(2)		(2)
Pub. Hsng. One-Stop Perinatal	(150,000)				(2)		(2)

COMPARISON OF AUTHORIZATIONS, APPROPRIATIONS, AND ADMINISTRATION'S BUDGET REQUESTS—Continued

	Fiscal year—						
	1992 authorization	1992 administration request	1992 appropriations[1]	1993 administration request	1993 H.R. 5334	1993 House appropriations	1993 revision, H.R. 5334
National Comm. on Amer. Indians					[2]		[2]
Subtitle B—Subtotal	2,112,100,000	2,155,844,000	2,450,000,000	2,282,436,000	2,218,320,000	2,307,436,000	2,129,587,200
Subtitles C/D—Section 8/Other Programs:							
Sec. 8 Family Unification (Foster Care)	35,000,000		(50,000,000)	0	36,400,000	100,000,000	34,944,000
Moving to Opportunity				(38,151,899)	such sums		such sums
Pub. Hsng. Drug Elimination Grants	166,900,000	165,000,000	165,000,000	165,000,000	173,576,000	165,000,000	166,632,960
Flexible Subsidy/RESTORE	52,200,000	203,413,000	50,000,000	50,000,000	54,288,000		52,116,480
Housing Counseling	3,700,000	3,700,000	6,025,000	3,515,000	3,848,000	6,025,000	3,694,080
Emergency Housing Counseling	7,000,000	0	(2,000,000)	0	7,280,000		6,988,800
Counseling Certification Training							2,000,000
Prepurchase Counseling	365,000		350,000		379,600		364,416
Lead Based Paint Demo			50,000,000	23,750,000		100,000,000	
Youthbuild					[2]		[2]
Subtitles C&D—Subtotal	265,165,000	372,113,000	271,375,000	242,265,000	275,771,600	371,025,000	266,740,736
Subtitle E—Homeownership Programs:							
HOPE Homeownership Grants:							
I. Public/Indian Housing	380,000,000	380,000,000	161,000,000	450,000,000	100,000,000	161,000,000	96,000,000
II. Multifamily Units	280,000,000	280,000,000	95,000,000	325,000,000	100,000,000	95,000,000	96,000,000
III. Single Family Homes	195,000,000	195,000,000	95,000,000	225,000,000	200,000,000	95,000,000	192,000,000
HOPE Subtotal	855,000,000	855,000,000	351,000,000	1,000,000,000	400,000,000	351,000,000	384,000,000
Pub. Hsng. Non-Purchaser Rental Assist.		53,990,000	0	(62,281,585)			
Pub. Hsng. Replacement Units		215,958,000	0	(249,158,577)			
HOPE 2 Non-Purchaser Assistance				(44,766,898)			
Subtotal	0	269,948,000	0	0	0	0	0
National Homeownership Trust	521,500,000	0	4,200,000	0	542,360,000	0	520,665,600
Trust/MRB Setaside					[2]	0	[2]
Indian Housing Loan Guarantees					[2]		[2]
Subtitle E—Homeownership Subtotal	1,376,500,000	1,124,948,000	355,200,000	1,000,000,000	942,360,000	351,000,000	904,665,600
Title I total	18,463,165,000	18,540,334,000	18,723,215,000	18,062,824,919	18,595,398,556	16,999,780,000	17,853,582,614
Title II—HOME Investment Partnerships:							
HOME Investment Partnership Program	2,086,000,000	1,000,000,000	1,500,000,000	700,000,000	2,169,440,000	600,000,000	2,082,662,400
Comm. Housing Partnership Strategies	(14,000,000)		(14,000,000)		(14,560,000)		(13,977,600)
State/Local Housing Strategies	(11,000,000)		(11,000,000)		(11,440,000)		(10,982,400)
HOME/Indians		(125,000,000)		(125,000,000)		0	
Title II total	2,086,000,000	1,000,000,000	1,500,000,000	700,000,000	2,169,440,000	600,000,000	2,082,662,400
TITLE III—Preservation:							
Preservation Fund	858,000,000				892,320,000	1,000,000,000	856,627,200
Vouchers/Section 8 Cert		49,042,000	49,042,000	469,256,000			
Incentives/Homeownership		669,420,000	569,420,000	692,742,000	(692,742,000)		
Title III total	858,000,000	718,462,000	618,462,000	1,161,998,000	892,320,000	1,000,000,000	856,627,200
Title IV—Multifamily Housing Strategies							
Title V—Mortgage Ins./Secondary Market:							
FHA Credit Limitation (MMI)	(79,818,000,000)	(53,592,815,000)	(60,000,000,000)	(57,146,000,000)	(66,184,980,000)	(59,146,000,000)	65,905,824,960)
FHA Credit Subsidy			499,556,000	631,800,000	631,800,000	627,673,000	606,528,000
GNMA Credit Limitation	(88,296,000,000)	(74,769,293,000)	(74,769,293,000)	(77,700,000,000)	(77,700,000)	(77,700,000,000)	(74,592,000,000)
GNMA Credit Subsidy			6,595,000	6,936,000	6,936,000	6,680,000	6,658,560
Reinsurance Pilot Program							2,000,000
Title V total	0	0	506,151,000	638,736,000	638,736,000	634,353,000	615,186,560
Title VI—Housing for Elderly/Disabled:							
Sec. 202 Elderly Advances	659,000,000	76,405,000	538,808,000	48,741,560	685,360,000	512,050,000	657,945,600
Elderly Rental Assistance/Leases	363,000,000	122,600,000	451,200,000	127,842,830	765,722,496	571,840,000	735,093,596
Sec. 811 Disabled Advances	271,000,000	76,405,000	102,860,000	49,938,000	281,840,000	100,450,000	270,566,400
Disabled Rental Assistance/Leases	246,000,000	91,940,000	100,159,000	94,701,691	325,122,688	115,710,000	312,117,780
Congregate Services	26,100,000	0	17,700,000	0	27,144,000	7,500,000	26,058,240
Elderly Indep. Sec. 8 Cert./Vouchers	(35,500,000)	(35,800,000)	(35,800,000)	(38,151,899)	36,920,000	(38,288,000)	35,443,200
Elderly Indep. Services	10,400,000	10,400,000	10,000,000	10,246,000	10,816,000	10,000,000	10,383,360
AIDS Housing Program	156,500,000	0	50,000,000	0	162,760,000	100,000,000	156,249,600
Mixed Populations Provisions					50,000,000	30,000,000	48,000,000
Title VI Subtotal	1,732,000,000	377,750,000	1,270,727,000	331,470,081	2,345,685,184	1,447,550,000	2,251,857,777
Title VII—Rural Housing:							
Sec. 502 Homeownership (Direct) Loans	1,451,100,000	527,000,000	1,245,000,000	450,000,000	1,509,144,000	1,245,000,000	1,448,778,240
Sec. 502 Unsubsidized Direct Loans		32,000,000	50,000,000	0		50,000,000	
Sec. 502 Unsubsidized Guaranteed Loans		347,000,000	329,500,000	300,000,000	[2]	329,500,000	[2]
Sec. 502 Subsidized Guaranteed Loans		347,000,000	0	400,000,000			
Sec. 504 Improvement Loans	12,400,000	11,100,000	11,330,000	11,100,000	12,896,000	11,330,000	12,380,160
Sec. 514 Farm Labor Loans	12,500,000	16,250,000	16,300,000	16,250,000	13,000,000	16,300,000	12,480,000
Sec. 515 Multifamily Loans	739,500,000	341,000,000	573,900,000	341,000,000	769,080,000	500,000,000	738,316,800
Sec. 523 Mutual/Self-help Loans	800,000	0	500,000	0	832,000	500,000	798,720
Sec. 524 Site Loans	850,000	0	600,000	0	884,000	600,000	848,640
Aggregate Loan Authority	2,217,150,000	1,621,350,000	2,227,130,000	1,518,350,000	2,305,836,000	2,153,230,000	2,213,602,000
Rural Credit Subsidy Authorizations:							
Sec. 502 Rural Homeownership Loans	272,806,000	99,076,000	234,060,000	84,600,000	283,719,072	303,158,000	272,370,309
Sec. 502 Unsubsidized Guaranteed Loans		3,920,000	3,722,988	5,550,000	0	6,096,000	0
Sec. 504 Rural Improvement Loans	5,381,600	4,817,400	4,917,220	4,817,400	5,596,864	4,578,000	5,372,989
Sec. 514 Farm Labor Loans	7,075,000	9,197,500	9,225,800	9,197,500	7,358,000	8,029,000	7,063,680
Sec. 515 Rural Multifamily Loans	381,582,000	175,956,000	296,132,400	175,956,000	398,845,488	356,550,000	382,891,668
Sec. 523 Mutual Self-Help Loans	102,400	0	64,000	0	106,500	0	102,240
Sec. 524 Site Loans	18,700	0	13,200	0	19,500	0	18,720
Subtotal	666,966,500	292,967,618	548,135,608	280,1220,900	695,645,424	678,411,000	667,819,607
Rural Housing Support Programs:							
Sec. 502 Security Grants	1,100,000	0			1,144,000		1,098,240

COMPARISON OF AUTHORIZATIONS, APPROPRIATIONS, AND ADMINISTRATION'S BUDGET REQUESTS—Continued

	Fiscal year—						
	1992 authorization	1992 administration request	1992 appropriations[1]	1993 administration request	1993 H.R. 5334	1993 House appropriations	1993 revision, H.R. 5334
Sec. 504 Improvement Grants	21,100,000	5,000,000	12,500,000	5,000,000	21,944,000	12,500,000	21,066,240
Sec. 509(c) Construction Defects Grants	600,000	0	500,000	0	624,000	500,000	599,044
Sec. 509 Project Preparation Grants	5,300,000	0	2,500,000	0	5,512,000	2,500,000	5,291,520
Sec. 515 Service Coordinators					such sums		such sums
Sec. 516 Farm Labor Grants	21,700,000	5,000,000	11,000,000	10,000,000	22,568,000	11,000,000	21,665,280
Sec. 516(k) Migrant Homeless Program	10,500,000	0		0	10,920,000		10,483,200
Sec. 523(f) Mutual/Self-Help Grants	13,900,000	0	8,750,000	0	14,456,000	8,750,000	13,877,760
Sec. 533 Preservation Grants	30,800,000	10,000,000	23,000,000	10,000,000	32,032,000	23,000,000	30,750,720
Subtotal	105,000,000	20,000,000	58,250,000	25,000,000	109,200,000	58,250,000	104,832,004
Rental Assistance Payments (RAP)	414,100,000	258,000,000	308,100,000	190,200,000	430,664,000	308,100,000	413,437,440
Rural Prepayments/Supp. RAP	5,500,000	11,800,000	11,800,000	11,800,000	5,720,000	11,800,000	5,491,200
Rural Housing Vouchers		189,928,000	0	140,000,000			
Title VII total	1,191,566,500	772,695,618	926,285,608	647,120,900	1,241,229,424	1,056,561,000	1,191,580,251
Title VIII—Community Development:							
Community Development Block Grants (CDBG)	3,272,000,000	2,920,000,000	3,400,000,000	2,900,000,000	3,402,880,000	4,000,000,000	3,266,764,800
CDBG Work Study Program	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)	(3,120,000)	(3,000,000)	(2,995,200)
Historically Black Colleges	(6,500,000)	(4,500,000)	(4,500,000)	(4,500,000)	(6,760,000)	(4,500,000)	(6,489,600)
Insular Areas	(7,000,000)	(7,000,000)	(7,000,000)	(7,000,000)	(7,280,000)	(7,000,000)	(6,988,800)
Comm./Univ. Partnership					(2)		(2)
CDBG Redevelopment Provision					(2)		(2)
CD Comm. Planning Adjustments					(2)		(2)
CD Reallocations and Tech. Assist.					(2)		(2)
CD Mapping Provision					(2)	(500,000)	(2)
Section 108 Loan Guarantees	(300,000,000)	0	(140,000,000)	0	(312,000,000)	(300,000,000)	(299,520,000)
Special Purpose/Projects Grants			150,000,000	0	17,160,000)	(14,500,000)	0
Computerized CD Plans					(2)		(2)
Barrier Removal Strategies							15,000,000
Econ. Dev. Evaluations							1,000,000
Neighborhood Reinvestment Corp.	36,500,000	26,900,000	31,900,000	27,976,000	37,960,000	29,476,000	36,441,600
Neighborhood Development Demo.	(2,000,000)	0	(2,000,000)	0	2,808,000		1,996,800
Title VIII total	3,308,500,000	2,946,900,000	3,581,900,000	2,927,976,000	3,442,920,000	4,029,476,000	3,321,203,200
Title IX—Regulatory and Misc. Programs:							
HUD Research & Development	22,100,000	35,000,000	25,000,000	35,150,000	22,984,000	25,000,000	22,064,640
Fair Housing Initiatives Program (FHIP)	6,300,000	8,000,000	8,000,000	7,600,000	6,552,000	7,600,000	6,289,920
HUD Monitoring & Eval.					(2)		(2)
National Comm. on Manuf. Hsng					(2)	(1,000,000)	(2)
National Institute of Building Sciences	534,000	0		0	0		0
Solar Bank					(2)		(2)
National Amer. Indian Hsng Council					(2)		(2)
Title IX total	28,934,000	43,000,000	33,000,000	42,750,000	29,536,000	32,600,000	28,354,560
Title X—HUD McKinney Homeless:							
Emergency Shelter Grants	138,000,000	71,000,000	73,164,000	17,450,000	143,520,000	17,450,000	137,779,200
Supportive Housing/Transitional Program	150,000,000	150,000,000	150,000,000	203,926,000	187,200,000	150,000,000	179,712,000
Supplemental Assistance (SAFAH) Program	30,000,000	0	11,263,000	0	(31,200,000)	0	0
Sec. 8 Assistance for SROs	82,400,000	0	105,000,000	0	89,696,000	103,926,000	86,108,160
Shelter Plus Care Program:							
II. Rental Housing Assistance	167,200,000	167,200,000	0				
III. SRO's	54,200,000	53,333,000	73,333,000				
IV. Sec. 202	37,200,000	37,200,000	37,200,000				
Revised/Consolidated Shelter Plus Care	(258,600,000)	(257,733,000)	(110,533,000)	265,902,000	269,144,000	265,902,000	258,186,240
Rural Homeless Grants					(2)		(2)
Safe Havens				50,000,000	50,000,000	0	48,000,000
Bush Exemplary Program Initiative		57,000,000	0	0			0
Title X Total	659,000,000	535,733,000	449,960,000	537,278,000	739,560,000	537,278,000	709,785,600
Title XI—New Towns Demonstration					(2)		(2)
Total	28,327,165,500	24,934,874,618	27,609,700,608	25,050,153,900	30,094,825,164	26,337,598,000	28,910,840,161
Use of Carryover Funds/Transfers			762,000,000	320,934,190	0	42,934,000	0
Use of Recaptures (Sec. 202/Other)			1,750,000,000	244,300,000	0	244,300,000	0
PHA Savings				12,000,000	0	0	0
Adjusted total	28,327,165,500	24,934,874,618	25,097,700,608	24,472,919,710	30,094,825,164	26,050,364,000	28,910,840,161
HUD Housing Programs (New BA & Without FmHA Rural)	27,135,599,000	24,162,179,000	24,171,415,000	23,825,798,810	28,853,595,740	24,993,803,000	27,719,259,910

[1] Provides the enacted FY 1992 Appropriations Act funding levels without adjustments for subsequent rescissions or HUD operating plan changes.

[2] Such sums.

[3] 10 percent Sub. Hsng.

[4] All Sub. Hsng.

[5] $200m. P.H. Mod.

[6] 9 percent P.H. Mod.

Source: Subcommittee on Housing and Community Development.

□ 1200

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, soon after I was elected to Congress in 1966 I came to Washington to see Gerald R. Ford, who was then the minority leader, to discuss committee assignments. He gave me a listing of committees with a definition of jurisdiction. I made the Committee on Banking, Finance and Urban Affairs my first choice.

Banking was important in Columbus. Little did I imagine that Columbus would go from third to first as the banking center of Ohio and achieve its place as one of the preeminent banking centers of the United States in the next 26 years.

The Committee on Banking, Finance and Urban Affairs had jurisdiction of urban mass transportation then. Financing of urban mass transportation in Columbus was a big issue.

The Committee on Banking, Finance and Urban Affairs also had jurisdiction over insurance matters then. Columbus has more insurance company home offices than any other city except Hartford, CT. Then I noted the Committee on Banking, Finance and Urban Affairs had jurisdiction over housing. What could be more important than housing—maybe good health, education, and job—but it is right up there in importance to the needs of the American people.

So I chose the Committee on Banking, Finance and Urban Affairs as my first choice, and I was thrilled when I got my first choice as an assignment.

In 1990, the administration and Congress working together enacted the National Affordable Housing Act, called NAHA, the first major housing authorization bill in almost 20 years.

I have some feeling of paternalism for that legislation. My significant part came about almost by a stroke of luck. President Bush was in Columbus for a speech. I sat beside him at the head table. As an aside he said to me, "Would you like to go back to Washington with me on Air Force One?" I said yes, not because I wanted to be in Washington, because I had a luncheon talk the next day in Columbus, but I said yes because I wanted to talk to him about housing legislation and this seemed like a beautiful opportuntiy to do that.

I suggested to the President that he arrange a meeting in the Oval Office with Chairman GONZALEZ and Secretary Kemp. I did not need to be there, but I was happy to come, I said.

The next morning the President's secretary called my office to arrange a meeting that day. Well, I was on my way back to Columbus and I thought I had messed up. But the President was understanding and gracious and we met in the Oval Office the following Wednesday. The outline for NAHA was formed.

I know my personal statement sounds presumptious here, and I do not mean it to sound that way at all. Rather I make these personal references to demonstrate my commitment to trying to enact good housing legislation. I make the same commitment to H.R. 5334.

Every single Republican member of the Committee on Banking, Finance and Urban Affairs signed the minority views accompanying H.R. 5334. These views are printed in the report, so I will not refer to them, but those views express reservations about the bill. Most of the objections, may I say, have been satisfied.

This bill addresses the significant issue of mixed populations in public and assisted housing. This is an important issue that needs to be addressed now. I have received numerous complaints from senior citizens mostly in section 202 projects who are frightened and disturbed by clashes with young mentally or physicially disabled people who have different lifestyles.

The gentleman from Wisconsin [Mr. KLECZKA], the gentlewoman from New Jersey [Mrs. ROUKEMA], and I all had amendments to correct this, which the chairman helped merge into one and then he supported it. Our amendment simply allows local housing authorities and owners of multifamily assisted housing to provide a preference for low-income elderly, low-income disabled and low-income handicapped. If for no other reason, I think this legislation ought to be passed today to address this important issue.

Also included in the bill are three out of five initiatives proposed by the administration: Homeownership vouchers and certificates, safe havens for homeless, and a fair housing demonstration program.

We were concerned about the funding level. We were more concerned when H.R. 5334 started at $36 billion. The gentlewoman from New Jersey [Mrs. ROUKEMA] offered an amendment which passed reducing it to $30 billion. Chairman GONZALEZ has agreed to accept an amendment which we thought was acceptable to the administration to reduce funding by 4 percent across the board to $28.9 billion. OMB says that is still too high. It is about $2 billion over last week's appropriation. I think that funding level has been brought down to a reasonable level.

I agree HOPE ought to be more, but $411 million is a good start.

FHA reform is an area of major heartburn to the administration. HUD wants to retain the 57-percent closing cost language. We lost that fight in the subcommittee and in the full committee. Half of the Republicans voted for it, and half voted against it. The objectionable provision is also contained in the VA-HUD appropriations bill which passed the House last week.

I think the chairman has done an excellent job in explaining the parameters of this bill. I would like to say it has been a pleasure to work with the gentleman from Texas [Mr. GONZALEZ] on housing legislation. I know good housing legislation is uppermost in the gentleman's mind and has been one of his goals since he has been chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. Chairman, I think it is fair to say that we have worked together here to provide good legislation. This bill is not a bill I would present, but it is a good bill, given the dynamics of the situation.

Maybe the concerns of the administration are not all taken care of, but most of them are, and I mentioned those.

Mr. Chairman, I say pass the bill and keep the process moving.

Mr. Chairman, I reserve the balance of my time.

□ 1210

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR], the distinguished ranking member of the subcommittee.

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding time to me.

I want to compliment the gentleman and members of the committee and say a special word about the ranking minority leader, who is a great credit to this body, who is retiring, and a great credit to the State of Ohio. We are proud of, CHALMERS, and all the good work you have done.

Mr. Chairman, every American deserves safe and decent housing. This is what this bill is all about.

In addition, it provides flexible community development money for our cities, large and small. And a provision related to FHA, which rescinds the regulations related to the 57-percent closing cost mechanism, is very important for first-time home buyers who cannot afford all the closing costs.

I want to thank the chairman for supporting the two amendments that I offered in committee, the support of service and planning provisions related to elderly housing, and the land bank provision that is an imitation of a very successful project in my home town of Cleveland, OH, where we have a cornerstone in the redevelopment of neighborhoods in the city, because basically what we do is we take the foreclosed lands and we convert those lands into productive places where we collect the taxes and we, in addition, build new homes on these vacant and abandoned properties.

It has been very, very successful in Cleveland. There have been 41 projects that have started in the inner city, using foreclosed land. And we now have a $40 million more tax base because of that provision.

I want to thank the gentleman for letting us have that, and I hope we can imitate that on a national level. I certainly support the bill.

Mr. Chairman, I rise in support of H.R. 5334, the Housing and Community Development Act of 1992. The bill reauthorizes section 8 and public housing assistance; the Home Investment Partnership Program; the Moderate Housing Program; multifamily housing planning and investment strategies; FHA mortgage insurance and the secondary mortgage market; housing for elderly persons, handicapped persons, and persons with disabilities; rural housing; community development; homeless assistance; and regulatory and other programs.

In considering this bill, I think that we have to keep in mind that all Americans are entitled to decent, safe, and affordable housing. But increasingly, first-time home buyers are unable to afford a home, there are longer waiting lists for public housing, and more people are becoming homeless. Additionally, I think we have an added responsibility in passing this bill. As many of our cities and local areas continue to suffer, this bill really serves as an aid and economic development package for our country.

Let me mention a few specific provisions in the bill. I support the provision to rescind the regulations issued by HUD which prohibit buyers from financing more than 57 percent of the closing costs on a FHA-insured mortgage. I believe that HUD exceeded congressional intent in imposing the 57-percent closing cost restriction.

The 57-percent rule increases the amount of cash that first-time home buyers need to close on the purchase of their first home. For those moderate-income, first-time home buyers who do not have the additional cash for closing costs, but who, under the law, would otherwise qualify for FHA mortgage insurance, the rule make them ineligible for FHA insurance. The 57-percent rule hinders and often eliminates the ability of families and individuals in need of FHA mortgage insurance from realizing the American dream of owning their own home.

The bill also contains my amendment that extends the authority for service coordinators to other Federal housing programs. By extending this authority, I intend that supportive service and planning provisions be an integral part of the management of elderly housing facilities. This must be done for the approximately 30 million persons aged 65 and older.

Additionally, the bill includes my amendment to provide for up to 5 percent of the funds for other support for State and local housing strategies to be used as technical assistance to develop land banks. Such a program has set the State to eliminate blight and tax delinquency and create jobs and positive tax growth, thus forming a cornerstone in the redevelopment of the neighborhoods of the city of Cleveland. The first purpose of the local project is to collect delinquent real estate taxes. The second purpose is to strip vacant and abandoned property of its tax delinquency and then place the property into the city's land bank. The result is that the city has been able to assemble large tracts of land in blight areas and to make these properties available to developers for new construction. About 60 percent of the construction has been housing for moderate- and middle-income people.

The land bank solves a problem that all major cities are confronting—particularly urban abandonment. Since the land bank started in 1987, 41 projects have started in the inner city using foreclosed land. The city of Cleveland has been revitalized. Over $40 million in tax delinquencies, plus debris-ridden lots will be eliminated and new jobs will be generated. The program has been picked as one of 73 semifinalists out of 1,622 candidates for a Ford Foundation innovations in State and local government award. The prosecutors office, county treasurer, Gaul and city of Cleveland deserve much credit for this innovative program.

Again, Mr. Speaker, I urge my colleagues to support H.R. 5334, the Housing and Community Development Act of 1992.

Mr. WYLIE. Mr. Chairman, I yield 6 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA], the ranking minority member of the Subcommittee on Housing and Community Development.

Mrs. ROUKEMA. Mr. Chairman, I rise today as the ranking member of the Housing Subcommittee to express my support for H.R. 5334, the Housing and Community Development Act of 1992.

Mr. Chairman, throughout the entire process of the formulation of this reauthorization legislation there has been a concerted effort to continue to stress the importance of housing issues and to achieve a bill. This legislation is the culmination of efforts begun over 2 years ago when this body first passed the Cranston-Gonzalez National Affordable Housing Act.

As one of the leaders in this effort, I want to congratulate and commend the chairman of the committee, Mr. GONZALEZ, for his total dedication and commitment to housing legislation.

It has been a pleasure working with him. The courtesy he extended to the minority, and especially this Member, and his willingness to hear and accept many of our concerns and initiatives is much appreciated.

I also want to commend the work of the majority staff, especially Frank DeStefano and Ms. Dana Fisher for their willingess to work with the Minority staff in crafting this bill.

Finally, I want to recognize and commend our ranking member, CHALMERS WYLIE, for his strong effort to achieving this bipartisan bill. Unfortunately, our colleague, the gentleman from Ohio, is managing his last housing bill today and I know we will all miss his counsel and his commitment to housing legislation in the years to come.

HOUSING BILL

H.R. 5334 represents the first reauthorization of the most significant change in the direction of national housing policy since 1974. These changes were made through the passage of the Cranston-Gonzalez Housing Act 2 years ago.

H.R. 5334 continues the clear direction for national housing policy set 2 years ago.

This Housing Act continues to recognize the need to provide safe, decent, and affordable housing for our less fortunate citizens and continues the commitment of the Federal Government to achieving that goal.

Is this bill perfect? Hardly.

Is it free of controversy? No.

Does it have the support of the administration? Perhaps not at this time.

Nevertheless, I believe it is a good bill which does deserve our support.

Although the administration does not support this bill at this time, I wish to highlight my perspectives with respect to some policy issues where differences remain.

First, this Member does not share the belief that H.R. 5334 although I agree with their judgment on FHA and represents a significant departure from the National Affordable Housing Act passed 2 years ago nor does it represent a major course change.

H.R. 5334 should proceed through the legislative process with the Secretary's concerns noted. Attempts to meet many of those concerns have been made and many have been accepted by the majority. For this, I want to commend the chairman.

Members of the minority side can support this legislation on its merits and in recognition of the programs which have strong Republican support such as the HOME Investment Partnership Program, the CDBG program, McKinney Homeless Assistance, Family Self Sufficiency and increased funding for the elderly and handicapped.

H.R. 5334 includes several positive initiatives requested by the administration and put forward by this Member during our subcommittee and full committee markups.

These initiatives include a proposal to allow individuals who are eligible for section 8 assistance to use their certificates for homeownership.

Another initiative created the Safe Havens Program which would provide assistance for homeless persons unwilling or unable to participate in more structured homeless assistance programs.

The bill also provides opportunities for low-income individuals to move out of areas of high concentrations of persons living in poverty to areas of new opportunities for becoming more economically independent.

Another important change made by this bill is the consolidation of the eligible activities of the permanent housing, transitional housing and SAFAH programs of the McKinney Act into one single program.

Currently, applicants for each of these program funds must engage in a very complex application process which requires them to apply for several different programs, each with a limited amount of funds.

In testimony before our committee, provider flexibility groups such as the National Coalition for the Homeless recommended that these separately funded components of the program be merged into one for the purpose of streamlining the application process and allowing the applicants to develop much more precisely structured programs knowing that their efforts will not be shortchanged by limited funding levels for the various program elements.

The consolidation maintains all eligible activities under the current program, adds a new SRO component as an eligible activity and maintains the same funding levels.

If we are to continue to address the issue of homelessness in this Nation, we must streamline the application process and stretch each dollar we appropriate to its maximum. This bill accomplishes that goal.

Finally, H.R. 5334 addresses the critically important issue of mixed populations—that is the housing of the handicapped and disabled with the elderly.

I want to commend our colleagues, Mr. WYLIE, Mr. KLECZKA, Mr. DONNELLY, and Mr. FRANK for bringing this issue forward and for working so hard with this Member and others to bring about a reasonable solution.

The overall problem we face even before getting to this specific issue is the fact that there are some 1.5 million low-income individuals on waiting lists for public housing around the Nation. There is neither enough public housing units available nor funds for section 8 certificates.

Unfortunately, the problem of the deinstitutionalization of the mentally ill continues to persist and effect our housing programs. When an individual is released from a State or community mental health facility or a rehabilitation program, they can become eligible for public housing or section 8 assistance.

I have long expressed my disagreement and anger with those States who continue these deinstitutionalization programs. Many of our States and local communities continue to release mentally ill people from their institutions without adequate preparations for the continued shelter and care of these programs.

Unfortunately, HUD has no control over State or local institutions which deal with the mentally ill, the handicapped or those recovering from alcohol or drug addiction and because the Congress has passed several laws aimed at helping the disabled and handicapped by giving them a preference for federally assisted housing a public housing authority is bound to place these individuals in public housing units when a vacancy appears.

Over the years, public housing authorities have found it convenient to place handicapped and disabled individuals into elderly dominated buildings for several reasons which is now beginning to result in a changing environment for our senior citizens.

The legislative remedy in our housing bill represents a fair and balanced approach to this issue as far as housing is concerned.

It is not perfect. By its nature it won't solve all of the problems but it does not provide a positive solution to this problem. More needs to be done, however, before these individuals even get to the point of needing housing.

Other committees of this body must become more insistent that States and local agencies do a better job in the proper planning for the shelter, medical and social welfare of these persons before they are released into an unexpecting society. Fundamentally this is not a housing problem.

In an effort to address the issue, H.R. 5334 permits PHA's and private federally assisted apartment owners to designate entire buildings or portions of buildings as elderly only; handicapped only or mentally ill only.

It permits, for the first time, the PHA's and private apartment owners to skip through their waiting lists to find elderly applicants for units which become vacant. If no elderly person can be found on the list, the PHA's can next offer the unit to the near elderly, that is, those 50 years of age or older.

In return for this, the PHA is required to submit a plan to HUD which would profile the makeup of the PHA's current waiting list; provide an estimate of anticipated vacancies over a 5-year period which would continue to justify the designation of buildings as necessary for the elderly, handicapped and mentally ill; a statement of the amount of public housing new development, section 8 and modernization funds may be necessary to address the profile.

The bill also directs the PHA's to submit requests for section 8 assistance to take care of the needs of the handicapped or mentally ill who would be disadvantaged by the designation of elderly buildings.

It requires a set-aside 5 percent of a PHA's new development and modernization funds for the development and/or modernization of units for the handicapped or mentally ill.

It commits 5 percent of the amounts reserved for major reconstruction of existing facilities for the reconfiguration of units for use by the mentally ill and handicapped.

It permits the PHA's to apply for funds for service coordinators to help find the types of assistance required by the elderly, handicapped and mentally ill.

In addition to these provisions, the bill requires:

Each community receiving HOME funds to include in their comprehensive housing strategy [CHS] a description of the nature and extent of the housing needs of the elderly, handicapped and mentally ill individuals in their jurisdiction and how the community intends to use portions of their HOME allotments to provide housing for these persons.

And, it requires HUD to provide a clearinghouse for information on housing alternatives which may be available to the elderly, handicapped and the disabled.

In sum, this problem should never have occurred and should not be further exacerbated by State and local policies. It is simply not fair to our elderly and is not fair to our handicapped and disabled.

I intend to work with the Health Subcommittee of Energy and Commerce to reach a more comprehensive resolution for the grossly neglected mentally ill.

Several additional initiatives were included in H.R. 5334 which should be supported as good Republican family-oriented programs.

For example, the legislation makes several improvements to the Family Self Sufficiency Program, including funds for family investment centers which will help lower income individuals achieve economic independence through employment counseling, job training and education.

The bill also funds one-stop perinatal care demonstration projects, and early childhood development centers to assist families with the care and education of their children.

The bill also provides for a rural homeless assistance program for areas where traditional McKinney programs are not available.

Finally, Mr. Chairman, I want to address just a few additional initiatives.

AUTHORIZED FUNDING LEVELS

The authorized funding level of $28.2 billion in H.R. 5334 represents a responsible compromise from the bill's original price tag of $36 billion. The funding level represents a modest increase of 4 percent over the appropriated levels agreed to by the Congress for fiscal year 1993 and is the result of an amendment I first offered in full committee and a subsequent one proposed by Mr. WYLIE.

HOME

Perhaps the most innovative program to be enacted in NAHA was the HOME investment partnership. The intent of this block grant program was to allow State and local communities to exercise maximum flexibility in developing local housing strategies and to use Federal funds to meet those strategies. This program was well received by the States, cities, and local communities as a positive step to encourage solutions to the problem of providing affordable housing.

Unfortunately, the original committee print greatly underfunded the HOME programs.

Through the efforts of this Member, H.R. 5334 now authorizes the HOME Program at $2.1 billion.

The HOME Program was designed as a partnership and required that those States and local communities wishing to participate in the program provide an adequate financial commitment to match the Federal contribution. Last year, the Congress over the objections of this Member, voted to provide a blanket waiver of the matching requirement. This year, the match is reinstituted and required.

In changing the current, cumbersome three-tiered match, which discouraged innovation, to a flat match, the committee accepted the recommendations of many of the participants for simplification. And while a flat match is more efficient, the original 10 percent level included in the committee print was unacceptable. Through compromise, the bill now contains a more acceptable 20 percent flat match.

HOPE HOME OWNERSHIP

With respect to funding for the Secretary's Home Ownership Program [HOPE], I have yet to find any Member who does not support the concept of providing home ownership opportunities for our low-income families. The point of departure between many Members and the Secretary of HUD is the financial commitment we should be making to this program as it gets off the ground. In addition, converting scarce public housing rental units into ownership units, while laudable where appropriate, actually reduces the number of rental units in the inventory at a time when there are over 1.5 million applicants on the waiting lists for public housing. We have competing needs. A new program of this magnitude must be phased in—the potential for financial loss exists.

H.R. 5334 authorizes just under $400 million for HOPE. Given the infancy of this program and the many remaining unanswered questions about its effectiveness, this funding level is more than adequate to support a measured and methodical development of this concept and to achieve the goals of the Secretary.

FHA REFORM

The so-called 57 percent allowable closing cost issue for FHA insured mortgages was a rule initiated by the Secretary as a way of lowering the default rate and thus helping rebuild the financial strength of the FHA insurance fund. This rule was promulgated under the additional discretion NAHA gave the Secretary to restore the health of the FHA.

The prohibition on implementing this rule, which is included in H.R. 5334 and the appropriations bill, is, in this Member's belief premature at best. I believe the committee is simply wrong in second guessing the Secretary on this matter. But the interest group pressure has been too much.

In conclusion, the need to reauthorize the very important housing programs in NAHA which benefit the poor, the elderly and the handicapped, and the adoption of several new initiatives, such as the mixed population issue, the consolidation of the McKinney program and others, should far outweigh the omission of the few remaining initiatives supported by the Secretary.

Republicans who argued in support of the Kolbe amendment during the VA-HUD appropriation bill that poor people really do matter, should support this legislation.

Mr. Chairman, the renewed commitment to housing embodied in H.R. 5334 addresses the plight of both the low income renter and the first-time home buyer. This housing bill, while not perfect, is a step in the right direction.

Our problems are formidable. But our task is manageable.

I urge support for this legislation.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the committee for doing a targeted CDBG in the areas affected by defense closures. That has been very helpful, and I thank them for that.

Mr. Chairman, I rise today in strong support of H.R. 5334, the Housing and Community Development Act, and in particular a provision contained in the bill to assist communities affected by the closure of a military installation or a major reduction in defense contracts.

I would like to commend the House Committee on Banking, Finance and Urban Affairs for providing assistance to communities who must have access to Federal programs to recover from sharp reductions in defense spending or the closure of a military installation. Many of these communities will experience unemployment double or triple the national average. Severe reductions in economic power, population flight, shifts in the housing market, school closures and additional peripheral impacts will be common symptoms of these communities.

The Housing and Community Development Act will amend section 107 of the Community Development Block Grant Program to make eligible nonentitlement local governments to participate in the Special Project Grant Program. As you know, many of the larger local governments and large cities are already able to receive direct Federal aid through their entitlement status. Unfortunately, the smaller communities, where many companies in the defense industry and military installations exist, are not entitlement areas.

The Special Project Grant Program currently is available to areas requiring technical assistance. The bill we are considering would make available special purpose grants to nonentitlement local governments affected by one of three circumstances: First, a proposed or actual closure of a military installation, second, the cancellation or termination of a Department of Defense contract, or third, a major reduction in defense spending that would directly affect local governments and result in the loss of 1,000 or more full-time defense employees.

The communities affected by a future base closure or sharp cuts in defense spending will have to cope with several different challenges within a small economic base. Most communities affected will have few other industries to rely on for future growth. Peripheral industries and services will be affected, with corresponding defense cuts and layoffs. The Community Development Block Grant Program offers the required flexibility to allow individual communities to construct a comprehensive economic recovery plan to mitigate the strong impacts associated with a base closure or reductions in defense spending.

We must allow those communities who will be confronted with these challenges an opportunity to recover. I again would like to urge my colleagues to support the Housing and Community Development Act.

Mr. SCHUMER. Mr. Chairman, first I would like to thank the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE] and their staff, led by Kelsey Meek and others, Frank DeStefano, for the good work that they have done.

Mr. Chairman, we have before us a bill that is a product of long hours of negotiation, many hearings. It is a compromise bill, and we have tried on the Subcommittee on Housing and Community Development, under the leadership of the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE], to come up with compromise proposals.

There are lots of things in here that I wished were not that were in. There are some things that I wanted in that are not in the bill. No one is perfectly happy.

☐ 1220

It is very important that we go forward with a bill that will make substantial improvements in our ability to provide Americans with safe, affordable housing.

In my area in New York City it seems we are beginning to get some small handle on some of our urban problems. The crime rate has gone down 6 percent. The economic recession, while we are not moving back up, seems to have bottomed out.

However, the problem of housing seems to get greater and greater and greater. The number of homeless on our streets seems to multiply. The young family looking for a home that they can afford seems to be as out of luck as could be. The number of seniors in my area who have lived in their apartments and now need a new place to live because the landlord is using those apartments for something else seems to grow.

Mr. Chairman, we need to get a handle on housing. If I had one regret, due to no fault of the leadership of the committee, it is that this is not enough. We do need more. Nonetheless, this is a small step on the road to get us back in shape in the housing area.

The bill includes a number of specific provisions which I am grateful were included, and which I thank both sides of the aisle in committee for supporting.

FHA limits for multifamily buildings are increased to a realistic cost limit, so that builders can start to use this program again to construct multifamily buildings in our cities.

The ceiling rent program is made permanent, which prevents public housing rents from skyrocketing for working families, a practice which in the past has driven the most stable families out of public housing in search of more affordable housing.

Furthermore, the bill gives local authorities enhanced flexibility in establishing local preferences to admit families that will contribute to a socioeconomic mix in public housing.

There are others—too many to mention here—but rarely have I seen a bill move through subcommittee and full committee with so much input from committee members and bipartisan support for their efforts. I want to thank chairman GONZALEZ again, and congratulate Mr. WYLIE on the occasion of his final housing bill. His service to his constituents and in this Congress will be sorely missed.

Mr WYLIE. Mr. Chairman, I yield 4 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, this Member would like to take this opportunity to commend the distinguished chairman of the Banking Committee and the Housing Subcommittee, the gentleman from Texas [Mr. GONZALEZ] for his untiring effort on housing programs, the distinguished ranking minority member of the committee [Mr. WYLIE], and the distinguished ranking member of the Housing Subcommittee [Mrs. ROUKEMA] for their efforts to bring this measure to the floor today. Their efforts toward better, more affordable, more accessible, and more cost-effective housing programs are widely known and appreciated. For purposes of legislative history this Member would like to briefly address several items in H.R. 5334 on which I've had some involvement. This Member once again wants to recognize in the year of his retirement the distinguished colleague from Ohio, Mr. WYLIE, for his outstanding contributions in housing legislation, and every area of the Banking Committee's jurisdiction.

Mr. Chairman, H.R. 5334 contains a provision relating to the Farmers Home Section 502 Loan Guarantee Program. This program provides loan guarantees for the purchases of a home by middle income home buyers. Currently, only those potential home buyers whose income is between 80 and 100 percent of median income is between 80 and 100 percent of median area income are eligible for the program. The provision in H.R. 5334 raises that limit to 115 percent of median area income to be comparable with existing law for the HUD program for citizens living in larger communities. Thus, this inequitable treatment of residents in small communities and rural areas would be eliminated. This is a needed and important change, Mr. Chairman. For far too long those middle income home buyers in rural areas have been at a disadvantage compared with their urban counterparts. This provision simply provides some equity for rural citizens. Those earning 115 percent of median income in rural areas certainly are middle income in every sense of the word and should be eligible for this fine program. I commend the chairman of the Banking Committee, Mr. GONZALEZ, for his assistance in including this provision in H.R. 5334.

Mr. Chairman, this legislation also contains a provision to create a loan guarantee program for our Nation's native families. This program is desperately needed and long overdue. This provision will create a loan guarantee program which will provide a Federal mortgage guarantee for Indian families living on trust lands while protecting the Federal Government by providing adequate liquidation ability for the Federal Government in the event of a default.

As some Members know, the status of trust lands provides that they are not freely alienable, and most lenders are not willing to lend for projects without land to secure the loan. As a result, native families living on trust lands have been effectively shut out of homeownership. This program will provide that the Federal Government will securitize the loan and will make lenders more amenable to lending on Indian lands.

The measure also includes a provision allowing for the Secretary of HUD to liquidate a defaulting account, but placing limits on that liquidation which respect the trust obligations regarding Indian lands. This new provision is the same as section 509(d) in the rural housing provisions of the National Housing Act of 1949.

HUD has expressed some concerns that this new program may duplicate a program already existing under section 248 of the National Housing Act of 1949. However, Mr. Chairman, that program has only been used thus far to secure approximately 12 loans nationwide. It's clear that section 248 is not filling this need. This program will. The secondary market, particularly Fannie Mae, has already expressed interest in this new program.

Mr. Chairman, I hope you and my colleagues will support providing Indian families the same opportunities for home ownership we've provided to other citizens.

Another provision in this measure of great concern to Indian families is the provision allowing Indian housing authorities to opt into the Family Self-Sufficiency Program. Because of the unique and sometimes isolated nature of Indian country, it is not always feasible for Indian housing authorities to establish a Family Self-Sufficiency Program. This fact has wisely been noted by the authorizing committee. However, it is only equitable and just that those Indian housing authorities that do have the supporting facilities and infrastructure to run a Family Self-Sufficiency Program have the option to do so. I commend the committee for including this provision in H.R. 5334.

Mr. Chairman, I am quite pleased to note that H.R. 5334 contains a provision providing added responsibilities and authority to the administrator of Indian programs within the Department of Housing and Urban Development. This added authority includes oversight of the Indian Community Development Block Grant Program as well as all HUD Indian housing programs. For far too long Indian housing and CDBG programs have been run by separate departments within HUD. The special nature of Indian country makes CDBG funds more vital than nearly anywhere else in the country for the success of any housing program. Much Indian land is very remote and no supporting infrastructure exists at all. By combining housing and CDBG oversight and management into one office we will be placing the expertise and understanding of the interdependency of housing and community development programs in one office. This will facilitate better, faster, and less expensive coordination of Indian programs.

Mr. Chairman, the National American Indian Housing Council has been providing Indian housing authorities with training and technical assistance for some time now. By all accounts they have done a phenomenal job. H.R. 5334 provides $500,000 for the NAIHC to continue their fine work in both fiscal 1993 and 1994.

You will note, Mr. Chairman, that this is the same amount as the appropriators provided for NAIHC in fiscal 1993.

Finally, Mr. Chairman, there is an amendment to H.R. 5334 which has been accepted in the en bloc leadership amendment which I, along with my colleagues, Mr. RIGGS and Mr. FRANK, offered in response to a report issued by the Department of Housing and Urban Development. That report, known as the NIMBY report or not in my backyard: removing barriers to affordable housing, is an effort to address and respond to the not in my backyard syndrome and the resulting barriers to affordable housing that spring from overregulation.

At issue in the report is whether State and local land use controls, plus rent control and environmental laws, play a role in restricting affordable housing. A further related issue is whether the Federal Government should play a role in eliminating such controls.

One of the chief recommendations of the HUD study was that Congress link Federal housing assistance to regulatory barrier removal in order to provide more affordable housing. This "carrot and stick" proposal would have provided rewards in the form of community development block grant funds to States and localities which removed barriers, and assessed penalties by withholding Federal assistance from those units of government that left barriers in place.

The stick aspect of this approach—the withholding of Federal assistance—

seemed to me and to many others the wrong approach, particularly if the wrong Federal programs are used. Take, for example, the CDBG Program that is a funding source available to communities to use as they see fit. These needs differ from community to community—some using the funds for housing, and others using the funds to improve or build new infrastructure projects as so many of our smaller communities have done. Withholding CDBG funds from communities that are found to have regulatory barriers ignores the specific needs of a community. In some communities, infrastructure apparently is a more important priority than housing. Housing must be supported, of course, with adequate infrastructure. Withholding CDBG funds does nothing to improve housing conditions. Furthermore, because communities housing and infrastructure needs vary so widely, it seems unwise for the Federal Government to determine what is an unacceptable barrier and what is not.

The amendment Mr. FRANK, Mr. RIGGS, and I offered, and which was included in the leadership en bloc amendment, provides a more acceptable answer. It is all carrot and no stick. It rewards communities that remove barriers, but does not penalize communities for the existence of what HUD may perceive as barriers, which may in fact be legitimate regulations needed by the community, thereby exacerbating a housing shortage and quite possibly causing a decrease in quality of the infrastructure supporting the housing that is available.

The amendment's bipartisan support is demonstrated by the participation of myself, Mr. RIGGS, and Mr. FRANK in offering the amendment, and its inclusion in the leadership amendment. Also, the Department of Housing and Urban Development has signaled its support for the amendment.

While some aspects of the NIMBY report may remain controversial, this amendment effectively deals with at least some of the goals of that report in a constructive, bipartisan manner.

Mr. Chairman, I thank you for the opportunity to discuss these important provisions of H.R. 5334.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, today the House has the opportunity to vote in support of a measure that, if enacted, will improve the quality of life for millions of Americans who reside in public and federally assisted housing projects. I rise to express both my support of this measure and my thanks to Chairman GONZALEZ for his hard work and continued commitment to addressing critical housing needs.

Today, we face a severe shortage of low-income housing. This bill addresses the problem through renewed attempts not only to rehabilitate old housing, but to increase construction of new housing. Furthermore, this measure authorizes funding to provide low-cost mortgage financing and downpayment assistance to a growing number of Americans who wish to purchase homes, but cannot afford to. It provides $30.1 billion for essential housing and community development programs, including $3.4 billion for the Community Development Block Grant Program.

But aside from offering creative ways for low-income Americans to obtain housing, this bill includes many provisions that will make life more livable for those who already reside in Government-funding housing.

Embodied in this legislation is compromise language which hopefully resolves a problem that has plagued our elderly public housing. For years now we have been mixing disabled and chronically mentally ill with our elderly.

Clearly, this has not worked out for the lifestyles of these groups are often incompatible.

In communities facing a rapid rise in deinstitutionalizations, elderly housing has become a convenient designated home for all those who have nowhere else to go. Managers of these facilities report assaults, vandalism, and a growing number of bitter disputes among residents. These problems have been particularly acute in my hometown of Milwaukee, where elderly residents often live in fear, and the disabled do not get the help they need.

Many Members have approached me citing their local horror stories and asking help in seeking a resolution. Mr. DONNELLY and I each introduced separate bills on this matter.

When the committee started crafting this Housing and Community Development Act, all parties concerned, with the help and encouragement of Chairman GONZALEZ, met to develop a compromise.

I would like to extend my thanks to Representatives CARPER, DONNELLY, FRANK, GREEN, ROUKEMA, VENTO, and WYLIE, in addition to the Housing Subcommittee staff, for their hard work and commitment during this effort.

Our final proposition strikes an equitable balance between the rights of both elderly and disabled, and in addition provides social services that will meet the needs of each group.

The provisions of the compromise would:

Allow public housing authorities to designate housing for elderly, disabled, or handicapped only.

Require public housing authorities to submit a HUD-approved allocation plan, devised after an extensive review of current housing stock, composition of waiting lists, vacancies, and vacancy trends, that will outline how the project will meet the needs of each group.

Allow managers of federally assisted housing to establish a preference for elderly residents.

Require these managers to retain 10 percent of units for the disabled—or the lesser percentage of units occupied by the disabled at the time of enactment or January 1.

Extend assistance of service coordinators in public and federally assisted housing to disabled, as well as to elderly residents.

I am proud to have played a part in hopefully resolving this critical problem. These changes are fair and sensible to our elderly and disabled citizens.

This and the major housing and community development aspects of H.R. 5334 clearly deserve our support.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise to enter a colloquy with my colleague, the gentleman from Wisconsin [Mr. KLECZKA]. He and I have worked on this very vexing problem. I think we are treating all parties here, the elderly and the mentally ill and disabled, unfairly.

I made reference in my statement to going to the other committees of jurisdiction. Really, this is a health issue that should not be foisted on Federal housing policy.

I would like to ask the gentleman from Wisconsin if we could work together with the Committee on Energy and Commerce and the Committee on Ways and Means in trying to effect a resolution of the outstanding issues, because we in the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs cannot do this alone. We in housing legislation need their help.

□ 1230

These unfortunate people are being put out on the street with improper health care and no housing.

Mr. KLECZKA. Let me indicate to the gentlewoman that I pledge my efforts to work with the gentlewoman from New Jersey and others on the committee, and know full well, as I indicated in my statement, that it is convenient just to dump these people off. I fully support taking individuals out of institutions where the cost of care is very, very expensive and putting them into public housing, but follow up with some services. And that is what is really lacking today. I thank the gentlewoman for her help.

Mrs. ROUKEMA. We are in agreement on the merits of deinstitutionalization however, dumping these patients into public housing has no place in a civilized contemporary society, and I look forward to working with the gentleman.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the gentleman for yielding me the time. I too would like to pay tribute to the gentleman from Ohio [Mr. WYLIE], the ranking member of the Committee on Banking, Finance and Urban Affairs. He has been particularly considerate and accommodating to this new Member of Congress, and I thank him for those considerations.

As a member of the authorizing committee, I join with my colleagues on the other side of the aisle in expressing some ambivalency about the bill, but qualified support for its passage, because while the bill may be imperfect, it is the product of a bipartisan compromise, and it does continue us in the right direction. It is also premised on the belief that safe, decent housing is a basic human right, and it is a basic right of all Americans. And furthermore, it continues some successful approaches that have evolved out of the National Affordable Housing Act authorized by Congress 2 years ago. One that particularly excites me is the idea of taking a holistic approach to helping the homeless become productive, contributing members of society again.

But I would like to focus for just a moment on the amendments that I have in the bill that have been graciously accepted by the chairman as part of his leadership en bloc amendment. One is an outgrowth of Secretary Kemp's housing commission on the removal of regulatory barriers to affordable housing. Our NIMBY amendment, as it is called, that I offered in both subcommittee and full committee, and joining with me is the gentleman from Massachusetts [Mr. FRANK] in offering it in the context of this bill, would create a set-aside with $15 million in community development bloc grant funds to help States and localities, local units of government develop strategies for the removal of regulatory barriers to affordable housing. That is a particularly acute problem in my home State of California, and I strongly support this legislation as someone whose congressional district contains 2 of the 10 most expensive and least affordable housing markets in the country.

The other amendment, having been accepted into the leadership en bloc amendment that I believe is a very positive step in the right direction, albeit a very small starting step, is the idea of public housing perestroika, allowing tenant management in the most distressed public housing agencies in America today. I do believe in using this bill as a starting point, as a base. We do need to go further, and we need to look at full perestroika that would also permit tenant ownership in those distressed public housing agencies. And I am particularly referring to the Philadelphia public housing agency which was recently seized by the Federal Government, and the District of Columbia public housing agency here in Washington which has been beset by problems pertaining to mismanagement and fraud. In fact, those problems have been illuminated by another committee of this Congress. The gentleman from California [Mr. LANTOS] in his Government Operations Committee has focused on the systemic fraud problems in the District of Columbia Public Housing Authority.

So I encourage us to go further, again using this bill as a starting point. And I commend this bill to my colleagues for their support.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I rise in very strong support of H.R. 5334. Two years ago the Cranston-Gonzalez National Affordable Housing Act began to reverse a decade of neglect and retrenchment, and reasserted this Government's duty to ensure that every American has a decent place to live. And I think the gentleman from Ohio [Mr. WYLIE] and the gentleman from Texas [Mr. GONZALEZ] ought to take great pride in their attempts to stand up for the poor and the working people of this country, and standing up for the housing needs of those people.

The fact is that as we look around our country today, despite the efforts that are going to be made in this bill, there is still an enormous amount of homelessness that exists in this country. There is an enormous amount of working people and poor people that pay extraordinary amounts of their own personal income to try to put a roof over their heads and put a roof over their children's heads. They pay 30 percent, 40 percent, 50 percent, and even 60 percent, and 70 percent of their income to simply provide for decent and affordable housing.

Yet, we have seen in this Government over the course of the last decade a real abandonment in the housing needs of the working people and the poor people of this country. In 1980 this country spent something on the order of $30 billion building affordable housing, building over 300,000 units of housing. Yet in just this past year we are going to be calling in this bill as we know to spend $30 billion, but the reality is that $4 billion or $5 billion of that is going to be spent on FHA programs that would not have been spent in 1980, and we see billions of dollars more that have been eaten up through the process of inflation. So when it comes down to how many housing units we actually build to house the needy people of this country, we see it drop substantially.

We also see the fact that we hear a lot of politicians stand up before the American people today and make a great plea that we provide home ownership to the poorest and the most vulnerable citizens of this country, and certainly home ownership is an issue that everybody in their right mind is going to be in favor of. But it has to be done responsibly. It has to be done with a sense of what is really needed by these ordinary people if they are going to be able to maintain those homes and they still do not have good jobs.

Mr. Chairman, I also want to thank the chairman for the effort that he has made in putting into this bill the home built programs which I have done with my good friend, MAXINE WATERS, from the great State of California that will provide the young people of our inner cities with the opportunity to learn a skill, go to high school and at the same time build affordable housing in this Nation.

I also want to thank him for the efforts he has made in standing up for community-based organizations' and the nonprofits' abilities to continue to build affordable housing, and the requirement that we make sure that most of the people that serve on those boards of directors come from the local communities and have a great interest in the building of that affordable housing. I want to thank him for the efforts he has made on the plans of action in terms of those individuals who would be thrown out of their homes had you not successfully renegotiated the contracts that had come due by expiring over the course of the last year. So I want to thank the chairman for his efforts.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise in guarded support of this legislation. Last week during the debate on the HUD-VA appropriation I expressed my concern about the inadequacy of funding for the HOPE and the HOME programs. The same is true here today in this authorization bill. The amount is totally inadequate, less than half of what is currently authorized. Still, it is much better than it started out, which was at zero. At least it has been authorized at $411 million, and that is something over the amount we appropriated in the bill on the floor last week.

I am also pleased that there is a reduction in the amount of the total authorization from $36 billion to $28 billion. But what is most important in this bill is the fact that the FHA provisions in this legislation are similar or almost identical to what we passed in the appropriation bill last week.

Most important for communities, like my own, would be the increase in the limit for FHA financing to 75 percent, conforming to Freddie Mac. That would increase the loan limit to $151,000. And that, in turn, will make FHA loans available to more purchasers than currently are eligible.

□ 1240

Much work needs to be done on this bill before it can be acceptable, but I would urge us to keep this process moving. We should vote to recommit to increase HOPE, but also vote "yes" on final passage.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Chairman, let me begin by commending my chairman, the gentleman from Texas [Mr. GONZALEZ], with whom I have served for the last 5½ years on the Subcommittee on Housing and Community Development.

We have a great deal of concern as we consider where we are as a nation and priorities that have been set in the area of housing. The gentleman from Ohio [Mr. WYLIE], the gentlewoman from New Jersey [Mrs. ROUKEMA], and others who have worked together to put this bill in place certainly deserve commendation.

I would hope that all of us will support H.R. 5334, because it gives us an opportunity to reprioritize a major area of concern in America. There are so many people who dream about the possibility of home ownership. It is not a possibility for them because of circumstances over which they have no control.

We begin the process today of moving in another direction. We say to the people of this Nation, "We share your dream. We share your desire to be a full participant in trying to stabilize communities, to live in homes where there is necessary assistance that gives you an opportunity for home ownership."

This bill addresses a spectrum of housing needs, those persons who are homeless, those persons who depend upon public assistance housing, those persons who wish to buy a home but cannot find the financing for it.

I am happy there has been a solution and a compromise that has been worked out between the parties, because I think housing is one area where we really do not need partisanism. We need to understand that when our people are not housed, it is our people who suffer, and when they suffer, we begin as a nation to suffer as well.

Let me just commend the inclusion of the New Towns Program which will help to revitalize not only Los Angeles but represents for us a possibility and a model for the revitalization for so many of our communities in this Nation. The stabilization of communities is dependent upon home ownership and upon the citizens who are able to stay in a community.

Revitalization helps in the process of assuring that those persons who are part of the fabric of America know that they have been included. They are not excluded from this new concept of a world order, but they understand that the Nation is concerned that they have a place, that they have a permanent place, that it is their place, that they have some ownership in that place, and I think that helps to make us a stronger nation.

Mr. Chairman, I would like to take this opportunity to thank the leadership for bringing this crucial bill to the floor in such a timely manner. I also thank Chairman GONZALEZ for his consistent hard work in assuring that the bill honestly attempts to adequately meet the multitude of housing needs in America. I believe enactment of this housing bill is the first step in redetermining our national priorities. It is clearly time that housing be recognized as a fundamental necessity in this Nation.

This bill addresses a spectrum of housing needs—from those who are homeless, to those who depend on public assisted housing, to those who wish to buy a home but cannot finance it. The committee worked very hard to compromise and balance all of these needs and it is commendable that they were able to do so.

Finally, I would like to commend the inclusion of the New Towns Program to revitalize sections of Los Angeles affected by the recent riots. This measure has served as a driving force in this year's housing bill. Undoubtedly, the Los Angeles riots served as a wake up call to this Nation as to the failing and ailing condition of life for so many Americans. We must meet the staggering demand for permanent shelter and affordable housing opportunities. We must compensate for years of the administrations' neglect in the housing area. The tragedy in Los Angeles has proven the inescapable result of such neglect.

I urge my colleagues to vote in support of this bill and begin to address the real priorities of this Nation.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. GONZALEZ], in order to enter into a colloquy that he would like me to enter into.

Mr. GONZALEZ. I believe that with reference to Farmers Home Administration regulations, it is my understanding that the FmHA has recently issued proposed regulations to address the issues of cost containment and vulnerability in the section 515 rural rental housing program. Further, I understand that there are several provisions in those regulations which may severely hamstring the effectiveness of the program, and may contravene congressional intent while not addressing the problems of costs and profits which they are intended to address. Two such provisions include limiting the number of preapplications for assistance to five that any one housing sponsor may file nationwide, and excluding from the mortgage any appraised land value that exceeds 3 percent of the total development cost. The first requirement essentially discourages those owners and developers with the best track records, as only one application in four typically is funded. The second limitation effectively raises the required equity contribution above the statutory requirement of 3 percent which we expressly do not change in H.R. 5334.

I had intended to offer an amendment to disapprove these regulations, as I believe that the regulations will harm all borrowers, and also contravene congressional intent, and not simply the offending borrowers. But I have agreed to withdraw it in order to give FmHA time to respond in a final regulation to public and critical comments which I am certain will be forthcoming from all quarters. It is my intention to let FmHA know of my many concerns with the proposed regulations, and it is my understanding that the gentleman from Ohio will join me in that comment letter.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am happy to yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, the chairman is correct. I have indicated a willingness to him and to his staff members that I will join in providing critical comments to Farmers Home on the proposed section 515 regulation, and I want to thank the chairman for withdrawing his amendment.

I felt the amendment may be broader and more restrictive than necessary to address the issues of cost containment and vulnerability, and I believe the Farmers Home will honor our comments and is not interested in stifling future rental housing development.

I appreciate the fact that the chairman did withdraw his amendment today and thank him for the opportunity to engage in this colloquy to clarify the intent of the Farmers Home regulations on section 515.

Mr. GONZALEZ. Mr. Chairman, let me say that the gentleman is absolutely correct, and as always in these instances, his reasoning certainly prevailed over our judgment. I, for one, have always been very reluctant to offer statutory language to something that is properly in the administrative rule and regulation promulgation domain. I just hate to do it. And the gentleman from Ohio [Mr. WYLIE] very wisely pointed out the options I have just described. I want to thank him.

Mr. WYLIE. I thank the gentleman.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, there are a number of reasons to vote for this bill. It comes to the floor with strong bipartisan support in an election year on an issue that can be this contentious. For a housing bill to enjoy the strong support of the Democrat and Republican side, I think, is remarkable, and certainly to the credit of the chairman, as well as the gentlewoman from New Jersey [Mrs. ROUKEMA], the gentleman from Ohio [Mr. WYLIE], and our respective staffs. I commend each of you.

This legislation also reflects the budget realities under which we operate. The expenditures it authorizes are prudent and reasonable.

In addition, this bill contains a number of provisions which are important to the people of my State and to low-income individuals across the country. First, the bill contains a comprehensive and compromise solution to the complex problem of mixed populations of elderly and nonelderly disabled residents living together in federally assisted housing. This issue has received considerable attention in my State of Delaware, and I was pleased to be able to work with Mr. KLECZKA, Mr. FRANK, Mr. GONZALEZ, Mrs. ROUKEMA, and other members of the Banking Committee to design this solution. The importance of this solution is that it addresses the needs of both the elderly and the young disabled—it provides for separate facilities for the elderly, while including numerous provisions to increase the availability of housing for the disabled.

The bill also reauthorizes two programs which Representative KAPTUR and I helped develop in the 1990 National Affordable Housing Act—family self-sufficiency and family investment centers. These two programs will help to bring social services to public housing and section 8 tenants to help them achieve economic independence. In addition, several changes were made to family self-sufficiency to make it more workable at the local level.

Finally, this bill also contains two amendments which I offered—one to ensure that the HOME Program can be used to help poor renters receive security deposit assistance—and a second to ensure that a housing authority in my State can implement an innovative public housing home ownership program and still receive operating subsidies. I thank the chairman and his staff for their assistance in including these provisions.

On a separate note, Representative BARNARD of Georgia had hoped to be here today to engage in a colloquy with Chairman GONZALEZ. On Representative BARNARD's absence, I am pleased to be able to raise an important issue.

As long as the Community Reinvestment Act is on the books, we should try to make it work for things that are desperately needed in our communities such as efforts in education. Does the chairman agree that banks should get credit in their CRA evaluations when they make loans or monetary contributions to finance facilities such as literacy centers, adult education centers, and efforts to prevent school dropouts?

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. I agree with the gentleman's belief that credit or financial support extended for needed educational facilities such as literacy centers or dropout prevention should be considered by the examiners. In fact, it is my understanding that such credit extensions are currently considered in CRA evaluations. Such loans should be evaluated as the examiners look at banks' contribution to community development projects—an area covered in the current assessment factors of the regulations adopted by the supervisory agencies. As part of their CRA responsibilities, bank should take advantage of opportunities to finance needed and legitimate educational projects in their communities, particularly in low and moderate income neighborhoods.

Mr. CARPER. I thank the chairman for sharing with us his valuable prospective with which I heartily agree.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in support of H.R. 5334, the Housing and Community Development Act, and, in particular to express my appreciation to Chairman HENRY GONZALEZ, Congressman CHALMERS WYLIE, Congresswoman MARGE ROUKEMA, and Congresswoman MAXINE WATERS, who were leaders in incorporating within H.R. 5334, the Women in Homebuilding Act, which I introduced with my colleague, Congresswoman MARCY KAPTUR. This legislation will provide money to recruit and train low and moderate-income women for construction jobs in their own neighborhoods working on public housing projects.

This legislation is important for its contribution in providing women with avenues to high-wage occupations. It is particularly significant because it targets those women who most need assistance and puts them to work in their own communities. It is also helping to rebuild our aging housing stock while providing them with skills in nontraditional employment.

The majority of working women in this country are concentrated in low-paying jobs, often referred to as the "pink collar ghetto." This provision of H.R. 5334 will reach women living in low and moderate income housing areas and provide them with training and resources to secure work in high-wage construction occupations. At the same time, businesses will receive assistance in creating a nondiscriminatory, highly productive work environment in which not only women, but all employees, can prosper.

Women who are afforded the opportunity to earn adequate wages in male-dominated occupations will be productive contributors to the workplace. Women who have a hand in rebuilding and reshaping their own distressed neighborhoods will be highly motivated to achieve self-sufficiency and success. It is a fact that, by the year 2000, the majority of new entrants into the work force will be women and minorities. Without a doubt, this legislation will provide this country with well-trained laborers which, in turn, will help the United States meet the challenges of the future.

I urge my colleagues to support H.R. 5334.

□ 1250

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. First of all, Mr. Chairman, I want to acknowledge the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE] for the marvelous effort they have made on behalf of what is a critical component of urban life.

Most importantly, I want to speak with some knowledge, having been a former mayor of a large community.

Mr. Chairman, I rise to express my support for this important housing authorization bill. I would like to commend Chairman GONZALEZ, Mr. WYLIE, the ranking member of the Housing Subcommittee, and all my colleagues on the subcommittee and the full committee. We have had some very valuable debates in committee on this measure and I am happy that the final version includes language that addresses so many pressing concerns in housing. Let me just address a few of particular concern to me:

The Community Development Block Grant Program is funded at a level of $3.4 million. This is a key program for communities in my district and across the Northeast. We have been suffering through a deeper recession than other parts of America and our mayors and community leaders look to the CDBG Program for assistance each year. These are Federal dollars well spent and I continue to give this program my strongest support.

The McKinney homeless provisions are funded to a level of $735 million. This will give communities a resource as they continue to work to get people off the streets and into decent housing.

This bill provides $2.2 billion for the Home Investments Partnership Program. This will provide grants for cities and States to get people into decent housing. We have lost thousands of affordable housing units in this country since 1980. While this bill can't do the entire job of getting our housing stock back to a stable level, it is an important start. There are 1½ million families on waiting lists for affordable housing in this Nation. We must begin to reduce that shameful total—this bill takes an important first step.

Mr. Chairman, I urge my colleagues to support H.R. 5334.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I rise today in support of H.R. 5334, a very urgently needed housing reauthorization bill.

I want to commend the distinguished chairman—Chairman GONZALEZ—for his leadership and wisdom in moving this bill forward.

I would also like to personally thank Chairman GONZALEZ for being extremely responsive to proposals and concerns which I brought before the Banking Committee during this process.

His leadership on these issues was especially important in the wake of the rebellion in Los Angeles less than 4 months ago.

With Chairman GONZALEZ's cooperation, I was able to include several important programs in this legislation.

Representative KENNEDY and I worked to incorporate a provision to federally authorize YouthBuild, a highly regarded and successful low-income housing rehabilitation program that employs disadvantaged youth.

The bill also includes a community demonstration project that will expand housing in areas affected by the L.A. disturbances.

We have included an expansion of the Moving to Opportunity Program to help those who have had trouble with the law move into more supportive living environments.

We have expanded the Family Investment Centers, the Early Childhood Development Services, and the Family Unification Program, all of which provide critical services for children and families living in public housing.

We have clarified the HOPE Program to ensure that it will not lead to a reduction in affordable rental housing.

Finally, Representative TORRES and I worked to have included in the bill a one-time lifting of the 15-percent cap on public services funding under the CDBG Program for Los Angeles.

Three short months ago Los Angeles exploded in anger. To date, the Federal Government has done next to nothing to address the roots of that disturbance.

The bill before us provides the starting point needed to change the living conditions inside our inner cities.

If fully funded, this bill will go a long way toward creating jobs, rehabilitating old and indecent housing, and expanding the stock of affordable housing.

The key then, Mr. Chairman, is to not only pass this important legislation, but to fully fund the programs it authorizes and expands.

We can do no less to adequately respond to the urban crisis we face.

Mr. WYLIE. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, the statement of administration policy which we received yesterday at the Rules Committee states:

> If H.R. 5334 were presented to the President in its current form, his senior advisors would recommend a veto.

I would say that the statement came to me at the last hour and I had not had an opportunity to see it until after we had appeared in the Rules Committee yesterday and supported a rule like the one before us today.

Obviously, from the administration's perspective, this is not a perfect bill. During subcommittee markup and full committee markup, I and many other Members on this side of the aisle indicated that this was not a perfect bill, and we tried to advance the cause pressed by the administration; however, after working with the chairman over the last couple of days and just in advance of this statement of administration policy, we got together on some amendments made in order under the rule which go a long way in addressing the concerns expressed in this statement of policy.

The administration's statement highlighted at least eight points: Inadequate HOPE funding, and we agree with that, but we got $411 million and that is more than was in the bill when it first started.

They objected to a reversal of some of the reforms made to FHA in the 1990 housing bill. I addressed that a little earlier. The provision with regard to the 57-percent restriction on closing cost in our bill is the same as the one passed in the HUD-VA appropriations bill last week.

An increase in the FHA mortgage limits. Again, the increase here is the same as was in the HUD-VA bill passed by the House last week.

The HOME match issue; we tried to address that issue. We compromised on a flat 20-percent match, up from the reported bill of 10 percent.

Elimination of the review of the subsidy layering as required by the HUD Reform Act; that will be addressed in conference. I know the chairman is prepared to consider the administration's suggestion.

Reduction of targeting requirements in the Public Housing Program; we have addressed that in a realistic way.

Restrictions on housing choices for very-low-income tenants who want to become homeowners; we made the modifications their way.

Aggregate funding levels is way down, as I indicated a little earlier, down from $36 billion to $28 billion.

So, Mr. Chairman, with the exception of the HOPE funding and the FHA issues which this body debated just last week in the HUD-VA appropriations bill, I am convinced that we have addressed in some way the other concerns of the administration in whole or in part in the en bloc amendments, which will be offered a little later on and which I predict will be overwhelmingly passed.

So I believe that the bill before us today, with the en bloc amendments, is a good bill. I am confident that it will pass and that it will keep the process moving. If the administration has some concern after we act today, we will try to get together in conference on those concerns, but I urge adoption of the bill before us, Mr. Chairman.

Mr. Chairman, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. COX], a member of the committee and of the subcommittee, and a very effective one.

Mr. COX of Illinois. Mr. Chairman, I would like to begin by saying that as a new Member of the House and a member of the committee, I have come to really respect the gentleman from Ohio [Mr. WYLIE]. I just want him to know that his presence will be missed here.

Mr. Chairman, I rise today to express my strong support for the Housing and Community Development Act of 1992. I believe that our cities have suffered deeply over the past decade, and many American communities are sorely in need of housing and community development assistance.

The bill includes several measures to expand the national supply of affordable housing. For example, it makes the FHA program more accessible to low- and moderate-income families, and it makes the Federal HOME Program easier for cities to utilize. In addition, the funding level of almost $2.2 billion for the HOME Program reaffirms Congress' commitment to this public-private partnership designed to leverage limited Federal housing resources.

Further, this bill addresses the countless problems that housing authorities in Illinois have had with elderly and nonelderly disabled residents living in the same housing developments. This bill will bring relief to the behavioral problems of these mixed populations by providing service coordinators to serve the different populations, improving the screening process, and improving security, management training, crisis intervention, and substance abuse elimination.

I commend the chairman and my colleagues on the Banking Committee for their work in crafting this bill. I hope that it will receive overwhelming support.

☐ 1300

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, I rise in strong support of H.R. 5334, and I would like to express my appreciation for the inclusion of the YouthBuild provision.

Mr. Chairman, I rise in strong support of H.R. 5334, the Housing and Community Development Act of 1992.

I want to thank Chairman GONZALEZ, Representatives WATERS and KENNEDY and other members of the committee for incorporating in H.R. 5334 the provisions of legislation I introduced (H.R. 501) to authorize assistance to YouthBuild job training and housing development programs. YouthBuild is an exciting, national grassroots initiative which creatively addresses the twin crises of youth unemployment and homelessness in poor communities throughout the United States.

Section 165 of H.R. 5334 would authorize assistance to support YouthBuild projects which provide disadvantaged youth with education, skills training, and job experience in the construction or rehabilitation of housing for homeless and other low-income people.

At least 75 percent of the participants in each YouthBuild project must be economically disadvantaged high school dropouts between the ages of 16 and 24—persons who are frequently unserved by other job training programs and who are among those with the greatest difficulties in the job market. The remaining 25 percent of participants could be other young people who are not disadvantaged or who are high school graduates who have educational needs despite their attainment of a degree. This is an option and not a requirement; programs could, if they chose, elect to serve only economically disadvantaged youth. Every program would also have to undertake special recruitment activities to attract the participation of young women, ex-offenders, foster care youth, and youth who are homeless.

YouthBuild participants spend half their time in academic remediation, GED classes, and other educational programs. The rest of their time is spent on the construction site, working at minimum wage and learning marketable job skill. Upon its completion, the housing YouthBuild participants help to build would be reserved permanently for homeless and low-income families at affordable rents. Upon their graduation, YouthBuild participants go on to obtain jobs which pay between $8 and $19 an hour in carpentry, electrical work, plumbing, painting, and other areas of construction. Some YouthBuild graduates have even gone on to establish their own construction companies.

YouthBuild graduates also leave the program with a new and enduring sense of empowerment. A key highlight of the program's design is its emphasis on developing the leadership skills of participants by providing them with opportunities to participate in decisionmaking about the project's operation and through other means. The program recognizes that disadvantaged young people want to contribute to improving the well-being of the communities and seeks to give them the education, job training, and leadership skills they need to maximize their contributions. YouthBuild understands that low-income youth are an untapped resource, not a disease which must be treated or contained.

The innovative model upon which YouthBuild is based has proven successful wherever it has been tried. It has been carefully developed in east Harlem by the Youth Action Program since 1978. The Banana Kelly Community Improvement Association has successfully replicated it in the south Bronx since 1984. Public/Private Ventures has implemented the model in 12 cities. In all since 1985, YouthBuild programs in 8 cities have prepared over 1,000 young men and women for careers in construction and rehabilitated dozens of buildings in low-income communities.

YouthBuild programs are now being developed and put in operation by community groups in San Francisco, Cleveland, Boston, Tallahassee, St. Louis, Pittsburgh, Indianapolis, Milwaukee, Atlantic City, and Gary, but they are struggling without an adequate and stable source of funding. They report that they must turn away 7 to 10 times as many young people as they are able to serve. Another 140 organizations in communities throughout the United States are seeking to replicate the YouthBuild model, but have been unable to secure the necessary funding.

The YouthBuild program has proven to be particularly attractive to and beneficial for young minority males and comprises an important part of the response we must make to the terrible crisis facing these young people. The average earnings of all young men have fallen since the early 1970's, but the earnings losses of young African-American and Hispanic men have been particularly severe. The average annual earnings of young African-American men fell by 36.7 percent between 1973 and 1987. Young Hispanic men lost 26.7 percent and young white men lost 21.5 percent. African-American male dropouts have been hardest hit by changes in the economy. In 1987, young African-American male dropouts earned an average of only $2,986, compared to $8,496 in 1973—a drop of 64.8 percent. This is twice the size of earnings losses experienced by white and Hispanic male dropouts.

A devastatingly high proportion of young African-American and Hispanic men are in prison, in jail, or on probation or parole. In 1989, nearly one in four young African-American men between the ages of 20 and 29 were under the control of the criminal justice system—either in prison, in jail, or on parole—on any given day. The proportion was 1 to 10 for young Hispanic men and 1 in 16 for young white men. Young African-American and Hispanic men are also disproportionately the victims of violent crimes. For example, African-American men are seven times more likely to die from homicide than their white peers.

Despite the magnitude of this crisis, precious little is being done at the Federal, State, and local levels to arrest and reverse this horrible waste of human potential. There are few programs available to meet the needs of young men in the inner city. As the founder of YouthBuild, Dorothy Stoneman, put it in testimony before the Education and Labor Committee, "the only active recruitment of low-income minority men is for them to become drug dealers." By providing support for the replication of the YouthBuild model in communities across the Nation, H.R. 5334 will help to remedy this paucity of meaningful alternatives for young minority males. During its consideration of YouthBuild legislation, the House Education and Labor Committee heard testimony from Mr. Ventura Santiago, a YouthBuild graduate from east Harlem who obtained his GED through the program and learned construction skills which helped him to obtain a good job paying over $23 per hour. Mr. Santiago spoke eloquently about what YouthBuild meant for him and what it could mean to other young people:

> It's not easy growing up in East Harlem. Especially nowadays everybody thinks everybody is on crack or selling drugs or something. A lot of young guys are dropping out at early ages. It's just a shame. Most of them drop out because they really don't have anything to do. You've got to give people something to look forward to, like this training, something to look forward to that they could use in the future. If it wasn't for this training, I don't know where I'd be today. I really don't.

Through YouthBuild, H.R. 5334 will provide many more opportunities for young men like Mr. Santiago. I urge my colleagues to support section 165 of the legislation and its many other important provisions.

Mr. GONZALEZ. Mr. Chairman, let me say that the gentleman from New York [Mr. OWENS] did add a very constructive proviso to the bill.

Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. I thank the chairman for yielding to me.

Mr. Chairman, thank you for the Banking Committee's concern for nontraditional lending, recently demonstrated at the subcommittee hearing on nontraditional lenders in late July. I want to bring to the attention of the full body the importance of one type of lender showcased at that hearing: the community development credit union. The more than 400 community development credit unions nationwide offer much needed capital to persons and growing businesses in the low-income neighborhoods where they are based. But these institutions still need adequate technical assistance, organizing and operating funds, and loan guarantees. I would greatly appreciate the committee's continued exploration of how we can best be of help to community development credit unions.

Mr. GONZALEZ. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the chairman.

Mr. GONZALEZ. I thank the gentlewoman for yielding.

Mr. Chairman, let me say that I agree that community development credit unions play an important role in meeting the credit needs of low-income persons and businesses in neighborhoods where those needs are rarely met. I will be pleased to work with you on how the Congress can support these special nontraditional lenders.

As the gentlewoman knows, we have other lending institutions, but we will be working together.

Ms. KAPTUR. I thank the chairman.

I also offer my strong support for H.R. 5334. This bill includes a provision that authorizes for the first time an innovative way of helping women in low- and moderate-income neighborhoods to become self-sufficient, namely by becoming apprentices and then journeywomen.

I urge your support for this provision and for the bill in general.

Specifically, the provision authorizes funds for community-based organizations to help women living in low- and moderate-income neighborhoods to secure jobs and paid apprenticeships with construction companies working on properties there. The money will be used to recruit women from the neighborhoods, to prepare them for construction work by providing or accessing pre-apprenticeship and apprenticeship training, to create workable environments for the women on the job, and to inform the women about how to incorporate their own small construction business once they are trained.

This single idea of helping women build and rehabilitate housing in their own neighborhoods elegantly addresses several social ills simultaneously. It helps women in the neighborhoods work toward self-sufficiency by developing skills and securing employment in high-wage occupations. It provides these opportunities near home, pragmatically allowing mothers to check up on their children during the workday. It also furnishes the employable skills vital for helping the increasing numbers of single mothers provide for their families.

In addition, the new language squarely confronts the problem of low numbers of women in construction, at a startling 2 percent of the construction work force in 1991. It increases this meager rate not only by recruiting and training women for construction, but also by retaining any gains made by helping the construction companies set up workable environments to maintain the women they hire. Best of all, it addresses these problems by meeting yet another critical need: the renovation of troubled low- and moderate-income neighborhoods.

I again urge my colleagues to support this bill and this powerful provision contained in it. In so doing, we will produce self-sufficient women, a more equitable number of women in construction jobs, a renovated neighborhoods.

Following is a list of low-income credit unions as designated by the National Credit Union Administration. The list is current as of August 5, 1992.

Please keep in mind that this list only reflects the number of credit unions that have applied for a low-income designation and been approved by NCUA. Many other credit unions could potentially obtain the low-income designation if they chose to seek such a designation. It is estimated that there are approximately 300 to 500 credit unions in aggregate that are serving economically disadvantaged communities but cannot document that conclusively:

Selma-Dallas Community, Selma, AL. 36701.
Lester Alabama, Lester, AL. 35647.
St. Johns AME Birmingham, Birmingham, AL. 35202.
Demopolis, Demopolis, AL. 36732–0671.
York Citizens, York, AL. 36925.
Force, Eutaw, AL. 35462.
Prichard, Prichard, AL. 36610.
College Station Community, College Station, AR. 72033.
Chicanos por la Causa, Phoenix, AZ. 83034.
First American, Window Rock, AZ. 86315.
Peoples Ind Church, Los Angeles, CA. 90043.
Isla Vista Community, Isla Vista, CA. 93117.
Mission Area, San Francisco, CA. 94103.
Desert–Valle, El Centro, CA. 92243.
Northeast Community, San Francisco, CA. 94108.
Family, Wilmington, CA. 90744.
Watts United, Los Angeles, CA. 90002.
Need Action, Waterbury, CT. 06721.
Local 25 #32 AFL–CIO, Washington, DC. 20005.
Metropolitan Baptist Church, Washington, DC. 20009.
Hospitality Community, Washington, DC. 20002.
PSA, Wilmington, DE. 19801.
St. James A M E Church, Miami, FL. 33147.
NEJA, Marianna, FL. 32446.
First Baptist Church Oakland, Jacksonville, FL. 32206.
Putnam County, Palatka, FL. 32177.
POC, St Petersburg, FL. 33713.
Community Trust, Apopka, FL. 32704–1023.
South Okeechobee Comm. Development, Belle Glade, FL. 33430.
Piney Grove Community, Swainsboro, GA. 30401.
F A B Church, Savannah, GA. 31401.
Wheat Street Church, Atlanta, GA. 30312.
Tabernacle, Augusta, GA. 30901.
Unified Singers, Thomasville, GA. 31799.
Stewart County, Lumpkin, GA. 31815.
Clarke Community, Athens, GA. 30606.
Ware County, Waycross, GA. 31501.
Stephens County Community, Toccoa, GA. 30577.
B.O.N.D. Community, Atlanta, GA. 30307.
Grant Park–S.A.N.D., Atlanta, GA. 30312.
American Samoa Government Emps., Pago Pago, GU. 96799.
SCICAP, Leon, IA. 50144.
St. Martin de Porres Parish, Chicago, IL. 60624.
Puerto Rican Society, Waukegan, IL. 60079.
Israel Methcomm, Chicago, IL. 60619.
T U F, Chicago, IL. 60610.
C T A F C, Chicago, IL. 60607.
North Side Community, Chicago, IL. 60640.
Austin/West Garfield, Chicago, IL. 60651.
North East KY Cap, Olive Hill, KY. 41164
Central Appalachian Peoples, Berea, KY. 40403
Iberia Parish, New Iberia, LA. 70560
Union, Farmerville, LA. 71241
Fourth Ward, Anite, LA. 70422
Avenue Baptist Brotherhood, Shreveport, LA. 71103
Tulane Memorial Baptist Church, New Orleans, LA. 70187–0716
Lincoln Community, Ruston, LA. 71270
St. Pauls Lafayette, Lafayette, LA. 70501
Ninth Ward, New Orleans, LA. 70117
Zachary Community, Zachary, LA. 70791
St. John Self-Help, Reserve, LA. 70084
P. A. Crohley, LA. 70527
Holy Ghost Faith, Opelousas, LA. 70570
D. Edward Wells, Springfield, MA. 01109
Hull Mass, Hull, MA. 02045
South End, Boston, MA. 02118
Douglas Memorial, Baltimore, MD. 21217
Parky Maryland, Baltimore, MD. 21215
Rentex Employees, Baltimore, MD. 21223
South Baltimore Community, Baltimore, MD. 21230
St. Mary's County, Hollywood, MD. 20636
Cleveland, Cleveland, MS. 38732
Friendship Community, Clarksdale, MS. 38614
Shelby, Shelby, MS. 38774
North Gulfport Community, Gulfport, MS. 39501
Indianola Community, Indianola, MS. 38751
Central Mississippi, Winona, MS. 38967
Issaquena County, Mayersville, MS. 39113
Greene County, State Line, MS. 39362
Lauderdale County, Meridian, MS. 39302–5752
Choctaw, Philadelphia, MS. 39350
East Central, Louisville, MS. 39339
Quitman County, Marks, MS. 38646
Mission Arts Employees, Ashland, MT. 59003
Bricks (NC) Community, Enfield, NC. 27823
Tri-County, Ahoskie, NC. 27910
Rowan-Iredell Area, Salisbury, NC. 28145
St. Luke, Windsor, NC. 27983
Chowan, Edenton, NC. 27932
Self-Help, Durhan, NC. 27701
Greater Morristown Area, Morristown, NJ. 07960
La Casa Federal Credit Union, Newark, NJ. 07104
New Community, Newark, NJ. 07103
University Settlement, New York, NY. 10002
Allen, Jamaica, NY. 11433
Union Settlement, New York, NY. 10029
Cornerstone Baptist Church, Brooklyn, NY. 11221
Transfiguration Parish, Brooklyn, NY. 11211
Good Counsel, Brooklyn, NY. 11221
Bethex, New York, NY. 10011
CEDC, Hempstead, NY. 11550
Community Action Org of Erie County, Buffalo, NY. 14209.
Alternatives, Ithaca, NY. 14850.
North Brooklyn, Brooklyn, NY. 11211.
Brooklyn Ecunenical, Brooklyn, NY. 11217.
Lower East Side People's, New York, NY. 10009.
Northwest Bronx Coalition, Bronx, NY. 10468.
Self Help Works, New York, NY. 10012.
Mid-Bronx Community Development, Bronx, NY. 10460.
Bethel Baptist, Dayton, OH. 45407.
Capital City, Columbus, OH. 43205.
HYS, Chilicothe, OH. 45601.
O.U.R., Eugene, OR. 97401.
St. Patricks Spangler, Spangler, PA. 15775.
L M P, Philadelphia, PA. 19104.
Mahlon M. Lewis, Philadelphia, PA. 19139.
Jones Tabernacle, Philadelphia, PA. 19121.
Salem, Jenkintown, PA. 19046.
Emmanuel Methodist, Philadelphia, PA. 19132.
Zoah Methodist Church, Philadelphia, PA. 19123.
Calvary Northern Liberties, Philadelphia, PA. 19104.
RTC, Philadelphia, PA. 19147.
Sto-Rox Community, Mckees Rocxs, PA. 15136.
Hill District, Pittsburgh, PA. 15219.
E.A.H.C., Easton, PA. 18042.
Borinquen, Philadelphia, PA. 19132.
The Germantown, Philadelphia, PA. 19144.
New Kensington, Philadelphia, PA. 19125.
CO, Charleston, SC. 29403.
Interlakes Community, Hadison, SD. 57042.
Sisseton-Wahpeton, Agency Village, SD. 57262.
Macedonia Baptist Church, Jackson, TN. 38301.
Marion County, Jefferson, TX. 75637.
United Counties, Taylor, TX. 76574.
Knights of Pythias #326, Dallas, TX. 75216–3421.
Common Ground Community, Dallas, TX. 75223.
UCB Credit Union, Salt Lake CY, UT. 84147.
Newport News Neighborhood, Newport News, VA. 23607.
Halifax County and South Boston Com, South Boston, VA. 24592.

Fishing Bay, Deltaville, VA. 23043.
Vermont Development, Burlington, VT. 05401.
McDowell County, Wilcoe, WV. 24895.
Near Eastside Community, Indianapolis, IN. 46201-2006.

Mr. Chairman, let me conclude by thanking the gentlewoman from New Jersey [Mrs. ROUKEMA], the gentlewoman from Maryland [Mrs. MORELLA], and the gentlewoman from California [Ms. WATERS] for helping us draft these provisions.

And I would like to say to my colleague, the gentleman from Ohio [Mr. WYLIE], "God speed, we will miss you."

Mr. GONZALEZ. Mr. Chairman, I conclude by alluding to the great work of the gentleman from Ohio [Mr. WYLIE]. There is no question we are going to miss him considerably in our committee. He and I have worked together for many years. I must recognize that the last comprehensive bill, which was the first one in 15 years, the 1994 Affordable Housing Act. Somebody called it the Cranston-Gonzalez; I did not. I am always leery of fixing names, ever since the Garn-St Germain fiasco.

But I think that act, if they were going to call it the Cranston-Gonzales, it should have been the Cranston-Gonzalez-Wylie bill because it was his enlistment of the President himself and the Secretary of HUD which enabled us to shape up that formidable program. Also, the fact that the President, Mr. Bush, reacted in a very constructive manner.

Mr. MAZZOLI. Mr. Chairman, I rise in strong support of H.R. 5334, the Housing and Community Development Act of 1992. At this time, I would like to commend the gentleman from Texas [Mr. GONZALEZ] and his colleagues on the Committee on Banking, Housing and Urban Affairs for their valuable work and for bringing this bill to the floor.

On a walking tour of the Parkland neighborhood in June in my hometown of Louisville, KY, I was reminded by many citizens of the great need for affordable housing. H.R. 5334 addresses this need by authorizing funds for important housing and community development programs.

I am pleased to note that the bill includes an authorization of $2.2 billion for the HOME Investment Partnership Program, which provides grants to States and cites to help families obtain suitable housing. Amending the program's matching fund provision to require a flat 10-percent local match, as H.R. 5334 does, will allow communities like Louisville to continue participation in this worthwhile program.

The $3.4 billion authorization for the Community Development Block Grant Program [CDBG] will also be of great assistance in aiding communities with providing affordable housing. For example, the city of Louisville's highly successful homeownership program, which consists of selling newly constructed condominiums to residents of assisted housing, involves a blend of CDBG funds and private funds. It is good to know that H.R. 5334 allows for the continuation of proven programs like the CDBG Program.

The subsidized housing and public housing authorizations of the bill—$15.2 billion and $2.2 billion respectively—will ensure that many low-income families will have the opportunity for decent housing. Louisville and Jefferson County have a record of providing safe and quality housing for many low-income families, and I am pleased that H.R. 5334 will assist communities with their efforts.

Finally, as a long-time supporter of the McKinney Homeless Assistance Act, I am grateful that H.R. 5334 authorizes $735 million for homeless assistance programs. The emergency shelter grants, the single room occupancy [SRO] dwellings, and the Supplemental Assistance for Facilities to Assist the Homeless [SAFAH] Program have been invaluable to Louisville in aiding our neediest citizens.

Mr. Chairman, a major economic problem facing cities is a lack of affordable housing, and H.R. 5334 goes a long way in addressing this problem. There are exciting and innovative affordable housing initiatives being undertaken in Louisville, KY, and communities across America. The Housing and Community and Development Act of 1992 will complement those efforts, and I urge my colleagues to support the bill.

Mr. STUDDS. Mr. Chairman, I rise in strong support of the Housing and Community Development Act under consideration today in the House.

Of particular concern to residents of the cities of New Bedford, Brockton, and Quincy, MA, and of communities across Cape Cod and across the country is a provision authored by my colleague from Massachusetts, Congressman BRIAN DONNELLY. Directors of public housing programs from Barnstable to Brockton have shared with me harrowing accounts of the difficulties they are encountering in mixed population housing projects. As increasing numbers of nonelderly residents occupy elderly housing units, an array of problems—some predictable and others unforeseen—are arising. In many communities, the problems are reaching crisis proportions. Elderly residents are fearful of leaving their homes—not for fear of venturing into the city streets, but for fear of encountering an unstable neighbor next door.

The bill before us clarifies the definitions of specific public housing populations—the elderly, near elderly, disabled, and handicapped. The measure will in no way restrict access to public housing. It will simply enable public housing authorities to better meet the needs of all eligible residents.

The bill before us also contains a very sensible and cost-effective provision, authored by my colleague Congressman BARNEY FRANK, which deserves mention. Many housing authorities—including officials in the city of Brockton—have worked long and hard to refinance the construction of section 8 housing in their communities. Language in this bill will reward their foresight and sound economic sense by permitting public housing authorities to retain 50 percent of any funds recaptured upon the refinancing of debt incurred in the construction of section 8 housing begun between January 1, 1979 and December 31, 1984. The remaining 50 percent of the funds at issue will be returned to the Department of Housing and Urban Development [HUD].

This is a commendable example of efforts which benefit the public and ultimately save taxpayers' money. We see far too few money-saving measures in Federal programs. I not only commend the details of this provision to my colleagues' attention, but I encourage them to join me in fostering similar efforts in other programs in other communities.

Mr. WEISS. Mr. Chairman, I rise in strong support of H.R. 5334, the Housing and Community Development Act of 1992. I want to praise Chairman GONZALEZ for his leadership on this bill and for his tireless efforts on behalf of improving the quantity, quality, and affordability of housing for all Americans. The National Affordable Housing Act approved by the Congress in 1990 represented the first significant revisions to housing law since 1974. Today, we have the opportunity to extend and improve the work of that landmark bill by approving the Housing and Community Development Act. I am particularly pleased that H.R. 5334 includes two amendments which I offered in committee, amendments which I believe are modest in detail but significant in scope.

Every title of this 500-page bill makes significant improvements in housing law. Although the overall authorization level was reduced at committee and then again on the floor today, we can still be proud of authorizing $28.8 billion for many housing and community development programs. Title I of the bill on housing assistance reduces vacancies in public housing, expands section 8 assistance for home ownership and establishes a creative HOPE for Youth Program.

Title II of the bill provides valuable funding for the HOME Investment Partnership Program and makes vital reforms, such as eliminating restrictions on new construction and conforming HOME projects with the low-income housing tax credit. H.R. 5334 also provides for a comprehensive planning and assessment of the physical and financial condition of HUD insured and assisted multifamily housing and multifamily housing for the elderly. The bill also ably handles the very delicate issue of mixed populations in public and assisted housing.

Included in the National Affordable Housing Act of 1990 was a significant provision on housing opportunities for people with AIDS. This program created a source of funds for States and localities to provide a range of housing assistance and social service alternatives for the HIV-ill. The program received no funds in 1991 but was appropriated $50 million for the current year. Sadly, none of these funds have been tapped because the Department of Housing and Urban Development has not yet issued the necessary regulations. Fortunately, my proposal to establish a 30-day deadline after enactment of this legislation for the Secretary of HUD to issue interim regulations is included in H.R. 5334.

The promulgation of these interim regulations will allow Federal funds to begin flowing without closing the period for public comment. My office has spoken to HUD and we have been informed that the regulations may be ready before enactment of this bill. If this turns out to be the case, then all the better. But the fact remains that HUD has failed to comply with its own timeframes for issuing these regulations. Therefore, I offer this amendment to provide assurances that these regulations are not delayed any further. HUD officials themselves confessed that they must prioritize regulations, and that one of the criteria for prioritizing is the imposition of a deadline by Congress. It is vital for the Congress to convey its eagerness for funding this program by establishing a deadline for the regulations. Furthermore, the committee bill establishes a 45-day deadline for the new amendments to this section of the law. Given that requirement, I consider a 30-day deadline for regulations already in the works to be reasonable.

Also included in H.R. 5334 is my proposal to provide some needed flexibility for transitional housing facilities. The McKinney Act currently places a 24-month limitation on homeless individuals residing in transitional housing facilities. Transitional housing's purpose is to get people off the streets, provide them with needed services and treatment, and transfer them to independent and, hopefully, permanent living arrangements. Such, a deadline would seem consistent with the program's goals. Unfortunately, some individuals' treatment regimen extends beyond 24 months. In addition, there often is no permanent housing available for persons at the end of their 24-month stay in a transitional program. What are we to do? Throw them out into the streets? Certainly not.

My language makes clear that Federal moneys cannot be denied to a transitional facility that maintains an individual beyond the current 24-month deadline. This technical amendment does not undermine the purpose of transitional living but does create some flexibility for those facilities that may find themselves hard pressed at times to fulfill that 24-month deadline. Current law does allow the Secretary of HUD to waive the current deadline upon application. However, many facilities are so overburdened with providing for their clients that they cannot afford the time or resources to request this waiver. In addition, some facility administrators are unfamiliar with existing policy and afraid to tackle the complex bureaucratic maze associated with special waivers for Federal programs. My language will eliminate this unnecessary hurdle.

These provisions will ensure speedy funding of housing for people with AIDS and will go a long way in helping transitional housing facilities meet the needs of all their clients. I am very pleased with their inclusion in the measure before us.

Mr. Chairman, we still have much to do in order to address our Nation's housing needs adequately, but this legislation is an important step toward the end of better providing affordable and accessible housing for our citizens. I ask my colleagues to support H.R. 5334.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of H.R. 5334, the Housing and Community Development Act of 1992. I would like to commend the distinguished chairman of the Banking Committee, the gentleman from Texas, for his leadership and hard work on this legislation. Through his leadership, new hope will be provided to thousands of low-income Americans in need of housing and economic opportunities.

I am pleased to say that H.R. 5334, through the leadership of Hunger Committee member Representative JIM MORAN, includes language that would make microenterprise programs for the poor and activity eligible for assistance under the CDBG Program. This language originally appeared in H.R. 2258, the Freedom From Want Act, antihunger legislation which I and Hunger Committee ranking minority member BILL EMERSON introduced in May of last year.

This language is important, Mr. Chairman, because it opens up one of our main economic development programs—community development block grants—to people-centered development such as microenterprises. Microenterprise programs help people escape poverty by helping them set up their own small businesses. Increasingly, a community can no longer count on big government or industry to provide its economic base; it must provide that base through projects like small businesses.

I want to commend the Banking Committee for its hard work on H.R. 5334. I encourage my colleagues to support this important bill.

Mr. ORTON. Mr. Chairman, I rise in support of H.R. 5334, the Housing and Community Development Act of 1992.

I do so primarily because this bill contains a number of features which are important for the encouragement of affordable single- and multifamily housing. The bill overturns the 57-percent limit on closing costs for FHA mortgages. I believe this change is critical to make housing more attainable for so many younger Americans hoping to buy their first home. Testimony in our housing hearings demonstrated that this change can be accomplished without an increased risk to the FHA insurance fund.

I am also pleased to note that two provisions which I have sponsored are included in this bill. Allowing the use of HOME investment partnership funds for administrative costs is a vital step in helping smaller communities provide affordable rental housing. This change has been an important priority for me, and I would also like to note the fine efforts of Representatives ROUKEMA and KLECZKA to push for its adoption. Finally, the bill provides for use of mortgage revenue bonds in conjunction with the national homeownership trust fund, an approach which would use further targeting of mortgage financing to allow those with moderate incomes to join the housing market.

Of course, I am not enthusiastic about all aspects of this bill. Even with the adoption of the Gonzalez en bloc amendments, I believe this bill authorizes too high a funding level, in a period of record budget deficits. However, I recognize that since this is a 1-year reauthorization bill, and since the House has already adopted the VA/HUD appropriations bill, the funding levels of this bill have little practical significance. Last week, I voted against the VA/HUD appropriations bill, because of what I considered to be an excessive funding level. This week, I will vote in favor of the reauthorization bill—because of the many important provisions it contains, and in spite of the funding levels.

Finally, with regard to this bill's likely outcome, I would urge the President and the Congress to work together to enact a reauthorization bill. There are many disagreements between the administration and the Democratic leadership in Congress. On many of these disagreements, I side with the President, on many others I side with the leadership. However, I feel strongly that the reauthorization process should not become irrelevant to the legislative process, to the point where everything is decided in the appropriations bills. We have spent many long hours holding hearings and voting on these issues. In the name of bipartisanship, I believe these issues should be resolved.

Therefore, I support H.R. 5334 and look forward to this bill's final enactment.

Mr. KOPETSKI. Mr. Chairman, I rise today in support of H.R. 5334, but in doing so I would like to draw my colleagues' attention to the issue of mixed housing.

The bill before us contains a number of provisions designed to alleviate some of the problems with mixed populations of elderly and disabled individuals in public and assisted housing. I have housing authority directors in my district who are experiencing serious difficulties in keeping these two groups safe and happy. A General Accounting Office report indicates that in 1990, nonelderly mentally disabled people occupied about 9 percent of the public housing units for the elderly, and about 31 percent of these households reportedly caused moderate or serious problems because of behavior such as alcohol abuse or excessive noise, and because of the presence of disruptive visitors. Very disturbing incidents have occurred, and have been documented.

The Housing and Community Development Act before us today will allow housing to be designated as elderly or near-elderly only. Undoubtedly, this will make life easier for many elderly housing residents and for housing authority directors. But it will not do anything to make life easier for disabled people who need housing.

Mr. Chairman, segregated housing assumes that people with disabilities, once denied public housing designated for use by elderly tenants only, will find housing elsewhere. However, without data on available housing options, firm commitments from housing sponsors who could provide alternate housing for persons with disabilities, and the commitment of additional resources to federally funded housing programs, persons with disabilities will spend significantly more time on waiting lists. In many cases, prolonged waiting could result in increased homelessness and institutionalization.

Mr. Chairman, I believe that the disabled need housing, too. Where are they going to go if they cannot get into a housing authority? What's going to happen to the mentally disabled if they are simply given section 8 assistance and are sent out on their own? These people need help if they are going to live by themselves, and they will need help if they are going to live alongside elderly people.

Mr. Chairman, I am moved and greatly saddened by the cases of rape, abuse violence, and harassment that have been reported in mixed housing projects. However, I believe that a more fundamental solution than segregation is needed, and that we will meet the needs of both populations only by providing them with support services.

Mr. Chairman, let's not forget the disabled in trying to help the elderly.

Mrs. SCHROEDER. Mr. Chairman, I'm sure you have heard the newest joke on the Hill. It goes like this: What's the difference between George Bush and Jimmy Carter? Carter has had more housing starts since he's been out of office than Bush has had during office.

That's what we are facing with H.R. 5334, the Housing and Community Development Act. Housing authorization levels dropped from 7 percent in the budget for fiscal year 1978 to 0.7 percent in the budget for fiscal year 1988, and are still falling. Presently, 1.2 million public housing units exist for 33.6 million people living below the poverty line. Yet, the administration continues to gut public housing and force underserviced populations to compete for scarce housing space. H.R. 5334 continues this trend by pitting senior citizens against people with both mental and physical disabilities, and classifying virtually all people with disabilities as members of the criminal class.

Congress has already passed laws prohibiting discrimination against people with disabilities, yet the practice continues. I advise all my colleagues that unyielding support of the Housing and Community Development Act effectively condones discrimination and undermines any efforts to provide services and security to all people in need of housing.

Mrs. LLOYD. Mr. Chairman, today I am pleased to support H.R. 5334, the Housing and Community Development Act, which provides $30.1 billion for many urgently needed housing and community grant programs.

I am very pleased and gratified that a number of the provisions in this bill were elements of legislation that I wrote earlier this year to make much needed improvements in the Federal housing programs that serve our Nation's older Americans. As chairman of the Select Committee on Aging's Subcommittee on Housing and Consumer Interests, it is my role to advocate for effective programs to serve the housing needs of all older adults, particularly those who have low incomes. Further, I believe that housing programs serving special populations and their unique needs must go beyond the bricks and mortar to provide a supportive, services-enriched environment. The legislation that we passed today will make substantial improvements in the current housing programs for the elderly, without creating large, new programs that we will have difficulty funding.

I would like to briefly outline the provisions of my legislation that have been included in H.R. 5334. First, several provisions address problems with the administration of programs that can be corrected by the Department of Housing and Urban Development [HUD]. The bill requires HUD to review all federally assisted housing projects for the elderly to assess their needs in the areas of supportive services, modernization, personnel, and finances. I want to thank Representative MFUME and Representative ROYBAL, chairman of the Select Committee on Aging, for their assistance in having this provision accepted by the Committee on Banking, Finance and Urban Affairs.

The Secretary is also instructed to work to provide one-stop housing assistance application centers to better serve older individuals and others seeking housing, and the bill requires that regulations for the Revised Congregate Housing Services Program [RCHSP] be issued. In 1990, I drafted the legislation which created the RCHSP. Unfortunately, HUD has failed to spend any of the appropriations that we have provided for these excellent services programs for the frailest of our residents. With this bill, we are again instructing HUD to do its job and provide funds for services to the elderly and disabled.

Another provision that I wrote, as did Mr. KLECZKA, expands the authorization for service coordinators to sections 236, 221(d)(3), 515, and section 8 projects. Further, it clarifies who can be hired or otherwise employed as service coordinators, and makes the language more consistent throughout the law. My good friend, Representative MARY ROSE OAKAR, was very helpful in placing this language in the bill. It is my hope that someday in the near future all facilities that need service coordinators will be able to have them.

Last, language that I drafted, and my distinguished colleague Mr. SCHUMER offered as an amendment to the bill, expands the current eligibility for mortgage insurance under section 232. It clarifies that, in addition to the eligibility of nursing homes and board and care facilities, assisted living facilities may also receive mortgage insurance under this program. Assisted living facilities provide a level of care that is less extensive, and less expensive, than nursing homes provide.

Mr. Chairman, I would also like to mention my support for several other programs in this bill. This legislation authorizes over 13,000 units of section 202 housing which serves the elderly, and $27 million for the Revised Congregate Housing Services Program. It also reauthorizes the HOPE for Elderly Independence Program to provide vouchers coupled with services to older Americans.

Another very important program to the Third District of Tennessee is the Community Development Block Grant Program [CDBG]. Both the Room at the Inn and the Chattanooga Community Kitchen programs were funded with CDBG monies. H.R. 5334 also lifts some of the Federal Housing Administration's [FHA] rules that made it more difficult for buyers trying to purchase a home with Federal mortgage insurance. The bill removes restrictions on the amount of closing costs that may be financed under the FHA loan program and increases the allowable size of the home loans that are insured under the program. I am hopeful that this will give more Americans the opportunity to purchase homes.

Finally, Mr. Chairman, this bill authorizes Farmers Home Administration rural housing programs, including $2.3 billion in rural loans and grants. These programs are essential to many of the communities in my district and across the Nation.

I commend the efforts of Chairman GONZALEZ and ranking minority members WYLIE and ROUKEMA, who take the housing needs of all Americans very seriously. I look forward to working with them in the future to improve Federal housing for older Americans. I urge my colleagues to support H.R. 5334.

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 5334, the bill that provides the foundation for Federal housing and community development programs in rural and urban areas all across America.

According to a recent Harvard study on today's housing market, high costs continue to limit access to home ownership for many potential first-time buyers. Even if lenders offer a variety of downpayment options, starting at as low as 5 percent, few Americans have the income and wealth to qualify for a mortgage to purchase a typical starter home. Rents continue to rise. Homelessness is escalating. Yet, the administration has consistently cut our critical Federal housing programs and, consequently, has substantially weakened our commitment to provide affordable, decent housing for all Americans.

But, H.R. 5334 responds to America's housing crisis by providing the support for a variety of programs—including low- and middle-income family mortgage assistance, rural housing grants and loans, first-time homebuyer assistance, community development, low-income rental assistance, public housing, home ownership for low-income families, and emergency shelters and low-cost housing for homeless persons.

The Community Development Block Grant [CDBG] Program is a key element of H.R. 5334. CDBG gives States and local governments flexible funds and the freedom to determine for themselves how best to address their housing and community development needs. H.R. 5334 expands the type of activities for which CDBG grants can be used to include certain community-university partnership activities and to assist microenterprises—or activities that employ five or fewer people—that require small, short-term working capital loans for startup purposes.

H.R. 5334 also authorizes the use of CDBG special purpose grants for areas that are adversely affected by cuts in defense spending. Under the bill, communities generally would be eligible for this defense-related assistance if they expect to lose 1,000 or more full-time defense workers over a 5-year period because of base closing, cancellations of defense contracts, or other defense cutbacks.

CDBG is a very popular program in my district. In Woodland, CA, CDBG funds have been used to rehabilitate homes for low-income property owners, a number of whom are elderly individuals on fixed incomes. Woodland has also applied CDBG money toward food for the homeless and elderly and child care. In Rio Linda, we use CDBG funds for street improvements, like street lights, to support our community centers, and to extend water lines. Since 1975, the Sacramento Housing and Redevelopment Agency has used CDBG funds to provide services and activities for low- to moderate-income persons in both the city and county. These services and activities include street improvements, community centers, parks and recreation, emergency repair grants, and fire protection.

H.R. 5334 also makes some changes in the Federal Housing Administration [FHA] Loan Program. First, it increases the limit for single family homes to 95 percent of an area's median sales price, and raises the maximum amount for an FHA loan from $124,875 to about $151,725. This means that the current FHA loan limit would increase to $171,955 nationally, and to anywhere between $135,000 and $140,000 in Sacramento and surrounding areas. This is important to homebuyers in high-cost areas like California, where the median home sales price often exceeds the FHA maximum loan amount.

There is also a provision that eliminates the FHA's 57 percent limit on the amount of closing costs that may be financed in an FHA loan. These two changes mean that more American families will have access to the financing that they need in order to purchase their own homes.

The HOPE Program and the HOME Investments Partnership Program are also funded by H.R. 5334. HOPE provides matching grants to help public housing tenants and other low-income families buy either their own units or other federally owned housing. HOME provides matching grants to States and local governments to assist in the development of local strategies for expanding the supply of affordable housing, to build, rehabilitate and acquire affordable housing, and to provide rental assistance.

H.R. 5334 also creates a new program under HOPE. This new program—HOPE for Youth: Youth Build—expands the supply of affordable housing for homeless and low-income families in distressed communities by employing local disadvantaged young adults. In exchange for their talents and skills, these young people obtain education, training, and skills.

Many of us in rural America depend on the Farmers Home Administration [FmHA] Program, which includes direct and guaranteed single-family housing loans, multifamily rental housing construction loans, rural home repair loans, and loans for farm labor housing. H.R. 5334 introduces a new FmHA rural homeless grant program that will help rural homeless families and provide assistance to help prevent other families from becoming homeless.

The FmHA also has a loan program for constructing rural multifamily rental housing, and is now prevented from denying loans for projects because they are located in excessively rural or remote locations or because of the geographic location of a proposed project, or from providing a preference for loans based on the availability of any particular essential service, such as postal services, schools, health services, or grocery stores. H.R. 5334 also establishes a new grant program to fund service coordinators in FmHA-assisted rural housing projects in which a sufficient number of frail elderly reside.

H.R. 5334 reauthorizes the FmHA's underserved areas program, under which the FmHA must identify and target assistance to 100 counties where the poverty rate is high and mortgage lending is below State averages. It requires the FmHA to set aside 5 percent of its total lending authority for such underserved areas.

H.R. 5334 also includes support for a mix of assistance programs for the elderly, the handicapped, and the disabled. Several constituents have contacted my office to express their fear and concern for some of the elderly residents of such housing programs. One constituent in particular wrote regarding his mother, a resident of a Federal subsidized apartment building who lived in day-to-day fear of some of her neighbors. In response to concerns like these, H.R. 5334 allows public housing agencies, under certain conditions, to set aside certain housing projects, or portions of projects, in which only elderly residents, or disabled residents, or handicapped residents, or any combination thereof, would be permitted to live. This will bring much needed peace of mind to those senior citizens who share Federal housing accommodations with other residents who may be a threat to their physical well-being. However, the measure also requires that, when such accommodations are made for senior residents, reasonable efforts are taken to provide alternative housing and assistance to affected handicapped and disabled persons who may otherwise be excluded from such designated housing. Additionally, tenants may not be evicted in order to promote such designated housing. This way, no one is left out in the cold and everyone's interests are protected.

H.R. 5334 reaffirms the Federal Government's commitment to affordable housing for American families. It reinforces that we have a right to decent housing in decent neighborhoods—and that home ownership should not be the right of only a privileged few. Housing is an important priority for us here in Congress; H.R. 5334 deserves our attention and our support.

Mr. STALLINGS. Mr. Chairman, I rise today in support of H.R. 5334, the Housing and Community Reauthorization Amendments of 1992. This important piece of legislation has far-reaching impacts for low-income families, veterans, elderly, handicapped, and the homeless. This bill rightly increases the maximum FHA loan amount and eliminates the limits on financing closing costs. Additionally, I commend the committee for the new Youthbuild Program which not only provides training and employment for disadvantaged youth, but will increase the stock of affordable housing. This type of multipurpose program will maximize the return on our Federal dollar investment. This legislation also provides solutions to problems encountered in Idaho regarding mixed population housing. Finally, this bill works to improve rural housing needs, establishes a new grant program for the rural homeless, and increases the invaluable community development block grants. Again, I congratulate the committee for a bill which obviously has wide bipartisan support.

Mr. SERRANO. Mr. Chairman, I rise in support of H.R. 5334, the Housing and Community Development Act of 1992. I thank the chairman of the Committee on Banking, Finance, and Urban Affairs, Mr. Gonzalez, and the ranking minority member, Mr. WYLIE, for their hard work in creating this important piece of legislation.

Last year when we passed the First Housing and Community Development Act we made a commitment to the people of this country to move toward our goal of providing affordable, decent housing for all Americans.

Little has changed since then. The housing situation in this country has continued to deteriorate. Young families are still not able to afford their first home. More and more, young educated people, are joining the ranks of the homeless. In the city of New York alone there are approximately 90,000 people who are homeless.

Hardworking Americans struggling to make ends meet, continue to have to deal with drug warfare. Our inner-city housing developments are still riddled with drugs, violent crimes, and decay. It saddens me that we have a generation of American youth growing up under such conditions and that know no other way of life.

Mr. Chairman, what I find even more disheartening is that in my district, due to the lack of affordable housing, there are more and more families entering homeless shelters everyday.

This legislation does not ignore our homeless people, our elderly, our youth, or our cities. It makes an attempt to address these issues. It recognizes that the Federal Government must have a role in providing adequate and safe housing. Our cities cannot and should not be expecting to provide all of the funding.

Mr. Chairman, the youthbuild program, is an important youth initiative. This is an innovative program that will put our young people to work while helping them to rebuild their communities. As was made painfully clear by the riots in Los Angeles, the despair of our cities' youth has become a national crisis.

Mr. Chairman, I support final passage of H.R. 5334 as an affirmation of this body's commitment to respond to the basic needs of the American people.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 5334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Housing and Community Development Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Effective date.

TITLE I—HOUSING ASSISTANCE

Subtitle A—General Provisions

Sec. 101. Low-income housing authorization.
Sec. 102. Extension of ceiling rents.
Sec. 103. Income and definitions applicable to Indian housing programs.
Sec. 104. Public and section 8 housing tenant preference rules.
Sec. 105. Income eligibility for assisted housing.
Sec. 106. Family self-sufficiency program.

Subtitle B—Public and Indian Housing

Sec. 111. Major reconstruction of obsolete projects.
Sec. 112. Public housing tenant preferences.
Sec. 113. Public housing operating subsidies.
Sec. 114. Public housing vacancy reduction.
Sec. 115. Public housing demolition and disposition.
Sec. 116. Public housing resident management.
Sec. 117. Public housing homeownership.
Sec. 118. Public housing family investment centers.
Sec. 119. Public housing early childhood development services.
Sec. 120. Indian housing childhood development services.
Sec. 121. Exemption of Indian housing program from new construction limitation.
Sec. 122. Public housing one-stop perinatal services demonstration.
Sec. 123. National Commission on Distressed Public Housing.
Sec. 124. National Commission on American Indian, Alaska Native, and Native Hawaiian Housing.

Sec. 125. Public housing homeownership demonstration.
Sec. 126. Sale of certain scattered-site housing.
Subtitle C—Section 8 Assistance
Sec. 141. Restatement and revision of section 8 rental assistance program.
Sec. 142. Implementation of amendments to project-based certificate program.
Sec. 143. Effectiveness of section 8 assistance for PHA-owned units.
Sec. 144. Nondiscrimination against section 8 assistance holders.
Sec. 145. Implementation of income eligibility provisions for section 8 new construction units.
Sec. 146. Moving to opportunity for fair housing.
Subtitle D—Other Programs
Sec. 161. Public and assisted housing drug elimination.
Sec. 162. Flexible subsidy program.
Sec. 163. Housing counseling.
Sec. 164. Use of funds recaptured from refinancing State and local finance projects.
Sec. 165. HOPE for youth.
Subtitle E—Homeownership Programs
Sec. 181. HOPE homeownership programs.
Sec. 182. National Homeownership Trust demonstration.
Sec. 183. Nehemiah housing opportunity grants.
Sec. 184. Loan guarantees for Indian housing.
Sec. 185. Assistance under section 8 for homeownership.
Subtitle F—Implementation
Sec. 191. Implementation.
TITLE II—HOME INVESTMENT PARTNERSHIPS
Sec. 201. Authorization of appropriations.
Sec. 202. Elimination of restrictions on new construction.
Sec. 203. Use of tenant-based rental assistance amounts for security deposits.
Sec. 204. McKinney Act activities for homeless persons as eligible use of investment.
Sec. 205. Per unit cost limits.
Sec. 206. Administrative costs as eligible use of investment.
Sec. 207. Qualification as affordable rental housing.
Sec. 208. Resale of homeownership housing.
Sec. 209. Matching requirements.
Sec. 210. Assistance for insular areas.
Sec. 211. Use of assistance to establish community housing development organizations.
Sec. 212. Housing education and organizational support for community land trusts.
Sec. 213. Land bank redevelopment.
Sec. 214. Research in providing affordable housing through innovative building techniques and technology.
Sec. 215. Use of innovative building technologies to provide cost-saving housing opportunities.
Sec. 216. Definition of community housing development organization.
Sec. 217. Inclusion of ECHO housing in definition of housing.
Sec. 218. Eligibility of manufactured home owners as first-time homebuyers.
Sec. 219. Eligibility for assistance and contents of strategies.
TITLE III—PRESERVATION OF LOW-INCOME HOUSING
Sec. 301. Authorization of appropriations.
Sec. 302. Revision of short title.
Sec. 303. Residual receipts and reserve for replacement accounts.
Sec. 304. Submission of information to tenants.
Sec. 305. Approval of plan of action.
Sec. 306. Receipt of incentives to extend low-income use.
Sec. 307. Elimination of windfall profits test.
Sec. 308. Unit rent criteria for approval of plan of action.
Sec. 309. Resident homeownership program.
Sec. 310. Incentives under Emergency Low Income Housing Preservation Act.
Sec. 311. Delegated responsibility to State agencies.
Sec. 312. Insurance for second mortgage financing.
Sec. 313. Supplemental loans.
Sec. 314. Technical amendments.
Sec. 315. Regulations.
Sec. 316. Study of projects assisted under flexible subsidy program.
TITLE IV—MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES
Sec. 401. Required submission.
Sec. 402. Contents.
Sec. 403. Submission and review.
Sec. 404. Definitions.
Sec. 405. Regulations.
TITLE V—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET
Subtitle A—FHA Mortgage Insurance Programs
Sec. 501. Limitation on insurance authority.
Sec. 502. Federal Housing Administration Advisory Board.
Sec. 503. Maximum mortgage amount.
Sec. 504. Maximum principal obligation of mortgages for veterans.
Sec. 505. Prohibition on limitation of closing costs financed.
Sec. 506. Prepurchase counseling requirement.
Sec. 507. Authority to decrease insurance premium charges.
Sec. 508. Statute of limitations for distributive shares.
Sec. 509. Mortgage limits for multifamily projects.
Sec. 510. Insurance of loans for operating losses of multifamily projects.
Sec. 511. Eligibility of assisted living facilities for mortgage insurance under section 232.
Sec. 512. Authorization of appropriations for multifamily housing mortgage insurance field office staff.
Sec. 513. Expediting insurance for acquisition of Resolution Trust Corporation property.
Sec. 514. Energy efficient mortgage pilot program.
Sec. 515. Title I manufactured home loan insurance limits.
Sec. 516. Study regarding home warranty plans.
Subtitle B—Secondary Mortgage Market Programs
Sec. 531. Limitation on GNMA guarantees of mortgage-backed securities.
Sec. 532. Authority for GNMA to make hardship interest payments.
TITLE VI—HOUSING FOR ELDERLY PERSONS, HANDICAPPED PERSONS, AND PERSONS WITH DISABILITIES
Subtitle A—Supportive Housing Programs
Sec. 601. Supportive housing for the elderly.
Sec. 602. Supportive housing for persons with disabilities.
Sec. 603. Revised congregate housing services program.
Sec. 604. HOPE for independence of elderly persons and persons with disabilities.
Sec. 605. Housing opportunities for persons with AIDS.
Subtitle B—Authority for Public Housing Agencies to Provide Designated Public Housing and Assistance for Handicapped and Disabled Families
Sec. 621. Definitions.
Sec. 622. Authority.
Sec. 623. Section 8 assistance for handicapped and disabled families.
Sec. 624. Development and reconstruction of housing for handicapped and disabled families.
Sec. 625. Conforming amendments.
Sec. 626. Inapplicability to Indian public housing.
Subtitle C—Standards and Obligations of Residency in Federally Assisted Housing
Sec. 641. Compliance by owners as condition of Federal assistance.
Sec. 642. Compliance with criteria for occupancy as requirement for tenancy.
Sec. 643. Establishment of criteria for occupancy.
Sec. 644. Assisted applications.
Subtitle D—Authority to Provide Preferences for Elderly Residents and Units for Handicapped and Disabled Residents in Federally Assisted Housing
Sec. 651. Authority.
Sec. 652. Reservation of units for handicapped and disabled families.
Sec. 653. Secondary preferences.
Sec. 654. General availability of units.
Sec. 655. Preference within groups.
Sec. 656. Prohibition of evictions.
Sec. 657. Covered federally assisted housing.
Sec. 658. Rule of construction.
Subtitle E—Service Coordinators for Elderly, Handicapped, and Disabled Residents of Federally Assisted Housing
Sec. 661. Requirement to provide service coordinators.
Sec. 662. Required training of service coordinators.
Sec. 663. Costs of providing service coordinators in public housing.
Sec. 664. Costs of providing service coordinators in project-based section 8 housing.
Sec. 665. Costs of providing service coordinators for residents of tenant-based section 8 housing.
Sec. 666. Grants for costs of providing service coordinators in multifamily housing assisted under National Housing Act.
Sec. 667. Expanded responsibilities of service coordinators in section 202 housing.
Subtitle F—General Provisions
Sec. 681. Comprehensive housing affordability strategies.
Sec. 682. Clearinghouses.
Sec. 683. Conforming amendments.
Sec. 684. Definitions.
Sec. 685. Applicability.
Sec. 686. Regulations.
TITLE VII—RURAL HOUSING
Sec. 701. Program authorizations.
Sec. 702. Eligibility of homes on leased land owned by community land trusts for section 502 loans.
Sec. 703. Maximum income of borrowers under guaranteed loans.
Sec. 704. Remote rural areas.
Sec. 705. Designation of underserved areas and reservation of assistance.
Sec. 706. Rural housing voucher demonstration.
Sec. 707. Rental housing loans.
Sec. 708. Consideration of certain areas as rural areas.
Sec. 709. Extension of authority for mutual and self-help housing grants and loans.
Sec. 710. Housing preservation grants for replacement of housing.
TITLE VIII—COMMUNITY DEVELOPMENT
Subtitle A—Community Development Block Grants
Sec. 801. Community development authorizations.

Sec. 802. Units of general local government.

Sec. 803. Urban counties.

Sec. 804. Retention of program income.

Sec. 805. State community development plans and reports.

Sec. 806. Eligible activities.

Sec. 807. Special purpose grants.

Sec. 808. Technical amendments.

Sec. 809. Assistance for colonias.

Subtitle B—Other Community Development Programs

Sec. 831. Computerized database of community development needs.

Sec. 832. Neighborhood Reinvestment Corporation.

Sec. 833. Neighborhood development demonstration.

Sec. 834. Study regarding housing technology research.

Sec. 835. Designation of enterprise zones.

TITLE IX—REGULATORY AND MISCELLANEOUS PROGRAMS

Sec. 901. HUD research and development.

Sec. 902. Administration of Department of Housing and Urban Development.

Sec. 903. Participant's consent to release of information.

Sec. 904. National Institute of Building Sciences.

Sec. 905. Fair housing initiatives program.

Sec. 906. National Commission on Manufactured Housing.

Sec. 907. Real Estate Settlement Procedures Act of 1974.

Sec. 908. Disclosures under the Home Mortgage Disclosure Act of 1975.

Sec. 909. Community Reinvestment Act of 1977.

Sec. 910. Temporary inapplicability of certification of limitation of assistance for multifamily projects.

Sec. 911. Reestablishment of solar bank.

Sec. 912. Technical and conforming amendments relating to labor wage rates under housing programs.

Sec. 913. Energy efficient mortgages.

Sec. 914. Economic opportunities for low- and very low-income persons.

Sec. 915. National American Indian Housing Council.

Sec. 916. Study regarding foreclosure alternatives.

TITLE X—HOUSING PROGRAMS UNDER STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

Sec. 1001. Short title.

Sec. 1002. Emergency shelter grants program.

Sec. 1003. Supportive housing program.

Sec. 1004. Safe havens for homeless individuals demonstration program.

Sec. 1005. Section 8 assistance for single room occupancy dwellings.

Sec. 1006. Shelter plus care program.

Sec. 1007. FHA single family property disposition.

Sec. 1008. Rural homeless housing assistance.

Sec. 1009. Evaluations of programs by homeless.

Sec. 1010. Extension of original McKinney Act housing programs.

Sec. 1011. Consultation and report regarding use of National Guard facilities as overnight shelters for homeless individuals.

Sec. 1012. Amendments to table of contents.

TITLE XI—NEW TOWNS DEMONSTRATION PROGRAM FOR EMERGENCY RELIEF OF LOS ANGELES

Sec. 1101. Authority.

Sec. 1102. New town plan.

Sec. 1103. New town development demonstration program requirements.

Sec. 1104. Federal mortgage insurance.

Sec. 1105. Secondary soft mortgage financing for housing.

Sec. 1106. Community development assistance.

Sec. 1107. Governing boards.

Sec. 1108. Reports.

Sec. 1109. Definitions.

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The provisions of this Act and the amendments made by this Act shall take effect and shall apply upon the date of the enactment of this Act, unless such provisions or amendments specifically provide for effectiveness or applicability upon another date certain.

(b) EFFECT OF REGULATORY AUTHORITY.—Any authority in this Act or the amendments made by this Act to issue regulations, and any specific requirement to issue regulations by a date certain, may not be construed to affect the effectiveness or applicability of the provisions of this Act or the amendments made by this Act under such provisions and amendments and subsection (a) of this section.

(c) IMPLEMENTATION.—The Secretary of Housing and Urban Development, the Secretary of Agriculture, or any other Federal officer specifically required (by the provisions of this Act or the amendments made by this Act) to carry out any such provision or amendment, as applicable, shall carry out such provision or amendment upon the effectiveness or applicability of the provision or amendment, notwithstanding the absence of any regulations relating to such provision or amendment.

TITLE I—HOUSING ASSISTANCE

Subtitle A—General Provisions

SEC. 101. LOW-INCOME HOUSING AUTHORIZATION.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(6)) is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $15,158,946,956 on October 1, 1992.".

(b) UTILIZATION OF BUDGET AUTHORITY.—Section 5(c)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)) is amended by striking the paragraph designation and all that follows through the end of subparagraph (A) and inserting the following:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $844,792,000, of which amount not more than $247,312,000 shall be available for Indian housing;

"(ii) for assistance under section 8, not more than $2,039,232,000, of which such sums as may be necessary shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except assistance provided under this clause shall not be considered for purposes of the percentage limitations under section 8(i)(2);

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than $2,332,200,000;

"(iv) for assistance under section 8 for property disposition, not more than $455,624,000;

"(v) for assistance under section 8 for loan management, not more than $173,576,000;

"(vi) for extensions of contracts expiring under section 8, not more than $7,261,632,000, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

"(vii) for amendments to contracts under section 8, not more than $1,918,800,550;

"(viii) for public housing lease adjustments and amendments, not more than $21,755,000;

"(ix) for public housing replacement activities, not more than $85,800,000, of which $32,175,000 shall be for 15-year contracts for project-based assistance under section 8; and

"(x) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than $25,535,406.".

SEC. 102. EXTENSION OF CEILING RENTS.

(a) REMOVAL OF 5-YEAR LIMIT.—Section 3(a)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(A)) is amended by striking "for not more than a 5-year period".

(b) EXTENSION OF PREVIOUS CEILING RENTS.—Section 3(a)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(B)) is amended—

(1) by striking the first sentence; and

(2) in the last sentence, by striking "for the 5-year period beginning on such date of enactment" and inserting "without time limitation".

(c) COMPUTATION OF DEBT SERVICE.—Section 3(a)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(A)) is amended by adding at the end the following new flush sentence:

"In determining the amount of debt service for any project for purposes of this paragraph, the Secretary may not consider any amount of debt that is not actually outstanding for the project.".

SEC. 103. INCOME AND DEFINITIONS APPLICABLE TO INDIAN HOUSING PROGRAMS.

(a) EXCLUSIONS FROM INCOME.—

(1) IN GENERAL.—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended—

(A) by striking subparagraph (D) and inserting the following new subparagraph:

"(D) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education;";

(B) by striking "and" at the end of subparagraph (E);

(C) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(D) by inserting after subparagraph (F) the following new subparagraph:

"(G) excessive travel expenses, not to exceed $25 per family per week, for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities.".

(2) BUDGET COMPLIANCE.—To the extent that the amendments made by paragraph (1) result in additional costs under this title, such amendments shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.

(b) APPLICABILITY OF DEFINITIONS TO INDIAN HOUSING.—

(1) IN GENERAL.—In accordance with section 201(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)(2)), the provisions of sections 572, 573, and 574 of the Cranston-Gonzalez National Affordable Housing Act shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing Authority.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such provision were enacted upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

SEC. 104. PUBLIC AND SECTION 8 HOUSING TENANT PREFERENCE RULES.

Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban

Development shall issue regulations implementing the amendments made by sections 501 and 545 of the Cranston-Gonzalez National Affordable Housing Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon issuance.

SEC. 105. INCOME ELIGIBILITY FOR ASSISTED HOUSING.

Section 16(c) of the United States Housing Act of 1937 (42 U.S.C. 1437n(c)) is amended—

(1) in the first sentence, by striking the second comma and inserting "and";

(2) in the first sentence, by striking ", and shall" and inserting ". In developing such admission procedures, the Secretary shall"; and

(3) by inserting before the period at the end of the penultimate sentence the following: "; except that such prohibition shall not apply with respect to families selected for occupancy in public housing under the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)".

SEC. 106. FAMILY SELF-SUFFICIENCY PROGRAM.

(a) RESERVATION OF OPERATING SUBSIDIES.—The last sentence of section 23(h)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(h)(2)) is amended to read as follows: "Of any amounts appropriated under section 9(c) for fiscal year 1993, $25,000,000 is authorized to be used for costs under this paragraph.".

(b) PURPOSE.—Section 23(a) of the United States Housing Act of 1937 (42 U.S.C. 1437u(a)) is amended by striking "eligible families" and all that follows and inserting "families to improve their educational and employment status and achieve a greater measure of economic independence and self-sufficiency.".

(c) EXCEPTION TO REQUIRED ESTABLISHMENT OF PROGRAM.—Section 23(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)(2)) is amended by striking subparagraphs (A) through (D) and inserting the following:

"(A) lack of supportive services accessible to potential participating families, which shall include insufficient availability of resources for programs under the Job Training Partnerships Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; or

"(D) any other circumstances that the Secretary may consider appropriate.

In allocating assistance available for reservation under this Act, the Secretary may not refuse to provide assistance or decrease the amount of assistance that would otherwise be provided to any public housing agency because the agency has provided a certification under this paragraph or because, pursuant to a certification, the agency has failed to carry out a self-sufficiency program.".

(d) SCOPE OF PROGRAM.—Section 23(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking "Certificate and voucher assistance under section 8(b) and (o)" and inserting "Assistance under section 8";

(B) by inserting "50 percent of" after "equivalent to"; and

(C) by inserting after the period at the end the following new sentence: "In determining the increase in the number of families assisted for a year, the public housing agency shall not consider any assistance made available for the property disposition program, for loan management, for family unification pursuant to section 8(q)(3), for handicapped or disabled families pursuant to section 8(q)(4), for replacement assistance under section 304(g), for conversions from leased housing contracts under section 23 (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, or under the provisions of the Low-Income Housing Preservation Act of 1990 or the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act and applicable pursuant to section 604 of such Act)."; and

(2) in subparagraph (B), by inserting after the period at the end the following new sentence: "In determining the increase in the number of dwelling units for a year, the public housing agency shall not consider any dwelling unit that in the preceding year was a vacant unit and has become available for occupancy, any unit made available pursuant to the requirement under section 18 providing for replacement of any units demolished or disposed, or any unit in a project designated, and approved by the Secretary, for occupancy under section 7(a)(1).".

(e) LIMITATION ON PORTABILITY.—Section 23(b) of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION ON PORTABILITY.—Notwithstanding section 8(o), a participating family receiving assistance under section 8 in connection with a local self-sufficiency program may not use such assistance for any dwelling unit that is not located within the area of jurisdiction of the public housing agency carrying out such program.".

(f) CONTRACT OF PARTICIPATION.—Section 23(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(1)) is amended—

(1) in the second sentence, by inserting after "program" the following: ", shall establish specific interim and final goals by which compliance with and performance of the contract may be measured (which may not include requiring the participating family to refuse Federal, State, or local housing assistance as a condition of withdrawing amounts in an escrow savings account established under subsection (d)(3)),"; and

(2) by striking the last sentence and inserting the following new sentence: "The contract shall provide that the public housing agency may terminate or withhold assistance under section 8 and services under paragraph (2) of this subsection if the public housing agency determines, through an administrative grievance procedure in accordance with the requirements of section 6(k), that the family has failed to comply with the requirements of the contract without good cause.".

(g) SUPPORTIVE SERVICES.—The first sentence of section 23(c)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(2)) is amended by striking "to each participating family" the second place it appears.

(h) INCENTIVES FOR PARTICIPATION.—Section 23(d) of the United States Housing Act of 1937 (42 U.S.C. 1437u(d)) is amended—

(1) by striking "MAXIMUM RENTS AND ESCROW SAVINGS ACCOUNTS.—" and inserting "INCENTIVES FOR PARTICIPATION.—";

(2) in paragraph (1)—

(A) in the first sentence—

(i) by inserting "the public housing agency may provide that" after the first comma; and

(ii) by striking "may not be" and inserting "is not";

(B) in the second sentence, by striking "The Secretary shall provide" and inserting "If the public housing agency limits rents under the first sentence of this paragraph, the agency shall provide (A)"; and

(C) by striking ". Upon" and inserting "(as determined by the Secretary), and (B) that upon";

(3) in paragraph (2)—

(A) in the first sentence, by striking "For" and inserting "If, and only if, the public housing agency limits rents under paragraph (1), for";

(B) in the second sentence—

(i) by striking "For" and inserting "With respect only to such agencies, for"; and

(ii) by striking "paragraph (1)" and inserting "paragraph (2)"; and

(C) by striking the last sentence and inserting the following new sentences: "Any amounts in an escrow account established under this paragraph shall be available to the participating family upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c), as determined according to the specific goals and terms included in the contract. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract, partial performance of the contract, or otherwise, as the agency determines is appropriate; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency.";

(4) by redesignating paragraphs (1) and (2) (as amended by this subsection) as paragraphs (2) and (3), respectively; and

(5) by inserting before paragraph (2) (as so redesignated by paragraph (4) of this subsection) the following new paragraph:

"(1) PLAN.—Each public housing agency carrying out a local program under this section shall establish a plan to offer incentives to families to encourage families to participate in the program. The plan may require limitations on the rent of participating families and the establishment of escrow savings accounts as provided under paragraphs (2) and (3) and may include any other incentives designed by the public housing agency in addition to the incentives under such paragraphs.".

(i) ACTION PLAN.—Section 23(g)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437u(g)(3)) is amended—

(1) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the incentives pursuant to subsection (d) offered by the public housing agency to families to encourage participation in the program;".

(j) APPLICABILITY TO INDIAN HOUSING AUTHORITIES.—Section 23(o)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(o)(2)) is amended—

(1) by inserting "low-income housing and" before "public housing";

(2) by inserting ", assisted," after "developed"; and

(3) by inserting before the period at the end the following: ", but only if and to the extent that the Indian housing authority, in the discretion of the authority, determines that this section shall apply".

(k) REPEAL OF INCENTIVE AWARD ALLOCATION.—Section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended—

(1) by striking subsection (i); and

(2) by redesignating subsections (j) through (o) (as amended by this section) as subsections (i) through (n), respectively.

(l) APPLICABILITY.—The amendments made by this section shall apply with respect to fiscal year 1993 and thereafter.

Subtitle B—Public and Indian Housing

SEC. 111. MAJOR RECONSTRUCTION OF OBSOLETE PROJECTS.

(a) In General.—Section 5(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(2)) is amended to read as follows:

"(2)(A) Notwithstanding any other provision of law, the Secretary may reserve not more than 20 percent of any amounts appropriated for development of public housing in each fiscal year for the substantial redesign, reconstruction, or redevelopment of existing obsolete public housing projects or buildings and for the costs of improving the management and operation of projects undergoing redesign, reconstruction, or redevelopment under this paragraph (to the extent that such improvement is necessary to maintain the physical improvements resulting from such redesign, reconstruction, or redevelopment).

"(B) For purposes of this paragraph, the term 'obsolete public housing project or building' means a public housing project or building (i) having design or marketability problems resulting in vacancy in more than 25 percent of the units, or (ii)(I) for which the costs for redesign, reconstruction, or redevelopment (including any costs for lead-based paint abatement activities) exceed 70 percent of the total development cost limits for new construction of similar units in the area and (II) which has an occupancy density or a building height that is significantly in excess of that which prevails in the neighborhood in which the project is located, a bedroom configuration that could be altered to better serve the needs of families seeking occupancy to dwellings of the public housing agency, significant security problems in and around the project, or significant physical deterioration or inefficient energy and utility systems.

"(C) The Secretary shall allocate amounts reserved under this section to public housing agencies on the basis of a competition among public housing agencies applying for such amounts. The competition shall be based on—

"(i) the management capability of the public housing agency to carry out the redesign, reconstruction, or redevelopment;

"(ii) the expected term of the useful life of the project or building after redesign, reconstruction or redevelopment; and

"(iii) the likelihood of achieving full occupancy within the projects or buildings of the agency that are to be assisted under this paragraph.

"(D) The Secretary shall establish limitations on the total costs of any project or building receiving amounts under this paragraph for redesign, reconstruction, and redevelopment. The cost limitations shall not be related to the total development cost system for new development or to the cost limits for modernization and shall recognize the higher direct costs of such work.

"(E) Assistance may not be provided under this paragraph for any project or building assisted under section 14.".

(b) Modernization and Disposition Requirements.—

(1) Modernization.—Section 14(c) of the United States Housing Act of 1937 (42 U.S.C. 1437l(c)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by inserting "buildings of" after "for"; and

(ii) by striking "which";

(B) in each of paragraphs (1), (2), (3), and (4), by inserting "which projects" after the paragraph designation;

(C) in paragraph (3), by striking "and" at the end;

(D) by redesignating paragraph (4) as paragraph (5); and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) which buildings are not assisted under section 5(j)(2); and".

(2) Demolition and Disposition.—Section 18(a) of the United States Housing Act of 1937 (42 U.S.C. 1437q(a)) is amended—

(A) in paragraph (1), by striking "or" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) in the case of an application proposing demolition or disposition of any portion of a public housing project, assisted at any time under section 5(j)(2)—

"(A) such assistance has not been provided for the portion of the project to be demolished or disposed within the 10-year period ending upon submission of the application; or

"(B) the property's retention is not in the best interest of the tenants or the public housing agency because of extraordinary changes in the area surrounding the project or other extraordinary circumstances of the project.".

(c) Regulations.—The Secretary shall issue regulations necessary to carry out the amendments made by this section as provided under section 191 of this Act. Notwithstanding sections 583(a) and 585(a) of title 5, United States Code (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), the regulations shall be issued pursuant to a negotiated rulemaking procedure under subchapter IV of chapter 5 of such title (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations.

SEC. 112. PUBLIC HOUSING TENANT PREFERENCES.

Section 6(c)(4)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)(i)) is amended by inserting before the semicolon at the end the following: "; subject to the additional requirement that, in the case of any project of more than 25 units, such tenant selection criteria shall give preference to such families for not less than 50 percent of the units in such project that are made available for occupancy in a given year".

SEC. 113. PUBLIC HOUSING OPERATING SUBSIDIES.

(a) Authorization of Appropriations.—Section 9(c) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended to read as follows:

"(c)(1) There is authorized to be appropriated for purposes of providing annual contributions under this section $2,169,440,000 for fiscal year 1993.

"(2) There is also authorized to be appropriated to provide annual contributions under this section, in addition to amounts under paragraph (1), such sums as may be necessary for fiscal year 1993 to provide each public housing agency with the difference between (A) the amount provided to the agency from amounts appropriated pursuant to paragraph (1), and (B) all funds for which the agency is eligible under the performance funding system without adjustments for estimated or unrealized savings.

"(3) In addition to amounts under paragraphs (1) and (2), there is authorized to be appropriated for annual contributions under this section to provide for the costs of the adjustments to income and adjusted income under the amendments made by sections 573(b) and (c) of the Cranston-Gonzalez National Affordable Housing Act such sums as may be necessary for fiscal year 1993.".

(b) Adjustment of Performance Funding System.—Section 9(a)(3)(A) is amended by inserting after the period at the end the following new sentence: "Notwithstanding sections 583(a) and 585(a) of title 5, United States Code (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), any proposed regulation providing for amendment, alteration, adjustment, or other change to the performance funding system relating to vacant public housing units shall be issued pursuant to a negotiated rulemaking procedure under subchapter IV of chapter 5 of such title (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations.".

SEC. 114. PUBLIC HOUSING VACANCY REDUCTION.

(a) Funding.—Section 14(p)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(5)) is amended to read as follows:

"(5) Of any amounts available under this section after amounts are reserved pursuant to subsection (k)(1), an amount equal to 9 percent of such remaining funds shall be available in fiscal year 1993 for carrying out this section.".

(b) Availability of Assistance.—Section 14(p)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(4)) is amended by striking the first comma and all that follows through the second comma and inserting ", subject to the availability of amounts under paragraph (5),".

(c) Use of Amounts for Assessment Teams.—Section 14(p)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(3)) is amended by adding at the end the following new subparagraph:

"(D) The Secretary may use amounts made available under paragraph (5) for any travel and administrative expenses of assessment teams under this paragraph.".

(d) Assessment Team.—The second sentence of section 14(p)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(3)(A)) is amended—

(1) by striking "and" after "Development" and inserting a comma; and

(2) by striking "who" and inserting "and officials of the public housing agency, all of whom".

(e) Technical Corrections.—Section 14(p)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(2)) is amended—

(1) in clause (D), by striking "modernization, reconstruction" and inserting "comprehensive modernization, major reconstruction"; and

(2) in clause (E), by striking "the modernization" and inserting "the comprehensive modernization".

SEC. 115. PUBLIC HOUSING DEMOLITION AND DISPOSITION.

Section 18(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(1)) is amended by inserting "of the project or portion of the project covered by the application" after "tenant cooperative".

SEC. 116. PUBLIC HOUSING RESIDENT MANAGEMENT.

(a) Authorization of Appropriations.—Section 20(f)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)(3)) is amended to read as follows:

"(3) Authorization of Appropriations.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1993.".

(b) Management Indicators and Report.—Section 20(g) of the United States Housing Act of 1937 (42 U.S.C. 1437r(g)) is amended to read as follows:

"(g) Management Indicators and Report.—

"(1) Indicators.—Not later than the expiration of the 12-month period beginning on the date of the enactment of the Housing and Community Development Act of 1992, the Secretary shall develop and publish in the Federal Register indicators and procedures by which to as-

sess the management performance of resident management corporations under this Act. The Secretary shall use such indicators and procedures to evaluate such performance. The indicators developed under this paragraph and any enforcement procedures shall, to the extent practicable, be based on the indicators and procedures developed under section 6(j) for assessing the performance of public housing agencies.

"(2) Reports.—The Secretary shall annually submit a report to the Congress containing any findings of the Secretary as a result of evaluating and assessing the performance of resident management corporations under this Act and any recommendations of the Secretary with respect to such findings.".

SEC. 117. PUBLIC HOUSING HOMEOWNERSHIP.

(a) Homeownership Assistance.—Section 21(a)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(2)(C)) is amended—

(1) in the first sentence, by striking "the effective date of the regulations implementing title III of this Act" and inserting "February 4, 1991"; and

(2) in the second sentence—

(A) by striking "effective"; and

(B) by striking "such Act" and inserting "the Cranston-Gonzalez National Affordable Housing Act".

(b) Conditions of Purchase.—Section 21(a)(3)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(3)(C)) is amended—

(1) in the first sentence, by striking "the effective date of the regulations implementing title III of this Act" and inserting "February 4, 1991"; and

(2) in the second sentence—

(A) by striking "effective"; and

(B) by striking "such title" and inserting "the Cranston-Gonzalez National Affordable Housing Act".

SEC. 118. PUBLIC HOUSING FAMILY INVESTMENT CENTERS.

Section 22(k) of the United States Housing Act of 1937 (42 U.S.C. 1437t(k)) is amended to read as follows:

"(k) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $27,144,000 for fiscal year 1993.".

SEC. 119. PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT SERVICES.

Section 222(g) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note) is amended to read as follows:

"(g) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $21,736,000 for fiscal year 1993. Any amount appropriated pursuant to this subsection shall remain available until expended.".

SEC. 120. INDIAN HOUSING CHILDHOOD DEVELOPMENT SERVICES.

(a) Funding.—Section 518(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z-6 note) is amended by striking the subsection designation and all that follows through the end of the first sentence and inserting the following:

"(a) Funding.—Of any amounts appropriated under section 222(g) of the Housing and Urban-Rural Recovery Act of 1983, such sums as may be necessary may be used to carry out the demonstration program under this section.".

(b) Eligible Recipients.—The second sentence of section 518(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z-6 note) is amended—

(1) by inserting ", Indian housing authorities, and Indian tribes" after "nonprofit organizations"; and

(2) by inserting ", housing authorities, and tribes" after "such organizations".

SEC. 121. EXEMPTION OF INDIAN HOUSING PROGRAM FROM NEW CONSTRUCTION LIMITATION.

Section 201(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(c)) is amended by inserting before the period at the end the following: "or section 6(h) of the United States Housing Act of 1937 (relating to a limitation on contracts involving new construction)".

SEC. 122. PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.

Section 521(g) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437t note) is amended to read as follows:

"(g) Authorization of Appropriations.—There are authorized to be appropriated for carrying out the demonstration program under this section such sums as may be necessary for fiscal year 1993.".

SEC. 123. NATIONAL COMMISSION ON DISTRESSED PUBLIC HOUSING.

(a) Termination.—Section 507 of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1715z-1a note) is amended by striking "upon the expiration of 18 months following the appointment of all the members under section 503(a)" and inserting "at the end of September 30, 1992".

(b) Audit.—Not later than November 30, 1992, the Comptroller General of the United States shall conduct an audit of the financial transactions of the National Commission on Distressed Public Housing to determine the use of any amounts received by the Commission from the Federal Government before October 1, 1992, and shall submit a report to the Congress regarding the results of the audit. The Comptroller General and any duly authorized representatives of the Comptroller General shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property, within the possession and control of the Commission that the Comptroller General considers relevant to the audit.

SEC. 124. NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING.

(a) Authorization of Appropriations.—The first sentence of section 605 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 1437aa note) is amended to read as follows: "There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1993.".

(b) Extension of Termination Date.—Section 602(g) of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1437aa note) is amended by striking "upon the expiration of 18 months after all members of the Commission are appointed under paragraph (1)" and inserting "on October 1, 1993".

SEC. 125. PUBLIC HOUSING HOMEOWNERSHIP DEMONSTRATION.

(a) Establishment.—The Secretary of Housing and Urban Development shall carry out a program to facilitate self-sufficiency and homeownership of single-family homes administered by the Housing Authority of the City of Omaha, in the State of Nebraska (in this section referred to as the "Housing Authority"), to demonstrate the effectiveness of promoting homeownership and providing support services.

(b) Participating Public Housing Units.—For purposes of the demonstration program, the Secretary shall authorize the Housing Authority to designate single-family housing units for eventual homeownership. Over the term of the demonstration, the demonstration program may be applied to not more than 20 percent of the total number of public housing units administered by the Housing Authority.

(c) Nondisplacement.—No person who is a tenant of public housing may be involuntarily relocated or displaced as a result of the demonstration program.

(d) Economic Self-Sufficiency.—The Housing Authority shall establish criteria for participation of families in the demonstration program. Such criteria shall be based on factors that may reasonably be expected to predict the individual's ability to successfully complete the requirements of the demonstration program and shall include evidence of interest by the family in homeownership, the status and history of employment of family members, maintenance by the family of the family's previous dwelling.

(e) Provision of Supportive Services.—The Housing Authority shall ensure the availability of supportive services to each family participating in the demonstration program through its own resources and through coordination with Federal, State, and local agencies and private entities. Supportive services available under the demonstration program may include counseling, remedial education, education for completion of high school, job training and preparation, financial counseling services emphasizing planning for homeownership, and any other appropriate services.

(f) Reports to Congress.—Upon expiration of each 2-year period during the term of the demonstration program (the first such period beginning on the date of the enactment of this Act), the Secretary of Housing and Urban Development shall submit to the Congress a report evaluating the effectiveness of the demonstration program. Not later than the expiration of the 60-day period beginning on the date of the termination of the demonstration program, the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program. The report shall include findings and recommendations for any legislative action appropriate to establish a permanent program based on the demonstration program.

(g) Regulations.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary shall issue interim regulations to carry out this section, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

(h) Termination.—The demonstration program shall terminate upon the expiration of the 10-year period beginning on the date of the enactment of this Act.

SEC. 126. SALE OF CERTAIN SCATTERED-SITE HOUSING.

The Secretary of Housing and Urban Development shall authorize the Delaware State Housing Authority in the State of Delaware to sell scattered-site public housing of the authority under the provisions of section 5(h) of the United States Housing Act of 1937. Any proceeds from the disposition of such housing shall be used to purchase replacement scattered site dwellings, which shall be considered public housing for the purposes of such Act and for which the Secretary shall provide annual contributions for operation, using any amounts made available under section 9(c).

Subtitle C—Section 8 Assistance

SEC. 141. RESTATEMENT AND REVISION OF SECTION 8 RENTAL ASSISTANCE PROGRAM.

(a) In General.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended to read as follows:

"RENTAL HOUSING ASSISTANCE FOR LOW-INCOME FAMILIES

"Sec. 8. (a) Authority and Purpose.—

"(1) IN GENERAL.—For the purposes of aiding low-income families in obtaining a decent place to live and promoting economically mixed housing, the Secretary may provide assistance payments with respect to existing housing in accordance with the provisions of this section.

"(2) ELDERLY HOUSING.—Notwithstanding any other provision of this Act, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 202 of the Housing Act of 1959 (as in effect before October 1, 1991).

"(b) ANNUAL CONTRIBUTIONS CONTRACTS FOR RENTAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may enter into annual contributions contracts under this subsection with public housing agencies to provide rental housing assistance under this section for low-income families. The Secretary shall enter into a separate annual contributions contract with each public housing agency to obligate the authority approved each year. Each such annual contributions contract shall bind the Secretary to make such authority, and any amendments increasing such authority, available to the public housing agency for a specified period.

"(2) SECRETARY ACTING AS PHA.—In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary may enter into such contracts and perform the other functions assigned to a public housing agency by this section.

"(c) ASSISTANCE CONTRACTS.—

"(1) IN GENERAL.—Each public housing agency that receives amounts under an annual contributions contract may enter into assistance contracts to make rental assistance payments to owners of existing dwelling units in accordance with the provisions of this section.

"(2) PHA ACTING AS OWNER.—A public housing agency may contract to make rental assistance payments under this section to itself (or any agency or instrumentality thereof) as the owner of dwelling units, but only if the agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits.

"(3) INAPPLICABLE PROVISIONS.—Sections 5(e) and 6 and any other provisions of this Act that are inconsistent with the provisions of this section shall not apply to assistance contracts entered into pursuant to this section.

"(d) MAXIMUM MONTHLY RENT.—

"(1) IN GENERAL.—Each assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) that the owner is entitled to receive for each dwelling unit for which rental assistance payments are to be made under the contract. Except as provided in paragraph (2), the maximum monthly rent shall not exceed by more than 10 percent the fair market rental under subsection (e) for the market area in which the dwelling unit is located. If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.

"(2) EXCEPTIONS.—The maximum monthly rent may exceed the fair market rental—

"(A) by more than 10 but not more than 20 percent, only if the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a housing strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; or

"(B) by such higher amount, only if requested by the low-income family assisted and approved by the public housing agency in accordance with subsection (f)(2).

"(3) ANNUAL ADJUSTMENTS.—Each assistance contract shall provide for adjustment in the maximum monthly rents for units covered by the contract not less than annually to reflect changes in the fair market rentals established under subsection (e) for the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula.

"(4) ADJUSTMENTS DUE TO EXPENSES.—Each assistance contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units assisted under the contract to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from substantial general increases in real property taxes, utility rates, or similar costs that are not adequately compensated for by the adjustment in the maximum monthly rent authorized by paragraph (3).

"(5) ADJUSTMENTS DUE TO DRUG-RELATED CRIMINAL ACTIVITY.—If the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the operating, maintenance, and capital repair expenses for the project have been substantially increased primarily as a result of the prevalence of such activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project-by-project basis, provide adjustments to the maximum monthly rents, to a level not exceeding 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. The Secretary may waive the applicability of any rent comparability standard required under this subsection to implement this paragraph.

"(6) LIMITATIONS ON ADJUSTMENTS.—

"(A) GENERAL COMPARABILITY RULE.—Adjustments in the maximum rents under paragraphs (3), (4), and (5) shall not result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, as determined by the Secretary.

"(B) COMPARABILITY STUDIES.—

"(i) To carry out subparagraph (A), the Secretary shall issue regulations to provide for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under paragraph (3) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under paragraph (3). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units.

"(ii) If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied. The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner. Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to November 7, 1988, shall be restored to the maximum monthly rent in effect on April 15, 1987.

"(iii) For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.

"(e) FAIR MARKET RENTALS.—

"(1) IN GENERAL.—The Secretary shall establish fair market rentals under this subsection periodically, but not less than annually, for existing rental dwelling units suitable for occupancy by low-income families assisted under this section. The Secretary shall establish the fair market rental by market area for various sizes and types of dwelling units.

"(2) EFFECTIVENESS AND ADJUSTMENT.—The Secretary shall publish proposed fair market rentals for each area in the Federal Register with reasonable time for public comment, and such fair market rentals shall become effective upon the date of publication in final form in the Federal Register. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by families assisted under this section.

"(3) CERTAIN AREAS.—The Secretary shall establish separate fair market rentals under this subsection for Westchester County in the State of New York. The Secretary shall also establish separate fair market rentals under this paragraph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market areas in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County.

"(f) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—

"(1) IN GENERAL.—The amount of the monthly assistance payment under this section with respect to any dwelling unit shall be the difference between the maximum monthly rent that the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 3(a).

"(2) INCREASED FAMILY PAYMENT.—

"(A) REQUIREMENTS.—A family on behalf of whom tenant-based assistance payments are

made under this section may pay as rent for a dwelling unit assisted under this section more than the amount specified under section 3(a), but only if—

"(i) the family notifies the public housing agency of its interest in a unit renting for an amount which exceeds the permissible maximum monthly rent established for the market area under subsection (d);

"(ii) such agency determines that the rent for the unit and the rental payments of the family are reasonable, after taking into account other family expenses (including child care, unreimbursed medical expenses, transportation, and other appropriate family expenses); and

"(iii) such amount does not exceed 40 percent of the family's monthly adjusted income.

"(B) Limitation and reports by PHA's.—For any fiscal year, a public housing agency may not approve excess rentals under this paragraph with respect to more than 50 percent of the tenant-based rental assistance allocated under this section for the public housing agency for the year. Any public housing agency that, in any fiscal year, approves such excess rentals for more than 5 percent of its total allocation of tenant-based rental assistance shall submit a report to the Secretary not later than 30 days after the end of the fiscal year. The report shall be submitted in such form and in accordance with such procedures as the Secretary shall establish and shall describe the public housing agency's reasons for making the exceptions, including any available evidence that the exceptions were made necessary by problems with the fair market rental established for the area. The Secretary shall ensure that each report submitted under this subparagraph is readily available for public inspection for a period of not less than 3 years, beginning not less than 30 days after the date on which the report is submitted to the Secretary.

"(C) Annual report by Secretary.—The Secretary shall, not later than 3 months after the end of each fiscal year, submit a report to Congress that identifies the public housing agencies that have submitted reports for such fiscal year under subparagraph (B), summarizes and assesses such reports, and includes recommendations for such legislative or administrative actions that the Secretary considers appropriate to correct problems identified in such reports.

"(3) Increases in assistance payments.—The Secretary shall take any action necessary, including making contracts for assistance payments in amounts exceeding the amounts required upon the initial renting of dwelling units, reserving annual contributions authority for the purpose of amending assistance contracts, or allocating a portion of new authorizations for the purpose of amending assistance contracts, to ensure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

"(4) Reviews of family incomes.—Reviews of family incomes for purposes of this section shall be made no less frequently than annually. The Secretary shall establish procedures which are appropriate and necessary to ensure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall annually select a random sample of families to authorize the Secretary to obtain information on the families for the purpose of income verification, or to allow the families to provide such information themselves. Such information may include data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act, the Food Stamp Act of 1977, or title 38, United States Code. Any such information received pursuant to this paragraph shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.

"(g) Eligibility of Units for Assistance.—

"(1) Occupancy.—Each assistance contract shall provide that assistance payments may be made only with respect to the following dwelling units:

"(A) Occupied units.—A dwelling unit under lease for occupancy by a family determined to be a low-income family at the time it initially occupies the dwelling unit.

"(B) Unoccupied units.—An unoccupied dwelling unit, but only if (i) a family vacates the dwelling unit before the expiration date of the lease for occupancy, or (ii) a good faith effort is being made to fill the unoccupied unit. Payments for units referred to in this subparagraph may be made only for a period not exceeding 60 days, except that such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after the expiration of such 60-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after the expiration of such 60-day period if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

"(2) Number of assisted units per structure.—Assistance payments may be made with respect to up to 100 percent of the dwelling units in any structure upon the application of the owner or prospective owner. Among projects that apply for project-based assistance containing more than 50 units and designed for use primarily for nonelderly and nonhandicapped persons which are not subject to mortgages purchased under section 305 of the National Housing Act, the Secretary may give preference to applications for assistance involving not more than 20 percent of the dwelling units in a project. In according any such preference, the Secretary shall compare applications received during distinct time periods not exceeding 60 days in duration.

"(h) Other Provisions of Assistance Contracts.—Contracts to make assistance payments entered into by any public housing agency (or by the Secretary) with an owner of existing housing units shall meet the following requirements:

"(1) Contract term.—Each assistance contract shall have a term of not less than one month nor more than 180 months. The Secretary shall permit public housing agencies to enter into assistance contracts having terms of less than 12 months to the extent necessary to avoid disruption in assistance to eligible families if the annual contributions contract for the agency under subsection (b) will expire within one year.

"(2) Tenant selection.—Each assistance contract shall provide that the selection of tenants for such dwelling units shall be the function of the owner, subject to any provisions of the annual contributions contract between the Secretary and the agency. The owner shall use tenant selection criteria, which shall provide as follows:

"(A) Primary preferences.—For (i) not less than 70 percent of the families who initially receive project-based assistance, and (ii) not less than 90 percent of the families who initially receive tenant-based assistance in any 1-year period, the criteria shall give preference to families that (I) occupy substandard housing (including families that are homeless or living in a shelter for homeless families), (II) are paying more than 50 percent of family income for rent, (III) are involuntarily displaced at the time they are seeking assistance under this section, or (IV) are residing in public housing.

"(B) Secondary preferences.—For any remaining assistance in any 1-year period, the criteria shall give preference to families who qualify under a system of local preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (ii) assisting families in accordance with subsection (q)(1)(B); (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (v) achieving other objectives of national housing policy as established by law.

"(C) Prohibition of persons engaged in drug activity.—The criteria shall prohibit any individual or family evicted from housing assisted under this Act by reason of drug-related criminal activity from having a preference under any provision of this paragraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency or owner. The agency or the owner may waive the application of the preceding sentence under standards established by the Secretary, which shall provide for such waiver for any member of a family of an individual prohibited from tenancy under this subparagraph who the agency or owner determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist.

"(D) Other requirements.—With respect only to project-based assistance, the criteria shall—

"(i) be consistent with the purpose of improving housing opportunities for very low-income families;

"(ii) be reasonably related to program eligibility and an applicant's ability to perform the obligations of the assisted lease;

"(iii) be established in writing; and

"(iv) provide for the owner to promptly provide to any rejected applicant (I) written notice of the grounds for the rejection, and (II) an opportunity to meet with the decision maker to evaluate the validity of the reasons for rejection and rectify any erroneous decisions.

"(3) Lease term.—Each assistance contract shall provide that the lease between the tenant of any unit and the owner shall be for at least one year or the term of such assistance contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary.

"(4) General grounds for termination of tenancy.—Each assistance contract shall provide that the owner shall not terminate the tenancy of the tenant of any unit except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause.

"(5) Termination for criminal activity.—Each assistance contract shall provide that any criminal activity that threatens the health, safe-

ty, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy.

"(6) NOTICE OF TERMINATION OF TENANCY.—The contract shall provide that before terminating the tenancy of any tenant, the owner shall provide written notice to the tenant specifying the legal and factual grounds for such action. Such notice shall be provided to the tenant not less than 30 days before termination, except that in cases of termination for nonpayment of rent such notice shall be provided not less than 14 days before termination.

"(7) MAINTENANCE AND REPLACEMENT.—Each assistance contract shall provide that maintenance and replacement (including redecoration) shall be performed in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency (or the Secretary). With the approval of the Secretary, the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to the units pursuant to a contract between such agency and the owner of such units. Each assistance contract shall also provide that, if the agency (or the Secretary) determines that an unit assisted under this section fails to comply in any material respect with standards for housing quality for units so assisted, the agency (or the Secretary) may withhold some or all of the assistance amounts under this section with respect to such unit and promptly—

"(A) use such amounts to make necessary repairs or contract to have such repairs made;

"(B) release any withheld amounts to the owner after repairs are made by the owner, in an amount not exceeding the cost of the repairs;

"(C) release any withheld amounts to the applicable State or local housing agency after repairs are made by such agency, in an amount not exceeding the cost of the repairs; or

"(D) upon the request of the tenant, release any withheld amounts to—

"(i) the tenant to reimburse the tenant for the reasonable cost of any necessary repairs performed or paid for by the tenant; or

"(ii) such person secured by the tenant and approved by the agency (or the Secretary) to make such necessary repairs.

If an agency (or the Secretary) withholds any assistance amounts pursuant to the preceding sentence, the agency (or the Secretary) may not terminate the assistance contract unless and until the tenant has relocated to decent, safe, and sanitary housing.

"(8) OTHER.—Each assistance contract shall provide that the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by the agency and owner.

"(i) PROJECT-BASED ASSISTANCE.—

"(1) AUTHORITY.—Pursuant to an annual contributions contract entered into under subsection (b), a public housing agency may enter into a assistance contract providing for assistance payments under this section that are attached to a structure, with the permission of the Secretary.

"(2) LIMITATION ON AMOUNT OF PROJECT-BASED ASSISTANCE.—

"(A) IN GENERAL.—The Secretary shall permit a public housing agency to approve project-based assistance under this subsection with respect to not more than 15 percent of the assistance provided by the public housing agency if the owner agrees to rehabilitate the structure other than with assistance under this Act and the owner otherwise complies with the requirements of this section.

"(B) INCREASED AMOUNT.—A public housing agency and an applicable State agency may, on a priority basis, provide project-based assistance with respect to not more than 30 percent of the assistance provided by the public housing agency or the applicable State agency, but only if—

"(i) the Secretary approves such action and the owner otherwise complies with the requirements of this section; and

"(ii) any amount of project-based assistance provided in excess of the amount permitted under subparagraph (A)—

"(I) is attached to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure;

"(II) is attached for the purpose of providing incentives to owners to preserve such projects for occupancy by lower- and moderate-income families (for the period that assistance under this subparagraph is available) and assisting lower-income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants.

Any assistance provided to lower-income tenants under this subparagraph shall not be considered for purposes of the limitation under subsection (h)(2) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such subsection.

"(3) NEW STRUCTURES.—The Secretary shall permit any public housing agency to approve project-based assistance under this subsection that is attached to any newly constructed structure if—

"(A) the owner or prospective owner agrees to construct the structure other than with assistance under this Act and otherwise complies with the requirements of this section; and

"(B) the aggregate project-based assistance provided by the public housing agency pursuant to this paragraph and paragraph (2)(B) does not exceed 15 percent of the assistance provided by the public housing agency.

"(4) LONG-TERM AFFORDABILITY.—In the case of an assistance contract for project-based assistance under this subsection, a public housing agency shall enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for assistance payments as provided in appropriations Acts, to extend the term of the underlying assistance contract for such period or periods as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have the extensions of the assistance contract accepted by the owner and the owner's successors in interest. To the extent assistance is used as provided in paragraph (2)(B), the contract for assistance may, at the option of the public housing agency, have an initial term not exceeding 15 years.

"(5) ANNUAL REPORT.—The Secretary shall annually survey public housing agencies to determine which public housing agencies have, in providing assistance under this section in the year, reached the percentage limitations under paragraphs (2) and (3), and shall submit a report to the Congress each year regarding the results of the survey.

"(j) TERMINATION OF ASSISTANCE CONTRACTS.—

"(1) NOTICE BY OWNER.—Any owner terminating any assistance contract shall provide written notice to the Secretary and the tenants involved of the proposed termination not less than one year before the termination of the contract (but not less than 90 days in the case of tenant-based assistance). The notice shall specify the date of the termination and the reasons for the termination, with detail sufficient to enable the Secretary to evaluate whether the termination is lawful and whether additional actions can be taken by the Secretary to avoid the termination. The notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination.

"(2) REVIEW OF NOTICE BY SECRETARY.—The Secretary shall review the notice, shall consider whether additional actions can be taken by the Secretary to avoid the termination, and shall ensure a proper adjustment of the contract rents for the project in compliance with the requirements of subsection (d) and paragraph (3) of this subsection. The Secretary shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination. Within 30 days after issuance of the findings, the owner shall provide written notice to each tenant of the decision, together with the written findings of the Secretary regarding the termination. In the case of project-based assistance, the Secretary and the owner shall complete the actions under this paragraph not later than the expiration of the 9-month period beginning upon the date that the owner provides written notice of termination under paragraph (1).

"(3) ADJUSTMENT OF CONTRACT RENT.—If an owner provides notice of proposed termination under paragraph (1) and the contract rent is less than the maximum monthly rent for units assisted under this section, the Secretary shall adjust the contract rent based on the maximum monthly rent for units assisted under this section and the value of the low-income housing.

"(4) NOTICE OF RENT INCREASES.—Each assistance contract for project-based assistance under this section shall require the owner to notify tenants at least 90 days before the expiration of the contract of any rent increase which may occur as a result of the expiration of such contract.

"(5) DEFINITION OF TERMINATION.—For purposes of this subsection, the term 'termination' means the expiration of the assistance contract or the refusal of the owner to renew an assistance contract, which shall include the termination of tenancy by an owner for business reasons.

"(k) RENTAL ASSISTANCE FOR MANUFACTURED HOUSING.—

"(1) IN GENERAL.—The Secretary may enter into contracts to make assistance payments under this subsection to assist low-income families by making rental assistance payments on behalf of any such family that utilizes a manufactured home as its principal place of residence. In carrying out this subsection, the Secretary may—

"(A) enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into assistance contracts to make such assistance payments to the owners of such real property; or

"(B) enter into such contracts directly with the owners of such real property.

"(2) USE OF ASSISTANCE.—Rental assistance payments under this subsection may be made with respect to the rental of the real property on which is located a manufactured home that is owned by a low-income family or with respect to the rental by such a family of a manufactured home and the real property on which it is located.

"(3) ASSISTANCE FOR RENTAL OF MANUFACTURED HOME SITE.—

"(A) MAXIMUM MONTHLY RENT.—A contract entered into pursuant to this paragraph shall

establish the maximum monthly rent (including maintenance and management charges) that the owner is entitled to receive for the space on which a manufactured home is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 percent the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this paragraph.

"(B) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—The amount of any monthly assistance payment with respect to any family that rents real property that is assisted under this paragraph, and on which is located a manufactured home that is owned by such family shall be the difference between the rent the family is required to pay under section 3(a) and the sum of—

"(i) the monthly payment made by such family to amortize the cost of purchasing the manufactured home;

"(ii) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(iii) the maximum monthly rent permitted with respect to the real property which is rented by such family for the purpose of locating its manufactured home;

except that in no case may such assistance exceed the total amount of such maximum monthly rent.

"(4) ASSISTANCE FOR RENTAL OF MANUFACTURED HOME AND SITE.—

"(A) MAXIMUM MONTHLY RENT.—Contracts entered into pursuant to this paragraph shall establish the maximum monthly rent permitted with respect to the manufactured home and the real property on which it is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 percent the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of a manufactured home and the real property on which it is located suitable for occupancy by families assisted under this paragraph; except that the maximum monthly rent may exceed the fair market rental by more than 10 but not more than 20 percent if the Secretary determines that special circumstances warrant such higher maximum rent.

"(B) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—The amount of any monthly assistance payment with respect to any family that rents a manufactured home and the real property on which it is located and that is assisted under this paragraph shall be the difference between the rent the family is required to pay under section 3(a) and the sum of—

"(i) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(ii) the maximum monthly rent permitted with respect to the manufactured home and real property on which it is located.

"(5) ADJUSTMENT OF MAXIMUM MONTHLY RENTS.—The provisions of paragraphs (3) through (6) of subsection (d) shall apply to the adjustments of maximum monthly rents under this subsection.

"(6) CONTRACT TERM.—Each contract entered into under the subsection shall be for a term of not less than one month and not more than 180 months; except that in any case in which the manufactured home park is substantially rehabilitated or newly constructed, such term may not be less than 240 months, nor more than the maximum term for a manufactured home loan permitted under section 2(b) of the National Housing Act.

"(7) APPLICABILITY.—The Secretary may carry out this subsection without regard to whether the manufactured home park is existing, substantially rehabilitated, or newly constructed.

"(8) LIMITATION ON SUBSTANTIALLY REHABILITATED AND NEWLY CONSTRUCTED MANUFACTURED HOME PARKS.—In the case of any substantially rehabilitated or newly constructed manufactured home park containing spaces with respect to which assistance is made under this subsection, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufactured home parks described in section 207(c)(3) of the National Housing Act, and the Secretary may increase such limitation in high cost areas in the manner described in such section.

"(9) OTHER REQUIREMENTS.—The Secretary may prescribe other terms and conditions necessary for the purpose of carrying out this subsection and that are consistent with the purposes of this subsection.

"(l) SINGLE ROOM OCCUPANCY FACILITIES.—

"(1) AUTHORITY.—In making project-based assistance available under this section and assistance under section 441 and part V of subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act, the Secretary may provide assistance with respect to residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities, if—

"(A) the property is located in an area in which there is a significant demand for such units, as determined by the Secretary;

"(B) the unit of general local government in which the property is located and the local public housing agency approve of such units being utilized for such purpose; and

"(C) the unit of general local government in which the property is located and the local public housing agency certify to the Secretary that the property complies with local health and safety standards.

"(2) WAIVER OF LIMITATIONS ON ASSISTANCE FOR SINGLE PERSONS.—The Secretary may waive, in appropriate cases, the limitation and preference described in the second and third sentences of section 3(b)(3)(A) with respect to the assistance made available under this subsection.

"(m) SHARED HOUSING FOR ELDERLY, HANDICAPPED, AND DISABLED FAMILIES.—To assist elderly, handicapped, and disabled families (as defined in section 3(b)) who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their costs of housing, the Secretary shall permit assistance provided under this section to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

"(n) ADMINISTRATIVE FEES.—

"(1) BASIC FEE FOR TENANT-BASED RENTAL PROGRAM.—The Secretary shall establish a fee for the costs incurred by a public housing agency in administering the program for rental assistance under this section, which shall be, together with other fees authorized under this subsection, included in any amounts provided to the public housing agency under the annual contributions contract for the agency. The amount of the fee for each month for which a dwelling unit is covered by an assistance contract shall be 8.2 percent of the fair market rental established under subsection (e) for a 2-bedroom existing rental dwelling unit in the market area of the public housing agency. The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

"(2) OTHER FEES.—The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

"(A) the costs of preliminary expenses that a public housing agency documents it has incurred in connection with new allocations of assistance under the program for rental assistance under this section, which shall not exceed $275 per unit assisted;

"(B) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the program;

"(C) the costs incurred in administering the provision of rental assistance under this section through the self-sufficiency program under section 23; and

"(D) extraordinary costs approved by the Secretary.

"(3) BUDGET COMPLIANCE.—The Secretary may establish or increase a fee in accordance with this subsection only to such extent or in such amounts as are provided in appropriation Acts.

"(o) PORTABILITY OF ASSISTANCE.—

"(1) AUTHORITY.—Except as provided in paragraphs (2) and (4), any family on behalf of whom is provided tenant-based rental assistance under this section and who moves to an eligible dwelling unit located within the same State, or the same or a contiguous metropolitan statistical area, as the metropolitan statistical area within which is located the area of jurisdiction of the public housing agency approving the assistance for the family, may use such assistance to rent such eligible dwelling unit.

"(2) LIMITATION ON FAMILIES WITH INCREASED RENTAL PAYMENTS.—Any assisted family approved for increased rental payments (as such term is defined in subsection (p)(3)) shall use assistance under this section only for a dwelling unit that is located within the area of jurisdiction of the public housing agency approving such assistance and providing approval for the increased family rental payment amount (as such term is defined in subsection (p)(3)).

"(3) ADMINISTRATION.—The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this section with respect to the family. If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency approving the assistance shall have such responsibility.

"(4) LOCAL OPTION TO ENSURE MINIMUM AREA RESIDENCY.—

"(A) AUTHORITY.—At the discretion of a public housing agency and to the extent provided in subparagraph (B), the agency may provide that a family may use tenant-based rental assistance under this section to rent an eligible dwelling unit that is not located within the area of jurisdiction of the agency approving the assistance only if, before such use, the family has rented and occupied an eligible dwelling unit within such jurisdiction for not less than 12 consecutive months using assistance provided by such agency.

"(B) LIMITATION.—If a public housing agency elects to restrict the use of tenant-based rental assistance pursuant to subparagraph (A) and provides such assistance on behalf of more than 300 families, the agency may not restrict the use of such assistance with respect to assistance provided on behalf of 10 percent of the number of families receiving such assistance that exceeds 300.

"(5) RESERVATION OF ASSISTANCE.—

"(A) AMOUNT.—In each fiscal year, the Secretary shall reserve 5 percent of the amount of

the budget authority made available for assistance under this section for use in accordance with this paragraph.

"(B) USE.—Budget authority reserved under this paragraph shall be used only to provide a public housing agency with additional amounts (as determined under subparagraph (D)) to provide assistance for families on behalf of whom assistance is provided under this section by another public housing agency and who move into an eligible dwelling unit located within the area of jurisdiction of the agency to receive assistance under this paragraph.

"(C) REQUIREMENT.—Amounts reserved under this paragraph may be made available to a public housing agency only if the agency has provided assistance pursuant to the first sentence of paragraph (3) on behalf of families who have moved into eligible dwelling units located within the area of jurisdiction of the agency in an amount not less than the lesser of (i) 5 percent of the total amount received by the agency for assistance under this section for the fiscal year, or (ii) the amount necessary to assist 25 percent of average annual number of families previously assisted by the agency who relinquish such assistance in a year (based on the preceding 3 calendar years).

"(D) LIMITATION.—In each fiscal year, the Secretary shall make amounts reserved under this paragraph for the fiscal year available to each public housing agency (subject to the availability of such amounts) in the amount by which the amount of additional assistance necessary for the agency to provide assistance on behalf of families who have moved into eligible dwelling units located within the area of jurisdiction of the agency exceeds the lesser of the amounts referred to in clauses (i) and (ii) of subparagraph (C).

"(p) PROHIBITION OF DISCRIMINATION.—

"(1) BASED ON RESIDENCY IN PUBLIC HOUSING.— In selecting families for the provision of assistance under this section, a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.

"(2) BASED ON RECEIPT OF ASSISTANCE.—

"(A) FAMILIES PAYING 30 PERCENT OF INCOME FOR RENT.—An owner who has entered into an assistance contract under this section on behalf of any tenant in a multifamily housing project shall not refuse to lease any available dwelling unit in any multifamily housing project of such owner that rents for an amount not greater than the fair market rental for a comparable unit (as determined by the Secretary under subsection (e)) to a family who has been approved by a public housing agency for rental assistance under this section and is in possession of evidence of such approval, a proximate cause of which is the status of such prospective tenant as such an assisted family, and to enter into an assistance contract respecting such unit.

"(B) FAMILIES PAYING MORE THAN 30 PERCENT OF INCOME FOR RENT.—An owner who has entered into an assistance contract under this section on behalf of any tenant in a multifamily housing project shall not refuse to lease any available dwelling unit in any multifamily housing project of such owner that rents for an amount not greater than the sum of the amounts of the fair market rental for a comparable unit (as determined by the Secretary under subsection (e)) and the increased family rental payment amount to an assisted family approved for increased rental payments a proximate cause of which is the status of such prospective tenant as a holder of a certificate of eligibility under this section, and to enter into a housing assistance payments contract respecting such unit.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) ASSISTED FAMILY APPROVED FOR INCREASED RENTAL PAYMENTS.—The term 'assisted family approved for increased rental payments' means a family who has been approved by a public housing agency for rental assistance under this section and is in possession of evidence of such approval and for whom the public housing agency approving the assistance and issuing the evidence of approval has approved an increase in the family rental payment under subsection (f)(2).

"(B) INCREASED FAMILY RENTAL PAYMENT AMOUNT.—The term 'increased family rental payment amount' means, for any assisted family approved for increased rental payments, the amount by which the rent for a unit approved under subsection (f)(2) exceeds the permissible maximum monthly rent established under subsection (d) for comparable units in the market area in which unit is located.

"(C) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means a residential building containing more than 4 dwelling units.

"(q) SPECIAL USES OF RENTAL ASSISTANCE.—

"(1) ASSISTANCE FOR RESIDENTS OF REHABILITATED PROJECTS.—In the case of low-income families living in rental projects rehabilitated under section 17 of this Act or section 533 of the Housing Act of 1949 before rehabilitation—

"(A) tenant-based rental assistance under this section shall be provided for families who are required to move out of their dwelling units because of the physical rehabilitation activities or because of overcrowding;

"(B) at the discretion of each public housing agency, tenant-based rental assistance under this section may be provided for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project; and

"(C) the Secretary shall allocate tenant-based rental assistance provided under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to subparagraphs (A) and (B).

"(2) LOAN MANAGEMENT ASSISTANCE.—

"(A) IN GENERAL.—The Secretary may provide assistance under this section through a loan management program to assist financially troubled multifamily residential housing projects (i) subject to mortgages that are insured under the National Housing Act or mortgages that have been assigned to the Secretary, (ii) that were held by the Secretary and have been sold, and (iii) that were assisted under section 202 of the Housing Act of 1959.

"(B) ELIGIBILITY.—The eligibility of a multifamily residential project for loan management assistance under this paragraph shall be determined without regard to whether the project is subsidized or unsubsidized.

"(C) PRIORITY IN ALLOCATION.—In allocating assistance under this section made available under the loan management program, the Secretary may give priority to any project only on the basis that the project has serious financial problems that are likely to result in a claim on the applicable insurance fund in the near future or the project is eligible to receive incentives under the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the enactment of the Cranston-Gonzalez National Affordable Housing Act) or the Low-Income Housing Preservation Act of 1990.

"(D) EXTENSION OF CONTRACT.—The Secretary shall extend any expiring contract entered into under this section for loan management assistance or execute a new contract for project-based loan management assistance, if the owner agrees to continue providing housing for low-income families during the term of the contract.

"(3) ASSISTANCE FOR FAMILY UNIFICATION.—

"(A) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $36,400,000 on or after October 1, 1992.

"(B) USE OF FUNDS.—The amounts made available under this paragraph shall be used only in connection with tenant-based assistance under this section on behalf of any family (i) who is otherwise eligible for such assistance, and (ii) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care.

"(C) ALLOCATION.—Any amounts made available under this paragraph shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for assistance under this paragraph. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this paragraph.

"(D) DEFINITIONS.—For purposes of this paragraph:

"(i) APPLICANT.—The term 'applicant' means a public housing agency.

"(ii) PUBLIC CHILD WELFARE AGENCY.—The term 'public child welfare agency' means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

"(r) RENEWAL OF EXPIRING CONTRACTS.—Not later than 30 days after the beginning of each fiscal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring assistance contracts entered into under this section after the enactment of the Housing and Community Development Act of 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months.

"(s) GENERAL PROVISIONS.—

"(1) PROHIBITION OF HIGH-RISE PROJECTS FOR FAMILIES WITH CHILDREN.—Notwithstanding any other provision of this section, after the date of enactment of the Housing and Community Development Act of 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless the Secretary determines that there is no practical alternative.

"(2) PLEDGING ASSISTANCE CONTRACTS AS SECURITY.—An owner may pledge, or offer as security for any loan or obligation, an assistance contract entered into pursuant to this section, but only if such security is in connection with a project constructed or rehabilitated pursuant to authority under this section and the terms of the financing or any refinancing have been approved by the Secretary.

"(t) DEFINITIONS.—For purposes of this section:

"(1) ANNUAL CONTRIBUTIONS CONTRACT.—The term 'annual contributions contract' means a contract under subsection (b) between the Sec-

retary and a public housing agency to provide amounts for rental assistance payments under this section to the public housing agency.

"(2) ASSISTANCE CONTRACT.—The term 'assistance contract' means a contract under subsection (c) between a public housing agency (or the Secretary) and an owner to make rental assistance payments under this section to the owner.

"(3) DEBT SERVICE.—The term 'debt service' means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this Act.

"(4) DRUG-RELATED CRIMINAL ACTIVITY.—The term 'drug-related criminal activity' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

"(5) OWNER.—The term 'owner' means any private person or entity, including a cooperative, or a public housing agency, having the legal right to lease or sublease dwelling units, and such term shall include any principals, general partners, primary shareholders, and other similar participants in any entity owning a multifamily housing project (as such term is defined in subsection (p)(3)), as well as the entity itself.

"(6) PARTICIPATING JURISDICTION.—The term 'participating jurisdiction' means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act.

"(7) PROJECT-BASED ASSISTANCE.—The term 'project-based assistance' means rental assistance under this section that is attached to a structure pursuant to subsection (i).

"(8) RENT.—The terms 'rent' and 'rental' include, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

"(9) RENTAL ASSISTANCE.—The term 'rental assistance' means assistance provided under this section on behalf of low-income families for the rental of a dwelling unit.

"(10) TENANT-BASED ASSISTANCE.—The term 'tenant-based assistance' means rental assistance under this section that is not project-based assistance.".

(b) RESERVATION OF SECTION 8 AMOUNTS UNDER HEADQUARTERS RESERVE FOR PORTABILITY ASSISTANCE.—Section 213(d)(4)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(4)(A)) is amended—

(1) in the matter preceding clause (i), by striking "September 30, 1990" and all that follows through "5 percent" and inserting "September 30, 1992, the Secretary may retain not more than 10 percent";

(2) in clause (iii), by striking "and" at the end;

(3) in clause (iv), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new clause:

"(v) in the case of financial assistance under the rental housing assistance program under section 8 of the United States Housing Act of 1937, providing assistance pursuant to section 8(o)(4) of such Act.".

(c) TRANSITION.—

(1) APPLICABILITY.—The amendment made by subsection (a) shall apply only to assistance under section 8 of the United States Housing Act of 1937 provided pursuant to an assistance contract entered into or renewed during fiscal year 1993 or thereafter. Any such assistance provided pursuant to an assistance contract entered into before fiscal year 1993 shall be subject to the provisions of such section 8 as in effect immediately before the enactment of this Act or otherwise applicable to such assistance.

(2) CONTINUATION OF ASSISTANCE.—The Secretary of Housing and Urban Development shall take any action necessary to ensure that the provision of assistance under section 8 of the United States Housing Act of 1937 to families receiving assistance under such section on the date of the enactment of this Act is not interrupted because of the amendment made by subsection (a).

(d) CONFORMING AMENDMENT.—Section 441(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(b)) is amended—

(1) by striking "section 8(n)" and inserting "section 8(l)"; and

(2) by adding at the end the following new sentence: "Moderate rehabilitation under this section shall be carried out in the manner provided under the provisions of section 8(e) of the United States Housing Act of 1937, as such section was in effect immediately before the enactment of the Housing and Community Development Act of 1992.".

SEC. 142. IMPLEMENTATION OF AMENDMENTS TO PROJECT-BASED CERTIFICATE PROGRAM.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the amendments made by section 547 of the Cranston-Gonzalez National Affordable Housing Act not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.

SEC. 143. EFFECTIVENESS OF SECTION 8 ASSISTANCE FOR PHA-OWNED UNITS.

The amendments made by section 548 of the Cranston-Gonzalez National Affordable Housing Act shall be effective notwithstanding the absence of any regulations issued by the Secretary of Housing and Urban Development.

SEC. 144. NONDISCRIMINATION AGAINST SECTION 8 ASSISTANCE HOLDERS.

Section 183(c) of the Housing and Community Development Act of 1987 (42 U.S.C. 1437f note) is amended by adding at the end the following new flush sentence:

"For purposes of this subsection, the term 'owner' means any private person or entity, including a cooperative, having the legal right to lease or sublease dwelling units in a subsidized project. Such term includes any principals, general partners, primary shareholders, and other similar participants in any entity owning a subsidized project, as well as the entity itself.".

SEC. 145. IMPLEMENTATION OF INCOME ELIGIBILITY PROVISIONS FOR SECTION 8 NEW CONSTRUCTION UNITS.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the provisions of section 555 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.

SEC. 146. MOVING TO OPPORTUNITY FOR FAIR HOUSING.

(a) AUTHORITY.—Using any amounts available under subsection (e), the Secretary of Housing and Urban Development shall carry out a demonstration program to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to assist very low-income families with children who reside in public housing to move out of areas with high concentrations of persons living in poverty to areas with low concentrations of such persons. The Secretary shall enter into annual contributions contracts with public housing agencies to administer housing assistance payments contracts under the demonstration.

(b) ELIGIBLE CITIES.—

(1) IN GENERAL.—The Secretary shall carry out the demonstration only in cities with populations exceeding 350,000 that are located in consolidated metropolitan statistical areas (as designated by the Director of the Office of Management and Budget) having populations exceeding 1,500,000.

(2) 1993.—Notwithstanding paragraph (1), in fiscal year 1993, only the 5 cities selected for the demonstration under the item relating to "HOUSING PROGRAMS—ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING (INCLUDING RESCISSION OF FUNDS)" of title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (105 Stat. 745), and the City of Los Angeles, California, shall be eligible for the demonstration under this section.

(c) SERVICES.—The Secretary shall enter into contracts with nonprofit organizations to provide counseling and services in connection with the demonstration.

(d) REPORTS.—The Secretary shall submit a report to the Congress, not later than September 30, 2004, describing the long-term housing, employment, and educational achievements of families assisted under the demonstration. The Secretary shall submit an interim report to the Congress, not later than September 30, 1999, describing any such achievements to such date of families assisted under the demonstration.

(e) FUNDING.—

(1) SECTION 8.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for tenant-based assistance under section 8 of such Act is authorized to be increased, on or after October 1, 1992, by such sums as may be necessary to carry out the demonstration under this section. Any amounts made available under this paragraph shall be used in connection with the demonstration under this section.

(2) COUNSELING.—There are authorized to be appropriated for fiscal year 1993, in addition to any amounts authorized under section 106(a)(3) of the Housing and Urban Development Act of 1968, such sums as may be necessary for counseling and other activities under section 106(a) of such Act in connection with the demonstration under this section.

(f) IMPLEMENTATION.—The Secretary may, by notice published in the Federal Register, establish any requirements necessary to carry out the demonstration under this section and the amendment made by this section. The Secretary shall publish such notice not later than the expiration of the 90-day period beginning on the date of the enactment of this Act and shall submit a copy of such notice to the Congress not less than 15 days before publication.

Subtitle D—Other Programs

SEC. 161. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 5130(a) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(a)) is amended to read as follows: "There is authorized to be appropriated to carry out this chapter $173,576,000 for fiscal year 1993.".

(b) SET ASIDE FOR YOUTH SPORTS PROGRAMS.—Section 5130 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909) is amended by adding at the end the following new subsection:

"(c) SET ASIDE FOR YOUTH SPORTS PROGRAMS.—Of any amount made available in any

fiscal year to carry out this chapter, 5 percent of such amount shall be available for public housing youth sports program grants under section 520 of the Cranston-Gonzalez National Affordable Housing Act for such fiscal year.".

(c) Drug-Related Activity in Other PHA-Owned Housing.—Section 5124 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11903) is amended—

(1) by inserting "(a) Public and Assisted Housing.—" before "Grants"; and

(2) by adding at the end the following new subsection:

"(b) Other PHA-Owned Housing.—Notwithstanding any other provision of this chapter, grants under this chapter may be used to eliminate drug-related crime in housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted, for the activities described in paragraphs (1) through (7) of subsection (a), but only if—

"(1) the housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of this Act; and

"(2) the public housing agency owning the housing demonstrates, to the satisfaction of the Secretary, that drug-related activity at the housing has a detrimental effect on or about the real property comprising any public or other federally assisted low-income housing.".

SEC. 162. FLEXIBLE SUBSIDY PROGRAM.

(a) Authorization of Appropriations.—Section 201(j)(5) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)(5)) is amended to read as follows:

"(5) There is authorized to be appropriated for assistance under the flexible subsidy fund not to exceed $54,288,000 for fiscal year 1993.".

(b) Use of Section 236 Rental Assistance Fund Amounts for Flexible Subsidy Payments.—Section 236(f)(3) of the National Housing Act (12 U.S.C. 1715z-1a(f)(3)) is amended by striking "September 30, 1992" and inserting "September 30, 1993".

(c) Approval of Management Improvement and Operating Plan.—Section 201(d)(6) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(d)(6)) is amended by inserting before the period at the end the following: "; and except that the Secretary shall review and approve or disapprove each plan not later than the expiration of the 30-day period beginning upon the submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved".

SEC. 163. HOUSING COUNSELING.

(a) Counseling Services.—The first sentence of section 106(a)(3) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by striking "except that" and all that follows and inserting the following: "except that for such purposes there is authorized to be appropriated $3,848,000 for fiscal year 1993.".

(b) Grants for Emergency Homeownership Counseling.—

(1) Authorization of appropriations.—The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to read as follows: "There is authorized to be appropriated to carry out this section $7,280,000 for fiscal year 1993, of which amounts $1,000,000 shall be available to carry out paragraph (5)(D).".

(2) Extension of program.—Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1992" and inserting "September 30, 1993".

(3) Availability.—Section 106(c)(3)(A) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(3)(A)) is amended—

(A) in clause (i), by striking "and" at the end; and

(B) by adding at the end the following new clause:

"(iii) have a high incidence of mortgages involving principal obligations (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the properties that are insured pursuant to section 203 of the National Housing Act; and".

(4) Eligibility.—Section 106(c)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended by adding at the end the following new flush sentence:

"An applicant for a mortgage shall be eligible for homeownership counseling under this subsection if the mortgage involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property and is to be insured pursuant to section 203 of the National Housing Act.".

(5) Notification of availability.—Section 106(c)(5)(A) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) Notification of availability of homeownership counseling.—

"(i) Requirement.—Except as provided in subparagraph (C), the creditor of a loan (or proposed creditor) shall provide notice under clause (ii) to (I) any eligible homeowner who fails to pay any amount by the date the amount is due under a home loan, and (II) any applicant for a mortgage described in paragraph (4).

"(ii) Content.—Notification under this subparagraph shall—

"(I) notify the homeowner or mortgage applicant of the availability of any homeownership counseling offered by the creditor (or proposed creditor);

"(II) if provided to an eligible mortgage applicant, state that completion of a counseling program is required for insurance pursuant to section 203 of the National Housing Act; and

"(III) notify the homeowner or mortgage applicant of the availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling, or provide the toll-free telephone number described in subparagraph (D)(i).".

(6) Annual update of list of counseling organizations for toll-free number.—The matter preceding subclause (I) in section 106(c)(5)(D)(i) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(D)(i)) is amended by inserting ", which shall be updated annually," after "organizations".

(c) Prepurchase and Foreclosure-Prevention Counseling Demonstration.—Section 106(d)(12) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(d)(12)) is amended to read as follows:

"(12) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection $379,600 for fiscal year 1993.".

SEC. 164. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

(a) In General.—Section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437f note) is amended to read as follows:

"SEC. 1012. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

"(a) Availability of Funds.—The Secretary shall make available to the State housing finance agency in the State in which a qualified project is located, or the local government or local housing agency initiating the refinancing of the qualified project, as applicable, an amount equal to 50 percent of the amounts recaptured from the project (as determined by the Secretary on a project-by-project basis). Such amounts shall be used only for providing decent, safe, and sanitary housing affordable for very low-income families and persons.

"(b) Definition of Qualified Project.—For purposes of this section, the term 'qualified project' means any State financed project or local government or local housing agency financed project, that—

"(1) was—

"(A) provided a financial adjustment factor under section 8 of the United States Housing Act of 1937; or

"(B) constructed or substantially rehabilitated pursuant to assistance provided under a contract under section 8(b)(2) of the United States Housing Act of 1937 (as in effect on September 30, 1983) entered into during any of calendar years 1979 through 1984; and

"(2) is being refinanced.

"(c) Applicability and Budget Compliance.—

"(1) Retroactivity.—This section shall apply to refinancings of projects for which settlement occurred or occurs before, on, or after the date of the enactment of the Housing and Community Development Act of 1992, subject to the provisions of paragraph (2).

"(2) Budget compliance.—This section shall apply only to the extent or in such amounts as are provided in appropriation Acts.".

SEC. 165. HOPE FOR YOUTH.

Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa note et seq.) is amended by adding at the end the following new subtitle:

"Subtitle D—HOPE for Youth: Youthbuild

"SEC. 451. STATEMENT OF PURPOSE.

"It is the purpose of this subtitle—

"(1) to expand the supply of permanent affordable housing for homeless individuals and members of low- and very low-income families by utilizing the energies and talents of economically disadvantaged young adults;

"(2) to provide economically disadvantaged young adults with opportunities for meaningful work and service to their communities in helping to meet the housing needs of homeless individuals and members of low- and very low-income families;

"(3) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency; and

"(4) to foster the development of leadership skills and commitment to community development among young adults in low-income communities.

"SEC. 452. PROGRAM AUTHORITY.

"The Secretary may make—

"(1) planning grants to enable applicants to develop Youthbuild programs; and

"(2) implementation grants to enable applicants to carry out Youthbuild programs.

"SEC. 453. PLANNING GRANTS.

"(a) Grants.—The Secretary is authorized to make planning grants to applicants for the purpose of developing Youthbuild programs under this subtitle. The amount of a planning grant under this section may not exceed $150,000, except that the Secretary may for good cause approve a grant in a higher amount.

"(b) Eligible Activities.—Planning grants may be used for activities to develop Youthbuild programs including—

"(1) studies of the feasibility of a Youthbuild program;

"(2) establishment of consortia between youth training and education programs and housing

owners or developers, including any organizations specified in section 457(2), which will participate in the Youthbuild program;

"(3) identification and selection of a site for the Youthbuild program;

"(4) preliminary architectural and engineering work for the Youthbuild program;

"(5) identification and training of staff for the Youthbuild program;

"(6) planning for education, job training, and other services that will be provided as part of the Youthbuild program;

"(7) other planning, training, or technical assistance necessary in advance of commencing the Youthbuild program; and

"(8) preparation of an application for an implementation grant under this subtitle.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) identification and description of potential sites for the program and the construction or rehabilitation activities that would be undertaken at such sites; potential methods for identifying and recruiting youth participants; potential educational and job training activities, work opportunities and other services for participants; and potential coordination with other Federal, State, and local housing and youth education and employment training activities;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the potential of the applicant for developing a successful and affordable Youthbuild program;

"(3) the need for the prospective program, as determined by the degree of economic distress—

"(A) of the community from which participants would be recruited (such as poverty, youth unemployment, and number of individuals who have dropped out of high school); and

"(B) of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, and poverty); and

"(4) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"SEC. 454. IMPLEMENTATION GRANTS.

"(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out Youthbuild programs approved under this subtitle.

"(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used to carry out Youthbuild programs, including the following activities:

"(1) Architectural and engineering work.

"(2) Acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities to be used for the purposes of providing homeownership under subtitle B and subtitle C of this title, residential housing for homeless individuals, and low- and very low-income families, or transitional housing for persons who are homeless, have disabilities, are ill, are deinstitutionalized, or have other special needs.

"(3) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section, or such higher percentage as the Secretary determines is necessary to support capacity development by a private nonprofit organization.

"(4) Education and job training services and activities including—

"(A) work experience and skills training, coordinated, to the maximum extent feasible, with preapprenticeship and apprenticeship programs, in the construction and rehabilitation activities described in subsection (b)(2);

"(B) services and activities designed to meet the educational needs of participants, including—

"(i) basic skills instruction and remedial education;

"(ii) bilingual education for individuals with limited-English proficiency;

"(iii) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent; and

"(iv) counseling and assistance in attaining post-secondary education and required financial aid;

"(C) counseling services and related activities;

"(D) activities designed to develop employment and leadership skills, including support for youth councils; and

"(E) support services and need-based stipends necessary to enable individuals to participate in the program and, for a period not to exceed 12 months after completion of training, to assist participants through support services in retaining employment.

"(5) Wage stipends and benefits provided to participants.

"(6) Funding of operating expenses and replacement reserves of the property covered by the Youthbuild program.

"(7) Legal fees.

"(8) Defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out the Youthbuild program.

"(c) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall ensure that contributions equal to not less than 10 percent of the grant amounts made available under this section, excluding any amounts provided for post-sale operating expense, shall be provided from nonprogram sources to carry out the Youthbuild program.

"(2) FORM.—Such contributions may be in the form of—

"(A) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

"(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

"(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a Youthbuild program assisted under this subtitle;

"(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

"(E) the value of investment in on-site and off-site infrastructure required for a Youthbuild program assisted under this subtitle;

"(F) the value of property or services from non-Federal resources as valued according to procedures acceptable to the Secretary;

"(G) cash contributions from Federal resources that are earmarked to provide the education and job training services and activities described in section 454(b)(4) of this subtitle; or

"(H) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

"(d) APPLICATION.—

"(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) a description of the proposed site for the program;

"(D) a description of the educational and job training activities, work opportunities, and other services that will be provided to participants;

"(E) a description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

"(F) a description of the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, public assistance agencies, the courts of jurisdiction for status and youth offenders, shelters for homeless individuals and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

"(G) a description of the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

"(H) a description of how the proposed program will be coordinated with other Federal, State, and local activities, including vocational, adult and bilingual education programs, job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988, housing and economic development, and programs that receive assistance under section 106 of the Housing and Community Development Act of 1974;

"(I) assurances that there will be a sufficient number of adequately trained supervisory per-

sonnel in the program who have attained the level of journeyman or its equivalent;

"(J) a description of the applicant's relationship with local building trade unions regarding their involvement in training, and the relationship of the Youthbuild program with established apprenticeship programs;

"(K) a description of activities that will be undertaken to develop the leadership skills of participants;

"(L) a detailed budget and a description of the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness;

"(M) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the Youthbuild program;

"(N) identification and description of the financing proposed for any—

"(i) rehabilitation;

"(ii) acquisition of the property; or

"(iii) construction;

"(O) identification and description of the entity that will operate and manage the property;

"(P) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(Q) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the feasibility of the Youthbuild program;

"(3) the potential for developing a successful and cost-effective Youthbuild program;

"(4) the need for the prospective project, as determined by the degree of economic distress of the community from which participants would be recruited (such as poverty, youth unemployment, and the number of individuals who have dropped out of high school) and of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, and poverty);

"(5) the commitment of the applicant to leadership development, education, and training of participants;

"(6) preferences for tenant selection, including priority to tenants who were previously homeless and who have incomes of less than 40 percent of the median income for the area; and

"(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(f) APPROVAL.—The Secretary shall notify each applicant, not later than 4 months after the date of the submission of the application, whether the application is approved or not approved.

"(g) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION PROCEDURE.—The Secretary shall develop a procedure under which an applicant may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

"SEC. 455. YOUTHBUILD PROGRAM REQUIREMENTS.

"(a) RESIDENTIAL RENTAL HOUSING.—Each residential rental housing project receiving assistance under this subtitle shall meet the following requirements:

"(1) OCCUPANCY BY LOW- AND VERY LOW-INCOME FAMILIES.—In the project—

"(A) at least 90 percent of the units shall be occupied, or available for occupancy, by individuals and families with incomes less than 60 percent of the area median income, adjusted for family size; and

"(B) the remaining units shall be occupied, or available for occupancy, by low-income families.

"(2) TENANT PROTECTIONS.—

"(A) LEASE.—The lease between a tenant and an owner of residential rental housing assisted under this subtitle shall be for not less than 1 year, unless otherwise mutually agreed to by the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

"(B) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of residential rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

"(C) MAINTENANCE AND REPLACEMENT.—The owner of residential rental housing assisted under this subtitle shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

"(D) TENANT SELECTION.—The owner of residential rental housing assisted under this subtitle shall adopt written tenant selection policies and criteria that—

"(i) are consistent with the purpose of providing housing for very low-income and low-income families and individuals;

"(ii) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

"(iii) give reasonable consideration to the housing needs of families that would qualify for a preference under section 6(c)(4)(A) of the United States Housing Act of 1937; and

"(iv) provide for (I) the selection of tenants from a written waiting list in the chronological order of their application, to the extent practicable, and (II) for the prompt notification in writing of any rejected applicant of the grounds for any rejection.

"(3) LIMITATION ON RENTAL PAYMENTS.—Tenants in each project shall not be required to pay rent in excess of the amount provided under section 3(a) of the United States Housing Act of 1937.

"(4) TENANT PARTICIPATION PLAN.—For each project owned by a nonprofit organization, the organization shall provide a plan for and follow a program of tenant participation in management decisions.

"(5) PROHIBITION AGAINST DISCRIMINATION.—A unit in a project assisted under this subtitle may not be refused for leasing to a family holding tenant-based assistance under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such assistance.

"(b) TRANSITIONAL HOUSING.—Each transitional housing project receiving assistance under this subtitle shall adhere to the requirements regarding service delivery, housing standards, and rent limitations applicable to comparable housing receiving assistance under title IV of the Stewart B. McKinney Homeless Assistance Act.

"(c) LIMITATIONS ON PROFITS FOR RENTAL AND TRANSITIONAL HOUSING.—

"(1) MONTHLY RENTAL LIMITATION.—The aggregate monthly rental for each eligible project may not exceed the operating costs of the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on any equity investment of the project owner.

"(2) PROFIT LIMITATIONS ON PARTNERS.—A nonprofit organization that receives assistance under this subtitle for a project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purpose of providing housing for low- and moderate-income families. Profit-motivated partners in a nonprofit partnership may receive—

"(A) not more than a 6 percent return on their equity investment from project operations; and

"(B) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

"(d) HOMEOWNERSHIP.—Each homeownership project that receives assistance under this subtitle shall comply with the requirements of subtitle B or subtitle C of this title.

"(e) RESTRICTIONS ON CONVEYANCE.—The ownership interest in a project that receives assistance under this subtitle may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner.

"(f) CONVERSION OF TRANSITIONAL HOUSING.—The Secretary may waive the requirements of subsection (b) to permit the conversion of a transitional housing project to a permanent housing project only if such housing would meet the requirements for residential rental housing specified in this section.

"(g) PERIOD OF RESTRICTIONS.—A project that receives assistance under this subtitle shall comply with the requirements of this section for the remaining useful life of the property.

"SEC. 456. ADDITIONAL PROGRAM REQUIREMENTS.

"(a) ELIGIBLE PARTICIPANTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual may participate in a Youthbuild program receiving assistance under this subtitle only if such individual is—

"(A) 16 to 24 years of age, inclusive;

"(B) a very low-income individual or a member of a very low-income family; and

"(C) an individual who has dropped out of high school.

"(2) EXCEPTIONS.—Not more than 25 percent of the participants in a Youthbuild program receiving assistance under this subtitle may be individuals who—

"(A) do not meet the requirements of paragraph (1)(B), but meet the other requirements of paragraph (1) and are members of low-income families; or

"(B) do not meet the requirement of paragraph (1)(C), but meet the other requirements of paragraph (1) and have educational and job training needs despite the attainment of a high school diploma or its equivalent.

"(3) PARTICIPATION LIMITATION.—Any eligible individual selected for full-time participation in a Youthbuild program may be offered full-time participation for a period of not less than 6 months and not more than 24 months.

"(b) MINIMUM TIME DEVOTED TO EDUCATIONAL SERVICES AND ACTIVITIES.—A Youthbuild program receiving assistance under this subtitle shall be structured so that 50 percent of the time spent by participants in the program is devoted to educational services and activities, such as those specified in subparagraphs (B) through (F) of section 454(b)(4).

"(c) AUTHORITY RESTRICTION.—No provision of this subtitle may be construed to authorize

any agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

''(d) State and Local Standards.—All educational programs and activities supported with funds provided under this subtitle shall be consistent with applicable State and local educational standards. Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in such programs shall be consistent with applicable State and local educational standards.

''(e) Wages, Labor Standards, and Nondiscrimination.—To the extent consistent with the provisions of this subtitle, sections 142, 143 and 167 of the Job Training Partnership Act, relating to wages and benefits, labor standards, and nondiscrimination, shall apply to the programs conducted under this subtitle as if such programs were conducted under the Job Training Partnership Act. This section may not be construed to prevent a recipient of a grant under this subtitle from using funds from non-Federal sources to increases wages and benefits under such programs, if appropriate.

"SEC. 457. DEFINITIONS.

''For purposes of this subtitle:

''(1) Adjusted income.—The term 'adjusted income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

''(2) Applicant.—The term 'applicant' means a public or private nonprofit agency, including—

''(A) a community-based organization;

''(B) an administrative entity designated under section 103(b)(1)(B) of the Job Training Partnership Act;

''(C) a community action agency;

''(D) a State and local housing development agency;

''(E) a community development corporation;

''(F) a State and local youth service and conservation corps; and

''(G) any other entity eligible to provide education and employment training under other Federal employment training programs.

''(3) Community-based organization.—The term 'community-based organization' means a private nonprofit organization that—

''(A) maintains, through significant representation on the organization's governing board or otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries of programs receiving assistance under this subtitle; and

''(B) has a history of serving the local community or communities where a program receiving assistance under this subtitle is located.

''(4) Homeless individual.—The term 'homeless individual' has the meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act.

''(5) Housing development agency.—The term 'housing development agency' means any agency of a State or local government, or any private nonprofit organization that is engaged in providing housing for homeless or low-income families.

''(6) Income.—The term 'income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

''(7) Individual who has dropped out of high school.—The term 'individual who has dropped out of high school' means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma, but does not include any individual who has attended secondary school at any time during the preceding 6 months.

''(8) Institution of higher education.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965.

''(9) Limited-English proficiency.—The term 'limited-English proficiency' has the meaning given the term in section 7003 of the Bilingual Education Act.

''(10) Low-income family.—The term 'low-income family' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

''(11) Offender.—The term 'offender' means any adult or juvenile with a record of arrest or conviction for a criminal offense.

''(12) Qualified nonprofit agency.—The term 'qualified public or private nonprofit agency' means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this subtitle and that has the capacity to provide effective technical assistance.

''(13) Related facilities.—The term 'related facilities' includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities.

''(14) Secretary.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(15) State.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States.

''(16) Transitional housing.—The term 'transitional housing' means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

''(17) Very low-income family.—The term 'very low-income family' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

''(18) Youthbuild program.—The term 'Youthbuild program' means any program that receives assistance under this subtitle and provides disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

"SEC. 458. MANAGEMENT AND TECHNICAL ASSISTANCE.

''(a) Sponsor Assistance.—The Secretary shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of programs assisted under this subtitle.

''(b) Application Preparation.—Technical assistance may also be provided in the development of program proposals and the preparation of applications for assistance under this subtitle to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

''(c) Reservation of Funds.—The Secretary shall reserve 5 percent of the amounts available in each fiscal year under section 452(b) to carry out subsections (b) and (c) of this section.

"SEC. 459. CONTRACTS.

''Each Youthbuild program shall carry out the services and activities under this subtitle directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act, with State and local educational agencies, institutions of higher education, State and local housing development agencies, or with other public agencies and private organizations.

"SEC. 460. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for fiscal year 1993 such sums as may be necessary for planning and implementation grants under this subtitle. Any amounts appropriated pursuant to this section shall remain available until expended.''.

Subtitle E—Homeownership Programs

SEC. 181. HOPE HOMEOWNERSHIP PROGRAMS.

(a) Authorization of Appropriations.—

(1) HOPE for public and Indian housing homeownership.—The first sentence of section 301(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa(c)) is amended to read as follows: "There is authorized to be appropriated for grants under this title $100,000,000 for fiscal year 1993.''.

(2) HOPE for homeownership of multifamily units.—The first sentence of section 421(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12871(c)) is amended to read as follows: ''There is authorized to be appropriated for grants under this subtitle $100,000,000 for fiscal year 1993.''.

(3) HOPE for homeownership of single family homes.—The first sentence of section 441(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12891(b)) is amended to read as follows: ''There is authorized to be appropriated for grants under this subtitle $200,000,000 for fiscal year 1993.''.

(b) Grant Selection Criteria for HOPE for Public and Indian Housing.—Section 303(e)(8) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-2(e)(8)) is amended by striking ''appreciably''.

(c) Fair Market Price for Sale Under HOPE for Public and Indian Housing.—Section 305(a) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-4(a) is amended by adding at the end the following new sentence: ''The Secretary may not approve a homeownership program unless the program provides for the public housing agency to receive fair market compensation for the transfer of the project.''.

(d) Eligibility of Mutual Housing Associations for Grants Under HOPE for Multifamily Units.—Section 426(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(1)) is amended by adding at the end the following new subparagraph:

''(G) A mutual housing association.''.

(e) Eligible Property Under HOPE for Homeownership of Multifamily Units.—Section 426(3)(D) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(3)(D)) is amended—

(1) by striking the first comma and inserting ''or''; and

(2) by striking ''or a State or local government'' and inserting ''or owned or held by a State or local government (or instrumentality of a State or local government) and is not a public housing project with respect to which assistance may be provided under title III of the United States Housing Act of 1937''.

(f) Preference for Acquisition of Vacant Units under HOPE for Homeownership of Single Family Homes.—Section 444 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12894) is amended by adding at the end the following new subsection:

''(f) Preference for Acquisition of Vacant Units.—Each homeownership program under

this subtitle shall provide that, in making vacant units in eligible properties available for acquisition by eligible families, preference shall be given to eligible families who reside in public or Indian housing.".

SEC. 182. NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION.

(a) EXTENSION OF TRUST.—Section 310 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12859) is amended by striking "on September 30, 1993" and inserting "September 30, 1994".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 308 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12857) is amended to read as follows:

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"(a) ASSISTANCE.—There is authorized to be appropriated for assistance payments under this subtitle $542,360,000 for fiscal year 1993, of which such sums as may be necessary shall be available for use under section 303(e). Any amount appropriated under this subsection shall be deposited in the Fund and shall remain available until expended, subject to the provisions of section 310.

"(b) CREDIT COSTS.—There is authorized to be appropriated such sums as may be necessary for fiscal year 1993 to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of repayable assistance payments entered into pursuant to this subtitle (a). Any amount appropriated under this subsection shall be deposited in the Fund and shall remain available until expended, subject to the provisions of section 310.".

(c) USE OF TRUST AMOUNTS IN CONNECTION WITH MORTGAGE REVENUE BONDS.—

(1) IN GENERAL.—Section 303 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852) is amended by adding at the end the following new subsection:

"(e) ASSISTANCE IN CONNECTION WITH HOUSING FINANCED WITH MORTGAGE REVENUE BONDS.—

"(1) AUTHORITY AND ELIGIBILITY.—The Trust shall provide assistance for first-time homebuyers in the form of interest rate buydowns and downpayment assistance under this subsection. Such assistance shall be available only with respect to mortgages for the purchase of residences (A) financed with the proceeds of a qualified mortgage bond (as such term is defined in section 143 of the Internal Revenue Code of 1986), or (B) for which a credit is allowable under section 25 of such Code. To be eligible for assistance under this subsection, homebuyers and mortgages shall also meet the requirements under subsection (b) of this section, except that the certification under subsection (b)(3) shall not be required for assistance under this subsection.

"(2) LIMITATION OF ASSISTANCE.—Notwithstanding subsection (a), assistance payments for first-time homebuyers under this subsection shall be provided in the following manners:

"(A) INTEREST RATE BUYDOWNS.—Assistance payments to decrease the rate of interest payable on the mortgages by the homebuyers, in an amount not exceeding—

"(i) in the first year of the mortgage, 2.0 percent of the total principal obligation of the mortgage;

"(ii) in the second year of the mortgage, 1.5 percent of the total principal obligation of the mortgage;

"(iii) in the third year of the mortgage, 1.0 percent of the total principal obligation of the mortgage; and

"(iv) in the fourth year of the mortgage, 0.5 percent of the total principal obligation of the mortgage.

"(B) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments on mortgages by the homebuyers, in an amount not exceeding 2.5 percent of the principal obligation of the mortgage.

"(3) AVAILABILITY.—The Trust may make assistance payments under subparagraphs (A) and (B) of paragraph (2) with respect to a single mortgage of a homebuyer.".

(2) ALLOCATION.—Section 303(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(d)) is amended—

(A) by inserting "that are not reserved for assistance under subsection (e)" after "subtitle"; and

(B) by adding at the end the following new sentence: "Amounts reserved for assistance under subsection (e) shall not be allocated by State.".

(3) CONFORMING AMENDMENT.—Section 303(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(a)) is amended by adding at the end the following new paragraph:

"(3) ASSISTANCE IN CONNECTION WITH MORTGAGE REVENUE BONDS FINANCING.—Interest rate buydowns and downpayment assistance in the manner provided in subsection (e).".

(d) ELIGIBILITY OF MANUFACTURED HOME OWNERS.—Section 303(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(b)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) meets the requirements of subparagraph (A), (B), or (C), except for owning, as a principal residence, a dwelling unit whose structure is—

"(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

"(ii) not in compliance with State, local, or model building codes, or other applicable codes, and can not be brought into compliance with such codes for less than the cost of constructing a permanent structure.".

(e) REGULATIONS.—The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act (as amended by this section) not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

SEC. 183. NEHEMIAH HOUSING OPPORTUNITY GRANTS.

(a) HOMEOWNER INCENTIVE.—Section 604 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended—

(1) in subsection (b)(4), by inserting before the period the following: ", subject to the provisions of subsection (c)"; and

(2) by adding at the end the following new subsection:

"(c) HOMEOWNER INCENTIVE.—The nonprofit organization may provide that, upon the sale or transfer of a property purchased with a loan made under this section, any proceeds remaining after repaying the first mortgage shall be distributed in the following order:

"(1) DOWNPAYMENT.—The amount of the downpayment made by the seller or transferor upon the purchase of the property shall be paid to the seller or transferor.

"(2) LOAN AND PROFIT.—Any amounts remaining after distribution under paragraph (1) shall be shared equally between the Secretary and the seller or transferor, but only to the extent that the Secretary recovers an amount equal to the amount of the loan made under this section. If such remaining amounts are insufficient for the Secretary to recover the full amount of the loan made under this section, the second mortgage held by the Secretary under subsection (b)(1) shall remain on the property to the extent of the amount unrecovered until the loan is paid in full from any proceeds from the sale or transfer of the property by the purchaser or transferee.

"(3) PROFIT.—Any amounts remaining after distribution under paragraphs (1) and (2) shall be paid to the seller or transferor.".

(b) CONFORMING AMENDMENTS.—Section 606(e)(5) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended—

(1) by inserting "subject to the provisions of section 604(c)," after the comma; and

(2) by inserting "of such loan" after "without repayment".

(c) APPLICABILITY.—The amendments made by this section shall apply to any loan made under section 604 of the Housing and Community Development Act of 1987 after July 1, 1990.

SEC. 184. LOAN GUARANTEES FOR INDIAN HOUSING.

(a) AUTHORITY.—To provide access to sources of private financing to Indian families and Indian housing authorities who otherwise could not acquire housing financing because of the unique legal status of Indian trust land, the Secretary may guarantee not to exceed 100 percent of the unpaid principal and interest due on any loan eligible under subsection (b) made to an Indian family or Indian housing authority.

(b) ELIGIBLE LOANS.—Loans guaranteed pursuant to this section shall meet the following requirements:

(1) ELIGIBLE BORROWERS.—The loans shall be made only to borrowers who are Indian families or Indian housing authorities.

(2) ELIGIBLE HOUSING.—The loan shall be used to construct, acquire, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area.

(3) SECURITY.—The loan may be secured by any collateral authorized under existing Federal law or applicable State or tribal law.

(4) LENDERS.—The loan shall be made only by a lender approved by and meeting qualifications established by the Secretary, except that loans otherwise insured or guaranteed by an agency or instrumentality of the Federal Government or made by an organization of Indians from amounts borrowed from the United States shall not be eligible for guarantee under this section. The following lenders are deemed to be approved under this paragraph:

(A) Any mortgagee approved by the Secretary of Housing and Urban Development for participation in the single family mortgage insurance program under title II of the National Housing Act.

(B) Any lender whose housing loans under chapter 37 of title 38, United States Code are automatically guaranteed pursuant to section 1802(d) of such title.

(C) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949.

(D) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

(5) TERMS.—The loan shall—

(A) be made for a term not exceeding 30 years;

(B) bear interest (exclusive of the guarantee fee under section 404 and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, which may not exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaran-

teed or insured by any agency or instrumentality of the Federal Government;

(C) involve a principal obligation not exceeding—

(i) an amount equal to the sum of (I) 97 percent of $25,000 of the appraised value of the property, as of the date the loan is accepted for guarantee, and (II) 95 percent of such value in excess of $25,000; and

(ii) the amount approved by the Secretary under this section; and

(D) involve a payment on account of the property (i) in cash or its equivalent, or (ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

(c) Certificate of Guarantee.—

(1) Approval process.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination. If the Secretary approves the loan for guarantee, the Secretary shall issue a certificate under this paragraph as evidence of the guarantee.

(2) Standard for approval.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this paragraph only if the Secretary determines there is a reasonable prospect of repayment of the loan.

(3) Effect.—A certificate of guarantee issued under this paragraph by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this section and the amount of such guarantee. Such evidence shall be incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(4) Fraud and misrepresentation.—This subsection may not be construed to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation or to bar the Secretary from establishing by regulations in effect on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

(d) Guarantee Fee.—The Secretary shall fix and collect a guarantee fee for the guarantee of loans under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan. The fee shall be paid by the lender at time of issuance of the guarantee and shall be adequate, in the determination of the Secretary, to cover expenses and probable losses. The Secretary shall deposit any fees collected under this subsection in the Indian Housing Loan Guarantee Fund established under subsection (i).

(e) Liability Under Guarantee.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement.

(f) Transfer and Assumption.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

(g) Disqualification of Lenders and Civil Money Penalties.—

(1) In general.—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, to exercise proper credit or underwriting judgment, or has engaged in practices otherwise detrimental to the interest of a borrower or the United States, the Secretary may—

(A) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(B) bar such lender or holder from acquiring additional loans guaranteed under this section; and

(C) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

(2) Civil money penalties for intentional violations.—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has intentionally failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, or to exercise proper credit or underwriting judgment, the Secretary may impose a civil money penalty on such lender or holder in the manner and amount provided under section 536 of the National Housing Act with respect to mortgagees and lenders under such Act.

(3) Payment on loans made in good faith.—Notwithstanding paragraphs (1) and (2), the Secretary may not refuse to pay pursuant to a valid guarantee on loans of a lender or holder barred under this subsection if the loans were previously made in good faith.

(h) Payment Under Guarantee.—

(1) Lender options.—

(A) In general.—In the event of default by the borrower on a loan guaranteed under this section, the holder of the guarantee certificate shall provide written notice of the default to the Secretary. Upon providing such notice, the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in one of the following manners:

(i) Foreclosure.—The holder of the certificate may initiate foreclosure proceedings in a court of competent jurisdiction (after providing written notice of such action to the Secretary) and upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (e)) plus reasonable fees and expenses as approved by the Secretary. The Secretary shall be subrogated to the rights of the holder of the guarantee and the lender holder shall assign the obligation and security to the Secretary.

(ii) No foreclosure.—Without seeking a judicial foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a claim for payment under the guarantee and the Secretary shall only pay to such holder for a loss on any single loan an amount equal to 90 percent of the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(B) Requirements.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines appropriate.

(2) Assignment by Secretary.—Notwithstanding paragraph (1), upon receiving notice of default on a loan guaranteed under this section from the holder of the guarantee, the Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(3) Limitations on liquidation.—In the event of a default by the borrower on a loan guaranteed under this section involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(i) Indian Housing Loan Guarantee Fund.—

(1) Establishment.—There is established in the Treasury of the United States the Indian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

(2) Credits.—The Guarantee Fund shall be credited with—

(A) any amounts, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

(B) any amounts appropriated under paragraph (7);

(C) any guarantee fees collected under subsection (d); and

(D) any interest or earnings on amounts invested under paragraph (4).

(3) Use.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriation Acts, for—

(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loans;

(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

(C) acquiring such security property at foreclosure sales or otherwise;

(D) paying administrative expenses in connection with this section; and

(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

(4) Investment.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required to carry out this section may be invested in obligations of the United States.

(5) Limitation on commitments to guarantee loans and mortgages.—

(A) Requirement of appropriations.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent or in such amounts as are or have been provided in appropriations Acts for such fiscal year.

(B) Limitations on costs of guarantees.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriation Acts to cover the costs (as such term is defined in section 502 of the Congressional Budget

Act of 1974) of such loan guarantees for such fiscal year.

(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section in each of fiscal years 1993 and 1994 with an aggregate outstanding principal amount not exceeding such amount as may be provided in appropriation Acts for each such year.

(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 1993, 1994, and 1995.

(j) REQUIREMENTS FOR STANDARD HOUSING.—The Secretary shall, by regulation, establish housing safety and quality standards for use under this section. Such standards shall provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section. The standards shall require each dwelling unit in any housing so acquired to—

(1) be decent, safe, sanitary, and modest in size and design;

(2) conform with applicable general construction standards for the region;

(3) contain a heating system that—

(A) has the capacity to maintain a minimum temperature in the dwelling of 65 degrees Fahrenheit during the coldest weather in the area;

(B) is safe to operate and maintain;

(C) delivers a uniform distribution of heat; and

(D) conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(4) contain a plumbing system that—

(A) uses a properly installed system of piping;

(B) includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

(C) uses water supply, plumbing, and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;

(5) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any applicable tribal code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(6) be not less than—

(A)(i) 570 square feet in size, if designed for a family of not more than 4 persons;

(ii) 850 square feet in size, if designed for a family of not less than 5 and not more than 7 persons; and

(iii) 1020 square feet in size, if designed for a family of not less than 8 persons, or

(B) the size provided under the applicable locally adopted standards for size of dwelling units;

except that the Secretary, upon the request of a tribe or Indian housing authority, may waive the size requirements under this paragraph; and

(7) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act.

(k) DEFINITIONS.—For purposes of this section:

(1) The term "family" means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

(2) The term "Guarantee Fund" means the Indian Housing Loan Guarantee Fund established under subsection (i).

(3) The term "Indian" means person recognized as being Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

(4) The term "Indian area" means the area within which an Indian housing authority is authorized to provide housing.

(5) The term "Indian housing authority" means any entity that—

(A) is authorized to engage in or assist in the development or operation of low-income housing for Indians; and

(B) is established—

(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "standard housing" means a dwelling unit or housing that complies with the requirements established under subsection (j).

(8) The term "tribe" means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.

(9) The term "trust land" means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian tribe subject to a restriction against alienation imposed by the United States.

SEC. 185. ASSISTANCE UNDER SECTION 8 FOR HOMEOWNERSHIP.

(a) AUTHORITY.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), as amended by section 141(a) of this Act, is further amended by adding at the end the following new subsection:

"(u) HOMEOWNERSHIP OPTION.—

"(1) USE OF ASSISTANCE FOR HOMEOWNERSHIP.—A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family—

"(A) is a first-time homeowner;

"(B)(i) participates in the family self-sufficiency program under section 23 of the public housing agency providing the assistance; or

"(ii) demonstrates that the family has income from employment or other sources (other than public assistance), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

"(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

"(D) participates in a homeownership and housing counseling program provided by the agency; and

"(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

"(2) MONTHLY ASSISTANCE PAYMENT.—

"(A) IN GENERAL.—Notwithstanding any other provisions of this section governing determination of the amount of assistance payments under this section on behalf of a family, the monthly assistance payment for any family assisted under this subsection shall be the amount by which the fair market rent for the area established under subsection (f) exceeds 30 percent of the family's monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceeds 10 percent of the family's monthly income.

"(B) EXCLUSION OF EQUITY FROM INCOME.—For purposes of determining the monthly assistance payment for a family, the Secretary shall not include in family income an amount imputed from the equity of the family in a dwelling occupied by the family with assistance under this subsection.

"(3) RECAPTURE OF CERTAIN AMOUNTS.—Upon sale of the dwelling by the family, the Secretary shall recapture from any net proceeds the amount of additional assistance (as determined in accordance with requirements established by the Secretary) paid to or on behalf of the eligible family as a result of paragraph (2)(B).

"(4) DOWNPAYMENT REQUIREMENT.—Each public housing agency providing assistance under this subsection shall ensure that each family assisted shall provide from its own resources not less than 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. Such resources may include amounts from any escrow account for the family established under section 23(d). Not more than 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government.

"(5) INELIGIBILITY UNDER OTHER PROGRAMS.—A family may not receive assistance under this subsection during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 502 of the Housing Act of 1949.

"(6) INAPPLICABILITY OF CERTAIN PROVISIONS.—Assistance under this subsection shall not be subject to the requirements of the following provisions:

"(A) Subsection (f)(2) of this section.

"(B) Subsection (h)(3) of this section.

"(C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.

"(D) Any other provisions of this section concerning contracts between public housing agencies and owners.

"(E) Any other provisions of this Act that are inconsistent with the provisions of this subsection.

"(7) REVERSION TO RENTAL STATUS.—

"(A) FHA-INSURED MORTGAGES.—If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act, the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 23(d)(4) may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

"(B) OTHER MORTGAGES.—If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act, the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

"(C) ALL MORTGAGES.—A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

"(8) DEFINITION OF FIRST-TIME HOMEOWNER.—For purposes of this subsection, the term 'first-time homeowner' means—

"(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

"(B) any other family, as the Secretary may prescribe.

"(9) LIMITATION ON USE OF ASSISTANCE.—The Secretary shall ensure that the total number of dwellings assisted under this subsection at any one time may not exceed 10,000.".

(b) FAMILY SELF-SUFFICIENCY PROGRAM.—Section 23(d) of the United States Housing Act of 1937 (42 U.S.C. 1437u), as amended by section 106(h) of this Act, is further amended by adding at the end the following new paragraph:

"(4) USE OF ESCROW SAVINGS ACCOUNTS FOR SECTION 8 HOMEOWNERSHIP.—Notwithstanding paragraph (3), a family that uses assistance under section 8(u) to purchase a dwelling may use up to 50 percent of the amount in its escrow account established under paragraph (3) for a downpayment on the dwelling. In addition, after the family purchases the dwelling, the family may use any amounts remaining in the escrow account to cover the costs of major repair and replacement needs of the dwelling. If a family defaults in connection with the loan to purchase a dwelling and the mortgage is foreclosed, the remaining amounts in the escrow account shall be recaptured by the Secretary.".

(c) USE OF FHA INSURANCE WITH SECTION 8 HOMEOWNERSHIP.—

(1) IN GENERAL.—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(A) in the matter preceding subparagraph (A) in subsection (c)(2), by inserting "or of the General Insurance Fund pursuant to subsection (v)" after "Fund"; and

(B) by adding at the end the following new subsection:

"(v) Notwithstanding section 202 of this title, the insurance of a mortgage under this section in connection with the assistance provided under section 8(u) of the United States Housing Act of 1937 shall be the obligation of the General Insurance Fund created pursuant to section 519 of this title. The provisions of subsections (a) through (h), (j), and (k) of section 204 shall apply to such mortgages, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) any excess amounts described in section 204(f)(1) shall be retained by the Secretary and credited to the General Insurance Fund.".

(2) GENERAL INSURANCE FUND.—Section 519(e) of the National Housing Act (12 U.S.C. 1735c(e)) is amended by inserting after "203(b)" the following: "(except as provided in section 203(v))".

(3) MORTGAGE INSURANCE TRANSITION PREMIUMS.—The matter preceding paragraph (1) in section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 (12 U.S.C. 1709 note) is amended by inserting "or of the General Insurance Fund pursuant to section 203(v) of the National Housing Act" after "Fund".

(4) CONFORMING AMENDMENT.—The third sentence of section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)) is amended by striking "(other than a family assisted under section 8(o))" and inserting the following: "(other than a family paying rent under section 8(f)(2) or a family assisted under section 8(u))".

Subtitle F—Implementation

SEC. 191. IMPLEMENTATION.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

TITLE II—HOME INVESTMENT PARTNERSHIPS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12724) is amended to read as follows:

"SEC. 205. AUTHORIZATION.

"There is authorized to be appropriated to carry out this title $2,169,440,000 for fiscal year 1993, of which—

"(1) not more than $14,560,000 shall be for community housing partnership activities authorized under section 233; and

"(2) not more than $11,440,000 shall be for activities in support of State and local housing strategies authorized under subtitle C.".

SEC. 202. ELIMINATION OF RESTRICTIONS ON NEW CONSTRUCTION.

(a) ELIGIBLE USES OF INVESTMENT.—Section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)) is amended—

(1) in the last sentence of paragraph (2), by striking "paragraph (3) of this subsection or";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) FORMULA ALLOCATION.—Section 217(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)(1)) is amended—

(1) by striking subparagraph (A);

(2) in subparagraph (D), by striking "Except as provided in subparagraph (A), the basic formula established under subparagraph (B)" and inserting "The basic formula established under subparagraph (A)";

(3) in subparagraph (E), by striking "formulas in subparagraph (B)" and inserting "formula in subparagraph (A)";

(4) in subparagraph (F)—

(A) in the first sentence, by striking "subparagraph (B)" and inserting "subparagraph (A)"; and

(B) by striking the second sentence;

(5) in subparagraph (G), by striking "formulas in subparagraphs (A) and (B)" and inserting "formula in subparagraph (A)"; and

(6) by redesignating subparagraphs (B) through (G) (as amended by this paragraph) as subparagraphs (A) through (F), respectively.

(c) CONFORMING AMENDMENT.—Section 218(g) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(g)) is amended by striking "Except as provided in section 217(b)(1)(A)(ii), if" and inserting "If".

SEC. 203. USE OF TENANT-BASED RENTAL ASSISTANCE AMOUNTS FOR SECURITY DEPOSITS.

Section 212(a)(3) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(3)), as so redesignated by section 202(a)(3) of this Act, is amended by adding at the end the following new subparagraph:

"(E) SECURITY DEPOSIT ASSISTANCE.—A jurisdiction using funds provided under this subtitle for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Any amounts used under this subparagraph shall not be subject to the requirements of subparagraph (A)(ii). An eligible family may be provided security assistance under this subparagraph, rental assistance under this paragraph, or both.".

SEC. 204. MCKINNEY ACT ACTIVITIES FOR HOMELESS PERSONS AS ELIGIBLE USE OF INVESTMENT.

(a) ELIGIBLE USES.—Section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)), as amended by sections 202 and 203 of this Act, is further amended—

(1) in paragraph (1)—

(A) by striking "and" after the last comma; and

(B) by inserting before the period at the end the following: "and to carry out activities under title IV of the Stewart B. McKinney Homeless Assistance Act"; and

(2) by adding at the end the following new paragraph:

"(4) MCKINNEY ACT ACTIVITIES.—A participating jurisdiction may elect to use funds provided under this subtitle to provide assistance to any project established according to requirements under title IV of the Stewart B. McKinney Homeless Assistance Act, except that such funds may be used for the provision of emergency shelter grants under subtitle B of title IV of such Act only if the comprehensive housing affordability strategy for the jurisdiction includes a plan for meeting current emergency shelter needs with transitional or permanent housing within a 5-year period.".

(b) QUALIFICATION AS AFFORDABLE HOUSING.—Section 215 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745) is amended by adding at the end the following new subsection:

"(c) MCKINNEY ACT ACTIVITIES.—Housing assisted pursuant to section 212(a)(4) shall qualify as affordable housing for purposes of this title.".

SEC. 205. PER UNIT COST LIMITS.

(a) MINIMUM LIMITS.—Section 212(d)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(d)(1)) is amended by inserting after the first sentence the following new sentence: "Such limits shall not be less than the per unit dollar amount limitations set forth in section 221(d)(3)(ii) of the National Housing Act, as such limitations may be adjusted in accordance therewith; except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs.".

(b) DISAPPROVAL OF INTERIM REGULATION.—

(1) PROHIBITION.—The Secretary of Housing and Urban Development may not implement or otherwise make effective the provision described in paragraph (2) or any final rule based on such section.

(2) IDENTIFICATION OF INTERIM RULE.—The provision referred to in paragraph (1) shall be section 92.250 of title 24, Code of Federal Regulation, contained in the interim rule issued by the Secretary of Housing and Urban Development, entitled "HOME Investment Partnerships Program", and published in the Federal Register of December 16, 1991 (56 Fed. Reg. 65353).

SEC. 206. ADMINISTRATIVE COSTS AS ELIGIBLE USE OF INVESTMENT.

(a) ELIGIBLE USE.—Section 212 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended—

(1) in subsection (c)(1), by inserting "that exceed the amount specified under subsection (c)" before the comma at the end;

(2) by redesignating subsections (c), (d) (as amended by the preceding provisions of this Act), and (e) as subsections (d), (e), and (f), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) ADMINISTRATIVE COSTS.—In each fiscal year, each participating jurisdiction may use

not more than 10 percent of the funds made available under this subtitle to the jurisdiction for such year for any administrative costs of the jurisdiction in carrying out this subtitle, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this subtitle.".

(b) RECOGNITION OF MATCH.—Section 220 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750) is amended—

(1) in subsection (b)(2), by striking "shall" and all that follows and inserting "may not be recognized for purposes of subsection (a)."; and

(2) in subsection (c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

SEC. 207. QUALIFICATION AS AFFORDABLE RENTAL HOUSING.

(a) HOUSING NOT ASSISTED BY LOW-INCOME HOUSING TAX CREDIT.—Section 215(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)) is amended—

(1) in paragraph (1)—

(A) by striking the matter preceding subparagraph (A) and inserting the following:

"(1) IN GENERAL.—Housing that is for rental shall qualify as affordable housing under this title if the housing—";

(B) in subparagraph (E), by striking "and" at the end;

(C) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(G) is not a qualified low-income building for purposes of section 42 of the Internal Revenue Code of 1986."; and

(2) in paragraph (3)—

(A) in the first sentence, by inserting "otherwise meeting the requirements of paragraph (1)" after "Housing";

(B) in the last sentence, by inserting "of housing that qualifies as affordable housing pursuant to paragraph (1)" after "Tenants"; and

(C) in the last sentence, by striking "not less than" and inserting "the lesser of the amount payable by the tenant under State or local law or".

(b) HOUSING ASSISTED BY LOW-INCOME HOUSING TAX CREDIT OR WITHIN QUALIFIED CENSUS TRACT.—Section 215(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)) is amended by adding at the end the following new paragraphs:

"(6) QUALIFICATION OF HOUSING ASSISTED BY LOW-INCOME HOUSING TAX CREDIT.—Notwithstanding paragraphs (1), (2), (3), and (7), housing that is for rental shall qualify as affordable housing under this title during any period in which the housing meets the requirements of section 42(g)(1) and is rent restricted under section 42(g)(2) of the Internal Revenue Code of 1986.

"(7) QUALIFICATION OF HOUSING LOCATED IN QUALIFIED CENSUS TRACT.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1) and (6), housing that is for rental shall qualify as affordable housing under this title if—

"(i) the housing is located within a qualified census tract;

"(ii) not more than 33 percent of the units in the housing are occupied by families with qualified incomes who pay as rent an amount not exceeding 30 percent of the adjusted income of a family whose income equals 80 percent of the median income for the area (except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes);

"(iii) any families with incomes of not less than 100 percent of the median income for the area who occupy units in the housing pay as rent an amount equal to not less than 30 percent of the median income for the area; and

"(iv) not less than 10 percent of the units in the housing are occupied by families with incomes of not more than 35 percent of the area median income.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'qualified census tract' means any census tract in which 50 percent or more of the households have an income which is less than 60 percent of the median family income for the area; and

"(ii) the term 'qualified income' means an income that does not exceed 100 percent of the median family income for the area (as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 100 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes).".

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to any amounts appropriated to carry out this title for fiscal year 1992 and any fiscal year thereafter.

SEC. 208. RESALE OF HOMEOWNERSHIP HOUSING.

Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by striking paragraph (4) and inserting the following new paragraphs:

"(4) is subject to a requirement that, upon any subsequent sale of the property, any assistance provided for the housing from amounts made available under subtitle A shall be repaid, without interest, to the participating jurisdiction from the net proceeds of the sale;

"(5) is subject to a lien securing repayment to the participating jurisdiction of any such assistance provided for the housing, which—

"(A) shall be subordinate to all mortgages on the property existing on the date that any such assistance payment is first made; and

"(B) in the case of any sale resulting in no net proceeds or net proceeds that are insufficient to repay the amount of the assistance for the housing in full, shall be released to the extent that the debt secured by the lien remains unpaid; and".

SEC. 209. MATCHING REQUIREMENTS.

(a) IN GENERAL.—Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended to read as follows:

"(a) CONTRIBUTION.—Except as provided in subsection (d), each participating jurisdiction shall make contributions to affordable housing assisted under this title that total, throughout a fiscal year, not less than 10 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year. Such contributions shall be in addition to any amounts made available under section 216(3)(A)(ii).".

(b) ELIGIBILITY OF DEBT FINANCING FOR MATCH.—Section 220(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(c)(1)) is amended by inserting after the comma the following: "which may include funds provided to affordable housing under this title which are borrowed by the jurisdiction or a public agency of the jurisdiction or obtained by issuing debt instruments, without regard to the source of repayment of such funds, but".

(c) ELIGIBILITY OF MATERIALS AND SWEAT EQUITY FOR MATCH.—Section 220(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(c)), as amended by section 206(b) of this Act, is further amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) any other contributions to affordable housing, as the Secretary considers appropriate, which shall include the value of any site-preparation and construction materials and any donated or voluntary labor in connection with the site-preparation for, or construction or rehabilitation of, affordable housing.".

(d) WAIVER OF REQUIREMENT.—Section 220(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(d)) is amended to read as follows:

"(d) WAIVER OF REQUIREMENT.—The Secretary shall waive the applicability of the matching requirement under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during a fiscal year for any jurisdiction that is not a State, at the request of the jurisdiction, but only if the jurisdiction meets the requirements under one of the following paragraphs:

"(1) COMBINED ECONOMIC DISTRESS FACTORS.—The jurisdiction certifies, before the commencement of such fiscal year, any 3 of the following 5 requirements:

"(A) UNEMPLOYMENT.—That the average unemployment rate in the jurisdiction for the calendar year immediately preceding the year in which such fiscal year begins was equal to or greater than 150 percent of the average national unemployment rate during such calendar year (as determined according to information of the Bureau of Labor Statistics of the Department of Labor).

"(B) LABOR FORCE GROWTH.—That the rate of growth in the labor force in the jurisdiction for the 2 calendar years immediately preceding the year in which such fiscal year begins was less than 75 percent of the rate of growth in the national labor force during the same 2-year period (as determined according to information of the Bureau of Labor Statistics of the Department of Labor).

"(C) TAX EFFORT.—That the ratio of the amount of tax revenue collected per capita in the jurisdiction to the per capita income in the jurisdiction (as determined by the jurisdiction) for the calendar year immediately preceding the year in which such fiscal year begins was equal to or greater than 150 percent of the average for all participating jurisdictions of the ratio of tax revenue collected per capita in the participating jurisdiction to the per capita income in the participating jurisdiction (as determined according to information of the Bureau of the Census).

"(D) POVERTY RATE.—That the average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which such fiscal year begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

"(E) PER CAPITA INCOME.—That the average per capita income in the jurisdiction for the calendar year immediately preceding the year in which such fiscal year begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

"(2) SEVERELY HIGH POVERTY RATE OR LOW PER CAPITA INCOME.—The jurisdiction certifies, before the commencement of such fiscal year, that—

"(A) the average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which such fiscal year begins was equal to or greater than 150 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census); or

"(B) the average per capita income in the jurisdiction for the calendar year immediately preceding the year in which such fiscal year begins was less than 50 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).".

(e) APPLICABILITY.—The amendments made by this section shall apply with respect to fiscal year 1993 and each fiscal year thereafter.

SEC. 210. ASSISTANCE FOR INSULAR AREAS.

(a) REPEAL OF AMENDMENTS MADE BY PUBLIC LAW 102–230.—

(1) DEFINITIONS.—Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended to read as if the amendments made by section 2 of Public Law 102–230 (105 Stat. 1720) had not been enacted.

(2) ALLOCATION OF RESOURCES.—Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(A) by striking the first sentence of paragraph (1) and inserting the following new sentence: "After reserving amounts under paragraph (2) for Indian tribes and after reserving amounts under paragraph (3) for the insular areas, the Secretary shall allocate funds approved in an appropriation Act to carry out this title by formula as provided in subsection (b).";

(B) by striking paragraph (3) (as added by Public Law 102–229; 105 Stat. 1709);

(C) by striking paragraph (3) (as added by Public Law 102–230; 105 Stat. 1720); and

(D) by adding after paragraph (2) the following new paragraph:

"(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriation Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution, which shall be contained in a regulation issued by the Secretary.".

(3) EXPEDITED ISSUANCE OF REGULATION.—The regulation referred to in the amendment made by paragraph (2)(D) shall take effect not later than the expiration of the 90-day period beginning on the date of the enactment of this Act. The regulation shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take apply with respect to fiscal year 1993 and thereafter.

SEC. 211. USE OF ASSISTANCE TO ESTABLISH COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

Section 231 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12771) is amended—

(1) in subsection (a), by striking the first and second sentences and inserting the following new sentence: "A jurisdiction receiving funds under subtitle A shall reserve not less than 15 percent of such funds for the period determined under subsection (c) for investment only in housing to be developed, sponsored, or owned by community housing development organizations or for the development under subsection (b) of community housing development organizations.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) IDENTIFICATION AND ESTABLISHMENT OF COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.—

"(1) IDENTIFICATION.—Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are capable or can reasonably be expected to become capable of carrying out elements of the jurisdiction's housing strategy and to encourage such community housing development organizations to do so.

"(2) ESTABLISHMENT.—Any participating jurisdiction that cannot, pursuant to paragraph (1), identify any community housing development organization serving the jurisdiction may use not more than 5 percent of any funds reserved under subsection (a) to provide technical assistance in establishing a community housing development organization."; and

(4) in subsection (c) (as so redesignated by paragraph (2) of this section)—

(A) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(B) by striking "(c) RECAPTURE AND REUSE.—If" and inserting the following:

"(c) RECAPTURE AND REUSE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if"; and

(C) by adding at the end the following new paragraph:

"(2) EXTENSION FOR JURISDICTIONS ESTABLISHING COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.—With respect to any participating jurisdiction that (A) uses funds reserved under subsection (a) (as provided in subsection (b)(2)), and (B) for which is established, during the 18-month period after the funds are made available, a community housing development organization that is capable (or can reasonably be expected to become capable) of carrying out elements of the jurisdiction's housing strategy, the Secretary may not recapture and reuse any funds reserved under subsection (a) and not invested unless the funds remain uninvested 18 months after the expiration of the 18-month period under paragraph (1).".

SEC. 212. HOUSING EDUCATION AND ORGANIZATIONAL SUPPORT FOR COMMUNITY LAND TRUSTS.

(a) COMMUNITY LAND TRUSTS.—Section 233 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773) is amended—

(1) in subsection (a)(2), by inserting ", including community land trusts," after "organizations";

(2) in subsection (b), by adding at the end the following new paragraph:

"(6) COMMUNITY LAND TRUSTS.—Organizational support, technical assistance, education, training, and continuing support under this subsection may be made available to community land trusts (as such term is defined in subsection (f)) and to community groups for the establishment of community land trusts.";

(3) in subsection (e)—

(A) by striking "SINGLE-STATE CONTRACTORS.—" and inserting "USE OF AMOUNTS.—"; and

(B) by adding at the end the following new sentence: "Not less than 10 percent of the funds made available for this section in any appropriation Act shall be made available only for eligible contractors with specific expertise in the establishment, organization, and management of community land trusts to carry out activities under subsection (b)(6)."; and

(4) by adding at the end the following new subsection:

"(f) DEFINITION OF COMMUNITY LAND TRUST.—For purposes of this section, the term 'community land trust' means a community housing development organization (except that the requirement under section 104(6)(B) shall not apply for purposes of this subsection)—

"(1) that is not sponsored by a for-profit organization;

"(2) that is established to carry out the activities under paragraph (3);

"(3) that—

"(A) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

"(B) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

"(C) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;

"(4) whose corporate membership that is open to any adult resident of a particular geographic area specified in the bylaws of the organization; and

"(5) whose board of directors—

"(A) includes a majority of members who are elected by the corporate membership; and

"(B) is composed of equal numbers of (i) lessees pursuant to paragraph (3)(B), (ii) corporate members who are not lessees, and (iii) any other category of persons described in the bylaws of the organization.".

(b) WOMEN IN HOMEBUILDING.—Section 233 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773), as amended by subsection (a) of this section, is further amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end; and

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) to achieve the purposes under paragraphs (1) and (2) by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods.".

(2) in subsection (b), by adding after paragraph (6) (as added by subsection (a)(2) of this section) the following new paragraph:

"(7) FACILITATING WOMEN IN HOMEBUILDING PROFESSIONS.—Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities, which may include facilitating access by such women to, and providing, apprenticeship and other training programs regarding nontraditional skills, recruiting women to participate in such programs, providing continuing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses, and providing materials and tools for training such women (in an amount not exceeding 10 percent of any assistance provided under this paragraph). The Secretary shall give priority under this paragraph to providing technical assistance for organizations rehabilitating single family or multifamily housing owned or controlled by the Secretary pursuant to title II of the National Housing Act and which have women members in occupations in which women constitute 25 percent or less of the total number of workers in the occupation (in this section referred to as 'nontraditional occupations').";

(3) in subsection (c)(1)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following new subparagraph:

"(E) in the case of activities under subsection (b)(7), is a community-based organization (as such term is defined in section 4 of the Job Training Partnership Act) or public housing agency, which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training women for construction or other nontraditional occupations (and such organizations may use assistance for activities under such subsection to employ women in housing construction and rehabilitation activities to the extent that the organization has the capacity to conduct such activities); or"; and

(4) in subsection (e), by adding after the period at the end of the sentence added by subsection (a)(3)(B) of this section the following new sentence: "The Secretary shall provide assistance under this section to contractors in each of the geographic regions having a regional office of the Department of Housing and Urban Development (subject only to the absence of applications from eligible organizations).".

SEC. 213. LAND BANK REDEVELOPMENT.

(a) PRIORITIES FOR CAPACITY DEVELOPMENT.—Section 242 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12782) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use of the real estate by the unit of general local government in the best interests of the unit of general local government.".

(b) USE OF FUNDS.—Section 243 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12783) is amended by adding at the end the following new subsection:

"(c) USE OF FUNDS.—Not less than 5 percent of the amounts available to carry out this subtitle in each fiscal year shall be used for activities under section 242(6).".

SEC. 214. RESEARCH IN PROVIDING AFFORDABLE HOUSING THROUGH INNOVATIVE BUILDING TECHNIQUES AND TECHNOLOGY.

The second sentence of section 244 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12784) is amended by inserting before the period at the end the following: "and particularly through the use of cost-saving innovative building technology and construction techniques".

SEC. 215. USE OF INNOVATIVE BUILDING TECHNOLOGIES TO PROVIDE COST-SAVING HOUSING OPPORTUNITIES.

Subtitle D of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12801 et seq.) is amended by adding at the end the following new section:

"SEC. 260. COST-SAVING BUILDING TECHNOLOGIES AND CONSTRUCTION TECHNIQUES.

"(a) IN GENERAL.—The Secretary shall make available a model program to utilize cost-saving building technologies and construction techniques for purposes of providing homeownership and rental opportunities under this title, and take reasonable steps to ensure that any units provided under the model program under this section will remain occupied by persons or families eligible for assistance under this title.

"(b) SELECTION CRITERIA.—The Secretary shall establish criteria for participating jurisdictions to select projects for assistance under the model program which may include—

"(1) the extent to which innovative, cost-saving building and construction technologies are utilized;

"(2) the extent to which innovative, cost-saving construction techniques are utilized;

"(3) the extent to which units will be made available to low-income families and individuals;

"(4) the extent to which non-Federal public or private assistance is utilized; and

"(5) any other factor, determined by the Secretary to be appropriate.

"(c) GUIDELINES.—The Secretary shall publish guidelines for the model program under this section not later than 180 days after the date of the enactment of the Housing and Community Development Act of 1992.

"(d) REPORT.—The Secretary shall submit a biennial report to the Congress on the results of the model program under this section.".

SEC. 216. DEFINITION OF COMMUNITY HOUSING DEVELOPMENT ORGANIZATION.

Section 104(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(6)) is amended—

(1) by striking subparagraph (A);

(2) in subparagraph (B), by striking "and otherwise" and inserting "or otherwise";

(3) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively; and

(4) by adding at the end the following new flush material:

"The Secretary may not limit the criteria for determining if an organization meets the definition of a community housing development organization for purposes of this Act, to a single criterion based on the number or percentage of low-income persons residing in the community that serve as members on the organization's governing board. In the case of an organization serving more than one county, the Secretary may not require that such an organization, to be considered a community housing development organization for purposes of this Act, include as members on the organization's governing board low-income persons residing in each county served.".

SEC. 217. INCLUSION OF ECHO HOUSING IN DEFINITION OF HOUSING.

Section 104(8) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(8) is amended by inserting before the period at the end the following: "and elder cottage housing opportunity units that are small, freestanding, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings".

SEC. 218. ELIGIBILITY OF MANUFACTURED HOME OWNERS AS FIRST-TIME HOMEBUYERS.

Section 104(14) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(14)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such 3-year period, a dwelling unit whose structure is—

"(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

"(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.".

SEC. 219. ELIGIBILITY FOR ASSISTANCE AND CONTENTS OF STRATEGIES.

(a) HOMELESSNESS INFORMATION.—Section 105(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(2)) is amended by inserting "including tabular representation of such information," after "with homelessness,".

(b) ANTIDISPLACEMENT PLAN AND ANTIPOVERTY STRATEGY.—Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by striking paragraph (14) and inserting the following new paragraph:

"(14) include a certification that the jurisdiction has in effect and is following a residential antidisplacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under title II, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 in the event of displacement in connection with a development project assisted under section 106 or 119 of such Act;".

(2) in paragraph (15), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(16) for any housing strategy submitted for fiscal year 1994 or any fiscal year thereafter and taking into consideration factors over which the jurisdiction has control, describe the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and".

SEC. 220. REGULATIONS.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

TITLE III—PRESERVATION OF LOW-INCOME HOUSING

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 234 of the Housing and Community Development Act of 1987 (12 U.S.C. 4124) is amended to read as follows:

"SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated for assistance and incentives authorized under this subtitle $892,320,000 for fiscal year 1993.

"(b) GRANTS.—Of the amounts made available under subsection (a), not more than $100,000,000 shall be available for fiscal year 1993 for grants under section 221(d)(2), subject to approval in appropriation Acts.".

SEC. 302. REVISION OF SHORT TITLE.

(a) IN GENERAL.—Section 201 of the Housing and Community Development Act of 1987 (12

U.S.C. 4101 note) is amended by striking "and Resident Homeownership".

(b) CONFORMING AMENDMENTS.—

(1) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 604(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4101 note) is amended by striking "and Resident Homeownership".

(2) HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978.—Section 201(m) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(m)) is amended by striking "the Emergency Low Income Housing Preservation Act of 1987" each place it appears and inserting "title II of the Housing and Community Development Act of 1987".

(3) NATIONAL HOUSING ACT.—

(A) Section 229 of the National Housing Act (12 U.S.C. 1715t) is amended by striking "the Emergency Low Income Housing Preservation Act of 1987" and inserting "title II of the Housing and Community Development Act of 1987".

(B) Section 241(f) of the National Housing Act (12 U.S.C. 1715z–6(f)) is amended—

(i) by striking "the Low-Income Housing Preservation and Resident Homeownership Act of 1990" each place it appears and inserting "the Housing and Community Development Act of 1987"; and

(ii) by striking "Cranston-Gonzalez National Affordable Housing Act" each place it appears and inserting "Housing and Community Development Act of 1987".

(C) Section 250(b) of the National Housing Act (12 U.S.C. 1715z–15(B)) is amended by striking "Low-Income Housing Preservation and Resident Homeownership Act of 1990" and inserting "Housing and Community Development Act of 1987".

SEC. 303. RESIDUAL RECEIPTS AND RESERVE FOR REPLACEMENT ACCOUNTS.

(a) PRESERVATION VALUE.—Section 213(b)(2) of the Housing and Community Development Act of 1987 (12 U.S.C. 4103(b)(2)) is amended by inserting before the period at the end the following: "plus the amount in the reserve for replacement account at the time of the transfer of the property".

(b) INCENTIVE FOR TRANSFER TO QUALIFIED PURCHASERS.—Section 220(d)(3)(A) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(3)(A)) is amended—

(1) by striking "any residual receipts" and all that follows through "(b) or (c) and"; and

(2) by inserting after the period at the end the following new sentence: "The owner may retain amounts that are in the residual receipts account upon transfer of the project without deduction from the sales price.".

(c) INCENTIVES TO EXTEND LOW-INCOME USE.—Section 219(b)(1) of the Housing and Community Development Act of 1987 (12 U.S.C. 4109(b)(1)) is amended by inserting before the period at the end the following: ", except that the Secretary may not reduce the authorized annual return determined under section 214(a) as a result of the release of such funds".

SEC. 304. SUBMISSION OF INFORMATION TO TENANTS.

(a) LOW-INCOME HOUSING PRESERVATION ACT OF 1990.—Section 217(a)(2) of the Housing and Community Development Act of 1987 (12 U.S.C. 4107(a)(2)) is amended by inserting after the first sentence the following new sentence: "The owner shall simultaneously submit to the tenants supporting information sufficient to prepare a plan and bid for purchasing the housing, which shall include copies of the appraisals conducted of the housing pursuant to section 213 and any information provided to the owner by the Secretary pursuant to section 216.".

(b) EMERGENCY LOW INCOME HOUSING PRESERVATION ACT OF 1987.—For purposes of section 604 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 4101 note), the provisions of section 223(a) of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note), as in effect immediately before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, shall be considered to be amended by inserting after the second sentence the following new sentence: "The owner shall simultaneously submit a copy of the plan of action to the tenants of the housing, together with supporting information sufficient to prepare a plan and bid for purchasing the housing, which shall include a copy of any appraisals conducted of the housing and any information provided to the owner by the Secretary pursuant to this subsection.".

SEC. 305. APPROVAL OF PLAN OF ACTION.

Section 218 of the Housing and Community Development Act of 1987 (12 U.S.C. 4108) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) STANDARDS AND PROCEDURE FOR WRITTEN FINDINGS.—

"(1) STANDARDS.—A written finding under subsection (a) shall be based on an analysis of the evidence considered by the Secretary in reaching such finding and shall contain documentation of such evidence.

"(2) PROCEDURE AND CRITERIA.—The Secretary shall, by regulation, develop (A) a procedure for determining whether the conditions under paragraphs (1) and (2) of subsection (a) exist, (B) requirements for evidence on which such determinations are based, and (C) criteria on which such determinations are based.".

SEC. 306. RECEIPT OF INCENTIVES TO EXTEND LOW-INCOME USE.

The first sentence of section 219(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 4109(a)) is amended by inserting after "receive" the following: "(for each year after the approval of the plan of action)".

SEC. 307. ELIMINATION OF WINDFALL PROFITS TEST.

Section 222 of the Housing and Community Development Act of 1987 (12 U.S.C. 4112) is amended by striking subsection (e).

SEC. 308. UNIT RENT CRITERIA FOR APPROVAL OF PLAN OF ACTION.

Section 222(a)(2)(F) of the Housing and Community Development Act of 1987 (12 U.S.C. 4112(a)(2)(F)) is amended by striking "January 1, 1987" and all that follows through "highest proportion of very low-income families" and inserting the following: "the date occurring 1 year before the date on which the notice of intent for the housing was filed pursuant to section 212, or the date the plan of action is approved, whichever date results in the higher proportion of low-income families".

SEC. 309. RESIDENT HOMEOWNERSHIP PROGRAM.

Section 226(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 4116(b)) is amended—

(1) in paragraph (2)—

(A) by inserting "AND LIMITATION ON CONDITIONS OF APPROVAL" before the period at the end of the paragraph heading; and

(B) by inserting after the period at the end the following new sentence: "The Secretary may not require the prepayment of the mortgage on eligible low-income housing for the approval of a plan of action involving a homeownership program for the housing.";

(2) in paragraph (3)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) the low-income affordability restrictions shall continue to apply to any rental units in the housing for any period during which such units remain rental units.";

(3) in paragraph (8), by striking "Resident" and inserting "Except in the case of limited equity cooperatives, resident"; and

(4) in paragraph (10)—

(A) by striking ", as determined by the Secretary,";

(B) by striking "section 222(d)" and inserting "section 222(c)"; and

(C) by striking the last sentence.

SEC. 310. INCENTIVES UNDER EMERGENCY LOW INCOME HOUSING PRESERVATION ACT.

Section 604(c) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4101 note) is amended by inserting after the period at the end the following new sentence: "In making incentives under section 224 of such Act available with respect to housing for which such election is made, the Secretary may not refuse to offer incentives referred to in such section based solely on the date of filing of the plan of action for the housing.".

SEC. 311. DELEGATED RESPONSIBILITY TO STATE AGENCIES.

The Secretary of Housing and Urban Development shall issue interim regulations implementing section 227 of the Housing and Community Development Act of 1987 (as amended by section 601(a) of the Cranston-Gonzalez National Affordable Housing Act) not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, which shall take effect upon issuance. The Secretary shall issue final regulations implementing such section 227 after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

SEC. 312. INSURANCE FOR SECOND MORTGAGE FINANCING.

(a) TERMS.—Section 241(f) of the National Housing Act (12 U.S.C. 1715z–6(f)) is amended—

(1) in paragraph (5)(A) by striking "have a maturity and provisions for amortization satisfactory to the Secretary," and inserting "have a term of not less than 40 years,"; and

(2) in paragraph (6), by striking "may" and inserting "shall".

(b) TRANSITION.—Notwithstanding section 241(f) of the National Housing Act (12 U.S.C. 1715z–6(f)), the provisions of such section as in effect immediately before the enactment of the Cranston-Gonzalez National Affordable Housing Act shall apply with respect to any eligible low-income housing for which the owner elects under section 604(a)(1) of the Cranston-Gonzalez National Affordable Housing Act to be subject to the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act).

(c) IMPLEMENTATION.—Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, the Secretary shall issue regulations implementing section 241(f) of the National Housing Act. The regulations shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code.

SEC. 313. SUPPLEMENTAL LOANS.

Section 241(b)(1) of the National Housing Act (12 U.S.C. 1715z–6(b)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by inserting "or" after the semicolon at the end; and

(3) by adding at the end the following new subparagraph:

"(B) be available in an amount of up to 100 percent of the replacement cost if the loan is made in conjunction with an approved plan of action under the Low-Income Housing Preservation Act of 1990;".

SEC. 314. TECHNICAL AMENDMENTS.

(a) LOW-INCOME HOUSING PRESERVATION ACT OF 1990.—The Housing and Community Development Act of 1987 (12 U.S.C. 4101 et seq.) is amended—

(1) in section 215(a)(2), by inserting "Housing" after "United States";

(2) in section 216(b)(4), by striking "exceeds" and inserting "exceed";

(3) in the second sentence of section 221(c), by striking "that" and inserting "than";

(4) in section 222—

(A) in subsection (a)(2)(A), by striking "low income" and inserting "low-income";

(B) in subsection (c)(2), by striking "an hearing" and inserting "a hearing";

(C) in subsection (d)(2)(B), by inserting "the" after "that"; and

(D) in subsection (d)(2)(C)(ii), by inserting "in" before "default";

(5) in section 229(11)(A), by striking "resident" and inserting "residents"; and

(6) in section 231(b), by striking "section 222(d)" and inserting "section 222(c)".

(b) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 613(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4125(b)(2)) is amended by striking "section 224(e)" and inserting "section 222(d)".

(c) NATIONAL HOUSING ACT.—Section 241(f) of the National Housing Act (12 U.S.C. 1715z-6(f)) is amended—

(1) in paragraph (2)(B)(ii), by striking "and" at the end; and

(2) in paragraph (7), by striking "acquisiton loan" and inserting "acquisition loan".

SEC. 315. REGULATIONS.

Except as otherwise provided in this title, the Secretary of Housing and Urban Development shall issue interim regulations implementing the amendments made by this title not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, which shall take effect upon issuance. The Secretary shall issue final regulations implementing the amendments made by this title after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

SEC. 316. STUDY OF PROJECTS ASSISTED UNDER FLEXIBLE SUBSIDY PROGRAM.

(a) STUDY.—The Secretary shall conduct a study of housing projects that (1) are assisted under section 236 of the National Housing Act or the proviso of section 221(d)(5) of such Act, and (2) have received or are receiving assistance under section 201 of the Housing and Community Development Amendments of 1978, to determine the cost of providing such projects with incentives under the Low-Income Housing Preservation Act of 1990. The study shall examine any projects portions of which assisted under such section 236 that are assisted primarily by State agencies.

(b) REPORT.—The Secretary shall submit a report to the Congress regarding any findings and conclusions of the study under subsection (a) not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

TITLE IV—MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES

SEC. 401. REQUIRED SUBMISSION.

(a) IN GENERAL.—The owner of each covered multifamily housing property, and the owner of each covered multifamily housing property for the elderly, shall submit to the Secretary of Housing and Urban Development a comprehensive needs assessment of the property under this title.

(b) TIMING.—The Secretary shall require the owners of approximately one-third of the aggregate number of covered multifamily housing properties, and the owners of approximately one-third of the aggregate number of covered multifamily housing properties for the elderly, to submit the comprehensive needs assessments under this section for the properties in each of fiscal years 1993, 1994, and 1995, in a manner designed to ensure that upon the conclusion of fiscal year 1995 the assessments for all such properties have been submitted.

SEC. 402. CONTENTS.

(a) IN GENERAL.—Each comprehensive needs assessment submitted under this title for a covered multifamily housing property or a covered multifamily housing property for the elderly shall contain the following information with respect to the property:

(1) A description of any financial or other assistance currently needed for the property to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project.

(2) A description of any financial or other assistance for the property that, at the time of the assessment, is reasonably foreseeable as necessary to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project, during the remaining useful life of the property.

(3) A description of any resources available for meeting the current and future needs of the property described under paragraphs (1) and (2) and the likelihood of obtaining such resources.

(4) A description of any assistance needed for the property under programs administered by the Secretary.

(b) PROJECTS FOR THE ELDERLY.—Each comprehensive needs assessment for a covered multifamily housing property for the elderly shall include, in addition to the information required under subsection (a), the following information with respect to the property:

(1) A description of the supportive service needs of such residents and any supportive services provided to elderly residents of the property.

(2) A description of any modernization needs and activities for the property.

(3) A description of any personnel needs for the property.

SEC. 403. SUBMISSION AND REVIEW.

(a) FORM.—The Secretary shall establish the form and manner of submission of the comprehensive needs assessments under this title.

(b) RESIDENT REVIEW.—The Secretary shall require each owner of a covered multifamily housing property and each owner of a covered multifamily housing property for the elderly to make available to the residents of the property the comprehensive needs assessment that is to be submitted to the Secretary. The Secretary shall require each owner to provide for such residents to submit comments and opinions regarding the assessment to the owner before the submission of the assessment.

(c) STATE HOUSING FINANCE AGENCY REVIEW.—To the extent that a covered multifamily housing property or a covered multifamily housing property for the elderly is financed or assisted by a State housing finance agency (as such term is defined in section 802 of the Housing and Community Development Act of 1974), the Secretary shall require the owner of the property to submit the comprehensive needs assessment for the property to the State housing finance agency upon submitting the assessment to the Secretary.

(d) REVIEW.—The Secretary shall review each comprehensive needs assessment and shall approve the assessment before the expiration of the 90-day period beginning upon the receipt of the assessment, unless the Secretary determines that the assessment has not been provided in a substantially complete manner.

(e) COST OF PREPARATION OF STRATEGY.—The Secretary shall consider any costs relating to preparing a comprehensive needs assessment under this title for a covered multifamily housing property that do not exceed $5000 for the property as an eligible project expense for the property. The Secretary shall provide that an owner may not increase the rental charge for any unit in a covered multifamily housing property to provide for the cost of preparing a comprehensive needs assessment.

(f) NOTICE.—The Secretary shall immediately notify each owner submitting a comprehensive needs assessment (and any State housing finance agency to which the owner has submitted an assessment under subsection (d)) of the approval or disapproval of the assessment upon making such determination. Within 30 days after disapproving any assessment, the Secretary shall inform the owner in writing of the reasons for disapproval. The Secretary shall require any owner whose assessment is disapproved to resubmit an amended assessment not later than 30 days after the owner receives the notice of disapproval.

(g) ANNUAL REVIEW AND REPORT OF FUNDING AND TARGETING FOR COVERED MULTIFAMILY PROPERTIES FOR THE ELDERLY.—

(1) REVIEW.—The Secretary shall annually conduct a comprehensive review of—

(A) the funding levels required to fully address the needs of covered multifamily housing properties for the elderly identified in the comprehensive needs assessments under section 402(b), specifically identifying any expenses necessary to make substantial repairs and add features (such as congregate dining facilities and commercial kitchens) resulting from development of a property in compliance with cost-containment requirements established by the Secretary;

(B) the adequacy of the geographic targeting of resources provided under programs of the Department with respect to covered multifamily housing properties for the elderly, based on information acquired pursuant to section 402(b); and

(C) local housing markets throughout the United States, with respect to the need, availability, and cost of housing for elderly persons and families, which shall include review of any information and plans relating to housing for elderly persons and families included in comprehensive housing affordability strategies submitted by jurisdictions pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act.

(2) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress annually describing the results of the annual comprehensive needs assessments under section 402 for covered multifamily housing properties for the elderly and the annual review conducted under paragraph (1) of this subsection, which shall contain a description of the methods used by project owners and by the Secretary to acquire the information described in section 402(b) and any findings and recommendations of the Secretary pursuant to the review.

SEC. 404. DEFINITIONS.

For purposes of this title:

(1) COVERED MULTIFAMILY HOUSING PROPERTY.—The term "covered multifamily housing property" means any housing—

(A) that is—

(i) reserved for occupancy by very low-income elderly persons pursuant to section 202(d)(1) of the Housing Act of 1959;

(ii) assisted under the provisions of section 202 of the Housing Act of 1959 (as such section existed before the effectiveness of the amendment made by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act);

(iii) financed by a loan or mortgage insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

(iv) financed by a loan or mortgage insured or held by the Secretary pursuant to section 221(d)(3) of the National Housing Act; and

(B) that is not eligible for assistance under—

(i) the Low-Income Housing Preservation and Resident Homeownership Act of 1990;

(ii) the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act); or

(iii) the HOME Investment Partnerships Act.

(2) COVERED MULTIFAMILY HOUSING PROPERTY FOR THE ELDERLY.—The term "covered multifamily housing property for the elderly" means any multifamily housing project that was designed or designated to serve, or is serving, elderly persons or families and is assisted under a program administered by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 405. REGULATIONS.

The Secretary shall issue final regulations to carry out this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

TITLE V—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET

Subtitle A—FHA Mortgage Insurance Programs

SEC. 501. LIMITATION ON INSURANCE AUTHORITY.

Section 531(b) of the National Housing Act (12 U.S.C. 1735f–9(b)) is amended to read as follows:

"(b)(1) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $66,184,980,000 during fiscal year 1993.

"(2) There is authorized to be appropriated $631,800,000 to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of mortgage insurance obligations entered into under this Act.".

SEC. 502. FEDERAL HOUSING ADMINISTRATION ADVISORY BOARD.

Section 202(b) of the National Housing Act (12 U.S.C. 1708(b)) is amended by adding at the end the following new paragraph:

"(11) The Board shall terminate on January 1, 1995.".

SEC. 503. MAXIMUM MORTGAGE AMOUNT.

(a) IN GENERAL.—The first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended to read as follows: "Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

"(A) not to exceed the lesser of—

"(i) in the case of a 1-family residence, 95 percent of the median 1-family house price in the area (as determined by the Secretary); in the case of a 2-family residence, 107 percent of such median price; in the case of a 3-family residence, 130 percent of such median price; or in the case of a 4-family residence, 150 percent of such median price; or

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as adjusted annually under such section) for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992; and

"(B) except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of—

"(i) 97 percent of $25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of $25,000 but not in excess of $125,000; and

"(iii) 90 percent of such value in excess of $125,000.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only to mortgages executed on or after January 1, 1993.

(c) CONFORMING AMENDMENTS.—

(1) PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOAN INSURANCE.—The second sentence of section 2(b)(2) of the National Housing Act (12 U.S.C. 1703(b)(2)) is amended by striking "but not" and all that follows through "203(b)(2)" and inserting "but in no case may such limits, as so increased, exceed the lesser of (A) 185 percent of the dollar amount specified, or (B) the dollar amount specified as increased by the same percentage by which 95 percent of the median one-family house price in the area (as determined by the Secretary) exceeds $67,500".

(2) HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "for a 1-family residence" and inserting "for 1-family residences in the area in which the dwelling subject to the mortgage under this section is located".

(3) RTC AFFORDABLE HOUSING PROGRAM.—Subparagraphs (D)(ii) and (G)(II) of section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) are each amended by striking "the applicable dollar amount" and all that follows through "areas" and inserting the following: "$67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence".

(4) FDIC AFFORDABLE HOUSING PROGRAM.—Paragraphs (4)(B) and (7)(B) of section 40(p) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)) are each amended by striking "the applicable dollar amount" and all that follows through "areas)" and inserting the following: "$67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence".

SEC. 504. MAXIMUM PRINCIPAL OBLIGATION OF MORTGAGES FOR VETERANS.

(a) IN GENERAL.—The first sentence of the last undesignated paragraph of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "Notwithstanding any other provision of this paragraph," and inserting "Except with respect to only mortgages executed by mortgagors who are veterans,".

(b) TECHNICAL AMENDMENT.—Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by striking "(except in a case to which the next to the last sentence of paragraph (2) applies)" and inserting "(except with respect to mortgages executed by a mortgagor who is a veteran)".

SEC. 505. PROHIBITION ON LIMITATION OF CLOSING COSTS FINANCED.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting after the period at the end the following new sentence: "Notwithstanding the authority of the Secretary to establish the terms of insurance under this section and approve initial service charges, appraisal, inspection and other fees (and subject to any other limitations under this section on the amount of a principal obligation), the Secretary may not (by regulation or otherwise) limit the percentage or amount of any such approved charges and fees that may be included in the principal obligation of a mortgage.".

SEC. 506. PREPURCHASE COUNSELING REQUIREMENT.

(a) IN GENERAL.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting after the sentence added by section 505 of this Act the following new undesignated paragraph:

"Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mortgage under this section that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mortgages for which commitments for insurance are issued after the expiration of the 12-month period beginning on the date of the enactment of this Act.

SEC. 507. AUTHORITY TO DECREASE INSURANCE PREMIUM CHARGES.

(a) PERMANENT PROVISIONS.—Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended—

(1) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding"; and

(B) in clause (ii), by striking "equal to 0.55 percent" and inserting "not exceeding 0.55 percent".

(b) TRANSITION PROVISIONS.—Section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 (12 U.S.C. 1709 note) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding".

SEC. 508. STATUTE OF LIMITATIONS FOR DISTRIBUTIVE SHARES.

(a) 10-YEAR LIMIT.—

(1) IN GENERAL.—Section 205(c) of the National Housing Act (12 U.S.C. 1711(c)) is amended by inserting after the period at the end the following new sentence: "The Secretary may not make any distribution under this subsection to any mortgagor who has not applied for such distribution (in the manner required by the Secretary) before the expiration of the 10-year period beginning upon the date the Secretary first transmitted written notification of the mortgagor's eligibility for a distribution to the last known address of the mortgagor.".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply only to mortgages the insurance obligation for which is terminated after the date of the enactment of this Act.

(b) TRANSFER OF AMOUNTS.—Section 205(e) of the National Housing Act (12 U.S.C. 1711(e)) is amended by adding at the end the following new sentence: "Any amounts in the Participating Reserve Account that are designated for distribution to a mortgagor pursuant to subsection (c) but may not be distributed because of the last sentence of subsection (c) shall be transferred to the General Surplus Account upon the expiration of the period referred to in such sentence.".

SEC. 509. MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS.

(a) SECTION 207 LIMITS.—Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively;

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively; and

(3) by inserting after "sound standards of construction and design;" the following: "and except that the foregoing dollar amount limitations contained in this paragraph shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;".

(b) SECTION 213 LIMITS.—Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively;

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively; and

(3) by inserting after "sound standards of construction and design:" the following: "Provided further, That the foregoing dollar amount limitations contained in this paragraph shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary:".

(c) SECTION 220 LIMITS.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively;

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively; and

(3) by inserting after "sound standards of construction and design;" the following: "and except that the foregoing dollar amount limitations contained in this paragraph shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;".

(d) SECTION 221(d)(3) LIMITS.—Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) is amended—

(1) by striking "$28,032", "$32,321", "$38,979", "$49,893", "$55,583", "$29,500", "$33,816", "$41,120", "$53,195", and "$58,392" and inserting "$33,638", "$38,785", "$46,775", "$59,872", "$66,700", "$35,400", "$40,579", "$49,344", "$63,834", and "$70,070", respectively; and

(2) by inserting after "sound standards of construction and design;" the following: "and except that the foregoing dollar amount limitations contained in this paragraph shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;".

(e) SECTION 221(d)(4) LIMITS.—Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii)) is amended—

(1) by striking "$25,228", "$28,636", "$34,613", "$43,446", "$49,231", "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942" and inserting "$30,274", "$34,363", "$41,536", "$52,135", "$59,077", "$32,701", "$37,487", "$45,583", "$58,968", and "$64,730", respectively; and

(2) by inserting after "sound standards of construction and design;" the following: "and except that the foregoing dollar amount limitations contained in this paragraph shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;".

(f) SECTION 231 LIMITS.—Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(1) by striking "$23,985", "$26,813", "$32,019", "$38,532", and "$45,300" and inserting "$28,782", "$32,176", "$38,423", "$46,238", and "$54,360", respectively;

(2) by striking "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942" and inserting "$32,701", "$37,487", "$45,583", "$58,968", and "$64,730", respectively; and

(3) by inserting after "sound standards of construction and design;" the following: "and except that the foregoing dollar amount limitations contained in this paragraph shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;".

(g) SECTION 234 LIMITS.—Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively;

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively; and

(3) by inserting after "sound standards of construction and design;" the following: "and except that the foregoing dollar amount limitations contained in this paragraph shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;".

(h) REGULATIONS.—The Secretary of Housing and Urban Development shall issue regulations necessary to carry out the amendments made by subsections (a) through (g), which shall take effect not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(i) CONFORMING AMENDMENTS.—

(1) RTC AFFORDABLE HOUSING PROGRAM.—Clauses (i)(II) and (ii)(II) of section 21A(c)(9)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(E)) are each amended by striking "the applicable dollar amount" and all that follows through "areas)" and inserting the following: ", for such part of the property as may be attributable to dwelling use (excluding exterior land improvements), $29,500 per family unit without a bedroom, $33,816 per family unit with 1 bedroom, $41,120 per family unit with 2 bedrooms, $53,195 per family unit with 3 bedrooms, and $58,392 per family unit with 4 or more bedrooms".

(2) FDIC AFFORDABLE HOUSING PROGRAM.—Section 40(p)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)(5)) is amended by striking "the applicable dollar amount" and all that follows through "areas)" and inserting the following: ", for such part of the property as may be attributable to dwelling use (excluding exterior land improvements), $29,500 per family unit without a bedroom, $33,816 per family unit with 1 bedroom, $41,120 per family unit with 2 bedrooms, $53,195 per family unit with 3 bedrooms, and $58,392 per family unit with 4 or more bedrooms".

SEC. 510. INSURANCE OF LOANS FOR OPERATING LOSSES OF MULTIFAMILY PROJECTS.

Section 223(d) of the National Housing Act (12 U.S.C. 1715n(d)) is amended by adding at the end the following new paragraph:

"(6) In determining the amount of an operating loss loan to be insured pursuant to this subsection, the Secretary shall not reduce such amount solely to reflect any amounts placed in escrow (at the time the existing project mortgage was insured) for initial operating deficits.".

SEC. 511. ELIGIBILITY OF ASSISTED LIVING FACILITIES FOR MORTGAGE INSURANCE UNDER SECTION 232.

(a) PURPOSE.—Section 232(a) of the National Housing Act (12 U.S.C. 1715w(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "either" and inserting "any"; and

(2) by adding at the end the following new paragraph:

"(3) The development of assisted living facilities for the care of frail elderly persons.".

(b) DEFINITIONS.—Section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'assisted living facility' means a public facility, proprietary facility, or facility of a private nonprofit corporation that—

"(A) is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

"(B) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy; and

"(C) provides separate dwelling units for residents, each of which contains a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility; and

"(7) the term 'frail elderly person' has the meaning given the term in section 802(k) of the

Cranston-Gonzalez National Affordable Housing Act.".

(c) MORTGAGE REQUIREMENTS.—Section 232(d) of the National Housing Act (12 U.S.C. 1715w(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", assisted living facility," before "or intermediate care facility"; and

(B) by striking "combined nursing home and intermediate care facility" and inserting "any combination of nursing home, assisted living facility, and intermediate care facility";

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting "or 100 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 221(d)(3) of this Act)," before "including"; and

(3) in paragraph (4), by adding at the end the following new subparagraph:

"(C) With respect to assisted living facilities or any such facility combined with any other home or facility, the Secretary shall not insure any mortgage under this section unless—

"(i) the Secretary determines that the level of financing acquired by the mortgagor and any other resources available for the facility will be sufficient to ensure that the facility contains dwelling units and facilities for the provision of supportive services in accordance with subsection (b)(6);

"(ii) the mortgagor provides assurances satisfactory to the Secretary that each dwelling unit in the facility will not be occupied by more than 1 person without the consent of all such occupants; and

"(iii) the appropriate State licensing agency for the State, municipality, or other political subdivision in which the facility is or is to be located provides such assurances as the Secretary considers necessary that the facility will comply with any applicable standards and requirements for such facilities.".

(d) FIRE SAFETY EQUIPMENT.—Section 232(i)(1) of the National Housing Act (12 U.S.C. 1715w(i)(1)) is amended by inserting ", assisted living facilities," after "nursing homes".

(e) ADMINISTRATION.—Section 232 of the National Housing Act (12 U.S.C. 1715w) is amended by adding at the end the following new subsection:

"(j) The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section. The Secretary shall submit a report to the Congress annually describing such schedules and deadlines and the extent of compliance by the Department with the schedules and deadlines during the year.".

(f) AUTHORITY TO INSURE REFINANCING.—Section 223(f) of the National Housing Act (12 U.S.C. 1715n(f)) is amended by inserting "existing assisted living facility," after "existing nursing home," each place it appears.

SEC. 512. AUTHORIZATION OF APPROPRIATIONS FOR MULTIFAMILY HOUSING MORTGAGE INSURANCE FIELD OFFICE STAFF.

There is authorized to be appropriated to the Secretary of Housing and Urban Development $100,000,000 for fiscal year 1992, which amounts shall be used to provide staff in regional, field, or zone offices of the Department of Housing and Urban Development to review, process, approve, and service applications for mortgage insurance under title II of the National Housing Act for housing consisting of 5 or more dwelling units.

SEC. 513. EXPEDITING INSURANCE FOR ACQUISITION OF RESOLUTION TRUST CORPORATION PROPERTY.

(a) IN GENERAL.—Section 534 of the National Housing Act (12 U.S.C. 1735f-12) is amended—

(1) by inserting "(a) STATE OFFICES.—" after "534."; and

(2) by adding at the end the following new subsection:

"(b) EXPEDITED PROCEDURE FOR RTC PROPERTIES.—To assist the Resolution Trust Corporation in disposing of the property to which it acquires title and to ensure the timely processing of applications for insurance of loans and mortgages under this Act that will be used to purchase multifamily residential property from the Resolution Trust Corporation, the Secretary shall establish an expedited procedure for considering such applications.".

(b) IMPLEMENTATION.—The procedure referred to in the amendment made by subsection (a) shall be established through interim and final regulations issued by the Secretary. The Secretary shall issue interim regulations implementing the procedure not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, which shall be effective upon issuance. The Secretary shall issue final regulations after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

SEC. 514. ENERGY EFFICIENT MORTGAGE PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, within 6 months after the date of the enactment of this Act, establish an energy efficient mortgage pilot program in 5 States, which shall promote the purchase of new and existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(b) ELIGIBILITY.—To be eligible for insurance under the pilot program established under this section a mortgage shall meet the following requirements:

(1) The base loan covered by the mortgage shall be originated by a lender in accordance with title II of the National Housing Act.

(2) The mortgagor shall have a satisfactory income and credit record and shall have an approved application for a base loan.

(3) The cost of cost-effective energy efficiency improvements to the mortgaged property may not exceed 5 percent of the value of the dwelling (not to exceed $8,000) or $4,000, whichever is greater.

(c) AUTHORITY.—The Secretary of Housing and Urban Development may insure energy efficient mortgages under the pilot program established under this section, and the Secretary shall grant mortgagees the authority to—

(1) permit the total loan amount covered by the mortgage to exceed the maximum allowable amount under title II of the National Housing Act by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, provided that the mortgagor's request to add the cost of such improvements is received by the mortgagee before funding of the base loan;

(2) hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the improvements are actually installed; and

(3) transfer or sell the energy efficient mortgage to an appropriate secondary market agency after the mortgage is issued but before the energy efficiency improvements are actually installed.

(d) PROMOTION OF PILOT PROGRAM.—The Secretary of Housing and Urban Development shall encourage participation in the energy efficient mortgage pilot program under this section by—

(1) making information available to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(2) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing for residential buildings in States designated by the Secretary for participation under the pilot program; and

(3) requiring all applicants for insurance of mortgages on residential buildings under title II of the National Housing Act in States participating under the pilot program to sign a statement stating that they have been informed of the program and understand the procedures of the program and the benefits of energy efficient mortgages.

(e) TRAINING PROGRAM.—Not later than 9 months after the date of the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the National Home Energy Rating System Council and other appropriate organizations, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this section.

(f) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program under this section, which shall include an assessment of the potential for expanding the pilot program nationwide.

(g) EXPANSION OF PROGRAM.—Not later than the expiration of the 2-year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis, unless the Secretary determines that such an extension would not be practicable and submit to the Congress, before the expiration of such period, a report explaining why the program should not be expanded.

(h) DEFINITIONS.—For purposes of this section:

(1) The term "base loan" means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act or title 38, United States Code, that does not include the cost of cost-effective energy improvements.

(2) The term "cost-effective" means, with respect to energy efficiency improvements to a residential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

(3) The term "energy efficient mortgage" means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan.

(4) The term "residential building" means any attached or unattached single family residence.

(i) RULE OF CONSTRUCTION.—This section may not be construed to affect any other programs of

the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

(j) Regulations.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(k) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 515. TITLE I MANUFACTURED HOME LOAN INSURANCE LIMITS.

Section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended by striking subparagraphs (C), (D), and (E) and inserting the following new subparagraphs:

"(C) 70 percent of the median 1-family house price in the area, as determined by the Secretary under section 203(b)(2), if made for the purpose of financing the purchase of a manufactured home;

"(D) 80 percent of the median 1-family house price in the area, as determined by the Secretary under section 203(b)(2), if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home;

"(E) the greater of (i) 20 percent of the median 1-family house price in the area, as determined by the Secretary under section 203(b)(2), or (ii) $13,500, if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of the owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that the owner will place the manufactured home on the lot acquired with such loan within 6 months after the date of such loan;".

SEC. 516. STUDY REGARDING HOME WARRANTY PLANS.

The Secretary of Housing and Urban Development shall conduct a study of home and builder's warranties and protection plans regarding the construction of, and materials used in, 1- to 4-family dwellings subject to mortgages insured under title II of the National Housing Act. The study shall analyze the extent to which home sellers and builders use such warranties and plans, how such warranties and plans affect the single family mortgage insurance program under the National Housing Act and the solvency of the Mutual Mortgage Insurance Fund, any effects on homeowners of reliance upon such warranties and plans, the cost of inspections of mortgaged homes not covered by such warranties or plans, and any other issues relating to such warranties and plans that the Secretary considers appropriate. The Secretary shall submit a report to the Congress regarding the findings of the study and any recommendations of the Secretary resulting from the study, not later than the expiration of the 12-month period beginning on the date of the enactment of this Act.

Subtitle B—Secondary Mortgage Market Programs

SEC. 531. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $77,700,000,000 during fiscal year 1993. There is authorized to be appropriated $6,936,000 to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees issued under this Act by the Association.".

SEC. 532. AUTHORITY FOR GNMA TO MAKE HARDSHIP INTEREST PAYMENTS.

Section 306(g)(1) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(1)) is amended by inserting after the period at the end of the third sentence the following new sentence: "In any case in which (I) Federal law requires the reduction of the interest rate on any mortgage backing a security guaranteed under this subsection, (II) the mortgagor under the mortgage is a person in the military service, and (III) the issuer of such security fails to receive from the mortgagor the full amount of interest payment due, the Association may make payments of interest on the security in amounts not exceeding the difference between the amount payable under the interest rate on the mortgage and the amount of interest actually paid by the mortgagor.".

TITLE VI—HOUSING FOR ELDERLY PERSONS, HANDICAPPED PERSONS, AND PERSONS WITH DISABILITIES

Subtitle A—Supportive Housing Programs

SEC. 601. SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) Authorizations of Appropriations.—

(1) Capital Advances.—The first sentence of section 202(l)(1) of the Housing Act of 1959 (12 U.S.C. 1701q-1(l)(1)) is amended to read as follows: "There is authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (c)(1) $685,360,000 for fiscal year 1993.".

(2) Project Rental Assistance.—Section 202(l)(2) of the Housing Act of 1959 (12 U.S.C. 1701q-1(l)(2)) is amended to read as follows:

"(2) Project Rental Assistance.—For the purpose of funding contracts for project rental assistance in accordance with subsection (c)(2), the Secretary may, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating $765,722,496 for fiscal year 1993.".

(b) Technical Corrections.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) in subsection (g)(1), by striking "and persons with disabilities"; and

(2) in subsection (i)(1)(A), by striking "persons with disabilities" and inserting "elderly persons".

(c) Elder Cottage Housing.—

(1) Implementation.—Section 806(b) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701q note) is amended to read as follows:

"(b) Demonstration Program.—

"(1) In General.—The Secretary of Housing and Urban Development shall carry out a program to determine the feasibility of including, as an eligible development cost under section 202 of the Housing Act of 1959 and section 811 of the Cranston-Gonzalez National Affordable Housing Act, the cost of purchasing and installing elder cottage housing opportunity units that are small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings. In conducting the demonstration, the Secretary shall determine whether the durability of such units is appropriate for making such units generally eligible for assistance under the programs under such sections.

"(2) Allocation.—Notwithstanding any other law, of any amounts available for fiscal year 1993 for capital advances and project rental assistance under sections 202 of the Housing Act of 1959 and 811 of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall reserve from each such amount such sums as may be necessary to provide not less than 100 units under the demonstration under this subsection in connection with each such section. Any amounts reserved under this paragraph shall be available only for carrying out the demonstration under this subsection and, for purposes of the demonstration, the cost of purchasing and installing an elder cottage housing opportunity unit shall be considered a eligible development cost under sections 202 of the Housing Act of 1959 and 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(3) Report.—Not later than January 1, 1994, the Secretary shall submit a report to the Congress on the results of the demonstration under this subsection, which shall be based on actual experience in implementing this subsection.

"(4) Implementation.—The Secretary shall issue regulations to carry out the demonstration under this subsection not later than the expiration of the 6-month period beginning on the date of the enactment of the Housing and Community Development Act of 1992.".

(d) Access to Residual Receipts.—Section 202(j) of the Housing Act of 1959 (12 U.S.C. 1701q(j)) is amended by adding at the end the following new paragraph:

"(6) Access to residual receipts.—The Secretary shall authorize the owner of a project assisted under this section to use any residual receipts held for the project in excess of $500 per unit (or in excess of such other amount prescribed by the Secretary based on the needs of the project) for activities to retrofit and renovate the project described under section 802(d)(3) of the Cranston-Gonzalez National Affordable Housing Act, to provide a service coordinator for the project as described in section 802(d)(4) of such Act, or to provide supportive services (as such term is defined in section 802(k) of such Act) to residents of the project. Any owner that uses residual receipts under this paragraph shall submit to the Secretary a report, not less than annually, describing the uses of the residual receipts. In determining the amount of project rental assistance to be provided to a project under subsection (c)(2) of this section, the Secretary may take into consideration the residual receipts held for the project only if, and to the extent that, excess residual receipts are not used under this paragraph.".

(e) Conversion of Certain Projects to Capital Assistance.—The termination by the Secretary of Housing and Urban Development of the loan reservation under section 202 of the Housing Act of 1959 (as in effect before October 1, 1991) for the Torrington Volunteers of American Elderly Housing, Inc. (for project no. 109–EH027), is hereby deemed to be a termination of such reservation upon the conversion of the project to capital advance assistance, as of January 2, 1992, pursuant to the authority under the fourth undesignated paragraph of the item relating to "Housing Programs—annual contributions for assisted housing (including rescission of funds)" of title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139; 105 Stat. 747). The Secretary of Housing and Urban Development shall take any action with respect to the terminated loan reservation, the related reservation of assistance under section 8 of the United States Housing Act of 1937, and any other documentation relating to the project, to provide for the conversion of the project to capital advance assistance and project rental assistance.

SEC. 602. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

(a) CAPITAL ADVANCES.—The first sentence of section 811(l)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(l)(1)) is amended to read as follows: "There is authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (d)(1) $281,840,000 for fiscal year 1993.".

(b) PROJECT RENTAL ASSISTANCE.—Section 811(l)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(l)(2)) is amended to read as follows:

"(2) PROJECT RENTAL ASSISTANCE.—For the purpose of funding contracts for project rental assistance in accordance with subsection (d)(2), the Secretary may, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating $325,122,688 for fiscal year 1993.".

SEC. 603. REVISED CONGREGATE HOUSING SERVICES PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 802(n)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(n)(1)) is amended by striking the matter preceding subparagraph (A) and inserting the following:

"(1) AUTHORIZATION AND USE.—There is authorized to be appropriated to carry out this section $27,144,000 for fiscal year 1993, of which not more than—".

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development and the Secretary of Agriculture shall submit to the Congress a copy of proposed interim regulations implementing section 802 of the Cranston-Gonzalez National Affordable Housing Act with respect to eligible federally assisted housing (as such term is defined in section 802(k) of such Act) administered by each such Secretary. Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, each such Secretary shall publish interim regulations implementing such section 802, which shall take effect upon publication.

(2) FINAL REGULATIONS.—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), each such Secretary shall issue final regulations implementing section 802 of the Cranston-Gonzalez National Affordable Housing Act after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

(3) FAILURE UNDER 1990 ACT.—This subsection may not be construed to authorize any failure to comply with the requirements of section 802(m) of the Cranston-Gonzalez National Affordable Housing Act.

SEC. 604. HOPE FOR INDEPENDENCE OF ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) SECTION 8 ASSISTANCE.—Section 803(j) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012(j)) is amended to read as follows:

"(j) SECTION 8 FUNDING.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8 of such Act is authorized to be increased by $36,920,000 on or after October 1, 1992. The amounts made available under this subsection shall be used only in connection with the demonstrations under this section.".

(b) SUPPORTIVE SERVICES AUTHORIZATION.—Section 803(k) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012(k)) is amended to read as follows:

"(k) FUNDING FOR SERVICES.—There is authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section $10,816,000, to become available in fiscal year 1993. Any such amounts appropriated under this subsection shall remain available until expended.".

(c) DEMONSTRATION PERIOD.—Section 803 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012) is amended—

(1) in subsection (a), by striking "beginning on the date of the enactment of this Act" and inserting "determined by the Secretary"; and

(2) in subsection (g)(1), by striking "period" and all that follows and inserting "5-year period referred to in subsection (a).".

(d) ELIGIBILITY OF PERSONS WITH DISABILITIES.—Section 803 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012) is amended—

(1) by striking the section designation and heading and inserting the following:

"SEC. 803. HOPE FOR INDEPENDENCE OF ELDERLY PERSONS AND PERSONS WITH DISABILITIES.";

(2) in subsection (a), by inserting "and persons with disabilities" after "frail elderly persons";

(3) in subsection (b)—

(A) in the second sentence, by inserting "or a person with disabilities" after "frail elderly person"; and

(B) in the third sentence, by inserting "and person with disabilities" after "frail elderly person";

(4) in subsection (c)—

(A) in paragraph (1)(C)—

(i) by inserting "and person with disabilities" after "frail elderly person" the first place it appears; and

(ii) by striking "a frail elderly person" and inserting "such persons"; and

(B) in paragraph (1)(D), by inserting "and persons with disabilities" after "frail elderly persons"; and

(C) in paragraph (2), by inserting "and persons with disabilities" after "frail elderly persons" each place it appears;

(5) in subsection (d)—

(A) in paragraph (2), by striking "population of frail elderly persons" and inserting "populations of frail elderly persons and persons with disabilities";

(B) in paragraph (3)—

(i) by inserting "or a person with disabilities" after "frail elderly person" the first place it appears; and

(ii) by striking "selecting frail elderly" and inserting "selecting such";

(C) in paragraph (4), by inserting "and person with disabilities" after "frail elderly person"; and

(D) in paragraphs (7) and (11), by inserting "and persons with disabilities" after "frail elderly persons" each place it appears;

(6) in subsection (e)(1), by inserting "and persons with disabilities" after "frail elderly persons" each place it appears;

(7) in subsection (f), by inserting "and person with disabilities" after "frail elderly person" each place it appears; and

(8) in subsection (g)—

(A) in paragraph (4), by inserting "and persons with disabilities" after "frail elderly";

(B) in paragraph (7)(A)(i), by inserting "and persons with disabilities" after "frail elderly persons"; and

(C) by redesignating paragraphs (2) through (7) (as so amended) as paragraphs (3) through (8), respectively; and

(D) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'person with disabilities' has the meaning given the term in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act.".

(e) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a copy of proposed interim regulations implementing the amendments made by this section. Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, the Secretary shall publish interim regulations implementing such amendments, which shall take effect upon publication.

(2) FINAL REGULATIONS.—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), the Secretary shall issue final regulations implementing the amendments made by this section after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

(f) APPLICABILITY.—The amendments made by this section shall apply with respect to fiscal year 1993 and thereafter.

SEC. 605. HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS.

(a) AMENDMENT OF CRANSTON-GONZALEZ NATIONAL HOUSING ACT.—Whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Cranston-Gonzalez National Affordable Housing Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 863 (42 U.S.C. 12912) is amended to read as follows:

"SEC. 863. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subtitle $162,760,000 for fiscal year 1993.".

(c) DEFINITIONS.—Section 853 (42 U.S.C. 12902) is amended—

(1) in paragraph (2), by striking "sponsor receiving assistance from a grantee" and inserting "organization eligible to receive assistance under this subtitle";

(2) in paragraph (5), by striking "metropolitan area" and inserting "metropolitan statistical area"; and

(3) by adding at the end the following new paragraphs:

"(11) The term 'city' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

"(12) The term 'eligible person' means a person with acquired immunodeficiency syndrome or a related disease and the family of such person.

"(13) The term 'nonprofit organization' means any nonprofit organization (including a State or locally chartered, nonprofit organization) that—

"(A) is organized under State or local laws;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

"(14) The term 'project sponsor' means a nonprofit organization or a housing agency of a State or unit of general local government that contracts with a grantee to receive assistance under this subtitle.".

(d) GRANT ELIGIBILITY AND ALLOCATION.—Section 854 (42 U.S.C. 12903) is amended—

(1) in subsection (a), by striking "and units of general local government" and inserting ", units of general local government, and nonprofit organizations";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) IMPLEMENTATION OF ELIGIBLE ACTIVITIES.—A grantee shall carry out eligible activities under section 855 through project sponsors. Any grantee that is a State that enters into a contract with a nonprofit organization to carry out eligible activities in a locality shall obtain the approval of the unit of general local government for the locality before entering into the contract.";

(3) by striking paragraph (1) of subsection (c) and inserting the following new paragraph:

"(1) FORMULA ALLOCATION.—The Secretary shall allocate 90 percent of the amounts approved in appropriation Acts under section 863 among States and cities whose most recent comprehensive housing affordability strategy (or abbreviated strategy) has been approved by the Secretary under section 105 of this Act. Such amounts shall be allocated as follows:

"(A) 75 percent among—

"(i) cities that are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome; and

"(ii) States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan statistical areas described in clause (i); and

"(B) 25 percent among cities that (i) are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome, and (ii) have a higher than average per capita incidence of acquired immunodeficiency syndrome.

A single city may receive assistance allocated under subparagraph (A) and subparagraph (B). For purposes of allocating amounts under this paragraph for any fiscal year, the number of cases of acquired immunodeficiency syndrome shall be the number of such cases reported to and confirmed by the Director of the Centers for Disease Control of the Public Health Service as of March 31 of the fiscal year immediately preceding the fiscal year for which the amounts are appropriated and to be allocated.";

(4) in subsection (c)(3)—

(A) by striking the paragraph heading and inserting "NONFORMULA ALLOCATION.—"; and

(B) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—The Secretary shall allocate 10 percent of the amounts appropriated under section 863 among—

"(i) States and units of general local government that (I) do not qualify for allocation of amounts under paragraph (1); and

"(ii) States, units of general local government, and nonprofit organizations, to fund special projects of national significance.";

(5) in the first sentence of subsection (d), by striking "approvable applications submitted by eligible applicants" and inserting "applications submitted by applicants and approved by the Secretary";

(6) in subsection (e), by striking "requirements of subsection (b)" and inserting "other requirements of this section"; and

(7) by adding at the end the following new subsection:

"(f) ADDITIONAL REQUIREMENT FOR CITY FORMULA GRANTEES.—In addition to the other requirements of this section, to be eligible for a grant pursuant to subsection (c)(1), a city shall provide such assurances as the Secretary may require that any grant amounts received will be allocated among eligible activities in a manner that addresses the needs within the metropolitan statistical area in which the city is located, including areas not within the jurisdiction of the city. Any such city shall coordinate with other units of general local government located within the metropolitan statistical area to provide such assurances and comply with the assurances.".

(e) LIMITATION ON SPENDING FOR OTHER ACTIVITIES.—Section 855(6) (42 U.S.C. 12904(6)) is amended by inserting before the period at the end the following: ", except that activities developed under this paragraph may be assisted only with amounts provided under section 854(c)(3)".

(f) FEES AND LIMITATION ON USE OF GRANT AMOUNTS FOR ADMINISTRATIVE EXPENSES.—Section 856 (42 U.S.C. 12905) is amended—

(1) by striking subsection (d) and inserting the following new subsection:

"(d) PROHIBITION OF FEES.—The recipient shall agree that no fee will be charged to any eligible person for any housing or services provided with amounts from a grant under this subtitle."; and

(2) by adding at the end the following new subsection:

"(g) ADMINISTRATIVE EXPENSES.—

"(1) GRANTEES.—Notwithstanding any other provision of this subtitle, each grantee may use not more than 3 percent of the grant amount for administrative costs relating to administering grant amounts and allocating such amounts to project sponsors.

"(2) PROJECT SPONSORS.—Notwithstanding any other provision of this subtitle, each project sponsor receiving amounts from grants made under this title may use not more than 7 percent of the amounts received for administrative costs relating to carrying out eligible activities under section 855, including the costs of staff necessary to carry out eligible activities.".

(g) SHORT-TERM SUPPORTED HOUSING AND SERVICES.—Section 858 (42 U.S.C. 12907) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting before the period at the end the following: " (except that health services under this paragraph may only be provided to individuals with acquired immunodeficiency syndrome or related diseases), and providing technical assistance to eligible persons to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments";

(B) by striking paragraphs (4) and (5); and

(C) by adding at the end the following new paragraphs:

"(4) OPERATION.—Providing for the operation of short-term supported housing provided under this section, including the costs of security, operation insurance, utilities, furnishings, equipment, supplies, and other incidental costs.

"(5) ADMINISTRATION.—Providing staff to carry out the program under this section (subject to the provisions of section 856(g)).";and

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking subparagraph (B);

(ii) in subparagraph (C), by striking "limitations under subparagraphs (A) and (B)" and inserting "limitation under subparagraph (A)"; and

(iii) by redesignating subparagraph (C) (as so amended) as subparagraph (B); and

(B) in paragraph (3), by adding at the end the following new subparagraph:

"(C) WAIVER.—Notwithstanding subparagraphs (A) and (B), the Secretary may waive the applicability of the requirements under such subparagraphs with respect to any individual for which the project sponsor has made a good faith effort to acquire permanent housing (in accordance with paragraph (4)) and has been unable to do so.".

(h) RENTAL ASSISTANCE.—

(1) IN GENERAL.—Section 859 (42 U.S.C. 12908) is amended—

(A) by striking the section heading and inserting the following new section heading:

"SEC. 859. RENTAL ASSISTANCE.";

(B) in the first sentence of subsection (a)(1), by striking "short-term"; and

(C) by adding at the end the following new subsection:

"(c) ADMINISTRATIVE COSTS.—A project sponsor providing rental assistance under this section may use amounts from any grant received under this section for administrative expenses involved in providing such assistance, subject to the provisions of 856(g)(2).".

(2) CONFORMING AMENDMENT.—Section 855(3) (42 U.S.C. 12904(3)) is amended by striking "short-term".

(i) COMMUNITY RESIDENCES AND SERVICES.—Section 861(c) (42 U.S.C. 12910(c)) is amended—

(1) in paragraph (1)(C), by inserting before the period at the end the following: ", and expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases provided for individuals residing in proximity of eligible persons assisted under this subtitle"; and

(2) by striking paragraph (3) and inserting the following new paragraph:

"(3) ADMINISTRATIVE EXPENSES.—For administrative expenses related to the planning and carrying out activities under this section (subject to the provisions of section 856(g)).".

(j) ELIGIBILITY OF FAMILIES.—

(1) Section 852 (42 U.S.C. 12901) is amended by inserting "and families of such persons" before the period at the end.

(2) Section 854(c)(3) (42 U.S.C. 12903(c)(3)) is amended by striking "persons with acquired immunodeficiency syndrome" and inserting "eligible persons" each place it appears.

(3) Section 855 (42 U.S.C. 12904) is amended—

(A) in the matter preceding paragraph (1), by striking "such persons with acquired immunodeficiency syndrome" and inserting "eligible persons"; and

(B) in paragraph (5), by striking "with acquired immunodeficiency syndrome".

(4) Section 856(c) (42 U.S.C. 12905(c)) is amended by striking "such individuals" and inserting "such eligible persons".

(5) Section 858(a)(3) (42 U.S.C. 12907(a)(3)) is amended by striking "individuals" and inserting "eligible persons".

(6) Section 859(b)(1) (42 U.S.C. 12908(b)(1)) is amended by striking "individuals" and inserting "eligible persons".

(7) Sections 859(b)(2) and 860(b)(2) (42 U.S.C. 12908(b), 12909(b)(2)) are amended by inserting "with acquired immunodeficiency syndrome or related diseases" after "any individual" each place it appears.

(8) Section 861(a) (42 U.S.C. 12910(a)) is amended by striking "persons with acquired immunodeficiency syndrome or related diseases" and inserting "eligible persons".

(9) Section 861(b)(1)(A)(iv) (42 U.S.C. 12910(b)(1)(A)(iv)) is amended by striking "such individuals" and inserting "such eligible persons".

(10) Section 861(d)(1) (42 U.S.C. 12910(d)(1)) is amended—

(A) in subparagraph (A), by striking "individuals" and inserting "eligible persons"; and

(B) in subparagraph (D), by inserting "with acquired immunodeficiency syndrome or related diseases" after "any individual".

(11) Subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.) is amended by striking "individuals with acquired immunodeficiency syndrome or related diseases" each place it appears in the following provisions and inserting "eligible persons":

(A) Section 856(c).

(B) Section 857.

(C) Section 858—

(i) in subsection (a), in the matter preceding paragraph (1); and

(ii) in subsection (b)(1)(A);

(D) Section 859(a)(1).

(E) Section 861—

(i) in subsection (b); and

(ii) in subsection (d).

(k) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a copy of proposed interim regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (as amended by this section). Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, the Secretary shall publish interim regulations implementing such subtitle (as amended), which shall take effect upon publication.

(2) FINAL REGULATIONS.—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), the Secretary shall issue final regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (as amended by this section) after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

Subtitle B—Authority for Public Housing Agencies to Provide Designated Public Housing and Assistance for Handicapped and Disabled Families

SEC. 621. DEFINITIONS.

Paragraph 3 of section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended to read as follows:

"(3) PERSONS AND FAMILIES.—

"(A) SINGLE PERSONS.—The term 'families' includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a handicapped person, (iv) a displaced person, (v) the remaining member of a tenant family, and (vi) any other single persons. In no event may any single person under clause (vi) of the first sentence be provided a housing unit assisted under this Act of 2 or more bedrooms. In determining priority for admission to housing under this Act, the Secretary shall give preference to single persons who are elderly, disabled, handicapped, or displaced persons before single persons who are eligible under clause (vi) of the first sentence.

"(B) FAMILIES.—The term 'families', in the cases of elderly families, near-elderly families, disabled families, and handicapped families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, disabled, or handicapped persons, respectively. The term includes, in the cases of elderly families, near-elderly families, disabled families, and handicapped families, 2 or more elderly, near-elderly, disabled, or handicapped individuals living together, and 1 or more such individuals living with 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.

"(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

"(D) ELDERLY PERSON.—The term 'elderly person' means a person who is at least 62 years of age.

"(E) DISABLED PERSON.—The term 'disabled person' means a person who is under a disability as defined in section 223 of the Social Security Act or who has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

"(F) HANDICAPPED PERSON.—A person shall be considered a handicapped person if the person is determined, pursuant to regulations issued by the Secretary, to have an impairment which is expected to be of long-continued and indefinite duration, substantially impedes such person's ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions.

"(G) DISPLACED PERSON.—The term 'displaced person' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

"(H) NEAR-ELDERLY PERSON.—The term 'near-elderly person' means a person who is at least 50 years of age but below the age of 62.".

SEC. 622. AUTHORITY.

(a) IN GENERAL.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended to read as follows:

"DESIGNATED HOUSING

"SEC. 7. (a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency whose allocation plan under subsection (f) (and any annual update) has been approved by the Secretary may, to the extent provided in the allocation plan, provide public housing projects (or portions of projects) designed or designated for occupancy by (A) only elderly families, (B) only disabled families, (C) only handicapped families, or (D) any combination of such families.

"(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designed or designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated. Among such types of families, preference for occupancy in such projects (or portions) shall be given according to the preferences for occupancy under section 6(c)(4)(A).

"(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may (pursuant to the approved allocation plan under subsection (f) for the agency) provide that near-elderly families may occupy dwelling units in the project (or portion).

"(4) VACANCY.—Notwithstanding the authority under paragraphs (1) and (2) to designate public housing projects (or portions of projects) for occupancy by only certain types of families, a public housing agency shall make any dwelling unit that is ready for occupancy in such a project (or portion of a project) that has been vacant for more than 60 consecutive days generally available for occupancy (subject to the requirements of this title) without regard to such designation; except that, during the 2-year period beginning upon the designation of a project (or portion) under paragraph (1), the public housing agency shall be required to make a unit generally available for occupancy under this paragraph only if failure to do so would result in the vacancy rate for the project (or portion) exceeding 10 percent for any period of 60 consecutive days.

"(b) AVAILABILITY OF HOUSING.—

"(1) TENANT CHOICE.—The decision of any family not to occupy or accept occupancy in an appropriate project or assistance made available to the family under this title shall not adversely affect the family with respect to a public housing agency making available occupancy in other appropriate projects in public housing or assistance under this title.

"(2) DISCRIMINATORY SELECTION.—Paragraph (1) shall not apply to any family who decides not to occupy or accept an appropriate dwelling unit in public housing or to accept assistance under this Act because of the race, color, religion, sex, familial status, or national origin of occupants of housing or the surrounding area.

"(3) APPROPRIATENESS OF DWELLING UNITS.—This section may not be construed to require a public housing agency to offer occupancy in any dwelling unit assisted under this Act to any family who is not of appropriate family size for the dwelling unit.

"(c) PROHIBITION OF EVICTIONS.—

"(1) IN GENERAL.—Any tenant who, except for the designation of a project (or portion of a project) under subsection (a)(1), is lawfully residing in a dwelling unit in the project at the time of the effectiveness of the designation, may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) or because of any action taken by the Secretary of Housing and Urban Development or any public housing agency pursuant to this section.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a public housing agency may transfer any tenant residing in a dwelling unit in a project (or portion of a project) designated for occupancy as provided in subsection (a)(1) at the request of the tenant.

"(d) ACCOMMODATION OF HOUSING AND SERVICE NEEDS.—In designing, developing, otherwise acquiring and operating, designating, and providing housing and assistance under this title, each public housing agency shall meet, to the extent practicable, the housing and service needs of eligible families applying for assistance under this title, as provided in any allocation plan of the agency approved under subsection (f). To meet such needs, public housing agencies may, wherever practicable and in accordance with any allocation plan of the agency—

"(1) provide housing in which supportive services are provided, facilitated, or coordinated, mixed housing, shared housing, family housing, group homes, congregate housing under subsection (e), and other housing as the public housing agency considers appropriate;

"(2) carry out major reconstruction of obsolete public housing projects and reconfiguration of public housing dwelling units; and

"(3) provide assistance under section 8.

"(e) CONGREGATE HOUSING.—

"(1) DEFINITION.—For purposes of this section, the term 'congregate housing' means low-rent housing with which there is connected a central dining facility where wholesome and economical meals can be served to occupants.

"(2) Operating costs.—Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

"(f) Allocation Plans.—

"(1) Requirement.—A public housing agency may not designate a project (or portion of a project) for occupancy under subsection (a)(1) unless the agency submits an allocation plan under this subsection and the plan is approved under paragraph (4) of this subsection.

"(2) Contents.—An allocation plan submitted under this subsection by a public housing agency shall—

"(A) provide a description of the types of tenants occupying units in public housing administered by the agency;

"(B) provide a profile of the estimated pool of applicants for such housing for the ensuing 5-year period (based on the comprehensive housing affordability strategy for the jurisdiction in which the area served by the public housing agency is located);

"(C) identify the projects or portions of projects (including the buildings or floors) to be designated for occupancy under subsection (a)(1) for only certain types of families and the types of families who will be eligible for occupancy in such projects (or portions);

"(D) document the number of units in the projects (or portions) identified under subparagraph (C) which became vacant and available for occupancy during the preceding year;

"(E) estimate the number of units in the projects (or portions) identified under subparagraph (C) that will become vacant and available for occupancy during the ensuing 2-year period;

"(F) provide a plan for ensuring that designating projects (or portions of projects) for occupancy under subsection (a)(1), when considered together with affordable housing opportunities for handicapped and disabled families available from the public housing agency, will not result (to the extent practicable) in the public housing agency providing public housing units or assistance for fewer handicapped and disabled families than were assisted by the agency before such designation unless the allocation plan demonstrates that such a reduction is necessary;

"(G) describe how the public housing agency will meet the needs of any families who are residing in a project (or portion) designated for occupancy under subsection (a)(1) but are not the type of family for whom the project (or portion) is designated, including describing any incentives that will be made available to such families to voluntarily move from such projects (or portions);

"(H) state the amount of assistance for handicapped and disabled families under section 8(q) that the public housing agency will apply for during the ensuing 2 fiscal years;

"(I) state the amount of assistance for major reconstruction of obsolete projects to be requested by the public housing agency under section 5(j)(2)(F) for the ensuing 2 fiscal years; and

"(J) state the amount of assistance for development or acquisition of public housing to be requested by the public housing agency under section 5(j)(3) for the ensuing 2 fiscal years.

"(3) Development.—In preparing the initial allocation plan, or updates of a plan under paragraph (5), for submission under this subsection, a public housing agency shall consult with the State or unit of general local government in whose jurisdiction the area served by the public housing agency is located and shall hold 1 or more public hearings to obtain the views of citizens, public agencies, advocates for the interests of elderly persons, handicapped persons, and disabled persons, and other interested parties.

"(4) Approval.—

"(A) Criteria.—The Secretary shall approve an allocation plan, or an updated plan, submitted under this subsection if the Secretary determines that—

"(i) the information contained in the plan is complete and accurate and, based on the information provided in the plan, the projections are reasonable;

"(ii) implementation of the plan will not result in excessive vacancy rates in projects (or portions of projects) identified in paragraph (2)(C); and

"(iii) the plan reasonably ensures compliance with the requirements under paragraph (2)(F).

"(B) Notification.—The Secretary shall notify each public housing agency submitting an allocation plan under this subsection in writing of approval or disapproval of the plan. If the Secretary disapproves the plan, the Secretary shall, for a period of not less than 45 days following the date of disapproval, permit amendments to, or resubmission of, the plan. If the Secretary does not notify the public housing agency of approval or disapproval of the initial or revised plan within 45 days after submission of such plan, such plan shall be considered to be approved.

"(C) Rule of construction.—The approval of an allocation plan or updated plan under this subsection may not be construed to constitute approval of the request for assistance for major reconstruction of obsolete projects or for assistance for development or acquisition of public housing that are contained in the plan pursuant to subparagraphs (I) and (J) of paragraph (2).

"(5) Biannual update.—Each public housing agency that owns or operates a project (or portion of a project) that is designated for occupancy under subsection (a)(1) shall update the plan of the agency under this subsection not less than once every 2 years, as the Secretary shall provide. The Secretary shall approve the updated plans if they comply with the requirements under paragraphs (3) and (4). The Secretary shall notify each public housing agency submitting an updated plan under this paragraph of approval or disapproval of the updated plan as required under paragraph (4)(B), and the provisions of such paragraph shall apply to updated plans under this paragraph.".

(b) Occupancy Preferences.—The matter preceding clause (i) in section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended by striking "specifically designated for elderly families" and inserting "designated for occupancy pursuant to section 7(a)".

SEC. 623. SECTION 8 ASSISTANCE FOR HANDICAPPED AND DISABLED FAMILIES.

Section 8(q) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)), as amended by section 141 of this Act, is further amended by adding at the end the following new paragraph:

"(4) Assistance for handicapped and disabled families.—For each fiscal year, each public housing agency that administers assistance under this section and that designates any public housing project (or portion of a project) for occupancy under section 7(a)(1) shall apply for, as part of the total amount provided to the agency for the year, the amount of tenant- and project-based assistance necessary (as determined under the allocation plan under section 7(f)) to provide assistance under this section on behalf of nonelderly handicapped and nonelderly disabled families who are to be served by the agency and are not current tenants of the agency, or on behalf of tenants expect to voluntarily transfer out of projects (or portions of projects) designated for occupancy under section 7(a)(1). Any assistance provided under this subsection for handicapped and disabled families shall be allocated for such families subject to any preferences under subsection (h)(2).".

SEC. 624. DEVELOPMENT AND RECONSTRUCTION OF HOUSING FOR HANDICAPPED AND DISABLED FAMILIES.

(a) Set-Aside of Major Reconstruction Funds for Reconfiguration of Projects.—Section 5(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(2)), as amended by section 111(a) of this Act, is further amended by adding at the end the following new subparagraph:

"(F)(i) In fiscal year 1993, the Secretary shall commit for use under clause (ii) not less than 5 percent of any amounts reserved under subparagraph (A) for such fiscal year.

"(ii) The amounts referred to in clause (i) shall be available only to public housing agencies that have designated projects (or portions of projects) for occupancy under section 7(a)(1) for use only for the reconfiguration of portions of public housing projects into dwelling units of sizes appropriate for disabled or handicapped single persons who are not elderly persons and groups of such single persons.

"(iii) In allocating amounts reserved under this subparagraph among public housing agencies, the Secretary shall consider the need for any such amounts as identified in the allocation plans submitted by agencies under section 7(f).".

(b) Set-Aside of New Construction Funds for Housing Designed for Disabled Families and Single Persons.—Section 5(j) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)) is amended by adding at the end the following new paragraph:

"(3)(A) In fiscal year 1993, the Secretary shall reserve for use under subparagraph (B) not less than 5 percent of any amounts approved in appropriation Acts for such fiscal year for public housing grants under subsection (a)(2) that are not designated under such Acts for use under paragraph (2) for the substantial redesign, reconstruction, or redevelopment of existing public housing projects, buildings, or units.

"(B) Any amount reserved under subparagraph (A) shall be available only to public housing agencies that have designated projects (or portions of projects) for occupancy under section 7(a)(1) for use only for the costs of development or acquisition of public housing projects or buildings designed to meet the special needs of handicapped and disabled single persons who are not elderly persons and handicapped and disabled families who are not elderly families.

"(C) The Secretary shall carry out a competition for budget authority reserved under subparagraph (A) among eligible public housing agencies and shall allocate such budget authority to public housing agencies pursuant to the competition, based on (i) the need of the agency for such assistance (taking into consideration the allocation plans submitted under section 7(f) by agencies), and (ii) the ability of agencies to demonstrate that commitments have been made to provide appropriate supportive services to the tenants of the public housing projects and buildings to be developed or assisted pursuant to this paragraph.

"(D) For purposes of this paragraph, the term 'appropriate supportive services' means services designed to meet the special needs of tenants, and may include meal services, health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, and other appropriate services.".

SEC. 625. CONFORMING AMENDMENTS.

(a) United States Housing Act of 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 3(b)(5)(B), by inserting ", disabled, or handicapped" after "elderly";

(2) in the last sentence of section 6(a), by striking "the elderly" and inserting "elderly, disabled, or handicapped families";

(3) in section 14(i)(1)(D)(ii), by striking "elderly families and handicapped families" and inserting "elderly, disabled, and handicapped families"; and

(4) in section 17(c)(2)(G)(i), by striking "the elderly" and inserting "elderly families".

(b) Housing and Community Development Act of 1974.—The first sentence of section 209 of the Housing and Community Development Act of 1974 (42 U.S.C. 1438) is amended by striking "the elderly or the handicapped" and inserting "elderly, disabled, or handicapped families".

SEC. 626. INAPPLICABILITY TO INDIAN PUBLIC HOUSING.

The amendments made by this subtitle shall not apply with respect to lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

Subtitle C—Standards and Obligations of Residency in Federally Assisted Housing

SEC. 641. COMPLIANCE BY OWNERS AS CONDITION OF FEDERAL ASSISTANCE.

The Secretary of Housing and Urban Development shall require owners of federally assisted housing (as such term is defined in section 684(2)), as a condition of receiving housing assistance for such housing, to comply with the procedures and requirements established under this subtitle.

SEC. 642. COMPLIANCE WITH CRITERIA FOR OCCUPANCY AS REQUIREMENT FOR TENANCY.

In selecting tenants for occupancy of units in federally assisted housing, an owner of such housing shall utilize the criteria for occupancy in federally assisted housing established by the Secretary, by regulation, under section 643. If an owner determines that an applicant for occupancy in the housing does not meet such criteria, the owner may deny such applicant occupancy.

SEC. 643. ESTABLISHMENT OF CRITERIA FOR OCCUPANCY.

(a) Task Force.—

(1) Establishment.—To assist the Secretary in establishing reasonable criteria for occupancy in federally assisted housing, the Secretary shall establish a task force to review all rules, policy statements, handbooks, technical assistance memoranda, and other relevant documents issued by the Department of Housing and Urban Development on the standards and obligations governing residency in federally assisted housing and make recommendations to the Secretary for the establishment of such criteria for occupancy.

(2) Members.—The Secretary shall appoint members to the task force, which shall include individuals representing the interests of owners, managers, and tenants of federally assisted housing, public housing agencies, owner and tenant advocacy organizations, organizations assisting homeless individuals, and social service, mental health, and other nonprofit servicer providers who serve federally assisted housing.

(3) Compensation.—Members of the task force shall not receive compensation for serving on the task force.

(4) Duties.—The task force shall—

(A) conduct a study of the existing standards and obligations governing occupancy in federally assisted housing, including any requirement or allowance for assisted applications;

(B) draft proposed criteria for occupancy in federally assisted housing, including (as necessary) a requirement for assisted applications, to ensure that such housing is decent, safe, and sanitary, and the right to peaceful enjoyment of the housing and the health, safety, and welfare of other tenants, is not impaired, and setting forth standards for the reasonable performance and behavior of tenants and procedures for eviction of tenants not complying with such standards,; and

(C) report to the Congress on its findings pursuant paragraph (7).

(5) Procedure.—In carrying out its duties, the task force shall hold public hearings and receive written comments for a period of not less than 60 days.

(6) Support.—The Secretary of Housing and Urban Development shall cooperate fully with the task force and shall provide support staff and office space to assist the task force in carrying out its duties.

(7) Reports.—Not later than 3 months after the date of enactment of this Act, the task force shall submit to the Secretary and the Congress a preliminary report describing its initial actions. Not later than 6 months after the date of enactment of this Act, the task force shall submit a report to the Secretary and the Congress, which shall include (A) a description of its findings, (B) a set of proposed criteria for occupancy in federally assisted housing, and (C) a set of proposed criteria for eviction of residents from federally assisted housing.

(b) Rulemaking.—

(1) Authority.—The Secretary shall, by regulation, establish criteria for occupancy in federally assisted housing and for eviction of tenants from such housing.

(2) Standards.—The criteria shall be sufficient to ensure that such housing is decent, safe, and sanitary, and the right to peaceful enjoyment of the housing and the health, safety, and welfare of other tenants, is not impaired and shall set forth standards for the reasonable performance and behavior of tenants. The criteria shall be consistent with the requirements under subsections (k) and (l) of section 6 and section 8(h) of the United States Housing Act of 1937 and any similar contract and lease requirements for federally assisted housing. In establishing the criteria, the Secretary shall take into consideration the proposed standards contained in the report of the task force under subsection (a)(7).

(3) Procedure.—Not later than 90 days after the submission of the final report under subsection (a)(7), the Secretary shall issue a notice of proposed rulemaking of the regulations under this subsection providing for notice and opportunity for public comment regarding the regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall not be less than 60 days. The Secretary shall issue final regulations under this subsection not later than the expiration of the 60-day period beginning upon the conclusion of the comment period, which shall take effect upon issuance.

SEC. 644. ASSISTED APPLICATIONS.

The Secretary shall provide that any individual or family applying for occupancy in federally assisted housing may include in the application for the housing the name, address, phone number, and other relevant information of a family member, friend, or social, health, advocacy, or other organization. The Secretary shall require the owner of any federally assisted housing receiving an application including such information to maintain such information for any applicants who become tenants of the housing, for the purposes of facilitating contact by the owner with such person or organization to assist in providing any services or special care for the tenant and assist in resolving any relevant tenancy issues arising during the tenancy of such tenant.

Subtitle D—Authority to Provide Preferences for Elderly Residents and Units for Handicapped and Disabled Residents in Federally Assisted Housing

SEC. 651. AUTHORITY.

Notwithstanding any other provision of law, an owner of a covered federally assisted housing project (as such term is defined in section 657) designed primarily for occupancy by elderly families may, in selecting tenants for units in the project that become available for occupancy, give preference to elderly families who have applied for occupancy in the housing, subject to the requirements of this subtitle.

SEC. 652. RESERVATION OF UNITS FOR HANDICAPPED AND DISABLED FAMILIES.

(a) Requirement.—Notwithstanding any other provision of law, for any project for which an owner gives preference in occupancy to elderly families pursuant to section 651, such owner shall (subject to sections 653, 654, and 655) reserve units in the project for occupancy only by handicapped or disabled families who are not elderly or near-elderly families (and who have applied for occupancy in the housing) in the number determined under subsection (b).

(b) Number of Units.—Each owner required to reserve units in a project for occupancy under subsection (a) shall reserve a number of units in the project that is not less than the lesser of—

(1) the number of units equivalent to the higher of—

(A) the percentage of units in the project that were occupied by such handicapped and disabled families upon the date of the enactment of this Act; or

(B) the percentage of units in the project that were occupied by such families upon January 1, 1992; or

(2) 10 percent of the number of units in the project.

SEC. 653. SECONDARY PREFERENCES.

(a) Insufficient Elderly Families.—If an owner of a covered federally assisted housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families who have applied for occupancy in the housing to fill all the units in the project not reserved under section 652, the owner may give preference for occupancy of such units to handicapped and disabled families who are near-elderly families and have applied for occupancy in the housing.

(b) Insufficient Non-Elderly Handicapped and Disabled Families.—If an owner of a covered federally assisted housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of handicapped or disabled families who are not elderly or near-elderly families and have applied for occupancy in the housing to fill all the units in the project reserved under section 652, the owner may give preference for occupancy of units so reserved to handicapped and disabled families who are near-elderly families and have applied for occupancy in the housing.

SEC. 654. GENERAL AVAILABILITY OF UNITS.

If an owner of a covered federally assisted housing project in which handicapped and disabled families who are near-elderly families are given a preference for occupancy pursuant to subsection (a) or (b) of section 653 determines (in accordance with regulations established by the

Secretary) that there are an insufficient number of such families to fill all the units in the project for which the preference is applicable, the owner shall make such units generally available for occupancy by families who have applied, and are eligible, for occupancy in the housing, without regard to the preferences established pursuant to this subtitle.

SEC. 655. PREFERENCE WITHIN GROUPS.

Among handicapped and disabled families qualifying for occupancy in units reserved under section 652, and among elderly families and near-elderly families qualifying for preference for occupancy pursuant to section 651 or 653, preference for occupancy in units that are assisted under section 8 of the United States Housing Act of 1937 shall be given to handicapped and disabled families according to the preferences for occupancy referred to in subclauses (I) through (III) of section 8(h)(2)(A)(ii) of the United States Housing Act of 1937, to elderly families according to such preferences, and to near-elderly families according to such preferences, respectively.

SEC. 656. PROHIBITION OF EVICTIONS.

Any tenant who, except for reservation of a percentage of the units of a project pursuant to section 652 or any preference for occupancy established pursuant to this subtitle, is lawfully residing in a dwelling unit in a covered federally assisted housing project upon the effectiveness of such reservation or preferences, may not be evicted or otherwise required to vacate such unit because of the reservation or preferences or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subtitle.

SEC. 657. COVERED FEDERALLY ASSISTED HOUSING.

For purposes of this subtitle, the term "covered federally assisted housing" means housing that is federally assisted housing (as such term is defined in section 684(2), except that such term does not include housing described in subparagraphs (A) and (C) of such section.

SEC. 658. RULE OF CONSTRUCTION.

The provisions of this subtitle may not be construed to affect any covered federally assisted housing project the owner for which does not elect to provide a preference for occupancy of elderly families as authorized under section 651.

Subtitle E—Service Coordinators for Elderly, Handicapped, and Disabled Residents of Federally Assisted Housing

SEC. 661. REQUIREMENT TO PROVIDE SERVICE COORDINATORS.

(a) IN GENERAL.—To the extent that amounts are made available to carry out this subtitle pursuant to the amendments made by this subtitle, the Secretary shall require owners of covered federally assisted housing projects (as such term is defined in subsection (d)) receiving such amounts to provide for employing or otherwise retaining the services of one or more individuals to coordinate the provision of supportive services for elderly, handicapped, and disabled families residing in the projects (in this section referred to as a "service coordinator").

(b) RESPONSIBILITIES.—Each service coordinator of a covered federally assisted housing project provided pursuant to this subtitle or the amendments made by this subtitle—

(1) shall consult with the owner of the housing, tenants, any tenant organizations, any resident management organizations, service providers, and any other appropriate persons, to identify the particular needs and characteristics of elderly, handicapped, and disabled families who reside in the project and any supportive services related to such needs and characteristics;

(2) shall manage and coordinate the provision of such services for residents of the project;

(3) may provide training to tenants of the project in the obligations of tenancy or coordinate such training;

(4) shall meet the minimum qualifications and standards required under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act; and

(5) may carry out other appropriate activities for residents of the project.

(c) INCLUDED SERVICES.—Supportive services referred to under subsection (b)(1) may include health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, and other appropriate services. The services may be provided through any agency of the Federal Government or any other public or private department, agency, or organization.

(d) COVERED FEDERALLY ASSISTED HOUSING.—For purposes of this subtitle, the term "covered federally assisted housing" means housing that is federally assisted housing (as such term is defined in section 684(2), except that such term does not include housing described in subparagraphs (C) and (D) of such section.

SEC. 662. REQUIRED TRAINING OF SERVICE COORDINATORS.

Section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(4)) is amended by inserting after the period at the end of the first sentence beginning after subparagraph (E) the following new sentence: "Such qualifications and standards shall include requiring each service coordinator to be trained in the aging process, elder services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues relating to aging.".

SEC. 663. COSTS OF PROVIDING SERVICE COORDINATORS IN PUBLIC HOUSING.

Section 9(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(1)(B)) is amended—

(1) in the first sentence, by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) in the second sentence—

(A) by striking "subparagraph" and inserting "clause";

(B) by inserting "or section 802 of the Cranston-Gonzalez National Affordable Housing Act" after "Congregate Housing Services Act of 1978"; and

(C) by inserting a period after "section 811 of the Cranston-Gonzalez National Affordable Housing Act";

(3) by inserting "(i)" after the subparagraph designation; and

(4) by adding at the end the following new clause:

"(ii) Annual contributions under this section to any public housing agency for any project may be used, with respect to such project, for (I) the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of any supportive services within the project for residents of the project who are elderly, handicapped, and disabled families, and (II) expenses for the provision of such services for such residents of the project. Not more than 15 percent of the cost of the provision of such services may be provided under this section. Services may not be provided under this clause for any person receiving assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston-Gonzalez National Affordable Housing Act. The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $30,000,000 on or after October 1, 1992. Amounts made available under this clause shall be used to provide additional annual contributions to public housing agencies only for the purpose of providing service coordinators and services under this clause for public housing projects.".

SEC. 664. COSTS OF PROVIDING SERVICE COORDINATORS IN PROJECT-BASED SECTION 8 HOUSING.

Section 8(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(i)), as amended by section 141 of this Act, is further amended by adding at the end the following new paragraph:

"(6) SERVICE COORDINATORS.—

"(A) ELIGIBLE COST.—In determining the amount of assistance provided under an assistance contract for project-based assistance under this subsection or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of any services within the project for residents of the project who are elderly, handicapped, or disabled families.

"(B) FUNDING.—The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $5,000,000 on or after October 1, 1992. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under subparagraph (A) for projects receiving project-based assistance and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983) only for such purpose.".

SEC. 665. COSTS OF PROVIDING SERVICE COORDINATORS FOR RESIDENTS OF TENANT-BASED SECTION 8 HOUSING.

Section 8(n) of the United States Housing Act of 1937 (42 U.S.C. 1437f(n)), as amended by section 141 of this Act, is further amended by adding at the end the following new paragraph:

"(4) SERVICE COORDINATORS.—

"(A) ELIGIBLE USE.—Fees under this subsection may be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of supportive services for elderly, handicapped, and disabled families on whose behalf assistance not attached to a structure is provided under this section. Such service coordinators shall have the same responsibilities with respect to such families as service coordinators of covered federally assisted housing projects have under section 661 of such Act with respect to residents of such projects.

"(B) CALCULATION OF FEES.—To the extent amounts are provided in appropriation Acts under subparagraph (C), the Secretary shall increase fees under this subsection to provide for the costs of such service coordinators for public housing agencies.

"(C) FUNDING.—The budget authority available under section 5(c) for assistance under this section is authorized to be increased by

$15,000,000 on or after October 1, 1992. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for increased fees under this subsection, which shall be used only for the purpose of providing service coordinators for public housing agencies described in subparagraph (A).".

SEC. 666. GRANTS FOR COSTS OF PROVIDING SERVICE COORDINATORS IN MULTIFAMILY HOUSING ASSISTED UNDER NATIONAL HOUSING ACT.

(a) Authority.—The Secretary may make grants under this section to owners of federally assisted housing projects described in subparagraphs (E) and (F) of section 684(2). Any grant amounts shall be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661 to coordinate the provision of any services within the project for residents of the project who are elderly, handicapped, and disabled families (as such terms are defined in section 684 of this Act).

(b) Application and Selection.—The Secretary shall provide for the form and manner of applications for grants under this section and for selection of applicants to receive such grants.

(c) Authorization of Appropriations.—There are authorized to be appropriated for fiscal year 1993 such sums as may be necessary for grants under this section.

(d) Eligible Project Expense.—For any federally assisted housing project described in subparagraph (E) or (F) of section 684(2) that does not receive a grant under this section, the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 and not more than 15 percent of the cost of providing services to the residents of the project shall be considered an eligible project expense, but only to the extent that amounts are available from project rent and other income for such costs.

SEC. 667. EXPANDED RESPONSIBILITIES OF SERVICE COORDINATORS IN SECTION 202 HOUSING.

(a) Supportive Housing for the Elderly.—Section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(A) in paragraph (2), by striking the last sentence; and

(B) by adding at the end the following new paragraph:

"(3) Service coordinators.—Any cost associated with employing or otherwise retaining a service coordinator in housing assisted under this section shall be considered an eligible cost under subsection (c)(2). If a project is receiving congregate housing services assistance under section 802 of the Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided under subsection (c)(2) for the project service coordinator may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802. To the extent that amounts are available pursuant to subsection (c)(2) for the costs of carrying out this paragraph within a project, an owner of housing assisted under this section shall provide a service coordinator for the housing to coordinate the provision of services under this subsection within the housing.".

(b) Old Section 202 Projects.—

(1) Availability of section 8 assistance.—Subject to the availability of appropriations for contract amendments for the purpose of this paragraph, in determining the amount of assistance under section 8 of the United States Housing Act of 1937 to be provided for a project assisted under section 202 of the Housing Act of 1959, as in effect before the effectiveness of the amendments made by section 801 of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall consider (and annually adjust for) the costs of—

(A) employing or otherwise retaining the services of one or more service coordinators under section 661 of this Act to coordinate the provision of any services within the project for residents of the project who are elderly, handicapped, and disabled families; and

(B) expenses for the provision of such services. Not more than 15 percent of the cost of the provision of services under subparagraph (B) may be considered under this paragraph for purposes of determining the amount of assistance provided.

(2) Limitation.—If a project is receiving congregate housing services assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided pursuant to paragraph (1) for the project may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802 or eligible project residents under the Congregate Housing Services Act of 1978, as applicable.

Subtitle F—General Provisions

SEC. 681. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES.

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended by adding after paragraph (16), as added by section 219(b) of this Act, the following new paragraph:

"(17) describe the nature and extent of housing needs of elderly, handicapped, and disabled families (as such terms are defined in section 3(b)(3) of the United States Housing Act of 1937) in the jurisdiction, including an estimate of any special housing needs of elderly persons who are more than 75 years of age and of handicapped and disabled families.".

SEC. 682. CLEARINGHOUSES.

(a) In General.—The Secretary shall provide to an appropriate entity in each housing market area information regarding the availability of federally assisted housing in the area for elderly, handicapped, and disabled families, and the availability of units in such housing for such families. The Secretary shall enter into agreements with such appropriate entities providing for such entities to make the information available to elderly, handicapped, and disabled families and refer such families to owners of such housing.

(b) Appropriate Entities.—For purposes of subsection (a), the term "appropriate entity" means an agency or organization that, in the determination of the Secretary, has the capacity to carry out the responsibilities under such subsection. Such entities may include the applicable Area Agency on the Aging, the housing agency of the applicable unit of general local government, the applicable housing credit agency for purposes of section 42 of the Internal Revenue Code of 1986, any service provider for elderly, handicapped, or disabled residents of federally assisted housing in the area, or any other appropriate person.

(c) Conforming Provision.—Notwithstanding section 801(c) of the Cranston-Gonzalez National Affordable Housing Act, the provisions of section 202(p) of the Housing Act of 1959 (as such section existed on September 30, 1991) shall not be given any effect.

SEC. 683. CONFORMING AMENDMENTS.

(a) Public Housing.—Section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) requiring the public housing agency to ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle."; and

(b) Project-Based Section 8 Housing.—Section 8(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(h)), as amended by sections 141 and 664 of this Act, is further amended by adding at the end the following new paragraphs:

"(7) Service coordinators.—An assistance contract for project-based assistance under this subsection shall provide that the owner shall ensure and maintain compliance with the subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

"(8) Preferences for elderly, handicapped, and disabled residents.—Notwithstanding subsection (h)(2), an owner of a housing for which project-based assistance is provided under this subsection may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992.".

(c) Supportive Housing for the Elderly.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) in subsection (i)(1), by inserting after the first sentence the following new sentence: "Such tenant selection procedures shall comply with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle."; and

(2) in subsection (j), by adding after paragraph (6) (as added by section 601(d) of this Act) the following new paragraph:

"(7) Compliance with housing and community development act of 1992.—Each owner shall operate housing assisted under this section in compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.".

(d) Section 221(d)(3) Projects.—Section 221(f) of the National Housing Act (12 U.S.C. 1715l(f)) is amended—

(1) in the second sentence—

(A) by inserting "disabled," after "elderly,";

(B) by striking "and" after the last comma; and

(C) by inserting before the period at the end the following: ", and that an owner of such a project may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992"; and

(2) by striking the 5th sentence and inserting the following new sentence: "For purposes of this section, the terms 'elderly family', 'handicapped family', and 'disabled family' shall have the meaning given the terms under section 3(b)(3) of the United States Housing Act of 1937.".

(e) Section 236 Projects.—Section 236 of the National Housing Act (12 U.S.C. 1715z-1) is amended—

(1) in subsection (i)(4)—

(A) in the first sentence, by inserting ", disabled," after "elderly"; and

(B) by striking the second sentence and all that follows and inserting the following new sentences: "An owner of any project planned in

whole or in part for occupancy by elderly, disabled, or handicapped families may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992. For purposes of this section, the terms 'elderly family', 'handicapped family', and 'disabled family' shall have the meaning given the terms under section 3(b)(3) of the United States Housing Act of 1937."; and

(2) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting "and" after the semicolon at the end;

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B); and

(B) in paragraph (5)—

(i) in subparagraph (A), by inserting ", disabled," after "elderly" each place it appears;

(ii) in subparagraph (B), by inserting "disabled," after "elderly,"; and

(iii) in subparagraph (C)—

(I) by inserting ", disabled," after "elderly"; and

(II) by striking "That" and all that follows through "project" and inserting the following: "That an owner of such a project may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992".

SEC. 684. DEFINITIONS.

For purposes of this subtitle:

(1) ELDERLY, HANDICAPPED, DISABLED, AND NEAR-ELDERLY FAMILIES.—The terms "elderly family", "handicapped family", "disabled family", and "near-elderly family" have the meanings given the terms under section 3(b)(3) of the United States Housing Act of 1937.

(2) FEDERALLY ASSISTED HOUSING.—The terms "federally assisted housing" and "project" mean—

(A) a public housing project (as such term is defined in section 3(b) of the United States Housing Act of 1937);

(B) housing for which project-based assistance is provided under section 8 of the United States Housing Act of 1937;

(C) housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

(D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzalez National Affordable Housing Act;

(E) housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(F) housing insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; and

(G) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983, that is assisted under a contract for assistance under such section.

(3) HOUSING ASSISTANCE.—The term "housing assistance" means, with respect to federally assisted housing, the grant, contribution, capital advance, loan, mortgage insurance, or other assistance provided for the housing under the provisions of law referred to in paragraph (2). The term also includes any related assistance provided for the housing by the Secretary, including any rental assistance for low-income occupants.

(4) OWNER.—The term "owner" means, with respect to federally assisted housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing.

(5) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 685. APPLICABILITY.

Except as otherwise provided in subtitles B through F of this title and the amendments made by such subtitles, such subtitles and the amendments made by such subtitles shall apply upon the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 686. REGULATIONS.

The Secretary shall issue regulations necessary to carry out subtitles B through F of this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

TITLE VII—RURAL HOUSING

SEC. 701. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a) of the Housing Act of 1949 (42 U.S.C. 1483(a)) is amended to read as follows:

"(a) INSURANCE AND GUARANTEE AUTHORITY.—

"(1) IN GENERAL.—The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal year 1993, in aggregate amounts not to exceed $2,305,836,000, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of low income borrowers receiving assistance under section 521(a)(1), $1,509,144,000.

"(B) For guaranteed loans under section 502(h), such sums as may be appropriated.

"(C) For loans under section 504, $12,896,000.

"(D) For insured loans under section 514, $13,000,000.

"(E) For insured loans under section 515, $769,080,000.

"(F) For loans under section 523(b)(1)(B), $832,000.

"(G) For site loans under section 524, $884,000.

"(2) AUTHORIZATION OF APPROPRIATIONS FOR CREDIT COSTS.—There are authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan obligations under this title the following amounts:

"(A) $283,719,072 for loans under section 502.

"(B) $5,596,864 for loans under section 504.

"(C) $7,358,160 for loans under section 514.

"(D) $398,845,488 for loans under section 515.

"(E) $106,500 for loans under section 523(b).

"(F) $19,500 for loans under section 524.

"(3) LIMITATION.—Notwithstanding any other provision of law, insured and guaranteed loan authority in this title for any fiscal year beginning after September 30, 1984, shall not be transferred or used for any purpose not specified in this title.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended by striking "(b) There" and all that follows through the end of paragraph (8) and inserting the following:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1993, and to remain available until expended, the following amounts:

"(1) For grants under section 502(f)(1), $1,144,000.

"(2) For the demonstration program under section 502(g)(3), such sums as may be necessary.

"(3) For grants under section 504, $21,944,000.

"(4) For purposes of section 509(c), $624,000.

"(5) For project preparation grants under section 509(f)(6), $5,512,000.

"(6) In fiscal year 1993, such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(7) For grants under section 515(x), such sums as may be necessary for fiscal year 1993.

"(8) For financial assistance under section 516—

"(A) for low-rent housing and related facilities for domestic farm labor under subsections (a) through (j) of such section, $22,568,000; and

"(B) for housing for rural homeless and migrant farmworkers under subsection (k) of such section, $10,920,000.

"(9) For grants under section 523(f), $14,456,000.

"(10) For grants under section 533, $32,032,000.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c)(1) of the Housing Act of 1949 (42 U.S.C. 1483(c)(1)) is amended to read as follows:

"(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—(1) The Secretary, to the extent approved in appropriation Acts for fiscal year 1993, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $430,664,000 for fiscal year 1993.".

(d) SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.—Section 513(d) of the Housing Act of 1949 (42 U.S.C. 1483(d)) is amended to read as follows:

"(d) SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.—The Secretary, to the extent approved in appropriation Acts for fiscal year 1993, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $5,720,000 for fiscal year 1993.".

(e) DEFERRED MORTGAGE DEMONSTRATION.—Section 502(g) of the Housing Act of 1949 (42 U.S.C. 1472(g)) is amended by striking paragraph (3).

SEC. 702. ELIGIBILITY OF HOMES ON LEASED LAND OWNED BY COMMUNITY LAND TRUSTS FOR SECTION 502 LOANS.

(a) ELIGIBILITY.—Section 502(a) of the Housing Act of 1949 (42 U.S.C. 1472(a)) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of this title, a loan may be made under this section for the purchase of a dwelling located on land owned by a community land trust, if the borrower and the loan otherwise meet the requirements applicable to loans under this section.

"(B) For purposes of this paragraph, the term 'community land trust' means a community housing development organization (as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (except that the requirement under section 104(6)(B) shall not apply for purposes of this paragraph)—

"(i) that is not sponsored by a for-profit organization;

"(ii) that is established to carry out the activities under clause (iii);

"(iii) that—

"(I) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

"(II) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

"(III) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity; and

"(iv) whose corporate membership that is open to any adult resident of a particular geographic area specified in the bylaws of the organization.".

(b) RECAPTURE.—Section 521(a)(1)(D) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(1)(D)) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following new clause:

"(ii) In determining the amount recaptured under this subparagraph with respect to any loan made pursuant to section 502(a)(3) for the purchase of a dwelling located on land owned by a community land trust, the Secretary shall determine any appreciation of the dwelling based on any agreement between the borrower and the community land trust that limits the sale price or appreciation of the dwelling.".

SEC. 703. MAXIMUM INCOME OF BORROWERS UNDER GUARANTEED LOANS.

Section 502(h)(2) of the Housing Act of 1949 (42 U.S.C. 1472(h)(2)) is amended by inserting "115 percent of" after "exceed".

SEC. 704. REMOTE RURAL AREAS.

Section 502(f) of the Housing Act of 1949 (42 U.S.C. 1472(f)) is amended—

(1) in paragraph (1), by inserting "or on tribal allotted or Indian trust land" after "area"; and

(2) in paragraph (2), by inserting "or on tribal allotted or Indian trust land" before the period.

SEC. 705. DESIGNATION OF UNDERSERVED AREAS AND RESERVATION OF ASSISTANCE.

(a) REAUTHORIZATION OF DESIGNATION.—Section 509(f) of the Housing Act of 1949 (42 U.S.C. 1479(f)) is amended—

(1) in paragraph (1), by striking "in each of fiscal years 1991 and 1992" and inserting "in each fiscal year";

(2) in paragraph (2), by inserting at the end the following new flush sentence:

"In designating underserved areas under paragraph (1), in each fiscal year the Secretary shall designate not less than 5 counties or communities that contain tribal allotted or Indian trust land."; and

(3) in paragraph (4), by striking "an amount equal to 3.5 percent in fiscal year 1991 and 5.0 percent in fiscal year 1992" and inserting "an amount equal to 5.0 percent in fiscal year 1993".

(b) DEFINITION OF COLONIAS.—Section 509(f)(8) of the Housing Act of 1949 (42 U.S.C. 1479(f)(8)) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) by striking subparagraph (E) and inserting the following new subparagraph:

"(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 706. RURAL HOUSING VOUCHER DEMONSTRATION.

Section 513(e)(1) of the Housing Act of 1949 (42 U.S.C. 1483(e)(1)) is amended—

(1) in the first sentence, by striking "fiscal years 1988 and 1989" and inserting "fiscal year 1993"; and

(2) in the second sentence, by striking "in not more than 5 States during each such fiscal year".

SEC. 707. RENTAL HOUSING LOANS.

(a) EXTENSION OF LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1992" and inserting "September 30, 1993".

(b) DEVELOPMENT COSTS.—Section 515(e)(4) of the Housing Act of 1949 (42 U.S.C. 1485(e)(4)) is amended—

(1) by striking "and" before "initial";

(2) by inserting before the first period the following: ", impact fees, local charges for installation, provision, or use of infrastructure, and local assessments for public improvements and services imposed by State and local governments"; and

(3) by inserting after the period at the end the following new sentence: "Notwithstanding the first sentence of this paragraph, the term 'development cost' shall not include, with respect to any nonprofit corporation or consumer cooperative financing housing under this section for which units have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986, any initial operating expenses.".

(c) COORDINATION OF LOANS AND RENTAL ASSISTANCE PAYMENTS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(1) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

"(1) in the case of any applicant who applies for rental assistance payments under section 521 in connection with such project, the Secretary shall consider the availability of such rental assistance payments with respect to the project and shall require such applicant to demonstrate that a market exists for persons and families eligible for such rental assistance payments; and"; and

(2) in subsection (p), by inserting at the end the following new paragraph:

"(5) The Secretary shall coordinate the processing of any application for a loan under this section for a project and the processing of any application for assistance under section 521(a)(2) with respect to housing units in the same project in an economical and efficient manner. At the time the Secretary enters into a commitment to make or insure a loan under this section the Secretary shall obligate amounts for assistance payments under section 521(a)(2) for the project, to the extent that such amounts are available and the Secretary determines such assistance is necessary for the market feasibility of the project.".

(d) LOW-INCOME HOUSING TAX CREDIT.—Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by striking ", except" in the first sentence and all that follows through the end of the paragraph and inserting a period.

(e) USE OF SET-ASIDE FUNDS.—Section 515(w) of the Housing Act of 1949 (42 U.S.C. 1485(w)) is amended—

(1) in paragraph (1)—

(A) by striking "1992" and inserting "1993"; and

(B) by striking the last sentence; and

(2) by adding at the end the following new paragraph:

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), amounts set aside under this subsection shall be available only for nonprofit entities in the State, which may not be wholly or partially owned or controlled by a for-profit entity or under whole or partial control with a for-profit entity.

"(B) EXCEPTION.—Amounts set aside under this subsection may be used for making loans for projects that—

"(i) are sponsored by nonprofit entities in conjunction with a limited partnership of which the nonprofit is the general partner; and

"(ii) have been allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 that has been reserved for use by nonprofit entities by the housing credit agency.".

(f) GRANTS FOR COSTS OF PROVIDING SERVICE COORDINATORS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

"(x) SERVICE COORDINATORS.—

"(1) GRANTS.—The Secretary may make grants under this subsection, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided to frail elderly residents of the project (in this subsection referred to as a 'service coordinator'), who shall be responsible for—

"(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

"(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

"(C) mobilizing public and private resources to obtain funding for such services for such residents;

"(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

"(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

"(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

"(2) QUALIFICATIONS.—Individuals employed as service coordinators pursuant to this subsection shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

"(3) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection and for the selection of applicants to receive the grants.

"(4) DEFINITION OF FRAIL ELDERLY.—For purposes of this subsection, the term 'frail elderly' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.".

(g) PROHIBITIONS REGARDING CONSIDERATIONS IN MAKING LOANS.—

(1) IN GENERAL.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding after subsection (x) (as added by subsection (f) of this section) the following new subsection:

"(y) PROHIBITIONS.—

"(1) REMOTE RURAL AREAS.—The Secretary may not refuse to make a loan that otherwise complies with the requirements under this section solely because the housing and related facilities involved are located in an area that is excessively rural in character or excessively remote.

"(2) ESSENTIAL SERVICES.—In making loans under this section, the Secretary may not provide any preference for any project based on the availability of any particular essential service. For purposes of this paragraph, an essential service shall include post offices (and postal services), grocery stores, pharmacies, schools, and health service facilities (and health services).

"(3) GEOGRAPHIC LOCATION.—In making loans under this section, the Secretary may not grant or deny approval based on the geographic location of the proposed project if the project is located in a rural area, as such term is defined in section 520, except that the Secretary shall give preference to any application for a project that will serve the needs of a rural community located 20 or more miles from an urban area.".

(2) REGULATIONS.—The Secretary of Agriculture shall issue any regulations necessary to

carry out the amendment made by paragraph (1) not later than the expiration of the 45-day period beginning on the date of the enactment of this Act. Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary shall submit a copy of any regulations to be issued under this subsection to the Congress. The requirements of section 534(d) of the Housing Act of 1949 shall apply to any such regulations, but such regulations shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code.

SEC. 708. CONSIDERATION OF CERTAIN AREAS AS RURAL AREAS.

Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this section, the city of Plainview, Texas, shall be considered a rural area for purposes of this title.".

SEC. 709. EXTENSION OF AUTHORITY FOR MUTUAL AND SELF-HELP HOUSING GRANTS AND LOANS.

Section 523(f) of the Housing Act of 1949 (42 U.S.C. 1490c(f)) is amended by striking "September 30, 1992" and inserting "September 30, 1993".

SEC. 710. HOUSING PRESERVATION GRANTS FOR REPLACEMENT OF HOUSING.

Section 533 of the Housing Act of 1949 (42 U.S.C. 1490m) is amended—

(1) in subsection (a)—

(A) by inserting "or replace" after "rehabilitate" each place it appears; and

(B) in the second sentence, by inserting "or replaced" after "rehabilitated";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "Rehabilitation programs" and inserting "Preservation programs";

(B) in paragraph (3), by inserting "or replacement" after "rehabilitation" each place it appears;

(C) in paragraph (4), by striking "repair and rehabilitation" and inserting "repair, rehabilitation, and replacement";

(D) by redesignating paragraphs (2) through (6) (as amended by this paragraph) as paragraphs (3) through (7), respectively; and

(E) by inserting after paragraph (1) the following new paragraph:

"(2) be used to provide loans or grants, not to exceed $15,000, to owners of single family housing to replace existing housing if repair or rehabilitation of the housing is determined by the Secretary not to be practicable and the owner of the housing is unable to afford a loan under section 502 for replacement housing;";

(3) in the first sentence of subsection (c)(1), by striking "rehabilitation grant funds" and inserting "grant funds under this section"; and

(4) in subsection (d)—

(A) in paragraph (1), by striking "rehabilitation program" and inserting "preservation program";

(B) in paragraphs (3)(A), (3)(B), (3)(D), by striking "repair and rehabilitation" each place it appears and inserting "repair, rehabilitation, and replacement";

(C) in paragraph (4), by inserting ", or replacement," after "repair and rehabilitation"; and

(D) by adding at the end the following new paragraph:

"(5) A grantee may use housing preservation grant funds under this section for replacement housing only after providing documentation to the Secretary that—

"(A) the existing housing is in such poor condition that rehabilitation is not economically feasible;

"(B) the owner of the housing lacks the income or repayment ability necessary to qualify for a loan under section 502; and

"(C) the grantee will extend assistance to the owner of the housing under terms that the owner can afford.".

TITLE VIII—COMMUNITY DEVELOPMENT

Subtitle A—Community Development Block Grants

SEC. 801. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) Community Development Block Grants.—The second sentence of section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended to read as follows: "For purposes of assistance under section 106, there are authorized to be appropriated $3,402,880,000 for fiscal year 1993.".

(b) Limitation on Loan Guarantees.—The fifth sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended to read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $312,000,000.".

(c) Special Purpose Grants.—Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) is amended by striking "Sec. 107. (a)" and all that follows through the end of subsection (a) and inserting the following:

"Sec. 107. (a) Set-Aside.—

"(1) In General.—For each fiscal year (except as otherwise provided in this paragraph), of the total amount provided in appropriation Acts under section 103 for the fiscal year, the following amounts shall be set aside for grants under subsection (b) for such year for the following purposes:

"(A) $7,280,000 shall be available for grants under subsection (b)(1);

"(B) $6,760,000 shall be available for grants under subsection (b)(3);

"(C) $3,120,000 shall be available for grants under subsection (c);

"(D) such sums as may be necessary shall be available for grants under paragraphs (2), (4), (5), and (6) of subsection (b); and

"(E) such sums as may be necessary shall be available in fiscal year 1993 for a grant to the City of Bridgeport, Connecticut, subject to the approval of sufficient amounts in an appropriation Act and to binding commitments made by the City of Bridgeport and the State of Connecticut that the city and State, respectively, will supplement such amount with $2,000,000 of additional funds.

"(2) Treatment of Grants.—Any grants made under this section shall be in addition to any other grants that may be made under this title to the same entities for the same purposes.".

SEC. 802. UNITS OF GENERAL LOCAL GOVERNMENT.

(a) Definition.—Section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)) is amended by striking "recognized by the Secretary" and inserting the following: "that, except as provided in section 106(d)(4), is recognized by the Secretary".

(b) Grants to Nonentitlement Areas.—Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) Any combination of units of general local governments may not be required to obtain recognition by the Secretary pursuant to section 102(a)(1) to be treated as a single unit of general local government for purposes of this subsection.".

SEC. 803. URBAN COUNTIES.

Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(v)(I) has a population of 175,000 or more (including the population of metropolitan cities therein), (II) before January 1, 1975, was designated by the Secretary of Defense pursuant to section 608 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1763), as a Trident Defense Impact Area, and (III) has located therein not less than 1 unit of general local government that was classified as a metropolitan city and (a) for which county each such unit of general local government therein has relinquished its classification as a metropolitan city under the 6th sentence of paragraph (4), or (b) that has entered into cooperative agreements with each metropolitan city therein to undertake or to assist in the undertaking of essential community development and housing assistance activities.".

SEC. 804. RETENTION OF PROGRAM INCOME.

The first sentence of section 104(j) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(j)) is amended—

(1) by striking "while the unit of general local government is participating in a community development program under this title"; and

(2) by inserting before the period at the end the following: "; except that the Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with this subsection creates an unreasonable administrative burden on the unit of general local government".

SEC. 805. STATE COMMUNITY DEVELOPMENT PLANS AND REPORTS.

(a) In General.—Subsection (l) of section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(l)), as added by section 922 of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) by striking "(l)" and inserting "(m)";

(2) in paragraph (1), by striking "needs and strategies for meeting those needs" and inserting "and infrastructure needs, strategies for meeting such needs, and the priority for addressing such needs".

(3) in paragraph (4), by striking "this subsection" and inserting "paragraph (1)";

(4) by redesignating paragraph (4) (as so amended) as paragraph (6); and

(5) by inserting after paragraph (3) the following new paragraphs:

"(4) State Coordination of Local Needs.—Each State that receives a grant under section 831(d) of the Housing and Community Development Act of 1992 shall annually submit to the Secretary a report containing a summary of—

"(A) the community development and infrastructure needs within the State; and

"(B) the strategies to be used by the State to meet such needs in an efficient and coordinated manner.

"(5) Reports by Secretary.—The Secretary shall annually submit to the Committees on Banking, Finance and Urban Affairs of the House of Representatives and Banking, Housing, and Urban Affairs of the Senate, a report containing a summary of the information submitted for the year by States pursuant to paragraph (4), which shall describe—

"(A) the community development and infrastructure needs within the United States;

"(B) the strategies to be used by the States to meet such needs in an efficient and coordinated manner; and

"(C) a strategy for the Federal Government to assist States (under this title and otherwise) in

meeting such needs in an efficient and coordinated manner.".

(b) CONFORMING AMENDMENTS.—Section 104(b)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(4)) is amended—

(1) by inserting "pursuant to subsection (m)" before the first comma;

(2) by striking "and housing"; and

(3) by striking "that have been" and all that follows through "title".

SEC. 806. ELIGIBLE ACTIVITIES.

(a) ADDITIONAL ELIGIBLE ACTIVITIES.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (8), by inserting before the semicolon at the end the following: ", and except that of any amount of assistance under this title (including program income) in each of fiscal years 1993 through 1997 to the City of Los Angeles and County of Los Angeles, each such unit of general government may use not more than 25 percent in each such fiscal year for activities under this paragraph";

(2) in paragraph (19), by striking "and" at the end;

(3) by redesignating paragraph (20) as paragraph (22); and

(4) by inserting after paragraph (19) the following new paragraphs:

"(20) provision of assistance by recipients under this title to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;

"(21) provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

"(A) providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, expansion of microenterprises;

"(B) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in small business activities) to owners of microenterprises and persons developing microenterprises; and

"(C) providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises; and".

(b) DIRECT HOMEOWNERSHIP ASSISTANCE.—Section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5305 note) is amended—

(1) by striking "October 1, 1992" and inserting "October 1, 1993"; and

(2) by striking "(or" and all that follows through "Act)".

(c) MICROENTERPRISES.—

(1) DEFINITION OF MICROENTERPRISE.—Section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) is amended by adding at the end the following new paragraph:

"(22) The term 'microenterprise' means a commercial enterprise that has 5 or fewer employees, 1 or more of whom owns the enterprise.".

(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that each grantee under the community development block grant program under title I of the Housing and Community Development Act of 1974 should reserve 1 percent of any grant amounts the grantee receives in each fiscal year for the purpose of providing assistance under section 105(a)(21) of such Act to facilitate economic development through commercial microenterprises.

(d) CONFORMING AMENDMENTS.—Section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5305 note) is amended—

(1) in subparagraph (A), by striking "(18)" and inserting "(20)";

(2) in subparagraph (B), by striking "(19)" and inserting "(21)"; and

(3) in subparagraph (C), by striking "(20)" and inserting "(22)".

SEC. 807. SPECIAL PURPOSE GRANTS.

(a) TECHNICAL ASSISTANCE GRANTS.—Section 107(b)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(b)(4)) is amended by inserting before the first semicolon the following: "(which may include the provision of technical assistance by States to units of general local government assisted by the States under section 106(d))".

(b) OTHER PURPOSES.—Section 107(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(b)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(5) to States and units of general local government and institutions of higher education having a demonstrated capacity to carry out eligible activities under this title; except that the Secretary may make a grant under this paragraph only to a State or unit of general local government that jointly, with an institution of higher education, has prepared and submitted to the Secretary an application for such grant, as the Secretary shall by regulation require; and

"(6) in each of fiscal years 1993 through 1998, to units of general local government in nonentitlement areas for planning community adjustments and economic diversification activities, which may include any eligible activities under section 105, required—

"(A) by the proposed or actual establishment, realignment, or closure of a military installation,

"(B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, or

"(C) by a publicly-announced planned major reduction in Department of Defense spending that would directly and adversely affect a unit of general local government and will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a 5-year period in the unit of general local government and the surrounding area, or

if the Secretary (in consultation with the Secretary of Defense) determines that an action described in subparagraph (A), (B), or (C) is likely to have a direct and significant adverse consequence on the unit of general local government.".

(c) REGULATIONS.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue proposed regulations to carry out section 107(b)(6) of the Housing and Community Development Act of 1974, as added by subsection (b)(3) of this section. The Secretary shall issue final regulations to carry out such section 107(b)(6) not later than the expiration of the 120-day period beginning on the date of the enactment of this Act and after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). Such final regulations shall take effect 30 days after issuance.

SEC. 808. TECHNICAL AMENDMENTS.

Section 104(b)(2) and section 106(d)(5)(B) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(2), 5306(d)(5)(B)) are each amended by striking "Public Law 88-352 and Public Law 90-284" and inserting "the Civil Rights Act of 1964 and the Civil Rights Act of 1968".

SEC. 809. ASSISTANCE FOR COLONIAS.

(a) ELIGIBLE ACTIVITIES.—Section 916(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended to read as follows:

"(b) ELIGIBLE ACTIVITIES.—Assistance distributed pursuant to this section may be used only for the acquisition, construction, reconstruction, rehabilitation, or installation of public water projects and public sewage projects, including any activities necessary to furnish water and sewage services to persons of low- or moderate-income.".

(b) DEFINITION OF COLONIA.—Section 916(e)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) by striking subparagraph (E) and inserting the following new subparagraph:

"(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

Subtitle B—Other Community Development Programs

SEC. 831. COMPUTERIZED DATABASE OF COMMUNITY DEVELOPMENT NEEDS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, establish and implement a program to assist States and units of general local government to develop methods, utilizing contemporary computer technology, to—

(1) monitor, inventory, and maintain current listings of the community development and infrastructure needs of the States and units of general local government;

(2) coordinate strategies within States (especially among various units of general local government) for meeting such needs; and

(3) coordinate strategies among States for meeting such needs.

(b) INTEGRATED DATABASE SYSTEM AND COMPUTER MAPPING TOOL.—

(1) DEVELOPMENT AND PURPOSES.—In carrying out the program under this section, the Secretary shall provide for the development of an integrated database system and computer mapping tool designed to efficiently (A) collect, store, process, and retrieve information relating to community development and infrastructure needs within States, and (B) coordinate strategies for meeting such needs. The integrated database system and computer mapping tool shall be designed in a manner to coordinate and facilitate the preparation of community development plans under section 104(m)(1) of the Housing and Community Development Act of 1974 and to process any information necessary for such plans.

(2) AVAILABILITY TO STATES.—The Secretary shall make the integrated database system and computer mapping tool developed pursuant to this subsection available to States without charge.

(c) TECHNICAL ASSISTANCE.—Under the program under this section, the Secretary shall provide consultation and advice to States and units of general local government regarding the capabilities and advantages of the integrated database system and computer mapping tool developed pursuant to subsection (b) and assist-

ance in installing and using the database system and mapping tool.

(d) GRANTS.—

(1) AUTHORITY AND PURPOSE.—The Secretary shall, to the extent amounts are made available under appropriation Acts pursuant to subsection (e), make grants to States for capital costs relating to installation and use of the integrated database system and computer mapping tool developed pursuant to subsection (b).

(2) LIMITATIONS.—The Secretary may not make more than one grant under this subsection to any single State. The Secretary may not make a grant under this subsection to any single State in an amount exceeding $1,000,000.

(3) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection. The Secretary shall establish criteria for the selection of States to receive grants under this section and shall select recipients according to such criteria, which shall give priority to States having, on a long-term basis (as determined by the Secretary), levels of unemployment above the national average level.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1993—

(1) such sums as may be necessary for the Secretary to carry out the program established under this section; and

(2) such sums as may be necessary for grants to States under subsection (d).

SEC. 832. NEIGHBORHOOD REINVESTMENT CORPORATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 608(a)(1) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)) is amended by to read as follows: "There is authorized to be appropriated to the corporation to carry out this title $37,960,000 for fiscal year 1993.".

(b) EXPANDED PROGRAMS.—The matter preceding subparagraph (A) of section 608(a)(2) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)(2)) is amended by striking "each of the fiscal years 1991 and 1992" and inserting "any fiscal year".

SEC. 833. NEIGHBORHOOD DEVELOPMENT DEMONSTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended to read as follows:

"(g) There is authorized to be appropriated to carry out this section $2,080,000 for fiscal year 1993.".

(b) PERMANENT PROGRAM.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking the section heading and inserting the following new heading:

"JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM";

(2) by striking "demonstration program" each place it appears and inserting "program";

(3) in subsection (b)(1), by striking "determine the feasibility of supporting" and inserting "support";

(4) in subsection (e)(6)—

(A) in subparagraph (C), by inserting "and" after the semicolon at the end;

(B) by striking subparagraph (D);

(C) by redesignating subparagraph (E) as subparagraph (D); and

(D) in subparagraph (D), as so redesignated, by striking "demonstration" and inserting "program";

(5) by striking subsection (f) and inserting the following new subsection:

"(f) The Secretary shall submit a report to the Congress, not later than 3 months after the end of each fiscal year in which payments are made under this section, regarding the program under this section. The report shall contain a summary of the activities carried out under this section during such fiscal year and any findings, conclusions, and recommendations for legislation regarding the program."; and

(6) by adding at the end the following new subsection:

"(h) SHORT TITLE.—This section may be cited as the 'John Heinz Neighborhood Development Act'.".

(c) COMPLIANCE WITH CHAS AND COMMUNITY DEVELOPMENT PLANS.—Section 123(e)(5)(A) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended by striking "housing and community development plans of such unit" and inserting "comprehensive housing affordability strategy of such unit approved under section 105 of the Cranston-Gonzalez National Affordable Housing Act or the statement of community development activities and community development plans of the unit submitted under section 104(m) of the Housing and Community Development Act of 1974".

(d) ELIGIBLE NEIGHBORHOOD DEVELOPMENT ORGANIZATION.—Section 123(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) in subparagraph (A), by inserting "(i)" after "(A)";

(2) in subparagraph (E), by striking the period at the end and inserting "; or";

(3) by redesignating subparagraphs (B) through (E) as clauses (ii) through (v), respectively; and

(4) by adding at the end the following new subparagraph:

"(B) any facility that provides small entrepreneurial business with affordable shared support services and business development services and meets the requirements of subparagraph (A).".

(e) DEFINITIONS.—Section 123(a) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking subparagraph (2)(A)(iv) (as so redesignated by subsection (d) of this section) and inserting the following new clause:

"(iv) an organization that operates within an area that—

"(I) meets the requirements for Federal assistance under section 119 of the Housing and Community Development Act of 1974;

"(II) is designated as an enterprise zone under Federal law;

"(III) is designated as an enterprise zone under State law and recognized by the Secretary for purposes of this section as a State enterprise zone; or

"(IV) is a qualified distressed community within the meaning of section 233(b)(1) of the Bank Enterprise Act of 1991; and";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting before paragraph (4) (as so redesignated) the following new paragraph:

"(3) The term 'neighborhood development funding organization' means—

"(A) a depository institution the accounts of which are insured pursuant to the Federal Deposit Insurance Act or the Federal Credit Union Act, and any subsidiary (as such term is defined in section 3(w) of the Federal Deposit Insurance Act) thereof;

"(B) a depository institution holding company and any subsidiary thereof (as such term is defined in section 3(w) of the Federal Deposit Insurance Act); or

"(C) a company at least 75 percent of the common stock of which is owned by one or more insured depository institutions or depository institution holding companies.".

(f) COORDINATION WITH COMMUNITY DEVELOPMENT FUNDING ORGANIZATIONS.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) in subsection (b)(1), by inserting ", and from neighborhood development funding organizations," after "neighborhoods";

(2) in subsection (b)(3)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period and inserting the following: ", especially in cooperation with a neighborhood development funding organization, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the cooperation of a neighborhood development funding organization if the eligible neighborhood development organization—

"(i) is located in an area described in subsection (a)(2)(A)(iv) that does not contain a neighborhood development funding organization; or

"(ii) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the cooperation of any neighborhood development funding organization in such area despite having made a good faith effort to obtain such cooperation; and"; and

(C) by adding at the end the following new subparagraph:

"(D) specify a strategy for increasing the capacity of the organization.";

(3) in subsection (c)(3), by inserting before the semicolon the following: "and by the extent of participation in the proposed activities by a neighborhood development funding organization that has a branch or office in the neighborhood, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the participation of a neighborhood development funding organization if the eligible neighborhood development organization—

"(A) is located in an neighborhood that does not contain a branch or office of a neighborhood development funding organization; or

"(B) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the participation of any neighborhood development funding organization that has a branch or office in the neighborhood despite having made a good faith effort to obtain such participation"; and

(4) in subsection (e)(1), by inserting ", and from neighborhood development funding organizations," after "neighborhood".

(g) ADMINISTRATIVE CHANGES.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) in subsection (a)(2)(A)(iii), as so redesignated by subsection (d) of this section, by striking "three years" and inserting "one year";

(2) in subsection (b)(2), by striking "Not more than 30 per centum" and inserting "For fiscal year 1993 and thereafter, not more than 50 percent"; and

(3) in subsection (c)(4), by striking "available" and all that follows through "meritorious".

(h) EFFECTIVE DATE.—The amendments made by subsections (e) and (f) shall take effect upon the effective date of the Bank Enterprise Act of 1991.

SEC. 834. STUDY REGARDING HOUSING TECHNOLOGY RESEARCH.

(a) STUDY.—The Secretary of Housing and Urban Development, through the Assistant Secretary for Policy Development and Research, shall conduct a study of—

(1) the extent of Federal, other public, and private basic research in the United States in housing technology, including design and construction techniques and methodology, smart building technology, area and neighborhood planning, and other areas relating to the preservation and production of affordable housing and livable communities;

(2) the extent of competitiveness of the United States in the field of basic housing technology research in comparison with other countries that are substantially involved in trade with the United States, taking into consideration the balance of trade, the degree of government support of private research activities, and the degree of fragmentation of research; and

(3) the types of research projects regarding basic housing technology conducted by such other countries, the results of such research, and the extent of success in applying and marketing such results.

(b) Report.—The Secretary of Housing and Urban Development shall submit a report to the Congress describing the results of the study conducted under this section not later than March 30, 1993.

SEC. 835. DESIGNATION OF ENTERPRISE ZONES.

(a) In General.—Section 701 of the Housing and Community Development Act of 1987 (42 U.S.C. 11501) is amended—

(1) in subsection (a)(4)(B), by striking "the effective date of the regulations described in subparagraph (A) occurs" and inserting "the date of the enactment of the Housing and Community Development Act of 1992 occurs"; and

(2) in subsection (c)(3)(B), by striking "this Act" and inserting "the Housing and Community Development Act of 1992".

(b) Report.—Section 702 of the Housing and Community Development Act of 1987 (42 U.S.C. 11502) is amended by inserting "pursuant to the amendments made by section 835 of the Housing and Community Development Act of 1992" before the first comma.

TITLE IX—REGULATORY AND MISCELLANEOUS PROGRAMS

SEC. 901. HUD RESEARCH AND DEVELOPMENT.

Section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1) is amended by striking the second sentence and all that follows and inserting the following new sentence: "There is authorized to be appropriated to carry out this title $22,984,000 for fiscal year 1993.".

SEC. 902. ADMINISTRATION OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) Special Assistant for Indian and Alaska Native Programs.—

(1) Responsibilities.—Section 4(e)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)(1)) is amended—

(A) by inserting "(A)" after "(1)";

(B) in the first sentence, by striking ", who" and all that follows through "development"; and

(C) by adding at the end the following new subparagraphs:

"(B) The Special Assistant for Indian and Alaska Native Programs shall be responsible for—

"(i) administering, in coordination with the relevant office in the Department, the provision of housing assistance to Indian tribes or Indian housing authorities under each program of the Department that provides for such assistance;

"(ii) administering the community development block grant program for Indian tribes under title I of the Housing and Community Development Act of 1974 and the provision of assistance to Indian tribes under such Act;

"(iii) directing, coordinating, and assisting in managing any regional offices of the Department that administer Indian programs to the extent of such programs; and

"(iv) coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

"(C) To the extent practicable, in employing any staff for the office of the Special Assistant for Indian and Alaska Native Programs and to conduct activities of regional offices relating to Indian programs, the Secretary shall give preference to individuals who are Indians.

"(D) The Secretary shall include in the annual report under section 8 a description of the extent of the housing needs for Indian families and community development needs of Indian tribes in the United States and the activities of the Department, and extent of such activities, in meeting such needs.".

(2) Transfer of functions.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall transfer to the Special Assistant for Indian and Alaska Native Programs any functions and duties described in section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as amended by paragraph (1) of this subsection).

(3) Staff.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall transfer from offices within the Department of Housing and Urban Development to the office of the Special Assistant for Indian and Alaska Native Programs such staff, having experience and capacity to administer Indian housing and community development programs, as may be necessary and appropriate to assist the Special Assistant in carrying out the responsibilities under section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as amended by paragraph (1) of this subsection).

(b) Avoidance of Foreclosure on Mortgages Held by Secretary.—Section 7(i) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)) is amended—

(1) in paragraph (5), by inserting before the semicolon the following: "; except that with respect to any mortgage held by the Secretary, the Secretary shall, subject to the availability of amounts provided in appropriation Acts, implement the authority under this paragraph to reduce the interest rate on the mortgage to a rate not less than the rate for recently issued marketable obligations of the Treasury having a comparable maturity if (and to the extent that) such a reduction, when taken together with other actions authorized under the National Housing Act, is necessary to avoid foreclosure on the mortgage; and except that for any mortgage for which the interest rate is reduced pursuant to an appropriation under the preceding clause, if the Secretary determines that the income or ability of the mortgagor to make interest payments has increased, the Secretary may (not more than once for each such mortgage) increase such interest rate to a rate not exceeding the prevailing market rate, as determined by the Secretary"; and

(2) in paragraph (6), by inserting before the period the following: ", including any provisions relating to the authority or requirements under paragraph (5)".

(c) Negotiated Rulemaking Procedure.—Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) is amended—

(1) by redesignating paragraph (7) as paragraph (5); and

(2) by adding at the end the following new paragraph:

"(6) In developing and issuing any rule or regulation of the Department, the Secretary shall consider using (under section 583 of title 5, United States Code; as added by section 3(a) of the Negotiated Rulemaking Act of 1990) the negotiated rulemaking procedures under subchapter IV of such title (as added by such section 3(a)) and shall use such procedures unless the Secretary determines that use of such procedures is not in the public interest.".

(d) Program Monitoring and Evaluation.—The first sentence of section 7(r)(6) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)(6)) is amended to read as follows: "There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1993.".

SEC. 903. PARTICIPANT'S CONSENT TO RELEASE OF INFORMATION.

(a) In General.—Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) is amended by adding at the end the following new subsection:

"(e) Conditions of Release of Information by Third Parties.—An applicant or participant under any program of the Department of Housing and Urban Development may not be required or requested to consent to the release of information by third parties as a condition of initial or continuing eligibility for participation in the program unless—

"(1) the request for consent is made, and the information secured is maintained, in accordance with this section, section 552a of title 5, United States Code; and

"(2) the consent that is requested is appropriately limited, with respect to time and information relevant and necessary to meet the requirements of this section.".

(b) Forms.—

(1) New form.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall develop a release form that meets the requirements of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by this section. In developing the form, the Secretary shall consult with interested parties, which shall include not less than 2 representatives of public housing agencies, 1 representative of a national tenant organization, 1 representative of a State tenant organization, and 1 representative of a legal group representing tenants.

(2) Effect of old form.—During the period beginning upon the date of the enactment of this Act and ending upon implementation of the use of the form developed under paragraph (1), the benefits provided to an applicant or participant under any program of the Department of Housing and Urban Development, or eligibility for such benefits, may not be terminated, denied, suspended, or reduced because of any failure to sign any form authorizing the release of information from any third party (including Form HUD–9886), if the applicant or participant otherwise discloses all financial information relating to the application or recertification.

SEC. 904. NATIONAL INSTITUTE OF BUILDING SCIENCES.

(a) Technical Correction to Housing and Community Development Act of 1974.—Section 809 of the Housing and Community Development Act of 1974 (12 U.S.C. 1701j–2) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the material inserted by the amendment made by section 952(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4418).

(b) Technical Correction to National Housing Act.—Section 809 of the National Housing Act is amended by striking subsection (h) (as added by section 952(b) of the Cranston-Gonzalez National Affordable Housing Act).

SEC. 905. FAIR HOUSING INITIATIVES PROGRAM.

(a) Authorization of Appropriations.—The first sentence of section 561(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended to read as follows: "There is authorized to be appropriated to carry out the provisions of this section, including any program evaluations, $6,552,000 for fiscal year

1993, of which such sums as may be necessary shall be for education and outreach activities.".

(b) EXTENSION OF PROGRAM.—Section 561(e) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended by striking "September 30, 1992" and inserting "September 30, 1993".

SEC. 906. NATIONAL COMMISSION ON MANUFACTURED HOUSING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 943(f) of the Cranston-Gonzalez National Affordable Housing Act is amended to read as follows:

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1993. Any amounts appropriated pursuant to this section shall remain available until expended.".

(b) EXTENSION OF TERMINATION DATE.—Section 943(g) of the Cranston-Gonzalez National Affordable Housing Act is amended by striking "upon the expiration of the 9 months following the appointment of all the members under subsection (c)" and inserting "on October 1, 1993".

(c) STAFF.—Section 943(e) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625; 104 Stat. 44134) is amended by adding at the end the following new paragraph:

"(7) STAFF.—

"(A) EXECUTIVE DIRECTOR.—The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the Commission, but which may not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

"(B) PERSONNEL.—In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as the Commission deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(C) LIMITATION.—This paragraph shall be effective only to the extent amounts for the executive director or personnel are made available in appropriation Acts.".

SEC. 907. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.

(a) APPLICABILITY TO MORTGAGE ORIGINATION.—Section 3(3) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(3)) is amended by inserting after "broker," the following: "the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans),".

(b) APPLICABILITY TO SECOND MORTGAGES AND REFINANCINGS.—Section 3(1)(A) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(1)(A)) is amended—

(1) by inserting "or subordinate" after "first"; and

(2) by inserting before the semicolon the following: ", including any loan secured by a subordinate lien, the proceeds of which are used to make payments under, or prepay, a prior loan secured by a senior lien on the same property".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue regulations to implement the amendments made by this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

SEC. 908. DISCLOSURES UNDER THE HOME MORTGAGE DISCLOSURE ACT OF 1975.

(a) IN GENERAL.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by adding at the end the following new subsections:

"(j) LOAN APPLICATION REGISTER INFORMATION.—

"(1) IN GENERAL.—In addition to the information required to be disclosed under subsections (a) and (b), any depository institution which is required to make disclosures under this section shall make available to the public, upon request, loan application register information (as defined by the Board by regulation) in the form required under regulations prescribed by the Board.

"(2) FORMAT OF DISCLOSURE.—

"(A) UNEDITED FORMAT.—Subject to subparagraph (B), the loan application register information described in paragraph (1) may be disclosed by a depository institution without editing or compilation and in the format in which such information is maintained by the institution.

"(B) PROTECTION OF APPLICANT'S PRIVACY INTEREST.—The Board shall require, by regulation, such deletions as the Board may determine to be appropriate to protect—

"(i) any privacy interest of any applicant, including the deletion of the applicant's name and identification number, the date of the application, and the date of any determination by the institution with respect to such application; and

"(ii) a depository institution from liability under any Federal or State privacy law.

"(C) CENSUS TRACT FORMAT ENCOURAGED.—It is the sense of the Congress that a depository institution should provide loan register information under this section in a format based on the census tract in which the property is located.

"(3) CHANGE OF FORM NOT REQUIRED.—A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in the form in which the institution maintains such information.

"(4) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides information under this subsection may impose a reasonable fee for any cost incurred in reproducing such information.

"(5) TIME OF DISCLOSURE.—The disclosure of the loan application register information described in paragraph (1) for any year pursuant to a request under paragraph (1) shall be made—

"(A) in the case of a request made on or before March 1 of the succeeding year, before April 1 of the succeeding year; and

"(B) in the case of a request made after March 1 of the succeeding year, before the end of the 30-day period beginning on the date the request is made.

"(6) RETENTION OF INFORMATION.—Notwithstanding subsection (c), the loan application register information described in paragraph (1) for any year shall be maintained and made available, upon request, for 3 years after the close of the 1st year during which such information is required to be maintained and made available.

"(7) MINIMIZING COMPLIANCE COSTS.—In prescribing regulations under this subsection, the Board shall make every effort to minimize the costs incurred by a depository institution in complying with this subsection and such regulations.

"(k) DISCLOSURE OF STATEMENTS BY DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—In accordance with procedures established by the Board pursuant to this section, any depository institution required to make disclosures under this section—

"(A) shall make a disclosure statement available, upon request, to the public no later than 3 business days after the institution receives the statement from the Federal Financial Institutions Examination Council; and

"(B) may make such statement available on a floppy disc which may be used with a personal computer or in any other media which is not prohibited under regulations prescribed by the Board.

"(2) NOTICE THAT DATA IS SUBJECT TO CORRECTION AFTER FINAL REVIEW.—Any disclosure statement provided pursuant to paragraph (1) shall be accompanied by a clear and conspicuous notice that the statement is subject to final review and revision, if necessary.

"(3) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides a disclosure statement pursuant to paragraph (1) may impose a reasonable fee for any cost incurred in providing or reproducing such statement.

"(l) PROMPT DISCLOSURES.—

"(1) IN GENERAL.—Any disclosure of information pursuant to this section or section 310 shall be made as promptly as possible.

"(2) MAXIMUM DISCLOSURE PERIOD.—

"(A) 6- AND 9-MONTH MAXIMUM PERIODS.—Except as provided in subsections (j)(5) and (k)(1) and regulations prescribed by the Board and subject to subparagraph (B), any information required to be disclosed for any year beginning after December 31, 1992, under—

"(i) this section shall be made available to the public before September 1 of the succeeding year; and

"(ii) section 310 shall be made available to the public before December 1 of the succeeding year.

"(B) SHORTER PERIODS ENCOURAGED AFTER 1994.—With respect to disclosures of information under this section or section 310 for any year beginning after December 31, 1993, every effort shall be made—

"(i) to make information disclosed under this section available to the public before July 1 of the succeeding year; and

"(ii) to make information required to be disclosed under section 310 available to the public before September 1 of the succeeding year.

"(3) IMPROVED PROCEDURE.—The Federal Financial Institutions Examination Council shall make such changes in the system established pursuant to subsection (f) as may be necessary to carry out the requirements of this subsection.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 304(c) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(c)) is amended by inserting ", other than loan application register information under subsection (j)," after "under this section".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to information disclosed under section 304 of the Home Mortgage Disclosure Act of 1975 for any year which ends after the date of the enactment of this Act.

SEC. 909. COMMUNITY REINVESTMENT ACT OF 1977.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) by inserting before the first sentence the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) MAJORITY-OWNED INSTITUTIONS.—In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency shall consider and give credit for capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions that help meet the credit needs of local communities in which such institutions and credit unions are chartered.".

SEC. 910. TEMPORARY INAPPLICABILITY OF CERTIFICATION OF LIMITATION OF ASSISTANCE FOR MULTIFAMILY PROJECTS.

Section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall not apply with respect to any assistance within the jurisdiction of the Department of Housing and Urban Development (as such term is defined in section 102(m) of such Act) for housing—

(1) that consists of 5 or more dwelling units;

(2) that is—

(A) insured or to be insured under title II of the National Housing Act;

(B) assisted or to be assisted under title II of the Cranston-Gonzalez National Affordable Housing Act;

(C) assisted or to be assisted under—

(i) section 441 of the Stewart B. McKinney Homeless Assistance Act, as in effect before the date of the effectiveness of the amendment made by section 821(a) of the Cranston-Gonzalez National Affordable Housing Act; or

(ii) subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act, as in effect after the date of the effectiveness of such amendment; or

(D) assisted or to be assisted under section 8 of the United States Housing Act of 1937; and

(3) for which an application for assistance within the jurisdiction of the Department is submitted to the Secretary before September 30, 1994.

SEC. 911. REESTABLISHMENT OF SOLAR BANK.

(a) Reestablishment.—

(1) Authority of Secretary to provide for reestablishment.—Notwithstanding the termination of the Solar Energy and Energy Conservation Bank under section 505(a) of the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3603(a)), the Secretary of Housing and Urban Development shall take such actions as may be necessary to reestablish the Solar Energy and Energy Conservation Bank under such Act. The Bank shall have the powers, carry out the functions, and operate as provided under such Act and sections 315 and 316 of the Federal National Mortgage Association Charter Act (21 U.S.C. 1723g–1723h).

(2) Board of directors, officers, and advisory committees.—The positions of the Board of Directors of the Solar Energy and Energy Conservation Bank, officers and personnel of the Bank, the Energy Conservation Advisory Committee, and the Solar Energy Advisory Committee shall be established and filled in the manner provided under the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3601 et seq.).

(3) Regulations.—The Secretary of Housing and Urban Development shall issue any regulations necessary to carry out this section.

(b) Continuation of Bank.—Section 505(a) of the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3603(a)) is amended by striking the last sentence.

(c) Technical Amendments.—The Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3601 et seq.) is amended—

(1) in section 505(b), by striking "this subtitle" and inserting "the Housing and Community Development Act of 1992";

(2) in section 509(b)(1), by striking "this subtitle" the second place it appears and inserting "the Housing and Community Development Act of 1992";

(3) in section 515(a)(3), by striking "the National Bureau of Standards" and inserting "the National Institute of Standards and Technology";

(4) in section 519(b), by striking "this subtitle" and inserting "the Housing and Community Development Act of 1992";

(5) in section 520(a), by striking "this subtitle" the first place it appears and inserting "the Housing and Community Development Act of 1992"; and

(6) in section 520(b), by striking "90 days after the effective date of this subsection" and inserting "180 days after the date of the enactment of the Housing and Community Development Act of 1992".

(d) Authorization of Appropriations.—Section 522(a) of the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3620(a)) is amended to read as follows:

"Sec. 522. (a) There are authorized to be appropriated to provide financial assistance under this subtitle for the purchase and installation of residential and commercial energy conservation improvements and solar energy systems such sums as may be necessary for fiscal year 1993.".

SEC. 912. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO LABOR WAGE RATES UNDER HOUSING PROGRAMS.

(a) Supportive Housing for the Elderly.—Section 202(j)(5) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(5)), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended to read as follows:

"(5) Labor.—

"(A) In general.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this section shall be paid wages at rates not less than the rates prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act).

"(B) Exemption.—Subparagraph (A) shall not apply to any individual who—

"(i) performs services for which the individual volunteered;

"(ii)(I) does not receive compensation for such services; or

"(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(iii) is not otherwise employed at any time in the construction work.".

(b) Supportive Housing for Persons With Disabilities.—Section 811(j)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(j)(6)) is amended—

(1) by striking "(6) Labor standards.—The Secretary" and inserting the following:

"(6) Labor standards.—

"(A) In general.—The Secretary";

(2) by striking "assisted under this section and designed for dwelling use by 12 or more persons with disabilities" and inserting "with 12 or more units assisted under this section";

(3) by inserting "commonly known as" before "the Davis-Bacon Act";

(4) by striking "; but the Secretary" and all that follows through "undertaking the construction"; and

(5) by adding at the end the following new subparagraph:

"(B) Exemption.—Subparagraph (A) shall not apply to any individual who—

"(i) performs services for which the individual volunteered;

"(ii)(I) does not receive compensation for such services; or

"(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(iii) is not otherwise employed at any time in the construction work.".

SEC. 913. ENERGY EFFICIENT MORTGAGES.

(a) Definition of Energy Efficient Mortgage.—Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704), as amended by section 210(a)(1) of this Act, is further amended by adding at the end the following new paragraph:

"(25) The term 'energy efficient mortgage' means a mortgage that provides financial incentives for the purchase of energy efficient homes, or that provides financial incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.".

(b) Uniform Mortgage Financing Plan for Energy Efficiency.—Section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) is amended—

(1) in subsection (a), by striking "mortgage financing incentives for energy efficiency" and inserting "energy efficient mortgages (as such term is defined in section 104 of this Act)"; and

(2) in subsection (b)—

(A) in the second sentence, by inserting ", but not be limited to," after "include"; and

(B) by inserting after the period at the end the following new sentence: "The Task Force shall determine whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines.".

SEC. 914. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.

(a) Housing and Urban Development Act of 1968.—Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is amended to read as follows:

"SEC. 3. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY-LOW INCOME PERSONS.

"(a) Findings.—The Congress finds that—

"(1) Federal housing and community development programs provide State and local governments and other recipients of Federal financial assistance with substantial funds for projects and activities that produce significant employment and other economic opportunities;

"(2) low- and very low-income persons, especially recipients of government assistance for housing, often have restricted access to employment and other economic opportunities;

"(3) the employment and other economic opportunities generated by projects and activities that receive Federal housing and community development assistance offer an effective means of empowering low- and very low-income persons, particularly persons who are recipients of government assistance for housing; and

"(4) past Federal efforts to direct employment and other economic opportunities generated by Federal housing and community development programs to low- and very low-income persons have not been fully effective and should be intensified.

"(b) Policy.—It is the policy of the Congress and the purpose of this section to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.

"(c) Employment.—

"(1) Public and Indian housing program.—

"(A) In general.—The Secretary of Housing and Urban Development shall require that public housing agencies and Indian housing authorities, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons the training and employment opportunities generated by development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of such Act, and modernization grants provided pursuant to section 14 of such Act.

"(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

"(i) To residents of the housing developments for which the assistance is expended.

"(ii) To residents of other developments managed by the public housing agency or Indian housing authority that is expending the assistance.

"(iii) To other low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

"(2) OTHER PROGRAMS.—

"(A) IN GENERAL.—In other programs that provide housing and community development assistance, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction projects are given to low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

"(B) PRIORITY.—Where feasible, priority should be given to low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located.

"(d) CONTRACTING.—

"(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

"(A) IN GENERAL.—The Secretary shall require that public housing agencies and Indian housing authorities, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to award contracts for work to be performed in connection with development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of such Act, and modernization grants provided pursuant to section 14 of such Act, to business concerns that provide economic opportunities for low- and very low-income persons.

"(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

"(i) To business concerns that provide economic opportunities for residents of the housing development for which the assistance is provided.

"(ii) To business concerns that provide economic opportunities for residents of other housing developments operated by the public housing agency and Indian housing authority that is providing the assistance.

"(iii) To business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

"(2) OTHER PROGRAMS.—

"(A) IN GENERAL.—In providing housing and community development assistance pursuant to other programs, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, contracts awarded for work to be performed in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

"(B) PRIORITY.—Where feasible, priority should be given to business concerns which provide economic opportunities for low- and very low-income persons residing within the service areas of the project or the neighborhoods in which the project is located.

"(e) DEFINITIONS.—For the purposes of this section:

"(1) LOW- AND VERY LOW-INCOME PERSONS.—The terms 'low-income persons' and 'very low-income persons' have the same meanings given the terms 'low-income families' and 'very low-income families', respectively, in section 3(b) of the United States Housing Act of 1937.

"(2) BUSINESS CONCERN THAT PROVIDES ECONOMIC OPPORTUNITIES.—The term 'a business concern that provides economic opportunities' means a business concern that—

"(A) provides economic opportunities for a class of persons that has a majority controlling interest in the business;

"(B) employs a substantial number of such persons; or

"(C) meets such other criteria as the Secretary may establish.

"(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and such other Federal agencies as the Secretary determines are necessary to carry out this section.

"(g) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue regulations to implement this section.".

(b) STUDY OF THE EFFECTIVENESS OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than 1 year after the date of the enactment of this Act, a report describing—

(A) the Secretary's efforts to enforce section 3 of the Housing and Urban Development Act of 1968, as amended by subsection (a) of this section;

(B) the barriers to full implementation of section 3 of the Housing and Urban Development Act of 1968;

(C) the anticipated costs and benefits of full implementation of section 3 of the Housing and Urban Development Act of 1968; and

(D) recommendations for legislative changes to enhance the effectiveness of section 3 of the Housing and Urban Development Act of 1968.

(2) CONTENTS.—

(A) ENFORCEMENT.—The description under paragraph (1)(A) of the Secretary's enforcement efforts shall include, at a minimum—

(i) a discussion of how responsibility for implementing section 3 of the Housing and Urban Development Act of 1968 is allocated within the Department of Housing and Urban Development;

(ii) a discussion of the status of existing regulations implementing such section 3;

(iii) a discussion of ongoing efforts to enforce current regulations;

(iv) a list of the programs under the responsibility of the Secretary with respect to which the Secretary is enforcing section 3; and

(v) a separate description of the activities carried out under section 3 with respect to each of these programs.

(B) IMPEDIMENTS.—The discussion under paragraph (1)(B) of the external impediments to effective enforcement of section 3 of the Housing and Urban Development Act of 1968 shall include, at a minimum, a discussion of—

(i) any lack of necessary training for targeted employees and technical assistance to targeted businesses;

(ii) any barriers created by Federal, State, or local procurement regulations or other laws;

(iii) any difficulties in coordination with labor unions;

(iv) any difficulties in coordination with other implicated Federal agencies; and

(v) any lack of resources on the part of recipients of assistance who are responsible for carrying out section 3 of the Housing and Urban Development Act of 1968.

(3) CONSULTATION.—In preparing the report under this subsection, the Secretary shall consult with the Secretary of Labor, the Secretary of Commerce, the Secretary of Health and Human Services, the Administrator of the Small Business Administration, other appropriate Federal officials, and recipients of Federal housing and community development assistance who are responsible for executing section 3 of the Housing and Urban Development Act of 1968.

SEC. 915. NATIONAL AMERICAN INDIAN HOUSING COUNCIL.

There is authorized to be appropriated for assistance for the National American Indian Housing Council such sums as may be necessary for fiscal year 1993, for providing training and technical assistance to Indian housing authorities.

SEC. 916. STUDY REGARDING FORECLOSURE ALTERNATIVES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study to review and analyze alternatives to foreclosure for homeowners whose principal residences are subject to federally-related mortgages (in connection with federally related mortgage loans, as such term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974) under which the homeowner is in default. In conducting the study, the Secretary—

(1) may consult with any appropriate Federal agencies that make, insure, or guarantee mortgage loans relating to 1- to 4-family dwellings and with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, and the Federal Agricultural Mortgage Corporation; and

(2) shall review and assess the adequacy, with respect to providing alternatives to foreclosure, of—

(A) the temporary mortgage assistance payments program authorized under section 230 of the National Housing Act;

(B) the authority of the Secretary to modify interest rates and other terms of mortgages transferred to the Secretary under section 7(i) of the Department of Housing and Urban Development Act; and

(C) any authority pursuant to Debt Collection Act of 1982 to reduce interest rates on outstanding debt to the borrowing rate for the Treasury of the United States.

The Secretary shall evaluate alternatives to foreclosure based on fairness of the procedures to the homeowner and reducing adverse effects on the mortgage lending system.

(b) REPORT.—Not later than March 1, 1993, the Secretary shall submit a report to the Congress regarding the results of the study conducted under subsection (a). The report shall contain a detailed description and assessment of each alternative to foreclosure analyzed under the study and a statement by the Secretary regarding the intent of the Secretary to use any authority available under the provisions referred to in subsection (a)(2) to avoid foreclosure under mortgages (and any reasons for not using such authority). The report may also contain any recommendations of the Secretary for administrative or legislative action to assist homeowners to avoid foreclosure and any loss of equity in their mortgaged homes that may result from foreclosure.

TITLE X—HOUSING PROGRAMS UNDER STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the "Stewart B. McKinney Homeless Housing Assistance Amendments Act of 1992".

SEC. 1002. EMERGENCY SHELTER GRANTS PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows:

"SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subtitle $143,520,000 for fiscal year 1993.".

(b) EMPLOYMENT OF HOMELESS INDIVIDUALS.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(1) in paragraph (4) (as follows paragraph (3)), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon;

(3) in the paragraph that follows paragraph (5) (as added by section 832(h)(3) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4362))—

(A) by redesignating the paragraph as paragraph (6); and

(B) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(7) it will utilize, to the maximum extent practicable, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this subtitle, in providing services assisted under this subtitle, and in providing services for occupants of facilities assisted under this subtitle.".

(c) PARTICIPATION OF HOMELESS INDIVIDUALS.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding at the end the following new subsection:

"(d) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient assisted under this subtitle, or to otherwise provide for the consultation and participation of such an individual in considering and making such policies and decisions.".

(d) TERMINATION OF ASSISTANCE.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding after subsection (d) (as added by subsection (c) of this section) the following new subsection:

"(e) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law.".

SEC. 1003. SUPPORTIVE HOUSING PROGRAM.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by striking subtitles C and D and inserting the following new subtitle:

"Subtitle C—Supportive Housing Program

"SEC. 421. PURPOSE.

"The purpose of the program under this subtitle is to promote the development of innovative approaches for the provision of supportive housing and supportive services to assist homeless persons, especially homeless families and homeless persons with disabilities, in the transition from homelessness and to promote the provision of supportive housing to homeless persons to enable them to live as independently as possible.

"SEC. 422. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'applicant' means a State, Indian tribe, metropolitan city, urban county, governmental entity, private nonprofit organization, or community mental health association that is a public nonprofit organization, that is eligible to receive assistance under this subtitle and submits an application under section 426(a).

"(2) The term 'disability' means a physical disability (including the disease of acquired immunodeficiency syndrome and any conditions arising from the etiologic agent for such disease) or mental disability (including a substance abuse disorder), that impedes an individual's ability to live independently.

"(3) The term 'Indian tribe' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

"(4) The term 'metropolitan city' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'operating costs' means expenses incurred by a recipient operating supportive housing under this subtitle with respect to—

"(A) the administration, maintenance, repair, and security of such housing;

"(B) utilities, fuel, furnishings, and equipment for such housing; and

"(C) the conducting of the assessment under section 426(c)(2).

"(6) The term 'outpatient health services' mean outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management.

"(7) The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(8) The term 'project' means a structure or structures (or a portion of such structure or structures) that is acquired, rehabilitated, constructed, or leased with assistance provided under this subtitle or with respect to which the Secretary provides technical assistance or annual payments for operating costs under this subtitle, or supportive services.

"(9) The term 'recipient' means any governmental or nonprofit entity that receives assistance under this subtitle.

"(10) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) The term 'supportive housing' means a project that meets the requirements of section 424.

"(13) The term 'supportive services' means services under section 425.

"(14) The term 'urban county' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 423. ELIGIBLE ACTIVITIES.

"(a) IN GENERAL.—The Secretary may provide any project with one or more of the following types of assistance under this subtitle:

"(1) ACQUISITION AND REHABILITATION.—A grant for acquisition, rehabilitation, or acquisition and rehabilitation of an existing structure (including a small commercial property or office space) to provide supportive housing other than emergency shelter or to provide supportive services. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as supportive housing, or to provide supportive services, before the receipt of assistance.

"(2) NEW CONSTRUCTION.—A grant or advance for new construction of a structure to provide supportive housing or supportive services.

"(3) LEASING.—A grant for leasing of an existing structure or structures, or portions thereof, to provide supportive housing or supportive services during the period covered by the application. Grant recipients may reapply for such assistance as needed to continue the use of such structure to provide supportive housing or supportive services.

"(4) OPERATING COSTS.—Annual payments for operating costs of supportive housing (without regard to whether the housing is an existing structure). Grant recipients may reapply for such assistance as needed to continue the use of the project to provide supportive housing or supportive services.

"(5) SUPPORTIVE SERVICES.—A grant for costs of supportive services provided to homeless individuals. Such services may be provided independently from supportive housing and may be provided to homeless persons that do not reside in the supportive housing. Any recipient may reapply for such assistance or for the renewal of such assistance to continue services funded under prior grants or to provide other services.

"(6) TECHNICAL ASSISTANCE.—Technical assistance in—

"(A) establishing supportive housing;

"(B) operating supportive housing; and

"(C) providing supportive services to homeless individuals.

"(b) USE RESTRICTIONS.—

"(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—Projects assisted under subsection (a)(1) or (2) shall be operated for not less than 20 years for the purpose specified in the application. The recipient of any such assistance shall repay the assistance to the Secretary on such terms as may be prescribed by the Secretary in accordance with subsection (c) if the project is used as supportive housing for less than the 20-year period beginning on the date that the project is placed in service.

"(2) OTHER ASSISTANCE.—Projects assisted under subsection (a)(3), (4), (5), or (6) (but not under subsection (a)(1) or (2)) shall be operated for the purposes specified in the application for the duration of the period covered by the grant.

"(3) CONVERSION.—If the Secretary determines that a project is no longer needed for use of supportive housing and approves the use of the project for the direct benefit of low-income persons pursuant to a request for such use by the recipient operating the project, the Secretary may authorize the recipient to convert the project to such use.

"(c) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

"(1) REPAYMENT.—The Secretary shall require recipients to repay 100 percent of any assistance received under subsection (a)(1) or (2) if the project is used as supportive housing for fewer than 10 years after the project is placed in service. If such project is used as supportive housing for more than 10 years, the Secretary shall reduce the percentage of the amount required to be repaid by 10 percentage points for each year in excess of 10 that the project is used as supportive housing.

"(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), upon any sale or other disposition of a project assisted under subsection (a)(1) or (2) occurring before the expiration of the 20-year period beginning on the date that the project is placed in service, the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from such sale or disposition.

"(3) EXCEPTION.—A recipient shall not be required to comply with the terms and conditions prescribed under paragraphs (1) and (2) if the sale or disposition of the project results in the use of the project for the direct benefit of very low-income persons or if all of the proceeds are used to provide supportive housing meeting the requirements of this subtitle.

"SEC. 424. SUPPORTIVE HOUSING.

"(a) IN GENERAL.—Housing providing supportive services for homeless individuals shall be considered supportive housing for purposes of this subtitle if—

"(1) the housing is safe and sanitary and meets any applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located; and

"(2) the housing—

"(A) is transitional housing;

"(B) is permanent housing for homeless persons with disabilities; or

"(C) is, or is part, of a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families.

"(b) TRANSITIONAL HOUSING.—For purposes of this section, the term 'transitional housing' means housing, the purpose of which is to facilitate and move homeless individuals and families to independent living within 24 months (or such longer period as the Secretary determines is necessary to facilitate the transition of homeless individuals to independent living). Any project that has as its purpose facilitating the movement of homeless individuals to independent living within 24 months (or such other period determined pursuant to this subparagraph) may not be denied assistance solely because the facility permits homeless individuals to reside in the facility for more than 24 months (or such other period determined pursuant to this subparagraph).

"(c) PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.—For purposes of this section, the term 'permanent housing for homeless persons with disabilities' means community-based housing for handicapped homeless persons that provides long-term housing and supportive services for not more than—

"(1) 8 such persons in a single structure or contiguous structures;

"(2) 16 such persons, but only if not more than 20 percent of the units in a structure are designated for such persons; or

"(3) more than 16 persons if the applicant demonstrates that local market conditions dictate the development of a large project and such development will achieve the neighborhood integration objectives of the program within the context of the affected community.

"(d) SINGLE ROOM OCCUPANCY DWELLINGS.—A project may provide supportive housing or supportive services in dwelling units that do not contain bathrooms or kitchen facilities and are appropriate for use as supportive housing or in projects containing some or all such dwelling units.

"SEC. 425. SUPPORTIVE SERVICES.

"(a) IN GENERAL.—To the extent practicable, each project shall provide supportive services for residents of the project and homeless persons using the project, which may be designed by the recipient or participants.

"(b) REQUIREMENTS.—Supportive services provided in connection with a project shall, in the determination of the Secretary address the special needs of homeless persons (such as homeless persons with disabilities and homeless families with children) intended to be served by a project.

"(c) SERVICES.—Supportive services may include such activities as (A) establishing and operating a child care services program for homeless families, (B) establishing and operating an employment assistance program, (C) providing outpatient health services, food, and case management, (D) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling, (E) providing security arrangements necessary for the protection of residents of supportive housing and for homeless persons using the housing or project, (F) providing assistance in obtaining other Federal, State, and local assistance available for such residents (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment), and (G) providing other appropriate services.

"(d) PROVISION OF SERVICES.—All or part of the supportive services provided in connection with a project may be provided directly by the recipient or by arrangements with other public or private service providers.

"(e) COORDINATION WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—

"(1) APPROVAL.—Promptly upon receipt of any application for assistance under this subtitle that includes the provision of outpatient health services, the Secretary of Housing and Urban Development shall consult with the Secretary of Health and Human Services with respect to the proposed outpatient health services. If the Secretary of Health and Human Services determines that the proposal for delivery of the outpatient health services does not meet guidelines for determining the appropriateness of such proposed services, the Secretary of Housing and Urban Development may require resubmission of the application. The Secretary of Housing and Urban Development may not approve such portion of the application unless and until such portion has been resubmitted in a form that the Secretary of Health and Human Services determines meets such guidelines.

"(2) GUIDELINES.—The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining the appropriateness of proposed outpatient health services under this section. Such guidelines shall include any provisions necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this subtitle for the final selection of applications for assistance.

"SEC. 426. PROGRAM REQUIREMENTS.

"(a) APPLICATIONS.—

"(1) FORM AND PROCEDURE.—Applications for assistance under this subtitle shall be submitted by applicants in the form and in accordance with the procedures established by the Secretary. The Secretary may not give preference or priority to any application on the basis that the application was submitted by any particular type of applicant entity.

"(2) CONTENTS.—The Secretary shall require that applications contain at a minimum—

"(A) a description of the proposed project, including the activities to be undertaken;

"(B) a description of the size and characteristics of the population that would occupy the supportive housing assisted under this subtitle;

"(C) a description of the public and private resources that are expected to be made available for the project;

"(D) in the case of projects assisted under section 423(a) (1) or (2), assurances satisfactory to the Secretary that the project will be operated for not less than 20 years for the purpose specified in the application;

"(E) in the case of projects assisted under this title that do not receive assistance under such sections, annual assurances during the period specified in the application that the project will be operated for the purpose specified in the application for such period;

"(F) a certification from the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the State or unit of general local government within which the project is located that the proposed project is consistent with the approved housing strategy of such State or unit of general local government; and

"(G) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(3) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 6-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assisted under section 423(a)(3) or housing which will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership for control of a suitable site different from the site specified in the application. If any recipient fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

"(b) SELECTION CRITERIA.—The Secretary shall select applicants approved by the Secretary as to financial responsibility to receive assistance under this subtitle by a national competition based on criteria established by the Secretary, which shall include—

"(1) the ability of the applicant to develop and operate a project;

"(2) the innovative quality of the proposal in providing a project;

"(3) the need for the type of project proposed by the applicant in the area to be served;

"(4) the extent to which the amount of assistance to be provided under this subtitle will be supplemented with resources from other public and private sources;

"(5) the cost-effectiveness of the proposed project;

"(6) the extent to which the applicant has demonstrated coordination with other entities serving homeless persons in the planning and operation of the project, to the extent practicable; and

"(7) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

"(c) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for any project under this subtitle unless the applicant agrees—

"(1) to operate the proposed project in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the supportive services required by homeless individuals served by the project and the availability of such services to such individuals;

"(3) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents and users of the project;

"(4) to monitor and report to the Secretary on the progress of the project;

"(5) to develop and implement procedures to ensure (A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through

any project assisted under this subtitle, and (B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person or persons responsible for the operation of such project; and

"(6) to utilize, to the maximum extent practicable, homeless individuals and families in constructing, rehabilitating, maintaining, and operating the project assisted under this subtitle and in providing supportive services for the project.

"(d) Occupancy Charge.—Each homeless individual or family residing in a project providing supportive housing shall pay an occupancy charge in an amount determined by the recipient providing the project, which may not exceed the amount determined under section 3(a) of the United States Housing Act of 1937. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

"(e) Matching Funding.—Each recipient shall be required to supplement any assistance provided under this subtitle with an amount, from sources other than this subtitle, equal to not less than 10 percent of the funds received under this subtitle.

"(f) Flood Protection Standards.—Flood protection standards applicable to housing acquired, rehabilitated, constructed, or assisted under this subtitle shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this title.

"(g) Participation of Homeless Individuals.—The Secretary shall, by regulation, require each recipient to provide for the participation of a significant number of homeless individuals or former homeless individuals on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this subtitle. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(h) Limitation on Use of Funds.—No assistance received under this subtitle (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist homeless persons or handicapped homeless persons.

"(i) Limitation on Administrative Expenses.—No recipient may use more than 5 percent of a grant received under this subtitle for administrative purposes.

"(j) Termination of Assistance.—If an individual or family who receives assistance under this subtitle (not including residents of an emergency shelter) from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 427. REGULATIONS.

"Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1992, the Secretary shall issue interim regulations to carry out this subtitle, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect uppon issuance.

"SEC. 428. REPORTS TO CONGRESS.

"The Secretary shall submit a report to the Congress annually, which summarizes the activities carried out under this subtitle and sets forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1993, the report shall be submitted not later than 6 months after the end of the fiscal year).

"SEC. 429. AUTHORIZATION OF APPROPRIATIONS.

"(a) Authorization of Appropriations.—There is authorized to be appropriated to carry out this subtitle $187,200,000 for fiscal year 1993.

"(b) Set-Asides.—Of any amounts appropriated to carry out this subtitle—

"(1) not less than 25 percent shall be allocated to projects designed primarily to serve homeless families with children;

"(2) not less than 25 percent shall be allocated to projects designed primarily to serve homeless persons with disabilities; and

"(3) not less than 10 percent shall be allocated for use only for providing supportive services under sections 423(a)(5) and 425, not provided in conjunction with supportive housing.

"(c) Reallocations.—If, following the receipt of applications for the final funding round under this subtitle for any fiscal year, any amount set aside for assistance pursuant to subsection (b) will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for other assistance pursuant to this subtitle.".

(b) Transition.—Notwithstanding the amendment made by subsection (a), before the date of the effectiveness of the regulations issued under section 427 of the Stewart B. McKinney Homeless Assistance Act (as amended by subsection (a) of this section) the Secretary may make grants under the provisions of subtitles C and D of the Stewart B. McKinney Homeless Assistance Act, as in effect immediately before the enactment of this Act. Any grants made before such effective date shall be subject to the provisions of such subtitles.

SEC. 1004. SAFE HAVENS FOR HOMELESS INDIVIDUALS DEMONSTRATION PROGRAM.

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after subtitle C (as added by section 1003(a) of this Act) the following new subtitle:

"Subtitle D—Safe Havens for Homeless Individuals Demonstration Program

"SEC. 431. ESTABLISHMENT OF DEMONSTRATION.

"(a) In General.—The Secretary may provide assistance to applicants in accordance with this subtitle to demonstrate the desirability and feasibility of providing low-cost housing, to be known as safe havens, for eligible persons who are at the time unable to participate in mental health treatment programs or to receive other supportive services.

"(b) Purposes.—The demonstration program carried out under this subtitle shall demonstrate—

"(1) whether eligible persons choose to reside in safe havens;

"(2) the extent to which, after a period of residence in a safe haven, residents are willing to participate in mental health or other appropriate treatment programs and to move toward a more traditional form of permanent housing and whether such permanent housing and treatment programs are available in the community;

"(3) whether safe havens are cost-effective in comparison with other alternatives for eligible persons; and

"(4) the various ways in which safe havens can be arranged to provide accommodations and supportive services for eligible persons.

"SEC. 432. DEFINITIONS.

"For purposes of this subtitle:

"(1) Applicant.—The term 'applicant' means a nonprofit corporation, public nonprofit organization, State, or unit of general local government.

"(2) Eligible person.—The term 'eligible person' means an individual who—

"(A) is seriously mentally ill or has chronic problems with drug or alcohol abuse (or both);

"(B) resides primarily in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, which may include occasional residence in an emergency shelter; and

"(C) is at the time unable to participate in mental health treatment programs or to receive other supportive services.

"(3) Facility.—The term 'facility' means a structure or a portion of a structure that is assisted under this subtitle.

"(4) Nonprofit organization.—The term 'nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(5) Operating costs.—The term 'operating costs' means expenses incurred by a recipient operating a safe haven under this subtitle with respect to—

"(A) the operation of the facility, including the cost of 24-hour management, and maintenance, repair, and security;

"(B) utilities, fuel, furnishings, and equipment for such housing; and

"(C) other reasonable costs necessary to the operation of the facility.

"(6) Recipient.—The term 'recipient' means an applicant that receives assistance under this subtitle.

"(7) Safe haven.—The term 'safe haven' means a facility that—

"(A) provides a 24-hour residence for an unspecified duration for eligible persons;

"(B) provides private, semiprivate accommodations;

"(C) may provide for the common use of dining rooms and bathrooms; and

"(D) in which occupancy is limited to no more than 25 persons.

"(8) Secretary.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(9) Seriously mentally ill.—The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(10) State.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(11) Supportive services.—The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons, and (B) provides appropriate services, or assists such persons, to obtain appropriate services, including health care, mental health services, substance and alcohol abuse services, case management services, coun-

seling, supervision, education, job training, and other services essential for achieving and maintaining independent living. The term does not include acute hospital care.

''(12) Unit of General Local Government.—The term 'unit of general local government' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

"SEC. 433. PROGRAM ASSISTANCE.

''(a) In General.—

''(1) Eligible Activities.—The Secretary may provide assistance with respect to a program under this subtitle for the following activities:

''(A) The construction of a structure for use in providing a safe haven or the acquisition, rehabilitation, or acquisition and rehabilitation of an existing structure for use in providing a safe haven.

''(B) The leasing of an existing structure for use in providing a safe haven.

''(C) To cover the operating costs of a safe haven.

''(D) To cover the costs of administering a safe haven program, not to exceed 10 percent of the amounts made available for activities under subparagraphs (A) through (C).

''(2) Period of Assistance.—Assistance may be provided to any safe haven program for activities under paragraphs (1)(B), (C), and (D) for a period of not more than 5 years, except that the Secretary may, upon application by the recipient, provide assistance for an additional period of time, not to exceed 5 years, subject to—

''(A) the determination of the Secretary that the performance of the recipient under this subtitle is satisfactory; and

''(B) the availability of future appropriations.

''(3) Limit on Amount.—The total amount of assistance provided to any recipient under this subsection may not exceed $400,000 in any 5-year period.

''(b) Matching Requirements.—

''(1) In General.—Each recipient shall supplement the assistance provided under this subtitle with an equal amount of funds from sources other than this subtitle. Each recipient shall certify to the Secretary that it has complied with this subsection, and shall include with the certification a description of the sources and amounts of such supplemental funds.

''(2) Determination of Matching Amounts.—In calculating the amount of supplemental funds provided under paragraph (1), a recipient may include any State, local agency, and private funds, the value of any lease on a building, any salary paid to staff to carry out the safe haven program of the recipient, and the value of the time and services contributed by volunteers, at a rate determined by the Secretary, to carry out the safe haven program of the recipient.

"SEC. 434. PROGRAM REQUIREMENTS.

''(a) Applications.—Applications for assistance under this subtitle shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish, and such applications shall contain at a minimum—

''(1) a description of the proposed facility;

''(2) a description of the number and characteristics of the eligible persons expected to occupy the safe haven;

''(3) a plan for identifying and selecting eligible persons to participate;

''(4) a program plan, containing a description of the method—

''(A) of operation of the facility, including staffing plans and facility rules;

''(B) by which the applicant will secure supportive services for residents of the safe haven;

''(C) by which the applicant will monitor the willingness of residents to engage in treatment programs and other supportive services;

''(D) by which access to supportive services will be secured for residents willing to use them;

''(E) by which access to permanent housing with appropriate services, such as the Shelter Plus Care program under subtitle F, will be sought after residents are stabilized; and

''(F) by which the applicant will conduct outreach activities to facilitate the entrance of eligible persons into the safe haven;

''(5) a plan to ensure that adequate security precautions are taken to make the facility safe for the residents;

''(6) an estimate of program costs;

''(7) a description of the resources that are expected to be made available in accordance with section 433(b);

''(8) assurances satisfactory to the Secretary that the facility will have 24-hour management;

''(9) assurances satisfactory to the Secretary that the facility will be operated for the purpose specified in the application for each year in which assistance is provided under this subtitle;

''(10) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the State or unit of general local government within which the facility is located that the proposed activities are consistent with the approved housing strategy for such jurisdiction;

''(11) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing;

''(12) a plan for program evaluation based on information that is collected on a periodic basis regarding the characteristics of the residents, including their movement in and out of the safe haven, their willingness to use supportive services, and their movement toward a more traditional form of permanent housing after a period of stabilization in the safe haven; and

''(13) such other information as the Secretary may require.

''(b) Site Control.—The Secretary shall require that an applicant furnish reasonable assurances that the applicant will have control of a site for the proposed facility not later than 1 year after notification of an award of assistance under this subtitle. If an applicant fails to obtain control of the site within this period, the grant shall be recaptured by the Secretary and reallocated for use under this subtitle.

''(c) Selection Criteria.—The Secretary shall establish selection criteria for selecting applicants to receive assistance under this subtitle pursuant to a national competition, which shall include—

''(1) the extent to which the applicant demonstrates the ability to develop and operate a safe haven;

''(2) the extent to which there is a need for a safe haven in the jurisdiction in which the facility will be located;

''(3) the extent to which the program would link eligible persons to permanent housing and supportive services after stabilization in a safe haven;

''(4) the cost-effectiveness of the proposed program;

''(5) providing for geographical diversity among applicants selected to receive assistance;

''(6) the extent to which the safe haven would meet the need of the eligible persons proposed to be served by the safe haven; and

''(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established under this subtitle in an effective and efficient manner.

''(d) Required Agreements.—The Secretary may not provide assistance under this subtitle for any safe haven program unless the applicant agrees—

''(1) to develop and operate the proposed facility as a safe haven in accordance with the provisions of this subtitle;

''(2) to ensure that the facility meets any standards of habitability established by the Secretary;

''(3) to provide mental health services for the residents of the safe haven;

''(4) to prohibit the use of illegal drugs and alcohol in the facility;

''(5) to ensure that adequate security precautions are taken to make the facility safe for the residents;

''(6) not to establish limitations on the duration of residency;

''(7) not to require participation in supportive services as a condition of occupancy;

''(8) to monitor and report to the Secretary on progress in carrying out the safe haven program;

''(9) to utilize, to the maximum extent practicable, eligible persons in constructing, renovating, maintaining, and operating facilities assisted under this subtitle and in providing services assisted under this subtitle;

''(10) to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such recipient (in accordance with regulations that the Secretary shall issue), to the extent that such entity considers and makes policies and decisions regarding any facility or services assisted under this subtitle, or to otherwise provide for the consultation and participation of such an individual in considering and making such policies and decisions; and

''(11) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program established under this subtitle in an effective and efficient manner.

"SEC. 435. OCCUPANCY CHARGE.

''Each eligible person who resides in a facility assisted under this subtitle shall pay an occupancy charge not in excess of the amount determined under section 3(a) of the United States Housing Act of 1937. The recipient providing a facility may establish an occupancy charge lower than such amount based on the type of living accommodations provided.

"SEC. 436. TERMINATION OF ASSISTANCE.

''If an eligible person who resides in a safe haven or receives supportive services under a safe haven program violates any program rules or requirements, the recipient may terminate such residency or assistance in accordance with a formal process, established by the recipient, that recognizes the rights of individuals residing in safe havens and receiving assistance to due process of law.

"SEC. 437. EVALUATION AND REPORT.

''The Secretary shall conduct an evaluation of the safe haven demonstration program under this subtitle and shall submit a report to the Congress, not later than December 31, 1994, which shall set forth the findings of the Secretary as a result of the evaluation.

"SEC. 438. REGULATIONS.

''Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1992, the Secretary shall issue interim regulations to carry out this subtitle, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration

of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

"SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subtitle $50,000,000 for fiscal year 1993.".

SEC. 1005. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) Budget Authority.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) Increase in Budget Authority.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1992) is authorized to be increased by $89,696,000 on or after October 1, 1992.".

(b) Employment of Homeless Individuals.—Section 441(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(c)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and";

(3) by inserting after paragraph (4) the following new paragraph:

"(5) assurances satisfactory to the Secretary that the applicant will utilize, to the maximum extent practicable, homeless individuals and families in rehabilitating and operating facilities assisted under this section and in providing services for occupants of such facilities.".

(c) Participation of Homeless Individuals and Termination of Assistance.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding at the end the following new subsections:

"(h) Participation of Homeless Individuals.—The Secretary shall, by regulation, require each public housing agency receiving assistance under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the agency, to the extent that such entity considers and makes policies and decisions regarding the rehabilitation of any housing with assistance under this section, or to otherwise provide for the consultation and participation of such an individual in considering and making such policies and decisions.

"(i) Termination of Assistance.—If an individual or family who receives assistance under this section violates program requirements, the recipient of amounts made available under this section may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law.".

SEC. 1006. SHELTER PLUS CARE PROGRAM.

(a) Authorization of Appropriations.—Section 459 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403h) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) In General.—For purposes of the housing programs under this subtitle, there is authorized to be appropriated $269,144,000 for fiscal year 1993. Of any amount appropriated in any fiscal year to carry out this subtitle—

"(1) not less than 10 percent shall be available only for carrying out part II of this subtitle;

"(2) not less than 10 percent shall be available only for carrying out part III of this subtitle;

"(3) not less than 10 percent shall be available only for carrying out part IV of this subtitle; and

"(4) not less than 10 percent shall be available only for carrying out part V of this subtitle.";

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(b) Participation of Homeless Individuals.—Section 455 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403d) is amended by adding at the end the following new subsection:

"(c) Participation of Homeless Individuals.—The Secretary shall, by regulation, require each recipient to provide for the consultation and participation of not less than 1 homeless individual or former homeless individual in considering and making policies and decisions of the recipient regarding any housing assisted under this title or services for such housing.".

(c) Employment of Homeless Individuals.—Section 456 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403e) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) to utilize, to the maximum extent practicable, homeless individuals and families in constructing or rehabilitating housing assisted under this title and in providing services required under this title.".

(d) Redesignation and Amendment of Part II Provisions.—Subtitle F of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

(1) Part II heading.—By amending the part heading for part II to read as follows:

"PART II—TENANT-BASED RENTAL ASSISTANCE"

(2) Parts II and IV.—By striking parts III and IV.

(3) Purpose.—By striking section 461 and inserting the following new section:

"SEC. 471. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide tenant-based rental housing assistance for eligible persons in accordance with this part.".

(4) Housing assistance.—By redesignating section 462 as section 472 and amending such section by striking "Where" and inserting the following: "An eligible person on behalf of whom assistance is provided under this part shall select the unit in which such person will live using rental assistance under this part; except that where".

(5) Amount of assistance.—By redesignating section 463 as section 473 and amending such section by striking the last sentence.

(e) Transfer, Redesignation, and Amendment of General Provisions.—Subtitle F of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

(1) Termination of assistance.—By redesignating section 457 as section 461.

(2) Definitions.—By redesignating section 458 as section 462 and amending such section—

(A) by striking paragraph (2) and inserting the following new paragraph:

"(2) The term 'applicant' means a State, unit of general local government, Indian tribe, or public housing agency."; and

(B) in paragraph (5), by inserting before the period at the end ", and includes community mental health centers established as public nonprofit organizations".

(3) Authorization of appropriations.—By redesignating section 459 (as amended by subsection (a) of this section) as section 463.

(4) Housing standards and rent reasonableness.—By redesignating section 464 as section 457, transferring and inserting such section after section 456, and amending subsection (a)(1) of such section by striking "(or if no such agency exists in the applicable area, an entity selected by the Secretary)".

(5) Tenant rent and administrative fees.—By transferring and inserting sections 465 and 466 after section 457 (as so redesignated by paragraph (4) of this subsection) and redesignating such sections as sections 458 and 459, respectively.

(6) Occupancy.—By inserting after section 459 (as so redesignated by paragraph (5) of this subsection) the following new section:

"SEC. 460. OCCUPANCY.

"(a) Occupancy Agreement.—The occupancy agreement between a tenant and an owner of a dwelling unit assisted under this subtitle shall be for at least one month.

"(b) Vacancy Payments.—If an eligible person vacates a dwelling unit assisted under this subtitle before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month that follows the month during which the unit was vacated, unless it is occupied by another eligible person.".

(f) Project- and Sponsor-Based Rental Assistance and Single Room Occupancy Dwellings.—Subtitle F of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq), as amended by the preceding provisions of this section, is further amended by inserting at the end the following new parts:

"PART III—PROJECT-BASED RENTAL ASSISTANCE

"SEC. 476. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide project-based rental housing assistance for eligible persons in accordance with this part.

"SEC. 477. HOUSING ASSISTANCE.

"Assistance under this part shall be provided pursuant to a contract between the recipient and an owner of an existing structure. The contract shall provide that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

"SEC. 478. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE.

"(a) Term of Contract.—Each contract with a recipient for assistance under this part shall be for a term of 5 years, and the owner shall have an option to renew the assistance for an additional 5-year term, subject to the availability of amounts provided in appropriation Acts; except that if an expenditure of at least $3,000 for each unit (including its prorated share of work on common areas or systems) is required to make the structure decent, safe, and sanitary, and the owner agrees to carry out the rehabilitation with resources other than assistance under this subtitle within 12 months of notification of grant approval, the contract shall be for a term of 10 years.

"(b) Amount of Assistance.—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 8(e) of the United States Housing Act of 1937 in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

"PART IV—SPONSOR-BASED RENTAL ASSISTANCE

"SEC. 481. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide sponsor-based rental assistance for eligible persons in accordance with this part.

"SEC. 482. HOUSING ASSISTANCE.

"Assistance under this part shall be provided pursuant to a contract between the recipient and a private nonprofit sponsor that owns or leases dwelling units. The contract shall provide that rental assistance payments shall be made to the sponsor and that such assisted units shall be occupied by eligible persons.

"SEC. 483. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE.

"(a) TERM OF CONTRACT.—The contract with a recipient of assistance under this part shall be for a term of 5 years.

"(b) AMOUNT OF ASSISTANCE.—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 8(e) of the United States Housing Act of 1937 in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

"PART V—SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE-ROOM OCCUPANCY DWELLINGS

"SEC. 486. AUTHORITY.

"The Secretary may use amounts made available under section 463 in connection with the moderate rehabilitation of single room occupancy housing described in section 8(l) of the United States Housing Act of 1937 for occupancy by eligible persons in accordance with this part. Amounts available under section 463 may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 487. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into under this part shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and any other fire safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 488. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 463 for use under this part shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part shall be given to homeless persons.".

(g) TECHNICAL AND CONFORMING AMENDMENTS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.), as amended by the preceding provisions of this section, is further amended—

(1) by striking the heading for part I and inserting the following new heading:

"PART I—GENERAL REQUIREMENTS";

(2) in section 452(a), by striking "and IV" and inserting "IV, and V"; and

(3) in section 454(b)—

(A) in paragraph (1), by striking "or IV" and inserting "IV, or V";

(B) in paragraph (8), by striking "or IV" and inserting "IV, or V";

(C) in paragraph (10)(A), by inserting ", or III" after "part II"; and

(D) in paragraph (11)—

(i) by striking "part III" and inserting "part V"; and

(ii) by striking "rehabilitation and".

SEC. 1007. FHA SINGLE FAMILY PROPERTY DISPOSITION.

(a) 30-DAY MARKETING PERIOD.—Except as provided in subsection (b), in carrying out the program for disposition of single family properties acquired by the Department of Housing and Urban Development for use by the homeless under subpart E of part 291 of title 24, Code of Federal Regulations, the Secretary of Housing and Urban Development may not make any eligible property available for lease under such program that has not been listed and made generally available for sale by the Secretary for a period of at least 30 days.

(b) EXCEPTION.—With respect to any area for which the Secretary determines that there will not be a sufficient quantity of decent, safe, and sanitary affordable housing available for use under the program referred to in subsection (a) if eligible properties located in the area are made generally available for the 30-day period under subsection (a), the Secretary shall reserve for disposition under such program not more than 10 percent of the total number of eligible properties located in the area and shall not market such properties as provided under subsection (a). The Secretary shall consult with the unit of general local government for an area in determining which properties should be reserved for disposition under this subsection.

SEC. 1008. RURAL HOMELESS HOUSING ASSISTANCE.

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle G—Rural Homeless Housing Assistance

"SEC. 491. DISPOSITION OF SINGLE FAMILY PROPERTIES ACQUIRED BY FMHA.

"(a) IN GENERAL.—Pursuant to the authority provided under section 510(e) of the Housing Act of 1949, the Secretary of Agriculture shall carry out a program to make eligible properties under this section available for acquisition by qualified applicants for use only for the purpose of providing housing for homeless individuals and families.

"(b) AVAILABILITY OF PROPERTIES.—In each fiscal year, the Secretary shall make available under the program under this section not less than 10 percent of the total number of eligible properties held by the Secretary.

"(c) METHODS OF ACQUISITION.—Eligible properties made available to qualified applicants under this section shall be available for lease with an option to purchase, for lease pursuant to a lease-option agreement to applicants for acquisition advances under the Supportive Housing Demonstration Program under subtitle C, and for purchase, in the same manner as properties are made available by the Secretary of Housing and Urban Development under the program for disposition of single family properties acquired by the Department of Housing and Urban Development for lease and sale for the homeless under subpart E of part 291, title 24, Code of Federal Regulations, as in effect on April 2, 1991.

"(d) EMPLOYMENT OF HOMELESS INDIVIDUALS.—A qualified applicant may only participate in a program under this section if the qualified applicant utilizes, to the maximum extent practicable, homeless individuals and families in maintaining, operating, and renovating any properties leased or acquired under this section and in providing any services for occupants of properties assisted under this section.

"(e) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each qualified applicant that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such organization or applicant, to the extent that such organization or applicant considers and makes policies and decisions regarding any property acquired under this section, or to otherwise provide for the consultation and participation of such an individual in considering and making such policies and decisions.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'eligible property' means a property that—

"(A) is acquired and held by the Secretary;

"(B) consists of 1 to 4 dwelling units;

"(C) is vacant at the time it is acquired;

"(D) has been listed for sale by the Secretary for not less than 30 days; and

"(E) is not subject to a sale contract and has not been committed for use in any other program of the Secretary.

"(2) The term 'qualified applicant' means a State, metropolitan city, urban county, governmental entity, tribe, or private nonprofit organization that submits a written expression of interest in eligible properties available under this section.

"(3) The term 'Secretary' means the Secretary of Agriculture.

"(g) REGULATIONS.—The Secretary of Agriculture shall issue any regulations necessary to carry out this section. Such regulations shall be substantially similar to the regulations issued by the Secretary of Housing and Urban Development for the program for disposition of single family properties acquired by the Department of Housing and Urban Development for lease and sale for the homeless contained in subpart E of part 291, title 24, Code of Federal Regulations (as in effect on April 2, 1991). The regulations issued under this section may vary from such regulations issued by the Secretary of Housing and Urban Development only to the extent made necessary by the provisions of this section and to the extent necessary to provide for circumstances of disposition of properties acquired by the Secretary of Agriculture that differ from circumstances of disposition of properties acquired by the Secretary of Housing and Urban Development.

"SEC. 492. RURAL HOMELESSNESS GRANT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish and carry out a rural homelessness grant program under this section. In carrying out the program, the Secretary may award grants to eligible organizations in order to pay for the Federal share of the cost of—

"(1) assisting programs providing direct emergency assistance to homeless individuals and families;

"(2) providing homelessness prevention assistance to individuals and families at risk of becoming homeless; and

"(3) assisting individuals and families in obtaining access to permanent housing and supportive services.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible organization may use a grant awarded under subsection (a) to provide, in rural areas—

"(A) rent, mortgage, or utility assistance after 2 months of nonpayment in order to prevent eviction, foreclosure, or loss of utility service;

"(B) security deposits, rent for the first month of residence at a new location, and relocation assistance;

"(C) short-term emergency lodging in motels or shelters, either directly or through vouchers;

"(D) transitional housing;

"(E) rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;

"(F) housing services, including housing counseling and moving services;

"(G) costs associated with making use of Federal inventory property programs to house homeless families, including the programs established under section 491 and title V of this Act, and the single family property disposition program established pursuant to section 204(g) of the National Housing Act; and

"(H) other supportive services as needed, which may include outreach, case management, entitlement assistance, transportation, and health and social services to prevent or alleviate homelessness.

"(2) CAPACITY BUILDING ACTIVITIES.—Not more than 20 percent of the funds appropriated under subsection (k)(1) for a fiscal year may be used by eligible organizations for capacity building activities, including payment of operating costs and staff retention.

"(c) AWARD OF GRANTS.—

"(1) COMMUNITIES WITH POPULATIONS OF LESS THAN 20,000.—

"(A) SET-ASIDE.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall make available not less than 50 percent of the funds appropriated under subsection (k)(1) for the fiscal year for awarding grants to eligible organizations serving communities that have populations of less than 20,000.

"(B) PRIORITY WITHIN SET-ASIDE.—In awarding grants in accordance with subparagraph (A), the Secretary shall give priority to eligible organizations serving communities with populations of less than 10,000.

"(2) COMMUNITIES WITHOUT SIGNIFICANT FEDERAL ASSISTANCE.—In awarding grants under subsection (a), including grants awarded in accordance with paragraph (1), the Secretary shall give priority to eligible organizations serving communities not currently receiving significant Federal assistance under the Stewart B. McKinney Homeless Assistance Act.

"(3) STATE LIMIT.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall not award to eligible organizations within a State an aggregate sum of more than 5 percent of the funds appropriated under subsection (k)(1) for the fiscal year.

"(d) APPLICATION.—In order to be eligible to receive a grant under subsection (a), an organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. At a minimum the application shall include—

"(1) a description of the target population and geographic area to be served;

"(2) a description of the types of assistance to be provided;

"(3) an assurance that the assistance to be provided is closely related to the identified needs of the target population;

"(4) a description of the existing assistance available to the target population, including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing assistance or provide assistance not available in the immediate area;

"(5) an agreement by the organization that the organization will collect data on the projects conducted by the organization, including assistance provided, number and characteristics of persons served, and causes of homelessness for persons served; and

"(6) an agreement by the organization that the organization will utilize, to the maximum extent practicable, homeless individuals and families in providing, operating, and rehabilitating housing assisted under this section and in providing services assisted under this section and services for occupants of housing assisted under this section.

"(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant under subsection (a) shall include private nonprofit entities, Indian tribes (as such term is defined in section 102(a) of the Housing and Community Development Act of 1974), and county and local governments.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the costs of providing assistance under this section shall be 75 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of providing the assistance shall be in cash or in kind, fairly evaluated, including plant, equipment, staff services, or services delivered by volunteers.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each eligible organization receiving a grant under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing, services, or other assistance of the eligible organization receiving the grant under this subtitle, or to otherwise provide for the consultation and participation of such an individual in considering and making such policies and decisions.

"(h) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall perform an evaluation of the program to—

"(A) determine the effectiveness of the program in providing housing and other assistance to homeless persons in the area served; and

"(B) determine the types of assistance needed to address homelessness in rural areas.

"(2) REPORT.—The Secretary shall submit to Congress, not later than 18 months after the date on which the Secretary first makes grants under the program, the evaluation of the program described in paragraph (1), including recommendations for any Federal administrative or legislative changes that may be necessary to improve the ability of rural communities to prevent and respond to homelessness.

"(i) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to eligible organizations in developing programs in accordance with this section, and in gaining access to other Federal resources that may be used to assist homeless persons in rural areas. Such assistance may be provided through regional workshops, and may be provided directly or through grants to, or contracts with, nongovernmental entities.

"(j) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this section violates requirements of the assistance program provided by the organization receiving a grant under this section, the organization may terminate assistance in accordance with a formal process established by the organization that recognizes the rights of individuals receiving such assistance to due process of law.

"(k) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1993.

"(2) AVAILABILITY.—Any amount paid to a grant recipient for a fiscal year that remains unobligated at the end of the year shall remain available to the recipient for the purposes for which the payment was made for the next fiscal year. The Secretary shall take such action as may be necessary to recover any amount not obligated by the recipient at the end of the second fiscal year, and shall redistribute the amount to another eligible organization.

"(l) DEFINITIONS.—For purposes of this section:

"(1) PROGRAM.—The term 'program' means the rural homelessness grant program established under this section.

"(2) RURAL AREA; RURAL COMMUNITY.—The terms 'rural area' and 'rural community' mean—

"(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or

"(B) any area or community, respectively, that is—

"(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

"(ii) located in a rural census tract.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.".

SEC. 1009. EVALUATIONS OF PROGRAMS BY HOMELESS.

Section 108(a)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12708(a)(1)) is amended by inserting after the period at the end the following new sentences: "The Secretary shall also require the report of each participating jurisdiction to contain an evaluation of the effectiveness of each program that receives assistance under title IV of the Stewart B. McKinney Homeless Assistance Act and serves the jurisdiction submitting the report. The evaluations shall be conducted by surveying the homeless individuals and families assisted under the programs.".

SEC. 1010. EXTENSION OF ORIGINAL MCKINNEY ACT HOUSING PROGRAMS.

The Cranston-Gonzalez National Affordable Housing Act is amended by striking sections 821 and 823 (42 U.S.C. 11361 note). The amendment made by such section 821 of such Act shall not take effect.

SEC. 1011. CONSULTATION AND REPORT REGARDING USE OF NATIONAL GUARD FACILITIES AS OVERNIGHT SHELTERS FOR HOMELESS INDIVIDUALS.

(a) USE OF AVAILABLE SPACE AT NATIONAL GUARD FACILITIES.—The Secretary of Housing and Urban Development shall consult with the chief executive officers of the States and the Secretary of Defense to determine the availability of space at National Guard facilities for use by homeless organizations in providing overnight shelter for homeless persons and families. The Secretary of Housing and Urban Development shall determine the availability of only such space that can be used for shelter purposes during periods it is not actively being used for National Guard purposes. The Secretary of Housing and Urban Development shall also determine the availability of incidental services at such facilities, including utilities, bedding, security, transportation, renovation of facilities, minor repairs undertaken specifically to make available space in a facility suitable for use as an overnight shelter for homeless individuals, and property liability insurance.

(b) LIMITATIONS.—In consultations under this section, the Secretary of Housing and Urban Development shall determine—

(1) the number and capacity of such facilities that may be made available for shelters for homeless persons and families without adversely affecting the military or emergency service preparedness of the State or the United States; and

(2) whether any available space is suitable for use as an overnight shelter for homeless individuals or can, with minor repairs, be made suitable for that use.

(c) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the consultations *and determinations made by the Secretary under this section. The report shall include any recommendations of the Secretary regarding the need for, and feasibility of, using National Guard facilities for homeless shelters and any recommendations of the Secretary for administrative or legislative action to provide for such use.*

SEC. 1012. AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act is amended—

(1) by striking the item relating to the heading for subtitle C of title IV and all that follows through the item relating to section 484 and inserting the following new items:

"Subtitle C—Supportive Housing Program

"Sec. 421. Purpose.
"Sec. 422. Definitions.
"Sec. 423. Eligible activities.
"Sec. 424. Supportive housing.
"Sec. 425. Supportive services.
"Sec. 426. Program requirements.
"Sec. 427. Regulations.
"Sec. 428. Reports to Congress.
"Sec. 429. Authorization of appropriations.

"Subtitle D—Safe havens for homeless individuals demonstration program.

"Sec. 431. Establishment of demonstration.
"Sec. 432. Definitions.
"Sec. 433. Program assistance.
"Sec. 434. Program requirements.
"Sec. 435. Occupancy charge.
"Sec. 436. Termination of assistance.
"Sec. 437. Evaluation and report.
"Sec. 438. Regulations.
"Sec. 439. Authorization of appropriations.

"Subtitle E—Miscellaneous Programs

"Sec. 441. Section 8 assistance for single room occupancy dwellings.
"Sec. 442. Community development block grant amendment.
"Sec. 443. Administrative provisions.

"Subtitle F—Shelter Plus Care Program

"PART I—GENERAL REQUIREMENTS

"Sec. 451. Purpose.
"Sec. 452. Rental housing assistance.
"Sec. 453. Supportive services requirements.
"Sec. 454. Applications.
"Sec. 455. Selection criteria.
"Sec. 456. Required agreements.
"Sec. 457. Housing standards and rent reasonableness.
"Sec. 458. Tenant rent.
"Sec. 459. Administrative fees.
"Sec. 460. Occupancy.
"Sec. 461. Termination of assistance.
"Sec. 462. Definitions.
"Sec. 463. Authorization of appropriations.

"PART II—TENANT-BASED RENTAL ASSISTANCE

"Sec. 471. Authority.
"Sec. 472. Housing assistance.
"Sec. 473. Amount of assistance.

"PART III—PROJECT-BASED RENTAL ASSISTANCE

"Sec. 476. Authority.
"Sec. 477. Housing assistance.
"Sec. 478. Term of contract and amount of assistance.

"PART IV—SPONSOR-BASED RENTAL ASSISTANCE

"Sec. 481. Authority.
"Sec. 482. Housing assistance.
"Sec. 483. Term of contract and amount of assistance.

"PART V—SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE-ROOM OCCUPANCY DWELLINGS

"Sec. 486. Authority.
"Sec. 487. Fire and safety improvements.
"Sec. 488. Contract requirements.

"Subtitle G—Rural Homeless Housing Assistance

"Sec. 491. Disposition of single family properties acquired by FMHA.
"Sec. 492. Rural homelessness grant program.";

(2) by striking the item relating to section 501 and inserting the following new item:

"Sec. 501. Use of unutilized and underutilized public buildings and real property to assist the homeless.";

(3) by striking the items relating to sections 722 through 725 and inserting the following new items:

"Sec. 722. Grants for State and local activities for the education of homeless children and youth.
"Sec. 723. Local educational agency grants for the education of homeless children and youth.
"Sec. 724. National responsibilities.
"Sec. 725. Reports.
"Sec. 726. Definitions.";

(4) by inserting after the item relating to section 754 the following new items:

"Sec. 755. Evaluation.
"Sec. 756. Report by the Secretary.";

and

(5) by inserting after the item relating to section 762 the following new items:

"Subtitle F—Family Support Centers

"Sec. 771. Definitions.
"Sec. 772. General grants for the provision of services.
"Sec. 773. Training and retention.
"Sec. 774. Family case managers.
"Sec. 775. Gateway programs.
"Sec. 776. Evaluation.
"Sec. 777. Report.
"Sec. 778. Construction.
"Sec. 779. Authorization of appropriations.".

TITLE XI—NEW TOWNS DEMONSTRATION PROGRAM FOR EMERGENCY RELIEF OF LOS ANGELES

SEC. 1101. AUTHORITY.

To provide for the revitalization and renewal of inner city neighborhoods in the areas of Los Angeles, California, that were damaged by the civil disturbances during April and May of 1992, and to demonstrate the effectiveness of new town developments in revitalizing and restoring depressed and underprivileged inner city neighborhoods, the Secretary of Housing and Urban Development shall, to the extent or in such amounts as are provided in appropriation Acts, make any assistance authorized under this title available under this title to units of general local government, governing boards, and eligible mortgagors in accordance with the provisions of this title.

SEC. 1102. NEW TOWN PLAN.

(a) REQUIREMENT.—The Secretary may make assistance available under this title only in connection with, and according to the provisions of a new town plan developed and established by a governing board under section 1107 and approved under subsection (d) of this section. In developing such plans, the governing board shall consult with representatives of the units of general local government within whose boundaries are located any portion of the new town demonstration area for the demonstration program to be carried out under such plan.

(b) ELIGIBLE NEW TOWN DEMONSTRATION AREAS.—A new town plan under this section shall provide for carrying out a new town development demonstration providing assistance available under this title within a new town demonstration area, which shall be a geographic area defined in the new town plan—

(1) that is one of pervasive poverty, unemployment, and general distress;

(2) that has an unemployment rate of not less than 1.5 times the national unemployment rate for the 2 years preceding approval of the new town plan;

(3) that has a poverty rate of not less than 20 percent such 2-year period;

(4) for which not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the unit of general local government in which they are located;

(5) that has a shortage of adequate jobs for residents; and

(6) that is located—

(A) in or near the City of Los Angeles, in the State of California; and

(B) within an area for which the President, pursuant to title IV or V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, declared that a major disaster or emergency existed for purposes of such Act, as a result of the civil disturbances involving acts of violence occurring on or after April 29, 1992, and before May 6, 1992.

(c) CONTENTS.—Each new town plan shall include the following information:

(1) GOVERNING BOARD.—A description of the members and purposes of the governing board that developed the plan, the manner in which members of the governing board were selected, and the businesses, agencies, interests, and community ties of each member of the governing board.

(2) NEW TOWN DEMONSTRATION AREA.—A definition and description of the new town demonstration area for the new town development demonstration to be assisted under this title.

(3) TARGET COMMUNITY.—A description of the economic, social, racial, and ethnic characteristics of the population of the neighborhood or area in which the new town demonstration area is located.

(4) AGREEMENTS.—Agreements that the governing board will carry out the new town demonstration program in accordance with the requirements of this title.

(5) HOUSING UNITS.—A description of the number, size, location, cost, style, and characteristics of rental and homeownership housing units to be developed under the new town demonstration program, any financing for developing such housing, and the amount of assistance necessary under section 1105 for developing the housing under the program.

(6) JOBS.—A description of the number, types, and duration of any new jobs that will be created in the new town demonstration area and surrounding areas as a result of the demonstration program, and of any job training activities and apprenticeship programs to be made available in connection with the program.

(7) SOCIAL SERVICES.—A description of the social and supportive services to be made available under the demonstration program to residents of housing assisted under the demonstration program pursuant to section 1103(d) and to residents of the new town demonstration area.

(8) SUPPLEMENTAL RESOURCES.—A description of any funds, assistance, in-kind contributions, and other resources to be made available in connection with the demonstration program, including the sources and amounts of any private capital resources and non-Federal funds required under section 1103(h).

(9) CONTRACTORS AND DEVELOPERS.—A listing of the contractors and developers who will carry out any construction and rehabilitation work for development of housing under the demonstration program and the expected costs involved in hiring such contractors and developers.

(10) FINANCING FOR HOMEBUYERS.—A description of any mortgage lenders who have indicated that they will make financing available to

families purchasing housing developed under the demonstration program through mortgages eligible for insurance under section 1104 and proposed terms of such mortgages.

(11) COMMITMENTS.—Evidence of any commitments entered into for making any of the resources described in paragraphs (6) through (8) available in connection with the demonstration program.

(12) PRESALE REQUIREMENTS.—A description of commitments made to purchase not less than 50 percent of the housing to be developed under the demonstration program for purchase by the occupant and to rent not less than 50 percent of the rental dwelling units to be developed under the demonstration program.

(13) COMMUNITY DEVELOPMENT ACTIVITIES.—A description of the community development activities to be carried out with assistance under section 1106, the amount of assistance necessary under such section for such activities, and of the projected uses of such assistance.

(d) REVIEW AND APPROVAL.—

(1) SUBMISSION.—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, a governing board shall submit a new town plan under this section to the chief executive officers of each unit of general local government within whose boundaries is located any portion of the new town demonstration area described under the plan of the board.

(2) APPROVAL.—For a plan to be eligible for assistance available under this title, the chief executive officer of all units of general local government to whom the new town plan is submitted shall approve the plan after review. A governing board may resubmit for approval any plan returned by any such chief executive officer to the governing board, and such chief executive officer may, upon returning the plan indicate any modifications necessary for approval. A new town plan may not be approved unless such chief executive officers determine that the membership of the governing board submitting the plan is constituted in accordance with section 1107 and the governing board is capable of carrying out the plan.

(3) AMENDMENT.—An approved new town plan for the demonstration program developed by the governing board may be amended by the board by obtaining approval of the amendment in the manner provided under this subsection for approval of plans. If the chief executive officer of the unit of general local government does not approve or return the amended plan within 30 days of submission, the amended plan shall be considered to be approved for purposes of this subsection.

SEC. 1103. NEW TOWN DEVELOPMENT DEMONSTRATION PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Each of the 2 new town development demonstration programs selected for assistance under this title under section 1102 shall be carried out, by the governing board submitting the new town plan for the demonstration program, in accordance with such plan (and any approved amendments of such plans) and shall be subject to the requirements under this section.

(b) LOCAL PARTICIPATION.—With respect to any activities carried out under the demonstration program, the program shall give preference in awarding contracts, purchasing materials, acquiring services, and obtaining assistance or training, to contractors, businesses, developers, professionals, and other establishments located or having offices within the new town demonstration area.

(c) HOUSING.—

(1) NUMBER OF UNITS.—The demonstration program shall construct or renovate not less than 1500 dwelling units in the new town demonstration area, of which not less than 60 percent shall be units available for purchase by the occupant.

(2) AFFORDABILITY.—Units of varying sizes and costs shall be designed and developed under the demonstration program so that the program provides housing affordable to families of varying incomes not exceeding 120 percent of the median income for the area in which the new town demonstration area is located, including very low- and low-income families (as such terms are defined in section 3(b) of the United States Housing Act of 1937).

(3) HOMEOWNERSHIP UNITS.—Dwelling units developed under the demonstration program for purchase by the occupant shall initially be sold at prices affordable to families eligible to purchase such units. Such units shall be available for purchase only by families having incomes not exceeding the amount specified in paragraph (2). The demonstration shall develop 2-, 3-, and 4-bedroom units for purchase, which shall not be smaller than 1,400 square feet in size and not larger than 2,000 square feet in size.

(4) RENTAL UNITS.—Dwelling units developed under the demonstration program that are to be available for rental shall include family-type units and single bedroom and efficiency units designed for elderly occupants. Such units shall be available for occupancy only by families who (upon initial occupancy) have incomes of (A) less than 60 percent of the median income for the area, or (B) less than $20,000. The units shall initially be available for rental at prices of not less than $400 per month and not more than $500 per month, except that an occupant family shall pay not more than 30 percent of the family income for rent.

(d) SOCIAL SERVICES.—The demonstration program shall provide for appropriate social and supportive services to be made available to residents of housing assisted under the demonstration program and to other residents of the new town demonstration area, which may include rental and homeownership counseling, child care, job placement, educational programs, recreational and health care facilities and programs, and other appropriate services.

(e) JOB CREATION AND TRAINING.—The demonstration program shall provide, to the extent practicable, that activities in connection with the demonstration program, including development of housing under subsection (c) and community development activities assisted under section 1106, shall employ and provide job training opportunities for residents of the housing assisted under the demonstration program and other residents of the new town demonstration area.

(f) FINANCING.—The demonstration program shall provide for coordination with banks, credit unions, and other mortgage lenders to make financing available to purchasers of units developed under the demonstration program through mortgages eligible for insurance under section 1104, and shall give preference to such mortgage lenders who have offices located within or near the new town demonstration area.

(g) SUPPORT FACILITIES.—The demonstration program shall encourage, facilitate, and provide for development of appropriate support facilities to serve residents in the housing developed under the program, including infrastructure and commercial facilities.

(h) NON-FEDERAL FUNDS.—The governing board carrying out the demonstration program shall ensure that not less than 25 percent of the total amounts used to carry out the demonstration program is provided from non-Federal sources, including State or local government funds, any salary paid to staff to carry out the demonstration program, the value of any time, services, and materials donated to carry out the program, the value of any donated building, and the value of any lease on a building.

SEC. 1104. FEDERAL MORTGAGE INSURANCE.

(a) IN GENERAL.—Pursuant to title II and section 251 of the National Housing Act, the Secretary shall (to the extent authority is available pursuant to subsection (d)) insure mortgages under this section involving properties upon which are located dwelling units described in section 1103(c)(3) of this Act that are developed under the new town demonstration programs carried out pursuant to this title.

(b) MORTGAGE TERMS.—Mortgages insured under this section shall—

(1) provide for periodic adjustments in the effective rate of interest charged, which—

(A) for the first 5 years of the mortgage, shall be an annual rate of not more than 7 percent; and

(B) after the expiration of such 5-year period, may increase on an annual basis, but—

(i) shall be limited, with respect to any single interest rate increase, to not more than a 10 percent increase in the annual percentage rate; and

(ii) may not be increased at any time to a rate greater than the rate necessary at such time to fully amortize the outstanding loan balance over the term of the mortgage; and

(2) have a maturity of 35 years from the date of the beginning of the amortization of the mortgage.

(c) BOARD APPROVAL.—The Secretary may provide insurance under this section for a mortgage only if the governing board for the demonstration program for the new town demonstration area in which the property subject to the mortgage is located has indicated to the Secretary approval of the mortgage in connection with the demonstration program.

(d) INSURANCE AUTHORITY.—Using any authority provided pursuant to section 531(b) of the National Housing Act to enter into commitments to insure mortgages in fiscal year 1993, the Secretary shall enter into commitments to insure loans and mortgages under this section with an aggregate principal amount not exceeding such sums as may be necessary to carry out the demonstration under this title. Mortgages insured under this section shall not be considered for purposes of the aggregate limitation on the number of mortgages insured under section 251 of the National Housing Act specified in subsection (c) of such section.

SEC. 1105. SECONDARY SOFT MORTGAGE FINANCING FOR HOUSING.

(a) IN GENERAL.—The Secretary shall, to the extent amounts are provided in appropriation Acts under subsection (e), provide assistance under this section through the governing boards carrying out the new town demonstration programs under this section to assist in the development of housing under the program.

(b) USE.—Any assistance provided under this section shall be used only for costs in planning, developing, constructing, and rehabilitating housing under the demonstration program available for rental or purchase by the occupant. The governing board shall determine, according to the new town plan for the demonstration program, the allocation of amounts of assistance provided under this section.

(c) AMOUNT.—The Secretary may not provide assistance under this section for the development of housing under a demonstration program in an amount exceeding $50,000 per dwelling unit assisted.

(d) SECOND MORTGAGE.—

(1) IN GENERAL.—Assistance under this section shall be repaid in accordance with this subsection. Repayment of the amount of any assistance provided with respect to any building containing rental units or any dwelling unit available for purchase by the occupant that is developed under a demonstration program shall be secured by a second mortgage held by the Secretary on the property involved.

(2) Terms.—During the period ending upon repayment of the assistance as provided in this subsection, any building containing rental units that is provided assistance under this section shall be used as rental housing subject to the requirements of section 1103(c)(4). During the period ending upon repayment of the assistance as provided in this subsection, any dwelling unit made available for purchase by the occupant that is provided assistance under this section may be sold only to a family having an income not exceeding the amount specified in section 1103(c)(2).

(3) Interest.—Any assistance provided under this section for a building or dwelling unit shall bear interest at a rate equivalent to the rate for the most recently marketable obligations issued by the United States Treasury have terms of 10 years. The interest on such assistance shall be required to be repaid only upon sale of the building.

(4) Discounted Repayment.—The assistance provided under this section for any building containing rental units or any dwelling unit available for purchase by the occupant shall be considered to have been repaid for purposes of this subsection if the original purchaser of the building or the dwelling unit pays to the Secretary an amount equal to 50 percent of the amount of the assistance provided under this section.

(e) Authorization of Appropriations.—There are authorized to be appropriated for fiscal year 1993 such sums as may be necessary for providing assistance under this section.

SEC. 1106. COMMUNITY DEVELOPMENT ASSISTANCE.

(a) In General.—The Secretary shall provide assistance under this section, to the extent amounts are provided in appropriation Acts under subsection (f), to units of general local government to address vital unmet needs and to promote the creation of jobs and economic development in connection with the new town demonstration programs carried out under this title.

(b) Eligible Units of General Local Government.—Assistance may be provided under this section only to units of general local government—

(1) within whose boundaries are located any portion of the new town demonstration areas described under the new town demonstration plans for the demonstration programs carried out under this title; and

(2) that make certifications to the Secretary that the grantee will comply with the provisions of section 105(b) of the bill, H.R. 4073, 102d Congress (as reported on March 14, 1992, by the Committee on Banking, Finance and Urban Affairs of the House of Representatives), and will comply with a residential antidisplacement and relocation assistance plan described in section 105(c)(2) of such bill.

(c) Eligible Activities.—Activities assisted with amounts provided under this section may include only the following activities:

(1) Acquisition of Real Property.—The acquisition of real property (including air rights, water rights, and other interests therein) that is located within the new town demonstration area and is—

(A) blighted, deteriorated, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

(B) appropriate for rehabilitation or conservation activities;

(C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;

(D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this section;

(E) to be used as a facility for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act); or

(F) to be used for other public purposes.

(2) Construction of Public Works and Facilities.—The acquisition, construction, rehabilitation, or installation of public works or public facilities within the new town demonstration area, including buildings for the general conduct of government and facilities for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act).

(3) Clearance and Rehabilitation of Buildings.—The clearance, removal, and rehabilitation of buildings and improvements located within the new town demonstration area, including interim assistance, assistance for facilities for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act), and assistance to privately owned buildings and improvements.

(4) Provision of Public Services and Housing.—

(A) Public Services.—The provision of public services within the new town demonstration area that are concerned with job training and retraining, health care and education, crime prevention, drug abuse treatment and rehabilitation, child care, education, and recreation, which may include the provision of public health and public safety vehicles.

(B) Housing Activities.—The acquisition and rehabilitation of housing for low- and moderate-income families within the new town demonstration area, except that any grantee that uses amounts received under this section for housing activities under this subparagraph shall make not less than 15 percent of the amount used for such housing activities available only for nonprofit organizations (as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act) for such activities;

(C) Limitation.—Not more than 25 percent of the amount of any assistance provided under this section (including program income) to any unit of general local government may be used for activities under this paragraph.

(5) Relocation Assistance.—Relocation payments and assistance for individuals, families, business, organizations, and farm operations that are displaced as a result of activities assisted under this title.

(6) Payment of Administrative Expenses.—Payment of reasonable administrative costs associated with activities assisted under this section and any expenses of developing the new town plan under section 1102.

(d) Allocation of Assistance.—The Secretary may not provide more than 50 percent of any amounts appropriated under this section in connection with any one of the 2 new town demonstration programs carried out under this title.

(e) Other Requirements.—The provisions of subsections (f), (g), and (h) of section 104, subsections (c) and (d) of section 105, section 107, 108, 109, and 110 of the bill, H.R. 4073, 102d Congress (as reported on March 14, 1992, by the Committee on Banking, Finance and Urban Affairs of the House of Representatives), shall apply to grantees receiving assistance under this section.

(f) Authorization of Appropriations.—There are authorized to be appropriated for fiscal year 1993 such sums as may be necessary for assistance under this section.

SEC. 1107. GOVERNING BOARDS.

(a) Purpose.—For purposes of this title, a governing board shall be a board organized for the purpose of developing a new town plan under this title and carrying out a new town development demonstration under this title.

(b) Membership.—Each governing board shall consist of not less than 10 members, who shall include—

(1) residents of the area in which the new town demonstration area under the plan developed by the board is located;

(2) owners of business in such area;

(3) leaders or participants in community groups in such area; and

(4) representatives of financial institutions located or having offices in such area.

(c) Organization.—A governing board may organize itself and conduct business in the manner that the board determines is appropriate to carry out the new town development demonstration under this title.

SEC. 1108. REPORTS.

Each governing board carrying out a new town development demonstration under this title shall submit to the Congress the following information:

(1) New town plan.—Upon approval of the new town plan of the governing board under section 1102(d), a copy of the approved plan.

(2) Annual reports.—For the 5-year period beginning upon the approval of the new town plan, annual reports for each 12-month period during such 5-year period, which shall be submitted within 3 months after the expiration of the 12-month period. Each report shall include a description of any activities during such period to carry out the demonstration program of the governing board, the use during such period of any assistance provided under this title, and any amendments under section 1102(d)(4) to the new town plan approved during such period.

SEC. 1109. DEFINITIONS.

For purposes of this title:

(1) Demonstration program.—The terms "demonstration program" and "program" mean a new town development demonstration program receiving assistance under this title, which is carried out within a new town demonstration area by a governing board.

(2) Governing board.—The term "governing board" means a board established under section 1107.

(3) New town demonstration area.—The term "new town demonstration area" means the area defined in a new town plan in which the new town development demonstration under the plan is to be carried out.

(4) New town plan.—The terms "new town plan" and "plan" mean a plan under section 1102 developed by a governing board.

(5) Unit of general local government.—The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of the State of California.

The CHAIRMAN. No amendment to the substitute is in order except those amendments printed in House Report 102–781. Said amendments shall be considered in the order and manner specified in the report, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for a division of the question. Debate on each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

AMENDMENT OFFERED BY MR. TORRES

Mr. TORRES. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Torres: Page 411, after line 19, insert the following new sections:

SEC. 917. DISCLOSURE UNDER TRUTH IN LENDING IN CONNECTION WITH MORTGAGE REFINANCING.

Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)) is amended by striking "transaction, as defined in section 103(W)," and by inserting "transaction (as defined in section 103(W)) or any case in which any such transaction is to be satisfied and superseded by a new transaction with the same consumer and a consensual security interest is created or retained against the consumer's dwelling,".

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. TORRES] will be recognized for 10 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would simply require lenders to provide borrowers with a truth-in-lending disclosure for mortgage refinance transactions. This disclosure, which is currently required for first-time home mortgages, includes critical information such as the annual percentage rate, the finance charge, and the monthly payment obligation.

Each of these disclosures is important to consumers and helps make them aware of the costs associated with the mortgage. Today, when a consumer refinances a home, the lender is not required to provide a truth-in-lending disclosure statement until just before closing. For the borrower, it is often too late to realize the terms of the loan if the disclosure is given when they are sitting at the closing table.

My amendment would simply require that a borrower receive the truth-in-lending disclosure within 3 days after the application is filed with the lender, just as it is done for first-purchase mortgages. This amendment seeks merely to move up the time at which consumers would receive their credit cost disclosures in home refinance transactions.

Providing early disclosure for refinances will not be an additional burden to or require additional paperwork of lenders. Since lenders must currently provide early credit cost disclosures for home purchases, they already have procedures in place to comply with the requirements.

Mr. Chairman, I say to my colleagues this is a timely amendment. Now that mortgage interest rates are at a 20-year low, our constituents are rushing to refinance in record numbers. In fact, it is anticipated that 3 million homes will be refinanced this year. Let's give these families and individuals the up front disclosures they need to make informed decisions on what is, in most cases, the largest investment of their lives.

These are essential consumer protections. Home refinancing transactions involve virtually the same costs as the initial home purchase. Refinancers should not be treated any differently than applicants seeking mortgages on new purchases. This is a clean, simple, consumer-friendly amendment. I urge its passage.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to oppose the Torres amendment. Although seemingly innocuous on its fact, this amendment would add another layer of regulatory burden upon financial institutions, particularly small and community banks.

I would refer to a letter from the Independent Bankers Association of America, dated August 4, in which it says:

> Oppose the Torres amendment to require Truth in Lending disclosures for mortgage refinancing. Many lenders already make the necessary disclosures needed by the consumer to understand their refinancing agreement. This amendment would add unnecessary paper and processing costs to an already lengthy, paper-driven process. Community financial institutions are already breaking their backs under the yoke of regulatory and paperwork burden. Now is not the time to throw more superfluous requirements at them.

Mr. Chairman, I agree wholeheartedly with the IBAA. Ultimately, the increased regulatory burden would only result in lost credit opportunities for other consumers.

The Torres amendment requires truth-in-lending disclosures in cases of mortgage refinancing by consumers. This is an unnecessary and burdensome requirement. Most lenders, in fact, already make these disclosures available to the consumers, and RESPA already requires disclosures at the time of the refinancing application.

□ 1310

I see no consumer benefit in mandating additional requirements for the new small institutions that try to save their customers the cost of this paperwork. Consumers have adequate protections under RESPA and additional truth-in-lending disclosures would have no benefit.

Moreover, the paperwork and compliance burden placed on the banking industry is seriously affecting the ability of banks to meet the credit needs of their local communities. In the last year alone, Congress has passed over 65 major regulatory provisions affecting bank operations, many of which are not related to safety and soundness. In most cases, this regulatory burden is not shared by other financial firms.

The total cost of bank regulation is staggering—banks spend an estimated $10.7 billion on compliance each year. This amounts to about 12 percent of the industry's operating expense and 59 percent of the industry profits last year. These are resources that otherwise could be used to support the real business of banking—making loans to customers. For example, if only 25 percent of the dollars spent on compliance were redirected in bank capital, it could support $20 to $30 billion per year in additional bank lending. Stemming the tide of new regulations will not only keep banks sound but also will increase the banks' ability to support economic growth, make credit available to more borrowers, and allow banks to compete fairly with nonbank firms.

I would like to point out that last year a conference committee agreed to Mr. TORRES' truth-in-savings proposal which at the time was supposed to be equally harmless as the amendment before us today. Despite the author's good intentions, that law has become one of the major headaches facing banks today, with little apparent consumer benefit.

Finally, many in Congress pay lip-service to tackling the regulatory burden Government is placing on the economy and to alleviating the credit crunch. This amendment will demonstrate how serious we are about these propositions. This amendment will bring almost no consumer benefit, but will add paperwork to the burden facing small institutions while correspondingly driving up the cost of credit to consumers.

Therefore, in closing, I would suggest that we must be cautious in further burdening our financial system, particularly small and community banks. We are already breaking the backs of financial institutions with regulatory burden and now is not the time to be heaping new requirements on them, and I urge a no vote on this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TORRES. Mr. Chairman, I would like to just reiterate here once again, as I did in my opening statement, that there is no additional paperwork, there are no new requirements. The paperwork is already there. All we are asking for in this amendment is that the disclosure be given to the borrower at the time of application instead of the date of settlement.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. GONZALEZ], chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Chairman, this amendment, in fact, amends the Truth in Lending Act to make the disclosure provisions of that act apply to the mortgage refinancing processes. These disclosures include a disclosure of the amount financed and the terms of such financing. The disclosures must be made before credit is extended.

The bill makes a similar change when it makes the real estate settlement costs provisos in our statutes apply to second mortgages and refinancing.

I rise in strong support of this amendment for I feel that it is not only proper, but it is long overdue. We have had countless numbers of citizens calling upon us to address this issue, and I want to compliment the gentleman from California [Mr. TORRES] for doing so.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, I rise in opposition to the amendment offered by the distinguished gentleman from California. The Torres amendment would make all truth-in-lending disclosure provisions applicable to mortgage refinancing transactions.

This amendment is unnecessary for a number of important reasons. Lenders in Kentucky and in other States already make the necessary disclosures needed by consumers to understand their refinancing agreement.

This amendment would simply add additional paper and processing costs to an already lengthy process.

Community lenders in Kentucky and across the Nation would be particularly hurt by the Torres amendment. Indeed, they are already laboring under an excessive burden of paperwork associated with regulatory compliance.

Just yesterday, our House Banking Subcommittee on General Oversight and Investigations, of which I am chairman, convened a hearing on the credit crisis and regulatory burdens imposed on America's financial institutions. Bank and thrift officials, as well as our Federal regulators, agreed that there are already too many regulatory and paperwork burdens imposed under current law. One witness, whose financial institution employed 14 employees, testified that he has had to hire 3 additional people merely to take care of the new regulations and paperwork demands imposed by recent banking laws.

In our current economic climate, I think you will agree that now is not the time to add new burdens on our already overregulated financial institutions. Gathering information takes significant time, often with no discernible benefit either for the consumer or for the general safety and soundness of our financial system as a whole. The stifling effects of all of this redtape are already being felt. We don't need to add any more.

The cost of this particular proposal, I believe, far outweighs any potential benefit it may provide to the consumer. Excessive regulation only ties up resources that could have been devoted to community lending needs.

We need new jobs, not more redtape. For these reasons I urge my colleagues to vote no on the Torres amendment.

Mr. TORRES. Mr. Chairman, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from California.

Mr. TORRES. Mr. Chairman, I would tell the gentleman from Kentucky [Mr. HUBBARD], my good colleague, that there is no additional paperwork. This is nothing other than asking, under the amendment to have the paperwork that is already there and required to be brought up front during the process of negotiation as opposed to the end of closing.

Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, I rise in support of the Torres amendment. This amendment addresses an important issue that has been prevalent lately in Massachusetts. Numerous consumers in Massachusetts have lost their homes or have been faced with foreclosure procedures. The reason for these proceedings was a second mortgage or mortgage refinancing that was not done in good faith.

During these difficult and trying economic times, many consumers are forced to refinance their mortgage or take out a second mortgage. This process should not be a nightmare. And it has been for many consumers in Massachusetts.

The Torres amendment will require lenders to provide borrowers with truth-in-lending disclosers in mortgage refinancing transaction. Lenders will be required to disclose the terms of the new mortgage and this information would include information on the annual percentage rate of the loan, the finance charges imposed by the lender, and the borrower's monthly repayment obligations. Currently, for disclosures for refinancing transactions, lenders do not have to make these disclosures until closing.

We have to take steps to protect consumers who refinance their homes. I commend the work of Mr. TORRES and I believe the Torres amendment provides us with a rational solution to an unfortunate problem. I urge you to support the Torres amendment.

Mrs. ROUKEMA. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Chairman, with all due respect to the author of this amendment, I am not convinced that the amendment is not a solution in search of a problem.

The amendment will require comprehensive disclosures within 3 days after applying for a refinanced mortgage.

The disclosures will duplicate information which currently must be given to consumers prior to closing.

By requiring that the information be given within 3 days after application, much of the information will be estimates. A new set of disclosures will still be required prior to closing.

We need to remember that we don't legislate in a vacuum. If we add another layer of bureaucracy to the refinancing process, consumers will ultimately have to pay for it.

The question we need to ask is whether this amendment is really necessary.

Some have suggested that the amendment may be necessary to end what have been called settlement day ambushes, where consumers find higher settlement or financing costs than expected.

The Subcommittee on Consumer Affairs, which the gentleman from California chairs, and on which I serve as the ranking Republican, held 1 day of hearings on the broader issue of mortgage refinancing in late May.

At that time, the Federal Reserve testified that in the past 18 months they have received 3,300 complaints. Of those 3,300 complaints, only 3 dealt with the disclosure of information.

The Fed stated:

> It does not appear that widespread consumer problems exist. Because a significant increase in compliance burden likely would result from enactment of the proposed amendments to the Truth in Lending Act, we believe that a clear need for additional legislation should be established before Congress acts.

That need has not been established.

More importantly, when it comes to mortgages and refinancing, the consumer has the ultimate protection.

If any transaction involves a new security interest or lien on the consumer's principal residence, the consumer has an unlimited right to rescind the transaction within 3 business days after it is consummated.

If the consumer, for any reason, elects to rescind the transaction, all fees—including application fees, appraisal fees, charges for credit reports, et cetera—must be refunded in full to the consumer within 20 days after rescission.

That right of rescission provides the consumer with more protection from settlement day ambushes than will this amendment.

This amendment has not been fully considered by any committee or subcommittee.

The author of this amendment could have brought the issue before his subcommittee for a markup.

He could have offered this amendment when the housing bill was before the Banking Committee.

Instead, we see this amendment for the first time on the floor of the House.

Mr. Chairman, although the amendment is well intended, I am not convinced that its limited benefits outweigh its costs to consumers.

Consequently, I must oppose it.

□ 1320

Mr. TORRES. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WATERS], a member of the committee.

Ms. WATERS. Mr. Chairman, I support the amendment offered by my friend and colleague the gentleman from California [Mr. TORRES]. His amendment is proconsumer, yet it places no significant burden on financial institutions involved in mortgage lending.

Since the financing laws were written long ago, many financial arrangements, which were then infrequent, have witnessed a dramatic increase in demand.

With the tightening credit crunch and a lingering recession, homeowners are seeking out opportunities to save their homes and their families from homelessness. Refinancing home mortgages is one option that is now in high demand, especially now that interest rates are low.

Mr. Chairman, we must do everything in our power to protect homeowners who are trying to protect themselves and their families from a weak economy.

This amendment will require that financial institutions give sufficient notice to refinancing borrowers notifying them of the terms of their loans.

The amendment is fair and I strongly support its passage.

The CHAIRMAN pro tempore (Mr. KOSTMAYER). The Chair would advise that the gentleman from Ohio [Mr. WYLIE] has 1 minute remaining, and the gentleman from California [Mr. TORRES] has 3½ minutes remaining.

Mr. TORRES. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Chairman, I rise in support of this amendment to require lenders to provide borrowers with truth-in-lending disclosures in mortgage refinancing transactions. Specifically, lenders would be required to provide borrowers with disclosures concerning the terms of the new mortgage within 3 days of the application filing. Currently, lenders must make timely disclosures for an original mortgage. However, lenders may wait to just before closing for refinancing mortgages. This is unfair to the borrower who in many instances is refinancing to meet emergency needs.

This amendment would allow the consumer to know the terms of the loan, such as annual percentage rate, the finance charge, and their monthly payment obligation, before they sit down at the table for closing. Therefore, with this amendment, the consumer will be fully informed and prepared for all costs necessary to secure the mortgage.

I commend Mr. TORRES for his work on this issue and urge my colleagues to support him.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. COX].

Mr. COX of Illinois. Mr. Chairman, I rise in opposition to the amendment which I think creates a redundancy that is already required in the law.

Mr. Chairman, I rise in opposition to the Torres amendment to require truth-in-lending disclosures for mortgage refinancing.

I want to share with my colleagues my personal experience as a private attorney practicing law in Galena, IL. I sat through many real estate closings and had the opportunity to review and explain to my clients the disclosure documents referred to in this amendment.

This amendment would not clarify the purchasing process for the borrower, but instead, would make the process of borrowing money from a financial institution even more confusing. Currently, a requirement exists to provide the borrower with full disclosure of the terms of any loan transaction at the closing. The Torres amendment would add an additional disclosure requirement within 3 days after the borrower applies for the refinancing. This is an unnecessary redundancy. It is important to keep in mind that the borrower went through this process initially at the time of the original loan. To increase multiple disclosures at the time of refinancing is absolutely unnecessary and simply fills loan files with paper.

Often, what we perceive from Washington to be helpful to the consumer only hinders transactions and passes additional costs on to the consumer. I don't believe that we are doing a service to the taxpayer by enacting such legislation.

I appreciate Chairman TORRES' continued interest in representing consumers when we consider legislation regarding the financial services industry. However, I do not believe that this amendment is the best means to achieve that end. I urge Members to oppose the Torres amendment.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I find it ironic that I am refinancing my house next week. I have checked with four different institutions, and in every single case, all I have had to do was ask for information and the information was provided.

Mr. Chairman, my biggest complaint with the amendment, and I would say to my colleague from California [Mr. TORRES], I think the gentleman has very good intentions, but I think if we look at the State of California especially, the regulations we already have on banks, all the way from construction to home loans to refinancing, the burden is killing us out there.

Mr. Chairman, in my own case, and I have a lot of friends that have recently refinanced their homes at the low interest rates, all you have to do right now is ask and they will give you any information that you desire as far as payments, what your costs are going to be, every item that they charge you for, and I think this is a burdensome paperwork drill on the banks.

Mr. Chairman, the gentlewoman from California [Ms. WATERS] said that there was no burden. Well, the gentleman from Ohio [Mr. WYLIE] just represented from the IBAA that there are burdens.

Mr. Chairman, I oppose the amendment.

Mr. TORRES. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. TORRES] is recognized for 2½ minutes.

Mr. TORRES. Mr. Chairman, I thank my colleagues today for support of this legislation. Let me say emphatically that the people that are speaking against this amendment are in fact against truth in lending.

Mr. Chairman, this is already a part of the law. Let me cite section 226.20 about disclosures.

A refinancing is a new transaction requiring new disclosures to the consumer.

Mr. Chairman, all we are asking is that this information be brought forward three days after application for a loan, as opposed to the last minutes of settlement.

The Federal Trade Commission has received numerous telephone inquiries from consumers regarding the costs of home refinancing. Many of these callers complained about the lack of information regarding financing costs until minutes before closing, and the difficulty of obtaining information from lenders on rates and points.

I congratulate the gentleman from California [Mr. CUNNINGHAM]. Perhaps as a Congressman the gentleman received expeditious treatment. The number of complaints appears to indicate a substantial concern. The Federal Trade Commission rarely receives more than a handful of complaints, but this time they are inundated. The Federal Reserve said they do not have many complaints, but we have hundreds of letters in our subcommittee. The Federal Trade Commission I have already told Members about.

Mortgage bankers testified before our committee in support of this legislation. This legislation helps the banks, but, more importantly, it helps the consumers, especially in these economic times.

Mr. Chairman, I submit once again that if Members are against this amendment, they are against truth in lending.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. TORRES. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, the gentleman indicated that this information is already required by law.

Mr. TORRES. That is correct.

Mr. WYLIE. And the gentleman wants it to be required twice by law.

Mr. TORRES. Mr. Chairman, reclaiming my time, it is already required by law. This amendment asks for the information to be brought forward to the borrower when he applies for a loan as opposed to the last second when settlement takes place, when the borrower does not know the costs, the rates, and so on.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. TORRES].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WYLIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 268, answered "present" 1, not voting 12, as follows:

[Roll No. 364]

AYES—153

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Aspin
Atkins
AuCoin
Beilenson
Bennett
Berman
Blackwell
Boehlert
Bonior
Borski
Boxer
Brown
Bruce
Bryant
Byron
Cardin
Carper
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Evans
Fascell
Fawell
Fazio
Flake
Foglietta
Frank (MA)
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Green
Guarini
Hayes (IL)
Hochbrueckner
Hughes
Jacobs
Jefferson
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lantos
LaRocco
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moody
Mrazek
Natcher
Neal (MA)
Oakar
Olin
Olver
Ortiz
Owens (NY)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Perkins
Pickle
Rangel
Reed
Richardson
Rostenkowski
Roybal
Sabo
Sanders
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Shays
Sikorski
Smith (FL)
Solarz
Spratt
Stark
Stokes
Studds
Swift
Synar
Torres
Towns
Traficant
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Wise
Wolpe
Wyden
Yates

NOES—268

Allard
Allen
Andrews (TX)
Anthony
Applegate
Archer
Armey
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Boucher
Brewster
Brooks
Broomfield
Browder
Bunning
Burton
Bustamante
Callahan
Camp
Campbell (CA)
Carr
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeLay
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Ewing
Feighan
Fields
Fish
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (TX)
Johnston
Kanjorski
Kaptur
Kasich
Klug
Kolbe
Kopetski
Kyl
LaFalce
Lagomarsino
Lancaster
Laughlin
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Luken
Machtley
Manton
Marlenee
Martin
Martinez
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Orton
Owens (UT)
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Russo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Williams
Wilson
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—12

Barnard
Campbell (CO)
Conyers
Dickinson
Ford (MI)
Ford (TN)
Hatcher
Hertel
Schulze
Torricelli
Traxler
Volkmer

□ 1347

Messrs. FEIGHAN, ROBERTS, RAHALL, OBERSTAR, HOYER, HALL of Ohio, and BILBRAY changed their vote from "aye" to "no."

Messrs. McDERMOTT, DWYER of New Jersey, and HUGHES, and Ms. LONG changed their vote from "no" to "aye."

Mr. COOPER changed his vote from "aye" to "present."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 102–781.

For what purpose does the gentleman from Texas [Mr. GONZALEZ] rise?

AMENDMENTS EN BLOC OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. GONZALEZ:

Page 9, line 15, before the semicolon insert the following: "; except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o)".

Page 16, line 13, strike "8(q)(3)" and insert "8(x)".

Page 16, line 14, strike "8(q)(4)" and insert "8(i)".

Page 17, line 19, strike "8(o)" and insert "8(r)".

Page 25, line 16, strike the quotation marks and the second period.

Page 25, after line 16, insert the following:

"(F)(i) For each fiscal year for which amounts are reserved or appropriated for the purposes of this paragraph, the Secretary shall establish performance goals to evaluate the effectiveness of the use of such amounts. The goals shall—

"(I) be designed to maximize the effectiveness of the expenditures in a quantifiable manner; and

"(II) describe the number of units to be redesigned, redeveloped, and reconstructed with such amounts and improvements in the management of projects so assisted to be accomplished with such amounts.

"(ii) Not later than 60 days after the end of each such fiscal year, the Secretary shall submit a report to the Congress, which shall describe the performance goals established for the fiscal year, the activities carried out with such amounts, and a statement of whether the performance goals were met. If the performance goals were not met, the report shall contain—

"(I) an explanation of why the goals were not met and a description of any managerial deficiencies or legal problems that contributed to not meeting such goals;

"(II) plans and a schedule for achieving the level of performance under such performance goals;

"(III) recommendations for legislative or regulatory changes necessary to achieve the performance goals or improve performance; and

"(IV) a statement of whether the performance goals established for the fiscal year were impractical or infeasible, and, if so, the factors that contributed and resulted in establishing such impractical or infeasible goals and recommendations of actions to meet such goals, which may include changing the goals or altering or eliminating the program under this paragraph for major reconstruction of projects.".

Page 30, line 6, strike "(5)" and insert "(6)".

Page 30, line 12, strike "(5)" and insert "(6)".

Page 30, after line 20, insert the following new subsection:

(e) Reservation of Annual Contributions for Activities Under Plan.—Section 14(p) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)) is amended—

(1) by redesignating paragraphs (3), (4), and (5) (as amended by the preceding provisions of this section) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Upon the expiration of the 24-month period beginning upon the receipt of assistance under paragraph (5) by a public housing agency, the Secretary shall, after reviewing the progress made in complying with the plan, reserve from the annual contribution attributable to each unit vacant for the 24-month period an amount determined by the Secretary but not exceeding 80 percent of such contribution. The Secretary may not reserve any amounts under this subparagraph for any vacant dwelling unit that is vacant because of modernization, reconstruction, or lead-based paint reduction activities.

"(B) The Secretary shall deposit any amounts reserved under subparagraph (A) in a separate account established on behalf of the public housing agency, and such amounts shall be available to the agency only for the purpose of carrying out activities in compliance with the vacancy reduction plan of the agency.

"(C) If, after the expiration of the 24-month period beginning upon the reservation under subparagraph (A) of amounts for a public housing agency, the Secretary determines that the agency has not made significant progress to comply with the provisions of the vacancy reduction plan of the agency, the amount remaining in the account for the agency established under subparagraph (B) shall be recaptured by the Secretary.".

Page 30, line 21, strike "(e)" and insert "(f)".

Page 31, line 9, before "Section" insert "(a) COORDINATION WITH TENANTS.—".

Page 31, after line 12, insert the following new subsection:

(b) REPLACEMENT PLAN.—Section 18(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (ii), by inserting before the semicolon at the end the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under section 8 having a term of not less than 5 years";

(B) in clause (iii), by inserting before the semicolon at the end the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under other Federal programs having a term of not less than 5 years";

(C) in clause (v), by inserting before the semicolon the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 8 (excluding vouchers under section 8(o)) having a term of not less than 5 years"; and

(D) in clause (vi), by inserting ", as determined by the agency" before the semicolon at the end;

(2) by redesignating subparagraphs (B) through (G) as subparagraphs (C) through (H), respectively; and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of an application proposing demolition or disposition of 200 or more units, shall provide that (notwithstanding the limitation under section 8(d)(2)(A) on the amount of project-based assistance provided by an agency)—

"(i) not less than 50 percent of such additional dwelling units shall be provided through the acquisition or development of additional public housing dwelling units or through project-based assistance; and

"(ii) not more than 50 percent of such additional dwelling units shall be provided through tenant-based assistance under section 8 (excluding vouchers under section 8(o)) having a term of not less than 5 years;".

Page 32, after line 20, insert the following new subsection:

(c) TRANSFER OF MANAGEMENT BY RESIDENTS.—Section 20 of the United States Housing Act of 1937 (42 U.S.C. 1437r) is amended—

(1) by striking the section heading and inserting the following new heading:

"PUBLIC HOUSING RESIDENT MANAGEMENT AND TRANSFER OF MANAGEMENT BY RESIDENTS";

(2) in subsection (a), by striking "The purpose" and all that follows through "residents by—" and inserting the following: "The purpose of this section is to encourage choice in management of troubled public housing projects by residents and increased resident management of public housing projects, as a means of improving living conditions in public housing projects, by providing for resident councils and resident management corporations to transfer the management of troubled projects to alternative managers and by providing increased flexibility for public housing projects that are managed by residents by—";

(3) in subsection (b)—

(A) in paragraph (1), by inserting "REQUIREMENTS FOR RESIDENT MANAGEMENT" after "RESIDENT COUNCIL";

(B) in paragraph (2)—

(i) by inserting "(A) in the case of council establishing a resident management corporation," after "specialist"; and

(ii) by inserting before the period at the end the following: ", or (B) in the case of a council seeking to transfer management of a troubled public housing project under this section, to assist in identifying and acquiring a capable manager for the project";

(C) in paragraph (3), by inserting "or manager" after "resident management corporation" each place it appears;

(D) in the first sentence of paragraph (4)—

(i) by inserting "or manager" after "corporation" each place it appears; and

(ii) by inserting before "establishing" the following: "(and, in the case of a manager, with the Secretary)";

(E) in paragraph (5), by inserting "or manager" after "corporation";

(F) by redesignating paragraphs (2) through (5) (as amended by this paragraph) as paragraphs (3) through (6), respectively; and

(G) by inserting after paragraph (1) the following new paragraph:

"(2) REQUIREMENTS FOR TRANSFER OF MANAGEMENT OF TROUBLED PROJECTS BY RESIDENTS.—

"(A) AUTHORITY.—The elected resident council for a troubled public housing project (as established by the approval of a majority of the households of the specific troubled public housing project) or the resident management corporation for such a project may apply to the Secretary to transfer the management of the troubled public housing project from the troubled public housing agency or resident management corporation to an alternative manager, and the Secretary may transfer such management pursuant to such an application. An application for such transfer may be submitted only if a majority of the members of the board of the resident council or resident management corporation has voted in favor of the transferring management responsibilities, and a majority of the residents of the troubled public housing project to be transferred has also voted in favor of the transfer in an election supervised by a disinterested third party.

"(B) APPLICATION.—

"(i) IN GENERAL.—The Secretary shall provide for resident councils and resident management corporations to submit applications for transfer of management of troubled public housing projects under this section. The Secretary shall establish the form and procedures for such applications in accordance with the requirements of this subparagraph.

"(ii) PHA COMMENT.—The public housing agency that owns or operates the troubled public housing project involved shall have a reasonable opportunity to submit to the Secretary any comments regarding the application, as the Secretary shall prescribe, and may present to the resident council or resident management corporation a proposal for the management of the housing by the agency. The resident council or resident management corporation shall give reasonable consideration to any such proposal.

"(iii) CONTENTS.—Each application shall contain—

"(I) a description of the resident council or resident management corporation and documentation of its authority;

"(II) documentation of the votes required under subparagraph (A);

"(III) a description of the proposed manager and documentation of the capacity of the proposed manager to manage the troubled public housing project;

"(IV) a management plan describing how the manager will carry out the responsibilities for managing the troubled public housing project;

"(V) a detailed plan for the use of any rehabilitation funding under this Act for the troubled public housing project and for the use of any modernization funding for the project received during the ensuing 5 years pursuant to subsection (c);

"(VI) documentation identifying the project for which the application is submitted, and identifying the project as a troubled public housing project;

"(VII) documentation of compliance with the requirements under clause (ii); and

"(VIII) any other information that the Secretary considers appropriate.

"(iv) REVIEW AND APPROVAL BY SECRETARY.—The Secretary may approve any application under this subparagraph that meets the requirements under this paragraph.

"(C) CONTRACT.—In addition to other contract provisions required under this section, a contract under paragraph (5) between the resident council or resident management corporation, the Secretary, and the public housing agency for transfer of management of a troubled public housing project shall—

"(i) provide for the manager to receive operating subsidies for the troubled public housing project pursuant to subsection (e) that would otherwise be provided to the public housing agency or resident management corporation;

"(ii) provide for modernization funding for the project under subsection (c); and

"(iii) require the manager to carry out, for the troubled public housing project, all management responsibilities applicable to public housing agencies owning or operating public housing projects, including (I) maintaining the units in decent, safe, and sanitary condition in accordance with any standards for public housing established or adopted by the

Secretary, (II) determining eligibility of applicants for occupancy of units subject to the requirements of this Act, (III) selecting tenants for occupancy of units subject to the requirements and preferences under this Act, (IV) determining the amount of rent paid for units in accordance with this Act, and (V) terminating tenancies in accordance with the requirements of this Act.

"(D) Extension and Expiration of Contracts.—The Secretary shall provide for a resident council or resident management corporation that has entered into a contract under this paragraph to (i) approve the renewal of such contract, subject to the approval of the Secretary and the manager, or (ii) disapprove renewal and submit an application to the Secretary in accordance with subparagraph (B) proposing another manager, which may be the public housing agency.

"(E) Default.—If the Secretary determines that a manager is in default of its responsibilities under the contract, the Secretary may require the resident council or resident management corporation to submit an application proposing a different manager, which may be the public housing agency.

"(F) Liability.—With respect to any troubled public housing project for which management has been transferred under this paragraph, the public housing agency shall not be liable for any act or failure to act by the manager, resident council, or resident management corporation.

"(G) Prohibition on Displacement Before Transfer.—The public housing agency that owns or operates a troubled public housing project for which an application under this paragraph has been submitted may not involuntarily displace (as determined by the Secretary) any resident of the project during the period beginning upon submission of the application and ending upon the transfer of management of the project or the date of disapproval of the application.

"(H) Monitoring.—The Secretary shall monitor the performance of managers under this section and shall assess their management performance using the performance indicators established under section 6(j)(1).

"(I) Reports by Managers.—The Secretary shall require each manager managing a troubled public housing project pursuant to this section to submit to the Secretary reports as the Secretary considers appropriate, which shall include an annual financial audit.";

(4) in subsection (c)—

(A) by striking "Comprehensive Improvement Assistance" and inserting "Modernization Assistance";

(B) by striking "comprehensive improvement assistance" and inserting "modernization assistance"; and

(C) by inserting after the period at the end the following new sentence "Any modernization assistance under section 14 for a troubled public housing project for which management has been transferred under this section shall be provided to the manager of the project.";

(5) in subsection (d)—

(A) in paragraph (1)—

(i) by inserting "managing a project or any manager," after "corporation" the first place it appears; and

(ii) by inserting "or manager," after "corporation" the second place it appears; and

(B) in paragraph (2), by inserting "managing a project, or any resident council or resident management corporation that has transferred management of a project" before the first comma;

(6) in subsection (e)—

(A) in paragraph (1), by inserting "or manager" after "corporation";

(B) in paragraph (2)—

(i) by inserting "under this section" after "Any contract"; and

(ii) by striking "entered into by a public housing agency and a resident management corporation" and inserting "by a resident management corporation, or for management of a troubled public housing project by a manager,";

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by inserting "or manager" after "corporation" the first place it appears;

(II) by striking "date of the enactment of the Housing and Community Development Act of 1987 or on any later"; and

(III) by inserting "or on which management of the project is transferred to the manager, as applicable" before the period at the end; and

(ii) in subparagraph (B), by inserting "or manager" after "corporation" each place it appears; and

(D) in paragraph (4), by inserting "or manager" after "corporation" each place it appears; and

(7) by striking subsection (g) and inserting the following new subsection:

"(g) Definitions.—For purposes of this section:

"(1) The term 'manager' means an entity that

"(A) is—

"(i) a public or private nonprofit organization (including, as determined by the Secretary, such an organization sponsored by the public housing agency);

"(ii) a for-profit entity;

"(iii) a public body, including an agency of instrumentality thereof;

"(iv) a public housing agency (not including the public housing agency that owns or operated the project); or

"(v) any other entity approved by the Secretary (not including a resident council); and

"(B) that has entered into a contract under this section with the Secretary for the management of a troubled public housing project.

"(2) The term 'private nonprofit organization' means any private organization (including a State or locally chartered nonprofit organization) that—

"(A) is incorporated under State or local law;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

The term includes resident management corporations.

"(3) The term 'public nonprofit organization' means any public nonprofit entity, except the public housing agency that owns the eligible housing.

"(4) The term 'troubled public housing project' means a public housing project (as such term is defined in subsection (a)) that is owned or operated by a public housing agency (not including an Indian housing authority) with 250 or more units that has been designated as a troubled public housing agency for the current Federal fiscal year and for the 2 preceding Federal fiscal years under section 6(j)(2)(A)(i).".

Page 40, strike line 19 and all that follows through line 22 on page 93, and insert the following new section:

SEC. 141. AMENDMENTS TO SECTION 8 RENTAL ASSISTANCE PROGRAM.

(a) Preferences for Veterans With Disabilities That Prevent Use of the Home.—

(1) Certificates.—Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(i)) is amended by inserting after "homeless families" the following: ", and including veterans who are eligible and have applied for such assistance, who will use such assistance for a dwelling unit designed for the handicapped, and who, upon discharge or eligibility for discharge of the veteran from a hospital or nursing home, have a physical disability which, because of the configuration of the veteran's home, prevents the veteran from access to or use of such home".

(2) Vouchers.—The first sentence of section 8(o)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(B)) is amended by inserting after "homeless families" the following: ", and including veterans who are eligible and have applied for such assistance, who will use such assistance for a dwelling unit designed for the handicapped, and who, upon discharge or eligibility for discharge of the veteran from a hospital or nursing home, have a physical disability which, because of the configuration of the veteran's home, prevents the veteran from access to or use of such home".

(b) Termination of Tenancy for Criminal Activity.—Section 8(d)(1)(B)(iii) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(B)(iii)) is amended—

(1) by inserting ", any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises," before "or any drug-related"; and

(2) by striking "public housing tenant" and inserting "tenant of any unit".

(c) Maintenance and Replacement.—Section 8(d)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) by redesignating subparagraph (D) as subparagraph (F); and

(3) by inserting after subparagraph (C) the following new subparagraphs:

"(D) if the agency (or the Secretary) determines that a unit assisted under this section fails to comply in any material respect with standards for housing quality for units so assisted, the agency (or the Secretary) may withhold some or all of the assistance amounts under this section with respect to such unit and promptly—

"(i) use such amounts to make necessary repairs or contract to have such repairs made;

"(ii) release any withheld amounts to the owner after repairs are made by the owner, in an amount not exceeding the cost of the repairs;

"(iii) release any withheld amounts to the applicable State or local housing agency after repairs are made by such agency, in an amount not exceeding the cost of the repairs; or

"(iv) upon the request of the tenant, release any withheld amounts to (I) the tenant to reimburse the tenant for the reasonable cost of any necessary repairs performed or paid for by the tenant, or (II) such person secured by the tenant and approved by the agency (or the Secretary) to make such necessary repairs;

"(E) if an agency (or the Secretary) withholds any assistance amounts pursuant to subparagraph (D), the agency (or the Secretary) may not terminate the assistance contract unless and until the tenant has relocated to decent, safe, and sanitary housing; and".

(d) Portability.—

(1) In general.—Section 8(r) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)) is amended to read as follows:

"(r) Portability of Assistance.—

"(1) Authority.—Except as provided in paragraph (2), any family on behalf of whom is provided tenant-based rental assistance under this section and who moves to an eligible dwelling unit located within the same State, or the same or a contiguous metropolitan statistical area as the metropolitan statistical area served by the public housing agency providing the assistance on behalf of the family shall be provided with tenant-based assistance for rental of the new dwelling unit, to the extent amounts are available pursuant to this subsection.

"(2) Local options to ensure minimum area residency.—

"(A) Small PHA's.—Any public housing agency that provides tenant-based rental assistance under this section on behalf of less than 300 families in a year may, at the discretion of the agency, prohibit any family from using tenant-based assistance to rent an eligible dwelling unit that is not located within the area of jurisdiction of the agency approving the assistance unless, before such use, the family has rented and occupied an eligible dwelling unit within such jurisdiction for not less than 12 consecutive months using assistance provided by such agency.

"(B) Large PHA's.—Any public housing agency that provides tenant-based rental assistance on behalf of 300 or more families in a year may, at the discretion of the agency, prohibit families from using tenant-based rental assistance to rent an eligible dwelling unit that is not located within the area of jurisdiction of the agency approving the assistance unless, before such use, the family has rented and occupied an eligible dwelling unit within such jurisdiction for not less than 12 consecutive months using assistance provided by such agency; except that the agency may not restrict the use of such assistance with respect to assistance provided on behalf of 10 percent of the number of families receiving such assistance that exceeds 300.

"(3) Provision of assistance by PHA in new location.—Except as provided under paragraphs (4) and (5), the public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall provide assistance under this section on behalf of the family from amounts provided to the agency for assistance under this section.

"(4) Provision of assistance by original PHA.—If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency approving the assistance for the family and the dwelling from which the family moved shall provide assistance under this section on behalf of such family with respect to the new dwelling unit of the family.

"(5) Provision of assistance from headquarters reserve.—If, in any fiscal year, the amount of assistance provided pursuant to paragraph (3) by any public housing agency on behalf of families who have moved into dwelling units located within the area of jurisdiction of the agency exceeds the lesser of (i) 5 percent of the total amount received by the agency for assistance under this section for the fiscal year, or (ii) the amount necessary to assist 25 percent of the average annual number of families previously assisted by the agency who relinquish assistance in a year (based on the preceding 3 calendar years), then the assistance provided under this section on behalf of a family shall be provided from amounts for assistance under this section reserved under section 213(d)(4) of the Housing and Community Development Act of 1974, to the extent such amounts are available.".

(2) Reservation of amounts under headquarters reserve.—Section 213(d)(4)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(4)(A)) is amended—

(A) by inserting after the period at the end of the first sentence the following new sentence: "In addition to any financial assistance for the rental housing assistance program under section 8 of the United States Housing Act of 1937 that is reserved pursuant to the preceding sentence, the Secretary shall retain an additional 5 percent of the financial assistance that becomes available under such program during any fiscal year and such additional amount may be used only for the purpose under clause (v) of this subparagraph.";

(B) in clause (iii), by striking "and" at the end;

(C) in clause (iv), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new clause:

"(v) in the case of financial assistance under the rental housing assistance program under section 8 of the United States Housing Act of 1937, providing assistance pursuant to section 8(r)(5) of such Act.".

(e) Definitions.—Section 8(f) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'project-based assistance' means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(2); and

"(7) the term 'tenant-based assistance' means rental assistance under subsection (b) or (o) that is not project-based assistance.".

Page 91, strike line 22 and all that follows through line 16 on page 92.

Page 92, line 17, strike "(c)" and insert "(b)".

Page 93, line 11, strike "(d)" and insert "(c)".

Page 98, after line 19, insert the following new subsection:

(b) Fiscal Year 1993 Set-Asides.—Section 5130(b) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(b)) is amended—

(1) by striking "Set-Aside for Assisted Housing" and inserting "Set-Asides"; and

(2) by inserting after the period at the end the following new sentence: "Notwithstanding any other provision of law, of any amounts appropriated for drug elimination grants under this chapter for fiscal year 1993, not more than 6.25 percent shall be available for grants for federally assisted low-income housing and 0.5 percent shall be available for public housing youth sports program grants under section 520 of the Cranston-Gonzalez National Affordable Housing Act.".

Page 98, line 20, strike "(b)" and insert "(c)".

Page 99, line 5, strike "(c)" and insert "(d)".

Page 105, after line 5, insert the following new subsections:

(d) Eligibility for Counseling Assistance Under Housing and Urban Development Act of 1968 and Certification and Training Program.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsections:

"(e) Certification.—

"(1) Requirement for assistance.—An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (c), or (d), unless the organization provides such counseling only by individuals who have been certified by the Secretary under this subsection as competent to provide such counseling.

"(2) Standards and examination.— The Secretary shall, by regulation, establish standards and procedures for testing and certifying counselors. Such standards and procedures shall require for certification that individual shall demonstrate, by written examination (as provided under subsection (f)(4)), competence to provide counseling in each of the following areas:

"(A) Financial management.

"(B) Property maintenance.

"(C) Responsibilities of homeownership and tenancy.

"(D) Fair housing laws and requirements.

"(E) Housing affordability.

"(F) Avoidance of, and responses to, rental and mortgage delinquency and avoidance of eviction and mortgage default.

"(3) Encouragement.—The Secretary shall encourage organizations engaged in providing homeownership and rental counseling that do not receive assistance under this section to employ individuals to provide such counseling who are certified under this subsection or meet the certification standards established under this subsection.

"(f) Homeownership and Rental Counselor Training and Certification Programs.—

"(1) Establishment.—To the extent amounts are provided in appropriations Acts under paragraph (7), the Secretary shall contract with a single appropriate private entity (which may be a nonprofit organization) to carry out a program under this subsection to train individuals to provide homeownership and rental counseling and to administer the examination under subsection (e)(2) and certify individuals under such subsection.

"(2) Eligibility and selection.—

"(A) Eligibility.—To be eligible to provide the training and certification program under this subsection, an entity shall have been continuously engaged in training and certifying homeownership and rental counselors on a national basis for at least the 10-year period ending upon application under subparagraph (B).

"(B) Selection.—The Secretary shall provide for private entities meeting the requirements of subparagraph (A) to submit applications to provide the training and certification program under this subsection. The Secretary shall select an application based on the ability of the entity to—

"(i) establish the program as soon as possible on a national basis, but not later than the date under paragraph (6);

"(ii) minimize the costs involved in establishing the program; and

"(iii) effectively and efficiently carry out the program.

"(3) Training.—The Secretary shall require that training of counselors under the program under this subsection be designed and coordinated to prepare individuals for successful completion of the examination for certification under subsection (e)(2). The Secretary, in consultation with the private entity selected under paragraph (2)(B), shall establish the curriculum and standards for training counselors under the program.

"(4) CERTIFICATION.—The private entity selected under paragraph (2)(B) shall administer the examination under subsection (e)(2) and, on behalf of the Secretary, certify individuals successfully completing the examination. The Secretary, in consultation with such private entity, shall establish the content and format of the examination.

"(5) FEES.—The private entity selected under paragraph (2)(B) may establish and impose fees for participation in the training provided under the program and for examination and certification under subsection (e)(2). The amount of any fees shall be sufficient to cover any costs of such activities not covered with amounts provided under paragraph (7).

"(6) TIMING.—The private entity selected under paragraph (2)(B) to carry out the training and certification program shall establish the program as soon as possible after such selection, and shall make training and certification available under the program on a national basis not later than the expiration of the 1-year period beginning upon such selection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $2,000,000 for fiscal year 1993.".

(e) ELIGIBILITY FOR COUNSELING ASSISTANCE UNDER SPECIAL MORTGAGE INSURANCE PROGRAM.—Section 237(e) of the National Housing Act (12 U.S.C. 1715z–2(e)) is amended by inserting after the period at the end of the first sentence the following new sentence: "An organization may not receive amounts made available under subsection (g) unless the organization provides counseling services under this subsection only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968.".

(f) APPLICABILITY OF CERTIFICATION AND TRAINING REQUIREMENTS.—

(1) FAMILY SELF-SUFFICIENCY PROGRAM.—Section 23(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(4)) is amended by inserting after the period at the end the following new sentence: "Any such counseling may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968.".

(2) HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.—

(A) PLANNING GRANTS.—Section 302(b)(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa–1(b)(5)) is amended by inserting before the semicolon at the end the following: "provided by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968".

(B) IMPLEMENTATION GRANTS.—Section 303(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa–2(b)(6)) is amended by inserting before the semicolon at the end the following: ", which may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968".

(3) HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY UNITS.—

(A) PLANNING GRANTS.—Section 422(b)(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(5)) is amended by inserting before the semicolon at the end the following: "provided by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968".

(B) IMPLEMENTATION GRANTS.—Section 423(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12873(b)(6)) is amended by inserting before the semicolon at the end the following: ", which may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968".

(4) HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES.—

(A) PLANNING GRANTS.—Section 442(b)(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12892(b)(5)) is amended by inserting before the semicolon at the end the following: "provided by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968".

(B) IMPLEMENTATION GRANTS.—Section 443(b)(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12893(b)(5)) is amended by inserting before the semicolon at the end the following: ", which may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968".

(5) COMPREHENSIVE TRANSITION DEMONSTRATION.—Section 126(c)(3)(A)(ii) of the Housing and Community Development Act of 1987 (42 U.S.C. 1437f note) is amended by inserting before the period at the end the following: ", which may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968".

(6) MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION.—Section 522(h)(8) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended by inserting before the period at the end the following: ", except that any such counseling may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968".

(7) LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.—Section 220(d)(2)(G) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4110(d)(2)(G)) is amended by inserting after "counseling and training" the following: "(which may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968)".

(8) HOME INVESTMENT PARTNERSHIPS ACT.—

(A) HOUSING EDUCATION SUPPORT.—Section 233(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2)) is amended by inserting after the period at the end the following new sentence: "Any such counseling may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968.".

(B) SECOND MORTGAGE ASSISTANCE FOR FIRST-TIME HOMEBUYERS.—Section 258(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12808(b)) is amended by inserting after paragraph (5) the following new flush sentence:

"Counseling under this subsection may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968.".

(9) NATIONAL HOUSING ACT.—

(A) SINGLE FAMILY MORTGAGE INSURANCE PROGRAM.—

(i) LOSS REDUCTION.—Section 203(r)(4) of the National Housing Act (12 U.S.C. 1709(r)(4)) is amended by inserting before the period at the end the following: "; except that such counseling may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968".

(ii) PAYMENT OF INSURANCE.—The first sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended in clause (1)(B)(iii) by inserting after "homeownership counseling" the following: "(which may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968)".

(B) TEMPORARY MORTGAGE ASSISTANCE PAYMENTS AND ASSIGNMENT OF MORTGAGES.—Section 230(d) of the National Housing Act (12 U.S.C. 1715u(d)) is amended by inserting after the period at the end the following new sentence: "Such counseling may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968.".

(C) SPECIAL MORTGAGE INSURANCE ASSISTANCE.—Section 237 of the National Housing Act (12 U.S.C. 1715z–2) is amended—

(i) in subsection (c)(3), by inserting before ": *Provided*," the following: "provided by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968"; and

(ii) in the second sentence of subsection (e), by inserting after "counseling" the following: "provided by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968".

(D) SINGLE FAMILY MORTGAGE INSURANCE ON INDIAN RESERVATIONS.—Section 248(g)(1) of the National Housing Act (12 U.S.C. 1715z–13(g)(1)) is amended by inserting after the period at the end the following new sentence: "Counseling required under this paragraph may be provided only by counselors certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968.".

(E) HOME EQUITY CONVERSION MORTGAGES.—The first sentence of section 255(f) of the National Housing Act (12 U.S.C. 1715z–20(f)) is amended by inserting after "lender" the following: ", who are certified in accordance with section 106(e)(2) of the Housing and Urban Development Act of 1968,".

(10) APPLICABILITY.—The amendments made by this subsection shall apply only after the expiration of the 18-month period beginning on the date that the Secretary of Housing and Urban Development selects a private entity to provide the homeownership and rental counselor training and certification program under section 106(f) of the Housing and Urban Development Act of 1968 (as added by subsection (d) of this section).

(g) REGULATIONS.—The Secretary of Housing and Urban Development shall issue any regulations necessary to carry out the amendments made by subsections (d), (e), and (f) of this section not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

Page 162, line 4, strike ", as amended by section 141(a) of this Act, is further" and insert "is".

Page 162, line 7, strike "(u)" and insert "(y)".

Page 163, lines 19 and 20, strike "rent for the area established under subsection (f)" and insert "rental for the area established under subsection (c)(1)".

Page 165, strike lines 17 and 18 and insert the following:

"(A) Subsection (c)(3)(B) of this section.

"(B) Subsection (d)(1)(B)(i) of this section.

Page 167, line 18, insert " '. " after the period.

Page 167, strike lines 19 through 22.

Page 168, line 6, strike "8(u)" and insert "8(y)".

Page 169, line 5, strike "8(u)" and insert "8(y)".

Page 170, strike lines 1 through 7 and insert the following new paragraph:

(4) CONFORMING AMENDMENT.—The third sentence of section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)) is amended by inserting "or (y) or paying rent under section 8(c)(3)(B)" after "section 8(o)".

Page 180, strike lines 6 through 11.

Page 180, line 12, strike "(iv)" and insert "(iii)".

Page 180, line 15, strike the period and insert "; and".

Page 180, after line 15, insert the following:

"(iv) the housing complies with the requirements under subparagraphs (D), (E), and (F) of paragraph (1).

Page 182, line 22, strike "10 percent" and insert "20 percent".

Page 240, line 19, before the first period insert the following new sentence: "If an operating loss loan was insured by the Secretary pursuant to this subsection before the date of the enactment of the Housing and Community Development Act of 1992 and was reduced solely to reflect the amount placed in escrow for initial operating deficits, the Secretary shall insure, to the extent of the availability of insurance authority provided in appropriation Acts, an increase in the existing loan or a separate loan, in an amount equal to the lesser of (A) the maximum amount permitted under this subsection and the applicable underwriting requirements established by the Secretary and in effect at the time the loan is to be made, or (B) the amount of the escrow for initial operating deficits.".

Page 255, after line 9, insert the following new subtitle:

Subtitle C—Improvement of Financing for Multifamily Housing

SEC. 541. SHORT TITLE.

This subtitle may be cited as the "Multifamily Housing Finance Improvement Act".

SEC. 542. REINSURANCE PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a pilot program through the Federal Housing Administration to provide reinsurance of risks related to mortgages on multifamily housing.

(b) PURPOSES.—The purposes of the pilot program are—

(1) to encourage the development of strong primary and secondary markets for prudent multifamily housing mortgage lending sufficient to meet the growing need for such lending in the United States;

(2) to refine methods through which the Federal Housing Administration may work with the financial institutions to enhance multifamily housing mortgage credit efficiently;

(3) to improve the supply of prudent multifamily housing mortgage lending, particularly in underserved markets; and

(4) to develop systems to achieve such purposes while significantly increasing the efficiency of the Federal Housing Administration and significantly reducing exposure of the Federal Government to risk of loss.

(c) AUTHORITY FOR REINSURANCE AGREEMENTS.—The Secretary may enter into reinsurance agreements (as such term is defined in section 544) with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, qualified housing finance agencies, and the Federal Housing Finance Board. The agreements may provide for risk-sharing and other forms of credit enhancement with respect to mortgage lending on multifamily housing, including reinsurance with respect to pools of loans on multifamily housing properties, that the Secretary determines to be appropriate to carry out the purposes of this section. The agreements shall be in a form and have such terms and conditions as the Secretary determines to be appropriate to carry out the purposes of this section.

(d) DEVELOPMENT OF ALTERNATIVES.—The Secretary shall develop and assess a variety of reinsurance alternatives, including arrangements under which the Secretary assumes an appropriate share of the risk related to long-term mortgage loans on newly constructed or acquired multifamily rental housing, mortgage refinancings, bridge financing for construction, and other forms of multifamily housing mortgage lending that the Secretary deems appropriate to carry out the purposes of this section. Such alternatives shall be designed—

(1) to ensure that other parties bear a share of the risk, in percentage amount and in position of exposure, that is sufficient to create strong, market-oriented incentives for other participating parties to maintain sound underwriting and loan management practices;

(2) to develop credit mechanisms, including sound underwriting criteria, processing methods, and credit enhancements, through which resources of the Federal Housing Administration can assist in increasing multifamily housing lending as needed to meet the expected need in the United States;

(3) to provide a more adequate supply of mortgage credit for sound multifamily rental housing projects in underserved urban and rural markets;

(4) to encourage major financial institutions to expand their participation in mortgage lending for sound multifamily housing, through means such as mitigating uncertainties regarding actions of the Federal Government (including the possible failure to renew short-term subsidy contracts);

(5) to increase the efficiency, and lower the costs to the Federal Government, of processing and servicing multifamily housing mortgage loans insured by the Federal Housing Administration; and

(6) to improve the quality and expertise of Federal Housing Administration staff and other resources, as required for sound management of reinsurance and other market-oriented forms of credit enhancement.

(e) ELIGIBILITY STANDARDS.—

(1) IN GENERAL.—The Secretary shall establish and enforce standards for financial institutions and entities to be eligible to enter into reinsurance agreements under this section, as the Secretary determines to be appropriate.

(2) QUALIFIED HOUSING FINANCE AGENCIES.—In the case of qualified housing finance agencies, such standards shall be designed to accommodate the distinctive financial and institutional characteristics of such agency and shall require evidence of the capacity of such agency to fulfill any reimbursement obligations made pursuant to this section. Evidence of such capacity may include—

(A) a pledge of the full faith and credit of a qualified State or local agency to fulfill any obligations entered into by the qualified housing finance agency;

(B) reserves pledged or otherwise restricted by the qualified housing finance agency in an amount equal to a percentage of the loss assumed by the housing finance agency agreed to by the agency and the Secretary;

(C) funds pledged through a State or local guarantee fund; or

(D) any other evidence of such capacity mutually agreed to by the Secretary and the qualified housing finance agency.

(f) FEES.—The Secretary shall establish and collect premiums and fees for reinsurance under this section as the Secretary determines appropriate to (1) achieve the purpose of this section, and (2) compensate the Federal Housing Administration for the risks assumed and related administrative costs.

(g) NON-FEDERAL PARTICIPATION.—

(1) REQUIREMENT.—The Secretary shall carry out this section, to the maximum extent practicable, with the participation of well-established residential mortgage originators, financial institutions that invest in multifamily housing mortgages, multifamily housing sponsors, and such other private sector experts in multifamily housing finance as the Secretary determines to be appropriate.

(2) SPECIFIC PILOT PROGRAM.—The Secretary shall carry out a specific pilot program under this section in conjunction with qualified housing finance agencies, to test the effectiveness of Federal credit enhancement for multifamily housing loans through a system of risk-sharing agreements with such agencies. Such pilot program shall accommodate the distinctive financial and institutional characteristics of qualified housing finance agencies and may allow a qualified housing finance agency to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans.

(3) COORDINATION WITH ACCOUNTING FIRM.—To the extent amounts are available for carrying out this section, the Secretary may enter into a contract with a nationally-recognized, independent accounting firm with demonstrated expertise in mortgage insurance to assist in designing and assessing alternatives developed under the pilot program under this section. Such contract shall require the accounting firm to identify and assess problems in the structure, design, and management of previous reinsurance programs of the Federal Housing Administration and to recommend actions and policies to ensure that such problems are corrected in designing reinsurance alternatives under this section.

(h) TIMING.—The Secretary shall take any administrative actions necessary to initiate the pilot program under this section not later than the expiration of the 8-month period beginning on the date of the enactment of this Act.

(i) INDEPENDENT STUDIES AND REPORTS.—

(1) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—The Federal National Mortgage Association, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(2) FEDERAL HOME LOAN MORTGAGE CORPORATION.—The Federal Home Loan Mort-

gage Corporation, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(3) SECRETARY.—The Secretary shall submit to the Congress, and publish, reports under this paragraph assessing the activities carried out under the pilot program. The Secretary shall submit and publish a preliminary report under this paragraph not later than 18 months after the date of the enactment of this Act, and a final report not later than 26 months after the date on which the pilot program is initiated, which shall include any recommendations by the Secretary for legislative changes to achieve the purposes of this section.

(4) COMPTROLLER GENERAL.—The Comptroller General of the United States shall carry out an evaluation of the pilot program under this section and shall submit to the Congress, not later than 30 months after the date on which the pilot program is initiated, a report regarding the evaluation, together with any recommendations for legislative changes to achieve the purposes of this section. The Comptroller General shall also submit to the Congress a report containing a preliminary assessment of the pilot program not later than 18 months after the date of enactment of this Act.

(5) FEDERAL HOUSING FINANCE BOARD.—The Federal Housing Finance Board shall monitor and assess the activities carried out under the pilot program under this section. The Federal Housing Finance Board shall submit a preliminary report containing any findings regarding such activities not later than 18 months after the date of the enactment of this Act, and a final report containing such findings not later than 26 months after the date on which the pilot program is initiated, which shall include any recommendations by the Board for legislative changes to achieve the purposes of this section.

(j) FUNDING.—

(1) INSURANCE AUTHORITY.—Using any authority provided in appropriation Acts to insure loans under the National Housing Act, the Secretary may enter into commitments under this section for reinsurance of mortgages on not more than 25,000 units for fiscal year 1993, not less than 40 percent of which shall be reserved to carry out the pilot program under subsection (g)(2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for costs of administration of activities under this section such sums as may be necessary for fiscal year 1993. Any amounts appropriated under this section shall remain available until expended.

SEC. 543. MULTIFAMILY HOUSING FINANCIAL DATA PROJECT.

(a) IN GENERAL.—The Secretary of Housing and Urban Development may enter into a contract with an appropriate organization (to the extent amounts are made available in appropriation Acts for such purpose) to carry out the multifamily housing financial data project under this section.

(b) FUNCTIONS.—The purpose of the multifamily housing financial data project under this section shall be to improve the availability and efficiency of financing for multifamily rental housing. The project shall—

(1) analyze available data regarding the performance of multifamily housing mortgage loans in all regions of the country;

(2) prepare a comprehensive national database on the operation and financing of multifamily housing that will provide reliable information appropriate to meet the projected needs of lenders, investors, sponsors, property managers, and public officials;

(3) identify important factors that affect the long-term financial and operational soundness of multifamily housing properties, including factors relating to project credit risk, project underwriting, interest rate risk, real estate market conditions, public subsidies, tax policies, borrower characteristics, program management standards, and government policies;

(4) develop common definitions, standards, and procedures that will improve multifamily housing underwriting and accelerate the development of a strong, competitive, and efficient secondary market for multifamily housing loans; and

(5) make available appropriate information to various organizations in forms that will assist in improving multifamily housing loan underwriting and servicing.

(c) CONTRACT PROVISIONS.—

(1) DUTIES.—The contract under this section shall provide that the contracting organization shall make diligent and reasonable efforts to carry out activities under this section in cooperation with representatives of diverse participants in the multifamily rental housing delivery system, including lenders, equity investors, sponsors, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified housing finance agencies, and government agencies.

(2) COSTS.—

(A) FEDERAL AMOUNTS.—The contract shall provide the contracting organization with amounts made available under this section for not more than 50 percent of any costs of the contracting organization for activities to carry out this section.

(B) NON-FEDERAL AMOUNTS.—The contracting organization shall demonstrate to the satisfaction of the Secretary that amounts for any remaining costs for such activities will be provided from non-Federal sources.

(3) TIMING.—The Secretary shall enter into the contract not less than 3 months after the contracting organization demonstrates to the satisfaction of the Secretary that firm commitments for non-Federal amounts required under paragraph (2)(B) are available.

(d) QUALIFICATIONS OF CONTRACTING ORGANIZATION.—To be eligible to enter into a contract under this section, an organization shall—

(1) be a nonprofit entity organized in accordance with appropriate Federal, State, or local laws;

(2) have staffing and other resources that, in the determination of the Secretary, are adequate to carry out this section;

(3) provide, in the establishment of policies related to activities under this section, for active participation by representatives of multifamily housing mortgage lenders, sponsors, equity investors, nationally recognized rating agencies, the financial services industry, qualified housing finance agencies, and other major participants in the multifamily rental housing delivery system, including individuals and organizations having experience with subsidized multifamily housing; and

(4) agree to maintain financial accounting and other recordkeeping practices required by the Secretary to carry out this section and comply with any other requirements under law.

(e) MULTIFAMILY HOUSING FINANCIAL DATA.—

(1) PROVISION OF INFORMATION BY FEDERAL AGENCIES.—The Secretary, the Director of the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation shall each make available to the contracting organization representative samples of any multifamily housing mortgage loan data of such agency or office for the purpose of enabling the contracting organization to carry out sound statistical analyses of multifamily housing mortgage activity in accordance with this section.

(2) AUTHORITY TO OBTAIN INFORMATION FROM SOURCES.—To carry out paragraph (1), the Secretary, the Director of the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation may obtain loan data from mortgage originators and government-sponsored enterprises regulated by such agencies and offices, and from housing finance agencies and life insurance companies, except that—

(A) each request for data shall be for a representative sample of data from a representative sample of loan originators;

(B) any information obtained shall be used only for the purposes under this section;

(C) the agencies and offices that obtain such loan data made available under this section and the contracting organization shall maintain the confidentiality of the data in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(D) only aggregate data shall be publicly released by the contracting organization, unless the contracting organization receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(E) any officer or employee of the Department of Housing and Urban Development, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, or the Federal Deposit Insurance Corporation shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (c); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exceptions under such section 1906.

(f) REPORT.—Not later than 15 months after the date of the enactment of this Act, the contracting organization shall submit to the Secretary and the Congress a report describing the activities and findings of the organization in carrying out this section and containing recommendations of the organization for improving the availability and efficiency of financing for multifamily rental housing.

(g) GAO AUDIT AND EVALUATION.—

(1) Audit.—The financial transactions of the contracting organization relating to activities under this section may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files and other papers, things, or property belonging to or in use by the contracting organization pertaining to such financial transactions and necessary to facilitate the audit.

(2) Evaluation.—The Comptroller General of the United States shall conduct an independent analysis of the findings and recommendations submitted by the contracting organization under this section.

(h) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $2,000,000 for fiscal year 1993. Any amounts appropriated under this subsection, including any amounts not obligated because of any lack of availability of non-Federal amounts required under subsection (c)(2)(b), shall remain available until expended.

SEC. 544. DEFINITIONS.

For purposes of this subtitle:

(1) The term "multifamily housing" means a property consisting of more than 4 dwelling units.

(2) The term "qualified housing finance agency" means any State or local housing finance agency that—

(A) carries the designation of "top tier" or its equivalent, as evaluated by Standard and Poors or any other nationally recognized rating agency;

(B) receives a rating of "A" for its general obligation bonds from a nationally recognized rating agency; or

(C) otherwise demonstrates its capacity as a sound and experienced agency based on its experience in financing multifamily housing, fund balances, administrative capabilities, investment policy, internal controls and financial management, portfolio quality, State or local support, and any other factors.

(3) The term "reinsurance agreement" means a contractual obligation under which the Secretary, in exchange for appropriate compensation, agrees to assume a specified portion of the risk of loss that a lender or other party has previously assumed with respect to a mortgage on a multifamily housing property.

(4) The term "Secretary" means the Secretary of Housing and Urban Development.

Page 256, after line 17, insert the following new subsection:

(c) Repeal of Requirement for State and Local Certification of Services.—Section 202(e) of the Housing Act of 1959 (12 U.S.C. 1701q(e)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

Page 256, line 18, strike "(c)" and insert "(d)".

Page 258, line 15, strike "(d)" and insert "(e)".

Page 259, line 14, strike "(e)" and insert "(f)".

Page 263, line 8, strike "section 8" and insert "sections 8(b) and 8(o)".

Page 292, line 1, strike "8(q)" and insert "8(i)".

Page 292, line 6, strike "5(j)(2)(F)" and insert "5(j)(2)(G)".

Page 295, strike lines 9 through 14 and insert the following:

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by inserting after subsection (h) the following new subsection:

"(i) Assistance for Handicapped and Disabled Families.—For each fiscal year, each public.

Page 296, line 6, strike "subsection (h)(2)" and insert "subsections (d)(1)(A), (d)(2)(D), and (o)(3)(B)".

Page 296, line 16, strike "(F)" and insert "(G)".

Page 303, line 17, strike "8(h)" and insert "8(d)(1)".

Page 308, lines 14 through 16, strike "subclauses (I) through (III) of section 8(h)(2)(A)(ii) of the United States Housing Act of 1937" and insert "section 8(d)(1)(A)(i) of the United States Housing Act of 1937 and the first sentence of 8(o)(3)(B) of such Act".

Page 314, strike line 7 and all that follows through line 19 on page 315, and insert the following:

Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended by adding at the end the following new subparagraph:

"(F)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of any services within the project for residents of the project who are elderly, handicapped, or disabled families.

"(ii) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $5,000,000 on or after October 1, 1992. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983) only for such purpose.".

Page 315, strike line 23 and all that follows through line 9 on page 317, and insert the following:

Section 8(q) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Fees under this subsection may be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of supportive services for elderly, handicapped, and disabled families on whose behalf tenant-based assistance is provided under this section. Such service coordinators shall have the same responsibilities with respect to such families as service coordinators of covered federally assisted housing projects have under section 661 of such Act with respect to residents of such projects.

"(B) To the extent amounts are provided in appropriation Acts under subparagraph (C), the Secretary shall increase fees under this subsection to provide for the costs of such service coordinators for public housing agencies.

"(C) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $15,000,000 on or after October 1, 1992. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for increased fees under this subsection, which shall be used only for the purpose of providing service coordinators for public housing agencies described in subparagraph (A).".

Page 320, after line 16, insert the following new paragraph:

(2) Inapplicability of HUD Reform Act Provisions.—Notwithstanding section 102 of the Department of Housing and Urban Development Reform Act of 1989, the provisions of paragraphs (1), (2), and (3) of subsection (a) of such Act shall not apply to amendments to contracts under section 8 of the United States Housing Act of 1937 made to carry out the purposes of paragraph (1) of this subsection.

Page 320, line 17, strike "(2)" and insert "(3)".

Page 323, strike line 10 and all that follows through line 3 on page 324, and insert the following new subsection:

(b) Project-Based Section 8 Housing.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), as amended by section 664 of this Act, is further amended by adding at the end the following new subparagraphs:

"(G) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with the subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

"(H) Notwithstanding subsection (d)(1)(A)(i), an owner of a housing for which project-based assistance is provided under this subsection may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992.".

Page 348, after line 20, insert the following new section:

SEC. 711. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

(a) Extension of Authority.—Section 535(b) of the Housing Act of 1949 (42 U.S.C. 1490o(b)) is amended by striking the last sentence and inserting the following new sentence: "This subsection shall not apply after June 15, 1993.".

(b) Retroactivity.—Any administrative approval of any housing subdivision made after the expiration of the 18-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 and before the date of the enactment of this Act is hereby approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949.

Page 350, after line 13, insert the following:

"(C) $6,000,000 shall be available for grants under subsection (b)(5);

Page 350, line 14, strike "(C)" and insert "(D)".

Page 350, line 16, strike "(D)" and insert "(E)".

Page 350, line 18, strike "(5),".

Page 350, line 19, strike "(E)" and insert "(F)".

Page 355, after line 15, insert the following new section:

SEC. 806. EVALUATION, SELECTION, AND REVIEW OF ECONOMIC DEVELOPMENT PROJECTS.

(a) REVIEW.—Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended—

(1) in subsection (e)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) whether the activities carried out pursuant to section 105(a)(14), (15), and (17) by any entities receiving (or to receive) assistance from grant recipients for such activities (A) are furthering the objectives and goals of this title under section 101, (B) comply with the requirements of this title and program guidelines established pursuant to this title (including the guidelines established under section 105(d)), and (C) further the objectives identified in the grantee's statement under subsection (a); if the Secretary determines that any such activity does not comply with the requirements under clauses (A), (B), and (C) of this paragraph, the Secretary shall provide that no additional grant amounts under this title may be disbursed by any grant recipient for such activity."; and

(2) by adding at the end the following new subsection:

"(n) TRAINING FOR EVALUATING ECONOMIC DEVELOPMENT PROJECTS.—The Secretary shall carry out a program to educate and train officers and employees of area and other field offices of the Department of Housing and Urban Development to conduct evaluations required pursuant to subsection (e)(3). There is authorized to be appropriated $1,000,000 for fiscal year 1993 to carry out such program".

(b) GUIDELINES.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) is amended by adding at the end the following new subsection:

"(d) GUIDELINES FOR EVALUATING AND SELECTING ECONOMIC DEVELOPMENT PROJECTS.—

"(1) ESTABLISHMENT.—The Secretary shall establish, by regulation, guidelines to assist grant recipients under this title to evaluate and select activities described in section 105(a)(14), (15), and (17) for assistance with grant amounts.

"(2) PROJECT COSTS AND FINANCIAL REQUIREMENTS.—The guidelines established under this subsection shall ensure that—

"(A) the project costs of such activities are reasonable;

"(B) adequate financial support has been committed for such activities from non-Federal sources;

"(C) any grant amounts to be provided for such activities do not substantially reduce the amount of non-Federal financial support for the activities;

"(D) such activities are financially feasible and provide not more than a reasonable return on investment to the owner; and

"(E) to the extent practicable, grant amounts used for the costs of such activities are disbursed on a pro rata basis with amounts from other sources.

"(3) PUBLIC BENEFIT.—The guidelines established under this subsection shall ensure that the public benefit provided by the activity is proportional to the amount of assistance provided with grant amounts under this title.".

(c) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the use of grant amounts under the community development block grant program (under title I of the Housing and Community Development Act of 1974) for activities described in paragraphs (14), (15), and (17) of section 105(a) of such Act. The study shall evaluate whether the activities for which such amounts are being used under such paragraphs further the goals and objectives of such program, as established in section 101 of such Act. The Comptroller General shall submit a report to the Congress regarding the findings of the study not later than the expiration of the 18-month period beginning on the date of the enactment of this Act. The report shall include recommendations of (1) any administrative or legislative actions that may be taken to ensure that such grant amounts are properly and efficiently used for economic development activities, and (2) criteria by which to evaluate the effectiveness of activities assisted under paragraphs (14), (15), and (17) of such section 105(a).

Page 355, line 16, strike "**SEC. 806.**" and insert "**SEC. 807.**".

Page 358, line 16, strike "**SEC. 807.**" and insert "**SEC. 808.**".

Page 361, line 11, strike "**SEC. 808.**" and insert "**SEC. 809.**".

Page 361, line 18, strike "**SEC. 809.**" and insert "**SEC. 810.**".

Page 411, after line 19, insert the following new sections:

SEC. 917. BANK ENTERPRISE ACT OF 1991 AND RELATED PROVISIONS.

(a) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Section 7(b)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(10)) (as added by section 232(b)(2) of the Bank Enterprise Act of 1991) is amended by striking "at the assessment rate of ½ the maximum rate." and inserting "at an assessment rate to be determined by the Corporation by regulation. Such assessment rate may not be less than ½ the maximum assessment rate."

(b) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A)(iii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1917(b)(2)(A)(iii)(I)) (as added by section 232(b)(3)(C) of the Bank Enterprise Act of 1991) is amended to read as follows:

"(I) the assessment rate determined by the Corporation pursuant to paragraph (10) with respect to such semiannual period; and".

(c) QUALIFYING ACTIVITIES FOR ASSESSMENT CREDITS.—Section 233(a)(2) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(a)(2)) is amended to read as follows:

"(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

"(A) the amount, during such period, of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

"(B) the amount, during such period, of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and new originations of any loans and other financial assistance made within that community, except that in no case shall the credit for deposits at any institution or branch exceed the credit for loans and other financial assistance by the bank or branch in the distressed community.".

(d) AMOUNT OF ASSESSMENT CREDIT.—Section 233(a)(3) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(a)(3)) is amended to read as follows:

"(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) of the Federal Deposit Insurance Act for any insured depository institution, or a qualified portion thereof, shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 234, and 15 percent, in the case of an institution, or a qualified portion thereof, which meets such requirements (or any percentage designated under paragraph (5)) of—

"(A) for the first full semiannual period in which community enterprise assessment credits are available, the sum of—

"(i) the amounts of assets described in paragraph (2)(A); and

"(ii) the amounts of deposits, loans, and other financial assistance described in paragraph (2)(B); and

"(B) for any subsequent semiannual period, the sum of—

"(i) any increase during such period in the amount of assets described in paragraph (2)(A) that has been deemed eligible for credit by the Board; and

"(ii) any increase during such period in the amounts of deposits, loans, and other financial assistance described in paragraph (2)(B) that has been deemed eligible for credit by the Board.".

(e) ELIGIBILITY REQUIREMENTS FOR QUALIFIED DISTRESSED COMMUNITIES.—Section 233(b)(4) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(b)(4)) is amended to read as follows:

"(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if the following criteria are met:

"(A) At least 30 percent of the residents residing in the area have incomes which are less than the national poverty level.

"(B) The unemployment rate for the area is 1½ times greater than the national average (as determined by the Bureau of Labor Statistics' most recent figures).

"(C) Such additional eligibility requirements as the Board may, in its discretion, deem necessary to carry out the provisions of this subtitle.".

SEC. 918. PROHIBITION ON USE OF "RULE OF 78's" IN CONNECTION WITH MORTGAGE REFINANCINGS AND OTHER CONSUMER LOANS.

(a) PROMPT REFUND OF UNEARNED INTEREST REQUIRED.—

(1) IN GENERAL.—If a consumer prepays in full the financed amount under any consumer credit transaction, the creditor shall promptly refund any unearned portion of the interest charge to the consumer.

(2) EXCEPTION FOR REFUND OF DE MINIMUS AMOUNT.—No refund shall be required under paragraph (1) with respect to the prepayment of any consumer credit transaction if the total amount of the refund would be less than $1.

(3) APPLICABILITY TO REFINANCED TRANSACTIONS AND ACCELERATION BY THE CREDITOR.—This subsection shall apply with respect to any prepayment of a consumer credit transaction described in paragraph (1) without regard to the manner or the reason for the prepayment, including—

(A) any prepayment made in connection with the refinancing, consolidation, or restructuring of the transaction; and

(B) any prepayment made as a result of the acceleration of the obligation to repay the amount due with respect to the transaction.

(b) Use of "Rule of 78's" Prohibited.—For the purpose of calculating any refund of interest required under subsection (a) for any precomputed consumer credit transaction of a term exceeding 61 months which is consummated after September 30, 1993, the creditor shall compute the refund based on a method which is at least as favorable to the consumer as the actuarial method.

(c) Statement of Prepayment Amount.—

(1) In general.—Before the end of the 5-day period beginning on the date an oral or written request is received by a creditor from a consumer for the disclosure of the amount due on any precomputed consumer credit account, the creditor or assignee shall provide the consumer with a statement of—

(A) the amount necessary to prepay the account in full; and

(B) if the amount disclosed pursuant to subparagraph (A) includes an amount which is required to be refunded under this section with respect to such prepayment, the amount of such refund.

(2) Written statement required if request is in writing.—If the customer's request is in writing, the statement under paragraph (1) shall be in writing.

(3) 1 free annual statement.—A consumer shall be entitled to obtain 1 statement under paragraph (1) each year without charge.

(4) Additional statements subject to reasonable fees.—Any creditor may impose a reasonable fee to cover the cost of providing any statement under paragraph (1) to any consumer in addition to the 1 free annual statement required under paragraph (3) if the amount of the charge for such additional statement is disclosed to the consumer before furnishing such statement.

(d) Definitions.—For the purpose of this section—

(1) Actuarial method.—The term "actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(2) Consumer, credit.—The terms "consumer" and "creditor" have the meanings given to such terms in section 103 of the Consumer Credit Protection Act.

(3) Creditor.—The term "creditor"—

(A) has the meaning given to such term in section 103 of the Consumer Credit Protection Act; and

(B) includes any assignee of any creditor with respect to credit extended in connection with any consumer credit transaction and any subsequent assignee with respect to such credit.

SEC. 919. REGULATIONS CLARIFYING THE TERM "HOUSING FOR OLDER PERSONS".

The Secretary of Housing and Urban Development shall, not later than 180 days after the date of the enactment of this Act, make rules defining what are "significant facilities and services especially designed to meet the physical or social needs of older persons" required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term "housing for older persons" in such section.

SEC. 920. USE OF DOMESTIC PRODUCTS.

(a) Prohibition Against Fraudulent Use of "Made in America" Labels.—

(1) In general.—A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) Ineligibility.—A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this Act, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) Compliance With Buy American Act.—

(1) In general.—Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) Applicability.—This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) Report.—The Secretary of Housing and Urban Development and the Secretary of Agriculture, before January 1, 1994, shall each submit a report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) Definitions.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

Page 457, line 7, strike "8(e)" and insert "8(c)(1)".

Page 458, line 9, strike "8(e)" and insert "8(c)(1)".

Page 458, line 20, strike "8(l)" and insert "8(n)".

Page 461, after line 20, insert the following new subsection:

(c) State and Local Taxes.—

(1) Requirement to provide information upon request.—In carrying out the program referred to in subsection (a), the Secretary of Housing and Urban Development shall provide the information described in paragraph (2) to any lessee or applicant under the program who requests such information.

(2) Content.—The information referred in paragraph (1) shall identify and describe any exemptions or reductions relating to payment of property taxes under State and local laws (for the jurisdictions for which the lessee or applicant requests such information) that may be applicable to lessees or applicants, or to properties leased, under such program.

(3) Exemption from escrow requirement.—To the extent any lessee of a property under the program referred to in subsection (a) is provided an exemption from any requirement to pay State or local taxes, or a reduction in the amount of any such taxes, the Secretary may not require the lessee to pay or deposit in any escrow account amounts for the payment of such taxes.

At the end of the bill, insert the following new title:

TITLE XII—REMOVAL OF REGULATORY BARRIERS TO AFFORDABLE HOUSING

SEC. 1201. SHORT TITLE.

This title may be cited as the "Removal of Regulatory Barriers to Affordable Housing Act of 1992".

SEC. 1202. PURPOSES.

The purposes of this Act are—

(1) to encourage State and local governments to further identify and remove regulatory barriers to affordable housing (including barriers that are excessive, unnecessary, duplicative, or exclusionary) that significantly increase housing costs and limit the supply of affordable housing; and

(2) to strengthen the connection between Federal housing assistance and State and local efforts to identify and eliminate regulatory barriers.

SEC. 1203. DEFINITION OF REGULATORY BARRIERS TO AFFORDABLE HOUSING.

For purposes of this Act, the terms "regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including policies embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by a jurisdiction in connection with its comprehensive housing affordability strategy under section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act. Such terms do not include policies relating to rents imposed on a structure by a jurisdiction or policies that have served to create or preserve, or can be shown to create or preserve, housing for low- and very low-income families, including displacement protections, demolition controls, replacement housing requirements, relocation benefits, housing trust funds, dedicated funding sources, waiver of local property taxes and builder fees, inclusionary zoning, rental zoning overlays, long-term use restrictions, and rights of first refusal.

SEC. 1204. CDBG GRANTS FOR REGULATORY BARRIER REMOVAL STRATEGIES AND IMPLEMENTATION.

(a) Set-Aside of CDBG Amounts.—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) not less than $15,000,000 in each fiscal year for grants under section 107(g) to States and units of general local government for developing and implementing strategies for the removal of regulatory barriers to affordable housing.".

(b) Grant Requirements.—Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) is amended—

(1) in subsection (e)(1), by inserting "subsection (b) or (c)" before "this section"; and

(2) by adding at the end the following new subsection:

"(g) Grants for Regulatory Barrier Removal Development and Implementation.—

"(1) State grants.—From amounts set aside under section 103(5), the Secretary shall make grants to States for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

"(A) identifying, assessing, and monitoring State and local regulatory barriers;

"(B) identifying State and local policies (including laws and regulations) that permit or encourage regulatory barriers;

"(C) developing legislation to provide a State program to reduce State and local regulatory barriers and developing a strategy for adoption of such legislation;

"(D) developing model State standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances;

"(E) carrying out the simplification and consolidation of State administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits; and

"(F) providing technical assistance and information to units of general local government for implementation of legislative and administrative reform programs to remove regulatory barriers to affordable housing.

"(2) LOCAL GRANTS.—From amounts set aside under section 103(5), the Secretary shall make grants to units of general local government for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

"(A) identifying, assessing, and monitoring local regulatory barriers;

"(B) identifying local policies (including laws and regulations) that permit or encourage regulatory barriers;

"(C) developing legislation to provide a local program to reduce local regulatory barriers and developing a strategy for adoption of such legislation;

"(D) developing model local standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances; and

"(E) carrying out the simplification and consolidation of local administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits.

"(3) DEFINITION.—For purposes of this subsection, the terms 'regulatory barriers to affordable housing' and 'regulatory barriers' have the meaning given such terms in section 1203 of the Removal of Regulatory Barriers to Affordable Housing Act of 1992.

"(4) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection, which shall describe how grant amounts will assist the State or unit of general local government in developing and implementing strategies to remove regulatory barriers to affordable housing. The Secretary shall establish criteria for approval of applications under this paragraph and for the selection of units of general local government to receive grants under paragraph (5)(B).

"(5) ALLOCATION OF AMOUNTS.—

"(A) STATE GRANTS.—

"(i) IN GENERAL.—Of the total amount appropriated for each fiscal year under section 103(5) to carry out this subsection, the Secretary shall use two-thirds of such amount to provide grants under paragraph (1) to each State submitting an application that is approved by the Secretary. Such amounts shall be allocated among the States based upon the measure of need (for the whole State) of each State, as determined under section 217(b)(1)(A) of the Cranston-Gonzalez National Affordable Housing Act, except that the minimum amount of each for each fiscal year grant shall be $100,000 (to the extent sufficient amounts are made available).

"(ii) PRO RATA DISTRIBUTION.—If insufficient amounts are made available for grants in the amount under clause (i) to each State submitting an approved application, each such State shall receive a pro rata portion of such amount based on the ratio of the population of such State to the population of all States.

"(B) LOCAL GRANTS.—Of the total amount appropriated for each fiscal year under section 103(5) to carry out this subsection, the Secretary shall use one-third of such amount to provide grants on a competitive basis to units of general local government based on the proposed uses of such amounts, as provided in the application. Each grant made with such amounts shall be in an amount not less than $10,000.

"(6) COORDINATION WITH CLEARINGHOUSE.—Each State and unit of general local government receiving a grant under this subsection, shall consult, coordinate, and exchange information with the clearinghouse established under section 1205 of the Removal of Regulatory Barriers to Affordable Housing Act of 1992.

"(7) REPORTS TO SECRETARY.—Each State and unit of general local government receiving a grant under this subsection shall submit a report to the Secretary, not less than 12 months after receiving the grant, describing any activities carried out with the grant amounts.".

(c) CONFORMING AMENDMENTS.—The first sentence of section 106(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(1)) is amended by striking "for grants" and all that follows through "(2))" and inserting "that remains after allocations pursuant to paragraphs (1) and (2) of subsection (a)".

SEC. 1205. REGULATORY BARRIERS CLEARINGHOUSE.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a clearinghouse to receive, collect, process, and assemble information regarding—

(1) State and local laws, regulations, and policies affecting the development, maintenance, improvement, availability, or cost of affordable housing, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on investment in residential property; and

(2) State and local activities, strategies, and plans to remove or ameliorate the negative effects, if any, of such laws, regulations, and policies.

(b) FUNCTIONS.—The clearinghouse established under subsection (a) shall respond to inquiries from State and local governments, other organizations, and individuals requesting information regarding State and local laws, regulations, policies, activities, strategies, and plans described in subsection (a) and provide assistance in identifying, examining, and understanding such laws, regulations, policies, activities, strategies, and plans.

SEC. 1206. SUBSTANTIALLY EQUIVALENT FEDERAL AND STATE BARRIER ASSESSMENT REMOVAL REQUIREMENTS.

Section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(4)) is amended by inserting before the semicolon at the end the following: "; and except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph".

SEC. 1207. REPORTS BY SECRETARY.

The Secretary of Housing and Urban Development shall submit a report to the Congress, not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, which shall—

(1) describe any successful State and local strategies for the removal of barriers to affordable housing; and

(2) describe any strategies developed or implemented by the Department of Housing and Urban Development for reducing barriers to affordable housing imposed by the Federal Government.

SEC. 1208. SUNSET.

(a) CDBG GRANTS.—The Secretary of Housing and Urban Development may not make any grants under section 107(g) of the Housing and Community Development Act of 1974 (as added by section 1204(b)(2) of this Act) after the expiration of the 3-year period beginning on the date of the enactment of this Act.

(b) CLEARINGHOUSE.—The clearinghouse established under section 1205 of this Act shall terminate upon the expiration of the 3-year period beginning on the date of the enactment of this Act.

(c) SUBSTANTIALLY EQUIVALENT BARRIER ASSESSMENT REQUIREMENTS.—Effective upon the expiration of the 3-year period beginning on the date of the enactment of this Act, section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(4)) is amended by striking the material inserted by the amendment made section 1206 of this Act.

AMENDMENTS TO AUTHORIZATION AMOUNTS

Page 8, line 15, strike "$15,158,946,956" and insert "$14,552,589,078".

Page 9, line 4, strike "$844,792,000" and insert "$811,000,320".

Page 9, line 5, strike "$247,312,000" and insert "$237,419,520 ".

Page 9, line 8, strike "$2,039,232,000" and insert "$1,957,662,720".

Page 9, line 18, strike "$2,332,200,000" and insert "$2,238,912,000".

Page 9, line 20, strike "$455,624,000" and insert "$437,399,000".

Page 9, line 22, strike "$173,576,000" and insert "$166,632,960".

Page 9, line 24, strike "$7,261,632,000" and insert "$6,971,166,720".

Page 10, line 4, strike "$1,918,800,550" and insert "$1,842,048,528".

Page 10, line 6, strike "$21,755,000" and insert "$20,884,800".

Page 10, line 8, strike "$85,800,000" and insert "$82,368,000".

Page 10, line 8, strike "$32,175,000" and insert "$30,888,000".

Page 10, line 15, strike "$25,535,406" and insert "$24,513,990".

Page 28, line 11, strike "$2,169,440,000" and insert "$2,082,662,400".

Page 33, line 25, strike "$27,144,000" and insert "$26,058,240".

Page 34, line 8, strike "$21,736,000" and insert "$20,866,560".

Page 86, line 21, strike "$36,400,000" and insert "$34,944,000".

Page 98, line 19, strike "$173,576,000" and insert "$166,632,960".

Page 100, line 11, strike "$54,288,000" and insert "$52,116,480".

Page 101, line 9, strike "$3,848,000" and insert "$3,694,080".

Page 101, line 17, strike "$7,280,000" and insert "$6,988,800".

Page 105, line 5, strike "$379,600" and insert "$364,416".

Page 135, line 25, strike "$100,000,000" and insert "$96,000,000".

Page 136, line 6, strike "$100,000,000" and insert "$96,000,000".

Page 136, line 13, strike "$200,000,000" and insert "$192,000,000".

Page 138, line 19, strike "$542,360,000" and insert "$520,665,600".

Page 171, line 9, strike "$2,169,440,000" and insert "$2,082,662,400".

Page 171, line 10, strike "$14,560,000" and insert "$13,977,600".

Page 171, line 13, strike "$11,440,000" and insert "$10,982,400".

Page 205, line 4, strike "$892,320,000" and insert "$856,627,200".

Page 226, line 3, strike "$66,184,980,000" and insert "$65,905,824,960".

Page 226, line 6, strike "$631,800,000" and insert "$606,528,000".

Page 245, line 7, strike "$100,000,000" and insert "$96,000,000".

Page 254, line 14, strike "$77,700,000,000" and insert "$74,592,000,000".

Page 254, line 16, strike "$6,936,000" and insert "$6,658,560".

Page 255, line 23, strike "$685,360,000" and insert "$657,945,600".

Page 256, line 9, strike "$765,722,496" and insert "$735,093,596".

Page 260, line 18, strike "$281,840.000" and insert "$270,566,400".

Page 261, line 2, strike "$325,122,688" and insert "$312,117,780".

Page 261, line 12, strike "$27,144,000" and insert "$26,058,240".

Page 263, line 9, strike "$36,920,000" and insert "$35,443,200".

Page 263, line 19, strike "$10,816,000" and insert "$10,383,360".

Page 268, line 18, strike "$162,760,000" and insert "$156,249,600".

Page 313, line 24, strike "$30,000,000" and insert "$28,800,000".

Page 315, line 6, strike "$5,000,000" and insert "$4,800,000".

Page 317, line 2, strike "$15,000,000" and insert "$14,400,000".

Page 330, line 17, strike "$2,305,836,000" and insert "$2,213,602,560".

Page 330, line 21, strike "$1,509,144,000" and insert "$1,448,778,240".

Page 330, line 25, strike "$12,896,000" and insert "$12,380,160".

Page 331, line 2, strike "$13,000,000" and insert "$12,480,000".

Page 331, line 4, strike "$769,080,000" and insert "$738,318,800".

Page 331, line 6, strike "$832,000" and insert "$798,720".

Page 331, line 8, strike "$884,000" and insert "$848,640".

Page 331, line 15, strike "$283,719,072" and insert "$272,370,309".

Page 331, line 17, strike "$5,596,864" and insert "$5,372,989".

Page 331, line 19, strike "$7,358,160" and insert "$7,063,834".

Page 331, line 20, strike "$398,845,488" and insert "$382,891,668".

Page 331, line 22, strike "$106,500" and insert "$102,240".

Page 331, line 24, strike "$19,500" and insert "$18,720".

Page 332, line 15, strike "$1,144,000" and insert "$1,098,240".

Page 332, line 18, strike "$21,944,000" and insert "$21,066,240".

Page 332, line 19, strike "$624,000" and insert "$599,044".

Page 332, line 21, strike "$5,512,000" and insert "$5,291,520".

Page 333, line 14, strike "$22,568,000" and insert "$21,665,280".

Page 333, line 17, strike "$10,920,000" and insert "$10,483,200".

Page 333, line 19, strike "$14,456,000" and insert "$13,877,760".

Page 333, line 21, strike "$32,032,000" and insert "$30,750,720".

Page 334, line 5, strike "$430,664,000" and insert "$413,437,440".

Page 334, line 13, strike "$5,720,000" and insert "$5,491,200".

Page 349, line 10, strike "$3,402,880,000" and insert "$3,266,764,800".

Page 349, line 21, strike "$312,000,000" and insert "$299,520,000".

Page 350, line 10, strike "$7,280,000" and insert "$6,988,800".

Page 350, line 12, strike "$6,760,000" and insert "$6,489,600".

Page 350, line 14, strike "$3,120,000" and insert "$2,995,200".

Page 365, line 22, strike "$37,960,000" and insert "$36,441,600".

Page 366, line 10, strike "$2,080,000" and insert "$1,996,800".

Page 375, line 10, strike "$22,984,000" and insert "$22,064,640".

Page 382, line 24, strike "$6,552,000" and insert "$6,289,920".

Page 412, line 14, strike "$143,520,000" and insert "$137,779,200".

Page 433, line 23, strike "$187,200,000" and insert "$179,712,000".

Page 449, line 3, strike "$50,000,000" and insert "$48,000,000".

Page 449, line 14, strike "$89,696,000" and insert "$86,108,160".

Page 451, line 11, strike "$269,144,000" and insert "$258,186,240".

AMENDMENTS TO TABLE OF CONTENTS

In the table of contents, strike the item relating to section 141 and insert the following new item:

Sec. 141. Amendments to section 8 rental assistance program.

In the table of contents, after the item relating to section 532, insert the following new items:

Subtitle C—Improvement of Financing for Multifamily Housing

Sec. 541. Short title.
Sec. 542. Reinsurance pilot program.
Sec. 543. Multifamily housing financial data project.
Sec. 544. Definitions.

In the table of contents, after the item relating to section 710, insert the following new item:

Sec. 711. Reciprocity in approval of housing subdivisions among Federal agencies.

In the table of contents, redesignate the items relating to sections 806 through 809 to relate to sections 807 through 810, respectively.

In the table of contents, after the item relating to section 805, insert the following new item:

Sec. 806. Evaluation, selection, and review of economic development projects.

In the table of contents, after the item relating to section 916, insert the following new items:

Sec. 917. Bank Enterprise Act of 1991 and related provisions.
Sec. 918. Prohibition on use of "rule of 78's" in connection with mortgage refinancings and other consumer loans.
Sec. 919. Regulations clarifying the term "housing for older persons".
Sec. 920. Use of domestic products.

In the table of contents, after the item relating to section 1109, insert the following new items:

TITLE XII—REMOVAL OF REGULATORY BARRIERS TO AFFORDABLE HOUSING

Sec. 1201. Short title.
Sec. 1202. Purposes.
Sec. 1203. Definition of regulatory barriers to affordable housing.
Sec. 1204. CDBG grants for regulatory barrier removal strategies and implementation.
Sec. 1205. Regulatory barriers clearinghouse.
Sec. 1206. Substantially equivalent federal and State barrier assessment removal requirements.
Sec. 1207. Reports by secretary.
Sec. 1208. Sunset.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

For what reason does the gentleman from Ohio rise?

Mr. WYLIE. Mr. Chairman, I do not want to mislead the Chair. I am not opposed to the amendment.

The CHAIRMAN. Is there some Member designated as opposed to the amendment? Does the gentleman from Ohio [Mr. WYLIE] ask unanimous consent to control the time in opposition?

Mr. WYLIE. Mr. Chairman, I ask unanimous consent that I be allowed to control the time in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

☐ 1350

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, I rise to offer an en bloc amendment to H.R. 5334. This amendment represents a bipartisan commitment by members on both sides of the aisle to moving this housing legislation forward. It contains amendments filed by minority and majority members. I am pleased at the level of cooperation on all sides, particularly CHALMERS WYLIE and MARGE ROUKEMA, who have worked closely with me on fashioning this amendment.

The en bloc amendment contains a 4-percent across-the-board funding reduction, reflecting the tight budget environment that we must operate within. Of particular note, it contains a new FHA multifamily reinsurance pilot program. This pilot program will allow HUD to develop various models for risk sharing of multifamily housing, and eventually lead HUD out of the multifamily morass. It also contains guidelines for CDBG economic development, and provides funding for the development of strategies to remove barriers to affordable housing. It improves on a number of public housing provisions including vacancy reduction, demolition disposition, and choice in management and improves on the portability provisions of section 8 vouchers and certificates.

I urge my colleagues to support this amendment.

Mr. Chairman, I insert the following tabular material for the RECORD:

COMPARISON OF AUTHORIZATIONS, APPROPRIATIONS, AND ADMINISTRATION'S BUDGET REQUESTS

	Fiscal year—						
	1992 authorization	1992 administration request	1992 appropriations[1]	1993 administration request	1993 H.R. 5334	1993 House appropriations	1993 revision, H.R. 5334
Title I—Housing Assistance:							
Subtitle A—General Provisons	14,709,400,000	14,887,429,000	15,646,640,000	14,538,123,919	15,158,946,956	13,970,319,000	14,552,589,078
Subtitle B—Public and Indian Housing	2,112,100,000	2,155,844,000	2,450,000,000	2,282,436,000	2,218,320,000	2,307,436,000	2,129,587,200
Subtitles C/D—Section 8/Other Programs	265,165,000	372,113,000	271,375,000	242,265,000	275,771,600	371,025,000	266,740,736
Subtitle E—Homeownership Programs	1,376,500,000	1,124,948,000	355,200,000	1,000,000,000	942,360,000	351,000,000	904,665,600
Title I total	18,463,165,000	18,540,334,000	18,723,215,000	18,062,824,919	18,595,398,556	16,999,780,000	17,853,582,614
Title II—Home Program	2,086,000,000	1,000,000,000	1,500,000,000	700,000,000	2,169,440,000	600,000,000	2,082,662,400
Title III—Preservation Program	858,000,000	718,462,000	618,462,000	1,161,998,000	892,320,000	1,000,000,000	856,627,200
Title IV—Multifamily Strategies							
Title V—Mortgage Insurance	0	0	506,151,000	638,736,000	638,736,000	634,353,000	615,186,560
Title VI—Elderly and Disabled Housing	1,732,000,000	377,750,000	1,270,727,000	331,470,081	2,345,685,184	1,447,550,000	2,251,857,777
Title VII—Rural Housing	1,191,566,500	772,695,618	926,285,608	647,120,900	1,241,229,424	1,056,561,000	1,191,580,251
Title VIII—Community Development	3,308,500,000	2,946,900,000	3,581,900,000	2,927,976,000	3,442,920,000	4,029,476,000	3,321,203,200
Title IX—Regulatory and Misc. ,rograms	28,934,000	43,000,000	33,000,000	42,750,000	29,536,000	32,600,000	28,354,560
Title X—McKinney Homeless Programs	659,000,000	535,733,000	449,960,000	537,278,000	739,560,000	537,278,000	709,785,600
Title XI—New Towns Demonstration					(2)		(2)
Total	28,327,165,500	24,934,874,618	27,609,700,608	25,050,153,900	30,094,825,164	26,337,598,000	28,910,840,161
Title I—Housing Assistance:							
Subtitle A—General Provisions:							
Public Housing Grants	574,500,000	0	573,983,000	0	597,480,000	609,000,000	573,580,800
Indian	237,800,000	0	227,170,000	0	247,312,000	257,320,000	237,419,520
Sec. 8—Certificates	1,960,800,000	0	915,750,000	0	2,039,232,000	851,500,000	1,957,662,720
Sec. 8—Multicultural Tenant Assist					(2)		(2)
CIAP	2,242,500,000	2,266,967,000	2,800,975,000	2,291,750,000	2,332,200,000	3,000,000,000	2,238,912,000
Sec. 8—Property Disposition/restore	438,100,000	266,682,500	88,884,000	110,000,000	455,624,000	93,032,000	437,399,040
Sec. 8—Loan Management/restore	166,900,000	348,750,000	257,000,000	202,400,000	173,576,000	202,000,000	166,632,960
Sec. 8—Expiring Contracts	7,100,000,000	7,024,589,000	7,355,128,000	7,261,632,000	7,261,632,000	6,346,135,000	6,971,166,720
Sec. 8—Contract Amendments	1,690,200,000	2,615,590,500	2,488,250,000	1,918,800,550	1,918,800,550	1,616,304,000	1,842,048,528
P.H. Lease Adjust./Amend	216,100,000	112,000,000	112,000,000	21,755,000	21,755,000	140,555,000	20,884,800
Sec. 8—P.H. Replacements	82,500,000	0	(35,997,548)	0	85,800,000	0	82,368,000
Section 23 Conversions		35,150,000	16,666,000	25,535,406	25,535,406	25,535,000	24,513,990
Weed & Seed Proposal				(39,929,948)			
Moving to Opportunity Proposal				(38,151,899)	(2)		(2)
P.H. Homeownership 5(h)/Voucher Proposal				(45,023,994)			
Sec. 8—Vouchers		2,145,600,000	777,500,000	2,690,813,463		813,500,000	(959,254,733)
Sec. 8—Elderly Coordinators		(16,250,000)	(16,250,000)	15,437,500		15,438,000	
Certificates/Voucher Opt-outs		31,100,000	16,667,000	0			
Rent Supp./RAP Conversions		41,000,000	16,667,000	0			
Low-Inc. Hsng Authorization—Subtotal	14,709,400,000	14,887,429,000	15,646,640,000	14,538,123,919	15,158,946,956	13,970,319,000	14,552,589,078
HOPE for Family Self-Sufficiency	(25,000,000)		(3)	(4)	(25,000,000)	(25,900,000)	(24,000,000)
Subtitle A—Subtotal	14,709,400,000	14,887,429,000	15,646,640,000	14,538,123,919	15,158,946,956	13,970,319,000	14,552,589,078
Subtitle B—Public and Indian Housing:							
Pub. Hsng. Operating Subsidies	2,086,000,000	2,155,844,000	2,450,000,000	2,282,436,000	2,169,440,000	2,282,436,000	2,082,662,400
Pub. Hsng. Income Deductions					(2)		(2)
Pub. Hsng. Vacancy Reduction	(5)			0	(6)		(6)
Pub. Hsng. Resident Mgmt	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(2)	(4,750,000)	(2)
P.H. Family Investment Centers	26,100,000	0	0	0	27,144,000	25,000,000	26,058,240
P.H. Early Child Dev. Grants	(15,700,000)	(5,000,000)	(5,000,000)	(4,750,000)	21,736,000	(5,000,000)	20,866,560
Indian P.H. Early Child Dev. Grants	(5,200,000)				(2)		(2)
Pub. Hsng. One-Stop Perinatal	(150,000)				(2)		(2)
National Comm. on Amer. Indians					(2)		(2)
Subtitle B—Subtotal	2,112,100,000	2,155,844,000	2,450,000,000	2,282,436,000	2,218,320,000	2,307,436,000	2,129,587,200
Subtitles C/D—Section 8/Other Programs:							
Sec. 8 Family Unification (Foster Care)	35,000,000		(50,000,000)	0	36,400,000	100,000,000	34,944,000
Moving to Opportunity				(38,151,899)	such sums		such sums
Pub. Hsng. Drug Elimination Grants	166,900,000	165,000,000	165,000,000	165,000,000	173,576,000	165,000,000	166,632,960
Flexible Subsidy/RESTORE	52,200,000	203,413,000	50,000,000	50,000,000	54,288,000		52,116,480
Housing Counseling	3,700,000	3,700,000	6,025,000	3,515,000	3,848,000	6,025,000	3,694,080
Emergency Housing Counseling	7,000,000	0	(2,000,000)	0	7,280,000		6,988,800
Counseling Certification Training							2,000,000
Prepurchase Counseling	365,000		350,000		379,600		364,416
Lead Based Paint Demo			50,000,000	23,750,000		100,000,000	
Youthbuild					(2)		(2)
Subtitles C&D—Subtotal	265,165,000	372,113,000	271,375,000	242,265,000	275,771,600	371,025,000	266,740,736
Subtitle E—Homeownership Programs:							
HOPE Homeownership Grants:							
I. Public/Indian Housing	380,000,000	380,000,000	161,000,000	450,000,000	100,000,000	161,000,000	96,000,000
II. Multifamily Units	280,000,000	280,000,000	95,000,000	325,000,000	100,000,000	95,000,000	96,000,000
III. Single Family Homes	195,000,000	195,000,000	95,000,000	225,000,000	200,000,000	95,000,000	192,000,000
HOPE Subtotal	855,000,000	855,000,000	351,000,000	1,000,000,000	400,000,000	351,000,000	384,000,000
Pub. Hsng Non-Purchaser Rental Assist.		53,990,000	0	(62,281,585)			
Pub. Hsng Replacement Units		215,958,000	0	(249,158,577)			
HOPE 2 Non-Purchaser Assistance				(44,766,898)			
Subtotal	0	269,948,000	0	0	0	0	0
National Homeownership Trust	521,500,000	0	4,200,000	0	542,360,000	0	520,665,600
Trust/MRB Setaside					(2)	0	(2)
Indian Housing Loan Guarantees					(2)		(2)
Subtitle E—Homeownership Subtotal	1,376,500,000	1,124,948,000	355,200,000	1,000,000,000	942,360,000	351,000,000	904,665,600
Title I total	18,463,165,000	18,540,334,000	18,723,215,000	18,062,824,919	18,595,398,556	16,999,780,000	17,853,582,614
Title II—HOME Investment Partnerships:							
HOME Investment Partnership Program	2,086,000,000	1,000,000,000	1,500,000,000	700,000,000	2,169,440,000	600,000,000	2,082,662,400
Comm. Housing Partnership Strategies	(14,000,000)		(14,000,000)		(14,560,000)		(13,977,600)
State/Local Housing Strategies	(11,000,000)		(11,000,000)		(11,440,000)		(10,982,400)

COMPARISON OF AUTHORIZATIONS, APPROPRIATIONS, AND ADMINISTRATION'S BUDGET REQUESTS—Continued

	Fiscal year--						
	1992 authorization	1992 administration request	1992 appropriations[1]	1993 administration request	1993 H.R. 5334	1993 House appropriations	1993 revision, H.R. 5334
HOME/Indians		(125,000,000)		(125,000,000)		0	
Title II total	2,086,000,000	1,000,000,000	1,500,000,000	700,000,000	2,169,440,000	600,000,000	2,082,662,400
TITLE III - Preservation:							
Preservation Fund	858,000,000				892,320,000	1,000,000,000	856,627,200
Vouchers/Section 8 Cert		49,042,000	49,042,000	469,256,000			
Incentives/Homeownership		669,420,000	569,420,000	692,742,000	(692,742,000)		
Title III total	858,000,000	718,462,000	618,462,000	1,161,998,000	892,320,000	1,000,000,000	856,627,200
Title IV - Multifamily Housing Strategies							
Title V - Mortgage Ins./Secondary Market:							
FHA Credit Limitation (MMI)	(79,818,000,000)	(53,592,815,000)	(60,000,000,000)	(57,146,000,000)	(66,184,980,000)	(59,146,000,000)	65,905,824,960)
FHA Credit Subsidy			499,556,000	631,800,000	631,800,000	627,673,000	606,528,000
GNMA Credit Limitation	(88,296,000,000)	(74,769,293,000)	(74,769,293,000)	(77,700,000,000)	(77,700,000)	(77,700,000,000)	(74,592,000,000)
GNMA Credit Subsidy			6,595,000	6,936,000	6,936,000	6,680,000	6,658,560
Reinsurance Pilot Program							2,000,000
Title V total	0	0	506,151,000	638,736,000	638,736,000	634,353,000	615,186,560
Title VI—Housing for Elderly/Disabled:							
Sec. 202 Elderly Advances	659,000,000	76,405,000	538,808,000	48,741,560	685,360,000	512,050,000	657,945,600
Elderly Rental Assistance/Leases	363,000,000	122,600,000	451,200,000	127,842,830	765,722,496	571,840,000	735,093,596
Sec. 811 Disabled Advances	271,000,000	76,405,000	102,860,000	49,938,000	281,840,000	100,450,000	270,566,400
Disabled Rental Assistance/Leases	246,000,000	91,940,000	100,159,000	94,701,691	325,122,688	115,710,000	312,117,780
Congregate Services	26,100,000	0	17,700,000	0	27,144,000	7,500,000	26,058,240
Elderly Indep. Sec. 8 Cert./Vouchers	(35,500,000)	(35,800,000)	(35,800,000)	(38,151,899)	36,920,000	(38,288,000)	35,443,200
Elderly Indep. Services	10,400,000	10,400,000	10,000,000	10,246,000	10,816,000	10,000,000	10,383,360
AIDS Housing Program	156,500,000	0	50,000,000	0	162,760,000	100,000,000	156,249,600
Mixed Populations Provisions					50,000,000	30,000,000	48,000,000
Title VI Subtotal	1,732,000,000	377,750,000	1,270,727,000	331,470,081	2,345,685,184	1,447,550,000	2,251,857,777
Title VII—Rural Housing:							
Sec. 502 Homeownership (Direct) Loans	1,451,100,000	527,000,000	1,245,000,000	450,000,000	1,509,144,000	1,245,000,000	1,448,778,240
Sec. 502 Unsubsidized Direct Loans		32,000,000	50,000,000	0		50,000,000	
Sec. 502 Unsubsidized Guaranteed Loans		347,000,000	329,500,000	300,000,000	(2)	329,500,000	(2)
Sec. 502 Subsidized Guaranteed Loans		347,000,000	0	400,000,000			
Sec. 504 Improvement Loans	12,400,000	11,100,000	11,330,000	11,100,000	12,896,000	11,330,000	12,380,160
Sec. 514 Farm Labor Loans	12,500,000	16,250,000	16,300,000	16,250,000	13,000,000	16,300,000	12,480,000
Sec. 515 Multifamily Loans	739,500,000	341,000,000	573,900,000	341,000,000	769,080,000	500,000,000	738,316,800
Sec. 523 Mutual/Self-help Loans	800,000	0	500,000	0	832,000	500,000	798,720
Sec. 524 Site Loans	850,000	0	600,000	0	884,000	600,000	848,640
Aggregate Loan Authority	2,217,150,000	1,621,350,000	2,227,130,000	1,518,350,000	2,305,836,000	2,153,230,000	2,213,602,000
Rural Credit Subsidy Authorizations:							
Sec. 502 Rural Homeownership Loans	272,806,000	99,076,000	234,060,000	84,600,000	283,719,072	303,158,000	272,370,309
Sec. 502 Unsubsidized Guaranteed Loans		3,920,000	3,722,988	5,550,000	0	6,096,000	0
Sec. 504 Rural Improvement Loans	5,381,600	4,817,400	4,917,220	4,817,400	5,596,864	4,578,000	5,372,989
Sec. 514 Farm Labor Loans	7,075,000	9,197,500	9,225,800	9.197,500	7,358,000	8,029,000	7,063,680
Sec. 515 Rural Multifamily Loans	381,582,000	175,956,000	296,132,400	175,956,000	398,845,488	356,550,000	382,891,668
Sec. 523 Mutual Self-Help Loans	102,400	0	64,000	0	106,500	0	102,240
Sec. 524 Site Loans	18,700	0	13,200	0	19,500	0	18,720
Subtotal	666,966,500	292,967,618	548,135,608	280,1220,900	695,645,424	678,411,000	667,819,607
Rural Housing Support Programs:							
Sec. 502 Security Grants	1,100,000	0			1,144,000		1,098,240
Sec. 504 Improvement Grants	21,100,000	5,000,000	12,500,000	5,000,000	21,944,000	12,500,000	21,066,240
Sec. 509(c) Construction Defects Grants	600,000	0	500,000	0	624,000	500,000	599,044
Sec. 509 Project Preparation Grants	5,300,000	0	2,500,000	0	5,512,000	2,500,000	5,291,520
Sec. 515 Service Coordinators					such sums		such sums
Sec. 516 Farm Labor Grants	21,700,000	5,000,000	11,000,000	10,000,000	22,568,000	11,000,000	21,665,280
Sec. 516(k) Migrant Homeless Program	10,500,000	0		0	10,920,000		10,483,200
Sec. 523(f) Mutual/Self-Help Grants	13,900,000	0	8,750,000	0	14,456,000	8,750,000	13,877,760
Sec. 533 Preservation Grants	30,800,000	10,000,000	23,000,000	10,000,000	32,032,000	23,000,000	30,750,720
Subtotal	105,000,000	20,000,000	58,250,000	25,000,000	109,200,000	58,250,000	104,832,004
Rental Assistance Payments (RAP)	414,100,000	258,000,000	308,100,000	190,200,000	430,664,000	308,100,000	413,437,440
Rural Prepayments/Supp. RAP	5,500,000	11,800,000	11,800,000	11,800,000	5,720,000	11,800,000	5,491,200
Rural Housing Vouchers		189,928,000	0	140,000,000			
Title VII total	1,191,566,500	772,695,618	926,285,608	647,120,900	1,241,229,424	1,056,561,000	1,191,580,251
Title VIII—Community Development:							
Community Development Block Grants (CDBG)	3,272,000,000	2,920,000,000	3,400,000,000	2,900,000,000	3,402,880,000	4,000,000,000	3,266,764,800
CDBG Work Study Program	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)	(3,120,000)	(3,000,000)	(2,995,200)
Historically Black Colleges	(6,500,000)	(4,500,000)	(4,500,000)	(4,500,000)	(6,760,000)	(4,500,000)	(6,489,600)
Insular Areas	(7,000,000)	(7,000,000)	(7,000,000)	(7,000,000)	(7,280,000)	(7,000,000)	(6,988,800)
Comm./Univ. Partnershp					(2)		(2)
CDBG Redevelopment Provision					(2)		(2)
CD Comm. Planning Adjustments					(2)		(2)
CD Reallocations and Tech. Assist.					(2)		(2)
CD Mapping Provision					(2)	(500,000)	(2)
Section 108 Loan Guarantees	(300,000,000)	0	(140,000,000)	0	(312,000,000)	(300,000,000)	(299,520,000)
Special Purpose/Projects Grants			150,000,000	0	17,160,000)	(14,500,000)	0
Computerized CD Plans					(2)		(2)
Barrier Removal Strategies							15,000,000
Econ. Dev. Evaluations							1,000,000
Neighborhood Reinvestment Corp.	36,500,000	26,900,000	31,900,000	27,976,000	37,960,000	29,476,000	36,441,600
Neighborhood Development Demo.	(2,000,000)	0	(2,000,000)	0	2,808,000		1,996,800
Title VIII total	3,308,500,000	2,946,900,000	3,581,900,000	2,927,976,000	3,442,920,000	4,029,476,000	3,321,203,200
Titles IX—Regulatory and Misc. Programs:							
HUD Research & Development	22,100,000	35,000,000	25,000,000	35,150,000	22,984,000	25,000,000	22,064,640
Fair Housing Initiatives Program (FHIP)	6,300,000	8,000,000	8,000,000	7,600,000	6,552,000	7,600,000	6,289,920
HUD Monitoring & Eval.					(2)		(2)
National Comm. on Manuf. Hsng					(2)	(1,000,000)	(2)
National Institute of Building Sciences	534,000	0		0	0		0

COMPARISON OF AUTHORIZATIONS, APPROPRIATIONS, AND ADMINISTRATION'S BUDGET REQUESTS—Continued

	Fiscal year—						
	1992 authorization	1992 administration request	1992 appropriations[1]	1993 administration request	1993 H.R. 5334	1993 House appropriations	1993 revision, H.R. 5334
Solar Bank					(2)		(2)
National Amer. Indian Hsng Council					(2)		(2)
Titles IX total	28,934,000	43,000,000	33,000,000	42,750,000	29,536,000	32,600,000	28,354,560
Title X—HUD McKinney Homeless:							
Emergency Shelter Grants	138,000,000	71,000,000	73,164,000	17,450,000	143,520,000	17,450,000	137,779,200
Supportive Housing/Transitional Program	150,000,000	150,000,000	150,000,000	203,926,000	187,200,000	150,000,000	179,712,000
Supplemental Assistance (SAFAH) Program	30,000,000	0	11,263,000	0	(31,200,000)	0	0
Sec. 8 Assistance for SROs	82,400,000	0	105,000,000	0	89,696,000	103,926,000	86,108,160
Shelter Plus Care Program:							
II. Rental Housing Assistance	167,200,000	167,200,000	0				
III. SRO's	54,200,000	53,333,000	73,333,000				
IV. Sec. 202	37,200,000	37,200,000	37,200,000				
Revised/Consolidated Shelter Plus Care	(258,600,000)	(257,733,000)	(110,533,000)	265,902,000	269,144,000	265,902,000	258,186,240
Rural Homeless Grants					(2)		(2)
Safe Havens				50,000,000	50,000,000	0	48,000,000
Bush Exemplary Program Initiative		57,000,000	0	0			0
Title X Total	659,000,000	535,733,000	449,960,000	537,278,000	739,560,000	537,278,000	709,785,600
Title XI—New Towns Demonstration					(2)		(2)
Total	28,327,165,500	24,934,874,618	27,609,700,608	25,050,153,900	30,094,825,164	26,337,598,000	28,910,840,161
Use of Carryover Funds/Transfers			762,000,000	320,934,190	0	42,934,000	0
Use of Recaptures (Sec. 202/Other)			1,750,000,000	244,300,000	0	244,300,000	0
PHA Savings				12,000,000	0	0	0
Adjusted total	28,327,165,500	24,934,874,618	25,097,700,608	24,472,919,710	30,094,825,164	26,050,364,000	28,910,840,161
HUD Housing Programs (New BA & Without FmHA Rural)	27,135,599,000	24,162,179,000	24,171,415,000	23,825,798,810	28,853,595,740	24,993,803,000	27,719,259,910

[1] Provides the enacted FY 1992 Appropriations Act funding levels without adjustments for subsequent rescissions or HUD operating plan changes.

[2] Such sums.

[3] 10 percent Sub. Hsng.

[4] All Sub. Hsng.

[5] $200m. P.H. Mod.

[6] 9 percent P.H. Mod.

ASource: Subcommittee on Housing and Community Development.

Mr. Chairman, I reserve the balance of my time.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the en bloc amendment. I want to commend the chairman on his willingness in the en bloc to begin to address the issues in a way that I believe will result in legislation that will be acceptable to the administration and all Members. I use the word "begin" because I believe that there are a number of issues that still need to be addressed in this legislation. However, I am confident from discussion with the chairman, that these issues can be addressed at the conference on this bill.

May I call attention to several of the amendments in the en bloc that I consider of particular importance. I want to commend Mrs. Roukema for several amendments. One of Mrs. Roukema's amendments would provide residents of troubled public housing with authority to hire new management to replace the PHA. While I do not believe this legislation is as far-reaching as the administration's perestroika for troubled Public Housing Program, it is a good proposal and moves in the right direction.

Mrs. Roukema also has an amendment in the en bloc that would help break the logjam in public housing demolition and disposition by allowing the use of 5-year section 8 assistance as replacement housing under certain circumstances.

I also would call attention to several amendments that I worked on with Chairman Gonzalez in the spirit of comity and compromise. In particular, Mr. Gonzalez accepted my amendment that would provide a 4 percent across-the-board reduction in the authorization levels. This would result in a reduction in the authorization level of the bill from $30.1 billion to $28.8 billion. While this is still greater than the $26.9 billion appropriated by the House for housing programs in fiscal year 1993, I believe that this amendment recognizes the practical constraints in all of the programs facing Congress this year in this spending decisions.

I am also concerned, along with the administration, about the local match. We have a compromise here which provides a flat 20-percent match. I know the administration would like more. It was 10 percent when we started.

I want to emphasize that the local match is a key component of the HOME Program. I am confident that we will work something out with regard to the match in conference.

Another amendment that I believe deserves special attention is the amendment that ensures that multifamily housing and the Youth Sports Program receive appropriate funding under the Public and Assisted Housing Drug Elimination Program. Drugs are a problem that continues to plague this country and the Youth Sports Program, which I sponsored in the 1990 housing bill at the suggestion of Secretary Kemp, is especially deserving as it provides youths with activities that emphasize a positive and healthy lifestyle.

Finally, Mr. Chairman, I am also happy to note that the en bloc contains Mr. Ridge's amendments to the Bank Enterprise Act. I think this is very desirable.

I urge support of the en block amendment.

I would also like to take this opportunity to clarify the provisions in title VI of H.R. 5334 that address the issue of mixed populations in federally assisted multifamily housing that is designated as elderly. These provisions are intended to provide an option to owners of federally assisted multifamily housing to ensure that elderly housing remains, as its name implies, housing for the elderly.

Under these provisions, an owner of federally assisted multifamily housing would be allowed to provide a preference for occupancy in elderly housing for elderly persons. A secondary preference would be provided to handicapped and disabled families who are near elderly. Any remaining units would have to be made available for occupancy by handicapped and disabled families who are not elderly or near elderly.

This preference would be subject to the requirement that at least 10 percent of the units be reserved for handicapped and disabled families who are not elderly or near elderly. A secondary preference for occupancy under this 10 percent reservation would be for handicapped and disabled families who are near elderly. Any remaining units under the reservation would have to be made available for occupancy by elderly families. This 10-percent reservation would be modified for certain projects that currently have less than 10 percent of the units occupied by handicapped and disabled families who are not elderly or near elderly. For those projects, the minimum occupancy requirement would be percentage of units in a project occupied by handicapped and disabled families who are not elderly or near elderly as of the date of enactment or

January 1, 1992, whichever percentage is higher.

The existing Federal preferences would otherwise apply within each grouping, to the extent that they currently apply under the applicable Multifamily Housing Program. For example, an elderly family with a Federal preference would receive housing before an elderly family without a Federal preference; a near elderly handicapped or disabled family with a Federal preference would receive a preference over a near elderly handicapped or disabled family without a Federal preference; a handicapped or disabled family who is not elderly or near elderly with a Federal preference would receive a preference over a handicapped or disabled family who is not elderly or near elderly without a Federal preference.

I would like to emphasize that the use of this preference system would be at the election of the multifamily housing owner. The housing would otherwise be subject to the existing occupancy requirements under the individual programs.

This is particularly important to note with regard to elderly housing assisted under the section 221(d)(3) BMIR Program, the 236 Program, and the pre-NAHA 202 Elderly Program. Under the section 221(d)(3) BMIR Program and the section 236 Program, for housing that is designated as elderly, an owner can currently deny admission to handicapped and disabled families if they do not qualify as elderly.

This is also true for the pre-1990 section 202 Elderly Program, except that 10 percent of the units in these projects have generally been designed and designated for physically handicapped persons whose handicap results in a functional limitation in access to and use of the building. Owners are required to admit eligible nonelderly as well as elderly physically handicapped to these units. However, nonelderly physically handicapped may only be admitted if the special features of the unit are necessary based on the nature of the person's disability. For example, as noted in the committee report to the bill, a nonelderly person with a mobility impairment requiring a wheelchair or a walker would be eligible for one of these units because of the need for the accessibility features of the unit. A nonelderly person whose only disability is chronic mental illness would not be eligible. Only persons or families whose head is a person 62 years of age or older would be eligible for the other 90 percent of the units in a pre-1990 section 202 elderly project.

I believe that the provisions in title VI of H.R. 5334 are a positive approach to the issue of mixed populations in public and federally assisted multifamily elderly housing. I would also like to add that title VI contains provisions for supportive services and service coordinators, and other provisions to ensure that an adequate supply of housing remains affordable and available to elderly, handicapped, and disabled persons.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the overall bill and in support of the en bloc amendments, a major compromise that has achieved sound bipartisan support for this measure. I commend the chairman and the ranking member and those who participated in the negotiations of this measure. While I have strong feelings about elements of this bill, and certain policies, clearly I think the compromise the committee has achieved here will facilitate the passage of this important housing authorization and community development bill.

Mr. Chairman, I rise in support of H.R. 5334, the Housing and Community Development Act of 1992. This bill, as amended today, will provide nearly $30 billion in housing and community development assistance and will reauthorize and extend programs of the National Affordable Housing Act of 1990.

These are harsh economic times and housing needs are great. About 28 million Americans live in poverty and only about one-third of them receive any Government housing aid. Almost 10 million Americans are unemployed. In 1989, more than 8 million very low-income renters either lived in substandard housing or paid over 30 percent of their income for housing. Perhaps as many as 3 million live on our streets every year. This is certainly a far cry from decent safe sanitary affordable housing for all Americans. We need this legislation.

H.R. 5334 is the result of numerous hearings and hard work by the Housing Subcommittee that has brought this substantial legislation to the floor today. The bill contains many provisions and programs that I support and I would like to highlight just a few.

Importantly, this bill has maintained a provision to repeal the 57 percent limitation on the financing of closing costs on FHA mortgage insurance imposed by regulatory fiat by HUD. This is a small step to take to begin the process of rebuilding the strength of FHA business and ultimately the FHA fund. The FHA Program that in 1989 afforded 450,000 first time buyers the opportunity to purchase a home is in distinct and direct jeopardy of becoming extinct. Today the FHA's powerful countercyclical force is being limited. Despite the Bush-Kemp rhetoric on empowerment and ownership when it comes to their favorite target, public housing, the FHA Program, which has served to build the American dream for nearly 60 years, is being hobbled.

Some may argue and rewrite the 1990 legislative history and that this change will jeopardize the MMI fund. I disagree. The initial limits on allowable closing cost financing were included within the loan to value ratio in the 1990 housing law. FHA will never meet any capital standards if it doesn't attract business. Its market share has dropped significantly, some 12 percent as a result of HUD draconian implementation of the 1990 reforms. The FHA insurance fund must market itself and the removal of the 57-percent limitation will simplify and streamline FHA to restore it as an attractive alternative for mortgage insurance.

H.R. 5334 also addresses the thorny issue of mixed age and ability populations in public and federally assisted housing.

In response to concerns around the country the Banking Committee has carefully crafted a new policy regarding mixed populations in public and assisted housing. This compromise will allow for elderly only housing while maintaining the responsibility of public housing authorities [PHA's] to house all those in need on their waiting list. For many, public housing is the only opportunity for decent, safe, and affordable housing. This plan gives PHA's the ability to provide appropriate housing alternatives, including some mixed buildings, scattered-site houses, or smaller apartment buildings along with appropriate services and staffing. Additionally, the bill provides an option for assisted housing programs to adhere to a similar type of program voluntarily.

This legislation reauthorizes several other important housing programs including public housing, section 8 assistance, supportive housing for the elderly under section 202 housing, the Congregate Housing Services Program, and the neighborhood housing services programs and others under Neighborhood Reinvestment Corporation. It continues to substantiate work of the Congress in 1990 on the preservation, or prepayment issue for low-income housing.

H.R. 5334 will reauthorize that essential workhorse of cities, the community development block grant. It also continues the new home investment partnership block grant with a reduced match to greater facilitate its access to economically stressed cities and States. Rebuilding and strengthening our communities is absolutely essential to show our commitment to a new and competitive United States.

As my colleagues are aware, this comprehensive housing bill contains the majority of the housing and shelter programs included in my bill, H.R. 4300, the Stewart B. McKinney Homeless Assistance Amendments Act. In fact, the programs that are not duplicated here are the Interagency Council for the Homeless and the Federal Emergency Management Agency's Emergency Food and Shelter Program. They will be passed in the McKinney bill.

I had hoped that by now we could have moved beyond the McKinney Act. Unfortunately, homelessness persists—a tragic consequence of the excesses of the 1980's and a precursor of the 1990's if changes are not made—if you will, the human deficit left behind by the misplaced priorities of the last decade.

In addition to reauthorizing existing programs such as emergency shelter grants, and the section 8 SRO, both this bill and H.R. 4300 also will create new programs targeted toward specific needs of rural homeless persons and mentally ill homeless persons. Other McKinney programs will now be consolidated into two programs.

The new programs—the rural homeless demonstration grant, Farmers Home Property Disposition for the Homeless and the Safe Havens Program—work to better target homeless assistance to rural areas. Safe havens is a bipartisan response to a Federal task force report on homelessness and severe mental illness "Outcasts on Main Street." With Safe Havens, we have created a program that should respond to the special concerns and unique needs of the mentally ill homeless, especially those people that have been reluctant to seek assistance up until now.

The consolidation of programs affects five current McKinney programs. Supportive housing and SAFAH will be merged—preserving the current flexibility of SAFAH and the eligible activities guidelines of supportive housing, while simplifying the process of applying for funding. The same can be said for the shelter plus care consolidation which should help providers more easily access programs.

The bill also breaks new ground for homeless assistance programs by providing guidelines for employment by programs, and consultation and/or representation of homeless or formerly homeless persons with or on the policy making entities of programs that receive McKinney assistance. This kind of involvement can only further improve these programs in meeting the diverse needs of the people they serve while also providing for additional needed skills or experience to those same persons.

Mr. Chairman, I urge my colleagues to support this bill.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. EDWARDS], a member of the Committee on the Judiciary, who will speak with respect to an amendment in the en bloc amendments.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for yielding me this time. I will not take the full 2 minutes.

Mr. STEARNS' proposed amendment would require the Secretary of Housing and Urban Development to draft regulations that define terminology in the Fair Housing Act. I recognize the importance of drafting useful regulations. However, while considering this amendment, I believe it is important to stress the policy underlying the Fair Housing Act as amended in 1988 and the commitment we undertook at that time to protect families with children from housing discrimination.

A HUD survey conducted in the 1980's highlighted the rampant discrimination that prevented many families from participating in the housing market. For example, 75 percent of the rental units surveyed by HUD either barred or restricted families with children. In 1988, we amended the Fair Housing Act to address that problem. The 1988 amendments struck a balance between banning housing discrimination against families with children while allowing senior citizens to live in bona fide housing for older persons. The legislation intends to ensure that older persons receive the services they need, and also to ensure that communities do not falsely claim to be housing for older persons just to keep children away.

Thus, should we enact this legislation, I urge HUD to draw careful and clear standards that uphold the intent of the Fair Housing Act Amendments of 1988. In an effort to clarify the Fair Housing Act, we cannot victimize families with children again.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in support of the en bloc amendment.

I want to commend the chairman of the committee for his willingness to expedite consideration of this housing bill by agreeing to accept several amendments, including those sponsored by myself and other Republican Members, the gentleman from Florida [Mr. STEARNS], the gentleman from Pennsylvania [Mr. RIDGE], the gentleman from California [Mr. RIGGS], the gentleman from Ohio [Mr. KASICH], and the gentleman from Ohio [Mr. WYLIE], as part of the leadership amendment.

In particular, I want to recognize the fact that three of my initiatives have been incorporated into the amendment. These initiatives include:

PUBLIC HOUSING REPLACEMENT

Mr. Chairman, in partnership with the gentleman from Massachusetts [Mr. FRANK], my first amendment would change existing law regarding the ways in which public housing authorities can replace their uninhabitable vacant units and units scheduled for demolition.

My amendment would add to the current list of eligible replacement options a 5-year project based on 5-year tenant based certificate for the replacement of units demolished in quantities greater than 200 units.

Currently, there are well over 50,000 vacant public housing units in the inventory. HUD even estimates that the number is closer to 100,000.

Excessive vacancy rates can be attributed to a whole host of reasons ranging from inadequate modernization funding; to poor management; to the current 1-for-1 replacement law.

This amendment does not mandate that 5-year certificates be used. It merely provides another option for replacement.

For those Members who have large cities with large public housing authorities who have thousands of vacancies, this change will help provide decent housing for low-income people.

Again, I thank Mr. FRANK for his willingness to work this out.

CHOICE IN MANAGEMENT

My second amendment is similar to the one I offered in committee and again is offered in a bipartisan spirit through the efforts of Mr. FRANK.

This amendment guarantees the residents living in troubled housing projects within a troubled housing authority the right to choose the management of their development from among nonprofit, public, and private groups if they feel the current PHA is not meeting their needs for safe and decent housing.

This provision is limited to the most distressed PHA's, as determined by the new Public Housing Management Assessment Program.

Under this program, resident councils in eligible developments or buildings would apply to the PHA for approval to transfer management of their development to alternative managers. This is an empowerment initiative, if you will.

In summary, this proposal would allow the residents to decide to try alternative management when they feel their needs are not being met by the housing authority.

SUBSIDY FOR VACANT HOUSING UNITS

Mr. Chairman, my third amendment was intended to add some teeth to the Vacancy Reduction Program we included in the Housing Act of 1990 by helping to eliminate excessive vacancies in public housing and to save the taxpayer some money.

As my colleagues know, Federal subsidy in the form of operating expenses is paid to public housing authorities on the basis of the number of housing units they own and operate, regardless of whether they are occupied or not. This policy makes no sense.

My amendment provides that 2 years after the submission of such a vacancy reduction plan and the provision of funds by HUD to carry out the plan, HUD may withhold up to 80 percent of the annual subsidy paid for each vacant unit in a PHA if progress is not being made. Those funds in turn would be placed in a new account in the name of the PHA to be used to carry out the provisions of the plan.

In other words, the operating subsidy would not be taken away from the PHA but would be targeted to the rehabilitation of those very same units for which they receive subsidy.

Finally, I want to commend the chairman for including in this amendment amendments which address barriers to affordable housing; a change in the HOME match; property disposition for the homeless; and the additional reduction in the overall funding levels for the bill.

I believe these amendments are all positive and would urge bipartisan support and passage. This will become law this year.

I urge adoption of this en bloc amendment.

Mr. GONZALEZ. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, I rise in support of H.R. 5334 and commend the committee for bringing this legislation to the floor.

I would especially like to thank the distinguished chairman of the committee, Mr. GONZALEZ, for including an amendment I authored in his en bloc amendment.

This provision will help qualified, disabled veterans secure better access to housing under the Federal section 8 rental subsidy program. In doing so, we are taking a humane step and a fiscally prudent one as well.

These veterans are currently on waiting lists for section 8 vouchers and certificates. However, they are repeatedly passed over for subsidized housing because HUD has held that they do not meet Federal preferences. As a result, they are currently being maintained in VA hospitals and nursing homes, at great cost to the Federal Government, solely because their disabilities make their own homes inaccessible. By including inaccessibility as part of the definition of substandard housing, we will make them eligible for Federal preferences. This will make it possible for them to have their own homes once again.

Since these individuals are already on waiting lists for federally subsidized housing, the amendment would not cause any additional cost. In fact, it would save the Federal Government hundreds of thousands of dollars because it is far less costly to house an individual under the section 8 program than in a hospital or nursing home. In New York State, the average cost of a section 8 voucher is $300 per month. This is far lower than the cost of keeping an individual in a VA hospital, which on average costs $396 per day.

I thank the chairman for his assistance in helping to remedy this problem.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I rise in very strong support of the gentleman's bill.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. MONTGOMERY], our distinguished chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the en bloc amendments, and the amendment offered by the gentlewoman from New York [Mrs. LOWEY]. The gentlewoman is to be commended for identifying a problem facing a number of veterans who are hospitalized or reside in nursing homes and have a disability which prevents them from returning to their own homes, solely because of the home's configuration. The gentlewoman's amendment will help these veterans obtain assistance for a unit designed for the handicapped. This amendment is narrowly drawn to ensure that veterans who truly need this assistance will be eligible to receive it.

Mr. Chairman, I want to thank the chairman of the Committee on Banking, Finance and Urban Affairs, the distinguished gentleman from Texas [Mr. GONZALEZ] for agreeing to this amendment. The gentleman has been a supporter of veterans programs and a friend of the veteran community for many years, and for that, I am very grateful.

I also want to thank the ranking minority member of the committee, the gentleman from Ohio [Mr. WYLIE] who also serves as a ranking member of the Committee on Veterans' Affairs. The gentleman from Ohio has always looked out for the disabled veteran and I thank him for his support on this amendment.

Mr. WYLIE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, as I stated a little earlier, this is a group of amendments which the chairman and I worked on together. I attempted to address all of the administration's requests in the statement of administration policy. Unfortunately, the administration policy statement did not come to me until after the Committee on Rules hearing yesterday. But we had already discussed several of them.

We have addressed directly four of the eight problems which the administration has. We know that they have expressed some concern about inadequate funding for the HOPE Program. We do have $400 million in there for that program now, which is a move in the right direction, and we will try to get some more for that program later on.

We did reverse the 57-percent requirement on closing costs. The reason for that, in part, is because the same provision was in the VA-HUD appropriation bill last week and passed overwhelmingly there. We were not able to get enough votes in our Banking Committee or in the Subcommittee on Housing to retain that language. We had to be realistic about it.

The realtors, the homebuilders, and the mortgage bankers are all opposed to that right now and seem to think that the FHA program will work better without it and that the mutual mortgage insurance fund will be adequate without that. I suppose we will have to wait and see.

We do increase the FHA mortgage limits, but again, that is the same as was in the VA-HUD bill last week, to $151,000. I think that is realistic.

We made a compromise on the home match issue.

On the other issues, we were able to take care of the administration's concerns.

I think we have gone a long way, and I would hope that the administration would suggest an "aye" vote, or I would suggest to the President that he sign the bill when it comes up.

Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. DONNELLY].

Mr. DONNELLY. Mr. Chairman, I rise in support of the committee bill, most especially the provision in title I that deals with the mixed-housing issue as it affects senior citizens' apartments across this country. I think the committee has done good work to come to a resolution of the problem.

Mr. Chairman, I support H.R. 5334, because it addresses the biggest problem facing public housing in this country today. Chairman GONZALEZ, Congresswoman ROUKEMA, and Congressman KLECZKA deserve great credit for their efforts in finding a workable solution on this issue.

Since the days of President Franklin Roosevelt, this Nation has had an affordable housing program for our citizens. Since that time, this country has felt, as a matter of policy, that it was appropriate for public housing agencies to designate buildings for elderly tenants over the age of 62.

Especially in the past few years, different laws and regulations have crept onto the books which have gutted that policy. Just Monday, we read in the *New York Times* of the problems that have developed by mixing elderly and nonelderly populations in public housing. It has caused crime—fear—and a sense of a loss of security by the elderly in their own homes.

Whatever the reasons for this foolhardy and misguided policy, H.R. 5334 takes a major step to correct it, while protecting the rights of the nonelderly. The bill, first and foremost, sensibly redefines the word "elderly" in the United States Housing Act to mean people who are 62 years old or older. Then, it provides that public housing agencies may designate buildings as being available only for elderly tenants.

The bill provides unprecedented choice in housing for nonelderly tenants. There are set-asides of section 8 certificates and vouchers. It preserves tenants' status on an agency's waiting list for section 8 assistance. It requires public housing agencies to develop an allocation plan to show HUD how they will house the nonelderly. It sets aside major reconstruction funds to reconfigure projects to better suit the disabled. Finally, this legislation also addresses the issue of mixed populations in federally assisted housing programs, such as section 8 projects, and old section 202 projects. The bill is a comprehensive solution to this problem, which I first identified last year on introduction of H.R. 3425.

After the introduction of H.R. 3425, Congressman KLECZKA introduced H.R. 4435. The compromise before us today reflects, in my view, the best efforts and the best blend of the two bills. It is a well-thought-out, workable policy, and I appreciate the efforts of the Housing

Subcommittee members, most especially GERRY KLECZKA, MARGE ROUKEMA, BARNEY FRANK, RICHIE NEAL, and FLOYD FLAKE to solve this problem. I urge support for the bill.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. ERDREICH] for a colloquy.

Mr. ERDREICH. Mr. Chairman, as you know, I successfully offered an amendment in full committee that expands the owner's ability to evict section 8 tenants who have engaged in criminal activity. We all know the importance of the section 8 program, but it is also important that criminal activity not be tolerated in section 8 dwellings threatening other residents and communities surrounding that dwelling.

Mr. Chairman, I want to make clear that these important provisions we add to the bill do not preempt or in any way alter existing rights or causes of action that might exist under Federal, State, or local law.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. ERDREICH. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, the gentleman can be assured that these provisions do not preempt any existing causes of action under Federal, State, or local law, and that is my interpretation of the effect of these amendments.

Also, please note, however, that it is the committee's intent to protect innocent family members not associated with criminal activity. Innocent family members should not be held responsible for the criminal activities of others, and their rights for housing assistance should be protected.

Mr. ERDREICH. I thank the chairman. This will give all interested parties, the owner, the neighborhood, and local government officials, the opportunity to take corrective action to help protect and preserve our neighborhoods from criminal activities of the few.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I rise in support of this amendment, which is a positive step for thousands of seniors around the country who live in adult communities.

Members will recall that the Fair Housing Act of 1988 recognized the need to protect adult-only communities from the bill's antidiscrimination requirements. As I knew then and we should all know by now, however, the criteria used to determine whether a community merited an exemption are seriously flawed. The worst feature is the so-called significant facilities requirement, which was never adequately defined in the law or regulations that followed. For many adult communities, complying with this shadowy concept has been an absolute nightmare.

This has been especially true in south Florida. Hundreds of citizens have already had to hire lawyers to defend their adult communities against charges of discrimination, and still more live with the constant worry of having to do so.

To give you an example of the extent to which these lawsuits have gone, in one suit in Federal court over 80 defendants were named, most of whom were merely volunteer members on the board of directors. It is prohibitively expensive for these communities to defend themselves in court, and there is virtually no insurance coverage available against such suits. That's obviously not fair.

People who live in adult communities need some reassurance that they can live their lives in peace and quiet, as the supporters of the 1988 Fair Housing Act promised. That hasn't been the case up to now, and it's time to follow through on our promise to seniors who want to live in adult settings.

I would like to say that passage of this amendment alone will provide for that, but in all honesty it would not. By requiring the Secretary of Health and Human Services to define "significant facilities," it is a step in the right direction, but only a step. Other measures—such as determining what significant facilities, if present, merit exemption, or some other precertification procedure—should be investigated.

No hearings have been held on these points since the passage of the Fair Housing Act, and I believe the time has come to take a close look at what has become a serious problem in many parts of the country. I call on the distinguished chairman of the Judiciary Civil and Constitutional Rights Subcommittee to consider holding a hearing on this important matter, either in the remaining days of the 102d Congress, or early next year.

Mr. Chairman, I urge all Members to support the Stearns amendment, which is a step in the right direction, but again, only a step.

□ 1410

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Chairman, I rise in support of the bill. I would also like to call special attention to title VI, housing for elderly persons, handicapped persons, and persons with disabilities, as it would give public housing agencies the flexibility to implement policies that will provide all residents more livable conditions than exist today. This section gives our Nation's seniors, handicapped, disabled individuals, and other eligible groups better access to appropriate public housing and needed services.

Too many seniors are afraid to live in high rises originally built for senior citizens. Changing situations in the 1980's opened senior high rises up to other groups including mentally ill and handicapped occupants. A problem arises when neither HUD nor the cities have the ability to provide the services and staffing needed by such a mixed population. My district, Minneapolis, has been plagued with a variety of serious problems in these buildings including a few homicides. Because of these problems there has been a rapid decline in the senior populations of its high-rise buildings. Currently, only 46 percent of the public housing tenants in Minneapolis are elderly, over 62, and of the 1,216 high-rise applications currently in progress, just 7 percent are elderly. Clearly, this mixture of senior citizens and handicapped/disabled persons poses serious problems and these problems become more serious as the senior population gets older. Further, handicapped and disabled people are being housed with no thought given to their unique needs.

In spite of this crisis, HUD has refused to allow any efforts to draw distinctions among public housing residents, with one exception. HUD has permitted or encouraged an exception that isolates families with children from all other populations. HUD takes the position that Federal law forbids either elderly only projects or special needs facilities in public housing. Rather HUD takes the position that Federal law requires the mixing of elderly and nonelderly public housing populations. Yet, every civil rights law, including the Fair Housing Act, permits age-distinct housing.

The provision we are discussing in this bill would improve the lives of all people eligible to live in these homes. It solves the problems of mixed populations by letting local authorities offer increased choices for all eligible residents and applicants. Public housing authorities should be able to tailor their available housing to the needs of their local populations. HUD should provide general and technical guidance, but must allow the local authorities flexibility to provide housing to all eligible groups while protecting their rights.

In order to meet the diverse housing needs across the country, local authorities must be able to offer age-distinct housing as an option. It has been shown that age-distinct housing offers a number of benefits. It only makes sense that people with unique needs or requirements be given the option to live together.

I want to emphasize that this change would provide a range of living options to all eligible residents, and would not displace anyone or force people to move against their will. Residents meeting the terms of their lease will have the right to stay where they are. The provision would not change that. It will, however, give all residents, current and future, the opportunity to select housing more appropriate to their needs.

Mr. Chairman, title VI is the beginning of a solution to a very distressing problem. I urge my colleagues to support H.R. 5334.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska [Mr. HOAGLAND] for a colloquy.

Mr. HOAGLAND. Mr. Chairman, one of the most unsettling problems we have in public housing today is caused by combining elderly, handicapped and disabled residents in the same building.

Now, we attempt to address that problem in this legislation, but it is important to the greatest extent possible to give the elderly their own buildings, and it is important to the greatest extent possible to give building management and project owners the discretion, as much discretion as possible in deciding who should live in these residences.

In that connection, Mr. Chairman, I would like to ask about the meaning of a sentence which appears on the top of page 141 of the committee report, and that sentence states:

> The Committee does not intend that the 10 percent reserve be considered a ceiling, should the waiting list reflect a greater need or should the owner be able to provide appropriate housing with supportive services to a greater number of persons or families with disabilities or handicaps.

Mr. Chairman, does this language require a project owner to exceed the project's reserve requirement in those circumstances, or is the decision whether to exceed the reserve solely in the discretion of the project owner?

Mr. GONZALEZ. It is permissive, and the decision whether to exceed the reserve requirements is solely in the discretion of the owner.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I rise in strong support of this amendment, especially in light of the remarks of my colleague, the gentleman from Florida [Mr. SHAW] with reference to the definition of significant facilities in elderly housing.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I will make a part of the RECORD the clarification of my amendment on housing for older persons, and I thank my colleagues from Florida for their accommodation on my amendment.

Mr. Chairman, I rise to thank Chairman GONZALEZ and Mr. WYLIE, our ranking member on the Banking Committee, for accepting my amendment regarding the Fair Housing Amendments Act.

Currently, under provisions of the Fair Housing Amendments Act, older Americans are supposed to have the right to live in seniors facilities without fear of violating age discrimination statutes. This exemption was designed to recognize the special needs of our older citizens and is truly in keeping with the spirit of the law.

In practice, however, this exemption has failed to work effectively because of the vague nature of the "significant facilities and services" requirement. Members from both sides of the aisle have expressed interest in addressing this vital issue. I have worked closely with my colleagues from Florida, Mr. SHAW and Mr. BACCHUS, to develop language to address this issue. The Judiciary Committee maintains primary jurisdiction in this area, but Representative DON EDWARDS has accommodated my concerns regarding this legislation. I am pleased to bring this amendment to the floor with his cooperation.

In my district there are numerous retirement apartment and condominium complexes facing lawsuits over their compliance with the Fair Housing Act. The problem is that HUD has not spelled out for these communities exactly what they need to do to comply with the law. My amendment will force HUD to cut the redtape and tell these people exactly what is expected of them.

I believe every American should have equal opportunity and equal rights for housing. But Congress has recognized that older Americans have special needs and included an exemption under the law for facilities that serve older Americans on a virtually exclusive basis. These communities provide seniors with quiet surroundings, crime and traffic-free neighborhoods and a social structure targeted toward their needs.

Older Americans who wish to live in peaceful, safe communities should not have to spend years in court to preserve their right to do so. My amendment will force HUD to define what the significant facilities and services requirement, so that the people in these communities can meet the requirements and get on with their lives.

Once again, I thank Chairman GONZALEZ and Mr. WYLIE for their assistance in developing this amendment and including it in the en bloc amendment. I yield back the balance of my time.

Mr. WYLIE. Mr. Chairman, I yield the balance of my time to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I rise in strong support of the legislation and this amendment.

I want to thank the gentleman from Texas [Mr. GONZALEZ], the committee chairman, and my friend and colleague, the gentleman from Ohio [Mr. WYLIE] for the inclusion in this set of technical amendments language that I think will help us set up in the next Congress a meaningful and nontraditional way of trying to go about to address the social and economic problems in the inner city areas.

A year and a half ago our colleague, the gentleman from New York [Mr. FLAKE] and I developed some legislation entitled the Bank Enterprise Act, which looked to help the inner cities find a new source of revenue, a new source of capital, a new source of economic development.

What we designed was a means of using community reinvestment dollars to set up community development corporations and community development banks. We needed some technical language to promote that, to get the FDIC to draft it as we prepare for next year in an appropriations battle.

I want to thank these gentlemen for including it in their technical amendments.

On a personal note, since it is the last opportunity we have to speak on a housing authorization bill, I think it is appropriate for me to say to my good friend, the gentleman from Ohio [Mr. WYLIE], whom I admire and respect a great deal, that during the past several years with the gentleman from Ohio working on these issues dealing with housing and economic development, it has been a pleasure to work with the gentleman from Ohio, because he has been responsive and accessible to not only our side of the aisle, but I think to his friends on the other side of the aisle. He has helped us look for new and different ways to attack the problems of housing and social and economic development, and I just want to tell my friend how much I have enjoyed my friendship and relationship with him and wish him well.

I want to say thank you to my friend, the gentleman from Ohio [Mr. WYLIE].

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in support of the en bloc amendments and the Housing and Community Development Act. This is a piece of legislation that addresses one of the most troubling problems facing residents of public and federally assisted housing, the problem of mixed population housing.

Last summer, in New Haven, CT, an elderly public housing resident was killed in her apartment by a nonelderly resident. This painful tragedy created a reaction of fear and resentment among the elderly population not only in Crawford Manor, where this incident took place, but throughout the city. I held an informal hearing in New Haven to discuss this issue, and learned that the problem was widespread—affecting communities throughout Connecticut and the Nation.

I commend Chairman GONZALEZ and the gentleman from Wisconsin [Mr. KLECZKA], who authored the mixed housing amendment, for finding a fair and effective method of dealing with this complex issue. The mixed housing provisions of this bill will give public housing authorities and owners of federally assisted housing the tools necessary to protect our elderly populations without compromising the availability and quality of housing for nonelderly disabled residents.

We must ensure that public and federally assisted housing is safe for all residents. This legislation will begin the process of restoring the critical sense of comfort that all residents are entitled to.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, as a member of the committee and having worked very hard on this bill, I want to commend the chairman and the ranking minority member. I rise in support of the bill.

Mr. Chairman, I laud Chairman GONZALEZ, my colleagues on the Banking, Finance and Urban Affairs Committee, and the staff of the Housing and Community Development Subcommittee for developing a housing bill that is sensitive to the housing needs faced by our Nation's urban and rural low income, elderly, first-time home buyers, and homeless populations. In addition to enhancing existing programs, innovative and socially redeeming new programs, such as the HOPE for Youth: YouthBuild Program have been authorized.

Programs such as YouthBuild achieve two purposes—the creation of new affordable housing to meet the shelter needs of the low-income and the homeless, and the engagement of local disadvantaged youth in meaningful employment through the construction of such housing. Not only will these youths be acquiring valuable skills and training, but they will also have the opportunity to engage in socially redeeming work in their own communities. Such programs, where the disadvantaged see the fruits of their own labor benefit their communities, can instill values and a sense of accomplishment that will assist them throughout their lives.

During subcommittee mark up I successfully introduced an amendment that ensures that low and very low income persons are employed in local construction projects that receive HUD funds. This amendment, like the YouthBuild Program, ensures that local, disadvantaged individuals are extended the opportunity to participate in constructive work experience, while acquiring new and marketable skills.

Contracts awarded for work performed in connection with a housing rehabilitation, housing construction, or other public construction project are given to business concerns that provide economic opportunities for low and very low income persons residing the area where the assistance is expended.

First-time homebuyers, too, will benefit from this bill, through changes to the Federal Housing Administration's [FHA] home loan program. The FHA's maximum limit for insuring single-family home loans has been raised to ease the burden of purchasing homes in areas of the nation burdened with higher costs of housing—areas that do not preclude smaller cities like my own, Baltimore. First time homebuyers will also benefit by increases in the FHA's limit on closing that may be financed.

Through my efforts, improvements in the Nehemiah Housing Opportunity Grants Program were accomplished. Specifically, changes were implemented in the resale provisions affecting this program, which has been implemented in over 45 cities across the country.

The Community Development Block Grant Program, funded through the housing authorization, serves as a cornerstone of neighborhood revitalization and development in our nation's cities and towns. The flexibility of this invaluable program allows communities to develop their own innovative solutions to the specific needs they face. This program, and in turn our commitment to community development, demands our support, especially as our Nation continues to be mired in deep recession.

The McKinney provisions—provisions that are vital to sustaining the programs that address the needs of America's homeless—are a significant component of the housing authorization. These provisions have been expanded to include new approaches to the problems of the homeless, through efforts such as the Shelter Plus Care and the Safe Havens Programs. The continuance of existing programs are also ensured by this bill.

Rural homelessness, too, is addressed through the McKinney provisions. Specifically, rural homeless assistance grants will provide assistance in the form of rent or mortgage assistance, short-term emergency lodging, funds for home repairs and rehabilitation, and other supportive services.

The McKinney provisions also make it possible for the homeless to engage in paid employment—by requiring organizations receiving McKinney funds to hire homeless persons to conduct their efforts.

The Housing and Community Development Act continues a trend of increased attention to our Nation's public housing and a reversal of the neglectful patterns established in the 1980's. Housing can no longer receive 0.7 percent of the Nation's budget, as it did in the Reagan era. The funding allocated in the 1992 housing authorization indicates a recognition by this Nation's policy makers of the urgent need to make accessible to all Americans decent and affordable shelter.

Income should not be the sole determinant in an individual's access to housing. Shelter is one of the most fundamental needs we face, and provides individuals with a necessary foundation upon which can be built meaningful participation in society. Without shelter, employment, healthy family lives, community participation, indeed all aspects of constructive interaction in society, cannot be accomplished. Let us today support the Housing and Community Development Act and help improve the welfare of those in our nation seeking affordable and decent housing, be it through first-time homeownership, safe and clean public and subsidized housing, or shelters for the homeless.

Mr. GONZALEZ. Mr. Chairman, I want to close by simply expressing again my profound thanks to all of the Members here who made it possible to forge this compromise legislation.

When the gentleman from Pennsylvania [Mr. RIDGE] spoke earlier, he reminded me that he has been one of the most aggressive and progressive and constructive members of the committee and of the subcommittee.

Part of this en bloc amendment is the contribution of the gentleman from Pennsylvania [Mr. RIDGE] and the gentleman from New York [Mr. FLAKE] in a very important way.

I am also reminded of the gentleman from Ohio [Mr. KASICH] who spoke earlier during the rule consideration, who also has contributed to this en bloc amendment, and very constructively so.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Texas [Mr. GONZALEZ].

The amendments en bloc were agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCNULTY) having assumed the chair, Mr. HEFNER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes, pursuant to House Resolution 537, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. STEARNS

Mr. STEARNS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. STEARNS. Yes, I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. STEARNS moves to recommit the bill (H.R. 5334) to the Committee on Banking, Finance and Urban Affairs, with instructions to report the same back to the House forthwith with the following amendments:

Page 9, strike lines 3 through 6 and insert the following:

"(i) for public housing grants under subsection (a)(2) for Indian housing, $247,312,000;"

Page 135, line 25, strike "$100,000,000" and insert "$249,370,000".

Page 136, line 6, strike "$100,000,000" and insert "$249,370,000".

Page 136, line 13, strike "$200,000,000" and insert "$498,740,000".

Mr. STEARNS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1420

Mr. STEARNS. Mr. Speaker, I would like to rise today to raise the concerns of many Members from my side of the aisle regarding this legislation.

While there are many important housing programs in this bill, I must express my concern that we are moving away from some of the principles that made the National Affordable Housing Act of 1990 such a landmark piece of legislation.

In particular, this legislation has limited the authorization for Secretary of Housing and Urban Development's Jack Kemp's innovative HOPE Program to $400 million. This initiative is designed to make the dream of home ownership a reality for those poor Americans who take on this challenge and responsibility. The HOPE Program has existed for only 2 years, and we have yet to provide adequate funding for its implementation.

Mr. Speaker, I ask all my colleagues to read the dissenting opinion by the Secretary in the piece of legislation.

Mr. Speaker, HOPE is new, it's a bold approach to our Nation's housing problems. I know it's easier to continue programs that already exist than to make new ideas a reality, but we cannot abandon those less fortunate Americans who dream someday of owning their own home.

This authorization sends a message that the HOPE Program is on its way out. The hopes and dreams it has fanned will be extinguished and it will be back to business as usual. I hope that the final version of this bill will not send this massage.

At the conclusion of debate, I will be offering a motion to recommit this bill to increase the level of funding for HOPE. I hope this step backward can be corrected, and the good things in this bill can be preserved.

I congratulate the gentleman from Texas, Chairman GONZALEZ and, of course, my ranking member, the gentleman from Ohio [Mr. WYLIE]—whom we will all miss—and the gentlewoman from New Jersey [Mrs. ROUKEMA], on bringing this legislation to the floor.

Mr. Speaker, this motion incorporates two of the five amendments Mr. WYLIE filed on behalf of the administration. Increase HOPE funding with an offsetting adjustment from funding non-Indian public housing.

This motion to recommit would, therefore, increase the HOPE funding from the $400 million authorized in the reported bill, to $997 million, which is close to the President's request of $1 billion. In order to maintain the aggregate funding level of $28.8 billion, recognizing the Wylie 4 percent reduction included in the en bloc amendment, an offsetting adjustment of $597 million is made from funding for non-Indian public housing.

I tell all my colleagues, particularly on my side of the aisle, now is the time to vote for this motion to recommit, to send a message out to America that we need to have HOPE as a part of this program and a part of the American dream.

Mr. GONZALEZ. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. (Mr. McNULTY). The gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise in strong opposition to the motion. The fact is that the HOPE programs are currently in this bill being authorized. The effort in our bill to increase the supply of affordable housing for the very-low-income and to improve the lives of those in public housing is exactly shaped in such a form as to give room to live, unlike the appropriation bill last week for the HOPE Program.

We are those who partook in the formation and adoption of the HOPE Program in the 1990 act. So we would not have any reason at this time to try to eliminate it.

However, it is still a relatively untried program—it is less than 2 years old—other than some technical assistance and capacity-building tryouts. So we think the level of authorization, in view of the fact that the Appropriation Committee totally blocked it out, keeps the program alive and then we simply have to work on the appropriating process.

What has happened here is that the Secretary of HUD has become very, very angry because he has not received the appropriated funds level that he has been seeking. We cannot help that. I do not think that should then be taken out on our substantive, or our authorization bill here.

So I would strongly urge a "no" vote on this motion.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. STEARNS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage. So this vote may be followed by a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 147, nays 277, not voting 10, as follows:

[Roll No. 365]

YEAS—147

Allard
Allen
Archer
Armey
Baker
Ballenger
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hutto
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Nichols
Nussle
Oxley
Packard
Paxon
Penny
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Roth
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NAYS—277

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barrett
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hyde
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly

Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Ridge
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOT VOTING—10

Barnard
Conyers
Dickinson
Ford (TN)
Hatcher
Jones (GA)
Schulze
Torricelli
Traxler
Volkmer

☐ 1444

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McNulty). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Members are reminded that in accordance with the Chair's prior announcement, this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 369, nays, 54, not voting 11, as follows:

[Roll No. 366]

YEAS—369

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—54

Allard
Allen
Archer
Armey
Barton
Burton
Campbell (CA)
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Fields
Goss
Hancock
Hansen
Henry
Hopkins
Hunter
Ireland
Johnson (CT)
Kyl
Lewis (CA)
Lipinski
Marlenee
McCollum
McEwen
Miller (OH)
Miller (WA)
Moorhead
Nichols
Packard
Penny
Petri
Pursell
Rhodes
Roberts
Rohrabacher
Roth
Schaefer
Sensenbrenner
Shuster
Smith (OR)
Solomon
Stearns
Stump
Taylor (NC)
Walker
Zeliff
Zimmer

NOT VOTING—11

Barnard
Browder
Conyers
Dickinson
Fish
Ford (TN)
Hatcher
Schulze
Torricelli
Traxler
Volkmer

☐ 1453

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. McNulty). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO OFFER AMENDMENT TO H.R. 4996, JOBS THROUGH EXPORTS ACT OF 1992, NOTWITHSTANDING REQUIREMENT CONTAINED IN HOUSE RESOLUTION 489, AND TO LIMIT TIME ON ALL AMENDMENTS

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that, notwithstanding the preprinting requirement contained in House Resolution 489, the gentleman from California [Mr. Dymally] be permitted to offer an amendment to H.R. 4996, the Jobs Through Exports Act of 1992, and that the time on all amendments be limited to 1½ hours as a result of an agreement with the gentleman from Wisconsin [Mr. ROTH].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. ROTH. Mr. Speaker, reserving the right to object, I think it is a reasonable request, and it is fair to all the Members who have amendments on this bill. So I think that we should agree to the time limit.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The Chair understands the request that debate on the bill and all amendments thereto be limited to 1½ hours.

Is there objection to the request of the gentleman from Connecticut?

There was no objection.

JOBS THROUGH EXPORTS ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 489 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4996.

□ 1456

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, with Mr. KANJORSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 17, 1992, title I was open for amendment at any point and pending was the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

Pursuant to the rule, no amendments to the Committee amendment in the nature of a substitute are in order other than the following:

First, pro forma amendments for purposes of debate;

Second, the amendment printed in House Report 102-575, to be offered by the gentleman from Nebraska [Mr. BEREUTER] or his designee;

Third, the amendment to be offered by the gentleman from California [Mr. DYMALLY] made in order by the House today;

Fourth, and those amendments printed in the CONGRESSIONAL RECORD prior to June 18, 1992.

Is there further debate on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

H.R. 4996, the Jobs Through Exports Act of 1992, will not only increase the size and improve the effectiveness of U.S. export promotion programs, but it will create jobs here at home.

The purpose of this bill is to offer a more level playing field for U.S. exporters as they try to market their products and services overseas. The bill reauthorizes both the Overseas Private Investment Corporation, or OPIC, and the Trade and Development Program. This legislation will also significantly enhance the ability of the U.S. Government to carry out feasibility studies for capital projects using U.S. exports and services. In addition, the bill will create a partnership between the public and private sectors to identify and aggressively pursue strategic export markets. I estimate that this bill will generate at least 120,000 jobs each year.

Let me now proceed with my technical amendment.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Wisconsin.

□ 1500

Mr. ROTH. Mr. Chairman, I thank the gentleman from Connecticut [Mr. GEJDENSON] for yielding to me.

Mr. Speaker, it has been several weeks since the House last considered this bill, so let me remind my colleagues that this is truly a bipartisan measure. It creates jobs by increasing American exports. It helps American companies better compete in world markets, and it establishes the first buy-America requirement for foreign aid.

It helps our country deal with the new reality that economic competition is now our biggest threat. That is why the leadership of America's business community has lined up solidly behind this bill: The Chamber of Commerce, the National Association of Manufacturers, the National Foreign Trade Council, the Bankers Association for Foreign Trade, and the Coalition for Employment Through Exports.

Today we have a number of amendments. Some of these will improve the bill, but others I think are very damaging. I ask my colleagues to consider each amendment carefully. Our goal is to produce a bill that the other body will agree to and that the President can sign. If we can do that, we can create new jobs for the American people and strengthen our economy. Let us march toward that goal.

Mr. LEVIN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Michigan.

Mr. LEVIN of Michigan. Mr. Chairman, I rise in strong support of H.R. 4996, the Jobs Through Exports Act.

Few trade policy issues generate the type of broad consensus that exists on the importance of exports: American businesses and workers can't compete unless they sell their products as aggressively in Jakarta as they do in Peoria.

But despite the emergence of a strong export mentality in the private sector, the U.S. Government has lagged dangerously behind our trading partners in export promotion.

It's time to stop paying lipservice to the needs of our businesses and workers and start paying attention to the realities of the world market place. It's time to craft an export policy based on the mutual trust and mutual goals of business and Government.

This bipartisan measure takes an important step toward forging that kind of partnership. The OPIC Program has been paying dividends to American businesses investing abroad for two decades. And I commend Chairman GEJDENSON for including the Trade and Development Agency and Office of Capital Projects in this bill, which is one of a series of House leadership-backed measures designed to foster economic growth, increase trade, and create American jobs.

I also would like to thank him for including the U.S. Commercial Centers Program in H.R. 4996. This program signals a new direction in U.S. exports policy—a crystallization of the feeling that our Government's mission abroad must be shaped by trade and economics as much as diplomacy.

For too long, export promotion has been given back-room storage space at American Embassies around the world. The Commercial Centers Program elevates export promotion to the level of diplomacy and creates separate facilities abroad where Government will give American businesses the first-stage assistance they need to pursue export opportunities in foreign markets.

I originally introduced the Commercial Centers concept as separate legislation. The response—bipartisan sponsorship by more than 70 House colleagues—demonstrated the widespread feeling that Government and businesses must build a partnership when it comes to exporting—a partnership far beyond the limited programs that currently exist. Private businesses must be willing to make the investment, but our own Government must become an advance team for American businesses abroad.

In addition to Chairman GEJDENSON, I'd like to thank Majority Leader GEPHARDT and Congressman ROTH and MCGRATH for their strong support of U.S. Commercial Centers.

The concept is simple. We will create separate export facilities—called commercial centers—in key cities in important markets: One in either the Baltics or the former Soviet Republics; one in Asia and one in Latin America.

The centers will provide visiting American business representatives with language and clerical services and telecommunications facilities, as well as temporary office and meeting space. Center personnel will provide information about the host country's industries, economy, and markets—and a list of contacts in each industrial area.

For small- and medium-sized American businesses, the centers will be an oasis in an unfamiliar environment.

I was struck with the need for such a Government-industry partnership when I visited the teeming markets of Southeast Asia in 1989. Everywhere we went, American exporters told the same story. America is losing ground, they said, and unless something changes we will fall irreversibly behind within 5 years.

Their fears have proven true in a shorter period than that. As Japan and other Asian nations invest heavily in Thailand, Malaysia, Singapore, and Indonesia, Americans fall further and further behind. A recent series of articles in the Washington Post highlighted both the economic growth of these markets, as well as their potential importance to American industries.

Too content to stick with old ways designed for a different era, our own Government's effort has lagged. In Indonesia, a nation of 180 million people, we have slots for only 4 Foreign Commercial Service officers, and have filled only 3 of them. In Malaysia, we have posted only 3 FCS officers.

The truth is, our export effort has fallen short of what our businesses need around the world.

After the fall of communism in Eastern Europe, my office asked American companies whether they were ready to do business in Poland and Czechoslovakia, and they said no. We asked whether our Government was helping, and they said no.

We heard the same thing when the Baltic Nations tasted freedom late last summer. At the time, a Michigan food distributor wanted to sell food in the Soviet Union, but didn't know how. He received a busy signal at the one phone number the U.S. Government provided.

We asked businesses what they needed, and in bits and pieces it added up to a commercial center.

Our nations, aware of the importance of separating trade and exports from diplomacy, have established similar programs. In Japan, the Canadians have turned a significant portion of their brandnew Embassy into a showcase for their businesses. Canadian firms can set up meetings in spacious offices or rent space for business dinners that give them the advantage of meeting clients in familiar, intimate settings.

The Canadian Government has set up a sophisticated computer network listing businesses according to their specialities; when a need arises for a particular export, the Government matches the need with particular businesses—and it works. More than 100,000 Japanese citizens have come through the Embassy for the exclusive purpose of conducting business with Canadians. Twenty commercial officers staff the Canadian Embassy. It is a true partnership between business and government.

It is time to create such a partnership in the United States, starting with commercial centers. Ultimately, this partnership must extend beyond this pilot program—the foundation of a commitment of not just money—but of time and effort.

The CHAIRMAN: The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

(On request of Mr. LEVIN of Michigan and by unanimous consent, Mr. GEJDENSON was allowed to proceed for 3 additional minutes.)

Mr. GEJDENSON. Mr. Chairman, I ask for Members' support for the technical amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title 1?

Mr. GEJDENSON. Mr. Chairman, I ask unanimous consent that we take the amendment to be offered by the gentleman from California [Mr. DYMALLY], the amendment to be offered by the gentleman from Nebraska [Mr. BEREUTER], and the amendment to be offered by the gentleman from West Virginia [Mr. WISE] in that order, because they are noncontroversial amendments. I think both sides are going to accept them, so we can have as much time as we need for the other amendments.

Mr. Chairman, I ask unanimous consent to take these three amendments out of order.

The CHAIRMAN. The gentleman asks that those amendments be offered in that order, even though we have not read the title numbers?

Mr. GEJDENSON. Yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DYMALLY: Page 70, lines 4 and 5, strike "and in one country in Latin America" and insert "in one country in Latin America, and in one country in Africa".

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. DYMALLY. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, the gentleman has an excellent amendment, and we certainly support it.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. DYMALLY. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, we on this side certainly support this amendment also. This amendment authorizes an additional United States commercial center to be located in Africa. The bill already authorizes centers in CIS, the Baltics, Asia, Latin America, so this amendment is in keeping with the intent of the bill. We must help our U.S. companies be competitive.

Mr. Chairman, I compliment the gentleman from California [Mr. DYMALLY] for his good amendment.

Mr. DYMALLY. Mr. Chairman, I am ahead, and I shall quit. Let me take this opportunity to thank the chairman and the minority member, the gentleman from Wisconsin [Mr. ROTH], for seeking unanimous consent for me to offer this amendment. I thank them for their support.

Mr. Chairman, I am offering an amendment to title IV—the section establishing U.S. commercial centers. The amendment adds one country in Africa as the site for a commercial center and provides the funding for this addition.

Let me say at the onset that I am supportive of H.R. 4996. Creating new American business ties throughout the world is a concept I have always espoused. Having said that, I find that Africa's not being included with Eastern Europe, Latin America, and Asia as a potential frontier for expanded business opportunities was troubling to me.

One of my principal goals during my tenure as chairman of the Subcommittee on Africa has been to increase ties between African-American businessmen and women and the African business sector. I recognize, however, the importance of promoting trade and investment in the whole of Africa—whether it be with United States corporations or small businesses.

I have tried to stimulate interest in Africa during my chairmanship and have received much criticism from some foreign policy advocates who do not see the correlation between promoting business and advancing our foreign policy objectives. What they do not realize is how closely they are intertwined. Until Africa has an opportunity to advance economically and utilize its tremendous resources and talent, the continent will continue to be ravaged by poverty, hunger, and conflict.

To help promote business ties between the United States and Africa, I have attempted to do several things. I recently sponsored, together with the Congressional Research Service, a United States-North African trade conference. Ministers of commerce from five countries met with representatives of a cross-section of American business to share information and make plans for bridging the existing gap between us. In the fall, I am planning another conference in north Africa to continue this exchange. I also have recently introduced a measure on southern Africa designed to foster conditions that will encourage the United States business community to engage in trade and investment.

There are only 2 companies listed in the world trade top 100 trading companies which have dealings in northern Africa. We have to do better than that if we ever expect these countries to become self-sufficient.

I have talked to Mr. GEJDENSON, Mr. ROTH, and Mr. LEVIN about my amendments and they have given me their support. I urge all of my colleagues to give Africa the same chance that other regions of the world are getting.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DYMALLY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BEREUTER: At the end of the bill (page 78, after line 12), add the following:

TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 601. SHORT TITLE.

This title may be cited as the "Enterprise for the Americans Act of 1992".

SEC. 602. PURPOSE.

The purpose of this title is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with inter-related actions to promote debt reduction, investment reforms, community based conservation, and sustainable use of the environment, and child survival and child development. The Facility will support these objectives through administration of debt reduction operations under this title for those countries with democratically elected governments that meet investment reforms and other policy conditions.

SEC. 603. DEFINITIONS.

For purposes of this title—

(1) the term "administering body" means the entity provided for in section 609(c);

(2) the term "Americas Framework Agreement" means the agreement provided for in section 609;

(3) the term "Americas Fund" means an Enterprise for the Americas Fund provided for in section 608(a);

(4) the term "appropriate congressional committees" means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

(5) the term "beneficiary country" means an eligible country with respect to which the authority of section 605(a)(1) is exercised;

(6) the term "eligible country" means a country designated by the President in accordance with section 604;

(7) the term "Enterprise for the Americas Board" or "Board" means the board established by section 610 of Agricultural Trade Development and Assistance Act of 1954 (as amended by section 610(b) of this title); and

(8) the term 'Facility' means the Enterprise for the Americas Facility established in the Department of the Treasury by section 601 of that Act.

SEC. 604. ELIGIBILITY FOR BENEFITS.

(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this title, a country must be a Latin American or Caribbean country—

(1) whose government is democratically elected;

(2) whose government has not repeatedly provided support for acts of international terrorism;

(3) whose government cooperates on international narcotics control matters;

(4) whose government (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights;

(5) that has in effect, has received approval for, or, as appropriate in exceptional circumstances, is making significant progress toward—

(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent, unless the President determines (after consultation with the Enterprise for the Americas Board) that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association, unless the President determines (after consultation with the Enterprise for the Americas Board) that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

(6) has put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise is implementing, or is making significant progress toward, an open investment regime; and

(7) if appropriate, has agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) ELIGIBILITY DETERMINATIONS.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this title. The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

SEC. 605. REDUCTION OF CERTAIN DEBT.

(a) AUTHORITY TO REDUCE DEBT.—

(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1991, as a result of concessional loans made to an eligible country by the United States under part I of the Foreign Assistance Act of 1961 (or predecessor foreign economic assistance legislation).

(2) APPROPRIATIONS ACT REQUIREMENT.—The authority of this section may be exercised only in such amounts or to such extent as is specifically provided in advance by appropriations Acts.

(3) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(b) IMPLEMENTATION OF DEBT REDUCTION.—

(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations outstanding as of the date specified in subsection (a)(1).

(2) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of the agreement with an eligible country to exchange a new obligation for outstanding obligations pursuant to this subsection. At the direction of the Facility, the old obligations shall be canceled and a new debt obligation for the country shall be established, and the agency primarily responsible for administering part I of that Act shall make an adjustment in its accounts to reflect the debt reduction.

SEC. 606. REPAYMENT OF PRINCIPAL.

(a) CURRENCY OF PAYMENT.—The principal amount of each new obligation issued pursuant to section 605(b) shall be repaid in United States dollars.

(b) DEPOSIT OF PAYMENTS.—Principal repayments of new obligations shall be deposited in the United States Government account established for principal repayments of the obligations for which those obligations were exchanged.

SEC. 607. INTEREST ON NEW OBLIGATIONS.

(a) RATE OF INTEREST.—New obligations issued by a beneficiary country pursuant to section 605(b) shall bear interest at a concessional rate.

(b) CURRENCY OF PAYMENT; DEPOSITS.—

(1) LOCAL CURRENCY.—If the beneficiary country has entered into an Americas Framework Agreement under section 609, interest shall be paid in the local currency of the beneficiary country and deposited in the Americas Fund provided for in section 608(a). Such interest shall be the property of the benefciary country, until such time as it is disbursed pursuant to section 608(d). Such local currencies shall be used for the purposes specified in the Americas Framework Agreement.

(2) UNITED STATES DOLLARS.—If the beneficiary country has not entered into an Americas Framework Agreement under section 609, interest shall be paid in United States dollars and deposited in the United States Government account established for interest payments of the obligations for which the new obligations were exchanged.

(c) INTEREST ALREADY PAID.—If a beneficiary country enters into an Americas Framework Agreement subsequent to the date on which interest first became due on the newly issued obligation, any interest already paid on such new obligation shall not be redeposited into the Americas Fund established for that country pursuant to section 608(a).

SEC. 608. ESTABLISHMENT OF, DEPOSITS INTO, AND DISBURSEMENTS FROM AN ENTERPRISE FOR THE AMERICAS FUND.

(a) ESTABLISHMENT.—Each beneficiary country that enters into an Americas Framework Agreement under section 609 shall be required to establish an Enterprise for the Americas Fund to receive payments in local currency pursuant to section 607(b)(1).

(b) DEPOSITS.—Local currencies deposited in an Americas Fund shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(c) INVESTMENT.—Deposits made in an Americas Fund shall be invested until disbursed. Any return on such investment may be retained by the Americas Fund, without deposit in the Treasury of the United States and without further appropriation by Congress.

(d) DISBURSEMENTS.—Funds in an Americas Fund shall be disbursed only pursuant to an Americas Framework Agreement under section 609.

SEC. 609. AMERICAS FRAMEWORK AGREEMENTS.

(a) AUTHORITY.—The Secretary of State is authorized, in consultation with other appropriate Government officials, to enter into an Americas Framework Agreement with any eligible country concerning the operation and use of the Americas Fund for that country. In the negotiation of such Agreements, the Secretary shall consult with the Enterprise for the Americas Board in accordance with section 610.

(b) CONTENTS OF AGREEMENTS.—An Americas Framework Agreement with an eligible country shall—

(1) require that country to establish an Americas Fund;

(2) require that country to make interest payments under section 607(b)(1) into an Americas Fund;

(3) require that country to make prompt disbursements from the Americas Fund to the administering body described in subsection (c);

(4) when appropriate, seek to maintain the value of the local currency resources of the Americas Fund in terms of United States dollars;

(5) specify, in accordance with subsection (d), the purposes for which amounts in an Americas Fund may be used; and

(6) contain reasonable provisions for the enforcement of the terms of the agreement.

(c) ADMINISTERING BODY.—

(1) IN GENERAL.—Funds disbursed from the Americas Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

(2) COMPOSITION.—The administering body shall consist of—

(A) one or more individuals appointed by the United States Government,

(B) one or more individuals appointed by the government of the beneficiary country, and

(C) individuals who represent a broad range of—

(i) environmental nongovernmental organizations of the beneficiary country,

(ii) child survival and child development nongovernmental organizations of the beneficiary country,

(iii) local community development nongovernmental organizations of the beneficiary country, and

(iv) scientific or academic organizations or institutions of the beneficiary country.

"A majority of the members of the administering body shall be individuals described in subparagraph (C).

(3) RESPONSIBILITIES.—The administering body—

(A) shall receive proposals for grant assistance from eligible grant recipients (as determined under subsection (e)) and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Americas Framework Agreement, consistent with subsection (d);

(B) shall be responsible for the management of the program and oversight of grant activities funded from resources of the Americas Fund;

(C) shall be subject, on an annual basis, to an audit of financial statements conducted in accordance with generally accepted auditing standards by an independent auditor;

(D) shall be required to grant to representatives of the United States General Accounting Office such access to books and records associated with operations of the Americas Fund as the Comptroller General of the United States may request;

(E) shall present an annual program for review each year by the Enterprise for the Americas Board; and

(F) shall submit a report each year on the activities that it undertook during the previous year to the Chair of the Enterprise for the Americas Board and to the government of the beneficiary country.

(d) ELIGIBLE ACTIVITIES.—Grants from an Americas Fund shall be used for—

(1) activities that link the conservation and sustainable use of natural resources with local community development; and

(2) child survival and other child development activities.

(e) GRANT RECIPIENTS.—Grants made from an Americas Fund shall be made to—

(1) nongovernmental environmental, conservation, child survival and child development, development, and indigenous peoples organizations of the beneficiary country;

(2) other appropriate local or regional entities; and

(3) in exceptional circumstances, the government of the beneficiary country.

(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from an Americas Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

(g) ELIGIBILITY CRITERIA.—In the event that a country ceases to meet the eligibility requirements set forth in section 604(a), as determined by the President pursuant to section 604(b), then grants from the Americas Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 604(a).

SEC. 610. ENTERPRISE FOR THE AMERICAS BOARD.

(a) RESPONSIBILITIES.—For purposes of this title, the Enterprise for the Americas Board shall—

(1) advise the Secretary of State on the negotiations of Americas Framework Agreements pursuant to section 609;

(2) ensure, in consultation with—

(A) the government of the beneficiary country,

(B) nongovernmental organizations of the beneficiary country,

(C) nongovernmental organizations of the region (if appropriate),

(D) environmental, scientific, child survival and child development, and academic leaders of the beneficiary country, and

(E) environmental, scientific, child survival and child development, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Americas Fund; and

(3) review the programs, operations, and fiscal audits of each administering body.

(b) AMENDMENTS RELATING TO THE BOARD.—Section 610 of the Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) in the section heading, by striking out "ENVIRONMENT" and inserting in lieu thereof "ENTERPRISE";

(2) in subsection (a), by striking out "Environment" and inserting in lieu thereof "Enterprise"; and

(3) in subsection (b)(1)(B)—

(A) by inserting "child survival and child development," after "environmental,", and

(3) in subsection (b)(1)(B)—

(A) by inserting "child survival and child development," after "environmental,", and

(B) by inserting ", at least one of whom shall be a representative from a child survival and child development organization" after "Caribbean".

SEC. 611. ANNUAL REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than December 31 of each year, the President shall transmit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate a report on the implementation of this title and title VI of the Agricultural Trade Development and Assistance Act of 1954. Such report shall include—

(1) a description of the activities undertaken by the Enterprise for the Americas Facility during the previous fiscal year;

(2) a description of any Americas Framework Agreements entered into under this title and a description of any Environmental Framework Agreement entered into under title VI of the Agricultural Trade Development and Assistance Act of 1954; and

(3) a description of any grants that have been extended by administering bodies pursuant to an Americas Agreement under this title or pursuant to an Environmental Framework Agreement under title VI of that Act.

(b) SUPPLEMENT VIEWS.—Each member of the Enterprise for the Americas Board shall be entitled to receive a copy of the report required by subsection (a) at least 14 days before the report is to be transmitted to the Congress, to have 14 days within which to prepare and submit supplemental views for inclusion in such report, and to have those views included in the report when it is so transmitted.

(c) CONFORMING AMENDMENT.—Section 614 of the Agricultural Trade Development and Assistance Act of 1954 (relating to annual reports to the Congress on the Enterprise for the Americas Facility) is repealed.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, the gentleman has an excellent amendment. The House has passed many of these provisions already. For this side, we support the amendment.

Mr. BEREUTER. Mr. Chairman, during its consideration of the Agriculture appropriations bill on June 30, of this year, the House resoundingly defeated an attempt to cut funding for the food aid debt reduction component of EAI. This first real test of EAI support on the floor illustrates that, even in an unpopular year for foreign aid, a strong bipartisan coalition is willing to support this program. This legislation does not forgive total debt owed by eligible countries. EAI reduces debt owed by eligible countries. They must repay the principle on the debt. Interest payments fund environmental and child health projects in eligible countries.

Mr. KOLBE. Mr. Chairman, does the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding to me. I rise in strong support of the amendment of the gentleman from Nebraska. This is, as he suggested, a very important amendment that does test the strength of the Enterprise for the Americas Initiative. This is one of the most important initiatives that this Congress can undertake.

□ 1510

It is important because if we look around the world we can see that the Americas, Latin America, Central America, Mexico, represent the growth markets for the United States. It represents a great opportunity for us to build on the developing democracies in that part of the world, and for us to build our markets there.

The Enterprise for the Americas Initiative is one that holds great hope for the future of all of the Western Hemisphere. This amendment, as the gentleman from Nebraska has suggested, does not forgive the debt. It simply makes it easier for us to structure that debt. The principal must be repaid, and the debt that is forgiven must be used in projects within that country.

It is an important amendment that deserves the support and consideration of this body, and I hope we will adopt it. I thank the gentleman for yielding.

Mr. BEREUTER. I thank the gentleman for his excellent comments.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California for any comments that he might care to make.

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Nebraska. It is particularly appropriate to add this amendment to this bill, a bill extending authority of the Overseas Private Investment Corporation, because the goals of both are so related.

When President Bush announced the Enterprise for the Americas Initiative just about 2 years ago, it produced an unprecedented response from our Latin friends and neighbors. Many of them have told me that they consider this to be a much more important program than almost anything else that we are doing. As we look around Latin America we see again unprecedented amounts of growth and unprecedented amounts of free trade and investment, and we actually see money coming home to some of those countries from overseas, and much of it is in reliance on this kind of attitude by this Congress.

Some time ago the Congress actually passed this legislation in the foreign aid bill. That did not become law. Just this morning the Foreign Affairs Committee of the House again passed this legislation in another act.

I would urge my colleagues to strongly support this amendment.

Mr. Chairman, I rise in strong support of the amendment by the gentleman from Nebraska [Mr. BEREUTER] to add authorization to this OPIC bill for the Enterprise for the Americas. It is particularly appropriate to add this to legislation extending the authority of the Overseas Private Investment Corporation since their goals are so related.

When President Bush announced the Enterprise for the Americas Initiative June 27, 1990—about 2 years ago—it produced an unprecedented response from our Latin friends and neighbors. They responded enthusiastically in support of the proposal. The House passed in October 1990, legislation to authorize the enterprise which I enthusiastically cosponsored. Yet, for whatever reasons, the Congress did not achieve final passage of that legislation which included many of the elements needed to make this a fully successful program.

We must not delay any further. The Enterprise Initiative envisioned the promotion of economic growth through free market principles and increased private investment for the nations of the Western Hemisphere which had badly suffered economic decline through the decade of the eighties. Many referred to it as the lost decade. Even without all the parts of the program in place, in the past 2 years it is apparent that many countries in the region have made dramatic progress in generating economic growth.

Democratic governments committed to structural reform and privatization of State-owned companies have seen remarkable changes in just the past 23 months that confirm they are on the right track. A renewed emphasis on free trade, correcting unproductive barriers to private investment, both domestic and foreign have been undertaken by most governments in the region and the results have been lowered inflation and increased growth.

The Enterprise Initiative is designed to support these efforts which should produce even greater advances. Part of the attraction of the Enterprise Program is the proposal to reduce a country's bilateral official government debt with the United States in exchange for new obligations which the debtor nation can use for projects to protect the environment or to promote child survival and child development.

It is important to recognize that the Enterprise Initiative is not an aid program, but instead a means to encourage and promote those activities that will correct ineffective economic and fiscal policies of the past and that will provide the basis for comprehensive and sustainable economic growth.

A major element of the proposal is to promote free trade in the hemisphere. Since June 1990, the United States has entered into 14 new bilateral trade framework agreements and two multilateral agreements. These are preliminary steps needed to reach the ultimate goal of an actual free trade agreement. These efforts affect a total of 31 countries, and of course the most prominent ongoing negotiation for a free-trade agreement with Mexico, in conjunction with our earlier pact with Canada, will be the key test for the prospects for the other trade agreements.

An additional element of the Enterprise-Initiative is the multilateral investment fund, which has been negotiated among the various nations of the region to establish a $1.3 billion fund that would be used for reform of existing investment regimes in order to promote privatization. Its uses for technical assistance, for human resource development, and for direct equity and loan capital investment would provide the necessary means to make these structural reforms happen. All that is needed now is the appropriations for the U.S. share of $500 million. Other donors have pledged the remaining $800 million, but that amount will not be contributed until the United States has appropriated its share.

Also, it is essential that the United States appropriate for fiscal year 1993 those sums necessary to finance the debt reduction element of the enterprise. Governments in the Western Hemisphere have made impressive reductions in their budget deficits and in their external debt obligations. Our approval of this part of the enterprise would help support even greater progress.

This amendment by Mr. BEREUTER establishes the mechanism to administer the debt-reduction objectives of the enterprise through the facility to be established in the Department of the Treasury and for the elements of each bilateral Americas Framework Agreement necessary to carry out that program. It authorizes but does not, however, appropriate funds to carry out the debt reduction part of the program or the U.S. contribution to the multilateral investment fund.

Not only do I urge my colleagues to support this amendment, but also to support legislation for appropriations for the enterprise when it comes before us. I urge you to vote "yes" on the Bereuter amendment.

Mr. BEREUTER. I thank the gentleman very much for his comments.

A powerful explanation of why this amendment is necessary appeared in a recent edition of the Washington Post, where an article by Colman McCarthy noted that El Salvador's civil war has so devastated that country's forests and ecosystems that its environmental recovery is as crucial as its political revival.

At the suggestion of a local Salvadoran environmental group, the Salvadoran Center for Appropriate Technology, the former warring parties have begun growing a reconciliation forest. The goal is to plant a tree for each soldier killed in the conflict, as well as each journalist and educator. "With this forest," the president of this center, Ricardo Navarro, has told audiences, "we are transforming a death zone into a life zone."

If enacted, my amendment would enable this group to obtain the necessary resources to make this vision a reality. Other indigenous environmental and child health groups in other eligible countries would have similar opportunities thoroughout the hemisphere.

The provisions in this amendment are fully supported by a broad array of environmental groups, including the Nature Conservancy and the World Wildlife Fund, as well as the newly formed group, Friends of EAI, headed by former Senator Howard Baker.

To be eligible for debt relief under this amendment, a country must have a democratically elected government, refrain from sponsoring terrorism, cooperate in the drug war, and respect human rights. In addition, a beneficiary government must have, or be making significant progress toward, an economic program with the International Monetary Fund or the World Bank.

By easing debt burdens of eligible countries, the Enterprise for the Americas Initiative [EAI] will release resources for capital formation as well as child health and environmental projects in recipient countries. Over the long term, it will expand opportunities for U.S. investors and open markets for U.S. exporters.

Under the EAI framework, eligible countries will be able to increase their purchases of U.S. goods and services as a result of greater exchange availability caused by a reduction in their debt burden.

As important as some of the policy and program provisions are in the bill before us today, they can go only so far in boosting U.S. exports if they are not accompanied by the adoption of longer range policies, including debt relief measures linked to market-oriented reforms and structural adjustments.

I would like to point out to my colleagues that both the House and Senate duly considered and passed all the provisions in my amendment when it was part of the foreign aid bill last year, but for other reasons the conference report was ultimately defeated in October.

With 31 countries of the region signing EAI trade and investment framework agreements, it is vitally important that Congress wait no longer to enact the EAI debt reduction provisions. This initiative will help graduate the recipient countries off the foreign aid dole and build a long-term solution to the region's problems.

In addition to freeing resources that will be spent in part on U.S. exports, the EAI will expand opportunities for U.S. investors, support economic growth, and develop innovative public-private partnerships to promote environmental and health projects in EAI recipient countries.

In fiscal year 1993, EAI debt reduction will eliminate approximately $1 billion in debt for the 10 EAI-eligible countries of the region while generating some $190 million to support enviornmental and child survival nongovernmental organizations.

Through the mechanism of EAI framework agreements, a close partnership between government officials and nongovernmental organizations will oversee the disbursements of funds for activities linking the conservation and sustainable use of natural resources with local community groups and child development activities.

Latin America and the Caribbean represent the fastest growing regional market for U.S. exports. From 1987 through 1990, our exports to the region increased by some $19 billion, with 43 States registering steady increases in their trade with Latin America. Over the past 5 years, our exports there have increased at a faster rate than any other part of the world.

The United States accounts for close to 60 percent of the region's imports from industrialized countries, compared to 29 percent for Europe and 11 percent for Japan. Clearly, this country has the most to gain from stronger economies and more open markets in Latin America and the Caribbean.

Mr. Chairman, a recent paper from a respected Washington think tank estimated that the United States lost some $130 billion in trade opportunities in Latin America between 1982 and 1988, mainly because of the debt crisis.

The economic stagnation and its impact on investment and trade opportunities in many countries of the region will disappear only when the EAI goal of reducing the region's foreign debt is achieved.

The inclusion of the EAI would be a good complement to the programs and policies outlined in the bill—such as the OPIC reauthorization, funding the Trade Development Program and an expanded capital projects office in AID—in that it reduces the debt burden of a number of Latin countries thereby enabling them to purchase more goods and services from this country. As desirable as some of the policy and program changes are in H.R. 4996, they can only go so far in boosting exports if they are not accompanied by other efforts in the host country to reform the economy and reduce debt burdens.

The strong U.S. market share in the region—with our share of manufactured goods now up to some 54 percent of the total—indicates a preference in Latin America and the Caribbean for U.S. goods. The principal constraint in the growth of U.S. exports to the region is the limited purchasing power of Latin Americans and Caribbeans. Economic growth in Latin America and the Caribbean means increased ability to purchase our goods leading to export growth and job creation in the United States.

The large amounts of debt owed by Latin American and Caribbean countries have slowed economic growth and investment in the region. Debt reduction can restore the confidence of domestic and foreign investors and will encourage repatriation of flight capital and renew access to international financial markets.

The debt reduction pillar of the EAI includes an innovative mechanism to support environmental protection and conservation in Latin America and the Caribbean. Each country that benefits from a reduction in its Public Law 480 and/or AID debt can pay the interest on the debt that remains in local currency. These local currency payments can then be used to support grassroots environmental projects.

There is no time to lose in completing congressional action on the EAI if we want to build a long term and mutually beneficial relationship with all nations of the hemisphere—and help ourselves and our exporters in the process. For many years, many Members argued that we should give peace a chance in Central America. Congress has an opportunity to strengthen the conditions that will result in lasting peace and economic growth throughout the hemisphere if we move to fully enact the Enterprise for the Americas Initiative. Now is the time to give EAI a chance.

Mr. Chairman, the full enactment of the Enterprise for the Americas Initiative is one of the top legislative priorities of the administration, and it strongly supports the adoption of this amendment. I include a letter endorsing this initiative from Secretary of State Baker and Secretary of Treasury Brady for the RECORD. I urge my colleagues to vote in favor of this amendment.

The letter referred to follows:

THE SECRETARY OF THE TREASURY,
Washington, June 25, 1992.

Hon. DOUG BEREUTER,
U.S. House of Representatives,
Washington, DC.

DEAR MR. BEREUTER: We want to reaffirm the Administration's strong commitment to the Enterprise for the Americas Initiative (EAI) and to ask for your active support for this program.

The EAI is now an integral part of our relations with Latin America and the Caribbean, having played a key role in the dramatic improvement in hemispheric relations in the two years since its inception. Our neighbors have begun to work enthusiastically with us in a new partnership under the Initiative to improve the prospects for democracy and economic growth throughout the hemisphere.

The potential of increased trade and investment opportunities offered by the EAI has helped build momentum for reform. Framework agreements on trade and investment are in place with all but three countries in Latin America and the Caribbean; regular dialogue under these agreements is facilitating a reduction in barriers to trade. The Inter-American Development Bank has extended loans to support the liberalization of investment regimes in four countries. In anticipation of Congress passing the needed debt reduction and swap authority, ten more countries are discussing similar investment liberalization loans with the Inter-American Development Bank. The United States has reduced the P.L. 480 debt of three countries under the EAI. As a result of this action and a contribution by the Government of Bolivia, the local currency equivalent of $33 million will be generated for grass roots environmental projects over ten years.

The EAI can do much more, however, to advance the reform process and help achieve increased growth and prosperity for our hemisphere.

Implementation of the agreements signed by twenty-one countries to establish the Multilateral Investment Fund (MIF) will be another critical step. This fund is designed to support investment liberalization in Latin America and the Caribbean, which will enable the private sector to play a larger role in promoting growth and development. The MIF will provide targeted support for such actions as technical assistance to help establish financial markets, worker retraining programs, and increased access to credit for micro-enterprises. The contributions of other governments (including thirteen from Latin America and the Caribbean) and the start-up of this critical fund, however, await Congressional approval of the U.S. contribution.

We also need to proceed with full implementation of the debt reduction proposals advanced under the EAI. By reducing countries' bilateral debt to the United States, we can provide critical incentives to sustain important economic reforms while helping Latin American and Caribbean countries escape the shadow of debt that discourages investors. Particularly for the smaller countries in the region such as Costa Rica, El Salvador, and Jamaica, debt reduction under the EAI would substantially reduce their overall external debt burdens and provide important support for market-oriented economic reforms.

By supporting reform and increased competitiveness, the EAI seeks to help Latin American and Caribbean countries in their struggle to sustain economic growth and ensure that its benefits are felt by all their citizens. Strong and stable economies are essential to democracy and to broad-based, sustainable economic development in this region. Healthy economies will help governments address key human needs such as health, education, and the environment.

The EAI also seeks to build a future that will benefit the United States. The Latin American and Caribbean region is already the fastest growing market for U.S. exports. Furthermore, the U.S. commands a large share of industrial-country exports to the region—57 percent compared to 11 percent for Japan, for instance. Stronger economies in Latin America and the Caribbean will contribute to economic growth and export-related jobs here at home as the potential for trade and investment expands.

Our neighbors are ready to move forward with the EAI. With respect to both the investment and debt elements of the EAI, the ball is now in our court Responding to the steps taken by our neighbors and deepening our partnership with them is top priority of the Administration. But we cannot do this without Congress. We hope we can work with you to gain Congressional approval of the remaining elements of this critical initiative.

Sincerely,

NICHOLAS F. BRADY,
Secretary of the Treasury.
JAMES A. BAKER III,
Secretary of State.

Mr. ROTH. Mr. Chairman, I move to strike the last word.

This Jobs Through Exports Act is a very important piece of legislation, and this is an important amendment. I do not like to be at odds with my friend from Nebraska, but I am compelled to do so.

We must all have deep reservations about this initiative, especially at a time when we have real needs right here at home.

In my view, this amendment embodies the most questionable aspects of the entire Enterprise for the Americans Initiative: The forgiveness of debts owed to the American taxpayer by the Latin American governments, and the idea that the interest owed on any new loans would be diverted into a new foreign aid program.

My colleagues should understand that this amendment would authorize the forgiveness of loans—loans of money that hard-working Americans paid in taxes. The sponsors of this amendment will claim that all sorts of conditions have been placed on this debt forgiveness. But the bottom line is that under this amendment, our Government will cancel debts the Latin American governments owe to the people we represent—the American people.

I think these loans were wrong in the first place—they never should have been made, because our foreign aid bureaucrats knew these governments were poor credit risks.

But now many of these countries are doing well, and it is time they pay their debts. To cancel these debts only compounds the original mistakes in making these loans in the first place.

These Latin governments all want free trade agreements with the United States. We should insist that these loans be repaid as a condition for any trading advantage with our country.

This amendment also has a strange provision, section 607. Under this section, if a Latin country signs up for this EAI program, they get new loans to replace the old ones. And, they get to keep any interest payments that would be due. That means interest-free loans. What American taxpayer is getting an interest-free loan?

That's right. Instead of the interest being paid to the United States, the interest goes into a special account, which the Latin government controls, supposedly to be used for so-called environmental projects and child development.

That means the Latin countries get new loans, even after failing to pay back the old loans.

The new loans are effectively interest-free from the American taxpayer.

And, the Latin countries get new foreign aid from the United States in the form of the interest payments, which they, not even our own Government, get to run.

To me, this makes no sense at all. It is throwing more taxpayer money down the foreign aid rathole. It puts these Latin American governments at the head of the line, when we have urgent needs here at home and a $4 trillion debt.

This amendment will make America the laughing stock of the Americas. Once again, we are doling out money, in the form of interest-free loans and foreign aid, when we should be taking care of our own people, for a change.

In good conscience, I cannot support this amendment. What this amendment does is to make Uncle Sam into Uncle Sap. Let's consider our American taxpayers for a change.

So I am compelled to say that I cannot support the amendment.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I am happy to yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding. I want to engage at some future time in a debate on this point because we have differences of opinion.

Mr. PORTER. Mr. Chairman, I thank the gentleman for yielding and want to express my strong support for this amendment which authorizes the Enterprise for the America's Initiative.

I am very pleased to see the Enterprise for the Americas Initiative being considered as an amendment to the Jobs Through Exports Act. The Jobs Through Exports Act is designed to promote American workers and products in overseas markets. EAI fits hand- in-hand with this goal.

EAI encourages Latin American and Caribbean nations to stabilize, liberalize, and privatize their economies, and assists them in restructuring their external debt. Strengthening the economies of our neighbors will translate into greater demand for U.S. goods. Since 1986, U.S. exports to Latin America and the Caribbean have doubled. Today $1 of every $7 of goods the United States exports goes to Latin America and the Caribbean, and 57 percent of the goods that region imports from industrialized countries come from the United States. EAI will further open Latin markets and will expand opportunities for United States exporters.

This amendment will have a concrete positive impact on U.S. jobs and exports. Between 1987 and 1990, U.S. exports to EAI nations increased $20 billion. Treasury estimates that every $1 billion increase in U.S. exports creates 20,000 export-related jobs. This growth in exports to Latin America and the Caribbean has yielded 400,000 new jobs for U.S. workers in 4 years. Under this calculation, Illinois gained 15,600 jobs due to increased exports to EAI countries.

The United States benefits from EAI in other important ways as well. EAI generates local currencies that will be used to promote local environmental programs, child survival programs, and community development. Regarding the limited EAI program currently underway, the Jamaican Ambassador wrote to me:

> The Jamaica government sees [Enterprise for the Americas] as an opportunity to address some of the regions most pressing problems as well as a vehicle to enhance overall trade, economic and political ties between the United States and other nations of the hemisphere.
>
> We in Jamaica * * * applaud the EAI for its very important environmental component. In fact, two preservation projects were recently completed in Jamaica * * * [including] a national park in the Blue Mountains.

The Treaty currently estimates that for the 10 nations presently eligible for EAI, $190 million could be generated in local currency to promote the environment, child welfare, and community development.

Mr. Chairman, this amendment will promote jobs and exports in the United States and will promote important environmental and humanitarian programs in the hemisphere. I encourage members to support this sensible amendment and to support the Jobs Through Exports Act.

Mr. WYLIE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Nebraska. His amendment would implement one piece of the President's Enterprise for the Americas Initiative by authorizing the President to reduce AID debt owed by qualifying Latin American and Caribbean countries to the United States Government. This debt reduction will help put this region back on its feet and help it renew access to international financial markets.

The President's Enterprise for the Americas Initiative is a bold and innovative blueprint for a more constructive and mutually beneficial relationship with Latin America. It is supported by a wide range of groups interested in the Americas.

The Heritage Foundation calls it the most comprehensive United States policy initiative for Latin America ever announced by Washington. Instead of relying on foreign aid dollars, it relies on trade and investment.

Latin American governments which have been embracing free market reforms have also embraced the President's initiative as a way to rid their economies of the statist policies of the past and to ensure economic growth in the future. Eligible countries under the initiative are those who commit to economic and democratic reforms including more open trade regimes and markets.

U.S. businesses support the President's plan as a way to gain new and recapture lost export markets.

I rise in support of the initiative because it is good foreign policy, good immigration policy, and good economics.

My home State of Ohio is one of the largest exporting States in the country. During the recent economic downturn, exports have been one of the bright spots in our State and local economy. The President's initiative would allow United States exporters to take advantage of the large and growing markets in Latin America and the Caribbean.

For instance, since 1987, exports from Ohio to Latin America and the Caribbean have increased 47.4 percent. Reducing a portion of the bilateral debt, as provided for in the Bereuter amendment, would provide even greater export potential for Ohio businesses.

I would urge the House to endorse the President's innovative initiative for Latin America by voting for the Bereuter amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WISE

Mr. WISE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WISE: Add the following at the end of the bill:

TITLE VI—TRADE PROMOTION EXPANSION

SEC. 601. SHORT TITLE.

This title may be cited as the "Trade Promotion Expansion Act of 1992".

SEC. 602. INCREASE IN COMMERCIAL SERVICE OFFICERS IN CERTAIN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise available, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1994 and 1995 for use by the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service in accordance with subsection (b).

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available only for placing and maintaining 20 additional Commercial Service Officers abroad. The Secretary of Commerce, acting through the Director General of the United States and Foreign Commercial Service, may place such additional Commercial Service Officers—

(1) in countries with which the United States has the largest trade deficit, and

(2) in newly emerging market economy countries, with democratically elected governments, in Central and Eastern Europe and elsewhere.

(c) REPORT TO CONGRESS.—The Secretary of Commerce, acting through the Director General of the United States and Foreign Commercial Service, shall, not later than December 31, 1995, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of subsection (b). Each report shall specify—

(1) in what countries the additional Commercial Service Officers were placed, and the number of such officers placed in each such country; and

(2) the effectiveness of the presence of the additional Commercial Service Officers in increasing United States exports to the countries in which such officers were placed.

Mr. WISE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. WISE. Mr. Chairman, I would like to explain the amendment.

Mr. Chairman, I rise today to offer an amendment to the Jobs Through Exports Act. My amendment would authorize $5 million each in 1994 and 1995 to place and maintain 20 additional U.S. and Foreign Commercial Service officers abroad.

My amendment would also target these officers to: First, countries with whom the United States has the largest trade deficit, and second, countries with newly emerging market economies, such as Eastern Europe and the Republics of the former Soviet Union, which offer the greatest opportunity for trade expansion.

Finally, my amendment would require the Secretary of Commerce to evaluate the usefulness of these additional officers in increasing U.S. exports.

Mr. Chairman, it is important for the United States to devote greater resources to marketing American products abroad. Current trade promotion efforts are completely inadequate.

For example, I believe Japan spends more promoting itself and its products in Hong Kong alone than the United States spends on promoting itself and its products throughout the world.

In many of our embassies abroad, the marketing of American exports is not a high priority.

Mr. Chairman, I believe that the promotion of U.S. trade should be a principal activity in our embassies and missions abroad, particularly in those countries which would be most receptive to American exports. In order to compete and survive in the global market we have to be willing to support a well-trained and well-equipped team of salespeople.

I believe my amendment, by targeting additional trade promotion resources at countries where there is the greatest potential for increased trade, represents a concrete step toward increasing U.S. exports abroad and creating jobs here at home.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, we have reviewed this amendment. It is an excellent amendment and I think the gentleman from Wisconsin [Mr. ROTH] also supports it, and I hope we can pass it.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, spending money on new commercial officers is a wise investment for America's trade competitiveness.

Mr. WISE. Definitely a wise investment.

Mr. ROTH. With all pun intended, right. It places U.S. Commercial Service officers in countries where the United States has its largest trade deficits, and in newly emerging market economies. This does make a lot of sense. We are engaged in global markets, and in global competition, so I think this will improve the bill, and I accept the amendment.

Mr. WISE. I appreciate the gentleman's support.

I would simply say, Mr. Chairman, this amendment is designed to put more salespeople out there hustling American goods, and I would just urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. WISE].

The amendment was agreed to.

□ 1520

The CHAIRMAN. The Chair will now return to amendments to title I.

AMENDMENT OFFERED BY MR. ANDREWS OF NEW JERSEY

Mr. ANDREWS of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDREWS of New Jersey: Page 2, strike line 4 and all that follows through page 55, line 23, and insert the following:

TITLE I—TERMINATION OF OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 101. TERMINATION OF OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) TERMINATION OF AUTHORITY TO MAKE NEW OBLIGATIONS.—(1) Effective 60 days after the date of the enactment of this Act, the Overseas Private Investment Corporation shall not issue any insurance, guaranties, or reinsurance, make any loan, or acquire any securities, under section 234 of the Foreign Assistance Act of 1961, enter into any agreements for any other activity authorized by such section 234, or enter into risk sharing arrangements authorized by section 234A of that Act.

(2) Paragraph (1) does not require the termination of any contract or other agreement entered into before such paragraph takes effect.

(b) TERMINATION OF OPIC.—Effective 180 days after the date of the enactment of this Act, the Overseas Private Investment Corporation is abolished.

(c) TRANSFER OF OPERATIONS TO OMB.—The Director of the Office of Management and Budget shall effective 180 days after the date of the enactment of this Act, perform the functions of the Overseas Private Investment Corporation with respect to contracts and agreements described in subsection (a)(2) until the expiration of such contracts and agreements, but shall not renew any such contract or agreement. The Director shall take the necessary steps to wind up the affairs of the Corporation.

(d) REPEAL OF AUTHORITIES.—Effective 180 days after the date of the enactment of this Act, title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 and following) is repealed, but shall continue to apply with respect to functions performed by the Director of the Office of Management and Budget under subsection (c).

(e) APPROPRIATIONS.—Funds available to the Corporation are authorized to be transferred, upon the effective date of the repeal made by subsection (d), and to the extent provided in appropriations Acts, to the Director of the Office of Management and Budget for use in performing the functions of the Corporation under subsection (c). Upon the expiration of the contracts and agreements with respect to which the Director is exercising such functions, any unexpended balances of the funds transferred under this subsection shall be deposited in the Treasury as miscellaneous receipts.

SEC. 102. SAVINGS PROVISIONS.

(a) PRIOR DETERMINATIONS NOT AFFECTED.—The repeal made by section 101(d) of the provisions of law set forth in such section shall not affect any order, determination, regulation, or contract that has been issued, made, or allowed to become effective under such provisions before the effective date of the repeal. All such orders, determinations, regulations, and contracts shall continue in effect until modified, superseded, terminated, set aside, or revoked in accordance with law by the President, the Director of the Office of Management and Budget, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PENDING PROCEEDINGS.—

(1) The repeal made by section 101(d) shall not affect any proceedings, including notices of proposed rulemaking, pending on the effective date of the repeal, before the Overseas Private Investment Corporation, except that no insurance, reinsurance, guarantee, or loan may be issued pursuant to any application pending on such effective date. Such proceedings, to the extent that they relate to functions performed by the Director of the Office of Management and Budget after such repeal, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Director, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(2) The Director of the Office of Management and Budget is authorized to issue regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) ACTIONS.—Except as provided in subsection (e)—

(1) the provisions of this title shall not affect suits commenced before the effective date of the repeal made by section 101(d); and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this title had not been enacted.

(d) LIABILITIES INCURRED.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the Overseas Private Investment Corporation, shall abate by reason of the enactment of this title. No cause of action by or against the Overseas Private Investment Corporation, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this title.

(e) PARTIES.—If, before the effective date of the repeal made by section 101, the Overseas Private Investment Corporation or officer thereof in the official capacity of such officer, is a party to a suit, then such suit shall be continued with the Director of the Office of Management and Budget substituted or added as a party.

(f) REVIEW.—Orders and actions of the Director of the Office of Management and Budget in the exercise of functions of the Overseas Private Investment Corporation shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Overseas Private Investment Corporation. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function of the Overseas Private Investment Corporation shall apply to the exercise of such function by the Director of the Office of Management and Budget.

Mr. ANDREWS of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ANDREWS of New Jersey. Mr. Chairman, I want to begin by thanking the chairman, the gentleman from Connecticut [Mr. GEJDENSON], and the members of his subcommittee and the full committee for their cooperation in this matter. I want to note my enthusiasm for their initiatives in promoting the growth of employment in the United States.

I do have a point of difference on title I with respect to the reauthorization of OPIC and I wanted to spend a few minutes talking about that today and why I proposed this amendment that would strike that title from this reauthorization bill.

The full faith and credit of the U.S. Government and the American people is a valuable asset. No matter how we score it in a budget agreement, no matter how we allocate dollars to it on our national balance sheet, it is a valuable asset.

The guiding principle behind OPIC is that that full faith and credit of the U.S. Government and the American people is used to promote and develop certain private initiatives outside the borders of the United States. It is important that we understand the difference between what our Government does for businesses located in our country and what our Government is offering to do for businesses located outside of our country under the provisions of this proposal.

If a business person in one of our districts today, Mr. Chairman, was interested in receiving a Federal loan guarantee to start a new research lab, to initiate a new manufacturing facility, to start a new retail business, it would be a very, very unlikely and unusual thing for that American investor to receive a loan guarantee backed by the full faith and credit of the American Government.

I represent the city of Camden, NJ. There are dozens of business people who might locate in that city or in my State of New Jersey if there was a Federal loan guarantee offered on their behalf or a Federal direct loan offered on their behalf. Except in very rare circumstances, we do not do that in the Federal Government.

OPIC does. OPIC will tell us it is revenue generated from other borrowers and other beneficiaries of their guarantees that keep the corporation going. That is true. But it is also true that the major asset that OPIC deals with is the full faith and credit of the American people.

How have they used that full faith and credit in recent years? They used it for a $14 million loan guarantee to McDonald's so they could build 16 hamburger restaurants in Brazil. They used it for a $27 million loan guarantee for the Jamaica Grand so there could be privatization and refurbishment of a hotel, a luxury resort hotel, in Jamaica. They used it to lend $1.8 million to a company called Data Logic for a data processing business in Grenade that could be located, in Pennsylvania or Texas or New Jersey. They used it for a $2.62 million loan to Caribex Dominicana for a fruit juice processing plant in the Dominican Republic.

Now, my constituents ask me, Mr. Chairman, on a regular basis, "Why do we do this? Why do we use the full faith and credit of the American people to underwrite these kinds of transactions?" And the proponents of OPIC offer us two reasons.

The first is that these transactions and others OPIC engages in create jobs here in the United States. I would submit to you, Mr. Chairman, that the burden of proof is on OPIC to show that they create jobs here in the United States.

I was fortunate enough to participate in a hearing before the Employment Opportunity Subcommittee of the Committee on Education and Labor in which we had an opportunity to ask the officials of OPIC about how many jobs were created by these and other projects. The answers that you get are answers in the aggregate, 13,000 jobs created in 1991, and you start to dig beneath those numbers: "How much on a per-project basis?" "Well, it is difficult to say. We use an economic model. This is a forecast. This is an estimate. This is a probability."

Mr. Chairman, I would submit to you and my colleagues that OPIC has not met its burden of proof to back up those numbers. It has not demonstrated to us how a loan guarantee that uses the full faith and credit of our constituents that helps to build 16 McDonald's restaurants in Brazil creates jobs in the United States. It has not met its burden of proof of demonstrating to us how guaranteeing a $27 million bank loan guarantee for a luxury hotel in Jamaica, that they have not met their burden of proof.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ANDREWS] has expired.

(By unanimous consent, Mr. ANDREWS of New Jersey was allowed to proceed for 2 additional minutes.)

Mr. ANDREWS of New Jersey. Mr. Chairman, the second argument they make is it is good for American foreign policy to promote the growth of American-owned businesses around the world. I agree. I agree. But I would suggest to you that the purview of the decisionmaking for that kind of foreign-policy decision is not a quasi-private corporation that is not immediately accountable to the public. It is not the American private sector in the first instance. It is the U.S. Government that can be regulated and monitored by the committees of this House and the other body whose budget is analyzed through the appropriations process in this House and the other body.

I would suggest to you that foreign policy of this country ought not to be conducted by an outfit like OPIC. It ought to be conducted by the people duly elected by the voters of the United States.

Mr. Chairman, this is a program that has good intentions. At best, it has questionable results. I believe it has very bad results.

Let us turn the full faith credit of our constituents, our taxpayers, and our Government to the creation of businesses and jobs in the United States.

OPIC is an improper exercise of the full faith and credit of the American Government. For that reason, I would urge adoption of my amendment.

Mr. GEJDENSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from New Jersey is an articulate advocate for his position, and he has two amendments. This one is simply wrong. The next one is a good amendment that will make the program even better.

I would just like to say several quick things. The American Government does provide insurance where it is needed in the United States. If you have a business in an area that gets flooded, you can get flood insurance from the Federal Government. You do not need political stability insurance in the United States, thankfully. You do in other countries.

Two examples of this self-sustaining program helping New Jersey, and there are lots of other places we could pick, but we pick New Jersey because the gentleman comes from there, OPIC provided political risk insurance coverage on performance bonds issued by a New Jersey firm for the construction, design, furnishing and installation of a telephone central office switching facility and maintenance center in Egypt. The project gave rise to $81 million of U.S. exports. Those are jobs here in the United States, and that is why it is important when McDonald's goes someplace else. All the equipment in that store comes from the United States.

If you look at Costa Rica, OPIC provided political risk insurance for a New Jersey company to do work in Costa Rica, 45 million dollars' worth of exports.

The way you make your country richer is by increasing exports and getting value from other countries. We need programs to help us compete with the Japanese and other countries that have us outgunned. In the case of Japan, their program is 34 times as large as ours.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. Mr. Chairman, I am happy to yield to the gentleman from Florida [Mr. FASCELL], the eminent chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Chairman, I ask the chairman: Does OPIC have a reserve fund that is built out of fees?

Mr. GEJDENSON. Reclaiming my time, yes, it does.

Mr. FASCELL. What is the amount of that reserve fund?

Mr. GEJDENSON. That reserve fund built out of fees from companies who get the guarantees is $1.8 billion.

Mr. JOHNSTON of Florida. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, if I could follow along with the same analogies that the gentleman is using and use one in my State of Florida, where the chairman comes from, and it is through a $3 million direct loan to the United States small business in Florida, the Overseas Private Investment Corporation supported the expansion of a fertilizer blending and distribution facility in Panama.

Initial capital procurement of United States manufactured machinery is projected to total an estimated $350,000. In addition, the expansion will enable the project to significantly increase the volume of U.S.-made materials, agricultural chemicals, and machinery replacement parts. Exports of these U.S. goods will reach $16.8 million during the 1992–96 period.

American business needs and deserves effective government support in order to penetrate these markets, and I strongly oppose the Andrews amendment.

Mr. ROTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the interest of the gentleman from New Jersey [Mr. ANDREWS]; we need Members who challenge and question the actions of the majority.

But I must oppose the amendment offered by the gentleman from New Jersey [Mr. ANDREWS], because it would shut down a well-run agency that helps U.S. businesses and creates jobs. For example, President Bush and Russian President Boris Yeltsin stated in their summit that the best way to help the new independent states is to create trade between the United States and the Commonwealth of Independent States, and this is what we are trying to do in our bill.

The private sector must get involved by investing in these new states and by exporting U.S. goods to them.

□ 1530

We are living in a global economy. OPIC is the primary way for U.S. companies to get economically involved in these states, and without OPIC, many companies will not risk investing in these new emerging countries. We must reauthorize the Overseas Private Investment Corporation, because it is one of the few ways that U.S. companies can gain access to the emerging markets.

Japan and the European community are all over Eastern Europe, as an example. We must help our companies compete.

The Overseas Private Investment Corporation costs the taxpayers nothing because it is self-sustaining, as has been pointed out.

OPIC currently has some $1.8 billion in assets and does not receive appropriations.

This bill will even take care of the legislative changes that are needed to continue OPIC's loans and loan guarantees under the Credit Reform Act by stating that OPIC can continue to cover any costs for these activities from its revenues from insurance premiums.

So I say to the gentleman from New Jersey [Mr. ANDREWS] that while his questions are well intentioned, I think it is important to point out that we need OPIC because it has created some 460,000 jobs over the past 20 years and some 13,000 jobs in 1991 right here in the USA.

The Overseas Private Investment Corporation is not harming America. We live in a global economy and that is a fact of life. That is why the Overseas Private Investment Corporation is so important.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I am happy to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I also rise in strong opposition to the Andrews amendment abolishing OPIC. OPIC is one of the most successful, cost-effective job promoting programs we have. Unlike others, it actually makes money and does not really cost the Government. It has long received much bipartisan support.

OPIC's programs have provided loans and political risk insurance to American companies expanding into new markets in the developing world. This has been a win-win process.

We are able to help bolster emerging democracies and new market economies desperately in need of private, foreign investment. The success of these new democracies directly affects our national security interests. In some cases, we have invested much political, diplomatic and even military capital in an effort to support real democratic and economic changes in developing countries. But, during these tight fiscal times here at home, we are not in a position to sustain—through direct aid—our support. Private American investments ensure that these gains are not lost, but are actually strengthened.

For this reason alone, eliminating OPIC may sound pennywise, but in actuality is pound-foolish. Consider this, we have spent literally trillions of dollars over the past half-century containing and defeating the Communist Soviet threat. Well, we have succeeded. Now, for mere pennies we can help ensure Eastern Europe, Russian, and other former Communist States successfully complete the transition to democracy and free market economies.

The critics of OPIC claim our involvement in Eastern Europe with skilled labor will hurt American jobs. On the contrary, many Western European governments are sponsoring: that is, subsidizing, the private sectors in their respective countries to become heavily involved in Eastern Europe. These Western European firms are the real competitive threat to American industry. Rather than give American business an equal chance to get involved in Eastern Europe and expand into its markets, this amendment would throw away these opportunities to our fiercest competitors.

Further, it is in our national security interests to help skilled labor in these countries find productive jobs at home—especially those who were involved in nuclear and other high-technology, weapons related industries. Otherwise, they could be enticed to work for Iraq, Iran, Libya, and other terrorist countries wanting to build nuclear and other kinds of weapons of mass destruction. This is a very serious problem with great ramifications.

With the changes in Eastern Europe and the former Soviet Union, there is lots of room for economic growth. In other words, new investments that create new jobs for the skilled workers in these countries do not steal American jobs. As these formerly closed, centrally restricted economies open up and expand, many new—previously nonexistent—opportunities exist for both local and American workers.

OPIC has proven to be a winner for American business and American jobs. Businesses are naturally very reluctant to invest in foreign countries that are even marginally risky. OPIC's investment protection has made the difference time and time again prompting American investments which have resulted in very promising returns. It is not "corporate welfare." A wide range of businesses from large to small pay for OPIC assistance, and they would not do that if it did not add value to their export and investment strategy.

These new investments expand American export markets and job opportunities at home to fulfill those new export orders. There is a multiplier effect that goes far beyond the initial OPIC-related investment as bilateral trade expands. The bottom line is that OPIC-related investments help provide American jobs—over 13,000 last year alone! In all, OPIC-sponsored projects have created more than 359,000 person-years of employment right here in America.

It is important to remember that the recent recession was softened by growth in our export sector. OPIC helped promote some of that growth, generating over $22.9 billion in U.S. exports. It is a key antirecessionary tool. Critics are correct, OPIC alone will not unilaterally solve unemployment problems in America. But, it has proved it can help.

Some of OPIC's critics have not been here in Congress for long and are perhaps unaware that their arguments have been proven inaccurate over and over again. I have heard many of the same so-called concerns about American job losses expressed about OPIC's involvement in Latin America. What has really happened? Economic growth in our neighbors to the south and increased jobs here at home.

OPIC operates on a self-sustaining basis. It operates at no net cost to the U.S. taxpayer. In fact, it takes in more money than it costs the Treasury, returning 10 times its operating budget to the Treasury. It has constantly run in the black and provides a lot of bang for the bucks obligated to it—bucks that really are not spent, but are there for the yet to happen "just in case" default.

It makes no sense to eliminate such a win-win program that benefits both national security and American jobs on the basis of election-year rhetoric and inaccurate OPIC-bashing information. If this amendment were to pass, I think there is a good chance President Bush would—rightly in my opinion—veto the bill.

If those opposed to OPIC are truly concerned about increasing American employment and cutting Government spending, I can refer them to many far superior ways to address these issues. Eliminating OPIC is not one of them. I urge my colleagues to reject this flawed amendment.

Mr. HERGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Andrews amendment, which would eliminate the Overseas Private Investment Corporation.

It is inconceivable to me that we are subsidizing investment risks overseas at a time when American small businesses find investment capital in short supply.

Have we forgotten that the unemployment rate here at home is rising? Why should we be guaranteeing overseas investment for corporate America when we need more investment in our own communities here at home?

If American companies want to invest overseas in unstable political environments, that is a risk they should have to justify to their shareholders. It is not a risk they should palm off onto the U.S. Government and American taxpayers. I urge adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. ANDREWS].

The amendment was rejected.

AMENDMENT OFFERED BY MR. ANDREWS OF NEW JERSEY

Mr. ANDREWS of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read and follows:

Amendment offered by Mr. ANDREWS of New Jersey:

Page 50, line 10, strike "INFORMATION IN AGGREGATE FORM" and insert "BASIS FOR PROJECTIONS".

Page 50, line 13, strike "Such" and all that follows through page 51, line 3, and insert the following after line 3:

"(3) MANNER OF REPORTING EFFECTS ON EMPLOYMENT.—In reporting the projections on employment required by this subsection, the Corporation shall specify, with respect to each project—

"(A) any loss of jobs in the United States caused by the project, whether or not the project itself creates other jobs;

"(B) any jobs created by the project; and

"(C) the country in which the project is located, and the economic sector involved in the project.

No proprietary information may be disclosed under this paragraph.

Mr. ANDREWS of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ANDREWS of New Jersey. Mr. Chairman, first, again let me acknowledge my appreciation to the gentleman from Connecticut [Mr. GEJDENSON] for his work with me on this amendment.

The crux of the last debate really turns in my mind around the issue of whether or not OPIC has met its burden of demonstrating that the aggregate job numbers that we just heard about job creation within the United States are in fact true.

In the hearing that I made reference to a few minutes ago these numbers were repeated, but when we dug into the essence of the numbers, tried to understand on a project-by-project basis from where they came, I do not believe the answers were satisfactory.

Chairman GEJDENSON has indicated interest in finding a way to further enlighten us on those numbers and magnify the source of those numbers; so this amendment would require OPIC to being reporting on a project-by-project basis any project in which OPIC itself estimates that there would be job loss within the United States, instead of simply reporting its job numbers on a net basis.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of New Jersey. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I think the gentleman is properly addressing the concerns we ought to have on this issue. He raises some important issues.

While I think OPIC clearly creates and generates close to half a million jobs and the trade balance is all positive, we can never do enough to make sure that we are not displacing American workers.

Mr. Chairman, I support the amendment.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of New Jersey. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I do believe the gentleman has a good amendment here. I think it is important for Congress to have oversight over all agencies.

Although the Overseas Private Investment Corporation's mandate is to not support projects that have any significant negative effect on U.S. industry or on U.S. workers, this additional language I think will insure that OPIC is helping to create American jobs, rather than displacing American workers.

I think the gentleman has a good amendment. I think it improves this bill, and I ask that the Members join in supporting it.

Mr. ANDREWS of New Jersey. Reclaiming my time, Mr. Chairman, I thank the chairman and the ranking member. I would hope this will permit us to make the continuing and honest evaluation of the work of OPIC.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. ANDREWS].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title I? If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—TRADE AND DEVELOPMENT AGENCY

SEC. 201. TRADE AND DEVELOPMENT AGENCY.

Section 661 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 661. TRADE AND DEVELOPMENT AGENCY.

"(a) PURPOSE.—The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in developing and middle-income countries.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with foreign countries, including those in which the United States development programs have been concluded or those not receiving assistance under part I, to carry out the purpose of this section by providing funds for feasibility studies, architectural and engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

"(2) USE OF FUNDS.—Funds under this section may be used to provide support for feasibility studies for the planning, development, and management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this section may also be used for architectural and engineering design, including—

"(A) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

"(B) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

"(3) INFORMATION DISSEMINATION.—(A) The Trade and Development Agency shall disseminate information about its project activities to the private sector.

"(B) Other agencies of the United States Government shall cooperate with the Trade and Development Agency in order for the Agency to provide more effectively informational services to persons in the private sector concerning trade development and export promotion related to development projects.

"(4) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this section may be used notwithstanding any other provision of law.

"(c) DIRECTOR AND PERSONNEL.—

"(1) DIRECTOR.—There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) OFFICERS AND EMPLOYEES.—(A) The Director may appoint such officers and employees of the Trade and Development Agency as the Director considers appropriate.

"(B) The officers and employees appointed under this paragraph shall have such functions as the Director may determine.

"(C) Of the officers and employees appointed under this paragraph, 2 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"(d) ANNUAL REPORT.—The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

"(e) AUDITS.—

"(1) IN GENERAL.—The Trade and Development Agency shall be subject to the provisions of chapter 35 of title 31, United States Code, except as otherwise provided in this section.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Trade and Development Agency each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Director of the Trade and Development Agency. The financial statements of the Trade and Development Agency shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 3512 of title 31, United States Code, and which the Trade and Development Agency shall submit to the Congress not later than 6½ months after the end of the last fiscal year cov-

ered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

"(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Trade and Development Agency in the manner provided in paragraph (2).

"(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Trade and Development Agency and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

"(f) FUNDING.—

"(1) AUTHORIZATION.—There are authorized to be appropriated for purposes of this section, in addition to funds otherwise available for such purposes, $55,000,000 for fiscal year 1992 and $70,000,000 for fiscal year 1993.

"(2) FUNDING FOR TECHNICAL ASSISTANCE GRANTS BY MULTILATERAL DEVELOPMENT BANKS.—(A) The Trade and Development Agency should, in fiscal years 1992 and 1993, substantially increase the amount of funds it provides to multilateral development banks for technical assistance grants.

"(B) As used in subparagraph (A)—

"(i) the term 'technical assistance grants' means funding by multilateral development banks of services from the United States in connection with projects and programs supported by such banks, including, but not limited to, engineering, design, and consulting services; and

"(ii) the term 'multilateral development bank' has the meaning given that term in section 1701(c) of the International Financial Institutions Act.".

SEC. 202. RENAMING OF TRADE AND DEVELOPMENT PROGRAM; CONFORMING CHANGES.

(a) RENAMING OF TRADE AND DEVELOPMENT PROGRAM.—The Trade and Development Program shall, on or after the effective date of this section, be known as the Trade and Development Agency.

(b) APPOINTMENT OF PRESENT DIRECTOR NOT AFFECTED.—The enactment of this title shall not affect the appointment of the individual who is the Director of the Trade and Development Program on the effective date of this section.

(c) TRADE AND DEVELOPMENT ENHANCEMENT ACT OF 1983.—(1) Sections 644, 645, and 646 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635q, 635r, and 635s) are each amended by striking "Trade and Development Program" each place it appears and inserting "Trade and Development Agency".

(2) The section heading for section 645 of such Act is amended by striking "TRADE AND DEVELOPMENT PROGRAM" and inserting "TRADE AND DEVELOPMENT AGENCY".

(d) TITLE 5.—Section 5314 of title 5, United States Code, is amended by striking out

"Director, Trade and Development Program." and inserting in lieu thereof

"Director, Trade and Development Agency.".

(e) REFERENCE IN OTHER LAWS.—Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

The CHAIRMAN. Are there any amendments to title II? If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—AID, TRADE, AND COMPETITIVENESS

SEC. 301. SHORT TITLE.

This title may be cited as the "Aid, Trade, and Competitiveness Act of 1992".

SEC. 302. CAPITAL PROJECTS OFFICE WITHIN THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) ESTABLISHMENT OF OFFICE.—The Administrator of the Agency for International Development shall establish a capital projects office to carry out the purposes described in subsection (b).

(b) PURPOSES OF OFFICE.—The purposes referred to in subsection (a) are—

(1) to develop an AID program that would focus solely on developmentally sound capital projects, taking into consideration development needs of the host country and the export opportunities for the United States; and

(2) to consider specifically opportunities for United States high-technology firms, including small- and medium-sized firms, in supporting capital projects for developing countries and for countries making the transition from nonmarket to market economies.

(c) ACTIVITIES OF AID.—The Administrator of AID (acting through the capital projects office), after consultation with the Trade and Development Agency and, where appropriate, the Export-Import Bank of the United States—

(1) shall support capital projects in developing countries and in countries making the transition from nonmarket to market economies;

(2) shall periodically review infrastructure needs in developing countries and countries making the transition from nonmarket to market economies and shall explore opportunities for United States firms in the development of new capital projects in these countries, keeping both United States firms and the Congress informed of these reviews;

(3) shall determine whether each capital project for which AID provides funding is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(4) shall coordinate its activities with other AID offices, and work with AID country missions, in developing capital projects that provide opportunities for United States firms consistent with AID's primary mission to help developing countries with traditional development projects;

(5) shall coordinate, where appropriate, funds available to AID for tied-aid credits; and

(6) shall play a special role in helping to meet the infrastructure needs of countries making the transition from nonmarket to market economies by meeting the challenge of infrastructure assistance provided by foreign governments to those countries, including by undertaking a comprehensive study of the infrastructure needs of the various countries making the transition from nonmarket to market economies—

(A) to identify those sectors in the economies of these countries that are most in need of rebuilding, and

(B) to identify the state of technology in these countries and the opportunity for United States high technology firms to help develop a technological infrastructure in these countries, including an assessment of export opportunities for United States high technology companies.

The results of the study conducted pursuant to paragraph (6) shall be reported to the appropriate congressional committees within 12 months after the date of the enactment of this Act.

SEC. 303. COORDINATION.

The President shall utilize the existing interagency coordinating mechanism to coordinate activities under this title with other relevant activities of the United States Government.

SEC. 304. REPORTS TO CONGRESS ON CAPITAL PROJECTS.

Not later than February 1, 1993, and each year thereafter, the President shall submit to the Congress a report describing—

(1) the extent to which United States Government resources have been expended specifically to support capital projects in developing countries and countries making the transition from nonmarket to market economies;

(2) the extent to which the activities of the United States Government have been coordinated pursuant to section 303; and

(3) the extent to which United States Government capital projects and tied-aid credit programs have affected United States exports.

SEC. 305. NEGOTIATIONS OF THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.

If the negotiations for the implementation of the December 16, 1991, agreement within the Organization for Economic Cooperation and Development have not been completed by August 1, 1992, the Secretary of the Treasury, together with the President of the Bank, shall submit a report to the Congress on the status of the negotiations, including an analysis of the negotiations since 1987, the causes for the failure to reach an agreement by that date, and reasons the United States Government believes that continued negotiations will result in achieving the implementation of such agreement.

SEC. 306. FUNDING FOR CAPITAL PROJECTS.

The Congress strongly urges the President to use at least $650,000,000 for fiscal year 1992 and at least $700,000,000 for fiscal year 1993 of the total amounts made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), assistance under the Multilateral Assistance Initiative for the Philippines, and assistance under the Support for East European Democracy (SEED) Act of 1989, for grants for developmentally sound capital projects. Such grants may be combined with financing offered by private financial entities or other entities. Funds for grants under this section may not be used from amounts appropriated to carry out chapter 1 or chapter 10 of part I of the Foreign Assistance Act of 1961.

SEC. 307. REPORT ON THE FEASIBILITY OF AID CREDIT GUARANTEES TO FINANCE CAPITAL PROJECTS.

Not later than September 1, 1992, the President shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report on the feasibility of allowing AID to offer credit guarantees for the financing of capital projects.

SEC. 308. DEFINITIONS.

For purposes of this title—

(1) the term "AID" means the Agency for International Development;

(2) the term "capital project" means a project involving the construction, expansion, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related engineering design (concept and detail) and other services, the procurement of equipment (including any related services), and feasibility studies or similar engineering and economic services; and

(3) the term "tied-aid credit" has the meaning given to such term in section 15(h)(1) of the Export-Import Bank Act of 1945.

SEC. 309. AUTHORIZATION OF ADDITIONAL FUNDING FOR THE TRADE AND DEVELOPMENT AGENCY FOR FISCAL YEAR 1993.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated for the Trade and Development

Agency $20,000,000 for fiscal year 1993 to carry out section 661 of the Foreign Assistance Act of 1961.

AMENDMENT OFFERED BY MR. MILLER OF WASHINGTON

Mr. MILLER of Washington. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Washington: Page 67, lines 24 and 25, strike "$650,000,000" and insert "$100,000,000", and strike "$700,000,000" and insert "$100,000,000".

Mr. MILLER of Washington. Mr. Chairman, I rise with a very simple amendment.

There are many excellent provisions in this bill which the committee, the chairman, and the ranking member deserve credit for; but there is one provision in this bill that we should definitely amend.

While the title of this bill is Jobs Through Exports, there is in this bill a provision that relates to the Agency For International Development [AID]. This provision increases AID's capital project appropriation authorization for 1993 from the $100 million that AID and the administration requested, to $700 million.

☐ 1240

That is a $600 million increase. My amendment, very simply, would reduce the amount back to the $100 million that the administration and AID requested.

Now, there are two primary reasons for doing so. One relates to how this money is going to be spent, the emphasis on capital projects. If there is one conclusion that we should be able to draw after 30 or 40 years of foreign aid, it should be that the foreign aid that has been least effective has been foreign aid for capital projects. The foreign aid that has been most effective is the foreign aid that has gone to alleviate poverty and to promote free enterprise.

Indeed, the Committee on Foreign Affairs in this House, over the last several years, through various provisions, has tried to set a new direction in foreign aid, tried to encourage the alleviation of poverty, tried to promote free enterprise. This goes counter to that direction.

The second primary reason for this amendment relates to the administrative crisis—and I do not think that is an overstatement—in AID. This is an agency that presently has 400 unit offices. This is an agency that has been investigated by committee after committee after committee and commission. One thing is clear: No matter who wins the election, this agency is in for a drastic overhaul. There is no question about it.

So, why solidify another unit office in this agency, give this agency money to pursue another task when the agency itself has not asked for the money, when the administration has not asked for the money.

It is a very simple amendment. I ask my colleagues to approve the amendment and reduce this authorization back to the $100 million requested.

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this amendment is an amendment that I think the gentleman sincerely feels is correct, but I am afraid the amendment is drafted in such a way that it does not achieve what he wants. What the gentleman from Nebraska [Mr. BEREUTER] will offer shortly will achieve some of what Mr. MILLER wants.

The choice here is very simple: We either, as we presently do, hand these governments ESF funds, economic support funds, give them a stack of money and hope they do the right thing with it; or, under our provision, help American jobs, help American exports, and build them a water filtration system or something that the country needs.

It seems to me that when we take a look at what the Japanese and the Europeans have done around the globe to take away market share, that we have missed an opportunity and we have misused taxpayer funds.

What our proposal will do is provide more help for people who need it and assist exports from this country so there will be more jobs here.

When you take a look at the draft of the gentleman's amendment, the only thing the gentleman's amendment will do is protect the ability of the administration just to hand the money to the other governments. I think we are better off giving them the projects that they need.

The gentleman from Nebraska's amendment which he will offer later will provide the additional guarantees for the small projects that I think Mr. MILLER wants to protect.

Mr. MILLER of Washington. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. Without objection the gentleman from Washington [Mr. MILLER] is recognized for 5 minutes.

There was no objection.

Mr. MILLER of Washington. Mr. Chairman, the chairman of this committee has referred to Mr. BEREUTER'S amendment which will follow, which I certainly support. Mr. BEREUTER'S amendment would, in essence, say, "By gosh, if we are going to have capital projects, let us try to focus them on the legitimate needs of the people in the recipient countries." That is a desirable, very desirable objective. But why, when we have a beleaguered agency such as AID, why should we be moving to increase by $600 million an account when that agency has said they are not able to spend that money efficiently? Why should we be moving over the administration's objection to increase this account by $600 million? And how are we doing it?

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is right. What happens in the bureaucracy is sometimes they would just rather hand the money out to some of these governments and then it does not get used for what we intended it to be used.

The way we drafted this, not only do we actually help the people with the project that is intended—obviously something everybody agrees on, we are not forcing them to take these things—but additionally we help American exporters and American jobs. It is a twofer.

Mr. MILLER of Washington. But AID already has $500 million in funds spread through different accounts for capital projects. This is a major increase in another bill, back door, trying to increase AID's appropriations. And how does it do it? The chairman earlier referred to the fact, pejoratively, of ESF funds. This amendment tries to do it by saying these funds will be taken either from ESF funds that might go to places like Egypt or even Russia. Is that not ludicrous? In another week or two, we are going to have a Russian aid bill on the floor. Where we have an amendment that is trying to increase the capital projects account and is going to do it ostensibly by taking funds that we are going to be appropriating perhaps next week. It says it will take this money from SEED, the European Democracy Act. It says it will take if from the multilateral assistance to the Philippines.

Mr. GEJDENSON. If the gentleman would yield further, it does not take the money away; it simply uses it for the project rather than handing that government the money and hope that they buy an American product in that end. We want them to buy American products when they make these projects. We want them to use American components. We want to make sure that we help both the government involved and the people who need it, and American workers.

Mr. MILLER of Washington. Reclaiming my time, I think that is a desirable objective, and you could have amendments that point toward that objective without increasing by $600 million AID's budget for capital projects.

I ask my distinguished colleague: The purposes you want to achieve, can you not achieve these purposes without increasing the capital projects budget of AID by $600 million?

Mr. GEJDENSON. What is going to happen is that, if you leave it as it is, the money will be spent by handing it over to these governments and hoping and praying that they use it to buy

American products or for what we want them to use it.

I think we ought to learn from our Japanese and European competitors. When they go in to provide assistance, you can be darned sure they are not buying Isuzu trucks. We ended up buying Isuzu trucks with American taxpayer dollars for a DEA project in Bolivia. I think we should have bought American trucks. The same thing goes here. We ought to use the money to buy American products to put in these places, and not just hand them the cash.

Mr. MILLER of Washington. Reclaiming my time, I am not arguing with the gentleman. I am saying, however, while it may be very legitimate, if you have a capital project, to buy American products, what we are trying to do here is to increase the least efficient, most wasteful form of foreign aid; and that least efficient, most wasteful form of foreign aid cannot be justified because American products would be bought.

□ 1540

Mr. KASICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I say to my colleagues in order to develop some full understanding of what this amendment does and what the committee attempted to do in this area, it is my understanding—and I would like the gentleman from Washington [Mr. MILLER] to walk me through this—that we are actually increasing the capital project office in the Agency for International Development by what; $600 million? Is that correct?

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Chairman, the gentleman from Ohio [Mr. KASICH] is correct.

Mr. KASICH. Now the gentleman from Connecticut [Mr. GEJDENSON] says the reason why he is doing that is to have a buy-American provision.

Mr. MILLER of Washington. That is correct.

Mr. KASICH. Well, I ask, "Can't they just offer an amendment to have a buy-American provision without increasing the account by $600 million?"

Mr. MILLER of Washington. It would certainly seem that way to me.

Mr. KASICH. I have been confused because the gentleman has been raising this issue, and the gentleman from Connecticut [Mr. GEJDENSON] has said that he wants these foreign governments to buy American. Would the gentleman like to explain this?

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I am very eager and apologize for being so eager to answer the gentleman.

First of all, Mr. Chairman, what we are simply doing is urging the administration. It is not an authorization. It provides no extra funds to use $200 million of the money in capital projects, and that just gives us more control in the components, and it is less likely that they will purchase other funds, and I say, "If you leave it in ESF, what happens is you transfer it to Government. You lose control."

Mr. KASICH. But is it not possible under this provision in the law for the Agency for International Development to be able to spend $600 million more than what the administration has requested? Is that not correct.

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Washington.

Mr. MILLER of Washington. That is correct.

Mr. KASICH. It gives them the opportunity to do this.

Now my concern is when we look at the Agency for International Development, and I assume the gentleman early on entered this in the RECORD, but I think we have to reemphasize this to our colleagues: The Presidential Commission on the Agency for International Development called for major reorganization of the whole AID Program, stating that, quote, the foreign assistance program suffers from serious and persisting management problems.

What they say in there is, and a Presidential commission says this, and this is an administration that has pushed very diligently for more foreign aid; this administration is saying that the Agency for International Development does not manage their money correctly, and so what this amendment attempts to do is to leave the level of funding for AID at the administration request level and not to boost it by $600 million extra that they would be able to spend, that they would be permitted to be able to spend.

Is that correct?

Mr. MILLER of Washington. I think that is correct.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I am certainly not a Member of this House who can be accused of supporting foreign aid because I vote against foreign aid. What we do in our bill is not add any new money, but to take money out of three accounts in AID that have the most flagrant waste.

Mr. Chairman, these accounts are the economic support fund, the Philippines multilateral assistance initiative and the SEED, the program for Eastern Europe. What our bill does is allow that money to be taken and put into capital improvements.

Why are we doing that? Because, if we put it into capital improvements, then we can say, "If you use this money, you have to come to the United States to buy your products here, use U.S. contractors and hire Americans."

And that is why——

Mr. KASICH. Mr. Chairman, I am not trying to argue with the gentleman. I want to understand.

Mr. ROTH. I understand. So, what we are doing is creating jobs because we have this proviso in the bill.

Mr. KASICH. But this would permit though money from Eastern Europe to be transferred out of those accounts into the capital projects account.

Mr. ROTH. Yes, it would.

Mr. KASICH. And the capital projects account has functioned very inefficiently under the AID Program. So, we are giving the AID people the ability to take $600 million more than what the administration requested to hypothetically spend it on projects, for example; in Egypt. They put this telephone line over there in Egypt, and the whole thing has been an absolute bust that has been sponsored by the AID people, and so what we are attempting to do—I mean we want to work—the gentleman from Washington and I want to work with the gentleman on the issue of buy American. But we do not want to give the AID capital projects people an opportunity to have $600 million more to spend, particularly when it is possible for that money to be taken from places like Eastern Europe.

The CHAIRMAN pro tempore (Mr. MCNULTY). The time of the gentleman from Ohio [Mr. KASICH] has expired.

(By unanimous consent, Mr. KASICH was allowed to proceed for 2 additional minutes.)

Mr GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, it is not a separate account. It simply urges them to use the funds for capital projects.

So, I think the gentleman from Ohio [Mr. KASICH] misunderstands his reading or my explanation of the bill. What this simply does is urges the administration to use it for capital projects rather than just handing over the dough.

Mr. KASICH. Mr. Chairman, let me say that we are supposed to have foreign aid structured in such a way that it goes to the benefit of those countries and those people who have problems.

Now, if we are arguing that the ESF funding is wasteful, then we ought not to be transferring that money to the AID section.

Mr. GEJDENSON. No, it does not go to the AID section. It urges that it be used within its existing section for capital projects. Because we get better control of it that way rather than hoping they will use the money for the right thing.

Mr. KASICH. But the gentleman just makes our whole point on the whole question of where this foreign aid is going. If the gentleman is saying that we have better control on the capital projects, then that implies that the ESF funding is wasteful.

Furthermore, the capital projects account is no box of chocolates because under the capital projects account they are building all these big monstrosities that governments can point to as being something positive, and, if we take the phone system in Egypt, it is an absolute disaster over there that was built out of the capital funds account.

Now what I suggest to the gentleman is we want to work with him to solve this problem, but we do not think this is the way to solve it, to permit that transfer authority, and I would say to my colleagues who are watching this debate who support foreign aid, the gentleman from Texas [Mr. DELAY], the gentleman from Washington [Mr. MILLER], and myself, we have voted for the foreign aid bills, but we maintain that foreign aid in many sections is really inefficient and wasteful.

What I suggest we do is to adopt the amendment offered by the gentleman from Washington [Mr. MILLER] to not permit the capital account to expand by $600 million, and let us make foreign aid efficient.

This is just one in a long series of amendments that we intend to offer to permit foreign aid, but to channel it in the right direction to make sure that the taxpayers' money is spent efficiently.

Mr. Chairman, I urge support of the Miller amendment.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Washington [Mr. MILLER].

Mr. Chairman, we are all familiar with the dilemma of the car that leaks oil. We have two options. We spend our money to continuously pour oil into the engine and drive it for as long as that works or we pay a mechanic to fix the leak.

What we do not do, Mr. Chairman, upon finding out that our car is leaking oil is plunk big bucks down to put in leather upholstery.

Without getting into the debate over the vision of AID, there's no question that its engine is broke. It's leaking wasteful puddles of taxpayer dollars from every cylinder and gasket. I'd be happy enough just to see AID do a barely adequate job with the responsibilities it currently has.

What purpose can we serve by plunking down $650 million to give it additional responsibilities? The AID administration itself admits it is not capable, at this time, of handling this amount of money for capital projects in an efficient manner.

But more to the point, Mr. Chairman, what are we hoping that this capital project funding will accomplish for us? Increased exports? History shows capital project funding has had no such result.

Mr. Chairman, off the top of my head I could name a dozen projects from prenatal care to elderly health care and from economic enterprise zones to law enforcement where this more than a half billion dollars is much more desperately needed and could be more effectively used by Government assets that have not proven themselves clearly inefficient and unreliable.

□ 1600

Pouring this money into the leaking, grinding transmission of AID is wasteful and irresponsible.

Mr. Chairman, I just urge Members to support the Miller amendment to bring funding for the Capital Projects Office down to the amount requested.

Mr. KASICH. Mr. Chairman, is it not true in the Agency for International Development there is one supervisor for every three workers within that agency?

Mr. DELAY. I am not advised as to that, but if the gentleman says so, I am sure it is true.

Mr. KASICH. That is what leads to the report by the administration that indicates, and I say it again, the foreign assistance program suffers from serious and persisting management problems.

Mr. Chairman, it is inconceivable to me that we will continue to march down the road of supporting foreign aid bills without correcting and applying a tourniquet to those sections of the foreign aid bill that in some respects are literally counterproductive to the mission that the United States has established under foreign aid. This is one area where we want to work with the committee to try to fix these sections of the bill that are bleeding taxpayer dollars.

Mr. SANTORUM. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I will be glad to yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Chairman, what I would say to the gentleman is, No. 1, I want to congratulate the gentleman from Washington [Mr. MILLER] for this amendment. It is an excellent amendment and very timely in this time when we are trying to focus in on America's needs.

I would ask the gentleman from Washington [Mr. MILLER] is it not true that 35 people from AID have been indicted as a result of wrongdoing with respect to this agency?

Mr. MILLER of Washington. Mr. Chairman, if the gentleman will yield, yes, in the last 2 years there has been that number of indictments of AID employees or contract employees. There are administrative problems there. I think that agency recognizes it and that is why they are saying do not give us this $600 million now.

Mr. SANTORUM. Mr. Chairman, if the gentleman will yield further, we have an agency having trouble with their management, obviously, having serious problems, and what we are trying to do here is give them more responsibility. That does not seem to make a lot of sense.

Mr. Chairman, I encourage support of the amendment.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, it seems to me we ought to focus on what is before us. No. 1, it is not $600 million and it is not a new authorization.

Mr. Chairman, it is humid outside and there is going to be rain, but that does not have anything to do with the bill and the amendment that is before us.

Let me read Members the language in the bill. The Congress strongly urges the President to use at least $650,000, which is $200,000 roughly more, $150,000, depending on the number for 1992, and $700,000——

Mr. DELAY. Mr. Chairman, I think the gentleman means millions, not thousands, $650 million.

Mr. GEJDENSON. $650 million for fiscal year 1992 of existing funds. These are not new funds.

Mr. DELAY. Mr. Chairman, reclaiming my time, if they are existing funds that can be shifted, then we could probably save twice as much. If they are funds that you can give up to put into an inefficient program that we do not want and the agency does not want, that means there is even more money we could save.

Mr. ROTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me first say that there are few Members in this chamber for whom I have more respect than the gentleman from Washington [Mr. MILLER], because the gentleman understands legislation. I do not remember the last time I disagreed with my friend from Washington, but I must say I will have to on this amendment, for this reason.

The Miller amendment does nothing to save taxpayer dollars. Let us get that straight. Second, it allows business as usual in foreign aid. I am very much opposed to that.

Our bill cuts $1.3 billion out of the most wasteful parts of foreign aid, and I think that is our goal. That is what we are trying to do.

Mr. Chairman, I must agree with the chairman of the subcommittee. We have to look at the amendment before us. The Miller amendment would virtually destroy one of the most important provisions of this bill, and that is the buy America requirement for foreign aid.

By golly, if we are going to have foreign aid, at least let us make them buy our products. That has not been the case up to now.

Under this bill $1.3 billion would be taken away from the economic support fund of AID and allocated to building capital projects like public works, roads, and other construction projects where our companies can participate.

Our bill requires that this $1.3 billion be spent only on American contractors, on American workers, on American goods and equipment. This is the first honest-to-goodness buy America requirement that has been imposed on foreign aid, and I say it is about time.

One of the reasons why this is so important is that the $1.3 billion is taken from three accounts in AID where there is the most flagrant waste.

Yes, I am opposed to the way AID has been handled. Who isn't? What we are doing is taking the money away from the three most flagrant accounts, the economic support fund, the Philippine multilateral assistance initiative, and the SEED Program for Eastern Europe.

These are the accounts that are now used primarily to prop up foreign governments. What we are now doing is giving them cash. What our bill says is that instead of giving them foreign aid, money that is wasted, we want them to use these funds to at least buy our products and to hire our contractors.

So what we have done in our bill is take $1.3 billion out of these accounts where the worst waste occurs and require that it be used for capital projects, not payoffs to foreign governments. And we require that American companies and American workers get contracts for the projects.

For me, our bill brings $1.3 billion of taxpayer money back home to Americans, instead of seeing it lining the pockets of foreign officials.

Now, what the Miller amendment does is to reduce the $1.3 billion setaside to just $200 million. In other words, this amendment takes more than $1 billion in U.S. taxpayer money and gives it back to the foreign governments, instead of having it spent on contracts and jobs for Americans.

That is why I am asking Members to vote down the Miller amendment. There is simply no reason for supporting the amendment. If my colleagues are upset with foreign aid waste, as I am, then vote against the amendment and vote to keep the buy America requirement in this bill.

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I know that the amendment is well intentioned, but it does not do what it says it is going to do. The fact is that right now out of ESF or development assistance, if you are going to transfer the money someplace else, I do not know that you have accomplished anything. You do not add anything to money that has already been appropriated. It has already been appropriated. So what we are talking about is shifting it or putting conditions on it.

Now, what we do here in this legislation is simply put the conditions on 60 percent of ESF funds that otherwise would go to straight budgetary support. That is part of the program now. You have a piece of it that goes to development assistance, and another piece, 10 percent or less, goes someplace else. So, not to have the ESF money conditioned in the way the bill does, is a mistake.

Mr. Chairman, what is done with the amendment is simply to open it up and put it back the way it was by shifting the account. Absolutely nothing is accomplished that way. If you had some kind of a condition on the appropriation, maybe I could understand what the gentleman was trying to do. But the way it is right now I cannot see where the amendment accomplishes a thing except to mess up this bill.

Mr. SANTORUM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I want to briefly respond to some arguments that have been made.

Some Members have said that there is waste in ESF, economic support funds, or waste in the Eastern European democracy funds. It there is waste there, then cut it. If there is waste in the peace for El Salvador process, which is also eligible for the transfer of funds here, cut it. I do not think that there is waste in all these programs that is being alleged, but if there is, cut it.

Mr. Chairman, that is not an excuse to pour another $600 million into an account where a beleaguered agency is saying we cannot spend it.

If there is one way to be sure of waste and inefficiency, it is to pour money into an account for an agency that says they cannot spend it efficiently.

Mr. Chairman, are we losing our senses where we try to give money to an agency plagued with administrative problems, plagued with indictments, and the agency says "We can't spend the money efficiently," so we do it anyway and cover it with buy American provisions and a lot of other things?

That does not excuse creating waste in foreign aid. That does not excuse focusing our foreign aid program on wasteful capital projects when it ought to be focused on alleviating poverty and promoting free enterprise.

□ 1610

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, the gentleman does understand that most of ESF is simply funds we shove into a country to make up for capital flight. Their rich people take the money out of the country so American taxpayers just send the money in there to stabilize their currency half the time.

What we want to do with that money is, instead of just giving it to the country, and if that gentleman wants to see waste, it seems to me there is a lot less waste when we are buying an American product and providing a water system or a sewer system that the people really need rather than handing them the cash.

That is the choice here. You do not save a dollar of taxpayer money.

The question is, Do we actually do something with it or give it to the other government and hope they do something with it.

Mr. MILLER of Washington. Mr. Chairman, if the gentleman will continue to yield, if we look at ESF projects around the world, we can find good projects, we can find bad projects. If there are bad projects, then condition those projects or cut those projects. Do not shove $600 million out the door on projects that have the worst record in foreign aid, these big capital projects, upon an agency and an administration that does not want the money.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I cannot believe my ears today, that I am hearing from Members familiar with the ESF Program that we are essentially putting cash in people's pockets. We are sending money over there so they can take money out of their country, capital flight. That is what this ESF Program is all about, and the Congress of this United States continues to support these kind of programs? And we cannot get an authorization bill on this floor to correct these programs? This is unbelievable.

The gentleman has just given us the fodder to go after the ESF programs next year.

In addition to fixing the problems with the capital programs, the point of this is, our foreign aid program, which is designed to help people around the world stabilize themselves, thus benefiting us, is bleeding. It is not working. It is fraught with waste, fraud, and abuse.

We are not doing anything about it, and we ought to get it fixed, aside from this debate.

I hope that next year the gentleman from Connecticut will work with us to try to fix these particular parts of the foreign aid program.

Mr. GEJDENSON. Mr. Chairman, if the gentleman will continue to yield, there is no question in my mind that the last 12 years of management of the foreign aid budget at the executive level has been terrible. We do hope that we will be able to fix it after November.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. MILLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of Washington. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 230, not voting 20, as follows:

[Roll No. 367]

AYES—184

Allard
Allen
Archer
Armey
Atkins
AuCoin
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bilirakis
Bliley
Boehlert
Boehner
Browder
Burton
Camp
Carper
Carr
Chandler
Clinger
Coble
Combest
Condit
Coughlin
Cox (CA)
Cramer
Cunningham
Dannemeyer
Davis
DeLay
Dicks
Donnelly
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Early
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goss
Gradison
Green
Guarini
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Hoagland
Hobson
Holloway
Hopkins
Horn
Horton
Hubbard
Huckaby
Hughes
Hunter
Hyde
Inhofe
Jacobs
James
Johnson (SD)
Johnson (TX)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Klug
Kolbe
Kyl
LaFalce
Lagomarsino
Lancaster
Leach
Lent
Levine (CA)
Lewis (FL)
Lowery (CA)
Luken
Machtley
Marlenee
Martin
Mazzoli
McCandless
McCollum
McCrery
McDade
McDermott
McEwen
McHugh
Miller (OH)
Miller (WA)
Molinari
Moorhead
Myers
Nichols
Nussle
Obey
Oxley
Packard
Parker
Patterson
Paxon
Penny
Peterson (MN)
Petri
Pickle
Porter
Pursell
Ramstad
Ravenel
Ray
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rohrabacher
Rostenkowski
Santorum
Sarpalius
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Sensenbrenner
Shays
Shuster
Sikorski
Skaggs
Skeen
Slattery
Slaughter
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stark
Stenholm
Studds
Stump
Tanner
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Upton
Valentine
Vento
Visclosky
Vucanovich
Walker
Weber
Weldon
Williams
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—230

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Bacchus
Baker
Beilenson
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Cooper
Costello
Cox (IL)
Coyne
Crane
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Dooley
Downey
Duncan
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gonzalez
Goodling
Gordon
Grandy
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hayes (IL)
Hefner
Henry
Hertel
Hochbrueckner
Houghton
Hoyer
Hutto
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Pickett
Poshard
Price
Quillen
Rahall
Rangel
Reed
Regula
Richardson
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Schumer
Sharp
Shaw
Sisisky
Skelton
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stearns
Stokes
Sundquist
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Thomas (CA)
Torres
Torricelli
Towns
Traficant
Unsoeld
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron

NOT VOTING—20

Alexander
Anthony
Barnard
Broomfield
Conyers
Dickinson
Edwards (OK)
Ford (TN)
Gaydos
Hatcher
Ireland
Kolter
Lloyd
Morrison
Roe
Schulze
Serrano
Traxler
Vander Jagt
Volkmer

☐ 1635

Mr. ROWLAND and Mr. CAMPBELL of Colorado changed their vote from "aye" to "no."

Messrs. ATKINS, STARK, OXLEY, SIKORSKI, HOAGLAND, RAY, STENHOLM, GLICKMAN, and HALL of Texas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. (Mr. MCNULTY). Are there further amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—UNITED STATES COMMERCIAL CENTERS

SEC. 401. UNITED STATES COMMERCIAL CENTERS.

(a) ESTABLISHMENT.—The Secretary of Commerce, in his or her role as Chair of the Trade Promotion Coordinating Committee, shall establish, as a 5-year pilot program, a United States Commercial Center (hereinafter in this section referred to as a "Center") in one of the independent states of the former Soviet Union or one of the Baltic states, in one country in Asia, and in one country in Latin America.

(b) PURPOSE OF THE CENTERS.—The purpose of the Centers shall be to provide additional resources for the promotion of exports of United States goods and services to the host countries, by familiarizing United States exporters with the industries, markets, and customs of the host countries, thus facilitating commercial ties and trade.

(c) FUNCTIONS OF THE CENTERS.—Each Center shall—

(1) collect and publish economic and market data with respect to the host country;

(2) provide, on a user-fee basis, preliminary technical and clerical assistance, language translation, and administrative assistance, and information regarding the legal systems, laws, regulations, and procedures of the host country, to United States exporters seeking to do business in the host country; and

(3) in other ways promote exports of United States goods and services to the host country.

(d) SPECIFIC SERVICES TO BE PROVIDED.—To carry out its objectives, each Center shall make available the following (on a user-fee basis):

(1) BUSINESS FACILITIES.—Business facilities, including exhibition space, conference rooms, office space (including telephones and other basic office equipment), and, where warranted by impeding deficiencies in the public system, high quality international telecommunications facilities.

(2) BUSINESS SERVICES.—Business support services, including language translation services, clerical services, and a commercial library containing a comprehensive collection of reference materials covering United States and host country industries and markets.

(3) COMMERCIAL LAW INFORMATION SERVICES.—Commercial law information services, including—

(A) a clearing house for information regarding the relevant commercial laws, practices, and regulations of the host country;

(B) publications to assist United States businesses;

(C) legal referral services; and

(D) lists of local agents and distributors.

(e) OTHER TRADE PROMOTION ACTIVITIES.—Each Center shall also promote United States export trade by—

(1) facilitating contacts between buyers, sellers, bankers, traders, distributors, agents, and necessary government officials from the United States and the host country;

(2) coordinating trade missions; and

(3) assisting with applications, contracts, and clearances for imports into the host country and exports from the United States.

(f) STAFFING OF CENTERS.—

(1) IN GENERAL.—Each Center shall be staffed by members of the United States and Foreign Commercial Service, participants in the Market Development Cooperator Program established under section 2303 of the Export Enhancement

Act of 1988 (15 U.S.C. 4723), other employees of the Department of Commerce, employees of appropriate executive branch departments and agencies which are members of the Trade Promotion Coordinating Committee, and Foreign Trade Fellows appointed pursuant to paragraph (2).

(2) Foreign Trade Fellows.—The Secretary of Commerce shall appoint United States citizens as Foreign Trade Fellows to assist United States Government employees in staffing the Centers. The Secretary shall actively recruit individuals to serve as Foreign Trade Fellows from United States businesses, trade associations, labor unions, and the academic community. In order to facilitate the service of individuals (such as those from the academic community and smaller businesses) as Foreign Trade Fellows, the Secretary may make grants or provide stipends to Foreign Trade Fellows and may reimburse them for expenses they incur as the result of their service as Foreign Trade Fellows.

(g) Center Facilities and Their Relationship to United States Department of Commerce Operations in Host Countries.—

(1) Physical Accommodations for the Centers.—The Secretary of Commerce shall locate each Center in the primary commercial city of the host country. The Secretary shall acquire office space, exhibition space, and other facilities and equipment that are necessary for each Center to perform its functions. To the extent feasible, each Center shall be located in the central commercial district of the host city.

(2) Consolidation of Department of Commerce operations in host countries.—For the purpose of obtaining maximum effectiveness and efficiency and to the extent consistent with the purposes of the Centers, the Secretary of Commerce is authorized and encouraged to place all personnel of the Department of Commerce who are assigned to the city in which a Center is located in the same facilities as those in which the Center conducts its activities. The Secretary is authorized and encouraged to integrate activities of the Department of Commerce in the host country.

(h) Use of Market Development Cooperator Program.—The Secretary of Commerce shall, to the greatest extent feasible, use the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723) to assist in carrying out the purposes of the Centers established under this section.

(i) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Commerce to carry out this section $6,000,000 for fiscal year 1993, and $4,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997. Funds made available under this subsection may be used for the acquisition of real property.

(j) Reports to Congress.—The Secretary of Commerce shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 1 year after the date of the enactment of this Act, and not later than the end of each 1-year period occurring thereafter, a report on the status, activities, and effectiveness of the Centers. Each such report shall include any recommendations with respect to the pilot program established under this section.

(k) Definitions.—For purposes of this section—

(1) the term "United States exporter" means—

(A) a United States citizen,

(B) a corporation, partnership, or other association created under the laws of the United States or of any State,

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(2) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(3) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

PARLIAMENTARY INQUIRY

Mr. GEJDENSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GEJDENSON. Mr. Chairman, how much time is remaining?

The CHAIRMAN. There is a total of 18 minutes of debate time remaining.

Mrs. MEYERS of Kansas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to commend Chairman Gejdenson and ranking member Roth for their focus on export promotion. This is an important issue not often addressed by Congress.

While the Federal Government does provide some useful support to U.S. exporters, we can and should do more.

In my view, the creation of four new commercial centers in title IV of H.R. 4996 is a further step in the goal of making American small- and medium-sized companies more competitive in the global market.

The point needs to be made, however, the United States and foreign commercial service does not have $6 million to spend on the three proposed commercial centers at present. If enacted, the bill must be accompanied by additional new appropriations for the commercial service.

If new funds are not appropriated, the $6 million will have to come out of existing programs. And these existing programs cannot be sustained with the funding the House has provided for export promotion. The House-passed Commerce-Justice-State appropriations bill provides the International Trade Administration with a reduction in export promotion funds. If this funding is not increased, the United States and foreign commercial service will have to be closed in over 30 countries.

By way of example, in Europe, the total cost of commercial service operations in key countries such as England, France, and Italy is $5.8 million.

In Asia, the total cost of their operation in Japan, Hong Kong, and Korea is $6.4 million.

In the Western Hemisphere, the total cost of operations for such key countries as Canada, Mexico, Argentina, and Brazil is $6.6 million.

Let me assure my colleagues that I am not seeking to oppose the creation of U.S. commercial centers, but we have to make the responsible choice to provide the necessary funding to back up our commitments.

Mr. GEJDENSON. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I would like to announce that a number of Members have asked about the schedule. We have one more amendment, an amendment to be offered by the gentleman from Nebraska [Mr. Bereuter], which we will accept, and then we will go to final passage. We do not anticipate a vote on final passage, but there will be a vote, as I understand it, on a suspension that was delayed from yesterday.

Mr. Chairman, I thank the gentlewoman for yielding.

□ 1640

The CHAIRMAN pro tempore (Mr. McNulty). The Clerk will designate title V.

The text of title V is as follows:

TITLE V—OTHER EXPORT PROMOTION ACTIVITIES

SEC. 501. ADDITIONAL PROCUREMENT OFFICERS.

(a) Appointment.—The Secretary of Commerce shall appoint one or more full-time additional procurement officers to promote exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and one or more multilateral development banks, whether or not the banks have offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relating to projects which are being proposed by the multilateral development bank involved, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small- and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(b) Definition.—As used in this section, the term "multilateral development bank" has the meaning given that term in section 1701(c) of the International Financial Institutions Act (22 U.S.C. 262r(c)).

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bereuter: Add the following new title at the end of the bill:

TITLE VI—BASIC INFRASTRUCTURE FOR DEVELOPMENT

SEC. 601. CAPITAL PROJECTS FOR POVERTY ALLEVIATION AND ENVIRONMENTAL SAFETY AND SUSTAINABILITY.

(a) Purposes.—The Administrator of the Agency for International Development shall develop a program, in accordance with subsection (b), that focuses on developmentally sound capital projects for basic infrastructure that will measurably alleviate the worst manifestations of poverty or directly promote environmental safety and sustainability at the community level, taking into consideration development needs of the host country and export opportunities for services and goods from the United States.

(b) ACTIVITIES OF AID.—In order to carry out subsection (a), the Administrator of AID shall, working with AID technical support staff, regional bureau staff, and country missions, identify and provide funding for capital projects to alleviate the worst manifestations of poverty or to promote environmental safety and sustainability at the community level in countries receiving assistance under the Foreign Assistance Act of 1961. Such projects may include basic sanitation systems, basic water supply and treatment, pollution control, and rural infrastructure benefiting poor communities or establishing environmentally sustainable patterns of rural development. Such projects should have measurable positive effects on indicators of human and environmental health.

SEC. 602. COORDINATION.

The President shall utilize the existing interagency coordination mechanism to coordinate activities under this title with other relevant activities of the United States Government.

SEC. 603. REPORTS TO CONGRESS ON CAPITAL PROJECTS.

Not later than February 1, 1993, and each year thereafter, the President shall submit to the Congress a report describing the extent to which United States Government resources have been expended specifically to support capital projects under this title.

SEC. 604. DEFINITIONS.

For purposes of this title—

(1) the term "AID" means the Agency for International Development; and

(2) the term "capital project" means a project involving the construction, expansion, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related engineering design (concept and detail) and other services, the procurement of equipment (including any related services), and feasibility studies or similar engineering and economic studies.

Mr. BEREUTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BEREUTER. Mr. Chairman, the amendment I am offering is based on the fact that U.S. development assistance activities that meet the most basic needs of the poorest people in the world and improve environmental safety and sustainability are also good for U.S. jobs and exports, particularly exports of services in the form of technical engineering expertise.

The Agency for International Development needs a more systematic program focused on direct linkages between capital projects at the community level and alleviation of poverty and environmental degradation. I am talking about clean water supplies so that 2 million people do not die of diarrhea each year—as they do today. I am talking about sanitation, including sewage treatment, that can keep water supplies unpolluted and healthy. I am talking about roads to transport food from villages to market towns. I am talking of environmental improvement projects for small industry in poor countries.

The amendment requires the AID Administrator to direct AID's existing capital projects activities toward the types of basic infrastructure necessary to alleviate poverty or create environmental safety and sustainability in AID-recipient countries. The amendment will add a new title which is similar and complementary to the existing title III of H.R. 4996. Title III deals with the types of capital projects that must be funded out of nondevelopment assistance resources; this Member's proposed new title will focus on requiring the development of a systematic program of small scale, community based capital projects for water supply and treatment, sewage collection and treatment and various environmental improvements that we need to emphasize at the core of our development assistance funding. It is infrastructure which benefits the poor and the environment. The amendment requires the development of a systematic program and reporting the Congress on the basic infrastructure activities undertaken; It does not specify or earmark funding amounts of sources.

The American Consulting Engineers Council [ACEC], the leading trade association representing over 4,500 U.S. firms, strongly endorse this amendment and with good cause. Projects like those eligible under my amendment have provided enormous benefits to the most needy people in developing countries while providing their many U.S. firms the opportunity to work and make export sales. American firms not only lead the world in sophisticated engineering and environmental technology, but are equipped and active in providing appropriate technology for the specific needs of poor communities in poor countries. Their expertise is used in joint ventures with local engineering firms in developing countries to provide clean drinking water and sewage treatment to control disease, irrigation and rural roads for poor areas, and systems to process and handle solid and hazardous wastes which are environmental hazards, among other projects. Exports from the United States of engineering, consulting, design, and construction services and goods are in the billions of dollars annually. American member firms are already actively engaged in many such basic infrastructure development projects, some of them financed by AID, such as the water and sanitation for health [WASH] project.

The needs and potential market for U.S. expertise are enormous: the World Bank's 1992 world development report on environment and development just released in mid-May points out that, more than 1 billion people are still without access to safe water and 1.7 billion people are without access to adequate sanitation facilities. These are the major environmental problems that directly damage human health worldwide. Capital projects are also needed to remedy environmental damage, to apply known technologies to reduce pollution from energy and industry, and to establish standards for environmentally sound infrastructure—rural and urban, agricultural and industrial.

I would like to clarify that this amendment does not preclude AID from investing in other types of capital projects, such as telecommunications, or from cooperating with other U.S. Government agencies such as Eximbank to fight unfair tied aid credit practices in spoiled markets. These are the subjects addressed in another title of the bill. This amendment does require that major attention be paid by AID to developing a program of capital projects that contribute directly to poverty alleviation and to environmental sustainability—projects for basic needs in poor countries which create jobs in this country.

Mr. Chairman, I understand that the chairman and the ranking member are willing to accept this amendment.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, as the gentleman from Nebraska [Mr. BEREUTER] often does, he has made an excellent addition to this bill, and from this side we support it.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am happy to yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, we accept this amendment, because it clarifies that, under our bill, development assistance funds continue to be used for capital projects, and this amendment is consistent with the intent of the bill and clarifies the language. It is a good amendment, and we accept it.

Mr. BEREUTER. Mr. Chairman, I thank the distinguished gentleman from Wisconsin.

Now, if I could engage the chairman in a brief colloquy, is it the gentleman's understanding that it is not the intent of title III to disallow the use of development assistance funds for the types of basic infrastructure capital projects addressed in this amendment; namely, those that directly address basic human needs and environmental safety and sustainability at the community level? The report language on H.R. 4996, section 306 may be construed to imply that when it states that "this prohibition, on the use of development assistance funding, reflects the committee's intention not to raid the account traditionally set aside for the purpose of this section. The committee intends to protect that money so it can be used for basic human needs." Therefore, in caution, this Member would respectively ask if it is the intent of title III to allow development assistance accounts to continue to fund basic infrastructure and capital projects that are directly meeting basic human needs, such as in the program to be developed as proposed by this amendment.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, it was never our intention to end basic infrastructure projects which serve basic human needs—like clean water. The prohibition on using development assistance funds was placed in that section of the bill because title III primarily concerns large scale capital projects. I agree with my colleague that there is a need for small scale infrastructure overseas. I think we would also agree that development assistance funds should be used only in projects that directly serve to alleviate the worst aspects of poverty. Large scale projects, like an energy plant that will serve an entire city, should not be funded by development assistance dollars.

I am glad we had this opportunity for this exchange.

Mr. Chairman, I would like to take one moment to commend the gentleman again for his efforts on the Initiative for the Americas in that that is an additional excellent addition to the bill that will get the principal back for the American taxpayers and use the interest for projects that are generally supported.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for that compliment and also for the expression of legislative intent.

I urge my colleagues to support the amendment.

Mr. MILLER of Washington. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be very brief.

Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from Nebraska [Mr. BEREUTER].

AID's emphasis should be on alleviating poverty and promoting free enterprise to help underdeveloped countries, and the best means of achieving these goals is through small projects such as microenterprise lending or basic education programs.

However, if we are going to insist on doing capital projects, which I do not think we should do, but given the vote on the last amendment, that is what we are going to do, let us at least ensure that these capital projects work toward the achievement of development in alleviating poverty.

This amendment offered by my colleague, the gentleman from Nebraska, at least goes part way toward that goal. I commend him for the amendment and urge its adoption.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. FAZIO. Mr. Chairman, I rise in support of the bill and want to commend the gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from Wisconsin [Mr. ROTH] for their efforts in bringing this bill before the House.

The Jobs Through Exports Act will lay the groundwork for creating new markets overseas for U.S. businesses and creating jobs for American workers. Being competitive overseas will make or break us in the future. Our economy is becoming increasingly dependent on the international marketplace.

Since 1988, 70 percent of our economic growth has come from exports. In 1991, we sent a total of $422 billion in goods and services overseas, which supports 2 million jobs here at home.

My home State of California is also poised to take advantage of export growth. We are geographically located to take advantage of the two regional international markets that hold the most promise in the coming decade—Latin America and Asia.

Fifteen percent of all good exported by the United States in 1991 came from California. That means that one out of every seven jobs created by exports are created in California.

Clearly, expanding existing foreign markets and creating new ones will have tremendous benefits for our national economy. H.R. 4996 starts this process by reauthorizing the Overseas Private Investment Corporation [OPIC]. OPIC helps U.S. companies find investment opportunity overseas, provides loans and loan guarantees to finance these investments, and offers insurance to protect these investments. OPIC does this all under the proviso that such investments do not cause job losses in the United States. And, OPIC's record demonstrates that this program works. In 1991 alone, OPIC's overseas activities created over 13,000 American jobs.

H.R. 4996 also expands the role of the new Trade and Development Agency in order to place greater emphasis on opening markets for U.S. exports in developing countries. For example, the Trade and Development Agency would provide technical assistance grants to U.S. firms in order to get U.S. consultants involved in the planning stages of multilateral development bank projects. It has already been demonstrated that when U.S. consultants are involved in these planning stages, U.S. firms have greater success in winning contracts for projects financed by the development banks.

All in all, Mr. Chairman, the Jobs Through Exports Act holds tremendous promise for California and the United States. With passage of this bill, we have an opportunity to counter similar export enhancement efforts now undertaken by our foreign competitors. We need this legislation to help level the playing field with Japan and the European Community. I strongly urge my colleagues to support the Jobs Through Exports Act.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in support of H.R. 4996, the Jobs Through Exports Act of 1992. The reauthorization of the Overseas Private Investment Corporation [OPIC] is essential, but it must be done before September 30, when its current authorities expire. Last year OPIC created over 13,000 jobs. By delaying this legislation, we delay the creation of even more jobs.

OPIC plays an essential role in the United States efforts to assist in the rebuilding of Eastern and Central Europe. As the world grows smaller, it is important for us to recognize what contributions the United States needs to make to assist emerging democracies.

Similarly, we must recognize the importance of exporting to American businesses. Exports have served as an engine of growth for our economy. In 1991, exports directly supported 7.2 million American jobs and reduced the United States trade deficit by a third. By providing capital, technology, and training to developing countries, OPIC is able to create new trading partners. This in turn, opens up new markets for U.S. exports and creates jobs.

However, I am concerned with the fact that we are reauthorizing OPIC for only 3 years as opposed to the requested 5. I think we are tying OPIC's hands because 3 years is not a sufficient amount of time to plan and manage their operations. The demand on OPIC is growing every day as new democracies begin to request assistance from them, and a 3-year authorization is inadequate.

Mr. Chairman, in conclusion, I would just like to stress the importance of OPIC and the contributions it makes to our economy. During economically strained times, we should promote strong and sound programs that will encourage growth.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GEPHARDT] having assumed the chair, Mr. MCNULTY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, pursuant to House Resolution 489, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4996, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

COMMUNICATION FROM THE HONORABLE JOE KOLTER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOE KOLTER, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, August 5, 1992.

Speaker THOMAS FOLEY,
House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: On July 31, 1992 I informed you, pursuant to Rule L (50) of the Rules of the House, that certain employees of my office had been served with subpoenas issued by the United States District Court for the District of Columbia. In consultation with counsel it has been determined that compliance with such subpoenaes would not be inconsistent with the precedents and privileges of the House.

Sincerely,

JOE KOLTER,
Member of Congress.

☐ 1650

RURAL ELECTRIFICATION ADMINISTRATION IMPROVEMENT ACT OF 1992

The SPEAKER pro tempore (Mr. GEPHARDT). The unfinished business is the question of suspending the rules and passing the bill, H.R. 5237, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 5237, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—ayes 359, nays 60, not voting 15, as follows:

[Roll No. 368]

YEAS—359

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Schaefer
Schiff
Schroeder
Serrano
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Zeliff

NAYS—60

Archer
Armey
Atkins
Beilenson
Bentley
Campbell (CA)
Cardin
Coughlin
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Fawell
Frank (MA)
Franks (CT)
Gradison
Henry
Inhofe
Ireland
Jacobs
James
Johnson (TX)
Kennelly
Lagomarsino
McCandless
McCollum
Meyers
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Nowak
Packard
Porter
Pursell
Reed
Riggs
Rinaldo
Ritter
Rohrabacher
Santorum
Saxton
Scheuer
Schumer
Sensenbrenner
Shays
Slaughter
Solomon
Stearns
Stump
Walker
Walsh
Wylie
Young (FL)
Zimmer

NOT VOTING—15

Barnard
Broomfield
Conyers
Dickinson
Edwards (OK)
Fascell
Ford (TN)
Hatcher
Hertel
Kolter
Roe
Sabo
Schulze
Traxler
Volkmer

☐ 1713

Mr. SCHUMER and Mr. DREIER of California changed their vote from "yea" to "nay."

Messrs. ORTIZ, PAXON, and SMITH of Texas changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4394, REQUIRING MERCHANT MARINERS' DOCUMENTS FOR CERTAIN SEAMEN

Mr. HALL of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 102-784) on the resolution (H. Res. 540) providing for the consideration of the bill (H.R. 4394) to amend title 46, United States Code, to require merchant mariners' documents for certain seamen, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5466, AIRLINE COMPETITIVENESS ENHANCEMENT ACT

Mr. HALL of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 102–785) on the resolution (H. Res. 541) providing for the consideration of the bill (H.R. 5466) to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 246 RELATION OF TRADE AGREEMENTS TO HEALTH, SAFETY, LABOR AND ENVIRONMENTAL LAWS

Mr. HALL of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 102–786) on the resolution (H. Res. 542) providing for the consideration of the concurrent resolution (H. Con. Res. 246) expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3603, FAMILY PRESERVATION ACT

Mr. HALL of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 102–787) on the resolution (H. Res. 543) providing for the consideration of the bill (H.R. 3603) to promote family preservation and the prevention of foster care with emphasis on families where abuse of alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT ON H.R. 4547, THE FREEDOM SUPPORT ACT OF 1992

Mr. HALL of Ohio. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report from the Committee on Rules providing for the consideration of the bill, H.R. 4547, the Freedom Support Act of 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Reserving the right to object, Mr. Speaker, and I shall not object, but I ask if it is the understanding that if, in fact, we can file the rule by midnight, as the gentleman from Ohio [Mr. HALL] has requested, then we would expect to have that bill on the floor tomorrow for consideration?

Mr. HALL of Ohio. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. HALL of Ohio. Mr. Speaker, I cannot speak to the floor schedule for tomorrow, and I do not have the authority right now.

Mr. WALKER. That can be assumed to be the reason why the gentleman is rushing to get a rule out there, so in fact it will be eligible for consideration tomorrow.

Mr. HALL of Ohio. I would assume so.

Mr. WALKER. I thank the gentleman.

Mr. HALL of Ohio. We have just been informed, Mr. Speaker, that it will be tomorrow.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

VOUCHER PROMISE IS A FRAUD

(Mr. FORD of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous material.)

Mr. FORD of Michigan. Mr. Speaker. President Bush has proposed a GI bill for children which would give a voucher of $1,000 to students in elementary and secondary schools. This voucher could be used at any public or private school.

When this proposal was made, Bush's press secretary was quoted as saying that it has no chance of passage this year but is being laid out as a campaign document. Mr. Marlin Fitzwater said that it "sets the stage for passage" in a second Bush term.

Mr. Speaker, the working people of this country who skimp and save to pay tuition for their children to attend parochial school are being used by the President for political purposes. The White House admits there is no chance to enact this bill and everyone who understands constitutional law knows that the Supreme Court would declare it unconstitutional even if it were to be enacted.

Therefore, all Bush is doing is misleading parents of parochial school students so that he can have their votes in the fall and then forget them afterwards. If Bush were the real education President, he would be addressing the hard problems in education and not using good people for political reasons.

I include an article from the Washington Post of June 26 on this issue:

BUSH OFFERS SCHOOL "CHOICE" PILOT PLAN

(By Ann Devroy)

President Bush, who has struggled for months to formulate a domestic agenda for a second term, returned to education reform yesterday, unveiling a $500 million pilot program to provide $1,000 stipends to parents to send their children to private or public schools.

It was the third time in a month Bush has cited education reform as a major goal if he is reelected and emphasized the need to give parents a "choice" to opt out of the public school system by giving them funds to pay part of the costs of private schools.

Administration officials acknowledge the proposal has no chance of passage this year but is being laid out as a campaign document. White House press secretary Marlin Fitzwater said it will allow for a debate on the choice concept and "sets the stage for passage" in a second Bush term.

The proposal, dubbed a "GI Bill for Children" by the White House, would provide $1,000 grants to lower- or middle-income families, with an income cutoff of $40,000 for a family of four. If the parent chose a public school, half the money would go to the school and the other half to the parent for remedial or extra educational costs. If the parent chose a private school, the school would get the funds. Religious schools would be eligible under the program.

Some form of public financing for private schools has been a favorite Republican proposal for a decade—President Ronald Reagan pushed tuition tax credits for private school parents and, more recently, Bush has unsuccessfully pushed his choice programs in Congress. The Senate in January rejected an earlier Bush proposal for $30 million worth of choice demonstration projects.

Later yesterday, at a political rally with College Republicans, Bush cited education reform as part of the agenda to get him reelected. "It's strong and it's new and it's good, and that is a total reform, a revolution in American education," he told the audience.

Critics argue such programs will undermine public schools by encouraging motivated, involved parents to move their children into private schools. Using tax dollars for religious schools is unconstitutional, they also argue.

But Bush, surrounded by youngsters in a photogenic White House South Lawn ceremony attended by 1,300 guests, defended the concept of allowing federal funds for use in private schools, saying the grants are not to the schools but to families. "For too long, we've shielded schools from competition [and] allowed our schools a damaging monopoly power," Bush said.

Education Secretary Lamar Alexander told reporters that restricting choice to public schools "would be like giving bonuses to Russian car manufacturers and saying, 'work a little harder,' or asking Pony Express to run faster."

Keith Geiger, president of the National Education Association, said the program is "nothing more than desperate election-year rhetoric" aimed at conservatives and that it would be a "dangerous threat" to the nation's public school system, a point echoed by several Democratic congressmen involved in educational issues.

AMERICAN HEALTH CARE NIGHTMARE

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, I would like to bring to the attention of the House, an article which appeared in last week's Philadelphia Inquirer, detailing another example of the American health care nightmare.

Six-year-old Zahra Jessa, a native of Dallas, was visiting relatives with her parents in Vancouver when she developed a severe lung condition.

After her admission into the hospital however, it was discovered that Zahra's family did not have any medical insurance, and therefore could not have the child transferred to a hospital in the United States.

Zahra Jessa is in medical exile, and cannot return to her own country. For 2 years, this little girl and her family have petitioned many hospitals in the United States to receive her, and care for her, but it is always the same story. No insurance. No care.

The Jessa family represents a small fraction of the American public whose lives are being held hostage by a broken health care system. Nearly 10 million children in this Nation do not have adequate health insurance.

So is it really surprising Mr. Speaker, that a major Canadian paper recently speculated the following in an editorial:

> So which is the better system President Bush? Yours with instant bypasses for those who can afford them, or ours with short waiting lists for some surgery but instant care for those who can't afford it in your country.

The time has come to provide adequate health care for every single citizen of this Nation. Large and small, rich and poor.

Let's open up our hospitals, and welcome Zahra Jessa home.

I would like to submit a reprint of this article for the RECORD, and I urge my colleagues to take the time to read it.

The article referred to follows:

[From the Philadelphia Inquirer, July 28, 1992]

AN AMERICAN GIRL STAYING IN CANADA IS A MEDICAL EXILE

(By Robert Steinbrook)

A 6-year-old American girl with severe lung disease has spent nearly a third of her life in a children's hospital in Vancouver because Canadian officials have been unable to find an American hospital that will supervise her care.

Now, after spending more than $1 million over the last two years, the Canadian government is trying to close the door on Zahra Jessa: Canadian immigration authorities last week ordered Zahra and her family deported. The deportation of the child, who until recently had no health insurance, is contingent on arranging for her medical care in the United States.

The case has turned Zahra, her mother and her younger sister into medical exiles. It has outraged Canadians as well as advocates of health-care reform in the United States.

Despite more than a year of intensive efforts, "we have been unsuccessful in getting any jurisdiction in the United States to take responsibility for the care of this child," said John H. Tegenfeldt, the president of British Columbia's Children's Hospital, where Zahra has lived since July 1990. "It is a real reflection of problems in the health care system that exist in the [United States]."

"It really is an indictment of the American health care system," said Arthur Caplan, director of the Center for Biomedical Ethics at the University of Minnesota at Minneapolis. "The little girl and her family have wound up in a medical limbo."

Dr. Paula Braveman, a health policy researcher at the University of California, San Francisco, said the situation is "really disgraceful" and a "particularly poignant example of where our health care system is headed, unless we take some dramatic action. * * * The safety net isn't there."

Tegenfeldt called Zahra a "very delightful child." While on a personal level "everybody is concerned to provide the best for this patient and have actually grown very attached to her," the hospital's primary responsibility is to care for Canadians, he said.

Nevertheless, "we will not send this child elsewhere if she cannot be cared for appropriately," he said. "We are not going to just dump this child."

The child's plight became known in Canada earlier this month when it was publicized in the Vancouver newspapers.

"So which is the better system, President Bush?" the Vancouver Province subsequently editorialized. "Yours with instant [heart] bypasses for those who can afford them, or ours with little waiting lists for some surgery but instant care for those who can't afford health insurance in your country."

About 9.8 billion children in the United States, or 15 percent of all American children, were uninsured in 1990, according to the Employee Benefit Research Institute in Washington, D.C. This number is believed to have increased as the recession has thrown more Americans out of work and triggered cutbacks in government services.

Canada has a universal health insurance system, which is often discussed, particularly in this presidential election year, as a possible model for health-care reform in the United States.

Canada spends far less of its gross national product on health care than the United States, while providing health insurance for all of its citizens. Canadians have longer life expectancies than those in the United States, and Canadian babies are less likely to die during the first year of life than U.S. babies, according to studies.

The Canadian system, however, is criticized for shortages of expensive new technologies and waiting lists for some surgeries.

The Jessa family has declined to discuss the case. According to hospital officials, the child, who has a chronic fibrotic lung condition, was visiting relatives in British Columbia two years ago when she developed severe shortness of breath. At the time, her family was living in Dallas.

Zahra was taken to the hospital, and physicians admitted her to the intensive care unit. The hospital did not find out until later that her parents had no insurance and were not able to pay for her care.

Some U.S. hospitals would have performed "wallet biopsies" before admitting such a patient, and "even in an emergency, they would have avoided her like the plague" for financial reasons, Caplan said.

The child's respiratory difficulties were so severe that she required a tracheostomy, an opening made into the windpipe through the neck so that a breathing tube can be inserted. She is now dependent on a ventilator to breathe and has been living in the hospital's 22-bed pediatric intensive care unit.

Her condition has gradually become stable enough that she could be treated at home with nursing assistance, Canada's Tegenfeldt said. As a non-resident, however, Zahra is not eligible for such outpatient services in Canada.

Tegenfeldt said hospital officials have been trying to transfer Zahra to an American hospital since the middle of 1991.

First they tried two Dallas hospitals, a country facility and a pediatric facility, which Tegenfeldt declined to name.

"Both absolutely refused to the extent that they were prepared to take legal action to stop the child from coming," Tegenfeldt said.

Subsequently, the family has established residence in Washington, and the child has gained eligibility for Medicaid, the state and federal health insurance program for the poor. The hospital is now working with Children's Hospital and Medical Center in Seattle, home health agencies and the state Medicaid office to try to devise a plan for her care.

□ 1720

INSURERS MUST TREAT CHICAGO FAIRLY

The SPEAKER pro tempore (Mr. PEASE). Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, on April 13, water from the Chicago River broke through an underground tunnel, resulting in flooded basements throughout downtown Chicago. Many businesses large and small suffered property damage and interrupted operations.

As the Congresswoman representing the downtown Chicago area and as chairwoman of the Subcommittee on Commerce, Consumer Protection, and Competitiveness, which has jurisdiction over insurance, I have been very concerned with how insurance policyholders are treated in the aftermath of this disaster. Immediately after the flood, I wrote major property and casualty insurance trade associations, urging them and their member insurance companies to respond as quickly and as fully as possible to flood-related claims.

The letters resulted in positive responses. Representatives of the various trade associations and member companies responded and contacted me and my staff, offering their assistance and advice.

A number of large insurers, such as Chubb Corp., the St. Paul Co., and Commercial Union Insurance Co., recognizing the unusual nature of this disaster, have agreed to pay claims, even though they may have chosen to delay the claims process and force expensive litigation by invoking fine print exclusions in insurance policies, and attempting to redefine the meaning of the term "flood." This would have left it up to courts to decide whether the claims were covered, and in the meantime, business and individuals in Chicago would be left to suffer severe economic losses. These public spirited companies are doing the right thing, and are taking their responsibilities to the public and to policyholders seriously.

But one large insurance company, CNA, ironically located in Chicago, is taking its responsibilities far less seriously, by refusing to pay its policyholders. According to last week's Chicago Tribune, CNA is the "only large insurer" to deny certain claims by local businesses related to the Loop flood. This denial is apparently based on a fine print, strict interpretation of insurance policy language. This is an outrageous decision and I have so informed CNA in writing.

Whatever the legal arguments may be on each side, litigation would be costly and time-consuming for both sides. While other non-Chicago-based large insurers agree to pay claims, Chicago's own CNA stands alone in its refusal. What has happened to the notion of being a good corporate citizen?

Even if CNA believes it is not legally required to pay claims, it certainly has the option to voluntarily agree to do things it is not required to do. Furthermore, if CNA is concerned about setting a possible adverse precedent, it can make clear it is not waiving any legal rights. Indeed, paying these claims would create a positive precedent for the treatment of Chicago businesses by other insurers.

During the past year and a half, my subcommittee has been investigating the cause and effects of insurance insolvencies on individuals. We have seen the devastating impacts the failures of Executive Life and Mutual Benefit have had on people such as Olga Pegelow, a Chicago resident, who saw her annuity payments cut by 30 percent, and the employees of the University of Illinois at Chicago, who saw their pension funds frozen. These cases represented failed promises.

Mr. Speaker, representatives of the insurance industry often wonder why the industry has a poor public image. The failed promises of CNA provide the explanation. For the sake of Chicago businesses and citizens, I strongly urge CNA to reconsider its unfortunate decision.

THE FRIENDSHIP FORCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. JENKINS] is recognized for 5 minutes.

Mr. JENKINS. Mr. Speaker, our world has appeared on the brink of doom so many times it is refreshing to call attention to those who would live by the golden rule, something that sometimes surprises us. We aren't used to it.

But even as he topples on the brink of self destruction, man always finds a starting point to rise against whatever odds may be stacked against him.

While there is still war, violence, corruption, and bitterness, there also is a clamor for peace that more and more pricks the pride and vanity of those who seek power by subjugating our friends and neighbors to their own selfish motives.

Playing a major role in a unique enemy-to-friend relationship is a worldwide organization active on all of our continents except Antarctica.

I speak of the Friendship Force, formed 15 years ago by a Presbyterian minister, Wayne Smith, who is from my state of Georgia. The Reverend Mr. Smith spoke in glowing terms of his idea at that time—the goal was to develop personal friendships that would further world peace and understanding.

The Friendship Force has never deviated from those brave objectives, and as of today there have been more than 100,000 individuals who have taken an active part in this program at their own expense, to live and work for brief periods with those in other countries. They have broken barriers in many ways, simply by allowing the true spirit of friendship to have its way.

The Friendship Force has spread in these past 15 years to approximately 50 nations and nearly all of the 50 States. Its premise is one of hands-across-the-seas, personal friendships that grew among the people of the world through the opportunity to share in each other's lifestyle.

It is for this reason that I have nominated the Friendship Force to be considered for this year's Nobel Peace Prize.

The first exchange of the Friendship Force 15 years ago was planned carefully. The exchange involved 300 Friendship Force ambassadors from Georgia who would visit Newcastle, England, and 300 from that country who would visit Georgia.

The exchange was made on July 4, and not since Paul Revere's ride more than 200 years earlier had Americans been excited for the same reason—at least this was true in Atlanta where the byword was: "The British are Coming."

The British joined in Atlanta's Fourth of July parade. And in Newcastle the British cheered the Americans who marched through their streets to celebrate the American Independence Day.

The world is getting smaller all the time, as the saying goes. Certainly more people are traveling about the world now than at any time in history.

The Friendship Force has a list of what it calls its 10 commandments, and it might help the rest of us if we consider them as we move about the world.

No. 1: Thou shalt not expect to find things as thou has them at home, for thou left thy home to find them different.

No. 2: Thou shalt not take anything too seriously—for a carefree mind is the beginning of a joyful experience.

No. 3: Thou shalt not let the other Ambassadors get on thy nerves—for thou art paying out good money to have a good time.

No. 4: Remember thy passport so that thou knowest where it is at all times, for a person without a passport is a person without a country.

No. 5: Blessed is the person who can make change in any language—for lo, he shall not be cheated.

No. 6: Blessed is he who can say "thank you" in any language—and it shall be worth more to him than tips.

No. 7: Thou shalt not worry. He that worries hath no pleasure—and few things are ever fatal.

No. 8: Thou shalt when in Rome do somewhat as the Romans do; if in difficulty thou shalt use thy common sense and friendliness.

No. 9: Thou shalt not judge the people of a country by one person with whom thou has had trouble.

No. 10: Remember thou art a guest in every land—yea, he that treateth his Host with respect shall be treated as an honored guest.

It is through such simple rules that the Friendship Force has operated since its beginning. And it takes a certain amount of courage to go into a strange household in a strange land just to get to know people, and have them know you.

But it has happened not only in our own country, but in Mainland China, in Japan where former soldiers of the old empire and America got together, behind the old Iron Curtain, where former comrades in arms drank with their former enemies, and the Berlin Wall crumbled and the spirit of freedom was allowed to move among the people of the world.

That is why I believe the Friendship Force deserves the Nobel Prize for peace.

Mr. Speaker, I want to take this opportunity to invite all of my colleagues to learn about the Friendship Force, for it has made a place in history for peace throughout the world.

□ 1730

CASHING IN ON A SWEET DEAL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise this evening and am reminded of a famous American comedian, Jackie Gleason, who used an expression, "How sweet it is."

Well, tonight I want to talk to my colleagues about a very sweet deal. And if there are any sugar beet farmers or Americans who are concerned about jobs in America, this is a good special order to pay attention to.

I am here tonight to expose a serious and continuing abuse by U.S. trade negotiators who sell out to the opposition.

I learned today that the chief United States negotiator representing our country, the United States, in the North America Free-Trade Agreement between Mexico and the United States, specifically the negotiator who was in charge of the sugar provisions, has walked through that famous revolving door and switched sides before the ink has dried on the very agreement he negotiated.

Agriculture Department official Cleveland Marsh, who has been negotiating the agreement that the United States sugar interests fear could leave the United States sugar market vulnerable to huge imports of Mexican sugar over the next several years after the agreement is enacted.

He has been serving as the U.S. Government official in charge of controlling sugar quotas and, in fact, he should be working hard for the interests of U.S. sugar people. Yet as soon as he put the United States-Mexican agreement together, he has turned around to go to work for the Kraft General Foods, Inc., one of the biggest sugar buyers in North America and, I might add, one of the biggest opponents of United States sugar interests.

So for every beet farmer in my district who is slaving over the fields to make a decent living, this is a fellow they will want to get to know.

I ask my colleagues, just whose interests was Mr. Marsh really representing at the negotiating table? He certainly is no going to cash in on his special knowledge and privilege gained at taxpayer expense. The American people have the right to know exactly whose side their trade negotiators are on.

For the record, I want to know when Mr. Marsh received his offer to go to work for Kraft. I want to know through what process he was approved.

Mr. Marsh may technically have not violated any specific U.S. ethics or post-employment restriction laws, but his actions are clearly suspect.

Let me remind my colleagues that he is going to work for a company that will be a direct beneficiary of the sugar deal he just negotiated. I am going to repeat that. He is going to work for a company that will be a direct beneficiary of the sugar deal he just negotiated.

Now, if this is an acceptable practice, then I say we must further tighten our laws to close down the damaging revolving door. We must demand higher standards for our trade negotiators, for they are in the front lines in the fight to promote jobs here at home, the economic interests of the United States, here for our people and also abroad. And they are supposed to be our trusted solders in America's quest for equal access and fair treatment for our farmers, for our businesses, for our industries and for our workers in world markets.

This is one Member of Congress who will not tolerate switching sides and conflict of interest among U.S. trade negotiators. Last April I released the findings of a GAO study on the revolving door. And that scandal has permeated our high level Government officials.

GAO identified 82 former high-level Federal officials, including Members of Congress, White House officials, congressional staff, and executive agency officials who left the U.S. Government between 1986 and 1991 to represent foreign interests before the U.S. Government.

Now, we have strengthened our postemployment ethics laws, but they are just not sufficient to stop this type of practice.

I have proposed the creation of a professional trade service corps and will be introducing legislation very shortly to provide increased career opportunities to keep excellent people in government service and to curb the current practice of our trading negotiators cashing in on the deals that they just negotiated.

My legislation will tighten the conflict of interest standards to make it virtually impossible for seasoned trade negotiators to switch sides at the negotiating table and, for personal gain, sell the knowledge that they have gained at taxpayers' expense to private clients.

But, my fellow Americans, that is exactly what continues to go on in our country. The bill I will be shortly introducing, I hope, will receive the support of our colleagues and will pass in the 103d Congress.

An article from the Wall Street Journal follows:

U.S. TRADE-TALKS OFFICIAL RESIGNS TO BE SUGAR BUYER

WASHINGTON.—An Agriculture Department official involved in trade negotiations that could allow more imports of Mexican sugar is resigning to become a sugar buyer for Kraft General Foods Inc.

A spokesman for Kraft, a unit of Philip Morris Cos. and one of the nation's largest food companies, confirmed that Cleveland Marsh has been hired and would buy sugar for the company's North American businesses starting Sept. 1.

Industry officials said Mr. Marsh has been involved in U.S. negotiations with Mexico and Canada for a North American free-trade agreement. An Agriculture Department spokesman said Mr. Marsh recused himself from the talks when he informed his superiors that he was taking the job at Kraft.

A tentative sugar pact has been reached as part of the free-trade negotiations, which would link the economies of the three countries into a single trading bloc.

Sugar industry officials say the accord could leave the U.S. market open to huge shipments of Mexican sugar about the turn of the century, depressing growers' prices but benefiting industrial buyers such as Kraft. Mr. Marsh couldn't be reached immediately.

TRIBUTE TO JEANNE HYDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FISH] is recognized for 60 minutes.

Mr. FISH. Mr. Speaker, it is with deep sadness that I rise to pay tribute to Jeanne Marie Simpson Hyde, wife of my friend and our colleague, HENRY HYDE, who passed away Tuesday, July 28, after and long and courageous battle with cancer. On behalf of all the Republican members and staff of the House Judiciary Committee, my personal staff and my family, I wish to express since condolences to HENRY and their family—their children: Henry, Jr., Laura, Robert, and Anthony; and their grandchildren: Daniel, Veronica, Andrew, Patrick, and Frederick. We share your sorrow.

For several months, many of us have been privileged to witness an inspiring display of strength, love and deep faith in the Hyde family. It has been my honor to serve with a dedicated and brilliant public servant, HENRY HYDE. During his wife's illness I have been even more humbled by his fortitude, character, and commitment to the wife he loved and the country he so selflessly serves.

Jeanne Hyde was one of the most beautiful women I have ever met. Her infectious spirit, open countenance, and genuine love of people, made her a joy to know. She served in the White House in the administrations of Presidents Reagan and Bush. Active in both the Illinois and Washington communities, Jeanne also contributed her talents and energies to the work of St. Charles Boromeo Catholic Church in Bensenville, the Cathedral of St. Thomas More in Arlington, the International Neighbors Club, the Republican National Women's Federation of Illinois, and the Park Ridge Women's Republican Club, to name just a few of the many causes in which she believed. Many countless people have benefited from her active life.

As her son, Robert, said in his eulogy to his mother:

> She taught us the joy of giving and of compassion for others, for friends and for family, for neighbors and even strangers.
>
> She taught us that it is most important to make a positive difference in other people's lives as often as one possibly can.

Thank you Jeanne and thank you, HENRY. May God bless and keep you both.

Mr. Speaker, I yield to the gentleman from California [Mr. HUNTER].

□ 1750

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding to me, and I thank HAM FISH for taking this time out to allow all of us to talk a little bit about Jeanne Hyde and HENRY HYDE.

First, Mr. Speaker, there are some people in Washington in public life who are absolutely extraordinary people. With all of the drawbacks, many of which we have seen and observed this year, of serving in public life, I think one of the real benefits is the fact that we have a chance now and again to come in contact with people who, when we talk with them, leave us inspired and feeling that we are richer for the experience, and in the case of Jeanne Hyde and HENRY HYDE, leaving us feeling that we have a little direction in our own life as a result of having listened to them and talked with them and conversed with them.

A person would just feel good about being with the Hyde family, because there was so much wisdom and so much of a sense of duty to this country, and a sense of rightness and decency. One somehow felt that in this turbulent world that we live in, especially the turbulent political world, that we were just a little bit stabilized by having talked and met with these wonderful people.

I might just say that I knew we have all read that Jeanne Hyde met her husband, HENRY, at a basketball game. Actually, this was in 1947, and she had just broken up with a professional basketball player. She was leaving the game, and I did not ask HENRY exactly how the breakup had occurred, but the only thing that was important from HENRY'S perspective was that she was leaving and was about ready to get into a taxicab. HENRY came rushing up and, in his words, tried to convince her first that he was not a masher, and then told her how important it was that he have a chance to spend some time with her and to get to know her.

Obviously, they did, and the Nation has been richer for that. Jeanne Hyde was a person with a wonderful sense of rightness and duty, and that intangible asset of being able to know how to raise a family and make people feel good about being members of the family, and making friends feel that she got strength and sustenance from the relationship with that family.

She was a homemaker in the finest sense of the word, and performed in that sense, in that job, in what I think is a most important role in American society; that is, molding the character of our children, and in trying to build a future for America by infusing them with real values.

I am going to close and let other folks talk about Jeanne Hyde and HENRY. Just let me say that, also, about HENRY HYDE, while we are on that subject, because this is an opportunity we do not often get to talk about him, but HENRY HYDE is an extraordinary individual. He is a person who, if you want to know about the Declaration of Independence, talk to HENRY HYDE and it comes to life. You hear that in his speeches and in his conversations on the floor. If you want to know about the Constitution or a particular aspect of the Constitution, talk to HENRY HYDE and it comes to life.

In this difficult time, for those Members who support the right to life, at a time when they look at the political polls, and they see that their position on this subject is going down in the polls, which may bode trouble for some of them, some of them in some of their opinions, if you listen to HENRY HYDE, you will see, if you have that particular position, you will come away refreshed and feeling that perhaps HENRY HYDE sees something that maybe other people do not see, and perhaps he has a vision for America because he can see the value of an unborn child.

I bring that subject out because it is so important to HENRY, but because also it reflects the struggle that is going on in America, and the fact that we are looking for leadership on that issue. One of the most respected Members who ever strode onto the House floor from the time when this Congress first existed has been able to persuade many people to take his point of view, not because it was politically right, but because he had a force of wisdom and common sense and values that he imparts when he talks to you, that makes you feel that somehow you are giving a service to America and you are simply doing what is right, to take that position.

I think that is the value of HENRY HYDE. He is a great leader. He is one of the most admired people the House of Representatives has ever seated, and he has been able to give so much to this country because he has had that perfect, wonderful, generous, giving wife, Jeanne Hyde, always at his side.

I know that the family is going to need sustenance and support in the future, and that many Members of this House and their families, their wives and children, stand ready to do what they can to be of a little comfort.

I thank the gentleman from New York [Mr. FISH] for taking out this special order for his friend, HENRY HYDE.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I wish to commend the gentleman from New York [Mr. FISH] for taking out this special order for our friend and close, close lady for so many years who was our friend, the friend of all of us. She was really a very special lady. She was the lady of Proverbs 31, an example of total commitment to her family, whose family rose up and called her blessed.

I do not know of any family today that was closer than that of Jeanne and HENRY and their children. During the last days that Jeanne lived she was in a beautiful home that HENRY had provided for her, and he sat almost all day by her side, talking to her. She was in good spirits most of the time, a cheerful woman, in spite of the fact that she knew that she had not long to live. She had committed her life to God and she was content with the life that she had. Her main concern during those days was for HENRY, "What is going to happen to HENRY when I am gone?"

After so many years, 45 years that they had lived together as husband and wife, they had been inseparable. HENRY loved her with all of his heart and she loved him. You do not see that too often today in American life, where people have other priorities, but the No. 1 priority of each of them was to take care of the needs of the family and of each other.

We had an opportunity to visit Jeanne a very short time before she died, and I have never seen a person so upbeat and so actually outgoing in a situation in which many of us would be led to despair, knowing that there was not long left in life. But she was willing to talk about so many things about her life, her kids, the things that had been important to her.

I know we received calls from former Members around the country, from wives of former Members, wondering how Jeanne was doing. She had thousands of friends in her own home State of Illinois, here in Washington, DC, and then many other people around the country.

She was a lady of courage, of integrity. Honesty meant a lot to her in the commitment she had made to people, the things she carried out. She had a great sense of humor. She could see the humor in life around her, and she made life a better place for everyone that was close to her. She certainly was a loyal and devoted friend to her many, many friends that she had around.

She did an outstanding job as a professional, a special correspondent at the White House, responding to mail and taking care of the needs of people around the country. She was truly an outgoing woman who was more concerned with the benefit and good things for others than she was for herself.

I will miss Jeanne Hyde, and I certainly join with my wife, Valery, who has really been terribly concerned about what was happening to Jeanne and about her welfare throughout all of this time.

We will miss her. We know that she is with her heavenly Father in heaven, and that HENRY will be when he passes on to join with her, because certainly HENRY has lived the same kind of a life that his beloved wife lived.

Again, I thank the gentleman for taking out this special order. I know that it means a lot to everyone that was concerned about her and knew her and loved her.

Mr. FISH. Mr. Speaker, I yield to the gentleman from New Mexico [Mr. SCHIFF].

□ 1750

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding and thank him for taking out this special order.

Mr. Speaker, the reason I have the privilege to be on the House floor is that I have the privilege of representing the First Congressional District of New Mexico in the U.S. House of Representatives. Although I have lived in Albuquerque for 23 years, I am not originally from New Mexico. I was born and raised in Chicago, IL, and moved out to New Mexico when I was about 21 years old. And one of the individuals I knew back in Chicago was HENRY HYDE, then State Representative HENRY HYDE. And I knew HENRY because in 1967 and 1968, I was president of the Young Democrats of the 49th ward of Chicago, and among other things worked with our Democratic State legislator from my area in the State legislature, and in State legislative matters, and I got to know Mr. HYDE.

I have to confess that as a Democrat I disagreed with him on number of issues. I have to further confess that even though I am a Republican, having converted many years ago, I still today disagree with Mr. HYDE on some issues.

But the thing that I remember most about HENRY years ago and is still true today is that he never took an honest, philosophical difference personally. You could have a disagreement on any number of issues and you were still HENRY's friend. It did not matter.

I further have to say that at that particular time I did not know Mrs. Jeanne Hyde, but I knew of Mrs. Jeanne Hyde, and I knew in fact there had to be a Mrs. Hyde. And I knew that because I saw the many hours that HENRY worked on behalf of the people he represented in his State legislative district in Illinois. I saw the hours he had to spend away from home in the State capital at Springfield. I saw the hours in fact that I worked with him. We were on the same side in trying to promote a constitutional convention for the State of Illinois. And I knew that as a strong family man HENRY would never have been away from home that much unless he had a strong wife who would help keep the family together and see to the needs of their children. And that was just a given that many years ago.

I want to say at this time, HENRY, all of your friends', all of your colleagues' hearts go out to you and to your family.

Mr. FISH. Mr. Speaker, I thank my colleague very much.

Mr. Speaker, I yield to another colleague from HENRY HYDE's State of Illinois, Mr. PORTER.

Mr. PORTER. Mr. Speaker, I thank my colleague from New York for yielding, and thank him for providing to us this special order in honor of a very great lady.

Mr. Speaker, last week a very great lady—Jeanne Hyde—was taken from our midst. She fought a long and courageous battle with cancer before it finally claimed her life last Tuesday. The pain of Jeanne's passing obviously falls most heavily on our dear friend and colleague, HENRY HYDE, but we are here today to say that HENRY's sorrow is shared by all of us in this House, and by everyone who was fortunate enough to know Jeanne.

I first met Jeanne when I served with HENRY in the Illinois General Assembly. Her grace and strong character made an impression on me and on everyone who knew her. I already had deep respect and admiration for HENRY, and meeting this wonderful woman whom he had married confirmed for me the soundness of his judgment—so much so that the very first vote I ever cast in any legislative body was to vote for HENRY HYDE for Speaker of the Illinois House. Jeanne was an inspiration then, and she continued to shine her special light wherever she went throughout her life.

She served as an aide to Presidents Reagan and Bush, and always touched those around her with compassion and humor. Over the past several days, family, friends, and those who worked with Jeanne Hyde in the White House and in Illinois have remembered her delightful spirit and how she inspired all of us.

Their accounts speak volumes about the kind of person Jeanne was. One of her coworkers at the White House, Chuck Donovan, spoke of mail arriving at the White House from sick children and the parents of slain servicemen. Jeanne Hyde, he remembers, was always able to find the right words of comfort, even for those who seemed inconsolable. He said, "she taught a lot of people—peers and younger staff—how to care. Compassion is a virtue in any human being, but in Jeanne, it was a gift."

Those feelings were echoed by Anne Higgins, a family friend who worked with Jeanne in the Reagan White House. "The most beautiful word in any language is mama, and that's what we called Jeanne," she said. "It was in loving and caring for people that Jeanne excelled."

In particular, her bravery in fighting her illness showed us all what strength of character and courage really mean. It is that same strength of character that is so evident in HENRY HYDE in his inspired battles for the things he believes in so deeply.

Throughout the ordeal that she, HENRY, and the Hyde family faced, she maintained her magnificent, positive outlook and thought not of herself, but of those around her. That wonderful spirit and her outstanding service to her community and her Nation will be Jeanne Hyde's enduring legacy.

I know I speak for every Member of this House in expressing our deepest sympathy to HENRY and his children, Henry, Jr., Laura, Bob, and Tony. We pray that God will comfort them all during this difficult time.

Mr. FISH. I thank the gentleman very much.

Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I too want to thank my distinguished colleague and good friend from the land of my birth, Mr. FISH, for taking out what has turned out to be a very beautiful special order to, as Mr. PORTER said, a very, very great lady.

I also knew Anne Higgins over at the White House during those days when they were deluged with mail for someone who is a bigger-than-life character, President Ronald Reagan. And during some of those conflict periods, particularly the tragedies at sea, peacetime accidents, and the men that were lost in the marine barracks at Beirut, I remember Anne Higgins telling me about that nickname for Jeanne, "Mama," and how she would go out of her way to take the toughest letters that the younger men and women felt a little bit uneasy with.

I want to tell a story that I feel funny about with Jeanne, because I owe her a big one, and I will have to pay her off in heaven, if I can get there, because I know she is there. We were at the White House late one night, and I bet you were there, HAM, and it was for the President. It was about 2 years ago. And we broke up fairly early, about 8 o'clock, and we were all feeling in a fairly good mood. It was pre-Desert Shield/Storm days. And I said to Jeanne and HENRY, "Please let Sally and I take you guys out to dinner." I said, "We'll just go someplace simple, like the Old Ebbitt Grill right across the street from Treasury." And I said to Jeanne, "Jeanne, help me talk HENRY into this. Come on, come on, it looks like he wants to go home."

It had been a long day, and we had started in the House early that day. And she talked HENRY into it, and we went over to dinner, the four of us. And my wife had always told me that if ever there was a perfect congressional wife partnership it was Jeanne, being HENRY's strong partner and copilot. And it was a delightful dinner, and when we reached the end of the dinner I reached for my wallet and it was not there. I had left it in the car, or I had left it at home or something. So I whispered to Jeanne, I said, "You talked him into the dinner, now you're going to have to talk HENRY into paying for it, and I'm going to owe you guys one." And when she gently broached it to HENRY, he said, "Don't work as BOB's lawyer here, Jeanne. This is an old story. I knew DORNAN would pull this when he invited us to dinner, so I'll gladly pay for this thing."

So for the past 2 or 3 years or 2½ years I have been saying to HENRY or to Jeanne whenever we have bumped into her somewhere, "Hey, come on, I owe you guys a dinner." And I thought of the instant that Jeanne fell ill and HENRY told me it was very serious, and you always forget the kindnesses, and the jokes, and the little debts, honorable that you owe to people. And I just would give anything to be able to go out to dinner with my Sally, and with HENRY and Jeanne one more time.

She was so upbeat, as I said, and if God every designed a congressional wife, and they are the unsung heroes around here, the spouses, I have gotten to know George Vucanovich very well, and I just see him as a perfect partner for BARBARA, a team effort. I do not know how I would get the energy to operate around here without my Sally. And I just know that HENRY is going to have a tough period here trying to fly alone when he had such a perfect partner with him at every moment back in the district, always with him here when the House is in session.

My heart goes out to him. He has always been a patriot of the highest order who's loved his service here. I heard him once talking to a class of freshmen, and they said, "Mr. HYDE, any regrets on your committee choices, on your career? Do you wish you had run for Governor? Do you ever wish you had run for the Senate when it opened up at some point?"

□ 1800

And what HENRY said, I thought, was pretty good. He said, "My only regret in life is that I did not run for the House of Representatives earlier, much earlier," He said, "I only wish I could have come here in my thirties or, like some of these young guys I see coming in, my twenties." He said, "I love my service here, and I do not see any end to it."

So the only thing I have ever found myself in disagreement with HENRY HYDE on is term limits, and when you have got a couple, because I am a 12-year man, and I sort of felt that way coming here, and I have not changed, but the one guy I feel beats me down in debate is HENRY HYDE. Because he says that if somebody is doing a good job here, maybe it is good they stay around for a long time, and when you get two for the price of one election, the way the voters of Illinois did with Jeanne and HENRY HYDE, then you have got an unbeatable team, and maybe somebody like that should stay around a long time.

I hope that, without his beloved Jeanne, but with her in her eternal reward, pulling for HENRY, pitching for him, interceding for him, in heaven, I hope that HENRY graces these Chambers, and grace them he certainly does, with his style and unique manner of disagreeing and still maintaining every friendship in an intense and personal way, I hope that HENRY is a proud Member from Illinois of this great deliberative body in this splendid hall for as long as I am given to serve here by the voters of my district.

Thank you again, HAM, and bon voyage, Jeanne, keep helping all of us in those moments when we need some inspiration.

Mr. FISH. I thank the gentleman very much.

Mr. Speaker, I would like to publicly acknowledge the courtesy of the Clerk of the House of Representatives that a tape of these proceedings will be made available to the Hyde family.

I also would like to thank those Members including, the majority leader, whose names the Chair read out earlier who had signed up for special orders in the amount of 60 minutes who yielded their place so that we could proceed in this special order for Mrs. Hyde.

Mr. RUSSO. Mr. Speaker, it is a sad occasion when we must say goodbye to a dear friend, but in paying final tribute today to the beloved wife of our colleague HENRY HYDE, we also can celebrate the beauty and inspiration of a life well lived. Jeanne Hyde, a woman of immense grace and compassion, lived such a life, and it is in the spirit of the joy and love she gave that I join my colleagues in honoring her.

We all know what a professional she was in her work at the White House, and the dignity she accorded all people. We know her reputation for having a sympathetic ear and, in fact, many of us have benefited directly from this talent of hers for listening to the concerns of others.

But what I especially love and what both Karen and I will so miss is the fun-loving lady Jeanne was. What a pleasure were our trips with the Hydes, and it will always be with a smile that I recall the laughter so easily shared.

She had a way of putting you at ease and a special gift for making you feel at home. It was easy to feel close to this loving individual, to relax in the presence of one with such goodness of heart.

When such a rich legacy of memories and good deeds are bequeathed to those of us left behind, it is a source of comfort, and I hope her family will feel the warmth and consolation we extend to them today. We share in their loss of this wonderful lady.

Mr. ROSTENKOWSKI. Mr. Speaker, Jeanne Hyde was a lady of grace and compassion: a woman who cared deeply in her heart for people everywhere.

As a friend and colleague from Illinois for many years, I always looked forward to seeing Jeanne and HENRY together. Jeanne had remarkable strength and courage. Her warm and uplifting personality, charming smile, and cheerful manner brightened up a room.

Jeanne will be sorely missed. LaVerne and I join the thousands of friends and family in wishing our sincere condolence.

Mr. MILLER of Ohio. Mr. Speaker, I would like to join with my many colleagues in the House of Representatives in this special order to remember Jeanne Hyde who passed away recently.

Jeanne and our dear friend HENRY HYDE were married for many years and those of us who have served with HENRY came to know them both well, and to respect them for the countless contributions they have made to our Nation and to the great State of Illinois. This fine woman was lost to cancer, though she dealt with it courageously and with willpower and determination that reflected her strong spirit and her sound faith.

Jeanne Hyde will be greatly missed. At this time and on this somber occasion, I want to extend this personal expression of sympathy to HENRY and his family on behalf of myself and my staff.

Mr. ROE. Mr. Speaker, it is with great sadness in my heart that I rise today to join my colleagues in a tribute to Jeanne Marie Hyde, the wife of our good friend Representative HENRY HYDE of Illinois, who recently passed away.

Jeanne Hyde was an extraordinary woman who devoted her life to loving and caring for people. That compassion was particularly expressed during the time she worked in the White House as a Presidential aide in the Office of Public Liaison and Office of Correspondence.

At the White House, mail would come with last requests from sick children and grieving parents of slain servicemen. Jeanne, who was lovingly referred to as "Mama" by those who worked with her, always had the right healing words to respond to those who so desperately needed comforting.

Jeanne's graciousness enamored her to all who knew her. She was always able to add a touch of humor to any situation, whether she was dealing with the President of the United States or the housekeeping staff at the White House.

She was born Jeanne Marie Simpson on May 25, 1925 in Bridgeport, CT. The family soon after moved to Arlington, VA, and it was while Jeanne was a student at George Washington University, that she met a young student named HENRY HYDE who was attending crosstown rival Georgetown University.

Following their marriage, HENRY and Jeanne moved to Illinois where they raised three sons and a daughter. After HENRY's election to Congress in 1974, they moved the family to the Washington area.

Jeanne Hyde was a loving wife and mother. She was a friend who will be sorely missed. I would like to extend to HENRY and his family my sincerest sympathies on their great loss.

Mr. CRANE. Mr. Speaker, sadness envelops each of us who understands the great loss of our friend and colleague from Illinois, HENRY HYDE. A week ago yesterday, HENRY lost his wife, and our friend, Jeanne. The Lord was kind in taking her from us when He did, bringing to a conclusion her painful, losing battle to cancer.

We also wish to extend our sympathies to the children of HENRY and Jeanne—Henry, Jr., Laura, Robert, and Anthony.

Jeanne Hyde was a kind, loving wife and mother. She was also a lovely, gracious lady.

And she was vivacious as she illustrated with her membership in the Republican National Women's Federation of Illinois, the Republican Congressional Wives Club, the Park Ridge, IL Women's Republican Club, and the

International Neighbors Club, No. 2, here in Washington.

HENRY HYDE has lost a kind, loving partner. We have lost a fine friend. She will be missed by all who were fortunate enough to know her.

Mr. LAGOMARSINO. Mr. Speaker, it is with great sadness that my wife Norma and I join the other friends of the Hyde family in extending our prayers and expressing our deepest sympathies for the untimely loss of Jeanne Hyde.

We've known HENRY and Jeanne for years. Yet, it often seems that only at sad times like these do we pause to really reflect on the strength and personal contributions such wonderful friendships provide. Norma and I are honored to be friends of the Hydes and know that the loss of such a caring, loving soul leaves a void in so many lives, including ours.

Like HENRY, Jeanne loved life—beginning with the youngest, unborn child all the way through until the time the good Lord chose to join Him in His kingdom. I know that this generous, bright spirit coupled with her strong faith gave Jeanne and her family the personal strength and courage to face her difficult illness and the suffering it caused.

While words can never truly express our deep feelings, by fondly remembering Jeanne's celebration of life before her untimely departing from this Earth, we are left with happy, loving memories, which will give us lasting strength and spirit, especially when the chips are down, of just how glorious life is and how important friends are.

HENRY, we share yours and your family's grief and hope you will never forget that we are always here as your friends. God bless you, Jeanne and your family.

Mr. SENSENBRENNER. Mr. Speaker, it is with sadness and deep regret that many of us in this body rise to pay tribute to a wonderful lady—Mrs. Jeanne Hyde. The words most often associated with her are "grace" and "compassion," and with those I wholeheartedly agree.

Just a quick glimpse of her professional life attests to her unselfish spirit. From her work in both the Reagan and the Bush White House, to her memberships in various national and local groups, Jeanne was an inspiration to those around her. A devout Catholic, Jeanne also consistently showed her love for God and others.

Through my work with HENRY on the Judiciary Committee, I saw the strong partnership HENRY had with Jeanne. Whether taking care of the children or supporting HENRY, Jeanne demonstrated both strength and gentility. She delicately balanced the rigors of professional life with the demands of caring for their family; yet, she still made time for friends.

Although I can only begin to sympathize with HENRY and the family regarding the magnitude of this loss, I must express the personal loss my wife Cheryl and I feel not having her gracious presence either in front of or behind the scenes. Those who crossed her path will miss her.

Mr. MINETA. Mr. Speaker, it is with great sadness that we note the passing of Jeanne Hyde, wife to our distinguished colleague and my very good friend, Congressman HENRY HYDE of Illinois.

I met Jeanne Hyde when I met her husband: when he and I were first elected to the House in 1974. Since then, I have come to know Henry and Jeanne as two of the finest individuals in Washington, each committed to building a better America.

Together, the Hydes have worked tirelessly in public service. Henry, as a Member of this body; Jeanne, as a Presidential aide in the White House Office of Public Liaison and the Office of Correspondence in both the Reagan and Bush administrations. And together, the Hydes have raised a wonderful family, including four children and five grandchildren during their 45 years of marriage.

Mr. Speaker, it is always difficult to say goodbye to someone who has had such an impact on our lives and the life of our Nation. But it is important that we do take the time to do so. And so, it is a privilege to remember Jeanne Hyde today for the strong individual she was, and for the love and support she gave to our colleague.

I join with my colleagues in tribute to Jeanne, and in extending our condolences and best wishes to Henry and their entire family.

Mr. MAZZOLI. Mr. Speaker, it is with sadness in my heart that I rise to join my colleagues in paying tribute to Jeanne Hyde, our colleague HENRY HYDE's beloved wife of 45 years, who died July 28 following a long and difficult battle with cancer.

She was a woman of compassion, wit, charm, and sensitivity. She will be mourned widely here in the Capitol, back in Illinois, and across the Nation.

Jeanne Hyde's legacy will live on in all the people she helped in their time of greatest need and in the work of her husband, in which she was an active, indispensable partner.

In this age when public persons do not always set high examples for ethics, decency, and compassion, Jeanne Hyde shattered these bad images and characterizations. Not only in her work as a White House aide, but in her contributions of time and effort to charity and church causes, Jeanne Hyde showed herself as the kind of woman who helps those around here, friends and strangers alike.

Through my long service with HENRY HYDE on the Judiciary Committee and on other matters, I have known both the HYDE's as friends. HENRY HYDE has shown courage and grace in his professional life even as his personal life has gone through this time of grief. "Grace" is a word that has been used time and again to describe Jeanne. This word is very appropriate, because Jeanne was graceful about her entire life, with her last time not any different.

The United States will miss Jeanne Hyde for her tremendous public service, but the people who knew her will miss her even more deeply because of the exemplary person she was. Everyone, in fact, will miss Jeanne Hyde in some sense, because she was the kind of woman who made our world a better place for all.

Finally, I would like to extend an expression of sympathy to HENRY and his family on behalf of myself and my staff.

GENERAL LEAVE

Mr. FISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order on today.

The SPEAKER pro tempore (Mr. PAYNE of Virginia). Is there objection to the request of the gentleman from New York?

There was no objection.

C-SPAN COVERAGE OF CONGRESS

(Without objection, Mr. DORNAN of California asked and was given permission to address the House for 1 minute.)

Mr. DORNAN of California. Mr. Speaker, I just wanted to address the House for 1 minute to say that our excellent Speaker is arriving in the Chamber at this moment to claim his time for a previously requested unanimous consent on a special order, and to say that as soon as his special order is over, that one of the amazing things that has developed in our country to educate American citizens and our Government is the C-SPAN coverage paid for by all the cable organizations around America of the proceedings of this House.

I might tell the Speaker that as soon as you call for adjournment, I will be over in the C-SPAN studios taking call-ins from all across America, from Alaska to the Virgin Islands, from Puerto Rico to Hawaii, and they will probably discuss the gentleman's special order with me, so make it good. I look forward to the special order.

SETTING THE FACTS STRAIGHT ON THE 1992 ELECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I wanted to talk about the 1992 election and setting the facts straight, because I think this is going to be a fascinating process in the next 90 days as the American people attempt to decide about their own future, their children's future, and their country's future.

Mr. Speaker, I have been getting a number of press calls that I find sort of fascinating in that reporters will call and they will say, "What is going to happen now and exactly what is going on?" And the implication is that somehow a country which in January we were told that Bill Clinton had been knocked out of the race, in February Paul Tsongas was almost the nominee, in April and May we were told that Ross Perot would be anointed President almost without an election, and by late July, Bill Clinton was clearly going to be elected, that now somehow the election was over.

I keep trying to suggest to my friends in the news media that, in fact, the general election campaign is only about to begin, and that a general election campaign, at its best, is about voters informing themselves, studying the candidates, and making decisions about their future, their own future, their children's future, and their country's future.

I think that there are four basic messages, and I think that these are messages that I would be delighted to discuss at some point with Democrats, because I think they go to the core of what the decision should be in terms of setting the facts straight.

We have had an awful lot of coverage that was, I think, a facade, that was not, in fact, factually correct. I think that we have to face these four facts. The first fact is that President Bush and the Republican Party have been proposing for 4 years now a series of reforms. Some of the reforms are in areas that directly affect every American.

We have proposed, for 4 years running, an economic growth proposal which would create private-sector jobs. President Bush suggested it in 1989, in 1990, in 1991, in 1992. I know that I personally attempted to bring it up on the floor of this House three times in the last year, an economic growth proposal based on the private sector, designed to create jobs. In each of these occasions the Democrats blocked everything that was proposed.

I know that we fought last year for criminal justice reform so that we could deal more effectively with felons, with murders, with rapists, with armed robbers, and with murders and with drug dealers.

I know that the Republicans have proposed a health care program, the Action Now Health Care Program, a program based on the free market, based on market incentives to lower the cost, based on malpractice reform to lower the cost of Medicare and Medicaid, and to lower the cost of medical care in general, a health care program that includes a medical savings account, or Medisave account, which would give every working American an incentive to have less redtape, to have more preventive health care, more focus on wellness, and to have more caution about spending money; and the medical savings account, I think, is the most exciting new idea which has been developed in the health area.

We had a whole series of ideas put together in a bill called the Action Now Health Reform Plan, which is currently being blocked by the Democratic leadership.

We have a bill on welfare reform, a proposal to have work requirements, a proposal to have learning requirements, a proposal which would limit the amount of time any American could spend on welfare as an adult to a total of 4 years over their lifetime and say, "Look, we are not going to accept two and three generations living on welfare in the future. We are going to make welfare a transition program," what it was under Franklin Roosevelt and what it should have remained—blocked, unable to bring it to the House floor.

We strongly favor a constitutional amendment to require a balanced budget. It was opposed by the Democratic ticket, the Democratic Presidential nominee, who said that it would restrict, and I quote, "It would restrict spending too much," and yet, of course, almost every American wants Washington to restrict spending, and one of the major complaints I run into back home in Marietta, Alpharetta, and in Roswell is a complaint that Congress spends too much, that people in Washington ought to control spending, and so we strongly support a constitutional amendment to require a balanced budget. It was blocked by the Democratic leadership.

□ 1810

We have an educational reform program, building on the very sound ideas of former Secretary of Education Bill Bennett, developed now by Secretary of Education Lamar Alexander, a number of new ideas, new proposals; the America 2000 Program designed to open up, to experiment, to create 21st century schools, to have new approaches in education so our children can compete with German and Japanese children.

The fact is that most of those educational reforms are being blocked by the Democratic leadership.

On front after front, the fact is, and I think I can produce over the next few weeks date by date when the President sent up a reform proposal, when it was sent to committee, when it was blocked in committee, when it was blocked on the House floor, if it was ever allowed to even get to the House floor, and I think the first fact that will define the 1992 election choice is that for 4 years President Bush and the Republicans have been developing a reform program and in fact that reform program covers virtually every major area the American people are concerned about.

The second fact, as I said, I think there are four, is that the Democratic Party has become a block everything party, that as the liberal welfare state has decayed, as the interest groups, the public employee unions, the trial lawyers, the leftwing activists become more and more reactionary, more and more opposed to reform, that the track record of the Democratic Congress has been to block virtually every reform.

Jack Kemp's ideas to develop better opportunities for poor people to own their own homes in the inner cities, blocked in the Democratic Congress.

New proposals to have a real opportunity to create jobs, $5,000 tax credit for first-time home buyers to help create jobs, blocked by the Democrats in Congress.

Again and again, for reasons that are either ideological or interest groups or partisan, we have found the Democratic leadership organizing and working very hard to block reforms desired by the American people. That would be my second fact.

If fact No. 1 is that President Bush and the Republicans have been developing very specific, very real reform proposals, fact No. 2 is that the Democratic Party which controls Congress has been blocking those reform proposals.

I thought it was fascinating, if you think about the difference between facade and fact, look at the facade of the Democratic Party going to New York City, taking a tremendous number of Democratic Members of the Congress with them, one of whom was telling me today how much fun he had playing golf, but then avoiding putting the Speaker or the Democrat majority leader of the Senate, those who are in a position of power in a position to speak.

The fact is that the Democrats have controlled the House since Bill Clinton was 7 years old and AL GORE was 6 years old; that is right, from the time they were in the first grade until they became a Presidential ticket, the Democratic Party, their party, has controlled the House, and yet do you hear any talk about reforming the Congress, any talk about the responsibility for the weak economy in the Congress, any talk about the responsibility for too many lawsuits and too much litigation in the Congress?

No, because the facade the Democratic ticket would like to maintain is that they are somehow brand new and different and somehow they will change things from the current structure of leadership, which has in fact been in charge since 1954.

The third fact after the Bush and Republican reforms and the Democratic Congress is blocking everything, is that the Democratic ticket if it were to be elected would bring about real change, but it would be change, frankly, which would be very destructive for most middle-class working Americans.

The fact is that it would be wrong for America to build a bigger welfare state, to transfer more money to big city machines and their unionized bureaucracies with incredibly inefficient and sloppy work rules, that it would be wrong to raise taxes on working Americans and transfer the money to Government, that it would be wrong to dramatically increase foreign aid and send billions of additional dollars to Third World dictatorships that are corrupt and inefficient in many cases, that it would be wrong to increase the power of the trial lawyers, and that it would be from the standpoint of the values of most Americans wrong to have a dramatic increase in the number of liberal judges and the number of judges who are antideath penalty and who are committed to very liberal interpretations, including in many cases quotas and other kinds of values which most Americans disagree with; and yet the fact is that the Democratic ticket would in fact impose and pass with the help of the Democrats in Congress precisely those proposals which would be wrong.

In fact, I would argue that America cannot afford the Democratic ticket.

I would suggest that the Democratic ticket in its proposal for a $150 billion tax increase by itself has proven it is too expensive. That is almost twice the amount of money Walter Mondale promised he would raise in taxes in 1984.

It is a sign of how much the world has changed that 8 years ago when former Vice President Walter Mondale stood up in the Democratic Convention in San Francisco and said, "I promise I will raise your taxes."

The amount he was talking about was about $80 billion.

Now you have a Democratic ticket which has promised to raise taxes by $150 billion. That is $70 billion more than Walter Mondale promised, almost twice as much.

I think one of the most fascinating aspects of the news media miscoverage of this campaign so far has been the effort to paint the Democratic ticket as moderate. Here is a ticket which is promising twice as big a tax increase, for all practical purposes, $150 billion compared to $80 billion, as Walter Mondale who everyone accepted was a big spending, big taxing liberal, and yet we are told that a Democratic ticket that wants a $150 billion tax increase is somehow moderate.

Makes you wonder about how liberal the person is who writes that or reports it.

Second, while Democratic candidates love to talk about taxing millionaires, let us look at what the Democratic ticket has talked in print in the Vice Presidential nominee's book about raising taxes on it. They have talked about raising taxes on gasoline. Well, to the best of my knowledge in America lots of folks other than millionaires ride cars, ride trucks, ride to work and a gasoline tax increase is one of the most unpopular tax increases in America, and yet it is the very first thing mentioned in the Vice Presidential candidate's new book.

They talk about raising the tax on fuel oil. Again I would suggest, fuel oil, at least for those folks who are in northern climates where they worry about the winter, is often seen as a necessity. A tax increase on fuel oil does not just hit the rich, it hits every American.

They talk about raising taxes on electricity. To the best of my knowledge, certainly in Georgia, millions of people who are hardly millionaires use electricity. They use it for their lights, their ovens, their microwaves, their television, their air-conditioning, lots of things people use electricity for who are not exactly millionaires.

They talk about raising taxes on natural gas. I know many people, including myself, who may cook with natural gas.

You go through the items, gasoline tax increase, the Democratic ticket favors it.

Increase the tax on heating oil, the Democratic ticket favors it.

Increase the tax on electricity, the Democratic ticket favors it.

Increase the tax on natural gas, the Democratic ticket favors it.

Increase the tax on coal, the Democratic ticket favors it.

I wonder in West Virginia, in southern Illinois, in Pennsylvania, western Pennsylvania, how many folks are going to be excited in parts of Kentucky, West Virginia, how many folks are going to be excited by an increased tax on coal?

In Oklahoma, California, Texas, even in Arkansas where there is a good bit of natural gas, Louisiana, how many folks are going to be excited by the opportunity to have a tax increase on oil and on natural gas?

Everywhere in America where people ride to work, but especially in rural America, where people are going to ride very long distances in their pickup trucks or in their vans, how excited are they going to be by the Democratic ticket's promise of a tax increase on gasoline?

Now, I do not believe we can afford the Democratic ticket; but when you look at what they are going to use the tax increase for, I think it becomes even less affordable.

The fact is the Democratic nominee went to the Democratic big city mayors in a public speech and promised them $50 billion more than they have currently. They had asked for $35 billion. He actually offered them $15 billion more than they asked for.

I do not know how many Americans believe that New York City is so well run, so efficient, so reformed, that its bureaucracy is so trim and so lean that we need to raise taxes on every working American, to send more money to the Democratic mayor of New York and the Democratic machine.

I do not know how many people believe that Detroit or Philadelphia are so well run that we need to send more money, or for that matter that Atlanta is so well run that we need to raise taxes to send more money to the big cities.

□ 1820

I do believe the big cities could be reformed. I do believe we could apply the same kind of restructuring, the application of technology, quality, good management that is affecting IBM, Ford, General Motors, and virtually every manufacturing company.

If we apply those ideas of restructuring to the governments, the Federal Government, the State governments, big city governments, we could save an amazing amount of money and would not have to raise taxes.

But that is probably an idea which the Democratic ticket's strong supporters in the Federation of County, State, and Municipal Employees would find very, very unacceptable. I notice that when the Democratic Presidential candidate visited the public employees union, he promised that he would not cut jobs in the cities. He talked about cutting jobs in Washington, but not in their cities and not amongst their union members.

Now, I do not think we can afford that. But then when you look at the Democratic Vice Presidential nominee's suggestion that we need to dramatically increase foreign aid to Third World countries, it makes you sort of wonder. Most Third World governments would not be able to spend the kind of money that the Democratic Vice Presidential nominee suggests.

Our record of transferring money from our bureaucracy to their bureaucracy does not exactly encourage people to believe that the money will be well spent.

So, whether you take the appointment of very liberal judges, judges who would have presumably been acceptable to Jesse Jackson and Teddy Kennedy, whether you look at the kind of tax policy that would raise taxes—and by the way, I believe it would kill jobs, I believe the Democratic tax increase program would deepen the recession, would kill over 1 million jobs and would actually put more Americans out of work and make our economic problems even worse—or if you look at the programs of strengthening and propping up the big city bureaucracies on site after site after site, I believe the fact, No. 3, is that we cannot afford the Democratic ticket and that measured by values or measured by pocketbook, the American people need to look very carefully at the Democratic ticket before the think they can vote for it.

If I may use a simple analogy, I happen to have a weight problem, a constant weight problem, constantly trying to lose weight. I like ice cream too much. I feel I can identify with particularly the baby-boomers, getting a little older, we want to lose weight. "Dr." Bush, our President, has not really gotten to our problem as well as we would like. So we are uncomfortable. We do not think we are on the right track, and we are frustrated.

Now, a large part of the reason that "Dr." Bush has not been able to help us as much as he would like or we would like is because the block-everything Democratic Congress has been blocking a lot of the medicine that "Dr." Bush would like us to have. But nonetheless, he has not gotten it done.

So we look at this new team: Two young, eager doctors who are terrific, with their house-call manners, they are genial, pleasant, make us feel good, and they have a way to get us to lose 25 pounds, instant 25-pound loss.

They do not tell us the details. They do not want us to look at the details. But they come in and say, "Bet you want to feel better; got an idea for you. You trust us, vote for us, and you will feel better."

Now, the prescription is, frankly, they cut off your right leg. It is true you lose weight, but it is not exactly what you had in mind. They do something you would not have done voluntarily. Now, basically, the Democratic ticket's battle plan is to smile and cheer and attack George Bush and get through the election without telling any details about what they are going to do.

For example, it would be fascinating, the first time people ask the Presidential candidate about the Vice Presidential candidate's proposal to raise the gasoline tax. It will be intriguing the first time we look at the $150 billion tax increase on the ticket and start asking individual Members of Congress, "Are you going to vote for a $150 billion tax increase?"

It will be interesting to look at the fact that the Democratic Presidential candidate has already named one potential Supreme Court judge he would name, a man who is deeply opposed to the death penalty. The question is asked: Why are you going to put on the Supreme Court somebody who is deeply opposed to the death penalty? And is this a little bit like Jerry Brown with Rose Bird in California, something that changed the whole nature of the California Supreme Court for a decade?

And I think you will find that the Democratic ticket is not going to particularly want to stand up and say, "Yes, these are our values; yes, these are our plans; in fact, this is what we are going to do." Their hope is that if they can keep people angry enough at Bush for the next 90 days, that people will not notice that the Democrats have controlled the Congress for 38 years and people will not notice that the values and the programs of the Democrats are in fact, as a ticket, going to be very destructive to working middle-class Americans.

Nor will the Democrats want to talk about the Democratic Budget Committee chairman's proposal which has built into it an automatic tax increase for middle-class workers, a tax increase which, if we had a Democratic President and a Democratic Congress, and if that Democratic President and Democratic Congress had the same economic track record as the last Democratic President and Congress, it would mean a 79-percent increase in the taxes paid by a family of four at $30,000 a year; 79-percent increase over a 4-year period if in fact the next Democratic President matches the Carter years in inflation and in the increase in tax rates on the middle-class family.

Now, they also will not want to talk about the Democratic Budget Committee chairman's proposal for a cut in the social security matter. Yet it is right there. It is a bill introduced in the Congress. It is real, and it is available right now for anyone who wants to look at it. But I do not think you are going to see the Democratic ticket telling you about those kinds of details.

So, if point one was the President, President Bush, has been sending reforms to the Capitol for 4 years, that we can verify them, we can show you the dates, we can show you the bills, we can show the specific reforms; and if point two is that the block-everything Democratic leadership has blocked those reforms now for 3½ years; if point three is that the Democratic ticket in fact represents a direct threat to your pocketbook, a direct threat to your jobs and direct threat to your values, let me now come to point four.

Point four is that there is a Republican plan of action for the first 90 days of 1993. Congressman BOB MICHEL, the Republican leader in the House, has already said that he is prepared the very first day he is sworn in as Speaker, after 18 years of one-party Democrat control, he is prepared the very first day to cut the congressional committee staffs by 50 percent, to abolish four select committees, and to pass a bill the first day that will apply to the Congress every law which applies to the rest of the country. That is right, it will actually mean that the country will at that point be able to look at Congress and know that Congress is in fact going to obey the same rules.

There is a fascinating article this week in Roll Call, where Congressman JOHN BOEHNER, Republican from Ohio, asked OSHA to come in and talk about what is wrong with his office. If they applied to his congressional office the same standards they apply to a small business, what would happen?

It is a wonderful article. I wish I had it with me. I would on a future evening encourage Congressman BOEHNER to come over and to share it with his colleagues and with the country because the Occupational Safety and Health Administration, as their inspectors looked at a congressional office, they found an office that would not pass inspection compared to any small business.

Yet, today Congress is exempt from precisely those requirements. And so I want to suggest that what Congressman BOB MICHEL is guaranteeing, which is that on the very first day as Speaker, after 38 years of Democratic control, he would vote to cut the congressional committee staff by 50 percent, abolish four committees, and apply to Congress every law which applies to the rest of the country, that is the kind of change the American people want, and frankly if the Democrat wanted to make those changes, they could bring them to the floor tomorrow and pass them. But they do not want to make those changes. They want to block those changes. And they have been blocking them.

Second, the Republican team is committed to passing an economic growth proposal to create jobs in the first 90 days of 1993, a proposal which has been blocked by the Democratic leadership. The Republican team is committed to passing a significant health reform bill which will dramatically improve access to health care and lower the cost of health care in the first 90 days of 1993.

The Republican team is committed to passing workfare reform and learnfare reform to replace the current welfare system with a new transition program that breaks the cycles of welfare and breaks the attitude that you can get money for doing nothing.

The Republican team is committed to passing in the first 90 days of 1993 a very strong educational reform bill to open up the system to real innovation and real change so our children can compete in the world market.

The Republican team is committed to passing in the first 90 days a balanced budget constitutional amendment. Unlike the Democratic leadership, which blocked the constitutional amendment and convinced 12 Democrats who had cosponsored the amendment to turn their back on the bill they cosponsored and vote against it, the Republican leadership would be committed to passing a constitutional amendment to require a balanced budget in the first 90 days of 1993 and send that constitutional amendment to the State legislatures to be adopted in 1993. And we would be committed to passing a 4-year budget which would allow the President to control spending, bring spending under control and give the President a chance at the line-item veto, to be able to cut out wasteful spending so over a 4-year period of the next Presidency we would get to a balanced budget, to match the constitutional amendment to require a balanced budget.

□ 1830

Mr. Speaker, I say to my colleagues, "These are the kind of specific, real changes, changes which help the American pocketbook, they don't hurt it; changes which lower taxes, they don't raise them; changes which cut spending, they don't increase it; changes which fit the values of the American people, they don't run over the values of the American people. These are the kinds of changes that a Republican team, if it were given control of the House, and the Senate and the White House, would be willing to pass before Easter of 1993."

So, in summary, Mr. Speaker, there are four simple principles as we look at the 1992 election:

First, it is a fact that President Bush and the Republicans have sent up a number of reform proposals; second, it is a fact that the Democratic leadership has blocked those reform proposals and, in numerous cases, blocked them for 4 consecutive years; third, it is a fact that the Democratic tickets and platform would raise taxes, raise spending, increase the deficit, and establish left-wing values in our court system and our public policy; and, fourth, it is a fact that there is a Republican team which has already pledged that, if it is given control of both the legislative and executive branches, that it will in the first 90 days dramatically change things, change Washington, and in fact establish the kind of reforms that most Americans want.

I hope that as the American people watch this Presidential campaign, as the American people look at the effort to develop new proposals, that they will measure the two tickets against facts, that they will look beyond personality.

I am not asking anyone to vote Republican. I am asking people to vote for themselves, their children, and their country. I am asking people to look carefully at the facts and then decide what they think should be done.

HOUR OF MEETING ON TOMORROW

Mr. HOYER. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 9 a.m. on tomorrow.

The SPEAKER pro tempore (Mr. PAYNE of Virginia). Is there objection to the request of the gentleman from Maryland?

There was no objection.

THE SITUATION IN YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 60 minutes.

Mr. HOYER. Mr. Speaker, we watch daily—with frustration, anger and horror—as shells and bullets rain down on the people of Sarajevo and elsewhere in Bosnia-Hercegovina, flooding their beleaguered communities with blood and rubble. It seems that no group—including a busload of orphaned children attempting to flee the fighting—has been excluded as a target of the perpetrators of this violence.

Bosnia-Hercegovina once encapsulated perhaps the grandest blend of Europe's diverse cultural heritage. Today, it is the most recent setting for the extreme hatred and intolerance that has all too frequently exploded with violence on the European stage over the centuries.

America and the rest of the world are now contemplating what action can be taken to stop the bloodshed—which Bosnian Foreign Minister Haris Silajdzic has described to me as a Serbian attempt at ethnic cleansing. This is a question for which there are no easy answers. Should we intervene directly and forcefully with a multilateral and limited peacemaking effort?

There are certain risks with any direct involvement, but they must be weighed against our country's strong national interest in peace in the Balkans, as well as our moral obligation as a world power to take effective action when masses of people are being so senselessly slaughtered. The alternative to the use of military force, it seems, is to stand by and watch as the combatants annihilate each other and thousands of innocent people in their way.

Putting aside these difficult questions for the moment, I believe there is one step we can immediately take to punish those individuals who, under the veil of war, have committed unspeakable atrocities against innocent men, women, and children throughout the former Yugoslavia: we can hold them personally accountable for their crimes against humanity.

President Bush and the leaders of 50 other member States of the Conference on Security and Cooperation in Europe reaffirmed their commitment to this principle at last month's summit in Helsinki. With the carnage in Bosnia growing more horrific each day, and the prospects of a negotiated cease-fire faltering, we should act now by launching an international effort to investigate violations of international legal standards in the former Yugoslavia.

We should seek to detain those held responsible for crimes against humanity and establish an international tribunal where they could be tried and given commensurate punishment if convicted.

The tribunal could be set up under U.N. auspices, perhaps with the assistance of the European Community, the Council of Europe and the CSCE.

There are sufficient and appropriate international legal grounds to prosecute the perpetrators of Bosnia's agony: the post-World War II Nuremburg Charter criminalizes crimes against peace, the planning, preparation and initiation of a war of aggression; war crimes, the murder of prisoners of war and innocent hostages, plunder of property and the wanton destruction of cities, towns and villages; and crimes against humanity, murder or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds linked to crimes against peace or war crimes.

The so-called fourth Geneva Convention, which provides for the protection of civilians in times of conflict or occupation, is also relevant in this regard. This convention prohibits the wilful killing, torture or kidnapping of innocent civilians, as well as extensive destruction or appropriation of property not justified by military necessity and carried out unlawfully and wantonly.

It also bars individual or mass forcible transfers, as well as deportations of protected persons from occupied territory, regardless of the motive.

In addition, the Genocide Convention provides for the punishment of those who commit acts intended "to destroy, in whole or in part, a national, ethnic, racial or religious group * * *", regardless of whether these perpetrators are "constitutionally responsible rulers, public officials or private individuals."

Tragically, the crimes I have just listed are being carried out against the people of Bosnia, and have taken place in the last year in Slovenia, Croatia and in Kosovo.

I cannot list here, Mr. Speaker, all of the suspects for whom investigation and arrest would be warranted. But certainly first on the list of suspects is Serbian leader Slobodan Milosevic, who seems most responsible for the bloodshed, repression and anguish that have shocked the world and left Europe paralyzed with fear and indecision.

Other members of Serbia's Government also deserve priority investigation for their activities, as do individuals suspected of committing international crimes as members of paramilitary groups; the Yugoslaw Army; the Serbian police; Croatia's police and army; and even Muslim military units.

Groups such as Helsinki Watch and Amnesty International have been seeking to document these abuses, and the results of their efforts could be of invaluable assistance.

Also put to use should be evidence the U.N. peacekeeping forces claim to have regarding militants who, in breaking agreed ceasefires, have committed the hideous act of attacking civilians of their own ethnic group to make the opposing side appear as the culprit.

The United Nations, the European Community and the International Committee of the Red Cross may have evidence of who attacked their clearly identified personnel, vehicles and convoys in violation of specific provisions of international obligations.

There are undoubtedly many witnesses to these crimes among the more than 2 million refugees and displaced persons this war has created.

Some may scoff at any proposals not backed up by force. And of course, Milosevic and his henchmen are not going to surrender or be easily brought to trial. But we must at least brand war criminals with the label they deserve. We have an obligation to their victims, both the dead and the living, to send a message all over the world that waging war against civilians will not be forgiven nor forgotten.

Mr. Speaker, we need to undertake this effort because where there is not justice, vengeance will most certainly reside. The level of violence we have recently witnessed in the former Yugoslavia is unprecedented since World War II. In fact, the atrocities which have been committed against civilian populations during this conflict invoke horrifying memories of Adolf Hitler's holocaust.

These atrocities will no doubt pass on a desire for vengeance to new generations that otherwise might have proceeded to build free and prosperous societies. Thus, without giving them both the satisfaction—and the deterring example—of justice now, we can be virtually assured that there will be more violence in the future.

Finally, Mr. Speaker, I would like to praise the Democratic Presidential candidate, Governor Bill Clinton, for his well thought out plan for the former Yugoslavia.

Governor Clinton has called for a tightening of the economic blockade against Serbia and Montenegro, granting authority to United States and European naval forces to search ships that may be carrying contraband, and making a determined effort to convince neighboring states to abide by the embargo.

Finally, Governor Clinton states that if the Serbs persist in violating the cease-fire, America should take the lead in seeking U.N. authorization for air strikes against the attackers.

Although a Bush administration spokesman—in a partisan mode—labeled Mr. Clinton's plan as reckless, Secretary of Defense Cheney has actually endorsed some of the same ideas. I believe it is time to implement these ideas.

□ 1840

Mr. Speaker, it is time to act. Indeed, it is far past the time to act.

Mr. Speaker, I am pleased that as Chairman of the Helsinki Commission I had the opportunity of discussing with Mr. HAMILTON, Mr. FASCELL, the chairman of the Committee on Foreign Affairs, and others deeply interested in this question, actions that we can take in the short term and in the long term.

Our President acted decisively in exercising leadership when Saddam Hussein, who was likened to Hitler by the President, invaded Kuwait in violation of international law. International law is daily as recklessly and egregiously being violated in Bosnia, Croatia, Kosovo, and other areas, to the detriment of millions of people who live in that region.

Let us together in a bipartisan fashion stand up and say that we will hold culpable and accountable those persons who murder and pillage in the name of either nationalism or some other political goal. Let us together in a bipartisan fashion, acting together within the international community, bring to a halt the carnage that is the former Yugoslavia.

NEW COMMITMENTS TO AMERICA NEEDED

The SPEAKER pro tempore (Mr. PAYNE of Virginia). Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, Congress will adjourn, recess certainly, next week, on August 13, or before. We will return in September for between 30 and 45 days to complete this session. But this is an election year and something special ought to be made to happen between now and the time we adjourn.

This is an election year. All of the Members of the House of Representatives are up for reelection and one-third of the positions of the Senate are up for reelection. Of course, most important in this 1992 election year, the President and the Vice President are up for election. The least we could do in this remaining period of time before the Congress adjourns is to make some commitments to the American people, to the voters, that are substantial and are in response to their expressed anger or their expressed concerns.

Commitments should be made before the adjournment. Whether we can follow through on those commitments or not we cannot guarantee. We have an executive branch, we have a legislative branch. Nobody can guarantee that we are going to be able to deliver, but at least the commitments ought to be made and they ought to be clear before the voters go to the polls in November.

I think the voters have acted in a very magnificent way. The American voters have proven once again that they are the most intelligent people on the face of this Earth. Our voters have demonstrated that they have a certain bedrock intelligence, an enduring common sense, that knows long before its leaders know that something is radically wrong, that the Nation is on the wrong course, that things are topsy-turvy in Washington, and in many places we are doing exactly the opposite of what we should be doing.

So the voters should not be ignored. The leaders should not turn their backs on the obvious, that the voters have indicated with their common sense. Despite all of the hype and the public relations, sound bites, the continuing attempts to brainwash into believing that the economy is really not in trouble, that it is going to get better tomorrow, tomorrow, and tomorrow, the voters know better. The voters have expressed the fact that they understand we are in real trouble and we need some action, and we need it now.

The voters have indicated that they understand that we are about to enter what the President has called a new world order. It is perfectly fitting and proper that we talk about a new world order, because, after all, the evil empire is no more and the voters want to know what we are going to get as a benefit from the ending of the cold war, what we are going to get as we enter this new world order.

The voters have communicated their anger in general. They cannot be specific. They do not know everything that is wrong, but they certainly have let us know in numerous ways, and certainly the polls day after day show that they are very much dissatisfied with the status quo. They are dissatisfied not only with the executive branch of this administration, but they are dissatisfied with the leadership in Congress and Congress as well.

The message from the voters is they are human, that they can be fooled, they can be deceived for a long time. Maybe they have been deceived for more than a decade. But enough is enough. Now the voters say they want some meaningful, concrete action. The common sense of the American people has risen to the surface, and that common sense is what nobody in the White House can comprehend. Common sense is on the march. When common sense is on the march, all of the dissensions and the hype and the sound bites cannot turn it around.

□ 1850

The voters have let it be known that their attention cannot be diverted from bedrock bread-and-butter issues. The game is over; no longer play the game. The Olympiad of hypocrisy and public relations hype is over. We will no longer accept brainwashing by the sound bite or screaming from the bully pulpit.

We need substance. The voters demand substance. They have sent the message again and again to both the Democratic Party and the Republican Party, to both the Congress and executive branch.

It started in Pennsylvania, a clear message was sent with the election of HARRIS WOFFORD to the Senate, where the issue of health care, a national health insurance, something dramatically different from what we have now, the voters let it be known that they wanted it very badly.

It was the overwhelmingly decisive factor in an election for the U.S. Senate. The message was there.

But the administration, the executive branch wants to run away from that and ignore the voters. We do not want to make a commitment between now and the end of this session. The leadership of the Congress have indicated they want to play the issue, but they are not serious about dealing with what the voters have indicated.

The voters want a meaningful change with respect to national health care.

The voters want change with respect to the bedrock bread-and-butter issue of jobs and employment. The voters want us to stop talking about education and to go ahead and do something about education.

The voters' common sense tells them that there can be action now. There is no need to wait. There is no need not to make a commitment now.

The voters want the new world order to begin now. The voters want the benefits of ending the cold war to begin now.

Between now and election day in November, I want to say to all of the voters out there that they are right and they should not let anybody turn them around. Do not let anybody make them believe that their anger is not justified. No voter should allow anybody to make them believe that their common sense is not superior to whatever has been happening here in Washington.

Their common sense is on target. There is no reason why we cannot move right away to deal with the problems of unemployment and to create jobs in this Nation. There is no reason why the commitment cannot be made by both the Congress and the executive branch.

Certainly, it is too late now to jump-start the economy so that by November we see a difference of some magnitude, but why not make the commitment? Why not do what the voters know with their common sense has to be done?

If all else is failing and the marketplace is not providing jobs, then the obvious thing to do is for the government to provide the jobs. The Government must provide the stimulus.

We know already how it is done. Why are we waiting? We know already that we can stimulate the economy by spending more money for public benefits. We have numerous needs out there to be met.

We need highways. We need bridges. We even have a law, which is authorized, to address that. We can accelerate that law. Put more people to work.

The Intermodal Service Transportation Act is there. Why not take the steps to move it faster?

We know that we need dramatic improvements in our educational system. Part of those improvements relate to very concrete kinds of things like buildings. We need to build more buildings. Those buildings need to be equipped with lab equipment. Those buildings need libraries with books. Those buildings need all kinds of facilities which will have a ripple effect on our economy. Why do we not go ahead and begin to build schools?

Why do we not go ahead and begin to provide for books and laboratories and lab equipment and all the things that those schools need, spend the money, stimulated through a government funding process, and get the economy moving again?

We know we need it. Why do we not do it?

Health is an industry as well as a service. This Nation lags behind all other industrialized nations except South Africa in terms of the provision of health care to its citizens. Every other industrialized nation except South Africa and the United States has some kind of national health care program which covers all of their citizens.

Health is an industry which, if we begin to fund properly, will provide millions of jobs, millions more jobs and, at the same time, it will end the anxiety out there that so many of our citizens feel about health care for themselves, for their children, for their older parents.

The anxiety factor taken away would increase the productivity of our workers. The anxiety factor removed or lifted off the burdens of small businesses would enable those small businesses to hire more people and provide more jobs because they would not have to worry totally about providing the health care and other fringe benefits related to health that they must provide now.

The health care industry is an industry that would circulate and recirculate amounts of money within the local economy as well as the national economy. So why do we not move ahead with these three major concerns of the voters?

The voters have made it clear that they want a government that is willing to move ahead and make the difference in these areas. Why do we not move ahead? Why do we not at least make the commitment for a national health insurance program now, between now and November, the election in November, a national health insurance program which, if it does nothing else, makes a commitment, a commitment to cover every citizen between now and the year 2000?

If we have to spread it out, and I do not think we should, I think tomorrow, as soon as possible, every American citizen ought to be equal to every Japanese citizen, be covered with some kind of health care plan. Every American citizen ought to be equal to every citizen of Great Britain or every citizen of France or every citizen of Germany.

They ought to be equal to every citizen of Canada and have coverage for basic health care tomorrow.

We are the richest Nation in the world. Nothing like America has ever existed. It is not a problem of money, because we spend twice as much on our health care system as the Canadians spend on theirs.

Among the other industrialized nations, the Canadians have the most expensive, other than the United States. But whereas the Canadians spend a lot for health care, they cover everybody. Everybody is covered, and the per capita cost of their coverage is one-half of the amount of money we spend per capita in this Nation. And yet we leave 40 million people uncovered.

It is immoral for a nation as rich as the United States to not cover every citizen with some basic health care. It is immoral.

It would not be immoral for Haiti because Haiti does not have the resources. It would not be immoral for most of the countries of the world that are underdeveloped or developing. They do not have the resources. They cannot undertake it. But there is no reason why the United States of America cannot join the other industrialized nations and guarantee to every citizen that they are covered for basic health care.

It would not bankrupt the country. It would indeed improve the economy.

We have had a tremendous defense burden that we have borne in the interest of every American to protect every American. There is no reason why, with that tremendous defense burden lifted from our shoulders, we cannot move more immediately to shut down our defense apparatus in certain places where it is obviously no longer needed and to transfer these tremendous resources into activities like education, job creation, and, of course, health care.

Between now and the end of the session, between now and the election in November, I would like to see the Democratic leadership, I would like to see our party come forward and translate in more detail our party platform.

I am proud of the fact that we have a vigorous ticket running, proud of our candidates. I am proud of our platform. Its general language is certainly pointed in the right direction.

But the general language of the Democratic platform, including its revolutionary introduction, is not enough. The voters, all voters, everybody who is potentially going to go to the polls in November should demand that the Democrats as well as the Republicans spell out in more detail how we are going to address the concerns which the American voters have made it clear are on their minds.

□ 1900

They have certain clear-cut concerns. Among those concerns is health care. We want a more definitive statement on health care. We want a commitment from the Democratic leadership. We want a commitment from the Democratic candidates that every American citizen in going to be covered with some basic health care between now and the year 2000, at least. We want that commitment before the election.

No American voter should consider it unreasonable to ask that of any candidate. We have several health plans that are circulating here on the Hill. We have a plan which is called the single payer plan. Some people know that as the Russo plan, because it was introduced by my colleague, the gentleman from Illinois [Mr. RUSSO].

The single payer plan is the plan which is the closest to the Canadian health plan. The Canadian health plan, I think it is important for us to take a look at that, because they breathe the same air we breathe here in the Western Hemisphere. They are right next to us. They have a democratic government. They have a market economy. Their market economy is now intermingled with ours. Step by step we are breaking down all the barriers. Pretty soon there will be one market economy for both Canada and the United States.

If Canada is not afraid that a universal health care program will bankrupt them, then why should we be afraid? The Canadians have had universal health care for 20 years, 20 years, and it has not destroyed the economy of that country. The citizens, indeed, made that quite clear.

I was fortunate enough to go on a trip with members of the Committee on Government Operations headed by the gentleman from Michigan [Mr. CONYERS] to visit the Canadian health care providers and the government at every level; to hospitals, to clinics. We walked through the whole system. The people made it quite clear at every stage that the one thing you had better never try to take away from the Canadian people is their health care system. The one thing that would cause a revolution in the streets, the one thing that would cause them to overthrow the Government, would be an attempt to take away their health care system.

The most important thing they have, they say, the most important thing they receive from their Government is health care, a universal health care system. That health care system, again, provides coverage for everybody from the cradle to the grave, everybody.

The health care system has been in place for 20 years. It costs one-half as much as we spend per capita in the United States. There is no reason why every voter out there in America should not rise up and demand that between now and November. Everybody in Washington claims that they are interested in a democracy which is responsive and reflects the will of the people. There is no reason it cannot make a commitment to a health care system which covers every single American.

The Canadian health care system is not perfect. It is an ongoing situation which is being corrected and adjusted, but the commitment is there. It is not true that there is no choice in that system. There is a whole lot of choice. It is not true that people have to suffer because of the fact that they cannot walk in and get certain kinds of services. Their system is far more rational than ours.

People have to wait, sometimes, when in the judgment of the medical specialist they can wait, but nobody has to suffer the way that people in our system suffer who are not covered at all. Nobody has to walk away from a hospital because they cannot pay the bill. Nobody has to refuse to take their children because they do not want the bill to come later.

There is no dual system of health care in Canada, where Medicaid is second-class health care and doctors say, "Do not come to my door. I don't want Medicaid patients, because I don't give second-class health care. I can't afford to give care below cost."

We have created with the Medicaid system a second-class health care system and a second-class health care system is a deadly system. If needles are not sterilized properly, if you cannot get the right medicine, if things are not done right, you are worse off in that kind of system with second-class care than you would be with no care at all. We should move to end the second-rate Medicaid system and have one system of universal care coverage, as they do in Canada.

In Canada, prescriptions are not available to everybody, but all senior citizens get prescriptions free, all senior citizens. All children get whatever prescriptions they need free. All children get innoculations that they need free.

In my district in Brooklyn we have a measles epidemic. In my district in Brooklyn we have a tuberculosis epidemic, in America, in 1992. We have outbreaks of measles among children because they are not getting the innoculations that they should be getting. What was routine when I was a kid, we had advanced that far, we could take it for granted that the government we going to provide the money necessary to give innoculations. That has been cut off.

Tuberculosis was wiped out once. We had it all licked. Now, because of inadequate care, tuberculosis has returned as a threat in America, in rich America. In America which provides defense for the whole world, we are not able to guarantee that a disease with a long career like tuberculosis will not run rampant in our urban centers. It is not just my district, but you will find tuberculosis is rampant in big cities throughout the country.

We have AIDS that has raised its head, an ugly specter which not only threatens certain classes of people, but the AIDS virus is changing every day. Beware. They now have a new virus that they cannot detect. They see the results of it but they do not pinpoint where it comes from.

What happens next if we do not move effectively to put all our resources forward to find a cure for AIDS? What happens when they get an airborne germ which causes AIDS, as the mutation of the bacteria continue rapidly? We are all at risk.

There is no reason why we cannot head off many of these fiascos by moving to institute a universal health care program. In Canada, everybody has the right to a hospital room. It has four beds in it. If you want two beds in a room, you can pay a little more. If you want to be in a single room, you can pay a little more and get that, but everybody, regardless of how poor they are, they have a right to hospital care.

Everybody has a right to open heart surgery, regardless of the cost. Everybody has a right. Regardless of the cost of medication, if you have some long-term chronic illness, everybody has the right to medications.

Canada is not as rich as the United States of America, but they are able to do it, and their economy has not been bankrupt. Their citizens are healthy, happy, and they do not seem to be straining under the weight of some socialized health program.

The best we have been able to offer so far as Democrats, however, is a plan that has been circulating which I am told has more consensus than any other plan, which is called the Health Care Cost Containment Reform Act of 1992. I think the authors of the Health Care Cost Containment Reform Act of 1992 ought to be congratulated. There is a lot of imagination shown here. There is movement off dead center shown here, but I am sorry, I do not think that the Democratic Party, the Democratic leadership of Congress or anybody else in America, should be allowed in 1992 to go to the people and not make a commitment to cover all Americans with basic health insurance.

This plan does not do that. This plan is basically flawed, because it expands health care benefits to the point where it will never cover any more than half of the uncovered citizens out there now.

Right now we estimate there are 40 million Americans not covered, 40 million. Common sense, the common sense that voters have, will tell you that every day when one person loses a job you get an increase in the number of uncovered people, because the people who are covered are mostly covered by their employers and by the plan that is associated with their jobs. As the unemployment rate goes up, so does the number of people who are not covered, so we do not have 40 million people uncovered today, we have many more than that.

Nevertheless, our Democratic leadership plan, Health Care Cost Containment Reform Act of 1992, only promises to cover one-half of those who are uncovered by 1998. We are going to have to wait until 1998, and the ultimate coverage will only cover one-half of the uncovered. Millions will be still left uncovered. Common sense should tell every voter that this is not acceptable.

This plan also says there is going to be a Medicare plan for children, health insurance plan for children, and the premium for that plan for children will be based upon the actuarial cost of the program, assuming that all the children of the Nation are participating. In other words, we are going to provide a Medicare program for children similar to Medicare, but you have to pay for it. Our Democratic model looks good on paper, "Health care that families can afford." But what does that mean?

□ 1910

Most families cannot afford health care the minute a chronic illness develops or a major operation has to be undertaken by a member of the family. What does it mean to say we are for health care that all families can afford? Let us spell it out.

Common sense is what we need to keep in the forefront, common sense that on Earth the fact is that we have a grossly inadequate system with respect to a national commitment to health insurance and health care, and common sense must still prevail.

There are numerous, millions of senior citizens covered by Medicare who need relief because Medicare does not go far enough. There are numerous human beings out there who are covered by Medicaid who are in danger of dying from second-class health care because it is worse than no health care at all. And then there are all of those millions who are uncovered, who should have more of a commitment from all of the people in Washington, the administration, the executive branch, and the Congress. That commitment should have a minimum definite timetable for the coverage of every American citizen with health care.

I want to conclude by congratulating the American voters. Nobody in the world, no other people in the world are more intelligent. And they never fail to rise to the occasion at the proper time.

We have been fooled and hoodwinked for some time. We let Willie Horton messages divert us. We let messages about choice, and non-choice, and pro-life, a number of things that should be left to private considerations divert us from the bedrock, solid issues that ought to be considered. But that is all over.

The voters have been awakened. The voters should understand that they are on the right track, they are targeting the right problems. Do not let anybody tell you that there is more sense and more logic, more wisdom in Washington than there is among yourselves. The voters are angry. Your anger is justified. You have pinpointed some targets, and one of those targets is national health insurance. Do not settle, do not let any candidate tell you that you ought to settle for less than total health care coverage for every American citizen.

Mr. Speaker, I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BARNARD (at the request of Mr. GEPHARDT) for today and August 6, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HERGER) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 5 minutes today, in lieu of 60 minutes previously agreed to.

Mr. BURTON of Indiana, for 60 minutes, on September 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29, and 30.

(The following Members (at the request of Mr. ABERCROMBIE) to revise and extend their remarks and include extraneous material:)

Ms. PELOSI, for 5 minutes, today.

Mr. JENKINS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. STALLINGS, during debate on H.R. 5334 today.

(The following Members (at the request of Mr. HERGER) and to include extraneous matter:)

Mr. BLAZ.

Mr. LAGOMARSINO.

Mr. TAYLOR of North Carolina.

Mr. RINALDO.

Mr. BURTON of Indiana.

Mr. CRANE.

Mr. SKEEN.

Mr. OXLEY.

(The following Members (at the request of Mr. ABERCROMBIE) and to include extraneous matter:)

Mr. PETERSON of Florida.

Ms. SLAUGHTER.

Mr. SWETT.

Mr. TRAFICANT.

Mr. LIPINSKI.

Mr. SWIFT.

Mr. HAMILTON.

Mrs. SCHROEDER.

Mr. FASCELL.

Mr. MAZZOLI.

Mr. ATKINS.

BILLS AND JOINT RESOLUTIONS TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On March 4, 1992:

H.R. 2092. An act to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing;

H.R. 4113. An act to permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. Lexington to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorial;

H.J. Res. 343. Joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day";

H.J. Res. 350. Joint resolution designating March 1992 as "Irish-American Heritage Month"; and

H.J. Res. 395. Joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day."

On April 1, 1992:

H.J. Res. 456. Joint resolution making further continuing appropriations for the fiscal year 1992, and for other purposes.

On April 10, 1992:

H.J. Res. 410. Joint resolution designating April 14, 1992, as "Education and Sharing Day, U.S.A.";

H.R. 3686. An act to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina; and

H.R. 4449. An act to authorize jurisdictions receiving funds for fiscal year 1992 under the HOME Investment Partnerships Act that are allocated for new construction to use the funds, at the discretion of the jurisdiction, for other eligible activities under such Act and to amend the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 to authorize local governments that have financed housing projects that have provided a section 8 financial adjustment factor to use recaptured amounts available from refinancing of the projects for housing activities.

On April 16, 1992:

H.R. 4572. An act to direct the Secretary of Health and Human Services to grant a waiver of the requirement limiting the maximum number of individuals enrolled with a health maintenance organization who may be beneficiaries under the medicare or medicaid programs in order to enable the Dayton Area Health Plan, Inc. to continue to provide services through January 1994 to individuals residing in Montgomery County, Ohio, who are enrolled under a state plan for medical assistance under title XIX of the Social Security Act; and

H.J. Res. 402. Joint resolution approving the location of a memorial to George Mason.

On May 1, 1992:

H.R. 2454. An act to authorize the Secretary of Health and Human Services to impose debarments and to take other action to ensure the integrity of abbreviated drug applications under the Federal Food, Drug, and Cosmetic Act, and for other purposes; and

H.R. 3337. An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes.

May 6, 1992:

H.R. 2763. An act to enhance geologic mapping of the United States, and for other purposes.

On May 7, 1992:

H.R. 4184. An act to designate the Department of Veterans Affairs Medical Center located in Northampton, Massachusetts, as the "Edward P. Boland Department of Veterans Affairs Medical Center";

H.J. Res. 430. Joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week"; and

H.J. Res. 466. Joint resolution designating April 26, 1992, through May 2, 1992, as "National Crime Victims' Rights Week."

On May 13, 1992:

H.J. Res. 371. Joint resolution designating May 31, 1992, through June 6, 1992, as a "Week for the National Observance of the Fiftieth Anniversary of World War II";

H.J. Res. 425. Joint resolution designating May 10, 1992, as "Infant Mortality Awareness Day"; and

H.R. 4774. An act to provide flexibility to the Secretary of Agriculture to carry out food assistance programs in certain countries.

On May 15, 1992:

H.J. Res. 388. Joint resolution designating the month of May 1992, as "National Foster Care Month."

On May 29, 1992:

H.R. 4990. An act rescinding certain budget authority.

On June 4, 1992:

H.R. 2556. An act entitled the "Los Padres Condor Range and River Protection Act";

H.R. 1642. An act to establish in the State of Texas the Palo Alto Battlefield National Historic Site, and for other purposes; and

H.R. 1917. An act for the relief of Michael Wu.

On June 12, 1992:

H.R. 158. An act to designate the building in Hiddenite, North Carolina, which houses the primary operations of the United States Postal Service as the "Zora Leah S. Thomas Post Office Building";

H.R. 4505. An act to designate the facility of the United States Postal Service located at 20 South Montgomery Street in Trenton, New Jersey, as the "Arthur J. Holland United States Post Office Building"; and

H.R. 5412. An act to authorize the transfer of certain naval vessels to Greece and Taiwan.

On June 17, 1992:

H.J. Res. 442. Joint resolution to designate July 5, 1992, through July 11, 1992, as "National Awareness Week for Life-Saving Techniques";

H.J. Res. 445. Joint resolution designating June 1992 as "National Acleroderma Awareness Month"; and

H.R. 2507. An act to amend the Public Health Services Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

On June 19, 1992:

H.R. 5132. An act making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes.

On June 24, 1992:

H.R. 479. An act to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System;

H.R. 5343. An act to make technical amendments to the Fair Packaging and Labeling Act with respect to its treatment of the SI metric system, and for other purposes;

H.J. Res. 470. Joint resolution to designate the month of September 1992 as "National Spina Bifida Awareness Month";

H.J. Res. 509. Joint resolution to extend through September 30, 1992, the period in which there remains available for obligation certain amounts appropriated for the Bureau of Indian Affairs for the school operations costs of Bureau-funded schools;

H.R. 2818. An act to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building", and for other purposes;

H.R. 3041. An act to designate the Federal building located at 1520 Market Street, St. Louis, Missouri, as the "L. Douglas Abram Federal Building"; and

H.R. 4548. An act to authorize contributions to United Nations peacekeeping activities.

On June 26, 1992:

H.R. 3711. An act to authorize grants to be made to State programs designed to provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods, and for other purposes; and

H.J. Res. 517. Joint resolution to provide for a settlement of the railroad labor-management disputes between certain railroads and certain of their employees.

On June 29, 1992:

H.R. 3289. An act for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini;

H.R. 3836. An act to provide for the management of Federal lands containing the Pacific yew to ensure a sufficient supply of taxol, a cancer-treating drug made from the Pacific yew; and

H.R. 5059. An act to extend the boundaries of the grounds of the National Gallery of Art to include the National Sculpture Garden.

On July 2, 1992:

H.J. Res. 459. Joint resolution designating the week beginning July 26, 1992 as "Lyme Disease Awareness Week";

H.J. Res. 499. Joint resolution designating July 2, 1992, as "National Literacy Day"; and

H.R. 5260. An act to extend the emergency unemployment compensation program, to revise the tregger provisions contained in the extended unemployment compensation program, and for other purposes.

On August 3, 1992:

H.R. 4026. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes.

On August 4, 1992:

H.R. 5566. An act to provide additional time to negotiate settlement of a land dispute in South Carolina.

ADJOURNMENT

Mr. OWENS of New York. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 12 minutes p.m.) under its previous order, the House adjourned until tomorrow, Thursday, August 6, 1992, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4069. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend section 1072 of title 10, United States Code, to authorize medical and dental care for certain unmarried children who become incapacitated and whose sponsor-parent provides more than 50 percent support; to the Committee on Armed Services.

4070. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4071. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4072. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 540. Resolution providing for the consideration of the bill (H.R. 4394) to amend title 46, United States Code, to require merchant mariners' documents for certain seamen (Rept. 102–784). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 541. Resolution providing for the consideration of the bill (H.R. 5466) to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system, and for other purposes (Rept. 102–785). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 542. Resolution providing for the consideration of the concurrent resolution (H. Con. Res. 246) expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States (Rept. 102–786). Referred to the House Calendar.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 543. Resolution providing for the consideration of the bill (H.R. 3603) to promote family preservation and the prevention of foster care with emphasis on families where abuse of alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services (Rept. 101–787). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5741. A bill entitled the "Perishable Agricultural Commodities Act Technical Amendments of 1992"; with an amendment (Rept. 102–788). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 545. A bill providing for the consideration of the bill (H.R. 4547) to authorize supplemental assistance for the former Soviet republics (Rept. 102-789). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLARD (for himself, Mr. COLEMAN of Missouri, and Mr. CAMPBELL of Colorado):

H.R. 5775. A bill to provide a voluntary national insurance program for elk affected with, or exposed to, tuberculosis; to the Committee on Agriculture.

By Mr. LANCASTER:

H.R. 5776. A bill to amend the Internal Revenue Code of 1986 to permit the issuance of tax-exempt bonds by certain organizations providing rescue and emergency medical services; to the Committee on Ways and Means.

By Mr. EVANS (for himself, Mr. FALEOMAVAEGA, and Mr. ABERCROMBIE):

H.R. 5777. A bill to amend chapter 37 of title 38, United States Code, to establish a pilot program for furnishing housing loans to native American veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KOSTMAYER (for himself, Mr. WELDON, Mr. KANJORSKI, Mr. YATRON, Mr. MURPHY, and Mr. KOLTER):

H.R. 5778. A bill to amend the Wild and Scenic Rivers Act to designate certain river segments in the State of Pennsylvania for potential addition to the Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. KYL (for himself, Mr. TANNER, Mr. KASICH, and Mr. MCCRERY):

H.R. 5779. A bill to provide that the United States may not consent to an increase in its quota in the International Monetary Fund until the President has certified to the Congress that Russia has taken certain steps; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MCCOLLUM (for himself and Mr. SMITH of Texas):

H.R. 5780. A bill to improve the admissions process at airports and other ports of entry; to the Committee on the Judiciary.

By Mr. MCCURDY (for himself, Mr. PENNY, and Mr. PETRI):

H.R. 5781. A bill to establish a demonstration program that encourages State educational agencies to assist teachers, parents, and communities in establishing new public schools, and for other purposes; to the Committee on Education and Labor.

By Mr. RAHALL:

H.R. 5782. A bill to designate the facility of the U.S. Postal Service being constructed at 680 Central Avenue in Barboursville, WV, as the "John D. Rockefeller, IV, Post Office"; to the Committee on Post Office and Civil Service.

By Ms. SLAUGHTER:

H.R. 5783. A bill to authorize the Secretary of Health and Human Services to make grants to States to purchase certain vaccines for children at a federally negotiated bulk rate and to create State and regional registries of vaccinations of children, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROYBAL:

H.R. 5785. A bill to amend the Public Health Service Act and the Social Security Act to improve the organ procurement and transplantation process; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. NOWAK (for himself, Mr. LAFALCE, and Mr. PAXON):

H.J. Res. 536. Joint resolution designating December 6, 1992, through December 12, 1992, as "National Marine Corps Reserve Toys for Tots Week"; to the Committee on Post Office and Civil Service.

By Ms. PELOSI (for herself, Mr. FASCELL, Mr. MILLER of California, Mr. JONES of North Carolina, Mr. STUDDS, Mr. PORTER, Mr. SCHEUER, Mr. MILLER of Washington, Mrs. UNSOELD, Mrs. MORELLA, Mr. SIKORSKI, Mr. GREEN of New York, Mr. BEILENSON, Mr. BLAZ, Mr. HERTEL, Mr. FEIGHAN, and Mrs. COLLINS of Illinois):

H. Con. Res. 353. Concurrent resolution expressing the sense of the Congress that the United States should assume a strong leadership role in implementing the decisions made at the Earth summit by developing a national strategy to implement agenda 21 and other Earth summit agreements through domestic policy and foreign policy, by cooperating with all countries to identify and initiate further agreements to protect the global environment, and by supporting and participating in a high-level United Nations Sustainable Development Commission; to the Committee on Foreign Affairs.

By Mrs. MEYERS of Kansas:

H. Res. 544. Resolution to authorize and direct the Committee on House Administration to require that the financial activities of legislative service organizations be subject to the control of the Clerk, and for other purposes; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. WILLIAMS introduced a bill (H.R. 5784) for the relief of Bear Claw Tribe, Inc.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mr. TOWNS, Mr. HAYES of Illinois, and Mr. FROST.

H.R. 710: Mr. STUDDS.

H.R. 976: Mr. LEVIN of Michigan.

H.R. 1411: Mr. CLEMENT.

H.R. 1468: Mr. RAVENEL.

H.R. 2075: Mr. SCHUMER.

H.R. 2248: Mr. SCHIFF.

H.R. 2385: Mr. MILLER of Washington.

H.R. 2460: Mr. PAXON.

H.R. 2726: Mr. STAGGERS.

H.R. 2890: Mr. REED.

H.R. 3018: Mr. EDWARDS of Texas.

H.R. 3164: Mr. GILMAN and Mr. SHAYS.

H.R. 3373: Mr. CHANDLER.

H.R. 3475: Mr. COLORADO, Mr. FRANK of Massachusetts, Mr. ATKINS, Mrs. MINK, and Mr. PAXON.

H.R. 3476: Mr. COLORADO, Mr. FRANK of Massachusetts, Mr. ATKINS, Mrs. MINK, and Mr. PAXON.

H.R. 3561: Mr. SWETT.

H.R. 3598: Mr. SHAYS and Mr. EMERSON.

H.R. 3662: Mr. NEAL of North Carolina.

H.R. 3806: Mr. FRANK of Massachusetts, Mr. HAYES of Louisiana, and Mr. HOLLOWAY.

H.R. 3808: Mr. KILDEE, Mr. HENRY, Mr. TAYLOR of North Carolina, Mr. KOLTER, Mr. CRAMER, and Mr. RITTER.

H.R. 3943: Mr. SCHIFF.

H.R. 4175: Mr. RINALDO.

H.R. 4427: Mr. WILLIAMS.

H.R. 4677: Mr. INHOFE.

H.R. 4725: Mr. SCHIFF.

H.R. 4738: Ms. KAPTUR and Mr. HERTEL.

H.R. 4739: Mr. KOLTER.

H.R. 4754: Mr. CRAMER.

H.R. 4895: Mr. SYNAR.

H.R. 4989: Mr. SANDERS, Mr. PERKINS, and Mr. JACOBS.

H.R. 5064: Mr. MARKEY, Mr. GEJDENSON, Mr. OWENS of Utah, Mr. FOGLIETTA, Mr. THOMAS of Georgia, Mrs. MINK, Ms. PELOSI, and Mr. ABERCROMBIE.

H.R. 5155: Mr. BLACKWELL.

H.R. 5196: Mr. CARR, Mr. YOUNG of Florida, Mr. PICKETT, and Mr. FAZIO.

H.R. 5230: Mr. CHAPMAN.

H.R. 5317: Mr. SUNDQUIST.

H.R. 5323: Mr. SHAW.

H.R. 5360: Mr. LEVINE of California.

H.R. 5367: Mr. LANCASTER, Ms. KAPTUR, Mr. ENGEL, Mr. FRANK of Massachusetts, Mr. HUGHES, Mr. BUSTAMANTE, Mrs. VUCANOVICH, and Ms. NORTON.

H.R. 5456: Mr. NEAL of North Carolina.

H.R. 5530: Mr. SENSENBRENNER, and Mr. LOWERY of California.

H.R. 5590: Mr. LEWIS of Florida, Mr. SCHIFF, Mr. BOEHNER, Mr. SKEEN, and Mr. CLINGER.

H.R. 5600: Mr. SOLARZ, Mr. KOLTER, Mr. LEHMAN of California, Mr. MILLER of California, Mr. FROST, Mr. WOLPE, Ms. PELOSI, Mr. CONYERS, Mr. FRANK of Massachusetts, Mr. YATES, Mr. STARK, Mr. JOHNSON of South Dakota, Mr. FORD of Tennessee, Mr. KENNEDY, Mr. CARDIN, Mr. LEVIN of Michigan, Mr. MOODY, Mr. VENTO, Mr. ANDREWS of Maine, Mr. PAYNE of New Jersey, Mr. EVANS, Mr. OBERSTAR, Mr. LEWIS of Georgia, Mr. WEISS, Mr. ROYBAL, Mr. MFUME, Mr. MINETA, and Mr. DONNELLY.

H.R. 5665: Mr. MORRISON.

H.R. 5676: Mr. MAZZOLI, Mr. OLIN Mr. WILSON, Mr. EDWARDS of California, Mr. KOLTER, Mrs. SCHROEDER, Ms. KAPTUR, Mrs. UNSOELD, Mr. JOHNSTON of Florida, and Mr. GUARINI.

H.R. 5681: Mr. RANGEL.

H.R. 5684: Mr. ROEMER and Mr. ROBERTS.

H.R. 5703: Mr. DREIER of California.

H.R. 5719: Mr. MCCRERY, Mr. BAKER, Mr. LIVINGSTON, and Mr. HOLLOWAY.

H.R. 5720: Mr. MARLENEE.

H.J. Res. 152: Mr. SCHUMER, Mr. MOORHEAD; Mr. HUCKABY, Mr. DE LA GARZA, Mr. SOLOMON, Mr. TAUZIN, and Mr. BALLENGER.

H.J. Res. 336: Mr. BALLENGER, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. FOGLIETTA, Mrs. VUCANOVICH, Mr. SMITH of Florida, Mr. STAGGERS, Mr. SLATTERY, Mr. SERRANO, Mr. RINALDO, and Mr. RIGGS.

H.J. Res. 380: Mr. BILIRAKIS, Mr. HALL of Texas, Mr. YOUNG of Florida, Mr. STAGGERS, Mr. HOCHBRUECKNER, Mr. LEWIS of Florida, and Mr. HALL of Ohio.

H.J. Res. 409: Mr. KASICH, Mr. TALLON, Mr. TOWNS, Mr. MFUME, Mr. FROST, Mr. RANGEL, and Mr. KLECZKA.

H.J. Res. 422: Mr. LIPINSKI, Mr. DYMALLY, Mr. HOYER, Mr. KOSTMAYER, Mr. FLAKE, Mr. SAWYER, Mr. SWETT, Mr. BRYANT, Mr. SHAYS and Mr. WYDEN.

H.J. Res. 478: Mr. DIXON, Mr. ANNUNZIO, Mr. MCCRERY, Mr. BLAZ, Mr. LEACH, Mr. LEWIS of Florida, Mr. HYDE, Mr. VOLKMER, Mr. WEISS, Mr. FAZIO, Mr. WOLPE, Mr. GEJDENSON, Mr. MCCLOSKEY, Mr. HOCHBRUECKNER, Mr. PETER-

SON of Florida, Mr. CARDIN, Mr. BROOMFIELD, Mr. WOLF, Mr. CRAMER, Mr. MCHUGH, Mr. BACCHUS, Mr. MICHEL, Mr. KOPETSKI, Mrs. MEYERS of Kansas, Mr. SMITH of New Jersey, Mr. GEKAS, Mr. DORNAN of California, Mr. AUCOIN, Mr. IRELAND, Mr. COLEMAN of Texas, Mr. CHANDLER, Mr. LIVINGSTON, Ms. HORN, Mr. DORGAN of North Dakota, and Mr. SOLOMON.

H.J. Res. 479: Mr. ROSE, Mr. HOCHBRUECKNER, Mr. MCGRATH, Mr. FOGLIETTA, Mr. SANDERS, Mr. VANDER JAGT, Mr. DE LUGO, Mr. SOLARZ, Mr. MILLER of Washington, Ms. PELOSI, Mr. YOUNG of Florida, Mr. DORNAN of California, Mr. IRELAND, Mr. LIGHTFOOT, Mr. SAXTON, and Mr. FORD of Michigan.

H.J. Res. 495: Mr. BLACKWELL, Mr. GREEN of New York, Mr. CRAMER, and Mr. SCHUMER.

H.J. Res. 508: Mr. DIXON.

H.J. Res. 520: Mr. ABERCROMBIE, Mr. ANDREWS of Maine, Mr. BAKER, Mr. BENNETT, Mr. BILBRAY, Mr. BLACKWELL, Mrs. BOXER, Mr. CARR, Mr. CHAPMAN, Mr. COSTELLO, Mr. COX of Illinois, Mr. CRAMER, Mr. DARDEN, Ms. DELAURO, Mr. DONNELLY, Mr. DURBIN, Mr. ECKART, Mr. EDWARDS of Texas, Mr. ENGEL, Mr. EVANS, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HOAGLAND, Ms. HORN, Ms. LONG, Mr. JEFFERSON, Mr. JONTZ, Ms. KAPTUR, Mr. MANTON, Mr. MCCRERY, Mr. MCNULTY, Mr. MILLER of California, Mr. MOLLOHAN, Mr. OBERSTAR, Mr. ORTIZ, Mr. ORTON, Mr. PASTOR, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PETERSON of Minnesota, Mr. PETERSON of Florida, Mr. POSHARD, Mr. PRICE, Mr. RAY, Mr. ROEMER, Mr. ROWLAND, Mr. SANDERS, Mr. SARPALIUS, Mr. SLATTERY, Mr. STARK, Mr. SWETT, Mr. TAUZIN, and Mr. WAXMAN.

H.J. Res. 529: Mr. RAVENEL, Mr. ROE, Mr. COX of Illinois, Mr. TAYLOR of Mississippi, Mr. RICHARDSON, Mr. CONDIT, Mr. HUBBARD, Mr. HOYER, Mr. ABERCROMBIE, Mr. HAYES of Illinois, Mr. ROEMER, Mr. MATSUI, Mr. AUCOIN, Mr. SYNAR, Mr. MCDERMOTT, Ms. PELOSI, Mrs. UNSOELD, Mr. FAZIO, Mr. SCHEUER, Mr. SWIFT, Mr. EDWARDS of Texas, Mr. SMITH of Florida, Mr. SERRANO, Mr. KOPETSKI, Mr. BONIOR, Mr. ROYBAL, Mr. MARKEY, Mr. ANDERSON, Mr. OLVER, Mr. GILLMOR, Mr. TORRES, Mr. MILLER of California, Mr. RUSSO, Mr. FOGLIETTA, Mr. BLACKWELL, Mr. GUARINI, Mr. MCNULTY, Mr. PENNY, Mr. WILLIAMS, Mr. SAWYER, Mr. ORTIZ, Mr. MORAN, Mr. MFUME, Mr. BENNETT, Mr. GIBBONS, Mr. WEISS, Mr. RANGEL, Mr. POSHARD, Mr. BACCHUS, Mr. PETERSON of Minnesota, Mr. VENTO, Mr. KOLBE, Mr. JONTZ, Mrs. MINK, Mr. STALLINGS, Mr. OWENS of Utah, Mr. COLEMAN of Texas, Mr. SABO, Mrs. LOWEY of New York, Mr. ACKERMAN, Mrs. SCHROEDER, Mr. KLECZKA, Mr. GUNDERSON, Mr. DICKS, Mr. HOAGLAND, Mr. WISE, Mr. BUSTAMANTE, Mr. PAYNE of New Jersey, Mr. NAGLE, Mr. GEJDENSON, Mr. ORTON, Mr. RAHALL, Mr. WYDEN, Mr. FASCELL, Mr. RHODES, Mr. ATKINS, Mr. GAYDOS, Mr. DIXON, Mr. KILDEE, Mr. CAMPBELL of California, Mr. WAXMAN, Mr. PERKINS, Mr. SCHUMER, Mr. FORD of Tennessee, Ms. SLAUGHTER, Mr. OWENS of New York, Mr. MARTINEZ, Mr. LIPINSKI, Mr. SANGMEISTER, Mr. HEFNER, Mr. JENKINS, Mr. DURBIN, Mr. ROSE, Mr. DORGAN of North Dakota, Mr. GEREN of Texas, Mr. WOLPE, Mr. MRAZEK, Mr. SOLARZ, Mr. MAVROULES, Mr. EARLY, Mrs. KENNELLY, Mr. MURPHY, Mr. REED, Mr. ANTHONY, Mr. SPRATT, Mr. DARDEN, Mr. BROOKS, Mr. DE LA GARZA, Mr. BREWSTER, Ms. HORN, Mr. BROWDER, Ms. DELAURO, Mr. GEKAS, Mr. VISCLOSKY, Mr. ENGEL, Mr. FROST, Mr. GREEN of New York, Mr. HALL of Texas, Mr. KANJORSKI, Mr. LAFALCE, Mr. MCDADE, Mrs. MORELLA, Mr. NEAL of Massachusetts, and Mr. OBEY.

H.J. Res. 532: Mr. REGULA, Mr. OWENS of New York, Mr. CRAMER, Mr. SIKORSKI, Ms. LONG, Mr. MONTGOMERY, Mr. MOODY, Mrs. VUCANOVICH, Mr. HANSEN, Mr. WYLIE, Mr. FROST, Mr. PURSELL, Mr. KENNEDY, Mrs. KENNELLY, and Mr. MORRISON.

H. Con. Res. 100: Mr. DURBIN, Mr. CAMPBELL of California, Mr. GUARINI, Mr. DUNCAN, Mr. SANDERS, Mr. LEWIS of Florida, and Mr. STARK.

H. Con. Res. 301: Mr. YOUNG of Florida.

H. Res. 129: Mr. AUCOIN.

H. Res. 470: Ms. PELOSI and Mr. RICHARDSON.

H. Res. 538: Mr. RANGEL, Mr. ACKERMAN, Mr. POSHARD, Mr. KOSTMAYER, Mr. TOWNS, and Mr. SPRATT.

SENATE—*Wednesday, August 5, 1992*

The Senate met at 9 a.m., and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Is any thing too hard for the Lord? * * *—Genesis 18:14.

Almighty God, Lord of heaven and Earth, this question addressed to Abraham, father of the faith, is rhetorical and has only one answer: Nothing is too hard for God! However impossible national or global crises may seem, "With God all things are possible." You work through leadership to accomplish Your purposes, Lord, assuming leadership acknowledges its need for Your powerful support. You know where we are in history's schedule, how near chaos and catastrophe or remedy and resolution.

Grant to Your servants in the Senate grace to acknowledge Your infinite wisdom and power and to accept Your divine intervention in and through them as they struggle with unprecedented cosmic issues. Lead them to consensus in which all the power and wisdom of 100 Senators is joined. Save us from irreparable fragmentation that vitiates the potential of this powerful institution.

In His name who possesses all power in heaven and on Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 5, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Without objection, the time for the two leaders will be reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Michigan is recognized to speak for up to 15 minutes.

Mr. LEVIN. I thank the Chair.

(The remarks of Mr. LEVIN pertaining to the introduction of S. 3131 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEVIN. I thank the Chair, and I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized to speak up to 5 minutes.

VIOLATIONS OF LAW IN THE BALKANS

Mr. MOYNIHAN. Mr. President, I rise, as I cannot doubt many Senators will do today, have done, and will do in the future, to speak to the horror that the world witnesses—at a distance but even so—in the Balkans, in what was Yugoslavia, in what is the former province of Bosnia.

This morning's press recounts the grievous wounding of a grandmother at a funeral for two grandchildren suddenly exposed to mortar fire, savagery, the possibility of death camps, the retaliation back and forth.

Yesterday a Serb reported his satisfaction of having cut the throats of three Turks, as he put it, in response to having seen Serbs tortured, dead. A new outbreak of the kind of ethnic war, nationalist war, which was with us through so much of the late 19th century and, again, wars which are almost primordial. To have one Yugoslav speak of another as a Turk takes us back five centuries.

And, indeed, we have gone back in time and yet, in some important ways, we have moved forward into a future which will be much more like Bosnia than the artificial stability of the cold war.

What I would like to suggest, Mr. President, is that at this moment some of the finest products of American diplomacy are also under siege in Bosnia. Every Serbian shell that rips through an apartment wall in Sarajevo or lands in a cemetery while a burial is taking place rends the fabric of the U.N. Charter, the Geneva Conventions of 1949, and the Nuremberg norms against aggressive war and crimes against humanity; a collection of legal norms which the United States more than any other nation, the United States with Britain in particular, worked to stitch together following the Second World War and the atrocities that had accompanied it, determined to see that it never should happen again.

Our Nation in those days was served by men with powerful principles—Roosevelt, Truman, Marshall. And they labored to create effective tools to make good on the pledges we were making.

When we dedicated ourselves to defeat fascism, we simultaneously began the effort to create the framework for a new legal order. We helped craft—we wrote—the U.N. Charter, again with the British, which outlawed force to resolve international conflict. We drafted the Fourth Geneva Convention making abuses against civilians during time of war crimes, individual crimes. There had not been any such thing. Only states had been subject to international law. Now individuals became such.

Schooled by the failures of the League of Nations and the Kellogg-Briand Peace Pact, which our Secretary of State Kellogg helped draft, American diplomats insisted upon practical structures to enforce these norms. A new legal order with more means of enforcement emerged—chapter VII of the U.N. Charter with its orderly, methodical procedures to deal with threats to and breaches of the peace.

The savagery erupting in the Balkans represents the truest test of whether these efforts were in vain. For decades the efficacy of the new legal order was uncertain; its potential obscured by the fog of the cold war. The results were disappointing. The pledge to prevent future atrocities rang hollow in the killing fields of Cambodia and the decimated countryside of East Timor.

But, with the end of the cold war, the Security Council began to function as the drafters of the Charter had envisioned. Acting pursuant to article 39 of chapter VII the Council issued a binding order directing Iraq to withdraw from Kuwait. When Iraq refused, the Council imposed economic sanctions under article 41. Finally, the Council authorized the use of force pursuant to article 42. The efforts of American diplomacy and the handicraft of American, French, British, Chinese, Indian and, yes, Soviet negotiators, among others, were vindicated. Aggression in the gulf was repelled, and repelled in a manner which virtually the whole community of nations considered legitimate.

An extraordinarily violent clash of states—which at any prior point in recorded history would have been viewed as a simple contest of brute force—became a matter of law.

Now the conflict in Bosnia confronts the Security Council with a test at once more severe and more relevant to the decades to come. As Martin Peretz has said, self-determination is imperialism's revenge. Ethnic conflict and nationalism are raging around the globe. They destroyed Yuogoslavia and are now tearing apart Bosnia, ripping to shreds any semblance of respect for the carefully constructed legal norms which protect civilians during wartime.

For months we have read chilling accounts from the former Yugoslav Republics. Now, beginning with a Newsday report entitled "Death Camps," we are getting a look at life in Serbian detention centers. The goal, "Greater Serbia." The obscene mechanism, "ethnic cleansing." Forces directed by Serbian strongman Slobodan Milosevic are literally herding tens of thousands of Croatian and Muslim refugees into camps where some are reportedly beaten, others starved, tortured and killed. A U.N. representative has concluded that creating a refugee crisis is a deliberate Serbian policy. If not genocide, then at least horrible echoes of the death camps, the sealed boxcars, the search for a "final solution."

Mr. President, no outside observers have been permitted visits to verify these accounts, which is, in itself, a violation of international norms. But reporters on the scene find them credible.

No party to the conflict is blameless. Abuse begets abuse, and the International Committee of the Red Cross has accused all sides of violations of humanitarian law and basic human rights. The violence is horrific. The president of the Red Cross, Cornelio Sommaruga, reported at a U.N. conference in Geneva last week that—

> [w]hole populations are being terrorized, minorities intimidated and harassed, civilians interned on a massive scale, hostages taken and tortured. Deportation and summary executions are rife.

Mr. President, with the end of the cold war we are now poised to learn whether we have made any advance over the impotence of the League of Nations or whether the hopes of mankind are still held in thrall to the age old rule of "might makes right." In the 1930's it became fashionable to dismiss international law as irrelevant—as little more than, to borrow again the phrase of John Norton Moore, "a system of negative restraint" which only constrained those states naive enough to voluntarily comply. Fifty million dead later we had learned that perhaps it was important after all.

The outcome is unclear. The Security Council acted to protect the Kurds in northern Iraq. It has imposed economic sanctions on Serbia. But more needs to be done.

We should consider that more than Sarajevo is under assault. The rule of law and the authority of the Security Council are also under siege. If the international community fails to act to bring this slaughter to an end it will invite and will swiftly be visited by the anarchy. The charter offers to tools to avoid that result.

Mr. President, the chapter VII provisions are still there. I would call particular attention to the provision in Article 42 which speaks of the full range of military options.

It says, "Should the Security Council consider that measures provided for in article 41"—which concern economic sanctions—"would be inadequate, or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockades, and other operations by air, sea or land forces of the Members of the United Nations."

Mr. President, my purpose in rising this morning, having served as our representative at the United Nations and having served as president of the Security Council, is to point to that word "demonstrations."

It is not an idle phrase in a long speech. It is a precise term in a concise article 42. Article 41 talks of economic sanctions. Next we come to an intermediate position between the force of economic sanctions, which is real, and the full force of all-out war, which is very real. That intermediate provision: demonstrations. Demonstrate of what can come next, which demonstrate the conviction that what is going on is illegal, as it is under the Geneva Conventions, which make individuals responsible as well as governments.

We have that authority in the Charter. We have never considered this particular term. We have always lapsed into doing nothing, having an embargo or, alternatively launching an all-out war.

The term "demonstrations," is in there for precisely the situations which are somewhat ambiguous, not very clear, not very assessable but where a point can be made. And if the Serbian Government continues what is becoming genocide, ethnic cleansing, concentration camps, these things have to be responded to. That provision is in the Charter.

Mr. President, I thank you for your courtesy. I appreciate the Senate's time.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

EXTENSION OF MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that morning business be extended until 9:40.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TAXATION OF FOREIGN CORPORATIONS

Mr. BAUCUS. Mr. President, I would like to discuss an issue today which deserves ongoing attention from the Congress, and that is the probability that foreign corporations operating in the United States are avoiding or evading U.S. taxes by manipulating international transactions.

Even a cursory glance at the numbers gives cause for alarm. Total assets under foreign control have risen dramatically from $841 billion in 1986 to $1.4 trillion in 1989. And total sales made by foreign-controlled corporations, or FCC's as they are called, grew from $543 billion in 1986 to almost twice that, $967 billion in 1989. And yet the profits for foreign-controlled corporations, that is, foreign corporations doing business in the United States, totaled only $8.3 billion. This means foreign corporations claimed to be considerably less profitable than U.S. firms.

Of course, a corporation's tax bills are calculated as a percentage of their net income, which means that a corporation which manages to manipulate its income, income reports and declare lower profits is able to reduce its tax bill.

Now, this is not as hard as it might sound. That is because when a multinational corporation transfers a good or a service between two divisions operating in different countries, it sets the price at which the exchange takes place.

As international tax laws are currently structured, that price is supposed to be one that would have been accepted in an arm's length transaction between two unrelated parties. However, that is not always what happens.

Take the case of a foreign company importing televisions into the United States, distributing them, and selling them. A fair wholesale price for each TV might be $100, and the retail price $110, leaving the U.S. division with a gross profit margin of $10 to cover the costs of distribution.

However, the foreign company might set its internal wholesale price; that is, the price its U.S. division pays, at $108, leaving a margin of $2 after the television is sold at the retail level. The U.S. division now declares much lower profits, and consequently pays far less in U.S. taxes. The profit on its business has been shifted out of the country, where the IRS cannot get at it.

In 1988, the most recent year for which data are available right there is the problem. We only have data up through 1988. Foreign controlled corporations consistently reported profits of only about one-third of those of

American firms; that is, those American firms doing business almost exclusively in the United States.

This pattern holds regardless of how profits are calculated. Foreign controlled corporations average return on assets was 0.9 percent, while U.S. companies earned 2.5 percent. Operating profit was 1.4 percent for foreign controlled corporations, and 4.5 percent for U.S. companies. Net income as a fraction of net worth was 3.9 percent for foreign controlled corporations and 9.8 percent for U.S. businesses.

Now, I acknowledge that this is a complicated issue, and that these numbers are not necessarily comprehensive indicators. For example, much recent investment has been in the form of new projects—that is new foreign investments in the United States—starting from scratch, which naturally incur greater costs. Other investment has been through acquisition of existing companies, which involves writing up the book value of the assets involved, thus lowering profitability.

The fact remains, however, that foreign corporations pay very little in U.S. taxes. Suspicion of transfer pricing and tax avoidance is perfectly reasonable under these circumstances.

If foreign controlled corporations are indeed avoiding U.S. taxes, we should be concerned for two reasons. First, Uncle Sam is losing badly needed revenues. Second, American firms end up paying more taxes and bearing greater costs as they bring their products to market. Compared to those foreign companies, American firms lose money, they lose contracts, and American workers lose their jobs.

Now, the only way to conclusively demonstrate that transfer pricing has taken place is to do exhaustive analysis of the facts of each individual case. This is the IRS's job, but that does not mean we in the Congress must wash our hands of the problem.

Instead, we need to ensure that the IRS has the tools necessary to prevent such tax avoidance. It must have access to the resources needed to audit FCC's, and to prosecute the cases that result. Moreover, it must have the authority to requisition the information it needs from foreign corporations.

Some of these issues were addressed in the 1990 Budget Act and other recent legislation. However, due to a lag in the preparation of tax data, we cannot yet assess the effectiveness of the measures enacted at that time.

CONCLUSION

U.S. firms compete with foreign multinationals that bear lighter tax burdens as a result of their tax cheating. In an increasingly competitive global economy, this is an unacceptable burden.

We cannot tolerate such tax avoidance. It contributes to our massive Federal deficit, and to the public dissaving that is gradually sapping our economy.

To me, this means that we need to focus our tax enforcement efforts on foreign corporations. The internationalization of the U.S. economy can only accelerate, and we need to be able to deal with the consequences of our links to the rest of the world.

At a later date I will be preparing some more precise actions that we can be taking to help solve this problem.

I thank the Senator from Maine for his patience.

I yield the floor.

Mr. COHEN. Mr. President, I ask unanimous consent that I be allowed to proceed for 5 minutes in addition to whatever time Senator LEVIN yielded to me.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Maine is recognized for 6 minutes.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN pertaining to the introduction of S. 3131 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $4,010,612,139,513.41, as of the close of business on Friday, July 31, 1992.

On a per capita basis, every man, woman, and child owes $15,614.06—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

DEFENSE SPENDING AND DEFENSE REQUIREMENTS: THE BIG LIE

Mr. MCCAIN. Mr. President, just about a century ago, Mark Twain said that there were three kinds of lies: Lies, damned lies, and statistics. If Mark Twain were alive today, he would add a fourth kind of lie: "Damned lies that use statistics out of context in an election year."

Now this fourth kind of lie is part of the present negative character of American politics. It is normally something to be laughed off or ignored, in the process of focusing on the issues that really matter. Unfortunately, however, there are times when the record has to be corrected because the real facts are too important to ignore.

COMPARING 1992 STRATEGIES TO 1993 BUDGETS

Last year, I gave a series of speeches for the RECORD on strategy. These speeches warned about the need to convert our force posture to one based on a power projection strategy, and to do so as quickly as possible. I also warned that we had to build a new consensus around a lower level of defense spending and use the resulting savings to reduce the deficit and taxes.

I spoke to the Senate on August 2, September 10, 1991, and November 26, 1991. This latter speech included a detailed white paper that I had worked on during much of the fall of 1991, and which I issued in final form in November. It was a complicated paper looking far into the future and focused on both the forces we needed and possible trade-offs we could make to afford them. It also provided illustrative defense spending figures based on the Department of Defense budget for fiscal year 1992.

Mr. President, I am proud of that paper. It made a wide range of recommendations that were included in the fiscal year 1993 defense budget that President Bush submitted in February 1992. It called for the termination of the B-2, small ICBM, and SSN-21 *Seawolf*. It called for the President to go beyond START and CFE, and to make broader and faster cuts in strategic and theater nuclear forces, and to accelerate the reduction of our forces in Europe.

It called for reduced funding of the U.S. Army armored system modernization plan, adjustments to slow down expenditure on the modernization of some aspects of naval aviation, and cuts in our overall surface fleet to ensure we could afford to modernize and maintain our carriers.

These are all recommendations that were implemented in some form in the President's fiscal year 1993 defense budget submission, or in President Bush's dramatic new arms control initiatives. While General Powell, Secretary Cheney, and President Bush took these decisions on their own, I must note that they allowed President Bush to cut his proposed defense spending during fiscal year 1993–97 by $56.7 billion in budget authority. He submitted that plan to Congress about 4 months after I issued my paper.

Let me stress that point, President Bush reduced his fiscal 1992–97 defense plan from a total cost of $1,406.8 billion, when he made an estimate as part of his fiscal year 1992 budget submission in February 1991 to $1,350.3 billion as part of the fiscal year 1993 budget submission he submitted in February 1992.

The defense budget and program that President Bush submitted early this year was not the program that I reviewed in November, 1992. It did not call for the same forces, or the same major programs. It did not call for the same expenditures, and it did not even call for spending in the same dollars. President Bush submitted his new budget in fiscal 1993 dollars, which the comptroller's office of the Department of Defense states are only worth 96.44 percent of fiscal year 1992 dollars.

Now, I cannot be responsible for what others do with my figures or words, or for estimates that I had nothing to do with, but figures are magically appearing in my name as if my November, 1991 paper on strategy had somehow been an analysis of the fiscal 1993 budget. I like to believe that I have some foresight, but I do not have the gift of prophecy, and it should be obvious that what I wrote in November, 1991 does not constitute an analysis of the very different program President Bush submitted 4 months later.

Further, the numbers I did use in my November speech are being quoted out of context, and without conversion into fiscal year 1993 dollars. This totally obscures the fact that I called for detailed increases in defense spending as well as defense cuts. It creates the impression that I have opposed the Bush fiscal year 1993 defense budget and have radical differences with the Bush fiscal 1993–97 defense program.

THE BUSH FISCAL YEAR 1993 DEFENSE BUDGET

Let me begin with the real issue: fiscal year 1993 defense spending. Neither the Congress or the executive branch authorizes or appropriates money for a theoretical and constantly changing future year defense program. The Congress does vote money for fiscal year 1993, and this is how its performance should be judged.

I supported President Bush's proposed level of fiscal year 1993 defense spending when he issued it, and I have supported the President since. More importantly, I invite my colleagues to look at both my November white paper and pages S18258 and S18529 of the November 26, 1991 CONGRESSIONAL RECORD.

Even in examining the maximum possible cuts that I believe could be made in defense spending, I refer to an average cut in real defense spending within the Department of Defense of 6 percent, and a possible budget authorization for fiscal year 1993 of $261 billion in fiscal year 1992 dollars. In fact, President Bush proposed a cut in real spending of 7.1 percent—1.1 percent above the level I recommended. He also proposed $267.6 billion in Department of Defense budget authority. Let me note, that my proposal is equal to $270.6 billion in fiscal year 1993 dollars, or $3 billion more than the figure proposed by the President.

Quite frankly, I believe it is absurd to make exact comparisons between illustrative numbers in a strategy paper and the specifics of a budget issued months later, but it should be clear that I fully support the President.

It should also be clear that I differ sharply with the Democrats who have made major cuts in the fiscal year 1993 defense budget in every committee they control in Congress. While I have been forced to work within the limits imposed by a Democrat majority, I have never endorsed making more rapid cuts in spending or reprogramming resources within the defense budget away from defense.

In contrast, the Democrats have made the following cuts in fiscal year 1993 defense spending:

The budget resolution has cut the President's defense budget request by $4.2 billion in budget authority, and $2.5 billion in outlays.

The House Armed Services Committee has produced a bill that cuts budget authority by $10.5 billion, and outlay by $8.2 billion.

The House Appropriations Committee has cut defense budget authority by $7.9 billion and outlays by $5.1 billion.

The Senate Armed Services Committee has produced a somewhat less drastic set of cuts. It calls for cuts of $7.6 billion in authority and $3.6 billion in outlays. I hope that floor action on our bill and the Senate Appropriations Committee will be equally conservative.

The fact remains, however, that the Democrat majority in Congress has pushed for far lower levels of defense spending than President Bush, and far lower levels than those I advocated last year. The fact also remains that it is the current budget debate, not a debate over the outyears, that is the critical test of public policy.

Even if we ignore the fact that my paper preceeded the President's revised budget submission and fiscal year 1993–97 program, this number simply is not comparable to any of the defense spending date by year that Secretary Cheney issued with his annual statement on the fiscal year 1993 defense budget.

To the extent any of my figures are comparable, they come on page S18529 of the CONGRESSIONAL RECORD for November 26, 1992, where I described the possible Department of Defense spending levels in fiscal year 1992 dollars for fiscal year 1993–97. Let me stress that I then discuss possible defense spending levels, but draw a very different bottom line only four paragraphs later.

If, however, you compare my maximum possible cuts to the Bush budget projections for each year during fiscal year 1993–97, and convert my figures into fiscal year 1993 dollars using the 0.9644 conversion factor used by the comptroller of the Office of the Secretary of Defense, you see that my maximum possible cuts are only $57.7 billion greater than the funding levels proposed by President Bush.

These figures are explained in full detail in a table which I ask unanimous consent to be printed in the RECORD at this point.

MCCAIN MAXIMUM POSSIBLE CUTS VERSUS BUSH FISCAL YEAR 1993 DEFENSE BUDGET

[DOD budget authority in fiscal year 1993 in billions of dollars]

	Fiscal years—					
	1993	1994	1995	1996	1997	1993–97
Bush defense budget	267.6	258.0	250.4	241.8	237.5	1,255.3
McCain maximum cuts	270.6	254.0	238.5	224.0	210.5	1,197.6
Difference	+3.0	−4.0	−11.9	−17.8	−27.0	−57.7

Even if one ignores the fact that my figures were written in 1991 as part of a strategic analysis, there is no way in which my estimates of maximum possible cuts can be transformed into a major difference between my program and the Bush program. In fact, $57.7 billion is only 4.6 percent of the total spending President Bush has proposed for fiscal years 1993–95.

DECIDING ON THE RIGHT SPENDING LEVELS

In saying this, I do not mean to say that I agree with every single element of the Bush program over the next 5 years, or do not believe some additional cuts in defense spending may be possible. I do believe that we can cut our forces for NATO more than President Bush has yet proposed, and I believe that we can safely make the additional cuts in nuclear forces that President Bush has proposed since he submitted his fiscal year 1993 defense budget.

I also believe that we need to spend more on power projection forces like strategic airlift and sealift, improve our sea and land based tactical air power, and fund both fully ready and deployable Marine expeditionary forces, and fully ready and deployable U.S. Army contingency forces. We need to make a wide range of detailed tradeoffs between our existing forces and programs and those we need for a post-cold war power projection strategy. This is why I have emphasized the need to make adjustments in strategy and forces, rather than focus on some single arbitrary figure in dollars.

At the same time, I do still believe that the key theme I raised in my strategy statement of November 26, 1991 is correct. The bottom line conclusion regarding future defense spending that I proposed focused on very different numbers from maximum possible savings. It is clearly stated on page S18529 of the CONGRESSIONAL RECORD as to the conclusion to my discussion of possible funding levels.

It states that:

> The best way of obtaining a peace dividend is not to cut defense to the point where we could be forced into crash efforts to rebuild our forces in an emergency—to repeat the 'boom and bust' cycle in defense spending that has characterized so much of U.S. history. It is rather to establish a stable level of defense spending that provides the resources

that are needed, but steadily reduces defense spending as a share of total federal spending and our gross national product as our economy expands.

To put this issue in perspective, defense spending as a percent of federal spending has already dropped from a post-war high of 57%, and a high of 27% during the Reagan Administration, to around 20%. Such cuts would reduce defense spending to around 15–16% of the federal budget by FY1996–FY1997. Similarly, defense spending has dropped from a post-war high of 11.9%, and 6.3% during the Reagan Administration, to about 4.7% of the GNP today.

The proposed cuts would allow defense spending to drop to as low as 3% of the GNP by the mid to late 1990s. Capping defense at these levels of our federal budget and GNP would still provide around $215 billion to $240 billion in constant FY1992 dollars, but would shrink the burden defense places on the American taxpayer to a small fraction of our total economic activity. At the same time, it would allow us to deter or halt the kind of aggression or conflict that—without American military action—would force us into massive new military expenditures and possibly into another major war.

Let me note that four months after I wrote these words, President Bush proposed a level of fiscal year 1997 defense spending for fiscal year 1997 that would cut defense spending to 16.3 percent of all Federal spending and 3.4 percent of the GNP. Further, the levels of defense spending that I propose as the floor for defense spending range from $223 billion to $249 billion when they are converted to constant fiscal year 1993 dollars. This compares with President Bush's proposed spending for fiscal year 1997 of $237.5 billion.

The key point behind my remarks is still that we need to base future defense spending on a portion of our GNP and Federal budget that both provides sufficient forces and represents an acceptable burden on our economy. This is why, on the same day I presented my white paper to the Senate, I joined Senator GRAMM and Senator STEVENS in introducing S. 2093, the Ronald Reagan Peace Dividend Investment Act. This legislation would require all future savings in defense to be used to either reduce the Federal deficit or taxes.

THE ISSUE OF TAXES AND DEFICIT

Mr. President, I said at the start of my remarks that using statistics out of context can be a new kind of lie. I think the RECORD makes this all too clear. The arguments I have advanced are not so complex or sophisticated that anyone who actually read them can fail to understand them. No one who shows any respect for the truth can fail to understand the fact that numbers must be kept in context, must be made comparable, and must be related to the analysis involved.

In today's Washington, I have to assume that while figures do not lie, liars will continue to figure. The fact is, however, that it takes a liar to twist the RECORD out of context, and the resulting lie has nothing to do with either my positions or the real debate over defense spending.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 5503, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Reid amendment No. 2868 (to committee amendment beginning on page 101, lines 11–15), to make improvements in mining laws.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

AMENDMENT NO. 2868

Mr. REID. Mr. President, the Senate has a long tradition of functioning based on the admonition of the great Jewish philosopher, Maimonides, who said: "Keep firmly your word."

On September 13 of last year, 1991, in this Chamber, I made a commitment, publicly and privately, that I would work to make substantive changes in the 1872 mining law. The amendment now before this body makes substantive changes in the 1872 mining law. The ancient advice of Maimonides has been followed.

I have kept my word.

Mr. President, before describing these substantive changes in this amendment, let us take a look at mining. I grew up in a small town in the southern tip of Nevada called Searchlight. I was born there. My father was a hard-rock miner. He worked very hard, much of the time by himself underground. Many times, as a little boy, and as I grew up, as a bigger boy and a teenager, I was with him in those mines. In those days, the days of my father, the days of the hard-rock miner, as envisioned in movies and things that we see, everything revolved around a vein, a gold vein.

They were always after the vein. Sometimes the veins were small, and they could work those if the ore was high grade. Sometimes the vein was wide, and they were able to work that, even though it was relatively low grade. They would follow this vein all through the bowels of the Earth. They would do it in a number of different ways. They would sink a shaft. That shaft would either be a vertical or an inclined shaft.

After they got down to where they found a vein, they would run what we called a drift or a crosscut, what is referred to in the books as an adit.

They would try to find the wealth of the Earth by following this vein. They were also able, on some occasions—not often—to do it with a tunnel into the side of a hill or mountain.

This work was labor intensive. I thought all fathers worked like my dad, Mr. President: Hard, with bad air lots of times. I thought that all fathers woke up in the middle of the night coughing. I have come to learn, that is not true. In the days of my father, they did not do a lot of work with equipment, with machinery. There was a hoist up on top of the ground with usually a hoist man, one person.

Underground, they had little equipment—a jackhammer, and that is about it. Everything was done by hand. It was labor intensive and very dangerous. Health conditions were severe.

On July 4 of this year, I rode in the little parade they have in Searchlight, and it is small. It is joked that there are more people in the parade than watch it. In southern Nevada, it is a tradition; a lot of people who hold political office go to that small town called Searchlight for the Fourth of July parade.

Frankly, Mr. President, people go to it for one reason. It is late in the afternoon, before the fireworks, and there is not much going on. The big parade in Boulder City has already taken place. But it has become kind of a traditional thing. Well, this Fourth of July, I decided to stay in Searchlight. I have a home there.

My wife and I went up to a little place called the Searchlight Nugget, a little cafe-restaurant. As I walked in, I saw a childhood friend, one whom I had not seen in years and years. He and I have a very close relationship, even though we have little personal contact anymore. The reason we do, you see, is that his father was working in a mine with my dad when a rock fell on his head and killed him. My dad carried him out of the mine.

I had a nice visit with my friend, Everett "Chig" Hudgens. We talked about old times. But, you know, the legacy left by people like my father and Bill Hudgens, who was killed in the mine, and thousands of others, is almost gone. Very few people mine like my dad did. Miners like my father and Bill Hudgens—people like that—have become almost extinct. People no longer pan for gold.

I can remember one of the things I knew how to do, is pan for gold. You dump rock in this little metal thing and grind it up real fine, put it in a pan of water, and see if you can see any color in it. "Is there any color in it?" Those were the words. If there was, that was gold, and that meant the rock had a possibility of containing gold. Well, that is not the way it is anymore in mining for gold. Mining for gold is now no longer connected with a vein.

You can no longer pan for the gold that these people take out of the ground, because you cannot see it. It is microscopic. They mine for gold. Out of a ton of gold, they get a very small amount. Or out of a ton of ore, they get a very small amount of gold. It is microscopic, called disseminated. To find this, it is no longer like it use to be, with prospectors going looking for it, although there are still a few. What happens now is you need hydrologists, engineers, geologists, chemists. It has become very scientific. These pit operations mine low-grade ore; very, very low-grade ore. It is high-tech.

Mr. President, there are conveyor belts, 160-ton trucks, and pieces of equipment we used to call "steam shovels" when we are growing up. But now these huge shovels weigh over 1 million pounds. They are huge, these large crushers, very technically and efficiently built, and are run by computers.

Computers are involved in almost everything in mining. It has become very high tech.

And even though large amounts of ore are moved today compared to the times of the Comstock, the operations are much better. There is no comparison between the operations today and the days of old.

For example, in the Carson River, which is below the Comstock, below Virginia City, for years and years during the days of the Comstock, which basically was in the last part of the last century and the early part of this century, the process they milled was by using some cyanide, but mostly mercury. This mercury would run into the Carson River and made this river a potential Superfund site. The Environmental Protection Agency is now doing a reconnaissance to determine who is responsible. We know that thousands of tons of mercury are in that river. You cannot eat the fish. There are signs posted, "Do not eat the fish."

In Nevada today—and we will talk about that later—there are reclamation projects to stop things like that. Those kinds of things do not happen anymore.

Mr. President, let us take one mine, a mine called American Barrick located in Eureka, NV. What kind of equipment do you use in these modern-day operations compared to the days around Searchlight when people went down by themselves and they used the No. 5 scoop shovel, a jackhammer, and some dynamite. That was about as high tech as they got. At American Barrick, they have something called an oxygen plant that costs $150 million. They have on that property, on that mine, three shovels. Each one of those shovels cost $2.8 million. So, for those three shovels on that property it is almost $9 million. Those shovels are large; they can move about 23 yards.

They also have on that same property four shovels that cost $6.3 million each. They are bigger and more expensive. They have haul trucks, 46 in number. Each truck, Mr. President, cost $1.4 million. They will haul a lot, 190 tons. They have at this one mine $200 million invested in mobile equipment, trucks, graders, greasers. They have eight D–10 bulldozers, $1.3 million each; rubber-tired bulldozers, eight of those, $800,000 each. They have on this property, 12 drills, $700,000 each. They have an autoclave, which is a kind of crusher, that cost $84 million. For tires alone on this property, 1 month's bill for tires is half a million, $500,000.

The reason I mention this equipment is this equipment is made someplace, built someplace. They do not build it in Nevada. Front-end loaders, Peoria, IL. Shovels, South Milwaukee, WI. Remember, these are very, very expensive. They are dozers from Illinois, $1.3 million each. One operation uses 1.5 million dollars' worth of fuel each month. Drills costing $700,000 or $800,000 each are manufactured in Texas. Supplies come from San Francisco, Salt Lake, and Denver.

So there are lots and lots of jobs related directly to mining. There are also many jobs not related to mining, and we should talk about some of them today. These ancillary services are in places as far removed from these mines as Illinois, Texas, Wisconsin, and, of course, closer to home, places like California, Colorado, and Utah. In Nevada, there are 15,000 jobs, but in the United States there are at least 150,000 mining jobs. It is estimated that the number of indirect jobs associated with mining are 750,000.

The reason that we need to talk about the importance of gold is that we are, Mr. President, a net exporter of gold. This is rare. This has only developed during the last couple of years. Prior to that time we imported gold. We had to import gold. We needed it for many different things. We have a favorable balance of payments as it relates to gold. Is that not good news? We export more gold than we import.

Mr. President, the uses of gold are critical for lots of things. We are going to talk about some of those now.

Most people, when they think of gold, think of fancy jewelry. Of course, that is one of the reasons for gold, but it is also vital in high technology. Your bank computer prints a decimal point in the wrong place; phone calls are blocked by static; a missile fires ahead of schedule. These are things that we envision negatively. These are some of the problems that are prevented today in our country and around the world by the use of gold in high technology.

In American electronics technology, more gold is used every day. Every day they are finding new uses. Why? Because it works better than anything else. There is not a close second. We do not have the most recent figures but, for example, in 1988, the United States electronics industry used 1.4 million troy ounces of gold, or 21 percent of the gold produced in the United States at that time. That is a 6-percent increase over what was used in 1987, and it is going up and has gone up since then.

Why gold? Gold is the choice of the electronics industry because it has several exceptional properties which are not matched by other metals. These special properties include gold's resistance to tarnish and corrosion, the ease with which it can be worked, and the fact that it is an exceptionally good conductor of electricity and the transfer of heat. Gold does not corrode. This is one of the most important properties because of the appearance and technical performance of gold.

Gold alloys and gold coatings usually remain unaltered by time, and for our computer age it is perfect. As one electronics engineer put it, "When signal purity, conductivity, and reliability are required, gold is absolutely essential." Because of these properties, more than 760,000 miles of hair-thin gold was used in 1988 to connect and ensure reliable transmittal of signals among the millions of microchips that are the heart of computers and control devices for automobiles, aircraft, ships, and electrical supplies.

In addition to its immunity to oxidation, its inherent ability to conduct electricity, gold readily alloys with common metals. These alloys are used in many applications, including the creation of clean, superstrong joints and engine components, jet engine components, and gold coats which are ideal in bearings in a highly corrosive environment.

In America, gold really does work for us. Why? Over 95 percent of all electric connections used for computers, integrated circuit heads, are gold coated for perfect signal transmission. Gold is not used because it is plentiful; it is used in these instances because it works better than anything else. If industry could find a cheaper way to do it, they would do it, but gold works. The new Pacific fiber optic cable uses gold circuitry and connected works unattended. It is at the bottom of the sea to ensure long-time reliable performance.

We saw, during the Kuwait situation, these people going out, standing next to these infernos. How were they able to do it? Their faces were protected by heat reflective transparent 24-carat gold film covering in the face shield.

Gold chip rings transfer power to gyroscopes, the heart of navigation and guidance systems of aircraft, submarines, and military satellites. Catalysts are used to make 2.5 billion pounds of vinyl used to make packages used in sanitary packing of meats and vegetables. Alloys with gold are used in heat exchangers and nuclear powerplants to prevent cracking of metal and, as a consequent, prevent leaking. Gold films conduct local current for touch panels and memory switches. Gold is cost-effective because you only need tiny amounts to accomplish these seemingly miraculous things, Mr. President.

But in addition to these high-technology things we have talked about, we will get into some more and more difficult high technology because we would not be able to explore space and defend America without gold. We could not have launched our successful space programs nor could we have created its high-tech Armed Forces. Gold is recognized as the critical metal for the microelectronic revolution, which is the very foundation of today's space and military programs.

The complex calculations that are needed to establish and to design space vehicles, their trajectories, orbits, reentry instructions from ground stations as well as the precise assimulation and transmittal of data collected by them at great expense, are all made feasible and reliable by millions of microcircuits built only with gold. These hair-thin wires connect the microcircuits to tiny gold contacts which, in turn, connect these extraordinarily complex devices to the outside world.

Way back in 1974, when the United States launched its first communication satellite, we, with the aid of the gold-plated antenna, covered all 50 States and simultaneously carried messages over 14,000 two-way voice circuits. Gold is used on satellite antennas because it has electrical conductivity that is excellent at radio frequencies. It will not corrode, its thermal properties help maintain a constant antenna temperature in the satellite. They have excellent contained-on-board computer memory systems and other types of chips that are covered with gold to block intense solar x rays and cosmic radiations from destroying the functions of communications satellites. Again, gold is used because it works better than anything else.

Also, gold's superior electrical conductivity and its oxidation-free surfaces make it ideal for sliding contacts wherever satellites must spin and the solar cells remain oriented to the Sun.

For the space station, gold sliding contacts handling 200,000 watts are now being planned. In addition, gold is without peer for reflecting away heat. This was illustrated when United States' astronauts went out in spacecrafts and performed missions in space, dressed in spacesuits featuring gold-coated visors, as were the firemen in Kuwait. This permitted the spacewalkers to see clearly while gold reflected away harmful solar heat and radiation.

Heat-resistant gold surfaces protect Air Force One, the new plane that was built and recently given to our chief executive. It is coated to stop the heat of heat-seeking missiles.

And just 2 ounces of gold has prevented the premature failure of the 5-year-old, $40 million greenhouse effect satellite by reflecting away damaging solar heat and radiation.

High-temperature gold brazing is essential in space shuttle engine cooling systems which keep the engine exhaust, which can reach temperatures of 6,000 degrees Fahrenheit, away from the engine housing, which has a melting point of 2,500 degrees Fahrenheit.

All of the components of the Hubble Space telescope electronic camera are coated with gold.

Gold coating of the impeller prevents hydrogen from developing in the fuel-pumping system of the space shuttle, which could destroy it.

In defense, of course, there are multiple uses for gold that were made apparent especially during Desert Storm, when high-tech aircraft, especially the Stealth, had to operate.

Lastly, we are talking about uses for gold. Every day America uses gold. It is used in microcircuits. When we have a digital alarm clock that goes off, we are using gold. When you eat your breakfast, it is hard to realize that gold is involved in that, whether your looking at a TV set, or whether you are watching one of your cable channels. And after watching TV for the morning news you can pick up your telephone, pull out the phone jack and plug it in another jack from the bedroom to the breakfast room. And all the standard telephone jacks in common use today are gold-coated to assure you the convenience of moving your telephone from one jack to another.

But why gold? We have established that it does not corrode, that it does not oxidize, and that it is reliable. That is what gold is all about.

Long-term performance in telephone jacks, television sets, clocks. When you start your car, you now can use gold-tipped spark plugs. Why? Because they last much longer, and they will operate in extremes of temperature, either hot or cold.

The fuel efficiency of your car will depend on a microelectronic system that uses gold contacts. These leads, in the highly corrosive and high temperatures environment of a modern engine is a place where other metals will melt.

And if you are using one of the new tiny 12.3-ounce cellular telephones—most of us have used those at one time or another—gold connectors and contacts help us have better performance.

When we go to work in this building, this vast Capitol, there are all kinds of Xerox machines, and every one of those copy images on paper with gold-coated mirrors. Telephone jacks on switchboards use gold to guarantee clear communications. Computer circuits are gold coated to assure continued reliability.

The building's elevators—and probably not some of the ones in the legislative branch that we are trying to update and make more modern, but on the new elevators that are more reliable and are certainly safer—they have gold microcircuits.

The instruments used to control the operation of chemical process industries, petroleum refineries, and power supply plants, rely on gold's ability to carry electronic signals accurately even under the severest environmental conditions.

(Mr. BRYAN assumed the chair.)

Mr. REID. Mr. President, gold is something that is used for more than a watch or a bracelet.

Today, we are here because last year, in September, there was an amendment offered to establish a moratorium on the issuing of mining patents. As a result of that debate, as I indicated in my opening statement, I said that I would work with the industry. I made a commitment to those that voted with me, those that voted against me, that I would do what I could to come up with substantive changes in the laws that relate to patents in the United States, and I have done that.

But, first of all, for those that were not aware of the debate last time, and just to refresh those who may have heard parts of it, understand that the patent that someone applies for, costs almost $100,000 to bring it to the point where the Government issues a patent. The average is about $100,000. This is for engineers, mineral surveyors, and all the things that the Forest Service and the Bureau of Land Management mandate before they will consider issuing a patent.

And remember, Mr. President, many, many patents are applied for but are not granted because they cannot show mineral value.

You would think, with the negative statements about mineral patents, that thousands and thousands of these patents are issued every year, this great calamity facing our country, giving away Federal lands.

By the way, in the State of Nevada, patents have been in existence there since we became a State, basically, and still 87 percent of the State is federally owned.

Since 1781, the start-off date for this country, in the United States, 288 million acres of land used for agriculture purposes have gone from the private to the public sector; 288 million acres of land.

To give you some perspective how big that is, the State of Nevada, the seventh-largest State in the Union, has 74 million acres.

Agriculture use, through different types of land grants, similar to the type of patent we are talking about today, has moved almost 300 million acres to private hands from public hands. Railroads alone, have been given 94 million acres.

Mineral patents, this horribly abusive thing that people would lead you to believe is ruining the country—has moved 3 million acres. Since we have become a country only 3 million acres. That includes every place in the United States. The huge State of New Mexico, the huge State of Arizona, the huge States of Utah, Idaho, California, Nevada, Wyoming, Montana only 3 million acres.

Three million acres would not even make a decent size county in Nevada. Three million acres have gone to mineral patents compared to 300 million agriculture patents, and 94 million to the railroads.

We hear so much about abuses, let me relate some abuses that took place last year. Alaska did not have a single patent issued; Arizona only three; California, four. Colorado, the mining State that is famous for terrarite and all these things only one. Idaho, with the Coeur d'Alene, that famous mining State, only one last year. Montana to where I have traveled with Senator BAUCUS on a couple of occasions, only one last year; one. Then the abuses get rampant in New Mexico where they issued none. And Nevada, which produces most of the gold in the United States, three, three patents. This horribly abusive system with only three patents. Oregon had three and Utah had three.

Add them up, it is less than 20.

My friend from Arkansas, I would think he would agree that one of the real problems we have had in the last 20 years is that we as a country have not developed a long-range energy policy. We really have not. And we should. And I recognize that. We would be better off if we as a country did not import over 50 percent of our oil. We would be better off as a country if we developed more clean coal technology. We have vast resources in this country for coal, and there are those who have worked for decades in this body to make better use of coal in our country.

Slowly but surely, because we have not had a lot of support, things are happening. For example, in Nevada there is a facility at the Tracy plant, between Reno and Fernley, that is developing a clean coal system for its new generating facility. That is good. I wish we had more long-range energy policy. I wish I could place all the blame for the fact that we have not had a long-range energy policy on the Republican administrations we have these last years, but I cannot. We as a Congress are as much to blame. We need a long-range energy policy. We do not have one.

But here today I am not going to talk about our failures in not developing a long-range energy policy. What I want to talk about today is our failure to develop a long-range mineral policy because, you see, minerals are essential. These things I have talked about relating to gold are not a trace or something that you do not need. These are products using thousands of ounces, millions of ounces of gold each year, that are required in our essential industries. Mr. President, there are things other than gold that we should be concerned about.

Copper, of course. My friends from New Mexico and Arizona are going to talk, I am sure, about how important copper is.

But there are other things. We have done nothing about our lack of chromium. We are only about 20 percent self-reliant. We have to import 80 percent of our chromium.

Cobalt. We import 95 percent of cobalt from very unstable countries in Africa. Chromium is essential for the construction of automobiles, aircraft, insulation of high temperature furnaces and many other industrial applications. Cobalt is crucial in the forging of alloys, the building of tool bits, and the refining of oil. Manganese is crucial in the alloy process of certain high-strength steels used in all kinds of industrial processes including weapons systems that are crucial to the Nation's defense. One hundred percent of our manganese is imported, mostly from South Africa.

Platinum group metals are essential in petroleum refining, chemical processing, automobile exhaust treatment. They are used in telecommunications equipment, medical and dental equipment. Ninety-five percent is imported from South Africa.

Let us talk about platinum. Let us talk about the State of Montana. Because out of those essential minerals I have talked about, this country has developed in the great State of Montana a platinum-palladium mine. Does everyone hear that? We have developed a platinum and palladium mine. Ten years ago this was unheard of. We are not going to have to be totally dependent on the unstable Government of South Africa, or after the revolution that took place in the Soviet Union, the State of the former Soviet Union. That is where we imported all of our platinum and palladium before.

People in this country, who were willing to take a chance, have received a mineral patent on the property in Montana and invested over $100 million to develop this mine in the small State of Montana. They are losing a congressional Member this year.

In the small State of Montana this is a large employer—400 men and women work in the Stillwater Mine. They have an annual payroll approaching $20 million in a depressed area. They spend millions in State and local taxes. They purchase over $25 million in goods and services from that small State every year. They have given impact grants to local government—not given, they were required: schools, roads, sewer systems, water; reclamation is excellent. This project did not make any money last year. We have heard statements made on this Senate floor about the great ripoff of the Stillwater Mine, how they are making all this money at the expense of the taxpayers.

Remember, to get this patent issued costs a lot of money, to get the mine started costs a lot of money. They pay a lot of local taxes. They have a lot of problems. They had receipts this year of $50 million but they did not make any money—no profit. At the rate of what they are doing, and the statements made on this floor, it would take 600 years for them to make what my friend, the senior Senator from the State of Arkansas, said they would amass—without $1 of profit.

On June 29 of this year in a communication from a man I have never met, never talked to, by the name of J.B. Mancuso who is with the minerals unit of the Pittsburgh and Midway Coal Mining Co., the company that operates there, with their home office in Colorado, he said: "If additional costs are imposed on the Stillwater operation, all"—and he underlined "all"—"of the world's platinum and palladium will likely come from South Africa and what was the Soviet Union."

So let us remember what we are doing here. We are striking at the heart of operations that are important to this country and to States like Montana, Arizona, Nevada and, as I have already indicated, Mr. President, not only important where the minerals are extracted but places where they make the drills, like in Texas at $700,000 to $800,000 a cut; where they make some of these big dozers in places like Peoria, IL; places where they make some of these large trucks like in South Milwaukee, WI.

So this legislation, Mr. President, is not legislation that is only important and has an impact on Western States. It has an impact all over this country because of the manufacturing that takes place.

This bill that is now before the Senate, the Interior appropriations bill, is a bill that I worked hard on. I serve, and am very proud of the fact, under the President pro tempore of the Senate, the senior Senator from West Virginia, and as all the Senate knows, he runs a pretty tight committee. In the mark which we received, there was a $100 holding fee.

What is the $100 holding fee? A $100 holding fee does not apply to patented claims but unpatented claims. On these unpatented claims, Mr. President, situations develop where a person, since 1872, would go into a place like Nevada, Arizona, California and locate a claim, not a patented claim, they can go out and locate a claim. And for many,

many decades, what they have done each year to maintain that claim is they do $100 worth of what is called assessment work.

The committee, Senator BYRD, and the Interior Committee on the House side felt that that was old fashioned and that instead of doing $100 worth of assessment work, there should be $100 paid every year to hold that claim, and that is where the term came, "holding fee." That is in the bill.

I complained about it in committee and recognized very quickly that we could do nothing to take that out of the bill. I made a statement before the subcommittee and the full committee, but the fee is in the bill. That holding fee will bring to this country about $50 million. This is the will of the chairman of the committee and the majority of the people on that committee. I do not like it because I think it has a serious impact on prospectors, but it is in the bill and I acknowledge that.

In Nevada, there are 400,000 claims, approximately, like this and these claims now will be assessed with a $100 holding fee or they will go back to the public, public land. It is in the bill. Everyone should understand that, that it is in the bill.

What specifically, Mr. President, does my amendment that is now pending before this body do?

My amendment establishes that when a patent is applied for and, in effect, has been proven up that the price for that land will not be as it has been traditionally, $2.50 or $5 an acre, but will be fair market value. The senior Senator from Arkansas has complained about this all the time I have been in the Senate, and even though it costs $100,000 to get a patent—and that was the argument why they got the land so cheaply—even though it cost approximately $100,000 to prove up on a claim, this amendment I have offered will now require someone who is claiming a patent, these 20-odd people I talked about in this country, these 20-odd people will have to pay fair market value for this land. That will take away, I think, an argument that has been on this floor for months, for years. Even though, I repeat, they pay in all kinds of costs and fees, about $100,000, to prove up a claim, this is not only, I think, good from a public policy standpoint, but I think it is also good for public relations.

Mr. President, to prove up on a patent is really not one of the easiest things to do. I talked about the fact that it costs about $100,000 to do it, but I have listed on this visual aid just a few of the steps necessary to obtain a patent. This is a process that does not take a couple of days, a couple of weeks, or a couple of months but we are talking about years, if, in fact, one is fortunate enough to be able to prove up on it.

We have all these steps from the time the operator decides to attempt to obtain a claim patent under general mining line to BLM posting notice of the application, where you pay the purchase price—it is on and on. I have listed these just for purposes of illustration. I am not going to go through each of the steps, Mr. President, but everyone can rest assure it is not an easy process and that is one of the reasons it costs $100,000 to have the patent issued.

So one amendment, as it relates to patents, will have for the first time that the applicant will have to pay fair market value.

Also, one of the things my friend, the senior Senator from Arkansas has talked about and with some basis is that it is not right that you have the patent issued and then you cease mining operations, or maybe never even start mining operations to improve your mineral interests in it.

What do you do? You decide to build, I think some examples were a motel or something on the property. Those examples, even though they were rare and the people who did it were scoundrels and in violation of the law I thought, but as we all know in mining and the business of politics, athletics, whatever it is, one rotten apple can spoil the whole barrel and a few rotten apples in this instance I think has created a bad image. This amendment will say now that when a patent is issued for mining, if that person ever uses the land for any other thing than mining, it reverts back to the Federal Government. That will be the law if this amendment is agreed to.

So we have established two of the things that my friend from Arkansas has talked about: Fair market value and reversionary interests are things that are now in this amendment. These are arguments that my friend can no longer use because they are in this amendment, and I would think that he should support this amendment.

It may not be everything he wants, but certainly it is a step in the right direction.

We have also in this amendment stated that with these patents that are issued there will have to be reclamation. Reclamation has become an accepted part of mining operation in this day and age and, if it has not been accepted, it should be.

I will take just a brief amount of time of my colleagues to talk about a couple of mines in Nevada. There is a mine near Hawthorne, NV, called the Borealis mine that is presently on a multiyear, multimillion-dollar reclamation effort. It has already restored much of an old mine—that mine went back long before this operation started—restored the landscape back to normal, and it will have it back to normal before they are finished. The entire area will be reclaimed. For this, Mr. President, they have received a Governor's award for the most outstanding reclamation in the State of Nevada.

I indicated in my opening statement that my place of birth, Searchlight, NV. Searchlight, NV, is desert. I grew up there. There may have been a tree in town. I cannot remember where it was, if in fact there was one. There was no grass. But as stark as the desert is, it has rare beauty.

Just a few miles from where I was born, 6 or 7 miles up what we call the Nipton Road, there is the largest Joshua forest in the world, the thickest Joshua forest in the world, and located in that beautiful forest is the famous ranch of the cowboy actor Rex Bell and the famous actress Clara Bow, the Walking Box Ranch. When she became ill, that is where they came and that is where she spent a lot of her last years.

Well, just a short distance from Rex Bell's ranch, right over the Nevada border in California, is a new mine called the Viceroy mine. There will be arguments made during this debate that some of these mines are owned by foreign companies. The Viceroy mine is owned by people from Canada, a Canadian company. Why? Well, I talked to the old man in his mideighties who for years and years tried to convince American companies that there was gold here. There were some old mines going back 50, 60 years, 70 years, but he said this was a big find. The only person he could get to invest in this was a man from Canada who liked the idea and he went and raised in America and in Canada millions and millions of dollars.

Mr. President, that mine took about $65 million, a lot of money, $65 million before the first ounce of dirt was taken out that ground. This was done through mineral patents.

Now, the reason I mentioned the Rex Bell and Clara Bow ranch is that Joshua trees will only grow at a certain elevation. Low desert, they do not grow. The elevation they will grow in is around 3,000 to 4,000 feet, approximately. Anything higher than that or lower than that, you do not have them. Well, this mine has Joshua trees. As part of their agreement with the State of California, Viceroy had to agree to put the mine back in its original shape. As a result of that, they have a huge nursery in the middle of the desert. Every tree that they take out they have to replant, and when they finish mining it is to be put back where it was. You can drive out there and see this huge nursery in the middle of the desert. There are the Yucca trees and some Joshua trees.

This mine began to produce gold in February of this year. They have received an award already from the Sierra Club for developing a reclamation plan that has been praised as one of the best ever. Environmentalists have said that Viceroy mine, when they are finished mining, will look just like it did before they began the mine operation. And as part of their agreement they accepted responsibility of reclaiming some old mines that were already there and have nothing to do with their current operation.

That is why I said, Mr. President, that in modern-day America, in modern-day mining, you do not have the problems you had in the days of my father.

This legislation in the form of this amendment I have offered on behalf of Senators DOMENICI, DECONCINI, BRYAN, and myself will require reclamation. It has been contended that minimal levels of reclamation are not standard within every State in which hard rock mining occurs. While States such as Nevada, have very good reclamation laws, there is no clearly defined floor or baseline standard for State reclamation. My amendment will accomplish this minimum level of environmental standard and still afford States opportunities to maintain primacy in the area of reclamation. This should satisfy the detractors of the mining law who claim that State standards are nonexistent or not stringent enough. In effect, this will act as an incentive to those States that do not have presently a State mining reclamation act to take steps to pass such a law; otherwise, the Federal Government will step in.

As I said earlier, reclamation in many States is already pretty good. So, in effect, what this amendment will do is establish the standard that if a State does not have a reclamation standard, and some States do not, then the Federal Government will step in and take over.

Mr. President, I received—and I was disappointed—yesterday in my office a communication from a man by the name of Jim Lyon, who is from an organization called the Mineral Policy Center. Now, I have never met him, to my knowledge. I am sure he is a very competent lobbyist. I am sure he means well. But I have to submit that either he received some very bad information or that the information he received he simply does not understand. This flier that came to all Senators' offices is entitled "Oppose Reid Amendments in the 1872 Mining Law."

Why? He says this amendment that I am offering will charge fair market value. But this is not enough. He wants to go further. He said this is not good, that this is only for the surface of the mining claim patent. I guess what he is saying, unless you get royalties, do not vote for anything. He also says token Federal reclamation standards.

Now, I consider this, Mr. President, an insult. The State of Nevada—and I have given only two examples—has very high standards of reclamation. I have not talked about the huge game refuge that has been established in northern Nevada with the excess water out of the mines. Now it has become part of the great North American flyway.

Token Federal reclamation standards. These are not token. And a modest annual holding fee—$100 a claim; $50 million for this Government modest? I do not understand these constructive, substantive changes. I could understand why they would write a letter.

So I suggest, Mr. President, that those of my colleagues who have received opposition to these amendments not be mislead. Either this gentleman does not understand, or he has received bad information.

We will hear some debate here today about royalties. My friend, the senior Senator from Arkansas, wants to talk about royalties. I will get this debate started on royalties.

Let us see what we are comparing. We have in America today domestic oil production coming from 607,000 wells. It used to be a lot more than that. The ranking member of the Interior Subcommittee I have heard talk about this at times—my friend, Senator NICKLES—about how domestic production is going down, and we are not doing enough to stimulate domestic production. Even today, with 607,000 wells, I know that is not enough. But we have them.

Natural gas, 258,000 wells; coal, we have 3,000 mines in 27 different States. But listen to these figures, Mr. President: Copper mines, 13 mines in this country produce 95 percent of all the copper in our country; zinc, 25 mines produce 99 percent of all the zinc in America; iron, 10 mines produce 99 percent of the iron in America; gold—you know all these massive giveaways that we have heard about, which are established as fictitious—there are 25 mines in America today that produce almost 80 percent of the gold.

What I am saying, Mr. President, is with the handful of mines—less than 75 mines—producing copper, zinc, iron, and gold, a royalty would run most of them out of business, and they have said so. I read to you the letter on the palladium mine that we have. They just simply could not do it.

The royalties suggested by my friend from Arkansas, would, within the first 6 months after passage, be the equivalent of a 30-percent or greater range in job loss during the first year. Not only these job losses I have established, Mr. President, where they occur in the direct application of mining, but in Peoria, IL; south Milwaukee, WI; and Texas, where they make the drills.

One of the ways that there is to generate jobs in the production of equipment is for these mining companies to continually go out and explore for more. With the royalty, that would stop in a minute.

I think it is educational, Mr. President, to demonstrate that any increase in the Federal Treasury—that is, a motivation in the passage of any proposed bill—is illusory. If the impact of the royalties are as they appear, which would quickly result in a 50-percent reduction in production, the net revenue impact of the royalty would be worthless, wasted, illusory.

I think that it is educational to look at someone who is an expert on this. There is a man, an activist working to reform the general mining law, who has stated—he is an antimining-law activist, but he is not in favor; he is against. He thinks there should be major reforms.

Here is what he says about the royalty.

> The lack of rental or royalty does not mean that the Federal Government receives no return on its minerals. The various tax consequences of mining are too complicated to deal with here. But hardrock mineral developing * * * like any income-producing business, eventually produces direct or indirect payments to Uncle Sam.
>
> The argument for greater revenue return is thus not an overwhelming argument for reforming mining law.

So he is saying reform the mining law, but not the royalties. I have not read all of his stuff, but I bet he would like what is in my amendment. I bet he would like the reversionary clause; I bet he would like the reclamation clause; and I bet he would like the fair-market clause.

My friend, the senior Senator from Arkansas, has stated that there is a mine in Nevada, Newmont Mine, that pays a royalty. If they can pay a royalty there, they can pay a royalty anywhere. Remember, we have established that 25 mines that produce approximately 75 to 80 percent of all the gold in the United States.

My friend is right. Newmont pays 16-percent royalty to some private individuals on a very small portion of their operations in northern Nevada. When the lease and the royalty with the private landowners were negotiated—remember, in Nevada, we only have 13 percent of the land that is privately owned—when they made this deal, they already knew there was an ore body there in existence. It was not necessary for Newmont to perform costly exploration work to find the ore body.

On unpatented mining claims, this is not the case. A company has to put a great deal of money in before an ore body is discovered, much less mining it. We talked about that.

The transaction between Newmont and the private landowners involved a lease on a small portion of an old ranch, called the TS Ranch, involving a royalty fee. The same transaction also involved the sale of all remaining mineral rights on the balance of the ranch, free from any royalty. If they found gold someplace else, they paid no royalty.

The Newmont gold lease and the purchase of the TS Ranch cited by my friend, Senator BUMPERS, were very site-specific commercial transactions, resulting from an arm's length bargaining between two parties—Newmont and the owners of the ranch—which took into account the specific characteristics; that is, the known ore body of the property involved.

The terms of the lease and the royalty portion of the Newmont transaction probably would not be appropriate for any other property in the United States unless its characteristics, unless its makeup, match those of the TS Ranch.

If someone owned a ranch that measured 15 miles by 25 miles, having a known ore body containing 8 million ounces of gold next to an existing operation with an infrastructure in place, then it might well make sense for a second party to agree to pay a royalty on that ore body and obtain the balance of the mineral rights free from royalty.

Of course, it is suggested by my friend from Arkansas that by definition we cannot accommodate site-by-site bargaining. Instead, these proposals establish a blank-term on all public lands, and if this were proposed by the Congress on mineral production of lands, it would have terms that would be too expensive for lands that do not already have discovered ore bodies.

There would not be any exploration on any lands with no new ore bodies. Given a choice between exploring lands offshore with a lesser or no royalty, or exploring on lands carrying a royalty, the company will always choose the less costly option.

Mr. President, none of the world's leading mining nations—Australia, Canada, and South Africa—impose Federal royalties on mining production within some of those jurisdictions, some of the provinces—or we can refer to them as States, as in the United States. Nevada has a tax on mining operations, as in other countries. But these countries, the world's leading mining nations, impose no Federal royalty on mine production.

To promote economic development, some provinces in these areas—that is, these States I referred to within the countries—have exempted mineral-rich areas from taxation. For example, western Australia, the center of Australian gold production—a competitor to us, the United States—exempts gold from a royalty. In South Africa, royalties are not charged by the South African Government for any mining on state lands. In fact, the corporate taxes in mining are currently being reduced. In Canada, the Federal Government does not levy royalties on crown land mining. Some provinces impose a tax on corporate profits, like the State of Nevada does. Australia—we talked about that.

Mr. President, one area that I want to talk about in anticipation of my friend, the senior Senator from Arkansas, is a subsequent amendment that I am going to offer. I have not offered it as part of this amendment because one of the cosponsors felt that it could not be supported.

But I ask my friend to listen to what this amendment would do, which will shortly be offered. Mr. President, it would prevent uncommon varieties from being patented, such as flagstone, building stone, sand, those kinds of things. Under the 1955 act, the ability for those to be patented was established. These uncommon varieties would not, under my amendment, be allowed to be patented. This is not related to the hard rock industry and should be made available to something other than patents.

I think this is an area where I want to join, I hope, my friend from Arkansas to stop where most of the patent fraud is coming from, the so-called sand scam. Very rarely have any of these come with hard rock mining, because it is so difficult to prove up, and it rarely has happened. At a later time, I hope my friend will join me and cosponsor this amendment, which would exempt uncommon varieties from the patent.

I kept my word, as I indicated earlier, Mr. President. I said publicly, and I said privately, that I would work for some substantive changes in the 1872 mining law. These are substantive changes: Right of reversion, fair market value, reclamation. We are going to work on uncommon varieties. We already have a holding fee in the bill. There is more reform in this amendment than in the history of the whole act. That is not bad.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The regular order is the first remaining committee amendment, which begins on page 3, line 14, of the bill.

AMENDMENT NO. 2881

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2881.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

"SEC. . (a) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any mining or mill site claim located under the general mining laws.

(b) Notwithstanding any other provision of law, any legal action, including an action for declaratory judgment, to challenge the legality of this provision as it applies to patent applications which were filed with the Department of the Interior on or before the date of enactment of this Act and for which all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 390) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36 and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by such date, shall be brought within 6 months after the date of enactment of this Act in the United States Claims Court, which shall have exclusive original jurisdiction over any such action. In addition to the current authority of such Court, United States Claims Court is authorized for the purposes of this section only, to provide declaratory relief. Such action shall be barred unless a complaint is filed within the time specified.

(c) If the moratorium as it applies to patent applications referenced in subsection (b) of this section is held to be invalid by a final nonappealable decision, subsection (a) shall not apply to such patent applications and such applications shall be processed in accordance with the laws in existence on the day prior to the date of enactment of this Act."

Mr. REID. Mr. President, parliamentary inquiry. It is my understanding that the amendment that the Senator from Nevada offered, which was a second-degree amendment to a pending—I am sorry, the excepted committee amendment is not amendable.

The PRESIDING OFFICER. The Senator from Nevada is correct. The amendment being offered by the Senator from Arkansas is not an amendment to the amendment of the Senator from Nevada.

Mr. REID. Mr. President, I am going to suggest the absence of a quorum.

Mr. BUMPERS. Mr. President, before the Senator asks for a quorum call, if I might just make a couple of observations, and then if he still wants to put the——

Mr. REID. I think we can avoid a quorum call if I can direct a question to the Chair.

I apologize to my friend.

Mr. BUMPERS. That is fine.

Mr. REID. It is my understanding, Mr. President, that the pending business would be the Reid-Domenici-DeConcini-Byran amendment, and that the amendment offered by the Senator from Arkansas would be a subsequent amendment; that the Reid amendment would have to be disposed of prior to operating on the second amendment.

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that the pending amendment is the Bumpers amendment.

Mr. BUMPERS. Mr. President, there is so much to be said, I hardly know where to begin, because I have made my speech on this problem in this body. This is the fourth straight year. I simply want to say to my colleagues that this problem must be resolved. It will not be resolved by the amendment of the Senator from Nevada, which is, at best, a diversionary tactic; nor will it be resolved by the amendment I just sent to the desk, which is a moratorium on issuing of patents until October 1 of 1993. That is no solution either.

Mr. President, I think of the hours I have put, in the past 2 years, into an effort to bring to this body a comprehensive mine law reform bill, when I think of how many Western Senators I have talked to, how many endless hours of staff work, giving, talking, compromising when I did not want to, changing almost totally the complexion of the bill I first introduced last year, which was S. 433, in an effort to bring a conclusion to the problems which persist, and will persist forever until this body takes action.

The authorizing committee in the House has passed a very comprehensive bill. It is one the American Mining Congress deplores. I do not blame them. I might say to my friends in that organization—and I have been visiting with them—there are a lot of fine people in the American Mining Congress, and they represent mostly the big mining companies of this country. I can promise you they want it resolved. They may not want it resolved precisely the way I do, but they are tired of seeing all of these exposés on "20-20" and "PrimeTime Live," and the two exposés on the evening news in the past 30 days, and on NPR yesterday morning, for the 40th time.

So they want it resolved. They are tired of being hammered, and I am tired. I know my colleagues are tired of hearing me make these arguments. My father used to have an expression: "Everybody's business is nobody's business." Once you get east of New Mexico, in all fairness, not much of anybody in this body cares about this issue. When you go west of Oklahoma and Texas, everybody cares about it. They are concerned about jobs. They are concerned about their economies, and I am, too. I might also say that that moratorium that I have just offered as an amendment will not cost one job, not one.

It will not shut down one mine or cost one person his job. It is simply saying let us go back to the drawing board after the first of the year and see if we cannot resolve this?

At some point if we cannot come up with a comprehensive bill dealing with mining claims, dealing with reclamation and bonding, dealing with royalties, who is going to clean up the mess? If we cannot deal with all of those things which are central to this problem, then we probably will just pass some kind of a royalty bill here, and that will be the end of it. But I can tell you that would be a very sad commentary on the U.S. Senate if it accepts that as an ultimate solution.

Every evening on the news you hear commentators talk about how angry people are. They refer to the anti-incumbent mood. I may be wrong, and it may be a wish on my part, I believe that some of that hostility has waned a little bit. People may be mad about the House bank; they may be mad about the pay raise; they may be angry about the House post office scandal, or whatever it is. But I can tell you those who have watched all of these documentaries about this particular practice that we allow to go on uninterrupted on Federal lands, I promise you their anger boils over. Every time one of those who have watched all of these documentaries about this particular practice that we allow to go on uninterrupted on Federal lands, I promise you their anger boils over. Every time one of those shows comes on, the next day our switchboard lights up with people calling, biting their teeth, saying I cannot believe you guys allow this to go on.

(Mr. ROBB assumed the chair.)

Mr. BUMPERS. Mr. President, you think about this for openers. If you want to drill for gas, you want to drill for oil, on Federal lands, you have to submit a bid just for the right to drill, and then you have to agree to pay 12½ percent royalty on everything you take out of the ground, oil or gas. And that is the minimum. You have to file an environmental impact statement. You have to promise to clean the mess up when you leave, and the Government gets billions out of this. That is true of oil and gas.

If you want to mine coal on Federal lands in the West you have to submit a bid for it and you have to agree to a royalty of not less than 12½ percent.

If you are going to go underground, like they do in West Virginia, on Federal lands you pay 8 percent. If you want to try to generate power on Federal lands from geothermal sources you pay 10 to 15 percent.

But when it comes to hard-rock mining, you know we have a concept on forest lands called multiple-use sustained yield, which means you do not cut more timber over a 150-year period than you can reproduce. It means the forests have been available for recreation, camping, and hunting. All of these things are considered multiple uses. But if you walk into the national forest and you have a mining claim of 20 acres filed that did not cost you a penny, put up four stakes and you stake out 20 acres, 10 years later you go to the administrator of the Forest Service and say I have found a valuable mineral, that 20 acres immediately becomes the highest and best use of the property.

You think about it. And the Secretary cannot deny that miner the right to mine it. He cannot deny the miner the right to mine that if it is in the middle of Yosemite or Yellowstone National Park. If you think I am embellishing this, call them, call the Secretary of the Interior, call the chief of the Forest Service.

You think about all the resources on Federal lands in this country, but hard-rock mining is always considered the highest and best use. Everything else is subordinate to it. And it has been that way now for 120 years, since Ulysses Grant put his name on the line in 1872 and put this bill on the books, which I am trying to reform.

When I first heard about this several years ago, I was as incredulous as you are. You mean to tell me that people can go out West and just put four stakes down and say this is my claim? The answer to that is "yes." If you want to file 25 claims on 500 acres, all you have to do is put the stakes down. That is right.

Do you know how many of those claims are already out there right now? Two million two hundred thousand. You know how many acres it is? Forty-three million, 45 million acres of Federal lands on which claims have been filed.

This bill contains one provision that the House bill contained that makes a very tiny change in dealing with the problem. In the past, for every claim you filed, you had to certify every year that you have done $100 worth of exploratory work on the claim. That has always been a charade; everybody knew it.

I tried to do it before, but the House put a provision in saying that in the future you cannot just say you put $100 worth of work in, you have to send us $100. That gives us a net $57 million. You know, in our subcommittee we can certainly find plenty of places to use that.

That is in the House bill and that is in the Senate bill, so you can count that, I think, as a done deal unless the President vetoes this bill.

But after you file that claim of 20 acres or whatever it is, if you find anything on it you can go to the Bureau of Land Management and I say I want a deed to it. And you go through certain steps over a year or two's time, and he will give you a deed to it for either $2.50 an acre or $5 an acre. It is a pretty good deal. Just last year the Secretary issued 26 of those covering 4,000 acres. Four thousand acres of Federal lands were sold last year for either $2.50 an acre or $5 an acre.

But what is unbelievable is that if that land produces $10 billion worth of hard-rock minerals over the next 30 years, you know what the U.S. Government gets out of it? Zero, not 1 penny.

The Senator from Nevada pointed out that the Newmont Mining Co., which is a British company—Sir James Goldsmith owns 37 percent of Newmont Mining Co.—they have a mine in Nevada and they pay on private land, the Senator said 16 percent royalty. It is my understanding they pay 18 percent. But if Newmont found gold on Federal lands they would pay not 1 penny. And the argument is made here that somehow or other all the mining companies are going to go broke.

Now, Mr. President, you want to mine land, you want to mine land in Montana, you want to mine land in Montana, the royalty by the State of Montana is not less than 5 percent on the full market value. So Newmont, if they go over and mine on lands that belong to the State of Montana, they pay 5 percent. They mine on this private land they pay 18 percent. You want to go over to California and mine some on California State lands, you pay a 10-percent royalty. You want to mine in Arkansas, my home State, we have a royalty but we do not have any hard-rock mining going on. Arizona 2 percent; Alaska 3 percent; Colorado varies depending on the mineral; Idaho 2½ percent; New Mexico at least 2, plus at least 2 percent on all bonuses or premiums; Utah 4 percent; Wyoming, gross sales 5 percent, and 30 cents a ton for bentonite. And yet the Senators from all the respective States will speak here on the floor today and tell you the mining companies are going to go broke if they have to pay the U.S. Government 1 red cent.

What kind of an argument is that? It is strange, to say the least.

And who are these people? Who are these people? Listen to this. Here are the top 10 mining companies in this country. Carlin Complex, 45 percent United Kingdom; Goldstrike, 100 percent Canadian; Jerrit Canyon, 70 percent Luxembourg, 30 percent American; Smokey Valley, 50 percent Canadian, 25 percent U.S.A.; McCoy-Cove, 100 percent Canadian; McClaughlin, 100 percent U.S.A.; Chimney, 100 percent Great Britain; Fortitude, 100 percent U.S.A.; Bullfrog, 65 percent Canadian; Mesquite, 100 percent British. Two of the top 10 companies owned by the United States.

Somebody sent me a big feature story out of the London Telegraph, had my picture on it. I thought, "What on Earth?" Well, boy, do not think Great Britain does not have a passing interest in what happens in this bill?

But let me say this, Mr. President. These two United States companies, McClaughlin and Fortitude, I invite them to go to Canada and mine and tell the Canadians they want to mine on their land; they do not want to pay any royalties, and they do not want to file a reclamation claim, and they do not want to put up a bond for reclamation. The Canadians would laugh them out of their country.

Yet, they come here and say to us: I want to mine your land. I do not want to pay any royalties. And I might want to join 1 of these 77 abandoned mines on the Superfund site, so you taxpayers can pick up the tab for the mess I leave.

Mr. President, if we were to put a royalty on hard rock mines in this country, I daresay, GAO says there is $100 billion dollars worth of hard rock minerals still left on American soil, federally owned land, $100 billion. If you mined every drop of it, and you had a 5-percent royalty, and $5 billion was returned to the U.S. Treasury, I daresay that would not clean up those 77 Superfund sites.

Now I only point that out because that is just one facet of this whole thing. The Senator from Nevada has cleverly crafted an amendment that uses the term "fair market value." And who is opposed to fair market value? Fair market value of what? The surface.

Stillwater Mining Co.—listen to this, Mr. President. Some of you will remember rather late in the evening here in 1990, when we had this Interior appropriations bill up, I offered a patent moratorium exactly like this. And after a very heated debate between me and, as I say, all the western Senators, I lost 50 to 48. And there were some clarion calls that went off across the Nation.

Four days later, the Stillwater Mining Co. owned by Chevron, and I believe Johns-Manville, filed an application for patents, that is deeds, on 2,000 acres in Montana. Now they have a mine already in existence. I am not sure what they are going to pay for that, but I think it is $2.50 an acre. I take that back. I believe they are paying $5,000 for it, because I think they are going to pay $10,000 for 2,000 acres.

You know what lies underneath that 2,000 acres? By their estimates, not mine, by their résumés and their prospectus, not mine, 32 billion dollars' worth of palladium and platinum.

The Senator from Nevada would have you believe we are most honored to have the Stillwater Mining Co. willing to go out there and mine that for us.

If you were to adopt the amendment of the Senator from Nevada to pay fair market value, the last figures BLM put out showed that if you exclude California, the fair market value of all this Federal land that people are asking for patents on is $100 an acre.

So let us assume that we are going to hijack Stillwater and say, "We will not sell you the surface for $5 an acre. We have to charge you the fair market value, which is $100 an acre, and therefore you are going to have to pay $100,000 for this land."

Now, I want to ask you, when you consider Stillwater Mining Co., owned by Chevron and Johns-Manville, I want you to ask yourself what a big deal that is as to whether they pay $10,000 or $200,000. Either way they get 32 billion dollars' worth of hard rock minerals that belong to the taxpayers of this country, and they get it without paying 1 nickel royalty for it. So when you are talking about fair market value, you just think about that.

In many ways, in my opinion, the amendment of the Senator from Nevada adds a problem, it makes matters worse.

Illustration: let us assume that you go to Arizona or New Mexico, which have no reclamation laws, none. No reclamation laws. And the Senator's amendment says that you will either comply in mining with the State law, and if there is no State law, which obviously applies to New Mexico and Arizona, then you will comply with Federal law.

So you ask yourself, that sounds pretty good, does it not? If there is no State law, I have to comply with Federal law. There is just one problem. There is no Federal law.

I will tell you what the Federal law is and it is the only one. It is called the Federal Land Policy Management Act, which we passed here about the second year I was in the Senate. And what it says is, you will not cause any unnecessary disturbance or—I forget what the other word is—undue degradation. What does that mean?

Let me take you a step further. Did you know that once you have a claim and you can prove to BLM that you have found a valuable mineral—that is the term, valuable mineral—he cannot keep you from mining that mineral. If you do not like his application on reclamation or anything else, you can negotiate with him, but you cannot keep him from mining it.

In the case of Arizona and New Mexico, he goes in and he puts up a 20 acre mine. Now bear in mind if it is 5 acres or less, he does not have to consult with anybody. All he has to do is file some kind of a plan that is just nothing.

Incidentally, most mines in this country are in that category, below 5 acres. That is where a lot of these Superfund sites come from, too.

But let us assume he goes broke. Nobody is looking at the environmental laws. He leaves it and it is an environmental disaster. He leaves it for us to pick up.

The amendment of the Senator from Nevada says, oh, we have taken care of that. The Secretary has the right to renounce if he abandons it, and instead of it reverting back to us, as his amendment provides, the Secretary can renounce the reversion part of it.

So what do you have then? You have private lands again on the Superfund list.

There are over 400 patents pending in this country right now, and if we do not pass this moratorium, a whole host of them are going to be granted.

I consider the Senator from Nevada one of the finest men in this body, a man of integrity, a man of sincere beliefs, a man who I am happy to call my friend. But if you adopt this proposal which, as I say, is nothing in the world but a diversionary tactic—the term "fair market value" has been very carefully crafted to make you think they are paying fair market value for the minerals. They are paying nothing for the minerals. They are buying the surface which has a value of $100 an acre and pretending this problem has been resolved.

The House bill provides for an 8-percent royalty. Think about that. That is on every stick you take out. I am willing to talk about profits, taxable profits, put a royalty on the taxable income of the company.

Mr. President, this photograph is by David T. Hanson. It has not been altered. This black pond right here with the orange edge is water which has been poisoned by mining filling that pit. This is the Black Cloud Mine in Leadville, CO. That is a pretty appropriate name, is it not? Black Cloud—when you look at that pond down there.

It is now a Superfund site. The taxpayers of this country will have an opportunity to pay millions, probably hundreds of millions to clean this mess up. And if we do not do better than we have been doing, there will be another one and another one and another one and another one and the taxpayers get left for something they got nothing in return for.

Mr. STEVENS. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. STEVENS. Does it not happen to the private land in the Senator's State? The Superfund pays those costs on private lands in the Senator's State. Why should we have a distinction between public land? I do not quite understand the Senator's point about the Superfund, the taxpayers are going to pay to clean up. The taxpayers are going to pay to clean up past abuses on lands in the United States, not just on public lands.

Mr. BUMPERS. Senator, it does not make any difference to me whether it is private lands or public lands. This land apparently has been abandoned and so it now reverts back to the United States. So from that sense, it is public lands, but I would not care whether this occurred on private land or public land.

What I was saying a while ago, Senator, is you are going to have a situation, for example, in Arizona and New Mexico, which becomes private land when you sell the surface and it is going to remain private land until he abandons it and maybe leaves this kind of a mess and the Secretary says we are not going to take that mess back. Then it becomes a Superfund site which is a site on private land because we sold the surface.

Mr. STEVENS. Will the Senator yield again?

Mr. BUMPERS. Yes.

Mr. STEVENS. The Federal Government gave the Senator's State to the homesteaders. We have the same obligation under the Superfund land. I think sometimes the Senator was born 100 years too late. The problem really is many of these issues were created on privately held land, many of them are on publicly held land. I do not see that you should say this land reverts to the United States. It is U.S. land because it is not entered into the private ownership of land as is the situation in almost every State in the Union except for some of the public land States in the West, where the Senator's philosophy prevents private ownership from having a responsibility. If we had private responsibility, that would not have happened.

Mr. BUMPERS. Senators, since you raised this issue about public versus private, let me ask you this question: If you had 1,000 acres and knew there was 32 billion dollars' worth of hard rock minerals under the surface, would you let me come in and start mining it?

Mr. STEVENS. I will be pleased to answer that question in this way: In the Senator's State, there was a great land rush and whoever wanted lands went out and took it. And the good people of the United States gave that land to your predecessors in Arkansas. In my State, it has either been reserved or inaccessible. One of the few things left, one of the few laws left is the Mining Act of 1872.

Mr. BUMPERS. You talk about being 100 years too late. The Senator is the one born 100 years to late. This should have been corrected 50, 100 years ago.

Mr. STEVENS. Perhaps we should not have repealed the Homestead Act, or repealed the Small Tract Act, or repealed the Trade Manufacturing Act—all of the acts the people of the Senator's philosophy sought to deny people access to the public lands in the West.

We do not have the same right existing in your State when it was subject to development. Nevada, Arizona, the public lands of the States of the West are now denied access. This is the one act left—the one act left—the mining law of 1872 which has sustained the great mining industry of America, is now under attack because of the Senator's basic attempt to say these lands, contrary to the history of the West, should not be available under any circumstances unless you go out and find out what they are worth before you dispose of them. Is that not the Senator's philosophy?

Mr. BUMPERS. Does the Senator think the mining company makes all those determinations before they open a mine? Why, of course, they do. They do not go out there and start mining without core drilling, without exploration, without doing all the preliminary work to decide——

Mr. STEVENS. Who does that, Senator? Who does that, Mr. President? I hope the Chair will permit a little exchange.

Mr. BUMPERS. We are not on a time agreement. We are just having a colloquy.

The PRESIDING OFFICER. The Chair requests Senators direct their comments through the Chair.

Mr. BUMPERS. Will the Parliamentarian restate that?

The PRESIDING OFFICER. The Chair requests Senators direct their comments through the Chair.

Mr. STEVENS. I apologize. Mr. President, again, I want my friend to yield and I assume he will.

Mr. BUMPERS. Let me say to the——

Mr. STEVENS. Will the Senator yield?

Mr. BUMPERS. I will be happy to yield.

Mr. STEVENS. So I can finish this concept.

In terms of what the Senator is pursuing now, he is saying that because the taxpayers, really the people of the United States own public lands out there that there should be a determination of what is in the land before it can possibly go into the industrial base of the West; is that not what the Senator is saying?

Mr. BUMPERS. Would you repeat that? I am sorry.

Mr. STEVENS. I said, is not the Senator saying that before this land that is subject to a mining claim under the 1872 laws is subject to a patent, there should be a determination of the value of what is in the mining claim and that the person who has discovered the ore body should pay the fair market value of the ore body, you want a determination of the value of the contents of the land before it is passed under the mining law of 1872?

Mr. BUMPERS. Not at all. I want to clarify that for you. Nothing can be further from the truth. You asked me about getting a patient on the land. Let me state for the clarification of all my colleagues, about 70 to 80 percent of the mining on Federal lands is not under a patent. Why is it not? Because if you want to go mine on your mining claim, they will let you do that. You do not even have to get a patent.

But what the members of the American Mining Congress and some of the big mining companies say, if we do not have a deed, we cannot borrow money.

That is the reason they say they want a patent to the minerals. I would not presume to tell them anything about what is under the surface of that land. They are business people. They are not going to mine it unless they think they can make money. They are not going to go to a bank and borrow money unless they think the ore under that surface is minable in commercially producible quantities.

But my point is this: If you want to mine on a tract less than 5 acres, you do not have to say boo to anybody. You just go out there and start digging. You do not have to clean it up or anything. If you mine on an unpatented tract of land over 5 acres, you do have to get a deed. That is about all. That is what most people do.

The Senator is concerned about small business. I am, too. I am chairman of the Small Business Committee. I am concerned about all small business people. My point is this: I am not going to have to go out there and decide that. I know you are not going to mine it and borrow money on it unless you have core drilled and checked to see.

My point is simply this: How many times has the Senator told the Chamber of Commerce and the Rotary Club back home that he was going to treat their money and their land just like it was his own? You cannot say that. You cannot say that truthfully and come in here and say we are going to give away 100 million dollars' worth of hard rock minerals that belong to the taxpayers of this country.

I am not trying to put one single mining company out of business. God bless them. They provide jobs, and I want them to. But I must say I deeply resent the argument that somehow or other they can pay a royalty on private lands, they can pay a royalty to every single State in the West with the possible exception of Nevada, but for some reason or other if you require a royalty of them on this, a good portion of which, incidentally, I would put into abandoned mine sites and start cleaning some of those messes up—if you say you have to pay because it is on Federal land, they say, "Oh, my God, we are going broke." That is an absolute oxymoron. You cannot have it both ways.

Mr. STEVENS. Will the Senator yield? And then I will cease my interruptions. Mr. President, will the Senator yield for one more comment?

Mr. BUMPERS. I will be happy to yield.

Mr. STEVENS. Mr. President, when this Senator has the opportunity to have the floor, I want to address at length what the Senator from Arkansas is saying. It is my feeling that Congress is being asked to change the rules of the process that has led us to have a mining industry of significance in the world.

It is particularly true that the mining industry is flourishing in the Western part of the United States. People have pursued claims on some of these lands now for 20, 30, 40, I know of one 50 years, and now the Senator from Arkansas is saying, "Ah, but just as you come to the last single thing, the patenting process, we are going to change the rules because this land is Federal land, not private land."

Now, I intend to show that a vast portion of the public lands in the United States were made available through incentives passed by Congress for development, for occupation, and entered the private sector and now contribute to the revenue of the United States.

What this proposal of the Senator from Arkansas does, in my judgment, as I said, is to change the rules. It is to say to people who have relied on the mining law of 1872 for years—some of them have put almost their whole lives into developing a mining claim—now it is time to go to patent because, as the Senator said, it is necessary to have financing.

I know of one set of claims where that was true in particular and, because it was not possible to get financing, they were sold to Canada, where similar laws do not apply. They have the penny stock act over there. You can go out and finance mining claims in Canada very quickly.

It is significant to point out that the five major prospects for ore development in my State today are all owned by Canadians. Why? Because the philosophy of the Senator from Arkansas does not prevail in Canada. It is possible to pursue claims, it is possible to bring minerals into production, and it is possible even to go into the United States under Canadian law and pursue these claims.

But the Senator wants to change the rules for people who have been mining in the past. If you want to follow what my good friend from Nevada wants to do, and say let us look at what the Senator from Arkansas wants to do, and they can prospect, then let us let them out.

If you want to set policy now and say in the future anyone who wants to mine on public lands, these are new rules, make up your mind before you enter into this and devote your life to it.

The Senator says he is for the small miners. Most of the claims that have developed into significant mines in this country started with one man and one pick and one burro. They were the small miners. And that is still true in my State. I believe that we must keep in mind those people who are living out there who are mining. I wish the Senator would go with me to some of the small mines. I know what small mines are. I have an Eskimo friend out of Nome who has a small mine he works every year. He is still hoping he can bring that into full production and ultimately get his patent and some financing. But he has been doing that now as long as I have known him, which has to be 30-plus years.

Mr. President, this concept that the Senator from Arkansas is presenting to the Senate, once again, ought not to be voted on quickly. It is time for us to review the history of the United States in the West. I wish I had the memory of my good friend from West Virginia and could go through and recite every single development since 1872 and the States where the laws were allowed to work and now in the States such as Nevada, Arizona, Utah, Montana, Colorado, Alaska—the mining States that are left—the Senator from Arkansas wants to change the rules.

I will not make any further statement at this time. I will obtain the floor in my own right later. I will make one last comment. That is, the 5-acre rule does provide for reclamation and all other environmental laws apply to the mining of those small mining claims. The Senator knows that. And it is not possible in the future to have that kind of picture presented on new mining claims. We already have taken care of that and the mining industry has agreed to it.

This is an accident of the past. And there are accidents like that on military reservations. There are accidents like that on private lands in New York. There are accidents even, God forbid, in the great State of the current occupant of the chair, Virginia.

We know we have problems under the Superfund law. But it is not the fault of the public land laws. It is the fault of past practices in terms of proper practices from an environmental point of view. We have taken care of that in the mining law already. And the Senator ought not to leave the impression that kind of accident of history is going to occur in the future on small mining claims. We already have the 5-acre law that requires reclamation and all environmental laws apply.

I thank the Senator.

Mr. BUMPERS. I thank the Senator. Mr. President, I do want to correct one thing. On the under 5 acres, no plan, no reclamation, no nothing; simply a notice of entry is all you have to file.

Now, Mr. President, let me also say one of the reasons that this one attracted my attention is its presence in Leadville, CO. And where do you think it drains? Into the Arkansas River. So I have more than a passing interest in this particular environmental disaster.

Now, Mr. President, I want to comment on some of the things that the distinguished Senator from Alaska raised. He is always a very worthy adversary, feels strongly about this issue, and I understand that and respect his opinions. I can remember listening to those very same speeches on this floor for 8 years, 8 years, when I was trying to get the Bureau of Land Management to quit leasing Federal lands for oil and gas exploration for $1 an acre. It took me 8 years to get the Bureau of Land Management, to get a bill passed here to lease Federal lands for oil and gas drilling on a competitive basis. For 8 years I was told that every mom and pop independent operation in America was going to be driven out of business. The law went into effect in 1988. Not only does it produce more revenue for my State of Arkansas and the U.S. Treasury, it is working like a charm. Not one single claim of how the world was going to come to an end even came close to being true.

This is an issue, this issue on mine reform, I may not win this year. I did not win last year. I did not win the year before. But issues like fighting with old Betty, those that I win just are not over.

We are going to revisit this and revisit it until we get some environmental reclamation laws on this, until the taxpayers are treated fairly, just as they were being treated shabbily in oil and gas leasing.

So I want to reemphasize that: If you want a mine on a 5-acre tract or less, you do not have to do anything except let them know you are mining. You do not have to file a reclamation plan.

Finally, I want to say that if I were a Canadian or if I were British, I would be in the United States mining, too. I promise you, the Canadians or the British—even the South Africans—would laugh you out of town if you came in and said:

"You have a 10,000-acre tract of land out here; I think I will go out and start mining that."

"Just a cotton-pickin' minute. Do I have any say-so over this?"

"Not really. I have already checked it out. There is a lot of gold in that land."

"That is my land."

"Well, you don't understand. It belongs to me now. I have a claim on it. I've checked it out. It has a lot of minerals underneath it."

"I cannot believe you are serious."

"Yes; I am serious."

What if you walk off and leave a big old open pit? That is your problem, too.

There is not a Member of the U.S. Senate that would even consider anything as ridiculous as that.

The Senator from Nevada comes in and says if you will just pay fair-market value for the service, that is going to make everything OK. I do not really care about that. I am not going to vote for it, and I hope an awful lot of other people will not, either. If I ever saw a nothing amendment, so far as addressing a critical problem, this is it, not to denigrate or be disrespectful to the Senator from Nevada. We all know what it is. It is a diversion from the real problem.

Mr. President, if you vote, you are going to vote on this moratorium first. And bear in mind that if you vote for my amendment, the House bill also has the moratorium in it. It will not be a conferenceable item. Then we will have next year, the rest of this year and all of next year, to address this problem in a sensible way—one that deals with all of it, not just a piece of it.

There is another interesting piece of information about this. When I used to practice law, if somebody wants to—like the Federal Government or the State—to condemn your property, they have that right. Or if somebody wants to stop you from doing something, and they go to court to get what is called an injunction, you go into court and you say: "Your Honor, the plaintiff is not entitled to this injunction, and it is going to cost me $10,000. If you rule a month from now that you should not have granted that injunction, I will have been damaged by $10,000."

Do you know what the judge does? He says: "I am going to require the plaintiff to put up a $10,000 bond to save you, and save you harmless from any damages you sustain if this court decides the injunction was wrongfully issued."

You would think that if somebody came in and said: "I want to mine this land out here, and I want to file this reclamation plan," and incidentally, the inspector general says BLM routinely does not enforce any kind of reclamation plan. But when you do file a plan, and you say: "Here is where I am going to reclaim it; I will do the best I can with it. I will try to make sure there is no undue disturbance," you would think you would put up a bond. That is your private land. You nailed out every "i" and every "t" to make sure your land was put back in the best condition. You negotiate for the highest royalty you can get. And you would make them put up a bond on the front end to be sure the reclamation took place; that is, unless you need a saliva test, that is what you would require.

Do you know what the BLM and the Forest Service require in the way of bonds? The Forest Service requires bonds in 82 percent of the cases. The Bureau of Land Management requires bonds in 22 percent of the cases.

Mr. President, there is another point that I want to make, that I made earlier, but I want to stress it because it is extremely important. If I filed a claim 50 years ago 100 yards from Old Faithful, and I have been working it and I finally decide that that tract of land 50 yards from Old Faithful has gold underneath it, I can start to mine that.

Do you know the only way the U.S. Government can keep me from mining within 50 yards of Old Faithful? Buy me out.

You heard me say earlier that the 1872 mining law makes hard-rock minerals the highest and best use of the land. You think about that. If you have a claim right next to the Yellowstone River, one of the truly pristine rivers that runs through Yellowstone National Park, and we do not want you to mine it because there will be all kinds of tailings going into the Yellowstone River, the Federal Government has to buy him out, buy him out for what he paid nothing for.

And the Oregon Dunes case—you all know that. I am not going to go through all of this litany of horror tales that the GAO put in their report, where people bought land and sold it for thousands.

If there is any merit at all to the amendment of the Senator from Nevada, it would keep somebody from paying $2.50 an acre for a valuable piece of property that is capable of being part of a ski slope. That is what happened in Colorado. They would have to pay fair-market value for the service. But 99 percent of this land is worth $100 an acre. It accomplishes nothing.

But what I was going to say is, in the case of Yellowstone River, you would have to buy me out, and I have paid nothing for it.

Let me tell you one other thing. I want to say this to the Senator from Alaska. Several years ago—I forget who it was—some Hollywood starlet said that quartz crystal would cure athlete's foot, corns, cancer; everything. And there was a rage which swept across the country. Everyone was going to the store and buying these crystals and putting their hands on it. Have you ever seen that done? If you put your hands on these quartz crystals, it would cure whatever is wrong with you.

Where do you think the biggest quartz deposit in the United States is? The Ouachita National Forest in my beloved Arkansas. So the first thing you know, bus loads of people are coming down to the Ouachita with spade in hand, and they are digging the place up. Do you know what I did? I got a bill passed in 2 weeks to take quartz crystal out from under this mining law.

We made some money. The State of Arkansas got some money out of it. We made them put up a little plant before they could go out there and dig. That is what we ought to be doing with the gold and silver, and all the rest. The Senator from Nevada made a point about all of these strategic minerals: 80 percent of the gold mined in this country goes into jewelry. It does not go into making weapons. A lot of it goes into teeth, and 80 percent of it goes for jewelry.

Mr. President, for all the reasons I have just cited, and a lot more, I hope this body will at least have the courage to put a moratorium on this until we can pass a bill. I am probably not going to—I do not want to categorically guarantee this, but I am probably not going to—introduce a royalty bill if the moratorium is adopted because that takes a lot of the pressure off the rest of the bill, namely reclamation, and a whole series of issues in the bill.

I think the American Mining Congress has a deep and abiding interest in a comprehensive solution. They do not enjoy those "20-20" shows anymore than anybody else does. I think there is a chance to do it. Time is not running out. It is just a question of when are you going to do it.

Every year that goes by, somewhere between 1½ and 4 billion dollars' worth of hard-rock minerals are coming off of what once was Federal land, or still is Federal land.

Let me repeat that: Every year—the estimates vary; the lowest is $1.2 billion and the highest $4 billion—billions of dollars' worth of hard-rock minerals are being taken off the Federal land belonging to the taxpayers, for which we do not get 1 cent and are quite often called on to clean up something like this that is going to be billions of dollars. And there is still 100 billion dollars' worth of hard-rock minerals on Federal mines that are going to be mined, and we will not get a nickel out of that, and continue to clean up sites like that.

I yield the floor.

Mr. REID addressed the Chair.

Mr. BYRD. Will the Senator yield to me?

Mr. REID. I would like to send up my amendment.

AMENDMENT NO. 2882 TO AMENDMENT NO. 2881

(Purpose: To make improvements in mining law)

Mr. REID. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] for himself, Mr. DOMENICI, Mr. DECONCINI, and Mr. BRYAN, proposes an amendment numbered 2882 to amendment numbered 2881.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted insert the following:

( ) MINING PROVISIONS.—

(1) PAYMENT OF FAIR MARKET VALUE.—Any person receiving a patent pursuant to the Act commonly known as the Mining Law of 1872 (sections 2319 et seq. of the Revised Statutes) shall pay fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land.

(2) LIMITATIONS.—

(A) IN GENERAL.—Any land patented after the date of enactment of this Act pursuant to section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42) shall be used only for mineral exploration, mineral development, mining, mineral processing, benefication, or uses reasonably incident to those uses, except with the approval of the Secretary.

(B) REVERSION.—Title to the land referred to in subparagraph (A) shall revert to the United States if the land is used for any unauthorized or unapproved use, and the unauthorized or unapproved use is not discounted within a time period specified by the Secretary (but not earlier than 90 days after the Secretary gives the owner of the land written notice to discontinue the unapproved use) and if the Secretary elects to enforce the reversionary interest. The reversion shall be made effective if the Secretary files a declaration of reversion in the office of the Bureau of Land Management designated by the Secretary of the Interior, and records the declaration in the county recorder's office of the county in which the lands subject to a reversion under this paragraph are situated. Not later than 30 days after recording the declaration of reversion, the Secretary shall serve on the owner of the reverted lands a recorded copy of the declaration, in the same manner that a summons and complaint are served under the Federal Rules of Civil Procedure under title 28, United States Code.

(C) RENOUNCING OF REVERSIONARY INTEREST.—If the Secretary finds that it would not be in the best interest of the United States to exercise the reversion for any reason, including any case in which—

(i) any portion of the lands included in the patent have been used for solid waste disposal or for any other purpose that may result in the disposal, placement, or release of a hazardous substance; or

(ii) continuance of the reverter serves no public purpose,

the Secretary may renounce the reversionary interest of the United States in the lands included in the patent by filing and recording a declaration of renouncement in the same offices in which a declaration of reverter would have been filed.

(D) REQUIREMENT FOR PATENTS.—Each patent to land acquired under section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42) shall state that the patent is subject to the provisions of this subsection.

(3) RECLAMATION.—Any land patented after the date of enactment of this Act shall be subject to the mining reclamation law of the State in which the land is located. In the absence of applicable State mining reclamation law, the land shall be subject to Federal mining reclamation law. Each patent shall recite that as a condition of the patent, the land patented shall be reclaimed to comply with Federal law or to comply with the mining reclamation law of the State in which the land is located.

(4) DEFINITIONS.—As used in this subsection:

(A) HAZARDOUS SUBSTANCE.—The term "hazardous substance" has the same meaning provided the term under section 101(14) of the Comprehensive Response, Compensation and Liability Act (42 U.S.C. 9601 (14)).

(B) SECRETARY.—Unless specifically designated otherwise, the term "Secretary" means—

(i) The Secretary of the Interior with respect to patents issued for lands over which the Bureau of Land Management has jurisdiction; or

(ii) the Secretary of Agriculture with respect to patents issued for lands within national forests.

Mr. BUMPERS. Reserving the right to object, I would like to hear the amendment read.

The PRESIDING OFFICER. The clerk will read the amendment.

Mr. REID. If I could save the body some time, it is the amendment I offered earlier today.

Mr. BUMPERS. The same amendment?

Mr. REID. Exactly. I have deleted one phrase, but I talked to the Senator earlier about what it is.

Mr. STEVENS. Reserving the right to object, may I inquire, Mr. President, has the amendment been modified according to the request I made?

Mr. REID. It has not. I am confident we can do that at a subsequent time.

Mr. BUMPERS. Mr. President, parliamentary inquiry. I am looking at Senate procedure on amendments. I would like to make a parliamentary inquiry as to where his amendment is located at the moment. My amendment was a second-degree amendment to the first committee amendment. Where is the amendment of the Senator from Nevada?

The PRESIDING OFFICER. The amendment has been offered as a second-degree amendment, and it is in lieu of the matter inserted—

Mr. REID. I inserted, in lieu of that, my amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I yield to the manager of the bill.

Mr. BYRD. Mr. President, I simply wish to inquire as to, in the Senator's opinion, how much longer does the Senator think we will be on these amendments?

Mr. REID. I reply to the chairman of the Appropriations Committee, as stated by my friend from Alaska, I do not think this debate is going to be very quick. We have here the Senator from Arizona, the Senator from Nevada, the Senator from Alabama, and the Senator from Alaska, who wish to speak in favor of the amendment. I think that will probably take—I am speculating—a couple of hours.

Mr. BYRD. If the Senator will yield further, Mr. President, we have already been on these amendments now for over 2 hours. We have heard two excellent speeches. I have tried to listen attentively, and I have been very interested in what each of the Senators have had to say. There are other Senators who want to speak, and they are certainly entitled to speak.

I wonder if the Senators would consider trying to develop a time agreement, which would allow those Senators to speak, but also allow us to reach a conclusion one way or the other on these amendments. It is my understanding that we will go off this bill at 12:30 today and go back to the transportation appropriations bill. At some point in time later today, then, the Senate will revert its attention to the pending Interior appropriations bill.

I hope that the Senators will give some thought to a possible time agreement. Otherwise, as I understand it, there are some other legislative issues that are going to be taken up on this bill, and while I can understand the great concerns that motivate Senators to attempt to offer their amendments under the bill, these are legislative matters, and they really ought to be worked out in the legislative committees and brought out as legislative bills.

I guess I am just kind of subliminally pleading to the Senators to see if we can work out some kind of time agreement and let the Senate reach its will on these amendments, and let us go on to the next legislative issue and get around to the appropriations substance.

The PRESIDING OFFICER. The Senator from Nevada retains the floor.

Mr. REID. Mr. President, I respond to the chairman of the Appropriations Committee that I think we all recognize that the chairman wants to move. This is his bill as chairman of the committee. For this Senator, in my years in the Congress, both in the House and in the Senate, one of the examples that I have recognized has been the chairman of the Appropriations Committee. When the chairman feels strongly about an issue—and that is often—the chairman has set an example for me to make sure that something as that important to my State of Nevada, as to the State of West Virginia, is adequately covered. Taking into consideration the suggestion of my friend and exemplar, the chairman of the Appropriations Committee, during the break I will work with my friend from Arkansas to try to work something out, recognizing that people feel very strongly. There is one other person coming to the Chamber to speak in favor of my amendment.

Mr. BYRD. If the Senator will yield further, I have great admiration for my friend. I do not have a closer relationship in the Senate, I do not believe, than I do with the Senator. What he says, of course, appeals to me. He is standing up for his people, as I have stood up for mine. There is one major difference, however. The coal miners amendment which I offered was not offered to an appropriations bill. That was involving the Clean Air Act. I am simply trying to indicate to Senators that I hope we will move along at a little more rapid pace, and if those Senators can get together among themselves and see if they can offer some kind of a time agreement, I would be very pleased. I thank the Senator.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada retains the floor.

The Senator from Arizona.

Mr. DECONCINI. Mr. President, let me just comment on the appropriations chairman's remarks. I think the Senator from Nevada understands the necessity to move on, and I certainly do as well. I think the Senator from Arkansas has made his speech here. A few of us have a little bit of time. I will not take anywhere near the time of those Senators, but I think something can be arranged, and I will help in any way I can.

Mr. STEVENS. Will the Senator yield?

Mr. DECONCINI. Without losing my right to the floor.

Mr. STEVENS. I heard my good friend, the distinguished President pro tempore of the Senate. I want to notify the Senate that this amendment, this year, has a different context than the one last year. There are a number of Senators on this side that want to speak. I have been asked to object to any time agreement on this amendment, or Senator REID's amendment, and, unfortunately, I will do so. This amendment will severely cripple at least three States in the West. I think we intend to try to show that to the Senate. If my good friend from West Virginia wants to remove it entirely by correctly stating it is legislation on an appropriations bill, perhaps we should face it that way. But it is a moratorium on the issuing of patents that are entitled under the current law to be issued. As such it is just anathema once again to us. I have to state to the Senate, I know at least four Senators on this side who want to speak at length on this subject.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona retains the floor.

Mr. DECONCINI. Mr. President, I appreciate what the Senator says, but notwithstanding that, the Senator from Alaska knows as well as anybody that people change and find ways to attempt to find accommodation here. I think that is what the Senator from West Virginia is only asking for. I do not think it is at all inappropriate that we try to accommodate that.

I have an Appropriations Committee bill as well. I want debate on it. I have amendments, and everybody else will. We know we have to move this bill, and I know the Senator from Alaska is committed, as anybody, to want to move the bill. We will work with those Senators who do not want, at this moment, to set a time.

Mr. SHELBY. Mr. President, will the Senator yield for a question?

Mr. DECONCINI. I yield for a question without losing my right to the floor.

Mr. SHELBY. Mr. President, I mentioned earlier the Senator from Alabama would like to speak sometime on behalf of the amendment offered by the Senator from Nevada.

I have a lot of respect for the chairman of the Appropriations Committee. We do need to move the bill, but this is important. Coming from a State east of the Mississippi River, a State that is involved in the steel industry, we need minerals, and these minerals are mainly located out in the West. At the proper time if there is a time agreement and the distinguished Senator from Nevada is involved in it, I hope he will allot the Senator from Alabama additional time to speak.

Mr. DECONCINI. Mr. President, I yield to the Senator from Idaho with the understanding I do not lose my right to the floor.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I recognize the Senator has a right to the floor.

Let me only say I have to reflect on what the Senators from both Alaska and Nevada have indicated to the chairman of the full committee. It is so fundamentally important to public land States that derive a great deal of their economic vitality from mining that we clarify and have an opportunity to express those concerns. And I am certainly willing to sit down and work out a time agreement.

I acknowledge all of my colleagues have said time and time again in repeated fashion these issues, and they are important, and we have clearly delineated them. I think we can do that with a degree of consistency. We do not need to go on and on.

At the same time, the patent moratorium is a wholly new issue that we have not debated here on the floor, and although it is complicated for some to understand, I know the Senator from Arizona clearly understands the kind of impact that this has. It is not the issue of the $100 fee; it is not the issue of surface values. It is the issue of being able to carry forward existing rights and operate, based on one's finding and one's ability to develop a fee title. And so time is important, that we do recognize and deal with this issue properly.

I thank the Senator for yielding.

Mr. DECONCINI. I thank the Senator from Idaho. I am sure he will want to be here. I relate we need to find time. I am going to try to curtail my time here.

Mr. President, this is a crucial issue. The Senator from Arkansas has raised it many times, and now we are back again.

I would like to take a moment of the Senator's time—and I will try to be short—to relate to this body and public, whoever is watching it, what the importance of the mining economy is to my State of Arizona. Eleven major mining Western States account for 70 percent of the U.S. production of metallic materials. Arizona alone accounts for 61 percent of the amount of copper that is produced in the United States.

The mining industry contributes $5.67 billion to the Arizona economy. Mining people, or people on the side of Senator BUMPERS amendment say fine, then pay more money.

Mining has a particular impact in the economic areas of Arizona and I will explain why in just a moment. In some areas, like Greenlee County, it amounts to 70 percent of the personal income in that particular county.

Mr. President, I would like to refer my colleagues to several charts to demonstrate why this is so sensitive to the West, why we are here pleading with the Senator not to take away one asset that we have. Let me tell you one asset that we do not have and that is fee simple land in our State.

Let me just point out the State of Arizona, represented in this chart by the green here, indicates that only 17 percent is privately owned land. That is all we have.

In Arkansas, the green represents privately owned land of 85 percent. And that is the way it is in most States, except some 11 Western States. So we do have a sensitive understanding of what land and patent rights are all about.

The Federal Government has 45 percent, and the Indians, which is in trust by the Federal Government in their behalf, have 5.4 percent, and the State has 13 percent.

So where do we look for our economic growth? We cannot look just to the private land and talk about royalties that we would do. Sure if all of this green were private land, then we would be talking about a real market system. We do not have a market system. We are under the benevolent hand, we like to think, of the Federal Government.

When Arizona became a State there was nobody living there, and the rest of this body that voted in the House to let them in said let us hold this land back, and nobody objected. I ask Senators, how would you like it if that land were held back in your State? You cannot do anything about it. That was the admission price to get in the Union. We accept that. And now we have to deal with the economic impact.

So what do we have? We cannot afford to have a moratorium on the land that we can get our economic benefit from. The Senator from Arkansas points out that there is no income coming from this land. This is not true. There is income from it. There is income from the fees that the Senator from Nevada has instituted in his pending amendment, of $100 a year.

The Senator from Arkansas just cannot have it both ways. In 1991 he said under the existing mining laws, debating this same subject, a patent fee simple title to a mining claim on Federal lands may be obtained for the purchase price of $2.50 an acre for a master claim, $5 an acre for a lode claim, a price that has not changed since 1872. A giveaway, pure and simple. He further says, "One does not need to have a real estate broker's license to know $5 acre is far less than fair market value of patented land."

The Senator from Nevada has instituted a fair market value for the lands.

When you say "fair market value," we are talking about the surface of the lands. That is what you talk about if you are talking about a shopping center that you want to build on a piece of land, or you want to build a hotel on a piece of land. You talk about the fair market value of the surface fashion of land. You do not make people drill down in there to see if anything is there. You say, oh, we are going to build the 20-story building here and there may be oil down there, we have to raise the surface value of that. Nobody does that. That is the fair marketplace, and the Senator from Arkansas knows that.

And here the Senator from Nevada has voluntarily changed the law. Why has he done that? He has done that because we have talked to the Senator from Arkansas many times and he has raised some legitimate issues and he is correct. There have been no major changes in the 1872 mining law. There have been some 11 changes, I believe, but they have not been major. Certainly they were not dealing with the fair market value of the land that is going to be patented. The Senator from Nevada has proposed that, and it is a legitimate proposal that ought not to be just disregarded as frivolous or of no consequence. It just is not fair to classify it in that manner.

What else does Arizona do with some of this Federal lands that we have here? Last year we passed through this body and the House, and it became law, a 2-million-acre wilderness bill. So we have not said, hey, we have to have all this land, we must keep this land for our use. We agreed, among the mining industry, the ranchers, the environmentalists, the cities and towns, what land would go into wilderness, and almost 2 million acres went into wilderness last year. We have not ignored the public need to have public land set aside for public purposes, and we have not ignored through the Reid amendment the fact that the Federal Government should receive something for their land.

The other point that the Senator from Arkansas has correctly pointed out in past debates, and there are some occasions where patented land has been used for nonmining purposes, and the Senator from Nevada has addressed that. And there is a reversion clause, so if Phelps-Dodge or Joe Smith gets a 5-acre patent or a 2,000-acre patent to the mine or leases and decides to do something with it other than mining, it reverts back to the Government. Correct. And I applaud the Senator for making that argument. I wish we had done this some time ago. It has never been the purpose of the mining law or the purpose of this Senator or the mining companies that I know of, in the State of Arizona at least, to go into the resort business. They do it if they can, and it happens there because it is legal.

We are changing that with this Reid amendment before us today. He has made a positive change in the filing fee of $100 a year. The inadequacy of the $100 has been argued and we agree that we should pay something. Moratorium is a little bit different than saying let us just alter this law and make it marketable.

A moratorium says you are out of business. That means goodbye. You cannot use that land anymore. You cannot go out there and find minerals.

The hard rock mining business, I submit, is much different than particularly the oil and gas business. It costs hundreds of millions of dollars more to bring on a mine, a copper mine, than it does an oil well. And it has to be incentive enough for people to make the investment.

In my State, Phelps-Dodge has invested hundreds of millions of dollars, Zarco has invested hundreds of millions of dollars, and other companies, and they are not guaranteed that they are going to make the money, because it is an open market. The market fluctuates. They are dealing with competition, with State-owned companies, with overseas companies in Chile and other places. So it just does not happen that you have a market here that you can afford to pay a royalty.

Now we are not talking about a royalty here. And there should be a debate at sometime on this floor; perhaps we should talk about a royalty. But that should be done in the committee, just like a moratorium. It should be done in the committee and not on an appropriation bill before us today.

I am pleased to report that the underlying amendment offered by Senator REID is addressing the problems with the exception of the royalty, in my opinion, that the Senator from Arkansas has brought to this body time and time again. And yet he throws this out as of no consequence, really not an important change. This is an important change. The Senator from Arkansas ought to take the credit for it because he is entitled to credit for those four major changes that are in this particular bill.

The point was raised here that some standards have to be applied, if, in fact, there are standards. Most States have some. Arizona does not have the standards, nor does New Mexico. And so the Senator from Arkansas kind of wants to make a point, that, oh, that being the case, then there is no law governing. That is a problem for the Federal Government to address. That is a problem for us to address.

I am not adverse to Federal standards, particularly in a State that will not adopt them, including the State of Arizona. If we do not have a standard for mining, for the environment, then I am prepared to have the Federal Government—reclamation, excuse me—then I am prepared to have the Federal Government step in. I believe the State of Arizona should have a reclamation law and I hope that they will.

Mr. President, to proceed with the moratorium here would indeed be a travesty to, I believe, this Nation.

The Senator from Alabama wants some time, and I will do everything I can, and I thank him for raising that issue, to be sure that he gets some time. The Senator wants to talk about the need of hard rock minerals coming to develop this country. If these minerals are so taxed by royalty or otherwise that it is cheaper to go to Canada, to go to Chile, to Panama, or South Africa or anyplace else, where does that put the United States?

The United States is competitive; technologically it is competitive because we have all of this Federal land.

Now the issue has been made here by the Senator from Nevada, which I will not go into, as to the amount of acres that have been made available to Americans to farm land. When all that homestead land was made available, Arizona was not a State. We do have a little bit of homestead farm land out there. But in States like Arkansas, States east of the Mississippi, primarily, but some in the West, people took advantage of that, and rightfully so. That was the Government making land available.

We are making 3 million acres available so far for patents. And there are several hundred million, almost 300 million acres, that have been made available at no cost, and rightly so, no cost because they derive an economic benefit, they give people ownership.

We are saying is this wrong? I do not think it is wrong. I think it is in the best interest of the United States.

So I hope my colleagues here will vote in support of the Reid, Domenici, DeConcini, and everybody else's amendment. It is a proper approach. It is changing the law.

We are not reneging on what we told a number of Members who supported us last year against the Senator from Arkansas. And we did prevail. We did come forth with some constructive changes. We did not do everything the Senator from Arkansas wants. Nobody gets their way around here 100 percent.

So I urge my colleagues to support the amendment of the Senator from Nevada, and I yield the floor.

Several Senators address the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. President, let me associate myself with the remarks of the Senator from Arizona. I think he has stated the case most clearly as it relates to western public lands States and the importance of the ability to explore, to discover, and to move toward what we have historically known as a patenting process on metals, minerals, and other resources of public lands that is now being questioned by the amendment of the Senator from Arkansas, and in fact prohibited by that amendment.

If the reason for proposing a ban, a freeze, a moratorium, or a prohibition on patenting is to argue that to fail to do so is not to address issues of environmental concern, let me talk for just a moment then about the process itself, the patenting process that this Government of ours requires of that individual citizen who goes and discovers and lays claim to a resource on the public land and then attempts to work the process of saying that there is a marketable commodity there and, in so developing it, it is marketable and therefore seeks a patent.

It is not a process of great ease. Very few acres go to patent annually. Our Federal Government—because this Congress and past Congresses have suggested that there are environmental issues that we must be sensitive to—has developed a very clear and lengthy process and procedure and, in most instances, very expensive that that individual who has discovered must walk through to be able to acquire a patent.

The operator, the individual that I talk about, stakes a claim, posts a notice of location, and proceeds consistent with State and Federal law, of course, to move toward filling out the proper forms and registering that claim at a State land office. The operator files notice of location, consistent with the law, with the State BLM office and the process goes forward.

As that process goes forward, that operator must make a variety of findings that have to be acceptable to the BLM, the Bureau of Land Management, responsible for managing this patenting process, that is extremely complicated. Environmental analysis, at least to the minimum, an environmental analysis must go forward within 30 days, and may take up to 60 days, to determine how activity in that location might impact the environment. And when those determinations are made, a mining plan must be developed that would mitigate to every degree possible the impact that that activity would have on the environment.

The BLM conducts a cultural inventory, or the operator pays for a contract operator to come in, an archaeologist, to provide an inventory as it relates to the importance of any surface discovery. Archaeological discovery, cultural value, any property that might be on the National Register or sensitive to those kinds of concerns would be considered. The Threatened and Endangered Species Act, there has to be an evaluation there under section 7 of that act. The BLM must develop reclamation plans consistent with the operator. And the process goes on and on and on.

That is why every year very, very few acres are patented because, first of all, the discoverer, the operator, must know that he or she has a truly marketable commodity. They are going to expend thousands of dollars and they do not do it lightly. They do not do it because their is an ulterior motive involved. They do it because they believe they can develop the resource to the extent the product, the commodity, its ore, the refinement coming from it, is marketable and they can make a profit.

All kinds of alternatives are looked at. As I mentioned, an environmental impact statement might be required, depending on the extent and the extensiveness, as it would be determined in the mining plan. Air quality, water quality, solid waste, fisheries, wildlife, plant habitat, protection of survey monuments, cultural and, I said, archaeological concerns are all part of this process. It is not a land grab. It has never been that. And it is less so today because of the expense of making these conforming efforts to meet the BLM, the Federal Government's requirements of patent, before this land is in fee title, handed over to that operator for the purpose of he or she developing an ongoing mining operation.

My colleague from Arizona mentioned the uniqueness of some of our Western States. My State of Idaho is 64 percent owned by the citizens of this country. The State of Idaho, not only recognizing the importance of mining as a part of its overall economy, but certainly recognizing the importance of our environment, was a leader, a national leader, in the development of State mining law concerned with water quality, wildlife habitat, reclamation, has received national environmental awards for its law, and it has become the pattern for other States to look to. As a result of that, we retain a viable mining industry. But in our State, to patent and to operate, you also have to comply with State law, and that is true in a variety of other Western States.

Those are the arguments. That is ultimately the bottom line.

In the State of Idaho, there are directly 2,900 people employed. Does that sound like a large number in a State of 5 or 10 million people? In a State of a million people, that is a significant number of direct employees.

The President certainly understands the economics of the multiplier as it relates to how it impacts those rural communities that are oftentimes the jumping-off point for a mining operation in Western States.

The salaries average $28,000 a year. They are not minimum wage salaries. In a State like Idaho, that is an excellent salary. That is $55 million a year in indirect revenues, and in gross mining receipts, over $344 million a year. Mining is a significant part of the Idaho economy, and it happens almost solely on public lands.

All of those mining operations must conform with the very process that I have just laid out, the very process that our colleague for Arkansas would say stop, we do no more of.

So, therefore, I have to question the motive. Is the motive to improve the operation of mining on public lands to clarify it, to make it more environmentally sound, or is it to stop it altogether?

For the sake of this country, for our economic vitality, for the well-being of the jobs in Eastern States, foundry States, manufacturing States that use the metals and minerals that come from the resource process that I just talked about, it is just as important to the working men and women of those States as it is to the State of Idaho. We have always been the producer of the new product in my State. That raw product in refined form is then shipped for further refinement across the country and around the world. That has been our history and it will remain that for some time. But our citizens a long time ago said that this Nation should use in a wise and fair way the resources of its public lands and that in that use we would want to balance them between extractive processes, like mining, or renewable takes, like logging, or just to set aside for the value of the resource from an environmental point of view, and we have done all of that.

Mining today occupies but a small window of land in the whole of the continental United States.

Mr. President, a couple of years ago, I was debating this issue in the House and a well-known consumer advocate, a national consumer advocate, came forward and said, do you realize that there has been land patented equal to the whole of the State of Rhode Island?

I said, yes, I recognize that. And in that whole of the State of Rhode Island, that is less than the size of one county in my State of Idaho.

Or, Mr. President, if you wish to put it in a different perspective, it is equal to the land size of Dulles Airport as it relates to the whole size of the State of Virginia.

We are not talking about a dramatic taking. We are talking about a very limited amount, and I am talking about all of the land patented since 1872 and since the mining law was in existence. We would be led to believe otherwise.

Great and dramatic statements are suggested on this floor as to the magnitude of the environmental impact of this law and its application. Is the land surface of Dulles Airport a significant environmental impact to the whole of the State of Virginia? I suggest it is not, and I also suggest that the some few thousands of acres a year that are patented are not great and dramatic environmental impacts to its surrounding area, not because they are there, but because of this very lengthy process and procedure and refinement that our Government now requires of that operator.

To comply with all of the environmental laws, to develop a reclamation plan and when they are finished taking of the resource and sending it out across this country to energize this economy and create jobs, when all of that is done and that resource is depleted, they must, by mining plans today under the patented requirement, reclaim the land, reshape it oftentimes into its old configuration, plant back the trees, the sagebrush, the flora, the fauna that once covered that land.

I suggest a generation from now that it would be very difficult in some instances to find where that extractive process has gone on. That is what is important and at issue here. That is really the fundamental basis of this debate. It is to block that process in the wise and proper use of that resource.

I support my colleague from Nevada and his efforts to make some revisions in the 1872 law that we think are responsible ones. I would design it in a slightly different way, but I can accept those. I can accept a need to reform to some degree, but I cannot accept a prohibition of the process, a denial of the right of Western States and public land States and the citizens of this country to effectively, responsibly, and environmentally soundly use their resources for the purposes of the well-being of this country. To do anything other than that is shortsighted at best.

Those are the issues and I wish and hope my colleagues will join with me in finalizing this issue, clarifying it, debating it as it is important to do, and, more important, recognizing that we must defeat the Bumpers amendment as it relates to a prohibition on patenting.

I yield back the remainder of my time.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1993

The PRESIDING OFFICER. Under the previous order, the pending business is laid aside.

The Senate will return to consideration of H.R. 5518, which the clerk will now report.

The bill clerk read as follows:

A bill (H.R. 5518) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Graham/Bond amendment No. 2841, to ensure the fair treatment of airline employees in connection with route transfers.

Mr. STEVENS. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Under the previous order, there will now be 25 minutes for debate on the Graham-Bond amendment, the time equally divided and controlled in the usual form.

Mr. STEVENS. Parliamentary inquiry.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. It is my understanding that following the votes, under the time agreement on the transportation bill, the Senate will resume consideration of the Interior appropriations bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. Mr. President, we are now in a position to move ahead with an amendment proposed by the Senator from Florida, to be followed by an amendment by the Senator from Missouri. Since the debate is not ready to begin, apparently, I would suggest the absence of a quorum, with the time to be charged equally to the two proposals that we are facing.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2841

Mr. GRAHAM. Mr. President, yesterday I sent an amendment to the desk which is now, under the unanimous-consent agreement, the subject before the Senate. The amendment relates to the conditions which will apply to airline employees in the event of a transfer of an international air route.

Let me give a human face to this issue. Last December, I was working with the United Way of Miami, and one of my assignments was to go to the dislocated workers center which is based in a former Pan American administrative building. A building that had been a center for the management of an active international airline has now become the place in which workers who lost their jobs are being directed to various services that can try to get them retrained and reintegrated into the economy and help with the very serious personal economic and social problems that are a consequence of a long-time dedicated employee having lost his or her job.

During the course of that visit, Mr. President, I talked to a man who appeared to be in about his midfifties. He had been a long-time employee of Pan American and of National Airlines, which was a predecessor and had merged into Pan American a number of years ago.

He told me the history. He had risen over the years in the maintenance area of Pan American to have achieved a significant supervisory role at one of the foreign posts of Pan American, where they maintained aircraft outside the United States. He told me that when the Pan American routes were sold, that there was an understanding—at least an expectation based on representations that had been made—that all of the employees who were servicing these aircraft for Pan American would be continued when the new airline took over that route.

In fact, that is not what occurred. What occurred, as he told it to me, was that every person who worked at that maintenance center who was a national citizen of that country was retained. Every American, including himself, who had been assigned to work at that center was terminated. He, having been terminated, had returned to the United States to then see the very airline itself liquidated, and he was at the dislocated worker center seeking assistance. That is the human face behind this amendment.

There have been some representations as to what this amendment is about that I would like to challenge. One is that this amendment is inconsistent with the spirit of deregulation; that this is the American's problem, to deal with the fact that he lost his job; that lots of other people have lost their jobs as a result of airline deregulation, and that is just his tough luck.

This is not a deregulated industry. The international air routes are highly regulated. They are the subject of bilateral negotiations between the United States and the other countries to which the airline will fly.

The very reason that this amendment is being offered is to set some of the standards that our U.S. Department of Transportation will look to in making a judgment as to the appropriateness of an international route transfer. Do not confuse the issues raised in this proposal with the question of what should be the role of Government with a deregulated industry. International aviation is not a deregulated industry.

The second argument is this is some kind of radical worker protection provision, that we are intruding into what should be the free market or what should be resolved by collective bargaining.

I would like to respond to that in two ways. One, our own domestic law; and second, what is the pattern of the rest of the world?

In the Federal Aviation Act, section 102, it sets out what should be the principles to be followed in determining what the public interest is in the case of the exercise of powers of international aviation.

In subparagraph 3 of the seven subparagraphs that define what the public interest will be, it states:

> The need to encourage fair wages and equitable working conditions for air carriers.

So, in our own law, we have recognized that the treatment of employees is part of the public interest that should be taken into account in determining whether a route should be transferred.

But beyond that, Mr. President, is what is the pattern of the rest of the world? The pattern of the rest of the world is they do protect their employees. Why was it, in this example of the gentleman who talked to me last December, that all of the nationals, all of the citizens of the country in which the base was located, kept their jobs, and only the Americans were terminated?

The reason was because it probably was in a country that required that all of their citizens be protected in the case of an international route transfer. For instance, it might have been in France, which states under its law that all employment contracts remain in effect as before the transfer of the business. That is the law of France.

It might have been in Germany, which states that employees may not be terminated on account of a transfer of business, and can be dismissed only on grounds of economic conditions or reforms or methods of production.

Those examples from France and Germany are typical of the kinds of protections that are available in most of the other nations with which the United States has bilateral international commercial aviation agreements.

The fact that the United States has not been applying such a standard has therefore resulted in a savaging of Americans in the course of international route transfers. They have suffered a disproportionate—a horrendously disproportionate—number of the job losses because other nations have been looking out for their citizens. We have been essentially abandoning ours.

That is the issue. The issue is American jobs. The issue is, will America have a policy that says we are going to provide the same parity of protection for our citizens in the event of an international route transfer as is already applied in virtually every other nation with which we have international aviation agreements? I believe clearly that is in the American interest, and that this amendment should be adopted in order to place that in the American law.

I have been working very closely with my good friend and colleague from Missouri, Senator DANFORTH, who is, as we discuss this matter, facing some of the ramifications in his State, as mine, the home of major airlines. In his case, it is TWA, which is in the very prospect of major realignment.

I very much commiserate with the concern that he expresses on behalf of the thousands of citizens of his State who are affected by this.

I want to commend the Senator from Missouri for his efforts to develop a proposal that will achieve the objectives of fair treatment of American aviation employees in the event of an international route transfer, which I seek; and also achieve the objective which he seeks, which is to create the maximum probability of the maintenance of the airline and the jobs of the citizens of his State in America, who might be affected by future realignments of TWA.

So at this point, Mr. President, I yield the floor in expectation that the Senator from Missouri will be offering a second-degree amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri [Mr. DANFORTH].

Mr. DANFORTH. Mr. President, parliamentary inquiry. Under the time agreement, is it appropriate now to send an amendment to the desk?

The PRESIDING OFFICER. Senator LAUTENBERG controls the time. Until his time is disposed of, a second-degree amendment is not in order.

Mr. DANFORTH. Mr. President, I ask unanimous consent that it be in order to submit a second-degree amendment at this time, and further that the time that was allocated to the Graham amendment and to the second-degree amendment be melded together.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2883 TO AMENDMENT NO. 2841

(Purpose: To make a substitute amendment to the Graham amendment to ensure fair treatment of airline employees in connection with route transfers)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 2883 to amendment No. 2841.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . EMPLOYEE CONSIDERATIONS IN AIRLINE ROUTE TRANSFERS.

(*a*) IN GENERAL.—Section 401(h) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1371(h)) is amended by adding at the end the following new paragraph:

"(4) Employee Considerations.—

"(A) Consideration of employment Opportunities.—In reviewing a proposed transfer of a foreign air transportation route certificate, the Secretary of Transportation shall give consideration to assuring employment opportunities for employees of the air carrier transferring the certificate. Those opportunities shall not discriminate on the basis of race, color, religion, national origin, sex, age, or disability. Consideration shall also be given to provisions for seniority integration as provided for in the seniority integration protections specified in Tiger International Seaboard Acquisition Case, CAB Docket 33712.

"(B) Employment Plan.—Upon application for approval of such a certificate transfer, the acquiring carrier shall submit its plan for employment that projects the number of employees of the transferring carrier who will be hired by the acquiring carrier, the crafts and national origin of those employees, and a timetable for implementation of that employment plan.

"(C) Mandatory Findings.—The Secretary may approve the transfer of a foreign air transportation route certificate only if the Secretary makes specific findings that—

"(i) the employment plan submitted under subparagraph (B) does not discriminate on the basis of race, color, religion, national origin, sex, age, or disability;

"(ii) reasonable attempts have been made by the acquiring carrier to provide employment opportunities for employees of the transferring carrier; and

"(iii) the employment plan would not adversely affect the viability of the transaction.

"(D) Evaluation.—Within 1 year after the approval by the Secretary of a transfer of a foreign air transportation route certificate, the Secretary shall conduct an evaluation of the implementation of the employment plan submitted under subparagraph (B).".

(b) DUTY TO HIRE PROTECTED EMPLOYEES.—Section 43(d)(1) of the Airline Deregulation Act of 1978 is amended by striking "10" and inserting in lieu thereof "17".

(c) Effective Date.—The amendments made by subsection (a) shall apply with respect to any application filed after the date of enactment. With respect to any application filed after July 26, 1991, but before the date of enactment, the acquiring carrier must submit the employment plan specified in paragraph (B) and that the provisions in paragraph (D) apply.

Mr. DANFORTH. Mr. President, I had yesterday a meeting with my colleague from Florida, Senator GRAHAM, on this matter, to discuss the items of mutual consideration that we have. We both are very concerned about the plight of the U.S. airline industry and the plight of people who are employed by the U.S. airlines industry.

Over the past 2 years, some 50,000 airline employees have lost their jobs. Even now, in my home community of St. Louis, and in my home State of Missouri, there are 13,000 employees of TWA. Those 13,000 employees of TWA have been hanging on for dear life over a period of years, wondering about their own future—what would happen to them, what would happen to their airline and to their jobs—under various circumstances that have been considered from time to time.

We believe that there is some movement going on now with respect to the future of TWA. Employees and creditors have been in publicized negotiations with Mr. Icahn, who is the principal at TWA.

At the same time, in connection with the proposed financial arrangement between British Airways and USAir, there has been a great deal of discussion recently about the possibility of USAir acquiring substantial portions of the assets of TWA.

I have had discussions with people from USAir, and I am satisfied that if such an acquisition of assets occurs, a very substantial portion of the TWA employees would end up as employees of USAir.

Mr. President, what we need to do, as Senator GRAHAM and I have agreed, is to try to provide maximum protection for the employees and, at the same time, provided a degree of flexibility so as not to deter in any way what would be, in my view at least, a healthy arrangement involving USAir and TWA. That was the basis on which we held our discussions yesterday, and staff discussions were held last night and this morning, and those discussions culminated in the substitute which I have just sent to the desk.

The essence of this substitute provides that when applications for route transfers are submitted to the Secretary of Transportation, the Secretary of Transportation may approve the transfer of a foreign air transportation route certificate only if the Secretary makes three specific findings. Those three specific findings are: First, that the employment plan that must be submitted by the acquiring carrier does not discriminate on the basis of race, color, religion, national origin, sex, age, or disability.

The reason for this particular requirement is the reason stated by the Senator from Florida. It has been the experience of American employees of airlines, where routes have been transferred, that the American employees have lost their jobs, and the employees in other countries have kept their jobs. So we have a nondiscrimination provision in this requirement.

The second provision, the second mandatory finding for the Secretary of Transportation, is that reasonable attempts have been made by the acquiring carrier to provide employment opportunities for employees of the transferring carrier; reasonable attempts made by the acquiring carrier to provide employment opportunities for the employees of the transferring carrier. This is designed to provide stability and to provide a degree of assurance that the Secretary of Transportation is looking out for the interests of the employees of the transferring carrier.

Finally, a finding that the employment plan would not adversely affect the viability of the transaction. The reason for this provision is to provide the degree of flexibility which we think is necessary in order to maximize the possibility of creating a viable successor to TWA, especially if USAir continues to show an interest in reaching some sort of an agreement with respect to TWA.

So that is the essence, Mr. President, of the substitute amendment that has been sent to the desk.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum and ask that the time be equally divided between the parties.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

The Senator from New Jersey has 6½ minutes.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I note that the various proponents of an agreement, the two proponents, the Senators from Missouri and Florida, are close to effecting a compromise that would put this matter to rest very quickly. I am hopeful that that is the case because, frankly, I hope that we can give the kind of protection that is necessary when you have a merger of two airlines, that those who have labored long and hard for the airline being merged are entitled, it is my belief, to retain their jobs and retain an opportunity to continue to make a living and hope for progress in the future

So I am encouraged by the good will and by the thought that has entered into these discussions. I hope that we will soon have a resolution.

I remind those who are within earshot that at 1:15 p.m. we are, by unanimous consent agreement yesterday, to go on to another bill.

In the interim I yield to my colleague from New York, Senator D'AMATO.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I be added as a cosponsor to the amendment of my colleague and friend, Senator GRAHAM.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I have been supportive of this concept. I am deeply appreciative of the efforts of Senator GRAHAM and Senator DANFORTH to work out a compromise that will attempt to safeguard American aviation jobs where they can and should be. We should assure that American jobs are not simply transferred over to a foreign labor requirement. And that indeed is what is taking place in many cases.

I am hopeful that this can become the law of the land so that we can provide the kind of opportunity and, yes, the kind of protection against excesses where a labor force is unfairly discriminated against, and in this case our American labor force because they are Americans. That does not make sense. That is wrong. That penalizes this Nation and its people.

Mr. President, I am pleased to add my comments to those of my friends, Senator BOB GRAHAM and Senator DANFORTH. I introduced a similar measure with Senator GRAHAM on July 26, 1991, (S. 1565).

This amendment directs the Department of Transportation to assure that the jobs needed to operate airline routes become part of the package when route transfer applications are approved. It would safeguard the jobs of experienced employees, it would not add unreasonable costs, it's fair and it makes sense.

In New York State, the demise of Pan American Airlines in December 1991 threw thousands of people out of work. Nearly 4,700 have filed for unemployment in the State. Without this legislation, thousands of experienced aviation employees at air carriers with shaky finances will be at risk to join the unemployment rolls throughout our Nation.

Airlines are not being sold intact, but instead their route systems are being sold piecemeal to the highest bidder. Such dismantling allows other airlines to cherry pick the best components of an airline while totally ignoring the most valuable asset—the employees. Generally, when companies merge or are acquired by other companies, employees are brought into the fold of the purchasing company. In the airline business this provides a skilled work force that can smoothly continue fleet services. Route transfers should be handled in a similar manner.

Airline routes are a public asset to be operated in the public interest. The Department of Transportation must approve route transfers from one owner to another, and may attach conditions to safeguard the public interest. DOT must bring labor, management, and government together to plan the best possible route transfer decisions. Other countries safeguard their aviation jobs, and we should assure that American jobs are not lost to accommodate foreign labor requirements.

The proud history of commercial aviation in this country has drawn strength from the special commitment and zeal of its employees. It is time to treat them in a fair and equitable manner.

Again I am hopeful that we will be able to have this amendment and the resulting compromise enacted into law.

I yield the floor.

Mr. LAUTENBERG. Mr. President, I would just note that in my statement I talked about another bill. It is another amendment, not another bill. We are on the Transportation bill and intend to stay there until we complete it at 2:15. So we are again hopeful that, within a very few minutes, we will have the resolution of the amendment presently under discussion.

Until then, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2883, AS MODIFIED

Mr. DANFORTH. Mr. President, I send a modification to the desk of my second-degree amendment.

The PRESIDING OFFICER. If there is no objection, the amendment is so modified.

The amendment (No. 2883), as modified, reads as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . EMPLOYEE CONSIDERATIONS IN AIRLINE ROUTE TRANSFERS.

(a) In General.—Section 401(h) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1371(h)) is amended by adding at the end the following new paragraph:

"(4) Employee considerations.—

"(A) Consideration of employment opportunities.—In reviewing a proposed transfer of a foreign air transportation route certificate, the Secretary of Transportation in order to encourage fair wages and equitable working conditions for air carriers, shall give priority consideration to assuring employment opportunities for employees of the air carrier transferring the certificate. Those opportunities shall not discriminate on the basis of race, color, religion, national origin, sex, age, or disability. Consideration shall also be given to provisions for seniority integration, as provided for in the seniority integration protections specified in Tiger International Seaboard Acquisition Case, CAB Docket 33712.

"(B) Employment plan.—Upon application for approval of such a certificate transfer, the acquiring carrier shall submit its plan for employment that projects the number of employees of the transferring carrier who will be hired by the acquiring carrier, the crafts and national origin of those employees, and a timetable for implementation of that employment plan.

"(C) Mandatory findings.—The Secretary may approve the transfer of a foreign air transportation route certificate only if the Secretary makes specific findings that—

"(i) the employment plan submitted under subparagraph (B) does not discriminate on the basis of race, color, religion, national origin, sex, age, or disability;

"(ii) reasonable attempts have been made by the acquiring carrier to provide employment opportunities for employees of the transferring carrier; and

"(iii) the employment plan would not adversely affect the viability of the transaction.

"(D) Evaluation.—Within 1 year after the approval by the Secretary of a transfer of a foreign air transportation route certificate, the Secretary shall conduct an evaluation of the implementation of the employment plan submitted under subparagraph (B).".

(b) Duty to Hire Protected Employees.—Section 43(d)(1) of the Airline Deregulation Act of 1978 is amended by striking "10" and inserting in lieu thereof "17".

(c) Effective Date.—The amendments made by subsection (a) shall apply with respect to any application filed after the date of enactment with resect to any application filed after July 26, 1991, but before the date of enactment, the acquiring carrier must submit the employment plan specified in paragraph (B) and that the provisions in paragraph (D) apply.

Mr. DANFORTH. Mr. President, I think we are prepared for action on the second-degree amendment which, if agreed to, would then leave us with the first-degree amendment, as amended, for consideration at 2:15.

The PRESIDING OFFICER. Is there objection to voting on the second-degree amendment?

Mr. GRAHAM. Mr. President, I strongly support the second-degree amendment. I thank and commend the Senator from Missouri, as well as his colleague Senator Bond, who was an original cosponsor of the amendment, for their efforts in shaping this in a manner that will be constructive for all parties.

Parliamentary inquiry, Mr. President. I think there had been a rollcall vote ordered on the second-degree amendment. Is that correct?

The PRESIDING OFFICER. No rollcall vote has been ordered.

Mr. GRAHAM. So at this point, we could adopt by voice vote the second-degree amendment and leave the adoption of the amendment, as amended, in until the appointed hour of 2:15.

The PRESIDING OFFICER. It has been granted to do that.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I just want to express my sincere thanks to the Senator from Florida, who took the lead on a very, very important provision that is of vital concern to many people in my State and across the Nation. This is an area in which a great deal of uncertainty and unrest has arisen.

I express appreciation also to my senior colleague for his expertise in this area. I believe he has led us to fashion a compromise which will achieve the goals which we sought when Senator Graham and I proposed this particular amendment, and does so without having the possible harmful side effects.

I express my sincere thanks to those Members, plus the manager and ranking member of the bill.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I commend the Senator from Florida [Mr. Graham] and the Senator from Missouri [Mr. Danforth] for working out a compromise that meets the concerns originally expressed by Senator Graham.

Though we have had an indication from the administration that they have concerns about this—I think probably concerns is a little mild, but I do not know whether or not they would take the ultimate action of vetoing it as we earlier threatened, not today, but yesterday. I hope they would not. This is a compromise worked out by a very thoughtful, arduous process.

We are prepared to accept the amendment proposed by the Senator from Missouri, and we will await the hour of 2:15 to see whether or not we have a rollcall vote.

The PRESIDING OFFICER. The time on the amendment has expired.

The question is on agreeing to the amendment.

The amendment (No. 2883), as modified, was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, will the Chair state, for the benefit of all, the status of the debate at this point?

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri [Mr. BOND] was to be recognized to offer an amendment.

Mr. LAUTENBERG. And the time set aside for the discussion of that amendment is 1 hour, as I understand it.

The PRESIDING OFFICER. The time between now and 2:15 will be equally divided.

Mr. LAUTENBERG. I see the Senator from Missouri is here. The time is divided such so that the Senator from Missouri has a half-hour and the Senator from New Jersey has a half-hour; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The PRESIDING OFFICER. Under the previous order the Senator from Missouri is recognized to offer an amendment.

Mr. GRAHAM. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. As I understand it, the amendment that the Senator from Missouri will offer is an amendment to the committee amendment. Has the committee amendment been offered? Is the committee amendment available to be amended?

The PRESIDING OFFICER. The committee amendment is pending to the bill.

Mr. GRAHAM. It is the pending business?

The PRESIDING OFFICER. Yes.

The Senator from Missouri is recognized.

AMENDMENT NO. 2884

(Purpose: To remove the minimum allocation program from Federal-aid highways limitation on obligations)

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. NICKLES, Mr. GRAHAM, Mr. WARNER, Mr. LEVIN, Mr. MCCAIN, Mr. HEFLIN, Mr. COATS, Mr. KASTEN, and Mr. BOREN, proposes an amendment numbered 2884.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 19, line 17, strike "$18,006,250,000" and insert "$16,899,250,000".

On page 57, strike line 21 through line 25.

On page 58, strike line 1 through "distribute" on line 4.

On page 60, line 20, after "Code;" insert "obligations under section 157 of title 23, United States Code;".

Mr. BOND. Mr. President, in order to avoid any confusion, I now ask unanimous consent that it be in order to offer this amendment and that it not be subject to division.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Reserving the right to object, and I do not object, but I am not certain, because I have not seen the amendment, whether or not I can be in a position to agree to that in terms of the division.

So I ask my colleague and friend if he would at least give us an opportunity to review what the implications of that might be and then we can move on.

While I do not, in general, raise objections to requests coming from fellow Members and in particular my colleague, I have to say in this case I have to understand what the implications in this case may be.

Might I suggest we start the amendment and my colleague can renew his request after we had opportunity to consult with the majority and others?

The PRESIDING OFFICER. The amendment is pending.

Mr. LAUTENBERG. Mr. President, if it helps alleviate the confusion, I have had the advantage of seeing the amendment. It is my understanding from the Parliamentarian that in order for the amendment to move ahead that we have to give it consent. I urge my colleague from New York to take a quick look as the amendment is being discussed so that we can give our approval very shortly.

Mr. D'AMATO. Let me raise this point again. I am not certain, could the Senator restate the request? The thing that concerns me is that as it relates to not being subject to division; is that correct?

The PRESIDING OFFICER. That is the unanimous-consent request.

The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague from New Jersey for pointing it out.

This is a difficult procedural situation which we are in. To assure we do not run afoul of procedure, I have asked unanimous consent that it be in order to consider.

Second, the reason that I ask for a division is that it is a very simple amendment, only six lines long, each one of them dealing with a different part of the bill. The reason I ask that it not be subject to division, if you divided it, then the scheme would fall apart. It was a suggestion for procedural purposes that I asked that unanimous-consent request.

Mr. D'AMATO. I have no objection with the Senator explaining what his request was as relating to the withholding of the division. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank the chairman and the ranking member.

The amendment I have sent to the desk is on behalf of myself, Senator GRAHAM, Senator NICKLES, Senator WARNER, Senator LEVIN, Senator KASTEN, Senator HEFLIN, and Senator BOREN.

Our amendment, Mr. President, would simply return the minimum allocation under the highway program to current law. For the first time since the program's creation, the committee bill places it under the so-called obligation ceiling, thereby restricting the funding available to the minimum obligation States.

The amendment would offset the additional spending needed to fund the MA program by reducing the obligation ceiling by about $1 billion. But I want to emphasize again this amendment would restore current law for the program. It is the committee bill which has changed the provisions that were agreed to in ISTEA in the authorization for highway funding.

My colleagues know what a long and difficult time we had coming to an equitable agreement among the States. I want to maintain that agreement from last year. We think that fairness and equity and principle are utmost in maintaining the deal that was arrived at last year.

In the language of Federal highway programs, our States are known as minimum allocation States. That means our annual highway trust fund share is much less than those donor States contribute to the trust fund every year. The rest of the States receive close to or even more than the amount they contribute to the trust fund annually.

The minimum allocation program was created in 1982 to correct a longstanding inequity in highway program funding. Our distinguished colleague from Texas, Senator BENTSEN, amended the Federal highway program to require our States receive the minimum allocation of 85 percent of what is contributed in gasoline taxes to the trust fund. These funds are to be distributed to shortchanged States after the formula based funds for the regular programs were distributed. To ensure that those funds are received by minimum allocation States, they are not subjected to the obligation ceiling, a spending limit applied to the formula programs.

Again, the purpose of the program is to help make up for what was not received under the outdated formula based programs. The imposition of a spending limit would defeat the purpose and, thus, was always exempt from it.

In addition, it would constrain the ability of States receiving minimum allocations in this year should they be unable to spend funds already allocated to those States and already accounted for in the budget procedures from spending them if their projects are not ready to go in ensuing years.

This was a hardfought battle last year. We realized that when we came to an agreement, it would be a compromise that perhaps could not make everybody happy. It was one which we could all agree that the program funds would be distributed outside the obligation ceiling.

We discussed on the floor at that time and we were assured that all members of the authorizing committee would stand by that agreement. I believe that this amendment merely restores that agreement and, frankly, we do not know what the full funding impact would be because we have not received a definitive answer from the Federal Highway Administration.

Yes, some States would lose; yes, some States will gain. But the important point is that we made a deal last year and we want to return to the provisions of that deal.

I urge our colleagues to support this amendment.

I reserve the remainder of my time.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we are now fully immersed in a discussion about what happens under the committee bill and what happens under the proposal by the Senator from Missouri.

I would like to take a few minutes to explain what the committee has done in this bill with regard to the section 157 program, which is the minimum allocation program.

But first I think it is important that we look at the funding constraints that the Transportation Appropriations Subcommittee was operating under. Because of the budgetary firewalls, which I and many others tried to break down, we simply could not fund all of the programs under our jurisdiction at their fully authorized levels.

That cannot be a surprise to anybody here. It should not be news to any Senator that the Appropriations Committee is rarely in the position to fund the fully authorized level for any program. The section 157 program is no exception. This was true of FAA operations. It was the case for transit capital and Amtrak. It was true for the formula highway program. And for the purposes of equity, it had to be the same for the minimum allocation.

In fact, it should be noted that a number of important programs in this bill, including almost all of Amtrak, Coast Guard acquisitions and the Airport Improvement Program are funded below last year's level.

When we received the President's proposed budget for fiscal year 1993, we noted that it drastically shortchanged a number of programs that many of my colleagues on both sides of the aisle and from all areas of the country support.

The bill that we received from the House corrected some of the inequities, but by no means all of them. As we have in the past, my colleagues on the subcommittee and I—and I include the ranking member, Senator D'AMATO, who has worked very hard to help us get this transportation bill before us—worked to restore balance to the Transportation budget. But, we still had the budgetary constraints to deal with.

We have our 602(b) allocation, and we cannot bring a bill to the Senate floor unless we stay within that allocation. That is a simple fact of life.

In making decisions about how to distribute scarce dollars among the various programs in our bill, we looked carefully at how funds are being spent. According to the Federal Highway Administration, as we approach the end of the fiscal year, States have actually obligated only half of the funds available to them under the section 157 and demonstration project programs. Obligation rates under the regular formula programs, which benefit each and every State, are better.

Not every State gets section 157 money, but each and every State receives money under formulas approved last fall in ISTEA, under the regular Federal-aid Highway Program.

For every dollar that is made available to the section 157 and demonstration project programs and not actually obligated, that is a dollar that is not available for the formula programs. So what we are talking about, Mr. President, is the size of the pie. The pie is being reduced by virtue of necessity. The pie is smaller, and thus we had to cap the minimum allocations.

I did not want, Mr. President, to do that. The committee did not want to cap the section 157 or demonstration projects. For that matter, we did not want to cap the regular formula programs, or Coast Guard expenses, or the FAA either. But the budgetary realities forced us to do so.

In the highway area, we had to set an obligation ceiling below the fully authorized level, and by doing so we were able to provide funds for programs that the administration would have left high and dry, programs such as transit, which benefit areas from Los Angeles to Salt Lake City, to Phoenix, AZ, to St. Louis, MO, Miami, FL, metropolitan Washington, New York, and New Jersey.

Frankly, the relatively small amounts made available by imposing these caps went a long way toward meeting other needs without seriously hurting States.

I hope my colleagues will pay careful attention to what I can about to say. The Federal Highway Administration prepared tables showing how each of the States fared under the caps we had to impose and compared that to the scenario under the Bond Amendment.

All in all, 30 States, plus the District of Columbia and Puerto Rico, received slightly more funds overall under the committee's bill than under the amendment proposed by the Senator from Missouri. That is, by capping section 157 and ISTEA demonstration projects and putting the savings into formula programs, 30 States come out ahead.

Of the States that receive less funding, the differences are relatively small. In fact, for most of the impacted States, the difference is less than 2 percent. For example, Missouri gets 1 percent less under the committee bill than under the Bond amendment. And because of the balance that we were able to restore to the transportation bill because of caps on various programs, important transit projects in St. Louis, MO, can be funded.

Impact on other States that have traditionally been concerned about section 157 is similarly small. For North Carolina, it is just over 1 percent; for Wisconsin, it is less than 1.5 percent, and for Michigan, again, barely over 1 percent. And in the case of every State that is impacted by the cap on section 157 and demonstration projects, there are other areas in this bill where they benefit because of the balance we were able to restore to this bill.

Look, for example, at the State of Virginia. Traditionally, it has been a State concerned about minimum allocation. Under the committee bill, Virginia does almost $4 million better than it would under the proposed Bond amendment. Under the committee bill, it gets more formula funds, which can be put to work immediately.

With the balance we were able to restore because of caps, we were able to do things like fully funding the Washington Metro System, which I know is of great significance to the State of Virginia. Without caps, Virginia stands to lose highway money overall and to lose help for Metro. That is what a vote against the committee bill would mean.

Further, it is important to note that no State loses contract authority available to it under ISTEA. I repeat, there is not one State which loses the contract authority that was authorized in ISTEA.

To make it even clearer, Mr. President, that money goes into a bank account to be drawn upon in the future. So even if it is not obligated in the current year, it is available. I repeat what I said earlier, that in many States the funds that were available have not been obligated—in fact, about half have not been obligated.

What has been capped in the committee bill is the ability to obligate the funds in this fiscal year, 1993. That is the reality of living within a budget amendment that was developed and agreed to by a majority in 1990. It has been my sincere hope for a long time now, and I hope that next year we will have another opportunity, when the budget walls come down, to provide more funds.

I find it slightly more than ironic that those who protested removing the budget walls between defense, foreign aid, and domestic spending are among the very people who today stand on this floor and demand to know why it is that they cannot get a higher share.

Well, it is a little late for that. We cannot go back. But for next year I hope people here will recognize those budget walls must come down. The world has changed. That may surprise some in this Chamber, but it has. The fact is we do not need the same defense distributions that we had before and we ought to be investing them in the well-being of our society and development of our economy.

But as long as we are operating under the current budget agreement, we simply cannot provide more. And given that reality, caps on virtually every program in this bill are an unfortunate necessity.

I urge my colleagues to oppose this amendment and support the committee bill.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from New Jersey has 14 minutes and 30 seconds.

Mr. LAUTENBERG. Mr. President, I will extend the debate marginally by reading from this list, so that we will have it in the RECORD.

Based on tables provided this morning by the FHWA, the Federal Highway Administration, here is a list of States that would be hurt by the Bond amendment and do better under the committee bill: Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Iowa, Kansas, Maine, Massachusetts, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Virginia, the State of Washington, West Virginia, Wyoming, plus the District of Columbia, and Puerto Rico.

So by voting for the Bond amendment, Senators from these 30 States would be voting for less highway money for their States.

I hope, Mr. President, that will be convincing enough for my colleagues to oppose this amendment and support the committee bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I note the absence of a quorum, and I ask that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I am pleased to allocate 10 minutes of time to my distinguished colleague from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, one of the most famous citizens of the State of my colleague, Senator BOND, is Mr. Yogi Berra, who I believe grew up in St. Louis. He is, of course, in addition to being a great baseball player, one of America's greatest philosophers.

Mr. LAUTENBERG. Mr. President, if the Senator will yield, Yogi Berra lives in New Jersey, has for many years, and is a neighbor of mine in Montclair, NJ. Just so the RECORD reflects where Yogi developed his philosophy and his views of the world.

Mr. BOND. If the Senator will yield, he was born in his native State of Missouri.

Mr. GRAHAM. Mr. President, the great philosopher, Yogi Berra, says it is deja vu all over again, and it is.

For those of you who do not want to listen to this debate, just collect the Records of the Senate for last fall, when we were debating the Surface Transportation Act, because you are about to hear it all over again.

What we are talking about here today is fundamental fairness. To put it in an old Southern expression: A deal is a deal. Less than a year ago, in the Surface Transportation Act, after a long and arduous negotiation, we struck a deal. The deal was that 22 States of America, representing over half the population of America, would accept an egregiously unfair formula for the distribution of funds if they were assured that they would get back at least 90 percent of the money that they contributed to the fund. That was the deal.

Now, less than a year later, in an obscure provision in an appropriations bill, we are about to undo that deal by providing for the first time that the funds that come to those 22 aggrieved States will now be placed under an obligation ceiling so that they will not get the 90 percent that they bargained for, that they agreed to. That is the essence of this debate.

Why do we have a minimum allocation program at all? We have a minimum allocation program because we have a very distorted basic allocation formula. What are some of the elements of that distortion? It will be hard for the people of America to believe this, but what I am about to say is true. The United States of America is going to distribute highway funds from now until the year 1997 based on the 1980 census. Most Americans would find that to be so shocking as to be beyond belief.

You would also be interested to know that as part of this formula, we are going to take into account the number of postal roads that existed in America back around the time of the First World War.

Those are some of the factors that have caused 22 States in the country to be so disadvantaged in terms of this allocation formula; that a minimum of at least 90 percent of what they sent to Washington, it was assured to them, they would receive unencumbered by any obligation ceiling.

There are some peculiarities in those 22 States. By a trick of political alchemy that is hard to believe, every one of the Southern States—all 11 States, as well as border States, such as Kentucky and Missouri—are in that list of 22 States. Some of the poorest States in America are the States that are most disadvantaged by this formula.

Virtually every growth State is disadvantaged. Who were the three fastest-growing major States in America last year in the 1990 census? They were California; they were Florida; they were Texas. Who are three of the 22 States that make up this group that have been so mistreated as to require a minimum allocation? They are California; they are Florida; they are Texas.

So we have the minimum allocation as a means of giving some redress to a formula that is patently irrational and unfair.

Are there already penalties inflicted against these 22 States that make up the minimum allocation pool? Yes. What are some of those penalties that already exist? One, since the 1987 highway bill, those 22 States have been effectively precluded from competing for discretionary funds. What does that mean? Typically, at the end of a Federal fiscal year, there will be some formula funds that, for various reasons, States have been unable to fully utilize. Those funds then come back into a pool, and States are allowed to compete.

While I was Governor of Florida, we built a lot of our Interstate System because we were able to compete for those funds at the end of the fiscal year. We were ready to spend it because we had urgent growth-related needs and were able to use funds that other States could not use, an eminently rational process.

Since 1987, the 22 States that are in the minimum allocation pool effectively cannot compete anymore because every dollar they get through that discretionary fund is a dollar subtracted from the minimum allocation. No other group of States is subject to that discrimination except those who already have been so discriminated against that they were put into the minimum allocation pool.

The second discrimination is that while the 90 percent formula applies to funds that are currently being placed into the highway trust fund, that highway trust fund over the 1980's grew to a level of approximately $15 billion to $20 billion. In 1991, the surface Transportation Act will be spending down that surplus.

Obviously, that surplus was the result of funds coming from Missouri, coming from New Jersey, coming from Florida, from all of the States. Does the 90 percent apply, to assure us that we will get back our fair share of that money that we already have put into the fund? No. We only get the 90 percent of the new money that we put in.

So our States are already discriminated against by the irrational formula, by limitations in our ability to contribute, to compete for discretionary funds, and by the fact that we do not get back an equitable percentage of the money that we already put into the fund.

Now, on top of that, we are proposing to impose an obligation ceiling for the first time that this has ever occurred on those minimum allocation States.

Mr. President, I think any standard of basic fairness would say that this is not an equitable manner to distribute billions of dollars of Federal funds, which all Americans have paid, back to the individual States which have the responsibility of meeting the highway needs of those millions of Americans.

The issue here is not a budgetary cap issue. In fact, if you will look at the bill on page 19, you will notice that the House obligation ceiling is $16.690 billion. The Senate increases that to $18.6 billion. So rather than being constrained and having to cut the obligation ceiling, we have increased the obligation ceiling by approximately $1.3 billion in the Senate Appropriations Committee recommendations.

The issue is one of allocation. We are breaking the deal that assured the minimum allocation States of at least 90 percent of the funds that they sent into the Highway Trust Fund.

The issue is also who should decide? The Senator from New Jersey points to the fact that, oh, yes, we cut North Carolina by 1 or 2 percent, but there is a little money in there for a mass transit project. As I understand the Surface Transportation Act, if North Carolina got the money, it would have the flexibility to decide whether it wanted to use it for highways or for mass transit. That was one of the most compelling selling points of the 1991 Surface Transportation Act.

Why do we let North Carolina make the decision as to whether it wants to spend the money, respect the compromise negotiated in 1991, fully fund the minimum allocation States, as the law requires, and then let the individual States with the money that is available to them decide what are that States' priorities?

Mr. President, this is a very serious amendment, because it goes to the essence of fairness, to the essence of credibility of a decision, once made, to be carried out in the future. If this amendment is not adopted, if we were to succumb to the practice that says that the only thing that counts is getting a few more dollars for my State by this kind of method, then I suggest that we are succumbing to H.L. Mencken's observation about politicians:

> If politicians did what their constituents wanted, and their constituents happen to be cannibals, then the politician would gain favor by feeding them missionaries.

I do not want us to get to the point where the only standard we operate on here is who can "feed missionaries to our constituents."

We have a deal that was made in 1991. It is now 1992. I think we should faithfully carry out these requirements. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, will the Senator from Missouri yield me 5 minutes?

Mr. BOND. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. The Senator from Missouri has 10 minutes, 30 seconds. The Senator from New Jersey has 12 minutes, 58 seconds.

Mr. BOND. I am happy to yield 5 minutes to my colleague from Michigan.

Mr. LEVIN. Mr. President, I support the amendment of the Senator from Missouri for just the most basic of reasons. There is nothing more fundamental, more direct, more simple, more human, hopefully more compelling, than fundamental fairness.

We can argue in this Chamber—and we have—for weeks about the formulas, the technicalities, the criteria on whether or not we should consider the land areas, whether there ought to be a minimum for small States, whether we ought to look at postal road mileage, something which was relevant 70 years ago and not now. We can spend a week arguing this, and we have.

But it all comes down to this: After that argument was over and that debate was over, we finally agreed to a minimum allocation of 90 percent. My State has lost $1 billion in the last 5 years because we sent much more to Washington under the gas tax formula than we got back. Do we have less of a need for highway funds than other States? We do not. But we get less back, because of formulas designed in committees where we are not represented. That is what it comes down to.

We worked out, finally, excruciatingly, a formula to give us 90 percent back. It is called a minimum allocation. It is minimal fairness. This bill in front of us undoes what it took many Members of this Senate literally weeks to put together not so long ago.

Some people say, well, my gosh, if Wyoming got only as many dollars back as it put in, we would not have an interstate system, and they are right. But that does not justify a small State guaranteeing a postal road criterion and all the other criteria which are put into these formulas in order to benefit some States who have the heavier representation on the committee. That is what it comes down to in the eyes of those of us who lose money year after year, not for relevant, legitimate reasons—and there are some—but purely on the basis of politically who is there in the right committees to write the formula.

We have already argued those. We already thought we had reached an understanding. That understanding has been modified in this bill. It is that understanding which the Senator from Missouri seeks to restore.

My good friend from New Jersey is right. If this amendment passes, there are going to be a number of States who are going to get money than if the amendment does not pass. He is absolutely correct. It is also true, however, that if we had a 95 percent guarantee, the donor States, those who give a lot more than they get, would do better than they are. But we do not have 95-percent guarantee. We have a 90-percent minimum allocation.

The Senator from New Jersey is indisputably correct in that, if the Bond amendment is agreed to, there are going to be some States that will get less, but what they will be getting is exactly what we agreed to in this body in the highway bill. So the question is whether or not we will maintain that fundamental understanding and agreement which we reached. That is the bottom line here. That is what it all comes down to. That is why some of us feel very, very strongly on this issue.

I just ask one question of my friend from New Jersey, if I could interrupt his conversation, and forgive me for that.

Under the bill, it is written that there will be a reduction, as I understand it, of $900 million in the minimum allocation formula. It means that, effectively, the 90-percent minimum allocation is going to be reduced.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. LEVIN. I have not asked the question yet.

Mr. LAUTENBERG. It sure sounded like a question.

Mr. LEVIN. I made a statement of fact that the minimum allocation limitation is going to be reduced by $900 million.

Mr. LAUTENBERG. That is incorrect. It is $200 million. I do not yield the time.

Mr. LEVIN. Let me ask my question——

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. BOND. Mr. President, I yield 30 seconds, but we are running out of time.

Mr. LEVIN. I stand corrected. It is $207 million. The Senator from New Jersey is correct. That effectively reduces the 90-percent minimum allocation formula.

My question is: To what number does that $207 million reduction in the minimum allocation formula reduce the 90-percent minimum allocation to?

Mr. LAUTENBERG. The answer is, no, it does not. It does provide, as I earlier said, a credit for the 90 percent that each State is entitled to under an understanding reached a couple of years ago.

The fact is that, however, because of the budget limitation that we have, we had to bring down the top and, thusly, the categories underneath that top. Michigan, Missouri, all can count on getting that money. That is their money. It is, unfortunately, not available in this fiscal year. I am reminded that the money can be fully obligated under a series of accounts under the total obligation ceiling.

So the minimum allocation can be met. However, just like we capped Coast Guard, FAA, and other accounts, we had to cap the minimum allocations ceiling. They are all merged into a total. In fact, while the allocation of funds under minimum allocation could conceivably have been greater, it would have been at the expense of other things. So the obligation is that the contract authority is there, and the States can allocate it as they see fit.

Mr. LEVIN. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I yield 1 minute to the distinguished senior Senator from Oklahoma.

Mr. BOREN. I thank the Chair and the Senator. I will be brief and to the point. Last year, when we were debating the authorization bill, we had a commitment, which was that the donor States would no longer be treated unfairly; we would no longer continue to send our money to Washington and have it reallocated in an unfair fashion so that we support transportation systems in other States when we have our own pressing needs at home in our own States and communities.

In our own States, in our own communities, that commitment was made. And now, because of the way this bill is structured my State, for example, will lose another $4.6 million.

This is simply unfair. This has to do with keeping commitments. Those commitments should be honored. The commitments made in the authorization bill should be honored. And, therefore, we should pass the Bond amendment, the amendment offered by the Senator from Missouri, and others, which I am proud to join. It is time to keep the commitments that were made. If we do not keep them, we imperil the authorization process in the future.

It is simply a matter of doing what is right and accountable. Year after year the taxpayers in States like mine are subsidizing and funding programs in other States. It is time for that to end. It is time for those commitments to be honored. I strongly support the amendment, and I thank my friend for yielding to me.

Mr. BOND. I thank the Senator from Oklahoma.

Mr. President, I yield 1 minute to the Senator from Oklahoma.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, we find ourselves again debating the fairness of the distribution of highway funds to the donor States. This is the same issue fought on the Intermodal Surface Transportation Efficiency Act [ISTEA] legislation last year. This debate bogged down the Senate on this important legislation and I will tell you, it will hinder the timely passage of this legislation if we do not keep to last year's agreement.

It is of grave concern to me that the Appropriations Subcommittee on Transportation decided to place the minimum allocation funding as contained in ISTEA under the obligation ceiling. As a result, donor States are once again faced with losing a significant portion of their highway dollars, dollars that were promised them in the ISTEA authorization.

This creates significant problems for donor States such as Oklahoma, which had planned on having the additional moneys available. These States have made their planning decisions based on the ISTEA authorized amounts, and this legislation threatens to force those States to develop new plans that will delay previous priorities. In fact, according to transportation officials in my State, Oklahoma's 5-year plan will have to be extended to a 7- or 8-year plan if the minimum allocation fund aren't removed from the cap.

Furthermore, it is my understanding that any carryover funds that the donor States have at the end of fiscal year 1993 will be lost because they will be considered under the obligation ceiling. What is more, the Department of Transportation informs me that these funds will end up going to the donee States. This was not our agreement last year, the minimum allocation funds were specifically created to help bring donor States up to a fairer level of funding, closer to their gasoline tax contributions into the highway trust fund account. This legislation we are considering breaks that agreement and will cost all 22 donor States money that they had anticipated and planned on being available.

Mr. President, it is essential that we keep the ISTEA agreement and that we pass the Bond-Nickles amendment. It is simply unfair to keep donor States fighting for their fair share of funding and it is doubly unfair to keep these States guessing as to how much money they can anticipate having available as they make their planning decisions. We must keep to our word, reverse this unfairness and assist the donor States in moving forward to meet their transportation and employment goals.

Mr. President, I wish to compliment Senator BOND from Missouri for his leadership, and also Senator GRAHAM for his leadership on this issue. As my colleague, Senator BOREN, just stated, we are here for a little equity. We fought this battle with the highway bill, we fought for a better allocation and more fair allocation, we fought for our State, and we spent hours trying to come up with something that would be fair.

We came up with a minimum allocation which was supposed to equalize States and for those States that had been donor States we were supposed to get a dollar for dollar into the program. That is what we were told, and it was stated repeatedly on the floor. Unfortunately, that is not the case as is coming out of the Transportation appropriations bill.

The amendment of the Senator from Missouri helps to remedy that. It does not remedy it in its entirety, so this Senator is not even totally pleased with it. But at least it would help restore fairness to the system and it is certainly not fair when we see increases going out for tremendous mass transit subsidies.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. NICKLES. Mr. President I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Three minutes and 30 seconds.

Mr. BOND. I yield 30 seconds.

Mr. NICKLES. I thank my friend and colleague from Missouri.

Mr. President, what we are seeking is equity. We have not had fairness in this allocation. If we do not have restoration for the minimum allocation funds I think we are doing real injustice not being consistent with the bill we passed in the highway bill nor are we being consistent with the commitments that were made when we passed the highway bill.

So I urge my colleagues not just from the dollars involved but for a matter of equity that we would support the amendment of the Senator from Missouri.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum to be charged equally to both parties.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I yield 1 minute to the Senator from Virginia.

Mr. WARNER. Mr. President, I was a member of the conference committee last year in the Intermodal Surface Transportation Efficiency Act. It was a long and arduous conference.

We sat in the majority leader's office and it was clear that the purpose of that conference was to once and for all try and dig ourselves out of the past, away from this inequitable formula predicated on old census reports and other criteria, and try and strike a blow for fairness among the 50 States of our great Nation.

Day after day we labored, and finally we did reach that compromise. And this afternoon we are about to witness a vote to set aside all of that work.

The impact of this provision on donor States is significant. According to the Congressional Budget Office, the limitation of $900 million in minimum allocation payments to States in fiscal year 1993 will result in a loss of $200 million to donor States next year alone.

For Virginia, preliminary estimates provided by the Federal Highway Administration indicate a loss of $1.9 million next year.

Mr. President, it is important to recall why the minimum allocation issue is so critical to donor States. It is simply an issue of fairness and equity.

Since 1982 minimum allocation has been the only guarantee to donor States to give them a reasonable expectation of the percentage of return they will receive annually from the highway trust fund. This provision is essential to enable States to plan effectively to meet their highway needs.

It is also important to recall why the minimum allocation program even exists. By 1982 it became clear that the current formulas used to apportion Federal highway trust fund moneys were inequitable. There was a growing number of States receiving far less from the trust fund than their highway users paid into the fund. Despite efforts in the Congress in 1982 to modify these outdated formulas to more closely reflect highway use, the formulas remained unchanged.

In recognition of the inequitable distribution of highway funds, the 1982 surface transportation authorization bill included the minimum allocation formula. This program provided that no State would receive less than an 85-percent return from the highway trust fund.

In the reauthorization of the surface transportation bill last year, the formulas again were the primary focus of the congressional debate. I fought for updating these formulas to reflect the significant increase in highway use in more populated regions of this country, but once again the formulas remained unchanged.

In preparation for the next reauthorization of surface transportation programs in 1997, ISTEA required another study of the funding formulas by the General Accounting Office and other entities. It is hoped that the Congress will use these recommendations to modernize the formula system of distributing highway trust fund dollars.

I supported this study to give the Congress a foundation of fact on which a program can be fairly devised in 1997. It is becoming increasing clear, however, that if the Senate wants to change these formulas each year, we may need further, independent review of this matter. I recommend that a bipartisan Presidential commission be appointed to examine these matters in order to craft a consensus on the allocation of these critical highway dollars.

So I will, hopefully, gain support from others, if this amendment loses, and next year address the concept of an impartial body trying to fabricate a fair formula for the future of this Nation's transportation system.

As the Senate will recall, after 9 months of intensive discussions by the Senate and the subsequent conference with the House, the 6-year reauthorization bill was the last piece of legislation passed by the Senate before the adjournment of the 1st session of the 102d Congress.

Mr. President, I was pleased to support the conference report on the ISTEA last year because I believed progress was made to give the donor States a greater return on their contributions.

If the Senate accepts the provisions of the Appropriations Committee, we will be taking a giant step backward.

Throughout the debate on minimum allocation—the only safety net for donor States—the Congress recognized that the percentage return to States should be increased from 85 to 90 percent.

The authorization bill expressly states that minimum allocation would be outside the obligation ceiling as it has been traditionally calculated by the Federal Highway Administration.

The limitations on minimum allocation, as provided in the Transportation appropriations bill, violates this hard-fought agreement reached only 9 months ago.

Once again, minimum allocation States will be penalized and will not receive a fair return on the dollars their citizens pay into the highway trust fund.

Once again, minimum allocation States will not receive a 90-percent return on every $1 contributed to the trust fund, a cornerstone of the Intermodal Surface Transportation Efficiency Act [ISTEA].

Mr. President, I urge my colleagues to abide by the 90-percent minimum allocation, as authorized, and support the Bond amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I yield myself such time as I have remaining, and that is?

The PRESIDING OFFICER. A minute and a half.

Mr. BOND. I thank the Chair and colleagues who have spoken on behalf of this amendment. As they pointed out, last year we struck a deal. The deal was struck after a long and hard fight, because highways, bridges, and roads are vital to our States, they are vital to economic growth, they are vital to our rural economies, and they are vital for safety.

These are funds coming from highway taxes paid by citizens in our State. And I would point out to the distinguished manager, this minimum allocation of funds is carried over, this minimum allocation is kept under an obligation ceiling; they cannot spend those funds as long as they are kept under an obligation ceiling.

This is one of the reasons a number of States may lose money that already has been appropriated and allocated under minimum allocation. They will not be able to use them if they are not used in the year to which they are obligated.

I believe that this vote is critically important to determine whether once we strike a deal in this body, regardless of whatever the charts may say—the charts from highways are from la la land, everybody can get one; I have not seen the latest charts—we have to stay with principle. And that is why I ask my colleagues for support of this vitally important amendment to restore the fairness achieved in the original highway bill.

I thank the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. BOND. Did the Chair say there is not a sufficient second?

The PRESIDING OFFICER. Yes.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Jersey has 7 minutes left.

Mr. LAUTENBERG. Is that the only time remaining, Mr. President?

The PRESIDING OFFICER. Yes.

Mr. LAUTENBERG. Does the Senator seek recognition?

Mr. KASTEN. I wish to speak on behalf of the amendment. If the Senator would be good enough to yield me 1 minute.

Mr. LAUTENBERG. Mr. President, I am happy to yield to the Senator from Wisconsin for 1 minute.

Mr. KASTEN. Mr. President, I rise as a cosponsor in support of the amendment of the Senator from Missouri. This amendment would remove from the obligation ceiling the moneys that donor States receive under the highway program to guarantee at least a reasonable return of their tax dollars.

These minimum allocation dollars are moneys that the donor States, such as Wisconsin, receive to try to make up in some small measure for the fact that the formulas still do not treat our States with the equity we deserve. From 1956 to last year Wisconsin had paid $1.2 billion more in taxes than we got back.

In last year's Intermodal Surface Transportation Efficiency Act—commonly referred to as ISTEA—we once again made the decision that minimum allocation moneys should not be included under the obligation ceilings. This policy continues the treatment that minimum allocation has had under the 1982 and 1987 surface transportation bills as well. While donor States made headway under ISTEA, including MA under the obligation ceiling would erase some of those gains.

Last year the Senate Transportation appropriations bill also included MA moneys under the obligation ceiling, however the provision was struck in conference.

So, through two recent, in-depth considerations of this issue the policy has been to keep MA out of the obligation ceilings.

Wisconsin's Department of Transportation informs me that unless minimum allocation is treated as it has been for the last 11 years—that is, not under the obligation ceiling—that my State would lose on the order of $14 million in the next fiscal year.

Though I appreciate the viewpoint that MA is another outlay, the reason for its existence is to make up for formula deficiencies. As a Wisconsin Department of Transportation official said, to include minimum allocation dollars under the obligation ceiling is akin to taxing food stamps.

Because this amendment continues the treatment that these funds have received for the last 11 years, I believe that no major cash management problems should be encountered. I support the amendment of the Senator from Missouri and I urge its adoption.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I ask unanimous consent that the Senator from California [Mr. SEYMOUR] be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, today we are revisiting an issue that is of great importance to some 20 to 30 so-called "donor States." These are States who for nearly half a century have been making large donations to the highway trust fund through taxes but have been receiving woefully inadequate amounts of funding in return.

At the end of last year as we worked to approve a conference report on the 6-year highway authorization bill, donor States were assured that we would be happy with the final compromise. That we would receive a greater return on our tax dollar.

In fact, Mr. President, when a final agreement did reach the floor at the last minute—with no real time provided to review the numbers and assess the real impact on our home States—most donor States once again found themselves shortchanged.

With past and future contributions to the highway trust fund taken into account, Indiana received a return of 84 cents on the dollar—lower than that passed in either the original House or Senate bill and only a penny per dollar higher than the year previous to the passage of this bill.

To add insult to injury, the bill included an increase in the gas tax.

In an attempt to appease donor States, the new highway authorization did guarantee a minimum 90 percent allocation to States of new and future contributions to the trust fund through the gasoline tax. Although this in no way compensated for past contributions to the trust fund, this was a guarantee made to minimum allocation States a mere 9 months ago.

As we all know, the minimum allocation pot has always been outside budget ceilings as these funds come specifically from the highway trust fund.

The framers of this appropriations bill, however, have violated this agreement by placing minimum allocation funds under the obligation ceiling. The total minimum allocation pot has been capped at $900 million regardless of what donor States deserve.

This action will shortchange minimum allocation States by an estimated $207 million. Coincidentally, mass transit projects in the Northeastern States will be receiving an increase in funding similar to this shortfall.

I should note that for fiscal year 1992, Indiana received $81 million in minimum allocation funding. The exact figures on minimum allocation funding for fiscal year 1993 will not be available for several months yet, but the current estimates places the amount due to Indiana at about $64.4 million. Under this bill, the obligation limit for a minimum allocation for Indiana for fiscal year 1993 will be approximately $52 million—a reduction of $29 million from fiscal year 1992 and a reduction of $12 million from the fiscal year 1993 ISTEA estimate.

In addition, the formula for demonstration projects authorized under the Intermodal Surface Transportation Efficiency Act has also been placed under a ceiling. While under the agreement reached in the authorization bill, the State of Indiana should expect approximately $18 million for demonstration projects for fiscal year 1993. With this new formula we can now expect an estimated $9.5 million—or a near 50 percent reduction.

It is important to note here that a significant number of Members of the other body basically signed off on the transportation authorization bill because they were promised specific funding levels for demonstration projects in their States.

Now, I understand that the bill contains $274.8 million in new funding for demonstration projects outside of ISTEA including $8 million for much needed corridor improvements for the city of Columbus where we have seen highway deaths resulting from a badly managed traffic flow. Of course this funding is welcome—and well deserved for a State that has averaged a return of about 75 cents on the dollar in its highway contributions since 1956. Yet in doing so, other important projects have been wrongfully and, in my view, needlessly shortchanged.

As unhappy as I was with the outcome of last year's authorization bill, I am simply astounded that donor States are being further taken advantage of in this legislation. As pleased as I am with the acknowledgement of a few important projects in Indiana, there is no way that I can support passage of this bill as drafted.

Mr. President, when will the enormous demands that have been made—and continue to be made—on donor States stop? Why are we already violating an agreement that was made to minimum allocation States less than a year ago?

Hoosiers have paid far more than their fair share to help those States who did not have the ability to raise their own adequate contributions for the construction of the Interstate Highway System.

But the Interstate System is now, for all practical purposes complete and States like Indiana have their own needs which have been sorely neglected in deference to roads in the Northeast and West.

It is time to recognize the decades of contributions States like Indiana have made to other regions in the country and stop the highway robbery. I urge my colleagues to support the Bond amendment to remove the minimum allocation provisions from the ceilings and keep its commitment under ISTEA to donor States.

Mr. BUMPERS. Mr. President, I would like to engage my colleague from Arkansas, Senator PRYOR, in a colloquy about a problem which continues to afflict our State. The Senate version of the Transportation appropriations bill includes the minimum allocation program under the obligation ceiling, which is the spending limit on highway funding imposed by the bill. The effect of the ceiling is to prevent States from spending all allocated highway funds in a given year. Senator GRAHAM and Senator BOND are offering an amendment to remove the minimum allocation from the obligation limit and I rise to say that Senator PRYOR and I support this amendment.

The Senate Transportation appropriations bill changes the current law, which expressly excludes the minimum allocation program from the obligation ceiling. The Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA] excluded the minimum allocation program from the cap in order to ensure that our State and other donor States receive a minimum return on the dollars we send to the trust fund each year. If the minimum allocation formula remains under the obligation ceiling, Arkansas' funding will be cut by $7,641,037 each year. Needless to say, this will be devastating to our small rural State.

Mr. PRYOR. Mr. President, I agree with Senator BUMPERS that the current proposal within the Transportation appropriations bill is a dealbreaker. The donor States, which rely upon the minimum allocation formula remaining outside of the obligation ceiling, spent weeks on the floor last year fighting for fairness under the new highway authorization bill. Our group of States has been shortchanged for years under the outdated highway program formulas, and those inequities continue under ISTEA because the outdated formulas were not altered. As a result of our fight, we were assured by the authors of the bill that ISTEA would protect us by excluding the minimum allocation formulas from the obligation ceiling. The provision in the appropriations bill is a direct violation of that guarantee and reduces our minimum allocation funding.

Mr. BUMPERS. Mr. President, let me add to the Senator's statement that not only does the current proposal fly in the face of what was agreed to previously but also it negatively impacts 22 States. Proponents of the pending legislation, who are, indeed, from donee States, which receive more money from the highway trust fund than they pay into it each year, point out that the donor or minimum allocation States continue to have only 44 votes. Obviously, this is never enough to shut off the debate between donor and donee States in order to deal appropriately with the unfair funding formulas which continue to plague donor States. The Senator and I certainly hope that this issue will be favorably resolved when this bill reaches the conference committee between the House and the Senate.

Mr. PRYOR. Mr. President, the Senator has plainly outlined the problem facing Arkansas and the other donor States. I rise to say that we strongly support the amendment offered by Senator BOND and Senator GRAHAM.

Mr. SEYMOUR. Mr. President, I rise to lend my strong support to the Bond amendment to this Transportation appropriations bill.

Absent adoption of the Bond amendment, the Senate will be reneging on the historic ISTEA agreement that was reached with the State less than 1 year ago.

Members of this body—namely, the donor States—voted for the ISTEA compromise on the basis that the minimum allocation [MA] would be set at 90 percent and that it would not be subject to obligational limitations. That was the agreement, and it was enacted in recognition of the fact that the donor States have been shortchanged for years under the outdated formulas that have been used to distribute trust fund dollars among the States.

It was precisely these provisions that brought reason to the distribution of highway trust funds. Will the very same Senate that made these promises only 9 months ago demonstrate that it had no intention of following through?

The purpose of the minimum allocation is to ensure that the donor States receive a minimum annual return on the dollars they contribute to the trust fund. The program is designed to make up for the inequity that exists in the current allocation formulas. Absent the bond amendment, California's minimum allocation funds will be cut.

Mr. President, the California Department of Transportation has reviewed this legislation. CALTRANS informs me that California could lose as much as $36 million during the fiscal year if minimum allocation adjustments are counted against obligational limits.

Like every other State, Mr. President, California is working very hard to meet its transportation needs. And with an economy flat on its back this is perhaps the worst time imaginable to elimiate job creating funds for California's. Infrastructure is a critical element in any sound economy, and California needs more, not less, to protect its economic health, bust gridlock, and create jobs.

I know the Transportation Appropriations Subcommittee is working under severe limitations. However, we cannot make up for this shortfall at the expense of the donor States.

Mr. President, the Bond amendment simply affirms the ISTEA agreement, and I urge its adoption.

Mr. CHAFEE. Mr. President, last December 18, the President signed into law the Intermodal Surface Transportation Efficiency Act of 1991, now known as ISTEA. That law represents a new approach to transportation and includes new programs and partnerships that will result in an efficient and high quality transportation system for our country.

The coalition that came together to make ISTEA possible produced a very good law. A delicate balance was achieved that addressed the needs of sparsely populated rural areas as well as densely populated urban areas. ISTEA provides flexibility so that those parts of the country that are experiencing growth can meet their needs with new transit or highway facilities. Similarly, with this flexibility, States that have older transportation facilities have the ability to fix and maintain what they already have.

An important part of the agreement that produced ISTEA was providing a balance between the so-called donor and donee States. The donor States have historically contributed more revenues to the highway trust fund than they have received back from the program.

The 1991 law included a new minimum allocation provision. The new law improves the return the donor States receive from the highway program compared to the revenues they contribute to the highway trust fund.

At the same time, Congress recognized the importance of providing an adequate transportation program for the donee States as well.

The transportation program provides significant national benefits and it is important that all States are provided a fair and equitable amount of money for an efficient transportation program. I believe the 1991 Surface Transportation Act achieved this goal.

For this reason, I will continue to support the decision reached by Congress in the transportation law last year—that the minimum allocation funds should be outside the obligation ceiling.

Mr. GRASSLEY. Mr. President, I would like to discuss the transit section of H.R. 5518, the fiscal year 1993

Transportation appropriations legislation, specifically, the severe cutbacks in the formula portion of the transit section.

Mr. President, under the programs of the Federal Transit Administration, section 3 discretionary capital grants assist communities in obtaining or improving capital equipment and facilities needed for public and private urban mass transportation. It should be noted that 85 percent of the funds in the section 3 program are spent by the 15 largest transit systems in the country.

Section 9 is a formula-apportioned program for urbanized areas of over 50,000 population. Recipients of funds in urbanized areas of over 200,000 are designated by the Governors of the States, local officials, and public transit operators. Urbanized areas with populations from 50,000 to 200,000 have their funds transferred through the Governor of the State. Funds under section 9 are available for capital, operating, and planning assistance.

The section 18 program dispenses capital and operating assistance for public transportation in nonurbanized areas under 50,000 population. Funds are allocated by formula to the Governor and the program is administered at the State level by the designated transit agency. Eligible activities include operating assistance, planning, administrative and program development activities, coordination of public transportation programs, vehicle acquisition, and other capital investments in support of general or special transit services.

Under the Senate Transportation appropriations bill before us today, formula funding under the transit section of this bill would take a severe cut compared to fiscal year 1992 appropriations, a 15.3-percent cut to be exact. At the same time, the section 3 discretionary program receives a 28.5-percent increase.

If these funding levels are adopted by the Congress, it will mean service cutbacks throughout my home State of Iowa, as well as other States across the country. The elderly and disabled would be especially impacted in many parts of Iowa. It is particularly disconcerting that these cutbacks come at a time when transit systems are trying to comply with mandates directed by the Americans with Disabilities Act.

Further, sections 9 and 18 are the only sources available to transit systems for operating expenses. These funds have been drastically cut over the last several years and further cuts will surely result in further service reductions in Iowa.

I would urge that when this legislation moves into conference with the House, that the conferees attempt to provide funding for the transit formula portion of this legislation closer to the funding level provided in fiscal year 1992. At the very least, I would hope that the funding level would be closer to that provided in the House Transportation appropriations legislation.

MINIMUM ALLOCATION FUNDING

Mr. LEVIN. Mr. President, I would like to ask the floor manager of the bill a few questions regarding demonstration projects and minimum allocation. My question is whether putting the minimum allocation and demonstration projects included in the Intermodal Surface Transportation Efficiency Act [ISTEA] under this bill's obligation ceiling alters the base upon which minimum allocation funding is calculated?

Mr. LAUTENBERG. No, it does not.

Mr. LEVIN. On November 27, 1991, just prior to final passage of the conference report on ISTEA, Senator MOYNIHAN and I entered into a colloquy on this issue. I said the following: "I also understand that the 90 percent minimum allocation is not reduced by demonstration project funding." He replied: "That is correct." Does this appropriations bill change this?

Mr. LAUTENBERG. No, it does not. This bill does not alter the way the FHWA calculates the amount of contract authority a State is entitled to under the minimum allocation program.

Mr. LEVIN. In other words, whether or not the cap on minimum allocation is removed, minimum allocations will not be reduced by any demonstration project funding a State receives.

Mr. LAUTENBERG. That is correct.

Mr. LEVIN. I thank my colleague.

Mr. MACK. Mr. President, I hope that my colleagues on the floor will join me in supporting the Bond-Nickles amendment to strike the proposed change which applies obligation limitations to minimum allocation funding.

Like every Senator here, I want to help my State provide safe and efficient roads and highways. That job is particularly difficult for Florida, because Florida grows by nearly 1,000 people a day. My State's transportation network has to grow quickly and efficiently to meet the need of a population that has grown by one-third since 1980.

But the provision in this bill which applies obligation limits to minimum allocation funding makes Florida's transportation task much harder—and unnecessarily so.

Florida has made significant efforts to meet its transportation needs. In recent years, the Florida legislature passed the largest ever comprehensive transportation package in the State's history. Florida ranks second among all States in State funding dedicated for transportation. Yet, with our strong commitment, Florida's transportation needs still outstrip available resources.

One of the primary reasons Florida falls short in meeting its funding needs is because Florida gets back only a small fraction of the moneys it contributes to the Federal Highway Trust Fund. A 1990 Florida DOT study reported that Florida received 53 cents for each dollar it contributed in Federal taxes.

In late 1991, the Congress passed the Intermodal Surface Transportation Efficiency Act [ISTEA]. Many long hours went into completing this legislation which would provide for our Nation's transportation needs for the better part of the next decade. At that time, an agreement was reached and supported by a large majority in Congress. It concluded that States such as Florida which receive an inequitable share of their contribution to the highway trust fund would get a 5-percent increase in their minimum allocation.

The Minimum Allocation Program was enacted as part of the Surface Transportation Assistance Act of 1982 to address the fact that certain States were consistently receiving far less funding than they contributed to the highway trust fund.

Most States receive more funding from the highway trust fund than they contribute. Further, they receive additional funding for discretionary projects. Minimum allocation States, on the other hand, get back less than they contribute to the highway trust fund and the bulk of the discretionary funding which they receive is counted against their minimum allocation.

Minimum allocation States would have liked to get back more of the money they contributed to the highway trust fund. They would have liked to receive discretionary funding without it counting against their base funding—a privilege which is enjoyed by every other State. However, the battle was fought and an agreement was reached when this body passed the Intermodal Surface Transportation Efficiency Act of 1991.

Now, irrespective of that agreement, an obligations limit has been applied to minimum allocation. As a result, approximately $200 million has been diverted from donor States, those who fall under minimum allocation, to other programs. For the State of Florida, it has been estimated that this will result in a gross loss of approximately $25 million.

This bill breaks the agreement under ISTEA and that is wrong. But more importantly, it is wrong because donor States like Florida—States that pay far more into the highway trust fund than they get back—are shortchanged again.

Mr. KOHL. Mr. President, I want to join my colleagues in expressing strong objection to the portion of the fiscal year 1993 Transportation appropriations bill which reneges on the agreements made with donor States such as mine.

Last year, when the Senate debated the Intermodal Surface Transportation

Efficiency Act, one of the most hotly contested issues was funding equity among States. At that time, I joined with my colleagues in opposing any continuation of transportation funding allocations that did not treat States equitably. In recognition of these concerns, the ISTEA bill established the Minimum Allocation Program. This program compensates States that pay more into the highway trust fund than they receive in highway grants. The ISTEA law so fully recognized the importance of restoring equity in transportation funding, that it clearly exempted the Minimum Allocation Program from the obligation ceiling. This promise was absolutely necessary to assure that the equity achieved through this bill was not eroded through the appropriations process.

Mr. President, last year's Transportation appropriation bill kept this important promise made to donor States. This year, the House transportation appropriation bill comports with that promise. But the Senate committee bill completely reneges on that promise.

I believe it is fair to say that many of the donor State Senators would never have supported passage of the ISTEA bill if they had not been assured of greater equity among States. To go back on that agreement, as this appropriations bill does, is to reopen that debate, and in my opinion, it is irresponsible. I urge my colleagues to vote in favor of the Bond amendment.

The PRESIDING OFFICER. All time on the amendment has expired.

The question occurs on the amendment of the Senator from Missouri [Mr. BOND]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

On this vote, the Senator from North Carolina [Mr. HELMS] is paired with the Senator from Utah [Mr. HATCH]. If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Utah would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 39, nays 57, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—39

Bentsen
Bond
Boren
Bumpers
Chafee
Coats
Cochran
Cranston
Danforth
DeConcini
Dole
Durenberger
Ford
Fowler
Glenn
Graham
Gramm
Heflin
Kassebaum
Kasten
Kohl
Levin
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Nickles
Nunn
Packwood
Pryor
Riegle
Robb
Sanford
Sasser
Seymour
Shelby
Warner

NAYS—57

Adams
Akaka
Baucus
Biden
Bingaman
Bradley
Breaux
Brown
Bryan
Burns
Byrd
Cohen
Conrad
Craig
D'Amato
Daschle
Dixon
Dodd
Domenici
Exon
Garn
Gorton
Grassley
Harkin
Hatfield
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Lieberman
Mikulski
Mitchell
Moynihan
Murkowski
Pell
Pressler
Reid
Rockefeller
Roth
Rudman
Sarbanes
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Wellstone
Wirth
Wofford

NOT VOTING—4

Burdick
Gore
Hatch
Helms

So the amendment (No. 2884) was rejected.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question occurs on the committee amendment.

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LAUTENBERG. Mr. President, reserving the right to object, and I probably will not object. I understand I cannot reserve the right to object, so I object to the calling off of the quorum.

The PRESIDING OFFICER. The clerk will continue the call of the roll.

The legislative clerk continued the call of the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there is no further debate, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2841

The PRESIDING OFFICER. The question occurs on the Graham amendment, as amended.

Mr. D'AMATO. Mr. President, may I ask unanimous consent that on the Graham amendment that we have a voice vote and vitiate the yeas and nays?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

The question occurs on the amendment, as amended.

Mr. GRAHAM. Mr. President, I ask unanimous consent that Senator METZENBAUM be listed as an original cosponsor of the Graham amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as amended.

The amendment (No. 2841), as amended was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

AMENDMENTS NOS. 2885 THROUGH 2887

Mr. LAUTENBERG. Mr. President, I have some technical amendments, one by Senator CRANSTON on California projects, one by Senator METZENBAUM on the causes of pilot error, and one on section 3 bus funds. They are agreed to by the minority. We send three technical amendments to the desk and ask for their consideration en bloc.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes amendments numbered 2885, 2886 and 2887 en bloc.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2885

At the appropriate place in the bill, insert the following new section:

SEC. . LOS ANGELES METRO RAIL.

(a) REPLACEMENT OF GRANTEES.—Effective on the date of enactment of this Act, the Los Angeles County Transportation Commission (hereinafter in this section referred to as the "Commission") shall replace the Southern California Rapid Transit District (hereinafter in this section referred to as the "SCRTD") as the federal grantee for the Minimum Operable Segment One (hereinafter in this section referred to as "MOS-1") of the Los Angeles Metro Rail project. The MOS-1 Full Funding Grant Agreement dated August 27, 1986, and all other MOS-1 grant documents required under federal law, shall be deemed to be amended, effective on the date of enactment of this Act, to designate the Commission as MOS-1 grantee; and all rights and obligations as MOS-1 grantee shall be transferred to the Commission on that date in accordance with the Memorandum of Understanding for the Transfer of MOS-1 Project, entered into by and between the Commission and SCRTD on June 24, 1992. No action by the Secretary of Transportation or other administrative action shall be required in order for the Commission to proceed to act in its capacity as MOS–1 grantee pursuant to this section.

(b) OBLIGATIONS OF COMMISSION.—Upon becoming the MOS–1 grantee under this section, the Commission shall be responsible for completion of the MOS–1 Project in accordance with the terms and conditions of the MOS–1 Full Funding Grant Agreement and other applicable grant agreements and in compliance with all applicable federal laws and regulations. In addition, the Commission shall remain responsible for all MOS–1 obligations arising prior to the date of enactment of this Act, in accordance with the Commission's Guarantee of Performance to the United States dated April 3, 1990.

(c) AVAILABILITY OF FUNDS.—All funds previously obligated to SCRTD under section 3 and section 9 of the Federal Transit Act, and unexpended on the date of enactment of this Act, shall be transferred to the Commission on such date and shall be available to the Commission to pay costs associated with the completion of MOS–1. Notwithstanding any other provision of law, neither the replacement of grantees under subsection (a) nor the transfer of funds under this subsection shall be considered to be a change in project scope or otherwise result in the deobligation of prior year funds, and all funds transferred to the Commission under this subsection shall be charged to the original appropriation and shall remain available until expended.

(d) DEFINITION.—For purposes of this section:

(1) the terms "Los Angeles County Transportation Commission" and "Commission" shall include any successor to the Commission that is established by or pursuant to State law; and

(2) the terms "Southern California Rapid Transit District" and "SCRTD" shall include any successor to SCRTD that is established by or pursuant to State law.

(e) Of the funds made available for the Los Angeles Metro Rail project, 45.45 per centum shall be for Minimum Operable Segment–2 and 54.55 per centum shall be for Minimum Operable Segment–3 of Metro Rail. Of the amounts for Minimum Operable Segment–3, an equal one-third share shall be provided for each of the three lines described in section 3034(i)(3) of the Intermodal Surface Transportation Efficiency Act.

At the appropriate place in the bill, insert the following new section:

SEC. . SAN JOSE-GILROY-HOLLISTER COMMUTER RAIL PROJECT.

Section 3035(h) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking in the second sentence all after "one-time" and inserting in lieu thereof the following: "purchase of additional trackage rights and/or purchase of right-of-way between the existing termini in San Jose and Gilroy, California. In connection with the purchase of such additional trackage rights and/or purchase of right-of-way, the Secretary shall either approve a finding of no significant impact, or approve a final environmental impact statement and issue a record of decision no later than July 1, 1994. No later than August 1, 1994, the Secretary shall negotiate and sign a grant agreement with the Santa Clara County Transit District which includes the funds made available under this section for the purchase of additional trackage rights and/or purchase of right-of-way.

SPECIAL RULE FOR TMAS THAT DO NOT CONTAIN AN URBANIZED AREA OVER 200,000 POPULATION

On page 109, line 15, insert "(1)" before "Funds".

On page 109, line 21, insert the following:

"(2) Section 9(m)(1) of the Federal Transit Act (49 U.S.C. App. 1607(a)(m)(1)) is amended striking in the first sentence "urbanized areas of 200,000 or more population" and inserting the following: "transportation management areas established under section 8(i)".

AMENDMENT NO. 2886

On page 12, line 23, strike the period and insert in lieu thereof: ": *Provided further*, That of the funds available under this heading, $500,000 shall be made available to the Cleveland Clinic Foundation to initiate a definitive study to evaluate the human factors related to and/or inherent in pilot error. This study will be carried out in conjunction with Ohio State University.".

AMENDMENT NO. 2887

At the appropriate place at the end of title III, insert:

"SEC. . Notwithstanding any other provision of law, funds made available under this Act and previous Acts for the intermodal fuel cell bus facility program under the Federal Transit Administration's Discretionary Grants account shall be transferred to that agency's Transit Planning and Research account and be administered in accordance with section 6 of the Federal Transit Act, as amended."

Mr. LAUTENBERG. Mr. President, I urge adoption of the amendments en bloc.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendments en bloc.

The amendments (No. 2885, No. 2886, and No. 2887) en bloc were agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I know of no further amendments to be offered on the bill, and I ask for third reading.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

EASTERN PARKWAY—LAWRENCE, KS

Mr. DOLE. Mr. President, the city of Lawrence is situated in the fastest growing traffic corridor in the State of Kansas—the K–10 highway corridor connecting Lawrence to the southern suburbs of Kansas City. The population of Douglas County, where the city is located, grew 21 percent between 1980 and 1990. Lawrence, itself, grew 24 percent over the same period.

Presently, there is no direct route from K–10 to two of the major highways in the region—U.S. Highway 40 and U.S. Highway 59. A proposed eastern parkway would provide a direct link and eliminate highway traffic through neighborhood streets. Estimated cost of this road is $15.5 million.

The city has lined up $7.3 million for the project—$4 million from a bond issue and $3.3 million from last year's highway reauthorization bill. In my May letter to the Transportation Subcommittee, I included a request for $8.2 million to complete this important project. That's not a huge amount for a highway demonstration project, but it is enough to get this essential project built.

Unfortunately, the committee was unable to fund this request in this year's appropriations bill. Senator LAUTENBERG and Senator D'AMATO had requests of 3 billion dollars for 300 million dollars' worth of highway demonstration project funds. In order to stay within their budget, they had to come up with some tough rules to narrow the field of requests. This project did not make the cut.

If I was chairman of the Transportation Subcommittee, I might have come up with different criteria, but I am not chairman of the subcommittee. And as the Republican leader, I know how annoying Monday morning quarterbacks can be. The chairman and the ranking member faced tough choices this year and have done their very best to meet their allocations without breaking the budget agreement. They deserve a lot of praise for their efforts.

It is going to be very tough to obtain additional funds, but I will work with Congresswoman JAN MEYERS and the Transportation Appropriations Subcommittee to fund this high priority project in the House and Senate Transportation appropriations conference. The House plays by different rules than the Senate, and sometimes unusual things take place in conference. I hope the conference will take a second look at this project and include it in their report.

ASR–9 RADAR SYSTEMS

Ms. MIKULSKI. Would the chairman yield for a question?

Mr. LAUTENBERG. I am happy to yield to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I want to ask a question regarding the FAA's procurement of the airport surveillance radars commonly called ASR–9's. As the chairman knows, these radar systems have been at the core of our efforts to enhance the safety of our national airspace system. The air traffic controllers have enthusiastically endorsed the ASR–9 as crucial new equipment, and many airports around the country are eagerly awaiting installation of these systems.

Although the FAA has a requirement for more than 100 new units, and has a contract option for 11 units, they have not sought procurement funding in their budget request for fiscal year 1993. Similarly, in fiscal year 1992, they requested no funds, but later decided to seek reprogramming approval for four systems in May of this year. With the chairman's support, this reprogramming was approved.

The Senator has included very favorable report language in the committee's report on this legislation discussing the nationwide interest in these systems and expressing concern that the production line for the systems not close. I understand that because of the chairman's severe budget constraints, it was not possible to add on funding for procurement of ASR–9 radar systems in the Senate bill. However, should the outlook change and additional funds become available in the conference committee, would it be the chairman's intention to consider providing additional funding for procurement of ASR–9 radar systems in fiscal year 1993?

Mr. LAUTENBERG. As the Senator knows, our budget allocation made it very difficult to fund the many meritorious programs which we would like to fund this year. However, if it becomes possible, I would certainly consider adding funding for procurement of ASR–9 radar systems in the conference committee. I am aware that these systems are highly prized by air traffic controllers and desired by many more airports than there are currently available systems.

Ms. MIKULSKI. I thank the distinguished chairman. Would it also be the chairman's suggestion to FAA that they carefully consider whether they have funding available to procure additional ASR–9 radar systems in fiscal year 1993 to avoid a shutdown of production for these popular and reliable radar systems?

Mr. LAUTENBERG. Yes, I would encourage FAA to see whether they can reprogram any funds for that purpose in fiscal year 1993.

Ms. MIKULSKI. I thank the chairman very much, and I yield the floor.

GREENVILLE-SPARTANBURG AIRPORT

Mr. HOLLINGS. Mr. President, I want to ensure that an airport in South Carolina is included on the list of airports that should receive a priority for airport improvement funds. I ask that you include language in the conference report about the critical need for funding for the airport, the Greenville-Spartanburg Airport, in Greer, SC.

Mr. LAUTENBERG. I received the Senator's request for this project and want to let him know I support the request and will work to include it in the conference report.

CURRITUCK MID-SOUND BRIDGE

Mr. SANFORD. I would like to discuss with the distinguished Senator from New Jersey a project of extreme importance to the safety of North Carolina residents and travelers to our beautiful Outer Banks: a bridge over the Currituck Sound in North Carolina.

Mr. LAUTENBERG. I would be glad to discuss this issue with the Senator from North Carolina.

Mr. SANFORD. As the chairman may be aware, the beautiful Outer Banks of North Carolina receive hundreds of thousands of visitors every year. The visitors come to enjoy our national wildlife refuges, seashores, and parks.

Currently, the only bridge serving the northern Outer Banks is at Kitty Hawk, NC. Travelers to the Outer Banks witness many heavy delays at the Kitty Hawk bridge, as it is the only bridge serving the thousands of visitors going to the beaches. In emergency evacuations, the motorists wait literally hours in traffic before they make it to the mainland. I have grown increasingly concerned about the need to provide more adequate transportation to the barrier islands from the mainland North Carolina. I am afraid that the longer we put off new bridge construction, the greater the threat that a hurricane or great storm will devastate the islands and jeopardize thousands of lives.

The counties of Currituck and Dare are currently pursuing funding for planning money for a new bridge that would connect mainland Currituck County with the Outer Banks of North Carolina. I am aware that there are funds for planning under the Highway Research, Development, and Technology Program. It is my understanding, that the funds necessary to plan and design a bridge over the Currituck Sound could come from this program. I hope that you will support funding the planning efforts for the bridge in conference.

Mr. LAUTENBERG. The Senator is correct; there are funds for planning and policy studies under the Highway Research, Development, and Technology Program. I will work in conference to secure the funding for the planning of the Mid-Sound Bridge.

Mr. SANFORD. I thank the Senator from New Jersey for his support of this important project.

Mr. DODD. Mr. President, I rise in strong support of the Transportation appropriations bill before us today.

First, let me commend the chairman and the ranking member of the Transportation Appropriations Subcommittee, Senators LAUTENBERG and D'AMATO, for their hard work on this legislation. The process of crafting an appropriations bill presents a real challenge in the best of times. Given current budgetary constraints, Senators LAUTENBERG and D'AMATO deserve an extra round of praise for developing such a sound and thoughtful measure.

Mr. President, our transportation infrastructure is critical to our Nation's competitiveness. Businesses are handicapped if our roads and bridges crumble, our railways rust, or our airports are congested. This bill includes some $33 billion in funding to rebuild and improve our transportation system. Given the head-to-head economic competition against other nations, this bill could not come at a better time.

Equally important, this bill means jobs. It means jobs building roads in Hartford and across the country. It means jobs reconstructing runways at Bradley International Airport and at other airports throughout America. It means jobs electrifying the Northeast Corridor between New Haven and Boston. With the recession continuing to devastate New England and the rest of the country, this bill could not come at a better time.

Mr. President, the Federal Aviation Administration provisions of this bill provide $9 billion to improve airports, upgrade air traffic control systems, and bolster aircraft safety. All are critical if the United States is to maintain its first-rate air transportation system.

I was particularly pleased that the bill supports Bradley International Airport's request for Federal funds next year. In 1993, the State of Connecticut will be in the fourth year of a 5-year effort to reconstruct Bradley's runways and taxiways, many of which have not been rebuilt since World War II.

This is a joint Federal-State effort. The State of Connecticut is spending $100 million to build a new terminal, renovate the existing terminal, and make other upgrades at Bradley. Moreover, the State will chip in $4.5 million of the total $7.5 million cost for the runway reconstruction project in 1993. $3 million in Federal funds for Bradley next year will ensure that the reconstruction effort moves forward on schedule.

Mr. President, I was disappointed, however, that the committee was not able to include more money for the installation of airport surface detection system equipment, known as ASDE–3, at airports across the country.

These systems are critical to preventing runway collisions in foul weather. Installation of the ASDE–3 system is now underway at 29 airports, and the FAA has found that there is a need for these systems at 10 additional airports. The committee was able to fund only three more systems, and the longer we wait to install this important technology, the more each unit will ultimately cost. It would be my hope that the Senate could move toward the more generous House funding level for this system in conference.

Mr. President, the bill also allocates over $18 billion for our Nation's highways. The roughly $300 million Connecticut stands to receive as a result is greatly needed to rebuild aging highways and bridges and to continue projects to relieve congestion on Connecticut's roads. It will also ensure that thousands of workers across Connecticut are put to work literally building a better future for our State.

Last but not least, Mr. President, the bill before us reaffirms that passenger railroads are an essential element of the National Transportation System. For example, the bill rejects the latest in a series of administration efforts to weaken AMTRAK, and instead allocates $496 million for AMTRAK's intercity passenger rail operations.

In addition, the committee has renewed its commitment to the Northeast corridor Improvement Program by allocating $204 million for this purpose.

The Northeast corridor between Boston and Washington is the most heavily traveled intercity route in the country, and AMTRAK is already the largest carrier between New York and Washington. Improvements under the program's auspices will reduce travel times between AMTRAK's stops along the corridor, and will draw more travelers away from planes and automobiles, thus reducing air pollution and airport congestion in the Northeast.

The lion's share of the Northeast Corridor Improvement Program involves electrification of the corridor between New Haven, CT, and Boston. Electrification, along with track and signal improvements, is essential to allow travel speeds of up to 150 miles per hour. In the long run, the money spent to upgrade the corridor for high-speed travel is a cheaper and environmentally superior alternative to highway and airport expansion.

As important, Mr. President, the Northeast corridor improvement project creates jobs. According to the New England Council, it means 1,000 construction jobs in the region each year for 9 years. That translates into $305 million for working men and women. Furthermore, the council estimates construction will generate $894 million in new business sales and will result in $440 million in continuing economic activity once the project is complete.

Mr. President, at the time our economic competitors are investing billions in their transportation infrastructure, we must be willing to follow suit. And at the time our economy wallows in recession, we need to create productive, good-paying jobs. This bill will do both. It is a good bill which will build a brighter future for Connecticut and for the Nation, and I urge my colleagues to support it.

SENATE FUNDING OF THE UNITED STATES COAST GUARD: RECOGNITION OF A GROWING TRADITION OF SERVICE

Mr. PELL. Mr. President, I had the honor last night to attend the dedication of the U.S. Coast Guard's bronze relief sculpture commemorating over 200 years of Coast Guard service to this Nation.

The sculpture is part of the splendid Navy memorial located just down the street from the Capitol and I appreciated having the opportunity to attend the dedication of the Coast Guard's portion of the memorial.

As I stood at the memorial listening to the music of the Coast Guard band and talking to the Coast Guard men and women attending the dedication, I was reminded once again that America is truly well served by the Coast Guard and that this tradition of service has continued to grow despite the number of missions that have been placed upon the shoulders of the Coast Guard.

When I joined the Coast Guard over 50 years ago, a few months before the attack on Pearl Harbor, the mission of the Coast Guard was complex even when judged by today's standards. With the looming storm of war, the Coast Guard was asked not only to protect the safety of life and property on American waters, but also to remain vigilant to the possibility of enemy attack along our coastlines.

During World War II, the Coast Guard fought in all theaters of the war. Significant wartime Coast Guard responsibilities included convoy duty in the North Atlantic and landing craft duty in the Pacific. With the end of the war, the Coast Guard's duties did not diminish, they increased and have been steadily growing ever since.

These growing responsibilities of the Coast Guard were pointed out earlier today by the distinguished chairman of the Senate Appropriations Transportation Subcommittee, Senator LAUTENBERG. Senator LAUTENBERG's subcommittee has recognized the many missions of the Coast Guard in its report on Coast Guard funding priorities for 1993.

The subcommittee's report reminds us that in addition to overseeing marine safety and navigation, the Coast Guard has been dealing with Haitian refugees, the aftermath of the Desert Storm deployment, and the continued enforcement of U.S. environmental laws, particularly, oilspill prevention and cleanup.

I am pleased that the Appropriations Subcommittee continues to remain cognizant of the many difficult tasks we seem to heap on the Coast Guard with each passing year. I am also proud that the Coast Guard continues to meet each new responsibility with the determination and flexibility that has marked this service for 202 years.

Mr. BYRD. Mr. President, I want to congratulate the able Senator from New Jersey [Mr. LAUTENBERG] and his counterpart, the ranking member, Mr. D'AMATO, for their excellent work on the fiscal year 1993 transportation appropriation bill. This bill provides much-needed funding for our Nation's crumbling infrastructure—its highways and bridges, airports, mass transit, and rail passenger service. As Members know, however, due to extremely tight budgetary constraints, this bill falls short of the investments which should be made in our neglected highways and bridges—much more needs to be done.

In addition, I also want to congratulate Senator LAUTENBERG and Senator D'AMATO for bringing a bill to the Senate that is within its 602(b) subcommittee allocation in both budget authority and outlays.

I urge the passage of this bill.

Mr. MCCONNELL. Mr. President, passed by Congress last year, the Intermodal Surface Transportation Efficiency Act [ISTEA] excludes the Minimum Allocation [MA] Program from an obligation ceiling. I am dismayed that provisions in H.R. 5518 cap this program at $900 million.

The issue before us is one of fairness. I ask my colleagues, should we honor the agreement reached in ISTEA providing some semblance of equity to donor States, or should we break the deal by imposing ceilings contained in this bill? In capping the MA, I am left wondering where the fairness is to States that contribute more money to the Federal Government than they receive in spending on infrastructure projects.

The issue before us is also one of funding. Under this appropriations bill, Kentucky's minimum allocation is $18.9 million. Without a ceiling, and in accordance with the ISTEA agreement, Kentucky would receive $23.2 million, a difference of $4.3 million.

Mr. President, I commend Senator BOND for seeking to move the MA from this ceiling, and I am proud to be a cosponsor of his amendment. I urge my colleagues to support this important measure.

Mr. BOND. Mr. President, I ask unanimous consent that on the minimum allocation amendment Senator MCCONNELL of Kentucky be shown as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there are no further amendments to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

On this vote, the Senator from Utah [Mr. HATCH] is paired with the Senator from North Carolina [Mr. HELMS]. If present and voting, the Senator from Utah would vote "yes" and the Senator from North Carolina would vote "nay."

The result was announced—yeas 74, nays 22, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—74

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Chafee
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gorton
Grassley
Harkin
Hatfield
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Lieberman
Lott
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Packwood
Pell
Pressler
Pryor
Reid
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Wellstone
Wirth
Wofford

NAYS—22

Bond
Boren
Brown
Coats
Danforth
Graham
Gramm
Heflin
Kasten
Kohl
Levin
Lugar
Mack
McCain
Nickles
Nunn
Riegle
Robb
Roth
Smith
Wallop
Warner

NOT VOTING—4

Burdick
Gore
Hatch
Helms

So the bill (H.R. 5518) as amended was passed.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. LIEBERMAN) appointed Mr. LAUTENBERG, Mr. BYRD, Mr. HARKIN, Mr. SASSER, Ms. MIKULSKI, Mr. D'AMATO, Mr. KASTEN, Mr. DOMENICI, and Mr. HATFIELD conferees on the part of the Senate.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now consider Calendar No. 586, H.R. 5428, the militry construction appropriations bill; that the only amendments in order to the bill be the committee-reported amendments; that there be a time limitation of 20 minutes for debate on the bill and committee-reported amendments, with the time equally divided and controlled in the usual form; that when all time is used or yielded back, the following occur without any intervening action or debate: The committee-reported amendments be agreed to, en bloc; that the Senate proceed to third reading and final passage of the bill; and that no motion to recommit be in order; that upon disposition of H.R. 5428, the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee-reported amendments were agreed to, en bloc.

Mr. SASSER. Mr. President, under the previous order, I call up H.R. 5428, the Military Construction Appropriations bill for fiscal year 1993.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill, which was reported from the Committee on Appropriations with amendments; as follows:

The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.

H.R. 5428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, **[**$534,520,000**]** *$366,260,000,* to remain available until September 30, 1997: *Provided,* That of this amount, not to exceed **[**$124,300,000**]** *$88,300,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, **[**$396,059,000**]** *$336,829,000,* to remain available until September 30, 1997: *Provided,* That of this amount, not to exceed **[**$79,292,000**]** *$62,942,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, **[**$698,599,000**]** *$704,690,000,* to remain available until September 30, 1997: *Provided,* That of this amount, not to exceed **[**$100,000,000**]** *$75,000,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, **[**$308,176,000**]** *$194,516,000,* to remain available until September 30, 1997: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed **[**$85,818,000**]** *$56,818,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further, That the Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189) and the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510) and as provided for in the Military Construction Appropriations Act, 1990 (Public Law 101–148) and the Military Construction Appropriations Act, 1991 (Public Law 101–519).*

[NORTH ATLANTIC TREATY ORGANIZATION
[INFRASTRUCTURE

[For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $121,200,000, to remain available until expended.**]**

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$160,665,000] *$145,331,000*, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$230,209,000] *$233,790,000*, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$8,300,000] *$42,150,000*, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$9,900,000] *$17,200,000*, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$34,330,000] *$43,210,000*, to remain available until September 30, 1997.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$208,382,000] *$127,340,000*, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, [$1,363,697,000] *$1,380,517,000*; in all [$1,572,079,000] *$1,507,857,000*.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$339,640,000] *$359,410,000*, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, [$689,855,000] *$696,177,000*; in all [$1,029,495,000] *$1,055,587,000*.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$332,954,000] *$261,786,000*, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, [$927,941,000] *$942,288,000*; in all [$1,260,895,000] *$1,204,074,000*.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $28,400,000.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89–754, as amended), $133,000,000.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART I

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526), [$415,700,000] *$440,700,000*, to remain available for obligation until September 30, 1995: *Provided*, That none of these funds may be obligated for base realignment and closure activities under Public Law 100–526 which would cause the Department's $1,800,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded: *Provided further*, That not less than $134,600,000 of the funds appropriated herein shall be available solely for environmental restoration.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(INCLUDING TRANSFER OF FUNDS)

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), [$1,618,600,000] *$1,743,600,000*, to remain available until expended: *Provided*, That not less than $308,900,000 of the funds appropriated herein shall be available solely for environmental restoration: *Provided further*, That an additional amount for the "Base Realignment and Closure Account, Part II" of $69,000,000 shall be derived from the "Environmental Restoration, Defense" account of Public Law 102–172, to remain available until expended, and to be available solely for environmental restoration.

GENERAL PROVISIONS

SEC. 101. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. [Hereafter, funds] *Funds* appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. [Hereafter, funds] *Funds* appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. [Hereafter, no] *No* part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. [Hereafter, no] *No* part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. [Hereafter, the] *The* Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed

Services of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 114. [Hereafter, unexpended] *Unexpended* balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account, shall be transferred to the appropriations for Family Housing, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 115. [Hereafter, not] *Not* more than 20 per centum of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 116. [Hereafter, funds] *Funds* appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 117. [Hereafter, the] *The* Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization and Japan and Korea to assume a greater share of the common defense burden of such nations and the United States.

SEC. 118. [Hereafter, for] *For* military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 119. [Hereafter, notwithstanding] *Notwithstanding* any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 120. Of the funds appropriated in this Act for Operation and Maintenance of Family Housing, no more than $14,000,000 may be obligated for contract cleaning of family housing units.

(TRANSFER OF FUNDS)

SEC. 121. [Hereafter, during] *During* the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 122. None of the funds appropriated in this Act, except those necessary to exercise construction management provisions under section 2807 of title 10, United States Code, may be used for study, planning, design, or architect and engineer services related to the relocation of Yongsan Garrison, Korea.

SEC. 123. [Hereafter, such] *Such* sums as may be necessary for annual pay raises for programs funded by Military Construction Appropriations Acts shall be absorbed within the levels appropriated in each annual Military Construction Appropriations Act.

[SEC. 124. Defense access roads for Camp McCain, Mississippi, shall be considered as fully meeting the certification requirements specified in section 210 of title 23 of the United States Code.

[SEC. 125. The environmental response task force established in section 2923(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1821) shall reconvene and shall, until the date (as determined by the Secretary of Defense) on which all base closure activities required under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 101-526; 102 Stat. 2627) are completed—

[(1) monitor the progress of relevant Federal and State agencies in implementing the recommendations of the task force contained in the report submitted under paragraph (1) of such section; and

[(2) annually submit to the Congress a report containing—

[(A) recommendations concerning ways to expedite and improve environmental response actions at military installations (or portions of installations) that are being closed or subject to closure under such title;

[(B) any additional recommendations that the task force considers appropriate; and

[(C) a summary of the progress made by relevant Federal and State agencies in implementing the recommendations of the task force.

[SEC. 126. Notwithstanding any other provision of this Act, each amount appropriated by this Act is hereby reduced by one percent.]

SEC. 127. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

SEC. 128. None of the funds appropriated in this Act may be used to support the design or construction of any project to expand or rehabilitate the Pentagon reservation.

This Act may be cited as the "Military Construction Appropriations Act, 1993".

Mr. SASSER. Mr. President, a number of our colleagues are on the floor, including the distinguished Senator from Iowa. We ought to be able to dispose of this military construction bill in the space of about less than 10 minutes. The distinguished ranking member, Senator GRAHAM, has another engagement which I think he wishes to try to keep, if I am not mistaken.

So if my friend from Iowa and others will let us go ahead quickly and get this out of the way, I will be pleased to then yield to them.

Mr. HARKIN. Mr. President, will there be a rollcall vote?

Mr. SASSER. We do not anticipate a rollcall vote, Mr. President.

Mr. President, this bill was reported out of the full Appropriations Committee last Friday. The bill recommended by the full Committee on Appropriations is for $8,197 million. This is $193 million under the budget request, $277 million under the House bill and $366 million under the level enacted last year. I am pleased to report to the Senate that the bill is within the committee's 602(b) budget allocation for both budget authority and outlays.

Mr. President, it has not been easy drafting the military construction bill this year. Earlier this year, the subcommittee received an allocation that provided for a modest $50 million reduction from the budget request. The Committee on Appropriations believed that from a budget request of over $8 billion, a reduction of a mere $50 million could easily be achieved.

But as the saying goes, "a funny thing happened on the way to the theater."

The Committee on Appropriations in the House approved an appropriations bill that was $290 million over the budget request. Late in the cycle, the administration sent the Congress a budget amendment for another $116 million. This was the first time a budget amendment has been forwarded for military construction since I have been a member of the subcommittee since 1978. Finally, and perhaps most important, the Senate Armed Services Committee reported out a military construction authorization bill that added $720 million in new projects over the President's budget request.

So, it became clear to the subcommittee very quickly that we were being asked to fit a size 13 foot into a size 9 shoe. In short, there was no way to draft a bill without inflicting a great deal of pain and making some very difficult choices.

Mr. President, we did what we had to do. We made tough decisions, and we squeezed the authorized projects into the bill.

Mr. President, the administration's request for military construction for fiscal year 1993 was unrealistic as submitted and totally unbalanced in its priorities. Compared to last year's enacted level, the budget proposed a 60-percent cut in the regular military construction program inside the United States while requesting a 25-percent increase in construction overseas.

In just one account, for instance, the budget sought a 95-percent cut in the construction program of the Army National Guard. Mr. President, those are not the priorities of the country.

On the other side of the ledger, the administration requested in its budget, $221 million for the NATO infrastructure program.

Mr. President, the administration has available to it the same information the subcommittee has. The administration knows that the construction backlog of the Army Guard, the Air Guard, the Army Reserve, the Navy Reserve and the Air Force Reserve is over $3 billion. And that backlog is growing, even as the force levels are being reduced.

So against this $3 billion construction requirement, the administration budgeted only $187 billion for the entire Guard and Reserve component of the Department of Defense.

Contrast that budget request, Mr. President, with the request for total spending overseas. The budget sought $530 million for overseas spending. Mr. President, we have almost 8 percent of our work force inside the United States unemployed. We need jobs in this country. We do not need to export construction jobs to foreign workers at foreign military bases.

So, Mr. President, the committee wisely placed a moratorium on most military construction overseas.

Now, some may say that the bill ignores valid requirements at our overseas bases. Mr. President, the simple truth is that we have no idea what our overseas force and base structure is going to look like in the future. Can any Member of the Senate tell me how many troops we will have in Europe in 5 years?

In the United States we have a deliberate and authorized base closure process to close bases inside the United States.

Overseas, we have only the Department of Defense and the Department of State free to negotiate with host nations on the future of our overseas base structure. The Congress and the American people have no role in that process.

All we get are press releases from the Department of Defense Public Affairs Office, or leaks in foreign newspapers, indicating that the Department of Defense is willing to give this base or that base back to the host nation.

So, we do not know what is going on overseas. We do not know what bases this administration is willing to give up or what bases it wants to keep. Our allies and their governments and their parliaments know more about American plans for overseas base structure than does the U.S. Congress.

In the United States, the base closure process is completely open. Every citizen in an impacted community has a right to have his or her voice heard. The Congress has an opportunity to vote on the decisions of base closure commissions. But overseas, everything is done in secret. Everything is done behind closed doors with representatives of foreign governments. The host nations are at the table. But the American Congress which is asked to pay the bill is kept in the dark until all the decisions are made.

I cannot tell any Member of this Senate what bases remain to be closed in Europe. I cannot tell any Member of this Senate what bases will be closed in the Pacific. I cannot tell any Member of the Senate what our allies are willing to pay, if anything, as the residual value of bases we will close. I cannot tell you what level of support our allies are willing to give to our remaining base structure overseas.

All I can tell you is, that with all these questions left unanswered, the administration wanted the Congress to write a check for $530 million—over a half a billion dollars—for construction overseas; $221 million of that amount is essentially in the form of a grant to the NATO Infrastructure Program. Now the Congress has always supported the NATO Infrastructure Program. But NATO is now a vastly different military alliance than it was a few short years ago. Every member of the alliance is cutting back on defense spending. And I cannot tell the Senate how those reductions are going to impact our allies' contribution to the NATO Infrastructure Program. All I can tell Senators is that the administration wants us to sign a check made out for $221 million for unspecified projects, projects that have no name or location, 99 percent of which are usually built in foreign countries.

Now, when the administration heard the subcommittee was planning to place a moratorium on overseas spending, the NATO lobby inside the administration got energized. Phone calls went out to many Members of the Senate. Late last week, it seemed like the sky was falling. That a moratorium on NATO infrastructure would result in the dissolution of the entire alliance.

Where have these administration officials been all year. The subcommittee had a hearing on NATO. The administration sent a rather low level witness. Questions and remarks from subcommittee members on both sides of the aisle made it very clear that spending overseas, especially for NATO, was in great jeopardy.

But months passed. We heard from no administration official requesting to be heard, formally or informally, on the importance of the NATO Infrastructure Program.

Now some observers tell me that the administration is looking for bills to veto. Mr. President, I cannot believe that President Bush would veto this bill which provides jobs for American workers inside the United States because it does not have enough in it which would be spent overseas.

A veto would cut jobs throughout this country. We have provided funds to build valid and required military construction projects. The NATO Infrastructure Program would pay for unspecified projects, we do not know where or how or when or how much. But we do know they would not be in the United States.

I would just say to any Member with whom the administration may seek to raise this issue, that we are not cutting off the spigot to the NATO Infrastructure Program. The program will be getting $60 million from recoupment of prior year projects NATO has agreed to reimburse. And the program has unliquidated balances of well over $400 million.

So we are not killing the NATO Infrastructure Program. We are placing a moratorium on any new appropriations until we know where this program is going and specifically how American taxpayer funds are to be spent.

Now, Mr. President, if we do get a veto on this bill, I want to know where we are going to find the money to pay for all this overseas spending the administration cares so deeply about.

Mr. President, every one of the projects funded in this bill has been or will be authorized. The military construction and defense process is the only process whereby each year four congressional committees, the Senate Armed Services Committee, the Senate Appropriations Committee, and our companion committees in the House, are required to approve projects before they are ever built. No other construction activity of the Federal Government is subjected to this kind of review and approval process.

With this kind of review and oversight, projects that are not required don't get funded. And when the Department of Defense sends us a budget request that cuts U.S. spending 60 percent while increasing overseas 25 percent, we have an obligation to the American people to correct that policy imbalance.

So, I would say to our colleagues, if you start getting phone calls from the White House saying this bill doesn't provide enough funding overseas, I hope you will turn to the back of the report and look at the State tables. Look at each State. And tell us what specific projects in your State can be cut to pay for some unspecified project in Europe for NATO. If any Member of the Senate who wants to give up his project and dedicate those funds to the NATO Infrastructure Program or to any other overseas project, let him come to the floor and offer an amendment, I will be glad to accept it.

Mr. President, I remind my colleagues that if we do get a veto on this bill, domestic projects will not be funded; it is just that simple.

So, Mr. President, I hope that those in the administration who considering stirring the pot would think twice about their responsibilities. First they send us a request that totally emasculates a domestic military construction program. Then the administration fails to lend strong support to the overseas program submitted in its place. And after failing to show support for its own program, it opposes the bill. Well, Mr. President, the administration's responsibility does not end when the budget request is submitted. If the administration had wanted these funds so badly why haven't we heard from them before now.

Now, as we near conference on this bill, I hope the administration will be willing to work with us to set the priorities straight. The priorities in the budget request will not work. They are not the priorities of the American people.

Mr. President, it is possible to reach a compromise on this bill in conference, but only if the administration realizes that it cannot continue to submit legislation that is so weighted to spending overseas.

Now, Mr. President, the report has been available to Senators, so I will not address every detail. I do want Members, however, to take note of the large growth in the base closure accounts. The request for base closure activities was almost triple last year's appropriation. We have approved the level requested by the administration because under the base closure law, closures must be accomplished by certain specific dates.

But I am extremely concerned with the growth of this program. The base closure program cannot replace a regular military construction program. Our military bases that will remain open will continue to have investment requirements which must be met. But as the base closure program grows, it will continue to crowd out the regular military construction program.

We are learning that the Department has grossly underestimated the cost of cleaning up closed bases. Likewise the Department is overestimating the potential revenue which could be received from the sale of closed installations.

The subcommittee is asking the General Accounting Office to help us evaluate the future requests for the base closure accounts. If the Department is unable to get the cost of base closures under control, it has a responsibility to reorient other priorities in the defense budget so adequate funding is available to pay for the routine military construction requirements of the active services and the Guard and Reserve.

Mr. President, before I close I wish to thank the ranking minority member for his participation and his contributions to the subcommittee this year. The junior Senator from Texas knows that ours was a Texas-sized problem this year and we worked it out the best we could.

Mr. President, I yield the floor.

Mr. GRAMM. Mr. President, I thank the distinguished chairman for his leadership in bringing forward what basically I think is a good bill. The bill is $277 million below the level of funding provided by the House, $775 million below the level authorized by the Senate, and $193 million below the administration request. It fully funds the base closure accounts. In short, we have undertaken an orderly build-down process.

This was a difficult bill to write. I think we have made prudent decisions. The basic decision we made is that when in doubt, given the dramatic defense build-down, we ought not to commit money until we know exactly where we want to be when we are done. So I think it is a good bill. I congratulate the chairman. I thank the members of the committee for their leadership. I commend this bill to the Senate. I yield the floor.

Mr. SASSER. Mr. President, I thank the Senator from Texas for his comments.

Mr. BYRD. Mr. President, I want to congratulate the distinguished Senator from Tennessee [Mr. SASSER] and the distinguished ranking member, Senator GRAMM, for the timely and expeditious manner in which they have completed action on the fiscal year 1993 military construction appropriation bill. They were able to fashion a bill, under extremely tight budgetary constraints, that is within its 602(b) subcommittee allocation in both budget authority and outlays and which accommodates the needs for the continuation of high-priority construction projects.

It is a reflection upon the excellent work of these Senators that this bill was passed without amendment on the Senate floor, and I urge the passage of the bill.

BUDGET COMMITTEE STATEMENT ON MILITARY CONSTRUCTION APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5428, the military construction appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $26 million and under its 602(b) outlay allocation by $99 million.

As the manager of the bill, I would like to compliment the distinguished ranking member of the Military Construction Subcommittee, Senator PHIL GRAMM, for his efforts in bringing this bill to the floor under its 602(b) allocation.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the military construction appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5428

MILITARY CONSTRUCTION SUBCOMMITTEE SPENDING TOTALS—SENATE REPORTED

[In millions of dollars]

Bill summary	Budget authority	Outlays
Defense	8,197	9,308
Senate 602(b) allocation	8,223	9,407
Difference	−26	−99
Mandatory total	0	0
Senate 602(b) allocation	0	0
Difference	0	0
Bill total	8,197	9,308
Senate 602(b) allocation	8,223	9,407
Difference	−26	−99
Defense above (+) or below (−):		
President's request	−193	−50
House—passed bill	−277	−23
Senate—reported bill		

1993 APPROPRIATIONS SUMMARY—MILITARY CONSTRUCTION

[In millions of dollars]

Spending totals	President's request		House passed		Senate reported		Senate passed		Conference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Discretionary: Defense (Total)	8,390	9,358	8,474	9,331	8,197	9,308				
Mandatory	0	0	0	0	0	0				
Bill total	8,390	9,358	8,474	9,331	8,197	9,308				

Mr. GORTON. Mr. President, I would like to take a few moments to express my thanks to Senator SASSER and Senator GRAMM of Texas for supporting two very important projects in the State of Washington—housing at NAS Whidbey Island and construction of three Guard armories in Grandview, Buckley, and Moses Lake, WA.

In 1990, NAS Whidbey Island was authorized to participate in the 801 housing program. When the base appeared on the 1991 base closure list, however, the program was put on hold. Shortly following the Base Closure and Realignment Commission's decision to keep NAS Whidbey Island open, Congress allowed Whidbey to continue its

801 program by authorizing $21.1 million in 801 build-to-lease funds (Public Law 102-190).

Due to budget scoring laws, the 801 program was never programmed for Whidbey Island. The fiscal year 1993 Military Construction Appropriations Committee report directs the Navy to include new housing construction funds for NAS Whidbey in the fiscal year 1994 budget. I will have to admit some frustrations with the Navy for not programming funds for housing at Whidbey in this year's budget, particularly when it has already designated NAS Whidbey as a critical housing area. The young airmen and their families are suffering daily as they are forced to live in substandard housing, and I have heard first hand about the hardships they endure as they wait for affordable and adequate living conditions. I will be working closely with the Navy to see that it includes new housing construction funds in next year's budget.

The committee also included funds for the construction of three Guard armories in Buckley, Grandview, and Moses Lake, WA. Senator ADAMS and I have been working all year to see that these funds are included in this year's bill, and I am pleased that the committee has agreed to do so. A site survey has been completed for all three armories, and construction of the proposed projects is ready to begin.

I regret that the committee was unable to include the additional funds for the bachelor's enlisted quarters at the Puget Sound Naval Shipyard, or the family housing in Kitsap County, WA. Again, I am keenly aware of the housing shortages in these areas and encourage the conferees to include the additional funding in the fiscal year 1993 military construction appropriations conference report.

All of these projects are a top priority in the State of Washington, and I encourage the Senate's support.

Mr. DASCHLE. Mr. President, I have a concern about the committee-reported fiscal year 1993 military construction appropriations bill and hope that I might engage the distinguished chairman of the subcommittee, Senator SASSER, in a colloquy to clarify the situation.

Mr. SASSER. Mr. President, I am aware of this matter and am happy to enter into a colloquy with the Senator from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. President, the committee report accompanying the 1993 military construction appropriations bill lists appropriations of funds for an Air National Guard Unit in Sioux City, IA, under two separate entries, including one listing under the State of Iowa and one listing under the State of South Dakota. It is my understanding that the listing under the State of South Dakota was duplicative and unintentional. Is that correct?

Mr. SASSER. Mr. President, the Senator from South Dakota is correct. I have been informed that the Sioux City Air National Guard unit was listed correctly under the State of Iowa and also listed incorrectly under the State of South Dakota. That is an error we intend to correct in the conference report.

Mr. DASCHLE. Mr. President, I also understand that a project for the South Dakota Army National Guard at Fort Meade and a project for the South Dakota Air National Guard at Joe Foss Field in Sioux Falls were supported by the Subcommittee on Military Construction but were not funded in the bill because the subcommittee was concerned that these two projects had not been included by the Senate Armed Services Committee in the committee-reported version of the defense authorization bill. In other words, it is my understanding that the only reason those two South Dakota projects were not funded in the Senate's military construction appropriations bill is that the subcommittee believed that the projects were not going to be authorized this year. Is that correct?

Mr. SASSER. Yes; that is also correct. The Subcommittee on Military Construction based its actions on a list of projects to be authorized that it received from the Senate Armed Services Committee. Unfortunately, there was some confusion, and the subcommittee was unaware of the addition of these two South Dakota projects to the list of projects to be authorized. Had we known that the projects were to be authorized this year, we would have included funding for them in the committee-reported appropriations bill. Furthermore, the Senator from Tennessee wants to assure the Senator from South Dakota that he will do everything he can to ensure that full funding in fiscal year 1993 is provided for these projects in the final conference report. That would entail $805,000 for the Army National Guard training site expansion at Fort Meade, SD, and $3 million for the Air National Guard munitions maintenance and storage complex at Joe Foss Field in Sioux Falls.

Mr. DASCHLE. Mr. President, I appreciate that commitment from the distinguished chairman of the subcommittee. He has always been more than fair, and I want to thank him for his willingness to clarify and resolve this situation. His help is greatly appreciated.

Mr. SASSER. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, provided that no point of order shall be considered as having been waived by reason of this agreement, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

Mr. SASSER. Mr. President, no amendments are in order to the bill, so I yield back my time and ask we go to a third reading.

The PRESIDING OFFICER. Does the Senator from Texas yield back his time?

Mr. GRAMM. Mr. President, I yield back my time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (H.R. 5428), as amended, was passed.

Mr. SASSER. I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House, and the Chair appoints Mr. SASSER, Mr. INOUYE, Mr. REID, Mr. FOWLER, Mr. BYRD, Mr. GRAMM, Mr. GARN, Mr. STEVENS, and Mr. HATFIELD conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. I thank the Chair.

(The remarks of Mr. HARKIN pertaining to the introduction of S. 3133 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HARKIN. I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Chair recognizes the Senator from Nevada [Mr. BRYAN].

Mr. BRYAN. Mr. President, I thank the Chair.

AMENDMENT NO. 2882 TO AMENDMENT NO. 2881

Mr. BRYAN. Mr. President, the amendment offered by the distinguished Senator from Arkansas would be an amendment that has a devastating impact upon us in Nevada.

I am proud to be a cosponsor of the Reid amendment because I think it addresses the problems which have been debated on this floor in previous sessions that deal with the mining law of 1872.

Mr. President, I think a moment of history would be in order here. When we speak of mining and the history of statehood in Nevada, mining and Nevada's origin as a State are inextricably tied together. It was the discovery of the legendary Comstock Lode in 1859 and the mineral wealth that was developed in Virginia City that contributed to the growth and expansion of San Francisco. It placed Nevada on the map. Two years later as the Civil War began, it helped to finance the Union cause. During that war period, our own statehood was first considered.

It is an interesting footnote to recall that the first effort in adopting a constitution for the State of Nevada was unsuccessful, rejected by the people in the State of Nevada because of the manner in which mineral and mining activity was treated.

Nevada came into the Union in 1864, and for the better part of the next decade and a half the mineral industry flourished in Nevada. In the latter part of the 19th century mining declined, and as its fortunes ebbed so too did the fortunes of the State of Nevada.

There was a second resurgence of mining activity in the period right after the turn of the century. This activity was located in central Nevada in the historic mining towns of Tonopah and Goldfield. For the better part of a decade this mining activity contributed greatly to the economic activity in our State.

The third era, the modern renaissance, if you will, of mining began just in the past decade. So when we talk about mining in the State of Nevada we are not just talking about the history of our State, or the origins of Nevada statehood, but for thousands and thousands of people who reside in rural Nevada, mining is the principal economic activity in those communities. It is of vital importance to their economic health, and indeed is the financial underpinning to the counties and the communities in that area that provide essential services for those citizens.

My senior colleague this morning took us through a very definitive description of the importance of gold mining to our Nation, not just for the ornamental purposes—since the dawn of history men have sought gold and have fashioned it into ornaments of art—but for its most modern significance as being essential to industry, to our national defense effort, to our activities in space, and indeed, to the high technology activities of the future.

Mr. President, I think it is important, however, that this issue not be framed solely in the context of gold mining. The 1872 mining law, the underpinning for hard-rock mining exploration in our country, deals with a host of minerals. We are talking about such minerals as aluminum, antimony, beryllium, cadmium, chromium, cobalt, lead, magnesium, mercury, tantalum, titanium, tungsten, and a host of minerals.

Mr. President, I ask unanimous consent that a partial list of these essential critical elements, minerals, be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Bureau of Mines]

MINERAL COMMODITY SUMMARIES, 1992

Aluminum, Antimony, Arsenic, Asbestos, Barite, Bauxite, Beryllium, Bismuth, Boron, Bromine, Cadmium, Cement, Cesium, Chromium, Clays, Cobalt, Columbium, Copper, Diamond, Diatomite.

Feldspar, Flourspar, Gallium, Garnet, Gem Stones, Germanium, Gold, Graphite, Gypsum, Ilmenite, Indium, Iodine, Iron ore, Iron and steel, Kyantie, Lead, Lime, Lithium, Magnesium.

Manganese, Mercury, Mica, Molybdenum, Nickel, Nitrogen, Perlite, Phosphate rock, Platinum, Potash, Pumice, Quartz, Rare Earth, Rhenium, Rubidium, Rutile, Salt, Scandium.

Selenium, Silicon, Silver, Soda ash, Sodium sulfate, Stone, Strontium, Sulfer, Talc, Tantalum, Tellurium, Thallium, Thorium, Tin, Titanium, Tungsten, Vanadium, Yttrium, Zinc, Zirconium.

Mr. BRYAN. Mr. President, this issue is often debated in the context of regional interest. There is a reason for that, Mr. President. If one looks at the map of the United States, it is readily apparent that 12 States, all of which lie roughly to the west of the 120th degree meridian, part of the great American West, 12 States, produce 75 percent of all the U.S. States metals that are mined.

That is an important reason for us as a region and for us as a Nation to rightly be concerned about a fundamental change in the mining law of 1872 that has served this Nation, in my judgment, rather well for the last 120 years.

Nevada is known for its gold and silver production, and less well known is its copper production, which has sustained the economy in Ely, a small community in the northeastern part of our State, and sustained that community for the better part of this century, into the late 1970's.

Nevada also possesses substantial sources of molybdenum, lithium, tungsten, iron, gypsum, and a variety of specialty minerals, all of which are important strategic metals. Many of these resources are largely undeveloped, but will become important to Nevada and to the Nation in the future.

We also have active exploration for platinum. Total nonfuel minerals produced in Nevada in 1990 approximated $2.6 billion, about 12 percent of the total gross State product in the State of Nevada.

We, as a State, produce more than 6 million ounces of gold, about 62 percent of the entire production in the United States, and about 11 percent of the total gold production in the world.

Nevada's gold production reduces the Nation's trade deficit, since we are a net exporter of gold. The mining companies have invested $5 billion in Nevada in the last 5 years alone. Employment in this industry has increased from 6,000 jobs in 1985 to a peak of some 16,000 jobs in 1990.

State and local taxes paid by the mining industry have increased from $21 million in 1986 to about $90 million annually. Thus, mining, as I have pointed out, has not only a historical significance for our State, but it is an integral and critical part of the State's economy today. It is one of the few sources of ongoing direct investment in the rural communities of the West and is an important source of State tax revenue, jobs, and raw materials to fuel the economy.

The mining law of 1872, unfortunately, has been a source of controversy for a number of years. Much of that criticism, Mr. President, in my judgment, is misplaced. Few people really understand the way the law operates, and there are a few isolated cases of abuse.

Typically, the well-advertised misdeeds of a few are frequently used to lay down an indictment against the entire industry. It tends to color public opinion and get people emotionally responding to a situation which we recognize must make some change. Those changes, which I am going to address in a moment, are included in the amendment which my senior colleague and a number of us are offering before the Senate this afternoon.

My dear friend and able colleague, the distinguished senior Senator from Arkansas, has raised fundamental questions over the years about the mining law of 1872.

I think it is fair to categorize his concerns in three areas:

One, he says, in effect, the American taxpayer does not derive fair benefit as a result of the mineral activity that is permitted under the mining law of 1872 on public lands.

May I say, with respect to all of my colleagues, no Member of the U.S. Senate has a greater concern or sensitivity for the use of public lands. In Nevada, 87 percent of the entire land mass is owned by the Federal Government and is administered by one or more of the Federal agencies. Of the remaining 13 percent, some of it is used for State, county, and municipal purposes. So we have a relatively small tax base in terms of the amount of land available to us in our State that is under the ownership of the private sector.

Let me speak, if I may for a moment, to the criticisms which my colleague, Senator BUMPERS, with whom I have joined in common cause on a number of issues on this floor, as it relates to the impact upon the Federal budget—most recently, the superconducting super collider.

Senator BUMPERS says that, in effect, we ought to have a royalty system, because he says that is what we have for oil and gas, and the hard-rock mining industry ought to be treated the same way.

Let me say, Mr. President, that that has a facial and superficial resonance. It sounds sort of reasonable. What is sauce for the goose is sauce for the gander. But let me point out that there is a fundamental difference between the underlying public policy rationale for oil and gas and hard rock mining.

The premise with respect to the treatment of the leasing of oil and gas is based upon the premise that there is a front-end capital expenditure. In fact, when drilling and erecting the oil rig, if one is successful in locating a body of oil, in effect, the process thereafter is simply to extract from that same source.

With hard rock minerals, you have a totally different situation. There is the front-end cost, and it is substantial; about $500 million today in Nevada is the average cost of getting into a producing mineral operation. But rather than having that front-end cost eliminated at that point and simply extracting the resource, there is an ongoing capital expenditure as you move into the ore body, and it is a very capital-intensive and very expensive operation.

Moreover, there is a vast difference between the scarcity of hard rock minerals and oil and gas.

Let me invite my colleagues' attention to just a few points that I think illustrate that.

Copper. Thirteen mines produce more than 95 percent of all the copper produced in America—13 mines.

Lead. Nine mines, less than 10, produce all of the primary lead mined in America.

With respect to gold, 25 mines yield 75 percent of the total produced in the United States.

With respect to zinc, 25 mines yield 99 percent of all the zinc produced in America.

With respect to iron, about 10 mines yield 99 percent of all the iron ore produced in America.

Compare, if you will, the rarity of hard-rock mineral occurrences, as illustrated by the foregoing example and the situation with respect to oil and natural gas. The domestic oil supply of the United States comes from 606,890 oil wells, on land, or on the Continental Shelf.

Natural gas. The domestic natural gas supply of the United States is produced from some 257,279 gas wells on land and on the Outer Continental Shelf.

So, Mr. President, I suggest to you that there is a fundamental philosophical reason why oil and gas are treated differently than hard rock-mineral exploration, and the law dating back to the 1920's recognizes that.

My colleague and friend from Arkansas talks about revenue. I am concerned about that. I know the Presiding Officer sitting in the Chair this afternoon has addressed much of his energies to this since coming to the U.S. Senate, because of his concern about the Federal deficit and our budgetary policies. Suffice it to say that those who have studied and examined the issue believe—and the reports so conclude—that if a royalty system were adopted it would discourage mineral exploration; we would have substantially less activity and, in effect with, a royalty system our revenues would not be enhanced as I know is the hope and expectation of my friend, the distinguished senior Senator from Arkansas, but Federal revenue would be reduced a net loss, if you will, of $80 million.

So both in terms of philosophy as to why hard rock minerals are treated differently from oil and gas, there is a valid distinction in the public policy treatment of those two fundamentally different commodities and with respect to the revenue expectations.

So a royalty system would discourage exploration and would not accomplish the purpose that the senior Senator from Arkansas intends.

Mr. President, the senior Senator from Arkansas points out that a great number of these mining activities are foreign owned. He is correct. I wish that were not the case. As an American citizen and one who is interested in the success of American industry, I wish with respect to the mining industry we would have seen more entrepreneurial spirit and that these companies would have been 100-percent owned by American companies. I wish that were the case. It is not.

But it certainly served no purpose, in light of the criticality of these minerals, in light of the economic activity generated in many States across the West, and in terms of our own long-range objective to be competitive in a number of high tech industries in which these strategic metals are so important. It makes no sense when we are a net exporter of gold and other minerals to make ourselves more dependent on imports than we are today. That simply does not make sense, notwithstanding the concern that he has expressed and my own wish that indeed we had more American companies involved in mining activity.

Mr. President, another argument that my friend from Arkansas makes—and he points out and he shows how the landscape has been scarred by mining activities across America. He is right. But those are examples that ought to be in a history text of America included with other environmental litanies of horror in which the practices of the past—not continuing practices—have led to these kind of conditions. And none of us who support essentially the parameters of the mining law of 1872, together with the amendments proposed by my able senior colleague, would defend that kind of result. We do not. But it is misleading to suggest that this is an ongoing situation.

Mr. President, since the enactment of the mining law of 1872, approximately 20 significant pieces of environmental legislation have been enacted by the Congress which apply to mining activity, and they should. So the situation which my friend laments and which all of us lament is not an ongoing concern and cannot occur again.

So all of the references to Superfund are totally inappropriate for this debate. They simply have no relevance. Those are problems of the past, not continuing problems.

Let me discuss for a moment, Mr. President, the amendment that we are asking our colleagues this afternoon to support. It addresses three of the fundamental problems which exist with the mining law of 1872. My colleagues will recall in years past the Senator from Arkansas said, "Look, companies that seek to explore for mineral potential on the public lands in America pay $2.50 an acre. That is wrong." He argues that is a ripoff of the taxpayer, and he says that requires fundamental change. The amendment being offered today addresses that situation and says, rather than that evaluation of $2.50 or $5 per acre, depending on the types of claim filed, in effect we ought to have a fair market value. That is reasonable; a company ought to pay a fair market value for that claim, and indeed some of the examples that have occurred are indeed indefensible and none of us who support the law of 1872 would attempt to defend it. Under the present law, once a patent has been secured—and it can be filed only on the basis of demonstrated provable mineral resources—if the patentee thereafter chooses to use that land for another purpose it can be converted and used for development, as an example, of resorts and other things. That is fundamentally wrong. It should be changed. This amendment does it.

The amendment that we have asked to be adopted today says that with respect to those patentees who are no longer using that land for mineral purposes and seek to use it for another purpose, the Federal Government, in effect, has a reversionary interest and that land reverts back to the Federal Government, as it should. The taxpayer is thereby protected. No longer can there be these isolated examples of abuse, which have embarrassed I think many in the mining industry, who are legitimately seeking access to the public lands solely for the purpose of mineral exploration, not as part of any concealed effort to gain access to secure a patent and then convert that property into some type of unrelated mining commercial development, that abuse will be ended.

Finally, with respect to reclamation, another concern raised by our friend from Arkansas, the amendment that Senator REID and others of us have put together addresses that issue and it says that if a State does not have a mining reclamation law—and I might add parenthetically that Nevada has such a law enacted within the last 2 years. It is a good piece of legislation. It is working well. I can attest, as my colleague from Nevada has, that I have gone to a number of the mining operations in Nevada that have been approved in the last 7 or 8 years and I must say that there is an environmental sensitivity and a recognition that these kinds of problems which have existed in the past cannot be allowed to occur in the future and the mining reclamation law of Nevada makes sure that is not the case.

But the amendment, Mr. President, goes even further, and it says that if a State fails to enact such a reclamation law there is a Federal reclamation requirement to make sure that indeed that land be restored to as close as possible its condition prior to the mineral activity.

Mr. President, I think fair-minded Members of the Senate would have to recognize that this is an honest effort made to address some legitimate concerns that have been expressed over the years by a number of colleagues. It addresses the issue of air market value, and it does so consistent with practices that exist with respect to the acquisition of other property that is acquired by private interests. It addresses the problem of the reversionary interest and I think it does so reasonably and responsibly and, finally, with respect to the reclamation, that is something that all of us need.

Mr. President, much of this that I have heard from my friend from Arkansas simply is irrelevant to what we are talking about today. It recognizes some of the historical excesses and abuses. No one here defends that or suggests that ought to be allowed to occur. But, as I have indicated, contemporary environmental law prohibits that and the new reclamation requirements which will be a part of the law if this amendment is offered would go even further to restore the area used for mining once that period of use has expired.

Mr. President, I yield the floor and thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, while other Senators are coming to the floor to speak in favor of this amendment—I have been given a list of seven or eight Senators—I will say a few things, but I would hope that those Senators who wish to speak on this amendment would come forward. I have been informed by some Senators that unless something moves along there may be a motion to table my amendment.

So I hope that individuals who wish to speak in favor of this amendment will come over to the floor and proceed to do so.

While they are doing that, Mr. President, let met just say a few things in response to the distinguished Senator from Arkansas, who has opposed this amendment.

First of all, there is wide support for this amendment. For example, the National Association of Counties—every Senator has in his or her office a statement from the National Association of Counties, which arrived today, saying, support the Reid amendment; School Board Association, support the Reid amendment, for obvious reasons, as all around the world, the ability to obtain revenue from mining operations is done on a local level. It is done in Australia, it is done in Canada, as we outlined this morning. That is why the counties want my amendment to pass, because they know it will stop the statements that are not factual by my friend.

I also suggest to those that are participating in this debate and listening to this debate, that if you listen to my friend from Arkansas, you have to be careful in what you hear, because during the same sentence he will talk about unpatented claims—he said there is over 1 million of them, and that is right—and in the latter of the sentence, the second phrase, he will talk about patented claims, two totally different problems.

The chairman of the Appropriations Committee, with opposition from almost all western Senators, opposed the holding fee. We opposed the holding fee. The chairman of the committee has in this bill a holding fee that applies to unpatented claims of $100 per claim. It will bring to the Government about $50 million. That is how it is scored in the bill. But remember, there is a difference between patented and unpatented claims.

My amendment applies to patents. And, as I said this morning, last year, around 20 were issued in the whole country.

Anything that we try to do is not enough. My friend from Arkansas will not take yes for an answer. We have language in our amendment that we took from his legislation, and he still says he does not want it. I do not know if it is pride of authorship or if he just does not want any mining to take place.

Now, there has been some talk by my friend from Arkansas that the Black Cloud Mine is a Superfund site. Again, everyone listening understands it has nothing to do with the debate before this body. The Black Cloud Mine was dug in 1895. And as I indicated this morning, there is no question some of these old diggings have created problems.

In Nevada, I indicated there is mercury in the Carson River. And what the EPA is now doing is trying to find out if there is a mining company still available that could react to the Superfund and pay. Otherwise, the taxpayers will be called upon to pay those moneys.

But do not compare a 1895 hole with a hole that is dug today. They are totally different. Do not be confused because of that.

Mr friend from Arkansas talks about fair market value being $100 a claim. I said, "Where did you hear this?" He said, "Well, the BLM said something."

All I know, Mr. President—and I see my friend from New Mexico here and I will be happy to yield to him in just a few minutes—I do not know where my friend from Arkansas got his information.

Here is the information that we have: Estimated total surface values of land patented under mining law in fiscal year 1991—these are approximate values listed by each State, the number of patents, number of acres, dollar per acre. What are some of the patents. This is 1991. In Arizona, two of them, the appraised value of the land is $3,500 an acre, not $100 an acre.

Again, my friend from Arkansas will not take yes for an answer. He has talked since I have been in the Senate about $2.50 and $5 an acre. We want to change it. He will not let us change it. He is opposing it. Incredible.

Then he says, "Well, you got fair market value in the land in your amendment, but we do not want fair market value." I do not know what he wants. But the fair market value is more than what he said: $3,500 in Arizona on two claims; California, in their patents, one, $6,000 an acre, another $12,500 an acre; Montana, $1,750 an acre.

I have other things to say about this, and I intend to do that before this debate is terminated.

I see my friend from New Mexico, a cosponsor of this amendment, is here. I am happy to yield to my friend from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Senator from Nevada.

I am very pleased that the distinguished chairman of the Appropriations Committee, Senator BYRD, is on the floor, because I very much appreciate the opportunity to try to make a convincing case to him. He would be a Senator that has no specific interest because he does not have public domain land like New Mexico, Nevada, and Utah.

I would like to break this argument into two parts. One the environmental part and one the economic part. I am not at all sure that I need to spend a great deal of time on the environmental part, but I would like to state the sequence of events and what brings us to the floor here and some misunderstandings regarding the environment.

I say to Senator BYRD, the mining law of the United States is a very ancient piece of legislation.

Some will come before the Senate, as they have, and put up pictures of the days past and talk about the reform of today as if it should be directed at the scars of the past.

So let me quickly dispel any notion that a new mine in the State of New Mexico or the State of Nevada or the State of Utah, under any conditions, can look, like those mines, those mine sites of days past argued about by the distinguished Senator, Senator BUMPERS. With those mines that are shown all over American television as evidence that the mining law today does not work, they are talking about a mining law without any environmental laws in place.

So that a mining company, Jones Inc., went into Colorado 60 years ago and found copper. They abided then and there by all the laws that existed then. There were no reclamation laws, I say to my good friend, the chairman. There were no clean air laws. There were no planning laws required with reference to drainage and the like from the surface.

So, suffice it to say that an unreclaimed, filthy site of 60 years ago that still exists in the mountains of Colorado is not relevant to what is going on today. There will be no such trash left behind.

In the State of New Mexico there is a molybdenum mine. Needless to say, I might suggest, if we would have had the 8-percent royalty on the molybdenum mine—and I will do the economics in a moment—that molybdenum mine would have closed 20 years ago because there is so much competition in molybdenum. It was a touch and go situation for 300 to 500 workers in New Mexico producing molybdenum.

You add an 8-percent royalty because they charge it someplace else, and they close.

But, when they finally close that mine for economic reasons, they will clean up everything and there will not be a Senator down here in 30 years with a map and a picture, saying to the next generation of Senators, "You see, we need to charge somebody today to pay for the past, because that molybdenum mine needs cleaning up"—because it will be cleaned up.

So, first, all environmental laws of America apply to mining today. In fact, I have urged that we put a preamble to these amendments and say "The following environmental laws are incorporated by reference."

It is said you do not have to, they apply. I agree. But those who oppose mining on the public domain—and the chairman must know, look around and see America polarizing—there are many who say do not mine on the public domain. I regret to tell my colleague that some of those who are speaking for reform would like to make it so difficult that that fourth use of the public domain, along with grazing and logging and hunting—that one for mining, they would like to close it down.

I think we are talking to somebody here who understands you do not close down the hard-rock mining industry of America and expect to have a balance of payments on the plus side with the world, because then you can go ahead and import all your copper; you can import all your gold; you can import all your molybdenum; you can import all your titanium, because the public domain has been the source of strength for our country. And that was our forefathers' thought, that if that public domain could make us strong and yield these minerals, let us do it. And I assure you in my State the best paying jobs today are the mining jobs. And they are not underground mining in most cases so they do not have the horror stories that come to mind when we speak of mining, as they do to the mind of the Senator from West Virginia immediately.

So, first of all, it is only to remind us of what we should never do again that the pictures of unreclaimed mines are relevant here today.

Interestingly enough to the Senators from the Western United States, and principally the Southwestern, where the hard-rock mining industry of America actually lies—that is the place that procures things—we are here today offering a set of reforms that 10 years ago nobody would have brought to this floor. So we appreciate the pressure that has come upon the mining industry and our States from those who want cleaner places, want to keep our forests and minimize the damage.

What we have done is dramatic. And when somebody comes here and says there is no reform—well, there is enough reform on this $100 per filing per year to yield $52 million new money to the Federal Government. All by itself, it will scare off thousands of prospectors who are doing it as a hobby. But it will not scare off those who are serious. Because if they are seriously looking they will take a risk and $100 will be paid to the Federal Government for the right to look upon that 20 acres. So that is the No. 1 reform; pay more, do it more seriously, do not do it randomly.

Point No. 2, when this old mining law was passed, the U.S. Government, President, Senators, thought the best policy for the United States was to get the minerals out of the ground. So they said give them a patent when they have done all this work and then it is theirs. There were a lot of reasons for patents. I think we would understand, if you are in the mining business and you are finally going to build some real facilities, you probably borrow some money. And the point of it is, with a patent you are mortgaging your property, with a mining claim there is a little different way to get your mortgage money.

However, there have been some abuses. Although I will suggest that the horror stories of abuses have been greatly magnified. There are not a lot of mining land claims being deeded over under patent. The numbers have been given. There are very few—hundreds per year, of acres, maybe into 3,000 out of these millions of acres, and thousands which claims are on.

But the case is made that you should not take a patent for $2.50. So the second reform is if you get a patent, you have done all the things that entitle you to it, pay the fair market value. We have done fair market value on our forests, on BLM land, and we know how to go get appraisers, and you argue about it but you end up paying a lot more than $2.50. That is point No. 2.

At one point that was the hue and cry of those who wanted reform: Make them pay for it. We did it.

But you see what happens, I say to my Senator friends, now, in the United States, when it comes to environmental laws, we have adopted this philosophy: Anything worth doing is worth overdoing. So you see now we have said we are going to have fair market value. But some say more, more. So we even went further in this amendment, in the Reid-Domenici amendment.

Listen carefully. We said you can get title when you have done all those things entitling you to it—that is the patent—but you will never be able to use this for anything but a mine because, you see, in a few cases the mining company gets the land and then they sell lots to people, and in the middle of a beautiful forest is a subdivision.

I do not want that. Anybody who says I am not for reform, that I want that—private inholdings in national parks and forests I do not want that. So I suggested that we go one better and we have now. As fellow lawyers I will suggest to my colleague what we have done. We have said the patents, henceforth, in the future, will have a reverter clause in them. Reverter is very, very simple. If you ever stop using the land for mining, the fee simple title absolute reverts to the United States of America.

If that is not going to cure the problem, that there are going to be no hotels built on these lands, no motels, you are not going to move your house up there and say I have a mining title and I am going to build something for my children to go up and recreate and spend $200,000, you do not get any mortgage on that anymore because the title will be encumbered with a reverter clause.

If that is the case, what I have just said, they are paying for more than the land. It is going to go back to the Government when you stop using it, which means you cannot use it for anything but the mining activities.

And then somebody says, well, there may be a State that does not have reclamation laws. I regret coming to the floor of the Senate and telling the Senate my State is one. It does not have any reclamation laws for hard-rock mining. I regret to tell the chairman, the State of Arizona does not.

So some would say no patents, even with the reverter, because if you get title the U.S. Government's reclamation laws no longer apply. So we said OK. We do not want anyone to escape reclamation. This amendment says if there happens to be a State that does not have reclamation laws for hard-rock mining, then even in the patent stage the reclamation laws of the U.S. Government apply to that land. That can be doled out by the forest rangers and it will be managed by them, just like they are managing it today.

I do not think we can do anything more than that with reference to saying it will be reclaimed. We will not do harm to the forest. If there are real minerals worth mining for America, for American workers and America's balance of payments, you are not going to end up with abuses by way of use. Once you are finished mining in a way that meets the standards of environmental cleanup, you get off the land. That comes back.

I do not believe we could do any more by way of reform. And I remind everyone we are living in an age that anything worth doing is worth overdoing. So people want more—this is not reform—it is not enough—Senator REID is not doing enough, where 10 years ago we would not have thought of this.

On the issue of whether you ought to tie rights or taxes to environmental problems with hard-rock mining on public domain, I want to just start by quoting from—this is how it is stated. I will assume it is right. It says—this is written by John D. Leshy, an activist, working to reform the general mining law of America, as referenced in his book, "The Mining Law." And I quote a very short statement:

> The lack of rental royalty does not mean that the Federal Government receives no return on its minerals.

This is the activist for reform.

> The various tax consequences of mining are too complicated to deal with here. But hard rock mineral development under the mining law, like any income—producing business, eventually produces direct or indirect payments to Uncle Sam.

End of sentence, start of last sentence.

> The argument for greater revenue return is thus not an overwhelming argument for reform of the mining law.

Now if I heard the opponent of the Reid-Domenici reform correctly, it was stated that one of the overwhelming arguments for reform included fixing royalties. An actual environmentalist who knows all about this has clearly indicated that should be distinguished because there are other indirect and direct benefits that come to a country—Uncle Sam—from mining.

That leaves us with why would we now at this stage of the industrial revolution in the United States put a royalty on hard rock mining on public domain? One argument: Tax the mining companies today because we want them to pay for the pollution of the past.

Mr. President, because the Superfund is having to pay for the pollution of the past does not mean that the mining companies of America today escape paying for the pollution of the past. The problem is, Mr. President, that the mining companies that did the polluting are not around anymore. There are not even successors in interest, because if they found them they would get them under the Superfund. That Jones Mining Co. that polluted that piece of Colorado that I hypothetically referred to is not around anymore. In fact, under the Superfund, they are even looking to see if there is a 95-year-old member of the board of directors, and if they find them they are suing him because they are liable.

Now listen. Should we put the current hard rock mining industry in economic straits, maybe even breaking them, closing some because we want to make them pay for the sins of the past? Frankly, I would answer that question not only no, but I would answer it with a no with some emphasis before it that I cannot say on the floor of the Senate.

However, we have done something like that with the environmental laws, but I submit we are learning some lessons about taxation in the name of environmental cleanup, and now we ought to learn in advance what we are going to do to this industry.

So let me suggest that if ever there was a time you should have put on royalties for this it was when there was not any competition in the world for hard rock mining resources. There is plenty today. And contrary to what has been said, our major competitors, including Canada, have no national government royalty imposition for the mining of hard rock in their country. I would be delighted to put a statement in the RECORD on that.

There may be some local taxes, and we have plenty of local taxes. But the remaining argument, even if one says we surely should not tax some industries today in a willy-nilly manner to pay for the sins of the past, one might say, well, they just ought to pay it.

I will be very pleased to put an argument in, which I will not even state. If Newmont Mining was used as an example because there is a private landowner involved and they are paying royalties—I would be pleased to put in the RECORD and not burden the Senate with it—that if you can find a new mining situation in America or on the public domain, tax it. The truth of the matter is, it is a one of a kind. It is private property owners who had a mother lode on the property, everybody knew it was there, there was no risk, you did not have to do a thing, and so you kind of split the profits.

I tell you, that does not exist in the gold mines in his State, it does not exist in the copper mines in my State, and it does not exist anywhere that I know of, where miners and mining companies are trying to get hard rock out of the ground.

The distinguished chairman, and this Senator were privileged, served on the Budget Committee that produced the 5-year agreement. People criticized it. They did not have to go put it together. They did not have to go through what we did. The only thing good out of that is that we were fed rather well.

However, we did something in the name of gaining revenue and proving a point. Do you remember the luxury taxes? We said: Let us tax the yachts because, after all, the yachts can afford it. I will soon tell you the industry cannot afford it. But let us just follow the logic that they could. In the name of taxing the yachts because they can afford it, the very same people who clamored to do that are very anxiously waiting for an opportunity to repeal it, and it has not been a decade. It has been a couple of years.

In fact, the tax bills that are coming down here, those who put on that luxury tax do not even want to speak of how it all happened, they just want it to disappear. Guess why? Because that tax lost money. Because when you did not buy any new yachts, they did not hire any people. And we had ports in northeastern United States with places that made and maintained these with hundreds and hundreds of people out of work.

We learned a little bit of a lesson that to tax because they could afford it put lots of people out of work because people stopped buying yachts and big boats and, lo and behold, the same people who wanted to tax them are here trying to undo it quietly, because at home the unemployed people are clamoring to put themselves back to work building yachts and maintaining them. Now that is the practical effect.

Mr. President, it is not as if there has not been time to study the effect of what Senator BUMPERS wants to do by way of royalties because that idea, and some more, have been around for quite a while. So you would expect a good close look at what it is going to do to the jobs in the States that produce hard rock minerals now and in the future.

I submit that the revenues that our States and our Federal Government are getting and that the private sector is earning because of the things that are bought for the hard rock mining deserve our attention, because in the name of picking up royalties to pay for the sins of the past, which is what I understand one justification for it is—why should the Superfund pay—why should not the mining companies pay when the mining companies are not around anymore, because if they are, they are paying. And do not worry about the effect on the thousands of workers, the millions in revenues to our State and, yes, a few billion in indirect revenues to the Federal Government of the United States. None of that even gets to the issue of us having copper that is ours and silver that is ours and gold that is ours instead of importing it.

There has been a major study done of the effect of the royalty. It is a Coopers & Lybrand study. It says we will lose 30,000 jobs in mining and related activities. It will cost the Government, not make for the Government, $230 million a year in lost revenue. It will cost the Western States as much as $3.8 billion in lost economic activity. This loss means lost taxes, sales, property, production, excise taxes which States and local governments depend on for schools, hospitals, local communities, and the like.

States will lose $800 million in earnings. In the end, will taxpayers be willing to replace what was a dependable source of revenue? I do not think so.

Now, I urge that we leave the reform that is contemplated in the Reid-Domenici amendment, that we let it work its way. Let us see what it does to the contentions that there is abuse of the public domain. I think they are all taken care of. But we are not going to take care of the 50-year-old abuses. If there is anyone around liable for those, they are going to be made to pay for it. But do not expect today mining industries which pay wonderful salaries to working men and women in America—and none of them are super rich.

I can say to my friend, the State of New Mexico had the largest open copper pit in the world known as Santa Rita Mine. It was a placer mine when it started, Federal land, patented years ago. Seven, eight years ago, I was constantly on the floor trying to protect copper produced in America from cheaper copper produced elsewhere. They did not go broke, even though they did in the Midwest; Kennecott and others closed their mine in some of the other States. Ours, they stayed alive by the skin of their teeth, and then they found more efficient ways to produce and they are alive today.

Put an 8 percent royalty on top of that competitive situation and you would have Santa Rita closed down 8 years ago. The 1,400 miners working there in the State of New Mexico at an average pay of $28,000 a year, which is excellent pay in our State, with good fringe benefits and the other things that go with it, living in a beautiful part of New Mexico, they would be gone. And you would say, "We got some royalties, though." Of course, you do. Just about enough for all of them to be put our of work.

Now, I want to close by saying it does not matter what royalties you put up on a chart and say that coal pays this, and there is a Newmont Mine where a private company, private property owners got a royalty. You are talking about the entire hard rock mining industry of this country, or at least 98 percent of it. And without exception you are saying, if you were close but you are hanging on, "Goodbye."

And I just suggested that no case can be made to do that in the interest of the environment, because the environment will be taken care of by the other reforms. And I need not quote John Leshy again, who says that is not the issue in the environmental cleanup. It is not the issue of royalties and direct taxes. You do the environment another way.

I do not want to wear my welcome out, but I believe the truth of the matter is that if we were to defeat the Reid-Domenici amendment and adopt the Bumpers amendment, which puts this royalty on top of all the other burdens they have today of compliance with all the environmental laws, we have effectively said to the American West, the multiple-use concept of our public domain which served us well in the times we did not even have competition in the world, we are going to just put a noose around your neck at the time when you really have competition in the world because we very much would like to import more of the hard rock minerals from elsewhere and not have it produced just so we can strut around and say we made them pay royalties because it is on the public domain, as if we did not get much from the business, from the jobs, the purchase of equipment, and the taxes which I have alluded to that are enormous.

Now, put some more on—$380 million—like nothing. They will all keep on producing.

I think you are going to get the yacht situation personified, but you will not come down here and repeal it because you will not know about it like you do with the yachts because it will just gradually, that quicksand will just gradually seep up on that mining industry and there will be all kinds of reasons offered. Some group will come in when one closes and say,"Oh, no, they were inefficient." Another one will close and, "Oh, no, they didn't abide by environmental laws." But what it will really be is we decided arbitrarily from the gross revenues now, they are losing money, they still pay it. Not a nice thought—that we have to put the royalty on because it just seems like we ought to.

I think we made a good case. I think we have dispelled some ideas that are not true, like there is no reclamation law today, there is no environmental cleanup required today. That is shown by putting these relics of the past up before us when there were not any laws. Of course, they are out there.

So I am hopeful that for those who might have been on the fence on this issue, they will lend us that good ear and think it through and not make that adage of, "Anything worth doing legislatively is worth overdoing"—not letting that apply to the thousands of miners in America who want to make a living to take care of their families.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

FREEDOM OF CHOICE ACT

Mr. MITCHELL. Mr. President, over the past few days I have received several inquires from Senators and from members of the press about the status of the Freedom of Choice Act. A number of incomplete and inaccurate statements and reports have been made in recent days. I take this opportunity to clarify the matter and to set the record straight.

For months, up to and including this week, it has been my intention to make every effort to bring the bill before the Senate during this legislative period. I was and am aware that opponents of the bill have the intention and, under Senate rules, the right to filibuster in an effort to prevent the Senate from ever considering the bill.

But that is a common occurrence in the Senate, and I am ready to proceed to see if there are 60 Senators willing to vote to consider the bill.

However, on Monday evening, I met with four Senators who are principal sponsors of the bill, and with the representatives of six of the national organizations which are involved in the effort to pass the bill. Those organizations are the National Abortion Rights Action League, the American Association of University Women, the Women's Legal Defense Fund, the National Women's Law Center, the American Civil Liberties Union, and Planned Parenthood of America.

Each of the four Senators and the representatives of each of the six national organizations recommended to me that action in the Senate be deferred until after the House of Representatives passes the bill. This was also the recommendation of the principal sponsor of the legislation in the House, Representative DON EDWARDS of California.

After giving the matter careful consideration, I have decided to accept their recommendation made unanimously and not to try to pursue this matter during this legislative period.

It is my understanding that the bill's supporters are working with the House leadership and it is my firm intention that the Senate will take up and hopefully pass this bill this year in this Congress following House action.

Mr. Speaker, I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today in support of the amendment offered by the distinguished senior Senator from Nevada [Mr. REID].

I commend Senator REID at this time for his leadership and his perseverance on this issue, along with Senators BRYAN, DECONCINI, and DOMENICI.

This amendment, Mr. President, is of vital importance to the reform of the mining law as it relates to mining hard rock minerals on public lands.

I recognize the antimining forces that are seeking to repeal the Mining Act and to severely restrict mining have different agendas and probably will not support this amendment in any form.

However, Mr. President, I also believe that these western Senators' proposal is a fair and a reasonable compromise approach to addressing the alleged problems of the mining act that are periodically raised before this body.

This amendment, the Reid amendment, does not repeal the mining law, but will bring about needed reforms without imposing undue burdens on the hard-rock mining industry.

I speak as a Senator from a State east of the Mississippi that does not have the large hard-rock mining industry found in many Western States. Nevertheless, hard-rock mining is very important to my home State of Alabama, as well as the entire Nation.

The industries in the Eastern United States use and rely on the minerals produced mainly in Western States, and many Eastern firms provide products and services to hard-rock miners. Indeed, mining is an important underpinning for our Nation's economy. It is important for our national defense, for helping our trade balance, and for maintaining our competitiveness in the global economy. Our entire country would be adversely affected and thousands of jobs would be lost if western hard-rock mining is crippled by proposals that would gut the mining law and replace it with some questionable new scheme that mining experts tell us simply will be counterproductive.

Mr. President, I have followed this ongoing mining law debate as a member of the Energy and Natural Resources Committee, which has substantive jurisdiction in this area. I believe that the Reid amendment addresses the areas where greatest concern has been raised under the current mining law. If this amendment is enacted, mining critics can no longer contend that public lands are being given away to miners who patent their claims. In fact, patented lands have never been simply given for $2.50 to $5 an acre, as mining opponents have tried to make us believe. If there was a real land giveaway, all of the available public lands would have been snapped up long ago. Patents are very expensive to obtain. If anyone here has believed the reports that these lands are being given away, they will be surprised to learn that the minimum cost of obtaining a patent for a 20-acre mining claim is approximately $38,000—that is minimum cost—and mining claimants often will spend 10 to a 100 times that amount to obtain a patent. Such costs are anything but a giveaway.

In any case, the Reid amendment would require that the mining land be purchased for fair market value. Moreover, the horror stories we have heard regarding patenting lands for nonmining uses would be dealt with by provisions that will require the land to automatically revert back to the Federal Government if the patented land is not being used for mining purposes. The Reid amendment also would guarantee that patented lands are subject to minimum reclamation standards.

All Senators should remember that Chairman BYRDS' mark already contains a $100 annual holding fee for each mining claim. By agreeing to go along with that fee, our Western colleagues have already made a major concession in this debate, and addressed the allegation that the current law is not generating enough revenue off public lands.

However, given the insatiable calls for more revenues that now are sounded so frequently in this body, and given the many wild and misleading allegations that we have heard from those who are attacking the mining law, I must also point out to my colleagues that we cannot balance the budget on the backs of miners, and we should not attempt to do so any more than we should attack farming and agricultural interests in Alabama or Arkansas or New Mexico, or anywhere else. Some have suggested that the panacea for our revenue problems is to be found in imposing royalty on hard-rock mining. But, quite frankly, the hard facts suggest quite the contrary.

My review of the royalty issue suggests that hard-rock minerals are not readily amendable to Government royalties like a lot of other things. Experts have estimated that these minerals are about 10,000 times more difficult to find than leasable minerals—like coal, oil, and gas—and the metallurgy of most hard-rock mineral deposits varies so significantly from deposit to deposit and within a deposit that the costs of treating ore to produce pure or salable concentrate significantly reduces the chances of discovering a commercially developable ore deposit. On the other hand, leasable minerals need little or no treatment, are plentiful throughout the United States, are found in very large deposits and are not nearly as capital cost intensive to produce. As a result, leasable minerals can sustain a Federal royalty and usually still remain marketable at a profit, although the present Federal royalty on coal and oil and gas has caused serious shut down problems in some parts of the South.

A new Federal royalty would have severe negative impacts on our Nation's hard-rock mining industry, and it appears that such a royalty could actually produce a negative Federal revenue impact. A recent study of the effects on an 8-percent royalty gross income of hard-rock mining operations on Federal land demonstrates these potential adverse impacts. Prof. John Dobra's research and analysis in this area has found that such a royalty would result in a dramatic loss of domestic production of gold. An 8-percent royalty could cause 23 million ounces of gold out of a potential 70 million ounces to be lost from production at 22 major U.S. mining properties. This would mean that the amount of gold that could be produced at a profit by these properties would fall by more than 50 percent. This loss of production equates to a gross income loss of over $8.5 billion in these operations alone. A royalty would also cause a severe cutback in domestic exploration, which would result in many more job losses and a greater strain on State and local economies.

Senators should be even more disturbed to learn the possible negative impacts of such royalty on Federal revenues. Professor Dobra's study found that the revenue generated by an 8-percent royalty will be more than offset by declines in corporate and personal income taxes generated by the industry. In fact, when indirect costs are added due to the loss of production and jobs, the royalty would constitute an economic disaster for our country. Mr. President, I ask that a summary of Professor Dobra's findings be printed in the RECORD after the text of my remarks. I am sure that my colleagues will find this information on royalties as troubling as I have, and very interesting to read.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SHELBY. in conclusion, Mr. President, I again urge my colleagues to support the good-faith compromise proposal being offered by Senator REID and several other Western Senators. The proposed amendment adequately addresses the real problem areas under the mining law, and it does so without severely crippling the hard-rock mining industry. Finally, I would urge that if others seek to add a royalty provision, or a patent moratorium, we should reject those additions as unnecessary and inappropriate at this time.

EXHIBIT 1

THE NEGATIVE BENEFITS TO THE UNITED STATES GOVERNMENT OF ROYALTIES ON HARDROCK MINERALS[1]

IMPACTS ON THE HARDROCK MINING INDUSTRY

An 8% royalty on gross income of hardrock mining operations on federal land would have severe adverse economic impacts on the industry. These negative impacts are best illustrated by referring to the attached modified Figures 14 and 16 of "The U.S. Gold Industry"[2]. Figure 14 shows the long run total cost, over the entire expected mine life, of producing gold at 22 major U.S. mining properties. These mines are expected to produce almost 70 million ounces of gold over their life spans at the cost indicated by the shaded area below the cost line.

The line representing the current average price of gold ($342/oz. June, 1992) crosses the cost curve at approximately 45 million ounces. This means that at the current price of gold, somewhat less than 45 million of the 70 million potential production ounces can be produced at a profit. Even at the gold price on July 29, 1992, of $356 per ounce, less than 48 million ounces can be mined at a profit.

Loss of Domestic Production—The effects of the proposed royalty are shown on Figure 16 where the 8% royalty has been added to the average cost curve (raising total costs to $364/oz.). The line representing the June 1992 average price of gold shows that somewhat less than 20 million ounces of the potential 70 million ounces of gold can be mined at a profit. Thus, the 8% royalty would cause about 23 million ounces to be lost from production, meaning that the amount of gold which can be produced at a profit by these 22 operations falls by more than 50%. This loss is not materially affected if the July 29, 1992, price of gold is used instead of the June 1992 price.

The loss of production of this gold due to the imposition of the 8% royalty equates to a gross income loss of more than $8.5 billion at $342 per ounce, or $8.9 billion at $356 per ounce. This loss would lower household earnings in the states where production occurs by more than $3 billion in the future and severely impact local and state economies that depend on the precious metals mining industry.

Although the impact of this nearly $9 billion loss will not be immediate, it should be noted that the U.S. has approximately 209 million ounces of proven, probable and inferred gold resources. This resource has the potential for over ten times the production used to calculate the $9 billion loss, meaning that the proposed 8% royalty has the potential to cost the U.S. economy in excess of $100 billion in current and future production. Clearly the imposition of the royalty will have a major destructive impact on the hardrock mining industry and local economies.

The result of this lost production will be similar to the impacts to the economy from the drop in gold prices in 1991. For example, Nevada experienced a 10% decline in direct employment as a result of a $20 decline in the price of gold. The proposed royalty would be comparable to a $30 decline in the price of gold. Consequently, it can be anticipated that the proposed royalty would cause the equivalent of an additional 10% drop in employment in the first six months after the royalty becomes effective. Within a year, the job loss would be in the range of 30%, representing a loss of 6,000 jobs.

Exploration Cutbacks.—A second likely consequence of the proposed 8% royalty would be a virtual 100% cutback in domestic exploration expenditures which, in 1989 and 1990 were in excess of $100 million. This cutback will cause additional job losses and a greater strain on state and local economies already suffering from a severe shortage of funds.

While the adverse effect of the proposed 8% royalty would be less critical if the price of gold increased substantially, it would only be so if costs remained static. On the other hand, the effect of the royalty would be far greater if the price of gold were to drop or costs were to increase, trends which have existed in the precious metals industry for the last 12 years.

Unfairness and Inefficiencies.—What this analysis shows is that taxes or royalties based on gross income are extremely unfair and generate inefficiency in the economy. This type of policy—government royalties on gross income—exacerbates the "boom-bust" tendencies of the hardrock mining industry, creating hardships for workers, businesses, and state and local governments. Virtually every modern treatment of taxation in the economics literature advocates taxes (government royalties) based on net income because taxation based on gross incomes produces inequitable and inefficient results. There is no viable economic reason to support the imposition of the proposed royalty.

IMPACTS ON FEDERAL REVENUE

The federal fiscal impacts of the proposed royalty are negative. That is, the revenue generated by the royalty will be more than offset by declines in corporate and personal income taxes generated by the industry. Indeed, when indirect costs are added due to the loss of production and jobs (creating greater burdens on the entitlement and state and local tax rolls), the proposed royalty constitutes an economic disaster for the United States.

In 1991 annual average spot prices, gold and silver production had a gross value of $3.7 billion (current GAO reports indicate that this amount will be only $1.2 billion for the current year, indicating the already declining amount of production due to continuing depressed metals prices). Based on the 1991 gross value, the proposed royalty would raise $300 million; based on the current GAO data, the proposed royalty would raise only $96 million. On the basis of actual experience, the long run impact of the proposed royalty at current prices would be to cut production in half after several years. This would result in approximately $150 million of revenue raised by the proposed royalty on gold and silver production, or only $48 million based on GAO figures.

These revenues are offset by the loss of revenue in the form of personal and corporate income taxes paid. The proposed royalty would be deductible for purposes of determining corporate income tax liability, and therefore the taxes paid on the corporate income would be lowered commensurately. The survey of the 22 major hardrock mining companies shows that they paid approximately $120 million in federal income taxes in 1991. The effect of the proposed royalty on both the level of production and the calculation of taxable income would be a tax revenue loss of about $70 million, leaving only $50 million of tax revenue actually received by the U.S.

Using the U.S. Department of Commerce RIMS multipliers, 1991 gold and silver production is estimated to have increased household earnings (individual income) by $1.6 billion. If production is reduced by 50%, this would result in a decline of $800 million in taxable individual income. Assuming an average effective federal personal income tax rate of 20%, this would reduce federal revenues on personal income by $160 million. Hence, as shown in the table below, the revenue raised by the proposed royalty would be more than offset by a decline in tax revenues, resulting in a direct net loss of the federal treasury in the amount of $80 million.

[In millions of dollars]

Royalty income	$150
Change in corporate income taxes paid	(70)
Change in individual income taxes paid	(160)
Net Revenue (Loss) to the Federal Treasury from the proposed royalty	(80)

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS], is recognized.

Mr. STEVENS. Mr. President, I am sure it comes as no surprise that I support the Reid-Domenici amendment. I think that it provides for payment of fair market value for patented land, it provides reclamation concepts for States without it, and provides for a reversion. I might add that I have proposed parts of this. It provides a reversion for lands that are currently not in the process of being patented. I will have a little bit more to say about that later.

I do think this is a good-faith attempt as we promised last year—when we sought the Senate's help to table the Bumpers amendment last year—to try to resolve the problem. But I want to talk a little bit about what is going on here. I would like to get into some of the history.

As I said previously, I regret deeply that I do not have the capability that my good friend from West Virginia has in that regard, to have within my ability instantaneous recall of the history that I have learned, but I do have some of it here before me. I hope that the Senate will be interested in the history of royalty provisions that have been attempted in the past by the U.S. Congress.

Let me first address why we are here. For 3 years now, the Senator from Arkansas has tried to impose a moratorium on the issuance of patents. In other words, regarding the mining processes under the 1872 law, he has tried to stop those at the end of the pipeline, and say that after they have earned the right to title, the patents would not be issued; that past amendments were to prohibit the expenditure of funds for the simple purpose of administratively processing the patent which really is a deed, Mr. President. I said before, a patent confuses some people. What it is a deed issued when a minor has complied with the basic mining law of 1872.

---

[1] Excerpted by M. Graig Haase from a June 25, 1992 memorandum from John Dobra, Professor of Economics at the University of Nevada, Reno, to Michael Brown.

[2] Dobra, John L. and Thomas, Paul R., Executive Summary "The U.S. Gold Industry", 1991.

This time, the Senator from Arkansas has brought us an entirely different concept, because it not only prohibits the expenditure of funds on accepting or processing patent applications—mind you, it now says "accepting" them. You cannot even accept them now to initiate the patenting process. Further, it will prohibit all legal actions challenging this moratorium after 6 months from the date of enactment of this appropriations bill.

It is basically legislation on an appropriations bill. It is one of the worst I have seen in terms of a legislation on an appropriations bill. I hope the Senate will be aware that it will close all the courts of the United States to any claim arising out of a patent application that is covered by this moratorium. I have never seen such a far-reaching legislative concept in an appropriations bill.

I might remind the Senate that I worked out a concept under the Alaska Pipeline Act, which took us weeks to decide, where we did decide to close the courts to a constitutional challenge against that act under certain very specific circumstances. There were law firms from San Francisco, New York, Washington, all over this country, that were involved in the framing of that provision. This one has been framed by the Senator from Arkansas, and it prohibits all legal actions challenging the patent moratorium after 6 months. It totally closes the courts of the United States to the miners of this country that may be injured by this moratorium concept.

I have never, never seen such a constraint on judicial review in my 24 years in the Senate. I have never seen such an invasion of an appropriations bill by a legislative process. If that is to come before this Senate, it should come from the Judiciary Committee. It has not come from there, and not even from the committee on which the Senator from Arkansas serves, the Energy Committee. I served on that committee for many years.

We have challenged the Senator from Arkansas to deal with the 1872 law under the legislative process. Year after year after year, he has come here and tried to put a rider on this appropriations bill to prevent the expenditure of money to comply with the law. The law is there. The 1872 law is there, but what this says to the administrative agencies, you cannot use the money to process those applications for patent. "Patents" mean that the mining process is at the point of coming into fruition.

I have asked, and my friend from Nevada has asked, along with Senator DECONCINI and Senator DOMENICI, that it be placed on the desk of every Senator, the possible impact of the Bumpers amendment on the economies of the individual Members' States. For instance, I have the one that we sent to Senator DURENBERGER. It points out that in Minnesota, in the last 3 years, $32,792,500 has been spent on goods and services by just 30 mining companies that we tracked. Only 30 of the mining companies of the country spent $32 million in Minnesota.

This amendment is going to stop those jobs. They will not be able to continue mining without continuing to get their patent to proceed in the West.

We who live in the public land States carry a special burden. I was asked by one of my interns the other day: "Why are you called a provincial Senator?"

I represent a State one-fifth the size of the United States. Every single agency in the Federal Government has a role in Alaska. Primarily, because the Federal Government is the landowner, absentee landowner, in my State. Everything we do we have to get a permit. We have to get a permit to land an airplane in a national park, and to cross Federal lands. There is hardly anything we do not have to get a permit for.

Most of them are free, by the way, Mr. President; the issuing of those permits is free. The delays associated with them is the problem.

(Mr. WELLSTONE assumed the chair.)

Mr. BYRD. If the Senator will yield, nowhere else in this great Government of ours are the States represented. The States are not represented in the other body. States are not represented in the White House. The President is not even elected by the people directly. The States are represented here. This is the forum of the States.

The Senator represents the State. His State is much larger than mine in territory, and somewhat smaller perhaps in population; but we are equal. We represent the States here. So I hope the Senator will not ever feel badly—I am sure he does not—because he represents his State very well. He is effective and able and, by the way, he is honest and forthright. The Senator represents the State well, and no Senator should ever be embarrassed, if he is called provincial. I represent my State, my people, and I also represent the Nation the best I can. I thank the Senator for yielding.

Mr. STEVENS. Mr. President, as usual, I am thankful for the fact, and I am privileged to serve with the Senator from West Virginia. He is right. That was the impression that my interns asked me about, and I think it is right, that those of us, however, that come from Western States have to be involved in so many individual situations that would not arise in the non-public land States; that is my point.

But the moratorium trend is what disturbs me, because my good friend from Arkansas, as I pointed out this morning, is from a State where the land was given away. In 1882, Federal land was sold or given away in Arkansas, 426,747 acres. There was paid for that $157,000 total.

In 1883, it was 461,215 acres of Federal land, and this time for $192,000.

We have a whole tab, I might say, available for the Senator from Arkansas, should he like to discuss the disposition of land, in terms of the lands that have been sold in Arkansas. And 2.382 million acres were given under railroad grants in Arkansas. That is, 7 percent of the State of Arkansas was just given away. How many valid mines were located in that, we do not know.

Since statehood in Alaska, in 33 years, less than 1 percent of the State has gone into private ownership—1 percent. In terms of obtaining land under the various acts that were applicable in the West, in the past, the Homestead Act, the Trade Manufacturing Act, the Small Tract Act, many acts that were passed by Congress to give incentive to go to the West have all been repealed. I think westerners, in general, and miners, in particular, would be very pleased to have the Arkansas deal. They have paid an average of $5 an acre for the land that was sold, not counting that which was given away in Arkansas.

We have had to fight for every inch of land that has been made available for private enterprise in Alaska. I think the Reid-Domenici amendment answers the questions that were raised here last year about giveaways.

We were told the Government was giving away lands because there was a patent fee of $2.50 an acre. That was for the administrative costs of processing it. It was not the cost of being entitled to the patent.

The economic impact of what the Senator from Arkansas is trying to do, changing the mining law fundamentally, preventing a challenge of that in court after 6 months, is going to affect every State in this Union.

The mining industry surveyed 30 companies—only 30 companies, and there are hundreds of related companies in the country. In Delaware mining companies spent $3 million; Connecticut, $13 million; Indiana, $17 million. There is not a State in the Union that is not going to be affected economically in these periods when we are trying to create jobs. The Bumpers moratorium is going to kill jobs.

I urge that the Members of the Senate be aware of what is happening here.

We asked the Energy Committee in good faith to proceed with a bill to deal with the mining law, to bring the recommendations to the Senate. What happened was the Senator from Arkansas, himself, killed that effort in the authorizing committee. He killed it, because he offered what was called in the committee itself a Trojan horse, a better bill to take to conference to work out with the House of Representatives the amendments to the mining law of 1872. It was not a bill that dealt fairly with the concepts of the fees that we are talking about here, the $100 figure that is in the bill that has been added by the Senator from West Virginia. It did not deal with the fair market value concepts. It did not deal with royalty, and it did not deal fairly with the patent situation.

We are told repeatedly here that this is a giveaway. Let me tell the Senate: The expenditures to perfect a claim and take it to patent are astounding when you think about it. Let me tell the Senate once again that it cost $2,200,000 to patent 20 claims in Alaska. That was $5,500 per acre and that mine still is not in production.

We have had a series of other mines that are held up in Alaska because of the constraints on patenting that already exist.

Mr. President, let us just go to gold claims for instance. The gold mines in Alaska are primarily individual miners. We now have an average cost of production from a placer mine in Alaska of $317 an ounce. That is 70 to 75 percent of the market value for gold. In other words, even with the existing law, miners being highly regulated already by Federal law. For instance, miners are required to have a mine plan, a reclamation plan, a special use permit, a reclamation bond, the Corps of Engineers wetlands permit, a solid waste management plan, explosive storage permit, a mine safety and health administration training plan, and a national pollution discharge emission permit.

When you look at the cost of complying with existing laws, no one can stand on the floor of the Senate and say that it is a giveaway to develop a mining claim on Federal land. All of those costs paid by the miners are employing people throughout this country.

It is time for us to get down to some of the basic problems. The problem I particularly want to address is the history of the mining law with regard to royalties.

Mr. President, I ask unanimous consent that the summary that has been prepared for me by Chuck Hawley, one of the distinguished miners of Alaska on mining in Alaska, a summary of the mining law on public lands be printed in the RECORD after my comments here today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Let me point out in this short history Chuck Hawley relates how Congress has tried royalties before. For instance, in 1863 and 1864 Congress considered placing a 5-percent royalty on production. That was rejected at that time because of the history of the 10-percent royalty on production which was placed in effect in 1807 and rejected by the Congress in 1826.

The difficulty is that after those royalties were placed in effect, most of the mines went out of business. The royalty was actually reduced down to 6 percent in 1835, but neither the miners nor the smelters could or would pay the royalty.

The Midwestern copper mines also were stalled and Congress actually tried a 25 percent royalty before it was through. They were all dropped and the land fees reduced in order to restore mining in this country.

Hawley's history of mining shows definitely that in terms of dealing with the mining industry in this country, we have had full production where Congress relied upon the income to the Federal Government through taxes, employment taxes, the taxes on corporations, the extensive taxes that come through the development processing and mining, the actual mining of minerals, but Congress abandoned by 1872 the whole concept of royalties of mine production.

I urge Members of Congress when they have an opportunity, if they are interested, to look through the whole history of the experiments on royalties and see what happened. There is no question that the previous attempts to impose royalties on production from Federal lands failed, absolutely failed, and Congress eventually, in its good wisdom, eliminated them.

The 1872 mining law has had a history that has brought our mining industry to where it is today. I think that there is no question that it has been a successful one.

Let me point out that it once more delineated and shown to have commercial value as in the case of Greens Creek mine in Alaska. The company had to spend over $25 million to bring 23 mining claims to patent. That is getting an ore body ready for production.

I will ask the Senator from Arkansas to explain to us how that is free. There is no one in this country ready to bring these ore bodies to production except the mining industry itself. Mining does in fact create wealth. It creates jobs. And as I have shown with the letters on every Senator's desk, it has created a whole series of basic jobs in every State in the Union.

Mr. President, the problem that I really have in dealing with the position of the Senator from Arkansas is that, as I have said, it is without question extreme legislation on an appropriations bill, and how do we deal with it? We deal with it with the Reid-Domenici amendment which, by admission, is legislation as an amendment.

I wish the Senate would set a precedent and just do away with this concept and let the legislative committee come before the Senate with a recommendation, a recommendation that can be debated at length and not involve a concept of unfairly penalizing the very people that have used the existing law to fruition. Those who are ready to bring the mines into production are the ones that will be penalized first under the Senator's proposition.

He does not stop the filing of mining claims. He does not stop the assessment work in mining claims. He does not stop buying equipment to put mines into production. He does not stop anything except the final piece of paper that gives a miner the ability to borrow money under our free enterprise system to create new jobs.

I cannot believe that the Senator from Arkansas has made some of the comments he has made today. There is no question that new claims are subject to reclamation concepts. Since 1974, we have had those on forestlands operated under a notice or plan of operation. Since 1981, all exploration mining operation on BLM have been operated under an operation plan or notice. All of those include a reclamation plan.

The rules for reclamation already require saving of topsoil for final application after reshaping of the disturbed area is complete, measures to control erosion, landslides and water runoff.

Every operator is on notice that they must have a plan. Those, in particular, up to 5 acres, are still covered.

The Senator from Arkansas apologized to the Senate saying he made an error and said those below 5 acres. I have to tell the Senator from Arkansas he is wrong there, too. The 5-acre threshold does not exempt a miner from having a plan and they must have a similar concept involved in the plan that deals with reclamation.

The problem with royalties, in my opinion, is that royalties are a business expense. Our miners barely compete with the world today. And just as happened in the 1800's, if the Congress puts a royalty on mines on public lands, we will then see a differential between public lands and private lands as far as costs.

Further, it will reduce the incentives to develop these deposits on Federal lands. I guess that really is the goal of those people who oppose the mining law of 1872, to shut down access to the Federal lands for the development of the minerals there.

I believe that we have available a 1990 study by the Public Resources Associates, using BLM data, which shows the cost of administering a royalty system would exceed the revenue. Let me repeat that. A study by the Public Resources Associates, using BLM data, shows the cost of administering a royalty system would exceed the revenues from such a system.

The Senator wants royalties. None of the leading mining nations—Australia, Canada, South Africa—impose Federal royalties. There are some provincial governments that have them in lieu of an income tax. But we should not get into the concept of changing the mining law of 1872 with regard to royalties or changing the manner in which patents are issued or closing the courts of this country to mining and miners without some action by the legislative committee.

I see the Senator from Arkansas is on the floor today. I would ask him: Why has not the Energy Committee brought to the floor of this Senate a bill to change the mining law if it is so important? That is the committee of jurisdiction.

This is a basic change in the mining law of 1872. It does not belong on this bill. It is legislating on an appropriations bill. It ought not to be here.

But in particular, I am incensed as a lawyer over the closing of the courts of the United States to a challenge against this action, totally closing them after 6 months. No one could possibly even go to the court and say "I have been wronged by this." That is wrong. I think also it is unconstitutional, by the way.

There is a way to do it, and that is not the way to do it.

Now there are national security issues here I would like to get into. There is a whole series of other issues I would like to get into.

I am not going to really belabor the Senate, in consideration of my good friends from West Virginia and Oklahoma, because I know that they want to get on with this bill, and so do I. The bill has many things that apply to my State, that apply to the public lands of our country and those who are stewards of resources of our Nation.

We need this appropriations bill. We need it as soon as we can get it. I think it is a good bill. It is within our allocation. It is not a bill that in any way should be tinkered with with a veto or anything like that. It is a good bill.

The real problem, however, is that this Senator has stood and watched the moratoriums that have been placed on the oil and gas industry, the closure of public lands to the oil and gas industry. And do you know the result of that, Mr. President? Marathon has moved. Marathon Oil Co., one of the substantial oil companies in my State, has moved. It is now in the Sakhalin Island exploring for Russia. ARCO has now moved. It is in China exploring the South China Sea and East China Sea. Chevron is on the mainland of Russia. BP is moving to other places in the country and overseas.

We have massive buildings in my State that were built within the last 15 years by the oil industry that are vacant. We have whole subdivisions that are vacant. Why? Because the oil industry cannot operate on the public lands of this country in our State any longer, it is so expensive, in the areas where they are open, and most of them are closed anyway.

Now here we come up with another concept, and what is it? It is close the public lands of this country to mining. That is the objective of the Senator from Arkansas. And he ought to have the courage to say so. Because he is putting a moratorium on the issuing of patents on claims that were filed 15 and 20 years ago.

Now why in the world would the Congress of the United States want to say to people who have pursued a particular Federal law all the way through the process of going out and trying to locate a mineral deposit, filing a claim on it, then going back and establishing each year the operations that are necessary to perfect that claim, taking it to the point where it is capable of being proved that minerals can be recovered in substantial quantities, commercial quantities, getting it ready—and this is one thing I said I would get back to—what for? To file an application for a mineral survey.

That is something new in recent history, Mr. President. You do not go just for a patent anymore. You file an application for a mineral survey. In other words, first, before you can seek a patent, the Federal bureaucracy has to tell you, you were right in the first place, that it is in fact a valid claim. And they assess that and then you may go to a patent.

Now, I say to you that the objective of shutting down the mining industry on public lands in the West is important. But I say to you in all sincerity it is a matter of life and death for Alaska. We have lost our major industry in terms of resource. The oil and gas industry is leaving. We still have a substantial fishing industry. But our major resource industry that is left there now is a mining industry.

As I said to the Senate this morning, it is operated basically by Canadian companies. And I am going to speak at length on the floor sometime about that, why it is so that only Canadian corporations can afford to operate in Alaska today.

But beyond that, this moratorium sought by the Senator from Arkansas will be the death knell of the last major resource industry in my State. Timber has been shut off. Except in two places in Alaska, there is no timber operation. We have almost half of the timber that is capable of being harvested in the country. We have half the coal of the United States. We have 21 of the 23 critical and strategic minerals of the United States. Not one of them is being mined today.

Now, this Congress has the ability to assure that the resource base of Alaska is used for the benefit of the Nation or it can set this trend once again, as it did in oil and gas, and say the Nation does not need the resources of Alaska.

I feel deep down in my heart this is the target of the Senator from Arkansas, is to stop mining in Alaska. They almost did by the land that was withdrawn in 1980. Most of the land that had mining claims was withdrawn.

But do you know what? Congress could not cut off the validity of the existing mining claims. They were protected. The only way to cut them off was to buy them.

Now we have discovered another way. Kill them. Do not let them have a patent. Do not let them have the one thing they have worked their lives for, that gives them the title to their land and the right to develop the resources.

In other words, Mr. President, I hope the Senate will consider that statement as an opening statement that will occur if the Reid amendment is not adopted and the Bumpers amendment is not tabled. This bill to me, as important as it is to Alaska for fish and wildlife and for mines, for timber development, for all of the subjects that are covered, it is not important enough to kill the mining industry of my State, and that is what the Bumpers approach would do.

It is time to say "Take this back to where it belongs, to the Energy Committee."

It should not be on this bill. As a matter of fact, I am still considering making a point of order, and I yet may make it. We will wait and see what happens to the motion to table the Bumpers amendment.

This should not be on this bill. I have been accused of a lot of things in my day in terms of riders on appropriations bill, but I never tried this. I never tried to put a provision that would close the courts of the United States to rightful claims to challenge the actions of Congress. That is what the Senator from Arkansas does, and I think it is absolutely wrong.

EXHIBIT 1

GEOLOGICAL AND GEOPHYSICAL CONSULTING SERVICES

(C.C. Hawley & Associates, Inc., February 1991)

THE MINING LAW AND PUBLIC LANDS

". . . with the growth of individualism the miners and landlords obtained steadily wider and wider rights until well within the 19th century. The growth of stronger communal sentiment since the middle of the last century has [however] already found its manifestation in the legislation with regard to mines, for the laws of South Africa, Australia, and England, and the agitation in the United States are all toward greater restrictions on the mineral ownership in favour of the State." Herbert and Lou Henry Hoover, 1912.

It is now a certainly that the 102nd Congress will reconsider the body of law that governs the discovery, ownership, and production of the most valuable metals and nonmetals in the western United States. Among all current laws of the United States, the "Mining Law of 1872" (the Mining Law) may well be the one most vigorously defended and attacked by its users and opponents. Opposition to the law is not new; it is as old as the law itself. What is new is the strength and organization of the opposition.

The Mining Law, however, has strengths not contained in any new law yet proposed as its replacement. Largely because of its heritage in the 19th Century, the law has a democratic basis that allows for the widest possible participation in the mining industry. The costs of discovery and development of national mineral reserves are borne mainly by the private sector. Because of the self-administration inherent in the law, the need for bureaucracy is minimal. Because most of the revenues from mining have stayed in the private sector, dollars have been available to develop technology, to pay wages to skilled workers, and to conserve and ultimately produce low-grade ores after high grade ores have been exhausted. Today a higher proportion of dollars is also needed to pay for environmental protection. Historically, the benefits of technology development, high compensation of workers, and conservation of resources have not accrued in economic systems where aims have either been complete mineral self-sufficiency or maximum revenues to the State.

Although the Mining Law attracts special attention, it is only a part of a broader debate on the lands of the Public Domain. Will these lands continue to be used extensively for grazing, forestry, mining, hunting and other hardier types of recreation or will these uses largely be phased out for softer recreation and vicarious enjoyment? Traditionally, the public lands of the United States were used to produce food products, timber, and minerals for the nation. Recreation was of value to those who lived in the public land states but, except for the National Park System, national interest in and knowledge of the rest of the public lands was lacking. Today national interest views reflect a rapidly expanding population that has instant pictorial access to the beauties of the West, as well as leisure time to physically enjoy those resources. As a result, there is more concern regarding management of the public lands, and quite a few eyes are focused on the mining law.

What is this entity that invites such attack and vigorous defense? Basically, the law encourages all Americans to enter the Public Domain and search for minerals. If a discovery is made which, in the view of the prospector is valuable, one or more mining claims of about 20 acre size can be "staked" or located. By diligently exploring the claims the miner can hold the claims against another private claimant. If sufficient ore is so outlined that a government mineral examiner finds that the prospector has made a prudent and marketable discovery, the claims are also then recognized as valid by the government, and can be patented. Patent is a fee simple title to both the mineral and surface estate of the claims. Patent is not required; it is at the option of the claimant.

Unpatented claims also are a property right. They can be sold, traded, leased, or mined. But the right is not as secure as patent and the claims must be maintained by annual labor. The claims can be challenged, at any time, by government in a validity determination. The risks to the miner are not all from the government. A locator who is not diligent in exploring a claim can be subject to an action in state court filed by another prospector who has made a discovery on the claim in the absence of the locator. Unpatented claims revert to the Public Domain when the ore is gone or if maintenance work stops.

Only certain minerals are subject to the law. Gold, silver, copper, other metals, and certain non-metals can be located under the Mining Law. Coal, oil and gas, phosphate and most other minerals which tend to form beds or layers cannot be obtained under the mining law but are leased (Mineral Leasing Act of 1920). Common varieties of building stone and most deposits of sand cannot be staked or located, a part of the law clarified by statutes passed in 1947 and 1955. These and many other modifications show that the term "Mining law of 1872" is only a short-hand means of describing an entire framework of law for the "locatable" minerals. This body of law is described in United States Code, Title 30.

The Mining Law operates only on the Federal Public Domain—Federal land not withdrawn or classified for other uses—and certain lands of the United States Forest Service (Forest Service). The Public Domain is administered by the United States Bureau of Land Management (BLM), and most but not all BLM lands are open to the mining law. Lands administered by the National Park Service, Fish and Wildlife Service, and any lands of the Wilderness System, regardless of administrator, are not open. In the western United States, most non-wilderness lands of the Forest Service are open to location.

But the Public Domain and the public land base open to the mining law have decreased significantly since the 19th Century. Nationally, the Public Domain originally consisted of about 1.8 billion acres out of the total 2.3 billion private and public acres contained in the United States. Many of the Public Domain lands in the midwestern and plains states were never open to mining location; most of the western lands including Alaska were originally open to the Mining Law. The public lands of the United States now total about 690 million acres. About 300 million acres of these lands remain open to mining location; about one quarter of the open lands are in Alaska, and all the western states contain extensive areas open to the Mining Law.

The Mining Law originated in the same period as the Homestead Act and, because both laws opened the land to entry and acquisition mainly by the toil of the locator, the two laws are often compared. One implication is that while both laws were timely once, neither is timely now. Those that oppose the Mining Law would like to see it follow the Homestead Act into oblivion. The circumstances are not, however, parallel. Most of the arable lands of the United States have been identified and are in private ownership: These lands are sufficient to feed the nation and a large part of the rest of the world. The mineral estate cannot be appraised as easily as the arable lands. If those minerals that are rare and difficult to discover still can be found and developed efficiently under the Mining Law, the law is not outdated.

There is also little basis for comparison of the Mining Law and the Homestead Act in their relative effect on the Public Domain, past and present. Agriculture still uses the most land of any modern activity. Mining uses the smallest. Metallic mining has used less than one half of one percent of the land in any of the Western States. In Alaska the percentage is in the range of hundredths of a percent. According to United States Bureau of Mines' statistics, less land had been used by mining in Alaska than in any other state, including Rhode Island. These statistics were reported in 1980, but mining use has not changed significantly since that time. The relative effects of the Homestead and Mining Acts on the Public Domain are clearly shown as percentage in items 2 and 15 of the following table.

Table—Where has the public domain gone?

	Percent
1. Unclassed public, private, and preemption sales	26.2
2. Homestead Act	25.1
3. Railroad Grant and Construction lands	11.5
4. Lands for public improvements, reservoirs etc.	10.5
5. Common School lands	6.7
6. Reclaimed swamplands	5.7
7. Veteran's grant lands	5.3
8. Confirmed grant lands	3.1
9. Hospital and asylum lands	1.9
10. Timber and stone law lands	1.2
11. Timber culture (reforestation) lands	1.0
12. Desert reclamation lands	0.9
13. Canal and River Right of Way lands	0.5
14. Wagon Road Grant lands	0.3
15. Patented mining claims, other than oil shale	0.26
16. Patented oil shale lands	0.04
Total about	99.9

SOURCES: Public Land Statistics 1989, V. 174, and other BLM documents.

Out of the more than 1.1 billion acres formerly in the public domain and now in private or state ownership, only about 3.5 million acres have been patented under the mining law. At present patents continue to be granted, but at a very low rate. Except for a bulge in patent acreage in 1987 due to grandfathered oil shale titles, there is no evidence or trend suggesting that pressure to patent is increasing. Contrary to statements in some of the media, patents are extremely difficult and expensive to obtain. Undoubtedly to those who dislike the mining law any patent is unacceptable, but perhaps to others the numbers above may suggest the proverbial tempest in the teapot. Statistics on Alaska mining patents are not separated from those in the rest of the United States, but a fair estimate of the land patented for mining in Alaska is 100,000 acres—out of the 378 million acres comprising Alaska.

Almost all aspects of the Mining Law are controversial, and the areas that users believe in most strongly, such as self-initiation, are often the most strongly attacked. It is stated or implied that mining claims can be held and patented for practically nothing, and that the nation is losing vast amounts of wealth because of the lack of royalty. These arguments are often given in ignorance of the nature, cost, and benefits of the mining industry.

Many people believe that self-initiation, the encouragement for persons to freely enter the public domain in the search for minerals, is the true basis of the mining law. Self-initiation is certainly a democratic basis, and one that has a direct tie to a free market system. Any American citizen, U.S. Corporation, or foreign national with declared intent to become a citizen can locate claims on appropriate public lands. As long as only hand tools are used and there is no significant disturbance of the lands, no notice is required in order to search for a deposit. There is no requirement of great wealth. Although much is made of technical requirements of prospecting in the 20th century, the truth of the matter is that many discoveries can still be made with a geological hammer, a shovel and an observant eye. That ancient instrument, the gold pan, is still effective. Perhaps the modern prospector will send his panned concentrate to an analytical laboratory to search for some elements, but the presence of heavy elements like gold, platinum, mercury, tin and tungsten is fairly obvious, and the prospector has only to go upstream to look for the source. It is not easy, of course, but the idea that only large sophisticated organizations can find minerals today also is erroneous.

Detractors observe that other systems work. Mining companies pay large sums to obtain prospecting concessions in undeveloped countries. Socialist countries have used vast sums to prospect and have been successful in establishing mineral production. But no other system searches for such a large range of deposits, in terms of size and richness, and uses the observational and entrepreneurial abilities of such a wide range of people. The private sector maintains an inventory of the mineral wealth of the public domain, at little cost to the taxpayer. The incentive is that the deposit found belongs to the discoverer—either a limited ownership if claims are unpatented or complete ownership if claims are validated and patented.

Within the wide range of all classes of prospectors and claimants, there is a reservoir of knowledge that can and will be tapped if economic conditions change. If commodity prices begin to increase for metals such as gold, or platinum, or yttrium, or beryllium, the reservoir is tapped. Old claims are restated. New prospects are sought. If elevated metal prices are stable for several years new production results; if they drop immediately, the prospects may be relinquished, but the knowledge gained is there ready to be tapped at a later more auspicious time.

Lease systems cannot and do not respond in the same fashion. By the time a government agency has determined that a favorable market condition exists, and a sale is scheduled, the market window may well be gone. Also because of the financial requirements for lease eligibility, only a fraction of the players exist. The players at the bottom end of the scale are squeezed out in favor of the large corporation.

One of the main problems with the use of a lease system for hidden metal deposits is the determination of value. The value of the discovery will be apparent only after several years of exploration and studies of metallurgy and mining methods; prior to this determination what is there to lease?

Leasing stifles the incentive to explore and develop geologically rare and complex mineral deposits.

A SHORT HISTORY OF THE MINING LAW

"They are adventures, adventures of the common man . . . In the gold rushes tens of thousands of men took part, and although many faltered or fell by the wayside, the best of them evolved a new type of self-reliant, careless social life. With all its faults, it had a fine savour of the spirit of adventure, which is the salt of history."—MORRELL, 1968.

The Mining Law did not suddenly emerge from the Congress in 1872. It followed about 80 years of uncertainty and experimentation with public policy on mining. But it was also founded on law and a tradition of free mining that can be traced back to the 13th Century in England and in central Europe.

The present debate on mining is similar in several respects to the debate that occurred between the early 1800s and 1866, when Congress passed the first mining law to resolve the issue. Congressmen who distrust individual initiative and ownership today would have found natural allies before 1872.

Some exploration and mining took place in Colonial times. Early explorers hoped to find metals, and the charters of the London and Plymouth companies reserved one fifth of any precious metals discovered and one fifteenth of copper to the crown. Prospecting, especially in the Jamestown colony, discovered iron ore but no precious metals. In later Colonial time small quantities of lead, iron and copper were mined, but mining and especially metal processing were discouraged so that the colonists would buy articles manufactured in England. Because of the lack of success in prospecting for precious metals, many people in revolutionary times, including Benjamin Franklin, believed that northern North America did not contain significant deposits of precious metals and probably would never be a significant producer of gold and silver.

The first important gold discovery in the new country was made in 1799 on private land in North Carolina. Mining developed into a small but consistent industry; the miners, often neighboring farmers, paid to the property owner from one-third to one-half of the gold recovered. The first real gold rush in the United States, with attendant land problems, occurred on private and Cherokee land in Georgia in 1829. The mineral province discovered in the southeastern United States was an important one, but in terms of the 19th century West, the main importance of the discoveries in the Appalachian region was that many Americans, including the Cherokee, learned how to prospect for and to mine gold.

The first successful mining on the Frontier, the land that became the Public Domain, was for lead—a necessary ingredient of shot and bullets. Lead was mined on a concession from the French Crown from about 1720–1740 in what is now Missouri. Further north, Julien Dubuque established an excellent relationship with the Sauk and Fox Indians and mined with them in what is now Iowa, Illinois, and Wisconsin from about 1775 to the Louisiana purchase (1803). After purchase, Congress intended that lead mining should continue. A lead mining act was passed for the newly acquired territory on March third, 1807. A royalty of 10 percent was established on production. Mining on a concession under the Act was carried out successfully by James Johnson from 1822 until about 1826, but in only a few years most production came from independent miners producing ore in trespass. To make it more attractive to miners, the royalty was reduced from 10 to 6 percent, but by 1835 neither miners or smelters would pay a royalty.

The first major mineral discovery in the United States was of the copper deposits on the Upper Peninsula of Michigan. Copper had been produced there on a small scale by Indians for hundreds and possibly thousands of years and was known to French missionaries by the 1600s. Pioneering geological work by Douglass Houghton in the 1830s established the possibility of a major copper province. Following a treaty with the Chippewa in 1843, the government granted copper mining permit areas of 9 square miles with a royalty of 20 percent. Some copper was sold from copper boulders in the glacial cover, but the royalty was too high for the value of the copper. It also soon became evident that successful extraction of copper would mean deep mines and their large attendant costs. In order to induce activity, the royalty was dropped and the lands were offered for sale at $5.00 per acre. The price was finally dropped to $1.25 per acre and significant activity began. From about 1850, the Michigan mines produced immense amounts of copper. The mines were finally developed to a depth of more than 2 miles down the dip of the lodes, and production was sufficient to maintain U.S. copper supplies until the late 1800s when western mines became dominant.

After the indifferent success of leasing and sales of mineral land in the early 1800s, Congress was fairly well divided on what to do next. Should mines be proved up like the homesteads backed by the Free Soil party, or should mineral lands be sold or leased?

Events resolved the question. Although there was some gold mining in Spanish and Mexican California, mining was a very minor industry. But only a few days before the actual passage of title of the California territory from Mexico to the United States in 1848, James Marshall discovered gold in the mill race he was building for John Sutter. The discovery was only about 30 miles from modern Sacramento. Although secrecy was sought, the word was out almost immediately. The greatest Gold Rush in history was on.

It is doubtful that the rush could have been controlled by any available combination of law and authority. California was, then, under a military government. Officers in charge did not believe the rush could be restrained: Colonel Mason and his successors, with a few reservations, also believed that the rush with its discoveries, and the growth of supporting population and industry was in the best interest of the country. Licensing and military force were considered but rejected. Laws were needed, however, and were supplied by the miners themselves.

Although guidelines varied in camp after camp, miners established local regulations that rewarded discoverers with claims and established rules of mining. Procedures of recording were adopted and a rough but generally effective and accepted justice system established. Early 1849 was in the opinion of some scholars free mining at its best. There was adequate room for all, the camp followers of a gold rush had not yet arrived, and the dominant tone was for free mining occurring in a democratically administered society.

The placer gold rush sustained itself for several years. And discovery of the first lodes or hard rock deposits continued the rush. The lodes were incredibly rich and, just as important, processing was not difficult. The hard rock deposits first yielded their gold to the arrastra, a primitive crushing device well known to Mexican miners, and next, to the stamp mill familiar to German and Cousin Jack (Cornish) miners.

Although rich ores were rapidly exhausted, the region was so large and widely mineralized that discovery followed discovery. Congressman watched; it can be assumed that some liked what they saw and some did not, but discovery and production of mineral wealth was happening on a scale not conceived of a decade before. In 1863–4, Congress did consider placing a royalty of 5% on production from the mines but rejected the idea, at least partly after extensive testimony from Western miners. The miners pointed out that, although vast amounts of metals were being produced, much of the profit was consumed in development of mines and processing technology and in transportation and other costs. Further, there were more pressing events: From 1860-65 America was consumed by the Civil War. The great wealth pouring from the gold mines of California and then the silver-rich Comstock lode in Nevada was needed and used to sustain the Union. The North financed the Civil War with "greenbacks", but this currency had value because of its backing with precious metals.

President Lincoln was well aware of the importance of the miner's discoveries. On the fateful afternoon of April 14th, 1865, President Lincoln told Speaker of the House Schuyler Colfax that he should proceed with a scheduled visit to the west for that summer and that he, the President, would give the Speaker a message to the people of the west on the importance of their gold and silver mines in the coming peace.

Although the Mining Law is commonly referred to as the Mining Law of 1872, it is almost as accurate to call it the Mining Law of 1866—the date that the fundamental character of the law was set. The main protagonists then, as in the debates on the law in Congress in 1990, were divided regionally. George Washington Julian, the Representative from Indiana, proposed that mineral lands be subdivided and sold. Senator William Morris Stewart of Nevada proposed to ratify the free mining practices adopted since 1849, and also to allow the discoverer to purchase the discovery for a nominal fee. Other western Senators sided with Stewart in the basis concept of self-initiation and discovery, but believed that adoption of all practices favored by the mining districts could result in serious problems later. With his powers of debate, Stewart won the battle in the Senate but Julian stopped the Senate bill in his Public Lands Committee in the House. The western view prevailed when Stewart changed the body of a canal right-of-way bill and sent it to the more favorable House Committee on Mines and Mining. The "mining bill" emerged as "An Act granting the Right of Way to Ditch and Canal Owners Over the Public Lands, and for other purposes" in March 1866.

The act of 1866 memorialized self-initiation and discovery and relatively small size of claims and other features to prevent monopolization of discovery. It also put into law the concept of extralateral rights: If a vein of gold was truly vertical it would stay within the side lines of a claim as they extended into the earth. But, in the more common case, a vein was not vertical but dipped at a shallower angle and crossed the side line at depth. Extralateral rights allowed the miner whose vein was exposed (cropped out or "apexed") near the center of the claim to follow the vein off the side lines without staking additional claims on the flank of the discovery.

The 1866 law was modified in the Placer Act of 1870 and emerged in a semblance of its present form in 1872. The size of claims was enlarged. Although the law was largely to be self regulating, Congress reserved the right to make regulations and recognized the power of local law making bodies to provide the necessary detail that was not in conflict with federal law.

Serious critics of the mining law have pointed out that the system adopted was really most applicable in a bonanza situation, where numerous miners can profit from high grade ores and where mines can profit from the start of mining. The reality is that, once the high grade ores are gone, it is necessary to consolidate claims into larger groups and perhaps hold claims for many years pending development of access, capital, and technology. Extralateral rights, although fine in theory, proved exceptionally difficult to deal with in practice. Generations of mining engineers and lawyers became wealthy as the courts decided which veins cropped out or "apexed" on whose claims.

Although deficiencies in the law certainly existed and caused an excessive amount of litigation, the most serious technical deficiencies were corrected by 1920 with the encouragement of Congress and the Courts.

There was enough fundamental strength in the original concept to hang a law on.

DISCOVERY, DILIGENCE, AND TENURE: FINDING AND HOLDING A FEDERAL MINING CLAIM

"Art. VII—Resolved. That no person's claim shall be jumpable on Little Humbug while he is sick or in any other way disabled from labour, or while he is absent from his claim attending upon sick friends." Regulations of the Little Humbug Creek Mining District, Siskiyou County, California.

In the tradition of the gold rush, discovery and keeping a mining claim were the first and second problems. Without the first you could not establish your right to dig, but in most camps if you found gold and began to dig and kept on digging you could hold your claim. Diligence and tenure were direct and obviously related. If you left your diggings for a day or two, that is, if you were not diligent, your claims would likely be jumped. You did not have tenure and started over. Placer claims were limited in size and most often limited in number, with the discoverer usually granted more claims than those who followed. In some camps, a claim was 10 feet long or 10 feet square or perhaps the radius of a shovel handle. Lode or hard-rock claims were narrow and only 25 or 50 or 100 feet in length along the vein. Initially the soft, oxidized part of the vein could be mined and processed like the placer deposits, by washing the dirt. At a depth of only a few feet, however, crushing became a necessity. Miners' rules allowed some reasonable time, perhaps several weeks, to stop mining and build a crude mill.

Monopoly was not tolerated in the early mining camps. Even today in Alaska, long time placer miners may take a dim view of mining companies, and older miners at Flat may still speak of the "Googs" (Guggenheims) with some admiration but more contempt.

It is difficult for people today observing placer mining to realize how rich the virgin placers were. The near surface gravel could be nearly barren, with perhaps a few flakes of gold, but when the bed rock surface was reached it could be literally paved with gold. On the beaches at Nome, a miner could make a living in a claim the length of his shovel. Further inland at Snow Gulch, a narrow rill less than a mile long with gravel 3 feet deep, miners took out nearly one-half million ounces of gold. And at Caribou Bill's mine, an unusual pothole cut into bedrock, the average ground must have yielded about 2½ ounces of gold per cubic yard, with some pans containing one-third of an ounce. Some of the placers in California, Montana, and Colorado were as rich. Mines like these could be worked by individuals or small groups.

Events, however, dictated that mines should turn from democracy to capitalism. The rich placers and lodes were exceptional and were quickly exhausted. Left were larger areas that also contained immense total amounts of gold, but were not rich enough to be worked by hand by individuals. It was necessary either to have larger claims or to consolidate them into groups, and to develop labor saving technology to move ground more economically. By 1872, when Congress updated the Mining Law of 1866, the size of an individual claim had been enlarged to its present size—a maximum of 1500 feet along the vein and 600 feet across for lode claims and 20 acres, usually 1320 by 660 feet, for placer deposits.

Time was needed also to construct ditches or to raise capital for mining and milling machinery. In many camps, such as Central City, Colorado, much more advanced technology had to be used to recover the metals from refractory ore—the development took more than 5 years—so provisions were introduced to allow holding of claims. To be safe, a miner needed to be in possession of his claims, but he could hold his claim against another prospector if work equivalent to a minimum of $100.00 per claim was done annually. But with another part of the law, the miner could be fully protected by United States title if he spent at least $500 on development of his claim and had it surveyed. If the work on the claim passed the scrutiny of the mineral surveyor, an agent of the government, patent could be obtained.

In the early days, discovery was obvious. If the gold or silver was there, the miner started producing. But discovery was not nearly as obvious in a large deposit of ore that would not yield gold to the stamp mill. Discovery would also be difficult to pinpoint in a deposit of lead, for example, with a small amount of silver or copper with some enrichment of gold at the surface. These deposits generally needed a better transportation system than the mule or stage coach; they might underlie many claims, yet if they could not be presently mined was there a discovery? What if the new discovery was not shaped like a vein, but was more like a bed or a very irregular mass? How could the miner establish extralateral rights if the ore body was flat and, worse yet, did not crop out at all but was intersected in a shaft?

None of these eventualities were well considered in the Mining Law of 1872. Other western Senators had argued this with Senator Stewart of Nevada but had lost. Even today they sometimes cause problems, but two of the problems of discovery were solved in 1894 and 1919 in, respectively, the cases of *Castle* v. *Womble* and *Union Oil* v. *Smith*. *Castle* v. *Womble* helped by defining discovery with the Prudent Man test. Many outsiders looking at the mining industry consider a prudent miner to be an oxymoron, but the courts held that a discovery was valid if a prudent person would spend his own dollars in order to develop the claim. A discovery did not have to pay from the start. In patent proceedings, a second test, marketability, is also used.

In *Union Oil* v. *Smith* the court held that although discovery was still necessary to obtain patent, it did not make any difference if discovery came before or after locating a claim. A miner could make a location sufficient to hold his claims against others, but could not have the full benefits of title until a discovery satisfying the prudent person and marketability tests was made.

The concept of location prior to full discovery, called "pedis possessio", and the prudent person test are the true bases of the modern metallic mining industry on federal lands. The prospector finds evidence of mineralization and on the basis of his knowledge—influenced fully by competition at hand—stakes an area that includes the deposit as it is visualized. If the prospector is a professional, his or her ideas of size and shape are strongly influenced by a sophisticated geologic model. The practical prospector is also guided by theory, which may not be as sophisticated but if it is based on good observations is often fully as valid.

Even though prospecting and making a pedis possessio discovery may be difficult it is just the bare beginning of a mine. The discovery is a concept, probably backed up by a few exposures of mineralized rock, that should hold against another prospector, but would probably not hold against a federal mineral examiner. The discovery must be validated.

Two of the provisions of the 1872 law that are most strongly criticized are the fee for annual labor ($100 per claim of 20 acres) and the fee to obtain patent ($2.50 to 5.00/acre), when the claim is validated. Neither has changed since 1872. But other factors have changed.

In the early high grade years an economic mining unit could be a 100 square foot block or a 50 foot length of lode. By 1872 it was recognized that an economic unit had to be larger, at least 20 acres, and several claims might be necessary for a mine. Today, although 3 or 4 claims could still be a mining unit for a small placer mine, a logical mining unit for a hard rock mine could include anywhere from 20 to 50 claims or more. The economic equivalent of what could once be held for $100 now would cost a minimum of $2000 or $5000 per year. Because of the escalation in what can be an economic unit in mining, the annual labor fee has in fact kept pace with inflation. A scheduled increase in fee structures would encourage diligence and discourage speculation in mining claims. But, in many cases, it could also effectively take the legitimate efforts of claimants that have made a potentially valuable discovery and are attempting to hold the deposit until it may be developed. If a discovery is in a remote region, it may be necessary to hold the claims for decades.

The patent transfer fees of $2.50 per acre for placer claims and $5.00 per acre for lode claims are perhaps even more widely criticized than assessment costs. The fees, however, have almost no correlation with the actual cost of obtaining patent. The major costs are in acquiring the data to establish the fact of a valid discovery and turning the discovery into what could be a mine.

One Alaskan example is pertinent to both the cost of validation and diligence issues. A hard rock mineral deposit in the Central Alaska Range was discovered in about 1909. When Steven R. Capps of the United States Geological Survey visited the claims in 1917 he found many small cuts, one cut 120 feet long and 221 feet of underground workings. Capps noted:

"The fact that no producing mines have been developed in no way reflects upon the character of the ore or upon the industry and initiative of the prospectors, for the lack of anything more than the crudest and most expensive means of transportation would have prevented the mining of all but the richest bonanza deposits" (1919, p. 222).

The Alaska Railroad reached the region in about 1920, but the deposit was some 15 miles off the rail line and across one major river, so access was still a problem. When government geologist Clyde P. Ross visited the area in 1931, he reported that ". . . many of the claims have been abandoned, and the annual assessment work on the others has been carried out under such handicaps that little has been accomplished". (1933, p. 291). Even with these difficulties, a second tunnel was driven into deposit in 1931–32. The rock encountered in the tunnel was geologically interesting, but it was not rich enough to be ore. The property was then leased to an experienced Alaska mining man, W. E. Dunkle, who continued the tunnel into rich ore and started a drilling program. In a search for development capital the property was optioned to Anaconda Copper Co. in 1936. Anaconda continued drilling, but returned the property partly because of very poor drilling conditions in the deposit. The local principals, however, thought enough of the project that they formed an Alaskan corporation that raised money in Seattle and throughout the Alaska Railbelt region, from Seward to Fairbanks, and placed the mine in production. In the process, they constructed a low-head hydroelectric system, sawmill, processing plant, and essentially a small village for employees. Production did ensue, but timing was bad. The mine opened in late 1941 and it closed in 1942, because of World War II.

The owners maintained the claims after the war, but war time inflation and the fixed price of gold had a drastic effect on the potential profit of the mine. The property was maintained at a minimum legal level until, with increased gold prices, it again became of interest. Since 1971, it has been examined, drilled, and tested by four major mining companies and by its owners. The total annual labor expenditure from 1909 until 1990 is uncertain, but there are good records from about 1970 on. During this period more than $5,000,000 was spent on development of reserves.

No attempt to take the claims to patent has been made. There has been some duplication of work, but most of the labor has been legitimate and addressed to understanding a large and geologically complex property. If at some time, the claims—which consist of about 1000 acres—are patented will the purchase price be considered as $5000.00 or will it reflect the expenditures of more than $5,000,000 to validate discovery? Placer claims may be validated for less than for a geologically complex lode deposit, but validation of a large placer deposit can also be very expensive. The example below comes from a recent application for placer patent:

Statement of fees, costs, and charges for mineral patent application FF , M. S. , 10 mining claims:

1. Cost of survey	$10,650.00
2. BLM processing costs	525.15
3. Purchase price	1,035.00
4. BLM filing fees	25.00
5. Title abstract	1,165.70
6. BLM Geological report	3,476.70
7. Exploration drilling and engineering	1,081,666.00
Total	1,099,257.50

Cost per claim—$109,925.75.

Cost per acre—5,496.29.

The true benefits to the non-mining American from the mining system contained in the Mining Law are, the discovery of new wealth, the value added to the initial discovery by exploration and development, as well as benefits from production itself. The cost of exploration and development that must be done before production commences annually amounts to hundreds of millions of dollars.

It is a cost borne mainly by the private sector, from the prospector to the conglomerate.

PLACERS, LODES, AND COMMON ORES

It is an ". . . almost impossible accomplishment to make our national representatives from other states comprehend, in a rational manner, the true relation of business and facts, in connection with the mining industry". Sylvester Mowry, An Arizona miner, 1864

Some problems with the Mining Law of 1872 arose from the lack of definition of critical terms, others from changes in the mineral industry that could not be foreseen in 1872.

Although both placer and lode claims were recognized in the Mining Law of 1872, neither placer nor lodge was clearly defined. Gold mixed in the sands of a river bar or buried more deeply in stream gravel was clearly in a placer deposit and subject to the mining law, but what of the gravel itself? Or more indirectly, what about oil-bearing shale formed in ancient lakes in Colorado and Utah? Like the placer gold deposit, the oil shale had formed under water essentially at the earth's surface, but it had then been buried and hardened. If the oil shale deposit was not a placer, what was it? It certainly was not the same kind of lodge as a gold-bearing quartz vein if it was a lodge at all.

The first attempt at a solution of the placer vs. lode dilemma may have helped, but did not resolve the issue. Basically the courts held that anything that was not a lode was a placer deposit. This interpretation led to unusual categories of claims, including placer claims for oil or oil shale.

The rapid development of the west caused by the discovery of gold contributed to the placer and lode definition problem and essentially initiated the problem of common minerals under the Mining Law. In gold rush days, no problem existed with common minerals. Only the richest types of mineral deposit could possibly be economic and of interest to the miner. These deposits were and are, in terms of land area, extremely rare. The discovery and reward system was appropriate in their location.

But as development proceeded, more common types of deposits also became valuable. Stone deposits were valuable for local building and, with the coming of the railroad, hard coal deposits near the right-of-way had immediate value. Steaming coals were not exactly common, but they were not as difficult to find as a metal deposit underlying a few acres. In contrast to the metal deposits, the extent of coal fields was measured in square miles or townships.

In the Rocky Mountain states, the problem of coal deposits was addressed first in Railroad right-of-way laws. As an incentive to rail construction, mineral rights in alternate sections along the railroad rights of way were granted to railroad companies. These lands were not subject to the mining law. Rights to other coal deposits on western public lands were finally resolved in 1920 when coal, oil and gas, and most of the widely distributed "bedded" deposits were withdrawn from the Mining Law of 1872 and put under a leasing act.

The common variety problem was approached by the Congress in both 1947 and 1955. In the Materials Act of 1947 most building and construction stones and minerals which had been subject to location were placed under a competitive sale system. After passage of the Multiple Surface Use Act of 1955, only construction materials that had special properties could be located; common varieties of rocks for building and related purposes would be obtained under the Materials Act of 1947. A placer miner who has held mining claims staked before and maintained continuously since 1955 may be able to sell common sand and gravel from his claim. But sand and gravel cannot be sold from a claim staked after 1955.

The intent of both the 1947 and 1955 laws was to further limit the Mining Law to rare substances. The intent has not yet been fully realized. Creative miners rarely but sometimes have attempted to locate "uncommon" varieties of sand and gravel. A current complex and controversial claim involves pumice in the Jemez region of New Mexico on lands administered by the United States Forest Service. The pumice at least in part meets the location test given in the 1947 Act, but it is abundant locally and occurs in a scenic region. Patent is being sought on the claims; the pumice will be used to "mill" blue jeans to give them that faded look. If patent is granted on these claims, the decision will almost certainly be cited as another reason for elimination of the Mining Law, even though the case is an isolated and unusual one. Although the pumice locators may not be happy, probably most other miners would advocate another amendment to, rather the replacement of, the law. The law can be amended so that it never applies to such rock materials, even if they are not common varieties.

In attacks on the mining law, egregious examples are routinely exploited where a developer has reaped a windfall from land acquired from the government supposedly for practically nothing. Most of these examples are exceptions that derive from some grandfather clause. Some, like the New Mexico case, may reflect need for further amendment of the law. But the cases cited are very unusual; they will become rarer as grandfather rights disappear or as corrective changes are made to regulations or law.

Some of the examples may also not be as flagrant as they appear to be. Oil shale has not been subject to location since 1920, but some claims have been held since the early 1900s on grandfather rights. Considering the time value of money, and the dollars spent on generations of exploration as well as litigation and lobbying, is it wrong to issue an Oil Shale patent in 1987 for $2.50/acre on an oil shale placer staked in 1915? Some of the examples also need consideration in the context of other land dispositions of the same time. Sales of sand and gravel from a few grandfathered claims near Las Vegas after often cited as an undeserved windfall, but they date from the same era when the U.S. Government sold Howard Hughes some 30,000 acres of Las Vegas area lands at $5.00 per acre to build an aircraft factory. No plant was ever built, and the land is now the base for the massive Summerlin land development. Only hindsight views such happenings perfectly.

In a case cited in a report issued recently by the General Accounting Office, a miner reaped an apparent sizable profit by selling his patented claims to a ski resort. But the miner wished to mine his claims and only sold after local zoning regulations made the mine impossible; this mitigating circumstance is not usually pointed out by those who cite this case as an example of unwarranted profit, or incompatible use of mining land. Although it may be desirable to hold mining land for mining, just as a case may also be made for reservation of arable land for agriculture, it is difficult practically and in equity to tell an owner what to do with private land as economic conditions change.

Another aspect of the Mining Law that has attracted critical attention has been nonmining use or occupancy of unpatented federal mining claims. Although abuses continue, the problem has been addressed in law, and can be controlled by the Federal land managers. Before 1955, it was clear from case law that the only legitimate use of a federal mining claim was one that related to mining—prospecting, development, or extraction. The miner could occupy the claim, but his occupancy was related to mining. The Multiple Surface Use Act of 1955 put the case law interpretation into statute; claims located after the 1955 Act could be used only for ". . . prospecting, mining, or processing and uses reasonably incident thereto". Largely because of abuses on use of mining claims in the contiguous 48 states, the Bureau of Land Management is now considering revision of regulations on occupancy of mining claims. Probably some revision is warranted, but it should be with the view that a need for occupancy still exists. In Alaska and in sparsely populated parts of most of the western states, full or part time occupancy of remote mining claims is essential.

Two significant problems of the mining law were addressed in the Federal Land Policy and Management Act of 1976, the law that governs the United States Bureau of Land Management. Before that act, because mining claims were not registered with the BLM but only with County or District Recorder, federal land managers had no direct knowledge of who was on the Public Domain for mining. It was also uncertain how many claims were being actively pursued and how many were inactive or "stale". A specific date was set to register all federal claims and many locators chose not to register. Although any claims on open Forest Service or BLM land that were dropped could be relocated by others, claims on Park Service or other withdrawn lands could not be, eliminating many locators who did not intend to pursue development. Since the 1976 Act, all records of location and annual labor are filed by the miner both with the state recorder's office and with the BLM. These recorded documents, together with notices or plans of operations required before any significant land disturbance takes place, allow federal agencies to track activities on mining claims.

Most supporters of the Mining Law of 1872 believe some other changes are desirable if not absolutely necessary. Two possible amendments are the complete elimination of the difference between placer and lode claims and the elimination of extralateral rights. But both of these features of the mining law still have their advocates. In Alaska, particularly, the duel system of claims appears to have considerable merit. One example of the continued need for both placer and lode claims is in active placer mining regions of Alaska where the small placer miner works his mine next to mining companies exploring the adjacent land for lode deposits. A single system would not likely displace the small operator. Although the dual system has caused problems, some could be resolved by better definition of terms, and, as commentator George Reeves has recently pointed out, some of the supposed conflicts do not actually exist.

The case for retention of extralateral rights rests largely with the amount of surface land covered by mining claims. A narrow steeply dipping deposit claimed with extralateral rights has a much smaller footprint on the federal domain that would the same deposit claimed with vertical boundaries. Some 20 years ago, before gold mining had its rebirth, opinion, favoring elimination of extralateral rights was practically universal. With production starting again from older vein-type districts, some former staunch advocates of this change now favor application of extralateral rights where they are appropriate.

PLANNING, THE ENVIRONMENT, AND INDIVIDUAL INITIATIVE

". . . mineral exploration and development should have a preference over some or all other uses on much of our public lands."
Public Land Law Review Commission, 1970

Self-initiation inherent in the Mining Law of 1872 and real or conceived environmental problems probably have been the two prime causes for attacks on the Mining Law, although the lack of a royalty would be a close third. Self-initiation is envisioned as negating proper planning or, in essence, as preplanning the land use of an area. And the mining law, in itself, does not contain much environmental protection. These problems have, however, been addressed extensively outside the mining law.

Self-initiation has been dealt with in a most Draconian fashion by withdrawing large areas of land from an application of the mining law, and generally even from inventory of the land's mineral wealth. Is this really good land planning and management? Further, on the land that remains open to location, both the United States Bureau of Land Management and the United States Forest Service now have complex planning processes which can be used effectively to limit development. The rights of self-initiation still exist in the location and discovery process, but as far as development rights are concerned, they have been greatly proscribed by changes in other laws.

Not all planning and mining issues have been resolved, but there are both process and framework in the planning mandated by the U.S. Forest Service and BLM. Valuable ore deposits are so rare that they represent exceptions to most land plans and obviously can only be discovered where they exist. Although the exact location of a deposit remains to be determined, it is possible to identify large areas that are more likely to contain a deposit of a certain type than would adjacent areas. These areas can be recognized in land plans in almost the same broad fashion as favorable habitat areas for salmon or moose. Planning, instead of being used as a zoning procedure to prevent uses, could work toward the resolution of problems between competing uses. Prospecting and discovery could still remain a competitive enterprise within a system of development guidelines.

Environmental protection related to mining has also been dealt with extensively in the last 25 years. The protection is partly within the law and its regulations, but is largely in collateral law. Miners are subject to the National Environmental Policy Act of 1969; no significant disturbance on federal claims is possible without at least an Environmental Assessment, and most large projects need a full Environmental Impact Statement. Work on wetlands involves permits from the Corps of Engineers. Each agency has laws and regulations which apply to mining.

The various states have also been active in environmental protection. In Alaska special permits are generally needed from the Departments of Environmental Conservation and Fish and Game as well as Natural Resources. The Coastal Zone Management Act affects many projects. Of the Mining Law states, only New Mexico does not have a statewide mining reclamation Act, and an act is now being drafted for their 1991 legislature to consider.

The changes made to date in the Environmental Laws and in land management, however, do not satisfy the preservationist. To a modern preservationist, the idea that a single prospector could go into the wilderness and make a discovery so significant that a new town could form and perhaps roads or railroads be built and agriculture and secondary industry developed is anathema. After all, they argue, these lands are the property of all the citizens, and should not be accessible to such a catalyst. On the other hand, is not that where changes in a free country generally have, and should, begin—with the individual?

Preservation of some lands is in the national interest, but many would also believe that it is also valuable to preserve the ability of free citizens, singly or in small groups, to initiate changes which improve their lives and the economy of the country on much of the rest of the Public Domain. Alaskans fought the preservation battle once in the 1970s when, in Alaska National Interest Conservation Act (ANILCA), Congress preserved more land in Alaska than the area of the third largest state: California. In its wisdom, Congress decided that these lands were more important for preservation than development. And even though there was lip service in Title XV to carry out a mineral inventory of the land, this part of ANILCA has been, in effect, scuttled. Furthermore, by carefully drawing boundaries to interdict possible transportation routes, other Federal, State, and Native Lands were also affected so they could not be developed. In this Congress, some of the same groups will ask not only to withdraw more Public Lands but to change the Mining Law so that the entrepreneurial abilities of individuals and small groups can not be used in the appraisal of the public lands for minerals.

It is true that other mineral appraisal systems work, and some might be able to produce royalties for the federal treasury. It is likely, but not certain, that if sufficiently large land concessions were offered on the Public Domain, a multinational company would place a bonus bid up front and also guarantee a royalty on production from any workable mineral deposit discovered. But because of the scarcity of such deposits, very large acreages would be required, and only those that were large enough and rich enough to fit the guarantees could be placed in production. Small and medium sized prospects or large low-grade type deposits could not be mined and because they could not be mined would not even be sought.

Several years ago, some of the larger mining companies decided that they would not seriously consider a gold deposit that had a potential reserve of less than 1 million ounces. Now some will not consider a deposit with less than 5 million ounces. But there are small companies that could put 50 people to work with a deposit of only 200,000 ounces. There are long time Alaska mining families that could survive for years on a few thousand ounces, and the recreational miner who would be thrilled to find one-half an ounce of gold. These small miner options are lost if the Mining Law is replaced by a structure that satisfies the preservation interests.

Another option exists—ownership and development by the state. Our relatively close province of Magadan in the USSR is similar in some respects to Alaska. It is very large and has a similar population, about 500,000 persons. More than 100,000 of these people work in mines and there are many more mines. But many of these mines are not profitable. Thousands of people are used for prospecting where a few hundred could do the same job better. The mines tend to furnish full employment and foreign exchange. The Soviets are much more self-sufficient in minerals than we are, but at a significant cost to all Soviet citizens and to the environment.

The capitalistic system does not do everything well but one of its basic principles rests on the economically efficient use of capital resources. If an ore cannot be produced in the United States by a mine that meets the law and produces some profit, the mine's existence is short lived. Some Soviets are well aware of this. In January of 1991 a delegation of Soviet officials came to the United States to visit the United States Bureau of Mines in Washington, D.C. They were interested in technology, but they primarily wanted to find out more about a very inexpensive system of prospecting and mine development that they could take back to the Soviet Union—The Mining Law of 1872.

The mining law has acted, and can continue to act, as an incentive for many Americans to enter the Public Lands and help appraise the mineral wealth of the United States. And the appraisal process is never over. In 1963, mining historian Rodman Wilson Paul wrote:

"Ultimately Colorado, Idaho, and Montana were carried into a new prosperity by a wholly new kind of mining that brought its own problems along with its own rewards. No comparable mercy blessed Nevada; once gutted it remained depressed for twenty years, and has never found a real substitute for the silver of its vanished greatness." (p. 195)

But even as he wrote those words scientists of the United States Geological Survey were making basic scientific finds that would enable a new gold rush. The research results were in two areas, the structural geology of Nevada, and the applied science of geochemistry. The scientific results were observed closely by a few astute miners, and were rapidly translated rapidly into the first discoveries in the rich Carlin district.

But geology alone cannot determine mining. Carlin could proceed to development in the 1960s, at a gold price of $35.00/ounce, because of its richness. But the rest of the new western gold rush happened because the gold price was freed from its artificial restraints—and prospectors from around the world returned to the west—and because new technology was developed for processing very low-grade gold and silver ore. Because of the Mining Law, prospectors did not have to wait for a bureaucracy to advise that gold mining would again be profitable.

The historical examination of two gold rushes that preceded the California rush of 1849 is relevant to the mining law problem. A gold rush to the Portugese Colony of Brazil lasted more than 100 years, starting about 1700. A rush in Russia started near the Ural Mountains in about 1800 and overlapped the California rush in time. In both these stampedes, rigid government controls were sought, if not always maintained. Taxes were high, and both governments sought to control all aspects of distribution of metal. The consequences were that only the richest ores could be mined, no technology was developed, and no strong derivative cultures emerged. As the richer ores were depleted, workers conditions worsened.

A mine, like a farm, should be conserved, and if the driving force of mining is income to the state, conservation of the resource can only be a secondary aim and may not occur. In any mining operation in a free society, most of the dollars produced as revenue flow to labor and suppliers, with lesser amounts for profit, taxes, and royalties. Mining technology continually developed on the American Frontier and lower grade ores could be mined as high grade ores were depleted. An American industry in the early 1850s that had to depend on Cornish miners for mining technology led the world into modern practices by the early 1900s. In this respect it paralleled the entire American experience with the industrial revolution.

The bottom line in a mining operation in a capitalist society is the cut-off grade of the deposit, the lowest grade of ore economically feasible to mine. This is the actual break even cost of mining and processing; it is the base against which the mine works after capital costs have been repaid. As costs rise, or metal prices decrease, the cut-off grade of the ore has to rise; reserves decrease as a consequence and the mine life is shortened. If costs decrease or metal prices increase, the cut-off grade falls, reserves increase because lower grade ores can be mined and the mine life is extended. Partly because of a lack of federal royalty, United States mines have been able to sustain production in competition with much richer foreign mines that have much fewer environmental restraints than in the U.S. And they have been able to produce low-grade ores profitably.

If exploration and development costs of mining are fully considered, there is little doubt that mining has more than paid its way. The gold and silver produced from the West in the last century alone multiplied the capital available to the world by several times. Although the metals did not pay for federally subsidized stage coach, pony express, telegraph and rail lines, gold and silver were the catalysts that allowed the capital of the United States to be extended in order to develop the West. The copper mined at Butte, Bingham, Jerome and Kennecott allowed the United States to give all its citizens the benefits of abundant energy. Metals with no known uses in 1872 have since been discovered and produced because the act faithfully follows the market system. Of the 35 metals used in a modern television set, some had not even been chemically isolated in 1872. If a market is found for germanium, europium or gallium, a prospector will look for an ore that contains it.

The Mining Law has evolved almost continuously since 1866 and it is capable of further change. It has been amended more than fifty times, including four amendments in ANILCA. It would be very difficult to develop a new law that could produce mineral wealth from the public lands as well. Of alternatives proposed thus far, only the Mining Law allows individuals, small companies and multinational giants to work on deposits of appropriate size and grade. And although most of the metals are produced by the giants, family mines still operate throughout the West. The giant corporations sometimes acknowledge their debt to the individuals and small mining companies that lead in discovery.

The Mining Law of 1872 has grown with the times; it is good law and it's retension should be considered fairly. If the law is replaced, the crafting of its replacement should have its foundations in an examination of the benefits and profitability of the mining industry as well as its costs. A restructuring of the Mining Law for the country warrants a review similar to that given to all the uses of the public lands by the Public Land Law Review Commission in the 1960s. Establishment of a Mining Law Review Commission should be the foundation of new legislation.

ACKNOWLEDGMENTS AND COMMENTS

The point of view in the article is of a geologist who, as a government employee, first observed the Mining Law in action, then as an explorer and developer and promoter of mining ventures, used it over a span of 40 years. It attempts to examine the law in some aspects of its history and how it works in a relatively free society.

The mining law has been examined by attorneys who have read and litigated the mining law. George E. Reeves, a long time mining attorney, has recently examined, in detail, specific problems related to overlapping placer and lode claims and on work done, both on and off the claims, as part of annual claim maintenance. In a much more general approach, John Leshy has described and critically analyzed almost every aspect of the Mining Law: I have borrowed part of Leshy's approach, but reached a different conclusion as to what the future of the law should be. Davis and Leshy both examine the intricate maneuverings that attended the passage of the Mining Law of 1866, but Davis's examination perhaps benefits because it was written only 35 years, rather than more than a century, after the passage of the law.

George Schmidt, a mining engineer with long experience in administration of the mining law with the United States Bureau of Land Management, James S. Burling, Esquire, with the Pacific Legal Foundation, and Fred Eastaugh, Esquire, from Juneau, Alaska who has had long experience with the mining law, each read several early versions and made valuable suggestions. Burling examined both law and health of the mineral industry and proposed specific steps that the United States should undertake to revitalize the mineral industry—he assumed the base of the Mining Law of 1872. My wife, Jenny, has worked on every draft. If there are errors that relate to the mining law—or anything else—it is not the fault of these reviewers.

In addition to Leshy, Davis and Reeves as sources, The American Law of Mining, 2nd edition and original statutes have been consulted. Richard and Morrell both have very useful information about mining and mining law before 1872. The beginnings of mining law in societies that evolved towards capitalism are discussed in footnotes to De Re Metallica by Herbert and Lou Henry Hoover; some early laws are given verbatim by Pettus.

Works by Billington and Ridge, Bishop, Holbrook, King, and Paul discuss the mining west—or personages involved with the decisions that shaped the west. The books by Holbrook and King are especially interesting because they chronicle some of the very strong and occasionally dishonest or greedy persons that were involved with mining in the 19th and early 20th centuries.

The contrasts in civilization that have grown out of free vs. state mining emerge in several references, but are thoroughly explored, with insight, by Morrell. Although the gold mining industry in the west began the development of modern mining technology, the copper mining industry documented by Navin continued it and prospered as a result.

BIBLIOGRAPHY AND REFERENCES CITED

Bauer, G. (Agricola), 1556, De re metallica: Translation by H. C. and L. H. Hoover, 1912, Mining Magazine, London.

Billington, R. A., and Ridge, Martin, 1982, Westward Expansion, A history of the American Frontier (5th ed): Macmillan Publishing Co., New York, 892p.

Bishop, Jim, 1955, The day Lincoln was shot: Harper & Bros., New York, 308 p.

Burling, James S., 1982, United States Mineral Policy—A proposal to revitalize the Exploration and Development of Domestic Mineral Resources: Arizona Law Review, v. 24, p. 881–904.

Capps, S. R., 1919, Mineral Resources of the Upper Chulitna Region: U.S. Geological Survey Bull. 692, p. 207–232.

Davis, John S., 1902, Historical Sketch of the Mining Law in California. Commercial Printing House, Los Angeles. 83p.

Holbrook, Stewart H., 1953, The age of the moguls: Doubleday & Co., New York, 373p.

King, J. E., 1977, A mine to make a mine. Financing the Colorado Mining Industry, 1859–1902: Texas A & M Press, College Station and London, 209 p.

Leahy, John, 1987, The mining law, a study in perpetual motion: Resources for the future. Johns Hopkins Press.

Morrell, W. P., 1968, The gold rushes (2nd ed): In the Pioneer History Series, Harlow and Williamson, eds. Dufour, Pennsylvania, 427 p.

Navin, Thomas R., 1978, Copper mining & Management: University of Arizona Press, Tempe. 426p.

Paul, Rodman W., 1963, Mining Frontiers of the Far West, 1848–1880: Holt, Rinehart, and Winston, New York, 236p.

Pettus, John, 1670, Fondinae Regales: The history, laws, and places of the chief mines and mineral works in England, Wales, and the English Pale in Ireland: IMM Reprint, 108p.

Public Land Law Review Commission, 1970, One-third of the Nation's Land, A report to the President and the Congress.

Reeves, George, E. 1989, Myths of the Mining Law: The Landman, v. 34, p. 13–26.

Rickard, T. A., 1932, A history of American Mining: A IME Series. McGraw-Hill, New York and London, 419p.

Ross, C. P., 1933, Mineral deposits near the west fork of the Chulitna River, Alaska: U.S. Geological Survey Bull. 849–E, p. 289–333.

Mr. BYRD addressed Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, let me appeal to Senators to move forward with some acceleration in the pace. The Senate went on this bill 8 hours and 10 minutes ago. There have been some interruptions with actions on other bills.

We have some very strongly held views here. The amendments do not particularly affect my State. I recognize that Senators are within their rights to offer amendments to appropriations bills, amendments that deal with legislative issues, controversial issues, but we do have a responsibility to try to move this bill.

Today is Wednesday, and the Senate will go out at the close of business next Wednesday. That means we have Thursday and Friday and Saturday, Monday and Tuesday and Wednesday. We have back behind this bill a Treasury-Post Office bill. We have the VA-HUD appropriation bill. Our Appropriations Committee has reported 9 appropriations bills within the last 2 weeks.

And this, I believe, is the seventh appropriations bill on the floor, with two more waiting in the wings. And the leader, I believe, is committed—I do not want to presume to speak for him—but I believe I understand that he is committed to bringing up the Department of Defense authorization bill before we go out. And so that means we do have to move on.

We have been on the bill now at least 5 of those 8 hours, and probably more. And we have not resolved by vote one single amendment on this bill.

I understand there are some other controversial amendments.

Now, I love every Member on both sides of the aisle—I would not say every Member on both sides of the aisle. I love every Member on both sides of the aisle on this question that I have heard, and I love every Member on both sides of all the amendments that I have listened to.

Now, I am not going to move to table. I have the floor right now, but I see my good friend from Montana, Senator BURNS, and my good friend from Idaho, Senator CRAIG—and I understand Senator MURKOWSKI from Alaska is coming to the floor. I certainly do not want to shut them off.

But I do want to serve notice, and I hope I will not have to proceed to move to table. At some point, if I get the floor, I will feel that I have to move to table, and I will just start down the line. If I move to table the first amendment that is pending, if it is tabled I will go to the next one. If it is not tabled, at least I will not be any worse off than I am right now. The amendment will still be pending, and Senators will at least know what the votes might be. That somehow might help to expedite action.

So I want to plead with Senators to try to keep their remarks confined within more narrow limits than has been the case in the main thus far.

Now, four—let us see. We have had one Senator speak in support of the Bumpers amendment. We have had three Senators on this side to speak in opposition to it. We have had two on that side to speak in opposition. There are two more standing and sitting, and waiting. That will be four on that side—four on the Republican side, four on this side, with one of the four in support of the amendment.

That is a pretty equal balance, considering the fact that the oratorical powers and the oratorical athleticity of the Senator from Arkansas is pretty much equal to that of any other Senator. At least, I do not think I can complain about Senators speaking at length; I speak quite at length sometimes—on some matters. But this is the appropriations bill. We are talking about amendments that involve controversial legislative issues.

I would hope that those legislative issues would be resolved in committees that have jurisdiction over such legislation, and brought out—saying that I recognize the right of Senators to offer such amendments.

But there is a time to speak and a time to sit down. So I am going to sit down, but I hope Senators will try to emulate me in sitting down. And I am going to start moving to table, unless someone else does, pretty soon. We just cannot keep on like this and expect to get this bill done—tomorrow even.

I thank all Senators for listening.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, one, I wish to join my friend and colleague, the chairman of the Appropriations Committee. He has shown great patience, far more than really I would like to. I want to see this vote tonight.

I would tell my colleagues that I happen to support the amendment of the Senator from Nevada. But as this debate continues, I may be more persuaded to go along with my friend from Arkansas.

I think it is time that we vote. I know the Senator from Montana has been waiting for 5 hours, and he is entitled to debate. I know that Senator MURKOWSKI from Alaska has been sending me notes. He is ready to come over, and I would encourage him to come over.

And I would certainly encourage our colleagues to follow the guidance and wisdom of the chairman of the Appropriations Committee, and let us wrap this debate up and have a vote on a motion—maybe a motion to table one of the amendments, the underlying amendment or the Bumpers amendment—and move forward.

We have several other amendments to take up, and I would like to see us pass this bill, if possible, today; or, if not, certainly by tomorrow.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, thank you very much. It will not take me very long. I just want to support what has been done by the Reid-DeConcini forces in trying to forge some kind of a consensus or compromise on this mining legislation, the National Mining Act.

We have heard of a covenant made between the Government and the American people lately, something new injected into the political arena. And this mining law has served us very well. Now, we want to do away with that covenant. Go out and do the work, but when you get ready to go to the bank, you will not be able to.

I want to tell a little story. I come from a farm family in the State of Missouri. That is where I was raised. My dad bought our farm at the courthouse steps for taxes in 1913. There are probably some folks around that can remember those days. But when he got the abstract of that old farm, he told my mother, he said: You notice, since the day this farm was granted from the Government, it has never been paid for—never. And he said: We are going to pay for this thing. And they did.

The point I am making, if we change the rules now, let us go back and change all the land that has been granted by this Government and put into private hands. And let us say: OK; now we want to start charging a royalty on what you produce on your farm.

Is that fair? That is kind of changing the rules, is it not, here in the middle of the game? Is that not a violation of private property rights?

There is a difference between hardrock mining and gas and oil. We pretty much know when we start putting down a hole in the Earth to look for gas or oil. We have had seismographs; we have studied the geology. We think it is there, and the possibility is of making a well that will be profitable, that will serve the needs of America; at least, we have a chance.

But, you know, whenever we turn over a little old rock up there in the mountains, it may have gold in it, or platinum. May I remind my colleagues the only platinum mine in this country is located in my State. And if you did not have platinum and palladium, you would not have catalytic converters on your car. So let us talk about air quality.

You do not know where that vein is going. You do not know where it started, and you do not know where it is going to end up. And you do not know if it is just a little trace here and a little trace there.

A lot of people say: Why do you mine there? It is because it is there, where it is.

Who was it? I think there was a bank robber one time. They asked him why he robbed banks. He said: Because that is where the money is.

But in gas and oil, and any other thing, it is different than hard-rock mining and the investment. Now, we want to take away that element. That says you cannot own it once you have done the work on it.

I just want to remind my colleagues of one other thing. Yes, it is important to Montana. And how many speeches have we heard on this floor, saying the economy has gone to pot; we cannot get anything going. And yet, we put on rules and regulations in this body that will not let this economy recover.

Because, let me tell you, the only true wealth that a nation produces comes from Mother Earth. There is no place else from where it could come. It is our natural resources that produce that wealth.

And if you think it comes from somewhere else, you shut off everything that grows from Mother Earth, and I will tell you what: We are poor—poor. That is just plain economics. That is very simple, and it is a very simple topic.

Tell me one other situation or civilization or society that has survived in this world when they quit developing their natural resources? They disappeared from the face of the Earth. If you think this country is exempt from that, my friend, you have not read any history books. And that is what we are talking about here.

I am going to close this today because it is important to the State of Montana, but it is also important to the security of this Nation. All of these new, great inventions that are coming up have trace minerals, and the mining industry is very important to them. So we can quit producing those things. We can move it offshore. We can send everything offshore. We can send our workers offshore. But the true wealth of a society will come from Mother Earth. We can have laws as to the way we develop it. We can have laws on how we reclaim it. But if we have laws that tell us we cannot develop it, then we will surely disappear from the face of the Earth.

Basically, that is what I am thinking about. So if my colleagues want to talk about covenants, I will talk about covenants. We are putting covenants on the mining industry just like with our people in agriculture and, yes, some people who live in town probably do not realize that there is something more to producing food, fiber, and the security of this Nation than what we find on Main Street America.

So we support what the mining industry has done, with Senator REID, Senator DOMENICI and Senator STEVENS, realizing that last year we told this body that we would try to find some kind of a compromise. And we have reached that, we have fulfilled that. Yet, that did not call off the people.

I notice on this big letter all these people who are concerned about you in America would shut down your way of producing wealth and your standard of living and your security. Just read the top of that letter right there. If you think these folks are concerned about you security and your standard of living and your quality of life, you have got another think coming. It is very important. Very important.

But I want this Nation to realize where its wealth and strength comes from. It comes from security. It comes with a convenant that we made with these people that we will protect those property rights.

I just ask the support of the Reid-Domenici-Stevens approach and to table the amendment of the good Senator from Arkansas. There is no doubt about it, he is dedicated in what he does, and he thinks what he is doing is right. He, in his own mind, thinks he is right, and I respect him for that.

I thank the Chair, and I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I know the distinguished chairman of the committee is anxious to get on with this, so I am going to make my closing comments. I understand there is one additional speaker, and perhaps we can get a vote immediately after that.

Mr. President, I took 1 hour this morning, and the opponents of my amendment and the proponents of the Reid amendment have taken over 7 hours. I am not complaining that other Senators are not here speaking in behalf of my amendment. I simply point out that when we look at where the opposition to the patent moratorium is coming from, it is powerfully clear what the issue is. I have never read one editorial or heard one television or radio commentator that discussed this issue, that did not do it with the utmost contempt of Congress because we have not dealt with it.

Mr. President, I do not mean to sound self-serving or the least bit arrogant, but the people of this country are angry, they say, because their voice is not being heard. If we debated this issue on all three networks on prime time television, I promise the American people overwhelmingly would be appalled that the U.S. Congress continues to allow this outrageous system to continue.

This is one of those issues where, if you accommodate a certain interest group, you are just fine because nobody else much really cares. But I listened to the Senator from Arizona this morning talk about the public opinion in his State. I recommend the Arizona Republic, which has editorialized on this, calling the mining law of 1872 "our great land rush," or the Arizona Daily Star: "Bad law. Congress must change the mining law of 1872."

The Santa Fe New Mexican: "Bury the 1872 Mining Law."

The Oregonian: "Mining Law Needs Reform."

The Denver Business Journal: "Mining Law Needs Upgrade."

The Los Angeles Times: "U.S. Treasure Hunt."

A poll by the Northern Plains Resources Council, one of the most respected groups in America, say that there is "strong support for mining law reform in Montana." Listen, 88 percent of the people in Montana support mining law reform and 60 percent believe there should be no royalty. We are not talking about royalty, although an awful lot of the debate from the other side of the aisle dealt with royalty. There is no royalty provision before this body.

According to a poll taken just 2 weeks ago in New Mexico by the New Mexico Environmental Law Center, 84 percent of the registered voters of New Mexico believe the 1872 mining law needs reform; 81 percent say the law is outdated.

In 1990, the American Mining Congress commissioned a national poll of registered voters and it found that—this is the American Mining Congress—82 percent of Americans believe the hard rock mining industry should be required to reclaim the land and pay a royalty for minerals. This led the polling firms to conclude: "The question provides the most concrete evidence that the industry should not conduct the mining law battle in public view." Think of that. A study by the American Mining Congress concluded that we are jeopardized if we debate this issue in public.

My objection, Mr. President, is not to the patenting process where you pay $2.50 an acre for the surface, or $5 for the surface. Not to disparage Western States, but all you have to do is drive over some of the desert lands out there and you know it is not worth $5 an acre.

What I have railed against here for 4 years is giving away billions and billions of dollars of minerals underneath that surface for $2.50 an acre. Mr. President, the surface value is irrelevant. Therefore, the Reid amendment is irrelevant to the problem. In some ways, the Reid amendment compounds and makes the situation worse. Take the Stillwater Mining Co. in Montana, about which much has been said today. They have applied for a patent on 2,000 acres and, just coincidentally, did it 4 days after I lost by two votes 2 years ago. Let us assume they are going to have to pay $5 an acre for that 2,000 acres. That means they are going to get 2,000 acres surface and minerals for $10,000. As has been said time and time again, underneath that 2,000 acres lies 32 billion dollars worth of hard rock minerals. Mr. President, that is not my figure, that is theirs. That is what they say is underneath that 2,000 acres.

So if the Reid amendment is adopted, poor old Stillwater will have to pay $200,000 for the surface.

The mining industry is paying three times that much every day just to kill this legislation. I sometimes think if we could get them to pay into the Treasury what they spend on lobbyists to defeat this legislation, we might balance the budget in this country.

The value of the surface is absolutely meaningless to Stillwater, just as it is meaningless to every one of the big mining companies of this country that defend this practice.

Not to disparage my good and respected friend, the senior Senator from Nevada, but it is so painfully apparent that his amendment is nothing but a canard. I would just as soon him say you can have the surface, not at fair market value, give it to them for $5. I am not going to object to that, Mr. President.

You want them to pay fair market value, and the Bureau of Land Management says that the average value, fair market value of this land is $100 an acre. If you add California, it goes up to a little more than $300 an acre.

Mr. President, I do not care what the fair market value is of the surface. That has nothing to do with the debate.

My colleagues, if you vote for the Reid amendment, you are saying I think what is going on in this country is just hunky-dory, just fine.

I had been wandering around the floor today, and I found letters on Senators' desks.

Here is one to the Senator at this desk that says the mining companies, just 30 mining companies in the last 3 years have spent $10,771,000 in New Mexico. The Senator from Nebraska has one on his desk showing what they spent in Nebraska last year.

I invite all Senators who favor the Reid amendment to tell me why that is relevant. I will tell my colleagues what I am thinking about doing. We have a tax bill coming up on the floor as soon as we finish this. I am thinking seriously about putting an amendment on that bill on behalf of a very big company in my State called Wal-Mart. I think I will put an amendment on it saying Wal-Mart will be exempt from paying all Federal taxes. They can pay State taxes, county taxes, city taxes, but I think Wal-Mart should be exempt from paying income tax. And I am going to put a note on my colleagues' desks about how many jobs Wal-Mart has in their States; I am going to put a note on their desks talking about how many goods Wal-Mart buys from the factories in their States and dare them to vote against my amendment to exempt Wal-Mart from income tax.

That makes just as much sense as this letter does.

I promise, as I did this morning, not one job will be lost, not one mine will be closed if the Bumpers amendment is adopted.

The Senator from Alaska talked about the judicial review provision in my amendment. Well, it is copied from the ANWR bill. It is copied from the bill that he knows more about than anybody in the Senate, the ANWR bill. It is common boilerplate language.

Mr. President, we have a $400 billion deficit this year—a $4 trillion national debt. The mining companies take somewhere between 1.2 and 4 billion dollars' worth of minerals off Federal lands every year and do not pay a nickel for it. And old Joe Lunchbucket, who works on the assembly line all day and just keeps getting further and further behind, would probably like to know why that is the case. Nobody is giving him that kind of largesse.

Mr. President, you always get a diversion about how many jobs are going to be lost. You get a diversion about all these strategic minerals that are being mined in the West. But when you ask this very simple question which is central to the debate today: Why is it that the mining companies, the biggest mining companies in America are happy to pay private landowners up to 18-percent royalties for gold, it is because they have to. I am not going to let them mine my farm without paying me a royalty. And I am not going to let them mine my farm without putting up a bond to reclaim it when they finish, and my colleagues are not either.

They happily pay royalties when they mine on State lands—Montana, New Mexico, Wyoming, Utah, Idaho, Arizona. Every one of those States, if you want to mine on their land, by George, you are going to pay a royalty.

This debate is not about royalty. I am just throwing that in. It does not cost an extra penny.

Listen to this. They say that without a patent, that is, a deed to this Federal land, they cannot borrow money. Well, now, I ask this simple question. Eighty percent of the mining on Federal lands is on unpatented land. Where do they get the money to mine on unpatented lands? They do not have a deed to that. They obviously have no difficulty borrowing money to mine on unpatented lands. When they mine on private lands, they can get a lease and take it to the bank and borrow on it, and they do it. And when they mine on State lands, they do not get a deed to the land, and they mine it.

Why is it that they can borrow money, all they want, without a deed on private land, on State land, on other Federal lands, but if you suggest that we put a 1-year moratorium on giving them a deed to it, you get the impression that the world is just about to come to a close?

If we defeat the Reid amendment—and I divinely hope we will—and pass the Bumpers amendment, there will be 1 year for the House and the Senate and the American Mining Congress and all those who want to resolve this in a sensible way to sit down and do it.

The House already has a patent moratorium in their bill. They have exactly in their bill what I am asking for in mine. They do not have a royalty, and I am not asking for a royalty. Again, the debate has been diverted to that, but that is not an issue.

Why would we not do that to address a really critical problem in this country? If you vote for the Reid amendment, you are voting for more scandals. You are voting for more documentaries and talk shows and more anger by the American people about those people up there who do not hear our voices, about who is taking care of the special interests.

You are going to hear about more sales of Federal lands that are worth billions for $2.50 an acre or even $100 an acre.

Mr. President, I want to say to my colleagues that I believe they understand this issue. I believe when they come in here and hang their hat on something called face or fair market value, they are saying: I do not want to face up to this because I have some mining companies in my State. They may be contributors, they may not be. But everybody who walks in here after this debate, which has gone on all day, will know exactly what they are voting on, and at some point their constituents are going to know what they are voting on.

Mr. President, this is a time when the people of this country say: They cannot do anything right. They do not care what I think. They consistently spend more than they take in. They let people rob them blind, as they do on that mining bill. The place is in gridlock. And they are taking care of the big boys. They do not care about the rest of us.

That is a big issue in this country. That is a big issue on this bill.

I plead with my colleagues to defeat the Reid amendment and vote for the Bumpers amendment, and say to the people of this country that we are going to work something out that is sensible and that you will know we are trying.

Mr. President, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Montana is recognized.

Mr. BYRD. Will the Senator yield, Mr. President?

Mr. BAUCUS. I am glad to yield to the chairman.

Mr. BYRD. Mr. President, I do not know how much longer this is going to go on.

The Senator from Montana wishes to speak for 5 minutes?

How long does the Senator from Alaska [Mr. MURKOWSKI] wish, 5 minutes?

Mr. REID. I would like 12 minutes to answer my friend from Arkansas.

Mr. BYRD. The Senator from Nevada wishes 12 minutes.

Does any other Senator wish time on the amendment?

Mr. STEVENS. Mr. President, may I inquire? I just was off on the telephone. I did not hear the Senator's request.

Mr. BYRD. I was attempting to find out how many Senators wish to speak, and how much time each Senator would like to have. Up to this point, three Senators indicated they wished to speak for a total of 22 minutes.

Mr. STEVENS. This Senator has no intention to speak unless the Bumpers amendment is not tabled.

Mr. REID. I am sorry. I could not hear the chairman.

Mr. BYRD. I ask unanimous consent, Mr. President, that the Senator from Montana have 5 minutes, that the Senator from Alaska [Mr. MURKOWSKI] have 5 minutes, the Senator from Nevada [Mr. REID] have 12 minutes, and that that close the debate on the pending amendment.

I would like to see an up-or-down vote on it, or if Senators wish a tabling vote, that is all right. I simply want to move on with the amendment and the bill.

Mr. REID. The Senator from Nevada will agree to that.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. BYRD. So at the end of the 22 minutes there will be a vote. A motion to table has not been ruled out by the unanimous-consent request.

I thank all Senators.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BAUCUS. Mr. President, a little less than a year ago I expressed my intention to vote for the Bumpers moratorium unless there is substantial change in the 1872 law. It is clear. I think anyone who has thought about this issue knows that the 1872 act needs reform. There are abuses, there are a good number of abuses, and we have to address them.

I voted against the Bumpers moratorium a year ago. I said I would vote for the Bumpers moratorium if there were not substantial changes to the act.

Senator REID has a proposal which begins to address some necessary reform. Essentially, it is requiring fair market value on the patents. There is another provision in his amendment that says if the patent is not used for intended purposes it reverts back to Uncle Sam.

Those are good changes. We can work with what the fair market value actually is. If the valuation is incorrect, I think that is something we can address. I think most reasonably minded people would think that the fair market value is the value that the patent should cost; that is, the value of the land.

There are other areas that I think we have to address as well. I do not know how far we should go to address that. They include bonding requirements for reclamation, for example. I see the Senator from Nevada nodding his head affirmatively. That is an area that must be addressed.

There are other areas too. But those are not before us now. The only issue before us essentially is the alternative, the Bumpers moratorium on the one hand or the Reid amendment which addresses a major problem, on the other.

I guess we have a third choice, which is the status quo.

I am going to support the Reid amendment. I support the Reid amendment because it is fundamental reform and change for the better. It is a moderate position at this point.

Let us not forget we are now legislating on an appropriations bill, something we do with some frequency, but something we should not do nearly as frequently as we unfortunately do.

I think the wiser choice here is to support the Reid amendment, to not support the Bumpers 1-year moratorium which will mean that we will begin to go down the road of meaningful reform to the 1872 statute, which then gives us a chance in a later forum, probably the Energy Committee, to deal with these issues, namely bonding requirements for reclamation, or in other forms that will probably be necessary, but in the ordinary legislative process where we begin to work away at the continued reform.

I just think that the Bumpers moratorium is too much. It is a 1-year flat moratorium. I tend to think that that is not necessary now. The Reid amendment is a better alternative.

We are beginning to make progress. I therefore urge us to accordingly support the Reid amendment, and not support the Bumpers 1-year moratorium.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

I would like to address the Bumpers moratorium that is pending before this body and the Reid proposal which the junior Senator from Alaska feels is a conscientious effort to address some of the necessary corrections that are needed under the current mining law prevailing in this country at this time, known as the mining law of 1872.

I think it is noteworthy to reflect for a moment however on the predictions made by the Senator from Arkansas relative to the economy of this Nation: The $4 trillion deficit, the issue of jobs, the issue of balanced payments, and reflect on the drift of the mining industry in America today.

The mining industry in America today is getting worse as each passing moment goes by simply because there are more attractive areas to initiate exploration, particularly Russia which welcomes mineral exploration and development—more attractive than in the United States which because of numerous regulatory requirements puts conditions and commitments that do not make it attractive for the industry to invest in this area.

As a consequence, as we look at the economy in this country, we are seeing the mining industry posture very much like the energy industry.

It is simply abandoning U.S. exploration efforts and going overseas. As a consequence of that, it is taking those jobs overseas and is contributing to the deficit balance of payments. And it is the contention of the junior Senator from Alaska that if the extreme position is proposed by my friend from Arkansas, if it is passed by this body, you will see the mineral industry move outside of the United States, and we will become more and more dependent on imported minerals. We are already importing a significant amount from Africa, South Africa particularly, and the former Soviet Union, now the Russian Republic.

As a consequence of the matter before this body, I think it is appropriate that we address the Reid amendment as a serious and viable alternative.

I have served with the Senator from Arkansas for some time on the Energy Committee. I know of his commitment to this issue. He has brought it up numerous times within the committee structure, and his commitment is genuine to bring about a reform that is not in the sense of structurally addressing the prerequisites within the act, but to simply throw out the act and put the whole process up to a public bidding posture.

The consequences of that, Mr. President, would simply provide for interest only by major multinational corporations. They are the only ones that could basically afford to bid into the structure suggested by the Senator from Arkansas.

That kind of a proposal, I think, is so contrary to the public land use concept, where the basic prospector has the opportunity to go out and look for discoveries, initiate the necessary prove up, and the philosophy of a generation of an economic expansion is associated with the jobs, the community, the tax base, not necessarily what goes into the coffers of the Federal Government and is available from the highest bidder.

This is where, I think, we have a significant departing of values.

Let us face it, Mr. President, establishing a new bureaucracy necessary to implement the suggestions in the revision proposed by the Senator from Arkansas would cost the Federal Government an extraordinary amount of money. I would hate to see a pencil taken to the process, but clearly, it would establish a whole new bureaucracy.

How could the Government basically establish a value?

Well, we would suggest that the value has to be initiated by some type of expiration—core drilling, examination of the cores, and somehow set some parameters to establish value. The idea of letting the prospector, the individual, do this and initiate the basis to the job, I think, is much more feasible and in the interest of the traditions of the West.

Mr. MURKOWSKI. Mr. President, the national climate for development of our mineral resources is worse today than ever before in the history of our Nation and is getting worse every day.

We are fighting a battle that affects the very fabric of our country's economy. The charge is led by a very vocal, very powerful, very well organized, and very well funded, elite minority who oppose any consumptive or renewable use of the public lands. They are opposed to the very foundation of our economy—the development of our abundant natural resources.

Approximately one-third of the total land in our Nation is owned by the Federal Government, the vast majority of which lies in the Western States and Alaska. It is in these same States where the largest part of our mineral resources are concentrated.

Over two-thirds of these public lands have been withdrawn or restricted from mineral development. This shocking withdrawal has occurred largely as a result of failure to consider the cumulative impact of multiple public land withdrawals when acting on individual withdrawal proposals.

Consistently, proponents of each withdrawal tout the merits of each proposal and characterize an area as only a small part of the United States, or of the public land system, or of the public lands within a particular State. But these individual withdrawals which our Government has allowed to accumulate make up two-thirds of the public lands now withdrawn from mining.

Too many wilderness areas have been established without adequate regard for access to the area's minerals or access through the wilderness area to the minerals of an adjacent area. In fact, some wilderness areas have even been established specifically to prevent known mineral potential from being developed.

Mineral development in this country has suffered from the deliberate shift in public land policy from multiple use to no use. This no use land policy, implemented on an incremental basis and ostensibly in the public interest, has hampered our ability to compete abroad, contributed to our trade deficit, and caused our Nation to become dangerously dependent on foreign sources for our minerals needs.

Despite this serious situation, the national environmental groups and some of my friends in Congress have launched a full-scale attack on the spirit of individual initiative in the mining law of 1872. Their goal? Openly, sweeping reform to a law that has worked well for 100 years. Their unstated goal? To further tighten public lands policies by making it more and more difficult for both small and large miners to do business.

This assault on the mining industry comes at a time when mining—particularly hard-rock mining—is experiencing a strong comeback in Alaska. The Red Dog Mine near Kotzebue and the Greens Creek Mine in Juneau are just two examples of this striking comeback. They are solid proof of the mining industry's potential to provide more near-term expansion in jobs and investment than any other Alaska resource industry as oil revenues to our State dwindle.

For well over a century, the Federal mining law of 1872 has performed admirably in pursuit of its stated objective—to develop minerals on certain Federal lands. Under the law, the public takes it upon itself to explore Federal lands for mineral deposits. In return, prospectors are given the right to obtain and develop these deposits in the absence of any fees or unnecessary bureaucratic hassles from the Federal Government. Thanks to this system, the mining industry has played a major role in the economic and infrastructural development of Alaska and the Western United States.

But for some, this 100-year-plus track record of proven performance is not enough. Despite an unsuccessful attempt to impose a moratorium on the patenting of mining claims, antimining forces have again turned their attention to a major revision of the 1872 mining law. Bills have been introduced which would tear apart existing Federal mining law and replace it with an expansive and intrusive Federal bureaucracy.

While varying in their individual approaches, each of these bills would effectively take the job of prospecting Federal lands out of the hands of individual risktakers and leave it to the Federal Government to decide where and when mining can take place. The immediate effect of such a change would be that many people, especially small private miners and prospectors, will simply stop looking for minerals on Federal lands.

The proposed changes also include a proposal to require miners to pay royalty on their gross revenues and the initiation of a system of fees to be paid by individuals or companies mining or prospecting on Federal land. Here, again, it will be the small operation that suffers the most. Because so many of the expenses in mining are incurred up front, before revenues from production begin to flow, these changes will represent a powerful disincentive to small-scale mining operations.

There is room for reasonable improvement in this law. For example, no one intended that this law would provide a jobs program for real estate brokers. And I do not think anyone disagrees that reclaiming old mine sites is a necessary and important part of utilizing any natural resource. But before we heed the calls of the antimining crowd and undo a system that has formed the basis for the investments of hundreds of private individuals, a case for legislative reform must be made. Above all, the overall impact of any reform proposal on our domestic mining industry and our Nation's security must be carefully considered. Any consideration of revising the 1872 mining law should cause us to take a second look at the mineral potential lost due to the over 88 million acres of wilderness that have been closed to mining.

The country has changed a lot since 1872, but not quite as much as the antimining forces would have us believe. Alaska is now the last frontier. For our State to realize its potential, we can't afford to lose the spirit of initiative and enterprise which is at the heart of the mining law of 1872.

In Alaska, we are working hard to diversify our economy and plan for the future, we are forced to confront the competing goals and overreaching influence of outside interests. We face expanding Federal powers at the expense of State self-determination. This is a problem compounded in Alaska by the fact that nearly all Americans claim some degree of ownership of Alaska. This is a battle for my State's survival.

Alaska offers tremendous opportunity to improve our Nation's economy based on the wise use of our natural resources. This can be done and still retain the character of Alaska, with its wildness and its beauty.

Mr. REID. Mr. President, the Senator from Arkansas, among other things, denigrated the fact that there are foreign corporations who are involved in mining throughout the United States. As we know, foreign companies have investors in all kinds of businesses throughout the country. In Nevada, Arizona, Wyoming, New Mexico, those foreign companies that do have interests in mining ventures in the United States pay American dollars to the workers, American dollars to the suppliers, American dollars to the merchants.

The Senator from Arkansas asked why is there information on the desks as to how mining affects your State? And he gives some absurd thing about lobbyists. The point of the matter is that mining not only affects directly those workers who work in the mines in the States affected, but it also has impact, like the two Senators from Illinois. Hundreds of millions of dollars of equipment are manufactured in those States every year that are used in mines in Nevada and other places. That is the point.

The Senator knows that is the point. He is only trying to divert the facts, as he has through this entire argument. He said, well, only 75 to 80 percent of the gold is used in space, defense, and industry. Well, the fact of the matter is, it is about 60 percent which is used in the manufacture of jewelry.

But the point of the matter is, Mr. President, that those are real jobs, also; 154,000 people are employed in the United States in the retail jewelry industry, and that is not small peanuts; 65,000 in manufacturing jewelry; 48,000 in wholesale business; 37,000 people are employed in the manufacture of precious jewelry in the country; 11,000 in New York State alone, and 4,500 in Rhode Island.

Stable prices in the 1980's have rejuvenated the American gold jewelry manufacturing business and helped to create new demand for gold jewelry overseas. That is important.

We export gold, because they make jewelry in places like Japan. That is one of the positive trade factors we have with Japan. Gold jewelry demand in Japan has increased from 1.9 million ounces in 1985 to 4 million ounces in 1991.

They do not have a crop of gold of their own. They have to import it. They are importing it from us. That is good. So we should not denigrate the fact that people are engaged in making jewelry. It is one of the rare things in this country where we export. It helps our balance of trade.

The Senator from Arkansas says that the reclamation provisions are meaningless. Let me tell you, those reclamation provisions are very harsh, very difficult for people. Every Federal reclamation standard in existence applies to mining operations on Federal land.

He is making up things. He says reclamation means nothing. It means everything. The reclamation standards that were suggested by Senator BUMPERS in his substitute to S. 433 in the Energy Committee are the current reclamation standards required on Federal lands, subject to mining penalties.

The point is, what Senator BUMPERS has laid down apparently is no longer good enough to meet his own test. We are doing what he suggested should be done. This man will not take yes for an answer. We have given him what he asked for last year: fair market value. We have given him reclamation.

The BLM reclamation standards are very strict: air quality, water quality, solid waste, fisheries, wildlife, plant habitat, cultural, and paleontological resources. These apply to this amendment. He has run down, denigrated, and demeaned reclamation. There is significant reclamation in this amendment. It talks—I repeat—about reversion. If you do not mine on the land, it goes back to the Federal Government if you try to use it for some other source. That is what he talked about here for 4 years.

Now he says it is a diversionary issue, or means, or method. He will not take yes for an answer.

Mr. President, Nevada environmentalists favor this amendment. Why should they not?

Here is something that came across my desk. He talks about things coming across my desk.

"Please vote yes on Senator REID's amendment to the appropriations bill * * *" This comes from XL Mineral Co. They are in California: "Please vote yes on Senator REID's amendment to the appropriations bill on the floor today. While we are adamantly opposed to the imposition of holding fees and a patent moratorium, we believe Senator REID's proposal is the least offensive."

There is significant reform in my amendment. That is what the mining companies are saying. I hope that, after all is said and done, some sense of sanity will prevail and changes to the mining law will be given the attention and study they deserve. Not on the appropriations bill. It should be done in the authorizing committees. It is time to dispense with propaganda and deal with the industry and the job it represents in a fair and honorable manner. We are disgusted by the propaganda being presented by Senator BUMPERS. There is no excuse for it. I do not know who the company is. But that is a fact.

The comment about news articles all being negative, people are angry, they certainly will be angry if they knew the false, fictitious statements made about an industry that employs 175,000 people in this country directly or indirectly.

Mining is important. The American public would be appalled—they would be appalled if they have the facts and they listen to the debate and there were tests given who was telling the truth.

The Arizona people, the Senator said, want the law changed. That is what we are trying to do. He read from the editorials. We want to change the law. That is what we are trying to do, as Senator BAUCUS said.

The fact of the matter is that the amendments that have been offered are substantive. If there were a test on the facts, my friend from Arkansas would fail that test.

Fair market value, reversionary interests, reclamation, that is what we are talking about, real substantive change. We are not trying to destroy an industry, an industry that some people do not understand and in fact they do not understand. They cite falsehood after falsehood even though there had been evidence presented to this body today time after time after time showing my friend from Arkansas does not present the facts as indicated.

How much time does the Senator from Nevada have remaining?

The PRESIDING OFFICER. The Senator from Nevada has 4 minutes and 20 seconds.

Mr. REID. Mr. President, the Senator from Arkansas has asked for me to give to him 30 seconds, and I would be happy to do that. I just do not want the time to run out, because I would like to at least have the last word on this issue. If the Senator from Arkansas is in hearing distance, I suggest he come forward if he wants the 30 seconds; otherwise, I will not have 30 seconds to give him.

Mr. President, the National Association of Counties supports it. The school boards supports it. And fair market value is not this fictitious $100 that my friend from Arkansas has come up with.

I have recited in California where the patents were issued, the thousands of dollars an acre that they stated there that they gave fair market value there: Arizona, $1,800 an acre. The fair market value is fair market value according to Federal standards. My friend from Arkansas keeps spewing out the $100. It does not mean anything.

That is not what he was saying last year on this floor on September 21. As a result of that, I agreed I would try to get substantive changes in the mining law. I came here this morning and presented these changes and suddenly we do not get it, and my friend will not take yes for an answer.

I do not know what it would take to satisfy my friend from Arkansas. Perhaps it would take closing up all mines. As the senior Senator from Alaska said, he believes that in fact is what the Senator from Arkansas wants, and it appears that is the case. He will not take yes for an answer. The fact of the matter is that reclamation, reversionary interest, and fair market value are substantive changes in the 1872 mining law and the Members of this Senate should support this amendment.

I yield 30 seconds to my friend from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 30 seconds.

Mr. BUMPERS. Mr. President, I want to make two points. If the Senator's amendment had been in place in 1991 it would have yielded a whopping $395,000 to the U.S. Treasury. You think about that. That is how powerful his amendment is. That is $395,000 to mine billions and billions of dollars worth of minerals free.

No. 2, there is a rumor going on that you can vote for Bumpers and Reid both. You can do that, but if you vote for the Reid amendment you torpedo the Bumpers amendment.

Mr. REID. Has all time expired, Mr. President?

The PRESIDING OFFICER. The Senator from Nevada has 1 minute and 24 seconds.

Mr. REID. Mr. President, the Senator from Arkansas has fortuitously answered one of his own questions. The fact of the matter is that I again do not know where he came up with the figure that, $395,000 would be obtained. That may be the case if he uses his $100. But the fact is there are so few patents issued anyway; as we talked about earlier today, about 20 last year in this country. That is all we are talking about.

Remember, though, Mr. President, that we are trying to respond to criticism of fair market value is not in the mix. This is fair market value. And it would help a situation regarding those 20 patented claims, new claims that come on board. Remember this royalty, this holding fee, these types of things are diversionary tactics by my friend from Arkansas. We have substantive changes. That is what we have addressed. Please focus on that. What I ask my friends to do is focus on the actual facts of this amendment, not some spurious argument that has nothing to do with the 1872 mining law.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WIRTH. Mr. President, I am going to support Senator REID's amendment. Frankly, I would like to do more, and if the amendment tree were not already full, I would support amending his proposal to do more.

In particular, I think we should have a stronger reclamation standard. My State, Colorado, has a very detailed and progressive reclamation standard, and I think that it is both livable for the industry and a great help in ensuring that today's mines don't become environmental problems in the future.

I would also like to see some of the holding fee collected in this bill put to use reclaiming old, abandoned mines—not just to cap them to protect people from falling into them, but doing the work needed to stop acid mine drainage and other environmental problems caused by old, abandoned mines.

I would like to see us end the application of the mining law to so-called uncommon varieties of common materials—that is, sand, gravel, rock, and other non-ore materials. Under that provision, we sell rock for fair market value when it is not worth much—but if it's uncommon, we dispose of it under the mining law. That should end.

I could be persuaded to do even more on these and other issues, too—if we could engage in this debate.

But the alternative to the Reid amendment is Senator BUMPERS proposal to put a moratorium on further patenting of mining claims. Unfortunately, that does little to take us closer to a real solution to the real issues that need to be dealt with in updating the mining law.

I think Senator BUMPERS amendment is largely intended to be a referendum on whether change is needed. I agree that change is needed. But I far prefer to deal directly with what those changes should be, and whether the changes will be reasonable and practicable.

Senator BUMPERS said earlier this year that he would try to report legislation out of the Energy Committee, and he even offered a proposal that was not too different from Senator REID's. I encouraged that, and I was looking forward to our grappling with these issues in that legislative forum. Unfortunately, Senator BUMPERS decided not to pursue that. I think that is a shame, because I believe he could have put together a good package—not everything he would want, to be sure, but something that did address most of the major issues, and something that could actually pass and be enacted into law. And that is something we do need to do.

Mr. DASCHLE. Mr. President, I wish to make some comments about the amendments before the Chamber today on the Interior appropriations bill relating to hard rock mining. This is an important issue for my State of South Dakota, as well as the Nation.

In South Dakota, almost 3,000 people are employed by the mining industry. The great majority of this mining is for gold, and almost all of it occurs in the Black Hills. The mining occurs on both private and public lands. The public lands at issue are in the Black Hills National Forest. This is a very small national forest, and one of the most intensely used forests in the Nation. The uses range from a very viable timber industry, to mining, to recreational uses, and wilderness. Because of the size of the Black Hills and the intense local interest in its management, my perspective on the mining law is different from many of my colleagues from the West.

I support mining. I want a strong mining industry because of the jobs it provides and the revenues it generates. But the mining law of 1872 needs to be reformed. That is why I have supported the Senator from Arkansas [Mr. BUMPERS] in the past in his efforts to place a moratorium on the issuance of patents, and I still support his amendment. But I also support the efforts of Senator REID to address some of the real problems with the 1872 law.

The Senator from Arkansas deserves credit for pushing mining law reform all these years. He has taken a lot of shots on this issue, and, to be honest, he hasn't received much help. A 1-year moratorium is not the death knell of the mining industry, and those that describe it as such are guilty of hyperbole at its greatest. What it does, however, is signal that we need to come to grips with this law and bring it into the 20th century.

I believe that is what Senator REID is attempting to do. I would prefer that this were being done in the Energy Committee through the normal processes, but since we are debating the issue here, we need to look at it on its merits.

The most egregious abuses of the mining law, the ones that make "60 Minutes" and "Prime Time Live," have to do with the patenting system and especially the fees, $2.50 and $5 per acre, that were set in 1872 to reflect market prices. Clearly, these fees do not reflect market prices today. Moreover, under current law, there is no requirement to actually mine a patented claim. You can build a house, or, even better, sell it to developers at incredible profit. The taxpayers are the big losers in this scenario, especially those who used to enjoy this section of public land. To be honest, these types of abuses are fairly minor; still, there can be no argument that they need to be addressed.

As I understand it, the Reid amendment would change the $2.50 and $5 patent fees to fair market value, thereby eliminating the incentive to resell the land for other uses. Moreover, as a further safeguard, the Reid amendment would make a claim revert to Federal ownership if mining ceases to occur. Another aspect of the Reid amendment would require reclamation on mining Federal lands, a requirement that most States have but that some do not. Unfortunately, there are other things that I had hoped would be in the Reid amendment, namely bonding, that do not appear. But based on Senator REID's assurances, this issue will be addressed.

Combined with the $100 holding fee that is already in the bill, the Reid amendment is a good start to reforming the mining law of 1872. Other issues, such as whether mining should have priority over all other uses under FLPMA, is a very legitimate issue for discussion, but I would hope that this could be done in the authorizing committees.

In closing, I just want something to be done on this issue. It has festered for too long, and until real changes are made, the image of the mining industry will continue to suffer, as will the taxpayers and the environment. If the Reid amendment passes, we will have made a step to improve the situation. If it fails and the Bumpers amendment passes, the pressure will stay on to make real reforms, and this, too, is positive.

Mr. BINGAMAN. Mr. President, I rise today to support the amendment offered by my colleague from Nevada, Mr. REID, that proposes changes to the 1872 mining law. This is a very contentious issue, and I support my colleague's effort to respond to the difficulty we have had in the Senate in addressing this issue through authorizing legislation. Although this amendment may not please all advocates of mining law reform, it is an important first step in addressing the most egregious abuses. If the Reid amendment becomes law, the Federal Government will receive an average of $325 for each patented acre—a big increase over the $2.50 and $5 per acre in the current regime. This amendment should also go a long way toward preventing abuses arising from patenting for nonmining, speculative purposes. This amendment will also, for the first time, codify reclamation in the 1872 mining law.

Mr. President, I believe it is important that we acknowledge the opportunity that this amendment offers, namely a chance to make some long-overdue changes to the 1872 mining law.

Mr. BUMPERS. Mr. President, I move to table the Reid amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas to lay on the table the amendment of the Senator from Nevada.

On this question the yeas and nays have been ordered and the clerk will call the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "nay."

The result was announced—yeas 44, nays 52, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—44

Adams
Akaka
Bentsen
Biden
Bradley
Bumpers
Byrd
Chafee
Cohen
Cranston
Dodd
Exon
Fowler
Glenn
Graham
Harkin
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Simon
Warner
Wellstone
Wofford

NAYS—52

Baucus
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Burns
Coats
Cochran
Conrad
Craig
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Ford
Garn
Gorton
Gramm
Grassley
Hatfield
Heflin
Hollings
Inouye
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Reid
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Wirth

NOT VOTING—4

Burdick
Gore
Hatch
Helms

So the motion to lay on the table the amendment (No. 2882) was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the Reid amendment.

The amendment (No. 2882) was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the Bumpers amendment, as amended.

The amendment (No. 2881), as amended, was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment on page 3 of bill.

Mr. STEVENS. Mr. President, did we move to reconsider that?

Mr. BYRD. Mr. President, I withdraw the committee amendment.

The PRESIDING OFFICER. The Senator has withdrawn the committee amendment.

The committee amendment on page 3 was withdrawn.

Mr. STEVENS. I move to reconsider the vote by which the Bumpers amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from West Virginia is recognized.

Mr. BYRD. I assume Senator REID will withdraw his amendment—

Mr. REID. That is true.

Mr. BYRD. To the second committee amendment.

Mr. REID. As the chairman suggested last night.

Mr. BYRD. Mr. President, let us vote on the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the Reid amendment No. 2868. Does the Senator withdraw that amendment?

Mr. REID. Parliamentary inquiry.

Mr. BYRD. Does the Senator withdraw his amendment?

Mr. REID. I thought that had been done. Mr. President, the chairman of the Appropriations Committee directed a question to me which I thought was in the form of a unanimous-consent request that my amendment be withdrawn. I acknowledged that.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment offered by Mr. REID be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2868) was withdrawn.

The PRESIDING OFFICER. The question is now on agreeing to the committee amendment on page 101.

The committee amendment was agreed to.

BUDGET COMMITTEE STATEMENT ON THE INTERIOR APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5503, the Interior appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $185 million and under its 602(b) outlay allocation by $3 million.

I compliment the distinguished manager of the bill, Senator BYRD, and the distinguished ranking member of the Interior Subcommittee, Senator NICKLES on all their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Interior appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5503

INTERIOR SUBCOMMITTEE SPENDING TOTALS—SENATE REPORTED

[In millions of dollars]

Bill summary	Budget authority	Outlays
Domestic discretionary	13,035	12,664
Senate 602(b) allocation	13,220	12,666
Difference	−185	−2
Defense discretionary	14	11
Senate 602(b) allocation	14	13
Difference	0	−2
Mandatory total	79	78
Senate 602(b) allocation	79	78
Difference	−0	0
Bill total	13,128	12,754
Senate 602(b) allocation	13,313	12,757
Difference	−185	−3
Domestic discretionary above (+) or below (−):		
President's request	478	168
House—passed bill	62	41
Senate—reported bill		
Domestic discretionary above (+) or below (−):		
President's request	14	11
House—passed bill	14	11
Senate—reported bill		

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I hope that Senator LIEBERMAN will call up his amendment dealing with Bosnia and we can get a time agreement on that amendment, say, 1 hour to be equally divided, during which time both sides could work to try to ascertain what the remaining amendments are so, hopefully, before the Senate goes out this evening we could limit any further amendments to those amendments that we are able to flush out of the woodwork.

Mr. WALLOP. Will the Senator yield?

Mr. BYRD. Yes; I will be glad to yield.

Mr. WALLOP. Mr. President, I am all in favor of trying to determine the number of outstanding amendments that are relevant to this bill. But I have to say that I will not be inclined to grant a time agreement to the Lieberman amendment, and especially I will have to inform the Senator that it is my intention to offer one and perhaps two amendments to it, for the lack of information that may be in the minds of other Senators about this on Bosnia-Hercegovina.

I think, as dreadful as the news from there is, and as poignant and as painful and as terrifying as it is, this Senate is moving too quickly without enough information. I say that with great respect for my friend, but there is to be a hearing in the Armed Services Committee on Friday on this issue and I will say that at the hearing that was held today, a member of the American Armed Forces told us that it would require two divisions just to secure the airport and the safe route. Italians cannot do it; Germans cannot do it; Brits will not do it, and I am desperately worried that we are moving to satisfy emotions that we all share with hardships that we may not be willing down the road to bear.

I hope that we will wait until we have the hearing. The Senator from Georgia [Mr. NUNN] has scheduled hearings on Friday. I have every sympathetic reaction in the world, I say to my friend from Connecticut, but I am desperately worried about the consequences of this amendment being acted upon before we really know.

Mr. WARNER. Will the Senator yield?

Mr. BYRD. Mr. President, I have the floor. I will be glad to yield.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. WARNER. Mr. President, I join my colleague from Wyoming. I spent the last 2 hours studying this amendment, and indeed we all share with compassion this terrifying series of events that is taking place.

As the amendment is now drawn, in my judgment it could be construed as a blank check to the United Nations to at any time ask this Nation for Armed Forces of indeterminate amount. It does not set forth a specific set of objectives. It does not in any way have in there what we would achieve, how long we would have to stay. I remember so well this Chamber going through the series of carefully programmed debates, consultations with the President, before we acted on Iraq, and here in a matter of an hour someone suggested we are about to vote on a resolution which this Senator would require at least 1 hour of colloquy and questioning with those who are propounding the amendment, to get a basic understanding of the language itself and the parameters. And then in all likelihood, if it were to be voted as drawn now, this Senator would have to vote against it.

Several Senators addressed the Chair.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Georgia [Mr. NUNN].

Mr. NUNN. Mr. President, we do plan to have, as the Senator from Wyoming has indicated, an open hearing on Friday. We are lining up the witnesses. We hope to have witnesses who will speak to the policy. We hope to have witnesses who will speak as much as possible to what is actually occurring there now. All of us are very, very concerned about the situation there and about the reports we read of brutality and murder and inexcusable human conduct.

We will also have witnesses who will testify about the military implications and about the various military options. We will do as much as possible on Friday in open session. We cannot guarantee that all of it will be open session, but I think what we have lacked as a body, as a legislative body and as a nation, is a discussion of the options.

It is not a simple matter. It is a complex matter and I think we would be well advised, whatever we do with this particular amendment, before we take any final action, to understand the implications of what we are doing and to choose carefully the options that we advocate.

Mr. PRESSLER. Will my friend yield? Mr. President, will there be the possibility of a compromise under which we have a 2- or 3-hour debate on this on Monday or Tuesday with assurances of a rollcall vote so it would not hold up this bill? I am very much for this resolution. I also want to move forward on the pending bill. If we can be assured of a 2- and 3-hour debate with a vote on this resolution, I think we can move forward. I am a cosponsor of this amendment. I think it is a defining issue in foreign policy at this moment for the President and for the Congress.

The PRESIDING OFFICER. The Senator from West Virginia controls the floor.

Mr. BYRD. Mr. President, I do not have any desire to interfere with this colloquy. I think it could be helpful in arriving at some kind of a decision either to go forward with the amendment or not go forward with it or if we want a free, separate, freestanding resolution.

I do wish the Chair to protect my right to the floor. I ask unanimous consent that I may yield for such colloquy without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I say to my friend that I would be prepared to go forward at some point in time, providing the Senate has had a full opportunity through the Armed Services Committee, and in all probability the Foreign Relations Committee, if they wish to have a hearing on it. The Intelligence Committee had a hearing of some 2 hours today. It was very helpful. But until there is a complete record before this body, I would object to any specific time for a vote on this amendment, or one like it.

Mr. PRESSLER. I say to my good friend that we must try to get a vote on this important matter somehow. I cannot speak for anyone except myself. I speak only for this Senator. However, I feel strongly that we must get an agreement to have a debate and a vote on this issue. I think it is a defining moment in foreign policy—a defining moment for the Congress. This is a holocaust, a genocide, going on in today's world. Unless Congress speaks to it, this will be a very unfortunate moment in our history. I think it is a defining moment for all of us. And I plead with my colleagues, let us have a vote on it; let us not run away from this issue. It is going to be a tough vote because it involves the possible use of U.S. military force.

Mr. D'AMATO. Mr. President, I wonder if I might——

The PRESIDING OFFICER. The Senator from New York.

Mr. LIEBERMAN. Will the Senator yield?

Mr. D'AMATO. Certainly.

Mr. BYRD. I yield for purposes of a colloquy.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Chair will call upon Senators to be recognized with the understanding that the Senator from West Virginia can require to be recognized at any such time he may desire.

The Senator from New York.

Mr. D'AMATO. I want to just make a very brief statement.

This amendment does not call for the commitment of U.S. troops. We call upon the United Nations, or ask the President to call for an emergency meeting of the U.N. Security Council, and it says, yes, the Security Council should be authorized under article 42 of the United Nations Charter to use all necessary means to give effect to Security Council decisions in regard to Bosnia-Herzegovina, and it says "including"—it does not say you have to—"the use of multilateral military force under the Security Council's mandate to ensure the provision of humanitarian relief and to help protect the civilian population against the use of heavy weapons in conjunction with a United Nations supervised cease-fire."

We are not saying send in, land troops. We are saying let us get—we should be in the leadership of getting the United Nations to face up to its responsibility. Now, we have watched, and watched, and watched. We have negotiated, negotiated, negotiated through the aegis of the United Nations. We see little, if any, progress, but we see the slaughter of the innocent.

I am not suggesting we send a division, or two divisions, or three, or any for that matter, or any American troops as such. But if we do not get the United Nations to do more than just give lip service to what is taking place, to the tragedy, to the killing of the innocents where we now see vans that clearly were taking out children being shot upon—what does it take to get us to stand up?

We sat back, and I recall—and I will bring it up again; I do not care how many times—in May 1990, when I said, my gosh, why do we not send at least a clear signal to a guy who was certainly, as I will continue to call him, the Butcher of Baghdad, everybody got upset.

This Milosevic is a killer of Hitler-like proportions in what he is doing. He is demented. And we cannot say we do not know what is happening. We said it during the Holocaust. We know what is happening.

Will it take some risk? Maybe. But that is our position as being special. The United States is special.

Am I my brother's keeper? You better believe it. Because this Nation has been for us, for our families, for those who came here, it has been the haven. We are the haven that should be for freedom. If we take great credit when they say, oh, look, the walls came down, and people are free, well, then we have a responsibility to act at least to bring this before the United Nations in a forceful manner and to say we are not just going to use lipservice, and if necessary we will use force.

Is it difficult to distinguish all the parties? Sure, it is. But if we want to hide behind some report that says we cannot clearly delineate where all the orders are coming from the surrounding area, from the bombardment, for the killing of the people, then shame on us.

We have to know with clear definition whether or not there are killer death camps, how many, how many people have been killed, 50,000 people at least, most of them civilians, ethnic purification, purges, separation of people, Muslims being led away because they are Muslims, Croats because they are Croats. What will we say when we see the same kind of condition and it is too late and it takes place in Kosova? Will we then step in and do something?

I am not suggesting to you that we do anything other than what this amendment calls for, and that is to urge the United Nations really to be more forceful and, yes, for us to make whatever commitment necessary to secure some kind of semblance of aid to the most beleaguered. They are wondering how is it that the world community is allowing it to take place. We should not add our name to those who are afraid to go forward in the cause of peace and the cause of justice.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Chair, and understand the Senator from West Virginia retains the right to the floor.

Let me say to my colleagues that this resolution is the result of several days of effort by a number of Members of the Senate, all concerned about the outrageous events in Bosnia, concerned that we have gone now more than a year and watched Serbian aggression since the dissolution of Yugoslavia, first into Croatia, now into Bosnia, next into Kosova, perhaps Macedonia, the implication being that in the new world order there is no order, and now these increasingly devastating stories of atrocities within Bosnia crying out for some kind of action.

We are dealing here with a Serbian leader, Milosevic, who has not responded to any of our entreaties that have been peaceful, no economic sanctions. Lord Carrington, Secretary Vance, they have all been over there trying to work this out and nothing has happened.

This Senator is fearful that in some ways like our experience with Saddam Hussein, it will take a moment when Milosevic is looking down the barrel of a gun for him to realize that it is time to stop the aggression.

We are not in this resolution aiming to get America into a war, to win a war. This is an attempt to work with the international community, led in effect by our allies in Europe, in whose neighborhood this is occurring, to use force in a limited way to bring the parties there to the peace table.

The aim of the resolution, when it started out, I would say to my colleagues, was simply to urge the President to go to the Security Council to seek authorization for the Security Council to take whatever action is necessary to enforce its own decisions.

Along the way, the resolution picked up some other parts suggested by other Members of the Senate, for instance that the United Nations and International Red Cross should be granted access to the alleged concentration or death camps to inspect what is happening there, that the Security Council should review the embargo and arms sales to Yugoslavia; that we may review with an eye to whether it makes sense for some nations to have the liberty to supply arms to the relatively defenseless Bosnians. And finally another suggestion by another Member that the U.N. Security Council should convene a tribunal to investigate allegations of war crimes.

So this is an expression of outrage, impatience.

Obviously, in a resolution of this kind, it is not up to us no more than it was when we debated so fatefully the question of Operation Desert Storm to determine what kind of military action we are talking about. That is up to the generals. The question here is whether the Senate wants to encourage the U.N. Security Council to be willing to form a multilateral force that can attempt in a limited way to apply force to bring about the resolution we seek.

Mr. WARNER. Will the Senator yield for a question?

Obviously the Senator respects his colleagues on the Senate Armed Services Committee. I would prefer, of course, that this resolution occur unanimously, if possible, because I am sure all of us in this Chamber are outraged by the stories we are hearing.

If you are going to understand my impatience, we have done a lot of work here the last week trying to bring the various parties together, of both parties, Senators of both parties, to have this be a truly powerful bipartisan expression of the willingness to lead.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. LIEBERMAN. Yes.

Mr. WARNER. Let me give the Senator an example of where I have some concerns. I fully appreciate the hard work that has been done, negotiations that have been done, and the importance of this body making a statement. But when you call on the President to immediately call for an emergency meeting of the U.N. Security Council in order to authorize under article 42 the U.N. Charter, here are the magic words, "all necessary means," that was the same language that this Chamber used in the Iraq resolution, which implies military force. Am I not correct?

Mr. LIEBERMAN. The Senator is correct.

Mr. WARNER. Then let us go on, to give effect to Security Council decisions in regard to Bosnia-Herzegovina, including the use of multilateral military force—now the specifics—under the Security Council mandate to ensure that provisions of humanitarian relief and help to protect the civilian populations against the use of heavy weapons.

I say to my friend, that in the mind of military experts, that means land forces. Am I not correct?

Mr. LIEBERMAN. That certainly is not the intention of the sponsor.

Mr. WARNER. Does the Senator think we could do this with just air and naval to ensure the provision of humanitarian relief to protect the civilian population when we have agreed today their fighting is not just in the Sarajevo area? It is all over in many cities. And the alleged atrocities are taking place in many areas.

I cannot find a military person who can tell me that we can achieve that result with simply the use of air and sea.

I follow up with this comment. To date—I just checked it a few minutes ago with the Secretary of Defense—the President of the United States has gone only so far as saying that sea and U.S. air would be made available to some type of U.N. operation; again, a reservation, indeed perhaps an absolute denial of the use of U.S. land forces.

If I am correct that land forces would be required, then whose land forces are we talking about when you ask the President to go to ask for this authority? Which country is to put in the land forces? Our President says somebody else will do it. Is that the purport of this resolution?

Mr. LIEBERMAN. I appreciate the Senators question. That is not the purport of the resolution. In fact, it is quite consistent with what we gather is the intention of the administration now in its efforts at the United Nations which is to convince the Security Council to vote to use all necessary means to enforce their own decisions.

But I think there is no sponsor, if I may say to the Senator from Virginia, no Member of the Senate who at this point sponsored this resolution who desires to see the introduction of ground forces in Bosnia.

May I say finally, I have great respect, of course, for the Senator from Virginia. While I have a sense of impatience because of the outrages that are occurring, I do not want this Senate to act on this matter in a spirit of division. We may have policy differences but I certainly think there should not be division over differences of words.

It would not be my intention and reaction to what the Senator and others have said to force this on the floor. But echoing the words of the Senator from South Dakota, I think if we lay it aside at this point, we all ought to work together and set a time certain to come back to this before we depart the middle of next week because every day that passes, as we all know, people are starving and dying.

Mr. WARNER. I hope we can do just that, and I hope we reach a resolution onto which this Senator can add his name in support. At the present time, I feel that I would have to object to the draftsmanship, no matter how earnest and sincere it has been.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I am a cosponsor of this resolution. I cosponsored a number of resolutions in the past year to try to figure out some way to send a message to the hard-line Communist dictator in Belgrade, Milosevic. He has a hearing problem. It is like Saddam Hussein. He does not hear anything.

There are a lot of people to blame. I know it is very complicated. There was very interesting briefing today that alerted a lot of people to the problems that some of us are have not been aware of. I talked to the Secretary of State earlier today. They do not have any problem with the U.N. resolution. They do not have a problem with using force in certain cases where humanitarian aid is needed. I do not think there is any real problem.

I do believe there will not be any time agreement tonight. Perhaps it is better to wait and have the hearing in the Senate Armed Services Committee, and take this up freestanding maybe Friday or at the latest Monday.

I would certainly be prepared to work with the Senator from Connecticut and the Senator from New York and others, the Senator from South Dakota, the Senator from Arizona, to see if we cannot get it. I understand the majority leader would not object to bringing it up on a freestanding basis on its own.

If we can facilitate that without spending 2 hours debating whether or not we are going to do that Friday of this week, I assume the distinguished chairman of the appropriations committee would like to move on with the Interior bill.

Mr. DeCONCINI. Mr. President, I appreciate the position of the Senator from Kansas on this. I realize the administration has a lot at stake. We all feel pretty strong about it. The Senator from Kansas has spoken on the issue.

I just want to say I am not going to insist we do it tonight. I cannot wait. Maybe because you get too close to the forest to see the trees. But I have been at Sarajevo. I talked to the President of Bosnia-Herzegovina in Helsinki just 2 weeks ago. I talked to the Foreign Minister. I paid attention to the issue as many others have here.

I respect the Armed Services Committee's right to hearings and to object to this. But I cannot wait until Monday or Wednesday of next week.

The Senator from Connecticut is trying to find an accommodation here. Certainly the Senator from West Virginia deserves accommodation after the day he has been through with the Western Senators taking up his whole bill. But I have to give some notice. I am not going to wait until next week because I feel very strongly about this. If we get defeated, so be it. But somebody has to speak out as to what is happening there. We cannot put it off. We have put it off now for weeks and weeks and weeks.

We have to act and the people have to make a judgment. Do we want to encourage the United States to use all its efforts in the United Nations to get a resolution from the Security Council that would authorize the use of force to get humanitarian aid into Sarajevo and reopen that airport? That is what we are talking about. I do not think we ought to put if off.

I am going to be quiet now and let it go tonight if that is the will of my friend from Connecticut. But I am not going to put if off until next week.

Mr. DOLE. Will the Senator yield? I have another suggestion. There is one thing we might do. I hope that we might take it up as early as Friday of this week. One thing we might do—a lot of people are in agreement—we might send a letter to the head of the United Nations saying the same thing, and get it up to there tomorrow. But that is another way to approach it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, earlier this week, I had a meeting concering the situation in Yugoslavia with some members of the editorial board of the Washington Post, an American citizen of Albanian descent, and a doctor from Kosova. I also raised this issue with the President of the United States in another meeting this week. I say this to demonstrate how serious I believe this issue to be. It is my hope this body will take up and vote on the matter within the next few days.

Mr. BIDEN. I thank the distinguished chairman.

Mr. President, I say, for the edification of my colleagues, that in the Foreign Relations Committee, we held the only hearing—a closed hearing—where representatives of the Joint Chiefs of Staff and other agencies came before us and talked extensively about the various options to use military force. I invite my colleagues who have an interest in that to take a look at that record. I will not speak to that, because it was a closed hearing.

Let me point out two things about the resolution of my friends from Connecticut and Arizona. What is called for here essentially allows the United States a veto power over whatever use of force occurs anywhere. All they are calling for is that the United Nations should authorize the use of force to accomplish two things. They are not calling for an end to the war. They are not calling to end what is essentially an invasion. They are not calling to end all of the slaughter. They are saying: A, facilitate the delivery of humanitarian aid; B, what the United Nations has approved, get that heavy equipment, which is the thing that is killing all those poor Bosnians; get that under the control and supervision of the United Nations, whether it is in the hands of Bosnian Serbs or Bosnian Muslims or Bosnian Croats; get that under control.

In other words, to implement the U.N. sponsored plan to place this heavy equipment under the control of the United Nations.

So it is not an expansive grant of authority to use force. It is not requesting the United Nations for an expansive grant of authority to do what probably would require 100,000 150,000, 200,000, or 500,000 forces, which is to bring peace and tranquility to Yugoslavia.

But we can help stop the mayhem now, the wanton killing, the indefensible killing of innocent civilians as a consequence of the firepower in the hands of the Bosnian Serbs, who are exercising and purging ethnically the area that they wish to be greater Serbia.

So it is limited in what we are asking the President to ask the United Nations. It is manageable and does not deal with or speak to whether land forces are used or air forces or any other particular force.

I compliment my friends on their initiative. I thank the distinguished Senator from West Virginia for granting me the time.

Mr. LEVIN. Will the Senator from West Virginia yield 2 minutes?

Mr. BYRD. I yield for 2 minutes to the distinguished Senator from Michigan.

Mr. LEVIN. I thank my very patient and good friend from West Virginia. It has been suggested here that this resolution provides a blank check—I think those words were used—to the United Nations. It does not. We have a veto at the United Nations. We have to sign any check which is written by the United Nations. The Security Council would have to act, and we are a permanent member with a veto. There is no blank check in this resolution.

Second, the administration's own position at the United Nations is to support a resolution which provides for military force to support relief efforts. When I asked the Assistant Secretary of State this morning if that continues to be the administration's position, to support force, to support the relief efforts, his answer was that it continues to be the administration's position.

It happens to be that they would want to use air assets and naval assets. That is still force. I think it is a very sensible position. But that is still force at the United Nations.

Mr. President, there is credible evidence of a genocide taking place in this world before our eyes. We must act. And I agree with the Senator from Arizona very strongly that this cannot wait until next week. We have an obligation to act, and we must act promptly, because of what is occurring before the eyes of the world in Yugoslavia.

I thank my friend.

Mr. LIEBERMAN. Will the Senator from West Virginia yield 2 minutes?

Mr. BYRD. Mr. President, I yield 2 minutes to the distinguished Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, it is obvious to me in the Chamber that everybody who has spoken shares our outrage about what is happening in Bosnia, and I hope and believe wants the United States and United Nations to play a more active, aggressive role in bringing about a resolution to that problem.

In fact, in line and in support with what we gather, as the Senator from Michigan just indicated, is the intention of this administration at this point; but having heard from—appreciating the support given by the Senator from Delaware and others to the resolution—and I think he accurately expressed our intention—but acknowledging the concerns expressed by the Senator from Virginia and the Senator from Georgia, I would intend not to introduce the amendment at this point, and to urge my colleagues to join in the quickest, broadest consideration of the amendment, and to express my intention on behalf of those who have worked most actively with me in preparing this resolution—the Senator from Arizona, the Senator from New York, and the Senator from Michigan—

to repropose the amendment, or one quite similar to it, before the end of the week.

I hope that, in that time, the Senator from Virginia and others who have concerns about the wording of the resolution would work with us so we might, in fact, give unanimous expression to our moral outrage, our strategic interests, and our need for action quickly, because people are starving and dying with each day that passes.

Mr. WARNER. Will the Senator yield me 2 minutes to make a reply?

Mr. BYRD. I yield 2 minutes to the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, I will work as hard as I can to accomplish that result, and I pledge to you that I want to join in an amendment. But I say to my friend from Delaware and my friend from Michigan, just take a look at this one word in here. You ask the President to get a resolution, and I quote it: "to ensure"—that is an operative word—"to ensure that provision of humanitarian relief and to protect the civilian population against the use of heavy weapons."

It is not written to say: to facilitate or to attempt. This is a positive word—to "ensure" that this is done. In the minds of a military planner, when you tell him to do it in such a way as to "ensure" that it is done now, and for what foreseeable period of time, that can be extrapolated into very significant military forces that could remain there for a prolonged period. I want to make certain that not only I understand this, but that the American public understands it, if this institution is to go on record.

I can go through and select other words in here which, to me, have very definite meanings when extrapolated into the use of military force. It is for that reason that I thank the Senator for not pushing this tonight. I thank the Senator for the opportunity to work with him, in the hopes that we can have a meeting of the minds on a resolution to meet the timeframe established by the Senator from Arizona.

I thank the Chair.

Mr. BYRD. Mr. President, does the distinguished Senator from Kentucky [Mr. McCONNELL], wish me to yield him some time?

Mr. McCONNELL. I would like to have 2 minutes.

Mr. BYRD. I yield the floor for 2 minutes, and I retain my rights to the floor.

Mr. McCONNELL. The distinguished Senator from Connecticut and I have had a chance to discuss this issue in some detail over the last few days, and I commend him for his interests in trying to solve this problem. Unfortunately, it seems to this Senator that no expression of moral outrage by this body is going to have any real impact over there in Bosnia. What we are groping for here—and why I think this delay is so appropriate—is the right thing to do.

Hopefully, if we can conclude what the right thing to do is, we can move forward on a unanimous basis.

It seems to this Senator that to delay at the request of the distinguished Senator from Virginia is in the best interest of this body, and to give us an opportunity to bring ourselves together on a most complicated issue.

Obviously, those who were given an opportunity to have that classified briefing this morning, who have some concern about this proposal—and it seems to me it is a very complicated situation that has been going on for hundreds of years, and no damage will be done by further delay for a few days.

So I again thank my friend from Connecticut for his leadership on this issue, and I hope that we will be able to address it on a bipartisan basis some time before we depart next week.

Mr. President, I yield the floor.

BOSNIA

Mr. KOHL. Mr. President, I want to add my thoughts to the comments made by other Members of the Senate about the atrocities being committed by Serbian forces in the former Yugoslav Republics of Bosnia and Croatia.

Perhaps the most dramatic and moving illustration of the level to which the Serbian forces have sunk occurred when snipers attacked a bus carrying 50 orphans from Sarajevo to Germany. Two children were killed and nine others were refused permission to leave the area because they had Serb names. Not content with the destruction of young lives, Serbian forces actually launched an attack aimed at the funeral services being conducted for these victims. And in that attack, they wounded the grandmother of one of the children they had killed just a few days before.

While that is a dramatic and moving illustration, it is far from unique. The Serbians have adopted a policy of ethnic cleansing designed to remove all non-Serbians from the lands they hold. That policy has already resulted in the forced evacuation of 2.5 million people, often at gunpoint.

Given that policy we cannot be surprised—even though we should be shocked—by recent news accounts that indicate that international organizations like the Red Cross believe that non-Serbs "are being terrorized, minorities intimidated and harassed, civilians interned on a massive scale and hostages taken, while torture, deportations and summary executions are rife."

At what point, Mr. President, will the United States stand up and take action. The innocent victims of Serbian terrorism cannot afford to wait while our government waivers and decides if it really wants to take a leadership role in this conflict.

Look at what we have done on this most recent rash of reports about concentration camps. First, the State Department confirmed reports that Croats and Slavic Muslims were being tortured and killed, but did nothing about it. One day later, they reversed their position and expressed uncertainty about the accuracy of these reports, but didn't do anything to investigate them. According to administration officials, we now have very few options. We can only urge the Serbs to grant the Red Cross access to these camps.

This inaction on the part of our Government is, to put it plainly, unacceptable. If World War II taught us anything, it was that the international community must take decisive action against those who seek to commit genocide. Remaining silent is an open invitation to the Serbian forces to continue their ethnic cleansing. In fact, is all too possible that our silence at the early stages of this conflict encouraged the Serbs to entertain the notion that they could get away with this kind of concentration camp activity.

Let me make one final point, Mr. President. I realize that some people seek to justify our inaction on the grounds that this is a civil war, a conflict among various ethnic and nationality groups. They say that we do not know who the aggressor is, so we should not get involved.

This is not a civil war or an internal matter. Bosnia and Croatia are independent nations that have been recognized by the United States. Serbia has violated international law by invading these two nations. There is absolutely no question that Serbia is the aggressor in this conflict. Secretary Cheney stated that we got involved in the Middle East during the crisis with Iraq because there was "overt aggression of one country against another and because there's strategic interest in the Middle East." These same reasons now compel us to take action and put an end to Serbia's drive to create a Greater Serbia.

International law entitles the nations of the world to take appropriate action to deal with Serbian aggression. Human sensibility requires us to assert our leadership and join with the United Nations to resolve this situation at once. I urge the administration to recognize the mandates of morality and work with the United Nations to inspect the camps and take the steps necessary to prevent further aggression by Serbian forces and begin the process of resolving the disputes between Serbia and Croatia and Bosnia and the other States in the region.

AMENDMENT ON SERBIAN ATROCITIES

Mr. D'AMATO. Mr. President, I rise today in support of this amendment calling upon the President to urge the U.N. Security Council to hold an emergency meeting to do the following things: First, to authorize the use of all necessary means to ensure provision of humanitarian relief to the citizens of Bosnia, access by United Nations and International committee of the Red Cross personnel to refugee and prisoner of war camps, and to protect the civilian population from artillery and air attacks; second, to review whether the arms embargo imposed on the States of the former Socialist Federated Republic of Yugoslavia should be lifted for Bosnia; and third, to direct the establishment of an international tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Socialist Federated Republic of Yugoslavia.

This amendment is the least we can do. As the world's only superpower, I believe we can and should do more. But I am pleased to join with my colleagues in offering and supporting this amendment as a first step in a direction we should be moving.

Yesterday, I announced that I would offer an amendment urging the creation of a war crimes tribunal to investigate and try the bloody handed murderers who have restored the term "death camp" to the world's vocabulary, a term we all hoped had been killed and buried with Hitler's Third Reich. My colleagues agreed with my initiative and included a clause in this amendment calling for establishment of such a tribunal.

Slobodan Milosevic and his henchmen must be brought to justice. They claim they don't control the genocide taking place in Bosnia, that it's the Bosnian Serbs who are doing the killing.

Milosevic must not be allowed to escape his personal responsibility for ethnic cleansing. It is his dream of a Greater Serbia that inspires and drives this new version of the final solution—only this time, the victims are Croats and Muslims, not Jews, Slavs, and Gypsies.

This time, the world can't say "we didn't know." We know, and we bear the moral responsibility to act. If we don't act, we are telling every aggressor and would-be mass murderer and ethnic purifier that he can get away with his crimes—if he just has somebody else do the killing.

If we don't act, we are telling the world that the principles we have declared and fought for since the end of the Second World War are just empty words. When these words get in the way of policy, we will disregard them.

Sometimes, you have to pay a price for having principles. Now is one of those times. For those who think the price is too high—recalling visions of Vietnam, Lebanon, or Northern Ireland—just think of the price we will pay in the future stopping other genocides whose seeds took root and flourished in the soil of our hypocrisy and neglect.

Let me be clear that I am not talking about starting a major land war in the Balkans. What I am talking about is using whatever force is needed to take out Serbian artillery, airfields, oil depots, supply lines, and the other elements upon which their war effort depends. We proved, in Operation Desert Storm, that we can do this when we decide to.

It is time and past time for the United States to press the United Nations to act. We, together with our allies, can do what needs to be done. After we stood aside to allow our European allies to deal with this European problem, and they dropped the ball, we must pick it up again and make certain that our principles—the world's principles—are not defied and defiled by Serbian aggressors who are engaged in mass murder.

After the allies destroyed the Third Reich in a storm of fire and steel, we found the horrors of the Nazi final solution in places like Auschwitz and Treblinka. After that, we said "never again." The time has come, Mr. President, for this body—and this country—to once again stand up for its principles and take action to give those words meaning.

I call upon my colleagues to join with me in support of this very important amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENTS NOS. 2888 THROUGH 2894

Mr. BYRD. Mr. President, I send a series of amendments to the desk on behalf of Mr. NICKLES and myself. These amendments have been agreed to by both sides of the aisle. I will ask unanimous consent that they be considered and agreed to en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], proposes amendments numbered 2888 through 2894.

Mr. BYRD. Mr. President, these amendments include:

An amendment (No. 2888) for an increase of $600,000 for Park Service operations, with $400,000 for Grand Teton National Park operations and $200,000 for cultural and historic resource evaluations at Weir Farm National Park, offered on behalf of Senators SIMPSON and LIEBERMAN;

An amendment (No. 2889) on behalf of Senator LIEBERMAN to increase Park Service construction by $115,000 for the general management plan at Weir Farm;

An amendment (No. 2890) on behalf of Senator INOUYE waiving public recreation uses imposed by a covenant associated with Aloha Stadium and surrounding property;

An amendment (No. 2891) by Senator RUDMAN relating to the White Mountains National Forest, Androscoggin Ranger District, offset by a reduction in land acquisition for the Pennsylvania Avenue Development Corporation;

An amendment (No. 2892) making a technical correction on page 73, line 22 on behalf of Senator NICKLES and myself;

An amendment (No. 2893) on behalf of Senator NICKLES which would allow the Bureau of Indian Affairs to utilize trust fund moneys jointly held for the Kiowa, Comanche, and Apache tribes to pay off their debt. The amendment will prevent the default on a 90-percent Federal loan guarantee and allow the tribes to move forward with their economic development plans; and

An amendment (No. 2894) making a reduction of $2,271,000 for the office of the Secretary at the Department of the Interior, to maintain the fiscal year 1992 level, offered on behalf of myself and Senator NICKLES.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with, and they be agreed to en bloc, and the motion to reconsider laid on the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (No. 2888 through No. 2894) were agreed to as follows:

AMENDMENT NO. 2888

On page 18, line 24, increase the amount by $600,000.

AMENDMENT NO. 2889

On page 20, line 21, increase the amount by $115,000.

AMENDMENT NO. 2890

Insert where appropriate:

SEC. . REMOVAL OF RESTRICTIONS.

(a) PURPOSE.—The United States hereby relinquishes any rights arising from restrictions described in subsection (c), subject to the condition that the real property be used for public purposes in perpetuity, as specified in subsection (b).

(b) IN GENERAL.—The Secretary of the Interior shall execute such instruments as are necessary to remove the restrictions described in subsection (c) that are applicable to the use of the real property consisting of approximately 55.31 acres located in Halawa, Ewa, Island of Oahu, State of Hawaii, being the major portion of the former Halawa-Aiea Veterans Housing Area, and currently known as Aloha Stadium. The removal of the restrictions shall be on condition that the real property be used for public purposes in perpetuity.

(c) RESTRICTIONS.—The restrictions referred to in subsection (b) are those reservations, exceptions, restrictions, conditions, and covenants requiring that the real property referred to in subsection (a) be used in perpetuity for a public park and public recreation area and for these purposes only, as set forth in the quitclaim deed from the United States of America dated June 30, 1967.

AMENDMENT NO. 2891

On page 95, line 16, decrease the number by $750,000.

On page 57, line 12, increase the number by $1,350,000 and on line 13, increase the number by $1,350,000.

AMENDMENT NO. 2892

On page 73, line 22, linetype "on" and insert "or".

AMENDMENT NO. 2893

(a) Notwithstanding the provisions of Section 101(c) of Public Law 98-473, Act of October 12, 1984, 98 Stat. 1849 [25 U.S.C. 123c], the Secretary of the Interior is authorized in his discretion, to pay lawful debts incurred on behalf of the Kiowa Comanche Apache Intertribal Land Use Committee in connection with the construction and operation of the Native Sun Water Park in Lawton, Oklahoma, from funds in the United States Treasury held jointly for the Kiowa, Comanche and Apache Tribes. Provided however that such payments may not exceed an aggregate of $1.3 million.

(b) Prior to exercising the discretion described in section (a), the Secretary or his designee shall provide written notice to the Kiowa Comanche Apache Intertribal Land Use Committee describing with specificity the nature and amount of the obligation(s) the Secretary intends to pay. In the event the Kiowa Comanche Apache Intertribal Land Use Committee does not provide documentation to the Secretary within 30 days justifying why the amount(s) should not be paid, the Secretary may exercise his discretion to pay the obligation(s).

AMENDMENT NO. 2894

On page 46, line 17, reduce the number by $2,271,000.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, will the Senator from West Virginia yield for purposes of offering an amendment?

Mr. BYRD. Yes; I am happy to yield for that purpose. I am glad somebody will offer an amendment.

Will the Senator yield 2 minutes? I promised Mr. PELL that I would yield the floor to him for 2 minutes, after which, if the Senator wishes to get recognition, he may do so.

Mr. PELL. Mr. President, I thank my colleague and friend for affording me this opportunity.

I would like to say on the record that we have had a Foreign Relations Committee hearing, ably chaired by Senator BIDEN on the military options in the former Yugoslavia. At that hearing, there was very good input as to the pros and cons of any action to be taken.

I think this debate just now is very helpful. We see the differing views. I am very glad the Senator from Virginia has discussed meeting with the Senator from Connecticut and working out a more satisfactory wording. I would add that tomorrow, the Foreign Relations Committee will hold a business meeting at which we will consider and hopefully report out a resolution on Bosnia so that the Senate can consider it in the very near future.

There is no question that we all have the same objectives and the same ideas and views. The question is how to word this resolution. None of us want to see our young men and women committed to war. But, by the same token, we cannot permit what is going on in Yugoslavia.

The question is to find the middle ground in there, and make use of the U.N. structure that we have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 2895

(Purpose: To reduce an appropriation)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 2895. On page 46, line 17, strike out "$65,904,000" and insert in lieu thereof "$63,633,000".

Mr. GRAHAM. Mr. President, the amendment which I have sent to the desk is the first of five amendments to accomplish the policy objective that we have dealt with several times over the past 10 days, and that is to start the process of beginning to bring our budget into closer balance by freezing the overhead and general administrative budgets of the various agencies.

We have done this thus far by votes on the floor for the Departments of Commerce, Justice, State, and Transportation. Several other committees have, by their own action, held the general administration overhead to the current year's funding.

The amendment which I offer is the amendment that goes to the account of the office of the Secretary of the Department of the Interior, and it would purport to hold this to the current year's level of funding, which is $63,633,000, for a savings of $2,271,000.

Mr. BYRD. Will the Senator yield?

Mr. GRAHAM. I yield.

Mr. BYRD. That reduction has already been made, I wish to inform the distinguished Senator. That reduction has been made.

Mr. GRAHAM. That amendment has already been agreed to?

Mr. BYRD. Yes. The Secretary of the Department of the Interior will have the same level that he was operating under last year.

Mr. GRAHAM. I am very pleased with that statement.

Could the President pro tempore inform me as to whether that same policy has been adopted relative to the offices of the Solicitor, inspector general, et cetera, of the other Departments?

Mr. BYRD. It has not been.

Mr. GRAHAM. Mr. President, I withdraw the amendment which I have offered.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

The amendment (No. 2895) was withdrawn.

AMENDMENTS NO. 2896 THROUGH NO. 2899

Mr. GRAHAM. Mr. President, I propose four amendments to be considered en bloc, which I send to the desk.

The PRESIDING OFFICER. The amendments en bloc will be read by the clerk.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes amendments numbered 2896 through 2899.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2896

On page 46, line 23, strike out $31,468,000 and insert in lieu thereof "$31,128,000.".

AMENDMENT NO. 2897

On page 47, line 4, strike out "$23,958,000" and insert in lieu thereof "$23,741,000.".

AMENDMENT NO. 2898

On page 47, line 8, strike out "$2,260,000" and insert in lieu thereof "$2,215,000.".

AMENDMENT NO. 2899

On page 47, line 13, strike out "$2,480,000" and insert in lieu thereof "$2,190,000.".

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I have sent to the desk four other amendments which relate to holding the overhead and general administrative costs to the Department of the Interior and the four other offices to their 1992 level of expenditure, consistent with the amendment which has previously been adopted, to apply that principle to the office of the Secretary of the Department of the Interior.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from West Virginia.

Mr. BYRD. Mr. President, if the Senator would agree, if he has no further comments to make at this point, I would like to suggest the absence of a quorum, so that Senator NICKLES can come to the floor.

As far as I am personally concerned, I do not mind accepting the amendments en bloc. But I do not know how Senator NICKLES would feel about it until he can either come to the floor or be reached, and an effort is being made at this moment to try to reach him. So maybe he will give the answer, an answer, very soon.

If he has no objection, if he does not want to speak longer at this point, I will suggest the absence of a quorum.

In the meantime, though, before I suggest the absence of a quorum, I hope that our respective Cloakrooms and floor staffs can determine what amendments are expected to be offered on both sides of the aisle, and whether or not Senators who wish to offer such amendments would agree to time limitations thereon.

If we could establish a list of amendments and get consent there will be no other amendments offered, that would be some progress.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, the Senator from Oklahoma is here and I believe is prepared to comment relative to the amendments which I offered en bloc relative to the overhead budgets of four subagencies within the central office of the Department of the Interior.

The PRESIDING OFFICER. Does the Senator from Oklahoma wish to be recognized?

Mr. NICKLES. Mr. President, the Senator is correct. We have reviewed his amendments. I compliment him on his amendments. I cleared this. These amendments have been cleared with Senator BYRD as well, and I urge their adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendments en bloc.

The amendments en bloc (Nos. 2896 through 2899) were agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, shortly I will propose a list of amendments and ask unanimous consent that further amendments on the bill be limited to that list, which will include amendments from both sides of the aisle. Our staff has been working on those amendments, and staff on both sides have been trying to put together the list. And I am going to put the Senate on notice that shortly I will ask consent to limit amendments to that list.

Mr. NICKLES. Will the chairman yield just for a comment?

Mr. BYRD. I am happy to yield.

Mr. NICKLES. I would just make the comment we have compiled a rather extensive list, but I would add we are not asking for additional amendments. I might also advise the Senate that amendments that require additional spending will also have to have some rescissions in them as well to keep us within the 302(b) allocations. But we have a very extensive list. I hope the Senator from West Virginia, as chairman of the subcommittee and also the full committee, can propound that unanimous-consent request to limit amendments very shortly.

Mr. BYRD. I thank my friend and I will do that. I am glad that he has pointed out any amendments that require additional spending will have to be offset because we are right at the ceiling on both the outlays and the budget authority.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2900

(Purpose: To amend the holding fee to provide for a small mining operation exemption)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2900.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 11, line 24, strike all after "quality standards:" through page 14, line 2 and insert in lieu thereof, the following: "*Provided further*, That notwithstanding any other provision of law, that effective upon the date of enactment of this Act, for fiscal year 1993, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the Mining Law of 1872 (30 U.S.C. 28–28e), and the filing requirements contained in Section 314(a) and (c) of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1744(a) and (c)), any claimant not meeting the conditions in the following sentence shall pay a claim rental fee of $100.00 to the Secretary of Interior or his designee on or before August 31, 1993 in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the year ending on September 1, 1993. *Provided further*, That for fiscal year 1993, any claimant that is producing from 10 or fewer claims in an integrated operating area that has less than 10 acres of unreclaimed surface disturbance from mining activity may elect to either pay a claim rental fee as described in the preceding sentence for fiscal year 1993 or in lieu thereof do assessment work required by the Mining Law of 1872 (30 U.S.C. 28–28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744(a) and (c)) on such 10 or fewer claims in such integrated operating area and certify such to the Secretary by August 31, 1993: *Provided further*, That for each fiscal year after fiscal year 1993, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and filing requirements of FLPMA (43 U.S.C. 1744(a) and (c)), claimants not meeting the conditions in the following sentence shall pay an annual claim rental fee of $100.00 per claim to the Secretary of the Interior or his designee on or before August 31 of the preceding fiscal year in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the following year beginning on September 1: *Provided further*, That in each fiscal year after fiscal year 1993, claimants that are producing from 10 or fewer claims in an integrated operating area that has less than 10 acres of unreclaimed surface disturbance from mining activity may elect to either pay a claim rental fee as described in the preceding sentence for the year or in lieu thereof do assessment work required by the Mining Law of 1872 (30 U.S.C. 28–28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744(a) and (c)) on such 10 or fewer claims in such integrated operating area and certify such to the Secretary by August 31 of the preceding fiscal year: *Provided further*, That for every unpatented mining claim, mill or tunnel site located after the date of enactment of this Act, the locator shall pay $100.00 to the Secretary of Interior or his designee at the time the location notice is recorded with the Bureau of Land Management to hold such claim for the year in which the location was made: *Provided further*, That the co-ownership provisions of The Mining Law of 1872 (30 U.S.C 28–28e) will remain in effect except that the annual claim rental fee, where applicable, shall replace applicable assessment requirements and expenditures: *Provided further*, That failure to make the annual payment of the claim rental fee as required by this Act shall conclusively constitute an abandonment of the unpatented mining claim, mill or tunnel site by the claimant: *Provided further*, That nothing in this Act shall change or modify the requirements of Section 314(b) of FLPMA (43 U.S.C. 1744(b)) or the requirements of Section 314(c) of FLPMA (43 U.S.C. 1744(c)) related to filings required by Section 314(b), which shall remain in effect: *Provided further*, That the Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this Section as soon as practicable after the effective date of this Act.".

Mr. STEVENS. Mr. President, this is an amendment that I call a small miner provision for the holding fee. The bill already imposes a fee in lieu of what we call assessment work. This will permit in fiscal 1993 and all subsequent years, a small miner who is in production, who is in an integrated operating area of 10 or fewer claims and has 10 or less acres of unreclaimed surface disturbance, to do the assessment work instead of paying the $100 fee.

I might say that we have had it checked out by the Congressional Budget Office. It does not have a fiscal impact adverse to the bill. I do believe it is necessary for States such as mine. I still believe the small miner is the backbone of the mining industry.

Mr. President, we have areas of my State where the miners are really in a subsistence economy, lifestyle miners they are called. They live off the land, take fish and game and mine in the summertime. They really do not live where they have much of a cash economy unless they do become very fortunate and have a substantial discovery and are able to take that to patent and proceed with large mining operations in conjunction with a partner that helps finance that kind of development.

I believe this amendment is necessary to keep the small miners involved in the process. It is not a windfall in any way. As I have indicated, the way it has been drafted, it does not reduce the moneys that will come in under the bill provisions that were inserted by the committee dealing with the payment of the holding fee.

This will amend the provision that starts on page 11 of the bill that deals with the establishment of the holding fee.

I am pleased to have any discussion that anyone wishes to have on it.

Mr. NICKLES. Will the Senator yield?

Mr. STEVENS. Yes; I will be happy to yield.

Mr. NICKLES. After looking at the Senator's amendment, I hope I understand it. I am not an expert in mining fees. I appreciate the fact that the Senator from Alaska has a lot of experience because he has worked in the Department of the Interior prior to coming to the Senate, so he knows more about mining fees than most.

Mr. President, correct me if I am wrong, but under the Senator's amendment, it says for small miners. I guess that is a miner producing from 10 or fewer claims at one time?

Mr. STEVENS. That is correct.

Mr. NICKLES. That miner would have the option of either paying the fee or doing the diligence requirement; is that correct?

Mr. STEVENS. Doing the assessment work that is currently required under the diligence requirement of the Mining Law of 1872.

Mr. NICKLES. So they would have the option of doing one or the other, but they would have to do one or the other.

Mr. STEVENS. They have to do one or the other, that is correct.

Mr. NICKLES. I appreciate the Senator's clarification. I personally do not have any objection to the amendment. I understand that there may be another Senator who wishes to speak on it, Senator BUMPERS, or another Senator. We may have to set it aside or wait until their arrival. But I personally do not have any objection to it.

Mr. BYRD. Mr. President, I understand Senator BUMPERS does wish to speak on the amendment.

Mr. STEVENS. Very well. I will be happy to wait for the Senator from Arkansas. It was my understanding during the statement made by the Senator that he indicated that he did understand this small miner problem, and I will be happy to discuss it with him.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I have a list of amendments now which have been worked up by the staffs on both sides of the aisle.

I ask unanimous consent that these amendments be the only first-degree amendments to be in order and that they be subject to relevant second-degree amendments.

They are as follows: Mr. GORTON, timber salvage in spotted owl habitat conservation areas; Mr. WALLOP, an amendment on net receipts; Mr. WALLOP, an amendment on abandoned mine land reclamation fund; Mr. FOWLER, timber sales appeals; Mr. FOWLER, below-cost timber sales; Mr. STEVENS, authorize transfer of historic building in Alaska; Mr. BOND, subhumid agroforestry; Mr. GORTON, reallocate funds for Alpine Lakes land acquisition to other Washington State projects; Mr. BOND, Forest Service—prohibit expenditures for computer purchase or maintenance pending Department of Agriculture field structure reorganization; an amendment by Senators WALLOP and BURNS, CRAIG and BAUCUS to strike $148,000 in NPS funding for wolf reintroduction EIS and provide funds for BLM project in Wyoming; Mr. STEVENS, small mining exemption, which is now pending. This is not pending. Mr. STEVENS, an amendment on mining holding fee for small miners, which is pending; Mr. REID, an amendment on uncommon variety minerals; Mr. REID, bonding requirements; Mr. REID, mining; Mr. JEFFORDS on grazing fees; Mr. SMITH on freeze; Mr. DOLE on Hanover Station; Mr. LOTT on battlefields; and Mr. SEYMOUR on private relief. Those would be the only first-degree amendments which would be in order. As I said, relevant second-degree amendments would be in order.

Also, an amendment by Mr. BINGAMAN on boots and saddles initiative. I believe that amendment has already been acted on.

Mr. NICKLES. Will the chairman yield?

Mr. BYRD. In any event, I will include it in the list in a moment. Yes, I yield.

Mr. NICKLES. Have we taken care of Senator LIEBERMAN?

Mr. BYRD. That amendment dealing with the Bosnia——

Mr. NICKLES. No, not Bosnia.

That amendment has been taken care of.

We also have an additional amendment of Senator KASTEN, dealing with battery research.

Mr. BYRD. Very well. I add that to the list.

Mr. NICKLES. Did the Senator mention Senator SEYMOUR?

Mr. BYRD. I did.

Mr. NICKLES. And Senator MCCAIN?

Mr. BYRD. Senator MCCAIN has a point of order. I am not ruling out any points of order at any time, in my request I am not.

Mr. NICKLES. Did the Senator include a technical amendment by the Senator from West Virginia?

Mr. BYRD. I am glad the Senator reminded me. I will include that.

Mr. NICKLES. I think the Senator has included everything that we have on our list.

Mr. BYRD. I thank the Senator. That completes the list.

Mr. CONRAD. Reserving the right to object, might I inquire if there is a unanimous-consent request before the body on amendments that might be offered with time agreements attached?

Mr. BYRD. No, there is none.

Mr. CONRAD. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Chair. I thank Mr. NICKLES, and I thank staff on both sides of the aisle.

Now, there is an amendment pending by Mr. STEVENS.

I am told Senator BUMPERS is on his way to speak to the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from West Virginia suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Parliamentary inquiry, Mr. President. As I understand the order which was entered and which was presented by me, a list of amendments has been agreed to as being the only first-degree amendments that may be offered, but the order does not guarantee that any of those amendments will be offered. Am I correct?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. So that if there comes a time when Senators are not willing to come forward and call up their amendments, the Senator from West Virginia or any other Senator is free to move to go to third reading and ask for the yeas and nays on that vote. And at some point that may be done. I would not anticipate doing that tonight. But I want to put all Senators on notice that that may be done. At such time as I decide that is the only way to get action, I will give the Senator 10 minutes, as I did on one occasion last year, and I think they know I will not be kidding.

So if I at some point tomorrow say that within 10 minutes I am going to go to third reading. Senators will know to take that statement seriously. Even though a list of amendments has been entered as being appropriate, it does not guarantee that we are going to stay around and wait forever for those amendments to be called up.

The leader, I understand, would like to go for a while tonight further and get as much action on this bill as possible. So I hope that Senators will be prepared to call up their amendments.

Senator STEVENS has one. Senator BUMPERS is on the floor now. But I hope Senators will understand that there could be further rollcall votes tonight.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, parliamentary inquiry. Is there an amendment pending?

The PRESIDING OFFICER. There is a Stevens amendment No. 2900 that is pending.

Mr. LEAHY. And is there an order entered into either on time or on sequence of amendments?

The PRESIDING OFFICER. It is first-degree amendments.

Mr. LEAHY. Mr. President, I simply wish to state that I agree with the words of the distinguished senior Senator from West Virginia. I recall a couple years ago having a 5-year farm bill on the floor and I was told that 5 years before, in a far, far less complicated 5-year farm bill, one that had far less titles, amendments, and so on, that took some 7 weeks to pass. I really did not need to be told that. I sat here during those 7 weeks. I was not chairman of the committee at the time. The distinguished Senator from West Virginia, I recall, being here sometimes until 2 o'clock in the morning when we had votes on that. And it took 7 weeks. A lot of talk. I determined I would not do the same with a 5-year farm bill a couple years ago, and we pushed it through in less than 7 days, a far more complicated, a far longer bill, in fact, the longest piece of legislation ever passed by the Senate at that point.

One of the things I did, and I must admit it is not the most original idea because I heard the Senator from West Virginia do it before, I made it very clear, and had the support of the ranking member, that if amendments were not there, people were not ready to go, we would assume that nobody had an amendment they wanted and we would go to third reading.

I recall a couple of times when we started into the process of third reading, and it was amazing; it was like a SWAT team arriving as the doors of the cloakrooms opened and suddenly amendments and Senators came forth. But knowing we would eventually do it that way, we moved forward.

I must say as one Senator who has had amendments on this bill and others, I agree with the Senator from West Virginia. We all know time is running down. We all know we are going to try to recess for the Republican Convention and other matters next week. We all know there is a short time remaining between now and the time we will leave for the election campaigns, Members on both sides of the aisle. We are kidding ourselves if we do not come forward with amendments.

I was the Presiding Officer of this body, had the honor the last time when the distinguished Senator from West Virginia announced he was checking the time.

The Senator will recall. When I was the Presiding Officer of the Senate, the Senator from West Virginia called for third reading, and I recall what happened then. But I also recall an awful lot of Senators on both sides of the aisle applauded the distinguished Senator from West Virginia for getting that done, and having action on the final conclusion. And the same conclusion we would have had 3 days later had we stalled, moved around, and would have still come out with the same thing. The one big difference is most of us went home to our families 3 days sooner.

Mr. President, I want to say as one who has seen that method work, I commend it to anybody who has to manage a bill here. It would help an awful lot on the other pieces of legislation, and I applaud the Senator.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS] is recognized.

AMENDMENT NO. 2900

Mr. BUMPERS. Mr. President, I wanted to engage the Senator from Alaska in a colloquy about his so-called small mine claim exemption.

Senator, my question is this: I have read the Senator's amendment for the first time. I need to read it more. But let me ask two or three questions. As I understand it, this would exempt any miner who has 10 claims or less and who has 10 or less acres of what the Senator calls unreclaimed surface area; is that correct?

Mr. STEVENS. The Senator is partially correct. Ten acres or less in surface unclaimed and that the mines are in production, and not more than 10 claims in an integrated operating area. But basically, I might say to the Senator, our count is somewhere around 200 such miners in Alaska, very small miners, basically in the north and in the western portion of Alaska.

Mr. BUMPERS. A miner who has 10 claims has probably 200 acres. If his son and his wife and his daughter each have 10 claims, we are up to 800 acres. Every person who has 10 claims or less, as Everett Dirksen used to say, the first thing you know you are talking about real money.

Mr. STEVENS. The answer, if we may have this sort of colloquy, these have to be in production. They are not just claims. The claims have to be in production, 10 associated claims, and only one such exemption per person. I have to tell you that you do not find many children and wives out staking claims. These are very remote, small miners. The option is to pay the $100. If they really have the money to go out and file for more claims, they are going to pay the $100 rather than do the assessment work which is required, which is rather arduous, I am sure you know, in Alaska.

Mr. BUMPERS. A miner who has 10 claims would be subject to an annual holding fee of $1,000 under the bill.

Mr. STEVENS. That is correct.

Mr. BUMPERS. One hundred dollars per claim. There are 1.2 million claims filed in this country, or at least there are 1.2 million claims. Can the Senator tell me with any degree of accuracy how many of those claims will be covered under his amendment?

Mr. STEVENS. I can tell you in Alaska. I cannot tell you nationwide. I do not have that knowledge nationwide. We have asked for those numbers. I still think they are very small. If you keep in mind the parameters now, that to qualify they must have the mine in production, 10 acres or less surface disturbance, and that the mining claim total is 10 claims or less.

We were told that less than 10 percent of the claims that have been filed nationwide could possibly qualify. There would be even less once you start trying to determine the integrated requirement.

In our State, of course, they do file the step-off claim so that, if you have a major claim, you would file at least five around it in order to protect any claim jumping as far as your original object of your discovery.

So it is probably true that there are not many subsistence miners in the rest of the country. I think there are some in Nevada. There are a few in other portions of the Western States. But in our State, there are many who are totally isolated communities. This imposition of this $1,000 fee would be a cost to them, and they would rather do the assessment work under the current law.

The way the amendment is drafted, it will not reduce the moneys that are derived from the basic provision that is in the committee bill. It does not reduce the income from the bill. It does provide an exemption if they wish to use it.

If those people are associated with some mining company, a fairly large size, of course they would rather take the $1,000 under your hypothetical than do the work themselves. But for those people who live in the area, in most instances I might say to the Senator it would cost more than $1,000 for someone who does not live in the area to get to those claims. So basically this is going to protect people who live in the area where their mining claims exist.

Mr. BUMPERS. Let me just say in all fairness that BLM has testified before both the Energy Committee on which I sit and before the Interior Appropriations Committee on which I sit. They have testified a number of times that they never checked as to whether or not this assessment work has been done or not. You fill out a BLM form saying: I did $100 worth of work in the past year in what we call assessment work on my claim.

One of the reasons both the administration, incidentally, and OMB—and this Senator—have always been for a holding fee is not to penalize miners, but to just be sure that everybody is playing by the same rules. Some people did assessment work; some people did not. But all they had to do was just say they did it, and BLM said they had no way of knowing. Obviously, BLM is not going to go out and check 1,250,000 claims.

And they do live off the land. They go out annually and come back once. They are not going back and forth. So they are out there working their claims.

As I told you, my Eskimo friend goes out and works his claim. And when he comes back, if he has been successful, he has gold. If he has not been successful, he does not bring back anything.

He has a small place where he lives while he is doing that assessment work every year. I have him in mind in connection with this amendment. I know that that is going to be a burden to pay the holding fee, because he will work the claims anyway, is my point to the Senator.

This is protection for those really working the claims. Remember, they must be in production. Everybody else is doing assessment work, and is doing it just to make the claims valid, despite the fact that they are not in production.

The requirement for being in production is the difference between existing law under the 1872 law and my amendment. This requires that it be in production if you want to do your assessment work and file your affidavit. You do not have to pay the $1,000 annually to hold those 10 claims.

Mr. STEVENS. Mr. President, the Senator is correct. But when it gets down to this limited number, and a person comes in and files an affidavit, remember, that statement is under oath. And under section 1001 of title 18, it becomes a felony, a criminal offense, to make that statement to the BLM that the assessment work has been done. And they would forfeit the claim if they were found to be lying.

I tell you, I do not think many of our people are going to lie about $1,000 worth of assessment work. The real problem is whether they have the $1,000. They are going to lose their claims if they do not have the cash. I am sure the Senator realizes that. This bill will impose a substantial burden on people who live in a subsistence economy, in a mining sense.

Mr. BUMPERS. Mr. President, I will make a second point to the Senator.

The second reason we wanted to establish the holding fee rather than allowing them to certify that they had done assessment work that had a value of $100 on each claim, quite frankly, was to keep people from going out with a pick-ax and disturbing the surface of the soil just so they can say they did assessment work.

Maybe they are being honest. Some people sent in certification that they did assessment work, and they did not. Others are a little more honest, who would go out and dig around a little bit so they can honestly say they did assessment work, and disturb the surface, and I was disturbed at that.

If you have a claim—and the Senator from Nevada has said on a number of occasions that he has some mining claims that have been handed down in the family for 50 to 75 years—to suggest that when you have had a claim for 20 to 50 years, that you are going out there and doing 100 dollars' worth of assessment work every year, year after year after year, just to hold that claim, borders on being ludicrous.

I think the Senator would agree with me on that.

Mr. STEVENS. Mr. President, I say to the Senator that I do not know of any claim in Alaska that has been worked for 50 to 100 years in production. Again, I call your attention to the basic requirement that these mining claims must be in production.

This is not scratching the surface; not hiring someone to bring in a D-8 Cat and make a couple of tracks, which we all know has happened in some places. I remember when the situation existed in California. But this is not the same situation.

We are talking about small miners that work their claims, and literally are working them in production, trying to make a living off what they are producing. The key words again are "in production"—10 claims or less.

Mr. BUMPERS. Mr. President, I understand precisely the point the Senator is making. But now there is another point to be made.

The Senator from West Virginia, the distinguished Senator from West Virginia and chairman of the subcommittee, ought to have more than a passing interest in this; that is, the revenue loss on this bill. This bill has been scored—and I recognize it is a big winner this year, because people are going to be making a double payment in 1993. And they have scored this thing as a $38 million winner next year.

Obviously, if the Senator's amendment passes, it is going to be something a lot less than $38 million.

Mr. STEVENS. I might say that we have decided not to give out the exact figures, because they are still estimates. But I have been assured through my staff, and I think the committee staff also, that my amendment is not a revenue loser because of the requirement that it must be in production.

It is a very limited concept.

Mr. BUMPERS. How could the Senator's bill, which exempts up to 9 of the 10 claims, not be a revenue loser?

Mr. STEVENS. It is not, Mr. President, because it provides for the work to be done in the same area.

Mr. BUMPERS. To anybody who chooses to do the assessment work and not pay the $100, it is a revenue loser; is it not?

Mr. STEVENS. They are still going to produce the same amount of revenue under this bill.

Mr. BUMPERS. Mr. President, with the utmost of respect, that is not possible.

Mr. STEVENS. Of course, Mr. President, some are going to do the labor—a very small portion. The others are going to pay twice in that period. There is no way to determine how many are going to opt to take this, but it is a very small number, because there are not that many claims in production. It is a de minimis loss.

We have been told we can reliably inform the Senate that there is no revenue change under the terms of this bill if my amendment is adopted.

Mr. BUMPERS. Would the Senator be willing to add to his amendment an additional criteria for the definition of a small miner to say someone who is deriving less than, we will say, $500,000 a year in revenues from his claim?

Mr. STEVENS. I do not know any small miners making $500,000 a year.

Mr. BUMPERS. Senator, if you are willing to add that——

Mr. STEVENS. Mr. President, he has to certify that the production in that area did not net him more than $500,000? You do have to buy grub and hire someone to fly equipment in, and that is why these guys are on the margin all the time.

I do not know anybody in this category, with 10 claims or less in production, a small miner, making more than $500,000.

I would be happy to put a limitation or a cap on that.

Mr. BUMPERS. Mr. President, I am not talking about making $500,000. I am talking about revenues of $500,000.

Mr. STEVENS. Grossing?

Mr. BUMPERS. Yes.

Mr. STEVENS. I do not know, Mr. President. If you think about the price of gold—and that is primarily what you are talking about for small miners operating now—as I said before, 75 percent of the revenue is actually paying for services that come into my State.

So if you are making $500,000, you are paying out 70 percent of that to someone outside. Your adjusted gross income, before you start talking about the cost of your own grub and everything, is so small, the margin is so small, that I hope you will agree on setting a net figure. Because $500,000, if you brought $500,000 out of one of these claims in my State, you will have paid out at least 70 percent of it.

So you are talking about a good $500,000 going out of the State just to make that. And that means you have $200,000 gross to pay all the other local costs—grub, the people who work for you, the filing fees, and everything else; and your plan, reclamation plan. You realize that there are substantial fees that have to be paid to the Government beyond this $100.

Mr. BUMPERS. Mr. President, I am sympathetic to the Senator. I have discussed this privately with him a couple of times. He told me he was intending to try to craft some sort of exemption for small miners. As the Senator knows, as chairman of the Small Business Committee, that is what we do constantly, try to protect the small. We gave away the store to the big mining companies this afternoon. The least we can do is help the small miners.

I am really worried about the definitions in his amendment. I will tell you, I do not want to take up more time. The Senator from West Virginia has been very patient. I will not object to his amendment, but I can tell you that between now and the time we go to conference with the House, I want BLM to give us some statistics so that I will have a better feel for it.

The Senator from Alaska can be thinking about what kind of revenues he considers small business. I will check with the Small Business Administration on it, because I do not mind helping small miners. God knows, as I say, we certainly helped the big boys this afternoon.

Mr. STEVENS. I appreciate the Senator——

Mr. BUMPERS. If I may, Mr. President, I do not want to commit to championing this amendment in the conference, or any of them.

Mr. STEVENS. I am happy that the Senator is willing to work on it in conference.

Let me tell you of just one miner I know. He saves his gold that he makes, and about every 3 or 4 years he takes it down to the city and has it minted into coins.

And he sells those within the State. He does not have any income at all until he sells that gold. So I do not know how you put a net figure on what he is doing under those circumstances, but I do not intend to protect a large return from any kind of a corporate operation of a small number of claims. We are trying to protect the subsistence miner who lives in the area, who works the area, and every once in a while, like an artist, he might finally end up by selling a painting after 3 or 4 years. After 3 or 4 years' work, this fellow in 1 year is probably going to bring home a lot of money.

That is what makes me hesitant to say I want to agree to that limitation. The Senator from Arkansas and I have arguments on the floor, but we also have discussions privately, and I consider him to be a very close friend.

I think, in terms of the small business concept, the Senator from Arkansas and I ought to be going in the same direction. We both are committed, as members of the Small Business Committee, to assist the small business people. These people who live off the land and mine need some protection from this holding fee.

Let us take my friend who mines 4 years and, in the 5th year, he gets an income. He will be paying out $5,000 to hold his claims before he gets any revenue. He would much rather work those claims and pay taxes in the fifth year. That is a small business that I know of personally, and I will be pleased to take my friend up to visit this person.

I hope that the Senator will allow us to take this to conference. And I take his statement that he does not intend to be a champion of it, but I also take it for granted, as chairman of the Small Business Committee, he will have the same objective as I, and that is to try to honestly protect the legitimate small miner who works in the rural portion of America.

Mr. BUMPERS. Let me say to the Senator from Alaska that I appreciate his words. He certainly is correct on that. I think that the definition of small miner, before it would ever be satisfactory to me and certainly to the House committee, would have to be nailed down with considerably more definition.

I have a statistic here from BLM that out of 100,000 active claims—all the active claims in the whole United States, including Alaska—75,000 of them are held by those holding 10 or fewer claims.

Mr. STEVENS. They are not in production, though.

Mr. BUMPERS. Pardon?

Mr. STEVENS. I challenge BLM or anyone else to show they meet the basic requirement of being in production?

Mr. BUMPERS. Those are things I do not know the answer to.

Mr. STEVENS. I understand.

Mr. BUMPERS. The Senator and I will need to find out.

Mr. STEVENS. I appreciate that, and I urge the managers of the bill to let us accept the amendment and take it to the conference.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I do not want to interrupt the flow of debate. There is a brief statement I would like to make. A comment was made yesterday challenging the independence of Senators on the Republican side of the aisle. I do want to comment on that, and I shall be relatively brief. But I alert the Senator from West Virginia [Mr. ROCKEFELLER] that some of what I have to say relates to comments which he made yesterday apparently in a press conference which I saw repeated on C-SPAN last night.

Mr. STEVENS. If I may interrupt my friend, I had not yielded the floor. I asked a question. I am happy to have him make his statement. I am happy to yield to my friend, but I still have the floor.

Mr. SPECTER. Mr. President, I thought my distinguished colleague——

The PRESIDING OFFICER. The Senator has not yielded the floor. The Senator from Alaska still has the floor.

Mr. STEVENS. I was waiting for an answer, Mr. President—and I apologize to the Senator from Pennsylvania—to my question whether we could take this—I asked if the managers would allow us to take this amendment to conference on just a voice vote, in effect, because, as I understand, the Senator from Arkansas is not going to object. He is the only person objecting that we heard.

Mr. SPECTER. I am glad to yield to my colleague from Alaska, but I ask unanimous consent that I may be recognized at the conclusion of action on this amendment.

Mr. STEVENS. This is another matter. I still have the floor.

Mr. BYRD. Mr. President, reserving the right to object, and I do not intend to object, would the distinguished Senator, in order to help us to move along on this bill, give us a timeframe for his speech, 10 minutes, 15 minutes, or what?

Mr. SPECTER. I thank the distinguished chairman of the Appropriations Committee. Not in excess of 15 minutes, considerably less, I hope.

Mr. BYRD. Fine. If the Senator will make the request.

Mr. SPECTER. Mr. President, in line with what the distinguished Senator from West Virginia has said, I ask unanimous consent to be granted, at the conclusion of the proceedings under this amendment, a period not to exceed 15 minutes.

Mr. WARNER. Mr. President, reserving the right to object, and I will not object.

Mr. PRYOR. Mr. President, reserving the right to object.

Mr. WARNER. Has the Chair recognized the Senator?

Mr. STEVENS. Mr. President, I still have not yielded. I would like to know the situation. Do I have the floor?

The PRESIDING OFFICER. The Senator from Alaska still has the floor.

Mr. STEVENS. I am pleased to yield to the Senator from Pennsylvania for the purpose of that unanimous-consent request.

Mr. SPECTER. I thank my colleague from Alaska.

The PRESIDING OFFICER. Is there objection to that request?

Mr. PRYOR. Mr. President, reserving the right to object, and I do not want to object, I certainly do not want to interrupt the flow of the appropriations process, I say to my very good friend from West Virginia, the distinguished chairman.

I think, in all fairness, if I might say to the Senator from Pennsylvania, inasmuch as the Senator has already stated that the remarks he is about to make relate to the remarks made by the junior Senator from West Virginia [Mr. ROCKEFELLER], I think in fairness, Mr. President, that the Senator from Pennsylvania might withhold those remarks until the Senator from West Virginia [Mr. ROCKEFELLER] is on the floor and at least able to hear the statement of the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have already asked that the Senator from West Virginia, Senator ROCKEFELLER, be notified, so I have no objection to that, provided Senator ROCKEFELLER is at hand and that I may proceed within the next 10 or 15 minutes.

The PRESIDING OFFICER. Is there objection to that request?

Without objection, is so ordered.

Mr. STEVENS. I yield to the chairman of the committee.

Mr. BYRD. I am prepared to accept the amendment by the distinguished Senator from Alaska.

The PRESIDING OFFICER. If there is no further debate the question occurs on the amendment.

The question is on agreeing to the amendment.

The amendment (No. 2900) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that, upon the completion of the remarks by the distinguished Senator from Pennsylvania, the distinguished Senator from Georgia [Mr. FOWLER] be recognized to call up an amendment.

Mr. SYMMS. Mr. President, reserving the right to object, and I guess the question I want to ask is, do the managers of the bill anticipate then that we are going to have a debate on the Fowler amendment and vote on it tonight, or are we going—because I anticipate this amendment could take 2 or hours of debate from those of us opposed to it. I just think that the Chair needs to realize this is not going to be an easy amendment.

It seems to me this amendment is fairly ambitious to bring up, for example, at 9 o'clock at night. I had several Senators call me and ask me to be sure to object to any time agreement on any timber-related amendments of the Senator from Georgia. I want the leadership to know that.

Mr. NICKLES. If the Senator will yield, I understand the Senator's concerns. I tell our friend and colleague from Idaho, we also contacted Senator CRAIG. It was our hope we could dispose of the Fowler amendment. It was also our hope we could have a vote on it very shortly. I tell our friend and colleague, we debated this issue before and the Senator from Idaho, I think, prevailed on this issue in the past. It was our hope we would not have to go through a very long and lengthy debate, that after a short period of time the motion to table could be made.

Mr. SYMMS. Mr. President, reserving the right to object further, the Senator from Idaho will not object as long as there is no time agreement. I anticipate there will be a motion to table. Then, if the motion to table is not successful, it would be Katie bar the door.

Mr. NICKLES. The Senator is correct.

Mr. SYMMS. I totally agree with that.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The Senator from Pennsylvania is recognized for 15 minutes.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Pennsylvania suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, may I say, I have received word from Senator ROCKEFELLER that at the moment he cannot come to the floor. He would be willing for Mr. SPECTER to proceed with his statement at this time.

Mr. SPECTER. I thank the distinguished chairman of the Appropriations Committee.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 15 minutes.

Mr. DOLE. Will the Senator from Pennsylvania yield?

Mr. SPECTER. I do, with consent that I do not lose my right to the floor under the previous unanimous-consent arrangement.

Mr. DOLE. Mr. President, it was my hope—and I have not talked to the majority leader—it was my hope we would stop voting about 9 o'clock tonight. It was 9 o'clock last night, 9 o'clock Monday night, probably 10 o'clock tomorrow night. I do not know how late on Friday.

As I understand it, after this statement, there will be a timber amendment that will probably take an hour, which would be 10:30, 11 o'clock.

We have been trying to cooperate on limiting the amendments and helping the managers of the bill. We want to continue to cooperate, but we do not want to stay here until 10, 11, 12 o'clock at night.

Mr. FOWLER. Mr. President, may I say to the distinguished minority leader, the Senator from Oklahoma and the Senator from Idaho have been very cooperative. We are waiting for the junior Senator from Idaho [Mr. CRAIG].

But it is not anticipated, in our informal conversations, that my amendment will take an hour; it should not take a half an hour. The issue is very clear and has been debated and voted on before.

But, as the Senator knows, we are just trying to move a long list of amendments that we have and the long agenda that we have to finish between now and early next week.

We are simply trying to dispose of some amendments this evening.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. Yes.

Mr. BYRD. I hope we can proceed to the amendment by Mr. FOWLER. It is my understanding that there will be a motion to table that amendment by Mr. CRAIG. And, as the distinguished Senator from Georgia has already indicated, he does not intend to take long. I had been informed earlier that the majority leader wanted to go awhile.

The Senate spent over 8 hours today before it got to its first vote on an amendment to this bill, and we have several amendments yet, some of which are controversial.

I hope that we can have one more vote, if it does not take too long. If it looks as though it is going to go on awhile, we could close it up and go home.

I would like to get home too, to my wife and my little dog Billy Byrd.

Mr. DOLE. I have my little dog, Leader, too. He does not know me anymore.

Mr. BYRD. If we could proceed, I say to the distinguished Republican leader, and let us see. It might not take long.

Mr. DOLE. I want to be cooperative. We have been trying to work on a number of other things. I am going to go in and see the majority leader now about trying to avoid much activity on Saturday. I think there are a number of things we can agree to do. It would save us a couple of days by agreeing to do these things, not having to be on the floor.

But I hope maybe that might be the last vote. I sort of promised my colleagues 9 o'clock would be it.

Mr. SYMMS. Mr. President, will the Republican leader yield?

Mr. DOLE. Yes.

Mr. SYMMS. I would just like to say, Mr. President, so there is no misunderstanding by the distinguished President pro tempore or the minority leader or others here, that this is an extremely controversial amendment. It is as controversial as the previous Bumpers mining amendment.

And I want to leave the understanding that if there is a tabling motion made by my colleague from Idaho, who I know wishes to do that, and it does not pass, this amendment might take several days before the Senate gets through. I think the Senate needs to realize that.

I do not want Senators to think that we are going to stand around here for 10 and 15 minutes and have a vote and it is going to be all over with. It is not going to work out that way. I want to be honest about this and up front.

Mr. DOLE. I am inclined to vote for the tabling motion if it does not take too long.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SPECTER. Mr. President, I thank the Chair.

THE HEALTH CARE CONTROVERSY

Mr. SPECTER. Mr. President, I had sought recognition on the floor because of a number of comments made yesterday in a press conference, which I saw last night on C-SPAN, reflecting directly upon the independence of Senators on this side of the aisle, specifically this Senator, as well as other Senators. I think there needs to be a response to these comments.

I had said earlier that these statements were made by the Senator from West Virginia, Senator ROCKEFELLER. I had asked staff to call his office prior to seeking the floor, and they could not get through on his telephones. The senior Senator from West Virginia noted that Senator ROCKEFELLER did not intend to come to the floor, so I will proceed at this time.

The comments were made in the context of an ongoing controversy over health care. The comments were made in a political context.

I might say preliminarily that it is the hope of this Senator that this body would move ahead to the consideration of the substance of health care. This Senator sought to bring the matter to the floor last Wednesday, July 29, by adding an amendment on health care to the energy bill. My amendment included part of S. 1936, which has 23 cosponsors and was drafted by the so-called Chafee task force, and the entirety of S. 1995, which this Senator authored. The distinguished majority leader at that time took the floor and said that the health care amendment did not belong on an energy bill. I replied that I would be glad to withdraw the amendment if we could have a date certain to take up health care on the Senate floor. The distinguished majority leader replied that the schedule could not be so arranged, to which I counterreplied that a date certain, September 8, had been given for one piece of legislation, product liability. At least in my opinion, health care is more important than product liability.

So I say that by way of a background, that I hope we will be able to move to the substance of health care and get on with our business of representing the American people. It is imperative that affordable health care for all Americans be provided.

As to Senator ROCKEFELLER's comments, there was a press conference yesterday - attended by a number of Senators from the Democratic Party. During the course of that press conference, on three occasions, the Senator from West Virginia [Mr. ROCKEFELLER] made some inappropriate statements, which I will quote directly. This is from the transcript of the C-SPAN news conference:

> There are Republicans who would be glad to sign on to what we have done, but are being precluded from doing so by the White House just as they were told to vote against the Pepper Commission by OMB, and by John Sununu directly.

I take strong exception to that, Mr. President, because this Republican Senator is not precluded from doing anything by any direction from the White House, or John Sununu, or anyone else.

Later on in that same news conference in response to a question:

> Do you have the votes to pass for—?
>
> Senator ROCKEFELLER. Yes, you have to have in this business—and you know perfectly well you have to have 60 votes.
>
> Question. Do you?
>
> Senator ROCKEFELLER. We have 57 Senators, and no Republican Senator that I know of would be allowed to vote for that.

Again, I take very strong exception to a reference here that, "no Republican Senator that I know of would be allowed to vote for that." We are independent, Mr. President, under article I of the Constitution. Congress was set up first in article I. It was not until article II that the President and the executive branch were set up, and not until article III that the courts were set up.

Then there is a third reference, Mr. President. It comes in the context again on discussion of health care. Senator ROCKEFELLER says:

> There are a lot of Republicans who would agree to one of those approaches, too, but they are not allowed to.

Three times in the course of a very short discourse Senator ROCKEFELLER claimed that Republican Senators were not allowed to do something.

Again, I take very strong exception to that. Senators are independent. We are not told what to do by anyone.

The fact of the matter is, when the question was raised to Senator ROCKEFELLER about whether he had enough votes for cloture, he said he had 57 Democrats. This Senator is prepared to vote for cloture if necessary to bring health care to the fore. I do not care whose health care bill it is; this Senator is prepared to vote for cloture.

I believe that to say that Senators are not allowed to do something directly impugns our independence.

As to the merits of having a health care bill on the floor, this question was posed by one of the news people present.

> QUESTION. Senator Rockefeller, can you tell me when Senator Mitchell's and the Democratic health care bills will come to the floor?
>
> Senator ROCKEFELLER. Well, I understand your point because we are so aggressive and so committed to health care on our side of the aisle that we not only have put out not just a full program for access to health care, but what has not been mentioned here this morning, an entire full program for long-term care. So they're both out there; they're both on the floor; they're both absolutely ready.
>
> Secondly, we are also working to try and further refine, with a tremendous burst of activity which has been going on now for about a month and a half, in which we have been looking, going to our colleagues and trying to meld the approaches that we do have together to make an even more refined proposal.
>
> But the basic point obviously is that we are desperately active on this and that if we had any, any sense of encouragement from the White House, there are Republicans who would be glad to sign on to what we have done, but are being precluded from doing so by the White House just as they were told to vote against the Pepper Commission by OMB and by John Sununu directly.

Many on this side of the aisle have urged that a health care program be brought forward so that we can vote on it. When language is used, "We are so aggressive and so committed"; "A tremendous burst of activity"; and "We are desperately active on this"—I wonder, where is this aggressiveness? Where is this burst of activity? Where is this desperate activity?

Later on the Senator from West Virginia [Mr. ROCKEFELLER] says:

> I mean, we're trying everything we know. But in this town which is a one-man town, one-person town, if you have no indication of any support from the White House you are checkmated on something as complicated as health care reform.

I disagree with that directly and categorically. This is not a one-man town. The Congress of the United States is independent. Leadership can come out of the Congress of the United States and from the Senate. This Senator made that effort last Wednesday by bringing up an amendment on health care, with a willingness to withdraw that amendment if we could get a date certain as to when we would take up health care.

Another Member from the other side of the aisle said:

> "First I learned fast that without a new President, without someone who isn't going

to ridicule, block, and veto fundamental health care reform"

He goes on to say it cannot be done.

The President has not vetoed health care reform. No health care reform has come to the President.

I say to you that it really is specious to make a claim that President Bush is an obstructionist, because no legislation has been submitted to him. What really ought to be done is not all of these protestations about desperate activity and aggressiveness—but national health care ought to come to the floor. I think that if the Senator from West Virginia [Mr. ROCKEFELLER] would offer the legislation that he would find many on the Republican side of the aisle who would be very anxious to join with him. It serves no purpose and I think it just plain inappropriate, to make these repetitive statements that Republican Senators are not allowed to take any course of action.

As I say, the principal reason for my seeking the floor was to voice my strong objection to these comments. I have noted further the absence of any effort by those who control the Senate, the Democratic Party, to bring health care to the floor. Yesterday there was an extensive discussion by the distinguished Senator from Rhode Island [Mr. CHAFEE] who is the leader of the Republican task force. His comments appear in yesterday's RECORD at pages 11443 and 11444, which I shall not repeat, and set out the chronology of efforts made by Republicans to try to move health care legislation along.

I would make one more comment and I would make this in a spirit of suggestion, realizing that people can say whatever they want in our grand, free society with lusty debate.

When the Senator from West Virginia [Mr. ROCKEFELLER] talks about the President and says, "The President talked yesterday in Dalton, GA, using those classic cop out, stupid nationalized socialized medicine words, the same things he used to talk about Medicare back in 1964 and 1965, he says that his health care plan will cover all, that is a lie."

Anybody can say what they like anyplace, especially on the floor of the U.S. Senate. It would be my hope, however, that in our civilized debate, even in a Presidential election year with much at stake, that we would not call each other liars. It is not a lie, it is not an intentional misstatement of fact.

When we use categories like stupid, I would refrain from that kind of language in talking to anyone. The President of the United States does not have more status than anyone else in not being called stupid. I just hope that as we move into the last part of a very acrimonious political season that we would all refrain from using words like "stupid" and "lie." Instead, we should direct our attention to the business of the country; we should not impugn the independence of each other by saying that Senators are not allowed to do something or another; we should recognize the importance of national health insurance, get it listed on this floor and move ahead to a resolution.

In 1990, we had a very technical, complex bill on the floor, the Clean Air Act. Many people said it could not be legislated. When it came to the floor, we worked hard, and we passed a very important bill. We took 10 million tons of sulfur dioxide out of the air, legislated on tailpipe emissions and legislated on industrial pollution.

I think we can do that with health care, Mr. President. We must tackle it as responsible legislators. We should take the initiative in the Senate, send the bill to the President's desk and take the steps to provide affordable health care for all Americans.

I thank the Chair and yield the floor.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment by Mr. FOWLER this evening, one way or the other, that he be permitted to call up his second amendment—he has a second amendment on the list—and lay it down so the Senate could proceed in the morning at such time as the distinguished majority leader wishes to put the Senate back on this bill. There would be an amendment pending then and the Senate would not be kept waiting for a Senator, any Senator to come call up his amendment. If he has another amendment on the list, he is entitled to call it up at some point. He is agreeable to laying it down tonight and beginning on it tomorrow morning.

So I make the request.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object, and I shall not object, I just inform the chairman of the committee that I think Senator GORTON was planning on laying down his amendment tonight. I do not know if he would care that much, but I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Would the Senator like to get consent or ask consent that upon the disposition of the second amendment by Mr. FOWLER that Mr. GORTON be recognized to call up his amendment?

Mr. NICKLES. I think that is an excellent idea.

Mr. ADAMS. Reserving the right to object, Mr. President. Are we going to Senator GORTON's amendment tonight after the Fowler amendment? Tomorrow?

Mr. BYRD. No. May I say to my friend from Washington that the distinguished junior Senator from Washington [Mr. GORTON] is on the list which has been agreed to. He has an amendment on the list. So he would be entitled to call up his amendment at some point. I merely made the suggestion that upon the disposition tomorrow of the second amendment, which Mr. FOWLER has——

Mr. ADAMS. That would be tomorrow, Mr. President?

Mr. BYRD. Yes, that Mr. GORTON then be recognized.

Mr. ADAMS. I wanted to be present in the event it was presented. I did not know if it was tonight or tomorrow. I thank the chairman.

Mr. BYRD. I thank my colleague.

Mr. President, as I understand it, the amendment by Mr. GORTON on the list has to do with timber salvage in spotted owl habitat conservation areas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia [Mr. FOWLER] is recognized.

AMENDMENT NO. 2901

(Purpose: To reduce funding for timber sales preparation for certain forests in the National Forest System and limit the quantity of timber from the National Forest System that may be sold at less than cost)

Mr. FOWLER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. FOWLER] proposes an amendment numbered 2901.

Mr. FOWLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 54, line 25, strike "$1,306,077,000" and all that follows through "*Provided*," on page 55, line 5, and insert the following: "$1,271,077,000, to remain available for obligation until September 30, 1994, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 4601–6a(i)): *Provided*, That not more than $58,216,000 shall be made available for timber sales preparation, except that the amount of funds made available for timber sales preparation for national forests identified as having negative receipts from timber sales in the annual report of the Timber Sale

Program for fiscal year 1992 shall be reduced by $35,000,000, with the reduction to be made on a pro-rata basis based on the quantity of timber sold from each forest in fiscal year 1992: *Provided further*, That the Secretary of Agriculture may not sell at less than cost a quantity of timber located on National Forest System lands that is more than 75 percent of the volume of the timber sold at less than cost for fiscal year 1992: *Provided further*,".

Mr. FOWLER. Mr. President, I am introducing this amendment to the Interior appropriations bill to address the issue of below-cost timber sales on our national forests, our public lands, and restore sound economic and ecological management to our national forest system.

In a time when our citizens are demanding better stewardship of all our natural resources, and particularly our public lands, national forests, at a time when they are demanding fiscal accountability and an end to Government giveaways, the Forest Service's procedures have simply not kept pace with the times. It seems to me it is time we start to bring the Forest Service in line with the level of Government responsibility the American people are demanding in 1992.

This amendment turns the tide against expanding logging operations in our national forests that lose money for the taxpayers. It would begin to impose some reason on the Forest Service roads program that has already bulldozed more than 360,000 miles of logging roads in our national forests. It will begin to reverse the trend of turning forests, our national forests, into mere tree farms, all at a loss to the taxpayers.

Now, the Forest Service admits that more than half of our national forests lose money on the Forest Service-administered timber sales, meaning that woodland resources and wildlife habitats disappear along with taxpayer funds from the Treasury.

When the total cost of road building and bureaucratic overhead are figured in, many more of these timber sales come up losers for the American people economically and ecologically. One study challenging Forest Service figures claims that timber sales in 101 of our national forests generate over $250 million a year in losses for the American taxpayer.

In other words, the American people pay more and end up with less. Most timber sales in our national forests do not cover the Government's cost of producing the timber.

It seems to me it is time for an honest accounting and responsible management of the public trust our national forests represent. That means no more ecological destruction at taxpayer expense. That means timber sales conducted according to sound business practices that do not depend on public subsidies. That means weaning the Government off of this wasteful practice in the majority of our forests.

Mr. President, this amendment provides for a 25-percent reduction in national forest timber sold where cash returns to the Treasury do not cover the cost of growing and selling the timber.

The amendment reduces the Forest Service's National Forest Service budget by $35 million to reflect the reduction in appropriated funds to administer these sales.

I believe this will force the Forest Service to consider the real costs of selling off our public forest lands. It will steer the Forest Service toward sounder management practices. It will get us on the road to eliminating timber sales that cannot be supported by the bottom line in these days of budget deficits, and it will force the Forest Service to begin making the most of our taxpayers' investment in these forest resources.

Ideally, I would like to see the Forest Service at the forefront in the fight to protect our forests from excessive timbering and road building, to assure wildlife diversity and survival of species and, most importantly, to preserve some semblance of this public trust for our future.

I thank the Chair and I yield to my colleague from Idaho.

The PRESIDING OFFICER. The Senator from Idaho [Mr. CRAIG] is recognized.

Mr. CRAIG. I thank the Chair.

Of course, I have to rise in opposition to the amendment of my colleague from Georgia.

A 25-percent reduction in the U.S. Forest Service Timber Sales Program, or a $35 million reduction, one in the same, can be broken down into very clear and important figures for all of us to look at.

I have some degree of understanding and concern for this amendment in that the Forest Service, through its planning process, through the appeals that are underway on myriad forest timber sales, and through a reevaluation of forest practices, has already produced a phenomenal reduction in the sale of timber volume in this country today.

The issue of the spotted owl in Oregon and Washington and northern California has reduced timber sales to such an extent in the Pacific Northwest it is estimated that nationwide it has driven up the cost of a 2,300 square foot home by over $4,000 per home. That is what is going on today before the application of the Fowler amendment.

If my colleague from Georgia were to be successful in his effort to amend this Interior appropriations bill, here are some of the impacts that would occur nationwide.

At a time when our country is struggling economically to come alive again, at a time when this very Senate is talking about the creation of positive economic forces to produce jobs, my colleague from Georgia is suggesting a 27,000 job reduction in forest-related employment, in the actual logging that goes on on our public lands, and associated industry loss; a wage loss of $1.2 billion would occur, $189 million in lost tax revenues, unemployment payments now for those who would not be working—I am sure the Senator from Georgia would want to make sure they were compensated for not working or being put out of work—of about $71.4 million. The figures go on and on. A loss of $489 million in timber program revenues.

Mr. President, it is not just some insignificant reduction in the timber harvest plan of the U.S. Forest Service. It is devastating to the forest products industry and to a major part of the employment base, not just of the Pacific Northwest but of the entirety of the Nation.

Region 1 and region 4 are the regions that make up the State of Idaho. Here is what the Senate bill would currently allow in total millions of board feet harvested annually. Here is the significance of the Fowler reduction.

Let us talk about the region of the country of the chairman of the Interior Subcommittee and the chairman of the full Appropriations Committee. It would be laid to waste by an over 500 million board feet reduction based on the proposal of a below-cost reduction cut of 25 percent or $35 million. That is the kind of impact that can be realized.

Mr. President, let us talk about Idaho—64 percent owned by the Federal Government, my home State. Am I being parochial tonight? You bet I am. That is what I am hired to do around here, to consider the importance to Idaho as it relates to national policy in a State that is 64 percent controlled, owned by the citizens of this country. It eliminates an annual harvest of 750 million board feet, a combination of these two figures.

In the 10 national forests of Idaho, 7,661 direct or indirect jobs would be lost; $323 million in direct income will be lost; $48 million in Federal income taxes generated from Idaho's Federal Timber Program—and the figure gets larger and larger. In other words, we are shooting with real bullets.

This amendment devastates the timber program of U.S. forests. Those are the kinds of impacts that are reality as we deal with this issue.

As I said in my opening remarks, there may have been some value to a consideration of this kind of amendment if we had not already seen, over the last decade, a significant reduction in the overall annual harvest ASQ—allowable sales quantity—based in the forest plans for all of the U.S. forests of this country.

My State is no different. It has experienced those reductions, significantly.

Now that we battled out the issue of the spotted owl and tried to bring balance to that issue, millions that once were buying timber in Oregon and Washington and Northern California now come over into Idaho and Montana and the other part of the watersheds to buy timber and move it back to the coastal mills. The whole of that is a problem.

There is another issue. When you reduce the sales quantities, those private timberlands of the southeast that make up a significant portion of the forest products industry of the southeast their values go up. Not only do their values go up, but the cost of the average home in this country goes up significantly, at a very time when we are trying to get housing starts up, when we are saying to the young men and women of this country: Go out and buy a home; interest rates are low. Become a part of the American dream.

The Senator from Georgia would suggest that he is going to make the American dream much, much more expensive. He is going to take away profits, income from the Federal Government, and he is going to put 24,000 men and women out of work, ask them to go on unemployment, and drive up the cost of that by over $71 million.

My colleagues of the Senate, that is the reality of this amendment.

Mr. President, further, regarding clearcutting on the national forests, clearcutting will be used only under one or more of seven specific circumstances:

First, to establish, maintain, or enhance habitat for threatened or endangered species;

Second, to enhance wildlife habitat or water yield values, or to provide for recreation, scenic vistas, utility lines, road corridors, facility sites, reservoirs, or similar developments;

Third, to rehabilitate lands adversely impacted by events such as fires, windstorms, or insect or disease infestations;

Fourth, to preclude or minimize the occurrence of potentially adverse impacts of insect or disease infestations, windthrow, logging damage, or other factors affecting forest health;

Fifth, to provide for the establishment and growth of desired tree or other vegetative species that are shade intolerant;

Sixth, to rehabilitate poorly stocked stands due to past management practices or natural events; and

Seventh, to meet research needs.

Mr. SYMMS. Will my colleague yield for a question, Mr. President? I thank my colleague. He makes an excellent point.

The question I ask is, is this number in this column not approximately half what it was 10 years ago, in view of all of the other things—the appeals process—that have happened, talking in round figures? But it is substantially reduced from what we used to cut, because I recall very recently we were cutting over 1 billion feet in Idaho, on an annual basis.

We are way down.

Mr. CRAIG. When I came to the U.S. Congress in 1980, Mr. President, this figure was nearly doubled in that decade to what it is today. The employment in Idaho in the forest products industry was 4,000 men and women more than it is today. That is just in the State of Idaho alone.

That is the kind of reduction we have already seen for a variety of reasons, and the kind that I have already mentioned: For environmental reasons; because some of this sale issuance is being appealed; because we are now dealing with buffer zones for riparian areas; because we have become a lot more sensitive to how we harvest and why we harvest.

But those are real numbers.

Of course, the Senator from Georgia would suggest that they be reduced even that much more significantly.

Mr. President, that is why I must strongly oppose this amendment. And recognizing that, Mr. President, I move to lay it on the table.

Mr. SYMMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WIRTH. Mr. President, I represent a State which is proud of its national forests, and depends on them for many things. We have an active timber sale program in our national forests, and the vast majority of those sales are, according to the Forest Service, below cost sales.

I support the Fowler amendment. I think it is a good idea, and an idea we have to confront in an era when we have less money to spend to achieve all we need to achieve in managing our natural resources.

We simply can't afford to keep selling timber for less than it costs us to sell it, at a time when our budget for natural resource management is being reduced. If we expect to make any headway in fighting budget deficits, we have to be able to cut programs like this, that sell Federal resources but lose money doing it.

Senator FOWLER'S proposal is a 25-percent reduction in such sales. It is not a ban on below cost timber sales. It is not a gigantic reduction. It does not broaden the definition of "below-cost timber sale" that the Forest Service has used, even though many people believe that the Forest Service definition is a very narrow one.

It is, however, an opportunity we can't allow to pass. We need to wake up to the simple fact that we can't afford an unlimited subsidy of economically untenable timber sales, just because we are the Federal Government. Our line of credit is running out.

In Colorado, we have found that many of these sales not only lose the taxpayer money—they also do more to hurt than help our local economies. The primary values of Colorado's forests are not as tree farms, but as watersheds, wildlife habitat, and places for outdoor recreation. Their major economic value for many of our rural areas, is as settings in which people want to come to live and work, and want to stay.

Bulldozing miles of new logging roads into rugged back country where the trees wouldn't pay for a few yards of roads doesn't help that. It often hurts, because these areas are often important wildlife habitat and important watersheds, areas with erodible soils and steep slopes that, if the truth be told, don't take the hard treatment logging brings them very well.

We're not just talking about jobs in recreation and tourism, although that is a very important part of rural Colorado's economy. We're also talking about attracting businesses and people who have their choice of going anywhere they want to.

Colorado has changed a lot in the last 20 years. Back 20 years ago we had a very different view of the value of our national forests. But now, many of the local communities on the western slope believe very strongly that the quality of their environment is the biggest asset they have, and far more important to a prosperous future than a timber industry.

The Forest Service in our State has been somewhat successful in recognizing that, and moving in that direction. But we need to do more.

Several years ago, President Bush suggested a similar reduction in below cost sales, though it was targeted so that a relative handful of national forests bore virtually all of the impact of the cuts. Some forests would have simply stopped all sales under that plan.

Senator FOWLER's amendment, which would be spread out over the entire of the forest system, and leaves a great deal of discretion with the Forest Service to choose which sales to continue and which to cut back on, is, to his credit, far easier to implement.

I think that is a sensible approach. Cuts in any government program are going to cause some pain. They are going to require some adjustments. But if we can't get past that to cut a program that both loses money, takes a toll on our environment, and hurts many of the most valuable assets of the communities it directly affects, then we won't be able to cut anything at all.

I urge my colleagues to vote for Senator FOWLER's amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho to lay on the table the amendment of the Senator from Georgia.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. GORE], and the Senator from Iowa [Mr. HARKIN], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH], is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS], is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH], would vote "yea."

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—50

Baucus
Bentsen
Bond
Brown
Bumpers
Burns
Chafee
Coats
Cochran
Craig
D'Amato
Danforth
Daschle
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatfield
Heflin
Jeffords
Johnston
Kassebaum
Kasten
Kohl
Levin
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Pryor
Riegle
Roth
Rudman
Sanford
Seymour
Shelby
Simpson
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—44

Adams
Akaka
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Byrd
Cohen
Conrad
Cranston
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Hollings
Inouye
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Robb
Rockefeller
Sarbanes
Sasser
Simon
Smith
Specter
Wellstone
Wirth
Wofford

NOT VOTING—6

Burdick
DeConcini
Gore
Harkin
Hatch
Helms

So the motion to lay on the table the amendment (No. 2901) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. NICKLES. I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FORD. May we have order, Mr. President.

The PRESIDING OFFICER. The Senate is not in order.

The Senator from Georgia.

AMENDMENT NO. 2902

(Purpose: To reform the administrative decisionmaking and appeals processes of the Forest Service)

Mr. FOWLER. Mr. President, I send an amendment to the desk.

Mr. President, I want to yield to the chairman, but for those Members who were not here earlier, under the order agreed to by the body, I have sent my amendment to the desk and it will be first under consideration at the time designated when we come in tomorrow morning.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. FOWLER] proposes an amendment numbered 2902.

Mr. FOWLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . FOREST SERVICE DECISIONMAKING AND APPEALS REFORM.

(a) FOREST SERVICE NOTICE AND COMMENT PROCESS.—

(1) IN GENERAL.—in accordance with this subsection, the Secretary of Agriculture (referred to in this section as the "Secretary"), acting through the Chief of the Forest Service, shall establish a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.).

(2) NOTICE.—Prior to proposing an action referred to in paragraph (1), the Secretary shall give notice of the proposed action, and the availability of the action for public comment, by—

(A) promptly mailing relevant information about the proposed action to any person who, in writing, has requested it, and to persons who are known to have participated in the decisionmaking process; and

(B)(i) in the case of an action taken by the Chief of the Forest Service, publishing notice of the action in the Federal Register; or

(ii) in the case of any other action referred to in paragraph (1), publishing notice of the action in a newspaper of general circulation that has previously been identified in the Federal Register as the newspaper in which notice under this paragraph may be published.

(3) COMMENT.—The Secretary shall accept comments on the proposed action that are postmarked or filed within 30 days after publication of the notice in accordance with paragraph (2).

(4) ISSUANCE OF DECISION.—Not later than 21 days after the termination of the comment period in accordance with paragraph (3), the Secretary shall consider the comments received and—

(A) issue a decision on the proposed action (including a discussion of the comments); or

(B)(i) determine that a delay in issuing a decision on the proposed action is necessary because—

(I) an issue raised by a comment requires further environmental analysis; or

(II) the consideration of the comments cannot be completed within the 21 days; and

(ii) give written notice of the delay to all persons who submitted comments.

(b) FOREST SERVICE ADMINISTRATIVE APPEALS PROCESS.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary shall establish an administrative appeals process for the appeal of decisions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.). The process shall provide, at a minimum, one level of administrative review.

(2) TIME FOR APPEALS.—A person may seek review of an agency decision described in paragraph (1) by filing an appeal not later than 45 days after the date on which the decision is issued.

(3) AGENCY DECISION.—An appeal under paragraph (2) shall be decided not later than 45 days after the date on which the appeal is filed. If the Secretary fails to decide the appeal within the 45-day period, the decision on which the appeal is based shall be deemed to be final agency action for the purpose of chapter 7 of title 5, United States Code.

(4) AUTOMATIC STAY PENDING APPEAL.—An agency decision described in paragraph (1) shall be stayed beginning on the date the decision is issued and ending—

(A) if no appeal of the decision is filed, 45 days after that date; or

(B) if an appeal of the decision is filed, 30 days after the earlier of—

(i) the disposition by the reviewing office of all appeals of the decision; or

(ii) the end of the 45-day agency review period provided for in paragraph (3).

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Mr. President, if Senators who have amendments on the list of eligible amendments would show those to the staff on both sides, it would help us to become familiar with the content of the amendments and might expedite matters on tomorrow.

May I say also that on tomorrow we hope that Senators would come to the floor. There will be an amendment by Mr. FOWLER pending. Upon the disposition of his amendment, one way or another, the amendment by Mr. GORTON will be the next amendment.

Following that, I express the hope that Senators would be on the floor and ready to call up their amendments.

I say to Senators that we have been on this bill now since last evening, and there are other matters that have to be transacted. There are two other appropriations bills behind this one, if the majority leader should decide to bring up one or two of those, and he has other matters as well. So we cannot spend too much time on tomorrow.

I say to Senators tonight, those who are here listening, those who will read the RECORD tomorrow morning, and those who will hear by word of mouth, that it will be my intention to move to table amendments if I see a debate is going on too long. We simply cannot tolerate the kind of time that was taken today on the mining amendment, and I use the word "tolerate" in a pejorative sense.

But we have to move on with this bill. I put Senators on friendly notice that it is my intention, and the intention of the distinguished ranking member, to move to table amendments tomorrow after what we consider a reasonable length of time.

And if there is too much tardiness in Senators coming to the floor to call up their amendments, I will give the Senate a 10-minute notice, after which I will move to go to third reading and ask for the yeas and nays on the motion.

I thank all Senators for their courtesy and I yield the floor.

BUMPERS MINING PATENT MORATORIUM

Mr. SYMMS. Mr. President, the general mining law has helped spur America's industrial growth and continues to help U.S. manufacturers keep up with foreign competition. It is based on a simple principle of private property—tenure and access. Without tenure and access, no risk capital will be available.

The reason given for the moratorium on patents given is that this law is a ripoff. That just isn't true. The case just hasn't been made that this law is broken.

Mr. President, the administration is working to fine-tune this law to keep up with modern mining practices. The Bureau of Land Management has new regulations requiring bonding requirements designed to ensure reclamation on all mining operations on BLM lands. BLM Director Cy Jamison has told me that his goal is to require reclamation bonding for all mining activities on Government lands.

Mr. President, these new regulations will be added to the burden on mining companies that exist from myriad costly State and Federal environmental regulations, laws, and permits required for mining operations. The sponsor of this amendment ignores these facts.

Federal and State environmental laws enacted in the past two decades have had a profound effect upon activities under the mining law and provide a good example of the flexibility inherent in the mining law and how it adapts to changing circumstances.

State reclamation statutes typically cover exploration, mining, and reclamation. Permits are usually required before mining starts and an operation reclamation plan must be approved in order to obtain a permit. There are specified reclamation standards, provisions for performance, and reclamation bonds resulting in a comprehensive program of regulation.

The Federal Land Policy Management Act and Forest Organic Act grant the Federal Government more than ample opportunity to require reclamation of mining sites on public lands and such reclamation is being accomplished.

Both the Bureau of Land Management and Forest Service have issued separate sets of comprehensive administrative surface management regulations governing mining activities. These comprehensive regulations impose substantial requirements on anyone attempting to prospect and develop minerals on public lands.

Federal environmental laws governing mining activities include the following: The Clean Air Act; the Clean Water Act and the no-net-loss of wetlands policy; the Resource Conservation and Recovery Act; the Comprehensive Environmental Response, Compensation, and Liability Act; the Toxic Substances Control Act; the Endangered Species Act; and The Archaeological Resources Protection Act.

Also, the National Environmental Policy Act requires the preparation of an environmental impact statement whenever a Federal agency has to take a major action significantly affecting the environment. Generally, the development of a mine will require some Federal permit, license, or right-of-way that will result in the preparation of an environmental impact statement under NEPA.

Now, I don't know what else we can do to stop mining on Government land in this country, but the amendment by the Senator from Arkansas is a good first step. This moratorium would tell American investors to avoid mining. The investor uncertainty alone will lock the West into a very long-term recession.

In closing, Mr. President, I don't believe the mining law is broken. Maybe it can be fine-tuned, but the Bumpers amendment is an irrational way to give the Congress another year to think more about changing this law. I would urge my colleagues to oppose this amendment.

The PRESIDING OFFICER (Mr. GLENN). Who seeks recognition?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TODAY'S BOXSCORE OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "congressional irresponsibility boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,995,821,754,626.43, as of the close of business on Monday, August 3, 1992.

On a per capita basis, every man, woman, and child owes $15,556.48—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

WASHINGTON REDSKINS IN VIRGINIA

Mr. WARNER. Mr. President, I rise to address issues relative to a proposal to relocate the Super Bowl Champion Washington Redskins from the District of Columbia, across the river to a new stadium complex at the Potomac Yard in Alexandria, VA.

This matter is now before the Congress as a result of an unexpected, unusual action taken by the House of Representatives on the fiscal 1993 appropriations bill for the VA, HUD, and various independent agencies.

Specifically, a provision was included in the House version of this bill which, in effect, would prevent any Federal agency from reviewing, planning, or permitting a stadium being built on this specific site until an environmental impact statement has been prepared and approved by the Environmental Protection Agency.

Numerous concerns about this issue and the ensuing House action led me recently to contact certain of my Senate colleagues on the Appropriations Committee and ask that the Senate bill not contain a provision, at this time, on the question of an environmental impact statement for the proposed stadium site. Let the Senate remain silent for the moment.

I would like briefly to outline those concerns.

First, I want to make clear that I stand second to no one in my enthusiasm for, and support of, the Redskins team. I congratulate them, once again, on their championship season of last year.

Furthermore, I want to underscore that I, for one, would be delighted and thrilled if circumstances, acceptable to Virginians, were to bring the Redskins to a new home in the Commonwealth of Virginia—already the home, I might add, of Redskins Park near Dulles International Airport.

I must stress, however, that on the subject of a specific site for a proposed new stadium, I am neutral for I, and others, do not have all the facts.

My motivation in preventing inclusion of an environmental impact statement provision in the Senate bill was not pro or con as far as the specific Potomac Yard site is concerned.

Rather, it is essential, it seems to me, that on an issue of this magnitude—in terms of both financial obligation and future economic and environmental impact on our metropolitan area—we keep an open mind until all the facts are known.

I want to avoid a political football game in which a very important decision vitally affecting the future of this area is determined without all the facts. I want to avoid premature congressional action which would effectively foreclose an independent review by the Virginia General Assembly.

I am told that the negotiations between the Commonwealth of Virginia and the Washington Redskins are nearing the final details and are being put in a form that the public and the Senate can review and use to make an informed judgment.

As of today, the available facts are basically limited to framework statements by Gov. L. Douglas Wilder of Virginia and Jack Kent Cooke, owner of the Redskins, and the media interpretations and speculations that followed.

Soon, however—on August 14—the essential information is scheduled to be provided by the principals to appropriate committees of the Virginia General Assembly.

Therefore, I say simply to my colleagues here in the Senate that fairness and rationality dictate that these parties be given time to make public all the facts. Then those opposed have equal opportunity to make known their views. The Senate then has the opportunity to study and analyze all viewpoints, objective merits as well as defects, prior to the House-Senate conference on the VA, HUD, and independent agencies appropriations bill in September. The Senate can then express an informed judgment at that conference. Such a delay will not prejudice the House position. But a rush to judgment today could prejudice others.

In addition, a fundamental threshold question occurs to me about whether a Federal interest can be said to exist at this point with regard to the Potomac Yard proposal.

I say the Congress would best exercise restraint and caution before injecting itself—permaturely and peremptorily—into a controversy among certain Virginia factions, and between officials of two localities in Virginia and the District of Columbia.

Potential points of Federal interest can be evisioned—access to the George Washington National Parkway, funding for expansion of Metro service in support of a stadium, FAA operations at nearby National Airport, and legitimate environmental questions about cleanup of the Potomac Yard Site. But facts on these important questions are still being developed.

But debate—let alone congressional action—at this time, before a full and fair airing of all the facts, hardly ranks above the level of sophisticated speculation.

In addition, plans for an analysis of the existing environmental conditions are underway. The Environmental Protection Agency is currently negotiating a consent decree with RF&P Railroad, the responsible party. My action at this time not to impose a legislative mandate for an environmental impact statement does not preclude the possibility that one may be required as this process moves forward. Current Federal law requires that should the stadium proposal involve a major Federal action, an environmental impact statement will be performed.

And so again, I say that fairness to all parties, fairness to the Senate, compels a reasonable delay.

I am not prepared—nor do I believe the Senate should consider itself prepared—to pass judgment at this time on the merits and substance of the stadium proposal, or on whether congressional action is appropriate.

I purposely restricted my actions to procedural steps not to take a position for or against the Potomac Yard proposal at this time.

On the morning of July 30, following House action, I contacted the chairman and ranking members of the Subcommittee on the Veterans' Administration, HUD, and Independent Agencies. They concurred in my request that language requiring an EIS for Potomac Yard not be included in the Senate bill at this time.

Later that day, Governor Wilder called me and I informed him of my actions. That call was the first contact I had had with the Governor on the stadium issue.

I have had no contact with Jack Kent Cooke or anyone affiliated with the Redskins organization regarding the Potomac Yard site.

I have taken these procedural steps on my own initiative, out of a sense of fairness to all parties and the Senate.

This is a procedural step which assures fairness to all.

I ask, Mr. President, that three editorials addressing this subject be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Richmond Times-Dispatch, Aug. 1, 1992]

IN BRIEF

Applause, please, for Senator John Warner. He evidently has stalled or even derailed Alexandria Congressman James Moran's attempt to inject Congress into the debate over the proposed Jack Kent Cooke Stadium at Potomac Yard. Although the project would have to get clearance from the Environmental Protection Agency, it is essentially a state and local matter. Congress isn't a "super town council."

[From the Richmond Times-Dispatch, Aug. 4, 1992]

WAITING GAME

Here's a revolutionary idea for Alexandria Congressman James Moran and others tempted to go to extremes to block the proposed Jack Kent Cooke Stadium at Potomac Yard: Wait.

Wait until the facts are in before deciding whether to support or oppose the project.

Before the details of the deal were released, Moran announced his opposition. Not content to let the pros and antis fight it out in Virginia's General Assembly, he tried to propel through Congress legislation that effectively would have spiked the stadium. Thanks to the good work of Senator John Warner, the power grab was derailed—at least for now. Other naysayers have acted with Moranic precipitousness.

Troubling questions about the stadium remain. The burden of proof rests with Governor Wilder and Jack Kent Cooke. The responsibility for making a persuasive case is theirs. In public policy, skepticism is a virtue—and this is not the time for a definitive Yes or a definitive No. When Governor Wilder dots the "i's" and crosses the "t's"—and when he calls the General Assembly into a special stadium session—then the time for a decision will have arrived.

[From the Charlottesville Daily Progress, Aug. 2, 1992]

REDSKINS ARE NO BUSINESS OF CONGRESS

Congressional efforts to stop the Redskins from moving out of D.C. may have an unintended effect: showing voters just how petty legislators can be.

Virginians' objections to the proposed relocation of the football team stem from the way the deal was developed. Gov. L. Douglas Wilder's highhanded, secret negotiation came at the expense of Alexandria, where the new stadium is proposed to go. Alexandria so far has had no say-so in the stadium decision. Alexandria did, however, painstakingly work out a zoning plan for the proposed site; that plan said the area was better suited for offices and homes.

Now, as if things weren't complicated enough, Congress has gotten into the act.

The House last week passed legislation calling for an environmental impact study on the stadium site. Sen. John Warner, however, persuaded a colleague not to insert similar language in a Senate bill, thus ensuring at least a cooling-off period on the issue.

That angered Rep. James P. Moran, the Northern Virginia Democrat who offered the House version of the legislation.

"The congressman has said that he basically expects this [law] to stop the stadium," an aide said. "Most environmental impact statements take two to five years."

Now, that's being frank. Mr. Moran's sponsorship of the legislation is based less on environmental concerns than on an obvious desire to please the Alexandria voters in his district.

He says that the site could be contaminated with hazardous chemicals such as lead, arsenic and PCBs. If so, an environmental impact study should be done—regardless of whether the site is used for a stadium or for offices. And procedures already exist to make sure that happens.

Mr. Moran even admits that "environmental impact statements are required for stadiums or any other large-scale projects of that type." If so, an environmental impact study will be done—regardless of whether individual congressmen and women favor the stadium.

So if procedures and regulations already exist for initiating such a study, why involve Congress? Why should the nation's top legislators make this decision for Virginia?

Minority Whip Newt Gingrich had it right when he called the Moran legislation an "outrageous [attempt] to drag a neighborhood fight to the U.S. Congress."

"This is about whether we are a national congress or a city council for the Washington area," he said.

Virginians are angry about the way the governor went over their heads in negotiating a deal, Ironically, Congress is doing virtually the same thing in trying to reverse the arrangement, Even though the results may be to Alexandria's benefit, the methods are highhanded and arbitrary.

The governor makes a deal, the Congress trumps him. . . . If this one-unmanship goes on, next we'll have the president involved.

D.C. MAYOR TOO UNINVOLVED

Whatever you think about the stadium deal, you gotta hand it to Gov. L. Douglas Wilder for pulling it off.

Mr. Wilder knew just what to do and was willing to do it—personally. Mr. Wilder adroitly stroked Redskins owner Jack Kent Cooke's ego, promised him some financial concessions and, lo, the bargain was made.

By contrast, D.C. Mayor Sharon Pratt Kelly has been unwilling to meet personally with Mr. Cooke. Her early reluctance to do so has been cited as one of the reasons he went looking for stadium property outside the District. Even at this stage of the game, she has assigned stadium negotiations to a subordinate.

Mr. Cooke wants to be treated with the adulation due a bowl-winning quarterback. Fine. A little pandering to the ego is cheap compared to losing a national football team.

AMERICAN RELATIONS WITH VIETNAM

Mr. PELL. Mr. President, I have recently received an excellent article written by a former staff member of the Senate Foreign Relations Committee, Dr. Henry J. Kenny.

Dr. Kenny's article, "American Interests and Normalization With Vietnam," appeared in the summer issue of the Aspen Quarterly. Dr. Kenny's interest in Vietnam is both professional and personal. A West Point graduate, Dr. Kenny was severely wounded while serving with the Green Berets in Vietnam.

At a time in which the debate on Vietnam continues to be heated, Dr. Kenny brings both compassion and well-reasoned analysis to the issue of our future relations.

I commend his article to my colleagues for their reading and ask that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICAN INTERESTS AND NORMALIZATION WITH VIETNAM

(By Henry J. Kenny)

"The men with whom I talked were strong and serious. I told them that I regretted more than they would ever know the necessity of ordering them to Vietnam. I remember vividly my conversation with one soldier. I asked him if he had been to Vietnam before. He said: 'Yes, sir, three times.' I asked if he was married. He said: 'Yes, sir.' Did he have any children? 'Yes, sir, one.' 'Boy or girl?' 'A boy, sir.' How old is he? 'He was born yesterday morning, sir' he said quietly. It tore my heart out to send back to combat a man whose first son had just been born."—Lyndon B. Johnson at Ft. Bragg, N.C., 1968.

Twenty-five years ago American forces were locked in mortal combat with North Vietnamese infantry across the length and breadth of South Vietnam. The Tet (New Year's) offensive of 1968 was about to begin, and before it was over, 500 young men a week would be returning home in coffins, hospitals would be overflowing with amputees, burn victims, paraplegics, the blind and others, public opinion would turn decisively against the war, President Lyndon Johnson would declare he would not seek another term, and Richard Nixon would campaign for the presidency with a plan to bring the boys home and end the war. It took another five years and twice the number of names which would be inscribed on the black granite wall of the Vietnam Memorial in Washington, D.C., before that end was accomplished, and two additional years before the last American helicopter departed the abandoned American Embassy in Saigon. The world has turned over many times since those dark days of frustration and pain. The generation which fought the war has grown to middle age, while the generation which succeeds it has heard of Vietnam only as a difficult war, and like the average American of the early 1960s, is not quite sure where to locate it on the map. Yet despite the passage of so many years, the United States has yet to normalize relations with its former enemy. It is time, in 1992, to take that step, both because it serves a broad range of continuing American interests in Indochina, and because it best embodies the values for which so many Americans paid the ultimate sacrifice a generation ago.

BACKGROUND

Recognition of Hanoi had been considered as far back as 1946, but support for France in what was perceived as a Cold War confrontation in Indochina obstructed the action. Two wars and 32 years later Washington again pursued the possibility, but any prospect for normalization vanished when Vietnam invaded Cambodia in later 1978 and installed a loyal government in Phnom Penh. Hanoi declared the move necessary to defend Vietnamese border villages from Khmer Rouge attack, and later justified its actions as necessary to prevent Khmer Rouge genocide inside Cambodia. Washington saw it as Vietnamese expansionism, not unlike the occupation of Cambodia by the Nguyen dynasty during the 18th century, and fed by Vietnamese visions of hegemony in Indochina as reflected in Ho Chi Minh's last will and testament. This dichotomy of views persisted for over a decade, a legacy of mistrust characterized the relationship, and diplomatic recognition appeared extremely remote.

Then, in the spring of 1988, Vietnam clearly signaled that it not only desired normalization, but was prepared to take major steps to attain it. First, it directed the People's Army of Vietnam to begin withdrawing from Cambodia, and in September the following year announced that all its troops, once numbering more than 180,000, had left the country. Second, it started returning the remains of American servicemen in unprecedented numbers, and began allowing American inspectors to visit aircraft crash sites. Finally, it declared liberal economic policies and encouraged a dramatic rise in trade with Western countries.

The Bush administration inherited both the challenge of how to respond to Hanoi's initiative and the fact that normalization had taken on overtones far more significant than the traditional recognition of governments as having *de facto* or *de jure* control over their own population and territory. Although not generally constituting approval of the policies and practices of the regime to which it is extended, diplomatic recognition in the Vietnam context has been viewed as a reward for accommodating U.S. interests, a *quid pro quo* for concessions from an erstwhile enemy. The administration thus required that Vietnam not only withdraw from Cambodia, but cooperate in helping settle the civil war there. It also strengthened MIA policy, stating that the pace and scope of normalization will be dependent upon, not just related to, progress in accounting for missing Americans. These two interests, Cambodia and MIAs, presently dominate Washington's agenda for relations with Hanoi, and were highlighted in the "road map" of phased normalization presented to Vietnam in 1991.

Although never central to American participation in the Vietnam war, Cambodia was and is part of the greater struggle for Indochina, in which the best of American intentions has been to support independent states free from both external domination and internal tyranny. U.S. policy toward Cambodia today reflects this goal, seeking both to prevent Vietnamese domination and to ensure as democratic a political process as possible in that war-torn land. The road map thus specified that a cease-fire (begun May 1, 1991), an international accord (signed October 23, 1991), and a U.N. presence (formally begun March 15, 1992) precede a partial lifting of the trade embargo on Vietnam (a telecommunications accord signed April 15, 1992, and commercial sales of food and medicine "to meet basic human needs" authorized April 29, 1992). Ironically, the very success of U.S. policy to date is clear evidence that Vietnam is not impeding the peace process, and that the time is at hand to ask whether normalization with Vietnam would not expedite, rather than delay, in Southeast Asia the winds of change which have already transformed Eastern Europe and the former Soviet Union.

A similar irony pertains to Americans missing in action (MIAs). The nearly 2,300 men who did not return from the war fought for ideals of freedom and justice, however misconstrued at times in the breach of American policy and strategy. Their sacrifice, like those of their comrades-in-arms, calls for not only as full an accounting as possible, but also a national policy to maximize the opportunity for peace and freedom in the land from which they never returned. Present policy has outlived its utility in this regard. First, it delays entry into Vietnam not just of diplomats but of American citizens who would live there to conduct business. Information on MIAs, as on any other issue, cannot be damaged by an increased U.S. presence. Second, postponing normalization deprives Hanoi of an incentive to cooperate in what has become a clear linkage between political relations and MIA gestures. Finally, the continued isolation of Vietnam prolongs inevitable political change, which could lead not only to the fullest possible MIA accounting but also to increased freedoms for which the MIAs paid such a dear price.

A third U.S. interest, that of American business, was mentioned in the road map, but was treated primarily as an enticement for Vietnam to act on the Cambodian and MIA issues. With an increasing number of foreign companies positioning themselves for long-term gains in Vietnam, American firms are seeking to overcome their competitive disadvantage by advocating that the government lift restrictions on non-strategic trade and investment. Individual CEOs, however, remain reluctant to press the issue for fear of being "out front" while concern for Cambodia and MIAs remains intense.

A fourth American interest, humanitarian concern for the people of Vietnam, has received even less attention. While U.S. policy maintains that humanitarian issues are important in the context of normalization, it refers to such interests primarily in terms of special categories of persons, such as reeducation camp prisoners, Amerasians and MIAs. Neither the administration nor the Congress has focused on the impoverished and repressed condition of the people of Vietman, yet it was in their name that America sacrificed more than 59,000 servicemen in 13 years of war. Washington is now attempting to reinforce their isolation by barring them from Western products and ideas, thereby postponing the information revolution so crucial to the social change witnessed elsewhere in the world.

It is to the issue of normalization and its relationship to these four interests—Cambodia, MIAs, American business and humanitarian concern for the people of Vietnam—that we now turn.

CAMBODIA

In early 1992 Khmer Rouge forces violently attacked villages and government outposts in northern Cambodia, killing more than 100 innocent civilians and adding 20,000 men, women and children to the more than 600,000 displaced persons seeking to be resettled within the next year. The repeated and brutal nature of the attacks demonstrates once again the wisdom of America establishing closer relations with its onetime foe and ardent Khmer Rouge enemy, Vietnam. Initiated under the aegis of General Ta Mok, the notorious Khmer Rouge leader in the north, the attacks bespeak not just possible dissention within the ranks of Khmer Rouge leadership, but a willingness of some Khmer Rouge leaders to pursue military means to expand areas of control, even if that means disrupting the peace process so meticulously planned by the United Nations. In disrupting the U.N. effort, moreover, the Khmer Rouge also effectively disrupted the normalization process between the United States and Vietnam, a process whose fulfillment would threaten Khmer Rouge viability.

The United States and Vietnam share an extremely important goal in Cambodia—to prevent the return to power of the genocidal Khmer Rouge. Khmer Rouge forces are estimated at more than 30,000 hard-core fighters. Although their size and capabilities are consistently denigrated by the Hun Sen government in Phnom Penh, they are by far the best trained, disciplined and experienced of the four Cambodian factions. Their strength in the Cardamom mountains of southwestern Cambodia has gradually extended to the Elephant Range of the south and various base areas in the northeast. From these positions they have threatened the main trade routes with Phnom Penh from Thailand and the port of Kompong Som. They are considered to have sufficient weapons and ammunition for several years of sustained operations and have cached many of them in mined base areas no U.N. inspection team will ever find. Most observers had concluded that in any election Khmer Rouge elements would be soundly defeated, but in recent years the organization has undertaken a massive campaign to reshape its image. Using pictures and the symbolism of the still-popular Sihanouk, Khmer Rouge forces enter villages to propagandize not just by lectures, but by good behavior. They typically pay for any chickens or other food needed, bivouac around local pagodas and portray themselves as the saviors of Khmer nationhood from the Vietnamese and their lackeys in Phnom Penh. Recent reports from Cambodia indicate that these tactics, coupled with selected attacks on government provincial forces, are resulting in a gradual expansion of Khmer Rouge population control in the countryside.

This trend directly impacts America's second major goal in Cambodia, the conduct of free and fair elections for the purpose of a "just and durable settlement of that war." The road map even delays normalization until after a U.S.-supervised election and the seating of a new national assembly in Cambodia. The concept of elections in a country with minimal experience with them has been driven by a desire to promote democracy and protect the non-Communist Sihanoukists and Khmer Peoples National Liberation Front. Fearing not just the return of the Khmer Rouge, but a potential tyranny and surrogate for Vietnamese control in the Hun Sen regime, the United States persuaded the five permanent members of the United Nations Security Council (the Perm Five) to approve a plan for a "comprehensive political settlement" in Cambodia. In late 1990 a draft of this plan, approved by the Security Council and the General Assembly, was agreed upon by the four Cambodian factions as a basis for resolution of their conflict. It called for investiture of national sovereignty in a four-party Supreme National Council (SNC) for an interim period during which a United Nations Transitional Authority for Cambodia (UNTAC) would oversee the functions and activities of governmental administration, supervise a cease-fire and the demobilization of military forces, and organize elections.

Vietnam, however, supported Phnom Penh by raising three objections—that Khmer Rouge genocide was not taken into account, that powers vested in UNTAC infringe upon the sovereignty of Cambodia, and that the disarmament process would compel Phnom Penh to lay down its arms with no guarantee Khmer Rouge forces would not then attack with significant combat capability.

By late 1991 the genocide issue appeared to have been resolved, with Hun Sen having dropped his insistence that the Paris Peace Agreement require a reference to the "genocidal practices of the past," settling instead for an expression of general concern over nonrecurrence of recent practices.

Resolution of the issue of sovereignty was also well advanced; as the 12-member SNC office in Phnom Penh began to function on a regular basis, U.S. and other Western diplomats accredited to the SNC began work. In March 1992 UNTAC was officially established, and by mid-year was well on the way to meeting its goal of 22,000 personnel in country. Phnom Penh concurred in the UNTAC role, limited to supervising only "those functions and activities of the existing administrative structure which could directly influence the holding of free and fair elections in a neutral political environment" (defined as the ministries responsible for foreign affairs, defense, finance, public security and information). Phnom Penh also agreed to the holding of elections under a system of proportional representation by province and a U.N. monitoring force far more substantial than Hun Sen had desired. This flexibility on these two issues, whether interpreted as a product of Vietnamese pressure, acquiescence or simply no influence at all, supports the view that Vietnam is currently not stonewalling the peace process in Cambodia.

The demobilization issue, however, appears more intractable. The Paris Peace Agreement calls for a 70 percent demobilization of each faction's military forces, with 30 percent reporting to cantonment areas under U.N. supervision. However, there is no agreement on the size of forces involved, and a great deal of warranted suspicion that Khmer Rouge elements will merely move into a classic passive guerilla posture, awaiting the opportunity to strike again. Already both Hanoi and Phnom Penh have condemned flagrant Khmer Rouge violations of the cease-fire, and Hanoi is particularly nervous precisely because it was Vietnamese cadres who trained the Khmer Rouge cadre in the methods of guerrilla warfare at Hoa Binh in North Vietnam a generation ago. That training included political warfare in which the caching of arms, recruitment of villagers and the sabotaging of government programs and influence were staples.

Perhaps an even greater worry for Hanoi is its perceived loss of control. Vietnam paid a severe price for its occupation of Cambodia and had planned to leave in place the friendly regime which it installed in 1979. By withdrawing its forces and tolerating elections Hanoi risks permitting the Khmer Rouge to gain a foothold in Phnom Penh, while denying itself the option of future intervention if needed. Party leaders also risk offending a military hierarchy already concerned about severe force cuts, as well as the few hard-liners who still harbor an eschatological vision of hegemony in Indochina. Moreover, the political implications of a next door neighbor ruled by an elected government could be most unsettling. In spite of all these fears, however, Hanoi's acquiescence in a rapidly unfolding peace regime provides the clearest measure of the degree of political risk it is prepared to take to normalize relations with the United States.

The administration seeks to take advantage of Vietnam's needs by linking progress on normalization to full implementation of the Paris Peace Agreement. This is a serious mistake because it provides the Khmer Rouge veto power over not only the peace process, but U.S. relations with Vietnam as well. If one were to accept the Khmer Rouge declaration that is supports the U.N. peace process and is prepared to cooperate in turning in its arms and moving to cantonment areas as prescribed, then there should be no need for Vietnam to interfere in the process and no need to postpone normalization on that account. If, on the other hand, the Khmer Rouge seeks to circumvent the agreement by political and military action, as seems likely from recent indications then the Phnom Penh government will be forced to respond with military action of its own and Vietnam will be tempted to assist as needed. Such was the case in early 1991, when

Khmer Rouge forces forcefully attacked district towns in Battambang province, and select Vietnamese combat units, advisors, intelligence and logistic personnel, estimated to total several thousand, came to the aid of the beleaguered government forces. Such action, done in the absence of normalization, and without U.S. foreknowledge or consent, further aggravated U.S. relations with Vietnam.

Were the United States to normalize relations with Vietnam, however, Khmer Rouge tactics to take advantage of the peace process would suffer in several ways. First, normalization would dramatically increase the international presence in the area. Investors, traders, government representatives, tourists and media attracted by the changed conditions would invariably tend to focus greater international attention on any continued Khmer Rouge truce violations. Second, the economic development bound to accompany an open trading system involving Vietnam and Cambodia would, in the normal course of infrastructure building, improve the livelihood of the average Cambodian who might otherwise be attracted to Khmer Rouge promises. Third, it would serve notice to Khmer Rouge leaders that the wave of the future is in cooperation and development, not in refighting the wars of the past. Finally, it could facilitate bilateral cooperation in the event of flagrant Khmer Rouge violations, thereby serving as a powerful deterrent to subversion of the peace accords by the authors of the Cambodian holocaust. U.S. policy toward Cambodia is based on the twin goals of independence and freedom. Normalization with Vietnam will facilitate attainment of both goals, while simultaneously serving other American interests in Southeast Asia.

POW/MIA

No issue surrounding normalization of relations with Vietnam has captured the imagination of the American people as much as that of missing Americans. Popular movies depicting tortured American servicemen in rat-infested cages, pictures purporting to show live American POWs, the POW/MIA flag as a symbol of patriotism, and Hanoi's political use of the issue both during and after the war, have all pushed the subject to the top of the American agenda with Vietnam. Official government statements saying the pace and scope of normalization will be directly affected by Vietnamese cooperation on the issue really understate its importance, for many Americans believe the MIA/POW issue is the litmus test of the nation's keeping faith with servicemen it sent on a lost crusade.

There are 2,268 Americans who did not return from the war in Vietnam. Because of extraordinary efforts made to account for them, this total is less than 4 percent of those who died in combat, compared to 22 percent in both the Second World War and Korea. Like Korea, the United States did not have access to some of the areas in which many of these men were lost, but in areas of Laos, Cambodia, South Vietnam and to a more limited extent, North Vietnam, unparalleled efforts were made to rescue and account for missing Americans. A massive search-air-rescue effort supported the airmen, who constitute some 80 percent of the missing men. Throughout Indochina more than half of downed airmen were rescued by search-air-rescue operations, often at great risk to the rescuing force. A total of 119 missions to rescue known or suspected American POWs were also reported during the war, including the famous 1970 raid on the Son Tay prison camp in North Vietnam. In addition, American units routinely sought out possible POWs in their operating areas. In 1966, for example, the author helped pursue a captured American advisor, but was successful only in over-running a Viet Cong jungle headquarters where liberated Montagnards described the prisoner as having been led from the camp two months previously, still alive but next to death from malaria and malnutrition. Intelligence collection and analysis was top priority throughout the war. To cite but one example, Intelligence Collection Requirements concerning possible American POWs were promulgated to interrogation centers through which passed some 45,000 captured Viet Cong and North Vietnamese and 226,000 Hoi Chanh ("ralliers" to the Republic of Vietnam). Prepared and updated by the Defense Intelligence Agency, the Intelligence Collection Requirements listed detailed questions to be asked of all sources concerning possible sightings of live American prisoners. Information gathered was thoroughly evaluated, correlated with known information, and used as a basis for determining the status of missing Americans.

The wartime intelligence effort continued after the Paris Peace Agreement. During Operation Homecoming in 1973 nearly 600 American civilians and military personnel returned to the United States. Debriefings of these men revealed a remarkable POW system of memorizing names and information on other Americans, but no hard evidence on prisoners still being held. Then, as hundreds of thousands of Indo-Chinese refugees began arriving at "first asylum" camps in Southeast Asia, announcements were made for them to report any information on captive Americans. Since that time a total of 1,574 live sightings have been reported and examined by the Defense Intelligence Agency. Of this total 69 percent pertained to Americans already accounted for, 25 percent were determined to be fabrications and only 6 percent were unable to be resolved, half of which pertained to reports of Americans in a non-captive environment. The Defense Intelligence Agency states that it will continue to investigate live sighting reports based on the assumption that at least some Americans are held captive, but that as a result of its many years of effort it cannot prove that any Americans have been held prisoner since 1973.

With respect to accounting for missing servicemen, it is significant that some 1,097, or nearly half, are listed as "Killed-in-Action/Body-Not-Recovered," which means they were identified as having been killed in action by their respective services, but due to the circumstances of their loss, it was impossible to recover their remains, even with 500,000 troops in country. Most other MIAs were lost under circumstances which make an accounting extremely difficult. Over half the MIA crash sites are in unknown locations. Hundreds were lost at sea; some were carried away by strong river currents or crashed in triple-canopy jungle. In one case, for example, a Delta Force helicopter crashed in a "known location" amidst triple-canopy jungle after inserting a team at dusk. Nighttime aerial search, in which one very fine young lieutenant gave his life, was followed by extensive ground and air searches, all to no avail. Years later a reconnaissance team accidently stumbled upon the downed helicopter and the remains of four Americans, all in an area where visibility is limited to but a few feet. Despite interruptions, the fact that from 1973 to 1975 the American Joint Casualty Resolution Center launched widespread searches of known crash sites in South Vietnam and was able to recover the remains of but 24 servicemen, further highlights the difficulty. One can only add, as did General Norman Schwartzkopf in the aftermath of Desert Storm, that "in the history of warfare there has never been a successful counting of the dead."

There is little doubt, however, that Hanoi has additional remains and information which it can provide. Forensic evidence shows that numerous American remains returned in recent years have been "off the shelf" or from the warehouse which a Vietnamese mortician reported in 1979. Sixty-two discrepancy cases remain to be resolved from the original list presented to Hanoi by General John Vessey, the President's Representative for POW/MIA Affairs, including some previously listed by the Vietnamese as having died in captivity. Vietnam should also have information on other missing Americans. The United States hopes that the establishment of a POW/MIA office in Hanoi, together with accelerated in-country investigations, including spot searches, will lead to a more expeditious accounting of the MIAs, but neither the families of missing Americans nor the American people should be too sanguine about the prospects. These men have now been missing an average of 25 years and, as the aforementioned facts indicate, Vietnam may have far fewer remains than commonly believed, and may well be husbanding them as a sweetener for a time when trade and normalization are in the offing.

AMERICAN BUSINESS

American firms are missing major opportunities in Vietnam while competitor nation companies have positioned them-selves for substantial and long-term gains in what they view as one of the last untapped high growth areas in the Pacific. Policymakers in Washington have been heard to say this does not make much difference, because Vietnam is lacking in foreign exchange and its disposable income for domestic spending is negligible. Perhaps the Japanese, Koreans, Taiwanese, French and others are missing something; but their current and planned trade and investment in Vietnam indicate otherwise.

American firms are currently proscribed from doing business with Vietnam by the Trading With the Enemy Act. Originally imposed on commerce with North Vietnam in 1964 and South Vietnam in 1975, the embargo is now extended on an annual basis at the discretion of the president. It not only blocks U.S. trade, but impedes that of America's major trading partners, whose governments until recently have generally cooperated with the policy, to include the exclusion of Vietnam from International Monetary Fund and World Bank guarantees and credits. Even had there been no embargo, however, it is doubtful that much business would have been transacted in the decade after 1975, for during that period Hanoi sought to transform the primitive agricultural economy of Vietnam into a modern socialist one "without passing through the stage of capitalism." The notorious X2 campaign to obliterate the last vestiges of capitalism in the South was placed under the leadership of Do Muoi, the current General Secretary of the Communist Party of Viet-nam, who was well known for his admonition, "Capitalists are like sewer rats; whenever one sees them popping up one must smash them to death."

A dozen years later with unemployment well over 20 percent, inflation in triple dig-its, malnutrition widespread, poverty, ubiquitous, starvation not unknown, and the population apathetic, Hanoi began taking a different approach to capitalists both at home and abroad. Like China, it began on the agricultural front, recognizing the family as the basic unit of production and allowing individual profit. It also guaranteed land tenure on an extended and renewable basis, providing incentive for investment in the land. Going beyond the Chinese model, however, Vietnam eliminated quotas and introduced real price reform so that the individual farmer can now expect to be paid close to the fair market price for whatever he produces. The result has been a significant increase in agricultural production, with rice approaching self-sufficiency in the Red River Delta for the first time in decades, and an annual export volume of close to a million tons from the Mekong Delta. Vietnamese entrepreneurs have been given wide latitude in the industrial sector as well, and owing to their lack of capital and backward technological condition, have increasingly looked to Western business as their best hope.

Thus Hanoi began inviting firms from all around the world to trade with and invest in Vietnam. The results to date have been modest, but not discouraging considering national economic conditions. Since promulgating its 1988 Foreign Investment Law, which offers up to 100 percent foreign ownership of joint ventures, low tax rates, guarantees against expropriation and numerous other incentives, Hanoi has reported approval of more than $3 billion in foreign investments, of which more than a third have resulted in firm contracts. France is the largest foreign investor and is leading an effort to provide bridge loans to extricate Vietnam from arrearages to the IMF and the World Bank. Italy has become a major aid donor, committing $140 million over three years; Australia just initiated a $76 million program of assistance over four years, and Japan is anxious to initiate a far more "substantial" aid program within the year. Taiwan has been particularly active in small business enterprises, with a multitude of investments in fishing, textiles and shipping. Canada recently signed several oil and gas exploration contracts and is planning a $300 million natural gas pipeline in conjunction with Petro Vietnam. Japanese and Dutch firms have done feasibility studies on a $1.2 billion oil refinery, and have indicated their readiness to proceed with the project once the U.S. embargo is lifted.

Although difficult to measure owing to widespread barter and smuggling arrangements, it is now clear that Vietnamese trade with the West has eclipsed that with its former socialist allies. Japan leads the way, with a 1991 two-way trade in excess of $1 billion. More than 2,000 of the 7,000 foreign businessmen visiting Vietnam in 1990 were from Japan, and there are now more than 50 Japanese business offices located in Hanoi and Saigon. With bilateral annual trade approaching $1 billion in 1991, Singapore is a close second, as it rapidly develops its commercial, banking and shipping operations in Vietnam. Former Prime Minister Lee Kuan Yew visited Vietnam in April, while the Thai and Vietnamese prime ministers recently signed a major trade agreement in Bangkok which will more than double their bilateral trade. South Korean trade in 1991 approached $200 million, up from $31 million in 1990, as a South Korean Trade Promotion Office opened a branch in Saigon, with at least eight South Korean companies planning to follow suit. European countries, as well as the European Community, are also well represented.

In view of the trend toward increasing trade and investment in Vietnam, American companies are naturally concerned about missing possible opportunities. Nowhere is this more significant than in the oil and gas industry, which has provided some 60 percent of foreign investment. In 1975 Mobil Oil opened a significant field, known as White Tiger, offshore near Vung Tau, South Vietnam. That field is being exploited by a joint Vietnamese-Russian venture, Vietsovpetrol, which is currently pumping upwards of 112,000 barrels of oil per day. Mobil and other American companies which pioneered energy development in the region are now in the unenviable position of watching as French, British, Soviet, Dutch, Australian and Swedish firms reach agreements on offshore exploration and production, while others, like Mitsubishi Oil Co. of Japan, announce intentions to join the party. Vietnamese oil reserves have been estimated at between 1.5 and 3.0 billion barrels. The rewards for companies in other industries are generally less immediate, owing largely to the lack of capital, infrastructure and technical skills in Vietnam today. Nevertheless, longer-term opportunities in textiles, telecommunications, engineering and construction, agriculture, timber, fishing and handicrafts are considered promising.

Despite its present dearth of capital, Vietnam has the potential to become a major economic force in the region. Unlike China, which appears to many observers to be developing two economies, the entrepreneurial and trading-oriented coastal zone and the backward interior provinces, Vietnam is virtually all within reach of the coast or major rivers leading to the coast. It is located at the hub of one of the most dynamic economic regions in the world, is rich in numerous natural resources, and could become the linchpin for major regional developments such as envisioned in the Mekong Committee Grand Design. It boasts an industrious population, low labor costs and an apparently solid governmental commitment to economic reform. Indeed, as the dwindling state sector of the economy reaches new lows, exacerbated by removal of the Soviet aid life-support system, the dissolution of the Council for Mutual Economic Assistance, the return of more than 200,000 workers from Eastern Europe and the demobilization of some 600,000 soldiers, there appears to be no alternative to capitalism, however labeled, mixed or circumscribed.

While American companies will one day decide for themselves whether the costs and risks of doing business in Vietnam are worth the benefits, the U.S. government must decide what effect removal of the embargo would have on Vietnam itself, especially the budding private sector. Simply put, it has been the experience of American business that the exchange of goods and services does not take place without the exchange of ideas—ideas on how to organize the means of production, to train and motivate workers, to source and develop raw materials, to transport and process those materials, to set up efficient production lines, to build physical and human infrastructure, to integrate the entire production and distribution system in an economic way, and to market successfully. Such exchanges take place from top political and business leaders all the way down to the last worker in a factory, office or farm. They are the ingredients of change, for they affect the minds and pocketbooks of those who would be the future political and economic leaders of Vietnam.

HUMANITARIAN NEEDS

In early 1990, fearing the contamination of Vietnam by events unfolding in Eastern Europe, Hanoi embarked on one of its most extensive campaigns of repression since conquering the South 15 years earlier. Designed to intimidate and punish Vietnamese citizens who challenged in any way the absolute political authority of the Communist Party, the campaign featured massive arrests and threats against anyone seeking to give expression to basic freedoms. Included in the crackdown was the forcible suppression in Saigon of demonstrators against the collapse of credit unions, and of veterans protesting government neglect. In August Hanoi issued Party Directive 135, calling for the arrest of "organizations of individuals who incite opposition to the government and advocate political pluralism." Refugees soon reported that block wardens in Saigon had been instructed to increase their surveillance. Arrests of prominent political, religious and cultural leaders proliferated, highlighted by the arrest of Dr. Nguyen Dan Que, leader of the Movement for Humanism in Vietnam. Dr. Que had erred in publicly calling for democracy and the restoration of traditional Vietnamese human values. During the summer some 5,000 members of the Cao Dai sect in Tay Ninh province were arrested, and dozens of Catholic priests and Protestant ministers were sent to "re-education camps" where hard labor and indoctrination awaited them. By the end of the year an estimated 30,000 people had been arrested. The campaign ebbed in 1991, but the forcible resettlement of untrustworthy elements and selective imprisonment of critics of the government, including Dr. Que, continued into 1992.

While the above human rights problems plague those bold enough to express their independent thinking, a far more widespread human rights abuse burdens the nation. The vast majority of the Vietnamese people have suffered, some since "liberation" and some since the day they were born, from a precarious hand-to-mouth existence with little hope of a better life for themselves or their children. By the late 1980s the physical and psychological scars of war, poverty and repression were visible everywhere. Hyperinflation, unemployment, and in a few cases starvation were the order of the day. Basic commodities were scarce or nonexistent and malnutrition widespread, particularly among children. Cynicism and apathy characterized the work force, leading to the disaffection of intellectuals and Party leaders, such as the prominent journalist Colonel Bui Tin, who called for a "humanist, modern and pluralist socialism where every man is not a passive grain of sand but a twinkling star of creative power with its own peculiar quality that makes up the scintillating firmament."

The government recognized at least two causes of this dilemma. First was economic isolation, which it tried to address by the pullout from Cambodia and increased cooperation on MIAs. Normalization with the United States would, it was hoped, rectify at least the exogenous cause of this catastrophe. Second was the failure of implementing socialist doctrine, which it addressed by freeing the private sector, subject to local party controls. Though limited by a lack of capital and technology, a plethora of small enterprises soon began something the central economy could never do, providing productive jobs for many of the one million Vietnamese coming into the labor pool each year, and making available basic commodities, including food, necessary for that most basic of all human rights, the sustenance of life itself. The plight of the people is still precarious and their economic liberalization still fragile, but the tolerance for free enterprise, whether done from foresight or out of necessity, is having a fundamental positive effect on the quality of life in Vietnam today.

Party leaders are doing all in their power to ensure this economic liberalization does not translate into political liberalization. Like their Chinese counterparts, they recognize that private enterprise and foreign trade are the only way the country can survive, yet they also see in Beijing's policies since Tienanmen a model for continued political control. In so doing they, like the Chinese leaders they emulate, risk becoming increasingly irrelevant to a dramatically changing society, for while implicitly placing faith in the value of the human spirit unshackled for economic ends, they fail to recognize that the same human spirit, rooted in traditional Vietnamese culture, will be rekindled by the self-respect bound to accompany the escape from the vicious cycle of poverty and war which has been the history of their tragic land for more than 50 years.

Each springtime for four years President Bush has justified extension of Most Favored Nation treatment for China, in large part on the basis that its removal would cause extreme hardship for the people of that nation. No parallel to Vietnam was drawn, but a case could be made that the best intention of American policymakers during the long war years was to help the suffering people of Vietnam toward a better life. A case to the contrary, that the U.S. was never really interested in the Vietnamese people and to a large extent lost the war because of that lack of interest, has also been made. Yet whether America has promises to keep or war wounds to heal, it is clear that normalization of relations will stimulate free enterprise to the benefit of a suffering population, and ensure that humanitarian issues form the central element of future relations with Vietnam.

DIPLOMATIC RECOGNITION

American policy choices on Vietnam have never been easy, and the linking of normalization with American interests in Cambodia and MIA accounting does not make this one any easier. The tendency to involve U.S. business and humanitarian interests is likely to complicate the issue even further. Normalization with Vietnam in this context is thus seen as anything but normal, for on its weak limbs hang major problems whose solutions may take many years.

Present policy is based on the supposition that this does not matter, that time is of no urgency because none of the forgoing American interests in Vietnam can be considered strategic in nature, that Vietnam itself is of minimal economic or political importance to the United States, and that Washington therefore maintains major negotiating advantages. The first postwar articulation of this concept was by then Secretary of State Henry Kissinger, who told a Congressional group not to offer Vietnam anything, but to "wait three years and they will come begging to us." That was in 1975. In 1991 a United States senator implicitly reiterated this point, telling Party leader Do Muoi in Hanoi that Vietnam needs the United States more than the other way around. The premier naturally voiced his disagreement, for he too has pride, as did his predecessor, Premier Pham van Dong, who often repeated, "We do not wish to beg the United States."

The rationale for withholding recognition of Vietnam could be justified were it efficacious, but it is not. Washington's presumed leverage on Hanoi and Hanoi's presumed leverage on Phnom Penh are the operational modes of discussion. The fact is that the United States is the only member of the 18 nations having participated in the Paris Conference on Cambodia which does not have diplomatic relations with Vietnam. The heart of the issue is forcing Vietnam to support the American position in Cambodia by withholding trade, diplomatic recognition and IMF/World Bank financing. The position presumes that the politburo in Hanoi will act in accordance with a rational Western economic model and in the best interests of a people with whom it is increasingly out of contact. But the politburo still places a higher priority on perceived security interests, and for that reason has not supported the normalization road map. The efficaciousness of linking Cambodia to Vietnam is further minimized for yet another reason—the Khmer Rouge will never give up the gun. The organization is led by men with a lifetime dedicated to violence and a philosophy imbued with vengeance. That the leopard has not changed its spots is most recently illustrated by several large-scale Khmer Rouge attacks in Battambang and Kompong Thom provinces, and the murder of numerous Vietnamese to stir up nationalist support. Extensive Khmer Rouge storage of weapons and ammunition since the mid-1980s gives added meaning to Nguyen Van Thieu's parting admonition, "Don't listen to what they say, watch what they do." Hanoi today is powerless to tame the beast which it helped create.

By holding normalization hostage to every detail of the Perm Five plan, the administration is also prejudicing other issues. First, an increasing number of Vietnamese refugees in recent years have left their homes because of economic conditions exacerbated by the embargo. Second, the MIA issue will suffer. General John Vessey has performed magnificently in persuading Hanoi to return the remains of some 115 American servicemen since his first mission in October 1987, but if Hanoi senses that normalization and trade are out of sight, it will again withhold information and remains as it has done in the past. Finally, Vietnam will also turn in frustration and bitterness to America's trading partners for its international economic needs, and judging from the cracks in the dike today, the embargo will not hold nearly as long as the protracted disputes in Cambodia. Although American businessmen are certain to be among the losers in this situation, the people of Vietnam will have lost even more, for the politburo can once again conceal its own economic ineptitude by pointing to the embargo as the major cause of national economic deprivation.

Diplomacy has been described as "the art of convincing without the use of force." While recent history is replete with examples of the failure of diplomacy, it must be admitted that it is difficult to convince any government of anything without diplomats. Certainly there is merit in the increasing contacts between American diplomats and those of Vietnam, whether in Hanoi, New York, Bangkok or elsewhere, but these contacts are no substitute for an embassy. They certainly do nothing to attenuate the misperceptions created by innumerable delegations visiting Vietnam for the first time and fostering unreasonable expectations in Hanoi and a cacophony of policy voices in Washington. Nor have they succeeded in convincing Hanoi to provide as full a MIA accounting as possible. A peaceful and just settlement of the war in Cambodia, an accounting for Americans missing from the war, the introduction of American business and ingenuity into Vietnam, and the humane treatment of Vietnamese citizens—these are all American interests which are not to somehow be abandoned upon normalization. Rather, they are the substance of what an embassy can and should be all about.

Vietnam today is at a crisis point both internally and in relation to the world. It desperately needs relations with the United States, but its leaders are too proud to beg for it, and with good reason may fear that normalization with the world's greatest democracy would expedite societal changes which could threaten their own position. For its part, the United States should cease thinking about Vietnam as a war, and being overly concerned with the leadership in Hanoi, a product of that war. The real needs of Vietnam today and tomorrow are economic and social, and are now just beginning to be addressed by the ingenuity of its own people. The issues may not be vital to U.S. interests but they are no less real. By recognizing Vietnam under conditions of humanitarian concern the U.S. government does not commit itself to material support for the regime in Vietnam. Nor does it give up instruments of influence such as Most Favored Nation treatment and multilateral bank lending. Rather, it makes possible American private support for private Vietnamese efforts to improve their livelihood freer of coercion from above and deprivation from without. In 1992 it is time to acknowledge that Vietnam is an independent nation whose interests, along with those of the United States, will be best served by diplomatic recognition.

CLOTURE VOTE VITIATED—MOTION TO PROCEED TO H.R. 4312

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the cloture vote on the motion to proceed to the bilingual voting rights bill, now scheduled to occur on tomorrow, Thursday, be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIVE AMERICANS LANGUAGES ACT

Mr. MITCHELL. Mr. President. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 569, S. 2044, relating to native American languages; that the committee substitute amendment be adopted; that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to this item be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2044), as amended, was deemed read three times and passed, as follows:

SECTION 1. SHORT TITLE.

This Act, other than section 3, may be cited as the "Native American Languages Act of 1992".

SEC. 2. GRANT PROGRAM.

The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended by adding after section 803A the following new section:

"SEC. 803B. GRANT PROGRAM TO ASSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.

"(a) IN GENERAL.—The Secretary shall award grants to any organization that is—

"(1) eligible for financial assistance under section 803(a); and

"(2) selected pursuant to subsection (c) of this section;

for the purposes of assisting Native Americans in assuring the survival and continuing vitality of their languages.

"(b) IN PARTICULAR.—The specific purposes for which grants awarded under subsection (a) may be used include, but are not limited to—

"(1) The establishment and support of community language programs to bring older and younger Native Americans together to facilitate and encourage the transfer of language skills from one generation to another;

"(2) the establishment of programs to train Native Americans to teach native languages to others or to enable them to serve as interpreters or translators;

"(3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of Native American languages;

"(4) the establishment or support of programs to train Native Americans to produce or participate in television or radio programs to be broadcast in their native languages;

"(5) the compilation, transcription, and analysis of oral testimony to record and preserve Native American languages;

"(6) the purchase of equipment (including audio and video recording equipment, computers, and software) required for the conducting of language programs; and

"(7) if no suitable facility is available, conversion of an existing facility for use in a language program.

"(c) APPLICATIONS.—Grants shall be awarded on the basis of applications that are submitted by any of the entities described in subsection (a) to the Secretary in such form as the Secretary shall prescribe, but the applications shall, at a minimum, include—

"(1) a detailed description of the current status of the language to be addressed, including a description of any existing programs in support of that language;

"(2) a detailed description of the project for which a grant is sought;

"(3) a statement of objectives that are consonant with the purposes of this section; and

"(4) a plan to preserve the products of the language program for the benefit of future generations and other interested persons.

"(d) COLLABORATING ORGANIZATIONS.—

"(1) IN GENERAL.—If a tribal government or other eligible applicant determines that the objectives of its proposed Native American language program would be accomplished more effectively through a partnership with a school, college or university, the applicant may designate such an institution as a collaborating organization.

"(2) BENEFITS.—As a collaborating organization, an institution may become a co-beneficiary of a grant under this Act.

"(3) MATCHING REQUIREMENTS.—Matching requirements may be met by either, or both, the applicant and its collaborating institution.

"(e) LIMITATIONS ON FUNDING.—

"(1) SHARE.—Notwithstanding any other provision of this Act, a grant under this section shall cover not more than 90 percent of the cost of the program that is assisted by the grant. The remaining 10 percent contribution—

"(A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

"(B) may originate from any source (including any Federal agency) other than a program, contract, or grant authorized under this Act.

"(2) DURATION.—A grant under this section may be for up to 3 years.

"(f) ADMINISTRATION.—The Secretary shall administer grants under this section through the Administration for Native Americans.".

SEC. 3. NATIVE AMERICANS EDUCATIONAL ASSISTANCE ACT.

(a) SHORT TITLE.—This section may be cited as the "Native Americans Educational Assistance Act".

(b) AGREEMENT TO CARRY OUT DEMONSTRATION PROJECT.—The Secretary of the Interior is authorized to enter into an agreement with the National Captioning Institute, Inc., for the purpose of carrying out a demonstration project to determine the effectiveness of captioned educational materials as an educational tool in schools operated by the Bureau of Indian Affairs.

(c) REPORT.—Prior to the expiration of the 12-month period following the date of the agreement entered into pursuant to subsection (b), the Secretary of the Interior shall report to the Congress the results of the demonstration project carried out pursuant to such agreement, together with his recommendations.

(d) AUTHORIZATION.—There are authorized to be appropriated such amounts as may be necessary to carry out this section.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "sections 803(d) and 803A" each place it appears and inserting in lieu thereof "sections 803(d), 803A, and 803B"; and

(2) by adding at the end the following new subsection:

"(e) There are authorized to be appropriated to carry out the purposes of section 803B, $5,000,000 for fiscal year 1993, and such sums as are necessary for fiscal years 1994, 1995, 1996, and 1997.".

BILL PLACED ON CALENDAR—H.R. 5481

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 5481, the FAA Civil Penalty Administration Assessment Act of 1992, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Appropriations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:55 p.m., a message from the House of Representatives, delivered by Mr. Jenkins, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Education and Labor, for consideration of titles I, III, and IV (except section 404) of the Senate bill, and titles I, III, and IV of the House amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. CLAY, Mr. MILLER of California, Mr. KILDEE, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS of New York, Mr. HAYES of Illinois, Mr. SAWYER, Mr. PAYNE of New Jersey, Mrs. UNSOELD, Mr. WASHINGTON, Mr. SERRANO, Mrs. MINK, Mr. OLVER, Mr. PASTOR, Mr. GOODLING, Mr. PETRI, Mrs. ROUKEMA, Mr. ARMEY, Mr. FAWELL, Mr. BALLENGER, Mr. BARRETT, Mr. BOEHNER, and Mr. EDWARDS of Oklahoma.

From the Committee on Post Office and Civil Service, for consideration of title II of the Senate bill, and title II of the House amendment, and modifications committed to conference: Mr. CLAY, Mrs. SCHROEDER, Ms. OAKAR, Mr. SIKORSKI, Mr. ACKERMAN, Mr. GILMAN, Mr. MYERS of Indiana, and Mrs. MORELLA.

From the Committee on House Administration, for consideration of section 404 of the Senate bill, and title V of the House amendment, and modifications committed to conference: Mr. CLAY, Ms. OAKAR, Mr. GEJDENSON, Mr. THOMAS of California, and Mr. ROBERTS.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2977) to authorize appropriations for public broadcasting, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 994. An act to authorize assistance for civil strife, relief, rehabilitation, and reconstruction in Liberia; and

H.R. 3157. An act to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 348. A concurrent resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines.

At 5:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 1671) to withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Plant in Eddy County, NM, and for other purposes, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Interior and Insular Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. MILLER of California, Mr. VENTO, Mr. KOSTMAYER, Mr. RICHARDSON, Mr. LAROCCO, Mr. YOUNG of Alaska, Mr. RHODES, and Mr. HEFLEY.

From the Committee on Energy and Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. DINGELL, Mr. SHARP, Mr. SYNAR, Mr. SWIFT, Mr. BRUCE, Mr. LENT, Mr. MOORHEAD, and Mr. DANNEMEYER.

Except that, solely for consideration of section 9 (a) and (c) of the Senate bill, and section 14 (a) and (b) of the House amendment, Mr. SCHAEFER is appointed in lieu of Mr. DANNEMEYER.

From the Committee on Armed Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. ASPIN, Mr. SPRATT, Mr. SISISKY, Mrs. SCHROEDER, Mrs. LLOYD, Mr. DICKINSON, Mr. SPENCE, and Mr. KYL.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5487) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. TRAXLER, Mr. MCHUGH, Mr. NATCHER, Mr. DURBIN, Ms. KAPTUR, Mr. PRICE, Mr. MRAZEK, Mr. SMITH of Iowa, Mr. SKEEN, Mr. MYERS of Indiana, Mr. WEBER, MRS. VUCANOVICH, and Mr. MCDADE as managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senator:

S. 1145. An act to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics; and

S. 1170. An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1206. An act to confer jurisdiction on the United States Claims Court with respect to land claims of the Pueblo and Isleta Indian Tribe;

H.R. 1219. An act to designate wilderness, acquire certain valuable inholdings within National Wildlife Refuges and National Park System Units, and for other purposes;

H.R. 2675. An act to amend title 5, United States Code, to provide for the granting of leave to Federal employees wishing to serve as bone-marrow or organ donors, and to allow Federal employees to use sick leave for purposes relating to the adoption of a child;

H.R. 2782. An act to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws;

H.R. 3236. An act to improve treatment for veterans exposed to radiation while in military service;

H.R. 3795. An act to amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California;

H.R. 4310. An act to reauthorize and improve the National Marine Sanctuaries program, and for other purposes;

H.R. 4539. An act to designate the general mail facility of the United States Postal Service in Gulfport, Mississippi, as the "Larkin I. Smith General Mail Facility", and the building of the United States Postal Service in Poplarville, Mississippi, as the "Larkin I. Smith Post Office Building";

H.R. 5397. An act to amend title 46, United States Code, to prohibit abandonment of barges, and for other purposes;

H.R. 5399. An act to amend the United States Commission on Civil Rights Act of 1983 to provide an authorization of appropriations;

H.R. 5453. An act to designate the Central Square facility of the United States Postal Service in Cambridge, Massachusetts, as the "Clifton Merriman Post Office Building";

H.R. 5479. An act to designate the facility of the United States Postal Service located at 1100 Wythe Street in Alexandria, Virginia, as the "Helen Day United States Post Office Building";

H.R. 5481. An act to amend the Federal Aviation Act of 1958 relating to administrative assessment of civil penalties;

H.R. 5491. An act to designate the Department of Veterans Affairs medical center in Marlin, Texas, as the "Thomas T. Connally Department of Veterans Affairs Medical Center";

H.R. 5630. An act to amend the Head Start Act to expand services provided by Head Start programs; to expand the authority of the Secretary of Health and Human Services to reduce the amount of matching funds required to be provided by particular Head Start agencies; to authorize the purchase of Head Start facilities; and for other purposes;

H.R. 5641. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain nonprofit organizations providing health benefits, and for other purposes;

H.R. 5642. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain property and casualty insurance companies under the minimum tax, and for other purposes;

H.R. 5643. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by operators of licensed cotton warehouses;

H.R. 5644. An act to provide that certain costs of private foundations in removing hazardous substances shall be treated as qualifying distributions;

H.R. 5647. An act to provide that the special estate tax valuation recapture provisions shall cease to apply after 1992 in the case of property acquired from decedents dying before January 1, 1992;

H.R. 5648. An act to amend the Internal Revenue Code of 1986 to revise the application of the wagering taxes to charitable organizations;

H.R. 5650. An act to amend the Internal Revenue Code of 1986 to allow non-exempt farmer cooperatives to elect patronage-sourced treatment for certain gains and losses, and for other purposes;

H.R. 5652. An act to amend the Internal Revenue Code of 1986 to extend the period for the rollover of gain on the sale of a principal residence for the period the taxpayer has substantial frozen deposits in a financial institution;

H.R. 5655. An act to amend the Internal Revenue Code of 1986 to restore the prior law treatment of corporate reorganizations through the exchange of debt instruments, and for other purposes;

H.R. 5656. An act to amend the Internal Revenue Code of 1986 to exempt services performed by full-time students for seasonal children's camps from Social Security taxes, and for other purposes;

H.R. 5657. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of deposits under certain perpetual insurance policies;

H.R. 5658. An act relating to the tax treatment of certain distributions made by Alaska Native Corporations;

H.R. 5659. An act to permit the simultaneous reduction of interest rates in certain port authority bonds;

H.R. 5660. An act to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business, and for other purposes;

H.R. 5661. An act to amend the Internal Revenue Code of 1986 to exempt transportation on certain ferries from the excise tax on transportation of passengers by water;

H.R. 5674. An act to clarify the tax treatment of intermodal containers, to revise the tax treatment of small property and casualty insurance companies, and for other purposes;

H.R. 5686. An act to make technical amendments to certain Federal Indian statutes; and

H.J. Res. 507. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 994. An act to authorize assistance for civil strife, relief, rehabilitation, and reconstruction in Liberia; to the Committee on Foreign Relations.

H.R. 1206. An act to confer jurisdiction on the United States Claims Court with respect to land claims of the Pueblo of Isleta Indian Tribe; to the Committee on the Judiciary.

H.R. 1219. An act to designate wilderness, acquire certain valuable inholdings within National Wildlife Refuges and National Park System Units, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2675. An act to amend title 5, United States Code, to provide for the granting of leave to Federal employees wishing to serve as bone-marrow or organ donors, and to allow Federal employees to use sick leave for purposes relating to the adoption of a child; to the Committee on Governmental Affairs.

H.R. 3236. An act to improve treatment for veterans exposed to radiation while in military service; to the Committee on Veterans' Affairs.

H.R. 4310. An act to reauthorize and improve the National Marine Sanctuaries program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4539. An act to designate the general mail facility of the United States Postal Service in Gulfport, Mississippi, as the "Larkin I. Smith General Mail Facility," and the building of the United States Postal Service in Poplarville, Mississippi, as the "Larkin I. Smith Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5397. An act to amend title 46, United States Code, to prohibit abandonment of barges, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5399. An act to amend the United States Commission on Civil Rights Act of 1983 to provide an authorization of appropriations; to the Committee on the Judiciary.

H.R. 5453. An act to designate the Central Square facility of the United States Postal Service in Cambridge, Massachusetts, as the "Clifton Merriman Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5479. An act to designate the facility of the United States Postal Service located at 1100 Wythe Street in Alexandria, Virginia, as the "Helen Day United States Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5491. An act to designate the Department of Veterans Affairs medical center in Marlin, Texas, as the "Thomas T. Connally Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

H.R. 5641. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain nonprofit organizations providing health benefits, and for other purposes; to the Committee on Finance.

H.R. 5642. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain property and casualty insurance companies under the minimum tax, and for other purposes; to the Committee on Finance.

H.R. 5643. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by operators of licensed cotton warehouses; to the Committee on Finance.

H.R. 5644. An act to provide that certain costs of private foundations in removing hazardous substances shall be treated as qualifying distributions; to the Committee on Finance.

H.R. 5647. An act to provide that the special estate tax valuation recapture provisions shall cease to apply after 1992 in the case of property acquired from decedents dying before January 1, 1982; to the Committee on Finance.

H.R. 5648. An act to amend the Internal Revenue Code of 1986 to revise the application of the wagering taxes to charitable organizations; to the Committee on Finance.

H.R. 5650. An act to amend the Internal Revenue Code of 1986 to allow non-exempt farmer cooperatives to elect patronage-sourced treatment for certain gains and losses, and for other purposes; to the Committee on Finance.

H.R. 5652. An act to amend the Internal Revenue Code of 1986 to extend the period for the rollover of gain on the sale of a principal residence for the period the taxpayer has substantial frozen deposits in a financial institution; to the Committee on Finance.

H.R. 5655. An act to amend the Internal Revenue Code of 1986 to restore the prior law treatment of corporate reorganizations through the exchange of debt instruments, and for other purposes; to the Committee on Finance.

H.R. 5656. An act to amend the Internal Revenue Code of 1986 to exempt services performed by full-time students for seasonal children's camps from social security taxes, and for other purposes; to the Committee on Finance.

H.R. 5657. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of deposits under certain perpetual insurance policies; to the Committee on Finance.

H.R. 5658. An act relating to the tax treatment of certain distributions made by Alaska Native Corporations; to the Committee on Finance.

H.R. 5659. An act to permit the simultaneous reduction of interest rates in certain port authority bonds; to the Committee on Finance.

H.R. 5660. An act to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business, and for other purposes; to the Committee on Finance.

H.R. 5661. An act to amend the Internal Revenue Code of 1986 to exempt transportation on certain ferries from the excise tax on transportation of passengers by water; to the Committee on Finance.

H.R. 5674. An act to clarify the tax treatment of intermodal containers, to revise the tax treatment of small property and casualty insurance companies, and for other purposes; to the Committee on Finance.

H.R. 5686. An act to make technical amendments to certain Federal Indian statutes; to the Select Committee on Indian Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 348. A concurrent resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3157. An act to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

H.R. 5481. An act to amend the Federal Aviation Act of 1958 relating to administrative assessment of civil penalties.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, August 5, 1992, he had presented to the President of the United States the following enrolled bills:

S. 959. An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson; and

S. 2759. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve certain nutrition programs, to improve the nutritional health of children, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3713. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the 1992 Joint Military Net Assessment; to the Committee on Armed Services.

EC-3714. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the status of certain budget authority proposed for rescission; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Select Committee on Indian Affairs, and the Committee on Labor and Human Resources.

EC-3715. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the obligation of appropriations in excess of approved apportionment; to the Committee on Appropriations.

EC-3716. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend titles 10 and 37, United States Code, to authorize credit for certain periods of active service performed concurrently as a member of the Senior Reserve Officers' Training Corps; to the Committee on Armed Services.

EC-3717. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the waiver of certain provisions of the Trade Act with respect to a transaction with Albania; to the Committee on Banking, Housing, and Urban Affairs.

EC-3718. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-3719. A communication from the Secretary of Transportation, transmitting, pursuant to law, the final report on the results of the study on long-term airport capacity needs; to the Committee on Commerce, Science, and Transportation.

EC-3720. A communication from the Acting Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3721. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3722. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3723. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3724. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3725. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3726. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans Affairs, with an amendment in the nature of a substitute:

S. 2512. A bill to amend title 38, United States Code, to establish a program to provide certain housing assistance to homeless veterans, to improve certain other programs that provide such assistance, and for other purposes (Rept. No. 102-361).

By Mr. BENTSEN, from the Committee on Finance, without recommendation with an amendment in the nature of a substitute:

H.R. 5318. A bill regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

Mr. BENTSEN. Mr. President, today the Finance Committee reported H.R. 5318, the United States-China Act of 1992, without recommendation and with an amendment to substitute the text of S. 2808, as amended by the Finance Committee, for the text of the House bill. For the information of the Senate, I ask that a section-by-section summary of the bill, as reported by the Finance Committee, and a letter from the Congressional Budget Office stating that the bill would have no budgetary effect be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY OF THE "UNITED STATES-CHINA ACT" (H.R. 5318, AS REPORTED BY THE SENATE COMMITTEE ON FINANCE), TUESDAY, AUGUST 4, 1992

SECTION 1. SHORT TITLE

Section 1 of the bill states the short title of the bill, the "United States-China Act of 1992."

SECTION 2. FINDINGS AND POLICY

Section 2 sets forth certain findings relating to the demonstrations of the Chinese people in pursuit of democratic freedoms, and the actions and policies of the Government of China, that are the reasons for this bill. The findings note that the Government of China continues to violate internationally recognized human rights and deny citizens supporting the pro-democracy movement the right of free emigration. The findings also note that China continues to engage in unfair trade practices and that there are continuing reports of Chinese transfers of missile technology to the Mideast, Africa, and Asia.

Section 2 states that it is the sense of the Congress that the President should take such actions as necessary to achieve the purposes of this bill and that the sanctions being applied against China should be continued and strictly enforced. It also states the sense of the Congress that the President should direct the Secretary of Commerce to consult with members of the U.S. business community operating or investing in China to encourage them to adopt a code of conduct following basic principles of human rights.

SECTION 3. STANDARDS FOR RENEWAL OF MOST-FAVORED-NATION (MFN) STATUS

The President's authority to waive the freedom-of-emigration requirements of section 402 of the Trade Act of 1974 with respect to China, thereby granting China MFN status must be renewed annually through the procedures set forth under section 402(d). Section 402(d) requires the President to submit to Congress, no later than 30 days prior to the expiration of the waiver authority, a document setting forth his reasons for recommending the extension of such authority.

Section 3 of this bill provides that the President may not recommend the continuation of a waiver for China for the 12-month period beginning July 3, 1993, unless the President reports in the document required under section 402(d) that the Government of China has met certain conditions. The President must report that the Government of China (1) has taken appropriate actions to begin adhering to the provisions of the Universal Declaration of Human Rights in China and Tibet, and is fulfilling the commitments made to the Secretary of State in November 1991; (2) has provided an acceptable accounting of citizens detained as a result of the non-violent expression of their political beliefs, and released citizens so detained, to credibly demonstrate a good faith effort to release all those arrested in connection with the June 1989 events in Tiananmen Square; and (3) has taken action to prevent exports of products made by prison labor to the United States.

The bill also requires that the President report that China has made overall significant progress in ceasing religious persecution, unfair trade practices, and adhering to international guidelines on weapons proliferation. The President may not find the latter condition to have been met if China has transferred M-9 or M-11 ballistic missiles or missile launchers to Syria, Pakistan, or Iran, or material for the manufacture of a nuclear explosive device to another country, if such transfer was to be used for the manufacture of such a weapon.

SECTION 4. REPORT BY THE PRESIDENT

Section 4 requires that, if the President recommends in 1993 that the freedom-of-emigration waiver be extended for China, any report regarding that waiver state the extent to which China has complied with the provisions of section 3.

SECTION 5. MFN TREATMENT FOR NONSTATE-OWNED ENTERPRISES

Section 5 provides that, if the President fails to request a waiver because the standards of this bill are not met or if the Congress enacts a resolution disapproving the President's decision to extend China's MFN status, MFN treatment would continue to apply for goods produced or manufactured by a business, corporation, partnership, qualified foreign joint venture, or other person that is not a state-owned enterprise. If such goods are marketed or otherwise exported by a state-owned enterprise of China, however, they would not qualify for MFN treatment.

Section 5 provides that the Secretary of the Treasury shall determine which companies are state-owned enterprises for the purposes of this bill and compile and maintain a list of such companies. For the purpose of making such determinations, the bill provides definitions of the terms "state-owned enterprises," "foreign joint venture," and "qualified foreign joint venture." The bill further provides that any person may petition the Secretary of the Treasury to review the status of a company and its exclusion or inclusion on the state-owned enterprise list.

SECTION 6. SANCTIONS BY OTHER COUNTRIES

Section 6 provides that, if the President decides not to seek a continuation of the waiver in 1993, he shall undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action.

SECTION 7. DEFINITIONS

Section 7 defines certain terms used in the bill.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 4, 1992

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2808, the United States-China Act of 1992, as amended and ordered on August 4, 1992, by the Senate Committee on Finance. CBO estimates that the bill would have no budgetary effect over the 1992 through 1997 period.

Under the Trade Act of 1974, most-favored-nation (MFN) status may not be conferred on a country with a nonmarket economy if that country maintains restrictive emigration policies. Because of this stipulation, the People's Republic of China does not currently qualify for MFN status. Under present law, however, the President may waive this prohibition on an annual basis if he certifies that granting MFN status would promote freedom of emigration in that country. The People's Republic of China has been granted MFN status on the annual basis beginning in 1980.

S. 2808 would deny the President the authority to recommend continuation of a waiver in 1993 for imported products of state-owned companies unless he reports that the government of China has met specific conditions. The conditions include: adhering to the provisions of the Universal Declaration of Human Rights in China and Tibet; providing an accounting of the citizens detained, accused, or sentenced as part of the repression of dissent in Tiananmen Square on June 3, 1989; preventing the export of products made by convict, forced, or indentured labor; and making significant progress in ending religious persecution, ceasing unfair trade practices, and controlling weapons proliferation. If the President reports to Congress that he cannot issue the waiver because of China's failure to meet the conditions of the bill or if the President recommends a waiver and Congress passes a joint resolution of disapproval, any goods marketed or exported by a state-owned enterprise would be ineligible for MFN treatment. Goods produced or manufactured by privately-owned enterprises would continue to benefit from MFN treatment. The Department of the Treasury would determine which businesses, corporations, partnerships, companies, and persons would be classified as "state-owned".

The CBO customs duty baseline assumes that China receives MFN status on an annual basis; and, while S. 2808 potentially would affect the ability of the President to extend MFN status, we expect that the President would find that China would comply with the objectives and that he would recommend extension of MFN status in 1993. Therefore, CBO estimates that S. 2808 would have no budgetary impact.

S. 2808 could affect receipts and thus would be subject to pay-as-you-go procedures under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

PAY-AS-YOU-GO CONSIDERATIONS

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Changes in outlays	[1]	[1]	[1]	[1]
Changes in receipts	0	0	0	0

[1] Not applicable.

If you wish further details, please feel free to contact me or your staff may wish to contact John Stell at 226-2720.

Sincerely,

Robert D. Reischauer,
Director.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Hugo Pomrehn, of California, to be Under Secretary of Energy; and

John J. Easton, Jr., of Vermont, to be an Assistant Secretary of Energy (Domestic and International Energy Policy).

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

John H. Miller, of Connecticut, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1992;

Walter Scott Blackburn, of Indiana, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1993;

Virginia Stanley Douglas, of California, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1993;

C.C. Hope, Jr., of North Carolina, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term expiring February 28, 1993; and

James D. Jameson, of California, to be an Assistant Secretary of Commerce.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN (for himself, Mr. Cohen, and Mr. Glenn):

S. 3131. A bill to reauthorize the independent counsel law for an additional 5 years, and for other purposes; to the Committee on Governmental Affairs.

By Mr. D'AMATO (for himself and Mr. Moynihan):

S. 3132. A bill to prohibit land known as the Calverton Pine Barrens, located on Department of Defense land in Long Island, New York, from being disposed of in any way that allows it to be commercially developed; to the Committee on Armed Services.

By Mr. HARKIN (for himself, Mr. Conrad, Mr. Inouye, Mr. Wofford, Mr. Cranston, Mr. Grassley, Mr. Rockefeller, and Mr. Metzenbaum):

S. 3133. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. Cochran, Mr. Pell, Mr. Inouye, Mr. Simon, Mr. Wellstone, and Mr. Dodd):

S. 3134. A bill to expand the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to improve school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. AKAKA:

S. 3135. A bill to amend the Farm Credit Act of 1971 and the Consolidated Farm and Rural Development Act to improve rural homeownership and utilities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. AKAKA (for himself, Mr. Mitchell, and Mr. Dole):

S. Con. Res. 133. A concurrent resolution concerning Israel's recent elections and the upcoming visit by Israeli Prime Minister Yitzhak Rabin to the United States; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mr. Cohen, and Mr. Glenn):

S. 3131. A bill to reauthorize the independent counsel law for an additional 5 years, and for other purposes; to the Committee on Governmental Affairs.

INDEPENDENT COUNSEL REAUTHORIZATION ACT OF 1992

Mr. LEVIN. Mr. President, today our colleague, Bill Cohen, and I are introducing legislation to reauthorize the independent counsel law.

Born out of the tragedy of Watergate, this law establishes a carefully crafted and constitutionally proven system for appointing independent counsel to handle criminal investigations of persons close to the President.

The law was first enacted in 1978 as part of the Ethics in Government Act. It has been reauthorized twice, in 1982 and 1987, and now we will, hopefully, reauthorize it again before the current authorization expires in December of this year.

As recent news stories have reminded us, this year is the 20th anniversary of the Watergate break-in, and it provides an appropriate backdrop to remember what happened those 20 years ago and why this law is so important.

In 1972 the public was shocked by allegations of criminal misconduct that went to the highest levels of Government, including the White House itself. The public watched open mouthed as top officials resigned, including White House aides Halderman and Ehrlichman and the Attorney General Richard Kleindienst.

When a new Attorney General Elliot Richardson, was nominated, Congress urged him to appoint what was then called a special prosecutor, to get to the truth. He agreed, and he appointed Archibald Cox.

Mr. Cox served at the pleasure of the Attorney General. He had no independent status or protection from reprisal. Early in his investigation he took the necessary step of issuing a subpoena to the White House to obtain records and tapes.

The White House refused to comply. When Mr. Cox persisted, President Nixon ordered Attorney General Richardson to remove him from office. Attorney General Richardson and his deputy resigned instead, but Solicitor General Robert Bork agreed to carry out the President's order. He fired Mr. Cox.

The resulting decimation of the Justice Department was dubbed by the press as the Saturday Night Massacre. It shook to our very foundations this country's sense of justice and the rule of law. It was this chaos, this blow to the system of justice and the resulting loss of public confidence in Federal criminal investigations of persons close to the President that gave rise to the independent counsel law. In essence, this law authorized the first truly independent Federal prosecutors our country has had to handle criminal cases involving top Government officials.

The process the law established is straightforward. If the Attorney General receives specific information from a credible source about criminal misconduct by the President, Vice President, their Cabinet officers or top campaign officials, the Attorney General must conduct a preliminary investigation of the facts. If he or she concludes that further investigation is warranted, the Attorney General must ask a special court, part of the U.S. Court of Appeals of the District of Columbia, to select a person to serve as the independent counsel in the case.

No independent counsel may be appointed without a specific request from the Attorney General. The counsel's prosecutorial duties are then set by the court, based upon facts supplied by the Attorney General. An independent counsel must comply with Justice Department policies in conducting the investigation and any prosecution, and must operate under the same court scrutiny that applies to all Federal prosecutors. An independent counsel may also be removed from office at any time by the Attorney General for good cause.

In 1988 the Supreme Court upheld the constitutionality of the independent counsel law in virtually every respect. Writing for the 7 to 1 majority, Chief Justice Rehnquist found that the law had been carefully crafted to pass constitutional muster, and that it did no injury either to the President's law enforcement authority or to the principle of separation of powers. The Court found that this law is a reasonable response to the problem posed when an administration is asked to investigate its own top leaders.

The independent counsel law has not only received the backing of the Supreme Court, it has a history of strong bipartisan support in Congress as well. In 1987, the Senate passed the reauthorization bill by a vote of 85 to 10. The House passed it by a vote of 322 to 87. Despite objection from the Justice Department, President Reagan signed the bill into law. In 1982 and 1978, the law enjoyed similar broad margins of approval.

In 14 years of operation, 11 independent counsels have been appointed to office. Of these 11, 7 closed their cases without indictment; 4 have filed indictments which have led to guilty pleas or guilty verdicts from juries and judges. These convictions include the following:

The conviction of Michael Deaver, former deputy chief of staff to President Reagan, who was convicted by a jury of lying under oath about his lobbying activities after he left the White House.

The conviction of Robert McFarlane, former head of the National Security Council, who pled guilty to lying under oath about his knowledge and actions in the Iran-Contra matter.

The conviction of Elliott Abrams, former Assistant Secretary of State, who pled guilty to concealing information about the Iran-Contra matter.

The conviction of Alan Fiers, former CIA official who also pled guilty to lying about the Iran-Contra matter.

The conviction of Thomas Clines, former CIA official; the conviction of Richard Secord, and the conviction of Albert Hakim.

Those are just some of the convictions, and they do not include convictions which were reversed on appeal.

That partial list of convictions is not a trivial one. It is sobering testimony to the value and necessity of a statute authorizing the appointment of independent counsel.

That list is important, not only for what it says about the presence of criminal conduct, even at the highest levels of Government, but also for what it says about the importance of having a criminal justice system in place which the public will trust to make fair decisions.

In its 14 years of operation, decisions by independent counsels, either to indict or not to indict, have been accepted by the public as free from politics.

For example, when Independent Counsel Jacob Stein declined, in 1984, to indict Edwin Meese on a variety of charges involving conflicts of interest, there were no cries of political whitewashing or favoritism. The public accepted the decision. Had the same decision not to indict been made by Mr. Meese's future subordinates at the Justice Department, I doubt that it would have been met with the same level of public trust.

Today, of the 11 independent counsels that have been appointed under the law, two are in office: Judge Arlin Adams, who is handling the HUD scandal, and Judge Lawrence Walsh, who is handling the Iran-Contra matter. Both investigations have already resulted in a number of indictments, guilty pleas and convictions.

Both cases have also been the subject of criticism, primarily because they have taken so long. The HUD independent counsel has been in office for more than 2 years, while the Iran-Contra investigation has been going for more than 5 years.

While we all wish that the wheels of justice would spin faster, there is no evidence that either independent counsel now in office has taken more time than the Justice Department would have taken if it were handling the cases.

Let me just give a few examples to illustrate this point:

The Justice Department's Ill Wind investigation began in 1987 and continues to this day, more than 5 years later. The sentencing of a key figure in that investigation, Melvyn Paisley, took place just last year. Additional indictments, not to mention years of appeal, are still possible in that investigation which has already taken, again, 5 years.

An older example is the Justice Department's investigation of Abscam, a political corruption case that began in 1978 and concluded in 1983, for a total of, again, about 5 years.

The Justice Department's investigation of Manuel Noriega began in 1987 and obtained his conviction in April 1992. That is a total of 5 years so far with possibly years of appeals ahead.

Another case in point is the Justice Department's investigation of Congressman MCDADE which carried on 4 years before an indictment was filed in May of this year. In contrast, at the 4-year mark in the Iran-Contra matter, Independent Counsel Walsh has already obtained 8 convictions, conducted 3 trials and was in the middle of 3 appeals.

Some of the critics of the Independent Counsel Office do not want to look at cases of the Justice Department which have taken as long or longer than the matters under consideration by the independent counsels. What these critics charge instead is that one of the independent counsels, Judge Walsh, just does not know when to quit. They are tired of Iran-Contra. They argue it is time for him to close up shop. But when he took office, Independent Counsel Walsh did not agree to keep working until he was tired of the case. If that were true, I suspect he would have quit a long time ago.

What Judge Walsh agreed to do was to carry out the mandate given to him by the special court based upon the request, by the way, of President Reagan's own Attorney General. It was, after all, Attorney General Meese who requested the independent counsel to investigate criminal wrongdoing in connection with the Iran-Contra matter.

Lawrence Walsh, the independent counsel, is a former judge, former deputy Attorney General of the United States, president of the American Bar Association, New York prosecutor and a lifelong Republican. He agreed to carry out the direction of the court. Whether he is tired or not, he is doing what he was asked to do and committed himself to do.

Of the 14 indictments he's filed in the case, not one has been found insufficient by a court of law. Seven have resulted in guilty pleas, including admissions of guilt by Elliot Abrams and

Alan Fiers, former senior officials in the State Department and CIA. Three indictments have resulted in guilty verdicts after jury trials, of Oliver North, John Poindexter, and Thomas Clines, former top officials in the White House and CIA, although the North and Poindexter convictions were later overturned on issues related to the use of immunized testimony. By the way, the success of both those appeals is in no way the fault of Judge Walsh. They arose from actions taken by Congress to grant partial immunity to North and Poindexter and force them to testify before the public. Congress took a risk when it granted them this immunity, and the criminal process ended up polluted by that public testimony. Judge Walsh warned the Congress what might happen, and urged us not to do what we did.

The trial of another top CIA official, Clair George, is underway in the courts right now and may be decided soon. Two other trials, of CIA official Duane Clarridge and former Secretary of Defense Caspar Weinberger, are scheduled for later this year.

If Mr. Walsh was violating the trust that was placed in him in taking any of these actions, the independent counsel law provides ways to deal with it. The independent counsel law authorizes the Attorney General to dismiss an independent counsel for good cause. While some critics have leveled charges of misspending, of foot dragging, or improper indictments at Judge Walsh, the fact is the Justice Department has not seen fit to act on any of those accusations.

The reason is that Judge Walsh is doing what he was asked to do. He is carrying out the task to which he was assigned.

I cannot help noticing some of the most vociferous critics of the independent counsel are also past targets of independent counsel investigations, people like Elliot Abrams. Mr. Abrams tries to deflect criticism from his own admitted criminal wrongdoing by attacking the independent counsel. But the system that he criticizes, while not perfect, is still the best solution that we have found to the problem of Watergate.

That problem, again, can be simply stated: How to handle the conflict of interest that exists when an Administration is asked to investigate its own top officials for criminal wrongdoing. The independent counsel solution is to rely on a court-appointed individual with meaningful independence from the day-to-day control of the Attorney General, but who ultimately is accountable to that same Attorney General.

In 1988, the Supreme Court said that the law is constitutional and that Congress fundamentally got it right. Senator COHEN and I agree. That is why we are introducing this bill today.

The Independent Counsel Act of 1992 is simple and direct. Our bill does essentially three things: First, it authorizes the independent counsel law for an additional 5 years.

Second, it takes a number of steps to strengthen fiscal controls on independent counsel.

They include requiring independent counsels to act with due regard for expense, to authorize only reasonable expenditures, and to appoint a staff person whose responsibility will be to track expenses. The bill also requires independent counsels to comply with Justice Department policies on spending; requires the General Services Administration to house independent counsels in buildings owned or operated by the Federal Government to avoid commerical rent charges; and directs the Administrative Office of the U.S. Courts to continue providing administrative support and guidance on independent counsel expenditures.

Finally, the bill makes it clear that the independent counsel process may be used by the Attorney General in cases involving Members of Congress.

Most interpret the current independent counsel law to cover Members of Congress under the provision of that existing law which allows the Attorney General to appoint an independent counsel in any case in which the Attorney General determines that there would be a personal, financial, or political conflict of interest.

The Attorney General apparently has some doubt about his ability to apply for an independent counsel in a case against a Member of Congress. To remove any doubt, the section of our new bill would explicitly authorize the Attorney General to use an independent counsel in any case involving a Member of Congress without having to make a conflict of interest determination.

These refinements would not change the basic provisions of the law, but would further strengthen it and clarify it.

On August 11, I have scheduled a hearing before the subcommittee that I chair, and Senator COHEN, the subcommittee's ranking Republican and one of the most knowledgeable Members of this body on the independent counsel law, will also be present and helping to lead the fight to renew this statute.

I thank Senator COHEN for his continuing commitment, not just to this law which he helped father, but for his intellectual integrity and his steadfastness. We need it, because public confidence in Government is at a low point.

Failure to renew the independent counsel law would be a severe blow to the credibility that the public has left in Government. It would return us to the Watergate quagmire in which crimnal investigations of persons close to the President would again be subject to real and perceived conflicts of interest. That is what would happen if we do not renew the independent counsel law. I believe that the Senate will reject that alternative, will maintain its tradition of bipartisan support for the independent counsel law, and mark the 20th anniversary of Watergate with another overwhelming vote to keep the independent counsel statute on the books.

Mr. President, I ask unanimous consent that the text of the bill that we are introducing today and an analysis of it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Reauthorization Act of 1992".

SEC. 2. FIVE-YEAR REAUTHORIZATION.

Section 599 of title 28, United States Code, is amended by striking "1987" and inserting in lieu thereof "1992".

SEC. 3. ADDED CONTROLS.

Section 594 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(l) ADMINISTRATIVE AND COST CONTROLS.—

"(1) ADMINISTRATIVE CONTROLS.—The administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. The General Services Administration, in consultation with the Administrative Office, shall promptly provide appropriate office space within a Federal building for each independent counsel.

"(2) COST CONTROLS.—

"(A) IN GENERAL.—An independent counsel shall—

"(i) conduct all activities with due regard for expense;

"(ii) authorize only reasonable expenditures; and

"(iii) promptly upon taking office, assign to a specific employee the duty to ensure expenditures are made in accordance with the principles set forth in clauses (i) and (ii).

"(B) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds to conduct investigations and prosecutions, except where such compliance would violate the purposes of this chapter.".

SEC. 4. MEMBERS OF CONGRESS.

Section 591(c) of title 28, United States Code, is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(2) designating the text as paragraph (1) and inserting at the beginning of the text the following: "(1) IN GENERAL.—"; and

(3) adding at the end thereof the following new paragraph:

"(2) MEMBERS OF CONGRESS.—The Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF THE INDEPENDENT COUNSEL REAUTHORIZATION ACT OF 1992

The Independent Counsel Reauthorization Act of 1992 would not make major changes in the law. Essentially, it would reauthorize the law for 5 years, strengthen fiscal and administrative controls on independent counsels, and clarify the Attorney General's authority to use the independent counsel process in a case involving a Member of Congress.

SECTION 1. SHORT TITLE

This section contains the title of the bill.

SECTION 2. FIVE-YEAR REAUTHORIZATION

This section would reauthorize the law for 5 years.

SECTION 3. ADDED CONTROLS

This section would strengthen fiscal and administrative controls on independent counsels by adding a new provision (1) to section 594 of the independent counsel statute.

Subsection (1) would direct the Administrative Office of the U.S. Courts to provide administrative support and guidance to each independent counsel. This provision would codify current practice in which the Administrative Office handles each independent counsel's accounts and provides advice about allowable expenditures.

Subsection (1) would also require the General Services Administration, in consultation with the Administrative Office, to provide office space to each independent counsel within a building owned, operated or under a pre-existing, long-term lease by the federal government. The purpose of this provision is to ensure that independent counsels are housed in federal buildings and do not pay commercial rent or pay for security services that federal buildings already provide.

Subsection (2) would require each independent counsel to "conduct all activities with due regard for expense," "authorize only reasonable expenditures," and appoint a staff person to ensure that expenditures are made in accordance with these principles. It would also require independent counsels to comply with Justice Department policies on spending, except where compliance would violate the purposes of the law.

SECTION 4. MEMBERS OF CONGRESS

Section 4 would clarify the law's application to Members of Congress by adding a new paragraph to section 591(c). Under current law, an Attorney General may appoint an independent counsel in a case involving a Member of Congress if the Attorney General determines that a "personal, financial or political conflict of interest" would apply if the Department of Justice handled the case. The new provision would drop the requirement that the Attorney General find a conflict of interest and explicitly authorize the Attorney General to use the independent counsel process "if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law."

SECTION 5. EFFECTIVE DATE

This section would make the bill effective on the date of its enactment.

Mr. COHEN. Mr. President, Senator LEVIN took the floor this morning and introduced legislation to reauthorize the independent counsel provisions of the Ethics in Government Act of 1978. As many of my colleagues know, this act will expire unless we take action to reauthorize it.

It has become controversial. In fact, it was born in controversy. The original establishment of the Independent Counsel Act came out of the Watergate experience when Elliot Richardson resigned as Attorney General rather than fire Archibald Cox, a special prosecutor, as it was called at that time, as did Bill Ruckelshaus.

As a result of that experience, we felt in establishing this law in 1978 that the most important objective that needed to be achieved was the reaffirmation of the American people's confidence in the integrity of the judicial system.

Justice is said to be "giving every man and woman his or her due." The power to investigate and to prosecute is the most important, and I suggest the most dangerous, in our democratic system because it involves the power of the Government to take an individual's property, liberty, or, indeed, even life.

It is a great power, and it is subject to great abuse—not only in exercising the power to indict and to prosecute, but conversely in refusing, in some cases, to exercise that power to indict. As a former prosecutor, I will say that the easiest thing for a prosecutor to do is to institute criminal proceedings against an individual. It is not hard to obtain an indictment. The hardest thing to do is to refuse to exercise that power when the evidence is inconclusive or ambiguous.

Now it may be a matter of principle for a prosecutor to refuse to bring the great weight of the Government against an individual. But it also might be a matter of favoritism or privilege. And even where a principled decision is made by a prosecutor, it might not be viewed as such by the public. We know that justice must not only be done, but appear to have been done.

Mr. President, historically the Justice Department has taken this law as an affront, a challenge to its integrity. And I would like to say that, in fact, the law was written to assure the people of this country that they could continue to hold the Justice Department in the highest regard—above suspicion, above doubt, and above criticism.

So this act was written to really insulate the Justice Department against the charge that it had not acted according to the highest principles and traditions of this country.

I might also say that those who have been charged with misdeeds or improprieties have been the beneficiaries of this law. I recall, for example, that Attorney General Meese was alleged to have engaged in a number of improprieties. I also recall that he requested that an independent counsel be appointed to investigate his case. And, in fact, after that investigation Mr. Meese was cleared of those charges of impropriety.

Now I would like to ask any of my colleagues on the left, on the right, Republican, Democrat, conservative, liberal, is there any doubt in anyone's mind that had the Justice Department conducted that investigation of Attorney General Meese and refused to indict or find improprieties that there would have been suspicion cast upon the integrity of that investigation?

And so we have a compelling reason to have a law such as this. It is in need of modification. It has, indeed, been modified on two prior occasions. We expect next week, when Senator LEVIN and I conduct hearings on this matter, to in fact modify it further.

But let me suggest that there is a way to get rid of this law. There is an easy way to obviate the need for an Independent Counsel Act, and that is for future Presidents to stop the practice of appointing friends or political supporters as Attorney General.

The reason that we have to have an independent counsel is because the practice has been so prevalent over the years for Democratic Presidents, Republican Presidents to appoint their personal lawyers, their best friends, their political supporters, even their family members as Attorney General. And so an inherent conflict of interest arises when the highest ranking members of that administration are alleged to have committed criminal acts.

There have been some notable exceptions to this practice in recent years. One occurred when Gerald Ford appointed Mr. Levy of Chicago to serve as Attorney General. No one had any doubts that he was truly independent and not selected because of his political associations.

I would suggest that if we really want to get rid of the Independent Counsel Act, that the Presidents of this country establish the practice of appointing individuals who are highly regarded within the legal profession, who have not been engaged in partisan politics and who, in fact, would be a symbol of true impartiality in the administration of justice. Then there is no need for this particular act.

Until that occurs, I believe there is a compelling interest to reauthorize this act, and I hope that following the hearings next week, we will be able to bring a piece of legislation to the floor that will enjoy the support of both sides of the aisle.

By Mr. D'AMATO (for himself, and Mr. MOYNIHAN):

S. 3132. A bill to prohibit land known as the Calverton Pine Barrens, located on Department of Defense land in Long Island, NY, from being disposed of in any way that allows it to be commercially developed; to the Committee on Armed Services.

CALVERTON PINE BARRENS PRESERVATION ACT

• Mr. D'AMATO. Mr. President, I rise today, along with my friend and colleague Senator MOYNIHAN, to introduce the Calverton Pine Barrens Preservation Act of 1992. This legislation would protect from commercial development over 3,200 acres of land around the Grumman aircraft testing facility at Calverton in Suffolk County.

This wooded area, surrounding 2,805 acres leased by the Grumman Aerospace Corp. from the U.S. Navy, is situated over a major section of the sole source water supply for 2.3 million Long Islanders. It is also the home of nearly two dozen different threatened or endangered animal species, such as the banded sunfish, the eastern bluebird, the buck moth and the tiger salamander. The Calverton Pine Barrens is also a place where 19 species of rare and endangered plants grow, many of which are found nowhere else in New York State.

The Calverton Pine Barrens is also owned by the Navy but is under the management of the New York State Department of Environmental Conservation [DEC] as a wildlife preserve and recreation area.

Mr. President, in the past the Federal Government floated the idea of selling off this buffer zone around the Grumman facility. It made no sense to allow development, however, in an area surrounding a Navy jet testing facility, and the administration did not pursue the idea.

However, the recent discussion on the possible construction of a commercial jetport facility gives this legislation a heightened sense of importance.

The Calverton Pine Barrens Preservation Act has required that if the Navy were ever to declare it to be no longer needed, the Secretary of the Navy must designate the area a protected tract and therefore off limits to commercial development. If a private owner attempts to develop the land, ownership of the tract would revert back to the United States.

Whatever the future holds for the Calverton facility, we must prevent development that would not only destroy an important environmental resource but might cause dangerous interference with jet flight paths.

Mr. President, I would like to offer my thanks to Congressman GEORGE HOCHBRUECKNER who had introduced an identical bill H.R. 1065 in 1991 and who has been a champion for this important cause.

I note that both State and local government officials, as well as those citizens who are concerned with preserving this ecosystem are in favor of this legislation.

Mr. President, the Calverton Pine Barrens provide clean water, a habitat for rare animals and plants, and an important outdoor recreational area for 15,000 New Yorkers who fish, hunt, and hike in this beautiful area. We must do all we can to preserve this heritage for our children and our children's children.

I urge that my colleagues support Senator MOYNIHAN and me in saving the Calverton Pine Barrens.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 2. SHORT TITLE.

This Act may be cited as the "Calverton Pine Barrens Preservation Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The Pine Barrens, a forest of pine trees extending across Long Island, New York, protect and replenish the Island's sole-source aquifer and require well-planned protection strategies.

(2) The Department of Defense owns 3234 acres of the Pine Barrens which serve as a buffer zone surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York, and provide numerous benefits to the public and wildlife.

(3) The General Services Administration has suggested selling portions of the Pine Barrens described in paragraph (2) and under Federal law, such portions could be sold for commercial development.

(4) The New York State Government and local governments have an interest in preserving the Calverton Pine Barrens in its natural state.

(b) PURPOSE.—The purpose of this Act is to ensure that the Calverton Pine Barrens are never commercially developed and that they remain in their natural state in perpetuity.

SEC. 3. CALVERTON PINE BARRENS PROHIBITED FROM BEING COMMERCIALLY DEVELOPED.

In the event that any part of the Calverton Pine Barrens is declared to be excess to the needs of the Department of the Navy, the Secretary of the Navy shall designate that part a protected tract. The protected tract, or any part thereof, may not be disposed of in any way that would allow commercial development to take place on it. If the protected tract, or any part thereof, is ever conveyed to an entity which uses it for commercial development, ownership of the protected tract shall revert to the United States.

SEC. 4. DESCRIPTION OF THE CALVERTON PINE BARRENS.

The Calverton Pine Barrens is the land of not less than 3234 acres located on Department of Defense land surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York.●

By Mr. HARKIN (for himself, Mr. CONRAD, Mr. INOUYE, Mr. WOFFORD, Mr. CRANSTON, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. METZENBAUM):

S. 3133. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

CHILD LABOR DETERRENCE ACT

Mr. HARKIN. Mr. President, I rise to introduce the Child Labor Deterrence Act of 1992. This bill would prohibit the importation of any product, made whole or in part, by children under the age of 15 who are employed in industry or mining.

Mr. President, last year when the Senate considered extending fast-track authority for the Mexico Free-Trade Agreement, I noted that there were between 5 to 10 million children illegally employed in Mexico—often in hazardous jobs.

In Mexico, 13-year-old girls have been found working 48 hours a week making electric wiring strips for General Electric in Nogales, making dashboard components for General Motors at the Delnosa plant of Delco, and bags at the Duro Bag Manufacturing Co. in Rio Bravo.

As I stated on the Senate floor, when people ask me what's my bottom line on the Mexican trade agreement—it's simply this: Our country ought not to import any item from any country that is made by child labor, period.

That should be our policy. Mr. President, I am determined to make that our country's policy.

The bill I am introducing today, however, is not only about Mexico and the NAFTA negotiations. It goes beyond that.

The International Labor Organization [ILO] estimates that hundreds of millions of children worldwide under the age of 15 are employed. In many developing countries children represent a substantial portion of the work force and can be found in such industries as glass, metal works, textiles, mining, and fireworks manufacturing.

Many of these children begin working in factories at the age of 6 or 7. They are poor, malnourished, and often work 60 hour weeks for little or no pay.

Their dreams and childhood are being sold for a pittance—to factory owners and in markets around the globe.

Mr. President, whether it is in Bombay or Bangkok, Morocco or Mexico, construction or carpet weaving—no one country nor industry has cornered the market on the economic exploitation of children.

In Indonesia children work in electric light bulb factories, 8 or more hours a day, 6 days a week and make a measly $3 per week.

The ILO reported 1991 estimates that half of the 50,000 children working as bonded labor in the weaving industry in Pakistan will never reach the age of 12—victims of disease and malnutrition.

Conditions are no better in neighboring India where 44 million children under the age of 15 are employed. According to a recent New York Times article, an estimated 300,000 to 1 million children in that country work in the weaving industry—making carpets for 12 to 16 hours a day.

This year India is expected to export 170 million dollars' worth of carpets, 45 percent of which will be imported into the United States.

It is time to end this human tragedy and our participation in it. It is time for greater government and corporate responsibility.

In that regard, Mr. President, last night on the Senate floor we had a debate and a vote on a resolution that had to do with this kind of responsibility. Let me remind the Senators what we voted on last night.

Last night we declared the following:

> The Senate supports the concept that corporate America and the officials of all American institutions can and should contribute positively to individual thought and conduct as key contributors to a healthy, responsible society and individual human dignity.
>
> The Senate believes that corporate and institutional entities, their management and stockholders, as well as their advertisers and sponsors, should exercise positive and constructive oversight of their activities without the sole test of their contributions based on profits, sales and publicity.

Mr. President, the Senate further stated when we voted on this resolution last night, and I believe no one voted against it.

> The Senate strongly believes that corporate America and the officials of all American institutions weaken the moral fiber of the Nation by hiding behind the faceless mask of such corporations and institutions in a relentless search for profits, sales and publicity without regard to the moral content of their products or their services.

That is what the Senate went on record as saying last night.

Mr. President, what about the morality and the moral content of the items we import into this country made by child labor in other countries,—working 12 to 15 hours a day for very little pay?

Mr. President, I have some photographs which illustrate what I am talking about in this bill. The first photograph is of a young girl believed to be about 12 years of age, working in China, making what is known as a Garfield doll, a little cat, that is sold in this country. Mr. President, this young girl ought to be playing with the Garfield dolls and not working 12 to 15 hours a day making them.

Mr. President, I will be talking more about this when the most-favored-nation status treaty with China comes up in this body.

Here is another photograph. A photo of a young boy, again preteen, in a metal factory in India. He too most likely works long hours, 6 days a week, making little money.

Here is another child, again I do not know the age of this child, obviously preteen, in Malaysia, working in a wood processing plant making wood products, stooped over all day, drilling holes in wood.

We are importing items such as these into the United States.

Mr. President, to echo what the Senate said last night, it is time for us, and it is time for corporate America to quit hiding behind a faceless mask in a relentless search for profit and sales, without regard to the moral content of their products or their services. That is what we are talking about here.

No longer can officials in the Third World and U.S. importers turn a blind eye to the suffering and misery of the world's children. No longer should American consumers provide a market for goods produced by the sweat and the toil of children.

Mr. President, the child labor laws in many countries around the globe are often not enforced. Instead of skipping their way to the classroom and preparing for the future, children are hustled off to factories. These kids belong in school not sweatshops. They should be carrying books to class not bricks to kiln factories.

We should be trying to raise the standard of living in the Third World so we can compete on the quality of our goods not the misery and suffering of those who make them. Our policy toward the Third World should not cause the impoverishment of people—whether they are adults or children. Our policy toward the Third World should promote economic growth with equity and human development because it is in our interest. As their markets expand, so too will American jobs and our exports. Our policy should discourage Third World Countries from sending kids to the assembly line and encourage them to increase their spending on programs for their children, such as primary education.

That is the best way to eliminate child labor, decrease poverty and enhance development in Third World countries—for developing countries to increase their expenditures on primary education.

It was mass education that took children out of textile mills in the United States at the beginning of the century. And, it was the South Korean Government's drive for mass education that took kids out of its once infamous garment sweatshops and led to its economic growth. Today 90 percent of Korean children go to school until the age of 16—a higher ratio than in many developed countries.

Mr. President, I could point to human rights abuses and horrendous working conditions of adult workers in South Korea, but I cannot fault that country of the steps it has taken regarding child labor. It shows that developing countries do not have to wait until poverty is eradicated or they are fully developed before eliminating the economic exploitation of children.

Mr. President, the Child Labor Deterrence Act of 1992 is intended to strengthen existing trade law. The bill directs the U.S. Secretary of Labor to compile and maintain a list of foreign industries and their respective host countries that use child labor in the production of exports.

Once a foreign industry and its host country has been identified as utilizing child labor, the Secretary of the Treasury is directed to prohibit the entry of any manufactured article from that foreign industry.

The entry ban would not apply if U.S. importers can certify that the product from the identified industry and its host country is not made by child labor. U.S. importers would be required to sign certificates of origin to affirm that they took reasonable steps to ensure that products imported from industries, identified by the Secretary of Labor, are not made by child labor.

Further, the bill urges the President of the United States to seek an agreement with other governments to secure an international ban on trade in the products of child labor.

And any company or individual who would willfully or knowingly, bring those products into this country in violation of that law would suffer civil and criminal penalties.

Again, I am not trying to blanket a country. I am not saying that all items, for example, from Malaysia ought to be kept out of this country, nor from China, nor from Mexico. I am saying that those industries that employ child labor making products that are imported here, those products should be kept out of this country. That is what this bill seeks to do.

Mr. President, this legislation would impose no undue burden on U.S. importers. I know of no importer, company or department store that would willingly promote the exploitation of children or want to have their products identified as being the product of child labor. Companies and importers take reasonable steps to ensure the quality of the goods they purchase. They should also be willing to take reasonable steps to ensure that those goods are not produced by child labor.

Mr. President, this legislation is not about trying to impose our standards on the developing world. It's about preventing those manufacturers in the developing world who economically exploit children from imposing their standards on the United States. It's about protecting children and their future. It's about eliminating a major form of child abuse in our world. It's about assisting countries in the developing world to enforce their laws by eliminating the role of the United States in providing a market for foreign products made by underage children and encouraging other nations to do the same.

Mr. President, I am proud to join with Senators CONRAD, WOFFORD, INOUYE, CRANSTON, GRASSLEY, ROCKEFELLER, and METZENBAUM in introducing the Child Labor Deterrence Act of 1992. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the bill, and the New York Times article that I mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Labor Deterrence Act of 1992."

SEC. 2. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) Principle 9 of the Declaration of the Rights of the Child proclaimed by the General Assembly of the United Nations on November 20, 1959, states that "...the child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental, or moral development...".

(2) Article 2 of the International Labor Convention No. 138 Concerning Minimum Age For Admission to Employment states that, "The minimum age specified in pursuance of paragraph 1 of this article shall not be less than the age of compulsory schooling and, in any case, shall not be less than 15 years.".

(3) According to the International Labor Organization, worldwide an estimated 200,000,000 children under age 15 are working, many of them in dangerous industries like mining and fireworks.

(4) Children under the age 15 constitute approximately 11 percent of the workforce in some Asian countries, 17 percent in parts of Africa, and a reported 12-26 percent in many countries in Latin America.

(5) The number of children under age 15 who are working, and the scale of their suffering, increase every year, despite the existence of more than 20 International Labor Organization conventions on child labor and laws in many countries which purportedly prohibit the employment of under age children.

(6) In many countries, children under the age 15 lack either the legal standing or means to protect themselves from exploitation in the workplace.

(7) The employment of children under the age of 15 commonly deprives the children of the opportunity for basic education and also denies gainful employment to millions of adults.

(8) The employment of children under the age of 15, often at pitifully low wages, undermines the stability of families and ignores the importance of increasing jobs, aggregated demand, and purchasing power among adults as a catalyst to the development of internal markets and the achievement of broad-based, self-reliant economic development in many developing countries.

(9) Adult workers in the United States and other developed countries should not have their jobs imperiled by imports produced by child labor in developing countries.

(b) PURPOSE.—The purpose of this Act is to curtail the employment of children under age 15 in the production of goods for export by—

(1) eliminating the role of the United States in providing a market for foreign products made by underage children; and

(2) encouraging other nations to join in a ban on trade in such products.

SEC. 3. UNITED STATES INITIATIVE TO CURTAIL INTERNATIONAL TRADE IN PRODUCTS OF CHILD LABOR.

In pursuit of the policy set forth in this Act, the President is urged to seek an agreement with governments that conduct trade with the United States for the purpose of securing an international ban on trade in the products of child labor.

SEC. 4. IDENTIFICATION OF FOREIGN INDUSTRIES AND THEIR RESPECTIVE HOST COUNTRIES THAT UTILIZE CHILD LABOR IN EXPORT OF GOODS.

(a) IDENTIFICATION OF INDUSTRIES AND HOST COUNTRIES.—The Secretary of Labor (hereafter in this section referred to as the "Secretary") shall undertake periodic reviews using all available information, including information made available by the International Labor Organization and human rights organizations (the first such review to be undertaken not later than 180 days after the date of the enactment of the Act), to identify any foreign industry and its host country that—

(1) utilize child labor in the export of products; and

(2) has on a continuing basis exported products of child labor to the United States.

(b) PETITIONS REQUESTING IDENTIFICATION.—

(1) FILING.—Any person may file a petition with the Secretary requesting that a particular foreign industry and its host country be identified under subsection (a). The petition must set forth the allegations in support of the request.

(2) ACTION ON RECEIPT OF PETITION.—Not later than 90 days after receiving a petition under paragraph (1), the Secretary shall—

(A) decide whether or not the allegations in the petition warrant further action by the Secretary in regard to the foreign industry and its host country under subsection (a); and

(B) notify the petitioner of the decision under subparagraph (A) and the facts and reasons supporting the decision.

(c) CONSULTATION AND COMMENT.—Prior to identifying a foreign industry and its host country under subsection (a), the Secretary shall—

(1) consult with the United States Trade Representative, the Secretary of State, the Secretary of Commerce and the Secretary of the Treasury regarding such action;

(2) publish notice in the Federal Register that such an identification is being considered and inviting the submission within a reasonable time of written comment from the public; and

(3) take into account the information obtained under paragraphs (1) and (2).

(d) REVOCATION OF IDENTIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may revoke the identification of any foreign industry and its host country under subsection (a) if information available to the Secretary indicates that such action is appropriate.

(2) REPORT OF SECRETARY.—No revocation under paragraph (1) may take effect earlier than the 60th day after the date on which the Secretary submits to the Congress a written report—

(A) stating that in the opinion of the Secretary the foreign industry and host country concerned does not utilize child labor in the export of products; and

(B) stating the facts on which such opinion is based and any other reason why the Secretary considers the revocation appropriate.

(3) PROCEDURE.—No revocation under paragraph (1) may take effect unless the Secretary—

(A) publishes notice in the Federal Register that such a revocation is under consideration and inviting the submission within a reasonable time of written comment from the public on the revocation; and

(B) takes into account the information received under subparagraph (A) before preparing the report required under paragraph (2).

(e) PUBLICATION.—The Secretary shall—

(1) promptly publish in the Federal Register—

(A) the name of each foreign industry and its host country identified under subsection (a);

(B) the text of the decision made under subsection (b)(2)(A) and a statement of the facts and reasons supporting the decision; and

(C) the name of each foreign industry and its host country with respect to which an identification has been revoked under subsection (d); and

(2) maintain in the Federal Register a current list of all foreign industries and their respective host countries identified under subsection (a).

SEC. 5. PROHIBITION ON ENTRY.

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), during the effective identification period for a foreign industry and its host country the Secretary may not permit the entry of any manufactured article that is a product of that foreign industry.

(2) EXCEPTION.—Paragraph (1) shall not apply to the entry of a manufactured article—

(A) for which a certification that meets the requirements of subsection (b) is provided;

(B) that is entered under any subheading in subchapter IV or VI of chapter 98 (relating to personal exemptions) of the Harmonized Tariff Schedule of the United States; or

(C) that was exported from the foreign industry and its host country and was en route to the United States before the first day of the effective identification period for such industry and its host country.

(b) CERTIFICATION THAT ARTICLE IS NOT A PRODUCT OF CHILD LABOR.—

(1) FORM AND CONTENT.—The Secretary shall prescribe the form and content of documentation, for submission in connection with the entry of a manufactured article, that satisfies the Secretary that the importer of the article has undertaken reasonable steps to ensure, to the extent practicable, that the article is not a product of child labor.

(2) WRITTEN EVIDENCE.—The documentation required by the Secretary under paragraph (1) shall include written evidence that the agreement setting forth the terms and conditions of the acquisition or provision of the imported article includes the condition that the article not be a product of child labor.

SEC. 6. PENALTIES.

(a) UNLAWFUL ACTS.—It is unlawful—

(1) during the effective identification period applicable to a foreign industry and its host country, to attempt to enter any manufactured article that is a product of that industry if the entry is prohibited under section 5(a)(1); or

(2) to violate any regulation prescribed under section 7.

(b) CIVIL PENALTY.—Any person who commits any unlawful act set forth in subsection (a) is liable for a civil penalty of not to exceed $25,000.

(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any person who intentionally commits any unlawful act set forth in subsection (a) is, upon conviction, liable for a fine of not less that $10,000 and not more than $35,000, or imprisonment for 1 year, or both.

(d) CONSTRUCTION.—The violations set forth in subsection (a) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930, including—

(1) the search, seizure and forfeiture provisions;

(2) section 592 (relating to penalties for entry by fraud, gross negligence, or negligence); and

(3) section 619 (relating to compensation to informers).

SEC. 7. REGULATIONS.

The Secretary shall prescribe regulations that are necessary or appropriate to carry out this Act.

SEC. 8. DEFINITIONS.

For the purposes of this Act:

(1) MANUFACTURED ARTICLE.—A manufactured article shall be treated as being a product of child labor if the article—

(A) was fabricated, assembled, or processed, in whole or part;

(B) contains any part that was fabricated, assembled, or processed, in whole or in part; or

(C) was mined, quarried, pumped, or otherwise extracted, by one or more children who engaged in the fabrication, assembly, processing, or extraction—

(i) in exchange for remuneration (regardless to whom paid), subsistence, goods or services, or any combination of the foregoing;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under exposure to toxic substances or working conditions otherwise posing serious health hazards.

(2) CHILD.—The term "child" means an individual who has not attained the age of 15.

(3) EFFECTIVE IDENTIFICATION PERIOD.—The term "effective identification period" means, with respect to a foreign industry or country, the period that—

(A) begins on the date of that issue of the Federal Register in which the identification of the foreign industry or country is published under section 4(e)(1)(A); and

(B) terminates on the date of that issue on the Federal Register in which the revocation of the identification referred to in subparagraph (A) is published under section 4(e)(1)(B).

(4) ENTERED.—The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(5) FOREIGN INDUSTRY.—The term "foreign industry" includes any entity that produces a manufactured article in any possession or territory of a foreign country.

(6) HOST COUNTRY.—The term "host country" means any possession or territory of a foreign country that is administered separately for customs purposes and on which a foreign industry produces a manufactured article.

(7) MANUFACTURED ARTICLE.—The term "manufactured article" means any good that is fabricated, assembled, or processed. The term also includes any mineral resources (including any mineral fuel) that is entered in a crude state. Any mineral resource that at entry has been subjected to only washing, crushing, grinding, powdering, levigation, sifting, screening, or concentration by flotation, magnetic separation, or other mechanical or physical processes shall be treated as having been processed for the purposes of this Act.

(8) SECRETARY.—The term "Secretary", except for purposes of section 4, means the Secretary of the Treasury.

[From the New York Times International, July 9, 1992]

BOUND TO LOOMS BY POVERTY AND FEAR, BOYS IN INDIA MAKE A FEW MEN RICH

(By Edward A. Gargan)

SEWAPURI, India.—As the summer sun labored toward the desiccated plains of northern India, Amarnath Kumar, a straw-thin 10-year-old boy, and three friends crept away from the red adobe hut that had been their prison for 18 months. Across the blistered soil of fallow wheat fields, the boys hurried north, avoiding other people, hurrying into the descending darkness.

Behind them, in the adobe enclosure, they left other children—children bought or stolen from the parents, taken to toil as virtual slaves on the carpet looms of eastern Uttar Pardesh.

For 12, 14, 16 hours a day, every day of the week, every week of the year, children as young as eight sit on rough planks knotting colored yarn around the stretched cords of the loom's warps, creating the carpets that India sells around the world.

What the four boys were escaping was the explosion of such slavery in this area, the use of children to fuel the rapid growth of the carpet industry. The United States is the biggest customer for Indian carpets.

BUYING A BOY FOR $50

There are no reliable data on the number of children working here; indeed, carpet brokers, professional associations and judicial officers all deny that any substantial number of children are working in bondage.

But estimates by others of the children's workforce in this area range from 300,000 to over a million. According to a report last month by the International Labor Organization, India has 44 million child laborers nationwide.

In most cases, the children who work in the carpet belt are purchased from their parents, or merely taken with promises of future payments. The vast majority come from the poorest parts of Bihar, the most impoverished state in India.

When parents are in fact paid, the going rate for an eight-year-old boy is 1,500 to 2,000 rupees ($50 to $66), a substantial sum for many families.

Once the deal is struck, the procurer will take 10 or 15 children at a time by bus and train to the carpet belt, usually to the town of Badhoi near here, where the loom owners will come to pick up their new workers.

Typically, says Raman Kant Rai, who campaigns to help the children, a boy may work three to five years before being returned to this family, having grown too large to work in the cramped dirt wells behind the looms. On occasion, however, some boys continue to work into their late teens and twenties, at which point they are given a minimal wage and become permanent workers in the industry.

Across India, in quarries, brass smelters, glass factories and match and explosives plants, children labor in dangerous, unhealthy and oppressive conditions, often against their will, sometimes with the consent of their parents. Child labor continues despite a 1973 law prohibiting all forms of bonded or slave labor and a 1986 act banning workers under the age of 14 from a broad range of industries.

Yet each year more and more children are forced into hazardous work places, sometimes with the connivance of the authorities, often with their tacit acceptance of child labor as an unpleasant fact of life. No one has ever gone to prison in India for using children as workers.

LOCKED IN DORMITORIES

"Nowadays, migrant child labor, bonded child labor, has increased," said Mr. Rai. "The people who are engaged in this have all kinds of money and influence. In this area, there has not been a single raid by the authorities."

Only rarely, it seems, do children escape their servitude: they are too young, too far from home, too terrified. At night, many loom owners keep the children locked in dormitories, adobe buildings with simple mats on dirt floors. And during the day, while not literally chained to their looms, the stare and the lash of loom owners bond the children to the planks on which they sit.

There are no roads into the nearby village of Bibris, just a rocky path that meanders in from a faint macadam strip that heads off toward a nearby town. Cows and coal-black water buffaloes are tethered to wooden stakes outside mud-walled houses.

Here and there, faint thumping drifts from earthen buildings. Around a corner, a row of village houses opens onto a courtyard bustling with the pat of bare feet and quiet words as dozens of boys, some just seven or eight, unwind huge skeins of undyed wool.

Inside the huts, huge wooden looms, strung with plain yarn like harps, reach from the bottom of the pits to the clay-tiled roofs. And behind them, on worn planks, sit more shirtless young boys, four to a loom, poking fingers through the warp, squeezing a snippet of yarn through and back and knotting it, all in a blur of movement. The tips of their fingers are strangely pink and shiny. After a time, the boys bash their knots together with mallets.

"In this village," explained Mr. Rai, "there are 4,000 looms. This village is the most problematic in the carpet belt, problematic in the sense it has the most loomage, the most notorious men." He pointed to a doe-eyed boy whose head barely reached above the seat of the bicycle on which he leaned.

"That boy," Mr. Rai said, "is eight. He was beaten for one year because he couldn't learn how to weave fast enough. The youngest boy I have seen is six and a half."

INDUSTRY GROWING RAPIDLY

India is expected to sell about $170 million worth of carpets abroad this year, the vast majority hand-woven on looms here, virtually all of them by children. The United States, the largest customer, takes about 45 percent of the exports, Germany is the second-largest buyer.

India's carpet industry began to blossom in the last decade, after carpet exports from Iran and Afghanistan were reduced by international sanctions and war. While Indian carpets did not approach the quality of Persian or Afghan rugs, the finest is inexpensive enough and well enough made to sell well in the West.

"In 1970, there were not more than 20 or 30 exporters in this country," said Jalil Ansari, the secretary of the All India Carpet Manufacturers Association, in the town of Bhadohi. "Now there are more than 2,000."

Typically, an exporter will contract with dozens or hundreds of loom owners scattered through the carpet belt.

BONDAGE? WHAT BONDAGE?

Both the exporters and the carpet association are aware that widespread use of child labor violates Indian law and could create difficulties in selling carpets in the West if the extent of the practice became widely known. As a result, the association has suggested labeling carpets with tags declaring that they had been woven without the use of children.

Chandramani Mishra, a member of the manufacturers' association, said nothing had come of the suggestion. But, he added, "if you want a label, no problem."

Sometimes children are able to break out of their imprisonment. Amarnath Kumar is one of the few.

"We came to the railway crossing," he remembered. "The man who operated the crossing said, 'Where are you going?' We told him we escaped from Chhateri village. He let us sleep there. The next morning a man came and we told him our whole story. He said, 'Come with me.' He gave us food and then brought us to Dr. Rai."

For nearly 20 years, Mr. Rai, a chemist by training, has worked in this area to enhance village economies by encouraging new but simple farm technologies, home weaving of garments, improved sanitary conditions, education for village women—consciously emulating Mahatma Gandhi's idea of small-scale, self-reliant rural communities. Only in the last year or so, however, has he begun to pay attention to the children laboring in the villages.

A BOY ESCAPES

"For a long time, you look at something and don't see it," he said. "You don't know what you're seeing. We have a lot of blindness."

Amarnath, who was eight years old when he first began working on the looms, talked of his life in Chhateri a few days after he escaped, with his three friends.

He said that a middleman, a man well-known in the area of north Bihar where his family lived, had told his father, "Your son will get good clothing, good food and 350 rupees a month"—about $12.50. "My father said O.K. After all, I was just a cow boy."

"The first day we were brought there," he said, "we were told we had to weave carpets. I took two months to learn. No money was paid to me. All day we had to weave, even up until midnight. We were not allowed to rest during the day. If we became slow, we were 'murga banatha'"—a phrase that means "made like a chicken." Amarnath squatted on the ground and bent over like a chicken. "We were beaten with sticks," he said. "We were beaten on our backs."

NO VEGETABLES, NO MILK

"He used to lock us up at home, in a room," Amarnath continued. "There were nine of us in the room. For one and a half years we never had green vegetables, not to talk of milk. He did not even allow us to have a bath."

Among the more worldly exporters and business leaders, there is increasing sensitivity to the use of children on the looms, but little has deterred the practice.

Mr. Ansari, the secretary of the carpet makers' association, said his industry was the backbone of the region's economy. But he denied that children, particularly children in forced labor, were the main workforce in the industry.

'IT IS NOT TRUE'

"It is not true," he said. "Once or twice a week I go and I do not find it. They are getting the salary. They are getting food." Even downstairs from his office, though, children were hunched over carpets, clipping the outlines of flowers from the wool surface.

The senior civil official in the carpet belt, the district magistrate for Varanasi, Saurabh Chandra, said no children were being held in abusive labor in his domain. "Whenever any violation of any statute is pointed out," he said, "action is taken. We have released a large number of bonded laborers."

But in the interview Mr. Chandra could not say how many children had been released or when, or whether any penalties had been imposed on the loom owners who had pressed the children into bondage.

Then Mr. Chandra asked, "Why are you defaming our industry?"

Several hours after the interview the reporter was approached at his hotel by two of Mr. Chandra's associates lugging a stack of files and seeking to expand on Mr. Chandra's comments.

One, Sudhir Kumar, the subdivisional magistrate, said no cases of bonded labor had ever appeared in his court.

The other, D.P. Singh, the deputy labor commissioner, said he was unsure how many children worked in the region's carpet industry. "When my inspectors come, the neighboring looms hide the children." But then, he admitted, "no inspector has been posted for this specific problem."

Mr. CONRAD. Mr. President, I want to express my strong support for legislation being introduced today by Senator HARKIN, the Child Labor Deterrence Act of 1992. I have joined as a cosponsor of this legislation, and believe, as Senator HARKIN has stated, that this measure is "both good morals and good policy."

This measure makes an important statement about the commitment of the United States to the world's children. It would prohibit the importation of any product, made in whole or in part, by children under the age of 15 who are employed in industry or mining. The sheer number of children under the age of 15 who are employed—generally illegally—provides justification for this measure: UNICEF estimates that between 80 and 200 million children fall into this category.

Many of my colleagues may have read with interest an article which appeared in the May 4, 1992, issue of Newsweek magazine, which addressed the issue of global slavery. Although the issue of slavery is not at the heart of this measure, the article provided many tragic examples of the situations in which children live and work today. One terrible situation in Pakistan was described: "The abuse of children in the carpetmaking industry is legendary; last September one factory owner kidnapped two brothers, 8 and 10 years old, chained them to their looms and made them work 12 hours a day."

The United States has not to date taken an active lead in protecting the millions of children who work around the world. Even in our own country, American domestic child labor laws have remained virtually unchanged since the passage of the 1938 Fair Labor Standards Act.

The issue before us today is the role of the United States in strengthening—and in some cases, establishing—child labor protections for children who work in production overseas. The 1984 Generalized System of Preferences contained a provision that the President of the United States may not grant duty-free treatment to any country not granting its people "internationally recognized worker rights," which includes "a minimum age for the employment of children." The problem with this policy, however, is that imposition of sanctions or denial of benefits is normally not mandatory. Mr. President, it is time to go further than that. While a number of measures have been introduced in the Congress in recent years, little action has been taken to address the issue of international child labor. It is time now to take action on this front.

The legislation introduced today by Senator HARKIN would establish requirements to move toward the prohibition of child labor in production overseas. First, the Secretary of Labor would be required to develop and maintain a list of foreign countries that export products made with the use of child labor. Second, domestic importers would be required to certify that they have taken steps to ensure that products imported from countries identified on this list are not products of child labor. Finally, the President is urged to initiate an agreement with other governments to achieve a ban on trade in the products made with the use of child labor.

I believe these requirements would promote the interest of the United States in eradicating abusive child labor across the globe. I urge my colleagues to give their close consideration and support to this measure, which I believe merits passage by the 102d Congress.

By Mr. KENNEDY (for himself, Mr. COCHRAN, Mr. PELL, Mr. INOUYE, Mr. SIMON, Mr. WELLSTONE, and Mr. DODD):

S. 3134. A bill to expand the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to improve school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start programs, and for other purposes; to the Committee on Labor and Human Resources.

READY TO LEARN ACT

• Mr. KENNEDY. Mr. President, when E.B. White was first introduced to television in 1938, he said he hoped it would be "the test of the modern world * * * a soaring radiance in the sky."

Half a century later, television is clearly a pervasive influence in our modern society, and our hearing today is an attempt to assess its current and potential role in meeting one of the most important of those tests—preparing children to learn.

Television is in 97 percent of the homes in the United States. It is a proven, highly cost-effective source of information and education. It is also a tutor, a babysitter, and a counselor. By the time the vast majority of children go to kindergarten, they will have attended electronic preschool—and spent 4,000 hours in front of the television set.

Each year, 19 million preschoolers watch 14 billion hours of television. The average child watches 28 hours of TV every week. By age 14, a child has seen 13,000 televised murders. It is time to send a different message.

Television has the capability to be a remarkable teacher—an excellent supplement to traditional school; 97 percent of all classrooms in Japan make use of educational television. In contrast, the United States gives much lower priority to this form of encouraging learning. The youngest preschool children are ignored at a time when they are most receptive and impressionable, and their skills for later learning are being shaped.

It is clear that we can do better. We can use television more effectively to facilitate learning by children and students of all ages. By failing to take full advantage of this powerful teaching medium, we are selling ourselves, our children, and our country short.

We have made worthwhile progress in the past. Public television and the Children's Television Workshop have provided outstanding choices for young audiences. Programs like "Sesame Street" and "3-2-1 Contact" capture the minds and imaginations of children—but there is much more that needs to be done. Japan and Britain each provide more than five times our yearly volume of new children's programming.

We are all well aware of the extreme inequalities in American education. Far too many children find their futures permanently blighted by the lack of even minimal educational opportunity. By limiting quality educational programming to cable TV and pay-per-view stations, we are sending a message that money buys education, and ignoring a large share of the population.

Currently, cable television offers some quality children's programming, and is available in 60 percent of the country's households. But that leaves 40 percent of the population with no access to this alternative.

In an effort to deal with this challenge and provide more alternatives for children and parents, I am today introducing the Ready to Learn Act. It will create an office in the Department of Education to set priorities for the educational needs of preschool and elementary school children, and support initiatives to achieve these priorities through the production and distribution of quality educational television programming for children, parents, and caregivers. The Department will also be authorized to support grants for the development and distribution of training materials for parents and child care providers.

The bill also designates a "Ready to Learn Channel" for educational programs on one channel of the new public broadcasting satellite, to be launched next year.

These measures are a logical and necessary step in any comprehensive plan for school reform. The cost is modest. The bill authorizes $50 million for this initiative for fiscal year 1993, and such sums as may be necessary for 1994 through 1997.

In a hearing this morning, the Labor and Human Resources Committee heard from parents, educators, child advocates, and television producers and executives on the need for a federally supported program to increase the amount of quality educational programming available for young children and their caregivers. I ask unanimous consent that the testimony from the hearing, and the complete text of the legislation, be included in the RECORD.

I urge my colleagues to support this legislation and I look forward to its consideration by the full Senate.

Mr. President, I ask unanimous consent that the text of the bill and some supporting materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ready to Learn Act".

SEC. 2. PURPOSE.

It is the purpose of this Act to—

(1) expand the availability of educational and instructional video programming and supporting educational resources for preschool and elementary school children as a tool to improve school readiness; and

(2) to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children.

SEC. 3. READY TO LEARN PROGRAMS.

The General Education Provisions Act is amended by inserting after section 405 (20 U.S.C. 1221e) the following new section:

"READY TO LEARN TELEVISION

"SEC. 405A. (a) IN GENERAL.—The Secretary is authorized to implement programs to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children in order to facilitate the achievement of the national education goals. In administering such programs, the Secretary shall ensure that such programming is made widely available to young children, their parents, child care workers and Head Start providers with support materials as appropriate to increase the effective use of such programming.

"(b) DUTIES OF THE SECRETARY.—In administering the programs under subsection "(a), the Secretary shall—

"(1) set priorities regarding the educational needs of preschool and elementary school children;

"(2) award grants for the development and dissemination of educational and instructional programming, in accordance with the priorities established under paragraph (1), for preschool children, children in transition programs from early childhood education to elementary school grades, and elementary school children;

"(3) award grants for the development and dissemination of training materials, including—

"(A) interactive programs, designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

"(B) support materials to promote the effective use of materials developed under paragraph (2);

among parents, Head Start providers, in-home and center based, day care providers, early childhood development personnel and elementary school teachers, and after school program personnel caring for preschool and elementary school children;

"(4) establish and administer a Special Projects of National Significance program to award grants to public and nonprofit private entities for the purpose of—

"(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

"(B) developing programming and support materials to increase literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

"(5) establish within the Department a clearinghouse to compile and provide information, referrals and model program materials obtained or developed under this section to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this section;

"(6) coordinate activities with the Secretary of Health and Human Services in order to—

"(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

"(B) provide information to the grantees of those Federal programs that have major training components for early childhood development, including Head Start and State training activities funded under the Child Care Development Block Grant Act of 1990 regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education; and

"(7) provide consultation to the Secretary of Commerce regarding what the educational and informational needs of preschool and elementary school children are for the purposes of implementing section 103 of the Children's Television Act of 1990 (Public Law 101-437) and coordinate the activities funded under this Act with the activities of the National Endowment for Children's Educational Television established under subpart B of part IV of title III of the Communications Act of 1934.

"(c) Development and Distribution of Educational Programming for Children.—

"(1) Grants.—To carry out the provisions of subsection (b)(2), the Secretary shall award grants to eligible applicant entities to—

"(A) facilitate the development or acquisition, directly or through contracts with producers, of children's television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

"(B) contract with entities experienced in the distribution of such programming, such as public broadcasting entities and those funded under the Star Schools Assistance Act, for the dissemination of programs developed under this paragraph to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

"(2) Eligible entities.—To be eligible to receive a grant under paragraph (1) an entity shall—

"(A) be a nonprofit, nongovernmental entity with a demonstrated record of facilitating the development and distribution of educational and instructional television programming for preschool and elementary school children; and

"(B) have a demonstrated record of contracting with the producers of children's television programming for the purpose of developing or acquiring educational television programming for preschool and elementary school children.

"(2) Cultural experiences.—Programming developed or acquired under this subsection shall reflect the recognition of diverse cultural experiences in engaging and preparing young children for schooling.

"(d) Development and Distribution of Training Materials.—To carry out the provisions of subsection (b)(3), the Secretary may award grants to public or private nonprofit entities with demonstrated expertise and experience in the development of video or other educational materials regarding child development and early childhood education for parents and child care providers, to—

"(1) develop, directly or through contracts, training and support materials for the purpose of informing and training parents and personnel in accordance with subsection (b)(3); and

"(2) produce such materials for distribution to the broadest audience appropriate to be served, including parents, day care providers, public libraries and Head Start centers.

"(e) Reports and Evaluation.—

"(1) Annual report to the Secretary.—The entity receiving funds under subsection (c) shall prepare and submit to the Secretary an annual report that shall contain such information as the Secretary may require. At a minimum the report shall contain a description of the program activities undertaken with funds received under this section, including—

"(A) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

"(B) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

"(C) the means by which programming developed under this section has been distributed, including the technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

"(D) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

"(2) Report to congress.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report to include the following information—

"(A) a summary of the information made available under subsection (d)(1);

"(B) a description of the training materials made available under subsection (b)(3), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such subsection.

"(f) Ready to Learn Satellite Channel.—The Secretary may enter into a contract with a public broadcasting entity for the distribution of educational video programming for preschool and elementary school children, parents, and child care providers, on at least one channel under a satellite interconnection authorized under section 396(k)(10) of the Communications Act of 1934 (47 U.S.C. 396(k)(10)). Such channel shall be designated as the Ready to Learn Channel.

"(g) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997. Not less than 60 percent of the amounts appropriated under this paragraph for each fiscal year shall be used to carry out subsection (c).

"(2) Special projects.—Of the amount appropriated under paragraph (1) for each fiscal year, not to exceed 10 percent of such amount shall be utilized in each such fiscal year for activities under subsection (b)(4).

"(h) Administrative Costs.—With respect to the implementation of subsection (c), entities receiving a grant from the Secretary may use up to 5 percent of the amounts received under a grant under such subsection for the normal and customary expenses of administering the grant.".

SEC. 4. AMENDMENTS TO HEAD START.

(a) Allotment of Quality Improvement Funds.—Section 640(a)(3)(B) of the Head Start Act (42 U.S.C. 9835(a)(3)(B)) is amended—

(1) in clauses (i) and (iii) by striking "and second" and inserting ", second, and third", and

(2) in clause (ii) by striking "second" and inserting "third".

(b) Parental Skills.—Section 640(a)(4)(B)(i)(II) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)(II)) is amended by inserting ", literacy," after "skills".

(c) Reduction of Required Amount of Matching Funds.—Section 640(b) of the Head Start Act (42 U.S.C. 9835(b)) is amended—

(1) in the first sentence by striking ", in accordance with regulations establishing objective criteria,", and

(2) by inserting after the first sentence the following:

"For the purpose of making such determination, the Secretary shall take into consideration with respect to the Head Start program involved—

"(1) the lack of resources available in the community that may prevent the Head Start agency from providing all or a portion of the non-Federal contribution that may be required under this subsection;

"(2) the impact of the cost the Head Start agency may incur in initial years it carries out such program;

"(3) the impact of an unanticipated increase in the cost the Head Start agency may incur to carry out such program;

"(4) whether the Head Start agency is located in a community adversely affected by a major disaster; and

"(5) the impact on the community that would result if the Head Start agency ceased to carry out such program.".

(d) Issuance of Transportation Safety Regulations.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

"(i) The Secretary shall issue regulations establishing requirements for the safety features, and the safe operation, of vehicles used by Head Start agencies to transport children participating in Head Start programs.".

(e) Review of Head Start Agencies.—Section 641(c)(2) of the Head Start Act (42 U.S.C. 9836(c)(2)) is amended—

(1) by inserting "(A)" after "(2)", and

(2) by adding at the end the following:

"(B) The Secretary shall conduct a review of each newly designated Head Start agency immediately after the completion of the first year such agency carries out a Head Start program.

"(C) The Secretary shall conduct follow-up reviews of Head Start agencies when appropriate.".

(f) Designation of Head Start Agencies.—Section 641(d) of the Head Start Act (42 U.S.C. 9836(d)) is amended—

(1) in paragraph (6) by striking "and" at the end, and

(2) by adding at the end the following:

"(8) the plan of such applicant to provide (directly or through referral to educational services available in the community) parents of children who will participate in the proposed Head Start program with child development and literacy skills training in order to aid their children to attain their full potential; and

"(9) the plan of such applicant who chooses to assist younger siblings of children who will participate in the proposed Head Start program to obtain health services from other sources.".

(g) Powers and Functions of Head Start Agencies.—Section 642(b) of the Head Start Act (42 U.S.C. 9836(b)) is amended—

(1) by striking "and (5)" and inserting "(5)", and

(2) by inserting before the period at the end the following:

"(6) provide (directly or through referral to educational services available in the community) parents of children participating in its Head Start program with child development and literacy skills training in order to aid their children to attain their full potential; and (7) consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources.".

(h) Administrative Requirements and Standards.—Section 644 of the Head Start Act (42 U.S.C. 9839) is amended—

(1) by striking "No" and inserting "Except as provided in subsection (f), no",

(2) in the first sentence of subsection (c) by striking "subsection (a)" and inserting "subsections (a) and (f)", and

(3) by adding at the end the following:

"(f)(1) The Secretary shall establish uniform procedures for Head Start agencies to request approval to purchase facilities to be used to carry out Head Start programs.

"(2) Except as provided in section 640(a)(3)(A)(v), financial assistance provided under this subchapter may not be used by a Head Start agency to purchase a facility (including paying the cost of amortizing the principal, and paying interest on, loans) to be used to carry out a Head Start program unless the Secretary approves a request that is submitted by such agency and contains—

"(A) a description of the site of the facility proposed to be purchased;

"(B) the plans and specifications of such facility;

"(C) information demonstrating that—

"(i) the proposed purchase will result in savings when compared to the costs that would be incurred to acquire the use of an alternative facility to carry out such program; or

"(ii) the lack of alternative facilities will prevent the operation of such program; and

"(D) such other information and assurances as the Secretary may require.".

(i) TECHNICAL AMENDMENTS.—(1) Section 640 of the Head Start Act (42 U.S.C. 9835) is amended—

(A) in subsection (a)—

(i) in paragraph (2)—

(I) in subparagraph (A) by inserting "children" after "handicapped",

(II) in subparagraph (B) by striking "Commonwealth of," and inserting "Commonwealth of", and

(III) in subparagraph (C) by striking "any",

(ii) in paragraph (3)(A)(vi) by striking "section 640(a)(2)(C)" and inserting "paragraph (2)(C)", and

(iii) in paragraph (5)(B)(i) by striking "clause (A)" and inserting "subparagraph (A)", and

(B) in subsection (g) by striking "for all" and inserting "For All".

(2) Section 640A(b) of the Head Start Act (42 U.S.C. 9835a) is amended—

(A) in paragraph (1) by striking "solution" and inserting "solutions", and

(B) in paragraph (7)—

(i) in clause (iii) by striking "the", and

(ii) in clause (iv) by striking "the" the first place it appears.

(3) Section 642(c) of the Head Start Act (42 U.S.C. 9837(c)) is amended by striking "subtitle" and inserting "subchapter".

(4) Section 643 of the Head Start Act (42 U.S.C. 9838) is amended by striking "the such" and inserting "such".

(5) Section 651(g) of the Head Start Act (42 U.S.C. 9846(g)) is amended—

(A) by striking "physicial" and inserting "physical", and

(B) by striking "(g)(1)" and inserting "(g)".

(6) Section 651A of the Head Start Act (42 U.S.C. 9846a) is amended—

(A) in subsection (f) by striking "COMPARISION" and inserting "COMPARISON", and

(B) in subsection (g) by inserting "of title I of the Elementary and Secondary Education Act of 1965" after "chapter 1".

SEC. 5. TECHNICAL AMENDMENTS RELATING TO THE CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.

(a) PLACEMENT OF ACT.—Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-236) is amended in the matter preceding paragraph (1) by striking "title IV" and inserting "title VI".

(b) REFERENCES IN DEFINITIONS.—Section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n) is amended—

(1) in paragraph (7)—

(A) by striking "section 4(b)" and inserting "section 4(e)", and

(B) by striking "(25 U.S.C. 450b(b))" and inserting "(25 U.S.C. 450b(e))", and

(2) in paragraph (14)—

(A) by striking "section 4(c)" and inserting "section 4(l)", and

(B) by striking "(25 U.S.C. 450b(c))" and inserting "(25 U.S.C. 450b(l))".

SEC. 6. TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS.

Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (a) by striking paragraph (2) and inserting the following: "(2) training for specialized or other personnel needed in connection with Head Start programs, including funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children."; and

(2) by adding at the end thereof the following new subsections:

"(c) The Secretary shall—

"(1) develop a systematic approach to training Head Start personnel, including specific goals and objectives for program improvement and professional development, a process for continuing input from the Head Start community, and a strategy for delivering training and technical assistance; and

"(2) report on such approach to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

"(d) The Secretary may provide, either directly or through grants to public or private nonprofit entities, training for Head Start personnel in the use of the performing and visual arts and interactive programs using electronic media to enhance the learning experience of Head Start children.".

SEC. 7. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to fiscal years beginning before October 1, 1992.

SENATE LABOR AND HUMAN RESOURCES COMMITTEE HEARING—READY TO LEARN: TELEVISION AS TEACHER

PANEL I

Senator Daniel Inouye, Hawaii, Chairman, Senate Subcommittee on Communications.

Representative Ron Wyden, Oregon, Chairman, House Subcommittee on Regulation, Business Opportunities, and Energy.

PANEL II

Bernice Smoot, Co-Chair, Parents United for D.C. Public Schools accompanied by Janece Smoot, age 9, Washington, D.C.

Peggy Charren, President, Action for Children's Television, Cambridge, Massachusetts.

Dr. Nicholas Zill, Director, Child Trends, Inc., Member, National Eucation Goals Panel Readiness Resource Group, Washington, D.C.

PANEL III

Richard Carlson, President and CEO, Corporation for Public Broadcasting, Washington, D.C.

David V.B. Britt, President and CEO, Children's Television Workshop, New York City.

Brigid Sullivan, Vice President for Children's Programming, WGBH, Boston, Massachusetts.

Dr. Carolyn Dorrell, South Carolina Educational Television, Columbia, South Carolina.

TESTIMONY OF BERNICE S. SMOOT

It seems to me that network television stations prefer not to live in the real world. Rather, they prefer to sit in ivory tower offices and create programming that emulates the real world.

It would be easy for them to argue for the right to simply create and air whatever will sell.

But, for those of us who live in the real world, things are not that simple.

For example, as a mother, I have the right, supposedly, to feed my children as I wish.

But, if I chose to feed my children doses of poison each day; once discovered, I would be held responsible for not providing adequate nourishment, liable for the damage my lack of responsibility has inflicted upon my children.

Network television executives must realize that what they produce in ivory tower suites impact our real world.

They must also realize that, like the rest of us living in this real world, they must provide adequate viewing nourishment or be held liable and subject to regulatory intervention.

Presently, network television is getting away with murder.

Network executives are freely feeding our children doses of poison each day, and making a fortune doing it.

Sure, we parents have to regulate what our children watch. But if we are to let our children watch network television at all, it gets down to a matter of trying to decide which poison is least harmful, because very, very little of what is available is truly good for children.

In my case, my daughters are ages nine and four. At age five or so, I can recall my oldest daughter, Janece, having nightmares after watching the six o'clock news.

She saw graphic depictions of crime scenes, heard graphic details of murder—one horrifying incident after the other.

Now, Janece stays apprised of current events by articles I select for her to read from the newspaper.

As for television, they both now watch acceptable videos that we choose to rent, or public television programming.

My four-year-old's favorites are Sesame Street, any nature series and, for some reason I haven't yet figured, those culinary programs with chefs preparing unusual recipes.

By and large, network television is out, with exception of things like the Cosby show.

There was a time when all of society embraced and nurtured its children. From the man who owned the corner store and refused to let little Johnny buy ice cream before dinner, to former network executives who wouldn't air anything that might offend the viewing family.

Today, there appears to be a race to see who can sooner get away with showing how much sex, how much murder, how much brutality.

It can be argued that this is what viewers want. But, I would modify that a little. It is what viewers have come to expect.

Thanks to years of the media force-feeding bits of violence here and there, we have come to believe we are not entertained unless we are shocked and horrified.

I can remember as a child forcing myself to watch the Outer Limits and the Twilight Zone. I would get so frightened, I wouldn't sleep well at night.

It seems that once I had outgrown Captain Kangaroo and Romper Room, there were no mental challenges left, so I settled for emotional stimulation.

Today, in the real world, there are so many single, working heads of households and so many homes where both parents are working.

Because child care is expensive, as soon as children are old enough to go home after school alone, they are sent there.

And what do most do when they get there? Turn on T.V.

Television has become the ultimate babysitter. Well, babysitters must be responsible for the children left in their care.

Everyone talks about the need to get back to values. Well, I can't think of a more important one to return to than the value of nurturing our Nation's children.

It is no longer fair or reasonable for an entity that occupies and impacts virtually every American family not to have some responsibility for what it feeds that family.

It is no longer enough to say we have the right to choose what we watch, because in instances where many families do not have access to cable and public-TV programming, network television is the only choice.

And no matter which network station you turn to, the viewing options are essentially the same. News at five, six and eleven. Sex, violence and ho-hum comedy in between.

In the real world, in my real world, our black children are having a tough time. We live with violence in our streets. In D.C., there is an increasing number of children enduring violence in their homes.

Younger and younger girls are becoming mothers. Younger and younger boys are becoming killers.

Outside of heavenly intervention, the only thing that can change our children's lives for the better is education. Yet, in our schools, even this is woefully lacking.

While we parents and our Government work to put quality education in our schools, businesses like network television must work to put quality education programs in our homes.

It is socially irresponsible to omit quality programming.

Is it right for government to force the media moguls' hands in this regard?

I believe, in cases where we adults have proven ourselves irresponsible in our ability to do what is right and necessary, there must be regulation. Otherwise, negligence and irresponsibility continue to go unchecked.

The Ready To Learn Television Act of 1992 seems headed in the right direction. It is an important step toward regulating the irresponsibility of ivory-tower executives who have grown rich feeding our children—and us—daily doses of poison.

Can they provide educational programming and continue to prosper?

Somehow, I would find it incredibly hard to doubt that the same creative media minds that have so successfully managed to get an entire society to relish a diet of blood, guts and horror—which, by the way, does us no fundamental good—could have any difficulty, whatsoever, coming up with a nutritious, U.S. required daily allowance of educational sustenance that could benefit us all tremendously.

All they need is the right challenge and a ticket back into the real world. I believe the testimony they will hear today is the ticket; it is thus up to you to give them the challenge.

TESTIMONY BY PEGGY CHARREN

I am Peggy Charren, President of Action for Children's Television (ACT), a not-for-profit child advocacy group dedicated to improving children's television and eliminating commercial abuses in children's media. I appreciate the opportunity to testify today on new legislation designed to ensure that every child enters school ready to learn.

Children in the U.S. today spend nearly four hours a day watching TV, more time than they spend in the classroom or in any activity except sleep. Many people worry about the effects of television on children.

They worry about incessant exposure to violence. Are children learning that aggressive behavior is an acceptable solution to problems?

What are the effects of TV's racial and sexual stereotypes?

Has TV's rapid-fire delivery affected children's ability to learn?

Although that TV set in over 98% of our homes too often seems like Pandora's Box, it can also become a magical Aladdin's Lamp. It can offer our youngest viewers the opportunity to learn about a wide variety of places, people, occupations, ideas, lifestyles and value systems, many of which will affect the way they will live the rest of their lives. It can teach them to value poetry and music, freedom of expression and peace. It can empower them to make their world a better place.

One broadcasting entity that does meet the needs of children is, of course, the Public Broadcasting Service. PBS, since its inception 25 years ago, has been a constructive alternative to commercial television and has had a profound and positive effect on children's lives. PBS has pioneered many creative programs for young people—Mister Rogers Neighborhood, Sesame Street, Reading Rainbow, Long Ago and Far Away, for example—and has made TV learning both in school and at home a high adventure.

It is particularly important to note that PBS service to kids is commercial-free, uninterrupted by messages telling them that it is what you have and what you can get that counts, not who you are and what you know.

Too often, commercial TV is used to educate children to behave as a market segment, to lobby for products they don't need and cannot afford, to consume instead of save.

American commercial cable companies, local stations and national networks are corporations with a responsibility to shareholders to maximize profits. Maximum diversity of service to the television public does not usually go hand in hand with maximum profits.

The lack of choice in the children's TV menu prompted Congress to enact the Children's Television Act of 1990, putting Congressional spotlight on the scarcity of informative programming for younger audiences. The law requires broadcasters to serve "the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs." The target audience is defined by the law as 2 to 17 years of age for the program provision.

Predictably, most broadcasters are trying to circumvent the law. They are attempting to redefine their animated adventure-fare, obviously created primarily to entertain, and state in license renewal forms that these shows were designed to educate. Stations are aiming what they call their one and only "FCC compliance show" at teenagers, hoping these programs will also pick up younger viewers and young adult audiences.

Some network and station executives are thumbing their nose at the law. NBC affiliates have replaced Saturday morning cartoons with an extension of "The Today Show," without adding any service to children on weekdays.

"Electronic Media" (July 13) reported a rather strange response from Rusty Durante, Vice-President and General Manager, KWU-TV, the Fox station in Las Vegas. When asked, "What programming works best for you in the summer," he replied:

"The younger skewing stuff during the summer, obviously, with kids out of school. Some good examples are 'Arsenio Hall' and 'Studs,' which are in late night. They perform much better in the summer because kids can stay up later to watch them * * *"

Let's hope he doesn't plan to use "Studs" as his "FCC Compliance Show!"

Concerned groups of parents, pediatricians and teachers will be working in their communities to counter this irresponsible response to Congressional concern. But it is obvious that even if the law starts to work for children, it is unlikely to serve the education needs of viewers under seven.

According to a cover story in "Media Week" (June 22), 3.6 million kids have disappeared from the Saturday morning TV audience since Nielsen introduced people meters in 1987. With audience size determining the price paid for commercial time, networks and stations are worrying that advertisers are getting some kids for nothing. "Media Week" states that the core of Nielsen's plan to deal with this children's TV problem is "the hiring of 'child specialists' who will be trained with the help of child psychologists. They will go out with Nielsen field representatives to motivate kids to use the people meter."

Here we have a perfect example of commercial TV's attitude toward motivating and educating children. The goal is not to improve children's readiness to learn in school or anywhere else, but to teach our most vulnerable citizens to push ratings buttons so advertisers can teach them what to want out of life.

The goal of advertisers to maximize audience is especially destructive to children because the 2-to-12 year-old audience is the most diverse ten year period in human development. Some two-year-olds can't walk, and some 12 year-olds are having babies. Just about any adult (with the possible exception of our Vice-President) can enjoy "Murphy Brown." But songs and stories for 4-year-olds hold little charm even for 8 year-olds.

An added problem for programmers who deal in demographics is that very young children are less effective lobbyists for the purchase of toys and food than older kids.

I have outlined some of the reasons I strongly support the Ready-to-Learn Television Act.

As a matter of national education policy, we must take advantage of the fact that the TV screen is one of the most powerful, cost-effective instruments of education the world has ever known.

A federally-funded, free from commercials, Ready-to-Learn Satellite Channel under the auspices of public broadcasting, providing programming for children and for parents will help to fill some gaping holes in America's TV schedules.

New distribution channels make it possible to reach Head Start Centers, nursery schools, libraries and homes with video and support materials designed to advance national education goals. In addition to supporting educational programming for young audiences, this bill recognizes that parents and other care-givers need help children to help learn.

I think it's obvious that passage of the Ready to Learn Television Act will give children, parents, and all Americans a head start toward a better world for our kids.

TESTIMONY OF NICHOLAS ZILL, PH.D.

In 1990, President Bush and the governors of all the states agreed on six National Education Goals for the U.S. to achieve by the year 2000 (U.S. Department of Education, July 1990). The first goal is that all children in America will start school "ready to learn." The school readiness goal draws attention to two insights about children's academic progress. The first is that how children do in school depends on more than just their knowledge and skills. It depends as well on their physical well-being, emotional security, social confidence, and the degree of interest and engagement they bring to classroom activities (National Education Goals Panel, 1991). In other words, success in school is affected by the growth and development of the "whole child."

The second point is that how children do in school depends in large measure on things that happen before they ever set foot in a classroom. Among the prior influences on learning are the child's genetic endowment, prenatal conditions, the circumstances of birth, early nutrition, the early family environment, environmental hazards to which the child is exposed, and the kind of medical care that is available to the family. The significance of these influences was recognized in two of the objectives set forth under the goal of school readiness. One was that:

"Children will receive the nutrition and health care needed to arrive at school with healthy minds and bodies, and the number of low birthweight babies will be significantly reduced through enhanced prenatal health systems."

The other relevant objective was that:

"Every parent in America will be a child's first teacher and devote time each day helping his or her preschool child learn; parents will have access to the training and support they need" (U.S. Department of Education, July 1990, p. 4).

THE IMPORTANCE OF THE PERIOD BETWEEN BIRTH AND SCHOOL ENTRY

In addition to emphasizing the importance of the period before birth, the readiness goal causes us to be concerned about the period between the time a newborn leaves the birthing hospital with its mother and the time four-to-six years later when the same child appears at the schoolhouse door for entry into pre-k, kindergarten, or first grade. From an educational standpoint, this is a "dark period" in the sense that, during that time, the child does not come into regular contact with any social institution other than its family. To be sure, survey data tell us that nowadays more than 70 percent of youngsters spend some time in group daycare or nursery school before entering kindergarten (National Center for Education Statistics, 1992), and more than 90 percent receive medical care at least occasionally (National Center for Health Statistics, March 1991, p. 138). But there are as yet no explicit public standards against which the child's growth and development or health and safety are appraised. Yet from both educational and health perspectives, the interval between birth and school entry is a time of great developmental vulnerability.

A period of developmental vulnerability: Children under 5, especially those who live in impoverished circumstances, face threats to their health, safety, and psychological development that can have long-term effects on their chances of becoming good students and healthy, productive adults. A deficient diet during the first few years can impede physical growth and brain development. Inadequate medical care can result in the young child not being immunized against communicable diseases, or not getting glasses when he or she needs them or receiving delayed treatment for ear infections or other conditions that can lead to permanent impairments.

Toddlers who receive insufficient supervision or live in run-down housing as they begin to walk, climb, and explore are at risk of disfigurement, handicap, and even death from falls, burns, poisonings, and other injuries. Preschoolers who are not read to or played with in intellectually stimulating ways fall behind their peers in cognitive development and arrive at school in need of compensatory instruction. Young children who experience the family turmoil and disruption that often accompanies or causes early poverty are in jeopardy of long-lasting disturbances to their social and emotional development (Allison & Furstenburg, 1989; McLoyd, 1990; Dawson, 1991; Zill, Moore, Smith, Stief, & Coiro, 1991).

Early childhood is a difficult time for parents in even the best of circumstances, and poor young children whose parents are stressed are in danger of being physically abused or seriously neglected, more so than older children or non-poor children of the same age (McLoyd, 1990). Each year, more than 2 million reports of child maltreatment are received by child protection agencies across the U.S., with nearly 45 percent of them involving children under 6 (Select Committee on Children, 1989, pp. 68–69, 190–191). Death rates due to child battering and other forms of homicide are five times higher for infants, and nearly twice as high among children aged 1–4, as they are among 5–14 year-olds (National Center for Health Statistics, January 1992, Tables 7 and 23).

A window of opportunity: Although early childhood is a period of family stress and developmental vulnerability, it is also a time in which efforts to intervene and change children's lives for the better have a greater chance of success than similar efforts begun in middle childhood or adolescence. If parents can be made aware of the things they can do to nurture the development of their young children, and the right kinds of resources, supports, and services can be made available to the family before permanent damage is done, it may be possible to reduce the chances of later school failure, delinquency, and disturbance. That is the theory behind early intervention and family support programs designed to "break the cycle of disadvantage." The available evidence suggests that these programs can have significant long-term effects, at least in the limited situations in which they have been tested thus far (Berrueta-Clement, Schweinhart, & Barnett, 1986; Schorr, 1988).

As the premier communications medium of our time, television clearly has a role to play in helping parents to help their young children.

STATEMENT OF AMBASSADOR RICHARD W. CARLSON

I. INTRODUCTION

Mr. Chairman, Members of the Committee, I am Richard Carlson. Until last week I was U.S. Ambassador to the Republic of Seychelles. For almost six years prior to that I was Director of Voice of America. Monday, I was pleased to join the Corporation for Public Broadcasting (CPB)[1] as its President and Chief Executive Officer. Among the many reasons for my wanting to become associated with CPB is the unique opportunity to assist in advancing the use of public television as an effective educational tool. I believe that public telecommunications can make the most immediate contribution to education in the area where it has excelled most—children's programming.

We are all too familiar with the education crisis our country faces. Economic reports indicate that workers are less productive because they lack the necessary education to perform their jobs well. Education studies reveal that we still have major disparities in educational attainment among children from all walks of life, but particularly minority children and children from low-income families.

A major contributing factor to these problems is that we are sending children to school who are not prepared to learn. In response to this troubling situation, making sure that all children arrive at school ready to learn by the year 2000 has become the nation's first education goal. Despite our efforts to improve our schools, little can be achieved if we do not first address the need to give children a good start. A report issued recently by the Carnegie Foundation for the Advancement of Teaching, titled *Ready to Learn: A Mandate for the Nation*, states:

"In our reach for excellence, we have ignored the fact that to improve the schools, a solid foundation must be laid. * * * We have not sufficiently acknowledged that if children do not have a good beginning, it will be difficult, if not impossible, to compensate fully for that failure later on."

Since its creation, the Corporation has worked hard to develop the potential that public telecommunications holds to help children prepare for school. In addition to helping to develop the highest quality children's programming for broadcast, CPB has moved beyond broadcasting to expand programming uses for learning in traditional school settings, and to promote new technologies to better educate children in school and at home. These achievements in advancing the ready-to-learn effort would not have been possible without the support of federal funds through CPB. Today, we join this committee's efforts to build upon our successful partnership for the benefit of our nation's children and its future.

II. NEED FOR READY TO LEARN LEGISLATION

Mr. Chairman, you have recognized in introducing your legislation that Congress must act now to utilize telecommunications technologies to help to prepare children for school. We think this legislation is needed for three reasons: (1) it will respond to a critical need to improve and expand the quality of children's programming; (2) it will develop programs for use in schools, in childcare centers, and at home that are tailored to meet ready-to-learn objectives; and, (3) it will fill an important funding gap that severely limits public television's ability to fulfill its potential to help in this nation's efforts to meet ready-to-learn goals.

---

[1] The Corporation is a nonprofit, nongovernmental corporation authorized by the Public Telecommunications Act of 1967 to facilitate the full development of public telecommunications and distribution of high-quality public service programs to all Americans.

A. Need to Improve and Expand Quality Children's Programming

Television plays a major role in the lives and development of American children. According to the Carnegie Foundation's *Ready-to-Learn* report, a child watches an average of one-and-a-half hours of television a day by the time he or she is six months old. By the time the child reaches kindergarten, he or she will have viewed more than 4,000 hours of television. "Next to parents," the report states, "television is perhaps a child's most persistent, and most influential teacher, and there is no way for a national ready-to-learn campaign to succeed fully unless the television industry becomes an active partner in the process."

While quality children's programming can have a positive influence on children, the fact is that children are being exposed through commercial and cable television to increasing amounts of sex, violence, and hard-sell advertising. For example, in May, 1992, the Citizen's Communications Center released a survey finding that commercial television stations appear to be making little change in providing the educational requirements under the Children's Television Act of 1990 (Pub. L. 101-437). This survey found that 27 of 32 stations that submitted license renewal applications had no locally produced children's programming, and the vast majority sought to justify programs such as *Super Mario Brothers and Teenage Mutant Ninja Turtles* as educational and informational.

With the knowledge that television plays an increasingly important role in the lives of children, and with the growing recognition that television, video, and other technologies can benefit education, we must take care to provide quality programming that will maximize the positive contributions these technologies can make to school readiness.

B. Television as a Teaching tool

The potential for television to serve as an effective teaching tool is well established in academic research, and was supported most recently in a report released by the American Psychological Association (APA) in February 1992. That report, *Big World, Small Screen: The Role of Television in American Society*, underscores how television can have very positive influences on children when there are good programs and good patterns of use of television.

The report documented many of television's negative effects on children—the exposure to violence, the development of antisocial behavior, the increased anxiety in children and reduced attention span—and concluded that "our failure to realize the potential benefits of the medium is perhaps more significant than our inability to control some of its harmful effects." The APA reinforces the view of the Carnegie Foundation's *Ready-to-Learn* report that "TV's great potential as a teacher has, in the best sense, remained largely unfulfilled" and recommends that "the most important change needed in our broadcasting system * * * is to increase noncommercial sources of funding" in order to support quality, diverse programming for underserved audiences such as children.

While important steps remain to be taken to improve the quality of television programming and its uses in the home, promising, though limited, steps are being taken in schools. Today, educators are looking for new learning approaches using technology to help them with problems such as severe budget cuts at the local and state levels, the departure of many skilled teachers from the profession, and the ability to alter curriculum development to keep pace with the nation's changing needs.

CPB has been tracking national trends in classroom use of television since 1977. In our most recent survey conducted last year, some striking findings were reported by the nation's teachers, principals, and superintendents. Three important patterns emerged in the study: (1) the use of television and video by classroom teachers has grown markedly; (2) teachers have very positive attitudes about television's and video's educational value and use in schools; and (3) despite the enthusiasm by teachers for instructional television and video, the availability of equipment and resources is often severely limited in schools, and funding is decreasing.

Perhaps the most important finding of the study was the extent that positive educational impacts of television were being observed by teachers in their own classrooms. For example, 73 percent of teachers reported that instructional television was generating new interest in topics among their students. Fifty-one percent of teachers reported that they saw their students learning more when instructional television was being used. Most teachers, 83 percent, agreed that instructional television helps them be more creative in their instruction. In addition, 91 percent of teachers surveyed agreed that instructional television and video can have a positive impact on the quality of American education.

These studies emphasize the positive influences that television and video can have on children, and the potential benefits to teachers and students when quality programming is available. The technology exists to expand greatly the use of such programming as a teaching tool in homes, schools, and day care centers, but sufficient programming does not exist to use these and future technologies to the maximum possible extent.

C. Funding of Children's Programming

Funding is a major roadblock to developing quality children's programming that will help to meet the ready-to-learn goal. While the Corporation has a strong track record in leveraging federal dollars to the maximum possible extent for programming, our experience has found that children's programming simply does not attract sufficient private funding. Thus, for children's programming initiatives, federal support is critical.

The development of quality programming is an expensive and time consuming proposition, especially for children's programming. Formative testing is irreplaceable. Experts must be involved from the start in developing the content and instructional design of any program. The program must also be tested and retested with children to ensure that it is appropriate for the child's age and development, that it is effective in teaching a concept more widely, and that it captures the child's attention, making the program fun to watch. This long, careful, painstaking process drastically increases the cost of a program, but is essential for effective, compelling, high quality children's programming that meets its educational goals.

CPB's discretionary funding has never been sufficient to capitalize fully on the desired quantity of children's programming. Throughout CPB's history, the needs of some age group of children has suffered from a lack of programming. While CPB continues to try to meet these needs, and remains one of the few sources of significant funding for children's programming, the Corporation continually is hard-pressed to meet its mission in addressing the needs of all our children.

III. THE ROLE OF CPB IN EDUCATION

A. CPB's Mission in Education

When President Lyndon B. Johnson signed the Public Broadcasting Act in 1967, he remarked:

"I believe the time has come to stake another claim in the name of all the people, stake a claim based upon the combined resources of communications. I believe the time has come to enlist the computer and the satellite, as well as television and radio and to enlist them in the cause of education."

Mr. Chairman, those words are even more relevant now than they were 25 years ago. When Congress established the Corporation in 1967, it directed CPB to find, initiate, and finance the production of high-quality educational, informational, instructional, and cultural programs. For early 25 years, programs supported by CPB have been produced by a variety of entities, including public broadcasting stations, minority-based production companies, independent producers, and educational institutions. Through their educational content, innovative qualities, and diversity, these programs have enhanced the knowledge and imagination of all Americans.

In addition, CPB always has encouraged the use of public television as a provider, partner, and supplement to school-based or formal education. Currently, approximately 65 percent of the public broadcasting schedule is devoted to delivering educational programming during the school day and, increasingly, programs produced for the national primetime schedule, such as the *National Geographic* specials and *The Civil War*, have value in the classroom.

B. CPB'S SUPPORT OF QUALITY CHILDREN'S EDUCATIONAL AND INSTRUCTIONAL PROGRAMMING

An integral part of CPB's mission since its inception in 1967 has been to provide educational and informational programming for children—including programming targeted to preschoolers and school-age children for home viewing and for classroom instruction.

The commitment of CPB and public broadcasting in serving the educational and informational needs of children has benefitted a whole generation of American children who have grown up under the positive educational influence of *Sesame Street* and *Mister Rogers' Neighborhood*. Both programs, which received early support from the Corporation, have achieved world acclaim and received countless awards. As Congress recognized in adopting the Children's Television Act of 1990 (Pub. L. No. 101-437, 104 Stat. 996), viewing *Mister Rogers' Neighborhood* leads to increased pro-social behavior, task persistence, and imaginative play; and watching *Sesame Street* helps preschool children develop letter, number, pre-reading, and vocabulary skills (S. Rept. No. 101-227, 101st Cong., 1st Sess. 5-7 (1989)). Further, the Senate Report recognized that "today, public television is the primary source of educational children's programming in the United States, broadcasting over 1,200 hours of children's educational programming for home viewing." (Id.)

In becoming the recognized leader in identifying and supporting high-quality educational children's programs, CPB's leadership and concern for the educational well-being of our young people have led to the development of some of the most successful children's programming in television's history. This programming has helped millions of school-age children expand their awareness of subjects such as the environment, science, math, ethics, and art. For example:

Square One TV reinforces mathematical concepts for 8-to-12-year-olds and connects them to real world problems with educational game shows, musical videos, animation, and comedy sketches;

3-2-1 Contact presents science concepts to 8-to-12-year-olds by taking them to places they cannot go—above the clouds, under the seas, beneath the earth, inside the atom;

Reading Rainbow, an Emmy award-winning production and the most frequently utilized program in classrooms from public or private sources, has helped millions of primary grade school children to preserve their reading skills by motivating them to read over the summer;

Zoom!, a series written by, performed by, and directed to children ages 7 through 12, presented riddles, games, film, and drawings contributed by thousands of young viewers;

Electric Company taught basic reading skills to 6-to-11-year-olds who were not reading at their grade level, and during the 1970's was the most widely used television series in American classrooms;

WonderWorks, an anthology drama series for family viewing, offers an array of fantasy, mystery, comedy, drama, history, and computer animation; and,

DeGrassi Junior High and *DeGrassi High*, a series that followed a cast of young people from junior high into high school, provided guidance in confronting problems such as teen pregnancy, drugs, and child abuse, that real teenagers face.

In recent years, CPB has redoubled its commitment to children's programming. CPB has declared education, including children's education, its highest corporate priority for the 1990s and children's programming continues to be CPB's top priority in the development of new programs. Almost one-third of all projects selected for funding in the past two years through the CPB Television Program Fund are designed specifically for children. For example:

Where in the World is Carmen Sandiego?, which premiered in 1991, is a game-show format series for children ages 10-to-13 that teaches participants and viewers geography concepts and facts.

The Puzzle Factory, will be a new daily *preschool* series featuring a group of puppets that embody the diversity of American culture while encouraging preschool children to make choices, take creative risks, and experiment. The series takes place in a make-believe workshop where the *Puzzle Factory* puppets work together to find positive solutions to daily problems.

Ghostwriter, is scheduled to premiere this fall as a weekly series designed to encourage elementary school students to improve their reading and writing skills. The series includes 42 programs, with extensive educational and after-school club materials, including 10 issues of a free magazine at 2 million copies per issue that will be distributed to low-income children—at no cost to the families—to ensure that these children are not denied the opportunity to improve their writing skills.

Other children's programs supported by CPB include:

Lamb Chop's Play-Along, an interactive series for preschoolers which, with its stories, songs, dances, stunts, games, jokes, and riddles, encourages viewers to participate;

Barney and Friends, a series featuring a large purple dinosaur and a multicultural cast of young children, engages children in learning activities, familiar songs, and storytelling; and,

Long Ago & Far Away, a series based on children's literature, brings children and families popular stories and tales from different cultures.

In the years since 1977, CPB has funded 24 instructional television program series for the classroom. From that first series in 1977, *ThinkAbout*, which helped students acquire and practice the study and inquiry skills needed to become independent learners and successful problem solvers, CPB has supported a wide range of instructional programs for the classroom, including:

Walking With Grandfather, which dramatized traditional North American Indian folktales and explored the beauty and power of language;

The Universe & I, which examined different scientific disciplines, such as physics, geology, astronomy, planetology, meteorology, oceanography, and paleontology, to gain a greater understanding and knowledge of the Earth, the solar system, and the universe itself;

Up Close and Natural, which answered children's questions about the natural world while sharpening their skills of observation, description, and classification; and,

Newscast From the Past, which was patterned after contemporary news programs, and helped students understand and interpret long-term historical trends in politics and power, religion and philosophy, science and technology, the arts and day-to-day life.

CPB's efforts do not end with programming, however. Equal in importance to the dollars to make the broadcast program is the funding from the Corporation used to develop program-related teaching aids, such as workshops, teachers' guides, and parents' guides, to help parents, teachers, and childcare providers maximize the educational value of these programs. In addition, public broadcasting has developed supplementary aids for school-age children which include homework helplines and vacation magazines that contain reading lists, projects, and extracurricular activities.

More than 15 years ago, CPB took the lead in developing print materials—teacher, student, and general audience guides—to be distributed for use with general audience broadcasts. *NOVA* was one of the first series to have this value-added component. Through the success of many projects, CPB was able to demonstrate to corporate underwriters and to foundations that the impact of these materials would extend to new and different audiences and enhance the meaning of the programs as well.

Today, CPB and its co-underwriters are involved in not only the development of ancillary print support, but also the development of computer software, videodiscs, and single-concept video modules that build on the original broadcast program and make it a more usable resource for the classroom. CPB also is training teachers and childcare providers in the integration of video into the curriculum. Projects such as *Sesame Street*, *Mister Rogers' Neighborhood*, and a whole range of math and science instructional television programs have been a part of a nationwide effort to make better and more appropriate use of television in both preschool and classroom settings.

C. CPB's Commitment to Expanding Education Efforts

Using the Corporation's limited discretionary funds, CPB has stepped-up its efforts to enhance public broadcasting's capacity and ability to improve education services for children, parents, childcare providers, and teachers. CPB is providing initial funding to projects intended to reach beyond the home to day care centers and other nontraditional learning sites. Other funds are being directed to assist in training day care providers and teachers as well as to provide the foundation for community awareness and activism in addressing such education problems as illiteracy. The following are examples of some of these efforts:

1. Assisting Day Care Providers and Teachers

CPB and public television are taking the lead in developing new and innovative ways to ensure that children arrive at school ready to learn. This effort includes not only services and programming for children, but also addresses the critical need to equip the child's first instructors: parents, childcare providers, and elementary school teachers with additional resources to help them prepare children for school. Several programs involve the redesigning and repackaging of traditional public television children's programming with instructor training and teaching materials for childcare providers. These exciting projects are still in their infancy but already have proven to be effective in local communities. However, the lack of sufficient funding is threatening their use nationally. Among the examples are:

Extending the Neighborhood to Childcare, funded by CPB and conducted by WGTE–TV, in Toledo, Ohio, and Family Communications, Inc., producers of the *Mister Rogers' Neighborhood* series. This innovative project uses programming from *Mister Rogers' Neighborhood* and incorporates it into childcare curriculum to help children gain essential interaction and social skills that will assist them in school. For example, on January 29, 1992, more than 5,000 childcare providers and early childhood education professionals nationwide participated in a training teleconference funded by CPB to extend the use of *Mister Rogers' Neighborhood* to childcare centers. The teleconference was presented at 121 sites around the country, including 109 public television stations. Participants received the *Mister Rogers' Plan and Play Book*, which offers ideas for hands-on activities in the childcare setting, and a one-year subscription to a quarterly newsletter published by WGTE. In addition to funding the teleconference and newsletter, CPB funded the original development and publication of the book.

Sesame Street Preschool Education Program (PEP), developed by Children's Television Workshop. This project uses *Sesame Street* programs and training and support materials to help childcare providers and parents nurture the development of learning skills and the curiosity of children ages 2–5. The project, which recently completed a rigorous pilot test stage in Dallas, Texas, and currently reaches 40,000 children and 3,600 childcare providers in 29 states through 54 public television licensees, seeks to train care providers to create an active learning environment for children. Thirty-six additional licensees are expected to be added in the third phase of the project which begins this fall. The project has significant potential, yet resources are lacking for wide implementation.

Early Childhood Professional Development Network, developed by South Carolina Educational Television (SC ETV). This project trains childcare providers through videotapes which are produced and distributed by SC ETV. SC ETV has produced videotapes to train professionals who verify that daycare providers meet basic educational standards, for the National Association for the Education of Young Children through its National Academy of Early Childhood Programs. Approximately 2,500 have been trained using these tapes. In addition, SC ETV has worked closely with the Council for Early Childhood Professional Recognition to provide childhood development associate training.

The Parents Project, developed by KQED-TV in San Francisco, California. This pilot project is designed to develop services which will encourage parents to become more involved in their children's education, to make more effective use of public television's educational programming in their homes, and to become better partners with teachers in their children's education.

WNET Teacher Training Institute, launched by Thirteen* WNET/Texaco Training Institute in the summer of 1990 through a partnership between Texaco, Inc., and Thirteen *WNET, New York. The Institute was founded to tap educational television's enormous potential in the classroom by training teachers to use it effectively. It brings together elementary and secondary school teachers to develop creative approaches to teaching with instructional television. In the New York area alone, the Institute already has reached 2,500 teachers and 13,000 students from diverse geographic and socioeconomic schools. With additional support from Texaco and CPB, WNET's Educational Services has launched the *Teacher Training Institute for Science, Television and Technology*. Based on the success of the pilot project, this model has been expanded to 10 additional sites throughout the country. It is estimated that by the end of 1992, 15,000 teachers will have received training as part of this project.[2]

Annenberg/CPB Math and Science Project, a collaboration between the Annenberg Foundation and CPB to help teachers in kindergarten through 12th grade better convey the concepts and principles of science and the ways in which science, mathematics, and technology depend upon one another. The project uses communications and educational technologies, including computers, two-way video, laser discs, electronic networks, and data services as a means of achieving its objectives.

2. Creating Programs That Encourage the Growth of a Literate Society

Public broadcasting also has been successful in merging volunteer networks with telecommunications resources to empower communities to develop solutions to local problems that often have national ramifications. This "added value" allows a single program, accompanied by the local efforts of hundreds of stations, to attract thousands of individual volunteers. Programs that motivate citizens to participate in solving problems locally create a snowballing effect that can generate a national solution to a major "national" problem.

For example, one project supported by the Corporation that seeks to combat illiteracy is the Family Literacy Alliance. The Alliance is a collaboration among the producers of three award-winning public television children's series: *Long Ago & Far Away*, *Reading Rainbow*, and *WonderWorks*. The goal of the Alliance is to encourage public television stations to reach new audiences by working with local agencies and organizations to find ways to integrate public television programming into existing community programs and bring the joy and fun of reading to families. The efforts of the Alliance center around the need to promote literacy by working with local community organizations which serve populations that have not been part of the traditional public broadcasting audience. Examples in the pilot effort included Cambodian Mutual Assistance Program, Boston, Massachusetts; Even Start, Albuquerque, New Mexico; Allegheny County Jail's Program for Female Offenders, Allegheny County, Pennsylvania; and the Indian Wellness Center, Omaha, Nebraska.

Public broadcasting also has had significant success in building awareness of the problem of adult illiteracy in America. Awareness campaigns, such as the successful Project Literacy U.S., or PLUS, stimulated the growth of successful volunteer-based, one-to-one outreach programs designed to help illiterate adults learn to read, help those for whom English is a second language develop English language skills, and help learners with limited skills master new ones. In its four-year campaign, *PLUS* also stimulated awareness of the need for workplace literacy, family literacy, and adult mentoring of at-risk students.

The CPB-funded Public Television Outreach Alliance (PTOA), which began *PLUS*, is public broadcasting's primary outlet for helping to enable local communities to achieve solutions to problems. The PTOA continues to make education activities its highest priority.

D. New Public Broadcasting Satellite

CPB and public broadcasting have undertaken a major effort to develop satellite technology to extend educational opportunities. This effort was made possible when the Congress invested in new public broadcasting satellites for radio and television that will increase dramatically public broadcasting's potential contribution to education. In 1988, Congress authorized, and appropriated over the next three years, nearly $200 million for CPB to replace the public broadcasting satellite interconnection systems. These new satellite interconnection systems, which will become operational in late 1993, will provide public broadcasting with new opportunities to integrate many of the existing and developing technologies into the satellite-based interconnection systems that will provide service into the next century.

With six transponders and the advent of digital compression, public television will be able to provide simultaneously up to 20 channels. Digital compression techniques allow more information (video, data, audio) to be compressed into a single transponder. Each channel will be able to deliver high-quality video and audio services for education, such as a dedicated children's channel. New satellite technologies will make possible two-way, interactive instruction.

An example of how satellite technology already has made a difference in education is the Satellite Educational Resources Consortium (SERC), which received one of the first Star Schools grants and which CPB helps to support. Through live, interactive classes, SERC gives students in geographically and economically disadvantaged areas access to excellent teachers in critical subject matters such as mathematics, science, and foreign languages. SERC utilizes a collaboration of state public broadcasting networks and departments of education in 23 states. Sixty percent of participating SERC schools are rural, and 71 percent are eligible for Chapter I funds.

The new public broadcasting satellite will enable much broader implementation of these types of services. However, funding now must be targeted toward the development of programming in order to use the satellite to its maximum capacity.

IV. USING CPB AND PUBLIC BROADCASTING AS A VEHICLE FOR READY-TO-LEARN PROGRAMMING

Mr. Chairman, CPB applauds and supports the efforts of this committee to focus national attention on the current state of children's educational programming. The Corporation believes that the objectives contained in your legislation represent another integral step in our nation's resolve to address this important need. As the recognized leader in identifying and funding the development of high quality children's programming, CPB stands ready in every way to assist you and the Committee in your efforts.

We are deeply appreciative of this Committee's recognition of the value that public broadcasting brings to our nation's youth. With comparatively few resources, public broadcasting has set the standard which is not met through any other programming.

Federal support for public broadcasting to increase the availability of children's educational programming can offset the void in quality children's programming by providing the means to the single institution which has demonstrated both the true commitment and the capability to use television to benefit the education of children. By using CPB as a vehicle, Congress also taps an effective system of locally based institutions which actively engages in supporting community education efforts; avoids unnecessary duplication of resources and unnecessary administrative delays that could result from assigning the task to a federal agency; and ensures maximum accountability for the most effective use of federal dollars while protecting against federal interference in programming:

CPB's expertise and proven track record in the funding and development of children's television uniquely positions the Corporation to act as a resource for Congress. Over the 25-year history of CPB, the Corporation has developed a vast network of experts, producers, and educators in the field that, together with CPB, have provided the foundation for the high-quality, educational children's programming and services available on public broadcasting.

By utilizing CPB, Congress will limit duplication and devote maximum funding to programming with little lose due to overhead and administrative costs. The Corporation, through its strong network in communities such as education, psychology, child development, television programming, and related disciplines, provides an attractive opportunity for the Congress to capitalize on CPB's experience. One organizational model is the Annenberg/CPB Project, a semi-autonomous, dedicated fund. Under this model, the Project handles program priorities and funding decisions with administrative support provided by CPB. The establishment of a similar model by the Congress and the reliance on other CPB resources would serve to dedicate further maximum resources toward children's programming.

CPB is accountable to Congress for the expenditure of federal funds, yet still has a mandate to ensure protection from governmental interference in all programs funded by the Corporation. As the Chairman knows, CPB is a private, nonprofit, nongovernmental corporation, not a federal agency. Under the Public Broadcasting Act of 1967, CPB is removed from the government, thus assuring the public that editorial and artistic freedom are protected in programming funded with their money, while at the same time assuring Congress that the fund with which it is entrusted are being spent responsibly. In principle of avoiding pressure by outside funders on the editorial and artistic freedom of producers is anchored in the First Amendment. By design, CPB and public broadcasting have developed a structure, policies, and procedures to protect the integrity and freedom of program decisionmaking that cannot be duplicated within a government agency.

---

[2] Those sites include New Orleans, Louisiana; Cleveland, Ohio; Columbia, South Carolina; Dallas, Texas; Kansas City, Missouri; Los Angeles and San Francisco, California; Madison, Wisconsin, Miami, Florida; and, Seattle, Washington.

To ensure effectiveness, CPB also believes that any legislation should provide expressly for the development of training programs to enable day care providers and teachers to learn methods and exchange ideas about how programming and materials can be used most effectively. In addition, the legislation should emphasize the importance of the role of the parent or day care provider in preparing a child to learn and underscore the critical nature of their involvement in school readiness.

Finally, it would be essential that CPB have the flexibility to determine the most effective means of distribution to the widest audience, and to have the ability to employ new technologies as they become available. Since 1978, Congress has found that it is "in the public interest to encourage the growth and development of nonbroadcast telecommunications technologies for the delivery of public telecommunications services," (47 U.S.C. 396(a)(2)) including, but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, microwave, or laser transmission through the atmosphere.

Consistent with that provision, the Senate included an amendment to the CPB reauthorization legislation when it was considered earlier this year which would require CPB to report on the potential distribution options for ready-to-learn programming within 90 days of enactment. CPB already has begun to prepare this report. Among the possible avenues for distribution which may be discussed in the report are use of the public television satellite to distribute programming to stations, as well as to schools or homes that have or can acquire downlink equipment; video cassette distribution; direct broadcast satellite distribution to schools or homes; and cable distribution.

V. CONCLUSION

As this nation commits itself to improving school readiness, we must heed the Carnegie report's words: "* * * there is no way for a national ready-to-learn campaign to succeed fully unless the television industry becomes an active partner." Because of the scarcity of funds available for children's programming, your legislation is an important factor in this campaign. Although CPB has set the standards for the identification and support of quality educational children's programs, the Corporation has never had, and does not currently have, sufficient funds to target an intensive effort such as this that is needed to ensure school readiness for our nation's future leaders.

The Carnegie report states, "If America hopes to achieve its first education goal, television must become part of the solution, not part of the problem." The Corporation for Public Broadcasting has been part of this solution for the past 25 years, but unless significant resources are targeted toward early childhood education, the Corporation will be forced to continue to turn away quality programming proposals for lack of sufficient funding. It is the children who lose under these circumstances, and our nation's future is threatened when our children suffer.

In closing, I would like to commend you, Mr. Chairman, for introducing legislation and holding this hearing on this important issue. Thank you for inviting me, on behalf of the Corporation, to share my thoughts with you. We are eager to be of further assistance.

DVBB ORAL TESTIMONY FOR SENATE COMMITTEE

Chairman Kennedy and Members of the Committee: I am David Britt, President/Chief Executive Officer of Children's Television Workshop. We at CTW applaud your leadership in holding these hearings today. The legislation proposed by Senator Kennedy responds to an urgent need. It focuses attention on using the media and technology in a variety of ways to serve America's children. With proper programming and support, CTW's experience shows that technology can make vital contributions. So we welcome this initiative and look forward to its progress.

I thought it would be useful to share with you some of the lessons CTW has learned in using media technology to serve children's education, and also to offer some thoughts you may want to consider as you move ahead with this initiative.

As you may know, CTW has about 25 years' experience in using mass media to educate children. We started with *Sesame Street*, which helps preschoolers get ready for school, both developmentally and intellectually, *3-2-1 CONTACT* and *Square One TV*, our series for eight- to twelve-year olds, help provide elementary-school children with informal education in, respectively, science and mathematics.

Research shows that children do learn from television. This is amply documented here in *The Power of Television to Teach*, which I would like to include in the record.

We have also proven that mass media, if it is widely distributed, can be a cost-effective educational tool, costing less than a nickel per viewing. We have been able to make our programs accessible to everyone through the support of public television's infrastructure.

However, the world has changed a great deal since our founding in 1968. Today, our children's educational needs are greater than ever. But more and more often, children are in child care rather than at home. At the same time, technology has become much more accepted as an educational tool in institutional environments.

To adapt to these changes, we at CTW are working on ways to make education available via broadcast and VCR technology. One example is the *Sesame Street* Preschool Educational Program Initiative, or *Sesame Street* PEP. *Sesame Street* PEP's goal is very simple: to help motivate children to learn. This is done by combining the proven educational power of *Sesame Street* as broadcast, with activities and storybook reading.

We have set up *Sesame Street* PEP as a partnership among public television stations, child care providers, other community organizations, public and private funders, and CTW. We at CTW produce *Sesame Street* and related materials, and provide training for care providers, in both family homes and organized facilities, in the use of PEP's components with young children.

The net result is that providers, particularly family child care providers, are better able to use television constructively—not just as a babysitter. Most importantly, they are better equipped to stimulate preschoolers' natural curiosity, to help prepare them for school. For many, *Sesame Street* PEP training is the first they have ever had. One provider told us that afterwards, she felt like an educator, not just a caretaker.

Sesame Street PEP began as a successful one-year pilot project in Dallas, Texas. Since the fall of 1991, the initiative has expanded to 55 partnerships in 29 states.

Sesame Street PEP meets local needs. For example, in Muncie, Indiana, public television station WIPB has brought *Sesame Street* PEP to the preschool program of the Miami Tribal Nation, and through Head Start, to most of the disadvantaged children in the county where the station is located.

Right now, *Sesame Street* PEP has reached about 45,000 children across the country. With CPB lead funding, we aim to bring PEP to five million children across the United States by 1996—half the number who will be in child care by then.

To reach older children, we have seized opportunities to adapt material from our science and mathematics programs for use in schools and afterschool programs. For afterschool programs, we have developed kits that combine videotape material from our science and mathematics series with entertaining and educational hands-on activities and games.

We train club leaders and after school program personnel to use these kits. Our kits have been adopted by state-funded afterschool programs in Hawaii and California, and are in use in over 45 states.

For example, in Los Angeles, the kits are being used in a community/based afterschool program, L.A.'s Best, which reaches close to 5,000 students aged five to eleven years in neighborhoods vulnerable to gangs and poverty, including south-central Los Angeles. Recently, L.A.'s Best held a city-wide science competition. The winners, two girls who won a week at the U.S. Parent/Child Space Camp in Huntsville, Alabama, were inspired by our kit on space adapted from *3-2-1 CONTACT*.

As interactive technologies—computer software and interactive video—become more a part of children's lives, we have looked for ways to put these media to educational use. For example, we were the first to produce educational games for Nintendo.

We see great potential in educational multimedia—combining video and high-quality sound with interactivity. We are working on products for schools as well as mass market.

But the real breakthrough will come when it is possible to "broadcast" interactive products. This will happen eventually. To that end, we are exploring ways of doing this through phone lines, cable broadcasting, and satellite distribution.

As you develop educational policy relating to today's technology—such as television—as well as tomorrow's, I'd like to make a few general observations. It is clear that we will have available a variety of distribution systems—cable, fiber optics, direct satellite broadcast. Therefore, it is crucial that legislation be highly flexible, and not wedded to any one technology, so that we can take advantage of new systems as they appear.

As new systems evolve, we must insure that children, our most important national resource, are not left out. Typically, the harsh economics of the commercial marketplace mean that children's education gets assigned a low priority. It needs to be our first priority.

America's children deserve the best possible programming that contributes to their education and healthy development. To ensure that this is so, programming and related services should be evaluated regularly for appeal and educational effectiveness.

Mr. Chairman, experience has taught us that if education is not included at the outset, it is difficult, if not impossible, to add it later. Again, thank you for your initiative in this important area, and for the opportunity to speak to you today.

TESTIMONY OF BRIGID SULLIVAN

Thank you, Senator Kennedy. I am the vice-president in charge of children's programming at WGBH-TV in Boston. As you may know, WGBH is one of the nation's most respected public television stations, having produced such award-winning series as "NOVA", "Frontline", "Masterpiece Theaters", and "The American Experience."

I have been responsible for developing the children's programming department since 1985, when WGBH made the decision to commit one million dollars of its own resources to children's television. We made this commitment because our audience ranks quality programming for children as its highest priority.

Since 1985, we have developed and produced three major television series for children "Degrassi Junior High," "Long Ago and Far Away", and "Where in the world is Carmen Sandiego?" These series have won numerous national and international awards, including the Emmy, the International Emmy, the Academy Award, and Prix Jeunesse. They have been praised by parents, teachers, and our most important critics—children. As one 8-year old from Wisconsin wrote, 'Carmen Sandiego' is wonderful. I get to know where places are, even though I'm only eight. Your show helped me place second in my school's geography bee. The kid that beat me was a sixth-grader." We've received thousands of similar letters over the past year. When 1 in 7 Americans can't locate the United States on a world map, this is no small victory.

In his review of "Long Ago and Far Away," TV critic for the New York Times, John O'Connor, wrote that the series made him sad, because it reminded him of what television could be for children, but wasn't. I quote, "It's unmistakable quality makes you keenly aware of the generally woeful state of children's television." O'Connor went on to call "Long Ago and Far Away" an oasis in the parched realm of programming for children.

None of these programs could have been launched without federal money. But we also need federal money to sustain these programs once they're on the air. As a producer, I can tell you how frustrating it is to create an innovative, educational children's series, only to have it cancelled for lack of funds. "Long Ago and Far Away," for example, recently lost its PBS and CPB funding. Why? Because those agencies need to spend their limited resources on new programming, which means there's nothing left for those programs already on the air.

We're often asked why we can't get corporations to provide more funding. Experience shows us that children's television depends upon a mix of funders—government, foundations, corporations and individuals. It routinely takes our staff three or more years to put this mix together. Corporate support is essential to any funding strategy, but it's very difficult to obtain this support for children's programming. The truth is, there aren't many financial advantages to investing in children's television. Corporations have little to gain other than good will. Those corporations which do invest provide only partial funding, and often bow out after a year or two.

Our newest series, *Carmen Sandiego*, is a case in point. We were fortunate in getting two corporate underwriters. But this money came in after *Carmen* was ready for broadcast. Corporations are rarely willing to give us seed money—in effect, invest in something that only exists on paper. Yet it took us three years, and close to one million dollars, to develop *Carmen*. We needed, and thankfully got, federal funds which enabled us to do the research, work with curriculum advisors and the National Geographic Society, and produce and evaluate a pilot program. If federal startup money hadn't been available, *Carmen Sandiego* would not be on the air. It's that simple.

I was invited here today because I am a television executive. But I also want to speak to you as a mother. My son is 10 years old. Like most parents in this country I have experienced enormous disappointment in some of the major institutions serving our children. The public schools and television are two of these institutions. As a mother who needs to work, I cannot hope to fully compensate for crowded classrooms and underpaid teachers—nor is it possible to eliminate television from my son's life.

That's because television is—after family and, I would argue, before school—most children's primary window on the world. The average 11 year-old watches more than 4 hours of television every day. They may have difficulty reading or writing, but when it comes to TV, children are precocious and passionate. At WGBH we accept that children love television, but we try to take their passion and direct it toward something worthwhile. We know we must entertain children, and we do, but our mission is to inspire, challenge and motivate.

When federal funds come to WGBH, it's not just Massachusetts viewers who benefit, but viewers in every state of the country. Our children's programs are distributed through the public broadcasting service, and reach 98% of America's households. But federal dollars not only help us produce programs, they allow us to increase their educational impact. Every program we produce comes with a variety of curriculum materials—from teacher's guides and activity books to interactive video discs and home computer programs. Over the years, we've received thousands of letters from teachers and librarians, describing their success in using these materials. They tell us that our programs motivate even the most apathetic students.

Federal dollars have even helped us launch a ground-breaking effort to increase literacy and strengthen families. It's called the family literacy alliance, and it uses children's programming to stimulate an interest in reading and writing. We've taken *Long Ago and Far Away* to some of the neediest children in this country—children whose parents are in prison, in homeless shelters, in hospitals. I can't tell you how moving it is to see mothers and children watching the series, discussing the stories, reading together for the first time in their lives.

I want to close by saying how pleased we are that you're preparing legislation to increase government funding for children's television. We've spent more than seven years trying to find new and creative ways to fund children's programs. We've held conferences, talked to experts, hired consultants. What we always come back to is the absolute necessity of receiving government support. Thank you for turning your attention to this crucial issue. I'll be glad to answer any questions you may have.

THE CARNEGIE FOUNDATION
FOR THE ADVANCEMENT OF TEACHING,
Princeton, NJ, August 4, 1992.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I enthusiastically support your proposed legislation, the Ready to Learn Television Act. If enacted, this bill could contribute significantly to the school readiness of children—the nation's first education goal. Kindergarten teachers report that more than one-third of the nation's children come to school not well prepared to learn. Your legislation is a bold constructive response to this crisis.

Parents are the first and most essential teachers, but television is profoundly influential, too. The reality is that the nation's nineteen million preschoolers watch billions of hours of TV every year. What they see is often more degrading than enriching.

In our recent Carnegie Foundation report, *Ready to Learn: A Mandate for the Nation*, we cite television's negative impact on children. But we also celebrate successes—like Sesame Street—that contribute positively to the lives of preschoolers. We conclude that if all children are to come to school well prepared to learn, television has a crucial role to play.

Asking commercial stations to offer one hour of children's programming every day is a good beginning. I'm especially pleased that your legislation also supports our proposed Ready to Learn Children's Channel. We have cable channels for weather, sports, news, comedy, and for selling jewelry. Is it unthinkable that this nation could have one channel dedicated exclusively to little children?

Again, I applaud the Ready to Learn Television Act—a creative new initiative that would help the children, improve the schools, and contribute to the building of a better nation.

Cordially,

ERNEST L. BOYER,
President.

READY TO LEARN

(By Ernest L. Bayer)

THE FIFTH STEP: TELEVISION AS TEACHER

In the summer of 1938, essayist E. B. White sat in a darkened room and watched transfixed as a big electronic box began projecting eerie, shimmering images into the world. It was White's introduction to television and in response he wrote: "I believe television is going to be the test of the modern world, and that in this new opportunity to see beyond the range of our vision, we shall discover either a new and unbearable disturbance of the general peace or a saving radiance in the sky. We shall stand or fall by television—of that I am quite sure."[1]

Next to parents, television is, perhaps, a child's most influential teacher. We therefore recommend in this chapter that parents guide the viewing habits of their children. We urge as well that commercial networks air at least one hour of children's programming every week, with school-readiness messages interspersed. Third, we propose that a

---

Footnotes at end of article.

Ready-to-Learn Cable Channel be created and, finally, that a national conference be convened to explore how, during the decade of the nineties, television can contribute to the educational enrichment of preschool children.

The amount of time children spend watching television is awesome. A six-month-old infant, peering through the rails of a crib, views television, on average, about one and a half hours every day. A five-year-old watches an hour a day more. By the time the child sets foot in a kindergarten classroom, he or she is likely to have spent more than four thousand hours in front of this electronic teacher. All told, the nation's nineteen million preschoolers watch about fourteen billion hours of television every year.[2]

Television sparks curiosity and opens up distant worlds to children. Through its magic, youngsters can travel to the moon or the bottom of the sea. They can visit medieval castles, take river trips, or explore imaginary lands. Researcher Genevieve Clapp wrote, "Television has opened to children worlds that have been inaccessible to previous generations. Science, history, literature, music, art, and life in other countries are available at the press of a button."[3]

Television began with such promise. In the November 1950 issue of Good Housekeeping one enthusiastic mother wrote: "By and large I think that television is Mama's best friend * * * [and] Kukla, Fran, and Ollie are one cogent reason. * * * [Television] widens horizons. Surprisingly often, it brings into the home good plays, competently acted."[4] Further, this mother noted, an inspired television teacher, Dr. Roy K. Marshall, talks about "earthquakes, the solar system, nuclear fusion. * * * Seeing what he can accomplish in fifteen minutes proves the great potentialities of television in the field of education."

No one can deny television's great potential, but over the past thirty years, commercial television's great promise has faded from the screen. This multibillion dollar industry has decreed that the airwaves are overwhelmingly for adults, not children. What today's children actually encounter every weekday afternoon is not Kukla, Fran, and Ollie or a latter-day "Dr. Marshall," but enough soap operas to flood a laundromat. Edward Palmer, author of Television and America's Children, has said "* * * It is economically irresponsible that we fail to use television fully and well to help meet nationwide educational deficiencies in all key school subjects."[5]

On Saturday morning, during the so-called "children's hour," youngsters are served a steady diet of junk-food commercials[6] and cartoons that contain, on average, twenty-six acts of violence every sixty minutes.[7] Newton N. Minow, former chairman of the Federal Communications Commission, recently described television as "the most important educational institution in America. All of television is education," he said. "The question is, what are we teaching and what are we learning?"[8]

According to kindergarten teachers, children are learning precisely the wrong things, and the blur of images shortens attention span and reduces learning to "impressions." One teacher remarked: "I feel I have to tap dance to keep their interest. Just lecturing is a sure groaner. Students just want to be passive viewers. It's frustrating to have to be ABC, CBS, and NBC when I really want to be PBS and NPR." Another observed, "TV watching must be curbed. Kids no longer know how to play basic kid games." A third wrote: "Television has taught children about 'Ninja Turtles,' but they have no idea what real turtles are. TV is a shocking case of child neglect."

Psychologist Daniel Anderson, after exhaustively examining the research about television's impact on the mental development of children, concludes: "Although there are questions about the degree, there's no question that television promotes violent behavior. Kids do absorb messages from television shows, but that doesn't make them good judges of the messages they're absorbing. Right now, they're showing kids a lot of violent behavior and that's reflected in kids' attitudes and outlooks."[9] A teacher told us: "I really believe that TV-watching stimulates aggressive behavior and decreases the ability of children to play together without some form of fighting."

Inga Sonesson, a sociologist at Sweden's University of Lund, monitored the behavior and television-viewing tastes of two hundred children over a ten-year period. "We found," she wrote, "a clear and unmistakable statitical correlation between excessive television and video viewing on the one hand and the development of antisocial behavior and emotional problems on the other." Sonesson reported that six-year-olds who watched less than two hours of television daily were far less likely than those who watched more to develop learning difficulties or emotional problems. As to those who logged more television time, she noted: "Teachers reported that these were the children who were more aggressive, more anxious, and had greater problems maintaining concentration."[10]

Television's impact on children depends, in large measure, on whether parents control the dial. Most programs simply are not meant for little children, yet, in many homes, the television is on all day long. According to a Harvard University study, 70 percent of today's parents feel that children are watching too much television. Although 40 percent of parents believe that such viewing has a negative effect on their kids, pediatricians at the University of California found that barely 15 percent of parents with children between the ages of three and eight actually guide their children in selecting programs (table 11). Two-thirds do not frequently discuss program content with their children, and 68 percent often use television to "entertain."[11]

Table 11.—Parental Involvement in children's television viewing

	Percent
Parent who guide their children's selection of programs	15
Parents who frequently discuss programs with their children	38
Parent who use TV as children's entertainment	68

Source.—Howard Taras et al., "Children's Television-Viewing Habits and the Family Environment," American Journal of Diseases of Children, vol. 144 no. 3 (March 1990): 359.

Occasionally, parents do set rules; some have even banned television altogether. A national campaign called "TV Busters," launched by a teacher in Plymouth, Minnesota, asks students to stop watching television for twenty days—except for news and educational programs—and to keep a record of what they do instead. The results are fascinating. When the television is turned off children spend more time "riding bicycles," "playing soccer," or "raking leaves with their fathers." Others read. To date, 37,000 children in 154 schools in 39 states have become "TV Busters." This project has been endorsed by Minnesota Governor Arne Carlson, who last year proclaimed one week in October "TV Buster Week." Why not try this in every state?

With selective viewing, television can contribute richly to school readiness. But for this to happen parents must be well informed and must guide the viewing habits of their children just as they control decisions about eating and sleeping. Peggy Charren, founder of Action for Children's Television, has been an articulate, effective voice for parent involvement. "PBS has made preschool programming a focus of their efforts," she said, "but outreach programs for audience development have not been funded. Parents and caregivers have to know about the new programs and turn them on for their children. Parents need to know about the videos that are made just for kids."[12] Charren suggests that libraries and Head Start programs provide information about children's programming.

Clearly, more and better guidance is required. We recommended, therefore, that a Ready-to-Learn Television Guide be published, at least monthly, listing programs on both commercial and cable channels of value to preschoolers. Recently, Public Broadcasting Service and forty-three cable companies joined to publish a monthly television guide for junior and senior high school students. The magazine, Cable in the Classroom, which lists programs by topic, is available to schools without charge. Let's expand this idea and create a guide for preschoolers.

ABC publishes the "ABC Learning Alliance," which is designed to "make television a true partner in learning."[13] Targeted to teachers, librarians, parents, and students, the planner describes new television programs of special interest to young people and their families. Suggested grade levels and content areas are listed, along with ideas for using television in the classroom. ABC also offers a viewer's guide for its successful "Afterschool Special," a series that deals with contemporary issues. The guide includes questions for group discussion plus a list of relevant books on the topic recommended by the American Library Association. Likewise, other commercial stations as well as PBS have prepared viewer guides to special programs. These publications, designed for teachers and parents of older students, suggest the kind of guide that's needed for preschoolers.

Parental guidance is imperative, but better children's programming is needed, too. The television industry simply must acknowledge the powerful impact television has on children and accept its responsibility to its youngest audience. Tricia McLeod Robin, president of the National Council for Families and Television, says "parents are desperate for help and television should not just be a partner in the ready-for-school campaign; it should be the leader."

Will this be the decade when television's early promise as a "saving radiance" for children is finally fulfilled?

The Federal Communications Act of 1934 sought to ensure that the airwaves would serve the best interests of all people, including children.[14] But since then, only a few truly creative steps have been taken on the commercial networks. For years, "Ding Dong School" and "Captain Kangaroo" greeted millions of little children, who heard good conversation, learned exciting lessons about life, and were enthralled that someone was talking directly to them. Sadly, these "ready-to-learn" programs fell victim to a "bottom line" mentality. Profits were placed ahead of children. It is inexcusable that, today, no commercial network airs a single regularly-scheduled educational program for children.

PBS, on the other hand, has been more attentive to young viewers. For over a quarter of a century, "Sesame Street" has led the way. Joan Ganz Cooney, who started this remarkable program in 1968, said that the aim of "Sesame Street" was "to promote the intellectual and cultural growth of preschoolers."[15] Featuring Jim Henson's Kermit the Frog, Big Bird, the Cookie Monster, and a host of creative personalities both real and imagined, "Sesame Street" is today viewed by millions of children in more than 80 countries. This historic, pioneering effort has contributed dramatically to school readiness, and, as a splendid program, enhances learning, especially of the basic skills.

"Mister Rogers' Neighborhood" also illustrates television's "promise fulfilled." Children who spend time with Mister Rogers develop feelings of self-worth, better understand their world, learn essential skills and stretch their imaginations. They're more likely to help another child.[16] A recent study at day-care centers in Ohio found that "Mister Rogers' Neighborhood" helps children become more cooperative, self-confident, and creative. Viewers, they found, are less aggressive than nonviewers and make greater gains in verbal skills. Teachers also noted that children become better conversationalists after viewing Mister Rogers.[17]

More good news: The Corporation for Public Broadcasting recently announced funding for a new thirty-minute preschool series, "The Puzzle Factory," which will teach socialization and life skills. Slated to air by 1993, "The Puzzle Factory" will feature multicultural puppets at work in a make-believe puzzle workshop, whose stories will encourage children to make choices, take risks, and experiment.[18] Celebrity guest stars, animal mascots, and a variety of other characters will appear. According to executive producer Cecily Truett: "This is a people show, and these are 'human being' lessons. The essence of this program is that people are individuals. Each of us is unique."[19]

"Reading Rainbow," another PBS program, introduces young television viewers to a book, presenting the story in rich detail. Several years ago, "Ramona," a series based on the stories of award-winning children's author Beverly Cleary, won rave reviews and a huge following. "Shining Time Station," another award-winner, featured former Beatle Ringo Starr as a train conductor. Action for Children's Television describes the show as "basic life lessons gently taught in an enchanted setting." "Long Ago and Far Away," a series featuring children's literature from foreign countries, included shows based on The Pied Piper of Hameline, The Wind in the Willows, and Russian folktales. The response was tremendous: teachers deluged WGBH in Boston with requests for its teacher's guide.

"Barney and Friends," a new program for preschoolers scheduled for spring of 1992, features a big purple dinosaur who has adventures with his young friends in a day-care playground and classroom. Two Dallas mothers on extended maternity leave created "Barney" when they found it impossible to find good programs for their own kids. Shari Lewis's "The Lamb Chop Play-Along" is also scheduled to premiere soon. The show is designed to encourage young children to sing, count, rhyme, and hop along with Shari and Lamb Chop.

PBS surely has been a pacesetter in children's programming. Still, commercial networks, which profoundly influence the lives of so many children, also have a role to play in helping America achieve its education goal. We recommend, therefore, that each of the major commercial broadcast networks—CBS, NBC, ABC, and Fox—offer, at an appropriate time, at least one hour of educational programming every week. Is it too much to ask each network to devote just sixty minutes of quality television every week to children?

The Children's Television Act, landmark legislation passed by Congress in 1990, signals hope. As a condition of license renewal, the new law directs stations to provide programming specifically designed to serve children, limits the amount of advertising time, establishes procedures for public accountability, and relies heavily on citizens to monitor local stations to assure compliance. Action for Children's Television has prepared a video—"It's the Law!"—to encourage just such community involvement. PBS commentator Bill Moyers declared: "If the Children's Television Act does not make a difference, we will have lost perhaps the last opportunity to save children from mindless mass communications. * * *"

A National Endowment for Children's Educational Television also has been created. We urge that Congress increase appropriations to the endowment to $20 million to fund high-quality programs, especially for preschoolers. Further, manufacturers of children's products—such as toys, cereals, and fast foods—should devote at least some of their profits to educational television. Recently, the Ronald McDonald Family Theater presented "The Wish That Changed Christmas," based on Rumer Godden's The Story of Holly and Ivy. Host Ronald McDonald made live appearances during breaks to reinforce story ideas and to encourage families to discover books at their local libraries. Linda Kravitz, assistant vice-president for marketing at McDonald's, says: "With literacy in America becoming an increasingly important issue, we believe that encouraging kids to read more is an appropriate role for McDonald's." This illustrates precisely what we propose.

The new Act also limits commercials in children's programs to ten and a half minutes each hour on weekends, and twelve minutes weekdays. Cutting commercial time may reduce the bad, but fail to advance the good. While older children show less interest in commercials, three- and four-year-olds often show an increase in attention.[20] And what do they see? According to one observer, "A child watching television programs for children sees ads for sugared cereals, candy, snack foods, and sugared drinks in an unceasing barrage and learns nothing of the essentials for a balanced diet."[21] Peggy Charren explains the dilemma best: "* * * it seems abundantly clear that almost everyone in the television business is still trying to figure out how to benefit from children instead of how to benefit children."[22]

While focusing on the length of commercials, let's also consider content. Specifically, every sixty-minute segment of children's programming on commercial networks should include at least one Ready-to-Learn message addressing the physical, social, or educational needs of children. Why not have colorful segments on nutrition, exercise, and exciting books? Why not illustrate highlights from history, interesting scientific facts, or lessons on social confidence and getting along with others? Why not feature a kindergarten teacher describing a child's first day at school?

Commercial networks have occasionally made such a commitment. From 1973 to 1985, for example, ABC aired "School House Rock," innovative mini-programs presented during the Saturday morning cartoon lineup.[23] Through music, rhyme, and animation, children learned about grammar, math, the human body, and American history in five-minute segments called "America Rock," "Multiplication Rock," "Grammar Rock," and "Science Rock." Millions of viewers, now young adults, still remember the "Conjunction-Junction" song, and the history lessons taught by an animated Thomas Jefferson.

Today, NBC airs "The More You Know," public service messages aimed at parents and children. In ten- and thirty-second spots, celebrities promote learning, parental involvement, teacher appreciation, and discourage students from substance abuse.[24] Children's Action Network and the American Academy of Pediatrics recently prepared "commercials" aimed at parents. They feature Robin Williams and Whoopi Goldberg, who urge parents to have their children immunized. Possibilities for ready-to-learn messages like these are almost limitless.

Cable television, a powerful, fast-growing part of the industry, also offers great possibilities for the education of young children. We have cable channels devoted exclusively to sports and weather, sex, rock music, health, and around-the-clock news. Why not have one cable channel devoted solely to preschool children—at least one place on the TV dial parents could turn to with confidence, one reliable source of enriching programming all day long? Further, with a Ready-to-Learn channel, day-care directors and preschool teachers could incorporate TV programming into their daily schedules.

Cable channels do occasionally focus on young children. The Disney Channel, for example, features "Under the Umbrella Tree," which teaches preschoolers to use the telephone and doorbell, share with their friends, and help others. "You and Me, Kid" deals with parent-child relationships, and such classics as "Winnie the Pooh," "Babar," and "Pinocchio" make up Disney's preschool line-up. Nickelodeon offers a two-hour block to preschool programs each day, from 10:00 a.m. to noon. "Eureeka's Castle" includes puppets, comedy, music, and adventure. "Sharon, Lois & Bram's Elephant Show" takes its little viewers on adventure trips accompanied by an elephant. "Fred Penner's Place" uses stories, songs, and games to entertain and educate. On the Discovery Channel, children travel to distant places and learn about animals and their habitats. The Learning Channel program "Castles" uses animation and live action. The colorful photography and clear narration capture young viewers.

The Lifetime channel recently began airing "Your Baby and Child with Penelope Leach," which explores developmental changes in children from birth to preschool. Last fall, the Family Channel presented a one-hour special called "Discovering the First Year of Life," and features "American Baby" and "Healthy Kids" on alternate weekday afternoons. Lifetime also features pediatrician T. Berry Brazelton in "What Every Baby Knows" and "An American Family Album," that focus on such issues as discipline, fears, working moms, preparing for a baby, and the child's transition to preschool. "Families need value systems they can believe in," says Brazelton. "This series will give us a chance to identify value systems in different groups around the country so that parents will have some choices."

Locally produced shows also can be enriching. WCVB in Boston has created "Captain Bob," a grandfatherly man who teaches children to draw and appreciate the environment. "Jabberwocky" uses actors and puppets to entertain and educate three- to six-year-olds each week. "A Likely Story," the newest of WCVB's productions, follows a librarian and her bookmobile on adventures through "The Magic Book," encouraging four- to eight-year-olds to read. WRLK in Columbia, South Carolina, another exceptional station, produced "The Playhouse," a six-part series that emphasizes self-esteem, and "Let's Play Like," a series devoted to imagination. The pilot program recently won a "Parents' Choice" award.

Most encouraging, perhaps, is the way technology itself is changing, offering new power to parents and new learning possibilities to children. Satellites, fiber optics, and laser disks will also be tomorrow's teachers, and videocassettes are already providing learning possibilities for preschoolers. With videocassettes, parents can stop the show for discussion and repeat segments. Excellent titles for children exist and new ones are regularly being added. Bowker's Complete Video Directory 1990 devoted an entire volume to educational videos, many for preschoolers. Further, most libraries have video collections and the American Library Association publishes a brochure entitled, "Choosing the Best in Children's Video." We suggest that every library create a special ready-to-learn video section, so parents can easily identify appropriate titles.

With a dash of optimism, we can see the nineties as a decade when television's promise to our children finally is fulfilled. What is needed now, we believe, is a more coherent policy established not just by government but by concerned citizens and committed leaders in the industry itself. Specifically, we recommended that a National Ready-to-Learn Television Conference be convened. The proposed forum should identify issues vital to children's programming and develop strategies to improve its quality. The promise is to enrich the lives of all children, to give them an exciting new window to the world, with worlds and sounds and pictures that dramatically enhance their school readiness. Newton Minow recently said: "A new generation now has the chance to put the vision back into television, to travel from the wasteland to the promised land, and to make television a saving radiance in the sky."[25] We could not agree more.

FOOTNOTES

[1] E.B. White, "One Man's Meat," Harper's Magazine, vol. 177 (1938), 553.

[2] If nineteen million preschools watch roughly two hours a day times 365 days a year, they watch 14 billion hours of television a year; see Robert M. Liebert and Joyce N. Sprafkin, The Early Window, 3rd ed. (Elmsford, NY: Pergamon Press, 1988), 5.

[3] Genevieve Clapp, Child Study Research: Current Perspectives and Applications (Lexington, MA: Lexington Books, 1988), 71–72.

[4] Bianca Bradbury, "Is Television Mama's Friend or Foe?" Good Housekeeping, November 1950, 58.

[5] Personal communication; see also Edward Palmer, Television and America's Children: A Crisis of Neglect (New York: Oxford University Press, 1988).

[6] "Content Analysis of Children's Television Advertisements," The Center for Science in the Public Interest (Washington, DC; May 1991), reports that over 200 commercials for high-sugar and high-fat junk food appear each Saturday morning.

[7] Diane Radecki, "Cartoon Report," The National Coalition on Television Violence (Champaign, IL; April 1991).

[8] Newton N. Minow, "How Vast the Wasteland Now?", speech, Columbia University, New York, 9 May 1991 (New York; Gannett Foundation Media Center, 1991), 13.

[9] Daniel R. Anderson testified before the U.S. Senate in the April 12, 1989 hearings on "Education, Competitiveness, and Children's Television"; also, he has written with Patricia A. Collins, "The Impact of Children's Education: Television's Influence on Cognitive Development," U.S. Department of Education, April 1988.

[10] Inga Sonession, Förskolebarn och TV [Elementary School children and television], (Stockholm: Esselte Studium, 1979), 206-208.

[11] Howard Taras et al., "Children's Television-Viewing Habits and the Family Environment," American Journal of Diseases of Children, vol. 144, no. 3, March 1990, 357-359.

[12] Personal communication, Peggy Charren, December 1991.

[13] "ABC Learning Alliance: Back-To-School Planner" (New York: ABC Community Relations, CIStems, Inc., 1991).

[14] Liebert and Sprafkin, The Early Window (New York; Pergamon Press, 1988), 41.

[15] Ibid., 219.

[16] Ibid., 232.

[17] Extending "The Neighborhood," to Child Care, Public Broadcasting Foundation of Northwest Ohio, Toledo, 1991, 102.

[18] CPB Report, 18 November 1991, vol. 10, no. 23 (Washington, DC; Corporation for Public Broadcasting).

[19] John Wilner, "Preschool Series to Teach Life Skills," Current: The Public Telecommunications Newspaper, 18 November 1991, 7.

[20] Liebert and Sprafkin, The Early Window, 166.

[21] Ibid., 12.

[22] Peggy Charren, ACT: The First 20 Years, 1988, Action for Children's Television, 1.

[23] Personal communication, Capital Cities/ABC., Public Relations, network programming department, November 1991.

[24] Personal communication, Marcy Dolan, NBC, December 1991.

[25] Minow, "How Vast the Wasteland Now?"

TESTIMONY OF CAROLYN DORRELL, ECPDN PROJECT DIRECTOR

Mr. Chairman, members of the Committee, thank you for the leadership you bring to this important issue and the attention you focus on our Nation's young children, as well as on those individuals who are dedicated to their care and education. It is indeed welcomed. The legislation you propose is carefully drafted to provide dissemination and programming and I commend your efforts.

Reports by the National Governors' Association, the National Commission on Children, as well as the Children's Defense Fund, unanimously affirm new evidence that successful solutions in educational, as well as, social and economic problems must focus on what happens to the young children and their families.

Solutions must include the care givers and the teachers of young children in the myriad arrangements of child care, from family child care homes to Head Start facilities. The extent of their knowledge in early childhood education will determine the quality of the services they provide.

What are the available resources for both the care providers and parents—resources which give valuable information on the sometimes simple but powerful messages adults send children?

We are here today to discuss one resource that is available—telecommunications. Over 10 years ago, the State of South Carolina looked to the resources of South Carolina Educational Television to help provide urgently needed training in child development, early childhood education, and parenting skills. SC ETV purchased televisions and VCR's, videotaped interviews and presentations, and placed them in child care centers across our State. These tapes are viewed on site by staff and parents, providing the only child care training in many areas. SC ETV also produced for-broadcast programs which were both for teachers and parents, giving them vital information on the care and education of children.

The use of video as a training resource has the benefits of showing the viewer important skills and behaviors which are vital to implementing effective educational settings for young children. Parents and providers gain skills and confidence after seeing positive interactions.

The use of these programs has grown beyond South Carolina through distribution and sponsorship by the National Association for the Education of Young Children. Last year over 11,000 videotapes were distributed nationally on topics such as discipline, curriculum, growth, and development. Users included public and private providers, colleges and universities, and the American Red Cross, who used the programs for cost-effective training at the local level.

With this proven experience, SC ETV was successful in securing funding through a demonstration grant from the U.S. Department of Health and Human Services to take advantage of another step in available technology—satellite delivered, interactive telecommunications. The goal of this project, the Early Childhood Professional Development Network [ECPDN], which is modeled after the successful SERC/Star Schools program, is to deliver training to Head Start teaching teams in rural isolated areas who serve American Indians, Alaskan Eskimos, and instream migrants. The training seminars, which are delivered live, incorporate approved curriculum and practices in exemplary Head Start classrooms. There are also interviews with experts, permitting viewers to interact via telephone. The training program consists of 120 contact hours, with a combination of video seminars and audio discussion sessions. The total program meets the training requirements for a Child Development Associate [CDA] credential that will be required for Head Start teachers. Teachers in these isolated areas would not have access to this critical training without ECPDN.

Through live, interactive technology, Head Start can reach the estimated 10,000 staff who require training each year. ECPDN will enhance local training rather than substitute it.

SERC has proven that telecommunications can be an effective tool in reaching students that otherwise would not have access to specialized courses in math, science, and foreign language. Through South Carolina's ECPDN, we can do the same for child care providers.

South Carolina is implementing ECPDN by using existing satellite receive dishes, some are part of the Star Schools grants—others are located at colleges and universities, public television stations, other local government sites, and Indian colleges. However, even a home satellite dish could be used, allowing smaller groups of families and caregivers to participate.

Using the best and most sophisticated resources that our Nation possesses underscores its value and effectiveness. A few examples of the people taking this training are—three Head Start teachers in Hooper Bay, Alaska, an isolated fishing village on the Bering Sea, three Head Start teachers in a rural area of Mississippi, and teachers at an Indian Pueblo in New Mexico. They can have high-quality training delivered right to their neighborhoods. They will surely feel what they are doing is very important.

While others are examining and expanding more appropriate ways of using television directly with young children, South Carolina's

ECPDN is focusing on the use of interactive telecommunications to deliver the best teachers, educational curriculum, and resources to those who need it the most—child care providers. We're reaching them in Alaskan villages, Native American areas, migrant camps, and rural areas across this Nation. With a small investment, we can extend this training to parents and others who care for children in their homes and community centers.

The goal of Ready to Learn for our children requires not only more direct services to children, but a substantial commitment to a telecommunications infrastructure that is already in place. School readiness for our children is one of the most important investments our Nation can make. Early learning is the template for a successful school experience and educational technologies is our Nation's best chance to provide this experience to as many children as possible.

Mr. Chairman, I thank you for your leadership in addressing this issue with your legislation. I am pleased to take any questions you may have.●

Mr. PELL. Mr. Chairman, at the outset of today's hearing, I would like to commend you for your outstanding leadership and initiative in the area of early childhood education. I am pleased to be a cosponsor of this important and potentially far-reaching legislation. What we do in the first years of a child's life has profound and lasting effects on his or her development.

I am sure we would all agree the family is every child's first and most important educator. In this role, television, though cursed by some, has enormous potential to be a positive educational resource. Before the average child steps through a schoolhouse door, he or she has spent over 4,000 hours in front of the television set. Sadly, for most children this time has not been used productively, but in fact, has been detrimental to their cognitive development. With just cause, parents often look at television as an adversary rather than as an aide in the education process.

We do know, however, of valuable programs such as "Sesame Street" and "Mister Rogers' Neighborhood" which have had a positive influence on countless numbers of children. This type of programming has become increasingly rare, though, because of the bottom-line profit demands of most commercial networks. Worse still, this trend seems to be occurring at precisely the time that the need for such programming is growing. Over one-third of all children do not come to school ready to learn, and according to elementary school teachers, the situation is not improving.

The legislation we are introducing today seeks to support the development and distribution of high quality, interactive educational programming. It is a concrete and cost-effective effort aimed at achieving our Nation's first education goal—that all children will begin school ready to learn. I am afraid if we are not successful in reaching this first goal, it will be that much more difficult to reach the others.

Again, I commend the chairman for bringing forth this important legislation. It should be the subject of continued discussion and receive due analysis and consideration. I look forward to working with the chairman on this in the future.

Mr. WELLSTONE. Mr. Chairman, I would first like to welcome the panel of witnesses today. They have all worked hard in their own way toward ensuring that children are as prepared as possible when they enter school. In addition, I would like to commend you, Mr. Chairman, for all your efforts in fighting to better prepare children to enter school.

Earlier this year I worked hard to make sure the Corporation for Public Broadcasting received necessary funding for its fine programming. Unlike any other television station, PBS provides invaluable commercial-free educational programming for children and adults alike. Chairman KENNEDY's proposal to enable the Secretary of Education, in conjunction with public television stations, to distribute educational video programs on a satellite channel will indeed enhance public broadcasting programming.

Television is one of the most powerful communication tools we have—it should be used to pursue higher goals than just entertainment and commercial purposes. I cannot think of a better use for television than as a teacher. With the large amount of television that children watch these days, television could prove to be one of a child's most influential teachers next to his or her parents.

Most American households own a television thus it reaches most families and children without distinguishing between rich or poor or black or white. As inequity among schools and school districts becomes wider and wider, television has the potential to help equalize kids and their educational opportunities.

I must say, however, the use of television and videos certainly should not be the only way in which we help better prepare our children to enter school, but is a powerful option and is one way to start addressing this essential need that the government has ignored for too long.

One of the major problems our educational system faces is the fact that children go to school unprepared to learn. As Congress addresses essential, and long overdue, improvements to our educational system, one of the first and foremost problems to address should be preparing our children to enter school ready and eager to learn. If children begin school with basic educational tools they are much more likely to succeed in school, and, therefore, contribute positively to our economy and lead healthy and productive lives.

Mr. INOUYE. I want to thank the distinguished chairman and ranking member of this committee for inviting me to testify here today. The subject of this hearing, the use of television for education, is a subject that I have been deeply involved in for many years, as chairman of the Communications Subcommittee, as a parent and as a citizen concerned about the future of our children and this great Nation.

Educating this Nation's children is one of our highest priorities. It is personally of great concern to me. Our children are our future and our future is in grave danger. Twenty-three million Americans are illiterate and another 30 million are semi-literate, lacking skills beyond the eighth grade level. This number increases by approximately 1.6 million annually. One out of every eight 17-year-olds is illiterate. Twenty percent of all American workers are illiterate. Illiteracy costs approximately $240 billion annually in lost productivity, crime, accidents, employee errors, training programs, welfare assistance and remedial education programs.

The most effective way to address this problem is to start with our children. Our children are this Nation's most valuable resource, and we need to pay special attention to their needs. Child by child, we build this Nation, and we need to ensure that they are equipped to meet this enormous responsibility.

Children, especially young children, watch television a great deal. You are all familiar with the startling statistic that by the time a child graduates from high school, he or she will have spent more time in front of the television set than in the classroom. American children spend anywhere from 11 to 28 hours a week watching television in their homes. By the time most children reach the age of 18, it is estimated that they will have watched between 15,000 and 20,000 hours of television, while they will have spent less than 13,000 hours in school. Television is thus the child's window to the world. To some reasonable extent, it should not only entertain, but also inform and educate.

At the same time that our children are watching more television, we place an extraordinary load upon the shoulders of our teachers. At one time teachers were highly respected members of the community; unfortunately that is no longer true. Teachers used to be well paid, but they are no longer, especially in comparison to the job we ask them to do. And, today we want them to be, in addition to a teacher, a baby-sitter, a substitute parent, a disciplinarian and much more.

We must invest in our future by devoting more resources to reach youngsters in their prime learning ages. There is an abundance of evidence that technology can be very effective in supplementing children's education both at home and in school. Bridging the separation between student and teacher through distance learning makes the potential for education limited only by one's imagination.

Public television is one example of how our Federal support can be used to promote the use of television for education. For 30 years, public TV stations have provided their local schools and State educational institutions with technical expertise and quality programs to supplement classroom instruction. Local stations and PBS are harnessing the power of television to improve educational opportunity across the country. Public television reaches over 29 million students in nearly 70,000 schools, grades K through 12, and 1.8 million teachers use public television's educational services. Annually, 1,500 instructional programs, including math and science, are distributed via satellite and many more are distributed by local stations.

Hawaii public television serves as an example of what public broadcasters are doing to serve their communities. Hawaii public television operates the Hawaii Interactive Television Service [HITS], a four-channel, closed circuit, statewide television system used for educational purposes, training, and management conferences. The University of Hawaii offers 60 hours of telecourses and the Hawaii Department of Education offers 35 hours of educational programming on HITS. The HITS system is also used to provide child care training for the Sesame Street preschool project, which is designed to increase the impact of Sesame Street's educational and social messages. HITS is also used by senior citizens to communicate with each other on the other islands.

Public television is not the only provider of educational television programming. In fact, virtually every State has one or more programs using a television, cable, computers, and/or telephones systems to supplement and expand the educational offerings available to students and residents.

The Communications Subcommittee of the Committee on Commerce, Science, and Transportation, held a hearing on the use of telecommunications technology and education last week. There was general agreement that while the use of telecommunications technologies in education is increasing in schools, universities, and homes, there remains a great deal to be done before we reach the goal of using technology to its fullest educational possibilities. There is a need for more programming, equipment, and teacher training.

The legislation authored by the chairman contains provisions to address each of those issues and therefore represents an important step in our efforts to expand the use of television as a teacher. I support the goals of this legislation and hope that we can build on this next Congress to develop a comprehensive plan to more effectively use our limited Federal resources to promote the use of television and other telecommunications technologies for education. In closing, I want to commend the chairman for his initiative and look forward to working with him to achieve our common goals.•

• Mr. COCHRAN. Mr. President, today, I am pleased to join the distinguished Senator from Massachusetts [Mr. KENNEDY] in introducing the Ready to Learn Television Act.

It is alarming that more than 37 percent of 9-year-olds in the United States "lack basic reading skills," according to the most recent Reading Report Card from the National Assessment of Educational Progress.

If we are to make sure that all students meet the six national education goals by the year 2000, we have to start as early as possible in a child's life to fill their natural curiosity and motivation to learn with quality learning experiences.

Today, television is in many instances the most powerful teacher a young child has. In busy households with both parents working, in single parent homes, and crowded daycare facilities, with underskilled providers, television fills a gap created by today's lifestyles.

Public television programs like "Sesame Street" and "Reading Rainbow" have offered young children quality educational programming for over 25 years. But it is time to do more in this area. By taking advantage of the significant number of hours of television most children watch every day, we have a wonderful opportunity to build a foundation for future learning. I believe it is appropriate for the Department of Education to take a more active role in supporting the development of educational television materials.

This bill establishes a partnership between the U.S. Department of Education and the Corporation for Public Broadcasting to develop criteria for educational television programming targeted to the preschool audience, which will then be used as guidelines for the solicitation and selection of projects to be funded. This strategy draws on the strong commitment of Secretary Alexander to support early childhood education and the Corporation for Public Broadcasting's years of expertise in providing young children with quality educational television.

In rural States, like Mississippi, educational television has traditionally helped to offer students opportunities to learn that would not otherwise be available. In fact, Mississippi ETV currently offers six educational networks, providing more than 65 hours of educational programming each day for students, teachers, individuals, and families. On average, Mississippi's elementary and secondary schools offer 7 hours of various course instruction every school day. This bill will expand the educational programming available to preschool children.

Another strong component of this bill is that it will offer parents, teachers, libraries, and daycare providers with specially designed supporting materials to enhance the value of the television programming. The bill authorizes $50 million for the development and dissemination of quality preschool educational programs for public television. It is my hope that this Federal investment will encourage and leverage greater corporate and other private support for more good television for the youth of America.

I urge Senators to support this bill.•

• Mr. WELLSTONE. Mr. President, I am pleased to join the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, and other members of his committee, in introducing the Ready to Learn Television Act of 1992.

Earlier this year I worked hard to make sure the Corporation for Public Broadcasting received necessary funding for its fine programming. Unlike any other television station, the Public Broadcasting System, funded through the Corporation for Public Broadcasting, provides invaluable commercial-free educational programming for children and adults alike. The Ready to Learn Television Act of 1992 would enable the Secretary of Education, in conjunction with public television stations, to distribute educational video programs on an educational satellite channel and will indeed enhance public broadcasting programming.

Television is one of the most powerful communication tools we have—it should be used to pursue higher goals than just entertainment and commercial profits. I cannot think of a better use for television than as a teacher. With the large amount of television that children watch these days, television could prove to be one of a child's most influential teachers next to his or her parents.

Most American households own a television, and thus it reaches most families and children without distinguishing between rich or poor or black or white. As inequity among schools and school districts becomes wider and wider, television has the potential to help equalize kids and their educational opportunities.

I must say, however, the use of television and videos certainly should not be the only way in which we help better prepare our children to enter school, but it is a powerful option and is one way to start addressing this issue that the Government has ignored for too long.

One of the major problems our educational system faces is the fact that children go to school unprepared to learn. As Congress addresses essential, and long overdue, improvements to our educational system, one of the first and foremost goals to address should be making sure our children are fully prepared to enter school ready and eager to learn. If children begin school with basic educational tools, they are much more likely to succeed in school, and, therefore, contribute productively to our economy and lead healthy and productive lives. After all, the children of today will determine the health and vitality of our country tomorrow.●

ADDITIONAL COSPONSORS

S. 264

At the request of Mr. McCAIN, his name was withdrawn as a cosponsor of S. 264, a bill to authorize a grant to the National Writing Project.

S. 316

At the request of Mr. CRAIG, the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of S. 316, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 564

At the request of Mr. McCAIN, his name was withdrawn as a cosponsor of S. 564, a bill to direct the Secretary of Defense to undertake the development and testing of systems designed to defend the United States and its Armed Forces from ballistic missiles.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 878

At the request of Mr. McCAIN, his name was withdrawn as a cosponsor of S. 878, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 922

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 922, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by electric utilities to customers to subsidize the cost of energy conservation services and measures.

S. 1012

At the request of Mr. McCAIN, his name was withdrawn as a cosponsor of S. 1012, a bill to authorize appropriations for the activities and programs of the National Highway Traffic Safety Administration, and for other purposes.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1361, a bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships.

S. 1451

At the request of Mr. BIDEN, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1673

At the request of Mr. McCAIN, his name was withdrawn as a cosponsor of S. 1673, a bill to improve the Federal justices and judges survivors' annuities program, and for other purposes.

S. 1838

At the request of Mr. PRYOR, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1838, a bill to amend title XVIII of the Social Security Act to provide for a limitation on use of claim sampling to deny claims or recover overpayments under Medicare.

S. 1931

At the request of Mr. STEVENS, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 1993

At the request of Mr. CONRAD, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Montana [Mr. BAUCUS], the Senator from Washington [Mr. GORTON], the Senator from Washington [Mr. ADAMS], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 1993, a bill to improve monitoring of the domestic uses made of certain foreign grain after importation, and for other purposes.

S. 1996

At the request of Mr. ROCKEFELLER, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1996, a bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the Medicare Program, and for other purposes.

S. 2062

At the request of Mr. KENNEDY, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2062, a bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes.

S. 2116

At the request of Mr. RIEGLE, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2116, a bill to improve the health of children by increasing access to childhood immunizations, and for other purposes.

S. 2134

At the request of Mr. McCAIN, his name was withdrawn as a cosponsor of S. 2134, a bill to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the U.S. Olympic Committee.

S. 2304

At the request of Mr. SIMON, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2304, a bill to amend title 18, United States Code, to permanently prohibit the possession of firearms by persons who have been convicted of a violent felony, and for other purposes.

S. 2340

At the request of Mr. McCAIN, his name was withdrawn as a cosponsor of S. 2340, a bill to require the transfer of certain closed military installations to the Department of Justice, to transfer certain aliens to such installations, to provide grants to States to assist States and units of local government in resolving certain difficulties relating to the incarceration of certain aliens, and for other purposes.

S. 2385

At the request of Mr. RIEGLE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2385, a bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of U.S. permanent resident aliens, and for other purposes.

S. 2387

At the request of Mr. LEAHY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2387, a bill to make appropriations to begin a phasein toward full funding of the special supplemental food program for women, infants, and children [WIC] and of Head Start programs, to expand the Job Corps Program, and for other purposes.

S. 2484

At the request of Mr. KASTEN, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2549

At the request of Mr. MOYNIHAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2549, a bill to establish the Hudson River Artists National Historical Park in the State of New York, and for other purposes.

S. 2644

At the request of Mrs. KASSEBAUM, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2644, a bill to require the Secretary of Transportation to require passenger and freight trains to install and use certain lights for purposes of safety.

S. 2661

At the request of Mr. MOYNIHAN, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2661, a bill to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.

S. 2667

At the request of Mr. HEFLIN, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 2667, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use.

S. 2696

At the request of Mr. DOMENICI, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2696, a bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes.

S. 2697

At the request of Mr. MCCAIN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2697, a bill to provide transitional protections and benefits for Reserves whose status in the reserve components of the Armed Forces is adversely affected by certain reductions in the force structure of the Armed Forces, and for other purposes.

S. 2841

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2841, a bill to provide for the minting of coins to commemorate the World University Games.

S. 2889

At the request of Mr. BOREN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2889, a bill to repeal section 5505 of title 38, United States Code.

S. 2914

At the request of Mr. DURENBERGER, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2918

At the request of Mr. GRAHAM, the names of the Senator from Colorado [Mr. WIRTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. RIEGLE], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 2918, a bill to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people.

S. 2955

At the request of Mr. WARNER, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Idaho [Mr. CRAIG], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2955, a bill to amend the Internal Revenue Code of 1986 to improve disclosure requirements for tax-exempt organizations.

S. 3003

At the request of Mr. KERRY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 3003, a bill to amend the Marine Mammal Protection Act of 1972 to authorize the Secretary of State to enter into international agreements to establish a global moratorium to prohibit harvesting of tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals, and for other purposes.

S. 3009

At the request of Mr. DOMENICI, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3091

At the request of Mr. GORTON, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 3091, a bill to amend the Public Health Service Act to establish a program to fund maternity home expenses and improve programs for the collection and disclosure of adoption information, and for other purposes.

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week".

SENATE JOINT RESOLUTION 278

At the request of Mr. DODD, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week".

SENATE JOINT RESOLUTION 315

At the request of Mr. SEYMOUR, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Joint Resolution 315, a joint resolution to designate September 16, 1992, as "National Occupational Therapy Day".

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the names of the Senator from Ohio [Mr. GLENN] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

AMENDMENT NO. 2841

At the request of Mr. D'AMATO his name was added as a cosponsor of amendment No. 2841 proposed to H.R. 5518, a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

At the request of Mr. GRAHAM the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of amendment No. 2841 proposed to H.R. 5518, supra.

SENATE CONCURRENT RESOLUTION 133—CONCERNING ISRAEL'S RECENT ELECTIONS AND THE UPCOMING VISIT OF PRIME MINISTER RABIN TO THE UNITED STATES

Mr. AKAKA (for himself, Mr. MITCHELL, and Mr. DOLE) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 133

Whereas the Israeli public recently went to the polls to participate in the only fully free and democratic elections in the Middle East;

Whereas, Israel has faced serious outside threats to her existence since 1948 and has never compromised the democratic system upon which the nation was founded;

Whereas, as a result of democratic elections, a peaceful and orderly transfer of power has taken place;

Whereas the elections and debate leading to them demonstrated to the world the openness and vibrancy of Israeli democracy;

Whereas Israel is actively committed to the absorption of close to one million refugees over the next several years;

Whereas Israel remains committed and engaged in the Mideast peace process and is seeking an acceleration of that process; and

Whereas Israeli Prime Minister Yitzhak Rabin will soon visit the United States: Now, therefore, be it

Resolved by the Senate, (the House of Representatives concurring), That the Congress—

(1) congratulates the citizens of Israel on concluding fair and open democratic elections;

(2) welcomes Prime Minister Rabin to the United States and applauds his statements and actions encouraging active participation in the search for peace; and

(3) calls upon all parties in the region to actively and seriously engage in the peace process.

Mr. AKAKA. Mr. President, today I am joined by the distinguished majority leader, Mr. MITCHELL, and Republican leader, Mr. DOLE, in introducing a resolution recognizing the recent democratic elections in Israel and the visit of Israeli Prime Minister Yitzhak Rabin to the United States next week.

We are all well aware that Israel recently concluded free, open, and democratic elections and that the result was a peaceful and orderly transfer of power. We have come to expect, perhaps even take for granted, full democracy in Israel just as we expect orderly and democratic elections in the United States. We must remember, however, that democracy is the exception, not the rule, in the Middle East.

The elections in Israel serve as a reminder how very unique democracy is in that troubled region. We recall what happened in Algeria following their elections; we remain frustrated by the absence of democracy in Kuwait, a country so many of our men and women in the Armed Forces fought to liberate; and we should not forget the comments of King Fahd of Saudi Arabia earlier this spring, when he stated, "The democratic system prevalent in the world is not appropriate for us in this region."

When the people of Israel went to the polls in June to choose a new government, they continued a tradition, engaged in a solemn civic responsibility, which has endured without interruption since the creation of the State of Israel in 1948. Regardless of the numerous wars aimed at her destruction, despite a constant string of terrorist attacks, and in the face of an ongoing economic boycott intended to suffocate our sole democratic ally in the region, Israel has never considered suspending the democratic process.

Mr. President, Prime Minister Rabin will visit this country in a few days. Since his election, he has shown Israel's continued commitment to the peace process by encouraging an acceleration of discussions and working for a quick agreement on an autonomy plan. In office less than a month, he has shown clearly and forcefully through his actions that he and the Israeli people are committed to peace and will work tirelessly to achieve a just and secure peace.

I am certain that all of my colleagues join Senator MITCHELL, Senator DOLE, and myself in congratulating the citizens of Israel on concluding fair and open democratic elections, in welcoming Prime Minister Rabin to the United States, and in encouraging all parties in the Middle East to actively and seriously engage in the peace process.

AMENDMENTS SUBMITTED

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1993

BUMPERS AMENDMENT NO. 2881

Mr. BUMPERS proposed an amendment to the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, as follows:

Strike all after the first word and insert the following:

"SEC. . (a) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any mining or mill site claim located under the general mining laws.

"(b) Notwithstanding any other provision of law, any legal action, including an action for declaratory judgment, to challenge the legality of this provision as it applies to patent applications which were filed with the Department of the Interior on or before the date of enactment of this Act and for which all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 390) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36 and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by such date, shall be brought within 6 months after the date of enactment of this Act in the United States Claims Court, which shall have exclusive original jurisdiction over any such action. In addition to the current authority of such Court, United States Claims Court is authorized for the purposes of this section only, to provide declaratory relief. Such action shall be barred unless a complaint is filed within the time specified.

"(c) If the moratorium as it applies to patent applications referenced in subsection (b) of this section is held to be invalid by a final nonappealable decision, subsection (a) shall not apply to such patent applications and such applications shall be processed in accordance with the laws in existence on the day prior to the date of enactment of this Act.".

REID (AND OTHERS) AMENDMENT NO. 2882

Mr. REID (for himself, Mr. DOMENICI, Mr. DECONCINI, and Mr. BRYAN) proposed an amendment to amendment No. 2881 proposed by Mr. BUMPERS to the bill H.R. 5503, supra, as follows:

In lieu of the language proposed to be inserted insert the following:

( ) MINING PROVISIONS.—

(1) PAYMENT OF FAIR MARKET VALUE.—Any person receiving a patent pursuant to the Act commonly known as the Mining Law of 1872 (sections 2319 et seq. of the Revised Statutes) shall pay fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land.

(2) LIMITATIONS.—

(A) IN GENERAL.—Any land patented after the date of enactment of this Act pursuant to section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42) shall be used only for mineral exploration, mineral development, mining, mineral processing, benefication, or uses reasonably incident to those uses, except with the approval of the Secretary.

(B) REVERSION.—Title to the land referred to in subparagraph (A) shall revert to the United States if the land is used for any unauthorized or unapproved use, and the unauthorized or unapproved use is not discounted within a time period specified by the Secretary (but not earlier than 90 days after the Secretary gives the owner of the land written notice to discontinue the unapproved use) and if the Secretary elects to enforce the reversionary interest. The reversion shall be made effective if the Secretary files a declaration of reversion in the office of the Bureau of Land Management designated by the Secretary of the Interior, and records the declaration in the county recorder's office of the county in which the lands subject to a reversion under this paragraph are situated. Not later than 30 days after recording the declaration of reversion, the Secretary shall serve on the owner of the reverted lands a recorded copy of the declaration, in the same manner that a summons and complaint are served under the Federal Rules of Civil Procedure under title 28, United States Code.

(C) RENOUNCING OF REVERSIONARY INTEREST.—If the Secretary finds that it would not be in the best interest of the United States to exercise the reversion for any reason, including any case in which—

(i) any portion of the lands included in the patent have been used for solid waste disposal or for any other purpose that may result in the disposal, placement, or release of a hazardous substance: or

(ii) continuance of the reverter serves no public purpose,

the Secretary may renounce the reversionary interest of the United States in the lands included in the patent by filing and recording a declaration of renouncement in the same offices in which a declaration of reverter would have been filed.

(D) REQUIREMENT FOR PATENTS.—Each patent to land acquired under section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42) shall state that the patent is subject to the provisions of this subsection.

(3) RECLAMATION.—Any land patented after the date of enactment of this Act shall be subject to the mining reclamation law of the State in which the land is located. In the absence of applicable State mining reclamation law, the land shall be subject to Federal mining reclamation law. Each patent shall recite that as a condition of the patent, the land patented shall be reclaimed to comply with Federal law or to comply with the mining reclamation law of the State in which the land is located.

(4) DEFINITIONS.—As used in this subsection:

(A) HAZARDOUS SUBSTANCE.—The term "hazardous substance" has the same meaning provided the term under section 101(14) of the Comprehensive Response, Compensation and Liability Act (42 U.S.C. 9601 (14)).

(B) SECRETARY.—Unless specifically designated otherwise, the term "Secretary" means—

(i) The Secretary of the Interior with respect to patents issued for lands over which the Bureau of Land Management has jurisdiction; or

(ii) the Secretary of Agriculture with respect to patents issued for lands within national forests.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

DANFORTH AMENDMENT NO. 2883

Mr. DANFORTH proposed an amendment to amendment No. 2841 proposed by Mr. GRAHAM to the bill (H.R. 5518) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . EMPLOYEE CONSIDERATIONS IN AIRLINE ROUTE TRANSFERS.

(*a*) IN GENERAL.—Section 401(h) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1371(h)) is amended by adding at the end the following new paragraph:

"(4) Employee Considerations.—

"(A) Consideration of Employment Opportunities.—In reviewing a proposed transfer of a foreign air transportation route certificate, the Secretary of Transportation shall give consideration to assuring employment opportunities for employees of the air carrier transferring the certificate. Those opportunities shall not discriminate on the basis of race, color, religion, national origin, sex, age, or disability. Consideration shall also be given to provisions for seniority integration as provided for in the seniority integration protections specified in Tiger International Seaboard Acquisition Case, CAB Docket 33712.

"(B) Employment Plan.—Upon application for approval of such a certificate transfer, the acquiring carrier shall submit its plan for employment that projects the number of employees of the transferring carrier who will be hired by the acquiring carrier, the crafts and national origin of those employees, and a timetable for implementation of that employment plan.

"(C) Mandatory Findings.—The Secretary may approve the transfer of a foreign air transportation route certificate only if the Secretary makes specific findings that—

"(i) the employment plan submitted under subparagraph (B) does not discriminate on the basis of race, color, religion, national origin, sex, age, or disability;

"(ii) reasonable attempts have been made by the acquiring carrier to provide employment opportunities for employees of the transferring carrier; and

"(iii) the employment plan would not adversely affect the viability of the transaction.

"(D) Evaluation.—Within 1 year after the approval by the Secretary of a transfer of a foreign air transportation route certificate, the Secretary shall conduct an evaluation of the implementation of the employment plan submitted under subparagraph (B).".

(b) DUTY TO HIRE PROTECTED EMPLOYEES.—Section 43(d)(1) of the Airline Deregulation Act of 1978 is amended by striking "10" and inserting in lieu thereof "17".

(c) Effective Date.—The amendments made by subsection (a) shall apply with respect to any application filed after the date of enactment. With respect to any application filed after July 26, 1991, but before the date of enactment, the acquiring carrier must submit the employment plan specified in paragraph (B) and that the provisions in paragraph (D) apply.

BOND (AND OTHERS) AMENDMENT NO. 2884

Mr. BOND (for himself, Mr. NICKLES, Mr. GRAHAM, Mr. WARNER, Mr. LEVIN, Mr. McCAIN, Mr. HEFLIN, Mr. COATS, Mr. KASTEN, Mr. BOREN, Mr. SEYMOUR, and Mr. McCONNELL) proposed an amendment to the bill H.R. 5518, supra, as follows:

On page 19, line 17, strike "$18,006,250,000" and insert "$16,899,250,000".

On page 57, strike line 21 through line 25.

On page 58, strike line 1 through "distribute" on line 4.

On page 60, line 20, after "Code;" insert "obligations under section 157 of title 23, United States Code;"

CRANSTON AMENDMENT NO. 2885

Mr. LAUTENBERG (for Mr. CRANSTON) proposed an amendment to the bill H.R. 5518, supra, as follows:

AMENDMENT NO. 2885

At the appropriate place in the bill, insert the following new section:

SEC. . LOS ANGELES METRO RAIL.

(a) REPLACEMENT OF GRANTEES.—Effective on the date of enactment of this Act, the Los Angeles County Transportation Commission (hereinafter in this section referred to as the "Commission") shall replace the Southern California Rapid Transit District (hereinafter in this section referred to as the "SCRTD") as the federal grantee for the Minimum Operable Segment One (hereinafter in this section referred to as "MOS–1") of the Los Angeles Metro Rail project. The MOS–1 Full Funding Grant Agreement dated August 27, 1986, and all other MOS–1 grant documents required under federal law, shall be deemed to be amended, effective on the date of enactment of this Act, to designate the Commission as MOS–1 grantee; and all rights and obligations as MOS–1 grantee shall be transferred to the Commission on that date in accordance with the Memorandum of Understanding for the Transfer of MOS–1 Project, entered into by and between the Commission and SCRTD on June 24, 1992. No action by the Secretary of Transportation or other administrative action shall be required in order for the Commission to proceed to act in its capacity as MOS–1 grantee pursuant to this section.

(b) OBLIGATIONS OF COMMISSION.—Upon becoming the MOS–1 grantee under this section, the Commission shall be responsible for completion of the MOS–1 Project in accordance with the terms and conditions of the MOS–1 Full Funding Grant Agreement and other applicable grant agreements and in compliance with all applicable federal laws and regulations. In addition, the Commission shall remain responsible for all MOS–1 obligations arising prior to the date of enactment of this Act, in accordance with the Commission's Guarantee of Performance to the United States dated April 3, 1990.

(c) AVAILABILITY OF FUNDS.—All funds previously obligated to SCRTD under section 3 and section 9 of the Federal Transit Act, and unexpended on the date of enactment of this Act, shall be transferred to the Commission on such date and shall be available to the Commission to pay costs associated with the completion of MOS–1. Notwithstanding any other provision of law, neither the replacement of grantees under subsection (a) nor the transfer of funds under this subsection shall be considered to be a change in project scope or otherwise result in the deobligation of prior year funds, and all funds transferred to the Commission under this subsection shall be charged to the original appropriation and shall remain available until expended.

(d) DEFINITION.—For purposes of this section:

(1) the terms "Los Angeles County Transportation Commission" and "Commission" shall include any successor to the Commission that is established by or purant to State law; and

(2) the terms "Southern California Rapid Transit District" and "SCRTD" shall include any successor to SCRTD that is established by or pursuant to State law.

(e) Of the funds made available for the Los Angeles Metro Rail project, 45.45 per centum shall be for Minimum Operable Segment–2 and 54.55 per centum shall be for Minimum Operable Segment–3 of Metro Rail. Of the amounts for Minimum Operable Segment–3, an equal one-third share shall be provided for each of the three lines described in section 3034(i)(3) of the Intermodal Surface Transportation Efficiency Act.

At the appropriate place in the bill, insert the following new section:

SEC. . SAN JOSE-GILROY-HOLLISTER COMMUTER RAIL PROJECT.

Section 3035(h) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking in the second sentence all after "one-time" and inserting in lieu thereof the following: "purchase of additional trackage rights and/or purchase of right-of-way between the existing termini in San Jose and Gilroy, California. In connection with the purchase of such additional trackage rights and/or purchase of right-of-way, the Secretary shall either approve a finding of no significant impact, or approve a final environmental impact statement and issue a record of decision no later than July 1, 1994. No later than August 1, 1994, the Secretary shall negotiate and sign a grant agreement with the Santa Clara County Transit District which includes the funds made available under this section for the purchase of additional trackage rights and/or purchase of right-of-way.

SPECIAL RULE FOR TMAS THAT DO NOT CONTAIN AN URBANIZED AREA OVER 200,000 POPULATION

On page 109, line 15, insert "(1)" before "Funds".

On page 109, line 21, insert the following:

"(2) Section 9(m)(1) of the Federal Transit Act (49 U.S.C. App. 1607(a)(m)(1)) is amended striking in the first sentence "urbanized areas of 200,000 or more population" and inserting the following: "transportation management areas established under section 8(i)".

METZENBAUM AMENDMENT NO. 2886

Mr. LAUTENBERG (for Mr. METZENBAUM) proposed an amendment to the bill H.R. 5518, supra, as follows:

On page 12, line 23, strike the period and insert in lieu thereof: ": *Provided further*, That of the funds available under this heading, $500,000 shall be made available to the Cleveland Clinic Foundation to initiate a definitive study to evaluate the human factors related to and/or inherent in pilot error. This study will be carried out in conjunction with Ohio State University.".

LAUTENBERG AMENDMENT NO. 2887

Mr. LAUTENBERG proposed an amendment to the bill H.R. 5518, supra, as follows:

At the appropriate place at the end of title III, insert:

"SEC. . Notwithstanding any other provision of law, funds made available under this Act and previous Acts for the intermodal fuel cell bus facility program under the Federal Transit Administration's Discretionary Grants account shall be transferred to that agency's Transit Planning and Research account and be administered in accordance with section 6 of the Federal Transit Act, as amended."

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

SIMPSON (AND LIEBERMAN) AMENDMENT NO. 2888

Mr. BYRD (for Mr. SIMPSON, for himself, and Mr. LIEBERMAN) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 18, line 24, increase the amount by $600,000.

LIEBERMAN AMENDMENT NO. 2889

Mr. BYRD (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 20, line 21, increase the amount by $115,000.

INOUYE AMENDMENT NO. 2890

Mr. BYRD (for Mr. INOUYE) proposed an amendment to the bill H.R. 5503, supra, as follows:

Insert where appropriate:

SEC. . REMOVAL OF RESTRICTIONS.

(a) PURPOSE.—The United States hereby relinquishes any rights arising from restrictions described in subsection (c), subject to the condition that the real property be used for public purposes in perpetuity, as specified in subsection (b).

(b) IN GENERAL.—The Secretary of the Interior shall execute such instruments as are necessary to remove the restrictions described in subsection (c) that are applicable to the use of the real property consisting of approximately 55.31 acres located in Halawa, Ewa, Island of Oahu, State of Hawaii, being the major portion of the former Halawa-Aiea Veterans Housing Area, and currently known as Aloha Stadium. The removal of the restrictions shall be on condition that the real property be used for public purposes in perpetuity.

(c) RESTRICTIONS.—The restrictions referred to in subsection (b) are those reservations, exceptions, restrictions, conditions, and covenants requiring that the real property referred to in subsection (a) be used in perpetuity for a public park and public recreation area and for these purposes only, as set forth in the quitclaim deed from the United States of America dated June 30, 1967.

RUDMAN AMENDMENT NO. 2891

Mr. BYRD (for Mr. RUDMAN) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 95, line 16, decrease the number by $750,000.

On page 57, line 12, increase the number by $1,350,000 and on line 13, increase the number by $1,350,000.

BYRD (AND NICKLES) AMENDMENT NO. 2892

Mr. BYRD (for himself and Mr. NICKLES) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 73, line 22, linetype "on" and insert "or".

NICKLES AMENDMENT NO. 2893

Mr. BYRD (for Mr. NICKLES) proposed an amendment to the bill H.R. 5503, supra, as follows:

(a) Notwithstanding the provisions of section 101(c) of Public Law 98-473, Act of October 12, 1984, 98 Stat. 1849 [25 U.S.C. 123c], the Secretary of the Interior is authorized in his discretion, to pay lawful debts incurred on behalf of the Kiowa Comanche Apache Intertribal Land Use Committee in connection with the construction and operation of the Native Sun Water Park in Lawton, Oklahoma, from funds in the United States Treasury held jointly for the Kiowa, Comanche and Apache Tribes. Provided however that such payments may not exceed an aggregate of $1.3 million.

(b) Prior to exercising the discretion described in section (a), the Secretary or his designee shall provide written notice to the Kiowa Comanche Apache Intertribal Land Use Committee describing with specificity the nature and amount of the obligation(s) the Secretary intends to pay. In the event the Kiowa Comanche Apache Intertribal Land Use Committee does not provide documentation to the Secretary within 30 days justifying why the amount(s) should not be paid, the Secretary may exercise his discretion to pay the obligation(s).

BYRD (AND NICKLES) AMENDMENT NO. 2894

Mr. BYRD (for himself and Mr. NICKLES) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 46, line 17, reduce the number by $2,271,000.

GRAHAM AMENDMENT NOS. 2895 THROUGH 2899

Mr. GRAHAM proposed five amendments to the bill H.R. 5503, supra, as follows:

AMENDMENT NO. 2895

On page 46, line 17, strike out "$65,904,000" and insert in lieu thereof "$63,633,000".

AMENDMENT NO. 2896

On page 46, line 23, strike out "$31,468,000" and insert in lieu thereof "$31,128,000".

AMENDMENT NO. 2897

On page 47, line 4, strike out "$23,958,000" and insert in lieu thereof "$23,741,000".

AMENDMENT NO. 2898

On page 47, line 8, strike out "$2,260,000" and insert in lieu thereof "$2,215,000".

AMENDMENT NO. 2899

On page 47, line 13, strike out "$2,480,000" and insert in lieu thereof "$2,190,000".

STEVENS AMENDMENT NO. 2900

Mr. STEVENS proposed an amendment to the bill H.R. 5503, supra, as follows:

At page 11, line 24, strike all after "quality standards:" through page 14, line 2 and insert in lieu thereof, the following: "*Provided further*, That notwithstanding any other provision of law, that effective upon the date of enactment of this Act, for fiscal year 1993, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the mining law of 1872 (30 U.S.C. 28-28e), and the filing requirements contained in section 314 (a) and (c) of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1744 (a) and (c)), any claimant not meeting the conditions in the following sentence shall pay a claim rental fee of $100 to the Secretary of the Interior or his designee on or before August 31, 1993 in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the year ending on September 1, 1993: *Provided further*, That for fiscal year 1993, any claimant that is producing from 10 or fewer claims in an integrated operating area that has less than 10 acres of unreclaimed surface disturbance from mining activity may elect to either pay a claim rental fee as described in the preceding sentence for fiscal year 1993 or in lieu thereof do assessment work required by the mining law of 1872 (30 U.S.C. 28-28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744 (a) and (c)) on such 10 or fewer claims in such integrated operating area and certify such to the Secretary by August 31, 1993: *Provided further*, That for each fiscal year after fiscal year 1993, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the mining law of 1872 (30 U.S.C. 28-28e) and filing requirements of FLPMA (43 U.S.C. 1744 (a) and (c)), claimants not meeting the conditions in the following sentence shall pay an annual claim rental fee of $100 per claim to the Secretary of the Interior or his designee on or before August 31 of the preceding fiscal year in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the following year beginning on September 1: *Provided further*, That in each fiscal year after fiscal year 1993, claimants that are producing from 10 or fewer claims in an integrated operating area that has less than 10 acres of unreclaimed surface disturbance from mining activity may elect to either pay a claim rental fee as described in the preceding sentence for the year or in lieu thereof do assessment work required by the mining law of 1872 (30 U.S.C. 28-28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744 (a) and (c)) on such 10 or fewer claims in such integrated operating area and certify such to the Secretary by August 31 of the preceding fiscal year: *Provided further*, That for every unpatented mining claim, mill or tunnel site located after the date of enactment of this Act, the locator shall pay $100 to the Secretary of the Interior of his designee at the time the location notice is recorded with the Bureau of Land Management to hold such claim for the year in which the location was made: *Provided further*, That the coownership provisions of the mining law of 1872 (30 U.S.C. 28–28e) will remain in effect except that the annual claim rental fee, where applicable, shall replace applicable assessment requirements and expenditures: *Provided further*, That failure to make the annual payment of the claim rental fee as required by this Act shall conclusively constitute an abandonment of the unpatented mining claim, mill or tunnel site by the claimant: *Provided further*, That nothing in this Act shall change or modify the requirements of Section 314(b) of FLPMA (43 U.S.C. 1744(b)) or the requirements of section 314(c) of FLPMA (43 U.S.C. 1744(c)) related to filings required by Section 314(b), which shall remain in effect: *Provided further*, That the Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this section as soon as practicable after the effective date of this Act.".

FOWLER AMENDMENTS NOS. 2901 AND 2902

Mr. FOWLER proposed two amendments to the bill H.R. 5503, supra, as follows:

AMENDMENT NO. 2901

Beginning on page 54, line 25, strike "$1,306,077,000" and all that follows through "*Provided*," on page 55, line 5, and insert the following: "$1,271,077,000, to remain available for obligation until September 30, 1994, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 4601–6a(i)): *Provided*, That not more than $58,216,000 shall be made available for timber sales preparation, except that the amount of funds made available for timber sales preparation for national forests identified as having negative receipts from timber sales in the annual report of the Timber Sale Program for fiscal year 1992 shall be reduced by $35,000,000, with the reduction to be made on a pro-rata basis based on the quantity of timber sold from each forest in fiscal year 1992: *Provided further*, That the Secretary of Agriculture may not sell at less than cost a quantity of timber located on National Forest System lands that is more than 75 percent of the volume of the timber sold at less than cost for fiscal year 1992: *Provided further*,".

AMENDMENT NO. 2902

At the appropriate place, insert the following new section:

SEC. . FOREST SERVICE DECISIONMAKING AND APPEALS REFORM.

(a) FOREST SERVICE NOTICE AND COMMENT PROCESS.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary of Agriculture (referred to in this section as the "Secretary"), acting through the Chief of the Forest Service, shall establish a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.).

(2) NOTICE.—Prior to proposing an action referred to in paragraph (1), the Secretary shall give notice of the proposed action, and the availability of the action for public comment, by—

(A) promptly mailing relevant information about the proposed action to any person who, in writing, has requested it, and to persons who are known to have participated in the decisionmaking process; and

(B)(i) in the case of an action taken by the Chief of the Forest Service, publishing notice of the action in the Federal Register; or

(ii) in the case of any other action referred to in paragraph (1), publishing notice of the action in a newspaper of general circulation that has previously been identified in the Federal Register as the newspaper in which notice under this paragraph may be published.

(3) COMMENT.—The Secretary shall accept comments on the proposed action that are post-marked or filed within 30 days after publication of the notice in accordance with paragraph (2).

(4) ISSUANCE OF DECISION.—Not later than 21 days after the termination of the comment period in accordance with paragraph (3), the Secretary shall consider the comments received and—

(A) issue a decision on the proposed action (including a discussion of the comments); or

(B)(i) determine that a delay in issuing a decision on the proposed action is necessary because—

(I) an issue raised by a comment requires further environmental analysis; or

(II) the consideration of the comments cannot be completed within the 21 days; and

(ii) give written notice of the delay to all persons who submitted comments.

(b) FOREST SERVICE ADMINISTRATIVE APPEALS PROCESS.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary shall establish an administrative appeals process for the appeal of decisions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.). The process shall provide, at a minimum, one level of administrative review.

(2) TIME FOR APPEALS.—A person may seek review of an agency decision described in paragraph (1) by filing an appeal not later than 45 days after the date on which the decision is issued.

(3) AGENCY DECISION.—An appeal under paragraph (2) shall be decided not later than 45 days after the date on which the appeal is filed. If the Secretary fails to decide the appeal within the 45-day period, the decision on which the appeal is based shall be deemed to be final agency action for the purpose of chapter 7 of title 5, United States Code.

(4) AUTOMATIC STAY PENDING APPEAL.—An agency decision described in paragraph (1) shall be stayed beginning on the date the decision is issued and ending—

(A) if no appeal of the decision is filed, 45 days after that date; or

(B) if an appeal of the decision is filed, 30 days after the earlier of—

(i) the disposition by the reviewing office of all appeals of the decision; or

(ii) the end of the 45-day agency review period provided for in paragraph (3).

NOTICE OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Thursday, August 6, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 2833, the Crow Settlement Act; S. 2836, to promote economic development on Indian reservations by making loans to States to assist States in constructing roads on Indian reservations; and S. 3118, the Indian Business Opportunities Enhancement Act, to be followed immediately by a joint hearing with the House Committee on Interior and Insular Affairs on H.R. 5735 and S. 3125, to amend the Southern Arizona Water Rights Settlement Act of 1962.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Foreign Relations Committee be authorized to meet during the session of the Senate on Wednesday, August 5, at 8:30 a.m. to hold a hearing on the Cuban Democracy Act of 1992—S. 2918.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, August 5, 1992, at 10 a.m., for a hearing on "Ready to Learn: Television as Teacher."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Wednesday, August 5, 1992, at 9 a.m. in room 216 of the Hart Senate Office Building for hearings to continue the examination the Government's process of live-sighting investigations of POW/MIAs in Southeast Asia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, August 5, at 2 p.m. to hold confirmation hearings for ambassadorial nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Wednesday, August 5, at 10 a.m. for a markup on pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, August 5, 1992 at 10 a.m., to hold a hearing on the Hate Crime Statistics Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking Housing, and Urban Affairs be authorized to meet during the session of the Senate Wednesday, August 5, 1992, at 10 a.m. to conduct a hearing on the semiannual review of the Resolution Trust Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 5, 1992, at 2 p.m. to hold a hearing on S. 640, product liability.

The PRESIDING OFFICER. Without objection, it is so ordered.

YAVNEH ACADEMY'S 50TH ANNIVERSARY

• Mr. LAUTENBERG. Mr. President, I rise today in honor of Yavneh Academy which is celebrating its 50th anniversary this year. Yavneh Academy will be inaugurating this auspicious occasion with the dedication of the Sarah and Leon Broch Bet Midrash and the Hynda and Murray Feit Educational Center on September 13, 1992.

When it was founded in 1942, the Paterson Yavneh Yeshiva opened its doors to six children registered in a kindergarten class. It was the first Yeshiva day school established in northern New Jersey. Due to great leadership, dedication, and idealism, the academy experienced tremendous growth over the years. Today Yavneh Academy, located in Paramus, educates 750 students from prekindergarten through eighth grade.

Mr. President, the Yavneh Academy has a unique and positive approach to teaching children. Yavneh immerses its students in a religious environment; one that instills the value of Judaism and the importance of quality academic education. Half of the school day is comprised of Judaic studies. These classes are conducted in Hebrew and are designed to help students understand and analyze their religion's history, language, and beliefs.

Yavneh is extremely proud of its general studies program due to the high scores its students receive on standardized tests and high school qualifying entrance exams. Yavneh owes this accomplishment to its broad and thorough curriculum. Students are taught math, science, computer science, social studies, and language and communication skills.

Beyond academics, Yavneh Academy offers specialized programs designed to enrich the lives of its students. The Mitzvah Program encourages students to follow the teachings of the Torah and to perform good deeds. Yavneh students bring joy to senior citizen and nursing homes during the school's community outreach trips and provide the opportunity for all to share their knowledge. Other various activities are offered, including science fairs, the Holocaust program, sports, drama, music, a mathematics league, and participation in the annual salute to Israel parade.

Mr. President, I extend to Yevneh Academy faculty, students, and alumni my heartiest congratulations as they celebrate this significant milestone. May the academy continue to grow through outstanding, challenging courses tempered with religious studies in a Jewish climate.•

THE 150TH ANNIVERSARY OF PEOPLE'S BANK

• Mr. DODD. Mr. President, I rise to congratulate People's Bank on its 150th anniversary.

Throughout this period, People's Bank has played a leading role in supporting communities across the State of Connecticut. As our largest savings bank, People's has continually demonstrated an awareness of the needs of our communities, and it is constantly designing and implementing programs to satisfy those needs. By offering a broad range of credit services, while maintaining the flexibility to tailor its services, People's has for years successfully met the diverse credit needs of our communities.

As an entity concerned with its customers' abilities to get the most out of their resources, People's Bank has been an innovator and leader. Recognizing the importance of homeownership, People's Bank took the lead as master servicer and leading lender for the State treasurer's affordable residential mortgage plan [STAR], a successful program which offered potential home buyers advantages that were not traditionally available under conventional financing, including below-market interest rates, flexible underwriting guidelines, increased income-to-debt ratios and reduced closing costs.

When People's realized the troubles many Hispanics encountered in acquiring credit, it developed a bilingual secured-card program—Via Telemundo Credit Card Program—and aimed it at those who did not already have established credit and who, due to a lack of credit history, would not normally qualify for such credit.

More generally with respect to credit cards, People's has gone against the national trend and consistently offered cards with one of the lowest annual percentage rates [APR's] available anywhere in the country.

The list goes on and on. People's Bank can proudly say that it has actively participated in nearly every major State and Federal housing program in which it has had an opportunity to partake, a role that truly deserves to be lauded.

To its additional credit, through employee voluntarism and monetary donations, People's supports nonprofit community development projects statewide. Besides committing its own resources—people, services, and money—People's Bank makes substantial charitable donations to agencies throughout the State which are significantly involved in housing, education and children's issues.

For 150 years, People's Bank has dynamically responded to the credit needs of the State of Connecticut. As an innovator, leader, and pacesetter, it has instituted auspicious programs to aid both low-income families and senior citizens. People's has been, and continues to be, a major issuer of food stamps among local neighborhoods. People's also provides basic banking services with no fees for lower-income citizens on Connecticut income-maintenance programs.

Further, as a concerned member of our community, People's Bank responded to Connecticut's economic downturn by implementing a new customer credit counseling division to assist customers in budget management and restructuring debt.

Mr. President, I would like to thank People's Bank for its many years of community service and wish it a happy anniversary and many more.•

U.S. EXPORT PROMOTION POLICY AND PRESIDENTIAL LEADERSHIP

• Mr. ROCKEFELLER. Mr. President, 3 weeks ago, Fred Malek, the chairman of the President's reelection committee, appeared on the "McNeil-Lehrer News Hour" and pointed to the strength of U.S. exports as evidence of the President's leadership. It is ironic that Mr. Malek would want to cite export growth as synonymous with the President's leadership the same week the Department of Commerce reported that American exports dropped for the third consecutive month. It is even more ironic, if Mr. Malek wants to see U.S. exports as evidence of the President's leadership, that Business Week entitles its August 3 trade article "Exports Go Pffft." Maybe Mr. Malek is right after all. The fact is: Our recent export strength, like the President's leadership, is fading fast.

It is, of course, true that after the dollar began to weaken in 1986, our exports grew and the U.S. trade deficit receded from the record years of the 1980's. But our exports grew despite the lack of Presidential leadership, not because of it. The hard won success of American exporters is now in danger of being erased both because of the spread of our recession abroad and because of the administration's failure to articulate and implement a trade policy that both opens markets for U.S. exports and provides U.S. exporters with support to secure these markets.

Indeed, at every turn, the President's trade initiatives have failed to produce. The Uruguay round of trade negotiations drags on into its 7th year with no resolution in sight; the multilateral steel talks ended in failure while dumped and subsidized foreign steel threatens this key United States industry; the shipbuilding talks have been scuttled while that United States industry is disappearing; the Japanese have failed to live up to the semiconductor agreement; and the United States-Canada Free-Trade Agreement seems to have generated more trade conflict than cooperation. Only the NAFTA talks seem headed for a conclusion, but they have been on the verge of a breakthrough for months.

In addition to his market opening failures, the President has also failed to provide our exporters with the type and level of Government support for exports that is urgently needed. Currently, American companies must wade through a 16 agency bureaucratic swamp of conflicting advice, limited resources, complicated rules, and bureaucratic struggles before emerging—barely competitive—in the international arena. A recent GAO report highlights the ad hoc nature of our Government's export promotion activities and concludes that they lack organizational and funding cohesiveness.

Mr. President, I believe we need to develop an aggressive and coordinated trade promotion policy for the United States. To that end, last year I introduced legislation, S. 1721, that would take several steps to end the patchwork of export promotion agencies that creates so much confusion. I am pleased that it was possible for several of the most significant provisions I proposed to be included in S. 2864, the Banking Committee's bill to reauthorize the Export-Import Bank and to promote coordination of Federal trade promotion efforts.

That bill is an important step forward. It should come to that floor shortly and I hope Senators will support it at that time. If we pass it and the President signs it, it will help get our export performance back on track, which means we can retroactively make an honest man out of Mr. Malek.•

HATE CRIMES

• Mr. SIMON. Mr. President, I would like to call attention today to a report on hate crimes issued last month by the Chicago Commission on Human Relations. The report is entitled "When Worlds Collide: Culture Conflict and Reported Hate Crimes in Chicago." This report documents hate crimes in the Chicago metropolitan area for the 6 year period from 1986 to 1991, and offers interpretations of the statistics that will certainly prove useful in combating future incidents. The report documents an increase in hate crimes, but the analysis suggests two factors contributing to the increase: Hate crimes being committed at an accelerated pace and hate crimes being reported at an accelerated pace. Obviously one factor represents a trend that we need to reverse, but the other trend is one that we must work to support; increased reporting of hate crimes is a major step toward eradication of the problem.

The report includes other useful analyses of the statistics. For example, hate crimes are most likely to occur in areas where the population is not declining, but is concentrating African-Americans, Latinos, or Asians. The principal fears triggering ethnic antagonism in these changing neighborhoods are fears that increased crime and decreased property values will be the result of an increasing percentage of minorities in a neighborhood. These prevalent, though absurd apprehensions may be shared by many potential hate crime offenders, and thus we must work to counter this type of dangerous myth. Identifying the fears that motivate hate crimes is integral to the construction of education or law enforcement programs to combat future hate crimes.

The Chicago Human Rights Commission Report provides the Chicago metropolitan area with precious information about the causes and incidence of hate crimes, but we need national information and must continue to work on the collection and dissemination of that type of data on a national scale. Spotting the patterns, understanding the causes, and predicting the hotbeds of hatred are valuable observations that may save an individual's dignity, property, or life in the future. I commend the commission's efforts and ask that a summary of their report be printed in the RECORD.

The summary follows:

COMMISSION ON HUMAN RELATIONS RELEASES SPECIAL ANALYSIS OF HATE CRIMES IN CHICAGO, JULY 8, 1992

Clarence N. Wood, Chair/Commissioner of the City of Chicago Commission on Human Relations, released today "When Worlds Collide: Culture Conflict and Reported Hate Crimes in Chicago", a special report which analyzes the causes and patterns of hostile, prejudicial interactions for the purpose of anticipating and addressing them before hate crimes occur in the future.

"I felt it necessary for the Commission to have an in-depth study done which analyzes hate crimes for a period of six years and provides information that enables the Commission to be a pro-active force and a professional agency," Wood stated.

The analysis in the report shows that the most volatile combination for producing hate crimes is a small amount of population change involving new racial and ethnic groups.

The key findings of the report include the following:

Reported hate crimes in Chicago primarily involve whites attacking non-whites, and non-whites attacking whites (a little less often) in areas where there is comparatively little decline in the neighborhood population, but where African-Americans, Latinos, and/or Asians are beginning to become concentrated.

Numerous studies point to crime and economic loss as primary fears that can trigger ethnic antagonism in changing neighborhoods. The economic tension is a fear that neighborhoods will go into decline as a result of racial change.

Racially-charged tensions about crime are most likely to occur when people believe there is little that can be done to combat a potentially growing crime problem in a community. There is a significant overlap between low homicide rates and high reported hate crime rates.

Hate crimes are most likely to occur in areas where the public assistance rate is low, but where the residents are afraid that racial/ethnic change will bring in large numbers of low-income households, leading to a chain of negative results for the community.

The pattern in hate crime reports between 1986–1991, seems to indicate that the activities surrounding the reorganization and rechartering of the Chicago Commission on Human Relations in 1990 probably caused a decline in awareness and advocacy surrounding the hate crime issue. Similarly, the rise in reported hate crimes since 1991 may be due to increasing awareness and effectiveness of the Commission's monitoring and advocacy role, and its effect on the reporting practices of victims and the police department.

The 1986–1991 citywide reported hate crime incidence rate is 4.9 reported hate crimes during the 1986–1991 period per 10,000 residents. Ten Chicago community areas had more than 11 reported hate crimes per 10,000 residents during this period. The ten community areas are: Chicago Lawn; Loop; Ashburn; Beverly; Montclare; Mount Greenwood; Gage Park; Armour Square; North Park; and Bridgeport.

"When Worlds Collide: Culture Conflict and Reported Hate Crimes in Chicago" was prepared by the Metro Chicago Information Center for the Commission.•

UKRAINIAN INDEPENDENCE

• Mr. LEVIN. Mr. President, on August 24, 1991, the Parliament of Ukraine declared Ukraine's independence and achieved the dream of generations. At long last, Ukraine was free, sovereign, and independent.

Later this month, on August 24, 1992, there will be an observance of the first anniversary of Ukrainian independence at the Ukrainian Cultural Center in Warren, MI, as there will be celebrations all across this country, throughout Ukraine, and indeed throughout the world wherever there are people who love Ukraine, and wherever there are people who love freedom.

As a new member of the international community of free and independent nations, Ukraine has made remarkable progress on its journey toward full adherence to democratic values and individual human rights. Successful acceptance of the new Ukrainian Constitution, with respect for democratic values, will be the foundation on which a prosperous and free Ukraine will fulfill its bountiful potential.

Through seven decades of Communist oppression, the Ukrainian people retained their culture, language, religion, identity, and pride. This testifies to the strength of the people of Ukraine, who have endured so much and at this time of commemoration have so much to celebrate.

Mr. President, I join the people of Michigan in commending the people of Ukraine on this, the first anniversary of their hard-fought and newly won independence.•

F/A-18E/F

• Mr. D'AMATO. Mr. President, our colleagues on the House Armed Services Committee [HASC] have received a severe drubbing at the hands of the Navy for suggesting that prototyping the F/A-18E/F would be prudent way of demonstrating the concept and assessing program risk. The HASC is understandably reluctant to rush development of the F/A-18E/F when it is painfully aware that, billions of dollars later, naval aviation has produced little more than a handful of tie tacks and several lawsuits in the last decade. That the chosen contractor has a similarly blighted development record cannot have had a calming effect.

For its part, the Navy has gone so far as to suggest that, "[i]n essence, the F/A-18C/D is the F/A-18E/F prototype." A bold suggestion when the F/A-18E/F boasts a new fuselage, wing, tail, inlets, engines, and landing gear. The more measured Navy explanation is that the F/A-18E/F is a major modification of an existing aircraft, and, as such, is considered low risk. The record of the Navy and McDonnell Douglas suggests, however, that modifying aircraft is easier said than done. Consider the T-45.

In November 1981, McDonnell Douglas, teamed with British Aerospace, Rolls-Royce, and Sperry, won the competition for the Navy undergraduate jet fighter training system. The winners proposed a navalised version of the British Aerospace Hawk, a two-seat trainer built for the Royal Air Force. The award of the full-scale development contract followed in October 1984. Risk was considered low. The modifications required to make the Hawk carrier compatible were not nearly as substantial as those proposed in the jump from an F/A-18C/D to "E/F."

First flight of the T-45 was 5 months late. Operational testing revealed that the T-45 could not meet Navy specifications for approach speed and stall and handling characteristics. Engine performance, though meeting specification, was judged inadequate. Initial operating capability [IOC], originally scheduled for September 1990, slid to June 1991 while startup of low rate initial production, slated for 1988, was only approved in 1991. Fixes, as the Navy admitted, took longer than anticipated. Today, IOC is scheduled for November 1992, 26 months late. The recent crash of one of the T-45 prototypes at Edwards AFB may slide IOC yet again. Overruns, though disputed, hover around $300 million.

Frankly, the T-45 may not be a fair comparison with the F/A-18E/F. The T-45 is a modification of an existing aircraft; the F/A-18E/F is a new aircraft. The string of Navy development failures: Navy advanced tactical fighter, advanced tactical support aircraft, P-7 and A-12, is daunting. There are no low-risk development programs. Prototyping, combined with the sensible caps and gates established by the Senate Armed Services Committee, will ensure that F/A-18E/F cost and performance goals will be met.•

UNANIMOUS-CONSENT AGREEMENT—H.R. 4312

Mr. MITCHELL. Mr. President, I ask unanimous consent that immediately following the disposition of the Interior appropriations bill, the Senate proceed to the consideration of calendar item No. 581, H.R. 4312, the bilingual voting rights bill and that the following amendments be the only amendments in order: an amendment by Senator SIMPSON regarding 5-year extension and 20,000 threshold; an amendment by Senator SIMPSON regarding a report in 5 years on effectiveness; an amendment by Senator SIMPSON regarding Federal funding cost to local jurisdictions; an amendment by Senator BROWN regarding the basis for determining whether citizens understand English.

I further ask unanimous consent that following the disposition of the debate on the bill and the above-mentioned amendments, the bill be advanced to third reading and final passage, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I just want to thank the majority leader for his accommodation of an early request of mine and his vitiating of the cloture proceeding. I always enjoy working with him and appreciate his willingness to accept things presented to him in an attitude of trust and respect. I appreciate that greatly.

Mr. MITCHELL. Mr. President, I thank my colleague. I want to state that the feelings expressed are reciprocal, and I appreciate the Senator's courtesy very much.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m. Thursday, August 6; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator HATFIELD recognized for up to 7 minutes and Senator RIEGLE for up to 5 minutes; that at 10 a.m., the Senate resume consideration of the Department of the Interior appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 10:34 p.m., recessed until Thursday, August 6, 1992, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate August 5, 1992:

DEPARTMENT OF STATE

ROLAND KARL KUCHEL, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HAITI.

EDWARD S. WALKER, JR., OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE THE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

EXTENSIONS OF REMARKS

SOME RECOLLECTIONS OF BILL BROOMFIELD

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. GILLMOR. Mr. Speaker, our colleague, Bill Broomfield, has decided to retire after 36 years in Congress. His decision was noted, I would imagine, not only in the Detroit suburbs, which he represents, and not only in many foreign capitals that he has visited as ranking Republican on the Foreign Affairs Committee, but also in northwest Ohio.

A friend of Bill's, Rev. Edward D. Auchard, writes once or twice a week for the Bryan (OH) Times, and recently devoted a column to Bill's retirement and their longstanding friendship.

I thought the article might interest some of Bill's colleagues and ask that it be printed in the Record.

[From the Bryan (OH) Times, July 10, 1992]

A Congressman Retires

(By Edward Auchard)

I first heard the news from Paul Harvey. An hour later it was confirmed by a short item in the Fort Wayne Journal-Gazette. William S. Broomfield, after 36 years in Congress, would not seek re-election to the House of Representatives from Michigan's 19th district.

Elma and I knew Bill and Jane Broomfield before he was elected to Congress. They have continued to be friends though we have seen each other only occasionally over the years.

Bill served a 10-year apprenticeship in state government before going to Washington; eight years in the Michigan House of Representatives and two years in the State Senate. In Washington, among other responsibilities, he served on the Foreign Affairs Committee of the House for 32 years. He is the ranking member of that committee today, and a member of sub-committees on arms control, international security and science. He was one of two Republicans in the House with the longest service.

Bill was not eliminated by redistricting. He represented a generally "safe" Republican district. He has not bounced even one check in 36 years.

At 70, Bill has earned the right to rest from the arduous demands of service to his district and his country. But Bill isn't retiring because he is weary; he is retiring because he is frustrated. "I can't tell you how upset I've been," Bill said, according to "Roll Call", the newspaper of Capitol Hill. "The frustration, the gridlock . . . and of course, the scandals, the anti-incumbency, the term-limitation movement. I certainly didn't want to be there for four or six more years, just shuffling around."

Men and women like Bill are the primary reason for not favoring mandatory term limits. A corrupt or incompetent office holder ought to be turned out after one term. On the other hand, people who have confidence in the character and competence of their representative ought to have the privilege of electing the man or woman they trust as long as they choose. Furthermore, limiting the terms of experienced elected representatives, will enhance the power of unelected bureaucrats.

Over the past three decades, Elma and I have been grateful for opportunities to travel. Bill Broomfield has always gladly placed us in touch with ambassadors or consuls. On our first trip to the Middle East in 1962 we were guests of three ambassadors: John Badeau in Cairo, Armin Meyers in Beirut and William Macomber in Amman. Our invitations were the result of Bill's initiative.

Bill Broomfield could convert $655,652 of his $800,000 political war chest to personal use according to ethic laws. Instead, he plans to create a non-profit foundation for educational and charitable enterprises.

Both Delbert Latta and Paul Gillmor have expressed their appreciation for their colleague.

I am grateful that Bill and Jane will continue to be our friends. Perhaps, now that we are both retired, we may be able to meet again. I hope, too, he will have continuing opportunities to share his wisdom with the public he has served so long.

Americans should be grateful for our Constitution. Yet no system operates without flaw or failure. Systems depend on persons—persons of compassion, intelligence, imagination and commitment. I am glad that among those who operate our system there are persons like Bill Broomfield.

REMARKS BY LINDA G. STUNTZ

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. OXLEY. Mr. Speaker, I am pleased to call my colleagues attention to the outstanding service rendered to our country by Deputy Secretary of Energy Linda G. Stuntz. Ms. Stuntz was recently sworn in as the second ranking official at the Department of Energy and I congratulate her on this latest achievement.

A native of my home State of Ohio, Ms. Stuntz has dedicated her professional life to something that is at the heart of every American's way of life, that being energy policy. During the more than 10 years she has spent working on energy regulatory and legislative matters, she developed an expertise that is second to none. That expertise proved to be invaluable as the national energy strategy was being developed and the subsequent legislation was being shepherded through the House and the Senate.

Ms. Stuntz understands the need for a balanced, comprehensive energy strategy, and continues to work hard to promote such a policy. Part of the balance is a recognition that sound energy policy includes sound economic policy. Evidence of her commitment to the development of sound energy policy and sound economic policy can be found in the following speech given by Ms. Stuntz to the Citizens for a Sound Economy:

Remarks by Linda G. Stuntz, Acting Deputy Secretary of Energy

Good morning and thank you to Citizens for a Sound Economy for bringing us together today. CSE members and staff have contributed greatly to the development and adoption of sound economic policies, including sound energy policy, and we at DOE are most appreciative of CSE's efforts. As much as you have done, however, I am here this morning to ask you to do more: more to educate people about what makes a sound economy; and more to inform people about how important a sound economy is to other values that we hold dear, including our health and the environment.

In a world where efforts to minimize the costs of environmental regulation are construed as selling out to the polluter; where our ability to understand and communicate risk has been far outstripped by our capability to detect minute quantities of man-generated materials in the world around us; and where elected public officials say in all earnestness that it is beneficial to adopt the most stringent standards in the world because this will be enable our manufacturers to compete, when and if other nations go along, the educational challenge that we face is as clear as it is daunting.

As has been pointed out recently by several commentators, we now live in a truly global economy where capital and jobs move quickly in response to opportunities and disincentives. The good news in this is that, thanks to the determined efforts of this Administration to reduce trade barriers and prevent the dollar from appreciating substantially against other world currencies, and thanks to the ingenuity and initiative of U.S. firms in fields ranging from computers to coal to gas turbines, we are now in the midst of an export boom.

Last year, our exports reached a record $422 billion. Indeed, during the past three years, exports have accounted for 70 percent of our economic growth. American exports of capital goods grew by nearly 40 percent during the past three years. Exports of consumer goods were up more than 50 percent during the same period. And the U.S. surplus in advanced technology products continues to grow, reaching $37 billion last year.

All these exports mean jobs. The Department of Commerce estimates that every one billion dollars in exports supports some 19,000 American jobs. Little wonder then, that the President has placed such importance on the successful negotiation of a NAFTA and the current GATT round.

But the bad news for us in this increasingly global economy is that the reaction to misguided policy is sure and swift. The Energy Information Administration estimates that over the past decade, we have lost more than 370,000 jobs in the oil and gas extraction industry. And this was before the recent round of announcements by Unocal and

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Amoco that they were cutting nearly 10,000 U.S. jobs by the end of next year. Now some of this loss of jobs can be attributed to a return to more sustainable levels of activity in the oil and gas patch following the frenzied days of 1981. However, the flight of oil industry capital overseas is a more recent phenomenon. It was not until 1990 that U.S. oil companies invested more abroad than they did here. Since that time, the trend away from investment in the United States has only accelerated.

It does not take a brilliant detective or a high-priced investment banker to see why. Congress has blocked the President's request for authority to explore and develop, in a carefully monitored fashion, a small portion of the Arctic National Wildlife Refuge, the last, best hope for a major oil field find in the United States. The House energy bill would place off limits large chunks of promising OCS areas, even where the energy produced would almost certainly be natural gas and even though it is far less risky, from an environmental standpoint, to develop our energy resources on the OCS than it is to rely on oil brought in on tankers.

All together, we now spend nearly $130 billion per year in this country on pollution controls. That's about 2 percent of our Gross Domestic Product (GDP). This is a commitment to environmental quality unmatched by any other nation—and it's expected to rise in the years to come. Indeed, under existing regulation, Americans will spend more than $1.2 trillion over the course of this decade to control pollution. That means my husband, our two children, and I pay roughly $1,850 per year for pollution control—so does every other family of four.

That's OK, as long as we get good value for our money, but it should be OK to demand that we do. We are talking about real money to be paid by real people. Government can print regulations . . . and it can print money . . . but only a sound economy can pay the bills. CSE needs to remind people of this.

President Bush understands this. This is why he is committed to regulatory reform. That is why he had the courage to stand up against a stampede to carbon dioxide targets and timetables. That is why he refused to sign on to a biodiversity treaty that appeared to invalidate patents for bioengineered products, an important and rapidly growing sector of our economy. And that is why the President has pushed for no net loss of real wetlands, not the blocking of all development of thousands upon thousands of acres of land that no reasonable person would consider "wet." In short, the President knows when to say "no." That's a sign of real leadership in my book.

He also knows when to say "yes." It was the President's leadership that broke a 14-year deadlock and resulted in the Clean Air Act Amendments of 1990. The emissions allowances trading provision for sulfur dioxide contained in that legislation is a real breakthrough in pollution control. It harnesses the power of the marketplace to improve the environment. We need to work together to incorporate similar innovation in the way we do business in this country and in other legislation. The June 15 issue of Fortune highlighted private sector efforts in this area, including the role being played by the President's Commission on Environmental Quality.

The President also led the world in accelerating the phase-out of CFCs, and he has pushed for a convention to protect the world's forests.

That brings us to the National Energy Strategy. At a time when almost no one else was even thinking about energy, the President directed Secretary Watkins to develop a comprehensive, balanced National Energy Strategy to fully address this country's energy, economic, environmental and national security needs—in an integrated and sensible way.

The NES was developed and announced as policy by the President in February, 1991. We are now well into the second year of implementing that Strategy, and we are, or should be, on the verge on enacting comprehensive, balanced energy legislation. At least that is what any civics textbook would tell you about legislation that passed the Senate by a vote of 92-4 in February and the House by 380-30 in May.

But nothing in this town is simple this year. We are back in the Senate again, facing filibusters again and extraneous, damaging amendments, trying to get the Senate to pass a bill at least as good as the one it passed in February so that we can get to conference and finish a good bill this year. The Senate has scheduled a cloture vote next Wednesday.

Assuming we get cloture, a very questionable assumption right now, we have a long conference before us involving—believe it or not—representatives from as many as 15 House Committees and a plethora of Senate Committees as well. If ever there was a case study in "how our laws should not be made," this has got to be it!

Of course, if we don't get the bill moving again, it's all moot. We would have to start all over again in some future Congress on things like PUHCA reform and nuclear licensing reform, which are very important, but which are hardly the object of public clamor.

This country runs on energy, whether it comes from fossil fuels, nuclear power, or renewable resources. We can either address it responsibly, as the President has proposed, or we and our children will pay the consequences, in lost jobs, lost opportunities and a less sound economy.

Thank you. I'll try to answer your questions.

A MODERATE? SORRY BUT AL GORE DOESN'T FIT THE MOLD

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. KYL. Mr. Speaker, during this season of party conventions and almost daily sound bites, it is useful to remind ourselves that the press coverage of these events is not always accurate. AL GORE'S new moderate image is a perfect example of the gap between what the press believes versus what the facts tell us. The column below, which appeared in the Phoenix Gazette on July 28, 1992, clearly and accurately examines GORE and his record. I commend it to my colleagues.

[From the Phoenix Gazette, July 28, 1992]

A MODERATE? SORRY, BUT AL GORE DOESN'T FIT THE MOLD

(By Marcia Sielaff)

As told by the media, Sen. Al Gore is a model centrist. But anyone who believes that the Democratic vice presidential candidate is a moderate on most issues just hasn't been paying attention.

There is little doubt that the media are enamored of the photogenic senator from Tennessee—Dan Quayle should be so lucky—and are happy to reinforce the Democratic line distancing Gore from the party's left wing. However, a close look at Gore's congressional record tells a somewhat different story.

Those looking for the much-touted "change" of political posture described at the Democratic National Convention will find that Gore has indeed shifted ideologic ground—but not in the direction described.

Various liberal and conservative lobby groups keep track of the voting records of members of Congress and rate them according to how well they align with their organizations' interests.

The Almanac of American Politics 1992 published by the National Journal provides those ratings for 1989 and 1990. I have updated that information, when possible, by adding 1992 rankings. These ratings indicate Gore's general political philosophy and how it has evolved in recent years. The record reveals a mostly consistent tilt to the left.

For example, in 1989 the liberal Americans for Democratic Action found that Gore cast votes to their liking only 55 percent of the time. Since then, he has improved considerably in their estimation, scoring 78 percent in 1990 and 75 percent in 1991.

Not surprisingly, the American Conservative Union rated Gore as hewing the conservative line only 19 percent of the time in 1989, a worse 9 percent in 1990 and a slightly improved 14 percent in 1991.

The liberal Committee on Political action (AFL-CIO) gives Gore a high 87 percent for being faithful to the interests of organized labor in 1989 and 1990—just a few points short of Tom Harkin—and an only slightly less enthusiastic 83 percent in 1991.

The business-oriented Chambers of Commerce of the United States saw Gore as sympathetic to business interests 60 percent of the time in 1989, but he dropped to 17 percent in 1990 and 20 percent in 1991.

The Competitive Enterprise Institute, which rates legislators based on dedication to the principles of free enterprise and limited government, gives Gore even worse grades. He received an 18 percent in 1989 and a 10 percent in 1990, tying him with Californian Alan Cranston as the most anti-market member of the Senate. CEI ratings for 1991 have not been released.

The *National Journal* also supplies its own relatively objective analysis of where members of Congress rank on the ideological spectrum by analyzing congressional roll call votes and classifying them as either economic, social or foreign policy related. The *Journal*'s rankings are consistent with the findings of the lobby groups.

In 1989, Gore is rated as having voted in the liberal column on economic issues 78 percent of the time compared to a 21 percent conservative score. On social issues he voted liberal 69 percent of the time compared to 24 percent conservative. His record on foreign policy issues can be most fairly defined as moderate. He scored 53 percent liberal on foreign issues, compared to voting conservative 47 percent of the time.

In 1990, his liberal scores improved dramatically. He voted liberal 92 percent of the time on economic issues and received a zero in the conservative column; 81 percent liberal on social issues and another zero on the conservative side; 64 percent liberal on foreign issues compared to a conservative rating of 35 percent.

In 1991 he scored 71 percent liberal and 28 percent conservative on economic issues; 87 percent liberal on social issues and zero conservative; 54 percent liberal on foreign issues and 44 percent conservative.

When it comes to the environment, Gore moves from liberal to radical. His new book, "Earth in the Balance: Ecology and the Human Spirit," calls for a vast array of costly new laws and expanded bureaucracies to enforce them.

Fred. L. Smith, president of the Competitive Enterprise Institute, writing recently in *The Wall Street Journal*, describes Gore as "a true product of the 1960s," in the vanguard of economic central planners. Replicating those central planning mistakes under an ecological banner, Smith warns, would pave the way to economic disaster: "The road to serfdom need not be paved with red bricks: Green bricks will do just fine."

Although Gore's activism may please the environmental lobby, it also could be a political problem. Gore's support for green trade restrictions, taxes on carbon dioxide emissions and his call for a "Global Marshall Plan" of large subsidies for developing nations might backfire. Voters tend to worry less about global warming and owls than they do about jobs.

Sen. Gore has a well-deserved reputation as a hard-working, bright and able politician, but pundits who persist in defining him as a moderate need a new dictionary.

TRIBUTE TO MATTHEW ESCALANTE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. LAGOMARSINO. Mr. Speaker, I would like to commend a young constituent from my district, Mr. Matthew Escalante of Oxnard, CA, for his second place finish in this year's Voice of Democracy Broadcast Scriptwriting Program sponsored by the Veterans of Foreign Wars and its ladies auxiliary. Mr. Escalante's script was chosen from among 147,000 high school students nationwide for the VFW second place finish.

Mr. Escalante, a recent graduate of Oxnard High School, is the recipient of the $15,000 Scholarship Award provided by the Veterans of Foreign Wars and its ladies auxiliary. Matt is the son of Mr. and Mrs. Michael Escalante and is planning a career in politics. Matt was sponsored by VFW Post No. 3935 and its ladies auxiliary in Port Hueneme, CA.

For the record I am submitting a copy of Mr. Escalante's script which is based on the theme "Meeting America's Challenge," and I ask my colleagues to join me in congratulating him.

MEETING AMERICA'S CHALLENGE

(By Matthew R. Escalante, California winner, 1991/92 VFW Voice of Democracy Scholarship Program)

The darkness is cold, and the dampness is heavy upon us. Slowly we are being enveloped and surrounded * * * is there hope, a sunrise over the mountains, a ray of sunlight in the prairie, a blanket of stars that reflect on the ocean maybe a challenger to meet our distress.

In the background surrounded by sand-filled bags, a small handheld radio emits a faint song, sung by Randy Travis, "One by me from the mountains to the sea, points of light—reaching out to you and me. All it takes is a point of light—a ray of hope in the darkness." Dusty, hot, and unchanging, the desert sun beat down on the shallow trenches. A shimmering drip of sweat slips off the sunburnt brow of a young United States soldier, clothed in neutral, drab-colored fatigues. He is watching and searching the horizon for an ever present enemy attack. This brave, self-sacrificing soldier is meeting America's challenge.

The long black cloak covers the business suit as the judge from the county court takes his seat in the courtroom. Today as every day his docket is filled with pending cases. His job is complex and educated, yet the underlying idea is simplistic; to right wrongs and serve justice where deserved. When individuals perpetrate society they lose their God-given right of freedom, because as Bernard Baruch once wrote, "the greatest blessing of our democracy is freedom. But (our) only freedom is the freedom to discipline ourselves." This scholarly judge is meeting America's challenge.

America is presently enjoying an unchallenged presence in the world community. America has held fast against the tyranny of the Soviet States in all its glory as the one super power of influence in the world. The melancholy gray drums of the world have been silenced. America's challenge. To be the North Star, the bright beacon, the burning torch that guides us all.

"Now the trumpet summons us again—not as a call to bear arms, though arms we need; not as a call to battle, though embattled we are; but a call to bear the burden of a long twilight struggle, year in and year out, rejoicing in hope, patient in tribulation, a struggle against the common enemies of man: tyranny, poverty, disease and war itself." As eloquently as those ideas sounded more than twenty years ago when embodied by John F. Kennedy, those ideas again stand out in the minds of America's youth. How can we as United States citizens be meeting America's challenge?

The young people of today are striving to answer that question. We as the youth of today and the adults of the future are looking for role models, heroes if you were to guide us to that point of light, discipline ourselves, and to stand up with patience and strength to the enemies of man. Those role models, those heroes should be the courageous men and women that the youth of today look admiringly towards. For they have proven their strength through war, depression, challenges and hardship. Those heroes have defended America with their lives on the front lines of devastating war. Those men and women that have proven to be role models in the hospitals, factories, courtrooms and classrooms. America's youth will find their heroes, thereby finding their "point of light" in the darkness to meet America's challenge.

EARLY TRADE BETWEEN INDIANS AND NON-INDIANS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, Through Public Law 102–188 (H.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the "Year of the American Indian." This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a recollection of Vital Thomas, a member of the Dogrib People from Canada, as published in a book entitled "Native American Testimony." The editorial comment which precedes the article is provided also.

THE BEWITCHED PALE MAN

(Because the Dogrib people of Canada had to cross the terrain of their greatest enemy, the Maskegon Indians, in order to trade with the French, they conducted their business with the Hudson's Bay Company instead. This tale was recited by Vital Thomas, a contemporary Dogrib storyteller from Rae, near Marten Lake in central Canada.)

Fort Simpson is an old, old fort. In the fall, the Dogribs used to go to Simpson to trade. One time, one bunch went on ahead of another bunch by four or five days. When they got to Simpson, the Hudson's Bay manager wouldn't give them any credit. He was mad at them. He said, "You guys haven't paid me from last year. I won't give you a thing." Those poor Indians, there was nothing they could do but go back. They were one day out from the fort when they met the other bunch coming along to trade. They said to the other bunch, "There is no use going on, you might as well turn back. The Hudson's Bay man won't give us credit. There is nothing there for you."

There was an old fellow with the second bunch. He was Seretton's father—not that Seretton who is living here now but another one. That old man listened to all the talking, and then he said to his bunch, "Well, we might as well go on in and see what it is like. We can't turn back now." That night when they made camp, those fellows asked the old man if he couldn't change the Hudson's Bay man's mind, because they had come from a long, long way, from Snare Lake or Indian Lake maybe. They offered to pay the old man, so finally he said, "I'll do the best I can to change his mind."

So the old man started to sing, "Hey hey, Pale Man! hey hey." And he started to work his arms down into the earth. Finally he was down into the earth about halfway up his arms. He was still singing, "Hey hey, Pale Man!" when he said, "Here is the man we have been talking about," and he brought the Hudson's Bay man up out of the ground as far as his armpits. Then he began to rub his hands over the Hudson's Bay man's head as if he was pulling or cupping up water. All of a sudden he clapped his hands loudly and said, "Here it is! I got his mind right here in my hands!" And the Hudson's Bay man sank back through the earth. "He has gone home now without his mind. We got to hurry to get there. We got to do our trading fast and go right back because I can't hold his mind very long."

They started out early and got to Simpson about the middle of the day. When they went in the store, the Hudson's Bay man acted like he was dreaming, kind of like he was asleep. The Dogribs started to ask for things. And that trader gave them everything they asked for, just like he was half drunk. They got everything they could think of on credit. And then the old man said to them, "We might as well go home now. I can't hold it any longer." And as soon as they got back into the bush, the old medicine man sent the Bay man back his mind.

VITAL THOMAS,
Dogrib.

COMMEMORATING GUAM'S PARTICIPATION IN THE XXVTH OLYMPIA

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. BLAZ. Mr. Speaker, like so many Americans, I have been in the past week thrilled and inspired by the events in Barcelona. I rise today, however, to draw my colleagues' attention to the efforts of a small, but no less inspiring, group of young people from my district who are pursuing their own Olympic dream. I speak of the participation of Guam's Olympic team in the XXVth Olympiad in Barcelona, Spain. This is the second Olympics in which Guam has participated, the first being in 1988 in Los Angeles.

Participation in the Olympics is a life-altering experience. For an athlete to be able to compete with the fastest and strongest, to be present when records are broken, to see the brotherhood of nations on the field of open competition, is, for many, dream becoming reality.

What is more important, however, is the route which one had to take to get to the Olympics. The early morning practices; the long hours in the pool, or on the track, or in the gymnasium. The sore muscles and bruises. Dealing gracefully with the disappointment of defeat, and being magnanimous in victory; learning that hard work and perseverance will be rewarded. These are just some of the lessons that must be learned, are learned, and are what set the example for younger athletes.

There are also those without whose efforts the physical presence at the competition would not have been possible: The coaches, trainers, and team organizers, the members of the media, and their technicians, who bring the story to us. And, most importantly, the parents who supported and encouraged these young people to strive for their personal best, no matter what the obstacles.

Mr. Speaker, it is with great honor and pleasure that I enter into the annals of our country's history the roster of the athletes, organizers, and staff of the Guam Olympic team, and it is with deep humility that I salute all of them on behalf of the people of Guam.

Biba Guam.

GUAM OLYMPIC TEAM

Head of delegation: Governor Joseph F. Ada, First Lady Roseanne F. Ada.

Swimming: Patrick Sagisi, Frank Flores, Ray Flores, Glenn Diaz, Adrian Romero, Barbara Pexa, Tammie Kaae, Ed Ching, Mick Pexa.

Judo: Erin Lum, Atef Hussein, Andy Jordanou.

Wrestling: Ed Pangelinan, Tom Schoen.

Cycling: Manny Garcia, Jazy Garcia, Andrew Martin, Martin Santos, Will Yamamoto, Jr., Margot Bean, Albert Juan.

Archery: Luis Cabra, Lee Webber.

Yachting: Jon Iriarte, Joe Pruski, Linda Yeomans, Ann Byerly.

Weightlifting: Edgar Molinos, Vincente "Benny" Crawford.

Officials: Michael J. Reidy, Chef de mission, Richard C. Blas, Vanessa K. Blas, Judge Benjamin J. F. Cruz, Johnny Applegate, Monica Okada, Gordon Chu, James Ji.

Medical: Dr. Glocrito Sagisi, Dr. Davina Lujan, Roseann O'Rourke.

Athletics: Jenn Allred, Richard Bentley, Brian Foster.

Youth camp: Melissa Taitano, Francine G. Sablan.

Media: Thomas Evers Blaz, KUAM-TV, Marty Bahamonde, CABLE TV.

ELIZA ALICE TUDOR WINS WRITING CONTEST

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. BURTON. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. This year more than 147,000 secondary school students participated in the contest. They competed for 22 national scholarships totaling $76,000 which was distributed among the top 22 winners. The theme of this year's contest was "Meeting America's Challenge."

I am happy to announce that Eliza Alice Tudor from my district was selected as the Indiana winner in the Voice of Democracy broadcast scriptwriting contest. I congratulate Eliza Alice Tudor on her excellent script and I commend it to my colleagues in the U.S. Congress.

MEETING AMERICA'S CHALLENGE

(By Eliza A. Tudor)

If we were to define America's challenge according to the headline's in our nation's newspapers and the topics that dominate the network news, we could easily conclude that the American way of life is quickly disintegrating. A volatile and shaken economy, a lack of credibility in elected officials, a diminishing and downtrodden middle class, a disappointing educational system, conflicting and confusing moral and spiritual values, the threat of a deadly AIDS plague, and the waste and defacing of the planet, devalue the American way of life.

We are hearing news we can no longer ignore. We can only meet these challenges by identifying them, facing them, and rolling up our sleeves to find solutions.

Our nation has learned that we cannot legislate morality or even justice without putting it into practice, but because we are Americans, we can do better than this.

The places to begin to meet these challenges are in our personal lives, in our families, and in our communities.

We cannot expect a balanced economy nationally if we do not live within our means in our families. This may mean saying no to frills that we have come to accept as necessities, but what we spend our money for shows what we consider important. We are Americans and we can do better than that.

We cannot find fault in an educational system when we allow television and slick magazines to fill more time in our children's lives and our own than we spend learning and exploring together. Children find it difficult to become more than the example adults set for them.

In matters of morality, priorities, and discipline, we set the goals and because we are Americans, we can do better than this.

The warm wave of support and patriotism that drew the nation together during the first terrifying months of this past year was due in no small part to a national quilt we felt when we remembered the men and women who fought in Vietnam who returned unheralded and unnoticed. Because we are Americans, we know we could do better than that and we did.

Our challenge is to turn our nation, our communities, our families, and ourselves to what is true and right and good. Men and women have served and died for the freedoms we have to correct our errors; for the freedom to vote incompetent government officials out of office and worthy citizens to office, the freedom to say, "No, my family will not watch immoral, sensational, violent television nor use the products that sponsor such programs," the freedom to say that we demand the finest American made goods and quality services for fair prices.

The greatest freedom we have is the freedom to choose our attitudes. I know that there is no better system in this world. I know I can do better than this, because I am an American and I'm not afraid of work, or sacrifice, or doing what I know is right. I'll not delude myself that there are no problems, but there are solutions and our system affords the means and the opportunity to find the solutions, and because we are Americans, I know we can do better.

FOR OUR CHILDREN: THE VACCINE ACCESS AND REGISTRY ACT

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Ms. SLAUGHTER. Mr. Speaker, one of life's most painful, most inexplicable tragedies is the death of a child. It is every parent's nightmare. In recent decades, we have been able to prevent this senseless nightmare for millions of families through the discovery of vaccines that virtually eliminated diseases such as polio, measles, and pertussis—whooping cough—which routinely took the lives of many children during the early part of this century. Children who are properly vaccinated are immune to these former killers.

Today, however, I fear we have become blasé. Because these diseases now seem so remote, many children don't get their shots at the proper time. Even more troubling, many children don't get immunized at all. The result has been tragic.

We have just suffered through a 3-year measles epidemic that struck 55,000 people and claimed the lives of 89 Americans in just 1 year. In 1991, twice as many children became ill with pertussis as in 1981. Five times as many children contracted rubella than in 1988. Children are even getting polio again.

All these diseases can be prevented easily if children receive timely vaccinations. Most children are vaccinated by the time they enter kindergarten because their parents are required to show proof of immunization before the children can enroll. But these requirements don't protect the new class of victims, the preschoolers.

We don't know exactly how many preschoolers are missing their vaccines because funding for Federal studies has been eliminated in recent years. A January 1992 report by the Children's Defense Fund found that, while other industrialized nations are improving their vaccination rates, the United States is regressing so fast that now we rank behind 16 other nations in the percentage of 1-year-olds vaccinated against polio. The percentage of minority children immunized compared to other countries puts us at number 70.

In the country as a whole, half our preschoolers are dangerously behind in their immunizations. In my own congressional district of Rochester, NY, an average of 40 percent of 2-year-olds are behind in receiving their shots. In some Rochester neighborhoods, more than 60 percent of the children are behind on scheduled vaccinations.

Today, I am proud to introduce the Vaccine Access and Registry Act, which seeks to lower the costs of vaccinations, increase the number of children being vaccinated on time, and create registries to keep track of the immunizations. It will offer grants to States to start up universal free vaccine programs. Under these programs, States will be able to purchase vaccines from manufacturers at the bulk rate price now available to the Federal Centers for Disease Control [CDC] and then distribute vaccines to doctors. Physicians, in turn, would be able to vaccinate their young patients at no charge other than, perhaps, a nominal administration fee. The bill would also create statewide or multistate registries of child immunizations that will track vaccinated children and remind parents when a vaccine is due.

Currently, private physicians in New York State, for example, pay high retail prices for vaccines which can easily be made available at a much lower cost when purchased by States through the CDC. Specifically, a New York physician pays over $9 for polio vaccine which costs only $2 at the bulk rate available through CDC. This high price is passed along to the patient or, if the patient is covered by Medicaid, to the States.

The universal free vaccine program established in my legislation is based on the experience of several States which already have similar programs. By buying the vaccine cheaply at the bulk rate and distributing it to doctors, who charge their patients only a nominal administration fee, both the State and the public save money.

Because the cost of the vaccine is so much lower than if it had been purchased individually by the doctor, the State can afford to pay the doctor a higher administration fee for Medicaid patients, one that actually approaches reimbursement for the doctor's costs. In many States the current Medicaid reimbursement for vaccinations to private doctors is very low—in eight States it is less than the cost of the vaccine alone. In most cases, it is between 53 and 84 percent of the usual fee a physician would charge for private patients. That is why many physicians refer Medicaid patients to public clinics for vaccinations.

These referrals to public clinics mean lost opportunities to vaccinate children. They also throw a larger burden on already overloaded and underfunded public clinics. Under the universal vaccine program in my bill, States save money on the cost of the vaccine, parents do not have to pay out-of-pocket for life-saving vaccines for their children, and doctors serving Medicaid patients are more equitably reimbursed for this vital service. This encourages more parents to have their children immunized, and more doctors to provide vaccinations while still saving money overall.

This cost saving is especially crucial for the working poor who must pay for vaccinations themselves. Not all health insurance covers routine child immunizations, and not all families even have health insurance. Indeed, one of the most shameful statistics to surface during the debate on national health care reform is that more than a quarter of the 37 million Americans without health insurance are under the age of 18.

For these families, the cost of immunization can be an insurmountable burden that causes them to delay the vaccinations. With this legislation, I want to ensure that affordability is not an issue in immunizing all our children on time. My legislation will encourage States to offer universal vaccine programs by providing them with start up funds and by requiring the CDC to negotiate a bulk rate price available to all States.

The second part of the Vaccine Access and Registry Act is a vital component to ensure all children are vaccinated on time. It provides grants to States to create registries to track child immunizations and notify parents when children are due for a vaccine.

If every parent stayed with one health care provider, we probably would not need registries. However, our society is very mobile and with the current lack of affordable health insurance, many children receive medical attention only in emergencies and then from the nearest facility. In those circumstances, a doctor does not know the child's immunization history and is often unwilling to vaccinate the child.

With statewide or multistate registries, the health department can track each child's immunizations even if they are administered by different doctors in different cities. My legislation allows each State the flexibility to design a registry that suits its needs and situation. In some cases, States may choose to work together to create regional registries for several States. Each State health department can decide how it wants to utilize the registry to best encourage timely vaccinations.

Finally, this bill authorizes $100 million for the two programs. This level is consistent with the funding level for childhood immunizations which I worked to include in this year's House Budget Resolution. In order to allow this expansion of Federal vaccination efforts, the Budget Resolution provided $150 million more than the President suggested for the coming year. This money is a wise investment: every dollar spent on vaccines saves at least $10 down the line. Perhaps the greatest savings this legislation would achieve is a human one—the very lives of our precious children.

WAR ON DRUGS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, August 5, 1992, into the CONGRESSIONAL RECORD:

An estimated 12.6 million Americans consume illegal drugs at least once a month, causing enormous human costs in terms of lost productivity, drug-related violence, and ruined lives. During the past decade, the federal government spent over $30 billion on anti-drug efforts. We may not be losing the war on drugs. But neither are we winning it.

CURRENT POLICY

The federal government's anti-drug effort has five key elements:

Drug Crop Eradication. Through the use of diplomatic pressure and financial incentives, the U.S. government encourages drug crop eradication in other countries. As part of the Andean Initiative, the U.S. will provide some $2 billion in law enforcement, economic, and military assistance to Bolivia, Columbia, and Peru, where most of the world's cocaine originates. Eradication efforts in this country also have been expanded. The Indiana National Guard, for example, eradicated in 1991 almost 9.5 million marijuana plants, which represents an estimated street value of $4.7 billion.

Border Interdiction. Most illicit drugs enter the U.S. along the 8,000 mile Florida shoreline or the 2,000 mile border with Mexico. To reduce this influx, Congress has significantly increased funding for the Coast Guard, the Customs Service, and the Immigration and Naturalization Service.

Enhanced Law Enforcement. Several steps have been taken to help law enforcement officers combat the drug trade. The Office of National Drug Control Policy was created to coordinate the more than three dozen federal agencies involved in drug control. In addition, the legal penalties for a range of drug-related crimes have been increased, including the provision of the death penalty for killings committed by major drug traffickers. Confiscation and forfeiture laws have been strengthened, and Congress has increased federal funding for prisons.

Education and Treatment. The federal government funds several education and prevention programs, including grants to schools for anti-drug programs. Congress has expanded drug-free workplace requirements for federal contractors to broaden public awareness of the drug crisis. The number of public treatment slots for drug addicts increased to 1.5 million in 1990, but this still falls far short of demand. Setting up more drug treatment programs is difficult because of budget constraints and, often, opposition from residents who dislike having drug treatment centers located near their homes.

Research. Basic research about the drug crisis has been expended. The National Institute of Drug Abuse (NIDA) sponsors research about new medications for treating cocaine and other addictions. NIDA is also studying how drug use can be discouraged among the young, and the impact of illicit drugs on fetal development. Since 1991 the Office of National Drug Control Policy has allocated over $40 million to 54 research projects aimed at reducing the supply of illicit drugs.

ASSESSMENT

The drug crisis in this country is rapidly becoming two separate problems. One concerns the casual, often middle class, user. Due to enhanced education and law enforcement programs, the war on drugs has been partially successful in reducing casual drug use. For example, the number of regular cocaine users in this country fell by 72% from 1985-90. The number of cocaine-related hospital visits also decreased, as did the number of high school students using drugs. These trends reversed somewhat in 1991. But overall we have made some progress curbing casual drug abuse, particularly among the young. The other, more intractable, drug-abuse problem in America concerns the hard-core user, the addict, and here we have had little success. By one estimate, 1.2 million Americans are now hard-core drug abusers. And many experts believe the number is much higher.

RECOMMENDATIONS

Our anti-drug policies should be more responsive to the changing nature of America's drug problem. First, more resources are needed. With my support the House recently passed an anti-drug initiative authorizing $2.5 billion in federal funding to stop the drug trade in 50 depressed areas. Half of the target areas would be rural. An additional $2.5 billion in tax incentives is included to promote development and provide potential drug users with greater economic opportunity. This legislation is now under consideration in the Senate.

Second, efforts to reduce demand, such as education and treatment, should receive a greater share of federal anti-drug money. Currently 70% of U.S. anti-drug resources are allocated to supply-side strategies—a distribution that is not cost-effective. We spent almost $3 billion this year on interdiction and eradication, but the production of illicit drugs still increased. Stepped-up law enforcement efforts have led to more arrests, but overcrowded courts and prisons often mean that drug dealers quickly return to the streets. As long as Americans are willing to spend billions of dollars on illicit drugs, the traffickers and the pushers will find ways to meet that demand. I believe that reducing demand is the most efficient and effective way to address the drug problem.

Third, we need to better distinguish between the problems of the casual abuser and those of the addict. Casual drug users are more likely to respond to educational efforts, higher legal penalties, and other initiatives that can induce users to change their behavior. These programs should be strengthened. But to combat hard-core drug abuse, more and better treatment programs are essential.

Fourth, help must be given to the most tragic victims of the drug epidemic—the 325,000 infants born each year prenatally exposed to illicit drugs, one third to crack cocaine. Currently no one knows how these children will be affected long-term—physically, mentally, emotionally, and educationally.

Fifth, more research is needed to understand why people use drugs, how they become addicted to narcotics, and what can be done to treat and deter drug use.

The government can help combat the drug problem in this country. But the fundamental responsibility lies with the individual. People must take responsibility for their actions, their lives, and the health and welfare of their children. Only then will we win the war on drugs.

REMARKS ON H.R. 5732

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. IRELAND. Mr. Speaker, last week it was my pleasure to join my distinguished colleague from New York, the Small Business Committee Chairman JOHN LAFALCE, in introducing H.R. 5732. The purpose of this bill is to provide Congress with sufficient time to receive the final report of the Commission on Minority Business Development, hold hearings and, if appropriate, offer legislation which may substantively alter the Small Business Administration's [SBA] section 8(a) procurement assistance.

In creating the 8(a) program, Congress established a worthy goal—the promotion and development of small businesses owned and controlled by socially and economically disadvantaged Americans.

In 1988, recognizing the need to improve the 8(a) program, Congress established the U.S. Commission on Minority Business Development. The Commission was charged with the responsibility to review and assess the overall effectiveness of the Small Business and Capital Ownership Development Program, commonly referred to as the 8(a) program.

The Commission's final report is anticipated to be delivered to the President and Congress during the month of August 1992. It proposes changes which, if enacted by Congress, could affect a small business' tenure in the program and the type of technical and financial assistance available to it from the Small Business Administration.

The bill establishes a moratorium, for up to 1 year, on graduations from the 8(a) program. Under the terms of the bill, an 8(a) firm would graduate on either its current graduation date or 365 days from the date of enactment of this bill, whichever is later. According to the SBA, approximately 262 firms will graduate from the 8(a) program between October 1, 1992, and December 31, 1993. The bill establishes a graduation moratorium, from 2 to 12 months, to assure that these firms will not be arbitrarily pushed out of the program while Congress is reviewing proposals to extend their eligibility.

I know that my colleagues on both sides of the aisle join me in strong support of the worthwhile effort to bring socially and economically disadvantaged business owners into the mainstream of American opportunity as quickly and as efficiently as possible.

TRIBUTE TO STATE REPRESENTATIVE LARRY MANAHAN

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. GILLMOR. Mr. Speaker, I want to take this opportunity to pay tribute to an outstanding public servant in northwest Ohio.

State Representative Larry Manahan will retire from the Ohio Legislature at the end of this year. Since he was first elected to the Ohio House of Representatives in 1978, Larry Manahan has served the people of Ohio's 79th District with honor, integrity, and patriotism.

When I served as a State senator and as president of the Ohio Senate, I felt fortunate to meet legislators who showed a unique and unwavering commitment to principle. I found Larry Manahan to be one such individual. In his 13 years of distinguished service, he never abandoned his belief in fiscal restraint and free enterprise.

Whether as a soldier in the Korean war, the president of his local city council, or as a Sunday schoolteacher, Larry Manahan has always earned the respect of his peers. He certainly has the deep respect of this Congressman.

Mr. Speaker, I wish State Representative Larry Manahan a happy, healthy retirement.

PROTECT PENNSYLVANIA'S RIVERS AND STREAMS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. KOSTMAYER. Mr. Speaker, Pennsylvania is a State of rare and exceptional beauty.

In southeastern Pennsylvania where I come from, small 17th-century villages dot some of the most verdant and lush countryside in North America.

In central Pennsylvania lies a vast and ancient forest, the Allegheny, and from the northeast to the southwest the ragged Alleghenies march across the landscape.

In the midst of all this run Pennsylvania's rivers, weaving a watery network that remains unprotected and vulnerable.

In 1978, legislation I wrote to protect the upper third of the Delaware River was enacted into law, blocking a proposed dam which would have destroyed the character of one of the East's last free-flowing rivers.

Just this year, legislation I introduced with Mr. CLINGER to protect 86 miles of the Allegheny River was signed into law.

But today, more of Pennsylvania's rivers and streams need protection.

For example, a developer is now proposing to build a sewage plant which would discharge 500,000 gallons of effluent into the Valley Creek, which flows through Valley Forge National Park.

The Brandywine Creek in Chester County, one of the Nation's fastest growing counties, faces enormous development pressure and the threat of sewage effluent.

The Swatara Creek, in central Pennsylvania, faces the very real possibility of a landfill being built on its banks.

Today, Mr. Speaker, I am introducing the Pennsylvania Wild and Scenic Rivers Act to study over 600 miles of river in Pennsylvania for possible inclusion in the National Wild and Scenic River System.

This legislation is one of the largest river protection bills ever introduced in the Congress. This bill will protect rivers all across the state, from the Brandywine in the east to the Tionesta Creek in the west.

Along with fellow Pennsylvanian's Mr. WELDON, Mr. KANJORSKI, Mr. KOLTER, Mr. YAT-

RON, and Mr. MURPHY, I am today introducing the Pennsylvania Wild and Scenic Rivers Act of 1992, which can make a real difference in the preservation and protection of rivers and streams in Pennsylvania.

HONORING THE LIFE OF A LOVING AND CARING PERSON; MRS. JEANNE HYDE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. FASCELL. Mr. Speaker, it is with a good deal of compassion that I pay tribute to Mrs. Jeanne Hyde, the wife of my friend and colleague for many years, U.S. Representative HENRY J. HYDE of Illinois.

Mrs. Hyde, who died recently after a lengthy illness, was known to her friends, co-workers and acquaintances for her loving kindness and unfailing sense of caring for others.

At her funeral she was remembered by her four children as a mother "who make it easy for us to love her."

A family friend said she had the type of personality that "allowed her to cut through the formalities, whether with the President of the United States or housekeeping staff at the White House."

Others described her as "graceful and respectful of everyone"—a wife, who often faced the rigors of the campaign trail with her husband and yet treated everyone as part of her own family.

Jeanne Hyde grew up in Arlington, VA and attended George Washington University here in the District of Columbia. She and the future congressman met while he was a student at Georgetown University. They raised their family in Illinois and then returned to the Washington area after Mr. HYDE began serving in Congress.

Mrs. Hyde worked in both the Reagan and Bush administrations as a presidential aide in the Office of Public Liaison, and Office of Correspondence.

This is where she gained a reputation for the compassion with which she answered last requests from sick children, or correspondence from the grieving parents of slain servicemen.

"She always knew what to say," said one of her colleagues. "She taught a lot of people how to care."

I offer my condolences to my friend, HENRY, on Jeanne's passing. Her caring and understanding will live on in the work she did and the family she raised.

The world is certainly a better place for her having lived among us and we all feel honored in having known her.

Our prayers and understanding are with HENRY and her family.

A TRIBUTE TO THE NEW HAMPSHIRE PARTICIPANTS OF THE ODYSSEY OF THE MIND PROGRAM

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to the students who participated in this year's Odyssey of the Mind Program. I would also like to commend the parents, teachers, and other volunteers who donated their time and effort to help these students obtain such a high level of academic achievement.

The one million Odyssey of the Mind participants, ranging in age from kindergarten to graduate school, creatively solve complex problems using the teamwork approach.

The Odyssey began with students competing against their fellow schoolmates for the right to represent their institution in later State, regional, or provincial contests. These competitions culminated at the world finals at the University of Tennessee. It included representatives from eight countries in addition to those from the United States.

Mr. Speaker, I ask my colleagues to join me in commending each and every one of the students who participated in the Odyssey of the Mind Program. In particular, I would like to laud the accomplishments of those participants from my district in New Hampshire. They are: Luke D'Allesandro, Micheal Golding, Aric Gray, Jessica Lubrano, Kevin Mortimer, Russell Hankins, Jared Groves, Brian Marvin, Jessica Le May, Stacey Starner, Barry Moeckel, Kristen Tarsia, Matt Crowley, Craig Moore, Matthew Puirier, Christopher Bassett, Carey Huxsaw, B. Travis Henry, Matthew Ferland, Kerri Foley, Matthew Newcomb, Eleanor Williams, Mara D'Angelo, Beth Newhall, Matt Lafond, Kelly Letourneau, Erica Gunderson, Pikyan Kwan, Andrew Toupaj, Craig Halbmaier, Michelle Provencal, Farah Bushashia, Kara Hubbard, Joel St Germain, Dave Vercellin, Abby Call, Marcus Jurado, Mac Lean Pancoast, Jared Kramer, Ashleigh Ferguson, Tom Parsons, Kristy Walker, Jeffrey Lynn, Ian Quinn, Samantha Chase, Donald Schneider, Karen Broderick, Martha Prizio, David Rittenhouse, Tom Burton, Norah Freeston, Steven Diem, and Adam Robinson.

Mr. Speaker, I need not remind my colleagues that America's children are America's future. It is unfortunate that so many times our Nation focuses on the faults of our youth and neglects students, like these, who are participating in truly worthwhile activities. A sound educational system must be at the top of our list of priorities if we are to remain the vanguard of the new world order. I encourage my colleagues to join me in support of educational programs like Odyssey of the Mind, and in congratulating these remarkable young Americans.

ATKINS PRAISES ELDER HOUSING PROVISION

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. ATKINS. Mr. Speaker, I rise today in support of the Housing and Community Development Act, and in particular, the provisions relating to elder housing.

As many people in the House are aware, the Appropriations Committee included language in the VA–HUD bill to solve the crisis of mixed populations in elder housing. This language, which I worked on with Representatives BRIAN DONNELLY and GERALD KLECZKA, was struck on a point of order by Chairman GONZALEZ. But the chairman pledged that he would bring a bill before the House to address this crisis. I am pleased that in less than 1 week after this provision was struck in the VA–HUD bill, virtually the identical language was included in today's bill.

In 1990, when Congress expanded the definition of disabled, we created a crisis in elder housing. Under the new law, nonelderly disabled individuals, many with substance abuse and mental illness disorders, were housed in the same units as the elderly. This created an untenable situation. In Dorchester, there was a tragic case where a 25-year-old mentally disabled male raped a frail elderly woman. In elderly units across the country, complaint after complaint poured in to local PHA's concerning noise, crime, and lifestyle differences between young disabled individuals and their elderly neighbors.

This new legislation is a win-win situation. For the first time ever, disabled individuals will be guaranteed special construction and rehabilitation funds. For the first time, units will be set aside for the disabled community. And finally, for the first time, disabled individuals will be able to live in federally assisted housing with neighbors their own age.

For the elderly, they will be able to live in units set aside for people above age 62 only. And soon we will no longer hear complaints concerning noise, drugs, and intimidation in elderly units.

Secretary Kemp has urged the President to veto this legislation because it does not include a large enough authorization level for HOPE. I hope the President ignores the Secretary's advice. The authorization level for HOPE is still greater than the level included in last year's appropriations bill, and the Secretary has to be realistic about what this Congress can afford in the face of a deficit which is growing by $11,000 per second.

This elder housing provision is one of the most important legislative accomplishments for housing in years. It will have a greater effect on the quality of life for the elderly and disabled than any other pie-in-the-sky housing program.

Mr. Speaker, I am proud to have been part of the solution on the mixed population crisis, and I am proud to cast an aye vote on the bill.

COMBAT READY: SEXUALLY ASSAULTED BY ONE OF HER IRAQI CAPTORS, MAJOR RHONDA CORNUM STILL THINKS WOMEN SHOULD GO TO WAR

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mrs. SCHROEDER. Mr. Speaker, I want to share with our colleagues a story about Army Major Rhonda Cornum, who was sexually assaulted as a prisoner of war during Operation Desert Storm. Despite this assault, she still believes that women should be fully integrated into the military and that the combat exclusion for women should be repealed.

As the military deals with the problems of sexual harassment and assault in a variety of arenas, we must reject the insidious premise that women should be excluded from service because sexual harassment and assault occurs. Instead, the military needs to work to eradicate sexual harassment and assault. Major Cornum's outstanding service in the Army once again shows that women are an invaluable asset to our military.

On Feb. 27, 1991, the fourth day of the Persian Gulf ground war, Maj. Rhonda Cornum, flight surgeon for the 2-229th Attack Helicopter Battalion, found herself aboard a Black Hawk chopper on a mission to rescue a pilot shot down over Iraq. Suddenly rounds of antiaircraft fire ripped into the Black Hawk, and Cornum, crouched on the floor, knew the helicopter was about to go down. "I thought, 'Well, I wonder if this is the end. It was a great life,'" she says. Knocked unconscious in the crash that followed, she awoke in the desert, both arms broken, one knee smashed and a bullet in her shoulder. She was surrounded by Iraqi soldiers.

Cornum, 37, had become a prisoner of war. Her captivity would be mercifully brief—just one week. But it is hardly forgotten. One of only two American women taken prisoner during the gulf conflict, Cornum, as she recently told a presidential commission on women in the military, was sexually assaulted by an Iraqi Republican Guardsman after her capture, and she now finds herself at the center of a debate over whether women should serve in combat positions. "I wasn't allowed to fly jets or drive tanks, and I was still captured," she says. "Combat exclusion isn't preventing women from getting captured; it's just keeping them from the kinds of jobs they might want." Yet Cornum, who has just published a book about her experiences, She Went to War, is not entirely comfortable with her new role as spokesperson. "I never meant to be an example of anything," she says.

In fact, she has been an example of rugged individualism most of her life. She grew up near Buffalo, the daughter of Don Scott, a toy designer, and Jeanne, a housewife. A top student, she earned her B.A. and a Ph.D. in biochemistry at Cornell University, then joined the Army in 1978 in order to work at the Letterman Army Institute of Research in San Francisco. She had given little thought to the military commitment involved but took to the training like a born soldier.

As her career advanced, her marriage to a college beau fell apart. Undaunted, she entered the Uniformed Services University medical school in 1982. There she met and married Kory Cornum, now 34, an Air Force major. The pair qualified as flight surgeons and pilots and bought a farm in DeFuniak Springs, Fla., between Fort Rucker, where Rhonda did research and headed the outpatient clinic, and Eglin Air Force Base, where Kory was stationed.

When the U.S. sent soldiers to Saudi Arabia in August 1990, both Cornums jumped at the chance to go. "No one wants war, but if you've trained to do something, you want to go do it," Rhonda says. She and her husband were in different units and were sent overseas separately. Cornum says her daughter from her first marriage, Regan (who stayed with her own father in North Dakota during the war), understood that her mother was "not committed to the military only on the Fourth of July. I'm ready to die for this."

She was less ready for her experience in the back of an Iraqi truck the first day of her captivity. As a fellow American prisoner watched helplessly, a guard unzipped Cornum's flight suit and attempted to rape her. When she screamed in pain as he jostled her broken arms, he resorted to manual penetration. Cornum, focused on her survival, told herself, "Rhonda, nobody ever died from pain, and you're not gonna."

She maintained a brave facade throughout her captivity, four days of which she spent in a Baghdad hospital. "I did feel bad that I was causing worry to my family," she says. While she was still a POW, the war ended, and Kory was notified that his wife was missing in action. Yet even as her family agonized, Cornum was freed—transported, along with other prisoners, to a hotel where she was met by the Red Cross. She and Kory had a joyous reunion on a Navy transport ship in the gulf.

Today, after months of rehabilitation, Cornum's arms and knee are fully healed, the assault nothing more than an "unpleasant" memory. She is planning to pursue a residency in urology, and whether women get the OK from combat or not, she will stay in the military as long as she can. "When my eyeballs go to crap and I can't bend my knees enough to get in an airplane, I'll probably quit flying," she says. "But until then, well, I don't see much changing."

INCOME AND SOCIAL MOBILITY IN THE 1980'S

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. CRANE. Mr. Speaker, many politicians would like the American people to believe that in the 1980's the rich got richer and the poor got poorer. Aside from the fact that I disagree with this conclusion, the problem with such an assertion is its assumption that the same people remained in each category throughout the decade. An editorial which appeared in the Wall Street Journal on June 16, 1992, examines a recent Treasury Department report on social mobility and concludes that the "American Dream" was indeed alive and well in the 1980's. As the editorial explains, the Treasury report found that 65 percent of those in the bottom income quintile in 1977 moved up at least two quintiles by 1986. I submit this editorial to my colleagues and urge them to read and consider its conclusions:

[From the Wall Street Journal, June 16, 1992]

INCOME DYNAMICS

We've remarked several times now on the tortured statistics being thrown around in the debate over the distribution of income. One of our regrets is that the simplistic use of these arcane statistics paints a totally inaccurate picture of American society.

The usual methodology is to break down families or households into five groups of 20% each: the top, bottom and three middle quintiles. If the difference between top and bottom increases over a decade or so, incomes are becoming "more unequal." The unspoken assumption is that the same people inhabit the same quintiles in year 10 as in year one. This assumption is anything but accurate in a society as dynamic as America. With social mobility, people move up the quintile ladder, and down.

Happily, two new studies have come along to inject this missing factor of mobility into the "fairness" equation—one from the Treasury's Office of Tax Analysis, and the other from the liberal Urban Institute. In the words of the Urban Institute article by Isabel Sawhill and Mark Condon: "When one follows individuals instead of statistical groups defined by income, one finds that, on average, the rich got little richer and the poor got much richer."

The Treasury study measures movement among the quintiles. It picked out 14,351 representative taxpayers and tracked their progress through the quintiles between 1979 and 1988. In no quintile was turnover less than 33% during the decade. In the bottom three, at least 66% of the occupants changed quintiles, generally trading up. In fact, taxpayers were more likely to rise than fall by odds of nearly five to one, excluding people in the top quintile who had nowhere to go but down.

What about those who started the decade in the bottom quintile? Sixty-five percent moved up at least two quintiles during the decade. Indeed, more of these poorest taxpayers made it all the way to the top quintile than stayed in the bottom one. These findings may be at odds with America's mood at the moment, but they provide a healthy perspective. "I suspect people's root fear is that there is no mobility," Treasury's Glenn Hubbard tells us. "If that's their fear, it's misplaced."

The Urban Institute study was even more revealing, working with data from the University of Michigan's 20-year longitudinal studies of incomes, which include non-taxpayers who wouldn't show up in the Treasury methodology. They break their findings up for the decades 1967-76 and 1977-86. In both, nearly half of those who started in the bottom quintile were up and out 10 years later.

The Urban Institute then proceeded to calculate the income gains of those who started out in each quintile. The progress of the 1977 quintiles is displayed in the accompanying chart. This pattern is familiar to experts, the Sawhill-Condon article says, but "may be surprising to the general public, which has been led to believe that the poor were literally getting poorer over the last decade or two, and that the incomes of the rich were skyrocketing. This is simply not true."

INCOMES AND SOCIAL MOBILITY—HOW 1977 QUINTILES FARED IN 1986

[Average family incomes, in 1991 dollars]

1977 quintile	1977 income	1986 income	Percent gain
Bottom	$15,853	$27,998	77
Second	31,340	43,041	37
Third	43,297	51,796	20

INCOMES AND SOCIAL MOBILITY—HOW 1977 QUINTILES FARED IN 1986—Continued

[Average family incomes, in 1991 dollars]

1977 quintile	1977 income	1986 income	Percent gain
Fourth	57,486	63,314	10
Top	92,531	97,140	5
All	48,101	56,658	18

Note: Sample limited to adults, ages 25–54 in 1977.

Source: Urban Institute.

How do people catapult themselves up the income scale? Mostly by old-fashioned sweat. They grow older, more experienced and more valuable to the economy; the bottom quintile then fills up with younger, inexperienced and less valuable workers starting their careers. The Treasury found, for instance, that wages and salary accounted for 88% of the total income of those who climbed from the bottom quintile to the top during the 1980s.

Everyone agrees that incomes measured in the usual static way have become somewhat less equal. Since the Urban Institute study finds that mobility didn't change much between the two decades measured, this suggests lifetime incomes will turn out less equal as well. Ms. Sawhill and Mr. Condon say this is a result of "technological changes and international competition, which have put a high premium on education and experience. The rewards for both have been increasing since the late 1970s."

Nothing here denies we have serious social problems with the homeless or gangs or broken families, but the solution to these problems is not likely to be found by trying to change the general distribution of incomes. The usual proposal to use the tax system to redistribute income assumes that society is a fixed hierarchy, and that income transfers are necessary to ameliorate the condition of those stuck permanently at the bottom. But such policies may undermine incentives and thus the economic growth that keeps the quintiles fluid.

Properly understood, the real lesson of income statistics is that we need to improve education and fire up the Great American Jobs Machine. When we talked to Ms. Sawhill, she put it in a nutshell. "Economic growth is critical."

STOP THE KILLING IN BOSNIA-HERZEGOVINA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. LIPINSKI. Mr. Speaker, the State Department has confirmed that Serbian forces are operating a number of concentration camps in Bosnia-Herzegovina. These camps are home to thousands of Bosnian civilians living in brutal and barbaric conditions.

A partially disabled man shows the bruises of vicious beatings at the hands of his captors. A woman tells of nourishing herself with a piece of bread every other day and few drops of muddy water. Others report dead bodies piled up in a nearby river. Estimates vary, but there is strong reason to believe that more than 1,000 of the hostages have been murdered.

The concentration camps are part of Serbia's policy of ethnic cleansing, by which it hopes to cleanse Bosnia-Herzegovina of non-Serbs. Entire Muslim towns are uprooted, their population captured or dispersed, and their homes occupied by Serbs. Bosnia-Herzegovina's population was only one-third Serbian in 1990; it will be fully Serbian by the time they are finished.

The existence of concentration camps and ethnic cleansing presents a chilling reminder of the Nazi Holocaust. The victims are different—Muslims and Croats instead of Jews—but the tactics are the same.

Unfortunately, the Bush administration's response to the latest atrocities is no different than its response to the Yugoslav crisis from the beginning—nothing. All we hear from the White House and the State Department is that they "are deeply concerned." I think it is more appropriate to say they are, "deeply concerned but unwilling to get involved."

Well I am deeply concerned too, but this is not enough. We must get more actively involved.

I call on the administration to lead a United Nations effort to forcibly end the war. Though I once had high hopes for accomplishing this through economic sanctions, it is now clear that sanctions will not stop the Serbian war machine.

It is time the United States, together with its European allies and the United Nations, places a firm deadline on Serbia to cease its aggression. If that deadline is not honored, we must be prepared to intervene and enforce a cease-fire militarily. U.N. forces deployed to Bosnia-Herzegovina would simply act as a barrier to divide the opposing combatants. Their role would not be to drive out the Serbs—we would leave that to negotiations—but they would be authorized to respond to attacks and take measures to insure their safety.

I do not take the prospect of military intervention lightly. But we have exhausted all of our options. Our only choice is to let the killing of innocent civilians continue or to end it with force. Mr. Speaker, I think the choice is clear.

CONGRATULATIONS DICK PETTIGREW

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. SKEEN. Mr. Speaker, I want to take this opportunity to recognize a dear friend and longtime colleague, who has recently been awarded the highest honor of the National Society of Professional Engineers' [NSPE] Professional Engineers in Private Practice [PEPP]. The PEPP award may be given annually to an engineer who has favorably influenced the practice of consulting engineering and has advanced the recognition of the role of the private engineering practice in serving the public interest.

Mr. Dick Pettigrew of Clovis, NM, is the 1992 recipient of the PEPP Award. Professionally, Dick is a leader in his field. In fact, his résumé reads like a "who's who" of the engineering world. His exceptional career was launched in 1951 as a survey party chief for Atlantic Refining Co. in Dallas, TX. Later, Dick worked for the Inter-State Construction Co. of Nashville, TN, before a succession of public jobs, including assistant highway engineer for the California Division of Highways, project engineer for the New Mexico State Highway Department, and county engineer for Lea County, NM.

Dick launched his private career in 1965, when he founded Pettigrew & Associates, a professional civil engineering firm. He has served as chairman and southwest region vice chairman of the National Society of Professional Engineers/PEPP and vice president of NSPE's southwest region. In addition, Dick has held virtually every office in the New Mexico Society of Professional Engineers. It should not go unmentioned that two of Dick's five children have followed him into the engineering world and, along with his son-in-law, are partners in the firm Dick founded.

By example, Dick has shown how a true professional engineer functions, not only in his professional capacity, but also as a contributing member of the community. As an engineer myself, I am pleased to count Dick Pettigrew among my friends and proud that his accomplishments have been recognized by the NSPE's Professional Engineers in Private Practice. I know his family and friends in Clovis, NM, join me in congratulating Dick Pettigrew on this award, which is most assuredly the crown jewel of his engineering career.

SUPPORT FOR THE NATIVE AMERICAN VETERANS' HOME LOAN EQUITY ACT OF 1992

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of legislation being introduced today by Congressman LANE EVANS with Congressman NEIL ABERCROMBIE, and myself as cosponsors. This bill, entitled "The Native American Veterans' Home Loan Equity Act of 1992," will provide for a demonstration project of direct home loans to native Americans who are veterans of the Armed Forces of the United States.

Veteran American Indians, Native Alaskans, native Hawaiians, native American Samoans, and other Pacific island natives find it very difficult to obtain funds to construct or repair homes in their native lands. The problems range from lack of certified appraisers to reluctance of conventional lenders to loan money for homes to be located on land which cannot be owned by individuals.

As a result of these problems, many of our Native American veterans find home ownership an impossible dream. In support of this dream I am in full support of this legislation.

TRIBUTE TO JOYCE STANTON TAUTENHAHN

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Ms. SLAUGHTER. Mr. Speaker, I rise today to share with my colleagues the story of a courageous young woman, Joyce Stanton Tautenhahn, and her family.

Joyce died last year at the age of 34. She succumbed to a recurrence of clear-cell cancer caused by her inutero exposure to DES. Her loving mother, Margaret Stanton of San Antonio, asked me to tell Joyce's story to my colleagues in Congress so that Joyce's death might have some positive meaning, just as her life was so full of significance for those whose hearts she touched.

In the late 1950's, Margaret Stanton very much wanted to have another child. She had trouble carrying previous pregnancies to full term and, trusting the counsel of her physician, accepted the drug he prescribed for her. It was diethylstilbestrol, or DES, and it promised not only healthy, full-term deliveries, but "bigger and stronger babies too." In good faith, Margaret took DES and gave birth to a baby girl whom she named Joyce.

Twenty-three years later, Joyce was diagnosed with DES-related clear-cell cancer of the vagina. She underwent radical surgery and lost the ability ever to bear children of her own.

As devastating and painful as the cancer and surgery were, Joyce and her husband Paul did not give in to anger and they refused to give up on life. They adopted an infant girl, Kimberly, and gave her both a loving family and a loving home.

Joyce's great love of children found another outlet in teaching. She was a very talented and beloved elementary schoolteacher and a committed volunteer in many church and civic activities. To the friends she had made through the DES Cancer Network, an international educational network of DES-exposed cancer survivors, Joyce was also a tower of strength and a great source of inspiration and support.

To the very last day of her life, Joyce was all of these things and more. When she learned that her cancer had recurred, Joyce began a valiant campaign to find for her friends in the cancer network and for millions of DES-exposed individuals she would never meet the answers to their haunting health questions about the long term health effects of DES exposure.

What is the chance that clear-cell cancer will recur and is there a successful treatment? What is the cancer risk to DES mothers and DES sons? How has DES affected the autoimmune and reproductive systems of those exposed to the drug? What will be the effect on the grandchildren? And, in the 22 years since DES was found to cause cancer, why hasn't research been done to find these answers?

In the last 2 months of her life, Joyce Stanton Tautenhahn worked with her friend Darci Picoult and producers at WGBH in Boston to bring these urgent questions to the American public and educate the country about the DES tragedy. With a grant from the Robert Wood Johnson Foundation, WGBH was able to tell the story of DES in a segment of The Health Quarterly which will air on PBS stations on August 10, 1992. The segment, entitled "Children of DES," explores the DES tragedy and gives it a human face—that of Joyce Tautenhahn and other DES exposed individuals who bravely revealed their very personal stories so that the cause for DES research and public health education could be advanced.

Mr. Speaker, the classroom where Joyce met with her students seems a little emptier now that she is gone, but Joyce still has a very important lesson to teach. I hope my colleagues will watch The Health Quarterly on August 10 and let Joyce Tautenhahn's voice touch them and teach them as it touched all those who knew her in life.

KENILWORTH, NJ, HONORS FIREFIGHTER HENRY McGEEHAN

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. RINALDO. Mr. Speaker, the contribution of our citizens to volunteer services in their communities is one of the great assets and strengths of America. In one of the most important books written about America, Alexis de Toqueville remarked in 1831 on the fascinating ways in which Americans solved problems without the intrusion of government. He wrote: "I have often seen Americans make great and real sacrifices to the public welfare, and I have noticed a hundred instances in which they hardly ever failed to lend faithful support to one another."

That spirit of early America survives in places like Kenilworth, NJ, where men and women devote many hours of their time without pay to protect the lives and property of their fellow citizens. One such volunteer, Henry McGeehan, will be honored by the Kenilworth, NJ., Fire Department and Rescue Squad on August 30.

Henry McGeehan has a remarkable career of public service covering a period of over 53 years. It began in November 1938, when as a young man, he joined the Kenilworth Volunteer Fire Department. The small borough was surrounded by farms and open fields, and it was not until after World War II, when our returning veterans and their families moved out to the suburbs, that Kenilworth began to grow with new single family homes, schools, small businesses, and light industry.

Without the service of volunteers like Henry McGeehan, the people of Kenilworh would have been dependent on fire and first aid services from their neighbors in Union, Cranford, Roselle Park, and Elizabeth. But Henry McGeehan, who helped to organize the first rescue squad in the Kenilworth Fire Department, appealed to his friends, neighbors and other returning veterans to establish their own community service, and it become an indispensable and dependable source of help.

Over a period of 53 years, the Kenilworth Fire Department and Rescue Squad has saved countless lives, and aided the injured and the victims of fire, crime, and accidents. It has literally become Kenilworth's life saver, and it has been accomplished with volunteers like Henry McGeehan, who is still an active member.

During that period, Henry McGeehan served as vice president, captain of company 2, second assistant chief, and chairman of the ambulance fund drive. In many ways, Mr. Speaker, his service to the community and to our Nation, which he served for 12 years as a sergeant in the Army National Guard, represents the true spirit of patriotism—someone who is willing to make personal sacrifices for his community and his country.

I join with his many friends and the people of Kenilworth in saluting Henry McGeehan, his devoted wife, Agnes, and their children, William, Lydia, Henry Jr., Roger, and Carol for supporting and encouraging him to come to the aid of his country and his neighbors. Henry McGeehan symbolizes the generosity and good will of the American people, and Kenilworth is proud of him.

GATT AND INTELLECTUAL PROPERTY RIGHTS

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. GILCHREST. Mr. Speaker, it is my sincere hope that our negotiators are able to achieve success in the GATT negotiations. I believe that a freer and fairer world trading environment with our neighbors and major trading partners will mean economic growth and jobs for Americans. In order to accomplish this objective, a future GATT agreement must include protection for intellectual property rights.

There is no doubt that a successful agreement to the Uruguay round of GATT would introduce a blueprint for international trade and will open up new trade opportunities globally. It is also clear that with the entrance of the former Eastern bloc countries and the continuing emergency of Third World countries, a strong GATT is necessary to insure a fair and profitable relationship among all of the participating countries.

A ratified GATT would be beneficial to the United States in terms of reducing barriers of U.S. exports into foreign markets. By opening new markets for U.S. goods, American products will be more competitive against foreign competition. Therefore, new opportunities will be created for U.S. exports in such areas as manufacturing in computers, telecommunications, electronic components, and agriculture.

According to U.S. Trade Representative Carla Hills, the United States expects to reap great rewards from the successful conclusion of the Uruguay round. A successful GATT will stimulate increases in U.S. growth. Since 1988, export expansion has been responsible for 70 percent of total growth in the U.S. GNP. An open multilateral trading system is the best guarantee that U.S. export opportunities continue to expand.

However, several stumbling blocks stand in the way of a final agreement to the GATT negotiations. A major concern of mine is the ratification of GATT without a strong policy for the protection of intellectual property rights. I firmly believe that to ratify GATT without a strong policy for the protection of intellectual property rights could be detrimental to our country. If American multinational firms are to be competitive abroad, a substantial investment and commitment of millions of dollars will be made in research and development. How are American companies supposed to be able to profit from being able to compete more easily abroad, if other competitors can just come in and pirate our ideas and concepts?

Currently, U.S. companies are losing billions of dollars annually to pirates in Asia and Latin America. Examples of those products that are being pirated are pharmaceuticals, pesticides, fertilizers, plastics, copyrighted software, movies, sound recordings, and books. In recent months, the Bush administration and the Department of Commerce have cracked down on some of the worst violators of these intellectual property abuses including countries such as China, Thailand, and Taiwan. Only by threatening these countries with revocation of their most-favored-nation [MFN] status has the United States been able to force these counties to enforce even the most basic international patent and copyright standards.

GATT Director General Arthur Dunkel has proposed the establishment of uniform protection of intellectual properties, which include copyrights and patents. An agreement was made on behalf of developing countries that would allow for a 10-year transition period before these proposals went into effect. The benefits of the Dunkel proposal for American companies include a package that would increase copyright protection for software, setting patent protection for 20 years and copyright protection for 50 years. Also, the package contains for the first time, international rules on trade in services, and rules that would force developing nations to open their markets to American financial services and telecommunications companies.

I am pleased that the Dunkel text includes the enforcement of intellectual property rights by creating a multilateral dispute settlement process which support the interests of multinational companies that operate globally. Unfortunately, in order to comply with GATT, the United States will have to give up the power created by the "Special 301" action, provided for under the 1988 Trade Act, which authorizes retaliation within 6 months of the initiation of a formal review of specific intellectual property rights. As mentioned before, the Bush administration has made significant progress in forcing countries to establish and enforce intellectual property rights. However, I believe that having a uniform international trade policy concerning intellectual property rights will be extremely beneficial in the long run because all participating countries under GATT, including those that have weak or no intellectual property rights laws, will have to abide by the new rules.

I think that, while the Dunkel text does have some drawbacks concerning intellectual property rights, the proposal will eventually curb some of the worst abuses of pirating that occur. I strongly believe that in order for GATT to be effective, there must be strong international laws to enforce the protection of international property rights. It is my hope that American multinational companies will have the confidence to aggressively seek new markets and become even more competitive with our competition abroad so that our economy will grow due to the new opportunities that will be created by a strong GATT.

SALUTING MORRIS PESIN, THE "FATHER OF LIBERTY STATE PARK"

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. GUARINI. Mr. Speaker, I ask that you and my distinguished colleagues join me in saluting Morris Pesin, who sadly passed away recently. He was a man whom many people reverently refer to as the "Father of Liberty State Park," which is in my district of Jersey City, NJ.

On Monday, August 10, the people of Jersey City and the State of New Jersey will honor the memory of Mr. Pesin and the tremendous work he performed on their behalf.

Morris Pesin was a man of the people. Throughout his lifetime, he fought for the rights of the proverbial "little guy." He has left a tremendous legacy by his dedication and hard work on behalf of the residents of Jersey City and all New Jersey.

Mr. Pesin's fight for the city and eventually Liberty State Park began with an historic canoe ride from Jersey City to the Statue of Liberty in 1958. After showing how close the great statue was to New Jersey, Mr. Pesin charted a course to set aside open land in Jersey City to allow all of its residents to enjoy the breathtaking view of the Statue.

The open land he helped to secure officially became known as Liberty State Park in 1976. Thanks to his efforts, residents of Jersey City and the surrounding area now have a free, open vista to use for recreation and the spectacular views of Miss Liberty and the New York Harbor.

In addition to fighting for Liberty State Park, Mr. Pesin was long recognized as a community leader who fought for the rights of all people regardless of their status. Working in conjunction with the NAACP in 1938, Mr. Pesin helped break discriminatory practices at local restaurants. In 1940, Mr. Pesin helped his brother, Meyer Pesin, break the color line at Palisade Park when he helped begin a Federal court action against the amusement park's discriminatory practices. Mr. Pesin also played a role, in 1945, in the founding of the Hudson County Committee for Fair Employment Practices.

Mr. Pesin's career as a public servant spanned 40 years. This included service as a councilman on the Jersey City Council, from 1969 to 1977. Mr. Pesin was also a member of numerous committees such as the Jersey City Planning Board, the Jersey City Cultural Arts Committee and the Historic Committee just to mention but a few. Mr. Pesin was also actively involved in saving and restoring the historic Hudson County Court House, now known as the Justice William J. Brennan, Jr. Courthouse.

And in 1982, Mr. Pesin was appointed by President Ronald Reagan to the Ellis Island Historic Preservation Committee.

While continually fighting for his city and its residents, the most important part of Mr. Pesin's life was always his family. He was devoted to his wife, Ethel, and his children Sammy and Judy. We offer them our most heartfelt sympathies.

Mr. Speaker, I ask that you and my distinguished colleagues join me in remembering Morris Pesin, a great American who is sorely missed.

A TRIBUTE TO THOMAS A. DUCKENFIELD, A COMMUNITY SERVANT AND ADVOCATE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Ms. NORTON. Mr. Speaker, it is with deep regret that I say farewell to a dear friend and accomplished attorney, Thomas A. Duckenfield. Tom Duckenfield, a native of Richmond, VA, graduated from Hampton University with a B.S. in mathematics in 1957. In 1970 Thomas Duckenfield graduated from Georgetown University Law Center and later attended Southern Illinois University, Edwardsville, where he earned an MBA in 1977.

Tom's background reflects a wealth of accomplishments. He joined Washington Gas in June 1985 as assistant general counsel. Later that year, he was elected vice president and general manager of District of Columbia Natural Gas. Tom also formerly served as clerk of the Superior Court of the District of Columbia. Prior to that, he was Deputy Register of Wills for the U.S. District Court for the District of Columbia.

Thomas Duckenfield embraced the needs of the local community with his time and his heart. Here in the District of Columbia, he was active in an extraordinary of organizations that serve the people of the District of Columbia. Tom served on the boards of directors of the Washington Urban League, Combined Health Appeal, Neighborhood Economic Development Corp., Education in Partnership with Technology Corp., Council for Court Excellence, National Bar Institute, Junior Achievement of Metro Washington, Bar Association of the District of Columbia, National Institute for Consumer Education in Law, and D.C. Law Students in Court.

Tom Duckenfield made a special contribution to the African-American legal community. He worked tirelessly to organize black lawyers to serve the public, to shape the development of law and public policy, and to overcome the vestiges of discrimination in the profession. Tom served as president of both the National Bar Association and the Washington Bar Association and was constantly active on their various committees.

Adding to these remarkable accomplishments, Tom was appointed to the District of Columbia Judicial Nomination Commission and the District of Columbia School of Law Board of Directors.

Thomas Duckenfield was a model family man as well. The only individuals who will miss him more than his many friends are his wife Evelyn; his three sons, Thomas, David, and Pace; his mother, Florence Duckenfield of Richmond; his three brothers, Benjamin, Hartwell, and Lloyd, all of Richmond; and a sister, Carrie Ampey of Sharon, MA.

Tom's commitment and his service will be missed. Most of all we will miss him.

U.S. INTERNATIONAL ENVIRONMENT LEADERSHIP RESOLUTION

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Ms. PELOSI. Mr. Speaker, today, I am introducing, with all 13 of my colleagues who served as congressional observers to the Earth Summit, the U.S. international environment leadership resolution, to follow up on the important work undertaken at that international meeting. We are pleased to be joined by Chairman DANTE FASCELL.

I urge my colleagues to join us in sponsoring this resolution and in supporting the objectives called for in Agenda 21, the blueprint for global environmental action.

The U.S. international environment leadership resolution would express the sense of the Congress that the United States should assume a strong leadership role in fulfilling the decisions taken at the Earth Summit by developing a national strategy to implement Agenda 21 through domestic and foreign policy. The President would be urged to develop a specific mechanism to coordinate U.S. policy for this purpose, under the leadership of a specific office and the direction of a high-level Government official.

The resolution also calls on the United States to identify and initiate further agreements to protect the global environment, to support the creation of a United Nations Sustainable Development Commission and to report to Congress on the status of these actions. This resolution is intended to support the work of the administration in developing a strategy to implement Agenda 21.

I hope you will join us in cosponsoring the U.S. international environment leadership resolution so that the initiatives of the Earth Summit can be realized at all levels of society, and so that our efforts to protect the global environment are continued.

WOMEN GYMNASTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. EDWARDS of California. Mr. Speaker, once in a while the high quality of a newspaper column can be considered literature. An example of this infrequent but happy phenomenon is the article in the Washington Post on July 31, 1992 filed in Barcelona by Tony Kornheiser.

[From the Washington Post, July 31, 1992]

GYMNASTS SMALL, SMALLER

(By Tony Kornheiser)

BARCELONA.—When they want to remake "The Wizard Of Oz," I know where they can get the new breed of Munchkins.

Women's gymnastics.

Little girls without bones who fly around the room, twisting, spinning and tumbling, and who, in the words of Dan Jenkins, "can do all the things my cat can do."

The audition is basically set up already, the way they march all the competitors around all four of the equipment stations—horse, uneven bars, balance beam and floor exercise. You watch these little sprites in bangs and braids, dutifully walking single file, and you swear they're going to break into, "Follow the yellow brick road."

Let's review some of the star members of the U.S. team. There's Shannon Miller, 4 feet 7 and 69 pounds. Sixty-nine pounds! I have washloads that weigh more. There's Kim Zmeskal, 4-7 and 80 pounds, and Dominique Dawes, 4-7 and 75. How did they find the team? Did they go into a fourth grade class, pick out the smallest girl, hand her a leotard and say, "You may be small enough to sleep in a sock drawer now, sweetheart, but you're coming home a star"?

On TV you can't truly tell how small they are because there aren't any fully formed people to compare them to—except Bela Karolyi, the mad hugger. When they put a whole team on the victory stand you sometimes see one girl towering over the others, and you think she's Gulliver, when in fact she's probably 5 feet 3.

Thursday night, at the all-around championships at Palau Saint Jordi, there was one North Korean, Gwang Suk Kim, who is listed at 4-5 and 63 pounds. Those are program numbers—the same way the Bullets used to list Wes Unseld at 6-9. Gwang Suk Kim couldn't have been more than 4-2 and 50. She made Shannon Miller look like Shelley Winters. There's a rule that every competitor must be at least 15 in the Olympic calendar year. They listed Gwang Suk Kim at 16. This girl wasn't 16 in dog years.

You may have wondered why there is no news in the column yet, and that is because it is completely impossible to follow what the hell is happening in an all-around championship, as four different exercises are going on at once, and if you watch one person for more than three seconds, you miss everything else, and you have no idea who or what people are clapping for. Ten minutes into the program my head was swiveling around like the kid in "The Exorcist."

The most impressive aspect of this midget circus is the concentration level of the competitors. Each individual floor exercise is accompanied by a musical score blasted loud enough to be heard in Madrid. Everyone else has to do their vault or their beam or bar work with the music going. And, of course, sporadic applause for one woman's work regularly interrupts the others. It makes you wonder how come golfers can't hit a 9-iron unless everybody within 100 yards stops breathing.

And now the news: By nailing a last-chance flyer over the vaulting horse and grabbing a silver medal, 15-year-old Shannon Miller may have literally and figuratively vaulted into the lead in the race for America's Sweetheart. Granted, Miller's only a slip of a sweetheart; you could stick her on a wedding cake and still have room to write the Gettysburg Address in chocolate frosting. But with most of the U.S. women's medals being silver and bronze anyway, Miller is the medalist whose body weight is closest to the medal weight without going over the actual retail price.

Miller was in fourth place with one apparatus to go, in her case the vaulting horse. Now my feeling is, the way these kids sprint down the runway, then do a handstand off a springboard that propels them into the horse, which they push off, and then twist and turn in the air like a balloon with the air escaping. My feeling is, if you can come down anywhere inside the gym you ought to get a medal. Miller's vault was so good, she should have gotten a 10—if Nadia did it, she'd have gotten an 11. The judges gave Miller a 9.975, which was the best score of the night, and for a while she was flirting with gold, until Tatiana Goutsou of the Unified Team held her first place position with a good closing vault of her own.

Let me say that I admire the great skill and courage these young women show in gymnastics. I'm all for athletic events that give girls a chance to look up to a role model of the same sex.

But I have some problems with women's gymnastics. I have a problem with the obvious kiddie-porn bent, the emphasis on trussing little girls in tight, skimpy costumes, powdering and lacquering them, and having them parade around like nymphets; if Nabokov covered women's gymnastics, "Lolita" would have been a trilogy.

I have a problem with the way these girls are taught to fear the natural physical development of their bodies as if it was a death sentence, the way they are encouraged to stay as small and thin as possible, like some little caged birds they sell on the streets of Hong Kong. There's a clipped quality about some, a haunted look.

And I have a problem with parents who break up their families to accommodate some mad obsession, and send their daughters away from home, to professional coaches who promise to pound them into gymnasts. I thought one of the things we found abhorrent about totalitarian governments was this Orwellian assembly line approach to sports we now seem so eager to embrace.

There are a group of sports, including tennis, swimming and ice skating, where little kids are routinely hijacked and sent scampering off to the gulag of fancy promises. They give up their youth and sacrifice their bodies for the approval of a parent or coach, and many of them wind up emotional and physical wrecks. Gymnastics may be the worst because it claims them younger and spits them out faster. Many of the young ones suffer broken bones and tendon injuries because they are putting their bodies through torture before their bones and joints are developed enough to take the stress.

It's encouraging, at least, to know that four of the top six U.S. women's gymnasts live at home and have relatively normal childhoods—if you can ever consider the life of an elite athlete normal. We're told 15-year-old Shannon Miller goes to public school and fights with her brother. Let's hope the rest of her develops normally as well.

NATIONAL ORGAN DONATION AWARENESS CAMPAIGN BILL

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. ROYBAL. Mr. Speaker, today I am very pleased to introduce the National Organ Donor Awareness Campaign Act of 1992. I am introducing this bill on behalf of the organ transplant patients, recipients, and their families. Unfortunately many people have suffered under the current system which is plagued with rationing, inefficiency, inequity, inconsistency, backlogs, inadequate funding, and outrageous costs.

Last year I chaired a House Select Committee on Aging hearing, entitled Organ Transplants; Choices and Criteria, Who Lives, Who Dies, Who Pays?" Witnesses testified about the tragedy of our current system, including a physician's determination not to place a patient on the waiting list for an organ solely because the individual had insufficient financial resources.

We must be aware that if this country continues at its current pace with medical technological advancements, increased life expectancy, now at 75.4 years, and with projections that the population of people age 65 and over will more than double by the year 2030, the problems we are facing today will be more severe as people live longer unless we act now. Consider the field of organ transplantation. The demand for organs is increasing and already with the current organ shortage, physicians are being forced to choose life or death for their patients. We must implement measures to reduce the discrepancy between the organ supply and demand before our children or a loved one spouse needs an organ—for then it may be too late.

Currently there are over 27,000 individuals waiting for an organ transplant in the United States. A new patient is added approximately every 20 minutes, and thousands more await tissue transplantation. It is estimated that up to one-fourth of these patients will die because a suitable organ is not located in time. Between 1988 and 1990, the number of deaths for people awaiting a transplant increased 35 percent. In 1991 alone, the total number of deaths for adults and children was 2,500. For those waiting for a transplant, the outlook is grim.

It is sickening and at the same time ironic that people are dying while waiting for a lifesaving procedure which is no longer experimental, but an accepted form of treatment for end-stage renal disease. Transplantation is one of the great miracles of modern medicine and the success rates have improved with the introduction of immunosuppressive drugs. People should not be denied access to lifesaving technology.

The main problem we are facing today in the transplant system is a severe organ shortage. Unfortunately, while the number of organ transplants increased, the number of patients on the United Network of Organ Sharing [UNOS] waiting list also increased. During 1988–90, the waiting lists for lung, pancreas, and liver each grew in size by at least 100 percent. One source, the 1990 Annual Report of the U.S. Scientific Registry for Organ Transplantation and the Organ Procurement and Transplantation Network, reported the total number of organ transplants increased by 17 percent between January 1, 1988, and December 31, 1990.

The key is education. By increasing public awareness about organ and tissue donation we can offer hope and save the lives of many chronically ill patients. This bill strikes at the core problem of the organ shortage in this country, the lack of education, information, and resources to help people understand and feel at ease discussing the issue of organ donation and transplantation. It calls for the Secretary to take immediate action by launching a national campaign to increase organ donor awareness, especially among low donor groups.

The National Organ Donation and Awareness Campaign implements a multifaceted and multilingual approach. Information will be disseminated through education, medical, clergy, legal, and other professions. Provisions are included to: Encourage organ donation especially among low donor groups; develop methods of overcoming language and cultural barriers; ensure equity, access, affordability, and efficiency; research the organ procurement and transplantation system and target problem areas; extend immunosuppressive drug coverage; promote special projects among minority populations; and promote a more efficient, cost-effective and harmonious system. It is my hope that through the education and research programs managed by this legislation that the number of organ donors will increase. Just as we have introduced AIDS education into the classrooms, medical and health professions and media, we must address the issue of organ donation so people will talk and act on this issue.

There is one more aspect of the bill which I would like to specifically highlight. I have included a special project grants for minority organ procurement. It includes provisions to address cultural, racial, and language minorities as well as employ translators in hospitals to help identify potential organ donors and facilitate communication with families and relatives.

This bill is not conclusive, but perhaps by taking this step in introducing this legislation, more people will have the opportunity to get a needed transplant and live a longer, healthier, more productive and enjoyable lifestyle. If we consider that the number of elderly in our population is rapidly increasing, we need to ensure preventive health is accessible at all stages in the aging process; providing access to organ transplants is one method. As people live longer, the demand for organs will increase.

We need this campaign. It is a reform proposal based on the testimony we heard at the 1991 Aging Committee hearing and a response to the 1991 report released by the Office of the Inspector General of the Department of Health and Human Services, which stated, "current organ distribution practices fall short of congressional and professional expectations."

We know the health care system in this country is in desperate need of repair and organ transplantation is just one area. It is a highly controversial issue, but with the current debates on health care reform and with numerous congressional proposals, it is obvious the people of this country have realized we need to act. I have introduced my U.S. health bill, which is representative of the many provisions included in this bill, such as access, cost-containment, quality, equity, and long-term care, especially for the aging population. I am introducing the National Organ Donor Awareness Campaign Act of 1992, as an incremental step toward reforming our Nation's health care system.

We need national health care reform. The condition of the transplant system is indicative of the problems which are plaguing the national health care system today. The issues of rationing health care, access, cost-containment, and quality are recurrent themes in the daily discussions about national health care reform. The organ procurement and transplantation system is one example where the importance and urgency of reform is blatant. We cannot make life and death decisions based on a person's race or socioeconomic status. Hopefully reforms such as the bill I am introducing today will help ensure quality controls and ensure an efficient and equitable system where people have access to quality health care. I hope you will join me in supporting this piece of legislation. I thank all those who have contributed to this piece of legislation.

MONTGOMERY COUNTY ATHLETES SHINE AT OLYMPICS: BARROWMAN AND JACOBI STRIKE GOLD

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mrs. MORELLA. Mr. Speaker, I am proud to bring to the attention of the Congress the accomplishments of a pair of my constituents, Olympic swimmer Mike Barrowman and Olympic canoeist Joe Jacobi.

On Wednesday, Mike set a new world record in the 200 meter breaststroke, winning for America, a gold medal, and, for himself, a place in history.

On this date 4 years ago, Mike Barrowman was a little-known swimmer who had graduated from Winston Churchill High School and had completed his first year as a student-athlete at the University of Michigan. Then, on August 11, 1988, he shocked the swimming world by breaking the existing U.S. breaststroke record not just once, but twice, swimming the world's second best breaststroke ever, in the morning and again in the evening. While most records in swimming are shaved by hundredths of seconds, not full seconds, Barrowman shaved more than a second off the existing American record.

Since 1988, in total he has set or tied six U.S. and world records, performing as the world's most consistent swimmer.

His secret has been a combination of incredible will power, dedication and persistence. In preparation for the 1992 Olympics, he has swum an average of 175 miles a month, 11 months a year, almost 2,000 miles per year. His daily schedule has been spartan: Eat, sleep, and swim.

An outstanding coach has been an asset as well. Jozsef Nagy spoke little English when he became Barrowman's coach in 1986. It was Nagy, who, after watching films of a cheetah running with its shoulder coming up and its head falling forward, developed a style of breaststroke in Hungary called the wave action at which Barrowman excels. The wave action stroke is very difficult to master and Barrowman was the first American to attempt it.

Most Olympic athletes have only one chance at competing in the Olympics. Mike Barrowman went to the 1988 Olympics in Seoul, but finished fourth, not qualifying for a medal. Mike, never one to get discouraged, knew that he could do better and set as a goal the 1992 Olympics.

He accelerated his practices, and continuously found new ways to challenge himself. He swam laps in Ann Arbor under the tutelage of Michigan coach Jon Urbanchek and locally with coach Nagy and the Curl-Burke Swim Club at American University, Holton-Arms School, and the Twinbrook Club in Rockville. For the past 2 years, Mike arranged for two of his primary rivals, Spain's Sergio Lopez and fellow American Roque Santos of Chico, CA, to train with him based on the principle that they would all ultimately gain by learning from one another.

Mike's furious commitment to self improvement has been a model for the more than 20,000 youngsters who swim competitively in the Washington area, the 1,500 members of the Nation's biggest swim club, the Rockville-Montgomery Swim Club where Mike started swimming competitively, and for his colleagues on the Curl-Burke Swim Club.

I join the people worldwide who witnessed Mike's Olympic glory in admiring his determination and stamina.

On Sunday, Joe Jacobi and his canoeing partner Scott Straussbaugh of North Carolina surprised the whitewater racing world by paddling their quickest run of their lives and beating the reigning world champions by more than 2 seconds in the men's doubles whitewater slalom competition. Joe and Scott were the very model of synchronicity, maneuvering perfectly into and out of the 25 perilous gates.

Joe and Scott had raced together for 6 years, training fulltime for 3. As have so many of the Washington area's finest canoeists and kayakers, Joe went as a youngster to Valley Mill Camp along the Potomac River, where he developed the skill and love of whitewater paddling under the family run camp founded by May McEwan in 1956. Her son, Jamie McEwan and his partner, placed fourth in the same event that Joe Jacobi won the gold. As did Mike Barrowman, Joe graduated from Winston Churchill High School in Potomac and was attending the University of Maryland when he took time off to practice for the Olympics. He is one of five sons of Robert and Susan Jacobi, longtime residents of Bethesda.

Women's kayaker Dana Chladek, also of Bethesda, won a bronze medal Saturday. Five-time world champion canoeist Jon Lugbill, 1985 World Champion David Hearn, the men's doubles slalom team of Martin McCormick and Elliot Weintrob, and 1979 women's kayak World Champion Cathy Hearn also made strong showings for the U.S. team.

The Bethesda area is a particularly good training area for whitewater slalomists due to outstanding community support such as demonstrated by the Potomac Electric Power Co. PEPCO generously built an artificial whitewater slalom course at its Dickerson plant that simulated the Olympic course in Spain. PEPCO deserves great praise for helping our Olympians.

I am proud that my congressional district is home to some many world-class athletes. To paraphrase Shakespeare, the force of their own merit has made their way.

THE VILLAGE OF MARISSA, IL, CELEBRATES 125TH ANNIVERSARY

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. COSTELLO. Mr. Speaker, I rise today to bring my colleagues' attention to the village of Marissa, IL, founded in 1867. This year marks the 125th anniversary of the village, which is located in St. Clair County, the county where I was born and raised.

"The Friendly Village," a favorite nickname for Marissa, is home to 2,500 residents. The name, Marissa, was originally chosen by James Wilson, Jr., the first U.S. Postmaster, who selected the name from the book, "Antiquities of the Jews," by Flavius Josephus. Marissa, IL, is believed to be the only town in the world to bear its name. The book is currently on display at the Marissa Academy Building.

The Marissa Academy, which once housed a women's college, was founded in 1886, with the present building being constructed in 1891. It is the only academy building of its kind remaining in the State of Illinois. Both the academy and the Schneidewind Barn Museum are open for public viewing.

The village of Marissa has enjoyed an interesting history. Until 1971, there were two completely separate Marissa villages. One Marissa had saloons and was wet and the second Marissa had none and was dry. In 1971, an election decided in favor of the merger to create one village of Marissa.

Agriculture and coal mining play an important role in the village and provide the majority of jobs to the area. In fact, several 100-year-old farms and third generation mine families currently reside in the village. It has been my great pleasure to represent Marissa in Congress, and I have a strong affection for its hard-working residents and smalltown charm.

I would like for my colleagues to join me in recognizing the village of Marissa on this momentous occasion of its 125th anniversary celebration.

TRIBUTE TO WILMA SWIFT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. TRAFICANT. Mr. Speaker, I rise here today to pay tribute to a wonderful woman from my 17th Congressional District. Wilma Swift was recently installed as president of the Ladies Auxiliary to the Veterans of Foreign Wars Department of Ohio.

Mr. Speaker, Wilma has been a member of Auxiliary 7614 in Johnston, OH, for over 36 years. She has held offices and chairmanships on all levels of the auxiliary. In June 1987, she was elected to the office of department guard and has gone through the chairs to her present position of president.

She began her rise as president of Auxiliary 7614 in 1959. In 1965 she became the president of district eight which comprises Mahoning, Portage, Summit, and Trumbull counties. From 1976–1978, she was president of the Trumbull County Council Auxiliary.

Wilma and her husband, George, have been married for 44 years. They have two daughters, and three grandchildren.

Mr. Speaker, it gives me great pleasure to rise here today to honor Wilma Swift, a woman who has given so much of her time to Ladies Auxiliary to the Veterans of Foreign Wars Department of Ohio.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1993

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. SWIFT. Mr. Speaker, on July 28 the House passed H.R. 5677, the Labor, Health and Human Services, and Education, and related agencies appropriations bill for fiscal year 1993. This comprehensive piece of legislation provides funding for a multitude of important federal programs. In particular, I wanted to comment on the funding for the Low Income Home Energy Assistance Program [LIHEAP].

We all know how expensive it is to heat a home in the winter. There are countless Americans across this country—ranging from the elderly to the young to the disabled—who face tremendous hardship during severe weather even though they may have what is considered to be adequate shelter. For many, the question becomes whether to pay the heating bill or the grocery bill and that is a choice that no one should have to make. LIHEAP has been enormously successful in helping thousands of families and individuals avoid having to make that most difficult choice.

For nearly a dozen years, LIHEAP has provided critical funding to States for energy assistance payments, energy crisis intervention and energy conservation. It has allowed thousands all across this country to remain warm during the cold winters and cool during the hot summers. Last year in Washington State alone, LIHEAP assisted nearly 100,000 households with energy or crisis assistance and yet there are over 275,000 households eligible for the assistance. In addition, approximately 2,700 homes in Washington State received weatherization assistance; however, the Washington State Department of Community Development estimates that 165,000 homes need such assistance. And the folks that LIHEAP assists are the most needy in our country—three-quarters of Washington State LIHEAP recipients had annual incomes of less than $8,000.

Snohomish County, for example, in my own second congressional district has been able to assist nearly 5,000 homes with energy assistance—a large portion—43 percent—of those were households which had children under the age of 6. Unfortunately, it is estimated that LIHEAP is only reaching a third of those eligible in Snohomish County.

The appropriations bill passed by the House contains $891 million in nonemergency funding for LIHEAP which is a dramatic reduction—$609 million—over last year. Our budget situation has forced the Appropriations Committee to make some difficult decisions and I recognize that there were several other worthwhile programs which also received less funding than last year. However, at a time when we have more folks out of work because of the devastating effects of the recession and at a time when energy prices continue to go up, I strongly believe that we need to continue to support the Low Income Home Energy Assistance Program to the greatest extent possible. I am hopeful that sufficient funding for LIHEAP will be restored in conference so that we can take care of one of the most basic of human needs—having a home that is dry in the rain, cool in the summer and warm in the winter.

RECOGNITION OF THE MOUNT HOREB MUSTARD MUSEUM

HON. SCOTT L. KLUG

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. KLUG. Mr. Speaker, in honor of National Mustard Day which we observe today, I rise to recognize the Mustard Museum in Mount Horeb, WI.

The Mount Horeb Mustard Museum, which is located in my congressional district, is the sponsor of National Mustard Day. The Wisconsin museum houses the largest collection of mustards in the world with 1,334 varieties from 48 States and several countries. Only mustards from Nevada and Alaska are missing from the U.S. portion of the collection. Since April of this year alone, more than 5,000 people have visited this unique south central Wisconsin attraction.

I would also like to take this opportunity to honor the Mount Horeb Mustard Museum's curator, Barry Levenson, who began collecting mustards 6 years ago. Barry's vision has become a well-known tourist site in my district. National news organizations including CBS and CNN have showcased Barry's unusual and interesting collection.

With close to 88 percent of the country choosing mustard as the main condiment for their hot dogs, I think we can all share in the fun of National Mustard Day with the Mount Horeb Mustard Museum.

TRIBUTE TO IAN DONAHUE-VILLANI

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. SMITH of Florida. Mr. Speaker, it is my pleasure to congratulate Ian Donahue-Villani of Hollywood, FL who displayed a commendable degree of honesty and integrity in his acts last month.

Ian is an 11-year-old student at Hollywood Central Elementary School who made a surprising discovery while strolling with his father Steven in West Lake Park on Independence Day. Ian and his father uncovered an ammo box stuffed with over $500,000 in crisp $20 bills. Ian honorably reported the find and turned over the money to the U.S. Secret Service. The U.S. Treasury later informed him that the bills were actually counterfeit. Ian was deservingly named an honorary junior member of the U.S. Secret Service for his noble deed.

Ian is a wonderful example for the rest of America's youth to follow. His honesty and civic-mindedness should not go unrecognized. His family and friends must be extremely proud of his conduct. I commend Ian Donahue-Villani for being an outstanding and admirable citizen.

TRIBUTE OF MARK W. GIBSON

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1992

Mr. COSTELLO. Mr. Speaker, I rise today to applaud Mark W. Gibson, a recipient of the William T. Hornaday Silver Medal. I would like to ask my colleagues to join me in recognizing Mark for being selected for this medal, the highest award for conservation work a scout or explorer can earn.

Mark W. Gibson, an Eagle Scout from Shiloh, IL, is one of six Scouts nationwide to receive this prestigious award. The awards program began in 1914 to encourage Scouts to do conservation work. Mark worked on a variety of projects to qualify and be selected for the impressive Hornaday Award. His projects included building houses to shelter 40 bats, constructing and distributing bird houses, organizing and conducting a lake cleanup, establishing a recycling program for aluminum cans, and renovating a Scout camp nature trail.

For his dedication to conservation and Scouting, I am pleased to offer my sincere congratulations to Mark Gibson for a job well done.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, August 6, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 7

9:30 a.m.

Armed Services

To hold hearings to examine the current situation in Bosnia and appropriate U.S. and western response.

SR-222

Governmental Affairs

To hold oversight hearings on the Chief Financial Officer Act (P.L. 101-576) and Army audit.

SD-342

Joint Economic

To hold hearings to examine the employment-unemployment situation for July.

SD-628

10:00 a.m.

Foreign Relations

To hold hearings on the nomination of Anthony C. E. Quainton, of the District of Columbia, to be Assistant Secretary of State for Diplomatic Security.

SD-419

Veterans' Affairs

Business meeting, to mark up S. 2575, to revise certain pay authorities that apply to nurses and other health care professionals, S. 2973, to improve the care and services furnished to women veterans who have experienced sexual trauma, S. 2774, to revise certain administrative provisions relating to the United States Court of Veterans Appeals, and proposed legislation relating to veterans home loan programs.

SR-418

AUGUST 10

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To hold hearings on S. 3119, to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department.

SR-332

Governmental Affairs

To hold hearings to examine the health risks posed to police officers who use traffic radar guns.

SD-342

AUGUST 11

9:00 a.m.

Select on POW/MIA Affairs

To hold hearings to review private sector and official efforts on POWs/MIAs.

SR-325

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 3127, to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf.

SD-366

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to examine alleged corruption in the professional boxing industry.

SH-216

10:00 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

Judiciary

To hold hearings on proposed legislation to authorize funds for programs of the Office of Justice Programs, Department of Justice.

SD-226

2:00 p.m.

Foreign Relations

To hold hearings on the nominations of John Frank Bookout, Jr., of Texas, to be Ambassador to the Kingdom of Saudi Arabia, David J. Dunford, of Arizona, to be Ambassador to the Sultanate of Oman, John Cameron Monjo, of Maryland, to be Ambassador to the Islamic Republic of Pakistan, and William Arthur Rugh, of Maryland, to be Ambassador to the United Arab Emirates.

SD-419

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings on proposed legislation authorizing funds for activities of the Independent Counsel Law of the Ethics in Government Act of 1978.

SD-342

2:30 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 2505, to revise the Land and Water Conservation Fund Act of 1965 to authorize expansion of the existing entrance fee program at units of the National Park System to all areas administered by the Secretary of the Interior and certain Forest Service recreation areas administered by the Secretary of Agriculture, S. 2723 and H.R. 4999, to revise the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, S. 3100, to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and H.R. 4276, to revise the Historic Sites, Buildings, and Antiquities Act to place certain limits on appropriations for projects not specifically authorized by law.

SD-366

Judiciary

To hold hearings on pending nominations.

SD-226

Conferees, on S. 1671, to withdraw from certain public uses and transfers to the Department of Energy certain public lands in Eddy County, New Mexico, for purposes related to the Waste Isolation Pilot Plant demonstration project for the disposal of defense radioactive waste. Time and room to be announced.

AUGUST 12

9:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2762, to assure the preservation of the northern spotted owl and the stability of communities dependent on the resources of the public lands in Oregon, Washington, and northern California.

SD-406

Labor and Human Resources

Business meeting, to mark up S. 1622, to revise the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, S. 2837, DES Education and Research Amendments, S. 492, Live Performing Arts Labor Relations Amendments, proposed legislation authorizing funds for the Agency for Health Care Policy and Research, Department of Health and Human Services, proposed legislation relating to breast cancer screening safety, and to consider pending nominations.

SD-430

Select on POW/MIA Affairs

To continue hearings to review private sector and official efforts on POWs/MIAs.

SR-325

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine alleged corruption in the professional boxing industry.

SH-216

Select on Indian Affairs

Business meeting, to mark up S. 2975, to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona; to be followed by an oversight hearing on Indian trust fund management.

SR-485

SEPTEMBER 9

9:30 a.m.

Commerce, Science, and Transportation

To hold oversight hearings in conjunction with the National Ocean Policy Study on implementation of the Fishery Conservation Amendments of 1990 (P.L. 101-627).

SR-253

SEPTEMBER 22

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations by the American Legion.

334 Cannon Building

HOUSE OF REPRESENTATIVES—*Thursday, August 6, 1992*

The House met at 9 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May our hearts be open, gracious God, to the bountiful gifts of Your hand. With so much to do and to accomplish may we not neglect the good things of the spirit and be sensitive to Your will so the gifts of grace and Your unmerited favor continue to support us in all our circumstances and sustain us in our very hearts and souls. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California [Mr. LEWIS] please come forward and lead the House in the Pledge of Allegiance.

Mr. LEWIS of California led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive 1-minute requests. The Chair will receive five 1-minute requests on each side.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, TO SIT ON THURSDAY, AUGUST 6, 1992, DURING THE 5-MINUTE RULE

Mr. VALENTINE. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology be permitted to sit on Thursday, August 6, 1992, while the House is in session under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, TO FILE REPORT ON H.R. 5321, THE NATIONAL COMPETITIVENESS ACT OF 1992

Mr. VALENTINE. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology have until midnight, Thursday, August 6, 1992, to file a late report on H.R. 5231, the National Competitiveness Act of 1992.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GEORGE BUSH'S BROKEN PROMISES

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, during the next few weeks, we are going to hear a lot about George Bush's broken promises. I think there is no better way to express this than in the man's own words. Let me quote from the President's acceptance speech on the Republican nomination in 1988. We know his famous quote, "Read my lips, no new taxes."

He also said, "And I am the one who will not raise taxes. My opponent now says he will raise them as a last resort, or a third resort. Well, when a politician talks like that, you know that is one resort he will be checking into, and my opponent won't rule out raising taxes, but I will."

George Bush, August 18, 1988.

What is the record? President Bush supported the 1990 budget summit agreement, which included new taxes and user fees totaling $147.7 billion.

In 1989, President Bush supported $6 billion in tax hikes, including airline and gasoline excise taxes.

In 1990, President Bush called for $28 billion in new taxes and user fees in his budget for fiscal years 1991 and 1992.

Mr. Speaker, broken promises.

NOT IMPRESSED ANY MORE WITH GOVERNOR CLINTON

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker, a couple of days ago, I saw the Democrat candidate for President on television. The Arkansas Governor said he had balanced 12 budgets. I was impressed.

Then, I started to think. There is more than one way to skin a cat, and there is more than one way to balance a budget. One way is to keep spending down. The other way is to raise taxes.

So, I asked myself, which way did Governor Clinton choose? The answer—He raised taxes. In fact, he raised taxes 128 times. I am not impressed anymore.

SURROGATE SLEAZE

(Mr. JONES of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Georgia. Mr. Speaker, yesterday in this Chamber, we heard a not so shining example of an old political custom, surrogate sleaze.

Having been inspired by Penthouse magazine, and the National Star, the gentleman from California [Mr. DORNAN] engaged in the character assassination of Governor Clinton.

The gentleman from California [Mr. DORNAN] said, "I'll carry the President's water here."

Well, it is bad water. It is stagnant and it stinks. It will poison the gentleman from California [Mr. DORNAN] and all who drink it.

Not one of us is without sin, I say to the gentleman from California [Mr. DORNAN], certainly not the gentleman from California, certainly not me, not Governor Clinton and not President Bush.

But perhaps the question here is whether we are going to use this well to degrade the public debate or shall we use it to appeal to the best in people to inspire a better America.

TAXATION WITHOUT HESITATION

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, more than 200 years ago, the Founding Fathers discovered a common threat that united the colonists against English rule. That threat was taxation.

In fact, the rallying cry of the day was "No taxation without representation."

Today, however, one can hear the muffled new cry of the Democratic Party: "Taxation without hesitation."

You can hear Gov. Mario Cuomo commend Bill Clinton for his willingness to raise taxes.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

You can see the spending plans of the Democratic Congress.

And you can almost feel the Democrats' anticipation at getting their hands on your money.

Bill Clinton shows no reluctance to raise taxes.

For him, it will be taxation without hesitation.

I hope the American people keep that in mind for the coming election.

GEORGE BUSH'S 30 MILLION NEW JOBS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, everybody remembers the infamous political line, "Read my lips, no new taxes," but everybody seems to forget, "If you elect me, George Bush, in 8 years I will create 30 million new jobs."

I want to rise today and say that I think Democrats have been a little too partisan. I think we have been too tough on the President, too critical, because I predict today that if the American voters elect George Bush, he will come close to creating 30 million new jobs, Mr. Speaker, in Mexico, Taiwan, Singapore, Europe, Hong Kong, and Russia. Believe me, he cannot miss. Between foreign aid giveaways, trade programs that are so misdirected that if you threw them at the ground, they would miss. He will create 30 million new jobs.

The bad news is that we will keep standing in the unemployment lines.

BILL CLINTON'S ECONOMIC PLAN—$150 BILLION IN NEW TAXES

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, America is still reeling from the budget deal. You remember that one.

On the brink of an economic recession, the liberals in Congress forced the largest tax increase in our Nation's history down a conservative President's throat. Luxury taxes, boat taxes, taxes on taxes, these were bitter pills for Americans, but now instead of a budget deal, "Willie's deal" sits on the table.

It is Gov. Bill Clinton's economic plan, with $150 billion in new taxes, way more taxes than the budget deal.

It is even more than the tax increase programs of such illustrious liberals as Walter Mondale and Michael Dukakis.

Mr. Speaker, Governor Clinton's economic plan for $150 billion in new taxes is not just a bitter pill for America to swallow. It is the whole pharmacy.

LEGISLATIVE GRIDLOCK MUST BE BROKEN ON CAMPAIGN REFORM BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the Washington Post is doing a front page series on legislative and governmental gridlock. They even sent out their lexicographic detectives to try to figure out who first used gridlock in connection, not with a crowded freeway, but with regard to impasse on taking legislative action.

Now, gridlock is not always terrible. Sometimes it gives us a chance to fashion a better bill, to develop a broader consensus. But, with regard to the failure to reform campaign finance laws, gridlock has been terrible. It has further deepened the public cynicism about the political process.

□ 0910

The President followed poor advice earlier this year when he vetoed the campaign finance reform bill which would have limited spending and reduced the impact of PAC and special-interest money on elections. We need very quickly to break this particular legislative gridlock. We need to pass campaign finance reform, and soon.

WE NEED CHANGE HERE IN THE CONGRESS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, I am disappointed again that all we do in the morning is stand here, bash the President, talk about things that someone else is doing. Where is your idea? Why do we not do something? Why do we not do something useful here?

We talk about change in this campaign, and I am for it. The problem is that change does not take place in this place. This leadership in this House does not seek to have change.

What we do is spend more money on the same programs and expect something to turn out differently. Do we want more Government? Of course, not, we want change that works. What do we do about that? We send more money to welfare. Why? Because we are unhappy with the way it works? No; we just spend more money in the same programs. We do not change it.

We need some fundamental change in Government. We need to decide what services the Government is going to offer, what is appropriate, how we provide those services.

Let me tell you, my friends, putting more money in the same programs does not raise the expectation for different results. If we want change, we ought to start right here by doing something different than what we have been doing.

U.S. AGRICULTURE INDUSTRY RUSHES TO SUPPORT THE FREEDOM SUPPORT ACT

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, as this body moves toward consideration of H.R. 4547, the Freedom Support Act, it should be very clear that passage of this legislation is not just important for the future of the former Soviet Union—passage is also important to the American economy. American businessmen and labor recognize that if the former Soviet Union succeeds in its transition to a market economy, that United States exporters will benefit greatly from this potential market of 290 million individuals. American business and labor are increasingly aware that the Freedom Support Act will result in more jobs for American workers who will supply the equipment and services to this newly opened part of the world.

Recently this Member received a policy statement from the National Agricultural Advisory Committee, a consortium that includes four former Secretaries of Agriculture and more than 100 of America's leading farm, commodity, and agribusiness organizations. It is a veritable who's who of America's agricultural interests. This distinguished committee was unanimous in their strong support for H.R. 4547.

Mr. Speaker, the agricultural community supports the Freedom Support Act not only because it responds to the economic, political, and social needs of the former Soviet Union, but because it responds to our needs, the needs of the United States and the United States agriculture-agribusiness community. There are many outstanding reasons to support the Freedom Support Act which I will address later today. If you care about the American farmer and agribusiness, vote to support the President, vote to support the majority and minority leadership of this body, vote to support the Freedom Support Act.

DISCOURAGING POLITICAL COURAGE AND LEADERSHIP

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, legislators of both parties in the State of Oregon acted to determine which Medicaid procedures their taxpayers could afford to provide and which were not cost effective nor of high priority. Anyone who understands anything about health care knows that this kind of prioritizing is necessary if medical costs are ever to be brought under control.

The Oregon approach took leadership and courage. It should have been recognized and encouraged by the Department of Health and Human Services whose approval was required for Medicaid funding. Instead, they rejected this courageous approach on the unsubstantiated ground that it might violate the ADA; that an alcoholic who abused his liver all his life and needs a new one would be denied a transplant under the Oregon approach, which properly deems it a low priority.

Mr. Speaker, at a time when the American people are starved for leadership, at a time when bold action is needed in so many areas, HHS not only fails to provide it, it actively discourages those who do. This is not good government and this is not good politics.

RECIPROCAL ARRANGEMENTS WITH FORMER SOVIET UNION

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, we have a very important piece of legislation before the Congress today, the question of whether we will try to help the Soviet Union remainders to become viable democracies and part of the free world. I hope that we will stand behind that idea.

Mr. Speaker, I did feel, along with Mr. MCEWEN and others, and do still feel, that it would be a good idea if we ask in return some assistance with regard to our stockpile, with regard to oil, with regard to platinum and other things that the Russian countries have in large abundance. They are No. 1 in the production of gold, oil, and other things like that. They could make arrangements with us to repay some of the assistance we give them at this particular time. I hope that will be allowed on the floor, but even if it is not, I hope the President will work in that direction.

LET US LOOK AT THE LEGISLATIVE RECORD

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, it is a time, certainly, the season of political rhetoric, the season of mean times, a season when we point the finger across the other side of the aisle and in reciprocation it comes back here. But a season of charges that pass between the Bush candidacy and the Clinton candidacy.

Let us look at the record. The President is accused of not having an economic policy. He does. Where is that economic policy? Where is the crime package? It is in a committee in the other body. Where is the economic and jobs package? It is here in a House committee. Where is the health care reform package? It is here in a House committee. Where is the energy policy? It is stuck in a conference committee. But even things that we worked together on, like the earnings test repeal for working seniors today that we have agreed on and passed out of this body, it is stuck in a conference in the other body. We need change. The American people want change. Maybe change ought to start right here.

PORKER OF THE WEEK AWARD

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, tuition is on the rise, but so, it seems, are the Federal grants that colleges get, especially those that get tucked into the Federal budget year after year. Let me explain. You have heard about the late-night sessions that the leadership calls when we are under deadline. For the tax-and-spend Members of Congress, this is the ideal time to tack on their favorite pork projects. They know that at that hour no one will have time to read the bill and find out what is actually in it. That is exactly how 156 colleges around the country recently got $95 million in taxes.

Let me give you an example. Ask Senator BYRD how a little-known college in the Allegany foothills recently was selected for $41 million in Federal research projects, a windfall, almost three times its $14 million annual budget. When you realize this little college has 1,400 students and no doctoral program, maybe this money is well spent but maybe not. How do we know, with this crazy way of doing business? The grants, along with the shady way they get attached to the budget every year get my vote for the Porker of the Week Award.

GIVE THE PRESIDENT A LINE-ITEM VETO

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, today I rise to bring to your attention a letter that I, along with 66 of our colleagues, Republicans and Democrats alike, will be sending to both Speaker FOLEY and Minority Leader MICHEL requesting their leadership in bringing any one of the many line-item veto bills introduced this session to the floor for a vote.

The time has come for Congress to act on giving the President of the United States a line-item veto. With both President Bush and Governor Clinton endorsing the line-item veto the time to move in a bipartisan fashion has arrived on Capitol Hill.

We must pass a line-item veto this session because at this point no one can predict with certainty who our next President will be. The time has come for Congress to address this issue head-on, instead of hiding behind partisan politics.

After January it will be to late. One party will control the White House and the other may hesitate to work for passage of a line-item veto.

This is not an issue of Republicans versus Democrats.

Instead, it is a matter of someone having the responsibility to eliminate the wasteful expenditures from our budget. Passage of a line-item veto is certain to send a clear message to all Americans that Congress is listening to their call for bringing our Nation's budget under control.

Together, let us take that first step.

FIFTIETH ANNIVERSARY OF GUADALCANAL

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, tomorrow, August 7, 1992 marks the 50th anniversary of the first offensive ground action undertaken by American military forces during World War II. Operation Watchtower undertaken by the First Marine Division included landings on three islands—Tulagi, Gavutu, and Guadalcanal. The two smaller islands, were secured within 3 days at the cost of 122 American and more than 800 Japanese lives. There marines discovered that the Japanese defenders would fight fanatically to the death rather than surrender.

The unopposed amphibious landing on Guadalcanal, the largest island, marked the turning point of the Pacific campaign. After Pearl Harbor, the Japanese Imperial Army had captured Hong Kong, Burma, Thailand, the Philippines, Singapore, The Netherlands, East Indies, and other island outposts. At Guadalcanal, however, the Japanese Imperial Army lost its aura of invincibility.

The battle for Guadalcanal would continue until the following February. Army units which would supplement and relieve Marine forces landed the following October. They included the 23d Infantry Division, the 25th Infantry Division, and the American Division. Let us remember the skill, determination, and sacrifice of those who fought in such dire circumstances at Guadalcanal 50 years ago tomorrow.

PROVIDING FOR CONSIDERATION OF H.R. 3603, FAMILY PRESERVATION ACT

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 543 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 543

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3603) to promote family preservation and the prevention of foster care with emphasis on families where abuse of alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(1)(3)(A) of rule XI or clause 8 of rule XXI are waived. General debate shall be confined to the bill and the amendment made in order by this resolution and shall not exceed ninety minutes, with sixty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the committee amendments now printed in the bill it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 5600, modified by the amendments printed in the report of the Committee on Rules accompanying this resolution. The amendment in the nature of a substitute shall be considered as read. Points of order against the amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI are waived. No amendment to the amendment in the nature of a substitute, as modified, and no other amendment to the bill shall be in order. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. VALENTINE). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 543 is the rule providing for the consideration of H.R. 3603, the Family Preservation Act of 1992.

The rule waives points of order against consideration of the bill under clause 8 of rule XXI or clause 2(L)(3)(A) of rule XI. Clause 8 of rule XXI requires a Congressional Budget Office estimate to be included in any measure providing for changes in direct spending or receipts. Clause 2(L)(3)(A) of rule XI requires the inclusion in the report accompanying the bill of a separate and clearly identified statement of the committee's oversight findings and recommendations.

The rule provides for 90 minutes of general debate; 60 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

Further, the rule makes in order as an original bill for the purpose of amendment, and amendment in the nature of the substitute consisting of the text of H.R. 5600, as modified by the Education and Labor Committee amendments printed in the report accompanying the rule. Points of order under clause 7 of rule XVI, which prohibits nongermane amendments, are waived against the substitute.

No amendments to the substitute or other amendments to the bill are in order.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the substitute, which this rule makes in order, combines the provisions of the Family Preservation Act of 1992 and the Mickey Leland Childhood Hunger Relief Act. The consolidated bill offers the hope of a healthier, happier, and more secure future to the millions of American children who, each day, face abuse, hunger, and neglect.

It is well documented that the American family has steadily disintegrated over the past decade. Since 1980, the reported incidence of child abuse and neglect has tripled. The number of children living apart from their families in foster homes rose by 50 percent to more than 407,000 in 1990. At least half a million infants were born drug-exposed in 1991. The poverty rate among children has increased 5 percent and an estimated 5 million children suffered from hunger during 1991. We've strayed far from the idyllic families of the 1950's, when Mr. and Mrs. Cleaver were more the rule than the exception.

The legislation we consider today would help keep families together and healthy, and would help put food on their tables. The bill establishes new family preservation programs including counseling, support, and respite services. It also makes needed reforms in foster care and adoption assistance programs.

The Mickey Leland childhood hunger relief portion of the substitute expands eligibility and benefits for the food stamp program to ensure that no American child is malnourished.

As a cosponsor of these vital and ambitious initiatives for America's children and families, I encourage the Members of the House to cast their votes for our Nation's children, who have no vote and who are too young to speak out for their own interests. We will be making a wise investment in our country's future.

Mr. Speaker, I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this most important legislation.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend, the gentlewomen from New York [Ms. SLAUGHTER], for yielding.

Mr. Speaker, this rule should be indicted on charges of aiding and abetting an egregious assault on the Amercian taxpayer. It makes in order a bill that denies any common sense of fiscal responsibility and then prevents bipartisan amendments to improve child welfare services in a responsible manner.

A bipartisan group, Democrats and Republicans, very hard working Members, came before the Committee on Rules yesterday. They included members of the Committee on Ways and Means, the gentlewoman from Connecticut [Mrs. JOHNSON], and the gentleman from Iowa [Mr. GRANDY].

□ 0930

It also included Members of the majority, the gentlewoman from South Carolina [Mrs. PATTERSON], and the gentleman from New Jersey [Mr. ANDREWS]. This group also included the ranking Republican on the Select Committee on Hunger, the gentleman from Missouri [Mr. EMERSON].

They asked that a significant child welfare reform amendment be made in order under this rule. Their amendment, Mr. Speaker, would do something besides simply filter more money into the present child welfare programs.

Their message to the Committee on Rules was simple. The current child welfare bureaucracy wastes too many valuable resources on Federal mandates, reporting requirements, and paperwork. If they streamlined the system and permitted the States to use the resources already budgeted for child welfare service, we could get better services for less. That is a very unique prospect.

The Johnson-Patterson-Grandy-Andrews-Emerson-Sarpalius-Weldon amendment is real child welfare services reform, not just old-fashioned big Government spending. By improving the system, their amendment will improve children's services without requiring a tax increase.

Mr. Speaker, that may very well have been their undoing. Since they did not ask for the politically charged millionaire's surtax because they do not need it, their amendment does not provide the right political fight for the Democrat leadership. It is not a millionaires versus children amendment.

The administration has indicated that a veto of H.R. 3603 is in order. However, the President would support the Johnson-Patterson version of the bill. This rule illustrates quite clearly that the Democrat leadership is far more interested in political showmanship than in good Government.

Mr. Speaker, Members should have the right to debate the two different family preservation alternatives openly on this floor. To do so, we need to defeat the previous question. This gag rule not only denies us the ability to debate real welfare reform, but also denies improved welfare services to families that are truly in need.

Every Member who wants to improve services to families in crisis, every Member who opposes higher taxes on small business, and every Member who believes in fairness should vote "no" on the previous question.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 6 minutes to the distinguished ranking member of the Select Committee on Hunger, the gentleman from the Show-Me State, Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I do not ordinarily testify on rules before the Rules Committee. Of course, we vote on all the rules that come to us from the Rules Committee, and I listen to what is said about the efficacy of those rules, but on the consideration of the rule that is before us now I went to the Rules Committee yesterday with a bipartisan group of my colleagues. We had represented there, I think, pretty much the total spectrum of the House of Representatives, from liberal democrats to conservative Republicans, testifying, requesting, asking for an opportunity to submit a substitute measure, one that is bipartisan in nature.

The Rules Committee listened well, such Members as were there. There were a couple of Republicans there and a couple of Democrats. They asked questions, and we all felt we had been fairly heard. Good questions were asked and we felt we had made a reasonable case for which the substitute should be permitted.

Let me say this in all fairness. Here we have a group of Republicans and Democrats who want to submit a substitute to the measure that is going to be pending. We felt good about it. But then we heard late yesterday afternoon that the Rules Committee had come down and said, no, this substitute will not be permitted.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. EMERSON. Certainly, I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding.

I would simply respond by saying that the Rules Committee did make that decision upstairs, but the rules of this House give us an opportunity to modify that rule. That is why I have an amendment here which would make the gentleman's very, very well-structured amendment in order. That is why it is imperative that we vote to defeat the previous question so that we can make the gentleman's amendment in order.

Mr. EMERSON. Mr. Speaker, I thank the gentleman for his contribution, and certainly I will vote with him to defeat the previous question. But I want to disagree with the gentleman from California in one thing. I seriously doubt that the Rules Committee made this decision about the rule. I think the Rules Committee got the order from somebody in the leadership sitting in a back room over here somewhere else in the Capitol who had not heard the case that was made for this substitute to be offered.

Mr. Speaker, having had this experience of participating before the Rules Committee, I do not believe that the Rules Committee made that decision.

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield further and if I could respond briefly to the gentleman, let me say that what happened upstairs was that we made an attempt to offer an open rule and we were defeated on a party line vote. Then we made an attempt to offer specifically the gentleman's amendment. Then on a party line vote, all the Democrats voted to prevent the gentleman from having a right to offer the amendment, and all the Republicans voted in favor of ensuring the right to offer that amendment. Because the makeup of the Rules Committee upstairs is nine to four, two to one plus one against us, that was the decision.

Mr. EMERSON. Mr. Speaker, if I may reclaim my time, I believe what the gentleman says is true. But what I am really saying is not that the Rules Committee did not decide; of course, technically they made the decision, but I seriously doubt, I say to my friend, the gentleman from California [Mr. DREIER] that the Democrats on the Rules Committee are independent agents to judge these rules that come before them. I think they had to take instructions from somewhere.

I cannot believe that we were denied on that basis. For example, the gentleman from California [Mr. BEILENSON] asked such good questions and indicated that agreed in large measure with a lot of what was being said. I do not believe the gentleman from California [Mr. BEILENSON] would, for example, vote to deny the base on which the substitute was offered. I cite the gentleman from California as one example.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. EMERSON. I yield to my colleague, the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, the gentleman strikes an important note here. I think we have to make sure that the public understands this.

The gentleman went before the Rules Committee with a bipartisan group to present an alternative, not to be adopted but to be given a chance for debate on the floor. On the other hand, a majority of the Rules Committee determined that the policy for the United States shall be their policy and made a policy decision on the Rules Committee.

Mr. EMERSON. Absolutely.

Mr. GEKAS. It was not a parliamentary decision, it was not a Rules Committee decision, but it was a policy decision, that no matter what comes, their version is going to be the one that would prevail on the floor of the House.

Mr. EMERSON. Absolutely.

Mr. GEKAS. That is what the public should understand.

Mr. EMERSON. There is absolutely no question about it.

Mr. DREIER of California. Mr. Speaker, I thank my friend for educating our colleagues.

Mr. EMERSON. Mr. Speaker, I say to my friend that this is a gag rule. Actually what the Democrat leadership is saying through the Rules Committee is that free and open debate on a very plausible, responsibile substitute alternative should not be tolerated. It is a gag rule. That is absolutely what this is.

I am shocked. I work very hard on welfare reform issues as the ranking member of the Select Committee on Hunger. The chairman of the Select Committee on Hunger, the gentleman from Ohio [Mr. HALL], is also a member of the Rules Committee. Now, the gentleman from Ohio [Mr. HALL] knows where I am coming from on the need to consolidate and integrate and automate in the process of welfare reform.

The child welfare provisions of the measure that will be before us on which the substitute is sought to be offered is one of those areas in which States are crying out for some flexibility. They say, "Give us some flexibility on how we administer these programs."

□ 0940

I am finding it difficult, given what I know of the level of understanding of the gentleman from Ohio [Mr. HALL] on this issue, that he of his own volition would vote to deny us the opportunity to debate this proposition. I am shocked at the rule that is before the House. It is an outrage.

We seek a bipartisan substitute, and urge that we defeat the previous question so the bipartisan substitute may be offered. All the Democrats of good will and all Republicans should vote to defeat the previous question.

Yesterday I joined with several of my colleagues, Republicans and Democrats, to testify before the Rules Committee to ask that a substitute be made in order to H.R. 3603. We were denied that opportunity by the Committee on Rules. Instead, we are being presented with a closed rule on a major piece of legislation—one that raises taxes and spends $7 billion over 5 years. I strongly oppose this rule.

Yesterday we asked the Committee on Rules to give members the opportunity to choose between an expensive bill and reform of the child welfare programs. We were denied that opportunity.

This is nothing more than a cynical act by the leadership of the majority party in the House. The funding mechanism in H.R. 3603, the timing of consideration of the bill, and the rule are purely political actions. I can come to no other conclusion.

I am an original co-sponsor of the Mickey Leland Childhood Hunger Relief Act. I support the goals of the provisions within that bill and over the past several years have worked to help achieve those goals. However, I will not be supporting the rule or H.R. 3603, the Downey/Panetta children's initiative.

Since 1983, when I became the ranking Republican on the Nutrition Subcommittee, I have been working on issues related to improved food and nutrition for needy families. I have served on the Select Committee on Hunger since 1984. I have visited soup kitchens, food banks, public assistance offices and employment and training centers. I have spoken to the people receiving assistance, the administrators and the volunteers. I am convinced that these programs are worthwhile and necessary.

I am also convinced that there are major problems facing the entire public welfare system. Until we address these problems, which must include budgetary, regulatory, tax and welfare reform, real assistance for the needy families we all seek to help will not be achieved.

But today we will not have an opportunity to debate reform. We were denied that opportunity.

I urge my colleagues to defeat this rule.

Mr. DREIER of California. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a hardworking member of the Committee on Ways and Means, who coauthored this amendment.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in opposition to the rule, and in support of a motion to recommit. I want to talk about not just the bill but the process, because the American people are outraged at the Congress. This is exactly why. We went before the Committee on Rules and we asked simply for the right for a clean vote on a legitimate alternative to the bill before us.

First of all, the alternative does not raise taxes. The underlying bill raises taxes a lot, though that is not the only issue, and in my own mind, it is not even the most important issue. More important, the alternative reforms the program in the very way that we have seen factories changed to become competitive, that we have seen the insurance industry, the banking industry, and every other industry in the private sector change to deliver a better quality product at lower cost.

What the alternative does is to address what we heard in the hearings. We heard social workers saying "We spend 80 percent of our time on paperwork." We want that social worker to spend 80 percent of her time on kids. That matters. It matters whether we are pouring new money into a system that concentrates primarily on paperwork and not on kids. It matters whether or not we reform the Government service delivery system as the private sector is reforming its delivery systems.

It is time this Congress began to look at how we are spending taxpayers' money; that we stop dealing with rhetoric and we start helping kids; that we stop supporting bureaucracy and we start dealing with reality.

The people out there sense something is terribly wrong down here in Washington, and they are right. This place is sick. The majority party has controlled this House for 40 years, and they do not have the courage to let us have an up or down vote on a legitimate alternative? Are they so without confidence in the quality of their product that they could not even allow us, and "us" in this case is a very strong bipartisan group, to have a vote?

We made an outstanding case for our bill in the Rules Committee. Democracy is about the competition of ideas. This is a competition of ideas. We in the bipartisan group asked for the opportunity to allow the right debate on the House floor, the policy debate on the House floor, the responsible choice for House Members, and the Democrat leadership cut off debate—an intellectually, morally, and politically corrupt act. No wonder the public has gotten the message that the Congress is out of touch.

What the Democrats on the Rules Committee said when they denied us the right to offer our well-developed, long-introduced alternative was that they believe their product is vulnerable; that they understand that the social workers who are going to get $8 billion more of new money raised through raising taxes are still going to spend 80 percent of their time on paper and only 20 percent of their time on kids. That is irresponsible. It is a crime against kids. It is an attachment to the old way that we in America can no longer afford.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 2 additional minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], but I hope very much that Members of the majority will listen to her remarks, and I hope that they will have a very good response that they can provide.

Mrs. JOHNSON of Connecticut. Mr. Speaker, the point that I am making is that it is time we begin to understand and address the problems in government in the same way that manufacturing had to understand and address the production problems and the overhead problems and the cost problems in manufacturing in order to provide a better product and better services at less cost.

It is an absolute scandal that, with social workers testifying that they spend 80 percent of their time on paperwork and 20 percent on children, that we did not address the bureaucratic waste in the foster care program. It is a scandal that the House's own Committee on Rules, under the direction of the Speaker, would not allow the democratic process to go forward, the underlying principle of which is a competition of ideas, and in this case, not even along partisan lines.

Mr. Speaker, I rise in strong support of the alternative, the substitute. We address all the administrative problems. We have reduced the administrative cost. We not only provide new money, which we do, but we provide also new resources, because we have stopped doing things that are not productive and we start doing things with the same man-hours that are kid productive. That is terribly important about our alternative.

There is one last point I must make. This is the third year in a row we have failed to act. We have failed to help these kids in foster care. All those statistics the Members are going to hear about what distress this program is in have been there for 3 years and we have failed to act year after year because the majority insists on coming up with a bill that cannot make its way through the Senate and be signed by the President. Our alternative will make its way through the Senate, it will be signed by the President, it will put new money into the system to help families in crisis and prevent foster care placements when appropriate. Very simply, it will free resources that will go to kids, not bureaucrats.

I ask the support of the Members for the motion to recommit. If this body does not begin to take power to establish responsible policy for kids and children, then we have not done our moral duty as well as neglecting our legislative duty.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, for the past several weeks, the people of this country have been subjected to a nonstop barrage from the President and the Vice President about family values.

They are for family values, we are told.

And, of course, it goes without saying that all those terrible Democrats must be against family values.

We are told that these much extolled family values are things like giving kids the opportunity to have what all kids need: The chance to grow up with their parents in healthy, safe, secure homes.

The President and Vice President may think they have done a great job on promoting family values. But they have done very little to demonstrate an understanding of the value of families.

The Republican record is a record of utter failure—failure inflicted on the poorest American families, on children who need the compassion and the assistance of their leaders the most.

Six months before the Reagan-Bush team took office, we wrote historic legislation reforming the Nation's overburdened and unresponsive foster care system. We expanded preventive services to reduce the need for out-of-home placements, and to reduce the duration of placements when they were unavoidable.

We removed barriers to adoptive placements of children, and assisted those who sought to take these children into their homes permanently.

Then, only weeks after taking office, the Reagan-Bush administration sought to repeal that new law on the specious grounds that it hadn't worked. Not weaken it; not ignore it, as they did so many other laws. But repeal it because it had not ended the foster care crisis in just a few months.

Our law did make a tremendous difference for tens of thousands of children and families. But we could not keep up with the policies of indifference and insensitivity that shattered so many vulnerable lives.

Poverty, the greatest scourge of families, has engulfed millions of children. In 1978, fewer than 16 percent of children lived in poverty. Today, that figure has grown to nearly 21 percent, an increase of one-third under the economic neglect of the Reagan-Bush years.

Hunger, which should affect not a single child in this abundant Nation, haunts 5 million American children under the age of 12.

Reports of child abuse and neglect have exploded, tripling to nearly 3 million cases between 1980 and 1991 on the Reagan-Bush watch.

CRIME, DRUGS, MENTAL DISORDERS, DESPERATION, DIVORCE

Are these the family values we are lectured by George Bush about? Because they are the effects of 12 years of neglect and indifference by those now lecturing us to show greater concern for our families.

And yet what has been the response of the Bush administration, other than words? Other than speeches? Other than campaign promises and platitudes?

Despite the growing crises, the desperation, the tragedies—the Bush administration has been silent and cautious.

Enforcement of the foster care and adoption law ignored.

Audits of billions of dollars in child welfare programs postponed.

Federal grants to help prevent the shattering of vulnerable families increased by less than 1 percent over the last decade.

One percent, while poverty is skyrocketing. One percent, while drug use and violence are skyrocketing. While child abuse, sexual abuse, and foster placements are skyrocketing.

Why is an administration so committed to trickle down for the richest Americans so hostile to allowing a few dollars to trickle down to the poorest?

George Bush and DAN QUAYLE are going to continue to berate us and bore us with their tired rhetoric about family values. America's families need more than rhetoric. More than campaign speeches. More than stern lectures.

H.R. 3603 offers families more. Much more. It offers the hope of a government with compassion to help the most vulnerable, and the wisdom to invest in family preservation instead of foster care, welfare, and despair.

Our bill will direct comprehensive resources to families at risk to offer coordinated services aimed at reducing foster placements and more severe, and more expensive, interventions that result from indifference. That new funding, which will save us billions in the long term, will not be susceptible to the strict limits that have starved the child welfare services program for a decade.

Had our original law been enforced, had we had an administration more concerned with the value of families than rhetoric about family values, this new law might not be necessary in 1992.

But we have had a dozen years of neglect, and we have produced millions of victims to show for it. Many of those victims are beyond the reach of the child welfare system. They are in courts; they are in jail; they are in unemployment lines; and many of them are in graves.

Millions of children can still be helped, can be rescued, can be given a chance to survive and prosper if families have the minimal resources they need to avert a lifetime of dependence and poverty.

Let us give families that opportunity by passing H.R. 3603 today. It will do more than all the rhetoric in the world to demonstrate that we are serious about the value we place on American families.

□ 0950

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I want to say to the gentleman in the well that I have no doubt that he believes what he said. If he believes it as devoutly as he has delivered his speech, he should support the substitute.

If he believes what he has said, first of all, most of what he has said would support the substitute motion before us. But if he believes as devoutly as he sounded as he did about the position that he has spoken of, he should have no fear of this substitute being offered. He should vote for the motion to defeat.

Let us have an open and honest debate. This is a gag rule.

If the gentleman believes what he has said, he cannot deny us the opportunity to say what we believe.

Mr. MILLER of California. Mr. Speaker, will the gentleman allow me to respond?

Mr. DREIER of California. Mr. Speaker, we have a number of requests for time over here.

The SPEAKER pro tempore (Mr. VALENTINE). The Chair will advise that the gentleman from Missouri has the floor and his time has not expired.

Mr. EMERSON. Mr. Speaker, the gentleman from California [Mr. DREIER] told me he wanted to reclaim his time.

Mr. DREIER of California. Mr. Speaker, we have a number of requests for time here.

Mr. Speaker, I yield 4 minutes to the gentleman from Iowa [Mr. GRANDY], coauthor of the substitute.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield for 30 seconds? It is interesting that a Member asked me to yield, and the gentleman decided that I would not be allowed to yield for a response. The gentleman talks about a gag rule, and he will not allow a person to respond.

Mr. DREIER of California. Mr. Speaker, I would say to my friend, the gentleman from California [Mr. MARTINEZ], that if we successfully defeat the previous question, my friend will have an entire hour to debate this.

The SPEAKER pro tempore. The House will be in order. The gentleman will take his seat.

You are going to stop acting like children, and you are going to listen to the Speaker, as long as the current occupant of the chair has this gavel. The gentleman from California will be seated.

The gentleman from California [Mr. DREIER] has yielded 4 minutes to the gentleman from Iowa [Mr. GRANDY].

The Chair recognizes the gentleman from Iowa [Mr. GRANDY] for 4 minutes.

Mr. GRANDY. Mr. Speaker, I yield to the gentleman from California [Mr. MILLER], to complete his diatribe.

Mr. MILLER of California. Mr. Speaker, I would use my time to say it is outrageous for the gentleman from Iowa to suggest he wants to characterize my speech. He is free to do so, but it is outrageous.

The gentleman from Missouri had asked me to yield so he could pose a question. He put a question to me. I asked for a chance to respond, and I was not yielded time. So I will get the time over here, but it is interesting at the same time the gentlemen are talking about a gag rule, they will not allow me to respond to the gentleman from Missouri who was talking about whether or not I believe what I said.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. GRANDY] has 3½ minutes remaining.

Mr. GRANDY. Mr. Speaker, I yield to the gentleman from California.

Mr. Speaker, if the gentleman from California would like more time to acknowledge the gentleman from Missouri, to respond to him, I will be happy to yield to him.

Mr. MILLER of California. Mr. Speaker, 3 minutes, that is all I ever wanted.

I would say to the gentleman from Missouri, the reason I support this legislation as opposed to the substitute is that this legislation has been hammered out within the Committee on Ways and Means in conjunction with the Select Committee on Children, Youth, and Families, with the Committee on Education and Labor, all of which share jurisdiction over children and foster care and programs affecting them. And it has been hammered out over a period of almost 2 years, as we have called witnesses before this committee.

And we have taken what they have said. We have asked the Governors, we have asked people that wanted to be liberated from Federal laws what kind of system they want to design. That is reflected in this bill.

I saw the gentleman and others last week, Friday, talking to the staffs in the Rayburn Room over here, saying: What are we going to do? How can we put it together? How can we make it not cost any money?

I will support a bill that has been well thought out, that has been carefully crafted with the Governors of States and with others that allow them an opportunity to run their system the way they want to run it.

Mr. GRANDY. Mr. Speaker, do I have the time at this point?

The SPEAKER pro tempore. The gentleman from Iowa [Mr. GRANDY] has the time.

Mr. GRANDY. Mr. Speaker, if I could yield my time back to the gentleman from California [Mr. DREIER], with the understanding that I will get some time later on, I have no objection to allowing them to complete this colloquy.

The SPEAKER pro tempore. That is up to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, we have obviously taken up a great deal of time here. It is essential that we defeat the previous question so that we will have the opportunity to continue this.

Mr. Speaker, I yield 15 seconds to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I just want to say to the gentleman from California [Mr. MILLER] that if he feels as strongly about this proposition as he evidenced in the well, he should have no fear of at least debating the substitute.

□ 1000

The debate before the House right now is whether we, a bipartisan group of people, are going to be gagged and denied the right to debate.

Ms. SLAUGHTER. Mr. Speaker, before yielding further, I would like to take as much time as I may consume.

The motion to recommit provides an ample opportunity for the Johnson-Weldon substitute. At yesterday's hearing when the Rules Committee learned that this substitute had never been offered as a package before the Ways and Means Committee, and that they had never had an opportunity to assess its effects and its impacts as a whole, and indeed that it left out the part on children and hunger, we decided that we would make it only in order as the motion to recommit.

Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from New York, [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, I thank the gentlewoman for yielding me the time.

It is impossible, of course, to weigh the value or calculate the loss of a childhood, and that is, in part, what we are talking about here today. There are literally millions of children across this country who are taken from their families needlessly; with a little help from the State they could remain together, and their childhoods would flourish.

Our subcommittee has heard countless stories of children who have been in 10 through 20 different foster homes over the course of their childhood. One child, a 12-year-old, described what it was like to sleep in her clothes for fear that the morning might find her moving to another home. And we found that the problems in that particular child's family life were such that with a little remediation, with a little bit of help, the family could have been kept intact, the family could have been kept together, and this child could have been spared the agony of foster care and moving from home to home. And there are millions of other stories that are similar to this.

The question that my friend from Missouri raised is a good one about debating the substitute. And we should, and I hope that during the course of the debate we can put to bed the notion that somehow less money is more, which is what the substitute suggests. That works with lite beer. It does not work with children. If you somehow believe that just shifting around money will make a difference to children, you will also believe that the Yankees will win the World Series and that George Steinbrenner will be a kinder and a gentler owner, or that DAN QUAYLE is a spelling bee champion.

The reality is that resources are essential here to make a difference in the lives of children. The gentleman from California [Mr. MILLER] spoke eloquently in the well, and I want to address him and thank him personally. For many years as chairman of the Children, Youth, and Families Select Committee, he has been the children's champion. The 1980 law that was designed to save foster children, and was never properly implemented by the Reagan or the Bush administrations, was his handiwork. There are millions of American children who are in his deepest debt, as am I and the others who have followed his enormous footsteps. And I mean that literally and figuratively in this case.

But the biggest reason to vote against the motion to recommit, and to vote against the substitute is aside from just three-card monte, that it plays with the money for children, it eliminates the money to feed them. There is no provision in the substitute that our Republican friends will offer that deals with the Leland Hunger Act. So for that reason alone it deserves to be defeated.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to my friend, the gentleman from California, chairman of the Budget Committee.

Mr. PANETTA. I thank the gentleman for yielding. I regret that this has become a partisan battle, because with regards to the Mickey Leland hunger bill we have had bipartisan support for every element of the Mickey Leland hunger bill to try to improve nutrition for the hungriest children in this country. And one thing you will not hear mentioned during the debate on the substitute is that the substitute totally wipes out any money at all for the Mickey Leland bill.

It is not a question of reforming the Food Stamp Program. It is not a question of reforming that they are talking about. They are talking about absolutely no money at all for the nutritional element which is essential if we really care about children.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. It is my time to yield, and I am happy to yield to the gentleman from Missouri.

Mr. EMERSON. I will talk about that. But that is not the issue before the House now. The issue before the House now is this rule, in which you have gagged us from the opportunity to present a substitute.

I am open as to how I will vote on final passage. But I will tell you, if you move forward in this unfair procedure of gagging a bipartisan group of people from offering the substitute because you are afraid to have it debated, I will be constrained to vote no on the final passage. I think this is an absolute travesty. You are gagging the House, you are gagging your own Members.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, I think as the gentleman knows the rule provides for a debate on the issue with time divided between the sides. I am sure that both sides will be getting more than adequate opportunity to talk about the merits of both proposals.

But the key here is whether we care enough to really do something about the problem. That demands resources. What the substitute is trying to do is to somehow legislate the miracle of loaves and fishes. You cannot simply produce something from nothing.

Mr. DOWNEY. Let me just make one final point if I have any time, and that is that during the course of this debate I want our colleagues and those who are watching this debate carefully to listen to the discussion of both sides. I want to make sure that there is ample time to discuss in detail, and I hope that our Republican friends will do this, the nature of the problem, because it seems to me that there is no debate about the problem.

There is a crisis, and the crisis must be dealt with. That is not open to dispute.

What my fear is, is that what we will hear from the Republican side is the familiar mantra that you use, that this is more entitlement spending, tax and spend, that the budget deficit is increasing out of proportion, and that these are our first concerns. And I would say that the first concern of this country, in my mind, is to produce the healthiest and the smartest children in the world. And the best way we can do that is to make sure that children are raised in loving homes.

Now we cannot legislate that, but we can provide the means to keep those families that are in crisis together. That cannot be done, that cannot be done unless we provide the States additional resources, because what the States have told us, what the gentlewoman who will offer the motion to recommit has heard, what my friend from Iowa has heard is that they are overwhelmed, overwhelmed just dealing with cases of neglect and abuse. They do not have the resources to reach down and to anticipate problems and deal with them, that the court system deals with the lives of human beings in just under a minute, that judges are forced to make decisions about children with hundreds of cases waiting, and that they need help.

Explain to us how a substitute that conceivably will provide less money will help these children.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I might consume to respond to my friend from New York by saying he makes a very compelling case in behalf of the issue of debate. As my friend from Missouri said, what we are trying to do right here is allow debate on a substitute. My friend from New York stood in the well and pointed to this side of the aisle. I would say to my friend that LIZ PATTERSON from South Carolina, BILL SARPALIUS from Texas and ROB ANDERSON from New Jersey do not serve on this side of the aisle. They are majority Members, and they are part of this substitute which they want to have considered on this floor, and that is why we want to defeat the previous question.

Mr. Speaker, I yield 4 minutes to my friend, the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, let me say at the outset that I appreciate the eloquence of the gentleman from New York. I rarely appreciate the gentleman's argument, but at least he gets to make it.

He said we will debate the options today. There are no options here today. This is not a question about versions of good government. This is a question of government or nothing.

I am not going to be able to rise in support of the Johnson-Patterson or Grandy-Andrews and other substitute because it is not in order. And do not tantalize us with a motion to recommit. We all know what a motion to recommit is. It is scrap from the master's table.

The fact of the matter is we are not having a debate about values, family or otherwise. We are having a debate about volume. So what else is new? I can get up here and trot out the statistics that we have all offered in committee that these programs have grown by 4,000 percent since 1991, from $30 million to $1.3 billion. And you might ask at some point where is the money going? Why is this not working?

Maybe the solution is not more money. Maybe we should be talking about values and not volume. But we are not having a debate here.

☐ 1010

This is a eulogy, because the Family Preservation Act as written is dead. The President will veto it. He signaled it to the Rules Committee. He will send that message to us as many times as you force him to.

The real losers here are not the Republicans. We are used to being bound and gagged. There is no difference between this rule and any other rule.

My condolences to Messrs. SARPALIUS, ANDREWS, and Mrs. PATTERSON. They are not as used to it as we are; but the people who are getting screwed are our children, and that is something that we ought to have a debate about, but which we will not because the previous question will probably be ordered.

We will not get a chance to extend the kind of debate that we often have with the gentleman from New York [Mr. DOWNEY] in the subcommittee, and that we have with the gentleman from New York [Mr. DOWNEY] and the gentleman from Illinois [Mr. ROSTENKOWSKI] in the full committee, and is productive.

Now, we can have a debate on taxes today. I am fully prepared to weigh into that. If you want to pit Republicans on the side of millionaires and Democrats on the side of children, we can do that. It is not constructive, does not help anybody, does not pass any legislation.

But I want to concur with my friend, the gentleman from Missouri [Mr. EMERSON], who has worked beside the gentleman from California [Mr. PANETTA] for years on the Agriculture Committee to feed children, and beside the gentleman from Ohio [Mr. HALL] on the Select Committee on Hunger for about the same amount of time.

I want to salute a bipartisan coalition that has already passed worthwhile legislation. Why can we not do that again today?

If the Family Preservation Act is everything they say it is, if the Leland Act is everything they say it is, then let us go head to head; but we are bound and gagged and unilaterally disarmed under this rule, and we have nothing but our meager portion of discontent, which is in the motion to recommit which Democrats react to as though it contained leprosy.

Let us not talk about a debate here. Let us not talk about having a discussion of values or the role of government or the role of the Federal Government versus State government. That is not even before us, unless we defeat the previous question. That is all we ask.

I do not ever expect the gentleman from California [Mr. MILLER] to accept our substitute. I would be stunned if he did that, but I would assume that at least under the rather constrained definition of free speech that defines our process here, we should at least be allowed to offer our substitute to this body to vote on without the unnecessary negative stigma of the motion to recommit.

This bill is going to be recommitted right into the President's waste basket. He will veto it. The debate will be over, and the same lousy 10-year administration of the child welfare system in this country will continue unabated. In the next Congress we will start again, perhaps with a new Congress, perhaps with a new President, who knows. But we could have done it today. It could have happened.

So I rise not as much in opposition to the rule or in the opposition to the Family Preservation Act, but to mourn what might have happened and will not.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

I must say, I think this is a very, very important day and America's children really could be finally put back front and center, and I really hope we can move on with this.

I hear all sorts of issues being raised, but let us admit what this does. The other side will have half the time, 50 percent of the time to present their case. They will also get a chance to present their substitute.

The real issue is, are we going to be serious today and move toward feeding children, or are we going to do what the gentleman from California talked about, legislate the equivalent of loaves and fishes, which means we are just going to talk about it, but there is not going to be any funding to do it.

Let us talk about how serious this is. The Fortune 500 CEO's have said all along that the one very important investment we could make would be feeding America's children, that for every dollar we spend feeding a child we save Federal dollars within the next 5 years in a much greater magnitude than the $1 invested in feeding them. Imagine what a radical concept.

But how marvelous it was to have the Fortune 500 CEO's come here and testify to that. That is not usually what they testify to.

If you take very esteemed academics who have been working on children's issues forever, they will show you charts of what this Federal Government did in the eighties. Every single category of spending went up in the decade of the eighties, except children. Children do not even come off the bottom line. We have stopped investing in children.

We know the immunization rates are awful. The gentlewoman from New York spoke on that just yesterday on the floor.

We know we have not invested in Head Start the way we should, with less than a third of the kids going.

And we know we have not fed them. Let us talk about Los Angeles. When the riots in Los Angeles happened, one of the largest feeding programs burned down that the Federal Government runs. In that center they were so oversubscribed that when children were 18 months old they stopped qualifying for food. If you think children stop growing at 18 months, that is outrageous. This is a chance to do what Mickey Leland did for children all over the world, and when you are doing it all over the world and not doing it at home, we are in trouble. So he is saying we ought to feed kids everywhere. It is a doggone good investment. In the long term we are going to save money.

The second part of this is so critical, our Governors, our States all want the chance to make American families successful. I do not know anyone, I have never met an American who did not want to be successful as a family member, and yet unfortunately the Federal incentive to States is not to help that family be successful, but instead to immediately run and grab the child and put the child in foster care.

You know, the amazing thing is, no matter how badly children have been treated in their homes, we find over and over again they will try to break away from foster care and go back home.

There is something about all of us that want our home life to work, no matter how bad it is.

We know again that if we spend the money trying to get families functional that are disfunctional, it is still much cheaper than putting a child in a foster care home for the rest of their minority years.

To me, this is something that we have got to do. We know the patterns and how difficult it is for people to break them. This is a big chance.

Over and over again, we have found in America that the children who have had the wings, the children who have been what we want all our children to be, the scholars, the ones who have done the best, one of the things that runs in common is that they have dinner with their parents.

To get those wings, you needs roots. We have not had a root feeding program. We have had an uprooting program, where if anything is wrong with the family, grab the kid, put it somewhere else and then you pay for that.

This is switching it to trying to do the root feeding program.

Yes, it will not work everywhere, but I will bet you will be absolutely surprised, because State after State that has experimented with this has been bowled over by the success model.

There is a way to pay for this in the bill. It is not off the budget.

I think it makes all the sense in the world. The other side will get their chance, too.

It is time that we move and talk about this real issue and get this done, and again I hope we can get on to the topic of the debate.

Mr. DREIER of California. Mr. Speaker, I appreciate that my friend, the gentlewoman from Colorado, and my friend, the gentleman from New York, have argued vigorously in behalf of debate, and that is why we hope we can defeat the previous question.

On the recommital motion, I would hope that my friend, the gentleman from New York, would support an effort which would see an additional hour granted so that we can have a full debate on this issue.

Mr. Speaker, I am happy to yield 4½ minutes to the gentleman from Pennsylvania [Mr. WELDON], a member of the Select Committee on Children, Youth, and Families, and a cosponsor of this very valuable substitute, which I hope we can put into place once we defeat the previous question.

Mr. WELDON. Mr. Chairman, I have taken great pride in the 6 years I have been here in not coming down to this podium to speak in a partisan manner.

I take great pride in my efforts to work with coalitions from both sides of the aisle on important environmental issues, on labor issues and on social and domestic issues.

As a matter of fact, I would remind my colleagues on the majority side that I was the Republican author of the bipartisan Family Medical Leave Act that brought 40 of our Republicans along on that very important bill.

But this rule is an absolute outrage. You have gone too far.

I say that because we are not going to be given a chance to offer our alternative, not the Republican alternative, a bipartisan alternative that I worked out with Congressmen SARPALIUS, ANDREWS, and that the gentleman from Texas [Mr. FROST] cosponsored, and combining it with an alternative offered by the gentlewoman from South Carolina [Mrs. PATTERSON], that we offered to this body as an alternative to what is being proposed here today.

□ 1020

This is an outrage because we had an alternative that would work. We developed this alternative over the course of the last year. I, as someone who spent 7 years teaching in an impoverished city, who was a chapter 1 program director for 3 years in an impoverished community, who was the mayor of an impoverished town for 5 years, and chairman of the county government that has to administer these programs, and now as a member of the Select Committee on Children, Youth and Families, I thought I could contribute something to this debate. We developed this bill as a result of hearings that we held in our committee. We listened to the Governors, we listed to the States, and we realized that we could double the amount of children we are currently servicing through our child welfare programs by simply eliminating the bureaucratic red tape, where we have seen a 2,000 percent increase in administrative costs in the last 10 years alone. We want to eliminate that. We want the funding now going to the bureaucracy to go to the kids, to take care of their special needs.

We heard horror stories. I have one in my own district concerning a foster mother who had a child still in the custody of her natural mother, who has had 9 children and 9 abortions. Yet we the taxpayers still bear the cost to fly her back and forth to Colorado to visit that child who does not want to see her.

We want to remove that inflexibility. We want to give the States a chance to use the money as they see fit. My colleagues on the majority side said, "Well, we have the Governors." Well, guess what, folks, we sent our proposal to all 50 Governors. Mr. Speaker, at this time I would like to insert the comments of Governor Jim Florio of New Jersey, Bruce Sundlun of Rhode Island, Mike Sullivan of Wyoming, Evan Bayh of Indiana, Mary Dean Harvey, director of the department of social services for Nebraska, and Curt Schmoke, the mayor of Baltimore, all of whom have written comments on our proposal.

The comments referred to are as follows:

Mr. Chairman, Jim Florio, a former colleague of ours and the Democratic Governor of New Jersey, stated that:

> We support the capped entitlement program as long as the cap is linked to the elimination of the burdensome administrative costs involved with eligibility requirements and the cost allocation plan.

This proposal does so. He goes on the state:

> * * * it would be naive to believe that the House and Senate proposed family preservation legislation will be enacted into law this year. The Administration and some legislators, * * *, have indicated that they may not support any new funding programs due to the condition of the economy and the growing federal budget deficit. If the Administration and Congress cannot agree on the above-cited Downey and Bentsen bills this year, then the State of New Jersey would support your proposal.

This letter was written before the 10 percent surtax was added to the Downey proposal. It is clear from this statement that the Johnson proposal makes serious changes which that States desire. It makes clear that we can greatly assist our children and States without raising taxes.

BRUCE SUNDLUN, GOVERNOR OF RHODE ISLAND

The Democratic Governor of Rhode Island Bruce Sundlun calls my proposal "a positive step in federal support for preventive services to children and families. The elimination of redundant and time consuming federal reviews will allow Rhode Island to concentrate on the delivery of services that can truly help families." He goes on to state, "I applaud your initiative in proposing this valuable legislation."

MIKE SULLIVAN, GOVERNOR OF WYOMING

"Any legislation which would reduce the administrative burden of state government would be most welcome. The combining of IV-B and IV-E into a single program should reduce administrative overhead. It is our understanding that the current audit requirements for IV-B and IV-E would be eliminated by this proposal, thus, relieving states of burdensome and costly compliance issues."

"Finally, I support the change in Section 472, which should grant states' flexibility in achieving the goals and objectives of the Independent Living Program."

EVAN BAYH, GOVERNOR OF INDIANA

"I support you opinion that there should be more flexibility in funding to improve the delivery of services to troubled families and children. This flexibility coupled with increased federal funds would provide Indiana better tools to meet these needs." This is what our plan does, by providing flexibility with approximately a 16 percent increase in funding each year over the next five years.

MARY DEAN HARVEY, DIRECTOR OF THE DEPT. OF SOCIAL SERVICES FOR NEBRASKA FOR GOVERNOR BEN NELSON

"I share several of the concerns you raise. It is burdensome to have several funding sources, each with its own limitations, requirements, reports, and reviews. It is nonsensical to eliminate some children from eligibility for Title IV-E maintenance and adoption funds assistance while turning around and having non-IV-E children be eligible for IV-E Independent Living Services and IV-E Non-Recurring Adoption Expenses. I also share your belief that states must be given greater flexibility, so that funds can be used for preventive and reunification services."

KURT SCHMOKE, MAYOR OF BALTIMORE BEFORE W+M SUBCOMM. ON HUMAN RESOURCES

He would like the money of Downey but states, "We could make a good start with some changes in rules and regulations that would allow targeting exiting resources in a more effective way. * * * There have to be some policy changes made."

But guess what, Mr. Speaker, these comments may be supportive and positive, but we will not be given an opportunity to vote on our alternative. Why? Is it because we have not thought out our alternative? No, it is not that at all. Mr. Speaker, this is a case of pure partisan politics. The majority knows that they cannot get this bill signed at the White House.

The majority knows the President will veto this bill.

They know that our bill would get the majority of the votes, and I can tell you even though we have five Democratic sponsors, I have talked to the moderate Democrats and they would vote for our alternative. They would vote for it. But they are not going to be given that opportunity, and you know it. You do not want to give them the opportunity to vote for the compromise. You want to jam something down our throats so it is all or nothing.

Well, let me tell you something, folks, "you just don't get it, you just don't get it." The American people are fed up with your politics, they are fed up with your trying to jam things down our throats that are not going to solve problems.

Mr. Speaker, let me ask all of my colleagues in this House to veto against this rule and send a signal to the liberal caucus of the Democratic Party that we want to solve problems, not play politics in an election year.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time. Does the gentleman from California have further requests for time?

Mr. DREIER of California. I know this comes as a surprise to my friend, the gentlewoman from New York, but, yes, we do have further requests for time. I am happy at this point to yield 2½ minutes to my friend from Indianapolis, Mr. BURTON.

Mr. BURTON of Indiana. I thank the gentleman for yielding this time to me. Mr. Speaker, one of the things that has not been discussed here today is where we are going as far as the spending in this country is concerned. The chart that is in front of me shows the growth of entitlements over the last 20 years. In 1972, we were spending $91.7 billion on entitlements. In 1975, it went to $160 billion, in 1978, it went to $220 billion, in 1981, it went to $329 billion, in 1984, it went to $293 billion, and in 1987, $462 billion, in 1990, $602.5 billion, and it is going to be $804 billion in 1993. And this is a new entitlement program.

The total spending of this Government is close to $1.5 trillion next year, and that is $400 billion more than the tax revenues coming in. The national debt has gone from $1 trillion, which took us 200 years to achieve, to $4 trillion in 10 years, 1992.

Now, what does this mean? This means that in the next few years we are going to see a national debt approaching $13.5 trillion, and what we are doing today, if we pass this bill, is adding a new entitlement program that is going to exacerbate the situation.

What does this mean? We are going to help, according to the people that advocate support of this bill, we are going to help the underprivileged children, the people on welfare, the children who need assistance.

But what are we going to be doing in 5, 6, or 7 years? Well, let me tell you: The Federal Reserve Board, when we get to the point where we cannot even pay the interest on the Federal debt, will start to monetize the debt. That means print money to pay off the debt. The servicing of the debt, the interest on the debt in the next 5, 6, and 7 years is going to be almost as much as all the personal income taxes coming in. That means we will not have the money to pay for this program or Medicaid or Medicare or Social Security or these other programs. At that point, the Federal Reserve Board is going to have to figure out a way to pay off the debt. The only way they can do that is print money.

Now, the people you want to help, the poor children and senior citizens on Social Security and Medicare, at that point they are going to be flooding the marketplace with all this newly printed money and the cost of a loaf of bread is going to be $30, the cost of a quart of milk is going to be $30 and the people you pretend to want to help will not be able to spend the money you give them because it will not be worth anything.

□ 1030

Every single country in the history of mankind that has gone through this has had hyperinflation, and these programs are going to cause that.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I appreciate the gentlewoman from New York [Ms. SLAUGHTER] yielding this time to me.

Mr. Speaker, one of the reasons why the Republican substitute was not acceptable to us is that it did not recognize the stark, harsh, cruel impact that hunger has on the kids of America; 5 percent, 5 percent, of the kids in America live in poverty, and an estimated 5 million kids, 5 million kids, do not have enough to eat and suffered hunger in the year 1991. This was only one of the reasons why the Republican substitute was not acceptable. It did not meet the awful, tragic, appalling needs of kids in America, the richest country in the world, who do not have enough to eat every day of the week.

Mr. DREIER of California. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have been spending a great deal of time over the past hour debating the issue of child welfare reform, but clearly what we are here to do is to debate the rule. All we are trying to do is put into place a bipartisan substitute. Members of the majority, Members of the minority, who came before the Committee on Rules and wanted to have the opportunity to offer their amendment, are denied that opportunity under this rule. Clearly every Member who wants to improve services to families in crisis, every Member who opposes higher taxes on small businesses, and every Member who believes in fairness should vote no on the previous question.

The gentlewoman from Colorado [Mrs. SCHROEDER], my colleague, made the case that we have seen dramatic cuts in child welfare and safety net programs. In the past 3 years, in constant dollars, we have actually seen a 60-percent increase. She is wrong. We need to have this bipartisan substitute at least considered.

So, Mr. Speaker, I urge my colleagues to vote against the previous question.

The SPEAKER pro tempore (Mr. JONES of Georgia). The time of the gentleman from California [Mr. DREIER] has expired. Does the gentlewoman from New York [Ms. SLAUGHTER] yield back the balance of her time?

Ms. SLAUGHTER. If first, Mr. Speaker, I may make one statement, and that is: I want to restate again, as succinctly as I can, that the bipartisan measure presented to the Committee on Rules had never gone before the Committee on Ways and Means.

Mr. GRANDY. Mr. Speaker, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Iowa.

Mr. GRANDY. That does not happen to be factual. This substitute, although it did not contain the Leland provision, which is not under our jurisdiction, was offered in the subcommittee. It was rejected, but it was offered in a modified form in the full committee.

There has been a legislative history to this.

Ms. SLAUGHTER. Mr. Speaker, if I can restate what I am attempting to say, the impact of this measure on the bill by the Committee on Ways and Means was never fully considered, and indeed we believe that we met the needs of the authors of the substitute by allowing them to give it in a motion to recommit, and I urge all my colleagues to vote for the previous question.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 166, not voting 21, as follows:

[Roll No. 369]

YEAS—247

Abercrombie
Ackerman
Alexander
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—166

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella

Morrison
Murphy
Myers
Nichols
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Andrews (ME)
Andrews (NJ)
Barnard
Chapman
Davis
Dickinson
Ford (TN)
Gaydos
Hall (OH)
Hatcher
Levine (CA)
Luken
McCrery
McEwen
McMillen (MD)
Nussle
Roe
Schulze
Towns
Traxler
Washington

☐ 1053

Mr. McGRATH changed his vote from "yea" to "nay."

Ms. KAPTUR and Mr. LANCASTER changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McMILLEN of Maryland. Mr. Speaker, I was detained on my way to vote on the motion ordering the previous question on House Resolution 543, roll call vote No. 369. Had I been present to vote, I would have voted "yea."

The SPEAKER pro tempore (Mr. DE LA GARZA). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 220, nays 196, not voting 18, as follows:

[Roll No. 370]

YEAS—220

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hamilton
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Rose
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thornton
Torres
Torricelli
Traficant
Unsoeld
Vento
Visclosky
Volkmer
Waters
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—196

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Carper
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
DeLay
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kanjorski
Kaptur
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Laughlin
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Murphy
Myers
Nichols
Nussle
Orton
Oxley
Packard
Patterson
Paxon
Payne (VA)
Peterson (FL)
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Andrews (NJ)
Barnard
Chapman
Davis
Dickinson
Ford (TN)
Hall (OH)
Hatcher
Luken
McCrery
McEwen
Roe
Santorum
Schulze
Towns
Traxler
Washington
Waxman

☐ 1109

Mr. McDADE changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON H.R. 4323, NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, this is to notify Members of the House of the Rules Committee's plans regarding H.R. 4323, the Neighborhood Schools Improvement Act. The committee is planning to meet on Tuesday, August 11, 1992, to take testimony and grant a rule on the bill.

In order to assure timely consideration on the bill on the floor, the Rules Committee is considering a rule that may limit the offering of amendments.

Any Member who is contemplating an amendment to H.R. 4323 should submit, to the Rules Committee in H-312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment no later than 3 p.m. on Monday, August 10, 1992.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting a rule for H.R. 4323.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3603, the Family Preservation Act of 1992.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Illinois?

There was no objection.

FAMILY PRESERVATION ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 543 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3603.

□ 1111

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3603) to promote family preservation and the prevention of foster care with emphasis on families where abuse of alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services, with Mr. STUDDS in the chair.

The clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes, and the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 15 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, our Nation's child welfare system is in a state of crisis. The system is charged with protecting and caring for children who are abused, neglected, and dependent, yet the system is overloaded.

Children are literally flooding the system in many parts of the country. Reports of child abuse and neglect have tripled in the last decade—to 2.7 million cases annually—and the number of children in foster care has increased by 50 percent in just 5 years. At the end of 1990, there were an estimated 407,000 children in foster care, and that number has surely increased by now.

While these numbers are staggering, the stories behind the numbers are far more personal and far more disturbing. Children in the system today face greater problems than children seen by caseworkers just 5 or 10 years ago. Substance abuse, particularly since the introduction of crack cocaine, has threatened the lives and futures of countless numbers of children, many of whom already are struggling with poverty, family dysfunction, mental illness, social isolation, and dangerous communities. In Chicago, for example, referrals of drug-exposed infants to the child welfare system increased by over 1,700 percent between 1986 and 1989.

Children are entering the child welfare system at younger ages than in earlier years. Without help, both for them and their families, many of these children are at risk of spending significant portions of their lives in the child welfare and foster care system. However, this desperate need for services simply cannot be met with the current level of staff and resources in many communities. This structure and funding levels of Federal child welfare programs have actually exacerbated the problem, by supporting and encouraging foster care over other child welfare services, particularly those designed to strengthen and preserve families and reduce the need for foster care. Under current law, the Federal Government provides open-ended entitlement funding to States for foster care placements, but only limited funds for social services to strengthen and preserve families.

H.R. 3603, the Family Preservation Act of 1992, would expand resources available to State and local child welfare agencies for the purpose of supporting and preserving vulnerable families, with particular emphasis on families affected by substance abuse. The bill would create a permanent capped entitlement under title IV–B of the Social Security Act, in addition to the existing title IV–B authorization of $325 million annually. Entitlement ceilings would increase from $200 million in fiscal year 1993 to $600 million in fiscal year 1997. The bill would provide flexibility to States in designing their child welfare programs, recognizing the innovative approaches already underway in many States. The bill would maintain—and financially support—the goal of Federal policy that families should be preserved whenever possible, and that when reunification is not feasible, children should be protected and placed in permanent situations expeditiously.

H.R. 3603 would also make numerous improvements in the existing foster care and adoption assistance programs. These include expanded eligibility for foster care and adoption assistance under title IV–E to abandoned children and children living outside the home before entering foster care, payment for respite care for foster parents of special-needs children, increased State accountability for out-of-State foster care, and establishment of a new system for the Federal review of State child welfare programs. The bill would also create a permanent Advisory Commission on Children and Families to collect and assess information on the economic, social, and physical well-being of children, and the effectiveness of social services and income security for children and families.

H.R. 3603 also includes several changes in the Food Stamp Program which will primarily assist families with children. The bill encourages the payment and collection of child support and allows families with extremely high housing costs to deduct more of these costs, thus increasing food stamp benefits.

The Congressional Budget Office has estimated the 5-year cost of the Family Preservation Act and the childhood hunger provisions to be $3.5 billion each for a total of $7 billion. The bill is fully funded by a surtax on individuals with taxable incomes above $1 million which raises $8.2 billion over a 5-year period. Thus, the bill meets the requirements of the Budget Enforcement Act of 1990 each and every year. The tax affects 60,000 tax returns, or less than one-tenth of 1 percent of all returns.

Mr. Chairman, this is a major bill affecting the lives of children who are at risk of being abused, neglected, and hungry. In the interest of millions of this country's children, I urge my colleagues to support this very important bill.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are used to the majority using House rules to control legislation. Here we go again.

Today we have a situation in which Republicans and Democrats have worked together on a bipartisan alternative aproach to an important public issue for more than 2 years. We put forward a proposal that spends no money above the amount already in the baseline.

Our bipartisan alternative simplifies administration and reduces bureaucracy—and yet promises real reform. The contrast between our approach and the majority bill could not be more clearly defined.

But under the rule the House will not be allowed to make that clear choice.

We have to offer our approach in the motion to recommit—instead of getting a fair debate and vote as an amendment in the nature of a substitute.

For 3 years, the Ways and Means Committee has been considering reform of the Nation's foster care and adoption programs. From the beginning, there has been a strong partisan cast to its consideration.

The central focus of the debate is this: Should we accept the current structure of Federal spending on child welfare, raise taxes, and simply spend more money—or should we change the structure and use the money we already spend in a more efficient way?

We believe that the latter approach is far preferable—and has the greatest chance of accomplishing the basis purpose of the legislation. Here is why:

The current structure of child welfare programs consists of six open-ended entitlements to pay for: Child maintenance in foster care or adoptive homes; administration of out-of-home placements; and training of child welfare caseworkers, parents, or administrators.

In addition, we have one appropriated grant program to pay for services to help families that neglect or abuse their children.

Reflect for a moment on this structure: Open-ended entitlement money for children removed from their homes; appropriated, restricted money for troubled families to keep their children.

The message to States from the Federal Government is clear: If you remove children from their homes, we'll give you lots of money; if you leave them with their parents and try to help the family unit, we'll provide you with very limited funds.

The majority's solution to this problem is typical: Tax and spend; create a new entitlement to provide services to families. Now instead of six entitlements, we'll have seven.

But there is a much better, more economical, even more radical solution.

There is a better way to use the money we already have—and a courageous, thoughtful group of Republicans and Democrats have found that way—the Johnson-Weldon amendment.

But the majority leadership, evidently fearing that Members might choose to be responsible—do not want to take the chance that their politically motivated tax-and-spend plan will lose out to reason.

That is why they are limiting us to the procedural vote on the motion to recommit—which limits debate to 5 minutes.

According to the Congressional Budget Office, over the next 5 years—under current law—Federal spending on child welfare will rise from a little over $2 billion in 1992 to more than $4.5 billion in 1997. Total Federal spending on child welfare during that 5-year period will be more than $18 billion, $6 billion in new money over the 1992 baseline.

The majority's bill will add an additional $3.5 billion to that child welfare total through a new entitlement program—and another $3.5 billion in new entitlement spending on food stamps—a total of $7 billion more. They cleverly package this new spending with a new tax on those of high incomes—so they can debate the issue on the basis of making a choice between wealthy taxpayers and aid to children and the hungry.

Listen carefully to the dabate. Tax and spend is alive and well as the credo of the majority in this Congress. The only thing standing in the way of that rhetoric becoming a steady drumbeat of tax and spend initiatives is a President in the White House who has the courage to say "no."

I know he will do so again if this blatant political ploy reaches his desk.

The majority will criticize him for not taxing enough—for not spending enough.

They will cry out for a President who will help them tax and spend to their hearts' desire. Maybe that President is somewhere on a bus in Iowa today. He's sure not in the White House.

And that is what today's debate is really all about. The choices for the American people are becoming clearer every day.

Today the House of Representatives gets to make a choice.

You can vote "yes" on H.R. 3603—and raise the flag to tax and spend us further into deficit. Or you can reject tax and spend and support the motion to recommit—so we can insist on spending precious tax dollars more effectively and efficiently.

□ 1120

Mr. Chairman, I reserve the balance of my time.

Mr. PANETTA. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I rise to speak on behalf of the portion of the bill called the Mickey Leland Childhood Hunger Relief Act.

There is obviously a large debate that is going on in this country, and it should be with regard to family values. And everyone has their own interpretation of what family values are. But surely the most fundamental value that has to be present in every family is the protection of our children, providing for their security, providing for their safety and ensuring that they are fed. My parents wanted that for their children. Surely we must want it for our children.

The tragedy, the great tragedy, and the great shame of our society today is the way we do treat our children. In this country 5 million children experience hunger, 12 million are hungry or at risk of hunger in the United States of America, 2.7 million are neglected and abused, and 50 percent of those on food stamps are children in the United States of America. So it is a national shame. We have a forgotten generation in our society, and that is our children. And there is no excuse for that, and there is no justification for that.

We must respond to that as we respond to every other crisis in our society. When there is a disaster, a natural disaster, we respond. When there is an urban crisis, we respond. When there is a crisis in the Soviet Union, in Russia, we try to respond. Surely we can respond to the crisis of children in our own society.

That is the purpose of this children's initiative, and it is the purpose of the Mickey Leland Childhood Hunger Relief Act. That bill, and the elements of that bill are not controversial. We have worked on a bipartisan basis with regard to the elements of that legislation. It passed this House 336 to 83. We have 109 cosponsors. I pay tribute to my Republican colleague, the gentleman from Missouri [Mr. EMERSON], who has worked on this legislation, and believes in it and supports it, but unfortunately does not agree with the way to pay for it. But the elements we agree to.

The elements are key reforms. Let me mention them. A shelter deduction. Right now if you are a family and your shelter costs are going up, you are penalized in terms of your nutrition benefits. That is wrong. We allow a full deduction for shelter costs to the elderly and the disabled. We want to provide the same deduction with regard to families with children.

Second, child support. Right now when somebody gets their child support we penalize them on reduced benefits for food. That is wrong. And so what this does is it allows the first $50 not to be counted as income, and that is similar to what we provide under AFDC.

Third, we want to keep households together, not apart. And what we provide here is that families can live together and still receive their benefits.

Last, the temporary emergency feeding program, something that now provides emergency feeding services throughout this country, we provide additional funds for that program. And everyone understands how vital that program is to our country.

This bill was reported unanimously by the Agriculture Committee, and it was sent to the Rules Committee waiting for the need to pay for it under the pay-as-you-go requirements of the budget agreement. And thanks to the Ways and Means Committee, as they considered the Family Preservation Act, they found a way to pay for it. Now some may not like the way to pay for it, but the reality is it is paid for each year. This is probably the best paid for bill that I have seen in this session of Congress with regards to the benefits and what is provided to pay for it.

What I hear here is we do not like this way to pay for it.

□ 1130

We want some other way to pay for it, and there is no way to pay for it. That is not an alternative.

Let us hear the alternatives. If you want to provide legislation, let us hear how you want to pay for it, but I hear no alternatives.

I would plead with my colleagues, if Mickey Leland were alive today, he would make the same plea to all of my colleagues: "Please, do not abandon our children."

If you voted to reform the earned-income test for the elderly and add $7 billion to the deficit, do not abandon the children; if you voted or are a cosponsor in reforming the notch at a $22 billion cost, please, do not abandon the children: if you voted for the space station at an ultimate cost of $30 billion, do not abandon the children: if you are going to vote for Soviet aid today, do not abandon the children.

Please, we have a commitment here and a need to deal with what is a fundamental crisis in our society. Vote for this bill and allow us to restore the most fundamental value that we ought to be restoring to the family, the protection of our children, and restoring at the same time the American dream that perhaps we can give our children a better life in the future.

Mr. Chairman, it was my honor and privilege to address the U.S. House of Representatives in the last Congress concerning the merits of the Mickey Leland legislation, and to ensure its inclusion in the nutrition title of the 1990 farm bill. As most of you know, this legislation dealt with reforming the Food Stamp Program, and helping families and hungry children. It was no surprise to me then, and no surprise to me now, that the support for the Leland provisions was affirmed by such a resounding floor vote by my fellow colleagues of 336–83, with more Republicans voting for this legislation than against it. This bill enjoyed broad bipartisan support then, but due to budget constraints could not be enacted, and now enjoys bipartisan support in this Congress with over 100 cosponsors. Ending childhood hunger was, is, and remains a primary issue to be resolved in this society. I cannot think of a more profamily issue than that of protecting and nurturing our children, our future.

Two years have passed since that vote was taken, and the situation for all of our children has further deteriorated. About 5 million American children under the age of 12 go hungry each month and 7 million more are at-risk of hunger, according to estimates based on the results of the most comprehensive study ever done on childhood hunger in the United States—the community childhood hunger identification project [CCHIP]. The results of this study, conducted by the Food Research and Action Center [FRAC], were applied to the best national data and FRAC estimates that approximately 12 percent of all families with children under 12 are hungry. In such a bountiful country as the United States, a country known as the bread basket, it is unacceptable to imagine such distressing numbers of hungry children among our families.

But we need to take a step back to get a much clearer perspective to understand that this situation has truly taken a turn for the worse, not just over the past 2 years, but over the past decade. Since 1983, the U.S. Conference of Mayors has documented an annual increase in the demand for emergency food in major cities across the Nation. In 1991, requests for emergency food increased in the survey cities by an average of 26 percent, up substantially from increases of 19 to 22 percent each year between 1988 and 1990. Two out of three persons requesting emergency food assistance were members of families with children.

Hunger is a condition of poverty. According to findings the Children's Defense Fund released just last month, child poverty went up in 33 States between 1979 and 1989, and the number of poor American children grew by 1.1 million, to a total of 11.2 million between 1980 and 1990. This meant that during a period of what most consider a time of increased economic prosperity, the child poverty rate increased by more than 11 percent. Of course, this was also during a decade that saw serious misguided priorities from the administration, manifested in efforts to slash the budgets of those programs that most help children. The time is long overdue to change these trends.

So what are the consequences? Hungry children suffer from two to three times as many individual health problems, such as weight loss, fatigue, headaches, inability to concentrate, and frequent colds. As a result, hunger has a negative impact on children's ability to learn. How can children possibly focus on school if they are distracted by the hunger they feel gnawing at their stomachs?

The public is very concerned about hunger. A national public opinion poll released in April 1992 reveals that over 90 percent of registered voters believe that hunger in the United States is a serious and growing problem. Hunger ranks with education, health care policy and poverty and homelessness as a serious issue, trailing concerns about unemployment, drugs, the deficit, AIDS and the economy. However, the issue of hunger is seen as solvable. When people were asked if they are willing to pay $100 more in taxes if the additional taxes will be used to assist in ending hunger, willingness to pay the additional taxes has risen to two-thirds of the public. If the public is concerned about the problem and has indicated a willingness to pay higher taxes to address it, then what is the Congress doing about it?

The fact is that many Members of Congress are concerned and want to take action. As all of you know, this is an issue in which I personally have long been involved. I have joined together with my colleague from New York, Mr. TOM DOWNEY, in combining our two respective pieces of legislation, the Family Preservation Act, and the Mickey Leland Childhood Hunger Relief Act, to address child welfare and childhood hunger issues together in a bill known as the children's initiative.

Mr. DOWNEY's legislation will include the following provisions:

Provide $3.5 billion over 5 years in new money to keep families together and prevent foster care. These monies would prevent many children from having to be taken by the courts from their homes and placed into expensive foster care;

Extend foster care and adoption assistance to abandoned children and children living outside the home before entering foster care;

Pay for respite care for foster families of children with physical and emotional disabilities;

Establish a new, integrated system for the Federal review of State child welfare programs; and,

A permanent Advisory Commission on Children and Families would be created to collect and assess information on the economic, social and physical well-being of children, and the efficacy of social services and income security programs for children and families.

The child welfare system is charged with the responsibility of protecting and caring for abused, neglected and delinquent children. However, the system is overburdened and underfunded. The Family Preservation Act will provide the necessary services to help abused and neglected children and keep at-risk families together whenever possible.

The Mickey Leland Childhood Hunger Relief Act is legislation I introduced and which was reported out of the House Agriculture Committee unanimously by voice vote last year. The Leland bill would do the following:

It would help families with children at the brink of homelessness. It would allow families with children to deduct high shelter costs in the same way that elderly and disabled households do at present. Under current law, families with children may deduct shelter expenses that exceed 50 percent of their incomes, but only up to a cap of $194 a month. The cap has the effect of forcing families with children to choose between heating and eating. HUD and Census Bureau data show that 45% of all poor renters spend at least 70% of their incomes on shelter costs.

For example, a family with two parents and three children has $1,000 per month in earned income, and shelter expenses—rent and utilities—of $700, would receive about $294 in food stamps per month under current rules. With the children's initiative reform removing the cap, that family would receive an extra $50 per month to feed their children.

It would also allow relatives to be separate food stamp households if they buy and cook food separately—except that minor children could not be separate from their parents. Current law forced most people to apply together with their parents, adult children, and siblings even if they do not share resources. These rules do not only deny food to needy people but also may break up families and force people into shelters by threatening to cut off the food stamps of people doubling up with relatives.

For example, a 19-year-old student working to put herself through college moves back in with her ailing mother so that she can afford to stay in school. Her income is used only to pay for her own food and her school expenses. Under current rules, because her income is counted as available for food for her mother, her mother's food stamps are terminated. The children's initiative would allow the mother to continue receiving food stamps, provided that she and her daughter purchase and prepare their food separately.

The Leland bill would encourage the payment and collection of child support. It would prevent the first $50 a month paid as child support from being counted as income in determining food stamp benefits. This will give custodial parents an incentive to seek out absent parents and absent parents an incentive to pay child support.

The children's initiative would allow families receiving child support to receive an additional $15 in food stamps because the first $50 of child support is disregarded as income. With the average food stamp benefit of $.75 per person per meal, this would mean an extra 20 meals for hungry families with children.

It would exclude from low-income households' income any legally obligated child support payments household members make to people outside of their household. This would encourage low-income absent parents to make support payments and ensure that their ability to feed their current families is not unduly burdened by their performance of their child support obligations.

For example, an absent parent pays $200 per month in child support for his children from his previous marriage. Even though this money is not available for food for his new family, he receives the same amount of food stamps as if he refused to pay child support. The children's initiative would allow his new family to receive an additional $60 in food stamps.

Also, the bill will increase USDA commodity purchases in fiscal year 1993 for the Emergency Food Assistance Program, which helps food banks and emergency food providers meet the needs of millions of people.

Both original versions of these two bills have been significantly pared-down in terms of costs. The Family Preservation Act was scaled back from approximately $7 billion to $3.5 billion, and the Mickey Leland Childhood Hunger Relief Act, originally at $5.3 billion has been reduced to a cost of $3.5 billion over 5 years. The Mickey Leland bill initially included several provisions such as improving the food stamp benefit and reimbursement of employment and training expenses which had to be eliminated entirely in order to meet the new target cost of $3.5 billion. It is important to note that over 90 percent of the Leland bill's provisions are targeted on families with children.

The financing mechanism in the children's initiative, a 10 percent surtax on millionaires, raises $8.2 billion over 5 years, of which a total of $7 billion will be provided to pay for both family preservation and Mickey Leland over 5 years. Since the cost of the combined bills is only $7 billion, $1.2 billion will be applied specifically for budget deficit reduction. The surtax will affect only a small percentage of the population, only 6 out of every 10,000 taxpayers. The majority of wealthy households, along with all middle- and low-income households, would be untouched. The bill fully meets the pay-as-you-go requirements of the 1990 budget agreement in each and every year according to CBO.

These are real reforms, not just lip service in an election year about trying to help families and children. The proposals are solid investments in our American families. Preparing our children to be ready to learn for school will most certainly pay off in the future. A committee of Governors at the recent 84th annual National Governors' Association meeting urged support for programs that assure that children arrive at school in good health and properly fed. This is a way of investing to avoid a larger cost in the future. One of the governors' reports indicates that children who have the benefit of early education and are prepared to learn, are more likely to graduate from high school, go to college and have a job—and they are less likely to end up on walfare or lead a life of crime.

We own it to our children to make sure that they can develop to their fullest capabilities and potential, mentally and physically. No other substitute will do, especially the one that reflects the administration's position on child welfare discussed by Representative NANCY JOHNSON. I want to point out, and want all of my colleagues to keep in mind, that this so-called substitute does not include any provisions for addressing childhood hunger issues. Instead, it would completely eliminate inclusion of any such food stamp reform initiatives such as the Mickey Leland bill. This should clearly reflect the administration's total lack of commitment to the disregard of the most vulnerable in our country, our children.

The children's initiative will accomplish these goals. This is legislation that is necessary, practical, profamily and paid for. It will support and strengthen families, prevent child abuse and childhood hunger. I urge your support for this measure designed to take action right now. Support helping families and hungry children, vote in support of the Downey-Panetta children's initiative.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman for yielding me this time and for his leadership, to my friend, the gentleman from New York [Mr. DOWNEY], for his great leadership, the gentleman from California [Mr. PANETTA], and others who worked so hard to bring this before us.

I am proud today to have this chance to speak on this bill. I have to say to my Republican friends who are raging against this bill and raging against the tax and spend, I never heard you rage against tax and spend when you voted for star wars; I never heard you rage against tax and spend when you voted for weapons systems that did not work; I never heard you rage against tax and spend on any of the things you think are important, and I never accused you of taxing and spending if you voted for things that are important. So I do not think you should bring that topic here today.

Yes; we are proposing a pay-as-you-go plan to help the most vulnerable among us, the children. How great is a country that does not care about it children? Not great.

How many of us, Mr. Chairman, in this Chamber, Republicans and Democrats, have said that our children are our future? I think all of us have said that, and we were wise to say that.

I think today we can show that we mean that out children are our future.

We have a crisis on our hands in America. The facts were read by the chairman of the committee. Between 1980 and 1991, child abuse and neglect cases tripled, tripled, in 11 years.

I have to say to my colleagues that if you vote for this bill you are helping the most vulnerable among us.

There is a difference between spending wasting and investing. I want to give you one number, and I really want to address this to the fiscal conservatives in this body. One year's worth of high-school dropouts costs our Nation $240 billion over their lifetime. Today's deficits are caused by the dropouts of yesterday.

In conclusion, vote for this bill. It is the right thing to do. It is the wise thing to do. It is even the fiscally conservative thing to do.

Mr. ARCHER. Mr. Chairman, I yield 5 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a member of the Committee on Ways and Means, who has been so energetic, so persevering, so creative in her efforts to work for children of this country and to do it in a productive and efficient way.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I would like to make two clarifying comments. First, what we are talking about today here is not welfare services. What we are talking about today is $3.5 billion for the foster care/adoption system which is a small part, though a very important part and a part that needs new money, of the larger category of welfare services. So Members should not be confused that somehow this $3.5 billion is going generally to poor families, needy families in America. This is going to families in crisis, on the verge of losing their children regardless of income, and that is as it should be.

Second, to address very clearly, and I think fairly, the issue of whether the alternative that you will be voting for if you vote for the motion to recommit, is real and thought out, may I remind members that it has been circulating or introduced more than a year. It has been in its current form for 2 months and broadly reviewed. We have talked with the administrators of every State about it, Governors have reviewed it, and it was offered in subcommittee in its complete form. In full committee it was offered in the parts that we thought had not been added into the full committee bill. As we never got the text of the full committee bill before it was voted on in committee, we could not be quite sure what was in it and what was not. But we tried to add in the pieces that had not been subsumed into the committee bill.

Now, to put the substitute proposal in context, let me just quote from the new Democratic platform. Bill Clinton says:

> We call for a revolution in government to take power away from entrenched bureaucracies and narrow interests in Washington and put it back in the hands of ordinary people. We vow to make government more decentralized, more flexible, and more accountable.

Mr. Chairman, my colleagues, that is what this does. If you are a Republican and the foregoing quote reflects your principles, or whether you are a Democrat and agree with your platform, vote to recommit, because that is exactly what the bipartisan coalition alternative proposes.

Let me tell you how. Because my chairman challenged us during the rule debate to get substantive, let us get substantive. In the motion to recommit, you will have a chance to vote to reform this program in exactly the way that every business in America has reformed themselves, to produce better quality services at lower dollar cost. We save millions of administrative dollars through the alternative and all those dollars can be used, then, to fund front line family preservation services.

For example, in one category of the bill there is money for administration—money for training. There has been a 4,000-percent increase in funding in this category. Part of that money is going to fund States in an incredible paperwork battle with the Federal Government over what is administrative cost.

I am not going to go into the arcane nature of this debate, but it is in brief, a question of whether case management is an administrative or service cost. The problem is that this controversy is like a magnet soaking real dollars out of the system into the bureaucrat caverns of State and Federal Government, drawing the social workers' time, away from providing of children's needs and addressing families' needs.

When we talk to State administrator after State administrator, they would absolutely love to be free of having to document what is administrative and what is not administrative. If we would free them, they could save millions of man-hours and so millions of dollars. My bill creates a capped entitlement, gives them complete flexibility over this money, relieves them of documenting administrative services to the Federal Government and lets them spend precious resources on family preservation services.

In another area, that of 427 reviews, we reduce paperwork by suspending the current inefficient but burdensome system temporarily while we let a commission of experts and State administrators develop a national data system that will enforce the 427 reviews and provide the national data we so badly need for better service to the foster care system. The third area of paperwork reduction is the section that eliminates the requirement that the State make the AFDC eligibility determination for families that only need preservation services. When we are trying to move this bureaucracy from a placement bureaucracy, from a breaking families-up bureaucracy, to a keeping families together bureaucracy, to a bureaucracy that develops better services for strengthening families, for preserving families, it is even more important that we relieve the States of determining AFDC eligibility for every one of the families that needs family strengthening services.

So not only now is this going to save money but in the future it will save even more significant man-hours and dollars; so it is imperative that we reform the program, not just put new money into it.

The alternative that you will have a chance to support through the motion to recommit will radically reduce administrative costs through exactly the kinds of bureaucratic reforms I've described, and make those dollars go to kids and create those services that will strengthen families. Second, and as important, the alternative offers $1.5 billion of new money. And third, the alternative is a bill that the President will sign so that kids will be helped, not hurt by our inability to act straightforwardly and realistically.

□ 1140

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in strong support of H.R. 5600, the Downey-Panetta children's initiative. This legislation is an investment in our Nation's children and their families, millions of whom are in severe crisis, due to these hard economic times. Because it also reduces the deficit, it is responsible fiscal policy.

The children's initiative is profamily and prochild legislation which deserves the support of every Member of the House. I commend my colleagues, Mr. DOWNEY and Mr. PANETTA, and their staffs, for their leadership and their hard work on this legislation.

Politicians are often justifiably accused of paying only lipservice to children and families. A vote for H.R. 5600 is an opportunity to show our Nation's families that we have been listening to their concerns and their problems, and that we are going to do something about them now.

The Select Committee on Children, Youth, and Families, which I formerly chaired, has well-documented the neglect of America's families over the past decade. The problems families face today are far more complex than they were in 1980, when we passed Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, which I authored and which the Family Preservation Act amends.

Today, 1 out of every 5 children lives in poverty. Millions of children here in the United States go to sleep each night hungry and without a safe place to live. Hundreds of thousands of families across America are confronting unemployment, homelessness, poverty, substance abuse, and crime. Too often, these problems lead to child abuse and neglect, and to hunger.

For the past decade, these problems compounded by Government's indifference, have overwhelmed our child welfare agencies, crippling their ability to adequately respond to the families and children in crisis. Across the country, agencies, lacking the necessary financial resources, have had too few services to provide to troubled families.

H.R. 5600 will strengthen and support not only the families and children in need of these services but also the workers and agencies serving them. It will strengthen the Federal Foster Care and Adoption Assistance Programs, and provide supportive and preventive preplacement services for children and their families, including those with substance abuse problems.

This emphasis on substance abuse is of particular importance to my own State of California, where 80 percent of California's child welfare cases involve substance abuse, including many drug-exposed babies.

Family problems are better addressed by a system that provides a continuum of integrated services. Preventive, preplacement services are not only successful at keeping families together, when that is possible, but save us money, too.

The Downey Family Preservation Act modernizes Public Law 96-272. It matches Government's response to contemporary needs.

For too long, we have provided services to children based upon labeling. As a result, we now have welfare children, juvenile justice children, school system children, and mental health children, we may all be the same children with multiple service needs. Many of these children have fallen through the cracks and have failed to receive appropriate services or, because they have the wrong label, have received inappropriate services.

The Family Preservation Act includes a State option for coordinated service development which I authored. This will provide a single point of entry service system for families and children in need of services.

If a family is in crisis, we want to provide all necessary services to prevent its members from entering the child welfare, or juvenile justice, or mental health system. Should that family enter a system, we want to ensure that its service needs are fully met. Providing coordinated services is not only the most efficient way to provide services, it is also cost effective. A single point of entry system will provide families and children seeking assistance with a coordinated continuum of services to address their needs. Under my proposal, States will have the flexibility to blend Federal funding streams with State and local dollars to develop this continuum.

Another longstanding national problem and concern of mine which the Family Preservation Act addresses is the interstate placement of children. It is common practice for foster care children, juvenile delinquents, status offenders, and youth in need of mental health and special education services to be placed in programs in States other than their own due to the unavailability of specialized programs and services within their own States.

Many programs are very costly and would not meet the placing State's licensing and regulatory requirements. Moreover, the monitoring of these placements by the responsible placing agency and State is often negligible. The ease of making placements in other jurisdictions may reduce the need of States to develop appropriate services for their own residents.

The existence of a special program or special service may justify the occasional placement of a youth in a State other than his own. But too often, we learn of these placements only when a child has been severely injured or has died, and the followup investigation finds that the placement was inappropriate or not monitored by the placing State.

Little data is available on the numbers of children sent to out-of-State placements, the financing of these placements, or the types of placements used. The National Mental Health Association's invisible children project and other studies have concluded that:

Most of these out-of-State placements involve non-hardcore children who could best be served in community-based programs;

Most of these placements are child welfare/mental health cases, followed by juvenile justice, and special education placements;

The major Federal funding streams in order of most use are: Medicaid; Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980; and Public Law 94-142, formerly known as the Education For All Handicapped Children Act, and renamed the Individuals With Disabilities Act [IDEA];

It is estimated that out-of-State placements—because they are so expensive, some run between $129,000 to $160,000 per year—account for a disproportionate share of child welfare budgets.

In over half of the States, these placements are made by social workers with no judicial oversight of the placements. In these States, courts commit children to the custody of the agency; the agency then determines the most appropriate placement. In other States, such placements are either court-ordered, or approved by a review committee.

Let me use my own State of California to give you an example of how common such placements are, and how little monitoring is actually done by either the Department of Health and Human Services and the States themselves.

In 1986, at my request, the General Accounting Office conducted an inquiry into California's use of title IV-E Federal foster care moneys for the placement of children at the Rite of Passage Program in Nevada.

During the course of its subsequent investigation, the Department of Health and Human Services [DHHS] region IX determined that this facility was a wilderness camp situated on an Indian reservation that failed to meet California licensing standards. A report of the local fire officials found very serious safety problems. Yet because of its location on Indian lands, Rite of Passage directors were able to evade minimum licensing, staffing, and health and safety standards. Because it met the definition of a "detention" facility, it was therefore ineligible for Federal funds. DHHS disallowed the State of California almost one-half million dollars as a penalty. In other words, foster children were being inappropriately placed in a program designed for delinquent youth, and the Federal Government was paying the bill.

In 1990, while the GAO was pursuing yet another investigation at my request involving California youth in out-of-State placements, it determined that the State of California has continued to use title IV-E foster care moneys to pay for the placement of children at Rite of Passage, which is $3,037 per month per child, and another ineligible facility, Visionquest, which charges between $2,707 to $3,099 per month per child. Because these are for-profit facilities, by law, Federal foster care moneys cannot be used to pay for placements. In its September 6, 1990 letter to DHHS, the GAO states:

> Based on a limited review of claims in other months, we believe this problem may be systemic and more widespread * * * State controls to ensure out-of-State facilities are eligible to receive Federal funds do not appear to be adequate.

It is important to note that it was 1986 when DHHS notified California that Rite of Passage was ineligible to receive Federal funds, and California received a disallowance by DHHS for its improper claim for title IV-E moneys. Yet 4 years later, in 1990, California continued to submit improper claims for Rite of Passage, and DHHS continued to pay those claims, as well as for Visionquest, despite promises of greater diligence in auditing such payments. Once again, were it not for the GAO's investigation, these inappropriate payments would not have been detected by DHHS.

The improper payment of Federal foster care funds to California for Rite of Passage and Visionquest are not isolated incidents, limited only to these two programs and the State of California. This ongoing problem requires congressional action to correct DHHS' ineffective oversight procedures.

The placement accountability section, which requires States to monitor and to keep data on these out-of-State placements and provides procedural protections for youth sent to such placements, will assist us in making better policy determinations about such placements. Several years of effort and independent reports have established that this section is a critical component of this legislation.

There is strong bipartisan support for the Leland childhood hunger bill, which has passed the House both in 1991 and in 1992. There are too many hungry children who cannot wait much longer. The national community childhood hunger identification project, released in 1991, found that an estimated 5 million children in the United States under age 12 are hungry during the year. That is unconscionable and unacceptable. Over 90 percent of the Leland bill's provisions are targeted on families with children.

H.R. 5600 targets our most vulnerable children and families. I urge my colleagues to enthusiastically support H.R. 5600. The enormous cost of childhood hunger, child abuse and neglect, alcohol and substance abuse, and family disintegration outweigh the costs of this legislation.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY], a member of the committee.

Mr. GRANDY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, let me begin by reiterating a quote the gentlewoman from Connecticut made that is torn from the New Covenant of the Democratic Platform:

> We vow to make government more decentralized, more flexible and more accountable.

Good concept, except the Devil is in the details on this bill. What we are about to do today is enact a completely new way to spend money. Forget about the amounts for a minute. Here is how this new provision works. We start with an open-ended entitlement, of which we have six in child welfare right now. Every year as part of the budget process the CBO will estimate how much money will be spent on these entitlements, and then this is what we do.

First, if the States spend the amount of money estimated in the base line, they will get all the money. That is not new. If they spend more money, we will give them that, too; but if the States spend less than the amount that is estimated in the base line, we will now give them 60 percent of that amount, too. You cannot lose. Unless, of course, you are a taxpayer, and that is why we need the new tax to pay for an overestimation of revenues which last year's base line estimated at about $1.5 billion, so roughly a billion dollars would have flown to poor administration if Mr. DOWNEY's formula had been enacted last year.

Mr. Chairman, there is $18 billion committed to this system over the next 5 years. That is without the Downey legislation.

We are proposing to give the States that money, give them more control over it, and those are real resources with flexibility; but unfortunately, right now we have a bill before us that will require separate reviews and audits for each of the different entitlement programs, require burdensome cost allocation plans and procedures for receiving Federal funds.

Mr. Chairman, let me say finally, States are not waiting for the Federal Government to give them more flexibility. They are doing it themselves. In Michigan, the Family First Program has streamlined their flexibility, and the net result is this. Over 80 percent of the 2,400 families who have participated in this streamlined flexible program, foster care placements have fallen 10 percent in the counties where this program operates and they have increased 28 percent where the program has not been tried.

All we are saying is that it is not a question of resources versus reform. You can have both, but you must defeat the Downey taxing mechanism.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, the President wants to engage this Nation in a discussion about family values, and today we are talking about family values, the most important of which is to keep families together and to make sure that poor children are fed and are comforted in their time of need.

Can any of us say that America's children do not need help? That has not been said here. No one has suggested for a second that there is not a crisis. No one has suggested here for a moment that more resources are not needed.

The Republicans say they can provide less money and more resources, a neat trick. We will talk more about that later.

But the reality is, there has been an explosion in out-of-wedlock births, in the use of cocaine and crack, in homelessness and AIDS, that requires us to vote more resources to this problem.

In 1960, there were 64 million children under the age of 18; 64 million, keep that in mind.

In 1990, there were 64 million children under the age of 18, same number, different children.

In 1960, there were 243,000 children living with a mother who had never been married, in 1960.

Do you know what the number is in 1990? It is nearly 5 million, a 20-fold increase.

In 1980, we had 900,000 reports of neglect and abuse.

What was the number in 1991? It was 2.7 million, up three times.

Now, we simply cannot turn our backs on a generation of American children. We must admit to ourselves that these are our children, that every single one of them is important, that every single one of them who needs our help should get it. That is what this bill does.

Now, lamentably, we cannot produce happy homes for all our kids, but what we can do is take those things that the States have learned over the years, homebuilders, family preservation services, and give the States more money so that they can help more children.

The special cruelty of the Republican substitute is that it says that simply providing the flexibility produces more resources and solves the problem. That is nonsense. The States today are overwhelmed just dealing with the cases of neglect and abuse. Many family court systems today spend less than 60 seconds in child and family court to determine the outcome for a child.

To say that no more money is necessary to help these children is to look reality in the face and not understand what is happening.

Our proposal is modest, $3.5 billion. Next Monday the Senate will vote on a bill that provides $2.1 billion for family preservation and between our two proposals we can have a compromise.

The Senate has proposed over the years and supported the Leland Hunger Act. We will do so today.

Mr. Chairman, I urge my colleagues, those of you who are worried about voting for new taxes, who are somehow attracted to the Republican siren song that more is less, that when you look at this problem and understand that there are children crying out for our help that it is within our capacity to help them. We can do something about it. We can make sure that their children are not robbed of their childhoods.

Can there be anyone here who would not want to take the risk of spending a few more dollars to make sure that we keep families together and that children have a chance to grow? We have learned a great deal about keeping families together, now is the time to do something about it.

Mr. Chairman, I urge my colleagues, please support this legislation for the generation of American children who desperately need our help.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, throwing more money at this problem, without restructuring the welfare bureaucracy and the way we spend taxpayers' money is only going to compound the problem.

I would like to say to my colleague, the gentleman from New York [Mr. DOWNEY], I was an abused child. I spent time in the Marion County welfare system. I was in the Children's Guardian Home along with my brother and sister. I know just a little about child abuse and welfare and watching your mother being beaten to a pulp when she threw a lamp through the window trying to get help from the police.

□ 1150

So I know a little bit about that because I grew up with it. I am telling you the approach you are talking about, throwing more money from the Federal Government at the problem, is not the solution. We have a bureaucracy that has grown 2,000 percent in the last 10 years. They are gobbling up all the money and the money is not getting down for its intended purpose. We should cut through the bureaucracy, reduce the bureaucracy, make sure the money we are spending right now is going for its intended purpose.

We are spending $18.5 billion on child protection programs and child welfare programs, and you want to add another $3.5 billion to it. That is not going to solve the problem, because the bureaucracy continues to exist.

It is extremely important, in my opinion, that we realize what we are doing, long term, to the kids of this country, to the people on fixed incomes, and everybody else. Sure we need to be concerned about those who are being abused. I know, I believe it. But just throwing more money at it is not the answer.

Getting rid of the waste, fraud and abuse, and getting the money for its intended purpose is the answer, and we can do that.

Now I want to talk one more time about where we are heading because we create another entitlement, another $3.5 billion in Federal spending programs, and we add to this chart. This chart is not lying.

In the next 10 years we are going to be $13.5 trillion in debt, and the interest is going to be more than the taxes coming in to pay for that interest. And we are not going to have money for these programs, so the Federal Reserve Board, Mr. DOWNEY, will have to print the money to pay off part of the debt so that we will not have to service it.

And then these kids that you want to help, like me and my brother and sister when we were little, will have no money because the money will not buy anything. You will have a lot of money printed, and it is in circulation, we will get that money, but the cost of everything will go up so astronomically because of hyperinflation that we will not be able to buy anything with it. The people on Social Security, who get their Social Security checks, will be paying $30 and $40 for a quart of milk or a loaf of bread. That is the problem.

We need to address these problems that you are talking about, and I support that effort, but we need to do it in a fiscally responsible way. Cut out the bureaucracy and get to the problem and not start any more entitlement programs that are going to bankrupt the country and cause hyperinflation and lower the standard of living for everybody, especially those on fixed incomes and those on welfare.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. I thank the chairman for yielding to me.

Mr. Chairman, every day we read in the newspaper, the metro section of the New York Times, Washington Post, the Sacramento Bee, and we find there is a story of a child dying because of a problem within the family, a child who is drowned in their bathtub because the mother or father is unable to find a job or because that child happens to be in a foster care system where the foster parent is sexually abusing that child or emotionally abusing that child.

The fact of the matter is we have over 400,000 of these children in the foster care system today. And the reason the cost has doubled in the last 5 years is because 5 years ago there were only 200,000 such children. The gentleman from Texas [Mr. ARCHER] said the costs will double in the next 5 years from $2.1 billion to $4.2 billion. And he is right, but that is because we project from the 400,000 children in foster care today by 1997 there will be 800,000 children in foster care.

If anybody thinks the system is working or that a little flexibility to the States will solve their problem, they have not seen the foster children of America, they have not seen the system, the hodge-podge throughout the States.

The fact of the matter is that we need to revise the system. This is a very conservative approach worked over the last 4 years by the Committee on Ways and Means, led by the gentleman from New York, Chairman DOWNEY.

What we want to do is to eliminate the need for foster care by having early intervention of family crises in America today. That is what this whole bill is about. It is not about spending more money or tax-and-spend Democrats. Let me conclude by making another observation.

I do not hear anybody on the other side of the aisle talk about what kind of a tax increase this is. They just say tax-and-spend Democrats.

The fact of the matter is this is a surtax, a 10-percent surtax on people who make over $1 million a year. Those are the very people who over the last decade became the wealthiest group of Americans in the history of our country.

Now, this will really tell you where the value of the individual is, where the value of the parties is; whether we are willing to pay for this program with that funding for it.

Mr. ARCHER. Mr. Chairman, I yield 4 minutes to the respected minority leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding this time to me.

Mr. Chairman, the one general principle which I think almost everyone agrees upon is that to reduce the deficit we must get control of our entitlement programs.

The gentleman from Indiana has made that case any number of times in recent consideration of appropriations bills. But the bill before us is an example of why that never really seems to happen. It is fine to talk in general terms about reducing entitlements, but when it comes to specifics, the majority almost always chooses expansion rather than contraction. Even the chairman of the Committee on the Budget, the distinguished gentleman who reminded us so often of the need to reduce the deficit, is a cosponsor of this entitlement expansion bill.

I would like to remind my colleagues that the Democratic leadership did everything they could to defeat the balanced budget amendment. In this Chamber, on the Democratic side they cheered and cheered when the amendment went down. But as soon as it was defeated, you say you now see the light on deficit reduction, but you choose the statutory route, which means you can change the enforcement mechanism any day you please, any time you please, to accommodate again more spending. I have to say I think your statutory approach is made up of one part jelly and one part silly-putty.

Now, some will say that this bill does not violate the budget agreement because it raises taxes and offsets spending increases. That is the problem, tax and spend. You do not raise taxes to reduce the deficit; you raise taxes to spend more money. That is the policy of your Presidential candidate, and that has been your policy in Congress for as long as I can remember. The fact is there are other ways to help people without raising taxes and spending more money.

If we are going to get control of entitlements and reduce the deficit, this is not the direction we ought to be pursuing. The motion to recommit, that will be offered by the distinguished gentlewoman from Connecticut, gives us that opportunity. Her proposal will enable States to better assist needy children by consolidating these entitlement programs, reducing the paperwork and the bureaucracy, and giving the States greater flexibility to address specific needs. It provides the States with over $8 billion in flexible entitlement funds. That is no small amount.

The reforms in our proposal make it possible to shift the emphasis from placing children in foster homes to addressing the problems of families so that the children can remain in their own homes.

We have experimented with that in my own home community. Many folks in our community who have really dealt with this problem over a long period of years, devoted so much of their time to the friendless and homeless in our community, have done just that. It can work. It takes a lot of volunteer work to do it, but it can be done.

This is a good approach, it reforms the program, provides more flexibility to States, helps people and does not rely on the tax and spend philosophy.

Obviously, I would urge adoption of the motion to recommit at the appropriate time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. I appreciate the chairman yielding to me.

Mr. Chairman, I have opposed a great deal of spending this year because I too am concerned about the deficit. But I am going to vote for this kind of spending, and I will tell you why.

□ 1200

Mr. Chairman, I want to tell my colleagues about a young 3-year-old child named Tamara Demaris. It nearly broke my heart the day I met Tamara, a young Indian child who had been placed in a foster home, had been beaten severely. She had a broken arm, broken nose, hair torn out of her head by the roots. A 3-year-old child. She will probably never fully recover from those experiences.

Why did it happen? One social worker was in charge of 140 cases and was not able to check where she was placing this child, and the result was this young child was beaten severely and repeatedly.

Mr. Chairman, it was our responsibility to protect that child. At 3 years old she was not able to protect herself.

There are thousands of them, thousands of them, across this country facing a similar fate tonight. One in five kids in this country lives in poverty.

We can do something about that. We have a moral responsibility to do something about that.

Our friends say the issue is spending. The issue is not spending, and my colleagues know it is not. The President says, "Let's," after the end of the cold war, "increase spending on star wars by 32 percent."

So, Mr. Chairman, it is not spending. The issue is what we spend money on, for God's sake, and I ask my colleagues, "Can't we quit spending on star wars after the cold war is over and finally start spending to help kids in this country?"

We are talking today about taxing the rich. These are people who have had a 120-percent increase in income in a decade, and their tax bills have increased only half of that. We are saying, "Pay your fair share, and we'll use the money to help kids in this country."

An author once said:

> A hundred years from now it won't matter very much how much income you made or how big your house was. But the world might be a different place because you were important in the life of one child.

So let us dedicate ourselves today, my colleagues, as legislators, to be important, not in the lives of one child, but to be important in the lives of every child in this country who cries out today for help and needs our help today.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, while I agree that major reforms are needed in our child welfare system, I must rise in strong opposition to H.R. 3603.

The American family, long the backbone of our society, has come under tremendous pressure during the past two decades, and there is a growing need for effective child welfare services. The crucial question facing Congress is how should we address this problem. Should we continue to throw money at programs without regard to results, or should we concentrate scarce Federal dollars on eliminating administrative waste and providing direct services to children and families at risk.

Unfortunately, H.R. 3603 is neither effective nor appropriate in the age of billion-dollar deficits. This bill continues the tax and spend policies of the Democrats by throwing an additional $7 billion at the system without actually fixing any of the current programs' problems. Since 1981, administrative costs have skyrocketed over 2,000 percent, yet there is little evidence that services to children are any better today. But instead of cutting Government redtape and costly administrative requirements, the bill dramatically increases these burdens with new categorical earmarks and additional reporting requirements. At a time when our budget deficits are topping $400 billion, we simply cannot afford a new entitlement program.

Fortunately, the Downey bill is not the only alternative. The administration has proposed legislation which provides $9 billion over the next 5 years without raising taxes. The Nancy Johnson proposal creates a new flexible funding system for child welfare services by eliminating all categorical requirements for the use of these new funds and providing States their entire funding allotment at the beginning of each fiscal year.

These reforms will enable States to reach more at-risk children for less money than current programs or the Downey bill. This is important, because each dollar we waste shuffling paper is one less dollar invested in education and a myriad of other pressing concerns.

Mr. Chairman, today's vote is a choice between raising taxes to pump more money into a broken system or creating a more flexible and thereby cost effective system that increases vital services while cutting Government waste. I urge my colleagues to vote against H.R. 3603.

Mr. ARCHER. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. Here was go again, Mr. Chairman, trying to solve a major social issue by throwing money at it and by looking at the so-called rich to pay for it.

Tax and spend; yes, as Yogi Berra would say, "It's deja vu all over again."

Mr. Chairman, it has been said that the carrot or the stick theory could give people the proper motivation to act in a way that we would desire. Why do we always look at a social problem and insist on offering carrots as incentives? Why not the stick for a change? After all, it is our desire, Democrat and Republican, to help keep the family together. Well, we are leaving out one major ingredient: One of the best ways to reduce the proliferation of a single-parent household is to force greater paternal responsibility.

Mr. Chairman, a vast majority of the people receiving welfare payments have been on welfare for 8 years or more, and that must change. Yes, we must encourage, not penalize, two-parent households in regards to public assistance; and, yes, we must encourage workfare. But at the heart of the problem is the first step.

Today young men impregnate young women in many cases without even thinking about being held accountable. The lack of a sense of responsibility has made a dismal situation worse. Our current welfare system gives lip service to this concern, but in reality it does little to eradicate the problem. Unfortunately, Mr. Chairman, it is not unusual for a male to have two women pregnant at the same time. Unfortunately it is not unusual for a male to have fathered a half dozen or more children by multiple partners. And, yes, let us not forget, the taxpayers are paying the bill.

I ask, "Would society allow people to take their cars and collide with other cars without determining the person responsible and/or without holding that person accountable? Don't we apply criminal action to those who flee an accident, the arrest of hit and run drivers?" The answers is yes. Then, why do we treat a little child with any less respect?

I am confident that this bill will fail, and I beseech my colleagues to take away some of the carrots, and let us start applying the stick. The Wisconsin plan is just one example of how we can do so.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, today we will have the opportunity to vote on the children's initiative, H.R. 3603. I am proud to be an original cosponsor of the children's initiative.

In May, Audrey Rowe, the commissioner of Connecticut's Department of Income Maintenance, and the chairwoman of the Child Welfare League of America's National Commission on Family Foster Care, testified before the Human Resources Subcommittee about efforts in Connecticut to preserve families. Connecticut is currently serving 500 to 600 families a year in its program. Each caseworker is available 24 hours a day over a 4- to 6-week period. These intensive and comprehensive services are offered only to families who are referred to the State for out-of-home placement by child protective services staff.

Her report is very promising. She states:

> * * * Initial efforts have been successful in empowering these families so that they can help themselves and their children. In the majority of cases, children and parents have remained together and out-of-home care has been unnecessary.

Sometimes it is not always appropriate to have children stay with their birth parents. That is why there are foster care and adoption programs. But in most cases, what is in the best interest of the child is to preserve the family. That is what H.R. 3603 does.

The children's initiative takes long overdue steps to improve the quality and availability of foster and adoptive care for children removed from their homes by abuse, neglect, or abandonment. It would amend the foster care and adoption assistance programs in order to improve their operation and provide funds for services designed to keep families intact and to avoid unnecessary foster care and other out-of-home placements.

Not only does H.R. 3603 provide for child welfare, it also contains provisions to alleviate childhood hunger. I cannot stress enough that in a Nation as rich in resources as the United States, to allow individuals to go hungry is senseless and inhumane. That is why we must act now for the future of our children.

The poverty rate among American children is shockingly high. A study last year found that an estimated 5 million children in the United States under the age of 12 are hungry during the year. In particular, many families with children in metropolitan areas pay over 70 percent of their income for shelter, and often have to choose between adequate food and shelter costs. The provisions in this bill would move toward implementing preventive measures to respond to the unacceptable levels of vulnerable, homeless, and hungry children.

H.R. 3603 includes provisions to lessen childhood hunger by expanding eligibility for the Food Stamp Program and increase benefits to eligible households. These measures would also provide for additional funding to purchase food for distribution to needy individuals and families under the Emergency Food Assistance Program. The State welfare programs are currently overwhelmed in every category—child welfare, adoption assistance, and foster care. This bill is targeted at strengthening all current efforts to end childhood hunger and to further protect children from abuse and neglect.

Through the children's initiative, we can make a crucial investment in the future of our children and our Nation. The costs of not passing these improvements now are enormous, both in human and fiscal terms. Investment in children makes financial sense. Whatever we can do to help children now, helps to reduce social service costs later. There are more families and more children in my State, and in every State, who need these services. I urge you to support the Children's Initiative and Family Preservation Act.

Mr. Chairman, this morning the New York Times had a short editorial that had incredible truth in it, and I submit that editorial for the RECORD. What it says is that this bill before us to help troubled children is paid for by 60,000 of the Americans who earn over $1 million a year. The second fact in the editorial was that these same fortunate Americans have seen their income, after taxes, increase by 104 percent in the last 10 years.

Mr. Chairman, the editorial referred to is as follows:

> [From the New York Times, Aug. 6, 1992]
>
> A BREAK FOR POOR CHILDREN
>
> America is the land of the Big Mac, the stupendous pizza, the foot-long hot dog—and five million children who go to bed hungry. It is also the land where happy families are the stuff of TV sitcoms—and dysfunctional families the stuff of countless childhoods. Today the House of Representatives has an extraordinary chance to help these kids by playing Robin Hood. Only this won't be robbery. This will be fairness.
>
> The plan, the Children's Initiative, is simple. A surtax on the taxable incomes of the richest Americans—incomes exceeding $1 million yearly—will give this country $7 billion over five years to spend on its poorest.
>
> The "millionaire's surcharge" would affect only about 60,000 Americans: a group whose after-tax income, thanks partly to tax reductions, grew by 104 percent from 1977 to 1989.
>
> Half the $7 billion would be used to expand Food Stamp benefits, by extending to poor families with children the more generous benefit formula used for the elderly and disabled. The bill would also disregard the first $50 in child support money when calculating the allowance, and would increase emergency food aid in fiscal 1993.
>
> The other $3.5 billion would help states provide preventive services for families whose children might otherwise end up in foster care. These services will vary from state to state. But over time, they could well have the same positive effect on foster care expenditures that good prenatal care has on later medical costs.
>
> In Michigan, for instance, which already has an intensive family preservation program, the cost of services per family is $4,500 a year. Compare that with the $12,000 it takes to keep a Michigan child in foster care.
>
> By now most Americans know all too well that millions of youngsters are in tragic straits. That's reason enough for a yes to the Children's Initiative.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Chairman, Barbara Jordan once said:

> What the people want is really very simple. They want an America as good as its promise.

Today we have a chance to fulfill that promise. Childhood in America should be free of abuse, neglect, and hunger. But it is not.

Since 1980: Child abuse and neglect reports have tripled. Children in foster care have more than doubled. Children in poverty have increased by 25 percent. In 1990, every eighth young child was undernourished.

The children's initiative makes a smart investment in a better future for our children.

By failing to act for our children, Congress has more to fear than from acting expediently. The consequences of not acting today are tremendous.

Childhood hunger means less learning. Without regular meals, children lose concentration, become irritable, and fatigue easily. With a shrinking work force, we cannot afford a single ill-prepared worker.

Child abuse means more crime. A survey of felons in Oregon showed that two-thirds were abused as children. We have to end this cycle of violence.

In Texas, 60 percent of the confirmed cases of abused children do not receive any child welfare services. Caseworkers have an average of 27 cases, which is twice the recommended level. It is no wonder that headlines in Houston, El Paso, and Austin are about children dying because they were returned home to abusive situations.

This bill would give Texas and all other States new resources to protect children from abuse. It would also target funds for one of the most neglected areas of the country: The cities and counties along the Mexican border.

The bill would end the Federal policy of forcing families with children to choose between eviction and going hungry. Families with children would be treated the same as elderly and disabled who currently qualify for food stamps even though they pay more in rent in high-cost areas.

The children's initiative also acknowledges the importance of child support enforcement in fighting poverty. It adds a current welfare policy to the Food Stamp Program. This policy gives families the first $50 of child support collected from an absent parent.

None of these policies comes free. We have to pay for them, and the millionaire's surtax pays for this bill.

We can take the easy way out and defeat the children's initiative. Or we stand by our principles and with passage of this bill say we truly care about children.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. GRADISON], the ranking Republican on the Committee on the Budget and a very respected member of the Committee on Ways and Means.

Mr. GRADISON. Mr. Chairman, I want to focus, as all the other speakers have, on the children of America, the children of America who are going to be here after all of us have gone and are going to have to pick up the bills for the profligate waste which this Congress has been operating under. I am referring specifically to the budget situation which, if left at its present circumstance, is going to mean a lower standard of living for our children and our grandchildren than they would have if we were willing to face up to the fact that $330 billion deficits, such as we now anticipate for this year, are simply unacceptable.

The thing that bothers me the most about this legislation is not the fact that there is a tax provision. It is that a tax provision is being offered as a way to finance increased spending rather than as a way to reduce the deficit.

There is a suggestion that has floated through this discussion that somehow this bill has no pay-go cost. That is not true.

□ 1210

The Office of Management and Budget, which is the official scorekeeper under the Budget Enforcement Act of 1990, has advised us that with the food stamp provisions added, the Family Preservation Act does have a pay-go cost, a net pay-go cost for the first year, fiscal 1993.

Now, it happens there is a current surplus in the pay-go account of $707 million, according to the scorekeeper, OMB. So what we have as a practical matter as a result of the food stamp provision is a recommendation to dip into that surplus, which otherwise would be used to reduce the deficit. I think that alone is a solid reason for voting against this measure.

Mr. Chairman, I find it ironic, to say the least, that some of the same people who are clamoring the loudest for reform of the budget process and for a balanced budget are the very ones suggesting that we should take advantage of budget loopholes to press for expenditures of every available dollar that legally can be spent.

Mr. Chairman, let me make it very clear: The Committee on Ways and Means portion of this bill is deficit neutral in each of the 5 years, 1993 through 1997, and the committee is to be congratulated on that. However, when the Committee on Agriculture's food stamp provisions are added, the bill just barely is deficit neutral in 1994 and 1997 under OMB scoring, and actually produces, as I mentioned earlier, a deficit for fiscal year 1993.

The ultimate irony is that this is the very provision championed by the chairman of the Committee on the Budget.

It might be argued that OMB scoring shows a current 2-year pay-go surplus and that this can legally be spent without triggering a sequester, and I acknowledge that that is true. But just because money is available to be spent does not mean that we have to spend it or that it is the right thing to do.

Given the fervor that both the chairman of the Committee on the Budget and I share for reducing the deficit, the right thing to do is to rearrange priorities within current revenues so that the deficit is not made any larger.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, all the old slogans have been brought out such as "throwing good money after bad."

Mr. Chairman, this is putting money to work for a good program, period. Look at Michigan. What this bill wants to do is take the Family First Program in Michigan and spread it throughout the United States.

The Family First Program is working. It aims to keep families together. What it does is to assign a worker to work intensively with no more than two families at a time for 4 to 6 weeks. That person is available in the home 24 hours a day if needed. The worker helps the family address its needs, find work, locate decent housing, learn better parenting skills, and develop new means for resolving conflicts.

I have seen the program working first-hand. What are the results? A 12-percent reduction in the number of children entering out of home care in the counties in Michigan where the new program exists, compared with a 29-percent increase in counties without the program.

Mr. Chairman, we talk a lot about family values. But these kids do not want our rhetoric. They do not want it. What they want is a program that will give them a chance to stay in the family.

Mr. Chairman, if something works, let us use it. I urge support for this bill.

Mr. GRANDY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, H.R. 3603, the so-called Family Preservation Act, is a superb example of the difference between Republicans and Democrats. Unfortunately, it is a superb example. It is one small sample of what we can expect to be a regular practice if Democrats manage again to get control of both the Presidency and Congress at the same time.

Any number of commentators about the budget deficit have noted that the biggest impediment to getting the deficit under control is entitlements. Yet what does this bill do? It increases entitlements by half a billion dollars per year.

Of course, the Democrats who run this Congress say they are not adding to the deficit with this bill. They say they are balancing their—here's another spending increase with a yet another tax increase—one they say will only hurt the rich.

Well, that is what they said the last time they pushed through a tax increase over the opposition of most Republicans in this House. I stood right at that spot and noted what that tax increase would do. That one was supposed to reduce the deficit. What happened instead? Just as I and many other Republicans predicted, the economy went down, tax receipts went down, and the budget deficit is higher than ever.

So, have the Democrats learned their lesson? No. Once again, they have brought to this House a substantial increase in spending, in the form of expanding entitlements, and an economy-killing increase in taxes. And once again, if this bill makes it into law under a Democrat President, it will drive the economy down, which will drive revenues down and we will get another massive increase in the deficit.

And will children be any better off as our economy sinks? You guessed it. They will need even more help. It is all part of the liberal cycle of economic well-intentioned lunacy, and I suggest we reject it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, today in this legislation we are addressing two fundamental realities of American life. The first reality is that millions of our children are hurting terribly and are in need of immediate help. This is true for Los Angeles. This is equally true for the State of Vermont.

The second reality is that while our children go hungry and sleep out on the streets, lack adequate health care or educational opportunity, the wealthiest people in this country have grown far richer while their tax burden has been lowered. The children suffer while the rich and superrich ride their fancy limousines going out to the golf courses to spend their time.

Mr. Chairman, this legislation is a small step forward, a small step forward in addressing the problem. It asks the very wealthiest 1 percent of our population to pay more in taxes while helping our children, the most vulnerable and hurting people in our society.

Mr. Chairman, 1 in 5 children in the United States live in poverty; during the 1980's the United States had the worst child poverty rate among Western industrialized nations surveyed; it is estimated that at least 100,000 children go to sleep homeless every night; 1 in 10 infants living in the United States has no routine source of health care; An estimated 407,000 children, almost a 50-percent increase since 1986, depend on an overwhelmed, inadequate foster care system; in the United States, 2.6 million children were reported to be abused and neglected in 1991.

Mr. Chairman, this legislation will not increase our deficit, because it begins to ask the wealthy to pay their fair share of taxes by asking the very richest people in this country, some of the richest 1 percent, to pay their fair share of taxes.

This surcharge is particularly appropriate in light of the trends in the past 15 years and the net effects of the Reagan/Bush tax cuts. In 1977, the top 1 percent of families paid an average of 35.5 percent of their income in Federal taxes. In 1993 they will pay 28.8 percent. CBO estimates that if the top 1 percent of households simply paid the same percentage of income in Federal taxes today as they did in 1977, the Federal Government would be collecting $65.3 billion more per year in taxes from this group. Over the past 15 years, the top 1 percent of income earners saw an average gain in before-tax income of 113 percent—and an average gain in after-tax income of 134 percent.

But today we are not even proposing to tax this entire group, but just the wealthiest of those individuals. And even after the tax increase, the rich elite will not be paying as much as they paid in 1977. It's about time that we offer a fair shake to those families that are struggling to hold on. After all, over the past 15 years, while the top 1 percent of income earners brought home more and more bacon, the poorest families in this country couldn't put food on their table because their income fell by 10 percent. Let's not force families to chose between heating and eating. Let us pass the children's initiative and promote real family values.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Chairman, before I came to Congress I did two things: I was a child psychiatrist for 17 years, and I was also a member of the State legislature. In those two positions I dealt with this issue on a weekly and a daily basis. I was in juvenile courts, I was in courtrooms, and I was in the detention centers of our city.

Mr. Chairman, the problem of dealing with neglected kids is exploding in this country. We have a generation of kids who are feeling absolutely neglected, abandoned, and abused. The incentives of the present system are wrong. We have a system that says we will pay, the Federal Government, if you take the kids away from the family. In State legislatures all across this country that is the only alternative we had for Federal money, and we used it, and we used it, and we used it.

We created in the State of Washington a program to do something else that was called Homebuilders, to put people into the home to try and help the family through a crisis and keep the kids from being taken out of that home.

That is a true family value program. It is the kind of thing that we are going to have to do if we are going to have a work force in this country that is educated and capable of leading this country.

This is a bill about investment in this country, and it has the right kind of incentives. It says to the States here is the flexibility and additional money. The numbers have absolutely tripled in this country with this problem. Every State is overwhelmed and the families need the help that this kind of program can give.

Mr. Chairman, I urge my colleagues to look at this not only as a humane program for kids, but as an investment in the future of the strength of this country.

□ 1220

Mr. GRANDY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I think we ought to talk exactly about what we are doing here today with this legislation. We are playing politics.

Is there any Member here who believes that this bill has even a ghost of a chance of being signed into law in this session of Congress? The reality is that this President is not going to sign into law, in an economy as fragile as this economy is, these kinds of revenue increases only to fund a new entitlement program.

Yes, it is capped. Is there any Member here who believes caps mean anything anymore? I do not think so. The American people do not.

Listen to this bill in terms of what it does. We do not even have to get to the specifics because we are not going to get to the specifics. This bill will result in mandatory outlay increases: 482 million in 1994, 620 million in 1995, 798 million in 1996, and 936 million in 1997. But that is all right because we are going to fund it, as the chairman of the Committee on the Budget says, we are going to bring in 865 million in tax increases in 1993, 1.6 billion in 1994, 1.8 billion in new taxes in 1995, 1.9 billion in 1996, and 2 billion in 1997.

That is exactly the same kind of mentality that brought us the 1990 budget agreement that has resulted in deficits 2 to 3 times higher than what they were projected to be.

We need to address children at risk. We need to do it in a bipartisan way. Unfortunately, this bill ain't it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding time to me.

I want to say the one thing we all know is that millionaires are doing well and millions of kids are not doing well. The legacy of the 1980's is, we created more millionaires and more poor kids than we have ever done in any decade.

This bill is a wonderful balance. That is why I think the President has to sign it, if he has a heart larger than a swollen pea. I hope he does, even though he went to Yale.

But I think that is a very important thing to point out, that what we are doing here is having a transfer from the people who made out the most in the 1980's, the millionaires, to help the children who came out the worst in the 1980's, the low-income kids, the kids who really need family services.

These children are going to inherit the national debt that was so recklessly imposed upon them. And if there is anyone we should be investing on, it is these children.

This issue is about who is for families and who is just faking. It is about who is for kids and who is just kidding. This is a very, very important vote.

I think it is time we started putting our children first because they are our future.

The CHAIRMAN. The Chair would advise that the gentleman from Iowa [Mr. GRANDY] has 2½ minutes remaining, and the gentleman from Illinois [Mr. ROSTENKOWSKI] has 2 minutes remaining.

Mr. GRANDY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me quote from a recent article on the subject that is before us today, child welfare reform.

> Simply ratcheting up the efforts of the present welfare system by adding programs and channeling more money will not help poor children, those most at risk. As many states and localities are discovering, the problem isn't too few programs but too many.

Unfortunately, that is what this debate is about, creating more programs and more problems without addressing reform first before we get to resources.

We have heard a lot of very compelling anecdotes today about children in distress. We all have them. We all have those case histories at our fingertips. But anecdote is not argument.

The argument that has to be made here is to reform the system so that it is functional before we pump new money into it. That is the position Members on this side of the aisle as well as bipartisan Members of the other side have taken. That is why we have opposed the Family Preservation Act in its current form, because it is just preserving the status quo.

Happily, we have not devoted too much time in this debate about the relative merits of a millionaire tax. I will not propose to join that debate on our side.

I would just say this: We have a $400 billion operating budget. If it is so important to gain resources, as my friend, the gentleman from California [Mr. PANETTA] said on an interview program with me this morning, surely that is worth taxing the rich for. Why mess around with 3.5 billion when we should go after them hammer and tong and make them pay their share of the deficit?

All I would say is there are only so many times that we can allocate this millionaire tax, Mr. Chairman. This should not be one of them, because the resources are in the system now, misallocated, misdirected, going to administrators and not to children. And therein lies the problem.

I urge my colleagues to reject the Downey version.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield the balance of my time to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, the trickle-down economics of George Bush and Ronald Reagan have been hard on lots of Americans, but no group has been hit as hard as our kids have. Child poverty boomed during the booming 1980's. In Oregon alone, the number of poor children increased by 25 percent during the Reagan-Bush years. But why should that really surprise us? During those same years real wages of the parents of these kids took a nosedive. Reagan and Bush ripped the social safety net, and more and more children are now supported by single mothers.

In the 1990's, women tragically still have to work for women's wages. That is what we used to call them when my mother worked for $35 a week as a waitress, supporting two sons on her own.

The children's initiative is a chance for us to repair some of the damage of trickle-down economics which has been inflicted on families very much like the one I grew up in.

In this bill, Federal nutrition programs, support to keep families together, deficit reduction, a real boost for disadvantaged kids from the inner city of Portland to the hard-hit timber communities across Oregon and other States across the land.

We pay for it by asking more of those who profited so much under the Reagan-Bush years, when it was party time for the rich. A surtax on millionaires, those 60,000 Americans whose after-tax incomes grew by 104 percent during those years.

To them we say, "Ask not how much more your country can do for you, ask what you can do for your country and specifically what you can do for the children."

To save America's children, pass this bill.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. ROSTENKOWSKI] has expired.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in support of this legislation. There is no more serious or shameful indictment of our society than the alarming statistics of children born out of wedlock, victims of abuse, crack babies, the numbers of children in poverty.

Indeed, the conditions of children in both urban and rural areas are graphic pictures of America as a Third World country, and the children are the first victims.

Now these programs alone will not solve the problems. But it will relieve the physical pain and the mental anguish for these helpless generations.

I believe, with Vice President DAN QUAYLE, that we need a return to traditional family values—yes, a return to the good old fashioned Judeo-Christian ethics.

But we can not, as a civilized nation—the richest, most advanced in all of recorded history—tolerate these uncivilized conditions for these poor, deprived and defenseless children. These children did not ask to be born. In the name of simple decency, we can do no less.

I support this bill, in memory of Mickey Leland, with whom it was my privilege to serve as the Republican leader on the Hunger committee. In his name, I support this bill.

Specifically, the provisions of this bill which demand support from all of those who care about the future generations, as follows:

Boarder babies: The Downey bill will allow Federal reimbursement for foster care or adoption assistance for abandoned infants and children.

Under current law, Federal dollars cannot pay for these boarder babies, because financial circumstances of the runaway parents and AFDC eligibility cannot be documented.

Boarder babies, who need shelter, adoption and foster care most, can not get Federal dollars—this is insane.

On the hunger side:

Increases allowable assets for shelter costs under food stamps. The bill increases the cap from $194 to $278 a month over 3 years.

Excludes from food stamp benefits eligibility the first $50 a month of child support received by a custodial parent.

Excludes from income the amount of child support paid to a parent, so that "Dad" does not get penalized for meeting his legal obligations and have to choose between which family to feed. These are essential and intelligent reforms.

Makes important changes to Food Stamp Program to reflect real world concerns—increases the allowable assets for vehicles, redefines households where two families are, out of necessity, living together but not sharing food.

Adopts a mandatory appropriation of $70 million for the Temporary Emergency Food Assistance Program [TEFAP]. TEFAP is the program which provides food banks resources, funds for groceries and foodstuffs, to distribute on an emergency basis.

☐ 1230

The CHAIRMAN. Does the gentleman from Florida [Mr. LEWIS] wish to control the time?

Mr. LEWIS of Florida. Yes, Mr. Chairman, I will be controlling the time.

Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, Let me make it very clear, my opposition to the Family Preservation Act, is not because I do not support family preservation and hunger relief efforts but because I simply will not advocate a tax increase.

The Food Stamp Program is the largest provider of food assistance to needy families, serving 25.4 million people each month.

Our focus on the nutritional needs of children in the Domestic Marketing Subcommittee was a top priority as we reviewed the Mickey Leland Childhood Hunger Relief Act last year.

As I stated when the Agriculture Committee filed its report last November, the goals and objectives of the act are worthwhile, but funding for increased spending must be secured before this bill is brought to the floor. So here we are.

The funding mechanism devised by the Democratic leadership is completely unacceptable.

This is another tax increase, pure and simple. This bill should be funded with existing funds, and through cuts in wasteful programs.

We raise three times as much in revenues, Mr. Chairman, as we did just 15 years ago. We have the money, we just need to get better priorities.

The fact is, a bipartisan group of Members wanted to offer a substitute to make better use of the funds we're already spending.

But no, the liberal leadership of this House could not allow us to vote on this reasonable alternative, because it gets in the way of their usual agenda—massive tax increases and new and more spending.

Mr. Chairman, the American people are tired of this routine.

To hold these goals that address the dire state of affairs of child welfare and hunger relief hostage to a tax increase is irresponsible and unfair.

Mr. Chairman, let me say to my colleagues, that we are all rated at our lowest point in the eyes of the citizens of this country. I know of no Member of this House who would not bend down to help a disabled child. I know of no Member of this House who would not lift their hearts to an underprivileged child. So to hear some Members demagog this issue makes me sick. Let us get our priorities in order. Let us not mask a tax increase by using our children as pawns. We can find the resources in existing funds. They are available. Let us do that. Let us not bring a bill to the floor with no way of funding it, and then say, "It is for the children, and we expect to raise taxes on the people of this country."

Mr. PANETTA. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in enthusiastic support of the bill and its funding mechanism.

Political speeches about values don't strengthen troubled families and they certainly don't put food on their tables. The children's initiative would do both.

This legislation would assist the thousands of American families torn apart by unemployment, hopelessness, and substance abuse. It would promote innovative programs to help families stay together and work out their problems. It would improve food assistance to the neediest families with children. And it would reduce the deficit by $1.2 billion over 5 years.

Our families are the fabric that brings our society together. We spend countless hours on this floor talking about our children and our responsibility to help them live, learn, and achieve. This is our opportunity to do just that. Let's not pass it up. Please join me in supporting the children's initiative.

Mr. MINETA. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I rise in strong support of the Family Preservation and Childhood Hunger Relief Act.

This legislation combines improvements in child welfare services with an opportunity to alleviate childhood hunger for millions of children throughout our country.

Additionally the legislation pays for these programs in full and brings in sufficient revenue to reduce the deficit by $1.2 billion over 5 years. The tax required affects less than one-tenth of 1 percent of the Nation's households. Hunger on the other hand affects 5.5 million children—fully 2 percent of our population.

The substitute bill does not address the needs of these hungry children.

The hunger portion of the bill is a fitting tribute to the late Mickey Leland—and contains portions of the legislation named in his honor. His zeal to end hunger around the globe should inspire our zeal to act today.

The focus of the bill is correct—it is on the future.

The situation for children is dire and has dramatically declined over the past 10 years. Even in Minnesota—hunger is no stranger. In a recent study, nearly a quarter of households with children reported that children had to skip meals in the past month because there was not enough money for food.

How can we expect our children to grow and to learn and to become tomorrow's breadwinners when they can't even count on regular daily bread today?

It is as the Chilean poet Gabriela Mistral so eloquently said:

> Many things we need can wait, the child cannot. Now is the time his bones are being formed, his blood is being made, his mind is being developed. To him we cannot say tomorrow, his name is today.

Today is here. The children are waiting.

Mr. Chairman, I urge support for this legislation.

Mr. LEWIS of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise in strong support of American children and families, but in opposition to the bill on the floor today.

Mr. Chairman, this bill before us is a blatant abuse of trust—the old covenant, if you will. The trust the American people once had for Members of this House to do what is responsible—fiscally, morally, and politically. This bill violates that trust.

Mr. Chairman, we hear today the same tax and spend strategies, hidden behind the false hope of helping America's children. We have continued to pour money into these programs at a staggering rate for the past two decades—but to no avail. So now, we want to raise taxes to spend even more on programs that desperately need help. But the help they need is reform. What is proposed is not just more spending for today, but an assurance that spending will continue indefinitely, without limit. The children we propose to help today will bear the burden of our spending through their adult lives.

Does that mean there are no answers that can help children, children who desperately need our help? There is an answer. It's contained in the alternative my friend and colleague from Connecticut, Mrs. JOHNSON, offered in the Rules Committee. But the majority doesn't seem to believe in debate on public policy in this House. Do they have so little confidence in their product that they will not allow any competitive idea to be offered? When they find themselves unable to compete on intellectual grounds, they resort to a simple solution: shut down the competition.

The bipartisan substitute proposed, but not allowed to be discussed here today, is exactly what we need for children and families. We need to reform these programs, to eliminate the paper trail and allow more of these programs funds to be spent on children rather than to pay bureaucrats. And we can, and we should, do this without raising taxes. We can do that because the Republican substitute would allow States to combine the myriad of Federal programs into a single block grant for children, to give States more flexibility to target dollars where they are needed, to eliminate administrative costs that consume as much as 90 percent of dollars for some programs. We must change what we have today: programs designed not for children, but for bureaucrats.

Mr. Chairman, I am insulted by this rule and this bill. The Democrats are not only the party of Clinton and GORE—but the party of Clinton and More, More, More. More tax and spend, more bureaucracy, more of the same old big Government programs that we know don't work.

I urge my colleagues to vote for the motion to recommit so that we can have a constructive debate on how to best help America's children.

Mr. LEWIS of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, much has been said today about our being worried about new taxes. There is a lot of worry about that. The majority may gag us. We may not be able to debate efficacious amendments or substitutes to the legislation before us. They may deny us opportunities to submit amendments on a bipartisan basis, but one thing cannot be denied us. That is the knowledge of the majority.

A surtax on millionaires today, and I do not know anyone who has great heartburn about a surtax on millionaires, but in getting to know the majority over the years, we know that a surtax on millionaires today is a surtax on people making $50,000 a year down the road.

This is a sad and cynical day. The leadership of the majority party in the House of Representatives has succumbed once again to a posturing syndrome rather than taking the time to provide genuine reform. They have taken an issue about which I feel very strongly and on which I have worked in good faith for many years and tried to turn it into class warfare. They have selected the funding mechanism for this bill with no other purpose in mind but to pit the rich against the poor.

They timed consideration of this bill purely to gain political advantage in the context of a Presidential election. Then they deny the responsible and bipartisan group of Members the opportunity to offer an alternative choice on one important aspect of the measure that is before us. This is, indeed, sad. I regret that this is nothing more than a political issue raised and timed by the liberal leadership of the other party.

It is unfortunate that they chose to take this route, but it is a route that, given the circumstances, I do not feel constrained to follow. That saddens me. Indeed, it angers me. I told Democratic members with whom I worked in a most responsible way over the years on this subject that I could not support their funding mechanism, that we needed to stand back from the issue in a bipartisan way and bring about genuine reform that would do some genuine good. That is not what we have before us today, a genuine reform measure.

Mr. Chairman, I am an original cosponsor of the Mickey Leland Childhood Hunger Relief Act. I support the goals of that bill, and over the past several years I have worked very hard to help achieve those goals.

In my view there are major problems facing the entire, entire public welfare system. We need genuine reform rather than more Band-Aids. We need reform that will include budgetary, regulatory, tax, and welfare reform. Real assistance, real assistance for families will not be achieved under the measure before us today.

Since 1983 when I became the ranking member of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture, I have been concerned about the system, the system that provides assistance to families in need. On the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition our jurisdiction is, obviously, the Food Stamp Program.

However, it soon became apparent to me that families participating in the Food Stamp Program do have other needs as well. They need financial assistance. They need job training assistance. They need housing. They need medical assistance. These are some of the major problems facing poor families.

The system then, as now, with the lack of coordination and resolution of the differences among these myriad programs, is very troublesome, one of the most troublesome issues in our society today.

The time is ripe for change. There is great interest among liberals and conservatives, Democrats and Republicans, in looking at the present welfare system and making necessary changes that benefit families looking for help and the administrators running the programs.

I recently met with former President Carter on the issue that we are talking about here. He is initiating a program in Atlanta that I think is a very good idea, through the Carter Center. It is called the Atlanta Project to Provide Help to Families in Need Through Coordinated Programs. He in turn has met with President Bush, who also maintains a vital interest in this matter.

President Carter told me and other Members with whom he met that more money per se is not the answer to reforming welfare, but that waivers and consolidation and integration of different aspects of the program, flexibility to the States in their administration of the program, is the answer. He flatout told us he was not looking for more money.

That President Carter and President Bush are able to seek common ground in a bipartisan manner is good for the country.

□ 1240

The fact that we have not done so in the House reflects poorly on this House, indeed that the minority in this House is gagged in making amendments to this bill.

I want to see changes that are going to improve the lives of our neediest citizens, and I am concerned that the bill before us is not going to give us that opportunity, because this is a bill that will be vetoed. There is no question about it. You know it and I know it. To move forward with this bill in its current form is to invite disaster.

I truly believe that when a family is in need of help that need often crosses program lines, and the hurdles that families must scale in applying for help are immense. They often must go to different agencies, meet different eligibility standards, and abide by different rules and regulations. That the people who need the assistance are able to get any is a reflection on their abilities rather than on the system that is presented to them.

Administrators of these programs, both at the State and local level, have similar problems. The resolution of these program differences is often not within their ability to achieve. Many efforts have been made by the States, but they have indeed gone as far as they can go.

I want to see a system in which we provide benefits to people in a coordinated and a simplified manner, and also to provide employment and training for able-bodied participants. We must maintain programs for those who are aged and disabled, but we must simplify the programs we have and provide a method to make taxpayers of those able-bodied people who are in need.

This will require the very best bipartisan cooperation that we can achieve, and it will require joint executive and legislative cooperation, and it should start right now. And it cannot be furthered in a partisan posturing, political atmosphere.

My goal has been to have the experts look at the families in need of help and how they work their way through the present system and improve it. I want these experts to look at the present people on the front lines, and those caseworkers who evaluate the needs of families in order to simplify and coordinate the programs. The system needs major surgery, not just another Band-Aid with vast political overtones. There is a better way to provide assistance. I have always believed that we could find that better way.

But H.R. 3603 as it is structured exacerbates the present system and puts States in straitjackets rather than solving the problems. So I regret that I cannot support the bill that is before us. I regret that the leadership of the majority party has chosen to have an issue rather than an improved public welfare system. They will end up with neither, because this bill will be vetoed.

They want to raise taxes and spend money and not allow Members to consider serious alternatives that give States the flexibility to help families in crisis situations. That is a sad state of affairs in this country. The people at large want to stop the gridlock, they want to see bipartisan cooperation between the legislative and the executive branches, and they certainly are not getting it with this bill.

Again I thank the gentleman for yielding me the time.

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I thank the gentleman for yielding the time, and I congratulate him, the gentleman from New York [Mr. DOWNEY], the gentleman from Illinois [Mr. ROSTENKOWSKI], and the gentleman from Texas, Chairman DE LA GARZA, for crafting a very responsible bill. I rise in support of it.

Mr. Chairman, what can be more important than keeping our families together and feeding our children?

It is incomprehensible to me that Congress will likely vote to send aid to the Soviet Union today and some will vote against sending aid to America's families and to America's children.

I stand here today in strong support of the Family Preservation Act—which will take steps to reform some of our outdated welfare programs while helping some of our most needy.

The bill calls for $3.5 billion to keep our families together. It calls for $3.5 billion to feed our hungry children who are falling through the cracks. And it calls for $1.2 billion to reduce our country's deficit.

The second portion of this bill—a scaled down version of the Mickey Leland Childhood Hunger Relief Act—focuses on feeding our children through reforms. It alleviates the moral dilemma facing many of our poor families of choosing between a decent home or food. It alleviates the moral dilemma facing some of our single parents of deciding between child support payments or receiving food stamps to feed their children. Basically, it fine tunes the Food Stamp Program—which in many ways is strapped with antiquated provisions.

This bill also calls for a millionaire's surtax to finance these much needed programs. The tax, my dear friends, will only be levied on individual taxpayers who have taxable incomes in excess of $1 million. The tax will not touch any of our struggling middle- or low-income families.

The bill, however, will touch, in a most positive way, many of our most needy families. This bill does what we talk about daily—preserve and strengthen families.

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I have reservations about the method of financing of this measure, but this is a bill that ought to be forwarded, and I recommend it.

I think most Members agree that this bill should move forward on its merit. This bill is prochild and profamily and will go a long way to help troubled families remain together.

I did not agree with the financing of this bill when it was considered by the Ways and Means Committee. I would have preferred that the committee come up with an alternative funding mechanism. However, a vote in committee to change the funding mechanism lost by a 2-to-1 vote and I believe the same thing would happen again. Therefore, there is nothing to be gained by recommitting this bill. However, as this bill moves through the other body, I hope we can reexamine how it is financed.

This motion to recommit does not provide for a funding alternative—it merely reallocates present funding. In effect, the substitute does nothing to change the status quo. While I understand the minority's concerns that this bill creates a new entitlement program, their proposal is simply not realistic.

I urge my colleagues to support this legislation.

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I am very pleased that section 206 of H.R. 3603 expands the definition of children with special needs. As cochairman of the congressional coalition on adoption, I am concerned, however, about a provision in this section that would preclude some adoptive families from eligibility for title IV-E adoption assistance. As I understand the State care provision in subparagraph B of section 206, it holds that children who developed special needs disabilities after finalization of the adoption are eligible for adoption assistance only in the situation where those children were under the care of or supervised by a State agency. I am concerned that this provision, as it stands, would preclude families who adopt children through private agencies from eligibility for adoption assistance in cases where no information was available at the time of finalization of the adoption that the child might develop special needs disabilities.

This language would create a double standard and an unfair burden, which we could have corrected with a floor amendment, but since the bill is being considered under a closed rule, the only opportunity to adjust this language would be in conference. Therefore, I would urge Chairman DOWNEY to work in the conference committee to modify the State care provision in order to enable families to qualify for title IV-E adoption assistance in situations where, at the time of finalization of adoption, no information was available to indicate that the child could develop special needs disabilities. I greatly appreciate the chairman's consideration of this request. I know that from our previous conversation on this matter that he will make every effort to incorporate the change I have recommended in the course of the House Senate conference on H.R. 3603.

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Chairman, I rise in support of the bill and its funding mechanism.

Mr. Chairman, I rise in strong support of this legislation intended to promote services for family preservation and to lessen the need of foster care, and to improve the quality of and delivery of child walfare, foster care, and adoption services.

The hellish conditions that thousands of children are made to live in here in America are some of this country's worst secrets. Secrets—because so many of the decisionmaking adults in this Nation would rather bury their heads, than admit the truth of this gross negligence.

Children are certainly the most precious gift bestowed upon us. They come into this world ignorant of society's racial, ethnic, and class divisions. They come into this world not understanding how thousands of others just like them will not even live to see a first birthday.

In New York City alone, 4,852 newborns were born, already exposed to the deadly AIDS virus, HIV, between 1987 and 1990. Of these cases, 1,348 were in my congressional district of the South Bronx.

In the richest Nation of the planet, over 5 million children go to sleep at night hungry, and/or malnourished.

The Federal Government must do all that it can to help families with children raise those children when it appears that the well-being of a child is in jeopardy. After the safety of the child has been assured, we can then begin to help heal the whole family, so to prevent an unnecessary breakup of that family.

If a separation must occur, then it is the Government's job to make certain that these emotionally frail children spend as little time as necessary in foster care, and are properly placed with loving families.

State and local child welfare organizations need to better coordinate their individual child care services, and the Federal Government needs to better communicate with and assist them.

Mr. Chairman, closing the gaps in the child welfare system that thousands of children fall through will require a sustained national commitment to action. I am encouraged by measures such as the Family Preservation Act to protect our children and foster healthier family units.

Mr. Chairman, I urge the unanimous passage of this bill.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Chairman, I rise in support of this important legislation, which is an investment in the future of our children and our Nation.

Today we have the opportunity to stop talking about the importance of the family and actually do something to preserve it. We can continue to use family values as a political issue to divide us or we can work together to help America's struggling families stay together. We can express our sympathy to those children who will go to sleep tonight hungry or we can feed them. We can speak with admiration of those families who have reached out to help those children without homes and parents or we can ensure that foster and adoptive families have the support needed to care for those children. We can listen in horror as we hear the rising number of abused and neglected children or we can ensure that family services are available to prevent such a tragedy. The choice is ours.

As a Representative from a State with one of the highest levels of childhood poverty in the country, I consider this measure an essential step in addressing this ever growing problem. More than one in every four children in West Virginia lives in poverty. This measure will serve to increase the benefits and expand eligibility of families for the Food Stamp Program. In addition, this bill will provide a $70 million increase in funding for the Emergency Food Assistance Program, which has made important progress in feeding our Nation's poor working families by stocking food banks across the country. Importantly, this measure will give States the flexibility to address their own unique needs and problems effectively.

Finally, this legislation will serve as a deficit reduction measure. By imposing a very small tax on a few of our Nation's wealthiest citizens, we will be able to provide essential services to our Nation's neediest children and reduce the deficit by more than $1 billion over the next 5 years. In addition, by investing in family preservation services now, we will save the $10,000 it would cost in the future for a year of foster family care for one child.

I urge my colleagues to support the Family Preservation/Mickey Leland Childhood Hunger Relief Act; this is an important investment in our country's most precious resource for the future our children.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, this is one of those bills where you feel very good about supporting it, because you can make a difference with this legislation.

We have been talking about family values. We are actually doing something about it.

We have been talking about investing in children, and we are doing something about it.

We have been talking about local control and giving local communities and States flexibility, and we are doing that.

We have been talking about being fiscally responsible, and we do it in this bill. This legislation actually reduces the deficit by $1.2 billion over the next 5 years.

We have been talking about doing something about child abuse, and this legislation does it.

Mr. Chairman, seldom does the Congress vote on bills that can make a difference for those who have been left behind. Here we have an opportunity to do something about hunger, about children, about investing in people.

Mr. Chairman, this is good legislation and it deserves the support of this House.

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, I rise in support of H.R. 3603.

This legislation is the product of many months of study and is greatly needed.

The children of America are our future. Many of them are now endangered. This legislation will help to give them a better present and a better future. The method of financing of this bill is also thoughtful and proper—a surtax on the wealthiest of our country.

In the years when I practiced law in Jacksonville, I was very active in trying to solve the problems of children and served on the boards of the Childrens' Home Society of Florida and the Boys Home Association of Jacksonville. Also, on special request from Juvenile Judge Walter Criswell, I undertook as a volunteer the solution of a variety of problems among the young of Jacksonville. All of this gives me some perspective on such problems, and I feel that the legislation before us today is greatly needed and should be passed.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. TALLON], the chairman of the subcommittee of the Committee on Agriculture that deals with this issue.

Mr. TALLON. Mr. Chairman, I rise in strong support of the entire children's initiative because it is the only way we in Congress can address the financial insecurity facing so many American families today.

I support the bill with its child welfare provisions, food stamp improvements and the surtax on personal incomes over a million dollars. As the chairman of the Subcommittee on Nutrition with jurisdiction over food stamps, I firmly believe that passing this entire package is the only way that the food stamp provisions of the Mickey Leland Childhood Hunger Act will ever become law.

We have been trying for more than 2 years to make the simple adjustments to the food stamps programs in order to better reflect current housing, transportation, and food costs. It is time to make the difficult choice of raising revenue to do the right thing. We must vote for the children's initiative.

Mr. Chairman, the food stamp constituency is over 25 million strong. This is 2 million more people on food stamps than when we originally passed the Mickey Leland childhood hunger provisions that were part of the 1990 farm bill but which were scrapped as part of the infamous 1990 budget agreement.

Twenty-five million strong and yet their voice is seldom heard here in Washington. As such a large group it is hard to find the typical food stamp recipient. Some are disabled. Some are uneducated. Some have Ph.D.'s. Some are unemployed. Some are employed. Some are underemployed. Some are the poorest of the poor. Some are only in need of short-term relief. Our food stamp citizens are as varied as the population of America itself.

But they have a few things in common. One, is that they are shut out, either for a short time or for a long term, of the economic opportunities that this wonderful country provides to all citizens. Thus, they spend most of their time and energy thinking about where their next meal will come from. They do not have time to lobby Congress.

Another common denominator is children. Over 80 percent of food stamp households are households with children. More than half of all food stamp recipients are children. The adults in these households hold the future of 12.5 million Americans in their hands. Is this not our future, too?

Among all recipients the average benefit is 70 cents per person per meal. These days, families generally run out of their food stamps by the 20th day of the month. The struggle for food security is a time-consuming, painful, and frustrating task for far too many families. They do not have time to worry about DAN QUAYLE or Murphy Brown values.

Shut out of the economic promise of this Nation, the vast food stamp constituency is in danger of being shut out of the political process of this Nation.

We, the elected officials of this great Nation, have the responsibility to uphold the basic tenet of this democracy—that is, the American Government should be by, of, and for the citizens of this Nation. It is up to us to measure the needs of all constituencies and to make tough choices.

The food stamps constituency of 25 million citizens dwarfs the millionaire constituency of 60,000 which is charged with paying for the children's initiative. Moreover, the 12.5 million children on food stamps are our Nation's future. We must take care of them now, so that they can be productive members of society. We must not let the struggle for food be the defining element of their developing years. The future of this Nation is too important.

Let us try to hear the voices of this large and desperate constituency. Let us try to understand a life of struggle that few of us in this House know. Let us make the best long-term solution to address the problems of American families today.

I urge my colleagues to vote yes on the entire children's initiative.

Mr. COLEMAN of Missouri. Mr. Chairman, if the gentleman from California is going to close debate with the chairman's remarks, we have no further requests for time, and I yield back the balance of our time.

☐ 1250

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in very strong support of this commendable bill which really does do something for family values.

Mr. PANETTA. Mr. Chairman, I yield 4 minutes, the balance of my time, to the gentleman from Texas [Mr. DE LA GARZA], the distinguished chairman of the Committee on Agriculture and one who has worked a great deal on this legislation.

Mr. DE LA GARZA. Mr. Chairman and my colleagues, I rise in support of H.R. 3603, the children's initiative. This legislation is designed to reach the most deprived families of our country. This bill is geared towards strengthening our country's efforts to end hunger among children and their families and to curtail the abuse and neglect of children.

Title VI of this bill—the Mickey Leland Childhood Hunger Relief Act—makes several long-needed changes and improvements in the Food Stamp Program.

Our efforts to strengthen the Food Stamp Program through passage of the Mickey Leland Childhood Hunger Relief Act go back to 1990, when the Committee on Agriculture included the Mickey Leland bill as part of its version of the 1990 farm bill. The House took a strong position in favor of the food stamp provisions when it rejected an effort to strike major portions of the Mickey Leland bill from the farm bill—provisions designed to help poor families and households—by a margin of 336–83.

Unfortunately, the budget summit agreement that year, which contained the pay-as-you-go provisions, forced the Agriculture Committees to delete these worthwhile but costly provisions from the farm bill conference report.

We did not give up the fight for needy children. We renewed the fight last year when Congressman PANETTA, the lead sponsor of the Mickey Leland bill, myself, and other members of the Agriculture and Hunger Committees introduced H.R. 1202, the Mickey Leland Childhood Hunger Relief Act. More than 100 Members of the House have cosponsored this legislation.

Today I am pleased we are finally able to bring a major portion of the Mickey Leland bill to the floor today as part of the children's initiative in this legislation.

Congressman DOWNEY and Chairman ROSTENKOWSKI of the Committee on Ways and Means have developed a funding mechanism for this bill.

Mr. Speaker, I am sure that our Nation's economic difficulties are forcing more and more low-income Americans to turn to the Food Stamp Program to help them meet the food needs of our families.

Participation levels have grown from 22.4 million in fiscal year 1981 to over 25.6 million this year. The most recent data from the U.S. Department of Agriculture indicates an 11-percent increase in food stamp participation compared to May of last year.

Yet, even with increasing participation of families with children—who comprise nearly 80 percent of the food stamp caseload—there are a reported 5 million children in America under the age of 12 who still go hungry each month. In fact, the Children's Defense Fund has reported that 11.2 million were living in poverty in 1989, an increase of 1.1 million from the decade of the 1980's.

Mr. Chairman, our country which has the best food production system in the world cannot allow its most precious resource, our children, to suffer from hunger. I believe one of our Nation's goals must be to reach that last hungry child and end hunger in our Nation. This legislation will go a long way in reaching that goal. At the same time, our committee will continue our constant oversight over the program, to address fraud or abuse and seeing to it that we reach all those in need.

I am submitting a summary of title VI, Childhood Hunger Relief, for the RECORD. I urge my colleagues to support this legislation for the sake of millions of our Nation's children.

TITLE VI—CHILDHOOD HUNGER RELIEF

SECTION 601—SHORT TITLE

Section 601 provides that the title may be cited as the "Mickey Leland Childhood Hunger Relief Act", and sets out the table of contents of the bill.

SECTION 602—REFERENCES TO ACTS

Section 602 provides that references in the bill to "the Act" are references to the Food Stamp Act of 1977.

Subtitle A—Ensuring Adequate Food Assistance

SECTION 611—FAMILIES WITH HIGH SHELTER EXPENSES

Section 611 amends section 5(e) of the Act to provide that households without elderly or disabled members, for purposes of determining Food Stamp Program eligibility and benefits levels, may deduct from income high shelter costs in the same way that elderly and disabled households do at present.

Under current law, households may deduct shelter expenses that exceed 50% of their incomes, but this deduction is capped, currently at $194 a month in the 48 contiguous States, for households that do not contain elderly or disabled members.

Section 101(a) removes the cap for such households effective January 1, 1997. Section 101(b) establishes increased shelter deduction caps for the interim period. Section 101(c) makes a conforming change to section 5(e) of the Act.

SECTION 602—CONTINUING BENEFITS TO ELIGIBLE HOUSEHOLDS

Section 602 amends the definition of "initial month" in section 8 of the Act to mean the first month for which an allotment is issued to a household following any period of more than one month in which the household was not participating in the Food Stamp Program, after previous participation in the program.

The effect of this provision is that eligible households reapplying during the first month following the end of their prior certification period will receive full benefits, rather than pro-rated benefits as required by current law, for that month. This rule currently applies to migrant and seasonal farmworkers.

SECTION 613—HOMELESS FAMILIES IN TRANSITIONAL HOUSING

Section 613 amends section 5 of the Act to exclude from income, for purposes of determining Food Stamp Program eligibility and allotment levels, the full amount of vendor payments (payments made to third parties) for transitional housing for homeless households.

The Food Stamp Act generally excludes vendor payments from calculations of food stamp income. However, in those states that have shelter allowance components within their payments to families under the Aid to Families With Dependent Children (AFDC) program, current law excludes that portion of the vendor payments for transitional housing for the homeless only up to an amount equal to half of the AFDC maximum shelter allowance. The amount of a vendor payment that exceeds the AFDC maximum shelter allowance is also excluded. The majority of states have no separate AFDC shelter allowance, and therefore the entire vendor payment is excluded for the purposes of the Food Stamp Program under the general rule to exclude vendor payments. This section would treat vendor payments for transitional housing the same in all states by excluding the entire vendor payment from income for purposes of determining Food Stamp Program eligibility and allotment levels.

SECTION 614—IMPROVING THE NUTRITIONAL STATUS OF CHILDREN IN PUERTO RICO

Section 614 amends section 19 of the Act to increase funding for the Nutrition Assistance Program (NAP) in Puerto Rico. In 1981, the Food Stamp Act was amended to replace the Food Stamp Program in Puerto Rico with a block grant, the Nutrition Assistance Program. For 1993, the block grant funding for NAP funding is increased from $1.051 billion to $1.066 billion; for 1994 it is increased from $1.091 billion to $1.116 billion; and for 1995, funding is increased from $1.133 billion to $1.168 billion.

SECTION 615—HOUSEHOLDS BENEFITING FROM GENERAL ASSISTANCE VENDOR PAYMENTS

Section 615 amends section 5 of the Act to include only general assistance (GA) vendor payments provided for housing expenses, but excluding energy or utility-cost assistance, as income for determining food stamp eligibility and benefit levels.

Under current law, GA vendor payments are excluded from consideration as income if they are made under state laws that prohibit making direct GA payments to households. In other states, they are counted as income if they are made for normal living expenses.

The 1990 Farm Bill established the current exclusion from income for those GA vendor payments made under state laws prohibiting direct GA payments to households. The provisions of section 106 of the H.R. 1202 were included in the Food Stamp and Related Provisions of the 1990 Farm Bill, as approved by the Committee on Agriculture and passed by the House, but were not subsequently enacted into law.

SECTION 616—HELPING LOW-INCOME HIGH SCHOOL STUDENTS

Section 616 amends section 5 of the Act to exclude the income of high school students for the purpose of calculating eligibility and benefit levels for the food stamp program. Current law excludes the income of high school students only up to their eighteenth birthday.

Subtitle B—Promoting Self-Sufficiency

SECTION 621—CHILD SUPPORT DISREGARD

Section 621 amends section 5 of the Act to exclude from consideration as household income in determining Food Stamp Program eligibility and allotment levels the first $50 a month received for child support, including those payments made on time but received in a later month. Under current law, the State agency has the option to exclude the first $50 in child support payments received by households participating in the AFDC program, but must reimburse to the Federal government, from state funds, the value of increased food stamp benefits.

SECTION 622—CHILD SUPPORT PAYMENTS TO NON-HOUSEHOLD MEMBERS

Section 622 amends section 5 of the Act to exclude from consideration as income for purposes of determining Food Stamp Program eligibility and allotment levels any child support payments a household member makes to support a child outside of the household, if the payments are a legal obligation. Current law provides no such exclusion.

SECTION 623—VEHICLES NEEDED TO SEEK AND CONTINUE EMPLOYMENT AND FOR HOUSEHOLD TRANSPORTATION

Section 623 amends section 5 of the Act to require the annual indexing of the current asset threshold for the fair market value of vehicles owned by households. Current law imposes the eligibility requirement, generally, that households not have assets above $2,000 if they do not contain an elderly member, or $3,000 if they do contain an elderly member. The amount of the fair market value of each household vehicle (other than those that are totally disregarded) that exceeds $4,500 is calculated toward the asset limit. Section 623 requires that the $4,500 threshold be adjusted, beginning October 1, 1996, and on each October 1 thereafter, to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for new cars, rounded to the nearest $50.

Subtitle C—Simplifying the Provision of Food Assistance

SECTION 631—SIMPLIFYING THE HOUSEHOLD DEFINITION FOR HOUSEHOLDS WITH CHILDREN AND OTHERS

Section 631 amends section 3 of the Act to delete a provision that requires siblings living together and parents living with adult children to be considered as one household even if they do not purchase and prepare meals together.

Section 631 amends the definition of "household" in section 3 of the Act to include (1) an individual who lives alone, (2) an individual who lives with others but customarily purchases food and prepares meals separate and apart from the others, and (3) a group of individuals who live together and customarily purchase food and prepare meals together. Parents and their minor children who live together and spouses who live together would continue to be treated as a group of individuals who customarily purchase and prepare meals together even if they do not do so.

SECTION 632—ASSURING ADEQUATE FUNDING FOR THE FOOD STAMP PROGRAM

Section 632 amends section 18 of the Act to delete from the Act provisions that authorize the reduction of benefits to households and notification to State if the Secretary of Agriculture determines that Food Stamp Program funding is insufficient.

Subtitle D—Commodity Distribution to Needy Families

SECTION 641—COMMODITY PURCHASES

Section 641 amends section 214 of the Emergency Food Assistance Act of 1983 to require that the Secretary spend an additional $70 million in fiscal year 1993 to purchase, process, and distribute additional commodities. These commodities are to be in addition to those commodities from Commodity Credit Corporation stocks distributed under the authority of the Emergency Food Assistance Act of 1983.

Subtitle E—Implementation and Effective Dates

SECTION 651—EFFECTIVE DATES

Section 651 provides that sections 612, 615, 621, 622, and 631 will become effective and be implemented on July 1, 1993. Other provisions of the bill will become effective and must be implemented on October 1, 1992.

SECTION 652—PROHIBITION ON REDUCING AGRICULTURAL PRICE SUPPORT PROGRAMS

Section 652 provides that no reduction of any agriculture price or income support program shall be made to achieve offsets to provide for any provision of this Act.

Mr. Chairman, it is sad and unfortunate that we are being divided over the mechanism on how to fund this program. I have no problem with that, because the mechanism that is being utilized, I think, is fair. I do not think it is too much to ask for a little sacrifice from those that are well off to feed our children that have no resources of their own and, many times, inadequate assistance from the family or the community.

Let me assure you that, to me, this is a personal item, because my district has tremendous problems in this area, and I want to share just briefly with you a family that has one room, that is their house, one electric wire to a pole. Thank God for REA. A young child riding a little bike in the front yard, no grass, no flowers, nothing, and in visiting with the mother, she says, "My food stamps don't go far enough. I don't have any at the end of the month." And I said, "Well, what do you do with the children?" She says, "We just measure out what is left." "We just measure out what is left."

Are we going to be arguing here over a few people that will be taxed and continue in this, the greatest country of the world, having a mother say, "I just give them what is left"?

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 3603, the Family Preservation Act. The plight of America's children has worsened over the past few decades. Nearly 1 in every 5 of our children is poor and hungry—1.4 million of them are in California, alone. Reports of child abuse and neglect have tripled over the last 10 years. Crack and cocaine addiction have escalated; 80 percent of California's children in crisis are in situations where substance abuse is part of the problem. Families are finding it more and more difficult to stay together.

According to Children Now, the nonpartisan, California-based childern's advocacy organization, almost 67,000 California children lived in foster homes, groups homes, residential facilities and emergency shelters. California's children are less likely to have health insurance, to go to college and to receive child support payments than other children in the country. Our children are more likely to grow up poor, have babies as teenagers, be victims of homicide, be unemployed, and to be abused or neglected than other children in the United States. These are the children who are at risk— the ones who end up in the juvenile justice system. And it is not getting any better for them.

This is not just a California problem, however. Children all over the country are in crisis, and our States and localities are overwhelmed with the responsibility of caring for their needs. They do not have the resources to help keep families together. So, many of our children are placed in foster care and other out-of-home situations, unnecessarily. They live in these situations too long and, even those who do return home, find themselves being taken away again because the situation at home has not improved. As a result, the costs of the Federal Foster Care Program are going through the roof.

On one hand we applaud family values and the importance of keeping the unit together. But on the other hand, we keep funneling our children into the Federal Foster Care Program and do not give needed support to the Federal program that provides families in trouble with the services and support that they need to stay together. In California, we spend 10 times as much to support a child already in foster care than we do to prevent a child from going into foster care. This year, the projected cost of foster care in California is $1.8 billion, nearly double our costs in 1989. What kind of a message is this?

H.R. 3603 improves our support system for children. It supports services to keep families together so that children can avoid the foster care system and it includes provisions for better addressing the special needs of families with substance-abuse problems. The concept of family preservation has proven itself to be effective in California, as well as a number of other States, including Maryland, Virginia, and Florida. In Kentucky, the initial family preservation program prevented 85 percent of foster care placements at half the cost of foster care.

To be eligible to receive the support in H.R. 3603, a State must submit a comprehensive family services plan—every year—and this plan must include a needs assessment, a description of plans already in place to address these needs, and the State's 5-year goals for improving services.

In exchange, States receive funding that will assist them in developing innovative family preservation programs. They have the flexibility to combine different kinds of funding to develop their own specialized, comprehensive programs for families in crisis and to fund a broad range of social services.

Almost half of the poor renters in this country pay over 70 percent of their incomes for shelter. In these situations, there is very little left for food and, even with food stamps, children in these situations go hungry. So, in addition to supporting services to keep families intact, H.R. 3603 attacks childhood hunger. It contains childhood hunger relief provisions which will make it easier for families to purchase the food they need for an adequate diet.

The new programs and services created by H.R. 3603 will cost money. Nobody disputes that. Opposition arises, however, because H.R. 3603 is funded by a 10-percent surtax on millionaries—a tax that will not only pay for the costs of the program, but that will also reduce the deficit by $1.2 billion over 5 years. And that it is why its opponents do not support it. This bill, which is supported by the children's defense fund, the Child Welfare League of America, the National PTA, the National Association of Counties, and the National Association of Social Workers—just to name a few—would be funded by 1 percent of our population—those who have taxable income in excess of $1 million.

The family is our basic social unit. Keeping the family unit intact is key to the foundation of this country. Although many of our single parents do an excellent job of providing loving, nurturing secure environments for their children, it has been proven that a two-parent family provides stronger support for children as they grow up. It is for this reason that we need to invest in strengthening and supporting the family unit up-front, instead of trying to pick up the pieces when things fall apart.

I urge my colleagues on both sides of the aisle to support passage of H.R. 3603, a bill which will provide some badly needed support for our families and children in crisis.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in strong support of H.R. 3603, the Family Preservation and Childhood Hunger Relief Act. This bill attempts to improve child welfare services, partly by creating a new child welfare program that would help keep families intact and avoid unnecessary foster care and out-of-home placements.

I cannot overemphasize the importance of this legislation which affects the well-being of our children. With increasing poverty, family breakup and growing substance abuse, the need for foster care has grown to outstrip the often meager services available in so many of our communities. Today the number of children who are in foster care has increased by nearly 50 percent, from 273,500 in 1986 to 407,000 in 1990. This explosive growth has come at a time when resources to deal with these problems are at their lowest, thereby preventing the Federal Child Welfare Services Program from adequately responding to the dramatic need.

This act would provide new Federal dollars to address this urgent need in States all across the country. It will supplement the existing child welfare program. H.R. 3603 is badly needed relief for agencies which are overburdened in almost every community in America.

H.R. 3603 will be applauded in my home district in Illinois since it allows both States and communities attempting to develop innovative strategies to prevent the splitting up of families which may be saved. It allows for flexibility so that each area can design strategies that help maintain fragile families.

Poor families in my district in Chicago will be particularly grateful for the relief provided by this act, which will alleviate childhood hunger by expanding eligibility for food stamps. In today's economy with the heads of many families unemployed or underemployed there can be no more important priority than insuring that the neediest among us have adequate food and care.

Mr. Chairman, we have many problems in our country today, but if we do not address the needs of our children, we are guaranteed a future of even greater poverty, less ability to compete with other nations, lower education standards and many other problems when this generation of uncared for and unprepared children grows up. I hope that my colleagues will rush to support this needed legislation.

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 3603, the Family Preservation/Mickey Leland Childhood Hunger Relief Act. It is time for Congress to stop talking about preserving the American family and start taking action.

We are reminded of the American work ethic of working hard today, so that our children may have the opportunity to do better in the future. For the first time in America, that may not be possible. Our children may not do better.

Today, 1 in 5 American children lives in poverty. Last year, an estimated 5 million children under the age of 12 lived in hunger. From 1986 to 1990, the number of children in foster care increased 50 percent. And as the National Committee for the Prevention of Child Abuse reports, the number of recorded child abuse and neglect cases has tripled over the last 10 years to the terrifying number of 2.7 million. Our children did not bring these conditions upon themselves—and they certainly cannot escape them on their own. Our children need our help to survive.

We must invest in the children's initiative so that children have a chance to be young. This program will arm us with the weapons to fight the forces of poverty and homelessness that rob so many of our Nation's children of the pleasures of childhood. This is a program that strives to keep the family together. It is a smart program that addresses the diverse problems that contribute to family breakup. It funds services to combat substance abuse, child neglect, and child hunger. It will solidify the foster care system to avoid unnecessary family placements and assure that the appropriate welfare services are provided.

The children's initiative is a sound, responsible investment in the future of America. Even in these tough economic times, we cannot forget that if we want America to thrive again we must feed those who will make it grow. Children are our future; and the family is the essential foundation upon which to build that future. I urge my colleagues to lay the groundwork for tomorrow by supporting this bill before us today.

Mr. FORD of Michigan. Mr. Chairman, I rise today in support of H.R. 3603, the Children's Initiative Act of 1992. This bill includes the provisions of H.R. 3603, the Family Preservation Act, originally introduced during the last session, and amendments to the demonstration provisions of that act which were added by the Committee on Education and Labor on July 29, 1992.

H.R. 3603, the Family Preservation Act of 1991, included demonstration authorities intended to decrease the incidence of child abuse, infant and child abandonment, and the need for foster care or adoption placements. The bill, originally referred to the Committee on Ways and Means, was reported by that committee on July 22, 1992.

After careful review, the Committee on Education and Labor identified a number of areas in which provisions of H.R. 3603 either duplicated or influenced current programs under the Child Abuse Prevention and Treatment Act, the Adoption Opportunities Act and the Abandoned Infants Act, which are within the jurisdiction of the Committee on Education and Labor. Specifically, the projects authorized by section 404, dealing with prevention of abandonment and abuse and expeditious handling of adoption and placement cases, fell within this category. For this reason, the committee requested and was granted sequential referral and took action on this section of the bill.

A consensus package of amendments was developed. The demonstration authorities were expanded and modified in the areas of assessment factors to be considered under specific grants, inclusion of urban unserved and underserved populations in target groups to be served under training grants, and by clarifying that training of judicial personnel and judges must include factors relating to the best interests of the child.

The Subcommittee on Select Education, Chaired by MAJOR OWENS, and the minority, led by Mr. GOODLING and Mr. BALLENGER, are to be congratulated for their past work in these areas done through hearings and research. This enabled us to work quickly and fruitfully, to see that the concerns and jurisdiction of the committee were protected.

I also want to express my thanks to the Committee on Rules, for including the substance of the committee reported amendments in the bill currently being made in order for consideration. We took the action of requesting sequential referral and making amendments to protect our jurisdiction over these vital areas and to be sure that any new activities augment and support those ongoing programs operated under authorities within our jurisdiction. I feel we have accomplished both purposes and have improved the bill in the process.

Mrs. MINK. Mr. Chairman, I rise in strong support of H.R. 3603, the Family Preservation Act of 1992 and the Mickey Leland Hunger Relief Act, included in the Downey-Panetta children's initiative.

H.R. 3603 corrects years of misguided Federal policy that saw fit to handout entitlements to the States rather than encourage the development of child welfare programs geared toward keeping families intact. H.R. 3603 is responsible legislation that addresses the needs of distressed children and families by fostering child welfare services, helping in the prevention of child abuse and neglect, and providing assistance to families at risk. It is Congress' acknowledgement of the primary desire of any child—to be a part of his or her own family—and our sincere effort to perpetuate a more sensible and sensitive system of support.

H.R. 3603 recognizes that the social problems confronting our society are many, varied, and complex. Shameful poverty rates, rampant homelessness, pervasive substance abuse, and child abuse and neglect, all combine to substantially increase the demand for child welfare services. Between 1980 and 1991, the number of reports of child abuse and neglect tripled from 900,000 to 2.7 million.

H.R. 3603 strengthens distressed families by helping them to develop the skills and resources to remain intact through increased funding and improvements in the existing State child welfare programs. This is often a far better solution to their problems than placing their children in foster care unnecessarily or for too long a period of time. The number of children who are in foster care nationwide has increased by an appalling 50 percent in recent years, from 273,500 in 1986 to 407,000, in 1990.

The unfortunate increase in foster care placements is due to misguided Government policies that provide States with entitlements for foster care placements instead of incentives to develop programs that keep families together. These policies must be corrected to stem the tide of neglect experienced by our Nation's children and to put the needs of the children first.

Another key provision of H.R. 3603, the Mickey Leland Hunger Relief Act, confronts the hunger that afflict too many American families and children. The Food Research and Action Center estimates that 11.5 million children under the age of 12 are hungry or at risk of hunger. This program will ensure that those unfortunate enough to be homeless or near homeless still have adequate diets to ward off disease and malnutrition, and it will promote self-sufficiency among food stamp recipients.

H.R. 3603 provides the necessary funding for its badly needed programs by imposing a modest surtax on those at the very highest end of the economic spectrum, those individuals with taxable incomes in excess of $1 million per year; $8 billion is projected to be raised over 5 years.

To this Republican administration, caring for the needs of distressed children and families means talking about family values. The President's threatened veto of this bill because its funding mechanism imposes a surtax on millionaires sends a clear message about whose side he's on. The critical needs of our Nation's families and children are too important to be ignored, and it's time for this Congress to set the record straight by voting for H.R. 3603.

Mr. Chairman, I urge my colleagues to stand up for children and families, and support the Downey-Panetta children's initiative.

Mrs. MEYERS of Kansas. Mr. Chairman, I rise today in reluctant opposition to a piece of legislation that is designed to preserve families, assist children, and improve nutritional programs and services to children.

I am concerned about provisions in H.R. 3603, the Family Preservation Act, that would create a new capped entitlement for child welfare services. Under current law, there are six open-ended entitlement programs to provide adoption and foster care services to children. The bureaucracy of our child welfare system has grown astronomically, and this legislation does nothing to change that. Instead of freeing up social workers to spend more time working with children and families instead of administrative paperwork, H.R. 3603 increases the administrative burden on State child welfare systems.

Mr. Chairman, the costs of our current entitlement programs continue to mushroom. Just recently, the House considered the fiscal year 1993 appropriations bill for the Departments of Labor, Health and Human Services, and Education. The total cost of that bill was $244.1 billion, and 74 percent of the spending in the bill, or $179 billion, went for entitlement programs.

As many of my colleagues and I have mentioned, if we are ever gong to get control of the deficit, we must get control of entitlement spending. When I first came to Congress in 1985, Federal spending on Medicaid was $22.7 billion; in 1993, the Federal share of the Medicaid Program is estimated to be about $67 billion. In 8 years the cost has tripled. In 1985, AFDC was funded at $8 billion. Now, the cost of the AFDC Program is estimated to be between $12 and $13 billion. Food stamps were funded at $11.6 billion in 1985, and those costs are expected to reach $26.7 billion next year. The Federal costs of the Food Stamp Program have more than doubled in 8 years.

When we create entitlement programs, we relinquish control over spending for the program. As we have seen in other entitlement programs, the costs continue to mushroom out of control. The creation of yet another entitlement program, however well-intentioned, is not only unreasonable, but fiscally impossible.

Mr. Chairman, if we do not get control of our current entitlement spending, we will never be able to address the many pressing needs facing our Nation's children. If we really want to help the children of today and tomorrow, we should not leave them with a legacy of economic disaster.

Finally, I am concerned about the process by which this bill has come to the floor today. This bill was presented under a closed rule, without an opportunity to offer amendments. The President has indicated that he will veto this bill if it is presented to him in its current form. I am afraid that the process we have begun today is designed more to embarrass the President in an election year, rather than actually providing benefits to children and families.

Mr. HAYES of Illinois. Mr. Chairman, I rise today in support of the Family Preservation Act. In recent years, largely due to growing social problems, like poverty, increasing family breakup, drug abuse, and child abuse, insurmountable demands have been placed on the already burdened shoulders of State and local child welfare systems. Family welfare systems across the Nation have been overwhelmed by the substantially increased need for services. According to the National Committee for the Prevention of Child Abuse, the number of reports of child abuse and neglect tripled from 900,000 to 2.7 million between 1980 and 1991. Since 1985, the number of children in foster care increased by 50 percent, to 407,000 children in 1990. Child welfare systems, as a result of the burden these statistics represent, are unable to provide the types of services that would encourage keeping families intact, and avoid foster care and other out of home placements.

The Family Preservation Act addresses the problems of an overburdened welfare system by providing $3.5 billion over 5 years to local agencies to encourage innovation in designing programs designed to keep families intact, and make improvements in foster care and adoption programs when restoration of a family is unrealistic. By addressing the inefficiencies in the child welfare system, and recognizing the importance of keeping families together the Family Preservation Act saves money by encouraging alternative solutions to expensive foster care and other out of home placements.

Perhaps the most attractive aspect of this legislation is the way in which it would be financed, the measure proposes a millionaires surcharge on taxable income in excess of $1 million. This tax would only affect a minuscule proportion of the population, only 60,000 millionaires earn enough income to be affected by this tax which would raise a total of $8.2 billion. Since the total cost of the program is $7 billion, $1.2 billion would be applied toward deficit reduction.

The Family Preservation Act addresses the urgent concerns of the American family, and the crises that faces the child welfare system. This legislation respects the sanctity of the family and provides the support necessary to help the institution in troubled times. In this day and age when the preservation of family values are the rallying cry for numerous campaigns, I am surprised this bill faces any opposition. It is painfully obvious that to some politicians, the preservation of family values is just an empty campaign slogan. As a cosponsor of this measure, rest assured that in my opinion the preservation of real family values, not conservative rhetoric, is one of the most important issues facing the Congress this decade.

Mr. DOOLEY. Mr. Chairman, I rise in reluctant opposition to H.R. 3603, the Family Preservation Act. It is a tragedy that our Nation has so many children with unmet needs. It is true that the number of children living in poverty has increased at an alarming rate. It is true that we need to do more to keep families intact. But the bill before the House is not the only proposal that can effectively achieve those objectives.

I am disappointed that the bipartisan substitute was not allowed to be debated on this floor. I am disappointed that once again this House has failed to develop a compromise that would receive bipartisan support and be signed into law by the President. By passing this bill we are not helping children. Once again, we are offering only a false promise that will delay the enactment of any needed reforms.

My district in the Central Valley of California has the lowest per capita income rate in that State. Earlier in this session my district was identified as having the highest unemployment rate in the Nation, hovering at over 17 percent. There are few regions of the country whose families suffer greater hardships than in central California. But I am not convinced that H.R. 3603 is the most effective means to alleviate the pain and suffering of the people of my district.

The proponents are paying for their program with a surtax on millionaires. I don't object to placing a surtax on millionaires, but if we are going to impose additional taxes, let us invest those revenues so we get the greatest return to our society. I am troubled that a few months ago we determined that the highest priority for a millionaire's surtax was to fund our tax bill. Governor Clinton has proposed a millionaire's surtax to fund his new initiatives. Today we have a different priority for that surtax.

The increase in child abuse, family dissolutions, and childhood poverty can in part be attributed to the deterioration of our economy and increasing unemployment rates. The plight of our children would be more effectively addressed by providing their parents with more and better employment opportunities. Let us invest those revenues to stimulate our economy, to rebuild our deteriorating infrastructure, and to create jobs for our families struggling on welfare.

I am committed to the children of our country, and I am convinced that we must effectively ensure a better future for them—not by creating another entitlement, but rather by giving the States greater flexibility in providing for the needs of children and by investing our tax dollars to create a more vibrant economy with greater employment opportunities for all of our citizens.

Mr. REED. Mr. Chairman, I rise today in strong support of H.R. 3603, the Family Preservation/Mickey Leland Childhood Relief Act.

Investment in our children is one of the most important commitments we as a nation can make. We must not only provide for quality education and job training but also early intervention which will allow children to develop and reach their full potential.

We are all familiar with the sobering statistics. Children have become the poorest members of our society; 20 percent of all children live in poverty and over 5 million children under age 12 go to bed hungry every month. H.R. 3603 addresses this problem by investing in America's families.

The legislation before us today attempts to keep troubled families together instead of pulling them apart. As my friend from New York, Mr. DOWNEY, said earlier, we cannot legislate strong families. We can, however, give families in crisis the resources they need to, in many cases, defeat the odds and raise healthy children in their own homes.

As a member of the Education and Labor Committee, I am committed to improving our education system and providing the best education for our children. The success of our schools rests in large part on our commitment to keep our children healthy so they come to school ready and able to learn.

If you are truly profamily, you will support this profamily legislation. Today we have the opportunity to put our money where our hearts are.

I urge my colleagues to recognize that our children are our most precious resource and to vote in support of H.R. 5600.

Mr. CAMP. Mr. Chairman, as a member of the Select Committee on Children, Youth, and Families, I rise in strong opposition to yet another blatantly political tax hidden behind the facade of helping America's families and children.

You cannot buy family values with taxpayer dollars. You will not find family values on a dollar bill. Yet this bill is crafted with the simplistic idea that the problem with America's families is a lack of new Government spending.

In fact, one problem America's families face is that there is too much Government spending on too many programs that take too much in taxes from those families.

Today, the typical American family pays close to 40 percent of its income in taxes—not on food or clothing, housing or education—but on taxes. This bill shakes down American families for another $8 billion to create an additional $3.5 billion entitlement program.

This bill is yet another ill-conceived attempt to impose tax fairness by soaking the rich. Congress tried to soak the rich in 1990 with the boat tax, and the jobs of 20,000 middle Americans set sail for foreign shores.

The tax increase contained in this bill will hit millions of small business men and women across this Nation. It will shut their doors and put them out of business, costing another 90,000 Americans their jobs.

There is no question that the problems of child abuse, AIDS, family breakup, and drug abuse, exist and they are serious. I support efforts that effectively deal with them.

There already exists open-ended entitlement programs designed to address the very issues that this bill targets. And these programs already cost taxpayers tens of billions of dollars.

In addition, this year we are spending: $23 billion for food stamps, $12 billion for aid for dependent children, $2.9 billion for WIC, $2.6 billion for foster care and adoption, $2 billion for Head Start, and $1.5 billion on LIHEAP.

That's nearly $45 billion alone on these programs to help American families and children.

If they are not doing the job then we need to find out why and fix them before creating more programs.

Furthermore, this bill contains an incredible provision that requires the States to spend more money than they need.

Now that is a new concept.

The Federal Government says to the States if you spend more than we estimate, then we pay the difference. If you spend less than we estimate, we give you the difference anyway.

Mr. Chairman, the American people are saying enough. There is too much spending on programs by a Government that has grown too big.

The American people know that these programs are not working and that it is time to try a new approach. Vote "no" on this business-as-usual bill that wastes taxpayers dollars.

And let's look for a new and better approach to deal with the problems facing American families.

Mr. HOUGHTON. Mr. Chairman, why must once again we be dealt a bill at the last minute, with no prior knowledge, no chance for even one new idea, dealing with billions of dollars with the incongruous label of family preservation. Really, if the issue and needs weren't so serious, one might want to think that this was a wicked political curve ball, intending to embarrass all of us who vote "no." Can you imagine a more Machiavellian plot than to put two issues side by side—this one, and Russian aid.

So you know what this bill does—under the guise of helping needy children, it socks a huge administrative staff into an entitlement program.

Is this important? You bet it is. The taxpayer swallowed a 2000-percent administrative cost increase in the last 10 years. How do you like that for controlling spending?

Do we help the needy? Of course not. This bill doesn't, among other things, give out one more food stamp to one new needy family. It just pushes more into the hands of those already receiving help.

No, Mr. Chairman. This just doesn't pass muster.

Ms. DELAURO. Mr. Chairman, a nation should be judged by the way it treats its children. They are not only the weakest and most vulnerable among us, they are our hope and our future. Yet hunger, homelessness, and lack of health care are the background against which tens of thousands of America's young spend their childhoods.

This bill begins the process of extending greater help to our children. But we have a long way to go to reverse the trends of the last decade, during which 22 percent more children have slipped into poverty, and 13 percent more children are not living with their families.

Nothing we do will help our children more than fighting to ensure that they have a solid, stable life at home. This bill makes some important strides toward improving foster care, encouraging the adoption of hard-to-place children, and enhancing efforts to keep families, that could break up, intact.

Aid to States to help with foster care programs is significantly increased in this bill in response to the sharp increase in the number of children living in foster homes. In recent years, the number of children who are in foster care nationwide has increased by 50 percent—from 237,500 in 1986 to 407,000 in 1990.

Children who seek to be adopted but are difficult to place will also be aided by this legislation, which funds State programs for adoptive families.

But most importantly, this bill seeks to promote innovative programs that will keep families together. It provides States with funds to establish programs that will prevent the need for unnecessary foster care, reunite foster children with their original families when possible, and provide followup service to families whose children have returned home.

Mr. Speaker, it is increasingly difficult for families to raise their children. More families have single parents, families face shrinking incomes and greater expenses, local and State governments have fewer resources to address family needs, health care costs are soaring, and parents find themselves working longer hours with less time to spend with their children.

All these factors place an increasing strain on children and on family life. This bill takes important steps to begin addressing some of these problems and it deserves the support of every Member of this House. A vote for this bill is not only a vote for the well being of our children, it is a vote for the future of this country.

Mr. RAMSTAD. Mr. Chairman, I rise in opposition to H.R. 3603.

I do so reluctantly because I, like many others in this body, believe that our child welfare system is in desperate need for reform.

The entitlement programs that currently comprise our child welfare system are too regulatory, too wasteful, and too restrictive on the States that administer them. Since 1981, the administrative costs alone of child welfare have gone up a whopping 2,000 percent.

The problem, Mr. Chairman, is that the bill before us doesn't even try to address this runaway increase in administrative costs. Instead, H.R. 3603 simply dumps an additional $3.5 billion into a badly broken system and pretends it's a cure all.

Over the next 5 years, the Federal Government will give the States $20 billion for child welfare programs. Clearly, we are willing to commit adequate funds to address the needs of our children. The real problem is how we choose to spend them.

Given that spending on child welfare has skyrocketed over the past decade, most people may wonder why there has been no marked improvement in child welfare programs.

Well, Mr. Chairman, it's because the money is not getting to the children who need it. It's because social workers are spending 80 percent of their time filling out paperwork, rather than taking care of our kids. And it's because our bloated system is taking Federal candy out of the hands of babies and putting it into hands of bureaucrats.

The Democrat leadership claims that H.R. 3603 reforms the child welfare system. But all it amounts to is the tired old social policy of tax and spend, spend and tax. And all at the cost of $3.5 billion of taxpayers' money.

Today, the Democrat leadership has refused to even listen to an alternative proposal, offered by our colleague NANCY JOHNSON, which I strongly support and which enjoys widespread, bipartisan support.

In spite of the fact that the Johnson bill offers real reform and reasonable spending limits, the Democrat-controlled Rules Committee would not even allow it to be discussed on the House floor. Perhaps, the Democrat leadership feared that the support for this alternative proposal would put an abrupt end to their irresponsible political game.

In my opinion, this gag rule is an insult to all of us who serve in the House and believe in the principle of open debate.

The heart of the Johnson proposal is to take almost $9 billion out of wasteful entitlement programs and move it into a new capped entitlement program that would be completely controlled by the States.

Rather than forcing States to spend outrageous amounts on administration and training, the Johnson proposal makes $9 billion available for whatever child welfare programs that States deem most effective.

For example, child welfare administrators argued before the House Ways and Means Committee that if dollars were available for preventive services, they could save a lot of money while caring for our children. The Johnson proposal takes child welfare administrators at their word; H.R. 3603 doesn't.

In short, the Johnson proposal increases State flexibility, reduces administration, and promotes efficient use of limited resources, all without costing new money.

Mr. Chairman, despite the efforts of the Rules Committee, we still have a choice.

We have a choice between creating a flexible system that slashes Federal redtape or throwing more money into a broken system without repairs. We have a choice between providing vital services to needy children or larger paychecks to faceless bureaucrats. We have a choice between improving the child welfare system or prolonging the stagnant policies of the failed welfare state.

Mr. Chairman, the choice is clear. I urge my colleagues to support the motion to recommit, or failing that, to oppose H.R. 3603.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 5600, as modified by the amendments printed in House Report 102–787, shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

H.R. 5600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Children's Initiative".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Short title of titles I through V; amendment of Social Security Act.

TITLE I—CHILD WELFARE SERVICES

Sec. 101. Entitlement funding for child welfare services to strengthen and preserve families.
Sec. 102. Required protections for foster children.
Sec. 103. Reports on child welfare services and expenditures.
Sec. 104. Enhancing court procedures.
Sec. 105. State directory of services.
Sec. 106. States required to report on measures taken to comply with the Indian Child Welfare Act.

TITLE II—FOSTER CARE AND ADOPTION ASSISTANCE

Sec. 201. Comprehensive service projects.
Sec. 202. Abandoned children.
Sec. 203. Clarification of removal from home requirement.
Sec. 204. Dissolved adoptions.
Sec. 205. Respite care.
Sec. 206. Extension of definition of children with special needs.
Sec. 207. Study of reasonable efforts requirement by advisory committee.
Sec. 208. Automated systems.
Sec. 209. Periodic reevaluation of foster care maintenance payments.

Sec. 210. Accelerated dispositional hearing.
Sec. 211. Periodic review of children free for adoption.
Sec. 212. Time frame for judicial determinations on voluntary placements.
Sec. 213. Placement accountability.
Sec. 214. Treatment of assets of youth participating in independent living program.
Sec. 215. Elimination of foster care ceilings and of authority to transfer unused foster care funds to child welfare services programs.
Sec. 216. Regulations for training of agency staff and of foster and adoptive parents.
Sec. 217. Publication of program data.
Sec. 218. Review of child welfare activities.

TITLE III—SOCIAL SERVICES BLOCK GRANT

Sec. 301. Title XX social services block grant.

TITLE IV—RESEARCH, DEMONSTRATION, AND EVALUATION

Sec. 401. Advisory Commission on Children and Families.
Sec. 402. Research and evaluations to be conducted by the Advisory Commission on Children and Families.
Sec. 403. Other research and evaluations.
Sec. 404. Child welfare demonstration projects.
Sec. 405. Technical assistance.

TITLE V—MISCELLANEOUS HUMAN RESOURCES AMENDMENTS

Sec. 501. State option to use retrospective budgeting without monthly reporting under AFDC program.
Sec. 502. Increase in stepparent income disregard under AFDC program.
Sec. 503. Extension of period for demonstration projects for evaluating model procedures for reviewing child support awards.
Sec. 504. Technical corrections related to the income securit and human resources provisions of the Omnibus Budget Reconciliation Act of 1990.
Sec. 505. Technical corrections related to the human resource and income security provisions of Omnibus Budget Reconciliation Act of 1989.

TITLE VI—CHILDHOOD HUNGER REELIEF

Sec. 601. Short title.
Sec. 602. References to Act.

SUBTITLE A—ENSURING ADEQUATE FOOD ASSISTANCE

Sec. 611. Families with high shelter expenses.
Sec. 612. Continuing benefits to eligible households.
Sec. 613. Homeless families in transitional housing.
Sec. 614. Improving the nutritional status of children in Puerto Rico.
Sec. 615. Households benefiting from general assistance vendor payments.
Sec. 616. Helping low-income high school students.

SUBTITLE B—PROMOTING SELF-SUFFICIENCY

Sec. 621. Child support disregard.
Sec. 622. Child support payments to nonhousehold members.
Sec. 623. Vehicles needed to seek and continue employment and for household transportation.

SUBTITLE C—SIMPLIFYING THE PROVISION OF FOOD ASSISTANCE

Sec. 631. Simplifying the household definition for households with children and others.
Sec. 632. Assuring adequate funding for the food stamp program.

SUBTITLE D—COMMODITY DISTRIBUTION TO NEEDY FAMILIES

Sec. 641. Commodity purchases.

SUBTITLE E—IMPLEMENTATION AND EFFECTIVE DATES

Sec. 651. Effective dates.
Sec. 652. Prohibition on reducing agriculture price support programs.

TITLE VII—FUNDING

Sec. 701. Surtax on individuals with incomes over $1,000,000.

SEC. 2. SHORT TITLE OF TITLES I THROUGH V; AMENDMENT OF SOCIAL SECURITY ACT.

(a) SHORT TITLE OF TITLES I THROUGH V.—Titles I through V may be cited as the "Family Preservation Act of 1992".

(b) AMENDMENT OF SOCIAL SECURITY ACT.—Except as otherwise expressly provided, wherever in titles I through V of this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

TITLE I—CHILD WELFARE SERVICES

SEC. 101. ENTITLEMENT FUNDING FOR CHILD WELFARE SERVICES DESIGNED TO STRENGTHEN AND PRESERVE FAMILIES.

(a) IN GENERAL.—Part B of title IV (42 U.S.C. 620–628) is amended—

(1) by striking the heading and inserting the following:

"PART B—CHILD WELFARE AND FAMILY PRESERVATION SERVICES

"Subpart 1—Child Welfare Services";

(2) in section 423(a), by striking "this part" and inserting "this subpart";

(3) in section 428(b), by inserting "or 432, as appropriate" after "421"; and

(4) by adding at the end the following:

"Subpart 2—Family Preservation Services

"SEC. 430. ENTITLEMENT.

"(a) IN GENERAL.—For payments to which States are entitled under this subpart, there shall be available to the Secretary an amount equal to the sum of—

"(1) the basic entitlement amount for the fiscal year; and

"(2) the additional entitlement amount for the fiscal year.

"(b) DEFINITIONS.—As used in subsection (a):

"(1) BASIC ENTITLEMENT AMOUNT.—The term 'basic entitlement amount' means—

"(A) for fiscal year 1993, $200,000,000;

"(B) for fiscal year 1994, $350,000,000;

"(C) for fiscal year 1995, $450,000,000;

"(D) for fiscal year 1996, $550,000,000;

"(E) for fiscal year 1997, $600,000,000; and

"(F) for fiscal year 1998 and each succeeding fiscal year, $600,000,000, increased by the percentage (if any) by which—

"(i) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on July 31 of the immediately preceding fiscal year; exceeds

"(ii) the average of the Consumer Price Index (as so defined) for the 12-month period ending on July 31, 1995.

"(2) ADDITIONAL ENTITLEMENT AMOUNT.—The term 'additional entitlement amount' means, with respect to a fiscal year, 60 percent of the amount (if any) by which the adjusted baseline amount for the fiscal year exceeds the sum of—

"(A) the aggregate amount of Federal outlays under part E for the fiscal year; and

"(B) the aggregate of the amounts calculated pursuant to section 441(d)(1)(B) with respect to any State for the fiscal year.

"(3) ADJUSTED BASELINE AMOUNT.—The term 'adjusted baseline amount' means, with respect to a fiscal year, the sum of—

"(A) the baseline amount for the fiscal year; and

"(B) the adjustment amount for the fiscal year.

"(4) BASELINE AMOUNT.—The term 'baseline amount' means—

"(A) for fiscal year 1993, $2,775,000,000;

"(B) for fiscal year 1994, $3,122,000,000;

"(C) for fiscal year 1995, $3,519,000,000;

"(D) for fiscal year 1996, $3,952,000,000;

"(E) for fiscal year 1997, $4,416,000,000; and

"(F) for each of fiscal years 1998 and 1999, $4,416,000,000, increased by the percentage (if any) by which the GDP deflator for the 12-month period ending on March 31 of the calendar year in which the fiscal year begins exceeds the GDP deflator for the 12-month period ending on March 31, 1997.

"(5) ADJUSTMENT AMOUNT.—The term 'adjustment amount' means—

"(A) for fiscal year 1993, $227,000,000;

"(B) for fiscal year 1994, $222,000,000;

"(C) for fiscal year 1995, $181,000,000;

"(D) for fiscal year 1996, $261,000,000;

"(E) for fiscal year 1997, $336,000,000; and

"(F) for each of fiscal years 1998 and 1999, $336,000,000, increased by the percentage (if any) by which the GDP deflator for the 12-month period ending on March 31 of the calendar year in which the fiscal year begins exceeds the GDP deflator for the 12-month period ending on March 31, 1997.

"(6) GDP DEFLATOR.—The term 'GDP deflator' means the GDP deflator published by the Department of Commerce.

"SEC. 431. ANNUAL SUBMISSION OF STATE PLAN AMENDMENTS.

"To be eligible to receive its share of the funds available for expenditure under this subpart for a fiscal year after fiscal year 1993, a State shall annually submit to the Secretary, as an amendment to the State plan under this part, and in such form as the Secretary may require by regulation, a comprehensive family services plan that contains—

"(1) an assessment, as of the beginning of the fiscal year, of—

"(A) the service needs of families in the State any child of which has been or is at risk of being placed outside the home; and

"(B) the need for substance abuse treatment services for such families;

"(2) a description of the service programs available in the State, as of the beginning of the fiscal year, that address the service needs of such families;

"(3) the State's goals for the 5-year period beginning with the fiscal year for increasing the number and capacity of such service programs;

"(4) a strategy for the fiscal year to improve the coordination of services to such families with other State programs and services;

"(5) a certification from the Governor of the State that the State has provided for appropriate coordination of State substance abuse treatment programs and such service programs;

"(6) an assurance that the State will not use any funds provided under this subpart to supplant Federal, State, or local funds used for similar purposes;

"(7) an explanation of how the Federal assistance provided under this section will, during the fiscal year, expand services available to such families, including—

"(A) a description of the service programs to be provided with funds provided under this section;

"(B) the goals of such programs; and

"(C) a description of the populations to which the programs will be targeted, with an assurance that such populations will consist of—

"(i) families any child of which is, has been, or is at risk of being placed, in foster care; and

"(ii) at the option of the State, families any child of which is, has been, or is at risk of being placed, in the care of a mental health or juvenile justice agency; and

"(8) such other information as the Secretary may require by regulation.

"SEC. 432. ALLOTMENTS TO STATES.

"The Secretary shall allot the sum made available pursuant to section 430 for any fiscal year, for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary and which are located in States that are in compliance with section 431, as follows:

"(1) ALLOTMENTS TO TERRITORIES.—The allotment for any fiscal year to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa shall be determined in the same manner in which the allotment to the jurisdiction was determined under section 421.

"(2) OTHER ALLOTMENTS.—

"(A) IN GENERAL.—The allotment for any fiscal year to each other State shall be the amount equal to—

"(i) the sum made available pursuant to section 430 for the fiscal year that remains unallotted after the application of paragraph (1) of this section; multiplied by

"(ii) the food stamp percentage of the State for the fiscal year.

"(B) FOOD STAMP PERCENTAGE DEFINED.—As used in subparagraph (A)(ii), the term 'food stamp percentage' means, with respect to a State and a fiscal year, the average number of children receiving food stamp benefits in the State for the 4th, 3rd, and 2nd preceding fiscal years, as determined from sample surveys made under section 16(c) of the Food Stamp Act of 1977, expressed as a percentage of the average number of children receiving food stamp benefits in all of the States (to which this paragraph applies) for such preceding fiscal years, as so determined.

"SEC. 433. REALLOTMENTS.

"(a) IN GENERAL.—The amount of any allotment to a State under section 432 for any fiscal year which the State certifies will not be required for carrying out the State plan under this part shall be available for reallotment, from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines—

"(1) are in compliance with section 431 for the fiscal year;

"(2) need sums exceeding the sums allotted to such States under sections 421 and 432, in carrying out their State plans under this part; and

"(3) will be able to use such excess sums during the fiscal year.

"(b) DISTRIBUTION FORMULA.—Any amount available for reallotment shall be reallotted among the other States referred to in subsection (a) on the same basis as allotments are made under section 432.

"(c) TREATMENT OF REALLOTMENTS.—Any amount reallotted to a State under this section is deemed to be part of the allotment of the State under section 432.

"SEC. 434. PAYMENTS TO STATES.

"(a) BASIC ENTITLEMENT AMOUNT.—

"(1) IN GENERAL.—From the sums appropriated therefor not exceeding the basic entitlement amount (as defined in section 430(b)(1)) and the allotment under this subpart of the basic entitlement amount, each State which has a plan developed in accordance with section 422 and is in compliance with section 431 for a fiscal year shall be entitled to receive from the Secretary, and the Secretary shall from time to time pay to each such State, an amount equal to 75 percent of the total amount expended by the State during the fiscal year under the plan (including administrative costs) in accordance with section 435.

"(2) ADMINISTRATIVE PROVISIONS.—

"(A) ESTIMATES.—Before each calendar quarter, the Secretary shall estimate the amount to be paid to each State under this subsection for the quarter.

"(B) PAYMENTS.—From that portion of the allotment of each State that is attributable to the basic entitlement amount, the Secretary shall pay the amount estimated under subparagraph (A), reduced or increased, as the case may be, by any sum (not previously adjusted under this subsection) by which the Secretary finds that any such estimate for a prior quarter was greater or less than the amount which should have been paid to the State under this subsection for such prior quarter.

"(b) ADDITIONAL ENTITLEMENT AMOUNT.—From the sums appropriated therefor equal to the additional entitlement amount (as defined in section 430(b)(2)) and the allotment under this subpart of the additional entitlement amount, each State which has a plan developed in accordance with section 422 and is in compliance with section 431 for a fiscal year shall be entitled to receive from the Secretary, and the Secretary shall, within 3 months after the end of the fiscal year, pay to each such State, the amount allotted to the State from the additional entitlement amount.

"SEC. 435. USE OF FUNDS.

"(a) BASIC ENTITLEMENT AMOUNT.—Each State which receives funds paid to the State under section 434(a) shall—

"(1) use part (but not all) of such funds to develop or expand specialized child welfare service programs, to families in crisis due to substance abuse, that—

"(A) emphasize comprehensive services;

"(B) are geared toward the whole family; and

"(C) encourage or expand the availability of programs for pregnant women and programs which allow mothers to reside with their children (and other caretaker relatives to reside with the children in their care) while receiving services or treatment; and

"(2) use the remaining part of such funds to develop or expand—

"(A) service programs designed to help children—

"(i) where appropriate, return to families (including adoptive families) from which they have been removed; or

"(ii) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

"(B) preplacement preventive services programs, such as intensive family preservation programs (as defined in section 1144(c)(1)(B)(i)), that are designed to help children at risk of foster care placement remain with their families (including adoptive families); or

"(C) service programs designed to provide follow-up care to families (including adoptive families) to whom a child has been returned after a foster care placement.

"(b) ADDITIONAL ENTITLEMENT AMOUNT.—Each State which receives funds paid to the State under section 434(b) may use such funds for any purpose for which funds may be used under this part.

"(c) MAINTENANCE OF EFFORT.—Notwithstanding section 434, the amount that would otherwise be paid to a State under this subpart shall be reduced by the sum of—

"(1) any amount paid to the State under this subpart which is used to supplant any Federal, State, or local funds used for similar purposes;

"(2) the amount (if any) by which the total amount expended by the State and the political subdivisions thereof from State and local sources for the provision of child welfare services (excluding foster care maintenance payments and adoption assistance payments) during any fiscal year is less than the total amount so expended during fiscal year 1992; and

"(3) the amount (if any) by which the total amount expended by the State and the political subdivisions thereof from State and local sources for the provision of child welfare services during any fiscal year is less than the total amount so expended during fiscal year 1992.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1992, and shall apply to payments under part B of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year.

SEC. 102. REQUIRED PROTECTIONS FOR FOSTER CHILDREN.

(a) ELIMINATION OF INCENTIVE FUNDING MECHANISMS.—

(1) IN GENERAL.—

(A) REPEAL.—Section 427 (42 U.S.C. 627) is hereby repealed.

(B) CONFORMING AMENDMENT.—Section 423(a) (42 U.S.C. 623(a)) is amended by striking "and in section 427".

(2) STATE PLAN REQUIRED TO PROVIDE FOR FOSTER CARE PROTECTIONS OF REPEALED SECTION 427.—Section 422(b) (42 U.S.C. 622(b)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; and"; and

(C) by adding at the end the following:

"(9) provide that the State must—

"(A) conduct or have conducted an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months preceding the inventory, and determine or have determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child can or should be returned to the parents of the child or should be freed for adoption; and

"(iii) the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship; and

"(B) implement and operate, to the satisfaction of the Secretary—

"(i) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child who is in foster care, or who has been in such care within the preceding 12 months, can be readily determined;

"(ii) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State; and

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or in some other planned, permanent living arrangement.".

(3) CONFORMING AMENDMENTS.—

(A) Section 472(d) (42 U.S.C. 672(d)) is amended by striking "427(b)" and inserting "422(b)(9)".

(B) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is amended by inserting "to comply with section 422(b)(9) or" before "to comply".

(4) EFFECTIVE DATE.—The amendments and repeal made by this subsection shall take effect on October 1, 1992, and shall apply to payments under part B of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year.

(5) CONSTRUCTION OF SUBSECTION.—The amendments and repeal made by this subsection shall not be construed to permit any State to interrupt the provision of the foster care protections described in section 427 of the Social Security Act, as in effect before fiscal year 1993.

(b) ADDITIONAL PROTECTIONS.—

(1) IN GENERAL.—Section 422(b)(9) (42 U.S.C. 622(b)(9)), as added by subsection (a)(2) of this section, and as amended by sections 103(c)(1)(B) and 105(a)(1) of this Act, is amended—

(A) by striking "and" at the end of subparagraph (A)(iii); and

(B) by striking "and" at the end of subparagraph (B)(ii);

(C) by inserting "and" at the end of subparagraph (B)(iii); and

(D) by adding at the end the following:

"(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain with their families; and

"(C)(i) review or have reviewed State laws, State administrative and judicial procedures, and agency legal representation in effect for children abandoned at or shortly after birth; and

"(ii) develop and implement such laws and procedures as the State determines are necessary to enable lasting permanent decisions to be made expeditiously with respect to the placement of such children;".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 1994, and shall apply to payments under parts B and E of title IV of the Social Security Act for fiscal year 1995 and to such payments for any succeeding fiscal year.

(3) CONSTRUCTION OF SUBSECTION.—The amendments made by this subsection shall not be construed to permit any State to interrupt the provision of the foster care protections described in section 427 of the Social Security Act (as in effect before fiscal year 1993).

SEC. 103. REPORTS ON CHILD WELFARE SERVICES AND EXPENDITURES.

(a) PRE-EXPENDITURE REPORTS.—

(1) IN GENERAL.—Section 422(b)(5) (42 U.S.C. 622(b)(5)) is amended to read as follows:

"(5) include a report—

"(A) on the intended use of payments made to the State under this part, including information on the types of services to be provided and the geographic areas where such services will be available; and

"(B) which shall be made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during each stage of the development of the report.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to State plans under part B of title IV of the Social Security Act for fiscal year 1994 and such plans for any succeeding fiscal year.

(b) POST-EXPENDITURE REPORTS.—

(1) IN GENERAL.—Part B of title IV (42 U.S.C. 620-628) is amended by inserting after section 426 the following:

"SEC. 427. REPORT ON EXPENDITURES.

"(a) PREPARATION.—Each State shall prepare annual reports on the services provided with funds made available under this part during the most recently completed fiscal year, which shall be in such form and contain such information as the State finds necessary to—

"(1) provide an accurate description of such services;

"(2) secure a complete record of the purposes for which the funds were spent; and

"(3) enable a determination of the extent to which the funds were spent in a manner consistent with the reports required by section 422(b)(5).

"(b) DISSEMINATION.—Not later than the date prescribed by the Secretary as the due date for each report required by subsection (a), each State shall—

"(1) transmit to the Secretary a copy of each such report;

"(2) make copies of each such report available for public inspection in the State; and

"(3) provide copies of each such report, upon request, to any interested public agency, which may provide to the Congress the views of such agency on any such report.

"(c) ESTABLISHMENT OF UNIFORM DEFINITIONS.—The Secretary shall establish uniform definitions of services for use by the States in preparing the reports required by subsection (a) of this section, taking into consideration the uniform definitions established for the reports required by section 2006, and shall take such other steps as may be necessary or appropriate to ensure that compliance with this section will not be unduly burdensome on the States.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1993, and shall apply to expenditures under State plans under part B of title IV of the Social Security Act in or after fiscal year 1994.

(c) COMPARATIVE FINANCIAL CONTRIBUTION REPORTS.—

(1) IN GENERAL.—Section 422(b) (42 U.S.C. 622(b)), as amended by section 102(a)(2) of this Act, is amended—

(A) in paragraph (8), by striking "and" at the end;

(B) in paragraph (9), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(10) include information for the fiscal year second preceding the fiscal year covered by the plan, in such form as the Secretary may prescribe by regulation, on—

"(A) the aggregate amount expended by the State and the political subdivisions thereof for the provision of child welfare services (other than foster care maintenance payments and adoption assistance payments), broken down in a manner that shows the extent to which such amount was expended from funds provided by each of Federal, State, or local sources; and

"(B) the aggregate amount expended by the State and the political subdivisions thereof for foster care maintenance payments and adoption assistance payments, broken down in a manner that shows the extent to which such amount was expended from funds provided by each of Federal, State, or local sources.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to State plans under part B of title IV of the Social Security Act for fiscal year 1993 and to such plans for any succeeding fiscal year.

(3) REPORTS TO THE CONGRESS.—Section 422 (42 U.S.C. 622) is amended by adding at the end the following:

"(c) The Secretary shall annually transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a summary of the information received from States pursuant to subsection (b)(10), and shall make available to the public copies of the summary at a charge equal to the cost of printing.".

SEC. 104. GRANT PROGRAM FOR STATE COURT SYSTEMS TO ASSESS AND IMPROVE PROCEDURES IN CHILD WELFARE CASES.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall make grants in accordance with this section to the highest State courts to conduct assessments of the procedures and functions of the State courts in carrying out parts B and E of title IV of the Social Security Act, and to implement recommendations for improvements in such procedures and functions based on the assessments.

(b) ASSESSMENTS.—The assessment described in this subsection is designed to assess how the State courts are performing the activities required of them by or under State laws enacted pursuant to parts B and E of title IV of the Social Security Act, and to make recommendations on how to improve the implementation of such parts, which shall include the following:

(1) A list of the requirements imposed on the State courts by or under State laws enacted pursuant to such parts, and a list of the State laws, regulations, and policies that govern the implementation of such requirements.

(2) A description of the extent to which State law requires procedural safeguards for children and their parents with respect to each type of proceeding held by State courts pursuant to the State laws referred to in paragraph (1).

(3) A quantitative and qualitative evaluation of how each requirement of such parts is being carried out in the State, including the following:

(A) The circumstances under which, and the frequency with which, the procedural safeguards described pursuant to paragraph (2) are provided.

(B) Whether, during court proceedings, evidence is presented and arguments are made that address the findings and determinations required by the State laws referred to in paragraph (1), and, if so, the amount and sufficiency of time devoted to the presentation of such evidence and the making of such arguments.

(C) The extent to which the procedures and practices of the State courts are reasonably in accord with recommended standards of national organizations concerned with permanent placement for foster children.

(4) The effect of judicial caseloads and case assignments on the quality of court proceedings.

(5) Recommendations on how to better meet the requirements of such parts, and to improve the implementation by the State courts of the State laws enacted pursuant to such parts, including any changes in law, regulation, procedure, judicial manpower, judicial case assignments, judicial caseloads, judicial data collection, judicial education, and requirements for court-appointed legal representatives for parents and children.

(c) APPLICATIONS.—

(1) FISCAL YEAR 1994.—In order for a highest State court to become eligible for a grant under this section for fiscal year 1994, the court shall submit to the Secretary an application which, at a minimum, contains the following:

(A) A timetable for conducting and completing the assessment described in subsection (b) during fiscal year 1994.

(B) A budget for the assessment described in subsection (b), the method which is to be used to conduct the assessment, and a statement of how courts are to be selected for inclusion in the assessment.

(C) A certification that the head of the State agency responsible for children in State-supervised foster care, and, if applicable, the State foster care citizen review board or the State organization of citizen review boards, has had an opportunity to review and comment on a draft of the application before its submission. Such certification must include a copy of such comments.

(D) A description of how the court is to consult and cooperate with the head of the State agency responsible for children in State-supervised foster care, and, if applicable, the State foster care citizen review board or the State organization of citizen review boards, in developing and conducting the assessment described in subsection (b).

(E) Such other information as the Secretary may require by regulation.

(2) FISCAL YEAR 1995.—In order for a highest State court to become eligible for a grant under this section for fiscal year 1995, the court shall submit to the Secretary an application which contains the following:

(A) A copy of the assessment described in subsection (b) that was conducted and completed with funds provided under this section.

(B) A description of the steps that were taken during the conduct of the assessment described in subsection (b), and that will be taken in the fiscal year for which the application is submitted, to consult and cooperate with the State agency responsible for children in State-supervised foster care and, if applicable, the State foster care citizen review board or the State organization of citizen review boards.

(C) A specification of the steps that will be taken to implement the recommendations described in subsection (b)(5) made in the assessment described in subsection (b), and to make other improvements in the judicial handling of child welfare and foster care cases.

(D) Assurances that the applicant will—

(i) coordinate with the head of the State agency responsible for children in State-supervised foster care, and provide the agency with a report on the actions to be taken by the applicant to implement the recommendations of the assessment;

(ii) after completion of the assessment described in subsection (b), use funds received under this section to—

(I) implement the recommendations of the assessment; and

(II) establish new activities or programs, or strengthen existing activities or programs, to carry out such recommendations; and

(iii) not use funds received under this section to supplant State or local funds used for similar purposes.

(E) Such other information as the Secretary may require by regulation.

(3) FISCAL YEARS 1996, 1997, AND 1998.—In order for a highest State court to become eligible for a grant under this section for fiscal year 1996 or thereafter, the court shall submit to the Secretary an application which contains the following:

(A) A description and evaluation of the activities of the State courts under the grant made with respect to an application submitted under paragraph (2) in improving their implementation of parts B and E of title IV of the Social Security Act.

(B) A description of the steps that were taken during the previous fiscal year, and that will be taken in the year for which the application is submitted, to consult and cooperate with the head of the State agency responsible for children in State-supervised foster care and, if applicable, the State foster care citizen review board or the State organization of citizen review boards, in implementing the recommendations made in the assessment described in subsection (b).

(C) A specification of the remaining steps that will be taken to implement the recommendations described in subsection (b)(5) made in the assessment described in subsection (b), and to make other related improvements in the judicial handling of child welfare and foster care cases.

(D) A reaffirmation of the assurances made pursuant to paragraph (2)(D).

(E) Such other information as the Secretary may require by regulation.

(d) GRANT AMOUNTS.—

(1) FISCAL YEAR 1994.—Of the amounts made available to carry out this section for fiscal year 1994, each highest State court that submits an application which meets the requirements of subsection (c)(1) shall be entitled to, and the Secretary shall pay such court, a grant in an amount equal to—

(A) $150,000; plus

(B) the amount which bears the same ratio to the remainder of such available amounts as the number of individuals in the State who have not attained the age of 21 years bears to the number of individuals who have not attained such age in the States the highest State courts of which have so submitted such applications.

(2) FISCAL YEARS 1995, 1996, 1997, AND 1998.—Of the amounts made available to carry out this section for each of fiscal years 1995, 1996, 1997, and 1998, each highest State court that submits an application which meets the requirements of paragraph (2) or (3) of subsection (c) shall be entitled to, and the Secretary shall pay such court, a grant in an amount equal to—

(A) $190,000; plus

(B) the amount which bears the same ratio to the remainder of the amounts available for the fiscal year as the number of individuals in the State who have not attained the age of 21 years bears to the number of individuals who have not attained such age in the States the highest State courts of which have so submitted such applications.

(3) NO STATE MATCH REQUIRED FOR FISCAL YEARS 1994 AND 1995; REDISTRIBUTION OF UNUSED FUNDS.—Grant amounts under this section shall be paid to, and redistributed among, highest State courts in the same manner in which funds made available pursuant to section 420(b) of the Social Security Act are paid to, and reallotted among, the States pursuant to sections 423 and 424 of such Act, except that—

(A) for each of fiscal years 1994 and 1995, section 423(a) of such Act shall be applied by substituting "100 percentum" for "75 percentum"; and

(B) amounts shall be redistributed on the same basis as amounts are distributed under paragraph (1)(B) or (2)(B), and amounts so redistributed shall be treated as part of the amounts distributed under paragraph (1)(B) or (2)(B), whichever is applicable.

(e) USE OF GRANTS.—

(1) FISCAL YEAR 1994.—

(A) CONDUCT ASSESSMENT.—Except as provided in subparagraph (B), each highest State court which receives a grant applied for under subsection (c)(1) shall use such grant to conduct the assessment described in subsection (b).

(B) AUTHORITY TO USE EXCESS GRANT FUNDS TO IMPLEMENT RECOMMENDATIONS.—Any highest State court which has grant funds remaining after completing the assessment may use the remainder of the grant to implement the recommendations made as part of the assessment, in fiscal year 1994 or fiscal year 1995.

(2) FISCAL YEARS 1995, 1996, 1997, AND 1998.—Each highest State court which receives a grant applied for under paragraph (2) or (3) of subsection (c) for a fiscal year shall—

(A) use the grant to implement the recommendations made as part of the assessment described in subsection (b); and

(B) expend such grant in the fiscal year or in the immediately succeeding fiscal year.

(f) ADMINISTRATIVE PROVISIONS.—

(1) GUIDELINES FOR GRANT APPLICATIONS.—Within 90 days after the effective date of this section, the Secretary shall issue guidelines for grant applications under subsection (c)(1) and transmit such guidelines to each highest State court.

(2) PROMPT ACTION ON APPLICATIONS.—The Secretary shall take prompt action on each application for a grant under this section.

(g) DEFINITIONS.—As used in this section:

(1) HIGHEST STATE COURT.—The term "highest State court" means, with respect to a State, the State court with final appellate jurisdiction over civil matters in which State courts perform a function assigned by or under State laws enacted pursuant to part B or E of the Social Security Act.

(2) STATE.—The term "State" shall have the same meaning such term has for purposes of parts B and E of title IV of the Social Security Act.

(h) REPORTS TO THE CONGRESS.—The Secretary shall submit to the Congress an interim report not later than September 30, 1996, and a final report not later than September 30, 1999, on—

(1) the information obtained from the assessments conducted with grants made under this section; and

(2) the impact of the grant program under this section on the procedures and functions of the State courts in carrying out parts B and E of title IV of the Social Security Act.

(i) GRANTS FUNDED THROUGH SET ASIDE OF PORTION OF CHILD WELFARE ENTITLEMENT FUNDS FOR CERTAIN FISCAL YEARS.—

(1) FISCAL YEAR 1994.—$15,000,000 of the sums made available pursuant to section 430 of the Social Security Act for fiscal year 1994 shall be used solely to make grants to highest State courts under this section, before applying section 432 of such Act.

(2) FISCAL YEARS 1995, 1996, 1997, AND 1998.—$25,000,000 of the sums made available pursuant to section 430 of the Social Security Act for each of fiscal years 1995, 1996, 1997, and 1998 shall be used solely to make grants to highest State courts under this section, before applying section 432 of such Act.

(j) EFFECTIVE DATE.—This section shall take effect on October 1, 1993.

SEC. 105. STATE DIRECTORY OF SERVICES.

(a) STATE PLAN REQUIREMENT.—Section 422(b) (42 U.S.C. 622(b)), as amended by sections 102(a)(2) and 103(c)(1) of this Act, is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following:

"(11) require the agency administering or supervising the administration of the plan, not less frequently than every 2 years, to—

"(A) compile a detailed directory of those service programs made available by the agency or by local child welfare agencies to families served by such agencies that are—

"(i) preplacement preventive services programs that are designed to help children at risk of foster care placement remain with their families;

"(ii) service programs designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or in some other planned, permanent living arrangement; or

"(iii) service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement;

"(B) identify in such directory which of the programs referred to in subparagraph (A) provides specialized child welfare services to families in crisis due to substance abuse;

"(C) include in such directory such information as the Secretary may require by rule;

"(D) include in such directory, for each of such programs—

"(i) the name and address of the program and the agency or organization that administers the program;

"(ii) a description of the services offered by the program;

"(iii) the number of individuals the program is capable of serving at one time; and

"(iv) a description of the criteria for eligibility for services under the program, including any priorities with respect to who will receive such services;

"(E) arrange the information in the directory geographically; and

"(F) provide a copy of such directory to the Secretary and to all judges and other judicial administrators, and all State agencies, that are involved in child protection, foster care, and adoption cases.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1993, and shall apply to payments under part B of title IV of the Social Security Act for fiscal year 1994 and to such payments for any succeeding fiscal year.

SEC. 106. STATES REQUIRED TO REPORT ON MEASURES TAKEN TO COMPLY WITH THE INDIAN CHILD WELFARE ACT.

(a) STATE PLAN REQUIREMENT.—Section 422(b) (42 U.S.C. 622(b)), as amended by sections 102(a)(2), 103(c)(1), and 105(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by adding at the end the following:

"(12) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1993, and shall apply to payments under part B of title IV of the Social Security Act for fiscal year 1994 and to such payments for any succeeding fiscal year.

TITLE II—FOSTER CARE AND ADOPTION ASSISTANCE

SEC. 201. COMPREHENSIVE SERVICE PROJECTS.

(a) IN GENERAL.—Title IV (42 U.S.C. 601 et seq.) is amended by inserting after part B the following:

"PART C—COMPREHENSIVE SERVICE PROJECTS

"SEC. 441. COMPREHENSIVE SERVICE PROJECTS.

"(a) IN GENERAL.—

"(1) PURPOSE.—The purpose of this section is to grant States the flexibility and resources necessary to develop comprehensive and coordinated services designed—

"(A) to preserve and strengthen families with children at risk of placement outside their home;

"(B) to reunite children with their families expeditiously if an out-of-home placement is found to be necessary; and

"(C) to place children in adoptive homes or other permanent arrangements in a timely fashion if reunification with their families is not appropriate.

"(2) METHOD.—The method of this section is to permit any State to apply to the Secretary for permission—

"(A) to conduct a comprehensive service project in accordance with this section in such area or areas of the State as the State may select; and

"(B) to suspend certain requirements of parts B and E with respect to the activities of the State in such area or areas during the project.

"(3) ENTITLEMENT.—For payments to which States authorized to conduct projects under this section are entitled under this part, there shall be available to the Secretary for each fiscal year an amount equal to 10 percent of the aggregate of the amounts that would have been paid to such States under section 423 for the fiscal year, and the amounts that would have been paid to such States under section 434 for the fiscal year if the total sum available for such payments were equal to the basic entitlement amount (as defined in section 430(b)(1)), if the Secretary had approved the State plans of such States under part B for the fiscal year and had not authorized such States to conduct projects under this section for the fiscal year.

"(b) APPLICATIONS.—Not later than 3 months before the fiscal year in which a State intends to commence a comprehensive services project under this section, the State may submit to the Secretary an application to conduct the project which shall contain the following:

"(1) A plan and a timetable for assessing by the end of the fiscal year—

"(A) whether procedures and policies of the child welfare agency of the State, or of the area or areas of the State in which the project is to be conducted, provide for the coordinated delivery of services to children and their families, and the specific barriers that must be overcome to ensure such coordination;

"(B) the service needs of families in the area or areas of the State in which the project is to be conducted whose child or children are at imminent risk of placement outside their home or are in an out-of-home placement in the child welfare, juvenile justice, or mental health system;

"(C) specific service programs available in the area or areas of the State in which the project is to be conducted that address the service needs of such families; and

"(D) the extent to which common practices, policies, and procedures among the child welfare, juvenile justice, and mental health systems in the area or areas of the State in which the project is to be conducted govern the assessment of children and their families, the provision of case plans, the delivery of services to children and their families, and the periodic reviews of the services provided, particularly with regard to families whose child or children are at imminent risk of placement outside their home or are in an out-of-home placement;

"(2) a plan and a timetable for implementing—

"(A) procedures and policies of the child welfare agency of the State, or of the area or areas of the State in which the project is to be conducted, that will result in the coordinated and efficient delivery of the range of child welfare services to families in the child welfare system;

"(B) a comprehensive services program designed to—

"(i) preserve and strengthen families with children at imminent risk of placement outside their home;

"(ii) reunite children with their families expeditiously if an out-of-home placement is found to be necessary;

"(iii) place children in adoptive homes or other permanent arrangements in a timely fashion if reunification with their families is not appropriate;

"(iv) meet the primary service needs of targeted families in the area or areas of the State in which the project is to be conducted who are in the child welfare, juvenile justice, or mental health system and whose child or children are at imminent risk of placement outside their home or are in an out-of-home placement; and

"(v) include, at a minimum, access to substance abuse treatment, parenting education, health, mental health, crisis managment, and counseling services;

"(C) a common assessment tool for targeting which children and families who come to the attention of the child welfare, juvenile justice, and mental health systems will participate in the program described in subparagraph (B);

"(D) joint training of staff from the child welfare, mental health, and juvenile justice systems who will be involved in the program described in subparagraph (B);

"(E) a system for delivering services under the program described in subparagraph (B) to families targeted for the program which ensures a single point of entry and uses a unified case management approach, and thereby minimizes unnecessary and duplicative assessments and services;

"(F) an information system to track children and families across systems who participate in the program described in subparagraph (B), which provides data, not less frequently than annually, on the number of children and families served from each system and the nature of the services provided; and

"(G) a mechanism by which to ensure that relevant information on the service and treatment needs and outcomes of children and their families which is developed through their participation in the program described in subparagraph (B) is made available, as appropriate, to case managers and service providers in the relevant agencies who are charged with making service, placement, and other decisions with respect to the children and their families;

"(3) a statement of the specific outcomes the State expects by conducting the project, which shall include outcomes in at least the following areas—

"(A) an increase in the well-being of children;

"(B) a reduction in placements and expenditures for out-of-home care relative to what would have occurred otherwise;

"(C) an increase in the level and mix of preventive services available to families in the child welfare, juvenile justice, and mental health systems; and

"(D) an increase in coordination and cooperation among the child welfare, juvenile justice, and mental health agencies;

"(4) an assurance that, in developing the application, the State consulted with and received technical assistance from the Advisory Commission on Children and Families established under section 1144;

"(5) a statement from the Advisory Commission on Children and Families containing its recommendation to the Secretary regarding the application;

"(6) a specification of the area or areas of the State in which the project is to be conducted, in which must reside not fewer than 300,000 individuals in the aggregate at the time the application is submitted;

"(7) a certification that all cost savings resulting from the project will be used to provide child welfare services to families;

"(8) a certification that the State will provide the Secretary with such information about the project and the State programs carried out pursuant to parts B and E as the Secretary may request, and will cooperate with the Advisory Commission on Children and Families if the Commission evaluates the project;

"(9) a certification that—

"(A) the State will not use any funds provided under this section to supplant any Federal, State, or local funds used for similar purposes;

"(B) the aggregate amount expended from State and local sources by the State and the political subdivisions thereof for the provision of child welfare services (excluding foster care maintenance payments and adoption assistance payments) during any fiscal year will be not less than the aggregate amount so expended during fiscal year 1992; and

"(C) the aggregate amount expended from State and local sources by the State and the political subdivisions thereof for the provision of child welfare services during any fiscal year will be not less than the aggregate amount so expended during fiscal year 1992;

"(10) a certification that the individual or agency referred to in section 422(b)(1)(A) shall have lead responsibility for the operation and administration of the project under this section;

"(11) a certification by the Governor of the State that project activities will be coordinated among the State child welfare, juvenile justice, and mental health agencies, and other appropriate State agencies; and

"(12) a list of those requirements of parts B and E which are to apply to the project, in addition to the requirements imposed by the provisions specified in subsection (c)(6)(A) of this section.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) NOTIFICATION TO STATES OF APPLICATION REQUIREMENTS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prepare and transmit to each State a detailed explanation of the requirements for conducting a project under this section.

"(2) CONSIDERATION OF APPLICATIONS.—The Secretary shall consider all applications (and amendments thereto) received from States desiring to conduct a project under this section.

"(3) AMENDMENT OF APPLICATIONS.—A State may, at any time and for any fiscal year, submit to the Secretary 1 or more amendments to any application submitted to the Secretary under this section.

"(4) NOTIFICATION TO ADVISORY COMMISSION IF ITS RECOMMENDATIONS ARE NOT FOLLOWED.—If the Secretary takes action on an application submitted under this section in a manner contrary to a recommendation of the Advisory Commission on Children and Families established under section 1144, the Secretary shall provide the Commission with the reasons therefor.

"(5) APPROVAL OF APPLICATIONS.—

"(A) IN GENERAL.—The Secretary shall approve any application of a State to conduct a project under this section, and any amendment thereto, that meets the requirements of this section to the satisfaction of the Secretary.

"(B) CERTAIN APPLICATIONS DEEMED APPROVED.—Except as provided in subsection (h)(2), any application to conduct a project under this section, and any amendment thereto, that is received by the Secretary from a State, is not withdrawn by the State, and is not disapproved by the Secretary within 45 days after receipt shall be deemed to have been approved by the Secretary.

"(C) FREEDOM OF STATES TO SELECT AREAS IN WHICH TO CONDUCT THE PROJECT.—The Secretary may not, as a condition of approval of a State application to conduct a project under this section or of any amendment thereto, require the State to select any particular area or areas of the State in which to conduct the project.

"(D) FREEDOM OF STATES TO SELECT PROVISIONS OF PARTS B AND E TO APPLY TO THE PROJECT.—The Secretary may not, as a condition of approval of a State application to conduct a project under this section or of any amendment thereto, require the project to comply with any provision of part B or E not specified in paragraph (6)(A) of this subsection.

"(6) AUTHORITY TO CONDUCT PROJECT; GRANT AUTHORITY.—If the Secretary approves the application of a State to conduct a project under this section, then—

"(A) the Secretary shall authorize the State to conduct the project in accordance with the approved application therefor and any approved amendments thereto, and the requirements of section 422(b)(9), the provision of section 471(a)(1) requiring the State plan to provide for adoption assistance in accordance with section 473, paragraphs (8), (9), (10), (12), (13), (15), and (16) of section 471(a), and sections 472(h), 473, and 479 shall apply to the project; and

"(B) in lieu of receiving the funds that would otherwise be provided to the State for any fiscal year pursuant to sections 423, 434(a), and 474 (other than with respect to adoption assistance) with respect to the activities of the State in the area or areas of the State in which the project is to be conducted, the State shall be entitled to receive a grant, in accordance with subsection (d) of this section, for each fiscal year, from the amount allotted to the State for the fiscal year under section 421, the amount allotted to the State for the fiscal year under section 432 from the basic entitlement amount (as defined in section 430(b)(1)), the amount to which the State is entitled for the fiscal year under part E, and the amount made available pursuant to subsection (a)(3) of this section.

"(d) ANNUAL GRANTS.—

"(1) AMOUNT OF GRANT.—

"(A) IN GENERAL.—The amount of the grant to be paid under this subsection to a State for a fiscal year shall be the amount determined by the Secretary to be—

"(i) the sum of—

"(I) 110 percent of the aggregate of the amount that would have been paid to the State under section 423 for the fiscal year, and the amount that would have been paid to such States under section 434 for the fiscal year if the total sum available for such payments were equal to the basic entitlement amount (as defined in section 430(b)(1)), if the Secretary had approved the State plan under part B for the fiscal year and had not authorized the State to conduct a project under this section for the fiscal year; and

"(II) the aggregate of the expenses for which the State would properly have submitted a claim for reimbursement under section 474 (other than with respect to adoption assistance) for the fiscal year if the Secretary had approved the State plan under part E for the fiscal year and had not authorized the State to conduct a project under this section for the fiscal year;

multiplied by

"(ii) the quotient equal to—

"(I) the number of children in the area or areas in which the project is to be conducted under this section with respect to whom the State would have made foster care maintenance payments under section 472 for the fiscal year if the Secretary had approved the State plan under part E for the fiscal year and had not authorized the State to conduct the project; divided by

"(II) the total number of children in the State with respect to whom the State would have so made such payments for the fiscal year.

"(B) CALCULATION OF GRANT AMOUNT.—The Secretary shall calculate the expenses for which a State would properly have submitted a claim for reimbursement under section 474 (other than with respect to adoption assistance) for a fiscal year by—

"(i) determining the amount paid to the State with respect to such expenses for the fiscal year immediately preceding the fiscal year in which the State commenced (or is to commence) the project under this section;

"(ii) adjusting such amount annually by a rate which reflects the average annual rate at which expenditures by the State on behalf of foster care children under part E have increased for the 3-year period ending with the commencement of the project; and

"(iii) increasing such amount, to the extent the Secretary deems appropriate, by taking into account—

"(I) any estimate made by the State of the expenses for which the State would properly have submitted such a claim for reimbursement for the fiscal year;

"(II) the projected rate of inflation for the fiscal year;

"(III) the rate at which the number of children on whose behalf the Federal Government has reimbursed foster care maintenance payments made by States not participating in the project has recently increased (emphasizing those nonparticipating States which have similar child welfare programs and similar foster care caseload characteristics), as determined by the Secretary;

"(IV) changes in State laws or procedures that have the effect of changing the rate at which children are placed in foster care or changing the costs of maintaining children in foster care;

"(V) the amount (if any) by which—

"(aa) the national average number of children per State who, as of the end of the fiscal year immediately preceding the commencement of the project, have not attained the age of 18 years and were eligible for benefits under the respective State plan under part E (expressed as a percentage of the total population of children in the respective State who have not so attained such age); exceeds

"(bb) the number of such children in the State (expressed as a similar percentage); and

"(VI) other factors deemed appropriate by the Secretary.

"(2) NOTIFICATION TO STATES OF AMOUNT OF GRANTS.—The Secretary shall notify each State of the amount of the grant to be made to the State for a fiscal year under this subsection, not later than—

"(A) in the case of the first grant with respect to an approved application, the later of—

"(i) 45 days after the Secretary receives the application therefor; or

"(ii) August 1 of the fiscal year immediately preceding the fiscal year for which the grant is to be made; and

"(B) in any other case, August 1 of such immediately preceding fiscal year.

"(3) GRANTS TO BE PAID IN EQUAL QUARTERLY INSTALLMENTS.—The Secretary shall pay each grant under this subsection in equal quarterly installments.

"(e) PRESERVATION OF CERTAIN BENEFITS.—During the period in which a State is conducting a project under this section—

"(1) the State may not carry out the project in a manner which impairs the entitlement of any child to—

"(A) the foster care benefits the child would have received under a State plan approved under part E if the Secretary had approved the State plan under part E for the fiscal year and had not authorized the State to conduct a project under this section for the fiscal year; or

"(B) any other benefit to which the child is entitled by law; and

"(2) the State shall, for purposes of section 402(a)(20), be deemed to have in effect a State plan approved under part E.

"(f) REPORT ON EXPENDITURES.—

"(1) IN GENERAL.—Not later than April 1 of the fiscal year immediately following each fiscal year for which a State conducts a project under this section, the State shall prepare and submit to the Secretary and the Advisory Commission on Children and Families established under section 1144 a report on the funds expended under the project.

"(2) FORM AND CONTENT.—

"(A) IN GENERAL.—The report required by paragraph (1) shall be in such form and contain such information as the State finds necessary to—

"(i) accurately describe how the grant made under this section for the fiscal year was used;

"(ii) provide a complete record of how the grant funds were expended; and

"(iii) enable a determination of the extent to which the funds were spent in a manner consistent with the application therefor.

"(B) INCLUSION OF INFORMATION ON COMPARATIVE FINANCIAL CONTRIBUTIONS.—The report required by paragraph (1) for a fiscal year shall include the information described in section 422(b)(10) for the 2nd preceding fiscal year.

"(g) ADMINISTRATIVE REMEDIES FOR UNSUCCESSFUL PROJECTS.—If the Secretary has determined that the State is not conducting the project in accordance with this section or is not making satisfactory progress toward the achievement of the plans of the State, the Secretary may—

"(1) provide technical assistance to the project;

"(2) require the State to take corrective action with respect to the project; or

"(3) after notice and opportunity for hearing, reduce the payments that would otherwise be due the State under this section by an amount which the Secretary determines is appropriate.

"(h) TERMINATION OF PROJECTS.—

"(1) IN GENERAL.—Any State authorized to conduct a project under this section shall discontinue the project at the end of a fiscal year—

"(A) if the State has notified the Secretary that the State intends to discontinue the project at the end of the fiscal year; or

"(B) if the Secretary has determined that the State is not conducting the project in accordance with this section or is not making satisfactory progress toward the achievement of the plans of the State, and the Secretary does not plan to take action under subsection (g) during the fiscal year with respect to the project.

"(2) EFFECT OF PROJECT TERMINATION.—

"(A) IN GENERAL.—On the discontinuance of a project of a State under this section, parts B and E shall apply with respect to the population of, and the activities of the State in, the area or areas of the State in which the project was conducted.

"(B) PROJECT MAY NOT BE RESUMED FOR 5 YEARS.—A State may not conduct a project under this section during the 5-year period beginning with the discontinuance of a project of the State under this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 202. ABANDONED CHILDREN.

(a) ELIGIBILITY FOR FOSTER CARE MAINTENANCE PAYMENTS.—Section 472 (42 U.S.C. 672), as amended by section 204(a) of this Act, is amended—

(1) in subsection (b), by striking "or (i)" and inserting ", (i), or (j)"; and

(2) by adding at the end the following:

"(j) Any State with a plan approved under this part may make foster care maintenance payments with respect to any child in the State entering foster care on or after October 1, 1993—

"(1) who has been abandoned by his or her parents, as determined by a court of competent jurisdiction;

"(2) for whom the State child welfare agency cannot, despite diligent efforts, determine the financial circumstances and living arrangements of the parents of the child; and

"(3) who meets the requirements of subsection (a)(2).".

(b) ELIGIBILITY FOR ADOPTION ASSISTANCE PAYMENTS.—Section 473(a)(7) (42 U.S.C. 673(a)(7)), as added by the amendment made by section 204(b) of this Act, is amended by striking "section 472(i)" and inserting "subsection (i) or (j) of section 472".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1993, and shall apply to payments under part E of title IV of the Social Security Act in or after fiscal year 1994.

SEC. 203. CLARIFICATION OF REMOVAL FROM HOME REQUIREMENT.

(a) FOSTER CARE MAINTENANCE PAYMENTS PROGRAM.—Section 472 (42 U.S.C. 672) is amended—

(1) in the first sentence of subsection (a)—

(A) in the matter preceding paragraph (1), by inserting "or from the legal custody" after "removal from the home";

(B) in paragraph (1)—

(i) by inserting "or from such legal custody, as the case may be" after "from the home"; and

(ii) by striking "therein" and inserting "in the home or of such legal custody, as the case may be,";

(C) in paragraph (2), by inserting "and" after the semicolon;

(D) in paragraph (3), by striking "; and" and inserting a period; and

(E) in paragraph (4), by inserting "or from the legal custody" after "removal from the home";

(2) in the second sentence of subsection (a), by inserting "or from the legal custody of a relative (specified in section 406(a))" after "from the home";

(3) in subsection (d), by inserting "or from the legal custody of their relatives" after "their homes";

(4) in subsection (e), by inserting "or from the legal custody of his or her relative" after "his or her home"; and

(5) in subsection (g)—

(A) in paragraph (2), by inserting "or into their legal custody or into the legal custody of a relative" before the comma; and

(B) in the matter following paragraph (2), by inserting "or into such legal custody, as the case may be," after "such home".

(b) ADOPTION ASSISTANCE PROGRAM.—Section 473 (42 U.S.C. 673) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A)(i)—

(i) by inserting "or from the legal custody" after "removal from the home"; and

(ii) by striking "therein" and inserting "in the home or of such legal custody, as the case may be,"; and

(B) in subparagraph (B)(i), by inserting "or from such legal custody, as the case may be" after "removal from the home"; and

(2) in subsection (c)(1), by inserting "or legal custody" after "home".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1992, and shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year.

(d) RETROACTIVE APPLICATION OF CLARIFIED REQUIREMENT.—

(1) IN GENERAL.—Any State may, in accordance with paragraph (2), submit to the Secretary of Health and Human Services a claim for reimbursement of amounts expended by the State during the 10-year period that begins with October 1, 1982—

(A) with respect to children placed in foster care or for adoption; and

(B) for which the State would have received reimbursement under section 474 of the Social Security Act had the amendments made by this section been in effect at the time of the expenditure.

(2) DEADLINE FOR SUBMISSION OF CLAIM.—

(A) OLDER EXPENDITURES.—Any claim described in paragraph (1) with respect to an amount expended during the period beginning October 1, 1982, and ending 1 year before the date of the enactment of this Act shall be submitted not later than 1 year after such date of enactment.

(B) NEWER EXPENDITURES.—Any claim described in paragraph (1) with respect to an amount expended during the period beginning 1 year before the date of the enactment of this Act and ending on September 30, 1992, shall be submitted not later than 2 years after the date of the expenditure.

SEC. 204. DISSOLVED ADOPTIONS.

(a) ELIGIBILITY FOR FOSTER CARE MAINTENANCE PAYMENTS.—Section 472 (42 U.S.C. 672) is amended—

(1) in subsection (b), by inserting "or (i)" after "subsection (a)"; and

(2) by adding at the end the following:

"(i) Any State with a plan approved under this part may make foster care maintenance payments under this part on behalf of a child—

"(1) with respect to whom such payments were previously made;

"(2) whose adoption has been set aside by a court;

"(3) who meets the requirements of paragraphs (1), (2), and (3) of subsection (a); and

"(4) who fails to meet the requirements of subsection (a)(4) but would meet such requirements if—

"(A) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for such payments; and

"(B) the adoption were treated as having never occurred.".

(b) ELIGIBILITY FOR ADOPTION ASSISTANCE PAYMENTS.—Section 473(a) (42 U.S.C. 673(a)) is amended by adding at the end the following:

"(7) Any State with a plan approved under this part may enter into an adoption assistance agreement with the adoptive parents of any child with respect to whom the State may make foster care maintenance payments under section 472(i).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1992, and shall apply to payments under part E of title IV of the Social Security Act in or after fiscal year 1993.

SEC. 205. RESPITE CARE.

(a) IN GENERAL.—

(1) STATE PLAN OPTION.—Section 471(a) (42 U.S.C. 671(a)) is amended—

(A) by striking "and" at the end of paragraph (16);

(B) by striking the period at the end of paragraph (17) and inserting "; and"; and

(C) by adding at the end the following:

"(18) at the option of the State, provides for respite care in accordance with section 480, and specifies the factors and conditions used by the State to identify children with special needs.".

(2) RESPITE CARE PROGRAM.—Part E of title IV (42 U.S.C. 670-679) is amended by adding at the end the following:

"SEC. 480. RESPITE CARE.

"(a) IN GENERAL.—Each State with a plan approved under this part that provides for respite care shall provide such care to any family which operates a foster family home for 1 or more foster children who the State determines have special needs (whether or not foster care maintenance payments are made under the State plan with respect to such child or children), in accordance with all applicable State and local standards and guidelines and in the least restrictive setting consistent with the special needs of such child or children.

"(b) RESPITE CARE DEFINED.—As used in this section, the term 'respite care' means, with respect to the family of a foster child, care authorized by a State, or provided by a public or private agency designated by a State, to provide temporary relief for the foster parent caregiver or caregivers of the child.

"(c) LIMITATION ON EXPENSES ELIGIBLE FOR REIMBURSEMENT.—Expenditures for only the first 14 days of respite care provided during a fiscal year with respect to a child are eligible for reimbursement under section 474(a). As used in the preceding sentence, the term 'day' means any period of 24 consecutive hours.".

(3) PAYMENTS TO STATES.—Section 474(a)(1) (42 U.S.C. 674(a)(1)) is amended by inserting "plus the amount expended during such quarter for the provision of respite care that is eligible for reimbursement under section 480" before the semicolon.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1993, and shall apply to payments under part E of title IV of the Social Security Act for expenditures made in or after fiscal year 1994.

SEC. 206. EXTENSION OF DEFINITION OF CHILDREN WITH SPECIAL NEEDS.

(a) IN GENERAL.—Section 473(c) (42 U.S.C. 673(c)), as amended by section 203(b)(2) of this Act, is amended to read as follows:

"(c)(1) For purposes of this section, a child shall not be considered a child with special needs unless the State determines that the child meets the requirements of subparagraph (A) or (B):

"(A) A child meets the requirements of this subparagraph if all of the following clauses apply to the child:

"(i) The child cannot or should not be returned to the home or the legal custody of the parents of the child.

"(ii) There exists a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps), or information available and known about the child's genetic or social history indicating a high risk of medical conditions or physical, mental, or emotional handicaps, which makes it reasonable to conclude that the child cannot be placed for adoption without providing adoption assistance under this section or medical assistance under title XIX.

"(iii) Except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in their care as a foster child or a relative, a reasonable but unsuccessful effort has been made to place the child with appropriate adoptive parents without providing adoption assistance or medical assistance under title XIX.

"(B) A child meets the requirements of this subparagraph if the child—

"(i) has been adopted;

"(ii) immediately before the adoption was under the care and responsibility of the State agency administering or supervising the administration of the State programs under this part; and

"(iii) has a mental, physical, or emotional handicap that—

"(I) existed before the adoption but was not diagnosed until after the adoption; or

"(II) first manifests itself after the adoption but is congenital or was caused before the adoption.

"(2) Each State shall submit to the Secretary the factors and conditions used by the State to identify children with special needs for purposes of this section, and any modifications to such factors and conditions.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993, and shall apply with respect to children who are adopted after September 30, 1993, and who become eligible for adoption assistance payments under section 473 of the Social Security Act in or after fiscal year 1994.

SEC. 207. STUDY OF REASONABLE EFFORTS REQUIREMENT BY ADVISORY COMMITTEE.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish an Advisory Committee on Foster Care Placement (in this section referred to as the "Advisory Committee") to study and make recommendations concerning the implementation of the requirements imposed under section 471(a)(15) of the Social Security Act.

(b) MEMBERSHIP.—The Advisory Committee shall consist of not fewer than 9 members. In appointing persons to the Advisory Committee, the Secretary shall include representatives of the following types of organizations and agencies:

(1) Private, nonprofit organizations with an interest in child welfare (including such organizations that provide child protective services, foster care services, adoption services, or family support services).

(2) Agencies of States and political subdivisions thereof responsible for child protective services, foster care services, or adoption services.

(3) Judicial bodies of States and political subdivisions thereof responsible for adjudicating issues of family law (as defined and determined by the Secretary).

(4) Attorneys and others who represent children and their parents.

(c) COMPENSATION OF COMMITTEE MEMBERS.—

(1) MEMBERS WHO ARE NOT FULL-TIME FEDERAL OFFICERS OR EMPLOYEES.—Each member of the Advisory Committee who is not a full-time officer or employee of the United States shall, while engaging in the business of the Advisory Committee (including travel time) be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the daily rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(2) PROHIBITION AGAINST COMPENSATION OF FULL-TIME FEDERAL OFFICERS OR EMPLOYEES.—Each member of the Advisory Committee who is a full-time officer or employee of the United States may not receive additional pay, allowances, or benefits by reason of service on the Commission.

(3) TRAVEL EXPENSES.—While away from their homes or regular places of business and on the business of the Advisory Committee, the members of the Advisory Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(d) HIRING AUTHORITY.—The Advisory Committee may employ and fix the level of compensation for 1 individual.

(e) REPORT.—Not later than April 1, 1994, the Advisory Committee shall submit a report to the Secretary and to the Congress that includes legislative or other recommendations concerning the implementation of the requirements imposed under section 471(a)(15) of the Social Security Act.

SEC. 208. AUTOMATED SYSTEMS.

(a) ENHANCED MATCH.—

(1) PAYMENTS TO STATES.—

(A) IN GENERAL.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended—

(i) by striking "and" at the end of subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (E); and

(iii) by inserting after subparagraph (B) the following:

"(C) 90 percent of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 90 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—

"(i) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

"(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect; and

"(iii) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under the State plan approved under part B or the State plan approved under this part; and

"(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and".

(B) TREATMENT OF STATE EXPENDITURES FOR DATA COLLECTION AND INFORMATION RETRIEVAL SYSTEMS.—Section 474 (42 U.S.C. 674) is amended by adding at the end the following:

"(e) The Secretary shall treat as necessary for the proper and efficient administration of the State plan approved under this part all expenditures of a State that are necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.".

(C) CONFORMING AMENDMENT.—Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)), as amended by section 505(b) of this Act, is amended by striking "474(a)(3)(C)" and inserting "474(a)(3)(E)".

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments under part E of title IV of the Social Security Act for expenditures made on or after the date of the enactment of this Act.

(2) TERMINATION OF ENHANCED MATCH.—

(A) IN GENERAL.—Section 474(a)(3)(C) (42 U.S.C. 674(a)(3)(C)), as amended by paragraph (1)(A)(iii) of this subsection, is amended by striking "90" each place such term appears and inserting "50".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect at the end of the calendar quarter in which occurs the end of the 3-year period beginning on the date of the enactment of this Act.

(C) CONSTRUCTION.—The amendment made by subparagraph (A) of this paragraph shall not be construed to affect any right, entitlement, or duty granted or imposed by, or arising by reason of, the amendments made by paragraph (1).

(b) IMPLEMENTATION OF AUTOMATED SYSTEMS.—

(1) DEFERRAL OF IMPLEMENTATION DEADLINE.—Section 479(b)(2) (42 U.S.C. 679(b)(2)) is amended by striking "October 1, 1991" and inserting "1 year after the date such regulations are promulgated".

(2) ESTABLISHMENT OF GROUP TO ADVISE SECRETARY ON PLANNING AND IMPLEMENTATION.—Section 479 (42 U.S.C. 679) is amended by adding at the end the following:

"(d) The Secretary shall establish a work group to advise the Secretary on the planning and implementation of the system to be used for the collection of data relating to adoption and foster care in the United States. Such group shall include representatives of—

"(1) organizations described in subsection (a)(4)(B)(ii); and

"(2) other appropriate groups.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 209. PERIODIC REEVALUATION OF FOSTER CARE MAINTENANCE PAYMENTS.

(a) IN GENERAL.—Section 471(a)(11) (42 U.S.C. 671(a)(11)) is amended to read as follows:

"(11)(A) provides for periodic review of the standards referred to in paragraph (10) to assure their continuing appropriateness; and

"(B) provides for the review, not less frequently than once every 3 years, of the amounts paid as foster care maintenance payments and adoption assistance to assure their continuing appropriateness, and a report to the Secretary and the public on the results of such review at such time and in such form and manner as the Secretary may by regulation require, which contains, at a minimum—

"(i) a statement of the manner in which the foster care maintenance payment level is determined, including information on the cost of foster care with respect to which such payments are made;

"(ii) information with respect to the basic foster care maintenance payment level, whether such payment level includes an amount to cover the cost of clothing, and whether such payment level varies by the type of care or the special needs or age of the child, and if so, the payment levels for each special needs, care, or age category;

"(iii) if such payments are not made at a different rate for children with special needs who test positive for human immunodeficiency virus, have acquired immune deficiency syndrome, are addicted to drugs, or suffer from complications due to exposure to drugs or alcohol, the reasons therefor; and

"(iv) information on any limitations imposed by the State on adoption assistance payments levels;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year.

SEC. 210. ACCELERATED DISPOSITIONAL HEARING.

(a) IN GENERAL.—Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by striking "eighteen months" and inserting "12 months".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994, and shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1995 and to such payments for any succeeding fiscal year.

SEC. 211. PERIODIC REVIEW OF CHILDREN FREE FOR ADOPTION.

(a) IN GENERAL.—Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by striking "which hearing shall determine" and all that follows through "independent living; and" and inserting "which hearing shall—

"(i) determine the future status of the child, including whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis;

"(ii) if the hearing determines that the child should be placed for adoption, determine and document the measures needed to enhance the likelihood of making the child legally eligible for adoption and of finding an adoptive home for the child;

"(iii) if the child is legally eligible for adoption, determine and document—

"(I) the specific measures which have been taken, and the specific measures which need to be taken, to make an adoptive placement; or

"(II) a finding that placement of the child in an adoptive family would be inappropriate; and

"(iv) if the child has attained age 16, determine the services needed to assist the child to make the transition from foster care to independent living; and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994, and shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1995 and to such payments for any succeeding fiscal year.

SEC. 212. TIME FRAME FOR JUDICIAL DETERMINATIONS ON VOLUNTARY PLACEMENTS.

(a) IN GENERAL.—Section 472(e) (42 U.S.C. 6762(e)) is amended—

(1) by striking "No" and inserting "(1) Except as provided in paragraph (2), no"; and

(2) by adding at the end the following:

"(2) If the judicial determination referred to in paragraph (1) is made after the 180-day period described therein, the payments referred to therein may not be made for the period that begins at the end of the 180-day period and ends 180 days after the date of the judicial determination, but may be made for periods thereafter.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1992, shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year, and shall apply to foster care placements made on or after October 1, 1992.

SEC. 213. PLACEMENT ACCOUNTABILITY.

(a) CASE PLAN PROVISIONS REQUIRED FOR CHILDREN IN OUT-OF-STATE FOSTER CARE PLACEMENTS.—Section 475(1) (42 U.S.C. 675(1)) is amended by inserting after subparagraph (C) the following:

"(D) In the case of a child receiving foster care maintenance payments under section 472 who is placed in a facility outside the State, a finding that—

"(i) efforts have been made to place the child in a facility in the State;

"(ii) the child needs services not available in the State;

"(iii) the placement is in the least restrictive (most family like) setting available, consistent with the best interest and the special needs of the child; and

"(iv) the placement has been approved by—

"(I) a court; or

"(II) a committee (such as a foster care review board), established by the State, that reviews placements outside the State and that, in addition to the appropriate State personnel, includes child advocates, parents, and other individuals the State deems appropriate.".

(b) STATUS OF CHILDREN IN OUT-OF-STATE FOSTER CARE PLACEMENTS TO BE JUDICIALLY REVIEWED ANNUALLY WITH THE CHILD PRESENT.—Section 475(5)(B) (42 U.S.C. 675(5)(B)) is amended by adding at the end the following: "and in the case of a child who is placed by a State in a foster care facility outside the State, the status of the child shall be reviewed by a court, not less frequently than annually, with the child present, unless the court determines that due to the age or condition of the child, or for some other good cause, the presence of the child would be detrimental to the child or would not accomplish a useful purpose,".

(c) State Plan Requirement.—Section 471(a) (42 U.S.C. 671(a)), as amended by section 205(a)(1) of this Act, is amended—

(1) by striking "and" at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting "; and"; and

(3) by adding at the end the following:

"(19) provides that the State agency must ensure that any facility outside the State in which a child eligible for foster care maintenance payments under section 472 is placed meets all originating State standards applicable to child care facilities, or is operated in accord with recommended standards of national organizations concerned with standards for such facilities, including standards of the types described in paragraph (10).".

(d) Collection of Data on Numbers of Children in Out-of-State Foster Care Placements.—Section 479(c)(3)(C) (42 U.S.C. 679(c)(3)(C)) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by adding at the end the following:

"(iii) children placed in foster care outside the State, and".

(e) Effective Dates.—

(1) Case plan and state plan changes.—The amendments made by subsections (a), (b), and (c) shall take effect on October 1, 1993 and shall apply to payments under part E of title IV of the Social Security Act for expenditures made in or after fiscal year 1994.

(2) Data collection.—The amendments made by subsection (d) shall take effect on October 1, 1994 and shall apply to payments under part E of title IV of the Social Security Act for expenditures made in or after fiscal year 1995.

(f) Study of Reasons for Making Out-of-State Foster Care Placements.—In order for a State to receive payments under section 474 of the Social Security Act for amounts expended after fiscal year 1994 for foster care maintenance payments under section 472 of such Act made with respect to children placed by the State in foster care outside the State, the State shall, by the end of such fiscal year, conduct and submit to the Secretary a study designed to identify—

(1) the number of such children and the characteristics (if any) common to such children; and

(2) the reasons why such children were not placed in foster care in the State.

SEC. 214. TREATMENT OF ASSETS OF YOUTH PARTICIPATING IN INDEPENDENT LIVING PROGRAM.

(a) Accumulation of Assets.—Section 477 (42 U.S.C. 677) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

"(i) Notwithstanding any other provision of this title, with respect to a child who is included in a program established under subsection (a), an amount of the assets of the child which would otherwise be regarded as resources for the purposes of determining eligibility for programs under this title may be disregarded for the purpose of allowing the child to establish a household. Such amount may not exceed an amount determined by the State agency responsible for the administration of the program as reasonable for the purpose of establishing a household.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on October 1, 1992, and shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year.

SEC. 215. ELIMINATION OF FOSTER CARE CEILINGS AND OF AUTHORITY TO TRANSFER UNUSED FOSTER CARE FUNDS TO CHILD WELFARE SERVICES PROGRAMS.

(a) Repeal.—Subsections (b) and (c) of section 474 (42 U.S.C. 674 (b) and (c)) are hereby repealed.

(b) Conforming Amendments.—Section 474 (42 U.S.C. 674), as amended by sections 208(a)(1)(B) and 218(f)(1) of this Act, is amended—

(1) in subsection (d)—

(A) by striking "subsections (a), (b), and (c)" and inserting "subsection (a)"; and

(B) by striking "the provisions of such subsections" and inserting "subsection (a)"; and

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 1992, and shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year.

SEC. 216. REGULATIONS FOR TRAINING OF AGENCY STAFF AND OF FOSTER AND ADOPTIVE PARENTS.

(a) In General.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish an advisory committee which shall include representatives of—

(1) nonprofit organizations with an interest in child welfare (including organizations that train professional social workers in the field of child welfare services); and

(2) organizations representing State and local governmental agencies with responsibility for foster care and adoption services.

(b) Final Regulations.—Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall, after consultation with the advisory committee established under subsection (a), issue final regulations setting forth detailed guidelines to assist States in using Federal matching funds authorized to be provided under section 474(a)(3) of the Social Security Act for the purpose of training for—

(1) individuals who are employed, or preparing for employment, by the agencies with responsibility for administering the foster care and adoption assistance programs of the States under part E of title IV of such Act; and

(2) foster and adoptive parents.

SEC. 217. PUBLICATION OF PROGRAM DATA.

(a) In General.—Section 479 (42 U.S.C. 679) is amended by adding after the subsection added by section 208(b)(2) of this Act the following:

"(e) Not later than January 31 of each year, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and shall make available to the public at a charge equal to the cost of printing, a report containing the following information, at least for the most recent fiscal year for which such information is available:

"(1) A detailed summary, and a breakdown by State, of—

"(A) the expenditures of each State for the program during the fiscal year for each of the programs funded under part B, part C, or this part, broken down in a manner that shows the extent to which such expenditures were made from funds provided by each of Federal or State sources; and

"(B) to the extent available, the number of children or families participating in each of such programs.

"(2) Information detailing the schedule and result of the reviews conducted under the regulatory review system established in accordance with section 491, including information on payments withheld, reduced, or sought, or intended by the Secretary to be withheld, reduced, or sought, from each State as a result of such reviews.

"(3) The information described in clauses (ii) and (iii) of section 471(a)(11)(B).

"(4) An analysis of the services provided with funds made available under part B.

"(5) A listing and summary of ongoing research, training, and demonstration projects funded under section 426 or 1144(c) of this Act or under section 504 of the Family Preservation Act of 1992, and the expected date for the publication of any evaluations of, conclusions based on, or analyses of such projects.

"(6) Any other information the Secretary deems useful to monitor the operations of the program.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 218. REVIEW OF CHILD WELFARE ACTIVITIES.

(a) New System for Reviewing Child Welfare Activities.—

(1) In general.—Title IV (42 U.S.C. 601 et seq.) is amended by adding at the end the following:

"PART G—CHILD WELFARE REVIEW SYSTEM

"SEC. 491. CHILD WELFARE REVIEW SYSTEM.

"(a) Establishment by Regulation.—

"(1) In general.—The Secretary shall establish, by regulation, a system for—

"(A) the review of each State child welfare program for the purposes of—

"(i) assessing whether the program is being carried out as required by parts B and E;

"(ii) identifying any area in which the program is not being carried out as so required, and the degree to which the program is not being so carried out; and

"(iii) in cases of a substantial failure to comply with certain requirements of part B or E, imposing financial penalties proportional to the degree of such failure to comply, unless action is taken to correct such failure; and

"(B) the provision of technical assistance to any such program.

"(2) State child welfare program defined.—As used in this section, the term 'child welfare program' means, with respect to a State—

"(A) all activities engaged in by, or under contract with, the State for the purpose of carrying out the State plan for child welfare services under part B; and

"(B) all activities engaged in by, or under contract with, the State for the purpose of carrying out the State plan approved by the Secretary under part E.

"(b) Content of Regulations.—The regulations required by subsection (a) shall—

"(1) require each State child welfare program to be reviewed on a fiscal year basis to determine—

"(A) whether and, where appropriate, the degree to which, the program complies with the requirements of the State plans referred to in subsection (a)(2); and

"(B) the extent to which the amounts claimed to have been expended by the State for foster care maintenance payments under section 472 and for adoption assistance payments under section 473 are eligible for reimbursement under part E;

"(2) specify the criteria that are to be used to assess, with respect to each subparagraph of paragraph (1)—

"(A) whether the program has complied with the requirements that apply to the matters described in such subparagraph; and

"(B) the degree of such compliance;

"(3)(A) after taking into account the average performance of all States in carrying out the State plans referred to in subsection (a)(2), establish, with respect to each subparagraph of paragraph (1) of this subsection (and, for each subparagraph, with respect to such conduct as the Secretary may deem especially important)—

"(i) thresholds beyond which the program will be determined to have failed to comply with the requirements that apply to the matters described in such subparagraph; and

"(ii) thresholds beyond which a failure of the program to comply with such applicable requirements will be determined to be substantial; and

"(B) notwithstanding subparagraph (A), for the first review of any State under this section, establish and apply such initial thresholds of the types described in subparagraph (A) as the Secretary deems appropriate;

"(4) require the thresholds established under paragraph (3)(A) to be periodically reviewed and, if necessary, revised to take into account information from completed reviews under such regulations and changes in State performance;

"(5) require that the procedures used to determine the degree to which a State child welfare program is carried out in compliance with the applicable requirements—

"(A) enable a single, integrated, and timely review of all matters referred to in paragraph (1);

"(B) include the sampling of foster care maintenance payments made under section 472, adoption assistance payments made under section 473, and payments for such other activities under the State plan approved under part E as the Secretary deems appropriate;

"(C) be applied uniformly to each State program; and

"(D) be periodically reviewed and, if necessary, revised to take into account information from completed reviews under such regulations;

"(6) provide that a deficiency or error in the State child welfare program is not to be taken into account if the deficiency or error is—

"(A) due to the State's failure to properly implement changes in Federal statute within the 6-month period beginning with the date the statute takes effect or, if later, within the 6-month period beginning with the date the regulation is issued if the regulation is reasonably necessary to construe or apply the statute;

"(B) due to the State's reliance upon and correct use of erroneous information provided by the Secretary about matters or fact;

"(C) due to the State's reliance upon and correct use of written statements of Federal policy provided to the State by the Secretary; or

"(D) of a technical nature and does not materially affect the performance of the program or the protection of children who are in, or at risk of being placed in, foster care;

"(7) establish the method by which a financial penalty is to be calculated, with respect to each subparagraph of subsection (b)(1), if a failure of the State child welfare program to comply with the requirements that apply to the matters described in such subparagraph is determined to be substantial; and

"(8) provide that the financial penalty to be imposed for a failure described in paragraph (7) is—

"(A) proportional to the degree of the failure; and

"(B) to the extent appropriate, based on the formula used to determine the amount of a disallowance under section 408(f).

"(c) FREQUENCY OF REVIEWS.—Not less frequently than once every 3 years, the Secretary shall complete a review of each State child welfare program for the most recently completed fiscal year under the regulatory review system established in accordance with this section.

"(d) EFFECTS OF DETERMINATIONS OF NONCOMPLIANCE.—

"(1) NOTIFICATION.—The Secretary shall provide timely notification to any State of any determination under this section that the State child welfare program has failed, with respect to any subparagraph of subsection (b)(1), to comply with the requirements that apply to the matters described in such subparagraph, and shall include with such notice—

"(A) the basis for the determination; and

"(B) the amount of the financial penalty (if any) imposed on the State under the regulations issued under this section.

"(2) ACTIONS AUTHORIZED IN CASES OF NONCOMPLIANCE OTHER THAN SUBSTANTIAL NONCOMPLIANCE.—If, under the regulatory review system established in accordance with this section, a State child welfare program is determined to have failed, with respect to any subparagraph of subsection (b)(1), to comply with the requirements that apply to the matters described in such subparagraph, and the failure is not substantial, the Secretary—

"(A) may require the State to submit to the Secretary a plan and a timetable for taking action to correct the deficiencies or errors constituting the failure to comply;

"(B) may annually review the progress of the State in carrying out the corrective action plan; and

"(C) shall offer to the State technical assistance in such areas of the program as the Secretary may deem appropriate.

"(3) ACTIONS REQUIRED IN CASES OF SUBSTANTIAL NONCOMPLIANCE.—If, under the regulatory review system established in accordance with this section, the failure of a State child welfare program is determined to be substantial with respect to any subparagraph of subsection (b)(1), the Secretary shall—

"(A) impose upon the State the financial penalty required by the regulatory review system;

"(B) make available to the State technical assistance designed to enable the State to carry out the program in compliance with the requirements that apply to the matters described in such subparagraph; and

"(C) annually review the progress of the State in complying with such requirements, until the State carries out the program in substantial compliance with such requirements.

"(e) SUSPENSION OF FINANCIAL PENALTIES.—

"(1) IN GENERAL.—The Secretary shall suspend any financial penalty that the Secretary has imposed on a State under this section—

"(A) if the State submits to the Secretary a plan and a timetable for taking action to correct the deficiencies or errors constituting the failure to comply with respect to which the penalty was imposed, and the Secretary approves the corrective action plan and timetable; and

"(B) for so long as the Secretary finds that the plan is being fully implemented in accordance with the timetable.

"(2) AUTHORITY TO REVISE CORRECTIVE ACTION PLAN AND TIMETABLE.—The Secretary may approve such changes to any corrective action plan and timetable submitted by a State under paragraph (1) as the Secretary deems appropriate to enable the State to correct the deficiencies or errors with respect to which the plan and timetable were submitted.

"(f) RESCISSION OF FINANCIAL PENALTIES.—The Secretary shall rescind any financial penalty that the Secretary has imposed on a State under this section, upon a finding by the Secretary that—

"(1) the State has fully implemented the plan in accordance with the timetable; and

"(2) the State is in substantial compliance with the requirements with respect to which the penalty was imposed.

"(g) ADMINISTRATIVE REVIEW.—

"(1) IN GENERAL.—Within a reasonable time after a State is notified of a determination under this section that the failure of a State child welfare program to comply with applicable requirements is substantial, and of the amount of the financial penalty imposed on the State under this section with respect to such failure, the State may appeal the determination and the imposition of the penalty (in whole or in part) to the Departmental Appeals Board established in the Department of Health and Human Services, by filing an appeal with the Board.

"(2) AUTHORITY OF BOARD TO ADJUST PENALTY.—The Board may adjust the amount of the financial penalty to be imposed under this section, taking into account—

"(A) the amount of the financial penalty imposed by the Secretary;

"(B) the proportionality of the penalty to the degree of the failure; and

"(C) where appropriate, whether the failure materially affected the protection of children who are in, or at risk of being placed in, foster care.

"(h) JUDICIAL REVIEW.—

"(1) IN GENERAL.—Within a reasonable time after a decision by the Departmental Appeals Board with respect to the imposition of a penalty under the regulatory review system established in accordance with this section, the State may obtain judicial review of the decision by filing an action in—

"(A) the district court of the United States for the judicial district in which the principal or headquarters office of the agency responsible for administering the State child welfare program is located; or

"(B) the United States District Court for the District of Columbia.

"(2) PROCEDURAL RULES.—The district court shall review the decision of the Board on the record established in the proceedings before the Board, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) FINAL REGULATIONS.—

(1) DEADLINE FOR ISSUANCE.—Not later than April 1, 1993, the Secretary of Health and Human Services shall issue, in final form,

the regulations required by section 491 of the Social Security Act.

(2) Applicability.—Such regulations shall apply to conduct occurring on or after October 1, 1993.

(c) Conforming Amendment.—

(1) In general.—Section 471(b) (42 U.S.C. 671(b)) is amended by striking all that follows the first sentence.

(2) Effective date.—The amendment made by paragraph (1) shall take effect on October 1, 1993.

(d) All State Child Welfare Programs To Be Reviewed by the End of Fiscal Year 1997.—Not later than September 30, 1997, the Secretary of Health and Human Services shall complete at least 1 review of each State child welfare program (as defined in section 491 of the Social Security Act) under the regulatory review system established in accordance with such section.

(e) Prohibition Against Collecting Disallowances Imposed for Noncompliance With Child Welfare Services Requirements.—The Secretary of Health and Human Services shall not—

(1) on or after the date of the enactment of this Act, reduce any payment to, withhold any payment from, or seek any repayment from, any State under part B or E of title IV of the Social Security Act by reason of a determination made in connection with any review of State compliance with—

(A) the foster care protections of section 427 of the Social Security Act (as in effect before fiscal year 1993) for any fiscal year before fiscal year 1993; or

(B) section 422(b)(9) of such Act for fiscal year 1993 or 1994;

(2) before October 1, 1994, reduce any payment to, withhold any payment from, or seek any repayment from, any State under part E of title IV of the Social Security Act by reason of a determination made in connection with any on-site Federal financial review, or any audit conducted by the Inspector General using similar methodologies.

(f) Treatment of Deferral Actions Under Part E.—

(1) In general.—Section 474 (42 U.S.C. 674) is amended by adding after the subsection added by section 208(a)(1)(B) of this Act the following:

"(f)(1) The Secretary may not take any action to suspend payment with respect to any claim for reimbursement under this part, after the end of the 30-day period that begins with the date the Secretary receives the quarterly statement of expenditures required under section 403 that contains the report of the claim.

"(2) Within 10 months after the Secretary takes any action to suspend payment with respect to such a claim, the Secretary shall—

"(A) determine the allowability of the claim; or

"(B) if unable to make such a determination, make payment with respect to the claim, subject to a later determination of allowability.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act, and shall apply to actions taken before, on, or after such date.

TITLE III—SOCIAL SERVICES BLOCK GRANT

SEC. 301. TITLE XX SOCIAL SERVICES BLOCK GRANT.

(a) Increase in Funding.—Section 2003 (42 U.S.C. 1397b) is amended—

(1) in subsection (c)—

(A) in paragraph (4), by striking "and";

(B) in paragraph (5), by striking "fiscal year after fiscal year 1989." and inserting "of fiscal years 1990, 1991, 1992, 1995, 1996, and 1997;"; and

(C) by adding at the end the following:

"(6) $2,900,000,000, for each of fiscal years 1993 and 1994; and

"(7) the amount calculated under subsection (d) for fiscal year 1998 and each succeeding fiscal year."; and

(2) by adding at the end the following:

"(d) The amount calculated under this subsection for a fiscal year is $2,800,000,000, increased by the percentage (if any) by which—

"(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on July 31 of the immediately preceding fiscal year; exceeds

"(2) the average of the Consumer Price Index (as so defined) for the 12-month period ending on July 31, 1996.".

(b) Allocation of Funds to Indian Tribes and Tribal Organizations.—Section 2003 (42 U.S.C. 1397b) is amended by adding after the subsection added by subsection (a) of this section the following:

"(e)(1) If, with respect to any State—

"(A) the Secretary receives a request from a tribal organization in the State that assistance under this title be provided directly to the tribal organization for a fiscal year; and

"(B) the tribal organization has submitted an application for the fiscal year that meets such criteria as the Secretary may prescribe by regulation,

the Secretary shall reserve from the amounts that would otherwise be allotted to the State for the fiscal year not less than the amount that bears the same ratio to the allotment for the State for the fiscal year under subsection (b) (before the application of this subsection) as the population of Indians residing in the State on the reservation or reservations of the tribal organization, or on trust lands adjacent to such reservation or reservations, bears to the population of the State, and shall pay to the tribal organization an amount equal to the amount so reserved.

"(2) For purposes of this subsection, the terms 'tribal organization' and 'Indian' have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act.".

TITLE IV—RESEARCH, DEMONSTRATION, AND EVALUATION ACTIVITIES

SEC. 401. ADVISORY COMMISSION ON CHILDREN AND FAMILIES.

(a) In General.—Part A of title XI of the Social Security Act (42 U.S.C. 1301–1320b–13) is amended by adding at the end the following:

"SEC. 1144. ADVISORY COMMISSION ON CHILDREN AND FAMILIES.

"(a) Establishment.—The Director of the Office of Technology Assessment (in this section referred to as the 'Director' and the 'Office', respectively) shall establish a commission to be known as the 'Advisory Commission on Children and Families' (in this section referred to as the 'Commission').

"(b) General Duties.—The Commission shall identify cost-effective approaches to protect and enhance the physical, mental, emotional, and financial well-being of children and their families, by—

"(1) collecting and assessing information on—

"(A) measures of the economic, social, and physical well-being of children;

"(B) the causes and effects of maltreatment of children;

"(C) the effectiveness of social services and income supports in strengthening the family unit;

"(D) the effects of substitute care on the well-being of children;

"(E) the adequacy and effectiveness of cash assistance and tax policies in maintaining family incomes;

"(F) the incentive effects of family policies;

"(G) the effect of family breakup on family economics;

"(H) ways to promote the parental support of children;

"(I) participation in Federal programs supporting children and their families;

"(J) program management and service delivery by public organizations working with families and children; and

"(K) such other issues related to children and their families as the Commission deems it appropriate to study; and

"(2) in collecting and assessing such information—

"(A) use existing information, whether or not published, where possible, collected and assessed by Commission staff or under arrangements made in accordance with this paragraph;

"(B) carry out or award grants or contracts for original research and experimentation where existing information is inadequate for the development of useful and valid information by the Commission; and

"(C) adopt procedures to allow any interested person to submit to the Commission information on issues relating to social and support services, and income security, for children and their families, which information the Commission shall consider in making reports and recommendations to the Secretary and to the Congress.

"(c) Membership.—

"(1) Number; appointment.—

"(A) In general.—The Commission shall be composed of 15 individuals appointed by the Director, not later than April 1, 1993.

"(B) Director required to solicit nominations.—The Director shall solicit nominations to the Commission from a wide variety of individuals and groups, including—

"(i) national organizations representing State welfare directors;

"(ii) national organizations representing children or families, or both; and

"(iii) public and private organizations which provide services directly to children and their families.

"(C) Qualifications of members.—The Director shall appoint individuals to the Commission from among those who are able to provide expertise and experience in the evaluation and administration of programs and policies relating to social and support services, and income security, for children and their families, including issues relating to child welfare, foster care and adoption assistance, preventive and supportive services, child support, and cash assistance.

"(2) Terms of office.—Each member shall be appointed for a term of 3 years, except that the Director may provide initially for such shorter terms to ensure that (on a continuing basis) the terms of not more than 7 members expire in any 1 year.

"(d) Commission Powers, Compensation, Access to Information, and Supervision.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), subparagraph (G), and subparagraph (H) of section 1886(e)(6) shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

"(e) EXEMPTION FROM TERMINATION REQUIREMENT OF THE FEDERAL ADVISORY COMMITTEE ACT.—Section 14(a)(2) of the Federal Advisory Committee Act shall not apply to the Commission.

"(f) ANNUAL STATUS REPORTS.—The Office shall report annually to the Congress on—

"(1) the functioning and progress of the Commission; and

"(2) the status of the assessment by the Commission of issues relating to social and support services, and income security, for children and their families.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 402. RESEARCH AND EVALUATIONS TO BE CONDUCTED BY THE ADVISORY COMMISSION ON CHILDREN AND FAMILIES.

(a) IN GENERAL.—Section 1144, as added by section 401(a) of this Act, is amended by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively, and by inserting after subsection (b) the following:

"(c) RESEARCH AND EVALUATION PROJECTS.—

"(1) EVALUATION OF CHILD WELFARE SERVICES PROGRAMS.—

"(A) IN GENERAL.—The Commission shall, directly or under contract with 1 or more independent research organizations, evaluate child welfare services programs receiving funds under part B, including programs of each of the 3 types described in the subparagraphs of section 435(a)(2), in accordance with such criteria as the Commission deems appropriate. To the maximum extent practicable, the evaluations shall use treatment and control groups of statistically appropriate sample sizes to measure the effects of the program. The evaluations shall consider short-term and long-term program effects.

"(B) INTENSIVE FAMILY PRESERVATION PROGRAMS.—

"(i) IN GENERAL.—An appropriate portion of the evaluations referred to in subparagraph (A) shall be of intensive family preservation programs. For purposes of this subsection, the term 'intensive family preservation programs' means family-based crisis intervention programs which are—

"(I) designed to maintain children safely in their homes and prevent the need for foster care; and

"(II) characterized by small caseloads for workers, limited duration of services, 24-hour-a-day availability of staff, and the provision of services primarily in the child's home or in another environment familiar to the child.

"(ii) EVALUATION REQUIREMENTS.—(I) The evaluation of any intensive family preservation program shall provide information on the extent (if any) to which the success of the program depends on—

"(aa) the philosophical approach of the program;

"(bb) the types of services provided by the various kinds of programs;

"(cc) the administrative techniques employed by the various kinds of programs;

"(dd) the characteristics of families participating in the various kinds of programs; and

"(ee) other relevant factors.

"(II) Only programs that have a plan for targeting families that are at imminent risk of a foster care placement shall be evaluated, and a portion (deemed appropriate by the Commission) of the programs evaluated must target families in crisis due to substance abuse.

"(III) A control group and a treatment group shall be established consisting of families at imminent risk of a foster care placement.

"(IV) Families in the control group shall receive the array of preplacement preventive services available to families in the areas in which the programs are located.

"(V) The services received by the families in the control group and the services received by the families in the treatment group shall be described, and an assessment of the need for post-program services for families participating in the programs shall be made.

"(VI) Each group of families shall be monitored for at least 3 years after participation in the programs to determine the effectiveness of such programs.

"(VII) The effectiveness of any program shall be determined by using specific outcome measures deemed appropriate by the Commission, including—

"(aa) whether the program resulted in the placement of fewer children in foster care over the short- and long-term;

"(bb) whether the program increased the well-being of children and improved family functioning;

"(cc) whether the program provided valuable diagnostic information and promoted earlier and more successful permanent placements; and

"(dd) whether the benefits of the program exceeded the costs of the program.

"(2) FOSTER CARE EVALUATIONS.—In order to promote more appropriate and effective foster care for children in need of long-term foster care, the Commission shall, directly or under contract with 1 or more independent research organizations, and in accordance with such criteria as the Commission deems appropriate, evaluate the effects of alternative foster care arrangements and services on the well-being of children who—

"(A) have little prospect of being reunited with their families, or of being adopted; and

"(B) represent a challenging group of foster children who are in need of specialized services or care.

"(3) LONGITUDINAL CHILD WELFARE DATA BASES; STUDIES OF CHILD WELFARE POPULATION DYNAMICS.—

"(A) CONTRACT AUTHORITY.—In order to develop more appropriate and effective intervention strategies with respect to children and their families who are referred or reported to the child welfare system, the Commission shall, directly or under contract with 1 or more independent research organizations—

"(i) plan, design, develop, and implement not more than 5 child welfare data bases that provide detailed longitudinal information on children and their families to whom the local public child welfare system provides services, from the time such children are first referred or reported to such system; and

"(ii) using data from such data bases, conduct such studies on children and their families served by public child welfare systems, as the Commission deems appropriate, including a study of the extent to which a lack of affordable housing is a factor in the placement of children in foster care, and (at the option of the Commission) studies of—

"(I) the movements of subgroups of children and their families into, through, and out of the various parts of the child welfare system;

"(II) the characteristics of those children or families who stay in the system or various parts of the system for short time periods versus those who stay for long time periods;

"(III) the type and intensity of, and effectiveness of, services that families receive in the system;

"(IV) the frequency of contact between and among foster children, their parents, and caseworkers;

"(V) the factors associated with repeat occurrences of child abuse and neglect, and other outcomes; and

"(VI) the condition of children in the system in areas that may include educational performance, health, and personal and social adjustment.

"(B) AGREEMENTS WITH STATES.—

"(i) IN GENERAL.—Not later than October 1, 1993, the Secretary shall, taking into account recommendations made by the Commission, enter into agreements with not more than 5 States or localities to—

"(I) participate in the planning, design, development, and operation of a longitudinal child welfare data base described in subparagraph (A) in the participating State or locality involved; and

"(II) reimburse such States or localities for expenditures incurred with respect to such activities.

"(ii) PAYMENTS TO STATES.—Under each such agreement, the Secretary shall be obligated to pay the State or locality participating in the establishment of the data base—

"(I) from amounts available for payments under section 474(a)(3)(C), 90 percent of such expenditures as are incurred during the 3-year period beginning on October 1, 1993, for the planning, design, development, installation, or operation of the data base; and

"(II) from amounts available for payments under section 474(a)(3)(D), 50 percent of such expenditures as are incurred after the end of such 3-year period for the operation of the data base.

"(C) DATA BASE REQUIREMENTS.—The Secretary shall ensure that each longitudinal data base established under this paragraph—

"(i) includes information on the receipt, by children and their families in the data base, of particular child welfare services, including—

"(I) child protective services;

"(II) services designed to strengthen and preserve families;

"(III) foster care and adoption services; and

"(IV) other services made available by the child welfare system;

"(ii) to the extent feasible, includes information on the receipt of services, or the placement of children, through the public mental health or juvenile justice agencies;

"(iii) includes only data that are reliable and developed using uniform definitions and methodologies that are consistent over time and, to the extent feasible, among jurisdictions; and

"(iv) to the extent appropriate, is implemented with the State data collection and information retrieval systems described in section 474(a)(3)(C).

"(4) COMPREHENSIVE SERVICE PROJECTS EVALUATIONS.—

"(A) IN GENERAL.—The Commission shall, directly or under contract with 1 or more independent research organizations, evaluate the effectiveness of 1 or more comprehensive service projects authorized under section 441 that the Commission considers likely to yield significant information not available elsewhere, in accordance with such criteria as the Commission deems appropriate.

"(B) EVALUATION REQUIREMENTS.—Each such evaluation shall measure, using criteria the Commission deems appropriate, the extent to which the project—

"(i) increased the well-being of children and their families;

"(ii) resulted in cost savings due to a reduction in the number of placements of children outside their homes or in the length of stay in out-of-home placements;

"(iii) increased coordination within the child welfare agency, and among the child welfare, mental health, and juvenile justice agencies;

"(iv) increased the level and mix of preventive services available to children and their families in the child welfare, mental health, and juvenile justice systems; and

"(v) resulted in such other outcomes as the Commission deems it appropriate to measure.

"(C) TECHNICAL ASSISTANCE.—The Commission shall provide technical assistance, upon request, to any State preparing an application to conduct a comprehensive services project, and shall provide to any State, upon request, a statement containing the Commission's recommendations to the Secretary with respect to the application.

"(5) CHILD SEPARATION GUIDELINES STUDY.—

"(A) IN GENERAL.—The Commission shall conduct a study designed to answer the following questions:

"(i) How do the criteria for removal of children from the home, and the tools for assessing the risk to the child if not removed from the home, vary from State to State? In considering this question, the Commission should examine—

"(I) the decisionmaking process at the caseworker level in at least 3 States, at least 1 of which has a significantly higher than average rate of removing children from the home, at least 1 of which has an approximately average rate of removing children from the home, and at least 1 of which has a significantly lower than average rate of removing children from the home; and

"(II) other factors that may affect placement rates such as State laws and policies, interpretations by the State child welfare agency of the reasonable efforts requirement of section 471(a)(15), and the tendency to place or not place children as a result of economic incentives provided by various State and Federal funding sources.

"(ii) What guidelines should be used to assess such risk and determine the need for removal of children from the home, and what kind of training would ensure the consistent application of such guidelines? The Commission should review and compile all current research relevant to this question.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 403. OTHER RESEARCH AND EVALUATIONS.

(a) IN GENERAL.—Section 426(a) (42 U.S.C. 626(a)) is amended—

(1) in paragraph (1), by striking "and" the second place such term appears;

(2) in paragraph (2), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(3) to enable the Secretary—

"(A) under contract with an independent research organization, to conduct a study to assess the prevalence and nature of risks to the safety of employees of child welfare systems, under which empirical information shall be obtained on—

"(i) the incidence of violence toward, or harassment of, such employees;

"(ii) the types of such employees exposed to the greatest risk;

"(iii) the types of harm threatened or inflicted;

"(iv) the characteristics of perpetrators of such violence or threats;

"(v) the most dangerous child welfare settings; and

"(vi) the differences (if any) between urban and rural areas in the above respects; and

"(B) to make the results and recommendations of the study described in subparagraph (A) available for dissemination;

"(4) to enable the Secretary—

"(A) to enter into a contract with an organization or organizations with demonstrated experience in the field of workload measurement for human service agencies—

"(i) under which the organization is to conduct a 3-year study to examine methodologies for measuring the workloads of providers of child welfare services and providers of community mental health services; and

"(ii) which, at a minimum, requires the organization to—

"(I) examine and document which methodologies are used to measure caseworker and supervisor workloads;

"(II) develop general standards for measurement and size of workloads;

"(III) apply and validate standards for measurement and size of workloads; and

"(IV) develop software that enables agencies to use appropriate methodologies to measure workloads; and

"(B) to consult with an advisory body selected by the Secretary, in planning and carrying out the study described in subparagraph (A); and

"(C) to make the results and recommendations of the study described in subparagraph (A) available for dissemination; and

"(5) to enable the Secretary—

"(A) under contract with an independent research organization, to conduct a study that—

"(i) is designed to evaluate strategies for the recruitment and retention of foster parents, and the effects of foster parent training programs on the retention of foster parents; and

"(ii) shall identify successful recruitment techniques and recommend steps which could be taken at the Federal, State, or local level to improve the recruitment, retention, and training of foster parents; and

"(B) to make the results and recommendations of the study described in subparagraph (A) available for dissemination.".

(b) CONFORMING AMENDMENTS.—Section 426 (42 U.S.C. 626) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 404. CHILD WELFARE DEMONSTRATION PROJECTS.

(a) GENERAL PROVISIONS.—

(1) MINIMUM NUMBER OF PROJECTS OF EACH TYPE.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall authorize at least 1 demonstration project to be conducted under each paragraph of subsection (b), and at least 1 demonstration project to be conducted under each clause of subsection (b)(2)(A), during the 4-year period beginning with fiscal year 1994.

(2) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For demonstration projects approved by the Secretary under this section, there are authorized to be appropriated to the Secretary not to exceed $45,000,000 for each of fiscal years 1994, 1995, 1996, and 1997.

(b) SPECIFIC TYPES OF PROJECTS.—

(1) EXPEDITIOUS PERMANENT PLACEMENT OF CHILDREN.—

(A) IN GENERAL.—The Secretary may make no more than 10 grants to States or localities to conduct demonstration projects, throughout the State or in areas selected by the State as having the greatest need, designed to—

(i) review statutes, administrative and judicial procedures, and agency legal representation, in effect in the State or locality, that govern determinations of abandonment of children, termination of parental rights, and permanent placement of children, particularly with respect to children abandoned at or shortly after birth;

(ii) assess which of such procedures or laws cause delays in the permanent placement of such children or the consideration of termination of parental rights;

(iii) assess the extent, or lack, of training of judges and child protection service workers on the timelines for determinations involving termination of parental rights or permanent placement of such children;

(iv) assess the provision of (and the impact of providing) coordinated comprehensive social services, particularly in relation to reunification or maintenance of families;

(v) assess the impact of the designation of entities or individuals that have or could be granted standing to initiate placement or termination of parental rights proceedings with respect to children who have been placed under protective care or public supervision;

(vi) assess the extent of the current presence of individuals either employed by a social service agency or a private entity, who are specifically responsible for expediting consideration of the termination of parental rights and permanent placement, particularly with respect to children abandoned at or shortly after birth, and the impact of such individuals on the timelines for such considerations;

(vii) assess the success of programs which concurrently provide planning for, and services to, preadoptive and natural parents; and

(viii) implement new procedures or make other improvements (as determined by the assessments conducted pursuant to this paragraph) that ensure more timely hearing of, and final decisions on, cases involving termination of parental rights and the permanent placement of children, with the goal of substantially reducing the amount of time that elapses from the time the child is removed from a home setting and is permanently placed in a stable adoption placement, including, at the option of the State or locality, improvements that include activities that—

(I) provide additional personnel identified as necessary under any provision of this paragraph to pursue or process cases involving termination of parental rights or expeditious permanent placements;

(II) expand the standing of foster parents and others to bring actions involving the termination of parental rights and permanent placements; and

(III) require certain children to be placed in foster care in homes that are likely to become permanent adoptive homes of such children.

(B) APPLICATION.—Each State or locality desiring to conduct a demonstration project under this paragraph shall submit to the Secretary an application containing—

(i) an assurance that the State or locality will develop and carry out the project jointly with appropriate judicial administrators, and with appropriate agencies of the State or locality that provide services to children abandoned at or shortly after birth; and

(ii) such other information as the Secretary may require by regulation.

(C) APPROVAL OF CERTAIN APPLICATIONS.—

(i) IN GENERAL.—The Secretary shall approve not more than 10 applications to conduct projects which appear likely to contribute significantly to the achievement of the purpose of this paragraph, particularly as they relate to changes in the legislative, judicial, and administrative practices with respect to permanent placement and termination of parental rights.

(ii) DISTRIBUTION CRITERION.—In determining whether to approve applications under this paragraph, the Secretary shall ensure that grants under this paragraph are made to applicants whose positions on consideration of parental rights and the termination of such rights reflect the range of statutory and judicial positions taken by States on such matters.

(iii) GRANT PERIOD.—Subject to the availability of appropriations therefor, the Secretary shall make grants under this paragraph for a period of 4 years.

(D) EVALUATIONS; REPORT.—Each State and locality that conducts a demonstration project under this paragraph shall develop and carry out a plan for evaluating the effects of the project, and shall submit to the Secretary a report on such evaluation.

(E) DISSEMINATION OF REPORTS.—The Secretary shall make available to the Congress and the public the reports submitted pursuant to subparagraph (D).

(F) REVIEW AND EVALUATION BY THE SECRETARY.—The Secretary shall periodically review and evaluate the conduct of each demonstration project conducted under this paragraph.

(G) AUTHORITY TO SUSPEND OR TERMINATE PROJECTS.—Notwithstanding subparagraph (C)(iii), the Secretary may suspend for any period or terminate the authority to conduct a demonstration project under this paragraph, and may discontinue the provision of grants under this paragraph for the project, if the Secretary determines that the project has not been conducted in a satisfactory manner.

(2) CULTURALLY SENSITIVE AND SPECIAL NEEDS CHILD WELFARE WORKER TRAINING DEMONSTRATION.—

(A) IN GENERAL.—

(i) TRAINING TO DELIVER CHILD WELFARE SERVICES IN BORDER REGIONS.—The Secretary shall authorize not more than 5 eligible institutions to conduct demonstration projects to train eligible individuals to deliver culturally sensitive and bilingual child welfare services in areas of the United States that border on Mexico.

(ii) TRAINING TO DELIVER CHILD WELFARE SERVICES TO HISTORICALLY UNSERVED OR UNDERSERVED POPULATIONS IN CERTAIN URBAN CENTERS.—In addition, the Secretary may make no more than 5 grants to eligible institutions to conduct projects to train eligible individuals to deliver culturally sensitive and bilingual welfare services in urban centers which have a high proportion of historically unserved or underserved populations.

(B) APPLICATIONS.—

(i) APPLICATIONS UNDER SUBPARAGRAPH (A)(i).—The Secretary shall approve an application of an eligible institution to conduct a demonstration project under subparagraph (A)(i) for a fiscal year if the Secretary has approved not more than 4 other such applications for the fiscal year and the application meets the following requirements:

(I) HISTORY OF, OR PLAN FOR, TRAINING STUDENTS TO DELIVER CHILD WELFARE SERVICES IN BORDER AREAS.—The application demonstrates that the applicant has a history of, or a plan for, training students to deliver child welfare services in an area of the United States that borders on Mexico.

(II) TRAINING CURRICULUM REQUIREMENTS.—The application describes the curriculum of the training program. Such curriculum must be sensitive to the culture of the area that borders on Mexico and the State in which the applicant is located, and must include training for the identification of health problems of children and their families and of child abuse and neglect.

(III) SCOPE AND LENGTH OF TRAINING.—The application includes an assurance that the training program meets all requirements established under subparagraph (C) governing the scope and length of the training to be provided.

(IV) PLAN FOR PLACING INDIVIDUALS COMPLETING THE TRAINING IN BORDER AREA FAMILY ASSISTANCE AGENCIES.—The application contains a plan for placing each eligible individual who completes the training under the project in a family assistance agency that provides services directly to residents of the border county in which the agency is located.

(V) COMMITMENT TO CONSULT WITH STATE CHILD WELFARE AGENCY.—The application contains a commitment by the applicant to consult with the child welfare agency of the State in which the applicant is located to ensure that the project is designed to provide individuals with child welfare skills that are needed for work with disadvantaged individuals in the area of the State that borders on Mexico.

(ii) APPLICATIONS UNDER SUBPARAGRAPH (A)(ii).—The Secretary shall approve an application of an eligible institution to conduct a demonstration project under subparagraph (A)(ii) for a period of 4 fiscal years (subject to the availability of funds and satisfactory performance) if the Secretary has not approved more than 4 other applications for such projects and the application meets the following requirements:

(I) The applicant demonstrates that it has a history of, expertise in, and commitment to, providing training for individuals to deliver child welfare services to historically unserved or underserved populations in urban centers.

(II) The applicant describes how the application was developed in consultation with State and local child welfare agencies, community-based organizations serving the area to be affected, and the residents of the area, including public notice and opportunity to comment on the training program to be offered, and a plan for a continuing consultation process with these entities.

(III) The curriculum to be offered includes the broad range of Federal, State, and local programs available to provide services to historically unserved or underserved populations in urban centers, and the identification of health problems in children and their families which may lead to child abuse or neglect and the presence of such conditions.

(IV) The application includes an assurance that the training program meets all the requirements of subparagraph (C) governing the scope and length of the training to be provided.

(V) The application includes a plan for placing each eligible individual who completes the training under the project in a public or private nonprofit family assistance agency that provides services directly to unserved or underserved populations in urban centers with high concentrations of such populations.

(iii) GRANTS SUBJECT TO APPROPRIATIONS.—The Secretary shall make grants for projects authorized under subparagraph (A)(ii) subject to the availability of appropriations therefor.

(iv) REVIEW AND EVALUATION BY THE SECRETARY.—The Secretary shall periodically review and evaluate the conduct of each demonstration project authorized to be conducted under subparagraph (A)(ii).

(v) AUTHORITY TO SUSPEND OR TERMINATE PROJECTS.—The Secretary may suspend for any period or terminate the authority to conduct a demonstration project under subparagraph (A)(ii), and may discontinue the provision of grants under subparagraph (A)(ii) for the project, if the Secretary determines that the project has not been conducted in a satisfactory manner.

(C) TRAINING REQUIREMENTS.—The Secretary, in consultation with the State child welfare agencies of the eligible States, shall develop criteria regarding the scope and length of the training program to be provided under any demonstration project conducted under this paragraph to ensure that training under the program adequately prepares trainees for the work they will perform after completion of the training program. The Secretary shall treat participation in a program leading to a bachelor's or a master's degree in social work as providing such adequate preparation.

(D) GRANTS.—

(i) ALLOCATION AMONG STATES WITH APPROVED PROJECTS.—Each eligible State in which is located an eligible institution whose application to conduct a demonstration project under subparagraph (A)(i) for a fiscal year has been approved by the Secretary shall be allocated for the fiscal year that portion of the funds available to carry out subparagraph (A)(i) for the fiscal year that is represented by—

(I) the number of disadvantaged individuals who, as of the close of the second preceding fiscal year, resided in the border counties of the State; divided by

(II) the total number of disadvantaged individuals who, as of the close of the second preceding fiscal year, resided in the border counties of all such eligible States.

(ii) GRANT AUTHORITY.—The Secretary shall make a grant to each eligible institution that the Secretary authorizes to conduct a demonstration project under subparagraph (A)(i) for a fiscal year in an amount equal to—

(I) the amount allocated for the fiscal year under clause (i) to the State in which the institution is located; divided by

(II) the number of eligible institutions in the State that are so authorized.

(E) USE OF GRANTS.—Each eligible institution that receives a grant under this paragraph—

(i) shall use the grant to equip eligible individuals with the knowledge and skills necessary to perform the range of child welfare work, from case management to supervisory skills; and

(ii) may use the grant to pay the tuition, room and board, travel, and other living expenses of eligible individuals.

(F) DEFINITIONS.—As used in this paragraph:

(i) BORDER COUNTY.—The term "border county" means—

(I) in the State of Texas, the counties of Cameron, Brooks, Hidalgo, Kenedy, Willacy, Jim Hogg, Starr, Webb, Zapata, Duval, LaSalle, Maverick, Dimmit, Zavala, Uvalde, Kinney, Val Verde, Edwards, Crockett, Terrell, Pecos, Brewster, Presidio, Jeff

Davis, Reeves, Culberson, Hudspeth, Bexar, and El Paso;

(II) in the State of New Mexico, the counties of Otero, Sierra, Dona Ana, Luna, Hidalgo, Grant, Lea, Roosevelt, Chaves, Eddy, and Lincoln;

(III) in the State of Arizona, the counties of Cochise, Graham, Greenlee, Maricopa, Pinal, Pima, Yuma, La Paz, and Santa Cruz; and

(IV) in the State of California, the counties of Imperial, San Diego, Riverside, and Orange.

(ii) CHILD WELFARE AGENCY.—The term "child welfare agency" means, with respect to a State, the individual or agency that administers or supervises the administration of the State plan for child welfare services under part B of title IV of the Social Security Act.

(iii) DISADVANTAGED INDIVIDUAL.—The term "disadvantaged individual" means an individual whose income does not exceed 130 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size of the individual's family.

(iv) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means any individual who—

(I) is, or intends to become, an employee of a family assistance agency in an eligible State; and

(II) enters into an agreement with an eligible institution in the State under which—

(aa) the institution agrees to train the individual to deliver culturally sensitive and bilingual child welfare services in the area of the United States that borders on Mexico; and

(bb) the individual agrees to so deliver such services at or from a site approved by the child welfare agency of the State for at least 1 year beginning within a reasonable time after the individual completes the training under a project conducted under subparagraph (A)(i), or for a period of 1 year for each year of assistance or training received beginning upon completion of the training under a project conducted under subparagraph (A)(ii).

(v) ELIGIBLE INSTITUTION.—The term "eligible institution" means any institution of higher education that is located in an eligible State.

(vi) ELIGIBLE STATE.—The term "eligible State" means Texas, New Mexico, Arizona, and California.

(vii) FAMILY ASSISTANCE AGENCY.—The term "family assistance agency" means a child welfare agency, family planning agency, hospital, clinic, community mental health facility, or drug and alcohol treatment program.

(viii) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means—

(I) an institution of higher education (as defined in section 1201(a) or 481(a) of the Higher Education Act of 1965); and

(II) an area vocational education school (as defined in subparagraph (C) or (D) of section 521(3) of the Carl D. Perkins Vocational Education Act).

(ix) The term "urban centers" means an area in a metropolitan statistical area, as designated by the Director of the Office of Management and Budget, which has a high incidence of individuals in historically unserved or underserved populations who are in need of social services, as determined by the Secretary using the most recent and best available information. A list of such urban centers shall be published by the Secretary in the Federal Register no more than 180 days after the date of the enactment of this Act.

(x) The term "historically unserved or underserved populations" includes—

(I) minority populations;

(II) persons with limited English proficiency;

(III) populations residing in urban areas and exhibiting a high incidence of child abuse, neglect, or abandonment, as determined by the Secretary;

(IV) homeless persons (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act);

(V) persons who are, or are in danger of becoming, infected with the human immunodeficiency virus; and

(VI) persons who abuse alcohol or drugs.

(G) RECOVERY OF ASSISTANCE IN CERTAIN CASES.—Any individual participating in a project conducted under subparagraph (A) who breaches the agreement referred to in subparagraph (F)(iv)(II) shall repay to the Secretary an amount equal to the amount or value of assistance received by the individual under the project, ratably reduced, if applicable, by a proportion representing that portion of the year during which the individual complied with the agreement. The Secretary shall establish guidelines and repayment schedules to carry out this subparagraph.

(3) STAFF RECRUITMENT AND RETENTION DEMONSTRATION.—

(A) IN GENERAL.—The Secretary may make grants under this paragraph to not more than 10 State or local government agencies to conduct demonstration projects designed to develop and implement innovative recruitment or retention strategies for trained staff in public and private nonprofit agencies working with children and adolescents at risk of being placed in foster care.

(B) ELIGIBILITY.—To be eligible to conduct a demonstration project under this paragraph, a State or local government agency shall submit to the Secretary a 3-year plan for the recruitment and retention of trained direct services staff (for public and private nonprofit agencies that contract for the care of children in the custody of public agencies), which contains such information as the Secretary may prescribe by regulation, including a description of the planned outreach activities and the steps that will be taken to encourage recruitment and retention of staff.

(C) GRANT REQUIRED TO BE MADE FOR ELIGIBLE PROJECT DESIGNED FOR MINORITY COMMUNITY SERVICE.—The Secretary shall make a grant under this paragraph to at least 1 State or local government agency which submits to the Secretary an application for a demonstration project designed to expand the capacity of minorities to provide services within their communities if the application otherwise meets the requirements of this paragraph.

(D) PRIORITY TO BE GIVEN TO CERTAIN PROJECTS.—In considering proposed demonstration projects under this paragraph, the Secretary shall give priority to—

(i) proposed projects that demonstrate intersystem cooperation among child welfare, juvenile justice, mental health, or substance abuse agencies; and

(ii) proposed projects that are designed to test urban and rural strategies in a variety of geographic areas.

(E) APPROVAL OF CERTAIN APPLICATIONS.—The Secretary shall approve not more than 10 applications to conduct projects which appear likely to contribute significantly to the achievement of the purpose of this paragraph.

(F) USE OF GRANTS.—Each agency that receives a grant under this paragraph shall use the grant to carry out the plan submitted to the Secretary as described in subparagraph (B).

(G) STATE REQUIRED TO PARTIALLY MATCH GRANTS MADE FOR CONSECUTIVE YEARS.—Each agency which receives a grant under this paragraph for 2 or more consecutive years shall provide from non-Federal sources—

(i) for the 2nd consecutive year, an amount equal to 20 percent of the grant made for such year; and

(ii) for the 3rd consecutive year, an amount equal to 25 percent of the grant made for such year.

(H) EVALUATIONS; REPORT.—Each State and locality that conducts a demonstration project under this paragraph shall develop and carry out a plan for evaluating the effects of the project, and shall submit to the Secretary a report on such evaluation.

(I) DISSEMINATION OF REPORTS.—The Secretary shall make available to the Congress and the public the reports submitted pursuant to subparagraph (H).

(4) JOINT TRAINING DEMONSTRATION.—

(A) IN GENERAL.—The Secretary may make grants under this paragraph, on a competitive basis, to not more than 10 State or local government agencies to conduct demonstration projects designed to test the effect of joint training programs for the staff of child welfare, mental health, and juvenile justice agencies, and for judicial personnel and judges.

(B) ELIGIBILITY.—To be eligible for a grant under this paragraph, a State or local government agency shall designate a public agency which provides services to children in the State and demonstrate that at least 2 such agencies will participate in the project by contributing financial resources, staff resources, and trainees.

(C) APPROVAL OF CERTAIN APPLICATIONS.—The Secretary shall approve not more than 10 applications to conduct projects which appear likely to contribute significantly to the achievement of the purpose of this paragraph.

(D) USE OF GRANT.—Each State or local government agency that receives a grant under this paragraph shall use the grant to train staff (including supervisors) of public and private agencies who provide services to children or adolescents at risk of requiring foster care or to the families of such children or adolescents. Such training shall be designed to—

(i) educate staff about the special needs of, and service programs for, certain populations of children or adolescents, such as those who have been sexually abused, suffer from serious emotional disturbances, are substance abusers, have acquired immune deficiency syndrome, or are infected with a human immunodeficiency virus;

(ii) coordinate the interagency delivery of services (including family preservation services, family reunification services, independent living services, and supportive services) to children at risk of being placed in foster care; and

(iii) provide training for judges or other administrative personnel, who are authorized to make final determinations as to termination of parental rights or placement of children in either temporary or permanent situations, to determine and incorporate into their decisions factors relating to the physical, mental, and social interests of the child.

(E) EVALUATIONS; REPORT.—Each State or local government agency that conducts a demonstration project under this paragraph shall develop and carry out a plan for evaluating the effects of the training provided under the project, and shall submit to the Secretary a report on such evaluation.

(F) DISSEMINATION OF REPORTS.—The Secretary shall make available to the Congress and the public the reports submitted pursuant to subparagraph (E).

(c) FOSTER CARE AND ADOPTION ASSISTANCE DEMONSTRATION.—

(1) IN GENERAL.—The Secretary may authorize not more than 5 States to conduct demonstration projects designed to test, for not more than 6 years, the feasibility of eliminating the requirements in sections 472 and 473 of the Social Security Act that relate to the income and resources of the child or of the family from which a child originated, and allowing States to receive reimbursement for foster care maintenance payments and for adoption assistance payments made with respect to children without regard to such income and resources.

(2) APPLICATION.—Each State desiring to conduct a demonstration project under this subsection shall submit to the Secretary an application in such form and containing such information as the Secretary may require by regulation.

(3) AGREEMENT ON FEDERAL MATCHING PAYMENTS AND STRATEGY FOR EVALUATION.—

(A) IN GENERAL.—As a condition precedent to approving any application to conduct a demonstration project under this subsection, the Secretary and the State shall reach agreement on—

(i) the rates at which the various types of expenditures under the project shall be reimbursed, in lieu of the rates at which such expenditures would otherwise be reimbursed under section 474 of the Social Security Act; and

(ii) a strategy for evaluating the effects of the project.

(B) LIMITATION.—The Secretary may not agree to any set of reimbursement rates under subparagraph (A)(i) of this paragraph, unless the Secretary determines that the set of rates is likely to result in an amount of Federal payments to the State under section 474 of the Social Security Act that does not exceed the amount that would have been so paid to the State if the State were not conducting the demonstration project.

(4) APPROVAL OF CERTAIN APPLICATIONS.—

(A) IN GENERAL.—The Secretary shall approve not more than 5 applications to conduct projects which appear likely to contribute significantly to the achievement of the purpose of this subsection.

(B) PROJECT LIFETIME.—

(i) 3 YEARS.—Each agreement under paragraph (3) shall be for a term of 3 years.

(ii) AUTHORITY TO RENEW PROJECT FOR 3 YEARS.—Upon the request of the State, the Secretary shall extend for 3 additional years the term of any agreement under paragraph (3).

(5) EVALUATIONS; REPORT.—Each State that conducts a demonstration project under this subsection shall develop and carry out a plan for evaluating the effects of the project, and shall submit to the Secretary a report on such evaluation.

(6) DISSEMINATION OF REPORTS.—The Secretary shall make available to the Congress and the public the reports submitted pursuant to paragraph (5).

SEC. 405. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Section 476 (42 U.S.C. 676) is amended by adding at the end the following:

"(c) The Secretary shall provide technical assistance to the States to assist the States in—

"(1) interpreting and implementing part B, part C, and this part;

"(2) disseminating information on innovative child welfare practices;

"(3) correcting problems identified through Federal audits and reviews, and carrying out corrective action plans required by this part;

"(4) implementing the foster care and adoption data collection system described in section 479; and

"(5) addressing such other matters as the Secretary may identify.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

TITLE V—MISCELLANEOUS HUMAN RESOURCES AMENDMENTS

SEC. 501. STATE OPTION TO USE RETROSPECTIVE BUDGETING WITHOUT MONTHLY REPORTING UNDER AFDC PROGRAM.

(a) IN GENERAL.—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended—

(1) by striking all that precedes subparagraph (A) and inserting the following:

"(13) provide, at the option of the State and with respect to such category or categories as the State may select and identify in the State plan, that—"; and

(2) in each of subparagraphs (A) and (B), by striking ", in the case of families who are required to report monthly to the State agency pursuant to paragraph (14)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1993 and such payments for succeeding fiscal years.

SEC. 502. INCREASE IN STEPPARENT INCOME DISREGARD UNDER AFDC PROGRAM.

(a) IN GENERAL.—Section 402(a)(31) (42 U.S.C. 602(a)(31)) is amended by striking "$75" and inserting "$90".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1993 and such payments for succeeding fiscal years.

SEC. 503. EXTENSION OF PERIOD FOR DEMONSTRATION PROJECTS FOR EVALUATING MODEL PROCEDURES FOR REVIEWING CHILD SUPPORT AWARDS.

(a) IN GENERAL.—Section 103(e)(4) of the Family Support Act of 1988 is amended by striking "2-year" and inserting "3-year".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 504. TECHNICAL CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 5057.—Section 5057 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

(b) AMENDMENT RELATING TO SECTION 5060(a).—Clause (II) of section 402(g)(1)(A)(vi) of the Social Security Act (42 U.S.C. 602(g)(1)(A)(vi)(II)) is amended by moving such subclause 2 ems to the right so that the left margin of such subclause is aligned with the left margin of subclause (I) of such section.

(c) AMENDMENT RELATING TO SECTION 5061(a)(3).—Section 407(b)(1)(B)(v) of the Social Security Act (42 U.S.C. 607(b)(1)(B)(v)) is amended by striking "parents' needs" and inserting "parent's needs".

(d) AMENDMENT RELATED TO SECTION 5081(a).—Section 402(i)(6)(D) of the Social Security Act (42 U.S.C. 602(i)(6)(D)) is amended by striking "as as" and inserting "as".

(e) AMENDMENT RELATING TO SECTION 5105(a)(1)(B)(ii)(I).—Section 1631(a)(2)(C)(i) of the Social Security Act (42 U.S.C. 1383(a)(2)(C)(i)) is amended by inserting "a" before "representative".

(f) AMENDMENT RELATED TO SECTION 5105(d)(1)(B).—Section 5105(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended to read as follows:

"(B) TITLE XVI.—Section 1631(a)(2)(F) (42 U.S.C. 1383(a)(2)(F)), as so redesignated by subsection (c)(2) of this section, is amended to read as follows:

'(F) The Secretary shall include as a part of the annual report required under section 704, information with respect to the implementation of the preceding provisions of this paragraph, including—

'(i) the number of cases in which the representative payee was changed;

'(ii) the number of cases discovered where there has been a misuse of funds;

'(iii) how any such cases were dealt with by the Secretary;

'(iv) the final disposition of such cases (including any criminal penalties imposed); and

'(v) such other information as the Secretary determines to be appropriate.'.".

(g) AMENDMENTS RELATED TO SECTION 5105(b).—Section 1631(a)(2)(C) of the Social Security Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) by striking clause (ii);

(2) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and

(3) in clause (iv) (as so redesignated), by striking "(iii), and (iv)" and inserting "and (iii)".

(h) AMENDMENTS RELATED TO SECTION 5107(a)(2)(B).—Section 1631(c)(1)(B) of the Social Security Act (42 U.S.C. 1383(c)(1)(B)) is amended by striking "paragraph (1)" each place such term appears and inserting "subparagraph (A)".

(i) AMENDMENT RELATED TO SECTION 5109(a)(2).—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(j) AMENDMENTS RELATED TO SECTION 11115(b)(2).—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)) is amended—

(1) in paragraph (9), by striking "and";

(2) in the first paragraph (10), by striking the period and inserting "; and"; and

(3) by redesignating the second paragraph (10) as paragraph (11).

(k) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if the amendment had been included in the provision of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates, at the time the provision became law.

SEC. 505. TECHNICAL CORRECTIONS RELATED TO THE HUMAN RESOURCE AND INCOME SECURITY PROVISIONS OF OMNIBUS BUDGET RECONCILIATION ACT OF 1989.

(a) AMENDMENT RELATING TO SECTION 8004(a).—Section 408(m)(2)(A) of the Social Security Act (42 U.S.C. 608(m)(2)(A)) is amended by striking "a fiscal" and inserting "the fiscal".

(b) AMENDMENT RELATING TO SECTION 8006(a).—Section 473(a)(6)(B) of the Social Security Act (42 U.S.C. 673(a)(6)(B)) is amended by striking "474(a)(3)(B)" and inserting "474(a)(3)(C)".

(c) AMENDMENT RELATING TO SECTION 8007(b)(3).—Subparagraph (D) of section 475(5) of the Social Security Act (42 U.S.C. 675(5)(D)) is amended by moving such subparagraph 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C) of such section.

(d) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if the amendment had been included in the provision of the Omnibus Budget Reconciliation Act of 1989 to which the amendment relates, at the time the provision became law.

TITLE VI—CHILDHOOD HUNGER RELIEF

SEC. 601. SHORT TITLE.

This title may be cited as the "Mickey Leland Childhood Hunger Relief Act".

SEC. 602. REFERENCES TO ACTS.

Except as otherwise specifically provided in this title, references to "the Act" and sections thereof shall be deemed to be references to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and the sections thereof.

Subtitle A—Ensuring Adequate Food Assistance

SEC. 611. FAMILIES WITH HIGH SHELTER EXPENSES.

(a) REMOVAL OF CAP.—The fourth sentence of section 5(e) of the Food Stamp Act of 1977 (hereinafter referred to as "the Act") (7 U.S.C. 2014(e)) is amended by striking ": *Provided*, That the amount" and all that follows through "June 30".

(b) TRANSITIONAL CAP.—Effective for the period beginning on October 1, 1992, and ending December 31, 1996, section 5(e), as amended by subsection (a), is amended by inserting after the fourth sentence the following: "In the period beginning on October 1, 1992, and ending September 30, 1993, such excess shelter expense deduction shall not exceed $218 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $379, $311, $265, and $161 a month, respectively; in the twelve months ending September 30, 1994, shall not exceed $238 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $414, $340, $289, and $176 a month, respectively; in the twelve months ending September 30, 1995, shall not exceed $257 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $447, $367, $312, and $190 a month, respectively; and in the fifteen months ending December 31, 1996, shall not exceed $278 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $483, $397, $337, and $205 a month, respectively.".

(c) CONFORMING AMENDMENT.—The sentence of section 5(e) of the Act (7 U.S.C. 2014(e)) beginning "In computing the excess shelter expense deduction" is amended by deleting the following: "under clause (2) of the preceding sentence".

SEC. 612. CONTINUING BENEFITS TO ELIGIBLE HOUSEHOLDS.

Section 8(c)(2) of the Act (7 U.S.C. 2017(c)(2)) is amended in subparagraph (B) by inserting after "following any period" the phrase "of more than one month in".

SEC. 613. HOMELESS FAMILIES IN TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Act (7 U.S.C. 2014(k)(2)(F)) is amended to read as follows:

"(F) housing assistance payments made to a third party on behalf of a household residing in transitional housing for the homeless;".

SEC. 614. IMPROVING THE NUTRITIONAL STATUS OF CHILDREN IN PUERTO RICO.

Section 19(a)(1)(A) of the Act (7 U.S.C. 2028(a)(1)(A)) is amended:

(1) by striking "$1,051,000,000" and inserting "$1,066,000,000";

(2) by striking "$1,091,000,000" and inserting "$1,116,000,000"; and

(3) by striking "$1,133,000,000" and inserting "$1,168,000,000".

SEC. 615. HOUSEHOLDS BENEFITING FROM GENERAL ASSISTANCE VENDOR PAYMENTS.

Section 5(k)(1)(B) of the Act (7 U.S.C. 2014(k)(1)(B)) is amended to read as follows:

"(B) a benefit payable to the household for housing expenses, not including energy or utility-cost assistance, under—

"(i) a State or local general assistance program; or

"(ii) another basic assistance program comparable to general assistance (as determined by the Secretary).".

SEC. 616. HELPING LOW-INCOME HIGH SCHOOL STUDENTS.

Section 5(d)(7) is amended by striking ",who is a student, and who has not attained his eighteenth birthday" and inserting "and who is an elementary or secondary student".

Subtitle B—Promoting Self-Sufficiency

SEC. 621. CHILD SUPPORT DISREGARD.

Section 5 of the Act (7 U.S.C. 2014) is amended—

(1) in clause (13) of subsection (d)—

(A) by striking "at the option" and all that follows through "subsection (m)," and inserting "(A)"; and

(B) by adding at the end the following: "and (B) the first $50 of any child support payments for each month received in that month, and the first $50 of child support of each month received in that month if such payments were made by the absent parent in the month when due,"; and

(2) by striking subsection (m).

SEC. 622. CHILD SUPPORT PAYMENTS TO NON-HOUSEHOLD MEMBERS.

Section 5(d)(6) of the Act (7 U.S.C. 2014(d)(6)) is amended by striking the comma at the end and inserting the following: ": *Provided*, That child support payments made by a household member to or for a person who is not a member of the household shall be excluded from the income of the household of the person making such payments if such household member was legally obligated to make such payments,".

SEC. 623. VEHICLES NEEDED TO SEEK AND CONTINUE EMPLOYMENT AND FOR HOUSEHOLD TRANSPORTATION.

Section 5(g)(2) of the Act (7 U.S.C. 2014(g)(2)) is amended by striking "$4,500" and inserting the following: "a level set by the Secretary, which shall be $4,500 through the period ending on September 30, 1996, and which shall be adjusted from $4,500 on October 1, 1996, and on each October 1, thereafter, to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for new cars, for the twelve months ending the preceding June 30, and rounded to the nearest $50".

Subtitle C—Simplifying the Provision of Food Assistance

SEC. 631. SIMPLIFYING THE HOUSEHOLD DEFINITION FOR HOUSEHOLDS WITH CHILDREN AND OTHERS.

The first sentence of section 3(i) of the Act (7 U.S.C. 2012(i)) is amended—

(1) by striking "(2)" and inserting "or (2)";

(2) by striking ", or (3) a parent of minor children and that parent's children" and all that follows through "parents and children, or siblings," and inserting ". Parents and their minor children who live together and spouses"; and

(3) by striking ", unless one of" and all that follows through "disabled member".

SEC. 632. ASSURING ADEQUATE FUNDING FOR THE FOOD STAMP PROGRAM.

Section 18 of the Act (7 U.S.C. 2027) is amended by striking subsections (b), (c), and (d) and redesignating subsections (e) and (f) as subsections (b) and (c), respectively.

Subtitle D—Commodity Distribution to Needy Families.

SEC. 641. COMMODITY PURCHASES.

Section 214 of the Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end the following new paragraph:

"(k) INCREASED ALLOTMENTS.—During fiscal year 1993, the Secretary shall spend $70,000,000 to purchase, process and distribute commodities in addition to those purchased with funds under subsection 202 and 203D(a). Commodities purchased under this subsection shall be distributed in accordance with subsection (f) and subject to the same terms and conditions as commodities purchased under subsection (e).".

Subtitle E—Implementation and Effective Dates

SEC. 651. EFFECTIVE DATES.

(a) Except as otherwise provided in this title, the provisions of this title shall become effective and be implemented on October 1, 1992.

(b) Sections 612, 615, 621, 622, and 631 of this Act shall become effective and be implemented on July 1, 1993.

SEC. 652. PROHIBITION ON REDUCING AGRICULTURAL PRICE SUPPORT PROGRAMS.

No agriculture price or income support program administered through the Commodity Credit Corporation under the Agricultural Act of 1949 may be reduced to achieve offsets to provide for any provision of this Act.

TITLE VII—FUNDING

SEC. 701. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

The CHAIRMAN. No amendment to the substitute, as modified, and no other amendment to the bill is in order.

The question is on the amendment in the nature of a substitute, as modified.

The amendment in the nature of a substitute, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3603) to promote family preservation and the prevention of foster care with emphasis on families where abuse of alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services, pursuant to House Resolution 543, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ARCHER. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARCHER moves to recommit the bill H.R. 3603, to the Committee on Ways and Means with instructions to report the same to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "State Initiatives in Child Welfare Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—CHILD WELFARE ENTITLEMENT PROGRAM

Sec. 101. Child welfare entitlement program.

TITLE II—FEDERAL OVERSIGHT AND TECHNICAL ASSISTANCE

Sec. 201. Child protections and State assurances.
Sec. 202. Technical assistance.
Sec. 203. Moratorium on child protection reviews and on disallowances and deferrals under part B of title IV of the Social Security Act.
Sec. 204. Commission on Child Welfare Accountability.
Sec. 205. Reports on State child welfare programs.

TITLE III—CREATING RELIABLE INFORMATION ON CHILD WELFARE

Sec. 301. Annual State data reports.
Sec. 302. Child welfare demonstration projects.
Sec. 303. Analysis of State data on foster care dynamics.

TITLE I—CHILD WELFARE ENTITLEMENT PROGRAM

SEC. 101. CHILD WELFARE ENTITLEMENT PROGRAM.

(a) IN GENERAL.—Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by inserting after part B the following:

"PART C—CHILD WELFARE ENTITLEMENT

"SEC. 440. ENTITLEMENT.

"(a) PURPOSE.—The purpose of this part is to grant States the flexibility and resources necessary to provide such services and activities as the State deems appropriate to—

"(1) preserve and strengthen families with children at risk of needing placement outside their home;

"(2) reunite children with their families if an out-of-home placement is found to be necessary;

"(3) place children in adoptive homes or other permanent arrangements in a timely fashion if reunification with their families is not in the best interest of the child; and

"(4) ensure the well-being of children referred to public officials because of suspected or actual abuse or neglect.

"(b) ENTITLEMENT.—For payments under section 442(a) to which qualified States are entitled, there shall be available to the Secretary—

"(1) $1,267,000,000 for fiscal year 1993;

"(2) $1,456,000,000 for fiscal year 1994;

"(3) $1,646,000,000 for fiscal year 1995;

"(4) $1,866,000,000 for fiscal year 1996; and

"(5) $2,096,000,000 for fiscal year 1997.

"(c) QUALIFIED STATES.—As used in this part, the term 'qualified State' means a State which—

"(1) has a plan developed in accordance with section 422; and

"(2) has certified to the Secretary that—

"(A) the payments made to the State under this part will be used by the State in accordance with this part; and

"(B) not less frequently than every 2 years, the State will audit the expenditures of the amounts paid to the State under this part.

"SEC. 441. ALLOTMENTS TO QUALIFIED STATES.

"(a) IN GENERAL.—The Secretary shall allot to each qualified State, for use by the child welfare agency of the State, the amount that bears the same ratio to the sum remaining available pursuant to section 440(b) of this Act for the fiscal year after the application of section 202(b) of the State Initiatives in Child Welfare Act of 1992, as the aggregate amount the State was entitled to receive under section 474(a)(3) of this Act (as in effect immediately before the enactment of this part) for fiscal year 1991 bears to the total amount all States were entitled to receive under such section 474(a)(3) for fiscal year 1991.

"(b) NOTIFICATION OF ALLOTMENTS.—Not later than 60 days before the beginning of each fiscal year, the Secretary shall notify each qualified State of the amount allotted to the State for the fiscal year.

"SEC. 442. PAYMENTS TO STATES.

"(a) IN GENERAL.—For each fiscal year, the Secretary shall pay each qualified State the amount allotted to the State under section 441 for the fiscal year, in equal quarterly installments. The State share of expenditures under this part shall be an amount not less than the amount of the State share of expenditures for which payment was made under section 474(a)(3) (as in effect immediately before the enactment of this part) for fiscal year 1992.

"(b) SUPPLEMENTAL PAYMENTS.—

"(1) APPLICATION.—If the foster care caseload of a qualified State increases by more than 15 percent in any fiscal year, the State may, not later than the end of the next fiscal year, apply to the Secretary for a supplemental payment under this subsection.

"(2) PAYMENT.—

"(A) IN GENERAL.—Within 90 days after receipt of any application for a supplemental payment under this subsection, the Secretary shall determine whether to make the payment.

"(B) AMOUNT OF PAYMENT.—The amount of any payment to a State under this subsection with respect to a fiscal year shall be the product of—

"(i) 1/100 of the number of percentage points by which the increase in the foster care caseload of the State for the fiscal year exceeds 15 percent;

"(ii) the aggregate amount the State was entitled to receive under section 474(a)(3) (as in effect immediately before the enactment of this part) for fiscal year 1991, divided by the total amount all States were entitled to receive under such section for fiscal year 1991; and

"(iii) the sum made available pursuant to section 440(b) for the fiscal year.

"(C) SOURCE OF PAYMENT.—Any payment under this subsection shall be made from such amounts as may be provided in advance in appropriations Acts.

"SEC. 443. USE OF FUNDS.

"(a) IN GENERAL.—Except as provided in subsection (b), each State that receives funds under this part may use such funds—

"(1) in any manner that the State child welfare agency deems appropriate to accomplish the purpose of this part; and

"(2) for the planning, design, development, installation, and operation of such statewide mechanized data collection and information retrieval systems (including the hardware components for such systems) as—

"(A) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

"(B) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect; and

"(C) the Secretary determines are likely to provide more efficient, economical, and effective administration of the programs carried out under the State plan approved under part B or the State plan approved under part E.

"(b) PROHIBITIONS.—Each State that receives funds under this part may not, directly or indirectly, use such funds for—

"(1) foster care maintenance payments under section 472;

"(2) adoption assistance payments under section 473, other than nonrecurring adoption expenses described in section 473(a)(1)(B)(i); or

"(3) any other arrangement (other than respite care) that provides for the care of any child outside the home of the child.

"(c) PENALTY FOR MISUSE OF FUNDS.—Taking into account the results of any independent third party audit of State expenditures of amounts paid under this part, if any State has expended any such amount during a fiscal year in violation of subsection (b), the Secretary shall reduce, by such amount, the amount that would otherwise be paid to the State under this part for the immediately succeeding fiscal year.

"(d) ADMINISTRATION.—Notwithstanding any other provision of law—

"(1) the Secretary may not prescribe the manner in which States are to comply with the provisions of this part;

"(2) the Secretary may not, except as provided in section 205(d) of the State Initiatives in Child Welfare Act of 1992, conduct any review of State activities under this part; and

"(3) the Secretary may not withhold, suspend, or deny any payment under this part with respect to a State expenditure, unless an independent third party audit shows that the expenditure was not made in compliance with applicable requirements or assurances.".

(b) COORDINATION WITH STATE PLANS FOR CHILD WELFARE SERVICES.—Section 422(b) of such Act (42 U.S.C. 622(b)) is amended—

(1) in paragraph (1), by inserting "and will administer or supervise the administration of the activities of the State under part C of this title," before "and (B)";

(2) in paragraph (2), by inserting "under part C of this title," before "and under";

(3) in paragraph (3), by inserting ", and, if applicable, with respect to day care services under part C of this title" before the comma;

(4) in paragraph (5), by inserting "with respect to this part and part C," before "contain"; and

(5) in paragraph (8), by inserting ", with respect to this part and part C," before "such reports".

(c) CONFORMING AMENDMENTS.—

(1) Section 474(a) of such Act (42 U.S.C. 674(a)) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3).

(2) Section 473(a)(6) of such Act (42 U.S.C. 673(a)(6)) is amended—

(A) by striking "(6)(A)" and inserting "(6)"; and

(B) by striking subparagraph (B).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1992, and shall apply to payments for fiscal years 1993, 1994, 1995, 1996, and 1997.

(e) SUNSET.—Effective October 1, 1997—

(1) title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by striking part C;

(2) section 422(b) of such Act (42 U.S.C. 622(b)) is amended—

(A) in paragraph (1), by striking "and will administer or supervise the administration of the activities of the State under part C of this title,";

(B) in paragraph (2), by striking "under part C of this title,";

(C) in paragraph (3), by striking ", and, if applicable, with respect to day care services under part C of this title";

(D) in paragraph (5), by striking "with respect to this part and part C,"; and

(E) in paragraph (8), by striking ", with respect to this part and part C,";

(3) section 474(a) of such Act (42 U.S.C. 674(a)) is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the matter stricken by section 101(c)(1)(A) of this Act; and

(4) section 473(a)(6) of such Act (42 U.S.C. 673(a)(6)) is amended—

(A) by striking "(6)" and inserting "(6)(A)"; and

(B) by adding after and below the end the matter stricken by section 101(c)(2)(B) of this Act.

TITLE II—FEDERAL OVERSIGHT AND TECHNICAL ASSISTANCE

SEC. 201. CHILD PROTECTIONS AND STATE ASSURANCES.

(a) STATE PROVISION OF CHILD WELFARE SERVICES.—

(1) STATE PLAN REQUIRED TO PROVIDE FOR FOSTER CARE PROTECTIONS.—

(A) IN GENERAL.—Section 422(b) of the Social Security Act (42 U.S.C. 622(b)) is amended—

(i) by striking "and" at the end of paragraph (7);

(ii) by striking the period at the end of paragraph (8) and inserting "; and"; and

(iii) by adding at the end the following:

"(9) provide that the State must—

"(A) conduct or have conducted an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months preceding the inventory, and determine or have determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child can or should be returned to the parents of the child or should be freed for adoption; and

"(iii) the services necessary to facilitate either the return of the child or the placement of the child for adoption or with a legal guardian; and

"(B) implement and operate—

"(i) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child who is in foster care, or who has been in such care within the preceding 12 months, can be readily determined;

"(ii) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State;

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption or with a legal guardian; and

"(iv) a preplacement preventive service program designed to help children remain with their families.".

(B) CONFORMING AMENDMENTS.—

(i) Part B of title IV of such Act (42 U.S.C. 620 et seq.) is amended by striking section 427.

(ii) Section 423(a) of such Act (42 U.S.C. 623(a)) is amended by striking "and in section 427".

(iii) Section 425(a)(2) of such Act (42 U.S.C. 625(a)(2)) is amended by inserting "to comply with section 422(b)(9) or" before "to comply".

(iv) Section 472(d) of such Act (42 U.S.C. 672(d)) is amended by striking "427(b)" and inserting "422(b)(9)".

(C) CONSTRUCTION OF PARAGRAPH.—The amendments made by this paragraph shall not be construed to permit any State to interrupt the provision of the foster care protections described in section 427 of the Social Security Act, as in effect immediately before the enactment of this Act.

(2) STATE PLAN REQUIRED TO CONTAIN CERTAIN CERTIFICATIONS AND ASSURANCES.—Section 422(b) of such Act (42 U.S.C. 622(b)), as amended by paragraph (1)(A) of this subsection, is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) by adding at the end the following:

"(10) contain—

"(A) a certification that the payments made to the State to carry out the State plan will be used by the State in accordance with this part; and

"(B) assurances from the chief executive officer of the State that the State will comply with paragraph (9) for the fiscal year; and

"(C) a certification that, not less frequently than every 2 years, the State will audit the expenditures of amounts paid to the State under this part.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 1992, and shall apply to payments under part B of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year.

(b) STATE PROVISION OF FOSTER CARE AND ADOPTION ASSISTANCE.—

(1) STATE PLAN REQUIRED TO CONTAIN CERTAIN CERTIFICATIONS AND ASSURANCES.—Section 471(a) of such Act (42 U.S.C. 671(a)) is amended—

(A) by striking "and" at the end of paragraph (16);

(B) by striking the period at the end of paragraph (17) and inserting "; and"; and

(C) by adding at the end the following:

"(18) contain—

"(A) a certification that the payments made to the State to carry out the State plan will be used by the State in accordance with this part; and

"(B) a certification that, not less frequently than every 2 years, the State will audit the expenditures of amounts paid to the State under this part.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 1, 1992, and shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year.

SEC. 202. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide or broker technical assistance to States on any aspect of child welfare, including program improvement, financial management, research, automated data systems, State laws and court procedures, and any other matter that the Secretary deems appropriate. Where possible, the Secretary is encouraged to facilitate the provision of technical assistance between and among States.

(b) FUNDING.—0.5 percent of the sum made available pursuant to section 440(b) of the Social Security Act for any fiscal year shall be available to the Secretary of Health and Human Services to carry out subsection (a).

SEC. 203. MORATORIUM ON CHILD PROTECTION REVIEWS AND ON DISALLOWANCES AND DEFERRALS UNDER PART B OF TITLE IV OF THE SOCIAL SECURITY ACT.

The Secretary of Health and Human Services shall not, before the end of the 2-year period that begins on the date of the enactment of this Act—

(1) conduct any review of State compliance with section 427 of the Social Security Act (as in effect immediately before the enactment of this Act) or section 422(b)(9) of the Social Security Act, except to the extent necessary to comply with section 205(b) of this Act; or

(2) disallow, or take any deferral action with respect to, any expenditure under part B of title IV of the Social Security Act.

SEC. 204. COMMISSION ON CHILD WELFARE ACCOUNTABILITY.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Commission on Child Welfare Accountability" (in this section referred to as the "Commission").

(b) DUTIES.—Within 2 years after the date of the enactment of this section, the Commission—

(1) shall recommend to the Congress and the Secretary of Health and Human Services methods by which the Federal government can better ensure the protection of children referred to State child protective services programs and the accountability of such programs; and

(2) in developing such recommendations—

(A) shall examine the protections described in section 427 of the Social Security Act (as in effect immediately before the enactment of this Act) and the technical review procedures used to ensure the provision of such protections; and

(B) on the basis of such examination, the reports required by subsections (c) and (d) of section 205 of this Act, and the hearings and investigations of the Commission, shall develop a detailed outline of a plan by which—

(i) States can provide the types of protections described in such section 427; and

(ii) the Federal Government can ensure, without undue interference in State programs, that such protections are provided; and

(3) shall include with such recommendations the determination of the Commission as to whether a performance-based review system is feasible and desirable, and if so, how such a system should be established and integrated with the data reporting system required by section 479 of the Social Security Act.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—Within 3 months after the date of the enactment of this section—

(A) the Chairman of the Committee on Ways and Means of the House of Representatives shall appoint 2 members to the Commission;

(B) the ranking minority member of the Committee on Ways and Means of the House of Representatives shall appoint 2 members to the Commission;

(C) the Chairman of the Committee on Finance of the Senate shall appoint 2 members to the Commission;

(D) the ranking minority member of the Committee on Finance of the Senate shall appoint 2 members to the Commission; and

(E) the Secretary of Health and Human Services shall appoint 2 members to the Commission.

(2) TERM OF OFFICE.—Each member shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMPENSATION OF COMMISSION MEMBERS.—

(1) NO PAY FOR COMMISSION MEMBERS.—Except as provided in paragraph (2), members may not receive pay, allowances, or benefits by reason of their service on the Commission.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) PROCEDURE.—

(1) QUORUM.—6 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(2) CHAIR.—The Chair of the Commission shall be elected by the members.

(3) MEETINGS.—The Commission shall meet at the call of the Chair or of a majority of the members.

(f) STAFF.—Subject to rules prescribed by the Commission, the Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commission, the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(h) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at such times and places, take such testimony, and receive such information as the Commission considers appropriate.

(2) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. On request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission.

(3) ACCEPTANCE OF GIFTS.—The Commission may accept, use, and dispose of gifts of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts of money and proceeds from sales of other property received as gifts shall be deposited in the Treasury and shall be available for disbursement upon order of the Chair of the Commission or of the Commission.

(i) TERMINATION.—The Commission shall terminate 2 years after the date of the enactment of this section.

(j) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $1,000,000 in the aggregate for fiscal years 1993 and 1994.

SEC. 205. REPORTS ON STATE CHILD WELFARE PROGRAMS.

(a) STATE REPORTS ON SECTION 427 PROTECTIONS.—Within 9 months after the date of the enactment of this Act, each State shall transmit to the Secretary of Health and Human Services and the Commission on Improvement of Child Protective Services Programs a report outlining the efforts that the State has made to ensure the uninterrupted provision of the protections of section 427 of the Social Security Act (as in effect immediately before the enactment of this Act).

(b) HHS RECOMMENDATIONS TO COMMISSION.—Within 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall transmit to the Commission on Child Welfare Accountability a report that, among other things—

(1) discusses the characteristics of successful child welfare programs, common problems that States encounter in conducting such programs, and model practices that meet the needs of children and families while protecting children;

(2) discusses the strengths and weaknesses of the procedures used in providing the protections described in section 427 of the Social Security Act (as in effect immediately before the enactment of this Act), and of the audits required pursuant to part E of title IV of such Act;

(3) discusses the use of data on child and family outcomes after receiving services, as an integral part of an accountability system;

(4) recommends a new accountability system which would ensure that appropriate services are provided for children in a timely manner, and would guarantee the protection of children; and

(5) discusses the relationship that would exist between such recommended child welfare accountability system and the data reporting requirements of section 479 of the Social Security Act.

TITLE III—CREATING RELIABLE INFORMATION ON CHILD WELFARE

SEC. 301. ANNUAL STATE DATA REPORTS.

Section 479(b)(2) of the Social Security Act (42 U.S.C. 679(b)(2)) is amended—

(1) in the first sentence, by striking "December 31, 1988" and inserting "June 1, 1993"; and

(2) in the second sentence, by striking "1991" and inserting "1993".

SEC. 302. DEMONSTRATION PROJECTS TO IMPROVE THE PROVISION OF CHILD WELFARE, FOSTER CARE, AND ADOPTION ASSISTANCE SERVICES.

(a) IN GENERAL.—In order to grant States the flexibility and resources necessary to develop innovative policies and appropriate service networks to preserve and strengthen families with children at risk of needing placement outside their home, to reunite children with their families in a timely fashion if an out-of-home placement is found to be necessary, and to place children in adoptive homes or other permanent arrangements in a timely fashion if reunification with their families is impossible, and to provide for the evaluation of innovative State programs and the assessment of the impact of such programs on children and families, the Secretary of Health and Human Services (in this section referred to as the "Secretary") may authorize not more than 10 States to conduct demonstration projects, which may be carried out throughout the State or in limited areas of the State, in accordance with this section.

(b) CONSIDERATION OF APPLICATIONS.—The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section.

(c) CONTENTS OF APPLICATIONS.—

(1) GENERAL RULES.—Each application by a State to conduct a demonstration project under this section shall—

(A) propose a project designed to—

(i) provide extensive assistance to families which have problems that may lead to the removal of a child from the family;

(ii) promote the treatment of family problems leading to the reunification of children with their families in a timely fashion after the time it becomes necessary to temporarily remove the child from the family;

(iii) facilitate the timely and permanent placement of children who are in foster care or who have been abandoned at or shortly after birth; or

(iv) address any combination of the matters described in clauses (i), (ii), and (iii), and other child welfare services issues; and

(B) contain a commitment by the State to plan the project during fiscal year 1993 and carry out the project during the 5-year period beginning with fiscal year 1994.

(2) PROJECTS FOCUSING ON PROVIDING CHILD WELFARE SERVICES TO FAMILIES.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(i) shall outline the services and procedures the State will offer to prevent family dissolution whenever possible. In addition, each such application by a State shall include the following:

(A) CASE PLANS.—A case plan, written in collaboration with the child's parents, to ensure that intervention includes assistance for all members of the family, including fathers.

(B) MEASURES TO INFORM FAMILIES ABOUT HOW TO MAINTAIN PROGRESS TOWARD SOLVING PROBLEMS THAT CAUSED REFERRAL.—A description of the measures to be employed by the State to ensure that families are informed about what they must do to maintain satisfactory progress in solving the problems that caused the family situation to be reported to the State.

(C) MEASURES TO KEEP SINGLE PARENTS REQUIRING DRUG OR ALCOHOL TREATMENT WITH THEIR CHILDREN.—A description of the measures to be employed by the State to keep single parents and their young children together while the single parent participates in required drug or alcohol treatment.

(D) DRUG AND ALCOHOL TREATMENT PLAN.—A plan to ensure that appropriate drug and alcohol treatment programs are made available to parents who are substance abusers.

(E) PLAN TO COORDINATE FAMILY WELFARE FUNDING AND SERVICES.—A plan to coordinate the funding of, and the services and benefits provided under the following:

(i) The State's child welfare services program carried out under the State plan approved under part B of title IV of the Social Security Act.

(ii) The maternal and child health block grant program under title V of such Act.

(iii) The job opportunities and basic skills training program carried out pursuant to section 402(a)(19) and part F of title IV of such Act.

(iv) Medical assistance furnished to pregnant women and children under the State plan approved under title XIX of such Act.

(v) The drug treatment programs of the State.

(vi) The mental health services programs of the State.

(vii) Any new services for children and families that the State deems necessary to meet the needs of all family members in order to carry out the purposes of this section.

(viii) Such other programs as the State deems appropriate.

(F) INTERPRETATION OF "REASONABLE EFFORTS".—A statement that the State does not interpret section 471(a)(15) of the Social Security Act as limiting the authority of the State to—

(i) where appropriate, immediately place children in foster care; or

(ii) initiate procedures to terminate in a timely manner the parental rights of the parents of foster children.

(3) FAMILY REUNIFICATION PROJECTS.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(ii) shall include the following:

(A) DESCRIPTION OF PROPOSED PROCEDURES TO ASSIST FAMILY REUNIFICATION.—A description of how the State will—

(i) design a treatment plan for solving the family problems that led to removal of the child;

(ii) involve all family members in executing the plan;

(iii) coordinate the programs and resources necessary to effectively solve the problem that led to removal of the child;

(iv) reunify the child with the family as soon as is appropriate; and

(v) implement administrative and judicial review of foster care and for termination of parental rights, and any planned changes to such procedures that would ensure timely hearings and decisions leading to permanent placements in a timely fashion.

(B) REASONS WHY PROPOSED PROCEDURES WOULD RESULT IN EARLIER FAMILY REUNIFICATION.—A discussion of why the particular procedures proposed in the application would be likely to result in earlier family reunification than is achieved under the present policies and procedures of the State.

(4) PERMANENT PLACEMENT PROJECTS.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(iii) shall describe how the State will expeditiously permanently place children who are in foster care, are boarder babies, or have been abandoned at or shortly after birth, and other children whose parents are addicted to drugs or have other characteristics that render them unfit as parents. In addition, each such application by a State shall include the following:

(A) PROCEDURES FOR FOSTER CARE REVIEW AND TERMINATION OF PARENTAL RIGHTS.—A description of the procedures in effect in the State for administrative and judicial review of foster care and for termination of parental rights, and any planned changes to such procedures that would ensure timely hearings and decisions, including procedures that would achieve permanent placement of children in foster care within 2 years, and of boarder babies before they attain the age of 4 months.

(B) INTERPRETATION OF "REASONABLE EFFORTS".—A statement that the State does not interpret section 471(a)(15) of the Social Security Act as limiting the authority of the State to—

(i) where appropriate, immediately place children in foster care; or

(ii) initiate procedures to terminate in a timely manner the parental rights of the parents of foster children.

(5) PROJECTS ADDRESSING OTHER CHILD WELFARE ISSUES.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(iv) shall describe a project designed to test an innovative approach to any number of significant child welfare services issues, including—

(A) avoiding out-of-home placements;

(B) achieving speedy reunification of families from which it has been necessary to remove a child;

(C) reducing the time it takes to permanently place children who have been removed from their families;

(D) permitting children to stay at home, or be quickly returned home, while their parents receive treatment for substance abuse;

(E) identifying risk factors which would allow child welfare agencies to identify and treat families that are likely to have children who require protective services; or

(F) any combination of the service issues described in this paragraph.

(d) ADMINISTRATIVE PROVISIONS.—Within 12 months after the date of the enactment of this section—

(1) the Secretary shall prepare and transmit to each State a detailed explanation of the requirements for participation in the demonstration program established by this section;

(2) any State interested in conducting a demonstration project under this section shall transmit to the Secretary a letter of intent containing a tentative description of the project; and

(3) the Secretary shall approve not more than 10 applications which meet the applicable requirements of subsection (c), 1 from each of 10 different States.

(e) GRANTS.—

(1) ELIGIBLE RECIPIENTS.—The Secretary shall make grants in accordance with this subsection to each State whose application to conduct a demonstration project under this section is approved by the Secretary, in accordance with a contract prepared by the Secretary (in consultation with the entity or entities selected pursuant to subsection (f)) which specifies the duties of the Secretary, the State, and the entity selected to evaluate the project in achieving the purpose described in subsection (a).

(2) ANNUAL GRANTS.—The Secretary shall make grants to States under this subsection for each fiscal year for which the State is authorized to conduct a demonstration project under this section.

(3) AMOUNT OF GRANTS.—The amount of each grant to be made under this subsection to a State for a fiscal year shall be an amount equal to 15 percent of the amounts paid to the State for the fiscal year pursuant to section 423 of the Social Security Act.

(4) USE OF GRANTS.—Each State which receives funds under this section may use such funds to improve the provision of child welfare, foster care, and adoption assistance services in any manner that the State deems appropriate.

(f) EVALUATION OF DEMONSTRATION PROJECTS.—

(1) SELECTION OF EVALUATING ENTITY.—The Secretary shall—

(A) publish in the Commerce Daily a request for applications from entities that are capable of, and interested in performing the functions described in paragraph (2) of this subsection; and

(B) in time for such an entity to meaningfully participate in the development of contracts under subsection (e)(1), enter into a contract with 1 or more entities to perform such functions.

(2) FUNCTIONS OF EVALUATING ENTITY.—The functions of the entity or entities selected by the Secretary pursuant to paragraph (1) are—

(A) to assist the Secretary and the States in devising a detailed plan for the evaluation of demonstration projects conducted under this section;

(B) to prepare in accordance with paragraph (3), and submit to the Secretary, with respect to each such project—

(i) interim reports that evaluate the costs and benefits of the project; and

(ii) a final report that—

(I) describes in detail, and documents, the ways in which the project has changed the provision of preventive services, child welfare, foster care, reunification services, or adoption assistance services in the State; and

(II) evaluates the costs and benefits of the project.

(3) EVALUATION REQUIREMENTS.—In evaluating a demonstration project conducted by a State under this section, the entity or entities selected by the Secretary to perform the evaluation shall—

(A) collect such information as may be necessary to analyze the impact of the project on—

(i) foster care placement rates;

(ii) child development and behavior (including academic performance, intellectual development, and health); and

(iii) family relationships;

(B) collect such other information on outcomes as the Secretary or the State deems appropriate; and

(C) use currently acceptable scientific methods.

(4) DUTY OF STATES TO PROVIDE INFORMATION.—Each State which conducts a demonstration project under this section shall provide the entity or entities selected by the Secretary to evaluate the project with such information with respect to the project and the State programs carried out pursuant to parts B and E of title IV of the Social Security Act as the entity or entities may request under the contract described in subsection (e)(1) entered into by the Secretary, the entity, and the State.

(5) COSTS OF EVALUATIONS.—The Secretary shall pay the costs incurred during each fiscal year by any State in assisting the evaluation of the demonstration project conducted by the State under this section, that are not attributable to the collection or reporting of data under the data collection system contained in final regulations promulgated pursuant to section 479 of the Social Security Act.

(g) COST NEUTRALITY.—The Secretary may not approve an application of a State for a demonstration project under this section unless the Secretary and the State have agreed on a method to limit Federal reimbursement for maintenance payments for foster care and adoption assistance under part E of title IV of the Social Security Act and Federal financial participation under the State plan under title XIX of such Act for families affected by the project in each fiscal year of the project to aggregate amounts no greater than the aggregate amounts that would have been paid by the Federal Government in the year for such reimbursement and participation in the absence of the project.

SEC. 303. ANALYSIS OF STATE DATA ON FOSTER CARE DYNAMICS.

(a) STUDIES.—The Secretary of Health and Human Services shall conduct studies to analyze State data on the administration of foster care and adoption programs, that are designed to focus on describing caseload dynamics, changes in rates at which infants and adolescents are placed, and changes in rates at which children are placed in the care of relatives. The Secretary may use such portion of the amounts appropriated to carry out this subsection as the Secretary deems appropriate to induce States to cooperate in the conduct of such studies.

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For studies under subsection (a), there are authorized to be appropriated to the Secretary of Health and Human Services not to exceed $4,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

Mr. ARCHER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] will be recognized for 5 minutes, and a Member in opposition to the motion to recommit will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, the vote on the motion to recommit presents Members with a simple choice: Support an $8.2 billion tax increase to create new entitlement programs more bureaucracy, more categorical programs, more rules, more regulations, and more committees and commissions.

In other words, a classic tax-and-spend plan to increase the size of Government.

Or you can support an approach that reduces bureaucracy, reduces rules and regulations, brings flexibility and decisionmaking to the local level, provides money for services to families—and does not raise taxes one dime.

Because of the ill-advised partisan decision of the Rules Committee to block the Johnson-Weldon amendment from reaching the floor, the only chance for House Members to support the bipartisan alternative, which has the committed support of 29 Democrat Members of this body, is on the motion to recommit.

And it is a bipartisan approach, unlike the blatantly political document the majority leadership is insisting upon.

NANCY JOHNSON, CURT WELDON, FRED GRANDY, BILL EMERSON, ROBERT ANDREWS, BILL SARPALIUS, and LIZ PATTERSON—a highly respected, dedicated, group of Members of this House—have done an excellent job of fashioning this responsible alternative. They have worked very, very hard, and I am privileged to offer the motion to recommit on their behalf.

In cooperation with the administration, they have developed an innovative, effective approach of helping the Nation's abused and neglected children and their families.

Here is how they do it:

According to CBO, we are already planning to spend $17.9 billion on foster care and adoption over the next 5 years.

This amount includes about $6 billion in new money above the 1992 baseline; The Johnson-Weldon, and others, alternative would take over $8 billion of this money and provide it for States to spend as they best see fit on child welfare.

□ 1300

This proposal would convert four categorical entitlement programs into one entitlement program over which States would have almost complete control thereby dramatically reducing paperwork and administrative complexity while at the same time allowing States to use the money to help families directly.

In other words, it seeks to make child welfare programs better—not just bigger and more inefficient. We want precious tax dollars to help children—not new Federal bureaucracies.

Most important for legislators responsible for reducing our $400 billion deficit, the Johnson-Weldon bill accomplishes all these goals without spending any more money than is already in the baseline.

I urge Members to support the motion to recommit. It is our only chance to avoid new taxes and new spending while supporting true reform of the welfare system.

It is the only sure opportunity to see that more resources go to help children, because the President will sign it into law.

Vote "yes" on the motion to recommit.

Mr. DOWNEY. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, I began the balanced budget movement 16 years ago. I do not think you should spend more than you take in, but I think you should spend what you take in on necessities, not junk at jewelry prices for White House-favored contractors.

Hoosier Abe Martin said it, "There is always plenty of money for everything but the necessities."

Mr. DOWNEY. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in opposition to the motion to recommit.

Whatever the arguments may be with regard to the child preservation section of this bill, I want to remind Members that this substitute cuts off all funding for the Mickey Leland Hunger Relief Act. It provides no reforms in that area, does not even talk about reforms. It simply says we are going to eliminate the nutrition element of this bill.

So what it says to 5 million hungry children, what it says to 12 million at-risk children in this country, what it says to the 50 percent of the food stamp recipients who are children, is wait in line. Wait in line behind the Russians. Wait in line behind the space station. Wait in line behind the super collider. Wait in line behind everything. Wait for next year. We will take care of you some time down the road.

The provisions of this bill are reforms. They deal with the penalties we now apply to those who pay high shelter costs and lose their benefits, who get their child support payments and lose their benefits. Those are the reforms we have, and there is no objection to the provisions of this bill.

To wipe it out with this motion to recommit is essentially to say to the children of this country, forget good nutrition, forget the fact that you are hungry, and the ultimate consequence is that we forget that lost generation of our time, the children who are paying the highest price for our forgetfulness.

Mr. RANGEL. Mr. Chairman, as a member of the Ways and Means Committee, and as chairman of the House Select Committee on Narcotics Abuse and Control, I am pleased to rise in support of H.R. 3603, the Family Preservation and Childhood Hunger Relief Act of 1992. I commend my colleague from New York and the Ways and Means Committee, Mr. DOWNEY, for his efforts in developing this legislation which makes important strides in meeting the needs of families in crisis due to substance abuse.

Mr. Chairman, the epidemic of drug abuse that has swept our Nation in the past decade fueled by cocaine and crack, and the alarming spread of AIDS related to drug use, has had a devastating impact on our children and families and placed intolerable strains on child welfare and other social agencies. The failure to make drugs a top national priority is costing us $300 billion annually in added expenditures for social services, lost productivity and lost revenues.

The upsurge in recent years in the numbers of children placed in foster care and boarder babies remaining in hospitals after being medically cleared for discharge is a direct reflection of illegal drug use in our Nation, especially among parents of young children. Unfortunately, the foster care system in most cities is so overburdened that they have neither the money nor the personnel to deal with these childrens' needs adequately.

The Child Welfare League estimates that over 400,000 children are currently in foster care, an increase of 50 percent over 5 years ago—50 percent of all foster care cases involve children under 6, and one-third of children placed in foster care are children of drug abusers. The annual cost for a child in foster care ranges from $13,000 to $36,000.

In New York City, 30 to 50 percent of drug-exposed infants go into foster care; between 1980 and 1989, the number of babies born to substance abusing mothers increased 400 percent. An estimated 14,000 babies will be born to addicted mothers in New York in the coming year.

A recent survey of 72 hospitals in 12 U.S. cities found that over 600 infants a month where boarder babies in these few hospitals, and that 85 percent were prenataly exposed to drugs or alcohol. The average daily boarding cost for each infant was $805, and the total yearly cost for boarder babies at just these hospitals may well exceed $34 million a year.

The association between child abuse and neglect and illegal drugs is also well established. Parental drug use is now found in the majority of child abuse cases.

Reports of child abuse or neglect in the 1980's increased 226 percent to 2.4 million in 1989.

New York City's Child Welfare Administration estimates that 25 percent of all child abuse and neglect cases involve parental substance abuse. This means that 18,000 children a year enter foster care because their parents use drugs.

A recent study in Boston found that 64 percent of all child abuse cases involved illicit drugs.

The twin epidemics of AIDS and drugs is also destroying families and creating added demands on child welfare and social services agencies. Nearly 60 percent of children infected with AIDS were born to mothers who were intravenous [IV] drug users or the sexual partners of IV drug users. In New York City, IV drug users account for at least half of all newly diagnosed AIDS cases, and the city's health department estimates that by the end of this decade, as many as 50,000 children will lose one or both parents to AIDS.

In the face of this crushing impact of substance abuse on families, children and society, a major purpose of H.R. 3603 is to promote and support expanded and innovative State family preservation services, with an emphasis on families in crisis due to drug or alcohol abuse. H.R. 3603 would establish a new, capped entitlement program under title IV–B of the Social Security Act, in addition to the existing authorization of $325 a year, for child welfare services designed to strengthen and improve families, including substance abusing families. Basic entitlement amounts would increase from $200 million in 1993 to $600 million in 1997, with adjustments for inflation after that.

The purpose of this new entitlement is to assist States in providing expanded, comprehensive and flexible services to preserve families when possible and avoid unnecessary foster care and out-of-home placements. I am particularly pleased that the bill requires States to use a part of their funds to develop or expand specialized child welfare programs targeted to families in crisis due to substance abuse that emphasize comprehensive services and are geared to the whole family. States are also encouraged to expand services for pregnant women and programs that allow mothers, or other caretaker relatives, to reside with their children while receiving services or treatment. At present, treatment for pregnant and postpartum substance abusing women and their children is woefully inadequate although the costs of drug exposed babies and continued maternal drug abuse far exceeds the costs of treatment. To receive their share of this new entitlement, each State must submit each year a plan which, among other things, assesses the need for substance abuse treatment services for families with children at risk of being placed outside the home, describes programs available to meet the needs of such families, and includes a certification from the Governor that State substance abuse treatment and child welfare services programs are coordinated.

The bill also permits States to conduct comprehensive service projects under which a State may use title IV–E foster care funds and title IV–B child welfare funds flexibly to address family problems and reduce foster care and other out-of-home placements. Any State intending to conduct such a comprehensive services project must submit a plan and timetable for implementing, among other things, a comprehensive services program designed to include, at a minimum, access to substance abuse treatment parenting education, health, mental health, crisis management and counseling services.

Such efforts to provide comprehensive family preservation and foster care prevention services are not only good social policy but also highly cost-effective. For example, New York City's Family Rehabilitation Program provides drug treatment and intensive foster care prevention to families whose children are at risk of being placed in foster care due to their parents' substance abuse. This program costs $15,000 per family compared to average foster care costs of $120,000 in city, State and Federal funds. The program has proven successful for 7 out of 10 families served and by 1996 could save as much as $290 million in foster care costs. H.R. 3603 would allow even more families to be helped.

For children who must be removed from their homes, the bill makes needed improvements in existing foster care and adoption programs to speed placements and help foster and adoptive families cope with the added burdens that may be involved in caring for child who may have special needs due to drug exposure. For example, the bill extends foster care and adoption assistance under title IV–E to abandoned children and children living outside the home before entering foster care. It also extends adoption assistance under title IV–E to children with special needs such as certain drug-exposed infants who are at high-risk for medical conditions or other handicaps or children whose handicaps manifest themselves after adoption. In this regard, it needs to be kept in mind that 1 in 10 children born in the United States is born to a substance abusing mother and that 70 percent of drug-exposed infants show no symptoms at birth but may have developmental problems later on. The bill also authorizes respite care for foster parents of special needs children.

H.R. 3603 includes a number of measures that will help us to better address the multiple needs of children and families scarred by substance abuse. By facing up to these problems, we cannot only save lives but also begin to save the enormous social costs we are paying for the drug epidemic. I urge my colleagues to support this important measure.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise today in support of H.R. 3603, the Family Preservation and Hunger Relief Act. This bill seeks to promote the preservation of families by improving the quality and delivery of child welfare, foster care, and adoption services. Recent State initiatives to provide in-home services clearly show that rehabilitating a family is more effective and cost efficient than removing a child from the home environment to receive services elsewhere. Because this bill channels Federal assistance toward keeping families together, it is not only good policy, but a solid financial investment. In addition, I am enthusiastic that H.R. 3603 seeks to address the needs of abused and neglected children and families where alcohol or drugs are present as this is a problem which has, unfortunately, been on the rise.

By imposing a 10-percent surtax on millionaires and billionaires, this legislation will raise sufficient revenues to not only pay for this bill in a fiscally responsible way, but also to decrease our Federal deficit. H.R. 3603 will reduce the deficit by $1.2 billion over 5 years. It is essential that the wealthiest of Americans help with the Nation's biggest priorities, decreasing the deficit and helping children.

Do we need increased Federal resources for the kinds of programs targeted by this bill? You bet we do. Statistics show that approximately 5 million children in the United States under the age of 12 are hungry during the year. This situation is completely unacceptable. This bill contains important provisions that would alleviate childhood hunger by expanding eligibility for the Food Stamp Program and increasing benefit levels. How can we deprive our children and families of such a basic necessity of life? Anyone who thinks this is a waste of money is woefully out of touch.

This bill gives Congress the opportunity to assist in strengthening family values by providing services that allow families to stay together during their most troubling times and by assisting in their rehabilitation. This bill also allows us to invest in our most valuable resource, our children. By giving them every opportunity to grow up in a stable family environment, we give them the best possible chance to lead happy, healthy, and productive lives. The only way that America is going to remain competitive in the world economy is by making wise investments, this is one of them. It is time that we stood up for what we believe in and identify our priorities. Our children have been short-changed, and I am voting today to say it is time for children to come first.

Mr. MAZZOLI. Mr. Chairman, I rise in strong support of H.R. 3603, the Family Preservation/Mickey Leland Childhood Hunger Relief Act of 1992, and I am most proud to be a cosponsor of this legislation.

In this political season, the rhetoric about family values has risen to a crescendo, but unfortunately that crescendo is but shrill and hollow music in the ears of the families and the children of America. Today, we have an opportunity to match the rhetoric of family values with real world, concrete measures designed to improve the lot of families, and to truly contribute to family values.

This bill reflects the hard work of the gentleman from New York [Mr. DOWNEY] and the gentleman from California [Mr. PANETTA]. I commend their outstanding efforts. It is a consolidation of two types of programs: one aimed at preserving families; the other to eradicate childhood hunger.

According to a recent Washington Post article, a fourth of all U.S. children now live with a single parent, and 60 percent will spend at least part of their childhood in a single parent home. From 1985 to 1989, the percentage of single parent households in the United States rose by 15 percent alone.

Furthermore, statistics based on the 1990 Census indicate that childhood poverty rates rose even during the booming 1980's. The number of children living in poverty rose in 33 States during that period, including my State of Kentucky, where a full quarter of the Commonwealth's children now live in poverty, up from 21 percent 10 years ago. In Jefferson County, KY, the childhood poverty rate rose from 16.5 percent to 20.4 percent. In the city of Louisville, the proportion of children in poverty rose from 28 to 35 percent during that 10-year period.

By and large, single parents do an admirable job—against great odds—in raising and nurturing their families. But, it is undeniable that children need both parents for their full development and formation. H.R. 3603 addresses this reality.

And, my friend, the distinguished Governor of Kentucky, Brereton Jones, addressed this point in testimony a few weeks ago before the U.S. Senate in which he emphasized the need to maintain whole, self-sustaining families as the basis for Federal and State social welfare programs.

FAMILY PRESERVATION

Recent studies have shown that the past few years have seen a 50 percent increase in the number of children in foster care nationwide. The provisions of H.R. 3603 increase funding for counseling and family preservation programs at the State and local levels. These programs will help keep families intact and avoid foster care for the children of at-risk families.

In a related matter, I am proud to report that the Family Preservation Program in my district in Jefferson County, KY, was the subject of a public broadcasting station documentary which aired this past spring. Jefferson County District Judge Richard Fitzgerald, who presides over the family court in Louisville, appeared in the documentary and discussed Jefferson County's successful program that involves a collaboration between Kentucky's Department for Social Services, Seven Counties Services, Inc., and the court system. It is most gratifying to see national recognition given for a program which is committed to keeping our families together and safe.

The Family Preservation Act also authorizes a $100 million increase in block grants to States for fiscal years 1993 and 1994 for social and child welfare services. And, it establishes a permanent Advisory Commission on Children and Families to serve as a central clearinghouse and repository for information on the economic and physical well-being of children and families.

CHILDHOOD HUNGER RELIEF

Naturally, the astoundingly high childhood poverty rates mean that many American children live lives where going hungry is the norm and not the exception. Most poor children are in families receiving food stamps and are part of households which tend to pay an extremely high percentage of their income for shelter, leaving little for the purchase of food. H.R. 3603 addresses is problem. It expands family eligibility for food stamps and increases their benefit levels.

The bill also authorizes a $70 million increase for fiscal year 1993 to purchase food for needy families under the Temporary Emergency Food Assistance Program [TEFAP].

Furthermore, H.R. 3603 makes tax changes designed to encourage the collection and payment of child support. And, the bill restructures the food stamp program so that it will not penalize families who receive basic child support payments but who, in doing so, disqualify themselves for food stamp eligibility.

Finally, all of these increases in Federal funding for social welfare services and childhood hunger relief are subject to the pay-as-you-go requirements of the 1990 Budget Act, and are paid for by a surtax on high-income persons.

Mr. Chairman, this is a well crafted and most needed bill for the sake of families and children. I am extremely happy that at long last the House will pass legislation that truly helps the American family, rather than only talking about helping the American family.

Ms. PELOSI. Mr. Speaker, I rise in strong support of H.R. 3603, the Children's Initiative. I would like to commend my colleagues Congressman TOM DOWNEY and Congressman LEON PANETTA for their hard work on behalf of the children of this Nation. This legislation which includes both the Family Preservation Act and the Mickey Leland Childhood Hunger Act is a tremendous effort toward alleviating childhood hunger and in helping keep families together.

The Family Preservation Act would encourage families to remain together by improving State child welfare services, strengthening Federal foster care and adoption assistance, and increasing the number of children and families who qualify for assistance. The Mickey Leland Childhood Hunger Relief Act would enlarge the Food Stamp Program by expanding eligibility and raising the benefit levels. This bill would pay for itself with a tax on the wealthiest individuals. H.R. 3603 would raise $7 billion over the next 5 years in aid and cut the deficit by $1.2 billion.

There is an overwhelming need for this legislation. Currently, 11.2 million children are living in poverty in the United States; that is one in every five children and one in every three children in the inner cities. It is a national travesty that these children are allowed to go without basic necessities such as food, clothing, health care, or adequate preparation for an education. What we can and must offer these children today is hope—hope that they can have a home and food and an opportunity for a better life.

Mr. Speaker, I urge my colleagues to vote for the Children's Initiative and help give children the fighting chance they deserve.

Mr. HOYER. Mr. Chairman, I rise today in support of H.R. 3603. I rise today on behalf of America's families. I rise today as an advocate for our children.

I rise today to urge each Member of this body to support H.R. 3603, because each one of us believes in family values, and because each one of us values families.

As a member of the House Appropriations Subcommittee on Labor, Health and Human Services and Education which funds the discretionary Federal child welfare and foster care services programs, I am well aware of the tremendous need for this legislation.

Two years ago, my amendment to the Labor, Health and Education appropriations bill providing $20 million for school-based and other programs for children of substance abusing parents was enacted, and has been included in each subsequent appropriations bill.

The program funds school-based, and public and nonprofit social services for these children and their families. These funds are also available for program coordination and desperately needed training for the professionals who must intervene on behalf of these at-risk children.

The fact is that title IV–B which provides foster care services and which has been virtually frozen for the past 3 years, is a program which should serve these same children—children like the 6-year-old boy in Prince Georges County: Whose mother was a crack cocaine addict; whose home was a crack house; whose meals were either eaten at school or prepared by a neighbor, if he was lucky; a boy who was literally being robbed of his childhood.

But title IV–B has grown by only 1 percent in the past decade, in real terms.

These are our children, our future—how much longer can we afford to wait before we take action to save the next generation?

The young man of whom I spoke was a child with a parent, but a failed parent whose involvement with drugs destroyed her ability to care about or perform the most basic of parental responsibilities.

When the parent fails, the extended family, friends and neighbors step in. When there are no reasonable alternatives, it is the State which must protect our most valuable and most vulnerable asset—our children.

But the best place for a child is a nurturing home. Mr. Lawrence Cherry, a resident of Prince Georges County testified before the Labor, Health and Education Subcommittee this spring about how the funds funneled through the title IV–B Program helped hold his family together while he recovered from a serious drug problem. Today he is successfully fighting his addiction and his children live happily in the comfort and security of their own home with a loving parent.

It is important to note that had the State taken his children away, it would have cost approximately $20,000.

In general, it costs about one-third as much to maintain a child in his or her family home than to remove the child and place him or her in foster care.

In Mr. Cherry's case, instead of removing the children from the home, the Commission on Children, using the kind of bundled services that the Family Preservation Act encourages, helped Mr. Cherry get into a drug rehabilitation program, intervened with his landlord when he fell behind in his rent, purchased groceries, provided counseling and parenting training, and home visits. Where efforts to keep a family intact are futile or counterproductive, authorities ought to take swift and decisive action to protect and promote the interests of the child, including removing the child from the home. The bill earmarks up to $25 million for a grant program for State courts to assess foster care procedures and implement improvements.

But in most cases, including those where intervention is desperately needed, the social service system is too overburdened to respond.

H.R. 3603 embodies an effective approach for promoting and preserving families.

Over 80 percent of the children coming into the Prince Georges County Social Services Department come from drug abusing households.

In Calvert County, MD, there has been a one-third increase in referrals to protective services in a year.

In Charles County, MD, out of home care has grown in just over 6 years by 40 percent.

In St. Mary's County, the number of children in foster care jumped 37 percent from 1989 to 1991.

Federal spending to reimburse the State for maintenance payments for children in foster care is not limited.

But the system is overburdened, and the funds for providing the intensive services that help avoid out of home placements, are woefully inadequate. Nationally: 500,000 women of child bearing age use cocaine regularly; 550,000 to 740,000 drug-exposed infants are born each year; 2.7 million children are reported abused and neglected, for a 125-percent increase since 1980; and 1,400 children died from abuse or neglect in 1990 for a 54-percent increase in only the last 6 years.

This is one of the best opportunities we will have during the 2d session of the 102d Congress to prove that we value families—to put legislation firmly behind the American family—to make Federal policy profamily policy—to translate rhetorical flourish into concerted action.

One final word, Mr. Chairman—for those who would tell us that what we are doing here today does not reflect a willingness to make difficult choices.

Mr. Chairman, our Labor Health Appropriations Subcommittee provided an additional $25 million for title IV–B, but no one in this Chamber would argue that $300 million is enough to cope with the problem.

This bill should help reduce costs over time.

This legislation will help at-risk children and families.

This legislation will help keep families intact.

This legislation ought to pass this House overwhelmingly.

Mr. DOWNEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time.

I congratulate the gentleman for his work and associate myself with the remarks of the gentleman from California.

I rise in strong opposition to the motion to recommit and in strong support of this critically important and needed bill.

Mr. DOWNEY. Mr. Speaker, the gentlewoman from Connecticut [Mrs. JOHNSON] is an esteemed and valued member of our subcommittee, and in fact voted for this bill when it came out of committee. We have learned a great deal from her.

In our legislation and family preservation, we incorporate all the reforms that are talked about in the offer of the minority. We make sure that the States have the flexibility, but we do something that the minority does not do. We provide the resources to the States to do what needs to be done.

But do not take my word for it. Take the word of the Governor of Virginia, the Governor of Arkansas, the Governor of Oklahoma, the Governor of Texas, the Governor of Alabama, and the Governor of Florida. They love the idea of flexibility, but what they love even more and need even more is additional resources.

Let me read from an official from South Carolina:

> Given our current economic problems and an increasing caseload in our child welfare programs, we maintain that this legislation [the Family Preservation Act] is critical to the future of families and children in our State.

That is from South Carolina.

From Oklahoma:

> This legislation is urgently needed at a time when an escalating number of families are being torn apart, child abuse and neglect have reached epidemic proportions, and childhood hunger remans a national disgrace.

Should I go on? There is a big difference between the proposal of the minority and the proposal of the majority. They talk about the problem, and we do something about it.

Please vote against the motion to recommit.

The SPEAKER pro tempore (Mr. MURTHA). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ARCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the passage of the bill, following the vote on the motion to recommit.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 191, nays 230, not voting 13, as follows:

[Roll No. 371]

YEAS—191

Allard
Allen
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Carper
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields

Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kaptur
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Peterson (FL)
Petri
Pickett
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—230

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—13

Anthony
Barnard
Clement
Cox (CA)
Dickinson
Ford (TN)
Hatcher
Luken
McEwen
Ray
Schulze
Towns
Traxler

□ 1324

Mr. SWIFT, Mrs. MINK, and Mr. VISCLOSKY, changed their vote from "yea" to "nay."

Messrs. SKELTON, BILIRAKIS, and SARPALIUS, changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair announces to the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 256, nays 163, not voting 15, as follows:

[Roll No. 372]

YEAS—256

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Regula
Richardson
Rinaldo
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Torres
Torricelli
Traficant
Unsoeld
Upton
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates

NAYS—163

Allard
Allen
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kanjorski
Kaptur
Kasich

Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Long
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Myers
Nichols
Nussle
Orton
Oxley
Packard
Pallone
Patterson
Paxon
Petri
Pickett
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Rhodes
Ridge
Riggs
Ritter
Roberts
Rohrabacher
Roth
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Anthony
Barnard
Clement
Dickinson
Ford (MI)
Ford (TN)
Gordon
Hatcher
Luken
McEwen
Roemer
Schulze
Thornton
Towns
Traxler

☐ 1333

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FORD of Michigan. Mr. Speaker, on rollcall 372, I was present and intended to vote "aye." My "no" vote on the motion to recommit that immediately preceded that was recorded. I am not recorded on rollcall 372, and I would like the RECORD to show that I was present and thought that I was voting "aye" on the proposition.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE TODAY

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be permitted to sit during proceedings under the 5-minute rule on Thursday, August 6, 1992.

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I probably will not object, but we do not know what is going on. Would the gentleman just tell us what the bill is and whether the ranking member, the gentleman from New York [Mr. HORTON], is in agreement?

Mr. CONYERS. Mr. Speaker, we have a bill and three reports in full committee before the Committee on Government Operations. The gentleman from New York [Mr. HORTON], the ranking minority member, has concurred fully that we be permitted to bring this proceeding forward.

Mr. SOLOMON. Mr. Speaker, based on the assurances that the gentleman from New York [Mr. HORTON] is in concurrence, I certainly will not object, and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Michigan?

There was no objection.

AUTHORIZING INCREASED FUNDING FOR A PORTION OF THE JEFFERSON NATIONAL EXPANSION MEMORIAL

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2926) to amend the act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East St. Louis portion of the memorial, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment: Page 3, strike out lines 1 to 18 and insert:

"(b)(1) For the purposes of the East St. Louis portion of the memorial, there are authorized to be appropriated $2,000,000 for land acquisition and, subject to the provisions of paragraphs (2) and (3), such sums as may be necessary for development: *Provided*, That such authorization shall not include any sums for the acquisition, removal, or relocation of the grain elevator and business located within the East St. Louis unit of the Memorial. Such development shall be consistent with the level of development described in phase one of the draft Development and Management Plan and Environmental Assessment, East St. Louis Addition to Jefferson National Expansion Memorial—Illinois/Missouri, dated August 1987.

"(2) Federal funds expended under paragraph (1) for development may not exceed 75 percent of the actual cost of such development. The remaining share of such costs shall be provided from non-Federal funds, services, or materials, or a combination thereof, fairly valued as determined by the Secretary. Any non-Federal expenditures for the acquisition, removal, or relocation of the grain elevator and business shall be included as part of the non-Federal cost share: *Provided*, That credit shall not be given for any such expenditures which exceed the cost of acquisition, removal, or relocation of the grain elevator and business located within the East St. Louis unit of the Memorial if such action had been accomplished by the Federal Government as determined by the Secretary under existing law: *Provided further*, That only those non-Federal funds expended at least sixty days after the transmission of the report referred to in paragraph (3) for the removal of such grain elevator shall be credited towards the non-Federal cost share. For the purpose of this paragraph, the Secretary may accept and utilize for such purposes any non-Federal funds, services, and materials so contributed.

"(3) Within one year after the date of enactment of this paragraph, the Secretary, in direct consultation with the city of East St. Louis, Gateway Arch Park Expansion, and the Southwestern Illinois Development Authority, shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a study of alternatives to, and costs associated with, the removal of the grain elevator located within the East St. Louis unit of the Memorial. The study shall contain, but need not be limited to, at least one alternative which would incorporate and retain the existing grain elevator into the draft development and management plan and environmental assessment referred to in paragraph (1).".

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mrs. VUCANOVICH. Mr. Speaker, reserving the right to object, I would ask the gentleman from Minnesota [Mr. VENTO] to explain the proposal.

Mr. VENTO. Mr. Speaker, if the gentlewoman will yield, H.R. 2926 is legislation introduced by Representative JERRY COSTELLO to complete the designation of the East St. Louis portion of the Jefferson National Expansion Memorial. This legislation originally passed the House on March 24, 1992. The Senate considered the measure on July 20, 1992, and has returned the bill to the House with an amendment.

The Senate amendment, which is acceptable to me, contains several new provisions relating to the grain elevator located within the boundaries of the proposed addition to the Jefferson National Expansion Memorial. First, it prohibits any Federal funds from being used for the acquisition, removal, or relocation of the grain elevator. Second, it allows non-Federal expenditures for the acquisition, removal, or relocation of the grain elevator to be counted toward the 25 percent local match required by the bill for development of the site. Finally, it directs the Secretary of the Interior to study costs and alternatives to the removal of the grain elevator.

Mr. Speaker, I commend the author of the bill, Mr. COSTELLO, and Majority Leader GEPHARDT for the efforts in crafting this legislation. The designation of the East St. Louis portion of the Jefferson National Expansion Memorial is long overdue. The bill before us is cost effective and has strong bipartisan support from the administration and the Illinois and Missouri delegations. I urge Members to support H.R. 2926 as amended.

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for his explanation. I understand there is no objection on the minority side.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

FREEDOM SUPPORT ACT OF 1992

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 545 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 545

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4547) to authorize supplemental assistance for the former Soviet republics. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed two hours, with thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, and twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the committee amendments now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 5750. The amendment in the nature of a substitute shall be considered as read. All points of order against the amendment in the nature of a substitute are waived. No amendment to the amendment in the nature of a substitute and no other amendment to the bill shall be in order. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions, which may be offered only by Representative Michel of Illinois or his designee. After passage of H.R. 4547, it shall be in order to take from the Speaker's table the bill S. 2532 and to consider the Senate bill in the House. All points of order against the Senate bill and its consideration are waived. It shall then be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 4547 as passed by the House. All points of order against that motion are hereby waived. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move to insist on the House amendment to S. 2532 and to request a conference with the Senate thereon.

□ 1340

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 545 is a closed rule providing for the consideration of the Freedom Support Act of 1992. The rule provides for 2 hours of general debate. The general debate time is to be divided in the following manner: 30 minutes to be equally divided between the chairman and ranking minority member of the Committee on Foreign Affairs; 30 minutes to be equally divided between the chairman and ranking minority member of the Committee on Banking, Finance, and Urban Affairs; 20 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture; 20 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services; and 20 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology.

House Resolution 545 provides that, in lieu of the committee amendments now printed in the bill, it shall be in order to consider H.R. 5750 as an original bill for the purpose of amendment. All points of order against the substitute are waived. No other amendment to the bill will be in order under the rule.

Finally, House Resolution 545 provides one motion to recommit with or without instructions, which may only be offered by Mr. MICHEL or his designee. The rule will facilitate the ability to go to conference with the Senate on the bill, S. 2532.

Mr. Speaker, this rule will allow the House to consider the Freedom Support Act in a timely manner. The bill is one of the more important measures we will consider in this session of Congress. It provides a comprehensive framework for expanding activities in the former Soviet Republics. Specifically, it would set forth criteria which must be met before assistance may be provided to the Republics. It further would lift restrictions on agriculture and other export credits; authorize various nonproliferation and disarmament activities; encourage trade in space technologies; and call upon the United States to take a leading role in debt restructuring and currency stabilization. The bill also would authorize the U.S. Governor of the International Monetary Fund to consent to raise the U.S. quota in the International Monetary Fund to $12 billion.

Mr. Speaker, House Resolution 545 will allow us to move smoothly and expeditiously to final passage of the bill. This is an unprecedented opportunity for us to be active participants in the transformation of the Soviet Republics to new democracies and market economies. I urge my colleagues to support the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would observe right here at the outset that we have before the House today an issue that knows no partisanship. Members will cast their votes—first on this rule, and then on the bill that follows—based on what their conscience tells them.

Under the present circumstances, I believe it is very appropriate for Members to proceed on the basis of what their conscience tells them, rather than on the basis of partisan or political considerations. I know that is sometimes difficult to do.

We have a bill before us today that was made possible by the free world's victory in the cold war. And while I believe we should not in any way try to humiliate or belittle the people who live in what was once the Soviet bloc, neither should we be defensive or apologetic about the fact that our side prevailed, the side of democracy.

It was the historic Western philosophy of individual freedom and responsibility, democracy, and all of those values that constitute the bulwark of a free society that eventually defeated Soviet communism. It was our way of life—and our system of human Government—that was affirmed by the course of history and by human nature itself.

Now that the cold war is over, I think that all Americans and, indeed, certainly every Member of this House are wondering what our national responsibility now is, especially to the former Soviet empire.

Recognizing that honest men and women can disagree, especially during a time of such uncertainty, I am confident that all Members will respect the views of others as they are expressed here today during the debate on this bill.

Turning now to the rule, I would simply reiterate what my good friend, the gentleman from Massachusetts [Mr. MOAKLEY], chairman of the Committee on Rules, has said. This is a closed rule. It has 2 hours of general debate. No amendments are permitted. There can be only one motion to recommit with or without instructions by our minority leader, the gentleman from Illinois [Mr. MICHEL] or his designee.

Mr. Speaker, Members need to be aware that both the Democratic leadership and the Republican leadership of this House support this closed rule, and their request was endorsed by the administration as well.

Having said that, and without making further comment about it, I will turn now to the bill itself.

The bill authorizes a program of technical and humanitarian assistance to the States that formerly comprised the Soviet Union and it authorizes a $12.3 billion commitment by the United States to the International Monetary Fund.

And although I am open to persuasion, I must admit to having serious reservations about this bill itself.

I have a serious philosophical reservation about aiding any country—or individual, for that matter—which already possesses the capability to pay its own way.

Yes, the former Soviet States are bankrupt and have been mismanaged horrendously. But it is also true that the Commonwealth of Independent States, the former Soviet Union, is the world's richest country. It has deposits of essential minerals and metals that are equaled only by those in South Africa. And it has petroleum and natural gas reserves on a vast scale, far outnumbering those of our country.

I am not convinced that the provisions in this bill draw the connection between charity and self-reliance.

Mr. Speaker, I can support an assistance program that makes use of loans, credits, and other guarantees that mean the American people will eventually be paid back. What I cannot support is an aid program that consists of grants or gifts, especially a program of grants to a country that is sitting on top of a gigantic resource base.

Mr. Speaker, this bill would, in my opinion, be much better if the former Soviet States were required to make some material contribution in exchange for the assistance that is being provided to them in this legislation.

Second, I believe this bill would be a better bill if the conditions that are placed on some of this assistance were stronger. I hardly need remind any Member of the House that the Red army continues to occupy Latvia, Lithuania, and Estonia—with fresh conscripts being rotated in on a regular basis.

Now, surely at a very minimum, a complete withdrawal of Soviet troops from the Baltics should be required in this legislation. It is not.

Finally, Mr. Speaker, I would say a word about the authorization for the IMF [International Monetary Fund].

□ 1350

Mr. Speaker, I am not convinced that this portion of the assistance package for the former Soviet States will have any impact that people in need will really be able to see. To be very blunt about that, I am very suspicious that the IMF authorization is little more than a bailout for Western European banks; not American banks, but Western European banks that gambled on somebody named Gorbachev and lost. Nothing I heard in the testimony before the Committee on Rules yesterday convinced me otherwise.

Mr. Speaker, I am sure many Members also have these and other concerns. I am open to persuasion myself, and I am going to listen to the debate very carefully in case I missed something 3 hours yesterday up in the Committee on Rules.

Mr. Speaker, I look forward to an interesting and important debate.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I appreciate the opportunity to speak in favor of House Resolution 545, the rule providing for the consideration of H.R. 4547, as amended by H.R. 5750.

I understand the concerns of many of my colleagues about the closed rule requested for consideration of this legislation. Those concerns must be addressed.

I support a closed rule for the following reasons:

First, this is an extraordinary piece of legislation that addresses an extraordinary situation. This situation demands that we expedite and preserve the essential message of this legislation—our national interest in assisting our former adversary.

It is in our national interest to see 300 million people in the former Soviet Union have the opportunity to enjoy the freedoms of democracy and the prosperity of a free-market economy. Free and democratic government in these Republics will yield real economic and security benefits for the United States. Democracy will also mean the realization of the values in which we believe so strongly.

A lengthy amendment process today would undermine and blur this message of support for democracy and free markets. This would undermine President Yeltsin and other reformers, who already have their hands full. We do not want to do anything that could promote the hardliners and others who oppose reform. The United States national interest demands that we act—and act resolutely—to send an urgent and clear message—the message of H.R. 5750. No useful purpose will be served by complicating that message.

Second, in the last few days, several meritorious amendments have been proposed. Individually, I could support most of these amendments. Many are appealing, and our colleagues deserve to be commended for raising these important issues. But collectively, these amendments would overburden and overload this bill. They would frustrate our efforts to help President Yeltsin and the reformers.

The amendments proposed during the last few days fall into two categories—those which seek to strengthen conditionality on assistance, and those which seek to orient the U.S. assistance program in certain directions. Both sets of amendments address concerns that will be with us for the duration of this program.

The bill we will take up later today tries to accommodate many of these concerns with effective—but not excessive—conditionality and broad direction—but not rigid guidelines—for the content of the program.

There will be future opportunities to refine our message on many of these points if that is necessary. This is not our last chance to adjust the content of the program or the policies that this bill will authorize.

Third, an amending process is not necessary, given the amount of work that has already been done on this bill. This bill already represents the work of five committees. These five committees have worked together closely to balance interests and achieve a strong legislative package. The Foreign Operations Subcommittee of the Appropriations Committee also supports the bill's provisions. Because so many already have had an opportunity to put their valuable imprint on the bill, a normal amending process is not essential.

Fourth, the experience of the other body should be instructive to us. Some 74 amendments were agreed to in the Senate. Some of the Senate amendments provide useful guidance that can be incorporated in a statement of managers. Several other Senate amendments are overlapping, contradictory, and would create layer upon layer of new bureaucracy. The House will go into conference in a much stronger position if we can keep the bill clean. The House will thereby be in the driver's seat when the time comes to shape better legislation.

Fifth, some amendments could seriously derail an effective program. I would like to recall for the committee last year's debate on some of the amendments to the foreign assistance authorization bill.

One amendment which many of us, including myself, found appealing established no less than 18 conditions before assistance could be provided to what was then still the Soviet Union. Many of those 18 conditions were important statements of policy—goals that we all would want to achieve—including: respect for human rights; freedom of emigration; free, fair, and open elections; deep reductions in defense spending; termination of strategic weapons modernization; termination of all military assistance to Cuba, Vietnam, and North Korea; and termination of supporting for the Cienfuegos nuclear reactor in Cuba.

This amendment passed the House overwhelmingly. I supported then—and support now—each of these objectives, but the amendment would have made it impossible to conduct a foreign assistance program.

Finally, Mr. Speaker, this bill's consideration today is not the last word on this legislation. The work of a conference committee and the writing of a statement of managers lay ahead of us. In that process, I am committed to try to address as many of the concerns of my colleagues as I can.

Mr. Speaker, I urge my colleagues to support this rule and to join us in working for a bipartisan bill that sends an unambiguous message of support for democracy and free markets in the former Soviet Union.

This is a historic moment. The vote before us today will be long remembered. It will certainly be the most important foreign policy vote many of us will cast in our careers.

I urge adoption of the rule, House Resolution 545, and I urge support for the bill. Both serve the U.S. national interest.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], our distinguished Republican leader.

Mr. MICHEL. Mr. Speaker, I rise in support of this rule. Assuming this rule is adopted, I will have much more to say with respect to the contents of the legislation before us. I just want to make a very brief argument in support of the rule, because it provides for an up-or-down vote on the issue of Soviet aid, which has bipartisan support here in the House.

The distinction here is this: we are not in a position today where, as is normally the case on our side, we would be arguing for an open rule because we would have our specific view and philosophical differences between the two parties. We would present our justification for having an open rule, having free and open debate.

But in this case, we have bipartisan support. Obviously, it is not unanimous. We have Members on both sides of the aisle who have serious problems with respect to voting for a proposition of this kind. I happened to think it is the right thing to do, and support it wholeheartedly. We will make those kinds of arguments during the course of consideration of the bill.

For the moment, the rule, even though it is closed, is a good rule for consideration of this effort to have it a clean up-or-down vote.

I understand, while I was not present at the Committee on Rules, there were Members making their pitch for this or that amendment on this side of the aisle, this or that amendment on that side of the aisle. Everybody has his or her views of how their amendments are just perfect for their particular district or their view. But we are trying to do something for the whole, here in the House as an institution.

I think this is a good bill under these circumstances. I hope it will have broad bipartisan support so we can get on to considering the real element of what is involved in this legislation. I urge support of the rule.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of both the rule and the bill. This is probably the most important vote in the last 40 years which the Congress has cast on a foreign aid issue. Four decades ago, when President Truman proposed the Marshall plan, Western Europe was literally on its knees and there was a real possibility that Soviet power could reach the Atlantic. The President asked the Congress to approve $12.9 billion over 4 years to prop up our friends and allies in Western Europe.

In spite of war weariness here at home, in spite of an enormous pent-up demand for consumer goods, in spite of little visible support for the Marshall plan in the polls, the Congress had the guts and the courage to vote for that aid. It probably turned out to be one of the best investments we ever made. We prevented a world war. Communism was contained. Eastern Europe eventually became free. The Soviet Union, the evil empire, ultimately collapsed. We were the ones who won the cold war.

Today we face a somewhat different challenge. Our task is not to contain communism but to consolidate democracy. Unless Mr. Yeltsin and the other newly democratically elected leaders of the Republics of the former Soviet Union can translate the promise of democracy into a better life for their own people, the chances are not that communism will return, but that a kind of ultranationalist neo-Facist movement which could very well produce another cold war and would certainly eliminate our hopes for the peace dividend. If that were to happen, it would be a disaster for our own country.

At the time of the Marshall plan, we acted on our own. In 1992 dollars, we provided $77 billion, which represented 6.6 percent of GNP. Today, we are joined by the other industrial democracies.

The cost to the American taxpayer of this bill is less than half a billion dollars per year, which is less than one-tenth of 1 percent of GNP. Having spent trillions to prevent war, let us not lose an opportunity to win the peace and consolidate democracy.

There is no guarantee that if this bill passes, democracy will survive in the Commonwealth of Independent States, but we can be reasonably sure if this bill is defeated that democracy will fail. That is why I urge the adoption of this legislation.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. BROOMFIELD], our retiring ranking Republican on the Committee on Foreign Affairs and a really tremendous Congressman.

Mr. BROOMFIELD. Mr. Speaker, I want to thank the gentleman from New York for yielding me this time.

Mr. Speaker, I urge my colleagues to vote in favor of this rule for consideration of H.R. 5750, the Freedom Support Act.

Chairman FASCELL and I have worked closely with the President, as well as the Democrat and Republican leadership, to fashion the best possible legislation. I know that it does not contain enough restrictions for some Members, and it contains too much money for others. But it is the best compromise we could reach.

The United States must send a message that we will support the people of the former Soviet Union in their efforts to build democracies and free markets. The time to act is now.

Such a response from our Nation to the overthrow of the global Communist menace will demonstrate our commitment to a new era of peace and prosperity, much as the Marshall plan opened the process of economic and political healing in the wake of World War II.

The cost of this task is minimal in comparison with what has already been spent, and what is at stake for the future.

Since the end of World War II, defending our Nation and its interests against the threat of Soviet-sponsored aggression has cost the United States tens of thousands of lives and trillions of dollars in defense spending.

Now, with a freely elected President in the Kremlin, and 12 new independent nations created out of the former Soviet Union, we have a chance to put to rest the cold war.

Mr. Speaker, it is our turn to act. We must demonstrate that our Nation has the ability to lead the peace—as well as the defense. So much is at stake for future generations.

I urge my colleagues to vote "yes" on the rule.

Mr. Speaker, I include a letter from four former Presidents in support of this legislation and a strong letter of support from President Bush, and also a letter from Boris Yeltsin.

THE WHITE HOUSE,
Washington, August 3, 1992.

Hon. WILLIAM S. BROOMFIELD,
House of Representatives, Washington, DC.

DEAR BILL: As the House moves to consider the Freedom Support Act (H.R. 4547), I wanted to convey to you my strong backing for the bill and my hope that it will have the support of you and your colleagues.

I submitted the Administration's Freedom Support Act proposal in April and requested prompt Congressional action. On July 2, the Senate passed its version of the bill, S. 2532, by a bipartisan vote of 76 to 20. The Senate and House bills differ from the measure I proposed to Congress, but they contain most of the basic authorities which I requested. I hope that, working together, we can produce a conference report that serves as a bipartisan foundation for our assistance effort.

I am convinced that we now stand at a critical moment in history. Together with our allies, we have the once-in-a-lifetime opportunity to help consolidate democracy and free markets in Russia, Ukraine, Armenia, and other states and to turn former enemies into permanent friends and partners. Most important, we have the chance not only to help the peoples of Russia and the new independent states escape the long nightmare of communism, but also to secure for use and our children a future that is infinitely safer and more prosperous.

Six weeks ago, Russian President Yeltsin came to Washington. Together we defined a new era in our relations. In signing with me the Washington Charter, President Yeltsin made clear and unequivocal commitments to democracy, free markets, and security cooperation that no Soviet leader could have possibly contemplated. After tough negotiations, we signed a historic nuclear arms reduction package that will achieve the greatest measure of security for the United States since the dawn of the nuclear age.

President Yeltsin also reaffirmed his determination to build a free market in Russia and to push ahead with his program of radical economic reforms. Together, President Yeltsin and I established a new framework for vastly expanded U.S.-Russia trade and investment that will benefit our businesses and our workers for years to come. We signed new Tax and Bilateral Investment Treaties that will help our firms enter the Russian market, and the U.S. granted Most Favored Nation status to Russia.

President Yeltsin has boldly and unambiguously committed his government to the values that all Americans hold dear: democracy, freedom, and free markets. He has promised to uncover the darkest secrets of the communist past and to help resolve our deep concerns about American MIAs, POWs, and the KAL 007 tragedy. Now it is time for America to do its part to assist Russia, Ukraine, Armenia, and the other new states to make the historic transition from tyranny to freedom. Together, the Administration and Congress must send a clear message that we stand with them at this difficult hour, when they need our help most.

To those who say America cannot afford to assist these reformers at a time of domestic difficulty, I respond that no such false choice exists. We can—we must—meet challenges both at home and abroad.

The Freedom Support Act is not just another foreign aid bill. It is first and foremost an act of national self-interest, a direct investment in the political, economic, and security future of the American people. Having spent over $4.3 trillion to defend ourselves from Soviet totalitarianism during the Cold War, we can ill afford not to invest in democracy in Russia and Ukraine so that we can permanently reduce our defense burden. The resulting savings would be available for investment here at home. And by acting now to engage Russia and the new states, American firms, workers, and products will be well-positioned to take advantage of this large and rich market.

If we do not act now, we collectively will have failed to live up to the challenges and the strategic opportunity—perhaps the greatest this century—that this new relationship gives us. Now it is time for the House to join the Senate and pass the Freedom Support Act and then to meet in conference and pass a bill I can sign into law. To desert Russia, Ukraine, Armenia, and the other states at this time of need would be a tragic mistake for which history will surely judge us harshly. I therefore urge your support for early passage of the Freedom Support Act.

Sincerely,

GEORGE BUSH.

AUGUST —, 1992

DEAR MR. SPEAKER: We urge your support for the Freedom Support Act. For much of this century, the peoples of Europe and Eurasia have suffered under the tyranny of Communism. Throughout those years, America has nurtured their desire for freedom, their thirst for individual liberties, and their will to become democracies.

Our successive administrations—and our allies—have been united in the struggle against Communism. Our unity has proven the wisdom and strength of our democratic system and provided a stunning victory for freedom.

We now have the opportunity, as fervently pursued for generations, to guarantee a peaceful transition to democracy. America must respond to this challenge, as we have so many times before, through leadership of an international coalition to secure the success of reform in Russia and the other states of the former Soviet Union.

The stakes could not be higher. If we fail to seize this historic opportunity now, authoritarianism could return in Moscow and elsewhere, the anticipated peace dividend could evaporate, future markets and jobs for Americans could be lost, and nuclear weapons may again threaten the lives of our children.

This may be the most important vote you cast. Aid to Russia, Ukraine, Armenia and the other states of the former Soviet Union is an investment in peace and prosperity for the American people.

Sincerely,

RONALD REAGAN.
GERALD R. FORD.
JIMMY CARTER.
RICHARD M. NIXON.

[Translated from Russian]

MOSCOW,
July 30, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives of the U.S. Congress.
Hon. GEORGE J. MITCHELL,
Majority Leader of the U.S. Senate, Washington, DC.

DEAR SIRS: I would like to address to you the words of my sincere gratitude for the warm reception accorded to me in the US Congress during my recent visit to Washington. I regard this as something more than would be appropriate hospitality for such occasion. In this I see an expression of approval and support on behalf of the US legislators to the course of democratic reforms in Russia.

The main task our two countries are facing now is to turn the new quality of Russian-American relations which has been acquired in the result of the Washington meetng of the Russian and US Presidents, into a practical dimension.

You are aware of that great importance which we attach to the Russia Freedom Support Act now discussed in the US Congress. Adopting this Law would serve a powerful impulse for our political and economic reforms, and it would be an important factor for enhancement of our internal resources and external assistance with a view to achieving a more rapid advancement along the road of democratic reforms.

I would like to reiterate the fact that the Russia Freedom Support Act also protects America's freedom. The failure of our reforms would have shattered the foundations of liberty and democracy in the entire world.

The consideration of the Russian Freedom Support Act which took place in the US Congress and its approval in first reading in the US Senate on July 2, support this viewpoint.

Meanwhile, I will not hide it from you, that we take a very guarded look at those amendments introduced by some senators to that bill, which would make a link between the economic aid to Russia and a solution to certain problems, such as, in particular, withdrawal of Russian troops from the territory of the Baltic states. In this connection, I would like to assure you that we intend to firmly pursue the goal of a complete withdrawal of the armed forces from the territory of Latvia, Lithuania and Estonia. This is a political decision which is already being translated into practice. The troops withdrawal is being carried out. As regards the timeframe, this will be determined during the negotiations between the state delegations of Russia and Baltic countries, with due consideration of securing legitimate rights of all parties.

Therefor, we would count on a positive response from the U.S. lawgivers on this matter. I would once again make this appeal to you to exercise political prudence, understanding and support to the aspirations of Russia in its newly acquired quality of a free and democratic state.

Sincerely,

B. YELTSIN.

□ 1400

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from Michigan [Mrs. COLLINS].

Mrs. COLLINS of Michigan. Mr. Speaker, I thank the chairman for yielding 1 minute to me.

Mr. Speaker, I oppose this rule. I believe it is unconscionable for us to give aid to Russia and its Republics and none for the urban cities of America. I feel that this country is like the wayward husband who feeds his girl friend's children while his own children are starving at home.

Our cities are hurting in America. They are devastated and they are hurting, and we want to put an amendment for loan guarantees for the urban crisis in America first.

We must learn how to take care of America first. Our cities are hurting.

I urge my colleagues to vote "no" on this rule.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I think it is ironic that this bill, which is designed to help foster democracy in Russia, is being debated under conditions less generous than we would urge on the Russians; namely, a closed rule.

In the Rules Committee, the drafters argued for a closed rule on the grounds that if we Members could offer amendments, some of them might actually be adopted, and that would not be wise. The answer, of course, is that this is a democracy where that is supposed to happen, and if the majority will is to amend the bill, then by definition in a democracy that is the appropriate result. What kind of a lesson are we sending to the Russians when we debate this bill under rules which preclude many Members, Democrats and Republicans alike, from offering amendments to try to make it a better bill?

This we-know-better attitude is the same excuse that has always been used by every dictator in the world. Democracy is about giving people a choice, and we have no choice under this bill. It is take it or leave it as it has been written. You cannot change it and you cannot even try to change it.

That is wrong, and we should send the rule back to allow the amendments that Members on both sides of the aisle would like to offer.

As Members might expect, I have what I think is a pretty good amendment. It is not an amendment designed to preclude aid being given to the Russians, but rather, it is designed to express to them those things which we believe are very important, and frankly which we want all of the people in Russia to understand underpin our support for the Russian Government.

For example, we want them to recognize that they need a plan to get their troops out of the Baltic States, and we say within 2 years. Is that unreasonable? Why should this body be reluctant to condition the support upon the existence of such a plan which the Russian leadership has said that it desires to implement?

We ask that necessary data be given to the IMF to determine creditworthiness of Russia and its ability to repay debt; that this be provided not because the loans have to be conditioned upon it, just that the information has to be supplied. What could be wrong with that?

We have asked that the Russians not continue to train Iranian submarine sailors or transfer *Kilo* class submarines to Iran. And those of us who are concerned about the safety of our troops in the Persian Gulf area will understand clearly the importance of the Iranians not being given these submarines by the Russians. That is not unreasonable, if we are going to aid the Russians, to ask for a little cooperation.

We ask that they continue to cooperate on the question of American POW's and MIA's. They are cooperating, and there is no reason why they will not continue to cooperate. This is an important expression to all of the people in Russia of something that is very, very important to the American people. If we are going to make our taxpayer dollars available to them, that is not unreasonable. The Russian leadership and the United States are together on this.

We ask that Russia no longer provide assistance to Cuba, North Korea, Vietnam, or Afghanistan, which they have indicated that they intend not to do in the future: and this is certainly not unreasonable. Why should American taxpayers' dollars, money being fungible, go to support regimes like that?

Finally, that Russia be in compliance with all arms control agreements. They have said they intend to be by signing these agreements, and clearly we should not be giving them aid if they are not willing to be in compliance with those very important arms control agreements.

So these are not requirements that are too strict for the Russians to meet. As a matter of fact, these are things the Russian leadership has indicated a desire to continue to do.

This is not a matter of hurting Mr. Yeltsin. In fact, it is a matter of helping him.

I submit for my colleagues' attention an article from the Washington Times by Gwynne Dyer concerning this, and I ask my colleagues to vote against the rule.

The article referred to follows:

MARCHING TO THE OLD TUNES

(By Gwynne Dyer)

"We have to restore the true face of Russia. . . . We have to revive the glory of the Russian army."—Russian Vice President Aleksandr Rutskoi, Feb. 9.

"I believe that this great former country (the ex-Soviet Union) . . . should make every effort to make fascists (i.e., Moldovan President Mircea Snegur) take the place they deserve on the gallows."—Maj. Gen. Aleksandr Lebed, July 7.

The Russian army, or at least some chunks of it, is dangerously close to getting out of control. Gen. Lebed commands the Russian 14th Army, which is still on the soil of the independent republic of Moldova.

Lately, his men have been fighting the Moldovans on the side of the breakaway Trans-Dnestrian Republic declared by the Russian minority there. And his suggestion that they should hang the president of the Moldovan republic came precisely one day after Russian President Boris Yeltsin had negotiated a peace-keeping force for Moldova with the gentleman in question.

This seriously endangered the peacekeeping plan, which involves some 10,000 troops from Russia, the Ukraine, Belarus, Romania and Bulgaria coming in to separate the combatants. But did the loose-tongued Gen. Lebed lose his job?

On the contrary. A variety of Russian generals backed him up, including Gen. Yevgeny Shaposhnikov, the commander of all CIS forces. And, of course, ultra-nationalist politicians like Mr. Rutskoi had a field day.

The most poisonous inheritance Russia has received from the former Soviet Union is the old Soviet armed forces. Practically all the officers were communists until that became illegal, so few of them feel loyal to the new democratic order—and they have no hope of maintaining their existing privileges and standard of living in any other trade.

They are professional patriots, as it were, and they were bound to start looking for new jobs to do. Generals are always good at finding problems that need military solutions, and in this case the answer was obvious.

The disintegration of the old Soviet Union has stranded Russian ethnic minorities in every one of the 14 other former republics. So the army's duty, they have decided, is to defend the rights of Russian-speakers everywhere.

As Russia's nervous neighbors have all noted, this could easily become a pretext for the reconquest of the old empire. That is why every newly independent republic is desperate to get ex-Soviet troops off its territory as soon as possible.

The defense of Russian-speakers everywhere is not yet formal Russian army doctrine, but it is Mr. Boris Yeltsin's biggest nightmare. If the soldiers get their way, then all of the former Soviet Union could soon resemble Yugoslavia.

On the other hand, it is Mr. Rutskoi's greatest hope. Incessant appeals to Russian nationalism are clearly his choose strategy for displacing Mr. Yeltsin, and he is increasingly coordinating his campaign with insubordinate Russian generals.

Mr. Rutskoi is a former air force officer and hero of the Afghan war. He demanded and got the vice presidency last year as his reward for throwing the support of his parliamentary group, Communists for Democracy, behind Mr. Yeltsin.

Lately, Mr. Rutskoi has been claiming that it is necessary to maintain Russian troops in other republics "in defense of our fellow countrymen." And as the economic situation in Russia becomes harsher, more Russians are likely to respond to this kind of nationalist incitement.

Already, Mr. Yeltsin is having to take more nationalist positions himself to guard his flank against these people politically. He then retreats from his tough nationalist talk as quickly as possible—for instance, the peace-keeping missions to Georgia and Moldova, or any of his dealings with Ukraine—but he is repeatedly being pushed into corners.

There is a real danger that Russian military interventions on behalf of allegedly victimized Russian-speakers will spread war across the whole of the former empire, destroying democracy at home in the process.

The best way to help Mr. Yeltsin avert this threat is to get Russian troops back on Russian territory as soon as possible.

Take the example of the three Baltic republics of Lithuania, Latvia and Estonia. All of them have significant Russian-speaking minorities, and they still have a total of about 100,000 Russian troops within their borders.

All three Baltic states want those troops off their soil before local Russian settlers exploit their presence and draw them into a Moldova-style confrontation with the local authorities. But until recently, the Russian army insisted that it could not start pulling out until 1997 at the earliest.

Early this month, the Baltic states resorted to blackmail. They refused to sign the final communique of the Helsinki summit on European security until Russia agreed to pull the troops out.

Since the communique had to be unanimous, and it contained things that the major Western countries wanted, they then twisted Mr. Yeltsin's arm. He promptly agreed to conclude "without delay . . . bilateral agreements, including timetables, for the early, orderly and complete withdrawal" of Russian troops from the Baltic states.

This is a template for what should be happening everywhere that Russia still has troops beyond its own borders. If they have come home, it will be far harder to send them abroad again on some trumped-up mission to save Russian minorities.

Nobody should worry about embarrassing Mr. Yeltsin by pressing hard on this issue. He knows what must be done, but he needs foreign pressure as an excuse for doing it.

Gwynne Dyer is a columnist based in London, England.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Speaker, I rise in strong support of the rule. As the gentleman from Indiana [Mr. HAMILTON] stated, this is an extraordinary bill which must be implemented with extraordinary speed.

First, Members should recognize that this is a very balance bill. The conditions on assistance to Russia and the other States are strong but attainable. United States aid may be provided only to the extent that the States meet these requirements:

That they make significant progress toward and commit to the comprehensive implementation of a market-oriented democracy; respect human rights and the rights of emigration; settle disputes peacefully; and adhere to their arms control agreement.

Any harsher conditions put to this bill would be beyond the reach of the Russian Government and severely threaten Yeltsin's chances of success.

In addition, time is of the essence in this landmark legislation. If we attach a large number of amendments, the entire process of supporting Yeltsin will be slowed down. Yeltsin does not have much chance, much time. If he fails, Russian democracy fails with him.

I ask that Members read the New York Times op-ed column where Secretary Baker strongly supports this amendment.

Mr. SOLOMON. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from New York [Mr. GILMAN], a member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of the rule for H.R. 5750, the Freedom Support Act, and I commend the distinguished gentleman from Massachusetts, the chairman of the Rules Committee [Mr. MOAKLEY] for his leadership, as well as the distinguished ranking Republican member of the committee, the gentleman from New York [Mr. SOLOMON], for their wisdom in giving us this limited rule.

H.R. 5750, the Freedom Support Act, is absolutely essential, if the newly independent States of the former Soviet Union are to succeed. As Secretary of State Baker advised us, this bill is "* * * an historic, once in a life-time opportunity for the United States to exercise world leadership."

This is a bipartisan bill, carefully crafted to satisfy both Republicans and Democrats. It is a measure which is desperately needed by the Russian Republic to bring about fundamental, structural changes in the former Soviet Union.

Mr. Speaker, there is no guarantee that freedom and democracy in the former Soviet Union will prevail, but without our help, reform in Russia, the Ukraine, Armenia, and elsewhere is doomed.

This is not an easy vote, but no one ever said leadership was easy. It is up to all of us to inform the American people that this bill is a sound investment in American security and American prosperity.

History has provided us with a great opportunity and we must learn from the mistakes of the past. During the period preceding World War II, the United States failed in its efforts to secure the peace. We failed because of isolationist policies. Isolationism and security, and protectionism and prosperity cannot be reconciled.

Mr. Speaker, I commend the President, as well as our Republican and Democrat leadership for not only crafting an appropriate response to the crisis in the former Soviet Union, but also for having the foresight to recognize the importance of restricting amendments to this measure.

Voting for this rule is a vote for American leadership—it is a vote enhancing U.S. security, it is a vote for hope and peace. It is a vote for the security of future generations. Accordingly, I strongly urge its adoption.

□ 1410

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KANJORSKI].

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. KANJORSKI] is recognized for 2 minutes.

Mr. KANJORSKI. Mr. Speaker, I rise, unfortunately, today with very little time. I am opposed to the rule, but I am in favor of aid to the Republics of the Soviet Union.

We are not deciding whether to give aid here today. We are deciding how we are going to do it and what we are saying is we only have an hour of time, and we do not have an opportunity to debate new methods and new policies even though we are in the new age, we are in the new time, the new world order.

We have important amendments that have been made. Why have not these amendments at least been given the time in the democratic body here of the house and discussed? What is so important that we cannot wait a day or two to have the American people's representatives discuss the policies that should be coming before this House? No. What we are doing, and when I hear the majority leader talk about the fact that they are in agreement for a closed rule, it really scares me, a government by oligarchy rather than democracy.

We can we not have open democracy? I spend 3 hours at the Committee on Rules and asked for the possibility of three amendments and listened to them. One of the amendments is a very important amendment. It passed the Committee on Banking, Finance and Urban Affairs unanimously, and the one amendment that passed the Committee on Banking, Finance and Urban Affairs would have provided that lenders from the IMF have to pay the equivalent of the American wage and abide by the American minimum environmental standards in their projects, and that by the year 2000 it be a policy that we spread around the world the minimum wage so foreigners can buy American Buicks someday. What is wrong with that concept.

The second amendment, we are dealing with a country when we are talking about the Soviet Union, that is the wealthiest country in the world, over $2.5 trillion in verified resources in the ground. Their President wants to offer these commodities as security. Why do we not take the time in the free country of the world to develop and international commodities market so that they can not only have their money but they can have hundreds of billions from the free-enterprise system of the world to go in and develop their country? No. We do not want to think of new ideas.

Finally, in this bill there is a Democracy Corps, another NED, National Endowment for Democracy, $15 million given away. To whom? To the Republican Party, to the Democratic Party, to the AFL–CIO, and the national Chamber of Commerce that are going to carry on American foreign policy.

I say shame. That amendment belongs before the people's body.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. MCCURDY].

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. MCCURDY] is recognized for 2 minutes.

Mr. MCCURDY. Mr. Speaker, I rise in support of this rule and in strong support of the bill.

Mr. Speaker, It is amazing how quickly we forget just a few years ago that we sat our stood on this floor and debated the window of vulnerability on nuclear weapons and ICBM's, yet now we have a window of opportunity, and we are about to let it pass without seizing a historic opportunity.

This should be a bipartisan bill, and I urge my colleagues on both sides of the aisle to support this historic piece of legislation. This bill will not save the Soviet Union or save Russia. It will not prop up and save the Yeltsin government.

But if we do not act, if we do not seize this opportunity, it very well could send signals that lead to the crumbling of that fragile democracy.

Let us not let short-sighted parochial thinking derail this legislation and this support. Richard Nixon said it right when he addressed America and said, "This is an opportunity that the United States needs to seize and provide the leadership for, in order to provide for a safer and more stable world in the future."

The money we will save in defense spending by reducing defense expenditures over the next few years will fully be recovered, and the savings we have by seizing this opportunity will enable us to make those savings in defense and reduce the risk not only of greater conflict but also of potential nuclear holocaust.

The evidence is clear that the Yeltsin government is struggling, that it is a fragile democracy today, and we need to stand up together as leaders of this country and provide strong bipartisan support.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the closed rule.

Let me just read something out of the bill, and I think it says it about as good as anything else that can be said.

First of all, it was a judgment call, as I understand it, on restricting this bill and limiting it to the matters that are in the bill now, because there was no way to otherwise handle what would be a basketful of amendments, all of them legitimate in their own right, to be discussed and still maybe some way, somehow can and will be.

The difference is, of course, that where there are mandatory conditions as against principles, then the line was drawn. Reading from the bill, I think, explains the reason for that:

> (7) the unprecedented pace and nature of events in the independent states of the former Soviet Union require that the President be provided with the authority to furnish United States assistance and resources flexibly and expeditiously if the United States is to be able to support the transformation of the independent states of the former Soviet Union to democratic civil societies with market-economies.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, while America is worried about stabilizing the ruble, the dollar is going straight to hell.

I would like to state this today: I keep hearing in Washington about all of the gridlock, all of the gridlock. The administration wants $12 billion in loan money for Russia. Congress is going to give it to them. The administration wants another $1.2 billion in aid for Russia. Congress is going to give it to them. This is not gridlock. This is wedlock.

We have got cities on fire. The money should be going to America.

They have gold. They have chromium. They have oil. They have lumber. They do not need money. They need to go to work. That is what America stands for. That is what free enterprise stands for.

I am opposed to the bill. We do not even have a Buy American on this damn thing.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker and Members, I rise in opposition to the rule.

Yesterday I spent quite a bit of time sitting in the Committee on Rules. the room was lined with Members from both sides of the aisle who begged the Committee on Rules, please, not to have a closed rule.

What they said was this bill is too important. There are too many good ideas. We were not listened to, unfortunately.

We have before us one of the most important bills that will be debated in this House, and it is a closed rule. We do not have an opportunity to interject into this deliberation any of our ideas. I have an amendment, and it is a loan guarantee. It does not cost the budget $1. It has been scored zero by CBO. It is an amendment that would simply be a loan guarantee for $10 billion that would allow the cities to borrow money for economic development. It would allow them to lend some money to small entrepreneurs, would allow them to do some housing for poor people. It does not cost this budget one dime.

□ 1420

We could not get the Rules Committee to allow us to amend this legislation.

I would ask for opposition to this closed rule so that we could have the kind of deliberation, the kind of discussion that is so necessary for us to deal with on a bill of this nature.

Mr. Speaker, I yield the balance of my time to the gentleman from Maryland [Mr. MFUME], the acting chair of the Congressional Black Caucus.

Mr. MFUME. Mr. Speaker, I also rise in opposition to this rule. It is exclusionary and punitive. It does not allow us the opportunity to vote on providing an aid package for this country. Instead, it provides $12 billion to Russia and another $1.2 billion, without anything at all, without any caring at all for the problems that exist in this country.

The Congressional Black Caucus has taken a position on this and we urge Members of this body also to reject this rule.

The argument that we ought to do something abroad falls flat on its face.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Maryland [Mr. MFUME] has expired.

Mr. SOLOMON. Mr. Speaker, I yield 1 additional minute to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, the argument that we do something for Russia falls flat in the face of other arguments. Who is arguing for factory workers in this country? Their plants are closed. Their hopes die and their jobs go on a fast track to Mexico. Family farmers watch their family farms close while we debate sending aid overseas to the people of Russia.

The American students are told we are more interested in smart bombs to be provided to dumb dictators while they have to deal with a situation that cuts back on their student loans.

Urban America is too poor to abandon, and yet too important to be overlooked in this package.

Middle-class families believe that charity begins at home, and our Nation's children are told to wait for the next tomorrow and the next generation and the next election before we can find aid to them.

Do you want to help some fledgling democracy? Help some of them here back home. They are called Baltimore, Washington, Chicago, Los Angeles, New York, and Philadelphia. They need the kind of deliberative meanings and the deliberative kind of discussions that are coming to this.

I ask the Members of this body to vote no on this package, to kill this rule so that we might have an opportunity to amend it later.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nebraska [Mr. BEREUTER], a member of the Committee on Foreign Affairs.

Mr. BEREUTER. Mr. Speaker, I went before the Rules Committee yesterday, too, to try to make in order amendments already approved by the Banking Committee. I gave up, because it is clear to me that there were dozens of amendments that Members wanted to offer, some good, some terrible. Undoubtedly the Rules Committee and the leadership of both parties concluded that we were going to have chaos unless we come up with a closed rule.

Therefore, I support the rule and I strongly support H.R. 4547.

It has often been said a hundred times on a hundred different matters that we are on an historic crossroads. It is often said a certain piece of legislation is historic, or that a new initiative is historic.

Historic is an overused term, but I remind my colleagues without hyperbole that this vote on H.R. 4547 is truly quite probably the most historic and important vote that you will ever cast as a Member of the U.S. House of Representatives.

We have spent tens of trillions of dollars fighting the cold war. It has cost the average American family $80,000. Here is our chance to pull back from the precipice of nuclear war that has faced us since Joseph Stalin.

Mr. Speaker, I urge support for the rule and the bill, H.R. 4547.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, I rise in support of the rule. I will support passage of the Freedom Support Act today because I fully recognize that the end of the cold war and the dissolution of communism in Eastern Europe and the former Soviet Union afford us an historic opportunity to establish lasting global security and ensure our grandchildren a peaceful future.

I have visited many of the Republics of the former Soviet Union and I have seen first-hand how urgently our assistance is needed by the people of the Baltics, Russia, Ukraine, and other Republics of the Commonwealth. Not only do I care about the health and welfare of these people as they overcome the great challenges of establishing democratic governments and free-market economies, I also recognize the vested security interest we have in seeing these democratic experiments succeed over the long term.

But my support for this necessary aid package comes only with a weighty condition. We cannot do for the people overseas what we cannot do for our own people. Before this 102d Congress adjourns, we must act to help the 17 million people unemployed in this country. Congress has an absolute responsibility to these Americans and their families to create the jobs which will put the United States back on the road to recovery. I will work in these final months of the session to do just that, and I hope my colleagues will join me in this effort. This is my pledge to the people of my district in New York and it is my pledge to the people of America—your needs will not play second fiddle to those of any foreign nation.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in opposition to the rule and to the bill. One of the reasons is that we are going to give millions of dollars, not just to the Soviet Union or Russia, as they call themselves, but to the IMF.

Do we want to give them welfare? No, let us do it in trade.

Like the gentlewoman from California [Ms. WATERS] has said, how about loan guarantees that are not guaranteed in this rule?

The United States needs titanium. There are only two places to get it. One is in South Africa. The other is in the Soviet Union. Let us put their miners to work. There is a good deal on titanium, and that is called trade, not welfare. This is one of the ways. There are over 1,000, 2,000 items, just like titanium that this country needs and in which we can promote trade instead of giving welfare.

Do we want to teach the Soviets not to work for welfare, like we do in this country? Let us teach them about jobs and trade and working for a living.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, I rise today in opposition to the rule. I feel very strongly that this country ought to act in its own enlightened self-interest, and in that regard I think that it only makes sense that we support a Russian-aid package; however, I do not believe that the Congress and the Rules Committee did the right thing in terms of the abdication of the work that was done on the restrictions on the International Monetary Fund.

The fact is that the committee, under the leadership of the gentlewoman from Ohio [Ms. OAKAR], and Chairman GONZALEZ did yeoman's work in terms of restricting this international organization on loans that have devastated children's programs, loans that are necessary in order to protect our environment.

Two amendments that I had offered that restricted the IMF from allowing loans to go forward in countries that have gross human rights violations, and second, in terms of countries that spend too much money on military expenditures in opposition to their own economic growth and programs that help the poor in their communities.

It seems to me that if you want this package to work, we ought to come back with a rule that includes the provisions of the Banking Committee.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Kansas [Mrs. MEYERS], who just won a primary in Kansas.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of the Freedom Support Act. This legislation is a vital investment to secure our victory over Soviet communism. The cold war is in reality only half over; communism has lost, but freedom has not yet won. We must work to make sure that democratic capitalism succeeds in bringing a better life to the people of Russia and the other Soviet Republics; because, if we fail, despotism is sure to raise its ugly head.

Boris Yeltsin is not only the first democratically elected Russian leader in history, he is the first nonimperialist Russian leader ever. If he falls because the Russian economy does not improve, aggressive Russian nationalists will be the ones who take over. If that happens, we can forget about the peace dividend. An attempted recreation of the Russian Empire will plunge Europe and Central Asia into chaos that will make the tragedy in Yugoslavia look minor by comparison. If we and he succeed, free markets in Russia, Ukraine, and the other new Republics will provide a market for billions of dollars of new trade that will produce millions of new jobs for America.

The long-term opportunities for trade and investment in the Republics of the former Soviet Union that adopt the free market are bright. President Yeltsin has invited the American private sector to invest in the unique and untapped Russian market. Like the American West in the 1870's and 1880's, the former Soviet Union is a new frontier, waiting to be developed.

This bill has important safeguards against misuse of the assistance provided to the Republics. The President must report, every year, on the progress each Republic is making in economic and political reform, and how American aid is being used to foster that reform.

There is a risk in investing to develop democracy and free enterprise in the new nations of the former Soviet Union, but there is also opportunity to promote peace and profit economically. If we do not pass this bill, the risk is increased, but we will have also thrown away all opportunity.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, we would like to believe that the Russian Government which will receive billions of dollars in this bill is a fledgling democracy, sensitive to the principles of freedom; but in one small corner of the world, the brutality of Soviet communism lives.

In the struggling democracies of Lithuania, Latvia, and Estonia, the Russians have an army of occupation of over 130,000 troops. Though the Russians profess enlightenment, their heavy-handed tactics and threats in the Baltic belie these claims.

Today the Russian Foreign Minister, Kozyrev, refused to withdraw his Russian forces until the Baltic States reimbursed the Russians for the expenses they incurred while forcefully occupying the Baltics.

In the streets of Vilnius, Riga, and Tallin, many of our friends are asking whether the United States will abandon them in their fight for democracy, whether our Nation will stand in silence while our friends are once again tyrannized by the Red Army.

□ 1430

We may call this bill the Freedom Support Act, but a vote for this Russian aid package without a clear mandate to remove Russian troops from the Baltics is a desecration of the word "freedom."

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the porkbuster of the House, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Indiana [Mr. HAMILTON] of the Committee on Foreign Affairs, said a while ago that a vote for this rule is a vote for democracy and free markets in Russia. I would like to quote from the Center for Security Policy statement which they put out today which says,

> Indeed, there are abundant signs that the Yeltsin government is—willingly or unwillingly—adopting positions, appointing personnel and making changes in the direction of its economic and political programs that will prove quite inconsistent with the interests of democracy and free market reform in Russia and with vital U.S. interests. Consider the following quote from today's Washington Post:
>
> "A front-page commentary in the newspaper Nezavisimaya Gazeta today said the [Russian Central] bank's decision [to pump 1 trillion rubles or roughly $6.6 billion into failing enterprises of the military-industrial complex] signalled the end of 'the Gaidar era—the first stage of liberal reforms in Russia.' The paper said it now scarcely matters whether the acting prime minister remains in office, since one of the central planks of his reform program—substantially cutting state subsidies to industry—has gone down in flames."

Mr. Speaker, they are moving away from democracy right now. And this bill ought to be fashioned in such a way as to make sure we are forcing them in the direction of change, positive change, and this rule precludes that possibility.

Mr. Speaker, I am going to speak, when we get into the bill itself, about the minerals they have that we ought to be getting in exchange for the money we are talking about.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, this is not just a Russian aid package; it is a package that includes $12.2 billion of International Monetary Fund increase on the part of our country, and the Committee on Banking, Finance and Urban Affairs has exclusive jurisdiction on that level and yet we were really not considered, even though we had countless hearings, witnesses, markup of a bill with bipartisan support.

So, what you will do with the rule that is closed is excluded, the various instructions related to the International Monetary Fund quota. I think that is wrong not to have any strings attached. That is why I oppose this rule.

Let us go back to the Committee on Rules and put in the titles that we had worked out. It is unfair to the Members who spent countless hours, and most importantly it is unfair to the 165 countries that relate to the International Monetary Fund.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only I yield 1 minute to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, this week, I received a "Dear Don" letter from George Bush asking for my support for money for hard-pressed people. I am certain that many of our colleagues received similar letters from the President who wished to convey to us his strong backing for the Freedom Support Act.

Frankly, this was the first time in ages that I received a personal letter from George Bush.

Initially, I was pleased that the President was writing to me to ask that I support legislation that would help those in need. Was he writing to ask that I support a bill to help rebuild the riot-torn areas of Los Angeles? Was he writing to ask that I support legislation to help the children of the long-term unemployed? Was he writing to ask that I support a bill to help States deal with gang-related violence in our public schools?

No, George Bush was writing to ask for my vote for funds to help out the people of Russia. And, while I intend to comply with the President's request and vote for the Freedom Support Act, as I think it is a worthwhile piece of legislation, I am perplexed that in the one letter that George Bush has chosen to write to me in months, he wrote on behalf of people who live outside of the United States.

George Bush needs to open his eyes to the people of our own country who are so desperately in need of his help.

Mr. SOLOMON. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I seldom find reason to support rules, because it so often seems minority issues get flattened out in committee by the majority streamroller. But I also know that bills like this can be killed with kindness by creative amendments under an open-rule situation.

Given the enormity of the scope of what we are about, I conclude that a closed rule is a logical way to keep the main issue in focus. To me, the main issue is whether we can nourish the emerging democracies of the former Soviet Union and provide jobs for Americans and access to new marketplaces for American-made products in the process. That is what this rule today should accomplish.

I sure wish I had an amendment on Cuba to make sure we would be providing guarantees of compliance with the embargo, and I know other Members have amendments like that that they would want to see also. But I believe the central issue should rise or fall on its own merits. That is what this rule is going to provide today. That is why I support the rule.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I rise in opposition to this bill and the rule which brings it to the floor.

I am especially opposed to the $12 billion increase in the U.S. contribution to the International Monetary Fund.

B.J. Cutler, foreign affairs columnist for the Scripps-Howard newspaper chain, wrote a few months ago about this $12 billion.

> The plan, which won't be spelled out to the public, goes like this: for "humanitarian reasons" the Soviet people must be aided. So the International Monetary Fund and the World Bank will make massive loans to Moscow. But most of the money will be recycled to repay banks in London, Paris, Frankfurt, and Tokyo.

Mr. Cutler is known as a factual reporter and columnist and expert on foreign affairs. In the same column, he wrote this:

> To be blunt, the scheme consists of shifting the costs of bankers' blunders to American and foreign taxpayers, which they wouldn't tolerate if they knew about it.

No one wants to see anyone starve or go hungry. But if Mr. Cutler is right, and no one has yet denied his charges, this money will go not for food or to help the poor, but instead will go to aid big banks all over the world.

I believe that an overwhelming majority of Americans would be strongly against bailing out big banks in Tokyo and other places for bad loans made to the Soviet Union.

Earlier today I spoke on the floor and quoted from a column by Leslie Gelb, foreign affairs columnist for the New York Times. His column was called "the Russian sinkhole."

Mr. Gelb said that western aid to the former Soviet states had totaled over $50 billion so far and that it had largely disappeared and had not even made a dent in the economic problems there.

Now Mr. Cutler and Mr. Gelb are proforeign aid—but they both seriously question this aid package.

Milton Friedman, the well-respected economist, wrote in the July 6 issue of National Review that we should not approve this $12 billion increase for the IMF.

He said the IMF should have been abolished years ago and that its actions have simply given more power to centralized governments and have been very antidemocratic and anti-free-market.

Two more points: First, Forbes Magazine a few weeks ago reported that Russia has larger oil reserves than does Saudi Arabia. The former Soviet states have greater natural resources than we do. But their system of too much government has prevented them from developing the great wealth they have. They do not need our money nearly as badly as they need a fair free-market system.

Second, supporters of this IMF increase say it will have no budgetary impact, because we get back preferred drawing rights, or a type of stock, for our contribution.

This is like saying if we buy stock in some company that it has no budgetary impact because we get an asset in return for our money. But the point is that it ties up money that we could spend on some more worthwhile purpose or to help pay on our own staggering debt.

We are going to have to borrow this money in order to contribute it to the IMF. Then these drawing rights will be backed up by the shakiest loans in the world and will be worthless to us if times get really tough. Who will buy them from us? Who will give us foreign aid if our own economy crashes?

This is a bad deal for the American taxpayer. We cannot afford it, especially at a time when our own national debt is $4 trillion and we are losing $1 billion a day on top of that every day. The former Soviet states are not in debt as far as we are.

I wish we could help everyone who is hurting all over the world, but the fact is that we cannot.

I urge defeat of this very expensive and very wasteful bill.

It will certainly be good for the bureaucrats at the IMF, but it will do almost nothing at all for the average Russian citizen.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, in this morning's New York Times, the gentleman from Indiana [Mr. HAMILTON] said this will be one of the most important foreign policy votes that we cast in our lifetimes. I think he is right.

On August 21, 1941, the House, voted 203 to 202 to extend the draft. It carried by one vote. It was not popular. The American people did not want it. It would not have won on a referendum.

Neither would this. But we are not here because this is a referendum, we are here because this is the right thing to do. It is in the long run the responsible thing to do, and it is in the interest of the United States.

History has judged those who voted wrong in 1941 when the House approved the draft by a single vote, and history will look back on this vote as well and history, I think, will look kindly on those of us who did not what our constituents necessarily wanted, not what is popular, not what will win an election in a few months, but what is in the long-range interests of the United States of America.

Mr. SOLOMON. Mr. Speaker, I yield the reminder of our time, 3 minutes to the very distinguished gentleman from Iowa [Mr. LEACH].

□ 1440

Mr. LEACH. Mr. Speaker, from a historical perspective there have been three momentous events of this century: World War I, World War II, and the cold war. As historians understand, little is more worrisome than the model of punitive intransigence that the winners; that is, the victors, of World War I applied to the losers. Clearly organized retribution against the Kaiser helped precipitate the rise of Hitlerite fascism.

Likewise, Mr. Speaker, little is more successfully enlightened than the generous approach the victors of World War II took to the losers. Today our enemies are now our allies.

The lesson of history, as well as individual life, is that charitable understanding is a more practical, as well as more moral, approach than calculated indifference.

In the long run, free enterprise and trade are the only answers to the economic plight of the former Soviet Republics. In the short run, a modest amount of humanitarian, as well as capital, assistance may be the cheapest insurance policy the United States of America can consider taking out.

The greatest unfought war in history may have been won, but peace remains elusive. If the nascent experiments in democracy and free enterprise collapse for want of the timely Western support in the former Soviet Union, the potential ramifications for the national interest of our country in terms of threats to our security, escalated defense budgets and lost markets for trade and investment could be staggering.

The weight of historical judgment is on our shoulders. It is time for Congress to share with the executive branch the burden of leadership of the free world. The Freedom Support Act deserves our support, and this rule, while a bit restrictive, should be adopted.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of our time to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Members of the House, I will not take the time that is left because it is not necessary, but I want to urge Members to vote for this rule. I know that there are Members here and Members in opposition to this rule who wanted a number of matters to come up on a wide-ranging number of issues. I share sympathy with many of the views that were desired to be expressed and added to this bill in terms of amendments. Some of these matters can be brought up later in the year in other contexts on other bills because they are unrelated to the main subject matter that we are dealing with today. I know that members of the Committee on Banking, Finance and Urban Affairs are concerned about other provisions of the International Monetary Fund, and it would be my hope that those views, those provisions, those amendments, could be brought up in another context.

There are also a lot of Members who are worried about the idea of us voting for loan guarantees, other economic aid to people in Russia or the Ukraine when we have millions of Americans here in our country who are having extreme economic difficulties. I share their concern. It is hard to put a vote up here today to send loan guarantees to people a long way away that we have been fighting with for a long, long time when we do not seem to be able to put much of an economic package together.

Mr. Speaker, this year we have been working, and in the last few weeks, to try to get some additional economic measures out here. We had meetings even up to and including yesterday with the administration to try to free up more moneys for the transportation bill, to try to find a way without present costs to have loan guarantees for cities, urban areas, counties, kind of an advance on their community block grant fund, so they can solve infrastructure and urban problems that are in front of them today. We have no commitment on that.

I want to mislead no one. There is no linkage. There is no quid pro quo. But in good faith we have made progress, and I believe that before this legislation is finished, finally finished, we can have more moneys allocated to the highway bill for resurfacing and things that can and need to be done now, and we can come up with a way in the urban package, which is still yet to be decided, to have loan guarantees so that communities can borrow against moneys that are to come in in the future to do things that need to be done now.

I also want to urge Members to understand that this legislation to extend loan guarantees to people in Russia and the Ukraine is in the deep economic self-interest of our constituents. There is no other good reason to vote for this. None of us gets elected because we are experts in foreign policy or because we are writing articles for Foreign Affairs. We get elected to represent a half million people somewhere in this country. If this legislation is not good economics for the people that live in our districts, we should not vote for it.

But I submit to my colleagues that it is. It has been said here over and over again that we have asked our taxpayers to pay millions and billions of dollars over 45 years to make sure that the people in Russia did not attack us. That money was well spent. But the time has come that we can stop spending that money, or at least as much as we have. That is of infinitesimal benefit for our constituents economically. Those moneys can go to reduce our deficit. Those moneys can go to rebuild this country and this economy.

Finally, Mr. Speaker, if these countries can be made democracies and can be made market economies, we are building markets for our products in the future, products that we can make in our districts and our States in the United States. That is worth doing.

When we get to the general debate on this subject, I will have, and maybe some of my colleagues think unfortunately, more to say, but I feel about this very strongly. I wish we could have a rule today that anybody can bring up any amendment that comes to their mind. The Senate did that, and they wound up with 70 amendments attached to this bill. This bill is simple and straightforward. It does a very important historical task.

It was said during the Marshall plan that the Marshall plan was the most generous act of any people in the history of the world. This is not the Marshall plan; let us make no mistake about it, but for our time and our day this may be the most important and generous act that this country will ever do.

I urge Members to vote for this rule so that we can take it up, and soon I will urge my colleagues to vote for this bill which is important to everyone that we represent.

Mrs. COLLINS of Illinois. Mr. Speaker. I rise in opposition to the rule. I am as concerned as the next person about the needs of Russia and the former Soviet Republics but, unfortunately, I find it difficult to agree to aid these countries as long as the problems in my own country and my Chicago metropolitan district continue.

Here in my country of birth, we find ourselves in dire economic straits which have resulted in massive unemployment, the near-absence of new low-income housing starts, an overwhelming, strangling budget deficit, homelessness, hopelessness, hunger, and heartbreak.

This is Chicago's plight. This is the plight in most American cities and rural communities, because none have been left unscathed by the results of this severely depressed economy.

Under this closed rule those of us wishing to offer amendments that would bring a measure of balance to this bill have been silenced. Well, Mr. Sparker, common sense dictates that when your own children are hungry you don't go inviting people to dinner. Therefore, I urge my colleagues to oppose this rule.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to House Resolution 545 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4547.

□ 1449

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4547) to authorize supplemental assistance for the former Soviet Republics, with Mr. SKAGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

The gentleman from Florida [Mr. FASCELL] will be recognized for 15 minutes; the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 15 minutes; the gentlewoman from Ohio [Ms. OAKAR] will be recognized for 15 minutes; the gentleman from Iowa [Mr. LEACH] will be recognized for 15 minutes; the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 10 minutes; the gentleman from Missouri [Mr. COLEMAN] will be recognized for 10 minutes; the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 10 minutes; the gentleman from South Carolina [Mr. SPENCE] will be recognized for 10 minutes; the gentleman from California [Mr. BROWN] will be recognized for 10 minutes; and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 10 minutes.

Th Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself 2½ minutes.

Mr. FASCELL. Mr. Chairman, the Freedom Support Act of 1992 which establishes the general authorities and policy guidelines to provide economic and technical assistance, international debt relief, education and training programs and disarmament and nonproliferation assistance to the Commonwealth of Independent States. One of the most important aspects of this legislation is contained in title V. In this regard, title V establishes the general authorities and policy guidelines for the implementation of a nonproliferation and disarmament fund from which the United States will assist the newly independent Republics in their disarmament, dismantlement, and destruction of the vast arrays of nuclear, biological, and chemical, as well as conventional weaponry that remain stocked in the former Soviet arsenal.

During my more than four decades of service to my country, I have participated in and witnessed the end of World War II. I have seen that hot war replaced by an even potentially more dangerous cold war—a period in which both we and the former Soviet Union engaged ourselves in a relentless stampede to achieve an ever more elusive nuclear edge over one another. A period in which we held our nations, indeed the world hostage to the absolute destructive force of our nuclear arsenals. I have seen that cold war slowly simmer as each new generation of nuclear weapons replaced its predecessors. And, I have seen that cold war almost boil over during both the Berlin airlift and again, during the Cuban missile crisis when we stood at the precipice of global nuclear confrontation.

I have watched the superpower arms race in both awe and amazement as both the United States and the Soviet Union acquired and amassed more than 30,000 nuclear weapons and 70,000 tons of chemical munitions at a cost in excess of $1 trillion. We were not alone in this race. Great Britain and France also acquired nuclear weapons, as did the People's Republic of China. These acknowledged nuclear weapons states formed what euphemistically became known as the club of five but as we all know, there were and are other nations with longstanding nuclear ambitions.

We know for instance that India and Pakistan possess the capabilities to engage in a smaller yet much more volatile nuclear arms race on the subcontinent of Asia. We were equally dismayed to discover the robust nuclear ambitions of the renegade government in Baghdad, and we remain concerned over the prospects of the People's Democratic Republic of Korea's potential ambition to seek admittance to the nuclear club. Finally, we remain concerned and know full well that we cannot afford to allow the outbreak of a nuclear arms race in the Middle East on any scale whatsoever.

As I leave public office and face the decade of the 1990's, I see the folly of the past and hope and pray that it is not repeated. I have to pinch myself in the pleasant realization that the cold war has ended, and that the arms race has slowed—poised at long last for a stop. I am equally pleased to know that the Communists are out of the closet and no longer hiding underneath our beds. I am joyous that the four decades of the nuclear arms race are being replaced by a new decade—the decade of the 1990's—in which there will be a disarmament race. I am delighted that four decades of human repression in Eastern Europe and the former Soviet Union are being replaced by fundamental respect for human rights and the rule of law. I am happy that four decades of centralized planning for a military demand economy are being discarded in favor of a decentralized and consumer based, free-market economy. And, I am ecstatic that four decades of a closed political system is being put upon the ash heap of history and being replaced by an open and democratic form of government.

By taking action on the Freedom Support Act today, we are moving ahead to support these nascent developments—to ensure that they become firm in their reality. Inaction on the Freedom Support Act represents a return to cold war thinking—a codification of the past cold war mentality, whereas action represents new thinking and support for reaping the benefits of the end of the cold war. In this regard, we must not fail the American people, or the peoples of the Commonwealth of Independent States who desire freedom, democracy and an open free-market economy. We must not fail in taking advantage of the historic opportunity before us, to make the world a safer, more secure and more stable place in which our children and those of the Commonwealth of Independent States will live in peaceful prosperity.

The peoples of the newly independent states of the former Soviet Union have waited patiently to achieve the purported goals of the February revolution which were betrayed by the October coup that replaced the czarist bureaucracy system with that of the communist apparachiks bureaucracy system. Today, the peoples of the newly independent states of the former Soviet Union have liberated themselves from the totalitarian state which oppressed them economically, politically, socially and militarily over seven decades. Today, the hopes and aspirations of the peaceful revolutionary leadership that was initiated by President Gorbachev in 1985 and courageously implemented by President Yeltsin last year are being achieved. The new Russian leadership has shed the old system, rejected the reign of red terror and duress and taken the first fundamental steps toward a new way of life. The Freedom Support Act will go a long way in helping these people to achieve those nascent aspirations.

In this regard, I would like to share with my colleagues the view of Russian President Boris Yeltsin, who in a recent letter to the congressional leadership, has emphasized the great importance the reform leadership of Russia attaches to this Freedom Support Act. In his view, and I quote, "adopting this law would serve as a powerful impulse for our political and economic reforms" and it would be an important factor in encouraging more rapid democratic reforms." President Yeltsin also stressed that the Freedom Support Act protects America's freedoms and interests since failure of reforms in Russia could in the long run undermine the foundations of liberty and democracy in the entire world.

To effectively end the cold war, we need to take what President Kennedy called a profile in courage. We need to make sure that the fruits of the vision of democracy's victory in the cold war are realized. We need to make sure that the weapons of mass destruction do not find their way into regional conflicts and ethnic tensions both within the former Soviet Union and elsewhere.

To effectively end the superpower arms race, we need to reverse the spiral in which we have been engaged. We need to make disarmament, and I mean real disarmament through verifiable dismantlement happen. And in so doing, we must be absolutely sure that in putting out the nuclear arms race inferno, we do not inadvertently contribute to brush fire arms races elsewhere in the world—most notably in the Middle East, the Persian Gulf, the Asian Subcontinent, and Northeast Asia.

To effectively end Communist repression worldwide, we need to do all that we can to support and demonstrate just how a free, democratic and free-market based economy and society work. In short, we need to refocus the global alliance system formed by President Roosevelt, which was strengthened by the Truman doctrine and the Marshall plan with a new plan. That plan is embodied in the Freedom Support Act of 1992. Just as the Marshall plan made Western Europe a beacon for hope for the peoples of Eastern Europe and paid material and substantial economic benefit to the people of the United States, the Freedom Support Act represents a modest but wise investment that will pay tremendous security and economic benefits for the American people in the decade, indeed the decades ahead.

We have all been witness to the extraordinary changes that have occurred in the world since the fall of the Berlin Wall. We all know that that event mandates a new way of thinking if we are to reap the benefits of the end of the cold war. The Freedom Support Act represents a new way of thinking. It is a policy guide for the decade of the 1990's. It makes an investment in the future which offers political, economic, and security returns for the American people and the citizens of the new Commonwealth of Independent States.

The main elements of the Freedom Support Act—economic and technical assistance, international debt relief, education and training programs, and disarmament and nonproliferation assistance—complement the Gorbachev/Yeltsin efforts and create the foundation upon which to replace the cold war competition and confrontation with post-cold-war partnership and cooperation.

The Freedom Support Act makes a political investment in democracy. The return on that investment for the newly independent states of the former Soviet Union is a political future where democratic representation and institutions empower people to take charge of their own destiny. The return for the United States is a partnership to resolve world problems in the spirit of multinational cooperation as opposed to perpetuating them in bipolar competition.

The economic investment of the Freedom Support Act is in free market economies. Consider these returns to the U.S. economy that flow from the Freedom Support Act: Tens of thousands of new jobs for Americans in the export business; 12 new markets in which to sell U.S. goods and services; over 250 million new consumers to purchase American products; access to greater petroleum and natural resources; and over 300 American companies seeking $12 billion in private investment opportunities.

Similarly, the Freedom Support Act makes a security investment in disarmament. An historic opportunity is in our hands. Over the past four decades, we spent hundreds of billions of dollars on the superpower arms race. Now, we need to spend only millions to dismantle, disarm and destroy those arms. The Freedom Support Act assists in the destruction of 40,000 tons of Soviet chemical weapons; 8,000 Soviet strategic nuclear weapons; 16,000 Soviet tactical nuclear weapons; 15,000 Soviet battle tanks; 13,000 Soviet armored combat vehicles; 8,000 Soviet artillery pieces; and 1,000 Soviet combat aircraft.

This represents the net destruction of more than 100,000 lethal Soviet weapons and weapon systems, including those of mass destruction. Much—if not most—of this disarmament business will go to American defense firms who are wisely adjusting to the newly emerging multi-billion-dollar disarmament market, yet another economic benefit to the United States. And, here it should be noted that as a result of the international cooperation created by the Freedom Support Act, U.S. defense spending could fall to $200 billion a year as opposed to a cold war budget approaching that of $400 billion a year by the end of this decade.

The committees of the House of Representatives which have jurisdiction over various parts of the Freedom Support Act have acted responsibly and expeditiously in their consideration of this legislation. From the perspective of the Committee on Foreign Affairs it is important to point out that the Freedom Support Act includes the main elements of the nonproliferation and disarmament fund (H.R. 4549) introduced on a bipartisan basis by myself and the ranking minority member, Mr. BROOMFIELD of Michigan and adopted by the Committee on Foreign Affairs on March 11, 1992. This bipartisan legislative initiative addressed the security challenges and arms control and disarmament opportunities of the post-gulf war and post-cold-war era, not only in the former Soviet Union but worldwide.

An illustrative list of the challenges demonstrates the need to reduce the proliferation threat from all over the world of all types of weaponry. Here are but a few of the proliferation challenges that we continue to face today: Iraq's continued desire to maintain and rebuild its military capabilities; North

Korea's nuclear weapons program; business as usual conventional arms sales in the Middle East; Chinese missile sales to Saudi Arabia, Syria, and Iran; and India and Pakistan's continued nuclear weapons programs.

This arms control initiative was subsequently incorporated into the Aspin-Fascell amendment to the Department of Defense authorization bill for fiscal year 1993 which passed the full House by a vote of 356–54 on June 4, 1992. Title V repeats the elements of that initiative.

This disarmament initiative strengthens U.S. nuclear nonproliferation efforts by: allocating $690 million for nonproliferation and disarmament activities; $40 million for international nonproliferation activities such as IAEA and UNSCOM inspections; $250 million for future nonproliferation and disarmament activities within the newly independent Republics of the former Soviet Union; and $400 million currently authorized for nuclear and chemical disarmament activities in the former Soviet Union to be extended into fiscal year 1993.

In closing, I would advise my colleagues that despite the collapse of communism the world does remain a potentially dangerous place. The Freedom Support Act—specifically title V—represents a comprehensive approach to making the world a safer place. It is a genuine attempt to achieve real arms control through the implementation of solid nonproliferation policies that will benefit not only the United States but mankind. I would also like to insert for the RECORD at this point the cost estimate of the Congressional Budget Office on the substitute text for H.R. 4547 which we are considering today. Mr. Chairman, I urge passage of the Freedom Support Act of 1992.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 5, 1992.
Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared a cost estimate to H.R. 5750, the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, as introduced on August 3, 1992. The bill is similar to H.R. 4547, the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, but would eliminate the direct spending in agricultural trade programs and would lower the authorization of assistance that was contained in the various versions of that bill. In addition, H.R. 5750 would appropriate funds for the International Monetary Fund.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. As a result, the estimate required under clause 8 of House Rule XXI also is attached. Enactment of this bill is estimated to have no effect on the budgets of state or local governments.

Should the Committee so desire, we would be pleased to provide additional information on the estimate.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE—AUGUST 5, 1992

1. Bill number: H.R. 5750.

2. Bill title: Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992.

3. Bill status: As introduced on August 3, 1992.

Bill purpose: The bill would authorize the appropriation of funds for bilateral economic assistance to Russia and the other republics of the former Soviet Union and for nonproliferation and disarmament activities. The bill would encourage the United States to take a leading role in multilateral efforts at macroeconomic stabilization and debt rescheduling, including U.S. participation, up to $3 billion, in a currency stabilization fund. The bill would repeal Cold War restrictions on various bilateral programs aimed at the Soviet Union including agricultural and other export credits.

Section 401 would authorize and appropriate funds for an increase in the United States quota of the International Monetary Fund (IMF).

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996	1997
Direct spending:						
Estimated Budget Authority	12,314	([1])	([1])	([1])	([1])	([1])
Estimated Outlays	0	([1])	([1])	([1])	([1])	([1])
AUTHORIZATION OF APPROPRIATIONS						
Budget Function 050: National defense:						
Authorization Amount	0	0	0	0	0	0
Estimated Outlays	0	8	−4	−3	−1	0
Budget Function 150: International affairs:						
Authorization amount	0	542	0	0	0	0
Estimated outlays	0	264	81	76	56	45
Total estimated outlays	0	272	77	73	55	45

[1] CBO cannot estimate the amount of additional spending.

SUMMARY OF FEDERAL COSTS

The table above summarizes the costs of H.R. 5750 to the federal government. The estimate assumes enactment of the bill before September 30, 1992 and subsequent appropriation of the authorized amounts. The direct spending in the bill falls in budget functions 150, International Affairs, and 600, Income Security and is described in the International Monetary Fund and immigration segments below. The largest item, the proposed 1992 appropriation for an increase in the U.S. quota of the IMF, does not affect outlays.

AID TO THE FORMER SOVIET UNION

This legislation and the Administration's proposal apply to 12 republics of the former Soviet Union. The seven major industrial democracies (G–7), the IMF, and the World Bank are developing multilateral assistance programs for the republics. In April, the United States and the other G–7 countries announced a $24 billion program of assistance to Russia. The plan includes balance-of-payments lending from international financial institutions, a currency stabilization fund, rescheduling of official and commercial debt, and bilateral assistance. All these areas are discussed in this section; however, only the bilateral programs have a direct effect on the federal budget.

Bilateral Programs

Economic and Technical Assistance Programs. Section 201 authorizes the appropriation of $417 million in fiscal year 1993 for bilateral economic and technical assistance programs. The objectives of the assistance include the following: addressing emergency and humanitarian needs, developing democratic institutions, supporting the creation of a free market system and private enterprise, expanding trade and investment relations with United States businesses, converting defense-related industry to civilian production, enhancing the human and natural environment, and improving food distribution, food production, education, energy production, transportation and telecommunications sectors of the economy. Estimated outlays from these authorizations of appropriations were based on details of the President's requested program.

Nonproliferation and Disarmament Activities. Title V authorizes the President to provide assistance to dismantle or destroy nuclear, biological, and chemical weapons, to halt the proliferation of these weapons and weapon technology, to establish science and technology centers in the former Soviet Union, and to convert military technologies and industries to civilian uses. For these purposes, the President is authorized to use $100 million of security assistance funds otherwise available in 1993. There is no existing authorization to fund these activities, therefore, this provision could add $100 million to spending over the 1993–1997 period. Nonetheless, it may not result in additional spending if the conference agreement on the foreign aid authorization bill is enacted and appropriations are provided in full.

The bill authorizes the appropriation of $40 million in 1993 for the Department of Defense to cooperate in international efforts to control the proliferation of nuclear weapons. To offset the spending, the bill reduces the authorization for procurement by the Defense Agencies by $40 million. The bill also increases the ceiling on Department of Defense funds that may be spent in 1993 on the destruction of Soviet nuclear weapons by $250 million. Defense outlays were estimated using historical spend-out rates for the affected accounts.

Section 504 directs the Director of the National Science Foundation to establish a nongovernmental foundation. The foundation would (1) promote and support joint research and development projects for peaceful purposes between scientists and engineers in the United States and the republics of the former Soviet Union, and (2) establish joint non-defense industrial research and development activities through private sector linkages. Funding for the new foundation would be derived through a transfer of funds authorized for such purpose in the National Defense Authorization Act for Fiscal Year 1993, contributions by participating republics of the former Soviet Union, funds from nongovernmental entities, and income on the foundation's investments. No additional cost to the federal government is estimated from enactment of this section.

Agricultural Credit Programs. The largest single source of bilateral assistance for the former Soviet Union is in the form of export credits for agricultural commodities. Section 702 would make changes in the way various agricultural export programs are administered. None of these changes are estimated to increase outlays relative to the budget resolution baseline.

Section 702 expands the current authority of the Secretary of Agriculture to provide technical assistance to emerging democracies. In order to receive assistance under this section, the new republics must meet the same eligibility criteria for other assistance authorized by this legislation. CBO expects that the change would not add to the technical assistance already in the baseline.

Subsection 702(a) waives the tonnage ceiling on commodities that may be shipped from the stocks of the Commodity Credit Corporation under the Food For Progress program. Nevertheless, the cap on handling and transportation costs of $30 million remains in place and will constrain costs to baseline levels.

Subsections 702 (k) and (l) specify minimum percentages of export credit guarantees and export enhancement subsidies that must be used to support exports of processed and high-value products to the former Soviet republics. These requirements hold only to the extent that processed and high-value products account for less than 25 percent of total export credit guarantees and 15 percent of total export enhancement subsidies. These overall thresholds are the same as the percentages of processed and high-value products assumed in the budget resolution baseline. Therefore, relative to that baseline, these provisions would have no effect.

Salaries and Expenses. Title III authorizes the appropriation in 1993 of $18.5 million for operating expenses for new embassies and consulates in the former Soviet Union and $6.8 million for United States Information Agency (USIA) programs. Outlays were estimated using historical spend-out rates for these programs.

Lending by International Financial Institutions. Russia and the other former Soviet republics have petitioned to join the IMF, the European Bank for Reconstruction and Development, and the World Bank. The IMF and the two international banks are expected to accept Russia this summer. As the republics are accepted and agree upon a program of economic policy reforms and performance targets, they will be eligible to borrow from these institutions. Lending by these institutions will be from their own resources and will not directly affect the U.S. budget.

Section 403 authorizes the U.S. Governor of the International Finance Corporation (IFC) to vote for an increase in the capital stock of the corporation. The IFC is an equity investment department of the World Bank. The additional stock would be sold to Russia and other new members as they join the IFC. Enactment of this section would not affect the U.S. budget.

Currency Stabilization Fund. Section 402 expresses Congressional support for a U.S. contribution of up to $3 billion to a currency stabilization fund. The announced package for Russia includes a $6 billion fund for Russia, of which the U.S. share is $1.5 billion. The IMF is to administer the stabilization fund using the General Arrangements to Borrow (GAB).

The GAB were established in 1962 by 10 industrial countries as a means of supplementing the resources of the IMF when needed to forestall or cope with an impairment of the international monetary system caused by participating countries. The United States appropriated 4.25 billion in Special Drawing Rights (SDR), or $5.95 billion, to finance drawings from the IMF under the GAB. In 1983, GAB participants agreed to permit the IMF to activate the GAB for financing to non-participants when the fund's resources were inadequate to meet exceptional situations associated with balance-of-payments problems of a character or aggregate size that could threaten the stability of the international monetary system. The GAB have never been used to finance drawings by non-participating countries.

Loans to the IMF under the GAB are treated as exchanges of monetary assets in the same manner as other transactions with the IMF (see discussion below). No budget authority or outlays are estimated for the use of the GAB.

Debt Rescheduling. After Russia concludes an agreement with the IMF, representatives of the republics comprising the former Soviet Union will meet with creditor governments in Paris to reschedule outstanding official debt. Rescheduling loans owed to the U.S. government is a loan modification covered by credit reform. If the rescheduling results in a loss of present value, the Credit Reform Act requires the appropriation of the additional cost to the U.S. government. The Administration claims it has the authority to reschedule loans owed the United States by countries that are in imminent default. If a country cannot service its debt, the Administration argues, there is no cost to deferring payments.

INTERNATIONAL MONETARY FUND QUOTA INCREASE

The IMF quota increase provided in Section 401 is not directly connected to the assistance to the former Soviet Union. The quota increase was negotiated in June 1990 and the Senate passed a bill authorizing the increase in July 1991. The authorization is contained in this bill to assure that the fund has adequate resources to meet the needs of the new members and other commitments worldwide.

Section 401 would authorize and appropriate the dollar equivalent of 8,608.5 million Special Drawing Rights (SDR) for an increase in the United States quota in the International Monetary Fund. The estimated value of the quota increase is $12,314 million. (The SDR is an international monetary unit whose value is a weighted average of a basket of currencies composed of the U.S. dollar, the German mark, the Japanese yen, the British pound, and the French franc. The value of the basket fluctuates daily.)

Transactions between the United States Treasury and the IMF are, by definition, monetary exchanges through which the United States receives an international reserve asset comparable to a convertible foreign currency. These monetary exchanges are not budgetary receipts or expenditures. Therefore, the estimate contains no outlays for the quota increase.

OTHER PROVISIONS

Office of Space Commerce. Title VI authorizes the Department of Commerce's Office of Space Commerce to conduct trade missions to the republics of the former Soviet Union to familiarize the United States aerospace industry with space hardware, technologies, and services available within the new republics. Such trade missions would cost approximately $0.1 million assuming the appropriation of the necessary amounts.

Immigration Provisions. Section 704(a)(1) extends through 1994 a special category for establishing refugee status under the Immigration and Nationality Act for certain aliens from the former Soviet Union, Vietnam, Cambodia, and Laos.[1] These persons can apply for refugee status on the basis of being members of traditionally persecuted groups rather than meeting the worldwide standard. The special category does not confer status itself. Refugee status is determined by the U.S. Immigration and Naturalization Service, which then provides for admittance of refugees based on regional ceilings that are set by a Presidential determination each year. Because this subsection does not affect the ceiling for all refugees (132,000 for fiscal year 1992), it has no direct effect on the number of refugees entering the United States. CBO estimates no cost for this extension.

Section 701(a)(2) extends through 1994 the ability of parolees from the former Soviet Union, Vietnam, Laos, and Cambodia to receive permanent residence status after living in the United States for one year without having to meet the general standards for adjustment.[2] This extension could potentially affect direct spending because, once adjusted to permanent resident status, these persons could be eligible for and receive government assistance. Nevertheless, because neither the number of these parolees who would qualify for adjustment under normal standards, nor the number who would use public assistance once they are permanent residents can be predicted, CBO cannot estimate the costs of this subsection.

6. Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) sets up pay-as-you-go procedures for legislation affecting outlays or receipts through 1995. Section 401 of this bill, concerning the International Monetary Fund, would create budget authority in 1992, which is direct spending under section 252 of BBEDCA. Therefore, pay-as-you-go procedures would apply to the section. Transactions between the United States Treasury and the IMF are, by definition, monetary exchanges through which the United States receives an international reserve asset comparable to a convertible foreign currency. Nonetheless, these monetary exchanges are neither budgetary receipts nor expenditures. As a result, the estimate contains no outlays for the IMF quota increase.

The immigration provisions of the bill would have the following pay-as-you-go impact:

[By fiscal years, in millions of dollars]

	1992	1993	1994	1995
Outlays	0	(1)	(1)	(1)
Receipts	....	(2)	(2)	(2)

[1] CBO cannot estimate the amount of additional spending.

[2] Not applicable.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO cost estimate: On June 17, 1992 and July 1, 1992, CBO prepared estimates for H.R. 4547 as ordered reported by the House Committee on Foreign Affairs and the House Committee on Armed Services, respectively. In addition, CBO prepared an estimate for the Senate companion bill, S. 2532, on June 1, 1992. That bill would provide the President with broad discretion to use various government programs and authorized the appropriation of such funds as necessary for the purposes of the bill.

10. Estimate prepared by: Joseph Whitehill, Eileen Manfredi, David Hull, Mark Grabowicz, John Webb, Joshua Leichter, Kent Christensen.

---

[1] Ex-Soviets considered under this provision are Jews, Evangelical Christians, Ukrainian Catholics, and Ukrainian Orthodox. Vietnamese, Laotians, and Cambodians must be members of certain categories determined by the Attorney General of the United States.

[2] Grounds for adjustment from parolee to permanent resident include having an employer-sponsor, marrying a U.S. citizen or permanent resident, or being a relative of a U.S. citizen.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATE[1]

The applicable cost estimate of this Act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:

[By fiscal years, in millions of dollars]

	1992	1993	1994	1995
Change in outlays	0	(1)	(1)	(1)
Change in receipts	....	(2)	(2)	(2)

[1] CBO cannot estimate the amount of additional spending.
[2] Not applicable.

Mr. BROOMFIELD. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I join Chairman FASCELL in supporting this bill to provide technical assistance to the former Soviet Republics. This is the most important foreign policy issue we will address this year.

The Freedom Support Act is not a handout. It is an investment in the peace and prosperity of future generations—a once in a lifetime opportunity to make our Nation's greatest adversary become a partner in democracy and trade.

History has presented us with the opportunity to end the cold war once and for all. To achieve this end will surely require an effort on the part of the United States and our allies. But while other nations are willing to join us to shoulder the burden, only the United States can lead this effort.

In my lifetime, and in my career in the House, I have seen many dark days throughout the course of the cold war, including Winston Churchill's Iron Curtain speech, the Berlin blockade, the Korean war, the launch of sputnik, the Bay of Pigs, the Berlin Wall, the Cuban missile crisis, the Vietnam war, and Communist insurgencies in every corner of the world.

Even if our Nation had the spirit, I am not certain that we have the ability to endure these trials again.

In the past year I have seen Mikhail Gorbachev make his own speech in Fulton, MO, declaring the end of the cold war. I have seen Boris Yeltsin—a freely elected President of Russia—agree to dismantle his nation's nuclear arsenal. The Soviet Union will never again be mentioned without the preface "former."

It is with great satisfaction that I support this bill as one of the last major initiatives of my 36 years in Congress.

DANTE, as everyone here knows, you and I will be retiring at the end of this session. We have worked together across four decades on the Committee on Foreign Affairs—the last 8 years side-by-side as chairman and ranking member of the committee.

Together you and I have had the privilege to witness and participate in the foreign policymaking process of the United States. As a Member of the House a member of the Foreign Affairs Committee, a Republican, and a friend, I can say without fear of contradiction that no one could have better deserved our Nation's trust or better served its interests throughout these years than DANTE FASCELL.

DANTE, it has been a real pleasure to serve with you. You have always been fair, honest and open to the views of the minority. You leave this institution with a record to be proud of, and a reputation for bipartisanship and compromise that should and will be remembered by those who succeed you.

As you and Jeanne-Marie begin your life after Congress, I hope you take a moment to savor your accomplishments. Our careers in this institution may, at most, be a small footnote in the Nation's history. However, those of us who have had the opportunity to know and work with you will not forget your personal integrity, your persistent efforts, and your friendly manner.

DANTE, my congratulations on a job well done.

History will remember President Harry S. Truman, Gen. George C. Marshall, Senator Arthur Vandenberg and the rest of the U.S. Congress for the foresight and political courage in enacting the Marshall plan in 1948. Can we rise to meet the same challenge in 1992?

The stakes for future generations are simply for this measure too great to be lost in the politics of the moment. We must pass this legislation—it is in our interest to do so.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I am happy to yield to the gentleman from Florida.

Mr. FASCELL. You caught me completely by surprise, BILL. I am very grateful for your gracious remarks. Let me simply say it has been a pleasure to work with you as the ranking member. I have considered you as cochairman constantly throughout this effort. It has been a real pleasure for me to work with you.

Mr. Chairman, the gentleman from Michigan [Mr. BROOMFIELD] has described my philosophy exactly. I believe the democratic process does call for compromise in order to make progress. I am willing to fight anybody at any time, if that is what it takes, but I would just as soon find some other decent way to work it out and make progress for our country and the American people.

In that process it has been my great privilege since I have been chairman of the Committee on Foreign Affairs to serve side by side with the gentleman from Michigan [Mr. BROOMFIELD], and I want you to know how grateful I am for the kind of support you have given. I wish you and Jane all the best in your future days. I know you and I will not vegetate. We have other things to do and we will always be interested. But I do want to express my appreciation for your thoughtfulness.

Mr. Chairman, for the better part of four decades BILL BROOMFIELD and I have proudly served the Committee on Foreign Affairs. For the last 8 years, we have cooperatively served together as chairman and ranking member.

While we have not always seen eye to eye on every matter, I can honestly say that we have been able to work cooperatively and successfully on many important pieces of foreign policy legislation.

We have been impartial in our deliberations on most of our foreign policy initiatives and programs—particularly in the area of arms control and nonproliferation. Of this I believe we can both be justly proud.

I would like to tell my colleagues here today that it has not only been an honor but a pleasure of the highest order to serve with you, BILL. And as we prepare to take our leave of this august body later this year, Jeanne Marie and I wish to extend our best wishes to you and Jane as you embark on your new career. You both deserve the best—and our prayers for a long and happy life go with you.

Mr. HAMILTON. Mr. Chairman, I yield 4½ minutes to the distinguished majority whip, the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, it has been more than 4 months since the President made his announcement about a comprehensive plan, the emergency aid package. That was the point at which so many of us literally hit the roof in this institution.

America's recession was 2 months old. But did the President come forward with a plan for this country, for the literally 17 million Americans who could not find full-time employment, a plan to create jobs here, to revitalize our economy? No; he came forward with a comprehensive plan to revitalize the Russian economy.

□ 1500

Well, my question to the President was simple. Why should Russian people cut ahead of the line in front of Americans? Did not the people in this country need help as well?

At that point, the gentleman from West Virginia [Mr. WISE] and I circulated a letter, and which over 100 of our colleagues signed, and we said in our letter to the President, jobs for Americans must come first. We were not saying "no" to Russian aid or support. We were saying, let us take care of the problem here at home.

We asked for two things: First, extended unemployment benefits; second, accelerate a jobs package. We waited for months. There was no word from the White House. Nothing from the administration.

---

[1] An estimate of H.R. 5750, the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, as introduced on August 3, 1992. This estimate was transmitted by the Congressional Budget Office on August 5, 1992.

From my point of view what we were doing was handing the administration and those who are interested in this legislation a great opportunity. Not only would they get aid to Russia, they would also get credit for helping Americans that they were elected to serve. But months went by with no progress at all.

Finally, as we all remember last month, the unemployment rate jumped 3/10 of 1 percent, up to 7.8 percent. And then we got attention.

The extended unemployment compensation benefits with some permanency in them were signed into law by the President. That was a start.

What about creating jobs here at home? Local communities in all of our districts are ready to build and rebuild and resurface and do all the things that are necessary to make this a better place to live and to put people to work. But they see no help from Washington. Americans are still waiting for those jobs.

Now, let me make something very clear. My grandparents came from villages in the Ukraine. I am sympathetic to the problems there and in Russia and the other Commonwealth States. But some of the arguments I heard during this debate were unbelievable.

Members told us that if we did not pass the bill right away there would be riots in Moscow. There were not riots in Moscow. What we saw were disturbances in Los Angeles and other cities around this great country of ours, not in Moscow.

We were told that if we did not act, Russia would have between 3 and 5 million people out of work, ignoring the fact that we have 17 million people in this country who cannot get a job.

Let me conclude by saying that I and the gentleman from Missouri [Mr. GEPHARDT], the gentlewoman from California [Ms. WATERS], and others have been talking to the administration, the Speaker has implored the President to act on an extended jobs benefit program as well as on a guaranteed loan for our cities, for our cities so they can rebuild and put people to work.

I believe we have come close to an agreement. We have reached an agreement on extending jobs for people making roads and bridges and highways at the tune of about $1 billion a year. We are that close, and I believe we will expand the Guaranteed Loan Program to our cities.

I see that as a commitment from the administration, an important commitment.

So I say to my colleagues today, I am going to vote for this bill, but I want to make it perfectly clear that if they renege, if they renege on these two important provisions to put Americans to work, the half a billion dollars for jobs to build our roads and bridges that will get out before October, and the guaranteed loan program for our cities, then when this bill comes back from conference or when any other foreign policy bill that matters to the administration comes back, they will not only not have my support but my active opposition.

Mr. HAMILTON. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Iowa [Mr. NAGLE], who has done such marvelous work on this bill.

Mr. NAGLE. Mr. Chairman, today we have the opportunity to stand up and be counted on the question of whether the United States will continue to lead the global effort to assist the emerging democracies of the former Soviet Union.

The Freedom Support Act provides for a partnership between our Government and our private sector to build upon the new political and economic realities of the post-cold-war period.

The bill is not a blank check for any country. Among a number of conditions, each new state must demonstrate by good faith conduct that it respects human rights, promotes economic reforms, and supports nonproliferation of nuclear weapons.

The aim of these conditions is to discourage government actions contrary to principles we honor in the United States, such as Azerbaijan's 4-year-long blockade to deny the essentials of life—food, medicine, and fuel—to the peoples of Nagorno-Karabakh and Armenia.

These emerging democracies must make sacrifices and take risks, but we can and should help them succeed through passage of this act.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I would not vote a dime for this bill if I did not think it was in our national interest. I want Yeltsin to succeed, not to fail. That is in our national interest.

I want a monolithic Communist state to become a free market democracy. That is in our national interest.

We have almost won the cold war, and it cost us billions of dollars. But not yet. We have not yet crossed the finish line. And as in the Olympic marathon, a marathon that has gone on for 45 years, we have not crossed the finish line.

There are ethnic, there are nationalistic, there are religious hatreds over there seething within the territorial limits of what was once the Soviet Union.

There are 27,000 nuclear-tipped warheads in the Soviet Union. It is in our national interest to neutralize all of these. But most of all, I want to create from within the former Soviet Union 300 million new customers for our economy.

It is not an us-against-them. It is not taking care of the Russians and forget us at home. This is a world economy, and if we can create a democratic free market state or help create one out of the former Soviet Union, it will be a marvelous boon for our own economy and world peace.

The peace of the world, the prosperity of the world depends on our exercise of enlightened self-interest.

Yes, the Russian troops have got to come out of the Baltics and they have got to go home, but I believe the economic problems of Russia are obstacles to this essential disarmament. And if her economy can be strengthened and stabilized, I have no doubt the Baltic States will be freed.

If we do not see this through and the former Soviet Union reconstitutes itself as a totalitarian state, future generations can look at us and say, "You were miserable failures."

The CHAIRMAN. The Chair would advise the Committee that both the majority and minority sides on the Committee on Foreign Affairs may reserve time for closing. The Chair will insist that all other committees recognized under the rule consume their time in order once we are into the individual committees.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I rise in opposition to this bill. All of us want to do what we can to help the Russians democratize. That stands for the other countries that were part of the former Soviet Union as well.

Unfortunately, I do not think that this bill is the right way to do it. This is not really an effort to help the Russians democratize as much as it is an effort to refurbish funding for the International Monetary Fund in the amount of $12 billion as the commitment from the United States.

For about 5 years now there has been an attempt to get this additional $12 billion to the IMF through this Congress. Finally, there is an excuse to do it, and it is under the rubric of aid to the Russians.

The problem is that, according to the Congressional Research Service [CRS], the Russians are not going to get all of this money. As a matter of fact, the Russians are not going to get half of this money.

If we add all of the countries in the former Soviet Union, the commitment to them, their quota is set at $6.1 billion, or about half.

The Russians are slated to get $4 billion. In other words, one-third of the total.

So my colleagues, let us understand that this $12 billion to the IMF is not all for Russian aid. No more than one-third of it is going to Russia.

Second, $31 billion of the total of $1.26 billion reserve that is currently available in the IMF for lending, would meet the maximum demands of all the former Soviet Union. So according to what the IMF currently has, there is adequate money to support funding for Russia and the other countries of the former Soviet Union. That is according to the Secretary of the Treasury.

Finally, the Senate Budget Committee staff projects that only $600 million of the $12 billion will actually reach Russia, for a variety of reasons. So I would say, Mr. Chairman, let us be careful about assuming that simply because we agree to guarantee $12 billion to the IMF, that, therefore, somehow or other we are lending or supporting the Russians in the amount of $12 billion. It simply is not true.

□ 1510

The second reason I believe we should be careful about supporting this legislation is that it is without the expression of conditions that many in this body had wanted to express by way of amendments that we were not allowed to offer as a result of the closed rule. Many of us wanted to suggest to the Russians that they at least ought to commit to a timetable to get their troops out of the Baltic States; that they at least ought to be willing to agree to abide by arms control agreements; that they at least ought to forego giving aid to countries like Cuba and North Korea and North Vietnam. Those are not unreasonable conditions.

I believe most of my constituents would be willing to consider doing what they could to assist the countries of the former Soviet Union, as long as the leaders of those countries understood what we felt was important. We believe these leaders are committed to these actions, but need support at home if they are going to be able to continue to make progress in these areas.

It does not hurt Yeltsin to impose some of these conditions, it helps Yeltsin to impose some of these conditions. There are many within Russia who do not want to remove the troops from the Baltic States, for example. By indicating to them that one of the conditions for this assistance is a plan to remove those troops, we strengthen Yeltsin's hand. He then is able to say to his comrades in Russia, "In order for us to get this kind of assistance, we are going to have to meet a plan to remove the troops from the Baltic States."

I urge my colleagues to vote against this program, because of the fact that we were not able to condition it in a reasonable way.

Mr. BROOMFIELD. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Under the rule, the gentlewoman from Ohio [Ms. OAKAR] will be recognized for 15 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I noted in the debate on the rule, I was very disappointed with the contents of the so-called Russian package legislation. The basis for the disappointment is our familiarity with the circumstances surrounding the legislation, particularly the IMF quota increase of $12.2 billion, which the Committee on Banking, Finance and Urban Affairs has exclusive jurisdiction over, and the omission of what we feel, the members of this committee, are essential instructions to IMF and other provisions.

IMF affects not just Russia, but 165 countries, and is the stabilizing force economically for the world economy in many, many ways.

Mr. Chairman, I think the IMF quota part is just as important as the Russian package part, and maybe more important in terms of the world economy. Therefore, we transmitted our work relative to this quota increase and included appropriate instructions to accompany this subscription.

I do not have disagreement with the objectives of the Russian freedom support effort or with the provisions as far as they go, but the bill does not go far enough. I think it would be irresponsible to have this $12.2 billion IMF quota increase without a number of specific policy recommendations that do not cost any money.

For example, we felt that it was very important to include management procedures to strengthen the bank's efforts to alleviate poverty. We felt very strongly, our committee, that several initiatives to protect the environment, so that the moneys were used properly, were included to support reduction and restructuring of developing countries' debt; to promote child survival; human and worker rights; to discourage, and this is especially important, to discourage excessive weapons expenditures. We have no guarantee if we do not put it in a policy statement that the portion of the IMF that they want to give to the Russians will not be used for more weapons expenditures. They do not need that, and it is important to have instructions relative to the IMF portion.

Additionally, there is a requirement for publications of the major economic reports, and a call for closer cooperation with other international financial institutions.

Mr. BURTON of Indiana. Mr. Chairman, will the gentlewoman yield on that point? I have something I would like to add that verifies what she says.

Ms. OAKAR. I yield 30 seconds to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, let me just say, in the Russian newspaper yesterday, and this is the Nezavisimaya Gazeta, it shows that the Russian Central Bank just pumped 1 trillion rubles or $6.6 billion into their military-industrial complex, and that verifies what the gentlewoman is saying.

Ms. OAKAR. Mr. Chairman, I thank the gentleman from Indiana [Mr. BURTON] for that point.

Additionally, there is a requirement for the publications, and to have closer cooperation between the IMF and the World Bank and other multilateral institutions. The Members have to understand that they are not just voting exclusively on a Russian aid package. They are voting on the IMF quota increase, on which we have not had an increase for 9 years.

While it is not part of the budget, it does not add to the deficit. The fact is, if we are going to contribute $12.2 billion, we had better make sure that we have guidelines that assist in terms of what we want our individuals who are on the board to vote for.

Let me at this point in time say that I am extraordinarily disappointed that somehow title I of the work that we did, which does not even relate specifically to this Russian aid package, could not even be included. I think it is a slap in the face for the work that the Committee on Banking, Finance and Urban Affairs members did, and for what I think is important policy for the American people who do make substantial contributions to the global economy.

That is why I do not support this bill in its present form.

Mr. Chairman, I reserve the balance of my time.

Mr. LEACH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, few issues are more important to our long-term national interest then the future of democracy and free enterprise in the former Soviet Union and former Soviet bloc.

While the greatest unfought war in history may be won, peace remains elusive. Failure of the West to engage in helping alleviate the socioeconomic and political problems stemming from Soviet communism's demise carries as many liabilities today as failure to contain communist expansionism would have 40 years ago.

The immediate challenge for America is to craft techniques that nurture democratic values and retard the prospect of regression to police-state controls and aggressive foreign policies on the Eurasian land mass. Winning peace is generally less costly than waging war, but it is not cheap; nor in some instances is it easy to justify to political constituencies.

From a historical perspective, the three most momentous events of the century are World War I, World War II, and the cold war. As historians well understand, little is more worrisome than the model of punitive intransigence the victors of World War I applied to Germany. Clearly, organized retribution against the Kaiser helped precipitate the rise of Hitlerite Fascism. Likewise, little in retrospect appears more successfully enlightened than the generous approach taken toward the loses of World War II when enemies becomes allies. The lesson of history as well as individual life is that charitable understanding is a more practical and moral approach than calculated indifference.

In the long run free enterprise and trade are the most efficacious answers to the enormous economic plight behind the fallen Iron Curtain; in the short run, the modest amount of humanitarian technical and international financial assistance authorized in the Freedom Support Act to the former Soviet Republics may be the cheapest national security insurance policy the United States can consider taking out. Direct U.S. aid ought to emphasize exchange programs, humanitarian assistance—principally food and medicine—and help in the dismantlement of nuclear weapons systems. For economic development and financial assistance, the West should rely on three relevant multilateral institutions; the World Bank, the International Monetary Fund, and the newly created European Bank for Reconstruction and Development.

Here it should be stressed that in substantive as well as dollar terms, the centerpiece of the Freedom Support Act is the technical and financial assistance that will be provided to the former Soviet Union through the International Monetary Fund (IMF).

While there is understandable skepticism about primary reliance on international financial institutions in this circumstance two advantages stand out: First, funding provided is of a loan not grant nature; second, other countries, especially Western Europe and Japan will be obligated to comparable liabilities, in this case matching America's on a 4-to-1 basis.

One of the least understood aspects of this approach is that the United States is one of the few countries that requires legislative approved for quota increases to the IMF's capital reserves. Because most other governments look at the IMF in part as a profitable institution, decisions on replenishment in other countries are generally made on a timely and supportive basis.

Half of our allies simply won't agree to support the IMF until we do, although they are prepared to match on a 4-to-1 basis every dollar we obligate immediately after our commitment is made. In other words, by failing to support the IMF quota increase, the Congress would be holding up $48 billion in contributions from others to the Fund. We would, in effect, be blocking IMF contributions from Germany and Japan that help advance America's national interests in the former Soviet Union.

The other half want to support the IMF without us, in order to lay claim to the trade deals attendant to IMF lending and in order to eliminate forever the U.S. veto of IMF policies which goes with us and only us because of our current near 20-percent participation in the Fund. In other words, our commercial as well as leadership interests are at stake with the decision before us.

The estimated value of the U.S. share of the quota increase is $12.3 billion. The U.S. contribution to the Fund will require an appropriation of budget authority, even though there is no net budgetary outlay. The reason for this is that our IMF quota is a monetary asset. When the United States provides its quota increase in Treasury reserves in exchange for our quota subscription, these reserve assets can be used by the United States at any time. In budgetary terms, therefore, despite an appropriation of budget authority, the quota increase has no effect on the U.S. budget deficit. In fact, the United States has earned an average of $600 million annually through participation in IMF loans over the last decade.

There is no guarantee, of course, that these gains will recur on IMF transactions once it begins lending to Russia; in fact, it would be naive not to suspect some losses. On the other hand, the possibility exists that, if sufficient free-market restructuring takes place behind the resource-rich former Iron Curtain, actual profit could accrue on the credit extended. To the degree any losses accumulate, they would be shared on a 4-to-1 basis with others.

A unique aspect of providing assistance through an international financial institution is that principles as well as dollars can be leveraged. While individual donor states have little leverage in influencing the economic policies of other states, the IMF has a proven track record of conditioning aid on free market reforms. Particularly in recent years, IMF adjustment programs have promoted less government and more private enterprise through reductions in bloated government spending, privatization of state enterprises, price and financial liberalization, as well as free trade. Key United States trading partners—Mexico, Argentina, and Brazil—in our fastest growing export market, Latin America, have IMF programs in place that support privatization, sound monetary policy, open trade regimes, and economic growth.

While Americans may differ on the role and composition of foreign aid, consensus should be obtainable on the notion that progressive change can most likely be institutionalized through expanded trade and investment ties. Aid without trade is a prescription for dependency, not self-sufficiency. Likewise aid without the development of a free enterprise psychology and legal infrastructure will be of fleeting significance. Unless laws are developed that protect property and provide incentives for entrepreneurship, all of the newly established states of the former Soviet Union and erstwhile Soviet bloc will likely stagnate for decades with per capita GNP wallowing at the level of less developed countries. What the former socialist states need is a cultural reordering of attitudes toward the relation of the state and individual. This can only occur through the widest possible contact with the West, particularly America.

Hence, I would stress the provision in this bill of a commitment to commence one of the largest exchange programs in the history of not only this country but any country. Based on legislation the distinguished Senator from New Jersey [Mr. BRADLEY] introduced in the other body and that which the distinguished gentleman from New York [Mr. MCHUGH] and I introduced in the House, this exchange program is designed to bring our countries together by building individual contact and sharing individual values. It is based on the assumption that at issue is generational not episodic change. I am personally convinced this exchange program will in the end prove more consequential than any of its capital providing features.

What the West must do is conjoin political and economic principles, emphasizing that democracy and free enterprise go hand in hand and that those states that move the most progressively are likely to be recipients of most public assistance as well as, by implication, private investment. In this regard, the non-Russian republics of the former Soviet Union should be singled out for sympathetic concern, with the new leaders of the Kremlin put on frank notice that efforts to thwart independence movements, whether in the Baltics, Ukraine, or Georgia, will be looked on with political disfavor carrying negative trade and investment implications. Here, it must be stressed the intent of Congress is to apply the resources contained in this act to all of the former Republics of the Soviet Union, not just Russia.

Social dislocation too often leads to scapegoats and simplistic solutions, to a search for a strong man, a Ukrainian Mussolini or a Russian Milosevic. Likewise the pace of reform itself may lead to disillusionment, like that expressed by the Russian nihilist Dimitri Pisarev, who suggested in the mid-19th century that a pair of boots is worth more than all the plays of Shakespeare. If communism is not simply to give way to nihilism, hope must be provided in democracy, market economics and trade.

Should the Congress fail to support IMF assistance to the former Soviet Union, America risks an unraveling not only of the G-7 aid package but a disastrous rending of the reform movement and hence social fabric in the soviet successor states.

If the nascent experiments in democracy and free enterprise collapse for want of timely Western support in the former Soviet Union, the potential ramifications for the national interests of the United States—in terms of threats to United States security, escalating defense budgets, and lost markets for trade and investment—could be staggering.

The challenge of our time is to grasp the opportunity created by the end of the cold war. If America leads wisely, new wells of creative energy can be opened up and mankind's untapped productive potential released. The world can be enriched with a renaissance of the human spirit. If, on the other hand, America fails to secure the peace so many citizens have sacrificed so much to achieve, the mantle of 21st century leadership will pass to other less charitable societies and less liberal philosophies.

The weight of historical judgment is on our shoulders. It is time for Congress to share with the Executive the burden of leadership of the free world. The Freedom Support Act deserves our support.

There is no guarantee if we go forward with this approach that it is going to work. But it is close to a surety that if we fail to go ahead, global instability will emanate.

□ 1520

Mr. Chairman, I reserve the balance of my time.

Ms. OAKAR. Mr. Chairman, I yield 2 minutes and 10 seconds to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I thank the gentlewoman for yielding me the time.

Mr. Chairman, I rise in opposition to the legislation. I do not begrudge any country that has the leverage, the clout, or the power to come to our Government and get money and get resources. But I do insist that this Government must focus some attention on our cities, our towns, and even our rural communities that are in desperate shape.

On May 28, my city went up in flames. A lot of politicians and people from the private sector stepped forward, and they talked about what they were going to do. They said they were ashamed of the homelessness and the despair, and that they understood the joblessness.

To date, very little has happened. The people who have been poised, waiting for some assistance, have gotten little or nothing. The urban package that we passed out of this House is a joke. Now it is hung up over on the Senate side, and the $14 billion in tax incentives has grown to $31 billion, and still there is 2.5 billion measly dollars supposedly to be spread around this country.

The unemployment rates went up today, not only in my district, but all over America. Little towns, Appalachia, the delta, the Midwest, the west coast, everybody is suffering in America from 12 years of neglect.

I cannot go home and explain to my people why we can give taxpayer dollars to Russia and we cannot do anything for the cities.

Let me tell Members what we have done for Russia. Aid to the former Soviet Union has been very generous, $4.8 billion in loan guarantees for surplus products, $100 million in transportation assistance for donated food commodities, $210 million in Food for Progress assistance and Desert Storm surplus assistance; $650 million from this year's defense bill for weapons dismantlement; $610 million this year in traditional foreign assistance; and finally, a $12 billion increase in IMF capital.

I do not know how we can do this for Russia or anybody else and continue to ignore our cities.

Mr. LEACH. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. Mr. Chairman, today we are considering legislation which just a few years ago would have been unthinkable—the United States Congress sending money to the former Soviet Union to help it convert to a market economy and Western democracy. I do support these goals in principle.

However, in practice, sooner or later we have to realize that the solution to all of the world's problems is not the U.S. Treasury. If the people of Russia haven't yet mastered a free-market economy, then turn American industry and workers loose on them so they might learn. But sending our tax dollars before Russia fully embraces capitalism ensures our money will be squandered.

At a time when our Nation desperately needs to keep money here at home, it seems we are headed in the opposite direction. This legislation contains a $12 billion IMF quota increase, which I fought against in committee because, frankly, we simply can't afford it.

We must start looking after America first, or else we won't be able to continue in our generosity either at home or abroad.

We can and should assist the people of the former Soviet Union to ensure that the days of the cold war are truly over. But, if the legacy for our winning the cold war is constant demands for increased foreign aid, it will be a hollow victory for American taxpayers indeed.

Therefore, I must oppose this legislation and I urge my colleagues to do likewise.

Mr. LEACH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I want Boris Yeltsin to succeed, and I want to do everything I can to assist him in that endeavor because we have been enemies with the Soviet Union for a long, long time, and peace has broken out, and we want to see that succeed.

However, I have a question to ask my colleagues. Why not extract a quid pro quo from the Soviet Union? Why not get something for these loans? Why not enter into a contractual agreement with them to guarantee that we will get our money back, that this money is not going down a sinkhole that the American taxpayer is paying for. Why not get that kind of contractual agreement?

Let me tell the Members what kind of contractual agreement I am talking about. The Soviet Union has $31 billion in vanadium resources; $62 billion in nickel resources; $204 billion in manganese; $7 billion in silver; $103 billion in gold; $60 billion in platinum. Their diamond resources are incalculable. In natural gas, they have 1,600 trillion cubic feet, which is estimated to be worth $2.720 trillion, and they have 57 billion barrels of oil worth $1.140 trillion.

Why not enter into a contractual agreement saying we will give you this aid, we will give you these loans, but we want to guarantee that we are going to get this back in resources? That is good, solid business. Do not waste American taxpayer dollars on foreign aid and send this down a sinkhole. Let us get something back for our money. Let us get a guarantee that they are going to live up to the commitments that they have made, and the only way to do that is to enter into a contractual agreement with the Soviet Union, all of the new Soviet States, all of the former Soviet Union. That can be done, and we should have debated that under an open rule. We did not, so I say to my colleagues, let us defeat this and go back to the drawing board and get an agreement that we can live with.

Ms. OAKAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Chairman, I rise in strong support of the Freedom Support Act.

Mr. Chairman, 2 weeks ago I had the opportunity on two occasions to hear and question the United States Ambassador to Russia, Robert Strauss. At a hearing of the full Agriculture Committee, and later at a joint meeting of Senators and Representatives interested in international affairs, I heard him give his appraisal of the situation and prospects of Russia and the former Soviet Republics.

The Ambassador is in Washington to encourage the Congress to pass the Freedom Support Act, to assist the former Soviet Republics with credit guarantees, critically needed food, and appropriate technical assistance.

His message was clear and compelling. He said the United States fought communism for 70 years, and now that it is gone we have a chance to help those Republics establish a democratic, free-market system. He said that the situation there is very volatile. Food is scarce, inflation is running wild, unemployment is rising. Help is needed to stabilize the situation and bring hope and confidence. It is in the highest interest of the United States to provide needed help along with the other major nations of the world. It is in the highest interest of our security, and it represents a huge economic opportunity. It would be unthinkable that we would reject this opportunity.

I want my constituents, particularly those who say they are opposed to all foreign aid, to know that this foreign aid makes sense. It will provide jobs in the United States and it will help to protect the peace.

I want to give you a little of the flavor of Ambassador Robert Strauss' observations about the current situation in Russia, the Ukraine, and the other former Soviet Republics.

He said that Russian President Boris Yeltsin hates communism. Yeltsin is very strong and effective. His 35-year-old Prime Minister, Yegor Gaydar, is first rate. Both are working hard to move toward a more democratic market economy. But there are many, many problems. It is slow going, and they are constantly heckled by groups of hard liners who want to get back into power.

Strauss does not think communism will ever return. But some form of dictatorship could develop if the people get too discouraged.

There are gigantic problems. Industrial production is down 13 percent and will go much lower. They need to shut down the plants that are producing things there is no market for. Thousands of factories must be converted to produce the things they need. There is massive unemployment in a country where for generations everyone had a job.

I asked Strauss whether the Russians were able to receive technical help, to understand it and put it to practice. He said the understanding of American methods was almost nonexistent. Learning is very slow. He said that just sending money won't do the job. It's going to take time and patience.

Strauss says he thinks the Russians will make it. But they will continue to need our help. They need food and other support in order to survive as they try to build a free economy starting from almost nothing. They need to know that we are with them in what they are trying to accomplish.

There is little else that is so important to the United States than to achieve economic health in all the former Soviet Republics. I urge all Members to vote for the Freedom Support Act.

Ms. OAKAR. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding me the time. I would like to engage in a colloquy with the gentleman from Indiana [Mr. HAMILTON] to clarify the use of the new section 201, which explicitly provides for the use of authorized funds to encourage United States private sector participation in the development of a free market economy in the former Soviet States.

A similar problem has arisen. Access to the help of these U.S. professional services, accounting, law firms, investment banking and the like by CIS entities is limited by a lack of money and by the cumbersome procedures that are in place for many of our aid programs. It is important to clarify that the purpose of section 201 is to encourage private sector participation in the CIS, and that as a priority this should include the means by which U.S. service firms can take part in an efficient and timely way in the development of new free markets in the CIS.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Indiana.

□ 1530

Mr. HAMILTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I agree with his comments and support them fully.

Mr. LEACH. Mr. Chairman, I yield myself 10 seconds simply to respond very quickly to the gentleman from Indiana.

The reasons the Government does not enter into the kinds of contracts he advocates is the IMF is already a primary creditor. The theory is to leave mineral resources, it is for the private sector to tie up this collateral.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, my colleagues, this vote has implications far beyond the details. Decades from today what will be remembered are not the details of this legislation but whether this House stood on the side of those struggling for freedom and democracy in Russia or stood against them.

Russia is on the path toward democracy and free markets today primarily for two reasons, first, the courage of its people and of its leader, Boris Yeltsin, but, second, because of the policy steadfastly pursued by the American people and our leaders going back to Truman and Eisenhower, stretching on through Reagan and Bush.

Let us not risk undoing the gains of those policies pursued for so many years to success. Let us not risk undoing those gains by voting no on this bill. Resist that temptation. Stand on the side of freedom and democracy in Russia; stand on the side of a secure peace for America.

Mr. LEACH. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska [Mr. BEREUTER], who has been one of the great leaders in the Congress on an assortment of issues, most particularly this one.

Mr. BEREUTER. Mr. Chairman, this Member rises in the strongest possible support for H.R. 4547, the Freedom Support Act of 1992.

I would remind my colleagues again, without hyperbole, that the vote on H.R. 4547 is truly, quite probably, the most historic and important vote that you will ever cast as a Member of the House of Representatives. Supporters of the Freedom Support Act will be able to look back upon this vote with pride; those who vote against it will eventually have a lot to explain, and their excuses will ring hollow. For in the Freedom Support Act, we have the opportunity to move back from the precipice of nuclear war that we have faced since Joseph Stalin's Soviet Union exploded the first nuclear device.

Mr. Speaker, the Soviet Union is no more. In its place we find a loose confederation of newly independent states. It is too soon to tell whether Russia, Ukraine, and the rest will become benign or constructive forces in world politics; or whether they will revert into reactionary, antidemocratic forces. This body, by its action today, has the ability to have a significant impact upon that evolutionary process—for the better. We can have a big role today in assuring that the latter does not happen.

Over the years, this body has appropriated literally tens of trillions of dollars for defense expenditures to contain and combat the aggressive initiatives of the Soviet Union. Indeed, the IRS recently estimated that between 1947 and 1990, the direct price of defending U.S. interests in the cold war cost the average American family approximately $80,000 in tax revenue. Now we have an opportunity to reverse this continued massive defense spending, and bring home the ultimate peace dividend for domestic priorities. That is how the needs of our Nation's biggest and most troubled cities like Los Angeles, Baltimore, and East St. Louis and their citizens can be then addressed. That is how the needs of rural and small communities can be met.

Does a threat still exist? Unfortunately, the answer is yes. The massive Red army that has threatened the West for so long did not simply fade away when the Soviet Union disintegrated. It has become the Russian Army. And while it is true the force and orientation of the Russian Army has become less ominous, it is still a very potent force. This is the force that has targeted many thousands of strategic nuclear weapons upon every State, and every major city, and every congressional district in the United States—and on the heads of more than half of the American people. Though agreements have been negotiated for dismantling many of these terrible weapons, most of those weapons still remain. In addition, Russia continues to storehouse thousands of tons of chemical munitions, and a vast arsenal of biological agents of mass destruction. We need to work with the Russians and the others to continue the dismantling of these weapons of mass destruction—to eliminate as many as possible and pull back permanently as friends from the provocative confrontation that would prompt their use.

I would remind my colleagues that the former Soviet Union was the only nation that possessed the ability to put an end to the United States. And Boris Yeltsin has inherited that nuclear capability. Now, under Yeltsin's leadership, Russia is more than willing to cooperate in the collection and dismantling of these terrible weapons, but it is an effort that even under the best of circumstances will take years to accomplish.

This Member would urge his colleagues to think through what is being proposed. Boris Yeltsin and his associates seek to work within a system of democratic world order. They now seek to be a friend and good neighbor rather than an adversary. Russia and the other former Soviet Republics are working with the West on stemming international terrorism—which the Soviet Union has long sponsored with such lethal effect and political damage. They are working to deny rogue nations such as Iran, Iraq, and Libya access to black market weapons and to Soviet scientific expertise. They want to work with the West to clean up environmental disasters, some of which are so severe as to threaten all of mankind.

The former Soviet Republics are not looking for a bailout. Rather, they are looking for a helping hand. They understand, at least in part, that the path they have chosen to democracy, pluralism, and market-oriented economics will be difficult. They also know that they will surely fail if the West does not help.

This Member will repeat what others in this body have already said. The dollar are very, very modest, particularly in comparison to the unprecedented dividends. In real outlays the Freedom Support Act primarily provides technical assistance. It is not a bailout. And the United States is not carrying the entire load. Indeed in comparison to the combined commitments of EC and other donor participants, our contribution is quite modest. The Freedom Support Act will make us part—an essential part—of a coordinated international freedom support and assistance effort.

Mr. Chairman, I say to my colleagues that this is no time to play politics, for excuses, or for faint hearts. Occasionally, rarely, in our careers as legislators, we are asked to cast a vote that has truly momentous implications. This is such a vote.

I would say to my colleagues that if you care about world peace and stability, this is quite probably the most important vote you will ever cast. If you want to put a permanent end to the cold war and assure it does not end in a worldwide nuclear holocaust, then you need to support the legislation. If you sincerely care about dismantling the tens of thousands of nuclear weapons—nuclear weapons that are targeted at your own constituency, then you must support the Freedom Support Act.

Mr. Chairman, America's fundamental economic and national security interests demand that we pass the Freedom Support Act.

Ms. OAKAR. Mr. Chairman, I yield 1½ minutes to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, let the record clearly reflect that this bill is good for the people of Russia, but it does not show to be as good for the people of the United States of America.

Let me say to my colleagues, and remind myself, I do not stand in opposition to this bill because I am opposed to the people of Russia. It is because I am for the people of the United States, our workers, our farmers, our students, our cities, our working families, our Nation's children.

Yesterday the Committee on Rules would not permit an amendment that would address the needs of our cities and of our country by allowing loan guarantees to be placed into this bill or American workers and American families. Today unemployment claims rose by 69,000 in just one week, the largest jump in recent history.

So why can we not find the time and the dispatch and the passion to argue also forcefully for the needs of people in this country?

Mr. Chairman, few people will remember what we say here today, but many will remember what we do. If we are serious about helping fledgling democracies, let us start with the ones that we know best. They are called the United States of America, and they are in desperate need of attention and great dispatch and eloquent speeches and help from this body.

Ms. OAKAR. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Chairman, my colleague on the Committee on Banking, Finance and Urban Affairs, the gentleman from Maryland [Mr. MFUME], I think, said it all.

I listened to some of the debate here today. For some reason we do not trust our own system.

Obviously the President, the leadership of the other side of the aisle, the leadership of this side of the aisle have to fashion this in the dark of night, have to pass this through. We do not trust the fact that there are some of us who will support foreign aid. We will support foreign aid for the Republics of the former Soviet Union.

□ 1540

The only thing we want to do is have another look at the whole system and how it is done.

Finally, I realize what our problem is. We just do not trust ourselves.

I think the answer to the question of the gentleman from Maryland [Mr. MFUME], what do we do for American States, is very simple. We just qualify them as a lender from the IMF, because some have made the argument that this does not affect the budget in any way, it does not cause any further deficit or debt.

Well, excellent. Let us not give them $12.2 billion. Let us give them $24.4 billion and qualify the State of California and the city of Los Angeles as a lender from the IMF.

It is getting so ridiculous, Mr. Chairman, that last night I sat in the Rules Committee meeting and one of the Members testifying said, "This is a great proposition because for every dollar we make available, $2.57 comes back."

And like lightening out of the sky, I realized that is the solution to our recession in the United States. Our problem is we are not giving enough. We should give $100 billion or $200 billion or $1 trillion and cure the American recession.

Mr. Speaker, let us defeat this bill, not with the idea of defeating foreign aid or helping the Soviet Union or not meeting our time of destiny, but to correct the system of how it is done, and let us be fair to the States of the United States as well.

Mr. LEACH of Iowa. Mr. Chairman, I yield myself the balance of the time.

The challenge of our time is to address the opportunity created by the end of the cold war. If America leads wisely, new wells of creative energy can be opened up and mankind's untapped productive potential released. The world can be enriched with a renaissance of the human spirit.

If on the other hand our country fails to secure the peace so many citizens have sacrificed so much to achieve, the mantle of 21st century leadership will pass to less charitable philosophies and less liberal societies.

Mr. Speaker, it is the obligation of this Congress to be mindful of our heritage and farsightful about our future. In this context, I do not think we have any option whatsoever but to support the approach before us.

Mr. Chairman, I urge a strong bipartisan vote for the President's initiative.

Ms. OAKAR. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Chairman, I am a Korean war veteran. My father served in the First World War. My brother served in the Second World War, and after we won the war, we lost the peace.

There is no unemployment in Japan. There is no unemployment in Germany. Korea is thriving, but here in this country we have wretched unemployment, and we would stand on this floor after defeating communism and say after sacrificing, we should sacrifice once again to rebuild their economy while ours is going to pot.

Mr. Chairman, there is something wrong with this place. The American people will answer at the next election.

Vote for Russia, vote against America and bring about your own defeat.

Mr. Chairman, I rise today to express my opposition to the so-called Freedom Support Act.

No one can deny the fact that the changes that have occurred in the former Soviet Union are truly remarkable. The people of Russia and the 11 other Republics are now free from the iron shackles of Communist oppression.

But there are a countless number of Americans who are not free, who are imprisoned right here in the land of opportunity.

They are not free to walk into a hospital and receive medical care that they so desperately need.

They are not free to enter the workplace each day, and earn a decent living.

And in too many cases, Mr. Chairman, they are not free to provide the basis necessities, like food or a decent home for their families or themselves.

So before we decide to send billions of dollars overseas, I urge my colleagues to consider the implications of such a message, a message that tells the disenfranchised and ignored citizens of this country that you come second, you just do not count.

Well, Mr. Chairman, the time has come to put the welfare of the American people as our No. 1 priority.

I firmly believe that we must take every measure to dismantle the obscene war machine that was constructed by the United States and the Soviet Union during the cold war.

But over the course of the last 12 years, as more and more money was bled from the hard-working taxpayers of this Nation, to quench the thirst of war mongering leaders, who really paid the price?

Yes, we must achieve world peace. And yes, a strong Russia means a strong United States.

But before we can help the rest of the world, we must be strong enough, and smart enough to help our own.

Mr. Chairman, I know that many of my colleagues feel that the concept of restricting foreign aid to help Americans here at home represents an antiquated, close-minded ideology.

The sad reality however, is that we are still pouring funds into defense spending, when the only wars that this Nation should be preparing to fight are the many wars that are waged every day here on our own soil.

The war against hunger. The war to improve health care. The war to restore the American economy, and American jobs. The war to improve education.

In short, the war to save this great Nation of ours.

So before we send billions of dollars to the former Soviet Union, maybe it is time to end this blatant hypocrisy.

Until then, please do not disgrace the word "freedom" by tacking it onto a piece of legislation that will deny millions of Americans even their most basic rights. We have won the war, now let us win the peace for all Americans.

Ms. OAKAR. Mr. Chairman, I yield 1 minute to the gentleman from Chicago, Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I rise today to speak in opposition to H.R. 4547, the Freedom Support Act. While the idea is cliché, I oppose this legislation because I am a firm believer that charity starts at home and then spreads abroad. Before focusing our attention on Russia and other foreign nations, we need to pay close attention to what has happened in our country. There are critical issues such as high unemployment, health care reform, economic and educational reform which should be addressed before allowing precious time on the House floor for a so-called Freedom Support Act.

Our urban centers, which are decaying at an alarming rate, are in need of a Freedom Support Act. How can we begin to provide aid to other nations when our own country is in desperate need of aid itself? I strongly believe that we should address domestic issues at home before we even think of helping others abroad. We should at a minimum attach an amendment to this bill which provides loan guarantees for urban centers. However, when my colleague from California, Ms. WATERS, offered an amendment for consideration that would have addressed the needs of our cities, it was rejected by the Rules Committee.

Mr. Chairman, Congress should take a leadership role in addressing the crisis in our cities. We now know that the Bush administration has no real plan to assist our urban centers and extend democracy to those suffering in our country. The citizens of this country are crying out for a revitalization which addresses real issues for real people. This disregard for U.S. citizens must stop, and it must stop now. Urban dwellers have heard nothing but constant rhetoric from politicians and have seen no action. It is time to cease useless rhetoric and provide real funds to rebuild and revitalize our cities. I cannot in good conscious support this legislation when our cities are in dire straits.

Ms. OAKAR. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I know there is an awful lot of feeling about this bill pro and con. To me, it is important to support Russia at this time so that it can continue its quest for freedom and stabilize the world; but one of the stabilizers of the world economy is the International Monetary Fund.

Nine years ago we gave about half the contribution that we are asking our country to give now. It is $12.2 billion.

I think it is a fatal error to give $12.2 billion as a contribution to the International Monetary Fund without instructions, without any strings attached, without any guidance in terms of policy.

We are the key policymaker of that Monetary Fund. I think it is extraordinarily irresponsible not to have the various instructions that our committee on both sides of the aisle made that would not in any way inhibit this Fund, but indeed enhance it.

Do you want this Fund to be used in the quest for military weapons? Do you want this Fund not to be used to stabilize the economy or poverty? That is the whole idea of the Fund.

When we as the most powerful country do not give any instructions to our Members, I think it is a tragic flaw. That is why I am saying today that we ought to go back to that Rules Committee and insist that at least title I of what the Banking Committee's work was is put in this bill. Therefore, Mr. Chairman, I oppose the legislation as it is written today.

The CHAIRMAN. The time of the gentlewoman from Ohio [Ms. OAKAR] has expired.

The next 20 minutes allotted under the rule will be divided between the chairman and the ranking minority member representing the Committee on Agriculture.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I yield myself 3 minutes. Mr. Chairman, I rise to express my support for the Freedom Support Act.

This legislation includes a bipartisan series of amendments approved by voice vote in the House Agriculture Committee last month. Our amendments, contained in section 702, will provide the Secretary of Agriculture greater flexibility to use our Nation's agricultural trade programs to assist the newly independent states at no increased cost.

The Agriculture Committee's amendments will do essentially three things:

Allow greater latitude in using the Food for Progress Program to provide agricultural commodities to meet food needs in these countries;

Allow the Secretary of Agriculture to pay for the cost for technical assistance to develop more efficient food and rural business systems in emerging democracies; and

Encourage the increased export of high-value agricultural products processed here in the United States.

Mr. Chairman, there are many Americans who ask why—at a time of deep economic problems here at home and a $400 billion deficit—we should help Russia or any of the other emerging democracies.

As chairman of the Committee on Agriculture, I could point out how delegation after delegation from the Russian Federation and the other newly independent states have come to our country to learn about our agricultural system. They realize that one of the key elements to a successful market economy is providing consumers with an abundant and affordable food supply.

But probably the best rationale I heard for supporting this legislation came from our Ambassador to the Russian Federation, the Honorable Robert Strauss, when he appeared before the House Agriculture Committee 2 weeks ago.

Ambassador Strauss said we have a historic window of opportunity to help solidify democracy in the Russian Federation. He said and I quote:

> This bill represents far more than the money that it spends. It represents a signal to the rest of the world that the West and particularly the United States is not going to turn its back on the Russians as they attempt to get rid of communism and put in its place democracy.

Ambassador Strauss argued that we here in Congress must look at this bill not so much as a foreign aid bill but as a bill vital to our domestic interest, our national security, and our economic future.

I agree with Ambassador Strauss. We must take advantage of this historic opportunity to help the newly independent states through this difficult transition to a market economy.

Mr. Chairman, the Freedom Support Act will also benefit the American agricultural economy, and it will create jobs here at home. Through this bill's provisions we can lay the foundation for long-term export markets for American agricultural and non-agricultural exports. Finally, this bill will help us take a gigantic step to achieving a more lasting world peace.

Mr. Chairman, like Bob Strauss, I do not want it said one day that I contributed to the loss of the democratic movement in the former Soviet Union. We have too much invested in this effort. We have waited 70 years to see the demise of communism. Now is our very short window of opportunity, and we should not let it pass us by.

I urge my colleagues to join me in supporting the Freedom Support Act.

□ 1550

Mr. Chairman, I reserve the balance of my time.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4547 for many of the same reasons which the chairman has enunciated. We have an opportunity to make sure that this world is a safer world. It is in our national security interest that we promote assistance to the former Soviet Union and those republics, to help reduce tension in the world, to reduce nuclear weapons and to open up trade opportunities.

One of the things that I put in this bill in the Committee on Agriculture is to help increase jobs here at home by increasing our value-added share of the world market to the former Soviet Union in sales of agricultural products. Every time we sell $1 billion increase of value-added products, we add 20,000 people to work in this country. It is going to help our farmers, it is going to help our workers, but more importantly it will help world peace.

The chairman mentioned our ambassador, Mr. Strauss, who did testify before our committee the other day. Mr. Strauss very candidly said that we are in a position of losing our world market to a potential customer of the size of Russia and the former Soviet Union republics if we do not do something now dramatically. I think the use of the value-added product by our administration will help that.

We are in there competing now with the Europeans especially, and if we do not assist the Soviets coming out of this economy that they are in and try to stabilize them, move them to democracy, when they do get on their feet financially they are going to be doing business with the Europeans, not with the Americans. And again we will be put back into the residual supplier situation.

So I think there are some good points for American jobs, for American opportunities in this bill. I stand here in support.

Mr. Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. I thank the gentleman for yielding to me.

Mr. Chairman, every day when I drive to work, to this Capitol Building, I see people sleeping on the streets, right here in the Nation's Capital today.

Mr. Chairman, we have 10 million people out of work, 25 million people on food stamps, 40 million people without health care, a President who promised us 30 million new jobs—and I thought he meant jobs in this country. We have 2.4 million people declared bankruptcy and 841,000 new jobs. We had 3 to 1 more people declare bankruptcy in this country than creating new jobs.

Mr. Chairman, I stood in Lithuania, I stood there in the snow and watched candles burning in the snow where innocent people were gunned down by Soviet soldiers. Today those tanks and those soldiers are still there. And I challenge President Yeltsin to tell those soldiers to put their arms down, disarm the tanks and bring the missiles home.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman and Members, has anybody forgotten what this country is all about, where we have been and where we are going? The very room we are standing in today was built when? By Abraham Lincoln during the height of the Civil War. This country was not more than recovering from the recession when we decided to go to World War II because we had to save the world and to stop Hitler. Here we stand and listen to rhetoric that says if every single problem at home is not solved, by God, we cannot do anything to end the cold war.

What am I hearing on the floor of the House of Representatives? The average American family of four has spent $85,000 of their income in taxes to the Federal Government as their part of a cold war.

Mr. Chairman, that is over, that is over. If we allow the independent states to succeed, that is. We now have that chance.

Do you know what? If you add up every penny in aid, not just in this bill but every penny in aid that we are providing from the U.S. Government to the Soviet Union, you are talking about something like $5.5 billion. Do we forget that in 1990, as we saw the beginning of the end of the cold war, we cut defense $100 billion? The budget now working its way through Congress is going to cut defense another $80 billion.

My God, we are going to invest $5 billion to save $180 billion, so that we can spend it on domestic programs? Mr. Chairman, have we forgotten our soul? Have we forgotten who we are? Have we forgot that this is the chance to end the cold war, to truly make sure we have changed the world so that Democrats and Republicans alike can now change America? And we can invest in our cities, and in education, and in health care.

Mr. Chairman, if we do not do this now, when will we ever do it?

Support this bill.

Mr. DE LA GARZA. Mr. Chairman, I yield 1½ minutes to our colleague, the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, this bill is one of the most important pieces of legislation that Congress will consider this year. The United States has a historic opportunity to assist in the birth, growth and development of democracy in a country that we have spent trillions of dollars trying to isolate and defeat.

The former Soviet Union is making tremendous strides toward a free market economy and implementing democratic reforms. It is critical that the United States not only verbalize support but back these words up with concrete action to show we will walk with the newly democratized republics on this journey.

I am particularly supportive of a provision which earmarks 25 percent of EEP and 35 percent of GSM credits for exports of value-added agricultural products to Russia and the other new republics. Exports of value-added products not only meets the short-term nutritional needs of the former Soviet Union but could in the long-term develop markets for U.S. grown and processed agricultural commodities.

Russian and the newly formed republics have not been perfect in their attempts to move toward a market economy and democracy but they have made great strides with little or no resources or expertise. The United States needs to challenge these new nations to reach their full potential but this will not happen without U.S. technical assistance and resources.

I am not willing to return to cold war days and out-of-control military spending. Send a message of support to the fledgling nations of the former Soviet Union. Vote "yes" on the Freedom Support Act.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding time.

Mr. Chairman, I rise to express my strong support for H.R. 5750, the Freedom Support Act of 1993, and I commend President Bush, and the distinguished chairman of our Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], the distinguished ranking Republican member of the committee, the gentleman from Michigan [Mr. BROOMFIELD], as well as the distinguished chairman of the Subcommittee on Europe and the Middle East, the gentleman from Indiana [Mr. HAMILTON], for their carefully crafted, bipartisan efforts.

No longer do we live in a world where rhetoric pits communism against capitalism, no longer do we live in a destructive world of us against them.

This is an historic opportunity to help consolidate democracy and free markets in the former Soviet Union. As President Bush recently noted:

> We have the chance not only to help the peoples of Russia and the new Independent States escape the nightmare of communism, but also to secure for us and our children a future that is infinitely safer and more prosperous.

We failed to win the peace after World War I. We failed because of our isolationist policies: We did not recognize that isolationism and security, and protectionism and prosperity cannot be reconciled. Let us learn from our past mistakes.

This measure promotes three of our Nation's critical policy objectives:

First, the promotion of democratic institutions in the States;

Second, the destruction of the former Soviet nuclear capability; and

Third, the movement toward a free market economy.

H.R. 5750 authorizes a total of $442.3 million in spending—$417 million for assistance programs, and $25.3 million for operating expenses of the Department of State and the U.S. Information Agency.

The measure also contains the authorization and appropriation for an approximately $12 billion increase in the U.S. share of the International Monetary Fund. This increase combined with those agreed to by the other 160 plus members of the IMF, maintains the U.S. share at 20 percent of the total Fund.

The IMF is, in essence, a policing agency for sound economic policy. Member countries which seek assistance first agree to meet economic reform goals, usually painful, and then qualify for loans and technical assistance. Borrowers repay the IMF loans with interest, usually on a very short timetable.

Because it is a conservative lender, the IMF maintains a positive cash inflow on its loans—interest paid exceeds losses. Thus, while the United States has appropriated funds to back the IMF loans, the money has not actually been spent. Rather, it serves as a reserve to be drawn upon and replenished as the IMF sees fit.

The most pressing reason for this IMF quota increase is to provide the agency with sufficient resources to design and support economic reform programs in the newly democratizing States of Eastern and Central Europe. The needs of these countries far exceeds the current capabilities of the IMF or any single foreign assistance donor.

Mr. Chairman, I commend the President, as well as our Republican and Democrat leadership for crafting an appropriate response to the crisis in the former Soviet Union.

Mr. Chairman, permit me to read a paragraph from a joint letter from former Presidents Reagan, Carter, Ford, and Nixon with regard to their support of this measure:

> We now have the opportunity, so fervently pursued for generations, to guarantee a peaceful transition to democracy. America must respond to this challenge, as we have so many times before, through leadership of an international coalition to secure the success of reform in Russia and the other states of the former Soviet Union.

Mr. Chairman, the Soviet Union, as an entity, exists no more. Those who oppose this measure, those who believe we must stay at home and only worry about ourselves fail to recognize that we live in an increasingly interdependent world, and we—the United States of America—are its leader.

It is essential that we support this measure. It is a vote for hope and peace. It is a vote for an end to the cold war. It is a vote for the security of future generations. I strongly urge its adoption.

□ 1600

Mr. DE LA GARZA. Mr. Chairman, I yield 1½ minutes to our distinguished colleague, the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, having spent trillions of dollars to win the cold war during the last four decades, the challenge of this decade is securing the peace. This bill will help us do that. Its commitment is minimal to the amount spent in the past, but it is an investment with far-reaching payoffs.

Not only is its passage vital to the forces of liberalization and democratization in the Commonwealth of Independent States, it is vital to reinvigorating our own economy. Unless we secure the peace of the cold war, we will not be able to redirect the dollars it has drained from our economy into new investments here at home in infrastructure, health care, job training, education, and making our economy competitive and strong for the next century. This legislation is not just an investment in the former Soviet Union, it opens the way for investment in a new U.S. economy freed of the demands of the cold war.

One of the direct beneficiaries of the legislation, and one of the reasons I intend to support, it will be our agricultural economy. America's farmers and our agricultural export programs are literally feeding the historic transformation taking place throughout the Commonwealth. They are making up for the short falls in Russia's grain harvests, the inefficiencies in its food production and marketing system, and training Russian farmers in methods that have made American agriculture the most productive in the world. This legislation will enable U.S. farmers to continue to take advantage of the opportunities this market represents, which is of critical importance to the health of today's weakened farm economy and the threats American farmers face from the unfair trading practices of their competitors.

The importance of American agriculture to the Commonwealth was underscored when President Yeltsin, during his visit here earlier this summer, took a day to come to Kansas to tour not a car plant, steel mill, or computer factory, but a meat processing company and Kansas wheat farm. They are the sources of the food his government so badly needs and which will be financed under the programs contained in this legislation.

I had the distinct privilege of accompanying President Yeltsin on his trip to Kansas. He told me that for his reforms to succeed, he will need our help to continue purchasing American farm goods, the offer of help this bill extends.

He has a historic opportunity, and we have an equally historic opportunity to transform the face of the world in a way none of us dreamed of just a few years ago. This bill is that opportunity, we must have the wisdom to seize it; it is the doorway to a world safe from the awful threat of nuclear war, we must have the courage to walk through it.

Mr. Chairman, I urge my colleagues to join me in support of it.

Mr. DE LA GARZA. Mr. Chairman, I yield 30 seconds to our distinguished colleague, the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Chairman, the Freedom Support Act will reduce military threats to the United States. More directly, the Freedom Support Act contains authority to assist in the dismantlement of nuclear weapons of the former Soviet Union and the conversion of the defense industries. We have been told, on the destruction of these weapons, that most of that money in this bill will go to Americans who will lead the destruction of these nuclear weapons.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I very much appreciate my colleague, the gentleman from Missouri [Mr. COLEMAN], yielding this time to me, and I want to congratulate the chairman and others who provided leadership in this very, important time, regarding this very important issue.

Mr. Chairman and my colleagues, I cannot recall when we may have had a more important vote in the House of Representatives. It is my own personal feeling that this may be one of the most important votes cast by any of us during our entire career. The hope for peace and freedom could very well weight in the balance. It is in our Nation's long-term interest to see that the cold war is ended forever. America's security is much easier to maintain in a world with a stable, democratic Russia.

Just think of it. Our economy is in the most difficult straits it has been in my memory. The challenge to meet the problems that face our people here at home are very, very real. Our public has turned its own sight inside our borders, and our constituents want us to solve problems here at home. They do not want us looking overseas.

But, having said that, there is absolutely no question that one of the fundamental responsibilities of those of us who would choose to be leaders in the National Congress is to recognize our responsibility to play a role in the world. That involves peace and freedom. Just think of what happens if we decide to ignore that portion of our responsibility and withdraw.

What happens if, as a result of that, for example, the Yeltsin administration does not succeed? Think of the would-be despots who are wandering around in those new countries that have broken off from what was the former Soviet Union. Think of what happens if there is an approval giving new opportunity to those would-be autocrats.

It is absolutely critical that we play whatever role we can to see that democracy in the former Soviet Union survives. Indeed, my colleagues, the time to lead is now. We must ensure the end of the cold war forever.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to our distinguished colleague, the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I rise in support of the bipartisan vision and courage embodied in this historic legislation.

Mr. Chairman, I commend the chairman and the ranking member for their courage and vision in bringing this significant piece of legislation before us.

The reconstruction of the economic and political structure of the former Soviet Republics provides the United States with, as one prominent observer has noted, "one of the historic opportunities of this century." Providing the technical assistance laid out in this legislation will help foster this reconstruction by promoting democracy and free-market economics.

I am grateful to the chairman for recognizing that a key element of the economic restructuring of the new states will be their ability to measure their own economic progress. Earlier this year, I introduced legislation which provides a mechanism to help the newly independent states compile and analyze data on their changing economies. Without the statistical ability to gauge their economic development, these states cannot be expected to make a full transition from a centrally planned economy to one based on the free market. Moreover, without these measurements, it will be difficult to assess the effectiveness of our own Government's aid to those same states.

As an example, the chief Ukrainian statistician came to the United States earlier this year with a list of 140 economic indicators that his country does not know how to measure, but needs to learn. These are indicators we take for granted, such as measures of inflation, inventory of durable goods, retail sales, and housing starts.

These fundamental measures of market activity, which we so regularly use to judge our own economy's performance, are simply not available to the new states. We must teach them how to develop key economic indicators if we and they are to monitor their progress toward a market economy.

Once we have assisted the former Soviet Republics in how to collect, analyze and effectively use accurate economic data, governments will not be the only beneficiaries from such an achievement. Dependable economic data will also be a valuable guide and resource for U.S. businesses as they expand into new and unfamiliar markets. Given that the success of this legislation will hinge upon the markets created for our workers' products, we must do all that is in our power to facilitate knowledgeable decisionmaking by American business.

As American Government agencies have a statistical gathering and analysis capability second to none, we are in a unique position to provide the type of technical assistance the new states are seeking. Given the importance of what is at stake, we cannot afford to deny them this assistance.

Clearly, this is one of the historic opportunities of this century. I am confident that we will rise to this occasion by meeting the real economic needs of the newly independent states of the former Soviet Union.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I hope it has not been so soon that we have forgotten all of the expenditures and all the problems that the cold war brought, and I hope that we can today visualize what people who will be reading history 50 years from now might be reading. If we fail in this, fail to attempt to democratize the Soviet Union, if we fail to reach out and bring them into the community of nations, if anything we do here today fails to do that, we will have a burden on our shoulders of failure that the historians will write about for many, many years.

We have a chance today. We have a very constructive bill. It not only helps those people overseas, but it helps ourselves at the same time with real job creation. I think those amendments offered by the Committee on Agriculture strengthened this bill, and I hope they will continue throughout this process until the President signs it.

Mr. Chairman, I again ask for bipartisan support for a proposal that I think will bring more peace to the world, and, as the gentleman from California [Mr. LEWIS] said, it is one of the most important votes that we will make in this Congress.

I rise in support of H.R. 5750, the Freedom Support Act of 1992. I believe that it represents an investment in the future. Having Russia and the Independent States of the former Soviet Union as trading partners and buyers of our agricultural products will help them and will provide additional markets for agricultural producers in the United States.

The security of the United States is improved when the former Soviet Union turns to a free enterprise, market oriented system. The economic future of the American farmer is improved by opening markets around the world.

Our action must be consistent with addressing the many needs we have here at home, none of which is greater than the need to create jobs. Increased trade opportunities, especially in processed and high value agricultural products, can provide help to the people of the former Soviet Union while providing new markets for American farmers.

Incorporated in the Freedom Support Act is an amendment that I offered in the Agriculture Committee that will require more aggressive use of export credits and the Export Enhancement Program for processed and high value agricultural products. Other countries should be put on notice that we intend to seize the initiative in developing markets in the former Soviet Union for superior quality American products.

Last month the Ambassador to the Russian Federation, Robert Strauss, testified before our committee. Ambassador Strauss stated that Russia is the largest potential market in the world for United States agriculture and that we should be worried about losing our share of that market to other countries—especially the Europeans. He specifically emphasized the need for trade in value-added products.

My amendment requires the Secretary of Agriculture, to the extent practicable, to use the Export Enhancement Program and the Export Credit Guarantee Program to sell processed and high value agriculture products. I remind my colleagues that a principal purpose of H.R. 5750 is to create trade opportunities with the Independent States of the former Soviet Union and generate jobs and economic benefits for the United States. My amendment, which is a part of the bill, meets those objectives.

The key to prosperity in agriculture is to increase the U.S. share of the world market in value-added farm goods. The Economic Research Service of USDA says increasing our share of the entire world market for high value products to 15 percent could create 1½ million new jobs.

This provision is good for American farmers; good for American jobs; and, good for the former Soviet Union. It is time that our policies promote what we can do better than anyone else in the world: provide food and fiber that are processed, packaged, shipped, and marketed at reasonable prices throughout the globe.

In recent years a small portion of the export enhancement funds, about 5 percent in 1992, has supported the exports of value-added products. Almost all of these funds have been devoted to the export of bulk grains. As long as we have the export enhancement program, bulk grains must receive a large share of available funds because the income from these exports goes directly to American producers. But we cannot ignore the growth opportunities in value-added goods, or the markets for our bulk products that value-added products represent. A bushel of wheat is exported whether it goes as a bulk grain or as wheat flour.

I believe that a fair share of the export credit guarantee and export enhancement funds must be devoted to processed and high value goods such as beef, pork, wheat flour, and other processed and packaged goods. The benefits to our producers and our economy from expanded exports of these products demand that we do more to promote their export.

It is better for all Americans if we can increase our exports of value-added agricultural goods because these exports create not only a market for our products, but also create jobs in the processing, packaging, and livestock industries. In fact, every billion dollars in new exports means 20,000 new American jobs.

The Freedom Support Act demonstrates clearly that domestic and foreign affairs are not an either/or situation. Its purpose is to support freedom and open markets in the independent States of the former Soviet Union.

The Freedom Support Act will allow us to improve the standard of living so that U.S. interests, including those of agriculture and trade, are emphasized. In the long term we can provide technical help and know-how that will improve the food distribution systems of the former Soviet Union to make them our trading partners.

As events unfold in the Soviet Union at unprecedented speed, the challenges facing its people are numerous and formidable. To assist them with the most immediate challenges American agriculture must be prepared to provide the food and technical assistance necessary to get them started on the road to free and open market.

Since January 1991 USDA has made $4.5 billion in export credit guarantees available to encourage the purchase of U.S. agricultural products. Additionally, over $300 million has been allocated to meet the humanitarian food and medical needs within the former Soviet Union. Technical assistance in the form of model farm projects, development of wholesale markets and extension service projects are under way.

It is in the American interest to provide this assistance; the security of the United States is improved when the independent States of the former Soviet Union turn to democratic, free enterprise, market oriented systems. Empty stomachs make for desperate people who may embrace any despot who can promise them food. Americans want to encourage the former Soviet people in their struggle toward a free and open society because they know that a peaceful country is key to a peaceful and stable world.

Our strategy then must take into account our budgetary constraints and must recognize that we do not have the resources for another Marshall plan. America will take a strong leadership role and do its share; but what we do must be in cooperation with other developed nations, many of whom created or modernized their postwar economies with our Marshall plan assistance. And the strategy must be consistent with addressing the many needs we have here at home.

I urge support for H.R. 5750, the Freedom Support Act of 1992.

PARLIAMENTARY INQUIRY

Mr. DE LA GARZA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DE LA GARZA. Mr. Chairman, the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], is not prepared to be yielded to at this point. By unanimous consent, Mr. Chairman, may we facilitate the distinguished chairman by allowing him to utilize the time later?

The CHAIRMAN. It would be permissible to ask unanimous consent to do that.

Mr. DE LA GARZA. Mr. Chairman, I ask unanimous consent that the gentleman from Florida [Mr. FASCELL] be permitted to utilize the balance of my time, which I will yield to him, later in the debate.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. KANJORSKI. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DE LA GARZA. Mr. Chairman, I yield 2½ minutes to the gentleman from Oklahoma [Mr. MCCURDY], and then I yield the balance of my time to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield ½ minute to the gentleman from Oklahoma [Mr. MCCURDY].

The CHAIRMAN. The gentleman from Oklahoma [Mr. MCCURDY] is recognized for 3 minutes.

□ 1610

Mr. MCCURDY. Mr. Chairman, the transition from a Communist dictatorship in the Soviet Union to a democratic government in a series of republics, including the principal Republic of Russia, is not going to be easy. The reforms that we encouraged Russia and the former Soviet Union to undertake will be painful. There will be serious repercussions throughout that country, and we are asking their citizens to pay a very high price.

Recently, the Central Bank in Russia agreed to extend credit to the state industries. This in my opinion poses possible problems for President Yeltsin in his reform efforts. It would be fruitless to extend credit alone without fostering democratic reforms as exhibited in the Democracy Corps provision which the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], and the ranking Republican member and my good friend and colleague, the gentleman from Illinois [Mr. HYDE], have supported and embraced in this legislation.

The Democracy Corps assists with development of democratic values. Without such a program this money I do not believe will be as usefully used as it should be. The end goal here is the promotion of democratic values throughout the world. It is crucial for America to develop a substantive policy for a post-Communist world. What we need is a bipartisan policy to support the real democracies as they carry on what is likely to be the work of generations, by giving them the time and incentive to create democratic programs and make them work.

The Democracy Corps provision does not depend on bureaucrats or high-level meetings in Switzerland. It depends on dedicated Americans, private citizens with hands-on experience, who know how to make the rubber meet the road, whether it be in the development of city councils, a department of motor vehicles, or an effective parent-teachers organization in the local schools.

I appreciate the efforts of our colleagues in making the Democracy Corps a key tenet of the Freedom Support Act as we seek to foster the development of democratic values in the CIS, in the former Soviet Union.

Mr. Chairman, there has been much debate on this floor about this act. Foreign aid is not a popular provision for anyone. Mr. Chairman, as I said earlier today, I believe this is a historic opportunity, not only to assist in a peaceful transition. The cold war did not end with a battle, it did not end with the doomsday predictions that dominated our discussions and our policy for over 45 years. It ended peacefully. But for us to allow this transition to take root and to succeed, I believe this package today is essential, and we need to pass it.

Mr. CHAIRMAN. Under the rule, the next 20 minutes is allotted to the Committee on Armed Services, to be controlled equally by the chairman, the gentleman from Wisconsin [Mr. ASPIN], and the ranking member, the gentleman from South Carolina [Mr. SPENCE].

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Chairman, I yield myself 3 minutes

Mr. Chairman, a year ago this month we were stunned by the profound changes going on in what was then the Soviet Union. We saw a group of hardliners attempt to turn back the clock on reform with an ill-considered coup. The coup failed and its failure accelerated the reforms.

At that time, a number of us asked our colleagues to take an unusual step. After two generations of antagonism and rivalry with the Soviet Union, we sought to assist its turn to democracy and a market economy. We offered funds from the defense budget to promote a peaceful, democratic Soviet Union, one in which there were far fewer nuclear weapons. We reasoned that this was defense by other means, but defense nevertheless.

That fall, Robert Strauss, U.S. Ambassador to Russia, put it this way before the Committee on Armed Services:

"This is not philanthropy," he said. "It is not at all altruistic. And it isn't charity. * * * It saves lives, it saves money, it builds democracy and it builds a world we can all look forward to."

The Congress agreed and we passed legislation to help begin the process of destroying the needless thousands of nuclear weapons in the possession of the former Soviet Union.

Today, this House considers legislation to further these broad goals with the Freedom Support Act. I rise in support of this legisation.

As before, it is not charity. As before, it is clearly in the American national interest. It is clearly in our interest to reduce U.S. defense spending and reinvest those resources in growth at home. It is clearly in our interest to forestall chaos in a land with 30,000 nuclear weapons. It is clearly in our interest to welcome a new, cooperative democracy to the family of nations.

It is clearly in our interest to develop new markets for American goods and services. It is clearly in our interests to have Americans involved financially and substantively in the recovery efforts in the former Soviet Union. It is clearly in our interest to support Russian President Boris Yeltsin, a true reformer.

The Freedom Support Act supports all these goals and I ask Members to support it now.

Mr. Chairman, I reserve the balance of my time.

Mr. SPENCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4547, the Freedom Support Act of 1992, was referred to the Committee on Armed Services as a result of changes made by the Committee on Foreign Affairs to title V of the bill.

Specifically, defense funds provided for the dismantlement of the nuclear weapons of the former Soviet Union would, under title V of H.R. 4547, be made available for the much broader purposes of international dismantlement and international nonproliferation activities, as well as for converting the military capabilities, technologies, and defense industries of the Independent States of the former Soviet Union into nonmilitary, civilian activities.

The Committee on Armed Services strongly opposed these changes, and on July 1, 1992, adopted an amendment to H.R. 4547 that would assure the use of the defense funds provided in that title for the more narrow purposes approved by the House in H.R. 5006, the National Defense Authorization Act for Fiscal Year 1993. These funds, therefore, would be available for the destruction of the nuclear, chemical, biological, and other weapons of the former Soviet Union, but not for the broader purposes of international disarmament or defense conversion.

There was strong, bipartisan opposition in our committee for using DOD funds for some ill-conceived and unworkable global disarmament effort; likewise, there was little, if any, support for using DOD funds for equally ill-defined plans for defense conversion activities in the former Soviet Union. I should add that the Secretary of Defense also strongly opposes the use of DOD funds for these purposes.

Mr. Chairman, I am pleased to confirm that the Committee on Foreign Affairs, in drafting a clean bill—H.R. 5750—for consideration by the House, has faithfully incorporated our committee's recommended changes to H.R. 4547. The Armed Services Committee-recommended changes, I believe, improve the bill substantially and may, in fact, increase its chances for passage by this body.

Mr. Chairman, I reserve the balance of my time.

Mr. ASPIN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, I rise in support of this legislation. In our careers here in Congress we have opportunities at times to rise above our individual best interests for the best interests of our country and of mankind.

We did not ask the circumstance of today to be exactly like it was. I am reminded of 50 years ago in Luzon, when I was leading a patrol and I realized when I came to an ambush that it would be better if I had more machine guns with me to handle the situation that was there. But I had to make the decision as to what to do, and I went forward, we all went forward, and we were successful.

Today there are people on the floor of the House who feel imperiled in their elections because foreign aid is not that popular. But this is not just foreign aid. This is a historic opportunity which comes to us at this particular time.

Mr. Chairman, as Members look back on their lives in Congress, I am sure this is going to be one of the most important votes ever cast. As I said when I myself voted against the Desert Storm war, I feel like it is important that we do what we think is best for our country and for the world, not what is best for us individually politically.

So that is the kind of vote we have here today. I urge all the Members of this Congress to vote for this legislation because I think it is in the best interest of our country and I think it is in the best interests of mankind.

□ 1620

Mr. SPENCE. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, there appear to be two main arguments for this bill. First of all, that $12 billion in aid will help Russia and, second, if we do not pass the bill, we will embarrass President Yeltsin.

I realize the arguments are more eloquent, but that is what they boil down to.

As to the first, according to the Senate Budget Committee staff, only about $600 million, not $12 billion, will actually reach Russia. And according to the Congressional Research Service, Russia's quota is $4 billion out of the $12 billion, and the total Republics' quota is $6 billion out of the total of $12 billion. So I think we should be careful in assuming that all $12 billion of infusion of American funds to the IMF is slated for countries of the former Soviet Union. Only half of it is, and only one-third of it would actually go to Russia.

I think, Mr. Chairman, it is important for us to realize that this is really less about fostering democracy in Russia and more about pumping up the IMF funds. For 5 years now there has been an effort to try to infuse the IMF with more money, and this is the latest excuse for doing so.

I believe that we deceive ourselves if we believe that this act is going to actually save Russia. There may be some parts of it that acutally assist Russia, parts of it which I have previously voted for and which are already law, including the denuclearization funds about which we have already been to Russia to work with them.

But the bottom line is that this $12 billion from the IMF is not about aid to Russia. Only $4 billion of that could ever be loaned to them.

As to the second point, I think we would do worse than embarrass President Yeltsin if we passed this act without certain conditions, including, for example, a requirement that the Russians commit to a plan to remove their troops from the Baltic States. What signal do we send to the people of those countries if there is no limitation and the Russian troops remain on Baltic soil where they are clearly not welcomed.

According to an article by a London columnist, Gwynne Dyer, Mr. Rutskoi, the Vice President of Russia, has been claiming that it is necessary to maintain these Russian troops in defense of Russians in those countries and he notes that already Mr. Yeltsin is having to take more nationalist positions in order to guard his flank against these people.

This columnist writes, and I quote, that "The best way to help Mr. Yeltsin avert this threat is to get Russian troops back on Russian territory as soon as possible." And he concludes his column of July 9, 1992, by saying, "Nobody should worry about embarrassing Mr. Yeltsin by pressing hard on this issue. He knows what must be done, but he needs foreign pressure as an excuse for doing it."

So, my colleagues, to support this legislation without the kind of conditions that would actually assist Mr. Yeltsin in pressing his colleagues on the desirability, indeed, the necessity—as a condition for our assistance—of getting these troops out of the Baltic States and meeting the other conditions which some of us would have imposed in amendments that we sought for this legislation is not to help Mr. Yeltsin but to hurt Mr. Yeltsin.

Everyone desires to help Mr. Yeltsin. Everyone desires to help the Russians achieve democratization. But we also have to be cognizant of the needs of the people of the Baltic States and, frankly, of the needs of the Russian people themselves.

Mr. Chairman, I want to conclude with this point: It is a mistake for us to believe that we are going to democratize Russian by infusing $12 billion of capital into the IMF, most of which it is not going to Russia, and to believe that the reason we must support this legislation is because otherwise Mr. Yeltsin will be embarrassed.

He may well be embarrassed by an imperfect bill. He would not be embarrassed if we sent him this assistance, coupled with a request that he have a plan to commit to remove the Russian troops from the Baltic States and to achieve the other conditions that were spoken of earlier on this floor. That would provide assistance to Mr. Yeltsin. It would not be hurtful to him. It would help him make the case to the military people in Russia that they need to back him in his march toward democratization and support of freedom for the people of the Baltic States.

Mr. ASPIN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, this legislation before us is indeed one of the most important bills that we be asked to consider in this Congress and, frankly, I believe in any Congress. And while there are any number of important reasons to support this bill, and it can be framed in the context of what is important to Russia, what is important to the former Soviet Union, what is important to Europe, what is important in various parts of the world, the reason this bill is vital is because it is vital to America.

It is vital to the United States of America to provide and ensure this type of stability and the type of resources and the type of support that this legislation will provide.

We have been nearly bankrupted by the cold war over the course of the last generation. The legacy of the cold war has left us a deficit that is causing our economy to be strained in ways that we could have never contemplated. We have been on the precipice of international conflict for a generation because of the cold war.

The events that we have seen causing the collapse of the Soviet Union, the events that we have seen opening up democracy, opening up freedom, opening up market economies, are events that nobody could have contemplated several years ago. If we allow these dramatic changes to be imperiled, the losers more than anybody else will be the citizens of the United States of America.

It is clear, Mr. Chairman, that we do have urgent domestic problems, urgent economic problems, urgent social problems, and they obviously need to be attended to. But nothing would be more tragic than to allow the opportunity for the dramatic changes that have occurred in the former Soviet Union to coalesce, to yank that opportunity away, not only from the peoples of Russia and Eastern Europe and the former Soviet Republic but to yank that opportunity for peace, for stability, for improved competitiveness and economic vitality out from under the people of the United States of America.

So while this is a vital bill for people around the world, while this is a vital bill for a range of people around the globe, there is nobody for whom this is more vital than the people of the United States of America.

I want to commend the leadership for pulling this together in the way that they have, and I strongly urge Members on both sides of the aisle to allow us to get beyond the cold war permanently, to pass the legislation which is so critical to the United States.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, this vote is a vote for us of extreme self-interest. For the last 10 years or so we have asked the American people to spend a large amount of taxpayer money to build systems that would offset the nuclear tipped warheads that the Soviet Union has built and targeted on strategic areas. One of those strategic areas in my military bases in Imperial and San Diego County.

Today we have an opportunity to vote for a bill that will provide funds to dismantle those nuclear weapons that are targeted at American communities. This is a vote for self-interest. It is a vote that will allow us to dismantle those weapons, to provide moneys for transportation, for dismantlement and for storage of those particular systems.

This is a vote in America's interest. Also Secretary Eagleburger has given me and others assurances that some of this money is going to go to pursue the American POW-MIA question that stretches back to World War II, Korea, and the Vietnam era.

This is a vote in America's interest. Vote "aye."

Mr. ASPIN. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I rise in strong support of this important legislation. As a Member who has served on the Committee on Appropriations Subcommittee on Defense, I am well aware of the staggering amounts of our Treasury that we have expended on defense and national security issues. I, too, agree that this investment in the Soviet Union and in the former Soviet Union and Russia and in the emerging Republics is clearly in our national security interest. And we are not doing this by ourselves. We are doing it with a host of other countries.

□ 1630

Much as we provided leadership after World War II with the Marshall plan, again, we need to work with a consortium of countries to provide leadership on this issue.

Mr. Chairman, I would like to ask the distinguished chairman of the Committee on Armed Services and the gentleman from Indiana [Mr. HAMILTON] of the Committee on Foreign Affairs about an issue that I have been deeply concerned about, nuclear reactor safety within the former Soviet Union and even in Eastern Europe.

This is an issue which I think has been addressed in this legislation, so that some of this money could be used for dealing with the terrible problem of unsafe reactors, and also trying to deal with the question of energy efficiency, which might help to reduce the demand for these reactors.

I would ask the gentleman, is that in fact accurate?

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, I commend the gentleman for his statement. He has an accurate perception of the bill. It does deal with energy efficiency and it does promote nuclear reactor safety.

Mr. DICKS. I have been concerned about this ever since Chernobyl, Mr. Chairman. I visited it with Secretary Cheney and the gentleman from Oregon [Mr. AUCOIN]. It is an issue which I think is important to the entire world.

I know that the chairman of the Committee on Armed Services has included a provision in the defense authorization bill with this. We have provided $50 million in the defense appropriations bill to give support to the Lisbon agreement on the question of reactor safety.

I appreciate the gentleman yielding me the time.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, this is not an easy vote in not an easy time. Many of us are deeply concerned with the deficit. Many of us came here to make tough decisions and choices, and this is indeed one of those times. The easy vote is definitely "no." The tough vote is definitely "yes."

Mr. Chairman, many of us have applauded the changes in the world and the end of the cold war. Peace through strength has worked, and now is indeed the time to plan and to plow those defense savings that this country has and to put them to reduce the deficit.

Foreign aid is never an easy vote, and I have often voted to cut foreign aid. However, this issue, this vote to provide aid along with the other nations in G–7, is so important. The passage of this bill helps assure us that our savings can be used to focus on our domestic priorities.

This bill is preventive medicine; insurance, if you will. It is like going to the doctor, or the dentist, or the automobile mechanic, and we do those things to prevent major problems or catastrophes along the road.

Mr. Chairman, we cannot turn our back on those around the world that embrace democratic reforms that were once our enemy. If we turn down this bill and the reforms are later reversed, we will indeed be blamed. Mr. Chairman, this is not a blank check, it is instead a series of checks and balances governed by the IMF, and I urge my colleagues to support this bill.

Mr. ASPIN. Mr. Chairman, I would say to the Members that if this legislation passes there is one person I think who deserves a great deal of credit, and that is the gentleman who is our Ambassador now to Russia, Mr. Bob Strauss. I know from trying to pass the issue of Soviet aid in the House before he got involved what heavy lifting that really is. I also know now, trying to work the issue with his support, how very, very valuable that support is.

The gentleman from Texas, Mr. Strauss, was consistent, was persistent, and was very, very vocal and strong in that support. We and history owe him a great debt of gratitude.

Mr. Chairman, I yield the remaining minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, let me just recount in the 1 minute I have, very simply. In 1948, the United States was winding down from a war of epic proportions. There were an awful lot of people losing their jobs in this country. This Congress passed the Marshall plan, sending millions and millions and billions—which in those years were worth a lot more than they are now—to Europe to rebuild.

People said, "Why, when in this country people need jobs? People are out of work." Because this Congress understood that if we were going to create jobs in America, we needed to create jobs in the places where Americans would work to build products that could be sold.

We need to build up the Soviet Union, put people to work so their economy will be able to afford to buy our products. We need jobs in this country, and it is a tough choice where to put the money, but the ultimate test is where will the long-range benefits inure? They will inure to this country, because putting the money in the Soviet Union with its resources will develop millions of jobs in this country. People in America will be able to work for a long time on the small amount of money that we put into the Soviet Union, and that is what is good for America. That is why this bill should pass.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, we have invested trillions of dollars of U.S. taxpayers' treasure to win the cold war. This is a small insurance policy to ensure peace in the cold war period.

Let me say that this bill represents an investment opportunity for Americans. The Soviet Union is the most resource-rich nation in the world, yet one of the most undeveloped. Countless opportunities exist for American jobs via our oil and energy industry, our mining and our minerals industry, our manufacturing and technology industries. We can develop the kind of relationships that can enhance the wealth and well-being of American workers and American citizens, and to those who say that this is somehow contradictory to our need to build up the cities, I say that we need to build American wealth and we need to create new American wealth, so that we can go into our cities and do the job.

This bill can help to stimulate the creation of new American industries, new American wealth, and new American jobs.

The CHAIRMAN. All time allotted to the Committee on Armed Services has expired.

Under the rule, the next 20 minutes is allotted to the Committee on Science, Space, and Technology. The gentleman from California [Mr. BROWN] will be recognized for 10 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4547, a bill to support democracy and the development of a free-market economy in the Republics of the former Soviet Union.

I want to commend Chairman FASCELL for his leadership and foresight on this measure.

As my colleagues know, I have long had an interest in improving relations between the United States and what are now the Republics of the former Soviet Union. Today, we are at a crossroads, poised to enter a new international paradigm. This bill represents a potential high point in our relations, trying to develop friendship and mutual trust with nations that were once a part of the so-called evil empire. The United States has an unprecedented opportunity to assist the evolution of the newly independent states into stable democracies based on free-market economies.

There is universal recognition that a strong science and technology base is fundamental to the strength of an industrial economy. Today, fully one-quarter of the scientific workers on the planet reside in the Republics of the former Soviet Union, and more than half the world's engineers work there. Fore over 40 years, the Soviet Union matched the United States stride-for-stride in many scientific achievements in such areas as space, nuclear fusion, and metallurgy. It is inevitable that engineers and scientists in the newly independent states will play a key role in determining the success of the transition to an open and market-driven society. We cannot ignore these important resources if we truly wish to help the new republics become productive and self-sufficient members of the world community.

Therefore, I am particularly pleased that the Freedom Support Act includes provisions based on H.R. 4550, the AmeRus Research and Development Act, to restablish a nongovernmental foundation which would promote and support joint research and development projects to aid defense and economic conversion.

Joint scientific and technological cooperation can accomplish a number of goals: First: Provide a mechanism for scientists, engineers, and entrepreneurs in the former Soviet Union to develop an understanding of commercial business practices by establishing linkages to United States scientists, engineers, and businesses. These activities will assist the new states in applying their technological capabilities to the task of economic growth, which in turn will improve political stability.

Second: Advance defense conversion by funding civilian collaborative research and development projects between engineers and scientists in the United States and in the newly independent states.

Third: Allow United States researchers access to the many novel and commercially viable technologies that have been developed in former Soviet laboratories. Researchers from Japan, Germany, Korea, and other countries, with the support of their governments are aggressively searching out commercial targets.

Fourth: Provide productive research and development opportunities within the independent states that offer scientists and engineers alternatives to emigration. Emigration of ex-Soviet talent could spread weapons and commercial technologies to our military adversaries and economic competitors and rob the new democracies of their most valuable resources.

The dissolution of the Soviet Union gives us the hope for an era of international peace unmatched in modern times. Yet the current situation in the former Soviet Union threatens this new world order. This bill before us is the first step to initiate a foreign policy program which will help ensure the world peace of which we now only have a glimpse. I strongly urge my colleagues to support this bill.

Mr. WALKER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I'd like to point out one provision in particular. This bill would create an endowment to support joint United States-Soviet R&D. In 1993, the first Federal installment for the endowment is suggested to be funded by the Department of Defense, which may be a violation of the firewalls in the budget agreement. Regardless of how that issue is resolved between the administration and Congress, there remains the legitimate concern over how much of this activity, if any, is a genuine defense function vs. international or domestic. Section 504(d)(1)(B) of this bill attempts to address this concern by at least limiting outyear DOD funding of this joint R&D to no more than 50 percent of the total Federal appropriation. This way, the foreign aid or domestic discretionary budget will have to fund at least half, if not the majority or all of this program in the future. If no nondefense appropriations are made available, no defense funds shall be spent for this purpose. I would like to ask the chairman of the Science Committee, notwithstanding the language that has been added to section 504(d)(1)(B) which reads "or otherwise used in carrying out this section," that this is his intention and clear understanding?

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, in response to the gentleman's question, the answer is yes, it is my understanding.

Mr. WALKER. Mr. Chairman, I thank the gentleman for his response.

I am also pleased that the bill contains as title VI, language developed by the Science Committee giving the Office of Space Commerce, in the Department of Commerce, the authority to lead trade missions to the former Soviet Union so that United States companies can investigate for themselves the availability of Soviet space technology and its potenital application in the United States private sector space industry.

This type of effort is already underway, and I am confident that the private sector will make sound decisions on the feasibility of acquiring Soviet technology.

□ 1640

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, as many of the speakers before me have forcefully stated, the Freedom Support Act is an extremely important piece of legislation. If we want to have any chance of aiding the growth of democracy in the Republics of the former Soviet Union we must act now to offer assistance.

This is an extremely limited package we are offering. It amounts to less than one-tenth of 1 percent of the total Federal budget and is dwarfed by the efforts of other, smaller nations, such as Germany. This is, quite literally, the least we can do.

This bill, however, is not simply a humanitarian endeavor. The Freedom Support Act is an attempt to protect long-term American interests. We have an enormous stake in what happens in what was the Soviet Union. There are hundreds of nuclear weapons in the ex-Soviet Union, thousands of tanks, and huge stockpiles of military equipment. These weapons, in and of themselves, pose a tremendous threat to United States security either in the hands of their current owners or in the hands of Middle Eastern terrorist countries.

The nations of the ex-Soviet Union are desperate for hard currency. The temptation to sell these weapons to oil rich purchasers will be absolutely irresistible if we do not help to ameliorate the severe economic situation in the former Soviet Union. In my mind, this bill is an investment in our own security and our children's future. We do not want them to be forced to spend trillions more fighting another cold war or waste more lives halting the aggression of dictators in the Middle East armed with excess Soviet weapons.

I appeal of my colleagues to look at the broader picture. The Freedom Support Act is not a waste of money, it is an opportunity to help protect our American way of life for generations to come. My hope is that 40 years from now, people will look back and say, "Congress did the right thing by aiding our old enemies in the former Soviet Union," just as we look back to the Marshall plan and applaud President Truman's courageous decision to aid our recent enemy, Germany. Democracy is alive and well in Germany today, let us hope we can say the same thing about democracy in Russia and Ukraine 40 years from now.

Mr. WALKER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I rise in support of H.R. 4547, and particularly wish to emphasize the importance of the Democracy Corps.

Mr. Chairman, the idea of a "Democracy Corps" established in this legislation is most important. We need to see that these newly independent States are give vital assistance in establishing democratic institutions.

I rise to support the legislation and, specifically, to emphasize that in the implementation of the provisions of H.R. 4547 the United States take advantage of what has already been accomplished. Dedicated Americans and nongovernmental American organizations have been extremely active in pursuing these very goals within the former Soviet Union and they should be supported.

The report that accompanies H.R. 4547 says on page 16 that:

> In the promotion of the active involvement of the U.S. private sector, every effort should be made to take advantage of on-going efforts by U.S. citizens, organizations, and foundations to pursue the objectives of this act as evidenced by the establishment by such entities of programs in one or more of the independent states that involve local reformers in the process of establishing democratic and free market systems.

This report language is important and, I believe, should be emphasized. The legislation should be used to provide assistance to efforts already underway. American organizations have established American centers in republics of the former Soviet Union designed to accomplish the very objectives sought by this legislation, and are already operating. We should take advantage of these efforts and build upon them.

One example of which I am aware is the center established in Kiev, Ukraine, by the United States-Ukraine Foundation. The United States-Ukraine Foundation was established to assist the democratic movement in Ukraine in its peaceful transition to individual and national freedom, democracy, pluralism, and a market economy, as well as to strengthen ties between the United States and the Ukraine. During these last 2 years, the people involved in the foundation have work closely with Ukraine's Government and democratic leaders, they have had staff in Kiev for over a year, and have significant in-country experience.

They are Americans. The vice-president of the foundation, Kathy Chumachenko, a former congressional staffer of the Joint Economic Committee is in Kiev now coordinating programs and assistance for Ukrainians and for United States entities interested in Ukraine. The president, a friend of mine, Nadia McConnell, is leaving for Kiev in another week-and-a-half to coordinate the visit to this country of the head of the Ukrainian Parliament.

Mr. Chairman, I want the RECORD to show that the intent of the report language I referred to is to take advantage of on-going efforts like those of the United States-Ukraine Foundation and other organizations that already are in operation in-country, advancing the ideals of democracy and the rule of law.

Mr. WALKER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of this legislation. It is not an easy vote—politically. But, my colleagues, it is the right vote—not just for Boris Yeltsin, not just for Russia, but for the United States.

I have often voted against foreign aid. I strongly believe that our foreign policy—and foreign aid—should be only for what is in the U.S. national interest. This bill is in our interest. We have invested trillions of dollars in containing Soviet communism—so accurately described by President Ronald Reagan as the evil empire. Thousands of lives have been sacrificed in this effort also. It is in our interest that Russia—still armed with ICBM's—go forward with democracy, not lapse back into totalitarianism with all that implies.

Mr. Chairman, I am the chairman of the International Republican Institute, an NED core grantee. We have conducted democracy training programs in the former Soviet Union—as has the National Democratic Institute. Therefore, I strongly support the Democracy Corps provisions in the bill—so as to assist democracy.

At the end of our democracy conference last September in Moscow, our Institute was presented with one of the only three Russian—not Soviet—flags that flew over the Russian White House in August when and where President Boris Yeltsin courageously stood on a tank to—as it turned out—successfully stop the coup. Needless to say, that flag will always be valued.

Many of us have been heavily involved in the MIA/POW issue for years. The answer to the questions as to what happened to MIA's from Vietnam, cold war, Korea, and World War II lie in Moscow, perhaps in military and KGB files. I am absolutely convinced that we will have a better chance of obtaining the answer and of finding any live Americans by furthering democracy. We help do that by passing this legislation.

My colleagues, no one knows if passage of this legislation will save democracy in Russia. No one knows if failure to pass this legislation will doom democracy and free enterprise in the former Soviet Union. But, my friends, you can be absolutely sure failure would not help, and that the enemies of democracy in Russia would use our failure to act positively on it as arguments to return to the past.

The vote we cast not so long ago on the use of force against Saddam Hussein was for many of us the toughest vote we ever made in our congressional careers. The vote our predecessors made on the Marshall plan after World War II was equally tough—and important.

So is this vote my colleagues. Do what you know is the right thing—vote "yes".

Mr. WALKER. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in strong opposition to the bill.

I have heard all the arguments in favor of this bill. Such as "we cannot allow Boris Yeltsin to fail, for if he does we risk a new cold war" and that Russia now stands at an historic cross roads of history and our assistance may help make or break these new nations.

Well sometimes we just cannot see the forest for the trees. Forget the Russian economy. Today, it is more important to ensure that America does not fail. Even under the best of conditions, I'm no fan of foreign aid, but right now it is imperative we get Americans back to work and we need to get our own economy back on the move again.

Mr. Chairman, the unemployment rate in Oklahoma rose from 5.8 to 6.6 percent in June. That means more than 100,000 Oklahomans are out of work right now. In Oklahoma City, the unemployment rate grew from 4.8 to 5.5 percent, with more than 27,000 people without jobs. And Members here on the floor are fighting to provide more than $1 billion to help Russia, not to mention the $12 billion for our share of the International Monetary Fund's replenishment.

I want to point to one specific section in this bill which I find especially concerning. It is entitled "energy efficiency and production." It states that our goals—paid for by American taxpayers—are to promote market-based policies and to transfer technologies which promote the efficient production of oil and gas.

An article in last week's "Daily Oklahoman" newspaper states that the number of oil and gas rigs operating in the United States has decreased from 831 a year ago to 690 today. That is 141 fewer oil rigs producing domestic oil. Only 2 months ago, Oklahoma reached a 20-year low in oil rig activity. I can tell you our consumption has not been reduced, which can only mean one thing: our reliance on foreign oil is increasing.

And we want to help Russia and Kazakhstan develop their petroleum and gas industries so they can better produce oil? So they, too, can begin exporting more oil to the United States and put more American workers out of work?

Meanwhile serious legislation to improve our domestic energy industry has not been passed. Legislation which invigorates our domestic energy industry should be signed by the President before we enact laws which help Russia's oil industry.

No doubt democracy is struggling in Russia. Times are tough there—but times are tough here too. Now is the wrong time to be worrying about the problems of Russia and time to start addressing economic problems here at home.

I urge a no vote on Russian aid.

I reserve the balance of my time.

Mr. BROWN. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Los Angeles, CA, Ms. WATERS, and I regret that I cannot yield her more.

Ms. WATERS. Mr. Chairman, with all due respect to those who represent all of the new jobs that they are going to be creating for Americans because of this aid to Russia, I would like to point out that we have exported thousands of jobs to Third World countries for cheap labor, that our jobs have gone to Taiwan, they have gone to Mexico, they have gone everywhere. I suppose we are finding one more place where we can manufacture goods cheaply and rob Americans of more jobs.

I would like to ask the Members who are worried about Yeltsin, who had such a good time with him when he visited America, to visit some of your own American cities. Come to California and go to some places in New York, go to some places in this country and understand that the people are indeed without jobs. And the promise of jobs that we have been hearing about, all the jobs that were supposedly created in the last 10 years are not there. I guarantee there will not be more jobs as represented on this floor today. But perhaps there will be another place where we can export some more jobs and get some cheap labor and cause this economy to fall further and further down.

Mr. WALKER. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, if I may be permitted, I would like to engage in a colloquy with the chairman of the Subcommittee on Europe and the Middle East.

Mr. Chairman, there is a program currently under development which would use telecommunications technology to provide educational and instructional programming to the former Soviet Union. Grant recipients under the Star Schools Program Assistance Act would produce programming which would be broadcast to the former Soviet Union. Such technologies and programs have been put to great use in the United States, especially in States in the Northwest. For example, the Educational Service District 101 in Spokane, WA, is not only doing great work in Washington, Oregon, Idaho, Alaska, and Montana; it has recently signed an agreement with the Russian Ministry of Education and Telecommunications to begin the planning of an effort to offer educational and other programming to Russia. Mr. Chairman, it is my understanding that this bill would authorize funds which could be used for such programs. Is that correct?

Mr. HAMILTON. If the gentleman will yield, Mr. Chairman, yes, the gentleman is correct. This bill authorizes both bilateral assistance for educational and telecommunications purposes. Grant recipients under the Star Schools Program Assistance Act could certainly be one such program, and would be a worthy program.

Mr. MILLER of Washington. I thank the subcommittee chairman. Using telecommunications technology for educational purposes will allow us to reach many in the former Soviet Union where we could not reach them ordinarily.

Mr. BROWN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, I rise to strongly support the Freedom Support Act.

You asked the question why is this legislation so critical to the United States' interest. To appreciate the significance of this bill, it is useful to step back and reflect upon the current international landscape. It is a landscape that offers the historic opportunity to build a new, cooperative, a more peaceful world.

The great enemy, the Soviet Union, has dissolved. Not since 1919, after the aftermath of World War I, have we had a chance to create a fundamentally cooperative international arena. The United States failed then. This Nation opted out of the League of Nations. Let us do better now. We now have a chance to integrate Russia into the community of nations. This would mean Russian cooperation in future U.N. collective security operations.

□ 1650

Mr. Chairman, this would also mean Russia's cooperation in the new international relations agenda, terrorism, drug trafficking, and the environment.

In addition to the big picture, there are substantial bottom line advantages for the American taxpayer. No. 1 is the peace dividend. No. 2 is that traditionally over 50 percent of the defense budget, still over $270 billion, was dedicated to the former Soviet Union. The record shows that democracies do not go to war with democracies.

As Russian democracy evolves, the old threat can essentially vanish, yielding this country enormous savings in defense spending. But the savings are dependent on events in Russia.

A successful Russian transformation means a multibillion-dollar peace dividend for the American taxpayer. American businesses will stand to prosper from the development of this new market-oriented nation.

In the telecommunications industry, AT&T estimates that in the year 2000 Russia and other states will offer a market of $25 billion. That potentially means thousands of new American jobs, contrary to my previous speaker.

In the oil industry, United States companies are exploring investments in Russian, Kazakh, and Azeri fields that contain up to 10 billion barrels in proven reserves.

Ambassador Robert Strauss told a small group of us that this is the decisive moment for U.S. foreign policy. In his words, ladies and gentlemen, this is the big casino. He is right.

We won the cold war. If we are going to win the peace, to give purpose to all of our sacrifices, this House must pass this bill.

Mr. WALKER. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I support the Freedom Support Act. It will provide sorely needed aid to the former Soviet States to help these newly independent and democratic societies cope with decades of neglect and mismanagement by their former governments.

I have visited the Soviet Union on several occasions before its dissolution, and once since the newly independent states were formed. They have an unbelievably monumental task ahead of them if they are to preserve and foster the promise of democracy and open markets.

The idea of a market economy is new to most of its citizens. But if it is to succeed, one of the first orders of business for their respective governments is to improve their transportation systems. I speak from personal experience when I tell you that their roads are in horrendous shape.

Without good roads, crops cannot be delivered from farms to market. That fact has already been proven several times over as their societies annually confront huge losses from fruits and vegetables rotting in the fields for lack of good road and rail services. The bottom line is that their food supply is imperiled, and we've all seen evening newscasts showing empty store shelves. It's not for lack of domestic farm production; they simply can't get their products into the cities.

The same problem imperils their industrial sector. Parts, raw goods, and other supplies, are not able to be delivered efficiently.

The Freedom Support Act enumerates several new authorities that our Government can offer to the newly independent states, and I thank the chairman and ranking member of the Foreign Affairs Committee for their attentiveness to the role of transportation infrastructure.

I would also like to remind Members that in addition to financial aid, our Government stands ready to deliver technical expertise on the institutional, structural, and management skills necessary to develop and implement an integrated transportation network. Within the U.S. Department of Transportation are its modal agencies regulating highways, aviation, rail, and maritime activities.

With respect to highways, Members should be aware that the United States is unique in the manner in which it has developed a Federal/State partnership over its highway system. No other country in the world has instituted a similar model, where the Federal Government is the principle source of capital and design and construction standards, but gives States the discretion to designate highway alignments and to manage construction and maintenance of its roads. Our shared system of highway construction and maintenance has produced one of the most advanced, safest, and efficient roadway systems in the world.

It is my hope the administration, specifically the Department of State, will recognize the tremendous technical expertise that resides at the Department of Transportation as it begins to carry out the authorities provided by this legislation. It is absolutely essential that the newly independent states begin to upgrade their transportation systems quickly. Otherwise their ability to become self-sustaining will be seriously jeopardized.

Mr. BROWN. Mr. Chairman, I yield 3 minutes, the remainder of my time, to the distinguished gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, I rise in strong support of H.R. 5750, to authorize supplemental assistance for Russia and the other newly independent states of the former Soviet Union.

Let me address three issues.

I. THE SETTING BEFORE US

First, the setting in which we are considering this piece of legislation is extraordinary.

A great historical struggle is taking place in the former Soviet Union today. It is a struggle about the future of democracy, and the future of free market reform.

It is a great historical drama. The outcome is important for the world and for the United States. We do not know how the story will end.

THE ROLE OF PRESIDENT YELTSIN

President Yeltsin of Russia has taken several remarkable, difficult decisions. He has done things that were thought impossible just a year ago.

He put his life on the line to stop a coup;

He has destroyed the Communist Party;

He has thrown open the doors of Russia;

He has made extraordinary concessions to cut nuclear arms;

He has stopped aid to Cuba;

He has vowed to find the truth about all POW's;

He has freed prices, made the ruble convertible internally, and begun the wrenching process of creating a market economy.

U.S. STAKES IN THE SUCCESS OF REFORM

On key issues of importance to the United States, President Yeltsin has made progress. He has fulfilled some commitments, and we want him to fulfill those that remain. We have an enormous stake in his success.

Yeltsin and his reform program today are on the precipice. His economic reforms are causing great pain. Many voices are urging him to slow down and to stop. The backlash against reform is in full swing. Yeltsin's critics say that he is doing what the West asks, but that he is getting nothing in return.

Passage of this bill today will give Yeltsin an important boost. It will show that we stand with him. It will show that the United States is committed to help democracy and economic reform.

We cannot guarantee the success of reform. Only the Russian people and the peoples of the new independent States and their leaders can. They are the ones who have to do all the hard work.

But our help can make a difference. In the close race between reform and collapse, our help can buy time for Yeltsin—time for reform to work.

THE CONSEQUENCES OF FAILURE

What if the bill today is defeated?

Defeat of this bill will mean a stinging rebuke of our President.

Defeat will mean a stinging rebuke of President Yeltsin and all that he stands for. It will give aid and comfort to those hard-liners working to reverse his reforms.

Defeat will mean that the United States is dropping out, that the United States does not want to lead. It will mean that the United States doesn't care about democracy and freedom. It will mean that we are walking away from everything we believe in.

II WHY THIS BILL IS IN THE U.S. NATIONAL INTEREST

Second, I want to spell out in detail why this bill is in the U.S. national interest.

This bill will improve our security.

The success of reform in the former Soviet Union will mean:

Less defense spending than would be the case if Russia remained our adversary;

A reduced nuclear threat and a more peaceful world;

Reduced arms exports, and less proliferation;

Better nuclear power plant safety, and less risk of environmental disaster; and

The conversion to peaceful uses of defense industries.

This bill will benefit the U.S. economy. The success of reform will:

Reduce the defense burden for taxpayers;

Help American farmers;

Open new markets to American business;

Open up vast natural resources to peaceful commerce;

Increase energy supplies and lower prices;

Redirect enormous human talent to peaceful pursuits; and

Boost world economic growth and American exports.

This bill will promote American values. The success of reform will mean:

A society based on the rule of law;

Governments accountable to the governed;

The protection of individual and minority rights; and

Democracies that not only share but help promote our values: in freedom, free markets, and the peaceful resolution of disputes.

This bill will also serve humanitarian objectives and help those in need. Easing the pain of reform will buy time for reform to work.

People are not starving in Russia or the other republics, but they are in dire need of medical supplies and humanitarian assistance. It is in the American tradition to give a helping hand.

As you add up each of the reasons to vote for this bill, the case is an overwhelming one. This bill represents an extraordinary opportunity:

To help consolidate democracy and free markets;

To turn former enemies into permanent friends; and

To secure a safer and more prosperous future.

III. THE ISSUE IS NOT HELPING US VERSUS HELPING THEM

Third, the issue is not helping us versus helping them. There are those who say that the choice before us today is helping those at home or helping those in Russia. That is a false choice. That is not the debate here.

This bill helps Americans as much as it helps Russians. We do not live in a safe little corner of the world. What happens in Europe, what happens in Russia and the other republics makes an enormous difference to us and our security and our well-being. That was true in the World Wars I and II, the cold war, and it is still true today.

We cannot live safe, prosperous and free if there is turmoil and upheaval in a vast land that possesses some 30,000 nuclear warheads. When we work for democracy and economic reform in the former Soviet Union, we work to help Americans and to make all Americans more prosperous, more free and more safe.

IV. WHY A CLOSED RULE

Mr. Chairman, many colleagues have raised questions about the closed rule for consideration of this bill.

The bill before us is not perfect. We have tried to accommodate the concerns of many Members. I know that we have not accommodated all.

Many Members have worthy and meritorious ideas for amendments, and I know that they are frustrated that they will not be able to offer them today.

I would like to say to my colleagues that this closed rule is an extraordinary rule, for an extraordinary piece of legislation at a critical moment for American foreign policy.

This bill is not the end of a process, it is a beginning. There will be a need for adjustment as we go along. There will be ample opportunity to offer amendments in the normal foreign aid authorization and appropriation process.

There are plenty of excuses not to vote for this bill. I have heard many of my colleagues worry about voting for this bill before the November election. I worry about it, too.

But I also hear from my colleagues saying: "This bill is the right thing to do."

This bill is a summons to leadership. I appeal to you to give public voice today to your private judgment. This bill is the right thing to do.

V. CONCLUSIONS

Mr. Chairman, I want to close with a few observations.

First, the toughest work on democratic and economic reform has to be done by the people and leaders in the former Soviet Union themselves. We can—and should—help them, but we cannot do it for them.

Second, we are not alone. Every Western government is playing a role and providing support for reform. Some are providing more than we are. All that we are being asked to do today is to do our fair share—no more, and no less. American leadership is needed if we are to get others to share the burden.

Third, the former Soviet Republics are moving in the direction we want them to go. They are not there yet. Some have only started. But if their reforms fail or are derailed, we will be worse off. The costs and risk of going ahead with assistance are less than the risk of not trying.

Finally, we will face no more important vote on foreign policy during our time in the Congress. How we respond today will help determine the shape of the world for the next century.

Turning Germany and Japan into democratic allies and prosperous trading partners was the challenge of a previous generation.

The future of the former Soviet Republics is our challenge and opportunity.

But this opportunity will not last forever. The hour is already late. Yeltsin and reformers now face a great test. They need our help.

Whether we seize this opportunity to help them—and help ourselves—is the great question before us.

I urge my colleagues to support this bill.

Mr. WALKER. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Chairman, I rise in opposition to this bill.

I wanted to put an amendment in to condition United States assistance to the independent states of the former Soviet Union upon those Republics terminating all assistance to Cuba, terminating all intelligence bases in Cuba, such as the facility at Lourdes, withdrawing military personnel from Cuba, and terminating all assistance in the construction of nuclear reactors in Cuba.

These conditions are need for the liberation of the Cuban people from the tyranny of the Castro regime, and are also in the best United States interests.

We need to remember that Cuba today, which is only 90 miles away, continues to pose a serious threat to the U.S. by being within striking distance of most of the Eastern United States, and by maintaining several major military installations. Also, unconditioned United States assistance in this bill would work against other United States efforts such as the Cuban embargo which are already in effect to further isolate and bring down Castro's brutal dictatorship.

I urge a "no" vote on passage.

□ 1700

Mr. WALKER. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to this bill.

Mr. Chairman, everyone welcomes the dramatic changes in Eastern Europe and the former Soviet Union and the close of the cold war. Everyone hopes for continued progress toward a free and open society in these countries.

In general, the purpose of the legislation before us, H.R. 4547, the Freedom Support Act is admirable. The legislation has a number of provisions which I support. And I would like to be able to support H.R. 4547. However, I cannot do so at this time.

Mr. Chairman, we have spent much time this year discussing how to address the deficit and the $3.7 trillion national debt this Nation faces; whether or not we are in a recession, and how to get our economy moving again; and the many unmet and pressing needs here at home.

Earlier today, we had a lengthy and vigorous debate on the Family Preservation/Childhood Hunger Relief Act. A good deal of the debate centered on whether or not we could afford it. Too many children in this country need our assistance, and too many of them go to bed hungry.

The dean of the House, the distinguished chairman of the Appropriations Committee, and the distinguished gentleman from Kentucky, my chairman, just finished sheparding our 10 domestic appropriations bills through this house. How many times this year, Mr. Chairman, did we hear the words "fiscal constraints"—we do not have the resources to do it.

A little more than 2 weeks ago, we debated the fiscal 1993 Labor/HHS/Education appropriations bill. I don't think that too many Members of this House were satisfied with this—the people's bill. Funds for many social programs had to be cut. And there were not enough funds to address the needs of our children and families and senior citizens the way we should. There were not enough funds to provide the increases needed in health, education, research, job training, and the fuel assistance programs.

LIHEAP, the Low-Income Energy Assistance Program, is one which was not adequately funded, either in the budget request or the bill. The President's budget provided only $266.2 million, which would be available at the beginning of the cold weather season. In this bill, we increased that amount to $891 million, still inadequate when compared to the $1.5 billion we provided for fiscal 1992, of which $1.1 billion was available immediately. Fewer and fewer families are receiving assistance, and the amount of assistance is being reduced.

Approximately 38 million Americans lack health insurance. We cannot agree on what we can afford to do.

Some 17 million Americans are unemployed. Yet, how many times did we debate whether we could afford to extend unemployment benefits to the working men and women of our Nation who, through no fault of their own, lost their jobs and have been struggling to keep a roof over their family and food on the table.

When we considered the VA/HUD appropriations bill, we heard again and again that we did not have the resources to better address our housing needs, and the needs of our veterans, and our environmental problems. As we all know, the list goes on.

Too many times this year, we have heard that we cannot afford to do more—for our children, our families, our senior citizens, our working men and women, our cities and towns—our Nation.

Mr. WALKER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Chairman, I rise today in opposition to this bill and in support of the Kyl amendment that the Rules Committee precluded from being considered today on the floor. I do so because I believe Members of this Congress should have the opportunity to get some answers to, what are to me, very important questions.

Supporters of this legislation maintain that the aid is necessary to stabilize conditions across the former Soviet Union and solidify President Boris Yeltsin's position in order to reduce the possibility of another hard-line Communist faction coming to power.

While this may sound credible, given Mr. Yeltsin's apparent democratic ideas and willingness to open his country to United States investment and trade possibilities, disturbing reports emerging from Russia must, I believe, be thoroughly explained before any assistance for Russia is considered further.

For instance, the newly independent Republic of Latvia, which had been forcibly annexed by the Soviet Union during World War II, has asked for United Nations monitors to investigate what could be a grave violation by Russia of U.N.-imposed sanctions against arms transfers to Libya, sanctions with which Russia voted to comply.

Latvian officials claim that—unknown to them—a submarine Libya had purchased from Russia was undergoing work in a Russian-controlled factory in a Russian-occupied zone of Latvia. According to the Washington Post, the Russians used the same port factory last year to train the crew of an Iraqi missile boat, despite the fact that Russia was at the time officially participating in the coalition of forces against Iraq, and may now be using it again to outfit another submarine—this one for Iran.

Mr. Chairman, questions that need to be answered by Russian authorities are whether or not the new Russia is practicing in secret the foreign polices of the old Russia while claiming otherwise. In this instance, was Latvia being set up as a fall guy through Russia's activity on Latvian soil?

Furthermore, does Mr. Yeltsin support these actions? If so, why is he telling the world the opposite, and if not, is he, in fact, in control of the Russian military as he claims?

This last point is particularly disturbing in light of a recent accusation by a senior Yeltsin aide that the Soviet Communist Party had been supplying international terrorist organizations with funds and weapons for attacks against Western targets while the Communists were still in power.

If, in fact, the Latvian incident had been ongoing without Mr. Yeltsin's knowledge, who is to say that support of such international terrorist groups is not likewise continuing?

When former Soviet President Mikhail Gorbachev visited the United States Congress, I signed a letter to him seeking answers to a number of questions:

First, how much money did the Communist Party of the Soviet Union donate to the American Communist Party?

Second, what was the fate of United States POW's from World War II, Korea, and Vietnam that were held in Soviet prisons?

Third, who were the top spies in the KGB and what actions did they take against the United States and her interests?

Fourth, what was the true fate of Korean Airlines flight 007 that was destroyed by Soviet Air Force jets in September 1983?

These questions and those regarding the Latvian allegations should be presented to Mr. Yeltsin, and any aid package for Russia should, at the very least, be contingent upon the United States receiving thorough and satisfactory answers.

Furthermore, the gentleman from Arizona [Mr. KYL] has brought to the attention of this House other points that, likewise, should be addressed before this legislation is considered. A measure of freedom may have come to the Baltic nations of Latvia, Lithuania, and Estonia, but they will not be truly free until all of the troops of their former occupier have been removed. Two years seems a reasonable timeframe for the withdrawal of these troops, and I fully support the gentleman from Arizona in this proposition.

Providing Russia with United States-taxpayer-supplied assistance should be out of the question until these questions are addressed fully.

I oppose open-ended aid; blank checks for any foreign nation should be out of the question. Any and all assistance must be in the best interest of our country, and I maintain that this cannot be clearly divined until we get our answers.

It is, in fact, Mr. Chairman, not a contradiction that any and all foreign aid bills should start and end with the interests of the United States.

Mr. WALKER. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH].

The CHAIRMAN. The gentleman from Georgia is recognized for 5 minutes.

Mr. GINGRICH. Mr. Chairman, I thank my friend, the gentleman from Pennsylvania, for yielding me this time.

I believe that this may well be as important a vote as any of us will ever cast. I think it is a vote which in many ways equals the vote on Desert Storm. I think it is a vote which frankly harkens back to the Marshall plan, to President Truman's historic moment when the United States Congress decided to help democracy survive in Western Europe.

I was very emotionally moved, and I think almost every Member of the House was, when President Boris Yeltsin came here and stood and spoke. I thought it was a remarkable performance, a remarkable speech. It made all of us a little more in touch with the nobility and the romance of democracy and freedom.

I would say to all my colleagues who are thinking about voting no, harken back to how you felt when you stood that day on the floor and applauded. Harken back to how your heart went out to this man who had so much courage, and ask yourselves, if he had the courage last August to stand on a tank, to risk his life to challenge the entire might of the old Soviet Empire, because he was willing to risk his life for freedom, should we not be willing to take a much smaller risk to help freedom today?

There is no guarantee that this help will be decisive, but if we vote no and if this fails and if in the process the forces of democracy in Russia lose morale and lose momentum, and if we are someday faced in the near future with a dictatorship, and it is very possible, this Congress will spend far more rebuilding our national defense against a renewed Russian dictator, far more than is involved in this bill.

This may be the wisest national security vote any of us have ever been able to cast, because if in fact Russia continues the process of democratization, if in fact we are able to reach out a helping hand and the Russian people continue on their road to private property, and free enterprise, and the rule of law and free elections, and if we can in fact for the rest of our lives live in peace with the Russian people, we will have done more to defend America and protect America than the next 3,000 nuclear warheads or the next 500 military aircraft, and we will have done it by reaching out in a peaceful way to help peace.

I used to teach history. I have often wondered about the late 1920's when Weimar Germany was trying to be a democracy and we in America were not as helpful as we could have been, and you look back at that period and you ask yourselves, if we had been a little more concerned, if we had been a little more willing to help, could the world have avoided Adolf Hitler? Could we have avoided the Third Reich? Could we have avoided the concentration camps? Could we have avoided the loss of American men and women who died in World War II?

So I would say to all my colleagues, if you vote no today, be very sure in your hearts that you could stand and explain to Boris Yeltsin why you applaud his courage, but you are not willing to support it. If you vote no today, be sure in your hearts that you understand the burden that you are taking, because you are willing to risk the collapse of democracy in Russia and stand to one side and do nothing about it.

Mr. Chairman, I would urge every one of my colleagues to search their hearts deeply. I believe this is a vote for America. This is a vote for American jobs, trading with a prosperous Russia. This is a vote for American budgets to be smaller to save money because we do not have to worry about a militarized dictatorial Russia. This is a vote for a peaceful world and a free world for our children and our grandchildren.

I would far rather vote yes and tell them I tried than to vote no and have it collapse and tell them I have lacked the courage to stand for Boris Yeltsin on behalf of freedom.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I rise in opposition to the bill.

Mr. Chairman, my vote against this bill sending more than $1 billion to the former Soviet Union is not a vote against the Russian people, it is a vote for the American people.

There are thousands of unemployed timber workers and their families in my State of Oregon who would love some assistance from their Government. Our people need better schools, expanded access to health care, and more affordable housing. Many of them are lacking the basics—things like home heating in the winter, adequate food for their families, decent job opportunities.

And in case our leaders haven't noticed, the Federal Government is going broke.

Instead, Congress and the President are proposing to send more than $1 billion to the remnants of a corrupt oligarchy presiding over the remains of one of history's most inefficient and incompetent bureaucracies.

We should be investing in the people of this Nation, not pouring our money into the black hole of the Soviet Union's failed economic experiment.

I urge my colleagues to oppose this bill and support efforts to revitalize this Nation and its people.

The CHAIRMAN. The time allotted to the Committee on Science, Space, and Technology has expired.

There is now the time reserved for the Committee on Foreign Affairs.

The gentleman from Florida [Mr. FASCELL] has 7½ minutes remaining, and the gentleman from Michigan [Mr. BROOMFIELD] has 6 minutes remaining.

PARLIAMENTARY INQUIRY

MR. KANJORSKI. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. KANJORSKI. Mr. Chairman, I thought I had made an objection on the record to the reservation of any time. I cannot understand how there is any reservation of time remaining.

The CHAIRMAN. The reservation to the Committee on Foreign Affairs was ordered at the time that they had at the beginning of general debate as the primary committee. That was ordered by the Chair at that time, in the Chair's discretion.

Mr. SERRANO. Mr. Chairman, before considering providing assistance toward the establishment of a new world order, we must get our own house in order. My constituents in the Bronx are in dire need and would gladly welcome any technical, humanitarian, and democracy-building assistance we are discussing here today.

We have a prior, pressing duty to meet our domestic obligations. Housing, health, education, and employment for Americans are our neglected and long-overdue priorities.

Mr. Speaker, the facts are sobering. The American people are suffering. Unemployment is at an alltime high of 7.8 percent; over 5 million children go to sleep at night hungry; in New York City alone, there are 90,000 homeless people, many of whom are families. Close to 8 million Americans are uninsured or lack basic health care.

As a member of the Education and Labor Committee, I am disheartened that fiscal constraints have prevented increases in any of the education programs, especially the exemplary chapter 1 program which has won universal approval. The maximum Pell award will be reduced to $2,300 for fiscal year 1993 and the shortfall of $1.4 billion will be forward funded.

Education is the key to escape from poverty, and making education accessible and affordable to all Americans is a priority for this Congressman who represents one of the poorest districts in the Nation.

Mr. Chairman, until we have met these obligations, I cannot in good conscience justify to my constituents voting to send $1.2 billion in aid abroad.

Mr. HOUGHTON. Mr. Chairman, the question that so often arises is why don't we take care of ourselves first? Why help others like the Russians who have been our enemy since 1917 when we have so much to do all the way from Watts to Washington?

It's a good question. It deserves an answer—as a matter of fact, several answers. First—let us not forget that $1 trillion goes to our entitlement programs. This out of a $1.5 trillion budget. Of the other $500 billion, $486 billion is pushed toward other projects in this country. Fourteen billion goes to help others in other Nations including starving people, who have no other source of support, other than to reach out to the richest country on Earth.

Second, $12 billion has been bandied about as the aid figure for Russia. That is 40 times too high. The $12 billion is primarily for the International Monetary Fund—which we make money. It is possible, if you can believe it, to be out not one red cent for our Russian aid. Why?—because of the income we receive from the IMF.

Third—this is a good investment. After spending $4 trillion since 1945 to defend against Russia, a small effort now to keep democracy afloat is not too bad an idea. I support this bill.

Mr. DORGAN of North Dakota. Mr. Chairman, after considerable thought, I have concluded that I must oppose the pending bill providing a variety of United States aid to the former Republics of the Soviet Union. At a time that we should be investing in America as priority No. 1, we must weigh critically what foreign assistance makes sense.

This is a close call and both sides on this debate have offered some very persuasive arguments. I agree with proponents that we must seize the opportunity to encourage Russian democracy and to prevent a return to totalitarianism and militarism. I am also persuaded that this bill affords a flawed means to achieve that goal.

Let me underscore that I favor the right kinds of aid to Russia and other former Soviet Republics. As chairman of the Hunger Committee's International Task Force, I have convened hearings on the humanitarian plight of the many people in these Republics. As a result of those hearings I have endorsed and voted for humanitarian aid and supported expanded agricultural credits. This aid will prevent needless suffering and help to stabilize fragile governments en route to democracy. Food aid and sales will also benefit American farmers, since Russia has been one of their biggest customers.

Further, I support transferring defense dollars to aid Russian demilitarization and compliance with arms control and nonproliferation. I favor creative efforts to prevent the brain drain of Russian scientists to other countries bent on terrorism or the production of weapons of mass destruction. Again, I have voted for such spending as part of the defense authorization and foreign aid bills this year.

On the other hand, we must husband our investments for our own economy. We simply must get America back on the economic track. With gigantic deficits, we don't have the luxury of approving another $12 billion in foreign aid as this bill does. We could do so if we tapped the riches of Russia and other Republics and if we insisted on further military concessions by Russia's leaders—such as the certain withdrawal of Russian troops from independent Baltic Nations.

One thing that troubles me about the present bill is its approval of $12 billion of United States funds for the International Monetary Fund, of which only $3 billion will be used to aid Russia and other Republics. The IMF has not established a solid track record in promoting humane recovery and balanced development in other nations; I don't know why it will now do so in Russia.

I also fail to understand why we can't tap some of the estimated $1.4 trillion in strategic minerals and resources owned by Russia. This is a country rich in resources, if poor in economic output. Unfortunately, the rule for this bill did not permit amendments to barter some of the Russian wealth for aid that is needed.

I am also puzzled that we could not require a specific timetable for the withdrawal of Russian troops from the Baltic States. I understand the lack of housing in Russia limits troop withdrawals, but we could at least demand a certain schedule and guarantees for achieving that goal.

Some aid proponents have posed a troubling dichotomy: Either support this bill or no aid will go forth. Provide aid or assume responsibility for the failure of Russian democracy. It's a false dichotomy. This is not the Marshall plan. Russia is not a vanquished nation like Germany or Japan after World War II.

Even without this bill, we will provide aid—via the defense and foreign aid bills and with existing agricultural credit programs. Beyond that, the decisions of Russian leaders more than aid from the IMF will determine the future course of democracy.

So the question is not whether we provide aid, but whether we provide the right kind of aid under the right circumstances. We have a responsibility to measure whether the aid in this bill genuinely serves our national interest. I conclude that some would, but some would not. Without recourse to amendment, I am compelled to oppose the bill.

Mr. SMITH of New Jersey. Mr. Chairman, the consideration of this bill, the Freedom for Russian and Emerging Eurasian Democracies and Open Markets [FREEDOM] Support Act, by the House demarcates this Age of Democracy from the dominating cold war era. Until the revolutions of 1989 and the ensuing pursuance of individual freedoms, human rights and representative government, the objectives of the Soviet Republics were diametrically opposed to the ideals of the United States.

The United States and mature representative democracies in Europe and the West truly have a historic opportunity to nurture these new, changing markets, markets that offer promise for U.S. exports. Furthermore, we are blazing an unchartered course as we help ensure these centrally controlled economies become market-based economies, as we foster democratic governments of the people rather than fight and condemn communist governments against the people, and as we support the dismantling and destruction of weapons of mass destruction rather than spend trillions to defend ourselves against the threat of nuclear war. I believe this unchartered course cries out for innovative, flexible initiatives which build on the private sector expertise in this country and cultivate the private sector among the emerging democracies.

I urge my colleagues to join me in supporting the Freedom Support Act which stipulates that the assistance granted through any government entity is predicated on significant progress by these emerging democracies toward economic and political reform, a guarantee of human rights and respect for the rule of law, and adherence to weapons and arms control agreements. The bill clearly prohibits at this time assistance, other than funds for the disarmament and nonproliferation of weapons, to Azerbaijan due to the continued hostilities against Armenia and Nagorno-Karabakh. I fully support these stipulations.

Furthermore, Mr. Chairman, the bill outlines Congress' continued concern that former Soviet military forces remain deployed in the independent Baltic States. While President Boris Yeltsin made a public commitment to that effect when in Munich last month, the

United States must continue its pressure on the Russian Government and insist that the tens of thousands of ex-Soviet military personnel be removed.

Building on the framework of expanded trade and business opportunities for U.S. entrepreneurs which Presidents Bush and Yeltsin agreed upon recently, this bill would help facilitate ventures within the private sector. Technical assistance will emphasize practical problem-solving techniques fundamental to management and marketing within the private enterprise system. Through the establishment of business assistance centers, American businesses, especially small and medium-sized businesses, will be better equipped to penetrate these new markets.

The Freedom Support Act also authorizes an increase in the United States contribution to the International Monetary Fund [IMF], essentially increasing the pool of resources and capital available for loans. In exchange for the value of the contribution, the United States receives and increase in Treasury reserve assets which remain available for use by the United States at any time. With the replenishment provided by the United States, other countries such as Japan, Germany, and other Western European countries are obligated to increase their share of the quota. These resources are needed to allow the IMF to respond to the borrowing needs of the emerging democracies in East Europe and the former Soviet Union.

With the dissolution of the monolithic, centrally controlled Soviet economy, the economies of these emerging democracies are in shambles. With the closing of the cold war, the seething nationalistic and ethnic conflicts which threaten political and social stability have been uncovered. And, the extensive military arsenals exacerbate the uncertainty which persists between the newly independent countries. I agree with the President's analysis suggesting that "if we do not act now, we collectively will have failed to live up to the challenges and the strategic opportunity—perhaps the greatest this century—that this new relationship gives us."

Mr. MCMILLAN of North Carolina. Mr. Chairman, I rise in support of this landmark legislation. After years of sacrifice during the cold war, we have won a tenuous victory. We need to be careful, however, that economic hardship in the former Soviet Union does not undermine our efforts over the last four decades.

Boris Yeltsin has pushed through far-reaching economic reforms, and announced plans to cut the military in half. It is imperative for us to support both of these efforts, and do what we can to ensure their success.

The bill before us today is a balanced measure. It emphasizes arms control—providing money for nonproliferation and dismantlement efforts—humanitarian assistance, and includes aid to encourage the export of U.S. agriculture products.

The nuclear containment provisions are particularly important, and makes up the largest portion of the aid package. We have spent hundreds of billions of dollars in an arduous effort to counter the buildup of the Soviet arsenal. Surely, it behooves us to spend a fraction of our former outlays to do what all our former expenditures never could: Eliminate weapons from the Soviet arsenal. I would also note that the legislation targets funds for nuclear reactor safety measures, to avoid future Chernobyls.

While this aid may not save the independent Republics, we have to try. Economic collapse would reverberate through Western Europe, and ultimately have an adverse impact on the international economy. Much of the credits authorized under the bill are aimed at currency stabilization, which is the key step toward real reform and integration into the family of nations.

Let us be clear, this aid is not free. There are terms and conditions placed on the aid. The bill lays out specific steps to facilitate the peaceful resolution of ethnic disputes, and it ties aid to strides made on human rights, democracy, the rule of law, and market-oriented economic reform.

The newly established Republics are moving in the right direction. It is imperative for us to seize this opportunity, and fight to win the peace just as arduously as we fought to win the cold war.

Mr. REED. Mr. Chairman, although I rise in opposition to the Freedom Support Act, H.R. 4547, I do not rise in opposition to the idea of aiding the former Republics of the Soviet Union.

Like many Members, I joined with Mr. BONIOR and Mr. WISE in urging the President to sign an additional extension of benefits as well as an accelerated jobs bill before we would consider the Freedom Support Act.

When unemployment shot up in June, the President finally decided that he had to respond and signed an extended unemployment benefits bill into law. However, despite my State's unemployment rate of 9.4 percent, Rhode Island does not seem to merit a special or extraordinary response like the jobs plan before us today. There is aid for Soviet defense workers, but there are no jobs for the thousands laid off at the Electric Boat plant.

Our basic message has been—Mr. President what about a special plan for the United States? It appears his vision for the American people has yet to arrive.

Today I ask again, what about America? Our distinguished majority whip has stated that the President has said he will work on an accelerated jobs bill. But we need jobs now not just promises. I need to see a concrete proposal for job creation, not a capital gains tax break for the rich, but jobs for hard-working men and women here at home.

Turmoil in the former Republics of the Soviet Union should be avoided. But, the fundamental threat to world peace is not linked just to the Soviet Union's future, it is tied to the failure of our economy. So long as America is a strong and productive country, we will have the capacity and determination to support peace. An economically weak America cannot serve its people at home or defend its ideals of peace and progress abroad.

Moreover, I am concerned by another missing element in this legislation. It is a simple provision that has been included in the Senate's version. I am speaking about ensuring that all of America's food producers are included in the food aid sent to the Soviets.

Section 702 of this bill mentions many specific agricultural products from vegetable oil to tobacco, but again there is something missing—underutilized species of fish. It appears that aid to the Independent States will mean work and jobs in the Midwest, but not for the fishermen who make their living deep at sea. These fishermen are threatened by the loss of their livelihood because the stocks of groundfish are shrinking, just as many American farmers are threatened by drought. However, there is another option—there are other fish in the sea, like mackerel, skate, and dogfish. Simply stated, I would like to see language in this bill that says underutilized species of fish should be part of our aid package for the independent states.

Mr. Chairman, I repeat again, I am not opposed to the concept of aiding the Soviets and creating a special plan to address their particular needs. What I cannot vote for is placing the needs of the former Soviet Union above the needs of America.

I have suggested two specific ideas that would make my support for this bill more likely. First, an accelerated jobs bill. And, second, putting fish on equal footing with other agricultural products. Mr. Chairman, when these two basic concerns are addressed, I will reconsider meeting the needs of the Independent States.

Mr. PALLONE. Mr. Chairman, I rise to commend the chairman and the members of the Foreign Affairs Committee for the excellent job they have done in putting together H.R. 4547, the Freedom Support Act. I feel the bill strikes the right balance between judicious investment in the emerging democracies of the former Soviet Union and the fiscal realities of our economic situation here at home. After 74 years of Communist rule and human rights abuses in the Soviet Union, these Republics have formed a Commonwealth of Independent States committed to ensuring a peaceful world order and to allowing each of its citizens a voice in their government. I am proud to support this bill and I urge my colleagues to do likewise.

I do want to mention one reservation I have about the Freedom Support Act. The legislation which this body will vote on today urges Russia to begin the process of removing the troops currently occupying the Baltic States. Of course, as a sovereign nation, Russia can choose to heed our urging or to ignore it. I believe that the United States should take a stronger position. As a cosponsor of the bill introduced by Representative DURBIN, which explicitly conditioned all aid to Russia on removal of this occupying army, I feel the Freedom Support Act does not go far enough.

A year and a half ago, the United States went to war in the Persian Gulf because Iraq illegally occupied that small nation. Now, we are faced with a situation where we are giving aid to Russia, a country which maintains an occupying force in the small States of Latvia, Lithuania, and Estonia. We have tremendous leverage available to us to influence Russian policy on this issue. We should use aid to pressure Russia to withdraw these troops. If not that, then we should at least demand that no replacements are sent to the Baltics for Russian soldiers who return home.

The Freedom Support Act laudably refuses aid to the Republic of Azerbaijan for all activities except nuclear nonproliferation until the President has informed Congress that Azerbaijan is clearly trying to end blockades against Armenia and Nagorno-Karabakh. This provision against Azerbaijan aid sends a clear message that human rights abuses and suppression of a people's right to self-determination is intolerable to the people of the United States.

It should also be emphasized that this tremendous piece of legislation comes at little cost to the weary American taxpayer. The $12 billion increase in the U.S. quota contribution to the International Monetary Fund is a credit and would not result in another burden on our already beleaguered budget.

When I entered the House of Representatives 4 years ago, it seemed a remote dream that one day my colleagues and I might help ensure a democratic government in the former Soviet Republics. But today, my friends, that dream is a reality. The Senate acted wisely in passing this bill. Again, I urge my colleagues on both sides of the aisle to vote to pass the Freedom Support Act.

Mr. HALL of Ohio. Mr. Chairman, I rise today to urge passage of H.R. 4547 which provides humanitarian assistance to the children of the former Soviet Union. New freedoms and opportunities are emerging, but not for many of the children of these Republics.

At a hearing convened by the Select Committee on Hunger earlier this year, we investigated humanitarian conditions in the republics. UNICEF has stated that children in the former Soviet Union face a series of health and nutrition problems that are escalating in severity. The incidence of infectious diseases is increasing, the nutrition status is declining, and infant mortality is rising.

The Russian Ministry of Health reports that children up to 2 years of age are receiving only 11 percent of the protein they need, only 20 percent of the fruit and vegetables, and only 43 percent of the cereals. Milk is in short supply. The milk that is available is expensive and has a shelf life of only a few days.

To date, we have done little to meet the special needs of these children. During the markup of this bill, an amendment was adopted in the Foreign Affairs Committee that directs AID to address the nutritional needs of infants in any of its humanitarian assistance programs. This is a crucial and important addition to the bill.

We must act now. I urge my colleagues to pass H.R. 4547.

Mr. EWING. Mr. Chairman, the Freedom Support Act is a good bill for America. It's not often that we get a chance to vote on a bill that will both provide American jobs at home and increase American security abroad. But that's what this bill does.

This bill is not a handout. On the contrary, it is an investment that will provide an excellent rate of return. By opening the doors to additional export credit guarantees for agricultural products, we will be doing much more than providing U.S. farmers the opportunity for sales for 1 year. We will be establishing ourselves as reliable suppliers that can be counted on for years to come. Additionally, by requiring that USDA export programs be used to promote value-added products, we will be increasing American competitiveness in one of the fastest growing areas of agricultural trade.

By some estimates, we've spent over $4 trillion during the cold war to get to where we are today. The $440 million that this bill provides is a small fraction of that amount to get the rest of the way—to free and democratic Republics in the former Soviet Union. In fact, if we do not invest in the Republics, we could see the area degenerate into chaos and civil war like we now see in the former Yugoslavia. That could wind up costing us a lot more in the long run. Our investment in those fledgling democracies can ensure that they survive, and I think that's a pretty wise investment.

I'd caution my colleagues not to view this as a cost—it is a loan that we all hope and expect to see returned. In fact, the Russians have been excellent creditors in the past. There is no reason to believe that they will renege on these guarantees.

Mr. Chairman, for the sake of both American security and American trade interests, I urge my colleagues to support this bill.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in strong opposition to the Freedom Support Act which provides aid to Russia and the other former Soviet States. I cannot support this legislation because it comes at a time when this country needs to concentrate its efforts on the enormous crises facing its own cities. If ever there were a time for addressing the needs of our cities it is now. We cannot afford the luxury of ignoring them.

The recession that grips our country has wreaked havoc in the usually middle-class suburbs in my district, places like Oak Park and Maywood, which are not normally so adversely affected are littered with closed businesses. In the urban communities of Lawndale, Austin, and sections of the 37th and 28th wards of Chicago, many of the citizens are facing absolute destitution.

How can I go back to my district and tell my constituents that I felt it more necessary to give funds to Latvia than to try to help them correct their abysmal economic situation. In all good conscience I cannot. I will vote to defeat this bill and I urge my colleagues to do the same.

Mr. LEWIS of Florida. Mr. Chairman, I rise in reluctant opposition to this legislation aimed at assisting the Republics of the former Soviet Union.

To begin, I would like to state that I believe there is no doubt that a secure and stable Russia is in the United States' best interest. The lessening of our defense budget and the business opportunities presented will certainly help our economy.

However, today, we are not voting on the philosophy of whether or not we should help the Russians. We are voting on a very specific piece of legislation which will be the law of the land.

In short, I do not believe this legislation takes the wisest approach to the problem.

First, the bill does not adequately condition aid on continued reforms. For example, it allows Russian troops to remain in the Baltic States of Estonia, Latvia, and Lithuania. In addition, it does not address the problem of continued military spending. I cannot in good conscience support legislation which could result in United States taxpayers subsidizing military activities in the Baltics or further military spending.

Second, this bill does not call for any repayment or collateral, even though there is over 2½ trillion dollar's worth of verified natural resources in the former USSR. I could have supported this legislation had the Kanjorski-McCollum amendment been attached. This amendment would have allowed the Republics to convert their resources into cash by pledging natural resources, the right to develop them, or revenues from them, as collateral for developmental assistance.

These simple commitments are not meant as a punitive action. Instead, it is a simple commonsense approach that allows for the protection of the American taxpayer, while allowing the Independent States to receive their assistance. This approach has the added benefit of putting Russian workers to work, and easing their transition into the free market.

To conclude, Mr. Chairman, I do not stand here today in reckless opposition to the idea of helping the brave citizens of Russia and the other Republics who endured nearly three-quarters of a century of brutal Communist control.

I simply do not believe the legislation before the House today is the wisest approach to solving the problems presented by the end of the cold war. Should legislation be considered with more specific conditions, and a more appropriate funding mechanism, I will be proud to lend my support.

Mr. RICHARDSON. Mr. Chairman, I rise in support of this legislation to assist the newly independent States of the former Soviet Union in their transition to a free-market democracy.

For the past 45 years, the United States invested billions of dollars to contain communism. The American people carried that burden because the United States has always been a Nation defined by its dedication to freedom and democracy. Because of the vision of America's post-World-War II leaders, the United States won the cold war.

Today, America has a once-in-a-lifetime opportunity to advance our historic dedication to freedom and democracy in the newly independent States of the former Soviet Union.

This aid package is not a panacea for the problems facing Russia and the former Republics. This bill is not, as some have characterized in the debate, an economic recovery plan for the former Soviet Union. The new leadership in Russia and the independent States will have to embark on a massive restructuring of their economy if they are to provide a better future for its people.

America's task today, however, is to provide these newly independent States with the tools and resources to accelerate the dramatic changes underway that are being advanced by Russian President Boris Yeltsin and other leaders of the former Republics. Our role in the world community is to join with the other G–7 industrial countries to help the former Soviet Union in its transition to a free market democracy. We can do that by passing this bill.

The dramatic changes in the world should force us to think anew about our challenges both at home and abroad. As we renew our commitment to freedom and democracy abroad, we must also reinvigorate our efforts here at home to fight for those same principles. Sadly, too many Americans are seeing our values of democracy, individual freedom, and collective prosperity erode here in the United States.

So as we fight for a better life for people in emerging democracies, the Federal Government must also fight to give America's cities, rural communities, and citizens the tools and resources to make life better and more prosperous at home.

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of H.R. 4547, the Freedom Support Act.

Approval of this aid package to the successor States of the former Soviet Union is extremely important. It is important because we have a tremendous stake in the success of the struggle for democracy in the Republics. The continued success of the transformation from communism to democracy in these nations makes it possible for a dramatic reconfiguration of world politics. This reconfiguration offers hope for greater international security. It also offers us the opportunity to make further reductions in our own defense budget. We must act responsibly to ensure that this transformation is not interrupted.

That means that we must ensure that conditions do not persist which would prove to be breeding grounds for dictators. It is no secret that massive economic problems and the deprivation and hunger that result give those who would destroy freedoms an opportunity to seize power.

It is also a well-documented historical fact that during times of instability, religious and ethnic minorities end up suffering the most. In those circumstances, people are angry and looking for scapegoats to blame for the hard times. Ultranationalism breeds bigotry and intolerance. In the former Soviet Union, economic hardship has meant persecution of Jews, Evangelical Christians, Ukrainian Catholics, and those of the Ukrainian orthodox faith in the past.

The Freedom Support Act will help to alleviate some of the conditions that have led to the persecution of these individuals. In addition, in recognition of the fact that persecution is already occurring, this bill extends important provisions of U.S. law that grant these individuals automatic refugee status for the purposes of admission to the United States. This status will enable them to escape dangerous situations that may arise by coming to the United States.

By approving this legislation, we will continue our important leadership in the quest for freedom and democracy around the world. I urge my colleagues to join me in approving the Freedom Support Act.

Mr. KLECZKA. Mr. Chairman, I rise in opposition to the Freedom Support Act (H.R. 4547).

In addition to providing $1.2 billion in aid to the Russian and other former Soviet Republics, the bill would increase the United States quota contribution to the International Monetary Fund by $12.2 billion.

My colleagues should note that this $12.2 billion IMF quota increase could best be characterized as a blank check. There are many conditions which should accompany such a quota increase. Conditions on international development assistance were, in fact, added by the House Banking Committee, a panel on which I serve, only to be stripped from the bill.

Let me describe some of the provisions which the Banking Committee included in its version of an international development bill which this bill eliminates.

H.R. 4547 does not include the Banking Committee sections on debt restructuring, fair labor practices, promotion of human rights activity in the Horn of Africa and elsewhere, and environmental and consumer health and safety requirements.

It fails to include provisions to promote energy efficiency, or to address the question of excessive weapons expenditures by borrowing nations.

While the bill before us today does include Export-Import Bank language, it does not include an amendment I offered at the Banking Committee, and which was part of the Banking Committee international development bill, which restricts the financing of sales of military equipment by the Export-Import Bank. The bill also deletes an amendment I offered to require a GAO study on past sales of defense material by the Export-Import Bank to determine whether such weapons may have fallen into the wrong hands, or been used to violate human rights.

These provisions were somehow considered inappropriate, and deemed necessary to strip from the bill.

That was a mistake. The House Banking Committee worked long and hard to ensure that international development assistance include the appropriate strings—strings which the American people demand.

The failure of this measure to address legitimate taxpayer concerns makes clear that there are more pressing priorities, both foreign and domestic.

I urge a "no" vote on the Freedom Support Act.

Mr. OWENS of Utah. Mr. Chairman, I rise today in strong support of H.R. 4547, the Freedom Support Act of 1992. This measure is good for American business and it will create jobs here in the United States. At the same time, I am hopeful it will assist the newly independent republics of the former Soviet Union to turn their economics around, institute democratic and free market reforms, and change forever the face of that land.

I especially want to point out the provision prohibiting United States aid to Azerbaijan until the President reports to Congress that Azerbaijan is clearly trying to end the blockade and stop the use of force against Armenian and Nagorno-Karabakh.

This provision is particularly important because of Azerbaijan's ongoing aggression against Armenia. For over 4 years now, Azerbaijan has enforced a blockade against Armenia. This blockade is illegal and immoral. It inflicts pain and suffering on innocent civilians. Food and medicine shortages are commonplace. Armenia's economy has been devastated.

Yet, somehow, this reborn State has a soaring spirit. Armenia is far ahead of other CIS Republics in implementing economic reforms, including privatization of land and market-based manufacturing policies. And Armenia was among the first States in what was formerly considered to be behind the Iron Curtain to hold democratic elections and institute democratic reforms that are meaningful and lasting.

I hope that the provision barring aid to Azerbaijan will be heard loud and clear in Baku. End the blockade—now. Stop the shooting and shelling—now. You will not be allowed to join the civilized world until you abide by international law and demonstrate your commitment to humanitarian values.

And to President Bush and Secretary Baker I would say this: The United States established diplomatic relations with Azerbaijan after Azerbaijan promised to end the blockade and stop the violence. These promises have been broken, they were never complied with even for a day. It is wrong for the United States to ignore these principles and conditions.

Finally, Mr. Chairman, I would like to say for the record, that I fully expect the IMF to distribute the loans and assistance equitably. Furthermore, the IMF should not use Azerbaijan's aggression toward Armenia as an excuse to ignore Armenia's impressive economic strides. Armenia needs immediate economic aid. I am convinced that Armenia both has the will and wherewithal to utilize this aid wisely.

Mr. BONIOR. Mr. Chairman, today, the House is taking up the Freedom of Support Act to help the independent States of the former Soviet Union make the transition to democracy and a free market system. This is an extremely difficult transition which requires courage and tremendous sacrifice.

I strongly believe that aid should only go to those countries who have committed themselves to democracy and respect for human rights. The aggression of the Government of Azerbaijan against Armenia and Nagorno-Karabakh is contrary to these goals.

For several years, Azerbaijan has blockaded the delivery of food, medicine, and fuel to Armenian populations. At the same time, hundreds of thousands of Armenians are struggling to recover from the terrible earthquake and hundreds of thousands more are refugees fleeing from Azerbaijani aggression. In another few months, Armenians will face another harsh winter without heat because of the blockades.

I strongly support provisions in the Freedom of Support Act that prohibit aid to Azerbaijan until they take steps to lift these blockades and to stop aggression against Armenians. The new world order must not condone the denial of essential supplies to civilian populations or the denial of self-determination.

Mr. TAYLOR of North Carolina. Mr. Chairman, since the introduction of the Freedom Support Act, I have spent a considerable amount of time trying to determine whether or not to support the act. What I have discovered is both encouraging and disappointing.

It is encouraging that there are so many individual Russian and Republic citizens who are optimistically working to build a free enterprise democracy. It is encouraging that Russia and the United States have agreed to eliminate heavy ICBM's, multiple-warhead ICBM's and all MIRV'd ICBM's together with certain tactical nuclear weapons. The total nuclear arsenal of both nations will be reduced to about one-fourth of the 1990 level. It is encouraging that the Russian military may be substantially reduced.

And it is encouraging that in Russia today there are 500 commercial and private banks, trading houses, 450 commodity exchanges and brokerage houses, and 2 stock exchanges.

It is, however, disappointing that every month the Government is printing 275 billion worthless rubles and that inflation is running over 1,000 percent per year. There is little evidence that the Government has the will to take steps that would drastically reduce the inflation.

It is disappointing that privatization is not moving faster and that approximately 10 billion dollars' worth of brandnew foreign equipment sits in storage while obsolete State industries continue to be subsidized.

The money requested in this bill is intended for a variety of goals. A portion will be direct humanitarian aid. A portion will be to aid in the disassembling of nuclear weapons. A portion will be used to teach the construction of a free economy at the lowest level possible. A portion of funds already available will be used to finance the purchase of American goods especially agricultural products. And a portion will be used to fund our 20-percent increase of the IMF so that currency stabilization can be had.

The stabilization depends upon Russian leadership's will. A failure of that will should cause the IMF to halt its support, for we cannot allow our support to be wasted on bureaucracy or diverted to nonessential industries or nonpeaceful purposes.

Mr. Chairman, almost all my life the United States has been in a cold war with the Soviet Union under a mutually destructive threat. We have spent trillions of dollars to win that war and to protect our Nation. I want my children and your children to be free from that financial burden and that threat. I am not naive. Whether the State of Russia will be successful in the quest of democracy for its people is very much in doubt. The odds are long and the chances slim. But the people of Russia are trying.

This spring my youngest son who was 9 and the shyest of my three boys, began swimming for the local team at home. I attended as many of his events as I could. Not because I thought he would always win first place. I didn't. Not just because I am his father, I like most of you miss too many parental events in order to be here. My wife and I attended those long arduous meets to pay tribute to our son's courage for trying.

And that, ladies and gentlemen, is where we are today with Russia and the Republics. We have spent most of this century wishing for and looking for a change for the Soviet Union, hoping for a freedom loving entrepreneurial capitalist revolution that would bring the people of the Soviet Union from under the dark cloud of Communist oligarchy and into the sunshine of freedom.

And now that the Russian people have done it, now that they have shown the courage to withstand and attempt to turn them back and are desperately struggling to develop a free enterprise system that can help guarantee their liberty, we of all people, the United States of America, should by this action pay our tribute to their courage to try.

Sadly, Mr. Chairman, the legacy of the former Soviet regime will live on even for those too young to remember the oppression of the human spirit and physical bondage under which so many suffered. Those babies recently born and being born are suffering today and will see their development stunted in the future because of poor nutrition and a lack of proper sanitation. It is estimated that there are over 1.2 million infants less than a year old in State institutions in Russia alone. The collapse of the Central Government and its poor manufacturing processes in the past have resulted in pesticide and nitrate contamination in 42 percent of all baby food produced in the former Soviet bloc. In addition we are all aware of their lack of safe water with which to prepare processed baby food. Added to poor sanitation, lack of refrigeration and a limited production and distribution capacity these factors leave Russia infants in desperate need of assistance from the United States. The Russian Ministry of Health has stated that Russian infants receive only 11 percent of the meat they need and only 19 percent of the fruit and vegetables required for healthy and normal development.

Language is included in the Freedom Support Act to guarantee sales of processed food products to Russia. Even though baby foods are not mentioned directly, I would urge the Commodity Credit Corporation to provide access to its export credit guarantees for baby food sales under the Processed and High-Value Agricultural Export Credit Guarantee Program.

I can think of no worthier product to guarantee or one with higher value than pure, nutritious baby food produced in America and badly needed by infants across the former Soviet Union.

Mr. CAMP. Mr. Speaker, today I rise in support of a provision included in the Freedom Support Act which will benefit both the Russian people and American farmers.

I am referring to an amendment that I co-offered with my colleagues which was unanimously approved by the House Agriculture Committee to allow livestock, including dairy cattle, hogs, and poultry, for export to the former Soviet Union.

Allowing the Russians to import livestock, including dairy cattle, hogs, and poultry under the Export Enhancement Program is a win-win situation. It will help Michigan farm families and the Russian people who are struggling to establish their democracy.

This provision in the bill will also help balance the diets of the people of the former Soviet Union. There is an extreme shortage of milk and dairy products, resulting in hardship particularly for pregnant women and children. Allowing farm animals to be included in the Export Enhancement Program will allow the former Soviet Republics to significantly improve their dairy industry, providing fresh dairy products and breaking the current hand-to-mouth existence.

Mr. Chairman, we are faced with a massive Federal deficit and cannot afford to fund programs for our own people. That is why I cannot support sending billions of dollars in foreign aid to the former Soviet Union at this time. However, I do support export opportunities for American farmers and support the provision in the Freedom Support Act which would provide these opportunities.

Mr. AuCOIN. Mr. Speaker, because it includes a surtax on millionaires, George Bush can't sign a bill we passed today to help needy kids, but he's eager to send hundreds of millions of dollars to the former Soviet Union. Why can this President only see pain abroad and miss it entirely right here at home?

When the cold war first showed signs of a thaw, I called on our Government to protect our security by eliminating the threat posed by Soviet nuclear weapons. I spoke out for aggressive nonproliferation policies directed at the former Soviet republics. I said that the United States must lead the way in support of democratic values in the newly independent states. As one who worked long and hard for the right of refuseniks to emigrate, I made it clear that these values had to include strict protection for the rights of religious and ethnic minorities.

We must continue to press hard for progress on these goals, for the sake of world peace and the security of every nation. But we cannot lead the world if we are weak at home. Our unfinished domestic agenda has cried out for action for more than a decade. President Bush has demonstrated time and time again that he is more worried about Panamanians or Kuwait than he is about disadvantaged children, unemployed workers, or those without health insurance right here at home. We cannot accept vague promises that, after this bill is passed, the administration will produce a visionary domestic agenda or even accept some of the good proposals that we have sent to the White House.

Congress must tell George Bush—in no uncertain terms—that aid to Russia and the other republics will just have to wait until he starts dealing with our economy and urgent domestic needs. Let's say no today to aid for the former Soviet Union and see how long it takes the President to come around.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in favor of today's Freedom Support Act. We fought many years and spent a great deal of money to win the cold war, but the battle is not over in Russia. While democracy may be in the hearts and minds of the people in the former Soviet Union it doesn't feed their children. Communism has collapsed but what it has left behind is a country lacking in direction and full of confusion. An unstable Russia is a dangerous Russia.

Clearly, it is in the best interest of the U.S. to stabilize a country that is a major nuclear power. While communism may be gone, the weapons of mass destruction that it produced are not. In an economy that has collapsed the temptation to sell weapons to the highest bidder may prove too profitable to resist. This legislation will help deter that temptation and convert their defense industrial base into a growing manufacturing base.

Russia has never had a free market economy and adopting one is not going to be painless. In the marketplace, long lines remain and the price of bread has increased. Vast in natural resources, the former Soviet Union has the potential to be a tremendous market for the United States to trade with, which will only improve our economy. They need our technical assistance to properly manage these resources and bring them to the market place. This bill will encourage the sharing of information with the republics, allowing them to establish their markets and clear the way for trade routes in the future. By passing this legislation, Congress can provide not only the humanitarian aid needed, but also much needed advice on how to become a self-sufficient society.

In closing, this legislation will not only help the former Soviet Union, but it will help the United States. The end result, with help from the United States, will be a more stable society with which we can begin developing a healthy trade relationship. I urge my colleagues to vote in favor of the Freedom Support Act.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of the Freedom Support Act. I have not failed to recognize the tremendous dilemma which evolves at moments such as these: Moments when we are called upon to send aid abroad at a time when our own economic needs are so very pressing. Nonetheless, it is vital that each of us understands that our own well-being is inextricably linked to the well-being of the global community. This is particularly true in the case which lies before us now. If we ignore the plight of the citizens of the former Soviet Union, we place our own security at risk.

The collapse of the Communist system in the former Soviet Union, while undeniably a joyous occasion, has raised many challenges for the United States. In place of the authoritarian regime, there have emerged several tenuous and fragile democracies. Our obligations in the face of this landmark event are twofold. We must first of all ensure that the hope of self-determination can be safeguarded for the people who live in the former Soviet Republics. After hundreds of years of repression, first under the czarist system, and then under the heavy hand of the Communist Party, these people deserve the freedom which so many of us take for granted. Furthermore, if we help the Governments of these fledgling democracies, which are amenable to cooperation with the United States, the mutual economic benefits will be substantial. We will not only save money on defense expenditures, we will also open up new channels of trade for our country. The nations of the former Soviet Union are rich in resources. We ought to do all we can to ensure favorable trading conditions between these nations and the United States. This would mean more jobs in the United States, and cheaper goods for American consumers. Such gains are not possible if we fail to stabilize the democratic Governments of Russia and other Republics. Without our help, it is possible that the chaos which has besieged much of Eastern Europe will grip the great nations of the former Soviet Union as well.

This brings me to the second obligation with which we are faced. I have stressed before the tenuous order which is currently being maintained in Russia and several other Soviet states. Unfortunately, without our help, it is dubious as to whether this order can be maintained. Witness the chaos in the Republics which used to be part of Yugoslavia. If such disarray were to be mirrored in the former Soviet Union, with its tremendous nuclear arsenal, the global consequences would be catacylsmic. The Freedom Support Act not only provides aid to bolster the needy Governments of the former Soviet Republics, thereby ensuring within these nations a much needed measure of stability, but also makes important provisions of nonproliferation and disarmament. We owe to our country and to the world the assurance that we are doing everything possible to ensure that no disaster occurs at this promising historical moment.

For these reasons, I feel that the Freedom Support Act is one in which our economic, political, and security interests are best served through serving the needs of others.

Mr. BROOMFIELD. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

[Roll No. 373]

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Franks (CT)
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1726

The CHAIRMAN. Three hundred ninety-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I rise today in support of the Freedom Support Act because I feel we must capitalize on historic events in the former Soviet Union and Eastern Europe to give freedom and democracy a chance in that area of the world.

Recent tragic events in Eastern Europe graphically illustrate that the alternative to paving the way for freedom is chaos and destruction.

We clearly must turn our primary focus to our serious problems at home—jobs and economic growth, health care, education and physical security. But as we turn to confront our domestic challenges, we must not turn our backs on those abroad who fought to gain their nation's freedom and to rid themselves of Soviet domination.

I support this bill with several important reservations. First, the aid we are sending to the former Soviet Union must be distributed equitably amoung all the successor Republics, as stated in the committee report. I congratulate the Foreign Affairs Committee for including this important condition in their report.

The report states:

> It is the expectation of the committee that assistance to the independent states of the former Soviet Union will be fairly and proportionally distributed among them, according to each state's size and needs.

That means that the needs of the people of Ukraine, for example, and the other Republics are just as important as those of the people of Russia. It is imperative that the Congress monitor disbursement of aid under this bill to ensure that it is equitably distributed.

I have spoken personally to the chairman of the Foreign Affairs Committee, who ensures me that it is the intention of the committee that this language be taken seriously and be implemented accordingly by the administration.

Second, I am concerned about the continuing presence of Russian troops in the Baltics, and disappointed that the House did not have the opportunity today to consider the Durbin amendment.

The people of Lithuania, Latvia, and Estonia have fought too long and too hard for freedom to have it impaired at this late date by the presence of the very troops who denied them freedom for half a century.

This sentiment was stated persuasively and intently by the leaders of the Baltic Nations when I visited them a year ago. The United States has an obligation to take steps to help turn our sense of Congress language into reality in the Baltic Nations.

Third, I hope that during a House-Senate conference on this bill the committee will agree to include the Gore amendment, which will prohibit assistance to government institutions in the former Soviet Union that are unlawfully holding the property of United States citizens. I am particularly concerned about the ongoing struggle of the Lubavitch community to regain possession of sacred texts and manuscripts held by the Russian State Library in Moscow.

Fourth, I strongly support provisions of this bill that condition assistance to the Republic of Azerbaijan on the end of that Government's economic blockade and aggression toward the people of Armenia and Nagorno-Karabakh.

When I was in Armenia last summer, the new democratic government of Armenia gave us their assessment of the tragic events in Nagorno-Karabakh and discussed their desire to avoid further bloodshed. Unfortunately, the bloodshed has continued, as I've heard in first-hand accounts from objective observers. It is vital that the bill's conditions relating to any funds for the Republic of Azerbaijan be actively implemented by the administration.

Mr. BROOMFIELD. Mr. Chairman, to conclude the debate on the minority side, I yield the balance of our time to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

The CHAIRMAN. The gentleman from Illinois [Mr. MICHEL] is recognized for 6 minutes.

Mr. MICHEL. Mr. Chairman and members of the committee, consider the facts of international life. The arms race continues. The Berlin Wall stands strong. The Soviet Union and all of Eastern Europe are under Communist Party domination.

As I said, Mr. Chairman, these are facts of international life. But they are not the facts of 1992; they are the facts of 1988.

Something marvelous has happened during these past 4 years. Some call it a historic inevitability. Some call it the result of Presidential leadership. Some call it a miracle. But, whatever happened, they were 4 years that changed the world.

Think of it: The sudden total collapse of the most dangerous tyranny in the world, the rebirth of freedom for the ancient nations of Eastern Europe, the fall of the Berlin Wall and German reunion, and President Bush's historic agreement with Boris Yeltsin to eliminate the most dangerous of nuclear weapons.

☐ 1730

These 4 years were a culmination of a decades-long struggle for freedom. The cost of victory was high; tens of thousands of lives and trillions of dollars over a period of 45 years. In my conversation with the gentleman from Wisconsin [Mr. OBEY], we had concluded that if you added up what we have spent, it would amount to better than $85,000 for every taxpaying household in this country over that period of time, a phenomenal amount, to bring us to where we are. Just think, for a few extra dollars, we are going to give the peace that is within our grasp to our future generations.

When I listened earlier to the trashing comments that were made by those who thought only about today instead of what our children and grandchildren are going to have to live with, I say let us not be so shortsighted.

Today, by voting for the Freedom Support Act, we have a chance to celebrate that victory, honor those sacrifices, and seize a historic opportunity for progress. We have arrived at one of those rare historic moments that Winston Churchill called the hinge of fate.

The destiny of nations, including our own, is in the balance. The former Soviet Republics are emerging from a nightmare of 75 years. Three are still economic and political and social remnants of the great terror they must come to grips with. We can expect progress in these nations only if they have stability, democracy, and, yes, a good deal of hope. And those goals are what this bill is all about.

But let us now turn to the most important question about this bill, the one each of us is asking: What is in the Freedom Support Act for the good old USA? That is a pretty practical question to be asked today.

My answer is, quite frankly, more jobs, more exports, an end to fear of nuclear war, and a better future.

It has been said no man is an island. In 1992 we must say in a global economy, no nation is an island.

As far as American economic progress and job building are concerned, we can say the world is our future. The Freedom Support Act gives us the chance to begin to shape that future in America's interests, economic political, and by America's values.

American businesses and farms need a signal from our Government. They need to know we are going to help them expand trade with the former Soviet Republics, and create American jobs.

This bill can begin that process.

Some say the American people do not care about what is happening in the world, and that only domestic affairs matter in an election year. Well, I do not know. I would not underestimate the American people's wisdom. They know that what happens abroad in many cases has a direct bearing on our domestic economy and their job opportunities.

Mr. Chairman, the door to a better, safer, more prosperous future is open before us. If we go through that door today, we carry with us American values, American interests, American ideas, and American jobs to build that future.

Mr. Chairman, I would like to digress for a moment to read a memo that President Nixon sent me, a copy of his memo to Bob Strauss, our Ambassador, when he testified before the committee, because I think he sums it up very carefully in his note of commendation to Bob Strauss.

> Your testimony in support of the Federal Support Act was right on target. This is the most important vote Members of the House will cast in their lifetime. If democracy and freedom fail in Russia and the other former communist states, this will be a fatal blow to all we have fought for during the page 45 years. Rather than winning the Cold War, we will have lost it. Reactionary leaders will come back into power. The peace dividend will be down the drain. Instead of reducing the defense budget, we will have to increase it by billions of dollars. Thousands of nuclear weapons, which President Yeltsin is eliminating, will again be aimed at the United States. Aid to Russia and the other former communist states is an investment in peace and prosperity for the American people. Keep up the good work.

Mr. Chairman, I would have to certainly endorse that. I will include at the end of my remarks the letter from the President, a letter signed by all our former Presidents, Nixon, Carter, Ford, and Reagan, and prior Secretaries of State stretching all the way back to Henry Kissinger and Cyrus Vance.

Mr. Chairman, some say in this vote we must choose between our typical American desire to help others and our own domestic interests. But in fact, it is only by being generous with our former adversaries that we can prosper in today's interdependent world.

If democracy fails in the former Soviet States, the ensuing civil wars will make today's Bosnia look like an oasis of calm and peace. I think everyone ought to think of that very seriously. There are those who think they may have the magic answer to what is happening over in Yugoslavia today. But I will tell you, when you explore all the options that would be involved in trying to settle that kind of a dispute just think how much more magnified that will be if the same violence and unrest were to occur in what was once the old Soviet Union.

Does anyone seriously argue that such a calamity would not affect our jobs, our families, and our security?

Mr. Chairman, we have a golden chance here to help shape the world for the future. Let us make it a world in which 45 years of sacrifice are given significance, in which the promise of democracy becomes a reality in the former Soviet Union.

Mr. Chairman, obviously I urge Members to support us in this effort and to pass the Freedom Support Act this afternoon.

THE WHITE HOUSE,
Washington, DC, August 3, 1992.
Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR BOB: As the House moves to consider the Freedom Support Act (H.R. 4547), I wanted to convey to you my strong backing for the bill and my hope that it will have the support of you and your colleagues.

I submitted the Administration's Freedom Support Act proposal in April and requested prompt Congressional action. On July 2, the Senate passed its version of the bill, S. 2532, by a bipartisan vote of 76 to 20. The Senate and House bills differ from the measure I proposed to Congress, but they contain most of the basic authorities which I requested. I hope that, working together, we can produce a conference report that serves as a bipartisan foundation for our assistance effort.

I am convinced that we now stand at a critical movement in history. Together with our allies, we have the once-in-a-lifetime opportunity to help consolidate democracy and free markets in Russia, Ukraine, Armenia, and other states and to turn former enemies into permanent friends and partners. Most important, we have the chance not only to help the peoples of Russia and the new independent states escape the long nightmare of communism, but also to secure for us and our children a future that is infinitely safer and more prosperous.

Six weeks ago, Russian President Yeltsin came to Washington. Together we defined a new era in our relations. In signing with me the Washington Charter, President Yeltsin made clear and unequivocal commitments to democracy, free markets, and security cooperation that no Soviet leader could have possibly contemplated. After tough negotiations, we signed a historic nuclear arms reduction package that will achieve the greatest measure of security for the United States since the dawn of the nuclear age.

President Yeltsin also reaffirmed his determination to build a free market in Russia and to push ahead with his program of radical economic reforms. Together, President Yeltsin and I established a new framework for vastly expanded U.S.-Russia trade and investment that will benefit our businesses and our workers for years to come. We signed new Tax and Bilateral Investment Treaties that will help our firms enter the Russian market, and the U.S. granted Most Favored Nation status to Russia.

President Yeltsin has boldly and unambiguously committed his government to the values that all Americans hold dear: democracy, freedom, and free markets. He has promised to uncover the darkest secrets of the communist past and to help resolve our deep concerns about American MIAs, POWs, and the KAL 007 tragedy. Now it is time for America to do its part to assist Russia, Ukraine, Armenia, and the other new states to make the historic transition from tyranny to freedom. Together, the Administration and Congress must send a clear message that we stand with them at this difficult hour, when they need our help most.

To those who say America cannot afford to assist these reformers at a time of domestic difficulty, I respond that no such false choice exists. We can—we must—meet challenges both at home and abroad.

The Freedom Support Act is not just another foreign aid bill. It is first and foremost an act of national self-interest, a direct investment in the political, economic, and security future of the American people. Having spent over $4.3 trillion to defend ourselves from Soviet totalitarianism during the Cold War, we can ill afford not to invest in democracy in Russia and Ukraine so that we can permanently reduce our defense burden. The resulting savings would be available for investment here at home. And by acting now to engage Russia and the new states, American firms, workers, and products will be well-positioned to take advantage of this large and rich market.

If we do not act now, we collectively will have failed to live up to the challenges and the strategic opportunity—perhaps the greatest this century—that this new relationship gives us. Now it is time for the House to join the Senate and pass the Freedom Support Act and then to meet in conference and pass a bill I can sign into law. To desert Russia, Ukraine, Armenia, and the other states at this time of need would be a tragic mistake for which history will surely judge us harshly. I therefore urge your support for early passage of the Freedom Support Act.

Sincerely,
GEORGE BUSH.

THE WHITE HOUSE,
Washington, DC, August 6, 1992.
Hon. ROBERT MICHEL,
Minority Leader, House of Representatives, Washington, DC.

DEAR BOB MICHEL: Enclosed is the former President's letter in support of the Freedom Support Act. Please let us know if we can be the further assistance.

Sincerely,
BRENT SCOWCROFT.

Enclosure.

AUGUST 5, 1992.

DEAR MR. SPEAKER: We urge your support for the Freedom Support Act. For much of this century, the peoples of Europe and Eurasia have suffered under the tyranny of Communism. Throughout those years, America has nurtured their desire for freedom, their thirst for individual liberties, and their will to become democracies.

Our successive administrations—and our allies—have been united in the struggle against Communism. Our unity has proven the wisdom and strength of our democratic system and provided a stunning victory for freedom.

We now have the opportunity, so fervently pursued for generations, to guarantee a peaceful transition to democracy. America must respond to this challenge, as we have so many times before, through leadership of an international coalition to secure the success of reform in Russia and the other states of the former Soviet Union.

The stakes could not be higher. If we fail to seize this historic opportunity now, authoritarianism could return in Moscow and elsewhere, the anticipated peace dividend could evaporate, future markets and jobs for Americans could be lost, and nuclear weapons may again threaten the lives of our children.

This may be the most important vote you cast. Aid to Russia, Ukraine, Armenia and the other states of the former Soviet Union is an investment in peace and prosperity for the American people.

Sincerely,
RONALD REAGAN.
JIMMY CARTER.
GERALD R. FORD.
RICHARD M. NIXON.

JULY 31, 1992.

Hon. ROBERT STRAUSS.

DEAR BOB: Your testimony in support of the Freedom Support Act was right on target. This is the most important vote members of the House will cast in their lifetime. If democracy and freedom fail in Russia and the other former communist states, this will be a fatal blow to all we have fought for during the past 45 years. Rather than winning the Cold War, we will have lost it. Reactionary leaders will come back into power. The peace dividend will be down the drain. Instead of reducing the defense budget, we will have to increase it by billions of dollars. Thousands of nuclear weapons, which President Yeltsin is eliminating, will again be aimed at the United States. Aid to Russia and the other former communist states is an investment in peace and prosperity for the American people. Keep up the good work.

With warm regards,
Sincerely,
RICHARD NIXON.

Hon. ROBERT H. MICHEL,
House of Representatives

DEAR MR. MICHEL: We write to you today about an item of vital national interest. We do so not just as former Secretaries of State, but as Americans acutely aware of the opportunities—and risks—created by the collapse of Communism in the former Soviet Union. Having personally devoted much of our professional lives to helping this country wage the Cold War, we believe it is critical that the Congress move now to win the peace by passing the Freedom Support Act.

Reformers in Russia and the other new states are battling fierce opposition to implement painful political and economic changes. If they succeed, we have the opportunity to build the more peaceful, prosperous world we and our allies fought for forty years to achieve. But should they fail, this historic chance to increase America's security, to safely reduce our defense burden, and to re-direct resources to our problems here at home will be lost.

The world has always looked to the United States for leadership. It did so after World War I, and when we failed to respond, the consequences were tragic. It did so again after World War II, and we built the democratic coalition that contained and defeated Soviet Communism. Now the world looks to us again. We believe that America must answer this call by leading our allies in an effort to secure a lasting peace with the states of the former Soviet Union.

This is not a partisan issue. Having served in administrations of both parties, we strongly believe that President Yeltsin and other reformers merit our energetic and timely support. By passing the Freedom Support Act, the House can display the statesmanship that has made it the great legislative body that it is. We urge you to accept this historic challenge by voting "yes".

Sincerely,

Dean Rusk, January 1961–January 1969.
William P. Rogers, January 1969–September 1973.
Henry A. Kissinger, September 1973–January 1977.
Cyrus Vance, January 1977–April 1980.
Edmund S. Muskie, May 1980–January 1981.
Alexander M. Haig, Jr., January 1981–July 1982.
George P. Shultz, July 1982–January 1989.

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] has 7½ minutes remaining.

Mr. FASCELL. Mr. Chairman, to conclude debate on this landmark legislation, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], our distinguished majority leader.

Mr. GEPHARDT. Mr. Chairman, I would like to start my statement by reading two paragraphs from a letter that the Speaker received today from former Presidents Reagan, Carter, Ford, and Nixon.

In one paragraph they said:

> Our successive administrations—and our allies—have been united in the struggle against communism. Our unity has proven the wisdom and strength of our democratic system and providing a stunning victory for freedom.

In the last paragraph they said:

> This may be the most important vote you cast. Aid to Russia, Ukraine, Armenia, and the other states of the former Soviet Union is an investment in peace and prosperity for the American people.

I think their statement is right.

Mr. Chairman, I rise today as a supporter of the President's policy toward the former Soviet Union and as critic of the President's leadership on foreign policy to urge my colleagues on both sides of the aisle to support this legislation.

Today, we are asking Members to stand on the shoulders of the giants who came before us, Churchill, Truman, Vandenberg, Marshall, de Gaulle, and Monet, the people who dared to imagine a democratic and prosperous Western Europe when that continent lay in ruins.

We would ask you to peer into the future, a future free from the threat of nuclear annihilation, free from the discipline and constraints of the policy of containment, and into a new world, where former enemies can now join us as friends.

□ 1740

We ask you to enlist in a constructive experiment to build a more democratic and more prosperous united Europe, and an emancipated Commonwealth of Independent States. We ask you to seal for ourselves and our children America's victory in the cold war.

Seventy years ago, Winston Churchill said this:

> Russia, like any great nation, is indestructible. Either she must continue to suffer and her sufferings will disturb and convulse the whole world, or she must be rescued". He said "I say to the thoughtless, I say to I say to the busy—you may abandon Russia, but Russia will not abandon you * * * you cannot remake the world without Russia.

The Freedom Support Act is America's contribution to a worldwide effort among the friends of democracy to remake the world by assisting Russia and the other Commonwealth States in rebuilding themselves economically. It is our attempt, through expanded aid and trade, to provide the glue that will hold these new democracies together.

Their efforts to build democracies can only survive if their companion experiments in free markets and entrepreneurship have the chance to succeed.

I stand before you, my colleagues, arguing not that this vote is easy, but that this legislation is necessary. Our people are hurting economically all over this country. The current administration, in my opinion, has been woefully unresponsive to the needs of workers and families and companies, buffeted as they are by the recession, by declining incomes, by unfair trade practices, and by escalating increases in the cost of health care.

This is a hard time to be asking American families to support a new adventuresome policy that commits the United States to a foreign aid program overseas. I know that and you know that.

I am deeply critical. I do not know of anyone who has been more critical of the President for his lack of leadership in this area, both in terms of our own economy and in terms of this effort today.

What makes this vote harder is the President's unwillingness to explain and interpret the startling events overseas to the American people.

I think Harry Truman did it better in saying that in investing in democracy and economic freedom overseas that we act in the deep self-interest of all of our people. But even in this historic role reversal, we must perform as Congress performed 40 years ago. We must put ourselves on the line. We must interpret these events for our people and for the American people. We must compel them to see a future where American exports and American jobs and American profits and American incomes, our very economic security will be protected by this legislation, just as we acted to protect our military security in 1948 in the cold war by approving the Marshall plan.

There are two central differences between the circumstances that led to our enactment of the Marshall plan and the circumstances we confront today.

First, the size of the contribution we are asking the American people to make is a fraction, a fraction of what Harry Truman and George Marshall asked of the American people in 1948. In today's terms, it was $40 billion, from a country that was exhausted by a war and by a depression. And Harry Truman was riding right at 14 percent in the polls. And the American people supported the Marshall plan less than they support this plan today.

But he said to the American people what our deep interest was, and they believed him. And they will believe us, if we will only tell them.

We are not acting alone today; 1948, it was just us. We were the only people that could act. Today the Germans, the French, the Japanese, and others are acting with us. They do it as we do it, not simply out of a sense of altruism but motivated by their own national interest, as we act in our national interest.

They are investing from Siberia to the Baltics in projects ranging from infrastructure to schools because they know that their investments will pay huge dividends down the road, 10, and 20, and 30 years from now.

Ladies and gentleman of the House, today our choice is not only about the future of democracy in places that our people will never see. Today's debate is about the future of our economy in places that all of us represent.

None of us may cast the giant shadows of the architects of the Marshall plan, but the nature of our role and the significance of our decision is today no less momentous than it was in 1948.

I ask each of you individually to vote for this legislation in the interest of our people, in the interest of our country, in the interest of our economy, and in the interest of our future.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 5750 shall be considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 5750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLES.

This Act may be cited as the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992" or the "FREEDOM Support Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short titles.
Sec. 2. Table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. United States policy.
Sec. 103. Criteria for assistance to governmental entities in the independent states.
Sec. 104. Annual report.
Sec. 105. Program coordination, implementation, and oversight.
Sec. 106. Definition of independent states.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

Sec. 201. Support for economic and democratic development.
Sec. 202. The Democracy Corps.

TITLE III—UNITED STATES INFORMATION AGENCY AND DEPARTMENT OF STATE

Sec. 301. Additional funding for administrative expenses of the United States Information Agency.
Sec. 302. Additional funding for administrative expenses of the Department of State.

TITLE IV—INTERNATIONAL FINANCIAL INSTITUTIONS AND TRADE FINANCE

Sec. 401. International Monetary Fund.
Sec. 402. Problems of nations making the transition to more open political and economic systems.
Sec. 403. Report on debt of the former Soviet Union held by commercial banks.
Sec. 404. Support for macroeconomic stabilization in the independent states of the former Soviet Union.
Sec. 405. Role of the International Finance Corporation in supporting economic restructuring in the independent states of the former Soviet Union.
Sec. 406. Technical assistance for the independent states of the former Soviet Union
Sec. 407. Human rights.
Sec. 408. Report on demand for trade finance for the independent states of the former Soviet Union.
Sec. 409. Export-Import Bank Act list of Marxist-Leninist countries.
Sec. 410. Johnson Act.

TITLE V—NONPROLIFERATION AND DISARMAMENT ACTIVITIES

Sec. 501. Nonproliferation and Disarmament Fund.
Sec. 502. International nuclear nonproliferation activities.
Sec. 503. Soviet weapons destruction.
Sec. 504. Establishment of foundation.

TITLE VI—SPACE TRADE AND COOPERATION

Sec. 601. Findings.
Sec. 602. Facilitating discussions regarding the acquisition of space hardware, technology, and services from the former Soviet Union.
Sec. 603. Office of Space Commerce.
Sec. 604. Report to Congress.
Sec. 605. Definitions.

TITLE VII—OTHER PROVISIONS

Sec. 701. Statutory lists of communist countries.
Sec. 702. Agricultural trade programs.
Sec. 703. Peace Corps volunteer training requirements.
Sec. 704. Establishing categories of aliens for purposes of refugee determinations; adjustment of status for certain Soviet and Indochinese parolees.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.

The Congress finds that—

(1) recent developments in Russia and the other independent states of the former Soviet Union present an historic opportunity for a transition to a peaceful and stable international order and the integration of the independent states of the former Soviet Union into the community of democratic nations;

(2) the entire international community has a vital interest in the success of this transition, and the dimension of the problems now faced in the independent states of the former Soviet Union makes it imperative for donor countries and institutions to provide the expertise and support necessary to ensure continued progress on economic and political reforms;

(3) the United States is especially well-positioned because of its heritage and traditions to make a substantial contribution to this transition by building on current technical cooperation, medical, and food assistance programs, by assisting in the development of democratic institutions, and by fostering conditions that will encourage the United States business community to engage in trade and investment;

(4) failure to meet the opportunities presented by these developments could threaten United States national security interests and jeopardize substantial savings in United States defense that these developments have made possible;

(5) the success of United States assistance depends on—

(A) effective coordination of United States efforts with similar activities of friendly and allied donor countries and of international financial institutions, and

(B) reciprocal commitments by the governments of the independent states of the former Soviet Union to work toward the creation of democratic institutions and an environment hospitable to foreign investment based upon the rule of law, including negotiation of bilateral and multilateral agreements on open trade and investment, adoption of commercial codes, establishment of transparency in regulatory and other governmental decision making, and timely payment of obligations carried over from previous governmental entities;

(6) trade and investment opportunities in the independent states of the former Soviet Union will generate employment and other economic benefits for the United States as the economies of the independent states of the former Soviet Union begin to realize their enormous potential as both customers and suppliers; and

(7) the unprecedented pace and nature of events in the independent states of the former Soviet Union require that the President be provided with the authority to furnish United States assistance and resources flexibly and expeditiously if the United States is to be able to support the transformation of the independent states of the former Soviet Union to democratic civil societies with market-oriented economies.

SEC. 102. UNITED STATES POLICY.

(a) GENERAL POLICY.—It is the policy of the United States to facilitate the integration of the independent states of the former Soviet Union into the community of democratic nations by supporting economic and political reform in the independent states—

(1) through the provision of assistance to governmental entities and nongovernmental organizations at the local, regional, state, and interstate levels;

(2) through the promotion of a United States commercial presence in the independent states; and

(3) through the encouragement of a broad range of contacts between the people of the United States and the people of the independent states.

(b) ECONOMIC STABILIZATION AND PARTICIPATION IN INTERNATIONAL ECONOMIC ORGANIZATIONS.—In order to promote economic stabilization and the integration of the independent states of the former Soviet Union into the international economic system, the United States shall take a leading role—

(1) in facilitating the independent states joining or participating in international economic organizations; and

(2) in organizing multilateral efforts aimed at currency stabilization, currency convertibility, and (where necessary and appropriate) debt reduction, conditioned on the development and implementation of comprehensive economic reform programs.

(c) INTERNATIONAL AND REGIONAL SECURITY.—In order to promote the economic and political reform of the independent states of the former Soviet Union and their integration into the community of democratic nations, it is the policy of the United States to facilitate international and regional security and stability among the independent states—

(1) through the promotion of the peaceful resolution of national and ethnic disputes—

(A) by urging the withdrawal of former Soviet military forces from Estonia, Latvia, and Lithuania;

(B) by supporting immediate, intensified efforts to resolve conflicts quickly and diplomatically through utilization of all available national and international resources in order to avoid bloodshed, economic dislocation, political instability, and social distress and disorder of any kind;

(C) by urging persistent, good faith peacemaking efforts on the part of all affected independent states in order promptly to resolve all such disputes; and

(D) by taking into account, in determining the amounts of United States assistance to be provided to governmental entities in the independent states, the level of good faith peacemaking efforts put forward by such governmental entities in attempting to resolve ethnic conflicts within the independent state and beyond its borders wherever ethnic groups with ties to populations or subpopulations within its borders are affected;

(2) through the promotion of the return of former Soviet military forces from Cuba as well as from other countries where their presence has a destabilizing affect on international security; and

(3) through the promotion of nonproliferation and disarmament activities.

(d) ENDING ASSISTANCE TO CUBA.—It is the sense of the Congress that the policy of the United States should make assistance to any of the independent states of the former Soviet Union conditional on the termination of military and technical assistance, subsidies, and other forms of assistance to Cuba from such states.

SEC. 103. CRITERIA FOR ASSISTANCE TO GOVERNMENTAL ENTITIES IN THE INDEPENDENT STATES.

(a) IN GENERAL.—United States assistance under this Act and other provisions of law may be provided to governmental entities of the independent states of the former Soviet Union only to the extent that those states are—

(1) making significant progress toward, and are committed to the comprehensive implementation of, a democratic system based on principles of the rule of law, individual freedoms, and representative government determined by free and fair elections;

(2) respecting internationally recognized human rights, including the rights of minorities and the rights to freedom of religion and emigration;

(3) making significant progress in, and are committed to the comprehensive implementation of, economic reform based on market principles, private ownership, and integration into the world economy;

(4) respecting international law and obligations and adhering to the Helsinki Final Act of the Conference on Security and Cooperation in Europe and the Charter of Paris, including the obligations to refrain from the threat or use of force and to settle disputes peacefully; and

(5) adhering to their arms control obligations and to responsible security policies, including—

(A) adhering to arms control obligations derived from agreements signed by the former Soviet Union;

(B) reducing military forces to a level consistent with reasonable defensive sufficiency;

(C) not proliferating nuclear, biological, or chemical weapons, their delivery systems, or related technologies; and

(D) restraining conventional weapons transfers.

(b) Azerbaijan.—United States assistance or other benefits under this Act (other than title V) or other provisions of law may not be provided to the Government of Azerbaijan until the President determines, and so reports to the Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.

SEC. 104. ANNUAL REPORT.

Not later than January 31 of each year, the President shall submit to the Congress a report on United States assistance for the independent states of the former Soviet Union under this Act or other provisions of law. Each such report shall include—

(1) an assessment of the progress each independent state has made in achieving the objectives described in section 103, including a description of the steps each independent state has taken or is taking toward those objectives and a discussion of additional steps that each independent state could take to achieve those objectives;

(2) a description of the United States assistance for each independent state that was provided during the preceding fiscal year, is planned for the current fiscal year, and is proposed for the coming fiscal year, specifying the extent to which such assistance for the preceding fiscal year and for the current fiscal year has actually been delivered; and

(3) an assessment of the effectiveness of United States assistance in achieving its purposes.

SEC. 105. PROGRAM COORDINATION, IMPLEMENTATION, AND OVERSIGHT.

(a) Coordination.—The President shall designate, within the Department of State, a coordinator who, consistent with subsections (c) and (d), shall be responsible for—

(1) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this Act (including the amendments made by this Act);

(2) pursuing coordination with other countries and international organizations with respect to assistance to independent states of the former Soviet Union, including the assistance described in sections 102(b) and 404 of this Act;

(3) ensuring that United States assistance programs for the independent states are consistent with this Act (including the amendments made by this Act);

(4) designating an agency or agencies to be responsible for the design of an assistance strategy, and for management, implementation, and oversight of assistance programs, for the independent states; and

(5) resolving policy and program disputes among United States Government agencies with respect to United States assistance for the independent states.

(b) Accountability for Funds.—Any agency designated pursuant to subsection (a)(4) to manage and implement an assistance program for the independent states of the former Soviet Union shall be accountable for any funds made available to it for such program.

(c) Export Promotion Activities.—Coordination of activities related to the promotion of exports of United States goods and services to the independent states of the former Soviet Union shall continue to be primarily the responsibility of the Secretary of Commerce, in the Secretary's role as Chair of the Trade Promotion Coordination Committee.

(d) International Economic Activities.—Coordination of activities relating to United States participation in international financial institutions and relating to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury, in the Secretary's role as Chair of the National Advisory Council on International Monetary and Financial Policies and as the United States Governor of the international financial institutions.

SEC. 106. DEFINITION OF INDEPENDENT STATES.

For purposes of this Act, the terms "independent states of the former Soviet Union" or "independent states" mean the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

SEC. 201. SUPPORT FOR ECONOMIC AND DEMOCRATIC DEVELOPMENT.

Part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"Chapter 11—Support for the Economic and Democratic Development of the Independent States of the Former Soviet Union

"SEC. 498. ASSISTANCE FOR INDEPENDENT STATES OF THE FORMER SOVIET UNION.

"(a) Authorization of Assistance; Objectives.—In furtherance of the policy set forth in section 102(a) of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, the President is authorized to provide assistance to the independent states of the former Soviet Union to promote the following interrelated and mutually reinforcing objectives:

"(1) Urgent humanitarian needs.—Meeting urgent humanitarian needs (including those arising from the health effects of exposure to radiation in the Chernobyl region), in particular needs for medicine, medical supplies and equipment, and food, including the nutritional needs of infants such as processed baby food.

"(2) Democracy.—Establishing a democratic and free society by fostering—

"(A) political, social, and economic pluralism,

"(B) respect for internationally recognized human rights and the rule of law,

"(C) the development of institutions of democratic governance (including judicial, electoral, and legislative processes),

"(D) the improvement of public administration,

"(E) the development of a free and independent media, and

"(F) the development of effective civilian control over the military and security forces, and the development of a nonpolitical officer corps in the military forces and the security forces.

"(3) Free market systems.—Developing a free-market economic system based on the principle of private ownership of property, including the development of private cooperatives, credit unions, and labor unions and improvement in the collection and analysis of statistical information.

"(4) Trade and investment.—Creating conditions that promote trade and investment, and encouraging participation of the United States private sector in the development of the private sector in the independent states of the former Soviet Union.

"(5) Defense conversion.—Converting military technologies and capabilities and defense industries into civilian activities.

"(6) Food distribution and production.—Introducing market-based mechanisms for the distribution of the inputs necessary to agricultural production and for the handling, marketing, storage, and processing of agricultural commodities; encouraging policies that provide incentives for agricultural production; and creating institutions that provide technical and financial support for the agricultural sector.

"(7) Quality of life.—Promoting programs to strengthen and build institutions that provide quality health care and voluntary family planning services, housing, and other services and policies that are components of a social safety net.

"(8) Education.—Promoting broad-based educational reform at all school levels.

"(9) Energy efficiency and production.—Promoting market-based pricing policies and the transfer of technologies that reduce energy wastage and harmful emissions; promoting efficient production and transportation of oil, gas, and other sources of energy; and promoting civilian nuclear reactor safety.

"(10) Environmental protection, conservation, and safety.—Promoting environmental protection and safety, natural resources conservation, the development of environmental management expertise and institutions, environmental planning and policy, cooperative research efforts to validate and improve environmental monitoring of protracted radiation exposure, and the use of low-cost, simple, environmentally sound technology.

"(11) Transportation and telecommunications.—Improving transportation and telecommunications infrastructure and management through the provision of technical assistance using appropriate government and private sector expertise.

"(b) United States Private Sector.—

"(1) In general.—In order to facilitate the role of the United States private sector in contributing to the transformation of the independent states of the former Soviet Union, the President is authorized to undertake activities pursuant to subsection (a) that are designed to promote the active involvement of the United States profit, not-for-profit, and voluntary private sectors.

"(2) Small and medium-sized business market initiatives.—Activities pursuant to paragraph (1) may include initiatives designed to encourage small- and medium-sized businesses to become and remain involved in the markets of the independent states of the former Soviet Union, including the establishment by the Department of Commerce of a central information clearinghouse and information networks and assistance centers in the region. Any such centers and related staffing devoted to trade, investment, and commercial activities shall be administered by the International Trade Administration of the Department of Commerce.

"(3) Enterprise funds.—Activities pursuant to paragraph (1) may include the establishment of and the provision of support for one or more enterprise funds for the independent states of the former Soviet Union. If the President determines that an enterprise fund should be established and supported under this section, the provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 (excluding the authorizations of appropriations provided in subsection (b) of that section) shall be deemed to apply with respect to such enterprise fund and to funds made available to such enterprise fund pursuant to this section.

"(c) Assistance Through Governmental Entities and Nongovernmental Organizations.—Assistance for the independent states of the former Soviet Union under this section may be provided to governmental entities or through nongovernmental organizations. Section 103 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 applies with respect to assistance to governmental entities.

"(d) Technical Assistance and the Management Corps.—Technical assistance under this section shall, to the maximum extent feasible, be provided on a long term, on-site basis and shall emphasize the provision of practical, management and other problem-solving advice, particularly advice on private enterprise provided by United States business volunteers.

"(e) Cooperative Development and Research Projects.—Assistance under this section may include support for cooperative development projects, including cooperative development research projects, among the United States, other countries, and independent states of the former Soviet Union.

"(f) Miscellaneous Provisions Relating to Assistance.—

"(1) Terms and conditions.—Assistance under this section shall be provided on such terms and conditions as the President may determine, consistent with applicable provisions of law.

"(2) Administrative flexibility.—Funds authorized to be appropriated by this section for fiscal year 1993 may be used to provide assistance under this section notwithstanding any other provision of law, except section 634A of this Act (relating to reprogramming notifications).

"(3) Use of economic support funds.—Any funds that have been allocated under chapter 4 of part II for assistance for the independent states of the former Soviet Union may be used in accordance with the authorities of this section.

"(4) Use of United States goods and services.—Assistance programs under this section shall be designed to maximize, to the extent feasible, the use of United States goods and services in such programs.

"(g) Authorization of Appropriations.—

"(1) In general.—To carry out this section, there are authorized to be appropriated to the President $417,000,000 for fiscal year 1993, in addition to amounts otherwise available for assistance for the independent states of the former Soviet Union. Amounts appropriated pursuant to this subsection are authorized to remain available until expended.

"(2) Operating expenses.—

"(A) Authority to transfer program funds.—Subject to subparagraph (B), funds made available under paragraph (1) may be transferred to, and merged with, funds appropriated for 'Operating Expenses of the Agency for International Development'. Funds so transferred may be expended for administrative costs in carrying out this section, including reimbursement of the Department of State for its incremental costs associated with assistance provided under this section.

"(B) Limitation on amount transferred.—Not more than 2 percent of the funds made available for a fiscal year under paragraph (1) may be transferred pursuant to subparagraph (A) unless, at least 15 days before transferring any additional amount, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of this Act.

"(h) Definitions.—

"(1) Appropriate congressional committees.—As used in this section, the term 'appropriate congressional committees' means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(2) Independent states of the former soviet union.—As used in this section, the term 'independent states of the former Soviet Union' means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.".

SEC. 202. THE DEMOCRACY CORPS.

(a) The Democracy Corps.—The Congress finds that the Democracy Corps is a private, nonprofit organization, incorporated in the District of Columbia, whose purpose is to maintain a presence in the independent states of the former Soviet Union as described in subsection (c).

(b) Grants to the Democracy Corps.—

(1) In general.—The Administrator shall make an annual grant to the Democracy Corps with the funds made available for such purpose pursuant to subsection (s), subject to paragraph (2) and subsection (t).

(2) Terms and conditions.—A grant may be made to the Corps under this section only if the Democracy Corps agrees to comply with the requirements specified in this section and with such terms and conditions as may be included in the grant agreement.

(c) Purpose of Grants.—Funds made available to the Democracy Corps pursuant to this section shall be used by the Democracy Corps to maintain a presence in independent states of the former Soviet Union that will assist at the local level in the development of—

(1) institutions of democratic governance (including judicial, electoral, legislative, and administrative processes), and

(2) the nongovernmental organizations of a civil society (including charitable, educational, trade union, business, professional, voluntary, community, and other civic organizations),

by mobilizing the expertise of the American people to provide practical assistance through "on the ground" person-to-person advice, technical assistance, and small grants to indigenous individuals and indigenous entities, in accordance with subsection (d).

(d) Activities.—The Democracy Corps shall be required to carry out subsection (c) through the placement, within the independent states of the former Soviet Union, of teams of United States citizens with appropriate expertise and knowledge. These teams shall assist indigenous individuals and entities in the independent states that are involved in the development of the institutions and organizations referred to in paragraphs (1) and (2) of subsection (c)—

(1) by providing advice and technical assistance;

(2) by making small grants (which in most cases should not exceed $5,000) to such individuals and entities to assist the development of those institutions and organizations;

(3) by identifying other sources of assistance; and

(4) by operating local centers to serve as information, logistical, and educational center and otherwise encourage cooperation and effectiveness by those involved in the development of democratic institutions, a market-oriented economy, and a civil society in the independent states.

The local centers described in paragraph (4) may be designated as "Democracy Houses" or given another appropriate appellation.

(e) Guidelines.—The Board shall be required to develop guidelines for the activities carried out by the Democracy Corps pursuant to this section, including accountability requirements for small grants.

(f) Coordination.—The Democracy Corps shall be required—

(1) to coordinate its activities pursuant to this section with the programs and activities of other entities operating in or providing assistance to the independent states of the former Soviet Union in support of the development of democratic institutions, a market-oriented economy, and a civil society in the independent states; and

(2) to ensure that its activities pursuant to this section are designed to avoid duplication with activities carried out under other United States Government foreign assistance and international information, educational, cultural, and exchange programs.

(g) Consultation With Coordinator.—The Democracy Corps should consult with the coordinator provided for in section 105(a) of this Act with respect to the activities of the Democracy Corps.

(h) Prohibition on Campaign Financing.—Funds made available to the Democracy Corps under this section may not be expended by the Democracy Corps, or any recipient of a grant from the Democracy Corps under this section, to finance the campaigns of candidates for public office.

(i) Board of Directors.—Grants may be made to the Democracy Corps under this section only if the membership of the Board is as follows:

(1) Representatives of the united states government.—(A) An officer or employee of the Department of State designated by the Secretary of State.

(B) An officer or employee of the Agency for International Development designated by the Administrator.

(C) An officer or employee of the United States Information Agency designated by the Director of that agency.

(D) An officer or employee of the Peace Corps designated by the Director of that agency.

(2) REPRESENTATIVES OF THE NATIONAL ENDOWMENT FOR DEMOCRACY AND ITS CORE GRANTEES.—(A) A representative of the National Endowment for Democracy designated by the chairman of the Board of Directors of the Endowment (unless such chairman does not designate such a representative to serve on the Board of Directors of the Democracy Corps).

(B) A representative of the National Democratic Institute for International Affairs designated by the chairman of the Board of Directors of that organization (unless such chairman does not designate such a representative to serve on the Board of Directors of the Democracy Corps).

(C) A representative of the International Republican Institute designated by the chairman of the Board of Directors of that organization (unless such chairman does not designate such a representative to serve on the Board of Directors of the Democracy Corps).

(D) A representative of the Free Trade Union Institute designated by the chairman of the Board of Directors of that organization (unless such chairman does not designate such a representative to serve on the Board of Directors of the Democracy Corps).

(E) A representative of the Center for International Private Enterprise designated by the chairman of the Board of Directors of that organization (unless such chairman does not designate such a representative to serve on the Board of Directors of the Democracy Corps).

(3) OTHER PRIVATE SECTOR REPRESENTATIVES.—Eight individuals who are United States citizens, who are not officers or employees of the United States Government or members of Congress, and who have experience and expertise appropriate to carrying out the purpose specified in subsection (c) through the activities described in subsection (d). A majority of such individuals must be representatives of private United States organizations that are active in the independent states of the former Soviet Union.

(j) TERMS AND VACANCIES.—An individual appointed to serve as a member of the Board pursuant to subsection (i)(1) or (i)(2) shall serve at the pleasure of the official who designated that individual pursuant to the applicable subparagraph of that subsection. An individual appointed to serve as a member of the Board pursuant to subsection (i)(3) shall be appointed for a 1-year term (except that a member appointed to fill a vacancy occurring before the expiration of a term shall be appointed for the remainder of such term), and may be reappointed.

(k) ADVISORY COMMITTEE.—The Board shall be required to establish an Advisory Committee consisting of representatives of a diverse array of nongovernmental organizations—

(1) that have the interest and expertise to assist in the development of democratic institutions, a market-oriented economy, and a civil society in the independent states of the former Soviet Union; and

(2) that are not represented on the Board.

The Advisory Committee should include representatives of United States ethnic and cultural organizations with ties to the peoples of the independent states.

(l) CONFLICT OF INTEREST RULES.—The Democracy Corps shall be required to ensure that no part of the assets of the Democracy Corps inure to the benefit of any member of the Board, any officer, or any employee of the Democracy Corps, except as salary or reasonable compensation for services.

(m) PRIVATE STATUS OF THE DEMOCRACY CORPS.—Nothing in this section shall be construed—

(1) to make the Democracy Corps, an agency or establishment of the United States Government, or

(2) to make members of the Board, officers, or employees of the Democracy Corps, officers or employees of the United States Government.

(n) AUDITS.—

(1) REQUIREMENT FOR ANNUAL AUDIT.—The Democracy Corps shall be required to have its accounts audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Democracy Corps and necessary to facilitate the audits shall be made available to the person or persons conducting the audits and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians on behalf of the Democracy Corps shall be afforded to such person or persons.

(2) GAO REVIEW OF AUDITS.—The Comptroller General of the United States shall review each audit conducted pursuant to paragraph (1).

(o) CONGRESSIONAL OVERSIGHT.—

(1) IN GENERAL.—The Democracy Corps shall be subject to the appropriate oversight procedures of the Congress.

(2) CONGRESSIONAL NOTIFICATIONS.—At least 15 days before making a grant to the Democracy Corps under this section, the Administrator shall submit a notification, in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(p) EXEMPTION FROM CERTAIN REQUIREMENTS AND RESTRICTIONS.—Funds made available to the Democracy Corps by the United States Government shall not be subject to provisions of law otherwise applicable to foreign assistance funds.

(q) COMPLIANCE WITH FREEDOM OF INFORMATION ACT.—

(1) IN GENERAL.—Notwithstanding the fact that the Democracy Corps is not an agency or establishment of the United States Government, the Democracy Corps shall be required to fully comply with all of the provisions of section 552 of title 5, United States Code.

(2) PUBLICATION IN FEDERAL REGISTER.—For purposes of complying pursuant to paragraph (1) with section 552(a)(1) of title 5, the Democracy Corps shall make available to the Administrator such records and other information as the Administrator determines may be necessary for such purposes. The Administrator shall cause such records and other information to be published in the Federal Register.

(3) AID REVIEW.—(A) In the event that the Democracy Corps determines not to comply with a request for records under section 552 of title 5, the Democracy Corps shall submit a report to the Administrator explaining the reasons for not complying with such request.

(B) If the Administrator approves the determination not to comply with such request, the Agency for International Development shall assume full responsibility, including financial responsibility, for defending the Democracy Corps in any litigation relating to such request.

(C) If the Administrator disapproves the determination not to comply with such request, the Democracy Corps shall be required to comply with such request.

(r) ANNUAL REPORTS.—Not later than January 31 of each year, the Board shall be required to submit to the Administrator and to the Congress a comprehensive report on the activities of the Democracy Corps. Each such report shall list each grant made by the Democracy Corps under subsection (d)(2) during the preceding fiscal year, specifying the grantee and the amount of the grant.

(s) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized to be appropriated by section 498 of the Foreign Assistance Act of 1961 (as enacted by section 201 of this Act), up to $15,000,000 are authorized to be appropriated for grants to the Democracy Corps under this section, in addition to amounts otherwise available for such purpose.

(t) SUNSET PROVISION.—Grants may not be made to the Democracy Corps under this section after the end of the fifth fiscal year beginning after the date of enactment of this section.

(u) DEFINITIONS.—Except as otherwise provided in this section, as used in this section—

(1) the term "Administrator" means the Administrator of the Agency for International Development; and

(2) the term "Board" means the Board of Directors of the Democracy Corps.

TITLE III—UNITED STATES INFORMATION AGENCY AND DEPARTMENT OF STATE

SEC. 301. ADDITIONAL FUNDING FOR ADMINISTRATIVE EXPENSES OF THE UNITED STATES INFORMATION AGENCY.

There are authorized to be appropriated for "Salaries and Expenses" for the United States Information Agency $6,800,000 for fiscal year 1993 for expenses with respect to the independent states of the former Soviet Union, in addition to amounts otherwise available for such purpose.

SEC. 302. ADDITIONAL FUNDING FOR ADMINISTRATIVE EXPENSES OF THE DEPARTMENT OF STATE.

(a) SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for "Salaries and Expenses" for the Department of State $18,500,000 for fiscal year 1993 for costs of personnel and other expenses for new posts in the independent states of the former Soviet Union, in addition to amounts otherwise available for such purposes.

(b) CERTAIN POSITIONS AT UNITED STATES MISSIONS.—

(1) AMENDMENT.—Section 1004(a) of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 is amended by adding at the end the following: "Not less than 15 shall be provided during fiscal year 1993.".

(2) FUNDING.—In addition to the funds made available pursuant to section 1005(c) of that Act, funds authorized to be appropriated by chapter 11 of part I of the Foreign Assistance Act of 1961 may be used in carrying out the amendment made by paragraph (1) of this subsection with respect to missions in the independent states of the former Soviet Union.

TITLE IV—INTERNATIONAL FINANCIAL INSTITUTIONS AND TRADE FINANCE

SEC. 401. INTERNATIONAL MONETARY FUND.

(a) QUOTA INCREASE.—

(1) AUTHORIZATION.—The Bretton Woods Agreements Act (22 U.S.C. 286 and following) is amended by adding at the end the following:

"SEC. 56. QUOTA INCREASE.

"The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 8,608,500,000 Special Drawing Rights, limited to such amounts as are provided in advance in appropriations Acts.".

(2) APPROPRIATION.—The following sum is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs, without fiscal year limitation, namely:

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

INTERNATIONAL MONETARY FUND QUOTA INCREASE

For an increase in the quota of the United States in the International Monetary Fund pursuant to section 56 of the Bretton Woods Agreements Act, the dollar equivalent of 8,608,500,000 Special Drawing Rights, to remain available until expended.

(b) ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.—The Bretton Woods Agreements Act is further amended by adding after the section added by subsection (a)(1) of this section the following:

"SEC. 57. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.

"The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolution numbered 45-3 of the Board of Governors of the Fund that was approved by such Board on June 28, 1990.".

(c) APPROVAL OF FUND PLEDGE TO SELL GOLD TO PROVIDE RESOURCES FOR "RIGHTS APPROACH" TO ARREARS PROBLEMS.—The Bretton Woods Agreements Act is further amended by adding after the sections added by subsections (a)(1) and (b) of this section the following:

"SEC. 58. APPROVAL OF FUND PLEDGE TO SELL GOLD TO PROVIDE RESOURCES FOR 'RIGHTS APPROACH' TO ARREARS PROBLEMS.

"The Secretary of the Treasury may instruct the United States Executive Director of the Fund to vote to approve the Fund's pledge to sell, if needed, up to 3,000,000 ounces of the Fund's gold, to restore the resources of the Reserve Account of the Enhanced Structural Adjustment Facility Trust to a level that is sufficient to meet obligations payable from such account to lenders who have made loans to the Loan Account of such trust that have been used for the purpose of financing programs, under the rights approach, of Fund members who are in arrears in payments to the Fund. For purposes of the preceding sentence, the provision of financing under the rights approach to a Fund member who is in arrearages to the Fund means the provision of a loan or credits to the member sufficient to eliminate the arrearages upon the successful completion by the member of a multiyear adjustment program prescribed and monitored by the Fund under which the member was required to remain current on obligations to the Fund.".

SEC. 402. PROBLEMS OF NATIONS MAKING THE TRANSITIONS TO MORE OPEN POLITICAL AND ECONOMIC SYSTEMS.

(a) FINDINGS.—The Congress finds that—

(1) in many areas of the world, nations may be experiencing substantial difficulties in making the transitions to more open political and economic systems;

(2) as an example, the study, entitled "The Economy of the U.S.S.R.", which was prepared jointly by the International Monetary Fund, the International Bank for Reconstruction and Development, the Organization for European Cooperation and Development, and the European Bank for Reconstruction and Development, found that substantial changes need to be made in the economies of the independent states of the former Soviet Union to provide a viable basis for monetary stability, economic growth, and development, and such finding applies to other nations making the transitions to more open political and economic systems; and

(3) these nations may be experiencing special difficulties in making such transitions.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) encouragement should be given to the efforts being made to address the political and economic problems of nations making the transitions to more open political and economic systems;

(2) consideration should be given to developing relationships between such nations and the International Monetary Fund, the International Bank for Reconstruction and Development, and the other international financial institutions, as part of the process of assisting such nations in making such transitions;

(3) continued United States support for the utilization of the resources of such institutions should take into consideration the continuation of the efforts of such nations to move toward more open economic and political systems; and

(4) encouragement should be given to the efforts of such nations to promote free enterprise, private property rights, a stable legal system, a stable monetary system, and an open trading system, as steps in making such transitions.

SEC. 403. REPORT ON DEBT OF THE FORMER SOVIET UNION HELD BY COMMERCIAL BANKS.

The Secretary of the Treasury, using resources of the International Monetary Fund, the International Bank for Reconstruction and Development, and other appropriate international financial institutions, shall gather information upon, and report not later than December 31, 1992, to the Congress on, the debt incurred by the former Soviet Union held by commercial banks outside the independent states of the former Soviet Union that are obligated on such debt, and the prospects for the repayment of such debt.

SEC. 404. SUPPORT FOR MACROECONOMIC STABILIZATION IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) IN GENERAL.—In order to promote macroeconomic stabilization and the integration of the independent states of the former Soviet Union into the international financial system, the United States should in appropriate circumstances take a leading role in organizing and supporting multilateral efforts aimed at macroeconomic stabilization and debt rescheduling, conditioned on the appropriate development and implementation of comprehensive economic reform programs.

(b) CURRENCY STABILIZATION.—In furtherance of the purposes and consistent with the conditions described in subsection (a), the Congress expresses its support for United States participation, in sums of up to $3,000,000,000, in a currency stabilization fund or funds for the independent states of the former Soviet Union.

(c) STUDY OF THE NEED FOR AND FEASIBILITY OF A CURRENCY STABILIZATION FUND FOR UKRAINE.—

(1) FINDINGS.—The Congress finds that—

(A) Ukraine is a nation of 52,000,000 people with a longstanding history of seeking its sovereignty and national identity, which has recently attained the status of an independent country;

(B) Ukraine's economy has the potential for development into an important regional economy that can benefit all nations in the region;

(C) Ukraine has recently announced that it intends to introduce its own currency as a means of continuing its drive toward economic development;

(D) assisting Ukraine with the introduction of its own currency is in the best interests of the United States, since such assistance will increase goodwill between Ukraine and the United States;

(E) assisting Ukraine with the introduction of its own currency and with the development of its economy is also in the best interests of other nations, since Ukraine's economy can act as an engine of economic growth for nations in its region;

(F) establishing a currency stabilization fund for Ukraine may be as necessary for the development of Ukraine's economy as the establishment of a similar fund for Poland has been for the development of Poland's economy; and

(G) the International Monetary Fund recently provided valuable assistance regarding currency stabilization measures to nations that have undertaken a transition from a centrally planned economy to a market economy.

(2) STUDY OF THE NEED FOR AND FEASIBILITY OF A CURRENCY STABILIZATION FUND FOR UKRAINE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use the voice and vote of the United States to urge the Fund to conduct a study of the need for and feasibility of a currency stabilization fund for Ukraine, and, if it is found that such a fund is needed and is feasible, which considers and makes recommendations with respect to the economic and policy conditions required for the success of such a fund.

SEC. 405. ROLE OF THE INTERNATIONAL FINANCE CORPORATION IN SUPPORTING ECONOMIC RESTRUCTURING IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the International Finance Corporation can play an important role in supporting the economic restructuring in the independent states of the former Soviet Union necessary to move toward market economies. The United States could play a critical role in enabling the International Finance Corporation to leverage the contributions of donors and increase its access to international capital markets, thereby promoting the success of democracy and open markets in the independent states. Accordingly, it is the sense of the Congress that the President should seek to ensure that the International Finance Corporation provides ambitious lending and investment programs for the independent states.

(b) AUTHORIZATION.—The International Finance Corporation Act (22 U.S.C. 282-282k) is amended by adding at the end the following:

"SEC. 15. AUTHORITY TO VOTE FOR CAPITAL INCREASES NECESSARY TO SUPPORT ECONOMIC RESTRUCTURING IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

"(a) AUTHORIZATION.—The United States Governor of the Corporation may vote in favor of any increase in the capital stock of the Corporation that may be needed to accommodate the requirements of the independent states of the former Soviet Union.

"(b) INDEPENDENT STATES DEFINED.—As used in this section, the term 'independent states of the former Soviet Union' means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.".

(c) AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE INTERNATIONAL FINANCE CORPORATION.—The International Finance Corporation Act (22 U.S.C. 282-282k) is amended by adding after the section added by subsection (b) of this section the following:

"SEC. 16. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE ARTICLES OF AGREEMENT.

"The United States Governor of the Corporation may agree to amendments to the Articles of Agreement of the Corporation that would—

"(1) amend section 2(c)(ii) of Article II to increase the vote by which the Board of Directors may increase the capital stock of the Corporation from a three-fourths majority to a four-fifths majority; and

"(2) amend Article VII(a) to increase the vote by which the Board of Governors may amend the Articles of Agreement from a four-fifths majority to an 85 percent majority.".

SEC. 406. TECHNICAL ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

The Bretton Woods Agreements Act (22 U.S.C. 286 and following) is amended by adding after the sections added by section 401 of this Act the following:

"SEC. 59. TECHNICAL ASSISTANCE BY THE BANK FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

"(a) FINDINGS.—The Congress finds that—

"(1) at the Houston Economic Summit in July 1990, the heads of State and Government of the 7 major industrial democracies and the President of the Commission of the European Communities requested that the Fund, the Bank, the Organization for Economic Cooperation and Development, and the designated president of the European Bank for Reconstruction and Development, in close consultation with the Commission of the European Communities, undertake a detailed study of the Soviet economy, make recommendations for its reform, and establish the criteria under which Western economic assistance could effectively support such reforms;

"(2) in the resulting report, the organizations concluded that timely technical assistance can play a major role in easing the transition to a market economy, and that such technical assistance could be particularly helpful in the fields of fiscal and monetary policies, foreign exchange and banking, and the development of statistical and accounting systems;

"(3) technical assistance provided by the Bank should be coordinated with the technical assistance provided by the private sectors of Western countries so that technical assistance provided by the Bank complements and enhances technical assistance provided by the private sector and other international donors;

"(4) the provision of timely technical assistance can greatly facilitate trade with and direct investment in the independent states of the former Soviet Union; and

"(5) the provision of timely technical assistance by the Bank to the independent states of the former Soviet Union can support democratic reforms, respect for human rights, and the rule of law.

"(b) TECHNICAL ASSISTANCE PROGRAMS BY THE BANK TO THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—The Secretary of the Treasury shall instruct the United States Executive Director of the Bank to use the voice and vote of the United States to urge—

"(1) the Bank to establish or continue, as appropriate, programs to provide technical assistance to the independent states of the former Soviet Union in support of democratic reforms, human rights, the rule of law, and market-oriented reforms; and

"(2) the Bank to endeavor to coordinate its technical assistance to the independent states of the former Soviet Union so that technical assistance provided by the Bank complements and enhances technical assistance provided by the private sector and other international donors.

"(c) REPORT ON TECHNICAL ASSISTANCE BY THE BANK.—Not later than December 31, 1992, the Secretary of the Treasury shall, using resources of the Bank, report to the Congress on technical assistance by the Bank for the independent states of the former Soviet Union, and on the progress made by the independent states toward implementing democratic reforms, respect for human rights, the rule of law, and market-oriented reforms.

"(d) INDEPENDENT STATES DEFINED.—As used in this section, the term 'independent states of the former Soviet Union' means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.".

SEC. 407. HUMAN RIGHTS.

(a) ADVANCEMENT OF HUMAN RIGHTS THROUGH THE IMF AND EBRD.—Section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) is amended by striking out "and the African Development Bank," and inserting in lieu thereof "the African Development Bank, the European Bank for Reconstruction and Development, and the International Monetary Fund,".

(b) ACCOUNTING FOR AMERICANS MISSING IN ACTION CONSIDERED IN ASSESSING HUMAN RIGHTS IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—Section 701(b)(4) of such Act (22 U.S.C. 262d(b)(4)) is amended by inserting "Russia and the other independent states of the former Soviet Union," after "Laos,".

SEC. 408. REPORT ON DEMAND FOR TRADE FINANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

Not later than December 31, 1992, the Export-Import Bank of the United States shall transmit to the Congress a report—

(1) analyzing the demand for loans, guarantees, and insurance for trade between the United States and the independent states of the former Soviet Union; and

(2) making recommendations for the promotion of trade between the United States and the independent states.

SEC. 409. EXPORT-IMPORT BANK ACT LIST OF MARXIST-LENINIST COUNTRIES.

Section 2(b)(2)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)(B)) is amended—

(1) in clause (i)(II), by striking out "the Union of Soviet Socialist Republics or on any other" and inserting in lieu thereof "any"; and

(2) in clause (ii), by striking from the list of countries the following: "Czechoslovak Socialist Republic.", "Estonia.", "German Democratic Republic.", "Hungarian People's Republic.", "Latvia.", "Lithuania.", "People's Republic of Albania.", "People's Republic of Bulgaria.", "Polish People's Republic.", "Socialist Federal Republic of Yugoslavia.", "Socialist Republic of Romania.", and "Union of Soviet Socialist Republics (including its captive constituent republics).".

SEC. 410. JOHNSON ACT.

Section 955 of title 18, United States Code, shall not apply with respect to any obligations of the former Soviet Union, or any of the independent states of the former Soviet Union, or any political subdivision, organization, or association thereof.

TITLE V—NONPROLIFERATION AND DISARMAMENT ACTIVITIES

SEC. 501. NONPROLIFERATION AND DISARMAMENT FUND.

Part II of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"Chapter 9—International Nonproliferation Activities

"SEC. 581. NONPROLIFERATION AND DISARMAMENT FUND.

"(a) GENERAL AUTHORITY.—The President is authorized to provide assistance to promote bilateral and multilateral nonproliferation and disarmament activities by supporting—

"(1) dismantlement and destruction of nuclear, biological, and chemical weapons, their delivery systems, and conventional weapons;

"(2) bilateral and multilateral efforts to halt the proliferation of nuclear, biological, and chemical weapons, their delivery systems, related technologies, and other weapons, including—

"(A) activities such as storage, transportation, and safeguarding of those weapons, and

"(B) the purchase, barter, or other acquisition of such weapons or materials derived from such weapons;

"(3) establishment of science and technology centers in the independent states of the former Soviet Union to promote science and technology projects for nonmilitary purposes in accordance with subsection (b); and

"(4) the conversion of military technologies and capabilities and defense industries of the independent states of the former Soviet Union into civilian activities.

Priority in carrying out this section shall be given to the activities described in paragraphs (1), (2), and (3).

"(b) SCIENCE AND TECHNOLOGY CENTERS.—In order to employ scientific expertise in peaceful endeavors, the President is authorized to support one or more centers in independent states of the former Soviet Union for the purpose of promoting science and technology projects for nonmilitary purposes. The purpose of such centers shall be to provide incentives for weapons scientists and engineers of the former Soviet Union, in particular those who were previously involved in the design and production of nuclear, biological, and chemical weapons, to apply their expertise to civilian projects rather than weapons production.

"(c) ELIGIBILITY CRITERIA.—Section 103 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 shall not apply with respect to assistance provided under this section to governmental entities in the independent states of the former Soviet Union.

"(d) MISCELLANEOUS PROVISIONS RELATING TO ASSISTANCE.—

"(1) TERMS AND CONDITIONS.—Assistance under this section shall be provided on such terms and conditions as the President may determine, consistent with applicable provisions of law.

"(2) ADMINISTRATIVE FLEXIBILITY.—During the period beginning on the date of enactment of this section and ending September 30, 1993, assistance provided under this section with funds used pursuant to subsection (f) may be provided notwithstanding any other provision of law.

"(e) NOTICE TO CONGRESS OF PROPOSED OBLIGATIONS OF FUNDS.—Not less than 15 days before obligating funds under this section, the President shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a notification in accordance with the procedures applicable to reprogramming notifications under section 634A of this Act. Such notification shall specify—

"(1) the activities to be funded and the amount to be obligated for such activities; and

"(2) the source of the funds to be used for such assistance and the purpose for which those funds would otherwise have been obligated.

"(f) FUNDING.—

"(1) AUTHORITY TO USE SECURITY ASSISTANCE FUNDS.—The President may use up to $100,000,000 of security assistance funds for fiscal year 1993 to provide assistance under this section, in addition to amounts otherwise available for the purposes specified in subsection (a).

"(2) SECURITY ASSISTANCE FUNDS DEFINED.—As used in this subsection, the term 'security assistance funds' means funds made available for assistance under chapter 4 of this part (relating to the Economic Support Fund) and assistance under section 23 of the Arms Export Control Act (relating to the 'Foreign Military Financing Program').

"(3) CERTAIN LIMITATIONS NOT APPLICABLE TO FUNDS.—Section 531(e) of this Act, and any provision of the annual foreign operations, export financing, and related programs appropriations Act that corresponds to section 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (relating to the prohibition on financing exports of nuclear equipment, fuel, and technology), shall not apply with respect to funds used pursuant to this subsection to provide assistance under this section.

"(g) DEFINITION.—As used in this section, the term 'independent states of the former Soviet Union' means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.".

SEC. 502. INTERNATIONAL NUCLEAR NONPROLIFERATION ACTIVITIES.

(a) INTERNATIONAL EFFORTS.—The Congress encourages the Secretary of Defense and the Secretary of Energy to participate actively in United States efforts to stem the proliferation of nuclear weapons. To that end, the Secretary of Defense and the Secretary of Energy, under the guidance of the President and in coordination with the Secretary of State, may spend not to exceed a total of $40,000,000 during fiscal year 1993 for international nonproliferation activities such as the following:

(1) Support for and technical cooperation with relevant international organizations (such as the International Atomic Energy Agency and the United Nations Special Commission on Iraq) to support more effective international safeguards and innovative detection and verification techniques, including in-kind contributions of personnel, equipment, training, and other forms of assistance.

(2) Collaborative international nuclear security and nuclear safety projects to combat the threat of nuclear theft, terrorism, or accidents, including joint emergency response exercises, technical assistance, and training.

(3) Efforts to improve international cooperative monitoring of nuclear proliferation through joint technical projects and improved intelligence sharing.

(b) FUNDING FOR FISCAL YEAR 1993.—(1) There is hereby authorized to be appropriated for fiscal year 1993 for the purposes of carrying out this section $40,000,000.

(2) Section 1001 of the National Defense Authorization Act for Fiscal Year 1993 (relating to transfer authority) applies with respect to the authorization provided by paragraph (1).

(3) Amounts made available to carry out this section are in addition to any other amounts authorized to be used for international nonproliferation activities.

(4) The amount provided in section 104 of the National Defense Authorization Act for Fiscal Year 1993 for procurement for the Defense Agencies is hereby reduced by $40,000,000.

(c) DETERMINATION BY DIRECTOR OF OMB.—No funds may be obligated during fiscal year 1993 for the program under this section unless expenditures for that program during fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(d) REPORTING REQUIREMENTS.—(1) Not less than 15 days before any obligation of funds under this section, the Secretary of Defense, in coordination with the Secretary of Energy, shall transmit to the committees of Congress named in subsection (e) a report on the proposed obligation. Each such report shall specify—

(A) the account, budget activity, and particular program from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(B) the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds.

(2) Not later than 30 days after the end of each quarter of fiscal years 1993 and 1994, the Secretary of Defense, in coordination with the Secretary of Energy, shall transmit to the committees of Congress named in subsection (e) a report of the activities to reduce the nuclear proliferation threat carried out under this section. Each report shall set forth the following:

(A) Amounts spent for such activities and the purposes for which they were spent.

(B) A description of the participation of the Department of Defense, and the participation of other government agencies in such activities.

(C) A description of the activities for which the funds were spent.

(e) COMMITTEES TO RECEIVE REPORT.—The committees of Congress referred to in subsections (d)(1) and (d)(2) are—

(1) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives; and

(2) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(f) AVOIDANCE OF DUPLICATIVE AUTHORIZATIONS.—This section shall not apply if the National Defense Authorization Act for Fiscal Year 1993 enacts the same authorities and requirements as are contained in this section and authorizes the appropriation of the same (or a greater) amount to carry out such authorities.

SEC. 503. SOVIET WEAPONS DESTRUCTION.

(a) FINDINGS.—The Congress finds—

(1) that programs established under the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228) will contribute significantly to the destruction of weapons of mass destruction of the independent states of the former Soviet Union and the reduction of the threat from such weapons and the potential for their proliferation;

(2) that it is in the national security interests of the United States to continue to reduce the threats from the huge weapons arsenals of the former Soviet Union and to protect against the potential proliferation of these weapons and the materials removed from them, as well as the potential hazards resulting from the faulty storage of those weapons or materials; and

(3) that the threats to nuclear safety and security described in section 211 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228; 105 Stat. 1693) remain of urgent concern and that additional resources are necessary to meet these threats, particularly in areas such as safe and secure storage of fissile material, dismantlement of missiles and launchers, and the destruction of chemical weapons.

(b) ADDITIONAL FUNDING.—(1) Section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228; 105 Stat. 1695) is amended by striking out "$400,000,000" and inserting in lieu thereof "$650,000,000".

(2) Section 221(e) of such Act is amended—

(A) by inserting "for fiscal year 1992 or fiscal year 1993" after "under part B";

(B) by inserting "for that fiscal year" after "for that program"; and

(C) by striking out "for fiscal year 1992" and inserting in lieu thereof "for that fiscal year".

(c) TECHNICAL REVISIONS TO PUBLIC LAW 102-229.—Public Law 102-229 is amended—

(1) in section 108 (105 Stat. 1708), by striking out "contained in H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "(title II of Public Law 102-228)"; and

(2) in section 109 (105 Stat. 1708)—

(A) by striking out "H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "Public Law 102-228 (105 Stat. 1696)"; and

(B) by striking out "of H.R. 3807".

(d) AVOIDANCE OF DUPLICATIVE AUTHORIZATIONS.—This section shall not apply if the National Defense Authorization Act for Fiscal Year 1993 enacts an amendment to section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 that authorizes the transfer of the same (or a greater) amount that is authorized by the amendment made by subsection (b)(1) of this section and enacts amendments identical to those in subsections (b)(2) and (c) of this section.

SEC. 504. ESTABLISHMENT OF FOUNDATION.

(a) ESTABLISHMENT.—The Director of the National Science Foundation (hereinafter in this section referred to as the "Director") is authorized to establish an endowed, nongovernmental, nonprofit foundation (hereinafter in this section referred to as the "Foundation") in consultation with the Director of the National Institute of Standards and Technology.

(b) PURPOSES.—The purposes of the Foundation shall be the following:

(1) To provide productive research and development opportunities within the independent states of the former Soviet Union that offer scientists and engineers alternatives to emigration and help prevent the dissolution of the technological infrastructure of the independent states.

(2) To advance defense conversion by funding civilian collaborative research and development projects between scientists and engineers in the United States and in the independent states of the former Soviet Union.

(3) To assist the establishment of a market economy in the independent states of the former Soviet Union by promoting, identifying, and partially funding joint research, development, and demonstration ventures between United States businesses and scientists, engineers, and entrepreneurs in those independent states.

(4) To provide a mechanism for scientists, engineers, and entrepreneurs in the independent states of the former Soviet Union to develop an understanding of commercial business practices by establishing linkages to United States scientists, engineers, and businesses.

(5) To provide access for United States businesses to sophisticated new technologies, talented researchers, and potential new markets within the independent states of the former Soviet Union.

(c) FUNCTIONS.—In carrying out its purposes, the Foundation shall—

(1) promote and support joint research and development projects for peaceful purposes between scientists and engineers in the United States and independent states of the former Soviet Union on subjects of mutual interest; and

(2) seek to establish joint nondefense industrial research, development, and demonstration activities through private sector linkages which may involve participation by scientists and engineers in the university or academic sectors, and which shall include some contribution from industrial participants.

(d) FUNDING.—

(1) USE OF CERTAIN DEPARTMENT OF DEFENSE FUNDS.—(A) To the extent funds appropriated to carry out subtitle D of title II of the National Defense Authorization Act for Fiscal Year 1993 (relating to joint research and development programs with the independent states of the former Soviet Union) are otherwise available for such purpose, such funds may be made available to the Director for use by the Director in establishing the endowment of the Foundation and otherwise carrying out this section.

(B) For each fiscal year after fiscal year 1993, not more than 50 percent of the funds made available to the Foundation by the United States Government or otherwise used in carrying out this section may be funds appropriated in the national defense budget function (function 050).

(2) CONTRIBUTION TO ENDOWMENT BY PARTICIPATING INDEPENDENT STATES.—As a condition of participation in the Foundation, an independent state of the former Soviet Union must make a minimum contribution to the endowment of the Foundation, as determined by the Director, which shall reflect the ability of the independent state to make a financial contribution and its expected level of participation in the Foundation's programs.

(3) DEBT CONVERSIONS.—To the extent provided in advance by appropriations Acts, local currencies or other assets resulting from government-to-government debt conversions may be made available to the Foundation. For purposes of this paragraph, the term "debt conversion" means an agreement whereby a country's government-to-government or commercial external debt burden is exchanged by the holder for local currencies, policy commitments, other assets, or other economic activities, or for an equity interest in an enterprise theretofore owned by the debtor government.

(4) LOCAL CURRENCIES.—In addition to other uses provided by law, and subject to agreement with the foreign government, local currencies generated by United States assistance programs may be made available to the Foundation.

(5) INVESTMENT OF GOVERNMENT ASSISTANCE.—The Foundation may invest any revenue provided to it through United States Government assistance, and any interest earned on such investment may be used only for the purpose for which the assistance was provided.

(6) OTHER FUNDS FROM GOVERNMENT AND NONGOVERNMENTAL SOURCES.—The Foundation may accept such other funds as may be provided to it by Government agencies or nongovernmental entities.

TITLE VI—SPACE TRADE AND COOPERATION

SEC. 601. FINDINGS.

The Congress finds that—

(1) the dissolution of the political system of the former Soviet Union provides a unique, historic opportunity for the United States to achieve world peace and stability while incorporating the significant potential of the former Soviet Union to contribute to mankind's quality of life through science and technology;

(2) the desired conversion of former Soviet military and quasi-military assets, industries, and research facilities is furthered by openness in scientific collaboration, economic trade, and redeployment of capital resources;

(3) space trade and cooperation offer both the United States and the independent states of the former Soviet Union significant nonmilitary industrial growth opportunities and may assist the transition to a market-based economy in the independent states;

(4) space trade and cooperation would assist with the demilitarization of the independent states of the former Soviet Union and inhibit proliferation of military assets and technologies; and

(5) space trade and cooperation will enable the United States aerospace industry to utilize new technologies acquired from the independent states of the former Soviet Union in creating American products.

SEC. 602. FACILITATING DISCUSSIONS REGARDING THE ACQUISITION OF SPACE HARDWARE, TECHNOLOGY, AND SERVICES FROM THE FORMER SOVIET UNION.

(a) EXPEDITED REVIEW.—Any request for a license or other approval described in subsection (c) that is submitted to any United States Government agency by the National Aeronautics and Space Administration or any of its contractors shall be considered on an expedited basis by that agency and any other agency involved in an applicable interagency review process.

(b) NOTICE TO CONGRESS IF LICENSE DENIED.—If any United States Government agency denies a request for a license or other approval described in subsection (c), that agency shall immediately notify the designated congressional committees. Each such notification shall include a statement of the reasons for the denial.

(c) DESCRIPTION OF DISCUSSIONS.—This section applies to a request for any license or other approval that may be necessary to conduct discussions with an independent state of the former Soviet Union with respect to the possible acquisition of any space hardware, space technology, or space service for integration into United States space projects that have been approved by the Congress, including discussions relating to technical evaluation of such hardware, technology, or service.

SEC. 603. OFFICE OF SPACE COMMERCE.

(a) TRADE MISSIONS.—The Office of Space Commerce of the Department of Commerce is authorized and encouraged to conduct one or more trade missions to appropriate independent states of the former Soviet Union for the purpose of familiarizing United States aerospace industry representatives with space hardware, space technologies, and space services that may be available from the independent states, and with the business practices and overall business climate in the independent states.

(b) MONITORING NEGOTIATIONS.—The Office of Space Commerce—

(1) shall monitor the progress of any discussions described in section 602(c) that are being carried out by the National Aeronautics and Space Administration or its contractors; and

(2) shall advise the Administrator of the National Aeronautics and Space Administration as to the impact on United States industry of each potential acquisition of space hardware, space technology, or space services from the independent states of the former Soviet Union, specifically including any anticompetitive issues the Office may observe.

SEC. 604. REPORT TO CONGRESS.

Within one year after the date of enactment of this title, the President shall submit to the designated congressional committees a report describing—

(1) the opportunities for increased space-related trade with the independent states of the former Soviet Union;

(2) a technology procurement plan for identifying and evaluating all unique space hardware, space technology, and space services available to the United States from the independent states of the former Soviet Union;

(3) specific space hardware, space technology, and space services that have been, or could be, the subject of discussions described in section 602(c);

(4) the trade missions carried out pursuant to section 603(a), including the private participation in and the results of such missions;

(5) any barriers, regulatory or practical, that inhibit space-related trade between the United States and independent states of the former Soviet Union, including any such barriers in either the United States or the independent states; and

(6) any anticompetitive issues raised during the course of negotiations, as observed pursuant to section 603(b).

SEC. 605. DEFINITIONS.

For the purposes of this title—

(1) the term "contractor" means a National Aeronautics and Space Administration contractor to the extent that the acquisition of space hardware, space technology, or space services from the independent states of the former Soviet Union may be relevant to the contractor's responsibilities under the contract;

(2) the term "designated congressional committees" means the Committee on Science, Space, and Technology and the Committee on Foreign Affairs of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations of the Senate;

(3) the term "space hardware" means proprietary space products, materials, and equipment;

(4) the term "space services" means space activities that can be performed for the benefit of another country; and

(5) the term "space technology" includes proprietary space systems, subsystems, methods, and practices developed by the former Soviet Union or independent states of the former Soviet Union that have application to space projects of other spacefaring countries.

TITLE VII—OTHER PROVISIONS

SEC. 701. STATUTORY LISTS OF COMMUNIST COUNTRIES.

(a) Foreign Assistance Act.—Paragraph (1) of section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)(1)) is amended by striking out from the list of countries in the last sentence of that paragraph the following: "Czechoslovak Socialist Republic.", "Estonia.", "German Democratic Republic.", "Hungarian People's Republic.", "Latvia.", "Lithuania.", "People's Republic of Albania.", "People's Republic of Bulgaria.", "Polish People's Republic.", "Socialist Federal Republic of Yugoslavia.", "Socialist Republic of Romania.", and "Union of Soviet Socialist Republics (including its captive constituent republics).".

(b) Special Restrictions on Persons Involved in Legal Commercial Transactions.—Section 951(e)(2)(A) of title 18, United States Code, is amended by striking out "the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania, or".

SEC. 702. AGRICULTURAL TRADE PROGRAMS.

(a) Food for Progress Act.—Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (b)—

(A) by striking "or cooperatives" and inserting "cooperatives, or other private entities"; and

(B) by inserting "(1)" after "(b)" and adding at the end the following:

"(2)(A) The independent states of the former Soviet Union (as defined in title I of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992) shall be considered to be emerging democracies for purposes of this section.

"(B) The annual tonnage limitation contained in subsection (g) shall not apply with respect to commodities furnished from stocks of the Commodity Credit Corporation during fiscal years 1992 and 1993 to the independent states of the former Soviet Union."; and

(2) by amending subsection (f)(1) to read as follows:

"(f)(1) The Commodity Credit Corporation may provide for—

"(A) grants, or

"(B) in the case of the independent states of the former Soviet Union (as defined in title I of the Freedom for Russia and the Emerging Eurasian Democracies and Open Markets Support Act of 1992), sales on credit terms,

of commodities made available under section 416(b) of the Agricultural Act of 1949 for use in carrying out this section.".

(b) Agricultural Development and Trade Act of 1990.—Section 1542 of the Agricultural Development and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) in subsection (b)—

(A) by striking the subsection heading and inserting "(b) Facilities and Services.—"; and

(B) by striking "for the establishment or improvement by United States persons of facilities in emerging democracies" and inserting the following: "for—

"(1) the establishment or improvement of facilities, or

"(2) the provision of services or United States produced goods,

in emerging democracies by United States persons";

(2) in subsection (d)(1)(B)(i), by inserting ", farmers, other persons from the private sector," after "agricultural consultants"; and

(3) by amending subsection (d)(1)(D) to read as follows:

"(D) Technical assistance.—The Secretary is authorized to provide, or pay the necessary costs for, technical assistance to enable individuals or other entities to implement the recommendations or to carry out the opportunities and projects identified under paragraph (1)(A).".

(c) Direct Credit Sales Program.—

(1) Determinations.—Section 201(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5621(c)) is amended by striking ", on a long-term basis," each place it appears.

(2) Eligible countries.—Section 201(d)(1)(C) of such Act (7 U.S.C. 5621(d)(1)(C)) is amended to read as follows:

"(C) to assist countries in meeting their food and fiber needs, particularly—

"(i) developing countries; and

"(ii) countries that are emerging democracies that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and".

(3) Regulations.—The Secretary of Agriculture shall issue final regulations to implement section 201 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621), as amended by this Act, not later than 30 days after the date of enactment of this Act.

(d) Export Credit Guarantee Program.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—

(1) in subsection (c), by striking ", on a long-term basis," each place it appears; and

(2) by amending subsection (d)(3) to read as follows:

"(3) to assist countries in meeting their food and fiber needs, particularly—

"(A) developing countries; and

"(B) countries that are emerging democracies that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and".

(e) Integration of Export Assistance Program.—In order to provide maximum flexibility in meeting the food and financing needs of the independent states of the former Soviet Union and in promoting export sales of agricultural commodities to the independent states, the Secretary of Agriculture may carry out any trade assistance program in combination with any other such program.

(f) Distribution of Aid to the Independent States of the Former Soviet Union.—It is the sense of Congress that, in order to avoid waste and to ensure fair and equitable distribution of food and commodities provided to the independent states of the former Soviet Union, the President should, when discussing and planning the provision of such food aid, whether acting unilaterally or multilaterally with other donor countries, encourage the involvement of suitable multinational organizations to monitor the transport and distribution of such food aid within such entities.

(g) Definition of Agricultural Commodity.—Section 102(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(1)) is amended by striking "feed, or fiber" and inserting "feed, fiber, or livestock (including livestock as it is defined in section 602(2) of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) and insects)".

(h) Declaration of Policy.—Congress declares that the export credit guarantee program and the export enhancement program required by sections 202 and 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622, 5651) should be administered by the Commodity Credit Corporation with respect to the independent states of the former Soviet Union in a manner that contributes to the achievement of the objective that the United States share of world trade in processed agricultural products and high-value agricultural products shall not be less than 15 percent.

(i) Definitions.—Section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602) is amended by adding at the end the following new paragraphs:

"(8) The term 'processed agricultural product' means a product derived from a bulk or raw agricultural commodity which, as a result of the application of human labor, the use of machines, and other factors involved in a manufacturing process, is increased in value and made more appropriate for human consumption or use. Such term includes, but is not limited to, livestock and poultry products, wheat flour, milled rice, refined sugar, vegetable oil, and prepared, preserved, canned, frozen, refrigerated, and other processed food products.

"(9) The term 'high-value agricultural product' means an agricultural commodity the value of which, on a per-unit or equivalent volume basis, is substantially higher than the value of bulk or raw agricultural commodities, such as grains and oilseeds. The term includes, but is not limited to, fresh, chilled, or frozen meats and other livestock and poultry products, eggs, breeder stock, plant seeds, and tobacco.".

(j) Processed and High-Value Agricultural Product Export Credit Guarantee Program.—Section 202 of such Act (7 U.S.C. 5622) is amended—

(1) in subsections (a) and (b), by inserting ", including processed agricultural products

and high-value agricultural products," after "agricultural commodities" both places it appears; and

(2) by adding at the end the following new subsection:

"(k) SET-ASIDES.—

"(1) IN GENERAL.—In issuing export credit guarantees under this section in connection with sales to the independent states of the former Soviet Union (as defined in title I of the Freedom for Russia and the Emerging Eurasian Democracies and Open Markets Support Act of 1992), the Commodity Credit Corporation shall, to the extent practicable and subject to paragraph (2), ensure that no less than 35 percent of the total amount of credit guarantees issued for a fiscal year are issued to promote the export of processed and high-value agricultural products and that the balance are issued to promote the export of bulk or raw agricultural commodities.

"(2) LIMITATION.—The 35 percent requirement of paragraph (1) shall apply for a fiscal year only to the extent that the percentage of the total amount of credit guarantees issued for that fiscal year under this section to promote the export to all countries of processed and high-value agricultural products is less than 25 percent.".

(k) PROCESSED AND HIGH-VALUE AGRICULTURAL PRODUCT EXPORT ENHANCEMENT PROGRAM.—Section 301 of such Act (7 U.S.C. 5651) is amended—

(1) in subsection (a), by inserting ", including processed agricultural products and high-value agricultural products," after "agricultural commodities"; and

(2) in subsection (e)—

(A) by striking "The Commodity" and inserting the following:

"(1) IN GENERAL.—The Commodity"; and

(B) by adding at the end the following new paragraph:

"(2) SET-ASIDES.—(A) For each fiscal year, the Corporation shall, to the extent practicable and subject to subparagraph (B), ensure that no less than 25 percent of the total of—

"(i) the funds expended, and

"(ii) the value of any commodities made available,

under this section in connection with sales of agricultural commodities to the independent states of the former Soviet Union (as defined in title I of the Freedom for Russia and the Emerging Eurasian Democracies and Open Markets Support Act of 1992) is used to promote the export of processed and high-value United States agricultural products and that the balance of the funds expended and commodities made available under this section in connection with such sales is used to promote the export of bulk or raw United States agricultural commodities.

"(B) The 25 percent requirement of subparagraph (A) shall apply for a fiscal year only to the extent that the percentage of the total of—

"(i) the funds expended, and

"(ii) the value of commodities made available,

for that fiscal year under this section to promote the export to all countries of processed and high-value United States agricultural products is less than 15 percent.".

(l) COST-REVENUE AND EMPLOYMENT ANALYSIS OF EXPORT ASSISTANCE.—Title III of such Act (7 U.S.C. 5651–5653) is amended by adding at the end the following:

"SEC. 304. QUARTERLY AND ANNUAL REPORTS ON THE COST-REVENUE ANALYSIS AND EMPLOYMENT EFFECTS OF SUPPORTING THE EXPORT OF PROCESSED AND HIGH-VALUE AGRICULTURAL PRODUCTS.

"(a) QUARTERLY REPORTS.—Not later than 30 days after the end of each quarter of a fiscal year, the Secretary shall submit to Congress a report containing an estimate for the preceding quarter of those costs and imputed revenues, attributable to the export to the independent states of the former Soviet Union (as defined in title I of the Freedom for Russia and the Emerging Eurasian Democracies and Open Markets Support Act of 1992) of processed and high-value agricultural products and raw and bulk agricultural commodities under sections 202 and 301. The revenue estimate shall be determined by the Economic Research Service of the Department of Agriculture from the net effect on Federal tax receipts of exports under those sections on the personal and corporate income of persons directly and indirectly assisted. The Secretary shall, after consultation with the Secretary of Labor, include in the report an examination of the direct and indirect effect of the export efforts with respect to the independent states of the former Soviet Union under those sections for the preceding quarter on employment levels and opportunities in the United States agricultural sectors and related industries.

"(b) ANNUAL REPORT.—Not later than 30 days after the end of each fiscal year, the Secretary shall submit to Congress a report for the preceding fiscal year containing the information required under subsection (a).".

(m) APPLICATION OF CERTAIN PROVISIONS.—

(1) CERTAIN AMENDMENTS APPLICABLE ONLY TO THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—The amendments made by subsections (c)(1), (d)(1), (g), (i), (j)(1), and (k)(1) shall apply only with respect to the independent states of the former Soviet Union.

(2) IMPLEMENTATION OF CERTAIN AMENDMENTS DURING FISCAL YEAR 1992.—The Commodity Credit Corporation shall apply subsection (h), and the amendments made by subsections (i) through (l), during fiscal year 1992 to the maximum extent practicable.

SEC. 703. PEACE CORPS VOLUNTEER TRAINING REQUIREMENTS.

Section 8(c) of the Peace Corps Act (22 U.S.C. 2507(c)) is repealed.

SEC. 704. ESTABLISHING CATEGORIES OF ALIENS FOR PURPOSES OF REFUGEE DETERMINATIONS; ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE PAROLEES.

(a) EXTENSION OF PROVISIONS.—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by inserting "and within the number of such admissions allocated for each of fiscal years 1993 and 1994 for refugees who are nationals of the independent states of the former Soviet Union, Estonia, Latvia, and Lithuania under such section" after "Act"; and

(B) in subsection (e), by striking out "October 1, 1992" each place it appears and inserting in lieu thereof "October 1, 1994"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1994".

(b) CORRECTION OF REFERENCES TO SOVIET UNION.—That Act is amended—

(1) in section 599D(b)—

(A) in paragraphs (1)(A), (2)(A), and (2)(B), by striking out "of the Soviet Union" each place it appears and inserting in lieu thereof "of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania"; and

(B) in paragraph (1)(A), by striking out "in the Soviet Union" and inserting in lieu thereof "in that state"; and

(2) in section 599E(b)(1), by striking out "of the Soviet Union," and inserting in lieu thereof "of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania,".

(c) REPEAL OF EXECUTED REPORTING REQUIREMENTS.—Section 599D of that Act is amended by repealing subsection (f).

The CHAIRMAN. No amendment to the substitute and no other amendment to the bill is in order.

The question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having assumed the Chair, Mr. SKAGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 4547) to authorize supplemental assistance for the former Soviet republics, pursuant to House Resolution 545, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FASCELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 255, nays 164, not voting 16, as follows:

[Roll No. 374]

YEAS—255

Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Aspin
Bacchus
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bustamante
Byron
Campbell (CA)
Cardin
Carper
Chandler
Clinger
Coleman (MO)
Coleman (TX)
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Davis
de la Garza
Derrick
Dicks
Dingell
Downey
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Foley
Ford (MI)

Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hunter
Hyde
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lightfoot
Livingston
Long
Lowery (CA)
Lowey (NY)
Manton
Markey
Martin
Martinez
Matsui
Mavroules
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Nichols
Nowak
Nussle
Oberstar
Obey
Olin
Olver
Orton
Owens (UT)
Oxley
Pallone
Panetta
Parker
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Price
Ravenel
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Rose
Rostenkowski
Roukema
Russo
Sabo
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Solarz
Spratt
Stallings
Stenholm
Studds
Swett
Swift
Synar
Tallon
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Vucanovich
Walker
Waxman
Weber
Weiss
Weldon
Whitten
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Zeliff

NAYS—164

Abercrombie
Allen
Andrews (NJ)
Applegate
Archer
Armey
Atkins
AuCoin
Baker
Ballenger
Barton
Bilirakis
Blackwell
Boxer
Bryant
Bunning
Burton
Callahan
Camp
Campbell (CO)
Carr
Chapman
Clay
Coble
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
DeFazio
DeLauro
DeLay
Dellums
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dymally
Early
Edwards (OK)
English
Erdreich
Espy
Evans
Fields
Flake
Foglietta
Gallegly
Geren
Gilchrest
Gonzalez
Goodling
Goss
Hall (TX)
Hancock
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Holloway
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Jacobs
Jefferson
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kleczka
Klug
Kyl
Lehman (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Machtley
Marlenee
Mazzoli
McCandless
Mfume
Miller (CA)
Moody
Moorhead
Myers
Neal (MA)
Neal (NC)
Oakar
Ortiz
Owens (NY)
Packard
Pastor
Patterson
Paxon
Payne (NJ)
Perkins
Petri
Poshard
Pursell
Quillen
Rahall
Ramstad
Rangel
Ray
Reed
Ridge
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Roybal
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Schaefer
Sensenbrenner
Serrano
Shuster
Smith (OR)
Snowe
Solomon
Spence
Staggers
Stark
Stearns
Stokes
Stump
Sundquist
Tanner
Tauzin
Taylor (MS)
Towns
Traficant
Valentine
Volkmer
Walsh
Washington
Waters
Wheat
Williams
Young (FL)
Zimmer

NOT VOTING—16

Barnard
Bevill
Clement
Dickinson
Dwyer
Ford (TN)
Gaydos
Gordon
Hatcher
Luken
McEwen
McMillan (NC)
Murphy
Schulze
Traxler
Wilson

☐ 1811

The Clerk announced the following pairs:

On this vote:

Mr. Dwyer for, with Mr. Murphy against.

Mr. KLUG changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to support freedom and open markets in the independent states of the former Soviet Union, and for other purposes.".

A motion to reconsider was laid on the table.

☐ 1810

Mr. FASCELL. Mr. Speaker, pursuant to House Resolution 545, I call up from the Speaker's table the Senate bill (S. 2532) entitled the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FASCELL moves to strike all after the enacting clause of the Senate bill, S. 2532, and insert in lieu thereof the provisions of H.R. 4547, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to support freedom and open markets in the independent states of the former Soviet Union, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4547) was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time in order that I might inquire of the distinguished majority leader how we might proceed for the balance of the evening.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to inform the Members that we will now take up the family planning conference. That will be a maximum of 1 hour, and obviously a vote. We then will go to House Concurrent Resolution 246, which is a trade resolution from the Committee on Ways and Means concerning the North American Free-Trade Agreement. It is a resolution. It is not a piece of legislation that would change statutes. There will be a rule, and then an hour of debate on the resolution, a maximum of 2 hours. It could be less. I do not know how long it will take.

At the end of that, we will take up House Concurrent Resolution 192, which should not have a vote. It is to concur in the Senate amendment to the House resolution on the Hamilton-Gradison Commission. It will take 5 minutes, and it will not have a vote, I am told.

So the last vote would be on the trade resolution.

If we are able to complete that business, because there has been an inability to bring to the floor two pieces of legislation that we had planned for tomorrow, we have decided to not have votes, not have a session tomorrow. We may or may not have to have a pro forma session. We will be talking with the minority leadership about that later in the day.

Mr. MICHEL. If I might, Mr. Speaker, ask if later on this evening we might get a little reading on then what we will be doing next Monday, Tuesday, and Wednesday. It is my understanding that we were not going to have a session, or were not going to be having any votes Monday.

Mr. GEPHARDT. The gentleman is correct.

Mr. MICHEL. Does having no program on Friday change that scenario?

Mr. GEPHARDT. If the gentleman will yield further, no votes on Monday, there will be votes Tuesday and Wednesday. We hope to be able to leave Wednesday at a reasonable hour, no votes on Thursday or Friday.

Mr. MICHEL. Reclaiming my time, I hope the gentleman will be prepared to tell us what those measures will be then for Tuesday and Wednesday.

Mr. GEPHARDT. We will.

Mr. MICHEL. I thank the distinguished gentleman.

CONFERENCE REPORT ON H.R. 3033, JOB TRAINING REFORM AMENDMENTS OF 1992

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 3033) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-811)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3033), to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Job Training Reform Amendments of 1992".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—JOB TRAINING PARTNERSHIP REQUIREMENTS

Subtitle A—General Provisions

Sec. 101. Declaration of policy and statement of purpose.
Sec. 102. Authorization of appropriations.
Sec. 103. Definitions.

Subtitle B—Service Delivery System

Sec. 111. Establishment of service delivery areas.
Sec. 112. Establishment of private industry council.
Sec. 113. Job training plan.
Sec. 114. Review and approval of plan.
Sec. 115. Performance standards.
Sec. 116. Selection of service providers.
Sec. 117. Limitation on certain costs.
Sec. 118. Recapture and reallotment of unobligated funds under title II.

Subtitle C—Additional State Responsibilities

Sec. 121. Governor's coordination and special services plan.
Sec. 122. State education coordination and grants.
Sec. 123. Identification of additional imposed requirements.
Sec. 124. State labor market information programs.

Subtitle D—Program Requirements for Service Delivery System

Sec. 131. General program requirements.
Sec. 132. Benefits.
Sec. 133. Labor standards.
Sec. 134. Grievance procedure.

Subtitle E—Federal and Fiscal Administrative Provisions

Sec. 141. Prompt allocation of funds.
Sec. 142. Fiscal controls; sanctions.
Sec. 143. Reports, recordkeeping, and investigations.
Sec. 144. Nondiscrimination.
Sec. 145. Utilization of services and facilities.

TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

Sec. 201. Adult training program.
Sec. 202. Adult training program allotment and allocation.
Sec. 203. Adult training program eligibility and services.
Sec. 204. Summer youth employment and training program.
Sec. 205. Summer youth program transfer of funds.
Sec. 206. Youth training program.
Sec. 207. Youth training program allotment and allocation.
Sec. 208. Youth training program eligibility and services.

TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

Sec. 301. State agency approval.
Sec. 302. Limitations on uses of funds.
Sec. 303. Demonstration programs.

TITLE IV—FEDERALLY ADMINISTERED PROGRAMS

Sec. 401. Native American and migrant programs.
Sec. 402. Job Corps.
Sec. 403. National activities.
Sec. 404. Uniform requirements.
Sec. 405. Labor market information.
Sec. 406. Establishment of the Youth Fair Chance program.
Sec. 407. Establishment of the microenterprise grants program.
Sec. 408. Establishment of the disaster relief program.

TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

Sec. 501. Jobs for employable dependent individuals.

TITLE VI—STATE HUMAN RESOURCE INVESTMENT COUNCIL

Sec. 601. State human resource investment council.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Effective date and transition provisions.
Sec. 702. Technical and conforming amendments.

TITLE I—JOB TRAINING PARTNERSHIP REQUIREMENTS

Subtitle A—General Provisions

SEC. 101. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

(a) DECLARATION OF POLICY.—In recognition of the training needs of low-income adults and youth, the Congress declares it to be the policy of the United States to—

(1) provide financial assistance to States and local service delivery areas to meet the training needs of such low-income adults and youth, and to assist such individuals in obtaining unsubsidized employment;

(2) increase the funds available for programs under title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.) by not less than 10 percent of the baseline each fiscal year to provide for growth in the percentage of eligible adults and youth served above the 5 percent of the eligible population that is currently served; and

(3) encourage the provision of longer, more comprehensive, education, training, and employment services to the eligible population, which also requires increased funding in order to maintain current service levels.

(b) STATEMENT OF PURPOSE.—Section 2 of the Job Training Partnership Act (29 U.S.C. 1501) (hereafter in this Act referred to as "the Act") is amended to read as follows:

"STATEMENT OF PURPOSE

"SEC. 2. It is the purpose of this Act to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependency, thereby improving the quality of the work force and enhancing the productivity and competitiveness of the Nation.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 of the Act (29 U.S.C. 1502) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a)(1) There are authorized to be appropriated to carry out parts A and C of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year. Of the sums appropriated to carry out parts A and C of title II for each such fiscal year, an amount not less than 40 percent of such sums shall be made available to carry out part A of such title and an amount not less than 40 percent of such sums shall be made available to carry out part C of such title.

"(2) There are authorized to be appropriated to carry out part B of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year.";

(2) by redesignating subsection (c) as subsection (b);

(3) by inserting after such subsection (b) the following:

"(c)(1) There are authorized to be appropriated to carry out parts A, C, D, E, F, and G of title IV for fiscal year 1993 and each succeeding fiscal year an amount equal to not more than 7 percent of the total amount appropriated to carry out this Act for each such fiscal year.

"(2) From the amount appropriated under paragraph (1) for any fiscal year, the Secretary—

"(A) shall first reserve—

"(i) an amount of not less than 3.3 percent of the amount available for parts A and C of title II for such fiscal year to carry out section 401; and

"(ii) an amount of not less than 3.2 percent of the amount available for parts A and C of title II for such fiscal year to carry out section 402; and

"(B) after making such reservations, shall reserve—

"(i) an amount equal to 7 percent of the amount appropriated under paragraph (1) to carry out part C of title IV;

"(ii) $15,000,000 to carry out section 453, of which—

"(I) not less than 20 percent shall be used to carry out section 453(b);

"(II) not less than 20 percent shall be used to carry out section 453(c); and

"(III) $1,000,000 shall be used to carry out section 453(d);

"(iii) $6,000,000 to carry out subsections (e) and (f) of section 462; and

"(iv) $2,000,000 to carry out part F of title IV.

"(3) There are authorized to be appropriated to carry out part H of title IV $100,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"(4) There are authorized to be appropriated to carry out part I of title IV $5,000,000 for each of the fiscal years 1993 through 1997.

"(5) There are authorized to be appropriated to carry out part J of title IV, $15,000,000 for fiscal year 1993 and such sums as may be necessary for each succeeding fiscal year."; and

(4) in subsection (e)—

(A) by striking "(e)(1) Subject to paragraph (2), there" and inserting "(e) There";

(B) by striking "1994" and inserting "1996"; and

(C) by striking paragraphs (2) and (3).

(b) CONFORMING AMENDMENTS.—Subsections (a) and (e) of section 302 of the Act (29 U.S.C. 1652 (a) and (e)) and section 326(h) of the Act (1662e(h)) are amended by striking "3(c)" and inserting "3(b)".

SEC. 103. DEFINITIONS.

(a) IN GENERAL.—Section 4 of the Act (29 U.S.C. 1503) is amended—

(1) in paragraph (3), by striking "a program under part A" and inserting "programs under parts A and C"; and

(2) in paragraph (5)—

(A) by inserting "the Association of Farmworker Opportunity Programs, the Center for Employment Training, literacy organizations, agencies or organizations serving older individuals, organizations that provide service opportunities, youth corps programs," after "Jobs for Youth,"; and

(B) by striking "(including the National Urban Indian Council)";

(3) in paragraph (8)—

(A) in subparagraph (B)(i), by striking "the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting "the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))";

(B) in subparagraph (C), by inserting "(or has been determined within the 6-month period prior to the application for the program involved to be eligible to receive)" after "is receiving";

(C) in subparagraph (D), by inserting "subsections (a) and (c) of" after "under"; and

(D) in subparagraph (F), by striking "adult handicapped individual" and inserting "individual with a disability";

(4) in paragraph (10)—

(A) by striking "(10)" and inserting "(10)(A)";

(B) by striking "handicapped individual" and inserting "individual with a disability"; and

(C) by adding at the end the following:

"(B) The term 'individuals with disabilities' means more than one individual with a disability.";

(5) in paragraph (22), by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau";

(6) in paragraph (24)—

(A) by inserting "financial assistance (except as a post-termination service), drug and alcohol abuse counseling and referral, individual and family counseling," after "health care,";

(B) by striking "materials for the handicapped," and inserting "materials for individuals with disabilities, job coaches,"; and

(C) by inserting "and dependent care" after "child care";

(7) by amending paragraph (29) to read as follows:

"(29) The term 'displaced homemaker' means an individual who has been providing unpaid services to family members in the home and who—

"(A) has been dependent either—

"(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) on the income of another family member but is no longer supported by that income; and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment."; and

(8) by adding after paragraph (30) the following new paragraphs:

"(31) The term 'basic skills deficient' means, with respect to an individual, that the individual has English reading or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test.

"(32) The term 'case management' means the provision of a client-centered approach in the delivery of services, designed to—

"(A) prepare and coordinate comprehensive employment plans, such as service strategies, for participants to ensure access to the necessary training and supportive services, using, where feasible, computer-based technologies; and

"(B) provide job and career counseling during program participation and after job placement.

"(33) The term 'citizenship skills' means skills and qualities, such as teamwork, problem-solving ability, self-esteem, initiative, leadership, commitment to life-long learning, and an ethic of civic responsibility, that are characteristic of productive workers and good citizens.

"(34) The term 'family' means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

"(A) A husband, wife, and dependent children.

"(B) A parent or guardian and dependent children.

"(C) A husband and wife.

"(35) The term 'hard-to-serve individual' means an individual who is included in one or more of the categories described in section 203(b) or subsection (b) or (d) of section 263.

"(36) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(37) The term 'participant' means an individual who has been determined to be eligible to participate in and who is receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized by this Act. Participation shall be deemed to commence on the first day, following determination of eligibility, on which the participant began receiving subsidized employment, training, or other services provided under this Act.

"(38) The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(39) The term 'termination' means the separation of a participant who is no longer receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized by this Act.

"(40) The term 'youth corps program' means a program, such as a conservation corps or youth service program, that offers productive work with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training, and supportive services.".

(b) CONFORMING AMENDMENTS.—The Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4 (29 U.S.C. 1503)—

(A) in paragraph (5), by striking "the handicapped" and inserting "individuals with disabilities";

(B) in paragraph (8)(F), by striking "adult handicapped individual" and inserting "individual with a disability"; and

(C) in paragraph (28), by striking "section 521(31)" and inserting "section 521(41)";

(2) in section 167(a)(2) (29 U.S.C. 1577(a)(2)), by striking "handicap" and inserting "disability";

(3) in the second section 172(b) (as added by Public Law 100–628) (29 U.S.C. 1583(b)), by striking "handicapped individuals" and inserting "individuals with disabilities"; and

(4) in section 423(1) (29 U.S.C. 1693(1)), by striking "handicapped individual" and inserting "individual with a disability".

Subtitle B—Service Delivery System

SEC. 111. ESTABLISHMENT OF SERVICE DELIVERY AREAS.

Section 101(c)(1) of the Act (29 U.S.C. 1511(c)(1)) is amended by inserting before the period at the end of the first sentence the following: ", except as provided for in sections 106(j)(4)(B) and 164(b)(1)(B)".

SEC. 112. ESTABLISHMENT OF PRIVATE INDUSTRY COUNCIL.

(a) COMPOSITION.—

(1) MEMBERSHIP.—Section 102(a) of the Act (29 U.S.C. 1512(a)(2)) is amended—

(A) by striking "and" at the end of paragraph (1); and

(B) by striking paragraph (2) and inserting the following:

"(2) representatives of organized labor and community-based organizations, who shall constitute not less than 15 percent of the membership of the council; and

"(3) representatives of each of the following:

"(A) Educational agencies (which agencies shall be representative of all educational agencies in the service delivery area).

"(B) Vocational rehabilitation agencies.

"(C) Public assistance agencies.

"(D) Economic development agencies.

"(E) The public employment service.

(2) NOMINATION.—Section 102(c)(2) of the Act (29 U.S.C. 1512(c)(2)) is amended to read as follows:

"(2) The education representatives on the council shall be selected from among individuals nominated by regional or local educational agencies, vocational education institutions, institutions of higher education (including entities offering adult education) or general organizations of such institutions, within the service delivery area.".

(3) RECOMMENDATIONS.—Section 102(c)(3) of the Act (29 U.S.C. 1512(c)(3)) is amended to read as follows:

"(3) The labor representatives on the council shall be selected from individuals recommended by recognized State and local labor federations. If the State or local labor federation fails to nominate a sufficient number of individuals to meet the labor representation requirements of subsection (a)(2), individual workers may be included on the council to complete the labor representation.".

(4) ADDITIONAL REPRESENTATIVES.—Section 102(c) of the Act (20 U.S.C. 1512(c)) is amended by adding at the end the following new paragraph:

"(4) The remaining members of the council shall be selected from individuals recommended by interested organizations.".

SEC. 113. JOB TRAINING PLAN.

(a) RESTRICTION OF PLANS TO TITLE II PROGRAMS.—Section 104(a) of the Act (29 U.S.C. 1514(a)) is amended by inserting "under title II" after "appropriated".

(b) CONTENTS OF JOB TRAINING PLANS.—Section 104(b) of the Act (29 U.S.C. 1514(b)) is amended to read as follows:

"(b) Each job training plan for the programs conducted under title II shall contain—

"(1) an identification of the entity that will administer the program and be the grant recipient of funds from the State;

"(2) if there is more than one service delivery area in a single labor market area, provisions

for coordinating particular aspects of the service delivery area program with other programs and service providers in the labor market area, including provisions for—

"(A) assessing needs and problems in the labor market that form the basis for program planning;

"(B) ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market;

"(C) coordinating or jointly implementing job development, placement, and other employer outreach activities; and

"(D) entering into agreements and contracts, established pursuant to section 141(e)(2), between service delivery areas to pay or share the cost of services;

"(3) a description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan;

"(4) a description of linkages established with appropriate agencies, pursuant to sections 205 and 265, designed to enhance the provision of services and avoid duplication, including—

"(A) agreements with appropriate educational agencies;

"(B) arrangements with other education, training, and employment programs authorized by Federal law;

"(C) if appropriate, joint programs in which activities supported with assistance under this Act are coordinated with activities (such as service opportunities and youth corps programs) supported with assistance made available under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.); and

"(D) efforts to ensure the effective delivery of services to participants in coordination with local welfare agencies and other local agencies, community-based organizations, volunteer groups, business and labor organizations, and other training, education, employment, and social service programs;

"(5) goals and objectives for the programs, including—

"(A) a description of the manner in which the program will contribute to the economic self-sufficiency of participants, and the productivity of the local area and the Nation; and

"(B) performance standards established in accordance with standards prescribed under section 106;

"(6) procedures for identifying and selecting participants, including—

"(A) goals for the training and placement of hard-to-serve individuals, and a description of efforts to be undertaken to accomplish such goals;

"(B) outreach efforts to recruit and expand awareness of training and placement opportunities for such individuals; and

"(C) types of services to be provided to address the special needs of such individuals;

"(7)(A) goals for—

"(i) the training of women in nontraditional employment; and

"(ii) the training-related placement of women in nontraditional employment and apprenticeships; and

"(B) a description of efforts to be undertaken to accomplish the goals described in subparagraph (A), including efforts to increase awareness of such training and placement opportunities;

"(8) adult and youth program budgets for 2 program years and any proposed expenditures for the succeeding 2 program years;

"(9) a description of—

"(A) the assessment process that will identify participant skill levels;

"(B) the process for providing information and referrals for applicants and participants relating to appropriate programs and service providers;

"(C) the services to be provided, including the means for involving labor organizations and community-based organizations in the provision of services, the estimated duration of service, and the estimated training cost per participant;

"(D) the competency levels to be achieved by participants as a result of program participation; and

"(E) the procedures for evaluating the progress of participants in achieving competencies;

"(10) a description of the procedures and methods of carrying out title V, where applicable, relating to incentive bonus payments for the placement of individuals eligible under such title;

"(11) procedures, consistent with sections 107 and 164, for selecting service providers, which procedures shall take into account—

"(A) past performance of the providers regarding—

"(i) job training, basic skills training, or related activities;

"(ii) fiscal accountability; and

"(iii) ability to meet performance standards; and

"(B) the ability of the providers to provide services that can lead to achievement of competency standards for participants with identified deficiencies;

"(12) fiscal control (including procurement, monitoring, and management information system requirements), accounting, audit, and debt collection procedures, consistent with section 164, to assure the proper disbursal of, and accounting for, funds received under title II; and

"(13) procedures for the preparation and submission of an annual report to the Governor, which report shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants;

"(C) information on the extent to which applicable performance standards were met;

"(D) information on the extent to which the service delivery area has met the goals of the area for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(E) a statistical breakdown of women trained and placed in nontraditional occupations, including information regarding—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and wage at placement;

"(iii) the age of the participant;

"(iv) the race of the participant; and

"(v) retention of the participant in nontraditional employment.".

SEC. 114. REVIEW AND APPROVAL OF PLAN.

Section 105 of the Act (29 U.S.C. 1515) is amended—

(1) in subsection (a)(1)(B)(ii), by inserting "community-based organizations and" after "appropriate"; and

(2) in subsection (b)(1)(E), by striking "section 121(b)", and inserting "sections 121(b), 205, and 265".

SEC. 115. PERFORMANCE STANDARDS.

(a) IN GENERAL.—Section 106 of the Act (29 U.S.C. 1516) is amended to read as follows:

"PERFORMANCE STANDARDS

"SEC. 106. (a) FINDINGS.—The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

"(1) it is essential that criteria for measuring the return on this investment be developed; and

"(2) the basic return on the investment is to be measured by long-term economic self-sufficiency, increased employment and earnings, reductions in welfare dependency, and increased educational attainment and occupational skills.

"(b) TITLE II PERFORMANCE STANDARDS.—

"(1) GENERAL OBJECTIVE.—In prescribing performance standards for programs under parts A and C of title II, the Secretary shall ensure that States and service delivery areas will make efforts to increase services and positive outcomes for hard-to-serve individuals.

"(2) ACHIEVEMENT OF BASIC MEASURES.—In order to determine whether the basic measures described in subsection (a) are achieved for programs under parts A and C of title II, the Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, shall prescribe performance standards.

"(3) FACTORS FOR ADULT STANDARDS.—The Secretary shall base the performance standards for adult programs under part A of title II on appropriate factors, which may include—

"(A) placement in unsubsidized employment;

"(B) retention for not less than 6 months in unsubsidized employment;

"(C) an increase in earnings, including hourly wages;

"(D) a reduction in welfare dependency; and

"(E) acquisition of skills, including basic skills, required to promote continued employability in the local labor market (including attainment of the competency levels described in paragraph (5)), or acquisition of a high school diploma or the equivalent of the diploma, if the acquisition of such skills or diploma is in addition to obtaining one or more of the outcomes described in subparagraphs (A) through (D).

"(4) FACTORS FOR YOUTH STANDARDS.—

"(A) IN GENERAL.—The Secretary shall base the performance standards for youth programs under part C of title II on appropriate factors described in paragraph (3), and on factors including—

"(i) attainment of employment competencies (including attainment of the competency levels described in paragraph (5));

"(ii) dropout prevention and recovery;

"(iii) secondary and postsecondary school completion or the equivalent of such completion; and

"(iv) enrollment in other training programs, apprenticeships, or postsecondary education, or enlistment in the Armed Forces.

"(B) VARIATIONS.—The Secretary may prescribe variations in the standards described in subparagraph (A) to reflect the differences between in-school and out-of-school programs.

"(5) COMPETENCY LEVELS.—The private industry councils, in consultation with appropriate educational agencies, and, where appropriate, the private sector, labor organizations, and community-based organizations, shall establish youth and adult competency levels, based on such factors as entry level skills and other hiring requirements.

"(6) REQUIREMENTS.—The performance standards described in paragraphs (3) and (4) shall include provisions governing—

"(A) the base period prior to program participation that will be used for measurement of the factors in such paragraphs, as appropriate;

"(B) a representative period after termination from the program that is a reasonable indicator of postprogram employment, earnings, and cash welfare payment reductions; and

"(C) cost-effective methods for obtaining such data as are necessary to carry out this section and section 452(d) which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, records collected under the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1986), State aid to families with dependent children records, statistical

sampling techniques, and similar records or measures, with appropriate safeguards to protect the confidentiality of the information obtained.

"(7) INCENTIVE GRANTS.—From funds available under section 202(c)(1)(B), and under section 262(c)(1)(B), for providing incentive grants under this paragraph, each Governor shall award incentive grants for programs under parts A and C of title II, other than programs under section 204(d), to service delivery areas that—

"(A) exceed the performance standards established by the Secretary under this subsection (except for the standards established under paragraph (8)) with respect to services to all participants;

"(B) exceed the performance standards established by the Secretary under this subsection (except for the standards established under paragraph (8)) with respect to services to populations of hard-to-serve individuals;

"(C) serve more than the minimum percentage of out-of-school youth required by section 263(f);

"(D) place participants in employment that—

"(i) provides post-program earnings exceeding the applicable performance criteria; and

"(ii) includes employer-assisted employment benefits, including health benefits, consistent with the requirements of section 143(a)(4) relating to subsidized employment; and

"(E) exceed the performance standards established by the Governor under subsection (e) for programs under title II, except that not more than 25 percent of the incentive grants shall be awarded on performance standards established under subsection (e).

"(8) PROGRAM EXPENDITURES.—The Secretary shall prescribe performance standards relating gross program expenditures to various performance measures under this subsection, excluding any cost per participant measure. The Governors shall not take performance standards prescribed under this paragraph into consideration in awarding incentive grants under paragraph (7).

"(c) TITLE III PERFORMANCE STANDARDS.—

"(1) IN GENERAL.—The Secretary shall prescribe performance standards for programs under title III based on placement and retention in unsubsidized employment.

"(2) NEEDS-RELATED PAYMENTS.—In prescribing performance standards under paragraph (1), the Secretary shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).

"(d) STATE VARIATION OF PERFORMANCE STANDARDS.—

"(1) AUTHORITY OF GOVERNOR.—Each Governor shall prescribe, and report in the Governor's coordination and special services plan, within parameters established by the Secretary, variations in the standards issued under subsections (b) and (c) based upon—

"(A) specific economic, geographic, and demographic factors in the State and in service delivery areas and substate areas within the State;

"(B) the characteristics of the population to be served;

"(C) the demonstrated difficulties in serving the population; and

"(D) the type of services to be provided.

"(2) RESPONSIBILITIES OF SECRETARY.—The Secretary shall—

"(A) provide information and technical assistance on performance standards adjustments;

"(B) collect data that identifies hard-to-serve individuals;

"(C) provide guidance on setting performance standards at the service provider level that encourages increased service to such individuals; and

"(D) review performance standards to ensure that such standards provide maximum incentive in serving such individuals.

"(e) ADDITIONAL STATE STANDARDS PERMITTED.—The Governor may prescribe performance standards for programs under title II and title III in addition to those standards established by the Secretary under subsections (b) and (c). Such additional standards may include criteria relating to establishment of effective linkages with other programs to avoid duplication and enhance the delivery of services, the provision of high quality services, and successful service to hard-to-serve individuals. The additional performance standards established for title II shall be reported in the Governor's coordination and special services plan.

"(f) TITLE IV STANDARDS.—The Secretary shall prescribe performance standards for programs under parts A and B of title IV.

"(g) ADJUSTMENT FOR SPECIAL POPULATIONS.—The Secretary shall prescribe a system for variations in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964 and May 7, 1975, older individuals, including those served under section 204(d), and offenders, taking into account their special circumstances.

"(h) MODIFICATIONS.—

"(1) IN GENERAL.—The Secretary may modify the performance standards under this section not more often than once every 2 program years. Such modifications shall not be retroactive.

"(2) JOB CORPS.—Notwithstanding paragraph (1), the Secretary may modify standards relating to programs under part B of title IV each program year.

"(i) FUNCTIONS OF NCEP.—The National Commission for Employment Policy shall—

"(1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (d);

"(2) evaluate the usefulness of such standards as measures of desired performance; and

"(3) evaluate the impact of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

"(j) FAILURE TO MEET STANDARDS.—

"(1) UNIFORM CRITERIA.—The Secretary shall establish uniform criteria for determining whether—

"(A) a service delivery area fails to meet performance standards under this section; and

"(B) the circumstances under which remedial action authorized under this subsection shall be taken.

"(2) TECHNICAL ASSISTANCE.—Each Governor shall provide technical assistance to service delivery areas failing to meet performance standards under the uniform criteria established under paragraph (1)(A).

"(3) PROCESS FOR CORRECTION.—Not later than 90 days after the end of each program year, each Governor shall report to the Secretary the final performance standards and performance for each service delivery area within the State, along with the plans of the Governor for providing the technical assistance required under paragraph (2).

"(4) REORGANIZATION PLAN.—

"(A) PLAN REQUIRED FOR CONTINUED FAILURE.—If a service delivery area continues to fail to meet such performance standards for 2 consecutive program years, the Governor shall notify the Secretary and the service delivery area of the continued failure, and shall develop and impose a reorganization plan.

"(B) ELEMENTS.—Such plan may restructure the private industry council, prohibit the use of designated service providers, merge the service delivery area into one or more other existing service delivery areas, or make other changes as the Governor determines to be necessary to improve performance, including the selection of an alternative administrative entity to administer the program for the service delivery area.

"(C) ALTERNATIVE ADMINISTRATIVE ENTITY SELECTION.—The alternative administrative entity described in subparagraph (B) may be a newly formed private industry council or any agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area or substate area.

"(5) SECRETARIAL ACTION.—

"(A) PLAN.—If the Governor has not imposed a reorganization plan as required by paragraph (4) within 90 days of the end of the second program year in which a service delivery area has failed to meet its performance standards, the Secretary shall develop and impose such a plan.

"(B) RECAPTURE OR WITHHOLDING.—The Secretary shall recapture or withhold an amount not to exceed one-fifth of the State administration set-aside allocated under section 202(c)(1)(A) and under section 262(c)(1)(A), for the purposes of providing technical assistance under a reorganization plan imposed pursuant to subparagraph (A).

"(6) APPEAL BY SERVICE DELIVERY AREA.—

"(A) TIMING.—A service delivery area that is the subject of a reorganization plan under paragraph (4) may, within 30 days after receiving notice thereof, appeal to the Secretary to rescind or revise such plan.

"(B) RECAPTURE OR WITHHOLDING.—

"(i) DETERMINATION.—If the Secretary determines, upon appeal under subparagraph (A), that the Governor has not provided appropriate technical assistance as required under paragraph (2), the Secretary shall recapture or withhold an amount not to exceed one-fifth of the State administration set-aside allotted under section 202(c)(1)(A) and under section 262(c)(1)(A). The Secretary shall use funds recaptured or withheld under this subparagraph to provide appropriate technical assistance.

"(ii) BASIS.—If the Secretary approved the technical assistance plan provided by the Governor under paragraph (2), a determination under this subparagraph shall only be based on failure to effectively implement such plan and shall not be based on the plan itself.

"(7) APPEAL BY GOVERNOR.—A Governor of a State that is subject to recapture or withholding under paragraph (5) or (6)(B) may, within 30 days of receiving notice thereof, appeal such withholding to the Secretary.

"(k) CLARIFICATION OR REFERENCE.—For the purposes of this section, the term 'employment' means employment for 20 or more hours per week.".

(b) CONFORMING AMENDMENT.—Sections 311(a), 311(b)(8), and 322(a)(4) (29 U.S.C. 1661(a), 1661(b)(8), and 1662a(a)(4)) are each amended by striking "106(g)" and inserting "106(c)".

SEC. 116. SELECTION OF SERVICE PROVIDERS.

(a) SELECTION GUIDELINES.—Section 107(a) of the Act (29 U.S.C. 1517(a)) is amended—

(1) by inserting ", (in accordance with guidelines established by the Secretary)" in the first sentence after "demonstrated performance"; and

(2) by adding after the 1st sentence the following: "In addition, consideration shall be given to demonstrated performance in making available appropriate supportive services, including child care.".

(b) ADDITIONAL REQUIREMENTS FOR SELECTION.—Section 107 of the Act (29 U.S.C. 1517) is amended by adding at the end the following new subsection:

"(e) The selection of service providers shall be made on a competitive basis to the extent practicable, and shall include—

"(1) a determination of the ability of the service provider to meet program design specifications established by the administrative entity that take into account the purposes of the Act and the goals established in the Governor's coordination and special services plan; and

"(2) documentation of compliance with procurement standards established by the Governor under section 164, including the reasons for selection.".

SEC. 117. LIMITATION ON CERTAIN COSTS.

(a) APPLICATION OF COST LIMITATIONS.—Section 108(a) of the Act (29 U.S.C. 1518(a)) is amended to read as follows:

"(a) Except as provided in subparagraph (A) or (B) of section 141(d)(3), funds expended under this Act shall be charged to the appropriate cost categories.".

(b) COST CATEGORIES AND LIMITATIONS.—Section 108(b) of the Act (29 U.S.C. 1518(b)) is amended to read as follows:

"(b)(1) The cost limitations contained in this subsection shall apply separately to the funds allocated for programs under part A of title II, and to the funds allocated for programs under part C of such title.

"(2) Funds expended under parts A and C of title II shall be charged to one of the following categories:

"(A) Administration.

"(B) Training-related and supportive services.

"(C) Direct training services.

"(3) The Secretary shall, consistent with sections 204(b) and 264(c), define by regulation the cost categories specified in paragraph (2).

"(4) Of the funds allocated to a service delivery area for any program year under parts A or C of title II—

"(A) not more than 20 percent shall be expended for administration; and

"(B) not less than 50 percent shall be expended for direct training services.

"(5) Each service delivery area shall ensure that for all services provided to participants through contracts, grants, or other agreements with a service provider, such contract, grant, or agreement shall include appropriate amounts necessary for administration and supportive services.

"(6) For purposes of paragraph (4), the term 'allocated' means allocated for a program year, as adjusted for reallocations and reallotments under section 109 and for transfers of funds under sections 206, 256, and 266.".

(c) REFERENCE TO LIMITATIONS.—Section 108(c) of the Act (29 U.S.C. 1518(c)) is amended to read as follows:

"(c) Funds available under title III shall be expended in accordance with the limitations specified in section 315.".

SEC. 118. RECAPTURE AND REALLOTMENT OF UNOBLIGATED FUNDS UNDER TITLE II.

Part A of title I of the Act (29 U.S.C. 1511 et seq.) is amended by adding at the end the following new section:

"RECAPTURE AND REALLOTMENT OF UNOBLIGATED FUNDS

"SEC. 109. (a) WITHIN STATE REALLOCATIONS.—

"(1) IN GENERAL.—For program years beginning on or after July 1, 1993, the Governor shall, in accordance with the requirements of this subsection, reallocate to eligible service delivery areas within the State funds appropriated for such program year that are available for reallocation.

"(2) AMOUNT.—The amount available for reallocation is equal to the amount by which the unobligated balance of the service delivery area allocation under part A or C of title II for all service delivery areas within the State at the end of the program year prior to the program year for which the determination under this subsection is made exceeds 15 percent of such allocation for the prior program year.

"(3) REALLOCATION.—The Governor shall reallocate the amounts available pursuant to paragraph (2) to eligible service delivery areas within the State that have the highest rates of unemployment for an extended period of time and to those with the highest poverty rates.

"(4) ELIGIBILITY.—For purposes of this subsection, an eligible service delivery area means a service delivery area that has obligated at least 85 percent of its allocation under part A or C of title II, respectively, for the program year prior to the program year for which the determination under this subsection is made.

"(b) REALLOTMENT AMONG STATES.—

"(1) IN GENERAL.—For program years beginning on or after July 1, 1993, the Secretary shall, in accordance with the requirements of this subsection, reallot to eligible States funds appropriated for such program year that are available for reallotment.

"(2) AMOUNT.—The amount available for reallotment is equal to the amount by which the unobligated balance of the State allotment under part A or C of title II, respectively, for all States at the end of the program year prior to the program year for which the determination under this subsection is made exceeds 15 percent of such allotment for that prior program year.

"(3) REALLOTMENT.—The Secretary shall reallot the amounts available pursuant to paragraph (2) to each eligible State an amount based on the relative amount allotted to such eligible State under part A or C of title II, respectively, for the program year the determination under this subsection is made compared to the total amount allotted to all eligible States under part A or C of title II, respectively, for such program year.

"(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State that has obligated at least 85 percent of its allocation under part A or C of title II, respectively, for the program year prior to the program year for which the determination under this subsection is made.

"(5) PROCEDURES.—The Governor of each State shall prescribe uniform procedures for the obligation of funds by service delivery areas within the State in order to avoid the requirement that funds be made available for reallotment under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and service delivery areas in the event that a State is required to make funds available for reallotment under this subsection.

"(d) CALCULATION.—Funds obligated to carry out programs under section 204(d) shall not be counted in determining the amount available for reallocation under subsection (a)(2) or the amount available for reallotment under subsection (b)(2).".

Subtitle C—Additional State Responsibilities

SEC. 121. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) REQUIREMENTS FOR PLAN.—Section 121(b) of the Act (29 U.S.C. 1531(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) The plan shall describe the measures taken by the State to ensure coordination and avoid duplication between the State agencies administering the JOBS program and programs under title II in the planning and delivery of services. The plan shall describe the procedures developed by the State to ensure that the State JOBS plan is consistent with the coordination criteria specified in this plan and identify the procedures developed to provide for the review of the JOBS plan by the State Job Training Coordinating Council.";

(2) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(3) by inserting the following new paragraph after paragraph (2):

"(3) The plan shall describe the projected use of resources, including oversight of program performance, program administration, and program financial management, capacity building, priorities and criteria for State incentive grants, and performance goals for State-supported programs. The description of capacity building shall include the Governor's plans for technical assistance to service delivery areas and service providers, interstate technical assistance and training arrangements, other coordinated technical assistance arrangements undertaken pursuant to the direction of the Secretary, and, where applicable, research and demonstration projects.

(b) CONFORMING AMENDMENTS.—Section 121(c) of the Act (29 U.S.C. 1531(c)) is amended—

(1) in paragraph (7), by inserting after the paragraph designation the following: "coordination of activities relating to part A of title II with";

(2) by striking "and" at the end of paragraph (10);

(3) by striking the period at the end of paragraph (11) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(12) making available to service delivery areas appropriate information and technical assistance to assist in developing and implementing joint programs, including youth corps programs, in which activities supported under this Act are coordinated with activities supported under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).".

SEC. 122. STATE EDUCATION COORDINATION AND GRANTS.

Section 123 of the Act (29 U.S.C. 1533) is amended to read as follows:

"STATE EDUCATION COORDINATION AND GRANTS

"SEC. 123. (a) ALLOTMENT.—

"(1) IN GENERAL.—The Secretary shall allot to the Governor for allocation to any State education agency the sums made available to carry out this section under sections 202(c)(1)(C) and 262(c)(1)(C) to pay for the Federal share of carrying out the projects described in paragraph (2). In allocating such funds to the State education agency, the Governor shall not establish requirements governing the geographic distribution of funds under this section.

"(2) PROJECTS.—Funds allocated under paragraph (1) may be used to pay for the Federal share of carrying out projects (in accordance with agreements under subsection (b)) that—

"(A) provide school-to-work transition services of demonstrated effectiveness that increase the rate of graduation from high school, or completion of the recognized equivalent thereof, including services that increase the rate at which school dropouts return to regular or alternative schooling and obtain a high school degree or its equivalent, and, which may include, services to support multiyear dropout prevention programs of demonstrated effectiveness;

"(B) provide literacy and lifelong learning opportunities and services of demonstrated effectiveness that—

"(i) enhance the knowledge and skills of educationally and economically disadvantaged individuals; and

"(ii) result in increasing the employment and earnings of such individuals;

"(C) provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment; and

"(D)(i) facilitate coordination of education and training services for eligible participants in projects described in subparagraphs (A), (B), and (C); or

"(ii)(I) support activities pertaining to a State human resources investment council that meets

the requirements of title VII and includes each of the programs described in clauses (i) through (vii) of section 701(b)(2)(A); or

"(II) support activities pertaining to a State council, which carries out functions similar to the functions of the State human resource investment council described in title VII, if such State council was established prior to July 1, 1992.

"(3) FEDERAL SHARE.—The Federal share of the cost of carrying out the projects described in paragraph (2) shall be 50 percent.

"(b) AGREEMENTS REQUIRED.—

"(1) PARTIES TO AGREEMENTS.—The projects described in subsection (a)(2) shall be conducted within a State in accordance with agreements that—

"(A) reflect the goals and services described in paragraphs (1), (2), and (3) of subsection (c); and

"(B) are developed between the State education agency, administrative entities in service delivery areas in the State, and other entities, such as other State agencies, local educational agencies, and alternative service providers (such as community-based and other nonprofit or for-profit organizations).

"(2) CONTENTS OF AGREEMENTS.—

"(A) CONTRIBUTION.—The agreements described in paragraph (1) shall provide for the contribution by the State, from funds other than the funds made available under this Act, of a total amount equal to the funds allotted under this section.

"(B) DIRECT COST OF SERVICES.—Such amount may include the direct cost of employment or training services—

"(i) provided by State or local programs or agencies; or

"(ii) provided by other Federal programs or agencies in accordance with applicable Federal law.

"(c) GOVERNOR'S PLAN REQUIREMENTS.—The State education agency shall submit for inclusion in the Governor's coordination and special services plan a description developed jointly by the State education agency and the Governor of—

"(1) the goals to be achieved and services to be provided by the school-to-work transition programs specified in subsection (a)(2)(A) that will receive the assistance, which description shall, at a minimum, include information regarding—

"(A) the activities and services that will result in increasing the number of youth staying in or returning to school and graduating from high school or the equivalent;

"(B) the work-based curriculum that will link classroom learning to work site experience and address the practical and theoretical aspects of work;

"(C) the opportunities that will be made available to participants to obtain career-path employment and postsecondary education;

"(D) the integration to be achieved, in appropriate circumstances, in the delivery of services between State and local educational agencies and alternative service providers, such as community-based and nonprofit organizations; and

"(E) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) title II and part B of title IV;

"(ii) the Elementary and Secondary Education Act (20 U.S.C. 2701 et seq.);

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(iv) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(v) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(vi) the JOBS program;

"(vii) the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77; 101 Stat. 482); and

"(viii) the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

"(2) the goals to be achieved and services to be provided by literacy and lifelong learning programs specified in subsection (a)(2)(B) that will receive the assistance, which description shall, at a minimum, include information regarding—

"(A) the activities and services that will increase the knowledge and skills of educationally and economically disadvantaged individuals, and result in increased employment and earnings for such individuals;

"(B) the integration to be achieved between projects assisted under this section and the 4-year State plan (and related needs assessment carried out for the plan) developed in accordance with section 342 of the Adult Education Act (20 U.S.C. 1206a);

"(C) the variety of settings, including workplace settings, in which literacy training and learning opportunities will be provided; and

"(D) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) titles II and III;

"(ii) the Adult Education Act;

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(iv) the Stewart B. McKinney Homeless Assistance Act;

"(v) the JOBS program;

"(vi) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(vii) the National Literacy Act of 1991 (Public Law 102–73);

"(viii) the Emergency Immigrant Education Act of 1984 (20 U.S.C. 3121 et seq.); and

"(ix) the National and Community Service Act of 1990;

"(3) the goals to be achieved and services to be provided by the nontraditional employment for women programs specified in subsection (a)(2)(C) that will receive the assistance; and

"(4) the proportion of funds received under this section that will be used to achieve the goals, and provide the services, described in paragraphs (1), (2), and (3).

"(d) SERVICE REQUIREMENTS.—

"(1) PERMITTED SERVICES.—Services funded under this section to carry out the projects described in subsection (a)(2) may include education and training, vocational education services, and related services, provided to participants under title II. In addition, services funded under this section may include services for offenders, veterans, and other individuals who the Governor determines require special assistance.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) COORDINATION OF SERVICES.—Not more than 20 percent of the funds allocated under this section may be expended to pay for the Federal share of projects described in subsection (a)(2)(D) at the State and local levels.

"(B) SCHOOL-TO-WORK SERVICES; LITERACY AND LIFELONG LEARNING SERVICES.—Not less than 80 percent of the funds allocated under this section shall be expended to pay for the Federal share of projects conducted in accordance with subparagraphs (A), (B), and (C) of subsection (a)(2).

"(C) ECONOMICALLY DISADVANTAGED INDIVIDUALS.—Not less than 75 percent of the funds allocated for projects under subparagraphs (A), (B), and (C) of subsection (a)(2) shall be expended for projects for economically disadvantaged individuals who experience barriers to employment. Priority for funds not expended for the economically disadvantaged shall be given to title III participants and persons with barriers to employment.

"(e) DISTRIBUTION OF FUNDS IN ABSENCE OF AGREEMENT.—If no agreement is reached in accordance with subsection (b) on the use of funds under this section, the funds shall be available to the Governor to achieve the goals and provide the services described in paragraph (1), (2), or (3) of subsection (c).

"(f) REPORTS AND RECORDS.—

"(1) REPORTS BY GOVERNORS.—The Governor shall prepare reports on the projects funded under this section, including such information as the Secretary may require to determine the extent to which the projects supported under this section result in achieving the goals specified in paragraphs (1), (2), and (3) of subsection (c). The Governor shall submit the reports to the Secretary at such intervals as shall be determined by the Secretary.

"(2) RECORDS AND REPORTS OF RECIPIENTS.—Each direct or indirect recipient of funds under this section shall keep records that are sufficient to permit the preparation of reports. Each recipient shall submit such reports to the Secretary, at such intervals as shall be determined by the Secretary.".

SEC. 123. IDENTIFICATION OF ADDITIONAL IMPOSED REQUIREMENTS.

Section 124 of the Act (29 U.S.C. 1534) is amended to read as follows:

"IDENTIFICATION OF ADDITIONAL IMPOSED REQUIREMENTS

"SEC. 124. If a State or service delivery area imposes a requirement, including a rule, regulation, policy, or performance standard, relating to the administration and operation of programs funded by this Act (including requirements based on State or service delivery area interpretation of any Federal law, regulation, or guideline) the State or area shall identify the requirement as a State- or service delivery area-imposed requirement.".

SEC. 124. STATE LABOR MARKET INFORMATION PROGRAMS.

Section 125(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) provide training and technical assistance to support comprehensive career guidance and participant activities for local programs assisted under this Act.".

Subtitle D—Program Requirements for Service Delivery System

SEC. 131. GENERAL PROGRAM REQUIREMENTS.

(a) RELOCATION.—Section 141(c) of the Act (29 U.S.C. 1551(c)) is amended to read as follows:

"(c)(1) No funds provided under this Act shall be used or proposed for use to encourage or induce the relocation, of an establishment or part thereof, that results in a loss of employment for any employee of such establishment at the original location.

"(2) No funds provided under this Act shall be used for customized or skill training, on-the-job training, or company specific assessments of job applicants or employees, for any establishment or part thereof, that has relocated, until 120 days after the date on which such establishment commences operations at the new location, if the relocation of such establishment or part thereof, results in a loss of employment for any employee of such establishment at the original location.

"(3) If a violation of paragraph (1) or (2) is alleged, the Secretary shall conduct an investigation to determine whether a violation has occurred.

"(4) If the Secretary determines that a violation of paragraph (1) or (2) has occurred, the Secretary shall require the State, service delivery area, or substate grantee that has violated paragraph (1) or (2) to—

"(A) repay to the United States an amount equal to the amount expended in violation of paragraph (1) or (2), in accordance with subsections (d) or (e) of section 164; and

"(B) pay an additional amount equal to the amount required to be repaid under subparagraph (A), unless the State, service delivery area, or substate grantee demonstrates to the Secretary that it neither knew nor reasonably could have known (after an inquiry undertaken with due diligence) that it provided funds in violation of paragraph (1) or (2).

"(5) Amounts received under paragraph (4)(B) shall be deposited in a special account in the Treasury for use by the Secretary for carrying out title III.".

(b) CHARGING OF COSTS.—Section 141(d)(3) of the Act (29 U.S.C. 1551(d)(3)) is amended—

(1) by inserting "(A)" after the paragraph (3) designation; and

(2) by inserting the following new subparagraphs:

"(B) Tuition charges for training or education provided by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) or a proprietary institution of higher education (as defined in section 481(b) of such Act (20 U.S.C. 1088(b))), that are not more than the charges for such training or education made available to the general public, do not require a breakdown of cost components.

"(C) With respect to funds provided from the allocation to a service delivery area for any program year that are expended by any community-based organization or non-profit organization for the cost of administration under part A or C of title II, the service delivery area shall not be subject to the limitation contained in section 108(b)(4)(A) if—

"(i) such funds are expended pursuant to an agreement under which not less than 90 percent of the funds provided to the community-based organization or nonprofit organization are to be expended for the costs of direct training and training-related and supportive services;

"(ii) the expenditures of such funds are charged by the service delivery area to the appropriate cost category;

"(iii) the expenditure of such funds does not result in the service delivery area exceeding the limitation contained in section 108(b)(4)(A) by more than 25 percent of such limitation; and

"(iv) the service delivery area is in compliance with the limitation contained in section 108(b)(4)(B) for such program year, except that such limitation shall be reduced by a percentage equal to one-half of the percentage by which the expenditures of the service delivery area under this subparagraph exceed the limitation under section 108(b)(4)(A).".

(c) PLACEMENT.—Section 141(d) of the Act (29 U.S.C. 1551(d)) is amended by adding at the end the following new paragraph:

"(4) Placements made in unsubsidized employment shall be, to the extent practicable, in occupational areas related to the training provided to the participant.".

(d) SERVICE DELIVERY AREA AGREEMENTS.—Section 141(e) of the Act (29 U.S.C. 1551(e)) is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following new paragraph:

"(2) Any service delivery area may enter into an agreement or contract with another service delivery area (including a service delivery area that is a city or county within the same labor market) to pay or share the cost of educating, training, or placing individuals participating in programs assisted under this Act, including the provision of supportive services. Such agreement or contract shall be approved by each private industry council providing guidance to the service delivery area and shall be described in the job training plan under section 104.".

(e) ON-THE-JOB TRAINING.—Section 141(g) of the Act (29 U.S.C. 1551(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following new paragraphs:

"(2) On-the-job training authorized under the Act for a participant shall be limited in duration to a period not in excess of that generally required for acquisition of skills needed for the position within a particular occupation, but in no event shall exceed 6 months, unless the total number of hours of such training is less than 500 hours. In determining the period generally required for acquisition of the skills, consideration shall be given to recognized reference material (such as the Dictionary of Occupational Titles), the content of the training of the participant, the prior work experience of the participant, and the service strategy of the participant.

"(3)(A) Each on-the-job training contract shall—

"(i) specify the types and duration of on-the-job training and the other services to be provided in sufficient detail to allow for a fair analysis of the reasonableness of proposed costs; and

"(ii) comply with the applicable requirements of section 164.

"(B) Each on-the-job training contract that is not directly contracted by a service delivery area with an employer (but instead is contracted through an intermediary brokering contractor) shall, in addition to meeting the requirements of subparagraph (A), specify the outreach, recruitment, participant training, counseling, placement, monitoring, followup, and other services to be provided directly by the brokering contractor within its own organization, the services to be provided by the employers conducting the on-the-job training, and the services to be provided, with or without cost, by other agencies and subcontractors.

"(C) If a brokering contractor enters into a contract with a subcontractor to provide training or other services, the brokering contractor shall ensure, through on-site monitoring, compliance with subcontract terms prior to making payment to the subcontractor.

"(4) In accordance with regulations issued by the Secretary, on-the-job training contracts under this Act shall not be entered into with employers who have received payments under previous contracts and have exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.".

(f) TRAINING SERVICES REQUIREMENT FOR SUBSIDIZED EMPLOYMENT.—Section 141(k) of the Act (29 U.S.C. 1551(k)) is amended by striking "section 205(d)(3)(B)" and inserting "subparagraphs (F) and (H) of section 264(c)(1)".

(g) PROGRAM INCOME.—Section 141(m) of the Act (29 U.S.C. 1551(m)) is amended to read as follows:

"(m)(1) Income under any program administered by a public or private nonprofit entity may be retained by such entity only if used to continue to carry out the program.

"(2) Income subject to the requirements of paragraph (1) shall include—

"(A) receipts from goods or services (including conferences) provided as a result of activities funded under the Act;

"(B) funds provided to a service provider under the Act that are in excess of the costs associated with the services provided; and

"(C) interest income earned on funds received under this Act.

"(3) For the purposes of this subsection, each entity receiving financial assistance under this Act shall maintain records sufficient to determine the amount of income received and the purposes for which such income is expended.".

(h) CROSS REFERENCE.—Section 141(p) of the Act (29 U.S.C. 1551(p)) is amended by striking "part A of title II" and inserting "part A or C of title II".

(i) ADDITIONAL REQUIREMENTS.—Section 141 of the Act is further amended by adding at the end the following new subsections:

"(q) No funds available under this Act shall be used for employment generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities. No funds under title II or III of this Act shall be used for foreign travel.

"(r) The Federal requirements governing the title, use, and disposition of real property, equipment, and supplies purchased with funds provided under this Act shall be the Federal requirements generally applicable to Federal grants to States and local governments.".

SEC. 132. BENEFITS.

Section 142 of the Act (29 U.S.C. 1552) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4) References in paragraphs (2) and (3) to section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1))—

"(A) shall be deemed to be references to section 6(c) of that Act for individuals in the Commonwealth of Puerto Rico;

"(B) shall be deemed to be references to 6(a)(3) of that Act for individuals in American Samoa; and

"(C) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act of 1938 does not apply."; and

(2) in subsection (b), by striking "other than programs" and inserting "other than as provided".

SEC. 133. LABOR STANDARDS.

Section 143(b)(2) of the Act (29 U.S.C. 1553(b)(2)) is amended to read as follows:

"(2) No program under this Act shall impair—

"(A) existing contracts for services; or

"(B) existing collective bargaining agreements, unless the employer and the labor organization concur in writing with respect to any elements of the proposed activities which affect such agreement, or either such party fails to respond to written notification requesting its concurrence within 30 days of receipt thereof.".

SEC. 134. GRIEVANCE PROCEDURE.

(a) IN GENERAL.—Section 144 of the Act (29 U.S.C. 1554) is amended by adding at the end the following new subsections:

"(d)(1) If a person alleges a violation of section 143 and such person exhausts the recipient's grievance procedure or the 60-day time period described in subsection (a) has elapsed without a decision, either party to such procedure may submit the grievance to the Secretary. The Secretary shall investigate the allegations contained in the grievance and make a determination as to whether a violation of section 143 has occurred.

"(2) If the results of the investigation conducted pursuant to paragraph (1) indicate that a modification or reversal of the decision issued pursuant to the recipient's grievance procedure is warranted, or the 60-day time period described in subsection (a) has elapsed without a decision, the Secretary may modify or reverse the decision, or issue a decision if no decision has been issued, as the case may be, after an opportunity for a hearing in accordance with the procedures under section 166.

"(3) If the Secretary determines that the decision issued pursuant to the recipient's grievance procedure is appropriate, the determination shall become the final decision of the Secretary.

"(e)(1) A person alleging a violation of section 143 may, as an alternative to the procedures described in this section, submit the grievance involving such violation to a binding grievance procedure if a collective bargaining agreement covering the parties to the grievance so provides.

"(2) The remedies available under paragraph (1) shall be limited to the remedies available under subsection (f)(1)(C) and subsection (f)(2).

"(f)(1) Except as provided in paragraph (2), remedies available to grievants under this section for violations of section 143 shall be limited to—

"(A) suspension or termination of payments under this Act;

"(B) prohibition of placement of a participant, for an appropriate period of time, in a program under this Act with an employer that has violated section 143, as determined under subsection (d) or (e); and

"(C) appropriate equitable relief (other than back pay).

"(2) In addition to the remedies available under paragraph (1), remedies available under this section for violations of subsection (a)(4), paragraphs (1) and (3) of subsection (b), and subsection (d) of section 143 may include—

"(A) reinstatement of the grievant to the position held by such grievant prior to displacement;

"(B) payment of lost wages and benefits; and

"(C) reestablishment of other relevant terms, conditions, and privileges of employment.

"(g) Nothing in subsection (f) shall be construed to prohibit a grievant from pursuing a remedy authorized under another Federal, State, or local law for a violation of section 143.".

(b) CONFORMING AMENDMENT.—Section 166(a) of the Act (29 U.S.C. 1576(a)) is amended in the 3rd sentence by inserting "section 141(c), subsections (d) and (e) of section 144, or" after "Except to the extent provided for in".

Subtitle E—Federal and Fiscal Administrative Provisions

SEC. 141. PROMPT ALLOCATION OF FUNDS.

Section 162 of the Act (29 U.S.C. 1572) is amended by adding at the end the following new subsection:

"(f) When contracting with nonprofit organizations of demonstrated effectiveness, the Secretary, States, substate areas, and service delivery areas may make advance payments, provided that such payments are based on the financial need of such organization and are not in excess of 20 percent of the total contract amount.".

SEC. 142. FISCAL CONTROLS; SANCTIONS.

(a) FISCAL CONTROLS.—Section 164(a) of the Act (29 U.S.C. 1579(a)) is amended to read as follows:

"(a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. Such procedures shall ensure that all financial transactions are conducted and records maintained in accordance with generally accepted accounting principles applicable in each State.

"(2) The Secretary shall prescribe regulations establishing uniform cost principles substantially equivalent to such principles generally applicable to recipients of Federal grants funds. At a minimum, such standards shall provide that, to be allowable, costs must—

"(A) be necessary and reasonable for proper and efficient administration of the program under this Act;

"(B) be allocable to the program under this Act; and

"(C) not be a general expense required to carry out the overall responsibilities of State, local, or federally recognized Indian tribal governments except as specifically provided by this Act.

"(3) The Governor, in accordance with minimum requirements established by the Secretary in regulations, shall prescribe and implement procurement standards to ensure fiscal accountability and prevent fraud and abuse in programs administered under this Act. The Secretary, in establishing such minimum requirements, shall consult with the Inspector General of the Department of Labor and take into consideration relevant aspects of the circulars issued by the Director of the Office of Management and Budget. Such minimum requirements shall include provisions to ensure that for States, substate areas, and service delivery areas—

"(A) procurements shall be conducted in a manner providing full and open competition;

"(B) the use of sole source procurements shall be minimized to the extent practicable, but in every case shall be justified;

"(C) procurements shall include an appropriate analysis of the reasonableness of costs and prices;

"(D) procurements shall not provide excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities), and that appropriate factors shall be utilized in determining whether such income or profit is excessive, such as—

"(i) the complexity of the work to be performed;

"(ii) the risk borne by the contractor; and

"(iii) market conditions in the surrounding geographical area;

"(E) procurements shall clearly specify deliverables and the basis for payment;

"(F) written procedures shall be established for procurement transactions;

"(G) no grantee, contractor, subgrantee, or subcontractor shall engage in any conflict of interest, actual or apparent, in the selection, award, or administration of a contract or grant under this Act;

"(H) all grantees and subgrantees shall conduct oversight to ensure compliance with procurement standards; and

"(I) procurement transactions between units of State or local governments, and any other entities organized principally as the administrative entity for service delivery areas, shall be conducted on a cost reimbursable basis.

"(4) The Governor shall annually conduct onsite monitoring of each service delivery area and substate area within the State to ensure compliance with the procurement standards established pursuant to paragraph (3).

"(5) If the Governor determines that a service delivery area or substate area is not in compliance with the procurement standards established pursuant to paragraph (3), the Governor shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

"(6) The Governor shall biennially certify to the Secretary that—

"(A) the State has implemented the procurement standards established under paragraph (3);

"(B) the State has monitored substate areas and service delivery areas to ensure compliance with the procurement standards as required under paragraph (4); and

"(C) the State has taken appropriate action to secure compliance pursuant to paragraph (5).

"(7) If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsection (f) in the event of failure of the Governor to take the required corrective action.

"(8) The Secretary, in consultation with the Inspector General, shall review the implementation of this subsection and submit a report to the appropriate committees of the Congress, not later than October 1, 1995, evaluating the effectiveness of this subsection in ensuring fiscal accountability and containing such recommendations as the Secretary determines to be appropriate.".

(b) CONSEQUENCES OF FAILURES.—Section 164(b) of the Act (29 U.S.C. 1574(b)) is amended to read as follows:

"(b)(1) If, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this Act or the regulations under this Act, and corrective action has not been taken, the Governor shall—

"(A) issue a notice of intent to revoke approval of all or part of the plan affected; or

"(B) impose a reorganization plan, which may include—

"(i) restructuring the private industry council involved;

"(ii) prohibiting the use of designated service providers;

"(iii) selecting an alternative entity to administer the program for the service delivery area involved;

"(iv) merging the service delivery area into 1 or more other existing service delivery areas; or

"(v) other such changes as the Secretary or Governor determines necessary to secure compliance.

"(2)(A) The actions taken by the Governor pursuant to paragraph (1)(A) may be appealed to the Secretary under the same terms and conditions as the disapproval of the plan and shall not become effective until—

"(i) the time for appeal has expired; or

"(ii) the Secretary has issued a decision.

"(B) The actions taken by the Governor pursuant to paragraph (1)(B) may be appealed to the Secretary, who shall make a final decision not later than 60 days of the receipt of the appeal.

"(3) If the Governor fails to promptly take the actions required under paragraph (1), the Secretary shall take such actions.".

SEC. 143. REPORTS, RECORDKEEPING, AND INVESTIGATIONS.

(a) STANDARDIZED RECORDS.—Section 165(a) of the Act (29 U.S.C. 1575(a)) is amended by adding at the end the following new paragraphs:

"(3) In order to allow for the preparation of national estimates necessary to meet the requirements of subsection (c), recipients shall maintain standardized records for all individual participants and provide to the Secretary a sufficient number of such records to provide for an adequate analysis.

"(4)(A) Except as provided in subparagraph (B), records maintained by recipients pursuant to this subsection shall be made available to the public upon request.

"(B) Subparagraph (A) shall not apply to—

"(i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

"(ii) trade secrets, or commercial or financial information, obtained from a person and privileged or confidential.

"(C) Recipients may charge fees sufficient to recover costs applicable to the processing of requests for records under subparagraph (A).".

(b) AUDIT NOTICE.—Section 165(b) is amended by adding the following new paragraph:

"(3)(A) In carrying out any audit under this Act (other than any initial audit survey or any

audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General, or the Comptroller General shall furnish to the State, administrative entity, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not fewer than 14 days (or as soon as practicable), prior to the commencement of the audit.

"(B) If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

"(C) The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding.

"(D) Nothing contained in this Act shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General.".

(c) MONITORING OF SERVICE PROVIDERS.—Section 165(c) of the Act (29 U.S.C. 1575(c)) is amended to read as follows:

"(c) Each State, each administrative entity, and each recipient (other than a subrecipient, grantee or contractor of a recipient) receiving funds under this Act shall—

"(1) make readily accessible reports concerning its operations and expenditures as shall be prescribed by the Secretary;

"(2) prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 167; and

"(3) monitor the performance of service providers in complying with the terms of grants, contracts, or other agreements made pursuant to this Act.".

(d) REPORT INFORMATION; RECORD RETENTION.—Section 165 of the Act is further amended by adding the following new subsections:

"(d)(1) The reports required in subsection (c) shall include information pertaining to—

"(A) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information regarding participants;

"(B) the activities in which participants are enrolled, and the length of time that participants are engaged in such activities;

"(C) program outcomes, including occupations, for participants;

"(D) specified program costs; and

"(E) information necessary to prepare reports to comply with section 167.

"(2) The Secretary shall ensure that all elements of the information required for the reports described in paragraph (1) are defined and reported uniformly.

"(e) The Governor shall ensure that requirements are established for retention of all records pertinent to all grants awarded, and contracts and agreements entered into, under this Act, including financial, statistical, property and participant records and supporting documentation. For funds allotted to a State for any program year, records shall be retained for 2 years following the date on which the annual expenditure report containing the final expenditures charged to such program year's allotment is submitted to the Secretary. Records for nonexpendable property shall be retained for a period of 3 years after final disposition of the property.

"(f)(1) Each substate grantee and service delivery area shall submit quarterly financial reports to the Governor with respect to programs under this Act. Such reports shall include information identifying all program costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation.

"(2) Each State shall submit a summary of the reports submitted pursuant to paragraph (1) to the Secretary on a quarterly basis.

"(g) Each State, substate grantee, and service delivery area shall maintain records with respect to programs under this Act that identify—

"(1) any program income or profits earned, including such income or profits earned by subrecipients; and

"(2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

"(h)(1) The Secretary shall conduct a biennial study on the provision of supportive services under programs conducted pursuant to title II. Such study shall identify—

"(A) the amount and proportion of funds expended for supportive services under title II;

"(B) the types of supportive services provided;

"(C) the relative share of funds expended for each type of supportive service;

"(D) the characteristics of the participants receiving supportive services; and

"(E) such other factors as the Secretary determines to be appropriate.

"(2) The Secretary shall submit a report to the Congress containing the results of each study conducted pursuant to paragraph (1).".

SEC. 144. NONDISCRIMINATION.

Section 167 of the Act (29 U.S.C. 1577) is amended by adding at the end the following new subsections:

"(e)(1) The head of the office of the Department of Labor referred to as the 'Directorate for Civil Rights' shall annually prepare a report on the administration and enforcement of this section.

"(2) The report required by paragraph (1) shall include—

"(A) an identification of the service delivery areas and States that have been determined, during the preceding program year, not to be in compliance with this section;

"(B) for each such identification, the date on which the inquiry was begun and whether the inquiry was initiated on the basis of a complaint or at the initiative of the Department;

"(C) an identification of the service delivery areas and States awaiting findings by the Directorate;

"(D) the number of service delivery areas and States that, during the preceding year, were determined not to be in compliance with this section, and the number for which insufficient data prevented the making of such a determination, identifying the type of data which is missing or inadequate;

"(E) a statistical summary, broken down by race, sex, national origin, disability, or age, of the number of inquiries undertaken and their outcomes;

"(F) an identification of any service delivery area or State that has been determined, during the preceding year, to have failed to conduct objective assessments as required by sections 204 and 264 on a nondiscriminatory basis;

"(G) the amount expended by the Directorate for the administration and enforcement of this section, and the number and percentage of full-time employees, and the full-time equivalent of the part-time employees, engaged in such administration and enforcement;

"(H) the number of onsite visits conducted each year, and whether the visits were initiated by the Department or by complaint;

"(I) the number of cases referred to the Attorney General, and for such cases—

"(i) the civil actions taken by the Attorney General thereon; and

"(ii) the use, by the Secretary, of the authority of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (29 U.S.C. 621 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

"(J) a description of any other actions taken by the Secretary under or related to the administration and enforcement of this section.

"(3) The report required by this subsection shall be submitted to the Congress as part of the Secretary's annual report under section 169(d).

"(f) In addition to any other sums authorized to be appropriated under Federal law, there are authorized to be appropriated for the operations and expenses of the Directorate such sums as may be necessary for the purpose of increasing the number of full time equivalent personnel available to the Directorate in order to comply with the requirements of this section.

"(g) The Secretary shall issue final regulations implementing this section not later than 90 days after the date of the enactment of the Job Training Reform Amendments of 1992.".

SEC. 145. UTILIZATION OF SERVICES AND FACILITIES.

Section 170 of the Act (29 U.S.C. 1580) is amended by striking "and to the extent" and inserting "under the same conditions applicable under section 169(c) or to the extent".

TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

SEC. 201. ADULT TRAINING PROGRAM.

The Act (29 U.S.C. 1501 et seq.) is amended by striking title II and inserting the following:

"TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

"Part A—Adult Training Program

"SEC. 201. STATEMENT OF PURPOSE.

"It is the purpose of this part to establish programs to prepare adults for participation in the labor force by increasing their occupational and educational skills, resulting in improved long-term employability, increased employment and earnings, and reduced welfare dependency.".

SEC. 202. ADULT TRAINING PROGRAM ALLOTMENT AND ALLOCATION.

Title II of the Act (as amended by section 201) is further amended by adding at the end the following:

"SEC. 202. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

"(2) STATE RESERVATION.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot 77 percent of the remainder to the States for allocation to service delivery areas within each State. Each State shall allocate to each service delivery area within the State the amount determined by the Secretary for such service delivery area pursuant to the formula contained in subsection (b). The remaining 23 percent shall be allotted in accordance with subsection (c).

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—

"(1) FORMULA.—Subject to the provisions of paragraph (2), of the amounts allocated to service delivery areas for this part for each fiscal year—

"(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment within each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all service delivery areas in all States;

"(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals within each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in all States; and

"(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged adults within each service delivery area as compared to the total number of economically disadvantaged adults in all service delivery areas in all States, except that for any service delivery area described in section 101(a)(4)(A)(iii), the allocation shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged adults in such area.

"(2) LIMITATIONS.—

"(A) MINIMUM PERCENTAGE.—No service delivery area shall be allocated less than 90 percent of its allocation percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(B) MAXIMUM PERCENTAGE.—No service delivery area shall be allocated more than 130 percent of its allocation percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) STATE MINIMUM.—Notwithstanding subparagraphs (A) and (B), the total allocation for all service delivery areas within any one State shall not be less than one-quarter of 1 percent of the total allocated to all service delivery areas in all States.

"(D) ALLOCATION PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraphs (A) and (B), the allocation percentage of a service delivery area for a fiscal year shall be the percentage of funds allocated to the service delivery area under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraphs (A) and (B), the allocation percentage of a service delivery area for fiscal year 1992 shall be the percentage of funds allocated to the service delivery area under part A of title II.

"(c) STATE ACTIVITIES.—

"(1) DIVISION.—Of the remaining 23 percent of funds available for allotment to States under this part for each fiscal year—

"(A) 5 percent of the funds available for such allotment under this part shall be allotted to the States in accordance with paragraph (2), for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122;

"(B) 5 percent of the funds available for such allotment under this part shall be allotted to the States in accordance with paragraph (2), to provide incentive grants authorized under section 106(b)(7), in accordance with paragraph (3);

"(C) 8 percent of the funds available for such allotment under this part shall be allotted to the States in accordance with paragraph (2) to carry out section 123; and

"(D) 5 percent of the funds available for such allotment under this part shall be allotted to carry out section 204(d).

"(2) FORMULA FOR ALLOTMENT.—The allotments to each State described in paragraph (1) shall be based on the relative amount of funds allocated to all service delivery areas within such State under subsection (b) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (b).

"(3) OTHER USES.—

"(A) CAPACITY BUILDING AND TECHNICAL ASSISTANCE.—The Governor may use up to 33 percent of the amount allotted under paragraph (1)(B) for providing capacity building and technical assistance to service delivery areas and service providers. Such use of funds may include the development and training of service delivery area and service provider staff and the development of exemplary program activities.

"(B) NONDUPLICATION AND COORDINATION.—Funds used under subparagraph (A)—

"(i) may not be used to duplicate the activities of the Capacity Building and Information and Dissemination Network established under section 453(b); and

"(ii) shall, to the extent practicable, be used to coordinate the activities under subparagraph (A) with the activities of the Network under section 453(b).

"(d) DEFINITIONS AND RULE.—

"(1) DEFINITIONS.—As used in this section:

"(A) ECONOMICALLY DISADVANTAGED ADULT.—The term 'economically disadvantaged adult' means an individual who is age 22 through 72 and who has, or is a member of a family that has, received a total family income that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' means, with respect to the excess number of unemployed individuals within a service delivery area, the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area, or the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such service delivery area.

"(C) STATE.—The term 'State' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged adults.".

SEC. 203. ADULT TRAINING PROGRAM ELIGIBILITY AND SERVICES.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

"SEC. 203. ELIGIBILITY FOR SERVICES.

"(a) IN GENERAL.—Except as provided in subsection (c), an individual shall be eligible to participate in the program under this part only if such individual is—

"(1) 22 years of age or older; and

"(2) economically disadvantaged.

"(b) HARD-TO-SERVE INDIVIDUALS.—Not less than 65 percent of the participants in the program under this part, other than participants served under section 204(d), in each service delivery area shall be individuals who are included in 1 or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals who are school dropouts.

"(3) Individuals who are recipients of cash welfare payments, including recipients under the JOBS program.

"(4) Individuals who are offenders.

"(5) Individuals with disabilities.

"(6) Individuals who are homeless.

"(7) Individuals who are in a category established under subsection (d).

"(c) SPECIAL RULE.—Not more than 10 percent of participants in a program assisted under this part, other than participants served under section 204(d), in each service delivery area may be individuals who are not economically disadvantaged if such individuals are age 22 or older and within 1 or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in subsection (b), or categories such as displaced homemakers, veterans, alcoholics, or addicts.

"(d) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of individuals who face serious barriers to employment to the categories of eligible individuals described in subsection (b) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the additional category of individuals is not solely comprised of—

"(A) individuals with a poor work history; or

"(B) individuals who are unemployed; and

"(3) the Governor approves the request submitted under paragraph (1) and transmits a description of the approved request to the Secretary, as part of the Governor's coordination and special services plan under section 121.

"SEC. 204. PROGRAM DESIGN.

"(a) ESSENTIAL ELEMENTS.—

"(1) IN GENERAL.—The programs under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, which shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program);

"(B) development of service strategies that shall identify the employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for participants taking into account the assessments conducted pursuant to subparagraph (A), except that a new service strategy for a participant is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) each of the following services, which shall be provided either directly or through arrangement with other programs to a participant where the assessment and the service strategy indicate such services are appropriate:

"(i) Basic skills training.

"(ii) Occupational skills training.

"(iii) Supportive services.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) INFORMATION AND REFERRALS.—Each service delivery area shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services that are available through the service delivery area or other service providers, including those receiving funds under this Act; and

"(ii) referral to appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who *does not meet the enrollment requirements of its particular program or who cannot be served shall be referred to the service delivery area for further assessment, as necessary, and referral to appropriate programs in accordance with subparagraph (A) to meet the basic skills and training needs of the applicant.*

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made pursuant to clause (i), and shall maintain appropriate records of such referrals and the basis for such referrals.

"(b) AUTHORIZED SERVICES.—Subject to the limitations contained in subsection (c), services that may be made available to each participant under this part may include—

"(1) direct training services, including—

"(A) basic skills training, including remedial education, literacy training, and English-as-a-second-language instruction;

"(B) institutional skills training;

"(C) on-the-job training;

"(D) assessment of the skill levels and service needs of participants;

"(E) counseling, such as job counseling and career counseling;

"(F) case management services;

"(G) education-to-work transition activities;

"(H) programs that combine workplace training with related instruction;

"(I) work experience;

"(J) programs of advanced career training that provide a formal combination of on-the-job and institutional training and internship assignments that prepare individuals for career employment;

"(K) training programs operated by the private sector, including programs operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply;

"(L) skill upgrading and retraining;

"(M) bilingual training;

"(N) entrepreneurial training;

"(O) vocational exploration;

"(P) training programs to develop work habits to help individuals obtain and retain employment;

"(Q) attainment of certificates of high school equivalency;

"(R) preapprenticeship programs;

"(S) on-site, industry-specific training programs supportive of industrial and economic development;

"(T) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training; and

"(U) use of advanced learning technology for education, job preparation, and skills training; and

"(2) training-related and supportive services, including—

"(A) job search assistance;

"(B) outreach to make individuals aware of, and encourage the use of, employment and training services, including efforts to expand awareness of training and placement opportunities for limited-English proficient individuals and individuals with disabilities;

"(C) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment;

"(D) specialized surveys not available through other labor market information sources;

"(E) dissemination of information on program activities to employers;

"(F) development of job openings;

"(G) programs coordinated with other Federal employment-related activities;

"(H) supportive services, as defined in section 4(24), necessary to enable individuals to participate in the program;

"(I) needs-based payments and financial assistance;

"(J) followup services with participants placed in unsubsidized employment; and

"(K) services to obtain job placements for individual participants.

"(c) DESIGN OF SERVICES.—

"(1) WORKPLACE CONTEXT AND INTEGRATION.—Basic skills training provided under this part shall, in appropriate circumstances, have a workplace context and be integrated with occupational skills training.

"(2) BASIC EDUCATION OR OCCUPATIONAL SKILLS.—

"(A) ADDITIONAL SERVICES.—Except as provided in subparagraph (B), work experience, job search assistance, job search skills training, and job club activities provided under this part shall be accompanied by additional services designed to increase the basic education or occupational skills of a participant.

"(B) LACK OF APPROPRIATENESS AND AVAILABILITY.—Each program assisted under this part may only provide job search assistance, job search skills training, and job club activities to a participant without the additional services described in subparagraph (A) if—

"(i) the assessment and service strategy of a participant indicate that the additional services are not appropriate; and

"(ii) the activities are not available to the participant .through the employment service or other public agencies.

"(3) NEEDS-BASED PAYMENTS.—Needs-based payments and financial assistance provided under this part shall be limited to payments necessary for participation in the program assisted under this part in accordance with a locally developed formula or procedure.

"(4) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services provided under this part may be provided to a participant for a period up to 1 year after the date on which the participant completes the program.

"(5) PROHIBITION ON PRIVATE ACTIONS.—Nothing in this section shall be construed to establish a right for a participant to bring an action to obtain services described in the assessment or service strategy developed under subsection (a)(1).

"(6) VOLUNTEERS.—The service delivery area shall make opportunities available for individuals who have successfully participated in programs under this part to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

"(d) SERVICES FOR OLDER INDIVIDUALS.—

"(1) IN GENERAL.—The Governor is authorized to provide for job training programs that are developed in conjunction with service delivery areas within the State and that are consistent with the plan for the service delivery area prepared and submitted in accordance with section 104, and designed to ensure the training and placement of older individuals in employment opportunities with private business concerns. The Governor shall ensure that the program under this subsection provides services throughout the State to older individuals on an equitable basis, taking into account the relative share of the population of older individuals described in paragraph (6)(A) within the State, residing in each service delivery area.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—In carrying out this subsection, the Governor shall, after consultation with appropriate private industry councils and chief elected officials, enter into agreements with public agencies, nonprofit private organizations (including veterans organizations), private industry councils, service delivery areas, and private business concerns.

"(B) PRIORITY.—In entering into the agreements described in subparagraph (A), the Governor shall give priority to national, State, and local agencies and organizations that have a record of demonstrated effectiveness in providing training and employment services to such older individuals.

"(3) CONSIDERATIONS.—The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

"(4) COORDINATION.—In providing the services required by this subsection, the Governor shall make efforts to coordinate the delivery of such services with the delivery of services under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

"(5) ELIGIBILITY.—

"(A) ECONOMICALLY DISADVANTAGED.—Except as provided in subparagraph (B), an individual shall be eligible to participate in a job training program under this subsection only if the individual is economically disadvantaged and is an older individual.

"(B) SPECIAL RULE.—

"(i) INDIVIDUALS FACING SERIOUS BARRIERS TO EMPLOYMENT.—An individual who is not economically disadvantaged as described in subparagraph (A) shall be eligible to participate in a job training program under this subsection if the individual faces serious barriers to employment, is an older individual, and meets income eligibility requirements under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) subject to clause (ii).

"(ii) LIMITATION.—Not more than 10 percent of all participants in a program assisted under this subsection shall be individuals who are not economically disadvantaged.

"(6) APPLICABLE REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the requirements of this Act applicable to programs conducted under this subsection shall be the same requirements applicable to the other programs conducted under this part.

"(B) EXCEPTIONS.—

"(i) PROVISIONS NOT APPLICABLE.—The provisions of section 104, subsections (b)(7) and (j) of section 106, section 109, section 203, and section 204(a)(2) shall not be applicable to programs conducted under this subsection.

"(ii) GOVERNOR.—With respect to the application of sections 106(b), 108(b), 141(d)(3)(C), and 205 to programs conducted under this subsection, the term 'service delivery area', as used in such provisions, means the Governor.

"(7) DEFINITION.—As used in this subsection, the term 'older individual' means an individual age 55 or older.

"SEC. 205. LINKAGES.

"(a) IN GENERAL.—In conducting the program assisted under this part, service delivery areas shall establish appropriate linkages with other Federal programs. Such programs shall include, where feasible, programs assisted under—

"(1) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(3) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(4) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

"(5) the employment program established under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

"(6) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(7) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(8) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

"(9) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

"(10) the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77; 101 Stat. 482);

"(11) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

"(12) the National Literacy Act of 1991 (Public Law 102–73);

"(13) the Head Start Act (42 U.S.C. 9831 et seq.) (for purposes of child care services); and

"(14) any other provisions of this Act.

"(b) OTHER APPROPRIATE LINKAGES.—In addition to the linkages required under subsection (a), each service delivery area receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with local educational agencies, local service agencies, public housing agencies, community-based organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development, and social service programs.

"SEC. 206. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the amounts allocated to the service delivery area under section 202(b) to the program under part C if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.".

SEC. 204. SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

"Part B—Summer Youth Employment and Training Program

"SEC. 251. PURPOSE.

"It is the purpose of programs assisted under this part—

"(1) to enhance the basic educational skills of youth;

"(2) to encourage school completion or enrollment in supplementary or alternative school programs;

"(3) to provide eligible youth with exposure to the world of work; and

"(4) to enhance the citizenship skills of youth.

"SEC. 252. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT AND ALLOCATION.

"(a) TERRITORIAL AND NATIVE AMERICAN ALLOCATION.—From the funds appropriated under section 3(a)(2), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, the Commonwealth of the Northern Mariana Islands, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

"(b) USE OF PART C FORMULA FOR ALLOTMENT AND ALLOCATION.—The remainder of funds appropriated under section 3(a)(2) shall, for each fiscal year, be allotted among States and allocated among service delivery areas in accordance with section 262, except that no portion of such funds shall be reserved to carry out subsection (a)(1) or (c) of such section.

"SEC. 253. USE OF FUNDS.

"(a) IN GENERAL.—Funds available under this part may be used for—

"(1) basic and remedial education, institutional and on-the-job training, work experience programs, youth corps programs, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search assistance and job club activities, activities under programs described in section 265(b), and any other employment or job training activity designed to give employment to eligible individuals or prepare the individuals for, and place the individuals in, employment;

"(2) supportive services necessary to enable such individuals to participate in the program; and

"(3) administrative costs, not to exceed 15 percent of the funds available under this part.

"(b) BASIC AND REMEDIAL EDUCATION.—

"(1) IN GENERAL.—A service delivery area shall expend funds (available under this Act or otherwise available to the service delivery area) for basic and remedial education and training as described in the job training plan under section 104.

"(2) EDUCATION OR TRAINING.—The education and training authorized by paragraph (1) may be provided by—

"(A) the year-round program under part C;

"(B) the Job Corps;

"(C) the JOBS program;

"(D) youth corps programs;

"(E) alternative or secondary schools; or

"(F) other education and training programs.

"(c) ASSESSMENT AND SERVICE STRATEGY.—

"(1) ASSESSMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the programs under this part shall include an objective assessment of the basic skills and supportive services needs of each participant, which may include a review of occupational skills, prior work experience, employability, interests, and aptitudes.

"(B) RECENT ASSESSMENT.—A new assessment, or a factor of such assessment, of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program or a regular high school academic program).

"(2) SERVICE STRATEGY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the programs under this part shall include a service strategy for participants, which may identify achievement objectives, appropriate employment goals, and appropriate services for participants, taking into account the assessments conducted under paragraph (1).

"(B) RECENT SERVICE STRATEGY.—A new service strategy for a participant is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program or a regular high school academic program).

"(d) FOLLOWUP SERVICES.—Service delivery areas shall make followup services available for participants if the service strategy indicates such services are appropriate.

"SEC. 254. LIMITATIONS.

"(a) USE DURING SUMMER MONTHS OR EQUIVALENT VACATION PERIOD.—

"(1) SUMMER MONTHS.—Except as provided in paragraph (2), programs under this part shall be conducted during the summer months.

"(2) VACATION PERIOD.—A service delivery area may, within the jurisdiction of any local educational agency that operates schools on a year-round, full-time basis, offer the programs under this part to participants during a vacation period treated as the equivalent of a summer vacation.

"(b) ELIGIBILITY.—An individual shall be eligible to participate in the program assisted under this part if such individual—

"(1) is age 14 through 21; and

"(2)(A) is economically disadvantaged; or

"(B) has been determined to meet the eligibility requirements for free meals under the National School Lunch Act (42 U.S.C. 1751 et seq.) during the most recent school year.

"(c) CONCURRENT ENROLLMENT.—

"(1) IN GENERAL.—An eligible individual participating in a program assisted under this part may concurrently be enrolled in programs under part C. Appropriate adjustment to the youth performance standards (regarding attainment of competencies) under paragraphs (4)(A)(i) and (5) of section 106(b) shall be made to reflect the limited period of participation.

"(2) CONCURRENT ENROLLMENT AND TRANSFERS.—Youth being served under this part or part C youth programs are not required to be terminated from participation in one program in order to enroll in the other. The Secretary shall provide guidance to service delivery areas on simplified procedures for concurrent enrollment and transfers for youth from one program to the other.

"SEC. 255. APPLICABLE PROVISIONS.

"(a) COMPARABLE FUNCTIONS OF AGENCIES AND OFFICIALS.—Private industry councils established under title I, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as the private industry councils, chief elected officials, State job training coordinating councils, and Governors have with respect to funds available under parts A and C.

"(b) PROGRAM GOALS AND OBJECTIVES.—Each service delivery area shall establish written program goals and objectives that shall be used for evaluating the effectiveness of programs conducted under this part. Such goals and objectives may include—

"(1) improvement in school retention and completion;

"(2) improvement in academic performance, including mathematics and reading comprehension;

"(3) improvement in employability skills; and

"(4) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol abuse prevention and treatment programs.".

SEC. 205. SUMMER YOUTH PROGRAM TRANSFER OF FUNDS.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

"SEC. 256. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the program under part C if such transfer is approved by the Governor.".

SEC. 206. YOUTH TRAINING PROGRAM.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

"Part C—Youth Training Program

"SEC. 261. STATEMENT OF PURPOSE.

"It is the purpose of the programs assisted under this part to improve the long-term employability of youth, enhance the educational, occupational, and citizenship skills of youth, encourage school completion or enrollment in alternative school programs, increase the employment and earnings of youth, reduce welfare dependency, and assist youth in addressing problems that impair the ability of youth to make successful transitions from school to work, apprenticeship, the military, or postsecondary education and training.".

SEC. 207. YOUTH TRAINING PROGRAM ALLOTMENT AND ALLOCATION.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

"SEC. 262. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

"(2) STATE RESERVATION.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot 82 percent of the remainder to the States for allocation to service delivery areas within each State. Each State shall allocate to each service delivery area within the State the amount determined by the Secretary for such service delivery area pursuant to the formula contained in subsection (b). The remaining 18 percent shall be allotted in accordance with subsection (c).

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—

"(1) FORMULA.—Subject to the provisions of paragraph (2), of the amounts allocated to service delivery areas for this part for each fiscal year—

"(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment within each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all service delivery areas in all States;

"(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals within each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in all States; and

"(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged youth within each service delivery area as compared to the total number of economically disadvantaged youth in all service delivery areas in all States except that, for any service delivery area described in section 101(a)(4)(A)(iii), the allocation shall be based on the higher of the number of youth in families with an income below the low-income level in such area or the number of economically disadvantaged youth in such area.

"(2) LIMITATIONS.—

"(A) MINIMUM PERCENTAGE.—No service delivery area shall be allocated less than 90 percent of its allocation percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(B) MAXIMUM PERCENTAGE.—No service delivery area shall be allocated more than 130 percent of its allocation percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) STATE MINIMUM.—Notwithstanding subparagraphs (A) and (B), the total allocation for all service delivery areas within any one State shall not be less than one-quarter of 1 percent of the total allocated to all service delivery areas in all States.

"(D) ALLOCATION PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraphs (A) and (B), the allocation percentage of a service delivery area for a fiscal year shall be the percentage of funds allocated to the service delivery area under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraphs (A) and (B), the allocation percentage of a service delivery area for fiscal year 1992 shall be the percentage of funds allocated to the service delivery area under part A of title II.

"(c) STATE ACTIVITIES.—

"(1) DIVISION.—Of the remaining 18 percent of funds available for allotment to States under this part for each fiscal year—

"(A) 5 percent of the funds available for such allotment under this part shall be allotted to the States in accordance with paragraph (2), for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122;

"(B) 5 percent of the funds available for such allotment under this part shall be allotted to the States in accordance with paragraph (2), to provide incentive grants authorized under section 106(b)(7), in accordance with paragraph (3); and

"(C) 8 percent of the funds available for such allotment under this part shall be allotted to the States in accordance with paragraph (2) to carry out section 123.

"(2) FORMULA FOR ALLOCATION.—The allotments to each State described in paragraph (1) shall be based on the relative amount of funds allocated to all service delivery areas within such State under subsection (b) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (b).

"(3) OTHER USES.—

"(A) CAPACITY BUILDING AND TECHNICAL ASSISTANCE.—The Governor may use up to 33 percent of the amount allotted under paragraph (1)(B) for providing capacity building and technical assistance to service delivery areas and service providers. Such use of funds may include the development and training of service delivery area and service provider staff and the development of exemplary program activities.

"(B) NONDUPLICATION AND COORDINATION.—Funds used under subparagraph (A)—

"(i) may not be used to duplicate the activities of the Capacity Building and Information and Dissemination Network established under section 453(b); and

"(ii) shall, to the extent practicable, be used to coordinate the activities under subparagraph (A) with the activities of the Network under section 453(b).

"(d) DEFINITIONS AND RULE.—

"(1) DEFINITIONS.—As used in this section:

"(A) ECONOMICALLY DISADVANTAGED YOUTH.—The term 'economically disadvantaged youth' means an individual who is age 16 through 21 and who has, or is a member of a family that has, received a total family income that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The terms 'excess number' and 'State' shall have the meanings given the terms in subparagraphs (B) and (C), respectively, of section 202(d)(1).

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged youth.".

SEC. 208. YOUTH TRAINING PROGRAM ELIGIBILITY AND SERVICES.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

"SEC. 263. ELIGIBILITY FOR SERVICES.

"(a) IN-SCHOOL YOUTH.—Except as provided in subsections (e) and (g), an individual who is in school shall be eligible to participate in the program under this part if such individual—

"(1)(A) is age 16 through 21; or

"(B) if provided in the job training plan, is age 14 through 21; and

"(2)(A) is economically disadvantaged;

"(B) is participating in a compensatory education program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.); or

"(C) has been determined to meet the eligibility requirements for free meals under the National School Lunch Act (42 U.S.C. 1751 et seq.) during the most recent school year.

"(b) HARD-TO-SERVE INDIVIDUALS WHO ARE IN-SCHOOL YOUTH.—Not less than 65 percent of the in-school individuals who participate in a program under this part shall be individuals who are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals with educational attainment that is 1 or more grade levels below the grade level appropriate to the age of the individuals.

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Individuals who are homeless or runaway youth.

"(6) Individuals who are offenders.

"(7) Individuals within a category established under subsection (h).

"(c) OUT-OF-SCHOOL YOUTH.—Except as provided in subsection (e), an individual who is out of school shall be eligible to participate in the program under this part if such individual is—

"(1) age 16 through 21; and

"(2) economically disadvantaged.

"(d) HARD-TO-SERVE INDIVIDUALS WHO ARE OUT-OF-SCHOOL YOUTH.—Not less than 65 percent of the out-of-school individuals who participate in a program under this part shall be individuals who are included in 1 or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals who are school dropouts (subject to the conditions described in section 264(d)(2)).

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Individuals who are homeless or runaway youth.

"(6) Individuals who are offenders.

"(7) Individuals in a category established under subsection (h).

"(e) EXCEPTIONS.—Not more than 10 percent of participants in a program assisted under this part in each service delivery area may be individuals who do not meet the requirements of subsection (a)(2) or (c)(2), if such individuals are within one or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in subsections (b) and (d), or categories such as individuals with limited-English language proficiency, alcoholics, or drug addicts.

"(f) RATIO OF OUT-OF-SCHOOL TO IN-SCHOOL YOUTH.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not less than 50 percent of the participants in the program under this part in each service delivery area shall be out-of-school individuals who meet the requirements of subsection (c), (d), or (e).

"(2) COUNTING OF IN-SCHOOL INDIVIDUALS.—In-school individuals served as a part of a schoolwide project under subsection (g) shall not be counted as a part of the ratio of in-school individuals to out-of-school individuals.

"(g) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—

"(1) IN GENERAL.—In addition to the individuals described in subsection (e), an individual who does not meet the requirements of subsection (a)(2) may participate in the programs assisted under this part if such individual is enrolled in a public school—

"(A) that is located in a poverty area;

"(B) that is served by a local educational agency that is eligible for assistance under

chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(C) in which not less than 70 percent of the students enrolled are included in the categories described in subsection (b); and

"(D) that conducts a program under a cooperative arrangement that meets the requirements of section 265(d).

"(2) DEFINITION.—For the purposes of paragraph (1), the term 'poverty area' means an urban census tract or a nonmetropolitan county with a poverty rate of 30 percent or more, as determined by the Bureau of the Census.

"(h) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of youth who face serious barriers to employment to the categories of eligible individuals specified in subsection (b) and one category to the categories of eligible individuals described in subsection (d) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the additional category of individuals is not solely comprised of—

"(A) individuals with a poor work history; or

"(B) individuals who are unemployed; and

"(3) the Governor approves the request submitted under paragraph (1) and transmits a description of the approved request to the Secretary, as part of the Governor's coordination and special services plan under section 121.

"SEC. 264. PROGRAM DESIGN.

"(a) YEAR-ROUND OPERATION.—The programs under this part shall be conducted on a year-round basis. Services shall be made available on a multiyear basis as appropriate.

"(b) ESSENTIAL ELEMENTS.—

"(1) IN GENERAL.—The programs under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted under another education or training program (such as the JOBS program);

"(B) development of service strategies that shall identify the employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for participants taking into account the assessments conducted pursuant to subparagraph (A), except that a new service strategy for a participant is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) each of the following services, which shall be provided either directly or through arrangement with other programs to a participant where the assessment and the service strategy indicate such services are appropriate:

"(i) Basic skills training.

"(ii) Occupational skills training.

"(iii) Preemployment and work maturity skills training.

"(iv) Work experience combined with skills training.

"(v) Supportive services.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) INFORMATION AND REFERRALS.—Each service delivery area shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services that are available through the service delivery area or other service providers, including those receiving funds under this Act; and

"(ii) referral to appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of its particular program or who cannot be served shall be referred to the service delivery area for further assessment, as necessary, and referral to appropriate programs in accordance with subparagraph (A) to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made pursuant to clause (i), and shall maintain appropriate records of such referrals and the basis for such referrals.

"(c) AUTHORIZED SERVICES.—Subject to the limitations contained in subsection (d), services which may be made available to youth with funds provided under this part may include—

"(1) direct training services, including—

"(A) the services described in section 204(b)(1);

"(B) tutoring and study skills training;

"(C) alternative high school services within programs that meet the requirements of section 141(o)(1);

"(D) instruction leading to high school completion or the equivalent;

"(E) mentoring;

"(F) limited internships in the private sector;

"(G) training or education that is combined with community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations, including youth corps programs;

"(H) entry employment experience programs;

"(I) school-to-work transition services;

"(J) school-to-postsecondary education transition services;

"(K) school-to-apprenticeship transition services; and

"(L) preemployment and work maturity skills training; and

"(2) training-related and supportive services, including—

"(A) the services described in section 204(b)(2);

"(B) drug and alcohol abuse counseling and referral;

"(C) services encouraging parental, spousal, and other significant adult involvement in the program of the participant; and

"(D) cash incentives and bonuses based on attendance and performance in a program.

"(d) ADDITIONAL REQUIREMENTS.—

"(1) STRATEGIES AND SERVICES.—In developing service strategies and designing services for the program under this part, the service delivery area and private industry council shall take into consideration exemplary program strategies and practices, including the strategies and practices of model programs selected for replication under section 453(c).

"(2) SCHOOL DROPOUTS.—

"(A) PARTICIPATION REQUIREMENTS.—In order to participate in a program assisted under this part, except for interim periods, an individual who is under the age of 18 and a school dropout shall enroll in and attend a school, course, or program described in clause (ii) or (iii) of subparagraph (B).

"(B) SERVICE DELIVERY REQUIREMENTS.—

"(i) IN GENERAL.—Each service delivery area shall make available, in accordance with this subparagraph, to each participant in the program who is under the age of 18 and is a school dropout, at least 2 options for school attendance. Such options shall be provided concurrently or sequentially with other services provided under this part to each such participant as a part of the training of such participant.

"(ii) SCHOOL ATTENDANCE.—Each service delivery area shall provide, as one of the options for school attendance, an option for each such participant to enroll in and attend a high school equivalency program.

"(iii) ADDITIONAL OPTION.—Each service delivery area shall provide, as a second option for school attendance for each such participant—

"(I) an option to reenroll in and attend school;

"(II) an option to enroll in and attend an alternative high school; or

"(III) an option to enroll in and attend an alternative course of study approved by the local educational agency.

"(3) SKILLS TRAINING.—

"(A) PREEMPLOYMENT AND WORK MATURITY SKILLS TRAINING.—Preemployment and work maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase the basic education or occupational skills of a participant. The additional services may be provided, concurrently or sequentially, under other education and training programs, including the Job Corps and the JOBS program.

"(B) ADDITIONAL SERVICES.—Work experience, job search assistance, job search skills training, and job club activities provided under this part shall be accompanied by additional services designed to increase the basic education or occupational skills of a participant. The additional services may be provided, concurrently or sequentially, under other education and training programs, including the Job Corps and the JOBS program.

"(C) ON-THE-JOB TRAINING.—

"(i) POSITIONS.—On-the-job training authorized under this part shall only be available in positions that—

"(I) pay the participant a wage that equals or exceeds the average wage at placement in the service delivery area for participants under part A; and

"(II) have career advancement potential.

"(ii) FORMAL PROGRAM OR STRUCTURED JOB TRAINING.—On-the-job training authorized under this part shall include a formal program of structured job training that will provide participants with an orderly sequence of instruction in work maturity skills, general employment competencies, and occupationally specific skills.

"(iii) PARTICIPATION REQUIREMENT.—In order to participate in on-the-job training authorized under this part, except for interim periods, an individual who has not attained a high school diploma or its equivalent shall concurrently enroll in and attend a school, course, or program described in clause (ii) or (iii) of paragraph (2)(B).

"(4) NEEDS-BASED PAYMENTS.—Needs-based payments and financial assistance provided under this part shall be limited to payments necessary for participation in the program assisted under this part in accordance with a locally developed formula or procedure.

"(5) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services provided under this part may be provided to a participant for a period of up to 1 year after the date on which the participant completes the program.

"(6) PROHIBITION ON PRIVATE ACTIONS.—Nothing in this section shall be construed to establish a right for a participant to bring an action to obtain services described in the assessment or service strategy developed under subsection (b)(1).

"(7) VOLUNTEERS.—The service delivery area shall make opportunities available for successful individuals who have previously participated in programs under this part to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

"SEC. 265. LINKAGES.

"(a) EDUCATIONAL LINKAGES.—In conducting the program assisted under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include—

"(1) formal agreements with local educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of assessment of in-school youth; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth; and

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems, and needs, including, in appropriate circumstances, interim assessment results.

"(b) EDUCATION AND TRAINING PROGRAM LINKAGES.—In conducting the program assisted under this part, service delivery areas shall establish appropriate linkages with other education and training programs authorized under Federal law. Such programs shall include, where feasible, programs assisted under—

"(1) part B of title IV (the Job Corps);

"(2) parts A through D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(3) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(4) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(5) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(6) part F of title IV of the Social Security Act (JOBS) (42 U.S.C. 681 et seq.);

"(7) the Food Stamp Act (7 U.S.C. 2011 et seq.);

"(8) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(9) the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77; 101 Stat. 482); and

"(10) any other provisions of this Act.

"(c) OTHER PROGRAMS.—In addition to the linkages required under subsections (a) and (b), service delivery areas receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local service agencies, public housing agencies, community-based organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under part A.

"(d) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—In conducting a program serving individuals specified in section 263(g), the service delivery area shall establish a cooperative arrangement with the appropriate local educational agency that shall, in addition to the other requirements of this section, include—

"(1) a description of the ways in which the program will supplement the educational program of the school;

"(2) identification of measurable goals to be achieved by the program and provision for assessing the extent to which such goals are met;

"(3) a description of the ways in which the program will use resources provided under this part and resources provided under other education programs to achieve the goals identified in paragraph (2);

"(4) a description of the number of individuals to be served; and

"(5) assurances that the resources provided under this part shall be used to supplement and not supplant existing sources of funds.

"SEC. 266. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the amounts allocated to the service delivery area under section 262(b) to the program under part A if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.".

TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

SEC. 301. STATE AGENCY APPROVAL.

Section 314(f) of the Act (29 U.S.C. 1661c(f)) is amended—

(1) by inserting "(1)" before "Funds"; and

(2) by adding at the end the following new paragraph:

"(2) An eligible dislocated worker participating in training (except for on-the-job training) under this title shall be deemed to be in training with the approval of the State agency for purposes of section 3304(a)(8) of the Internal Revenue Code of 1986.".

SEC. 302. LIMITATIONS ON USES OF FUNDS.

(a) RETRAINING SERVICES.—Section 315(a)(1) of the Act (29 U.S.C. 1661d(a)(1)) is amended to read as follows:

"(a) RETRAINING SERVICES.—(1) Of the funds allocated to a substate grantee under part A of this title for any program year, not less than 50 percent shall be expended for retraining services specified under section 314(d).".

(b) NEEDS-RELATED PAYMENTS AND SUPPORTIVE SERVICES.—Section 315(b) of the Act is amended to read as follows:

"(b) Of the funds allocated to a substate grantee or to the Governor under part A of this title for any program year, not more than 25 percent may be expended to provide needs-related payments and other supportive services.".

(c) ADMINISTRATIVE COST.—The first sentence of section 315(c) of the Act is amended to read as follows: "Of the funds allocated to a substate grantee or to the Governor under part A of this title for any program year, not more than 15 percent may be expended to cover the administrative cost of programs.".

(d) COMBINATION OF FUNDS.—Section 315 of the Act is further amended by adding at the end the following new subsection:

"(d) COMBINATION OF FUNDS.—Substate grantees within a State may combine funds under this title for the provision of services to eligible dislocated workers from 2 or more substate areas.".

(e) REALLOTMENT.—Section 315 of the Act is further amended by adding at the end the following new subsection:

"(e) DEFINITION.—As used in this section, the term 'allocated', means allocated for a program year, as adjusted for reallocations between substate areas, and for reallotments in accordance with section 303.".

SEC. 303. DEMONSTRATION PROGRAMS.

Section 324(a) of the Act (29 U.S.C. 1662c(a)) is amended by striking "1989, 1990, and 1991," and inserting "1992 through 1996,".

TITLE IV—FEDERALLY ADMINISTERED PROGRAMS

SEC. 401. NATIVE AMERICAN AND MIGRANT PROGRAMS.

(a) PERFORMANCE STANDARDS.—Section 401(h)(1) of the Act (29 U.S.C. 1671(h)(1)) is amended by inserting "pursuant to section 106" after "performance standards".

(b) NATIVE AMERICAN PROGRAMS.—Section 401(j) of the Act (29 U.S.C. 1671(j)) is amended to read as follows:

"(j)(1) The Secretary shall designate a single organizational unit that shall have as its primary responsibility the administration of all Native American programs authorized under this Act.

"(2) Such organizational unit shall—

"(A) be responsible for administering the provisions of the Native American programs authorized under this Act, including monitoring such programs and making recommendations regarding the selection of the recipients of financial assistance;

"(B) be responsible for the development of the policies and procedures related to the implementation of such programs; and

"(C) coordinate the development of policy and procedures for the employment and training programs within the Department relating to services for Native American workers.

"(3) In the hiring and promotion of the professional staff for the organizational unit designated under paragraph (1), special consideration shall be given to individuals who have field experience in the daily operation of service and training programs for Native Americans, and individuals who are Indians or Alaskan Natives. The Secretary shall take such additional actions as may be necessary to promote the recruitment and promotion of Indians, Alaskan Natives, and Hawaiian Natives to positions in such unit.".

(c) PERMANENT ADVISORY COUNCIL.—Section 401 of the Act (29 U.S.C. 1671) is amended by adding at the end the following new subsection:

"(k)(1) There is hereby established a Native American Employment and Training Council (referred to in this subsection as the 'Council'), which shall consist of not fewer than 17 Indians, Alaskan Natives, and Hawaiian Natives appointed by the Secretary from among individuals nominated by Indian tribes or Indian, Alaskan Native, or Hawaiian Native organizations. The membership of the Council shall represent all geographic areas of the United States with a substantial Indian, Alaskan Native, or Hawaiian Native population and shall include representatives of tribal governments and of nonreservation Native American organizations who are service providers under this Act. A majority of the members of the Council shall have field experience in the daily operation of the program authorized under this section.

"(2) The Council shall select a chairperson from among its members by a majority vote. The Council shall meet not less often than twice each program year.

"(3) Members of the Native American Programs Advisory Committee that existed before the date of enactment of this subsection—

"(A) shall serve as members of the Council until their successors are appointed; and

"(B) may be appointed as members of the Council, if such appointment is consistent with the provisions of this subsection.

"(4) Each member of the Council shall serve for a term of 2 years, except that—

"(A) one-half of the members initially appointed (as designated by the Secretary) shall serve for terms of 1 year;

"(B) any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment, and shall not affect the power of the remaining members to execute the duties of the Council;

"(C) any member appointed to such a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed; and

"(D) members may be reappointed.

"(5) The initial membership of the Council shall be appointed not later than the beginning of program year 1993.

"(6) The Council shall—

"(A) solicit the views of a wide variety of Indian tribes and Native American groups, including groups operating employment and training programs funded under this section, on issues affecting the operation and administration of such programs;

"(B) advise the Secretary with respect to the implementation of programs under this section and other programs providing services to Native American youth and adults under this Act;

"(C) advise and make recommendations to the Secretary with respect to the design and implementation of performance standards developed under section 106(f);

"(D) advise and make recommendations to the Secretary with respect to the services obtained or to be obtained by the Department of Labor through contracts or arrangements with non-Federal agencies or entities that involve the program authorized by this section;

"(E) evaluate the effectiveness of Native American job training programs and make recommendations with respect to the improvement of such programs;

"(F) advise the Secretary with respect to individuals to be considered to fill the position of the official in charge of the organizational unit designated under subsection (j)(1) whenever a vacancy in such position occurs; and

"(G) prepare and submit directly to the Secretary and to the Congress, not later than January 1 of each even numbered year, a report containing information on the progress of Native American job training programs and recommendations for improving their administration and effectiveness.

"(7) Members of the Council shall serve without compensation. Each member of the Council shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(8) The Secretary shall provide the Council with such administrative support as may be necessary to perform its functions.".

(d) COMPETITION.—Section 401 of the Act (29 U.S.C. 1671), as amended by subsection (c), is further amended by adding at the end the following new subsection:

"(l) The competition for grants under this section shall be conducted every 2 years, except that if a recipient of such a grant has performed satisfactorily under the terms of the existing grant agreement, the Secretary may waive the requirement for such competition on receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year grant period.".

(e) MIGRANT AND SEASONAL FARMWORKER PROGRAMS.—Section 402(c)(2) of the Act (29 U.S.C. 1672(c)(2)) is amended to read as follows:

"(c)(2) The competition for grants under this section shall be conducted every 2 years, except that if a recipient of such a grant has performed satisfactorily under the terms of the existing grant agreement, the Secretary may waive the requirement for such competition upon receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year grant period.".

(f) RESERVATION.—Section 402 of the Act (29 U.S.C. 1672) is amended by striking subsection (f).

(g) GRANT PROCEDURES.—Part A of title IV of the Act (29 U.S.C. 1671 et seq.) is amended by adding at the end the following new section:

"GRANT PROCEDURES

"SEC. 403. Grants under sections 401 and 402 shall be subject to the Single Audit Act of 1984 (31 U.S.C. 7501 et seq.) and charging of costs under such sections shall be subject to appropriate circulars issued by the Office of Management and Budget.".

SEC. 402. JOB CORPS.

(a) ELIGIBILITY.—Section 423(1) of the Act (29 U.S.C. 1693(1)) is amended by inserting after "except that", the following: "not more than 20 percent of the individuals enrolled may be age 22 through 24, and that either".

(b) CLARIFICATION OF AUTHORITY TO TRANSFER PARTICIPANTS TO AND FROM PROGRAMS UNDER TITLE II.—Section 426 of the Act (29 U.S.C. 1696) is amended by adding at the end the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit an individual who has been a participant in the Job Corps from concurrently or subsequently participating in programs under title II, or to prohibit an individual who has been a participant in programs under title II from concurrently or subsequently participating in the Job Corps.".

(c) NONRESIDENTIAL PARTICIPANTS.—Section 427(a)(2) of the Act (29 U.S.C. 1697(a)(2)) is amended by—

(1) striking "10 percent" and inserting "20 percent"; and

(2) adding at the end the following new sentences: "In enrolling individuals who are to be nonresidential participants, priority shall be given to those eligible individuals who are single parents with dependent children. The Secretary shall not reduce the number of residential participants in Job Corps programs under this part during any program year below the number of residential participants during program year 1991 in order to increase the number of individuals who are nonresidential participants in the Job Corps.".

(d) CONSERVATION CENTERS.—Section 427 of the Act (29 U.S.C. 1697) is amended by adding at the end the following new subsection:

"(c) No funds appropriated to the Department of Labor for any fiscal year may be used to carry out any contract with a nongovernmental entity to administer or manage a Civilian Conservation Center of the Job Corps.".

(e) ADDITIONAL SUPPORT SERVICES REQUIRED.—Section 428 of the Act (29 U.S.C. 1698) is amended by adding at the end the following new subsections:

"(e) The Secretary shall, to the extent practicable, provide child care at or near Job Corps centers, for individuals who require child care for their children in order to participate in the Job Corps.

"(f) Each Job Corps center shall provide to enrollees who are dependent on, or who have a history of abuse of, alcohol or drugs, with counseling and referral to related services necessary to prevent the continuance or recurrence of such dependency or abuse.".

(f) MANAGEMENT FEES.—Section 437 of the Act (29 U.S.C. 1707) is amended by adding at the end the following new subsection:

"(d) The Secretary shall provide all Job Corps contractors with an equitable and negotiated management fee of not less than 1 percent of the contract amount.".

SEC. 403. NATIONAL ACTIVITIES.

(a) IN GENERAL.—Part D of title IV (29 U.S.C. 1731 et seq.) is amended—

(1) in section 451, to read as follows:

"NATIONAL PARTNERSHIP AND SPECIAL TRAINING PROGRAMS

"SEC. 451. (a) STATEMENT OF PURPOSE.—It is the purpose of this section to—

"(1) improve access to employment and training opportunities for individuals with special needs;

"(2) help alleviate skill shortages and enhance the competitiveness of the labor force;

"(3) meet special training needs that are best addressed on a multistate or industry-wide basis; and

"(4) encourage the participation and support of all segments of society to further the purposes of this Act.

"(b) PROGRAM AUTHORIZED.—The Secretary may establish a system of, and award, special grants to eligible entities to carry out programs that are most appropriately administered at the national level.

"(c) PROGRAMS.—Programs that are most appropriately administered at the national level include—

"(1) partnership programs with national organizations with special expertise in developing, organizing, and administering employment and training programs at the national, State, and local levels, such as industry and labor associations, public interest groups, community-based organizations representative of groups that encounter special difficulties in the labor market, and other organizations with special knowledge or capabilities in education and training;

"(2) programs that—

"(A) address industry-wide skill shortages;

"(B) meet training needs that are best addressed on a multistate basis; and

"(C) further the goals of increasing the competitiveness of the United States labor force; and

"(3) programs that require technical expertise available at the national level to serve specialized needs of particular client groups, including at-risk youth, offenders, individuals of limited-English language proficiency, individuals with disabilities, women, immigrants, single parents, substance abusers, displaced homemakers, youth, older individuals, veterans, school dropouts, public assistance recipients, and other individuals who the Secretary determines require special assistance.";

(2) in section 452, to read as follows:

"RESEARCH, DEMONSTRATION, AND EVALUATION

"SEC. 452. (a) STATEMENT OF PURPOSE.—It is the purpose of this section to assist the United States in expanding employment opportunities and ensuring access to such opportunities for all who desire such opportunities.

"(b) PROGRAM ESTABLISHED.—

"(1) IN GENERAL.—The Secretary shall establish a comprehensive program of training and employment research, utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the employment and training problems of the United States.

"(2) STUDIES.—The program established under this section may include studies concerning—

"(A) the development or improvement of Federal, State, local, and privately supported employment and training programs;

"(B) labor market processes and outcomes, including improving workplace literacy;

"(C) policies and programs to reduce unemployment and the relationships of the policies and programs with price stability and other national goals;

"(D) productivity of labor;

"(E) improved means of using projections of labor supply and demand, including occupational and skill requirements and areas of labor shortages at the national and subnational levels;

"(F) methods of improving the wages and employment opportunities of low-skilled, disadvantaged, and dislocated workers, and workers with obsolete skills;

"(G) methods of addressing the needs of at-risk populations, such as youth, homeless indi-

viduals and other dependent populations, older individuals, and other groups with multiple barriers to employment;

"(H) methods of developing information on immigration, international trade and competition, technological change, and labor shortages; and

"(I) methods of easing the transition from school to work, from transfer payment receipt to self-sufficiency, from one job to another, and from work to retirement.

"(c) PILOT AND DEMONSTRATION PROGRAMS.—

"(1) PROGRAM ESTABLISHED.—

"(A) IN GENERAL.—The Secretary shall establish a program of pilot and demonstration programs for the purpose of developing and improving techniques and demonstrating the effectiveness of specialized methods in addressing employment and training needs. The Secretary may award grants and enter into contracts with entities to carry out the programs.

"(B) PROJECTS.—Such programs may include projects in such areas as—

"(i) school-to-work transition;

"(ii) new methods of imparting literacy skills and basic education;

"(iii) new training techniques (including projects undertaken with the private sector);

"(iv) methods to eliminate artificial barriers to employment;

"(v) approaches that foster participation of groups that encounter special problems in the labor market (such as displaced homemakers, teen parents, welfare recipients, and older individuals);

"(vi) processes that demonstrate effective methods for alleviating the adverse effects of dislocations and plant closings on workers and their communities; and

"(vii) cooperative ventures among business, industry, labor, trade associations, community-based organizations or nonprofit organizations to develop new and cost-effective approaches to improving work force literacy.

"(2) EVALUATION COMPONENT.—Demonstration programs assisted under this subsection shall include a formal, rigorous evaluation component. Pilot programs assisted under this subsection shall include an appropriate evaluation component.

"(3) SPECIAL RULE.—No demonstration program under this subsection shall be assisted under this section for a period of more than 7 years. No pilot program under this subsection shall be assisted under this section for a period of more than 3 years.

"(d) EVALUATION.—

"(1) PROGRAMS.—

"(A) JOB TRAINING PROGRAMS.—The Secretary shall provide for the continuing evaluation of programs conducted under this Act, including the cost effectiveness of the program in achieving the purposes of this Act.

"(B) OTHER PROGRAMS.—The Secretary may conduct evaluations of other federally funded employment-related activities including programs administered under—

"(i) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(ii) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(iii) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

"(iv) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

"(v) the Federal unemployment insurance program under titles III, IX, and XII of the Social Security Act (42 U.S.C. 501 et seq., 1101 et seq., and 1321 et seq.).

"(2) TECHNIQUES.—

"(A) METHODS.—Evaluations conducted under paragraph (1) shall utilize sound statistical methods and techniques of the behavioral and social sciences, including random assignment methodologies if feasible.

"(B) ANALYSIS.—Such evaluations may include cost-benefit analysis of programs, the impact of the programs on community and participants, the extent to which programs meet the needs of various demographic groups, and the effectiveness of the delivery systems used by various programs.

"(C) EFFECTIVENESS.—The Secretary shall evaluate the effectiveness of programs authorized under this Act with respect to—

"(i) the statutory goals;

"(ii) the performance standards established by the Secretary; and

"(iii) the extent to which such programs enhance the employment and earnings of participants, reduce income support costs, improve the employment competencies of participants in comparison to comparable persons who did not participate in such programs, and, to the extent feasible, increase the level of total employment over the level that would have existed in the absence of such programs.";

(3) in section 453, to read as follows:

"CAPACITY BUILDING, INFORMATION, DISSEMINATION, AND REPLICATION ACTIVITIES

"SEC. 453. (a) NATIONAL STRATEGY.—The Secretary shall develop a national strategy for carrying out the activities described in subsection (b)(2) and the replication of programs described in subsection (c), and shall ensure the implementation of the national strategy.

"(b) NETWORK.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish a Capacity Building and Information and Dissemination Network (referred to in this section as the 'Network') to enhance the effectiveness of and to strengthen the caliber of services provided through programs authorized under this Act and other Federal, State, and local employment and training programs.

"(B) ADMINISTRATION.—The Secretary shall establish and maintain such Network—

"(i) directly;

"(ii) under an interagency agreement; or

"(iii) through a grant or contract awarded on a competitive basis to a single entity, or to a system of entities coordinated by the Secretary, with appropriate expertise.

"(2) ACTIVITIES.—The Network shall—

"(A) provide, coordinate, and support the development of, appropriate training, technical assistance, staff development, and other activities that will—

"(i) enhance the skills, knowledge, and expertise of the personnel who staff employment and training and other closely related human service systems, including service providers;

"(ii) improve the quality of services provided to individuals served under this Act and other Federal employment and training programs and encourage integrated service delivery under such programs using—

"(I) where cost effective, interactive communication systems and satellite technology; and

"(II) where possible, staff trained in a variety of Federal human resource programs;

"(iii) improve the planning, procurement, and contracting practices pursuant to this Act; and

"(iv) provide broad human services policy and planning training to—

"(I) private industry council volunteers; and

"(II) where appropriate, members of State human resource investment councils and other State councils;

"(B) prepare and disseminate staff training curricula and materials, primarily using computer-based technologies, for employment and training professionals and support staff, that focus on enhancing staff competencies and professionalism, including instruction on the administrative requirements of this Act, such as procurement and contracting standards and regulations; and

"(C)(i) identify, develop, disseminate, and provide training in the techniques learned from, innovative and successful program models, materials, methods, and information, by using computer-based technologies for organizing a data base and dissemination and communication system for the Network, and establishing a computer-based communications and dissemination methodology to share information among employment and training personnel and institutions; and

"(ii) in identifying such program models, ensure that consideration shall be given to—

"(I) the size and scope of the program;

"(II) the length of time that the program has been operating;

"(III) the nature and reliability of measurable outcomes for the program;

"(IV) the capacity of the sponsoring organization to provide the technical assistance necessary for States and service delivery areas to replicate the program; and

"(V) the likelihood that the program will be successful in diverse economic, geographic, and cultural environments.

"(3) CHARGES.—The Network may require cost-sharing to offset the actual costs of institute training, materials acquisition, or information dissemination. Any resulting income shall be used in accordance with section 141(m).

"(4) COORDINATION.—

"(A) IN GENERAL.—The Secretary shall consult with the Secretaries of Education and Health and Human Services, as appropriate, to coordinate the activities of the Network with other relevant institutes, centers, laboratories, clearinghouses, or dissemination networks, such as the National Diffusion Network.

"(B) COORDINATION WITH REPLICATION GRANT PROGRAM.—To the extent possible, the Network shall coordinate the activities of the Network with activities assisted under the replication grant program conducted under subsection (c).

"(c) REPLICATION.—

"(1) REPLICATION PROGRAM AUTHORIZED.—The Secretary shall make competitive grants to public or private nonprofit organizations for technical assistance, and to States and service delivery areas for planning and program development, to promote the replication of employment and training programs that are successful in improving the employment prospects of populations served under this Act and that are replicable on a large scale. In making such grants, the Secretary shall consider the recommendations described in paragraph (2)(B) of the review panel established under paragraph (2)(A) regarding such programs.

"(2) REVIEW PANEL.—

"(A) ESTABLISHMENT.—The Secretary shall establish a review panel comprised of not more than 6 individuals appointed by the Secretary who are recognized experts in the operation and evaluation of employment and training programs for economically disadvantaged youth and adults, and dislocated workers.

"(B) RECOMMENDATIONS.—The review panel shall make recommendations to the Secretary regarding model programs that the panel considers likely to be successful in improving such employment prospects of populations served under this Act and to be replicable on a large scale.

"(C) CONSIDERATIONS.—In recommending such programs the review panel shall use the considerations described in subsection (b)(2)(C)(ii).

"(D) MEETINGS.—The review panel shall meet not more than once each year to carry out the responsibilities described in this paragraph.

"(E) CONFLICT OF INTEREST.—No member of such panel shall have a direct financial interest in or affiliation with a potential recipient of funds under the program authorized by this section.

"(3) APPLICATIONS.—

"(A) NONPROFIT ORGANIZATION.—Any public or private nonprofit organization desiring to receive such a grant to provide the technical assistance necessary for program replication may submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(B) STATE; SERVICE DELIVERY AREA.—Any State or service delivery area desiring to receive such a grant for planning and program development associated with a replication effort shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(C) CONTENTS.—Each application described in subparagraph (A) or (B) shall contain—

"(i) a description of the program proposed for replication and available evidence of the success of the program in improving the employment prospects of economically disadvantaged youth and adults, and dislocated workers, within each such service delivery area; and

"(ii) in the case of applications described in subparagraph (A), an assurance that the organization will enter into an agreement with the service delivery areas in which the program is to be replicated, to participate in the replication program.

"(4) GRANT LIMITATIONS.—

"(A) LIMITATION.—In any 3-year period the Secretary shall not approve grants for the same replication activities in more than 10 States or communities. During such 3-year period, the results of such limited replication efforts shall be carefully evaluated and examined by the Secretary regarding the advisability of replicating the model program in more than 10 States or communities or for longer than 3 years.

"(B) WAIVER.—The Secretary may waive the limitation set forth in subparagraph (A) for a program if immediate replication efforts on a larger scale are warranted by extensive evaluation of the program prior to designation as a model program under this subsection.

"(5) COORDINATION.—To the extent possible, the Secretary shall coordinate the activities assisted under the replication grant program conducted under this subsection with the activities of the Network under subsection (b). The Secretary shall ensure that information on the programs replicated under this subsection shall be available through the Network.

"(d) MANAGEMENT CAPABILITY.—

"(1) GRANTS.—From the amounts reserved under section 3(c)(2)(B)(ii)(III) for each fiscal year to carry out this subsection, the Secretary may award grants to States for the purpose of assisting the States in carrying out the activities described in section 202(c)(1)(A).

"(2) ELIGIBILITY.—A State that receives an amount under section 202(c)(1)(A) for a fiscal year that is less than $500,000 shall be eligible to receive a grant under this subsection for the fiscal year.

"(3) AMOUNT OF GRANT.—The amount of a grant awarded to a State for a fiscal year under paragraph (1) shall not exceed the lesser of—

"(A) $100,000; or

"(B) the difference obtained by subtracting from $500,000 the amount received by the State for the fiscal year under section 202(c)(1)(A).

"(4) AWARD OF GRANTS.—In determining whether to award a grant to a State under paragraph (1), and in determining the amount of such a grant, the Secretary shall take into account the demonstrated need of the State to receive such a grant, as indicated by—

"(A) the number of service delivery areas in the State; and

"(B) the demonstrated insufficiency of resources of the State to administer State responsibilities under sections 121 and 122.

"(5) APPLICATION.—To be eligible to receive a grant under this subsection for a fiscal year, a State shall submit an application at such time, in such manner, and containing such information as the Secretary may require, including sufficient information to enable the Secretary to make the determinations described in paragraph (4).

"(6) USE OF FUNDS.—The Secretary shall make available to carry out subsections (b) and (c) any amounts reserved under section 3(c)(2)(B)(ii)(III) for a fiscal year and not expended to make grants under paragraph (1) for such year.";

(4) striking sections 454 through 456; and

(5)(A) redesignating section 457 as section 456; and

(B) striking the heading for section 456 (as redesignated by subparagraph (A)) and inserting "NONTRADITIONAL EMPLOYMENT DEMONSTRATION PROGRAM".

(b) TRAINING AND TECHNICAL ASSISTANCE.—Part D of title IV of the Act (29 U.S.C. 1671 et seq.) is amended by inserting after section 453 the following:

"GUIDANCE ON ELIGIBILITY VERIFICATION

"SEC. 454. (a) ESTABLISHMENT.—The Secretary shall provide guidance and technical assistance, to States and service delivery areas, relating to the documentation required to verify the eligibility of participants under parts A, B, and C of title II of this Act, particularly the hard-to-serve individuals specified in section 203(b) and subsections (b) and (d) of section 263. Such documentation shall, to the extent practicable, be uniform and standard.

"(b) GUIDANCE.—The guidance provided pursuant to subsection (a), while maintaining program integrity, shall—

"(1) limit the documentation burden to the minimum necessary to adequately verify such eligibility; and

"(2) ensure, to the extent practicable, that the documentation requirements shall not discourage the participation of eligible individuals.

"(c) CONTENTS.—The guidance provided pursuant to subsection (a) shall specifically address income eligibility, assessment, the determination regarding whether an individual is a hard-to-serve individual, and specific uniform or standardized documentation forms or procedures (including simplified standardized forms, automated intake procedures, and self-certification documents) and other documentation proxies (such as JOBS and Job Corps eligibility forms).

"(d) DATE.—The Secretary shall provide the guidance described in subsection (a) not later than December 18, 1992.".

SEC. 404. UNIFORM REQUIREMENTS.

(a) REPORTING; TRAINING NETWORK.—Part D of title IV of the Act (29 U.S.C. 1731 et seq.), is amended by inserting after section 454 (as added by section 403) the following new section:

"UNIFORM REPORTING REQUIREMENTS

"SEC. 455. (a) FINDING.—Congress finds that closer coordination and more effective use of resources among a variety of employment and training programs can be facilitated if the programs have common data elements and definitions.

"(b) DATA ELEMENTS.—The Secretaries of Labor, Education, and Health and Human Services, in consultation with other appropriate departments and with the National Occupational Information Coordinating Committee, shall identify a core set of consistently defined data elements for employment and training programs, including those funded under titles II, III, and IV of this Act, the Wagner-Peyser Act (29 U.S.C. 49 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), the JOBS program, and title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

"(c) REPORT.—The Secretary shall prepare and submit to Congress not later than January 1, 1994, a report listing recommended data elements and their definitions, and containing an analysis of the benefits of the adoption of the data elements and definitions.

"(d) CONSULTATION.—The Secretary shall consult with experts and practitioners, at the Federal, State, and local levels and in the various program areas, in fulfilling the requirements of this section. The Secretary shall also consult with the General Accounting Office in fulfilling the requirements of this section.".

SEC. 405. LABOR MARKET INFORMATION.

(a) COOPERATIVE LABOR MARKET INFORMATION.—Section 462 of the Act (29 U.S.C. 1752) is amended by adding at the end the following new subsection:

"(g)(1) Taking into consideration research previously conducted by the National Commission for Employment Policy and other entities, the Commissioner of Labor Statistics, in cooperation with the States, shall determine appropriate procedures for establishing a nationwide database containing information on the quarterly earnings, establishment and industry affiliation, and geographic location of employment, for all individuals for whom such information is collected by the States.

"(2) The Commissioner of Labor Statistics shall determine appropriate procedures for maintaining such information in a longitudinal manner and for making such information available for policy research or program evaluation purposes or both, while ensuring the confidentiality of information and the privacy of individuals.

"(3) The Secretary shall prepare and submit to the Congress, not later than 12 months after the date of enactment of the Job Training Reform Amendments of 1992, a report that shall describe the costs and benefits, including savings on program followup surveys, of a nationwide database containing the information described in paragraph (1) and a schedule that would allow for the establishment of such a database.

(b) SPECIAL FEDERAL RESPONSIBILITIES.—Section 463(a) of the Act (29 U.S.C. 1753(a)) is amended by inserting "the Secretary of Health and Human Services," after "the Secretary of Education,".

(c) NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.—Section 464 of the Act (29 U.S.C. 1754) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "not more than $5,000,000" and inserting "$6,000,000"; and

(B) in paragraph (2) by striking "for Manpower, Reserve Affairs, and Logistics" and inserting "Force Management and Personnel"; and

(2) in subsection (b)—

(A) in paragraph (2) by inserting after "give special attention to the" the following: "career development and"; and

(B) in paragraph (5) by inserting after "any aspect of occupational and career information systems" the following: "and coordination and compatibility of human resources data systems operated by Federal agencies or the States, including systems to assist economic development activities and, where appropriate, provide support to States in the implementation of such system improvements.".

SEC. 406. ESTABLISHMENT OF THE YOUTH FAIR CHANCE PROGRAM.

Title IV of the Act (29 U.S.C. 1671 et seq.) is amended by adding at the end the following new part:

"Part H—Youth Fair Chance Program

"SEC. 491. STATEMENT OF PURPOSE.

"It is the purpose of the Youth Fair Chance program under this part to—

"(1) ensure access to education and job training assistance for youth residing in high poverty areas of urban and rural communities;

"(2) provide a comprehensive range of education, training, and employment services to disadvantaged youth who are not currently served or are underserved by Federal education and job training programs;

"(3) enable communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community; and

"(4) facilitate the coordination of comprehensive services to serve youth in such communities.

"SEC. 492. PROGRAM AUTHORIZED.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized to establish a national program of Youth Fair Chance grants to pay the Federal share attributable to this part of providing comprehensive services to youth living in high poverty areas in the cities and rural areas of the Nation.

"(b) ELIGIBILITY FOR GRANTS.—

"(1) RECIPIENTS.—The Secretary may only award grants under this part to—

"(A) the service delivery area (on behalf of the participating community) in which a target area is located;

"(B) in the case of a grant involving a target area located in an Indian reservation or Alaska Native village, the grantee designated under subsection (c) or (d) of section 401, or a consortium of such grantees and the State; or

"(C) in the case of a grant involving a target area located in a migrant or seasonal farmworker community, the grantee designated under section 402(c), or a consortium of such grantees and the State.

"(2) NUMBER OF GRANTS.—

"(A) IN GENERAL.—The Secretary may award not more than 25 grants during the first fiscal year that the program is authorized.

"(B) INDIAN RESERVATIONS AND ALASKA NATIVE VILLAGES.—In awarding grants under this part during the first 5 fiscal years that the program is assisted, the Secretary shall award—

"(i) at least 1 grant to a grantee or consortium described in paragraph (1)(B); and

"(ii) at least 1 grant to a grantee or consortium described in paragraph (1)(C).

"(c) RENEWABILITY OF GRANTS.—

"(1) IN GENERAL.—Grants awarded under this part shall be for a 1-year period. Such a grant shall be renewable for each of the 2 succeeding fiscal years if the Secretary determines the grant recipient complied with conditions of the grant during the previous fiscal year.

"(2) EXTENSION.—The Secretary may extend the renewal period set forth in paragraph (1) for an additional 2 fiscal years on reapplication.

"(d) FACTORS FOR AWARDS.—In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the goals to be achieved, the likelihood of successful implementation, the extent of community support, other Federal and non-Federal funds available for similar purposes, and additional State, local, or private resources that will be provided. The Secretary shall give priority to participating communities with the highest poverty rates.

"SEC. 493. APPLICATION.

"(a) ELIGIBILITY TO APPLY.—Participating communities that have the highest concentrations of poverty, as determined by the Secretary based on the latest Bureau of the Census estimates, shall be eligible to apply for a Youth Fair Chance grant.

"(b) CONTENTS OF APPLICATION.—

"(1) IN GENERAL.—Each participating community desiring a grant under this part shall, through the individuals set forth in subsection (c), submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each such application shall—

"(A) include a comprehensive plan for the Youth Fair Chance initiative designed to achieve identifiable goals for youth in the target area;

"(B) set forth measurable program goals and outcomes, which may include increasing the proportion of—

"(i) youth completing high school or its equivalent;

"(ii) youth entering into postsecondary institutions, apprenticeships, or other advanced training programs;

"(iii) youth placed in jobs; or

"(iv) youth participating in education, training, and employment services;

"(C) include supporting goals for the target area such as increasing security and safety, or reducing the number of drug-related arrests;

"(D) provide assurances that the applicant will comply with the terms of the agreement described in section 494;

"(E) demonstrate how the participating community will make use of the resources, expertise, and commitment of institutions of higher education, educational agencies, and vocational and technical schools and institutes;

"(F) provide an assurance that all youth in the target areas will have access to a coordinated and comprehensive range of education and training opportunities that serve the broadest range of youth interests and needs and simultaneously mobilizes the diverse range of education and training providers in the participating community;

"(G) provide assurances that the youth in the target area will have access to supportive services necessary for successful participation, including such services as child care, transportation, and assistance in resolving personal or family crises, such as crises related to substance abuse, homelessness, migration, and family violence;

"(H) include a description of a system of common intake procedures or sites, individualized assessment, and case management to be used by the program;

"(I) demonstrate how the participating community will make use of the resources, expertise, and commitment of such programs and service providers as—

"(i) community-based organizations providing vocational skills, literacy skills, remedial education, and general equivalency preparation, including community-based organizations serving youth with limited-English proficiency;

"(ii) youth corps programs, including youth conservation and human service corps;

"(iii) Job Corps centers;

"(iv) apprenticeship programs; and

"(v) other projects and programs funded under this Act;

"(J) include an estimate of the expected number of youth in the target area to be served;

"(K) include a description of the resources available in the participating community from private, local government, State, and Federal sources that will be used to achieve the goals of the program;

"(L) include an estimate of funds required to ensure access to appropriate education, training, and support services for all youth in the target area who seek such opportunities; and

"(M) provide evidence of support for accomplishing the stated goals of the participating community from—

"(i) local elected officials;

"(ii) the local school system;

"(iii) appropriate postsecondary education and training institutions;

"(iv) the applicable private industry council;

"(v) local community leaders;

"(vi) business;

"(vii) labor organizations; and

"(viii) other appropriate organizations.

"(c) SUBMISSION OF APPLICATION.—The application for funds described in subsection (b) may only be submitted to the Secretary on behalf of a participating community by—

"(1) the mayor of a city or the chief elected official in a metropolitan statistical area, after the Governor of the State has had an opportunity to comment on the application;

"(2) the chief elected official of a nonmetropolitan county or the designated chief elected official of contiguous nonmetropolitan counties, after the Governor of the State has had an opportunity to comment on the application; or

"(3) a grantee or consortium described in subparagraph (B) or (C) of section 492(b)(1) in applications for Native American or migrant or seasonal farmworker communities, respectively.

"SEC. 494. GRANT AGREEMENT.

"(a) IN GENERAL.—Each grant recipient receiving a grant under this part on behalf of a participating community shall enter into an agreement with the Secretary.

"(b) CONTENTS.—Each such agreement shall—

"(1) designate a target area that—

"(A) will be the focus of the demonstration project; and

"(B) shall have a population of—

"(i) not more than 25,000; or

"(ii) in an appropriate case, not more than 50,000,

except that in the event that the population of an area from which a high school draws a substantial portion of its enrollment exceeds either limit, the target area may encompass such boundary;

"(2) contain assurances that funds provided under this part will be used to support education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(A) nonresidential learning centers;

"(B) alternative schools;

"(C) combined activities including summer remediation, work experience and work readiness training, and school-to-work, apprenticeship, or postsecondary education programs;

"(D) teen parent programs;

"(E) special programs administered by community colleges;

"(F) youth centers;

"(G) initiatives aimed at increased rural student enrollment in postsecondary institutions;

"(H) public-private collaborations to assure private sector employment and continued learning opportunities for youth; and

"(I) initiatives, such as youth corps programs, that combine community and youth service opportunities with education and training activities;

"(3) provide that funds received under this part will be used for services to youth ages 14 through 21 at the time of enrollment;

"(4) contain assurances that the local educational agency and any other educational agency that operates secondary schools in the target area shall provide such activities and resources as are necessary to achieve the educational goals specified in the application;

"(5) contain assurances that the participating community will provide such activities and local resources as are necessary to achieve the goals specified in the application;

"(6) contain assurances that the participating community will undertake outreach and recruitment efforts in the target area to encourage, to the maximum extent possible, participation by the disadvantaged youth who are currently unserved, or underserved, by education and

training programs, including targeted measures specifically designed to enlist the participation of youth, particularly males, under the jurisdiction of the child welfare, juvenile justice, and criminal justice systems;

"(7) provide that the participating community will carry out special efforts to establish coordination with Federal, State, or local programs that serve the target population;

"(8) provide assurances that funds provided under this part for a fiscal year will be used only to pay the Federal share attributable to this part of the cost of programs and services not otherwise available in the target area and will supplement, and not supplant, funding from other local, State, and Federal sources available to youth in the target area during the previous year; and

"(9) permit funds provided under this part to be used to support paid work experience programs if such programs are combined with other education and training activities.

"SEC. 495. JOB GUARANTEES.

"(a) PROGRAM AUTHORITY.—The Secretary shall permit a reasonable number of the grant recipients under this part to enter into an agreement to provide, in accordance with this section, a job guarantee program to youths meeting prior school attendance and performance standards.

"(b) GUARANTEE AGREEMENTS.—A grant recipient providing such a job guarantee program shall enter into an agreement with the Secretary, which agreement shall—

"(1) provide that the program be available to youth age 16 to 19 who undertake a commitment to continue and complete their high school education;

"(2) require the grant recipient to guarantee employment to each youth undertaking the commitment if such youth meets school attendance and performance standards for the previous school semester, as established by the Secretary in consultation with the Secretary of Education;

"(3) provide that the grant recipient will make additional services available to support the undertaking of any such youth, which shall include counseling, job development and placement, and supportive services (including child care and transportation);

"(4) specify the conditions under which funds provided under this part may be used to provide wage subsidies of up to 50 percent through employers, which conditions shall—

"(A) encourage subsidies to employers who provide advanced or specialized training, or who provide a structured and integrated learning experience involving the school and employer; and

"(B) limit the duration of such subsidies to not more than 1 year;

"(5) require that the employment provided to any such youth shall not exceed 15 hours per week during the school year;

"(6) permit employment to continue through the summer following high school graduation, or until the youth reaches age 19, whichever is later; and

"(7) contain such other terms and conditions as the Secretary requires by regulation.

"(c) SELECTION OF GRANT RECIPIENTS.—In determining which grant recipients to permit to enter an agreement under this section, the Secretary shall seek to target funds to areas with the highest poverty rates.

"(d) YOUTH ELIGIBILITY.—All youth, regardless of income, residing in an eligible high poverty area shall be eligible to participate in the job guarantee program.

"(e) PRIVATE FUNDS.—Nothing in this section shall be construed to prohibit the grant recipient from raising funds to augment such grant if such funds are utilized under the conditions of the grant, except that such funds shall not be used for administration.

"SEC. 496. PAYMENTS; FEDERAL SHARE.

"(a) PAYMENTS REQUIRED.—In any fiscal year, the amount of a grant awarded under this part shall be based on the size of the target area and the extent of the poverty in such area, and shall be of sufficient size and scope to carry out an effective program under this part.

"(b) FEDERAL SHARE.—The Federal share attributable to this part of the cost of providing comprehensive services as provided in section 492(a) shall be not less than 70 percent for each fiscal year a grant recipient receives assistance under this Act.

"(c) OTHER FEDERAL SOURCES.—In providing for the remaining share of such cost, each grant recipient may provide not more than 20 percent of such cost from Federal sources other than funds received pursuant to this part.

"(d) NON-FEDERAL SHARE.—A grant recipient shall provide non-Federal funds in an amount not less than 10 percent of such cost, an in-kind contribution equivalent to such percent (as determined by the Secretary), or a combination thereof.

"SEC. 497. REPORTING.

"The Secretary is authorized to establish such reporting procedures as are necessary to carry out the purposes of this part.

"SEC. 498. FEDERAL RESPONSIBILITIES.

"(a) IN GENERAL.—The Secretary shall provide assistance to participating communities in implementing the projects assisted under this part.

"(b) INDEPENDENT EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for a thorough, independent evaluation of the Youth Fair Chance program to assess the outcomes of youth participating in programs assisted under this part.

"(2) EVALUATION MEASURES.—In conducting the evaluation described in paragraph (1) the Secretary shall include an assessment of—

"(A) the impact on youth residing in target areas, including the rates of school completion, enrollment in advanced education or training, and employment of the youth;

"(B) the extent to which participating communities fulfilled the goal of guaranteed access to appropriate education, training, and supportive services to all eligible youth residing in target areas who seek to participate;

"(C) the effectiveness of guaranteed access to comprehensive services combined with outreach and recruitment efforts in enlisting the participation of previously unserved or underserved youth residing in target areas;

"(D) the effectiveness of efforts to integrate service delivery in target areas, including systems of common intake, assessment, and case management; and

"(E) the feasibility of extending guaranteed access to comprehensive education, training and support services for youth in all areas of the United States, including possible approaches to incremental extension of such access over time.

"(c) REPORT.—The Secretary shall prepare a report detailing the results of the independent evaluation described in subsection (b) and shall submit such report to the Congress not later than December 31, 1996, along with an analysis of expenditures made, results achieved, and problems in the operations and coordination of programs assisted under this part.

"(d) RESERVATION OF FUNDS.—The Secretary may reserve not more than 5 percent of the amount appropriated under this part in each fiscal year to carry out the provisions of this section.

"SEC. 498A. DEFINITIONS.

"For the purposes of this part—

"(1) PARTICIPATING COMMUNITY.—The term 'participating community'—

"(A) in the case of a community conducting a project in an urban area, means a city in a metropolitan statistical area;

"(B) in the case of a community conducting a project in a rural area, means a nonmetropolitan county or contiguous nonmetropolitan counties;

"(C) in the case of a community conducting a project in an Indian reservation or Alaska Native village, the grantee designated under subsection (c) or (d) of section 401, or a consortium of such grantees and the State; or

"(D) in the case of a community conducting a project in a migrant or seasonal farmworker community, the grantee designated under section 402(c), or a consortium of such grantees and the State.

"(2) HIGH POVERTY AREA.—The term 'high poverty area' means an urban census tract, a nonmetropolitan county, a Native American Indian reservation, or an Alaska Native village, with a poverty rate of 30 percent or more, as determined by the Bureau of the Census, or a migrant or seasonal farmworker community.

"(3) TARGET AREA.—The term 'target area' means a high poverty area or set of contiguous high poverty areas that will be the focus of the program in each participating community.".

SEC. 407. ESTABLISHMENT OF THE MICROENTERPRISE GRANTS PROGRAM.

Title IV of the Act (29 U.S.C. 1671 et seq.), as amended by section 406, is further amended by adding at the end the following new part.

"Part I—Microenterprise Grants Program

"SEC. 499. MICROENTERPRISE GRANTS.

"(a) PROGRAM AUTHORITY.—From the amount appropriated to carry out this section for fiscal years 1993 through 1997, the Secretary of Labor shall make grants of not more than $500,000 per year to not more than 10 States per year to implement and enhance community-based microenterprise activities. Such grants shall be an amount adequate to ensure that the activities will be of sufficient size and scope to produce substantial benefits. Such activities shall be for the benefit of economically disadvantaged persons.

"(b) USE OF FUNDS.—Such funds shall be used, notwithstanding section 141(q)—

"(1) to train program staff in such entrepreneurial activities as business plan development, business management, resource inventory design, and marketing approaches, and other activities necessary to provide effective entry level training to persons developing a microenterprise;

"(2) to provide to owners or potential owners of a microenterprise such technical assistance (including technical assistance with respect to business planning, securing funding, marketing, and production of marketing materials) and other assistance as may be necessary to develop microenterprise activities; and

"(3) to provide microenterprise support (such as peer support programs and counseling).

"(c) APPLICATION AND SELECTION.—The Secretary shall award grants competitively under this section on the basis of—

"(1) the State commitment, as evidenced by existing or proposed related programs and support;

"(2) evidence of ability to conduct and monitor the microenterprise activities;

"(3) evidence of linkage to private, community-based credit and technical assistance providers; and

"(4) size of the non-Federal match.

"(d) TIMING.—Not later than April 1 of any fiscal year, a State may submit to the Secretary an application. Not later than the following June 1, the Secretary shall approve not more than 10 of the applications. Not later than the following July 1, the Secretary shall authorize the applicant to begin the programs. The Secretary may consider making multiyear grants.

"(e) MATCHING REQUIREMENT.—

"(1) IN GENERAL.—No State shall receive a grant under this section unless the State agrees *to provide, to carry out the microenterprise programs, non-Federal contributions in an amount equal to 100 percent of Federal funds provided under such grant.*

"(2) DETERMINATION.—The non-Federal contribution may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

"(f) REPORTS.—Each State receiving a grant under this section shall, for each fiscal year for which funds are received, submit to the Secretary a report that describes—

"(1) the programs that have been established and developed with such funds, including a description of the persons participating and the microenterprises developed;

"(2) the quantitative and qualitative benefits of such programs; and

"(3) the contributions of such programs to economic self-sufficiency and economic development.

"(g) DEFINITIONS.—As used in this section:

"(1) MICROENTERPRISE.—The term 'microenterprise' means a commercial enterprise if—

"(A) the enterprise has 5 or fewer employees, 1 or more of whom owns the enterprise; and

"(B) each of the owners of the enterprise is economically disadvantaged.

"(2) STATE.—The term 'State' includes—

"(A) in the case of a community conducting a project in an Indian reservation or Alaska Native village, the grantee designated under subsection (c) or (d) of section 401, or a consortium of such grantees and the State; and

"(B) in the case of a community conducting a project in a migrant or seasonal farmworker community, the grantee designated under section 402(c), or a consortium of such grantees and the State.".

SEC. 408. ESTABLISHMENT OF THE DISASTER RELIEF PROGRAM.

Title IV of the Act (29 U.S.C. 1671 et seq.), as amended by sections 406 and 407, is further amended by adding at the end the following new part:

"Part J—Disaster Relief Employment Assistance

"SEC. 499A. GENERAL AUTHORITY.

"(a) QUALIFICATION FOR FUNDS.—Funds appropriated to carry out this part shall be made available in a timely manner by the Secretary to the Governor of any State within which is located an area that has suffered an emergency or a major disaster as defined in paragraphs (1) and (2), respectively, of section 102 of the Disaster Relief Act of 1974 (42 U.S.C. 5122 (1) and (2)) (referred to in this part as the 'disaster area').

"(b) SUBSTATE ALLOCATION.—Not less than 80 percent of the funds made available to any Governor under subsection (a) shall be allocated by the Governor to units of general local government located, in whole or in part, within such disaster areas. The remainder of such funds may be reserved by the Governor for use, in concert with State agencies, in cleanup, rescue, repair, renovation, and rebuilding activities associated with such major disaster.

"(c) COORDINATION—Funds made available under this part to Governors and units of general local government shall be expended in consultation with—

"(1) agencies administering programs for disaster relief provided under the Disaster Relief Act of 1974; and

"(2) the administrative entity and the private industry council in each service delivery area within which disaster employment programs will be conducted under this part.

"SEC. 499B. USE OF FUNDS.

"(a) PROJECTS RESTRICTED TO DISASTER AREAS.—Funds made available under this part to any unit of general local government in a disaster area—

"(1) shall be used exclusively to provide employment on projects to provide food, clothing, shelter, and other humanitarian assistance for disaster victims and on projects regarding demolition, cleanup, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area; and

"(2) may be expended through public and private agencies and organizations engaged in such projects.

"(b) ELIGIBLE PARTICIPANTS.—An individual shall be eligible to be offered disaster employment under this part if such individual is—

"(1)(A) eligible to participate or enroll, or is a participant or enrolled, under title III of this Act, other than an individual who is actively engaged in a training program; or

"(B) eligible to participate in programs or activities assisted under section 401 or 402; and

"(2) unemployed as a consequence of the disaster.

"(c) LIMITATIONS ON DISASTER RELIEF EMPLOYMENT.—No individual shall be employed under this part for more than 6 months for work related to recovery from a single natural disaster.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to promote the fiscal integrity of programs conducted with funds made available under this part.

"SEC. 499C. DEFINITIONS.

"As used in this part, the term 'unit of general local government' includes—

"(1) in the case of a community conducting a project in an Indian reservation or Alaska Native village, the grantee designated under subsection (c) or (d) of section 401, or a consortium of such grantees and the State; and

"(2) in the case of a community conducting a project in a migrant or seasonal farmworker community, the grantee designated under section 402(c), or a consortium of such grantees and the State.".

TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

SEC. 501. JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS.

Title V of the Act (29 U.S.C. 1791 et seq.) is amended to read as follows:

"TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

"SEC. 501. STATEMENT OF PURPOSE.

"It is the purpose of this title to provide incentives to reduce welfare dependency, promote self-sufficiency, increase child support payments, and increase employment and earnings of individuals by providing to each participating State a bonus for providing job training to—

"(1) absent parents of children receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), who subsequent to such training pay child support for their children; and

"(2) blind or disabled individuals receiving supplemental security income under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), who subsequent to such training are successfully placed in and retain employment.

"SEC. 502. PAYMENTS.

"(a) IN GENERAL.—For each program year for which funds are appropriated to carry out this title, the Secretary shall pay to each participating State the amount that State is eligible to receive under this title.

"(b) RATABLE REDUCTIONS.—If the amount so appropriated is not sufficient to pay each State the amount each State is eligible to receive, the Secretary shall ratably reduce the amount paid to each State.

"(c) RATABLE INCREASES.—If any additional amount is made available for carrying out this title for any program year after the application of subsection (b), such additional amount shall be allocated among the States by increasing such payments in the same manner as they were reduced, except that no such State shall be paid an amount that exceeds the amount that the State is eligible to receive under this title.

"(d) REPROGRAMMING.—If the amount appropriated for a program year is in excess of the amount necessary to pay each State the amount each State is eligible to receive, the Secretary shall allot the excess amount to the States for allocation to the service delivery areas in accordance with section 202 to carry out part A of title II.

"SEC. 503. AMOUNT OF INCENTIVE BONUS.

"The amount of the incentive bonus paid to each State shall be the sum of—

"(1) an amount equal to the total of the amounts of child support paid by each individual eligible under section 506(1) within the State, for up to 2 years after the termination of the individual from activities provided under this Act; and

"(2) an amount equal to the total reduction in the Federal contribution to the amounts received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) by each individual eligible under section 506(2) within the State, for up to 2 years after the termination of the individual from activities provided under this Act.

"SEC. 504. USE OF INCENTIVE BONUS FUNDS.

"(a) IN GENERAL.—

"(1) ALLOCATION.—

"(A) ADMINISTRATIVE COSTS.—During any program year, the Governor may use an amount not to exceed 5 percent of the total bonus payments of a State for administrative costs incurred under this title, including data and information collection and compilation, recordkeeping, or the preparation of applications for incentive bonuses.

"(B) DISTRIBUTION OF PAYMENTS.—The amount of incentive bonus payments that remains after the deduction of administrative costs under subparagraph (A) shall be distributed to service delivery areas and Job Corps centers within the State in accordance with an agreement between the Governor and representatives of such areas and centers. Such agreement shall reflect an equitable method of distribution that is based on the degree to which the efforts of such area or center contributed to the qualification of the State for an incentive bonus payment under this title.

"(2) SPECIAL RULE.—Not more than 10 percent of the amounts received under this title in any program year by each service delivery area and Job Corps center may be used for the administrative costs of establishing and maintaining systems necessary for operation of programs under this title, including the costs of providing incentive payments described in subsection (b), technical assistance, data and information collection and compilation, management information systems, post-program followup activities, and research and evaluation activities. The balance of funds not so expended shall be used by each service delivery area for activities described in sections 204 and 264, and by each Job Corps center for activities authorized under part B of title IV.

"(b) INCENTIVE PAYMENTS TO SERVICE PROVIDERS.—Each service delivery area or Job Corps center may make incentive payments to service providers, including participating State and local agencies, and community-based organizations, that demonstrate effectiveness in delivering employment and training services to individuals such as those described in section 506.

"(c) APPLICATION OF SECTION RELATING TO ADMINISTRATIVE ADJUDICATIONS.—Section 166

(relating to administrative adjudication) shall apply to the distribution of incentive bonus payments under this section.

"SEC. 505. NOTICE AND APPLICATION.

"(a) NOTICE OF INTENT TO PARTICIPATE.—Any State seeking to participate in the incentive bonus program established under this title shall notify the Secretary of the intent of the State to participate not later than 30 days before the beginning of the first program year of participation.

"(b) APPLICATION.—

"(1) IN GENERAL.—Any State seeking to receive an incentive bonus under this title shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in order to ensure compliance with this title.

"(2) CONTENTS.—Each such application shall contain, at a minimum—

"(A) a list of the eligible individuals in the State who satisfied the requirements of section 506 during the program year;

"(B) the amount of the incentive bonus attributable to each eligible individual and due the State under section 503; and

"(C) certification that documentation is available to verify the eligibility of participants and the amount of the incentive bonus claimed by the State.

"(c) NOTICE OF APPROVAL OR DENIAL.—The Secretary shall promptly inform a State after receipt of the application as to whether or not the application of the State has been approved.

"SEC. 506. ELIGIBILITY FOR INCENTIVE BONUSES.

"An individual shall be eligible to participate in a program established under this title if—

"(1) the individual—

"(A) was an absent parent of any child receiving aid to families with dependent children under part A of title IV of the Social Security Act at the time such individual was determined to be eligible to participate in activities provided under this Act;

"(B) has participated in education, training or other activities (including the Job Corps) provided under this Act; and

"(C) pays child support for a child specified in subparagraph (A) following termination from activities provided under this Act; or

"(2) the individual—

"(A) is blind or disabled;

"(B) was receiving benefits under title XVI of the Social Security Act (relating to supplemental security income) at the time such individual was determined to be eligible to participate in activities under this Act;

"(C) has participated in education, training, or other activities (including the Job Corps) provided under this Act; and

"(D) earns from employment a wage or income.

"SEC. 507. INFORMATION AND DATA COLLECTION.

"(a) TECHNICAL ASSISTANCE.—In order to facilitate the collection, exchange, and compilation of data and information required by this title, the Secretary is authorized to provide technical assistance to the States. Such assistance may include cost-effective methods for using State and Federal records to which the Secretary has lawful access.

"(b) JOINT REGULATIONS.—

"(1) IN GENERAL.—The Secretary and the Secretary of Health and Human Services shall jointly issue regulations regarding the sharing, among public agencies participating in the programs assisted under this title, of the data and information necessary to fulfill the requirements of this title.

"(2) SUBJECTS.—Such regulations shall ensure—

"(A) the availability of information necessary to verify the eligibility of participants and the amount of the incentive bonus payable; and

"(B) the maintenance of confidentiality of the information so shared in accordance with Federal and State privacy laws.

"SEC. 508. EVALUATION AND REPORT.

"(a) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct or provide for an evaluation of the incentive bonus program assisted under this title.

"(2) CONSIDERATIONS.—The Secretary shall consider—

"(A) whether the program results in increased service under this Act to absent parents of children receiving aid to families with dependent children under part A of title IV of the Social Security Act and to recipients of supplemental security income under title XVI of the Social Security Act;

"(B) whether the program results in increased child support payments;

"(C) whether the program is administratively feasible and cost effective;

"(D) whether the services provided to other eligible participants under part A of title II are affected by the implementation and operation of the incentive bonus program; and

"(E) such other factors as the Secretary determines to be appropriate.

"(b) REPORT TO CONGRESS.—Not later than January 1, 1997, the Secretary shall submit a report to the appropriate committees of the Congress on the effectiveness of the incentive bonus program assisted under this title. Such report shall include an analysis of the costs of such program and the results of program activities.

"SEC. 509. IMPLEMENTING REGULATIONS.

"The Secretary shall promulgate regulations implementing this title not later than January 31, 1993.".

TITLE VI—STATE HUMAN RESOURCE INVESTMENT COUNCIL

SEC. 601. STATE HUMAN RESOURCE INVESTMENT COUNCIL

(a) IN GENERAL.—The Act (29 U.S.C. 1501 et seq.) is amended by adding at the end the following new title:

"TITLE VII—STATE HUMAN RESOURCE INVESTMENT COUNCIL

"SEC. 701. ESTABLISHMENT AND FUNCTIONS.

"(a) IN GENERAL.—Each State may, in accordance with the requirements of this title, establish a single State human resource investment council (in this title referred to as the 'State Council') that—

"(1) shall review the provision of services and the use of funds and resources under applicable Federal human resource programs and advise the Governor on methods of coordinating such provision of services and use of funds and resources consistent with the laws and regulations governing such programs;

"(2) shall advise the Governor on the development and implementation of State and local standards and measures relating to applicable Federal human resource programs and coordination of such standards and measures;

"(3) shall carry out the duties and functions prescribed for existing State councils described under the laws relating to the applicable Federal human resource programs;

"(4) may identify the human investment needs in the State and recommend to the Governor goals for meeting such needs;

"(5) may recommend to the Governor goals for the development and coordination of the human resource system in the State;

"(6) may prepare and recommend to the Governor a strategic plan to accomplish the goals developed pursuant to paragraphs (4) and (5); and

"(7) may monitor the implementation of and evaluate the effectiveness of the strategic plan prepared pursuant to paragraph (6).

"(b) APPLICABLE FEDERAL HUMAN RESOURCE PROGRAM DEFINED.—

"(1) IN GENERAL.—(A) Except as provided in subparagraph (B), for purposes of this title, the term 'applicable Federal human resource program' includes any program authorized under the provisions of law described under paragraph (2)(A) that the Governor and the head of the State agency responsible for the administration of such program jointly agree to include within the jurisdiction of the State Council.

"(B) With respect to a program authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) under paragraph (2)(A)(ii), the term 'applicable Federal human resource program' shall only apply to such program if, in addition to meeting the requirements of subparagraph (A), the State council on vocational education agrees to include such program under the jurisdiction of the State Council.

"(2) PROGRAMS.—In accordance with the requirements of paragraph (1), applicable Federal human resource programs—

"(A) may include the programs authorized under—

"(i) this Act;

"(ii) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(iii) the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

"(iv) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(v) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(vi) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.); and

"(vii) the employment program established under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)); and

"(B) may not include programs authorized under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

"SEC. 702. COMPOSITION.

"(a) IN GENERAL.—Each State Council shall be composed as follows:

"(1) Each State Council shall include the head of each State agency responsible for the administration of an applicable Federal human resource program.

"(2)(A) Each State Council shall include one or more representatives, appointed by the Governor to the State Council for a minimum of 2 years, from each of the following:

"(i) Local public education.

"(ii) A postsecondary institution.

"(iii) A secondary or postsecondary vocational educational institution.

"(iv) A community-based organization.

"(B) The total number of representatives appointed under clause (i), (ii), and (iii) of subparagraph (A) shall constitute not less than 15 percent of the membership of the State Council.

"(3)(A) Each State Council shall include individuals, appointed by the Governor to the State Council for a minimum of 2 years, from among the following:

"(i) Representatives of business and industry, who shall constitute not less than 15 percent of the membership of the State Council, including individuals who are representatives of business and industry on private industry councils established within the State under section 102.

"(ii) Representatives of organized labor who—

"(I) shall be selected from among individuals nominated by recognized State labor federations; and

"(II) shall constitute not less than 15 percent of the membership of the State Council.

"(B) If the State labor federation fails to nominate a sufficient number of individuals under subclause (I) of subparagraph (A)(ii) to satisfy the requirement under subclause (II) of such subparagraph, individual workers may be included on the State Council to satisfy such requirement.

"(b) ADDITIONAL MEMBERS.—Each State Council may also include additional qualified members, who may be selected from—

"(1) representatives from local welfare agencies;

"(2) representatives from public housing agencies;

"(3) representatives from units of general local government or consortia of such units, appointed from nominations made by the chief elected officials of such units or consortia;

"(4) representatives from the State legislature;

"(5) representatives from any State or local program that receives funding under an applicable Federal human resource program that the Governor determines to have a direct interest in the utilization of human resources within the State; and

"(6) individuals who have special knowledge and qualifications with respect to special education and career development needs of hard-to-serve individuals.

"(c) ADDITIONAL REQUIREMENTS.—

"(1) PERCENTAGE LIMITATION.—None of the following categories of individuals may constitute more than 60 percent of the membership of each State Council:

"(A) Individuals selected under subsection (a)(1).

"(B) Individuals appointed under subsection (a)(2).

"(C) Individuals appointed under subsection (a)(3)(A)(i).

"(D) Individuals appointed under subsection (a)(3)(A)(ii).

"(E) Individuals selected under subsection (b).

"(2) EXPERTISE.—The Governor shall ensure that both the State Council and the staff of the State Council have sufficient expertise to effectively carry out the duties and functions of existing State councils described under the laws relating to the applicable Federal human resource programs. Such expertise shall include, where appropriate, knowledge of—

"(A) the long-term needs of individuals preparing to enter the workforce;

"(B) the needs of local, State, and regional labor markets; and

"(C) the methods for evaluating the effectiveness of vocational training programs in serving varying populations.

"SEC. 703. ADMINISTRATION.

"(a) FUNDING.—In order to carry out the functions of the State Council, each State establishing a State Council that meets the requirements of this title may—

"(1) use funds otherwise available for State councils under the applicable Federal human resource programs;

"(2) use funds otherwise available under the applicable Federal human resource programs, consistent with the laws and regulations governing such programs, including funds available to carry out section 123(a)(2)(D), except that, with respect to the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), such State may use funds only to the extent provided under section 112(g) of such Act; and

"(3) use funds, services, personnel, facilities and information provided by State and local public agencies, with the consent of such agencies.

"(b) PERSONNEL.—Each State Council may obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions.

"(c) CERTIFICATION.—Each State shall certify to the Secretary the establishment and membership of the State Council at least 90 days before the beginning of each period of 2 program years for which a job training plan is submitted under this Act.

"(d) EQUITABLE FUNDING.—Each State agency participating in a State Council under this title is encouraged to provide funds to support such Council in a manner consistent with its representation on such Council.".

(b) CONFORMING AMENDMENTS.—

(1) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT AMENDMENTS.—Section 112 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2322) is amended—

(A) in subsection (a), by striking "Each" and inserting "Except as provided in subsection (g), each"; and

(B) by adding at the end the following new subsection:

"(g)(1) In lieu of establishing the State council required under subsection (a), each State may satisfy the requirements of this section by designating the State human resource investment council established in accordance with title VII of the Job Training Partnership Act (in this subsection referred to as the 'State Council') to carry out the duties described in subsection (d).

"(2) Funds available under subsection (f) may be allotted to the State Council to carry out such duties and the other duties of the State Council if the Governor and head of the State agency responsible for administration of the programs under this Act agree to such an allotment. Only funds available under subsection (f) may be so allotted.".

(2) ADULT EDUCATION ACT AMENDMENT.—Section 332(d) of the Adult Education Act (20 U.S.C. 1205a(d)) is amended by adding at the end the following new subsection:

"(g) DESIGNATION OF STATE HUMAN RESOURCE INVESTMENT COUNCIL UNDER THE JOB TRAINING PARTNERSHIP ACT.—(1) The requirements in this section shall be satisfied if a State designates the State human resource investment council established under title VII of the Job Training Partnership Act (in this subsection referred to as the 'State Council') to carry out the duties described in subsection (f).

"(2) Funds under this part may be allotted to the State Council to carry out such duties and the other duties of the State Council if the Governor and the head of the State agency responsible for carrying out programs under this Act agree to such an allotment.".

(3) STATE JOB TRAINING COORDINATING COUNCIL.—Section 122 of the Act (29 U.S.C. 1532) is amended—

(A) in subsection (a) by striking "Any" and inserting "Except as provided in subsection (d), any"; and

(B) by adding at the end the following new subsection:

"(d)(1) In lieu of establishing the State council required under subsection (a), each State may satisfy the requirements of this section by designating the State human resource investment council established in accordance with title VII (in this subsection referred to as the 'State Council') to carry out the duties described in subsection (b).

"(2) Funding provided to carry out this section may be allotted to the State Council to carry out such functions and the other functions of the State Council if the Governor and the head of the State agency responsible for administration of programs under this Act agree to such an allotment.".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. EFFECTIVE DATE AND TRANSITION PROVISIONS.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall take effect on July 1, 1993.

(b) PERFORMANCE STANDARDS.—The Secretary of Labor shall issue revised performance standards under the amendments made by section 115 as soon as the Secretary determines sufficient data are available, but not later than July 1, 1994, except that with respect to the factor of retention in unsubsidized employment specified in section 106(b)(3)(B) of the Job Training Partnership Act (as amended by section 115), the requirement that such retention be for not less than 6 months shall take effect not later than July 1, 1995.

(c) INTERIM TRAINING SERVICES FORMULA.—

(1) LEVEL OF FUNDING.—If the amount appropriated to carry out parts A and C of title II of the Job Training Partnership Act for fiscal year 1993 is less than the sum of—

(A) $25,000,000; and

(B) the amount appropriated to carry out part A of title II of such Act, as in effect on the day before the date of enactment of this Act, for fiscal year 1992,

the amendment made by section 202 of this Act shall not take effect on July 1, 1993, and section 202 of the Job Training Partnership Act shall be amended to read as follows:

"SEC. 202. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Not more than $5,000,000 of the amount appropriated pursuant to section 3(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

"(2) STATES.—Subject to the provisions of paragraph (3), of the remainder of the amount available for this part for each fiscal year—

"(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

"(B) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States; and

"(C) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged adults within each State compared to the total number of economically disadvantaged adults in all States, except that, for the allotment for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), the allotment shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged adults in such area.

"(3) LIMITATIONS.—

"(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amounts available for allotment to the States under this subsection from the remainder described in paragraph (2) for each fiscal year.

"(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraph (B), the allotment percentage of a State for a fiscal year shall be the percentage of funds allotted to the State under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraph (B), the allocation percentage of a State for fiscal year 1992 shall be the percentage of funds allotted to the State under section 201, as in effect on the day before the date of enactment of the Job Training Reform Amendments of 1992.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—

"(1) FORMULA.—The Governor shall, in accordance with section 162, allocate 77 percent of the allotment of the State under subsection (a) for each fiscal year among service delivery areas within the State, and shall ensure that, subject to the provisions of paragraph (3), of the amount allocated under this subsection—

"(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in the State;

"(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State; and

"(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged adults within each service delivery area compared to the total number of economically disadvantaged adults in the State, except that the allocation for any service delivery area described in section 101(a)(4)(A)(iii) shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged adults in such area.

"(2) LIMITATIONS.—

"(A) MINIMUM PERCENTAGE.—No service delivery area within any State shall be allocated an amount equal to less than 90 percent of the average of its allocation percentage for the 2 preceding fiscal years preceding the fiscal year for which the determination is made. If the amounts appropriated pursuant to section 3(a)(1) for a fiscal year and available to carry out this part are not sufficient to provide an amount equal to at least 90 percent of such allocation percentage to each such area, the amounts allocated to each area shall be ratably reduced.

"(B) ALLOCATION PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraph (A), the allocation percentage of a service delivery area for a fiscal year shall be the percentage of funds allocated to the service delivery area under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraph (A), the allocation percentage of a service delivery area for fiscal year 1992 shall be the percentage of funds allocated to the service delivery area under part A of title II.

"(c) STATE ACTIVITIES.—

"(1) DIVISION.—Of the remaining 23 percent of the allotment of the State under subsection (a) for each fiscal year—

"(A) 5 percent of such allotment of the State for each fiscal year shall be available to the Governor of the State to be used for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122;

"(B) 5 percent of such allotment of each State for each fiscal year shall be available to provide incentive grants authorized under section 106(b)(7), in accordance with paragraph (2);

"(C) 8 percent of the allotment of each State for each fiscal year shall be available to carry out section 123; and

"(D) 5 percent of such allotment of each State for each fiscal year shall be available to carry out section 204(d).

"(2) OTHER USES.—

"(A) CAPACITY BUILDING AND TECHNICAL ASSISTANCE.—The Governor may use up to 33 percent of the amount allotted under paragraph (1)(B) for providing capacity building and technical assistance to service delivery areas and service providers. Such use of funds may include the development and training of service delivery area and service provider staff and the development of exemplary program activities.

"(B) NONDUPLICATION AND COORDINATION.—Funds used under subparagraph (A)—

"(i) may not be used to duplicate the activities of the Capacity Building and Information and Dissemination Network established under section 453(b); and

"(ii) shall, to the extent practicable, be used to coordinate the activities under subparagraph (A) with the activities of the Network under section 453(b).

"(d) DEFINITIONS AND RULE.—As used in this section:

"(1) DEFINITIONS.—

"(A) ECONOMICALLY DISADVANTAGED ADULT.—The term 'economically disadvantaged adult' means an individual who is age 22 through 72 and who has, or is a member of a family that has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' means—

"(i) with respect to the excess number of unemployed individuals within a State—

"(I) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

"(II) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State; and

"(ii) with respect to the excess number of unemployed individuals within a service delivery area—

"(I) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area; or

"(II) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such service delivery area.

"(C) STATE.—The term 'State' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged adults.".

(2) EFFECTIVE DATE.—Any amendment made by paragraph (1) shall take effect on July 1, 1993.

(d) PERMANENT TRAINING SERVICES FORMULA.—

(1) LEVEL OF FUNDING.—If section 202 of the Job Training Partnership Act is amended in accordance with subsection (c) and the amount appropriated to carry out parts A and C of title II of the Job Training Partnership Act for a fiscal year is not less than the sum of—

(A) $25,000,000; and

(B) the amount appropriated to carry out part A of title II of such Act, as in effect on the day before the date of enactment of this Act, for fiscal year 1992,

the amendment made by section 202 of this Act shall take effect.

(2) EFFECTIVE DATE.—Any amendment made by paragraph (1) shall take effect on October 1 of the fiscal year described in paragraph (1).

(e) SUMMER YOUTH PROGRAM TRANSFERS.—

(1) IN GENERAL.—Section 205 and the amendment made by such section 205 shall take effect on the date of enactment of this Act.

(2) TRANSITION.—A service delivery area may transfer up to 10 percent of the amounts allocated for such area for the summer of 1992 under part B of title II of the Job Training Partnership Act for program year 1992 to provide services to youth pursuant to the program under part A of such title, to provide services to youth under such part A, if such transfer is approved by the Governor.

(f) INTERIM TRAINING SERVICES FORMULA.—

(1) LEVEL OF FUNDING.—If the amount appropriated to carry out parts A and C of title II of the Job Training Partnership Act for fiscal year 1993 is less than the sum of—

(A) $25,000,000; and

(B) the amount appropriated to carry out part A of title II of such Act, as in effect on the day before the date of enactment of this Act, for fiscal year 1992,

the amendment made by section 207 of this Act shall not take effect on July 1, 1993, and title II of the Job Training Partnership Act shall be amended by inserting after section 261 of such Act the following:

"SEC. 262. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Not more than $5,000,000 of the amount appropriated pursuant to section 3(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

"(2) STATES.—Subject to the provisions of paragraph (3), of the remainder of the amount available for this part for each fiscal year—

"(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

"(B) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States; and

"(C) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged youth within each State compared to the total number of economically disadvantaged youth in all States, except that, for the allotment for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), the allotment shall be based on the higher of the number of youth in families with an income below the low-income level in such area or the number of economically disadvantaged youth in such area.

"(3) LIMITATIONS.—

"(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amounts available for allotment to the States under this subsection from the remainder described in paragraph (2) for each fiscal year.

"(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraph (B), the allotment percentage of a State for a fiscal year shall be the percentage of funds allotted to the State under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraph (B), the allocation percentage of a State for fiscal year 1992 shall be the percentage

of funds allotted to the State under section 201, as in effect on the day before the date of enactment of the Job Training Reform Amendments of 1992.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—

"(1) FORMULA.—The Governor shall, in accordance with section 162, allocate 82 percent of the allotment of the State under subsection (a) for each fiscal year among service delivery areas within the State, and shall ensure that, subject to the provisions of paragraph (3), of the amount allocated under this subsection—

"(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in the State;

"(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State; and

"(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged youth within each service delivery area compared to the total number of economically disadvantaged youth in the State, except that the allocation for any service delivery area described in section 101(a)(4)(A)(iii) shall be based on the higher of the number of youth in families with an income below the low-income level in such area or the number of economically disadvantaged youth in such area.

"(2) LIMITATIONS.—

"(A) MINIMUM PERCENTAGE.—No service delivery area within any State shall be allocated an amount equal to less than 90 percent of the average of its allocation percentage for the 2 preceding fiscal years preceding the fiscal year for which the determination is made. If the amounts appropriated pursuant to section 3(a)(1) for a fiscal year and available to carry out this part are not sufficient to provide an amount equal to at least 90 percent of such allocation percentage to each such area, the amounts allocated to each area shall be ratably reduced.

"(B) ALLOCATION PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraph (A), the allocation percentage of a service delivery area for a fiscal year shall be the percentage of funds allocated to the service delivery area under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraph (A), the allocation percentage of a service delivery area for fiscal year 1992 shall be the percentage of funds allocated to the service delivery area under part A of title II.

"(c) STATE ACTIVITIES.—

"(1) DIVISION.—Of the remaining 18 percent of the allotment of the State under subsection (a) for each fiscal year—

"(A) 5 percent of such allotment of the State for each fiscal year shall be available to the Governor of the State to be used for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122;

"(B) 5 percent of such allotment of each State for each fiscal year shall be available to provide incentive grants authorized under section 106(b)(7), in accordance with paragraph (2); and

"(C) 8 percent of the allotment of each State for each fiscal year shall be available to carry out section 123.

"(2) OTHER USES.—

"(A) CAPACITY BUILDING AND TECHNICAL ASSISTANCE.—The Governor may use up to 33 percent of the amount allotted under paragraph (1)(B) for providing capacity building and technical assistance to service delivery areas and service providers. Such use of funds may include the development and training of service delivery area and service provider staff and the development of exemplary program activities.

"(B) NONDUPLICATION AND COORDINATION.—Funds used under subparagraph (A)—

"(i) may not be used to duplicate the activities of the Capacity Building and Information and Dissemination Network established under section 453(b); and

"(ii) shall, to the extent practicable, be used to coordinate the activities under subparagraph (A) with the activities of the Network under section 453(b).

"(d) DEFINITIONS AND RULE.—As used in this section:

"(1) DEFINITIONS.—

"(A) ECONOMICALLY DISADVANTAGED YOUTH.—The term 'economically disadvantaged youth' means an individual who is age 16 through 21 and who has, or is a member of a family that has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' means—

"(i) with respect to the excess number of unemployed individuals within a State—

"(I) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

"(II) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State; and

"(ii) with respect to the excess number of unemployed individuals within a service delivery area—

"(I) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area; or

"(II) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such service delivery area.

"(C) STATE.—The term 'State' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged youth.".

(2) EFFECTIVE DATE.—Any amendment made by paragraph (1) shall take effect on July 1, 1993.

(g) PERMANENT TRAINING SERVICES FORMULA.—

(1) LEVEL OF FUNDING.—If title II of the Job Training Partnership Act is amended in accordance with subsection (f) and the amount appropriated to carry out parts A and C of title II of the Job Training Partnership Act for a fiscal year is not less than the sum of—

(A) $25,000,000; and

(B) the amount appropriated to carry out part A of title II of such Act, as in effect on the day before the date of enactment of this Act, for fiscal year 1992,

the amendment made by section 207 of this Act shall take effect.

(2) EFFECTIVE DATE.—Any amendment made by paragraph (1) shall take effect on October 1 of the fiscal year described in paragraph (1).

(h) EVALUATION.—The Secretary of Labor shall evaluate the impact of programs under title II of the Job Training Partnership Act on participant employment, earnings and welfare dependency in multiple sites, using the random assignment of individuals to groups receiving services under programs authorized under the Job Training Reform Amendments of 1992 to groups not receiving such services.

(i) RULES AND PROCEDURES.—

(1) IN GENERAL.—The Secretary of Labor may establish such rules and procedures as may be necessary to provide for an orderly implementation of the amendments made by this Act.

(2) REVIEW.—The Secretary of Labor, the Governors, and the service delivery areas shall conduct a comprehensive review of the current policies, practices, procedures, and delivery systems relating to programs authorized under the Job Training Partnership Act for the purpose of ensuring the effective implementation of the amendments made by this Act. Such review shall include consideration of the appropriateness of current service delivery area designations, the representativeness of current State and local councils, the adequacy of current administrative systems, the effectiveness of current outreach, service delivery, and coordination activities, and other relevant matters.

(j) IMPLEMENTING REGULATIONS.—The Secretary of Labor shall issue final regulations relating to the implementation of the amendments made by this Act not later than December 18, 1992.

SEC. 702. TECHNICAL AND CONFORMING AMENDMENTS.

(a) JOB TRAINING PARTNERSHIP ACT.—

(1) Section 4(14) of the Act (29 U.S.C. 1503(14)) is amended by striking "section 521(19)" and inserting "section 521(22)".

(2) Section 4(23) of the Act (29 U.S.C. 1503(23)) is amended by striking "section 1201(h) of the Higher Education Act of 1965" and inserting "section 1471(23) of the Elementary and Secondary Education Act of 1965".

(3) Subparagraph (C) of section 4(27) of the Act (29 U.S.C. 1503(27)) is amended by indenting, and aligning the margin of, such subparagraph so as to align with subparagraph (B) of such section.

(4) Section 121(b)(1) is amended by striking "and 203" and inserting "203, or 263".

(5) Section 122 of the Act (29 U.S.C. 1532) is amended—

(A) in subsection (a)(1), by striking "section 202(b)(4)" and inserting "sections 202(c)(1)(A) and 262(c)(1)(A)";

(B) in subsection (b)(2), by striking "section 202(a)" and inserting "section 202(b) or 262(b)"; and

(C) in subsection (b)(11)(B), by striking "section 113(b)(9)" and inserting "section 113(b)(14)".

(6) Section 125(a) of the Act (29 U.S.C. 1535(a)) is amended by striking "section 202(b)(4) and".

(7) Section 161(b)(2) of the Act (29 U.S.C. 1571(b)(2)) is amended by striking "sections 452 through 455" and inserting "section 452".

(8) Section 161(c) of the Act (29 U.S.C. 1571(c)) is repealed.

(9) Section 172 of the Act is redesignated the second place it appears as section 173.

(10) Section 181 of the Act (29 U.S.C. 1591) is repealed.

(11) Section 302(b)(2) of the Act (29 U.S.C. 1652(b)(2)) is amended by striking "part B and this part" and inserting "part A".

(12) Section 311(f) of the Act (29 U.S.C. 1661(f)) is amended by striking "section" and inserting "sections".

(13) Section 433(c)(1) of the Act (29 U.S.C. 1703(c)(1)) is amended by striking "sections 452 and 455" and inserting "sections 452 and 453".

(14) Section 433A of the Act (29 U.S.C. 1703a) is amended—

(A) in subsection (c)(2), by striking "may be over the maximum age permitted by section 423(1), but"; and

(B) in subsection (e), by striking "section 454" and inserting "section 452(d)".

(15) Section 436(a)(1) of the Act (29 U.S.C. 1706(a)(1)) is amended by striking "1954" and inserting "1986".

(16) Section 462(f)(2) of the Act (29 U.S.C. 1752(f)(2)) is amended by adding at the end a period.

(17) Section 472(a) of the Act (29 U.S.C. 1772(a)) is amended by striking the 4th sentence.

(18) Section 473(7) of the Act (29 U.S.C. 1773(7)) is amended—

(A) by striking "(A)";

(B) by striking ", after consultation with the National Council on Vocational Education,";

(C) by striking "; and" and inserting a period; and

(D) by striking subparagraph (B).

(19) Section 481(a) of the Act (29 U.S.C. 1781(a)) is amended by striking "section 203(a)(1)" and inserting "section 203, 263".

(20) Title VI of the Act is amended by redesignating section 505 (29 U.S.C. 1505) as section 605.

(b) FOOD STAMP ACT OF 1977.—Section 5(l) of the Food Stamp Act of 1977 (7 U.S.C. 2014(l)) is amended by striking "section 204(5)" and inserting "section 204(b)(1)(C) or section 264(c)(1)(A)".

(c) TABLE OF CONTENTS.—The table of contents relating to the Act is amended to read as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Statement of purpose.
"Sec. 3. Authorization of appropriations.
"Sec. 4. Definitions.

"TITLE I—JOB TRAINING PARTNERSHIP

"PART A—SERVICE DELIVERY SYSTEM

"Sec. 101. Establishment of service delivery areas.
"Sec. 102. Establishment of private industry council.
"Sec. 103. Functions of private industry council.
"Sec. 104. Job training plan.
"Sec. 105. Review and approval of plan.
"Sec. 106. Performance standards.
"Sec. 107. Selection of service providers.
"Sec. 108. Limitation on certain costs.
"Sec. 109. Recapture and reallotment of unobligated funds.

"PART B—ADDITIONAL STATE RESPONSIBILITIES

"Sec. 121. Governor's coordination and special services plan.
"Sec. 122. State job training coordinating council.
"Sec. 123. State education coordination and grants.
"Sec. 124. Identification of additional imposed requirements.
"Sec. 125. State labor market information programs.
"Sec. 126. Authority of State legislature.
"Sec. 127. Interstate agreements.

"PART C—PROGRAM REQUIREMENTS FOR SERVICE DELIVERY SYSTEM

"Sec. 141. General program requirements.
"Sec. 142. Benefits.
"Sec. 143. Labor standards.
"Sec. 144. Grievance procedure.
"Sec. 145. Prohibition against Federal control of education.

"PART D—FEDERAL AND FISCAL ADMINISTRATIVE PROVISIONS

"Sec. 161. Program year.
"Sec. 162. Prompt allocation of funds.
"Sec. 163. Monitoring.
"Sec. 164. Fiscal controls; sanctions.
"Sec. 165. Reports, recordkeeping, and investigations.
"Sec. 166. Administrative adjudication.
"Sec. 167. Nondiscrimination.
"Sec. 168. Judicial review.
"Sec. 169. Administrative provisions.
"Sec. 170. Utilization of services and facilities.
"Sec. 171. Obligational authority.
"Sec. 172. Presidential awards for outstanding private sector involvement in job training programs.
"Sec. 173. Construction.

"PART E—MISCELLANEOUS PROVISIONS

"Sec. 182. Criminal provisions.
"Sec. 183. Reference.
"Sec. 184. Repealers.

"TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

"PART A—ADULT TRAINING PROGRAM

"Sec. 201. Statement of purpose.
"Sec. 202. Allotment and allocation.
"Sec. 203. Eligibility for services.
"Sec. 204. Program design.
"Sec. 205. Linkages.
"Sec. 206. Transfer of funds.

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"Sec. 251. Purpose.
"Sec. 252. Authorization of appropriations; allotment and allocation.
"Sec. 253. Use of funds.
"Sec. 254. Limitations.
"Sec. 255. Applicable provisions.
"Sec. 256. Transfer of funds.

"PART C—YOUTH TRAINING PROGRAM

"Sec. 261. Statement of purpose.
"Sec. 262. Allotment and allocation.
"Sec. 263. Eligibility for services.
"Sec. 264. Program design.
"Sec. 265. Linkages.
"Sec. 266. Transfer of funds.

"TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

"Sec. 301. Definitions.
"Sec. 302. Allotment.
"Sec. 303. Recapture and reallotment of unexpended funds.

"PART A—STATE DELIVERY OF SERVICES

"Sec. 311. State plan.
"Sec. 312. Substate grantees.
"Sec. 313. Substate plan.
"Sec. 314. Use of funds; services to be provided.
"Sec. 315. Limitations on uses of funds.
"Sec. 316. Retraining services availability.
"Sec. 317. Functions of State job training coordinating council.

"PART B—FEDERAL RESPONSIBILITIES

"Sec. 321. Federal administration.
"Sec. 322. Federal delivery of dislocated worker services.
"Sec. 323. Allowable activities.
"Sec. 324. Demonstration programs.
"Sec. 325. Defense conversion adjustment program.
"Sec. 326. Clean Air Employment Transition Assistance.

"TITLE IV—FEDERALLY ADMINISTERED PROGRAMS

"PART A—EMPLOYMENT AND TRAINING PROGRAMS FOR NATIVE AMERICANS AND MIGRANT AND SEASONAL FARMWORKERS

"Sec. 401. Native American programs.
"Sec. 402. Migrant and seasonal farmworker programs.
"Sec. 403. Grant procedures.

"PART B—JOB CORPS

"Sec. 421. Statement of purpose.
"Sec. 422. Establishment of the job corps.
"Sec. 423. Individuals eligible for the job corps.
"Sec. 424. Screening and selection of applicants: general provisions.
"Sec. 425. Screening and selection: special limitations.
"Sec. 426. Enrollment and assignment.
"Sec. 427. Job corps centers.
"Sec. 428. Program activities.
"Sec. 429. Allowances and support.
"Sec. 430. Standards of conduct.
"Sec. 431. Community participation.
"Sec. 432. Counseling and job placement.
"Sec. 433. Experimental and developmental projects and coordination with other programs.
"Sec. 433A. Job corps centers for homeless families.
"Sec. 434. Advisory boards and committees.
"Sec. 435. Participation of the States.
"Sec. 436. Application of provisions of Federal law.
"Sec. 437. Special provisions.
"Sec. 438. General provisions.
"Sec. 439. Donations.

"PART C—VETERANS' EMPLOYMENT PROGRAMS

"Sec. 441. Programs authorized.

"PART D—NATIONAL ACTIVITIES

"Sec. 451. National partnership and special training programs.
"Sec. 452. Research, demonstration, and evaluation.
"Sec. 453. Capacity building, information, dissemination, and replication activities.
"Sec. 454. Guidance and technical assistance.
"Sec. 455. Uniform requirements.
"Sec. 456. Nontraditional employment demonstration program.

"PART E—LABOR MARKET INFORMATION

"Sec. 461. Labor market information; availability of funds.
"Sec. 462. Cooperative labor market information program.
"Sec. 463. Special Federal responsibilities.
"Sec. 464. National occupational information coordinating committee.
"Sec. 465. Job bank program.

"PART F—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

"Sec. 471. Statement of purpose.
"Sec. 472. Commission established.
"Sec. 473. Functions of the commission.
"Sec. 474. Administrative provisions.
"Sec. 475. Reports.

"PART G—TRAINING TO FULFILL AFFIRMATIVE ACTION OBLIGATIONS

"Sec. 481. Affirmative action.

"PART H—YOUTH FAIR CHANCE PROGRAM

"Sec. 491. Statement of purpose.
"Sec. 492. Program authorized.
"Sec. 493. Application.
"Sec. 494. Grant agreement.
"Sec. 495. Job guarantees.
"Sec. 496. Payments; Federal share.
"Sec. 497. Reporting.
"Sec. 498. Federal responsibilities.
"Sec. 498A. Definitions.

"PART I—MICROENTERPRISE GRANTS PROGRAM

"Sec. 499. Microenterprise grants.

"PART J—DISASTER RELIEF EMPLOYMENT ASSISTANCE

"Sec. 499A. General authority.
"Sec. 499B. Use of funds.
"Sec. 499C. Definitions.

"TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

"Sec. 501. Statement of purpose.
"Sec. 502. Payments.
"Sec. 503. Amount of incentive bonus.

"Sec. 504. Use of incentive bonus funds.
"Sec. 505. Notice and application.
"Sec. 506. Eligibility for incentive bonuses.
"Sec. 507. Information and data collection.
"Sec. 508. Evaluation and report.
"Sec. 509. Implementing regulations.

"TITLE VI—MISCELLANEOUS PROVISIONS

"Sec. 601. Amendments to the Wagner-Peyser Act.
"Sec. 602. Amendments to part C of title IV of the Social Security Act.
"Sec. 603. Earnings disregard.
"Sec. 604. Enforcement of Military Selective Service Act.
"Sec. 605. State job bank systems.

"TITLE VII—STATE HUMAN RESOURCE INVESTMENT COUNCIL

"Sec. 701. Establishment and functions.
"Sec. 702. Composition.
"Sec. 703. Administration.".

And the Senate agrees to the same.

That the Senate recedes from its amendment to the title of the bill.

WILLIAM D. FORD,
PAT WILLIAMS,
CARL C. PERKINS,
ROBERT E. ANDREWS,
JOHN W. OLVER,
BILL GOODLING,
STEVE GUNDERSON,
PAUL B. HENRY,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD METZENBAUM,
PAUL SIMON,
ORRIN HATCH,
STROM THURMOND,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3033) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

1. Bill Titles. The House Bill is titled, "Job Training Reform Amendments," while the Senate Amendment is titled, "Job Training and Basic Skills Act of 1992".

The Senate recedes with an amendment to add "of 1992" after the word "Amendments".

TABLE OF CONTENTS

2. Table of Contents. There are technical differences between the House Bill and Senate Amendment lists.

The House recedes with an amendment to conform the Table of Contents to the contents of the Conference bill.

3. References. The Senate Amendment, but not the House Bill, includes a standard reference provision to the Job Training Partnership Act.

The Senate recedes.

TITLE I—JOB TRAINING PARTNERSHIP REQUIREMENTS

4. Statement of Purpose. The Senate Amendment, but not the House Bill, adds a clause in the statement of purpose on improving the quality of the workforce and enhancing productivity.

The House recedes.

5. Authorization of Appropriations. A. The House Bill, but not the Senate Amendment, authorizes appropriations to carry out parts A and C of title II (the adult and youth year round programs) with an amount "equal to" 60 percent of such sum for part A and an amount equal to 40 percent for part C.

B. The Senate Amendment, but not the House Bill, also authorizes appropriations to carry out parts A and C of title II, but requires that "not less than" 40 percent shall be made available to part C (the year round youth program).

The House recedes with an amendment on parts A and B. The Conferees agree to authorize appropriations to carry out parts A and C of title II and require that not less than 40 percent be made available for part A and not less than 40 percent be made available for part C. The remainder may be allocated between either part A or part C.

6. Statistical Data Authorization. The House Bill, but not the Senate Amendment, authorizes $6 million for any fiscal year to carry out section 462 (e) and (f) of current law, which directs the Secretary to develop statistical data on permanent lay-offs and plant closings and to develop, with the Secrtary of Agriculture, statistical data on the permanent dislocation of farmers and ranchers.

The Senate recedes.

7. Replication of Programs. The Senate Amendment, but not the House Bill, authorizes $10 million for FY93 and such sums thereafter for the Replication of Successful Programs.

The Senate recedes. See comment 8 for authorization language under title IV for "Capacity Building, Information, Dissemination, and Replication Activities."

8. Title IV Program Authorizations. The House Bill, but not the Senate Amendment, authorizes:

$5 million for each fiscal year 1993 through 1997 for title IV–I, the Microenterprise Grants:

$15 million for fiscal year 1993 and such sums thereafter for title IV–J, for Disaster Relief Employment;

$15 million for fiscal year 1993 and such sums thereafter for section 457, for Training Networks.

The Senate recedes on the authorizations for Microenterprise Grants and Disaster Relief Employment. The Senate recedes with an amendment on Training Networks to authorize $15 million in title IV funds, after the set-asides for veterans and Indian and migrant programs have been fulfilled. The Training Network, as amended, is retained in Section 453 of the Conference bill (which also merges language from Section 453 of the Senate Amendment and language on Replication of Successful Programs, also from the Senate Amendment; see comment 230 for a description of the new Section 453).

9. Title V. The Senate Amendment, but not the House Bill, deletes the authorization trigger provision for title V Jobs for Employable Dependent Individuals (JEDI) and deletes the funding cap of $5 million.

The House recedes.

10. Conforming Amendments. The House Bill, but not the Senate Amendment, makes a technical change to Jobs for Employable Dependent Individuals in title V to tie the authorization trigger to parts A and C of title II.

The House recedes.

11. The Senate Amendment but not the House Bill, makes a conforming amendment to subsection 302(e) of current law, reservation of funds for the territories.

The House recedes.

12. The Senate Amendment, but not the House Bill, makes a conforming amendment to the Clean Air Act employment amendments in section 326 of current law.

The House recedes.

13. Definitions. The House Bill, but not the Senate Amendment, makes a technical amendment to the areas of substantial unemployment (ASU) definition to make it applicable to part C of title II.

The Senate recedes.

14A. The House Bill, but not the Senate Amendment, adds the Center for Employment Training to the definition of community-based organizations.

The Senate recedes.

B. The Senate Amendment, but not the House Bill, adds literacy organizations, agencies or organizations serving older individuals and organizations that provide service opportunities and youth corps programs to the definition of community-based organizations.

The House recedes.

15. Definitions. The House Bill, but not the Senate Amendment, strikes the National Urban Indian Council from the definition of community-based organizations.

The Senate recedes.

16. Poverty Determinations. The House Bill, but not the Senate Amendment, amends the definition for determining poverty levels by placing the determination within the "income guidelines promulgated by the Secretary of Health and Human Services." The Senate Amendment, but not the House Bill, also amends the definition, but places the determination within the Office of Management, and Budget as "revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981."

The House recedes.

17. Definitions. The House Bill, but not the Senate Amendment, adds individuals who are eligible, but not necessarily receiving, food stamps to the definition of economically disadvantaged.

The Senate recedes with an amendment. The Conferees agree that the determination of food stamp eligibility must have been made within the preceding 6 months.

18A. Supportive Services Definition. The House Bill, but not the Senate Amendment, adds financial assistance and dependent care to the definition of supportive services.

The Senate recedes.

The Conferees intend that through the inclusion of financial assistance in the list of supportive services provided under the Adult and Youth programs, the provision of such financial assistance will be encouraged under both the adult and youth programs. However, such financial assistance is to be based on the individual needs of the participant as determined in the participant's individual assessment and service strategy. Further, such assistance shall not be construed to be an entitlement under this Act, and shall be provided based on what is appropriate both for the success of the individual and for the success of the program. (See also comments 141A and 147.)

B. The Senate Amendment, but not the House Bill, adds job coaches to the definition of supportive services for individuals with disabilities.

The House recedes.

19. Definitions. The Senate Amendment, but not the House Bill, includes "English" reading skills in the definition of basic skills deficient.

The House Bill refers to the equivalent score on a criterion referenced test, while the Senate Amendment refers to the comparable score.

The House recedes on both parts.

20. Definitions. The Senate Amendment, but not the House Bill, adds new definitions for the terms: citizenship skills, educational agency, family, and hard-to-serve individuals.

The House recedes on the definition of citizenship skills, family, and hard-to-serve individual. The Senate recedes on the definition of educational agency.

21. Definitions. The Senate Amendment, but not the House Bill, excepts followup services authorized under section 253(d) of the Senate Amendment from the definition of "participants."

The House recedes.

22. Definitions. The Senate Amendment, but not the House Bill, adds a new definition for the term "youth corps program".

The House recedes.

23. Conforming Amendments. The Senate Amendment, but not the House Bill, includes a series of technical changes to substitute the term "individuals with a disability" for the term "handicapped".

The House recedes.

24. Establishment of a service delivery area. The House Bill, but not the Senate Amendment, includes two new exceptions to the 2-year limit on the frequency with which a Governor may redesignate a service delivery area. These two exceptions are: failure to meet performance standards and failure to take corrective action for a substantial violation of the Act or the regulations.

The Senate recedes.

25. Private Industry Councils. A. The House Bill, but not the Senate Amendment, clarifies current law by adding "each of the following" after "representatives of" various public agencies.

B. The House Bill and the Senate Amendment add "local welfare agencies." The Senate Amendment, but not the House Bill, adds "public assistance agencies".

The Senate recedes on part A. The House recedes on part B with an amendment to delete "local welfare agency" and retain "public assistance agency" on the PIC.

26. The Senate Amendment, but not the House Bill, requires that representatives of organized labor and community-based organizations compose not less than 15 percent of private industry council membership.

The House recedes.

27. Private Industry Councils. The Senate Amendment, but not the House Bill, specified how education and labor representatives to the private industry council are to be selected.

The House recedes with an amendment requiring that representatives of organized labor must be selected from individuals recommended by State or local labor federations.

28. The Senate Amendment, but not the House Bill, requires that remaining members of the private industry council not specifically mandated shall be from all sectors described in section 102(a)(3) of the Senate Amendment.

The Senate recedes with an amendment to use language from current law on choosing additional private industry council members from interested organizations. This language reads, "The remaining members of the council shall be selected from individuals recommended by interested organizations." (Section 102(c) of current law.)

29. The Senate Amendment, but not the House Bill, provides private industry councils 3 years to comply with the proceeding changes.

The Senate recedes.

30. Job Training Plan. The House Bill, but not the Senate Amendment, requires that the job training plan include provisions for coordinating agreements established for on-the-job training contracts.

The Senate recedes.

31. Job Training Plan. The House Bill requires the job training plan to include a description of agreements with "appropriate" educational agencies, while the Senate Amendment does not mention the word "appropriate" when referring to educational agencies in the corresponding paragraph.

The Senate recedes.

32. Job Training Plan. The Senate Amendment, but not the House Bill, requires a description in the job training plan of the linkages established with the National and Community Service Act, if appropriate.

The Senate recedes.

33. Job Training Plan. The Senate Amendment, but not the House Bill, requires a description in the job training plan of the manner in which the program will contribute to the economic self-sufficiency of participants and local productivity.

The Senate recedes.

34. The Senate Amendment includes in Section 104(b)(6)(A) language similar to language in Section 104(b)(7) of the House Bill on outreach efforts to targeted populations.

The Senate recedes with an amendment to combine House Bill and Senate Amendment language on outreach to hard-to-serve populations into Section 104(b)(6) of the Conference bill.

35. Job Training Plan. The House Bill, but not the Senate Amendment, requires the job training plan to contain a description of the process for providing information and referrals for applicants and participants.

The Senate recedes.

36. The House Bill, but not the Senate Amendment, requires the job training plan to include a means for involving labor organizations and community-based organizations in the provision of services.

The Senate recedes.

37. Job Training Plan. The Senate Bill, but not the House Bill, specifically requires service provider selection procedures to take into account past performance of providers in basic skills training.

The House recedes.

38. The Senate Amendment, but not the House Bill, requires in the job training plan a description of procedures for selecting service providers that take into account the "ability of the providers to provide services that can lead to achievement of competency standards for participants with identified deficiencies".

The House recedes.

39. Job Training Plan. The Senate Amendment, but not the House Bill, includes requirements also in the nontraditional Employment for Women Act, Public Law 102-235.

The House recedes.

40. Job Training Plan. The Senate Amendment, but not the House Bill, requires that the job training plan include language on goals for training targeted populations, including women in nontraditional employment and apprenticeships (also in the Nontraditional Employment of Women Act, Public Law 102-235), along with a description of the efforts to be undertaken to accomplish such goals.

The House recedes with amendment to merge similar provisions.

41. Review and Approval of Plan. The Senate Amendment, but not the House Bill, adds community-based organizations to the list of organizations and agencies to which the job training plan shall be made available for review and comment.

The House recedes.

42. The House Bill, but not the Senate Amendment, adds failure to comply with the linkages language in sections 205 and 275, as additional coordination criteria for the Governor to consider in approval or disapproval of a job training plan.

The Senate recedes. (Note: The linkage language in the youth part is in section 265.)

43. Performance Standards. The Senate Amendment, but not the House Bill, in its findings on performance standards, adds long-term economic self-sufficiency to the list of criteria for determining whether the job training investment has been productive.

The House recedes.

44. Performance Standards. The Senate Amendment directs the Secretary to base adult program performance standards on the succeeding factors listed in section 106(b)(3) of the Senate Amendment, which are similar in both bills; however, the House Bill simply lists the factors.

The House recedes.

45. The Senate Amendment, but not the House Bill, defines retention as 6 months in unsubsidized employment and creates separate subparagraphs for this factor.

The House recedes with an amendment to phase-in the 6-month requirement by July 1, 1995.

46. Performance Standards—Skills Acquisition. The Senate Amendment, but not the House Bill, cross references the acquisition of skills to the competency levels described in the succeeding paragraph (5).

The House recedes.

47. Performance Standards. The Senate Amendment, but not the House Bill, directs the Secretary to base performance standards on the succeeding youth factors, while the House Bill simply lists the standards.

The House recedes.

48. Youth Standards. The House Bill, but not the Sente Amendment, lists enrollment in education or employment programs as a standard that shall be included in the list of standards for youth programs under part C of title II. The Senate Amendment, but not the House Bill, lists postsecondary education.

The House recedes.

49. The Senate Amendment, but not the House Bill, allows the Secretary to prescribe variations in the preceding standards to reflect differences between in-school and out-of-school programs.

The House recedes.

50. Competency Standards. The House Bill, but not the Senate Amendment, provides that where appropriate, the private industry councils shall consult with labor organizations for "determining" competency "standards".

The Senate Amendment, but not the House Bill, refers to "establishing" competency "levels."

The House recedes with an amendment to add after educational agencies "and, where appropriate, the private sector, labor organizations, and community-based organizations".

51. Performance Standards. The Senate Amendment, but not the House Bill, specifically refers to the performance standards described in the preceding paragraphs 3 and 4, while the House Bill simply refers to "standards." The Senate Amendment, but not the House Bill, also specifically refers to paragraphs 3 and 4 for the base period of measurement.

The House recedes with an amendment to delete the redundant references to paragraphs 3 and 4.

52. The House Bill, but not the Senate Amendment, lists post program employment as an additional element that shall be included in the competency standards. The Senate Amendment, but not the House Bill, requires provisions for indicators of post program cash welfare payment reductions.

The Senate recedes on including post program employment in the competency standards. The House recedes on indicators of welfare payment reductions.

53. Performance Standards. The House Bill, but not the Senate Amendment, requires the use of cost-effective methods for obtaining performance standards data for section 454, as well as for section (106). (See Section 452 in the Conference bill.)

The Senate recedes.

54. Performance Standards. The Senate Amendment, but not the House Bill, specifically refers to parts A and C of title II (the Adult and Youth Programs) for relating gross program expenditures and specifically directs the Governors not to use this measure when awarding grants, while the House Bill does not make a specific program reference, other than to the term "incentive" grants.

The House recedes with an amendment to exclude any cost per participant measures from the performance standards.

55. Performance Standards. The House Bill, but not the Senate Amendment, links exceeding performance standards for all participants with exceeding them for hard to serve populations, such as the target population. The Senate Amendment, but not the House Bill, lists the standards separately and specifically defines hard to serve in Section 4 of the Senate Amendment.

The House recedes.

56. The Senate Amendment, but not the House Bill, provides incentive grants for serving more than the minimum percentage of out of school youth.

The House recedes.

57. The House Bill, but not the Senate Amendment, provides incentive grants for placing participants in employment which "includes employer-assisted employment benefits, including health benefits. . . ."

The Senate recedes.

58. Performance Standards. The House Bill, but not the Senate Amendment, limits the incentive grants awarded on additional state standards (under subsection (e) of the House Bill) to hard to serve populations.

The House recedes.

59. The Senate Amendment, but not the House Bill, directs the Secretary to make appropriate allowance for the cost differences resulting from serving workers receiving needs-related payments under section 314(e), which is similar to current law.

The House recedes.

60. The House Bill, but not the Senate Amendment, requires the Governor to report in the Governor's coordination and special services plan any state variations of performance standards.

The Senate recedes.

61. Performance Standards. The House Bill directs the Secretary to prescribe "variations" in performance standards, while the Senate Amendment directs the Secretary to prescribe "adjustments."

The Senate Amendment, but not the House Bill, includes displaced homemakers in the list of special populations.

The Senate recedes on both parts. In choosing the term "variations" rather than "adjustments", the Conferees are retaining current law.

62. Performance Standards. The House Bill refers to the Secretary accepting the Governor's plan, while the Senate Amendment refers to the Secretary's approval of the Governor's plan. The Senate Amendment is more specific in instructing the Secretary to base determinations under subparagraph (B) of the Senate Amendment only on failure to implement such plan, and not on the plan itself.

The House recedes.

63. Performance Standards. The substance of the House Bill and Senate Amendment language on Secretarial Action (Section 106(i)(6) of the House Bill) is substantively the same, except that the House Bill only refers to the "revision" of a reorganization plan, while the Senate Amendment refers to a rescission or revision of such plan. Also, the paragraph notations differ.

The House recedes.

64. Selection of Service Providers. The House Bill, but not the Senate Amendment, allows the Secretary of establish guidelines on the demonstrated performance of service providers.

The Senate recedes.

65. Selection of Service Providers. The House Bill refers to service provider compliance with procurement standards established by the Secretary, while the Senate Amendment refers to those established by the Governor.

The House recedes.

66. The House Bill refers to the cost limitations in this "section," while the Senate Amendment refers to this "subsection."

The House recedes.

67. Service delivery area transfer agreements. The Senate Amendment, but not the House bill, creates a new section 109 on service delivery area transfer agreements. The Senate Amendment, but not the House bill, requires that each service delivery area entering into transfer agreements be credited under the appropriate performance standards. The House Bill, but not the Senate Amendment, adds a similar provision in section 141(e)(2).

The Senate recedes.

68. Reallocation and reallotment. In addition to technical drafting differences, the House Bill, but not the Senate Amendment, excepts the funds set aside for older workers from this recapture section.

The House recedes with amendment to exempt the older worker state set-aside from the general title II reallocation provision.

69. The House Bill, but not the Senate Amendment, directs the Secretary to establish the unemployment and poverty rates at which service delivery areas are determined to be eligible.

The House recedes.

70. Governor's coordination and special services plan. The Senate Amendment, but not the House Bill, amends paragraph (1) of section 121(b) of current law by requiring the Governor's plan to include coordinating criteria for older worker programs and programs under the National and Community Service Act.

The Senate recedes.

71. Governor's Plan. The House Bill requires a description in the Governor's plan of the education coordination activities in section 123. The Senate Amendment lists a description of section 123 initiatives as an optional item for inclusion in the plan as a new paragraph (12) in subsection (c) of the Senate Amendment.

The House recedes with an amendment that eliminates the language in section 121 requiring that a description of the education coordination activities required under section 123 be included in the Governor's plan. This is due to the fact that such a requirement is explicitly provided under section 123. (See also comment 81.)

72. The Senate Amendment, but not the House Bill, requires the Governor's plan to include a description of how the State will encourage services to older workers.

The Senate recedes.

73. Governor's Plan. The Senate Amendment lists the activities in section 123 and coordination activities with the National Community Service Act as optional items for inclusion in the Governor's plan. The House Bill only requires a description of section 123 activities in the preceding subsection (b).

The House recedes.

74. State Job Training Coordination Council. The House Bill includes older workers organizations in the SJTCC, while the Senate Amendment includes the National Community Service Act State Advisory Board.

The House recedes on older workers organizations. The Senate recedes on the National Community Services Act State Advisory Board.

75. Education Coordination and Grants. The Senate Amendment but not the House Bill, specifies in paragraphs (1) and (2) of section 123(a) funds are to be used to pay the "Federal share" of carrying out the projects under this part.

The House recedes.

The Conference agreement provides for an 8 percent State set-aside for the education coordination and grants program. In the allocation of funds to "any State education agency" under Section 123 of the Act, Conferees intend that in most States, the State educational agency (as defined in Section 1471(23) of the Elementary Secondary Education Act of 1965) shall be the recipient of funds. However, in States where the State educational agency is not the agency primarily responsible for the State supervision of education programs under the Carl D. Perkins Vocational and Applied Technology Education Act and the Adult Education Act, the Governor may also allocate funds, as appropriate to the services to be provided, to the State agency primarily responsible for the supervision of such programs. In such cases, it is intended that those State education agencies be allowed to participate in the joint planning activities described in Section 123(c), as well as in the joint governing of the geographic distribution of funds for programs under their jurisdiction.

In clarifying the ability to allocate funds under Section 123 to more than one state education agency, the Conferees in no way intend to permit Governors to allocate funds to multiple State education agencies, except as cited above.

76. The House Bill, but not the Senate Amendment, prohibits the Governor from establishing any requirements on the distribution of funds in this subsection.

The Senate recedes with an amendment to prohibit the Governor from establishing any requirements governing the geographic distribution of funds, removing language that would have prohibited the Governor from establishing any requirements governing the distribution of funds.

77. School to Work Projects. The House Bill, but not the Senate Amendment, specifically mentions support of multiyear dropout prevention programs of demonstrated effectiveness as a way to increase the rate at which dropouts return to schooling.

The Senate recedes.

78. Education Coordination and Grants. The Senate Amendment, but not the House Bill, includes language on non-traditional employment for women that has recently become part of Public Law 102-235.

The House recedes.

79. The House Bill, but not the Senate Amendment, allows the State education agency to use funds under this subsection for State human resource investment councils that meet the requirements of sections 701 through 705 of the House Bill.

The Senate recedes.

80. The Senate Amendment, but not the House Bill, specifies that the Federal match shall be 50 percent. The House Bill, but not the Senate Amendment, requires a similar match in the succeeding subsection (b)(2) of the House Bill by stating that the State shall contribute "a total amount equal to the amount provided under this section." (The Senate Amendment also addresses the matching amount in the succeeding subsection (b)(2).)

The House recedes.

81. Education Coordination and Grants—Governor's Plan. The House Bill directs the State Educational Agency (SEA) to develop the description of the activities planned for section 123 to be included in the Governor's plans, while the Senate Amendment directs the Governor to develop a description of section 123 activities "in consultation" with the SEA.

The House recedes with an amendment requiring that the State education agency submit the program goals and a description of the services to implement them for inclusion in the Governor's coordination and special services plan. The amendment further requires that program goals be jointly developed by the State education agency and the Governor. However, under the amendment, the Governor may not impose any requirements on the geographic distribution of the 8 percent funds.

The Conferees and the Administration agree that residential programs, such as the High/Scope model, that are designed to increase the enrollment of disadvantaged youth in postsecondary education are an authorized use of title II funds and are an appropriate project for funding under section 123, which provides funds for "State Education Coordination and Grants".

82. Education Coordination—Governor's Plan. The Senate Amendment, but not the House Bill, includes the National and Community Service Act in the list of program linkages that are to be described in the Governor's plan for section 123 on school to work programs.

The House recedes.

83. Education Coordination—Governor's Plan. The Senate Amendment, but not the House Bill, includes the National Community Service Act in the list of program linkages to be described in the Governor's plan for section 123 on literacy and lifelong learning.

The House recedes.

84. Nontraditional Employment. The Senate Amendment, but not the House Bill, includes a paragraph on nontraditional employment for women recently passed into law (Public Law 102-235).

The House recedes.

85. General Program Requirements—Section 141. The House Bill, but not the Senate Amendment, amends section 141(c) of current law to prohibit the use of funds for the relocation of any business establishment.

The Senate recedes with an amendment to strengthen the prohibition that exists in current law on the use of JTPA funds to induce, encourage, or assist relocations that result in the loss of employment at the original site. The Conference agreement requires the Secretary to investigate allegations that JTPA funds have been improperly used and to determine whether a violation has occurred. The agreement provides that where the Secretary has determined that a violation by a State, substate grantee, or SDA has occurred, such State, substate grantee or SDA must repay misspent funds to the U.S. Treasury. Further, it requires the Secretary to require those in violation to pay an additional amount equal to the amount of the misspent funds unless they demonstrate that they neither knew nor could have known that such funds were provided in violation. This additional sum shall be applied to the title III program.

86. Charging of Costs—Tuition. The House Bill, but not the Senate Amendment, includes a specific reference to the definitions of higher education and proprietary institutions. The Senate Amendment, but not the House Bill, includes a specific reference to postsecondary institutions.

The Senate recedes.

87. The House Bill provides an exception to the administration cost limitation only for community-based organizations, while the Senate Amendment provides a similar exception to any service provider, other than a State or local agency.

The Senate recedes with an amendment to add non-profits.

88. Charging of Costs. The Senate Amendment, but not the House Bill, requires that all service providers meeting the exception described in this subparagraph must nevertheless charge all expenditures to the appropriate cost category.

The House recedes with an amendment to limit the amount that may be charged to the administration category to a maximum of 25 percent of funds if the SDA is contracting with community-based organizations or nonprofits under this exemption. The amendment requires the appropriate limit for the direct training category to be reduced by one-half of the percentage by which an SDA exceeds the administrative limit. The same one-half percentage reduction is applied to the supportive services/indirect training category as well.

89. Placements. The House Bill, but not the Senate Amendment, adds a new paragraph that placements shall, to the extent practicable, be in job areas related to training provided to the participant.

The Senate recedes.

90. Service Delivery Area Agreements. The House Bill adds a similar provision to one created in section 109 of the Senate Amendment, which allows service delivery areas to enter into transfer agreements approved by each private industry council and described in the job training plan.

The Senate recedes.

91. On-the-Job Training. The House Bill and Senate Amendment add new 6-month limitations to on-the-job training contracts. However, only the Senate Amendment allows an exception to exceed the 6 months, as long as the training is less than 500 hours. While both Bills refer to the Dictionary of Occupational Titles, there are technical drafting differences between the two.

The House recedes with an amendment to allow one alternative to the 6-month limit on payments for on-the-job training (OJT) that permits payments for up to 500 hours of on-the-job training.

92. On-the-Job Training. The House Bill, but not the Senate Amendment, adds language that prohibits on-the-job training contracts with employers who have a pattern of failing to provide previous on-the-job training participants long-term employment with employment benefits and wages and working conditions at the same level as other employees doing similar work.

The Senate recedes with an amendment to require that OJT may only be provided under the year-round out-of-school youth program if the OJT placement pays a wage that exceeds the average wage at placement under the adult progam in the local area, has career potential, and offers a formal program of structured training. In addition, if an OJT participant is a dropout, the participant must also, concurrently or sequentially, enroll in an education program leading to a diploma or its equivalent.

93. Program Income. The House Bill, but not the Senate Amendment, specifies that receipts from conferences shall be included as income subject to the requirements of the preceding paragraph (1) (section 141(m) of the House Bill).

The Senate recedes.

94. Program Income. A. The House Bill, but not the Senate Amendment, includes interest income (except as provided by the Cash Management Improvement Act) in its list of restricted types of program income.

The Senate recedes with an amendment to delete the reference to the Cash Management Improvement Act.

B. The House Bill requires "each entity" to maintain records on program income, while the Senate Amendment only requires "each public or private non-profit entity" to maintain such records, thereby excluding for-profit entities.

The Senate recedes.

95. Use of Funds Restrictions. The House Bill, but not the Senate Amendment, includes language prohibiting the use of funds for assisting relocations. Funds are also prohibited for employment generating activities, economic development activities, loans, capitalization of business, contract bidding resource centers, and other similar activities that do not result in the direct creation of jobs for Job Training Partnership Act participants. The House Bill also adds that no funds shall be used for foreign travel. The Senate Amendment has no comparable provisions.

The Senate recedes with an amendment. For amendment language on relocations, see comment 85. The Conference agreement places a total prohibition on the use of JTPA funds for economic development and employment generating activities. However, local service delivery areas can still perform job development activities under title II to place JTPA participants.

96. Labor Standards. The House Bill, but not the Senate Amendment, strengthens the prohibition on programs that would impair existing contracts for services or collective bargaining agreements without the written concurrence of the employer and the labor organization, unless either party fails to respond to written notification requesting concurrence, within 30 days of receipt.

The Senate recedes with an amendment to make technical changes to the House Bill.

97. The House Bill, but not the Senate Amendment, corrects the references to the Fair Labor Standard Act as they apply to Puerto Rico, American Samoa and other territories, to apply the existing exception to the mandatory minimum wage requirement for all workers in the territories to the participants in the territories who are served in this program.

The Senate recedes.

98. Grievance Procedures. The House Bill, but not the Senate Amendment, adds language to prohibit the Secretary from delegating his or her authority to investigate an allegation or complaint of a recipient's failure to comply with the requirements of this Act.

The House recedes with an amendment to add at the end of Section 144 new provisions to clarify the grievances that may be submitted to the Secretary. The Conferees intend Section 144(e)(1) on binding grievance procedure to apply in circumstances where (1) a union and an employer have negotiated a procedure providing for binding resolution of grievances, (2) the union and the employer have agreed that grievances alleging violations of Section 143 are resolvable under that procedure, and (3) the person alleging a violation of Section 143 has access to the procedure. Where these conditions are met, the contractual grievance procedure may be used as an alternative to the procedures described in Section 144(d).

99. Arbitration. The Senate Amendment, but not the House Bill, adds a new subsection strengthening the grievance procedures for current workers displaced by Job Training Partnership Act participants. In this instance, if a decision is not reached on a grievance procedure within 60 days of its filing, then any party to the grievance may submit it to arbitration. Also, if a grievant receives an adverse decision, the party to the grievance may submit it to arbitration. Requirements of the arbitration proceeding are specified, including the requirement that the parties to the arbitration evenly divide the cost of the proceedings.

The House recedes with an amendment described in comment 98 above.

100. Advance Payments. A. The House Bill, but not the Senate Amendment, refers to substate areas in the list of entities that may provide advance payments to non-profit organizations. The Senate Amendment, but not the House Bill, includes the Secretary in its list of entities.

The Senate recedes on including substate areas in the list of entities that may make advance payments to non-profits. The House recedes on including the Secretary in the list.

B. The House Bill permits advance payments "provided" advance payments are based on financial need, while the Senate Amendment permits advance payments "except" that payments shall be based on financial need.

The Senate recedes.

101. Fiscal Control/Cost Principles. The House Bill, but not the Senate Amendment, requires the Secretary to prescribe regulations establishing uniform cost principles substantially equivalent to those generally applicable to other Federal grantees. The House Bill includes specific language on what these minimum standards should include.

The Senate recedes.

102. Procurement Standards. The House Bill, but not the Senate Amendment, requires the Secretary to "prescribe regulations establishing uniform procurement standards". In prescribing such regulations, the House Bill, but not the Senate Amendment, requires the Secretary to consult with the Inspector General and take into consideration the relevant circulars prescribed by the Office of Management and Budget.

The Senate Amendment, but not the House Bill, requires the governor to "prescribe and implement uniform procurement standards".

The House recedes with an amendment stating that the Governor shall prescribe and implement procurement standards in accordance with minimum procurement requirements established by the Secretary in regulations. In establishing these minimum requirements, the Secretary shall consult with the Inspector General of the Department of Labor and take into consideration relevant aspects of the circulars issued by the Director of the Office of Management and Budget.

103. The House Bill refers to a list of what such procurement standards shall include "at a minimum", while the Senate Amendment simply refers to a list of what such standards shall include.

The House recedes with an amendment (see comment 102)

104. Cost Reimbursable Procurement. The House Bill, but not the Senate Amendment, requires that procurement transactions between State or local governments and administrative entities for service delivery areas be conducted on a cost-reimbursable basis.

The Senate recedes.

105. Certification. The House Bill, but not the Senate Amendment, directs the Governor to "biennially" certify the implementation and monitoring of procurement standards. The Senate Amendment, but not the House Bill, refers to the Governor submitting procurement standards and annually certifying the monitoring and compliance of its procurement standards.

The Senate recedes.

106. Report to Congress. The House Bill, but not the Senate Amendment, refers to the Secretary submitting a report to Congress, while the Senate Amendment, but not the House Bill, refers to the Secretary, "in consultation with the Inspector General," submitting a report to the "appropriate committees" of the Congress.

The House recedes with an amendment to change the due date of the report from October 1, 1994 to October 1, 1995.

107. Biennial Review. The Senate Amendment, but not the House Bill, requires the Secretary to biennially review the procurement standards established by the Governor and to notify the Congress whether procurement requirements have been satisfied.

The Senate recedes.

108. Public Access to Records. The House Bill, but not the Senate Amendment, requires that recipient records be made available to the public upon request, unless the information pertains to trade secrets, is confidential, or is so personal that its release would be an invasion of privacy.

The Senate recedes.

109. The House Bill, but not the Senate Amendment, allows recipients to charge fees for processing such records requests.

The Senate recedes.

110. Advance Notice. The House Bill requires the Secretary, Inspector General, or Comptroller General to furnish advance notice "not less than 15 working days" prior to the adult, while the Senate Amendment requires the same notice to be furnished "not fewer than 14 days" in advance of the audit.

The House recedes.

111. Monitoring Agreements. When referring to each recipient of funds under this Act, the House Bill requires each recipient to monitor service provider performance in complying with "agreements" made pursuant to this Act, while the Senate Amendment refers to any "grants, contracts or other agreements" made under this Act.

The House recedes.

112. Report Information. While the House Bill and Senate Amendment refer to similar lists of specific requirements for the reports required in the previous subsection (c) of Section 165 of the House Bill, only the House Bill requires the reports to "include (but not be limited to) information in such form as to permit cross-tabulation" of such required information. The Senate Amendment refers to a list of what shall be included in the reports, but does not refer to cross-tabulation.

The House recedes.

113. Demographic Characteristics. The House Bill, but not the Senate Amendment, requires reports to include relevant demographics which include race "or" ethnicity, sex, "or" age. The Senate Amendment, but not the House Bill, requires that all race, ethnicity, sex, "and" age characteristics be included in such information.

The House recedes.

114. Quarterly Reports. The House Bill, but not the Senate Amendment, adds a new subsection requiring the Secretary to require quarterly financial reports, to show all program costs by cost category, to separately identify costs incurred (such as stand-in costs).

The Senate recedes with an amendment requiring substate grantees and service delivery areas to submit quarterly reports on program costs to the State and then requiring the State to submit a summary of the reports to the Secretary on a quarterly basis. The amendment further requires each State, substate grantee: and service delivery area to maintain records identifying program income or profits earned, including income or profits earned by subrecipients.

115. Section 167 Regulations. The House Bill, but not the Senate Amendment, requires the Secretary to issue final regulations implementing section 167 within 90 days of enactment of this legislation.

The Senate recedes.

TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

116. Title II, part A—Adults. The House Bill changes the title of part A in current law to the "Adult Program", while the Senate Amendment changes the title of part A to the "Adult Opportunity Program."

The Senate recedes with an amendment to read "Adult Training Program".

117. State and Service Delivery Area Allotments. The House Bill, but not the Senate Amendment, reserves 81% of the remainder of funds (after deduction for the territories) for allotment to the States for allocation to service delivery areas within each State, as determined by formula. The House Bill, but not the Senate Amendment, allots the remaining 19% for State set-asides described in subsection (c) of section 202 of the House Bill.

The Senate Amendment, but not the House Bill, allots the remainder of funds (after deducting for the territories) to the States by formula in paragraph (B) of Section 202(a)(2) of the Senate amendment for allocation to service delivery areas (after deducting for State set-asides) within each State by an additional formula described in subsections (b) and (c).

The Senate recedes with an amendment to change the 81% reservation of funds to a 77% reservation and to change the 19% remainder to 23%.

118. Formula. The House Bill, but not the Senate Amendment, retains the formula factors in current law, but allots the amounts based upon service delivery area factors of unemployment and poverty instead of the State factors of unemployment and poverty. The Senate Amendment, but not the House Bill, retains the formula factors in current law, which remains based upon the State factors of unemployment and poverty.

As a result of this formula change, the House Bill, but not the Senate Amendment, compares each service delivery area's formula factors to all service delivery areas in the country, whereas, the Senate Amendment only compares each service delivery area's formula factors to all service delivery areas within the same State.

The Senate recedes with an amendment to make technical changes in the funding formula, converting it to a "bottom up" formula driven by the unemployment and poverty data of the 600-plus SDAs. Currently, the formula has a "top down" design driven by the unemployment and poverty data of the 50 States. The Conference agreement includes a one-time trigger provision that requires Title IIA and IIC funding to increase by $25 million before the formula change becomes effective. (See also Comments, 127 and 170.)

119. Limitations. The House Bill, but not the Senate Amendment, amends current law by requiring that no service delivery area be allotted less than 90% of its allotment percentage for the previous fiscal year. The Senate Amendment, but not the House Bill, contains a provision similar to current law requiring that no State be allotted less than the allotment percentage for the previous fiscal year.

The Senate recedes.

120. Maximum Limits. The House Bill and the Senate Amendment both add a new stopgain requirement of 130% for the formula. However, the House Bill, but not the Senate Amendment, puts the 130% cap on service delivery area funding. The Senate Amendment, but not the House Bill, puts the 130% cap on State funding.

The Senate recedes.

121. State Minimum. Both the House Bill and Senate Amendment require that no State receive less than ¼ of 1% of the total allotment, but the bills include technical drafting differences.

The Senate recedes.

122. Title IIA Allotment Percentage. Both the House bill and Senate Amendment have requirements that the funds allotted to the new Part A adult program be the same allotment percentage as in the previous fiscal year for purposes of determining the hold-harmless and stop-gain.

The Senate recedes.

123. Definitions. The House Bill defines the age of economically disadvantaged "adults" as "22 or older", whereas the Senate Amendment defines the age of these same "individuals" as "22 through 72", only for the purposes of distributing funds, which does not affect the provision of services to those older than 72.

The House recedes.

124. Definitions. The House Bill, but not the Senate Amendment, in the definition of economically disadvantaged refers to "poverty income guidelines promulgated each year by the Secretary of Health and Human Services." In a similar reference, the Senate Amendment, but not the House Bill, refers to the "official poverty line as defined by the Office of Management and Budget" in accordance with the Budget Reconciliation Act of 1981.

The House recedes.

125. Exclusions. Both the House Bill and Senate Amendment exclude college students and Armed Forces members from the number of economically disadvantaged adults/individuals, but the bills have technical drafting differences.

The Senate recedes.

126. Excess Unemployment. Both the House Bill and the Senate Amendment define the excess number of unemployed as over 4.5% of the civilian labor force in the service delivery area; however, only the Senate Amendment requires the individuals to be age 22 through 72. Additionally, the Senate Amendment, but not the House Bill, includes the same definition for unemployed individuals within a "State", as well as in a service delivery area.

The Senate recedes on both the first sentence and the second sentence.

127. Allocation From States to Service Delivery Areas. The Senate Amendment, but not the House Bill, retains the formula in current law, which requires the Governors to allot funds to service delivery areas based upon the same factors used to allot funds to each State in Section 202(a)(2)(B) of the Senate Amendment.

The Senate recedes with an amendment described in comment 118.

128. State Set-Asides. A. The House Bill, but not the Senate Amendment, retains 19% of the funds available for allotment for the following purposes:

5% for administration, management, audits, and for activities under sections 121 and 122 of the House Bill;

6% for incentive grants authorized in section 106(b)(8) alloted in accordance with paragraphs (3) and (4) of this subsection, which allows the Governor to use some funds for capacity building; and

8% to carry out section 123.

The Senate recedes with an amendment on the 5 percent set-aside for administration. (See 128B for comment.)

On the 6 percent set-aside for incentive grants, the House recedes with an amendment to combine the 3 percent State set-aside for incentive grants and the 2 percent State set-aside for capacity building, both included in the Senate Amendment, into one 5 percent State set-aside for incentive grants, of which up to 33 percent may be used for capacity building and staff training (as well as coordination with the Capacity Building and Information and Dissemination Network; see comments 131, 178, and 230).

The House Bill and Senate Amendment contain identical language on the 8 percent set-aside for education coordination and grants; therefore, it is not necessary for the House or Senate to recede.

B. The Senate Amendment, but not the House Bill, requires the Governor to allocate 23% of the amounts allotted to each State for the following purposes:

5% for administration, management, auditing, and for activities under sections 121 and 122, which includes a small State minimum for administration of $500,000 (drawn from States receiving funds in excess of $500,000);

2% for technical assistance and capacity building (note: the House Bill creates a separately authorized national program for capacity building-related activities in title IV);

3% for incentive grants authorized in section 106(b)(8);

8% to carry out section 123; and

5% to carry out section 204(d) for older individuals.

The Senate recedes with an amendment on the Senate proposal for a 5% set-aside for administration, which included a small state minimum for administration of $500,000. The amendment reserves $1 million from the National Network and Replication program authorized in Sec. 453, for the purpose of providing grants (of up to $100,000 in any given year) from the Secretary to small states with administrative funds below $500,000. To obtain such a grant a state must demonstrate to the Secretary it is in need of additional assistance to fulfill the administrative requirements of this Act. The Conferees do not anticipate that small states with only one service delivery area (SDA) will be able to demonstrate the need for additional administrative assistance, and discourage such states from creating additional SDAs.

The House recedes with an amendment on the 3 percent set-aside for incentive grants and the 2 percent set-aside for capacity building (see 128A for comment).

The House recedes with an amendment on the 5 percent State set-aside for older workers. Under the amendment, the Older Worker Program will continue to be a State set-aside—5 percent of the State's adult money. The Conference agreement requires that performance standards take into account the needs of older workers. The amendment also requires equitable geographic distribution of funds.

129. Set-Aside Formula Allotment. The House Bill, but not the Senate Amendment, allots the State set-aside funds based upon the relative amount of funds allocated to all service delivery areas within a State compared to all service delivery areas in all States.

The Senate recedes.

130. Incentive Grants. The House Bill, but not the Senate Amendment, requires that not less than ¾ of the funds distributed by the Governor for incentive grants be based on the extent to which a service delivery area exceeds the performance standard requirements described in Sec. 106(b)(8) of the House Bill.

The House recedes.

131. Incentive Grant for Capacity Building. The House Bill, but not the Senate Amendment, allows the Governor to use up to ⅓ of the State set-aside for incentive grants to be used for capacity building and technical assistance to service delivery areas and service providers. (The Senate Amendment, but not the House Bill, creates a separate 2% State set-aside for capacity building and technical assistance.

The Senate recedes with an amendment described in comment 128 and 230.

132. Eligibility. The House Bill, but not the Senate Amendment in Sec. 203(a) references the 10% window for non-economically disadvantaged individuals described in subsection (c); however, both bills provide for such a window.

The Senate recedes. (See also comments 136 and 183.)

133. Targeted Groups. The House Bill requires that not less than 60% of adult program participants under this part shall meet one additional barrier to employment, while the Senate Amendment requires that not less than 65% of program participants under this part shall meet one additional barrier to employment.

The House recedes. The Conferees adopt the Senate language that not less than 65 percent of adult program participants shall face at least one additional barrier to employment.

134. Employment Barriers. In the lists of additional barriers to employment, the House Bill includes a category of "recipients of cash welfare payments", while the Senate Amendment limits this category only to recipients of aid to families with dependent children (AFDC).

The Senate recedes with an amendment to mention specifically that recipients of funds under the Job Opportunities and Basic Skills Act are considered recipients of cash welfare payments.

135. Employment Barriers. A. While both the House Bill and Senate Amendment include the homeless in the lists of additional barriers, the Senate Amendment, but not the House Bill, specifically references the homeless as defined by the Mckinney Act.

The Senate recedes.

B. The Senate Amendment, but not the House Bill, includes individuals "who are unemployed for the previous 6 months or longer" and those "who are limited-English proficient" in its list of additional barriers to employment.

The Senate recedes.

C. The Senate Amendment, but not the House Bill, includes individuals who are in a category designated and justified by the service delivery area, and approved by the Governor and the Secretary.

The House recedes with an amendment allowing service delivery areas to add one additional barrier to employment, if approved by their Governor, but this additional barrier cannot be unemployment or poor work history. The amendment deletes the provision requiring the Secretary's approval, but requires this request as approved by the Governor, to be included in the Governor's plan. (Also in comment 182.)

136. Non-Economically Disadvantaged. Both the House Bill and Senate Amendment provide a 10% "window" for serving the non-economically disadvantaged as long as such individuals experience another barrier to employment. Both the House Bill and Senate Amendment list the barriers described in the previous subsection or paragraph, in addition to other barriers described; however the House Bill, but not the Senate Amendment, lists those who have limited English language proficiency.

The House recedes. (See also comments 132 and 183.)

137. Older Worker Services. A. The House Bill, but not the Senate Amendment, requires service delivery areas to expend not less than 8% of funds for services to eligible individuals 55 years of age or older (the Senate Amendment describes its use of funds for State older worker programs in Sec. 204(d) of the Senate Amendment).

The House recedes with an amendment which requires that the 5 percent State set-aside for older workers provide services on an equitable geographic basis throughout the State taking into account the relative share of economically disadvantaged workers residing in each SDA.

B. The House Bill, but not the Senate Amendment, requires the Governor to recapture, reallot, or contract with a different service provider if he or she determines that a service delivery area obligated less than 8% of funds for older individuals.

The House recedes.

138. Older Americans Coordination. Both the House Bill and Senate Amendment require coordination of older worker services with the services provided under title V of the Older Americans Act; however, the House Bill makes this a requirement for the State job training coordinating council and the service delivery area, while the Senate Amendment makes this a requirement for the Governor.

The House recedes.

139. Service Provider Selection A. The House Bill requires the service delivery area to give priority to agencies or organizations with a demonstrated record of effectiveness in providing services to older individuals. The Senate Amendment makes the same requirement of the Governor, but not the service delivery area.

The House recedes.

B. The House Bill, but not the Senate Amendment, allows the service delivery areas within the State to combine funds to contract with an area agency on aging or organizations of demonstrated effectiveness.

The House recedes.

140. Assessments. A. Both the House Bill and Senate Amendment require an objective assessment of the skill levels and service needs of each participant. The House Bill includes a list of skills, experiences, and support service needs, which must be reviewed for each participant, while the Senate Amendment only suggests the assessment include "such factors" similarly listed.

The Senate recedes.

B. The House Bill, but not the Senate Amendment, requires that the assessments comply with the requirements of section 167 on nondiscrimination.

The House recedes. Section 167 already applies to all provisions of the Act, including assessments.

141. Additional Required Services. The House Bill, but not the Senate Amendment, requires basic skills training, occupational training and supportive services to be provided either directly or through arrangement, where the assessment and service strategy indicate it is appropriate.

The Senate recedes with an amendment in Sections 204(c)(5) and 264(d)(6) to clarify that the Conferees do not intend that these requirements be construed to create any contractual rights or legal entitlement for participants. To clarify this intention, the Conference agreement modifies previous bill language stating that the service strategy is not to be considered a contract, to state that nothing in Section 204 is to be construed to provide a private right of action to participants to obtain services described in the assessment or service strategy or the services specified in Sections 204(a)(1)(D) and 264(b)(1)(D). (See also comments 18A and 147.)

142. Additional Requirements. Both the House Bill and the Senate Amendment require that each participant or applicant who meets the minimum income eligibility criteria be provided information on the full array of applicable or appropriate services available. The House Bill includes services available through the service delivery area or other service providers including, "but not limited to," those receiving funds under this Act, while the Senate Amendment lists the same group, but only includes providers receiving funds under this Act.

The Senate recedes.

143. Service Provider Referrals. Both the House Bill and Senate Amendment require that eligible applicants who do not meet the enrollment requirements of a service provider's program be referred to the service delivery area for further assessment and referral. The House Bill, but not the Senate Amendment, also requires that eligible applicants "who cannot be served" by a program be referred to the service delivery area.

The Senate recedes.

144. Authorized Services. The Senate Amendment, but not the House Bill, adds a clause in the subsection on authorized services to subject this subsection "to the limitations contained in subsection (c)" of Section 204 of the Senate Amendment.

The House recedes.

145. Training-Related Services. The Senate Amendment, but not the House bill, includes language to assist women in obtaining non-traditional employment, which was also included in the recently passed non-traditional employment act (P.L. 102-235).

The House recedes.

146. Supportive Service. The House Bill, but not the Senate Amendment, cross references the definition of supportive services in its description of these services under this subsection (Section 204(b)(2) of the House Bill).

The Senate recedes.

147. Needs Based Payments. The House Bill, but not the Senate Amendment, refers to needs-based payments and financial assistance in its list of training related services. The Senate Amendment, but not the House Bill, refers to current law in listing needs-based payments "in accordance with a locally developed formula".

The Senate recedes. (See also comments 18A, 141, and 149.)

148. OJT Limits. The House Bill, but not the Senate Amendment, requires that the ratio of participants in on-the-job training in the public sector to those in such training in the private sector not exceed the ratio between civilian governmental employment and non-governmental employment in a service delivery area.

The House recedes.

149. Needs-Based Payments. Both the House Bill and Senate Amendment include similar language on needs-based payment restrictions, except that the House Bill adds "financial assistance" to this restriction, while the Senate Amendment duplicates the language in Section 204(b)(2)(I) of the Senate Amendment. Both the Senate Amendment and the House Bill refer to current law in listing needs-based payments "in accordance with a locally developed formula".

The Senate recedes.

150. Older Worker Programs. The Senate Amendment, but not the House Bill, authorizes the Governor to provide programs developed in conjunction with service delivery areas to encourage the employment of older individuals in private business.

The House recedes.

151. Older Workers. The Senate Amendment, but not the House Bill, requires the Governor, after consulting with the private industry councils and chief elected officials, to enter into agreements with prescribed agencies and organizations.

The House recedes with an amendment to require the Governor to enter into a contract with at least one entity included in the list of prescribed organizations and agencies, instead of with all the entities as required by the Senate Amendment. The amendment adds private industry councils to the list. The Conferees agrees that service delivery areas shall continue to be eligible service providers under the 5 percent Older Worker Set-aside program.

152. The Senate Amendment, but not the House Bill, requires the Governor to consider training programs in growth industries using technological skills.

The House recedes.

153. The Senate Amendment, but not the House Bill, restates the eligibility require-

ments for older individuals and provides for an exception for 10% of such individuals if they are not economically disadvantaged, but face serious barriers to employment and are income eligible under title V of the Older Americans Act.

The House recedes.

154. Applicable Requirements. The Senate Amendment, but not the House Bill, includes a provision to give priority to this subsection's (Section 204(d) of the Senate Amendment) applicability in the event of a conflict with other subsections.

The Senate recedes.

155. Linkages. Aside from minor drafting differences, the House Bill and Senate Amendment are substantially the same on this page of the side-by-side.

The House recedes.

156. Linkages. A. The House Bill, but not the Senate Amendment, includes in its list of programs with which the service delivery area shall establish linkages, programs assisted under the U.S. Housing Act, the National Literacy Act, Head Start, and any other provision of this Act.

The Senate recedes.

B. The Senate Amendment, but not the House Bill, includes in its list of programs with which the service delivery area must establish linkages, programs assisted under title V of the Older Americans Act and chapter 2 of title II of the Trade Act of 1974.

The House recedes.

157. Other Linkages. The House Bill and Senate Amendment are substantially the same, except that only the Senate Amendment includes "literacy organizations" in its list of other programs with which to establish linkages.

The Senate recedes.

158. Transfer of Funds. Both the House Bill and Senate Amendment allow for a 10% transfer of funds between the Part A Adult Program and the Part C Youth Program; however the Senate Amendment also allows for a transfer to the Part B Summer Youth Program.

The Senate recedes with an amendment to include a transfer provision in title IIB to allow a 10 percent transfer of funds from title IIB to title IIC, including in 1992.

159. Studies. The Senate Amendment, but not the House Bill, requires the GAO to study the number of adults assisted under this part who remain employed for at least 9 months after receiving assistance.

The Senate recedes.

160. Summer Youth. The House Bill and Senate Amendment are substantively the same with minor drafting differences.

The House recedes.

161. Youth Funding Formula. Both the House Bill and Senate Amendment use the Part C Youth Program funding formula for the distribution of Summer Youth funds, but refer to different subsections in Part C. The Senate Amendment, but not the House Bill, cites the definition of economically disadvantaged in Part C.

The Senate recedes.

162. Use of Funds. The House Bill and Senate Amendment are substantively the same, except that only the Senate Amendment lists "Youth Corps Programs" as a use of funds.

The House recedes.

163. Basic and Remedial Education. The House Bill and Senate Amendment are substantively the same, except that only the House Bill refers to "training" in Section 253(b)(2), while only the Senate Amendment refers to "Youth Corps Programs" in the same paragraph under the Senate Amendment.

The Senate recedes on "training". The House recedes on "Youth Corps Programs".

164. Assessment. The House Bill requires summer youth assessments to include a review of supportive services, while the Senate Amendment lists supportive services as an optional review item.

The Senate recedes.

165. Followup Services. The House Bill requires followup services to be made available for participants for whom a service strategy is developed, while the Senate Amendment only requires followup services where the service strategy indicates it is appropriate.

The House recedes.

166. Concurrent Enrollment. The House Bill and Senate Amendment are substantively the same, except that they refer to different paragraph citations in Sec. 106 on performance standards.

The House recedes.

167. Transfers. The House Bill states that youth "do not need" to be terminated from participation in part B or part C in order to be enrolled in the other part, while the Senate Amendment states that the youth "are not required" to be terminated.

The House recedes.

168. Part C—Youth Program. Statement of Purpose. The Senate Amendment, but not the House Bill, states that one of the purposes of the Youth Opportunity Program is to enhance the "citizenship" skills of youth.

The House recedes.

169. State and Service Delivery Area Allotment. A. Both the House Bill and Senate Amendment use the same type of funding formula as described in the Part A—Adult Program. The Senate Amendment, but not the House Bill, specifically cites Sec. 202 (a)(2) and (3) for the formula allotment to the States and changes the definition of economically disadvantaged individuals to economically disadvantaged youth for this part.

The Senate recedes with an amendment to change "individuals" to "youth".

B. The House Bill, but not the Senate Amendment, reserves 81% of the remainder of funds (after deduction for the territories) for allotment to the States for allocation to service delivery areas within each State, as determined by formula. The House Bill, but not the Senate Amendment, allots the remaining 19% for State set-asides described in Section 272(c) of the House Bill.

The Senate recedes with an amendment to change the 81 percent reservation to 82 percent and to change the 19 percent remainder to 18 percent.

C. Allocation to Service Delivery Areas. The Senate Amendment, but not the House Bill, directs the Governor to allocate 82% of the allotment to each State based on the formula in Sec. 202(b) and to allocate 18% in accordance with subsection (c) of this section 262.

The Senate recedes.

170. Formula. The House Bill, but not the Senate Amendment, retains the formula factors in current law, but allots the amounts based upon service delivery area factors of unemployment and poverty for economically disadvantaged youth, instead of the State factors of unemployment and poverty. This formula is essentially the same as in part A, but targets economically disadvantaged youth instead of adults.

The Senate recedes with an amendment described in comment 118.

171. Limitations. The House Bill, but not the Senate Amendment, repeats the limitation provisions in the formula described in the Part A Adult Program. Comparable Senate Amendment provisions are also described in section 202(a) of the Senate Amendment, as referenced in section 262 (a) and (b).

The Senate recedes.

172. Definitions. The House Bill, but not the Senate Amendment, in the definition of economically disadvantaged refers to "poverty income guidelines promulgated each year by the Secretary of Health and Human Services." In a similar reference, the Senate Amendment, but not the House Bill, refers to the "official poverty line as defined by the Office of Management and Budget" in accordance with the Budget Reconciliation Act of 1981.

The House recedes.

173. The House Bill repeats the definition of "excess number" of unemployed first listed in section 202(b)(4)(c), while the Senate Amendment simply crossreferences the definition listed in section 202(d)(1)(B).

The House recedes.

174. Exclusions. Both the House Bill and Senate Amendment exclude college students and Armed Forces members from the number of economically disadvantaged youth/individuals, but the bills have technical drafting differences.

The Senate recedes.

175. State Set-Asides. The House Bill repeats the description of state set asides first listed in Sec. 202(c)(1) of the House bill. Whereas the Senate Amendment crossreferences the state set-asides described in Sec. 202(c)(2).

The Senate recedes.

176. State Set-Aside Allotment. The House Bill repeats the language first described in Sec. 202(c)(2) of the Hose Bill. Whereas the Senate Amendment crossreferences the state set-aside allotment described in Sec. 202(c)(2), as noted in comment 175.

The Senate recedes.

177. Incentive Allotment. The House Bill, but not the Senate Amendment, repeats the language first described in Sec. 202(c)(3) of the House Bill.

The House recedes.

178. Capacity Building. The House Bill, but not the Senate Amendment, repeats the language on capacity building first described in Sec. 202(c)(4) of the House Bill.

The House recedes with an amendment described in comment 128 and 230.

179. Youth Program. Eligibility for In-School Youth Services. The House Bill requires that "not less than 60 percent" of in-school participants face additional barriers to employment, whereas the Senate Amendment requires that "not less than 70 percent" of in-school participants face such barriers.

The House recedes with an amendment to require that not less than 65 percent of the youths participating in the in-school program face at least one additional barrier to employment. The amendment also provides that youth determined to be eligible for a free meal under the National School Lunch Act during the most recent school year are eligible for services under title IIB summer program and title IIc youth program.

180. The Senate Amendment, but not the House Bill, includes in the list of individuals facing additional barriers to employment those who "exhibit a pattern of disruptive behavior or disciplinary problems", those who are "limited-English proficient", and those who face some other serious barrier to employment as determined by a service delivery area and approved by the Governor and the Secretary.

The House recedes with an amendment described in comment 135c.

181. Targeted Groups. The House Bill requires that "not less than 60 percent" of out-

of-school participants face additional barriers to employment, whereas the Senate Amendment requires that "not less than 70 percent" of out-of-school participants face such barriers.

The House recedes with an amendment to require that not less than 65 percent of youths participating in the out-of-school program shall face at least one additional barrier to employment.

182. Out-of-School Youth. Eligibility for Services. The Senate Amendment, but not the House Bill, includes the list of individuals with additional barrier to employment those who are limited English proficient and those who face some other serious barriers to employment as determined by a service delivery area and approved by the Governor and the Secretary.

The House recedes with an amendment described in comment 135c.

183. Exceptions. Both the House Bill and Senate Amendment allow not more than 10 percent of the youth served in this program to be non-economically disadvantaged if they meet other barriers to employment. The House Bill, however, specifies that the individuals excepted under the 10 percent window "may" be individuals who face other barriers to employment and that those barriers "need not be limited to" the ones specified in this subsection, while the Senate Amendment specifies that the individuals excepted under the 10 percent window "shall" be individuals who face other barriers to employment and that those barriers "may" be included in the ones specified under this subsection.

The House recedes. (See also comments 132 and 136.)

184. Ratio of Out-of-School to In-School Youth. The House Bill requires that 60 percent of the youth served in this program be out-of-school (with 2 exceptions described below), while the Senate Amendment requires that 50 percent of the youth served be out-of-school.

The House recedes with an amendment requiring that 50 percent of youth served be out-of-school youth under the year-round youth program. The amendment retains the House provision permitting youth served in a schoolwide project to be excluded from the in-school count.

Schoolwide projects are authorized under Title II-C in order to target in-school youth in high poverty neighborhoods. SDAs are authorized to provide funds to establish these projects in high schools located in neighborhoods with over 30 percent poverty. This provision would target youth who are reading below grade level or face other barriers to employment, but it would not require each in school youth served by this project to be income-certified.

High schools in these high poverty areas must demonstrate that 70 percent of their students have barriers to employment other than their poverty. As long as it can be determined that 70 percent of the student population have these barriers (for example, if 70 percent of a high school were determined to be reading one year below grade level), then the entire school may be served by a program, without each individual being either income-certified or assessed for a specific individual barrier.

In urban and rural areas with a high concentration of poverty, individual eligibility criteria for in-school youth may be unnecessary and potentially counterproductive. Numerous JTPA service providers have testified that the burden of documentation can discourage participation in JTPA programs. While the Conferees support the need to document poverty and certain barriers for eligibility purposes, they also recognize that, in extreme situations in areas of pervasive poverty, it is more important to target the severely disadvantaged in a manner which does not hinder participation. Also, only a limited number of schools will qualify under the strict criteria established in this legislation although, in some high schools in our country, virtually the entire school has been tested as reading below grade level.

The Conferees want to clarify that while individuals who do not meet the requirements of section 263(a)(2) may be eligible for schoolwide projects, it is also assumed that individuals who do meet the requirements in section 263(a)(2) may also be eligible for services under schoolwide projects.

The Conferees intend that students participating in an alternative school program funded in part or in whole by funds provided under the Job Training Partnership Act, who have been identified as drop-outs or who have been identified as habitually truant (as defined by State law), be considered out-of-school youth for purposes of this program.

186. Additional Barrier to Employment. The Senate Amendment, but not the House Bill, allows a service delivery area to add one category of youth who face an additional barrier to employment if the Governor and, in turn, the Secretary approve.

The House recedes with an amendment allowing service delivery areas to add one additional barrier to employment, if approved by their Governor, but this additional barrier cannot be unemployment or poor work history. The amendment deletes the provision requiring the Secretary's approval, but requires this request, as approved by the Governor, to be included in the Governor's plan.

187. Year-Round Youth Program Design. The House Bill requires the youth program under this Part C to be conducted and services "made available during the year or on a multiyear basis as appropriate", while the Senate Amendment simply requires this Part C to be conducted "on a year-round basis".

The House recedes with an amendment. The programs under part C shall be conducted on a year-round basis and services shall be made available on a multi-year basis as appropriate.

188. Information Availability Requirements. The House Bill specifies that each participant be provided information on other service providers, "including, but not limited to," those receiving funds under this Act, while the Senate Amendment simply states "including".

The Senate recedes.

189. Referral Requirements. The House Bill refers to the "applicant" referral requirements, whereas the Senate Amendment refers to the "participant or applicant".

The House recedes.

190. Referral Requirements for Service Providers. Both the House Bill and the Senate Amendment require each service provider to refer each eligible applicant who does not meet enrollment requirements to the service delivery area for further assessment and possible referral; however, the House Bill, but not the Senate Amendment, makes the same broader requirement of service providers for eligible applicants "who cannot be served" by the provider's program.

The Senate recedes.

191. Authorized Services. In the list of authorized services for youth the House Bill specifies that services "may include, but need not be limited to" the subsequent list, while the Senate Amendment simply specifies that services "may include" the subsequent list.

The House recedes.

192. Direct Training Services. A. The Senate Amendment, but not the House Bill, adds "youth corps programs" to the list of other training or education services.

The House recedes.

B. The House Bill, but not the Senate Amendment, lists "preemployment and work maturity skills training" as an allowable direct training service.

The Senate recedes.

193. School Dropouts. A. The House Bill, but not the Senate Amendment, requires each service delivery area to make available, concurrently or sequentially, at least 2 or more options to enable a dropout under 18 to reenroll in some form of educational study or program (as specified in both bills).

B. The Senate Amendment, but not the House Bill, requires a dropout under the age of 18 to reenroll in some form of educational study or program (as specified in both bills) as a condition of participating in a program assisted under this part.

The Senate recedes on both parts with an amendment to require that an individual who is under the age of 18 and a dropout must enroll in and attend an alternative course of study approved by the local educational agency or enroll in and attend either school, an alternative high school, or a high school equivalency program. The SDA must make at least two of these reenrollment options available to such individuals.

As a part of the requirement for an individual who is under the age of 18 and a dropout to return to school or to a high school equivalency program the Conferees have included an exception for "interim periods". This exception is intended to provide flexibility to the program and the participants particularly during the summer months, or during the periods between school terms or when a course of study or school program is not immediately available. The Conferees expect this interim period to be used only in limited situations and for limited periods of time.

194. Educational Linkages. The House Bill identifies a non-exhaustive series of program linkages, while the Senate Amendment's list is exclusive.

The Senate recedes.

195. Program Linkages. In the requirement for service delivery areas to link with other Federal programs only the House Bill lists the National Literacy Act, while only the Senate Amendment lists the National and Community Services Act.

The House recedes on the National Literacy Act. The Senate recedes on the National and Community Services Act.

TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

196. Title III. A. The House Bill refers to "any other provisions in law" when describing whether an eligible dislocated worker is deemed to be in training, while the Senate Amendment refers specifically to the "Internal Revenue Code."

The House recedes. The Senate Amendment confirms the specific intent of this provision to clarify that participants in Title III training programs shall be considered to be in training with the approval of the state agency for purposes of the Internal Revenue Code, which precludes states from denying unemployment insurance because an individual is "in training with the approval of the state agency."

B. The House Bill, but not the Senate Amendment, retains "1991" in the demonstration program authorization.

The House recedes.

197. Unobligated Title III Funds. The House Bill, but not the Senate Amendment, amends the carryover provisions in Section 303 to base the funds recapture on "unobligated" funds, instead of "unexpended" funds as in current law.

The House recedes. The Conferees conclude, based on previous experience with federally funded job training programs which operated on the same basis as the House Bill, that the provisions in the House Bill could undermine the effectiveness of the reallotment process.

198. Use of Funds. The House Bill amends current law to impose cost category limits only on Part A of title III, while the Senate Amendment retains the cost category limits on all of title III, "except for funds expended under section 326".

The Senate recedes with an amendment. The Conferees adopt the House Bill provision in recognition of the planning difficulties substate grantees have had under current law. Under that provision, substate grantees will be required to comply with the cost category limits on a program year basis. Thus, the appropriate period for compliance with the cost category limits for a particular program year will be the period for which the funds allocated for such program year are available.

The Conferees amend the House Bill to make clear that for purposes of this section, the term "allocated" is intended to refer to the final allocation a substate grantee receives for a given program year, adjusted upwards or downwards as appropriate following any reallocation to or from such substate grantee for that program year.

Notably, the House Bill also imposes the cost category limits only on Part A of title III, while the Senate Amendment retains the cost category limits on all of title III, "except for funds expended under section 326." The Senate recedes with regard to this difference. The Conferees intend that funds expended under Part B of title III not be subject to such cost category limits.

199. Combining Funds. The House Bill, but not the Senate Amendment, allows substate grantees within a State to combine funds to serve dislocated workers from 2 or more substate areas.

The Senate recedes. This provision is intended to allow neighboring substate grantees to work together to serve dislocated workers in a more efficient and cooperative fashion.

TITLE IV—FEDERALLY ADMINISTERED PROGRAMS

200. Native American Programs. The Senate Amendment, but not the House Bill, amends current law on Native American programs to make services available to American Samoans residing in the United States.

The Senate recedes.

201. Native American Programs. The Senate Amendment, but not the House Bill, adds language to current law to permit organizations "and State agencies", as determined by the Secretary, to administer programs for Hawaiian Natives and American Samoans.

The Senate recedes.

202. Native American Programs A. Both the House Bill and the Senate Amendment add new language to current law on creating a single organizational unit for coordinating certain activities under this section. The House Bill adds this new language on the organizational unit by adding a new subsection (k) to section 401 of current law, whereas the Senate Amendment amends section 401(e) of current law.

The Senate recedes.

The Conference bill incorporates several provisions amending the Native American language in current law. These changes are intended to ensure that the special Native American programs directly address Native American needs and further the development of Native American communities in ways determined by Native American groups themselves.

B. The House Bill establishes as the unit's "primary" responsibility "the administration of all Native American programs", whereas the Senate Amendment gives the unit "principal" responsibility for the "development, coordination, and oversight of all policies * * *".

The Senate recedes.

C. Additionally, the House Bill, but not the Senate Amendment, makes the organizational unit accountable for monitoring such programs and "making recommendations regarding the selection of all recipients of financial assistance".

The Senate recedes.

D. The House Bill makes the unit accountable (1) for the development of all policies and procedures "related to the implementation of such programs", and (2) for coordinating the development of policy and procedures "for all Native American employment and training programs within the Department", whereas the Senate Amendment makes the unit responsible for all policies "under which the Secretary regulates or influences the operation of Native American Indian programs under this section".

The Senate recedes.

E. The Senate Amendment, but not the House Bill, excludes audit, procurement, and debt collection policies from the purview of the organizational unit.

The Senate recedes.

203. A. The House Bill, but not the Senate Amendment, grants special consideration in the hiring and promotion of the unit's professional staff to individuals who have field experience in the daily operation of service and training programs for Native Americans.

The Senate recedes.

B. The House Bill requires the Secretary to take additional actions as may be necessary to promote the recruitment and promotion of Indians, Native Alaskans, and Native Hawaiians, whereas the Senate Amendment encourages "a special effort to recruit Indians, Alaska Natives, American Samoans, and Hawaiian Natives for employment".

The Senate recedes.

204. Clarification Amendments. The House Bill, but not the Senate Amendment, makes a clarification to Section 401(f) of current law and a conforming amendment to Section 401(j) of current law.

The House recedes.

205. Reservation of Funds. The House Bill, but not the Senate Amendment, makes a conforming amendment in the set-aside of funds for Indian programs and also adds that additional appropriations may be provided. The Senate Amendment, but not the House Bill, reserves from Title IV funds (other than part B) an amount not less than 3.5 percent of the total appropriated for parts A and C of Title II. (Current law provides for an amount equal to 3.3 percent of funds for this section.).

The House recedes with an amendment to change the 3.5 percent reservation to not less than 3.3 percent.

206. The Senate Amendment, but not the House Bill, amends Section 401(h) of current law to substitute "Advisory Council on Native American Indian Job Training Programs" for "representatives of Indians and other Native Americans" and to add language on Indians and American Samoans.

The Senate recedes.

207. Advisory Council. The House Bill creates a new subsection for advisory councils, while the Senate Amendment adds a new paragraph to subsection (h) of current law for advisory councils.

The Senate recedes.

208. Native American Programs.

A. The House Bill and Senate Amendment both create councils to evaluate and advise the Secretary on employment and training programs for Native Americans. The House Bill titles the council the "Native American Employment and Training Council", whereas the Senate Amendment title is the "Advisory Council on Native American Indian Job Training Programs".

The Senate recedes.

B. The House Bill requires the Council to have no fewer than 17 members, whereas the Senate Amendment requires not fewer than 15 members.

The Senate recedes.

C. The Senate Amendment, but not the House Bill, includes American Samoans in the population from which Council members shall be drawn and permits American Samoan organizations to nominate members.

The Senate recedes.

D. The House Bill requires the Council's membership to represent "all geographic areas of the United States with a substantial Indian, Native Alaskan, or Native Hawaiian population", whereas the Senate Amendment requires the membership to represent "diverse geographic areas".

The Senate recedes.

209. A. The House Bill requires the Council to include members of nonreservation Native American organizations "who are service providers under this Act", whereas the Senate Amendment does not stipulate that representatives from nonreservation Native American organizations should be service providers under this Act.

The Senate recedes.

B. The House Bill, but not the Senate Amendment, requires that a majority of the Council members shall have field experience in the daily operation of the program authorized under this section.

The Senate recedes.

C. The Senate Amendment, but not the House Bill, while encouraging American Samoan representation on the Council, does not allow an American Samoan to be elected Chair.

The Senate recedes.

210. The House Bill, but not the Senate Amendment, provides for the appointment of interim Council members, to be taken from the Native American Programs Advisory Committee, the members of which may also be appointed as members of the new Council.

The Senate recedes.

211. Council Membership. A. The House Bill requires the term of office for Council members to be 2 years, but requires one-half of the initial appointments to be for 1 year, whereas the Senate Amendment states each Council member "may" serve for a term of 2 years and "may" be reappointed.

The Senate recedes.

B. The House Bill, but not the Senate Amendment, lists procedures to be followed in the event of a vacancy.

The Senate recedes.

C. The House Bill, but not the Senate Amendment, establishes a deadline for the appointment of Council members.

The Senate recedes with an amendment to require that Council members be appointed by the beginning of program year 1993, not 1992 as in the House Bill.

212. The Senate Amendment, but not the House Bill, requires the Council to solicit the views of American Samoan groups on Native American employment and training programs.

The Senate recedes.

213. Native American Programs. A. The House Bill requires the Council to "advise and make recommendations" to the Secretary on the design and implementation of performance standards, whereas the Senate Amendment requires the Council to "advise" on the design of all aspects of performance standards.

The Senate recedes.

B. Both the House Bill and the Senate Amendment require the Council to advise the Secretary on services "obtained" by the Department; however, the House Bill, but not the Senate Amendment, also mentions services "to be obtained".

The Senate recedes.

C. The House Bill requires the Council's advice on "any services" authorized under section 401 of the House Bill, whereas the Senate Amendment requires advice on "services that involve the provision of technical assistance to, or evaluation of, the programs" authorized under this section.

The Senate recedes.

214. Effectiveness. The House Bill requires the Council to "evaluate" the effectiveness of Native American job training programs, whereas the Senate Amendment requires the Council to "assess" these programs.

The Senate recedes.

215. The House Bill requires the Council to advise the Secretary on individuals to be considered for the position of chief of the organizational unit, whereas the Senate Amendment specifies that the Council shall advise the Secretary on "the recruitment of, identification of, and selection criteria for, candidates" for the position of chief of the organizational unit.

The Senate recedes.

216. A. Both the House Bill and the Senate Amendment require the Council to submit a report to Congress; however, the House Bill, but not the Senate Amendment, also requires a report to be submitted to the Secretary.

The Senate recedes.

B. The House Bill requires a report to be submitted every other year, whereas the Senate Amendment requires a report to be submitted every year.

The Senate recedes.

C. Both the House Bill and the Senate Amendment require the Council to make recommendations for improving the "effectiveness" of Native American job training programs; however, the House Bill, but not the Senate Amendment, also requires recommendations for improving the "administration" of these programs.

The Senate recedes.

217. A. The House Bill states that Council members shall serve without compensation but may be reimbursed for their expenses, whereas the Senate Amendment states that the Secretary shall make available to the Council such sums as may be necessary to carry out the functions of the Council.

The Senate recedes.

B. The House Bill, but not the Senate Amendment, requires the Secretary to provide the Council with administrative support.

The Senate recedes.

218. The Senate Amendment, but not the House Bill, adds new language to Section 401 on competition for Section 401 grants.

The House recedes.

219. Migrant programs—Sec. 402. Both the House Bill and the Senate Amendment add new language on 2 year competitions for section 402 grantees; however, the House Bill, but not the Senate Amendment, specifies that procedures for awarding grants under this section shall be consistent with standard competitive procurement procedures.

The House recedes.

The Conferees are aware of the accomplishments of the Association of Farmworker Opportunity Programs (AFOP) and encourage the Department to continue their activities, including technical assistance and training for the Section 402 grantees in the areas of quality program enhancement and in database and other developments which can further improve the capabilities of grantees funded under section 402. The Conferees encourage the Department to utilize the Association in an advisory capacity.

The Conferees are aware that limitations on certain costs have been applied to the Native American and Migrant and Seasonal Farmworker programs, although they were not mandated for these nationally funded programs. For instance, the Conferees are aware that the Department has applied a 15% limitation on non-training related supportive services. As with performance standards, the Secretary is directed to prescribe adjustments in limitations on certain costs due to the unique needs of the Native American and Migrant and Seasonal Farmworker populations and the varying programs required to meet their special needs.

The Conferees recognize that Section 402 of JTPA is the main vehicle for public investments in migrant and seasonal farmworker employment, training, and supportive services. These investments assist farmworkers to obtain or retain stable employment both within and outside of agriculture and to provide assistance and related services that will stabilize and improve their agricultural employment situation. These programs target services to a particularly hard-to-serve and at-risk populations.

The Conferees recognize, as with the Native American JTPA programs, migrant and seasonal farmworker programs can benefit from centralized administration from the national level within the Department of Labor. The Conferees encourage the Department of Labor to provide a single office which focuses on the many different aspects of its dealing with grantees, including policy, performance, monitoring, administrative standards, and programs designed to meet farmworkers' unique needs. Furthermore, an office comprised of and headed by individuals with direct farmworker employment and training field experience, expertise with grantee operational methods necessary to administer such diverse programs, and a full understanding of and commitment to meeting the special and unusual needs of the migrant and seasonal farmworker community is encouraged. The Conferees plan to monitor the Department's progress toward this goal.

Section 402 grantees are currently designated every two years. The Conferees have included language intended to ensure that once a Section 402 grantee has performed successfully under the terms of an existing grant agreement and has met the performance criteria established by the Secretary, the Secretary may waive the requirement for competition for that grantee for the two succeeding years. The Conference bill includes language intended to ensure that the procedures used to award state Section 402 grants are consistent with the government's standard competitive procurement policies and that no entity competing for a grant be awarded points based on any non-competitive criterion. On those occasions where a grant designation is required during the two-year competitive grant period, an expedited process of competition, consistent with standard government procurement policies, should be conducted.

The employment of farmworkers on Christmas and other tree farms, forestry and other logging operations, fish farms and hatcheries, nurseries, and fruit and vegetable processing operations (both on and off farm sites) has significantly increased. The Conferees urge the Department to be responsive to these changes and to periodically modify and update the Section 402 regulations to recognize the changing nature of agricultural employment. The Conferees direct the Department of Labor to cooperate with the Department of Education on coordinating JTPA 402 projects with migrant programs administered by the Office of Migrant Education.

The Section 402 program was created to assist farmworkers who choose to remain in agricultural employment through activities that will assist in stabilizing their employment, improve their living and working conditions, as well as to help them enter employment outside of agriculture. The Conferees are aware that farmworkers, as an occupational group, are at high risk for exposure to toxic pesticides and for injury from other work related accidents. As an effort to stabilize farmworkers' employment in agriculture, the Conferees recognize the need for Section 402 programs to provide farmworkers with pesticide and other workers safety training as an employability enhancement activity.

220. Reservation of Funds. The House Bill, but not the Senate Amendment, makes a conforming amendment in the set-aside of funds for Migrant programs and also adds that additional appropriations may be provided. The Senate Amendment, but not the House Bill, reserves from Title IV funds (other than part B) an amount not less than 3.2% of the total appropriated for parts A and C of title II. (Current law provides for an amount "equal to 3.2% of funds for this section".)

The House recedes.

The Conference bill authorizes the Secretary to reserve from funds available for carrying out this title for any fiscal year, an amount not less than 3.2 percent of the total amount of funds appropriated to carry out parts A and C of title II of this Act for such fiscal year.

221. Grant Procedures—Sec 403. The House Bill, but not the Senate Amendment, adds a new section 403 on grant procedures and the charging of costs for Section 401 and 402 grants.

The Senate recedes.

The Conferees are aware that the Department of Labor has interpreted OMB Circular A–122 to prohibit grantees from using grant funds for legal, accounting or other consulting services relating to an audit after the grant officer issues a final determination. This precludes grantees from utilizing these resources for such services to resolve the audit matters during review of the grant officer's determination in hearings before an administrative law judge and during the final review of the matter by the Secretary. The Conferees are also aware that the Department of Health and Human Services, the largest grant making agency in the Federal government, has a different interpretation of OMB Circular A-122, which allows grants funds to be used for such services until a final determination is made by the Secretary.

The Department of Labor's interpretation of Circular A-122 has proven particularly burdensome for nonprofit and single-purpose organizations providing job training services to migrant and seasonal farmworkers under Section 402 of the Act. These grantees may have no private resources available to obtain assistance in resolving audit matters during the important administrative proceedings before the Department's administrative law judge and the Secretary. The Department of Labor is encouraged to review this matter, giving full consideration to HHS interpretation. The Conferees encourage the Department to permit grantees to utilize grant funds for reasonable and necessary legal and accounting costs associated with audit resolutions in any Departmental proceedings.

222. Job Corps Eligibility. The House Bill, but not the Senate Amendment, makes individuals age 22 through 24 eligible for the Job Corps program, but limits their number to 20 percent of total enrollees.

The Senate recedes. Job Corps centers will not be required to enroll any individual older than 21, but will be permitted to do so by the Conference bill.

223. The House Bill, but not the Senate Amendment, clarifies current law so that Job Corps participants may concurrently or subsequently participate in Title II programs, and so that Title II participants may concurrently or subsequently participate in Job Corps.

The Senate recedes.

224. Job Corps. A. Nonresidential Participants. The House Bill and Senate Amendment both raise the cap on the number of non-residential individuals who are allowed to participate to 20 percent of the total enrolled.

The House and Senate provisions are identical.

B. The House Bill, but not the Senate Amendment, specifies that of those individuals who are to be nonresidential participants, priority shall be given to eligible individuals who are single parents with dependent children.

The Senate recedes.

C. The House Bill specifies that the number of residential participants shall not be reduced below the program year 1991 level as a result of increasing the number of nonresidential participants, whereas the Senate Amendment specifies that the number of residential participants shall not fall below the program year 1989 level.

The Senate recedes.

225. The House Bill, but not the Senate Amendment, prohibits the Department of Labor from contracting with a nongovernmental entity to administer a Civilian Conservation Center of the Job Corps on public land.

The Senate recedes.

226. Job Corps/Child Care Services. The House Bill, but not the Senate Amendment, requires the Secretary, to the extent practicable, to provide child care services for Job Corps participants who need them to participate in the program.

The Senate recedes.

227. Job Corps Referrals. The House Bill, but not the Senate Amendment, requires Job Corps centers to provide counseling and referrals, to enrollees who have problems with alcohol or drug abuse.

The Senate recedes.

228. National Partnership and Special Training Programs. The Senate Amendment, but not the House Bill, amends Section 451 of current law authorizing the Secretary of Labor to establish a system of grants administered at the national level including partnership programs with national organizations having special expertise; programs that address industry-wide skills shortages, meet training needs best addressed on a multistate basis, and increase competitiveness of the labor force; and programs that require technical expertise at the national level to serve individuals with special needs.

The House recedes.

229. Research, Demonstration, and Evaluation. The Senate Amendment, but not the House Bill, amends Section 452 of current law by adding to the list of authorized research topics: methods of addressing the needs of at-risk populations; information on immigration, international trade and competition, technological change, and labor shortages; and methods of easing individual transition into the workforce. The Senate Amendment further amends the pilot and demonstration program to improve effectiveness in meeting particular employment and training problems, and allows the Secretary to evaluate other federally-funded employment-related activities, as well as the impact of title II on welfare dependency.

The House recedes with an amendment stating that demonstration programs shall last for no longer than 7 years. The amendment also states that pilot programs must include an evaluation component.

230. Training and Information Programs. The Senate Amendment, but not the House Bill, amends current law to require the Secretary to: (1) develop curricula and provide training, technical assistance, staff development and other activities at the national, regional, state, and local levels; (2) prepare and disseminate training curricula and materials; and (3) disseminate innovative and successful models and materials.

The House recedes with an amendment to merge all the House and Senate language on capacity building, training networks, replication of successful programs, and information dissemination into a new section entitled "Capacity Building, Information Dissemination, and Replication Activities," which will replace Section 453 of current law.

The Capacity Building and Information and Dissemination Network shall provide training and technical assistance to enhance the expertise of employment and training professionals and to improve coordination of services. In pursuant of these goals, the Network shall, using primarily computer-based technologies, develop and disseminate staff training curricula and materials, and information on successful programs and training methods by crating a national database and communication system.

Coordination between the grant program established under the new Section 453 and the activities of the Network is required to the extent possible. Funds available for the grant program may not be used to duplicate the activities of the Network. Of the 7 percent of JTPA funds that are reserved for title IV programs, $15 million is authorized annually to carry out Section 453, after the set-asides for veterans and Indian and migrant programs are fulfilled (see comment 8). Up to 33 percent of the 5 percent State set-aside for incentive grants may also be used for similar capacity building activities (see comments 128, 131, and 178).

231. Redesignations. The Senate Amendment, but not the House Bill, eliminates Sections 454 through 456 and redesignates the old Section 457 as Section 454. The new heading for Section 454 reads—"Nontraditional Employment Demonstration Program" (P.L. 102-235).

The House recedes with an amendment to redesignate Section 457 as 456.

232. Secretary's Guidance. A. The House Bill and the Senate Amendment require that the Secretary provide guidance and technical assistance to States and service delivery areas to limit the burdens of documenting eligibility of participants under title II. However, the House Bill does this by amending Section 455 of current law, whereas the Senate Amendment provision are only for purposes of this Act.

The Senate recedes.

B. The House Bill refers to documentation for participants under parts A, B, and C of title II, whereas the Senate Amendment refers only to parts A and C of title II.

The Senate recedes.

C. The House bill, but not the Senate Amendment, focuses the new documentation requirements on participants described in Sections 203(a) and 273 (b) and (d) of the House Bill.

The Senate recedes with a technical amendment to redesignate Section 273 as Section 263.

D. The House Bill, but not the Senate Amendment, further specifies that the documentation shall, to the extent practicable, be uniform and standard.

The Senate recedes.

E. The House Bill, but not the Senate Amendment, specifically requires certain subjects to be addressed in the guidance.

The Senate recedes.

F. The House Bill requires the guidance to be provided no later than July 1, 1992, whereas the Senate Amendment requires the guidance to be provided no later than December 1, 1992. Also, the Senate Amendment, but not the House Bill, specifically states that the Secretary shall provide the guidance.

The House recedes with an amendment to change the due date of the guidance from December 1, 1992 to December 18, 1992.

233. Uniform Reporting Requirements. The House Bill, but not the Senate Amendment, amends Part D of Title IV by adding a new Section 456 requiring the Secretary of Labor, with the Secretaries of Education and Health and Human Services, to identify common data elements and definitions for federal employment and training programs. Report due to Congress, January 1, 1994.

The Senate recedes.

234. Training Network. The House Bill, but not the Senate Amendment, requires the Secretary to establish a National Capacity Building and Information and Dissemination Network to strengthen and improve effectiveness of services provided at the federal, State, and local levels.

The Senate recedes with an amendment to merge the House language on Training Network into a new section entitled "Capacity Building, Information, Dissemination, and Replication Activities," which will replace Section 453 of current law (see comment 230 for a summary of the newly amended Section 453).

235. Cooperative Labor Market Information.

A. Both the House Bill and the Senate Amendment amend Part E, Section 462 of title IV, Labor Market Information, regarding the development of a national, longitudinal data base utilizing unemployment insurance wage records.

The Senate Amendment permits, but does not require, the Secretary of Labor to study the feasibility of making accessible nationwide information on quarterly earnings on all individuals for which such information is collected by States.

The House Bill, but not the Senate Amendment, *requires* the Bureau of Labor Statistics to determine the feasibility of organizing and making accessible nationwide information on quarterly earnings, establishment and industry affiliation, and geographic location of employment for all individuals for which such information is collected by States, and/or to demonstrate applications of such information.

The Senate recedes with an amendment to delete the paragraph on the Bureau of Labor Statistics engaging in research on employment data for each individual for whom such information is collected by the States. The amendment requires the Commissioner and States to build upon research conducted by the National Commission for Employment Policy and others to determine the procedures necessary to establish and maintain a longitudinal database using unemployment wage records and to develop a means to make this information available on a nationwide basis. The Conferees have included this amendment in recognition of the work of the NCEP that demonstrated the potential cost savings of using the unemployment insurance wage records. The Conferees agree to require the Secretary to report to Congress on the feasibility of establishing such a database.

B. The House Bill, but not the Senate Amendment, requires the Bureau of Labor Statistics to work with States to establish procedures to collect, maintain, and make available the information described above.

The Senate recedes with an amendment described in 235A.

C. The House Bill, but not the Senate Amendment, requires the Secretary to submit a report on the data base "12 months after the enactment of this bill".

The Senate recedes.

D. The House Bill, but not the Senate Amendment, specifies that the report to congress shall describe savings on program followup surveys.

The Senate recedes.

E. The House Bill, but not the Senate Amendment, requires the report to describe "the steps that have been taken and the schedule for any remaining steps necessary to implement the provisions of this section".

The Senate recedes.

F. The Senate Amendment, but not the House Bill, requires the report to "address the feasibility of establishing appropriate safeguards for maintaining the confidentiality of information and privacy of individuals".

The Senate recedes.

236. Federal Responsibilities. The House Bill, but not the Senate Amendment, adds a new subsection to Section 463 requiring the Secretary, through the National Occupational Information Coordinating Committee (NOICC), to report to Congress within 24 months of enactment of this Act, listing recommended common data elements, an analysis of benefits, and a plan for developing and maintaining this common core of data.

The Senate recedes with an amendment to delete Section 463(d) of the House Bill.

237. National Occupational Information Coordinating Committee (NOICC). A. The House Bill increases the authorization for NOICC from not more than $5 million to "not less than $6 million", while the Senate Amendment simply increases the authorization to $6 million.

The House recedes.

B. The House Bill, but not the Senate Amendment, adds to the responsibilities of the Committee by placing emphasis on career development and by requiring that the Committee conduct research and demonstrations to improve coordination and compatibility of human resources data systems (including systems to assist in economic development efforts).

The Senate recedes.

238. Replication of Successful Programs. The Senate Amendment, but not the House Bill, creates a new Part H in title IV authorizing the Secretary to make grants to public or private non-profit organizations to provide technical assistance to States and service delivery areas for costs associated with development and operation of model programs that are likely to improve the employment prospects of economically disadvantaged youth and adults.

The House recedes with an amendment to merge the Senate language on Replication of Successful Programs into a new section entitled "Capacity Building, Information, Dissemination, and Replication Activities," which will replace section 453 of current law (see comment 230 for a summary of the newly amended section 453).

239. Youth Opportunities Unlimited Program. Title. Both the House Bill and Senate Amendment establish a new program under title IV to serve youth in high poverty areas. However, in the House Bill, the title for this program is the Youth Opportunities Unlimited Program. In the Senate Amendment, the title is the "Fair Chance Youth Opportunities Unlimited Program."

The House recedes with an amendment to change the title to the Youth Fair Chance Program.

240. Program Authorization.

A. The Senate Amendment, but not the House Bill, refers to the grants awarded to service delivery areas "on behalf of participating communities."

The House recedes.

B. The House Bill, but not the Senate Amendment, makes grantees under the Migrant and Seasonal Farmworker Program eligible as grantees under the Youth Opportunities Unlimited Program, where the target area is located in a migrant or seasonal worker community.

The Senate recedes.

The provisions enabling tribal governments and Native Alaskan groups to apply for Youth Fair Chance grants are intended to apply to all tribal governments within Oklahoma regardless of the status of their land.

241. Grant Limits. A. The House Bill limits the number of grants that may be made during the first fiscal year of program authorization, whereas the Senate Amendment limits the number of grants over a five-year period.

The Senate recedes.

B. The House Bill limits the number of grants in the first fiscal year to not more than 50, whereas the Senate Amendment limits the number of grants in the first fiscal year to not more than 25.

The House recedes.

C. The Senate Amendment, but not the House Bill, limits the number of grants in the first five fiscal years to not more than 40.

The Senate recedes.

242. Indian Grants. The Senate Amendment, but not the House Bill, requires that at least one, and not more than three, grant(s) be made available to grantees designated under section 401 representing Native American Indian reservations and Alaska Native villages.

The House recedes with an amendment to add "or section 402 migrant programs".

243. Grant Extension. The Senate Amendment, but not the House Bill, permits the Secretary to extend the renewal period for an additional 2 fiscal years on reapplication.

The House recedes.

244. Award Criteria. The House Bill, but not the Senate Amendment, requires that the extent to which other Federal and non-Federal funds are available for similar purposes, and new State, local, or private resources are available, shall be considered by the Secretary in awarding grants.

The Senate recedes.

245. Award Priority. The House Bill gives priority in granting awards to "target areas" with the highest poverty rates, whereas the Senate Amendment gives priority to "participating communities" with the highest poverty rates.

The House recedes.

246. Application. The Senate Amendment, but not the House Bill, requires the Secretary to use the latest census estimates in determining communities with the highest level of poverty.

The House recedes.

247. Measurable Goals. Both the House Bill and Senate Amendment set the goal of increasing the proportion of youth having positive outcomes, but differ as follows:

A. Both set the goal of increasing the proportion of youth completing high school, but the House Bill, and not the Senate Amendment, also includes completion of the high school equivalent.

The Senate recedes.

B. The House Bill, sets the goal of entering into post-secondary institutions, apprenticeships, or other advanced training programs, while the Senate Amendment sets the goal of entering into community colleges or other advanced training programs.

The Senate recedes.

248. Application. The House Bill, but not the Senate Amendment, includes as a possible program goal increasing the proportion of youth participating in education, training, and employment services.

The Senate recedes.

249. Application. A. The House Bill, but not the Senate Amendment, requires each grant application to describe support services necessary for successful participation by youths.

The Senate recedes.

B. The House Bill, but not the Senate Amendment, requires each grant application to describe a system of common intake, individualized assessment, and case management.

The Senate recedes with an amendment to add "procedures or sites" after the term "common intake".

250. Application Requirements. The Senate Amendment, but not the House Bill, requires each grant application to demonstrate how the participating community will make use of the resources, expertise, and commitment of the various service providers of related programs.

The House recedes.

251. Application Requirements. The Senate Amendment, but not the House Bill, requires each grant application to include an estimate of the funds needed to serve all youth in the target area seeking appropriate education, training, and support services.

The House recedes.

252. Application Requirements. A. The House Bill requires each grant application to

provide evidence of support from the local school system, whereas the Senate Amendment requires such evidence from the local school board.

The Senate recedes.

B. The House Bill, but not the Senate Amendment, requires each grant application to provide evidence of support from postsecondary education and training institutions.

The Senate recedes.

253. Applications Submission. Both the House Bill and the Senate Amendment allow the Mayor of a city to submit an application under this program. However, the House bill, but not the Senate Amendment, would also allow a chief elected official to submit such application.

The Senate recedes.

254. Application Submission. The House Bill, but not the Senate Amendment, permits the chief elected official of a nonmetropolitan county or the designated chief official of contiguous nonmetropolitan counties to submit a grant application after review by the governor, whereas the Senate Amendment permits only the governor to submit an application on behalf of contiguous nonmetropolitan counties.

The Senate recedes.

255. Application Submission. A. The House Bill, but not the Senate Amendment, permits immigrant and seasonal farmworker communities to apply for grant.

The Senate recedes.

B. The House Bill, but not the Senate Amendment, permits joint grant applications to be submitted by the 401 or 402 grantee and the governor or by the grantee and the State.

The Senate recedes.

256. Grant Agreement. The House Bill, but not the Senate Amendment, permits the population of a target area to exceed 25,000 in the event that the population of an area from which a high school draws a substantial portion of its enrollment exceeds the 25,000 limit.

The Senate recedes with an amendment to expand the target area to a population of 50,000 where appropriate.

257. Grant Agreement. The Senate Amendment, but not the House Bill, mentions initiatives, "such as youth corps programs".

The House recedes.

258. Grant Agreement. A. The Senate Amendment, but not the House Bill, requires each grant agreement to provide that only youth who live in the target area shall be eligible to participate in the program.

The Senate recedes.

B. The House Bill, but not the Senate Amendment, requires that participants be age 14 through 21 at the time of enrollment. The Senate Amendment requires participants to be age 14 through 21 in order to participate.

The Senate recedes.

259. Grant Agreement. The House Bill, but not the Senate Amendment, requires the grant agreement to include assurances that the participating community will undertake outreach and recruitment efforts to reach underserved, disadvantaged youth.

The Senate recedes.

260. Grant Agreement. A. Both the House Bill and the Senate Amendment require that YOU funds be used to pay the Federal share of costs of the program and to supplement, not supplant, funding from other sources available to youth in the target area. The House Bill, but not the Senate Amendment, also stipulates that these funds not supplant funding available to youth during the previous year.

The Senate recedes.

B. The House bill, but not the Senate Amendment, stipulates that the grant agreement shall not permit funds to be used for paid work experience, unless such programs are combined with other education and training activities.

The Senate recedes.

261. Job guarantees. The House Bill, but not the Senate Amendment, establishes a job guarantee program for students who meet school attendance and performance standards.

The Senate recedes with an amendment requiring the Secretary to permit a "reasonable" number, rather than a "significant" number as in the House Bill, of grantees to participate in a job guarantee program for certain youths. The Conferees intend for the Secretary to devote sufficient funds to the job guarantee program to permit a reasonable number of such programs to be created. The amendment "permits", rather than "requires" as in the House Bill, the Secretary to use poverty as a criterion for selecting grantees.

262. Payments. Federal Share. The House Bill specifies that the size of the grant award shall be based on the size of the target area and the extent of the poverty in such area, and shall be of sufficient size and scope to carry out an effective program, whereas the Senate Amendment simply states that the Secretary shall pay the Federal share of the costs of the activities described in the application.

The Senate recedes.

263. Payments. Federal Share. The House Bill, but not the Senate Amendment, sets the Federal share of program costs at 100 percent for Native American or migrant and seasonal worker programs.

The Senate recedes.

264. Payments. Federal Share. Both the House Bill and the Senate Amendment allow for a portion of the matching requirement for this program to be obtained from Federal funds other than those provided for under the YOU program; however they differ on the percentage allowed. The Senate Amendment allows 50% of the required match to come from Federal sources other than those in the YOU program, while the House Bill allows 35% of the match to come from other Federal sources.

The House recedes with an amendment to require not less than 70 percent of funds to come from the Federal share. Of the remaining 30 percent of funds, not more than 20 percent may come from other Federal programs and not less than 10 percent may come from non-Federal funds, in-kind contributions, on a combination thereof.

265. Federal Responsibilities. The Senate Amendment, but not the House Bill, requires the Secretary to assess the feasibility of extending guaranteed access to comprehensive education, training, and support services for youth in all areas of the United States.

The House recedes.

266. Reporting Requirements. A. The Senate Amendment sets a deadline for submission of a report on this youth program, specifies that the report should be submitted to the appropriate Committees of Congress, and lists specific information that should be included in the report, while the House Bill simply requires the Secretary to prepare a report on the requirements of the previous subsection.

The House recedes with an amendment to change the due date from December 31, 1994 to December 31, 1996.

B. The House Bill allows the Secretary to reserve 5 percent of YOU funds in each fiscal year, whereas the Senate Amendment allows the Secretary to reserve up to 10 percent of YOU funds for carrying out the Federal responsibilities of the program.

The Senate recedes.

267. Definitions. A. "Participating Community." The House Bill, but not the Senate Amendment, includes in the definition of "participating community," a non-metropolitan county, a section 402 grantee, or a consortium of the State and section 402 grantee, when referring to migrant and seasonal worker areas.

The Senate recedes.

B. Poverty Area. The House Bill requires the Secretary to determine high poverty areas based on Census Bureau estimates, whereas the Senate Amendment omits reference to the Secretary and requires poverty areas to be determined directly by Census Bureau estimates.

The House recedes.

C. The House Bill, but not the Senate Amendment, includes automatically in its definition of high poverty area, a migrant or seasonal farmworker community or a unit of a general local government that has over 30% of its population receiving food stamps.

The House recedes.

268. Microenterprise Grants. The House Bill, but not the Senate Amendment, establishes a program to technical assistance, training, and counseling to assist persons whose income does not exceed 100% of the official poverty threshold to develop a commercial enterprise employing 5 or fewer employees, including the owner. Under this program the Secretary is authorized to make grants of not more than $500,000 per year to not more than 10 states per year to implement and enhance community-based microenterprise activities. A 100% State match is required.

The Senate recedes with a technical amendment to conform the poverty definition to the definition of economically disadvantaged in JTPA. The provisions enabling tribal governments and Native Alaskan groups to apply for Microenterprise Grants are intended to apply to all tribal governments within Oklahoma regardless of the status of their land.

269. Disaster Relief Employment Assistance. The House Bill, but not the Senate Amendment, adds a new part J to title IV, creating a new, permanent authority of $15 million per year, to fund public service employment for disaster relief as defined in the Disaster Relief Act of 1974. Eligible participants include those eligible for title III of this Act, or those unemployed as a result of the disaster.

The Senate recedes. The provisions enabling tribal governments and Native Alaskan groups to apply for disaster relief employment assistance are intended to apply to all tribal government within Oklahoma regardless of the status of their land.

TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

270. Jobs for Employable Dependent Individuals (JEDI). The Senate Amendment, but not the House Bill, amends and restructures title V of the Act by providing for the payment of incentive bonuses to each state for providing job training and placement to absent parents of children receiving Aid to Families with Dependent Children (AFDC), and to blind and disabled individuals receiving supplemental security income (SSI). The amount of the bonus paid to each state is based upon: (1) the amount of child support paid by each individual for up to 2 years after program termination; and (2) the reduc-

tion in federal contribution to the amounts eligible individuals receive under title XVI of the Social Security Act for up to 2 years after program termination.

The House recedes with an amendment to limit administrative costs for States to only 5 percent of funds. The amendment also requires that unused appropriations revert back to part A of the title II program. The amendment authorizes appropriations for the JEDI program through fiscal year 1996. The conference agreement includes the rewrite of the JEDI program as found in the Senate Amendment, including the removal of the funding trigger.

TITLE VI—STATE HUMAN RESOURCE INVESTMENT COUNCIL

271. State Human Resource Investment Council. The House Bill, but not the Senate Amendment, establishes a new Title VII, allowing states to voluntarily establish a State Human Resource Investment Council to review the use of funds and provision of services of applicable federal human resource programs, advise the Governor on coordination of such programs; advise the Governor on development and implementation of State and local standards and performance measures and coordination of such standards for applicable programs; and carry out the duties and functions of the existing State Councils as established under the applicable Federal laws establishing the individual councils.

The Senator recedes with an amendment. The Conference agreement provides for the voluntary establishment of State Human Resource Investment Councils (HRIC) at the discretion of the Governor and with the agreement of State agency heads of applicable programs in each State. The purpose of the HRIC is to provide coordination for Federal human resource programs, to advise the Governor on human investment needs in the State, and to recommend ways to meet those needs, while maximizing the use of Federal funds and avoiding duplication of effort. The agreement requires that prior to including State Vocational Education Council activities under the jurisdiction of the HRIC, the Governor and the State educational agency must obtain the approval of the existing State Vocational Education Council. HRIC's may use funds available for other state councils and administrative funds otherwise available under applicable Federal human resource programs. In the case of vocational education, no funds other than those appropriated specifically for the State Vocational Education Council may be used to fund the HRIC.

The Committee recognizes the valuable contribution made by State Councils on Vocational Education to the evaluation of the State's vocational education programs. Should a State Council on Vocational Education exercise its option of excluding the Carl D. Perkins Vocational and Applied Technology Education Act from the purview of the State Human Resource Investment Council, the State Council on Vocational Education will continue to operate and those State Council funds shall not be used to support the activities of the State Human Resource Investment Council.

If a State does eliminate the State Council on Vocational Education and use site funds for the activities of the State Human Resource Investment Council, the newly formed State Council must fulfill the duties and responsibilities of the State Council on Vocational Education as specified in Section 112 of the Carl D. Perkins Vocational and Applied Technology Education Act.

Nothing in these amendments should be construed to prohibit States that have already established human resource councils or "super" councils in compliance with current law from maintaining them. To achieve the economy and efficiency of the single council contemplated by these amendments, however, States must conform their councils to all of the new requirements.

272. HRIC Membership. The House Bill, but not the Senate Amendment, requires that HRICs voluntarily established under this Act consist of: not less 30% representatives of business and industry; not less than 30% representatives of organized labor and community-based organizations; not more than 20% from the chief administrative officers of the State agencies responsible for applicable programs and from the State legislature and other State human resource agencies; and not less than 20% from representatives of local government, local education agencies, local welfare and public housing agencies, and individuals with expertise in education, career development and needs of special populations, and women and minority issues, including one representative of special education.

The Senate recedes with an amendment stating that business, labor, and education shall each constitute not less than 15 percent of the membership of the HRIC. Labor representation shall be chosen from individuals recommended by recognized State labor federations. At least one education representative must be from each of the following: local public education, a postsecondary institution, and a vocational education program. In addition, the head of each State agency or the designee of such State agency responsible for the administration of an applicable Federal human resource program must have a seat on the, HRIC as well as at least one representative of a community-based organization. Other entities or individuals that may be represented on the HRIC are local welfare agencies, public housing agencies, units of general local government or consortia of such units, the State Legislature, certain other State or local agencies that receive funding under an applicable Federal human resource program, and individuals who have expertise in special education and the career development needs of targeted populations.

The Committee intends that membership of the HRIC broadly represent business, labor, and education and that the Governor select individuals qualified by expertise and special knowledge to serve on the HRIC. Because of the HRIC's emphasis on workforce development, special consideration should be given to selecting individuals representative of the vocational-technical education and job training systems within the state. Individuals with expertise in secondary, postsecondary and adult vocational-technical education, career guidance and counseling personnel, qualified individuals with respect to the needs of special populations, and members of vocational student organizations should be given particular consideration by the Governor for inclusion on the HRIC.

In addition, given the important functions served by the State Director of vocational education in each State, the State Director participation on the HRIC is encouraged. Improvement in coordination and program services in vocational education will be most effective if the State Director is a member of the HRIC.

273. Budget and Use of Funds. A. The House Bill, but not the Senate Amendment, requires the HRIC to prepare a budget for itself and submit it to the Governor for approval.

B. The House Bill, but not the Senate Amendment, provides that states establishing State Human Resource Investment Councils may use funds otherwise available under applicable programs for State councils to carry out the functions of the HRIC.

The Senate recedes with an amendment to delete the provisions requiring a State Human Resource Investment Council to submit a budget to the Governor. The Conferees kept House Bill language permitting the HRIC to use funds set aside for State councils under applicable Federal human resource programs and added language to permit the regulated use of funds under such programs that are not specifically set aside for State councils. State Human Resource Investment Councils will also be permitted to use funds, services, personnel, and facilities provided by State and local public agencies with the consent of such agencies.

The Conferees want to make it clear that funds allotted to State Councils under the Carl D. Perkins Vocational and Applied Technology Education Act are the only funds from such Act to be used to support the activities of the State Human Resource Investment Councils. Other sources of funds for the activities of the HRIC must be agreed to by the administrative heads of the applicable federal programs with no one program contributing a disproportionate amount in relation to total federal spending on such programs. Each participating agency is encouraged to provide funds to support the HRIC in a manner consistent with its participation on the HRIC.

While no minimum and maximum levels of expenditures for State Human Resource Investment Councils are specified in title VI of the Conference bill, the Committee requires the Secretary to closely monitor and report annually to the appropriate Committees of Congress the amount of expenditures and sources of funding for the HRICs.

274. Definition. The House Bill, but not the Senate Amendment, defines any "applicable Federal human resource program" included under the State Human Resource Investment Council as any federally assisted human resource program included in an agreement reached by the State agencies responsible for administering the affected program.

The Senate recedes with an amendment stating that the Governor and the head of the State agency responsible for administering a Federal program must jointly agree that the Federal program qualifies as an applicable Federal human resource program under title VI of the Act in order for such program to be included within the jurisdiction of the HRIC except that the Governor and the State Educational Agency must obtain the approval of the existing State Vocational Council before including vocational education programs.

The Conferees intend that the HRICs will comply with the reporting requirements of the governing statutes of the applicable federal human resource programs represented on the HRIC.

TITLE VII—MISCELLANEOUS PROVISIONS

275. Conforming Amendments. The House Bill and the Senate Amendment have numerous technical differences between conforming amendments that will be addressed after the sections of the bills to which the conforming amendments pertain are reconciled.

The House recedes with an amendment to adjust the conforming amendments in accordance with the contents of the Conference bill.

276. Conforming Amendments. The House Bill, but not the Senate Amendment, repeals sections 161(c) and 181 of the Act.

The Senate recedes.

277. Technical Amendments. There are numerous differences between the House Bill and Senate Amendment technical changes to the table of contents, but differences in the technical amendments will be addressed after the sections to which the technical amendments pertain are reconciled.

The House recedes with an amendment to conform the technical changes to the contents of the Conference bill.

278. Effective Date. The House Bill establishes July 1, 1992, as the effective date of these amendments, whereas the Senate Amendment establishes December 1, 1992 as the effective date.

The House recedes with an amendment to change the effective date to July 1, 1993.

279. Performance Standards. A. The Senate Amendment specifically states that "the Secretary of Labor" shall issue revised performance standards, whereas the House Bill simply states that "performance standards shall be issued". B. The House Bill requires the performance standards to be issued no later than July 1, 1993, whereas the Senate Amendment requires the standards to be issued no later than July 1, 1994.

The House recedes on parts A and B.

280. The House Bill, but not the Senate Amendment, requires the Secretary to evaluate the impact of Title II programs as amended by this bill on participant employment, earnings and welfare dependency.

The Senate recedes.

281. The House Bill permits the Secretary to establish rules and procedures to provide for an orderly transition to and implementation of the amendments made by this Act, whereas the Senate Amendment refers to an orderly transition to the amendments made by this title.

The Senate recedes.

WILLIAM D. FORD,
PAT WILLIAMS,
CARL C. PERKINS,
ROBERT E. ANDREWS,
JOHN W. OLVER,
BILL GOODLING,
STEVE GUNDERSON,
PAUL B. HENRY,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD METZENBAUM,
PAUL SIMON,
ORRIN HATCH,
STROM THURMOND,
Managers on the Part of the Senate.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5487, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a conference report on the bill (H.R. 5487) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT ON S. 323, FAMILY PLANNING AMENDMENTS ACT OF 1992

Mr. WAXMAN. Mr. Speaker, I call up the conference report on the Senate bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 31, 1992, at page 20607.)

The SPEAKER. The gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, this conference report is to reauthorize the Federal family planning program, to overturn the gag rule on health professionals in family planning clinics, and to require that these clinics comply with State law that is in force regarding parental notification or consent for minors seeking privately funded abortion services.

REAUTHORIZATION IS IMPORTANT

The Federal family planning program is a key element in the Nation's effort to improve maternal and child health, lower infant mortality, and lower the rates of unwanted pregnancy and abortion in the United States. Over the years, expert review and medical research have always arrived at the same commonsense conclusion: The best solution to unwanted pregnancy is to prevent the pregnancy.

Unfortunately, this program has been held hostage in the abortion debate for a very long time. The program has been proposed for repeals, block grants, freezes, and restrictions. It has not been reauthorized since 1985 and has not had significant funding increases since its last authorization. In fact, in constant dollars adjusted for inflation, the funding of the program and its ability to provide services to poor women have declined by more than half.

The tragic result is that routine contraception services have been limited over the last decade, and that has meant unwanted pregnancy and, in turn, unnecessarily high rates of both low-birth weight babies and abortions.

With this legislation, I hope that we can expand these services and move beyond the abortion debate to the health debate. The continued use of the family planning program as a pawn in the abortion debate is self-defeating, leaving poor women with fewer an fewer ways to prevent pregnancy.

THE GAG RULE IS WRONG

We should also move to eliminate restrictions on the ability of poor women to get the best medical advice of the health professionals who provide them services. The administration has proposed regulations to limit the ability of doctors and nurses to counsel and refer patients or even to answer point-blank questions with truthful responses.

This regulation—which is known as the gag rule—is bad medicine, bad law, and bad precedent. Title X patients—most of them poor—will not get medical advice about their pregnancy but political advice. They will not get informed consent; they will be told what to do.

This is not right. The Supreme Court may say that it is constitutional, but it is not right.

This legislation would reverse the gag rule and replace it with a codification of the guidelines that were issued by the Reagan administration on how a family planning clinic should deal with a pregnant woman. This is a simple approach: If a patient requests information on pregnancy options, she should be given that information. It should be nondirective, it should be complete, and it should be true.

This has been the practice of the program practically from the time that then-Congressman Bush first spoke in favor of it and voted for it. It was formalized by the Reagan administration. It is supported by all health provider groups, including the American Medical Association and the American Nurses Association. It should continue to be the policy of the program.

STATE LAW SHOULD GOVERN ON PARENTAL NOTIFICATION FOR MINORS SEEKING PRIVATELY FUNDED ABORTION SERVICES

Finally, this legislation contains a House amendment to require that clinics receiving funds under this program comply with any State law in force that provides for parental notification or consent for minors seeking abortions.

The first thing that I want to make explicit is that title X funds cannot be used to perform abortions. Nothing in this report changes that policy. This provision affects only title X clinics that provide abortions with totally separate, non-Federal funds.

The amendment requires that these clinics comply with State law that is in force on parental notification and consent. Like the House, the conferees took this approach because of the widely varying provisions of State parental involvement law. Some States require it, some States do not. Some States make exceptions for medical emergencies. Some States allow notification to grandparents. Some States allow counseling by clergy instead.

Rather than superceding this variety of laws, the conferees chose to recognize these laws in a States' rights manner. It would be inappropriate to override State laws in this extremely complex area through a small grants program.

SUPPORT THE CONFERENCE REPORT

In closing, I would simply re-emphasize that the Federal family planning program is our best hope to achieve many maternal and child health goals. To reduce unwanted pregnancy we should make family planning widely available. To lower abortion rates we should give women the ability to prevent pregnancy. Family planning is not the problem. It is the solution.

□ 1820

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I trust some Members were shocked, dismayed, perhaps angered, even embarrassed to learn that Planned Parenthood spent a fortune going all the way to the U.S. Supreme Court in an effort to overturn Pennsylvania's modest restrictions on abortion.

Planned Parenthood spared no expense in their legal battle to nullify Pennsylvania's informed consent law—a modest pro-life regulation designed to ensure that the mother knows the risks of abortion, childbirth and basic facts concerning her unborn baby.

They petitioned the Court to strike down parental consent for minors—a move that should send a shudder down the spine of every parent since a large portion of Planned Parenthood's clientele are teenage girls and young women. About a third of all title X clients are minors. There can be no doubt that a sizeable number of teenage moms have been marched into abortion mills with the minors' parents deliberately left in the dark that their daughters were undergoing an abortion. There is no disputing the record that Planned Parenthood is vociferously against parental consent. Planned Parenthood believes—contrary to the overwhelming sentiments of the American people—that 14- or 15- or 16-year-old teenage mothers are entitled to a secret abortion.

And Planned Parenthood objected to a simple 24-hour waiting period—a policy designed to encourage reflection and mitigate pressure on the mother to abort her child from abortionists, counselors—even well-meaning friends.

Incredibly, the 1 day wait was regarded as too onerous and burdensome by Planned Parenthood, an extreme view that I trust many in this Chamber have a hard time swallowing.

Now these same people want to pressure you and me—and they have spent a reported $5 million to that end including a lawsuit—into nullifying yet another modest pro-life policy designed to curtail Government-subsidized referrals and counseling for abortion.

This conference report should be rejected by the House. I can say for certain that it will be vetoed by the President. For the record you should know that even if this bill is rejected, family planning programs will continue to receive a huge amount of Federal funds via the appropriations process. In 1992, the Federal Government alone will spend approximately $461 million on family planning, about a third of that earmarked for title X.

Moreover, according to HHS:

> Title X appropriated funds make up only a small part of title X project budgets. For example, in 1991, the title X services appropriation was about $134 million, while Title X aggregate grantee budgets exceeded $485 million. The additional $351 million came from a large variety of other federal, state, local or philanthropic organizations.

It should be noted that every dollar of federally funded family planning programs has been spent without an authorized bill.

Let me just say that, this is not a free speech issue—it is an issue concerning Federal payments for the facilitation of abortion. The simple fact of the matter is that many children have died in Planned Parenthood's abortion mills and in other title X grantees, and more will die—if this legislation passes.

The unpleasant reality that no amount of denial or wishful thinking can cloak, is that abortion kills children, and the methods employed are terrifying to contemplate. In lieu of care and loving attention and respect, these babies are dismembered by knives, they are dismembered by suction machines, they are chemically poisoned.

Tragically, Planned Parenthood performs or refers for over 200,000 abortions every year—which is enough kids to fill RFK stadium to capacity four times. Picture, if you will, all of these children eagerly awaiting a Redskins kickoff, grabbing a hotdog at RFK—then those same kids denied life itself.

And we are helping to facilitate the demise of these children.

Thus, at a minimum we should not subsidize counseling and referrals for abortion especially when the consequence of such a policy is dead children. Rather, we should be encouraging positive, nonviolent solutions to unintended pregnancies.

As you know, the Bush regulations properly require referrals at title X clinics to prenatal care providers.

The administration's regulations treat both the mother and her unborn baby with reverence and respect.

The policy repudiates the obnoxious notion that pregnancy is a disease—the unborn child the moral equivalent of a tumor or cyst, to be excised and destroyed. The regulations rest on the humane and reasonable proposition that abortion is not a method of family planning, a view held by over 80 percent of Americans, according to the Gallup and Wirthlin polls.

In short, the title X regulations show respect and encourage proper health care for both patients during pregnancy—mother and child.

I urge a "no" vote on the conference report.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Oregon [Mr. WYDEN], an important member of our subcommittee.

Mr. WYDEN. Mr. Speaker, once again there has been an effort to try to link family planning to a program that funds abortion.

I would say to my colleagues that if you want to oppose abortions, this is the program that makes it possible to do it.

Family planning makes it possible to assist our families to get a wide range of services that prevent abortion.

In addition, what we want to do is make sure that we do not put in place medical censorship. In the private sector, it would be malpractice to deny information to women. Let us make sure women have all the facts. Pass this program and do everything possible to prevent abortion through good family planning programs.

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the title X regulations, first issued in 1988 and later clarified by President Bush's directive on the importance of doctor-patient communications, are in no way, shape, or form a gag rule. We all know that this label is a public relations tool being used by supporters of abortion on demand to shape public opinion. If its absolute adoption by the press is any indication, we also know that this gimmick has been very successful. So far. I repeat, so far.

However, Mr. Speaker, from bitter experience we know better than anything else that misleading the public only leads to disaster and the further demeaning of Congress and its Members. The public cannot be misled for long by pithy labels. The truth will prevail and the truth is that what we are debating today are issues of program integrity; of taxpayers' choice; of the overwhelming opposition of most Americans to abortion as birth control; and of parents' responsibility for their children.

A vote for S. 323 is a vote to undermine all of these, and it will be seen as such by the American people, especially parents.

The truth is that the title X program was created as preventive family planning program, intended to help poor women avoid unplanned pregnancy and to plan the timing and spacing of their children. The statute, conference report, and floor debate before their passage in 1970 all made it very clear that there was never to be an entanglement between title X activities and abortion-related activities.

Nevertheless, a 1982 GAO investigation found that there was entanglement and abuse by title X grantees who were abortion advocates, and, in many cases, abortion providers: colocation of abortion facilities with title X clinics; literature promoting abortion as a backup form of birth control; and pro-abortion lobbying are just a few examples.

The regulations have corrected abuses of taxpayer dollars and have restored integrity to the program. These regulations reassure parents that their own tax dollars will not be used to undermine their role as guardians of their children in decisions so important as whether or not to carry a child to term. On the other hand, this bill, S. 323, requires that young women be counseled on abortions as a "pregnancy management option," but excludes parents from this discussion.

Mr. Speaker, it is simply unconscionable that the tax dollars of the overwhelming majority of Americans who do not condone abortion as birth control would be used to fund a family planning program that makes no distinction between the two, and that provides no role for parents in the crisis pregnancy decisions of their daughters. The taxpayers pay for the title X program, and their views and convictions should be respected. S. 323 does not respect them and, therefore, does not deserve the support of a representative body such as ours.

□ 1830

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the conference report.

Title X is an important source of low cost, primary health care services for many poor women.

The gag rule is offensive to American values, contrary to sound medical practice.

Most Americans oppose the gag rule. Half of Americans who say they are pro-life oppose the gag rule. Most Republicans oppose the gag rule as well.

The American people understand that a system of regulatory controls on factual information, controls on medical professionals, and abrogation of the rights of poor women does great damage to the fabric of our democracy.

The gag rule is about to be implemented. It is an onerous and dangerous proposal. Doctors may not refer those patients to what they deem to be an appropriate service provider. They remain bound by a list of referral organizations many of whom do not provide abortion and this list—provided to the patient without comment—does not differentiate between those that might and those that might not provide abortion. As a result, the professional judgment and professional responsibility of doctors is directly attacked by the regulations.

Allied health professionals, nurses, and nurse practitioners are also still gagged. These personnel are forced to tell pregnant women who ask, that abortion is not an appropriate method of family planning, and to send them away with the confusing and undifferentiated list I mentioned above.

These nurse practitioners are health professionals with 4 years of education, are universally recognized as a critical part of the solution to providing health services in rural and poor underserved areas of the country, and are required by the licensing statutes of most States to educate and inform their patients.

That is why the AMA, the Association of Medical Women, the American College of Obstetricians and Gynecologists, and several nursing organizations all continue to oppose the regulation.

Mr. Speaker, the gag rule forces health care providers to violate their legal and ethical obligation to tell the truth. That means bad medicine and bad medicine means malpractice suits.

The gag rule violates State standards of licensure. State officials have indicated that the gag rule appears in direct conflict with their State laws on civil liability and licensure with respect to the obligation to abide by the dictates of informed consent.

Finally and ultimately, Mr. Speaker, the gag rule is un-American—it destroys the bond of faith that must exist in a democratic society between the governed and their government. The rule imposes systemic damage on our society well beyond its immediate impact on poor women. I urged the Members to support this conference report to reauthorize voluntary family planning and repeal the gag rule.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair would advise those members seated in the gallery, members of the public, that any approval or disapproval of House proceedings is not allowed.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in strong opposition to the conference report on S. 323, the Family Planning Amendments of 1992. This name is somewhat misleading—it attempts to make those who don't support this bill look like they are opposed to family planning. Nothing could be farther from the truth. I strongly support responsible family planning, as do the vast majority of Members in this Chamber. The controversy over this bill isn't about family planning. This bill is about abortion, and abortion is not family planning. Planning is something you do before the fact. Abortion is family cancellation. We should not be spending taxpayers dollars on family cancellation.

This conference report will indirectly require grant recipients to provide abortion information and referrals upon request. Despite the presence of the so-called conscience clause, which is largely ineffective, this bill will require family planning providers who have moral objections to abortion to indirectly support abortion by steering clients to other projects which will provide abortion referrals. This bill will allow taxpayer funds to be used to refer minors for abortion without their parents' knowledge or consent—and one-third of title X clients are minors.

From the beginning, pro-abortion forces have obscured this debate. First we heard about the first amendment—that's not an issue here. Then we heard about a lack of complete medical services. Well, that is not true either. Title X physicians are required to provide complete medical information about a woman's condition under the regulations—even if the end result is an abortion. Now we're hearing that opposition to abortion is opposition to family planning. Bear in mind that the Federal Government will spend $461 million this year in direct family planning services and another $164 million in family planning research—even without this particular pro-abortion bill. Family planning is not endangered in this country; unborn children are.

I urge my colleagues to reject this conference report.

ABORTION IS NOT FAMILY PLANNING, VOTE "NO" ON S. 323

S. 323 will overturn pro-life regulations which prevent Title X family planning clinics from using taxpayer money for abortion counseling and referrals.

The American people strongly oppose the use of abortion as a method of birth control. A 1989 Boston Globe poll and a 1990 Gallup survey found overwhelming opposition (89% and 88% respectively) to this practice.

The Title X regulations do not interfere with the doctor-patient relationship. The regulations are consistent with the Nov. 5, 1991 Memorandum from President Bush which states, "Nothing in these regulations is to prevent a woman from receiving complete medical information from a physician."

All Title X clinics are required to refer a woman to a specialist's care, including "emergency care" if her life is in danger, even if it results in an abortion.

One-third of Title X clients are minors. If S. 232 is enacted, taxpayers' funds will be used to refer minors for abortions—without their parents' knowledge or consent. The language in the bill is completely ineffective and does nothing to further the rights of parents.

The Planned Parenthood Federation of America (PPFA) has published a "preliminary report" on the counseling function in their affiliates. Their evaluation is quite revealing: Data from nearly 500 individual counselor profiles gives a clear picture of a counseling staff which is largely young and inexperienced, much of it working unpaid and probably using PPFA employment for training, experience and preparation for other jobs in the future. Counselors' formal training is relatively modest."

Inexperienced "counselors" should not be making decisions that require the medical judgment of a doctor.

S. 323 would still force pro-life Title X family planning grantees to provide abortion information and referrals. Under this bill, family planning providers with conscientious objections to abortion must steer clients to other providers who will give abortion information and referrals. This requirement is a violation of many pro-life providers' moral convictions that abortion is not pregnancy prevention but child killing.

S. 323 is strongly opposed by all of the major pro-life groups. These include the National Right to Life Committee, U.S. Catholic Conference, Family Research Council, Concerned Women for America, Knights of Columbus, Christian Coalition, Southern Baptist Convention, National Association of Evangelicals, Christian Action Council, Eagle Forum, Traditional Values Coalition and Americans United for Life.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, I rise in strong support of the conference report on S. 323. This bill is not about abortion. It is about all individual's first amendment constitutional right to freedom of speech, plain and simple. If the Bush administration is allowed to go forward in implementing it's gag rule, Big Brother will be censoring the medical advice a physician, nurse or clinician gives his or her patient. But let us make it perfectly clear that President Bush is not trying to stifle all health care providers, only those who serve the poorest and most vulnerable American women. So, in addition to this debate being one of free speech, it is also one of equal opportunity.

Vice President QUAYLE admitted in a recent interview that, should his own daughter be faced with an unintended pregnancy, he would support her in whatever decision she made. Presumably, he would want that decision to be based on the best available medical information and supported by the counsel of her loved ones. Miss Quayle would have all this available to her, from a private physician and a loving family. But what about another young adolescent faced with the exact same problem, but coming from perhaps a broken home with no means of paying for care by a private doctor? The gag rule denies this woman the full care and counsel available to Miss Quayle. Did the authors of our beloved Constitution really intend for freedom of speech to have such discriminating standards?

Let us reaffirm the inviolable first amendment right of all Americans to free speech. Let us vote to pass S. 323 and overturn the gag rule.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to note that this debate is proceeding now in a different environment than it has in the past. Since the March 1992 regulations were issued by the administration, the administration has made very clear that it is permissible to provide information about the options for those who find themselves pregnant under the title X program. The primary difference between opponents and proponents of this bill now seems to be not whether the information can be distributed under title X but who may distribute it.

□ 1840

The administration wants only physicians to distribute it because they believe that physicians will give less biased, more balanced advice to pregnant women. The problem is that this Nation is suffering a health care crisis of extraordinary proportions. We have more people without health care now than we have ever had in our entire history, and most of those folks are poor women. They are the very folks that use family planning clinics.

Mr. Speaker, I say to my colleagues, there is no way that you can refer a women who uses a family planning clinic to a physician if she has no insurance. There is no way you can refer a women who uses a family planning clinic to a physician if there are no physicians around who accept Medicaid. It's simply an impossibility. It is unfortunate, but it is true, that the doctors' only provision of the administration's regulations effectively was a gag rule that denied critical health information to women.

For that reason, Mr. Speaker, it was absolutely necessary to overturn them, and I am pleased that this bill reiterates that the information provided to women must be balanced and must be about only the alternatives she requests information about. If she wants information about prenatal care and delivery, she get it. If she wants information about foster care or adoption, she gets it. If she wants information about termination services, she gets it.

The SPEAKER pro tempore (Mr. MFUME). The time of the gentlewoman from Connecticut [Mrs. JOHNSON] has expired.

Mr. WAXMAN. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. This is a women's rights bill. It is merely a bill that allows women to have the full information, the knowledge, they need to manage their lives and their futures, and that is the kind of empowerment that democracy depends on. In a free society knowledge is essential to self-government in the political arena and to independence and self-reliance in the personal arena. I urge my colleagues to support this bill.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, today we have the opportunity and an obligation to protect the integrity of our nation's family planning programs. We must overturn the gag rule.

George Bush pretends to moderate the gag rule. But we know better. The health care practitioners of America know that the sacred relationship with their patients is threatened. And the women of America know that the quality of their health care is endangered.

These regulations, which the administration threatens to begin implementing at any time, are onerous and send a message to American women, especially poor women, that they do not matter.

If these regulations are implemented, many title X clinics will choose to forego Federal funds instead of being censored. These clinics will be forced to reduce the critical services they provide. For many women, title X clinics are the only health care to which they have access. They will have nowhere else to go.

For once, let us stop all the posturing and focus on what is really in this bill—sensible and urgently needed family planning programs that aid low-income women. These programs save money by diagnosing and treating health problems in their early stages. These clinics also teach individuals how to prevent unintended pregnancies.

For all my colleagues on both sides of the aisle who believe in quality health care and want to reduce unintended pregnancies, I urge strong support for this important measure.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, this debate is about abortion and family planning, and I think it is important when we discuss this issue that we remember what title X was all about. Title X was a program designed to help woman before they become pregnant. It was designed to decrease the incidence of abortion in America, and yet this conference report mandates the grantees under title X will counsel and will refer women on abortion as a family-planning option. It is about abortion and family planning, and the conference report is wrong when it mandates such counseling and referral.

In particular it is wrong because Americans, whether they believe in abortion or not for whatever reason, Americans by a large majority, 89 percent, do not approve of abortion as a family planning option, and yet this conference report would put Federal dollars behind a mandate to counsel and refer women who become pregnant on that very option which is opposed again by a majority of Americans.

Second, Mr. Speaker, it is wrong because this bill also would mandate counseling and referral of minor children on this issue when many States, and even the Supreme Court, have recognized that the States have the option of requiring parental consent before a minor receives an abortion.

For these reasons, Mr. Speaker, the conference report ought to be rejected. It is out of touch with title X and out touch with the majority of the American people when it comes to their feelings on this critical and sensitive issue of abortion.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, there is language in there that says they only give the information that the woman requests. That was an amendment put in on the floor.

Mr. TAUZIN. I understand.

Reclaiming my time, the point is the mandate is to refer to this as a family planning option when that ought to be the last thing done in a family planning clinic.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, over the past year we have been fighting the administration's attempt to infringe on our fundamental rights. The gag rule is an invasion of our right to free speech and equal treatment under the law. It is an attempt to use the coercive power of Government to gag health professionals and limit the rights of women.

We are now out of time—unless we pass the title X reauthorization conference report today, the gag rule will go into effect. We cannot allow the administration's policy to go forward—it is an offensive and misguided policy that violates the right to free speech and will prevent American women from receiving free access to medical advice—including advice about abortion.

The gag rule will create a two-tier medical system in which poor women are denied access to the same information available to those with private health insurance. Is this what American democracy is about? Is this what family values are about?

The gag rule clearly demonstrates this administration's lack of compassion and respect for women. The gag rule shows that this administration is more concerned about pandering to political pressures than providing equal treatment to women or protecting freedom of speech. I urge my colleagues to put an end to this ill-conceived policy.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I rise in support of the family planning reauthorization conference report. It is unfortunate that title X has not been reauthorized since it expired in 1985, and that as a result, appropriations have significantly declined for this important family planning program.

Meanwhile, like Nero, we fiddle as our Nation burns with the crises of unintended pregnancies, sexually transmitted diseases and HIV infection. The title X program helps to prevent these occurrences that are devastating our communities, large and small. Yet, last week's fical year 1993 Labor, Health and Human Services, Education appropriations bill provided $14 million less for title X than we provided 12 years ago. The conference report before us would rectify this shortsightedness and restore adequate funding for title X.

In addition to reauthorizing title X, this bill repeals the 1988 regulations that prohibit medical professionals in federally funded family planning clinics from sharing with patients complete information about all their medical options regarding unintended pregnancy.

The doctor/patient relationship has enjoyed a sacrosanct history in our society. Yet if we fail to repeal the gag rule today, we will assist in the implementation of regulations that instruct the medical community to communicate only information that is acceptable to the Federal government. I ask you, ladies and gentleman of the House, would you be satisfied leaving the medical information you receive at the whim of the federal government? I do not think so.

And who will suffer from this incomplete medical care? About 4 million low-income women who currently rely on the title X program. Paradoxically, before 1988, these same women could learn of all their pregnancy options. So are we now supposed to believe that the Federal Government is better able to provide information than the medical community? So are we now supposed to believe the Federal Government is better able to make these kinds of decisions than the women themselves?

Mr. Speaker, not one of us in this Chamber will ever tolerate being denied complete health care information or have our private relationship with our doctors intruded upon by the Federal government.

Members of the House, if you believe as I do that the gag rule is absolutely unacceptable, you will vote to repeal these regulations and restore integrity and the congressional intent of the title X program. I urge your support of the conference report.

□ 1850

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I support the title X conference report because title X represents the best chance we have to end the need for abortions and to halt the spread of sexually transmitted diseases.

My amendment, which passed the House by a voice vote, was included in the conference report, and clarifies that title X clinics should provide information about a woman's pregnancy options upon her request. We should provide all of the information the woman wants, but only the information she wants.

Just as speech should not be prohibited, so should it not be required.

While my voting record firmly places me in the ranks of the pro-life, I do not support the restrictions placed on title X. It is wrong to stifle the free exchange of information between a woman and her doctor or nurse. A woman should be absolutely free to ask anything she wants about her pregnancy. But it is also wrong to require the doctor or nurse to speak about abortion when it is neither requested nor wanted. The conference report recognizes this distinction.

Some people claim that women are being pushed into getting an abortion—not true. And the language of the conference report guarantees that the information the woman receives from her doctor or nurse will only be the information the woman asks to receive.

I fully support title X, and I think that providing medical screening and contraceptive information are essential services. For many women this is the only medical care they will seek or receive. More and more pediatricians, neurologists and other medical experts recognize the enormous impact that the first nine months of development have on life. Title X clinics provide basic health and nutrition information to help ensure a healthy pregnancy and delivery. And, as you know, the title X charter specifically prohibits the use of Federal funds for abortion services, and no title X funds are being used to pay for abortions.

The SPEAKER pro tempore (Mr. MFUME). The gentleman from California [Mr. DANNEMEYER] has 16 minutes remaining, and the gentleman from California [Mr. WAXMAN] has 17½ minutes remaining.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Speaker, I rise today in strong support of the conference report on S. 323, the Title X Reauthorization Act, which strikes the Bush administration's gag rule on federally funded family planning clinics.

The urgency of this bill cannot be understated. In just a few short days the gag rule is scheduled to be implemented, stripping the rights of counselors, nurses, and other trained professionals to inform women about all of their reproductive choices.

Mr. Speaker, the gag rule is a blatant violation of the basic principles of freedom and equity in our Nation. To deny trained professionals from providing comprehensive information to women about choices involving their health and reproductive system is clearly censorship in its worst form.

The women who attend these clinics are poor women, and have no where else to go. If we allow this gag rule to be implemented they will be denied knowledge of all their choices in dealing with their reproductive problems, only because they cannot afford to go elsewhere.

The gag rule and its recent modification allowing only physicians full freedom to discuss all options is simply not enough.

Many men and women who work day in and day out at family planning clinics across this Nation, counseling, working with women who are poor and in desperate need of assistance in knowing what reproductive options are available to them need to have all available support and information. The poor have no choice but to go to federally funded clinics, and should have full access to all their reproductive choices and/or information.

Mr. Speaker, the central issue in this gag rule debate is not about abortion; it is about free speech and equity for all in our society. I urge my colleagues to stand up for these very basic American principles and vote for this conference report.

Mr. DANNEMEYER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have been over this and over this and over this. I think this body should know that the President stands strongly behind supporting the gag rule. I think a poll that was done in 1991 revealed that 88 percent of Americans oppose the use of abortion as a method of birth control and American taxpayers feel very strongly they should not be forced to subsidize abortion of any kind.

If this is not subsidizing abortion, I do not know what it is. I think people in this country oppose it. It has been shown that it is opposed.

I think it is time that we stand up as a body and say there is a great difference between family planning and abortion. Abortion stops a heart from beating. It stops an unborn child's civil rights and right to be born and right to live in a Nation that is free. If this Nation is free, I do not know why we cannot stand up for the rights of a beating heart of an unborn child.

Mr. Speaker, we should vote no on this bill because it is very important that we stand up for the rights of the unborn in this country. If we had faith that these clinics would move forward and do what is right, and we all support family planning, we all want to see families plan for the future. Once a lady is pregnant she is no longer planning for the future. Her plans are set.

Mr. Speaker, I think it is very important that we vote no on this bill and stand for the right of the unborn children in this country and remain strong, as we always have been, as a Nation.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York [Mr. SCHEUER], one of the Members of the House who was an original founder of the legislation to establish the title X program, a gentleman who has been a champion of that program for a number of decades.

Mr. SCHEUER. Mr. Speaker, I thank the chairman for yielding and for his kind remarks.

Mr. Speaker, I stand here and take great pride in the fact that I and George Herbert Walker Bush together sponsored the first family planning bill in 1970. I think we should both take pride in it.

Mr. Speaker, it is absurd that there should be any question about our passing this bill. First of all, the $150 million that we authorized is about the same amount running back through the years as it has been since 1985. In effect, the real dollar value of these appropriations has been cut 40 percent. Really we ought to increase the funding here to $250 million in order to maintain its real dollar value.

Second, we have 1 million out-of-wedlock pregnancies in this country. Does it make any sense in our country for over two-thirds of all births to poor young mothers in some of our central city core neighborhoods to be out of wedlock? Is that good for these young girls? Is it good for the country?

It casts an enormous burden on our society and it threatens the academic career of these young women. It threatens their marital prospects, it threatens their job prospects, and in fact it can threaten their very lives. It is an abomination that we are so niggardly and so mean-spirited that we deny to many of these young women, a very large portion of them minority women, the ability to control their own fertility.

As far as the gag rule is concerned, it is an absurdity as we are ready to carry this baggage with us into the third millenium. There is not another developed country in the world that tells its doctors and its registered nurses that they cannot counsel with young women and explain to them all their reproductive options.

Mr. Speaker, this afternoon I taped a segment for CNN regarding the historic piece of family planning legislation that Congress passed and then President Nixon signed into law in 1970. This legislation, the Family Planning Services and Populations Research Act of 1970, set a precedent for family planning services in this country. It's purpose was to make family planning fully available to the 5 million American women who were lacking such services. No one can question the enormous value and benefits of this program, and I am proud to have been its author along with Senator Joe Tydings, of the other body, and then-Representative George Bush of Texas.

Twenty-two years later we are faced with problems of monumental proportions—runaway teenage pregnancy, high instances of sexually transmitted diseases, and, of course, the AIDS epidemic. I cannot imagine what the statistics would be if there were no family planning clinics to which low income women could go for checkups and family planning counseling.

Twenty-two years later the federal family planning program has been gagged by the discriminatory policies that restrict a woman's access to her constitutional right to an abortion and the denial of physicians', nurses', and counselors' rights to free speech. The administration's regulatory gag rule requires that physicians and nurses treat patients differently depending on their financial status.

The gag rule looms over the heads of the title X doctors, nurses and counselors who are forced to gag themselves and refrain from providing women with information about pregnancy options—women who must be told that, in effect, their options only begin once the child has been carried to full term.

Women with money can receive full and truthful counseling about their options, including abortion; those who are forced to rely on the government for their health care and family planning services are denied truthful and comprehensive pregnancy counseling.

Title X clinics have never provided abortion services. They provide non-directive counseling for those who request that information. Those clinics that oppose abortion on moral or religious grounds are not required to provide this counseling—instead, they must refer their clients to another facility that will provide full counseling.

If passed, the family planning reauthorization bill has the power to restore openness and fairness to family planning services and give women the information necessary to make their own health care decisions. I strongly urge my colleagues to vote in favor of the conference report.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in strong support of the conference report on the Family Planning Reauthorization, S. 323. This bill is critical not only because it reauthorizes title X family planning programs, but because it overturns the outrageous restrictions of the gag rule.

If Congress does not act to decisively approve this bill, then the gag rule will take effect in the next 6 weeks. The gag rule is a clear violation of the first amendment, will lead to defensive medicine, and will create a class system for women's health. Women who can afford private physician care will have complete information and access to these health services, while low-income women will be denied the same services, even when they are the victims of rape, incest, or life-threatening illnesses.

The gag rule is patronizing to women and it must be repealed. This is a critical vote for women, and I urge my colleagues to support the bill.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. SIKORSKI], a member of the Subcommittee on Health and Safety.

□ 1900

Mr. SIKORSKI. Mr. Speaker, I thank the gentleman for yielding time to me.

We have heard a lot of rhetoric, some high, some not so high. It helps at some point in the debate to focus on what this legislation proposes to do and what it does not do.

Let me make four points. First, this conference report does not change, does not change the legal prohibition against providing abortions with this family planning money. Second, this conference report does require that family planning clinics comply with all State laws on parental notification or parental consent concerning minors having privately funded abortions.

Third, this conference report overturns the gag rule, it restores the language of this family planning program that has been in existence for the 8 years of Ronald Reagan's office, for the 4 years of Richard Nixon's office, for the 2 years of Gerald Ford's office, and for the 4 years of Jimmy Carter's office. The same language that existed then will continue in existence, if this conference report is adopted.

Fourth, this bill reauthorizes the Federal family planning program, the only Government program that prevents unwanted pregnancies and prevents abortions. Over two decades it has done more to prevent abortion than all the antichoice, antiwoman crowd has done for those two decades.

So if Members are against abortion and for family planning, vote for this conference report.

The SPEAKER pro tempore (Mr. MFUME). The Chair wishes to advise Members controlling debate time that the gentleman from California [Mr. DANNEMEYER] has 13 minutes remaining, and the gentleman from California [Mr. WAXMAN] has 12½ minutes remaining.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I hope the gentleman from New York will not leave because I think I wanted to follow him and to say that I doubt that the President is as proud of what he has seen evolve from his sponsorship of his planning bill.

The gentleman from New York points out exactly where we are in this argument. Frankly, if I would have made that speech, I think the Black Caucus would have rushed down here and had my words taken down for being racist.

What we are talking about here, what we are talking here, and the gentleman points it out, what he wants is birth control, using abortion for birth control, because the planning clinics that he is so proud of promote abortion as a pregnancy management option. In other words, a method of birth control.

As the gentleman from New York says, they want to continue this birth control practice because they do not want all these black unwed women to have to have these babies. So we are going to use planning clinics to urge them to have abortions. And they are going to use people other than doctors to urge these people. We know what is going on here.

The Planned Parenthood Federation of America uses untrained people, sometimes volunteers, to promote abortion at their planning clinics as a method of birth control. That is what is happening here. It has nothing to do with the gag rule.

The title X regulations do not interfere with the doctor-patient relationship. What we are saying is, you cannot use taxpayers' money to fund a clinic that uses volunteers, untrained people that are counseling with someone that has been found to be pregnant to go have an abortion as a method of birth control. You can still have doctor-patient relationships.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, poor women like rich women, when they become pregnant, are entitled to know what their legal options are for medical treatment. Poor women like rich women, when they seek family planning assistance, are entitled to know what their legal medical options are in case of contraceptive failure, because different contraceptive methods, different family planning methods have different failure rates and have different health risks.

And if the woman, the poor woman seeking family planning counseling is to make an intelligent decision based on her health condition as to what form of family planning she may use, she has to know what her options are in cases of contraceptive failure. And one of those is abortion.

That is the reality that this bill addresses. If my colleagues want the poor woman to be able to make an informed decision, she has to know that abortion is possible in case of pregnancy.

Mr. Speaker, I urge a vote for the conference report.

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, our fellow Americans, our constituents all around this country in all 50 States must think that we argue this sensitive issue regularly in the halls, in our offices, with one another, in the restaurants, wherever Congressmen and women come together. They must think we talk about this all the time.

And the truth is, we caucus on both sides of this issue and talk among ourselves on the issue, but rarely do we discuss it off this floor. Most of the passion and the feeling on both sides is ventilated in this well.

One would think we had talked this issue sufficiently over the years till there was nothing left to say. So I will tell my colleagues, I learn something, after 16 years, every single week, sometimes every day of the week to reinforce my belief toward life, the sanctity of life and the pro-life position.

With all due respect to any of my colleagues on both sides of the aisle who disagree with those of us on this issue who want to give life a chance, I wish they could have been with me three times in the last 7 days.

First, when I carefully read a letter from a friend, Mrs. Lee Ezell, who was raped as a virgin teenager by her boss, who beat her also, and went ahead and had the child. Put it up for adoption, and the daughter, in her 20th year, looked up the mom. I have seen them on national television shows. They look like twins, intelligent, beautiful, modern women of this age. That is the nightmare case.

Last Thursday, in a colleague's office, the gentleman from Illinois [Mr. CRANE], I had a chance to spend an hour with a 15-year-old who is as wise as any 45-year-old in this House. Her name is Gianna Jessen. She was the victim of an abortion at 7 months of pregnancy, miraculously survived, has been called the poster girl of the pro-life movement by Kate Michelman, who aborted her fourth child to get even with her husband, who tragically deserted her.

Kate Michelman has also said, "She is a walking freak show for the pro-life movement."

Anybody who could have spent that hour with Gianna Jessen with me last week would see what a courageous young woman is doing, traveling this country, speaking out against abortion in the second and third trimester.

But the most important message I bring to my colleagues today is, I spent

2 days, several hours with Mrs. Shari Richard, an absolute expert in the technology of sonography. I sent everyone of my colleagues a tape, called "Window to the Womb," about what sonography is teaching us about seeing that beating heart in later stages of pregnancy, where they are aborted by the tens of thousands, seeing the child moving, sucking its thumb, and fighting the abortionist's tools as it is tearing them apart.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I want to comment on this issue of counselors. These are free clinics. They give people care, poor women preventative health care primary health care for free, if they cannot pay for it.

Yes; they use volunteers as much as they can. But I think Members are making a terrible mistake, and I must say that I believe, frankly, only a man could make this mistake if they think a trained counselor who has been pregnant herself is going to steer another woman who is pregnant. Being pregnant is an extraordinarily powerful experience. From the moment you have the potential of a life inside you, you carry a burden and a promise that is extraordinary.

□ 1910

To imagine that a woman would sit face to face with another woman and try to persuade her to any specific worse of action is simply nuts. We do not do that. We do not do that. One can argue this issue on a lot of bases, but we cannot argue on that basis. Furthermore these volunteer women are trained to give all information that the client asks for.

Mr. SCHEUER. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentlewoman for yielding to me.

Mr. Speaker, I would like to answer the gentleman from Texas [Mr. DELAY]. I refer to young women in our country who have a very high percentage of our-of-wedlock pregnancies. This is an abomination in our country, the richest country in the world. All young girls should be able to control their reproductive systems and determine for themselves what is a right that has been declared by the United Nations time and time and time again, the right to determine the number and spacing of their children.

All young American women should have this ability, both the knowledge and the services available to them. It is an incredible costly and wasteful thing to society when we have a million or more out-of-wedlock births each year for women who are not prepared for that burden. When they go through an experience in their early teenage years of having a child, that crushes their employment prospects, it crushes their education prospects, it crushes their marriage prospects. They ought to be able to avoid that. Our country ought to make sure that they have the knowledge and the services to avoid that sad and tragic dilemma.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I voted against this bill when it first came before us, and I intend to oppose it again today. Despite all the impassioned pleas we are hearing, I just submit to the Members, this bill is not reasonable. One-third, approximately, of title X clients are minors. This bill is going to require, should it pass, the provision of referral to abortion providers to these minors without parental knowledge or consent, Mr. Speaker.

Our young people are faced with many serious challenges today. We need that parental input, especially for an important decision like this. I think it is extreme and unreasonable. On that basis alone I think this conference report should be rejected.

Second, this bill, by requiring even conscientiously based providers to provide these abortion referrals, is really an affront to conscience. It is doubly insulting when the Members realize that the title X program was specifically instituted to reduce abortions by providing preconception services to people and providing the information that they need. Now all of a sudden we are going to turn this program into something that was never meant to be.

This is a bad proposal. It is a terrible bill, and it is out of touch with mainstream America. We should reject it on its merits.

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, the pro-abortion gentleman from New York [Mr. SCHEUER], made a very candid admission earlier in the debate. He admitted that abortion is a method of birth control. Such a view trivializes the precious life of an unborn child. Such children require nurturing, love, and, at the very least, respect. He also misstated U.N. policy regarding abortion. The 1984 U.N. Mexico City policy statement said clearly, abortion is not a method of birth control.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, after all of the discussion we had this morning about the number of abused and neglected children in this country, and by the way, the support for doing something about that problem was bipartisan and very broad in this House, we ought to be talking about what the purpose of this bill really is. That is to provide family planning, to give people options so they do not even get to the point of considering abortion.

Obviously, all of us who would like to avoid abortion as much as possible need to emphasize the passage of this bill so clinics across this country can help people.

What we are really arguing about, and why we cannot get a signature on this bill, is simply this oppressive gag rule which has been imposed by this administration and the last one.

Mr. Speaker, we have to recognize that contraceptives do fail, that women can be raped, they can be the victims of incest, they can be in many ways endangered in their own beings, their own lives endangered by pregnancy.

Women need to have all the information available to them. They ought not to be prevented from getting information from professionals of all kinds who can be helpful in the dissemination of information. This administration has become so focused, so fixated on this one issue that they cannot even see the value of enacting this law. It is tragic. It is tragic for all the many poor women who will be victimized if this bill is not enacted into law. It is tragic because we have lost sight of the real priorities that make it important to pass this in the first place.

Mr. Speaker, I would hope that not only would we have an overwhelming vote today, but that, if necessary, we stand up to the veto habits of this President and override his misguided efforts to direct population policy in this country.

Mr. Speaker, I rise in support of the conference report for S. 323, the Family Planning Amendments of 1992. S. 323, is the same bill that passed here in the House of Representatives back in April. It reauthorizes funding for the Federal family planning—or title X—program.

S. 323 continues to prohibit the use of its funds for abortion and additionally requires that all clinics that receive funding comply with their State laws when it comes to requiring the consent or notification of a parent for minors who are seeking privately funded abortions.

S. 323 also overturns the administration's oppressive gag rule and, by doing so, allows us to return to a policy that permits doctors, nurses and other health care personnel to answer all of a patient's questions about her pregnancy. The gag rule, on the other hand, prevents health care providers in federally supported family planning clinics from simply informing a pregnant woman of all her options. Even if a woman has been raped, is a victim of incest, or her health is seriously threatened by her pregnancy, her health care provider would not be able to tell her the truth about her choices.

This restraint is even more alarming because it goes beyond interference with a woman's reproductive health care. This burdensome regulation is a direct assault on our first amendment right to freedom of speech. The gag rule is unprecedented government interference with the confidential doctor-patient relationship, and has been denounced by every major medical group. The gag rule dictates to our nation's medical community what they can and cannot talk about with their own patients. The gag rule prevents women from knowing about their legal medical options.

But S. 323 clarifies the authority of family planning clinics to provide information and counseling regarding family planning. It requires them to provide a patient with complete, nondirective information about her pregnancy, if she asks for it. And S. 323 also contains a conscience clause—a provision that says that anyone who has a moral or religious objection to discussing a patient's options regarding her pregnancy does not have to.

However, the scope of S. 323 goes far beyond family planning because the title X program also provides other preventive health care services to approximately 4 million low-income women and teenagers at 4,000 clinics across America. It also provides infertility services, as well as counseling, screening, and referral for basic gynecologic care, breast and cervical cancer, hypertension, diabetes, anemia, kidney dysfunction, diabetes, sexually transmitted diseases, and HIV. Without title X, millions of American women would have no other accessible, affordable source for quality, comprehensive health care services. It is the only source of health care for 83 percent of its clients and for many of them it is the single entry point into the entire health care system.

California has received title X funds since the Public Health Services Act was passed in 1970. Last year, California clinics used these funds to provide services to approximately 450,000 clients. Twenty-six percent of these clients are under 20 years of age, and 58 percent are age 20 to 29. This year, California family planning clinics will receive approximately $11 million in title X funds.

When we support contraceptive services—both care and supplies—we thwart pregnancies and, ultimately, the need for abortion. For example, according to the California Family Planning Council, an estimated 138,000 unintended pregnancies are averted in California every year as a result of publicly funded contraception. Each client seen at a title X funded clinic costs the Federal Government approximately $35 annually. And, every one of these dollars spent on family planning programs in California saves $11.20 in public costs associated with unintended pregnancy—such as Medi-Cal delivery and continuing maternity and infant care, Medi-Cal abortions, Aid to Families with Dependent Children, food stamps, and other social service costs. But the annual costs of unintended pregnancies for clients eligible for Medi-Cal coverage for maternity and infant care, AFDC, WIC, and food stamps average $9,383 for those women who carry their pregnancies to term.

S. 323 provides accessible, high-quality, affordable health care to women who could not otherwise afford to have it. I encourage my colleagues on both sides of the aisle to support passage of this pro-life, pro-health bill.

Mr. DANNEMEYER. Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 3 minutes to my colleague, the gentlewoman from California [Mrs. BOXER], a champion for health care, for women's rights, for all these high priorities that our Nation should be addressing.

Mrs. BOXER. Mr. Speaker, I thank the chairman for yielding time to me.

Mr. Speaker, it is a privilege to partake in this debate. I hope that we will have an overwhelming vote for this bill, and send a message to this administration that we do not want Big Brother in the middle of our private and personal lives, that we do not want Big Brother telling doctors and telling nurses and health care workers what they can and cannot say.

I think it is important for all Americans to understand that the gag rule may not stop here. It could move forward. We could have a situation where maybe schools or public libraries which receive Federal funds have to remove books from their shelves because perhaps they sharply criticize the administration's position, say, on China.

The point is, this is a President, it is Government telling the people who choose to be in the health care profession that they cannot tell the truth.

It is very hard for me to understand, Mr. Speaker, how conservatives, people who call themselves conservatives, could support the gag rule. This is the land of the free and the home of the brave, and we trust each other. Surely in this year, 1992, we can trust people with the truth. This is not about parental consent. That is not what this is about. This is about the Federal Government, this administration, telling doctors and nurses and health care workers that they must not tell the truth to their patients.

I hope we will pass the bill overwhelmingly. It does so many important things to prevent unwanted pregnancies. Nobody that I know is proabortion. Nobody is proabortion. We want to prevent abortions. Pass this bill in the name of freedom and in the name of democracy and in the name of family planning.

Mr. WAXMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. BOXER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, when we held hearings on this gag rule in our subcommittee, and we asked people who were trying to administer this rule what they would tell the family planning clinics if a woman asked about where she could get an abortion, they told us they would have to tell her, "I am sorry, we cannot answer that question."

☐ 1920

I asked whether if a woman had a disease or illness that would cause her perhaps to lose her life if she carried the baby to term, could the doctor advise her that one of the options she might consider would be to terminate the pregnancy in order to save her life, and I was told that would not be permitted. And a doctor could not tell a woman in fact, unless it was an emergency situation.

If a woman asked about abortion as an option, if a woman asked where she should go for an abortion, and the reason that she would have to ask where she could go for an abortion is because these family planning clinics do not perform abortions, they may not perform abortions, they could not give her that information.

This is truly a gag rule, and it must be overturned.

Mrs. BOXER. The gentleman is correct.

Mr. DANNEMEYER. Mr. Speaker, I yield 30 seconds to my colleage, the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I just want to say that I am not surprised, but I am disappointed that the gentleman from California [Mr. WAXMAN] again drew a parallel between aborting a baby and treatment of disease. Unborn children, I say to my colleagues, are not diseases to be eradicated like tumors, like cysts. They are not, and any attempt to equate the two is highly offensive, inhumane, and anti-child.

Mr. Speaker, in like manner, Mr. GREEN talked about abortion as a treatment. Implied in such a misguided notion is the view that the unborn child is a throwaway or something akin to a tumor. This treatment, however, kills, dismembers, and chemically poisons babies. Unborn children are not diseases. Unborn children deserve our compassion and respect.

Mr. WAXMAN. Mr. Speaker, I yield myself 1 minute to answer that mistaken point.

If a woman were pregnant, and as a result of that pregnancy and a disease from which she was suffering she might not survive the pregnancy, she may at that point not even be told by a doctor that she might consider terminating the pregnancy as an option. I did not, and would not certainly say that a woman's pregnancy was tantamount to a disease, and I cannot understand how the gentleman from New Jersey would even hear such a statement, because no one would make such a statement.

Mrs. BOXER. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentlewoman from California.

Mrs. BOXER. I thank the gentleman for yielding.

I would say to the gentleman from New Jersey that it shocks me that he would insinuate that the gentleman from California [Mr. WAXMAN], who is a leader in health care in this country, for children, for families, for everyone, men, women, old and young, would ever say such a thing as he suggested.

Mr. WAXMAN. I am sure the gentleman misunderstood what I had to say. But it is because he thinks that any time you have an abortion it is a terrible thing, and there are times, however, when it is appropriate, certainly to save the life of a mother, and at certain other times when a woman decides it is appropriate under her circumstances.

Mr. DANNEMEYER. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, I have listened to the speakers here today, and I think we have been speaking more to ourselves, and perhaps the CONGRESSIONAL RECORD than speaking with one another. But when this whole subject of family planning began, I think we need to focus on what the policy was at the outset of this program of the Federal Government. It is very clear.

"None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning." That was the premise on which family planning started, with the help of the gentleman from New York [Mr. SCHEUER] and Mr. Bush back in 1970.

All this regulation says is that we are going to make the use of Federal taxpayer dollars consistent with what the plan was from the beginning, that abortion was not an alternative.

And I will say in response to the question: What will we say to the lady who seeks information about an abortion, the existing regulations say, "A referral to specialized medical care for medical conditions which may complicate pregnancy must be made, even if the ultimate result may be the termination of her pregnancy." That means that there will not be a specific referral to a place where an abortion can be obtained, but an abortion can be obtained along with a whole variety of other services if that is what the particular woman seeks to have information about. That is the existing regulation, and I think these facts need to be set forth in the RECORD.

Mr. WAXMAN. Mr. Speaker, I reserve the balance of our time.

Mr. DANNEMEYER. Mr. Speaker, may I inquire how much time is remaining?

The SPEAKER pro tempore [Mr. MFUME]. The gentleman from California [Mr. DANNEMEYER] has 4 minutes remaining, and the gentleman from California [Mr. WAXMAN] has 3½ minutes remaining and deserves the right to close debate.

Mr. DANNEMEYER. Mr. Speaker, I yield our remaining 4 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, for the information of my colleagues, if you want to know where you can get an abortion, try the Yellow Pages. The District of Columbia Yellow Pages has four pages of abortion services, first and second trimester. Planned Parenthood has eight locations. So the information is readily available, and it is in big print, and it says "Se Habla Espanol" on a lot of them. So the information is available, second trimester abortions they advertise, up to 6 months.

This is not a first amendment issue. The same Court that said Roe versus Wade is ratified, it is the law of the land, that same Court has found that denying authority to personnel in family planning clinics to counsel about abortion under title X is constitutional, perfectly constitutional in Rust versus Sullivan. So this is not a first amendment case at all. There is no impairment of the doctor/patient relationship. We are not talking about that. Doctors can give advice, information to their patients. That is the practice of medicine.

But it is the counselors, it is the receptionists, it is the volunteers who are giving that information that is our concern. It is not a question of censorship. It is subsidization. We are paying for a program of family planning. Family planning is helping you get pregnant or keeping you from getting pregnant. But once you are pregnant, you move out of family planning and you go to a prenatal clinic, or some other facility. But it is not family planning, unless of course you want to use abortion as a method of birth control.

But we never have done that and we should not do it now. The taxpayers should not have to pay for exterminating unborn children in family planning clinics.

I will support title X family planning clinics, but not the extermination of innocent, unborn children.

I heard the phrase from the gentleman from California, "abused children." What is more abusive than a suction machine which is dismembering a preborn baby in the womb? I heard the phrase "potential life." That is not potential life in the womb, that is life, with potential. But you exterminate it, and so there goes the potential.

Now about the gag rule. Who is for the gag rule? Who does not want informed consent? Who does not want that woman to know the possible consequences of an abortion? Who wants that woman not to know the state of development of the unborn child in the womb? The proponents of this legislation, that's who.

Do Members realize that after 3 weeks there is a discernible heartbeat of that little fetus, or as the gentlewoman says, "potential life." I say life with potential. That is within 3 weeks following conception.

Massachusetts had a bill, and I do not know what happened to it, but I am sure its Governor would have vetoed it if it had passed. It was called the heartbeat bill, and it says that a woman wanting an abortion should be given the option, an option to listen to the heartbeat. The doctor says, "Here's a stethoscope. Would you like to hear the heartbeat of your fetus in your womb?" Give her that option. You advocates of this bill would hate that, would you not, just like you hate parental consent, or parental notification, or spousal notification, or informed consent.

Who is gagging who around here? I mean, do not abuse the term, do not kid people. You are for a real gag rule, not us.

Now this is really about counselors, and receptionists, and nurses aids, and volunteers pushing, promoting abortion. Let me just suggest these ladies and gentlemen have been called trained professionals. Do my colleagues know what Planned Parenthood says about their own trained professionals? I quote from a report of the Planned Parenthood Association:

> Data from nearly 500 individual counselor profiles gives a clear picture of a counseling staff which is largely young and inexperienced, much of it working unpaid and probably using PPFA employment for training, experience and preparation for other jobs in the future. Counselors' formal training is relatively modest.

Do you want those inexperienced counselors giving abortion advice to minor-aged women? That is clearly what you want and that is wrong.

Vote "no" on this atrocity.

□ 1930

Mr. WAXMAN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this debate is about the truth. Doctors should be able to tell the truth. Nurses should be able to tell the truth. Counselors should be able to tell the truth.

The gentleman from Illinois [Mr. HYDE] talked about things he thinks ought to be told, that a woman ought to be told, about the development of the fetus, to hear the heartbeat. There is nothing that prevents that. There is no regulation or rule that would keep that information from a woman.

Let me read to you the regulation that was in effect when Reagan was President, and was adopted by the Reagan administration:

Pregnant women should be offered information and counseling regarding their pregnancies. Those requesting information on options for the management of an unintended pregnancy are to be given nondirective, nondirective counseling on the following alternative courses of action, and referral upon request: prenatal care and delivery, infant care, foster care or adoption, and pregnancy termination.

The Bush administration's gag rule would allow discussion of two of those options, but would keep from women the information about pregnancy termination. Now, these family planning clinics cannot terminate the pregnancy. They are not in the business of providing abortions. They are in the business of providing counseling, advice, information, and contraception.

The debate is about freedom. Doctors and nurses should be free to talk to patients, not forced, not forced to commit medical malpractice by not telling their patients everything they need to know for those patients to make their own decisions.

This gag rule would make the decisions for doctors on how to practice medicine and for nurses and counselors. This gag rule would try to make the decision for women by keeping them ignorant about information they may even request and to which they would have to be denied.

This is a debate about families. Families' lives are improved with family planning. Infant mortality rates go down, low-birthweight rates go down, and abortion rates go down with the family planning program, and that is why I call upon my colleagues to vote for this conference report to reauthorize the family planning program, provide it with more funds, and allow it to do the job which is to avoid unintended pregnancies and give people the ability to control their lives and their health.

Mr. Speaker, I yield back the balance of my time.

Ms. PELOSI. Mr. Speaker, I rise today in strong support of S. 323, the conference report reauthorizing title X, the Nation's family planning program. The conference report reauthorizes funding for title X clinics through 1997 and overturns the administration's gag rule regulations which prohibit abortion counseling in federally funded clinics. These regulations will soon be implemented if Congress does not act. I would like to commend Chairman WAXMAN for his hard work and commitment to this issue.

There are approximately 4,000 title X clinics in the United States which serve about 4 million women per year. In many cases, these clinics are the only access to health care these women have. Yet with the gag rule regulations, the administration has completely mandated what these women are permitted to hear from the medical personnel and what they can discuss. The issue here is fairness. The Constitution is supposed to guarantee the right to freedom of speech for everyone. But poor women are denied their rights solely because they cannot afford to go to a private doctor. What would be fair is to trust and respect women's ability to think, hear, and decide what medical opinion is best for them.

It is very ironic and telling that the administration head of family planning who oversees these title X clinics is the person who wants to close down these family planning clinics for merely discussing contraceptives.

Mr. Speaker, I urge my colleagues to support this conference report and uphold women's constitutional right to freedom of speech.

Mr. FORD of Michigan. Mr. Speaker, I rise today to express my support for the conference report on S. 323, the family planning reauthorization bill.

We have not reauthorized title X of the Public Health Act since 1985. The result of our failure to reauthorize has caused hardships for title X clients, specifically the 83 percent who receive their only source of primary health care through the family planning clinic. Furthermore, 65 percent of the women currently eligible for family planning services do not receive them. This conference agreement extends the authorization for Federal funding through 1997.

This conference report also overturns the administration's misguided regulations prohibiting abortion counseling at federally funded clinics. Poor women who rely on title X grantees for reproductive health information and services should be able to get a straight answer when they request information on all of their pregnancy options including abortion. Although the administration has stated that "nothing in these regulations is to prevent a woman from receiving complete medical information about her medical condition from a physician," they know that they have not lifted the gag rule. While physicians may be allowed to discuss abortion under certain circumstances, the majority of health care providers in federally funded clinics are not allowed to discuss the issue. The fact is that 95 percent of the care in title X family planning clinics is provided by nurses, nurse practitioners, physicians' assistants, and trained counselors.

The administration's gag rule assumes that if you keep women in the dark by withholding information about all of the legal options available to them, you can control the decisions they will make about their pregnancy. This is a very cynical way to effect policy. As leaders we have an obligation to inform the public, not devise ways to conceal information from them.

I urge my colleagues to support this conference report and reverse the regulations that gag health care providers in order to keep them from informing their patients on all of their legal pregnancy options.

Mr. SMITH of Florida. Mr. Speaker, I rise today to announce my support for S. 323, the family planning reauthorization.

Mr. Speaker this bill will reauthorize the title X program through 1997 and will overturn the administration's gag rule.

The gag rule is a slanted, awful attempt to silence federally funded family planning clinics. Family planning clinics will not be allowed to provide honest, sound medical advice to their clients as they have since the title X program began in 1970. Under the gag rule, medical doctors will be forced to abandon the standard ethical medical policy of telling patients about all medical options and, instead, doctors must tell a pregnant woman only that she may have her child and keep it or give it up for adoption.

Let's face it: Clinics will no longer take Federal funds and in many areas safe abortions will be impossible to find. We owe it to the poor women of this country to pass this bill, thus providing necessary services to the needy, and overturn the gag rule of the Reagan administration.

Mr. LEVINE of California. Mr. Speaker, I rise in full support of this conference report on the family planning reauthorization and urge my colleagues to join me. Not only does this bill overturn the obnoxious gag rule written by the Bush administration, but it provides desperately needed funding for family planning programs in local community health care clinics.

The over 4,000 clinics that receive title X funding provide critical health care services to upwards of 4 million low-income women each year. For many of these women, these clinics are the only link they have to the social service community. They have become cautiously trustful of these well-run clinics and have begun to use them as a resource to find other services they may need: parental training, decent child care, nutritional counseling, and so forth.

Mr. Speaker, these women, who are often members of the hardest to serve community, have put an incredible amount of faith in their relationships with the doctors, nurses, and counselors they see at the clinic. Their trust was not given to the clinic employees easily—it was earned slowly. And I dare say, it is fragile.

What the gag rule promulgated by the administration has done is to force clinics to choose between receiving Federal funds and serving their clients. If this body allows the implementation of the gag rule later next week, some clinics will announce that they will no longer accept Federal funding. Instead, they will turn away poor women because they are not willing to succumb to the Orwellian gag rule.

Even worse, though, will be the chilling effect on health and social service delivery in low-income communities whose clinics choose to continue to accept Federal money and operate under the gag rule. Those fragile, trusting relationships between the clinic employees and the women they see will be shattered.

Women do not make the decision to terminate their pregnancies lightly. Unless doctors and nurses are allowed to provide them with unbiased medical advice, these women will lose faith in the system they have come to trust. Their relationship with their doctor or counselor may be destroyed beyond repair. Their ability to receive the health care they so desperately need will be jeopardized. And the link they have to the other services, for their children and for themselves, could be ruptured.

This gag rule is abominable and repugnant. It must be repealed totally, not simply rewritten in a shallow attempt to limit its devastating impact, and this report does so. I urge my colleagues on both sides of the aisle to support this important legislation.

Mr. ATKINS. Mr. Speaker, I rise today in support of the the conference report on S. 323, reauthorizing Federal funding for title X family planning programs and especially the provision that would prevent implementation of the administration's gag rule.

Throughout my years in public service, I have struggled with the question of abortion.

Though I strongly support the right to choose, I believe we all share a similar goal: That government should do all it can to reduce the need to resort to an abortion.

Mr. Speaker, this bill is about family planning. It is not about abortion. The fact of the matter is that family planning clinics are not and have not been allowed to provide abortion services. Indeed, in a very real sense, this bill is about preventing abortion.

But by shrouding family planning services and a whole range of other services provided by title X clinics behind the abortion debate, the administration is engaged in a cruel, ideological hoax.

It is attempting to appear moderate while appeasing a right wing fringe that believes health care workers should not be allowed to even advise women on legal medical procedures.

The gag rule is one more attempt by the administration to discriminate against women's health issues so that the President can pay off a political debt to a bunch of extremists.

Let's stop this extremism. Overturn the gag rule and pass this conference report.

The SPEAKER pro tempore (Mr. MFUME). All time for general debate has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WAXMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there was—yeas 251, nays 144, not voting 39, as follows:

[Roll No. 375]

YEAS—251

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Anthony
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Beilenson
Bentley
Bereuter
Berman
Bilbray
Blackwell
Boehlert
Bonior
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gradison
Green
Guarini
Hamilton
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Houghton
Hoyer
Huckaby
Hughes
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Markey
Martinez
Matsui
McCandless
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Moody
Moran
Morella
Morrison
Mrazek
Nagle
Neal (MA)
Neal (NC)
Nichols
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Porter
Price
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (IA)
Smith (TX)
Snowe
Spratt
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tanner
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Zeliff
Zimmer

NAYS—144

Allard
Applegate
Archer
Armey
Baker
Barrett
Barton
Bateman
Bennett
Bilirakis
Bliley
Boehner
Borski
Broomfield
Bunning
Burton
Callahan
Camp
Coble
Combest
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
de la Garza
DeLay
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fields
Gallegly
Gekas
Gillmor
Gingrich
Goodling
Goss
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hayes (LA)
Hefley
Henry
Herger
Holloway
Hopkins
Hubbard
Hunter
Hutto
Hyde
Inhofe
James
Johnson (TX)
Kanjorski
Kasich
Kildee
Kyl
LaFalce
Lagomarsino
Laughlin
Lent
Lightfoot
Lipinski
Livingston
Lowery (CA)
Manton
Marlenee
Mavroules
Mazzoli
McCollum
McDade
McGrath
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Myers
Natcher
Nowak
Nussle
Oakar
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Perkins
Peterson (MN)
Petri
Poshard
Rahall
Ray
Rhodes
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Sarpalius
Saxton
Schaefer
Sensenbrenner
Shaw
Shuster
Skelton
Smith (NJ)
Smith (OR)
Solomon
Spence
Staggers
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—39

Andrews (TX)
Annunzio
Barnard
Bevill
Campbell (CA)
Clement
Davis
Dellums
Dickinson
Dwyer
Ford (TN)
Gaydos
Gordon
Hall (OH)
Hastert
Hatcher
Horton
Ireland
Jefferson
Kolter
Lewis (FL)
Luken
Martin
McCrery
McEwen
McMillan (NC)
Murphy
Murtha
Obey
Pursell
Quillen
Riggs
Schulze
Smith (FL)
Solarz
Traxler
Weber
Wilson
Yatron

□ 1954

The Clerk announced the following pairs:

On this vote:

Mr. Solarz for, with Mr. Ireland against.

Mr. Dwyer for, with Mr. Lewis of Florida against.

Mr. Smith of Florida for, with Mr. Quillen against.

Mr. McMilla of North Carolina for, with Mr. Murphy against.

Mr. GEKAS changed his vote from "yea" to "nay."

Mr. LEWIS of California changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RIGGS. Mr. Speaker, due to circumstances earlier beyond my control, I was unavoidably detained during the last vote, rollcall vote No. 375. Had I been present, I would have voted "aye."

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to S. 323 which was just adopted.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE CONFERENCE REPORT ON H.R. 5487, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. DURBIN. I ask unanimous consent that the Committee on Appropriations may have until midnight tomorrow, August 7, 1992 to file a conference report on the bill (H.R. 5487) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1993, and for other purposes.

This request has been cleared with the minority, especially with the gentleman from New Mexico [Mr. SKEEN], and, I am sure, the gentleman from Indiana [Mr. MYERS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO FILE COMMITTEE REPORTS ON H.R. 5755, JOHN F. KENNEDY CENTER ACT AMENDMENTS OF 1992, H.R. 5754, WATER RESOURCES DEVELOPMENT ACT OF 1992, AND H.R. 5753, INTERMODAL SURFACE TRANSPORTATION TECHNICAL CORRECTIONS ACT

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until noon, August 10, 1992, to file the committee reports on H.R. 5755, the John F. Kennedy Center Act Amendments of 1992; H.R. 5754, the Water Resources Development Act of 1992; and H.R. 5753, the Intermodal Surface Transportation Technical Corrections Act.

This request has been cleared by both the minority leadership of the House and the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RELATION OF TRADE AGREEMENTS TO HEALTH, SAFETY, LABOR AND ENVIRONMENTAL LAWS

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on rules, I call up House Resolution 542 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 542

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the concurrent resolution (H.Con. Res. 246) expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States. Debate on the concurrent resolution shall not exceed one hour with thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from California [Mr. DRIER] for the purpose of debate only, pending which I yield myself such time as I may use. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 542 provides for consideration in the House of a concurrent resolution. House Concurrent Resolution 246 expresses the sense of Congress on how new trade agreements will relate to health, safety, labor, and environmental laws of the United States.

The rule provides 1 hour of debate on the concurrent resolution, equally divided and controlled among the chairmen and ranking minority members of the Ways and Means and Energy and Commerce Committees.

In summary, this is a simple rule calling for a straight up-or-down vote on the concurrent resolution after 1 hour's debate.

Mr. Speaker, House Concurrent Resolution 246 makes clear that Congress will not adopt legislation to implement any trade agreement if it jeopardizes our health, safety, labor, or environmental laws. In particular, the Uruguay round of GATT and the proposed North American Free-Trade Agreement will be carefully examined for their effect on our laws and trade practices.

House Concurrent Resolution 246 also calls on the President to initiate negotiations to make GATT compatible with Federal, State and local laws.

Concerns have been mounting ever since a GATT dispute resolution panel decided, almost exactly 1 year ago today, that U.S. laws banning excessive dolphin kills are nontariff barriers to trade.

The decision was made by a GATT panel but the action was initiated by Mexico, along with others. That is why the decision raises concern about NAFTA as well as any GATT agreement.

The GATT panel went out of its way to make clear the broad implications of its decision.

Mr. Speaker, we have reason to fear this new direction in thinking about trade. We have reason to fear this expansion notion of trade barriers.

Mr. Speaker, we have reason to fear that our efforts to protect the environment will be considered a violation of GATT.

We have reason to fear that health standards will be viewed by others as unfair trade practice.

We have reason to fear the United States will be told not to look at the conditions under which foreign goods are produced or harvested—even if we look to those conditions in order to protect our own health and safety, or workers' rights here and around the world.

Mr. Speaker, this concurrent resolution lets the world know of our stand on these issues.

We will not allow trade negotiations to weaken our commitment to health and safety, workers' rights or environment protection.

Mr. Speaker, this is a good measure that deserves—and has—strong bipartisan support.

In fact, no amendments were offered in the two committees that considered the bill. There were no dissenting views from the Energy and Commerce Committee. The minority views in the Ways and Means Committee report strongly support this bill.

Not a single member sought an amendment at the Rules Committee.

Mr. Speaker, this is a fair rule. The rule calls for a straight up-or-down vote after an hour of debate. I urge adoption of the rule and the concurrent resolution.

□ 2000

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that this rule and the resolution it makes in order were best described by the ranking member of the Trade Subcommittee, the gentleman from Illinois [Mr. CRANE] when he came before the Committee on Rules yesterday and said, "This is redundant, but not objectionable."

I would concur with those remarks and say that I support the rule and, based on the discussions we had with the chairman of the Committee on Ways and Means yesterday in the Committee on Rules, I do not intend to oppose the resolution.

In that discussion, Mr. Speaker, I raised the concern that House Concurrent Resolution 246 is designed to slow the negotiations with Mexico and Canada over a North American Free-Trade Agreement. I received from the gentleman from Illinois [Mr. ROSTENKOWSKI] what seems to me to be an assurance that neither he, nor the Committee on Ways and Means, intend to slow those negotiations at all. It is designed, he said, merely to ensure that Congress will continue to be part of the negotiating process.

Frankly, Mr. Speaker, this resolution from my perspective is much ado about nothing. Congress has been engaged in the negotiating process from the beginning, as specified in the resolution adopted on May 22, 1991. As of today, 307 meetings have been held between the U.S. Trade Representative and her staff and Members of Congress and their staffs in the House and Senate.

As Ambassador Hills pointed out in a March 6 letter to the majority leader:

> * * * The consultations we have conducted on these negotiations are far more extensive and intense than has ever been held with Congress on a major negotiation.

In my view, Mr. Speaker, the language in House Concurrent Resolution 246 with regard to the NAFTA should not be construed to mean anything more than what was contained in the May 1991 resolution with which the USTR has clearly complied.

It is also my hope that this resolution is in no way intended to place another obstacle in the way of successful GATT negotiations. As my colleagues know, a GATT dispute resolution panel has stated that participants in the GATT may not have laws protecting health, safety or the environment beyond their geographic borders.

While we all want to encourage our trading partners to respect U.S. laws regarding the environment and public health and safety, it would be a mistake if these efforts led to a damaging trade war that would harm our economy and harm American consumers.

Mr. Speaker, I think the message needs to be made loud and clear. This is a nonbinding resolution that in no way seeks to undermine negotiations between the United States, Mexico, and Canada on a North American Free-Trade Agreement.

The benefits to the United States of a successful free trade agreement will be substantial. For example, NAFTA will increase United States exports to Mexico and Canada by eliminating tariffs, opening up Mexico's services market, lifting restrictions on investment in Mexico, and removing other trade barriers to United States agricultural and industrial goods.

These changes will help to expand American export industries, which have been responsible for most of our Nation's economic growth over the past year.

It's important to point out, Mr. Speaker, that NAFTA will provide adequate adjustment time for American industries and workers. Environmental safeguards, modeled after existing United States laws, will also be included to protect public health and safety, and to clean up pollution along our border with Mexico.

Given all of this, Mr. Speaker, I would simply say that the resolution is redundant and unnecessary, thus making this rule unnecessary. But I urge support for the rule anyway, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in support of this resolution and its stated goals to ensure that trade agreements entered into by the United States do not undermine existing laws on health and safety requirements, labor standards, and environmental protection. I believe it is important to send this message to the Bush administration and our trade negotiators as the proposed North American Free-Trade Agreement [NAFTA] nears completion and as the Uruguay round negotiations of the General Agreement of Tariffs and Trade [GATT] continue.

Most Members of the House know that I am a strong proponent of closer economic ties with Mexico. I believe the North American Free-Trade Agreement [NAFTA] holds tremendous opportunity for the United States to create good-paying jobs here at home, solve environmental and public health problems along the Southwest border in a cooperative manner, and, in the long run, provide a better future for Americans, Mexicans, and Canadians.

The Bush administration needs to understand in clear terms that Congress and the American people want our trade negotiators to fight just as hard for commitments on environmental and public health issues as they will for commitments for U.S. exporters and U.S. investors. It will be extremely difficult to sustain congressional support for NAFTA or for GATT if the American public feels that our trading partners do not play by the same rules and do not share our commitment to health and safety requirements, labor standards, and environmental protection. That is the message the Bush administration should take from today's debate.

Clearly, U.S. labor, environmental, health, and safety laws need to be preserved under future trade agreements, whether in NAFTA or in GATT. Members of Congress should also recognize that we can accomplish these objectives in cooperation with our trading partners and with our neighbors.

As a Congressman who represents a border State, I can tell other Members first hand that progress is made and concrete results are achieved when countries work together on solving shared problems whether they deal with environmental enforcement or with the protection of public health. As the Bush administration completes its negotiations on NAFTA, it is my hope that the United States has a long-term strategy to solve environment, labor, and public health problems in cooperation with other countries.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from Lutherville, MD, Mrs. BENTLEY.

Mrs. BENTLEY. Mr. Speaker, I rise in support of the rule and urge support for the Waxman-Gephardt resolution in order to send a message to the negotiators—on all sides of the North American Free-Trade Agreement—that we in the Congress claim our responsibility for the shape of the agreement.

This action has such import to all three of the nations involved that at no point in these negotiations should there ever be a feeling of having given up one nation's interests to a common good without an awareness of the cost to each one of the nations involved.

We, in this country, have already been exposed to an attack on the federal system and the power of the Congress—on the way to forging this agreement—with the usurpation of California State law and the Federal code in the memorandum of understanding signed with Mexico and the Secretary of Transportation in November 1991.

The attempt, by the executive branch, to exempt Mexican commercial drivers from the same laws—in southern California—that United States commercial drivers must adhere to is shocking. The criteria being waived is contained in Federal law—binding all 50 States—and is implemented under State law.

And, Mr. Speaker, November last year was early days in the negotiating process. At that point, one would have anticipated we would not have faced trading away anything as important as the constitutional guarantees under separation of powers.

This action alone—to my mind—is reason enough to remind the negotiators as to the seat of power in this Nation. We are not a parliamentary government. We have not had one party in power for 25–35 years. We are a Republic and a democracy and we are to be responsive to the needs first of our people under our form of grovernment

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time.

Mr. DRIER of California. Mr. Speaker, I have no further requests for time from this side of the aisle, and I urge enthusiastic support for this redundant, but not objectionable, resolution.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of the time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 2010

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the rule I call up the concurrent resolution (H. Con. Res. 246) expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States, and ask for its immediate consideration in the House.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 246

Whereas a General Agreement on Tariffs and Trade (hereinafter in this resolution referred to as the "GATT") dispute resolution panel decreed on August 16, 1991, that certain provisions of the Marine Mammal Protection Act of 1972 designed to protect dolphins are a barrier to trade and must be eliminated;

Whereas the GATT panel ruling additionally declared that nations may not have laws that protect health, safety, or the environment beyond that nation's geographic borders, or laws that take into account the process or conditions under which a product is produced or harvested;

Whereas the GATT panel may also jeopardize other United States laws and international agreements intended to protect global resources, including provisions that protect the stratospheric ozone layer, provisions to save endangered species, provisions to discourage driftnet fishing, and provisions for the protection of whales; and

Whereas ongoing negotiations for the Uruguay Round of the GATT, reflected in the December 1990 draft agreement and the United States-Mexico Free Trade Agreement, could weaken United States health, safety, labor, and environmental laws, including laws adopted by State and local authorities: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring)

SECTION 1. PRESIDENT.

The Congress calls upon the President to initiate and complete negotiations, as part of the current Uruguay Round GATT talk, to make the GATT compatible with the Marine Mammal Protection Act and other United States health, safety, labor, and environmental laws, including those laws that are designed to protect the environment outside the geographic borders of the United States.

SEC. 2. LEGISLATION.

The Congress will not approve legislation to implement any trade agreement (including the Uruguay Round of the GATT and the United States-Mexico Free Trade Agreement) if such agreement jeopardizes United States health, safety, labor, or environmental laws (including the Federal Food, Drug, and Cosmetic Act and the Clean Air Act).

The SPEAKER pro tempore (Mr. TORRES). Pursuant to House Resolution 542, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 15 minutes, the gentleman from Illinois [Mr. CRANE] will be recognized for 15 minutes, the gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 15 minutes, and the gentleman from Ohio [Mr. OXLEY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on House Concurrent Resolution 246.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 246, which expresses the sense of the Congress on the relation of trade agreements to the health, safety, labor, and environmental laws of the United States.

House Concurrent Resolution 246 was introduced to respond to congressional concerns regarding the effect of international trade agreements on U.S. health, safety, labor, and environmental laws. These concerns arose as a result of a 1991 adverse decision by a GATT panel in a case brought by Mexico against the United States. This case involved an embargo placed on Mexican tuna imports by the United States after Mexico failed to comply with certain provisions of the Marine Mammal Protection Act which were designed to protect dolphins.

Mr. Speaker, this resolution calls upon the President to conclude the Uruguay round negotiations so as to make the GATT compatible with the Marine Mammal Protection Act and other United States health, safety, labor, and environmental laws. The resolution also states that Congress will not approve legislation implementing either a GATT trade agreement or a United States-Mexico Trade Agreement that jeopardizes United States health, safety, labor, or environmental laws.

Consideration of this resolution by the House is particularly timely because of the imminent conclusion of the North American Free-Trade Agreement. Indeed, Ambassador Hills and her counterparts from Mexico and Canada are meeting in Washington this week in an attempt to conclude those negotiations.

Members will recall that, in conjunction with renewal of the President's fast-track negotiating authority last year, the President committed that he would aggressively address environmental, health, safety, and labor rights issues in the NAFTA negotiations. These commitments were embodied in House Resolution 146 that was overwhelmingly passed by the House last year. House Concurrent Resolution 246 reinforces last year's resolution on this subject and sends a clear, strong message to the President that we are counting on him to carry out his commitments in these important areas.

Mr. Speaker, House Concurrent Resolution 246 deserves the support of the House and I urge my colleagues to vote for it.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in strong support of House Concurrent Resolution 246.

After much thought I did vote for fast track although this was a difficult decision for me. Fast track would apply to both the ongoing Uruguay round of GATT talks as well as the proposed Mexican Free-Trade Agreement. And while I have serious concerns about a free-trade agreement with Mexico, a GATT agreement is critical to Connecticut, particularly in the services and intellectual property rights areas.

Despite its relatively small size, Connecticut is the Nation's fifth largest exporting State. We export over 25 percent of our gross State product. For me, a vote for fast track was a vote to give the administration a chance to come back with an agreement that would be in the best interest of both Connecticut and the Nation. By definition, such an agreement must include worker rights, environmental protections, and worker adjustment mechanisms.

Whether the administration can do this remains to be seen. That is precisely why I am a cosponsor of House Concurrent Resolution 246. Exports are important to Connecticut and a pillar of the economy right now but as this resolution says:

> No trade agreement with Mexico will be approved if it jeopardizes existing United States health, safety, labor, or environmental laws, * * * or if the agreement limits the ability of the Congress of the United States to adopt such laws in the future.

I urge my colleagues to support this important resolution.

Mrs. COLLINS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 246.

The Subcommittee on Commerce, Consumer Protection and Competitiveness, which I chair, held three hearings on health and environmental issues involved in the trade negotiations now under way. On May 12, the Subcommittee reported House Concurrent Resolution 246 by voice vote to the full Committee on Energy and Commerce, which ordered the resolution reported to the House on June 18. No amendments to the resolution were offered.

This resolution does two things. First, it expresses the sense of the Congress that the President, in the current Uruguay round of GATT talks, should negotiate to make GATT rules consistent with our Nation's health, safety, labor and environmental laws. Second, it says that Congress will not approve legislation implementing any trade agreement, including a North American Free-Trade Agreement, if the agreement jeopardizes United States health, safety, labor or environmental laws.

Recent GATT rulings and new proposals in the Uruguay round and the North American Free-Trade Agreement negotiations have raised concerns that our laws may be subject to challenge by foreign governments. Last year, a GATT dispute panel ruled that sections of our Marine Mammal Protection Act designed to protect dolphins constitute a trade barrier that are in violation of GATT.

In addition, there are concerns that U.S. environmental and health laws may be subject to challenge, because both the proposed GATT and NAFTA agreements would sanction international standards for pesticide and chemical residues on food that in many cases are weaker than our own.

For example, the international standards in the new GATT and NAFTA texts would allow dangerous contaminants, such as DDT which is banned in the United States, to be used on certain food products. In addition to weak standards, the proposed GATT agreement contains tough new enforcement powers that GATT could use to impose sanctions against the United States or to put pressure on the United States to change its strict health, environmental, labor and other laws.

The proposed GATT and NAFTA texts would also apply to State health and environmental standards that are found to be inconsistent with GATT standards. GATT has recently given us an example of what it expects the Federal Government to do to force the States to comply with GATT rules. Despite our Government's arguments to the contrary, a GATT dispute panel ruled earlier this year that our Constitution does not prohibit the Federal Government from preempting the laws in 41 States and Puerto Rico pertaining to the tax and distribution of beer and wine that discriminate against foreign or out-of-State producers.

And, hearings the Subcommittee on Commerce, Consumer Protection and Competitiveness held last year exposed the fact that the administration has used the Canadian Free-Trade Agreement to justify virtually eliminating inspection of Canadian meat imported into our country. Only after I requested an investigation by the General Accounting Office and I sent three different letters to Agriculture Secretary Madigan, did the Department of Agriculture recently announce that it would reinstate procedures to ensure that all Canadian meat is once again subject to inspection.

Mr. Speaker, trade agreements we enter into must raise environmental, health and labor standards in other countries; not bring us down to a lower level. If not, the quality of our environment, the health of our citizens, and the safety of our labor force will certainly suffer.

But in addition, strong incentives will be created for American firms to relocate to escape stricter regulation in the United States. Instead of free trade, such agreements could easily promote the free flow of American jobs to other countries.

The General Accounting Office testified last year at a hearing of the Subcommittee on Commerce, Consumer Protection and Competitiveness that firms in the Los Angeles area have moved to Mexico because of Mexico's weaker environmental law. GAO found that 78 percent of the furniture firms which relocated to Mexico from Los Angeles cited strict environmental regulation as a reason for their move.

Mr. Speaker, House Concurrent Resolution 246 simply says that trade agreements should accommodate, not undermine, U.S. health, environmental, labor and safety laws. This statement is consistent with the commitment the President made to Congress last year concerning the negotiation of a NAFTA agreement. The administration's support for this resolution means it is now ready to make those same commitments for the negotiation of a GATT agreement.

I sincerely hope that the President succeeds in fulfilling the commitments he has made and achieving the environmental objectives that the American people and most in Congress believe are important. Passage of this resolution will make that process easier, as other nations understand, perhaps more clearly, how important Congress considers these matters to be.

I urge my colleagues to support House Concurrent Resolution 246.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is greased. It is going to pass. I think it is superfluous at best and dangerous at worst, but it is going to pass. I hope that this is not some kind of effort to submarine the efforts by the administration to put together what I think will be a very effective NAFTA agreement that will create jobs and provide economic opportunity for our citizens as well as citizens across the border. But I suspect that is maybe what is happening here, and I am concerned about that.

I might add, I am particularly concerned about the gentleman from Massachusetts who had earlier indicated in the debate on the rule about the fears that bring this bill to the floor. We should not legislate because we fear something is going to happen in NAFTA.

Mr. Speaker, we have been consulted, as the gentleman from California [Mr. DREIER] read in his remarks, by Mrs. Hills. I have attended a good number of those sessions and can tell Members that Mrs. Hills is very open in answering questions and making her expertise available to the Members. No one has any excuse on either side of the aisle in saying that they were not consulted properly by this administration. They literally bent over backwards to bring the Congress into these very important negotiations.

Mr. Speaker, I hope that the gentleman from New Mexico [Mr. RICHARDSON] is right when he says that the announcement will be forthcoming tomorrow about this agreement. It means a great deal to our economy.

I hope that this resolution is seen for what it is, and that is merely a vapid exercise in legislating that really does not count for much.

□ 2020

Mrs. COLLINS of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I rise to urge my colleagues to vote in support of House Concurrent Resolution 246. The resolution makes a very simple statement—namely that the House will not approve any legislation to implement a trade agreement that jeopardizes domestic health, safety, labor or environmental laws.

I understand that the administation and the minority now support the resolution. This is a major shift in their position. Until last week, the resolution had virtually no minority support. Only 11 members of the minority signed on as cosponsors. The minority opposed the resolution in the Energy and Commerce Committee.

Now that the administration senses certain defeat, it has adopted an "if you can't beat them, join them" strategy. If this reversal is accompanied by a shift in policy where the Administration is finally committed to support our health, safety, labor and environmental laws in trade negotiations, then I welcome the Administration's newfound commitment to the environment and the public health.

Currently there are two major trade agreements being negotiated. The North American Free-Trade Agreement is close to being finalized. Earlier drafts would have undercut our domestic laws. We have been assured that the final text will not do so, but we will not know until it is made public.

The General Agreement on Trade and Tariffs is not as close to completion. But the draft GATT text, if implemented, would seriously jeopardize domestic health, safety, labor and environmental laws.

Therefore, if the House adopts this resolution, the Administration will be required to engage in a substantial renegotiation of the GATT agreement. For example—

The GATT draft would allow a GATT panel to decide whether our health, safety and environmental laws have a sufficient scientific justification. It would allow other countries to challenge our laws regulating pesticides and food additives, including the Delaney clause. But under Resolution 246, these domestic laws could not be subject to challenge.

The GATT draft would prohibit a country from adopting measures to protect the global environment, including laws that protect endangered species, the oceans, dolphins and the stratospheric ozone layer, as well as future efforts to stop global warming. But under House Concurrent Resolution 246, countries will be able to continue to adopt extraterritorial environmental measures.

The GATT draft would place pressure on the United States to preempt State and local health and environmental laws. But under House Concurrent Resolution 246, State and local governments could adopt health and environmental laws as long as they did not discriminate against imports.

This resolution goes beyond the House Resolution 146 and the commitments made in the President's May 1, 1991 action plan on trade. It was in the context of NAFTA that the resolution was adopted and those commitments were made. In contrast, the resolution before us explicitly applies to both NAFTA and GATT.

Because of its importance, I am pleased that this resolution has gained bipartisan support. But the administration should understand that we will fight any trade agreement that does comply with House Concurrent Resolution 246.

I consider myself to be a free trader and I will vote for GATT and NAFTA if they do not undercut our health, safety, labor, and environmental laws. The purpose of House Concurrent Resolution 246 is to establish the standard by which NAFTA and GATT will be measured if legislative text to implement either agreement is submitted to the House.

A vote for House Concurrent Resolution 246 is obviously not a vote against free trade. Instead a vote for House Concurrent Resolution 246 is a vote to preserve our sovereign right to protect our citizens and the environment.

I urge all my colleagues to vote to adopt the resolution.

Mr. CRANE. Mr. Speaker, I yield 30 seconds to my good friend and colleague, the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I rise in support of this, as I said earlier, redundant but not objectionable resolution. I hope very much that we are on the eve of this.

A number of Members, Mr. Speaker, have argued that there has not been enough consultation with Members of Congress on this NAFTA.

I include for the RECORD at this point a list of the meetings which have taken place between representatives of the USTR and Members of Congress.

LIST OF MEETINGS

In addition to the following compilation of staff consultations, Ambassador Hills and others have held over 40 consultations with Members of the House and Senate.

NAFTA CONSULTATIONS 1991

House Agriculture Committee, Issue: Overview, June 24.

Senate Energy and Natural Resources Committee, Issue: Overview, July 26.

Senate Commerce Committee, Issue: Overview, June 26.

Senate Agriculture Committee, Issue: Overview, June 27.

Senate Banking Committee, Issue: Overview, June 28.

Senate Foreign Relations Committee, Issue: Overview, July 2.

House Energy and Commerce Committee, Issue: Overview, July 8.

House Foreign Affairs Committee, Issue: Overview, July 9.

Senate Finance Committee, Issues: Environment and Labor, July 11.

House Ways and Means Committee, Issue: Energy, July 12.

House Energy and Commerce Committee, Issues: Energy, Standards, Environment, July 15.

House Ways and Means Committee, Issues: Agriculture, Standards, Textiles, July 30.

House Automobile Caucus, Issue: Autos, July 30.

Senate Environment and Public Works Committee, Issues: Environment and Standards, July 31.

House Energy and Commerce Committee, Issues: Environment and Standards, Aug. 1.

Senate Agriculture Committee, Issues: Standards and Environment, Aug. 1.

Senate Finance Committee, Issues: Agriculture and Tariff/Non-Tariff Measures, Aug. 1.

House Foreign Affairs Committee, Subcommittee on Western Hemisphere, Issue: Overview, Aug. 1.

House Agriculture Committee, Issues: Standards and Environment, Aug. 1.

Senate Judiciary Committee, Issue: Intellectual Property Rights, Sep. 6.

Senate Banking Committee, Issue: Insurance, Sep. 9.

House Textile Caucus Staff, Issue: Textiles, Sep. 10.

Senate Textile Group staff, Issue: Textiles, Sep. 10.

House Ways and Means Committee/Chairman's Group, Issue: Overview, Sep. 11.

Senate Agriculture Committee, Issue: Tariff/NTBs, Sep. 12.

House Agriculture Committee, Issue: Tariff/NTBs, Sep. 13.

Senate Finance Committee, Issue: Tariff/NTBs, Sep. 13.

House Ways and Means Committee/Chairman's Group, Issues: Dispute Settlement, IPR and Rules of Origin, Sep. 16.

Senate Finance Committee, Issues: Dispute settlement, IPR and Rules of Origin, Sep. 16.

House Judiciary Committee, Issue: IPR, Sep. 19.

Senate Finance Committee, Issues: Investment, Financial Services, Government Procurement, Sep. 24.

House Ways and Means Committee/Chairman's Group, Issues: Financial Services and IPR, Sep. 27.

House Education and Labor Committee, Issue: Labor, Sep. 27.

Senate Finance Committee, Issue: Telecommunications, Oct. 4.

House Ways and Means Committee/Chairman's Group, Issue: Rules of Origin, Oct. 11.

House Energy and Commerce Committee, Issue: Environmental Review, Oct. 11.

House Ways and Means Committee/Chairman's Group, Issues: Telecommunications and Government Procurement, Oct. 18.

Senate Finance Committee, Issue: Textiles, Oct. 21.

Northwest/Midwest Coalition, Issue: Autos, Oct. 22.

House Agriculture Committee, Issue: Textiles, Oct. 22.

House Agriculture Committee, Issue: Investment, Oct. 22.

House Ways and Means Committee, Issue: Textiles, Oct. 22.

Senate Banking Committee, Issue: Financial Services, Oct. 24.

Hearing, House Energy and Commerce Committee, Issue: NAFTA and Environment, Oct. 31.

House Ways and Means Committee/Chairman's Group, Issue: Environment, Nov. 1.

House Energy and Commerce Committee, Issue: Energy, Nov. 4.

GOP Task Force/NAFTA, Issue: Overview, Nov. 4.

House Ways and Means Committee, Issue: Autos and Rules of Origin, Nov. 4.

House Foreign Affairs Committee, Issue: Environment, Nov. 5.

Senate Finance Committee, Issue: Safeguards, Nov. 5.

Senate Finance Committee, Issue: Financial Services and Insurance, Nov. 7.

House Ways and Means Committee, Issue: Rules of Origin and Tariffs/NTBs, Nov. 13.

House Ways and Means/Judiciary Committees, Issue: IPR, Nov. 13.

House Ways and Means/Energy and Commerce/Banking Committees, Issue: Investment, Nov. 14.

Senate Finance/Foreign Relations/Banking Committees, Issue: Investment, Nov. 14.

House Ways and Means Committee, Issue: Services, Nov. 15.

Senate Finance Committee, Issue: Services, Nov. 15.

Senate Finance Committee, Issue: Labor and Environment, Nov. 19.

Northeast/Midwest Coalition, Issues: Autos and Rules of Origin, Nov. 20

Senate Finance Committee, Issue: Financial Service, Dec. 3.

House Ways and Means Committee, Issue: Safeguards, Dec. 4.

Senate Finance Committee, Issue: Safeguards, Dec. 4.

House Ways and Means/House Agriculture/House Energy and Commerce Committees, Issue: Standards, Dec. 5.

House Ways and Means/House Public Works Committees, Issue: Land Transport, Dec. 5.

Senate Finance/Senate Agriculture Committees, Issue: Standards, Dec. 5.

Senate Finance/Senate Environment and Public Works Committees, Issue: Land Transport, Dec. 5.

House Ways and Means Committee/Chairman's Group, Issue: Temporary Entry, Dec. 6.

Senate Finance/Senate Commerce Committees, Issue: Telecommunications/Services, Dec. 6.

House Ways and Means/House Energy and Commerce Committees, Issue: Telecommunications/Services, Dec. 6.

House Foreign Affairs Committee, Hearing, Issue: NAFTA & Environment, Dec. 9.

Senate NAFTA Agriculture Group, Issue: Agriculture, Dec. 11.

Environmental and Energy Study Conference, Issues: Environment and Energy, Dec. 17.

House Ways and Means Committee, Issue: Dispute Settlement, Dec. 18.

Senate Finance Committee, Issue: Dispute Settlement, Dec. 18.

Senate Finance/Senate Governmental Affairs Committees, Issue: Government Procurement, Dec. 20.

House Ways & Means/House Government Operations Committees, Issue: Government Procurement, Dec. 20.

NAFTA CONSULTATIONS 1992

Senate Finance Committee/Chairman's Group, Issue: NAFTA Overview, Jan. 14.

House Ways & Means Committee/Chairman's Group, Issue: NAFTA Overview, Jan. 15.

Senate Finance/Senate Energy Committees, Issue: Energy, Jan. 16.

House Ways and Means/House Energy and Commerce Committees, Issue: Energy, Jan. 16.

House Ways and Means Committee/Chairman's Group, Issues: Safeguards and Autos, Jan. 21.

Senate Finance Committee, Issue: Textiles, Jan. 21.

Senate Textile Group, Issue: Textiles, Jan. 22.

House Ways and Means Committee, Issue: Textiles, Jan. 22.

Senate Finance/Senate Labor/Senate Judiciary Committees, Issue: Temporary Entry, Jan. 24.

House Education & Labor/House Judiciary Committees, Issue: Temporary Entry, Jan. 24.

House Ways & Means Committee/Chairman's Group, Issues: Financial Services, Insurance, Investment, Jan. 24.

Senate Finance/Senate Commerce Committees, Issue: Autos, Jan. 28.

Senate Finance Committee/Chairman's Group, Issue: Autos, Jan. 28.

Senate Finance Committee/Chairman's Group, Issues: Tariffs, Agriculture, Financial Services, Jan. 29.

House Ways and Means Committee/Chairman's Group, Issues: Agriculture and Tariffs, Jan. 29.

Senate Finance/Senate Agriculture Committees, Issue: Agriculture, Jan. 30.

House Ways and Means/House Agriculture Committees, Issue: Agriculture, Jan. 30.

House Ways and Means Committee/Chairman's Group, Issues: Services, Telecommunications and Textiles, Jan. 30.

Senate Chairman's Group, Issues: IPR, Land Transport and Safeguards, Feb. 4.

House Chairman's Group, Issues: IPR, Land Transport, Feb. 4.

House Chairman's Group, Issue: Rules of Origin, Feb. 6.

Senate Chairman's Group, Issues: Government Procurement, Standards, and Investment, Feb. 11.

House Chairman's Group, Issues: Government Procurement and Standards, Feb. 11.

Senate Chairman's Group, Issues: Rules of Origin and Textiles, Feb. 13.

House Judiciary/House Education & Labor Committees, Issue: Temporary entry, Feb. 21.

House and Senate Chairman's Groups, Issue: NAFTA, Feb. 24.

Senate Finance/Senate Commerce Committees, Issues: Services and Telecommunications, Feb. 28.

Senate Energy Committee, Issue: Energy, Feb. 28.

Senate Finance Committee, Issue: NAFTA, March 4.

House Ways and Means/House Energy and Commerce/House Agriculture Committees, Issue: Standards, March 5.

House Agriculture Committee, Issue: Agriculture, March 5.

Senate Agriculture Committee, Issue: Agriculture, March 5.

Senate Finance/Senate Agriculture/Senate Environment and Public Works Committees, Issue: Standards, March 6.

Senate Finance Committee, Issue: Dispute settlement, March 6.

House Ways and Means Committee, Issue: Dispute settlement, March 6.

Senate Labor/Senate Finance/Senate Judiciary Committees, Issue: Temporary Entry, March 6.

House Ways and Means Committee, Issue: Safeguards, March 6.

Senate Finance Committee, Issue: Safeguards, March 6.

Senate Judiciary Committee, Issue: IPR, March 9.

Northeast-Midwest Coalition, Issue: Autos and Rules of Origin, March 12.

House Ways and Means Committee, Issue: NAFTA, March 13.

House Judiciary, Education and Labor, Ways and Means Committees, Issue: Temporary Entry Text, March 13.

Senate Banking Committee, Issue: Financial Services, March 16.

Senate Finance Committee, Issue: Land Transport, March 17.

Senate Border State Staff, Issue: Land Transport, March 17.

House Education and Labor Committee, Issue: Temporary Entry, March 18.

House Banking, Ways and Means, Issue: Investment, March 19.

Senate Chairman's Group, Issue: Investment, March 19.

House Ways and Means Committee, Issue: Safeguards, March 19.

Senate Finance Committee, Issue: Safeguards, March 19.

House Chairman's Group, Issue: Labor, March 20.

House Border Offices, Issue: Land Transport, March 20.

Senate Finance and Agriculture, Issue: Agriculture, March 25.

Ways and Means and Agriculture, Issue: Agriculture, March 25.

Environmental Study Conference, Issue: Border Plan/Environmental Review, March 27.

Ways and Means, Government Operations and Small Business Committees, Issue: Government Procurement, March 30.

Senate Finance, Governmental Affairs, Issue: Government Procurement, March 31.

Senate Finance Committee, Issue: NAFTA Overview, April 1.

House Chairman's Group, Issue: NAFTA Overview, April 1.

Ways and Means, Energy and Commerce, Issue: Autos, April 10.

Senate Finance and Commerce Committees, Issue: Autos, April 10.

Energy and Commerce, Levin and Gephardt's staff, Issue: Autos, April 14.

House Foreign Affairs Committee staff, Issue: Energy, May 4.

House Foreign Affairs Committee Hearing/Exec. Ses, Issue: NAFTA and energy, May 5.

House Agriculture Committee, Issue: MTO and IPR, May 6.

House Judiciary Committee, Issue: Temporary Entry, May 7.

Finance, Judiciary, and Labor Committees, Issue: Temporary Entry, May 8.

Senate Finance Committee, Issue: Energy, May 8.

Senate Chairman's Group, Issues: Rules of Origin, Investment, Telecom and Services, May 8.

Ways and Means, Energy and Commerce, Issue: Investment, May 8.

Northeast-Midwest Coalition, Issues: Autos and Rules of Origin, May 11.

House Chairman's Group, Issue: Autos, overview, dispute settlement, telecom and services, May 11.

Senate Chairman's Group, Issues: Ag, S&P, Standards, Autos, Dispute Settlement, May 11.

Senate Chairman's Group, Issues: Safeguards, Land Transport, May 12.

House Banking, Ways and Means, Energy and Commerce, Issue: Insurance, May 13.

Education and Labor, Issue: Temporary Entry, May 15.

House Chairman's Group, Issues: Rules of Origin, Safeguards, IPR, May 15.

House Chairman's Group, Issues: Rules of Origin, Duty Drawback, Ag, S&P, Standards, Land Transport, May 18.

Ways and Means Committee, Issue: Worker Adjustment, May 18.

House Judiciary Committee, Issue: IPR, May 19.

Senate Energy Committee, Issue: Energy, May 20.

Senate Chairman's Group, Issue: Energy, May 20.

Ways and Means LAs, Issue: Worker Adjustment, May 21.

Trade Subcommittee Staff, Issue: NAFTA, May 22.

Senate Finance LAs, Issue: Worker Adjustment, May 22.

Senate Banking Committee, Issue: Financial Services, May 22.

Senate Chairman's Group, Issues: Tariffs and Government Procurement, May 22.

Trade Subcommittee Staff, Ways and Means and SFC, Issue: Overview, May 29.

Senate Banking, Issue: Financial Services/Insurance, May 29.

Energy and Commerce Committee, Issue: Financial Service/Insurance, May 29.

Northeast-Midwest Coalition, Issues: Autos, June 1.

House Chairman's Group, Issues: Financial Services/Insurance/Trade Remedies, June 1.

Senate Chairman's Group, Issues: Financial Services/Insurance/Trade Remedies, Textiles, June 1.

Senate Finance Committee LAs, Issue: Dispute Settlement, June 2.

Ways and Means LAs, Issue: Worker Adjustment, June 4.

Senate Finance Committee Staff, Issue: Temporary Entry, June 5.

Northeast-Midwest Coalition, Issue: Rules of Origin, June 9.

Senate Finance/Senate Agriculture Committees, Issue: Agriculture, June 11.

House Agriculture/Ways and Means Committees, Issue: Agriculture, June 11.

Trade Staff, Issue: Overview on NAFTA, June 12.

Great Lakes Coalition, Issue: NAFTA and Standards, June 16.

House/Senate Soybean Caucus, Issue: Agriculture, June 18.

Senate Finance Committee Trade Staff, Issue: Environment and NAFTA, June 18.

House/Senate Trade Staff, Issue: NAFTA Overview, June 26.

Senate Chairman's Group, Issue: Environment, July 1.

House Chairman's Group, Issue: Environment, July 1.

Ways and Means, Issue: Chapter 19, July 6.

Senate Finance LAs, Issue: Chapter 19, July 7.

Senate Chairman's Group, Issue: Overview of issues, July 9.

House/Senate Trade Staff, Issue: Overview of issues, July 10.

House/Senate Trade Staff, Issue: Overview of issues, July 13.

House Chairman's Group, Issue: Overview of issues, July 14.

Senate Chairman's Group, Issue: Investment, July 16.

House Chairman's Group, Issue: Investment, July 16.

Ways and Means staff, Issue: Rules or origin/duty drawback, July 16.

Ways and Means/House Agriculture, Issue: Agriculture, July 22.

Senate Finance/Agriculture Committees, Issue: Agriculture, July 22.

Senate Energy, Issue: Energy, July 24.

Senate Finance, Issue: Financial Services, July 24.

House Chairman's Group, Issue: Overview of all negotiating groups, July 28.

Senate Agricultural Trade Oversight Group, Issue: Agriculture, Sanitary and Phytosanitary, Environment, July 28.

Senate Chairman's Group, Issue: Overview of all negotiating groups, July 29.

House Agriculture Committee, Issue: Agriculture, Sanitary and Phytosantary, July 30.

House Energy and Commerce, Issue: Energy, August 6.

Senate Energy Committee, Issue: Energy, August 6.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise in support of House Concurrent Resolution 246—a restatement of the partnership between Congress and the administration in conducting negotiations for a North American Free-Trade Agreement [NAFTA]. As the President and Ambassador Hills proceed to conclude the NAFTA—perhaps as early as this week—I want to congratulate them on a negotiation which is historic in its scope.

This is an agreement which will help lead the United States into a more prosperous and economically dynamic 21st century.

The President's idea for a North American community which is free of investment barriers and trade barriers generated vigorous debate when he first proposed it to the Congress 3 years ago. That debate culminated in the decision to extend fast track negotiating authority for purposes of reaching a NAFTA, as well as an Uruguay round pact.

In cooperation with Congress, the administration developed a detailed action plan which listed the President's commitments to seek certain results in the talks. These goals were reaffirmed by House Resolution 146, and they are in the bill before us today, House Concurrent Resolution 246.

Pledging bipartisan cooperation, the President promised: First, the development and implementation of an expanded program of environmental cooperation parallel with the free trade talks; second, new initiatives to expand United States-Mexico labor cooperation and; third, an effective worker adjustment program—to be developed with the Congress—for workers dislocated by the free trade agreement.

Mr. Speaker, the President has fulfilled and, in many cases, exceeded his promises.

For the first time in any trade negotiation, environmental concerns were pushed to the forefront of policy development. Understandings have been reached with the Mexicans to improve conditions on the border and throughout Mexico.

Presidents Bush and Salinas jointly issued the integrated border plan, which comprehensively addresses air and water pollution, waste disposal, pollution prevention, chemical emergency response, and enforcement.

President Salinas has committed $460 million over 3 years to implement this understanding. On the U.S. side, President Bush requested $241 million in his budget for fiscal year 1993. As it turns out, the House Appropriations Committee failed to approve the full amount of the President's request.

Parallel talks have focused on refining and expanding enforcement activities and training, and encouraging public reporting of potential violations of environmental laws.

The Mexicans appear anxious to pursue environmentally sound policies, and they remain eager students of our methods. Also, during the NAFTA talks, the Government of Mexico signed the Convention of International Trade in Endangered Species [CITES], which aims to stop trade in endangered species.

On labor issues, too, the administration has made significant headway. The NAFTA negotiations have succeeded in shedding unprecedented light on Mexican labor standards and practices and their enforcement.

Mexican leaders have invited us to work with them to improve the conditions for workers on both sides of the border.

Most importantly, the NAFTA promises to create high wage, high skill jobs in the United States. The Institute for International Economics has predicted 175,000 new jobs will be created in the United States as a result of NAFTA and the economic and political reforms in Mexico that it will help support.

Expanding the Canada Free-Trade Agreement to include Mexico will create a market of over 360 million people with a combined annual economic output of $6 trillion. The easing of trade and investment barriers will provide U.S. corporations with opportunities they need to grow and prosper in an increasingly competitive global marketplace.

When the final text of the agreement is transmitted to Congress, we must not judge it in terms of one or two industries, or from the viewpoint of a specific political agenda. Rather we must look at the balance of concessions and what has been achieved for the economy and the future of the country as a whole. Now that the negotiations are wrapping up and the period of congressional consultations on negotiating positions is coming to a close, it is our responsibility to assess the agreement on its merits.

If they prove sound, and I feel confident they will, I urge my colleagues to move forward in good faith to implement the deal struck by the President.

I look forward to realizing the President's goal of turning all of North America into a vibrant region of free trade. I support House Concurrent Resolution 246 as a positive step in that direction.

□ 2030

Mr. Speaker, I yield back the balance of my time.

Mrs. COLLINS of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BONIOR], the majority whip.

Mr. BONIOR. Mr. Speaker, we meet tonight to consider this resolution—but the real issue before the country is what a free-trade agreement with Mexico will do to America.

Listen to these facts.

Studies say the so-called free-trade agreement will cost the United States as many as 1 million jobs.

An administration study says 40 percent of textile, apparel, steel, and auto jobs will head across the border.

How can American workers compete with people forced to accept 50 cents an hour?

How can we compete with companies that offer no health insurance and don't meet adequate safety standards?

Just today the wires came out, 60,000 new unemployed in the last week in July, the highest unemployment rate in over a decade. Mr. Speaker, how can we let this happen?

This resolution states that Congress will not approve legislation implementing trade agreements like the Mexico FTA if they jeopardize United States health, safety, labor, or environmental laws.

But I believe a trade agreement with Mexico cannot meet these standards.

I voted against fast track.

I would oppose any agreement now. We've already lost nearly 1.8 million manufacturing jobs since the Reagan-Bush team went to work in 1981.

We shouldn't let the White House send American jobs on a fast track to Mexico.

We shouldn't let them give others a free ride in the name of free trade.

We can't let jobs be our No. 1 export.

Mrs. COLLINS of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, what is in debate now is whether or not we can compromise our national sovereignty concerning the health of the citizens of this country, and the Congress, trying to again teach the Secretary of Trade, the Secretary of Commerce, the Secretary of State, that if we do not use markets to change unacceptable behavior, the only other recourse is war.

If this were the law, the sanctions that we put in place against South Africa would be prohibited. Do the Members know why? Because the action complained of did not take place on our shores.

Please, Mr. Secretary of State, please, Madam Secretary of Trade, please, Madam Secretary of Commerce, wake up.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, as others added their comments, I just wanted to add mine. In this resolution and other discussions there has been much reference to worker adjustment, to environmental issues in Mexico.

I hope as we proceed these next hours and the next days we will ask ourselves this question: What will be the long-term impact on key industries of any agreement? We have to ask ourselves the question not only are we providing for a transition, but a transition to what? What will key industries look like after an agreement in negotiated?

We have asked for some impact analyses of these issues. They have never been forthcoming. Until they are, the American public will not know their import, nor will this Congress.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, if America enters into a free trade agreement with Mexico, we will not even have Ma Bell any more. We will get our phone bill from Taco Bell, so help me God. We won't make a typewriter, a television, a VCR, a telephone.

Let me make this prediction. The only reason Japan is investing in America is, they know that we are going to wise up some day and stop the joy ride. If we pass this free trade agreement, they will build in Mexico and ship the damned stuff up from Mexico at $1 an hour.

I am against this free trade agreement. I think Congress better really think about it before we sign the death warrant for this economy in the next 10 years.

Mrs. COLLINS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota.

Mr. SIKORSKI. Mr. Speaker, I rise in support of the concurrent resolution.

Mr. Speaker, I rise to urge my colleagues to vote in support of House Concurrent Resolution 246.

This nonbinding resolution simply states that the Congress will not tolerate any trade agreements that jeopardize American labor, environmental, health, or safety laws.

The only issue that legitimately should be decided by an international trade body is whether the law discriminates against imports. If it does not discriminate against imports, then the international body has no business striking it down—no matter how arbitrary some other country thinks the law may be.

The issue of whether a law is scientifically justified is an issue to be decided by Congress. We—and not some international body—have the right to decide what laws are scientifically justified to protect the citizens of our country.

Let me back up a bit and tell you how the GATT process really works:

Only countries may participate in the case. There are no briefs filed by interveners or friends of the court. The entire process is highly secretive.

Briefs are secret. Even the decisions are kept secret from the public, until they are final and it is too late to change them in any way.

Where a U.S. health and safety law is being challenged, the administration will be responsible for defending our law. Under the draft GATT agreement, it will have the burden of demonstrating that the U.S. law is scientifically justified. Yet, in many cases, the administration has opposed these very laws in Congress, on the grounds that they are not justified by science.

Obviously, GATT cannot overrule domestic health and safety laws. But an adverse GATT decision can result in fines on a country for continuing to enforce any law that has been declared GATT-illegal. This will place enormous pressure on our country to repeal these important safety, health, and environmental laws.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I rise in strong support of House Concurrent Resolution 246, and thank the chairman for bringing it up.

Mr. Speaker, I rise today in strong support of House Concurrent Resolution 246 which expresses the sense of the Congress that trade agreements should not jeopardize U.S. health, safety, labor, and environmental laws.

Passage of House Concurrent Resolution 246 is also important because it states that Congress will not approve legislation to implement NAFTA if the agreement jeopardizes U.S. health, safety, labor, and environmental laws.

Mr. Speaker, our colleagues are reading everyday in the newspapers that negotiations for a proposed North American Free-Trade Agreement [NAFTA] are wrapping up and an agreement may be before Congress in the coming months. I see no reason to rush a NAFTA when the issues to be resolved are so vital to American interests.

Last May, I supported the President's request for "fast track" authority which allows the administration latitude in negotiating a NAFTA. However, I supported the President, as did many of our colleagues in the House, with the provisos that the final agreement have safeguards for our fragile environment, a retraining program for United States workers who may be displaced, and rules of origin which ensure the United States, Mexico, and Canada will solely benefit from a NAFTA.

I wish to commend Majority Leader GEPHARDT and the gentleman from California [Mr. WAXMAN] for their leadership in bringing House Concurrent Resolution 246 before us today. In particular, Majority Leader GEPHARDT has spoken eloquently over the past year regarding these protections for an acceptable NAFTA draft agreement.

Mr. Speaker, House Concurrent Resolution 246 provides American businesses and American workers with deserved protection. I urge our colleagues to support it and support it enthusiastically.

Mrs. COLLINS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. WYDEN].

(Mr. WYDEN asked and was given permission to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, I rise in support of the concurrent resolution.

Mr. Speaker, as one of the Democrats who voted for fast track, I can say that free traders should support this resolution.

Expanded trade through the NAFTA and GATT agreements can help grow the economy in the 1990's. But trade that undermines the environment, public health, and worker safety will kill long-term growth. And trade agreements that ignore the health and safety of Americans won't be approved by Congress.

Technology has changed the important issues in trade negotiations. Twenty years ago, the costs of transportation, communications, and tariffs were key factors of competitive advantage. Today, labor quality, capital costs, health care and regulation are far more important.

Unfortunately, trade negotiations are still stuck in the old days, narrowly focused on tariffs and quotas. They ignore the fact that in a global economy, environmental protection, public health, and worker safety are directly affected by the terms on which we trade with other countries.

I am for more trade, not less, and I will not support efforts to throw up protectionist barriers disguised as environmentalism. But neither will I support an outdated agreement that ignores the health of the environment and our workers.

As one who would like to see trade agreements approved, I believe this resolution gives the administration fair notice about what the trade negotiators need to do to win congressional approval.

Ms. PELOSI. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 246, which expresses the sense of the Congress that we will not approve legislation to implement any trade agreement that jeopardizes U.S. health, safety, labor or environmental laws. I am proud to be a cosponsor of this important bill. It sends a clear message to the administration and to the parties with which it is negotiating trade agreements that the United States stands firm to its commitment to lead the world in health, safety, labor and environmental laws.

Trade agreements can be useful instruments. We must ensure, however, that trade agreements are not used as a way to loosen our health, safety, labor or environmental standards. The administration should show leadership and use trade negotiations not only as a way to promote trade, but also as a way to improve the lives of workers and the environment around the world. We cannot allow any trade agreement to be negotiated to the lowest common denominator. we have an obligation to maintain the standards that we have in this country and other countries should try to meet similar standards.

Our workers and industries have suffered from a variety of unfair trade practices condoned and promoted by some of our trading partners. Included in these unfair trade practices are exploitation of their work forces and a lax approach to worker health and safety. In some of these countries, even if laws are on the books to protect workers and the environment, the laws are not enforced. As our workers struggle to compete today, they should not have to return to the abysmal work conditions of last century. If we are not careful, that is where the administration's negotiations will lead.

The ruling by the General Agreement on Tariffs and Trade [GATT] that the U.S. Marine Mammal Protection Act was GATT-illegal has raised the spectre of an empty U.S. global environmental policy. For the past 12 years, we have had to fight the administration every step of the way to implement environmental protection laws. When we have succeeded, too often the administration has, through the regulatory process, undermined the intent of the laws. Now, through trade agreements and negotiations, the administration could circumvent these laws completely.

As my colleagues know, there are two imminent trade agreements we are likely to have before us, the North American Free-Trade Agreement [NAFTA] and the Uruguay round of the General Agreement on Tariffs and Trade [GATT]. The administration and the U.S. Trade Representative must understand that they should be primarily representing the American people in these negotiations, not the American business community. The American people are speaking in ever louder voices that environmental protection must be a priority. Their voices must be heard.

Mr. Speaker, when this House considered the request for fast-track negotiating authority, I joined by colleagues in emphasizing how seriously we take our health, safety, labor and environmental laws. At that time, the President promised to take our concerns into the trade negotiations and make them a priority. Like most of his promises over the past 4 years, this one, too, seems to have been broken. The U.S. Trade Representative talked about parallel negotiations on environmental and labor issues for NAFTA. These negotiations have either not taken place or they have been meaningless, so far.

I believe that the United States should be a world leader in setting standards. That means upholding our own laws, as well as encouraging some of our goals globally. These negotiations should be an opportunity to improve the lives of people not only in the countries that are our trading partners, but also in our own country. Ultimately, loosening our standards only brings down the quality of life world-wide. That is not what I believe leadership should be.

This House should go firmly on the record in setting the course of our trade negotiations and goals. We know what the American people want, we should insist that the administration respect their concerns in the trade negotiation process. I urge my colleagues to support this important resolution.

Mr. GEPHARDT. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 246 and want to commend Representatives COLLINS, DINGELL, GIBBONS, and ROSTENKOWSKI for their support in moving this legislation. I also want to recognize the efforts of HENRY WAXMAN, the bill's sponsor, the Citizen Trade Watch/Fair Trade Campaign and especially Public Citizen for their tireless effort at getting this legislation before us today.

This legislation sends an important message to President Bush: Congress will not accept trade agreements, and I quote, "if such agreement jeopardizes United States health, safety, labor, or environmental laws." Its message is simple: we want trade agreements that put people first.

The Bush administration has been negotiating for 6 years at the GATT and for more than a year with Mexico and Canada to reach new, far-reaching trade agreements.

Although the GATT has failed to bear fruit, we can learn an important lesson from where the negotiations have been leading and what decisions panels have made.

A GATT panel ruled that our law to protect dolphins—which is applied here at home and on imports—is an illegal restriction on free trade. Essentially, the GATT has told us that we can't protect the world's environment—even if we apply the law equally to United States and foreign fisherman. Similar efforts to protect endangered species, the oceans and the ozone layer would be in jeopardy. That's just plain wrong.

Additionally, our laws on health, safety, labor and other important areas could come under attack—attack from countries whose standards are lower than ours and who wish to sell their products no matter what the cost to our planet and our people. The United States must be a catalyst for change, not its victim.

We have fought too long, and too hard for the standard of living and quality of life that we have. We must not let President Bush compromise our future—that's what this legislation says today.

The President, as I've said, has also been engaged in negotiating with the Mexican and Canadian Governments to reach a North American Free-Trade Agreement.

Although the veil of secrecy will soon be lifted as the negotiations near conclusion on this agreement, it's vital that we tell the President and his people that in the rush to conclude an agreement before the election, we will not jeopardize our laws. We will not sacrifice our laws and standards on the altar of free trade. Rather, as in the GATT, we should use the power of our economy to get others to change, to raise their standards to ours.

It seems we may have some new converts to supporting this legislation, and I welcome their support. The message they send here today by supporting this bill will guide our analysis and votes on the agreements the President may sign. This bill draws a line in the sand and says, don't cross it, because Congress won't let our people down.

Mr. ARCHER. Mr. Speaker, completing and implementing a solid North American Free-Trade Agreement is an issue which will require us to set aside partisan differences and take bold action on behalf of the American people.

The Governments of the United States, Canada, and Mexico are very near completing a historic negotiation that will link three of the largest and most dynamic economies in the world. This negotiation has nearly the breadth of the Uruguay round, and covers an exhaustive range of issues. These include familiar trade barriers, such as tariffs and quotas, as well as newer issues such as services trade, protection of intellectual property rights, and guarantees of trade-related investment opportunities.

In addition, the NAFTA negotiations have given unprecedented attention to the protection and enhancement of each country's laws on environmental, health and safety, and labor standards. These goals and objectives have been developed and pursued jointly by Congress and the administration.

Business, environmental and consumer groups also have been closely consulted. Congress has reviewed and reaffirmed the course of the negotiations on numerous occasions along the way.

There should be no doubt that the President is committed to reaching an agreement which will not weaken our environmental laws, or diminish our rights to protect the health and safety of Americans.

The resolution before us today is but another statement expressing the sense of the Congress about the importance of the NAFTA in protecting U.S. health, safety, labor and environmental laws.

Trade agreements should not weaken these laws, but enhance them. In fact, NAFTA is essential if such laws are to be guaranteed on both sides of the border.

House Concurrent Resolution 246 is consistent with the commitments made by the President to the Congress on May 1 of last year and reflects the importance he places on seeing a good NAFTA agreement achieved in which our country can take pride.

In his letter of May 1, among other commitments, the President pledged to work with President Salinas of Mexico to strengthen environmental protection on both sides of the border and to expand United States-Mexico cooperation on labor standards and worker rights. These goals are to be achieved both within the agreement and in parallel talks.

The roles of the Congress and the President in trade negotiations are inexorably tied.

It is a partnership uniquely provided for under our Constitution. This is what gives our country strength at the negotiating table and the leading role among all nations in constructing and enforcing international trade disciplines.

Now we are nearing the end of the negotiations and we must review the results and decide whether the completed NAFTA agreement can lead us into the 21st century as a vibrant and competitive nation. I believe the answer is clearly "yes".

Some will continue to exploit the process for selfish gain. Some will want to try frantically to move the goal post so that the touchdown will never be made. Some will want to bemoan that the glass is half empty and look with fear toward the future.

However, those that know the responsibilities of governance will clearly see the great successes in the NAFTA negotiations and the tremendous potential for the United States of entering into such an agreement.

Mr. Speaker, a good NAFTA agreement can bring the contents of the glass to overflowing for the American economy and all our citizens. I look forward to continuing to work with the President on these important negotiations and to the implementing process once the talks are concluded.

Ms. LONG. Mr. Speaker, I rise in strong support of the Waxman-Gephardt resolution. Those of us in support of Waxman-Gephardt are not opposed to trade agreements. In fact, we want to support trade agreements that provide jobs for American men and women, that open markets and that strengthen our economy.

But, we will not support trade agreements that undermine the very laws we in this body have enacted to affect health and safety, the environment, agriculture and manufacturing policy.

Specifically, many of us are concerned that the NAFTA and the GATT will grant immense power to international trade panels who will meet in secret to settle disputes and oversee enforcement provisions. According to CRS, such procedures as currently exist in the GATT text would make it virtually impossible for the United States to stop a trade panel ruling calling for a change to one of our laws. It is also my understanding that NAFTA, too, would permit a party to a dispute to choose this flawed GATT dispute settlement mechanism.

We are elected to represent the views of the people of our districts. Mexico, Canada, and Switzerland may be nice places to visit, but when we need input on domestic policy, we should be most concerned with what the people from our districts want, and the laws for our people should be made by those of us whom they elected.

I urge support of the Waxman-Gephardt resolution.

Mr. McMILLAN of North Carolina. Mr. Speaker, while I spoke against this resolution in committee as unnecessary, I will not oppose it.

House Concurrent Resolution 246 passed the Energy and Commerce Committee with our absence of zeal for or against it. It apparently passed the Ways and Means Committee in a gesture of bipartisanship, and the administration now accepts legislative support for what it has repeatedly promised to do.

During the Energy and Commerce Committee's consideration of House Concurrent Resolution 246, I expressed my concern that this resolution would be used not as a means of furthering our interest in environmental protection, but for trade protectionism. I remain somewhat concerned with the possibility that support of this resolution will be exploited by those opposed to fair trade to defeat future trade agreements regardless of their merits.

However, I also understand the need to firmly state that fair trade does not have to adversely impact U.S. health, safety, labor, and environmental laws. During the consideration of fast-track legislation, I supported House Resolution 146, which states that the NAFTA must maintain strict health and safety standards and must be accompanied by a joint program to address environmental conditions on the border.

During the House's consideration of the Clean Air Act in 1990, I, in conjunction with Representative SWIFT, was successful in attaching a provision which requires the President to submit to Congress a report examining the differences in environmental standards maintained by parties to international trade agreements and to evaluate the effect of those differences on economic competitiveness. The provision also requires the administration to develop a strategy for addressing these differences. A preliminary report has been made. However, I have been anxiously awaiting the final report which was due May 15, 1992. I have been waiting for over 2 months. I urge the administration to complete this report at once.

The administration has repeatedly stated that it would send to Congress no trade agreements which jeopardizes U.S. environmental, safety, labor, or health laws. Specifically, the President promised on May 1, 1991, that the United States will not agree to weaken U.S. environmental and health laws as part of the free-trade agreement and that enforcement of our laws will be maintained.

I hope the administration will take this opportunity not only to restate its commitment to environmental issues as an essential part of trade negotiations, but also reinvigorate its consideration of the effect of varying environmental standards on competitiveness and how it proposes to deal with them.

Mr. REED. Mr. Speaker, I rise in strong support of House Concurrent Resolution 246.

I cosponsored this resolution for a number of reasons. But first and foremost, I believe that any expansion of the international sector of our economy should not come at the expense of America's workers, environment, or consumers.

Congress has an obligation to ensure that the American ideals of a clean environment, a safe workplace, honest wages for an honest day's work, and consumer protection are not swept aside during the rush to create a worldwide trade network.

House Concurrent Resolution 246 urges the President to negotiate a General Agreement of Tariffs and Trade [GATT] that does not jeopardize the health, safety labor, and environmental laws America has enacted to protect these ideals.

The case of the United States ban on tuna imports from Mexico, Venezuela, and Vanuatu demonstrates what happens when America laws and ideals come into conflict with international trade rules. In an effort to protect Dolphins from needless slaughter and in accordance with the Marine Mammal Protection Act, the United States banned tuna exports from these nations. However, a GATT panel ruled that our ban violated GATT rules. Today, the case remains unresolved, but it demonstrates what can happen if trade agreements do not permit one nation to maintain its high-level of concern for the environment.

House Concurrent Resolution 246 also touches on the current North American Free-trade Agreement negotiations and lets the President know that NAFTA will not receive our support unless it respects American environmental, labor, consumer, health, and safety concerns. As many know, the current drafts of NAFTA fall short in a number of these areas.

Trade agreements should mean a chance for decent jobs at home, not an invitation to export jobs to countries that ignore their responsibilities to workers, consumes, and the environment.

Mr. Speaker, I urge by colleagues to join me in supporting House Concurrent Resolution 246 and in sending a strong signal to the President that we will not jeopardize America's existing laws.

Mr. MATSUI. Mr. Speaker, I rise today in support of the Gephardt-Waxman resolution to reject any trade agreement that jeopardizes U.S. health, safety, labor, or environmental laws. I feel it is imperative, particularly in light of the almost completed North American Free-Trade Agreement, that we maintain our commitment to providing adequate protection for U.S. workers, farmers, and the environment. Without such protections, trade agreements will only serve to aid our trading partners at substantial U.S. cost—and that is unacceptable.

I have long been a believer in free trade, Mr. Speaker. The international market is developing in leaps and bounds, and the United States cannot afford not to be a part of that market. Protectionist proposals threaten to isolate this country and further decrease our already waning competitiveness. For that reason, I supported continuing fast track procedures last year. I felt that we should empower our negotiators to formulate the best agreement possible with our trading partners to secure strong U.S. participation and cooperation in the international market.

At the time that I supported fast track, the administration committed to Congress that it would pursue parallel negotiations regarding worker retraining, environmental cleanup, increased environmental and labor standards. Yet, I keep hearing that these issues are falling from the administration's priority list. Likewise, it is my understanding that the GATT text fails to uphold U.S. food, technical, and environmental standards.

I must reiterate that, while I believe in the importance of free trade and U.S. participation in the world market, trade agreements must not be achieved at the expense of decreased U.S. standards. The United States has long been internationally respected as a world leader and an economic powerhouse—we did not achieve that status through weak standards or by ignoring our workers and our environment. We must make it a priority to retain our standards and our status as a world leader—and not succumb to lower standards and the role of a follower.

Mr. HAYES of Illinois. Mr. Speaker, I rise in support of House Concurrent Resolution 246. This trade resolution declares that Congress will not support or accept any trade agreements which would jeopardize U.S. health, safety, labor, or environmental laws. Under the administration's most recent North American Free-Trade Agreement draft no attention has been paid to environmental pollutions, infrastructure, worker adjustment programs, human and labor rights. In fact, it is my understanding that U.S. trade negotiators have decided to leave those issues in the hands of the private sector. Without certain worker and environmental safeguards this corporate trade dream will turn into a social and economic nightmare for our increasingly vulnerable American workers, who not only pay taxes to this Nation, but also contribute to the consumption of goods in this country.

Mr. Speaker, in the face of a stagnant economy, and declining wages, our President is knowingly dealing a horrible hand to the workers of America. He has no interest in protecting the environment, worker health and safety matters, communities, nor family adhesiveness or preservation for either American or Mexican workers. It is evident that he wants to further the financial greed of corporations and businesses at the expense of American workers and their families. The President seeks to implement a NAFTA which would ultimately put American workers out on the streets with no job and no health care benefits.

My colleagues, I urge you to support this resolution which would provide Congress a voice to help protect American citizens from environmental destructions, safety and health problems, and labor and human rights violations. Mr. Speaker, this is a necessary measure. In the name of the American family and society, I ask that Congress adopt this resolution.

Mr. SERRANO. Mr. Speaker, last year I stated in this House that free trade could be the next best thing for this country's economy, but only if the agreement is balanced. I recognize the importance of promoting economic recovery which will serve to strengthen our own position in the global economy, but at what cost?

With unemployment at a 10-year high of 7.8 percent, it is understandable that American workers are anxious about the possible effects of expanded trade with our neighbors without protective guidelines. According to leading economists more than 10 million American jobs could be lost in the 1990's under an unrestricted agreement.

How much more can we ask the American people to sacrifice? Companies in search of high profits and low wages are only too willing to abandon cities and towns across this Nation. My home State, New York, has been hit hard. The nationwide recession that began in the Northeast continues to demolish communities and families. We have been losing manufacturing jobs at an alarming rate, as businesses close down and relocate. Smith Corona is the latest company to leave upstate New York and move to Mexico, eliminating 700 jobs.

What American dislocated workers need are trade adjustment assistance, retraining programs, and replacement jobs. We in Congress must act upon these concerns.

Mr. Speaker, I always find it ironic how we find resources to send our highly skilled professionals to rebuild the infrastructure of Kuwait and bail out the former Soviet Union. However, when we develop programs to bail out our cities, educate our youth, insure the elderly and the working, the response is a deafening silence.

I urge my colleagues to vote for the Gephardt-Waxman resolution, which will only confirm our commitment to American workers.

Mr. CONYERS. Mr. Speaker, the debate on House Concurrent Resolution 246 is whether or not we can allow our national sovereignty to be compromised and the welfare of the citizens of this country to be threatened.

I support House Concurrent Resolution 246 because of my heartfelt conviction that the Congress must reject any trade agreement that guts important United States and international health, safety, labor, and environmental laws in the interest of expanded trade. This resolution expresses the sense of Congress that we will not approve the Uruguay round of the General Agreement on Tariffs and Trade [GATT], the North American Free Trade Agreement [NAFTA], or any other trade agreement unless U.S. laws protecting human rights, global resources, and plant, animal, and human health and safety are upheld.

House Concurrent Resolution 246 is in response to last year's GATT dispute resolution panel ruling that declared a critical U.S. environmental law protecting several threatened species of dolphin an illegal barrier to trade, and undercut every nation's right and responsibility to conserve and protect global resources beyond its borders.

The Marine Mammal Protection Act of 1972 banned the importation into the United States of tuna caught using a technique that was also responsible for the deaths of large numbers of dolphins. Mexico, one of three countries whose tuna exports were restricted under this law, filed a challenge before the GATT in February 1991 arguing that it limited free trade of Mexican tuna.

In August 1991, the dispute resolution panel of the GATT announced that the restrictive provisions of Marine Mammal Protection Act of 1972 were illegal under the GATT. The panel also determined that no nation had the right to consider how the products it imports are produced, manufactured, or harvested; and that no nation may have any law to protect health, safety, the environment, or a species outside of its own geographic territory if that law could also impact trade.

If this panel opinion is adopted by the full GATT Council, we, the Congress, will be required to eliminate certain provisions of the Marine Mammal Protection Act to come into compliance with the GATT. In fact, we will likely be required to gut several of our environmental laws including provisions that protect the ozone layer and provisions that protect endangered plants, animals, and marine life. We will also have to gut health, safety, and labor laws that protect human life.

The sanctions that we put in place against South Africa would be in violation of international trade law and therefore prohibited. Do the Members know why? Because their egregious human rights abuses did not take place on our shores. The GATT would supersede any and all U.S. laws that seek to protect and improve the human condition and the condition of our planet if they conflict with the expansion of trade.

If we refuse to change our laws the United States will be in violation of the GATT and could face international sanctions as a punishment. This is unconscionable. Please Mr. Secretary of State, please Madam Ambassador, please Madam Secretary of Commerce, wake up. If we do not use our markets to change unacceptable behavior, what other recourse is there but a trade war?

House Concurrent Resolution 246 calls for the President to initiate and complete negotiations to make the GATT compatible with U.S. health, safety, labor, and environmental standards that serve to protect global interests, both within and without our geographic borders. In addition, this resolution expresses our commitment to reject any trade agreement that undermines existing U.S. health, safety, labor, and environmental protections simply to reduce barriers to trade.

I urge my colleagues to support the passage of this resolution and communicate our resolve to our President and to the international community.

Mrs. COLLINS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRES). Pursuant to House Resolution 542, the previous question is ordered.

The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WAXMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 362, nays 0, not voting 72, as follows:

[Roll No. 376]

YEAS—362

Abercrombie
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
de la Garza
DeFazio
DeLauro
DeLay
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Franks (CT)
Frost
Gallo
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead

Moran
Morella
Mrazek
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge

Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers

Stallings
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—72

Ackerman
Annunzio
Anthony
Barnard
Bevill
Boxer
Broomfield
Bryant
Campbell (CA)
Clement
Coughlin
Cox (CA)
Davis
Dellums
Dickinson
Dorgan (ND)
Dwyer
Early
Edwards (OK)
Ewing
Ford (TN)
Frank (MA)
Gallegly
Gaydos

Gejdenson
Gordon
Green
Guarini
Hall (OH)
Hastert
Hatcher
Hertel
Horton
Ireland
Jefferson
Jones (GA)
Jones (NC)
Kolter
Lehman (FL)
Levine (CA)
Lewis (FL)
Luken
Martin
McCrery
McDade
McEwen
McMillan (NC)
McNulty

Morrison
Murphy
Murtha
Nowak
Obey
Owens (UT)
Pursell
Quillen
Rangel
Rohrabacher
Schulze
Shuster
Sisisky
Smith (FL)
Solarz
Stark
Towns
Traxler
Vander Jagt
Vucanovich
Weber
Wilson
Yates
Yatron

□ 2103

So the current resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HASTERT. Mr. Speaker, I had to miss two rollcall votes last Thursday evening because I was unavoidably detained. Had I been present, I would have voted "nay" on rollcall vote No. 375 and I would have voted "aye" on rollcall vote No. 376.

MAKING IN ORDER ON TUESDAY, AUGUST 11, 1992, CONSIDERATION OF CONFERENCE REPORT AND AMENDMENTS IN DISAGREEMENT ON H.R. 5487, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that it be in order on Tuesday, August 11, 1992, to consider a conference report and amendments reported from conference in disagreement on the bill (H.R. 5487) making appropriations for agriculture, rural development, food and drug administration, and related agencies programs for the fiscal year ending September 30, 1993, and for other purposes, and that the conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee of conference to dispose of disagreements reported from conference be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ESTABLISHING A JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H.Con.Res. 192) to establish a Joint Committee on the Organization of Congress, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the Senate amendment, as follows:

Strike out all after the resolving clause and insert:

SECTION 1. ESTABLISHMENT OF COMMITTEE.

(a) ESTABLISHMENT AND MEMBERSHIP.—There is established an ad hoc Joint Committee on the Organization of the Congress (referred to as the "Committee") to be composed of—

(1) 12 members of the Senate—

(B) 6 to be appointed by the Minority Leader; and

(2) 12 members of the House of Representatives—

(A) 6 to be appointed by the Speaker; and

(b) 6 to be appointed by the Minority Leader.

(b) EX OFFICIO MEMBERS.—The Majority Leader and the Minority Leader of the Senate and the Majority Leader and the Minority Leader of the House of Representatives shall be ex officio members of the Committee, to serve as voting members of the Committee. Ex officio members shall not be counted for the purpose of ascertaining the presence of a quorum of the Committee.

(c) ORGANIZATION OF COMMITTEE.—(1) A chairman from each House shall be designated from among the members of the Committee by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(2) A vice chairman from each House shall be designated from among the members of the Committee by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(3) The Committee may establish subcommittee comprised of only members from one House. A subcommittee comprised of members from one House may consider only matters related solely to that House.

(4)(A) No recommendation shall be made by the Committee except upon a majority vote of the members representing each House, respectively.

(B) Notwithstanding subparagraph (A), any recommendation with respect to the rules and procedures of on House which only affects matters related solely to that House may only be made and voted on by the members of the committee from that House, and, upon its adoption by a majority of such members, shall be considered to have been adopted by the full committee as a recommendation of the committee. Once such recommendation is adopted, the full committee may vote to make an interim or final report containing such recommendation.

SEC. 2. STUDY OF ORGANIZATION AND OPERATION OF THE CONGRESS.

(a) IN GENERAL.—The Committee shall—

(1) make a full a complete study of the organization and operation of the Congress of the United States; and

(2) recommend improvements in such organization and operation with a view toward strengthening the effectiveness of the Congress, simplifying its operations, improving its relationships with and oversight of other branches of the United States Government, and improving the orderly consideration of legislation.

(b) FOCUS OF STUDY.—The study shall include an examination of—

(1) the organization and operation of each House of the Congress, and the structure of, and the relationships between, the various standing, special, and select committees of the Congress;

(2) the relationship between the two Houses of Congress;

(3) the relationship between the Congress and the executive branch of the Government;

(4) the resources and working tools available to the legislative branch as compared to those available to the executive branch; and

(5) the responsibilities of the leadership, their ability to fulfill those responsibilities, and how that relates to the ability of the Senate and the House of Representatives to perform their legislative functions.

SEC. 3 AUTHORITY AND EMPLOYMENT AND COMPENSATION OF STAFF.

(a) AUTHORITY OF COMMITTEE.—The Committee, or any duly authorized subcommittee thereof, may—

(1) sit and act at such places and times as the Committee, or any duly authorized subcommittee thereof, determines are appropriate during the sessions, recesses, and adjourned periods of Congress; and

(2) require the attendance of witnesses and the production of books, papers, and documents, administer oaths, take testimony, and procure printing and binding.

(b) APPOINTMENT AND COMPENSATION OF STAFF.—(1) The Committee may appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable, but shall utilize existing staff to the extent possible.

(2) The Committee may utilize such voluntary and uncompensated services as it deems necessary and may utilize the services, information, facilities, and personnel of the General Accounting Office, the Office of

Technology Assessment, the Congressional Research Service of the Library of Congress, and other agencies of the legislative branch.

(3) The members and staff of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Committee, other than expenses in connection with meetings of the Committee held in the District of Columbia during such times as the Congress is in session.

(c) WITNESSES.—Witnesses requested to appear before the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in traveling to and from the places at which they are to appear.

(d) EXPENSES.—

(1) SENATE.—(A) The Senate members of the Committee shall submit a budget of expenses allocable to the Senate to the Committee on Rules and Administration of the Senate. The Committee may expend for expenses allocable to the Senate not to exceed $250,000 from the Contingent Fund of the Senate subject to approval by the Committee on Rules and Administration until a Committee funding resolution is approved by the Senate or, if no funding resolution is approved, until March 1, 1993.

(B) The expenses of the Committee allocable to the Senate shall be paid from the contingent fund of the Senate, upon vouchers signed by the Senate chairman.

(2) HOUSE OR REPRESENTATIVES.—Notwithstanding any law, rule, or other authority, there shall be paid from the contingent fund of the House of Representatives such sums as may be necessary for one-half of the expenses of the committee, with not more than $250,000 to paid with respect to the second session of the One Hundred Second Congress. Such payments shall be made on vouchers signed by the House of Representatives cochairman of the committee and approved by the Committee on House Administration of the House of Representatives. Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Administration of the House of Representatives.

SEC. 4 COMMITTEE REPORT.

(a) REPORT.—The Committee shall report to the Senate and the House of Representatives the result of its study, together with its recommendations, not later than December 31, 1993.

(b) RECESS OR ADJOURNMENT.—If the Senate, the House of Representatives, or both, are in recess or have adjourned, the report shall be made to the Secretary of the Senate or the Clerk of the House or Representatives, or both, as the case may be.

(c) REFERRAL.—All reports and findings of the Committee shall, when received, be referred tot he appropriate committees of the Senate and the appropriate committees of the House of Representatives.

SEC. 5. CONDUCT OF COMMITTEE BUSINESS.

The Committee shall not conduct any business prior to November 15, 1992.

Attest:

Secretary.

Mr. MOAKLEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. SOLOMON. Reserving the right to object, Mr. Speaker, I do not intend to object, but I take this reservation for the purpose of allowing the distinguished chairman of the Committee On Rules to explain the request and the amendment in which the gentleman would have the House concur.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, as the gentleman knows, the House passed House Concurrent Resolution 192 on June 18, 1992. On July 30, the Senate passed the measure with an amendment in the nature of a substitute. The amendment struck section 5 of the House-passed version. Section 5 would have permitted the House membership of the joint committee to report recommendations to our respective caucuses by November 6 of this year for changes in the Rules of the House for the 103d Congress. In its place, the Senate inserted a new section 5 that prohibits the joint committee from conducting "any business prior to November 15th" of this year. It is my understanding that this amendment is acceptable to both sides as the joint committee would still be free to commence organizing activities immediately upon passage of this resolution.

Mr. SOLOMON. Mr. Speaker, further reserving the right to object, I want to take this time to explain my support for the gentleman's request subject to his response and that of the author of the resolution to a couple of questions.

Mr. Speaker, the creation of this joint committee to recommend changes in the operation of Congress is long overdue, as we all know. This resolution was first introduced by the gentleman from Indiana [Mr. HAMILTON], and the gentleman from Ohio [Mr. GRADISON] back on July 31, of last year.

It was finally reported from the Rules Committee on June 5, of this year with a bipartisan amendment in the nature of a substitute and went on to pass the House on June 18, by a vote of 412 to just 4 nay votes. Over a month later, on July 30, to be precise, it was finally passed by the other body by voice vote with one significant change.

The other body struck my amendment, which was section 5 as adopted by the House—a provision that would permit the House membership of the joint committee to report recommendations to our respective caucuses by November 6, of this year for changes in the Rules of the House for the 103d Congress.

In its place, the other body inserted a new section 5 that prohibits the joint committee from conducting "any business prior to November 15 of this year."

I have taken this reservation to express my deep disappointment that a provision that only applied to the House, our body, was excised arbitrarily by the other body. But I am willing to support this resolution under certain understandings in response to two questions which I invite Chairman MOAKLEY and/or Mr. HAMILTON and Mr. GRADISON to answer. Perhaps it would be better for the original sponsors of the bill, the gentleman from Indiana [Mr. HAMILTON] and the gentleman from Ohio [Mr. GRADISON] to answer.

First, is it your understanding, given the legislative history made in the other body by the author of the substitute, that nothing in section 5 will prevent the joint committee from organizing prior to November 15, provided that it conducts no other business prior to that date?

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the distinguished chairman.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman for yielding to me. I especially want to thank him for the cooperation he has shown throughout consideration of this matter.

The answer to the gentleman's question is yes. According to Senator BOREN's statement on the Senate floor during consideration of the substitute for House Concurrent Resolution 192, and I quote that statement now:

> In order to avoid being politicized by the election season, the joint committee will begin official business, including voting and the holding of hearings, after November 15; but I am assured by the Rules Committee staff that the language of the resolution would allow for organizing activities, including the hiring of staff, to commence immediately upon passage of the resolution.

□ 2110

So the answer to the question asked by the gentleman from New York [Mr. SOLOMON] is "yes." Given this legislative history, there is nothing in section 5 that would prevent the joint committee from organizing prior to Novem ber 15.

Mr. SOLOMON. I thank the gentleman. That is the kind of answer I think we all wanted.

May I ask, if I could, the ranking member, the gentleman from Ohio [Mr. GRADISON], the vice chairman of the committee, if he agrees with that response?

Mr. GRADISON. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Ohio.

Mr. GRADISON. I thank the gentleman for yielding to me.

Mr. Speaker, I concur fully with the explanation given by the distinguished gentleman from Indiana.

Mr. SOLOMON. I thank the gentleman.

I would ask both gentlemen again: Is it your understanding that nothing in this resolution would prevent the House membership, that is our side over here in the House of Representatives, the membership of the joint committee from making recommendations for changes in House rules to our respective party caucuses prior to their organizational meetings in early December, if there was some kind of agreement? I yield to the gentleman for that purpose.

Mr. HAMILTON. The answer to the gentleman's question is "yes," as long as no hearing or votes are held before November 15.

Mr. SOLOMON. Does the gentleman concur?

Mr. GRADISON. The gentleman is entirely correct.

Mr. SOLOMON. Finally, is it the intention of the authors of this resolution, should they be appointed as chairman and vice chairman of the joint committee—and I certainly hope they are—to at least consider possible recommendations for changes in the House rules on our side here only prior to the December caucus meetings? I yield to the distinguished gentleman from Indiana.

Mr. HAMILTON. Like the gentleman from New York, I hope the joint committee can begin consideration of possible reform recommendations as soon as possible, ideally before the caucus meetings in December, with two caveats: First, the reform process should be open and inclusive, with a maximum level of participation.

The joint committee's timetable should be a collective decision with all members of the joint committee participating. After all, included among the membership will be the majority and minority leaders of each Chamber as well as other distinguished Members of Congress. Thus, I want to avoid exact predictions about the timetable of reform, if it should be that I was selected as the cochairman. That matter will be settled by the joint committee as a whole and the members have not, as you know, been selected.

The second caveat: I hope that the reform process will be careful and systematic. Only 2 weeks' time will be available for committee consideration after November 15 and before the caucus meetings at the beginning of December. I do not know if that is sufficient time to get the members of the joint committee together and conduct the deliberations necessary to produce recommendations.

Mr. SOLOMON. I certainly want to thank the gentleman. I again ask the gentleman from Ohio if he concurs in that statement.

Mr. GRADISON. I do concur. I think we have to recognize that when we initially introduced this proposal in July of last year, we had hoped we would be much farther along by the time the House organizes for the next session. We may turn out to be, so I do not want to raise any false hopes; the reality is there is not a lot of time between now and then to allow us to focus on these issues. Certainly, it would be my hope that we would move as far ahead as we can. It would also be my hope, I would say to the gentleman from New York, that if it did not prove possible—I stress if it did not prove possible—for the new group to give a comprehensive set of recommendations to the House of Representatives, it would certainly be desirable in my mind when rules are adopted for the next Congress that they either be for, say, a year so there is a requirement that they be reexamined, or if they are for 2 years, that it be done with the clear understanding and expression that there is an awareness that this group may be coming in with some recommendations and that nothing that would be involved in the adoption of the rules for, let us say, the 2 years, would stand in the way of reexamining them in light of our recommendations.

Mr. SOLOMON. Well, let me just say to both of you gentlemen I most certainly hope that the Speaker and minority leader do see fit to appoint the gentleman from Indiana [Mr. Hamilton] and the gentleman from Ohio [Mr. Gradison] as chairman and cochairman of this commission. It is badly needed. We all have a great deal of respect for both of you, and I would hope that the gentleman from Massachusetts [Mr. Moakley], the chairman of the Committee on Rules, with a great deal of expertise in this area, and myself as ranking Republican, could also serve with you. We hope something good will come out of this. I have a lot of faith in both of you gentleman that it will.

Having said that, with those assurances, Mr. Speaker, I withdraw my reservation of objection and urge support of the request of our chairman.

The SPEAKER pro tempore (Mr. Torres). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

TIMETABLE FOR AMENDMENTS TO CHILD SAFETY PROTECTION AND CONSUMER PRODUCTS COMMISSION IMPROVEMENT ACT

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, the Committee on Rules plans to meet during the week of August 10, 1992, to take testimony on the Child Safety Protection and Consumer Products Commission Improvement Act. A request will be made for a rule that would require amendments be printed in the Congressional Record prior to consideration of H.R. 4706. It is anticipated that the House will proceed to consideration of the bill during the week of September 7. Therefore, to fully protect their rights, Members should have their amendments printed in the Congressional Record prior to beginning debate on H.R. 4706 during that week. This should allow Members ample time to prepare and file their amendments.

COMMERCIAL SPACE COMPETITIVENESS ACT OF 1991

Mr. HALL of Texas. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of the bill (H.R. 3848) to encourage the growth and development of commercial space activities in the United States, and for other purposes, and ask for its immediate consideration in the House of the bill, as reported by the Committee on Science, Space, and Technology.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so so that the gentleman from Texas may explain the bill that he is bringing to the floor by unanimous consent.

Mr. Speaker, I yield to the gentleman from Texas [Mr. Hall].

Mr. HALL of Texas. I thank the gentleman from Pennsylvania. I also thank the gentleman from Pennsylvania for his input into the bill. Many parts of this bill were written, encouraged, and passed by the gentleman from Pennsylvania and others of the committee.

Actually, H.R. 3848 is designed simply to encourage the growth of commercial space business by taking advantage of the tremendous purchasing power of the U.S. Government. I think since the Government buys about 90 percent of the space goods, it is logical we encourage the use of commercial space products. That is basically what this bill does, it removes impediments for such purposes.

I offer a letter from the Committee on Armed Services signed by the gentleman from Wisconsin [Mr. Aspin].

House of Representatives,
Committee on Armed Services,
Washington, DC, July 29, 1992.

Hon. George E. Brown, Jr.,
Chairman, Committee on Science, Space, and Technology, U.S. House of Representatives, Washington, DC.

Dear George: It is our understanding that you would like to consider on the House floor prior to the August recess, H.R. 3848, the Commercial Space Competitiveness Act, which was ordered reported by your committee on July 1, 1992.

Although the Armed Services Committee, to which the bill was referred jointly, has not had an opportunity to hold hearings on this bill or report it, we have reviewed the provisions of the bill as reported from your committee which fall within the jurisdiction of this committee. We appreciate the changes you made in full committee to reflect discussions between our staffs. However, we are still concerned over the inclusion of Title III, Use of Missile Assets for Space Launch, and believe that it should be dropped from the bill in order to allow our committee the opportunity to fully explore the ramifications of using missiles that are excess to military requirements.

In the interest of expediting consideration of H.R. 3848, we would have no objection to your bringing this bill up under suspension of the rules if Title III is dropped.

In allowing consideration of this bill without it being formally considered by the committee, we are in no way waiving any subsequent jurisdiction over this issue nor our right to be conferees on H.R. 3848.

We would also appreciate your including a copy of this letter in any report you intend to file, or if it that is not possible, in the Congressional Record during consideration of this bill.

Sincerely,

LES ASPIN,
Chairman.
WILLIAM L. DICKINSON,
Ranking Minority Member.
RONALD V. DELLUMS,
Chairman, Subcommittee on Research and Development.
ROBERT W. DAVIS,
Ranking Minority Member, Subcommittee on Research and Development.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I rise in support of H.R. 3848, the Commercial Space Competitiveness Act of 1992. Developed on a bipartisan basis with Chairman HALL and Chairman BROWN, this bill will take incremental, but nonetheless important, steps toward ensuring that the United States be competitive in the one area that has the unlimited potential—space.

Throughout our history as man has expanded his horizons through the natural instinct to explore, economic activity has followed his curiosity.

The United States must start to look to the future to position itself to meet the global competition that is already fierce in the space transportation industry.

The bill before us will continue the launch insurance program that enables the U.S. commercial space transportation industry to continue to function.

It will require that all areas of the Government procure when practicable launches from the commercial sector.

The bill will also encourage the development of a new infrastructure needed to support a modern and safe American space launch industry.

This legislation also provides incentives to small entrepreneurs to provide launch and launch-support services to the Federal Government, although the needed termination liability to guarantee that these entrepreneurs will have a safety net in case the Government for fiscal reasons cannot meet its contractual obligations.

Again, I appreciate the majority's willingness to work with us on this measure and urge the adoption of this bill.

Mr. BROWN. Mr. Speaker, H.R. 3848, the Commercial Space Competitiveness Act of 1992, represents a bipartisan set of proposals to encourage commercial space activities in the United States.

Commercial space activities have been an important part of our Nation's civil space program since the 1960's. The first commercial space business, communications satellites, now accounts for over $4 billion in revenues and provides vital services such as distribution of broadcast and cable television programming, international telecommunications to areas not served by undersea cables, and networks for business telecommunications.

While the communications satellite business prospers without a significant U.S. Government market or close involvement with Government space programs, the other main areas of space business activity—launch vehicles and remote sensing—both depend much more strongly on Government markets and Government policies. Although the Department of Commerce estimates that these areas will account for only about $700 million in revenues in 1992, they have experienced healthy growth rates in recent years. In addition, microgravity research, which could yield new insights useful for ground-based materials processing or biomedical applications, remains almost entirely dependent on Government-funded projects.

H.R. 3848 contains a set of initiatives designed to encourage the growth and development of those areas of commercial space business that remain heavily influenced by the U.S. Government as a customer. H.R. 3848 seeks to use the power of the Government's procurement purse to both promote the development of commercial space products and save the Government money on space goods and services that it needs.

One modification has been made to the bill reported by the committee. By mutual agreement with the Armed Services Committee, to whom the bill was also referred, we have eliminated two sections dealing with the use of missile assets for space launch.

In spite of this decision, it is clear that a governmentwide policy on the use or sale of missile assets is needed to prevent undue disruption to the commercial launch industry. I would also like to note that the language in the bill reported by the committee on July 1, was acceptable to the Defense Department and the Air Force. I hope that we can revisit this issue and that we will be successful in enacting this portion of the reported bill in the near future.

I would like to commend the chairman of the Subcommittee on Space, Mr. HALL of Texas, and the ranking Republican of the Committee on Science, Space, and Technology, Mr. WALKER, for their constructive work on this bill. I believe it is an important step forward in expanding the scale and scope of commercial space activities and taking maximum advantage of commercial capabilities to reduce the cost of the civil space program. I urge the adoption of the bill.

Mr. PACKARD. Mr. Speaker, H.R. 3848, the Commercial Space Competitiveness Act of 1992 is intended to encourage the growth and development of commercial space activities, including the purchase of commercial space goods and services by the Federal Government. In the Space Subcommittee of the Science, Space, and Technology Committee, I offered an amendment to H.R. 3848 which extended the provisions of the Launch Services Purchase Act of 1990 beyond NASA to the entire Federal Government.

One of the main goals of the Launch Services Purchase Act was to encourage the safe and successful launch of Government and private payloads into orbit at the lowest possible cost. NASA and the commercial launch industry are continually striving for this goal and it is now time that the rest of the Federal agencies be required to purchase their launch services commercially.

By enacting this portion of the Commercial Space Competitiveness Act, we intend to further the development of the private launch industry in this Nation by putting the private sector in charge of the production and operation of most expendable launch systems. By pursuing this course of action, we can show the world that we stand behind our commercial launch industry and that we have confidence that this industry will be able to provide competitively priced launch services without excessive oversight by the Federal Government.

I would like to take this opportunity to thank the ranking Republican of the Science Committee, Mr. WALKER, who has shown outstanding leadership in the commercialization of space and who was a tremendous help to me in developing title II of the bill. I would also like to thank the chairman and ranking Republican of the Space Subcommittee, Mr. HALL and Mr. SENSENBRENNER, for their support as well as the chairman of the full committee, Mr. BROWN.

My thanks are also extended to these gentlemen for their cooperation and support of report language that provides for a study by the Department of Commerce in consultation with the Department of Transportation on a problem that currently exists for U.S. launch service suppliers and is only going to intensify in the future.

The problem is that the Export-Import Bank [Eximbank] does not consider a launch of a U.S. satellite by a U.S. launch supplier to be an export. Therefore, U.S. launch service suppliers are at a distinct disadvantage in competing with foreign suppliers for U.S. payloads. This is because our foreign competitors are able to offer government-backed financing whereas the U.S. suppliers are not able to do so because launch of a U.S. satellite is not considered to be an export.

This situation needs immediate attention so that we can find ways to level the competitive playing field.

In closing, I am strongly supportive of H.R. 3848 and I am dedicated to its eventual enactment.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Space Competitiveness Act of 1991".

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.

The Congress finds that—

(1) commercial activities of the private sector have substantially contributed to the strength of both the United States space program and the national economy;

(2) a robust United States space transportation capability remains a vital cornerstone of the United States space program;

(3) the availability of commercial launch services is essential for the continued growth of the United States commercial space sector;

(4) a timely extension of the excess third party claims payment provisions of the Commercial Space Launch Act is appropriate and necessary to enable the private sector to continue covering maximum probable liability risks while protecting the private sector from uninsurable levels of liability which could hinder international competitiveness;

(5) greater Federal use of commercial launch services for suborbital launches would increase the efficiency of the United States space science program and improve the capabilities of the United States commercial launch industry;

(6) a program to demonstrate how the space science community can purchase launch services directly from the private sector has the potential to increase the efficiency of the United States space science program and improve the capabilities of the United States commercial launch industry;

(7) improvements and additions to the Nation's space transportation infrastructure contribute to a robust and cost effective space transportation capability for both public sector and private sector users;

(8) private sector use of available Government facilities on a reimbursable basis contributes to a stronger commercial space sector;

(9) the appropriate use by the Government, or the sale to the private sector, of decommissioned missile assets for the purpose of space launch could contribute to United States space launch capabilities;

(10) the Federal Government should purchase space goods and services which are commercially available, or could be made available commercially in response to a Government procurement request, whenever such goods or services meet Government mission requirements in a cost effective manner;

(11) it is appropriate for the Government to act as an anchor tenant for commercial space development projects which have a reasonable potential to develop non-Federal markets and which meet Federal needs in a cost effective manner; and

(12) the provision of compensation to commercial providers of space goods and services for termination of contracts at the convenience of the Government assists in enabling the private sector to invest in space activities which are initially dependent on Government purchases.

SEC. 102. DEFINITIONS.

For the purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "agency" means an executive agency as defined by section 105 of title 5, United States Code;

(3) the term "anchor tenancy" means an arrangement in which the United States Government agrees to procure sufficient quantities of a commercial space product or service needed to meet Government mission requirements so that a commercial venture is made viable;

(4) the term "commercial" means having—

(A) private capital at risk; and

(B) primary financial and management responsibility for the activity reside with the private sector;

(5) the term "cost effective" means costing no more than the available alternatives, taking into account all related costs including, in the case of Government costs, applicable Government labor and overhead costs as well as contractor charges;

(6) the term "launch" means to place, or attempt to place, a launch vehicle and payload, if any, in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space;

(7) the term "launch services" means activities involved in the preparation of a launch vehicle and its payload for launch and the conduct of a launch;

(8) the term "launch support facilities" means facilities required to support launch activities, including launch vehicle assembly, launch vehicle operations and control, communications, flight safety functions, and payload operations, control, and processing;

(9) the term "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space or in suborbital trajectories, and includes components of that vehicle;

(10) the term "missile assets" means any missile systems or components of any missile systems decommissioned from the military arsenal, including rocket motors and engines, propellants, structural elements, electrical and electronic equipment, and associated flight and ground support equipment;

(11) the term "payload" means an object which a person undertakes to launch, and includes subcomponents of the launch vehicle specifically designed or adapted for that object;

(12) the term "payload integration services" means activities involved in integrating multiple payloads into a single payload for launch or integrating a payload with a launch vehicle;

(13) the term "space recovery support facilities" means facilities required to support activities related to the recovery of payloads returned from space to a space recovery site, including operations and control, communications, flight safety functions, and payload processing;

(14) the term "space transportation infrastructure" means facilities, associated equipment, and real property, including launch sites, launch support facilities, space recovery sites, and space recovery support facilities, required to perform launch or space recovery activities;

(15) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(16) the term "United States" means the States, collectively.

TITLE II—SPACE TRANSPORTATION

SEC. 201. EXTENSION OF GOVERNMENT PAYMENT OF EXCESS THIRD PARTY CLAIMS.

Section 16 of the Commercial Space Launch Act (49 U.S.C. App. 2615) is amended in subsection (b)(5) by striking "the date that is 5 years following the date of enactment of the Commercial Space Launch Act Amendments of 1988" and inserting in lieu thereof "January 1, 2000".

SEC. 202. REQUIREMENT TO PROCURE COMMERCIAL LAUNCH SERVICES.

(a) PROCUREMENT OF LAUNCH SERVICES FOR SUBORBITAL PAYLOADS.—(1) Section 204(a) of the Launch Services Purchase Act of 1990 (42 U.S.C. 2465d(a)) is amended by inserting ", including suborbital payloads," after "its primary payloads".

(2) The amendment made by paragraph (1) shall apply only to payloads scheduled for launch after September 30, 1993.

(b) AVAILABILITY OF COMMERCIAL LAUNCH SERVICES.—Section 204(b)(2) of the Launch Services Purchase Act of 1990 (49 U.S.C. 2465d(b)(2)) is amended to read as follows:

"(2) cost effective commercial launch services to meet specific mission requirements are not reasonably available, would not be available when required, and could not be made available in response to a procurement request;".

(c) REPORT ON SUBORBITAL PROGRAMS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report providing a plan for the National Aeronautics and Space Administration to make greater use of commercial launch services for its suborbital launch programs. Such plan shall identify planned or potential suborbital payloads which cannot utilize commercial launch services, and describe in detail why commercial launch services cannot meet the mission requirements or be made available in a reasonable and cost effective manner for such payloads.

SEC. 203. LAUNCH VOUCHER DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a demonstration program to award vouchers for the payment of commercial launch services and payload integration services for the purpose of launching small scientific payloads.

(b) AWARD OF VOUCHERS.—The Administrator shall award vouchers under subsection (a) to scientific researchers, research teams, and research institutes as part of grants administered by the National Aeronautics and Space Administration for the development and construction of—

(1) scientific payloads to be placed in suborbital trajectories; and

(2) small scientific payloads to be placed in orbit.

(c) ASSISTANCE.—The Administrator may provide awardees with such assistance, including contract formulation and technical support during proposal evaluation, as may be necessary to ensure the purchase of cost effective and reasonably reliable commercial launch services and payload integration services.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report providing a plan for carrying out this section, identifying which planned or potential payloads will be included in the launch voucher demonstration program, and listing which commercially available launch vehicles will be included in the program.

SEC. 204. SPACE TRANSPORTATION INFRASTRUCTURE MATCHING GRANTS.

(a) FEDERAL GRANT PROGRAM.—The Secretary of Transportation may make grants for projects recommended pursuant to subsection (b) to assist the United States space transportation industry and the States in financing—

(1) the improvement or development of space transportation infrastructure within the United States;

(2) the engineering and designing of such space transportation infrastructure projects; and

(3) technical studies to define how new or improved space transportation infrastructure can best meet Federal space transportation needs and the needs of the United States commercial space transportation industry.

(b) SELECTION OF PROJECTS.—(1) There is established a Selection Committee which shall include 1 representative each from the Department of Transportation, the Department of Defense, and the National Aeronautics and Space Administration. The Selection Committee shall be chaired by the representative from the Department of Transportation.

(2) The Selection Committee shall review grant applications under this section and shall make recommendations to the Secretary of Transportation for awarding such grants.

(3) The Selection Committee shall take into account the following factors in its review of grant applications:

(A) The contribution of the proposed grant activity to Federal space transportation needs.

(B) The extent of industry's financial contribution to the proposed grant activity.

(C) The extent of industry participation in the proposed grant activity.

(D) The positive impact of the proposed grant activity on the international competitiveness of the United States space transportation industry.

(E) The extent of State contributions to the proposed grant activity.

(F) The impact of the proposed grant activity on launch operations and other activities at Federal launch ranges.

(4) The Secretary of Transportation shall give preference to those applications with greater levels of industry financial contributions, all other factors being equal.

(c) LIMITATIONS AND CONDITIONS.—(1) The Federal grant for any project under this section shall not exceed 50 percent of the cost of such project.

(2) No grant shall be awarded under this section for projects for which less than 10 percent of the cost of such projects will be borne by the private sector.

(3) No grant shall be awarded under this section unless the Selection Committee determines that the applicant has or will have the legal, financial, and technical capacity to carry out the proposed project.

(4) For grants which do not utilize Federal Government property, no grant shall be awarded under this section unless the Secretary of Transportation, in consultation with the Administrator and the Secretary of Defense, determines that the applicant—

(A) has or will have satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and the equipment for which the grant is provided; and

(B) has or will have sufficient capability to maintain the facilities and equipment, and will maintain such facilities and equipment.

SEC. 205. COMMERCIAL SPACE TRANSPORTATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Commercial Space Transportation Trust Fund (hereafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of all revenues from any fees assessed by the Department of Transportation for the licensing of commercial launch activities.

(b) PURPOSE.—Subject to the availability of appropriations, revenues deposited in the Trust Fund shall be used only to fund projects that directly benefit the United States space transportation industry.

(c) SELECTION OF PROJECTS.—The Secretary of Transportation shall select projects recommended by an Industry Selection Committee composed of 1 representative from each of the companies which have paid, or will have paid, fees described in subsection (a) within a period, not to exceed 2 years, to be determined by the Secretary of Transportation. Voting of such Industry Selection Committee shall be weighted according to the dollar amount of each company's fee payments within such period.

(d) LIMITATION.—Trust Fund revenues shall not be used to pay the operating or other expenses of the Department of Transportation.

SEC. 206. IDENTIFICATION OF EXCESS FACILITIES.

(a) IDENTIFICATION.—The Administrator, in coordination with the Secretary of Defense and the Secretary of Transportation, shall conduct an inventory and identify all launch support facilities owned by the United States Government that are excess or are otherwise not needed for public use. To the extent practicable, the Administrator shall also identify any launch support facilities which, due to their capacity and their utility to non-Federal entities, could be made available for use by non-Federal entities on a reimbursable basis without interfering with Federal activities.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report containing the results of the identification required under subsection (a). Portions of such report may be classified and protected from public disclosure if such classification is necessary to protect national security.

TITLE III—USE OF MISSILE ASSETS FOR SPACE LAUNCH

SEC. 301. USE OF MISSILE ASSETS BY FEDERAL AGENCIES.

(a) IN GENERAL.—(1) Federal agencies, including the National Aeronautics and Space Administration and the Department of Defense, may make use of missile assets only when the use of the missile assets, alone or in combination with other Federal assets or commercially purchased components, is a more cost effective means to launch a payload or conduct an experiment than commercial launch services.

(2) When using missile assets for space launch, an agency shall make the missile assets available as Government furnished equipment and shall purchase commercial launch services from the private sector, unless the agency determines that—

(A) cost effective commercial launch services to meet specific mission requirements are not reasonably available, would not be available when required, and could not be made available in response to a procurement request; or

(B) national security requirements preclude the use of commercial launch services.

(b) COST ESTIMATION.—(1) When determining whether the use of missile assets is cost effective, an agency shall—

(A) evaluate the cost of using missile assets on the basis of all direct and indirect costs attributable to the storage, refurbishment, and use of the missile assets, compliance with verification provisions of international treaties, and arrangements necessary for release of technical and cost data, including applicable Government labor and overhead costs; and

(B) estimate the reliability of launch vehicles constructed from missile assets, alone or in combination with other components, and of commercially procured vehicles, and include an estimated cost for expected launch failures over the expected number of launches in the computation of costs.

(2) When it cannot be determined whether the cost of using missile assets for a specific space launch application is less than the cost of commercial launch services, an agency shall purchase commercial launch services unless the agency determines that—

(A) cost effective commercial launch services to meet specific mission requirements are not reasonably available, would not be available when required, and could not be made available in response to a procurement request; or

(B) the development or launch of launch vehicles constructed from missile assets will substantially benefit the commercial space sector and will not substantially damage existing United States launch services and launch systems providers.

(c) IMPACT ON COMMERCIAL SECTOR.—In considering whether to use missile assets for space launch, an agency shall give due consideration to the impact of such use on the competitiveness of the United States commercial space sector in international markets, private investment in launch vehicles, and the future availability of commercial launch services to the Federal Government and the private sector, and shall take all feasible actions to mitigate harm to United States commercial space corporations and maximize the potential benefits of the missile assets to the United States commercial space sector.

(d) FULL AND OPEN COMPETITION.—(1) An agency using missile assets for space launch shall—

(A) conduct a full and open competition for any contract to provide launch services or payload integration services for vehicles constructed from the missile assets; and

(B) make available, to the extent practicable, all relevant technical and cost data concerning the missile assets to all prospective bidders who are qualified to be awarded such contracts, including arranging for the release or licensing by any valid owner, on an equitable basis, of such data which are the property of a private sector entity.

(2) In carrying out this subsection, an agency may limit the availability of data described in paragraph (1)(B) to domestic entities.

SEC. 302. SALE OF MISSILE ASSETS TO PRIVATE SECTOR.

(a) IN GENERAL.—Federal agencies may provide for the acquisition by the private sector of missile assets of the United States which are excess or are otherwise not needed for public use if the agency which owns the missile assets determines that—

(1) United States private sector entities will not be substantially harmed by such acquisition; or

(2) the acquisition of such assets by the private sector will significantly increase United States space launch capabilities.

(b) FAIR MARKET VALUE.—Section 15(b)(1) of the Commercial Space Launch Act (49 U.S.C. App. 2614(b)(1)) is amended by adding at the end the following: "For the purposes of this paragraph, an agency providing launch property may define 'fair market value' as the most beneficial price offered to the Government at auction.".

(c) FAIR AND OPEN COMPETITION.—Section 15 of the Commercial Space Launch Act (49 U.S.C. App. 2614) is amended by adding at the end the following new subsection:

"(e)(1) In order to promote fair and open competition, an agency providing launch property shall, to the extent practicable, make available all relevant technical and cost data concerning the launch property to all prospective bidders who are qualified to acquire the launch property, including arranging for the release or licensing by any valid owner, on an equitable basis, of such data which are the property of a private sector entity.

"(2) In carrying out this subsection, an agency may limit the availability of such data to domestic entities.".

(d) Fair Trade Negotiations.—It is the sense of Congress that the potential release of missile assets by foreign governments, or the offer of launch services by foreign entities using such missile assets, should be addressed in fair trade negotiations on space goods and services.

(e) Foreign Missile Asset Sales.—Federal agencies shall consider the potential release of missile assets by foreign governments, and the offer of launch services by foreign entities using such missile assets, in decisions regarding the sale of United States missile assets.

TITLE IV—MISCELLANEOUS

SEC. 401. ANCHOR TENANCY AND TERMINATION LIABILITY.

(a) Anchor Tenancy Contracts.—The Administrator may enter into anchor tenancy contracts for the purchase of a good or service in order to increase the viability of a commercial space venture if the Administrator determines that—

(1) the good or service meets the mission requirements of the National Aeronautics and Space Administration;

(2) the commercially procured good or service is cost effective;

(3) the good or service is procured through a competitive process;

(4) existing or potential customers for the good or service other than the United States Government have been specifically identified;

(5) the long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and

(6) private capital is at risk in the venture.

(b) Termination Liability.—Section 203(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)) is amended—

(1) by redesignating paragraphs (7) through (13) as paragraphs (8) through (14) respectively;

(2) by inserting after paragraph (6) the following new paragraph:

"(7) to enter into contracts for commercially provided goods and services for periods that are in excess of the period for which funds are available for obligation; and to provide for the payment of contingent liability which may accrue in excess of available appropriations, in the event the Government for its convenience terminates such contracts, from appropriations originally available for the performance of the contract, or from other unobligated appropriations currently available for the procurement of related goods and services;";

(3) by inserting "and" at the end of paragraph (13), as so redesignated by paragraph (1) of this section; and

(4) by striking "; and" at the end of paragraph (14), as so redesignated by paragraph (1) of this section, and inserting in lieu thereof a period.

SEC. 402. USE OF GOVERNMENT FACILITIES.

(a) Authority.—Federal agencies, including the National Aeronautics and Space Administration and the Department of Defense, may allow non-Federal entities to use their space-related facilities on a reimbursable basis if the Administrator, the Secretary of Defense, or the appropriate agency head determines that—

(1) the facilities will be used to support commercial space activities;

(2) such use can be supported by existing or planned Federal resources;

(3) such use is compatible with Federal activities;

(4) equivalent commercial services are not available on reasonable terms; and

(5) such use is consistent with public safety, national security, and international treaty obligations.

In carrying out paragraph (5), each agency head shall consult with appropriate Federal officials.

(b) Reimbursement Payment.—(1) The reimbursement referred to in subsection (a) shall be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the use of such facilities by the private sector. For the purposes of this paragraph, the term "direct costs" means the actual costs that can be unambiguously associated with such use, and would not be borne by the United States Government in the absence of such use.

(2) The amount of any payment received by the United States for use of facilities under this subsection shall be credited to the appropriation from which the cost of providing such facilities was paid.

SEC. 403. PROTECTION OF INFORMATION DEVELOPED UNDER SPACE ACT AGREEMENTS.

Section 303 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2454) is amended—

(1) by inserting "(a)" after "Sec. 303.";

(2) by striking "and (B)" and inserting in lieu thereof "(B)";

(3) by inserting ", and (C) information described in subsection (b)" after "national security"; and

(4) by adding at the end the following new subsection:

"(b) The Administrator, for a period of up to 5 years after the development of information that results from activities conducted under an agreement entered into under section 203(c) (5) and (6) of this Act, and that would be a trade secret or commercial or financial information that is privileged or confidential under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a non-Federal party participating in such an agreement, may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.".

SEC. 404. COMMERCIAL SPACE ACHIEVEMENT AWARD.

(a) Establishment.—There is established a Commercial Space Achievement Award. The award shall consist of a medal, which shall be of such design and materials and bear inscriptions as determined by the Secretary of Commerce. A cash prize may also be awarded if funding for the prize is available under subsection (d).

(b) Criteria for Award.—The Secretary of Commerce shall periodically make, and the Chairman of the National Space Council shall present, awards under this section to individuals, corporations, corporate divisions, or corporate subsidiaries substantially engaged in commercial space activities who in the opinion of the Secretary of Commerce best meet the following criteria:

(1) For corporate entities, at least one-half of the revenues from the space-related activities of the corporation, division, or subsidiary is derived from sources other than the United States Government.

(2) The activities and achievements of the individual, corporation, division, or subsidiary have substantially contributed to the United States gross national product and the stature of United States industry in international markets, with due consideration for both the economic magnitude and the technical quality of the activities and achievements.

(3) The individual, corporation, division, or subsidiary has substantially advanced space technology and space applications directly related to commercial space activities.

(c) Limitations.—No individual or corporate entity may receive an award under this section more than once every 5 years.

(d) Funding for Award.—The Secretary of Commerce may seek and accept gifts of money from public and private sources for the purpose of making cash prize awards under this section. Such money may be used only for that purpose, only such money may be used for that purpose, and the Secretary of Commerce shall make publicly available an itemized list of the sources of such funding.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HALL OF TEXAS

Mr. HALL of Texas. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Hall of Texas.

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Space Competitiveness Act of 1992".

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.

The Congress finds that—

(1) commercial activities of the private sector have substantially contributed to the strength of both the United States space program and the national economy;

(2) a robust United States space transportation capability remains a vital cornerstone of the United States space program;

(3) the availability of commercial launch services is essential for the continued growth of the United States commercial space sector;

(4) a timely extension of the excess third party claims payment provisions of the Commercial Space Launch Act is appropriate and necessary to enable the private sector to continue covering maximum probable liability risks while protecting the private sector from uninsurable levels of liability which could hinder international competitiveness;

(5) greater Federal use of commercial launch services for suborbital launches would increase the efficiency of the United States space science program and improve the capabilities of the United States commercial launch industry;

(6) a program to demonstrate how the space science community can purchase launch services directly from the private sector has the potential to increase the efficiency of the United States space science program and improve the capabilities of the United States commercial launch industry;

(7) improvements and additions to the Nation's space transportation infrastructure contribute to a robust and cost effective

space transportation capability for both public sector and private sector users;

(8) private sector use of available Government facilities on a reimbursable basis contributes to a stronger commercial space sector;

(9) the Federal Government should purchase space goods and services which are commercially available, or could be made available commercially in response to a Government procurement request, whenever such goods or services meet Government mission requirements in a cost effective manner;

(10) it is appropriate for the Government to act as an anchor tenant for commercial space development projects which have a reasonable potential to develop non-Federal markets and which meet Federal needs in a cost effective manner; and

(11) the provision of compensation to commercial providers of space goods and services for termination of contracts at the convenience of the Government assists in enabling the private sector to invest in space activities which are initially dependent on Government purchases.

SEC. 102. DEFINITIONS.

For the purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "agency" means an executive agency as defined by section 105 of title 5, United States Code;

(3) the term "anchor tenancy" means an arrangement in which the United States Government agrees to procure sufficient quantities of a commercial space product or service needed to meet Government mission requirements so that a commercial venture is made viable;

(4) the term "commercial" means having—

(A) private capital at risk; and

(B) primary financial and management responsibility for the activity reside with the private sector;

(5) the term "cost effective" means costing no more than the available alternatives, determined by a comparison of all related direct and indirect costs including, in the case of Government costs, applicable Government labor and overhead costs as well as contractor charges, and taking into account the ability of each alternative to accommodate mission requirements as well as the related factors of risk, reliability, schedule, and technical performance;

(6) the term "launch" means to place, or attempt to place, a launch vehicle and payload, if any, in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space;

(7) the term "launch services" means activities involved in the preparation of a launch vehicle and its payload for launch and the conduct of a launch;

(8) the term "launch support facilities" means facilities located at launch sites or launch ranges that are required to support launch activities, including launch vehicle assembly, launch vehicle operations and control, communications, flight safety functions, and payload operations, control, and processing;

(9) the term "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space or in suborbital trajectories, and includes components of that vehicle;

(10) the term "payload" means an object which a person undertakes to launch, and includes subcomponents of the launch vehicle specifically designed or adapted for that object;

(11) the term "payload integration services" means activities involved in integrating multiple payloads into a single payload for launch or integrating a payload with a launch vehicle;

(12) the term "space recovery support facilities" means facilities required to support activities related to the recovery of payloads returned from space to a space recovery site, including operations and control, communications, flight safety functions, and payload processing;

(13) the term "space transportation infrastructure" means facilities, associated equipment, and real property, including launch sites, launch support facilities, space recovery sites, and space recovery support facilities, required to perform launch or space recovery activities;

(14) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(15) the term "United States" means the States, collectively.

TITLE II—SPACE TRANSPORTATION

SEC. 201. EXTENSION OF GOVERNMENT PAYMENT OF EXCESS THIRD PARTY CLAIMS.

Section 16 of the Commercial Space Launch Act (49 U.S.C. App. 2615) is amended in subsection (b)(5) by striking "the date that is 5 years following the date of enactment of the Commercial Space Launch Act Amendments of 1988" and inserting in lieu thereof "January 1, 2000".

SEC. 202. REQUIREMENT TO PROCURE COMMERCIAL LAUNCH SERVICES.

(a) AMENDMENT.—Section 204 of the Launch Services Purchase Act of 1990 (42 U.S.C. 2465d) is amended to read as follows:

"SEC. 204. REQUIREMENT TO PROCURE COMMERCIAL LAUNCH SERVICES.

"(a) IN GENERAL.—Except as otherwise provided in this section, the Federal Government shall purchase launch services for its primary payloads, including suborbital payloads, from commercial providers whenever such services are required in the course of its activities.

"(b) EXCEPTIONS.—The Federal Government shall not be required to purchase launch services as provided in subsection (a) if the appropriate agency determines that—

"(1) the payload requires the unique capabilities of the space shuttle;

"(2) cost effective commercial launch services to meet mission requirements are not reasonably available, would not be reasonably available when required, and could not be made available in response to a procurement request;

"(3) the use of commercial launch services poses an unacceptable risk of loss of a unique scientific opportunity; or

"(4) the payload serves national security or foreign policy purposes.

Within 30 days after any such determination by the National Aeronautics and Space Administration, the Administrator shall notify the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate in writing of the determination and its rationale.

"(c) REPORT ON SUBORBITAL PROGRAMS.—Not later than 1 year after the date of enactment of the Commercial Space Competitiveness Act of 1992, the Administrator of the National Aeronautics and Space Administration shall submit to Congress a report providing a plan for the National Aeronautics and Space Administration to make greater use of commercial launch services for its suborbital launch programs. Such plan shall identify planned or potential suborbital payloads which cannot utilize commercial launch services, and describe in detail why commercial launch services cannot meet the mission requirements or be made available in a reasonable and cost effective manner for such payloads.

"(d) FEDERAL GOVERNMENT LAUNCH VEHICLES.—Launch vehicles shall be acquired or owned by the Federal Government only—

"(1) as required under circumstances described in subsection (b); or

"(2) for conducting research and development on, and testing of, launch technology.

"(e) PHASE-IN PERIOD.—Subsections (a) and (d) shall not apply to launch services and launch vehicles for which a purchase contract has been signed before the date that is 180 days after the date of enactment of the Commercial Space Competitiveness Act of 1992.

"(f) HISTORICAL PURPOSES.—This title shall not be interpreted to prohibit the Federal Government from acquiring, owning, or maintaining launch vehicles solely for historical display purposes.".

(b) EFFECTIVE DATE.—The application of such section 204 to suborbital payloads shall begin with respect to payloads scheduled for launch after December 31, 1993.

SEC. 203. PURCHASE OF LAUNCH SERVICES.

Section 205 of the Launch Services Purchase Act of 1990 (42 U.S.C. 2465e) is amended by striking "National Aeronautics and Space Administration" each place it appears and inserting in lieu thereof "Federal Government".

SEC. 204. LAUNCH VOUCHER DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a demonstration program to award vouchers for the payment of commercial launch services and payload integration services for the purpose of launching small payloads.

(b) AWARD OF VOUCHERS.—The Administrator shall award vouchers under subsection (a) to researchers, research teams, and research institutes as part of grants administered by the National Aeronautics and Space Administration for the development and construction of—

(1) payloads to be placed in suborbital trajectories; and

(2) small payloads to be placed in orbit.

(c) ASSISTANCE.—The Administrator may provide awardees with such assistance, including contract formulation and technical support during proposal evaluation, as may be necessary to ensure the purchase of cost effective and reasonably reliable commercial launch services and payload integration services.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report providing a plan for carrying out this section, identifying which planned or potential payloads will be included in the launch voucher demonstration program, and listing which commercially available launch vehicles will be included in the program.

SEC. 205. SPACE TRANSPORTATION INFRASTRUCTURE MATCHING GRANTS.

(a) FEDERAL GRANT PROGRAM.—The Secretary of Transportation may make grants for projects recommended pursuant to subsection (b) to assist the United States commercial space transportation industry and the States in financing—

(1) the improvement or development of space transportation infrastructure within the United States;

(2) the engineering and designing of such space transportation infrastructure projects; and

(3) technical studies to define how new or improved space transportation infrastructure can best meet the needs of the United States commercial space transportation industry.

(b) SELECTION OF PROJECTS.—(1) There is established a Selection Committee which shall include 1 representative each from the Department of Transportation, the Department of Defense, and the National Aeronautics and Space Administration. The Selection Committee shall be chaired by the representative from the Department of Transportation.

(2) The Selection Committee shall review grant applications under this section and shall make recommendations to the Secretary of Transportation for awarding such grants.

(3) The Selection Committee shall take into account the following factors in its review of grant applications:

(A) The contribution of the proposed grant activity to industry capabilities which serve Federal space transportation needs.

(B) The extent of industry's financial contribution to the proposed grant activity.

(C) The extent of industry participation in the proposed grant activity.

(D) The positive impact of the proposed grant activity on the international competitiveness of the United States space transportation industry.

(E) The extent of State contributions to the proposed grant activity.

(F) The impact of the proposed grant activity on launch operations and other activities at Federal launch ranges.

(4) The Secretary of Transportation shall give preference to those applications with greater levels of industry financial contributions, all other factors being equal.

(c) LIMITATIONS AND CONDITIONS.—(1) The Federal grant for any project under this section shall not exceed 50 percent of the cost of such project.

(2) No grant shall be awarded under this section for projects for which less than 10 percent of the cost of such projects will be borne by the private sector.

(3) No grant shall be awarded under this section unless the Selection Committee determines that the applicant has or will have the legal, financial, and technical capacity to carry out the proposed project.

(4) For grant applications which propose to utilize Federal Government property, no grant shall be awarded without obtaining the specific consent of the appropriate agency head.

(5) For grant applications which do not propose to utilize Federal Government property, no grant shall be awarded under this section unless the Secretary of Transportation determines that the applicant—

(A) has or will have satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and the equipment for which the grant is provided; and

(B) has or will have sufficient capability to maintain the facilities and equipment, and will maintain such facilities and equipment.

SEC. 206. COMMERCIAL SPACE TRANSPORTATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Commercial Space Transportation Trust Fund (hereafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of all revenues from any fees assessed by the Department of Transportation for the licensing of commercial launch activities.

(b) PURPOSE.—Subject to the availability of appropriations, revenues deposited in the Trust Fund shall be used only to fund projects that directly benefit the United States space transportation industry.

(c) SELECTION OF PROJECTS.—The Secretary of Transportation shall select projects recommended by an Industry Selection Committee composed of 1 representative from each of the companies which have paid, or will have paid, fees described in subsection (a) within a period, not to exceed 2 years, to be determined by the Secretary of Transportation. Voting of such Industry Selection Committee shall be weighted according to the dollar amount of each company's fee payments within such period.

(d) LIMITATION.—Trust Fund revenues shall not be used to pay the operating or other expenses of the Department of Transportation.

SEC. 207. IDENTIFICATION OF LAUNCH SUPPORT FACILITIES.

(a) IDENTIFICATION.—The Administrator and the Secretary of Defense, as appropriate, in coordination with the Secretary of Transportation, shall conduct an inventory and identify all launch support facilities owned by the United States Government. To the extent practicable, the Administrator and the Secretary of Defense shall also identify any launch support facilities which could be made available for use by non-Federal entities on a reimbursable basis without interfering with Federal activities.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Secretary of Defense each shall submit to Congress a report containing the results of the identification required under subsection (a). Portions of such report may be classified and protected from public disclosure if such classification is necessary to protect national security.

TITLE III—MISCELLANEOUS

SEC. 301. ANCHOR TENANCY AND TERMINATION LIABILITY.

(a) ANCHOR TENANCY CONTRACTS.—Subject to appropriations, the Administrator may enter into multiyear anchor tenancy contracts for the purchase of a good or service in order to increase the viability of a commercial space venture if the Administrator determines that—

(1) the good or service meets the mission requirements of the National Aeronautics and Space Administration;

(2) the commercially procured good or service is cost effective;

(3) the good or service is procured through a competitive process;

(4) existing or potential customers for the good or service other than the United States Government have been specifically identified;

(5) the long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and

(6) private capital is at risk in the venture.

(b) TERMINATION LIABILITY.—(1) Contracts entered into under subsection (a) may provide for the payment of termination liability in the event that the Government terminates such contracts for its convenience.

(2) Contracts that provide for the payment of termination liability, as described in paragraph (1), shall include a fixed schedule of such termination liability payments. Liability under such contracts shall not exceed the total payments which the Government would have made after the date of termination to purchase the good or service if the contract were not terminated.

(3) Subject to appropriations, funds available for such termination liability payments may be used for purchase of the good or service upon successful delivery of the good or service pursuant to the contract.

(c) LIMITATIONS.—(1) Contracts entered into under this section shall not exceed 10 years in duration.

(2) Such contracts shall provide for delivery of the good or service on a firm, fixed-price basis.

(3) Such contracts shall provide for no payments to the contractor before successful delivery of the good or service, except to the extent that the Administrator considers such payments to be in the best interest of the United States.

(4) To the extent practicable, reasonable performance specifications shall be used to define technical requirements in such contracts.

(5) In any such contract, the Administrator shall reserve the right to terminate the contract for cause without payment of termination liability in the event of a lack of adequate technical progress or the failure of the good or service to meet performance specifications of the contract.

SEC. 302. USE OF GOVERNMENT FACILITIES.

(a) AUTHORITY.—Federal agencies, including the National Aeronautics and Space Administration and the Department of Defense, may allow non-Federal entities to use their space-related facilities on a reimbursable basis if the Administrator, the Secretary of Defense, or the appropriate agency head determines that—

(1) the facilities will be used to support commercial space activities;

(2) such use can be supported by existing or planned Federal resources;

(3) such use is compatible with Federal activities;

(4) equivalent commercial services are not available on reasonable terms; and

(5) such use is consistent with public safety, national security, and international treaty obligations.

In carrying out paragraph (5), each agency head shall consult with appropriate Federal officials.

(b) REIMBURSEMENT PAYMENT.—(1) The reimbursement referred to in subsection (a) may be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the use of such facilities by the private sector. For the purposes of this paragraph, the term "direct costs" means the actual costs that can be unambiguously associated with such use, and would not be borne by the United States Government in the absence of such use.

(2) The amount of any payment received by the United States for use of facilities under this subsection shall be credited to the appropriation from which the cost of providing such facilities was paid.

SEC. 303. PROTECTION OF INFORMATION DEVELOPED UNDER SPACE ACT AGREEMENTS.

Section 303 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2454) is amended—

(1) by inserting "(a)" after "SEC. 303.";

(2) by striking "and (B)" and inserting in lieu thereof "(B)";

(3) by inserting ", and (C) information described in subsection (b)" after "national security"; and

(4) by adding at the end the following new subsection:

"(b) The Administrator, for a period of up to 5 years after the development of information that results from activities conducted under an agreement entered into under section 203(c) (5) and (6) of this Act, and that would be a trade secret or commercial or financial information that is privileged or confidential under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a non-Federal party participating in such an agreement, may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.".

SEC. 304. COMMERCIAL SPACE ACHIEVEMENT AWARD.

(a) ESTABLISHMENT.—There is established a Commercial Space Achievement Award. The award shall consist of a medal, which shall be of such design and materials and bear inscriptions as determined by the Secretary of Commerce. A cash prize may also be awarded if funding for the prize is available under subsection (d).

(b) CRITERIA FOR AWARD.—The Secretary of Commerce shall periodically make, and the Chairman of the National Space Council shall present, awards under this section to individuals, corporations, corporate divisions, or corporate subsidiaries substantially engaged in commercial space activities who in the opinion of the Secretary of Commerce best meet the following criteria:

(1) For corporate entities, at least one-half of the revenues from the space-related activities of the corporation, division, or subsidiary is derived from sources other than the United States Government.

(2) The activities and achievements of the individual, corporation, division, or subsidiary have substantially contributed to the United States gross national product and the stature of United States industry in international markets, with due consideration for both the economic magnitude and the technical quality of the activities and achievements.

(3) The individual, corporation, division, or subsidiary has substantially advanced space technology and space applications directly related to commercial space activities.

(c) LIMITATIONS.—No individual or corporate entity may receive an award under this section more than once every 5 years.

(d) FUNDING FOR AWARD.—The Secretary of Commerce may seek and accept gifts of money from public and private sources for the purpose of making cash prize awards under this section. Such money may be used only for that purpose, only such money may be used for that purpose, and the Secretary of Commerce shall make publicly available an itemized list of the sources of such funding.

SEC. 305. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this Act, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Administrator, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

Mr. HALL of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. HALL].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, passed, and a motion to reconsider was laid on the table.

□ 2120

GENERAL LEAVE

Mr. HALL of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3848, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1079

Mr. JONTZ. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1079.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. SOLOMON asked and was given permission to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, I ask for this 1-minute for the purpose of engaging the deputy majority whip, the gentleman from Georgia [Mr. LEWIS] in a colloquy about the schedule for the remainder of the week and for next week.

Mr. LEWIS of Georgia. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Mr. Speaker, I yield to the gentleman from Georgia [Mr. LEWIS] for that purpose.

Mr. LEWIS of Georgia. Mr. Speaker, the program for the House of Representatives for the week of August 10 is as follows:

On Monday the House will meet at noon for 30 suspensions. There will not be rollcall votes. the votes will occur on Tuesday. The first vote shall not occur until after 1:30.

On Tuesday, Mr. Speaker, the House will meet at noon, and the House will also meet at 10 Wednesday.

The bills that will be considered will be:

H.R. 5487, the Agriculture and related agencies appropriations of fiscal year 1993, the conference report; House Resolution 5466, the Airline Competitiveness Enhancement Act, and I that will be subject to a rule; H.R. 4323, the Neighborhood Schools Improvement Act, which is also subject to a rule; House Resolution 4394, Merchant Mariners' Document legislation, which is also subject to a rule; and House Resolution 5754, Water Resources Development Act of 1992, which is also subject to a rule.

At the close of the week's business, Mr. Speaker, the House will adjourn until noon on Wednesday, September 9, for the August/Labor Day district work period and also for the Republican National Convention.

As my friend, the gentleman from New York [Mr. SOLOMON], my friend, well knows, conference reports may be brought up at any time.

Mr. SOLOMON. Mr. Speaker, would the gentleman inform us if tomorrow, August 7, Friday, is a pro forma day or not?

Mr. LEWIS of Georgia. We will not be in at all on tomorrow.

Mr. SOLOMON. All right.

And just to clarify, there are no votes on Monday, and the earliest possible votes would be around 1:30 on Tuesday?

Mr. LEWIS of Georgia. The gentleman from New York [Mr. SOLOMON] is correct. There will not be any recorded votes on Monday. The earliest recorded vote will occur on Tuesday around 1:30.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Georgia [Mr. LEWIS].

I would just remind the Speaker and the Democrat leadership that it is the Republican Convention this coming week for a 2-week period. There are many Members who are members of the platform committee who are delegates to that convention, and we on this side were promised the same courtesy that was given when the Democrat Convention was taking place, that there would be a very light schedule as far as votes on Tuesday and Wednesday of this coming week go, and we just want to remind them of that because there will be many of our Members missing, and we would like to have as few votes as possible.

In other words, no heavy lifting.

Mr. LEWIS of Georgia. Mr. Speaker, this side of the aisle and the leadership will be very considerate.

Mr. SOLOMON. I thank the gentlemena from Georgia [Mr. LEWIS] for his courtesies, and I wish him a happy weekend.

Mr. LEWIS of Georgia. I say to the gentlemen, "Same to you, sir."

ADJOURNMENT FROM THURSDAY, AUGUST 6, 1992, TO MONDAY, AUGUST 10, 1992

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

CHILDHOOD CANCER MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 492) designating September 1992 as "Childhood Cancer Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I certainly do not object to this piece of legislation, but I take my reservation to yield such time as he may consume to my colleague and friend, the chief sponsor of the resolution, the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I rise in strong support of House Joint Resolution 492, a resolution which would designate the month of September 1992, as "Childhood Cancer Month."

I would like to thank the distinguished gentleman from Ohio [Mr. SAWYER], chairman of the Subcommittee on Census and Population, for his support for this resolution and his efforts in expediting its consideration.

I would like to also thank my good friend and colleague, JOHN PAUL HAMMERSCHMIDT, who worked so energetically in gathering support for this effort.

According to the Department of Health and Human Services, dramatic progress has been made in the early diagnosis and treatment of cancer. As a result, the number of child deaths from cancer in the United States declined by 36 percent between 1973 and 1987. Despite such encouraging progress, cancer deaths are the leading cause of death by disease among children between the ages of 3 and 14.

This resolution will recognize and applaud the overwhelming love, devotion and courage of the families and friends, the volunteers who give so generously of themselves, the private and governmental agencies whose staffs work so hard to provide timely and effective services, the scientists and health care professionals so essential for their medical and emotional support, and the children who must struggle with this disease—especially the children.

Sadly, too many of us have been touched by the heartbreak and devastating realities of cancer—the enormous physical, emotional, and financial challenges to be dealt with on a daily basis. That children should have to face these realities is all the more heartbreaking.

Former chief counsel of our committee, Public Works and Transportation, Dick Sullivan, and his lovely wife, Julie, lost their 8-year-old daughter, Teresa Marie, to cancer. For a parent, there is no greater loss. But out of their despair, Dick and Julie were determined to make a difference, to ease the way for those who would follow—thus, their lifetime commitment to the work of the Candlelighters Childhood Cancer Foundation.

Also, a current member of my committee staff, Maureen Dubia, and her family are constantly in our prayers as they cope with the challenges of her son John's leukemia. God willing, young John will win his fight.

There is a strength and commitment within this community of people that we as a Nation would truly find inspiring. It is important that we have an opportunity to understand the daily challenges they must face and to honor their outstanding loving response to those challenges.

House Joint Resolution 492 does that and I urge its adoption.

Mr. RIDGE. Mr. Speaker, I thank the gentleman from New Jersey [Mr. ROE] for his remarks.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 492

Whereas dramatic progress has been made in the early diagnosis and treatment of cancer and, as a result, young cancer victims and their families no longer need to relinquish their dreams for the future;

Whereas according to the Department of Health and Human Services, the number of child deaths from cancer in the United States declined by 36 percent between 1973 and 1987;

Whereas despite such encouraging progress, cancer deaths continue to be the leading cause of death by disease among children between the ages of 3 and 14;

Whereas families facing the specter of childhood cancer need the best possible medical care and emotional support that can be provided;

Whereas brothers and sisters of young cancer victims need special consideration both at home and at school;

Whereas young cancer victims need financial help, understanding and compassion, and the opportunity to express and pursue the fresh, unjaded dreams that are the hallmark of childhood;

Whereas many private organizations (including the National Cancer Institute) and government agencies throughout the United States are working to meet the needs of children with cancer and hundreds of private volunteer organizations at both the national and international level (including the American Cancer Society, the Leukemia Society of America, the Candlelighters Childhood Cancer Foundation, and the Ronald McDonald Foundation) are helping parents and children to cope with this tremendous problem; and

Whereas recognition should be given to the dedication and hard work of scientists, health care professionals, and volunteers who are working to overcome childhood cancer, to assist its victims, and to express admiration and support for the courageous youngsters and parents who struggle with this disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 1992 is designated as "Childhood Cancer Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

82D AIRBORNE DIVISION 50TH ANNIVERSARY RECOGNITION DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 270) to designate August 15, 1992, as 82d Airborne Division 50th Anniversary Recognition Day, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, under my reservation I yield to my friend and colleague, the chairman of the subcommittee, the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I rise at this point only to recognize the work of our friend and colleague, the gentleman from North Carolina [Mr. ROSE].

Mr. RIDGE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. HUNTER] who was Airborne, although perhaps not with that division.

Mr. HUNTER. Mr. Speaker, I just want to remark that there is another Airborne unit, the 173d Airborne Brigade, the first conventional unit in Vietnam in 1965, which lost 200 sky soldiers on Thanksgiving Day at Dak To; in 1967 it had a celebrated history, with a number of legendary fighters in their ranks.

Mr. Speaker, I would hope that very shortly we will have a commemorative up here to celebrate the 173d Airborne Brigade and the sky soldiers.

□ 2130

Mr. RIDGE. Mr. Speaker, in the meantime we will encourage Members to celebrate this commemorative.

Mr. ROSE. Mr. Speaker, I am pleased to rise today and provide the House with an opportunity to recognize one of the greatest fighting units in the history of our military. Next Saturday, August 15, the 82d Airborne Division will celebrate its 50th anniversary. During my 20 years of service in the House, I have been fortunate to represent the men and women at Fort Bragg, NC, where the 82d is stationed. I ask that my colleagues join me today in thanking the 82d Airborne Division for 50 outstanding years of service to this Nation. Your support for this humble effort to recognize a tradition of excellence is greatly appreciated.

The 82d Division was formed on August 25, 1917, as a conventional infantry division. The 82d distinguished itself in World War I by seeing more continuous combat than any other U.S. division. With the belief that World War I was the war to end all wars, the 82d Division was deactivated for over 20 years.

World War II ushered in new technologies which completely changed the dynamics of combat. The battlefields of World War II would not be mazed with the trenches that had dominated wars since the American Civil War. The battles of World War II would be fought with highly mobile divisions. With advances in aircraft design, the need arose for a new soldier, the paratrooper.

The 82d was reactivated on March 25, 1942, as an infantry division. It was redesignated on August 15, 1942, as the 82d Airborne Division.

In 1943, the 82d Airborne Division was deployed to the European theater, fighting in the campaigns of North Africa, Sicily, and Salerno, Italy. During the Normandy invasion the 82d was one of the first combat elements to land in France. The 82d continued to distinguished itself in combat until the surrender of Germany in May 1945.

The 82d Airborne served for 5 months in Berlin after World War II as occupational force. It was during this time that General Patton, while viewing the 82d's honor guard, made the comment, "In all my years in the Army and all the honor guards I've seen, the 82d's honor guard is undoubtedly the best." Since that time the 82d has been known as America's Guard of Honor and 82d Airborne All-American Division.

After the 82d Airborne's tour of duty in Berlin it was assigned to Fort Bragg, in my hometown of Fayetteville, NC. It is now part of the U.S. Army's rapid deployment force, capable of deploying its forces around the world within 18 hours of notification.

The 82d Airborne Division is recognized around the world as an elite fighting unit that remains on the cutting-edge of our Armed Forces.

The 82d has exemplified its speed and courage by being some of the first combat forces to be committed in our most recent conflicts, Grenada, Panama, and the Persian Gulf. In fact, it was the lightly armed 82d Airborne Division which was the first ground force in Saudi Arabia during the Persian Gulf conflict. It was the men and women of the 82d who drew the line in the sand, that Saddam Hussein did not cross.

I think that it is very proper to honor the fine men and women, both past and present, who have served in the 82d Airborne by designating August 15, 1992, as 82d Airborne Division 50th Anniversary Recognition Day. I ask the support of my colleagues in the passage of House Joint Resolution 453.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 270

Whereas 50 years ago, brave men and women of the United States made tremendous sacrifices to defend freedom and to save the world from tyranny and aggression during World War II;

Whereas, during World War II, the American paratrooper became a new type of fighting soldier;

Whereas, from the drop zones of Sicily and Normandy to the desert sands of Iraq, the paratroopers of the 82d Airborne Division of the United States Army have distinguished themselves as being among those who were the first to answer the call to go in harm's way;

Whereas the 82d Airborne Division is recognized as an elite fighting force that continues to be on the cutting-edge of our Armed Forces;

Whereas today, as for the past 50 years, the 82d Airborne Division's ranks are filled with some of our Nation's best soldiers; and

Whereas it is appropriate that we recognize the 82d Airborne Division on the 50th anniversary of its formation and pay tribute to the gallant paratroopers, past and present, who wear the maroon beret: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 15, 1992, is designated as "82d Airborne Division 50th Anniversary Recognition Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities acknowledging the many important contributions of the 82d Airborne Division of the United States Army over the past 50 years.

The Senate joint resolution was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on House Joint Resolution 492 and Senate Joint Resolution 270.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMUNICATION FROM HON. DAN ROSTENKOWSKI, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. DAN ROSTENKOWSKI, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, August 6, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to inform you, pursuant to Rule L of the Rules of the House, that the Custodian of Records of my office has been served with a subpoena issued by the United States District Court for the District of Columbia.

Sincerely yours,
DAN ROSTENKOWSKI.

COMMUNICATION FROM HON. JOE KOLTER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. JOE KOLTER, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, August 6, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to inform you, pursuant to Rule L of the Rules of the House, that the Custodian of Records of my office has been served with a subpoena issued by the United States District Court for the District of Columbia.

Sincerely,
JOE KOLTER.

THE RUSSIAN SINKHOLE

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DUNCAN. Mr. Speaker, today we will take up a multi-billion-dollar aid package for the former Soviet Union. In a recent column in the New York Times, that paper's foreign affairs specialist, Leslie Gelb, said this: "Various forms of Western aid to the ex-Soviet state totaled about $50 billion in the last 20 months, and the money has virtually disappeared without a trace or a dent on the economic picture."

He then wrote that American political leaders should "think again and hard about rescue plans. The danger is that we will waste billions, and, even more tragically, fail to zero in on what can be realistically accomplished by outside aid."

Now, Mr. Gelb works for the New York Times. He is almost always in favor of foreign aid. Yet he also wrote this in his column: "For now, Western governments should not throw away their aid on saving governments that can only save themselves."

The title of his column is "The Russian Sinkhole." I am sure that this package of billions in aid will pass, but I really believe it is a mistake for us to pour more money down this Russian sinkhole.

The article referred to is as follows:

THE RUSSIAN SINKHOLE

(By Leslie H. Gelb)

As the U.S. foreign policy establishment stampedes toward a megabillion-dollar comprehensive "aid" program for the ex-Soviet Union, consider the following facts:

These states have 44 nuclear power plants, including 15 of the Chernobyl style, many of which are in terrible shape and could spring radioactive leaks. One near St. Petersburg leaked two weeks ago.

Ukraine and Kazakhstan now threaten to take control of intercontinental-range missiles on their territory. If they do, they would instantly become the third- and fourth-largest nuclear powers after the U.S. and Russia.

The debt of Russia is running at 25 percent of its total Government expenditures for the first quarter of this year. There is massive underpayment of taxes by business enterprises and local governments.

Wages have dropped so low relative to freed prices that some 90 percent of Russians now live below subsistence levels. Subsistence is about 1,500 rubles monthly, while per capita income now totals about 900 rubles monthly or $8.25. Life will get much worse if, as expected, production in key sectors falls an additional 50 percent this year.

The ex-Soviet states are now meeting only 30 percent of their interest payments (and almost no principal) on debts to the West of $70 billion. Most of this is owed to or guaranteed by Western governments.

Various forms of Western aid to the ex-Soviet states totaled about $50 billion in the last 20 months, and the money has virtually disappeared without a trace or a dent on the economic picture. Tens of billions in hard currency controlled by Communist Party officials also vanished in the last two years.

These sad facts—plus civil and ethnic wars and the lack of cooperation among the ex-Soviet republics—suggest that the new states are nearing military, economic and political anarchy.

Such considerations should cause American political leaders to think again, and hard, about rescue plans. The danger is that we will waste billions and, even more tragically, fail to zero in on what can be realistically accomplished by outside aid.

My particular concern is Richard Nixon's recent proposal for a comprehensive aid plan. He argued that anything less would ignite a "Who lost Russia?" debate. He accused President Bush of playing "a penny-ante game" where the stakes were geopolitical survival. He called for tens of billions of dollars to stabilize the ruble and more tens of billions in other help. He made more modest and practical proposals as well. But the practical ideas have gotten lost in the political scramble he triggered.

Mr. Bush, stung by the Nixon charges, is now under the gun to present a big-bucks plan to salvage his reputation as a "foreign policy" President. Governor Clinton, the leading Democratic Presidential contender, could try to pre-empt and outbid him in a major world affairs address Wednesday. Congressional leaders and foreign policy gurus are also jumping on the now fashionable big-bucks, big-plan bandwagon.

The West should be working on plans for big aid programs—currency stabilization, import and export credits and the like. But these plans have to be for later, when and if the threat of anarchy subsides and some stability returns. Any cash given now would simply vanish down a vast sink drain.

For now, Western governments should not throw away their aid on saving governments that can only save themselves. Instead, they should focus on specific, pressing and solvable problems and on seeding the future of democracy.

First priority must go to the nukes. This means immediate help to repair or shut down unsafe nuclear reactors. It means talking very tough with Ukraine and others about their nuclear weapons aspirations and putting experts on the ground now to help them dismantle weapons.

The second priority should be agriculture and food aid. Without bread, the return of dictatorships will be inevitable.

The third priority has to be sending experts and technical aid directly to groups committed to running businesses and making democracy work.

The stakes could not be higher. All the more reason for substantial, practical and immediate aid—not for grand illusions.

MAINTAINING AND CREATING JOBS, THE MOST IMPORTANT ISSUE FACING THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, earlier this evening the House unanimously passed House Concurrent Resolution 246 stating that Congress will not accept any trade agreement, including the potential North American Free-Trade Agreement being rushed to completion by the Bush administration which jeopardizes U.S. health, safety, labor, or environmental laws.

Mr. Speaker, I rise tonight to speak about the most important issue that faces our Nation today—jobs—maintaining and creating a range of jobs—from minimum wage to high-paying jobs—with fair benefits for our citizens. As I speak to you this evening, the Bush administration is rushing to put the final touches on a North American Free Trade-Agreement [NAFTA] with Mexico and Canada. As currently negotiated, it will help accelerate the loss of United States jobs to low-wage Mexico. As we know only too well, the process of job migration to Mexico has already widely begun.

Mr. Speaker, I am going to be reading into the RECORD over the next several weeks testimony presented by American workers at field hearings held across this country on job losses that have already occurred to Mexico.

This statement comes from Henry James Laird, a former employee of Eaton Corp. in Bellevue, OH.

BELLEVUE, OH,
March 30, 1992.

The EDUCATION AND LABOR COMMITTEE,
House of Representatives,
Washington, DC.

My dislocation from the Eaton Corporation is only one of the four plant closures or downsizings that have been my misfortune to experience. I was employed there for over five years as a maintenance mechanic plantwide doing everything from air conditioning to plumbing, line maintenance and facility care and repair. Part of the time I did repair on the line that was shipped to Mexico. My last wage was $12.38 plus overtime.

The plant manager called a plant meeting to announce the line was being moved to Mexico around early to mid 1989. I assisted with the breakdown and shipment of the automotive controls line to Mexico which included 4 and 5 ton presses and other related equipment. The last line to be sent there left after the plant closing was announced, displacing 75–100 workers and was gone by the end of 1990. This left a very large floor area which was used for the storage of other finished goods. When the plant closure was announced they said the reason was that there was too much floor space in the plant so this was the beginning of the end of the Eaton plant in Fremont. It became too expensive to keep the plant open when it was under capacity. Several engineers and maintenance men went to Mexico to help set up the machinery to help get them started.

I am currently looking for work again from another partial closure. I am a veteran of 3 tours in Vietnam as a Navy Machinist Mate. As a single head of household with 2 kids at home I am finding it tough to make my house payments. Right now I am behind 1 month on my mortgage and my health insurance expires March 31, 1992. I am basically a hard working guy who believes in going out and finding work, not waiting for the job to come to me. Today's job market is really challenging.

In closing I would like to ask you Congressmen to bring our jobs back home to America where they belong. God Bless America.

Yours truly,

HENRY JAMES LAIRD.

Mr. Speaker, the administration has claimed that by simply reducing tariffs between the United States, Mexico, and Canada, prosperity will be created in all three countries. Yet the NAFTA negotiations continue to engender significant opposition because they ignore critical social, economic, and political divergences that a trade agreement cannot address and, more likely, will exacerbate. Nothing in the central body of the agreement to date addresses the need for free elections, political freedoms, human rights, individual and labor rights, decent standards of living, environmentally safe working and living conditions—these should be fundamental enforceable precepts underpinning any workable economic negotiation.

Tonight I want to bring your attention to an important new study that sheds light on the realities of a poorly and hastily negotiated NAFTA. The Economic Policy Institute has just released a study entitled "The Effect of George Bush's NAFTA On American Workers: Ladder Up or Ladder Down." The alarming findings of this report are that the agreement proposed by President Bush will remove rapidly all remaining barriers to the flow of capital, goods, and services across North American borders, leaving the fate of U.S. incomes, working conditions, and environmental and social regulation entirely to economic and political chance.

The report finds that, as presently designed, the proposed NAFTA agreement will harm the United States' long-term economic competitiveness and put in jeopardy the jobs of hundreds of thousands of American workers. It will also put downward pressure on the wages of millions more Americans working in sectors not directly affected by the agreement.

It doesn't take much common sense to recognize that corporations seeking to maximize profits will locate production where costs are lower. This includes labor costs, corporate taxes, and the costs related to complying with environmental or workplace safety regulations. Quite simply, why wouldn't a company relocate in order to pay $1.50 an hour wages with no benefits rather than $10 an hour wages with benefits? Sixty-eight percent of all investment in Mexico already is United States investment.

There is ample evidence that this is exactly what is happening in the Mexican maquiladoras. The real advantage of producing in the maquiladora sector does not lie in avoiding tariffs, but rather in taking advantage of ultracheap wages and lax environmental and labor standards. Wages in the maquiladora sector are approximately one-tenth to one-fourteenth of United States manufacturing wages, and the Mexican government has lacked both the resources and the will to enforce even basic worker-safety provisions or environmental regulations.

We all know about the painful examples of plant relocation to Mexico—Smith Corona, Dura, Delco, Green Giant, General Motors, and Zenith—to name only a few. Over the next several weeks I will be sharing more personal testimony from American workers who have lost their jobs to Mexico. I will be sharing these compelling stories of how workers in these plants went from being taxpaying citizens supporting themselves and their families with good paying jobs with benefits to the long-term unemployment lines, with little hope of finding new or equivalent employment.

The Economic Policy Institute reinforces what we've already known for some time. That is that nothing in the Bush administration's NAFTA strategy suggests that workers dislocated as a result of this new trade agreement will fare any better than dislocated workers have fared in the past. Moreover, the consensus of long-range public and private forecasters is that growth in the U.S. economy will be considerably slower over the next decade than in the last, suggesting that the fortunes of trade-dislocated workers in the United States will suffer more. I will also be reminding listeners that this agreement is being negotiated by an administration that has continually zeroed-out funding for trade adjustment assistance programs, has vetoed the minimum wage, and has waited 2 years before signing unemployment compensation legislation to deal with America's millions of jobless. We all know that the fundamental economic purpose of NAFTA is to facilitate the shift in investment to Mexico so Mexico can pay its debts to money center banks. The Bush administration has made a conscious decision to promote such a strategy. High United States Government officials have encouraged United States producers to shift to Mexico in order to take advantage of low wages. Former United States Secretary of Commerce Mosbacher even distributed materials at a meeting of business investors interested in Mexico encouraging them to move south of the border. He forecast even more cheap labor in the future because of a prospective increase in the gap between the U.S. minimum wage and the Mexican direct wage. These are Bush administration officials blatantly and clearly promoting low-wage strategies for American companies.

Many U.S. companies are trying to cut costs in the short term by heading south of the border—even without the help and encouragement of the administration's trade policy. We have seen firsthand how this pattern has already been established in the maquiladora program—the existing Mexican free-trade initiative—which has drawn thousands of United States companies to relocate part or all of their operations in Mexico. It is estimated 1,700 United States companies have located in Mexico and employ 500,000 workers. Those workers have not improved their standards of living, but the corporations that exploit their labor have made millions.

In my judgment, many U.S. firms caught in a competitive battle internationally, are opting for cheap labor rather than investing here at home in research and development, and education and training that could lead to long-term productivity and quality gains in the United States. The Bush administration is actively promoting this flawed strategy in its earnest pursuit of the NAFTA. U.S. companies cannot ultimately be globally pre-eminent by relying solely on short-term, low wage strategies to bring down U.S. cost structures. Any potential NAFTA should not permit United States companies to turn their backs on the plight of either United States or Mexican workers' well-being.

Mr. Speaker, I ask you, is this the kind of continent we want? A continent of declining wages and increasing unemployment in entire sectors of the U.S. work force? A continent where United States consumers benefit from American workers who don't earn a fair wage. Is this the kind of future we want to leave our children? I say absolutely not. Unless there is a dramatic shift in the content of what is currently being negotiated by the Bush administration, his agreement will not be supported by this Member of Congress, and many others. As Members of Congress, we must be sure that any agreement will raise incomes and expand jobs in the United States, Canada, and Mexico. Nothing short of this will do.

□ 2140

Mr. Speaker, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I just wanted to say to the gentlewoman that there are a number of bluecollar Republicans who join with her in opposing the North American Free-Trade Agreement, the so-called Free-Trade Agreement with Mexico. Let me just say that one problem that we have is that neither one of the Presidential candidates or both of the Presidential candidates, President Bush, who I support very strongly, and Bill Clinton, who the gentlewoman, I think, supports very strongly, both of them have on several separate occasions endorsed the Mexican Free-Trade Agreement.

The only Presidential contender who objected to the Mexican Free-Trade Agreement was Ross Perot, who is no longer in the race.

So let me say to the gentlewoman that I think it is important for us on the House floor, Republicans and Democrats, to analyze this agreement and to point out the problems and the dangers for American workers and American businesses.

One thing I would like to say to the gentlewoman is that one problem that we have, we discussed the environment today and the fact that we want Mexico to put good environmental laws on the books. The problem is, they have excellent environmental laws on the books, but they do not have enforcement.

And we have to look at this agreement as it is going to be enacted and as it is going to be implemented, not merely as it is going to be written.

If history is a determinant of what the future is going to be, I think we can anticipate that there will be nice words written on pieces of paper, minute orders and commitments to environmental cleanup that when funds run low in the Mexican treasury and when other items take priority, they will be ignored and we will see a continuation of a situation like we have in California where the New River, coming through the industrial area in Mexicali, comes into the United States as the most polluted river in North America and deposits its toxics and other dangerous contaminants in the Salton Sea on the North American side.

TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I just want to tell the gentlewoman that thousands of jobs are at stake, and it is very important that we remember, as the cry goes out that somehow the Mexican Free-Trade Agreement will help consumers, that the real definition of a consumer in this country is an American worker with a job and a paycheck. And consumer items are not our problem right now.

We have got all the cheap consumer items we need with ads blaring on radio and television and K-Mart shoppers attention.

What we need are high-paying jobs. This is not because Mexican workers are not productive. It is because they are productive, and they can approach 80 to 90 percent of the productivity of American workers while receiving a dollar an hour wage, so that we must realize that it is not fair for us to throw our workers into the pits with 93-cents-an-hour workers.

Anywhere in the world, no matter how deserving and nice those workers may be, it does not do a credit and it does not accrue to the benefit of American families to do that.

I hope to work with the gentlewoman in the future in advising Governor Clinton and President Bush that their position on free trade is not a correct one.

Ms. KAPTUR. Mr. Speaker, if the gentleman would yield, I greatly look forward to continue working with him. He has been such a leader on this, and he actually knows the problem. He has experienced it. He is close to the border. I come from way north in the United States. But I share exactly his concerns and truly will work with him and try to sensitize the next President of the United States, whoever that might be.

Mr. HUNTER. Mr. Speaker, I thank the gentlewoman. I hope that President Bush takes our advice.

ERIC MONEYPENNY

Mr. HUNTER. Mr. Speaker, I came here tonight to talk about Americanism and a person who literally embodies all the wonderful things, all the wonderful qualities that this Nation is known for around the world. And interestingly, this gentleman is a guy from Australia. His name is Eric Moneypenny. He is a guy who was born in Brisbane in Queensland, Australia, in June 1916. He attended grammar school and high school there.

□ 2150

Later he served at the Battle of Tobruk, and throughout the war he worked for a corporation in the islands of the South Pacific. He worked for a couple of years there, and went to Europe. Finally he traveled to the United States, when he was working for the United States Air Force in England and decided that he would like to come to the United States. He ended up residing in San Diego County, CA, and that is where I met Eric Moneypenny.

The incredible thing about Eric Moneypenny is that in this world of those of us who work in government and make a good living at it, Eric Moneypenny had a desire to help people, and he did it for free. He came to my office and he offered to work on housing for people who could not afford housing, and to work housing issues, and he asked nothing for it.

For the wonderful folks of National City, and Coronado, and Chula Vista, and Imperial Beach, and Lemon Grove, and San Diego County, and later on all of East County, El Cajon, and La Mesa and points west or points east, all the way out to Imperial County in California, Eric Moneypenny was not only a smiling face for folks who came into the office that needed help, but he was a guy who knew how to get things done. He had been working for the city of Chula Vista as a part-time senior housing specialist, and remained there until 1992. Every time he had a spare moment he went to work as a volunteer for his fellow Americans.

Eric Moneypenny has decided to go back to Australia, and this country is going to be poorer for his absence. I just want to say to Eric and to all of the people who are like Eric, who work for this country and for their fellow man for no pay, because they believe in the goodness of America, thank you for what you have done. You have truly made Australia a rich and wonderful place in the hearts of many Americans like myself who do not know much about Australia except for Eric Moneypenny.

IN MEMORY OF GEORGE THOMAS LELAND III

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. WASHINGTON] is recognized for 5 minutes.

Mr. WASHINGTON. Mr. Speaker, this evening I rise in memory of George Thomas Leland III, departed, and remind Members that the person affectionately known as Mickey Leland to all of them died 3 years ago tomorrow, on August 7, 1989, in a plane crash in Ethiopia. He died proving that effort is its own reward.

He was a colleague of most of the Members, the present Members of the U.S. House of Representatives. He was a friend of all who knew him. Since I have been in Congress as the successor to that office, I have heard thousands of Mickey Leland stories. I knew before I came here that he touched the lives of so many people because I had the pleasure of being his friend for many years, beginning in 1971 when we were both college students at Texas Southern University in Houston. That friendship lasted through until his death, and is with me now.

Mickey Leland was a great friend of all people, I believe. He believed in the brotherhood of mankind. He proved that greater love hath no man than he who would lay down his life for his friend, because he literally died for the cause in which he believed so deeply, and that is feeding hungry people throughout the world, and most especially in Ethiopia.

I pause at this time and at this late hour just for that purpose, to say that Mickey is gone but not forgotten.

LEGISLATION TO APPLY THE COMMUNITY REINVESTMENT ACT TO FOREIGN BANKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois, [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, today I am introducing the Community Reinvestment Act Amendments of 1992. This legislation applies the Community Reinvestment Act [CRA] to all foreign bank branches operating in the United States. It is important that foreign banks operating in this country be committed to lending in the United States. Currently, CRA applies to all domestic banks, foreign subsidiaries, and FDIC-insured foreign branches. This legislation adds uninsured foreign branches to this list.

Today, foreign banks hold 24 percent of the banking assets in the United States. Until recently, it was common knowledge that foreign banks hold 30 percent of the commercial and industrial loans in the United States. Now the Federal Reserve has just revised that figure to 45 percent after taking into account loans by offshore institutions to U.S. borrowers.

Our country obviously needs the credit foreign banks are extending. And foreign banks have made a serious investment in their U.S. operations. We must make sure our goals and the foreign banks' goal do not diverge. We must make sure that people who live in Anytown U.S.A. or own businesses on Main Street America can obtain credit. For this reason, all foreign institutions accepting deposits here in the United States must come under the jurisdiction of CRA. This is the only way we can make sure banks are putting money back into the neighborhoods from which they take deposits.

I am certain that non-FDIC insured foreign banks will howl in protest about this bill. They will use the overregulation argument, much the same as the domestic banks did when CRA was first enacted and when it was amended in FIRREA. They will ask for special status because they are foreign institutions serving a different clientele. But let me remind them that this legislation fully complies with the principle of national treatment. Foreign banks are still given all the rights and privileges of domestic banks. Under my bill, foreign branches are treated exactly the same as domestic branches. Both will have to comply with CRA.

The impetus behind this legislation is the low loan to asset ratios of some of the largest foreign financial institutions in this country. As I had mentioned in a June 9 floor statement, a number of foreign financial institutions operating in this country have very low loan to asset ratios in the United States. Fuji Bank, the fifth largest bank in the world has a 29-percent loan to asset ratio at its main New York branch. Overall, only 33 cents of every dollar of Fuji's assets in the United States are loans. This is not enough.

This picture was not always so grim. While large foreign banks located in the United States generally have a much lower loan to asset ratio than domestic institutions, the differential has widened during the recent credit crunch. In 1988, large domestic institutions had an average loan to asset ratio of 62 percent. Large foreign banks in the United States weighted in with a loan to asset ratio of 49 percent. In 1991, large domestic institutions dipped to a loan to asset ratio to 60 percent, while large foreign institutions tumbled to a loan to asset ratio of only 40 percent.

It appears that large foreign banks abandoned Americans and American businesses in their time of need. During the credit crunch of the last few years, large foreign institutions tightened the reins on lending much more than domestic institutions. Foreign financial institutions are not demonstrating as a great a commitment to the lending in the United States as their domestic counterparts. If they will not voluntarily make this commitment, then the laws should be changed to require them to do so. This bill serves exactly that purpose.

The Community Reinvestment Act Amendments of 1992 does not impose onerous restrictions on foreign branches. It only mandates that they follow the same regulations as their domestic counterparts. And even more importantly, it requires foreign bank branches to provide for the credit needs of the communities in which they do business. That is not asking too much of institutions which gather deposits in the United States.

INTRODUCTION OF LEGISLATION TO DIRECT THE IRS TO MODIFY PURCHASE PRICE LIMITS UNDER THE MORTGAGE REVENUE BOND PROGRAM TO REFLECT HOUSING COSTS IN WESTCHESTER COUNTY, NY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, today I rise to introduce legislation to enable more first-time home buyers in Westchester County to obtain low-interest mortgages under the Federal Mortgage Revenue Bond [MRB] Program. The bill would raise the maximum purchase price that low- and moderate-income home buyers in Westchester County can pay for homes financed through the MRB Program to a level that more accurately reflects housing costs in Westchester County. Only with this change can Westchester residents have an opportunity to participate fully in the MRB Program.

This legislation will help make the American dream a reality for more Westchester residents. During this recession, too many families are having to forgo home ownership, because they cannot afford to finance a home. This bill will give Westchester residents an equal opportunity to participate in this successful program by adjusting it to market conditions in our community.

The MRB Program allows States and municipalities to sell tax-free municipal bonds and to use the proceeds to offer below-market rate mortgages to qualified first-time home buyers. The program targets low- and moderate-income people through caps on the incomes of participants and on the price of homes that can be purchased.

Unfortunately, in certain areas, such as Westchester County, those limits are set so low that they severely inhibit participation in the program. This occurs because the figures governing Westchester County's participation in the MRB Program are based on the Census Bureau's metropolitan statistical area [MSA], which includes Westchester County and New York City. Not surprisingly, Westchester's housing prices are not reflected in overall metropolitan figures. Consequently, statistics for the MSA do not accurately represent conditions in Westchester.

The National Affordable Housing Act of 1990 included language which I wrote to separate Westchester County from New York City's MSA for the purpose of calculating Westchester's median income. Previously, the income figures for the New York City MSA were so low that Westchester was being shortchanged on housing assistance, because eligibility for such programs is usually tied to median income levels.

My amendment to the National Affordable Housing Act solved that problem without altering New York City's income calculation. The language directed the Department of Housing and Urban Development [HUD], in measuring New York City's MSA, keep Westchester in New York City's MSA. This ensures that Westchester receives its fair share of housing assistance based on its own income figures, without adversely affecting New York City's housing programs.

In order for Westchester to effectively participate in the MRB Program, it is necessary to make a similar change in the way the program's purchase price limits are set.

When the Internal Revenue Service [IRS] sets the maximum purchase price in Westchester County for homes financed through the MRB Program, it groups Westchester together with New York City where average housing costs are significantly lower. The average cost of a three-bedroom home in Westchester County is over $312,000—$115,000 more than a similar residence in New York City. Westchester residents participating in the MRB Program, as it is currently structured, must buy a house valued at less than $145,000. The supply of single-family homes in this price range is extremely small. This naturally restricts the number of homes that qualified home buyers in Westchester can choose. Consequently, Westchester County's participation in the program is very limited.

Other communities in New York State and the Nation, which have purchase price limits geared to their own markets, are participating in the MRB Program at a much higher rate than Westchester County. Suffolk County, for example, which has its own purchase price limits, participates in the MRB Program 10 times as much as Westchester County. Raising Westchester's purchase price limit to a level that reflects the Westchester market would help more low- and moderate-income people in our area purchase homes through the program.

The Mortgage Revenue Bond Program is a valuable tool for helping low- and moderate-income people overcome barriers to home ownership. But current law unnecessarily restricts many residents in Westchester County from participating in the program. The legislation which I am introducing today would correct that problem at a time when more and more Americans are losing sight of the dream of home ownership. This measure can help keep that dream alive.

IN MEMORY OF DAN CERCONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, today I am proud to pay tribute to Dan Cercone, a man who was an outstanding citizen of the city of Pittsburgh and a friend to many individuals in our community, especially to the residents of the Bloomfield section of Pittsburgh. Dan Cercone passed away on July 6, 1992, at the age of 79.

Dan Cercone came to western Pennsylvania in 1925 at the age of 12 from his native Italy. He entered our country excited about taking part in the American experiment in liberty and individual opportunity. He also celebrated the idea of community commitment and a shared responsibility to make the world a better place for each new generation.

Dan Cercone was an integral part of the Bloomfield community in Pittsburgh. A barber by profession, he was known as one of the best in the business. While his barber shop was a popular site to visit in Bloomfield, Dan Cercone was known far outside his local community as the only four time national award winner in men's hair styling. He developed and patented a unique brand of scissors which revolutionized his industry and are in wide use today in communities across America.

Over the course of a remarkable life, Dan Cercone served his community in a large number of civic roles which earned him the unofficial title of "Mayor of Bloomfield." Dan Cercone was known for his willingness to take younger men and women under his wing and serve as a mentor. He sponsored other Italian immigrants. He established and funded youth sports leagues and organized and supported several civic and business associations. While Dan never sought elected office, he earned the gratitude of many local public officials who benefitted from his sage advice on issues of concern to the residents of Bloomfield and the city of Pittsburgh. "The Mayor of Bloomfield" represented his constituents well.

Mr. Speaker, Dan Cercone was a man who lived his life well and served both his family and his community in many ways. He never wasted his time with rhetoric about family values. He set a true example of daily commitment to family values for both his daughter and grandchildren as well as the community at large. Dan Cercone was a man who will be long remembered with gratitude and affection in Bloomfield and the city of Pittsburgh. I join with the men and women of our community in paying tribute to Dan Cercone, a friend to all who knew him.

HOUSE REPUBLICAN BUDGET ENFORCEMENT OPTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. GRADISON] is recognized for 10 minutes.

Mr. GRADISON. Mr. Speaker, members of the House Budget Committee participated in a series of Budget Committee meetings over several weeks at which various reforms in the congressional budget process were discussed. At the end of this process, we concluded that the best reform in the way the budget is formulated and executed continues to be a constitutional amendment to require a balanced budget. That continues to be our first choice.

Our fallback, second-best option would be to amend the Panetta proposal, H.R. 5676 to remove any possibility of an automatic tax increase or an automatic reduction of Social Security benefits. We would also seek to maintain a firewall between domestic and nondomestic spending.

Our ideas are incorporated in the following one-page explanation I would like to include in the RECORD at this point.

HOUSE REPUBLICAN BUDGET ENFORCEMENT OPTION

Principles: Strike automatic Social Security cuts and tax increases from Panetta's plan, add a firewall and add Stenholm balanced budget constitutional amendment concepts.

Goal: Achieve balanced budget by fiscal year 1998, by restraining spending, without raising taxes or reducing Social Security.

THREE-FIFTHS MAJORITY TO ADOPT TWO-YEAR JOINT BUDGET

At the beginning of each Congress, a two-year Joint Budget Resolution would be enacted. This would bring the President to the bargaining table at the beginning of the budget cycle, not the end.

The Joint Resolution would establish for the two upcoming fiscal years the total amount of budget authority and outlays for discretionary spending, total mandatory spending levels, the revenue floor, and the public debt limit.

If carrying out the Joint Resolution would result in a deficit for any year, a three-fifths majority of the whole number of each house would be required to pass it. Further, spending could exceed levels provided in the Joint Resolution only if agreed to by a three-fifths majority of the whole number of each house—similar to Stenholm Constitutional Amendment.

No spending or tax bills or congressional budget resolutions could be considered until the Joint Budget Resolution had been enacted. The President would not be required to send a budget to Congress until the Joint Budget Resolution had been enacted.

If a Joint Budget Resolution failed to be enacted before the beginning of a fiscal year, then appropriations are deemed to have been enacted at the lower of the prior year's level or current services.

MAKE THE FOLLOWING ADDITIONAL CHANGES TO THE PANETTA BILL

Strike automatic tax increases: H.R. 5676 would automatically impose an additional, new tax bracket and would reduce or eliminate indexation of tax brackets as part of the sequestration process. That is, unlike the Democratic bill, the Republican plan would not include automatic tax increases when Congress failed to reduce spending.

Strike automatic Social Security reductions: H.R. 5676 would reduce Social Security benefits when sequestration is carried out to enforce pay-as-you-go requirements. The Republican plan would not reduce Social Security benefits.

Impose separate appropriations caps for National Security—including international affairs—and for domestic discretionary spending. H.R. 5676 would put an overall cap on all appropriations, running the risk of gutting defense in order to satisfy demands for ever more domestic spending. The Republican plan would provide two separate caps. If spending in either area was less than the cap, the savings would be used for deficit reduction.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLEMENT (at the request of Mr. GEPHARDT) for today, after 1 p.m., on account of official business.

Mr. GORDON (at the request of Mr. GEPHARDT) for today, after 1:15 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special order heretofore entered, was granted to:

(The following Members (at the request of Mr. HUNTER) to revise and extend their remarks and include extraneous material:)

Mr. GRADISON, for 10 minutes, today.

Mr. HUNTER, for 5 minutes, today.

(The following Members (at the request of Mr. WASHINGTON) to revise and extend their remarks and include extraneous material:)

Mr. PEASE, for 5 minutes, today.

Mr. WASHINGTON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. SAVAGE, for 60 minutes each day, on September 15, 22, 29 and October 6.

Mrs. COLLINS of Illinois, for 5 minutes each day, on September 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29 and 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HUNTER) and to include extraneous matter:)

Mr. DORNAN of California.

Mr. SMITH of New Jersey.

Mr. GILMAN.

Mr. SAXTON.

Mr. BLAZ.

Mr. BEREUTER.

Mr. SANTORUM.

Mr. EMERSON.

Mr. YOUNG of Alaska.

Mr. CAMP in two instances.

Mr. THOMAS of California in two instances.

Mr. MARLENEE.

Mr. PORTER.

(The following Members (at the request of Mr. WASHINGTON) and to include extraneous matter:)

Mr. FASCELL in three instances.

Mr. VISCLOSKY.

Mr. ROE.

Ms. DELAURO.

Mr. REED.

Mr. ACKERMAN.

Mr. YATRON.

Mr. ASPIN.

Mr. FALEOMAVAEGA.

Ms. NORTON.

Mr. DORGAN of North Dakota.

Mrs. SCHROEDER.

Mr. VALENTINE.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4437. An act to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100-202.

ADJOURNMENT IN MEMORY OF GEORGE THOMAS LELAND, III

Mr. WASHINGTON. Mr. Speaker, I ask unanimous consent that when the House adjourn tonight, it adjourn in the memory of George Thomas "Mickey" Leland III.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT

Mr. WASHINGTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 55 minutes p.m.) under its previous order, the House adjourned until Monday, August 10, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4073. A letter from the Secretary of the Interior, transmitting certification that the lands to be irrigated are capable of sustained agricultural production and will not result in toxic or hazardous irrigation return flows; jointly, to the Committees on Appropriations and Interior and Insular Affairs.

4074. A letter from the Acting Chairman, Nuclear Regulatory Commission, transmitting the Commission's report on abnormal occurrences at licensed nuclear facilities for the first calendar quarter of 1992; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5008. A bill to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, and for other purposes (Rept. 102–753, Pt. 2). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4715. A bill to authorize expenditures for fiscal year 1993 for the operation and maintenance of the Panama Canal, and for other purposes; with an amendment (Rept. 102–790). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 1029. An act to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; with an amendment (Rept. 102–810, Pt. 1). Ordered to be printed.

Mr. FORD of Michigan: Committee of Conference. Conference report on H.R. 3033 (Rept. 102–811). Ordered to be printed.

Mr. ASPIN: Committee on Armed Services. H.R. 4164. A bill to provide for the transfer of excess land to the Government of Guam, and for other purposes; with an amendment (Rept. 102–812, Pt. 1). Ordered to be printed.

Mr. ASPIN: Committee on Armed Services. H.R. 4404. A bill to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes; with an amendment (Rept. 102–813, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4016. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of; with an amendment (Rept. 102–814). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4802. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Mariposa* (Rept. 102–791). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4987. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States (Rept. 102–792). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5094. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *A Weigh of Life* (Rept. 102–793). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5128. A bill to authorize a certificate of documentation for the vessel *Reddy Jane* (Rept. 102–794). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5148. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States (Rept. 102–795). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5163. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Wild Goose* (Rept. 102–796). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5197. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States (Rept. 102–797). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5190. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States. (Rept. 102–798). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5226. A bill to authorize a certificate of documentation for the vessel *Touch of Class*. (Rept. 102–799). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5227. A bill to authorize a certificate of documentation for the vessel *Liquid Gold*. (Rept. 102–800). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5228. A bill to authorize a certificate of documentation for the vessel *Delphinus II*. (Rept. 102–801). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5358. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Caminante*. (Rept. 102–802). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5410. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States. (Rept. 102–803). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5425. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *High Calibre* (Rept. 102–804). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4719. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *50-50* (Rept. 102–805). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4469. A bill to clear certain impediments to the licensing of the vessel *Hazana* for employment in the coastwise trade of the United States (Rept. 102–806). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4191. A bill to clear certain impediments to the licensing of the vessel *Southern Yankee* for employment in the coastwise trade of the United States (Rept. 102–807). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3086. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States (Rept. 102–808). Referred to the Committee of the Whole House.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3005. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States (Rept. 102–809). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CHANDLER (for himself, Mr. HUGHES, and Mr. BOEHLERT):

H.R. 5786. A bill to establish a Commission on Retirement Income Policy; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. ALLEN (for himself, Mr. ROHRABACHER, Mr. DANNEMEYER, Mr. SMITH of Texas, Mr. COBLE, and Mr. BOEHNER):

H.R. 5787. A bill to repeal the Service Contract Act of 1965; to the Committee on Education and Labor.

By Mr. ANNUNZIO:

H.R. 5788. A bill to amend the Community Reinvestment Act of 1977 to include domestic branches of foreign banks within the scope of the act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS:

H.R. 5789. A bill to authorize the Secretary of the Army to construct a child care facility for Federal employees at Fort Point, Galveston, TX, and for other purposes; to the Committee on Armed Services.

By Mr. DARDEN:

H.R. 5790. A bill to repeal the mandatory 20-percent income tax withholding on eligible rollover distributions which are not rolled over; to the Committee on Ways and Means.

By Mr. JACOBS (for himself and Mr. BURTON of Indiana):

H.R. 5791. A bill entitled, "Domestic Relations Order Interstate Compliance Act of 1992"; to the Committee on the Judiciary.

By Mr. JACOBS (for himself, Mr. DOWNEY, Mr. MATSUI, Mr. GIBBONS, Mr. CARDIN, and Mr. MCDERMOTT):

H.R. 5792. A bill to provide for the inclusion of specific items in any listing of impairments for the evaluation of human immunodeficiency virus [HIV] infection prescribed in regulations of the Secretary for use in making determinations of disability under titles II and XVI of the Social Security Act; to the Committee on Ways and Means.

By Mrs. LOWEY of New York:

H.R. 5793. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain areas in applying the purchase price requirements applicable to mortgage revenue bonds; to the Committee on Ways and Means.

By Mr. SHAYS (for himself and Mr. MFUME):

H.R. 5794. A bill to amend title IV of the Social Security Act to eliminate disincentives in the program of aid to families with dependent children that prevent recipients of such aid from working toward self-sufficiency; to the Committee on Ways and Means.

H.R. 5795. A bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, targeted urban areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes; jointly, to the Committee on Ways and Means, the Judiciary, and Banking, Finance and Urban Affairs.

By Mr. YOUNG of Alaska:

H.R. 5796. A bill to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992; to the Committee on Merchant Marine and Fisheries.

By Mr. HUNTER (for himself, Mr. BENNETT, Mr. BLAZ, Mr. BUSTAMANTE, Mr. CONDIT, Mr. CUNNINGHAM, Mr. DORNAN of California, Mr. GINGRICH, Mr. HAMMERSCHMIDT, Mr. HORTON, Mr. JOHNSON of Texas, Mr. CRAMER, Mr. MCGRATH, Mr. MCNULTY, Ms. OAKAR, Mr. PACKARD, Mr. PARKER, Mr. RITTER, Mr. SANTORUM, Mr. SAXTON, Mr. SOLOMON, and Mr. TOWNS):

H. Con. Res. 354. Concurrent resolution expressing the sense of the Congress that a United States guided missile cruiser should be named the "U.S.S. Pearl Harbor"; to the Committee on Armed Services.

By Mr. COLEMAN of Texas:

H. Res. 546. Resolution concerning the crisis in Bosnia-Hercegovina; to the Committee on Foreign Affairs.

By Mr. DANNEMEYER (for himself, Mr. ARMEY, Mr. FIELDS, Mr. STUMP, and Mr. HOLLOWAY):

H. Res. 547. Resolution expressing the sense of the House of Representatives that a Presidential commission should be established to investigate whether there has been any measurable depletion of stratospheric ozone beyond that caused by natural phenomena, whether it has been proven that the use of chlorofluorocarbons damages stratospheric ozone, and whether the phaseout of chlorofluorocarbons will have any effect on stratospheric ozone; jointly, to the Committees on Science, Space, and Technology and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DICKS introduced a bill (H.R. 5797) for the relief of Thomasina Coltrain; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 252: Mr. MARKEY.

H.R. 338: Mrs. MINK.

H.R. 643: Mr. ROBERTS.

H.R. 766: Ms. WATERS.

H.R. 919: Mr. BARRETT.

H.R. 943: Mr. JONTZ.

H.R. 944: Mr. PALLONE.

H.R. 1473: Mr. PENNY.

H.R. 1527: Mr. ANDREWS of Maine.

H.R. 1573: Mr. GONZALEZ, Mr. MARTINEZ, Mr. GINGRICH, Mr. EMERSON, Mr. GORDON, Mr. JACOBS, Mr. JOHNSON of South Dakota, and Mr. THORNTON.

H.R. 1771: Mr. YOUNG of Florida.

H.R. 2164: Mr. PALLONE, Mrs. BYRON, Mr. LAROCCO, Mr. COX of Illinois, Mr. BRYANT, Mr. ORTON, Mr. STALLINGS, Mrs. LLOYD, Mr. SIKORSKI, Mr. PETERSON of Minnesota, and Mr. MCCLOSKEY.

H.R. 2385: Mr. RHODES and Mr. SLATTERY.

H.R. 2625: Mr. CAMPBELL of Colorado, Mr. SAXTON, Mr. SANTORUM, Mr. BREWSTER, Mr. MCCANDLESS, Mr. KLUG, Mr. MYERS of Indiana, and Mr. HEFLEY.

H.R. 3561: Mr. WYLIE.

H.R. 4192: Mr. DARDEN.

H.R. 4418: Mr. HASTERT, Mr. HAYES of Illinois, Mr. EVANS, Mr. MARLENEE, Mr. ROE, Mr. LAGOMARSINO, Mr. MINETA, Mr. MOORHEAD, Mr. BARTON of Texas, Mr. JEFFERSON, and Mr. RINALDO.

H.R. 4551: Mr. SWIFT, Mr. RICHARDSON, Mr. WOLPE, and Mr. DEFAZIO.

H.R. 4606: Mr. SCHAEFER and Ms. ROS-LEHTINEN.

H.R. 4749: Mr. PACKARD.

H.R. 5003: Mr. SCHAEFER.

H.R. 5117: Mr. ATKINS, Mr. FRANK of Massachusetts, and Mr. RICHARDSON.

H.R. 5162: Mr. MAVROULES, Mr. BERMAN, Mr. DELLUMS, Mr. SYNAR, Mr. BEILENSON, Mr. KOSTMAYER, Mr. OBERSTAR, Mr. BROWN, Mr. WALSH, Mr. FISH, Mr. SABO, Mr. TOWNS, Mr. WEISS, and Mr. OWENS of New York.

H.R. 5231: Mr. CHAPMAN.

H.R. 5234: Mr. PANETTA and Mr. PACKARD.

H.R. 5250: Mr. LENT, Mr. PICKETT, Mr. HUTTO, Mr. POSHARD, Mr. GEREN of Texas, Mr. LAUGHLIN, Mr. BOEHNER, Mr. SCHAEFER, Mr. PAXON, Mr. SANTORUM, and Mr. ROWLAND.

H.R. 5282: Ms. ROS-LEHTINEN.

H.R. 5316: Mr. HOUGHTON.

H.R. 5389: Mr. PORTER and Mr. ATKINS.

H.R. 5507: Mr. EVANS.

H.R. 5521: Mr. HOCHBRUECKNER, Mr. WALSH, Mr. SPENCE, Mr. BACCHUS, and Mr. VALENTINE.

H.R. 5530: Mr. RITTER.

H.R. 5550: Mr. SCHAEFER.

H.R. 5552: Mr. SCHAEFER.

H.R. 5553: Mr. SCHAEFER.

H.R. 5592: Mr. SHAYS.

H.R. 5610: Mr. GILLMOR, Mr. HUGHES, and Mr. IRELAND.

H.R. 5626: Ms. LONG.

H.R. 5729: Mr. RAMSTAD, Mr. COBLE, Mr. GOSS, Mr. DORNAN of California, and Mr. FAWELL.

H.R. 5733: Mr. GRANDY, Mr. ARCHER, and Mr. KYL.

H.R. 5740: Mr. LAFALCE and Mr. ORTON.

H.R. 5760: Mr. PARKER.

H.R. 5773: Mr. ALLEN, Mr. BARTON of Texas, Mr. BLILEY, Mr. CAMPBELL of California, Mr. COBLE, Mr. FAWELL, Mr. GOSS, Mr. LEWIS of Florida, Mr. PACKARD, Mr. RHODES, Mr. RITTER, Mr. ROHRABACHER, Mr. SENSENBRENNER, Mr. SMITH of Texas, and Mr. ZIMMER.

H.R. 5775: Mr. BOEHNER and Mr. WALSH.

H.J. Res. 106: Mr. BURTON of Indiana.

H.J. Res. 422: Mr. ECKART, Mr. FIELDS, Mr. HARRIS, Mr. HUBBARD, Mr. JONES of North Carolina, Mr. KOLTER, Mr. STAGGERS, Mr. HALL of Texas, and Mr. BEILENSON.

H.J. Res. 454: Ms. MOLINARI, Mr. CHAPMAN, and Mrs. MEYERS of Kansas.

H.J. Res. 471: Mr. LIVINGSTON, Mr. LANTOS, Mr. MCMILLEN of Maryland, Mrs. ROUKEMA, Mr. GUARINI, Mr. TOWNS, Mr. KLECZKA, Mr. COUGHLIN, Mr. SHAYS, Mr. WOLPE, Mr. SPRATT, Mr. MONTGOMERY, Mr. YOUNG of Alaska, Mr. LAFALCE, Mr. HORTON, Mr. COLEMAN of Texas, Mr. SANDERS, Mr. ESPY, Mr. CRAMER, Mr. ROE, Mr. YOUNG of Florida, Ms. NORTON, Mr. EVANS, Mr. SERRANO, Mr. KASICH, and Mr. BENNETT.

H.J. Res. 475: Mr. BATEMAN.

H.J. Res. 492: Mr. CLEMENT, Mr. DE LA GARZA, Mr. YOUNG of Florida, Mrs. VUCANOVICH, Mr. MCCOLLUM, Mr. BONIOR, Mr. BROWDER, Mr. ACKERMAN, Mr. WEISS, Mr. BRUCE, Mr. PAYNE of Virginia, Mr. SABO, Mr. LEWIS of Georgia, Mr. SHUSTER, Mr. JONES of Georgia, Mr. PETERSON of Florida, Mr. RAHALL, Mr. SANGMEISTER, Mr. BOEHLERT, Mr. INHOFE, Mr. DUNCAN, Mr. HANCOCK, Mr. MINETA, Mr. COX of California, Mr. PETRI, Mr. ZELIFF, Mr. COSTELLO, Mr. LAUGHLIN, Mr. EWING, Mr. MATSUI, Mr. DOWNEY, Mr. GEKAS, Mr. SAWYER, Mr. LIPINSKI, Mr. BALLENGER, Mr. NICHOLS, Mr. SOLARZ, Mr. DELLUMS, Mr. LAGOMARSINO, Mr. ROYBAL, Mr. BERMAN, Ms. WATERS, Mr. MARTINEZ, Mr. DYMALLY, Mr. LOWERY of California, Mr. LEWIS of California, Mr. SCHULZE, Mr. MURTHA, and Ms. PELOSI.

H.J. Res. 530: Mr. CLEMENT, Mr. COSTELLO, Mr. ANDREWS of Texas, Mr. SUNDQUIST, Mr. GUARINI, Mr. KLUG, Mr. MCNULTY, Mr. WALSH, Mr. COUGHLIN, Mr. TOWNS, Ms. SNOWE, Mr. HORTON, Mr. DOWNEY, Mrs. LLOYD, Mr. HENRY, Mr. MCMILLAN of North

Carolina, Mr. LEHMAN of California, Mr. FROST, Mr. GEREN of Texas, Mr. MARTIN, Mr. CRAMER, Mr. BRUCE, Mr. KLECZKA, Mr. PAYNE, of New Jersey, and Mr. POSHARD.

H. Con. Res. 344: Mr. WOLPE, Ms. LONG, Mr. MCCLOSKEY, Mr. WEISS, Mr. CHANDLER, Mr. GEJDENSON, Mrs. MINK, Mr. MFUME, Mr. SCHUMER, and Mr. CLEMENT.

H. Con. Res. 347: Mr. EVANS and Mr. HUGHES.

H. Con. Res. 352: Mr. HAMILTON and Mr. BROOMFIELD.

H. Res. 484: Mr. WELDON, Mr. PORTER, Mr. HUTTO, Mr. HUCKABY, and Mr. SCHAEFER.

H. Res. 490: Mr. KOSTMAYER, Mr. MAVROULES, and Mr. GOSS.

H. Res. 515: Mrs. MINK, Mr. DEFAZIO, Mr. GEJDENSON, Mr. MFUME, Mr. BLACKWELL, Mr. FAWELL, Mr. COSTELLO, Mr. EVANS, Mr. ANDREWS of Maine, Mr. OWENS of New York, Mr. ABERCROMBIE, Mr. COX of Illinois, Mr. ORTON, Mr. KENNEDY, Ms. WATERS, Mr. LIPINSKI, Ms. DELAURO, Mr. TRAFICANT, and Mr. PETERSON of Minnesota.

H. Res. 524: Mr. MURPHY, Mr. KILDEE, Mr. GOODLING, Mr. COLEMAN of Missouri, and Mr. FAZIO.

H. Res. 538: Ms. NORTON and Mrs. MEYERS of Kansas.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1079: Mr. JONTZ.

SENATE—*Thursday, August 6, 1992*

(Legislative day of Wednesday, August 5, 1992)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable BROCK ADAMS, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halvrson, D.D., offered the following prayer:

Let us pray:

** * * there is no power but of God: the powers that be are ordained of God.*—Romans 13:1.

Eternal God, perfect in all Your ways, we pray for the leadership of our Nation in these cynical days. It is as if there is a conspiracy to downgrade, demean, and discredit those who are dedicated to public service. As realists, we know there are some in positions of authority who are unworthy and who, by their attitudes and actions, bring disrepute upon public service. But we know, also, gracious God, that the great majority are men and women of integrity who take seriously their responsibility as servants of the people. We pray Thy blessing upon these faithful men and women, that they may be encouraged in their commitment to the public good, and to the institutions of government conceived and made real in the minds and hearts of our Founding Fathers. We pray Your judgment upon those who are unworthy of high office. Strengthen our democratic institutions. Preserve them against those who, enamored of power, use them for their own personal agendas.

In the all-powerful name of Him who ordains all authority. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 6, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BROCK ADAMS, a Senator from the State of Washington, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ADAMS there upon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Oregon [Mr. HATFIELD] is recognized to speak for up to 7 minutes.

The Senator from Michigan [Mr. RIEGLE] will be recognized to speak for up to 5 minutes.

The Chair recognizes the Senator from Oregon [Mr. HATFIELD].

Mr. HATFIELD. Thank you, Mr. President.

TEARS WE CANNOT IGNORE

Mr. HATFIELD. Mr. President, as public servants, we often hear from citizens who seek our help. It is part of our job and a major function of government to assist those in need.

I constantly remind my staff that I consider this the soul of the responsibilities as U.S. Senator.

Some of those who have come to us for help could be called victims—victims of disease, victims of discrimination, victims of poverty, victims of war, victims of joblessness, victims of hunger, and a hundred other maladies that affect our society.

But the victims who are perhaps most in need of not only our help, but the help of many others, cannot travel to see us because they have not the means. They have no money to spend, and cannot vote. They are the truly powerless in our society because they must rely upon others for their very subsistence and safety.

I am here to speak today about our Nation's children, and, more specifically, about those who have been victims of abuse.

Mr. President, last week I was shocked to read a headline in an Oregon newspaper which read: "Crimes Against Children Increase 104 Percent in Salem."

Mr. President, this is my hometown. This is a city that is the capital of our State. This is a city that would be considered as sort of a typical American middle-income, middle-class city. No great ghettos, no great poverty, just good, solid middle income. Of course, there are those who live in poverty and, of course, there are those who are discriminated against. But in relation to what we think of urban life, it is a small percentage.

Mr. President, I cannot say how disturbed I am to read that the crime rate in this same city increased less than 1 percent over the rate of the first 6 months of last year, but cases of child abuse, neglect, and abandonment, and failure to pay child support has more than doubled.

Another disturbing increase reported in this article was that the number of runaway children rose from 283 in the first half of 1991 to 357 this year in Salem, OR. Some of these increases may indicate better reporting of cases, but this only means that this problem has been worse than we realized in the past.

To have a clearer picture of this menace only serves to make it all the more repugnant. The increase in crimes against children in the Oregon community did not include listing of sex crimes. However, other studies give us some indication of the frightening numbers here as well. Estimates from statistics of the Children's Service Division in Oregon, using confirmed abuse cases from the last decade, show that a total number of females under the age of 18 known to have suffered serious physical or sexual abuse in their lives is at least 18,500 in a small-populated State like my home State of Oregon. Obviously, looking beyond the official statistics, we have to add several thousand additional young women who probably belong on this list but have never reported the incidents.

Statistics can illuminate the extent of a problem, but they cannot show us the human faces of hurt children that they represent. We must look beyond the numbers and the statistics to try to feel the real suffering in these young lives.

The scourge of crimes against children is not new. But to recognize that they have existed throughout time in all societies is not to say they are tolerable now in a civilized society. We, as a society, practice denial in this area because of the horror of what we would be forced to see. These crimes are often hard to detect and hard to prove. We turn away from the descriptions of violence, from the awful reality of placing the physically abused, emotionally injured child into the hostile atmosphere of a court of law. However, we must face these crimes, and we must attack.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

This May, President Bush signed into law legislation Congress passed last year which would extend existing laws on child abuse and treatment and make grants to States to develop strategies to prevent child abuse. This is a first step. A national child abuser registration system such as that proposed in the pending omnibus crime bill would be another significant step. But we cannot rely on Government officials at any level to eradicate a disease so chronic and vile that infests the very institutions that we depend upon for the security of our young; namely, our families and family structures and our schools.

While tough laws in reaction to child abuse and neglect are critical and must be strengthened, I cannot emphasize enough the need to be proactive—proactive—all of us, on this issue. The consensus among professionals in this field is clear—child abuse and neglect is the linchpin for many of the other problems of our society. Spending time, money, and effort to prevent the occurrence of abuse will reap innumerable benefits to all of us.

In Eugene, OR, there is a program called the Lane County Relief Nursery. The director of this program is Jean Phelps. It is a relief nursery that provides therapeutic programs for abused and high-risk children and their families. It has pioneered prevention-oriented—prevention-oriented—programs that strengthen the family and break the cycle of abuse. The Relief Nursery started out as an office in Jean Phelps' car and is now a multifaceted approach to child abuse treatment named as a national demonstration project and State model program. Its success stands as proof that, while strong reaction is necessary, prevention is the key toward lowering the incident of these horrible crimes against our children.

Preventing child abuse and assisting abused children is a challenge not solely for parents, teachers, guardians, and others who are in direct daily contact with children. It is a challenge for every citizen, for all persons old enough to know a wrong when they see one, and to correct it in any way they can. As elders, each one of us is responsible for the well being of the children of this Nation. We cannot ignore their tears.

It is often said that our children are our future. What obstacles they must face in this future. What dangers they must avoid in a world where utter innocence can turn to brutality and despair in a matter of minutes. We each have a vision of what a Sun-filled childhood should be like. For some, this elusive vision may be more a feeling than a picture—the feeling of games played barefoot on freshly cut grass in a suburban field, or the simple elation of finding an abandoned ball on a city street. Now, take a moment to imagine a cloud over these feelings. Envision a dark spot in this innocence almost too horrible to face, but much too horrible to forget.

The effort to identify, report, and prosecute crimes against children cannot be strong enough. Likewise, the effort to counsel and comfort those affected by these tragedies must be enhanced. Every adult citizen of this Nation must be vigilantly committed to this endeavor.

The burden of abuse is unfair at any age, but it is intolerable upon our youth. We must be the ones to bear the burden of this battle, lest it fall upon shoulders much smaller than our own.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Michigan [Mr. RIEGLE] for 5 minutes.

PRIVILEGE OF THE FLOOR

Mr. RIEGLE. I thank the Chair.

Mr. President, I ask unanimous consent that Elizabeth Gertz be afforded the privileges of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FACES OF THE HEALTH CARE CRISIS IN MICHIGAN

Mr. RIEGLE. Mr. President, I rise today to speak on the urgent need for a national health insurance plan for America that can cover all of our people and also bring skyrocketing health care costs under control.

I am the coauthor, with Senator MITCHELL, Senator KENNEDY, and Senator ROCKEFELLER, of a comprehensive health insurance plan called HealthAmerica. The bill number is S. 1227. We think it is the best proposal on the table now to solve this problem. It imposes very tough cost controls to bring costs down, and it broadens access to cover all of the people in our country. A strong nation needs strong and healthy people, and that means, fundamentally, access to good health care for all of our citizens.

Today, I am starting to put a human face on the problems of unmet health care needs and the lack of affordable health insurance for people across our country. I have now conducted, over the last 5 years, 32 different hearings on the health care issue. Most of those have occurred in Michigan, but a number have occurred here in Washington under my direction as chairman of the Subcommittee on Health for Families and the Uninsured. But over that period of time, we have heard hundreds and thousands of individual stories of people struggling to meet their health care needs and unable to do so under the present circumstances.

I want, today, to cite two or three examples of that. I want to start with a letter from a woman in Warren, MI, Andrea Hayosh. It is an example of how high health care costs can begin to cripple the economic circumstances of an American family. Andrea is a 31-year-old widowed woman with a 5-year-old son, Michael. For the past 9 years, she has worked full time as a dental hygienist in an office with three employees. Andrea's employer cannot afford to provide health insurance coverage for her and for her son. So she has had to obtain coverage through a private insurance company at a very substantial personal cost.

In 1988, Andrea's premiums under American Community Insurance Co. were $872 a year. But by June 1991, her premiums had risen steadily to $2,600 a year, really a back-breaking expense for her. Over a three and one-half year period, her premiums have tripled. These high costs forced Andrea to drop coverage with American Community. She now has different coverage under a company called Central Reserve. She is getting that coverage for $1,800 a year, but she is very concerned that the rates are going to go up or if she has to file a claim either for herself or for her son they will discontinue her insurance, because there is no requirement for them to continue the insurance if they decide that they want to cancel that policy.

So fearing and expecting that the rate pattern will continue to go up, she just does not know how she is going to be able to maintain the coverage. Right now it is taking about 10 percent of her annual income but, as I say, that is rising. She is very concerned about this, and she sent me a letter dated June 17, 1991.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD in its entirety at the end of my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIEGLE. Mr. President, I will read a couple quotes from it. She says:

> I am appalled at the cost I must pay to obtain decent health coverage for myself and son. We have the best medical care and knowledge of any country, but how do we continue to afford such high insurance costs.

I think Andrea and her son Michael deserve access to high quality, affordable health care. Clearly, we can do it in America. Every other modern nation has found a way to do this for its people. Why should our people be asked to settle for less? There is no excuse for inaction. We have all kinds of programs today in the executive branch of Government to help people in other countries. In fact, we have economic programs to help virtually every country in the world including programs to help them with their health problems. We need a program here in America. It is time we have one.

This family is not alone. I want to cite one other example. I had a hearing up in Traverse City, MI. On a weekday evening, over 300 people came out to tell us their problems on health care. I think I spent over 4 hours talking about personal problems. Here again was a typical family. I read this out of the Traverse City Record Eagle. A woman named Tammi Lumley, an East Bay resident, said her husband just was laid off from the oil and gas industry. They depended on his insurance to pay for the medical costs of their 4½ year-old daughter, who has asthma. In one year, the costs were $20,000 in hospital costs alone. The employer agreed to pay for the premiums for 6 more months, even though the man has been laid off but then we will have no coverage. And there is no way to get coverage, no way to afford coverage and there is a life threatening problem for this young girl and there is no answer today as we stand here for her problem, because her Government turned its back on her problem and turned its back on the people.

Let me cite one other case in the Detroit News.

The ACTING PRESIDENT pro tempore. The Senator's time expired.

Mr. RIEGLE. I ask unanimous consent to proceed for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair.

This is a story that ran in the Detroit News in September 1991 about a woman named Cynthia Fyfe, a single parent, employed, working very hard, who has serious medical bills. Through her work she has a modest insurance coverage program, not enough to pay her medical bills but to at least provide some measure of coverage for her. In the picture here you see her son, Anthony, who is 6 years old, the little fellow here with glasses on. He has no coverage. Her health insurance does not provide coverage for him. She cannot afford it on the outside. It is too expensive, and our country has no way of responding and helping this little fellow out in the Detroit area..

There are millions more like them. There are 300,000 children in Michigan without health insurance coverage today and additional millions across the country.

So it is time to do something about it. Here is one legislative proposal. I do not say it is perfect. We think it is the best proposal out there today and thankfully Governor Clinton and his campaign is endorsing the basic structure and philosophy and purpose of this program. I think if he is elected we will enact a national health care program.

EXHIBIT 1

JUNE 17, 1991.

Senator RIEGLE,
30800 VanDyke, Warren, MI.

DEAR SENATOR RIEGLE: I am writing to you as a concerned citizen about our health care costs. I read with great interest in The Detroit Free Press (June 6, 1991) about your sponsorship of a program called Americare.

I am a 30-year-old widowed female with a four-year-old son. I am currently working as a Dental Hygienist, in an office with 3 employees. Because insurance rates have tripled in over 3 years, my employer is unable to pay for premiums.

In January, 1988 I obtained coverage through American Community Insurance Company. At that time, my premiums were $872.00 per year. My new premium starting July 1, 1991 will be $2600.00 for the same amount of coverage. In a 3½-year period my insurance premiums have tripled.

I am appalled at the cost I must pay to obtain decent health coverage for myself and son. We have the best medical care and knowledge of any country, but how do we continue to afford such high insurance costs.

I urge you to vote and get other Senators to vote for this very much needed program. If I can be of any assistance, do not hesitate to contact me.

Sincerely,

ANDREA HAYOSH.

A MATTER OF CONSCIENCE

Mr. RIEGLE. Mr. President, President Bush yesterday said he was not going to change his thinking on the abortion issue, because it was a matter of conscience, that he was going to follow his conscience.

He has no right to impose his conscience on the conscience of every other person in this country. All well and good for him to follow his conscience in his family circumstance. But neither he, nor any other person, should tell every other person in America how to think or how their conscience should view this issue. The laws of this country and the Supreme Court decisions have said within those boundaries, that people have to make their own decisions and apply their own conscience, not President Bush's conscience, not the conscience of a given Senator, not the conscience of some other person here or there, but to apply their own individual conscience. And the President is wrong to insist that his conscience has to be applied to the thinking of every other American.

The PRESIDING OFFICER. The Senator's time has expired.

EXTENSION OF MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes and that I may address the Senate during that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FALSE CLAIMS ACT

Mr. GRASSLEY. Mr. President, I rise this morning to discuss the success of the 1986 amendments to the False Claims Act, which is the Federal Government's primary tool against fraud in Government procurement.

The amendment as sponsored in 1986 enhanced the ability of private whistleblowers with knowledge of fraud to sue in the name of the taxpayers. Under this qui tam provision of the statute, approximately $275 million have been recouped by the Treasury in just 6 years. That $275 million, $125 million was recovered in just the last few weeks—in two cases.

These huge recoveries are not the result of rigorous auditing by the Defense Department, or zealous investigation by the Justice Department. The restitution of the taxpayers in these cases was achieved through the doggedness of two lone whistleblowers.

Two weeks ago, General Electric agreed to pay the United States $59.5 million in a civil settlement for fraud in the sale of aircraft engines to the Israeli Government. The fraud was brought to light by Chet Walsh, a GE employee in Israel who discovered that his superiors at GE in the United States were conspiring with Israeli Air Force Gen. Rami Dotan to charge the United States for goods and services never provided. Walsh documented the fraud going on around him, and despite the possibility of retaliation by his employer and General Dotan, filed a suit on behalf of the taxpayers.

General Dotan is now in jail, GE has punished most of the employees involved in the fraud, and GE is planning new initiatives to prevent fraud by its agents.

Three weeks ago, the successor to the Singer Corp. agreed to pay the United States $55.9 million for overbilling on more than 1 billion dollars' worth of contracts for flight simulators. This money would never have been recovered without the whistleblower lawsuit of Christopher Urda.

Mr. Walsh and Mr. Urda would probably not have been willing to blow the whistle on the defendants if they were not entitled to a reward, a portion of the Government's recovery. Under the 1986 amendments to the False Claims Act, individuals with knowledge of fraud on the Government are entitled to sue in the name of the Government as qui tam plaintiffs.

Their private attorneys general are entitled to 15 to 25 percent of the Government's recovery—25 to 30 percent if the Government declines to join the case. This proportional reward induces employees with knowledge of fraud by their companies to take the substantial personal and financial risks involved in blowing the whistle on their employer. It also encourages third-party investigators to complement the Government's investigative resources by scouring available records for evidence of fraud.

The GE and Singer cases prove the value of whistleblower lawsuits. These cases nearly doubled, in 2 weeks, the

Government's total recovery since the law was passed a half-dozen years ago. Dozens more cases are in the pipeline. Indeed, the Government's qui tam recoveries appear to be growing exponentially.

Public contractors contemplating ripping off the taxpayers must now reckon with the possiblity that one of their own employees, who sees what's going on, will sue the company in the name of the taxpayers, in exchange for a substantial reward.

Naturally, a law that is this successful is going to upset some people. Defense contractors and other False Claims Act defendants don't like being sued by their own employees in the name of the United States. The Department of Justice doesn't always like having cocounsel in its role as the people's lawyer. DOJ, properly concerned with maximizing the Government's recovery, doesn't like to have to pay large rewards to whistleblowers that bring the Government information it would not otherwise have. So there may be efforts to limit qui tam.

Before the session is out, the Senate may be addressing some technical amendments to clarify the intent of the 1986 amendments. When the subject of whistleblower lawsuits next comes up for consideration, I hope my colleagues will all recognize that, like rewards for information leading to the apprehension of criminals, whistleblower lawsuits are an extremely effective and successful way to bring to justice firms that rip off the taxpayers. Efforts to limit these suits will only be at the taxpayers' expense, in order to make life easier for public contractors and annoyed bureaucrats. I hope Senators will join me in resisting any such efforts.

THE SITUATION IN BOSNIA-HERCEGOVINA

Mr. LEAHY. Mr. President, I want to express my strong support for demanding action to stop the killing in Bosnia.

There are no words to convey my utter abhorrence of the horrific destruction and atrocities in Bosnia. The scenes on the nightly news are heartbreaking. As we speak, another child is mangled by random sniper fire, another father loses his life from mortar shelling, another mother is forced to flee from her family.

This past Monday, grief-stricken mourners were injured when mortar shells hit in a cemetery. They were burying two orphans, killed by snipers, as they rode in a refugee bus on the way to Germany.

Ghastly atrocities are being committed in this conflict. Civilian populations are being starved and terrorized. Minorities are being harassed and intimidated. There are reports of systematic ethnic cleansing bordering on genocide. Mass numbers of civilians are being interned. Hostages are being taken. Torture, deportations, and summary executions are widespread.

After months of internal debate, the Bush administration finally decided in June to authorize the limited use of force as part of a multinational effort to provide humanitarian relief to the civilian victims of this conflict. Since then, the United States has provided approximately 40 million dollars worth of emergency relief supplies and services including food, medicine, and blankets. Much of the airlift was being accomplished with U.S. C–130 aircraft. That effort is on hold now because it is too dangerous to fly into Sarajevo.

Mr. President, our humanitarian efforts should continue, if necessary under U.N. military protection to ensure delivery of food, medicines and other supplies, especially in the Moslem areas of Bosnia. But humanitarian aid, however desperately needed, will not end the fighting. U.N. protection convoys will not stop the mortars and sniperfire.

The United Nations has passed two resolutions relating to the conflict. An April 7 resolution, No. 752, demanded a cessation of all fighting. A May 30 resolution, No. 757, imposed economic sanctions against Serbia and Montenegro. These resolutions have been ignored by the Serbian factions indiscriminately bombarding Sarajevo and other Bosnia cities.

This body passed a resolution on June 12 which called on the President of the United States to urge the U.N. Secretary General to provide a plan and budget to the Security Council for intervention to enforce the Security Council resolutions. That resolution has been ignored by the President. Secretary of Defense Cheney recently stated that the situation is tragic, but the Balkans has been a hotbed of conflict for centuries.

Mr. President, that kind of answer just is not good enough. The United States, as a leader in the United Nations, cannot allow the tragic, bloody history of this region be a justification for ignoring the massive suffering of innocent combatants, and above all, the ethnic cleansing and detention camps with their reports of widespread killings.

The U.S. Senate cannot force the United Nations to take further action. But we can call upon the President to exert his substantial influence and provide the leadership needed to bring about decisive U.N. action, including military force if necessary, to enforce its resolutions.

Mr. President, too many have died, too many children have suffered. Cease-fire after cease-fire in Bosnia has failed. The United States cannot be the policeman of the world. But we can give strong leadership in the United Nations and the international community to bring peace and a cessation of hostilities to the region.

I call on President Bush to listen to those who are asking him to send a strong signal to the aggressors in this bloody conflict that the world will not continue to stand by and watch the destruction of a people. We should and can act together to end this tragedy.

SOUTH DAKOTA DEBATERS EXCELL

Mr. PRESSLER. Mr. President, it is with great pride that I rise to honor four South Dakota college debaters. All four members of the forensics squad at Augustana College in Sioux Falls, SD, qualified for the 1992 intercollegiate National Debate Tournament. The team of Michael LeMay and Chris Moorhead was among the top 16 debate teams nationwide. This gave them prebid status for the tournament. Mr. LeMay and Mr. Moorhead ended their final college debate season with a 57–22 record. Augustana's second team of Scott Metcalf and Shane Semmler qualified for nationals by placing third at the district IV qualifying tournament.

Years ago, I was a debater on the University of South Dakota forensics squad. Earlier I had participated in oratory at Humbolt High School. While that was a number of years back, I still have a strong interest in forensics. Experience in intercollegiate debate enhances the educational opportunities of all those who participate. Exposure to the rules of argumentation offers students lifetime learning tools.

Mr. President, in recognition of the dedication and efforts of the debaters at Augustana College, I ask unanimous consent that an article printed in the summer edition of Augustana Today be printed in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DEBATE TEAM PLACES NINTH IN NATIONAL TOURNAMENT

(By Marcee Ekstrum)

Augustana debaters Chris Moorhead and Mike LeMay placed ninth in a 28-team national tournament hosted by Miami University in Oxford, Ohio.

Moorhead and LeMay, seniors from Omaha, Neb., advanced to the final round by posting a 6–2 record in the preliminaries. They lost 3–2 to Northwestern University of Evanston, Ill., in the final round.

"Chris and I both qualified for nationals all four years," LeMay said. "I'm disappointed that we didn't win the national tournament since that is every debater's dream. I'm very happy with our debate career overall."

LeMay and Moorhead were debate partners at Millard North High School in Omaha. They were roommates for seven semesters at Augustana.

"I attribute all the success that I've had in debate to my fellow teammates, especially my partner, Mike, and my coach, John Bart," Moorhead said. "Without John I would not have enjoyed any of the successes that I had."

Bart is an associate professor of communication and director of forensics.

This year, for the second time in their college careers, LeMay and Moorhead received an at-large bid to the national tournament. A panel of college coaches ranked the Augie duo among the nation's top 16 teams.

During the regular season, LeMay and Moorhead compiled a 57-22 record against the nation's top teams. They were the only team in the nation to post a winning (3-1) record against Dartmouth.

Augustana's second team of Scott Metcalf and Shane Semmler, sophomores from Sioux Falls, also qualified for the nationals with a third-place finish in the District IV competition at the University of Nebraska.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,998,239,449,934.51, as of the close of business on Tuesday, August 4, 1992.

On a per capita basis, every man, woman, and child owes $15,565.89—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

FUND FOR DEMOCRACY AND DEVELOPMENT

• Mr. HATCH. Mr. President, in June of this year, former President Richard Nixon led a mission to Moscow on behalf of a new organization founded specifically to mobilize private sector support for the nations of the former Soviet Union, the Fund for Democracy and Development.

The Fund has mounted a strong bipartisan effort to involve the private sector in humanitarian relief activities and to provide support to small and intermediate businesses throughout the former Soviet Union. President Nixon serves as the honorary chair of this group, and Vice President Walter Mondale and John Kluge are the cochairs. This organization has established a bipartisan advisory council to help provide direction and structure to its important activities. Advisory board members include former Cabinet officials Bill Simon, Jim Schlesinger, and Edmund Muskie, as well as the former chairmen of the Republican and Democratic Parties, Frank Fahrenkopf and Charles Manatt. In addition, the Fund enlisted the support of the private sector. Representatives from private industry include Dwayne Andreas, Maurice Greenberg, Lee Iacocca, Jack Valenti, Drew Lewis, and John Murphy.

Under the leadership of President Ron Scheman, the Fund recently designed a program to strengthen Russia's embryonic private sector. Members of the Fund firmly believe that the engine of economic growth in Russia over the short term will come primarily from emerging small and intermediate size businesses.

These firms are important for Russia because small enterprises are labor intensive and require only limited capital investment. These small enterprises rapidly disseminate business skills in management, production, marketing, and distribution that further stimulate economic growth. Russian entrepreneurs are eager for technical support that can be contributed by U.S. businesses, and in this environment, the opportunities for joint ventures with American firms will be enormous.

Mr. President, during meetings in Moscow, President Nixon discussed the role of the fund in helping to generate credit and technical support for small firms in Russia. He raised the issue with President Yeltsin and other senior officials in the Russian Government, all of whom lent their full support to the Fund's activities. In accordance with these discussions, the Fund has tailored a number of its current projects to address the principal constraints to the growth of the fledgling business sector—the lack of credit and the absence of technical skills. The Fund's strategy to deal with these problems include:

First, developing business training programs for new and recently established businesses;

Second, establishing credit facilities for small and medium businesses in association with cooperating business associations and emerging commercial banks;

Third, facilitating participation of U.S. business in small and medium-size joint ventures or pairing with new Russian entrepreneurs.

Mr. President, this multifaceted approach will enhance Russian entrepreneurs' understanding of free-market principles and institutions. However, the Fund also endorses the establishment of credit facilities designed to help small firms get started and obtain necessary capital. Without the provision of credit, technical assistance alone will have little effect. Unfortunately, it is difficult for these firms to acquire even limited amounts of cash due to the restructuring of the Russian economy and the shortage of available capital. In addition, the banking system is rudimentary and most new entrepreneurs lack collateral. The Fund's development program seeks to resolve this problem by establishing a small business investment fund to defray the costs associated with starting a new business.

Mr. President, the Fund's strategy holds great promise in creating trade and investment opportunities for United States businesses in Russia and in fostering viable commercial enterprises in Russia. This approach opens the way for investors to enter into joint ventures with responsible Russian firms and develop reliable information about potential investment opportunities.

Mr. President, the Freedom Support Act that the Senate recently passed was an extremely important piece of legislation. However, the best assistance that the United States will ultimately provide the CIS will be advice concerning privatization of state-owned industries and assistance with economic reform. In conclusion, I commend the Fund for its fine work, and I continue to believe that the administration should use the Fund's experience and expertise to help establish a viable and robust private sector in the CIS.•

THE DEATH OF WILBER G. SMITH

Mr. DODD. Mr. President, I rise to salute Mr. Wilber G. Smith, a prominent figure in Connecticut politics for nearly 30 years, who died on July 31 after losing the last of a lifetime of great battles to cancer. Many who observed his career and worked alongside Mr. Smith in the political trenches of the Connecticut General Assembly, where he served as a State senator from Hartford in the 1970's and 1980's, knew him as a warrior for whom no battle against perceived injustice was too trivial or inconsequential. Indeed, Wilber Smith dedicated his life to the cause of social justice, carrying into Connecticut in the early 1960's, the visionary momentum of the civil rights movement.

Migrating from his native town of Orlando, FL, to the north end of Hartford while still a teenager, Wilber Smith was raised on the kind of inequity and injustice he would fight so hard against in later years. His childhood ran squarely up against the southern Jim Crow laws which fostered dual societies along the racial divide. Educated in segregated Florida schools before enrolling in Hartford's Weaver High, Mr. Smith would witness the evil of racism firsthand when his dying brother was denied a life saving kidney dialysis machine because the few in service were reserved for whites. His was a life fueled by a sense of mission and responsibility, and his aggressive policy making as a legislator reflected a deep indignation and resolved vigilance to keep American Government faithful to the promises of its Constitution.

There was nothing covert or subtle in Wilber Smith; everyone knew exactly what he meant, though many were not comfortable with his message. But then Mr. Smith's political credo for social change did not accommodate the comfort of the guardians of the status quo. His inimitable brusque and straight forward style compelled the audience of the political leadership and demanded that attention be directed to the undeserved in the community. Indeed, Mr. Smith effectively championed for the rights of the poor, women, minorities, prisoners, and consumers—groups he saw as underdogs, estranged from the instruments of power and influence.

Though in later years Wilber Smith was unsuccessful in his efforts at regaining a seat in the general assembly, he never wavered from the course he set as a young man. His career remained animated by the same themes of advocacy and activism. He was twice elected to the leadership within the NAACP, heading the State chapter, and the Greater Hartford chapter up until his death, and was awarded the NAACP Roy Wilkins Civil Rights Award for Lifetime Achievement in Civil Rights. He served as the equal opportunity coordinator for the town of Manchester and worked for time with the State Office of Policy and Management in an effort to incorporate affirmative action programs and policies within that agency's employment and training division. After achieving his degree in law from the University of Connecticut School of Law in 1986, Wilber Smith served as top aide and security adviser in Connecticut to the Reverend Jesse Jackson during his bid for the presidency.

Wilber Smith was a role model to a generation of African-Americans in Hartford who witnessed his tireless commitment to the empowerment of all Americans. His persistence broke down barriers and opened doors; his innovative approach to solving the economic problems of the inner city resulted in precedent setting legislation calling for the creation of enterprise zones, to encourage companies to invest in and do business in impoverished urban areas. In his personal life, too, Wilber Smith was charged with the charisma and faith of a minister's son, galvanizing his friends and family with the determination to move forward, to work for justice and to never give up. It is fair to say that Wilber Smith was a man who practiced what he preached.

I hope that my colleagues will join me in expressing sympathy for the family of this fine man who contributed so much to the people and State of Connecticut.

COMMENDING YVONNE RILEY AND MERLE ENGLISH

Mr. MOYNIHAN. Mr. President, I rise today to call to the attention of my colleagues two remarkable speeches by two remarkable women.

On June 11, Yvonne Riley, a student, and Merle English, a reporter for one of our leading newspapers, New York Newsday, each rose to address the commencement of the New York City Technical College held at Carnegie Hall. These speakers were not remarkable for their eloquence alone, but also for their insight.

Ms. Riley, who spoke first, talked about the importance of the family, calling it "the core of every society, the building blocks of a nation."

Mr. President, we are only beginning to learn, or relearn, this fundamental fact. We certainly are just beginning to discuss it candidly after a generation-long silence, brought on, I think, by fear. Fear, that is, of appearing to criticize. Ms. Riley, however, seems not to fear the truth, and we would do well to heed her words.

Ms. English addressed an equally difficult topic, one especially sensitive to recent graduates: The future. She notes that pessimism is widespread today, particularly on economic matters. Many young people find few opportunities in the work force, and have little reason to believe that their prospects will improve.

But they should not despair, she reminded them, because they will always have themselves, their will, their resourcefulness. "America is still a land of opportunity," she said. "People are quietly making millions, not just by winning the lottery, but by creating new goods and services or advancing existing ones, or by formulating ideas that improve the human condition. Why not you?" Why not, indeed.

Mr. President, it is refreshing in these times to see people like Yvonne Riley and Merle English thinking and speaking out. We should pay them mind. I commend and thank then, and I ask that their speeches be printed in the RECORD.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

ADDRESS GIVEN BY NEW YORK NEWSDAY REPORTER MERLE ENGLISH AT THE 52D COMMENCEMENT EXERCISES OF NEW YORK CITY TECHNICAL COLLEGE, JUNE 11, 1992, AT CARNEGIE HALL

Good morning, President Merideth, distinguished guests, faculty members, parents and friends, and a very good morning and congratulations graduates.

This is a very special moment, because it speaks of accomplishment. And I feel honored and truly privileged to have been asked to address you on this most auspicious day.

In the week following the Rodney King verdict and the outbreak of violence it generated, the Rev. Calvin Butts, pastor of Abyssinian Baptist Church, spoke at a prayer service at Berean Baptist Church in Bedford-Stuyvesant.

In a moment of levity, he asked if anyone knew what kind of car the disciples drove on the day of Pentecost. "A Honda," said Butts, "Because they were of one accord."

It is in that spirit of oneness and harmony that I am here with you today as you celebrate a new milestone in the marvelous adventure that is life.

A commencement address is usually delivered to young people going out into the world. But many of you are already in the world, having had to work to pay your tuition. Some of you had children to support as well.

And you did it during trouble times. At one point last year New York City Technical College was threatened with a cut-off in funding. Yet you continued to work toward this day. And here you are.

You have every right to rejoice in your achievement. And so do your instructors, and your family, because they understood the sacrifices you made, the limitations you overcame, and extended themselves to ensure that you made it here. Earning a degree is no small feat, especially against the odds many of you must have faced.

Now you are vibrant, eager to offer your skills in the marketplace, or to further develop and hone them in a job you already hold or through continued schooling. But as you step forward, what kind of world awaits you? You, from whose ranks should emerge the next generation of professionals, entrepreneurs, innovators, leaders, movers and shakers?

A recession—many say depression—has the economy in a stranglehold. Analysts point to indicators that shroud our hopes in gloom. You hear and read: The class of '92 faces the worst job market in two decades. Members of last year's class are still looking. And there's a new message being circulated: Put the American dream on hold. Scale back expectations. Lead a simpler life. Renounce cherished dreams.

Just when it's your turn to enjoy a piece of the pie.

Well, I may seem like a Pollyanna, but this is still a bountiful world. I believe there's a slice of the pie for every one of you. I admire the attitude of a graduating student who said, "I believe there's a job out there for me."

When the economic pundits say you will be competing in a job market that holds little hope and a lot of challenge, they want you to be realistic. But I reject the crippling spirit of despair engendered by that kind of forecast. I have reason to be optimistic about what the present, and the future, holds for you, Class of '92.

The occupational outlook for the next five years, according to the State Department of Labor, estimates a growth of 89,000 jobs in New York each year, and service jobs will require the largest number of new workers. Some 23,870 additional people will be needed every year, and the professional and technical occupational group has the largest projection for growth openings, some 7,510 per year.

Demand for new managers is estimated at 4,610 per year through 1996.

Clerical jobs will provide 6,880 opportunities annually. Many of those positions will come from small businesses, about 59 percent from companies with fewer than 20 people.

Another factor in your favor is that you, as a group, reflect the diversity of the 102 different nationalities represented in the student body of New York City Technical College. As we approach the year 2,000—just eight years away—the workforce will be more diverse. Population and labor force growth rates for blacks, Hispanics and Asians are expected to exceed those for whites.

I am projecting good results for you, also, because the initiative, commitment, perseverance, discipline, and resilience it took to bring you into this magnificent hall for this occasion are armaments that will serve you in attaining your new goals and ensuring tomorrow's successes.

And you are further equipped with other exemplary qualities. Even as you burned the midnight oil to accumulate credits, you found time to demonstrate your concern for others. Students in the hotel and restaurant management division prepared and served Thanksgiving and Christmas dinners for homeless people. Those in legal assistant studies helped the poor file claims in Small Claims Court. I heard a term used to describe people who engage in that type of philanthropy—community antibodies—those who give of themselves to help neutralize some of the toxins of urban living. Cleave to this habit of sharing and seeking the welfare of others, and you will find that the liberal soul shall be made fat and he that watereth shall be watered also himself.

You should therefore sally forth with great expectations.

For pessimists, this may be the worst of times, but it can be the best of times for the resolute optimist. Every generation is presented with its own challenges, and men and women of vision have found opportunity where naysayers saw none.

Of the more than 50,000 graduates this college has produced, more than 600 are chief executive officers or owners of businesses. It is therefore not difficult to envision some among you following in their footsteps, or becoming innovators, creating and providing new opportunities for yourselves and others.

And many of you will do it right here in this soul-trying yet ceaselessly fascinating city. A lot of people have grown weary of the drugs, the violence, the grafitti and seeming despair of New York, and moving out. But others are moving in. And many are staying put. There are examples all around of people who refuse to flounder in darkness and are doing more than lighting candles of hope.

Right now, in Brooklyn, one church group of 1,500 people, with pooled funds, is buying boarded-up homes and property and renovating them to help revitalize blighted neighborhoods. Skilled church members are hired to do the work. And as the bishop drives around looking for new acquisitions, he offers jobs to enterprising small business people he encounters.

Other groups are forging partnerships with banks to plough back money into struggling communities whose progress has been stymied by redlining. They want accessible loans to provide truly affordable housing and business development that result in jobs.

Across the street from your college, in the last two years, a new Downtown has arisen, a symbol of faith in the future.

Don't give up on New York. Keep always before you the vision not only of how things are but how they can be and work toward that. Believe that the best is yet to come.

America is still a land of opportunity. People are quietly making millions, not just by winning the lottery, but by creating new goods and services or advancing existing ones, or by formulating ideas that improve the human condition. Why not you? When doubt of your capabilities creeps into your mind, tell yourself, "If others have done it so can I."

An Indian wise man says people who think they have no power to act on their dreams go through life in a somnambulistic state. He refers to them as one-horsepower people. What they need is a tiger in their tank.

If you contemplate entering a field you might look at the competition and hesitate, thinking that every avenue of activity is already overcrowded, so why try at all? With this line of thinking you will have become deluded with a consciousness of limitation. There is always room for that which you, uniquely, have to give.

But you must be untiring in your zeal, because getting what you go after will require effort. As you have learned by experience, "Heights by great men reached and kept were not attained by sudden flight but they while their companions slept were toiling upwards through the night."

I personally do not believe life was meant to be a vale of tears. And I am convinced that we become what we believe. Therefore be careful what you give your attention to. As the late writer David Seabury said, "What we do with our attention decides our lives. If we neglect getting better command of attention we can be drawn into attitudes and habits that curtail our chance of success, our share of the best joys that life has to offer."

The issues of race are ever before us, because Greed, and its accomplice, Domination, impede human brotherhood. But while some of your energies must necessarily be devoted to the drive for justice, do not be sidetracked from the truth: that you share equal citizenship of the earth with everyone else. That this is your world too. That you have a right to be here. Stake your legitimate claim as an heir with equal rights to the planet and to share in the privilege and responsibility of managing its resources.

Now, as you reach for individual empowerment, some of you might have to start small. My advice is, Don't turn down foot-in-the-door opportunities that have the promise of better prospects. Before my graduation from high school, two of my teachers who believed I had the aptitude to become a reporter, secured a spot for me as a typist in a newspaper office. The rest, as they say, is history.

You may have to accept employment that is not in line with your ultimate goal. If you must have the wherewithal to make ends meet, accept it, while using every spare moment to work toward your goal. But while you work outside your desired field, approach what you are doing with enthusiasm. Do nothing grudgingly. Be willing to learn. Be helpful. Regard every task as another arrow in your quiver of experience. Bloom where you are planted. It will serve you well some day.

And when you present yourself to be considered for a position, a start-up loan, or any other opportunity you might seek, do not be put off by perceived slights. Use them to your advantage. A little anecdote will illustrate what I mean. I believe it was George Washington Carver who tried to interest potential financiers in developing the dozens of uses he had found for the peanut but was left in a room for almost an entire day, with nothing for company but a broom. He didn't grumble or stalk out. Instead he occupied himself by sweeping the room over and over until the floor gleamed. Impressed with Carver's productive use of his time, the financiers gave him the hearing he wanted.

I'm not sure if that story has anything to do with peanut butter, but the lesson here is that Carver made the best use of time he was investing in a goal and it won him points.

As you seek to sell your skills, or promote an idea, do not fear rejection. The exigencies of life that press you to find money to pay bills and feed yourself and your family may sometimes make you desperate enough to want to give up. But success may take time. It definitely requires persistence.

Chester Carlson knew he was onto something when, after years of poring over books in the New York Public Library he discovered a way to transfer an image onto paper. He was turned down by IBM and several other large firms as he sought to have the process developed. Finally, a small company in Rochester, agreed to work on it. The result was the first automatic copying machine, which made the Xerox Corporation, and Carlson, rich.

Defeat is a temporary test for you. A detour on your way to success, if you resolve to make it so. I understand that the manuscript for the book "Gone With the Wind" was rejected more than 300 times.

There may be times when you feel discouraged, frustrated, or downright dejected if you run out of funds or seem to have run into a dead-end. Try to guard against excessive worry. Worry, if pampered, can lead to sickness when you most need to be healthy. Someone said worry is best cured if treated immediately.

Replace worry with creative thinking. After all, is worry productive? No. But that energy, given to thoughts of what can I do until I can do what I want to do, is sure to produce something positive. When along your path to success you find hazards in your way, regard them not as insurmountable obstacles but as detours, challenges to go under, over or around on the way to your objective. Don't fall into negative expectancy.

And while you may have to lower your sights from time to time, continue to hold fast to your vision of the larger picture. There's a lesson in this little poem, by Jessie B. Rittenhouse called, "My Wage."

I bargained with life for a penny
  And Life would pay no more
However I begged at evening
  When I counted my scanty store

For life is a just employer
  It gives you what you ask
But once you have set the wages
  Why, you must bear the task

I worked for a menial's hire
  Only to learn dismayed,
That any wage I had asked of life
  Life would have willingly paid

And now a word to the single mothers among you. In recent weeks Vice President Dan Quayle came under fire for criticizing, via Murphy Brown, mothers raising children without a father in the home. He was intimating that no worthy individual can be the product of such a setting. He should know that single mothers have reared some of this country's finest citizens, Jesse Jackson, for one. And Dr. —— the young black surgeon at Johns Hopkins Hospital who separated Siamese twins attributed his success to his upbringing in a home where his mother was head of the household.

In conclusion, I commend to you the Buddhist precepts of right thinking, right speech and right action. Let your stride show purpose. Let the world know that you are on a mission by your comportment.

Embrace each day as a gift, because that really is what it is, and reflect that recognition in your treatment of those around you.

Be respectful. Be courteous; civility is not servility.

Practice the golden rule: do unto others as you would have them do to you. And while being alert for evil, look only for the good in life; you're more likely to find it.

Make your own joy. Don't rely on others for your happiness.

Develop the habit of saving. A dollar a day put away becomes $365 at the end of the year. Compare that with nothing.

Guard your health, because without health you can accomplish nothing, and you won't be able to enjoy your accomplishments.

And while you are about it, take time, as they say, to smell the flowers.

You will need all of this in a world that is entering a new millenium facing global warming and threatened by the plague of AIDS. But it is a world ready for change, and still willing to give of itself with a more loving husbandry of its people and resources.

You, brimming with—have the potential to be change agents. Sitting among you might be someone who will play a role in solving the vexing problems of our global village. Consider it a new frontier.

When you go from here today, if you take nothing else from these thoughts I wish you would remember the last line of this verse by Eliza Cook:

The hills have been high for man's mounting
  The woods have been dense for his axe
The stars have been thick for his counting
  The sands have been wide for his tracks
The sea has been deep for his diving
  The poles have been broad for his sway
But bravely he's proved in his striving
  That where there's a will there's a way.

THE 1992 GRADUATING CLASS OF NEW YORK CITY TECHNICAL COLLEGE VALEDICTORY ADDRESS, YVONNE RILEY, HOTEL AND RESTAURANT MANAGEMENT, DR. L. RIVERS—COACH

President Merideth, Vice-Presidents, Deans, Faculty, honored guests, parents, friends, and fellow graduates; I am indeed honored to be here this morning on the stage of Carnegie Hall-representing the 1992 graduating class of New York City Technical College.

I have the trusted responsibility of my peers to present to you our pride of achievements, our satisfaction of having reached another milestone, our optimism for the future, and our anticipations of the good life to follow.

However, we the graduating class of 1992 are realists, and we are quite aware that our humanity, our world at this time is laden with many complex, vexing problems; and we who sit here today as graduates are tomorrow's leaders who must help to solve these problems in order to realize our individual goals and social imperatives.

I have often been reminded by my parents who sit proudly among us this morning, that when one of our relatives failed to measure up to family expectations, we owed it to that member to give him or her all the support and encouragement needed for him or her to try again. In the words of one relative, and I quote "It's because we are a family," end of quote, and because we are a family, we are obligated to see that family members have roofs over their heads, food in their stomachs, and warm clean clothes on their backs. As a family, we are obligated to see that family members are safe, that they have good health, they can laugh, can plan a future, and think well of themselves. As a family, members should know that they are loved and respected for being members of that family.

We the graduating class of 1992 are members of intact families, and many of our loved ones are here today. We are also members of religious families, and political families, and we certainly are members of the family called New York City Technical College—a family whose members have advised us, counselled us, cajoled us, mentored us, motivated us, instructed us, to bring us to this moment in our development. When we end this commencement ceremonies, we join an illustrious alumni, and as members of the City Tech family, we will expect and be expected to make worthwhile contributions to our immediate families, and to our larger families.

The family is the core of every society, the building blocks of a nation. Within the family structures, we are shaped, molded into that which we become. What happens in each family affects the larger social structures called the neighborhood, the community, the nation, and the world.

In recent years, we have witnessed an unrelenting derosion of the intact family structure that has fostered the degeneration of neighborhoods, the community, the nation, and of course the world. Families build and re-build the values by which larger social structures survive. Our systems of values are built and influenced by those in our immediate surroundings. This is particularly true of the children.

Economist Sylvia Ann Hewlett in her latest book "When the Bough Breaks," exclaims that Americans, as a nation, have allowed a generation of children to waste away. Asked about the argument that working women have brought on these problems, Hewlett maintains that working mothers must not be the scapegoat. They pay a steep price for motherhood. Real hourly wages have fallen 19% since 1973 she says, and so most families need two incomes. If women did not work, the American family would be in worse financial trouble. We persist in thinking of childcare as a woman's issue. It is not. Fathers are more to blame Hewlett says for the parenting deficit in today's society. 24% of the children in this country are growing up without fathers. At one time, society viewed divorced fathers as irresponsible, today we see them as available bachelors. Hewlett points out that while marriage may not last, parenthood is forever.

We are living with the appalling consequences of neglect. Teenage suicides have tripled since 1960. Since 1971, the number of teenagers hospitalized for psychiatric care has increased from 16,000 to 263,000, and more than 80% of families have no fathers at home.

Confusion, stress and emotional deprivation in the home are robbing our children of the chance to succeed. We are facing a growing labor shortage, and because of the rising skill demands of the workplace, many of our dropouts are simply unemployable. Hewlett shows that the problems afflict middle-class children as well as inner city poor. Even high school graduates fall short in meeting the demands of the workplace. Chemical Bank has reported that it must interview 40 high school graduates, to find one—just one person who can be trained to become a teller. All they were asking for, was an eighth grade education.

We the 1992 graduating class must be extremely concerned about what is happening to the American family. I agree with Hewlett that America is treating its children like excess baggage, and children of all races and income levels are gravely suffering. Nearly one-third of our children drop out before completing high school, only 6% do so in Japan and 8% in Germany.

Recently, in response to Vice President Dan Quayle's reaction to the TV show "Murphy Brown," a single woman electing to be a single parent, David Hinkley wrote in his Daily News column, "Critic at Large" that the Vice President cloaked much of his talk in cheap rhetoric, like the implication that loose, irresponsible women bear a disproportionate share of the blame for the dismal state of the cities.

Director John Singleton's "Boyz in the Hood" last year's most powerful and successful black film, made the argument that a solid community must be built from inside, starting with the intact family. As kids discover the world, Vice President Quayle said they make choices about where to go and whom to follow. The more strong, successful adults they see, the better the chances they will follow one.

The strong role model theory was argued 30 years ago by Malcolm X, who was not the first, and its advocates today run from "radical" Muslims to the most mainstream of community leaders, in schools and churches.

On behalf of the 1992 graduating class, I accept the challenge to find solutions to save the structure of the intact family. When we do, we will begin to understand the problems of poverty, unemployment, poor health, teen-age pregnancy, child abuse, spouse abuse, racism, sexism, ageism, and of course drug addiction and other forms of social woes.

In conclusion, I want to thank my parents and all other parents for keeping the family intact, for understanding and extending themselves to support other families. For keeping the neighborhoods, building the community, and serving as role models for us to be the kinds of persons who will give the world a future. Thank you.

PASSAGE OF DEPARTMENT OF TRANSPORTATION APPROPRIATIONS

Mr. PRESSLER. Mr. President, I rise today to thank three separate Senate committees who realized there was a serious problem in our country and have worked hard with me to help correct it. I am referring to my legislation regarding energy pipeline safety.

A bill that I previously introduced as S. 2375 was accepted as an amendment by the managers of the energy bill, H.R. 776. I thank my colleagues, Senators JOHNSTON and WALLOP, for their cooperation in getting this legislation adopted.

I should add that in an effort to ensure these new positions are authorized, I have been working with the Commerce Committee to have my legislative language included in the legislation reauthorizing pipeline safety programs currently being worked out in conference committee. I thank Senators EXON and KASTEN for their assistance in my efforts there. I am confident that by one of these means, the additional inspectors called for in S. 2375 will be authorized.

My legislation calls for the addition of 12 inspectors within the Office of Pipeline Safety. These inspectors would assist in the development of State hazardous pipeline safety programs. Their primary focus would be inspections in States that do not have their own hazardous liquid pipeline safety programs.

Funding for these 12 inspectors was included in the recent Department of Transportation appropriations bill, H.R. 5518, which has passed the Senate. I would like to thank the chairman and ranking member, Senators LAUTENBERG and D'AMATO, for their cooperation in providing the funding for the positions created by my legislation.

I firmly believe that each of these committee actions will have a significant impact on improving the safety of energy pipelines in our country—both to people who live and work near them, and to the environment. Again, I express my thanks to all Senators and staff members involved in helping me in my efforts to see the provisions of S. 2375 become law.

THE SITUATION IN BOSNIA-HERCEGOVINA

Mr. DIXON. Mr. President, I am deeply and profoundly troubled by the most recent reports of the situation in Bosnia. Indiscriminate shelling and killing of Bosnian women and children by Serbian forces have created a grim picture of a place gone mad. It is a hell on Earth.

Recently, there have been numerous, albeit unconfirmed, reports of Serbian-run camps within the territory of Bosnia filled with Bosnian and Croatian men, women, and children. The descriptions by Bosnian refugees of these camps remind the listener of concentration camps—incredibly squalid conditions, meager food, filth and vermin, torture and killings by masked Serbian guards. The State Department knows about the camps. Its spokesman described them as horrible, yet, the United States, nor any other nation has demanded access to the camps.

Mr. President, does anybody care?

The Serbs have embarked on a process of ethnic cleansing in Serb populated parts of Croatia and Bosnia. If the Serbs cannot convince a non-Serb to move from their home in Serbia, they will be shot. The euphemism "ethnic cleansing" should send chills down the spin of all Americans. Ethnic cleansing is nothing but a fancy term for genocide.

Fifty years ago the world was horrified to learn of concentration camps in Germany, and the genocidal policies carried out within those walls. Out of the horror of World War II, the nations of the world came together in the form of the United Nations, believing that such a forum could help resolve disputes, ensure the protection of human rights, and see to it that such atrocities never happen again. The founding charter of the United Nations makes its purpose clear in chapter I, article I:

> To maintain international peace and security * * * to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression. * * *

The United Nations has the capacity and authority to act more assertively to resolve conflict. However, its recent history of inaction in places such as Pol Pot's killing fields in Cambodia leave this Senator disquieted.

The European Community, under the leadership of Britain's Lord Carrington, and our own Cyrus Vance have strived mightily to calm the waters of a thousand-year-old simmering brew, now boiling violently. There is no indication at this time that Serbian President Milosevic, is interested in peace. So far, the Serbian Government has ignored the pleas for peace, ignored the condemnation of the world for its actions, and ignored the calls to lay down their weapons, and talk peace. It has illegally occupied the hills around the Olympic city of Sarajevo, and proceeded to blast the Olympic spirit of peace to smithereens.

Will the world fiddle while Sarajevo burns? Bosnia may not have oil, but we should be just as outraged about the aggression as we were in Kuwait. It is human suffering, and not oil reserves, that should prompt our concern, and dictate our response.

I am proud to cosponsor the DeConcini-Lieberman resolution which calls upon the President to call on the United Nations to convene an emergency session of the Security Council for the purposes of authorizing all necessary means to bring an end to the wanton violence in Bosnia. The resolution is right on the mark for calling upon the United Nations to live up to its mandate. The nations of world, working within the United Nations framework, must stop fiddling and start acting.

Further, the United Nations must demand that the International Red Cross have access to all prison camps in what had been Yugoslavia.

All options to alleviate the suffering in Bosnia must be seriously considered.

If all the nations of the world adhere, like the United States has, to a noninterventionist policy to conflicts around the world, does it not tacitly permit an aggressor to commit atrocities unencumbered by international pressure?

The United Nations was not an impotent bystander in the Korean conflict and in Kuwait, but seems to have lost its voice in this instance.

War has once again stained the European continent, Mr. President. Will the world yet again allow history to repeat itself? I pray not.

I thank my colleagues.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 5503, which the clerk will report.

The bill clerk read as follows:

> A bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993 and, for other purposes.

The Senate resumed consideration of the bill.

Pending:

Fowler Amendment No. 2902, to reform the administrative decisionmaking and appeals processes of the Forest Service.

The PRESIDING OFFICER. The Senator from Georgia.

AMENDMENT NO. 2902

Mr. FOWLER. Mr. President, this is round 2 or maybe 3, continued from last evening in an effort to institute stewardship of our national forests, the public's lands in our country.

Last night, we lost an amendment by a close vote to try to reduce the subsidy to private timber companies for logging in the Nation's forests; again, our public lands, owned by all of us American citizens.

But that battle will continue because it should be won, it must be won, and ultimately it will be won.

This amendment this morning has become imperative if the American people are to reclaim some rights that they have held for 85 years—since 1907—the right to appeal a timber sale decision of the Forest Service. I guess, to put it another way, a basic not only American right but democratic right with a small "d," and that is to appeal a decision of a free Government of a free people if that decision adversely affects an individual citizen.

As I mentioned, for more than 85 years, the public has had an opportunity to appeal timber sale decisions of the Forest Service. Again, these are decisions governing the disposition not of private property—no private property—but of our national publicly owned national forests.

Somehow turning facts and logic on their heads, the administration recently took the position that, after more than 95 percent of our forests have been cut, the public appeals process in place since 1907 somehow now is blocking progress. An appeals process—again, a chance for a citizen affected to be heard, that stops less than one out of every seven sales of public forest lands—evidently is just too much for some to bear.

So this amendment, Mr. President, becomes necessary because it will establish a systematic channel for public participation, both during the front-end comment period, as it is called—that is prior to announcement of the decisions—as well as maintaining an appeal system of review.

A brief, and I do mean brief, historical recap is important to understand what will transpire unless we act.

The U.S. Forest Service has promulgated new regulations set to go into effect at any moment that would ban the public's right to appeal specific project level decisions—ban. You, the citizens of the United States, shall have nothing to say about the disposition of your lands. It is saying, in effect: These are not the people's forests; these are forests that we, the unelected Government, are going to decide how they are used.

It is no secret that the regulations were insisted upon by the Vice President's Council on Competitiveness, despite clear opposition of the senior level management staff within the Forest Service. And that needs to be emphasized.

An internal study led by Region 4 Deputy Regional Forester Mr. Bob Joslin, recommended that certain changes could be made but that the appeals process must be maintained.

When the Chief of the Forest Service, Mr. Robertson, came before our Subcommittee on Conservation and Forestry, he did his best to try to defend the indefensible, but he also failed to say a word about the recommendations of his own people, the senior level staff of the Forest Service.

Afterwards, we have had many thousands of letters, literally, of protest received by the Forest Service, not only from the general public but from Members of Congress, including the chairman of the Senate Agriculture Committee, the Senator from Vermont [Mr. LEAHY] and strong protests from the Speaker of the House, Mr. FOLEY. Yet, as the Senate tries to be responsive to the requirements of a free people, the administration is stonewalling us as we seek pertinent information at this time of decision.

And it does this, Mr. President, as part of an effort to get away with regulatory rulemaking designed to cut the American people out of the decisionmaking process of their own forests—their own land.

It astonishes me that there is even a need to discuss this matter here today. The Founding Fathers developed our Nation's principles of democracy. We have always taken great pride in the individual rights of our citizens including the right to dissent and object to decisions of the Federal Government. However, the current plans are designed to systematically shut the American people out of the decisionmaking process. It is not right. It is not right. Unfortunately, it is true.

I used to have an old friend that called me up with something outrageous to get my reaction. And I would say, "My goodness, Helen, that could not be right." She would say, "It is not right, but it is true."

This is not right. It will not stand.

I made a lot of predictions that I have been wrong about in my public life, and in my private life, but I can tell you, regardless of what happens to this amendment, whether it is won here today, or won tomorrow, or won in the Supreme Court of the land, you cannot abrogate the right of an individual citizen to participate and dissent in the decisions of his Government. It will not stand.

We will save a lot of time, and a lot of effort, and a lot of cost in court on behalf of the taxpayers of United States of America if we will adopt this amendment this morning, take it over to the Forest Service, give them the clear direction that codifies an American citizen's right to participate in the disposition affecting their lands, and to do it this morning; set this to rest. And I hope we will and I believe we will.

But if we do not, in a whole history of cases going back to sunshine laws, the requirement that public decisions be made in public by elected officials, and the absolute right of a citizen to petition the Government on a decision affecting their property, the joint ownership of ever taxpayer in the United States in the national forests of our country, that will be upheld.

And this effort to cut out all citizen participation on their forests will not stand. I just hope we will reaffirm that right by this amendment this morning.

I want to end by simply saying very softly to all within the sound of my voice, we are not talking about private property. Nothing in this amendment affects any private property. These are public lands. They should be managed through an open public process. The system should not be abused.

I anticipate the Senator from Idaho [Mr. CRAIG], and I might have a discussion on that. He and I agree the system should not be abused. But closing the system the public relies upon is certainly not the answer.

I ask all my colleagues to join me in supporting this amendment that codifies a decision that has been used since 1907 and now the attempt is to end it because of an unwarranted and unwise decision by somebody who does not understand either constitutional history or the constitutional demands of a free people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I appreciate the statement of the Senator from Georgia. I might tell my colleagues that I know in talking to several people who have very significant timber interests that they have some strong opposition to their amendment.

So this is an amendment on which I expect there will be a rollcall vote in, I hope, the very near future and I hope we will be able to limit debate on this and all amendments. Because as the chairman of the Appropriations Committee mentioned yesterday, as well as the majority leader, we have a lot of work to do if we are going to move to the tax bill. We have to get this bill finished.

I hope those people who are in opposition to the amendment will make their case and make it fairly briefly and at whatever time is appropriate, move to table so we can proceed to additional amendments.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senator from Georgia has introduced an amendment in which he argues that the whole issue is the right of participation in decisionmaking, the right of the citizen to be a part of a process that determines human activities on the public lands of this country. Specifically in this issue, the point of discussion is the Forest Service and timber sales.

He has said basically that since 1907, the citizen has had the right to question the decisionmaking process and the implementation of public policy of the Forest Service as it related to its activities and that that was now being denied by the Forest Service and that therefore his amendment would reinstate what is a basic right in this country.

I think all of us recognize the importance of the right of the citizen to participate in a representative republic. We also recognize the responsibility of management and the right to form a public policy that can in fact be implemented.

Time and time again since I have served in this body and the other body, I have heard it said that we really ought not micromanage; that we really ought not be involved in the day-to-day detailing of the processes of the agencies of our Government. We ought to set the broad policy, better known as public policy. We ought to oversight it and watch it closely to make sure it meets that which we believe our citizens want it to meet, but we ought not be involved in the day-to-day minute kind of decisionmaking that I would suggest the amendment of the Senator from Georgia is exactly trying to do.

The Forest Service has long maintained an administrative appeals process to allow the public to raise any question and all concerns as to the agency's decisions. This process has never been legislated. It has developed at the discretion of the Forest Service. The process has changed over the years.

Most recently, there was a change in 1989 in an effort to streamline what had become a complex, time-consuming, and expensive process. But the 1989 rule, the change, did not accomplish nor did it stop something that has been going on for the last good number of years that has accelerated in the last few years because some interest groups have found that they can use the process to block action; that they can tie the Forest Service up in the Federal courts of this country in such a way that no action goes forward at all; that, in essence, they are creating a de facto stoppage, disallowing the Forest Service to make decisions within the confines of the public policies and the rules and regulations that they must live with. And that process has become an extremely costly dilemma, a dilemma that largely, I believe, has been answered in a variety of other ways.

The Senator from Georgia suggested that in 1907 this process began. That is true. And at that time I think if he and I had been here we would probably have argued for it because, up until then largely the citizens of this country had been cut out of being allowed to overview, to react to, and to question decisionmaking at the policy level.

That changed. It first changed in 1969 with the passage of the National Environmental Policy Act. We call it NEPA. And then again in 1974 this Senate, this Congress said citizens ought to have a greater level of participation in the decisionmaking, and we granted that, and we allowed a public process and a comment and a questioning process to go forward. That is on the books today—1974, Resource Planning Act; 1976, National Forest Management Act.

All of those greater enfranchised the right of the average citizen of this country to have a larger say in the process of creating the broad policy, the public policy under which our agencies are managed. I support that. I think my colleague from Georgia supports that. We recognize the importance, as we craft the process, for the maximum public input.

But once it is done, should we on a day-to-day, hour-to-hour basis say that the average citizen has the right to step into the process and say, no, you are doing that wrong? Even if they hold no expertise in the area of forest management, hydrology, soil science, wildlife management, habitat concerns—even if they have expertise in none of those, they in the process today have a right to say "stop it," and a stamp and an envelope and a form forces the Forest Service in this process to back off in a very costly way and say we will have to take a look at it.

Since 1984, the number of these kinds of appeals filed annually against timber sales has jumped from 133 to a high of 1,154. That is more than a 670-percent increase.

At the same time, we have seen all kinds of other accelerations in this process. Appellants have increasingly, in my opinion, taken advantage of the fact that appeals significantly delay, as I mentioned, the Forest Service management activities, regardless of the merit of the appeals.

Now, when I say regardless of the merit of the appeals, what kind of merit do these appeals have?

In 1990, only 9 percent of them had merit. The rest of them were thrown out. But it took millions of dollars and thousands of person hours for that to be achieved. In other words, in 1990, 91 percent of the time, the Forest Service was right in following the law and the rules and regulations.

In 1991, they were right—they, the Forest Service—were right 94 percent of the time. In other words, only 6 percent of the appeals were upheld and, in those appeals being upheld, really what happened was the court coming back in and saying you have to make some adjustments. You may be a little off here, or a little off there. You have to change recalculations, do those kinds of things.

What I am saying is that on the average, in the last several years, over 90 percent of the time the Forest Service was right in what they were doing. But, as I mentioned, millions of dollars and thousands upon thousands of person hours were involved in this whole process.

What else has happened? I will suggest that the trend continued from 1991 with 636 new timber sales appealed, or 16 percent of the 3,859 commercial product sales involved has created a situation where, as we would say in a forest industry vernacular, has resulted in no trees being in the pipeline. In other words, that 3-year future look that the men and women who work in the forest products industry of this country need to have for job security is no longer there, largely because certain interest groups in this country, as I have mentioned, have used this appeals process as an opportunity to block, delay, or otherwise destroy the public policy that this Congress, in large part, has said historically is the right policy for the Forest Service to be following.

Most appeals are now found without merit. Some would argue that is fine; that is the way it ought to be. The finding goes forward. The Forest Service took, as I said, 152 years of staff time in 1991 and $5.8 million. Some would say that is OK, that is really the cost of a public process, that is really the cost of a representative republic. I will tell you that is only part of the cost. That is the public cost. That is the taxpayer dollar cost. What is not calculated here are the thousands of men and women who are not working today because there are no logs in the mill yard or on the head rig to be sawed when they could be, under the law that we have established, if it were not for the improper use of this process.

Those are really the issues at hand.

What has happened to address this? The Forest Service recently came forward with proposed changes in the appeals process, moving the appellate or those interested and very concerned, as most are, in the decisions of the Forest Service, to the front end of the process; in other words, to those areas that I talked about earlier—the NEPA process, the National Forest Management Act process—in saying that if you have concern of what we do on the land, you come early to the process, you come and state your concerns, and you help craft the policy that ultimately becomes the activities that are ongoing on the ground; and that once that occurs, once there is a clear direction as to where we ought to go, you no longer have the right to step in at the very, very last minute and, with the appeal, block it. You do have the right to take it to court, as every citizen must have in this country, but you will have to make a much more difficult decision.

First of all, you will have to do your homework more. You have to be really much more concerned that what you say is right and your figures are accurate and the Forest Service in their decisionmaking is wrong if you plan to take it to court, because you are going to have to hire an attorney and you are going to have to spend a little money. The 29-cent stamp that has stopped the process and cost the taxpayers and working men and women of this country millions and millions of dollars no longer is going to work for you.

That is really the issue at hand. It cannot be said that the public has been denied the process, but what can be said is that they have to become involved much earlier in the game and that, if they lose, then they must calculate whether to carry it forward into the courts is worth the fight.

I think those are valid arguments and those arguments are now being placed in regulation.

When those ideas that I have just spoken of were submitted to the public at large, again the public process, thousands of people responded by saying the U.S. Forest Service is right, decisions have to be changed. In almost a 3-to-1 outpouring of cards and letters and petitions, the public of this country, once again involved in the decisionmaking to change the appeals process, said that it ought to be changed and that the Forest Service is on the right track in changing it.

The majority of those who wrote in would disagree with the Senator from Georgia. They have said, yes, we will get involved up front early on and, in doing so, we will take our luck there and if we lose and our case is strong enough, we will take it to court, like we do in almost every other process that involves Government, the citizens, and the processes of Government in public policy.

Those are really the issues at hand here. It is not a matter of stepping back. It is a matter of saying that what we did in 1969 with NEPA and what we did in 1970, in 1974, with the Resource Planning Act, and what we did in 1976 was right; that we did engage the public, we do allow them to be part of a decisionmaking process that forms public policy. But what we should have done at that time was change the appeals process because the old 1907 standard really was no longer applicable unless you do believe in micromanagement, unless you do believe that the average citizen really ought to have the right to come on a timber sale and say what trees ought or ought not be cut or how the road ought to lie or what kind of gravel ought to be put on that road, that a hydrologist may not have been accurate in assisting the surveyor in laying out the proper grade for the road so that the erosion is less that it might otherwise be.

Those are the kinds of decisions that we are talking about that really is the fundamental issue at hand. That is why this amendment goes directly against the reasonable and responsible management of our public lands based on public policy, based on a timely process, and stopping that juggernaut that has occurred as a result of the inability of the Forest Service to manage, based upon appeal after appeal after appeal.

Are there frivolous appeals? Are there less than serious citizens who buy the 29-cent stamp and fill the envelope with a form? Yes, there are. I would like to think there are not many, but, yes, there were college kids in the East who were told to stop timber sales in the West. They had never been there. They had no idea what was in mind, but organizations said it was the right thing to do because cutting trees was bad. But living in stick-built homes is not bad. Having affordable housing is not bad. Just cutting trees that build the affordable homes is bad and you ought to stop it and, in instances, that very kind of thing that I just explained has happened.

Did it cost the college student anything? No, probably did not; probably made he or she who participated in it feel pretty good. But it cost the working men and women who were going to saw that log at the mill or fall it in the woods their jobs. In some instances, it cost the mill operator his or her business in foreclosures and in bankruptcies.

What we must have is an orderly, predictable process that all involved can understand, from the public participating to those who are employed in the industry who are the subject of the issue, and affordable, predictable economy and job market. Those are the issues at hand.

The Senator from Georgia is right, the process needs to be changed. There are problems in it. The Forest Service agrees, and they have proposed a change that I agree with, in large part; that I believe will, in fact, streamline the process.

But what I think the Senator from Georgia is doing with his amendment is stepping back into the dark ages again, into that time of juggernaut that has been going on out there in saying that you do not have to, as a citizen, become involved early on; you can wait until after all the work is done and, if you just do not like it, you can stop the process.

That is not fair, number one, and it is not the way our country has operated historically, in an orderly and responsible way, as a representative Republic. So I must strongly stand in opposition to this amendment and would encourage my colleagues to oppose it as we vote on it.

Mr. FOWLER. Mr. President, may I ask, may I be allowed to make a few points in response to my friend from Idaho? I will not take more than 2 minutes.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. I ask unanimous consent that it not be counted as a second speech.

The PRESIDING OFFICER. Is there objection? The Senator from Georgia has the floor for 2 minutes.

Mr. FOWLER. Mr. President, let me just say in brief response to my friend from Idaho that I acknowledge what he emphasized. First of all, that there are many frivolous appeals that are filed. But I also want the RECORD to state very clearly what my friends and colleagues know, that under the present law the Forest Service not only has the authority but is required to dismiss frivolous appeals.

That authority is under 36 CFR section 217.11 and requires the Forest Service to dismiss without a decision on the merits any appeal which is not supported by current law or facts. So there is no problem on the frivolous appeals.

When my friend from Idaho says this is costing the Government millions and millions of dollars, it may cost it thousands and thousands of dollars but nothing compared to the $300 million in subsidies in this bill to the private timber companies that are being subsidized by the taxpayers for these timber sales.

That would be like saying: Well, if you have a problem with your Social Security, even though that is the law, do not call. We do not want to waste the time of the Social Security Administration. You cannot call down there and check whether or not the law is being followed.

If you are a veteran and have a problem with your veterans benefits: Oh, do not call the Veterans' Administration. You do not have any right to appeal the decision of the Veterans' Administration, even though you served in the First and Second World Wars. That is going to cost a bureaucrat some money to uphold the law for an American taxpaying citizen.

So I say, with all respect to my friend from Idaho, this is not a bureaucratic comfort act. This is an appeals process that an American citizen has a right, if they feel—not frivolously—that their public lands are being misused.

I thank the Senator from Idaho, and I thank the Senator from Montana.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, it seems as if every year these types of amendments come up on this particular piece of legislation. I want to address the change in the appeals process, which did not bar anybody from filing an appeal or being involved in the process, the process and the appeals system, and it has worked for those people who have questions on management problems, but also it has worked from the standpoint of people who make their living on public lands, who are in the logging business or the grazing business, because they, too, sometimes feel that the management practice has been askew and they, too, appeal.

So it works for both sides of the spectrum when it comes to public lands use.

What the Forest Service basically wanted to do is whenever the forest plans are considered—and they are reconsidered every 10 years, and there is a reason for that—they want to get as much public involvement and public input on the front end of the planning session.

Now, I do not know how many folks who will cast a vote today have tried to manage a farm or a ranch or a tree farm, or whatever, and tried to make a living at it. But we know that in order to harvest whatever we want to grow, the plans on that crop were not made the spring it was planted, or the fall, in the case of winter wheat, when it was planted. Those plans were made 4 and 5 years in advance because of rotation of crops, because of what Mother Nature throws at you in the way of drought, flood, the elements, whatever it is. You always make plans in this business of trying to make a living from a renewable resource.

So what we wanted to do is manage these lands and manage the people who harvest this product, this renewable resource that grows back, so that they can make plans along with everybody else in the whole system. It is a planning process, just like you do in your garden or on your farm or on your ranch, or anything that you do. Even in a business that has nothing to do with a renewable resource, you have a 5-year plan, you have a 10-year plan;

you set goals. And you are going to have to do certain things to attain those goals.

When you deal with Mother Earth and with a renewable resource, there are always certain variables that are thrown in, and sometimes we have to change our plans due to elements or existing conditions, or conditions that we had not planned on, because I know everybody who makes plans, when you are growing a renewable resource, sometimes they do not always pan out.

The American people have come to expect full grocery stores. American agriculture has done a pretty good job of providing that. I want to remind my fellow Americans and my colleagues in this body that wheat is only $3 a bushel. In 1945, it was $3 a bushel. A combine, back in those days, cost about $8,000; today it costs $110,000. And you are still asking agriculture to do it for less, because you think you are paying too much for food.

Sometimes that has to be adjusted, too. But I do not see anybody running out there into agriculture and saying: We are going to give you more for your product. But he, too, has to go through this planning process.

So the basic premise of the change in the appeals, as far as the Forest Service is concerned, is let us get the majority of the public input up front: What should be cut, how it will be cut, how it is to be reforested or replanted. But let us get that planning process of the 10 years up front, so that the mills can make plans, so that we can make plans, and then let us get on with the plan.

Now, if it has to be changed, then that is what I always recommended. If is it not working, then it is also in the law for the Forest Service to amend the forest plans to fit the existing conditions.

Now, this amendment does one of two things: Increase cost.

I was confronted with a question on why western Senators get all excited when these kinds of issues come up; yes, it may be grazing fees. We are going to talk about that in a little bit.

I can remember in Montana when 30 BLM employees managed all the land out there and did it very well. They used advisory boards and this type of thing. They did it very well with 30 people in the whole State of Montana. They managed those lands. Now they have over 400. They are saying, "OK, increase in fees. Do I get more bureaucrats?" Because I cannot go down my own road anymore without somebody driving a government jeep with a government plate on it. One of them the other day said, "Cattle free by '93."

So basically, that was the reason, to get more people up front in the planning process so that we can get on with managing our public lands.

You would say, well, it costs the taxpayer. The taxpayer says, "I am willing to pay a little more maybe in these appeals costs to answer some of those appeals because it is my land. I would like to see it managed right. I am willing."

You talk about $5.5-$6 million direct expense or whatever it is to the taxpayer. They say, "My part of that, out of 240 million people, is not very much. I am willing to pay that."

Are you willing for your kids to pay if it is going to cost your children and grandchildren $4,000 to $8,000 more just in construction costs alone to build a home? Because the ramifications are that that is just the first pebble in the pool. Then the waves go out. It costs us every time we turn around.

So what this amendment does is it exacerbates the problem, yes, that I think Senator FOWLER, from Georgia, is trying to get around. It only increased it. And if this amendment is adopted, within 3 years every national forest in this country will be a so-called below-cost operation because of all of those costs that it takes to address appeals goes in on the cost of operating on that forest.

Then they say, well, you need some money to build some roads. They say, not for below-cost timber sales. This just adds to the overhead. Somebody has to pay it. That cost accounting has to go somewhere. So that cost goes against the actual sale of that timber on public lands.

I agree with the Senator from Georgia that maybe our thrust should be in regeneration and doing some things to our forestlands like in regeneration, like in watersheds and really putting the money where our mouth is. If we want to do that, let us put some money over there and do it or let us get the old Conservation Corps and get into the regeneration and redevelopment on some of the lands that have been abused. I am not saying there are not some around. There have been. Let us put our thrust there.

Mr. FOWLER. Will the Senator yield?

Mr. BURNS. I sure will.

Mr. FOWLER. I want to make sure my friend from Montana is aware that the administrative procedure recommended in my amendment is one that came from the Forest Service itself and the Office of Technology in its long awaited study on Forest Service planning that was released in March of this year. I will quote one paragraph:

> The * * * appeals process has been a valuable tool for the Forest Service. It has provided an internal mechanism for clarifying the legal requirements and testing the soundness of the decisions and the appropriateness of current policies and procedures. In addition, the appeals process can lead to better, more consistent decisions by encouraging more responsibility and accountability on the part of the presiding officers. The available evidence does not support the assertion that administrative appeals have significantly decreased the volume of timber available for sale.

That is the OTA study just released in March.

So, I simply say, since both the Senator and I are trying to accomplish the same goal, that this administrative appeals process that some are attempting to repeal has won nothing but kudos and credit from the studies of our Government, and the conclusions do not support any assertion that it would significantly or has or will significantly decrease the volume of timber available for sale.

I thank the Senator for yielding.

Mr. DOMENICI. Will the Senator yield?

Mr. BURNS. Yes.

Mr. DOMENICI. I would like to ask the Senator from Georgia a question. Did he not mean that the appeals process is being repealed? He meant to say one of a number of administrative appeals processes is being repealed, did he not?.

Mr. FOWLER. That is correct.

Mr. DOMENICI. There are still two total administrative appeals opportunities left in the law, are there not?

Mr. FOWLER. The Senator from Georgia is aware of the comprehensive appeals process that the Senator from Idaho and I had a discussion a little earlier about, the different acts over the years that have been either added or subtracted in the appeals process.

What the Forest Service is attempting to do now is to not allow a citizen the right of appeal in the predecisional, what they call the scoping analysis, when the actual decision about the sale is being made. That right has been in the process since 1907. This amendment would seek to codify the remaining law.

Mr. DOMENICI. Mr. President, I do not believe that is right. We will talk about it when we have our turn.

Mr. FOWLER. I know what my amendment says.

Mr. BURNS. I thank both Senators for clarifying that. I do not read it the same way either. I think basically what they are trying to do—I will take a look, and I advise my good friend from Georgia to take a look and see what they are trying to do. It is my impression that they want more input on the front end of this thing in the scoping and the setting of the forest plans and then, after that, there is still an appeals process should conditions arise to change the management program. That mechanism is not being taken out of the process. It is just not being taken out of it.

The point is that we want more input on the front end so that in the next 10 years we can operate in a little bit of peace so you do not have micromanagement and frivolous appeals, so we can get on with living. But as it is now—and anybody that would try to contradict the fact that it does not cost money absolutely has bad information.

Under this amendment, the cost and cost analysis and the cost in time and the business of getting on with trying to manage a renewable resource, that cost of American time, money, and, yes, it has a social and economic impact on those communities and those people who live in the West and are subject to the whims of sometimes little fiefdoms of a government bureaucracy.

They wonder why they are all upset with government as it exists today. For the first time in the 200-year history of this Government we are not getting all that we are paying for, and I think people are a little upset about that. I did not see very many Government employees. Now I cannot even drive home that I am not surrounded by them. Most of them were on the 14th Street Bridge this morning. I like to have never gotten to work. I could not appeal that.

But that is what the Forest Service is trying to do. They are trying to bring some sanity in the land management. It is like you run your farm or your ranch or even your garden or even your flower bed. You make those plans for a long time because we are in a growing cycle. You cannot change in the middle of a stream. You cannot change from 1 month to the next, not in dealing with nature, soil, water, and sunshine that it takes to produce this terrifically economical product that keeps the majority of Americans out of the cold and, yes, out of the heat.

So America is asking us to be more efficient, and we can be. We can provide food and fiber and housing for this country, if allowed to do so in a constructive way. That is basically what we want to do—get the public involvement on the front end of the planning process. You can appeal those. Let us get them up there, because when those plans are put into effect, it is going to be tougher to change those plans, unless we have a real national crisis.

Mr. FOWLER. If the Senator will yield, my friend from New Mexico has left the floor. A citizen can still appeal the master plan, but that is once every 10 years. What the citizen has had a right to do is to appeal the project level decisions. This is what is being taken away and what I attempt to restore. Timber companies can continue to appeal any denial of their permits. It is simply the citizen that cannot now, unless we pass this amendment, appeal a project level decision on a sale approved by the Forest Service.

Mr. BURNS. I advise my friend that they can still appeal project level. The problem is they cannot be frivolous.

Mr. FOWLER. Again, I say to my friend—and I will show it to him in the language—that under the proposed decision being promulgated by the Forest Service, a citizen will not be able to appeal a project level decision.

They have been able to do it for 85 years. But unless we pass this amendment, and they go through with what they have promulgated, that right will be taken away. That is the only reason I am here. So I would like at this point to remind my friend from Montana—and he is my friend—we have had hearings on national land issues together in his State, and I want to show him the editorial from the Bozeman, MT, Daily Chronicle entitled, "Unappealing Proposal;" an editorial from the Missoulian, of Missoula, MT, entitled "Interfere To Enforce; Forest Service Seems To Manage Better When the Public Meddles In"; an editorial entitled, "Not Above the Law," again from the Missoulian in Montana, all of which support the position of the Senator from Georgia.

Mr. President, I ask unanimous consent to have these articles printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NOT ABOVE THE LAW

Secretary of Agriculture Ed Madigan went to Congress more or less to argue the U.S. Forest Service should not be held accountable for its actions.

Madigan pleaded for congressional restrictions on environmental lawsuits, which he said are interfering with the Forest Service's ability to do its job—specifically with its attempts to both produce timber and protect northern spotted owls in the Northwest.

What the secretary terms "interference" is more commonly known as enforcing the law. Has there ever been a defendant to any lawsuit who didn't believe life would be better if he were somehow placed above the law? It's not surprising the Forest Service believes it knows best how to manage the national forests. But believing doesn't necessarily make it so.

Millions of owners of the national forests—citizens—routinely disagree with the assertion that the Forest Service knows best. That's why the agency occasionally finds itself in court. In fact, had the Forest Service properly managed forests in Washington and Oregon, it's altogether likely the spotted owl would not have been pushed to the brink of extinction, qualifying the bird for the endangered species list.

So long as the Forest Service abides by federal laws and follows its own rules and regulations, it has nothing to fear from the courts.—MISSOULIAN.

[From the Missoulian, Aug. 11, 1991]

"INTERFERE" TO ENFORCE FOREST SERVICE SEEMS TO MANAGE BETTER WHEN THE PUBLIC MEDDLES IN

Secretary of Agriculture Ed Madigan last week went to Congress more or less to argue the U.S. Forest Service should not be held accountable for its actions.

Madigan pleaded for congressional restrictions on environmental lawsuits, which he said are interfering with the Forest Service's ability to do its job—specifically with its attempts to both produce timber and protect northern spotted owls in the Northwest.

"We could manage this issue better if we were free from the interference of the federal courts," Madigan said.

What the secretary terms "interference" is more commonly known as enforcing the law. Has there ever been a defendant to any lawsuit who didn't believe life would be better if he were somehow placed above the law? It's not surprising the Forest Service believes it knows best how to manage the national forests. But believing doesn't necessarily make it so.

Millions of owners of the national forests—citizens—routinely disagree with the assertion that the Forest Service knows best. That's why the agency occasionally finds itself in court. In fact, had the Forest Service properly managed forests in Washington and Oregon, it's altogether likely the spotted owl would not have been pushed to the brink of extinction, qualifying the bird for the endangered species list. The Forest Service is required by numerous laws to manage its lands in a responsible, sustainable manner that fairly balances the many uses of the public forests.

So long as the Forest Service abides by federal laws and follows its own rules and regulations, it has nothing to fear from the courts. But if Congress grants the Forest Service immunity, then the public will lose its ability to keep the agency and its employees honest. Heaven help us the day Congress declares law enforcement "interference."

[From the Bozeman (MT) Daily Chronicle, Nov. 26, 1991]

UNAPPEALING PROPOSAL

Appeals of U.S. Forest Service timber sales have hamstrung the agency in its quest to supply the lumber industry in recent years. Their cause, however, seems to have evaded many in Congress, where a proposal to eliminate or overhaul the appeals process was debated last week.

Timber sale appeals were rare when forests stretched uninterrupted from horizon to horizon. They don't anymore.

The Forest Service—at the direction of Congress—tapped public forest lands heavily following World War II, when an economically growing and fertile nation demanded a lot of affordable housing.

At the time, the consequences of these large timber harvests were obscure or invisible to those who demanded, directed or implemented them. Now these excesses are at center stage. Those not convinced of this need only take a short airplane ride over Montana's forest lands. Untrammeled reaches of forest that were once the stockpile of a lumber-hungry nation are scant. The slow-growing coniferous forests of the West have been unable to fill the void left by post-war timber harvests.

The immigration of millions to the West—many of whom came specifically to take advantage of the lifestyle offered by national forests—ensures that virtually every planned timber harvest is now in someone's backyard. If the sale is not tempered by concern for its consequences, that "someone" is going to object, whether through the appeals process or through litigation in federal courts.

While it's true the growing conservation movement is the source of many of the appeals that have hindered forest officials in their quest to supply the timber industry, the success of these appeals speaks for itself. They stand as evidence that many planned timber sales violate the intent of environmental law designed to prevent permanent or massive damage to a public resource.

Throwing out the appeals process—a move advocated by the Forest Service chief and some members of Congress—is like giving aspirin to a terminally ill patient. The appeals, no matter how frustrating they are to forest managers, are only a symptom of the disease.

> The best treatment lies in a realistic timber quotas and a transformation in the manner in which timber sales are prepared.
>
> The result may be a scaled down timber sale program, but that's the best prognosis the timber industry can hope for given the limitations of our national forest resources.

Mr. FOWLER. So I just ask my friend: There are some areas of the Forest Service procedures and management that we disagree on, and I certainly agree to disagree with the Senator on that. But on this question of citizen involvement, it seems to me that the people who have studied the proposal of the Forest Service do agree that this is not in the best interests of our timbering, or our national lands. I ask consideration of that.

Mr. BURNS. I thank my friend from Georgia. We have worked on many issues together. I guess we just interpret that law from a different point of view.

I advise my friend that we would hate to start running this country by what editorials we see, and I will try to make my own judgments on that, being as I am here and they are not. Nonetheless, we have not taken the public out of the process. That is the point I am making. We are trying to bring some sanity to management and to manage those lands. That is like us going out and trying to say to a farmer or rancher: You have to change your whole plan here in midstream. We never would get anything grown, or in the ground, and we never would get anything in the bin, if that is allowed to happen.

I am always reminded that it is pretty tough to manage by committee. That is basically what we are trying to do here. And you have to look at the poor old camel; the camel was put together by a committee.

So I ask my colleagues to oppose this amendment. It is meant to be just another roadblock as far as trying to manage public lands and trying to deal with the renewable resource in environmentally safe ways. I thank the chairman and yield the floor.

Mr. BYRD. I wonder if we can get a time agreement on this amendment. We have been on it 1 hour, or it will soon be within a couple of minutes.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. Momentarily. We have to move on these amendments. I have 20 on the list here that were accorded eligibility by the Senator yesterday, and I just hope we will not take too much time to debate these amendments. Let the Senate work its will one way or the other. The distinguished Senator from Georgia is agreeable to a time limitation. I just hope we can move on.

Mr. STEVENS. Mr. President, I see this as another example of a Senator that serves on a legislative committee bringing an amendment to the floor and using the urgency of passing the appropriations bill to avoid the normal amendment process to deal with this legislation. I am not prepared to enter into a time agreement yet on this. I would enter into a time agreement with regard to tabling this motion. But if it is not tabled, a series of us have amendments to offer to it.

Let me explain to you why. Twenty percent of the timber harvested in this country comes from the public lands of the United States. As a young man, I studied the record at Gifford Pinchot. I became very impressed with them. As a matter of fact, I had the privilege of meeting with Pinky Gutermut, and I am sure my friend from West Virginia remembers him, one of the distinguished environmentalists of the early 1950's. We talked at length about the reason for establishing the national forest. The basic reason was that there would be a yardstick by which the public could measure the performance on private lands.

Is it not strange that this amendment is brought to us by a Senator who represents a State that has only one company that deals with public lands and that happens to deal in my State. Basically, the timber that is affected by this is in the West. The 80 percent is not affected at all.

There is no appeal process for citizen involvement in cutting timber on private lands, although as I travel throughout the United States, I hear more complaints from people who live adjacent to the private lands subject to indiscriminate harvests and waste, than I do from those who live adjacent to public lands, because we do have the Forest Service protection for citizen involvement.

My citizens are very much involved, as the Senator from Georgia knows, in what goes on in the two great national forests in my State. As a matter of fact, I tried to create additional national forests in my State, and I think it may be possible sometime to do so, because we believe in the system that is there.

Here we have a series of regulations that were issued, promulgated, not effective yet, to streamline the appeals process for efficiency and management of the Federal lands that are in the national forest. What happens? People who represent the private sector forests are trying to put another period of delay on the harvesting of timber from Federal lands, from public lands.

They do not have to go to the EPA. They do not have to go to the Forest Service. They do not have a review first, before they harvest timber for fish and wildlife. They do not have a citizen's right to appeal from decisions made by the owners of private lands as to whether they harvest timber or not, what the cycle is, whether they have clearcutting, or protection for endangered species. Take the redhead woodpecker, the one that is so much in the news now. There is no protection in the southeastern portion of the United States for that endangered species. And we all know what the difference in terms of the spotted owl is in the Pacific Northwest.

(Mr. BRYAN assumed the chair.)

Mr. STEVENS. Mr. President, it is high time we brought back the focus of Gifford Pinchot in terms of what is the yardstick. I have an amendment being drafted now, and if this amendment is not tabled we shall debate it. It is that under the interstate commerce clause there will extend to all private lands that are subject to harvesting the appeals process that is in the Senator's amendment, the EPA process, the endangered species process, the advanced planning process that is required for harvesting timber from public lands, the total review that is involved in utilization of public timber. The yardstick has been shortened.

The Senator from Georgia talks about the subsidy in the harvesting of timber from the public sector. There is no subsidy, because the cost factor to have to comply with the laws that are already on the books dealing with the harvesting of timber from the public lands is so great that there is no way to have an honest comparison in terms of the costs compared to the private sector land.

The Gifford Pinchot dream has been lost because of the heavy weight of regulation that comes on year after year after year on the Forest Service timber as opposed to the total lack of any regulation of the private sector.

I happen to represent a State that also has private lands and I have seen some of those lands clear cut. I have seen some of the practices on those lands and they are not what they are on the Forest Service lands, and we are now learning in the State of Alaska what it means to have timber in private lands without any right of the public to be involved in the harvesting of those lands.

If the Senator from Georgia now wishes to say that this series of regulations that were promulgated to make the appeals process for the Forest Service on public timber more efficient and more effective and still preserve at least two full rounds of appeals for the public is not sufficient, I think at least we ought to put at least that much on the private sector now with the Senator's amendment. I think it is time for us to look at the 80 percent and take the public glare off of the 20 percent which is already overregulated.

And the economic effect of what the Senator from Georgia is trying to do to our Pacific Northwest States is staggering. It is absolutely staggering. It is putting more people out of work every day. And where are those jobs going? What is the price of timber now in Georgia? What is the economic advantage to Georgia over what the Senator from Georgia is trying to do to the Pacific Northwest in particular?

I intend to go into that in length. And I say with due respect to my friend from West Virginia, the distinguished President pro tempore, this is just another example of why we have rule XVI. This is legislation on an appropriations bill. We have no chance to debate it. We have no chance to offer substitutes. We have no chance to offer substantive amendments, because we are told: Let us hurry on with this bill.

This bill is about money to operate the Forest Service. It is not about a legislative amendment. And this is legislation on an appropriations bill, clearly.

But this Senator is going to exercise his rights to offer amendments to that legislative proposal. And I have a series of them, Mr. President, not just one. I have a series of them, because it is time we stopped this legislation in a permanent fashion on appropriations bills.

If the Senator from Georgia wants to legislate on this bill then I want to amend that legislation. And my people demand that it be amended, because it is time we looked at the 80 percent of the timber that is harvested in this country. That 80 percent is not subject to these regulations. That 80 percent does not have the protection for the Endangered Species Act. That 80 percent does not have a plan that must be filed before you even contemplate harvesting.

I am going to present to the Senate this afternoon the number of permits that are required to harvest one stick of timber from the national forests in Alaska. And I compare it to the permit required to harvesting a stick of timber in Georgia, and let the Senate draw its conclusions.

Are we complaining about this amendment, because it is overregulation? No. We have gone through a whole series of hearings with the Forest Service on this new appeals process. Many of our people did not like it in the beginning. We had hearings. We had public comments and they are not about ready to go into effect.

The Senator from Georgia wants the Senate to go on record now and change that. He could have gone to the appeal process as we did. He could have notified his constituents to go to the appeal process and be heard. But, no, he is going to bring it here, he is going to promulgate the regulations for the Forest Service here on the floor of the Senate. They are going to be permanent regulations; they are going to be in law. They will not be amendable by the Forest Service. It will not be effective until approved by the House of Representatives.

But I will tell you this, Mr. President, they are not going to be effected until the amendments of the Senator from Alaska are considered also, because this is legislation, and if the Senator from Georgia wants to bring it up as a member of the Energy Committee, he should do that. He should bring a bill to the floor and he should try to change the law that deals with national forests. There is a basic change of law of the national forests. It is not proper to put us in the position that we are in.

If the Senator wanted to bring that, he could bring it out of the Energy Committee. I could have something to say about the scheduling of it. I could object to the scheduling of it. I could object to the motion to bring it before the Senate.

This bill is before the Senate as an appropriations bill. It is not before the Senate as a litigation bill. It is this means of coming to the floor with these amendments that evades the provisions we built into the rules so that small States and States that are vitally affected by amendments such as this have an opportunity to be heard and what is more have an opportunity to contact their people who are 5,000 miles away to see how they feel about this.

I say, and I had this statement yesterday, to my good friend from West Virginia, this is legislation. Why should we have a motion to proceed with this legislation? Why should we not have a consent for first and second reading of this legislation? Why should we not have an opportunity to offer amendments to it? Why should we not have an opportunity to really express our opinions at length without regard to the time limitations that should apply to appropriations bills? I believe in those time limitations.

And I would very much like to comply at this time with my good friend from West Virginia's request. I cannot, because I cannot see why we should spend our time legislating on an appropriations bill about the 20 percent of the timber of this country that comes from Western public land States and ignore the abuses, the substantial abuses that are taking place on private lands throughout the country in the harvesting of timber.

That is not welcome news to my friends from the Forestry Association, I tell you that, but it is time for us to do it. And if the Senator from Georgia wants to legislate about public lands on an appropriations bill and I am going to try to do it today.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I heard the word "abuses" used here frequently, and since I think we have some people interested in deciding how to vote who are not necessarily affected by abuses, I would just like to share a few things that are happening.

Would you believe that the process that the Forest Service said should be altered is now used in the following manner, I say to my friend from West Virginia? There is a college, Wesleyan College, Middletown, CT. As part of one of their university classes, they suggest to their students that they from Connecticut file appeals in Alaska during the last week of this enormous process. They have not been in that State. They have not filed one piece of paper, but you get a little appeal that comes cranking out of some little classroom where a group of students are showing their teachers that they know how to appeal.

But you know what happens. Just filing that means they have an internal appeal. That causes a 1-year delay on average, because there is such a backlog.

Did we intend that? Did Hubert Humphrey intend that when he came to the floor of the Senate in 1975 just before the 1976 law was passed that said produce a master plan for that forest and get everybody involved in it so that there is citizen input? He came to the floor and said something like this. I do not have the quote but it was in Humphrey's style which none of us can do. Amen, we finally found a way to get everybody involved, get their views heard, and if they are not satisfied to get an appeal. That is what he called it.

But what has happened now is that you do not even have to appeal there. You do not have to complain there. You do not have to participate there as that forest is planned for its uses for the ensuring period of time. You do not have to be there. You can wait until they picked out a sale to do all the work on it, the environmental assessment or impact. You do not even have to participate in that. You can be at the University of Massachusetts—we happen to see one of those in New Mexico—and be a student who is interested in being an activist. And when all that has occurred you can send down from Massachusetts an appeal from that decision. Another year is lost.

Now what they have is the right to go to court at that point under the processes. What the Forest Service is trying to tell us, I think, is help us put some sense into this management. That is what they did with their reforms.

It seems to me that we can talk about the rights to be heard but, Mr. President, the rights to get involved and to be heard and have input have been there since 1976 and have nothing to do with the issue at hand.

What has been created is internal to the Forest Service. They created another appeal and now they say "We made a mistake. Let us leave it like it was originally." You get your input, you have your rights there, you get your standing there when we really do the planning, and then if you do not like the final sale, you can go to court.

I think the Forest Service ought to be left alone on this one. I do not think we ought meddle with it on an appropriations bill.

I yield the floor.

Mr. FOWLER. Will the Senator yield to me?

Mr. DOMENICI. I am finished.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. FOWLER. Mr. President, if no one else is seeking recognition, I ask unanimous consent to speak.

Mr. DOMENICI. I am informed Senator CRAIG is going to return right quick.

Mr. FOWLER. I will protect Senator CRAIG.

I ask unanimous consent to speak without it being counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Senator is not anticipating a filibuster, is he?

Mr. FOWLER. The Senator is not.

Mr. BYRD. Nobody is going to question his right to speak twice, three, or four times, as long as it is not a filibuster.

Mr. FOWLER. I thank my chairman.

Mr. President, I regret that the Senator from Alaska would not yield to me—and now he has unfortunately left the floor—or the Senator from New Mexico.

I hoped we would not get so much heat and so little light. This proposal that is incorporated in my amendment has been tested by the Forest Service itself. The Forest Service itself implemented a prior public comment period, to be used prior to the annuncement of these project level decision, and maintained an appeals process. They did it, and this is what they found.

This is from the Joslin report, senior level, to the Chief of the Forest Service.

> The results have shown the benefits of receiving comment prior to making decisions. Early resolution of conflicting views over the proposed action improved decisions and fewer postdecisional appeals of those decisions.

This is the Forest Service's recommendation. What has happened, the reason we are here today, is not because the Forest Service wants to eliminate citizen appeals. This is a political decision, coming from the Vice President's Council on Competitiveness, eliminating all regulations they can, and from the Secretary of Agriculture, a political decision. This is not the Forest Service.

Mr. CRAIG. Will the Senator yield?

Mr. FOWLER. I will in just a moment. I will be glad to yield, but let me just try to answer the previous two speakers.

I just have to set the record straight here. Both my friend from Alaska and my friend from New Mexico said, well, look, if a citizen has a problem, they do not have the right to come in. They can go to court.

Well, here you have the Secretary of Agriculture actively supporting measures to bar public access to the courts. He said just 2 months ago: "We could manage better if we were free from interference of the Federal courts. We urge Congress to do that expeditiously." End of quote, Secretary of Agriculture, Edward Madigan.

So what we have and what we are trying to address today—I do not want to be here—is to take the politics out and let the Forest Service, as they have done for 85 years, have their citizen review process.

The Senator from New Mexico, how many times have we heard about one classroom filing appeals by fax, probably; they may have faxed it. The Forest Service has the authority to throw out frivolous appeals. That is what they do.

The next speaker, I guess, is going to tell us about the welfare fraud of a lady on food stamps who drove up in a Cadillac. We hear this one great example all the time.

Now, the reason I wanted the Senator from Alaska to be here is because I have the greatest respect for him. I have hiked all over his State, all over the national forests. But I wanted him—he will hear this, he will hear it, and I welcome him back.

I let pass why the Senator from Georgia happens to be doing this or the Senator from South Carolina or all the others that are going to vote for this. We need to be reminded on the floor of the U.S. Senate once again that Alaskans do not own the national forests in Alaska. Every Georgian, every West Virginian, every citizen of Idaho has an equal share, an equal stake in the national lands in Alaska and every other State in the Union.

My vote as a U.S. Senator, as an American Senator first, counts just as much in Alaska and Washington and Idaho as the Senators there. The Senator from Idaho's [Mr. CRAIG] vote counts just as much in Georgia and affects the Chattahoochee National Forest and the Oconee National Forest and every public land and every public decision as does the Senator from Georgia.

Now we must remind ourselves that these are the forests of the people of these United States. They have a right in the sayso of what happens to their public lands, their national heritage, the trust of stewardship to manage those forests right, not only for our generation but for those to come. And that is why we are here today.

The Senator from Alaska talked about 20 percent public lands, public lands being used by private interests. And every citizen of Georgia, Florida, West Virginia, wherever they live, has a right to question those decisions, a right, by the way, under the Constitution of the United States, I say to my friend from Alaska.

Mr. STEVENS. Will the Senator yield?

Mr. FOWLER. I am glad to yield.

Mr. STEVENS. Do you think those same citizens have a right to question what is cut in the State of Georgia from private land?

Mr. FOWLER. The Senator has a right to question any decision and to try to change private property law. All I say to him is, my amendment has nothing to do with private property rights in this country.

Mr. STEVENS. That is this Senator's position. That is exactly why it is wrong.

Mr. FOWLER. That is not what we are debating here today. If the Senator from Alaska wants to curb private property rights by an amendment, then he has an absolute right, and I may agree with him, and I may not agree with him. But it has nothing to do with my amendment.

Mr. STEVENS. Will the Senator yield again?

Mr. FOWLER. I am always glad to yield to my friend.

Mr. STEVENS. My friend from Georgia is talking about the public's right to discuss the cutting of timber, but it only applies to the public lands. It does not apply to the private lands.

I do not want to interfere with private rights. I want to give the public the same rights on private lands to protect the wildlife, to protect endangered species, to see that the view shed is preserved that the Senator from Georgia says we should preserve on public land. I think that is a very fair thing.

Mr. FOWLER. I would be very interested in seeing the Senator's proposal. I might even support it. I do not know. I have never seen it.

But all I am saying is that is not the issue here today. The people of the United States, the people of Georgia, have an interest in private timber holdings in the private timber companies that are using and cutting their public forests in Alaska. The people of Alaska, the private citizens of Alaska, have an interest in the private timber companies in Georgia who are cutting timber on the Oconee National Forest and the Chattahoochee National Forest in my State. And they have an absolute right, either individually or through their U.S. Senator, to question those sales on public lands in Georgia because they are their forests. Alaskans have a stake in their forests.

Mr. STEVENS. Will the Senator yield again?

Mr. FOWLER. I will be glad to.

Mr. STEVENS. My constituents are very interested in that redheaded woodpecker; that is their wildlife. I think we ought to have an amendment here. That is their wildlife that happens to be in private lands in the State of Georgia, and I am here to represent my people.

So, if the Senator wants to bring a legislative proposal before the Senate on an appropriations bill that deals with regulation of the forests of this Nation, I do not see any reason to set aside just the public lands. Let us talk about the total timber of this country. And I think I am pretty well qualified to talk about that and intend to talk about it at length.

Mr. FOWLER. May I respond to the Senator from Alaska on his time? And this is not—let us leave my part of it. I say this sincerely, and I ask the Senator to seriously examine this. The Senator may have missed this because he temporarily had to leave the floor.

The proposal incorporated in my amendment was one that has been tested by the Forest Service itself and recommended, this public predecisional comment period, to try to solve a lot of these problems and stay out of courts. I regret that, as usual, we get a little loud and extended. I am guilty of that myself.

But this proposal has been tested over the last 2 years in the Forest Service. I believe they would welcome it.

The appeals process on the public lands has only resulted in 5 percent, last year, of the timber target volume that was not met. So we are not talking about, I say with all respect, in my opinion, any massive problem. But I say that on the Senator's time, and I thank him.

Mr. STEVENS. Will the Senator yield? I do not think I have the time, but I would like to respond.

Mr. FOWLER. My colleague has the floor.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. I would say this. One of the reasons I am here is I read a portion of the Senator's amendment that deals with publishing notice of the action in a newspaper of general circulation that has been identified in the Federal Register as a newspaper under which the notice may be published. That struck me. When a person or company starts cutting timber from private land there is no notice in a paper of general circulation; there is no notice to anyone who might be interested in the redheaded woodpecker, to see whether or not they are going to be harmed by the cutting of timber from private land. This is legislation that ought to apply to them.

I say to the Senator from Georgia, my good friend, who has visited my State, knows my State very well, I think the concepts there are good concepts. If they are to be applied to the public lands, they ought to be applied to private lands.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BYRD. Will the Senator yield to me?

Mr. NICKLES. I will be happy to yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I think it has been proved time and again that this—I hope my friend from Alaska can hear me—that this bill attracts more amendments in the committee and on the floor than any other bill. We had 2,800 requests from Senators to the committee, and I think we stopped counting a few days ago, so it was close to 3,000. And last year it would be more than that because we were later marking up the bill. The longer we wait, the more requests we get.

Now, on the floor this bill attracts more legislative amendments, I believe—I cannot be absolutely sure of that, but it seems to me, at least, that this bill attracts more amendments that are legislative in nature than does any other appropriations bill. And we have had an hour and a half, now, on this amendment already today. We have to get on with this bill. Our travail and suffering are not ended here. We still have to go to conference, and every legislative amendment that is on this bill that is controversial here is controversial in conference. So it adds to our worries and our woes.

Now, there have been several Senators here who have spoken out against the amendment of the Senator from Georgia. If they have the votes, why do they not move? He has agreed. He is willing to agree to a time limitation. I can understand why the distinguished Senator from Alaska and others would not agree to a time limitation, because if a motion to table were made and it failed there is no time left to debate on the amendment, and they feel very strongly about the amendment. That is within their rights.

But at least when are you going to move to table? I have told the distinguished Senator from Georgia that I am going to vote against his amendment. But I can tell my friends on the other side of the aisle this debate is not going to continue on and on and on. I now hear there is going to be an amendment offered to the amendment, and certain Senators have talked about points of order and all of these things.

Mr. NICKLES addressed the Chair.

Mr. BYRD. The Senator has the floor. I realize that, but let me finish.

So we are going to go from bad to worse. We are going to get an amendment to the amendment. And if Senators are going to move to table, why do they not move? If they fail to table, they are no worse off than they are now. They still have the amendment in front of them. If they table, then that is the end of it. But if they cannot table, they at least know where the votes are.

So I urge Senators to get on with this amendment because I am just not going to sit here all day and listen to long debates on legislative amendments.

If the motion to table fails, that is the Senate's will. I cannot control that. But I will say one thing. I have told the Senator I am against his amendment. But if there is not some action taken very soon I am going to vote with the Senator.

The Senators over here, they have done about all the talking. One Senator has done the talking on this side. I hear there are other Senators coming to the floor. So, if Senators—this one vote may or may not make much difference. But this is one vote, and my interest is in getting this bill to conference. So I just want to lay it out like that and let Senators know that we have to move faster today than we did yesterday. And Senators cannot just horse around all day and talk and talk and talk.

Of course, if a Senator gets the floor, I cannot move to table. But if they are going to call up amendments to amendments and get other Senators to come to the floor they are going to lose one vote. Maybe they have their votes counted.

Mr. STEVENS. Will the Senator yield just for a misunderstanding?

Mr. BYRD. This Senator has the floor.

The PRESIDING OFFICER. The Senator from Oklahoma retains the floor.

Mr. BYRD. I have finished.

Mr. NICKLES. Mr. President, first, I wish to echo the words and sentiments of the chairman of the Appropriations Committee. He has been very patient. He has shown the patience of Job. He did that yesterday when we had extended debate. But I think we said last night, and we repeated again this morning, we really have too many amendments to go through very extended debate, particularly on legislative items—particularly, as this Senator would feel, on legislative items that have not been considered by the full authorizing committee that are clearly legislative measures that are not germane or pertinent to this bill.

I make this point. Yesterday when we considered the amendment of the Senator from Nevada, and that of the Senator from Arkansas, there was legislation that dealt with mining fees. Senator REID came up with some additional reforms, and Senator BUMPERS had additional reforms. So we debated that—too extensively, in this Senator's opinion. But there is nothing dealing with Forest Service legislation that would stop—or the regulation dealing with appeal regulations. This is clearly legislation on appropriations. I hope it is not agreed to.

I think it is important we vote, I told my colleagues. I understand Senator MURKOWSKI wanted to come over and speak, and I understand Senator CRAIG may have additional amendments or second-degree amendments. I will tell the chairman we have to pull it down. I am prepared to move to table. I think other Senators may be. But it is important that we move forward on this bill as quickly as possible.

I will make the conclusion of my comments. I have a letter from the administration that strongly opposes Senator FOWLER's amendment. I will mention that the Forest Service is strongly opposed to his amendment. There are over 24,000 comments on these proposed changes. Over two-thirds of those comments were favorable, for the regulations that Senator FOWLER is trying to change.

So I am opposed to his amendment because it is legislation on an appropriations bill. I am also opposed to it on the substance. It would be repealing Forest Service regulations that I do not think this Congress has really studied. That should be done in the authorizing committee, not before the Appropriations Committee.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I am prepared to move to table at this moment. The Senator from Alaska wants to speak. So I will wait until he has spoken, and then I will move. I agree with the chairman. It is time we move on. I think we have covered the issues.

What I am going to send to the desk, but I will not offer at this moment, is an amendment—and I will tell the body that if the tabling motion fails, I will offer this amendment, cosponsored by Senator DECONCINI, Senator GORTON, Senator STEVENS, Senator DOMENICI, and Senator BURNS—an amendment that is a work product of a broad cross-section of citizens and Forest Service officials that streamlines and clarifies the appeals process, and establishes standing and does not—does not—damage the process.

I am prepared to do that, and send to the desk that amendment. I will not offer it at this moment, but I will be prepared to do so if the tabling motion fails.

I understand the Senator from Alaska is ready to speak at this moment. Upon the conclusion of his speaking, I will attempt to regain the floor for the purpose of moving to table.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I want the junior Senator from Alaska to have an opportunity to speak. I want the Senator from Georgia, if he wishes, to again speak. I want to limit this time, but I want to do it with the understanding, because there is going to be a motion to table—that has already been said—I want to do it with the understanding that that time limitation is only with respect to the motion to table because I know I will not get an agreement otherwise.

And also, I know that any Senator who gets the floor may speak for 3 hours, or 4 hours, or 6 hours if he is bitterly opposed to this and feels he does not have the votes. He may go on and on.

How much time would the Senator from Alaska like?

Mr. MURKOWSKI. The Senator from Alaska appreciates the floor manager's consideration, Mr. President. I understand there is a motion to table pending. It would be my thought, if there is sufficient support, I will talk for some time.

I think the proposal is fair. I imagine 5 minutes will be sufficient for the Senator from Alaska.

Mr. BYRD. In fairness to the Senator from Georgia, how much time would he need?

Mr. FOWLER. I will need 5 minutes, at most.

Mr. BYRD. Mr. President, I ask unanimous consent that before the motion to table is made, and it has already been indicated it will be made, that the Senator from Alaska [Mr. MURKOWSKI] be permitted to speak for 5 minutes; the Senator from Georgia [Mr. FOWLER] be permitted to speak for 5 minutes; and that the motion to table be made. And if the motion to table fails, it is understood there would be no time limit on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska [Mr. MURKOWSKI] is recognized.

Mr. MURKOWSKI. I thank the Chair. I thank the Senator from West Virginia.

Mr. President, the national climate for harvesting timber from public lands, I believe we are all aware, is worse than ever before in the history of our Nation. And we see no relief in sight.

We struggle simply to preserve access to the forest resources of the Nation. Legal challenges of national forest timber sales and forest plans skyrocketed in fiscal 1991; 636 appeals were filed on 472 forest sales nationwide.

At the beginning of 1992, there were 1,453 appeals already. And if we compare this with the average of 170 appeals each year, from 1983 to 1985, we can clearly see the direction.

Does one ever wonder what happens to those appeals? In 1991, only 6 percent were upheld. The costs of the appeals to the American taxpayer: 1.8 billion board feet of timber were tied up in the appeals, with hundreds of millions of board feet ending up delayed or canceled. It cost $11 million to process the appeals, and a work force investment of 152 years of staff time. The cost in jobs lost in 1990 alone has been estimated at 38,000 nationwide. Potential economic losses associated with appeals in 1990 were $196 million in Federal taxes, and $180 million in payments to counties.

Every sale put up by one company in my State of Alaska was appealed—every single sale—affecting roughly 300 million board feet.

We are locked in a battle, Mr. President, to maintain a reasonable, responsible timber supply. Families are being uprooted; whole towns are shutting down. The Spotted Owl Protection Program is projected to result in a loss of 93,000 jobs in Washington, Oregon, and California; endangered salmon protection on the Columbia River could be even worse. Sooner or later, my own forest in Alaska, the Tongass, could face its own spotted owl disaster. We already had a close call with the marbled murrelet.

The battle is waged over access to our national mineral resources. It is fought over grazing rights, drilling for oil, damming rivers for power, and building new homes for our children. We are locked in a struggle with a very vocal, powerful, very well-organized and very well-funded preservation elite—elite—minority, who oppose any consumptive or renewable use of public lands.

This minority freely uses the Forest Service appeals process to achieve their goals. The preservationist elite want to preserve the Nation's forest, range lands, rivers, and even oceans as restrictive and very personal playgrounds for the affluent few.

Mr. President, I ask unanimous consent to print in the RECORD a letter from Koncor Forest Products, Alaska Pulp, Alaska Forest Products Association, and the specific format used on the blank appeal process.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KONCOR FOREST PRODUCTS CO.,
Anchorage, AK, April 10, 1992.

APPEALS STAFF (NFS),
Forest Service, USDA, Washington, DC.

DEAR SIRS: Your efforts to modify the regulations relating to the administrative appeals process is to be commended. There is already far too liberal access to the courts for anti-development groups. They have been using the present appeals process as just one more source of litigation ammunition.

The preservationists know that they can gain some concessions from either an agency or company every time they tie up an action. Your proposal to eliminate the administrative appeal option is a good initial step in getting this country back on some semblance of a reasonable track.

I encourage you to stick by your proposal and get these changes implemented. They are long past due. Federal and state agencies, without exception, err on the side of conservatism when they allow development or utilization of our country's natural resources. There is no reason to have an appeal process that is only used as an additional means of hindering development without adding any significant environmental benefits to the activity proposed.

Sincerely,

JOSEPH F. WEHRMAN III,
Governmental Relations Forester.

ALASKA FOREST ASSOCIATION, INC.,
Ketchikan, AK, April 13, 1992.

APPEALS STAFF (NFS),
Forest Service—USDA,
Washington, DC.

DEAR CHIEF ROBERTSON: Thank you for offering the opportunity for the Alaska Forest Association to express our support for your proposed rule to end appeal of project decisions. It is essential that you adopt and implement this rule as soon as possible. We believe the proposed 30-day comment period for draft project decisions will be a much more effective way to identify and address public concerns. We have long been disturbed by both the enormous cost of processing appeals and the lengthy delays in carrying out management decisions made in forest plans. The proposed rule should go a long way towards remedying the situation.

The current appeals procedure is appalling. It is the single most important reason for the Forest Service having become ineffective as a land management agency. On the Tongass National Forest nearly all of the timber sales have been appealed in recent years. Through the appeals process, obstructionists have crippled the timber industry by delaying and reducing timber supply. Most of the appeals do not change land management decisions or the quality of on-the-ground activities but are lost on procedural grounds. The process is consistently abused as evidenced by high school and college classes that appeal all timber sales on forests such as the Colville as a class project. The current process is very costly and a drain on Forest Service appropriated funds. Obstructionists recognize that if the Forest Service is spending money on appeals, they are not spending it on timber management as Congress intended. It is a method of defeating the appropriations process after it is passed by Congress. By changing the appeals process there is a possibility of real budget savings in the Forest Service. And finally the appeals process has completely destroyed the moral of many of the finest professionals in the agency.

The proposed rule is a step in the right direction, but more is needed. Appeals of forest plan decisions take seemingly forever to resolve, and the process urgently needs improvement. Please include in your final rule the following changes to the appeal procedures for forest plans:

1. Shorten the time allowed to reach appeal decisions. We recommend allowing only 60 days, and if a decision is not reached by the deadline the appeal shall be considered denied. We also recommend you eliminate the provision for second-level discretionary review.

2. Require appellants to establish standing to appeal forest plans by submitting written comment stating their concerns during the public involvement period and before the decision is made. Issues not raised in their public comments cannot be raised in the appeal unless they can show it is new information not available to them prior to the decision.

3. Appellants must be required to post a bond, and if the appeal is denied or dismissed, the bond is forfeited.

4. Negotiations may be allowed, but they must be completed within the time period allowed for the decision. The decision daadline may not be extended. Intervenors must be invited to fully participate in the negotiations.

Please amend the proposed rule to include these needed changes to improve the decision-making process for both plan and projects. To reduce the cost and improve the effectiveness of national forest management, please implement a new rule as quickly as possible.

Sincerely,

LARRY B. BLASING,
Administrative Assistant.

ALASKA PULP CORP.,
Sitka, AK, April 23, 1992.

APPEALS STAFF (NFS),
Forest Service, USDA, Washington, DC.

DEAR CHIEF ROBERTSON: I stand firmly in support of the proposal to disallow post-decision administrative appeals of land management project decisions on national forests, on the grounds that a thirty-day public review of such is adequate. As a timber industry employee totally dependent on National Forest timber, I feel it is imperative that some action be taken to streamline the EIS appeal process and reduce costs associated with appeals if we are to continue business.

A thirty-day pre-decisional notice and public comment period should be sufficient. The existing administrative timber sale appeals system, with over 3,000 appeals in the last two (2) years, has exerted an astounding cost in frivolous delays in forest management projects, damage to timber-dependent communities, and availability of timber for home construction.

The operation I am associated with has had every sale offered by the Forest Service appealed by third parties (the same party with a different name in each case). These appeals have lasted for as long as 7–8 years with up to 300 MMBF+ made unavailable. The results have disrupted jobs in both the woods operations and the mills. The impacts are not only felt by employees of the affected logging and milling operations, but associated forest and support businesses dependent on logging and milling operations.

The revision will simply repeal an out-of-date (1907) and unnecessary process regarding timber sales, most of which the rationale for such appeals have been removed by the NEPA and NFMA. The general outcome of these appeals will be preserved considering that only 9% of 1990 appeal decisions and 6% of 1991 decision resulted in a reversal of original agency proposals. But in the same regard, I understand, it will save the Forest Service an estimated $11 million annually in processing appeals! The revision still allows the citizens of the United States access to national forest decision-making, it just reinforces the emphasis that it needs to be done in a timely manner.

I, as a United States citizen, am tired of the senseless and unending appeals process that has allowed special interest groups to manipulate our government and our lives. Your proposed rule change is a step in the right direction. Do not stop with this move, find other ways to modify the NEPA procedure so that you can get on with providing economic timber to dependent industry as prescribed in NFMA and other laws providing for use of the Nation's timber resources.

Thank you for the opportunity to comment.

Sincerely,

CAPRICE D. SCARANO.

JUNE 13, 1991.

Re Notice of appeal of compartment decision notice for compartment(s) 1644, 1645, 1655, Womble Ranger District, May 2, 1991.

JOHN E. ALCOCK,
Regional Forester, U.S. Forest Service, Atlanta, GA.

DEAR MR. ALCOCK: Pursuant to 36 CFR 217, this is a Notice of Appeal. We enclose a Statement of Reasons for Appeal of the Decision Notice and Finding of No Significant Impact for Compartment(s) 1644, 1645, 1655, Womble Ranger District, for even-aged management and herbicide use and possibly thinning and group selection, dated May 2, 1991, and signed by John M. Curran, Supervisor, Ouichita National Forest.

ELEMENTS OF THE DECISION OBJECTED TO

We wish to appeal the decision to harvest 54 acres of timber by the seed-tree logging method, and 61 acres by the shelterwood logging method, with the intended follow-up pine management. We also wish to appeal the decision to apply pesticides on 329 acres. If the information requested below on thinning and group selection will not be provided in a implemented EA/decision notice, then we wish to appeal the 593 acres of thinning and 75 acres of group selection.

ELEMENTS OF THE DECISION SPECIFICALLY NOT OBJECTED TO

We do NOT wish to appeal the decision to harvest 203 acres by single-tree selection management. Nor do we wish to appeal the harvest of 75 acres by group selection and 593 acres by thinning if the information requested below on thinning and group selection can be provided in a supplemented EA/decision notice.

STAY OF ACTION REQUESTED

We request a stay of any action related to the proposed logging of 54 acres by the seed-tree method, and 61 acres by the shelterwood method, or any other form of even-aged management which might be substituted, and a stay of action on proposed herbicide use on all 329 acres, pending a final decision on this appeal. If those activities are allowed to occur, they will damage the potential of the lands to provide for our use as will be shown below. If these impacts occur, then our potential of forest use will be compromised and these impacts will prevent a meaningful appeal on the merits while the appeal is in progress. For the site-specific points of concern that the appeal record will show, we request that you grant this stay request. We request a stay of action on thinning and group selection if the EA/decision notice will not be supplemented to provide the information requested below. We do not wish to stop the thinning or group selection at this time; we merely wish to obtain information prior to the logging by these methods.

* * * * *

We do not ask a stay of action against the proposed 202 acres of single-tree selection harvest if the harvest is done without herbicide use. Nor do we request a stay of action against the harvest of 75 acres by group selection, nor 573 acres of thinning if the group selection/thinning will be done without herbicide use and if the information requested below will be provided prior to the logging. Our lack of request for a stay of thinning and group selection is contingent upon the relief requested below that the EA/decision notice will be supplemented to provide the information requested on thinning and group selection.

Furthermore, we request that the Supervisor instruct the District Ranger to move forward if feasible to separate out the selection management or thinning portions of this decision by amendment or "pen and ink" changes to the decision and process this portion of the sale in the regular timber sale schedule. In the latter regard, we are basically asking at this time for a stay of the District Ranger's decision to halt the scheduled preparation of the entire sale merely because the even-aged management portion of it may be granted a stay of action. We further ask for a stay of the District Ranger's decision to halt the scheduled preparation and logging of the selection management or thinning portion of the sale just because later herbicide use may be stayed. We realize that the District Ranger has not yet made these decisions, but we hereby request to be notified of such decisions, including written supporting rationale, when and if made. We request notification even if the decision is a de facto, unwritten, unsigned one. And we hereby notify the U.S. Forest Service that we wish to appeal the decision, if made (whether in writing or not), not to implement routine preparation for the proposed selection harvest and thinning while the even-aged management and herbicide use are under appeal. The history of Quachita Forest personnel withholding—some for almost two years—thousands of acres of selection cuts and thinning that were never objected to and never stayed but that were part of decisions that contained even-aged proposals that were appealed constitutes a decision with serious implications for the timber industry, so this is a valid concern. Further, we ask that the District Ranger consider, and provide written supporting rationale for his ultimate decision, offering the selection management and thinning portion of the proposed timber sale in sale volumes of 5,000 to 100,000 board feet so that local small loggers can afford to bid on it.

DOCUMENTS INCORPORATED BY REFERENCE

We hereby incorporate by reference all appeals of the Vegetation Management Record of Decision and Environmental Impact Statement, including all attached exhibits, references, and appendices.

For the reasons cited below, we also hereby incorporate by reference all appeals, except that of Richard Gorton, Jr., of the Record of Decision for the Amended Land and Resource Management Plan and Final Supplement to Final Environmental Impact Statement, Quachita National Forest, including all attached exhibits, references, and appendices.

We are aware that you have received from the Chief of the Forest Service a copy of each of the above-referenced appeals, so in the spirit of the Paperwork Reduction Act and other federal statutes and regulations, we do not intend to duplicate that material.

As will be explained below, the deficiencies in the project-level analysis at hand are inherently related to the deficiencies in the 1990 Land and Resource Management Plan (LRMP), and vice versa. For this reason, meaningful presentation of our case on the merits of this project-level appeal cannot be made without reference to the two Forest-wide (or programmatic) EIS's and ROD's cited above. Appellants are aware that it is the position of the U.S. Forest Service that the appeal records of

State-wide decisions will be disregarded if incorporated by reference into project-level appeals. Appellants hereby notify the U.S. Forest Service that it is appellants' view that the burden that the Forest Service is attempting to impose by requiring that two copies of several programmatic document appeal records of several hundred to more than 1,000 pages each be attached to each appeal on up to 100 project-level decisions per year is an arbitrary and capricious one: one that violates the spirit of 36 CFR 217, the National Forest Management Act, and NEPA; and one that is improperly designed to avoid or limit judicial review of agency decisions. Because the agency has continued, and now continues, to issue project-level decisions for even-aged management while appeals and litigation of the LRMP's (both 1988 and 1990) and EIS's (both the "final" and the "supplement to the final") were and are in progress, project-level relief is the only apparent relief available, and it is appellants' view that it is ludicrous to repeat the same basic points over and over that are contained in the plan appeal and the vegetation management appeal. In fact, NEPA makes plain that the purpose of "tiering" project-level Environmental Assessments to programmatic EIS's is to avoid discussing the same points over and over. If that is the case, then that is also true of the points made in appeals of programmatic documents. Appellants hereby notify the officer reviewing this project-level appeal that we consider the points and documents that are part of the plan and vegetation management appeals to be part of this project-level appeal record and that those points and documents should be taken into account by the reviewing officer and responded to.

EXHAUSTION OF ADMINISTRATIVE REMEDY

Appellants hereby notify the agents and employees of the U.S. Forest Service who process this appeal that appellants intend to interpret the failure of the U.S. Forest Service to rule on this appeal within the time frame specified in 36 CFR 217, including no more than 5 days for transfer of documents, as a denial of this appeal and completion of exhaustion of all administrative remedies by appellants.

APPELLANTS

Sherry Balkenbol is a resident of Polk County, Arkansas, and is an inholder within the Ouachita National Forest and frequent Forest user who has been involved in the Forest Plan development and appeals process since 1985. She is an individual appellant of the Vegetation Management appeal and the 1990 LRMP appeal, a plaintiff in the judicial appeal of '86 LRMP/'90 ALRMP/VMROD/FELS/FSFEL as well as a member of the Sierra Club and Defenders of the Ouachita Forest which have also appealed both decisions.

Appellant Beth Johnson is a resident of Dallas, Texas, and is a frequent Forest user who has been involved in the Forest Plan development and appeals process since 1986. She is a member of the Sierra Club which has appealed both the Vegetation Management ROD and the 1990 LRMP ROD. She is an Interviewer in the above-cited lawsuit. Appellant Defenders of the Ouachita Forest is a mine-based citizens' organization whose members live near and recreate in the Ouachita National Forest. It is a plaintiff in above-cited lawsuit.

Appellant Arkansas Chapter Sierra Club is the locally based entity of a national conservation organization whose members lead numerous recreational trips into the Ouachita National Forest each year. It is a plaintiff in above-cited lawsuit.

RELIEF REQUESTED

In addition to instructions mentioned above to be given to District Rangers that they move forward on processing portions of decisions not objected to, and to the stays of action requested above for temporary relief pending the outcome of this appeal, appellants request the following permanent relief:

Appellants request that for the acreage proposed for thinning and group selection, the EA/decision notice be supplemented to provide a description of the existing disaster class distribution per acre of the stands to be thinned or group select cut.

A description of what the target diameter-class distribution will be after the thinning group selection. Appellants show that this information be provided in terms of both numbers of pine trees per acre in each diameter class and how that distribution would be plotted on a curve. For group selection, the size of the canopy opening should be specified to the nearest one-fourth acre for each stand—i.e. "stand 12, one-half acre group cuts, stand 14, one-fourth acre group cuts"—and the total acreage of canopy to be removed per stand acreage should be specified—i.e. "stand 12, three acres of 15 to be removed in openings of maximum one-half acre group cuts." We do not object to the carrying out of the logging by thinning/group selection; we only wish to obtain important information at this time, before logging removes the ability of the agency to obtain that information, to help us evaluate some concerns we have about the effects of these two methods on the forest resources.

Appellants request that the Decision Notice be amended, or that pen and ink changes be made, such that:

(1) preparation for the proposed 202 acres of selection management and 593 of thinning may proceed, without herbicide use, on the regular schedule as set forth by this Decision Notice (subject to the obtaining of the information requested for thinning and group selection).

(2) the 54 acres proposed for logging by the seed-tree method, and the 61 acres proposed for logging by the shelterwood method be harvested instead by single-tree selection management, without herbicide use, on the regular schedule as set forth by this Decision Notice.

(3) all proposed timber management by herbicide use in the area affected by this Decision Notice be conducted by alternative hand tool (chain saw and machete) means.

If the agency chooses not to grant the amendments/changes requested above, appellants request that before any form of advantaged management or herbicide is applied to the acreage involved in this decision, the Decision Notice and Finding of No Significant Impact must be withdrawn and a full Environmental Impact Statement must be prepared. If the amendments/changes requested above are not made, appellants on behalf of themselves further hereby request (for reasons cited below related to the inadequacy of the FONSI determination) that a hearing with at least thirty (30) days' notice be held in Mt. Ida, Arkansas/Oklahoma, in conjunction with scoping to prepare the draft EIS, and that another hearing with at least 30 days' notice be held in Mt. Ida to provide public comment after the draft EIS is prepared.

STATEMENT OF REASONS

1. For the reasons listed below (and those found in the OWL and other appeals of the 1990 LRMP), appellants challenge the Finding of No Significant Impact (FONSI) for this Decision because it is in error. The FONSI is based on erroneous or incomplete information, in violation of the National Environmental Policy Act (NEPA). As shown below (and in the OWL and other appeals of the 1990 LRMP), the routine FONSI for even-aged management on project-level decisions is a circumvention of NEPA and the National Forest Management Act (NFMA). The damaging site-specific impacts of even-aged pine management and herbicide use are such that they require a full site-specific Environmental Impact Statement, since the LRMP admits that it has not considered such impacts on this site. This is true because among other things, as shown below (and in the OWL and other appeals of the 1990

LRMP), neither the project-level Decision nor the LRMP provides sufficient evidence of completion of the proper inventory of resources of this site (or Forest-wide), plans for proper monitoring of the impacts of management practices on this site (or Forest-wide), proper interpretation and implementation of the diversity provisions of NFMA and its implementing regulations, and proper interpretation and implementation of the optimality/appropriateness sections of NFMA.

The FONSI is based, in part, on the inaccurate claim that the project will not effect health or public safety. In fact, as shown by the appeals of the Vegetation Management ROD/FEIS, the Forest Service has insufficient basis to make that claim, as many of the formulations of herbicides used are untested. Also, as shown in the LRMP appeals, even-aged management will affect health or public safety because it will increase local residents' risk of contracting Lyme's Disease.

The FONSI is based, in part, on the inaccurate claim that the project will not affect any unique characteristics of the geographic area. In fact, as shown below, the Forest Service has not inventoried this particular site, nor the compartment as a whole, for the full range of applicable resources required under NFMA, so the agency has insufficient basis to make this claim.

The FONSI is based, in part, on the inaccurate claim that the effects of the project are not likely to be highly controversial. In fact, as shown by over 400 news articles and columns about even-aged management in the Ouachita Forest in the past 12 months (included as part of the OWL appeal of the LRMP, incorporated herein by reference), each new even-aged management cut and herbicide application is highly controversial in the Ouachita. This is true, in part, because the articles focus not on even-aged management in a particular location in the Forest, but on the total amount of public land already committed to the practice and on the amount of additional clearcuts proposed. More than 6,000 comments (15 times more than in 1985) favoring the no-herbicide selection management Alternative V over Alternative W also indicate the continuing controversy over any new even-aged management cut.

The FONSI is based, in part, on the inaccurate claim that the project does not contain highly uncertain, unique, or unknown environmental risks. In fact, use of untested herbicide formulas and widespread use of pine management (of which this is an incremental part) in an ecosystem normally composed of different tree diversity have highly uncertain or unknown environmental risks to wildlife and humans and because of the potential for increased insect and disease outbreaks. The quality of sawtimber is still uncertain from end-of-rotation pine plantation cuts, and to continue to commit almost one million acres, in small increments, to intensive pine management without knowing the quality of sawtimber that will result is highly uncertain. Furthermore, because the Forest Service has inaccurately inventoried this site, it cannot make the determination that the even-aged management and herbicide use proposed in this decision do NOT involve unique environmental risks because it has not considered the environmental values that exist on the site now.

The FONSI is based, in part, on the inaccurate claim that the project will not establish a precedent influencing approval of future actions with significant effects. Committing almost one million acres to pine management is a significant effect, especially since, as shown below, 274,000 acres of that one million is mis-classified as pine when it is really hardwood. Each new even-aged management area is part of that commitment and part of that significant effect. Also, since the Forest Service is overcutting at present on an annual basis in part because of unproven claims about future increases in yields from pine plantations and because of the assumption of continued replacement of space now occupied by hardwoods with commercially favored pine trees, if the Forest Service continues to commit very much more of the timber base to even-aged management, it will be forced to continue even-aged management in the future in order to keep sustained yield forest-wide in the short-term.

The FONSI is based, in part, on the inaccurate claim that the project is not related to other actions with individually insignificant, but cumulatively significant impacts. Massive type conversion, in violation of NFMA, as shown below, is occurring, and this increment is part of the whole picture. Neither the lost of native diversity on this site, nor the cumulative loss of native diversity of the forest as a whole are adequately considered, in violation of NFMA and NEPA.

The FONSI is based in part, on the inaccurate claim that the project will not affect listed or eligible sites on the National Register of Historic Places or cause loss or destruction of significant scientific, cultural, or historic resources. In fact, neither the EA nor the FSFEIS provides any evidence that such possible resources on this site have been inventoried. The statement in the FONSI that a survey will be conducted and that if any such resources are found they will be protected proves that this is the case. A FONSI can only be properly determined after such a survey has been conducted, not before. The same holds true for the FONSI's inaccurate claims that the project will not adversely affect endangered or threatened species or critical wildlife habitat, because as admitted by the FONSI, no proper inventories of such species or habitat have been conducted in order to make the determination that such species or habitat will not be affected.

For these reasons, the FONSI granted in this decision is wholly inadequate based on the inadequate EA provided, in connection with the inadequate FSFEIS to which the EA and this decision are tiered. Further environmental analysis must be conducted, in the form of an environmental impact statement, to enable a decision-maker to truthfully assess these site-specific impacts.

If the Ouachita Forest will provide something in its Environmental Assessments (EA's) and in its databases other than theoretical claims about impacts, appellants can provide something other than disagreement about claims: we can analyze how you arrived at your figures and whether your analysis is correct. The exchange of information and public scrutiny of the agency's scientific analysis is what NEPA is supposed to be about. It is also provided for strongly in NFMA and its implementing regulations. Our initial analysis of the agency's COMRATS "data" shows that it uses lookback formulas to make claims about impacts.

COMPATS, which is the basis for the Forest Service's site-specific analysis, is known to be riddled with errors and should not be relied upon to generate site-specific EA's. Actual inventories and analysis should be done on-site, and that information should be provided in the EA. For example, as shown in W Exhibit 30 in the LRMP appeal by OWL, the Forest Service's data for Stand 14 of Poteau Compartment 1237 showed the age of "the stand" as more than 58 years old. When an actual random sample of annual ring counts after the stand was recently logged showed the average age at 44 years, a great disparity in the data. Stand 25 of the Womble District Compartment 1676 was shown in the CISC data at more than 71 years old. When the actual average was 54. By claiming stands are older than they are, Forest Service decision-makers are routinely wasting the timber producing potential of stands and are violating NEPA by relying on incorrect site-specific data for their decision-making.

Furthermore, COMPATS and CISC data is collected in such a way, and contains errors, that often bias the analyis and the decision-maker's toward even-aged management. This method of gathering data is arbitrary and violates NEPA. In the example of Stand 14 of Poteau 1237 above, the actual ring count showed a wide variety of ages present, indicating that the attempt to claim "an age" for "the stand" was part of the Ouachita Forest personnel's strategy of attempting to fit a forest with essentially uneven-aged characteristics into an even-aged data-gathering and decision-making mode. According to the Final Supplement to the Final Environmental Impact Statement (FSFEIS) for the Ouachita LRMP, managed even-aged stands are characterized by no greater difference in age between trees forming the main canopy level than 20 percent of the age of the stand at harvest rotation age (p. GS-3). If all the trees in the Poteau 1237 sample wore in the canopy and were allowed to grow to a 70-year rotation, there would be more than a 20 percent difference in age, indicating that the stand does not possess characteristics of even-aged management but the method of recording data, arbitrarily, allows personnel to choose only one "age" to record in the CISC database. It may be argued that by counting only annual rings on stumps after logging leaves the researcher has no way to know if each stump counted had been in the main canopy level of the stand, but further information in the FSFEIS indicates that age of canopy level trees is not the only determining factor. The FSFEIS states that even-aged stands may contain no more than two age classes (p. I–1). In fact, the actual sample of Poteau 1237 does show at least three age classes (at ten-year intervals) on the stand, further indicating that the stand fits much better into an uneven-aged data-gathering system but has been arbitrarily "fitted" into an even-aged mold.

But the greater point here is that the project-level decision-making that is guided by the LEMP is biased toward even-aged management by an overemphasis in the data-gathering on age as opposed to diameter class structure present on the stands. For instance, the FSFEIS, p. I–9, claims "natural stands on the Ouachita National Forest are even-aged." As shown above in the two sample ring-count stands, this claim is not necessarily so. But this claim is misleading because, as shown repeatedly by James B. Baker, Project Leader for the Southern Forest Experiment Station, site classes are at least as important as age classes, if not more so, in managing timber.

4. The ROD, p. 1, for the FSFEIS and the ALRMP, March, 1990, states that at each planning and decision-making level (such as the site-specific project-level at hand), the Forest Service must comply with all applica-

ble laws and regulations. This means that the full letter and spirit of NFMA and 36 CFR 219.1 et seq. apply to this project-level decision and this EA, including all requirements for inventorying and monitoring, requirements for maintaining diversity "in the planning area," etc. As shown below, in no way does this EA meet those requirements, thus violating the ROD. Further, this decision and EA and FONSI violate the statement on p. 1 of the ROD that NEPA be fulfilled at the point of irreversible and irretrievable commitment of the resources to this project on this particular site. Harvesting this site by even-aged management commits this site, from a practical standpoint, to a particular management system with its inherent weaknesses and damages, for longer than the length of one human life, which is for all practical purposes an irreversible and irretrievable commitment of resources. Nowhere on the planet has even-aged management been practiced for more than three rotations, and where it has it has rapidly depleted the productivity of the land unless extraordinary mitigation measures have been implemented, so we must assume it is an irreversible and irretrievable commitment. The use of untested formulas of herbicides also irretrievably commits this site to unknown effects.

5. Any discussion of environmental impacts from seed-tree cutting in this Environmental Assessment is inadequate because it has omitted discussion of at least two major concerns and environmental impacts that frequently occur after seed-tree cutting but which are typically considered impacts of clearcutting. These are ripping and planting of genetically altered pine seedlings. This occurs because seed-tree cutting in the Ouachitas fails to reproduce to adequate stocking successfully at least half the time, and then artificial reproduction is required. Concerns and possible environmental impacts from these actions, and the legal inadequacies of the FSFEIS in regard to these, are well documented in the OWL appeal of the ALRMP. These concerns and inadequacies make an adequate site-specific discussion of these actions mandatory in this EA and Decision. COMPATS provides an inadequate basis for predicting impacts from seed-tree cutting on this location because it fails to take into account the probable or possible ripping and/or planting that will occur if the seed-tree cut fails to reproduce successfully with natural regeneration. For these reasons, this decision is based on inadequate NEPA documentation and therefore violates not only NEPA but also NFMA because this cutting method cannot be determined to be appropriate to this site if the likely impacts on this site have not been adequately assessed. Moreoever, because seed-tree cutting in the Ouachita has a history of failure and often results in the use of ripping and planting and complete removal of all canopy trees as in a clearcut (as admitted in the LRMP/FSFEIS), seed-tree cutting in the Ouachita must meet not only NFMA's appropriateness test but also its optimality test. As discussed below, because the Ouachita by its own admission supposedly has no adequate long-term studies to illustrate the viability of single-tree selection management in this ecosystem, the Ouachita cannot make a comparison of single-tree harvest and clearcutting or seed-tree-with-seed-tree-removal-in-combination-with-artificial-planting. Therefore the Ouachita cannot make the determination that either clearcutting or seed-tree cutting is MORE "favorable or conducive to reaching the specified goals of the management plan," let alone the determination that they are the MOST favorable, as required by the Senate Committee Report's definition of "optimum in NFMA. Therefore the proposed use of seed-tree cutting in this Decision Notice, with its possibility of resulting in this ecosystem in impact very similar if not identical to those of clearcutting, cannot meet NFMA's requirements and thus is in violation of NFMA's optimality section.

Appellants hereby notify the agency that if this cut is carried out and later requires ripping, planting, or other site preparation not discussed in this EA/Decision Notice, the NEPA process must be repeated and a supplemental Decision Notice must be prepared prior to any ripping or planting and appellants hereby request that it be sent out to these appellants and other interested parties.

Mr. MURKOWSKI. Mr. President, the proposed Forest Service regulations streamlining the appeals process is a much-needed improvement. The public will still have the opportunity to comment on all proposed sales.

I cannot support the Fowler amendment.

I had printed in the RECORD a copy of the actual appeal process. it is a preprinted form. Anyone can get a copy of this preprinted form. Simply address it and sign it, and that constitutes the adequacy of the appeals process. No good faith; nothing but an opportunity for obstructionists who are hellbent on one particular goal, and that is to close the renewable aspects of the forests of this country.

This is not a responsible procedure. This is not a procedure that provides any contribution of any kind by the parties filing the protest. There should be some balance proposed in the manner in which these protests are filed.

To have a blank procedure that can tie up thousands of jobs; shut down mills; shut down the economy of communities and affect the lifestyle of hard working American men and woman is irresponsible.

As a consequence, Mr. President, I appeal to every Member of this body to look at this blank procedure that is available. If they take a look at it, they will come to the same conclusion as the junior Senator from Alaska: That this is irresponsible legislation on the part of this body.

I encourage my colleagues to object to the position of the Senator from Georgia.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Georgia is recognized.

Mr. FOWLER. Mr. President, let me state very quickly some facts, despite what was heard from the junior Senator from Alaska and others. First of all, only one in every seven timber sales nationwide is appealed by the public. Second, under the law, the Forest Service currently has the authority to dismiss appeals without any delay or any action. without a decision on its merits, those that are frivolous. and they do that. That eliminates 95 percent of the so-called frivolous appeals, as the Senator from Alaska said, where you fill out a form.

I remind the Senator from Alaska that if you appeal a decision by the Social Security administration about your right to earn your Social Security benefits, you fill out a form. If you are a veteran of the Second World War and you need a new leg, you go to the Veterans' Administration; you fill out a form. These are the basic citizen rights in a free country, in a democracy, to appeal a decision of their government that effects themselves.

This amendment, my friends, is not about any private property rights. It is only about our Nation's lands owned by the citizens of every State, our national forests, our public lands that are being subsidized through below-cost timber sales to make money for private timber companies off of our public lands. My amendment simply tries to codify a citizen appeal process that the Forest Service has voluntarily been using basically for 85 years, since 1907.

I am not one who goes around with editorials in his pocket, but I have searched in vain for anybody who studies this issue who disagrees with it.

I ask unanimous consent to enter into the RECORD these editorials from the West which my friends in opposition would read. Here is one from Eugene, OR, March 24, 1992, "Appeal Ban Won't Help. The Federal Government can stop the blizzard of timber sale challenges in two ways. It can change the laws and leave the Forest Service vulnerable to successful challenges. Or it can follow the laws currently on the books. Closing down the administrative appeals process would not resolve that dilemma but would merely shift the problem elsewhere."

The Oregonian: "Unappealing Changes."

The Oregonian: "Maintain Forest Appeals."

The Register-Guard, Eugene, OR: "Appeal Ban Won't Help."

The Post-Register, Idaho Falls, ID, home State of my friend, Mr. CRAIG: "Cutting the public out." It supports the Fowler amendment.

Lewiston Tribune, Lewiston, ID, the State of my friend from Idaho, Mr. CRAIG: "The Forest Service only has ears for Congress." It opposes the Senator's own position.

And the last one from the New York Times: "Environment Laws Are Eased By Bush As Election Nears."

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Eugene (OR) Register-Guard, Mar. 24, 1992]

APPEAL BAN WON'T HELP

Closing the window on administrative timber sale appeals won't help as long as the door remains wide open. The Department of Agriculture's proposal to ban appeals would simply move fights over timber sales out of the U.S. Forest Service's offices and into the courts. The ban would save neither time nor money.

Agriculture Secretary Edward Madigan proposed the ban as part of an effort to unwind some of the red tape that currently binds the agencies in his department. There's no doubt that administrative appeals of timber sales are a tremendous burden. Three thousand Forest Service timber sales were appealed in the past two years. Appeals must be reviewed by regional foresters or the chief forester, a process that consumes a rising percentage of the agency's energy and resources. It's not surprising that Madigan and the Forest Service would like to rid themselves of the entire process.

But eliminating appeals would not end challenges to timber sales. Environmentalists and others who object to particular sales could still ask the courts to intervene. The Forest Service's record in court does not encourage hopes that a ban on administrative appeals would expedite timber sales. Nor does the legal system's drawn-out process of injunctions, rulings and appeals offer a quick and inexpensive substitute for administrative appeals. Madigan should be looking for ways to keep the Forest Service from being sued, not proposing shortcuts to the courtroom.

Many timber sales reviewed through the administrative appeal process end up in court anyway. Madigan characterized administrative appeals as a "way station" between a proposed timber sale and the courtroom. The process is more than that, and its positive attributes would be lost if challenges went directly to court. Despite the confrontational atmosphere that currently characterizes the battle over federal timber policy, administrative appeals often work as intended by helping the Forest Service identify and correct deficiencies in its timber programs. A ban on appeals would eliminate a potentially productive alternative to a legal battle.

The federal government can stop the blizzard of timber sale challenges in two ways. It can change the laws that leave the Forest Service vulnerable to successful challenges. Or it can follow the laws that are currently on the books. Closing down the administrative appeals process would not resolve that dilemma but would merely shift the existing problem elsewhere.

[From the Oregonian, Mar. 27, 1992]

Unappealing Changes

In the name of economic growth, the U.S. Forest Service is proposing to stop allowing people to appeal timber-sale decisions and similar management actions to agency higher-ups.

That's going too far, even with the Forest Service's companion proposal to provide more public comment before final decisions are made. All the prior comment in the world doesn't provide for the review of a decision that an appeals process does.

The Forest Service's problem with appeals is that they have gotten too popular. Agency officials and the timber industry have become frustrated by the delays as virtually all decisions are appealed, then reviews—and sometimes modified—by higher Forest Service authority. Critics of the process contend that many appeals—including some that seem to be college-class projects—are aimed at blocking decisions, not at improving them, and use vague charges of failing to follow required procedures.

But if the Forest Service's problem is with vague or frivolous appeals, it should deal with those precise problems—by requiring specificity or establishing procedures for quickly screening appeals without apparent merit. Preventing all appeals merely feeds the notion that the Forest Service wants to tilt toward business interest without any pesky questions being asked afterwards.

Agriculture Secretary Edward Madigan heightens that suspicion. Dropping timber-sales appeals, he said, is a response to President Bush's order to ferret out regulations that hamper economic growth. Actually, the timber industry and Forest Service officialdom in Washington, D.C., had been trying to make this kind of change far before Bush's order.

True, the Forest Service plans to retain the right of internal appeal for new and revised forest plans. But those plans currently lack the on-the-ground details that come forward with the subsequent timber sales and similar decisions. How, without an appeal, can you make sure those subsequent decisions conform to the broad plans?

Ominously for the Forest Service, another way to challenge a decision will remain—appealing to federal courts. Advocates of the appeals limit hope that the $120 filing fee for a lawsuit will discourage people from going that route. That's not much money, however, and the Forest Service may simply encourage more lawsuits in lieu of appeals: years of delay, in effect, rather than months.

This proposed revision needs revising yet again to retain some public right to seek higher-up review of significant decisions.

Meanwhile, if the Forest Service is going to emphasize advance public comment on decisions, it needs to improve dramatically the ways the public is alerted to pending actions.

[From the Oregonian, Nov. 8, 1991]

Maintain Forest Appeals

These are appealing times for the U.S. Forest Service—so many people and groups are appealing its decisions that agency officials say necessary business is getting bogged down in delay, even if higher-ups eventually affirm the challenged decision.

That's why the agency is looking at revising its appeals procedures, including limiting the right to appeal a decision to those who had commented on it ahead of time.

But the number of appeals is also why the Forest Service should retain a broader ability for interested outsiders to seek higher-level review of officials' decisions. After all, about one in 20 of the appealed decisions is reversed, and some of the rest are reconsidered in light of points made in the appeal.

Advance comment is great and should be encouraged. But it's not always easy to find out what's really involved in a potential decision in time to comment in advance. Too, boilerplate comment to hold space for a boilerplate appeal won't gain much.

Forest Service officials say the rising burden is due to some environmental groups' filing virtually blanket appeals of timber-sale proposals. Grounds don't have to be specific, and computers make filing the appeals easy. The resulting internal review provided for by current rules can delay implementing a decision for more than six months, even if the decision eventually is upheld (45 days to make the appeal, 100 days for the next-level official to respond, 60 days if appealed to the next level).

Speed, however, doesn't necessarily make for sound decisions. Appeals can—especially a process that guarantees to decision-makers that somebody's going to be looking over their shoulders. The Forest Service is such a decentralized agency, it's important to assure that peek from above.

The Forest Service hopes to make proposed appeals revisions public next month. Oddly, it is proceeding in a closed way with virtually no public discussion in advance about what it is considering. This closed review raises obvious suspicions that officialdom really is after a way to muzzle environmentalists and will make up its mind, public a proposal in the Federal Register and then seek the required formal comment only after the decision is effectively made.

That's not the way to do it, especially if one goal of the revision is to emphasize public participation in advance of decisions. Some people might have some good suggestions; the Forest Service should at least solicit them before it multiplies hoops for appellants to jump through.

For instance, the Forest Service might consider a two-track appeals process: a formal track with greater specificity and procedural requirements for contenders who are considering eventual litigation; an informal one, similar to small claims court, where a disputant has a forum to make a case easily and cheaply, but also finally.

Meanwhile, if the problem really isn't the appeal but the length of time it takes to review it, there's a pretty obvious solution—don't limit the appeal, speed up the review.

[From the Idaho Falls Post Register, Apr. 3, 1992]

Cutting the Public Out

A big tree is just about to crash down on the U.S. Forest Service. When the agency announced it was planning to cut down its own public appeals process, it may have ensured even more court tests and more public rancor.

The Forest Service plans to eliminate appeals of timber sales, new gas and oil leases, and grazing decisions on public forests and put a stop to the most effective means the public has to respond to uses of their land.

Forcing environmental or commercial groups into court is an attempt to shift more cost to the public—and this supposedly in the name of cost-cutting. Pretty shifty.

Fortunately, the courts have been a successful haven to challengers, even if it is costly. Rarely has the Forest Service won in court, a testimony to the legitimacy of many of the challenges.

Instead of taking costly time and energy devising laws to barricade itself from public input, the Forest Service should work to avoid appeals by complying with the law from the start. Obviously, it hasn't been doing that.

Secretary of Agriculture Edward Madigan says he will substitute appeals with a 30-day public comment period. Big deal. The law already requires a comment period before most decisions. The Forest Service just wants the public to accept its dictums or, "We'll see you in court." With appeals (which now come after a decision is made) junked, the Forest Service can make any decision it wishes without challenge after public comment.

Ken Kohn, spokesman for the Intermountain Forest Industry Association, said the Department of Agriculture proposal will help protect jobs in towns like St. Anthony. We fail to see how abandoning a public appeals process can make any difference in St. Anthony where the heavily cut Targhee National Forest now requires a major reduction in timbering.

Court records and statements of the agency's own forest supervisors reflect an agency under political pressure to lay aside its legacy of stewardship for the pottage of marketing ever more trees.

Now is not the time to rob the public of input. The appeals process has, at least, brought some balance between production and conservation on public lands.—JRB.

[From the Lewiston (ID) Tribune, Sept. 4, 1991]

THE FOREST SERVICE ONLY HAS EARS FOR CONGRESS

James Overbay says the U.S. Forest Service, of which he is deputy chief, shouldn't have to put up with meddling members of the public who appeal its timber sales. What does Overbay have to say about meddling members of Congress who first dictate unrealistic sales volumes and then call for the heads of Forest Service officials who fail to deliver?

From reading the report of an interview with Overbay at Missoula the other day, you would think he was in town to defend the independent judgments of Forest Service professionals from outsiders pushing special agendas. During the interview he called for prohibiting appeals of timber sales so that the Forest Service could "move aggressively" to log more trees in roadless areas. He said the service must "tell people that once we make a decision we are not going to re-examine it."

But many people suspect Overbay traveled to Missoula to give Northern Region Forester John Mumma, Overbay's politically beleaguered successor in the region's top job, his walking papers (Mumma announced his "retirement" Friday). The region's recent failure to produce enough logs to keep the timber industry and its beneficiaries in Congress happy has resulted in calls for Mumma's head. And Idaho Sen. Larry Craig has even demanded a monthly accounting from Forest Service Chief Dale Robertson of the region's progress in timber sales.

In full view of these flexing political muscles, Overbay has a lot of nerve complaining about common citizens getting in the way of Forest Service operations. In case he has forgotten, Larry Craig works for the people of Idaho. They do not work for him.

Similarly, the Forest Service works for the American public, not for a handful of members of Congress whose campaigns are supported by timber dollars. It is the public to whom Robertson, Overbay and company owe a full accounting, not only regarding their timber sales but also their personnel decisions.

Yet while Overbay was in Missoula complaining about timber sale appeals, he refused to explain what led to Mumma's supposed retirement. He only said it is not uncommon for top Forest Service officials to be reassigned when they are under fire.

Under fire from whom? It wouldn't be those great foresters in Congress, would it?

If so, it's no wonder Overbay has so little time to hear from the people whose woods these are.—J.F.

[From the New York Times, May 19, 1992]

ENVIRONMENT LAWS ARE EASED BY BUSH AS ELECTION NEARS

(By Keith Schneider)

WASHINGTON, May 19.—As the recession hangs on and the election nears, the Bush Administration has followed a pattern of altering environmental laws and regulations to open more Federal land and the nation's natural resources to development, top Administration officials say.

The pattern emerged last summer, when the White House proposed eliminating restrictions on building and development on half the nation's wetlands. Since then the Administration has fostered a flurry of new proposals to make more of the nation's coal, timber, oil, water and land available to industry and agriculture.

Administration officials say the effort to open natural resources has been aided by President Bush's four-month-old regulatory moratorium in which existing environmental rules are under review and others are being rewritten to reduce their cost to business.

PHILOSOPHY AND POLITICS

Together, the two policies represent the strongest effort to reduce environmental restrictions since the early days of the Reagan Administration, White House officials and critics of the President say.

In public statements and private conversation, Bush Administration officials say this pattern reflects both the philosophical effect of the President's Council on Competitiveness, which is headed by Vice President Dan Quayle, and concern over carrying Western states in the election this fall.

The general thrust of both forces has to shift the balance toward economic concerns instead of the conservationism favored by the main environmental groups.

A SHIFT OF EMPHASIS

"The President has always been in favoring of protecting the environment in a way that is compatible with growth," said David M. McIntosh, the executive director of the President's Council on Competitiveness.

"What you are seeing is a series of decisions that focused on the economic growth side of the balance," he added. "Perhaps what is going on is a shift in emphasis."

Interior Secretary Manuel Lujan Jr. said anti-environmental sentiment among some Western voters also played a role. In the Reagan years these sentiments fueled a movement called the "sagebrush rebellion," which put pressure on the Interior Department to open more Federal land for mining, grazing and logging.

Secretary Lujan has alerted the White House that members of the old rebellion have joined with private land-owners, the timber industry, coal companies and others who rely on natural resources to form a new coalition that calls itself the "wise use" movement.

Mr. Lujan says the Administration should address the movement's agenda to improve its standing with its natural conservative constituency and should not worry so much about sentiment of environmentalists who, he believes, will not support Mr. Bush under any circumstances.

"I have never seen a positive reaction from environmental groups no matter what we do," the Secretary said. "I don't ever expect a positive reaction."

"WESTERN CONSTITUENCY" CITED

In an interview Mr. Lujan, who served from 1969 to 1989 as a Congressman from New Mexico, said he was bringing "the plight of the Western constituency to the White House," and added: "People who live in the West look at the land in a different way than people east of the Mississippi River. Land in our heritage to use and not just lock up and put away, where only backpackers can go. I have been telling the White House staff that our constituency, the conservative Republican constituency, is not pleased at being ignored."

A number of officials agree with Mr. Lujan that the White House is driven by fears that the traditional Republican Party support in the eight Rocky Mountain states, with a total of 40 electoral votes, is eroding. The White House is also following a plan devised by Senator Slade Gorton, a Republican from Washington state, to recapture Oregon, and Washington, the only two Western states Mr. Bush lost in the 1988 election.

Thus, the President's strategy is meant to shore up support among the timber, mining, coal and agricultural groups that anchor the "wide use" movement. Leaders of the movement are pressing for a loosening of policies that they see as brakes on the economy. They also want to protect jobs and families by providing resources that some of the nation's largest industries need to operate.

Last week, in the clearest signs yet that Mr. Bush is taking account of industrial interests in weighing environmental protections, a Cabinet-level committee voted to exempt the Government from the Endangered Species Act and allow the cutting of 1,700 acres of forest in Oregon that provide habitat for the threatened northern spotted owl. Secretary Lujan also proposed legislation, that, if approved, would rewrite the basis of the Endangered Species Act by introducing economic considerations, like the loss of jobs, when deciding if a rare species deserved Federal protection.

Privately, some influential Administration officials agree with the critics that the new policy directives are a sharp departure from Mr. Bush's first year in office, when he proclaimed himself the "environmental President," appointed Mr. Reilly, a leading conservationist, to direct the environmental agency, and won plaudits from conservation groups by blocking construction of the Two Forke Dam, which would have flooded a Rocky Mountain canyon near Denver.

While efforts to change environmental regulations foundered during the Reagan years, the Bush Administration's program has gained some success, particularly in the courts, where the growing number of Republican appointees on the bench have been more sympathetic than their predecessors to arguments favoring industry and property owners seeking to restrict the reach of environmental laws.

Perhaps the most important changes in environmental regulations that the Administration has proposed so far is rewriting rules to limit or eliminate the public's ability to intervene in corporate or government decisions.

In March, Mr. Lujan eliminated the public's decades-old ability to appeal decisions by the Interior Department and to block oil exploration licenses, grazing permits, mining leases and other industrial uses of public lands.

Mr. Lujan said in the interview that useful projects on public lands were being delayed indefinitely by opponents who did nothing more than mail in criticisms, automatically initiating long reviews of the agency's decisions. "It was the 29-cent appeal," he said. "A letter stopped everything. Now if they want to appeal, they go to court."

A month later, Agriculture Secretary Edward Madigan used the same rationale as the basis for proposing to eliminate an 86-year-old rule that gave the public the right to appeal decisions by the United States Forest Service and to block sales of timber on Federal land. The Forest Service, a branch of the Agriculture Department, is preparing to issue the new rule this summer.

"What you see is an understanding by the President that in a recession there is an increased sensitivity to the job side of the equation," said Michael R. Deland, the chairman of the President's Council on Environmental Quality. "The President has an understanding and empathy for folks out of work. He doesn't want to see additional people put out of work by a rule that does not effectively protect public health and the environment."

Mr. FOWLER. I thank the Chair.

In conclusion, I urge the Senate to reject the motion to table. Do not cut off access to the courts and also say to the public about their own lands, "You cannot appeal."

The timber companies still maintain an appeal at every level of their permit, private companies going on the public's forests to cut the timber for private profit. Not only that, we subsidize it. We build the roads for them. There is $300 million of taxpayer subsidy in this bill alone.

All my amendment would do is say to follow the Forest Service's original recommendation—the decision, as we have debated this, has now been politicized. It has gone over their head—to follow the Forest Service's own recommendation on the appeal process that has been tested, that simply gives to the citizen of the United States an appeal on a decision in his or her national forest in Georgia, Alaska, Idaho. That is all it does. That is all my amendment does.

I urge the defeat of the motion to table.

Mr. SYMMS. Mr. President, the current appeals process too often is a tool for timber harvest hate groups. They use the appeals process to delay decisions and to force unilateral negotiations over an environmental document after there has already been extensive public comment. Participants in the drafting of the decision document are denied further involvement in the process while the USFS and the group or individual who appealed the proposed decision negotiate back-room deals.

The current appeals process is unfair, it wastes millions of taxpayers dollars annually, and could be unconstitutional. These are some of the reasons why the Secretary of Agriculture approved new regulations to reform the Forest Service appeals process.

The Senator from Georgia would have us pass an amendment today that takes us back to more delays, more tax dollars wasted, and fewer decisions made by the U.S. Forest Service. While timber workers in my State stand in unemployment lines, the Senator from Georgia would like Forest Service employees to do more paperwork.

Mr. President, none of us are opposed to due process, but I am opposed to laws, amendments, and regulations that are used by certain groups and individuals to paralyze Federal land management decisions.

This is such an amendment. It is legislation designed for intervenor groups that may have little or no understanding of needs of the local communities in public lands States. We depend on fair decisions by Federal land managers.

Mr. President, hard-working people in Western public lands States just want to be treated fairly by the process of making decisions in National Forests. Frivolous appeals by groups thousands of miles away from a timber sale are bad enough. But, the old appeals process that the U.S. Forest Service is trying to reform requires that the Forest Service negotiate only with that group.

This is unfair. The delay caused and the costs imposed are unfair. Cutting the interested parties out of negotiations is unfair.

Let us not go back to this bad appeals regime. We have the National Environmental Policy Act. The new Forest Service appeals regulations require that only those who commented on the draft decision can appeal it. The new regulations do not do away with appeals, they just make appeals fair to all of the members of the public interested in the proposed decision. On top of this, higher level line officers can still be contacted and still review a lower level line officer's decision.

To conclude, Mr. President, we have a process in place under that act that assures fair and environmentally sound decisions. Let us give it a try. The ink is not even dry on the new Forest Service appeals process and here we are in Congress tinkering already. That is a bad way to implement policy—no public administrator who believes feedback is important in the public policy process would support this amendment.

I urge my colleagues to table the Fowler appeals system amendment.

Mr. BAUCUS. Mr. President, I rise in support of the amendment offered by the Senator from Georgia.

I do so because I believe the administration's proposal takes a meat ax to a problem requiring more delicate surgery.

Last year, almost 400 timber sales were appealed across this Nation. In Forest Service region I, which includes Montana and northern Idaho, approximately 40 sales were appealed. While most of these appeals proved unsuccessful, many pointed out legitimate and serious environmental problems. Both nationally and within region I, over 30 percent of these appeals resulted in the modification or withdrawal of the sale.

Thus, by the Forest Service's own recognition, 1 out of 3 appeals had enough merit to justify some degree of change in the sale.

Moreover, many of these appeals were not brought by extreme environmentalists intent on abusing the system. It is important to keep in mind who uses the appeals system: Hunters, fishermen, ranchers, hikers, cabin owners, and outfitters and guides are just a few examples.

There should be an inexpensive and informal way for American citizens, acting in good faith, to hold the Forest Service accountable. Unfortunately, the administration's proposal fails this fundamental test.

All of this is not to say, however, that the current system works well. I see several fundamental problems that I wish the amendment before us addressed:

First, to all things, there must be a beginning, a middle, and an end. But in many instances, this does not seem to be the case with Forest Service appeals. For example, I believe it is wrong to permit sequential appeals. Once a timber sale has been subject to one round of appeals, that should be the end of it. There is undoubtedly a need for greater finality to this process;

And second, I agree with at least one aspect of the administration's proposal: The need to encourage greater public involvement before a sale is finalized. Individuals who fail to offer meaningful participation during the NEPA process of planning a timber sale should be denied standing to appeal that sale.

Clearly, there is room for improvement in the current system. And I would hope that we could address these improvements by moving legislation through the authorizing committees. However, these improvements should not come at the expense of Americans who have an honest disagreement with their Government—and that is exactly what will happen if the administration's proposal is allowed to take effect.

Thank you, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair informs the Senator his time has expired.

The Senator from Idaho [Mr. CRAIG] is recognized.

Mr. CRAIG. Mr. President, before I move to table, I respond very briefly.

Mr. BYRD. Mr. President, that was not included in the agreement.

Mr. FOWLER. Right.

Mr. CRAIG. All right, recognizing that, I move to table.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Iowa [Mr. HARKIN], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH], and the Senator from North Carolina [Mr. HELMS] would each vote "yea."

The PRESIDING OFFICER (Mr. LIEBERMAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 38, nays 57, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—38

Bentsen
Bond
Brown
Bumpers
Burns
Byrd
Chafee
Cochran
Craig
Danforth
Dole
Domenici
Durenberger
Ford
Garn
Gorton
Gramm
Grassley
Hatfield
Johnston
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Pryor
Rudman
Seymour
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—57

Adams
Akaka
Baucus
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Coats
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Exon
Fowler
Glenn
Graham
Heflin
Hollings
Inouye
Jeffords
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wirth
Wofford

NOT VOTING—5

Burdick
Gore
Harkin
Hatch
Helms

So the motion to table the amendment (No. 2902) was rejected.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

THE SCHEDULE

Mr. MITCHELL. Mr. President, if I might have the attention of the distinguished Republican leader, for the information of Senators, the Republican leader and I have been meeting over the past 2 days on a regular basis in an effort to agree on a schedule by which the Senate can complete the important business which remains before it in the short time remaining prior to the forthcoming August recess.

As everyone knows, under the current schedule, it is intended that the Senate will begin its recess at the close of business on next Wednesday night.

I have decided following discussions with the distinguished Republican leader, the chairman and ranking member of the Armed Services Committee, and the chairman and ranking member of the Finance Committee, that the manner in which we will be most likely to accomplish our objective is to proceed to the Department of Defense authorization bill upon completion of the Interior appropriations bill and following that the bilingual voting rights bill.

So the order in which we would now proceed would be the Interior appropriations bill, the bilingual voting rights bill, then the Department of Defense authorization bill, and then the urban aid bill which some refer to as the tax bill reported out of the Finance Committee.

It is my hope, although I recognize that most of my expressions of hope in this regard are proven to be overly optimistic, that we can complete action on the Interior appropriations bill during the day today, proceed to the Bilingual Voting Rights Act bill, which I anticipate we can complete in a relatively short period of time, and then at least lay down the Department of Defense authorization bill this evening, if that is possible, then have a full day tomorrow.

Senators can expect very long days with many votes on each day that we are in session during this period because we have this important business to complete and very little time to do it in.

I have not attempted in this statement to identify all of the measures on which we hope to act. There are other matters involving the appointment of conferees, Executive Calendar matters of nominees, and others that we hope to act on, that, indeed, I am determined to act on. But I have identified the principle legislative matters that we will take up, and we will try to work the other in.

There is, in addition, finally, I should say, the possible discussion of the resolution involving the situation in the former Yugoslavia.

So I wanted at this point to make clear to Senators the current status of matters. It remains my intention that we will complete action on the measures which I have described prior to departing on the recess at the close of business, the two largest and, therefore, time-consuming and very important matters, of course, being the Department of Defense authorization bill and the urban aid bill.

Mr. President, I am pleased now to yield to the distinguished Republican for any comments he would wish to make.

Mr. DOLE. I understand there would be no votes on Saturday.

Mr. MITCHELL. That is what we discussed this morning.

It had been my intention that we would be in session on Saturday with votes, but, as all Senators know, if anyone is determined that there not be votes, there will not be any. The only votes that I could make certain will occur would be procedural votes and I do not see any purpose would be accomplished by that.

Mr. DOLE. Mr. President, I do not have any objection to being here on Saturday, but a number on this side, and I have to believe a number on that side, have made prior arrangements. There had not been any notice in time to cancel some of the obligations they have in their home States.

But certainly there are things we might be able to debate on Saturday and maybe even, if amendments were acceptable, take care of some of those, in either the DOD bill or whatever might be pending at that time, or maybe the Bosnia resolution that the majority leader indicated.

What we have been attempting to do on this side is to limit the debate, particularly on DOD where we have the B-1 debate and the SDI debate and the Trident debate year after year, both on the appropriations bill and the authorization bill; same players, same speeches. It is, unfortunately, the same length of time. We would like to reduce that. And I am working with the majority leader on this side to encourage our Members who have amendments to DOD to try to reduce the amount.

Some of us, frankly, are not wild about hanging around until midnight to hear some of our colleagues speak for 2 hours when they could have said it in 10 minutes. So we would prefer not to be here until 11 or 12 o'clock and hear the same speakers each evening.

It is my hope we can cooperate right now with the distinguished President pro tempore to help him finish his bill and then the bilingual bill, and then there is the matter of certain executive nominations that we have not fully agreed upon.

But I would say to the majority leader, we are willing to cooperate in every way that we can and hopefully cooperate with the distinguished chairman of the Senate Armed Services Committee and Senator WARNER on this side and with the chairman of the Finance Committee, Senator BENTSEN, and Senator PACKWOOD, the ranking Republican member of the Finance Committee.

I hope that our colleagues would understand, if we are going to complete all of this work, which is a pretty big order, that we should all work together to try to reduce the length of time we take on each amendment.

Mr. MITCHELL. Mr. President, if I might just comment on the distinguished Republican leader's statement. I share the view that we should be doing all we can to move these matters along and to reduce the length of time. But I want to say that the virus of lengthy and repetitious debate does not begin with the DOD bill.

I used to be a Federal judge, and I am frequently asked what are the differences between proceedings in a courtroom and proceedings in the Senate. There are a great many, most notable of which is that a court has the unilateral authority to cut off repetitious debate. No such authority exists in the Senate and, therefore, repetitious debate is a regular feature of Senate activity.

I share and concur wholeheartedly in the view that we ought not to be repeating arguments on the B-2 and SDI. I will say there are many other subjects on which we have had the same arguments for more than 3 or 4 years, at least 12 years since I have been here, the same arguments by the same people on the same subjects on a regular basis.

Mr. President, I would like to consult with the distinguished Republican leader for a moment.

I wonder if I might suggest the absence after quorum.

Mr. BYRD. Not at the moment, if I may ask the distinguished majority leader. I want to make a few remarks.

Mr. MITCHELL. Please do so.

Mr. BYRD. Mr. President, there is a way to shut off repetitious debate, and that is to move to table. And if the Senate will vote to uphold tabling motions, we can shut off some repetitious debate here.

There are 20 amendments that are on the list that can be called up. The Senate agreed to limit the list to 20 amendments last night.

We have been on this bill for 2 hours and a half and we have not disposed of a single amendment. There was a motion to table the amendment by the distinguished Senator from Georgia [Mr. FOWLER] and the Senate did not vote to table that amendment. So now there will be an amendment to the amendment. And I hear talk that there will be extended debate if this amendment is not disposed of and that the only way to get rid of this amendment, maybe the only way, is to invoke cloture. That is what I am hearing.

As I have indicated already, this bill, this appropriations bill, in my judgment, attracts more legislative amendments than does any other appropriations bill. And so we were on it all day yesterday. And the problem with legislative amendments, one of the problems, is they are controversial here and then we go to conference and they are controversial there.

I have to say to my colleagues that practically all, if not all, of the members of the Appropriations Committee have been very considerate during the markup and reporting of bills. They have elected not to have long debates on legislative amendments during the markup. They have recognized, if there is going to be a debate on the amendment on the floor, there is no point in having it twice, in the committee and on the floor.

And so I urge Senators to pay attention to what they are voting on, and take into consideration the fact we have to get this bill finished. We ought to finish it today.

And what we are doing is driving us right into a Saturday session. That is what is going on here.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. STEVENS. Mr. President, I deeply regret being at odds with my good friend from West Virginia. For 12 years I have joined him in managing this particular bill, the Interior appropriations bill. But this Senator is literally offended, now, by the process we are going through, because some of us lose our rights when these amendments are offered to an appropriations bill.

If this was a separate bill coming out of the committee, the Energy Committee, it would be subject to a motion to proceed. It would be subject to debate. And it would be subject to the rights of any Senator to have extended debate on the bill itself.

I cannot believe that we should adopt a procedure that gives notice to a Senator that all he has to do to avoid a motion to proceed, to avoid cloture on a bill, is to offer an amendment on the appropriations bill and because of the urgency to pass the appropriations bill the rights of other Senators will automatically be eliminated; not dealt with at all fairly.

This Senator intends, regretfully, to offer a series of amendments to this amendment, to demonstrate the amendments that would be offered if it was a legislative proposal. They are being drafted now. It is not a threat. It is a promise.

This amendment should not be on this bill. And I am perfectly willing to face the Senator from Georgia on a legislative proposal and we will have our debate. We will have our cloture. And we will see what happens to the rights of the public land States. We do not have, standing alone, enough Senators to withstand cloture on any public land issue.

I do not know if the Senate knows that. There are but 17 States that have public lands. And under the circumstances, we face a fight every time we come out here with this bill.

I have just asked the Parliamentarian, could be protect ourselves on the point of order on legislation on an appropriations bill. Unfortunately, because of the current situation, that is probably not there any longer, anyway.

So the only protection we have to see to it the Senate considers the amendments we would offer to this amendment if it were presented as a bill from the committee is to present them now.

I have urged those of us who are affected by this legislation to do so.

I would urge the Senator from Georgia to take it down. I would consent the bill be placed on the calendar, and let us face it as a legislative proposal. But I am not going to permit the loss of rights to the small States of this Union, for those to be abrogated by a procedure that violates rule XVI in the beginning.

This is going to be a long day, I say to my friend from West Virginia. I hope I do not try his patience. But I intend to be sure the rights of our State are protected here on the floor of the Senate.

I, unfortunately, have to state that. Again, we have had amendments that we disagreed with that have been relevant to a provision in the House bill in the past. These amendments we are seeing this year are not relevant to any provision in the House bill at all. They are from an agenda that—I do not know where they came from. They are not voted out by the Energy Committee. They were not even taken up by the Energy Committee that has jurisdiction over this bill.

I say to my friend, I hope I do not try his patience, or that of the Senator from Oklahoma. But I think I know the extent of my rights, and I am going to pursue them.

Mr. BYRD. Mr. President, the distinguished Senator is not trying my patience. I am simply urging the Senate to pay attention to what it is voting on when Senators come to the floor. If we are not able to table some of these legislative amendments, we are going to be here until midnight tonight, and be back on the bill tomorrow. And we are driving this Senate right into a Saturday session.

These are legislative amendments. They ought not be on the appropriations bill under the rules of the Senate. Senators have a right to offer their amendments, but there are also rules that provide against legislation on appropriations bills: rule XVI.

I will have a discussion of that a little later today on the floor, when we have better attendance.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. I wonder if I might ask the Senator who is preparing to offer a second-degree amendment if we could get an agreement on the second-degree amendment? Who is offering this?

I yield to the majority leader.

The PRESIDING OFFICER. The Senate majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate proceed to consideration of S. 3114, the Department of Defense authorization bill, upon the disposition of H.R. 4312, the Bilingual Voting Rights Act.

Mr. BYRD. Mr. President, reserving the right to object; what is this?

Mr. MITCHELL. The agreement under a prior order is that upon the disposition of the Interior appropriations bill, the Senate will take up the Bilingual Voting Rights Act.

This seeks to obtain the Senate's consent to proceed to the DOD authorization bill after completion of the bilingual voting rights bill.

Mr. BYRD. The Senator does not anticipate this is going to take much time, at this juncture?

Mr. MITCHELL. This will not take any time, Mr. President. This merely sets up the order of business in the manner which I earlier described.

We will finish the Interior bill. Then we will do the Bilingual Voting Rights Act. Then we will proceed to DOD authorization.

Mr. BYRD. I have no objection, Mr. President.

Mr. STEVENS. Reserving the right to object, and I do not object, does that contemplate a Saturday session for that Bilingual Voting Rights Act? Is that the concept?

Mr. MITCHELL. I had hoped we could finish the Bilingual Voting Rights Act this afternoon, after we finish this bill.

Mr. STEVENS. I see.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from West Virginia has the floor.

Mr. BYRD. Mr. President, I understood that a Senator was going to offer an amendment to the amendment.

Is it agreeable to have a time limitation?

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield?

Mr. FOWLER. Will the Senator from West Virginia yield.

Mr. BYRD. Yes, I yield.

Mr. FOWLER. This Senator, as always, would be delighted to enter into a time agreement.

But may I beg the indulgence of a minute on the Senator's time to respond to my friend from Alaska?

Mr. BYRD. Surely.

Mr. FOWLER. One of the reasons the Senator from Alaska does not have the point of order that he wished to raise is because, just a week and a half ago, he supported a motion overturning the ruling of the Chair that, in the D.C. appropriations bill, on a matter dealing with assault weapons and home rule in the District of Columbia, there was a point of order of legislation on an appropriations bill.

The Senator from Alaska voted to overturn the ruling of the Chair.

We see this often, as everyone knows. What is sauce for the goose is not sauce for the gander.

But the Senator from Alaska helped make this bed, and now he has to lie in it.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I hope we do not have to lie in that bed very long. And I am going to raise that issue later today; I hope when we have a larger audience here in the Senate.

Can we get an agreement on this?

Mr. CRAIG. Mr. President, I am prepared to lay down that amendment in the second-degree, and I would suggest the cosponsors, most of them, are here on the floor.

We have debated this issue at length. This is a modification that streamlines the process. I would think a total of 30 minutes would be adequate, equally divided.

Mr. BYRD. Mr. President, I make that request, that there be 30 minutes equally divided on the amendment which will be offered by Mr. CRAIG—I assume that Senators know what the amendment does—30 minutes to be equally divided between Mr. CRAIG and Mr. FOWLER.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Idaho.

Mr. BYRD. Mr. President, I thank all Senators.

AMENDMENT NO. 2903 TO AMENDMENT NO. 2902

(Purpose: To modify the procedure for appeals of decisions of the Forest Service)

Mr. CRAIG. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I offer it as an amendment in the second degree.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself, Mr. DECONCINI, Mr. GORTON, Mr. STEVENS, Mr. DOMENICI, and Mr. BURNS, proposes an amendment numbered 2903 to amendment No. 2902.

Mr. CRAIG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following new section:

SEC. . FOREST SERVICE APPEALS.

(a) IN GENERAL.—In accordance with this section, the Secretary of Agriculture shall modify the procedure for appeals of decisions of the Forest Service.

(b) RIGHT TO APPEAL.—Not later than 30 days after the date of issuance of a decision of the Forest Service, a person who was involved in the public comment process for the underlying decision may file an appeal.

(c) DISPOSITION OF APPEAL.—

(1) INFORMAL DISPOSITION.—

(A) IN GENERAL.—Subject to subparagraph (B), a designated employee of the Forest Service shall offer to meet with each individual who files an appeal in accordance with subsection (b) and attempt to dispose of the appeal.

(B) TIME AND LOCATION OF MEETING.—Each meeting in accordance with subparagraph (A) shall take place—

(i) not later than 15 days after the date of filing of the appeal; and

(ii) at a location designated by the Chief of the Forest Service that is in the vicinity of the lands affected by the decision.

(2) FORMAL REVIEW.—If the appeal is not disposed of in accordance with paragraph (1), an appeals hearing officer designated by the Chief of the Forest Service shall review the appeal and recommend to the official responsible for the decision the appropriate disposition of the appeal. The official shall decide the appeal.

(3) TIME FOR DISPOSITION.—Disposition of appeals under this subsection shall be completed not later than 30 days after the date of filing of the appeal.

(d) STAY.—Unless the Chief of the Forest Service determines that an emergency situation exists with respect to a decision of the Forest Service, implementation of the decision shall be stayed during the period beginning on the date of the decision and ending on—

(1) if no appeal of the decision is filed, 30 days after the date of filing of the appeal; or

(2) if an appeal of the decision is filed, the date of disposition of the appeal under subsection (c).

Mr. CRAIG. Mr. President, this is an amendment to the FOWLER amendment that would establish a streamlined appeals process that speaks to the concerns of the Senator from Georgia and others, as it relates to the right of the citizen to participate in the decisionmaking process of the U.S. Forest Service.

This is an amendment that is cosponsored by my colleague from Arizona, Senator DECONCINI; Senator GORTON of Washington; Senator STEVENS of Alaska; Senator BURNS of Montana; and also Senator DOMENICI of New Mexico.

This is a work product of a blue-ribbon committee in Arizona that Senator DECONCINI was a direct participant in, of a broad base of citizens and interest groups, along with the U.S. Forest Service.

As the Senator from Georgia knows—because this is not, as he has said, just a State or regional issue—it is, in fact, a national issue of national concern, and that is why this administration and the chief of the Forest Service, in proposing new regulations, has attempted to address the issue and has done so, of course, stimulating the reaction of the Senator from Georgia.

This amendment would put in place a process that, first, the person making the appeal must be involved in the underlying decisionmaking process. As the notice goes out for the action to be taken, a notice well publicized by the Forest Service, that individual would have to become involved in the process or, as we would refer to it, establish standing. In other words, not just any individual after the fact could file an appeal from across the country, but if that individual had a legitimate concern, and most appeals are legitimate, and was participating in it and the decision was made which that individual could not agree with, then, because he or she had participated in the first instance, they would have standing. This would eliminate bad faith, frivolous arguments that we have heard and would allow them the right to appeal.

Second, the appeal would have to be made within 30 days of the offending decision; in other words, the time lines that have consternated this process for so long would begin to be tightened under this amendment. They have 30 days in which to file the appeal. Once that was accomplished, this provision would provide that the Forest Service would offer to meet personally with that individual who seeks the appeal to try to resolve the appellate's concern. That meeting would be face to face, or encouraged to be so, on the site of the appeal or where the action was to take place. They would try to work out their differences, face to face, person to person, trying to resolve the problems that resulted in the appeal in the first place. Once that is accomplished, maybe a resolution would arise at that point in time. But if it did not, if it were not immediately resolved through the face-to-face process, another 15 days would elapse before, of course, a final decision would be made.

The provision makes sure that a trained, disinterested person is involved in the matters of making that decision. A certified hearings appeals officer would hear the facts, if an agreement could not be arrived at, and make recommendations to the responsible deciding officer, which usually is the regional forester, in other words, the same line or chain of process that goes on today under the appeals process but much tightened by the timeframe involved. Once that is done and a decision made, that ultimately will be the decision and the appeal process.

If the appellant disagreed with that decision, they can obviously go to court, as they can today. No one, including this administration, in their proposed streamlined process would attempt to or desire to close the door of using the judicial process, but it does establish standing, it does establish a tight timeframe for the process, and it brings these parties face to face, together, in trying to work out the problems. In other words, the long-range process of mail is discontinued as we work person to person to resolve this. This is the text of the amendment. I think it simplifies, clarifies, and most certainly streamlines a process that has been very difficult; very, very costly; and extermely time consuming.

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. FOWLER. Mr. President, I yield such time as I use.

The PRESIDING OFFICER. The Senator from Georgia, [Mr. FOWLER].

Mr. FOWLER. Mr. President, let me discuss the amendment with my friend from Idaho. Obviously, we have just seen this amendment. I do not want to go over old ground, but in the rights of appeal section, which is on the first page of the proposal, "Not later than 30 days," et cetera, "a person who is involved in the public comment process for the underlying decision may file an appeal."

I believe I am correct in stating to the Senator that, first of all, the only public comment process is in my amendment. Without my amendment, there is no public comment process. The Forest Service, I understand from our hearings, has a proposal for a public comment procedure and process, but it is not in the law right now. If by any chance the Senator's amendment is adopted, it will not be operable since there is no public comment in the law.

Mr. CRAIG. Will the Senator yield?

Mr. FOWLER. Of course, I will yield on the time of the Senator from Idaho.

Mr. CRAIG. There is a public comment period. The Senator from Georgia is wrong. It is the NEPA process that leads to the decision of the Forest Service that might be appealed. So there is an open public process already in law that the Forest Service follows, and that is the one that is referenced in this amendment.

Mr. FOWLER. Mr. President, I just beg to disagree with the Senator. There is not that process dealing with project-level decisions, which is the heart of this debate. We are not talking about the larger period on the Forest Service plans; we are only talking about Forest Service decisions.

But let me reclaim my time having made what I believe is a key argument. If this amendment were adopted, we would be back to ground zero because, as drafted, it cannot be used.

But this question of standing is one that is very important, and I certainly will not go over this morning's debate except simply to say that many of these presale public comment periods take place, as the Senator from Idaho knows, as much as 2 years in advance of the actual sale. Those of us in America who own the public lands move around, our jobs change. If there was a predecision comment period in the Boise National Forest, in Senator CRAIG's home State of Idaho, I might not move to Idaho to be on the ground to make a public comment in person until a year after that decision has been made.

What do I do? This is my forest. We cannot limit the right of a citizen of the United States to have a part in the decision having to do with their forest.

It is also very interesting. It says that the chief of the Forest Service is going to decide the time and location of the meeting—on page 2. I am a working stiff in Idaho. I pack my lunch pail and I go out to earn my living and pay my taxes, and all of a sudden, there is a decision on the Oconee National Forest and the Chattahoochee National Forest in Georgia, and I see that this is in violation, or I sense it is in violation, of some serious economic laws on the books. I sense that it may be an unwarranted subsidy to a private timber company. How am I supposed to get to the meeting called by the chief of the Forest Service in Georgia if I am in Idaho? The chief of the Forest Service gets to get on a taxpayer-financed plane with his whole contingent of staff, all paid by the taxpayers of the United States, and fly to Georgia to hold the meeting. What does the working stiff in Idaho do? How is he supposed to get there? What if the meeting happens to be when he is supposed to be at work earning his living for his family?

I say to my colleagues, this amendment is a backdoor way of undoing what we just did. And that is not to question the motive of my friend from Idaho, who is a serious legislator and is trying to work out these problems. I give him credit. But the underlying philosophy is what we cannot get in our heads around here.

Every citizen of the United States has equal standing under the law to challenge a decision on the laws of the United States regardless of where he lives.

This is the national legislature, ladies and gentleman. This is not the Atlanta city council or the Boise, ID, City Council dealing with private property. This is the U.S. Congress. These are public lands. A citizen who lives in Idaho has an absolute right to challenge how his lands are being used in Georgia or Alabama or Florida. So this attempt to knock out anybody who does not happen to be living down the street when a public comment period is being held, if there was a public comment period in the law, which there is not under the Craig amendment, is unconstitutional; it is undemocratic, and I go so far as to say it is un-American because we are Americans. We are not Idahoans here; we are not Georgians; we are not Alabamans; we are Americans. These are our lands. We have a right to challenge.

I retain my time.

The PRESIDING OFFICER. Who yields time? The Senator from Idaho.

Mr. CRAIG. Mr. President, let me clarify a few points that I think the Senator from Georgia has exaggerated on just a little bit.

I do not believe the chief of the Forest Service flies down to Georgia for an appeal. I think the line officer in Georgia who made the decision is the individual who is going to participate at that level with that citizen who might be concerned.

We do have a right to make decisions, and the public has a right to be involved. This is a maximum public input process. I think that is important to be said. It is very democratic. I think it is something that all of us recognize streamlines but allows public participation.

I yield 5 minutes to my colleague, the Senator from Arizona.

Mr. DECONCINI. I thank my friend from Idaho.

Let me say to my friend, the Senator from Georgia, the six-pack American in Idaho who has an interest here is not precluded by this administrative procedure of filing suit, because it is taxpayers funds that he can contest the implementation. But I do not think the Senator from Georgia would have any real quarrel with the location to be designated in the vicinity of where the land is affected. That is what is said on page 2 under B:

> Time and Location of Meeting. Not later than 15 days after the date of filing of the ap-

> peal; and at a location designated by the Chief of the Forest Service that is in the vicinity of the lands affected by the decision.

It seems to me that that is really a bogus argument. What we are talking about here is not throwing the baby out with the bath water. We have a problem and I think the Senator from Georgia knows that. The amount of appeals that are filed, many of them are frivolous appeals. That is all we are interested in getting to. Only 6 percent of the appeals were overruled. So a very small amount of appeals are considered to have validity.

Now, the court system or the administrative system is not supposed to be abusive, and that is what has happened here. My friend from Georgia wants to go back to the old school where anybody can file an appeal. If you want to bring a lawsuit, that is one thing. But why should someone in Arizona wake up in the morning, have a call from a friend in Georgia who says, you know, they are going to issue this forest plan, and the guy in Arizona says well, I am going to appeal that.

That is not good government. That is not what the first amendment to the Constitution guarantees citizens. Somebody should have some interest in this.

And so how does it work? Under this amendment offered by the Senator from Idaho they have to have some standing. They have to be part of the process. I contend the Senator from Georgia is incorrect. The appeal process is not ruled out by this amendment. So there has to be the public process.

Once the public process is instituted, the Senator's amendment indicates that you have to be involved in this decision. So if you filed a letter from Arizona and said look, I think this is bad public policy, then you are involved. But if you are just out in the blue and all of a sudden—have nothing to do with this and never participate in the public process, then chances are you are going to be considered not involved.

The amendment of the Senator from Georgia that we just passed has no bearing, no determination as to having any standing. Anybody can just come in. I do not like this. You cannot open this to 260 million people who want to just file any time they feel, well, my gosh, I just do not like the Government's decision. You have to have some basis.

Now, the Craig-DeConcini and others amendment requires that the appeal be made within 30 days of the period. The Fowler amendment that we just passed is 45 days. So we are restricting it even more. The Senator should be applauding us instead of opposing this amendment.

The Craig-DeConcini amendment provides that the Forest Service attempt to resolve it in a face-to-face confrontation, discussion, negotiation. The Fowler amendment goes back to the old way that there is none.

I am not saying that the Forest Service supports this, because I do not think they probably want to get down there and talk about it. But they should. And the Senator has made that very clear, that if you have—in my opinion, at least—some basis, you should have a chance to be confronted and talk about it. The amendment offered by the Senator from Idaho provides for a formal review of an appeal by a hearing officer.

I ask the Senator for 1 more minute, if he would.

Mr. CRAIG. I yield 1 more minute to the Senator from Arizona.

Mr. DECONCINI. To me that is a very legitimate thing to have, and the amendment of the Senator from Georgia has nothing there.

The Craig amendment provides that the appeal must be decided within 30 days. Again, the Fowler amendment that we adopted here puts 45 days in. We are restricting it even more. The Craig amendment requires that any stay be lifted after the 30-day period, whenever the decision is made. Fowler has 45 days.

Nobody is barred by this to go into court. If you do not like the decision by the hearing officer and the ultimate decision, you still can go to the court, just as you can today. This is a reasonable approach that attempts to only address the problem of frivolous appeals. But it also tightens the period of time. The Senator from Georgia ought to be on our side on this because he has spent a lot of time making sure that people do not get put off, do not get overlooked. They are considered under this amendment.

I thank my friend from Idaho for offering the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, may I ask how many minutes I have.

The PRESIDING OFFICER. The Senator from Idaho has 3 minutes, 22 seconds; the Senator from Georgia 7 minutes, 54 seconds.

Mr. CRAIG. Does the Senator from Georgia wish to use some of that time?

Mr. FOWLER. I will use some of it and let me have the last say.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. I yield myself 3 minutes.

Let me respond to my greatly respected friend from Arizona, and especially that respect extends to the quality of his legal mind and his legal experience. Since he was not able to be here earlier in the debate this morning, I do wish to inform him that the Secretary of Agriculture is actively supporting measures to bar public access to the court system. I quote Secretary Madigan of the Agriculture Department from last month.

Mr. DECONCINI. If the Senator will yield.

Mr. FOWLER. Please.

Mr. DECONCINI. On his time, because it will take 30 seconds.

I am aware of that, and I do not support that. I did listen to the Senator's eloquent debate, and I think he is right. I agree that ought not be the case, so that is really not the issue.

Mr. FOWLER. I knew the Senator would agree. I do not know he was informed. I knew he would agree if he were informed, and I thank the Senator. But that is the problem with the Senator's statement, that there is always the remedy in the courts. Not under this administration. This administration is actively trying to bar the public access to appeal these decisions to the courts. The Secretary of Agriculture—I quoted him earlier:

> We could manage better if we were free from interferences of the Federal courts. We urge Congress to do that expeditiously.

So they are trying to cut off the public not only to have an appeal but to do it in the courts.

Also appealing to the fine legal mind of the Senator from Arizona, I am sure he would never support for instance a proposal that required only people with Arizona license plate to be able to visit the Grand Canyon. Why would the Senator from Arizona never support such an outrageous proposal? Because the Grand Canyon belongs to the people of the United States, all the people of Georgia, of Florida, of Alabama. It is their public park. They have standing wherever they live under all of our laws to go there.

I want to say to both Senators that, yes, the formal review section of your proposal I could agree with. I think it is helpful and proper. But the reason this amendment has to be opposed is on the standing issue. You cannot limit the right of a citizen of the United States to have an effect on a matter concerning his lands.

Mr. DECONCINI. Will the Senator yield for a question? It will be a very short question.

Mr. FOWLER. I am glad to yield.

Mr. DECONCINI. Would the Senator believe someone should be a participant, and does the Senator believe that a nonparticipant in this process, anybody, should have the right to file an appeal? Is that the Senator's position? I just want a yes or no.

Mr. FOWLER. Yes. That is the Senator's position. Let me tell you why.

We cannot keep them from filing a frivolous, if I can have the Senator's attention, appeal but the Forest Service under the law has the right to throw out all appeals that are not based open on merit. They do not have to even make that decision. They can do that.

But the clean answer to the question is again—we are back to philosophy—if I am a citizen of Georgia, and there is a decision affecting the public lands in Arizona, those are not Arizona lands. I have as much stake, and I have as much interest, and I have as much ownership of the Grand Canyon as does any citizen of Arizona. It would be wonderful if we had a world where everybody could get together 2 years in advance for a public comment period, and all sit down face to face, an ideal world, you and I would, and agree on that. I know the Senator from Idaho would. But the problem is we cannot do that.

Mr. DECONCINI. Will the Senator yield for another quick question? Does the Senator believe that there is any merit to reduce frivolous lawsuits, frivolous appeals? If so, does not this rally address that?

Mr. FOWLER. No. I wish it did. I would be glad to entertain something that did not have the standing question, if you answer to frivolous appeals, the Senator from New Mexico, and the Senator from Idaho, and I have been trying to do that for a long time. You do not know. Frivolous is frivolous. So you have to deal with it when you get it.

I reserve the remainder of my time.

Mr. DECONCINI. Will the Senator yield 20 seconds?

Mr. President, I ask unanimous consent that the Arizona blue ribbon panel report of Mr. Dave Jolly as well as the appeals system be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARIZONA BLUE RIBBON TASK FORCE,
October 18, 1991.

Mr. DAVE JOLLY,
Regional Forester, Southwestern Region, USDA—Forest Service, Albuquerque, NM.

DEAR MR. JOLLY: The enclosed, "Findings and Recommendations of the Arizona Blue Ribbon Task Force," is our report to you in response to our charter of March 28, 1991. It is the culmination of the process of information gathering, discussion, and analysis as we listened to what the people of Arizona had to say about the management of their National Forests.

The Task Force has confirmed that there are major public concerns about implementation of National Forest Land Management Plans (LMPs). These concerns are centered around whether or not an acceptable balance between resource values and uses is being achieved on Arizona's National Forests and whether the values and uses being implemented are the same as those envisioned during the creation of the LMPs.

There are impressions that the rural economy of Arizona is threatened and that the overall health of Arizona's diverse natural resources is declining. A myriad of contributing factors are thought to be the causes, including human presence and intervention in forest ecosystems; years of fire control; the publics' intolerance of multiple-uses other than their own; and an increasing population that causes an even greater demand for valuable renewable resources.

The accumulation of all these factors and impressions has intensified public scrutiny of Forest Service land management activities.

The result of the group's lengthy and unique process is a report that captures important insights about both public and employee attitudes and perceptions toward the Forest Service. It offers an array of information: perceptions, criticism, reinforcement, general recommendations, and specific suggestions for change.

Words alone cannot adequately describe the depth of concern, intensity of feeling, and the amount of frustration we encountered as we listened to dozens of people from all corners of the state. Our discussions were often spirited as we reached new levels of understanding and commitment to our task, and found common ground on which to base our final recommendations.

We offer our report as a guide and as a challenge. It is our hope that you will embrace the recommendations and move wholeheartedly ahead, along with the governor, your cooperators here in Arizona and top officials in Washington, D.C., to turn our ideas into reality—with firmness, professionalism, and credibility.

We offer our cooperation as you review the report and make decisions about what to do next; and stand ready to respond to any questions you may have. Thank you for the opportunity to serve on the Arizona Blue Ribbon Task Force.

Sincerely,
Arizona Blue Ribbon Task Force
Betty Drake, Private Consultant, Scottsdale, AZ.
Lawrence D. Garrett, Dean, School of Forestry, Northern Arizona University, Flagstaff, AZ.
Dexter Gill, Director, Navajo Nation Forestry Department, Window Rock, AZ.
M. Jean Hassell, Arizona State Lands Commissioner, Phoenix, AZ.
Charles Huggins, Secretary-Treasurer, Arizona State AFL–CIO, Phoenix, AZ.
James L. Kimball, Forest Supervisor, Tonto National Forest, Phoenix, AZ (Chairman).
Kathy J. Nelson, Mothers for Clean Water, Tempe, AZ.
David W. Ogilvie, Jr., Silver City, NM.
A. Lynn Ruger, Morenci, AZ.
Merri Schall, Retired Professor, Arizona State University, Pine, AZ.
Duane L. Shroufe, Director, Arizona Game and Fish Department, Phoenix, AZ.
Pete Shumway, Chairman, Navajo County Board of Supervisors, Taylor, AZ.
Dennis Silva, Mayor, Town of Springerville, Springerville, AZ.
James S. Whitney, Retired, Scottsdale, AZ.
Elizabeth Woodin, Arizona Game and Fish Commission, Tucson, AZ.
Karen Yarnell, Flagstaff, AZ.

APPEALS SYSTEM: "FULL RECOURSE—ALONG WITH ACCOUNTABILITY"

FINDINGS

Currently, National Forest management processes can be brought to a halt with little effort and no accountability, and trivial appeals are being dealt with the same as serious ones. Appeals and/or the threat of appeals can stop production of resource dependent businesses even when sound resource decisions are being made. S&Gs are sometimes used for negotiating to prevent appeals, rather than to meet resource needs.

Issue: The appeals system, as developed and implemented by the Forest Service, is not allowing the agency to properly manage National Forest Lands. The system is not a law, but an administrative procedure, yet it has developed into a quasi-legal forum.

RECOMMENDATIONS

The Task Force finds validity, fairness, and justification for the appeals process, provided that the appellant is held accountable and responsible for the actions he/she takes in availing him/herself of this opportunity to participate in a grievance process. It is a right of the public, industry, and agencies to appeal plans and decisions.

Implement a pilot program in which any appellant would have to have been actively involved in the IRM process in person or in writing prior to the formal appeal. In this way, sufficient input and negotiation would have taken place on potentially contested issues with the ultimate goal of precluding the need for an appeal of a plan or decision. Once an appeal has been filed, the recommended procedure would be as follows:

Appeal Request: The individual/group submitting an appeal to the responsible official must do so in writing within 30 days of the decision.

IRM Review: The IRM team must meet with the appellant in person, review the request and try to resolve the concern. This meeting must be arranged at a convenient location and time for both appellant and IRM team. Should the appellant fail to participate in this process, the appeal would be considered invalid. If the IRM team review process is unsuccessful in gaining resolution, the appeal request would then be reviewed by a certified appeal hearing officer.

Hearing Officer Review: The officer, acting as an outside reviewer of the appeal, would have primary responsibility to determine if IRM, NEPA, NFMA, and the associated LMP direction were being followed. The hearing officer's recommendation would be given to the responsible official.

Decision: The responsible official would then either uphold the appeal and remand the decision or deny the appeal and uphold the decision.

Time Frame: The IRM team review, the hearing officer review, and the responsible official decision will take no more than 30 days to complete. A stay may be no longer than 30 days from the day the appeal was filed. (Regional Forester, Congressional Delegation, Chief, Secretary)

Citizen Complaints: In addition to the appeal/hearing process, any individual has the right to complain about a decision. The complaint would be in writing to the responsible official and his/her superior. The process would be very informal and should not be construed as another type of appeal/hearing process. The complaint must be answered and should be utilized as an opportunity for the Forest Service to improve public/agency relationships. There is no specific deadline for filing complaints, but they must be answered within 30 days. (Regional Forester)

Mr. CRAIG. Mr. President, I yield 2 minutes to the Senator from Montana.

Mr. BURNS. Mr. President, listening to the colloquy of my friend from Georgia and my friend from Arizona, I suppose what we are trying to prevent here, when we say frivolous is frivolous whenever somebody, say from Montana, files an appeal on such actions in the Forest Service in Georgia, not living in Georgia, just because it comes up on the computer screen; that the sale is made in the Chattahoochee down in Georgia, he feels that probably Georgia should not cut anyone on public lands. So he files a suit.

This amendment says he has to go down there and file the appeal, and appear down there. He has to bring some kind of credibility to the table, and he has to do it in person in order to make this appeal stick. That is the only thing we are doing here. We are squeezing down the time a little bit, ratcheting it down, so a decision can be made so we can get on with life.

A while ago I tried to make the argument that even in a 10-year planning stage we have to plan in order to manage these public lands or manage any renewable resource with any kind of sanity and efficiency for the public good.

Basically, that is the only thing this thing does. It says you come down, you look at our practices and what we want to do, if you do not like them, you file the appeal. But you have to appear yourself. That is all we are asking.

If my constituent in Montana does not want to make the trip to Georgia to file his appeal and make his argument, then it should be thrown out as frivolous. I am sure that is what we are trying to get rid of. Between 1980 and 1990, the appeals went up from 133 to 1,134. Half of those were administrative appeals, and nobody, especially this administration, bars anybody from judicial rule of the Federal courts. That is taken out of context. I think it is very unfair because nobody under this Constitution would even attempt to try to do that.

I thank the Chair. I yield the floor.

Mr. BAUCUS. Mr. President, I rise in support of the amendment offered by the Senator from Idaho.

I believe this amendment includes the mechanisms necessary to reform the legitimate problems that currently exist in the Forest Service Appeals Program.

As I stressed in my statement earlier today, there should be a process in which citizens acting in good faith may obtain administrative review of Forest Service management decisions. At the same time, there must be a beginning, a middle, and an end to administrative review.

The Craig amendment heads in the direction of establishing these objectives.

I am encouraged that this amendment requires citizen involvement as a prerequisite to gaining access to administrative review. The inclusion of informal dispute resolution is another positive addition to the Forest Service appeals program.

I remain cautious, however, in my support of this amendment as drafted. It contains many ambiguities and uncertainties that need to be resolved in order to achieve effective reform of the appeals system. So while I will support this amendment because of the several positive, reform-oriented ideas that it contains, improvements are needed in several areas. I intend to consult with the conferees on this bill to give them my views on how we can craft a sound, workable, definitive appeals process.

Thank you, Mr. President. I yield the floor.

Mr. CRAIG. Mr. President, how much time do I have?

The PRESIDING OFFICER (Mr. KERREY). Fifty-three seconds.

Mr. CRAIG. How much time does the Senator from Georgia have?

The PRESIDING OFFICER. Two minutes thirty-nine seconds.

Mr. FOWLER. How much time does the Senator from Idaho have?

The PRESIDING OFFICER. Fifty-three seconds.

The Senator from Georgia has 2 minutes 39 seconds.

Mr. FOWLER. I am glad to give the Senator from Idaho half of my time. We will divide the remaining time equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2903, AS MODIFIED

Mr. CRAIG. Mr. President, the Senator from Georgia has said that there is no tying to a public comment period. Therefore he has said it is not within the law. It is within the law. It is within the process. It is the current process. It makes reference to, on line 9, "the public comment process" which is referenced in NEPA, which is standard law and we understand that. So you cannot say hypothetically it does something that it does not do.

I think the record is very clear that we referenced the process that is current, that the public understands today. That is the public comment process. I think it is very important to understand.

Standing is a valid issue that is used in almost every other appeals process in this country, that you just do not walk in off the street. You become involved. You have a reason to become involved because you see something is wrong. And you are made aware of the error or the wronging of this process because of the public comment period, because of the notification, because of the standards of process that the Forest Service now uses under NEPA.

It is not just for the little project. We know at the hearing process, we know about the public comment period, we know about the printed notification in the paper. That is all standard. That is what this is addressing. That is part of it.

Let me also ask for a clarification of language on page 3, line 11, if the Senator from Georgia would note this, where it says: "after the date of the filing of the appeal". It really means, after the date of the issuance of the decision.

I ask unanimous consent I be allowed to modify that language.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the amendment is so modified.

The amendment (No. 2903) as modified, is as follows:

In lieu of the matter proposed to be inserted, insert the following new section:

SEC. . FOREST SERVICE APPEALS.

(a) IN GENERAL.—In accordance with this section, the Secretary of Agriculture shall modify the procedure for appeals of decisions of the Forest Service.

(b) RIGHT TO APPEAL.—Not later than 30 days after the date of issuance of a decision of the Forest Service, a person who was involved in the public comment process for the underlying decision may file an appeal.

(c) DISPOSITION OF APPEAL.—

(1) INFORMAL DISPOSITION.—

(A) IN GENERAL.—Subject to subparagraph (B), a designated employee of the Forest Service shall offer to meet with each individual who files an appeal in accordance with subsection (b) and attempt to dispose of the appeal.

(B) TIME AND LOCATION OF MEETING.—Eech meeting in accordance with subparagraph (A) shall take place—

(i) not later than 15 days after the date of filing of the appeal; and

(ii) at a location designated by the Chief of the Forest Service that is in the vicinity of the lands affected by the decision.

(2) FORMAL REVIEW.—If the appeal is not disposed of in accordance with paragraph (1), an appeals hearing officer designated by the Chief of the Forest Service shall review the appeal and recommend to the official responsible for the decision the appropriate disposition of the appeal. The official shall decide the appeal.

(3) TIME FOR DISPOSITION.—Disposition of appeals under this subsection shall be completed not later than 30 days after the date of filing of the appeal.

(d) STAY.—Unless the Chief of the Forest Service determines that an emergency situation exists with respect to a decision of the Forest Service, implementation of the decision shall be stayed during the period beginning on the date of the decision and ending on—

(1) if no appeal of the decision is filed, 30 days after the date of the filing of the decision; or

(2) if an appeal of the decision is filed, the date of disposition of the appeal under subsection (c).

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. FOWLER. Mr. President, I allowed that modification, not only out of good will, but because the amendment is fatally flawed. I say to my friend from Idaho, at the conclusion of this, I think when we talk to the Forest Service, he will find that under the present administrative procedures, there is no formal notice and comment period for project level decisions. I believe that will be found to be true.

In light of that, this amendment cannot stand. It is offered as a substitute. If it were adopted, it would undo completely what the body just did in the tabling motion earlier, and it would leave the public, the citizens, with no formal notice and comment period for project level decisions.

I trust that my colleagues will uphold the decision that they made an hour ago. I think it will help the Forest Service immensely to know that we stand on record for a citizen review process that, if not cumbersome, I say with all respect, has worked extremely well.

Mr. President, I move to table the amendment.

Mr. CRAIG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Iowa [Mr. HARKIN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is absent due to death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] and the Senator from North Carolina [Mr. HELMS] would each vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 50, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—45

Adams
Akaka
Biden
Boren
Bradley
Bryan
Chafee
Cranston
D'Amato
Daschle
Dixon
Dodd
Exon
Fowler
Glenn
Graham
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—50

Baucus
Bentsen
Bingaman
Bond
Breaux
Brown
Bumpers
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Craig
Danforth
DeConcini
Dole
Domenici
Durenberger
Ford
Garn
Gorton
Gramm
Grassley
Hatfield
Heflin
Johnston
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Pryor
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—5

Burdick
Gore
Harkin
Hatch
Helms

So the motion to table the amendment (No. 2093), as modified, was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Idaho [Mr. CRAIG].

The amendment (No. 2903) was agreed to.

AMENDMENT NO. 2902, AS AMENDED

The PRESIDING OFFICER. The question now is on agreeing to the Fowler amendment, as amended.

The yeas and nays have been ordered.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Does the Senator from Georgia wish to vitiate the yeas and nays?

Mr. FOWLER. Mr. President, I ask unanimous consent to vitiate the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Without objection, the yeas and nays are vitiated.

The question now is on agreeing to the Fowler amendment, as amended.

The amendment (No. 2902), as amended, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington [Mr. GORTON] is now recognized.

The Senate will be in order.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, before the Senator makes that suggestion, I ask the distinguished Senator from Washington if he would be agreeable to a time limit on this amendment?

Mr. GORTON. Mr. President, I say to my distinguished chairman, I do not intend to occupy a great deal of time on this amendment. I do not make any threats about filibusters or additional amendments if this one is not accepted. I do know there are a fairly good number of Members on this side of the aisle who wish to speak to it. I think there are a significant number of Members on the other side who wish to do so.

I prefer at this point not reach one. After we get a little way into it, I will work with the distinguished chairman toward such a time agreement, when I know who all wants to speak.

Mr. BYRD. Mr. President, I certainly appreciate the distinguished Senator's response.

We have disposed of one amendment, and we started on that amendment at 10 o'clock this morning. So we have been on the bill 3 hours and 50 minutes, and we still have 19 amendments to go, with each of them subject to relevant amendments in the second degree.

I hope we will not talk too long on this next amendment. It has been debated time and time again. At some point, I will move to table, if things get prolonged too greatly.

Mr. ADAMS. Will the chairman yield?

Mr. BYRD. The distinguished Senator on the other side has the floor.

Mr. ADAMS. Mr. President, will the Senator from Washington yield, so I might direct a question to the chairman of the committee?

Mr. GORTON. I yield.

Mr. ADAMS. Mr. President, we would agree to a time agreement. The ones on this side who indicated they wish to speak are Senators ADAMS, CHAFEE, LIEBERMAN, BAUCUS, and MITCHELL. That is all I know who wish to speak, and we will try to fit ourselves into whatever time agreement the chairman might propose, because I agree with my colleague, I think we should proceed with this as promptly as possible, and I hope we can get a time agreement.

Mr. BYRD. Would the Senator be willing to have 45 minutes to a side?

Mr. ADAMS. I would prefer—yes, I would be willing to go 45 minutes to a side.

Mr. BYRD. I leave that in the good hands of the junior Senator from Washington.

Mr. GORTON. I simply say to the distinguished chairman that I hope within a few minutes we will come to a time agreement that is within that range.

Mr. BYRD. Very well. I thank both Senators.

Mr. GORTON. Mr. President, I am making technical changes to the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2904

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, Mr. PACKWOOD, Mr. CRAIG, Mr. SEYMOUR, and Mr. BURNS, proposes an amendment numbered 2904.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67 of the bill, strike lines 9 through 11 and insert in their place the following:

"FUNDING OF FOREST HEALTH IMPROVEMENT PROJECTS.—To meet the forest health emergency now experienced on many of the federal forest lands, the Secretary of Agriculture on National Forest System lands and the Secretary of Interior on public lands shall expend such sums as are necessary within available funds from the salvage sale fund authorized by section 14(h) of the National Forest Management Act of 1976 (16 U.S.C. 472a(h)) and the salvage sale trust fund within the Bureau of Land Management established by this Act to design and implement forest health improvement projects. Such projects shall employ a combination of multiresource management practices, treatments, and protections. Such projects shall be designed to accomplish the objective of improving forest health through management actions that improve stand density and composition, salvage dead and dying timber, remove or treat sources of infection or infestation, reduce excess fuels, and leave remaining vegetation in a condition designed to increase its opportunity to contribute to a healthy, productive ecosystem. In the execution of such projects, the Secretary of Agriculture and the Secretary of the Interior are authorized to use the authorities in the Knutson-Vandenberg Act of 1930 (16 U.S.C. 576) as amended, the provisions of the National Forest Management Act of 1976 (16 U.S.C. 472a), as amended, the Federal Land Policy and Management Act of 1976 (16 U.S.C. 1701 et seq.), and other applicable law.

"ENVIRONMENTAL ANALYSIS.—Any forest health improvement project found by the Secretary of Agriculture or the Secretary of the Interior to be not inconsistent with the long-term management goals and objectives of a land management plan for the administrative unit in which the activity is to occur shall be deemed not to be a major Federal action significantly affecting the quality of the human environment for the purpose of subsection (C) of section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)). The Secretary of Agriculture and the Secretary of the Interior shall establish by regulation a policy providing for categorical exclusions from requirements established pursuant to such section for certain types of salvage based on the extent to which the salvage includes selective thinning, minimal building of new roads, minimum loss of healthy standing timber, and other justifying factors.

"ADMINISTRATIVE REVIEW.—Unless the Secretary of Agriculture or the Secretary of the Interior specifically provide for administrative review, citizens of the United States may seek immediate judicial review of a decision by the respective Secretary to conduct a forest health improvement project in the district court of the United States for the district in which the project is to occur. If the respective Secretary provides an opportunity for administrative review, standing to bring an administrative appeal of a forest health improvement project shall be available only to persons who have raised the issue or issues for which administrative review is sought in written or oral comment submitted during the preparation of the project.

"SPOTTED OWL FORESTS.—Notwithstanding the Forest Service Record of Decision of March 3, 1992, 57 Fed. Reg. 8621 (March 11, 1992), the National Forest Management Act of 1976, and the National Environmental Policy Act of 1969, the Forest Service is authorized to allow salvage timber sales in Habitat Conservation Areas and other suitable habitat for the northern spotted owl on the spotted owl forests in Washington, Oregon and California outside any units of the National Wilderness Preservation System and other areas in which timber harvesting is expressly prohibited by statute, unless such salvage will adversely affect spotted owl habitat as determined by the Secretary of Agriculture.

Mr. GORTON. Mr. President, this amendment, to a more significant degree than the amendments which have preceded it, is about people and about people only. It is about people who have been ignored and abandoned, people who are the innocent victims of sophisticated lobbying organizations. This amendment is about a legal system that is so complicated that it can be and has been manipulated in a direction never contemplated or even imagined by those who wrote the statutes that have since been implemented and interpreted in such a way as to cripple a major national industry, destroy entire communities, and devastate the lives and careers of thousands of hardworking, productive American citizens. This amendment will provide a tiny degree of relief for these people.

To put the matter in perspective, during most of the 1980's, approximately 5 billion board feet per year was contracted for harvest and harvested in Washington, Oregon, and northern California. This year, that number has been reduced to some 400 million, only 8 percent of the cut in contrast to the 1980's. And there are no more timber sales in the pipeline, no more in the pipeline at all in the so-called owl forests of western and central Washington, Oregon, and northern California.

The tiny degree of relief provided by this amendment will be to allow the harvest of dead and downed timber; not live trees, but dead and downed timber, representing about 3 percent, 1/33 of that historic cut during the course of the 1980's in those three States. That 3 percent, that modest cut, must be measured against the set of injunctions that will almost certainly prevent any new timber-cutting contracts to take place in the States of Oregon and Washington for at least 2 years, and it must be remembered these are timber sales in perhaps the most productive forests anywhere in the world.

For example, the historic cut in the Olympic National Forest on the Olympic Peninsula of northwest Washington, has been approximately 200 million board feet per year. This year those contracts on the Olympic Peninsula are about 5 million board feet, or 2.5 percent of what historically has taken place.

I do not have the eloquence to describe the devastation that this sudden change has caused in a multitude of communities on that peninsula or elsewhere in Washington, Oregon, and northern California. Most towns are without visible means of support. Families have been broken up. Alcoholism and child abuse is on the increase because of the loss of employment on the part of people who have constructively contributed to the building of America and to the building of homes, the goal of all of us in this body. As a consequence, the relief provided even by this modest amendment is little more than symbolic; perhaps much more symbolic than it is real. It will be real enough for those several hundreds of rural men and women who will find employment during the course of the next year where otherwise there would be no employment whatsoever.

I do not, on the other hand, deprecate the symbolism that serves as another important part of this amendment, the symbolism that the people in this body, and the entire Congress of the United States, do have some concern about people. We must not simply exalt form over substance—speaking in abstractions—while ignoring the plight of productive men and women in the Pacific Northwest.

At this point, to emphasize the degree to which this does apply to people, I ask unanimous consent that three letters, one addressed to the distinguished chairman of the Appropriations Committee, the other two to Senators generally from the Timber Industry Labor-Management Committee, the International Woodworkers of America, and the United Brotherhood of Carpenters, be entered in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

TIMBER INDUSTRY
LABOR-MANAGEMENT COMMITTEE,
Washington, DC, August 5, 1992.

Hon. ROBERT BYRD,
Chairman, Senate Appropriations Committee,
U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: The Timber Industry Labor Management Committee—a unique alliance of management and unions representing workers in the forest products industry—is writing to respectfully urge your strong support for the forest health amendment to the FY 1993 Interior and Related Agencies Appropriations bill to be offered by Senator Slade Gorton.

Existing laws, regulations and policies related to forest health and the salvage of dead and dying timber are *not* working. Consequently, the forest health crisis has reached a critical stage. In order to save our forests from wildfire, disease, and insect infestation, we must break out of the "business as usual" approach to this issue. If forest managers are to have any chance of saving our national forests, congressional action is needed now. We have a forest health emergency in our nation's forests, unlike any previously experienced, which Congress must address this year.

The Gorton Amendment addresses this crisis in an environmentally responsible fashion by: (1) expanding the use of the salvage sales trust fund to include a broader range of forest activities as well as Bureau of Land Management lands; (2) expediting the development of, and administrative review for, forest health and salvage projects; and (3) assuring that spotted owl habitat is not destroyed by wildfire, by allowing salvage activities in owl habitat to reduce fuel loads where such activities will not themselves adversely affect owl populations and habitat needs. You may have seen coverage yesterday on CNN of Oregon wildfires destroying owl habitat.

In conclusion, we strongly urge your support for the Gorton Amendment.

Sincerely,

MARK REY.

Executive Director, American Forest Resource Alliance.

DENNY SCOTT,
Assistant Director, United Brotherhood of Carpenters and Joiners of America.

INTERNATIONAL WOODWORKERS
OF AMERICA, U.S., AFL-CIO,
Gladstone, OR, August 5, 1992.

DEAR SENATOR: It is my understanding that Senator Slade Gorton will offer a forest health amendment to the FY 1993 Interior and Related Agencies Appropriations bill, currently under consideration by the U.S. Senate. On behalf of the International Woodworkers of America, U.S. (IWA, U.S.), I am writing to urge your support for Senator Gorton's amendment.

The Gorton amendment will allow for the sale of salvageable timber on public forest land. As you may know, a salvage sale involves trees that are diseased, are bug infested or have been fallen by wind storms. A salvage sale removes diseased and damaged trees, helping to protect the health of the entire forest.

The 28,000 members of the IWA, U.S. understand the importance of forest health. Millions of acres of public forests throughout the West are infested by insects and disease. Wildfire stands as a constant threat to these forests—the dead and dying trees that lay within are kindling that help fuel forest fires. The extreme drought the region is experiencing only increases the likelihood of sweeping fires.

Our members depend on salvage sales to help relieve the ongoing timber supply crisis currently afflicting the Pacific Northwest and Northern California. Forest products workers, their families and their communities are suffering from mill closings and severe job loss due to timber harvest restrictions on federal lands in the region to protect the northern spotted owl. We support Senator Gorton's amendment because it would provide federal land management agencies with increased authority to expedite salvage sales, freeing some raw timber for production.

In addition, the Gorton amendment would allow for and expedite judicial and administrative review of forest health and salvage projects. The amendment also would direct land management agencies to avoid salvage activities where they might have an adverse impact on spotted owl habitat.

We hope you will join the IWA, U.S. in supporting Senator Gorton's amendment to protect the health of our public forests, forest products workers and the northern spotted owl.

Sincerely,

WILLIAM HUBBELL,
President.

UNITED BROTHERHOOD OF CARPENTERS,
Washington, DC, August 5, 1992.

DEAR SENATOR: On behalf of the 550,000 working men and women of the United Brotherhood of Carpenters and Joiners of America, I am writing to urge your support of the amendment to be offered by Senator Slade Gorton to the 1993 Interior Appropriations bill.

Senator Gorton's amendment addresses the urgent issue of forest health. Public forests in the Western United States are being devastated by drought, insect infestation and disease. Forests that include dead and dying timber are open invitations to catastrophic wildfires that endanger wildlife, forest ecosystems and surrounding communities where our members and their families work, live and play.

Many of these diseased trees can be salvaged as raw material for local saw mills. These salvage sales take on increased importance as timber supply continues to dwindle in the Pacific Northwest and Northern California due to restrictions of federal timber sales to protect the northern spotted owl. Our members, who are suffering from the timber supply crisis in the region, desperately need the supply of timber that would be freed by salvage sales. Their situation is critical.

Senator Gorton's amendment would allow the salvage of dead and dying trees, providing some short-term, immediate relief to the ongoing timber supply crisis while protecting and improving the health of our public forests. Importantly, the amendment will prevent salvage that will "adversely impact" forests inhabited by the spotted owl. Indeed, by allowing for the removal of diseased trees that serve as fuel for wildlife in spotted owl habitat, the Gorton amendment will help protect the owl.

I hope you will support Senator Gorton's amendment and help provide for safer, more effective management of our national forests.

Thank you for your consideration.

Sincerely,

JAMES BLEDSOE.

Mr. GORTON. Mr. President, as recently as 3 years ago in section 318 of this same bill, we provided for 1 year of relief, 1 year of new timber sales at a relatively modest level, in order to provide a bridge for these victimized individuals and communities while the Congress of the United States comes up with a long-term solution to timber supply that would allow people to plan for their futures and to plan for their lives.

In the almost precisely 3 years that have passed since the time of the passage of section 318, absolutely nothing has been done by either the Senate of the United States or by the House of Representatives of the United States to provide for that permanent solution. Bills dealing with the entire range of the problem have been introduced in this body and have found their way to two separate committees in this body. No such bill has been reported out of its committee. In the House, the situation is almost the same. One subcommittee and one committee have acted on an extremely modest bill, which has gone on further and which, in my view, will go no further.

So the promise that was made—that Congress would reach a solution during that 1 year from late 1989 to late 1990—has manifestly been abrogated by the Congress itself. The amount of relief provided in this amendment is far more modest than that of section 318 in 1989, but it does at least amount to a modest, minor commitment.

The net result, of course, is that from a harvest level of 5 billion board feet a year to a level of 400 million board feet a year to a level of zero board feet a year is a set of policies which, had it been proposed as a policy here in the U.S. Senate as recently as 3 years ago, would, I am convinced, have been rejected overwhelmingly by Members of this body. Yet, we have allowed it to take place through the interpretation of statutes that have been passed over a period of several decades by this body. Now we have at least an opportunity to provide a small degree of relief and some kind of promise that we will act in the future.

Much of the debate over the last several years, Mr. President, has been cast in terms of owls versus people, people versus owls. I may say that much of the Senate on the west coast of the United States has been on those subjects, and to the extent that it is placed in that fashion, public opinion is overwhelmingly on the side of people.

In March and April this year, two scientific surveys indicated that only 4 percent of voters in the State of Oregon, 6 percent in the State of California—and this is the entire State of California—and 8 percent of the State of Washington indicated that they would accept the sacrifice—10,000 jobs or more in order to save the spotted owl. The cost of jobs is infinitely greater than that, Mr. President, and that amendment, in any event, does not pit owls versus people.

Much of the rest of the debate has been cast somewhat more broadly as being old growth versus people. That is not the case here either.

This amendment would allow the harvest of salvage timber, that is to say trees that have been blown down, uprooted and blown down, laying on the floor of the forest, or which is otherwise dead in habitat conservation areas in Washington, Oregon, and northern California.

It should be emphasized, Mr. President, that of these habitat conservation areas for the spotted owl, only 60 percent of the area is covered by old growth in any event. They go far beyond old growth areas. Seventy-eight percent of the old growth is already located in national parks, in statutorially designated wilderness areas or in Forest Service administrative set-asides. Dead and downed timber, by definition, is not owl habitat. Dead and downed timber, by any reasonable definition, is not old growth.

Moreover, the specific phraseology of this amendment states that this harvesting will not take place if such salvage will adversely affect the spotted owl habitat as determined by the Secretary of Agriculture. And in a last and final attempt to mollify the opponents of this amendment, we have excluded from the notwithstanding language the Endangered Species Act itself. The exemption is from the National Forest Management Act of 1976 and the National Environmental Policy Act of 1969.

Because we firmly believe that this harvest will not adversely affect the spotted owl, we have included the adversely affected language in the amendment itself and we have avoided any change that is expressed or implied in the Endangered Species Act itself.

As a consequence, this amendment does not undercut the Endangered Species Act. It really does not undercut the provisions of either of the other acts because it does nothing with respect to their application to live trees and to live forests. It affects only salvage timber, timber that is already dead, and timber that cannot wait for a permanent solution because, Mr. President, when a tree is blown down, depending on its species, it is only going to last in any economically viable form for 1 to 3 years. It deteriorates very rapidly from timber that is good for lumber products, to timber that is good only for chips, to timber that is good for absolutely nothing at all.

As a consequence, the only substantive argument that can be made against this amendment, it seems to this Senator, is that for some reason or another, an absolute state of nature is the only proper state for the productive national forests of the Pacific Northwest. Somehow, an attempt to improve those forests, and even to improve the habitat for the prey of the spotted owl, is wrong. Somehow, our opponents argue that we can allow our forests to burn to the ground from natural fires, whether they are old growth or not, but we cannot touch them, we cannot improve them, we cannot use them for the homes we need, we cannot use them for the people who live in these timber communities and whose professions have been built on the national forests.

In addition, Mr. President, this amendment, I wish to emphasize, is not an amendment simply for the Pacific Northwest or for the three northwest States. It is an amendment for the entire country.

This bill also includes very significant language with respect to the funding of forest health improvement projects. We simply, in our statutes, have not given our forest managers enough authority to deal with these problems, a consequence of which is that those forests are in serious decline in many parts of the West and I suspect in many other parts of the country as well. The prescription is not an absolute lockup of those forests, which would be considered malpractice if they were human. The prescription, rather, is treatment, salvage, and reforestation. The amendments will allow the Secretaries of Agriculture and Interior, in their respective jurisdictions, to look forward with the objective of treating forest health problems before they reach epidemic proportions.

Let me give one simple illustration from my own State. In the Okanogan National Forest of northwestern Washington, more than 200,000 acres of trees were killed by the spruce budworm in the last year alone. More than 50 percent of the forested land in the Okanogan National Forest is infested with dwarf mistletoe and forest diseases. The Forest Service disclosed in its EIS for that management plan, that the forest "has entered the initial stages of a mountain pine beetle attack. If left to run its course, most of the mature live pine will be killed in the next 10 to 20 years."

On the Olympic Peninsula, a University of Washington forest entomologist, Robert Gara, surveyed the very blowdowns that serve as the basis for the second part of this amendment. Professor Gara concluded that those blowndown trees are being infested with Douglas fir beetles, ambrosia beetles, flat-headed, and round-headed wood borers at an alarming rate and, in some instances, these pests are beginning to infest adjacent standing green trees.

Professor Gara said:

> From a biological viewpoint, I recommend immediate salvage of these and similar areas. The entire Pacific Northwest is undergoing a drought. Douglas firs and other forest tree species will be weakening and more easily killed by insect attacks. Of particular concern is the increase of Douglas fir beetle populations and their potential effect of opening large areas of old growth forests and, in this manner, downgrading northern spotted owl habitat.

This amendment will, both specifically and generally, improve the health of our forests. This amendment will also improve spotted owl habitat, rather than the opposite being the case.

The solution, of course, is a strategy that combines treatment, salvage, and reforestation. This amendment allows the Secretaries of Agriculture and Interior to design and implement forest health improvement projects in order to accomplish the objective of improving forest health, using money which they get from the salvage of the very dead and downed timber about which we are speaking.

The amendment will allow the Forest Service to salvage blowdown timber in spotted owl habitat unless it adversely affects that spotted owl habitat. Present injunctions under present laws require that the Forest Service cannot salvage that timber unless it enhances spotted owl habitat, a proposition that simply cannot be proven. But what foresters can say is that salvage operations can be performed in a manner that does not adversely affect that habitat.

This amendment will not destroy that habitat and it will not cause the building of more roads. It will, in fact, allow the removal of trees that are no longer good for the prey on which the spotted owl lives and will provide potentially for habitat at sometime in the future.

We are not talking about the last of the old growth forest, Mr. President. We are not talking about old growth forest at all. We are not really talking about the survival of the spotted owl. We are, on the other hand, talking about the survival of people and communities that deserve a great deal more attention and a great deal more support in this body than they have received during the course of the last half-decade or so.

To return to basics, we are talking about caring for people, the kind of people who have essentially been unrepresented in this body. We are speaking about extremely modest relief for those people, but a great deal of hope for them. We are not impinging on either the spotted owl or on old growth. To deny this modest proposal is to exalt form over substance, to ignore working people who are in desperate need. To approve the amendment is to offer modest relief and real hope to real people. This time it is appropriate to listen to the people and not to the professional lobbyists.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, I rise in strong opposition to this or any amendment that would accelerate the timber salvage program in the national forests of Oregon, Washington, and California.

This amendment will only serve to aggravate the forest management crisis in the Pacific Northwest. It is not a solution to real, on-the-ground management problems. It only furthers the Bush administration's efforts to weaken current forest management and environmental laws and to overturn recent Federal court injunctions.

Such action is completely unnecessary. Acting Assistant Secretary of Agriculture John Beuter testified on July 28 before the Senate Energy and Natural Resources Committee that the Forest Service has full statutory authority today to conduct salvage sales in national forests. Language currently in the fiscal year 1993 Appropriations Committee's Interior bill reaffirms that authority.

The problem this amendment attempts to remedy is not that there are a lot of dead and dying trees that must be cut and removed from the forests. The problem, as described by the chief of the Forest Service in a briefing to Senate staff on June 19 of this year, is that the Forest Service's past management practices, including its past salvage sales programs, have altered the nature of many forest ecosystems and have left them in a poor condition to withstand natural catastrophes. And this is not a small problem: Up to 75 percent of some of our eastern forests have been affected, causing severe threats to the economic future of timber-dependent communities and to the health of salmon populations and other fish and wildlife species.

The national forests of eastern Washington and Oregon were cited by the chief as the clearest example of why the Forest Service needed to change to a more ecologically sensitive approach to forest management. The chief and his staff described how the Agency's past management changed the forests from a drought- and fire-resistant mix of many different species to thick stands of fewer species that are highly susceptible to disease, drought, and fire.

The chief described the necessary remedy as a carefully planned effort by Forest Service scientists to immediately begin restoring the forests to their premanaged condition, a process the chief said could take 100 years. In order to achieve this desired future condition, the Forest Service will need to conduct salvage sales and other standard forest management activities, but only as part of a carefully designed plan to return to the original mosaic of diverse tree species.

This amendment would promote the old, traditional salvage approach that focuses only on individual tree health, not the long-term health of the entire forest. Accelerating the cutting of trees without having planned what the future landscape and mix of tree species must be will further delay and possibly destroy the opportunity to restore the health of our forests.

Unless carefully planned to restore forest health, salvage programs pose a significant threat to forest ecosystems. They can increase erosion, disturb, and compact the soil, injure live trees, and destroy wildlife habitat. The Scientific Panel on Late-Successional Forest Ecosystems, commissioned by two House committees, concluded in its report on Northwest ancient forests:

> Any late successional/old growth areas reserved should be managed to maintain and/or enhance their ecological integrity * * *. In general, removing merchantable timber—including salvage—from reserved late successional/old growth areas is not appropriate to meet this objective.

This amendment is contrary to such sound, scientifically based management. It would override Federal District Court Judge William Dwyer's injunction that bars logging of any kind in spotted owl habitat in the Pacific Northwest. Dwyer's injunction was issued because the Forest Service violated its statutory responsibilities in spite of court orders and congressional directives to obey them. Using the appropriations process to override this injunction would be sanctioning such violations and rewarding the Forest Service for its repeated refusal to obey the law.

One of the provisions in this amendment would allow expedited NEPA review for salvage sales that are consistent with forest management plans. However, this completely fails to recognize that many of the existing forest management plans never contemplated the epidemic level of infestations and catastrophic fire conditions we are experiencing today.

This amendment would also override the National Environmental Policy Act by removing the Secretary of Agriculture's existing discretion under NEPA and directing him to establish categorical exclusions for certain types of salvage sales. This would thwart the agency's present efforts to use its existing rulemaking authority to develop the new ecosystem management approach recently announced by the chief.

Mr. President, this amendment also incorporates provisions that would limit administrative and judicial review of salvage sale decisions by the Forest Service. This concept of restricting review of proposed agency actions is a dangerous precedent that has been soundly rejected by the Senate before. I urge my colleagues to reject such a drastic remedy again.

I support the Forest Service's efforts to improve its process for obtaining public comments during the planning phase of management actions, but I am absolutely opposed to provisions such as those in this amendment that limit review of a proposed action once it has been announced. The appeals process has not caused significant delay but rather has greatly improved the quality of Forest Service decisions. On this ground alone, I urge my colleagues to defeat this amendment.

Mr. President, the authorizing committees with jurisdiction over the national forests in both the Senate and the House are currently considering legislation to deal with this and other forest management issues in Oregon, Washington, and California. Indeed, the Senate Energy Committee will meet this week to markup one of the pending bills. An appropriations amendment is unnecessary and would interfere with efforts by the authorizing committees to develop a more comprehensive program to resolve the forest management crisis in the Pacific Northwest.

I urge my colleagues to vote against this amendment. It will aggravate rather than solve the problems it attempts to address. It will only accelerate business as usual at a time when carefully planned change is needed.

Mr. President, we are going to have a great disagreement on the facts that have been stated by the junior Senator from Washington, and so I hope my colleagues will listen to this because it has a long history.

I rise in strong opposition to any amendment that would go backward, as this one would, to out-of-date forest practices, and it is cleverly worded but that is what it does, and prevent the modern technology changes that are being made by the Forest Service and are attempting to be made against strenuous opposition by Cabinet Secretaries and others in the administration.

This is not a change to go forward. This amendment takes us backward. It would repeal part of the judicial review processes, destroy the new plans which the Forest Service is trying to apply science to save the forests against the political pressures from above. It not only is legislation again on an appropriations bill, in violation of rule XVI, but it is very bad legislation.

I hope we will turn it down because we have legislation pending in the House, in three committees, we have legislation pending in the Senate, and we need a change but not a program of accelerated salvage in the national forests of Oregon, Washington, and California.

I want to talk a minute about section 318 and about this delay, because the Forest Service is already—and this is the fact—selling the salvage rights in the 703 million board feet of blowndown timber in those forests—517 million board feet have already been sold. Of the remaining 185 million board feet, 115 million board feet is in spotted owl habitat—to protect the old forest which has been designated by the Forest Service to maintain the ecological integrity of the forest.

Now, Judge Dwyer, the judge who was referred to by the junior Senator from Washington as issuing this order, is a fine district judge. His appointment was made by President Reagan, and he was supported by former Senator Dan Evans, by Senator GORTON and me, and he ordered that there be no harvest or salvage in the spotted owl habitat.

Now, we have been referred by the junior Senator from Washington to section 318. He was not here at that time, but Senator HATFIELD, the fine Senator from the State of Oregon, and myself were on the Appropriations Committee, and at that point we tried to give time——

Mr. GORTON. Will the Senator yield?

Mr. ADAMS. I will be happy to yield.

Mr. GORTON. This Senator, indeed, was a Member of the Senate at the time of section 318.

Mr. ADAMS. I am sorry. He was not a member of the Appropriations Committee at that time.

Senator HATFIELD and I did propose a delay to give the Forest Service time to put their plans into perspective and make their plans modern. In other words, to change into the modern technology.

I am going to quote now from this fine district judge who was appointed by President Reagan and was supported by Senator GORTON and myself, and he is a fine judge, as to why it is that he has put in these injunctions. I quote from his opinion of July 21.

> The record in this case and in *SAS* v. *Evans*, 952 F.2d 297 (9th Cir. 1991), shows a long history of delays by the Forest Service. The National Forest Management Act set a 1985 target date for the adoption of standards and

> guidelines for all national forest units. 16 U.S.C. §1604(c). That date was not met. In October 1989 Congress directed in section 318 that the agency have a spotted owl plan in place by September 30, 1990. That was not done. In *SAS* v. *Evans*, 771 F. Supp. 1081, 1090–91, the agency sought sixteen more months and was afforded eleven more months to issue an EIS and ROD. The job was not done in compliance with NEPA. The agency has argued that it need not do what the laws plainly require it to do, *See, e.g., SAS* v. *Evans*, 952 F.2d 297, 301–302 (9th Cir. 1991). In light of this history, a timetable is essential.

This judge, this Senate, this Appropriations Committee has tried everything possible to say to the administrative agencies you must comply with the law and you must get this job done. We have had delay after delay after delay.

I want to speak a minute about the jobs that are involved and what is happening. At one time it was necessary, and the Senator from Oregon is on the floor now. Senator PACKWOOD and myself voted later and finally got some correction to this, but at one time we had a great recession in the Pacific Northwest forests and it was necessary to export logs, so we supported export logs. We were trying to give jobs to people out there.

But this export went all out of control. You talk about loss of jobs. We lose 5.5 jobs for every million board feet of raw logs that are exported.

And last year, last year in Washington State alone more than 2 billion board feet of raw logs were shipped overseas. That is 12,000 jobs, far beyond anything that Senator GORTON has referred to.

And let us talk a little bit about why jobs have been falling in the forests. It is not the spotted owl. That is not the issue at all. In the 1980's, when the forest harvest in the Northwest was driven up by the administration it rose from 3.6 billion board feet per year to 5.5 billion board feet, a completely nonsustainable increase. Do you know what happened with jobs? We lost 26,000 jobs. The jobs are being lost in the forest through technological changes, and the companies' practices. That is what is causing the job loss. The timber supply came far down the line in terms of how we are losing jobs.

Let us take, for example, logged exports. I was tempted in the prior debate, but I stayed out of it so we would be in this, to ask these Senators who were talking about the Fowler amendments, and so on, whether they were opposed to log exports. They are not opposed to log exports. They want to export logs, too. This is greed, it is pure greed.

Since the 1960's, log exports rose 31 percent and the number of domestic processors was cut in half. You see, the number of mills has reduced because the number of workers needed to produce 1 million board feet of lumber has dropped by 1.5. Increased productivity is projected to eliminate 33,000 additional jobs over the next 2 decades regardless of the Endangered Species Act. So that is why Senator LEAHY and I on the Senate side have introduced a bill with a number of cosponsors which goes to the problem of technological change in the forests.

Now, this amendment runs flatly against it. The Forest Service has the power to conduct salvage operations. As I mentioned before, they have already sold out for harvest 503 million board feet of the 703 million board feet already there.

What we have is a crisis of management in the Pacific Northwest which is being back-doored and being harmed by the Cabinet level and above. The Forest Service is trying to change.

I used to work for the Forest Service when I was 16. We had a lot of practices then that we do not follow anymore. We cannot follow them anymore. The timber products are expanding in size, the lumber markets move back and forth across the borders. We now export an enormous number of logs from Canada. But we are exporting our finest logs in the Northwest off private lands to Japan.

It was only by the efforts of Senator PACKWOOD, myself, and others, that we finally stopped log exports because the very people that are saying that they want this salvage operation have also shipped the logs out.

You cannot hold water on both shoulders like that. You cannot ship the best logs out and say you want to salvage something that is on the floor of the forest and equate it to jobs in any way or to help with the forest.

I would like to talk about that for a minute because the health of the forest is what it is all about. If this forest is not there for our children and our grandchildren, we have done a great disservice to the Nation, to our children and to our children's children.

This is recognized by people who are professionals in the field. It is even recognized by some of the people working in the Department because, for example, Assistant Secretary of Agriculture John Beuter testified on July 28 before the Senate Energy and Natural Resources Committee that the Forest Service has full statutory authority today to conduct salvage sales in a national forest.

Language currently in the fiscal year Appropriations Committee Interior bill reaffirms that authority. The chairman and myself and others on the committee worked carefully on that language. It provides that this statutory authority is reaffirmed.

So there is no need to pass a salvage bill. They have all the authority they need. They are trying to pass, in the Forest Service, on to a new type of management practice.

You may ask why is this amendment offered? It is because the Forest Service, the courts, the people on the ground, the people that are working day by day in the forest, know they have to change. They have to change the past practices because of the problem we have in the Northwest forest, is the Forest Service past management practices, including also past salvage sales program. They are trying to sell it. They have plenty of authority to change it. They are changing it. But the past programs altered the whole ecosystem of the national forests.

It is time for change. The change should not go backwards. It should go forward. This amendment would prolong the path. It would abandon all the new scientific approaches which we have asked for and received.

The Forest Service in the past left our forest in poor condition. I agree with the Senator, the junior Senator from Washington, about the fact that there is bug infestation, there is danger of fire and that is because the Forest Service with its past practices left a terrible state of affairs in the eastern part of our State. Some 75 percent of our State's forest has already been affected and this threatens the economic future of timber-dependent communities.

Why did it happen? They cut the ponderosa pine. Its timber is bark resistant to fire, it stands tall. It is able to resist drought. It is able to resist disease. These were cut and instead you have had allowance of a growth species of timber that are subject to drought, infestation, and fire. That is what is occurring now. The Forest Service recognizes this. It is trying now to change it.

The forests of the eastern part of Oregon and Washington were cited by the Chief of the Forest Service as the clearest example of why the Forest Service needs change, to move to a more ecologically sensible approach to forest management. I will change those words and say to try to put those forests back into the State they were in when they could resist fire, bug, and drought. The Chief described in detail how the agency's past management changed the forest. They went from a drought and fire resistant mix of many different species with the ponderosa pine being the key to fixed stands of fewer species.

These new strands are highly susceptible to disease, drought, fire. Indeed, you are seeing this right now on television. You watch television tonight, you can see forests in Idaho, Oregon, and Washington burning as well as in California.

This is caused by these past practices that were bad, that the Forest Service is trying to change, which this amendment would prevent. The Forest Service knows how to salvage. It knows how to go in there. It has to change its practices because it finds what it did in the past on salvage was wrong.

The Chief of the Forest Service described what was necessary. He said there has to be a carefully planned effort by Forest Service scientists to immediately begin to restoring the forest to the premanaged condition.

Why is that? To manage to get as much timber as possible out, not multiple uses, not management—just as much as you could cut. This process the Chief said could take 100 years. But in order to achieve this condition, the Forest Service needs to conduct salvage sales and other standard management activities but only, Mr. President, as part of a carefully designed plan to return to the original mosaic of the diverse species that grow where they should and resist where they can, and are proper to the portion of the country in which they grow.

Let me repeat. Salvage must be done only as a part of a long-term plan, not a slash and grab job. That is what this amendment is doing.

The Forest Service is already harvesting over 500 million board feet. What they want to do is go into the old forests marked by the spotted owl habitat. It is a slash and grab job. Why do this? We are already salvaging. We already know how to do that. The Forest Service knows how to do that.

Our job now is not to have short-term policies like this, but to look at the long-term policies of how we keep this forest productive for timber harvest, productive for salmon, productive for bird and wildlife, protective for huntsmen, fishermen, salmon. This is a multiple use forest. This is what it is all about. This is why you have seen all of these amendments and why I am fighting this amendment.

I do not think this amendment should be on here. I think the authorizing committees should operate on this. I do not like seeing these on appropriations bills. I hope the chairman tables it. We should not have it on here at all because if you start accelerating the cutting of trees, and this salvage without having planned what the future landscape and mix of the species will be, this will destroy all future opportunity for health in our forests.

It is going to take careful planning to restore forest health, and salvage programs such as this are a real threat to any plan to save the forest. Why? They increase erosion, they disturb and compact the soil, they injure live trees, and they destroy wildlife habitat.

All of this is done unnecessarily by statutorily demanding that the agency do something that it already has the power to do and already is in the process of carrying it out.

What the Scientific Panel on Late-Successional Forest Ecosystems really says is you try to build your forests back up. You have in it older growth, you have in it middle-aged growth, and you have in it new growth.

I can remember years ago planting forests when I worked for the Forest Service. They are now full grown forests. Part of this system, we often cut it. We often cut it in the Northwest.

Two House committees asked a scientific panel to look at this.

They concluded in the report on Northwest ancient forests:

> Any late successional/old growth areas reserved should be managed to maintain and/or enhance their ecological integrity. * * * In general, removing merchantable timber (including salvage) from reserved late successional/old growth areas is not appropriate to meet this objective.

So the scientists have looked at this. They say do not do what is being required here. The Forest Service has been convinced. We have too many political people out there, too much greed running in the land.

This amendment is contrary to that opinion and it would override the judge's opinion which he has tried again and again to get the time spent to have them develop the things that are necessary.

Using the appropriations process to override this injunction would be sanctioning past violations. I do not want to take a lot more time, because it is necessary that we move this bill forward. But this amendment fails to recognize that many of the forest plans are completely out of date. This amendment, despite the change made in it at the last minute, still injures the Environmental Policy Act by removing discretion under NEPA.

It would thwart the Forest Service's present efforts to use its rulemaking authority as announced by chief of the Forest Service. It would prevent and limit the review of salvage sale decisions of the Forest Service. That is dangerous.

All of you who stand for judicial and proper review of decisions should vote against this amendment. This idea has been soundly rejected by the Senate before, and I urge my colleagues to reject this drastic remedy again. The appeals process has not caused significant delay. In fact, the Forest Service itself says it has improved the quality of its decisions.

It is necessary that we give the authorizing committees a push, that they should be coming over from the House, trying to get the bill now. And Senator LEAHY and I have a bill here to match with it, to take care of these very complex matters within the forests.

I urge my colleagues to vote against this amendment, because it would aggravate the problems of the forests of the Pacific Northwest. It preserves outdated practices at a time when carefully planned change is needed. We have to have change to meet the fact that we have people out there now, all over. We have to help the people in the forest communities, preserve their livelihoods, and they cannot do it—if we were to cut the whole forest in 5 years, we would be here again doing the same thing.

I ask unanimous consent that the opinion of Judge Dwyer of July 21, 1992, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. District Court, Western District of Washington at Seattle, No. C92-479WD]

SEATTLE AUDUBON SOCIETY, ET AL., PLAINTIFFS *v.* JAMES R. MOSELEY, ET AL., DEFENDANTS, AND WASHINGTON CONTRACT LOGGERS ASSOCIATION, ET AL., DEFENDANTS, INTERVENORS

ORDER ON MOTIONS FOR STAY PENDING APPEAL

Defendants James R. Mosley, et al. ("Forest Service") and defendants-intervenors Washington Contract Loggers Association, et al. ("WCLA") have filed notices of appeal from the Memorandum Decision and Injunction of July 2, 1992 ("July 2 decision") (Dkt. #181), and from the Order on Cross-Motions for Summary Judgment, etc. ("May 28 order") (Dkt. #138). The Forest Service and WCLA now move for a stay of the injunction pending appeal. Plaintiffs Seattle Audubon Society, et al. ("SAS") oppose a stay. All materials filed in support of or opposition to the motion have been fully considered.

The court may suspend or modify an injunction during the pendency of an appeal. Fed. R. Civ. P. 62(c). The standard, set out in Lopez versus Heckler, 713 F.2d 1432, 1435–36 (9th Cir. 1983), is similar to that employed in deciding whether to issue a preliminary injunction. The prospects for success on appeal, the possibility of irreparable injury, the balance of hardships, and the public interest must all be weighed.

There are two parts to the injunction issued on July 2. One part enjoins the Forest Service from auctioning or awarding additional timber sales in Regions Five and Six that would log suitable habitat for the northern spotted owl until revised standards and guidelines in compliance with the governing statutes are adopted and in effect. *See* July 2 decision at 18. A stay of that part of the order would allow additional logging sales in old growth habitat areas in the national forests to go forward despite the ruling that this cannot be done without a legally-adopted plan. The resulting harm would be irreparable. Nothing has been presented as to the prospects on appeal, or as to relative hardship or the public interest, that would justify a stay. See July 2 decision at 11–15.

The other part of the injunction directs the Forest Service to prepare a new or supplemental environment impact statement ("EIS") in compliance with the National Environmental Policy Act ("NEPA"), 42 U.S.C. §4321 *et seq.*, curing the defects listed in the May 28 order; requires the adoption of a new record of decision ("ROD") following completion of the EIS; and directs the Forest Service to file by July 14, 1992, its proposed schedule for the completion of those steps. *See* July 2 decision at 17–18. The filing of the schedule has been deferred pending a ruling on the present motion. *See* Order Granting Forest Service's Motion to Shorten Time and Setting Schedule on Motion for Stay Pending Appeal (July 13, 1992) (Dkt. #191). In asking that this part of the injunction be stayed, the Forest Service argues that the court has no power to order it to perform specific tasks or to complete them by a specified time, that the time for compliance in any event should be left to the agency's discretion, and that compliance will be expensive and difficult and should be deferred pending appeal.

The Supreme court has held that a district court has the authority to "order the relief it considers necessary to secure prompt compliance" with the law. Weinberger versus Romero-Barcelo, 456 U.S. 305, 320 (1982). *See also* Amoco Prod. Co. versus Village of Gambell, Alaska, 480 U.S. 531, 545. Federal courts have often found it necessary to order administrative agencies to take particular steps, *see, e.g.*, Abramowitz versus EPA, 832 F.2d 1071, 1078–79 (9th Cir. 1987), and to do so by specified times, *see, e.g.*, Alaska Ctr. for the Environment versus Reilly, — F. Supp. — 1992 WL 145000 (W.D. Wash. June 8, 1992); Sierra Club versus Ruckelshaus, 602 F. Supp. 892, 898–99 (N.D. Cal. 1984). To hold that courts cannot do this would invite lawlessness; an agency could escape its statutory duties simply by procrastinating. *See* July 2 decision at 16–17, and cases cited.

The record in this case and in SAS versus Evans, 952, F.2d 297 (9th Cir. 1991), shows a long history of delays by the Forest Service. The National Forest Management Act set a 1985 target date for the adoption of standards and guidelines for all national forest units. 16 U.S.C. §1604(c). That date was not met. In October 1989 Congress directed in section 318 that the agency have a spotted owl plan in place by September 30, 1990. That was not done. In SAS versus Evans, 771 F. Supp. 1081, 1090–91, the agency sought sixteen more months and was afforded eleven more months to issue an EIS and ROD. The job was not done in compliance with NEPA. The agency has argued that it need not do what the laws plainly require it to do. *See, e.g.*, SAS versus Evans, 952 F.2d 297, 301–302 (9th Cir. 1991). In light of this history, a timetable is essential.

To comply promptly with the July 2 injunction is well within the Forest Service's capability. It has the scientists who can do the job. The injunction simply requires a new or amended EIS in compliance with NEPA, curing the three defects specified in the May 28 order. One of these is the need, expressed by the Forest Service in the current EIS, to reassess the viability rating if the Endangered Species Committee were to authorize Bureau of Land Management timber sales on Oregon that would jeopardize the spotted owl. The Acting Assistant Secretary of Agriculture for Natural Resources and Environment stated in a declaration dated May 21, 1992, that he had "directed the Forest Service to contact the EIS team to consider the effect of the ESC decision on the viability assessment" and had been notified that "it would take four to eight weeks" to get a report back to him. *See* May 28 order at 13. It thus appears that the needed information could be quickly gathered if it has not been already. There is also no reason why the alternatives could not be reviewed expeditiously in light of the Anderson and Burnham report. As to the low viability rating for other vertebrate species quoted in the current EIS, the Forest Service argues that it should not have to do a separate viability study on every such species; but the court has already made clear that there is no such requirement. *See* July 2 decision at 9. What is required is that the plan adopted not be one which the agency knows or believes will probably cause the extirpation of other native vertebrate species in the planning areas.

Difficulty of compliance will not permit an agency to avoid its duties under NEPA. *See Calvert Cliffs' Coordinating Comm., Inc.* v. *Atomic Energy Comm'n*, 449 F.2d 1109, 1115 (D.C. Cir. 1971). But in any event the difficulties claimed here are highly exaggerated, and not such as to justify the further delay that would result from a stay.

For the reasons stated, the motions for a stay of the July 2, 1992, injunction pending appeal are denied. The Forest Service has asked that a week be allowed for it to seek a stay in the court of appeals. Two weeks will be allowed for that purpose. Accordingly, the date for the Forest Service to file its proposed schedule for completion of the steps required by paragraph VII–A of the injunction is extended to August 4, 1992; any comments on the schedule by the other parties will be due on August 7, 1992.

The clerk is directed to send copies of this order to all counsel of record.

Dated: July 21, 1992.

WILLIAM L. DWYER,
U.S. District Judge.

Mr. ADAMS. Mr. President, I urge my colleagues to vote against the amendment. I hope we can promptly arrive at the end of this debate.

Mr. BYRD. Mr. President, we have now been on this amendment 43 minutes. I see the distinguished Senator from Oregon [Mr. PACKWOOD] who wishes to speak, and the distinguished Senator from Montana [Mr. BAUCUS] and the distinguished Senator from Vermont [Mr. LEAHY] who both wish to speak.

I wonder if we can reach a time agreement on the amendment, so we can have a disposition of it one way or the other. How long would the Senator from Oregon need?

Mr. PACKWOOD. I was prepared to speak only 10 minutes, until I heard the senior Senator from Washington. I think I may need 30 minutes.

Mr. BYRD. The Senator from Oregon wants 30 minutes. How much time does the Senator from Montana desire?

Mr. BAUCUS. Ten minutes.

Mr. BYRD. The distinguished Senator from Vermont?

Mr. LEAHY. Mr. President, if it would help, I could do mine in 6 minutes, if I could go soon.

Mr. ADAMS. In addition to the ones the Senator has requested—and that time is to be taken into account—Senator CHAFEE wanted 10 minutes. He is not here, so I can speak for him. Senator LEAHY is here, so he can speak for himself. Senator LIEBERMAN wanted 5 minutes. Senator BAUCUS wanted 10 minutes. Senator MITCHELL wants 5 minutes and, of course, I have already had my time.

I would like a few minutes to close, if I could.

Mr. BYRD. How much time would the Senator need to close?

Mr. ADAMS. I will need 2 minutes to close. Senator WIRTH wanted 5 minutes.

Mr. BYRD. How much time does the Senator from Vermont need?

Mr. LEAHY. Mr. President, I tell the distinguished President pro tempore that if I could go next, I could do it in 6 minutes.

Mr. GORTON. Mr. President, I say to the distinguished chairman of the Appropriations Committee, as the sponsor of the amendment, this Senator would like to close for about 10 minutes. The junior Senator from Idaho has said that he can make his remarks in 5 minutes. I would rather make that 7. I do not want to restrict him.

I am told that both the junior Senator from Montana and the junior Senator from Alaska wish time. I am not informed at this point as to how much. I think probably I would be willing to agree to 10 minutes each, and I rather suspect they will not need that long.

Mr. LEAHY. I tell the distinguished Senator from West Virginia that if I could go soon—I am supposed to be somewhere else—I could do it in 6 minutes.

Mr. BYRD. If the Senator could not go soon, how long would it take?

Mr. LEAHY. Considerably longer.

Mr. BYRD. The Senator from West Virginia does not have the power of recognition.

Mr. LEAHY. I believe the Senator from West Virginia is going to make a unanimous-consent request which may include at least the order, and perhaps the next person or so to be recognized, and that might take care of the situation.

Mr. BYRD. I did not intend to do that.

Mr. LEAHY. I am sorry. I misunderstood the Senator.

Mr. PACKWOOD. If the Senator will yield, I am happy to let the Senator from Vermont go first, if we can get an order of recognition. I think I was on my feet and here first, but that is fine if he wants to go for 6 minutes, if I could have a time limit of 30 minutes to go after him.

Mr. BYRD. Mr. President, I have a total request here of 115 minutes. I ask unanimous consent that the remaining time on this amendment be limited to not more than 2 hours, which is 120 minutes. Senators have already indicated, and I have indicated, the time limits. I hope someone at the desk has been taking it down. So I ask unanimous consent that the time be limited to 2 hours. Actually, it is 115 minutes.

I will restate that.

I ask unanimous consent that the time be limited to not beyond the hour of 4:30. That is 1 hour—

Mr. PACKWOOD. Reserving the right to object, Mr. President, I think Senator GORTON—

Mr. BYRD. And I ask that Mr. LEAHY be permitted to go next, and that Mr. PACKWOOD follow Mr. LEAHY.

The PRESIDING OFFICER (Mr. DODD). Is there objection?

Mr. PACKWOOD. Reserving the right to object.

Mr. GORTON. Mr. President, may I inquire of the distinguished President pro tempore, was he setting both a time for a vote, or the termination of debate, or was he incorporating that in all of the request for specific amounts of time to be made?

Mr. BYRD. May I say to the distinguished Senator I took note of all the times the various Senators mentioned, including the Senator from Washington, who indicated there were two Senators who wanted, I believe, 7 or 8 minutes, and he suggested 10 each. I put down the 10 each. He will remember who those Senators are.

Mr. GORTON. Under those circumstances—and they are Senators MURKOWSKI, BURNS, and CRAIG, about whom I asked separately. As long as each of them is protected with up to 10 minutes, together with mine, and the 30 of Senator PACKWOOD, we will have no objection.

Mr. BYRD. So there will be no confusion, I suggest that we restate the times. I ask unanimous consent that the Senator from Vermont have 6 minutes, to be followed by the Senator from Oregon [Mr. PACKWOOD] for not to exceed 30 minutes; and that the remaining time be allotted as follows: 10 minutes to the Senator from Montana [Mr. BAUCUS].

Will the Senator from Washington help me?

Mr. GORTON. Yes. Ten minutes for the Senator from Idaho [Mr. CRAIG]; 10 minutes for the Senator from Montana [Mr. BURNS]; 10 minutes for the Senator from Alaska [Mr. MURKOWSKI]; and 10 minutes to close for this Senator.

Mr. BYRD. Now will the senior Senator from Washington help me?

Mr. ADAMS. Yes.

Senator CHAFEE has requested 10 minutes; Senator LEAHY has requested whatever time is agreed upon with the chairman; Senator LIEBERMAN has requested 5 minutes; Senator BAUCUS needs 10 minutes, the senior Senator from the State of Montana; the majority leader, Senator MITCHELL, requests 5 minutes; Senator WIRTH requests 10 minutes.

Mr. BYRD. Mr. President, I assume somebody has been taking this down. Certainly, the official reporter has.

I ask unanimous consent that further time for the debate on this amendment be limited to the total of the times that have been specified by various Senators here in this colloquy, and that at the conclusion or yielding back of that time, a vote occur on or in relation to the amendment, and that no second-degree amendments be in order.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Washington reserves the right to object.

Mr. GORTON. Mr. President, I ask the distinguished President pro tempore, because of some errors which I have noted in preparing the amendment, this Senator reserves the right to modify the amendment.

Would this request preclude him from doing so?

Mr. BYRD. It would. The Senator presently has the right to modify the amendment, because no action has been taken thereon; am I correct?

Mr. GORTON. That is correct.

Mr. BYRD. I ask unanimous consent that the Senator may do so. How soon will he be ready to modify it?

Mr. GORTON. I hope within 5 or 10 minutes.

Mr. BYRD. I ask unanimous consent the Senator be allowed to modify his amendment, notwithstanding the consent agreement, if it is entered into, if he offers the modification within 10 minutes.

Mr. ADAMS. Mr. President, we have to know what we are operating with. If the Senator wishes to do it, we would like to have it ready, Mr. President.

Mr. GORTON. I am happy to.

Mr. PACKWOOD. Mr. President, if I may ask a question. As with the President pro tempore, I was trying to listen to all the times. If, by chance, that takes us past 4:30, we will be vitiating that request and using the time until it is yielded back, and vote?

Mr. BYRD. Yes. The second takes precedence over the first. I was not sure.

Mr. PACKWOOD. I was not either. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I am informed that the total of the times that have been specified here is 2 hours and 6 minutes, which will put us up close to 5 o'clock. It would be more nearly 4:45 or 4:50; something along there.

I thank all Senators.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I would like to speak just briefly on this amendment, and express some of my concerns.

This amendment is really nothing more than a Trojan horse. On the outside, it appears reasonable. but if you look at the inside, that is where the flaw exists.

This amendment promises to open our ancient forests to logging, to weaken our environmental laws, to hamstring management of the national forests, and to limit the rights of the citizens of the United States to access to the courts.

Also, I point out to my colleagues, cutting down dead or dying trees for salvage is not the exact science that many here want us to believe. The nature of the Forest Service's current rating system to decide whether a stand of timber is dead or dying is ambiguous, and therefore open for abuse.

Nobody knows how many live old-growth trees may be cut down to allow loggers to cut and remove a salvage tree from the forest.

The ancient forests used to cover a large, large part of the United States, including the Green Mountains of Vermont. but today, they are mostly gone.

Actually, until we had some recent court cases, what is left was being cut at an alarming rate. It is not just the environmentalists that are raising this cry. Many foresters themselves see that the current logging rates in the Pacific Northwest and across the Nation are not sustainable. Soon the ancient forests will be gone, and they will be out of jobs.

The last remaining ancient forests are part of the same heritage that includes the Grand Canyon, Yosemite's Half Dome, and Old Faithful. Our old-growth forests are unique and special. Once they are gone, they are gone for all time.

This is more than just a fight to save trees or save an owl. It is a fight to save a very special, unique ecosystem, which houses a diversity of plants and animals, some of which are found nowhere else in the world.

The salmon industry, for example, does support the rural economy of many, many communities in the Pacific Northwest. And it was in the ancient forest in the Pacific Northwest where they found the Pacific yew. Its bark contains the active chemical that is used to produce taxol, a drug proven effective in treating ovarian cancer. In fact, it saved the life of a Vermonter from Rutland.

In 1989, Senator HATFIELD and I agreed between ourselves there would be no more ancient forest riders to the Interior appropriations bill. Obviously, any Senator can have an amendment on any issue. But this is the third time since then that I have had to oppose this kind of amendment, either in committee, on the floor, or in conference.

The Senate has rejected, however, since 1989, efforts to place forestry riders that would weaken environmental laws on appropriations bills.

Aside from the procedural problems, there are problems in the amendment itself.

The proponents of this amendment accurately point out that the forest health problems in parts of northern California and the Pacific Northwest have reached dangerous levels. I have been told that forests on the east side of the Cascade Mountains—which were alive this spring—will be dying by summer's end. For this reason, I believe we must provide for a salvage sale program which provides for the orderly and ecologically sound removal of dead and dying timber.

This amendment contains two fatal flaws—one that affects ancient forest and one that affects national forests from coast to coast.

The first flaw is with ancient forests. The amendment lets the U.S. Forest Service override court injunctions that prohibits timber harvesting in spotted owl habitat unless it improves such habitat.

The second flaw is that the proponents of this amendment claim that it will improve the health of the forests. But the amendment affects more than forest health; it affects national forests from coast to coast and would:

Allow exclusions from the National Environmental Policy Act requirements;

Limit citizens ability to question Forest Service decisions; and

Limit citizens access to the courts.

I do not think that we should take such a drastic step as a rider to an appropriations bill; not to change the rights of every single citizen in this country.

There is a way to develop a salvage program, one that is sustainable and environmentally sound. That is the kind of program that Senator ADAMS and I have included in S. 2895, the ancient forest legislation that we have introduced.

I should note that the chairman of the full Appropriations Committee, Senator BYRD, included language in this year's appropriations bill directing the Forest Service to develop a salvage program that meets our environmental laws. This language is responsive to Senator GORTON's concerns, while protecting the environmental laws that are so important to our Nation's well-being.

Mr. President, what we have here is not a good amendment. This amendment does not do what people say it will do, but does far, far more things than the amendment admits it will do.

I said earlier—and I will close with this—the amendment is nothing more than a Trojan horse. On the outside, it appears reasonable. But on the inside, it promises to open our ancient forests to logging, to weaken our environmental laws, to hamstring management of national forests, and to limit citizens' access to the courts.

I would say, as a chairman of the Senate Agriculture, Nutrition, and Forestry Committee, this is bad legislation. It is a major policy step done in the guise of a rider on an appropriations bill.

It does not belong here. This is not the place to decide this kind of policy. But even if this was the proper vehicle to decide it, this is not the way to go.

Mr. President, if I have remaining time, I reserve the remainder of that time.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oregon seeks recognition.

Mr. PACKWOOD. Mr. President I believe that the Senator from Washington had to get his revised amendment in within 10 minutes.

I ask unanimous consent that I might yield to him for the purpose of offering his amendment without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2904, AS MODIFIED

Mr. GORTON. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his own amendment, and the amendment is so modified.

The amendment (No. 2904, as modified is as follows:

On page 67 of the bill, strike lines 9 through 11 and insert in their place the following:

"FUNDING OF FOREST HEALTH IMPROVEMENT PROJECTS.—To meet the forest health emergency now experienced on many of the Federal forest lands, the Secretary of Agriculture on National Forest System lands and the Secretary of Interior on public lands shall expend such sums as are necessary within available funds from the salvage sale fund authorized by section 14(h) of the National Forest Management Act of 1976 (16 U.S.C. 472a(h)) and the salvage sale trust fund within the Bureau of Land Management established by this Act, to design and implement forest health improvement projects. Such projects shall employ a combination of multi-resource management practices, treatments, and protections. Such projects shall be designed to accomplish the objective of improving forest health through management actions that improve stand density and composition, salvage dead and dying timber, remove or treat sources of infection or infestation, reduce excess fuels, and leave remaining vegetation in a condition designed to increase its opportunity to contribute to a healthy, productive ecosystem. In the execution of such projects, the Secretary of Agriculture and the Secretary of the Interior are authorized to use the authorities in the Knutson-Vandenberg Act of 1930 (16 U.S.C. 576) as amended, the provisions of the National Forest Management Act of 1976 (16 U.S.C. 472a), as amended, the Federal Land Policy and Management Act of 1976 (16 U.S.C. 1701 et seq.), and other applicable law.

"ENVIRONMENTAL ANALYSIS.—Any forest health improvement project found by the Secretary of Agriculture or the Secretary of the Interior to be not inconsistent with the long-term management goals and objectives of a land management plan for the administrative unit in which the activity is to occur shall be deemed not to be a major Federal action significantly affecting the quality of the human environment for the purpose of subsection (C) of section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)). The Secretary of Agriculture and the Secretary of the Interior shall establish by regulation a policy providing for categorical exclusions from requirements established pursuant to such section for certain types of salvage based on the extent to which the salvage includes selective thinning, minimal building of new roads, minimum loss of healthy standing timber, and other justifying factors.

"SPOTTED OWL FORESTS.—Notwithstanding the Forest Service Record of Decision of March 3, 1992, 57 Fed. Reg. 8621 (March 11, 1992), the National Forest Management Act of 1976, and the National Environmental Policy Act of 1969, the Forest Service is authorized to allow salvage timber sales in Habitat Conservation Areas and other suitable habitat for the northern spotted owl on the spotted owl forests in Washington, Oregon and California outside any units of the National Wilderness Preservation System and other areas in which timber harvesting is expressly prohibited by statute, or in Forest management plans unless such salvage will adversely affect spotted owl habitat as determined by the Secretary of Agriculture.

Mr. GORTON. Mr. President, I will explain it briefly before Senator PACKWOOD speaks up. This strikes the paragraph on the second page of the amendment dealing with administrative appeals, because we have already, in the last set of amendments, determined what the appeal structure of the Forest Service would be. So there is no longer the reference to administrative appeals in this amendment.

Mr. ADAMS. Mr. President, will the Senator yield for a question?

Mr. GORTON. Yes.

Mr. ADAMS. Is that the part that starts "administrative reviews" and runs down to the place where it says "spotted owl forests"; is that correct?

Mr. GORTON. The Senator is correct. That language is stricken.

Second, it inserts, seven lines up from the end of the entire amendment, the phrase "or in the Forest management plans."

So, in other words, we will keep this out not only of national parks and statutory wilderness areas, but in the many set-asides which already are run by the Forest Service itself.

Mr. ADAMS. That goes after the word "statute" and before the word "unless"; is that correct.

Mr. GORTON. It does.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I thank the Chair.

I am not quite sure where to start here, having heard the reference to the Endangered Species Act as a loss of jobs through productivity and old growth, because none of those are exactly relevant to the amendment at hand.

Let us take the concept of old growth first, and that is exactly the right term. There are no original trees on this continent. There are no original trees in the world. There are older trees.

But if nothing else happens to them, eventually old trees die. More likely before they die, they burn. And the history of the world is rampant with forest fires. So let us not get into the argument about somehow we are going to be cutting down virgin forests. These are not original trees.

Second, the Endangered Species Act—and this amendment touches it only modestly—has become the hallmark of a philosophical debate about jobs, and we have not exactly touched the issue yet involved.

And before I touch it, I want to speak to what the senior Senator from Washington said about productivity and we are going to lose jobs anyway. And he talked about the number of jobs going down and disappearing in the timber industry, and indeed they are. They are disappearing on the farms, too.

At the turn of the century, however, half the people in this country were involved in feeding themselves and the other half. Today you have 2 or 3 percent of the people in this country actually involved in farming, and they are feeding the rest of us and a fair portion of the world. And we regard that as progress, because the productivity of the farm has gotten so good.

There are fewer people today in the steel industry than there used to be, and yet we turn out more steel per man-hour than we used to. The same is true of any industry. And it has happened in the timber industry. So jobs, indeed, are going to gradually disappear in all industries as productivity improves.

That bogeyman, however, should not be used to cover the problem of the Endangered Species Act. And here is the problem with the act. If someone files—and this act is petition driven, as we call it—any citizen can go out and scratch out a petition, turn it in to the Government and say, "Here, I think this bug or this flower or this bird is disappearing and will soon be endangered or threatened, and I want the Government to investigate it and reach a conclusion," and the Government is required to do it.

So you do a biological study, and at the end of the biological study, you either decide that the particular bug or plant or flower is endangered or threatened or it is not.

Let us say the study says, yes, biologically, it is threatened or endangered. At that stage, you then start to design a recovery plan to bring whatever the endangered or threatened species is back to a place where it can be delisted as being endangered or threatened. That is the recovery plan.

In the case of the timber area and the spotted owl, while you are doing the recovery plan, you set aside what is known as critical habitat, the area you have to manage very carefully to hope to bring the species back to a revitalized status where you can take it off the list.

You are not allowed to consider economics when you are designing critical habitat or the recovery plan if, and this is an important if, if the consideration of economics would lead to the extinction of the species. So your recovery plan has to be designed, not just primarily, but solely for the recovery of the species. And only can you consider economics where you can have the species recover and consider economics. If you cannot do both jobs, payment to schools, payment to counties—out.

In the case of the northern spotted owl, this is what we will be up against. And, as I say, this amendment is relatively modestly connected to this.

A petition was filed that the spotted owl was endangered or threatened. It was found it was. A recovery plan was designed. That recovery plan will soon go into effect, which will cost about 35,000 jobs in northern California, Oregon, and Washington, the bulk of them being in Oregon. These are 35,000 jobs in addition to whatever other jobs are going to be lost because of an increase in productivity.

Now, I have made my position on this very clear. I am not prepared to trade off 35,000 jobs for the spotted owl. I will go without the recovery plan and keep the jobs and take a chance that the owl would survive anyway because the recovery plan does not guarantee the owl will survive. And no recovery plan can guarantee the owl will not disappear. It is just a question of probability.

In addition to 35,000 jobs lost, it is about $170 million lost in payment to counties, because the counties get a portion of the value of the tree when it is cut. It is about $500 million a year lost because the Treasury takes money when the trees are cut. And this has nothing do with lost revenues because people are out of jobs and do not make any money. If they do not make any money, they do not pay taxes, or businesses do not make a profit so they do not pay taxes. I think it is too great a price to pay for the owl.

But now let us put that aside and get down to the actual amendment that we are talking about. We have a problem in the West, and I think we are going to have it in many other areas partially because of the drought, partially because of disease. Where as you used to fly over mile upon mile upon mile of green forests, you now fly over and it is mile upon mile upon mile of brown. It is dead or dying. We call it D&D. It has been infested mainly with bugs that are killing the trees. In some cases the trees are standing still. In some cases, because it does not take much to blow down a diseased tree, they are on the forest ground.

I want to show you an example. This is a 43-year-old white fir. It has been dead approximately 6 months. At the moment, you could still use it 100 percent to cut into lumber, or you could chip it, run it through a chipper, and what comes out, for those who are not familiar, it looks like a gigantic sawdust pile but slightly coarser. You chip it. This could be used for either one, 6 months dead, 43 years old.

This is the same species. These were cut just a month ago near La Grande, OR, same sizes, white fir. Actually, it is an older tree than the one I just showed you. This is 57 years old, dead approximately 2 years. It is useless. It cannot be used for lumber. It cannot be used for chips. It is useless.

And I wish that you could feel the weight of these. The one that I showed you first weighs about twice to two-and-a-half times what this weighs. And this is lying on the forest floors in Oregon and Washington just waiting for a match.

I want you to think of the things you use when you build a fire. Do you know the kind of wood you throw on a fire? If you throw on a light piece of dead wood, it will kindle just like that. You throw on a fresh, green, wet piece of dead wood, once you get it going, it is a fine piece of firewood, but getting it going is another matter.

The forests in eastern Oregon and eastern Washington are absolutely rife with this dry, light, dead wood laying there waiting for the match. And it is going to come. And then we are going to have recriminations in this Senate about why did we not do something.

This amendment is designed to try to do something. We would like to go in and salvage this dead timber, salvage it while it is still usable.

And I might emphasize here we import in any given year 20 to 30 percent of our lumber from Canada. We do not have enough lumber in this country anyway to take care of our own needs. At least we would take this timber that is on the floor of the forests, or standing but dying, and make lumber out of it for decks and houses and the other things we use lumber for. It is called salvage.

Now, under the Endangered Species Act, you cannot take it out of these habitat conservation areas, HHC's, we call them, part of the critical habitat. You cannot take it out of there unless it is going to lead to the enhancement of the recovery of the spotted owl. Well, they initially were said to live in old-growth forests. These forests are not going to be growth of any kind, new growth, old growth, or anything else. They are going to disappear very quickly. But it cannot be technically, legally said that, if we salvage this timber, it is going to lead to the recovery of the owl. It is not going to hurt. It is not going to help. But it does not meet the technical standard of law.

So, for the purposes of this salvage, we would like to say, let us salvage this timber. That is exactly what the amendment calls for.

I wish we could have a debate, a real debate on the Endangered Species Act and the management of our forests. This is not that issue today. That issue will come one day. It could come this year if we bring up the Endangered Species Act for authorization. It runs out at the end of this year. We may have to bring it out and battle it out on appropriations bills year by year.

I want to correct a misimpression the senior Senator from Washington left with us when he said the Forest Service is selling all kinds of timber.

First, they are not selling as much as he would give you the impression they are. But second, sales does not mean harvest. The Forest Service puts it up for sale, they go through a bid process, it is sold to the highest bidder. They usually have a number of years after they bought it to cut the timber down, take it out, pay what they bid on it. But at that date, as soon as the sale is over and somebody wants to harvest, you are hit with a lawsuit. And at the moment most of the timber in the public forest in the Northwest is tied up in these lawsuits.

I am not one who necessarily blames the courts for this. I think the courts perhaps are correctly interpreting laws that we ought to change. Here we stand in this Congress, all the time, and we rail at the courts for making law. I think in this case they have read the act. The Endangered Species Act is very clear about recovery. They have read the law and they have said all we can say under this law is that any plan has to lead to the recovery of the species, and economics does not count if it is not going to lead to the recovery of the species. Here is an injunction.

That law we ought to change. But that is not a debate for this moment.

What we are asking here is that we be allowed to salvage timber that will have a very short life or it will not be salvageable at all. Second, if it is not salvaged soon, if it is not taken out of this forest floor, or leaning against the next tree ready to go down when the next wind comes, if we do not do that you will see a forest fire from northern California through Oregon and Washington and Montana the likes of which we have not seen in generations.

We can manage forests well. One of the good examples I can give you is an area in Oregon called the Tillamook Burn. In the 1930's a great portion of those forests burned down. When you look at the pictures out of the thirties, it is hillside upon hillside upon hillside of black snags. Nothing green. Every tree gone, a stump here and there.

In 1944, Oregon passed a bond issue and said we will reforest this area. And all of us who were young at that time went out as Cub Scouts or Boy Scouts on Saturdays and we planted trees. It was the civic thing to do.

The forest is now completely replanted. If you were to drive someone through the Tillamook Burn and show them the sights, drive from Portland toward the Pacific Ocean through the Tillamook Burn, at the end of it they would say where is the Tillamook Burn? You would say you have just driven through it.

It is now hillside upon hillside of green, 30-, 35-, 40-year-old timber. That forest is going to be managed principally, but not solely, for timber production. There are already campsites in it. You can hunt in it, fish in it. There are deer in it; all the normal game you would find in any other forest is there.

But it is a perfect example of the way you can manage a forest if you have to do it. I wish we could manage our United States' forests on the same basis, but the laws prohibit that. I say that is a debate for another time also.

I will say this. From time to time the laws are such that you are faced with one of two alternatives. You either change the law or you say for purposes of this particular thing that we want to do, by statute, given this particular situation, we will just say the law has been met.

This is what we did when we built the Alaska pipeline. There were tremendous environmental objections to it. It would not have been built with the laws then on the books, so we passed a law that simply said: By this statute we say that the building of the Alaska pipeline meets the standards of the Environmental Protection Act, period. That cut off any lawsuits. Had we not done that we would not have oil coming from Alaska today at a time when we vitally need it.

As we look at these forest laws we can do one of two things. We can change the law. Or we can say for purposes of the action we want to take right now, we are simply going to overlook the law because the situation is so critical.

All the Senator from Washington is asking is that we be allowed to salvage timber without having to prove that the salvage is going to lead to the recovery of these species. All he is asking is that we do this now to avoid an emergency. If we do not avoid it, as sure as we are on this floor today the emergency is coming and we will be here on this floor asking for an appropriation of $50 or $100 million to fight the fires and replant and relocate people whose houses have been burned down and jobs that have been lost and pointing the finger at each other and saying why did this happen?

Here is the chance to avoid this happening, hopefully. Because if we pass this today and it passes the House, we are already in the fall season. This is a modest amendment that does not answer the major problems of forest management in the Northwest. But it will allow us to put people to work who will not otherwise be at work in just the three public forests; in eastern Oregon, about 5 million acres, 5 million acres—50 to 70 percent of it is dead or dying. And people out of work crying for jobs, and trees standing not 5 miles from where they live are on the floor, not 5 miles from where they live, that would produce jobs and lessen the danger of catastrophic fire. And the present laws prohibit anything being done.

I very much encourage support of the amendment of my good colleague from Washington, who is asking just a modest step to help this country. I reserve the remainder of my time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, do I have time allocated under the agreement?

The PRESIDING OFFICER (Mr. SIMON). The majority leader has 5 minutes under this order in addition to 10 minutes as under leader time.

Mr. MITCHELL. Mr. President, I urge my colleagues to oppose this amendment. If this amendment is enacted, it will exempt salvage timber sales in the Pacific Northwest's National Forests from the requirements of the Endangered Species Act.

The amendment instead would prohibit such sales if the Secretary of Agriculture determines that they would adversely affect spotted owl habitat.

But timber salvage sales would be allowed under this amendment even if they would violate the Endangered Species Act's mandate to ensure that Federal actions are not likely to jeopardize the continued existence of a species. Actions resulting from sales that cause a threatened or endangered species to be killed, which would otherwise be prohibited under the Endangered Species Act, also would be allowed.

This amendment is not limited to the spotted owl. No other species listed currently or in the future under the Endangered Species Act, not even the bald eagle or salmon, will be protected from timber salvage sales under this amendment.

The Senator from Washington has said that this amendment would not harm the spotted owl or other endangered or threatened species. But what reason, then, is there to override the Endangered Species Act unless it is to be freed of its restrictions?

This amendment's response to the longstanding Federal requirements governing the management of Federal lands and the protection of threatened and endangered species is to suspend them.

U.S. District Court Judge William Dwyer, who was appointed by President Reagan, concluded much the same thing about the approach taken by the Reagan and Bush administrations in complying with these requirements.

He wrote in a ruling a little over a year ago that "[m]ore is involved here than a simple failure by an agency to comply with its governing statute."

Judge Dwyer found that the record showed "a remarkable series of violations of the environmental laws," and characterized these violations as "a deliberate and systematic refusal by the Forest Service and the FWS [Fish and Wildlife Service] to comply with the laws protecting wildlife."

The judge concluded that this was "not the doing of the scientists, foresters, rangers, and others at the working level of these agencies. It reflects decisions made by higher authorities in the executive branch of Government."

Timber sales in spotted owl habitat on National Forest lands currently are barred by Judge Dwyer until the administration complies with the requirements of the National Environmental Policy Act and the National Forest Management Act.

But the pending amendment would override Judge Dwyer's injunction and frustrate his efforts to enforce this Nation's environmental statutes. In doing so, it would reward the administration's repeated failures to comply with the law.

The result of this failure to follow the law has been costly. It has increased uncertainty and squandered opportunities to ease the impact to timber workers and their families and to protect the spotted owl, salmon, and other species dependent, in part, on old-growth forests.

Any short-term relief that might be provided to the people of the Pacific Northwest by this amendment's suspension of the Endangered Species Act and court injunctions, as welcome as that might seem to some, is likely only to intensify future problems.

I urge, instead, that the relevant committees of jurisdiction work together to develop a comprehensive plan that provides for long-term, sustainable timber harvests and conservation of old-growth forests and the species that depend on these forests, and that assists timber dependent communities.

I urge my colleagues to reject this amendment. I thank my colleagues for their courtesy.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I also urge my colleagues to reject this amendment, and I say so because essentially this is a last-minute legislative attempt to override a judicial decision and override our Nation's environmental laws without any significant examination or hearing as we are beginning our home stretch drive toward recess and adjournment.

Very briefly, this amendment overturns a decision which a Federal court made holding that the Forest Service did not apply the environmental laws of our Nation adequately, therefore, granted an injunction. This amendment essentially, with respect to so-called salvage sales in owl habitat, attempts to overturn that court decision on an appropriations bill. This is not the way we should be conducting business. We have just seen this amendment roughly a couple hours ago and the amendment is again an attempt to override a decision by a Federal judge who found that our Forest Service did not comply with the law.

The Senator from Oregon says: Well, it is not the court's fault, it is the fault of the Congress. The Senator from Oregon fails to mention the third branch of Government, the executive branch. The Forest Service did not follow the law. The court now says the Forest Service must now follow the law, it must properly issue an environmental impact statement, it must follow the law so the Forest Service can, in an orderly manner, comply with their environmental statutes to decide which sales should be up for harvest and which sales not.

In addition, although the Senator from Oregon claims otherwise, this amendment does, in fact, more than touch upon the Endangered Species Act. The amendment expressly states that the Forest Service may put up for bid timber, salvageable timber in owl habitat if the Agriculture Secretary, in his discretion, decides that such salvage sale will not adversely affect spotted owl habitat. That is a process that is totally contrary to the process of the Endangered Species Act.

If the Senators from Washington or Oregon wish to amend the Endangered Species Act, they should offer amendments to amend the Endangered Species Act in the appropriate form at the appropriate time. It is clear that this Congress will be dealing with the Endangered Species Act not this year but next year. That is the time to deal with matters such as this.

In addition, it is clear that the Forest Service still can put up for bid salvageable timber in nonhabitat areas in Oregon, Washington, and California. The injunction only applies to owl habitat. It did not apply to other areas in our Nation's forests which are not owl habitat.

In addition, the Senator from Oregon talks about in the old days you used to be able to fly over the Pacific Northwest and see miles and miles and miles of forest. And now he says when you fly over, you see brown, diseased timber. I fly over the Pacific Northwest often and it is true. What you see down below is not necessarily dead and diseased timber—there is a little of that—what you see is miles and miles and miles of clear cuts. It is astounding. I ask people when they fly over the Pacific Northwest from my State of Montana, over to Idaho, Oregon, Washington, to look down, hopefully, on a plane that is not 30,000 or 40,000 feet up, and you will be astounded at the vast amounts of clear cut down below, and that primarily is what has caused diseased timber.

As a result of clear cuts, we now have even growth forests, whether it is ponderosas that are planted or whether it is other species planted. They are not multispecies forests, they are much less healthy forests, and that is why when bugs go in the timber is more susceptible to diseases. That is what has happened. It is the managing of the forest. It is partly the private industry management of the forest, and also partly part of the Forest Service management of the forest that caused the problem.

I remind Senators, essentially, we are faced with part of this problem because the executive branch and the Congress, all public officials involved, have put this problem off. Twenty years ago the States of Washington and Oregon warned us about the owl. Did anybody pay attention to it? No. Washington did not. Oregon did not. The Federal Government did not. And Congress did not. Year after year, we sweep the problem under the rug, we do not deal with it. It becomes riders on appropriations bills.

Now the day of reckoning is upon us. Now we have to finally make decisions. We put the decision off for so many years, and that is why with a very short time span facing us we are now faced with potential dire consequences. We did not plan ahead, which is to say if we adopt this amendment, we will be rewarding passing the buck, rewarding pushing off the problems, sweeping the problems under the rug, rewarding administrations that did not follow the law, rewarding, in a certain sense, incompetence and failure of not only the executive branch but, in some sense, the Congress to deal with these problems when we knew the problem was coming many years ago and we did not do so.

Finally, let us not forget, here it is, this is Thursday, we have a lot of legislation ahead of us. This is supposed to be an appropriations bill. This is not a spotted owl bill, this is not an endangered species bill, this is an appropriations bill. We should not reward, by voting for this amendment, efforts to come in at the last moment with very significant legislation which we have not seen before, we have not debated before, we do not know what its consequences really are and adopt it. We should not do so. There is a process under which we should deal with these kinds of matters.

I must say, too, parenthetically, this amendment says it is up to the Secretary to decide. On one hand I can read this as saying the Secretary cannot allow any salvage sales in habitat areas if it has any adverse effect whatsoever. I doubt that is the intent of the authors of this amendment. But that is how it reads.

The recovery plan that is operating in the Pacific Northwest will adversely affect some owl habitat. This amendment on its face could be interpreted to read as being much stronger, that it can have no adverse effect on owl habitat. I know that is not the intent of the authors. I am pointing out it is very unclear, we do not know what we are doing here, this was done at the last minute and thrust upon us and it is legislation on an appropriations bill. For all those reasons, I urge us not to adopt this amendment.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, there are several portions of the remarks of the Senator from Montana that I would like to associate myself with, the remarks that we have not acted decisively over an extended period of time to resolve what is, by anyone's observation, a critical situation growing in the forested public lands of the Pacific Northwest. We saw forests grow literally sicker by the day, by the month, by the year, as bug problems built, as drought continued, as the health of those forests resulted in a building up of fuel that could at some point in time bring us to a crisis situation, but because it was an unroaded area, because of other reasons, some of them cited by my colleague from Montana, we chose not to do anything about them.

As of last night, just in the course of the last month to month-and-a-half, but as of last night in my State of Idaho, in forests—two, particularly—that are generally southern facing forests that are really experiencing the brunt of a 7-year drought, we have lost over 130,000 acres to wildfire.

Our Governor is recognizing now a near state of emergency. These are the very forests that, in large part, are the kind the Senator from Oregon talked about, that you can fly a long way and see nothing but brown, dead, dying trees.

In the wildfire environment there, a year ago we lost homes, people nearly lost their lives in one fire. It is a phenomenally serious problem. But because of certain circumstances in unroaded areas, the Forest Service largely finds itself with its hands tied for all kinds of considerations. It is a question, species of animal or plant that might be endangered?

Let me suggest that in a sick, dead, or dying forest, if that animal is there and that is that animal's habitat, that animal is endangered because the forest itself is endangered. There has been no effort because there is allowed no effort to create the kinds of uneven stands that build health and vitality in a forest environment of which my colleague from Montana spoke. That is why you will find my name as a cosponsor of this legislation.

This Congress must awaken to the fact that it has a stewardship responsibility, not just to protect the environment—that clearly is one of our responsibilities—but it also has a responsibility of recognizing that our forested lands are also a source of great wealth for this country, and that in a balanced and wise use way we can in fact assure the spotted owl and habitat for watershed quality production for the salmon and other habitat for a variety of other species that are under question at this moment as to whether their life cycle is in jeopardy.

All of that is a part of our responsibility. But our responsibility does not, in my opinion, rest by standing on the floor and suggesting we do nothing, suggesting that this is a bill out of the dark. It is not. We have held hearings. I believe the Senators from Oregon and Washington have been trying to be heard on this issue for 3 years at least, and yet this Congress would choose to do nothing. That is not good stewardship in any sense of the word. That is a sheer act of irresponsibility.

I remember several years ago when I was questioning the Director of the Park Service because of the phenomenal buildup in Yellowstone Park about a year from the time of the great fires in Yellowstone. He assured me they were taking care of the problem when, in fact, they were doing nothing.

Now, they had on the books for management purposes the concept of controlled burning, but it was only a concept because the bias in the internal management of the Park Service was that of doing nothing; let Mother Nature take her course. And she did. She nearly destroyed one of the crown jewels of the Park Service in this country.

Now, we would be led to believe that it was a grand environmental event, and that after that grand environmental event, all kinds of magnificent things began to happen. And the phoenix of the grand Yellowstone Park began once again to rise up out of the ashes. Well, truly they were ashes.

Now, I have been there of recent, and I suggest she is having a very difficult time arising.

In decades and years to come, she will make it back. But if man had had reasonable opportunity to manage, we would have a live, vital, and growing Yellowstone Park today. And that will be true in the forested lands of the West if we are but allowed to manage in reasonable fashion under the prescripts of this amendment and the laws and the procedures under which our Forest Service is required to manage today.

This is a good amendment. This does respond to the issue at hand. This will help Idaho and other States that, caught in the grip of drought, are losing their forests. This will build the kind of dynamics inside the environment that truly bring health once again, not to a dead and dying environment, but to a vigorous, young, and renewing environment that becomes the basis for the salvation of a variety of species that by our unwillingness to act are truly endangered.

I strongly support this amendment, and would retain the remainder of my time.

The PRESIDING OFFICER. Does anyone seek the floor?

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I rise to oppose the amendment offered by my colleague from Washington. Rather than helping to solve the problems afflicting management of our national forests, I am afraid this amendment would actually exacerbate those problems. Instead of fostering compliance with our Nation's environmental laws, this amendment would circumvent them.

My friend and colleague from Washington describes his amendment as necessary to remove dead and dying trees from forests in order to control the spread of forest diseases and insect pests and to reduce the chance of forest fires. But these problems are due in large measure to the failures of past forest management practices, the very practices that this amendment would continue.

As the Senator from Oregon [Mr. PACKWOOD], pointed out on November 25 of last year, 1991, when he introduced a similar amendment on the floor of the Senate, at least two of the reasons for these problems are the suppression of forest fires and the way in which these forests have been cut.

I quote from Senator PACKWOOD:

> The combined effects of fire suppression, selective harvesting of the most valuable species of trees, prolonged drought, and successive insect epidemics have led to this alarming situation.

Mr. President, I am afraid that this amendment would revive those same management practices. It would repeat the failures of the past by accelerating logging in the future.

Let there be no misunderstanding, Mr. President, this amendment will accelerate logging on our national forests. While the type of logging authorized by this amendment is called salvage, it is still full-scale logging. Its environmental effects like any other logging include destruction of wildlife habitat, reduced water quality, and erosion. Salvage logging may remove the large, dead, and dying trees, but just as full-scale logging does, it leaves behind a slash which is primarily responsible for forest fires.

Mr. President, the most disturbing aspect of this amendment probably is that it circumvents the requirements of our Nation's environmental protection laws. It would exempt numerous logging operations from the National Environmental Policy Act which requires Federal agencies to assess the impact of their actions on the environment.

This amendment would also undermine the Endangered Species Act by opening the habitat of the northern spotted owl to salvage logging and it would substitute the opinion of the Secretary of Agriculture for that of the U.S. fish and wildlife biologists as to whether or not an endangered species is at risk.

By weakening the laws which protect our Nation's environment, this amendment would reward what U.S. District Judge William Dwyer has described as "a deliberate and systematic refusal" to comply with these laws, reflecting, again I quote, "decisions made by higher authorities in the executive branch of Government."

Mr. President, rather than rewarding these actions of the administration, and the previous one, in defying the law, we in Congress should be insisting on strict compliance with the laws that we have enacted to protect our environment and to manage our great natural resources wisely.

The Endangered Species Act has been much maligned of late with that controversy, with the controversy that presently surrounds it, and the enormous amount of misinformation that is being disseminated about it. And I find it troubling that we should be considering an attempt to change this law in some measure to rewrite it on this floor just before we recess.

If only for that reason alone, as well as the others that I have cited, Mr. President, I urge my colleagues to oppose this amendment.

I thank the Chair. I yield the floor.

Mr. MURKOWSKI. Mr. President, I have listened to the debate at length with regard to the issue that is being offered by the Senator from the State of Washington. I find this an extraordinary presentation of misstatements. What we have before this body is a concentrated effort by America's environmental community to simply stop logging on our national forests. That is their objective. That is their commitment.

I look at the gridlock that this country is in, its inability to continue to expand the economic base through sound resource jobs. I look at the issue of labor as it affects the reality associated with whether we can have sound forest management practices in the sense of harvesting timber, and I find it rather amusing because on the one hand we have the clear-cut position of the extreme environmental community.

Lacking is the voice of organized labor which obviously represents the interest of the working man and woman, whether they be in the automobile plants of America, or in the forests, or in the sawmills. More often than not, we find perhaps by coincidence the issue of the environmental community and organized labor standing side by side. I wonder if at times organized labor is being led. But I find it extraordinary that organized labor is not out in front on this issue recognizing the harsh reality associated with the men and women who depend on the timber industry for their survival, for their prosperity, for the future of their children.

I am in support of the amendment being offered by the Senator from Washington. I think anyone who would sit and read this amendment would recognize that this amendment addresses sound forest management practice. What we are dealing with on this floor is the emotional issue where one Senator will stand up and criticize the application of clear-cut procedures because that Senator does not like the looks of a clear-cut.

History will show that the area from northern California through the State of Oregon, through the State of Washington, on up into southern British Colombia have been devastated for generations by forest fires that burned out of control until they stopped as a consequence of rainfall. Then along in the early 1800's those fires began to be checked.

We talk about ancient growth. it is a misnomer. There is no such thing as ancient growth. There are some timber stands that are older than others. The senior Senator from Oregon portrayed to the Energy Committee some time ago charts showing forest fires that took place generations ago that were uncontrolled. These charts clearly showed that the timber we look at today, whether it be ancient growth or old growth, is second, third, or fourth growth.

A forest is like a wheat field, only the cycle is longer. The trees grow, the trees die. the environmentalist say my State of Alaska is full of virgin timber. Surely it is virgin timber, yet 30 percent is dead or dying. You go in the forest, walk through areas, that have never been logged, however you see old logs decaying and dying.

What we are talking about here is a salvage fund authorized under the National Forest Management Act to improve the forest health, through management actions, improve stand density, compensation, salvage dead and dying timber, remove or treat sources of infestation, and reduce excess fuels that cause fires.

Good heavens, anybody that is in favor of sound management has to support this bill. Yet the other side is coming from the environmental point of view; says absolutely nothing; it is all right evidently for the beetle to kill the spruce but it is not all right for mankind to go in there and try to help the forest, remove the dead vegetation, the dead trees that are dying, use them for something productive, and stop the movement of the spruce beetle.

It is just incredible the general concept that exists in this body of Members who are emotionally moved to believe that the concept of clear cuts are terrible. Clear cuts are a practical management technique used in harvesting the forest. As you fly over all parts of the Cascades in the Pacific side, you see clear cuts. They have been occurring for decades. It is a practical technique. The second growth is much denser, much better than the initial growth.

That is the problem we have in Alaska where all we have is a virgin growth; no second growth of any consequence. The few areas that we have cut as late as the Second World War have tenfold per acre the volume of timber. It is new timber. It is healthy timber.

These are myths that we are dealing with in this body. But yet they emotionally rise up and say this is some kind of charade, this is some kind of an effort to pull the wool over the eyes of an issue that really speaks for itself, and that it is that somehow this is not good forest management practices.

This is good forest management practice. It is management practice professed by professionals that spend their lifetime in the forests recognizing the adequate way to harvest the resource.

If we look at reality, in my State of Alaska, in 1991 an aerial survey detected the spruce bark beetle infestations on approximately 375,000 acres. That is 585 square miles. That is 8½ times the size of the District of Columbia. That is an increase of more than 130,000 acre over levels that were infested in 1990.

On the Kenai peninsula in Alaska the spruce bark beetle has killed trees on more than 700,000 acres since 1970, or some 35 percent of the forested lands on the peninsula. How big is that? Nobody around here really knows. It does not mean anything to them. Well, 700,000 acres is 1,093 square miles. That is an area as big as the State of Rhode Island. That is just in one area of my State.

The greatest threat to the health of the Kenai peninsula forest is the population of the spruce beetle. We have been unable to address it because of the demand of the environmental community who said "Don't touch that timber." Is that sound forest management practice? The beetle simply moves on to the next timber.

I am giving you figures of the spruce beetle only. There are many other areas of disease in Alaska.

We have not talked much about blowdowns. The wind does not blow much except in this Chamber. But in reality, in the forests of Alaska, the wind does blow. We had billions of board feet lost in the Thanksgiving blowdown of 1968. Millions of acres were lost. What happens to that timber when it falls down? It begins to die, to deteriorate. There are those that say that is part of the natural evolution, and it should be left alone. That is hypocrisy.

It is all right for the beetle to kill the timber but man cannot salvage it. Come on. That is ridiculous.

I think the environmental community should face up to its responsibility concerning the problem and try to solve the beetle problems in my State, the blowdown, the diseased timber on the west coast of the United States. There is no reason to have these lost jobs, the soil erosion that is a reality, and the increased fire hazards associated with it.

What we need is to move out of this myth of emotion and bring sound, scientific knowledge into our forests.

I support the Gorton amendment.

It allows for timber salvage in Alaska.

It allows expedited environmental review of salvage plans.

And it allows expedited environmental review of salvage plans.

And it allows timber salvage in spotted owl habitat.

I support all these improvements in forest management practices.

I implore my colleagues to apply basic reason to the issue before us.

Mr. WIRTH. Mr. President, it was a privilege to chair a hearing of the Public Lands Subcommittee of the Energy and Natural Resources Committee on a version of this amendment.

This provision is different in some respects from the one we had the hearing on. The initial amendment was focused just on the salvage problem in eastern Oregon and eastern Washington. That was what we were attempting to focus on in the legislation upon which we had a hearing.

There is, from the testimony that we heard, a significant problem there. There is a lot of beetle kill. There is a significant salvage problem, and that was described to us by Mr. Beuter, the Assistant Secretary of Agriculture in charge of Forestry.

So as we went through the hearing, I asked Mr. Beuter—and I will read from the transcript, if I might. I asked Mr. Beuter:

> What is in the law now to preclude you from what you say has to be done in the way of salvage? Why are you not already doing this? If this is important to do, why are you not already doing it?

In other words, do you need this legislation in order to do the salvage? Mr. Beuter's response was:

> We are already doing it.

Later on, Mr. HATFIELD came in and said:

> Then why have you not been able to execute your preparation in fiscal 1992?
>
> Mr. Beuter: The answer to the question is there is nothing in this amendment that would enable us to do things that we are not already doing.

In other words, the Forest Service can already do all of this salvage. Forest Service said they do not need this language. They can already do the salvage sales they need to do.

In fact, Mr. Beuter told us that they already have a significant amount of activity in the pipeline now.

So we have established, through the hearing, very clearly, on the initial and more modest amendment, that it was not needed. The Forest Service can already do this. Mr. Beuter, the Assistant Secretary in charge of Forestry, told us they can do it.

Therefore, you have to say to yourself, Mr. President, there must be something else in here; there must be some other reason for having this amendment in front of us today. It is not because of salvage, because Mr. Beuter is already saying we can already do all of these things. So what is the other reason for this amendment?

Well, we sort of uncovered the fact that the initial amendment did not make a lot of sense. Thay do not need it. So the amendment has been changed, and what do we find now? We find now that the original amendment was a Trojan horse. Open up the Trojan horse, and out come the soldiers. What are the soldiers?

One, a NEPA waiver. We have in this a waiver that says in forests all across the country—not just where we were originally told the severe problem was, in eastern Oregon and eastern Washington. We found there is a NEPA waiver so you do not have to do an environmental statement to do salvage sales. Say there is a major blowdown or a major beetle kill; you do not have to do an impact statement on it cutting that timber. You do not have to go through a public review process. If the public thinks you should not be doing this in their community, it need not be reviewed by the public. You do not even have to do a broad public notice.

That is what is in this Trojan horse. Effectively allowing the Forest Service not to do an EIS or all of the other items we ought to do in an accountable, democratic society.

What this is is the timber industry coming around and saying: we want to be allowed to go in there without these formal agency reviews or public comment. I am reminded of the Council on Competitiveness. You know, the back door to get out of environmental and public safety regulations; the back door in the White House. This is another back door.

We should not do this. There is no reason for doing this. We do not need it. The Forest Service told us they did not need it. What are we doing? We are making a different kind of a statement about what we think a democratic society ought to be. We are making a different kind of a statement about the checks and balances in a democratic society. We are making a different kind of a statement about public review. We are making a different kind of a statement about public notice.

Mr. President, I cannot imagine that my colleagues are going to vote to support this. This does not have anything to do with salvage rules±.

The Assistant Secretary in charge of forests told us—I read the transcript—that they are already doing it. He said: "We are already doing it," and "The answer to the question is that there is nothing in this amendment that would enable us to do things that we are not already doing."

What is afoot here is a totally different agenda, which is to waive the National Environmental Policy Act; you do not have to do an EIS, public notice, or a public review process.

And then, to add insult to injury, at the end of this comes the very clear reason as to what this amendment is all about. We have a section called "The Spotted Owl Forests." And the purpose of that obviously is to waive the Endangered Species Act. That is what this is all about. Let us waive the National Environmental Policy Act and get rid of the Endangered Species Act.

That is what this is about. This is a Trojan horse, a fake; this does not have anything to do with being able to do salvage sales. It is not a salvage agenda. The Assistant Secretary told us they can already do everything that has to be done in terms of salvage.

Mr. President, I ask unanimous consent to have printed in the RECORD pages 37, 38, and 39 of the testimony, when Mr. Beuter, the Assistant Secretary of Agriculture, came up and told us—this is a transcript of the hearing of last week—they can already do these things.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Transcript of hearings before the Subcommittee on Public Lands, National Parks and Forests, U.S. Senate, July 28, 1992]

HEARING ON THE HEALTH OF THE EASTSIDE FORESTS IN OREGON AND WASHINGTON; AND AMENDMENT #1442 TO S. 1156, THE FEDERAL LAND AND FAMILIES PROTECTION ACT OF 1991

Senator WIRTH. Thank you very much, Mr. Jamison. I think what we might do is proceed to questions and then the other witnesses that are here, I understand, are prepared to help or add their perspective in answer to the questions.

Can I ask you, first of all, is the Forest Service now conducting any salvage operations in this impact area described by Senator Packwood?

Mr. BEUTER. Yes. The Forest Service is doing the best they can to get out salvage. Some forests are further ahead than others, but there is an extensive salvage program underway in Eastern Oregon.

Senator WIRTH. What does the amendment allow you to do that you currently cannot do?

Mr. BEUTER. Well, the amendment would confirm commitment, to some extent, to speed up the process that these activities are part of the total forest health package.

Senator WIRTH. In other words, you can already do this, and the memo would just encourage you more to do this. Is that right?

Mr. BEUTER. Well, the amendment firms up the need. The thing that is not widely understood is that time is of the essence in these activities.

Senator WIRTH. Well, is there anything in the law now that precludes you from doing what the amendment calls upon you to do?

Mr. BEUTER. To some extent, I think much of what this amendment has is already allowed under the law.

Senator WIRTH. What is in the amendment that you cannot already do? You have spoken to the urgency of the problem, as has Mr. Jamison. What is in the law that precludes you from currently doing what you have argued urgently requires to be done?

Mr. BEUTER. Well, the amendment addresses, for example, the aspect of time being of the essence, the point that we may need more of an understanding—

Senator WIRTH. What is in the law now that precludes you from doing what you say has to be done? In other words, why are you not already doing this? If this is important to do, why are you not already doing it?

> Mr. BEUTER. We are already doing it.
>
> Senator WIRTH. Then what is in the amendment that we are having a hearing on and going to a lot of trouble to consider—what is in the amendment that provides you with authority that you do not already have or obviates items that are in the law that currently preclude you from doing this?
>
> Mr. BEUTER. Well, I think to some extent, I think, Cy Jamison pointed out what the law is explicitly with regard to BLM.
>
> Senator WIRTH. Well, just from the perspective of the Forest Service. Now, presumably you all have been attending to this problem and it has been of concern, now what is there that this amendment does that you cannot already do? May some of your colleague have an answer they can give us.
>
> Senator HATFIELD. Will the Senator yield for just a moment?
>
> Senator WIRTH. I would be happy, Mark.
>
> Senator HATFIELD. Mr. Beuter indicated that they are preparing for fiscal year 1992 timber sales as far as salvage is concerned. Maybe we can get to the crux of that question by asking of that 400 million board feet that you have prepared or have recommended for salvage in 1992, how much of it has occurred, and what are you preparing for 1993? Some 450 million more board feet, correct?
>
> Mr. BEUTER. Yes.
>
> Senator HATFIELD. Then why have you not been able to execute your preparation for fiscal year 1992?
>
> Mr. BEUTER. Well, the answer to the question is there is nothing in this amendment that would enable us to do things that we are not already doing. It would speed up the process.
>
> For example with regard to appeals, with regard to a clarification of the NEPA requirements, that would be necessary to—

Mr. WIRTH. Mr. President, this amendment does not have to do with salvage or with the eastern part of the Cascades. It is not needed to do salvage sales in eastern Oregon or eastern Washington. It is the timber industry attempting to loop around and solve what it believes is a problem: public notice and public review. They are saying we do not want to have that. We just want access to the national forests, and not just in Oregon and Washington, but all across the country.

This is also about the waiver of the Endangered Species Act, a totally different agenda, which I know that the Environment and Public Works Committee is reviewing. It is an extremely complicated and difficult issue.

The Endangered Species Act is the most aggressive anywhere in the world, protecting species. Believing in the protection of species, believing in biodiversity, some of us think that his should be a resounding and wonderful and proud commitment by the American people. Others want to erode it away. Let us debate that.

I know the Senator from Montana is having hearings on this, and is looking at this. But let us not undo this act in an amendment to an appropriations bill, under the guise of being able to take care of some salvage sales.

In summary, Mr. President, this amendment has nothing to do with salvage and salvage sales.

The Assistant Secretary of Agriculture told us that. I have put his quotes, the questions and his answers, in the RECORD.

Senators should be aware that this amendment applies to national forests in their States. If it passes, environmental impact statements can be waived; public notification can be waived. I cannot believe people want to go home and say, "I waived public notice" to people who live around the forests. "Do not worry about the timber guys who will be there. Let's get rid of the Endangered Species Act and slip that through the back door, too."

If I have not made myself clear, I hope we vote against this amendment.

Let me go through this again, Mr. President. I had the privilege of chairing a hearing on an earlier version of Senator GORTON'S provision. That earlier provision only affected timber salvage sales in eastern Oregon and Washington—this proposal we have before us today affects all national forests, everywhere.

Basically, his proposal waived the National Environmental Policy Act, waives the right to administrative appeal, and limits judicial review for these sales.

At the time of the hearing, I supposed that the purpose of this was related to the very specific situation in eastern Oregon and Washington, where there's been a long drought that has caused some serious insect infestations in the weakened trees there. Salvage sales, as most of my colleagues know, are sales of areas of forest designed to harvest dead or dying timber before it rots or burns.

So we know that there has been a big increase in forest health problems on the east side of the Cascades, and there might well be far more need—or at least opportunity—for salvage sales than there has been in the past.

Now, the remarkable thing about all this is that when I asked the Forest Service witnesses at the hearing if the bill was necessary to accomplish a very ambitious program of salvage sales in these forests, they said no, it wasn't. They said they had a large volume of these sales in the pipeline, and that they were coming along just fine. That was the testimony of Assistant Secretary Beuter.

That's not to say that there aren't controversies about some of these sales—I know for a fact there are, and there will be. But the key here is that the Forest Service did not believe these waivers of existing law that all other timber sales across the country have to meet, and the restrictions on appeal and court challenges, were essential to their program of selling dead and dying timber on the east side of the Cascades.

Given that, Mr. Chairman, I hope we will refrain from rewriting these laws on an appropriations bill, given my conclusion that there was no urgent need to do so.

There's no urgent need to do so in the Northwest, where we know that there's been a far greater forest health problem than normal. So it is even more unlikely that we would need to do so everywhere else in the country.

Now, Mr. President, there's one more thing in this provision, which goes way beyond where Mr. PACKWOOD'S original bill went. It says that the Forest Service shall allow salvage sales in spotted owl habitat.

Now, remember that the salvage crisis was supposed to be on the east side of the Cascades—and that the owl is on the other side of the mountains, on the west side. And remember that salvage sales, while they are directed at cutting areas that have dead trees, aren't restricted to dead trees. They don't go in and just harvest dead trees. No, they clearcut, and the timber companies are happy to take many living and perfectly healthy trees in addition to dead trees. In many salvage sales, the healthy trees far outnumber the dead trees.

So here we have an override of virtually all our environmental laws, virtually everything, on the basis of having some dead trees in an area. Frankly, Mr. President, that would be a huge step backwards in our approach to our national forests. I urge my colleagues to oppose this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks the floor?

Mr. ADAMS. Mr. President, I rise to ask how much time remains on each side.

The PRESIDING OFFICER. Different amounts of time have been allocated to different individuals: Senator PACKWOOD, 12 minutes; Senator BAUCUS, 2 minutes, 20 seconds; Senator CHAFEE, 10 minutes; Senator MITCHELL, 40 seconds; Senator GORTON, 10 minutes; Senator CRAIG, 2 minutes; Senator BURNS, 10 minutes; Senator ADAMS, 2 minutes.

Mr. ADAMS. Mr. President, I see that Senator CHAFEE has arrived on the floor, so I will yield the floor so he may speak.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, before I begin, I remind my colleagues that, once again, we are proceeding to legislate on an appropriations bill. That was an argument that was used against the Fowler amendment last evening. I voted to table the Fowler amendment because of that, and it seems to me that we ought to remember that when there is legislation on an appropriations bill, whether we agree with it or not, we should make some attempt to maintain a consistent position.

I will admit, Mr. President, that I probably have not been totally consistent on this myself. But, nonetheless, I inherently do not like legislation on appropriations bills and, to the extent possible, try to avoid them. And that, as I mentioned, was one of the reasons that I voted to table one of the Fowler amendments.

It seems to me that this is a very, very complicated issue that we are dealing with. Certainly, it is not an original issue. The Senator from Oregon and the Senator from Washington have dealt with this for many years. I know it has been an extremely troublesome one, and, of course, the root of it is that the forest officials, U.S. Government officials, have failed to abide by the law. And that is the real problem. That is what provoked the Judge Dwyer injunction, as we are all aware. I do not think anybody would dispute that. That is why it came about. It is too bad that in the beginning they did not obey the law and move along in a methodical fashion, or perhaps we would not be involved in all these difficulties now.

Mr. President, this amendment by the Senator from Washington would waive or affect—and I use that word "affect" because, clearly, there is a dispute on this, and in discussions with the Senator from Washington, he has indicated that he does not believe that his amendment affects the Endangered Species Act. I have trouble reading it that way, and it just indicates that people can sincerely disagree on the provisions of legislation.

But I do not think that the proponents of this measure would disagree that it waives the National Environmental Policy Act or the National Forest Management Act. What it would do is allow the harvesting of timber in an area which has been determined by scientists to be important habitat for an endangered species, in this instance the spotted owl. There would be a gain, and there is no question about that, and that is, of course, obviously the reason that the distinguished proponents of this measure are so fervently for it. How long term the gain will be I do not know. Obviously, they are from the area.

I just wonder if the real problems that have arisen in the area—which I will not claim great familiarity with—have not come out because of really disastrous policies as well as cutting in these national forests. Now, the areas available are reduced and so, for the preservation of jobs, it it sought to open up these lands.

I recognize clearly that that is not the measure directly before us now. The measure directly before us now deals more promptly with the so-called fallen timber.

I would like to first state that I sympathize and can understand the problem that the Senator from Washington has in his desire to help those communities. I understand that the Senate appropriations bill provides local governments with some extra money to replace the timber receipts that they are losing, but clearly that is not enough and clearly it does not provide for the money that would come from the jobs available should there be a thriving logging community available.

Mr. President, I see nothing wrong with allowing salvage sales that are truly environmentally sound. In fact, they are being allowed. The information that I have is as follows: Over the past several winters in Oregon and Washington, 700 million board feet of timber have blown down. According to the Forest Service, 75 percent of that, or 515 million board feet, have been or soon will be sold for harvesting. Only a small amount, 25 percent of the total 115 million board feet, of this timber is located in spotted owl habitat conservation areas. These areas were defined in the Interagency Scientific Committee report, the so-called Thomas report, as important habitat for the owls where timber harvesting should not occur. A separate technical committee of scientists evaluated the proposed salvage sales in this area and rejected them as inconsistent with the Thomas report. The other salvage sales have been allowed to go forward.

It seems to me one point that is important to note—and I am not quite sure why the proponents did this—is that the application of this amendment, as I read it, is not limited. All Forest Service and all BLM lands, not just those in the Pacific Northwest, are covered by the first part of this amendment.

This amendment would exempt any qualifying salvage sale from the requirements of the so-called NEPA, National Environmental Policy Act, and direct the Forest Service to prepare environmental assessments rather than the full environmental impact statements for these sales. Already under the National Environmental Policy Act, we have provisions for the preparation of assessments in lieu of full-blown environmental impact statements in appropriate circumstances.

The question again becomes why are we treating salvage sales differently from other sales? The nature of the forest health improvement projects—and those are words directly from the amendment as proposed by the Senator from Washington—forest health improvement projects that would be exempt from NEPA under the Senator's amendment is not well defined. The amendment states only that the projects should "improve forest health through management actions, including salvage."

Mr. President, this is different from other legislation dealing with this matter. For example, in the House, in H.R. 4980, the bill there limits the salvage sales that would be eligible for the expedited review that I have discussed under the so-called NEPA. It would limit those salvage sales for expedited review to lands on which 60 percent or more of the trees are currently dead or expected to die soon, where the trees threaten human life or property or increase the risk of fire, and where salvage sales would improve the long-term health of the forest.

The House bill is extremely broad. There is no question about it.

But it has some criteria. The Senate's amendment gives the Forest Service unlimited discretion to use salvage sales as a method to open unenvironmentally sensitive areas to full-scale logging activities.

Now I know there will be a dispute here; the argument, that they are not large-scale logging activities, they are salvage sales.

But I think we ought to stress, Mr. President, that salvage sales are not necessarily environmentally benign. Salvage is done in many cases by clear-cutting and can destroy or degrade habitat or damage watersheds. Salvage sales require the construction of roads and the use of the same heavy equipment as other timber sales and can indeed cause environmental harm.

And I might point out, Mr. President, that when we are talking about what these forest health improvement projects are, and I quote: "Such projects shall be designed to accomplish the objectives of improving forest health through management action that improves stands, density and composition." I can only believe that stands and densities go beyond salvage.

Now, Mr. President, at a recent hearing before the Energy Committee on the salvage sale issue, the assistant Secretary of Agriculture, Mr. Beuter, testified that the Forest Service already has adequate statutory authority to conduct salvage sales in national forests and that this amendment is not needed.

In addition, the Appropriations Committee report accompanying this bill already directs the Forest Service to "pursue aggressively salvage opportunities while complying with existing environmentally mandates."

It seems to me this is a fair and reasonable approach. That is why I question the need for this sweeping amendment.

Finally, Mr. President, I think we should take a long look at the consequences of our actions.

I must say it is no secret to anybody in this body that I have been a long-time proponent and supporter of the Endangered Species Act and those acts that are supportive of the direction of the Endangered Species Act. I know that the Senator from Washington will vigorously argue that we are not dealing with the Endangered Species Act. And, indeed, in our discussions he had indicated that to an extent this may well be strengthening of the act, although I have trouble following that argument totally.

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. CHAFEE. Mr. President, I ask unanimous consent to proceed for 2 more minutes.

The PRESIDING OFFICER. Is there objection? The Senator from Rhode Island is recognized for 2 additional minutes.

Mr. CHAFEE. Mr. President, this is part of an issue that has, as I mentioned before, been before us for some time.

It is my fervent hope, Mr. President, that somehow, in that section of the country that is so important to all of us and to our Nation, we could arrive at a solution that has those forests producing what we call sustainable yields. Our environmental laws, I believe, allow ecological sound salvage sales to go forward. I do not believe this amendment is necessary. I am not in favor of it.

But, Mr. President, regardless of what happens with this amendment, which I shall vote against, I hope that a long-term solution can be developed so every year we are not back on this problem.

Certainly everything I could do with the limited powers, whatever I might have, I would devote to being able to achieve that goal. Because I hope that as we lecture the rest of the world, and particularly the South American and Central American nations, that there is not necessarily a choice between the environment and jobs.

That is the theme we are carrying. That is the language we use in connection with Amazonia. Those of us who have been there, have met with the Brazilians and others. And all we are saying is, it is not necessarily a conflict between environment and jobs. I hope we could put behind us this conflict that seems constantly to be there in this particular section that says it is either the environment or jobs. And, indeed, some have said, and very sincerely, that if it is a choice of the spotted owl or if it is a choice of jobs, it is a tragedy, but the spotted owl has to go. So be it.

Well, I hope that is not necessarily the choice we have to make. I hope we do not have to destroy the owl. And by the way, it is not just the owl. There is a whole series of other species including the salmon, as those who come from the area well know, that could be threatened as well.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator's time has expired.

Mr. CHAFEE. If I might have 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Madam President, clearly if we destroy the forest there will be no jobs. Once again, the solution to this problem is sustainable yield, and I hope we can all work toward that goal. I thank the Chair.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized for 10 seconds.

I am sorry. The Senator is recognized for 10 minutes.

Mr. BURNS. Thank you, Madam President.

Auctioneers sometimes can get it done in 10 seconds, but we will not go into that mode today.

Madam President, I doubt if I will take my 10 minutes. I just want to remind this body that no matter how much logic you put up about this issue—and I am like my colleague, Senator CHAFEE, I wish there was some way that we could resolve this and the issue would go away. But we cannot, because there will always be those who will crowd the system just a little bit. And as long as that goes on, you will always have controversy.

The only way that you are going to have this problem go away is to put all the public lands into private lands, just sell it. And then we can hound on the private landowner and we can encroach on him.

This is not an owl issue. This is not even an endangered species issue. This is a common sense issue, that we take the dead and dying trees and the windfalls that are on the ground and make some use of them for the American people, of which it is coming off of their lands. That is the issue here. There is no other issue.

Now you can put a lot of words and you can make a lot of flowery speeches, but basically that is the issue: Can we use those dead and dying trees now, and the blowdowns, to the benefit of this society? And I think that is one of the calls of public lands and how they are managed, is to be used to the benefit, highest benefit of the American society. So it is not an Endangered Species Act.

I do not know how many people saw the fires of 1988 across Montana. I think I heard the Senator from Idaho awhile ago sort of describe to you what happened in Yellowstone Park. Let me tell you that we will never see Yellowstone Park again like it was prior to 1988. There are people who will say that was a great environmental event. I can take you up there right now and tell you it was not a great environmental event. In fact, if there is anything, there is a sin being committed there right now because it is overgrazed. They have too much livestock on it. Too many buffalo, too many elk, too many everything, and we are in a dry year again.

So, basically, it is this: They cannot harvest the dead and dying or the windfalls in wilderness-designated areas or in areas where there is sensitive wildlife habitat without some consultation with the U.S. Fish and Wildlife Service. And it does not make sense. In Montana where we have the problem with the mountain pine beetle, it does not make sense just to let that rascal go clear through our forests and take them all. It does not make sense at all.

If we had a disease in this society, we would not allow that to happen if it was among people. If they were the dead and dying, we would be taking some action.

I cannot help it. I do not know why we would allow this on our public lands and among this precious resource that we have that benefits so many Americans.

There are three things that make a forest fire. Take one of them away and you do not have a forest fire or a wildfire. You need three things: Air, fuel, and heat. That is all you need—fuel. And what we have in these blowdowns, these dying and dead trees, is a very, very explosive fuel that when ignited, it just goes. We have seen the fires of the Bob Marshall Wilderness, and of Yellowstone Park—we could not get those fires under control at any stage because of the extreme heat and the extreme amount of fuel that was available to burn in the underbrush. So, if science tells us the endangered specie has a place, then science would also tell us that we should harvest the dead, dying, and the windfall.

By the way, those folks who would want to apologize to those families in those communities who kind of need the job, I do not see those folks going out there and looking those people in the eye and saying: I am sorry, we are not going to let you do it.

Why do you not drive down to one of those little communities one time, look at their families, and walk into their schools and tell them: No, we are not going to let you cut. We are not going to let you salvage harvest.

What little money they get from the excess profits tax or whatever that comes back to the communities does not mean anything when you talk about payroll, paying for pickups, homes, schools, raising kids, and putting food on the table. They do not even touch it.

So I would want those who would be a little skeptical on the purpose of this to go down there and talk to those families. I do not see a lot of folks doing that, jumping in the car and going down there and meeting with those folks—and especially with some of the very good families who are members of these wood products unions, members of the AFL–CIO, who support this amendment. You go down and tell them that they cannot work, they cannot cut, and they cannot provide for their families.

So, this is not an endangered specie debate. It is not even close. It is a debate on whether we should go in and help Mother Nature out and take out those dead and dying trees and get these forests back in the production that they should be in. I support this amendment and I urge my colleagues to do so.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon has 12 minutes.

Mr. PACKWOOD. Madam President, I want to correct some misimpressions that have been left here today. First there is reference to clearcutting by several speakers, as if it were evil. Let me explain what clearcutting is as opposed to selective cutting. Clearcutting is where you will take 10, or 20, or 30, or 40 acres and you cut all the trees in it, and when you are done you replant. You have, as you see from the air, or anywhere else, a large square—usually a square, not always. Then next to it 10, 20, 30, 40 acres of green trees that have been left. Then you will see another 10 or 20 acres that have been clearcut. Those are called clearcuts. You do not clearcut hundreds of miles. You do it on a patchwork basis.

The reason you do it, and it is done mostly on the west side of the Cascade Mountains—the Cascades in Oregon are to Washington what the Sierras are to Nevada; it is a string of mountains. You do it on the west side because the principal timber is Douglas-fir and that does not grow well in the shade. It is called shade intolerant. Indeed, if you clearcut it, it would grow—it would grow, but it would be inferior than if you cut it and it has direct Sun when you replant it. When you have pine it is not normal to clearcut. Pine trees are not shade intolerant. You selectively clearcut, take a tree here, there, there, there. It is a different form of what they call silviculture—management. The clearcut looks bad and indeed clearcutting can be done badly. If you are on a slope and there is a stream at the bottom of the slope and you clearcut right down to the stream, you are going to have a whale of a lot of mud and silt, when it rains, going down that clearcut into the stream. That is bad management practice.

But the reason for the clearcut is so that you can grow your forests better.

The Senator from Montana and the Senator from Rhode Island made reference to the Forest Service was not following the law. Perhaps they were not, although it is not quite as easy as all that. Up until the passage of the Wilderness Acts, they really only started in the midsixties, we managed all of the public land on what we called a multiple-use basis and we directed the Forest Service, the Bureau of Land Management, to manage it for recreation, stream enhancement, fish and wildlife protection, timbering; and they would set aside some parts for recreation, some parts for stream enhancement, and they managed it on a multiple-use basis. We said to them, this is the goal of the timber you are to get out, and we set goals. Each year would be so many feet—board feet as we call it.

That worked, by and large, pretty well. But now here is where problems started. I said earlier we do not produce enough lumber in this country to meet our needs. We have for the better part of a quarter of a century imported anywhere from 20 to 30 percent of our lumber from Canada because we do not produce enough in this country. Let us say the Forest Service, as an example, had 20 million acres they were managing and they set aside 4 million acres of it for recreation, for nontimber purposes. So they had 16 million acres for timber. Out of that they figured they could produce a certain amount of board feet, managed on what we call a sustained yield basis: you cut the trees, you plant the trees, you cut the trees, you plant the trees.

Then Congress comes along and says of that 16 million acres we are now going to put 3 million of it in wilderness in addition to the 4 million that has already been set aside for other purposes. It is clear now you are not going to get as much lumber off the remaining 13 million acres as you were going to get off the 16 million acres. And over the last 20 years we have been setting aside for nontimber purposes more land.

Then along came the Endangered Species Act in the midseventies. The Forest Service was not used to dealing with it. It had not had it on the books before and the Forest Service is still trying to produce as much lumber to meet our needs as they can within the bounds of what they regard as respectable forestry. And there is an honorable difference of opinion on the issue. If you take two Ph.D.'s from any school in the United States who do not work for the environmentalists or the timber companies and say: How many trees can we cut off this land? They will differ when you give them the same goal: Sustained yield, trees forever. They will differ in their judgment as to how many trees you can cut. It is an honest, academic, fair difference.

The Forest Service is trying to produce the levels of timber that we had told them to get. But, on top of that we impose the Wilderness Acts, and Endangered Species Act, and Environmental Protection Act and other things, things that limit their ability to do it. And I am not going to argue whether they ran afoul of the law or not. The courts said they did. This was not malicious, evil, greedy civil servants—because that is what they were. Career Forest Service people, trying to do the public good. But the court said you are not managing the forest properly in accordance with the Endangered Species Act or the Environmental Protection Act, or the Wilderness Acts, or all the other acts we imposed upon them.

I am not going to quarrel with that. I think the courts have probably interpreted the laws correctly and if we do not like the laws we should not blame the Forest Service because they did not quite understand them as they were being passed. We should say if we do not like the laws the way the court is interpreting them we should change them; not blame the courts.

So that is one. Forest Service, if they did violate the laws they did not do it maliciously.

Second, we are told we should not legislate on an appropriations bill, and that is indeed the rules of our Senate. The Endangered Species Act, however, which I would like to change, runs out this year. I thought we had the votes in the Senate until Senator GORE was selected as a Vice-Presidential nominee. He is perhaps the leading environmentalist for the Democrats, and I do not think, given the ticket this year, they would want to change the act in the midst of the campaign.

But our only chance to change it is on an appropriations bill if we want to do it this year. The act is not going to come up for renewal and it runs out this year. It is a catch 22 situation, you tell us not to do it on this bill but then they do not bring up the act, which is the act itself, for renewal. So what do you do, say tough luck? Well, we are just trying to use whatever vehicle we can to do this amendment.

Last, and my good friend from Rhode Island said I hope it does not have to come down to a choice between the owl and jobs—well, that is what it has come down to.

I want to emphasize again, under the Endangered Species, Act, if any kind of bug or plant or bird is declared threatened or endangered, then the Government has to come up with a recovery plan that leads to taking that, in this case the owl, off the endangered list. You have to have a recovery plan that makes the population of owls come back up.

You are entitled to consider economics, jobs if you want to call it. It you can consider jobs and make the owl come back up so it is no longer endangered, you can consider both of them. But you cannot consider jobs if, in order to do it, you have to shrink the recovery plan to such a level that the owl might disappear. You cannot then consider jobs.

When the recovery plan for the owl was designed, there were a number of areas that were left out of what we call the critical habitat. You can continue to log on those because it was determined by the Fish and Wildlife Service that we could have a recovery plan and leave some areas out. But they finally said, we have reached a critical threshold below which we cannot go in the management of these lands or the owl will disappear.

So they drew a plan, as all of this acreage that is no longer going to be on limits for forestry—my hunch is in a few years not on limits for anything else—and it is going to cost about 35,000 jobs in northern California, Oregon, and Washington and it is an either/or situation. We are not down now to the situation where maybe we can protect the jobs and the owl. Any land that can be left out of the recovery plan and still used economically has been left out.

So the question becomes: Is the owl worth 35,000 jobs—and I will emphasize—family wage jobs? These are not minimum wage jobs. Many of them are unionized jobs. That is why the unions are so strongly on our side of this issue. These are jobs for kids coming out of high school, 18 years of age, and will pay anywhere from $8, $9, $10 an hour starting wage, and in a town of 15,000 in southern Oregon, that is not a bad job.

So while my friend from Rhode Island wishes this was not a contest between jobs and owls, it has become one and you have to make a decision as to which side you are going to come down on. I simply said if I am going to throw 35,000 decent people, 40-, 45-year-olds who worked in the mills and woods, 20, 25 years, married their high school sweetheart, had a couple of kids, they vote, bowl on Wednesday night, and teach their kids to hunt and fish and they are good environmentalists; they are out, told to be retrained, and go to work in the electronics industry 300 miles away for $6 an hour when they are making $15 an hour, that is the choice.

That is not the choice this amendment poses, but it is the choice that eventually we will have to make. Those who will not change the Endangered Species Act cannot attempt to finesse it by saying I hope we do not have to make a choice. We do have to make a choice. The question is who is going to come down on the side of people? Who is going to come down on the side of birds? On occasion, those are the hard choices you have to make.

I thank the Chair.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana has 2 minutes.

Mr. BAUCUS. Madam President, this amendment essentially only comes down to this: We have heard a lot about the Endangered Species Act, which some of the proponents of this amendment say really is not involved here, essentially it does not come down to whether to allow salvageable timber sales, that is to allow timber sales to go in and salvage timber. That is not this debate. That is not this issue. Of course, the Forest Service can go in and ask timber companies to put up bids for salvage timber. That is not this issue.

This amendment really is whether to allow salvage sales on areas that are prohibited by law and prohibited by court injunction. That is owl habitat. There is a lot of salvage timber in this country—in Oregon, Washington, and California—that is not covered by Judge Dwyer's injunction as Forest Service lands. So this amendment is not whether to allow or not allow salvage timber sales.

This Senator, along with the other Senator from Montana, last year, on an appropriations bill—I might say to the Senator from Oregon—directed the Forest Service to go in and salvage, to offer sale on salvage timber in Montana so long as it was consistent with all environmental statutes. Of course, that was in the law. I must say not much timber was taken out because the Forest Service did not, frankly, do what I thought it should do. Nevertheless, it was an effort to take timber consistent with our environmental laws.

So I say to Senators, Madam President, if they want salvage timber to be harvested, that is fine. This amendment allows that, except this amendment wants to go further and asks the Forest Service to go in and take salvage timber in areas that are off limits by court injunction and by environmental statutes, and that is why I oppose this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The senior Senator from the State of Washington has 2 minutes.

Mr. ADAMS. Madam President, I will summarize for our side, in opposition to this amendment. It is my understanding Senator GORTON wishes to close. At the end of that, I am going to make a motion to table. I discussed this with the chairman of the full committee. On that motion to table, I ask for the yeas and nays.

Mr. BYRD. Madam President, I ask unanimous consent that it be in order to order the yeas and nays at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. ADAMS. Madam President, I will be very brief because I think the debate has been very direct. I am simply going to summarize.

The language in the Interior appropriations bill, as voted out of committee, already allows salvage, and it is consistent with current law. It says: Timber salvage activity in spotted owl habitat is to be done in full compliance with existing environmental and forest management laws. Under those laws in the western part of the State, the 1991 storm left 703 billion board feet of blown-down timber. Of that, 517 billion board feet have already been sold.

So this program is moving ahead. This is not a salvage amendment. It has been well stated by the Senator from Montana, by the Senator from Colorado, and others, that this is sort of a Trojan horse. Salvage is going ahead. They are going with a plan.

This amendment is unnecessary, but even more so, Madam President, it is dangerous. It would override the present law and the court orders. It would override the National Environmental Policy Act. It would override the work of the existing authorizing committees who are proceeding.

We need change in our public forest management policies, but his amendment will simply promote and continue outdated practices. The amendment is another greedy detour and we need to keep focused on developing a long-term forest health plan. Salvage is going on under these plans. Salvage should take place but only with proper planning, not by overriding laws like the Gorton amendment would do.

So, Madam President, I hope that my colleagues have listened to this debate and they will vote with the motion to table which I will make as soon as Senator GORTON has completed his remarks.

It is absolutely essential at this point that we understand this is a complicated issue. This should not be on an appropriations bill, but it is there, so we are going to move to table it. I hope my colleagues will vote with the motion to table the Gorton amendment.

Madam President, I am prepared to yield back the remainder of my time if the Senator from Oregon will, so the Senator from Washington can summarize and we do not have to answer any further argument.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I will yield back the remainder of my time.

Mr. ADAMS. I yield back the remainder of my time.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The junior Senator from the State of Washington.

Mr. GORTON. Madam President, it is hardly a surprise that during the course of the declining days of a Presidential election year, a significant number of Democrats would trash the President and the Secretary of Agriculture and the Forest Service, but it astounds the conscience that in order to punish their political opponents those same Senators would sentence working people and small communities to despair, devastation, and depression. It is precisely that sentence which the Democrats propose for very real people in the name of an abstraction.

Madam President, laboring people all across the United States desperately request the passage of this amendment. Organized labor has done so in a formal and written fashion in letters that have already been made a part of this

RECORD. They know which side is speaking for jobs and for working people.

Unorganized employees across timber country from one end of this Nation to another are asking for this amendment, both for its reality and for the symbol of hope that it provides.

Small independent mills are desperate for this amendment. This amendment makes no difference to the large companies that have huge landholdings on their own, unaffected by these rules.

The reasons that have led to this amendment, on the other hand, have already bankrupted dozens of small and independent mills and placed tens of thousands of people on the unemployment rolls in timber country.

But we deal with abstractions. We have heard chairman after chairman say "give the authorizing committees a chance. Let us work this out. This is a violation of this statute, that statute or another statute."

These are bloodless terms. They ignore the plight of real people. To speak about giving authorizing committees, which have done nothing, which have not produced a sentence, a phrase, a comma on this subject in more than 3 years, a chance is to make the old phrase that the chances of success are somewhere between slim and none an exaggeration. This is an exaggeration of the possibilities that there will be any such relief this year or, for that matter, I suspect next year.

Madam President, is this amendment about the spotted owl? No, Madam President, it is not. It specifically states that none of this logging will be done if it adversely affects the spotted owl. Is this amendment about old growth? No, Madam President, it is not. This amendment is about dead and downed—wind-blown-down timber rotting on the floors of our forests. It will not authorize the harvest of a single living old growth tree at any place throughout the amendment itself.

Is this amendment, as the majority leader said, about the Endangered Species Act? No, it is not about the Endangered Species Act. The two statutes mentioned as being overridden for the narrow purposes of this amendment specifically do not include the Endangered Species Act, for the very reason that the legal injunction under which we operate at the present time is not based on the Endangered Species Act at all.

Incidentally, the Endangered Species Act itself, which seems to be holy writ, has been "amended," as defined by the Democrats, at least a dozen times in this appropriations bill. At least a dozen times the bill states that "notwithstanding any other provision of law. * * *" So, if this were such an exemption, which it is not, it would not be something new to this act.

No, the Democratic opposition to this amendment stems from the psychology that forests appropriately are only valid when they are absolutely untouched by the hands of human beings. The Democrats imply that if trees fall to fire, that is fine; we will let it burn. If trees fall to wind storm, that is fine. If trees are victims of insects, that is fine. The only thing that the Democrats cannot allow is the productive use of our forests to create jobs and housing for the people of the United States. That is literally all.

Democrats evidently love employment as long as that employment does not use any natural resources and does not produce any waste. Under those circumstances, Madam President, we will have few people employed in the United States by anyone other than the Government itself.

As we debate this issue, 200,000 acres of timber are on fire in the State of Idaho. This is a full one quarter of the size of the State of Rhode Island. Fires are raging in Montana. Fires in eastern Oregon have driven 150 families from their homes.

This is what this amendment is about: it is about the use of salvage to, among other things, prevent and control fire.

Madam President, when we vote on this motion to table in a few moments, I want to make clear that a vote to table is a vote for fire, one of mankind's greatest scourges over the years. This amendment is designed, among other things, for the productive use of what is otherwise nothing but dry tinder for forest fires, forest fires that are raging as we debate this amendment.

This debate is Orwellian. We have now slashed by more than 90 percent the harvest of timber from productive lands on the forests of the Pacific Northwest, and the Democrats tell us that number has got to go to zero. They tell us we must work on these mythical authorizing bills, which never appear before us. And in the meantime, people can be driven from their homes; they can lose them to mortgages; they can lose their jobs; they can lose their communities; they can be forced into alcoholism and child abuse; but we have to wait for the authorizing committees. We can do nothing, not even for a year, to provide them with any kind of help or any kind of support.

Do not blame the courts, Madam President. The laws that the courts have used to terminate an industry are passed by this body, and this body can make exceptions to those laws. One small exception to provide some hope, one small exception to provide a few jobs, one small exception to prevent forest fires is before you right now. That is the issue on this next vote.

Mr. SEYMOUR. Mr. President, as California enters its seventh consecutive year of drought, the State is facing a forest health crisis. Dead and dying trees have created the ideal environment for wildfires. Something must be done if we are to avoid a fire of catastrophic proportions.

Already we are seeing reports of massive fires burning throughout the West; 200,000 acres in California, Idaho, Oregon, Washington, and Nevada have burned. It is only going to get worse.

Currently, the U.S. Forest Service is trying to increase salvage sales in California. These sales are intended to dramatically reduce the amount of fuel remaining in California's forests, thereby reducing the chance and severity of fires. These salvage efforts have a second but equally important benefit, they provide jobs to a forest industry that has been devastated by judicial injunctions on timbering.

Unfortunately, the Forest Service Salvage program is not working. In my State of California alone, there is over 1 billion board feet of dead and dying timber. The Forest Services does not even plan on harvesting half that amount. And frankly, from past experience, I would be surprised if a quarter of available and identified salvage in the state of California is harvested before it burns or rots.

There are many problems with the Forest Service Salvage Program, and I believe that the Forest Service can do much more to expedite salvage operations. I have been working with the Department of Agriculture to implement such changes.

That being said, changes in the law are also necessary. Currently, the Forest Service is unable to implement a rational salvage plan for spotted owl forests.

The Gorton amendment attempts to give the Forest Service the authority it needs to implement an expedited salvage plan. Senators will likely hear from many environment organizations urging them to vote against the Gorton amendment and prevent salvage operations.

The logic of these groups, though, is flawed. The Sierra Club Legal Defense Fund states in a flier they are circulating in opposition to the Gorton amendment that expedited salvage operations will impact areas that are already severely impacted by drought or disease. Well, I hate to break it to the Sierra Club, but salvage is the cutting of dead and diseased trees. If these trees are left standing the very same insects that infest them will spread to healthy trees. The Sierra Club goes on to say that the immediate consequences of the passage of the Gorton amendment will be "an increase in fire caused by logging." Again, I have to wonder if these people have ever been in a forest. First of all, dead trees, not logging, increases the chance of fire. Second, salvage operations reduce the threat of fire.

Some people still believe that forests are static ecosystems. If we simply leave them alone, they will remain forever as they are today. Unfortunately, forests just do not work that way. Forests are dynamic, not static, and without management, they die when there are pest infestations and they burn when there is a drought.

Mr. President, California is in a drought. Let's try not to let it burn. I urge my colleagues to vote for the Gorton amendment.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The senior Senator from the State of Washington.

Mr. ADAMS. I move to table the Gorton amendment.

Mr. BYRD. Madam President, will the Senator withhold that for 1 minute?

Mr. ADAMS. I withhold.

Mr. BYRD. Madam President, I hope that floor staffs on both sides of the aisle will alert Senators that following this vote, I want to try to ascertain what amendments remain to be called up, and Senator STEVENS and I will address the Senate with respect to certain precedents and Senate rules. I hope that Senators would stay around and hear what is said.

I thank the Senator for yielding.

Mr. ADAMS. Madam President, I move to table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2904. The yeas and nays have been ordered. The clerk will now call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Iowa [Mr. HARKIN], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] and the Senator from North Carolina [Mr. HELMS] would vote "nay."

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 35, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—60

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Durenberger
Ford
Fowler
Glenn
Graham
Grassley
Hollings
Inouye
Jeffords
Johnston
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Simon
Smith
Specter
Wellstone
Wirth
Wofford

NAYS—35

Bond
Brown
Burns
Coats
Cochran
Craig
D'Amato
Danforth
Dole
Domenici
Exon
Garn
Gorton
Gramm
Hatfield
Heflin
Kassebaum
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Rudman
Seymour
Shelby
Simpson
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—5

Burdick
Gore
Harkin
Hatch
Helms

So the motion to table the amendment (No. 2904) was agreed to.

Mr. ADAMS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, may we have order in the Senate.

The PRESIDING OFFICER. The Senator is correct. We will have order, please. Order in the Senate. Senators please clear the aisles.

All conversations on the floor should cease.

The Senator from West Virginia is recognized.

Mr. SARBANES. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. The Senator is correct.

Please discontinue the conversations or take them into the cloakroom.

Mr. BYRD. Mr. President, I have two matters I wish to discuss while we have some Senators here.

The second matter concerns the remaining amendments that are to be called up. I would like to know what Senators are serious about calling up those amendments.

But the first matter I think is of sufficient concern that it should have the attention of all Senators.

Senator STEVENS and I wish to address our attention to it.

I have, first of all, a prepared statement for the purpose of being concise and brief, which I will read. And then if Senators wish to discuss if further, I will be prepared to do that.

ORDER OF PROCEDURE

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD. Mr. President, I rise to address the procedural situation concerning legislative amendments proposed to general appropriations bills.

On July 27 of this year, the Chair sustained a point of order against an amendment offered to S. 3026—a Senate bill—making appropriations for the Departments of State, Justice, Commerce and related agencies. An amendment was offered to repeal the provisions of the District of Columbia Code which imposed strict liability on the manufacturers of assault weapons. A point of order was made against the amendment on the grounds that it was legislation on a general appropriations bill, and the Chair sustained the point of order.

However, the sponsor of the amendment appealed the ruling of the Chair, and the Senate voted not to sustain the ruling of the Chair. Any vote by the Senator on an appeal from a Chair's ruling on a point of order establishes a precedent to guide future Presiding Officers. This precedent could have serious consequences for the rules of the Senate and the precedents which interpret those rules and which guide Presiding Officers in ruling on points of order.

The amendment at issue was clearly legislation—no doubt about it—because it repealed existing law, and in no way affected appropriations. But the vote of the Senate on the appeal represents the Senate's decision that such language, which was legislation, was not legislation. No other issue was articulated in the debate on the appeal. All debate concerned the substance of the amendment.

I was not, at the time, fully aware of the implications of the precedent being set. I did, however, vote to sustain the Chair.

There is nothing in that debate that suggests any qualifications on the effect of the vote to overturn the Chair. The Senate voted that an amendment that was clearly legislation does not violate rule XVI's prohibitions against adding legislative amendments to general appropriations bills. Consequently, future occupants of the Chair would be constrained not to sustain any point of order against a legislative amendment to a general appropriations bill. A valuable protection of the rights of individual Senators would be lost, and a significant Senate rule eroded.

Additionally, may I say, the authorities and powers of authorizing committees in this body would likewise be impaired.

It might be hoped that future Presiding Officers would simply ignore this precedent, and continue to rule based on the preponderance of earlier precedents. However, a vote by the Senate on an appeal established a precedent of the highest probative value and would guide future Presiding Officers unless reversed or qualified. If future Presiding Officers could ignore this precedent, one could then fairly ask which precedents would Presiding Officers follow, and which they ignore?

Let me suggest that the facts of this particular case were unusual in that the Senate was considering a Senate-originated appropriations bill, not a House-originated appropriations bill. Since the House of Representatives has historically claimed the right to originate appropriations bills, the Senate rarely considers such a bill which originated in the Senate. A century of Senate precedents has established the right of Senators to propose legislative amendments to general appropriations bills if the House of Representatives has opened the door by legislating on a related issue first. If this had been a House appropriation bill and if the House had opened the door, then a legislative amendment would be in order in the Senate if such amendment were germane to the House legislative language.

Under the Senate's precedents, if a point of order is made against an amendment to a general appropriations bill on the grounds that it is legislation, a Senator—if he does so before the Chair rules—can raise the defense of germaneness. A Senator must first show that there was some language passed by the House that was arguably legislative to which the Senate amendment could possibly be germane. However, under rule XVI, all questions of germaneness involving general appropriations bills are decided by a vote of the Senate. Such votes have no precedential value. Consequently, in a great number of instances where the issue of legislation on appropriations is raised—and in most instances it is never raised—but when such points of order are raised, then a Senator has a right to raise the question of germaneness and the Chair is required to put that question before the Senate.

So, in the great number of instances when legislation is offered in the Senate to a House appropriations bill, the issue is deflected to become a vote of the Senate as to whether the amendment is germane to House-originated legislation. Such vote is generally understood to be a vote on the merits of the amendment, the judgment of the Chair is not called into question, and no procedural precedent is established.

But no such opportunity for a vote of the Senate on germaneness existed in the case under discussion. Had the Senate been considering a House-originated appropriations bill, it is very likely that the issue would have been resolved without creating this unfortunate precedent.

Therefore, Mr. President, I ask unanimous consent that notwithstanding the vote of the Senate of July 27, 1992, future Presiding Officers not be bound by that precedent, and that they be free to rule on the question of legislation on appropriations based on the vast preponderance of the precedents established prior to that date.

Senator may reserve the right to object if they wish to comment at this point.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Reserving the right to object, and I shall not object, the Senator from West Virginia and I have had conversations about this, and I have conferred with the two Parliamentarians because of my feeling as a member of the Rules Committee that the impact of the purported—the record advice that would be given by the Parliamentarian to any Presiding Office was as the Senator from West Virginia stated: That the Senate's actions on the Smith amendment, which repealed a provision of District of Columbia law, not a provision of Federal law—and as the Senator from West Virginia indicated, it was a Senate-originated appropriations bill and therefore not subject to the concept of germaneness, a very unique circumstance—that the Parliamentarian would advise the Presiding officer as the Senator from West Virginia has indicated, that such action in effect would have vitiated the current provision of rule XVI that permits a point of order to be raised against legislation on an appropriations bill.

I think the action taken by the distinguished President pro tempore is entirely in order. As a member of the Rules Committee, I urge the Senate to see to it that this is adopted. And I hope that it is sufficient to satisfy the feelings of the Parliamentarians concerning the action that the Senate took on the Smith amendment.

I do not know if my friend from West Virginia would permit it at this time, but I would be constrained to ask the Parliamentarian if the statement and unanimous consent requested by the Senator from West Virginia would, indeed, have the impact that we all seek? And that is to assure that the provisions of rule XVI remain intact and that the Smith amendment not be considered a precedent for the purpose of in any way altering the effect of rule XVI concerning points of order on legislation on an appropriations bill. Would the Senator permit me to make that request at this time?

Mr. BYRD. I yield for the purpose of the Senator making a parliamentary inquiry to the Chair.

Mr. STEVENS. I make that parliamentary inquiry to the Chair: Is the Parliamentarian prepared to accept such a unanimous-consent request as in fact restoring the total vitality of rule XVI, according to the precedents of the Senate prior to the Senate's action on the Smith amendment?

The PRESIDING OFFICER. That would be the effect of granting the request.

Mr. STEVENS. I do not object, and I thank the Senator from West Virginia.

Mr. FORD. Mr. President, I reserve the right to object but I will not object.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Let me join with my good friend and colleague the Senator from Alaska in support of the President pro tempore's motion. We do not look at the institution anymore. We look at the emotion behind the amendment and whether it will be a good or bad 30-second political ad. Somehow we are going to have to come back to what this institution really means and the procedures that are here.

I think it is unfortunate that we lay all of this burden for all practical purposes on the shoulders of the President pro tempore. No one else reminds us about the rules. No one else reminds us of what should be done. No one comes forth with the ideas to use the unanimous-consent agreement to say that this will not be a precedent.

So I think it is now time for us to take a real, hard, cold, look—if I can use that term—at how we proceed in the Senate and begin to say we need to move legislation through here; we need to have limited debate; and we need to get on with the people's business. Then we can go back to our own States and see our constituents and not worry about whether we are going to be in Saturday or not, or whether we are going to be in until 9, or 10 o'clock, or midnight, or 2 in the morning. We would have a procedure here.

It is about time 99 of us joined the President pro tempore and gave our support to the majority leader and the minority leader so we can move legislation through here. I compliment my friend from West Virginia for his effort in protecting the rules of this institution, and I do not object.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Washington is recognized to raise his concern.

Mr. ADAMS. Reserving the right to object, and I shall not object. I want to echo the remarks of the Senator from Kentucky and also state this was not on the D.C. appropriations bill that this occurred. Because I agree with the Senator completely, this precedent should be overturned and the rules restored so we do not have legislation on appropriations bills. I compliment the President pro tempore for bringing this up. I just wanted to simply state it was not a D.C. appropriations bill on which this occurred. I thank the Senator very much.

Mr. BYRD. But even if it had been, such an amendment had no business being offered with such a bill—to any appropriations bill.

Mr. ADAMS. I simply mentioned that because the Senator is absolutely correct. Sometimes we get legislation from the other body and the question of germaneness comes up. We have been through that argument. We understand that process. That was the reason I mentioned it, is that there was no legislation possible that this could have attached to and germaneness could not have been brought up. The Senator is helping us greatly. We hope this unanimous consent will be granted.

Mr. BYRD. I thank the Senator.

Mr. STEVENS. Reserving the right to object, I do state for the record that I do not agree with the statement of the Senator from Washington. This has no impact on the action taken on the Smith amendment. It just says the Smith amendment shall not be deemed to have changed the precedents of the Senate with regard to legislation on an appropriations bill.

The PRESIDING OFFICER. The Senator from Arkansas in response to the unanimous-consent-request.

Mr. PRYOR. Mr. President, reserving the right to object, I will not object, I shall not object.

Mr. President, once again I would like to state to the Chair and to our colleagues, the critical nature of what the distinguished President pro tempore is dealing with at this time. I remember casting that vote, I believe it was a week ago Monday, if I am not mistaken, on the floor. I remember that I had some reservations about that vote but I did not truly recognize, nor was I sensitive enough to the magnitude of what we were doing.

Mr. President, I would like to rise to thank the distinguished Senator from West Virginia. Once again he has brought this great institution sort of back into the mode of reality and he has performed a real service for us and for the institution. I think most of us—I cannot speak for all of our colleagues in casting that vote—this was one of those classic votes where we did not possibly realize the unintended consequences of our act. Mr. President, I thank the distinguished Senator for performing this service for the Senator and for the Senate.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Reserving the right to object and not only shall I not, quite the opposite. I just want to add my voice of thanks to the Senator from West Virginia for the TLC, the tender, loving care which he gives to this institution and its rules. I notice how much time he has given to this particular issue since the vote on the Smith amendment. It did create some very serious ramifications for our authorizing committees as well as for the procedures on the floor. And I just simply want to add my voice of thanks for being there, to protect this institution and its rules.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Before the Chair puts the request, Mr. President, no Senator, I am sure, realized the implications of his vote to overturn the Chair in that instance. I want to make that perfectly clear, as far as my opinion is concerned.

I believe most Senators would have voted to sustain the Chair, had they realized the full implications of that vote.

Second, let me say, the vote really had the effect of changing that provision in rule XVI, at paragraph 4:

> On a point of order made by any Senator, no amendment offered by any other Senator which proposes general legislation shall be received to any general appropriation bill, nor shall any amendment not germane or relevant to the subject matter contained in the bill be received to any general appropriations bill.

So the effect of that vote was to modify or amend, even to negate, a provision in the Senate rule. I am sure most Senators never want to do that.

Third, let me emphasize again, that the effect of this unanimous-consent request—if agreed to—will have no impact whatsoever on the amendment that was offered by the Senator from New Hampshire [Mr. SMITH]. I was opposed to his amendment, but that is not why I am here today. Even if I had been supportive of the amendment, I would still have made this statement and this request today.

I was not, I must say—by way of obiter dictum—impressed by those who seem to imply that the Congress has no right to overturn a law of the District of Columbia. I do not agree with that. But I did agree that the Chair's ruling should be sustained.

On the matter of the rights of the Congress, if we want to put it that way, the Constitution provides that the "Congress shall have power to exercise exclusive legislation in all Cases whatsoever over such District * * * as may * * * become the Seat," not a seat, "the Seat of the Government of the United States."

So Congress has the power. That argument was not impressive, as far as I am concerned, but I did favor the law of the District of Columbia. But this request today does not go to the merits of the amendment offered on that occasion by Senator SMITH.

But just so we may understand that the Senate was repealing a law and that his amendment was legislation, no doubt about it, I will read the amendment which appears on S10327 of the CONGRESSIONAL RECORD of July 27.

> The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 2752.
>
> At the appropriate place, add the following:
>
> "The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted."

So that was, indeed, legislation on an appropriations bill. Therefore, no Senator had the defense of asserting the defense of germaneness. There was nothing in that bill to which the Smith amendment could have been germane, because it was a Senate appropriations bill, S. 3026, not a House appropriations bill.

Mr. STEVENS. Will the Senator yield again for one comment?

Mr. BYRD. Yes.

Mr. STEVENS. Mr. President, as the Senator knows, I was slightly vociferous about the amendment offered by my friend from Georgia, Senator FOWLER. I have had discussions concerning the right to raise the point of order of legislation on an appropriations bill in connection with that amendment. It was during those conversations that I think the Senator from West Virginia advised me and I realized that that would put subjective considerations into reversing the advice that the Chair was going to receive from the Parliamentarian and in all probability we might have had a compounded problem had the point of order been raised and this Senator appealed the ruling of the Chair.

So I am delighted that the Senator from West Virginia, again, has taken upon himself as President pro tempore to find a way to achieve that goal without the subjective feelings of any Senator being involved. I think it is right and proper that we do restore the validity of rule XVI. And the Senator has done, as everyone has said, a great service to the Senate.

I voted, I have to tell the Senator, as he probably knows, I voted for the Smith amendment because I believe in the Smith amendment, and it is unfortunate that the advice was derived by the Parliamentarians. I do not argue with the Parliamentarians. They are the Parliamentarians, I am not. I was prepared to accept the advice of the Parliamentarians. I am delighted the Senator from West Virginia has done just that. I hope it will lay it to rest. I hope all of us will be forewarned in the next instance to find another way to deal with the subject without raising that type of a situation again.

Mr. BYRD. Mr. President, I will close with this statement. Seldom do I vote to overrule the Chair. I have done so upon occasion. I have even recommended that the Senate vote to overrule the Chair in some rare instances and may do so again at some point in time. But I believe that Senators ought to be very, very careful and first realize what they are doing when they vote to overturn the Chair. In this particular instance, as I say, the vote to overturn the Chair's ruling could be interpreted as amending, modifying, or even negating a provision in standing rule XVI.

That completes my statement.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, reserving the right to object, I am concerned about this matter, notwithstanding the fact that I am in total agreement with the Senator from West Virginia. I agree that the ruling of the Chair was appealed and arrived at a conclusion that put legislation on an appropriations bill. It does not serve this Senate well.

The reason for my rising is that I am concerned that only about a half a dozen Members of the Senate are on the floor of the Senate at this time. I am concerned about the precedent that we would be setting in getting an agreement by unanimous consent to overrule a previously made decision of the Chair.

I wonder if my colleague from West Virginia, who is a stickler for rules of the Senate and an authority with respect to the rules of the Senate and a very fair individual—and I have worked with him over a period of years on many parliamentary issues—would not think it appropriate that before this matter is put to the body, that the Members of the Senate be alerted to the fact that this action is about to be taken?

I know that the Members could and should be on the floor, but it is my view that there could be another occasion when, without sufficient numbers of Members of this body on the floor, that the Senate might proceed to change some other rule of this body or some other ruling of this body.

I wonder whether or not the Chair might inquire of the Senator from West Virginia and respond directly as to whether he would not feel it appropriate that there be some notice given before this action is taken.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I, in a manner, gave notice in that I announced before the rollcall vote that Senator STEVENS and I would be addressing a matter involving the precedents and rules of the Senate and urging the staff, floor staff on both sides, to notify Senators to stay around for that purpose, to listen so they could be perfectly aware.

The Senator, of course, has a right to object, if he wishes, in which case I will offer an amendment. I have a slot in the amendment list which deals with technical amendments, and I view this as a technical amendment. It is not a matter of substance. It does not affect this appropriations bill in any way. If the Senator wishes to have the Senate fully on notice and have a vote on it, that will be fine with me.

Mr. STEVENS. Will the Senator yield for just one moment, my friend from Ohio. I think this is really preventive medicine. The Chair has never to my knowledge advised—the Parliamentarian has never advised the Chair yet as to this potential that we are trying to correct.

Am I incorrect, Mr. President? Has the Parliamentarian yet advised the Chair of the effect of the Smith amendment on rule XVI and has that become a precedent yet?

The PRESIDING OFFICER. The issue has not arisen since that time.

Mr. STEVENS. What I am saying to my friend from Ohio is that the Senator from West Virginia, in his usual surgical way, is asking the Senate to unanimously agree that the action of the Smith amendment did not affect rule XVI, it is not changing the rule, and it is not reversing a precedent. No such precedent has been confirmed yet in the Senate. It would have been, had this Senator raised the point of order against the Fowler amendment that I was about ready to raise. But after conferring with my friend, who is the oracle of the rules, in my opinion, I did not do that, and the Senator agreed that we would together find a way to assure that the Senate did not lose the right under rule XVI that exists and will be perfected once again, prevented from being harmed by such a ruling if someone were to make a point of order of legislation on an appropriations bill where the rule of germaneness could not be raised.

It is a narrow situation, I am sure the Senator from Ohio realizes.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, although the Chair has not ruled to that effect, the Senator from Ohio would represent to his colleagues that on a previous occasion, not in connection with this matter but several days ago, I inquired of the Parliamentarian on this very point, and the Parliamentarian advised me, as many of us get advice from him by going to the front, that the ruling was controlling at this point with respect to the matter of legislation on an appropriations bill.

I am not looking to create a problem for the Senator from West Virginia. As I said earlier, I agree with the Senator from West Virginia. What I am suggesting to the Senator from West Virginia, unless there is some reason not to do so, is that there be a hotline for a half-hour or 45 minutes that this matter was going to come before the body. Every Member can then be notified. And I do not think the Senator from West Virginia would be losing any position. The Senator from Ohio is totally supportive of his effort. But I just have the feeling that this itself creates somewhat of a precedent, so we will be changing the rules by unanimous consent, and I would feel much more comfortable if we at least alerted all Members of this body.

Mr. BYRD. Mr. President, I cannot let that statement stand. The Senator says this request will be changing the rules by unanimous consent. I would never do that. That is not my purpose. My purpose is, by unanimous consent, to negate a dangerous precedent which was set the other day which, in effect, changed that provision in Senate rule XVI prohibiting legislation on appropriations bills.

I will be perfectly happy to renew my request later. I doubt that we will have any more Senators on the floor than we have now. Or I can offer an amendment and let all Senators vote on it.

Mr. METZENBAUM. Would the Senator from West Virginia be comfortable in asking the staff to alert all Members of the body that this is going to be renewed 45 minutes from now?

Mr. REID addressed the Chair.

Mr. BYRD. Mr. President, I am happy to. I have no fear of the outcome of this.

Mr. METZENBAUM. Neither do I.

Mr. REID. Will the Senator from West Virginia yield?

Mr. BYRD. Yes.

Mr. REID. This has been very educational. We as Senators have a responsibility to watch what is going on on the Senate floor, and I do not think any time something like this comes up we have to notify people what is going on here. They should be watching and listening. I think that we should move about the business of the Senate and not alert the staff, or that the staff should be alerted. We are in business now. We have been for several weeks.

Mr. BYRD. I did give the Senate notice, as I have already indicated. Furthermore, Senators are watching their televisions. I daresay at this hour of the day anything that is said on the floor is heard and seen in practically every Senator's office, and they are very quick to object. It is like that advertisement I hear on the TV: "If you have a telephone, you have a lawyer."

Senators have telephones, and I am sure they would be getting in touch if they wanted to lodge an objection.

Besides that, we have a list of 20 amendments, and we have disposed of only two of them at this point. I wanted to get around to asking Senators if they are really serious about these amendments. If they are not, we would like to remove them from the list. I am sure the majority leader would like to have some idea whether or when we might finish work on this bill.

Mr. METZENBAUM. I support the Senator in both respects. I support the Senator in trying to clarify this rule and I support him in being able to move forward with this legislation. I only raise this question because it is of concern that, although it is not changing the rule, it does impact upon a previous decision made by this body and the impact is that it is a change of the rules.

I do not consider it a cause celebre, since I agree with the Senator from West Virginia. If he is not inclined to hotline it and let the Members know what is going on, I would not stand in the way of going forward. But I do have my reservations.

Mr. BYRD. Mr. President, I ask unanimous consent that on an amendment which I am prepared to send to the desk, a vote occur on that amendment immediately following the next vote on any other amendment, so that the Senate will have an opportunity to show hands down exactly how they feel about this matter.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I have not yielded the floor yet, but I yield to my friend.

Mr. MITCHELL. Will the Senator yield?

Mr. BYRD. Yes; indeed.

Mr. MITCHELL. Mr. President, it is becoming very hard to move this legislation. I think what Senator BYRD is attempting to do is worthy of praise and support. I understand the concern of the Senator from Ohio. I will say to the Senator that, as he knows, I regularly propound unanimous-consent requests on the floor, and I can assure him when Senators object we hear within seconds—within seconds. Frequently when I am in the middle of a sentence, the phone rings and staff comes running out to say, "Senator so and so objects."

Now, may I suggest the following to accommodate the Senator and to permit us to proceed: Why do we not now proceed to another amendment. All Senators have been notified by virtue of this debate, and unless objection is heard from a Senator who insists upon it being done in the form of an amendment and thereby a vote by the hour of 6 p.m., we will proceed to have it done by consent as Senator BYRD has suggested.

Mr. METZENBAUM. Perfectly agreeable.

Mr. MITCHELL. Is that agreeable to Senator BYRD?

Mr. BYRD. Yes; it is.

Mr. MITCHELL. I thank my colleagues.

Could the Senator proceed with the next amendment?

Mr. BYRD. Yes; indeed.

Incidentally, I call attention to that debate which occurred in the Roman senate in 62 B.C., when the senators were discussing the punishment that should be meted out to the participants in the conspiracy of Catiline. Caesar rose to say: "All bad precedents originate from measures good in themselves."

So this, in the eyes of some, was a good measure in itself. But as we saw, by our not paying adequate attention to the implications of the procedural aspects, the Senate was about to set a very bad precedent.

I yield the floor.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator BYRD's request be temporarily set aside, with the understanding that he will renew the request at approximately 6 p.m., unless objection is heard from a Senator who wishes it in the form of an amendment with a recorded vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

Mr. SMITH. Mr. President, because neither the Senator from West Virginia [Mr. BYRD] nor any other Senator had notified me in advance that my amendment to the State-Justice-Commerce appropriations bill would be debated this afternoon and that a unanimous-consent agreement would be entered with respect to that vote, this Senator is forced to comment on that unanimous-consent agreement after the fact.

First of all, Mr. President, no Senator is more concerned about the increasing problem of legislation on appropriations bills than this Senator. There is hardly an appropriations bill considered by this body which does not contain dozens of provisions which are legislative in nature. In the case of this year's State-Justice-Commerce appropriations bill, the legislative provisions contained in the Senate bill were effectively insulated from challenge by the fact that the Senate—arguably unconstitutionally—chose to report a Senate-originated appropriations bill, rather than marking up a House bill. According to the parliamentarian, this meant that the provisions of rule XVI prohibiting legislation on an appropriations bill did not apply to the Senate-initiated proposal.

When the Senate moved to strike all after the enacting clause of the House bill and to insert the provisions of the Senate bill, it would have been in order for any Senator to raise a point of order with respect to the many legislative provisions in the Senate bill. It would also have been in order for this Senator to offer his amendment on the D.C. gun bill and to raise the defense of germaneness, and this Senator has no doubt but that the Senate, in accordance with the Adams and Gramm precedents on the 1989 supplemental appropriations bill, would have found the amendment germane. Finally, this Senator could have raised a point of order that a Senate-initiated bill was unconstitutional.

Any of these courses of action would have had the effect of derailing the Senate schedule and requiring the State-Justice-Commerce bill to be considered twice—once in connection with the Senate bill and once when the House bill arrived.

Mr. President, this is not the first time that the Senate has overturned the Chair on the question of whether language constituted legislation on an appropriations bill. Early in the 1980's, my senior colleague, Senator RUDMAN, successfully appealed the ruling of the Chair that elaborate legal services language extending for several pages constituted legislation on an appropriations bill. This was not a vote on germaneness—it was a flat appeal to the ruling of the Chair, which the Senate overturned by roughly the same vote that it would have entered on the merits.

Mr. President, this Senator has no objection to the unanimous-consent request by the Senator from West Virginia. But I would only say that what's sauce for the goose is sauce for the gander.

First of all, let's not have any more Senate-initiated appropriations bills which insulate legislation on an appropriations bill reported by the Senate committee from any point of order, but eliminate any possibility of a legislative floor amendment, even if it is germane to a House provision in the House bill to which the Senate bill will eventually be attached.

Second, let us redouble our efforts to strip the committee-reported appropriations bills of the pages of legislative language which regularly grace them.

The maintenance of the Senate rules is a two-way street which requires the diligence of all Senators—with respect to instances in which the ruling of the Chair would benefit them, but also with respect to instances in which the ruling of the Chair would thwart their legislative interests.

(Later the following occurred:)

Mr. BYRD. Mr. President, in accordance with the order previously entered, I ask unanimous consent that, notwithstanding the vote of the Senate on July 27, 1992, future Presiding Officers not be bound by that precedent, and that they be free to rule on the question of legislation on appropriations based on the vast preponderance of the precedents established prior to that date.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. BYRD. As I look now at the list of 20 amendments, 2 have been disposed of by the Senate today. I hope Mr. NICKLES will follow me on this list, because I am going to ask unanimous consent that it be accordingly narrowed.

I understand now that, based on the very excellent work of our respective staffs on both sides of the aisle, the amendments have been narrowed. Instead of 20 amendments, 2, of course—as I said about 3 times—have been disposed of by the Senate in almost 8 hours.

The following amendments, however: Mr. BOND, I understand his amendment is on the list, dealing with the subhumid agroforestry. I understand he will not call that up.

I understand that the amendment by Mr. STEVENS dealing with small mining exemption, that is in the bill; an amendment by Mr. REID dealing with mining, no patent on uncommon variety minerals.

Mr. REID. Mr. President, if the chairman will yield, we have been notified by the budget people that that would score against our bill.

Therefore, between now and conference, we will work on that to see if something else can be done to exclude the uncommon varieties from being patented.

So we will drop that from the list.

Mr. BYRD. An amendment by Mr. REID dealing with mining. It just says mining.

The Senator has three amendments.

Mr. REID. Yes. Mr. President, if the chairman will yield, there will be one amendment dealing with bonding that will be offered on behalf of Senator BUMPERS and I. That will take no debate.

I think all parties on both sides have agreed to it. If not, they will shortly.

Mr. BYRD. Very well. An amendment by Mr. SMITH dealing with freeze, which I understand will not be called up; an amendment by Mr. KASTEN dealing with battery research will not be called up; an amendment by Mr. LOTT dealing with battlefields will not be called up.

Mr. NICKLES. If the chairman will yield, Mr. President, I believe both Senator KASTEN's and Senator LOTT's amendments will be discussed with a colloquy.

Mr. BYRD. That is correct.

And an amendment by Mr. BINGAMAN, dealing with boots and saddles will not be called up.

Is what I have said the understanding of the distinguished Senator?

Mr. NICKLES. That is correct.

Mr. BYRD. I therefore ask unanimous consent, Mr. President, that those amendments be deleted from the list of eligible amendments that may still be called up on this bill.

Mr. STEVENS. Reserving the right to object, Mr. President, the Senator did not read the remaining amendments. That only pertains to the amendments that the Senator has mentioned?

Mr. BYRD. Yes; that is correct.

Before the Chair puts the question, let me read the remaining amendments concerning which I have no indication as to whether or not they will or will not be called up.

On the list still is an amendment by Mr. WALLOP dealing with net receipts; an amendment by Mr. WALLOP dealing with abandoned mineland reclamation fund; an amendment by Mr. STEVENS to authorize the transfer of a historic building in Alaska; an amendment by Mr. BOND dealing with Forest Service, which prohibits expenditures for computer purchase or maintenance pending Department of Agriculture field structure reorganization; an amendment by Senators WALLOP, BURNS, CRAIG, and BAUCUS to strike $148,000 in National Park Service funding for wolf reintroduction EIS, and to provide funds for a BLM project in Wyoming; an amendment by Mr. REID dealing with bonding requirements in mining; an amendment by Mr. JEFFORDS on the grazing fees; and I have an amendment by Mr. DOLE still on the list dealing with Hanover Station; an amendment by Mr. SEYMOUR, private relief, Yosemite; and Senator BYRD has a slot for technical amendments.

Mr. NICKLES. If the chairman will yield, Mr. President, I believe the Dole amendment will be handled by a colloquy. I believe that the Seymour amendment has been deleted, as well.

Mr. BYRD. Very well.

Mr. President, I ask unanimous consent that the list of eligible amendments therefore be narrowed accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank all Senators. We have made some progress. We still have some amendments on the list, at least, which could be troublesome.

I hope that a Senator will immediately call up an amendment.

Mr. NICKLES. If the chairman will yield for 1 further second, I discussed Senator WALLOP's amendments. It may very well be that he will not offer those.

Senator STEVENS' amendment would transfer a historic building. I think Senator STEVENS is trying to work that out with Senator BUMPERS, and hopefully that can be handled without a vote.

Mr. President, I think we are really down to one last amendment that is going to require a vote, and that would be on Senator JEFFORDS' amendment dealing with grazing fees. I have requested interested parties on that issue to avoid an extended debate. We have debated grazing fees several times.

Hopefully, we will have a very short debate, and a motion to table, and that amendment can be dealt with and disposed of.

Mr. BYRD. Very well. I thank my friend, the distinguished Senator from Oklahoma [Mr. NICKLES] for his excellent work.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 2905

(Purpose: To require the Secretary of Agriculture and the Secretary of the Interior to establish a domestic livestock grazing fee for certain lands for the grazing season that commences on March 1, 1993)

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for himself and Mr. METZENBAUM, proposes an amendment numbered 2905.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . Section 6 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905 and 1751) is amended by adding at the end the following new subsections:

"(c)(1) Notwithstanding any other provision of law, the Secretary of Agriculture, with respect to national forest lands in the 16 contiguous western States (except National Grasslands) administered by the Forest Service where domestic livestock grazing is permitted under applicable law, and the Secretary of the Interior with respect to public domain lands administered by the Bureau of Land Management where domestic livestock grazing is permitted under applicable law, shall establish for the grazing season that commences on March 1, 1993, and ends on February 28, 1994, a domestic livestock grazing fee equal to $2.40 per animal unit month.

"(2) The grazing fee established in paragraph (1) shall apply to grazing permits on Federal lands managed by the Forest Service (with the exception of National Grasslands) or the Bureau of Land Management, except that:

"(A) If a grazing applicant or permittee presents certified evidence that the applicant or permittee owns or controls, whether through direct ownership or through leasing or management agreements a total of fewer than (i) 500 head of cattle or horses or (ii) 2,500 head of sheep or goats, or both, on grazing land under all types of ownership, including Federal State, local, and private, the fee shall be the greater of—

"(i) the fee determined by applying the formula described in subsection (a); or

"(ii) $1.92 per animal unit month.

"(B) All livestock owned or controlled by an applicant or permittee, whether in one or several States and whether grazed on Federal lands or not, shall be included in calculating the total number of livestock under paragraph (1).

"(C)(i) Subject to clause (ii), the Forest Service and the Bureau of Land Management shall determine by regulation the type of certified evidence applicants or permittees must provide to reflect aggregate ownership or control of domestic livestock for the purpose of determining the appropriate grazing fee.

"(ii) Proofs of livestock ownership under applicable State laws may include bills of sale, brand inspection records, State and local property tax assessments, incorporation papers, and lease agreements.

"(D) For purposes of this subsection, individual members of a grazing association shall be considered as individual applicants or permittees for the purpose of determining the appropriate fee level to be assessed.

"(E) Executive Order No. 12548, dated February 14, 1986, shall not apply to grazing fees established pursuant to this Act.

"(d) The grazing advisory boards established pursuant to an action of the Secretary, notice of which was published in the Federal Register on May 14, 1986 (51 Fed. Reg. 17874), are abolished. The advisory functions exercised by the boards, shall, after the date of enactment of this subsection, be exercised only by the appropriate councils established pursuant to section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739).

"(e)(1) Funds appropriated pursuant to section 5 or any other provision of law relating to disposition of the Federal share of receipts from fees for grazing on public domain lands or National Forest lands in the 16 contiguous western States shall be used for—

"(A) restoration and enhancement of fish and wildlife habitat;

"(B) implementation and enforcement of applicable land management plans, allotment plans, and regulations regarding the use of the lands for domestic livestock grazing;

"(C) land and range improvements and conservation practices on public lands used for the purposes of grazing, including restoration and improved management of riparian areas; and

"(D) increased production of forage and browse for livestock and wildlife habitat needs.

"(2) The funds referred to in paragraph (1) shall be distributed as the Secretary concerned considers advisable after consultation and coordination with the advisory councils established pursuant to section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 8 1739) and other interested parties, including local conservation districts in areas where applicable.".

Mr. JEFFORDS. Mr. President, we are again, Senator METZENBAUM and I, offering a grazing fee amendment. I will point out that since there is a grazing fee provision contained in the basic bill, that we have a defensive——

The PRESIDING OFFICER. If the Senator will suspend, the Senator is entitled to be heard.

The Senate will be in order.

Mr. JEFFORDS. Just to clear this up, in view of all of the discussion we have had on authorizing legislation on an appropriations bill, I point out that the basic bill here—my colleagues should realize this—has a grazing fee provision in it.

The grazing fee increase provision which is in the underlying bill, put in there by the House, is substantially higher than the one that Senator METZENBAUM and I are offering today.

Mr. President, before I discuss the specifics of my amendment, I would like to read a passage from a recent issue of Public Lands News:

> The hand dealt opponents of (a grazing fee) increase is weaker this year, primarily because of the worsening national budget situation. In addition to no increase in grazing fees, Westerners in a House-Senate appropriations conference will (1) oppose higher fees for hardrock miners, (2) seek twice as much revenue for the payments-in-lieu of taxes program, (3) demand that states receive their full 50 percent share of state mineral revenues, and (4) call for a balanced budget.

I think that sums up the situation pretty well. Many of the Members who called for a balanced budget a few weeks ago will oppose my amendment.

Interestingly, their States' shares of allocable Federal expenditures exceed their share of the Nation's tax burden. My State of Vermont is not in such an enviable position. Nor are the other older, industrial Frost Belt States.

In a way, our Northeastern and Midwestern States are the ones "pulling the wagon" and the Western States are going along for the ride.

Between 1981 and 1988, if proportional shares of tax burden and expenditures were equal, the 11 principal grazing States would have received $79.8 billion less. The 18 States of the Northeast and Midwest would have received an additional $360.1 billion.

I bring this up because many Senators from the public lands States in the West are so keen to balance the budget and invoke that necessity when they argue against funding for cities and urban programs.

But the same logic doesn't seem to apply if we attempt to fine-tune some of these natural resource programs.

If we are going to begin to reduce the deficit, we have to get more revenue from the natural resources every American owns.

I had hoped that Congress would resolve the grazing fee issue this year. Apparently, we're going to put it off another year.

The Appropriations Committee report directs the Secretary—presumably of the Interior—"to report no later than March 1, 1993, on specific options for determining grazing fees that embody a fair price value."

The Forest Service and BLM just issued a report this past April that tells us all we need to know about constructing a better grazing fee formula. I prepared an amendment to update and improve the formula based on the report. I think it's a good amendment.

I will not offer it in deference to the committee. But Senator METZENBAUM and I are growing tired of the industry's dilatory tactics.

So we will offer a new amendment. It is very simple. The grazing fee next year—under our amendment—will be $2.40 per animal unit month [AUM] for ranchers who own, lease, or otherwise control over 500 head of cattle or 2,500 head of sheep.

That's an increase of 25 percent over the current fee, which is allowable under the current formula.

If ranchers can document that they own fewer than 500 head of cattle or 2,500 head of sheep, their grazing fee will be determined by the current formula or it will remain at $1.92 per AUM, whichever is higher.

In other words, when you vote on the Jeffords-Metzenbaum grazing fee amendment, for those of you who are concerned about the grazing subsidy problem and want to do something reasonable, you should realize that what you will be voting on is a 1-year provision increasing the grazing fee by 25 percent, to $2.40 per AUM.

This is about half—less than half—of the grazing fee increase contained in the underlying bill.

The reason I am doing this is to remind Senators that last year, we took up the grazing fee amendment.

That amendment was basically the same one which is contained in the House bill this year.

At that time, opponents of my amendment expressed concern for a number of reasons. One was that the authorizing committee had not held a hearing. They would compromise in conference. Therefore, the amendment failed.

In the conference committee, however, they deleted the House grazing provision and replaced it with a requirement I drafted for a study to be made. The Department of Agriculture and the Interior conducted the study and issued it in April of this year. The authorizing committee did hold a hearing last month, but committee members determined that they did not like the study—the results of the study; and, therefore, they said that it was flawed and now have requested that a new study be made.

Since that time, the Energy Committee has taken no action on any bill relevant to grazing fees. So I remind those Members who, last year, told me that they voted against me because they had assurances that the committee of jurisdiction and the Members would try to work out a reasonable proposition with respect to grazing fees, we are here again this year as we wind down the session, and still we do not have a bill out of the committee.

At first, as I mentioned earlier, I thought I would offer an amendment containing what appear to be recommendations of those who are knowledgeable about public range land grazing; to take the present formula and to do two basic things to the formula. First, update the base value in the current formula through indexing.

And just to let you understand how ludicrous the present situation is with respect to grazing fees—that base value was established in 1966—the $1.23 per AUM. It has not been indexed or updated since that time. I think we all would enjoy having a freeze on our rent back to 1966 and pay in nominal dollars the amount of money that we paid in 1966. We do not have that.

Second, the General Accounting Office [GAO] and the agencies determined that the formula is mathematically flawed because the forage value, beef cattle prices, and prices paid indices did not interact in a ratio format; and, consequently, could not move the fee closer to market conditions. We reset the indices in a ratio format in accordance with the guidance of the experts, to take into consideration the changes necessary to make the formula produce a fee closer to the market value of the forage.

However, in view of the fact that there still is a great deal of sympathy for those in the West and yet, recognizing that we should not just leave this issue alone this year, and having again been left in a situation in which the committee refuses to take action to raise this fee in order to make it closer to the costs associated with the grazing program, I am here for two basic reasons:

First of all, I am from a State and an area of the country which has traditionally, and still does, put more money into the Federal Treasury than it gets back. There are programs in existence which are rather largely subsidized by the Treasury, for the benefits of relatively few individuals, as I said. I would like to make sure that we begin to understand that we have to pay for what we get.

Second, I'm concerned about equity among beef producers. The beef producers in the West who graze on public land represent only about 2 percent of the beef producers in this country. The fees that they pay are substantially lower than the fees that the others pay on private lands in comparable situations.

For those two reasons, I hope you will assist me this time in lighting a little fire under those who would try to keep the fixed rent based on 1966 and say, "OK, we will give you a year. In that year, we are going to raise the grazing fees 25 percent, but only on those beef producers which have more than 500 cows." That will raise the fee on about 15 percent of those ranchers using the Federal grazing land. We freeze the price for those who have fewer than 500 cows or 2,500 sheep. Since it appears the correct formula is very defective in its construction and will produce an even lower grazing fee next year. I predict $1.44 per AUM. We say that it will not go lower than the current fee. If the formula, however, should increase the fee; if I am wrong in my prediction, then it would go up, but it would still be based on the old formula.

Our amendment is a very modest amendment. Its main purpose is to resolve this issue so you do not have to hear from me or anyone else again, and we get the kind of equity that is necessary for the rest of the beef producers of this country; and, puts public lands ranchers in a position where they will pretty much pay for the benefits they derive from the grazing fee program. Again, only 15 percent of the beef producers that are involved in grazing on Federal lands have more than 500 head of cattle or 2,500 head of sheep. Thus, the number of those that will be paying higher fees is very small, but they currently receive a huge benefit at the taxpayers' expense.

So, again, I just want to say that this is just a short, 1-year increase, but no increase on the small producers, only the large. It will not bring the fee up anywhere near where the market value is on comparable private lands. And does not bring fees up to where they would be if the formula were improved by those that recognize that changes have to be made.

So I hope that you will assist me in putting a little fire under some of our public lands friends so we will see action between now and next year. Next year I hope to stand up here and praise those that have been telling us for so long that they will do something.

Mr. President, at the invitation of some of my colleagues from the far West, I went out this past year to Wyoming and visited with the ranchers and farmers. It was an exciting and educational time for me. I sympathize with all farmers. We have many farmers in Vermont, of course. I got to understand their problems better and the differences there are in Federal grazing and grazing on the plains or grazing back in our State.

So I am being very modest this year. I am showing my good faith to those who asked me to pursue this and, also, in hopes of bettering the relationships of the dairy farmers and the beef producers, who have had a very strained relationship in the past few years. And that is one of the reasons I am here. I hope that this body will work with me to get rid of this issue by next year. The only way we can do it is to make some movement this year toward a reasonable reconciliation of this problem.

Let me give you a little bit further information. According to the Congressional Budget Office [CBO], our amendment will generate an additional $3.1 million, with no loss, absolutely no loss, of AUM's grazed.

So any argument that somehow this amendment is going to put anybody out of business is absolutely absurd.

Next year, I will refresh your memory, the fee for the biggest permittees will rise to just $2.40 AUM. AUM—we always toss that around—basically means 900 pounds of feed. So if you want to figure out the per-pound cost at 42.40 for 900 pounds of feed you can see that is a very, very good bargain.

That is the fee level, incidentally, the $2.40 which we will get to under this amendment, a 25 percent increase for the big producers, that prevailed in 1980, 12 years ago.

I do not think anyone can honestly characterize this amendment as unfair.

The 500 largest BLM permittees control 76 million acres, 47 percent of BLM grazing land. The smallest 500 control 13,000 acres, or just one-hundredth of 1 percent of the BLM total.

How do we differentiate between ranchers? The ranchers simply present evidence—the burden is on them, that is true; you have to have a self-enforcing system here—to the Forest Service or the Bureau of Land Management of livestock ownership: bills of sale, property tax assessments, brand inspection records incorporation papers, lease agreement, etc. All of these are records ranchers currently keep.

I do not want to take too much more time, so I will just close with the following observations.

First, only 25,000 ranchers hold these permits. That is a small minority, even in the West. And do not think private land ranchers who have to compete in private forage markets do not resent the subsidy accruing to their neighbors.

Several months ago, last November, to be exact, a Montana livestock journal reported that a majority of the Montana private land ranchers favor a grazing fee increase. One half expressed support for awarding Federal grazing permits on a competitive bid basis.

Second, the fee under our amendment would increase to $2.40 next year for the largest permittees only. That is the level it was in 1980, 12 years ago.

Third, 4 of the Nation's 10 biggest cow-calf operations, according to the National Cattlemen's Association, and 11 of the top 25 hold Federal grazing permits. They have between 6,000 and 35,000 head of cattle. Is it really fair that they pay the same fee as a family rancher with 250 or the 500 head?

Finally, I would like to quote to you from a Billings Gazette editorial that appeared on June 28, 1992:

> Grazing fees have long been so low that they have been kind of an unspoken subsidy for ranchers. But with the Federal Government so badly in debt, increasing them to true market value is one of the painful steps which the Federal Government should take. We are all going to have to make some sacrifices like this to put our Federal Government back in the black.

So I would urge you to allow us to establish some equity between beef producers in this country and also to reduce a subsidy which still exists, based upon 1966 data, which obviously has little or no relationship to the present value of money and market conditions.

So I hope you would keep these points in mind when you recognize that what we are trying to do here is a very modest attempt to establish equity among beef producers and equity for the taxpayers.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I shall move to table this amendment at some point, hopefully soon. I want to move the bill along. The matter will be in conference. There is legislation in the House bill. But I will not do so before Senator METZENBAUM has an opportunity to speak, and Senator DOMENICI. Are there other Senators?

Senator REID, Senator BURNS.

Any others?

Does the Senator wish to speak any further.

Mr. JEFFORDS. I would like to reserve that right.

Mr. BYRD. Could we have some idea of the length of time so all Senators will be on notice?

Mr. METZENBAUM. Five or ten minutes.

Mr. BYRD. At the most, 10 minutes.

Mr. DOMENICI. No more than 5 minutes.

Mr. BURNS. No more than 5 minutes.

Mr. REID. Two minutes.

Mr. BYRD. Two minutes for Mr. REID.

Mr. JEFFORDS. Five minutes.

Mr. BYRD. Five minutes for Mr. JEFFORDS and Senator SIMPSON for 5 minutes.

Mr. CONRAD. Will the Senator yield?

Mr. BYRD. Yes.

Mr. CONRAD. I would like 3 minutes as well.

Mr. BYRD. All right, 3 minutes to the Senator from North Dakota.

Mr. NICKLES. Senator CRAIG wanted 5 minutes.

Mr. BYRD. Mr. CRAIG wanted 5 minutes.

Mr. President, I ask unanimous consent that, at the conclusion of that total time as explicitly stated here on the floor by the Senators who will receive certain portions thereof, I be recognized to make a motion to table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise today to join with my colleague from Vermont in connection with this amendment.

This is an amendment which deals with a subject that we debated at great length last fall—grazing fees.

It is a subject that the House has voted on, and the result was decisive—grazing fees are too low, they are unfair to the rest of the American people, and they should be raised.

Let me revisit some of the issues that we debated last year.

Ranchers out West benefit from a subsidy in which they are granted the exclusive right to graze their livestock on Federal lands—at far below market rates. Grazing fees are so low they do not even cover the cost of maintaining the range in decent condition.

Currently, ranchers pay permit fees that total about $1.92 per animal each month. The fee is set by a formula established by a 1986 executive order—based on an appraisal of the forage value of the land that was conducted 25 years ago—in 1966.

The net effect is that ranchers are paying less than a quarter of what they should be paying. And that is not fair to the rest of the American people.

Of course, this is nothing new.

In 1983, although the Federal grazing fee was $1.39, the USDA estimated the fair market value was between $4.68 and $8.55, quite a distance from the $1.39 Federal grazing fee. This figure came about in an appraisal report estimating fair market rental value of grazing on public lands by the USDA. In fact, in 1980, the rate charged was $2.40.

Last year [GAO] reported that "relatively low fees are an inherent result of the existing formula's design. * * * The Federal grazing fee is 15 percent lower now than it was 10 years ago. This contrasts with a 17-percent increase in private grazing land lease rates over the same period. This is occurring even though public and private land ranchers face essentially the same market conditions"—(Current formula keeps grazing fees low, GAO/RCED-91-185BR).

In 1991, a rancher with a Federal permit could turn out a 500-head herd for 4 months for $3,940. But ranchers without such a permit are paying a market rate of $9.22 per AUM, or $18,440, to lease private land, according to the Department of Agriculture.

That is $3,940 for one; $18,440 for the other—the private rate.

The ranchers would have us believe that if we raise the grazing fees they will not be able to invest in range improvements, and practice good stewardship over the land.

But the Congressional Budget Office says that between 1979 and 1983, ranchers spent, on average, only 16 cents per animal each month on improvements—a lot of improvements that is.

Then ranchers have the nerve to say the Federal rangeland is not really worth $6 to $11 per animal per month because it is not as well kept as private lands.

Yet here we are collecting less than market value from wealthy ranchers who are using, and often abusing, lands owned by all Americans. The Government borrows money to maintain the range for a few wealthy ranchers.

Let me list a few of these wealthy permit holders who the taxpayers of this Nation subsidize. Oil companies are big in this area; oil companies like Getty Oil, Union Oil, and Texaco; also John Hancock Mutual Life Insurance Co., Pacific Power, and Utah Power & Light, Zenchiku Land and Livestock of Japan—a Japanese-based meat company that leases 41,000 acreas of federally subsidized ranchlands in Montana, David Packard of Hewlett-Packard, the San Felipe Ranch, McKay, ID.

It is absurd for the American people to be subsidizing these insurance companies, these oil companies, these wealthy investors, Japanese-owned companies. That is absolutely preposterous.

Mr. President, many of my western colleagues have spoken about the need to balance the budget and we listened.

Our colleague from Wyoming lamented just 2 months ago that we spend $977 billion in entitlement programs and that we don't perform a means test on over three-fourths of that spending. And when they spoke, we listened.

We heard from our western colleagues that raising the grazing fees will hurt the family rancher. And we listened again.

And, so, Mr. President, the amendment we offer today is not the same amendment we offered last year. It does not raise grazing fees across the board. It uses a means test.

It says that the large rancher will pay 25 percent more than what he paid last year. That is certainly not a hardship.

It says that if you have 500 head of cattle or fewer, or 2,500 sheep or goats or fewer, you will pay the current rate or the rate prescribed by the current formula.

I have no problem with giving the little guy a break, but when Fortune 500 companies are paying far below market rate for grazing their cattle on public lands, then it's time for Congress to take a stand against this giveaway to those who can afford it.

Frankly, I wanted to raise the rate for the large ranchers even more than this amendment does.

It will raise the rates to the 1980 level, $2.40; but we decided not to go that far—just to do it a very modest amount.

Mr. President, I think we all know what a vote against this amendment means.

It means that a wealthy few should still be entitled to these tax subsidies. I do not believe that should be. The Senator from Vermont does not believe that should be. I hope our colleagues do not believe that should be.

Mr. President, I urge my colleagues who spoke out in defense of the family rancher, my colleagues who have spoken out for a balanced budget, and my colleagues who know what is fair, to join me in this amendment to just say no to giveaways for these wealthy ranchers. Let us be fair to all the taxpayers of this country.

Mr. President, let us save some money. I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. How much time remains under the order?

The PRESIDING OFFICER. Thirty minutes.

Mr. BYRD. Thirty minutes. I am advised that Mr. BAUCUS wants 5 minutes. I ask unanimous consent that he be added to the list for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Then am I correct, Mr. President, that I should be present on the floor prepared to make my motion to table at the hour of 10 minutes of 7 p.m.?

The PRESIDING OFFICER. The Senator is correct; 10 minutes of 7.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I do not agree with the amendment. I strongly oppose the amendment. But I do believe the Senator from Vermont, knowing him the way I do, thinks his position is right. I hope in this day that we have been able to educate those Members of the Senate, including my friend from Vermont, how people do not understand the western part of the United States, how, in fact, it would have been better had this legislation been presented to the authorizing committee where hearings could have been held, where evidence could have been taken, and that the matter could have reached the floor, if in fact it would have reached the floor, through the ordinary authorizing process. This is not the appropriate place to deal with a matter of this magnitude.

For those Members present who may not understand the grazing fee formula, let me, Mr. President, provide a few brief facts to shed additional light on this complex matter. As we have been told by people who have appeared here before, PRIA, or the Public Rangelands Improvement Act, was passed in 1978, and is based on a set of three things: First, the price of beef; second, the cost of production; and third, the lease rate index, which is the difference between the cost of grazing on public and private lands. These issues have more to do with policy than appropriations, and therefore it should not be on this Interior appropriations bill.

It has been argued that grazing fees on public lands constitute a subsidy. Conveniently, this argument generally falls well short of a thorough examination of factors that go into grazing livestock on public lands.

Mr. President, I should like to take a short time this afternoon to talk about some things that have been raised during the debate and things that have been raised only indirectly during this debate. These are what we can call key talking points about grazing fees.

For example, Mr. President, over the past 4 years the grazing fee has been increased by almost 50 percent—to be exact, 46 percent. The grazing fee formula has changed because it was set up to change. But the formula does provide, under the bases that I just indicated, stability and predictability. That is what this important part of American industry, that is, the cattle industry, needs, stability and predictability. That is why in 1978 the formula was developed.

It is true that private rangeland rents are typically higher than public rangeland grazing fees. We acknowledge that. But we have not discussed here today in any detail the fact that private leases are self-sufficient units, where the owner typically provides fencing, water improvements, and roads.

On public lands, by contrast, Mr. President, almost nothing is provided. Instead, the public leaseholder must bear most of these costs, including larger management costs, higher death loss and poor animal performance due to the inherently wider open range environment.

Finally, ranchers leasing public lands also bear the increased costs of complying with today's range management guidelines—and we will talk about some of those, but they are significant.

Public land livestock grazing makes a significant contribution to rural economies in the West. Mr. President, consider 88 percent of the cattle produced in Idaho, 64 percent in Wyoming, and 63 percent in Arizona depend in part of public grazing lands. In Nevada, my State, 87 percent of the land is owned by the Federal Government. We cannot lease private lands. It is owned by the Federal Government—87 percent of it.

For this reason, the Director of the Bureau of Land Management maintains that significant increases in grazing fees would result in devastating impacts on Western States where the ranching areas have historically low base values.

Even if no livestock grazing were permitted, the Bureau of Land Management and the Forest Service would still bear the cost of basic legislative requirements such as monitoring, analysis, and management. In fact, if the practice of grazing lands ended tomorrow, the Bureau of Land Management estimates that its range management program budget would increase by as much as 50 percent.

I think it is of note, Mr. President, that in 1990 the Bureau of Land Management grazing fee receipts were about $19 million, roughly two-thirds of the BLM's $29 million budget. Those moneys would have to come from someplace.

I think it is also interesting that there are many, many scholars who talk about the ranges of this Nation being in the best condition they have been in during this century.

I have a magazine article here that we distributed, Mr. President, to all the Senators. We did that last year. It is interesting that in this magazine we supplied to the entire Senate—Range magazine, spring of 1991, on page 12 there is a picture from the State of Nevada. In fact, it is a picture within a picture. It shows some rangelands with grass that is knee high. But on the inset in this photograph, we have a picture taken in 1919 that shows devastation. It shows mud holes, it shows the exact same feature of land, without thick foliage on it; the other devastated because of overgrazing. This is how the rangelands have improved.

There is also a picture from the Santa Rosas, also in Nevada, that shows a hillside that is denuded, that has been overgrazed especially by sheep, and it shows there being nothing in this land. Whereas, in 1991, it shows beautiful, thick rangeland.

There are many other such examples that show the change of the rangelands based upon proper management. Rangelands have not gotten worse. They have gotten better.

It is like mowing a lawn or pruning. Controlled grazing promotes plant vigor and diversity, aerates soil and scatters seeds. Grazing itself, plus the brush clearing, and grazing operations also help prevent fires.

That, Mr. President, is fact, not fiction.

We know that by bringing on water and salt for livestock, and the other improvements that ranchers make, that the rancher invites a host of other animals, including, in fact, many predators.

On public lands, the cost of predation and disease are cyclically higher than those on private lands. Wide open spaces are what we are talking about. The cost of lost livestock is very high. Then there are broken fences, wounded stock, trash, and the like. Unfortunately, often this comes from the public, which also shares this land. That is what multiple use means. And for the western rancher, this is all the cost of doing business.

Most of the ranchers who depend on Federal lands, we have been told time and time again, are small, family-run operations, and they are. Many make under $28,000 and many make a lot less. For example, in South Dakota during the late 1980's, the bankruptcy rate among public land ranchers was over three times that of ranchers who use private lands. Struggling with the availability of land and sheer geography, the rancher is in no position to shop for land. He cannot very well haul his stock around looking for more affordable private pastures to rent.

Even if public grazing were ended tomorrow, the next day, next week, next month, next year, the agencies would still have to make substantial outlays to take care of these lands. You just cannot let them go.

In 1987, the Interior Assistant Secretary Griles testified that such basic activities as modern analysis management would require still 40 percent of BLM's range budget. What we have to understand in this debate, Mr. President, is that cattle contribute as much, for example, to Montana's economy as wheat does to the economy of Kansas, or oranges to the State of Florida.

But Montana is hardly the only Western State that depends on affordable public forage; 88 percent of Idaho's cattle depend on public forage. In States like Wyoming and Arizona, this figure is also high, better than 60 percent. In Nevada, it is also very high.

I have here some quotes from people who are talking about these rangelands. These are direct quotes. I will give a couple of them. This is from Patricia Honeycutt, executive director of the Public Lands Restoration Task Force for the Izaak Walton League of America, a conservation group. Here is what she said:

> There has never been a time when a conscientious cowboy (livestock herder) has been more valuable to the West. In his act of being environmentally conscientious with his livestock, he's helping bring back watershed, which leads to increased water resources. If this were left to natural forces alone, there are places in the West where the process could take a century or more. But where there's conscientious cowboy, we can cut that time to about a decade. I've seen it done.

A Georgia cattleman by the name of Bill Bullard said:

> My first impression (on seeing a public range) was that if a rancher was paying anything to graze that land, he was paying too much.

The U.S. Forest Service:

> Twenty percent of public grazing permits and allotments go unused by ranchers, in part because of the high cost associated with their use.

Finally, Cy Jamison, the Director of the Bureau of Land Management, says:

> If ranchers are removed from public land, the cost to government of managing the range in their place could rise by as much as 50 percent.

I have also, Mr. President, a letter that I ask unanimous consent be made part of the RECORD. This letter is from Roger E. Porter, Assistant to the President of the United States.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, April 2, 1991.

Hon. MALCOLM WALLOP,
Russell Senate Office Building, Washington, DC.

DEAR MALCOLM: Thank you for your thoughtful letter to Governor Sununu expressing your concerns about Federal grazing fee legislation.

As you are aware, the Bush Administration supports the current system based on the PRIA grazing fee formula established by the Public Rangelands Improvement Act of 1978. In his recent testimony before the House Interior and Insular Affairs Subcommittee on National Parks and Public Lands, Bureau of Land Management Director Cy Jamison stated unequivocally that "the present system is inherently more fair than the proposals in H.R. 481 and H.R. 944."

We believe there are compelling reasons to continue the current grazing fee system. The grazing fee formula acknowledges the contribution of Federal permittees to the maintenance of the public rangelands. And abandonment of the formula could significantly harm the economic base of many Western communities.

Thank you again for taking the time to express your views about the grazing fee issue. We appreciate your interest in working with the Administration to achieve a workable and effective grazing policy.

Warmest regards,

ROGER E. PORTER,
Assistant to the President for Economic and Domestic Policy.

Mr. REID. This is written to Senator MALCOLM WALLOP. It says:

> As you are aware, the Bush Administration supports the current system based on the PRIA grazing fee formula established by the Public Rangelands Improvement Act of 1978. In his recent testimony before the House Interior and Insular Affairs Subcommittee on National Parks and Public Lands, Bureau of Land Management Director Cy Jamison stated unequivocally that "the present system is inherently more fair than the proposals in H.R. 481 and H.R. 944."

Well, this is like, someone reminded me, having a bully on the block, and he is telling you what a great guy he is because he only beats you up every other day, while the bully before him beat you up every day. The increases suggested by this amendment are outrageous, and are not better than the legislation that Cy Jamison talked about, and that Roger Porter refers to in his letter.

Roger Porter, Assistant to the President, further states:

> We believe there are compelling reasons to continue the current grazing fee system. The grazing fee formula acknowledges the contribution of Federal permittees to the maintenance of the public rangelands. And abandonment of the formula could significantly harm the economic base of many Western communities.

We have heard statements here today suggesting that Members supporting this amendment should take a trip to the West and spend a day or two, or a week, in effect watching what these cowboys do, what these ranchers have to put up with.

I had the opportunity in the last few years to visit a couple of ranches. I did this after holding a number of town hall meetings throughout the rural part of Nevada. These ranchers that came to these town hall meetings are not people that would normally come to town hall meetings. This had to be a crisis, in their minds, for these cowboys, and sometimes their families, to come to these town hall meetings.

They came to these town hall meetings because they are frightened. They are frightened because they believe their way of life is going to be wiped out.

If this grazing fee formula is increased, not all of them will go broke, but it will wind up like the people from the grasslands. With this extraordinarily high grazing formula, about half of them will go broke. But they came to these town hall meetings, which was unusual for them, as I indicated. Some of them came mad. They were upset that the Government would try to take away their way of life. Some of them came sad, afraid.

So after I attended these town hall meetings, Mr. President, I went and spent a day on two ranches. One of them was the Glaser Ranch in Elko County, NV, the other occasion, I went up into the Marys River Area to watch what the Federal Government is doing in conjunction with ranchers to increase, to improve, and to benefit that whole area; to bring up high terrain areas, to do a lot of good things that they could only do with the help of the ranchers.

The trip I took was extraordinary because I went with my friend, Norm Glaser, to his ranch. Here is a report in a newspaper of the trip that I took:

> The Glaser ecology ranch tour viewed part of the Old United States Cavalry. They were there way before the turn of this century, the Fort Halleck preserve, a natural wetlands originating during the confluence of the Humboldt Creek. We also viewed irrigated, manmade wetlands made by ranchers, pond construction made by ranchers, meadow rehabilitation by ranchers, a bird island made possible by ranchers.
>
> The rookery on the ranch is composed of hundreds of birds of various species, according to the game biologist that went with us from the Nevada Game and Wildlife.
>
> In the middle of the hot summer, August, in this clump of trees, which is not often seen in the desert, there were hundreds and hundreds of birds during the day at this resting place of theirs.
>
> Glaser explained the ranch conservation program of providing biodiversity in this construction of ponds along with shaping, grading, and seedbed preparation. Glaser stated the enhancement program has been accelerated and has become more sophisticated in recent years with the planting of trees, milo, and other grain.
>
> In addition, Glaser explained that the program accomplishes three things: It provides a grass cover higher in protein and increased yields. Ranchers now work with the Government to get better grass. It is better for the environment and better for their cattle. It increases the efficiency of water distribution and utilization and smoother meadows, and prolongs the life of expensive haying equipment.
>
> Although a restoration program has been in effect for many years in the Star Valley Conservation District, it has been reviewed affirmatively by the Army Corps of Engineers and Fish and Wildlife Service to see if it complies with section 404 of the Clean Water Act. It has a positive potential for improving conditions for migratory geese, wildlife, and domestic stock. The ecosystem has definitely been improved.

In this article is a picture of two sandhill cranes we saw that day looking at us. They are there because of level pasture. Norm Glaser said he had not seen many of these cranes lately, and he hoped the work he had done environmentally will bring back more of these birds.

Mr. President, I ask unanimous consent that a statement by Robert Wright and letters by Harvey and Susan Barnes that set out what they do on the ranches be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PUBLIC LANDS COUNCIL

My name is Robert R. Wright, and I am a lifelong resident of northeastern Nevada. I have been involved in the livestock business all of my life. My ancestors were also livestock producers, and they settled in the area in 1872.

The ranch that we own is a family operation. Our son is part-owner, and will, hopefully, carry on the family ranch. My wife and I have five grandchildren, and four of them help with the ranch work, when not in school. The ranch is a definite adhesive factor for our family.

One of my relatives was an organizer of the Taylor Grazing Act. He served on the committee that drew up the Act and the rules and regulations that followed. These people recognized that a coordinated system of grazing on public lands needed to be initiated. It would be interesting to have these people see the improved ranges that has resulted from their work. Unfortunately, none are alive today.

Congress was delegated the authority under the Taylor Grazing Act to set grazing fees each year. As soon as Congress convened in January it would set hearings to set fees by the billing date of March 1st. Of course, Congress rarely had the fees set by then. It was particularly difficult for the "permittees" to finalize their budgets on January 1st, not knowing what the grazing fee would be. The hearings were a hassle with the testimony being given by land-managing agencies, western congressmen and senators, livestock organizations from every western state and numerous "permittees". That is one of the desirable features of the grazing fee formula; eliminating the hearing process that was expensive and time consuming. "Permittees" can also finalize their budgets on January 1st, for they know what the grazing fee is to be. Don't do away with the grazing fee formula for it works in more ways than just setting the fee.

If the grazing fee is increased as being proposed in legislation, then "permittees" would have to decide if it was economical to produce food from the public lands. Many would just vacate, and parts of the West would become another "Grapes of Wrath".

The public land ranges that I am familiar with, have improved substantially since the enactment of the Taylor Grazing Act. There are more species of wildlife, and in greater numbers than ever before. Congress should adhere to the testimony of range researchers and university economists who are experts in their fields, rather than radical extremists and their emotionalism. The ranges today are in better condition than at any time in this century.

My family and I hope to carry on in the food producing business and particularly in the livestock part of it. It would be very disheartening to see over a hundred years of endeavor go for naught. The present grazing fee formula is not a subsidy and should be allowed to continue for it is in the best interest of everyone concerned.

BARNES RANCHES

Barnes Ranches is a Small Business family corporation established in 1968 to make it possible for us (Harvey and Susan Barnes) to acquire ownership in his parents' ranch. We now have 75% of the shares.

The ranch is located 40 miles south of Elko near the base of the Ruby Mts. Barnes' purchased it from the Ed Carville Estate in 1948. Hillery Barnes had been cattle foreman for 19 years for the Mary's River ranches north of Elko and wished to settle on a smaller operation.

Ed Carville bought tracts of land from several people to form the present main ranch. His first acquisition was in 1878.

E.P. (known to all as Ted) Carville was a Governor and Senator of Nevada. He was a lawyer and handled the selling of the ranch for the heirs. The ranch had been leased for 28 years because the family's professions were elsewhere.

During the 1940's and 1950's fencing was the primary project on public lands by Barnes. The ranch did all the labor and also bought the materials. The BLM money at that time was used primarily for artificial revegetation. Following the fences which created allotments, came wells, troughs, pipelines from spring to better distribute and increase water supplies, which also had to be mainly supplied by the ranch. We invested between $25,000 and $35,000 in these Federal land projects—which compensate for fees not recognized by non-range users. Allotment management plans were made feasible by these expenditures and intensified grazing systems have been administered by the Forest Service and BLM.

In 1948 my parents were able to buy 640 A. of fenced Federal land and in 1962 they bought 760 Acres of land being used by the ranch. This land is the only owned grazing land encompassed in the ranch. The meadow lands supply the hay for winter feed and must be free of livestock during the growing and haying season. Livestock remain on the private land from November to April 15, during which time vaccinating, culling, winter feeding and calving occurs. From April 15 to June 1st livestock are on BLM ground. After that time half are on BLM and half on Forest land. The ranch is absolutely dependent upon the rights acquired on Federal lands.

Labor costs have been kept at a minimum. The family had to be frugal and provide their ranch labor. Labor costs have been kept at a minimum.

A substantial grazing fee increase would have a devastating effect on our family operation. The profit margin on a well managed ranch is narrow even in prosperous years that we have recently enjoyed. To survive such a fee increase, the ranch would have to cut down on maintaining conservation practices and would have to curtail improvements and maintenance on federal lands. This would be the rule for western livestock operations. Our climate with short growing seasons limit any diversification opportunities for these livestock operations. By eliminating a productive segment of an area's economy, it creates a downward trend in other industries. Immediate effects may not be felt by the entire country, but I will guarantee an erosion from within will expand and in future years our nation will add a paragraph of destruction in our history.

Our son graduated from UNR this spring and wants to return to the ranch, and it is our hope that he may be able to continue the operation that has been in the family for 43 years.

NORTHERN NEVADA RANCH, MEDIAN SIZE FAMILY RANCH—ANALYSIS OF EFFECT OF GRAZING FEE INCREASE

	Number of AUM's	Cost per AUM paid	Net income	If cost of AUM is	Net income	If cost of AUM is	Net income	Difference what paid and $5.09	Difference what paid and $8.70
Sept. 30, 1990	2,902	1.81	$4,909	$5.09	($4,611)	$8.70	($15,097)	$9,519	$19,995
Sept. 30, 1989	2,264	1.86	15,978	5.09	8,665	8.70	492	7,313	15,486
Sept. 30, 1988	2,256	1.54	2.157	5.09	(6,917)	8.70	(16,144)	9,074	18,301
Sept. 30, 1987	2,760	1.35	22,243	5.09	11,921	8.70	1,957	10,322	20,286
Sept. 30, 1986	3,030	1.01	(17,788)	5.09	(30,150)	8.70	(41,088)	12,362	23,300
Sept. 30, 1985	2,684	1.35	(898)	5.09	(10,936)	8.70	(20,625)	10,038	19,727
Sept. 30, 1984	2,357	1.37	(29,125)	5.09	(37,893)	8.70	(46,402)	8,768	17,277
Sept. 30, 1983	2,519	1.40	(2,993)	5.09	(12,288)	8.70	(21,382)	9,295	18,389
Sept. 30, 1982	2,267	1.86	15,053	5.09	7,731	8.70	(453)	7,322	15,506
Sept. 30, 1981	2,519	2.31	45,650	5.09	38,647	8.70	29,554	7,003	16,096
Total		1.59	55,185	5.09	(35,831)	8.70	(129,178)	91,016	184,363

Mr. REID. I would like to read one paragraph from Wright's letter which says:

> One of my relatives was an organizer of the Taylor Grazing Act. He served on the committee that drew up the act and the rules and regulation that followed. These people recognized that a coordinated system of grazing on public lands needed to be initiated. It would be interesting to have these people see the improved ranges that have resulted from their work.

Unfortunately, none are alive today. I guess what we are saying here today is that we want understanding; we want people to appreciate what these cowboys go through, because it is not easy. We hear a lot of things kicked around about prices and whether it should be this much or that much. But what, in fact, we have here that we are trying to protect is a way of life that contributes to the economy of this country.

Mr. President, I have been to Elko County, and I was there recently. Once each year, they hold a cowboy poetry contest which has become world famous. They do not have enough rooms to take care of the people that come there once a year. These poems are written by cowboys in their bunkhouses or around a campfire. They can say in just a few words perhaps what we have been trying to say here all day. Let me read to you a poem written by Nyle Henderson, which is entitled, "How Many Cows?"

A fella from town stopped by the other day.
The talk that we had sorta went this-a-way.
He said, "I've got something that I'd like to ask you,
And if you know the answer, I'd like to know, too.
"I want to be a rancher and at prices today,
How many cows would I need to make my livin' pay?
Would a thousand cows be better than just one or two?
Do you have any advice on what I should do?"

"Now that's a tough question I'll tell you for sure,

Not one that can be solved with any one cure.
Machinery's sky high and so is the land,
And interest rates are more than anyone can stand.
"And there's imports and embargoes and all the like,
Remember now, as a rancher that you can't go on strike.
There's politicians, vegetarians and ecologists, too,
And a hundred government agencies telling' you what to do.
"There's the cost of fuel and fences and labor and seed,
And tools and tires and water and feed.
There's always a horse needin' shod and veterinary bills,
I'll telling' ya friends, ranchin' ain't all thrills!
"Startin' early in spring you'll be calvin' all night,
There's still feedin' to be done and the water's froze tight!
Insurance and utilities are always goin' up,
And remember, that wife of yours is about ready to pup.
"The whole cost of operating hasn't yet reached a peak,
While the price of beef is just pretty darn weak.
So here is the answer to this little test,
The man with the fewest is doin' the best.
"Only he's not makin' more, like you might guess,
The fact is, my friend, he's just losin' less!"

Well, I think that that is what it is all about here, Mr. President. This is not a situation where these ranchers, cowboys, are taking vast amounts of money, putting it in the bank and shipping it overseas. These are people that are barely surviving; yet, they contribute a great deal to our economy. What would rural Nevada be without ranching and mining? It has only been in the last few years that we have had mining. Mining has made a comeback, as we talked about Friday. Prior to mining, all rural Nevada had was ranching. That is how the schools were kept. That is how the roads were paved. That is how the cities were maintained. People would come to Elko, Battle Mountain, and buy a piece of farm equipment. That is how it kept going.

So it is really important to our way of life that these number of unseen expenses we have talked about are calculated and remembered by people in the Senate, because the costs are significant.

It is not easy. But to them, it is their lives. It is their lives, and in these letters I have introduced which were made part of this RECORD, they talk about their children being on the land and their grandchildren and how they work the land. That is what we are trying to do, protect a way of life.

So, if, in fact, there is something wrong with the grazing fee, let us change it by having hearings so that people from Nevada, Arizona, Idaho, and other Western States, can come and talk about what impact it would have on their lives. Do we want all the cattlemen to go out of business, or 50 percent of them?

We should be of trying to increase the formula for these rangelands, is to be decreasing the fee for those in the grassland States, because, as I have indicated, half of them have gone bankrupt because of that increased formula.

I will close, Mr. President, recognizing, as I indicated, that others wish to speak. Ranchers and cowboys, consider themselves stewards of the land and in fact they are. These pictures I have talked about here today show the dramatic improvement in the rangelands. We have heard from the people that run Government agencies; the Forest Service, and the Bureau of Land Management, saying if we are going to maintain the lands even at the level they are now maintained and you get rid of the cowboys, the ranchers, consider that you are going to have to increase our budget significantly.

Mr. DOMENICI. Mr. President, I did not intend to use 5 minutes. I wonder if those who asked for time, if they are listening, if they might not send down a word that none of us will use any time. I think we ought to just tell the Senate that a similar proposal was defeated 60 to 38 last year. And then let Senator BYRD move to table the amendment. That is what I would like to do and save a lot of time of the Senate. I understand the proponent has some time. But I am suggesting that. Perhaps what I will do, since there are a couple of Senators here, maybe they could each use a minute or so while we go to the telephones and see if we could ask the other Senators if they would permit us to yield back their time.

I will yield the floor, reserving whatever time I had.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I frankly am astounded that the Senator from Vermont is bringing this amendment before us today. We have debated this issue several times. And, frankly, it is amazing to me that here, on the Interior appropriations bill, again the Senator is again raising this issue. We have debated this issue. This is legislation on an appropriations bill.

There have been lots of hearings in the authorizing committee. There are lots of opportunities to deal with this. I frankly am a bit disturbed the Senator from Vermont is offering this amendment at this time.

Second, it is wrong. On the merits it is just wrong. Those who are offering this amendment know virtually nothing about the ranching industry—it is obvious from listening to them. The fact is—and I see a Senator who is in favor of this amendment nodding his head. He agrees he knows virtually nothing about the ranching industry.

Let me tell the Senator, if this amendment were to go through the consequences would be not what the proponents think they would be. The consequences would be that many ranchers, at least in the West—I cannot speak for other parts of the country—but many ranchers in the West would find they have no alternative but to sell out and subdivide. The consequence then is subdivisions. It is pollution. It is congestion. I do not think that is what the Senators who proposed this amendment have in mind.

In addition this is not a subsidy. Studies show and practical experience shows that the costs of operating Federal leases is greater than the cost of operating a private lease. That is basically because when you buy a private lease you buy only the grass. When you get a public lease, a public lands lease, you have to take care of the water, you have to take care of the fencing, it is up to higher ground, the grass is not as good, you have to run more cattle per acre of land. It is very tough to deal with. It is a big hassle. And, frankly, a lot of ranchers wonder whether it is even worth their while it is so much hassle, it is so expensive.

This is no big ripoff; 88 percent of the ranchers who have Federal leases are ranchers who have incomes of $28,000 or less a year. This is a ma and pa operation.

There are probably a few corporations, there may be an insurance company or two that does own property that has a Federal lease. That does happen. But the vast bulk of these ranchers are garden-variety everyday ranchers, which are the myth the Easterners have of the West, of the small farmer-rancher.

That is what they are. Again, I make two points. It is incredible to me we are debating this issue at this time.

It is incredible to me the Senator from Vermont is even offering this amendment.

And, second, on the merits, he is just wrong. Therefore, I strongly encourage the Senate to reject it.

Mr. President, I ask unanimous consent to print in the RECORD a letter from the Montana Livestock Ag Credit Co. to the Governor of Wyoming.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MONTANA LIVESTOCK AG CREDIT, INC.,
Helena, MT, 59604, July 22, 1992.

Hon. MIKE SULLIVAN,
Governor of Wyoming,
State Capitol Building,
Cheyenne, WY.

DEAR GOVERNOR SULLIVAN: Montana Livestock Ag Credit is a Montana Corporation that has been exclusively involved with financing for ranchers and farmers in Montana for 59 years. Because of the emphasis the federal grazing fees issue has received nationally, we have looked into the ramifications to many of our customers from a "Synar type" proposal. A company officer generated a research project for an American Bankers Association Graduate School of Agri-finance. I would like to share a few highlights of our in house study. Please note that although our financing is predominantly livestock ranchers, our portfolio consists of a 2:1 ratio of private ranches that are not directly influenced by federal grazing.

(1) Ranchers considered dependent on federal grazing (those who are dependent upon 6% or greater of their total grazing requirements from federal lands) show an operating cost per animal unit slightly above ranchers solely operating on private ground.

(2) Ranchers dependent on federal grazing are servicing a total debt load equivalent to solely private land ranchers. (We could not find an economic advantage in "debt servicing" for either category.)

(3) Ranchers dependent on federal grazing are also utilizing 18% more private land per animal unit (implies Montana's federal land dependent ranchers, whose private land is typically intermingled with the federal land, are located in areas that are less productive).

(4) Given the decreased value of ranches dependent on federal grazing and the growing value of private land, the federal dependent rancher can be in a 2 to 3 times worse debt to equity position than their "private" counterparts.

(5) In our opinion, the impact of a significant increase in federal grazing fees could put a full ⅓ of the producers dependent on federal grazing into immediate economic jeopardy.

Thank you for allowing me to share some findings of our recently completed study with you. If I may be of any further assistance, please do not hesitate to call.

Sincerely,

TIM H. GILL,
President.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I want to associate myself with the words of my colleague from Montana. I will not take my 5 minutes either. I will move along.

I just want to point to the fact that this is not a ripoff. It seems the proponents of this always go back to a study that was done back in 1966 and one in 1990, an update, on which to base their assumptions. Already the business school at Pepperdine University with two very astute professors said we can draw no conclusions from those reports. They completely discount them—completely discount them. They say you can draw no conclusion from them.

So, again, we debated this last year. It was defeated last year. It is my hope that it will be defeated this year. If you want to talk about rates, like I said a while ago, we sold wheat for $3 a bushel in 1945. If the Senator wants to put on some prices there, we would like to take the increase of everything else because that is what wheat is selling for today.

When we start raising these things, it seems like the consumer does not want to pay any more for the end product and somewhere or another we have to keep the industry alive and keep these people on the land, especially those people who love it, care for it, and depend on it for their livelihood.

I yield the floor, and I reserve the remainder of my time.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, let me just say this is the same song, second verse. This is pretty much the same argument that we have heard repeatedly in an attempt to raise grazing fees.

I must say this to my friends who have crafted this amendment. It is pretty cleverly done. It is a significant improvement over what we have seen in the past. But I think we all know what this is. This is the camel's nose under the tent. The first thing you do is raise it on those who are over 500 in terms of a cowherd and then the rest of you look out because it is coming your way and the next thing you know every rancher who is on public lands will see a dramatic increase—a dramatic increase—in the fees that they pay.

Mr. President, that would be a mistake. Let me just say on the grasslands which has been carved out and has been treated separately under this amendment, because in the grasslands we are already paying much more than those who are on other public lands.

Mr. President, the average income in my State, the farmers and ranchers who are paying grazing fees on public lands is $19,000 a year—not the big oil companies, not the insurance companies, these are mom-and-pop operations, people who can ill-afford to take on a significant increase.

I understand that the grasslands are carved out of this, but, Mr. President, we are attempting to get the fees harmonized so the grasslands are not stuck in this position of paying much more than everyone else.

Mr. President, let me make one final point.

The Senator from Montana [Mr. BAUCUS] said, and said correctly, something that needs to be understood. There is a significant difference between a private lease and a lease on public land. A lease on Federal land requires that you maintain the fences, it maintains that you do the road work, it requires that you provide the water. Mr. President, those are substantial expenses that dramatically change the economics of these leases.

So I hope my colleagues will not make the mistake of rising to the siren song of let us raise the grazing fees to get at the big oil companies because you are not going to get the big oil companies, you are going to get the average rancher who has already faced in my State 4 years of drought. The last thing they need is to get socked with a big increase.

I thank the President and yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I rise today to address the sensitive issue of the appropriate level of grazing fees for the use of public lands. The amendment before you today addresses a complex and easily misunderstood issue which deserves careful analysis. The proposal offered, for a 1-year increase of 25 percent in the grazing fee, is inappropriate and insensitive to western users of public lands who are currently under great economic distress.

A variety of legislative options relative to grazing fees have been proposed in recent years, from permanently fixing in statute the existing fee structure formula to imposing dramatic grazing fee increases.

In any event, each approach is substantive legislation, and it should be processed as such, not as an amendment to the appropriations bill.

The existing grazing fee formula was adopted by the Public Rangelands Improvement Act of 1978 for a 7-year trial period. In 1986, it was extended by Executive order. The base value of the fee is adjusted annually to reflect changes in the prices paid for forage on private lands as well as the market prices of livestock produced.

In Nevada, the majority of BLM permittees are family operations—nearly 88 percent.

Their profit margins are often slim. The entire industry is suffering in the West from severe 3 years drought, and many family operations would be severely affected by the dramatic fee increases proposed by the Senator from Vermont.

Today's fee for 1992—$1.92 per AUM—represents nearly a 40-percent increase over the past 5 years—indicating that this formula does accomplish its goal of adjusting to reflect changing market conditions.

The fact that over 20 percent of grazing permits and allotments go unused indicates that these fees are in a reasonable range.

Although I rise today in full support of the existing administrative fee formula which I believe is equitable and has worked well since its adoption in 1978, I also want to stress what I believe is the most critical issue before you today. That issue is maintaining and improving the condition of our publicly owned range lands. The fees charged for grazing and the revenue produced from the use of lands should not be the ultimate focus of our deliberations; that focus should be, instead, are we managing our public resource assets as well as we can? And are we devoting adequate resources to the task? Those issues are complex and require substantive legislative analysis, not cursory action on the appropriations bill.

I'd like to briefly note a few points of analysis. My State, Nevada, is 85.6 percent federally owned land. Because so much of Nevada is federally owned, responsible multiple use of that resource is essential for all Nevadans—the hiker as well as the hunter; the rancher as well as the researcher.

In the West, access to public lands is critical for the cattle and sheep industry, as well as beneficial for balanced, multiple use of the lands.

Much of Nevada's Federal land is rangeland and all of it has been severely affected by 6 years of lower than average rainfall. The drought, although part of an eternal cycle of nature, has stressed the land and made the job faced by our land managers more difficult. The resources that are adequate to manage the land in an average year or a good year may be very inadequate during a critical year.

Another essential fact to consider is that grazing is a fundamental natural process, part of a food chain that existed long before modern Americans claimed this land for their own. The grass and forage consumed by livestock are renewable, and with no technological intervention, are converted to food to be consumed. Fossil fuels and chemical fertilizers are not part of the public range tradition. Although different opinions may exist on the extent to which the public resources are thus used, there is no doubt that some proper balance may be reached which allows the range to thrive and it should be used. Those who merely seek to eliminate cattle from historic rangelands are plainly misinformed, and efforts to force small cattle operations out of business by dramatic fee increases are misguided.

Well run Federal grazing programs are an essential part of rural life in Nevada. Because the nature of the public range is unique, any fee formula will necessarily result in an inexact application from range to range. However I believe the existing fee schedule does a good job of balancing cattle prices, production costs, and comparable market lease rates. The fact that much of the available grazing lands go unleased would indicate that the existing fees are in an appropriate range. Since the majority of users of the public range in Nevada are small producers—less than 100 head of cattle—they are very sensitive to market forces and will simply not be able to absorb the large fee increases that some propose. To the extent that fee increases decrease the use of the resource, Federal revenues may fall.

In a dynamic ecosystem and fluctuating market, a perfect fee structure may not be possible. The current system has served the West well, and I urge that it be maintained and that the amendment offered be defeated.

Thank you Mr. President, and I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I rise in opposition to the amendment offered by the Senator from Vermont.

Let me, if I might for just a few moments, argue it from a slightly different perspective of those ranchers and whether they can or cannot pay for the public grass because it is public grass, and we all know that. We have talked about public timber today. This is a bill that draws issues about public resources and how they will be managed.

But let me talk about those small ranching communities, agricultural-base communities, that are entwined within the public lands of the West for just a little bit this evening.

I am concerned about cattlemen. They make up a very large portion of my State. Agriculture is our largest industry and cattle are the largest segment of that industry, and 80 percent of our cattle in Idaho graze on public lands at some time during the year. So it is a very important part of my agricultural base in Idaho, as it is in Wyoming and Montana and Nevada and New Mexico and Arizona and on and on and on.

But what about the small community when legislation like this begins to drive the price up into levels that no longer allow that ranch to be an economically viable unit? Ranches that have been in existence and within a family for three generations go by the wayside.

We can accept that; yes, it was nice to have them around; yes, they were good stewards of the lands; yes, they were concerned about the environment in which they lived; all of that was true.

What else happened? When they left, so did the tire shop, so did the grocery store, so did the dry goods store, because you see, we still have those kinds of entities in those small western communities. They, too, go because ranchers, agriculture, who spread amongst that vast array of public lands are the glue, the entities that hold the whole process together.

So it is not just big ranchers or small ranchers or medium-size ranchers or 500-head or less operations or 500-head or more. It is also small, husband-and-wife businesses on Main Street America, U.S.A. west, if you wish to say it, of the Mississippi River that is also going to go. It would be true in Vermont if the dairy industry, who happens to be making a little better money this year than they did last year, were to go. It would not be just the dairyman, just the dairywoman, their families that would go, the small communities would go, too.

I am sensitive to that concern my colleague from Vermont has had, and we have worked together on those issues. But these issues are not just the target, oftentimes they are the whole setting, the whole scenery, they are everything within the frame of the picture besides just the focal point. That is the issue here. That is why we have historically allowed a formula that adjusted and recognized market forces and understood that these were extremely valuable parts of a total picture.

So let us not be caught off guard tonight in a single focus, in a single subject, within the boundaries or within the frame of that, but the whole of the community, the whole and the fabric of that western lifestyle that is part of what we call this country, America, and what we recognize is an important part.

I will not be nostalgic because we have said it must be marketed in a wise and proper way, and we have done that. It is called the PRIA formula. It is sensitive to market forces. It moves with them. It also recognizes the cost of doing business. It puts inside the calculation a good deal more. It does not arbitrarily reach out and say if you are 500 head or more, you are bigger; if you are bigger, you must have more money, and therefore you ought to be able to pay more. That oftentimes is simply not the case depending on the situation.

I hope this body will do as they did last year by a substantial margin; reject this amendment. It is not the way to solve those problems. We have held hearings in the committee. We are looking at this. I think the grazing industry of the West is very sensitive to the issue at hand.

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. I join with my colleague from Idaho. I agree fully with his fine presentation.

I recognize that this is not some rich versus poor issue, not some new class struggle element that is always presented before the body when reason and facts fail, just trot up the usual load of emotion, fear, guilt or racism. I have been here long enough to see all this and how it works.

So I hope you will remember what happened to this vote the last time. I do not think there would be anyone who would want to change their position from the last opportunity to vote on this. I certainly would think the arguments have not changed. But let us deal with the true facts. Everyone is entitled to their own opinion, but no one is entitled to their own facts, and this is far from a rich versus poor issue which seems to get good purchase sometimes in this place.

So I certainly ascribe to the views of my friends from Idaho and New Mexico.

I rise today to express my opposition in the strongest terms to the efforts by my colleague from Vermont to raise grazing fees on public lands. His effort to restructure the grazing fee formula strikes at the very heart of my State's economy. It is an attempt to circumvent the fair evaluation process which the Energy and Natural Resources Committee committed itself to last year.

This issue has become a stalking horse for the environmental extremists who want to stop all grazing on public lands. They chose the issue because they thought it was saleable to the public and Congress. Their emotionally pitched crusade is based on the ill-informed concept that wealthy ranchers are the largest recipients of Federal grazing subsidies. That is simply not true.

We have before us a large number of studies and appraisals done by private and governmental agencies, associations, and institutions—all stating different conclusions on this issue. Each of these reports are produced by entities with agendas that are not the least bit subtle.

Each of these studies has a special interest objective and creates, manipulates, and discards data to present biased conclusions in order to support predetermined positions. I often say—everyone is entitled to their own opinion. That is their right. But, no one is entitled to their own facts. This issue is being grossly distorted by custom-generated data.

Here are the salient facts. The State of Wyoming has over 50 percent public lands. The Bureau of Land Management is the largest landowner—managing well in excess of 18.4 million acres; 17.4 million acres are classified as rangeland. 52 percent of those properties are classified as being in excellent condition.

The vast majority of the total 2,961 producers in Wyoming are small family ranching operations. Some of those family operations pool their resources and operate under "AMP's" allotment management plans—there are 177 AMP's which, combined operate on 5.4 million acres.

The Jeffords amendment would implement a two tier system for the annual fee by raising the grazing fee to $2.40 for producers with over 500 head of cattle and maintaining the current $1.92 level for producers with less than 100 head of cattle. The annual fee fluctuation would be capped at 25 percent. The premise for the large producer-small producer approach is misguided. It is based on the assumption that ranchers with stock levels greater than 500 are wealthy and can easily pay a significant fee increase. They cannot.

Family ranches in the West are in dire financial straits—the are pooling resources to cut down on overhead costs just to make ends meet. The fiber of rural America is being further threatened by this amendment. This ill-advised amendment could truly lead to the demise of the banks, businesses, schools, and economies of many small towns in the West.

I strongly urge my colleagues to oppose this amendment.

Mr. DOMENICI. Mr. President, I might say to the distinguished chairman of the Appropriations Committee, I believe all of those who wanted to speak in opposition are going to yield back their time when I am finished and then we have 5 minutes for the Senator from Vermont.

I want to say to the Senator I appreciate his remarks today and obviously the Senator has come a ways from last time. I regret that I do not believe the Senator has come far enough.

Let me also suggest that we have a lot of studies. Anybody who believes the GAO study believes in fairy tales. The most renowned professor and academician in this area is Frederick Obermiller, Oregon State University, professor of agriculture and resource economics. I ask unanimous consent to put in the RECORD his detailed study of the current formula. It says in every respect it is fair, equitable. The Government is getting a fair return. The ranchers are paying a fair amount of money. The private sector leases are not relevant to the public sector. It is analyzed thoroughly. Anybody who is really interested in why we believe what we have is right and we do not think we ought to fix it because it is not broken should just take a little time to read this.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

[Testimony Presented to the Subcommittee on Public Lands, National Parks and Forests, July 1, 1992]

IN SEARCH OF REASON: THE FEDERAL GRAZING (FEE) DEBATE

(By Frederick W. Obermiller, Professor of Agricultural and Resource Economics)

INTRODUCTION

Chairman Bumpers and members of the Subcommittee, it is a very great honor to be here today and have the opportunity to share with you information that may be helpful to you and your colleagues. Federal rangeland use and grazing fee issues have been controversial public policy issues for many years. We have an opportunity to bring reasonable closure to the debate if we are willing to learn from and heed the lessons of the past.

Similar hearings on the federal grazing fee and federal rangeland management and use issues occurred in both the House and the Senate in 1963, 1969, 1976, 1978, 1987, 1989, 1991, and earlier this year. The Hearing Records reveal that the arguments and information heard today are not new, although some of the actors have changed. This Subcommittee last met and heard these discussions August 9, 1978. A comprehensive public land grazing bill was discussed, a bill that when passed became the "Public Rangelands Improvement Act of 1978." Then, as now, only a small portion of the bill concerned federal rangeland grazing fees; yet most of the debate centered on the fee issue. If history does repeat itself, the fee issue will dominate today's hearing as well.

Why? Grazing fees are symbolic of the broader Western federal rangeland policy problem. That problem is one of property rights and conflicting interests. In the West, we have *de facto* private rights on federal lands, legislatively imposed public rights on private lands, and multiple demands on all lands. There simply is not enough land to fully satisfy all demands, one of which is demand for federal rangeland forage made available at a price reflecting its value, all things considered.

A brief historical review of the settlement of the West may shed light on our policy problem. What are our Western federal rangelands, and why are they in federal ownership? What has been the history of regulated livestock grazing on the federal rangelands? What is the present structure of the federal land dependent Western livestock industry? A better understanding of the answers to these questions helps frame the current public policy debate.

WHAT, WHERE AND FOR WHOM ARE THE WESTERN FEDERAL RANGELANDS?

Of the 2,271,343,360 acres of land in the United States, 662,158,197 acres or 29 percent of the Nation's land surface is in federal ownership (*Public Land Statistics* 1991). Most of the federal land, some 598 million acres (90.3 percent of all federal land), is public domain: either original public domain land that never left federal ownership or lands acquired by the United States through exchange of original public domain lands or timber for other lands.[1] A smaller portion of the federal owned lands, 64.3 million acres (9.7 percent), are lands acquired from private and other public owners through purchase, condemnation, or donation (Figure 1a). A large share of these acquired lands were obtained under various New Deal programs between 1933 and 1940, including the purchase and condemnation of 11.3 million acres of "submarginal" lands in the Great Plains by the Federal Emergency Relief Administration.[2]

The Dominant Federal Land Management Agencies

Today, these public domain and acquired federal lands are managed by several federal agencies, but primarily by the Bureau of Land Management (BLM) in the Department of the Interior and the Forest Service in the Department of Agriculture. The BLM manages 272.0 million acres, or 41.1 percent of the Nation's federal lands. The Forest Service manages 192.1 million acres, 29.0 percent of the federal lands. All other agencies combined manage a share (198.1 million acres) roughly equal to that of the Forest Service (Figure 1b).

If Alaska is excluded, the picture changes. In the 48 contiguous states there are 1,901.8 million acres including 413.7 million acres of federal land (21.8 percent of the total land area). The BLM manages 179.5 million acres (43.4 percent) while the Forest Service manages 169 million acres (40.9 percent) of the federal lands in the 48 contiguous states. The total acreage managed by each agency in the 48 contiguous states is comparable, with the BLM being the slightly larger federal land management agency (*Public Lands Statistics* 1984 and 1991). These acreages are depicted in Figure 2a.

The BLM is the predominant manager of the original public domain acreage however. Virtually all of the BLM acreage (96 percent) is public domain. Merely 0.8 percent of the BLM lands (2.3 million acres) are acquired lands.[3] In contrast, 28.6 million acres or 14.0 percent of the Forest Service land (85 per-

---

Footnoes at end of article.

cent of which is located in the midwest and eastern states) is acquired land, reflecting the growth through the 20th century in the federal land holdings managed by the USDA Forest Service. The acquired Forest Service lands include 3.8 million acres that a remnant of the "submarginal land utilization program" (the original 11.3 million acre LU Project lands) of the New Deal era. These 3.8 million acres are known today as the National Grasslands.[4]

The federal lands are by no means uniformly distributed among the 48 contiguous states (Figure 2b). It is clear that federal land management in the Western states is less important for the Forest Service than for the Bureau of Land Management. In the 11 Western states, almost half (48.3 percent of 753 million federal acres) of the land area is in federal ownership. Here, the 363.7 million acres of federal land are managed primarily by the BLM (48.9 percent or 177.9 million acres) and secondarily by the Forest Service (34.9 percent or 127 million acres). In contrast, of the 50.0 million acres of federal land in the 37 eastern states, nearly all (84.0 percent or 42 million acres) is managed by the Forest Service and merely 3.2 percent (1.6 million acres) is managed by the Bureau of Land Management. This represents only 0.6 percent of the land managed by the BLM in the 48 contiguous states.

The BLM is essentially a Western United States federal rangeland management agency. The Forest Service, slightly smaller in terms of acreage managed, is more diffuse and has less of a Western rangeland management focus. Under the auspices of the Federal Land Policy and Management Act of October 21, 1976 (FLPMA) and the National Forest Management Act of October 22, 1976 (NFMA) both agencies manage their lands for multiple uses and users, including domestic livestock grazing, however.

GRAZED FEDERAL RANGELANDS MANAGED BY THE DOMINANT AGENCIES

What, and where, are the Western federal rangelands? The Western public rangelands are defined in Section 3(a) of the Public Rangelands Improvement Act of October 25, 1978 (PRIA) to include ". . . lands administered by the Secretary of the Interior through the Bureau of Land Management or the Secretary of Agriculture through the Forest Service in the sixteen contiguous Western States on which there is domestic livestock grazing" (43 U.S.C. 1902). Defining further and following Section 3(i) of PRIA: "The term 'sixteen contiguous Western States' means the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming." In addition, there are about 132,000 acres of federal rangeland in the state of Texas.

Therefore, the 17 Western federal rangeland states can be identified as the 16 Western public rangeland states plus Texas. Of these 17 federal rangeland states, 11 are subject to the grazing fee formula established in PRIA (the National Grassland states of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas were exempted from the PRIA formal fee contained in section 6 of PRIA).[5] These various combinations of Western rangeland states are depicted in Figure 3.

This operational definition of the Western federal rangelands is important because it implies that these rangelands are more extensive than the familiar Bureau of Land Management grazing lease lands (Taylor Grazing Act Section 15 lands) and grazing districts (Taylor Grazing Act Section 3 lands) and the Forest Service's National Forests grazing allotments. The federal rangelands of the Western United States also include the National Grasslands of the nine Great Plains states. Just over half (51 percent) of the National grasslands' total acreage is contained in six National Grasslands located in North and South Dakota.[6]

Domestic livestock grazing is the most widespread or extensive use of the Western federal rangelands. The federal rangelands of the 17 contiguous Western states (including Texas) consist of some 282 million acres (177 million administered by the BLM and 105 million administered by the Forest Service). Of this total acreage, in 1990 about 210 million acres (or 74 percent of the Western federal rangelands), were eligible during some portion of the year for domestic livestock grazing in combination with other commodity and amenity uses of the federal rangelands (Public Land Statistics 1990 and Grazing Statistical Summary 1990).

These grazable Western federal rangelands (Figure 4) include about 160 million acres administered by the BLM (90 percent of the BLM lands) and 50 million acres of National Forests and National Grasslands (less than one-half of the total federal rangeland acreage in the Western Region of the National Forest System). The BLM, then, is a Western United States federal rangeland management agency with a strong livestock use focus. In contrast, the Forest Service manages somewhat less federal land, is more national in scope, contains far less grazing land, and has a weaker livestock use focus. Again, both are multiple use land management agencies however.

FOR WHOM ARE THE WESTERN FEDERAL RANGELANDS MANAGED?

Multiple use management implies multiple user groups, and multiple interests in federal land use and resource pricing policy. As public policy evolves and additional uses are legitimized in federal land law, demands for already fully allocated federal land resources to newly recognized uses materializes. This exerts upward pressure on values of federal resources previously allocated to customary or traditional uses.

The federal grazing fee/rangeland resource use controversy really is not a debate over the appropriate price of the federal rangeland forage resource, but rather is a debate over the priorities among alternative uses of federal rangeland resources (Burkhardt and Obermiller 1992). The federal grazing fee issue cannot be fully understood nor constructively debated if the pricing (fee) question is separated from the associated federal rangeland resource use issue—the relative priority of domestic livestock grazing as one of several authorized multiple uses of federal rangelands

The Public Land Law Review Commission (PLLRC) recognized the roots of the federal land use debate in its final report recommending comprehensive changes in federal resource law (One-Third of the Nation's Land 1970, pp. 6–7). According to the PLLRC, there are six publics who express different interests in the federal grazing fee and more fundamental federal rangeland use policies of the United States:

1. The national public

Taxpayers who seek public policy to sustain environmental quality and production capability, wish to keep consumer prices low, and want federal resource management programs to recover administrative costs;

2. The regional public

Commercial interests in regional employment and economic growth who advocate community stability as a federal land management goal and wish to retain access to the federal rangelands and its resources;

3. The Federal Government as sovereign

Assuring access on equal terms to all potential users of federal rangelands including the assignment and limitation of rights to use those resources, and otherwise promoting the general welfare while refraining from unfair business practices vis-a-vis the private sector;

4. The Federal Government as proprietor

Sharing with the National Public a desire to recover costs of administering federal rangeland use programs, seeking a return on its productive assets, and sustaining the long term productive capabilities of federal rangelands;

5. State and local governments

Deriving revenues in lieu of taxes and commercial income from the private uses of federal rangelands and thus seeking an equal voice in implementing environmental, land use, and land disposition programs; and

6. Users of the Federal lands and its resources

In common with State and Local Governments, seeking participation in federal rangeland management and use decisions, demanding equal access opportunity under explicit terms and conditions of use agreements, expecting fair compensation for abridgement of those terms and conditions, and advocating federal resource pricing standards consistent with the values of federal rangeland resources to the users of those resources.

In short, the PLLRC identified many different publics, all of whom have legitimate interests in the management and use of federal lands. No one public was given priority in interest relative to other publics. Three of the publics (Regional Public, State and Local Governments, and Users) thus acquire local proprietary interest in the management, use, and disposition of federal rangelands. This is the crux of the federal rangeland policy debate.

INSTITUTIONAL HISTORY AND THE FEDERAL GRAZING FEE/RANGELAND USE LINKAGE

Domestic livestock grazing was first regulated on public domain lands in the West reserved as federal forests. Regulation of domestic livestock grazing was due largely to concerns about water supply and water quality in the headwaters of streams used by downstream communities (Yearbook of the Department of Agriculture for 1901, p. 337). Soil erosion, range condition, and livestock industry stability concerns brought the remaining public domain rangelands under regulation several decades later. The development of those regulatory laws and federal land management agency practices created the Western federal rangeland grazing system (the geographic extent of which is depicted in Figure 3) that now exists. These are significant policy implications in the history of the development and functions of our Western Federal grazing institutions.

REGULATED GRAZING ON FEDERAL FORESTLANDS

Livestock grazing on federal lands was first regulated in 1896 on the Forest Reserves administered by the General Land Office in the Department of the Interior. This regulation was apparently at the instigation of Gifford Pinchot who was, at that time, Chief of the Division of Forestry in the Department of Agriculture (Steen 1976 pp. 65–68). A permitting system was extended to established operators who grazed sheep and cattle on spatially identifiable parcels of land located in the Forest Reserves (parcels subsequently to be called "grazing allotments") in the Western United States. The goals of the permitting system were to (1) assure sustainable stocking rates, (2) use carrying capacity with respect to grazing as the determinant of allotment size, (3) be equitable in the granting of permits, and (4) maintain flexibility in the regulation of grazing under the terms and conditions of the permit.

The Transfer Act of February 1, 1905, conveyed 85,627,472 acres in 83 Forest Reserves from the U.S. Department of the Interior (USDI) to the U.S. Department of Agriculture (USDA). The Transfer Act also allowed all stumpage receipts, *grazing fees*, and other revenues from the sale of Forest Reserve resources to be placed in a special Treasury fund to be used for the *"protection, administration, improvement, and extension of the reserves."* [emphasis mine] The Forest Service was established within USDA as the administering unit with Pinchot as its first Chief.

Pinchot further refined the USDI permitting system. Pinchot extended the standard term of the permit to ten years subject to renewal (subsequently called "term permits"); and required that the permittee own sufficient nearby private property (subsequently called "commensurable base property") to be able to support the permitted number of livestock during that portion of the year when the livestock was not grazing on the Forest Reserves.

On July 1, 1905, Pinchot published his first set of comprehensive regulations governing the management of the Forest Reserves. His *Use Book* devoted considerable attention to the regulation of domestic livestock grazing with objectives of those grazing regulations being (1) resource conservation, (2) protecting the financial welfare of permittees, and (3) protecting the original permittees from outside competition (Steen 1976, p. 79). The *Use Book* clearly indicated that local residents would have preferential and enforced rights to use the resources of the federal forest lands: "Forest reserves . . . are patrolled and protected, at Government expense, for the benefit of the Community and home builder" (*Use Book* 1905, p. 7).

On his own authority as Chief (without explicit Congressional sanction), Pinchot installed an administratively determined grazing fee effective in the 1906 grazing season. An administered fee was selected over competitive bidding because ". . . It would have jeopardized the necessary continuity for stock production" (Steen, p. 67, fn. 51). The basis for the grazing fee was "reasonableness" considering the value of the permit to the permittee; and as noted the resulting fee receipts were used to manage and expand the Forest Reserve system. By 1907, when the Forest Reserves were renamed the National Forests, the system had expanded to 168 million acres.

Livestock operators protested both the imposition of grazing fees and the reductions in permitted stocking rates that had begun in 1897 and were continued after the Reserves were transferred from USDI to USDA. Their protests notwithstanding, in the Report of the Forest Service for 1906 Chief Pinchot stated:

"Opposition to the fee is disappearing. There is no longer any doubt as to the advantages of preventing conflict and overgazing on the ranges. Under restricted grazing cattle and sheep keep in better condition and yield a better profit, and the range is not injured . . . Every effort is being made to give the stockmen the fullest practicable use of the range. Small nearby owners have the preference, larger regular occupants come next, and owners of transient stock come third."

REGULATED GRAZING ON THE PUBLIC DOMAIN

Elsewhere in the West, livestock grazing remained temporarily unregulated on 20 million acres of vacant, unappropriated, and unreserved public domain rangelands (Muhn and Stuart 1988). As time went by, the Western public domain lands became increasingly crowded and progressively overgrazed—a typical "Tragedy of the Commons" phenomenon.

"As competition for forage tightened, along with the conflicts between sheep and cattle and between stockmen and "nesters", the dominant effort of most stockmen to gain or retain control of the range overshadowed any thought of resultant damage, and led eve at times to the malicious "trampling into dust" of areas of feed, to drive back crowding neighbors, or in retaliation. No responsibility was felt for preserving the range for the future . . . It was all free, open grazing; Uncle Sam owned it, and it was a clear case of first come first served and devil take the hindmost" (Wallace and Silcox 1936, p. 182).

The root of the problem was that the federal government was not meeting their needs. Stockraisers had to have more than 160 acres of range for their herds" (Muhn and Stuart 1988, p. 36).[7] The public domain provided the complementary balance of the forage supply but there was not enough go around.

By the early 1930s the severity of the overgrazing problem coupled with the social and environmental instability of that era led both the Administration and Congress to the conclusion that "maladjustments" in Western agriculture needed correction. The New Deal era private land acquisition programs previously discussed were one outcome.[8] These programs viewed regulated livestock grazing as preferable to farming in the environment of the Semiarid West.[9]

Similar concerns about the state of the unreserved public domain rangelands led to a series of general grazing lease bills introduced by various Western Congressmen. Although pockets of opposition to regulated grazing were strong, by 1934 the instabilities, accentuated by drought and Depression, created a climate favorable for passage of legislation.[10] The Taylor Grazing Act of June 28, 1934 called by President Franklin Roosevelt ". . . a great step forward in the interests of conservation, which will benefit not only those engaged in the livestock industry, but the nation as a whole" (Muhn and Stuart 1988, p. 37) was the result. The preamble to the Taylor Grazing Act (TGA) reads as follows:

"Top stop injury to the public grazing lands by preventing overgrazing and soil deterioration; to provide for their orderly use, improvement and development; to stabilize the livestock industry dependent on the public range.

The Taylor Grazing Act was patterned in part after the system of regulated grazing on the National Forests devised by Pinchot. The most significant difference was that, for the first time, the Secretary of the Interior was given explicit statutory authority to level "reasonable" grazing fees as a independent element of a comprehensive mandate which included, as a separate element, control over the timing, intensity, and amount of permitted overstock grazing (the "grazing preference"). The interpretation of what a "reasonable" grazing fee constitutes was left to the discussion of the Secretary of the Interior. For many years thereafter the Administrative interpretation was that the grazing fee should cover the costs of administering a minimal public domain grazing program, allowing for the quantity of forage authorized for use under the terms of TGA Section 3 grazing district permits and Section 15 grazing leases (Secretary of Agriculture of the Interior 1977, p. 2–5).

LINKAGES AND HISTORICAL LESSONS

The institutional developments reviewed above are important because they illustrate the age and the roots of the current federal grazing fee debate. These roots are almost a century old, which in itself suggests why the parties to the debate are so deeply entrenched. The principal roots of the debate are as follow.

Of perhaps most significance is the fact that the Western federal rangeland forage "market" is not, and never was, an open and competitive market in which both price (the grazing fee) and quantity (the amount of federal forage taken) vary in relation to one another. Price (fee) always has been administratively set, based at least initially on some set of "reasonable" criteria in relation to the Federal Government's (acting as proprietor) costs of providing permittees with access to the permitted federal rangeland forage supplies and of enforcing the terms and conditions of the grazing permits. Quantity (authorized use levels of stocking rates) always has been set administratively as well, but independently of fee levels, based on land resource conservation criteria.

Second, the permit to graze, awarded on the basis of preference in prior use patterns (including the location of grazing, customary season of use, and associated stocking rates) and enforced against trespass by the Federal Government acting as sovereign, has the attribute of a partial property right.[11] The federal land management agencies have consistently referred to that "right" as a "privilege" but in the minds of the permittees as well as the Internal Revenue Service (which attaches estate taxes to it) and some economists the permit is a valued "use right."[12]

Third, the value of the permit accrues as a result of federal land laws restricting homesteads to 160–640 acres. Given privately owned feed and forage resources associated with these relatively small acreages, with the permit a viable commercial ranching operation was possible, while in some areas a ranch could not operate without a permit. Today, in some areas fee simple base properties could be rearranged if each such property lost its federal grazing permit, but probably at additional cost per unit of output. In either context, permit value is license value accruing to existing operations holding a federal grazing permit. Further, the permit's license value is the direct result of the original homestead laws and the commensurable base property restriction required as a condition of the conveyance of the permitted right to graze livestock at a certain stocking rate and season of use on a specific allotment (Torell et al. 1992).[13]

Fourth, the permit is, at least in part, a commercial business license granting long-term seasonal use privileges to the federal rangeland rancher. This allows the rancher, or permittee, to maintain an economically viable ranch unit year-round. Hence, federal rangeland forage and space is a complementary land input, not a short run substitute in production, for privately owned land and other resources.[14]

Fifth, because permits are renewable long term use agreements given preferentially to smaller local ranchers with traditional dependence on nearby federal rangelands, rural communities have developed in proximity to the federal rangeland ranches. These rural communities act, in part, as local federal land ranching service centers. Thus, the stability of the federal rangeland dependent community is linked to the stability of those permitted ranching operations. This helps explain the extent of local interest in field hearings on the federal grazing fee and related federal rangeland use issues. Recalling again the various publics identified by the PLLRC, there are both (1) regional public and (2) state and local government interests in the federal rangeland resource and its access price.

Sixth, both Congress (in the Taylor Grazing Act and more recent legislation) and the federal land management agencies have historically acknowledged that economic stability (at the ranch, local community, and Western livestock industry levels), and both on-site and off-site resource conservation, are the basic goals of federal rangeland management and use policy. Therefore, the concept of sustainability as applied to federal rangeland management, use, and pricing has socioeconomic as well as environmental connotations, as reflected in the legitimacy of the interests of all six groups identified by the PLLRC in the federal rangeland policy debate.

SOCIAL AND ECONOMIC IMPLICATIONS OF THE FEE/USE LINKAGE

These six federal grazing fee/rangeland use linkages have strong implications for market behavior in the Western rangeland livestock industry, and therefore have equally strong implications for changes in fee policy. These implications include the following:

(1) The "commensurable base property" requirement imposed by the sovereign Federal Government as a condition of authorized public rangeland livestock use is an institutional restriction on freedom of entry in the federal rangeland forage market, meaning that the market cannot function with perfect efficiency. The commensurability requirement causes competitive bidding as a means of establishing grazing fees to be destabilizing, at least in the short term, and would probably require the Federal Government as proprietor to impose fewer restrictions on the use of the grazing permit (Obermiller and Barlett 1991). It is not likely that competitive bidding, given commensurability requirements and business management implications for the federal rangeland management agencies, would be politically acceptable to either the federal rangeland ranching industry or to the federal bureaucracy.

(2) The relative scarcity of private forage alternatives to federal rangeland forage during the permitted season of use implies that permittees are price-takers with relatively little market power vis-a-vis the federal government. Hence, Administrative or Congressional attempts to increase federal grazing fees can be expected to be opposed by the federal rangeland ranching industry in the political arena, since the permittees see no viable market alternative to federal forage during the permitted season of use.

(3) Even if fees are kept at current levels, reductions in grazing permit forage preference and authorization levels can be expected to put significant upward pressure on private rangeland rental rates in local markets, leading to disruption in those private markets. To the extent that federal grazing fees are based in part on private pasture and rangeland rental rates, major reductions in federal grazing authorizations can be expected to result in higher grazing fees due to federal/private forage market interdependence (Collins and Obermiller 1992).

(4) Since the permittee is a price-taker with no ability to pass fee increases along to the consumer, any fee increase must be absorbed by the federal rangeland rancher, representing a transfer of wealth from the private ranching sector as tenant to the Federal Government as proprietor and landlord. If the tenant, or permittee, is operating at the financial margin, markedly higher fee costs may lead either to closure of the operation or its sale to a larger operation. Industrial destabilization is possible.

(5) If federal grazing fees increase ceteris paribus, permit values and therefore ranch values will decline (Obermiller 1991b, Torell et al. 1992). As capital asset values decline, the ability to borrow against those assets decline. The expected result is asset devaluation in the Western federal rangeland ranching sector and reduced levels of private investment in and maintenance of range improvements, particularly on federally owned rangelands.[15]

(6) Those federal rangeland ranchers least able to afford markedly higher fee costs are likely to be the more highly leveraged sole proprietor operators. In American agriculture, such operators tend to be younger, and newer entrants to the industry. If this is true in the federal rangeland ranching industry (and it is not known whether or not this is true in that industry), the effects of higher fees will have demographic consequences for the structure of the Western ranching sector.

(7) Small to medium sized family ranch enterprises characterize that portion of the Western livestock industry holding federal grazing permits (Obermiller 1992c, Secretary of Agriculture and Secretary of the Interior 1992).[16] Smaller ranching operations do not enjoy economies of size and therefore are less able to absorb fee increases than are larger operations. This implies that as federal grazing fees increase, the average size of permittee enterprises will increase. This is not consistent with the purposes of the permitting system, which include preference for smaller family ranching operations.

(8) Family ranch operations tend to buy their ranch inputs in local markets, thus maintaining local community stability and stimulating local economic activity. For the above reasons, it can be expected that increases in federal grazing fees will lead to a decline in the number of smaller family ranches holding federal grazing permits. If the larger ranching operations that displace smaller operations do not make local purchases to the same extent as family ranches, rural communities that are service centers for the existing ranching sector will tend to be destablilized.

IN SEARCH OF A REASONABLE FEDERAL GRAZING FEE

Fees have been charged for domestic livestock grazing on federal rangelands and forestlands since 1906, the year after the Forest Reserves were transferred from the General Land Office in the Department of the Interior to the new Forest Service in the Department of Agriculture.[17] The statutory authority for grazing fees is the Taylor Grazing Act of June 28, 1934, although the Forest Service used the broad management powers given its Chief under the "Organic Act of 1897" to manage domestic livestock grazing on the National Forests as a rationale for setting grazing fees from 1906 through 1976.[18]

As has been noted, the Taylor Grazing Act authorized the Secretary of the Interior to charge "reasonable" fees for the granted access by private parties to federal rangeland forage. The TGA did not define the term "reasonable" however, and this has been one source of the continuing federal grazing fee controversy (Obermiller and McCarl 1982, Obermiller 1984). Reasonable to whom? In the broadest sense of the term, the federal grazing fee would have to be judged reasonable by each of the six broad interest groups identified by the Public Land Law Review Commission.

While the relationship between the level of the federal grazing fee and the economic stability of the individual ranching operation, local communities, and the Western livestock industry had been recognized since livestock grazing on federal rangelands was first regulated, making that relationship operational (in fee setting) was difficult. The first attempt at clarification occurred shortly after the Bureau of Land Management was created in July 1946 through the merger of the Grazing Service and the General Land Office in the Department of the Interior.

GRAZING FEES AND COMMUNITY STABILITY

The "Barrett Amendment" of August 6, 1947 (Public Law 376) extended the definition of "reasonableness" to include not only the permittee but also local federal rangeland dependent communities as the two parties to whom the fee should be fair: ". . . and in fixing the amount of such fees the Secretary of the Interior shall take into account the extent to which such districts yield public benefits over and above those accruing to the users of the forage resources for livestock purposes" (Sec. 1). This was the first Congressional effort to specify indicators of community stability as a public policy objective in federal grazing fee administration and related federal rangeland management.

The "Barrett Amendment" applied only to Section 3 grazing districts and Section 15 grazing leases administered by the newly created Bureau of Land Management—not to grazing lands administered by the Forest Service.[19] Recall that explicit statutory authority for Forest Service grazing fees did not yet exist. Through the 1950s and 1960s different grazing fees were charged by the two agencies. Under Use Book and subsequent Forest Service regulations, and consistent at least in part with the community stability objective, Forest Service grazing fees varied from National Forest to National Forest, from LU Project to LU Project, and after 1960 from National Grassland to National Grassland. BLM grazing fees were uniform westwide and generally were lower than National Forest, LU Project, and National Grassland fee levels.

MOVING TOWARD UNIFORMITY IN FEDERAL GRAZING FEES

Not until 1969, under pressure from both Congress and the Bureau of the Budget, did the two agencies adopt a uniform formula fee system.[20] The 1969 federal grazing fee formula had as its purpose charging a single grazing fee that would, on average, keep total grazing costs on BLM and National Forest rangelands equal to total grazing costs on comparable private rangelands, using an "animal unit month" (AUM) as the unit of measure. The 1969 uniform grazing fee for the 11 Western states consisted of a "base fee" of $1.23 per AUM multiplied by an index of annually updated estimates of average westwide private rangeland rental rates.

[Equation not reproducible in the RECORD.]

The 1969 formula fee system was contentious, in large part because one of the costs incurred by permittees—the amortized cost of purchase of the permit—was omitted in the calculation of the $1.23 "base fee" in the 1969 (and thus in the current) grazing fee formula.[21] Congress subsequently imposed four moratoria on increases in the federal grazing fee from one year to the next, with the last of the four included in the text of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 Sec. 401.(a)). The omission of the "permit cost" in setting the fee formula was a major reason for those moratoria, because many Members believed that "permit cost" is a legitimate cost of livestock production on federal rangelands, and that its omission effectively caused permittees to "pay twice" for their permits.

FLPMA rescinded the "Barrett Amendment" and defined "reasonable" as a fee that was fair to both the user (the permittee) and the owner (the American taxpayer represented by the Federal Government) of federal rangeland livestock forage.

sec. 401. (a) The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be conducted a study to determine the value of grazing in the lands under their jurisdiction in the eleven Western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such a study, the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven Western states, differences in forage values, and such other factors as may related to the reasonableness of such feed. [emphasis mine]

What actually is fair to both the permittee and the American taxpayer is a matter of longstanding debate The debate centers on the meaning of a "fair market value" grazing fee.

Sec. 102. (a) the Congress declares that it is the policy of the United States that (9) the United States receive fair market value of the use of the federal lands and their resources unless otherwise provided for by statute. [emphasis mine]

In other words, Congress could, if it wished, eliminate grazing fees altogether.

In 1978, Congress decided to temporarily settle the grazing fee debate by passing a federal law, the Public Rangelands Improvement Act (PRIA) of October 25, 1978 that set the grazing fee based on a formula. Congress acted on the basis for a Report to Congress responding to the directive contained in Section 401(a) of FLPMA: Study of Fees for Grazing Livestock on Federal Lands (Secretary of the Interior and Secretary of Agriculture 1977). The report made no mention of the National Grasslands. Congress did not accept the recommendation of the Secretaries, which was to retain the 1969 formula fee system but add a 25 percent limit on year-to-year changes in fee levels. Instead, Congress adopted the recommendation of the "Technical Committee or Review Public Land Grazing Fees" appointed by the Secretaries (ibid., Appendix A and Federal Register, February 4, 1977, pp. 6980–6989).

THE PRIA AND NATIONAL GRASSLANDS FORMULA GRAZING FEE SYSTEMS

The PRIA formula fee system is a cost equalization formula patterned after the "Utah Model" (Roberts 1963). The "Utah Model" says simply that the total costs of using livestock forage should be the same, in the interests of both efficiency and equity, for permittees and nonpermittees. The "Utah Model" is implemented by first measuring, on average, the total (rent plus nonrent) per AUM private rangeland grazing cost. Then the nonfee portion of the total per AUM grazing costs for grazing on federal rangelands is measured, a again on average. The nonfee federal rangeland grazing cost is subtracted for the total private rangeland grazing cost. The residual is the "base" grazing fee for the year in which the measurements were taken: $1.23 per AUM in 1966 in the case of the PRIA formula fee system in the 11 Western states (and $1.33 per AUM in the "PRIA-like" formula used for the national Grasslands grazing fee in the nine Great Plains states).[22]

COST EQUALIZATION AS A FEDERAL GRAZING FEE POLICY STANDARD

the "Utah Model", but with permit cost omitted, was codified in section 6 of PRIA. The formula fee system detailed in that section was stated, by Congress, to simultaneously represent (1) the economic value of the forage to the permittee, and (2) the "fair market value" for federal rangeland grazing.

"For the grazing years 1979 through 1985, the Secretaries of Agriculture and Interior shall charge the fee for domestic livestock grazing on the public rangelands which Congress finds represents the economic value of the use of the land to the user, and under which Congress finds fair market value for public grazing equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the economic Research Service) added to the Combined Index (Beef Cattle price Index minus the price paid Index)and divided by 100: Provided, That the annual increase or decrease in such fee for any given year shall be limited to not more than plus of minus 25 per centum of the previous year's fee (43 USC 1905)."

The PRIA formula fee system is currently in effect under the auspices of Executive Order No. 12548 issues by president Reagan on February 14, 1986[23] and a similar formula remains in effect on the National Grasslands. Numerous bills and amendments have been offered in the House (and one in the Senate) over the past 18 months that would change the PRIA formula fee system, causing the amount of the federal grazing fee to increase. The most recent effort in the House (Congressman REGULA'S amendment to the FY 1993 Interior Appropriations bill) would, if enacted, lead to a temporary 33 percent increase in the PRIA grazing fee, from $1.92 per AUM in 1992 to $2.56 per AUM in 1993. As was true in 1990 and 1991, the proposed bills and amendments continue to omit the National Grasslands from the scope of the fee legislation.

THE STRUCTURE OF THE PRIA AND NATIONAL GRASSLANDS FORMULA FEE SYSTEMS

The PRIA formula bases grazing fees in the current year on a "cost equalization base fee" of $1.23 per AUM modified by indices reflecting the relative values of private grazing land rental rates, beef cattle prices, and costs of production in the immediately preceding year. This year's $1.92 PRIA formula grazing fee is calculated from last year's rental rates, costs, and returns together with a constant "base fee" of $1.23 per AUM.

As is easily seen, the two grazing fee formulas are conceptually the same, but Section 11 of PRIA exempted the National Grasslands from the provisions of the Act. Both fee formulas base grazing fees in the current year on 1966 base fees multiplied by index values in the immediately preceding year—meaning the 1992 per AUM grazing fees of $1.92 (PRIA) and $3.42 (National Grasslands) are based on the 1991 index values of comparable private grazing land rental rates, returns to Western ranching operations, and costs of production.

The $1.23 and $1.33 Per AUM "Base Fees:" The $1.23 and $1.33 per AUM values are referred to as the "base fees." They are supposed to represent the amounts that National Forest and Bureau of Land Management permittees, and the National Grassland permittees, respectively, would have to have been charged in 1966 so that, on average, the total costs per AUM of grazing livestock on public versus private rangelands would have been equal. The $1.23 PRIA base fee represents the weighted average of the grazing cost difference for cattle ($1.26 per AUM) versus sheep ($1.13 per AUM) grazing on federal versus private rangelands in the 11 Western states, and was derived from the results of the 1966 Western Livestock Grazing Survey of some 10,000 ranch operations and 500 financial institutions in the western United States (Table 1). While it has been understood that the $1.33 per AUM National Grasslands base fee was derived from the same survey, no records or reports are available to support or deny that claim.

The $1.23 and $1.33 per AUM "base fees" in the PRIA and National Grasslands formulas have as their conceptual basis the notion that a federal grazing fee will be equitable to the federal rangeland rancher, to ranchers who do not hold federal grazing permits, and to the American taxpayer if the fee, together with nonfee grazing costs on federal rangelands, equals the rent plus nonrent grazing costs on private rangelands. The underlying idea in this approach to fee setting is that both efficiency and equity in grazing markets will be realized if graziers in both markets, on average, encounter equal per AUM grazing costs.

This cost equalization approach rationalized the scope of the 1966 Western Livestock Grazing Survey, the design of its questionnaire, the process of the empirical analysis, and the reporting of survey results. Houseman et al. (1968) could find no statistical grounds upon which to argue for regionalized "base fees" due to the high degree of variability in allotment grazing costs within and among subregions of the West: hence a single westwide "base fee" of $1.23 per AUM was recommended for BLM and National Forest permittees. The goal was cost equality, on average, in grazing on private and public rangelands.

TABLE 1.—SUMMARY OF ADJUSTED COMBINED PUBLIC LAND (NATIONAL FOREST AND BUREAU OF LAND MANAGEMENT) AND PRIVATE LAND GRAZING COSTS IN THE 11 WESTERN STATES IN 1966 DOLLARS PER AUM

Cost items	Cattle		Sheep	
	Combined public costs	Private costs	Combined public costs	Private costs
Lost animals	.60	.37	.70	.65
Association fee	.08		.04	
Veterinary	.11	.13	.11	.11
Moving livestock to and from	.24	.25	.42	.38
Herding	.46	.19	1.33	1.16
Salt and feed	.56	.83	.55	.45
Travel to and from	.32	.25	.49	.43
Water	.08	.06	.15	.16
Horse	.16	.10	.16	.07
Fence maintenance	.24	.25	.09	.15
Water maintenance	.19	.15	.11	.09
Development depreciation	.11	.03	.09	.02
Other costs	.13	.14	.29	.22
Private lease rate		1.79		1.77
Total operating costs [1]	3.28	4.54	4.53	5.66
Difference between private/ public	1.26		1.13	
Combined cattle and sheep	[2]1.23			

[1] Excludes the amount of the grazing fee charged in 1966.

[7] Weighted by 80 percent cattle and 20 percent sheep AUMs. All column and row headings are as reported to Congress in 1969. "Public costs" as used here refer to grazing costs on public lands, and "private costs" refer to grazing costs on privately owned rangelands.

Indices Used to Modify the "Base Fees:" Since prices and market conditions change over time, the $1.23 and $1.33 per AUM "base fees" would have to be updated in some way to account for those changes. In the PRIA formula [Equation 2] and its National Grasslands equivalent [Equation 4], the $1.23 and $1.23 per AUM "base fees" were multiplied by three indices to account for such changes over time.

The logic of the formula fee systems is that the "base fees" are one of two long-run fair market value components. The second of these long-run components is the "Forage Value Index" or FVI. These are indices of what are supposed to be private grazing land rental rates in 11 Western states (PRIA formula) and in the six remaining Western federal rangeland Great Plains states (National Grasslands formula) using 1966 as the base year. Both versions or the index are based on an annual survey conducted in the month of June (recently July).

The FVI is derived from the results of a "July Cattle Survey" (JCS), formerly the "June Enumerative Survey" (JES), conducted by the National Agricultural Statistical Service (NASS) and is weighted by the number of farm units with cattle in each of (1) the 11 Western states for the PRIA formula and (2) the six remaining Great Plains states for the National Grasslands formula (Secretary of Agriculture and Secretary of the Interior 1986, p. 23). This results in an overstatement of the prevailing private grazing land rental rate relative to a weighting based on the number of federal AUMs authorized for domestic livestock grazing in each state (ibid, pp. 23–24).[24]

The other two PRIA formula indices were intended, by the Government economists who developed the PRIA formula, to reflect ". . . short-run instabilities that result during periods of demand, supply, and prices disequilibrium" not otherwise accounted for in the longer term forage value index" (Federal Register, February 4, 1977, p. 6988). The General Accounting Office (Rangeland Management: Current Formula Keeps Grazing Fees Low, June 1991) and others have interpreted these latter two indices as measures of "profitability" or of the federal rangeland rancher's "ability to pay" for federal forage (ibid., p. 17). That was not the original intent of the creators of the PRIA fee formula who argued, to the contrary, that the longer term forage value index fails to capture short term fluctuations in market conditions—and since the grazing fee is an annually updated charge, the short term is as important a determinant of forage value as is the long term.

These remaining two indices reflect annual changes in livestock market demand and supply conditions. The BPI is a beef price index (with 1966 as the base year) reflecting the average weighted selling price of cows, feeders, and fat cattle (but not calves under 500 pounds or sheep) in the 11 Western states (PRIA formula) and in the remaining six Great Plains states (National Grasslands formula). The BPI is derived from published NASS data and is weighted by the total liveweight of cattle marketed in each state regardless of their state of origin (Secretary of Agriculture and Secretary of the Interior 1986, p. 25). As with the FVI, weighting based on authorized federal AUMs in each state would reduce the prices received value;[25] and while it is not known, it is probable that weighting by state of origin would lead to a further reduction in the prices received value.

The PPI is a prices paid index (also with 1966 as the base year) computed from national beef production input costs, modified to reflect costs of production for cow-calf enterprises in the 16 Western public rangeland states (excluding Texas). This index, which excludes production inputs of farm origin such as hay and feeder livestock, has been criticized on the grounds that "The exclusion of these factors gives greater weight to components of livestock production highly affected by market changes and inflation, such as fuel costs" (ibid, p.27).

HOW WELL HAVE THE PRIA AND NATIONAL GRASSLANDS FEE FORMULAS WORKED?

Congress was not convinced that the PRIA formula fee system would work in tracking changes in the economic use value (to the permittee) and the fair market value (to the American taxpayer) of federal rangeland livestock forage. Consequently, PRIA contained a provision (Section 12) requiring the Secretaries of Agriculture and the Interior to evaluate the fee formula and to report their evaluation back to Congress by the end of 1985.[26] Since the National Grasslands formula was conceptually the same as the PRIA formula, the Forest Service intended to also evaluate the National Grasslands fee formula. Events precluded such an evaluation however.

The two agencies began their evaluation of the PRIA formula in 1980. Both the base fee and the three indices were evaluated. Other ways of establishing grazing fees were reviewed as well, and were subsequently reported to Congress (Secretary of Agriculture and Secretary of the Interior 1986 and 1992; for additional fee alternatives not evaluated by the agencies see Obermiller and Bartlett 1991). The 1992 Update of the 1986 report places less reliance on the results of the agencies' 1981–1985 study, and more reliance on technical updates of the original 1966 data base.

Substituting Private Rental Rates for the Base Fee: Soon after the required review and evaluation directed in Section 12 of PRIA began, it became clear that in evaluating the formula fee system a survey of costs and returns to both federal and private rangeland grazing operations—such as had been conducted in 1966 resulting in the $1.23 and ostensibly the $1.33 per AUM base fees—would not be repeated.[27] Rather, a "mass appraisal" would be done of rents paid for private pastures and rangelands in the Western states. The appraisal study results were published in 1984. Six "Pricing Areas" were established, and for mature cattle and horses a different base would be used in each of these areas. The appraised base values were $9.50 in Pricing Area 1, $7.10 in Pricing Area 2, $7.60 in Pricing Area 3, $5.90 in Pricing Area 4, $5.20 in Pricing Area 5, and $6.40 in Pricing Area 6 (see Figure 5).

Pricing area	Private land lease rate	Corresponding "appraisal value"	Advance payment grazing fee
Mature Cattle and horses (over 18 months of age):			
1	$10.00	$9.50	$8.55
2	7.50	7.10	6.39
3	8.00	7.60	6.84
4	6.25	5.90	5.31
5	5.50	5.20	4.68
6	6.75	6.40	5.76
Yearling cattle (under 18 months of age):			
1	7.50	7.10	6.39
2	6.75	6.40	5.76
3	6.25	5.90	5.31
4	5.70	5.40	4.86
5	5.50	5.20	4.68
6	4.75	4.50	4.05
Sheep: Westwide	1.10	1.05	.95

Source: 1986 Report to Congress, pp. 13 and 15.

When the appraisal results showed that private lands were renting at higher rates than the PRIA formula fee, it seemed inevitable that pressures to adjust the $1.23 base fee (and by extrapolation the $1.33 per AUM National Grasslands base fee) upward would materialize. That is exactly what has happened. While their formal Report Congress (*Grazing Fee Reveiw and Evaluation* 1986) contained no explicit recommendations, all but one of the reported alternatives to the PRIA formula adjusted the base fee upward using the appraisal results. The remaining alternative adjusted the $1.23 base fee upward based on changes in price index values.

In 1991, these "mass appraisal" values were incorporated in proposed bills (H.R. 481 and H.R. 944), and in approved amendments to the U.S. House of Representatives Interior Appropriations (Synar Amendment) and House BLM Reauthorization (Regula Amendment) bills. All would have increased the federal grazing fee by a minimum of 250 present. These appraisal values also are the basis for the recent fee increase proposed by Congressman Regula, representing the first year increment to the fee as proposed in his amendment to the FY 1992 House BLM Reauthorization bill. As will be discussed, these "mass appraisal" values are not comparable to the "cost equalization" $1.23 and $1.33 AUM "base fees" obtained in the 1966 Webster Livestock Industry Survey. If used as a basis for setting federal grazing fees, the appraisal values would cause the costs of grazing livestock on federal rangelands to exceed the costs of grazing livestock on the private rangelands.[28]

Recommended Changes in Indices. The private pasture rental rate (FVI), beef cattle prices (BPI), and costs of beef cattle production (PPI) indices also were evaluated by the agencies as reported to Congress in 1986 and 1992. Each was found to have problems (Nelson and Garratt 1984, Thorpe and Holden 1984), but in their 1986 Report to Congress the Secretaries recommended changing only the PPI index. Interestingly, the PPI had been primarily responsible for the relatively low level of the PRIA formula fee between 1979 and 1985. The recommended changes would have caused the PPI to increase less rapidly in the furture, *ceteris paribus* meaning that upward pressure on the fee would result. In retrospect, even if the base fee were left a $1.23 per AUM, the new cost index would have caused the average value of the grazing fee to double over the 1979–1985 time period. This was not recognized by the Secretaries in their 1986 Report to Congress, but was acknowledged in the April 30, 1992 *Update* (p. 28) In their 1992 report the Secretaries continue to recommend changes in the structure of the prices paid index.

In the 1992 *Update* changes in the prices received or BPI index were discussed (pp. 26–28). These were modifications to (1) include weaner calves and sheep, the primary livestock products in federal land ranching, both of which are excluded from the current BPI; (2) exclude fat cattle from the BPI, since fat cattle are not produced on federal rangelands; (3) update the base period for the index to include market conditions in the 1990's; and (4) weight the annual BPI index by the number of federal AUMs in each of the 16 Western states. While none of these changes were recommended, if Congress does modify the PRIA formula the changes in BPI referenced here are worth further consideration.

The Forage Value Index (FVI) has been a source of controvery for a number of reasons. In obtaining survey data for the index, no distinction is made between short-term and long-term private sector grazing transactions meaning that the values obtained do not necessarily reflect either current or normal market conditions. Second, no information is collected on services provided by the landlord, so the resulting private rate of necessity exceeds the federal forage value by the amount of the value of the average bundle of services provided by the lessor. Third, respondents to the reporter survey do not have to be involved in actual grazing lease transactions, implying that the private rental values used in the FVI are not based on real market transactions. Fourth, the information obtained in the reporter survey is weighted by number of farm units per state rather than by number of federal rangeland AUMs per state causing the index to reflect the geographic concentration of livestock production (tilted toward the Great Plains and California) rather than the geographic concentration of federal rangeland grazing (tilted toward the Interior West). In the 1992 Update it is implied that the fourth concern probably should be addressed (pp. 25–26), the second and third concerns are dismissed, and the first concern is not mentioned. Again, if Congress does modify PRIA, the problems with the index of private pasture rental rates are worth further consideration.

POINTS OF CONTENTION IN THE CURRENT FEDERAL RANGELAND POLICY DEBATE

The strengths of the interests of the publics participating in the federal grazing fee/rangeland use policy debate are reflected in the unfortunate polarization of their respective positions. Generalization in policy analysis is dangerous. However, those close to the federal grazing fee debate may agree that there are two groups voicing common arguments in the current federal grazing fee/rangeland use policy debate (see Quigley and Bartlett 1990, and Godfrey and Pope 1990).

Advocates of increased Federal grazing fees

There are those who seek to increase the level of the federal grazing fee. Some argue simply that the fee needs to be raised for fiscal reasons, while others argue that the fee should be raised for land use purposes. Other than the "PRIA with Technical Modifications" base fee of $2.93 per AUM as previously discussed (footnote 28), most who argue for fee increases rely on the "mass appraisal" values (detailed in Figure 5) as an alternative to the "cost equalization" base fees of $1.23 and $1.33 per AUM derived from the 1966 Western Livestock Grazing Survey (see Table 1).

Proponents of increases in the federal grazing fee generally argue that present fee levels (1) are unfair to nonpermittees because the "low" grazing fee puts the federal land rancher in a position of competitive advantage relative to the private land rancher; (2) result in a taxpayer subsidy to a small and economically insignificant number of permittees by pricing federal rangeland forage below its "fair market value" thereby failing to cover the government's costs of administering the federal rangeland livestock grazing programs; and (3) result in overgrazing of the federal rangeland forage resource, particularly in areas less suitable for livestock grazing.

Various environmental groups and some Congressmen from the midwest, east, and southeast support efforts to increase federal grazing fees. The views of those who would like to see grazing fees raised have been and in all probability will continue to be incorporated in proposed bills introduced in both Chambers, and increasingly in the form of amendments to Interior Appropriations and BLM Reauthorization bills.[29]

Some of those who hold to this view would use increases in the federal grazing fee as a means of reducing or eliminating livestock grazing as an authorized federal rangeland use. These publics argue that the federal grazing fee should be increased to a level that causes the grazing permit to have no value, which from the standpoint of economics implies that the permittee would no longer derive net benefit from the use of the permit in and of itself—and thus would be willing to relinquish the grazing use "privilege" previously granted by the Federal Government as sovereign to the customary user or "permittee."[30]

Advocates of the status quo

Others seek to leave the existing PRIA fee formula in place on the grounds that there is no evidence to support changing it. This group contends that the current fee system is neither unfair nor does it constitute a subsidy. Some of the advocates of the status quo believe that efforts to modify the existing PRIA fee formula are intended to reduce or in the extreme eliminate domestic livestock grazing as a use of the Western federal rangelands.

All of those holding to this alternative view believe that domestic livestock grazing should continue to be an authorized use of the Western federal rangelands, and that the current PRIA fee formula promotes ranch, community, and industry stability. Many of these publics emphasize the value and contribution of the federal rangeland ranching industry to local and regional economies. In general, supporters of the PRIA fee formula include the Western livestock industry, most of the Western Congressional delegations, Western local and state governments, and rural community business interests.

Key elements in the debate

With regard to the federal grazing fee per se, the points of debate cener around (1) the relevance and validity of the "grazing rental appraisal estimates of market value of forage" obtained in the 1983 "Appraisal Study" conducted by the Forest Service and the Bureau of Land Management as detailed in Fair Market Rental Value of Grazing on Public Lands: Volumes 1 and 2) vis-a-vis the "base fees" of $1.23 per AUM on BLM and National Forest allotments and $1.33 per AUM on National Grasslands in the Great Plains derived from the 1966 Western Livestock Grazing Survey (summarized in the Study of Fees for Grazing Livestock on Federal Lands (1977, Appendix A)); (2) the "subsidization" allegation; and (3) changes in the conditions of the Western federal rangelands during the life span of the PRIA grazing fee formula. The first two of these points are addressed below.

THE PROBLEM WITH THE APPRAISAL VALUES

All of the recent Congressional proposals to change the PRIA formula fee system have one thing in common: all would replace the $1.23 "base fee" in the PRIA formula with some version of the "Appraisal Values" reported by the Forest Service and the Bureau of Land Management in 1984 (Tittman and Brownell 1984).[31] In these proposals, the various indices used to modify the "base fee" are not the issue—the "base fee" is the issue.

The empirical, statistical, and theoretical mistakes made in the course of the appraisal study are detailed in Research Report 104, An Evaluation of the Forest Service and Bureau of Land Management Grazing Appraisal Report, published by Utah State University (Nielsen et al. 1985).[32]

These inadequacies are elaborated by many whose testimonies are summarized in the earlier 1987, 1989, and 1991 Hearing Records of the House Subcommittee on National Parks and Public Lands. The testimonies include formal distancing by the executives of the Departments of Agriculture and the Interior, and hence the Administration, from the results of the Appraisal Study conducted by their own federal land management agencies.[33]

In their 1992 Update (pp. 2–3), the Secretaries acknowledged the criticisms of the "mass appraisal" study: the values of services provided by landlords were not collected, nor estimated; the statistical analysis of the mass appraisal results was inappropriate; the five percent downward adjustment of private grazing land rental rates by the appraisers to account for differences in the terms and conditions of private versus federal grazing leases was arbitrary; the size of the subsample used to update the 1984 results to 1991 values was too small and not representative of the 1984 population; etc.

The primary problem with the "mass appraisal" is that the forage values obtained from it are theoretically and conceptually different than the "base fees" derived from the 1966 Western Livestock Grazing Survey. Congress directed the Secretaries to evaluate the PRIA formula, including the "base fees." The Secretaries did not evaluate the $1.23 and $1.33 per AUM base fees at all. Instead, different values obtained using a different methodology were substituted for the $1.23 and $1.33 per AUM base fees. Regardless of their statistical inaccuracy, the appraisal values did not constitute the directed evaluation of the base fees in the PRIA formula. This is the basis for the external criticism of the appraisal study (Rostvold and Dudley 1992).[34]

The fact is that the appraisers did not appraise the subject properties (the federal grazing permits and leases). No information was collected on the relevant terms and conditions of the private grazing leases that were appraised. No effort was made in the appraisal process to control for differences in accessibility, forage quality, improvements, or other factors distinguishing the federal rangelands allotments from private rangelands and pastures. In this regard the appraisal process violated Section 401(a) of FLPMA (see page 15). The consequence was, and is, average "Pricing Area Appraisal Values" that (1) are not comparable to federal permit forage values, and (2) represent an unknown bundle of food (livestock forage) and associated services provided by the landlord. Following all of these errors in judgement, the statistical analysis was flawed. Some of the problems with the appraisal process and the resulting "Appraisal Values" are elaborated below.

The appraisal approach to resource valuation given market interdependence

Appraisals are but one of several means of discovering value. The "comparable market" approach to appraising,[35] ostensibly used in the conduct of the PRIA formula fee evaluation, must pass two minimal tests. First, and least important although clearly relevant, the appraiser must be able to correlate and control for qualitative differences in the subject property vis-a-vis comparable properties having observed market values. Second, and fundamentally important, the observed values of comparable properties must be unaffected by the value, or use, of the subject property.

Expanding on the second point—it has been conjectured for a very long time that private grazing land markets in the Western United States are strongly influenced by pricing (fee) and land use (stocking level) devisions on federal rangelands. Marion Clawson, a former Director of the Bureau of Land Management, put it as follows.

"If the area and the importance of federal rangelands in a locality or district were so great as to have influenced materially the whole structure of values for private lands of all types, then a comparison between costs on private land and values of federal land, even for physically similar areas, might be misleading" (1951, p. 6).

Only recently has the issue of market interdependence been subject to empirical test (Collins and Obermiller 1992). Statistically significant interdependence between changes in federal market forage allocations to livestock and private market forage prices has been detected.[36]

Restating Clawson's conceptual point, it is incorrect to assume that the private rangeland forage market in the Western United States is either competitive or comparable to the federal land forage market, and therefore observed price in the private market cannot be assumed to reflect value in the federal market (Obermiller 1984).[37] Yet, for inexplicable reasons, such an assumption was made and the appraisal process proceeded to its controversial conclusions.[38]

Qualitative differences in Federal and private forage markets

The qualitative differences between Western federal and private rangelands and the cost implications for their use by domestic livestock are great. This further reduces the utility of (further subordinates) the "comparable market" approach to valuation. While the courts require that qualitative dissimilarities be minimized, and that due allowance be made for remaining dissimilarities when establishing the subject property's value, neither requirement was met in the 1984 Appraisal Report as incorporated in the 1986 Report to Congress and in the 1992 Update.[39]

With the exception of a very few subleases, the appraisers did not actually inspect or verify the conditions on the subject properties themselves—the federal rangelands—even though the purpose of their exercise was to establish the value of livestock forage on those federal rangelands. For the private leases that were observed, little or no attempt was made to gather information on the actual value (cost) of services provided by landlords and lessees. This implies that associated use costs on private and federal rangelands are similar—an entirely erroneous assumption.[40]

Based on the results of the 1966 Western Livestock Grazing Survey, the nonfee costs of grazing cattle on federal rangelands were $0.53 per AUM higher than the nonrent costs on private rangelands.[41] By 1983, the base year for the Appraisal Report, adjustments for inflation brought this cost differential to $1.60 per AUM. Further, in 1982 the BLM changed its rangeland improvement maintenance policy, adding $0.60 per AUM to permittee improvement costs westwide (Obermiller 1992b). This brought the cost differential for federal grazing up to $2.20 per AUM in 1983, assuming no additional changes in permittee costs.[42]

Yet the appraisers did not collect information on nonfee/nonrent cost differences. The appraisers did realize, after the fact, that nonfee cost differentials should be acknowledged. The approach they used to account for the cost dissimilarities, since they had gathered no nonfee cost information for either federal or private leases, was to "restore" cost comparability by adjusting average private grazing land lease rates downward by five percent. The rationale for that adjustment was the "informed judgment" of the appraisers (Tittman and Brownell 1984, p. 136). The five percent adjustment amounts to $0.38 per AUM in 1983 dollars. Consequently, if the appraisal results are accurate it must be assumed that it was relatively less expensive ($1.82 per AUM cheaper in 1983 prices) to use federal rangelands for livestock grazing in 1983 versus 1966.

"It is the opinion of the appraisers that a slight deficiency exists in the public permit as it compares to the typical private lease. This deficiency will be expressed as a five percent downward adjustment (entitled conditions of use) of the private land lease rate, which is derived from the private market, resulting in an opinion of fair market value for grazing use on public rangelands" (Appraisal Report Estimating Fair Market Rental Value of Grazing on Public Lands: Volume I, p. 136. [emphasis mine].)

This assumption fails the test for control of qualitative dissimilarities. Permittee costs have increased, not decreased, relative to 1966. The Extension Service survey results (see footnote 34) reveal that federal rangeland forage utilization costs are as much as $8.14 per AUM higher than equivalent private forage costs. The reasons for the higher costs faced by permittees are well known and thoroughly documented. They include higher death loss of livestock, greater labor requirements, and higher management costs incurred to meet multiple use rangeland management goals. These federal rangeland nonfee costs increased by 200–450 percent, varying across regions in the Western United States, between 1966 and 1983—outstripping the general rate of price inflation used above in updating the 1966 cost differential to $2.20 per AUM in 1983 prices.

In summary, we are dealing here with qualitatively different goods and services (forage and associated services) exchanged in interdependent markets. The validity of the appraisal results is questioned because of failure to control for these qualitative differences. Even if proper control had been exercised, and it was not, it would be difficult to know what the private lease values really represent. One thing would be known for certain: private lease rates cannot reflect federal forage values if the federal and private markets are interdependent—a reality acknowledged neither in the 1984 Appraisal Report nor in the 1986 Report to Congress or its 1992 Update.

THE FALLACIES OF THE SUBSIDIZATION ARGUMENT

Since federal grazing fees are set by formula independently of stocking rates, and since stocking rates are regulated in part to protect rangeland conditions, there really can be no evidence to support the assertion that "low" federal grazing fees promote overgrazing. Nonetheless, the subsidization assertion frequently is made, and those making it point to the following as indicators of a subsidy in the federal grazing fee: (1) subleasing of federal grazing allotments at rates in excess of the grazing fee, (2) lower forage use costs on federal permits relative to private pastures and rangelands, (3) higher grazing fees on state grazing lands, (4) costs of BLM and Forest Service grazing program administration in excess of the federal grazing fee and (5) the existence of permit value due to capitalization of rent. These five points are addressed below.

Is subleasing as significant problem?

Subleasing of federal grazing permits would be expected under a single uniform fee system, given the heterogeneity of the various types of federal rangelands.[43] The key issue is how extensive is the illegal subleasing of federal grazing permits?

There are not very many documented examples of illegal subleasing. The Appraisal Study concluded that there were 30,286 federal grazing permits or leases in the Western United States in 1983. Of these, 90 were illegally subleased in that year. That is equal to 0.3 percent (one out of 333) of the authorized grazing permits and leases during the last year of the appraisal survey. Four times as many permits and leases (411) were vacant and abandoned in the same year; and the level of voluntary nonuse (authorized use minus actual use) amounted to over three million AUMs.

The 1983 PRIA fee rate was $1.40 per AUM for each of the 30,286 permits and leases. Some were in good condition, some poor. Some were easily accessible, others remote. Some had water on site, others didn't. It would seem obvious that at $1.40 per AUM some of these 30,286 permits would be underpriced, others overpriced. On average, the numbers (90 subleased versus 411 abandoned and over 3,000,000 AUMs of voluntary nonuse) would imply that at $1.40 per AUM the federal rangeland grazing resource was on average not underpriced relative to its underlying grazing value in 1983.

Yet some proponents of federal grazing fee increases focus their attention on the minuscule number (90) of apparently underpriced illegally subleased permits, and make an intuitive leap to the population (30,286) as a whole. As shown, the sublease data simply do not support the argument that permits are typically underpriced.

Don't permittees have lower total grazing costs than nonpermittees?

Taking all cash and noncash grazing costs into consideration, permittees pay as much and sometimes more for livestock forage on federal rangelands than on private rangelands and pastures. The reasons for these higher grazing costs are that, on federal rangelands, ranchers face higher death loss, greater labor requirements, and higher management costs—and furthermore animal performance often is poorer.

These differences in federal and private forage use costs are extensively documented (Bartlett et al. 1984, Lambert and Obermiller 1983, Nielsen 1982, Nielsen and Workman 1971, Obermiller and Lambert 1984, Obermiller 1992b, Roberts 1967, Torell et al. 1986) and were referenced by the Secretaries in their 1986 Report to Congress and in the 1992 Update. The cost differentials were measured in the 1966 Western Livestock Grazing Survey (Houseman et al. 1968), and are the reason why the $1.23 and $1.33 per AUM "base fees" were less than the prevailing private rangeland rental rate ($3.65 per AUM) in 1966.[44]

Professor Darwin Nielsen of Utah State University (where the cost equalization fee concept originated) has recently prepared a price updated version of the private/federal forage use cost differentials (Nielsen 1991). His update assumes no structural change in federal rangeland grazing versus private rangeland grazing, and results in the grazing costs summarized in Table 2. Quite recently, Obermiller (1992b) updated grazing cost data obtained in an Eastern Oregon survey in 1982. These Eastern Oregon data do reflect structural changes in federal rangeland grazing relative to private rangeland grazing since 1966. The results of the Eastern Oregon grazing cost update are summarized in Table 3.

The differences between the updates of the 1966 and the 1982 grazing cost data are summarized in Table 4. The Eastern Oregon grazing cost update suggests that structural changes in the federal rangeland sector have caused permittees' grazing costs to increase by 16 percent relative to private sector grazing costs over the past 26 years. Note that the 1982 updated data for Eastern Oregon show total grazing costs on private rangelands to be $15.03 per AUM, and total grazing costs on all federal grazing allotments combined to be $16.83 per AUM. The updated data are for the year 1990. In 1990 the federal grazing fee was $1.81 per AUM. Subtracting the grazing fee from the total grazing costs on combined federal allotments results in a nonfee cost of $15.02 per AUM versus a private grazing cost of $15.03 per AUM. These results suggest that, at least in Eastern Oregon, private grazing costs are less than federal grazing costs by the amount of the grazing fee.

TABLE 2.—GRAZING COSTS PER AUM ON PUBLIC VERSUS PRIVATE RANGELANDS: 1966 COSTS PRICE UPDATED TO 1990

Operation	Federal grazing permits	Private leases
Lost animals	$1.82	$1.12
Association fees	.27	0
Veterinary	.45	.53
Moving livestock to and from	1.11	1.16
Herding within operation	1.86	.77
Salt and feed	2.32	3.09
Travel to and from operation	1.49	1.19
Water (production items)	.27	.20
Horse	.50	.31
Fence maintenance	.89	.92
Water maintenance	.69	.55
Development depreciation	.37	.10
Other	.44	.47
Total	12.48	10.41
Federal grazing fee (1990)	1.81	0
Private lease rate (excludes any services provided by lessor) (1990)	0	4.35
Total operating costs/AUM	14.29	14.79

Source: Nielsen (1991).

TABLE 3.—PER AUM GRAZING COSTS AND COSTS BY ACTIVITY IN 1990 DOLLARS FOR GRAZING ON COMBINED BUREAU OF LAND MANAGEMENT, FOREST SERVICE, COMBINED FEDERAL, AND PRIVATELY LEASED LANDS IN EASTERN OREGON

Activity[1]	Bureau of Land Management n=78		Forest Service (n=64)		Combined Federal (n=142)		Private leases (n=23)	
	Cost (dollar/AUM)	Percent of total cost	Cost (dollar/AUM)	Percent of total cost	Cost (dollar/AUM)	Percent of total cost	Cost (dollar/AUM)	Percent of total cost
Turnout	1.25	8.3	1.20	6.3	1.23	7.3	1.43	9.5
Gathering and take-off	2.16	14.3	3.92	20.7	2.95	17.5	1.56	10.4
Management	2.92	19.4	5.62	29.6	4.14	24.6	1.54	10.2
Maintenance	2.09	13.9	1.97	10.4	2.04	12.1	.69	4.6
Meetings/Paperwork	.31	2.1	.22	1.2	.27	1.6	.03	.02
Salt, feed, med.	.41	2.7	.34	1.8	.39	2.3	.38	2.5
Death loss	3.13	20.8	2.42	12.8	2.81	16.7	1.58	10.5
Other	.90	6.0	.67	3.5	.80	4.8	.06	0.3
Miscellaneous	.01	0.1	.02	0.1	.01	0.1		
Association fees	.14	.09	.79	4.2	.43	2.6		
License/lease	1.75	11.6	1.80	9.5	1.77	10.5	7.77	51.7
Total cost	15.07	100.0	18.97	100.0	16.83	100.0	15.03	100.0

[1] All activities are defined and described in Lambert and Obermiller (1983, appendix II, part II).

TABLE 4.—DIFFERENCES IN MAJOR CATEGORIES OF GRAZING COSTS PER AUM IN 1990 DOLLARS FOR FEDERAL GRAZING PERMITS AND PRIVATE GRAZING LEASES FROM UPDATED 1966 WESTWIDE AND 1982 EASTERN OREGON DATA BASES

Cost category	Cost per AUM in 1990 dollars					
	Federal grazing permits			Private grazing leases		
	1966 data	1982 data	1982 as percent of 1966	1966 data	1982 data	1982 as percent of 1966
Turn-out[1]	0.29	1.23	424	0.48	1.43	298
Gathering/take-off[1]	.82	2.95	360	.64	1.56	244
Routine management	2.36	4.14	175	1.08	1.54	143
Maintenance	1.58	2.04	129	1.47	.69	47
Salt, feeding, and vet	2.77	.39	14	3.62	.38	10
Death loss	1.82	2.81	154	1.12	1.58	141
Fees and rents	2.08	2.20	106	4.35	7.77	179
Other	1.08	1.08	100	.67	.06	9
Total cost	14.29	16.83	118	14.79	15.03	102

[1] "Gathering/take-off" costs and "turn-out" costs are combined in Table 2 and expressed as "moving livestock to and from." They are separated in table 4 based on the proportional contributions of the two activities observed in the Eastern Oregon data set.

On average, permittees encounter higher grazing costs than private land ranchers.

Why are State grazing fees higher than the Federal grazing fee?

This answer to this question is similar to explaining why a furnished home rents for more than an unfurnished apartment, all other things equal. First, some of the Western states claimed the more productive lands from the public domain as a condition of their statehood, while others actively exchanged poorer state lands for more productive public domain rangelands during active land exchange intervals in the 1930s and 1970s. The BLM got what nobody else wanted. Second, state rangelands on which livestock are grazed in the West are not managed for multiple uses as are BLM and Forest Service lands resulting in less harassment incurred by operators who graze livestock on state lands. Third, not a single state requires the grazier to control commensurate base property.

The first point means that many of the state grazing lands are of higher quality, translating to more AUMs per acre. In turn, this means that animals perform better, hence gross ranch revenues per state land AUM are higher, and therefore demand—assuming the state land forage "market" is relevant which it probably is since commensurability is not required—is greater for state grazing lands. Thus, state land grazing fees would be expected to be higher than federal grazing fees.

The second point means that the grazing costs faced by the state grazing lands rancher are lower than the grazing costs faced by the federal rangelands rancher. Multiple use management means imposed restrictions on any one use—including domestic livestock grazing—for the benefit of other authorized uses and users. Management restrictions mean management costs. Management costs are a component of grazing costs. Consequently, grazing costs are higher on federal rangelands relative to state grazing lands. Conversely, it is less expensive to graze livestock on state lands. Since it is less expensive (higher quality aside), ranchers can afford to pay more for state grazing land AUMs—and they do pay more.

The third point means that the user of state grazing lands has little or no vested interest in the state lands from an ownership perspective, since the state lands are not attached via a lease contract to base property. The state land grazing permittee does, however, have proprietary interest in range improvements benefiting the livestock use. As a consequence, fewer rancher-financed improvements benefiting non-livestock uses may be made on state grazing lands, reducing the maintenance cost component of the total grazing cost. In two out of three cases, when range improvements are made by the rancher on state grazing lands (often with cost-sharing by the state), the rancher is granted the ownership right to them, and is compensated if the state grazing lease is not renewed. From the state's perspective, range improvements financed by the user are encouraged, since if the improvements lead to more forage and/or a longer grazing season, more fee receipts are available to the Common School Fund or other purposes. Again from the state's perspectives, it is appropriate to delegate more management responsibility to the user, the state land permittee, since by doing so the costs of administering the state land grazing program are reduced, and net livestock grazing revenues accruing to the state are increased.

Do grazing fees recover grazing program administration costs?

Recently, much concern has been expressed about "cost recovery" as a guideline for setting federal grazing fees. The issue is complex, and is treated in more detail in the Appendix to this testimony. The elements of the debate are summarized below.

In the General Accounting Office report, *Rangeland Management: Current Formula Keeps Grazing Fees Low* (1991), the following statements were made:

"The soundness of the formula must be viewed in the context of the primary objective to be achieved . . . it does not achieve an objective of recovering reasonable program costs because it does not produce a fee that covers the government's cost to manage the grazing program (ibid., p. 1); the loss incurred by the U.S. Treasury for conducting the federal grazing program is . . . dramatic" (ibid., p. 23).

The GAO based its conclusions on data provided by the Forest Service suggesting that in 1990 the USDA's grazing program administration cost was $3.86 per AUM (versus a 1990 PRIA grazing fee of $1.81 per AUM and a National Grasslands grazing fee of $2.86 per AUM). In 1990, the Bureau of Land Management estimated its grazing program administration cost to be $1.61 per AUM.

The reason for the wide disparity between the two agencies estimates of administrative costs is that, prior to the publication of the 1992 Update, the Forest Service and the BLM used different procedures in calculating administrative costs. The approach used by the BLM was to measure all administrative costs related to the current year grazing program (not the capital account investment cost represented by the range improvement program since this is not an annual livestock forage management cost), subtract the value of the vegetation management benefits accomplished through regulated or prescribed livestock grazing (which by law the agency is required to provide whether or not there is any livestock grazing on BLM lands), and divide the residual by the number of authorized livestock AUMs. Their result was an estimated net current account grazing program administration cost of $1.61 per AUM in 1990.

The approach used by the Forest Service was to measure all management and improvement costs associated with the range program in the Washington D.C. office and all field offices. The Forest Service assumed the field range staffs would be eliminated if grazing on National Forests and National Grasslands were to cease. No allowance was made for vegetation management benefits attributable to livestock grazing. Longer term capital costs associated with range improvements, regardless of the use or distribution of uses benefitting from those improvements, were included by the Forest Service in estimating its administrative costs. The result was the sum of field range program salaries and wages, associated requisitions costs, and all improvement expenditures divided by the number of authorized livestock AUMs: $3.86 per AUM in 1990.

While cost recovery is a legitimate federal resource pricing objective, the issue here is how to properly measure and account for net grazing program administration costs. Using the BLM approach, the Federal Government as proprietor was receiving a net return on the livestock use of its public domain grazing lands in 1990. Using the Forest Service approach it was not receiving a net return on the livestock use of its reserved National Forests and acquired National Grasslands. Again, as in virtually all aspects of the federal grazing fee/rangeland use debate, the cost recovery issue is much more complex than at first glance.

The difference between the two accounting approaches was resolved, in part, in the 1992 Update (pp. 5-6 and Figures 1.4 and 1.5). The two agencies agreed to use the same accounting approach in estimating their grazing program administration costs. That approach was to measure total range program costs, including both current account management costs and capital account improvement costs. Then, that portion of current and capital account costs that would be incurred if there were no livestock grazing was estimated. The "without grazing" range program cost was subtracted from the "total" range program costs. The balance was that portion of total range program costs attributable to livestock grazing: for the BLM $2.18 per AUM and for the Forest Service $2.40 per AUM in 1990. Weighted by the number of AUMs provided by each agency, the average reported cost of administering the grazing program of BLM and National Forests westwide was $2.26 per AUM in 1990.

This common accounting approach, as noted, adds to the current management cost the longer term improvement cost associated with the grazing programs of the two agencies. In 1990, the grazing program management cost was reported to be $1.47 per AUM for the BLM and $1.78 per AUM for the Forest Service. In either case, the grazing fee exceeded the grazing program management cost in 1990, since the PRIA fee was $1.81 and the National Grasslands fee was $2.86. Normally, costs of administration refer to the current account costs of management. Given this accounting stance, in 1990 BLM earned a net return above management costs of 23 percent. Since about ⅙ of the Forest Service AUMs are from the National Grasslands in the nine Great Plains states, the weighted Forest Service grazing fee was $1.99 per AUM in 1990,[45] and the corresponding net return above its management costs was 12 percent.

From a difference perspective, the BLM's potential fee contribution to its range improvement program was $0.34 per AUM in 1990, or 48 percent of the Bureau's $0.71 per AUM range livestock improvement program cost. A similar assessment is difficult for the Forest Service since the portions of fee receipts dedicated to range improvements on National Forests differ from the portion of National Grasslands fee receipts dedicated to livestock conservation practices.

It therefore can be concluded that the federal grazing fee does cover the agencies' costs of managing their grazing program. The fee does not cover both management and investment costs however. Since many range improvements benefit uses in addition to livestock, stock water developments for example, it is questionable whether the fee should also fully cover range livestock improvement investment costs.

The GAO's rather dramatic conclusions regarding the Federal Government's (as proprietor) costs of administering its domestic livestock grazing programs are overstated. In 1990, the net management plus improvement cost of administering the Federal Government's grazing programs was only two-tenths of one percent of the total cost to the American taxpayer of the Commodity Credit Association's net outlays or direct agricultural subsidy payments (Obermiller 1992a). This $6.5 billion acknowledged agricultural subsidy payment (which has grown to $12 billion in 1992) does not include the USDA's costs of administering the covered agricultural commodities. Why should the very small (in the sense of budget) federal rangeland grazing program be expected to do so?

Permit value: What and why?

Those who argue for federal grazing fee increases often note that permits have value. They are worth something to the owner of the commensurate base property, the permittee. The reason that value exists, it often is claimed, is because federal grazing permits have been underpriced relative to the market for a long time, and that the excess value (what permits are worth versus what they cost via the federal grazing fee, i.e., rent) has been capitalized as positive permit value.

No one argues that federal rangeland grazing permits have value, they do. The relevant question is why do permits have value? Is the level of the grazing fee the only explanation?

As noted earlier, throughout much of the Western United States the incidence of rangeland ownership by the Federal Government as sovereign is so great that if a rancher does not have a permit, the carrying capacity of the private ranch property is insufficient to support a commercially viable livestock operation. Thus, the permit value may in fact be at least in part an operating license cost, not unlike the costs of white water rafting, outfitting, and guide licenses (Torell et al. 1992). Another possible explanation is that the values of the permittee's own privately financed improvements on his or her federal grazing allotment are being capitalized in the form of "permit value."

In any case, the "value" of the holder is a "cost" to any prospective buyer, which explains the furor that surrounded the announcement of the 1969 fee system, from which permit cost was omitted when calculating the $1.23 per AUM and $1.33 per AUM "cost equalization" base fees. Since the time that grazing was first regulated almost all Western ranches have changed hands, meaning that no matter what has been capitalized, the federal grazing permits on which many Western ranches depend have already been purchased.

"The key in the grazing fee policy controversy is whether the Federal Government will recognize the permit value as a cost of doing business for the rancher. If the permit value is recognized there is no justification for fee increases because total costs of using public and comparable private lands are statistically equal. If all costs of grazing, specifically permit costs, accrued as revenue to the government the marketing system that now controls permit distribution would let fee rates to be increased. Thus, government pricing of grazing would be superficial because the market in permits would determine revenue to the government" (Nielsen and Roberts 1968, p. 4).

These permit costs are capital costs, just as the range improvement expenditures of the BLM and Forest Service are capital costs. It would not seen reasonable to expect the grazing fee to cover the Federal Government's capital costs while disallowing the capital cost of the grazing permit to the permittee. Yet since 1969 this is just what the formula-based federal grazing fees on BLM permits and leases, National Forest grazing allotments, and National Grasslands pastures have done. Today Western federal land ranchers paid for their grazing permits when they first purchased their ranch properties, and since 1969 have purchased their permits again.

Some argue that the original Western permittees received a windfall gain at the American taxpayers expense when they first received their grazing permits. Perhaps. In any case and for whatever reason, by 1966 BLM permits had an average value of $14.41 per AUM, National Forests permits had an average value of $25.35 per AUM, and National Grasslands permits had an apparent average value of $30.19 per AUM. As previously noted, the corresponding amortized values at six percent were $0.87 per AUM, $1.52 per AUM, and $1.88 per AUM in 1966 (see footnote 21, page 19, and footnote 22, page 21.) These amortized values, or permit costs, were not considered when the cost equalization base fees of $1.23 per AUM and $1.33 per AUM were set for the BLM/National Forests and for the National Grasslands in the 1969 fee formula, as continued in the PRIA and National Grasslands fee formulas. Thus, if the American taxpayer ever did give Western ranchers a windfall gain through the issuance of grazing permits, that gift has since been repaid through the existing grazing fee formulas.

As has been repeatedly noted, the issue of permit value and permit cost dominated the 1969 grazing fee hearings in the Senate and the House of Representatives. Serious consideration was given to proposed legislation which would recognize the grazing permit as a compensable "use right." Using a rather conservative estimate of $45 per AUM as the current average value of federal rangeland grazing permits, the current capitalized value of all federal grazing permits in the 17 Western states is roughly one billion dollars. Perhaps it is time to revisit the issue of rights to compensation.

CONCLUDING COMMENTS

Even if it is not the fundamental policy problem on our Western federal rangelands, the grazing fee issue will not go away (Burkhardt and Obermiller 1992). Today there is a proposal to increase PRIA grazing fees by 33 percent for the 1993 grazing season, from $1.92 at present to $2.56 per AUM on PRIA fee rangelands, and perhaps (although this is not presently proposed) from $3.42 to $4.55 per AUM on the National Grasslands.

Why? A higher federal grazing fee will simply mean higher federal grazing costs, and as has been seen federal rangeland grazing costs already are higher than private rangeland grazing costs. A higher federal grazing fee might or might not result in larger fee receipts to the U.S. Treasury, depending on how many federal AUMs would go unused at the higher fee level, and in any case the agencies' costs of managing their grazing programs already are covered at current fee levels. A higher federal grazing fee would certainly lead to asset devaluation in the Western livestock industry because of its negative effect on the value of grazing permits: but for what purpose since the American taxpayer already has recouped whatever windfall gain the original permittees may or may not have enjoyed?

A higher grazing fee would in all probability lead to less domestic livestock grazing on our federal rangelands in the 17 Western states. But if federal rangeland use is the issue, why not address the fundamental problem directly, including that of private rights in federal lands.

APPENDIX

A brief review of administrative resource pricing policy

National pricing policy for federal resources used by private individuals and generating private benefits stems from Title V of the Independent Offices Appropriations Act (IOAA) of 1952, passed by Congress on August 31, 1951 (65 Stat. 290). The relevant wording in the Title V of the 1952 Act is as follows:

"Any activity of every Federal agency '. . . shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts.'"

This Act of Congress gave rise to the Administration's federal resource pricing policy as it exists today, and as applied to the subsequent agency and departmental evaluations of federal grazing fee alternatives. Indirectly, the IOAA set the precedent for later public law under which "fair and equitable" federal grazing fees were authorized (under FLPMA), then implemented (under PRIA), by statute.

The basis of administrative pricing policy

On September 23, 1959 the Bureau of the Budget issued Circular A-25 "User Charges" pursuant to Title V of the Independent Offices Appropriation Act, replacing and expending on the general pricing policy for all Executive agencies previously enunciated in Bureau of the Budget Bulletin No. 58-3 of November 13, 1957. Circular A-25 together with this underlying statutory authority provided the basis upon which the Secretaries of Agriculture and the Interior imposed the 1969 federal grazing fee formula, one quite similar to several of the formulas currently recently proposed as alternatives to the PRIA formula fee.

According to the testimony of the Deputy Director of the Bureau of the Budget made during the March 4, 1969, Hearing on Review of Grazing Fees by the House Committee on Interior and Insular Affairs, Circular A-25 states that ". . . where federally owned resources are leased or sold, a fair market value should be obtained. Deputy Director Hughes went on to say: "In most cases, the [grazing] fees charged do not reflect the fair market value of the grazing use privilege. Audit reports of the General Accounting Office have noted these inconsistencies and have been critical of fee levels." Twenty-three years later, the same agencies are making remarkably similar statements. It is the purpose of this Appendix to attempt to clarify and analyze the Administrative resource pricing policy in theory, and in practice, in relation to the federal grazing fee.

In his testimony, Deputy Director Hughes may have misstated or overstated the guidance with respect to federal resource pricing policy that the Circular actually gave. According to relevant passages (3. General Policy, and 4. Agency Responsibility) in Circular A-25:

"Where a service (or privilege) provides special benefits to an identifiable recipient above and beyond those that accrue to the public at large, a charge should be imposed to recover the full cost to the Federal Government of rendering that service. For example, a special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service (a) Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public * * *: or (b) Provides business stability or assures public confidence in the business. * * *

"Where federally owned resources or property are leased or sold a fair market value should be obtained—Each agency shall a. Identify the services or activities covered by this Circular; b. Determine the extent of the special benefits provided; c. Apply accepted cost accounting principles in determining costs; d. Establish the charges; and e. in determining the charges for the lease and sale of Government-owned resources or property, apply sound business management practice and comparable commercial practices. * * *

"The maximum fee for a special service will be governed by its total cost and not by the value of the service to the recipient."

Administrative pricing policy and Federal grazing fees

The wording of Circular A-25 implies that the provision of federal rangeland livestock forage is one of several commodity and amenity uses of federal resources, and all are subject to fee setting. In setting grazing fees, the intent to recover the cost of administering the livestock grazing enterprise, one of several enterprises administered within the range programs and range budgets of the federal land management agencies. The cost of administering the livestock grazing enterprise is to be calculated as though it were administered as a commercial business, implying private sector cost minimization practices. The cost calculations, not value of federal rangeland forage to the livestock owner, are to be emphasized in setting grazing fees.

Consistent with the wording of Circular A-25, the fee could be attached to either (a) AUMs taken, or (b) the permit or allotment as a unit. The fee setting practices of the federal land management agencies should be as uniform as practical, but this does not necessarily imply a uniform AUM or permit-based grazing fee. Variable grazing fees would be permissible, as long as the basis or process upon which grazing fees were established were uniform.

In June 1964 the Bureau of the Budget issued the results of their study of charges for the use of all federal owned resources in the form of a report "Natural Resources User Charges: A Study" supplementing Bureau of the Budget Circular A-25. "In fairness to the general taxpayer, who bears a major share of support of Federal activities, the Government has adopted the policy that the recipient of these special benefits generally should pay a reasonable charge for the service or product received or for the resource used." Citing the 1965 Budget Message of the President to Congress, "Many Federal Government programs furnish specific, identifiable benefits to the individuals and businesses using them. Equity to all taxpayers demands that those who enjoy the benefits should bear a greater share of the costs."

The 1964 report established five basic grazing fee principles: (1) a uniform basis should be used by all federal agencies in establishing grazing fees; (2) fees should be based on the economic value of the use of federal grazing land to the user, taking into account such factors as the quality and quantity of forage, accessibility, and market value of livestock; (3) economic value should be set by an appraisal that will provide a fair return to the government and equitable treatment of the users; (4) competitive bidding should be used to provide guidelines as to true market value of federal rangeland forage, and where competitive bidding is not feasible the appraisal should take into account comparability with fees established for similarly conformed and administered state and private grazing lands; and (5) grazing fees below market value should be charged if a market value fee would significantly impair a federally sponsored program.

The language of the 1964 Bureau of the Budget report set the stage for all subsequent grazing fee studies and recommendations. ". . . studies should proceed to the development of consistent practices for the appraisal of land and forage and the establishment of fees which will insure equitable treatment of all lessees and permittees as well as a fair return to the taxpayers. Because economic value is not now being recovered for the use of a substantial portion of Federal grazing land, the Bureau of the Budget recommends that the Departments concerned be requested to apply the principles so that a uniform fee basis may be established or draft legislation be completed, where necessary, for consideration in Congress."

A brief analysis of administrative grazing fee policy

The general Administrative intent is that fees and other charges should be assessed by the Administration when federal resources are used by private parties, if the resource use provides an identifiable benefit to an identifiable party. This logic clearly applies to grazing fees, but it also applies to amenity uses of federal resources valued by identifiable private parties, as was recognized by the Public Land Law Review Commission (1970, pp. 287–288).

The Administrative pricing objective is to recover the full cost to the Government incurred in the provision of the special resource benefit, including both direct and indirect costs incurred by the administering agency in its current management of the program yielding that benefit. In the present case, this would be the direct and indirect costs to the Government of managing the federal rangeland livestock grazing enterprises in the Bureau of Land Management and the Forest Service. Other enterprises contained in the range programs and budgets of the federal land management agencies should not be attributed to the grazing enterprise, if those other enterprises yield benefits to parties other than permittees; nor should be counted as current management costs investment (range improvement) costs for the benefit of future uses and users.

The administrative cost need not be applied on a per AUM basis. It could be applied on a contract by contract (ie, permit by permit or lease by lease) basis, on a per acre basis, or on the basis of any other denominator reflecting the source and magnitude of benefit to the permittee. This is important because some of the federal rangelands really are just holding areas for livestock, with most of the livestock value-added accruing during that portion of the year when the livestock are on private property. In those cases where the allotment is merely a holding area, it would make more sense to price the permit (based perhaps on head of livestock) than price the AUMs, i.e., substitute a permit value for the grazing fee.

Pricing basis aside, Circular A–25 also states that the cost should be calculated as though they were incurred by a commercial business providing a comparable resource use and benefit. This is a problem if the federal land management agencies are not cost effective in their provision of the resource use and benefit. In other words, labor and capital inputs used by the agencies in providing federal rangeland livestock forage should be priced at their efficient market values, and not necessarily at the price and salary levels paid by the Government. Otherwise, for example, if for some reason Congress decided to triple the salaries of all Bureau and Forest Service employees, the corresponding leap in costs of administering the domestic livestock grazing programs would be cost ineffective, and the true (market) underlying cost would have to be discovered.

The point to keep in mind here is that if the agencies incur administrative costs that would not be incurred by private parties providing rangeland forage of comparable quality and accessibility, and under contractual terms and conditions identical to those followed by the agencies, then the additional Government costs above private costs need to be identified. These amounts then must be subtracted from the "full direct and indirect" cost to the Government of providing the federal rangeland livestock forage.

Another consideration is that the relevant cost is the Government's cost of providing the forage and habitat, not the cost of enhancing it. This problem is complicated by the division of grazing fee receipts into, among others, range improvement and restoration funds. It is a bit easier to deal with if the administrative cost is measured as a cost of providing present forage and habitat only—not a cost of recovering from past human errors and natural events, nor a cost of expanding future resource use opportunities. Improvement and restoration costs should not be counted as grazing program administration costs, and this is accentuated by the fact that successful recovery and improvement projects *benefit other special parties* who, to follow the spirit of the Circular, would have to be charged their proportional share of the benefits of recovery and improvement.

From an economic perspective, one shared by the BLM staff who have done the grazing program cost calculations in the recent past, there is one further nuance. In both the BLM and the Forest Service, domestic livestock grazing is viewed as a matter of both policy and regulation as a vegetation management practice. Stocking rates, timing, seasons of use, etc. are *prescribed* in the implementation of the grazing permit or license. The intent is to use livestock to accomplish resource management objectives that transcend livestock forage enhancement.

The prescribed nature of permitted livestock grazing means that the livestock, under imposed control restrictions, *generate intended benefits to nonlivestock uses and users.* If the livestock were not used to accomplish these nonlivestock management objectives, other practices such as manual brush control, herbicides, prescribed fire, etc. would have to be used instead.

There is, therefore, a benefit to livestock grazing that should be accounted for in determining the cost effective grazing enterprise budget in both the BLM and the Forest Service. The appropriate way of measuring that benefit (which should be subtracted from the full cost of the grazing programs measured, as earlier noted, in market prices) is to calculate the least costly alternative way of achieving the nonlivestock benefits which result from prescribed livestock grazing. By subtracting this amount from the efficient full cost of administering the current domestic livestock grazing program, a residual amount representing the real full cost of the grazing program is obtained.

All that remains to be done in order to implement the Administrative federal grazing fee pricing policy is to settle on a pricing unit. Once a decision has been made on the unit of measure of benefit (AUM, permit, number of head under permit, or whatever), the current year number of units of benefit can be calculated, and that sum can be divided into the "real full cost" of administering the current year domestic livestock grazing program. The result is the full cost recovery federal grazing fee.

As noted earlier, the argument that federal grazing fees should be increased because the American taxpayer is subsidizing the federal land management agencies' grazing programs is not very strong. The statutes and existing pricing policies are clear on one thing—administrative cost recovery (calculated properly) is a valid federal resource pricing objective. The statutes and policies are somewhat contradictory as to whether or not the cost recovery price (fee) should exceed the economic value of the forage use to the permittee, leaving that concern at least in part to the discretion of the relevant Secretary.

Several Solicitor's opinions have confirmed that the Secretary should take administrative cost into account, but that this administrative cost is one of several factors relevant to the final fee setting decision. Congress removed that Secretarial authority through PRIA, continued under the February 1986 Executive Order—but Congress *de facto* accepted the value of the use to the user as well as the administrative cost of the grazing program as relevant determinants of the grazing fee (the Congressional Record and the various Hearing Records are clear as to that Congressional intent). For these reasons it is very clear that appropriate and uniform administrative cost accounting procedures need to be actively maintained by both the BLM and the Forest Service.

REFERENCES

Achterman, G.L. 1984. "Legal Interpretations." Chapter 2 in J.H. Smits (ed.) *Federal Grazing Fees: What Is Fair Market Value?* Washington, D.C.: Public Lands Committee, National Cattlemen's Association.

American National Cattlemen's Association and National Wool Growers' Association. 1967. "Statement of Position on Federal Grazing Fees." Washington, D.C.: American National Cattlemen's Association. November 9.

Bartlett, E.T, R.G. Taylor, and R. Gruen. 1984. *Costs of Grazing on Federal Lands: A Survey of Colorado Ranchers.* Bulletin 532A. Fort Collins, Colorado: Colorado State University Extension Service. December.

Boyce, B.B. and W.N. Kinnard. 1984. *Appraising Real Property.* Lexington, Massachusetts: Lexington Books for the Society of Real Estate Appraisers.

Bureau of Land Management, United States Department of the Interior. *Public Land Statistics* (various years).

Burkhardt, J.W. and F.W. Obermiller. 1992. "The Price (or Use?) of Grass." *Range*. Summer: 36–39.

Clawson M. 1951. "Memorandum from Bureau of Land Management Director to Regional Administrators and Chief, Division of Range Management, Concerning Study of Grazing Fees in Grazing Districts." Washington, D.C.: Office of the Director, Bureau of Land Management. December 19.

Clawson, M. 1981. *New Deal Planning: The National Resources Planning Board*. Baltimore, Maryland: The Johns Hopkins University Press.

Collins, A.R. and F.W. Obermiller. 1992. "Interdependence Between Public and Private Forage Markets." *Journal of Range Management*. 45(3):183–188. March.

Forest Service, United States Department of Agriculture. 1905. *The Use of the National Forest Reserves: Regulations and Instructions* (commonly referred to as the *Use Book*). Washington, D.C.: Office of the Chief, USDA Forest Service. July.

Forest Service, United States Department of Agriculture. *Annual Grazing Statistical Report: Use Summary* (various years).

Forest Service, United States Department of Agriculture. 1989. *National Grasslands Forum Proceedings*. Billings, Montana: Custer National Forest. June.

General Accounting Office. 1991. *Rangeland Management: Current Formula Keeps Grazing Fees Low*. GAO/RCED–91–185BR. June.

Godfrey, E.B. and C.A. Pope III. 1990. "The Case for Removing Livestock from Public Lands," In: F.W. Obermiller (ed), *Current Issues in Rangeland Resource Economics*. Special Report 852. Corvallis, Oregon: Oregon State University Extension Service. July.

Gulley, D.A. 1983–1984. "The Fair Market Value of Federal Coal." *West Virginia Law Review*. 86:741–771.

Harbison, J.S. 1991. *The Law of Public Grazing Lands: Mandatory and Optional Terms of BLM Permits and Leases*. Producer Bulletin No. 6. Fayetteville, Arkansas: University of Arkansas School of Law, National Center for Agricultural Law Research and Information. August.

Hooper, J.F. 1971. "Federal Grazing Permits: A Case for Possessory Interests." *The Appraisal Journal*. January: 30–40.

Houseman, E.E., et al. 1968. "Special Report on the Grazing Fee Survey." United States Department of Agriculture: Statistical Reporting Service. November.

Lambert, D.K. and F.W. Obermiller. 1983. *Costs Incurred by Permittees in Grazing Cattle on Public and Private Rangeland in Eastern Oregon*. Special Report 692. Corvallis, Oregon: Oregon State University Extension Service. November.

Muhn, J. and H.R. Stuart, 1988. *Opportunity and Challenge: The Story of BLM*. Bureau of Land Management, United States Department of the Interior. September.

National Advisory Board Council. 1966. "Proceedings of the National Advisory Board Council Twenty-Sixth Annual Meeting." Riverside, California: United States Department of the Interior. March 28–30.

National Advisory Board Council. 1968. "Proceedings of the Special Meeting of the National Advisory Board Council. 1968". San Francisco, California: United States Department of the Interior. December 18.

Nelson, J.E., and M. Garratt. 1984. *Evaluation of the Forage Value Index*. Washington, D.C.: National Technical Information Service PB 85–128–296. April.

Nielsen, D.B. 1982. "Grazing Fees for Public Lands: What's Fair?" *Utah Science*: 43(1):1–5. Spring.

Nielsen, D.B. 1991. "Total Cost of Grazing Public Land." *Western Livestock Journal: 70(11):10. January 14.*

Nielsen, D.B., E.B. Godfrey, and F.W. Obermiller. 1984. *An Evaluation of the Forest Service and Bureau of Land Management Grazing Appraisal Report*. Research Report 104. Logan, Utah: Utah State University Agricultural Experiment Station. August.

Nielsen, D.B. and N.K. Roberts. 1968. *Position Statement on Current Grazing Fee Issues and Problems*. Agricultural Economics Serial No. 68–3. Logan, Utah: Utah State University.

Nielsen, D.B. and R.G. Williams. 1970. *Determining Variable Grazing Fees on Forest Service Ranges*. Special Report 70–1. Logan, Utah: Utah State University Agricultural Experiment Station. August.

Nielsen, D.B. and J.P. Workman. 1971. *The Importance of Renewable Grazing Resources on Federal Lands in the 11 Western States*. Circular 155. Logan, Utah: Utah State University Agriculture Experiment Station.

Obermiller, F.W. 1984. "Economic Theories." Chapter III in J.H. Smits (ed): *Federal Grazing Fees: What Is Fair Market Value?* Washington, D.C.: Public Lands Committee, National Cattlemen's Association.

Obermiller, F.W. 1991a. "Elements of the 1991 Federal Grazing (Fee) Debate." Pp. 84–145 in House of Representatives Serial No. 102–35. 1992.

Obermiller, F.W. 1991b. "Relative Values of Public and Private Rangelands." Pp. 146–160 in House of Representatives Serial No. 102–35. 1992.

Obermiller, F.W. 1991c. "An Evaluation of the National Grasslands Grazing Fee Formula." Discussion Paper prepared for the Secretary of Agriculture. September 10.

Obermiller, F.W. 1992a. "Analysis of Grazing Fee Report Sheds Light on Debate." *Capital Press*. Salem, Oregon. June 19:11.

Obermiller, F.W. 1992b. *Costs Incurred by Permittees in Grazing Cattle on Public and Private Rangelands and Pastures in Eastern Oregon: 1982 and 1990*. Special Report 903. Corvallis, Oregon: Oregon State University Extension Service. July.

Obermiller, F.W. 1992c "Western Public Land Ranching." Letter No. 5. *Analysis and Comment*. Denver, Colorado: Western Livestock Information Project.

Obermiller, F.W. and E.T. Bartlett. 1991. "The Federal Grazing Fee: Future Alternatives." Presented Paper: 1991 WRCC–55 Mini-Symposium. Colorado Springs, Colorado. October.

Obermiller, F.W., and D.K. Lambert 1984. *Costs Incurred by Permittees in Grazing Livestock on Public Lands in Various Western States*. EM 8283. Corvallis, Oregon: Oregon State University Extension Service. November.

Obermiller, F.W., and B.A. McCarl. 1982. "In Search of Reason: Issues and Alternatives in the Federal Grazing Fee Debate." AAEA and WAEA joint annual meeting, Logan, Utah, 1982. *Grazing Fees for Public Rangelands Symposium. July.*

Peffer, E.L. 1951. *The Closing of the Public Domain: Disposal and Reservation Policies, 1900–50*. Stanford, California: Stanford University Press.

Public Land Law Review Commission. 1970. *One Third of the Nation's Land*. Washington, D.C.: U.S. Government Printing Office. June.

Quigley, T.M. and E.T. Bartlett. 1990. "Livestock on Public Lands: Yes!" In: F.W. Obermiller (ed), *Current Issues in Rangeland Resource Economics*. Special Report 852, Oregon State University Extension Service. July.

Quigley, T.M. and R.G. Taylor. 1983. "Econometric Estimation of Range Forage Demand." In: *Proceedings of the Range Economics Symposium and Workshop;* August 31–September 2, 1982. General Technical Report INT-149. Ogden, Utah: USDA Forest Service, Intermountain Forest and Range Experiment Station: 38–43.

Quigley, T.M., R.G. Taylor, and R.M. Cawley. 1988. *Public Resource Pricing: An Analysis of Range Policy*. Resource Bulletin PNW–RB–158. Portland, Oregon: USDA Forest Service, Pacific Northwest Research Station. August.

Roberts, N.K. 1963. "Economic Foundations for Grazing Use Fees on Public Lands: *Journal of Farm Economics*: 45(4):721–731. November.

Roberts, N.K. 1967. "Discovering Grazing Values." *Journal of Range Management*. 20(6):369–375. November.

Rostvold, G.N. and T.J. Dudley. 1992. *Report to Congress: New Perspectives on Grazing Fees and Public Land Management in the 1990's: Parts I (An Agenda for the 1990's) and II (A Scientific Evaluation and Critique of the 1986 and 1992 Grazing Fee Studies*. Pepperdine University: Graduate School of Business and Management. May.

Rowley, W.D. 1985. *U.S. Forest Service Grazing and Rangelands*. College Station, Texas: Texas A&M University Press.

Secretary of Agriculture and Secretary of the Interior. 1977. *Study of Fees for Grazing Livestock on Federal Lands*. Washington, D.C.: U.S. Government Printing Office. October 21.

Secretary of Agriculture and Secretary of the Interior. 1986. *Grazing Fee Review and Evaluation*. Washington, D.C.: U.S. Government Printing Office. February.

Secretary of Agriculture and Secretary of the Interior. 1992. *Grazing Fee Review and Evaluation: Update of the 1986 Final Report*. Washington, D.C.: USDA Forest Service and USDI Department of the Interior.

Steen, H.K. 1976. *The U.S. Forest Service: A History*. Seattle, Washington: University of Washington Press.

Thorpe, F., and H. Holden. 1984. *An Evaluation of the Beef Cattle Prices and Prices Paid Indexes used in the Federal Grazing Fee Formula*. Washington, D.C.: National Technical Information Service PB85–152–346. April.

Tittman, P.B., and C.E. Brownell. 1984. *Appraisal Report Estimating Fair Market Value of Public Rangelands in the Western United States Administered by the USDA-Forest Service and the USDI-Bureau of Land Management. Volumes 1 and 2*. Washington, D.C.: National Technical Information Service PB84–242–205. July.

Torell, L.A., E.B. Godfrey, and D.B. Nielsen. 1986. "Forage Utilization Cost Differentials in a Ranch Operation: A Case Study." *Journal of Range Management*. 39(1):34–39. January.

Torell, L.A., E.T. Bartlett, and F.W. Obermiller. 1992. *The Value of Public Land Grazing Permits and the Grazing Fee Dilemma*. RITF Report 31. Las Cruces, New Mexico: New Mexico State University. February.

U.S. Congress. House of Representatives. Committee on Interior and Insular Affairs, Subcommittee on Public Lands. 1969 *Review of Grazing Fees*. Serial No. 91–1: Hearing Record of March 4 and 5, 1969. Washington, D.C.: U.S. Government Printing Office.

U.S. Congress. House of Representatives. Committee on Interior and Insular Affairs, Subcommittee on National Parks and Public Lands. 1988. *Grazing Fees and Public Rangeland Management*. Serial No. 100–18: Hearing Record of September 22, 1987. Washington, D.C.: U.S. Government Printing Office.

U.S. Congress. House of Representatives. Committee on Agriculture, Subcommittee on Livestock, Dairy, and Poultry. 1992. *Proposed Federal Grazing Fee Increases*. Serial No. 102–35: Field Hearing Record of April 19 and 20, 1991. Washington, D.C.: U.S. Government Printing Office.

U.S. Congress. Senate. Committee on Interior and Insular Affairs, Subcommittee on Public Lands. 1969. *Grazing Fees on Public Lands*. Document 27–989: Hearing Record of February 27 and 28, 1969. Washington, D.C.: U.S. Government Printing Office.

U.S. Congress. Senate. Committee on Energy and Natural Resources, Subcommittee on Public Lands and Resources. 1979. *Public Rangelands Improvement Act of 1978*. Publication No. 95–170: Hearing Record of August 9, 1978. Washington, D.C.: U.S. Government Printing Office.

U.S. Department of Agriculture. 1907. *1906 Yearbook: Report of the Forest Service*. Washington, D.C.: U.S. Government Printing Office.

U.S. Department of Agriculture. 1902. *Yearbook of the Department of Agriculture for 1901*. Washington, D.C.: U.S. Government Printing Office.

Waite, D.D. 1986 and 1987. "Affidavits In the Case of Natural Resources Defense council et al v. Donald P. Hodel and Richard E. Lyng," Civil No. S–86–0548 in the United States District Court for the eastern District of California. December and February.

Wallace, H.A. and F.A. Silcox. 1936. *The Western Range*. Senate Document No. 199, 74th Congress, 2n Session. U.S. Government Printing Office, Washington, D.C. April.

FOOTNOTES

[1] Public domain lands as defined here include lands withdrawn from the federally owned land base available for disposition and reserved for some specific public purpose such as timber production. The original Forest Reserves, most of which now are part of our National Forests, are examples of reserved public domain lands. Another example, one relevant to the current policy debate, was President Franklin Roosevelt's November 26, 1934 Executive Order (No. 6910) withdrawing all remaining unreserved and unappropriated public domain lands in the Great Plains region from settlement or sale (Peffer 1951, p. 224). These lands were reserved for "grazing projects" and national parks. The action was strongly supported by the Forest Service (Wallace and Silcox 1936, pp. 485–486) and was similar to, but went further than, the Taylor Grazing Act passed a few months earlier (June 28, 1934) which authorized the Secretary of the Interior to establish grazing districts on unreserved public domain lands pending their final disposal. Resource conservation and regulated livestock grazing as a preferred land use were common themes in both the Administrative and the Congressional initiatives of 1934.

[2] It is commonly thought that these privately owned lands were being dryland farmed but were better suited for perennial grass cover and domestic livestock grazing. In fact, most of the acreage acquired under the various New Deal programs had not been previously cultivated. It also is commonly thought that these acquired lands were purchased under Title III of the Bankhead-Jones Farm Tenant Act of July 22, 1937. In reality, most of the acreage already had been acquired by the time the Bankhead-Jones Act was passed, and Title III became the authority under which the acquired lands were administered.

[3] Roughly 2.3 million acres of acquired "Land Utilization Project" (LU) lands presently are administered by the BLM. These were transferred by various Executive Orders of 1941 through 1958 from jurisdiction of the Department of Agriculture (USDA) to the Department of the Interior (USDI) and now are managed by the BLM where nearly all of the LU acreage (2,302,500 of 2,318,889 million acres) is inside Section 3 grazing districts. The largest such transfer took place in 1958 at the request of the Montana Congressional delegation. President Eisenhower (Executive Order 10787, November 6) transferred 1.9 million acres of LU Project lands in Montana from the jurisdiction of the Forest Service (USDA) to the Bureau of Land Management (USDI). Two years later, the USDA created 19 National Grasslands from the 22 LU Projects in 11 Western states still under the jurisdiction of USDA (*Federal Register*, June 24, 1960, p. 5845).

[4] In 1963 the Secretary of Agriculture amended Section 213.1 of the Secretary's Regulation of 1960 as follows (*Federal Register*, June 19, 1963, p. 6268): "The National Grasslands shall be part of the National Forest system and permanently held by the Department of Agriculture for administration under the provisions and purposes of Title III of the Bankhead-Jones Farm Tenant Act" [emphasis mine]. This appears to be inconsistent with Section 32(c) in Title III of the Bankhead-Jones Act (BJA) which reads: "The Secretary may recommend to the President other Federal, State, or Territorial agencies to administer [the LU Project lands], together with the conditions of the use and administration which will best serve the purposes of a land-conservation and land-utilization program, and the President is authorized to transfer such property to other agencies."

[5] The National Grasslands were excluded from the PRIA formula fee system in Section 11 of that Act (43 USC 1907). Section 11 was added to the text of the Public Rangelands Improvement Act after the August 9, 2978 hearing, apparently in response to the request of the Department of Agriculture (U.S. Senate 1978, p. 37).

[6] The various National Grasslands presently in existence include the recently created Butte Valley National Grassland in California (18,000 acres), and the original 19 National Grasslands: the Pawnee (193,000 acres) and the Comanche (418,000 acres) in Colorado, the Curiew in Idaho (48,000 acres), the Cimarron in Kansas (108,000 acres), the Oglala in Nebraska (94,000 acres), the Kiowa in New Mexico (137,000 acres), the Cedar River (7,000 acres), Little Missouri (1,028,000 acres) and Sheyenne (70,000 acres) in North Dakota, the Black Kettle (31,000 acres) and Rita Blanca (16,000 acres) in Oklahoma, the Crooked River in Oregon (111,000 acres), the Buffalo Gap (592,000 acres), Fort Pierre (116,000 acres) and Grand River (155,000 acres) in South Dakota, the Lyndon B. Johnson (20,000 acres), Caddo (18,000 acres), Rita Blanca (93,000 acres) and McClellan Creek (1,000 acres) in Texas, and the Thunder Basin (572,000 acres) in Wyoming. Collectively, there are 20 National Grasslands in 12 states containing 3,846,000 acres of reacquired private land. One original "Purchase Unit", the Cedar Creek in Missouri (13,000 acres), has not been designated a National Grassland (Forest Service 1989).

[7] The 160 acre size limitation was contained in the Homestead Act of June 2, 1862. As it became apparent that parcels of this size often were too small for successful homesteading particularly west of the 98th Meridian, the size limit was increased. The Enlarged Homestead Act of 1909 increased the limit to 320 acres, and the Stockraising Homestead Law of 1916 increased the limit to one full section (640 acres). As early as 1878, John Wesley Powell had recommended to Congress that if the semiarid West were to be successfully homesteaded, . . . a large acreage (2,560 acre minimum) of range land [would be needed] to round out an economic home unit" (Wallace and Silcox 1936, p. 220).

[8] In 1934 the Natural Resources Board released a study calling for the acquisition and removal from cultivation of about 75 million acres of farmland nationwide, supporting the land acquisition program of the Federal Emergency Relief Administration that already was underway (see Clawson 1981, pp. 107-124). Two years later Secretary of Agriculture Wallace submitted a report to the U.S. Senate (Senate Document No. 199) that went further, calling for the reservation and acquisition of 125 million acres of land in the Western federal range land states (Wallace and Silcox 1936, p. 486), and that the grazing districts established under the Taylor Grazing Act of 1934 be removed from the jurisdiction of the USDI and placed under the jurisdiction of the USDA Forest Service (ibid. pp. 538-539).

[9] The LU Projects had resource conservation as their original purpose. Agricultural adjustments were believed to be needed to assure that fragile semiarid lands remain in or be converted to perennial grasslands used for domestic livestock grazing. In many of the LU Projects, resource and livestock management responsibilities were shared by the Soil Conservation Service (the administering agency from October 1938 through December 1953) and local grazing district associations. The grazing district management structure remains today on the National Grasslands in the states of North and South Dakota, Colorado, and Wyoming (and on the Montana LU Projects transferred to the USDI in 1958). These four states account for 82 percent of the total National Grassland acreage in the National Forest System. Nowhere else in the System is there a similar grazing district organizational structure; although a similar structure does exist on Section 3 grazing districts administered by the BLM.

[10] The primary mechanism used to regulate grazing was the grazing permit attached to commensurable base property, i.e., to deeded land linked via the permit to a grazing allotment. One reason why the commensurability requirement was imposed may have been the desire to relative sedentary cattle operators to drive competing transient sheep operations away from the grazing areas used by both (Rowley 1985).

[11] Various writers categorize the attributes or "bundle of sticks" that comprise a property right differently. One useful categorization is that a full set of property rights include the partial rights of ownership, use, transferability, and enforceability. Any combination of the first three 'sticks" may be delegated by the sovereign to private individuals or groups, subject to attached limits, restrictions, or attenuations. Enforceability remains at least in part the responsibility of the sovereign, and without enforcement the delegated "sticks" are valueless. In the case of grazing permits, ownership remains with the sovereign (the Federal Government) while restricted use rights and sometimes restricted transfer rights are delegated to permittees. Since the restricted use and transfer rights are enforced by the sovereign, the grazing permit as a partial property right assumes value.

[12] Hooper (1971) called the "use right" a quasi-right representing possessory interest with strict legal interpretation. Since the use right or possessory interest has market value, the IRS taxes capital gains on permits when ranches holding grazing permits are sold, and therefore the IRS allows permit holders to write off the loss of a grazing permit as a capital loss. The literature is reviewed by Quigley et al. (1988).

[13] The major restrictions on the use rights of federal grazing permits thus are commensurate base property (land or water), season of use, and stocking rate (number of animal units). Permit value accrues to the base property (Harbison 1991). The magnitude of the permit's value is determined by stocking rate and season of use in relation to owned base property feed and forage resources, given the costs of using the permitted forage. The grazing fee is one cost associated with the use of permitted federal forage, but generally constitutes only about ten percent of the total cost of federal forage use (Obermiller and Lambert 1984, Obermiller 1992b).

[14] It is true that at some federal grazing permit price (either fee level or total cost of forage use), it may be less expensive to utilize an alternative private sector forage source such as purchased hay or leased private pasture. In reality, the marginal cost of purchased hay as a substitute for grazing season forage is greater than the marginal revenue from the use of hay, meaning that hay is not an economically viable substitute for the seasonal supply of grazed forage. In many areas in the West, no private sector range or pasture is available as an alternative to the permitted federal forage. Hence, given the existing structure of relative feed and forage supplies, the federal grazing permit is a complement to the feed and forage supplies owned by the permittee.

[15] For an expanded discussion and additional documentation of the relationships among federal grazing fees, the degree of dependency of Western ranches on federal rangeland forage supplies, and permit and range values see Obermiller's 1991 supplemental testimony requested by Congressman Charles W. Stenholm, Chairman of the Subcommittee on Livestock, Dairy, and Poultry, House Committee on Agriculture (Serial No. 102-35, pp. 146–160).

[16] A total of about 22 million federal AUMs are authorized under the existing 28,952 federal grazing permits. The average grazing authorization is about 750 AUMs per permit. Some of these are group permits (e.g., the BLM Rock Springs Wyoming grazing permit with an authorization of nearly one million AUMs shared by over 30 permittees, each whom uses on average about 3,000 AUMs). Some individual ranchers hold more than one grazing permit. Still, with an average permitted season of use of four to five months in duration, simple mathematics suggest an average herd size of 150 to 188 cows on the federal allotments. Nationwide, the average cow herd size is 174 cows. The rule of thumb minimum herd size for a one family ranching operation is 300

cows. In their April 30, 1992 Report to Congress (*Grazing Fee Review and Evaluation: Update of the 1986 Final Report*) submitted pursuant to the directive in the Conference Report on the FY 1992 Interior and Related Agencies Appropriations Act the Secretaries state ". . . it should be noted that 90 percent of the . . . BLM permittees and 81 percent of the Forest Service . . . permittees remain medium- to small-size family operators."

[17] Quigley et al. (1988, p. 13) note that grazing fees actually were first charged on an experimental basis in 1900 for sheep grazing on the Forest Reserves administered by the Secretary of the Interior.

[18] While popularly known as the "Organic Act of 1897" the authorizing legislation actually was in the form of the "Pettigrew Amendment" to the Sundry Civil Appropriations Act of June 4, 1897 which ". . . never had to surmount the full legislative process" (Steen 1976, p. 36). For a more thorough review of the history of federal grazing fees, see Quigley et al. (1988).

[19] In 1947 the LU Project grazing districts were administered by the Soil Conservation Service in the United States Department of Agriculture. Not until 1954 were the LU Projects transferred to the jurisdiction of the Forest Service. The "Barrett Amendment" did not apply to the LU Project grazing programs.

[20] The 1969 uniform fee system did not apply to the National Grasslands. Not until 1979 did the National Grasslands obtain a grazing fee structure comparable to the fee system used on BLM and National Forest grazing allotments. The 1979 National Grasslands formula fee system was and is similar to that used on other Western federal rangelands, but due to empirical inconsistencies results in a higher grazing fee than that paid by BLM and National Forest permittees. For example, in 1991 the PRIA grazing fee was $1.97 per AUM while the National Grasslands grazing fee was $3.58 per AUM. In 1992 the PRIA grazing fee is $1.92 per AUM while the National Grasslands grazing fee is $3.42 per AUM. A major reason for the discrepancy is the North Dakota private pasture rental rate used when constructing the 1979 National Grasslands grazing fee formula. The existence of the discrepancy and its apparent explanation have led to efforts to implement a combined formula fee system resulting in a single grazing fee charged to all permittees in the 17 Western federal rangeland states, regardless of the jurisdiction under which the federal rangelands are managed.

[21] This omission of amortized permit cost characterizes the National Grasslands grazing fee formula as well. Its base fee, $1.73 per AUM prior to adjustments reducing the base to $1.33 per AUM, excludes the effect of an amortized permit cost of approximately $1.88 per AUM using a six percent interest rate. The consequence of its exclusion is discussed further in footnote 22.

[22] As noted earlier, if the amortized value of the cost of purchasing the permitted AUMs is construed as a grazing cost, the nonfee costs incurred by permittees increase accordingly. In 1966, the amortized value was $1.52 per AUM on National Forests, $0.87 per AUM on BLM permits, and apparently $1.88 per AUM on National Grasslands. On National Forests, the unadjusted residual base (excluding the amortized permit cost) was $1.02 per AUM; on BLM permits the residual base (excluding the amortized permit cost) was $1.30 per AUM; and on National Grasslands the residual base (again excluding the amortized permit cost) was $1.73 per AUM. Subtracting the amortized permit costs yields an adjusted base of −$0.50 per AUM on National Forests, $0.43 per AUM for BLM permits, and −$0.15 per AUM on National Grasslands permits (American National Cattlemen's Association 1968, Appendix A; Obermiller 1991c). In other words, all things considered National Forest and National Grasslands permittees would have to have been paid to graze on their federal allotments in 1966 in order for their total grazing costs per AUM costs of grazing on privately owned rangelands in the vicinity of their allotments. BLM permittes would see their fees increase by only ten cents per AUM. If a single grazing fee were to have been charged system-wide, its per AUM weighted value would have been zero. This prospect clearly was unacceptable to the Secretaries and to the Bureau of the Budget, explaining why the 1969 fee system was announced just a few days before the Administration left office, prompting the highly charged Senate and House hearings of February 27–28 and March 4–5, 1969 respectively.

[23] Executive Order No. 12548 imposed a floor value of $1.35 per animal unit month (AUM) on the federal grazing fee below which the actual fee charge would not be allowed to fall. This value, $1.35 per AUM, was the amount of the PRIA grazing fee in 1985. If it had not been for the imposed $1.35 per AUM floor, the PRIA formula would have generated grazing fees of $0.93 per AUM in 1986 and $0.98 per AUM in 1987.

[24] In 1983, just over 21 million of domestic livestock grazing were authorized on the National Forests and BLM rangelands in the 11 western states. Of this total authorization, Nevada and Wyoming each accounted for 13 percent, followed by Montana with 12 percent and Idaho with 11 percent. These four states collectively represented over one-half of the total federal (excluding National Grasslands) livestock AUM authorization. On an AUM basis, they accounted for only one-third of the reported private rangeland leases in 1983, however, (Secretary of Agriculture and Secretary of the Interior 1986, p. 86). The farm unit based weighting system does not reflect the distribution of federal AUMs in the 11, or in the 17, Western states.

[25] The four largest federal AUM states (excluding the National Grasslands) with over one-half of the total AUM allocation accounted for only 20 percent of the total beef cattle marketings by liveweight in 1983 (Secretary of Agriculture and Secretary of the Interior 1986, p. 86).

[26] The Report to Congress actually was not released until March 1986. By that time President Reagan had signed Executive Order 12548, freezing the PRIA formula until Congress passed alternative federal grazing fee legislation.

[27] Although it was not acknowledged by Congress in the requirement that the PRIA formula fee system be evaluated, recall that there were problems with the original $1.23 and $1.33 base fees. The federal land management agencies apparently had agreed with the Western livestock industry to take "permit cost" into account in conducting the 1966 Western Livestock Grazing Survey. They did, and the results were, as previously noted, negative base fees on the National Forests (−$0.50) and on National Grassland allotments (−$0.15) and a low base fee ($0.43) on BLM permits if allowance in cost calculations were made for the annual capitalized (at six percent) cost of purchase of the grazing permit. Hence, the $1.23 and $1.33 per AUM "base fees" understated the full costs of livestock grazing on federal rangelands (USDI National Advisory Board Council 1966, Appendix 14). On December 5, 1968 the Chairman of the House Committee on Interior and Insular Affairs (Congressman Wayne Aspinall) wrote the Secretary of the Interior stating "While I have known of the desire of the government agencies involved to make these [grazing fee] increases, I have been of the opinion that final determination should wait additional *consideration by the interests involved* as well as the results of consideration by the Public Land Law Review Commission which is making several studies in depth of user fees of all kinds on the public lands . . Personally, I have difficulty of understanding why the Administration which will go out of office in the near future should attempt to work its will on the matters involved in these proposals just before the new Administration takes over." [emphasis mine: Aspinall also was Chairman of the Public Land Law Review Commission and the "interests involved" may have reflected the interest groups to be identified in the 1970 final report of the PLLRC] Late in 1968, three weeks before the 1969 fee system was announced by the outgoing Administration (on January 14, 1969), a decision was made by the Administration. Permit cost would be omitted in calculating the base fees. That decision was announced to the Grazing Fee Committee of the USDI National Advisory Board Council on December 18, 1968 (USDI National Advisory Board Council 1968, pp. 8–9). Board members protested vigorously, claiming that an agreement had been violated, but it made no difference (ibid., pp. 9, 15). After the 1969 fee system was announced, hearings were held by the appropriate authorization committees in the Senate (February 27–28, 1969) and House of Representatives (March 4–5, 1969). In those hearings the key witnesses for the Administration were Philip Hughes (Deputy Director of the Bureau of the Budget), Boyd Rasmussen (Director of the Bureau of Land Management), and Ed Train (Chief of the Forest Service). Under intense questioning by Aspinall, Congressman Walter Baring, and Senator Frank Church the Administration gave its reasons for the decision to omit permit cost. Those reasons were (1) the fear that recognition of permit cost would result in legal action to recognize proprietary interest on the part of the permittee in the permit itself, implying rights to compensation; (2) the concern that federal grazing fees could not approximate private pasture rental rates if permit cost were included in calculating fees; and (3) a strong push by the Bureau of the Budget for full cost recovery in the administration of the range programs of the BLM and Forest Service.

[28] It is apparent that since 1986 both the Forest Service and the Bureau of Land Management have lost confidence in the appraisal results as proxies for the "fair market value" of federal rangeland forage. Instead, the agencies seem to be opting for a new formula fee system based on technical modifications of the PRIA formula using updates of the base fees derived from the 1966 Western Livestock Grazing Survey (Secretary of Agriculture and Secretary of the Interior 1992, pp. 2–5, 35–36, and 57–58). Their technically modified 1966 PRIA base fee is calculated to be $2.93 per AUM, assuming no structural or institutional change in the federal rangeland grazing market relative to the private rangeland grazing market since 1966. In a recently published Oregon State University Extension Service Special Report, Obermiller (1992b) demonstrates that in an Eastern Oregon case study permittee grazing costs have increased by 16 percent relative to private rangeland grazing costs since 1966. If this relative increase holds westwide (and it is possible to test that hypothesis), the corrected modified 1966 PRIA base fee would be *$1.32 per AUM* (versus $1.23 per AUM in the current PRIA formula and $1.33 per AUM in the current National Grasslands formula).

[29] For a more thorough review and analysis of such proposed bills, see Serial No. 102–35, the August 19–20, 1991 Hearings Record of the House Committee on Agriculture, Subcommittee on Livestock, Dairy, and Poultry, pp. 105–113 (Obermiller 1991a).

[30] Various environmental organizations have expressed support for initiatives that would lead to an increase in federal grazing fees on the basis of the permit value argument. See for example Serial No. 100–18, the September 22, 1987 Hearing Record of the House Committee on Interior and Insular Affairs, Subcommittee on National Parks and Public Lands, pp. 136 and 410.

[31] The appraisal results state that there are 13 different "average" private leasing rates in the Western United States, and six different "regional" private forage markets. On statistical and economic grounds, such a claim is indefensible (Houseman et al. 1968, 1992 *Update* pp. 3–4). Observed variation in data obtained by the appraisers is so great that "average" rates are meaningless. No attempt was made to test for significant differences among regional average rates, because to do so would have shown that the regional averages are not significantly different from one another.

[32] The methodological shortcomings of the Appraisal Study have been widely noted. No attempt was made before the fact to classify population characteristics. Without prior classification, random sampling is impossible. If samples are not random, they are not representative of the population. In this case statistical analysis is fruitless, and any statistics derived from the data have no interpretable value. Nonetheless, the appraisers calculated statistics from their nonrandom data, and they defended those statistics as reliable based on their "informed judgment" while simultaneously making the disclaimer, "In no case do the appraisers represent this Appraisal Report or the conclusions contained herein as being a product of statistical methodology" (Tittman and Brownell 1984). It must be emphasized that the identified shortcomings are in no way redressed by the statement that" ". . . the agencies' appraisal report and the appraisal review were performed to recognized professional appraisal standards" (Tittman and Brownell 1984). That statement misses the point entirely. At issue is not whether the appraisal was done in a technically correct manner, but rather (1) should an appraisal have been done, (2) if so, what type(s) of appraisal, and (3) how should the results be interpreted and used?

[33] Look carefully at the testimonies of Assistant Secretary Dunlop (USDA) and Assistant Secretary Griles (USDI) in the 1987 Hearing Record (Serial No. 100–18, pp. 114–115 and 126–127) as expanded by the Bureau of Land Management's Senior Economist in his Natural Resources Defense Council et al. v. the Secretaries of the Interior and Agriculture, Eastern District of California District Court affidavit (Waite 1986).

[34] See especially "Part II: A Scientific Evaluation and Critique of the 1986 and 1992 Grazing Fee Studies." Dudley and Rostvold concluded that the "mass appraisal" approach to valuation (1) yielded highly questionable conclusion, (2) based on data altered by "analytic license" to produce "subjective results."

The Pepperdine University authors stated that the commensurability requirement demands absolute control over comparability of the appraised and the reference properties, and that no such control was exercised. They conclude that the final conclusions in the Appraisal Report (see Figure 5) have a probability of accuracy of less than one percent.

[35] Appraisers are taught to use two approaches when deriving subject property values. These are (1) the comparable market sales approach and (2) the income approach. The result is a value range representing economic use value on the one hand (income approach) and prevailing market value on the other (comparable market approach). The appraisers opted to place exclusive reliance on the comparable market approach, but did not control for comparability. Why? The answer is simple, according to the published Appraisal Report. The income approach was rejected *a priori* because this ". . . approach would be based solely in the user's ability to pay, and not on fair market value to the owner" (Titman and Brownell 1984). That is a peculiar statement. It implies on the one hand that conventional appraisal methodology should not be used to establish federal rangeland forage values. If that is so, why was exclusive reliance placed on the appraisal results? On the other hand, the Forest Service and Bureau of Land Management had been directed, by statute, to evaluate the PRIA formula fee system. PRIA specifically states that the formula reflects, in part, the economic value of federal rangeland forage to the user, the permittee. On what possible grounds may it then be argued that the income approach, that which estimates economic use value, is inappropriate? There is, of course, no answer.

[36] Quigley and Taylor (1983) identified market interdependence as the most damaging theoretical criticism of comparable market approaches for establishing federal grazing fees. In their Harney County, Oregon, case study, Collins and Obermiller (1992) detected strongly significant statistical interdependence between private and federal forage markets (at the 99 percent level of confidence). Noting that this interdependence violates the implicit assumption of market independence in appraisal theory (Boyce and Kinnard 1984) and therefore the comparable market appraisal approach can be used to determine the fair market value of federal rangeland forage only if the federal government's influence on the private forage market is minimal (Gulley 1983-1984), Collins and Obermiller concluded that the use of the mass appraisal results would have ". . . particularly undesirable consequences" (ibid., p. 188) and would result in poor federal rangeland pricing policy.

[37] Values are unique to things exchanged, to the individuals who buy and sell them, and to the times and places in which they are exchanged. If a market, and therefore a market price, does not exist for that which is exchanged, only with strictest caution can value be inferred from the observed price of a similar thing exchanged in an actual market.

[38] This point has legal connotations. As Achterman (1984) points out, it must be asked whether the "comparable market" data and conclusions contained in the 1984 Appraisal Report (and as incorporated in the "Market Value" fee alternatives to PRIA as reported to Congress and as incorporated in recent and current proposals to change the PRIA formula fee system) constitute a legally admissible basis for opinion as to value. At best, the appraisal results represent highly subordinate evidence of federal rangeland grazing values.

[39] To properly control for qualitative differences in the federal and private forage markets, three rules must be carefully observed, First, the buyers and sellers in both markets (the actual private forage market and the federal forage "nonmarket") must be similar, and must be unencumbered (willing and unrestricted) market participants. As has been noted, the terms and conditions of grazing permits are highly restrictive. Individuals can enter and leave the private forage market at will. Permittees cannot. Subject to a three year grace period, permittees must use their grazing permit, and pay the administered grazing fee, or risk losing their grazing privilege. Second, the qualities of the goods or services being exchanged must be identical (since perceived quality to an identified user is the source of a thing's value to that user). The existence of public domain rangelands suggests qualitative differences between those grazing lands that were successfully homesteaded and those which was not. Third, the markets must be separate and unrelated, or independent. Otherwise, is impossible to correlate cause (e.g., shift in demand for forage) and effect (e.g., change in price—private grazing rental rates or public land grazing fees) in either market because of market interactions. As Collins and Obermiller (1992) have demonstrated, the private and federal forage markets are neither separate nor unrelated, but rather are statistically interdependent.

[40] Documentation appears in a report of a survey sponsored by the Federal Extension Service (Obermiller and Lambert 1984, Obermiller 1992b). The report details results of surveys conducted in Oregon, Idaho, Nevada, Wyoming, North Dakota, and South Dakota. Similar results were obtained in subsequent surveys conducted in California and Colorado (Bartlett et al. 1984.)

[41] In Table 1 the nonlease costs for cattle grazing on private rangelands were $2.75 per AUM in 1966 ($4.54 per AUM minus the private lease rate of $1.79 per AUM). The nonfee costs for cattle grazing on federal rangelands were $3.28 per AUM. This means that the nonfee/nonrent costs for cattle grazing on federal rangelands were $0.53 per AUM more than on private rangelands in 1966.

[42] This has strong implications for the value of the price index adjusted base fee in the PRIA formula, as represented by the "PRIA with Technical Modifications" alternative described in the 1992 *Update*. These implications were summarized earlier (see footnote 24, p. 23).

[42] The Forest Service does not allow subleasing of grazing permits under any circumstances, but there are instances under which BLM grazing permits may be legally subleased. The sublessee must have control over both the commensurate base property and the livestock. The lessee may provide services, since the lessee can be assumed to be knowledgeable of the characteristics of the subleased BLM allotments. Ceteris paribus, it can be assumed that a legal sublease including services provided by the original permittee would command a higher lease rate than the grazing fee, since no services are provided by the agency.

[44] The $3.65 per AUM rangeland lease rate included the value of some unspecified bundle of services provided by the landlord. In the 1966 Western Livestock Grazing Survey the average "bare ground" or "no services' private rental rate was $1.79 per AUM, as reported in Table 1. Thus, the average value of services provided by the landlord was $1.86 per AUM in 1966. In 1966, roughly half of the prevailing rangeland rental rate was attributable to services provided in conjunction with the rental of private grazing land. If this same relationship were true in 1983, and if no structural change has occurred in federal versus private rangeland grazing since 1966, the appraisal values reported in Figure 5 (assuming they are accurate) overstate the value of federal forage by 50 percent.

[45] In 1922, given the number of BLM, National Forest, and National Grassland AUMs in the 17 federal rangeland states, the AUM weighted combined federal grazing fee would be $2.00 per AUM assuming all permittees paid the same fee. Correcting for the apparent error in the North Dakota base period data (see footnote 16, page 14), the combined westwide fee would be $1.96 per AUM in 1992. In contrast, in 1992 the PRIA fee is $1.92 per AUM and the National Grasslands fee is $3.42 per AUM.

Mr. DOMENICI. I remind the Senate that on a similar although little bit different amendment last year on appropriations, 60 Senators from both sides of the aisle supported a motion to table; 38 did not. I am also reminded that if this happens not to be tabled, I believe the Senate will be in on this bill not only tonight and tomorrow, but I think they will be in part of next week.

I yield back any time I have.

GRAZING FEE ISSUE

Mr. SYMMS. Mr. President, the grazing fee issue is not one that is taken lightly in my State of Idaho. Two out of every 3 acres of my State is owned by the Federal Government. Of the remaining private land, 98 percent is either incapable of producing the necessary forage for grazing, or it is already involved in agricultural production of other types. That leaves the public land to supply the bulk of Idaho's grazing.

Cattle production, in Idaho, is a very significant portion of our agricultural base. It constitutes approximately 2 percent of the State's gross state product, or $570 million dollars—1987 data. Just for comparison's sake, that is a greater percentage of the State's economy than wheat is in Kansas, twice what corn is in Illinois, and five times what oranges are to Florida.

So when Congress proposes a grazing fee policy that threatens to drive cattle production from the public lands in my State, you might as well be banning milk in Wisconsin. In truth, the impact on the State's economy would be 10 times greater.

There is an old saying that goes, "if it ain't broke, don't fix it." What that means for the public policy debate over grazing fees is that the burden of proof lies with those proposing to alter the current formula. They must show that it is broke, before we should jump toward any proposed fix. It is not enough for proponents to claim the fee is too low, or to claim that grazing is somehow abusing public lands. They must prove their claims.

And from what I can see, that will not be easy. The evidence seems to go in the opposite direction. Take the fee-too-low argument to begin with:

First, the USDA's Economic Research Service has found that there is no appreciable difference in net cash receipts between public and private land cow/calf operations.

Second, an independent cost analysis in the State of Idaho found that public land nonfee costs are actually much higher than private land costs—$14.59 per animal unit month compared to $7.54 per animal unit month on private pasture.

Third, the cost of grazing allotments is often built into that of a homestead or ranch, and is therefore paid as a capital cost when the base ranch was last purchased, that is, in any transaction of land since the 1940's.

Fourth, Pepperdine University completed a study earlier this year that concluded that BLM and USFS cost comparisons of private versus public grazing cost reports to Congress have drawn questionable conclusions based on manipulated information.

Fifth, more recently, the Heritage Foundation has studied this issue and recently released a report entitled, "Why Grazing Fees on Federal Lands Should Not Be Raised."

I've placed much of this information in the RECORD before, but this Heritage report is new and I ask unanimous consent that it be reprinted in the RECORD at this time.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[The Heritage Foundation, July 29, 1992]

WHY GRAZING FEES ON FEDERAL LANDS SHOULD NOT BE RAISED

INTRODUCTION

Congress currently is considering legislation which would increase the fees charged by the federal government to the 31,000 Western ranches who graze sheep and cattle on 318 million acres of federally owned land. A proposed 33.3 percent hike in the fees is contained in the appropriation bill for the Department of the Interior (H.R. 5503), which passed the House of Representatives on July 22, and in the authorization bill for the Bureau of Land Management (H.R. 1096), which passed the House last summer. Action on both bills is expected soon in the Senate.

According to a recent report by the Secretaries of Agriculture and the Interior, the federal government spent $52.3 million more on rangeland administration in 1990 than it received in grazing fees,[1] prompting the claim that ranchers who graze their sheep or cattle on federal land are receiving a subsidy. The wide disparity between grazing fees on federal and private rangeland also gives plausibility to the notion that ranchers receive a subsidy. The proposed fee increases are intended to eliminate this supposed subsidy. The average grazing fee on private land in 1991 was estimated by one researcher to be $9.19 per Animal Unit Month or AUM. An Animal Unit Month represents the amount of forage that normally would be consumed over a one-month period by one cow and her calf, or five sheep, or one horse. The fee on federal land currently is only $1.92 per AUM.

The argument for a fee hike is appealing on its surface, but closer scrutiny reveals serious flaws. For instance: There is a good reason why the price charged for grazing on public land typically is lower than for private land. Private land generally is of better quality and the owners provide ranchers with fences, roads, water, and protection for livestock. Ranchers must provide these services for themselves on public land.

The federal government does not, in fact, own the valuable water rights on its Western lands.—These rights already belong to the ranchers. Private landowners leasing out their rangeland, on the other hand, own the rights on their own lands. Thus it should be expected that ranchers using public land should pay a lower fee than they would pay for access to private land—otherwise ranchers would be charged for rights they already own on public land.

The federal government retains title to public land, but it may not actually own the grazing rights.—The law is unclear as to whether Uncle Sam or the ranchers own the rights. Ranchers used these lands for decades before the government began charging fees, but the federal government never explicitly recognized an ownership right to graze these lands. The government has, however, recognized property rights of some kind with respect to grazing. In fact, the Internal Revenue Service treats a rancher's grazing rights as private property for estate purposes.

If the fees were raised by the amount being considered by Congress, fewer ranchers would make use of public grazing lands.—In all probability, Washington would end up collecting less revenue rather than more.

The controlled grazing that now occurs helps to protect the ecology of the West, and so reduces the costs taxpayers otherwise would pay to protect the environment.—For instance, cattle aid decomposition of vegetation by trampling the soil and even help spread seed and fertilizer. Also, foraging keeps grass short and so helps prevent prairie fires. In fact, without cattle, much of the fertile land would become desert.

The dispute over grazing fees has its origin in government ownership of the land. If Congress were to sell the land to private owners, the government would obtain billions of dollars in proceeds and market-driven fees would accurately reflect the value of grazing rights to ranchers. Short of this step, lawmakers should recognize the flimsiness of the argument that ranchers receive a subsidy and keep grazing fees at their current levels.

ORIGINS OF THE GRAZING FEE CONTROVERSY

The ranchers who homesteaded the Western rangelands acquired some parcels of land outright, but simultaneously they obtained the right to graze livestock on adjoining lands still owned by the federal government. Just as mining companies in some instances acquired the mineral rights underneath federal land, so these ranchers acquired the grazing rights. Moreover, under state property laws in the Western states, sources of water were and still are considered owned by whoever first makes beneficial use of it. Since the ranchers used the water on the federal lands for their cattle and sheep, and the federal government did not, the ranchers became the owners of the water rights.

Fair Market Value.—Ranchers initially were not charged for access to federal land, but grazing fees were instituted in 1906. Significantly, the charge first was called a tax rather than a fee, out of tacit recognition that the ranchers already had the right to graze their cattle on federal land. The purpose of the tax was to pay for the cost to the federal government of managing the lands to prevent overgrazing. The Taylor Grazing Act, passed in 1934, required the federal government to charge the "fair market value" to the ranchers for their grazing allotments. Later, in 1978, the Public Rangeland Improvement Act (PRIA) created the current formula used to set the fees.

Congress recently ordered the two government agencies responsible for managing public rangeland—the Department of Agriculture's U.S. Forest Service and the Department of the Interior's Bureau of Land Management (BLM)—to update their 1986 report assessing the fair market value of federal grazing lands. The agencies concluded this year that the government currently charges below fair market value. This conclusion was based partially on the fact that the government charges substantially less money to ranchers. The current federal charge is $1.92 per AUM. While nobody actually knows the average charge for the use of private pasture, most estimates place it significantly higher than $1.92 per AUM. According to Frederick W. Obermiller, Professor of Agricultural and Resource Economics at Oregon State University, the average rental rate for private pasture is $9.19 per AUM.[2] The BLM also estimates that about 16 percent of federal rangeland is in poor shape. This has promoted members of Congress to advocate higher grazing fees to reduce grazing, which is perceived by some to harm the ecology.

Congressional Proposals.—There are three fee increase proposals now before Congress. One by Representative Michael Synar, the Oklahoma Democrat, would raise federal fees over several years to a minimum of $8.70 per AUM. A second proposal, offered by Representative Ralph Regula, the Ohio Republican, passed the House last year as part of H.R. 1096, the BLM authorization bill, and now is pending in the Senate. This would raise fees by 33.3 percent per year for several years, reaching an expected level of $4.68 to $4.87 per AUM in 1996, and likely rising even higher in subsequent years. A third proposal, which is a variation of the second, is contained in the version of H.R. 5503, the Department of the Interior Appropriations bill, which passed the House on July 22 of this year. Because H.R. 5503 is an appropriation bill, it cannot set fees for more than one year at a time. Therefore, H.R. 5503 contains only the first of the series of 33.3 percent fee increases proposed by Regula. This would raise the fee from $1.92 to $2.56 per AUM. If a one-year increase passes, Regula is expected to propose a further incentive next year.

Raising fees would seem on its face to solve two problems at once. The action would eliminate what appears to be a subsidy to ranchers, and a fee hike would reduce the supposed environmental harm caused by grazing. But the issue turns out to be much more complex. In fact, large increases in grazing fees actually could exacerbate the problems they are meant to solve.

WHY FEDERAL LAND IS WORTH LESS

In determining whether the government charges the fair market value for grazing on federal lands, a 1986 report by the Forest Service and the BLM and a 1992 update conducted by the same agencies make two crucial errors.[3] First, the report and update use faulty statistical methods to arrive at the conclusion that fees are too low. Cy Jamison, Director of BLM, has acknowledged these statistical methodology problems, admitting that "[f]rom where we took off to do the [1992] study, it never resolved issues of how the methodology [used originally in the 1986 report] was developed to set the fee. We need to go back and look at the whole picture."

Second, the report and the update assume that the value of foraging on federal land is equivalent to foraging on privately leased land. It is not. The right to graze on private land is far more valuable than the same right on federal land, because there are a variety of important differences between federal and private land.

Poor Quality.—For one thing, federal rangelands generally are of poorer quality, more remote, and more difficult to manage and control than private lands. Homesteaders had their choice of land, so naturally they took the best lands for themselves. Only the least valuable parcels remained federally owned.

Fewer Services.—For another thing, private lessors provide a number of important and valuable services that the federal government does not provide. A rancher who leases federal rangeland, for instance, usually must, among other things, build his own roads, erect and repair his own fences, and furnish his own water tanks and reservoirs. A rancher who leases private rangeland has all these services provided for him.

Shared Access.—Another important difference is that a rancher who leases federal rangeland must share the land with the general public. Campers and hunters often leave gates open, requiring the rancher to retrieve strays and leading to loss of some to predators. Further, hunters sometimes shoot cattle by accident. On private lands, the lessor not only will prevent public access, thereby decreasing the frequency of animal loss, but normally is obliged to round up any strays that do wander. And in some instances the lessor even will insure the lessee against this loss as a part of his fee. The federal government never does this.

---

[1] Department of Agriculture, U.S. Forest Service, and Department of the Interior, Bureau of Land Management, *Grazing Fee Review and Evaluation: Update of the 1986 Final Report*, (April 30, 1992), p. 7, Figure 1.5. Data cited are based on the best available data from the most recent year available.

[2] Frederick W. Obermiller, "The June 20, 1991, Synar Amendment to the House Interior Appropriations Bill Effects on Fee Receipts and Grazing Use of Public Lands—A Preliminary Assessment," June 23, 1991, p. 4.

[3] Department of Agriculture, U.S. Forest Service, and Department of the Interior, Bureau of Land Management, "Grazing Fee Review and Evaluation" (1986). For the 1992 update, see footnote 1, above.

Because the operating costs of ranching on public lands are much higher than on private lands, the rights to graze public lands are worth less. In order to make a fair comparison, therefore, one would need to adjust the average grazing fee on private land by subtracting the value of all the services that a private landlord provides, differences in fence and road maintenance costs, the value of private water rights, and the value of the right to exclude the general public, as well as the differences in the underlying quality of the land. Oregon State University's Obermiller has estimated the appropriate fee differential between federal and private rangelands. By his calculations, if private land were provided under the same terms and conditions that currently apply to federal land, then even the best private land would be worth only $4.51 per AUM.[4]

This represents the highest fair market value that any parcel of rangeland could have, and it would have to be a premium-quality parcel. The overwhelming majority of public parcels are of lesser quality, more remote, and more difficult to manage. Thus, their fair market value is much lower—$2.09 per AUM or less, according to Obermiller.[5] Indeed, for a substantial portion of the federal government's rangeland, even the current fee of $1.92 per AUM is too high. According to the Forest Service, approximately 20 percent of the grazing allotments currently available go unused.

THE EXISTENCE OF PRIOR PRIVATE GRAZING RIGHTS

Another important difference between federal and private rangelands calls into question whether the federal government should charge any fee at all. Many Americans tend to think that owning a parcel of land implies the rights to build, farm, or use the land's resources, such as grass, timber, water, or minerals. But different individuals actually can own partial rights to the same piece of land. This is the case with federal rangeland. The land does not belong wholly to the federal government. Ranchers who graze their sheep or cattle on federal rangelands already own a variety of important and valuable property rights to the land.

In most instances, ranchers began to use lands adjacent to their homesteads and the water on it to graze their livestock decades before the federal government started charging a grazing tax or fee. Indeed, the federal government implicitly recognized these pre-existing grazing and water "rights."

Recognizing Rights.—When it first started charging a fee and regulating the number of cattle or sheep that could graze on the open range, for instance, it assigned the grazing allotments on the basis of these pre-existing rights. Further, the government in numerous other ways recognizes that some form of rancher ownership exists. The Internal Revenue Service levies an estate tax on the ranchers' ownership interests in federal lands. Also, the military is required by law to compensate ranchers whenever it appropriates the federal land. In addition, range rights can be purchased only from the rancher who owns them, not from the federal government.[6] Finally, the ranchers whose sheep and cattle graze on federal land have constructed, mostly at their own expense, hundreds of millions of dollars worth of fences, wells, reservoirs, and other improvements that are not required when they lease private rangeland. When Congress passed the Taylor Grazing Act in 1934, it explicitly recognized that ranchers owned these improvements. In fact, the Act required subsequent purchasers of the grazing permits to reimburse the previous owner for the value of those improvements.

One can argue, as many Western ranchers do, that pre-existing grazing rights already fully entitle them to graze their cattle and sheep on federal land. According to this view, any fee at all represents an attempt by the federal government to make the ranchers pay for property rights they already own. Moreover, even if a modest grazing fee can be justified as a user charge for land management services that the federal government provides, the government should take account of the ranchers' water rights and improvements in setting the level of the fee. The ranchers cannot fairly be charged for what is already theirs. Indeed, the government risks expensive litigation if it raises fees significantly, on the basis that it has "taken" the ranchers' property and thus owes them compensation.

HIGHER FEES COULD MEAN LESS REVENUE

Advocates of higher grazing fees want the federal government to take in more revenue so that it can cover fully the costs it incurs in managing federal range lands for ranchers. Their argument assumes that the federal government is not breaking even already. However, this is far from clear. The $52 million shortfall cited in the Forest Service-BLM update contains many costs not related to administering the grazing program. This alleged shortfall includes management costs that are attributable to recreational and other non-grazing uses of rangelands. Excluding these other costs from the calculation, it turns out that the average cost of grazing program management alone is only $1.47 per AUM for BLM land and $1.78 for the Forest Service land, according to Professor Obermiller.[7] Since the federal grazing fee in 1990 was $1.91 per AUM, the government has been making a slight profit on its grazing programs, not a loss. By comparison, the federal government recovers only one percent of its recreational management costs through user fees for visitors.[8]

Notwithstanding any calculation of appropriate management costs, higher grazing fees probably would result in a net loss of funds to the federal government. While the government would collect more money from any grazing allotments that continue to be used, a higher fee would mean that more allotments would fall into disuse. Some 20 percent of the current available allotments, or some four to five million AUMs, already go unused because, for many parcels, the current fee of $1.92 per AUM already is too high. Studies by Professor Obermiller indicate that the number of allotments used would fall sharply under the grazing fee formula proposed in the legislation now before Congress, from the current level of about 18 million AUMs to only about 9 million by 1996.[9] Since the formula proposed in H.R. 5503 eventually could raise the fee for grazing on federal land above the fair market value of even the best parcels, the number of allotments used conceivably could drop to zero sometime after 1996.

HOW COSTS WOULD INCREASE

The argument for raising fees implicitly assumes that the government's cost of administering its lands would be reduced with less grazing. In fact, most of the costs of monitoring and managing federal rangelands would be incurred whatever the level of grazing because most of the government's administration costs are fixed. Further, the government no longer would enjoy the many benefits it now receives from private ranchers, such as building and maintenance of roads and fences, the creation of watering holes, the clearing of brush, and control of erosion and predators. BLM Director Cy Jamison predicts that if ranchers were removed from federal land, the cost to the government of managing the range actually would increase by as much as 50 percent.

The increased outlays for the federal government due to higher grazing fees probably would be much greater than this estimate of increased outlays. For one thing, if ranchers are priced off federal rangelands, the government would have to build hundreds of thousands of miles of fences to keep cattle from trespassing onto federal land. In the Eastern states, a cattle owner is responsible for putting a fence around his land to keep his cattle in, and is liable to his neighbors if his cattle escape and trespass onto the neighbors' land. However, in most Western states, a landowner who fails to put a fence around his own land may not recover for trespass if other people's cattle come onto his land because the landowner is legally responsible for fencing the cattle out.

Billions for Fences.—No one knows precisely how many miles of fencing the federal government would have to build. Because federal land in most Western states is interspersed with private land in a checkerboard pattern, however, the amount of fencing required would be enormous. In one grazing district in Wyoming alone, the BLM estimates that it will have to put up 13,222 miles of fencing at a cost of almost $98 million if cattle grazing is discontinued because of excessive fees. The total cost to the federal government of fencing cattle off all its Western rangelands could be several billion dollars.[10]

The federal government also would have to pay additional billions of dollars to survey its land and determine its property boundaries. This was never completed in the past because there was no need to determine the precise boundaries between the federal lands and the adjoining private lands whose owners were using the federal lands. Since the cost of fencing and surveying would, in many instances, exceed the value of the land itself, the government might have to let ranchers graze their cattle for free. However, if the federal government were to attempt to force the costs of fencing or surveying onto adjacent private landowners, it would face substantial litigation costs.

---

[4] Frederick W. Obermiller, "The Treasury and Land Use Implications of Increases in Grazing Fees on the Western Public Rangelands as Proposed Under H.R. 5503," July 13, 1992, p. 6.

[5] *Ibid.*

[6] Wayne Hage, *Storm Over Rangelands* (2nd ed.) (Bellevue, WA: Free Enterprise Press, 1990).

[7] Frederick W. Obermiller, "In Search of Reason: The Federal Grazing (Fee) Debate," testimony presented to the Subcommittee on Public Lands, National parks and Forests, Committee on Energy and Natural Resources, 102nd Congress, 2nd Session, July 1, 1992, p. 44.

[8] M. Clawson, *The Federal Lands Revisited* (Baltimore, Maryland; John Hopkins University Press, 1983), p. 100.

[9] Obermiller, testimony of July 13, 1992, *op. cit.*, p.7.

[10] See Warren Brookes, "Can Democrats Take Back the West?" *The Washington Times*, September 17, 1991, p. F4.

Reduced Revenues.—Above a certain level, a higher fee will produce less grazing fee revenue than a lower one. Professor Obermiller's calculations suggest that, ignoring increased outlays and reduced income tax receipts, gross grazing fee revenue alone would be maximized at a fee of around $3.30 per AUM. But this would bring in only about $15 million in additional federal revenue because of the sharp reduction in the number of AUMs that would continue to be used, considerably less the $25 million anticipated by proponents of higher fees. Under the formula proposed in H.R. 5503, grazing fees would rise above their gross revenue-maximizing level of $3.30 per AUM by 1994, and so the federal government would experience a reduction in grazing fee revenue when higher fees took effect in subsequent years.[11] Moreover, Obermiller's figure of $3.30 per AUM does not take into account either the increased costs that higher fees would entail or the loss in federal income tax revenues that would accompany a contraction in the cattle industry. Overall, even at Obermiller's gross revenue-maximizing level, net revenue probably still would decline. This would occur both because of higher costs and because a higher fee would reduce federal income tax collections by more than the increase in grazer fee revenue.

Because federal land in most Western states is interspersed with private land in a checkerboard pattern, most private ranchers have to use some federal land in order to raise their cattle. The private acreage alone cannot support enough head of cattle year-round to make most ranch operations profitable. Moreover, most ranchers paid a price for their land and have mortgage loans that reflect the current grazing fees. A fee increase immediately would reduce the value of their ranches as collateral, making it difficult or impossible for many to get operating capital. Thus, many ranchers—whose average annual income is only $28,000 even under the current fees—would be driven out of business. This would mean significant economic harm to the Western states and a reduction in U.S. beef, lamb, and wool production.

HARM TO THE ENVIRONMENT

Some advocates of higher grazing fees acknowledge that a fee hike would reduce grazing but maintain that less grazing would be good for the environment. But reduced grazing in reality would damage the West's ecology. The reason is that livestock grazing can be good for rangelands. Cattle and sheep accelerate decomposition of vegetation by trampling it, thereby recycling vital nutrients, and by helping to spread seeds and fertilizer. Grazing also helps prevent fires, which can start and spread most easily in long, dry grass that has not been clipped by foraging. Brush-clearing by private ranchers whose cattle graze on federal land further reduces the danger of fire. Furthermore, livestock producers have built tens of thousands of watering sites on federal lands, thereby improving those lands and benefitting various species of wildlife. Since 1960, for example, elk and moose populations on federal land have increased by 782 percent and 476 percent, respectively. And controlled grazing along riverbanks helps prevent the grass from becoming overgrown and can promote the growth of young trees that, when older, provide shade and prevent erosion

By contrast, a lack of grazing can lead to the land rapidly turning to desert, a process known technically as desertification. Lands left untrampled by grazing animals develop a water-resistant crust that causes the soil to absorb less rain. In addition, uneaten grasses remain standing after they are dead, locking up nutrients, blocking sunlight from reaching live grass below, and slowing seed dispersal. A striking example of the difference grazing can make is found in the Servilleta National Wildlife Refuge in New Mexico. Inside the Refuge, which has been off limits to cattle for more than fifteen years, the land is rapidly turning to desert. But pastures just outside the Refuge, which have been grazed continuously, remain as healthy as ever.

The fear of cattle destroying the range arose from several major episodes of overgrazing that occurred between the end of the Civil War and 1910.[12] However, ranchers and sheepherders learned from these experiences. Today, most use different grazing areas from year to year so that grazed areas have time to recover. Ranchers and sheepherders also take steps to keep their cattle and sheep on the move so that they do not linger in any one area long enough to eat all the grass. Because they have grazing rights on the federal lands, most ranchers and sheepherders realize that it is in their interest not to overgraze. Doing so would only reduce the land's value to them in subsequent years. Also, ranchers who allow their cattle to overgraze risk being fined and their allotment reduced the following year. As a result of the improved management practices ranchers have employed for most of this century, a 1990 BLM report concluded that federal rangelands are in better condition today than at any previous time in this century.

FIVE OPTIONS

As they wrestle with the question of grazing fees, members of Congress have five options:

Option #1: Increase all grazing fees.—This approach at best would produce only a modest increase in gross grazing fee revenue and would lead to a reduction if the hike was large. In addition, it would increase expenses to the federal government and reduce income tax collections. On balance, the government probably would lose money by raising fees.

Option #2: Reduce grazing fees.—It is possible that even the current fee level is too high. The federal government might actually be better off charging a lower fee if the 20 percent of federal grazing land now idle became grazed.

Option #3: Increase fees only on better quality land and reduce them on poorer land.—This would be the fairest and most efficient option as long as the federal government continues to own lands used for grazing. The advantage of this option is that, if the government were able to implement it, the fee would be based more accurately on the value of each parcel. The government then would collect more revenue on the few parcels of lands for which it currently undercharges, and it also would collect revenue from some of the 20 percent of rangelands that currently produce no revenue because the current fee is too high. Unfortunately, this option may have an Achilles' heel. The administrative cost of determining the correct fee for each of the federal government's 318 million acres of rangeland could exceed the potential increase in revenues.

Option #4: Privatize the federal rangelands, subject to existing private rights.—This is, in principle, the most attractive option. Privatization of the federal government's extensive land holdings could generate billions of dollars of revenue that could then be used for deficit reduction. Alternatively, the government could use the sale proceeds to acquire more environmentally sensitive lands elsewhere, such as wetlands or other critical wildlife habitat, thereby offsetting the current budget cost of land acquisition. Once the rangelands were privately owned, market forces would determine the proper mix of agricultural and recreational uses—and the proper fees—for each individual parcel of land. Unfortunately, this option is politically impractical at this time.

Option #5: Keep the grazing fees at their current level.—Congress simply could renew the current grazing fee schedule based on the formula agreed to in 1978. While imperfect, that formula was the result of a compromise between the government, ranchers, and environmentalists, and is about as good as any formula Congress is likely to come up with. Moreover, the $52.3 million shortfall calculated by the Forest Service and BLM included costs which have nothing to do with administering the grazing program. In fact, it appears that the government makes a slight profit on the program. No case has been made for a hidden subsidy that implies the fees should be raised.

Of these options, privatization would be best, but it would not be politically feasible at this time. If lands remain in federal hands, it would be best to have the fee vary with the quality and location of the land—provided that the administrative costs of determining the correct fee for each parcel would not exceed the increased revenue. But it probably would. In this case, Congress should either lower the fees or else make permanent the formula that was adopted in 1978. Certainly, fees should not be raised until new studies are available that are free from the fatal flaws that plague the 1986 report and its update.

CONCLUSION

The controversy and confusion over how and at what level to set grazing fees just serves to illustrate the difficulty of setting a fair and market-responsive fee when government owns the land. The checkerboard pattern of private and public lands established in the West complicates an already confused legal situation by making it difficult for ranchers to survive without grazing livestock and using water on adjacent government lands.

At a time of high federal spending and deficits, policy makers understandably want to cut a perceived subsidy. But the $52 million above fee receipts spent by the federal government on administering grazing lands is not really a subsidy to ranchers at all. Most of the administrative costs would be incurred even if no grazing were permitted, and the seemingly low fees actually reflect the quality of the land and the extra costs incurred by ranchers when they use the federal land.

Privatization Solution.—If the federal government wishes to resolve the dispute over fees, and to raise money to reduce the federal deficit, it should sell the rangelands to private owners. If any of the lands in question are especially sensitive or environmentally valuable, appropriate conservation easements could be attached. This would ensure that the land is put to its best use and is best cared for without government expense.

---

[11] Obermiller, testimony of July 13, 1992, *op. cit.*, p. 7.

[12] For a brief discussion of these episodes, see *Public Lands Grazing Fees; A White Paper*, published jointly in 1991 by the Public Lands Council, the American Farm Bureau Federation, the Association of National Grasslands, the American Sheep Industry Association, and the National Cattlemen's Association, pp. 10-11.

When dealing with the issue of private uses of federal lands, it is important to remember that the relationship of rancher to the federal land is not that of a renter so much as that of a custodian whose family has cared for the land for generations. The federal government always has retained basic ownership, but it has passed on other, more limited forms of ownership to adjacent landowners whose ranching operations require full use of the federal lands. Unless policy makers want to put an end to ranching in the West, grazing fees should not be raised.

WILLIAM G. LAFFER III,
McKenna Fellow in Regulatory and Business Affairs.
JOHN SHANAHAN,
Policy Analyst.

Mr. SYMMS. In light of these reports, it is difficult to see how the current grazing fee gives public rangeland grazers any great advantage over their private land competitors.

As for the argument that cattle are abusing the public lands, I'd first respond that raising the grazing fee is an awfully poor way to address that problem even if it were the case, which it isn't. Raising the grazing fee serves no land management purpose. Rather, it merely devastates the hostage local economy.

I know of no expert, no rational analysis, and for that matter, no reasonable person who can maintain with a straight face that by making ranchers poor, driving them into bankruptcy, leading their local banks into insolvency, and generally undermining the entire economy of their communities, you will achieve the goal of better management of public rangelands. For all the talk of "cattle abusing the range," none of it is an argument for raising the grazing fee.

Worse, eastern Senators and big environmental groups apparently have no idea what the western rangelands were like before ranching came. For most part, the West was a big desert. Ranchers brought water to surface in the last 100 years and literally turned the desert into the grasslands and prairies we see today. One region of my State is called the Magic Valley because the ranchers and farmers used irrigation and wells to turn the desert into a green productive region of our Idaho.

Partly because of ranchers and the water they provide to wildlife, elk and deer populations are booming in the West. Without ranchers, there will be no water. Without the water the rangeland will again because a desert.

So, I reject the argument that grazing is not compatible with sound range management. In fact, when it comes to supplying water for wildlife grazing is sound range management. Two reports address this question. They are the Bureau of Land Management's report entitled "State of the Public Range," and a pamphlet prepared by range biologists at the University of Idaho and the University of Arizona, entitled, "Seven Myths About Livestock Grazing on Public Lands." Both documents support the statement that "our public rangelands are currently in the best shape they've been in this century."

Mr. President, the Senators from Vermont and Ohio could not convince the Senate to support a similar amendment last year. I am probably not the first Senator to remind my colleagues that 60 of us voted to table a similar amendment last year. Since then, even more information has weighed in to suggest that grazing fees on Federal lands should not be raised.

So, the case for a dramatic increase in grazing fees has failed to be made effectively in the U.S. Senate. I would again urge my colleagues in the Senate to oppose the Jeffords-Metzenbaum amendment to increase grazing fees in this appropriations bill.

Mr. DECONCINI. Mr. President, I rise today in strong opposition to the Jeffords-Metzenbaum amendment. This amendment will devastate the cattle industry in my State by raising grazing fees. This would have a disastrous effect on the economy of rural Arizona.

Most of the 3,700 Arizona ranchers who graze livestock in Arizona on public lands operate small, family-owned operations. They depend on Federal grazing lands for their livelihood. If the Jeffords-Metzenbaum amendment passes, many of these small operations will be forced to shut down due to this artificial increase in their operating costs.

To illustrate my point, I would like to point to a map of my State and a couple of charts comparing the land ownership of Arizona and that of one of the authors of the amendment, Senator JEFFORDS. As you can see, only 17 percent of Arizona land is privately owned. This land is indicated on the map by the white area. Pointing to the charts, in Vermont, you can see that almost 90 percent of the land is in private ownership. Ohio is in a similar situation with respect to amount of private land available to the citizens of the State. The bottom line is that the constituents of these two Senators can make a living off the land in their State. However, because of the limited amount of private land in Arizona, virtually all of the ranchers in my State must use public lands for grazing. The Jeffords-Metzenbaum amendment would have the effect of driving ranching off Federal lands and Arizona's Ranchers would have nowhere else to go but out of business.

Mr. President, those that support the amendment argue that because only 2 percent of the cattle in this country are grazed on public lands, we should raise the fees on these ranchers higher than economics truly warrant. That logic is similar to saying that because only 2 percent of the milk produced in this country comes from Vermont, we should eliminate dairy price supports. It does not make sense. For the information of my colleagues, 63 percent of the cattle produced in Arizona are grazed, at least part of the year, on public range lands. Livestock alone contributes almost three quarters of a billion dollars annually to Arizona's economy. Again, if the Jeffords-Metzenbaum amendment becomes law, this would cease.

There are other compelling reasons to block the Jeffords-Metzenbaum amendment. Practically speaking, the pattern of State lands interspersed with Federal lands in Arizona makes it difficult to separate the two ownerships from practical ranching.

Economically, according to figures from the Arizona land department, there would be a potential loss of $1.7 million in State land grazing revenues to the State land trust. A large portion of these monies go directly to State aid for the funding for K–12 public education. Mr. President, any revenues losses for public school in these economic hard times cannot be tolerated.

The current grazing fee formula was established by bipartisan approval under the Carter Administration and later extended under President Reagan by Executive order. It is my understanding that the Bush administration also supports the current formulation. The current system of determining grazing fees is based on market conditions and fluctuates, up or down based on changes in market variables. Over the past years, Federal grazing fees have risen from $1.35 per animal unit month [AUM] to $1.81 per AUM, and have been as high a $2.31 per AUM.

The Jeffords-Metzenbaum amendment raises suspicions in my mind as to its intent. I believe that the motivation is not to raise revenues, but instead it is an effort to eliminate livestock grazing on western public lands. I say this because the fiscal arguments used by the proponents of the amendment are simply not supported by the facts. A major argument for the amendment being offered by the Senators from Vermont and Ohio is that the current grazing fee is an unfair subsidy for public land ranchers. As evidence of this, proponents of the amendment attempt to demonstrate that there is a disparity between the fees paid by ranchers who graze their herds on private range and those who graze on public lands. This rationalization is intellectually bankrupt.

As many of my distinguished colleagues know, ranchers leasing on public range lands are required to pay for and build improvements such as fences, roads, and waters on the lands they lease.

On private lease ranges, these improvements are provided for by the lessor. Ranchers on public rangeland must also contend with higher cattle death-rates due to predators as well as higher transportation costs. Combine these additional costs with the fact that on private rangeland, ranchers can graze virtually an unlimited number of cattle. On Federal land, the government strictly limits the numbers. As a result the cost of grazing on Federal lands is comparable to the cost of grazing on private land. Mr. President, Federal grazing permit holders are not being unfairly subsidized.

The proponents of the amendment also argue that the costs of administering the grazing program are greater than the fees it generates. Again, blanket statements such as this are made without checking the facts. The BLM estimates that its cost to administer is $1.66 per AUM. Thus the government is making a profit of 31 cents per AUM. Proponents of the bill also contend that livestock grazing is adversely impacting wildlife habitat. While there is no question that some public lands were overgrazed in the past, rangeland experts from a number of universities and Federal land agencies agree that the public rangelands are in better condition today than anytime this century. As evidence of this, one need only look at the soaring numbers of big game animals on public range land. Mr. President, according to the BLM, big game populations since 1960 have increased dramatically—782 percent for elk alone. One can give a great deal of the credit to ranchers for this. More than just cattle drink from the waters ranchers have constructed.

Mr. President, I ask my colleagues to reject the Jeffords-Metzenbaum amendment.

Mr. McCAIN. Mr. President, I rise in strong opposition to the Jeffords amendment. This proposal to increase the grazing fee for public lands by 25 percent is another misguided attempt to unfairly penalize ranchers utilizing public lands. Increasing the grazing fee to $2.40 per animal unit month would undoubtedly cause undue hardships, bankruptcies, and economic decline in hundreds of rural communities in the Western United States.

There are a host of reasons to oppose this arbitrary increase in the grazing fee. First and foremost, it is unfair to the many hardworking families of modest means who depend on public lands, in whole or in part, to graze their cattle. The average income of ranchers who use public lands is $28,000 per year. I would hope that the Senate will not act rashly and single out these families for a possibly devastating grazing fee increase.

It is simply inaccurate to directly compare the fee for public lands with the grazing fee on private lands, and the sponsors of this amendment know it. Ranchers who graze their cattle on public lands in the West are responsible for maintaining roads, establishing fencing and water sources that lessors of private lands are not.

Furthermore, the current, grazing fee formula is already adjusted on an annual basis, according to the price of beef and the cost of production. When ranchers receive a better price for their cattle on the open market, they pay more into the U.S. Treasury. When times are lean, the grazing fee may decrease. This formula, enacted by the Public Rangelands Improvement Act [PRIA] of 1978, should not be undermined by a cursory swipe at ranchers without careful evaluation by this body.

I would view with interest recommendations to improve or adjust the PRIA formula by the Senate's Energy Committee, which has jurisdiction to evaluate it and suggest changes to the full Senate. The answer is not to jack up the price of grazing fees by 25 percent on an appropriations bill, and I urge my colleagues to decisively reject this amendment.

Such a drastic increase is likely to drive many ranching families out of business, and more economic misery is not something we should turn a blind eye to by passing this amendment. It is estimated that 20 percent of public grazing permits already go unused, and this increase could result in the loss of further revenues to the Federal Government.

I recognize and share the concerns that many Americans have about the conditions of rangeland in the West. We must carefully manage and protect our public lands so that they remain suitable for a variety of recreational and economic uses. If there are areas where overgrazing is occurring, then Federal land management officials should step in and restore sustainable practices.

If we truly have resource problems, let's remedy those specific situations with targeted land management strategies. It is worth noting that last year, the Director of the Bureau of Land Management testified before the House of Representatives that our public rangelands are in the best shape of this century. Let's not unjustifiably price ranchers off public lands.

Mr. President, I call on Members of the Senate to recognize the importance of a reasonable grazing fee to the economic viability of ranchers in Arizona and throughout the West. I urge my colleagues to defeat the Jeffords amendment.

Mr. JEFFORDS. Mr. President, will the Chair advise me whether anyone other than myself has time at this point?

The PRESIDING OFFICER. The Senator from Vermont has all the remaining time.

Mr. JEFFORDS. Mr. President, I will close. I do not think I will take all of the 5 minutes.

First of all, with respect to Dr. Obermiller: He sent me a proposal last year which he called Elements of a Grand Compromise, September 4, 1991. He recommended the grazing fee this year should be $2.49 per AUM—a figure slightly higher than what I am proposing to you today. The difference, however, is that my fee would apply to the large producers, the 15 percent that have more than 500 cows on their ranches. Dr. Obermiller's $2.49 would have applied to every public lands rancher.

This only applies to the large producers.

Now, we all have to think in terms of 30-second spots. Let me just let you know that if you vote against me you will be voting to give a continued subsidy to three billionaires. Let me give you their names: David Koch, Koch Industries; David Packard of Hewlett-Packard; Gordon Peter Getty. These three or their companies that hold permits and will be getting a subsidy at a time our deficit is booming. So too are Getty Oil, Chevron, Anheuser-Busch, Utah Power & Light, Japanese-owned Zenchiku Land & Livestock, Metropolitan Life, and the Mormon Church. So you will have to respond to that.

Now, what is the difference between this year and last year? Last year, we had a proposal about one-half of what the House approved, which was around $9 per AUM. Ours was around $4.50. So if you want to differentiate how you voted last year and this year, there is a very substantial difference. This year we have a 1-year proposal, only for producers with more than 500 head of cattle, and just a boot up to $2.40, which is the level—in nominal dollars—it was 12 years ago, in 1980. Now, how many of us would love to be paying the same rent that we paid back in 1980?

But also remember that we are talking about 15 percent of the 2 percent of the producers of beef in this country that hold grazing permits. Even out West, they represent fewer than 20 percent of the producers. The other 80 percent are paying fair market value or a value established by the States.

Why am I saying this is very important to you? Why am I doing it? Why is it only for 1 year? So they will have to do something this year. They will have to end this grazing subsidy some way. This is the only way we will force them to do something, to compromise. They will have a floor they cannot go below, and that is my amendment. So they will, at least, have to come up for 1 year.

That is all we are asking here; to make them do something. They have been telling us they would do something for years now. They have not done anything. We have had study after study; study after study torn apart. And where are we? Right back to another study. The time for study is over.

Study the budget if you want. Study the deficit. Can you defend this rent freeze from 1980 for 2 percent of the producers?

Let me end by rereading from the Montana Livestock Journal report. This journal reported that the majority of Montana private land ranchers surveyed favor a Federal grazing fee increase. Half expressed support for awarding grazing fee permits on a competitive bid basis.

You have an opportunity to help here, to help end this dilemma. Sure, I know the western Senators cannot do it in their own States. So it is up to us, Members from the other States, the 34 States that do not have these permits to say yes, you have to join the real world; you have to do your part to bring this deficit under control.

It is a small bit, and it does not affect the small farmer. But if we cannot do things like this, how can we ever get this deficit under control? I do not see how.

I believe it is important for us to help the Westerners along, push them along to a reasonable increase which will not reduce the number of people grazing their livestock on public lands. The figures are definite on that. What the amendment will do is to allow the permitters to have the feeling they are not taking advantage of the Federal Treasury.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I believe that consumes all of the remaining time on the amendment. I therefore will move to table. I do so apologetically to the distinguished Senator. He is a fine Senator. But this matter has been discussed at great length last year and it was a decisive vote at that time. So in order to move the matter along, I reluctantly will move to table, and do so. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to table the amendment of the Senator from New Hampshire. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Louisiana [Mr. BREAUX], the Senator from Tennessee [Mr. GORE], and the Senator from Iowa [Mr. HARKIN], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] and the Senator from North Carolina [Mr. HELMS] would each vote "yea."

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—50

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Brown
Bryan
Burns
Byrd
Cochran
Conrad
Craig
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Ford
Garn
Gorton
Gramm
Grassley
Hatfield
Heflin
Inouye
Johnston
Lott
Mack
McCain
McConnell
Mikulski
Murkowski
Nickles
Packwood
Pressler
Pryor
Reid
Seymour
Shelby
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—44

Akaka
Biden
Bradley
Bumpers
Chafee
Coats
Cohen
Cranston
D'Amato
Dixon
Exon
Fowler
Glenn
Graham
Hollings
Jeffords
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Metzenbaum
Mitchell
Moynihan
Nunn
Pell
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Simon
Smith
Wellstone
Wofford

NOT VOTING—6

Breaux
Burdick
Gore
Harkin
Hatch
Helms

So the motion to table the amendment (No. 2905) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2907

(Purpose: To prohibit the use of funds to purchase, procure, or upgrade computers for the Forest Service prior to the implementation of reforms of the field structure and organization of the Department of Agriculture)

AMENDMENT NO. 2908

(Purpose: To increase funding for general maintenance and operations for the Bureau of Land Management, with an offset)

Mr. BYRD. Mr. President, I send 2 amendments to the desk, the first for Mr. BOND, and the second for Mr. WALLOP. I ask unanimous consent they be considered, agreed to en bloc, the motions to reconsider be laid on the table. These have been agreed to on both sides. Mr. NICKLES and I present them together.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I am submitting this amendment in agreement with the Senators from Montana, Idaho, and Wyoming. It is our intention to transfer $148,000 from the National Park Service Budget, park management/resource management account found on page 97 of the National Park Service fiscal year 1993 budget to the Bureau of Land Management general maintenance and operations account.

The amendments considered and agreed to en bloc are as follows:

AMENDMENT NO. 2907

On page 66, between lines 3 and 4, insert the following new paragraph:

None of the funds made available under this Act may be used to purchase, procure, or upgrade computer hardware or software used by an officer or employee of the Forest Service prior to the implementation, by the Secretary of Agriculture, of reforms of the field structure and organization of the Department of Agriculture.

AMENDMENT NO. 2908

On page 2, line 12, strike "545,517,000" and insert "$545,665,000".

On page 18 line 24, strike "989,330,000" and insert "$989,282,000".

Mr. BYRD. Mr. President, we have two amendments left. Senators are discussing those two amendments at the moment. They may be disposed of en bloc, hopefully, if they can be agreed to and accepted.

So at this point let me thank the staffs on both sides. There was excellent, excellent work on the part of the staffs. And I thank Senators, those Senators who had amendments listed and who agreed not to call up those amendments.

Mr. President, while Senators are discussing the two remaining amendments, and hopefully bringing the matter to a close quickly, I yield the floor if the majority leader wishes to make any announcements or any Senator wishes to speak.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I wish to just use this moment to say we are very close to finishing this bill. Hopefully, we will be voting on final passage in just a moment. We have two additional amendments. We think both of those amendments will be taken care of without a rollcall vote. I am not sure whether or not we will have a rollcall vote, recorded vote on final passage. My guess is we probably will. We may be able to do that in just a few minutes. It is my hope we can.

In the meantime I would like to thank the chairman of the subcommittee, also chairman of the full committee, Senator BYRD, for his leadership on this bill.

I might again repeat to my colleagues this bill has an increase in appropriations of less than 1 percent and that if you took out the increases for the Indian Health Service, this bill is a no-growth bill. It is basically the same amount of appropriations as we have had in fiscal year 1992. So I think the Senator from West Virginia has shown great leadership in saying he is willing to make some reductions. I think this bill has less growth than probably any other bill we have taken up on the floor of the Senate. So I compliment him for that task. And also for his leadership.

We did not do a lot of things that a lot of people wanted us to do. We did not fund any visitors centers and we had lots of requests. We did not fund a lot of requests that were made, both to this Senator and to the Senator from West Virginia. That is not easy to do. So I compliment, again, the Senator from West Virginia.

I would also like to compliment the Senator's staff, Sue Masica has done an outstanding job, and Cherie Cooper of my staff—who have just been really working tirelessly to put this bill together. I think they have done an outstanding job as well.

I really encourage Senator BUMPERS and Senator STEVENS to see if we cannot finalize that amendment.

I have no objection to Senator STEVENS' amendment. I think it should be agreed upon. Then we have one additional amendment that I believe Senator REID was trying to work out. I think we are very close to getting it together. We would like to agree to both of those amendments by unanimous consent and go to final passage of the bill in just a few moments.

Mr. BYRD. May I ask, does any Senator wish to have a rollcall on final passage? Does any Senator wish a rollcall on final passage?

Mr. STEVENS. I say to the Senator from West Virginia, I do not know what the disposition of the other Senator is, as to what the objection is if there is one. I am waiting to hear if there is an objection.

Mr. BYRD. An objection to what?

Mr. STEVENS. To my amendment.

Mr. BYRD. I beg the Senator's pardon.

Mr. STEVENS. I would be pleased to offer that amendment and to explain it, and to ask the Senator from Arkansas if he intends to oppose it.

Mr. BYRD. I suggest the Senator do that.

AMENDMENT NO. 2909

(Purpose: To authorize a land exchange)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2909.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place in the bill: "Notwithstanding any other provision of law, the Secretary of the Interior is authorized to exchange a property, located at 132–140 Manor Avenue, Anchorage, Alaska, for property that meets requirements of the United States Geological Survey located in Anchorage, Alaska, owned by AHPI/Municipality of Anchorage. This exchange will be based on terms and conditions determined by the Secretary to be in the best interests of the United States Government. Either party is authorized to equalize the value of the properties involved through payment or receipt of cash or other consideration.".

Mr. STEVENS. Mr. President, this amendment authorizes a lands exchange between the U.S. Geological Survey and the Anchorage Historic Properties. That is the Anchorage, AK, member of the National Trust for Historic Preservation.

That entity has asked me to offer this amendment because of this circumstance. The United States Geological Survey owns the old Wireless Building in Anchorage. It is currently used to store rock samples.

This historical properties group wants the Wireless site and it proposed to purchase the USGS a building in Anchorage more suitable for storage of the USGS samples.

I want to point out to the Senate that all communications to and from the territory of Alaska went through this building before modern satellites linked Alaska communications networks. It was part of the old Alaska communications system, operated by the U.S. Army. It is now under the control of the USGS. My amendment would authorize the exchange on an equal value basis.

I know of no opposition in the State of Alaska to this. I have raised it in the committee, but there was a request that this matter be examined and that is why it has come to the floor.

I said I know of no alternative to this. The Federal property management regulations do not permit the exchange of this property because it will be necessary, as the amendment points out, for one party or the other to equalize the value of the property through the payment or receipt of cash or other consideration, because the values, the property values, are not equal and cannot be made equal except through that provision that is in this amendment.

The municipality of Anchorage is comfortable and supports this exchange. The USGS has informed us they are satisfied with the arrangement in Alaska and at headquarters.

As I have indicated, the exchange cannot be done without billing Anchorage, and it is necessary for us to preserve this very historic wireless station as a historic property. It is the intention of a member of the National Trust for Historic Preservation to ask it be listed in the National Register of Historic Places when it is placed in their ownership.

I would like to have printed in the RECORD the letter I received on April 3 of this year, from the executive director, Kerry I. Hoffman, I believe it is Miss Hoffman, for the Anchorage Historic Properties, asking that this amendment be offered.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ANCHORAGE HISTORIC PROPERTIES, INC.,
Anchorage, AK, April 3, 1992.

Hon. TED STEVENS,
U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: Anchorage Historic Properties, Inc., a non-profit historic preservation organization, is interested in acquiring the property on Government Hill in Achorage known as the Wireless Station, as an historic property. A copy of the description from Patterns of the Past, an Inventory of Anchorage's Historic Resources, is enclosed.

The U.S. Geological Survey/Department of the Interior (USGS) currently holds the property, having acquired it from the Department of Defense. The USGS uses the buildings to store mineral samples. They would like to exchange the land and buildings for a 2,000–2,500 square foot storage space. We are looking for appropriate space to meet their needs. The Federal Property Management Regulations do not permit such an exchange of property. This exchange would be in the best interests of the Department of the Interior and AHPI/City of Anchorage. The DOI would obtain a true storage facility and AHPI/City of Anchorage would obtain a facility ideally suited for community use.

We would like you to consider offering legislation to a Department of Defense bill to provide for this exchange. Language similar to the following has been used in the past to complete such exchanges:

"Notwithstanding any other provision of law, the Secretary of the Interior is authorized to exchange a property, located at 132–140 Manor Avenue, Anchorage, Alaska, for property that meets requirements of the USGS located in Anchorage, Alaska, owned by AHPI/City of Anchorage." This exchange will be based on terms and conditions determined by the Secretary to be in the best interests of the U.S. Government. The Secretary is authorized to equalize the value of the properties involved through cash payment or other considerations.

Our goal is to do the necessary restoration to the property and put the buildings back into active use. To this end, we have been working very closely with the Government Hill Community Council, a vigorous neighborhood group, to determine the future use of these buildings. Ideas under consideration at this time include a day care center or a community hall. In addition, we plan to nominate the property for listing in the National Register of Historic Places.

I would be happy to discuss this matter with you and your staff at your convenience. Thank you for your help and interest!

Sincerely,

KERRY I. HOFFMAN,
Executive Director.

Mr. STEVENS. The amendment was provided by that organization.

Mr. BYRD. Mr. President, if the Senator will yield briefly for a unanimous-consent request?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to accept the Wallop amendment which has already been agreed to, even though it amends a figure previously amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska does have the floor.

Mr. STEVENS. I would like to confer with my friend from Arkansas. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2910

Mr. REID. Mr. President, under the agreement previously entered, I have one of the slots the manager of the bill has stated on a number of occasions. I now offer an amendment that has been cleared on both sides, the Bumpers-Reid amendment dealing with bonding.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment in order to take up this amendment?

Mr. REID. I apologize to the Chair for not having asked that. I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. BUMPERS, proposes an amendment numbered 2910.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following section:

SEC. . NOTWITHSTANDING ANY OTHER PROVISION OF LAW.

(a) FINANCIAL GUARANTEE.—Prior to the commencement of any mineral activities conducted pursuant to the general mining laws causing more than minimal disturbance to the environment, the claimant shall furnish a bond surety, or other financial guarantee, which may include, but not be limited to, the use of bond pools, in an amount as determined by the Secretary of not less than $200 or more than $2,500 per acre, conditioned upon compliance with the requirements of this Act and other applicable laws and regulations. Regardless of the financial limits of the preceding sentence, the bond, surety, or other financial guarantee shall not be less than the estimated cost to complete the reclamation of the disturbed land.

(b) REVIEW.—The Secretary shall review the bond, surety, or other financial guarantee for sufficiency not less than every five years.

(c) PHASED GUARANTEES.—The Secretary may reduce proportionately the amount of bond, surety, or other financial guarantee from determination that any portion of reclamation is completed in accordance with this Act and applicable laws and regulations.

(d) RELEASE.—The Secretary shall provide for public notice prior to any reduction in, or final release of, a bond or other financial guarantee.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, this is an amendment that is not totally satisfying to me. It is a bonding requirement for miners. As I pointed out yesterday in the debate, BLM, the Bureau of Land Management, only requires bonds in 22 percent of the cases where they issue permits to mine. The Forest Service requires bonding in about 82 percent of their cases.

I think everybody agrees in this body, that all miners who are issued permits to mine hard rock minerals on Federal lands should put up a bond to reclaim the property.

This amendment is based on Montana law which has worked very well for them. It is almost verbatim their law. I personally do not think it is quite stringent enough, and I am offering it with my good friend from Nevada with the understanding that I will have an opportunity to look it over more closely before we go to conference with the House.

At that time, if I decide it is better to go forward with it, I will insist that the House recede to us on it. If it is less than I think we ought to have, and I think we are going to wind up stuck with something that is not as it ought to be in order to get the land reclaimed, then, of course I will insist that we drop it and we try again next year. Something is not always better than nothing, despite contentions to the contrary.

But, in any event, I am willing to go along with this, as is the Senator from Nevada. We will work together. He has agreed he will work closely with me and I will work closely with him. I hope the Senate adopts the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2910) was agreed to.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2029, AS MODIFIED

Mr. STEVENS. Mr. President, I have had further conversation with the Senator from Arkansas, and I will send to the desk a modification of the amendment I have offered. It will add the clause that "this transaction shall be accomplished pursuant to section 206 of the Federal Land Policy and Management Act of 1976" with the appropriate citation to the U.S. Code.

The Senator from Arkansas has also indicated he wants to reserve judgment in the conference as to whether or not this language should be maintained in view of the policy concerning other land exchanges.

I know of that policy and I have said to my friend I would not offer this if it were not for the fact it is the opportunity to preserve one of the historic old buildings in Anchorage for our entity, which is the member of the National Trust for Historic Preservation. If this is not done, we may well lose that opportunity to preserve this property.

So I send this modification to the desk. It is our intent clearly stated in that law, and I have stated previously before the Senator from Arkansas came back from the agriculture conference, that this amendment does authorize this exchange only on an equal value basis.

It is necessary because I am informed the exchange cannot be done without bill language that authorizes this type of equalization under the circumstances involved that the building is to be acquired. We do not know what the building will be that USGS will select, but they will be required to approve that transaction.

That is also part of the act that the Senator from Arkansas has cited. I am happy to make that addition. I will solicit comments from my friend, but I do ask that the amendment be modified.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment, as modified, is as follows:

Proposed language for USGS/Anchorage Historic Properties land exchange:

"Notwithstanding any other provision of law, the Secretary of the Interior is authorized to exchange a property, located at 132-140 Manor Avenue, Anchorage, Alaska, for property that meets requirements of the United States Geological Survey located in Anchorage, Alaska owned by AHPI/Municipality of Anchorage. This exchange will be based on terms and conditions determined by the Secretary to be in the best interests of the United States Government. Either party is authorized to equalize the value of the properties involved through payment or receipt of cash or other consideration. This transaction shall be accomplished pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C 1716).".

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just came from conference with the House, which we concluded a moment ago, on Agriculture appropriations. All day long somebody said this is going to be setting precedent; that is inappropriate language on this or we have never done that before. All conferences are very much alike when it comes to that because the truth of the matter is, once you get yours in, then it is inappropriate language if somebody else is doing it on something you do not like. That is just a prefacing way of saying that we have a number of proposed land exchanges before my subcommittee.

I was not familiar with this one until Senator STEVENS showed it to me this evening. He makes a very compelling case, and the rule that I am about to break of my own is that I will not accept these things normally on the floor without a rollcall vote because it really is not fair to all the other people who have gone through introducing bills, holding hearings, got bills reported out in a timely way and considered in an orderly manner on the floor.

The Senator from Alaska makes a very compelling case that the National Trust for Historic Preservation is involved in this, and they are willing to put up some of their own money and buy a building that Senator STEVENS says is one of the most historically, shall I say, important buildings in the State of Alaska.

I asked him to modify it because the language simply said the Secretary could negotiate this deal in the best interest of the United States.

We never used language like that in our committee. The Federal Lands Policy Management Act which we passed I believe in 1976, section 206 of that bill covers this very kind of thing. So I asked the Senator to amend his bill to say that this exchange will be worked out under the terms of section 206. This means they have to be equal value. It has to be in the best interest of the United States, though that is not a part of the language, and everybody will be happy and we will save a historic building. But I also want to say, just because I just looked at this, I want to reserve the right to insist that the House not recede to us on this if we find it has any real problems with it.

I admire the Senator for trying to preserve a piece of property. That is always commendable. I always want to be helpful, so I will not object to the amendment.

Mr. STEVENS. Mr. President, conditions stated by the Senator from Arkansas are, of course, acceptable to me. I would not offer this if it were not for the special circumstances of historic preservation, because we have not offered, I have a whole series of land exchange amendments that I have not offered to this bill because of the other policy. But I do ask that the Senate consider this amendment at this time.

The PRESIDING OFFICER. Is there further debate on the amendment. If not, the question is on agreeing to the amendment.

The amendment (No. 2909), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, let me thank my friends for their patience. This was an amendment that was the last one to be cleared, and I do thank them.

Mr. BYRD. Mr. President, the Senate earlier agreed to an amendment by Mr. WALLOP amending a number on page 2, the number appearing on line 12.

I ask unanimous consent that the same number which appears on line 10, page 3, be amended accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I wish to express my gratitude to the following staff members:

Barbara Videnieks;

Full committee, majority staff: Jim English, Mary Dewald, Anita Skadden;

Full committee, minority staff: Keith Kennedy;

Interior Subcommittee, majority staff: Rusty Mathews, Kathleen Wheeler, Ellen Donaldson, Larry Benna, on detail from BLM, Sue Masica;

Interior Subcommittee, minority staff: Cherie Cooper, Ginny James;

Appropriations Committee support staff: Nancy Brandel, Rheda Freeman, Jack Conway, Bob Putnam, Jodi Capps, Richard Larson, Bernie Babik, Bob Swartz, Clarence Erney, and P. Joe Thomas.

Mr. WELLSTONE. Mr. President, I rise to speak about four very important programs funded through the Department of Energy: the Low-Income Weatherization Program; the Institutional Conservation or Schools and Hospitals Program; the State Energy Conservation Program; and the Energy Extension Service.

These four programs produce significant energy efficiency benefits for all Americans, from the very poor in our society to small businesses and agriculture. With a comparatively small Federal commitment of $240 million, these programs deliver important services which help keep our national energy costs down. These programs make our industry more competitive and allow low-income people to live in homes not unduly exposed to the cold of winter in my home State, and the heat of summer in the South.

Mr. President, this body has proposed a 9-percent cut in these four programs below last year's funding level. Along with my colleague from Vermont, Senator JEFFORDS, I was prepared to offer an amendment which would have restored roughly half of this cut by transferring funds from increases in administrative expenses and program management accounts. I will ask unanimous consent that a copy of that amendment be inserted in the RECORD immediately following these remarks.

I do not intend to offer this amendment. After speaking with the distinguished senior Senator from West Virginia, I have every confidence that my concerns will be addressed in conference. I have engaged in a colloquy with my distinguished colleague from West Virginia and chairman of the Appropriations Committee, and despite the very tight allocations of this bill, he has indicated a desire to try to restore these programs to their 1992 funding levels, which I deeply appreciate.

These programs have already been cut severely, from $558 million in fiscal year 1979 to their $240 level today. If these programs had been frozen at their 1979 funding level, with inflation we would be looking at funding of over $1 billion today. We are sacrificing our future when we cut energy conservation funding. These programs have positive impacts from Maine to Hawaii.

Support for these programs is both strong and bipartisan. Along with 46 of my colleagues I joined in urging a 25-percent increase in these programs for fiscal year 1992. I will ask unanimous consent that this letter also be printed in the RECORD following these remarks.

Energy conservation represents an investment in both economic development and international competitiveness. For example, when our trading partners, such as Japan and Germany are far more efficient than we are, our manufacturing and industrial sectors suffer by paying an energy tax in the price of their products.

This body recently passed a comprehensive energy bill calling for expanded activities in energy efficiency, renewable energy, and a variety of other programs. These four programs are complementary to that legislation, and providing them with increased funding would support energy efficiency efforts in sectors, such as low-income housing, which unquestionably need expanded support. Moreover, increased funding for State energy offices is essential if they are to meet their expanded responsibilities under the national energy efficiency legislation recently passed by the Senate.

Mr. President, I wish to express my deep appreciation for the support which my distinguished colleague from West Virginia has expressed. I urge all of my colleagues to join in supporting increased funding for these four programs.

I ask unanimous consent that the material to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT INTENDED TO BE PROPOSED BY MR. WELLSTONE FOR HIMSELF AND MR. JEFFORDS TO THE COMMITTEE AMENDMENT

On page 106, between lines 11 and 12, insert the following new section:

SEC. 319. (a) Notwithstanding any other provision of this Act, the amounts otherwise provided in this Act for the following accounts and activities are reduced by the following amounts:

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL OFFICE

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

$2,271,000.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

$340,000.

CONSTRUCTION MANAGEMENT

SALARIES AND EXPENSES

$45,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

$290,000

RELATED AGENCIES

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Administrative expenses, $3,239,000.

NAVAL PETROLEUM RESERVE

Administrative expenses, $389,000.

EMERGENCY PREPAREDNESS

$150,000.

STRATEGIC PETROLEUM RESERVE

Management expenses, $878,000.

OTHER RELATED AGENCIES

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

$1,325,000.

(b) Notwithstanding any other provision of this Act, under the heading "ENERGY CONSERVATION", under the heading "DEPARTMENT OF ENERGY", the amount provided for energy conservation activities is increased by $4,700,000 and the amount provided for energy conservation programs (as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507(3))) is increased by $9,094,000.

(c) Notwithstanding any other provision of this Act, no funds made available under the heading "ENERGY CONSERVATION", under the heading "DEPARTMENT OF ENERGY", may be used to increase the management expenditures for any program under the Office of Technical and Financial Assistance above the amount made available for fiscal year 1992 or to increase the expenditures for general policy and management above the amount made available for fiscal year 1992.

COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, DC, June 10, 1992.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to urge your continued support for funding for the Department of Energy's State and Local Assistance Programs (SLAP) at a level of $309.8 million for FY 93. The $309.8 million funding level for the four SLAP programs—the Low Income Weatherization Assistance Program (WAP), State Energy Conservation Program (SECP), Energy Extension Service (EES), and Institutional Conservation Program (ICP)—provide crucial Federal funding for State and local energy conservation services to low-income households, non-profit schools and hospitals, small businesses, and farmers. We believe that these programs are consistent with the goals of the comprehensive national energy strategy currently being considered by Congress, as well as the recently enacted "State Energy Efficiency Programs Improvement Act of 1990" (Public Law 101-440).

The increase in funding for these programs is important in several respects. Public Law 101-440 reduces burdensome restrictions and increases the flexibility of State and local agencies to tailor SLAP programs to meet their individual needs, thereby allowing the money to be used to greatest advantage. In addition, advances in energy efficiency and renewable energy technologies have made possible dramatic improvements in the energy saving potential of the SLAP programs. Increases in the number of eligible energy efficiency and renewable energy technologies, as well as changes in program implementation, will allow the SLAP programs to provide an even greater level of benefits to program recipients.

In addition, because of the large number of eligible recipients of SLAP programs who are not receiving benefits, additional increases in program funding are warranted. This disparity between need and available funding resources is especially serious since oil overcharge funds and set-asides from the Low Income Home Energy Assistance Program to supplement appropriations have been declining.

It is encouraging to note the President's recent decision to request funding for the SLAP programs. The President's budget request for FY93 included increases in SECP/EES from $16.2 million in FY92 to $25 million in FY93 as well as funding for ICP at $30 million for FY93. However, requests for WAP were $80 million, dramatically below last years appropriation of $194 million.

The Administration has also proposed a new Partnership Grants Program under SECP to be funded at $20 million. This new program is designed to promote joint venture energy efficiency, alternative fuels and renewable energy projects between Federal, State, and local governments and the private sector. This innovative concept is supported by the States above the basic SECP/EES appropriation.

Given the passage of Public Law 101-440, the funding proportions in the FY92 appropriation, and increases in the President's budget request, we recommend the following funding levels for SLAP programs: WAP—$250 million; EES—$5 million; SECP—$20 million; and ICP—$34.8 million. We also recommend that the SECP Partnership Grants Program be fully funded and that funding be provided for the WAP Incentive Fund at last year's level of $3 million.

The enormous benefits of the SLAP programs are determined by their effectiveness and the amount of funds the programs have to work with. Congress improved the effectiveness of the programs by passing Public Law 101-440. We urge your support in ensuring that these vital programs have the necessary funds to carry out their important mission by increasing the appropriation to the aforementioned levels.

Sincerely,

Timothy E. Wirth, Chairman, Subcommittee on Energy Regulation and Conservation; Daniel K. Akaka; George J. Mitchell; Dave Durenberger, Thomas A. Daschle; Joseph R. Biden, Jr.; J. Robert Kerrey; Dennis DeConcini; Lloyd Bentsen; Jeff Bingaman; Harry Reid; Christopher J. Dodd; Quentin N. Burdick; Jim Sasser; Wyche Fowler, Jr.; Tom Harkin; Bill Bradley; Paul Simon; Kent Conrad; Wendell H. Ford.

Al Gore, Carl Levin, J. James Exon, Charles S. Robb, John D. Rockefeller IV, James M. Jeffords, John Glenn, Claiborne Pell, Herb Kohl, Howard M. Metzenbaum, Richard C. Shelby, Alan Cranston, Richard H. Bryan, Bob Graham, Edward M. Kennedy, Terry Sanford, Paul S. Sarbanes, David Pryor, Max Baucus, Joseph I. Lieberman, William S. Cohen, Daniel K. Inouye, Paul Wellstone, Donald W. Riegle, Jr., Harris Wofford, Frank H. Murkowski, John F. Kerry.

Mr. DOMENICI. Mr. President, I rise in support of H.R. 5503, the Interior and related agencies appropriations bill for fiscal year 1993, as reported by the Senate Appropriations Committee.

I support this bill and thank the distinguished chairman and President pro tempore of the Senate, Senator BYRD, for deleting several House provisions of serious consequence to Western States.

Mr. President, the pending bill provides $12.6 billion in new budget authority and $8.4 billion in new outlays for various agencies of the Department of the Interior, for the U.S. Forest Service in the Department of Agriculture, for the Fossil Energy and Conservation Programs of the Department of Energy, agencies supporting the arts and humanities, and miscellaneous related agencies.

When outlays from prior-year budget authority and other completed actions are taken into account, the bill totals $12.8 billion in new budget authority, with the inclusion of the emergency items.

To fashion its bill within the budget constraints, the subcommittee again considered budgetary practices to minimize the near-term outlays associated with the bill, or proposals to raise fees or increase receipts to the Federal Government.

I thank the distinguished chairman for forgoing proposals to raise fees for grazing on public lands, and keeping the States' share of the administrative costs for the mineral leasing receipt payment at the current level.

The House included in its version of the bill a provision to modify the Mineral Leasing Program to require the deduction of the full cost of administering the program prior to the distribution of mineral leasing receipt payment to the States.

For my home State of New Mexico, this would be a serious blow. Under the House proposal the State of New Mexico would lose approximately $8.7 million in receipts from the current level. All of these funds are earmarked directly for education programs for New Mexico's children.

I join my colleague from Wyoming, Senator WALLOP, in strongly opposing the House provision, which, as currently administered, unfairly burdens the States with costs not solely related to the administration of the Mineral Leasing Program. This proves a great hardship on my home State.

Mr. President, I am pleased that the committee has funded the Interior and Wildland Firefighting Programs at the administration's request.

As the Senate subcommittee so clearly recognizes, a certain level of expenditures for expenses to fight fires can be foreseen. The committee includes $300.6 million which reflects the previous 10-year average for the costs of emergency rehabilitation and wildfire suppression activities for both the Forest Service and the Bureau of Land Management.

The committee has also included $192 million, as requested by the administration, to establish an emergency contingency element. These funds, or any part, will only be available upon a Presidential designation of the funds as emergency requirements for the purpose of the Budget Enforcement Act of 1990.

Mr. President, I have some reservations about the new emergency pest management account established in both the House and Senate bills. The Senate recommends $20 million for this account.

In taking this action, the subcommittee reduces funding for the State and private forestry account of the Forest Service, and frees up such amounts to be spent on other domestic discretionary projects and programs.

The administration strongly objects to this provision because it would preclude the use of funds in the emergency pest management account unless the President declares this spending as an emergency, and thus, outside the spending caps in the budget enforcement act.

Because pest suppression costs can be reasonably anticipated and funded in advance, the Office of Management and Budget would not recommend that the President declare these funds as an emergency.

Mr. President, the subcommittee has also included $14 million in National Park Service operation funds for conversion of the Presidio in San Francisco from a military installation into a national park. The committee has assumed these funds as defense discretionary spending, however, the Office of Management and Budget will score these funds as domestic discretionary spending.

In all, Mr. President, I believe the distinguished chairman of the Senate Appropriations Committee has done all that he can to address the urgent requirements of the Department of the Interior, the Forest Service, the Fossil Energy and Conservation Program of the Department of Energy, and various arts agencies.

I will support the bill as reported, as I did during subcommittee and committee consideration of the bill. I will strongly oppose any attempts to amend this bill to increase grazing fees on public lands.

I will also work in conference to minimize the negative impact of the provisions in this bill on the Western States, including the mineral leasing receipt payments provision, which has such a serious impact on my home State of New Mexico.

I thank the chairman for the review and consideration he gave to the many issues in this bill that I brought to his attention. I appreciate his support for many important programs of particular interest to New Mexico.

I urge the adoption of the bill.

REID AND BUMPERS AMENDMENTS NUMBERED 2882 AND 2881

Mr. SIMPSON. Mr. President, we have visited this issue many times. This is an extremely important issue particularly to the West but, indeed, one which would have serious consequences for the entire country.

The amendment by the Senator from Arkansas would impose a moratorium on the issuance of mining patents. He would affect most significantly the manner in which hard rock minerals are developed in this country.

As the Senator from Alaska so eloquently stated this morning, the 1872 mining law is the last remaining cornerstone of the private-public land ownership relationship which created this noble country. Today, this relationship only exists in the West.

It is a very special relationship and one that you must experience and deal with first hand before you can ever possibly fully understand the dynamics, the benefits and the disadvantages. I trust my colleagues will listen to those of us from the States most affected by this issue.

I would encourage our dedicated and dynamic colleague from Arkansas to accept the invitation from the Senator from Alaska. Before we change the rules that have sustained American mining for over 100 years, the Senator should go out into the land and see and taste and touch the issue as fully as those who know it best see it and feel it.

Land and water and minerals are truly our lifeblood in the West. They are vital to our very survival. The relationship—the interdependency—that exists between private individuals and the Federal resources may be very difficult to understand when you are from a State that has very little public land.

Hard rock mining in the West under the existing mining law continues to be just as important as our original homestead laws. The Senator from Arizona made that point very clearly—and I trust our colleagues heard well what he said. No one should consider the mining law a subsidy for persons dwelling in the West today. This Government had to encourage people to take extreme risks in moving West that they might not have otherwise made, all in order to develop this Nation.

The same continues to be true for the hard rock mining industry. The risks are extreme—both financial and personal—and I think, upon closer scrutiny, we will see that the benefits to the Federal Government from a strong and healthy mining industry are real and would be very much in jeopardy should the proposal offered by our colleague from Arkansas become law.

It is sophistry to carve out a single claim or activity, a particular river or piece of land, or a specific agricultural product, and judge its worth by the revenue it generates for the Federal Government. These resources are all integral components of a much larger picture of our national productivity.

There are indeed some large companies—many foreign owned—that develop important mineral resources. But the vast majority of claimants are individuals. They are citizens who pay local and State taxes—they pay high Federal taxes—and they work doggedly to make a living from an often hard and unforgiving earth. They invest time, labor and money in the exploration and development of minerals that we desperately need in our daily lives. They make improvements to lands that might not occur otherwise.

The discovery of a mineral resource leads to production of that mineral, transportation of the mineral, marketing and sale of the mineral. All of these activities generate needed jobs and revenues for the local, State and the Federal Governments.

We are receiving important benefits from our mineral resources and the Federal Government is getting a pretty good deal from the 1872 mining law. It fits into the social, political, and economic system that we have in the West. The mining law serves a fine purpose and I must ask you to strongly consider the devastating consequences for our States' economies that we in the West will most assuredly have to pay should the Bumpers amendment pass.

PACIFIC YEW

Mr. LAUTENBERG. Mr. President, I rise in support of the fiscal year 1993 Interior appropriations bill, and to commend the distinguished Senate Appropriations chairman, Senator ROBERT C. BYRD, for his outstanding efforts on this bill.

This legislation includes an important provision which parallels a provision of the Pacific Yew Act, which I introduced last month along with several of my colleagues, to govern the forest shrub whose bark is the source of taxol, a promising new cancer fighting drug.

This legislation includes language which permits the Secretary of Agriculture to use moneys received from the sale of Pacific yew from public lands to fund the costs incurred by the Forest Service in harvesting the yew. This provision would help expedite the development of taxol by making available greater quantities of its source, the Pacific yew tree.

Cancer is a disease which touches us all. We may be lucky enough to avoid getting cancer ourselves, but nearly every one of us has a loved one, a friend, or a colleague who has had to deal with battling this debilitating disease. Every year nearly 1 million Americans learn they have cancer. All of a sudden their lives are reduced to hope, percentages, and uncertainty.

I've faced cancer in my own family and know from personal experience the deep and lasting pain it can leave when it steals our loved ones from us. My State of New Jersey ranks fourth in cancer deaths nationwide. And the incidence of cancer is 13 percent greater in New Jersey than the national average. What a terrible waste of human potential. We must respond aggressively to this pressing public health concern.

Scientists say that taxol is the most promising cancer-fighting drug to be developed in the last 15 years. The story of taxol is an interesting one. In 1960, the National Cancer Institute created a natural products program and sought assistance from the U.S. Department of Agriculture to test everything and anything which might provide a cure for cancer.

Things were tested as potential cures that most of us ignore or take for granted: twigs, insects, moss, fungi. Hundreds and hundreds of samples were collected and screened. Hundreds. And only one proved to be a promising cure for cancer in human beings. One.

The promise is called taxol, an extract from the Pacific Yew tree which grows in the old growth forests in the Pacific Northwest. The bark of the Pacific yew tree is the only known source of taxol. Yet, until recently, the yew tree was viewed as a mere nuisance in the way of harvesting valuable lumber. Now the yew is the "tree of hope" for cancer victims of today and tomorrow, many of whom would count hope as their most valuable possession.

The National Cancer Institute has been testing taxol on women who have refractory ovarian cancer for which no other treatment has proven effective. And the results of NCI's clinical trials are very encouraging. NCI has initiated studies on other types of cancer as well and reports that it appears likely that taxol may play a significant role in fighting breast and other types of cancer.

But the major problem with taxol is that there isn't enough of it. The only current source of taxol for clinical trials is the bark of the Pacific yew. It is difficult and time consuming to procure adequate quantities of the drug. To place this in perspective, Mr. President, it takes the bark of three 100-year-old yew shrubs to treat a single cancer patient. It takes 750,000 pounds of dried yew bark to get enough taxol for about 12,000 patients.

To help ensure rapid development, testing, and approval of taxol, the National Cancer Institute signed a cooperative research and development agreement with Bristol-Myers Squibb Co. which is responsible, under the agreement, to develop and provide an adequate supply of taxol to NCI for clinical trials. An important component of that agreement calls for Bristol-Myers Squibb to research alternative sources for the drug. The company has invested considerable resources in developing alternative sources for the drug including extract from yew needles, plant tissue culture, genetic engineering, tree planting and total chemical synthesis. NCI estimates that within 5 years it will no longer be necessary to rely on yew bark as a source for taxol.

Mr. President, I have read accounts of yew trees being left to rot and burn after a logging operation. We must treat these trees like the precious resource that they are. We cannot afford to let any more time elapse without increasing the protection of these "trees of hope."

I am glad that this legislation supports the Pacific Yew Act in making funds from the sale of the yew bark available to be reinvested in the Forest Service's yew harvesting program.

INSPECTOR FOR PORT OF PHILADELPHIA

Mr. LAUTENBERG. Mr. President, this legislation includes an important provision, at my request, to restore a part-time inspector at the Port of Philadelphia.

Under the Endangered Species Act of 1973, all fish and wildlife products, with limited exception, imported or exported through U.S. seaports and airports must be inspected by an authorized Fish and Wildlife inspector. In addition, this cargo must pass through a port designated to accept such cargo or shippers must obtain a designated port exception permit issued by the Fish and Wildlife Service. A wide range of cargo is covered under the Endangered Species Act, including products such as lizard watchbands, leather sofas, fur coats, and leather shoes.

The Port of Philadelphia is not one of the Fish and Wildlife Service's 10 designated ports. Until recently, however, the Port of Philadelphia was able to accept cargo regulated by the Endangered Species Act because a part-time inspector from Newark, NJ traveled to Philadelphia about once per week to inspect the cargo under a non-designated port exception permit. When that wildlife inspector's position became vacant the Fish and Wildlife Service, citing inadequate funding and personnel, failed to hire a replacement inspector to service the Port of Philadelphia. As a result, cargo is no longer eligible for a designated port exception permit at the Port of Philadelphia.

The loss of an inspector has an adverse impact on the amount and type of cargo that can be handled at the Port of Philadelphia. Unless a part-time inspector is reinstated in Philadelphia, the port will no longer be able to receive shipments subject to regulation under the Endangered Species Act. Perhaps of even greater concern, however, is the potential loss of business from large shippers, like retail stores, who may choose to bypass Philadelphia for all of their imports. Importers tend to utilize as few ports as possible but expect full Government services regardless of the type of cargo.

A part-time inspector would ensure the issuance of designated port exception permits to shippers and help the Port of Philadelphia continue to play a vital role in the Philadelphia-southern New Jersey region's economic well-being.

I am thankful that this legislation includes funding to support restoration of a part-time inspector at the Philadelphia Port.

NATIONAL PARK SERVICE

Mr. LAUTENBERG. Mr. President, this legislation makes important investments in the preservation of our Nation's natural and cultural heritage, through its support of the National Park Service, the U.S. Fish and Wildlife Service, and the Forest Service. It also provides essential support for the National Foundation on the Arts and Humanities as well as for the National Holocaust Memorial Council.

I would like to discuss a number of items involving parks, historic preservation, and open space that are important to my State and are addressed in this legislation.

PROTECTING THE NEW JERSEY SHORE FROM OIL SPILLS

Mr. President, I'd like to express my support for the bill's provision banning OCS leasing activities on least sale 164, which includes the Mid-Atlantic planning area, including the waters off the New Jersey coast. The Senate bill retains the House report moratoria language, and I am very pleased that the committee chose to support my request to include the moratoria in the Senate bill.

This language is consistent with Senate action earlier this year. During the Senate's consideration of S. 2166, the National Energy Strategy Act, the Senate included a provision which would ban leasing off New Jersey for the remainder of this decade. The House companion bill includes a moratorium along the entire east coast of the United States.

In 1988, then-candidate George Bush visited the New Jersey Shore. He called the pollution of our coastal waters and beaches a national tragedy, and promised to protect the Nation's shores. Yet, in his June 1990 OCS moratoria decision, the President protected only a portion of the Nation's coastline. Although he recommended moratoria for most of the west coast, much of New England and certain areas off western Florida, the President flatly ignored New Jersey and the other Mid- and South Atlantic States. That decision effectively discriminates against those States by saying that other offshore areas are somehow more sensitive and more deserving of protection.

It took the National Academy of Science 3 years, and the President's OCS Task Force another year, just to conclude that the areas placed under moratoria needed further study. And the President's decision called for an additional 6 to 10 years of study to determine the environmental impacts on these States. How can the administration already have all the answers for New Jersey and the other unprotected States? The answer is, it cannot.

Obviously, the President does not believe that these States deserve protection. But the economies of these unprotected States rely heavily on their coastal resources. And spilled oil can have devastating effects on a State's commercial and recreational industries, not to mention the damage it can inflict on its marine and estuarine systems.

The waters off New Jersey are just as precious as those covered by the President's ban: Our beaches deserve equal treatment. Since the June 1990 decision, I have sent several letters to the President, and have met with the Director of the Minerals Management Service. In each instance, I have urged that New Jersey receive the same type of environmental reviews as those States which obtained moratoria. Unfortunately, the MMS is proposing to make available vast acreage off the eastern seaboard for oil and gas leasing. It's now up to the Congress to remove the prejudice and instill some justice into the OCS planning and leasing processes.

In the wake of the gulf war, the administration's national energy strategy proposed increasing our domestic production to offset our dependence on foreign oil. And OCS development was to play an important role in the administration's energy plan. Yet, even if we did develop all of the unleased portions of our OCS, it would provide us with less than 1 percent of world oil supplies. The Mineral Management Service has estimated that there is less than a month's worth of oil in lease sale 164.

These are meager benefits in the face of the potential economic and environmental risks posed to our vulnerable coastal States, and OCS development would do little to affect our reliance on the volatile world oil markets.

Increasing domestic oil production from our ocean waters is a short-term fix to our shortage of oil. The United States simply does not possess large enough reserves—on land or offshore—to satisfy this Nation's insatiable appetite for oil. The United States has the highest per capita energy consumption rate in the world. If we truly want to wean ourselves from foreign oil dependence, the answer lies in reducing our use of oil, and increasing our use of alternative fuels and renewable energy—not in increased domestic oil production from our ocean waters.

I commend the Senate Appropriations Committee for its attention to this very important issue.

LAND ACQUISITION FOR WILDLIFE REFUGES AND PARKS

Mr. President, this legislation also contains funding for refuge land acquisition that is of special significance to my State. New Jersey is the most densely populated and urbanized State in the Nation, but New Jersey also has many beautiful natural areas that are home to diverse plant and animal life. The fact that New Jersey is so urbanized, makes the preservation of our remaining undeveloped areas that much more important.

The New Jersey coast is an area that feels the pressure of development very acutely. I'm very pleased that, at my request, this legislation contains $5 million to continue acquisition of critical properties at the E.B. Forsythe National Wildlife Refuge.

The Forsythe Refuge includes critical wintering habitat for black ducks and Atlantic brant, as well as habitat for the peregrine falcon, blue heron, and the piping plover.

Last year, I worked with the chairman to provide $4 million to enable the Fish and Wildlife Service to continue acquisition at the Forsythe Refuge. Recently, the Fish and Wildlife Service obtained title to the properties with money Congress appropriated last year. I'm very pleased that acquisition has begun, but more funding is needed to continue this very important project.

This money will provide a shot in the arm for conservation efforts at the Reedy Creek unit, the Brigantine unit and the Mystic Shores area of the Forsythe Refuge.

In 1990, the Senate passed my legislation to establish in law the Wallkill National Wildlife Refuge, and later Congress appropriated funds to begin acquisition there. Recently, I had the privilege to join with others in the dedication of the Wallkill Refuge. This year, I would like to commend the committee for its inclusion of $2.5 million to continue land acquisition at the Wallkill Refuge.

The Wallkill River and its adjacent lands comprise one of the last high-quality waterfowl concentration areas in northwestern New Jersey, and is home to a diversity of wildlife, including many State-listed endangered species. These acquisitions are another important step in the conservation of ecologically significant land in New Jersey.

Mr. President, I would also like to point out that, at my request, this legislation contains $1.375 million for land acquisition at the Great Swamp National Wildlife Refuge. This refuge, located 25 miles west of New York City, is under heavy development pressure. The acquisition of land provided for in the bill will prevent encroachment from residential development that is rapidly destroying valuable habitat, degrading water quality, and threatening the ecological integrity of the swamp.

This legislation also provides $3.5 million for land acquisition at the Cape May National Wildlife Refuge. The Cape May Refuge is divided into two sections, the Delaware Bay Division and the Cedar Swamp Division, and includes land considered among the Atlantic flyway's most important staging and wintering areas during spring and fall bird migration. The refuge also contains habitats important for various plant species being considered for Federal threatened or endangered listing.

I also want to thank the chairman for his help in having $3 million included in the legislation for continuing land acquisition within the Pinelands National Reserve.

Created by Congress in 1978, the Pinelands marked the first application of the national reserve concept. The Pinelands Reserve is comprised of 1.1 million acres of land that spans seven counties, and is characterized by low, dense forests of pine and oak, cedar and hardwood swamps, bogs, marshes, and pitch pine lowlands. The reserve contains 12,000 acres of pigmy forest which is made up of dwarf pine and oak smaller than 11 feet in height. Also, the reserve houses 850 species of plants and 350 species of animals including rare species such as the pine barrens tree frog.

Three major rivers run through the reserve. Funding for land acquisition in this area will be matched by New Jersey State funds making a minimum of $6 million available to preserve this unique area.

Overall, this legislation contains more than $15 million for land acquisition in New Jersey's parks and refuges, and I'm extremely pleased that we are taking important steps to protect and preserve these environmental treasures and open spaces for ourselves and for our children.

NEW YORK-NEW JERSEY HIGHLANDS

Mr. President, this legislation contains two important projects relating to the New York-New Jersey Highlands region. This bistate region consists of 1.1 million acres and serves as the backyard to the Nation's largest metropolitan area—1 in 12 Americans live within a 1- to 2-hour drive of the highlands.

The 1990 farm bill authorized the Secretary of Agriculture, using the resources of the U.S. Forest Service, to conduct a study of the New York-New Jersey Highlands region. To accomplish the study, Congress appropriated $250,000 to examine land use patterns and to outline alternative strategies to protect the long-term integrity of lands within the region. That study is in the final stages of agency review and is scheduled to be released this week.

I understand that the final study recommendations will highlight the immediate need to protect certain threatened tracts of land which are critical to protecting the quality of the region's water supply. There are 10 major reservoirs and more than a dozen smaller impoundments located in the highlands which, according to the Forest Service, supplies drinking water for over 3.8 million people in New York and New Jersey. Water quality cannot be compromised; it is an essential link to protecting public health and the economic well-being of the region.

The analysis that the Forest Service study provides is a good first step. Now it is essential that efforts be made in this bistate region to develop an accurate understanding among the varied interest groups of the impacts of development on the region's economy and environment, and to develop actual conservation and development goals.

We know that there are resources of national significance in the highlands, but we do not know the location and type of development that will place those resources in jeopardy. The funding that I requested would be used to develop tools so local and State governments can intelligently assess the trade-offs necessary to protect the economic and natural resources of the region.

Mr. President, the Forest Service, in cooperation with the Soil Conservation Service, Rutgers University and the States of New Jersey and New York, would develop for the highlands region a natural resource information system using the latest Geographic Information System [GIS] technology. The information system would provide useful analytical tools for identifying and protecting the resources of the region. Through the GIS, current land use will be inventoried and evaluated, and areas most likely to contribute to pollution of surface and ground water could be located. The information system would facilitate comprehensive State and county planning efforts, and help evaluate environmental and economic impacts of decisions.

The Forest Service would oversee creation of a Regional Information Council for the highlands which would serve the important role of reviewing the development of the GIS, and serve as a forum to discuss and provide direction on policy issues regarding protection of the region's resources. The council would have no regulatory powers and would be charged with developing a strategy for encouraging conservation of important tracts of land as well as to promote the economic well-being of the region.

Also included in this legislation is $15 million for the Forest Legacy Program, of which up to $5 million is available to assist in the preservation, on a willing seller basis, of Sterling Forest or other critical properties in the New York-New Jersey Highlands. The Forest Legacy Program is important to highly urbanized States like New Jersey which do not share in the Federal funds allocated for national forests. I would like to commend my colleague, Senator LEAHY, for his efforts in developing and for being a champion of the Forest Legacy Program.

Sterling Forest consists of 19,500 acres of forested ridges and valleys, lakes, streams, and wetlands. The 2,000 acres of the forest which lie in New Jersey is in the process of being acquired by Passaic County. The remaining 17,500 acres of the forest are located in Orange County, NY. According to the Forest Service, Sterling Forest provides critical protection of the watershed which provides over 2 million people in New Jersey with clean drinking water. I am glad that this legislation makes available funding, through the Forest Legacy Program, to help protect some of the important resources like Sterling Forest in the highlands region.

GATEWAY NATIONAL RECREATION AREA

Mr. President, I also want to point out that this legislation contains $9.25 million to improve the beach centers and wastewater treatment system at Gateway National Recreation Area's Sandy Hook unit.

Sandy Hook continues to be an especially important recreation spot for residents of highly urbanized areas of New Jersey. Gateway quickly became one of the Nation's most popular national parks, and each year millions of people travel to New Jersey to take advantage of Sandy Hook's acres of barrier beaches, bays, lighthouse, and historical forts.

With the funding that I requested, the Park Service could begin working on the beach centers and wastewater treatment facilities which are in dire need of upgrading to keep them safe and clean for Sandy Hook's numerous visitors.

AMERICAN LABOR MUSEUM

I am very pleased that the committee included $140,000 to correct structural deficiencies at the American Labor Museum in Haledon, NJ. In 1974, the American Labor Museum was placed on the National and State Registers of Historic Places. In 1983, the Labor Museum was designated a National Historic Landmark and in 1986, the museum was the subject of a National Park Service report which evaluated the endangered status of the landmark. The funding sought under this year's Interior bill would be used to rectify some of the most pressing structural deficiencies of the site as outlined in the National Park Service's own report.

Mr. President, this project has a personal significance to me. My father worked at the Paterson silk mills and the American Labor Museum earned its designation as National Historic Landmark for its critical role during the Paterson silk strike of 1913.

The building was the home of Italian immigrant silk workers, Peitro and Maria Botto. The Bottos opened their home as a meeting place for fellow striking silk workers who were banned from Paterson by hostile authorities. The strike is considered a milestone in the Nation's history because of the effort to reform the American workplace. This strike attracted nationwide publicity which was instrumental in gaining momentum for the adoption of Federal child labor and minimum wage laws.

The National Park Service had this to say in its 1986 National Historic Landmark Condition Assessment Report:

> A watershed in American labor history, the strike marked the emergence of non-English speaking immigrants as the major labor force in the Northeast. The nationwide publicity this strike engendered was instrumental in the development of the American social conscience and the adoption of Federal child labor and minimum wage laws. The weekly meetings held * * * at the Botto House were important in maintaining worker solidarity.

Today, the Botto's house is owned and operated by the American Labor Museum, a nonprofit organization devoted to advancing public understanding of work, workers, and the labor movement in the United States. The National AFL-CIO has encouraged unions and others to support the Labor's Museum activities.

If the museum is to be successful in its important mission, structural renovations are sorely needed. I hope my colleagues will join me in endorsing this legislation which provides a small, but important, investment of Federal dollars to improve this threatened National Historic Landmark which serves as a tribute to the national labor movement.

Mr. President, I would again like to commend the distinguished chairman for his outstanding work on this bill and for his cooperation, assistance, and attention to the needs of the State of New Jersey. I would also like to commend the chairman's chief clerk, Sue Masica, for her very helpful and competent assistance. I also would like to thank Rusty Mathews for his assistance.

I urge my colleagues to support this legislation.

WHITE CLAY CREEK

Mr. BIDEN. Mr. President, northern Delaware and southeastern Pennsylvania are in the heart of the megalopolis, as some call it, stretching from New York City to Washington DC. Most would not consider this area the likely host for a wild, scenic and recreational river. And if not for the efforts of thousands of citizens in Delaware and Pennsylvania over the years, that impression would be correct.

But in the middle of this urban sprawl is a natural treasure, the White Clay Creek, that starts in the southern corner of Pennsylvania and winds its way into northern Delaware, and then across the State to the Christina River and the Delaware Bay. Last year, Congress passed a bill to designate the White Clay Creek and its tributaries for study under the Wild, Scenic and Recreational Rivers System. It is a study that is just getting started, but one that many of us hope will form the basis for lasting protection of this regional treasure.

I have long supported the efforts of local citizens to protect the White Clay

Creek from overdevelopment. Earlier this year, I was joined by my Senate colleagues from Delaware and Pennsylvania in writing to the chairman of the Interior Appropriations Subcommittee, Senator BYRD, to request funding for this important study. I am pleased that the chairman and the subcommittee included funding for the study in the committee report.

As I stated, the National Park Service has started the study process. If this study is to be completed in a reasonable timeframe, and be of the quality that the citizens of the region have the right to expect, committee and congressional support is important. The committee report makes clear that this study should remain a priority of the National Park Service.

This study will help bring together Federal, State and local actions in a coordinated manner for the benefit of White Clay Creek and future generations. I look forward to working with the National Park Service on this study through its completion.

Mr. KERRY. Mr. President, I want to indicate my support for the Interior appropriations bill and I want to congratulate Chairman BYRD and ranking members HATFIELD and NICKLES and other members of the subcommittee and full committee for their efforts in bringing this bill before us today.

I know it was an especially difficult task this year given the restraints of an extremely tight budget and the ever-growing demands for additional protections for our natural resources and national heritage that are this subcommittee's charge.

Among the pressures with which the subcommittee must contend each year is the understandable desire by many Members to accord the status of national parks and forests to significant natural or historic areas in their States. There are many very deserving parks and forests, wildlife refuges and national historic sites, including many in Massachusetts, that merit inclusion in the National Park System, but limited financial resources tied the subcommittee's hands in 1992.

I hope that we can take the necessary steps to turn this economy around and get our Federal budget under control so that in future years the subcommittee, full committee, and the Senate will not labor under such handicaps in our efforts to meet fully the important obligation to preserve our national resources and heritage for future generations.

While I have some reservations about particular measures and some disappointments about some omissions, given the current situation I am pleased that a number of important Massachusetts components of the park system were selected for expansion or reconstruction, and I express my appreciation to Chairman BYRD, the ranking members, their colleagues and the staff.

In addition to the commission funding, the Lowell Historic Preservation Commission in Massachusetts received funding to continue land acquisition and complete construction of the Boott Mill Museum. A unique component of the National Park System because of its urban setting, the Lowell Urban Park serves as a commemoration of the technological resources and the human stories behind the Industrial Revolution.

Lowell is recognized as one of the Nation's most successful partnership parks. The cooperative relationship developed in Lowell between the NPS, the Commonwealth of Massachusetts, the city of Lowell and the private sector continues to yield a tremendously cost-effective and high quality historic preservation and public education effort. Lowell serves as a commemoration of the technological resources and the human stories behind the Industrial Revolution. The Lowell Historic Preservation Commission has worked well with the NPS to facilitate the historic preservation and cultural programs of Lowell since its establishment 14 years ago. I am pleased that the committee included funds for the Lowell Commission and to continue rehabilitation of the park's main historic building, the Boott Cotton Mills.

Another important historic site is the U.S.S. *Constitution*, the oldest commissioned warship afloat in the world. Both the warship and the adjacent U.S.S. *Constitution* Museum received $2 million in funding to complete the remaining Federal component of this private-public partnership. The museum has committed to raising half the funds needed to expand its facilities in an effort to increase its innovative educational programs and important conservation work to preserve priceless objects and papers that tell the story of the ship and the events and people related to her history.

I am pleased that two other important NPS facilities, Salem Maritime National Historic Site and the Adams National Historic Site, received additional funding for development of their sites. The Adams site, located in Quincy, interprets the lives of two Presidents, John Adams and John Quincy Adams, and four generations of the Adams family. The NPS' special resource study of Quincy highlighted the need for repairs to the United First Parish Church where both Presidents and their wives are buried, and rehabilitation of the historic home, carriage house and barn. Because visitation has increased by 147 percent in the past year, a shuttle system has been proposed to enable visitors to experience all portions of the historic site parts of which are over a mile from each other.

The Salem Maritime National Historic Site received additional assistance to continue its efforts to rebuild the wharves and to establish a new visitor center in the renovated old armory. This funding is critical to continue the 4-year effort to complete this nationally significant site which depicts the lives of those who were directly involved in the trading routes to the Far East.

In addition to NPS projects, I am pleased that Massachusetts received additional funding for the U.S. Geological Survey [USGS] National Coastal Geology Program to continue a major regional study of polluted sediments in Boston Harbor and the Massachusetts Bay. The Massachusetts Water Resources Authority [MWRA] provides additional funding from its monitoring budget and with this combined funding the program maps sediment contamination throughout the bay area and develops long-term sampling and numerical models of water circulation patterns to more accurately predict sediment buildup.

Unfortunately, for reasons I have outlined, many of these worthy projects—some of which I've previously mentioned, including Salem and Lowell, and others such as the Cape Cod National Seashore—received significantly less funding in this bill than in the House's bill. I look forward to working with Chairman BYRD and ranking members HATFIELD and NICKLES in the hope it will be possible to find a way to support the House funding levels in conference.

In closing, Mr. President, I once again commend my colleagues for their work on this bill, and the committee staff, especially Sue Masica who has been very generous with her time and attention. The bill is a particularly impressive accomplishment for them given the fiscal constraints under which they labored. I look forward to working with all of them as the process continues toward a conference committee.

INDIAN SATELLITE TREATMENT FACILITIES

Mr. REID. Mr. President, I want to take this opportunity to clarify the intent of language contained in Senate Report 102-345, concerning the location of the Phoenix area satellite facility to be established pursuant to the Indian Alcohol and Substance Abuse Prevention and Treatment Act. Schurz, NV, was the original site proposed for the Phoenix area satellite facility. For a variety of reasons, however, discussions between the Indian Health Service and the Walker River Paiute tribal government failed concerning the location of the satellite facility at Schurz, NV, which falls within the bounds of the Walker River Reservation.

Since that time, tribal governments in the Phoenix area have participated in ongoing discussions concerning an alternate site for the satellite facility. Recently, tribal governments in the Phoenix area have reached agreement on the alternate site. Therefore, the report language adopted by the committee is intended to provide the Indian Health Service with the legislative authority required to change the location of the proposed regional youth treatment center satellite from Schurz, NV, to an alternate site to which Phoenix area tribal governments have agreed.

Mr. BYRD. Is it the Senator's understanding that the tribal governments in the Phoenix area have agreed to an alternative site in Nevada?

Mr. REID. Yes, indeed it is my understanding that both the Intertribal Council of Nevada and the Intertribal Council of Arizona have endorsed locating the Phoenix area satellite facility on the reservation of the Fallon Paiute-Shoshone Tribes in Fallon, NV. In addition, tribal governments within the Phoenix area which are located in Utah have endorsed changing the designated location of the satellite from Schurz to Fallon, NV.

Mr. President, funding for planning, design and renovation has been appropriated previously and allocated for the establishment of a youth regional treatment center satellite at Schurz, NV. I would like to inquire as to whether it is the intent of the committee that, in proceeding with the establishment of a satellite facility at the alternate site agreed upon by tribal governments in the Phoenix area—the Indian Health Service will reallocate unexpended funds toward the establishments of the satellite facility at the alternate site in Fallon, NV.

Mr. BYRD. I would say to my colleague from Nevada that the committee is in agreement that this is how the Indian Health Service should proceed.

Mr. REID. I wish to clarify another point, namely, that it is understood that the Indian Health Service will have to develop program specifications, including space requirements, appropriate for the establishment of the satellite facility at Fallon, rather than Schurz, NV. Unlike Schurz, there are no Indian Health Service buildings in Fallon, NV suitable for renovation. Location of the youth regional treatment center satellite at the agreed upon alternate site will therefore require construction of a building according to specifications developed by the Indian Health Service.

Mr. BYRD. It is the committee's expectation that construction of a youth regional treatment facility at Fallon will not exceed specifications appropriate for a satellite facility.

Mr. REID. I understand the term, satellite, does not refer to the size of a facility or to the extent of the services offered at any given facility. Rather, a satellite facility refers to the timeframe for inpatient treatment. In the case at hand, the proposed youth regional treatment satellite in Fallon, NV, would offer inpatient services for a period not to exceed 30 days, while the primary facility located at Gila River, AZ, would offer inpatient services for a period up to 90 days.

Mr. BYRD. I hope that this discussion clarifies the committee's intent with regard to the location of Phoenix area satellite facility in Nevada for regional youth treatment.

Mr. REID. Mr. President, I thank Chairman BYRD for discussing this issue which so greatly affects the Indian tribal governments in my home State of Nevada. Let me assure him that I am quite pleased with the increases made on behalf of the Indian Health Service and congratulate him for his leadership with regard to this program.

FUEL CELL VEHICLES

Mr. HARKIN. Mr. President, I would like to engage the chairman of the Appropriations Committee in a colloquy.

As the chairman knows, the Interior appropriations bill before us today includes $15 million for a new hybrid vehicle project within the Department of Energy's Electric and Hybrid Propulsion Development Program. My understanding is that the Department of Energy anticipates awarding three competitively bid contracts to develop hybrid propulsion systems by the 1997 time period. These propulsion systems would be battery powered, but with an auxiliary source of energy to extend the range of any vehicles in which they are integrated. Does the chairman understand that to be the case?

Mr. BYRD. Mr. President, the Senator from Iowa is correct.

Mr. HARKIN. I am a strong supporter of hydrogen powered fuel cell vehicles. These would actually be hybrid vehicles, in the sense that any fuel cell vehicle would have some batteries for getting started and for acceleration. The fuel cell provides the range extensions, just as some type of fossil fuel powered engine provides extra range in a hybrid vehicle.

But the fuel cell vehicle powered by hydrogen, unlike a fossil fuel powered hybrid, would produce no emissions. A fuel cell vehicle would satisfy the California 1998 Zero Emission Vehicle [ZEV] requirement.

This Nation needs an advanced fuel cell program, to develop an air-breathing, proton exchange membrane [PEM] fuel cell vehicle powered directly by hydrogen. PEM fuel cells could become the primary source of energy for hybrid electric vehicles in the 21st century, and I want PEM fuel cells to be manufactured in America.

Is it the chairman's understanding that the PEM fuel cell powered vehicles powered by direct hydrogen would qualify for the hybrid vehicle contracts funded in this Interior appropriations bill?"

Mr. BYRD. I appreciate the Senator's concern about both the need to support fuel cell technology, and the importance of such technology. The Department of Energy informs me that there are still many technical and economic hurdles which remain before industry could commercialize fuel cell hybrid vehicles. Programs which propose direct hydrogen fuel cell propulsion systems will be eligible to compete for the hybrid vehicle contracts on an equal basis with other hybrid systems.

SUBMARINE TAILINGS

Mr. STEVENS. Mr. President, I recently learned of a project related to an interesting environmentally preferred option for mine tailings disposal. The Bureau of Mines at the Department of Interior has expressed an interest in studying submarine tailings disposal which has been successfully used by the Canadians. Are the Chairman and Senator NICKLES aware of the work planned by the Bureau and can any funds be made available for this activity?

Mr. NICKLES. I have heard of the tailing disposal method that Senator STEVENS mentioned. Of course we are always looking for the most environmentally sound method to conduct mining activity. I would encourage the Bureau of Mines to expedite work on what appears to be a promising, environmentally sound option to allow even safer mining in the future.

Mr. BYRD. I too am glad to hear of this forward-thinking work by the Department and Bureau. If my colleagues concur, I think the Bureau should move ahead with this project. Within available funds, the Bureau should enter into a cooperative agreement with private industry to develop a field demonstration project and study and provide material for laboratory testing to determine the environmental safety and economic feasibility of submarine tailings disposal.

Mr. NICKLES. I think the Bureau should do that in fiscal year 1993.

Mr. BYRD. I concur.

Senator STEVENS. I thank the chairman and ranking member.

WEATHERIZATION ASSISTANCE

Mr. HATFIELD. Mr. President, I would like to address the distinguished chairman of the Appropriations Committee and the ranking member on the Interior Appropriations Subcommittee to raise a concern which we discussed in the Committee meeting. The Department of Energy's Weatherization Assistance Program is funded at $177.6 million in this bill which is a decrease of 8 percent or $16.8 million below its fiscal year 1992 level. I am aware of the difficult constraints the subcommittee faced in trying to accommodate so many demands on this bill. This Committee recommendation is a formidable achievement. However, I remain concerned the Weatherization Assistance Program, which reaches out to low-income Americans, was reduced while funding in other energy conservation activities, including program administration and management, were increased above the fiscal year 1992 levels.

In the Technical and Financial Assistance Office which administers seven activities: Weatherization assistance accounted for 71 percent of the funds in fiscal year 1992; 6 percent of the funds were in the State Energy Conservation program; and 11 percent of the funds were in the Institutional Conservation program. Each of these programs are reduced by 8 percent from the fiscal year 1992 levels. Yet, while this bill reduces the Office's largest responsibilities, it adds $3 million to the management line-item.

I would like to propose the Senate maintain the current fiscal year 1992 funding level of $24,000,000 for the management line item within technical and financial assistance and transfer the difference of $3,000,000 into the weatherization line item. I would ask the distinguished chairman and ranking member of the Interior Subcommittee if they would approve this request.

Mr. BYRD. I appreciate the Senator from Oregon's recognition of the difficult decisions the Subcommittee has made to select among the many priorities that claim these limited funds. It should be noted that of the $3 million increase in management for Technical and Financial Assistance, approximately $700,000 is for activities which were previously funded through the Energy and Water development appropriation, but which are now funded through this bill. An additional approximately $1.3 million is to assist state energy offices in deploying advanced energy technologies, providing training in energy efficiency design, and increasing the efficiency of the support offices. I can appreciate the gentleman's concern regarding the Weatherization Program and I have no objections.

Mr. NICKLES. I concur and will seek that result in conference.

Mr. HATFIELD. I thank the chairman and ranking member.

PRIME HOOK NATIONAL WILDLIFE REFUGE, DE

Mr. ROTH. Mr. President, I want to commend my friend, the distinguished Senator from West Virginia and President pro tempore of the Senate and chairman of the Committee on Appropriations, Senator BYRD, and my friend and colleague from Oklahoma the ranking minority member of the Interior Appropriations Committee, Senator NICKLES for their cooperation in getting the Interior Appropriations bill for fiscal year 1993 to the floor today. They have done a splendid job. I also want to thank them for their efforts, albeit unsuccessful, concerning a matter of great importance to my State. Last March I brought to their attention the need for a new office/visitor complex, a new vehicle and general maintenance shop and an equipment storage facility building at the 9000 acre Prime Hook National Wildlife Refuge. Due to the severe funding constraints every appropriations bill has faced this fiscal year, unfortunately no funds were available for any proposed new visitor center projects. Mr. President, I wanted to share with my colleagues some of the unique qualities of this refuge, and discuss the future needs of the facility. The refuge is one of two Fish and Wildlife Service Refuges' in my State, the other is the Bombay Hook National Wildlife Refuge. Since the Prime Hook Refuge was established in 1963 it has operated its administrative and public contact functions from a tiny square foot milk house on a former dairy farm. This completely inadequate facility has been scheduled for replacement since the refuge was first acquired by the Federal Government, but the purchase of new refuge lands elsewhere and the curtailment of construction funding has precluded any action up to this fiscal year. The refuge has become internationally recognized for its unique geographical and biological significance. It is currently the site of some of the most active wildlife management habitat work in the Northeast region of the United States, that includes extensive marsh reclamation and management work which last year resulted in the harboring of more ducks in the winter than any other location in Delaware. Many of the 50,000 people that visited this facility last year took advantage of the unique qualities this site offers. Mr. President, all these sound environmental management practices would not be possible however without the dedication of the various landowners who have made this possible. Their mission of conserving the unique wildlife and wetland habitats of the refuge are well recognized.

Mr. President, I requested funds for a replacement office/visitor facility this year because the current cramped space is inefficient for administrative functions and for public information/education on the natural values of the refuge. In addition, the Fish and Wildlife Service capability statement prepared for me for this purpose recognized this matter as well. I hope to secure funding in the future for a replacement office/visitor complex, and hope that future budgets will allow for accomplishing this goal.

Mr. BYRD. Mr. President, I commend the diligence of my good friend, the senior Senator from Delaware, Mr. ROTH. I would like to let my colleague know that the committee will consider the request of the Senator from Delaware in next year's Interior appropriations bill. In addition, the committee urges the Interior Department to consider the refuge's request for funding of a replacement office/visitor complex and new maintenance shop and equipment storage building in its fiscal year 1994 budget request.

Mr. NICKLES. Mr. President, I would like to concur with the statement of the chairman of the Appropriations Committee on behalf of my good friend from Delaware, Senator ROTH. I also understand that the U.S. Fish and Wildlife Service has indicated that the current space at the Prime Hook National Wildlife Refuge is inadequate and that its replacement is a top priority item. I look forward to working with the Senator and also urge the Interior Department to give this request every consideration possible.

Mr. ROTH. I would like to thank my friends, and look forward to working with them on this issue of such importance to my State and all Delawareans.

DOMESTIC ENERGY

Mr. JEFFORDS. I would like to thank my colleague for yielding to me. Though we differ on methods, I think we both agree that domestic energy production is very important to the security of this country. I also believe we agree on the importance of natural gas to our energy security.

Mr. NICKLES. My colleague is correct on both counts. Representing an energy producing state, I am intimately aware of the problems the domestic energy industry faces.

Mr. JEFFORDS. In researching alternative energy and fuel sources, I learned about several new technologies under development, one of which may be of interest to my colleague. I am sure he is very knowledgeable about cogeneration. Recently, I learned that some engineers are experimenting with what they call cryocogen. These researchers tell me that using natural gas as a feedstock, they can produce electricity, heat energy, and the inert gases carbon dioxide and nitrogen. The recovery of the carbon dioxide and nitrogen not only has positive environmental implications, but also improves the economics of the process for small scale applications. Reuse of the carbon dioxide can reduce total carbon dioxide emissions by 75 percent. I believe this technology deserves a closer evaluation by the Department of Energy. I recognize that DOE's budget is tight, but would my colleague support DOE looking into this process.

Mr. NICKLES. That sounds like an interesting process and I would certainly encourage DOE to work with these researchers to evaluate this process. I appreciate my colleague's willingness to address this issue in this manner.

Mr. JEFFORDS. I thank my colleague and yield the floor.

CROATAN NATIONAL FOREST

Mr. SANFORD. Would the distinguished chairman of the Appropriations Committee entertain a few brief remarks on a matter which is of significant concern to me and many other North Carolinians?

Mr. BYRD. I would be happy to hear from my friend from North Carolina.

Mr. SANFORD. Let me first commend the Senator for his extraordinary efforts as chairman of the Interior Appropriations Subcommittee in this climate of severe budgetary constraints. I do understand that not all worthy projects were about to be funded.

One such project which I, and a number of my constituents, have mentioned to the chairman, involves the acquisition of 4,734 acres by the Forest Service to be added to the Croatan National Forest in Craven County in eastern North Carolina. This property harbors wetlands, forests, and endangered species, and it is bordered by wilderness and a wildlife-rich lake. It is because of these special values that the Forest Service had made acquisition of this property a high priority. However, these attributes also make this property, known as the B.H. Oates tract, extremely attractive for development.

In fact, Mr. President, I have recently learned that the bank which has provided financing for the landowner will assume control of the Oates tract and pursue a development option if the bank does not have some assurance of the Government's intent to take an active posture regarding land acquisition.

Mr. BYRD. As the Senator from North Carolina is no doubt aware, the committee has been unable to commit to specific funding for the project for fiscal year 1993. Recognizing the importance of this matter to my friend, I will, however, pledge to give specific review of this land acquisition project when the Interior Subcommittee sets its priorities next year.

Mr. SANFORD. I am pleased that my friend has assured me that he will give the Oates tract his attention in the coming months and I hope that he will remain aware of the urgency involved with this project. I also intend to pursue other options for at least partially funding the project this year in hopes that the bank will recognize that we are indeed moving forward.

Mr. BYRD. As the Senator from North Carolina and his constituents have described the tract, the Oates property does seem to be a very worthy addition to the Croatan National Forest. I wish the Senator from North Carolina well in his efforts to find available funding soon to keep this project going, and I hope to be of help in the future.

Mr. SANFORD. It is gratifying to hear such words of support from the senior Senator from West Virginia. He has been a true friend to the citizens of North Carolina over the years. I thank him for his indulgence.

Mr. BYRD. I thank my distinguished colleague for his kind remarks and for sharing his concerns with me on the need to expand the Croatan National Forest.

OKLAHOMA INDIAN CULTURAL CENTER

Mr. NICKLES. Mr. President, I would like to bring an item to the attention of the chairman regarding the Oklahoma Indian Cultural Center. As the Senator may be aware, Oklahoma's Indian tribes, numbering more than 40, are currently working to develop an Indian Cultural Center to be located in Oklahoma City. The proposed center would highlight each tribe's history and culture, including the stories of their removal to Indian territory, which is now the State of Oklahoma. These stories have not been adequately told, and the proposed cultural center would allow the tribes a unique opportunity to educate the American public about the rich history and culture of the American Indian.

As the chairman knows, tribes now living in Oklahoma originally roamed and lived in every State, and their cultures represent and reflect those native lands from which they were removed. In fact, two tribes now located in Oklahoma were originally located in an area that included West Virginia. These tribes, the Eastern Shawnee and the Delaware, and their history would be highlighted in the proposed cultural center.

It is of great importance to all that the unique culture and heritage of the different tribes be preserved. Oklahoma Indian tribes represent all 48 contiguous States, making this a facility of national interest and significance. With tourism as one of the major industries in Oklahoma, this project is of great importance not only socially but economically.

Because of program restraints we were unable to provide an appropriation to fund a feasibility and site recommendation study as authorized under Public Law 102-196. This initial Federal funding is considered extremely important in establishing the credibility and feasibility of the project. Once the ball is rolling, the State and city are committed to providing funds as well as raise the private contributions that will be necessary.

Mr. BYRD. As my friend from Oklahoma knows, the funding available in this bill simply did not allow us to fund any feasibility studies for new projects. But I do understand the uniqueness of the Oklahoma approach and the wide range of support that it has from the large number of Indian tribes in Oklahoma. With that in mind, I give assurances to my friend from Oklahoma that I will work with him to continue the momentum on this project.

Mr. NICKLES. I thank my friend from West Virginia for his support, and look forward to continuing to work with him on this most important project.

BIG SOUTH FORK AND OBED RIVER FUNDING

Mr. SASSER. Mr. President, the committee report accompanying H.R. 5503 contains a line item appropriation in the National Park Service construction account of $1 million for the Big South Fork National Recreation area in Tennessee. This money is to be used to construct needed river access roads, trails, and overlooks. The Obed Wild and Scenic River area is a separate unit of the National Park Service, but is managed and administered by the superintendent of the Big South Fork. Would the Senator from West Virginia agree that the Park Service should utilize up to $200,000 of the appropriation for the Big South Fork to meet the long-neglected development needs of the Obed River?

Mr. BYRD. Mr. President, I would say to the distinguished Senator from Tennessee that I am aware of the development needs at the Obed River. I agree that the Park Service should utilize up to $200,000 of the appropriation for the Big South Fork to meet those needs, and I will take whatever steps are necessary in conference negotiations on the bill to make that intention clear.

STONES RIVER NATIONAL BATTLEFIELD

Mr. SASSER. I would like to engage the distinguished Senator from West Virginia in a colloquy regarding an item of great importance to Tennessee and the Nation. As you will recall, the committee has previously provided funding for land acquisition, planning, and construction at the Stones River Battlefield in Murfreesboro, TN. Late last year the legislation authorizing expansion of the battlefield by 234 acres became Public Law 102-225.

The House of Representatives has provided in its version of the Interior and related agencies appropriations bill $3 million for land acquisition to expand and preserve the battlefield. This land acquisition funding is essential to protect historically significant tracts that are imminently threatened with commercial development. The acquisition of the additional acres will not only increase the historical assets of the battlefield, but it will also improve the ease of access and aesthetic value of the entire park. This amount of funding was included on the funding priority list for land and water conservation fund moneys established by a consortium of 27 natural resource preservation and environmental protection groups.

I am pleased that the Senate Appropriations Committee has included in this bill $395,000 in construction funding for the battlefield to complete work on Fortress Rosecrans and Brannan Redoubt. Unfortunately, the committee was unable because of budget constraints to approve the money needed for land acquisition funding.

Because of the imminent threat to these lands, it is crucial that they be acquired as soon as possible. Therefore, I would like to request that the Senator from West Virginia carefully consider adopting the House position with regard to the Stones River National Battlefield land acquisition funding during conference negotiations on this bill.

Mr. BYRD. I understand the concern of the Senator from Tennessee regarding land acquisition funding for the

Stones River National Battlefield. As he says, the committee faced very difficult constraints this year and was unable to fund many worthy projects. I assure the Senator, however, that I will give every consideration to his request when we conduct conference negotiations with the House.

HANNAHVILLE INDIAN SCHOOL

Mr. LEVIN. Mr. President, I would like a moment to address the floor manager of the bill.

Mr. President, I was very pleased to see that the chairman included language in the report regarding reprogramming of funds from several construction projects that experienced delays to meet current school construction needs for fiscal year 1992. As the chairman knows, the Hannahville Indian School in our State of Michigan is currently under construction and both the tribe and the Bureau of Indian Affairs [BIA] now agree that the project is approximately $500,000 short of the funds required to complete the project and meet North Central Accreditation standards. It is my understanding that the committee would permit the BIA to expand up to $500,000 of available funds for facilities improvement and repair to complete the Hannahville Project.

Mr. BYRD. Yes; the Senator is correct.

Mr. LEVIN. Mr. President, my colleague from Michigan, Senator RIEGLE, joins me in thanking the chairman for his support and cooperation in this matter.

STEWARDSHIP END RESULT CONTRACTS

Mr. CRAIG. Mr. President, Senator BURNS and I are very pleased that our amendment to H.R. 5503 regarding stewardship contracts was enacted. It adds the Idaho Panhandle National Forest in Idaho and the Kootenai National Forest in Montana to the list of forests authorized to participate in the pilot program.

The stewardship approach permits the combination of a sequence of needed silvicultural practices under one contract, rather than contracting each individually. These contracts usually extend for a number of years, during which a variety of silvicultural activities may be needed. For example, a contractor may cut commercial timber, replant the cutting units, and tend the growth of the young trees over a 3- to 5-year period.

A number of benefits become obvious. Paperwork and administrative costs to the Forest Service are reduced because they will prepare, advertise, and administer fewer contracts. Unit costs bid for stewardship should be less due to economies of scale and more focused accountability. Stewardship should offer contractors greater opportunity to provide year-round employment since the various silvicultural practices are best done in different seasons.

Utilization of stewardship contracts does not change the amount of Forest Service appropriations. It offers promise that they may be spent more efficiently. For these reasons, Senator BURNS and I are supportive of the pilot program and pleased to have it extended to our States. We thank the chairman for his help in moving this amendment.

Mr. NICKLES. I thank the Senator and Senator BURNS for offering the amendment. I agree with them that stewardship contracts make sense and the concept should be developed further. Let me emphasize that this is a pilot program, and currently a very small one. I will be interested in the results achieved on all the pilot forests.

Mr. BYRD. I concur. Addition of two national forests in the northern Rockies is a modest and desirable modification in this pilot program.

FOREST SERVICE'S NEGRITO WATERSHED PROJECT

Mr. BINGAMAN. Mr. President, I want to discuss an important program that the Forest Service has for new initiatives, the New Perspectives Program. Through a demonstration project for ecosystem management on a landscape scale within the Gila National Forest, the Forest Service could address problems surrounding use of forest resources. An interagency team would work to ensure the sustained health of the forest community, and commodity production could be based on stewardship and sustainable local supply. Mr. President, although earmarked funding was not included in the fiscal year 1993 Forest Service appropriation for this program, it would be my hope that region 3 of the Forest Service would do its best to support a demonstration project at the Negrito Watershed. I feel very strongly that such a New Perspectives project—with its ecosystem approach—marks the future of forest management. This project would provide for citizen participation and is designed to promote a healthy landscape, biodiversity, sustainable resources production, and multiple use.

Mr. BYRD. I would hope that the Forest Service would support this project at the Negrito Watershed from within existing resources. As the Senator is aware, the committee report accompanying this bill (S. Rep. 102-345), includes direction to the Forest Service to give consideration to the Gila National Forest as a site for New Perspectives demonstration projects.

KEWEENAW NATIONAL HISTORICAL PARK

Mr. LEVIN. Mr. President, I would like to engage the distinguished chairman of the Appropriations Committee on a matter of great importance to me and to my State.

The committee's bill does not now include specific reference to the provision of $875,000 requested by the administration in funds for planning and implementing the proposed Keweenaw National Historical Park, subject to authorization. As the Chairman knows, I have been working assiduously to gain passage of my bill, S. 1664, to provide that authorization. These funds will be crucial to the expeditious development of the proposed park.

My understanding is that $875,000 will be available to the National Park Service under the terms of this bill for planning and implementation of the proposed Keweenaw National Historical Park in fiscal year 1993.

Mr. President, I ask that the Senator from West Virginia, in his capacity as chairman of the Appropriations Committee, confirm that my understanding is correct.

Mr. BYRD. The Senator from Michigan is correct. These funds will be available provided authorization is enacted. Specific reference is not provided since the committee report is written in terms of changes to the budget request.

Mr. LEVIN. I want to thank the chairman for including these funds in this bill. I would also like to ask the chairman to do his best to preserve these funds in conference.

Mr. BYRD. I will do my best to keep this provision in conference.

RED LAKE RESERVATION PROJECT

Mr. WELLSTONE. Mr. President, I would like to engage the distinguished floor manager in a brief colloquy regarding a project to upgrade the water system to areas within the Red Lake Indian Reservation. I am grateful to the chairman for his help in providing critical funding for several natural resource and Indian programs and projects in Minnesota in this bill.

This project would upgrade the water system which currently serves the Red Lake Indian Reservation in Minnesota. The tribe has already begun work on a related project under a grant from the Economic Development Administration [EDA] which will connect the water systems of Redby and Red Lake with a source of clean water. Unfortunately, the EDA grant will not fund system hookups from the transmission line to the existing households. The funding I requested again this year would allow 370 homes along the new water transmission line to be connected to the water system, finishing this project.

Improvements in the water system are critical to improving the public health on the reservation. People living in the 370 homes which would be connected if these funds are provided currently use well water which exceeds maximum EPA-approved secondary levels of iron, manganese and hydrogen sulfide. Among the health problems related to water quality is a very high local dysentery rate, and these residents are considered to beat a much greater risk of dysentery than is the U.S. population at large.

As the chairman will recall, last year he agreed to earmark funds for this vital project, but the earmark was dropped in conference. Mr. President, the need is just as urgent this year as it was last year.

Mr. President, as is reflected in the letter I received today from the Chairman of the Red Lake Band of Chippewa Indians, the water project on the Red Lake Reservation continues to be the tribe's number one sanitation priority, and the Indian Health Service has been notified of the fact. I ask consent to insert that letter in the RECORD.

The Federal Government can save considerable time and expense by coordinating the construction of the EDA transmission line with the service connections to the homes adjacent to the EDA project. It is my understanding the committee has not earmarked funds for this or any other project this year, given budgetary constraints. I therefore ask the chairman if he would be willing to direct the Indian Health Service to give this project the highest rating under the category "other considerations," due to the special circumstance precipitated by the EDA project.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

RED LAKE BAND
OF CHIPPEWA INDIANS,
Red Lake, MN, August 5, 1992.

Hon. Senator PAUL WELLSTONE,
U.S. Senate, Washington, DC.

DEAR SENATOR: Thank you for alerting me to the confusion which Indian Health Service is apparently still having over the Red Lake Band's Sanitation Priority Listing.

Over the past several weeks I have reiterated to representatives of the Indian Health Services that our Number 1 priority has been and will continue to be the service connections for homes located adjacent to the EDA water transmission line. This is so important to us that we have been reluctant to prioritize anything else for fear of detracting from that Number 1 ranking.

We sincerely appreciate anything you can do to keep this in the forefront of your colleagues' consideration during these final deliberations.

Thank you very much for all your assistance.

Regards,

GERALD F. BRUN,
Tribal Chairman.

Mr. BYRD. I thank my colleague from Minnesota, Senator WELLSTONE for his acknowledgment of the severe funding constraints under which the committee was working this year.

The circumstances concerning the Red Lake water project, particularly in regard to the improvement of health conditions, require special consideration. For that reason, I will expect the Indian Health Service to give the Red Lake project every possible consideration to providing the highest possible rating under the category other considerations, particularly given the efficiencies to be gained from this project. I would also note that every effort will be made in conference to provide the highest level of funding possible for Indian Health water and sewer projects, to ensure that this project moves forward.

Mr. WELLSTONE. Mr. President, I thank the chairman for his assistance. I am grateful for his continued support of this vital project.

STATE AND LOCAL ENERGY ASSISTANCE PROGRAMS

Mr. WELLSTONE. Mr. President, I rise to enter into a colloquy with my distinguished colleague from West Virginia, the chairman of the Senate Appropriations Committee, Senator BYRD. As my colleague knows, I am deeply concerned by the Committee's proposed reductions in funding for State and local assistance programs of the Department of Energy for fiscal year 1993. In particular, the committee proposes a cuts totalling $20.2 million for the low-income weatherization program, the schools and hospitals conservation program, the State energy conservation program, and the Energy Extension Service. I believe that these are vital programs to deliver energy efficiency services, and they are complementary to the comprehensive national energy strategy which the Senate just passed.

I wish to ask my distinguished colleague whether in light of the Senate's action to move forward with a national energy program stressing energy efficiency, he could work towards restoring the funding for these four programs in conference with the House.

Mr. BYRD. I appreciate my colleague's strong support for these programs, but as he knows I cannot make any commitment about the outcome of a House-Senate conference on this bill. However, I will try my best to restore these programs to their fiscal year 1992 funding level.

Mr. WELLSTONE. As my colleague knows, I was prepared to offer an amendment to transfer funds from administrative increases in several Department of Energy offices to these four programs. I would like to ask whether the Senator from West Virginia would be supportive of such a transfer.

Mr. BYRD. I have seen the Senator's amendment which would transfer $4.6 million from administrative increases in various DOE offices to these program accounts. While again I cannot commit to a specific outcome from the conference, I will assure my colleague that I am sympathetic with this approach and will favorably consider moving in this direction.

Mr. WELLSTONE. I wish to thank my distinguished colleague from West Virginia for his assurances. I know that with his support the conference will make positive efforts towards restoring funding for DOE's State and local assistance programs.

MINERALS MANAGEMENT SERVICE LEASING AND ROYALTY MANAGEMENT

Mr. JOHNSTON. Mr. President, I would direct the chairman's attention to report language on page 41 of Senate Report 102-345 that reduces funding in the International Activities and Marine Minerals Program of the Minerals Management Service [MMS].

First, let me say that I strongly share the committee's concern that funding of MMS activities overseas is inappropriate when MMS budget requests for important domestic programs of higher priority are inadequate.

However, I note that important domestic activities directed at coastal restoration and wetlands enhancement have historically been included in this account in coastal States including Louisiana such as the ship shoal project, which involves wetlands protection and barrier island restoration in an area of my State which is suffering from the effects of severe coastal erosion.

Is it the committee's intent that domestic activities and projects such as those described above as well as cooperative agreements with coastal States be continued at their current level within the funding provided?

Mr. BYRD. Yes; that is my understanding.

Mr. JOHNSTON. I thank the distinguished chairman for this important clarification and appreciate his time on this issue.

ACQUISITION OF BLOCK ISLAND PROPERTY

Mr. CHAFEE. Mr. President, I am here today to express my appreciation to Senator BYRD for offering an amendment on my behalf to provide $1.5 million for the acquisition of an important addition for the Block Island National Wildlife Refuge in Rhode Island. This is a unique area which would soon be lost to development, as I will describe further. First, I would like to seek a point of clarification with regard to the amendment from Senator BYRD.

My understanding is that the amendment that you referred to in your statement as the Chafee amendment to add $1,500,000 for Fish and Wildlife Service land acquisition at Block Island, RI, is amendment No. 2874 and that the $1.5 million in additional moneys provided in that amendment are to be made available for the acquisition of the Block Island property. Is that correct?

Mr. BYRD. Yes; that is correct.

Mr. CHAFEE. I thank the Senator for clarifying that point.

The acquisition of this addition to the Block Island National Wildlife Refuge represents one of the few remaining opportunities to preserve undeveloped coastal habitats in the Northeastern United States. Block Island is located about 10 miles south of the Rhode Island mainland and 15 miles northeast of Montauk Point, NY. The island was named by the Nature Conservancy as one of its "last great places" worthy of ecosystem conservation in the Western Hemisphere. It serves as a refuge for plants and animals once common in New England that are now rarely seen on the mainland. It provides habitat for endangered species, including the Peregrine falcon and the American burying beetle. Block Island also serves as a critical link in the migration of many birds between southern New England and points south.

The Fish and Wildlife Service [FWS] identified Block Island as a significant coastal habitat in their 1991 report to the House and Senate Appropriations Committees known as the north east coastal areas study. This report found that the West Beach area—which is the site of both the wildlife refuge and the property which will be acquired—is of particular interest for protection.

Thus far, the FWS has acquired 46 acres near the northern end of West Beach on Block Island. Through cooperation between the FWS, the local government, and private conservation groups, including the Nature Conservancy, most of the area between the refuge and property owned by the Beane family located at the southern end of West Beach has been protected.

The Beane property, which will be purchased with the $1.5 million provided by this bill, is the missing link in providing for the conservation of the entire West Beach area. This undeveloped beach and upland now acts as a barrier between the Atlantic Ocean and the Great Salt Pond. It is one of the wildest and most remote properties remaining on the island. For these reasons, the FWS strongly supports the acquisition of this area.

Unfortunately, time to find a way of protecting this property has almost run out. The U.S. marshall seized a one-third interest in the Beane property when one of the three sibling owners was caught growing drugs on the property. The marshall has been ordered to sell the entire property on the open market as part of the settlement of the drug case. In fact the property will be advertised for sale on August 15, only 10 days from today. Time is of the essence. If this important area is to be saved, funds must be appropriated this year, in this bill. We cannot wait until next year.

Therefore, I am very grateful to Senator BYRD and the other members of the Interior Appropriations Subcommittee for their assistance in preserving this unique area before it is lost to development.

A FUTURE WESTERN WASHINGTON TRIBAL ALCOHOLISM AND SUBSTANCE ABUSE TREATMENT CENTER

Mr. ADAMS. I would like to briefly discuss concerns expressed by tribes in Washington State regarding the level of funding available for alcohol and substance abuse treatment and prevention in the budget for the Indian Health Service. As you know, alcoholism afflicts Native American populations in proportionately higher rates and has ruined countless lives spanning many generations.

The appropriate treatment for American Indian alcoholism is perplexingly elusive as the cause for chemical dependency involves a mixture of psychological, biological, social, and cultural factors. Over the last two decades, Indian Tribes have established alcoholism counseling programs on their reservations to combat this disease in their communities. A cadre of trained American Indian alcoholism counselors have begun to make progress with individuals and their families through direct, personal intervention.

The Squaxin Island Indian Tribe in Washington State, joined by 12 other tribal governments, has requested funding from the Indian Health Service to establish an inpatient treatment facility for tribal referral of individuals suffering from chemical dependency. Currently, there is a lengthy waiting period for admission to existing facilities in the Pacific Northwest.

The consortia of tribes propose a 25-bed operation for inpatient care as well as outpatient services. A key feature to their proposed treatment is representative tribal policy guidance on the center's board and the use of culturally relevant curriculum in the treatment program. The treatment center staff will have direct communication with participating tribal alcoholism programs and expect to reduce recidivism. Also, the center will be centrally located in the south Puget Sound area to improve accessibility.

My concern involves the availability of funding to support this collective tribal effort from the Indian Health Service. The Squaxin Island Tribe estimates the operational cost for the proposed inpatient treatment facility at $765,000. Are there sufficient resources in the IHS to be able to address this self-determination proposal in fiscal year 1993?

Mr. BYRD. The committee has provided a $2.5 million increase for Indian alcoholism and substance abuse programs in fiscal year 1993.

The Squaxin Island Tribe's alcoholism inpatient treatment proposal for the entire south Puget Sound region may be consistent with this objective. The IHS, using the fiscal year 1993 increase and existing resources at the area office explicitly targeted to serve south Puget Sound Tribes, should be able to respond positively to the Squaxin Island Tribe's request if that is the desire of the tribes in the area, and using only that share of the funds for which these tribes would be eligible. No Federal funds are to be used in the construction of this facility.

Mr. ADAMS. I thank the Chairman.

NORTH KAIBAB ENVIRONMENTAL IMPACT STATEMENT

Mr. DECONCINI. Mr. President, during the committee hearings, I submitted questions to both the Forest Service and the Park Service regarding planning for recreational facilities on the north rim of the Grand Canyon and the adjacent Kaibab National Forest. The answers supplied by the agencies describe a critical situation. Public visits to the north rim currently tax the capabilities of the Park Service and the Forest Service to handle the traffic and other impacts. It is projected that visitor-use days to this area will increase greatly over the next 10 years. The result is an ever increasing and almost overwhelming pressure to deal with the corresponding need for water, sanitation, power, and greatly expanded lodging and recreational facilities. Of course, with the increasing visits we also get traffic congestion, air pollution, and noise and that has to be included in any planning process.

Mr. President, the Grand Canyon is, in every sense of the word, a national park and I know the chairman and other members of the committee share my concerns.

Mr. BYRD. The Senator is correct, the Grand Canyon is truly a national treasure and an inspiration for visitors from every nation. The committee is concerned that the increasing demands be accommodated as expeditiously as possible in a way that preserves the very unique experience that only the north rim of the Grand Canyon can offer.

Mr. DECONCINI. I thank the distinguished chairman for his comments and the committee's attention to this very critical situation. As the chairman knows, the Grand Canyon Park master plan is probably 5 years from completion, but decisions are being made, with wide public support, to severely limit the development of recreational facilities on the park lands at the north rim. This will properly help to preserve that awe-inspiring and completely unique experience found from this vista.

But these decisions place increased pressure on the adjacent north Kaibab National Forest. These greatly accelerated demands make planning all the more imperative on that forest.

The existing concessions and campgrounds in the National Forest are inadequate to meet even the present level of traffic and recreation. Add the anticipated increase in demands, and the demands and impacts that will result from the Park Service decisions to severely limit development at the north rim will, without doubt, result, in significant adverse consequences.

Mr. BYRD. The Senator accurately summarizes the situation.

Mr. DECONCINI. I thank the chairman. As he knows, the Kaibab Forest plan anticipates greatly expanded, and very expensive facilities from the private sector concessionaires at both the Kaibab Lodge and Jacob Lake areas. Costs for these facilities have been estimated at a minimum of $10,000,000, and combined costs could easily double that figure. The costs of these required expansions will be borne solely by the private concessionaires. They will have to raise the money and make the investment. That may be difficult in this economy, but I believe it is a fair arrangement. They will eventually recoup their investment.

But there is another requirement that is also a Federal mandate. That mandate is the preparation of an environmental impact statement under the National Environmental Protection Act, usually referred to as NEPA. In answer to our questions, the Forest Service states that the required expansion of the private sector facilities "* * * may involve a wide range of resource issues that require extensive analysis. These sorts of proposals require the preparation of an environmental impact statement, [EIS] which may span a period of several years or more. Costs associated with this kind of complex NEPA analysis and documentation can exceed $250,000." Also, Forest Service facilities will have to be coordinated with the private sector development and be subject also to the EIS. Some of the utility systems will be jointly utilized.

Mr. President, the EIS in this coordinated and complicated process is both a Federal requirement and a Federal responsibility. In further answer to our questions, the Forest Service stated that when an "* * * expansion proposal involves a specific business entity, the business entity normally assumes the majority of NEPA related costs." The operative word here is "normally." I would ask the chairman if he would agree that this is not a normal situation.

Mr. BYRD. When a private business concessionaire approaches an agency, be it the Park Service or Forest Service and proposes an expansion of his facilities, the concessioner is informed of the Federal environmental requirements under NEPA. If the concessioner chooses to proceed, the concessioner has the option to pay for NEPA costs in order to expedite the completion of this process. But I agree with the Senator that the situation on the north rim is unique wherein the Federal Government, through both the Forest Service and the Park Service, is separately making decisions which rely on future developments outside the boundaries of the park. These decisions greatly complicate the resource issues subject to the NEPA process. Sufficient funding has been included in the Forest Service budget to initiate this process. The committee expects the agency to report back as soon as possible with more complete estimates of EIS and associated planning and development costs and the timeframes.

Mr. DECONCINI. I thank the chairman.

SOUTHWEST FOREST STUDY

Mr. DECONCINI. Mr. President, I believe there are very few issues, if any, which consume as much of our time and energy as the continuing conflict between resource development and environmental protection. For example, I do not believe there is a Member from any Western State, perhaps from any State, who has not spent a great deal of time looking for a resolution between development, both public and private, and the issue of endangered or threatened species. The good news is that natural resource conflicts are not always without resolution. Public lands in the West can be and usually are managed to minimize or eliminate these conflicts.

The essential ingredient in resource management, as in any conflict resolution, is information. Often the real problem is lack of accurate and dependable scientific data upon which land planning and land management decisions can be based. This committee, under the leadership of the distinguished chairman, has taken steps to address the need for information in the Southwest and elsewhere.

Mr. BYRD. I thank the Senator. In fiscal year 1992, at the behest of the Senator from Arizona, the committee initiated the Southwest Forest Study, a research, development, and application program on the Santa Fe, Coconino, Kaibab, and Dixie National Forests in the Southwest to address very critical multiresource management issues. The committee directed that a consortium of universities be selected through a competitive bidding process. The fiscal year 1992 program is underway and the committee has provided funds for fiscal year 1993 to continue that program.

Mr. DECONCINI. I thank the chairman and commend the committee for making the funds available at a time when overall funding levels are lower, and very tough decisions have to be made. I am very proud to announce that a consortium of universities organized by Northern Arizona University has just been selected to conduct the study. The institutions which will be participating are Northern Arizona University, Western New Mexico University, New Mexico State, Utah State University, Arizona State University, and the University of Arizona. I believe that I speak for my colleagues in New Mexico and Utah when I say this consortium brings together some of the foremost researchers and experts in the country on natural resources in the southwest and can provide not just data, but true knowledge which can be applied to critical resource conflicts.

Mr. DOMENICI. I would certainly agree with the statement from my friend from Arizona and would like to add that I am indeed pleased that the New Mexico State University and Western New Mexico University are a part of this research, development, and application program. The expertise and information which will be derived from the beginning of this study can be applied to resolving resource conflicts. The most immediate conflict perhaps is the issue of habitat for the Mexican spotted owl. I believe the Forest Service is now drafting a conservation strategy which will be reviewed by the United States Fish and Wildlife Service prior to their decision whether or not to list the owl as threatened or endangered. This may be one area where the consortium could play a key role. There is certainly a need for data and technical expertise in the consideration of this or any species.

Mr. DECONCINI. I certainly agree with the Senator from New Mexico. There may be a very important role for the consortium in a cooperative effort with the Forest Service and the Fish and Wildlife Service. This in fact may be an excellent opportunity to develop a cooperative demonstration program on a voluntary basis for the agencies. In this Senator's opinion, we need to explore the possibility of a total and sustainable ecosystem approach to forest management. In testimony before the committee, the Forest Service has agreed that the "[M]anagement of an ecosystem, rather than habitat for each individual species, would eliminate duplication and opposition of efforts, and would reduce the administrative requirements of developing effective management strategies." The ecosystem approach allows for the protection and recovery of multiple species which may already be listed as threatened or endangered. And even more importantly, it could provide the means to prevent species from becoming threatened. The savings would be great, both in the number of protected species, and in real dollars.

Mr. GARN. The Senator from Arizona makes a good point. The agencies, together with State agencies and the public, have an opportunity to use the scientific panel assembled through the Southwest Research, Development and Application study to closely examine these issues and provide information which would be crucial to prelisting decisionmaking. I am pleased that the Utah State University is participating in the study. The Southwest will benefit greatly from the program and I thank the Chairman and Sen. NICKLES, the ranking Republican, for their support.

Mr. DOMENICI. I would say to the agencies and to my colleagues in the Congress that we will have to address the authorization of the Endangered Species Act next year, and certainly a lot of dissatisfaction has been expressed from many quarters with the structure of the act. The Mexican spotted owl conservation strategy, or a similar situation, provides the agencies with an opportunity to cooperatively develop a demonstration program which could lead to recommendations as to how the goals of the act can best be preserved and achieved.

Mr. DECONCINI. I thank the Senators for their comments. Although no funds have been included in the bill for the university consortium to function as a scientific review panel for a cooperative demonstration program, that may be an issue we could discuss in conference with our colleagues from the House. Again, I would thank the chairman for his leadership and support.

GAP ANALYSIS

Mr. GARN. Mr. President, I would like to direct my colleagues' attention to the language on page 18 of the committee report regarding increased funding for gap analysis. In that language, the committee recommends an increase of $750,000 over the President's request. The committee further recommends that the Fish and Wildlife Service make use of the expertise developed by Utah State University as a result of its work to date on gap analysis.

Mr. President, the College of Natural Resources at Utah State University is preeminent in gap data collection and has become a national data center for gap analysis. As my colleagues know, there is a serious need to look beyond State boundaries and coordinate efforts to facilitate conservation on a bioregional level. As the national data center, Utah State University is in need of additional funding to conduct research on innovative management approaches that conserve biodiversity while allowing for responsible resource use.

Am I correct in my understanding that the committee intends that a portion of the increased funding to be used for gap analysis work will be performed at Utah State University?

Mr. BYRD. Mr. President, the Senator from Utah is correct. The committee's expectation is that the increased funds be used to build upon existing gap analysis work, with which Utah State University has been actively involved. Rather than expending the increased funds to involve additional parties, the funds should be used to expand, to the extent possible, existing capabilities and expertise.

Mr. GARN. I would also inquire of the distinguished ranking member if that is his understanding.

Mr. NICKLES. The Senator from Utah is correct.

Mr. GARN. Mr. President, I want to thank my colleagues for clarifying this point.

SAFFORD MULTIAGENCY VISITOR CENTER

Mr. DECONCINI. Mr. President, I would like to raise a matter with the distinguished chairman of the committee. As he knows, I requested funding for the Safford Multiagency Visitor Center in Safford, AZ. As I have previously indicated to the chairman, within the immediate vicinity of Safford, AZ, there are several Federal public resource areas. These include Mount Graham, the Galiuros, Aravapai Canyon Wilderness Area and the Santa Teresa Wilderness Area, Gila Box National Conservation Area and other sites administered by the Bureau of Land Management and the Forest Service. There are also locations accessible to the public administered by the State and several Indian Tribes.

For some time there has been discussion of building a multiagency visitor center in Safford, AZ, to serve all of these areas in the upper Gila Valley and provide a contract point for all the visitors to these sites.

Presently, these discussions for a multiagency visitor center focus on a proposal for a "Museum of Discovery." Among those presently involved in discussions for the museum are the Forest Service, the Bureau of Land Management, Graham County Chamber of Commerce, Eastern Arizona College, the Phelps Dodge Corp., and the San Carlos Apache Tribe.

A steering committee has been formed and contracts are being made to secure necessary commitments of outside funds for the project.

Mr. BYRD. Will the Senator yield?

Mr. DECONCINI. I will certainly yield to the distinguished chairman.

Mr. BYRD. The Senator from Arizona did make a compelling case before the Committee for the Safford Multiagency Visitor Center. However, as he knows, because of the budget constraints the committee is operating under this year, we were not able to include funding for any new visitor centers for any of the agencies under the our jurisdiction.

Mr. DECONCINI. I thank the chairman. It is, however, important to point out the preconstruction engineering and design for the Museum would be paid for with Federal funding, but the final construction would be paid through contributions from outside sources. Total cost for the planned facility is $36 million. Costs associated with planning and initial construction designated for Federal sources are only estimated to be $6 million, with the balance of $30 million for construction costs to be raised through private contributions. Also, the BLM has been budgeted $140,000 to allow it to design and build an ecological display related to natural and cultural resources in the area.

This project represents a worthy effort to coordinate and combine efforts by public and private sectors in the best interests of the public. A central location with the integrated and interrelated exhibits and materials makes sense because it prevents unnecessary duplication yet provides visitors essential services and information opportunities.

Mr. BYRD. Again the Senator from Arizona raises outstanding points. I can tell him that if he raises this issue with the committee again next year, we should certainly consider this project.

Mr. DECONCINI. The distinguished chairman can be sure that I will again request funding for this most worthy project. I am hopeful that in the intervening period, both the BLM and the Forest Service will continue to work with the steering committee to develop this project.

NEZ PERCE NATIONAL HISTORICAL PARK

Mr. ADAMS. The President's budget requested funds to expand the Nez Perce National Historical Park to include staffing for the Old Joseph Monument Visitors Center. I support the expansion of the Nez Perce National Historic Park to designate and commemorate significant and historical sites in northeastern Oregon, Idaho, Washington, and Montana.

After the Nez Perce War of 1877, Chief Joseph and the Nez Perce Tribe were transported to Oklahoma. Due to unsanitary living conditions and an alien climate, many Nez Perce died there. Finally, in 1885, Chief Joseph and the Nez Perce were allowed to return to the Northwest. Although they could not go back to the Wallowa Valley in Oregon, they were placed on the Colville Indian Reservation in Nespelem, WA. Chief Joseph died there on September 21, 1904.

In the State of Washington, the National Park Service has identified the winter and summer campsites of Young Chief Joseph, and his final grave site. It is my hope and intention that this authorizing bill will pass soon and we can further clarify the intent of the expansions proposed in the President's Budget. I would like to request that the Senate conferees have the opportunity to address the expansion of these sites when the Interior appropriations bill goes to conference with the House of Representatives.

Mr. BYRD. Mr. President, I would respond to my friend from Washington that in the event authorizing legislation is enacted expanding the Nez Perce Park, funds provided in the act can be used for the additional sites within the allocation made by the National Park Service to the Nez Perce Park.

BATTLEFIELD OF CORINTH

Mr. LOTT. Mr. President, the battlefield of Corinth is a significant part of our Nation's history. Corinth was the scene of a monumental battle during the War Between the States. The Battle of Corinth, the largest to take place in Mississippi, and the siege of Corinth, both rank, in terms of aggregate numbers of troops involved, among the largest in the history of the Western Hemisphere. I have drafted an amendment which proposes $135,000 for archeological surveys, studies, and exhibit designs for an interpretative center. However, I understand that the committee has adopted a policy that no new visitor centers be funded due to limited funds.

Mr. COCHRAN. Corinth was the Confederacy's only East-West link; here the Memphis and Charleston Railroad crossed the critical Mobile and Ohio Railroad. These were the two longest railroads in the South, and this junction eventually acquired the nickname "crossroads of the Confederacy." The possession of Corinth was the key to victory during the War Between the States because of the railroads.

Mr. NICKLES. As I understand, the Corinth battlefield and the site of the Corinth siege, they are the only sites in Mississippi included on the Secretary of the Interior's list of priority Civil War Battlefields. They are 2 of the 25 endangered battlefields identified for immediate action by the Secretary of the Interior. These sites are now threatened by urban encroachment due to residential development and rezoning. What actions would be necessary to protect this site?

Mr. LOTT. The National Park Service has prepared a prospectus for Corinth, with the first step in protecting the battlefield to be the completion of an indepth plan with a series of specific alternatives for preservation and acquisition. To begin preparation of the plan certain resource information is needed. This includes archeological studies and interpretive designs that would be prepared in consultation with local officials and the city of Corinth.

Mr. BYRD. Due to limited funds, the committee was unable to provide funds for the entire amount of the battlefield request. However, the committee did increase technical assistance to local communities working on battlefield protection by nearly $900,000 above the base. We understand the need for this planning to begin for the Corinth battlefield site and other projects like it. We will work during conference so that the Secretary of the Interior will use the funds provided to give technical assistance to local communities like Corinth for archeological surveys, studies and interpretive designs.

Mr. COCHRAN. We thank the chairman for his attention to this item, and we appreciate all that has been done for Mississippi in the past.

SALVAGE SALES

Mr. HATFIELD. As the distinguished chairman of the Appropriations Committee knows, some of the national forests in the States of Oregon and Washington have been decimated by insect infestation, disease, and other natural disasters. As a result, there is a large volume of dead and dying timber which should be made available for sale under the Forest Service's salvage sale program.

In light of the many problems the forest products industry and its workers face in the Pacific Northwest regarding the spotted owl and various Federal court injunctions, I am eager to free up some of the salvage volume for sale to Oregon sawmills.

However, I also am concerned that proper care be taken during salvage operations to protect the long-term health of the forest. In particular, I am concerned that salvage activities be carefully managed not to harm sensitive riparian areas which serve as important habitat for threatened and endangered salmon, other fish species, and other forms of wildlife.

Accordingly, I believe that the Forest Service must ensure that parameters are established for forest health restoration and salvage activities which specify methods of protecting sensitive fish and wildlife habitat in these damaged areas.

Mr. BYRD. I agree with the Senator from Oregon. The Forest Service needs to identify and protect those sensitive riparian areas and take the necessary measures to return them to a healthy condition. What measures does the Senator from Oregon have in mind to accomplish this objective?

Mr. HATFIELD. To begin with, the Forest Service should salvage only dead or dying trees. Buffer strips along streams should be designed appropriately to meet site-specific needs, particularly with respect to water quality, fish habitat, long-term stream channel function, and the overall health of the watershed.

As the chairman knows, Speaker FOLEY and I recently requested the Secretary of Agriculture to conduct a comprehensive review of forest health restoration health requirements, and this study is to be completed next spring. We expect the Forest Service, together with its sister resource agencies, will fully evaluate the study, and include recommendations to the Congress which identify additional actions necessary for adequate protection of damaged watersheds in these areas. Such recommendations could include, but not be limited to, evaluation of soil erosion, the need or impact of new road construction, advanced hydrological recommendations, temperatures, and flow levels, among other measures.

Mr. BYRD. I agree with the senior Senator from Oregon, and the committee expects the Forest Service to fully protect forest health, endangered species requirements, and other forest resource values while still meeting the economic and human needs of our communities.

Mr. HATFIELD. I thank the distinguished chairman of the Appropriations Committee for clarifying the Forest Service's responsibilities in this area.

NET RECEIPTS

Mr. WALLOP. Mr. President, I would like to ask the chairman a question regarding a provision in the interior appropriations bill which revises Federal law to require States to pay a portion of the Federal administrative costs for mineral development on public lands. I do appreciate the hard work by the chairman, the ranking member, and their staffs on this matter.

Recently, the chairman and I were involved in rather intense, but ultimately fruitful, negotiations regarding the rescue of the United Mine Workers retirees health insurance program. This was an issue of great importance to the State of West Virginia due to the large number of retired coal miners. Therefore, I think my colleague from West Virginia will understand my passion about the issue of administrative cost share for mineral receipts because of the impact on my State of Wyoming.

The diversion of payments under the State share to cover Federal administrative costs is a severe blow to Wyoming's resources. Being a public lands State, Wyoming is denied tax revenues from much land and resources in the State. When mineral receipts are diverted to federal administrative costs, every community in Wyoming suffers. Funds are denied for our children's education, our transportation system, police and fire protection, and other basic services.

The authorizing committee, the Senate Energy and Natural Resources Committee, authored the Federal statute which prohibits any cost share. The position taken by the Interior Appropriations Subcommittee on mineral receipts is to require the States to share 25 percent of the costs. While this modifies the position than the authorizing committee, it is much closer to that position than the language included in the House Interior appropriations bill. That bill requires 50 percent cost share. I would therefore seek the assurances of both the chairman and ranking member that they will vigorously defined the Senate position at conference.

Mr. BYRD. I appreciate the Senator's point of view and I can assure him that I will make every effort to uphold the Senate position.

Mr. NICKELS. I would join in the chairman's remarks.

Mr. WALLOP. I thank my colleagues for their help on this. For next year, the administration assures me they will pursue this matter through proper channels. That is, if they seek administrative cost sharing in future years, they will do so by recommending to the authorizing committee a change to the Mineral Leasing Act of 1920 rather than including it in the President's budget proposal.

ADVANCED BATTERY RESEARCH AND HYBRID VEHICLES

Mr. KASTEN. Mr. President, I understand this legislation includes a provision to grant limited protection of proprietary information developed in the electric and hybrid vehicle research program. I support the committee's action, and believe this will help advance our technology.

Mr. BYRD. That is correct. We do provide a 5-year protection for trade secrets on commercial or financial information that is privileged or confidential if that information is developed through the U.S. Advanced Battery Consortium [USABC] or through the proposed hybrid vehicle propulsion development program. These protections only apply to these two specific programs.

Mr. KASTEN. I do have a question about who can participate in these programs. It is my understanding that it is not the committee's intention to either restrict or select who is eligible to participate in this program.

Mr. BYRD. It was not the committee's intent to limit or restrict eligibility in the USABC, nor is it the committee's intent to limit or restrict participation in the proposed hybrid vehicle propulsion development program. We do recognize the need for a selection process, but it is not the intent of the committee to make these selections by the Congress. With regard to the advanced battery work which is being funded through the USABC, the USABC requested proposals for advanced battery research. The deadline for those proposals has passed and the USABC has entered into at least one contract as a result of those proposals. It is my understanding that more than 40 proposals were received and that the competition was open and competitive. Negotiations with successful proposers are currently taking place.

It is expected that battery manufacturers will be part of the competitive consortia formed through the hybrid program and participation will not be limited to those selected through the USABC.

Mr. KASTEN. I thank the distinguished chairman.

PONY EXPRESS VISITOR CENTER

Mr. DOLE. Mr. President, I have been told by the Senator from Oklahoma that, because of a tight budget allocation, the Interior Subcommittee was unable to fund any new visitors centers this year. Well, I think that is a good rule. It is time we start making some tough choices around here.

Unfortunately, I think the subcommittee may have wrongly ruled out one of my requests by applying this rule too strictly. The project is a visitor center at the pony express station in Hanover, KS. This is not a new project. The Senate provided $150,000 for a feasibility study in the fiscal year 1991 Interior appropriations bill.

The Park Service completed this feasibility and planning study in March of this year. The study concluded that, as the only remaining unaltered pony express station, the Hollenberg Pony Express Station is a nationally significant property that is a target destination for people following the route of the pony express. The Park Service recommended that because of the site significance, a visitor center should be built at the Hollenberg Pony Express Station.

It is my hope that the subcommittee would consider providing either $2.2 million for the design and construction of a visitor center or $235,000 for the design alone.

This is a very reasonable cost for a visitor center. Once it is built, the operation of the center would be funded and managed by the State of Kansas through a cooperative agreement.

I apologized for not coming to the subcommittee earlier with this request, but the pony express national trail bill was just signed into law on August 3, 1992. I did not feel it was proper to move ahead with a visitors center until the trail was recognized as a national trail.

Mr. NICKLES. The subcommittee has had a number of requests for visitor centers this year and we have set some tight restrictions to narrow the list. Since we are unable to do anything this year, I can assure you we will give this project priority next year.

Mr. DOLE. I appreciate the Senator's support of this project and look forward to working with him next year to fund the pony express visitor center.

AMENDMENT NO. 2901

Mr. SANFORD. I rise today for a moment on Senator FOWLER's amendment offered last night regarding below-cost timber sales. It was with great care and caution that I cast my vote against that amendment.

Senator FOWLER is unquestionably sincere in his efforts to improve national forest management. While I do not always agree with the proposals of the Senator from Georgia, I certainly do share his interest in forest management policy reform, and I have supported him on a number of issues, including the two votes today regarding the Forest Service administrative appeals process.

I agree with the Senator from Georgia that we must reduce below-cost timber sales. I have strongly encouraged the Forest Service to accept the input of all parties that are sincerely interested in, and knowledgeable about, forest management reform in order to try to gain some consensus on timber sale procedures and surrounding issues. The Forest Service appears to be making progress, but I realize that more must be done.

Last night, Senator FOWLER offered language to reduce the timber sales preparation account by $35 million. The argument behind this amendment reasons that this reduction in funding would reduce below-cost sales by 25 percent. I certainly want to reduce below-cost sales, but I could not support the Senator's amendment.

It helps to put this amendment in perspective. I would, therefore, note that in fiscal year 1992, $124 million was provided for the timber sales preparation account. For fiscal year 1993, President Bush proposed $109 million for this account, and the Senate Appropriations Committee reduced this amount by $16 million, for a figure of just over $93 million. I believe this reduction of approximately 25 percent from fiscal year 1992 to fiscal year 1993 is a responsible step in reducing the timber sales preparation account and in reducing the below-cost sales.

Given the Senate Appropriations Committee's recommended level of funding, it would have been irresponsible of me to vote for an additional reduction of $35 million this year. Such a reduction would have undoubtedly adversely affected those individuals in my State of North Carolina, and others across the Nation, who depend upon Forest Service sales for a significant portion of their income. Had the amendment prevailed, many worthy potential sales, not just below-cost sales, would undoubtedly have been delayed or never be acted on. Such a drastic cut in one year might go beyond the fat and to the meat of the timber sales program.

I am a strong believer in the multiple-use of our forests, including the need to meet the demands of timber harvesting, recreational opportunities, and wildlife habitat preservation. I could not, and can not, vote for a policy that would suddenly cripple any of these goals. While the Forest Service accounting process is undergoing significant review, and it is appropriate to send a message to the service that it must run a tighter ship, we should not pull the rug out from under the agency in one appropriations cycle.

To Senator FOWLER I must say that I appreciate his efforts and I hope to work with him to address the below-cost issue in the future. I will continue to work for reasonable reform to make the timber sales process more cost-efficient.

AMENDMENT NO. 2902

Mr. SANFORD. Mr. President, I rise in strong support of the appeals amendment offered by my colleague from Georgia, Senator FOWLER.

I have expressed concern many times to my constituents over the announcement earlier this year by the Secretary of Agriculture to begin proceedings that might do away with meaningful public input into the management of our national forests. The amendment offered by my friend from Georgia is only necessary because of this action by the Department of Agriculture.

Since my colleagues have spoken at length about the specific content of the Fowler amendment, I will only make a few brief remarks regarding my reasons for supporting this measure.

Let me state briefly that I support sustainable yield harvesting of timber on our national forests and realize that our forest system was originally established to provide this Nation with a long-term timber supply. However, Mr. President, we are talking about public land, purchased and managed at the taxpayers' expense. I have consistently supported efforts to ensure that the public is not removed from this management process.

Citizens, whether they be acting on behalf of themselves, a local government, a sportsmen's group, or a conservation organization, deserve the right to request clarification of the legal requirements and soundness of decisions handed down by the Service. It doesn't seem unreasonable to, in the words of the Office of Technology Assessment, encourage "more responsibility and accountability on the part of deciding officers. * * *" Accountability on the part of our government is not something we should be discouraging.

I find it difficult to believe that the elimination of project-level appeals will save the government time and money. Under the Forest Service's current proposal, those who find fault with project decisions must carry their grievances to court. We all know the costs incurred by all parties involved in a lawsuit, and we all know how long it takes for the cogs of our legal system to turn—the winners are generally the lawyers. It seems reasonable to have the Forest Service, with its professional staff, review most of these matters internally.

I have been straight with my colleagues and constituents about the problem of frivolous appeals. Several of my friends in the Senate have pointed out examples of this problem. The actions of those who file appeals with no other purpose than to thwart the business of the Forest Service should not be condoned. However, Mr. President, if the problem is frivolous appeals, then let's address this problem directly. The Service is, instead, about to throw the baby out with the bathwater. The Fowler amendment will keep this from happening.

My colleague from Georgia has spoken about his concern over how this proposed new Forest Service policy came to be announced, and he has mentioned that a recent Service review of its own appeals program has received limited attention within the Department of Agriculture. Whatever the case may be, it is essential that, within our open form of government, the taxpayers be given legitimate input into those Forest Service decisions which must seek to balance the interests of timber, wildlife, and recreation.

I hope my colleagues will support me in denying any effort to table the amendment by the junior Senator from Georgia.

AMENDMENT NO. 2904

Mr. SANFORD. Mr. President, I rise in opposition to the Gorton amendment on the sale of salvage timber.

Congress devised the National Forest Management Act, the National Environment Policy Act, and the Endangered Species Act with the input of scores of citizens, scientists, and other professionals. Several proposals are now before House and Senate committees which require a reevaluation of these laws.

I am not comfortable with this proposal, which sounds fine on the surface, but effectively gives the Forest Service the authority to violate or suspend standing statutes. Not only does this amendment confront existing environmental laws, it also appears to override an existing court injunction which calls on the Forest Service to complete a sound management plan to preserve Northwest wildlife habitat.

In addition to those arguments which point out the impact that salvage sales may have on wildlife habitat and the threat of fire in our forests, this amendment simply represents bad public policy in my opinion.

As the Department of Agriculture has testified to the fact that the Forest Service presently has sufficient authority to conduct salvage timber sales in our national forests, I urge my colleagues to support the motion to table the Gorton amendment.

Mr. BYRD. Mr. President, I ask that the Senate proceed to third reading.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 5503), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, passed.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. BYRD, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. BUMPERS, Mr. HOLLINGS, Mr. REID, Mr. NICKLES, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. RUDMAN, Mr. DOMENICI, Mr. GORTON, and Mr. HATFIELD conferees on the part of the Senate.

Mr. BYRD. Mr. President, once again I want to thank all members of the Appropriations Committee and all Members of the Senate for their patience. I especially thank my counterpart on the Appropriations Committee on the Department of Interior, Mr. NICKLES. He is a fine Senator, and I am exceedingly proud of my good relationship with him.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I thank my friend and colleague, the chairman of the subcommittee and chairman of the full committee, Senator BYRD, for his leadership. We have had an excellent working relationship. I believe we came up with a very good bill, one that has less than 1 percent growth in budget authority and outlays.

I might mention if you took out the increase for Indian health service, it would have zero percent growth. And that was not easy to do in light of the fact we had thousands of requests for special projects.

I also wish to thank the staff on both sides, particularly Sue Masica and Cherie Cooper, for doing one outstanding job.

VOTING RIGHTS LANGUAGE ASSISTANCE ACT

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill H.R. 4312.

The legislative clerk read as follows:

A bill (H.R. 4312) to amend the Voting Rights Act of 1965 with respect to bilingual election requirements.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I do not see my colleague, Senator SIMPSON. I would like to enter into an agreement that only a certain number of amendments would be in order. But I will hold off doing that until Senator SIMPSON is on the floor.

I am pleased to speak in behalf of the extension of the Voting Rights Act, of the language assistance amendments. And I am pleased to say we have 30 sponsors of this legislation. My principal cosponsors are Senators HATCH, DECONCINI, SPECTER, KENNEDY, INOUYE, MCCAIN, DASCHLE, DURENBERGER, CRANSTON, BINGAMAN, WIRTH, METZENBAUM, DIXON, WELLSTONE, MURKOWSKI, PACKWOOD, WOFFORD, AKAKA, KASSEBAUM, BOREN, MITCHELL, HARKIN, GRAHAM, BRADLEY, DODD, D'AMATO, LEVIN, ADAMS, and CHAFEE.

We are meeting on August 6. This particular portion of the Voting Rights Act expires August 6, 1992. It could hardly be more timely that we meet tonight. Back in the early 1900's, as the

U.S. Supreme Court ruled, the protection of the Constitution extends to all, to those who speak other languages as well as to those born with English on the tongue.

What we have experienced with a limited amount of experience on the language assistance portion of the Voting Rights Act is that it has encouraged more people to vote and it has particularly been of help to older Americans.

We will jeopardize the means by which hundreds of thousands of limited English-speaking U.S. citizens will exercise their right to vote in the November election if we do not pass this legislation.

It is particularly designed for the Hispanic, Asian-American and Native American communities.

Enactment of this legislation, as I indicated, is extremely timely, but it is timely also in the fact that we are heading soon toward an election. California's chief elections officer, Secretary of State March Fong Eu has written to me with some urgency about this legislation. She states that "any significant delay will increase the cost of compliance and could interfere with the right of the franchise itself." She concludes very powerfully, "We need to know now."

The right to vote in the United States has generally been expanded through our history with one exception, and that exception is early in our history noncitizens generally had the right to vote. Today, there are still a few jurisdictions where noncitizens can vote, but generally it is only citizens who have the right to vote.

Two hundred years ago, you had to be 21, you had to be white, you had to be male, and in many jurisdictions, you had to own property. We have expanded the right to vote, and we are a better country for it.

The Voting Rights Act of 1965 focused primarily on electoral discrimination against African-Americans in the South. But in 1975, we expanded the Voting Rights Act to cover those groups where they comprised at least 5 percent of a local jurisdiction's population.

In those jurisdictions, English-only election procedures were supplemented with oral and written assistance in the language these U.S. citizens knew best, be it Spanish, Navajo, Chinese, or another, along with English.

Let me add again, it is the older Americans, and a majority of them native-born Americans, who are beneficiaries of this. American Indians who need help are Americans, just as much as any of us. Puerto Ricans who need help are Americans, just as much as any of us.

Hispanic voter registration increased 83.4 percent from 1976 to 1988, almost four times the 21 percent increase among the general population. We see more Hispanic, Native American, and Asian American elected officials than ever before.

The Judiciary Committee—I have great respect for my distinguished colleague, Senator SIMPSON—but the Judiciary Committee passed this legislation out by a 12-to-2 vote. This authorizes a 15-year reauthorization. So it expires with the rest of the Voting Rights Act.

Language assistance voting is not new. It is not untested. We have had a good experience with it. Language minority citizens see a difference in their daily lives when they are able to participate.

Suddenly, elected officials become more responsive when people vote. That is nothing new to any of us. And it is one of the reasons, frankly, that Puerto Rico, for example, gets short shrift: Because the U.S. Senate does not need to pay attention to Puerto Rico. It is why the District of Columbia too often gets short shrift. When people vote, there is more attention paid to them.

Larry Echo Hawk, who is now the attorney general of the State of Idaho, and I believe the only Native American who is a statewide elected public official in the country right now, testified about the real difference the language assistance in voting has made to Native American residents of his State.

He told the Constitution Subcommittee that Indian leaders had experienced difficulty in attracting the interest and attention of State and county elected officials. After some initial resistance, the county provided Indian-speaking deputy registrars and poll workers. Election day 1984 was a very special experience. There was a record turnout of Indian voters. Many Indians, including several tribal elders, voted for the first time ever in a State election.

On the island of Puerto Rico, you have voter participation that is regularly above 80 percent. But here on the mainland, language is clearly a barrier.

Under the current law, Hispanic and Asian American communities in Los Angeles, New York City, Chicago, Philadelphia, San Francisco, and other cities are not covered by the current 5 percent in the Voting Rights Act. There is a significant gap between the voting participation rate of Hispanic U.S. citizens and the general population where we do not have language assistance.

In the State of Illinois, for example, where we have not had language assistance under the act, the Hispanic voter registration rate is less than half of the rate among Anglo voters.

On the other hand, in the State of New Mexico, where bilingual voting has been the rule since statehood in 1912, the Hispanic voter registration is 85 percent of the Anglo rate. And in the State of Texas, the Hispanic voting registration rate is 65 percent of the Anglo rate.

The typical voter, as I indicated, who benefits from this is someone who is of limited background in terms of education, usually not a high school graduate, an older citizen. But the majority are native-born U.S. citizens.

The General Accounting Office reported in the 1984 general election in 1,102 Texas precincts, one-quarter of Hispanic voters used bilingual voting material. These voters accounted for 9 percent of the total voters in these precincts. Oral assistance at the polls was used by 32 percent of Hispanic voters; 12 percent of all voters in these precincts.

Asian Americans are the fastest growing ethnic group in the Nation. Some like to consider Asian Americans as the model minority, but that perhaps well-intentioned moniker masks real challenges facing that community.

The U.S. Commission on Civil Rights, in its comprehensive 1992 report on the Asian and Pacific Islander community, made very clear the need for language assistance in voting.

According to the Commission's report, limited English proficiency is a serious barrier to the political participation of many Asian Americans.

Census figures reveal 69 percent of all Laotians now living in the United States do not speak English, as well. The same is true for 38 percent of Vietnamese; 24 percent of Koreans; and 23 percent of Chinese.

I would like to also mention the area of cost, because that has been mentioned. First, we are talking about a fundamental right in the right to vote. Even if it were very expensive, it is something that I think we should address. But the reality is that it has cost 4 to 7 percent, on the average, of the costs in the various jurisdictions.

In San Francisco, for example, a city that has elections in three languages—Chinese, Spanish, and English—bilingual election amounts to just 5 percent of the total cost; 21 percent of the population in San Francisco speaks Chinese and 12 percent Hispanic.

I might add, Mr. President, I have here, for any Member who would be interested, the sample ballot from San Francisco, if any Member wants to see it.

And you have it in English, in Spanish, and in Chinese, all in one line—it is not that complicated; not that complex; not that difficult. We are not talking about a huge burden for these various election jurisdictions.

The administration agrees that a numerical trigger is necessary and important, and an important adjustment to the current coverage formula. They frankly favor 20,000 rather than the 10,000 that we have in this bill. But I am pleased that Senator HATCH and others in the committee agreed on the 20,000 figure.

Finally, Mr. President, there is no question that to function effectively in our society, you need to speak English, and we ought to encourage that.

But in San Francisco right now, 12,000 people are on the waiting list to get into classes to speak English. In Los Angeles, it is 30,000.

I ask unanimous consent to have printed in the RECORD, Mr. President, an article from the San Francisco Chronicle. The heading is "Thousands Shut Out of English Classes in California Schools."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the San Francisco Chronicle, Nov. 5, 1991]

THOUSANDS SHUT OUT OF ENGLISH CLASSES IN CALIFORNIA SCHOOLS

(By Louis Freeberg)

With English language classes filled to capacity, tens of thousands of new immigrants to California have been unable to sign up for English courses at community colleges and adult schools.

The shortage of the language classes has raised concerns that many in the state's burgeoning immigrant population will have a more difficult time coping economically and in this society in general.

"It will make them less employable and less capable as people," said Renato Rosaldo, an anthropologist at Stanford University. "What I see is that there are a lot of people falling through the cracks."

According to officials, there are waiting lists for English as a Second Language, or ESL, classes at the majority of the state's 107 community colleges, which serve more than 75,000 immigrant students.

"We could serve twice as many students as we are serving now if funding were available," said Saeed Ali, a vice chancellor of the California Community Colleges.

He said getting an exact count of the need is difficult.

"Often waiting lists are so huge and so long that it doesn't make sense to keep them," he said.

WHAT ADMINISTRATORS SAY

Officials say their inability to expand adult classes for immigrants is tied to the state's budget crisis, which has frozen or cut back on financing to community colleges and school districts. Many have already stretched their resources by providing classes for which they are not reimbursed by the state.

"The demands are expanding fantastically," said Irving Weinstein, vice chancellor of the Los Angeles Community College District. "And with budgets shrinking, it's going to be an even worse problem in the future."

In San Francisco alone, more than 12,000 people are on the waiting list at six campuses of City College, where enrollments, in ESL classes total about 25,000.

In Los Angeles, at least 30,000 students are on waiting lists at both the Los Angeles Community College and in classes run by the Los Angeles schools. At adult classes at the Eastside Union High School District in San Jose, 2,832 adults are enrolled in ESL classes, and an additional 2,600 are on waiting lists.

A survey conducted two weeks ago by the Eastside district of adult programs in 10 surrounding districts found that immigrants had tried unsuccessfully to get into classes in seven of them.

The problem is apparent at the crowded Alemany campus of the San Francisco City College on the corner of Van Ness Avenue and Eddy Street, where ESL classes are filled to capacity. During the past five years, not only have enrollments climbed, but the average number of students in each class has crept up from 24 to 29 per class.

Almost 7,000 adults have signed up for ESL classes, and an additional 2,214 are still on the waiting list.

In the counselor's office of the old elementary school that now serves adult students, a blackboard with a listing of dozens of ESL classes is covered with yellow stickers indicating that the classes are either closed or drawing students from the waiting list.

Counselor Sharon Fain said the waiting list is deceptively short. She says many students do not bother to sign up because they have heard from family members that classes are full. Others are turned away without being given the test.

"We could easily have twice as many teachers and classes," she said. "My sense is that there are many thousands of people who we could be serving that we aren't."

On the second floor of the old school, instructor Bob Nelson, now in his 27th year as an instructor, coaches his beginning English students. Each class is two hours long, and students are expected to attend each day of the week.

"You can say "he likes swimming' but you can't say 'he likes eat'," Nelson explains to his attentive class. Fifteen are Asian, and 11 are from Spanish-speaking countries. Most came to the United States during the past year and a half, and only 10 had ever studied English before signing up for classes here.

Guillermo Romero, a 35-year-old Colombian, came to San Francisco less than two years ago hardly speaking a word of English. "I arrive on a Monday, and on Thursday I was taking classes here," he recalls. Since then he has taken classes steadily, and has leapfrogged into the highest level of ESL instruction.

Maya Kuznetsova, 52, a Soviet Jewish immigrant and a part-time housekeeper, says she started with "zero" English when she arrive two years ago.

David Nguyen has been in the United States for 10 years, but he only started taking classes this year.

"If I had been here earlier, my English would be better," said Nguyen, a former officer in the South Vietnamese army who was imprisoned for five years by the Vietnamese government.

Kenji Hakuta, a professor of education at Stanford University, said, "Immigrants are the first to realize the value of these kinds of classes."

He said expectations that immigrants can pick up language skills on their own is unrealistic.

"Language acquisition is a complex process, and there is nothing that can beat getting formal instruction."

Mr. SIMON. Mr. President, I appreciate the help of a great many people. I particularly appreciate the help of the chairman of the full committee, Senator KENNEDY, and Senator HATCH, who is not able to be with us this evening because of an illness in his family.

Before I yield the floor, Mr. President—and I have not had a chance to talk to Senator SIMPSON about this—but I wonder if we could agree on a limitation.

I believe the Senator has three amendments. Is that correct?

Mr. SIMPSON. What is correct.

Mr. SIMON. Mr. President, if we could agree that there could only be three amendments offered by Senator SIMPSON; one amendment offered by Senator BROWN; and no further amendments other than those amendments.

Mr. SIMPSON. Mr. President, we struck that unanimous consent agreement to do just that. So we are ready to proceed.

Some have indicated to me that they wished an opportunity to amend.

The PRESIDING OFFICER. The Chair informs the Senators that the agreement was entered into previously. It is the order.

(Mr. AKAKA assumed the chair.)

Mr. SIMPSON. I certainly concur and agree fully with the Senator from Illinois.

Mr. SIMON. All right. Mr. President, I yield the floor.

Mr. SIMPSON. Mr. President, to discuss this is obviously a bit difficult to do, perhaps probably the most politically incorrect thing to do, but I want to share with my colleagues some very serious concerns. I hope we all understand that what we are addressing here is not a civil rights bill, which has all the connotations of sparks and fire and racism, and all the stuff that goes with this kind of a debate. This is not a civil rights bill. Some are portraying it that way—not the proponents, but others out there known as "the groups," which is a sinister phrase in itself. It is not a civil rights bill. It is a bilingual ballots bill.

I oppose this bill in my own complete good faith, because I truly believe that it will actually promote divisiveness rather than inclusion, rather than cohesion.

It certainly will not happen with my friends, Senator SIMON and Senator KENNEDY. The three of us happen to constitute one of the smallest subcommittee in the Senate, the Subcommittee on Immigration and Refugee Policy. There are only three of us. Senator KENNEDY is chairman, Senator SIMON, and I am the ranking member. I think that is because no one else likes to even get involved in these issues. Our chairman, Senator BIDEN, and our ranking member, Senator THURMOND, allow us to proceed in these tough issues of immigration, refugee policy, funding of refugees, issues of illegal immigration, legal immigration, restrictions, allocations.

These are difficult things, but I trust that we will not be drawn into any ugly suggestions of racism. Certainly, it will not come from my colleagues on the subcommittee, because we all get quite enough of that in our line of work in this place.

As I have often said—and I know it is tedious to many, and I know you all tire of it—I have been here 13 years plus, and I have watched continually how the deft use of emotion, fear, guilt, or racism is used to pass or kill a measure. "So it was in the beginning, is now, and ever shall be," we say in our faith. Let it be clear, too, that this is not a stall on my part, and I know Senator SIMON and Senator KENNEDY will agree. I see the groups, as we call them, have indicated that I was up to something like that. That is not true. You will see that, indeed, it is not true.

I want to thank the fine majority leader. He has been very helpful. I know there has been a great deal of pressure from the groups to press forward, regardless of intent or content or anything else, or even discussion to try to wrap this one up. He has given me the opportunity to express myself here in a brief period of time, as has Senator SIMON, as has Senator KENNEDY, the chairman of the subcommittee.

So I just say that this amendment would extend what I consider, and others out in the land at least—there will not be many here that will surface on this one. This is very politically incorrect to dabble in this mystery right here, and that is why I want to dabble with it for a little bit of time.

This amendment would extend what I consider to be an ineffectual provision of the Voting Rights Act, which is the bilingual ballots provision, for another 15 years. I had hoped that we could examine it and let it be extended for 5 years or 10, not 15, especially when for 17 years it has proven to be, I think, ineffectual.

Let me say that I do not believe in any way that the proponents do not feel strongly that it will increase voter participation via minority language groups and bring them more fully into the political system. I do not question in any way the good will or good faith of my colleagues who sponsored this bill, but I do fear—and I share with my colleagues—that these provisions will do more to separate than to include.

I believe we must be very, very careful when we treat certain groups special. In some cases, the end may justify special treatment, but in others, such as in the case of bilingual ballots, the special treatment that they provide has not been shown to result in greater participation of language minorities in the voting process.

My concern about the bill comes, in part, from my participation in this area of immigration and refugee matters for 12 years. In 1986, I sponsored an immigration bill with a highly successful legalization program. It brought nearly 3 million additional new immigrants into a legal status in the United States, into the fabric of our Nation where they could no longer be exploited or used. I had a tough time hauling the water on that, but we got it done, thanks to the help of a lot of thoughtful Republicans and Democrats, because the only avenue for the legalization of these 3 million was the bill. Yet, the groups resisted the passage of the bill, which was a totally selfish and rather repugnant act, I thought, as I observed it take place. That is history.

Then, in 1990, Senator KENNEDY and I cosponsored an immigration bill which increased legal immigration to this country by nearly 40 percent—we took some rocks on that one—the largest single increase in our country's history. But we got reform and changes in the preference system, and we got some things that made a difference, and it is on the books. So, as a result, immigration now to the United States is at an all-time high. We will admit, legally, more than 800,000 newcomers to the United States this year alone. People are observing this, especially in times of their own extremity, in times of their own jobs at stake. They are watching very carefully, not in a racist way, just in a way of surviving.

So we will take in 800,000 newcomers this year alone. Hundreds of thousands more will enter illegally still and remain in this country, until we do something with the identifier systems. I think, without putting any type of pressure on my colleague, I think Senator SIMON agrees that some type of universal identifier, which is not intrusive, not carried on the person, not used for law enforcement, not used for any other purpose than presentation at the time of new hire, is something to consider.

I will not take him any deeper into that pit this evening, but we will discuss that at a future time, indeed. Again, that is something that is not maybe PC, but let me tell you it is very important if you want the systems to work with existing legislation that we have.

So with what is coming legally and illegally, because of the lack of proper identifiers and total fraud within the system of what is presented, we will raise the total annual immigration to more than 1 million persons this year.

With legal immigration at record rates, we have to pay, I think, clear attention to the integration and assimilation of these new Americans. Those are not nasty words. Assimilation and integration never have been flash words or charge words and, yet, they seem to be somewhat now. That is not my intent. We really do not ask very much of a new immigrant to this country, but one thing we do expect of them is that they accept our system of government and our common language and a common flag. I refer to this as our public culture. What they wish to do in their private culture is nobody's business.

It is particularly important that we insist upon this acceptance of our public culture if we expect the majority of American people, the majority of American people, to continue to support—and I do not know that they will much longer support—continued large-scale immigration to the United States.

In my mind, the surest way to encourage xenophobia, fear of foreigners, which is all over the continents of the world now—people run in various countries as xenophobes, as foreign baiters, and they win tremendously increasing amounts of the ballot strength in each country. Very disturbing.

But in my mind the surest way to encourage xenophobia and ethnic prejudice is to encourage the growth of enclaves in the United States where English is not the common language, which is the language of commerce, the language of Government, and the language of jobs. The language of employment is English.

The late Theodore White, the great author and the man I got to know somewhat, wrote to me during the consideration of the 1986 Immigration Reform and Control Act, saying that he considered—this is Teddy White— he considered bilingualism and biculturalism to be the greatest threats that our country faced. That is Theodore White, "The Making of a President," a chronicler of our times.

Similarly, the deeply loved and respected author, James Michener, who is a personal friend of mine—I met him many years ago when he was writing "Centennial." He has studied and written about most of the societies and peoples of the world, and faiths and ethnic groups. He has been a guest in my home and I in his. We have personally visited many times about his concern that bilingualism seems to be permitted or to be encouraged in so many forms in the United States.

I think Senator KENNEDY will remember, as we dealt with this bill twice before, James Michener in the gallery observing the Senate activities, and I remember that very well.

Arthur M. Schlesinger, Jr., who is not unknown to my colleague from Massachusetts because of his remarkable work with the Senator's brother, in his recent book, Arthur Schlesinger, Jr. said—this is the book entitled "The Disuniting of America, Reflections on a Multicultural Society." And he writes:

> What happens when people of different ethnic origins, speaking different languages and professing different religions, settle in the same geographical locality and live under the same political sovereignty? Unless a common purpose binds them together, tribal hostilities will drive them apart. Ethnic and racial conflict, it seems evident, will now replace the conflict of ideologies as the explosive issue of our times.

And he was not just talking about foreign countries, he was speaking about all societies.

Now, all of these men are true civil libertarians, not racists, not xenophobes, but they do care about unity and stability in their beloved country.

I fear that providing bilingual ballots to certain groups in this country will not encourage the learning of English. Rather, it will reduce the pressure to learn English on those who are offered ballots in another language. Bilingual ballots give the impression that our Government does not consider English knowledge to be especially important. We need to bring people into the mainstream of our society, and treating them specially, differently or separately, does not further that goal.

Recent events in this country have focused on differences between ethnic groups. We hear of news reports around the world reporting about an America which is fragmented, which is not united, which consists of groups of others fighting among themselves, beating each other up; stories about black persons being brutally beaten by white cops, Korean immigrants trying to make it by working hard defending their stores with guns against mobs who would burn them out because of their race and their color. That is how others in the world see us today.

It just seems to me that we in Congress should be doing whatever we can to help people to become and feel that they are part of our society, part of our system, one nation, our Nation, indivisible and under God. That is not corny stuff. That is how we formed this country. It is the only nation on earth founded with the belief in God or founded on the belief in God. People came here for that purpose, significantly and primarily so.

So what is the one thread that holds us all together, united? I believe that it has to be the English language, and the rest of our public culture.

I believe that anything we do to discourage the use of English, particularly when participating in our system of government and voting for people who represent it, is wrong. To be able to communicate and understand one another is a key to an integrated society that we all aspire to in this country. But we will not have an integrated society unless we can all communicate in a common language.

A few weeks ago—and you will hear this—on CBS radio there was a news report discussing the unrest in Mount Pleasant a year or so ago, and the complaint by some Hispanic leaders that not much had changed. They did not feel their promises had been kept and the promises of the majority in the District had not been met.

The Hispanic leader who was speaking about what needed to be done by the D.C. government was giving his address in Spanish, while another person was providing a simultaneous translation in English. We all know what simultaneous translations are. It is kind of like taking a deep breath and hope you got some of it. Whether it is the Russian or Turkic or whatever it may be, simultaneous translations leave so much unsaid.

So, my thought was, as I thought of that, that the District government should do more to include the Hispanic population, and that the Hispanic leaders should communicate their concerns much more effectively if they could do it in our common language, which is English.

My point, Mr. President, is that the building of any consensus, the doing of things we do here, parties working together, the reason that has ruptured in legislatures all over the world is that sometimes they do not speak a common language and they do not care to speak a common language and they do not intend to.

My point is that the building of consensus, the implementation of any solution that we come to in government, can best be done in a single, common language. And for the essence of American politics, the genius, if you will, of American politics is compromise. Compromise is an art that many, no, I would say, that most other countries have totally failed to achieve.

But to compromise, you must first understand clearly the other's position. And to understand the other's position, you must be able to listen to the other person. And how can we listen or learn or hear or explain to each other if we do not speak the same language? It cannot be done.

Now, I know that my friend from Illinois, a fine friend of over 20 years—we met long before we came to this place; we were legislators together in our respective States, known to me during those years—who authored the book "The Tongue-Tied American," believes that we should all learn other languages. He puts great stake in that. I agree.

And I am ashamed that I and so many of us right here are monolingual. Learning another language is so important. I hope that those that come here knowing another language will keep that language and teach it to their children.

But for a successful, truly successful, life to be led in America, whatever that term means—and it does not mean money; it means satisfaction and the blessings of America—but for a successful life to be had in America, they must know and use English.

All the great leaders of the Hispanic-American community know that. And yet they also know that they can build their constituencies if they can just take anybody into their system, under their wing, and they know in their heart what they are doing to their own system.

We here in the Senate have acknowledged the importance of knowing English on many occasions. And let me refresh your memory on this one. I recall the very first successful amendment to my original immigration bill in 1982 was a provision—it was a sense-of-the-Senate provision—to adopt English as the official language of the United States. It passed big. The vote was 78 to 21. Go look at the rollcall vote on that one. An array of the most extraordinary liberals, progressives, conservatives—whatever you want to define in a category, and it passed 78 to 21.

Of course Senator Hayakawa was here. And he was the one speaking very vigorously on it. I think it came up again. There was a vote of 75 to 25. There were other times when we dealt with it.

Sam Hayakawa was absolutely eloquent as he described how he succeeded in America, and he succeeded because of his knowledge of English and nothing more. Except he became, then, a semanticist and taught in the colleges of America.

I opposed that amendment when it came up. Go look at the people who opposed it, too. But I opposed it only because I believe it has no place on an immigration bill dealing with illegal immigration. Nonetheless, it passed this body by a 4-to-1 margin and, as I say, our departed friend Sam Hayakawa, rest his soul, led the debate on that.

I also then remember the Jim Wright amendment to the Simpson-Mazzoli immigration bill of 1986. That amendment, sponsored by the then House majority leader, became part of the House bill and was accepted by the Senate conferees in conference. It required any illegal immigrant receiving legalization to learn English before acquiring permanent status.

Speaker Wright, as he later became, knew exactly what was required to make it in America: English. He was from Texas. English proficiency is not only the key to success in America, but increasingly the key to success around the world and is the key to jobs.

So when I see any Government program that does not encourage English proficiency—and this is surely one—I wonder what effect that will have on our common bond, the common thread that binds us all together. I worry that what we are doing is simply for effect, for temporary, feel-good effect, which would surely backfire upon us in the future. So I look at this bill and I ask if it will have the effect of making everyone from every group feel included, represented, involved, given a stake, being a player in our society?

Let us look at the figures. I have said this before. Everyone is entitled to their own opinion but no one is entitled to their own facts.

I have looked at them. I am not convinced at all that bilingual ballots do anything to help unity, cohesion, and inclusion. I wonder if bilingual ballots might actually encourage feelings among those people of feeling very separate, and very apart, and very different.

I think we could all agree that nothing is more important to full participation in our system of government than the act of voting, the sacred act. Are bilingual ballots our way of telling people that they can fully participate in our society without knowing English, or are we telling them they are separate and different? Or is it just big nanny or a paternalistic Federal Government saying to someone that what we are doing is best for you, or we think it is best for you?

I am concerned that Congress does not have the evidence to support continuing bilingual ballots. I feel that by going ahead despite having no knowledge of its effects, we could be doing even more damage by expanding bilingual ballots to additional jurisdictions, and that is what this bill does.

But, let me say right here and right now and maybe this debate can bring us to that point, if someone can show me that bilingual ballots are truly needed, effective, and increase voter participation, and if they are truly useful and helpful in bringing people into our public culture, making them feel part of rather than separate from, I will support this bill. And I urge my colleagues to do the same.

But I am not ready to do that on faith; or on the vaporous and heady fumes of feel-good symbolism. I believe that a Federal requirement that State or local jurisdictions print official documents in languages other than English is generally a very bad idea. And there must be solid evidence that will produce a substantial good, before we continue that activity.

Let me go over some of the questions I have about bilingual ballots. Let us start with the hard data. This data all comes from the U.S. Department of Commerce, Bureau of the Census.

If bilingual ballots are intended to increase minority group participation in the voting process, I am here to tell you that they surely have failed. First let us look at the Hispanic voter registration numbers. I have heard it said that bilingual voting assistance doubles or triples voter participation. That is not true. After 15 years of bilingual ballots, the registration among Hispanic citizens moved up only 4 percent, to just over 50 percent. When it comes to actual voting the numbers are worse, 34.3 percent of Hispanic citizens of voting age actually voted in 1978. In 1990 that number had declined to 33 percent.

So, since the institution of bilingual ballots, the rate of voting participation for Hispanic citizens of voting age has declined. Please hear that. I have a chart to reflect that and would ask Mr. Day if he would retrieve that and I will present it to you without the giant rack which goes with it, which looks like a roller coaster apparatae.

So, hear that. Since the institution of bilingual ballots the rate of voting participation for Hispanic citizens of voting age has declined. Some will say—so what? All voting percentages have declined.

Let us look at the relative decline in voting. Are white voting rates declining faster than minority language voting rates? No. They are not. Minority language voting rates declined faster over the last 15 years.

So, do bilingual language, bilingual ballots, bring white and minority language participation rates closer together? No. That is certainly not the way I see it.

There is your description, percent of citizens reporting voting in congressional election years—by race. Rather an interesting thing we do now in our electoral process. It seems to be big in both parties but let us look at it because here it is.

In 1978 there was a difference here between white voter turnout and Hispanic voter turnout of 14.5 percent. Here to here.

And in 1990, this difference between the white voter turnout and the Hispanic voter turnout is 15.2 percent.

So there you are; 34 percent here dropped to 8 percent there. That is extraordinary. And that is the facts. That is what we are talking about here. I know there will be other, I am sure, facts. But I do not know anything more graphic than that.

So, do they bring these participation rates together, closer? No. That is not the way it is. That is not so. And these are from the Department of Commerce and Bureau of the Census.

Then, between 1978 and 1990, the gap as I say between the percentage of Hispanic citizens voting and the percentage of white citizens increased from 14.5 to 15.2, and that is not a majority/minority distinction either; or a problem with the Voting Rights Act in general. Blacks—and let us get this out of the way so we can move on to the debate—blacks have greatly benefited from the Voting Rights Act. And that is marvelous. That is what we were about.

In Mississippi, for instance, only 6.7 percent of the black voting age population was registered before 1965, the year the Voting Rights Act was passed. Only 7 years later, 63.2 percent of such persons were registered to vote.

Clearly, when the Voting Rights Act is the legislative solution to a very real problem, it can be very effective, was and is, and I have supported that fully.

Please hear me, I do not blame bilingual ballots for the decline in the voting participation rates by Hispanic citizens. I know the census figures are not perfect. I believe there are probably more Hispanic voters today than there were 15 years ago, and there certainly should be, because I have been involved in that, as our immigration laws over the last 15 years have been particularly generous to regard Hispanic immigration. And I have been an engine in that change.

But these census figures do raise some very valid questions about whether bilingual ballots are doing anything useful to increase the participation of language minorities in the electoral process. I do not doubt that bilingual ballots are used, but that does not mean that they are needed. I hope we can make that distinction, or that it means that they are effective in increasing voter participation.

I would believe it to be natural for a person who speaks English at work and Spanish at home to choose the Spanish language ballot if it were available, even though that voter could fully understand the ballot or other materials in English. The fact that bilingual ballots are used does not mean that they are needed or that they increase voter participation.

So, has section 203 of the Voting Rights Act been a factor? I see no statistics at all to reflect that. If the all-English ballot is the problem, then 15 years of bilingual ballots has not been the solution.

I am told that some proponents of this bill are working to come up with additional information that will show that bilingual ballots are effective. They say, do not rely on the national data; look to the individual jurisdictions where these laws apply.

I would like to look, but I have not seen that information yet. If it exists, I hope someone will show it to me with dispatch. This is the place for that. If it does not exist, I would like to get it. Or perhaps help find it. In fact, if additional information is forthcoming, I would hope then that we would postpone action on this bill to see what we may be able to learn from the new data and, remember, if this bill did not pass just because this is the date of expiration, not a single person would be denied their right to vote. Not one.

And I urge commentary with regard to that. No one would be deprived of their right to vote if this did not pass. It will pass. They would only be denied their right to have a bilingual ballot, but not the right to vote, so that is not a correct statement anyway. So I await that data.

I will have an amendment to reauthorize bilingual ballots for 5 years and give us an opportunity to get a detailed report of the necessity and effectiveness of bilingual ballots. At the end of 5 years, we can review all the data which we do not have at this time and then make an informed decision about the continued use of bilingual ballots. That is a sincerely offered proposal. I am more than uncomfortable dealing with this bill otherwise.

I do not think we can find any justification to reauthorize bilingual ballots until the year 2007—2007. How can we impose something that has hardly worked, or maybe it does not work at all, on the country until the year 2007? That is regrettable logic. How can we explain it to people if we do not have any evidence to support it?

I believe that the American public is largely opposed to bilingual ballots. Every time it is on the ballot, they vote against it with big numbers, and we are not talking about racism. Let us not slip back over into that where we always go when the facts fade. The American public is largely opposed to bilingual ballots. They are even opposed to further immigration. They are even opposed to further illegal immigration. They always have been, and they are even opposed to legal immigration. That is why I have been proud to wend my way through that and try to bring more people to the United States, and we have been successful, but it is not the most popular thing.

When Congress last addressed bilingual ballots in 1982, there had been virtually no polling or voting by the American public on the issue of English as our Nation's official language. Since 1982, the people have expressed themselves and their position on this issue time and again, and as their representatives, we must try to make certain that their desires are at least considered instead of just laughed off.

I think that the position of the general public is pretty clear. San Francisco, 1983, 64 percent of voters in a referendum in that remarkable, multicultural city voted against bilingual ballots and asked Congress to repeal the law mandating it.

California, 1984, 72 percent of the voters in a statewide initiative voted against bilingual ballots and asked Congress to repeal the law mandating it. The Governor duly petitioned the Congress, and we duly ignored it and the wishes of the people of California.

California, 1986, 63 percent of the voters approved a constitutional amendment making English the State's official language. One of the biggest issues in that election was bilingual ballots.

State after State have been passing laws making English their official language. It has been my personal experience that support for the use of English is particularly pronounced among the recent immigrant groups. I do not believe it is the newcomers themselves who expect or want the Government to do this or to coddle them. I really believe that. And I have talked with them.

We in the Congress have been criticized up and down the pike for allegedly ignoring the wishes and desires of the American public. I do not believe that. But, nevertheless, they say we are out of touch or we do not get it—a certain arrogance and real elitism there. A nice phrase from the groups who really do not get it themselves.

It seems to me that the American public, including our various and diverse ethnic groups, have made their position quite clear on the language issue, and it is as if we ignore them again as we consider bilingual ballots this year, we will be giving them one more piece of evidence that we are indeed out of touch, we really do not get it.

Let me speak for just a moment on the proposed expansion of the bilingual ballot which is also contemplated by this legislation. This is not just a renewal or an extension, this is an expansion.

The bill proposes new coverage for jurisdictions for more than 10,000 of the citizens of voting age who are members of a single language minority and have limited English language proficiency. This apparently is intended to cover language minority citizens who, even though they might number 10,000 or more in a single county, still do not make up 5 percent of the voting age population. Counties like Los Angeles, Cook, and some in New York would probably be among those newly covered by these provisions. Indeed, they would.

I believe the sponsors' estimate this measure would extend bilingual ballots to an estimated 24 counties.

What bothers me is that I have not seen the justification for this expansion of coverage for these areas.

Good questions would be:

Are they hotbeds of discrimination in voting? I would like to know that.

Are they in for use for English-only election material? I would like to know that.

Are minority language voters in these areas clamoring for bilingual ballots? I would like to know that. I do not think so, though. The Justice Department has testified that "it has not received significant numbers of complaints" for these jurisdictions.

Is there a compelling reason to expand bilingual ballots into these large counties?

The reasoning behind this adding of 10,000 persons, a quota, makes sense only if one blindly assumes that bilingual ballots are inherently good. But also note that the expansion of bilingual ballots to every county, which includes—now get this, because we have Indian reservations in my State. Those that do not are not really understanding this one. I also note that this is going to go to every county which includes any part of an Indian reservation, and that would require bilingual ballots in every single one of those counties, even if the Native Americans all lived in one part of the reservation in one county. That is bizarre.

Furthermore, languages of the Indian Native American people which have never been set down in writing. They cannot be. They have passed into history, or maybe never started with a written language.

But that is the paternalism we are going to take care of. What is the justification for the type of expansion of the program?

When the Justice Department does not receive many complaints, and that is their testimony, when the proponents cannot really tell us why we should expand this coverage except to say that it is American and it is patriotic and it is right—and all those things are great, but what is the reason—then my question is why are we then doing this other than the fact you will not find many people voting against it? But there are a lot of them who will come up to you in the hall and say, "AL, you are really on the right track with that one, but I will not be anywhere around when the vote is called up yonder on that one." I understand that. That is how I get in a lot of trouble around here.

Why are they then doing this? As we consider this legislation, I hope every one of us will consider that question: Why are we then doing this? If there is a hard reason or a real need, I would very much like to hear what it is.

No election will be affected this year. Everyone will have the right to vote. They can go to vote. They can pick up the ballot. The only "right" that will be missing is the bilingual ballot. So I would like to hear what that is. I presume that the new trigger was written into the bill for a reason. I cannot believe we believe that we are expanding coverage just to cover more jurisdictions. That is what a lawyer might call "boot strapping."

A third question to consider is who uses bilingual ballots? I know there is a position of my colleagues in support of this bill which says that some of our senior citizens are incapable of learning English so they need special assistance. After all, these folks are given an exception under the naturalization requirement that they know English before becoming citizens. They have already received that exception, and that is good. Or perhaps they are used by persons like Cuban Adjustment Act citizens who become citizens only 3 years after coming here—we never corrected that one yet—and they do not have time to master English.

But, my colleagues, they really do have time. They have had time to do very well in this country, and they probably have learned English if they are doing well. If they are not doing well, they probably have not learned English, and they learn in an abused and exploited condition in the bowels of New York, in the ghettos of larger cities. That is where they are, being abused because they do not know English.

So they really do have time to learn, and we have English as a second language. I am ready to support that. I am ready to put up more money for that anywhere in the United States. I think it is very important.

But I am certain that bilingual ballots do serve some people in these categories. I believe that. And we need to do what we can to help these folks in the electoral process. But what about this? And hear this carefully. I am going to conclude in a very few minutes. What about the report—now get this one—of the GAO that 77 percent of the users of Spanish language ballots are native-born Americans? Try that one on. GAO reports 77 percent of the users of Spanish language ballots are native-born Americans, not the people we are trying to bring in to help over the hump, to give that little boost; indeed not.

What about our naturalization laws that require a knowledge of English in order to become citizens? I do not think bilingual ballots should be used to fill the holes of a faulty naturalization process or a faulty educational process where people are not learning English who were born in the United States of America. That is not the purpose of the bilingual ballot. That is the purpose of an educational system that apparently is not working.

Bilingual ballots are not a solution to our Nation's educational problem. I fear that they are, indeed, a divisive, misleading, expensive, and disruptive Government program that as far as I can determine—and I have been looking around—has produced no real results after 15 years.

There is no real reason given to us to expand and extend this program. It is an unnecessary intrusion of the Federal Government into the processes of State and local governments. And I want to quote Linda Chavez. Mr. President, do not think she does not get a rich rash of stuff from some of the groups, because she is very successful, very outspoken, former staff director of the U.S. Commission on Civil Rights. She recently wrote this, and I think it has a tremendous ring of truth from my knowledge in these past years in dealing with the groups.

> Today, few Hispanic organizations on their own promote English or civic classes for Latin immigrants. Instead of imbuing immigrants with a sense of the importance of acquiring and adopting the common English language, Hispanic leaders place greater emphasis on retaining Spanish and thus encourage Hispanics to remain separate from the culture in which they reside.

I share Ms. Chavez' view that the efforts of the groups to extend bilingual ballots could better be directed at promoting English classes for those who need to improve their English to naturalize or to vote or simply do as well as is possible to do in this country. That is what those groups ought to be doing, but they do not do it.

Ask them the reasons for that. I have my own view and I have shared it with many of them in their organizations.

It is just my hunch they hope that then those people realize somehow those people who are in the groups have been their salvation, when their salvation will be the English language.

What about the possibility of translation errors? That is a real possibility based on past experience. Some of these California propositions and even Wyoming constitutional amendments are difficult enough to read in English, much less figure them out well enough to translate into another language. Translations are not exact, as we all know. In Canada, where every law in the books is printed in both English and French—get this—lawyers spend hours pouring over each version to determine which one would best suit their purpose when bringing an action based on a statute. Sometimes they choose the French version, sometimes they pick the English version, not because they favor one language or another, but because the nuances of one translation will better assist them in their cause and in their case.

As far as the ballot initiatives are concerned, the solution is to improve the procedures a State or locality uses to put a measure on the ballot, not to have bilingual ballots.

In fact, I believe that most States provide a separate ballot summary and a title for complex initiatives. You will find that.

I fully support a translated sample ballot if someone needs it. But why does the Government have to require it? Why cannot community groups such as the local chapters of MALDF, Mexican-American Legal Defense Fund, or LULAT, League of United Latin American Citizens, voluntarily provide sample ballots translated into the language of the local community? It would be a good exercise and good civics for their lawyers to explain the ramifications of a complex ballot measure to the folks right there in their own communities. And if the Government is going to continue to require translation ballots, I think we would do a great service by requiring notice on all translated materials, and that notice should acknowledge the possibility of translation errors, and inform the user that the official version of the ballot is the English version.

One thing we do not need are disputes arising from voters casting their ballots in the foreign language, while voters using the English versions cast their votes for something different. We do not need that. That happens in other countries, and those countries are in civil and social turmoil.

People who do not feel comfortable with an English language ballot have all sorts of options open to them right now, if this thing was never on the books. These options are available for everyone, every voting citizen, including people who are native-born Americans who are illiterate in the English language.

One option is the absentee ballot; do that, which a voter can fill out at his or her leisure at the kitchen table. You can do that right now, long before this ever came into the system.

If the voter does not understand something, he or she will have time to ask. Look it up, or read more about it in the newspaper, if they can. And the newspaper can be in whatever language they want; whatever one the voter chooses.

Another option that many people use is to bring a friend or a relative to the voting booth to provide assistance. Some people might claim this is an invasion of privacy and of their right to a secret vote. But it is an option that many people can and do use.

One can also take notes into the ballot box, and marked-up sample ballots with them into the voting booth to cast the ballot. It is not like some closed-book test, where you walk in with no notes, try to understand the question, and through some higher power—one I sometimes never found in some classes—try to divine the right answer.

But it is a culmination of a process which includes watching television, reading the newspaper, and talking with friends and relatives, neighbors, coworkers and fellow union people, or fellow farmers, about the pros and the cons of the ballot choice. That is what it is about. That is participatory democracy, not just machine stuff, automation—walk in; crank; out the door.

If one wants to write down the choices before entering the voting booth, and take the votes with him or her, in any language chosen, he or she is free to do so. That is the law now. So there are many alternatives, and most of the immigrant groups may have to use these alternatives. They will.

Yet, this legislation provides bilingual ballots for a select group—Hispanic Americans, Asian Americans, and Native Americans. There is not one single thing here for the voter who speaks Russian, or Polish, or Italian, or whatever language. And—get this—more Russians received immigrant visas last year than any other national group. I am sure that will be a very quick amendment. We will have that in there very swiftly, I would think, when we brought in over 50,000, or some such figure, in these last months of people who speak Russian. They are not mentioned here.

There is nothing here for the Ethiopian or the Iranian refugee, but these folks will do quite fine, thank you. They will learn English; they will vote; and they will succeed here without bilingual ballots. That has been our tradition. That is our history.

I fear this legislation will only serve to reinforce the non-English speaker's native language, and relieve the pressure—that is a good word to use, the pressure—on that individual to learn English. And that we must never do. We must keep that pressure on our citizens to learn English always, for their benefit, for the betterment of their own lives, for their totally selfish benefit, for their jobs, and for our country's benefit.

Mr. President, the Government-mandated program also most surely does create additional expense for local jurisdictions, and I firmly believe that if we are going to issue a Federal mandate to these local jurisdictions and if we feel this is so important that we must require them to provide bilingual ballots, then we must be ready to put our money where our mouths are and provide the necessary funding for that.

I will offer an amendment which will provide for Federal funding of any federally mandated bilingual voter assistance.

I would like to speak a great deal more about such things as the unfairness of providing bilingual ballots to some groups and not to others; the serious insult we pay to immigrants who have taken the time and have made the effort to learn English; and other problems I have with this legislation. But I am not going to do that. It is not my intent to filibuster this legislation, and never was.

So I do want once again to ask my colleagues this question: What are bilingual ballots for? Then I want to ask another question: Does this legislation, in its parts or in its entirety, accomplish that purpose?

I know all of us still have in mind the Los Angeles riots, the problems troubling our Nation that that violence brought home to us.

I believe we must consider whether this Government mandate or these bilingual ballots contribute to a common, central experience to all Americans, or whether it will send a message that we are composed of separate groups. Do we get along as best we can, or does the Government once in a while step in with something like bilingual ballots that are well meant, but indeed may simply contribute to the problem we set out to address?

I close with something else that Linda Chavez recently wrote, and she received unshirted hell from most of the groups, as we refer to them.

She said this:

> Assimilation has become a dirty word in American politics, invoking images of people, cultures, traditions, forged into a colorless alloy, in an indifferent melting pot. Where once the goal of new arrivals was to gain admittance to the American mainstream as rapidly as possible, now ethnic leaders advocate groups remain separate; that native cultures and languages be preserved intact; and that every effort be made by society to accommodate ethnic "differences."

This brash and strong-willed woman, Linda Chavez, goes on to point out in the article that while it is true in some parts of the country that Hispanics are less likely to vote than either whites or blacks, the problem is not language, but the fact that then-Senator Barry Goldwater once put in an earlier hearing on the bilingual ballot issue that:

> Forty percent of all Spanish-origin persons who were not registered in 1974 reported they were not citizens.

I hope that big government will not once again, in this year, take a well-meaning step that has an adverse—if unintentional—consequence. This is one of those issues which is politically correct here inside the Beltway. You bet. When we get one of these types of issues, we sometimes do strange things.

During the debate on the immigration bill when Senator KENNEDY and I sponsored, for instance, while this body warmly embraced my proposal that we give preference to an immigrant who had a Ph.D., it voted down my proposal that we give preference to an immigrant who spoke English, despite the fact that the immigrant was a doctor, and is likely to be more wealthy, more privileged, and elite than the one with the high school diploma who has learned English.

A vote against a preference for knowing English was the PC vote—politically correct—in the finest form. Now this body that was opposed to giving immigration preference to immigrants speaking English will have an opportunity to vote on whether the Federal Government should mandate special help for immigrants and others who cannot read or speak English very well. That will be the amendment of Senator BROWN.

The census form says that if you speak English very well you do not do the bilingual ballot. But if you speak it only well, you do. That needs a new definition, and Senator BROWN will discuss that.

So I see it simply as a question of what is in the national interest. I believe unity and commonality and inclusion are in the national interest. I believe a common language, through which all Americans can communicate with each other, is in the national interest. And I believe that unrelenting pressure to learn English on all who join our society is certainly in the national interest.

As for political correctness, a politically correct vote in our own districts and States will be against a Government-mandated program which has not been shown to be effective, and which may indeed be unintentionally very much against the national interest.

I thank my colleagues for their patience. I think this is well within the discussion of time, and without a time agreement.

I appreciate the indulgence of my colleagues.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I want to express my appreciation to the majority leader for bringing this matter to the Senate in a timely way. As has been pointed out earlier in the debate, this legislation expires this evening. We know that the Senate schedule will put the Senate out next week, and we will be facing a number of local elections this fall. This legislation is extremely important in the counties across this country that have been attempting to ensure that the right to vote is going to be available to all Americans; it is important that they understand what the intent of the Senate of the United States is on this issue. The legislation was overwhelmingly accepted and endorsed in the House of Representatives, and now this evening we will have a chance to address this issue ourselves.

Mr. President, I also want to express my appreciation to the floor manager of this legislation, Senator SIMON, who has provided real leadership on this issue and many other issues in the Judiciary Committee. He has always been a constructive force to expand the right to vote and to permit all eligible individuals to participate in our election system. I congratulate him on his leadership in this area.

Also, although I differ with my friend from Wyoming, I want to express my appreciation to him for the matters which he has brought to the floor this evening. Many of these matters we did discuss and consider in the Senate Judiciary Committee, and we will have an opportunity to debate them further this evening.

I would like to make some general comments and not take a great deal of the Senate's time. Before I do, I want to pay tribute to our good friend and colleague from Utah. This legislation is Simon-Hatch legislation. The principal cosponsor is Senator HATCH, from Utah. It is only because of the personal sadness of the loss of his father in the early morning hours of this day that has necessitated his absence from this debate and prevented him from adding his own strong sense of justice in support of this legislation.

We are indebted for his leadership and strong support of this legislation. I will include in the RECORD the letter that he wrote. I will not read Senator HATCH's statement, but I think his strong support for this legislation is illustrated in a letter that he sent to his colleagues in the Senate. I'll just read:

> DEAR COLLEAGUE: We are writing to inform you of the Administration's support for the reauthorization and strengthening of the federal bilingual voting assistance mandate contained in S. 2236, the Voting Rights Language Assistance Act of 1992.
>
> Two of the important provisions of S. 2236 designed to support greater access to the ballot box by Hispanics, Asian-Americans, and Native Americans include:
>
> reauthorization of the current bilingual voting assistance mandate for 15 years.

As Senator HATCH pointed out, and as others have pointed out, the reason for the extension of 15 years is so that this law will terminate along with the rest of the Voting Rights Act, which we have supported and passed, so that they will all terminate at the same time, and we will have an opportunity to examine all of those particular measures.

He goes on to say:

> * * * inclusion of a numerical "benchmark" in the formula used to determine coverage. The benchmark would close gaps in coverage which have left large Hispanic and Asian-American communities without bilingual voting assistance.
>
> Consistent with its strong commitment to the inclusion of and expansion of opportunity for minorities in the American political process, the Administration supports both of these important provisions.
>
> We urge you to join us in support of the Administration by casting a vote for democracy and supporting S. 2236.

I think this captures the spirit of what this is all about—democracy, participation in the electoral system. The letter was signed by Senators HATCH, MCCAIN, DURENBERGER, KASSEBAUM, CHAFEE, SPECTER, D'AMATO, MURKOWSKI, and PACKWOOD.

So, Mr. President, this is the essence of the real issue—whether we are going to continue the long march toward democratic institutions and democratic rights.

The right to vote is the cornerstone of our democracy. Without it, all other rights are in danger. We are proud of our democracy. Our history has been marked by a continuing struggle to extend the franchise to all Americans.

In the past two centuries, a number of key amendments to the Constitution have enlarged the right vote:

The 15th amendment in 1870 prohibited voting discrimination because of race.

The 16th amendment in 1913 provided for direct popular election of Senators.

The 19th amendment in 1920 prohibited voting discrimination because of sex.

The 23d amendment in 1961 granted citizens of the District of Columbia the right to vote.

The 24th amendment in 1964 prohibited the use of poll taxes to restrict the right to vote.

And the 26th amendment in 1971 granted the right to vote to citizens eighteen years of age or older.

The words of the Constitution are not self-enforcing. In many cases, it has been left to Congress to enact statutes to carry out the intent of the Constitution. In 1965, Congress took a giant step in that direction, when it passed the Voting Rights Act to prohibit practices that limit the right to vote on account of race or color.

One of the most serious legacies of past discrimination is the large number of American citizens of Hispanic, Asian, and Native American heritage who have been deprived of fair educational opportunities, and as a result, are not fully proficient in English.

In 1975, Congress recognized that if the right to vote is to be meaningful, these Americans must be given the opportunity to obtain language assistance such as bilingual registration and ballot materials. To achieve that goal, Congress added section 203 to the Voting Rights Act to require jurisdictions with significant language minorities to give eligible voters this kind of language assistance.

Section 203 has made an enormous difference in giving citizens access to the bilingual information they need to register and to vote. A 1986 GAO study reported that about 1 in 4 Latinos who voted in the 1984 general election in Texas used bilingual ballots.

In 1990, 25 percent of Hispanic voters in Texas and 18 percent of Hispanic voters in California used bilingual election services.

The importance of language assistance is also confirmed by comparing the registration rates among Hispanic voters in covered jurisdictions with those in noncovered jurisdictions. In New Mexico, where bilingual election materials have been required since statehood, the Hispanic voter registration rate is 85 percent of the rate for Anglo voters; the Hispanic registration rate in Texas, which is covered by the act, is 65 percent of the Anglo rate.

But in jurisdictions with significant Hispanic language minorities that are not covered by the act, registration rates are less than half of the Anglo registration rate.

I have listened to the debate saying, what about the falloff of the registration by Hispanics? Of course, it has fallen off; 670,000 will be covered by this act that are not now covered by this act. They are denied bilingual assistance. Well of course, participation is going to fall off. That is self-evident. I was kind of surprised that some people would spend so much time trying to make something big of that fact. It is self-evident. They do not have that kind of support. They do not have that kind of assistance. Then their registration rate is not going to be the same in terms of comparison with others, and it will continually decline.

Other studies confirm the positive impact that the legislation has had on voting by Asian and native American citizens. The point is raised here, why these groups? Why these groups? You know, it was not long ago, 1965, when we had an Asian Pacific Triangle to discriminate against Asians, as a part of American law. Have we forgotten the internment of Japanese-Americans in World War II? All you have to do is read the various reports on Indian education. I will take a moment or two and include this tonight. The Bureau of Indian Affairs have been educating Native Americans, and it has been one of the most disgraceful actions that has ever been undertaken by any agency in this country.

I want to refer my colleagues to the remarks of Representative PASTOR in the House debate on this legislation:

> Mr. PASTOR. Madam Chairman, today, a few minutes ago, we heard that if a citizen of this country does not know English, that he or she should not be able to vote, the basic right of any citizen of this country.
>
> Well, let me talk about the first citizens in this country, a people that we fought, that we conquered, the first citizens who today have to go to BIA schools, Government-run schools where they do not learn English properly.
>
> They are on reservations, Madam Chairman. Our Government has put them there. But yet they are citizens of this country.
>
> They would like to participate in this country, to make decisions for their people, and yet we deny them participation because this Government does not teach them English properly.
>
> The native Americans of this country, the first citizens of this country, need to have a voice in their Government. If we are going to deny their vote because we do not teach them English properly, then shame on this country, shame on our society. Why should we exclude the native Americans because we try to treat them as second-class citizens? I ask my colleagues, there are many citizens, the first citizens, of this country who have the right to vote; they only ask the assistance to be well informed and to participate in this Government like any other citizen should.

You have the large numbers of young native Americans that drop out of school, had the kind of social problems that exist, and I say that as a former chairman of the Indian Education Committee. That is why we have identified native Americans.

And the record, in terms of discrimination against Hispanics, has been equally poor, particularly in the area of education.

So those who oppose this legislation suggest that giving bilingual voting assistance removes a significant incentive for American citizens to learn English. That is just plain wrong.

I read from the statement by Congressman JOSE SERRANO, the Congressman from the Bronx, in supporting extending the act:

> The Voting Rights Act and section 293, in particular, are largely responsible for the opportunity I have been given to serve in the Congress of this, the greatest, the most free and Democratic nation in the world.
>
> My testimony to you comes from direct, deeply personal experience.
>
> Section 203 is not a luxury. It is the essence of the franchise for a large and growing number of voting American citizens, who are unable to effectively participate in an election because of the difficulty of language, are denied the franchise just as surely as they would be if literacy tests were administered or poll taxes.

Just the same. Just the same. The same effect.

> Bilingual elections do not promote cultural separatism but instead help to integrate the non-English-speaking citizens of our system of democracy.

And I thought he pointed out in the course of the debate—and I will just quote him briefly.

> I was born an American citizen on the island. I was born on an island that speaks Spanish for the most part. Yet during the Persian Gulf war, no one said we will take 16,000 troops out of Puerto Rico only because they do not speak English proficiently.

> Some, unfortunately, did not return, who never spoke a word of English on the battlefield because they only spoke Spanish.

And Congressman ORTIZ also pointed out:

> Providing bilingual voting assistance is a way of encouraging citizens to participate in the most American of institutions—the political process.
>
> By giving language minorities a reason to believe in American Government and by giving them a way to become invested in the decisions our Government makes, bilingual voting assistance can cultivate a sense of patriotism and civic duty that is sorely needed in today's anti-Government climate.
>
> Time after time, Hispanics have shown that when they are given the chance to contribute to their country, they deliver.
>
> Hispanic-Americans have earned 38 Congressional Medals of Honor in serving their Nation.

Those who oppose this legislation suggest that giving bilingual voting assistance removes a significant incentive for American citizens to learn English. That is just plain wrong.

Many American citizens born in this country are less than fully fluent in English, because another language was spoken in their home. Our naturalization laws permit otherwise qualified older persons to become American citizens without becoming fully proficient in English. These citizens have the right to vote; the question is whether they will cast an informed vote. If our democracy is to function, every voter must understand the choices to be made in the voting booth. Language assistance for those who need it is thus imperative for our democracy.

This year's voting rights amendments extended section 203 and make useful changes in its provisions. The bill modifies the threshold for coverage, so that jurisdictions are covered if members of a single language minority total either 10,000 citizens of voting age, or 5 percent of the voting age population, whichever is lower. Existing law placed the threshold at 5 percent of the jurisdiction's population.

That change will assure that communities with significant language minorities will be required to provide language assistance. The bill will cover Los Angeles, Cook County, Queens County, Philadelphia, and Essex County, NJ, all of which have at least 10,000 Latino voters with limited English proficiency; it will also extend coverage to Boston, MA, which now provides bilingual assistance although it is not required to do so. None of these jurisdictions is covered under the current threshold; each would be covered by the legislation before us. The change will permit assistance to be given to an estimated 860,000 minority language voters in 34 counties across the country.

The bill also clarifies the existing law to ensure that the act applies to reservations on which there are significant numbers of native Americans who are not fluent in English.

I will just mention in the course of the House debate again as the discussion was relating to the coverage of the—I will come back to that aspect in terms of the coverage of the Indians. Here it is. And this again is Mr. Pastor, who succeeded Mo Udall.

> H.R. 4312 has special significance for native Americans because it improves section 203's coverage of native Americans living on Indian reservations who have limited English language skills. The current standard in section 203 excludes many reservations with significant populations of limited English proficient native Americans. Elsewhere, only parts of reservations are covered. This occurs because the current coverage standard does not consider the unique history and demography of native Americans. Native Americans living on reservations and other Indian lands comprise less than one-third of 1 percent of the total United States population. These relatively small populations are split by State and county lines, which were often drawn without regard for reservation boundaries when States entered the Union.

Mr. President, this law preserves the provision in existing law that directs the Census Bureau to determine membership in a language minority by counting the number of voting age citizens "who do not speak or understand English adequately enough to participate in the electoral process."

A very detailed study was done on that by the Department of Education along with the Census, and the record is, I think, strong in support of those particular provisions. I understand we may face an amendment on that issue.

This provision assures that language assistance will be required only where it is needed.

In this election year, voting rights are too fundamental to become bogged down in partisan politics.

I am, therefore, especially pleased that the Department of Justice and the Bush administration support the reauthorization of this important civil rights legislation.

Section 203 expires today. Jurisdictions that are holding primaries in September need to know their responsibilities now. The House has already acted; I urge the Senate to pass this bill today and send it to the President, so that these fundamental provisions of the Voting Rights Act can continue without interruption.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that Linda Blauhut be granted privileges of the floor on the bilingual voting rights bill.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

• Mr. HATCH. Mr. President, I want to pay tribute to my friend and colleague from Illinois, Senator SIMON, for his leadership on this vital issue. This is a very important matter and the Senator from Illinois deserves our thanks for moving this legislation along. I also want to thank his staff for their fine efforts and cooperation: John Trasvina, Jayne Jerkins, and Susan Kaplan.

I am pleased to be the lead cosponsor of this measure. It has strong, bipartisan support. The entire subcommittee on the Constitution has cosponsored the bill. It passed the full committee on a 12–2 vote.

The right to vote is one of the most fundamental of human rights. Unless Government assures access to the ballot box, citizenship is just an empty promise. Section 203 of the Voting Rights Act, containing bilingual election requirements, is an integral part of our Government's assurance that Americans do have such access.

Section 203 requires, in pertinent part, that States and political subdivisions provide registration and voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, in a foreign language if certain basic conditions exist. First, the Director of the Census must determine that more than 5 percent of the citizens of voting age in a jurisdiction, are members of a single language minority who do not speak or understand English adequately enough to participate in the electoral process. Second, the Director of the Census must also determine that the illiteracy rate of such persons as a group is higher than the national illiteracy rate.

I believe, of course, that our citizens should learn the English language. I also believe, however, that providing foreign language assistance for the purpose of exercising the right to vote is appropriate. This assistance is no real disincentive to learn the English language.

Unfortunately, while other provisions of the Voting Rights Act expire in the year 2007, section 203 of that act expires in just a few days. We need to extend it.

The growth in the minority communities, covered by section 203, indicates that continuing to remove language barriers will further enhance voter participation by language minorities.

The number of registered Hispanic voters in Arizona, California, Colorado, New Mexico, and Texas doubled from 1976 to 1988—from just over 1½ million to over 3 million. Nineteen-ninety census data show that the Hispanic population in this country grew by 53 percent; the Asian-Pacific Islander population grew by 107.8 percent, and that of the American Indian, Eskimo, and Aleut communities increased by 37.9 percent.

I also note that there is a serious flaw in the current statute that the current measure addresses. Because of the percentage threshold provisions of the statute I mentioned earlier, the following anomaly exists:

A county with 10,000 citizens of voting age, including 501 citizens of language minority, with an illiteracy rate higher than the national average, and who do not understand or speak English well enough to participate in the electoral process, must provide bilingual assistance to those 501 citizens. A county with 500,000 voting age citizens, including 25,000 citizens of a language minority, need not provide assistance to those 25,000 citizens. Why? Because those 25,000 citizens do not constitute more than 5 percent of the county's voting age population. A statute that requires one county to provide assistance to 501 members of a language minority, but does not require a county with 25,000 members of a language minority to provide the same assistance, makes no sense.

The substitute amendment addresses this anomaly. It sets an alternative numerical threshold, covering jurisdictions with over 10,000 limited English proficient persons as a trigger for section 203's coverage, even if they amount to less than 5 percent of the jurisdiction's voting age population.

This bill also makes needed adjustments in the current statute to assure that native Americans are given a realistic opportunity to avail themselves of the benefits of the law.

I would like to address some of the criticisms that my good friend and colleague on this side of the aisle, Senator SIMPSON, has made during Committee consideration of the bill. I know he will fully elaborate on those criticisms on the floor, and I respect both his sincerity and his good will in raising his concerns. They are serious concerns and they deserve serious answers.

It is claimed that section 203 has been ineffective. One indicia of this alleged ineffectiveness is that Hispanic registration has only increased from 48 percent in 1978 to 51.9 percent in 1990.

In response, I would make three points:

First, any increase in registration is a plus. Second, these nationwide data are very misleading because section 203 has applied in less than 10 percent of the counties in the country. That is, the increase in Hispanic registration may have been greater if section 203 had been applied more widely. Third, in any event, people decline to register to vote for a variety of reasons, including difficulty of access to places of registration, a feeling of lack of responsiveness by the political system, and so on.

The better question is, what would Hispanic registration look like in the absence of section 203?

Next, it is claimed that the percentage of Hispanic citizens reported voting declined slightly from 34.3 percent in 1978, to 33.8 percent in 1990, and that while white voter participation has declined, Hispanic voter participation has declined in greater proportion.

Again, the more relevant data would be not nationwide statistics, but statistics from counties where section 203 applied. Further, the better and more difficult question is, what would Hispanic voter participation be like in the absence of section 203 in those jurisdictions where it applied? And, again, I stress that people decline to vote for a whole host of reasons and it does not follow from such voting data that section 203 is ineffective. Such a test puts an impossible burden of proof on this modest provision. The availability of bilingual materials is irrelevant if Hispanic voters, for example, think they have little stake in the outcome of a particular election, and of course, the same goes for any other voters as well. I will have more to say about the use of bilingual election materials later in this debate.

I also believe, with all due respect, that comparing Hispanic registration rates to black registration rates following enactment of the Voting Rights Act is totally inappropriate. The barriers to black registration were often much more overt than barriers to Hispanic registration. Thus, a law like the Voting Rights Act could not have the kind of immediate and dramatic impact on Hispanic registration that it has had on black registration.

I also share the desire that Americans, native born, or those who were born elsewhere, learn the English language. I sincerely believe, however, that the two or three times a year a person may avail himself or herself of bilingual registration or voting materials is no real disincentive to learning English. Without these materials being available for those who need them, I believe it is more likely that these individuals simply will stay home and not vote, rather than learn English. I think they should be able to vote and should also learn the English language well enough not to need bilingual materials in the future. But that is a task for schools and adult education programs. It might be desirable for the Subcommittee on the Constitution to look at how our schools teach English to children who do not speak the language, and the role the Federal Government should play under title VI of the 1964 Civil Rights Act and other applicable statutes. It might also be desirable for the Immigration Subcommittee to investigate whether immigrants really do learn English before they obtain citizenship. But assisting people in voting, in my view, is not the source of the concerns of which my friend from Wyoming spoke in committee.

Finally, Mr. President, I want to address another concern. Section 203 requires that the Census Bureau shall determine whether the requisite number of citizens "are members of a single language minority who do not speak or understand English adequately enough to participate in the electoral process. * * *" This limitation of coverage to those who do not speak or understand English adequately enough to participate in the electoral process was added in 1982 by Senator NICKLES.

There has been some criticism of the manner in which the Census Bureau has carried out its duties under section 203. The committee report, however, puts the matter in proper perspective and I want to quote two paragraphs from the report:

> The Nickles amendment required the Bureau of the Census to identify covered jurisdictions using existing data on English language proficiency. After consultation with the Department of Justice, the Bureau used both its own decennial census long-form question on language ability, as well as the Department of Education English Language Proficiency Study [ELPS]. The census question asks persons who identify themselves as speaking a language other than English in the home to evaluate their own English language proficiency. There are four possible answers: Very Well; Well; Not Well; Not at All. The ELPS study measured the basic English proficiency of adults from English and non-English speaking backgrounds. The study assessed the ability to do such ordinary tasks as following simple oral directions and filling out forms.
>
> The Bureau of Census found that those non-English speakers who reported that they spoke English "very well" failed the ELPS test at a rate similar to those for whom English was the only language. On the other hand, those who reported that they spoke English less than "very well," that is "well," "not well," or "not at all," all failed the ELPS test at similar rates. The Bureau concluded that persons who spoke English less than "very well" would be "at an obvious disadvantage in terms of being able to do the basic tasks associated with voting, such as following instructions for registering, [or] reading the paper to determine where one must go to vote. * * *" (Internal Bureau of the Census Memorandum dated February 4, 1985, detailing section 203 coverage determinations). The Bureau concluded that for purposes of determining section 203 coverage, those who spoke English less than "very well" were truly in need of language assistance.

Thus, while on the surface, it may seem misplaced for the Census Bureau to determine that those who speak the English language well do not speak it adequately enough to participate in the electoral process, one must take a look at the Census Bureau's rationale. The label "well" can signify almost anything, and the Census Bureau's explanation for regarding those who reported they spoke English well as in need of language assistance is perfectly reasonable.

Section 203 expires in a matter of days. We need to strengthen and extend it. The Simon-Hatch measure does this and I urge its adoption.●

Mr. DOLE. Mr. President, it was my understanding that we could do this in an hour and a half and it has already been an hour and a half. I hope maybe the distinguished Senator from Illinois might propound a unanimous-consent agreement. I think the Senator from Delaware wants 10 minutes, the Senator from South Carolina, 7 minutes, and the Senator from Idaho 5 minutes, and I do not know what the Senator from Wyoming has in mind

Mr. SIMON. What I have right now is 10 minutes to Senator BIDEN, 7 minutes for Senator THURMOND, 10 minutes for Senator SYMMS, 5 minutes for Senator SIMPSON, and 5 minutes for myself. This is on the general debate, not on amendments.

The PRESIDING OFFICER. Does the Senator propound that as a unanimous-consent request?

Mr. SIMON. Yes.

Mr. SIMPSON. Mr. President, let me review again for those who would be listening that it is Senator BIDEN, 10 minutes; Senator THURMOND, 7; Senator SIMON, 5; myself, 5; and Senator SYMMS 10. I do not believe I have any other requests on my side of the issue. And so this would be the request propounded.

Mr. SIMON. That is correct.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Who seeks time?

Mr. DOLE. Is that for debate on the bill?

Mr. SIMON. This is just on the bill itself, not on the amendments.

The PRESIDING OFFICER. Who seeks time? The Senator from South Carolina is recognized for 7 minutes.

Mr. THURMOND. Mr. President, I rise today in opposition to H.R. 4312, the Voting Rights Language Assistance Act of 1992. Although I firmly believe that we should take all reasonable steps to assure that all citizens of voting age have the opportunity to vote, I oppose this legislation because of two concerns: First, a lack of factual documentation or statistical information which would justify extending the language assistance provisions of the Voting Rights Act for 15 years; and second, a concern that this bill will discourage the use of English as a common language, a goal which I believe is desirable if we are to create a society built on unity, inclusion, and commonality.

Mr. President, although I do not question the good intentions of the sponsors of this legislation, the fact is that there is very little factual or statistical information to support the reauthorization of the language assistance provisions of the Voting Rights Act for 15 years. As my colleague from Wyoming has already pointed out, no studies have been conducted to demonstrate how successful these provisions have been, or why they need to be reauthorized and expanded. In fact, the statistics that are available suggest a drop in voter participation by Hispanics, one of the largest language minority groups involved. Without information that the language assistance provisions are working, and in view of the substantial financial burden this will cause local jurisdictions, I question the wisdom of extending and expanding them, especially for a period of 15 years. It is possible that in some jurisdictions three, four, or five different ballots would have to be prepared to accommodate the different language minorities. Mr. President, that is a burdensome undertaking for most local jurisdictions.

Of greater concern to me however, is the fact that the required use of bilinqual ballots may discourage the learning and use of English as a common language. As many of my colleagues are aware, like the late Senator Hiyakawa of California, I have long been a proponent of the use of English as the official language of the United States. For over 200 years, the use of English has been a unifying force in our country and provides us with a shared national identity. I believe, largely as a result of English being our common language, that America has developed into a cohesive and stable democracy while, at the same time, accommodating and appreciating the rich traditions of our different ancestries.

Mr. President, it is important to note that encouraging and fostering the use of the English language in what Senator SIMPSON refers to as our public culture, is not meant to discourage the use of foreign languages or the appreciation of foreign cultures. It is clearly appropriate for people to celebrate their history and take pride in their heritage. It is highly commendable that people want to learn about their roots and identify with their past. All people should preserve their heritage and culture.

Nor is the use of English as a common language meant to discourage the teaching of foreign languages in our schools and colleges. I am pleased that so many students are learning foreign languages in school today. I praise our schools for their efforts in this area.

However, Mr. President, the use of bilinqual ballots may actually be harmful to the very people who use them. It may give them a false sense of security that they do not need to learn English. In reality, learning English and thereby assimilating into society will provide language minorities the best opportunity for success in America. They must know the language to compete as equals in the labor force and become self-sufficient. Moreover, in my view, it is essential for our economy to have an accepted national standard of communication in business, education, law, and politics. It is only in this way that we can develop the unifying strength that is necessary if we are to remain competitive within the international community.

In conclusion, Mr. President, let me reiterate my strong belief that we should assure that all citizens of voting age have the opportunity to vote. I have long recognized that the right to vote is one of the most precious rights that the citizens of this great country possess. As Governor of South Carolina, I supported and fought for the elimination of all poll taxes in my State. However, in the absence of documentation that language minorities benefit from the assistance of bilingual ballots, and because of my strong belief that English as a common language provides the unity and democratic stability that has made this country great, I intend to vote against H.R. 4312. I urge my colleagues to do the same.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 10 minutes.

Mr. SYMMS. Mr. President, I rise tonight to oppose this legislation before the Senate. I would like to compliment my colleague from Wyoming for most of what he said in his lengthy speech. There were a couple of areas that he knows about that I might take issue with him, but I will not tonight.

He has it figured out and is right on target. The premise behind this legislation simply makes this bill America's version of apartheid, that we in this Senate and in this Government fought so hard to help the people of South Africa rid themselves of.

If you can keep a group of people speaking a language other than English, then they will never be able to progress up the social ladder, up the economic ladder—up the ladder of success and opportunities which are available for most English speaking citizens of the United States of America, or residents of this great country.

Mr. President, I had one story several years ago, here in the Senate, from an area where a family from Tonga had moved to the United States. The only language they spoke was Tonganese. They put their children in the bilingual education program in the public school system of their community. At the end of a year their children were fluent in Spanish, but no one in the family could speak English and they were still having problems seeking employment.

I happen to come from Idaho, Mr. President, which has one of the largest Basque populations outside of the Pyrenees. One of the Basque leaders in my State is the Secretary of State, Pete Cennarusa. And Pete Cennarusa makes it clear when he started the first grade, in Bellevue, ID, there was no one in his family who could speak English. But he was under instructions to go to school, learn English, come home and speak it. And they were under very strict rules to speak only English in their household so they could become active, productive, successful citizens in our State, in our society.

Our former colleague, Senator Laxalt, told me the same story in his case with his family in Nevada; his parents required the entire family to speak English in the household so they could learn English so they could assimilate into the society. And then they could keep their ties to their native Basque language and their culture, which we have seen happen in my State. But they have learned to speak English so they can be successful—lawyers, doctors, business people, workers, teachers, and so forth.

I support what the Senator from Wyoming and the Senator from South Carolina have said, and I recommend a vote against this bill. Whether or not bilingual ballots have had any positive effect on minority participation in elections, one thing is clear: They encourage new citizens in this country to stay on the outskirts of the mainstream. I am amazed when I listen to my colleagues praise this legislation. I am even more shocked to find out that the administration has signed off on this legislation—to extent this for 15 years. The bill is based on a faulty premise. Instead of being a melting pot, we are encouraging people to stay on the outside of the culture. The melting pot has been a great benefit to immigrants who have come here.

Mr. President, Senator SIMPSON outlined the weaknesses in this bill and those weaknesses are indeed great. Who is going to pay the electoral jurisdictions for complying with this cumbersome bill? Just set aside the philosophical problem.

My point, Mr. President, is that this bill does nothing more than make it easy for people not to learn English. That is what it all amounts to, to separate those people in our society, to divide them so they simply cannot be full-fledged participants in the bounty of this great society, there will be opportunities that will be denied them.

Who is going to pay, for example, Los Angeles County to have a completely different system of voting machines in order to have six different languages featured on the ballot? Would it not do more good, I would ask, Mr. President, for the minorities in Los Angeles to help rebuild the physical and social damage done by the riots than to indulge in this kind of costly sociological experiment?

Mr. President, we heard a lot about studies and research. But all the studies and research are formed by assumptions and my misgivings about this bill are precisely the underlying assumptions that form it: The assumption that a new citizen should be kept from joining the United States of America mainstream and speaking the United States of America's mainstream language, which is English; the sponsors assume that somehow we are helping these people by encouraging them to speak a different language; the assumption that immigrant groups are best served by keeping them identified in ethnic groups, not culturally, which is their own business.

If culturally we want to have a Basque center in Boise, ID, I am for it. We have the Basque dancers which are famous worldwide from Boise, ID, and we are proud of it. If we want ethnic groups to keep their cultures, that is a plus for our society. It makes us all richer as a result of these other cultures. And that is their business, their religion, their tradition, their personal preferences.

But, politically, which is the official part, why would we want to encourage people by printing public ballots in a different language when only citizens, after all, are allowed to vote? And citizens, if they are born in this country, have access to public education and have the opportunity to learn English. If they are naturalized citizens, I remind my colleagues that they have to pass the English language test in order to become a citizen.

So let us face it, Mr. President, the enforcers of this provision will be an army of bureaucrats who will keep those ethnic groups in a condition of what I would like to call tonight the "ballot apartheid."

They will be prey to those who want to use them as voting blocks and politically identifiable minorities for political purposes.

Mr. President, I say let us be inclusive, not exclusive. Let us have one ballot, one language for all American citizens, and let us welcome all citizens of all languages to participate fully in our electoral process in the same language that we use on the Senate floor and throughout our political institutions. Let us not adopt laws that further divide our citizens by pretending to be inclusive. This is not an inclusive piece of legislation. Let us not encumber our voting jurisdictions for more than 15 years with an unproven and counterproductive measure.

Mr. President, I want to speak just a little bit about the politics of this and refer my colleagues to our great, late colleague, Sam Hayakawa.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute fifteen seconds.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might speak for 5 more minutes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. MITCHELL. Will the Senator yield?

Mr. SYMMS. I will be happy to yield.

Mr. MITCHELL. Mr. President, I do not object to the Senator speaking 5 more minutes. We have a lot of Senators anxious to conclude this bill. It had been my original hope that the bill could be completed sometime in an hour and a half or 2 hours. We are already at that point.

Mr. SYMMS. Mr. President, I assure the majority leader I can wrap up my remarks very briefly.

Mr. MITCHELL. I understand from the managers that there is a possibility of reducing the amendments to two and get a vote underway on both of them in approximately 20 minutes. I hope we can keep to that schedule.

Mr. SIMON. I think we can expedite it, if the majority leader will yield.

My colleague wants 20 minutes on each amendment; is that correct?

Mr. SIMPSON. Mr. President, while the majority leader is here, I do have one member of the body on our side of the aisle who wants 5 minutes during one of those amendments.

So I ask, and I think that I, of course, would let the majority leader propound it, but it would be two amendments, 20 minutes on each amendment, equally divided, finish the debate on both of them, and then vote.

Mr. President, we can possibly be yielding back a good bit of that time. I am not able to discern that at this minute.

Mr. SYMMS. Mr. President, does the Senator from Idaho still have the floor?

The PRESIDING OFFICER. The Senator from Idaho has a unanimous-consent request pending.

Mr. SYMMS. The Senator from Idaho asks unanimous consent to speak on the bill for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Reserving the right to object, I just want to assure the majority leader and everyone else, I do not think we will use the full time on the amendments on our side.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I want to say—and I have the greatest admiration and respect for my colleagues on the floor tonight—I have a strong philosophical difference of opinion as to what it is the majority leader and the majority party and the administration, as I understand it, are trying to do in moving this legislation. But I in no way impugn the motives of my good friend from Illinois, the majority leader, or others who are trying to push this bill through.

I want to say, Mr. President, this bill is typical of what is wrong with inside-the-beltway mentality. It is a noble cause, it sounds great, but let me give an example of how this bill really works.

What happens is—and the Senator from Illinois will correct me if I am incorrect—if you have over 5 percent of a group in a voting area, then you print a ballot in that language; is that correct?

Mr. SIMON. That is current law. We are changing that.

Mr. SYMMS. To what?

Mr. SIMON. To 10,000.

Mr. SYMMS. Oh, to 10,000.

Mr. SIMON. In certain jurisdictions.

Mr. SYMMS. So, in other words, what happens is if you have an area, let us say San Francisco, for example, or

Los Angeles, or Boise, ID, or Joliet, IL, or Springfield, IL—if there happen to be 10,000 people with Japanese surnames, then the law would require that that local jurisdiction print ballots in Japanese. Or if 10,000 people have surnames of Chinese, they print it in Chinese, or Spanish, they print it in Spanish. It may be that none of those people use any language, Mr. President, except English.

Mr. SIMON. If my colleague will yield.

Mr. SYMMS. Let me finish my point and then I will be happy to yield.

The late Senator Hayakawa, an author, renowned in the United States and around the world as one of the leading semanticists of the English language, believed in the power of language because language communicates what is in the hearts and minds of the people communicating.

Because his name was Hayakawa, he was listed in the group that triggered a requirement that the local jurisdiction where he lived had to print ballots in Japanese. Now, it just so happened this great linguist did not speak, read, or write Japanese. He was an English language linguist, an American citizen, naturalized. He was born in Canada, came to the United States, was naturalized, was better in English than anyone I have known who served in this body other than maybe the President pro tempore, and yet because his name was Hayakawa he was a statistic that triggered this law.

Now, I do not have the capability to talk like Senator Hayakawa and Senator BYRD and some of the real linguists can do, but I can communicate the ideas I am trying to get across. I hope when we get to the amendments we would at least shorten the authorization period until more sanity can reach Washington and we can stop all this nonsense and print ballots in one language: English.

Mr. SIMON. Will my colleague yield?

Mr. SYMMS. I will be happy to yield.

Mr. SIMON. What the Senator is describing is the situation before 1982. In 1982, we adopted the Nickles amendment offered by our colleague from Oklahoma. And now, because your surname is Hayakawa or whatever, that does not qualify. It is people who have difficulty speaking the English language.

Mr. SYMMS. Who makes that determination? How many thousands of people do the taxpayers have to pay to determine that, when in fact you cannot vote in elections unless you are a citizen of the United States of America. I know my good friend would agree with that. Unless you are a citizen, you cannot vote. How do you get to be a citizen? A, you are born here. If you are born here, you have access to the public schools. You can learn English. If you are naturalized, you have to pass the naturalization test of which English is part. So what we are doing here is keeping people segregated out and separated through the language.

Mr. President, I could not agree more with my colleague from South Carolina and my colleague from Wyoming. I know that my colleagues who push this bill are sincere, and they think this is going to be helpful to these people. But this is just a way of keeping people from having an opportunity to climb up the economic ladder.

The PRESIDING OFFICER. The time of the Senator has expired. Who seeks recognition?

Mr. BIDEN. Mr. President, I do not plan on using the 10 minutes. I will attempt to accommodate my colleagues.

I rise in strong support of S. 2236, legislation to extend that most important incident of a free and democratic nation—the right to vote—to those Americans for whom language is a barrier to participation.

As we all know the current law expires today. Primary elections will occur in some States—for example, New York—as early as next month. Thus, it is imperative that we act now to complete our work so that the bill may become law immediately.

I commend my friend from Illinois, Senator SIMON, for his tireless efforts to ensure that the Senate pass this bill in a timely fashion. Senators SIMON, HATCH, and others on the Judiciary Committee worked diligently to produce legislation that not only extends, but improves on, the current law.

This reauthorization of the language assistance provisions brings into the voting process thousands of Americans whose English is poor, but who live in areas not covered under the expiring law.

For example, Latino and Asian American communities in some of our largest cities and counties—and these ethnic communities are huge by any measure—will now enjoy the benefits of multilingual language assistance.

Moreover, native Americans living on reservations that cross jurisdictional lines will be covered as an entire reservation, eliminating the current anomaly under which some members of a native American community receive voting assistance—but others don't—simply because the reservation on which they live straddles county lines.

This legislation is a positive bill of inclusion—a bill that truly promotes our democratic ideals. As the country prepares for the elections coming this fall, no bill holds more symbolic or practical importance.

Reauthorization of the language assistance provisions is a commonsense solution to the difficulties that many Americans face in voting. What we are talking about here is providing voting assistance to people who are already entitled to vote. Those Americans for whom English proficiency is elusive deserve an effective means of exercising the franchise.

Those few critics of the bill suggest that passage will discourage learning English. By passing this bill, we do not say that English language proficiency is unnecessary. No one here disputes the importance of mastering the language in which our business discourse generally occurs.

I hope that all those who don't speak or read English well will improve their English language skills to increase their full participation in all aspects of our society.

But participation in our democratic process is too critical an act to suffer delay. At a time when Americans vote in record low numbers, we must encourage our citizens to vote—not prevent them from voting because of language difficulties.

The fact is that thousands of Americans who are entitled to vote face serious difficulty because they don't speak, read, or write English well enough to exercise confidently their fundamental right.

This reauthorization of the language provisions of the Voting Rights Act quite sensibly acknowledges that truth and provides the mechanism through which the problem of language barriers is eliminated.

Again I thank my colleagues for all their tremendous work in ensuring that this serious problem is addressed. I urge the swift passage of this bill. Time is of the essence, and the thousands of Americans who face language barriers need our swift action.

Mr. President, it always intrigues me—I have been in the Senate going on 20 years now—the way in which Senators on both sides of the aisle, liberal and conservative, are able to create issues that do not exist.

Now this bill is characterized as promoting apartheid. It is being talked about whether or not we print ballots only in English depends on the future of whether or not we are an English-speaking country. The way it is being characterized is that we vote for this legislation and it becomes law, we are going to ensure that people who otherwise might want to learn to speak English, need to learn to speak English, will now no longer speak English because the incentive that they otherwise had is taken from them. And, if in fact the ballots are only in English, we are told, anyone who speaks another language will be inclined to do what 3, 4, 5, 6, 7, 8, 10 generations of Americans who speak English—we could not get them to do anyway—and that is go vote.

We cannot get white Americans and their families who have lived here for 150 years to show up and vote. But we are told tonight that if we just make sure Hispanic Americans and Asian Americans, and so on, know that the only way they can vote is master the language, they are going to run out and vote.

What poppycock. It is a little bit like saying if an American, or any person, citizen or otherwise, knows that if they go to the hospital the hospital attendants will not speak the language that they speak, they will be unable to communicate, so in order to induce them to learn English quicker we will make sure that in inner city hospitals we do not have anybody in those hospital emergency rooms who speaks Spanish or any other language because, if they know that and they may get shot in a drive-by shooting and they are going to show up in the emergency room and they are not going to be understood, they are going to sign up for the English classes they cannot get into, because there is already a waiting list, because now they are induced to do it because we will withhold their ability to get adequate medical health care, because they will not be able to communicate to the nurses or the doctor where it hurts, what happened.

What are we talking about here? Look, this is pretty simple. Do we want to get more people invested in the system? How do you get them invested in the system? You get them to vote. You get them to show up. When they vote, they say, you know, it matters a little bit; I better get more involved. I can be involved.

If you want to encourage someone to learn to speak English and become fully integrated in society in every way, get them involved in the political process. But if they feel they have no stake in the political process because they cannot even go in and read the ballot with any degree of certainty, then what stake do they have? Are they likely to participate in every other way or are they going to do what my friends say: I am not able to read the ballot in English. Therefore, I cannot vote. Therefore, I am going to go down and I am going to go down and I am going to do what 45 percent of the Americans do not do when they can read the ballot. I am going to go down and make this double extra effort to learn to speak English so I can do something that Americans who speak English are not doing anyway.

Mr. President, this has nothing to do with apartheid. And I might add the people who are talking the most about apartheid here are the people who were the least reluctant to take any action to do something about dismantling the apartheid system in South Africa when it was underway.

I respect their position. I think they are dead wrong. But this is not apartheid. This is real simple. Do we want to increase the prospect of people showing up to vote, investing in the system, participating in the system, which will in turn give them a bigger stake and a greater rationale to think that if, in fact, they are able to master the language they will be able to be treated as and will be treated as equal?

One last thing, folks, we should not fail to understand. People who do not speak English today by and large in this country are people who have been rejected by the majority of this society, having no bearing on the fact that they do not speak English.

We have a long track record in this country, to our shame, of not bending over backward to provide the franchise to Asian-Americans. We have a long history in this country—having nothing to do with the fact that a Japanese-American can or cannot speak English—of the Japanese-American feeling the sting of prejudice and being denied the fruits of his or her labor in this country because they are Japanese.

Listen to my colleagues. You would think that the key to this is to just make sure they cannot vote unless they can read the ballot in English, and that will open up—to all those who have been subject to prejudice—that will open up for them, that will give them the golden key to the kingdom.

This is simple. If you want to encourage people to vote, these are people who are American citizens who have difficulty with the English language, for a whole raft of reasons which I do not have time to go into. Does it make sense to give them the franchise in a real way, by making it easier for them to vote?

And, if it does, does that mean that they are going to then go home and say: You know, I am able, once every 2 years, to walk in and read something in Spanish; and therefore I have no incentive to learn English at all. I can do it once every 2 years now, so why learn English to be able to get the better job? So why learn English to be integrated more into the society and be able to have the benefits of the society? So why learn English to make life easier for me and my children? I do not want to do that anymore. Guess what; I get to read Spanish once every 2 years in an official undertaking. I get to walk in and vote. So why? I have no incentive now.

With all due respect to my good friend from Wyoming, my friend from Idaho, and others, I think that is a preposterous argument.

I thank my colleagues for listening.

I yield the floor. I yield the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition under the time agreement?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming has 5 minutes, and the Senator from Illinois has 5 minutes remaining.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 20 minutes equally divided in the usual form on each of the following amendments:

Simpson amendment on the 5-year extension.

Simpson amendment on Federal funding cost to local jurisdictions.

I further ask unanimous consent that the two amendments be debated consecutively tonight.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that just prior to the adjournment or recess of the Senate for the August recess, the majority leader or his designee be recognized to make a motion to disagree to the House amendments to S. 12, the cable bill, and agree to the request for a conference with the House, and that the Chair be authorized to appoint conferees; and that the foregoing be in order and occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield the floor.

AMENDMENT NO. 2911

(Purpose: To modify the application of the bilingual voting requirements and require certain studies)

Mr. SIMPSON. Mr. President, I send a amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 2911.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 3, strike "2007" and insert "1997".

On page 2, line 18, strike "10,000" and insert "20,000".

At the end of the bill, add the following:

SEC. . REPORT.

(a) REPORT.—Not later than May 1, 1997, the director of the Census, in cooperation with the Attorney General, shall prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that shall include the following information:

(1) Voting participation rates among each language minority group, both on a national basis and for each covered jurisdiction.

(2) Voting participation rates among all voters as a group and English-speaking vot-

ers as a group, both on a national basis and for each covered jurisdiction.

(3) Any increases or decreases in voting participation for each of the groups described in paragraphs (1) and (2), both on a national basis and for each covered jurisdiction.

(4) The names and qualifying information for each State, and each political subdivision, in which at least 10,000 persons are covered individuals.

(5) The names and qualifying information for each State, and each political subdivision, in which at least 20,000 persons are covered individuals.

(6) The names and qualifying information for each covered jurisdiction.

(7) For each State, political subdivision, or covered jurisdiction described in paragraph (4), (5), or (6), information regarding—

(A) whether multilingual voting assistance is available in the State, political subdivision, or jurisdiction; and

(B) if such assistance is available—

(i) the type of such assistance that is available; and

(ii) the number of persons who utilize such assistance, as an absolute number and as a percentage of the general population and of language minority groups.

(b) DEFINITIONS.—As used in this section:

(1) COVERED INDIVIDUAL.—The term "covered individual" means an individual who is—

(A) a citizen described in clause (i) of section 203(b)(2)(A) of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a(b)(2)(A));

(B) a citizen in a language minority described in clause (ii) of such section; and

(C) a citizen in a covered jurisdiction.

(2) COVERED JURISDICTION.—The term "covered jurisdiction" means a jurisdiction that is—

(A) a covered State or covered political subdivision under paragraph (2)(A) of section 203(b) of the Voting Rights Act of 1965; and

(B) is not excluded from the application of such section under paragraph (2)(B) of such section.

(3) LANGUAGE MINORITY GROUP.—The term "language minority group" has the meaning given the term in section 203(e) of the Voting Rights Act of 1965.

SEC. . STUDY ON VOTING FRAUD.

(a) STUDY.—The Attorney General shall conduct a study, covering all covered jurisdictions (as defined in section (b)(2)), to determine—

(1) whether multilingual voting assistance under section 203 of the Voting Rights Act of 1965 has been used, or implicated in efforts, to violate other laws, particularly laws requiring the use of documentary identification and citizenship as a requirement for voting; and

(2) if so, the extent to which the multilingual voting assistance has been so used or implicated.

(b) REPORT.—Not later than June 1, 1995, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report setting forth the findings of such study.

Mr. SIMPSON. Mr. President, this amendment provides for a 5-year extension of the Bilingual Ballot Program, instead of the bill's 15-year extension. It also allows for the expansion of the program, including the new coverage for native American reservations, but the amendment increases the threshold requirement from the bill's 10,000 person level to 20,000 persons. Finally, the amendment requires a report from the Attorney General and the Census Bureau providing statistics on the effectiveness of bilingual ballots and information on voter fraud in the program.

As I have stated, I believe that a 15-year extension and expansion of the Bilingual Ballot Program is unwise:

First, there is no evidence that English language ballots cause discrimination, nor that bilingual ballots remedy any type of discrimination;

Second, there is no evidence that bilingual ballots have increased voter participation; and

Third, I believe that bilingual ballots may have the effect of keeping language minorities separate and will reduce the pressure to learn English.

I have seen no evidence that English language ballots cause voting discrimination nor that bilingual voting assistance remedies any other form of voting discrimination that may exist. In fact, the proponents of this legislation do not state that English-only voting practices in any State or jurisdiction are discriminatory. Instead, the proponents assert only that bilingual ballots are necessary because Hispanics, Asian Americans, and American Indians, and Alaska Natives have endured educational inequities, high illiteracy rates, and low voting participation.

I do not argue in any way that educational opportunities are equal for all; but we cannot solve illiteracy problems and educational failures with bilingual ballots. We have to do better than that.

Multilingual voting assistance has not been proven effective. The Census Bureau statistics, based upon current population reports, show that bilingual assistance has not brought a higher percentage of people to the voting booths.

Why should we blindly reauthorize for 15 years, a program which, after 17 years. Not only has not been effective, but which may further isolate minorities?

The original proponents of bilingual ballots argued that a higher percentage of persons would vote. For Asians, American Indians, and Eskimos, I have seen no GAO or Census Bureau statistics of any kind on voter participation. Regarding Hispanics, GAO has reported that there has been a slight decrease in the percentage of Hispanic voting.

I know that many of the groups which advocate the 15-year reauthorization of bilingual ballots have conducted their own studies. I have no doubt that their studies may contradict these Census figures, yet, even MALDEF [Mexican American Legal Defense and Education Fund] has admitted that Hispanic voter participation has decreased since 1975, the date of enactment of the bilingual ballot requirement.

In response to the following question: "What was the latino voter participation rate in the year before the enactment of section 203, and what is it in the most recent year for which you have figures?" MALDEF answered: "Section 203 was enacted in 1975. 22.9 percent of 'Hispanic origin' voters reported voting in the 1974 congressional elections. 21 percent of Hispanic origin voters reported voting in the 1990 congressional elections." That is a decrease of 1.9 percent, even by MALDEF's own calculations.

Again, the bottom line is that bilingual ballots have not been proven to increase the voting participation of any of the groups which this legislation is intended to benefit.

My amendment allows a 5-year extension of the Bilingual Ballot Program, instead of the 15-year extension in the bill. This will give us time to collect and evaluate the official calculations of voting participation of the population. It will give us some comprehensive data on the effectiveness of the bilingual ballot program.

My amendment also increases the threshold number of persons necessary to come under the Federal mandate to provide bilingual ballots. The Simon bill establishes a new, lower threshold for requiring State and local governments to provide bilingual ballots. Current law requires that: First, 5 percent of the potential voters of a jurisdiction are of a single language minority and; second, that the illiteracy rate of the minority language voters of that State or subdivision is higher than the national rate.

The House bill lowers the 5 percent threshold for local governments by allowing as few as 10,000 persons—which could be significantly less than 5 percent of the total population—to trigger the requirement for bilingual ballots. This new lower threshold will add new jurisdictions to those required to provide bilingual ballots.

We won't really know just how far-reaching this new standard will be until the Census Bureau releases its final determinations. The Census Bureau has stated that the calculations which they have made for the judiciary committee are not final determinations.

My amendment changes the bill's requirement from 10,000 to 20,000. The Justice Department has indicated that it will support the 20,000 threshold. In a March 30th letter to Senator SIMON, the Justice Department states:

> Because we think that it is desirable to cover these large jurisdictions without unnecessarily burdening large numbers of other jurisdictions, we would support legislation that contained a numerical trigger of 20,000 minority language individuals. . . ."

The Justice Department reasons that while the 10,000 threshold would increase the number of jurisdictions affected, it would not provide a significant increase in persons benefited under the 20,000 threshold, and would, in fact, be unnecessarily burdensome for large numbers of additional jurisdictions.

My amendment also requires a report by the Attorney General and the Census Bureau. The report will provide information on both local and national voting participation rates for all language minority groups; voting participation rate for all citizens; the qualifying information for each jurisdiction in the program; and the types of multilingual voting assistance available in each jurisdiction which is required to provide it under this bill.

The report's survey of the types of multilingual language assistance provided in each jurisdiction is important. While many people may believe that this program only provides actual ballots—we tend to refer to the program as bilingual ballots—it actually is much more broad than mandating just ballots.

The term voting materials is defined in H.R. 4312 as registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots.

Relating to the electoral process. That's a pretty broad statement. That language could conceivably cover a lot of different printed materials. The groups which are interested in this bill could conceivably make this as expansive as they would like. The regulations issued under section 203 of the current law state:

> A jurisdiction is more likely to achieve compliance with these requirements if it has worked with the cooperation of and to the satisfaction of organizations representing members of the applicable language minority group. (Section 55.17 of the regulations.)

Those very organizations are the ones which are in the Halls of the Senate and of the Capitol today. Those organizations are the ones which have filed lawsuits, challenging a jurisdiction's practices.

My report will give us an idea what each jurisdiction really is providing. With that information we can decide if the requirements are too broad, or quite appropriate, or we could even decide they are not broad enough.

My amendment also requires the Attorney General to conduct a study on voting fraud in those jurisdictions which will be required to provide minority language assistance under the Simon bill. The report should determine if multilingual voting assistance has been used or implicated in efforts to violate other laws, particularly laws requiring the use of documentary identification and citizenship as a requirement for voting—such as voter registration.

There have been several instances where voter registration materials were, or may have been used to register noncitizens to vote. The most notable one occurred in San Francisco where U.S. Attorney Russoniello conducted an investigation of bilingual ballot users, on the information that many were noncitizens. Russoniello received information that persons registering the noncitizens had told the potential, but ineligible, voters that they were, in fact, eligible to vote if they were married to a U.S. citizen (which only gets you a green card, if you apply to the INS) or if they had lived in the United States a long time (which never is a guarantee of citizenship). Also, the Spanish translation of the registration form erroneously stated that a registrant should be rather than must be a citizen.

The investigation revealed that 27 percent of the persons examined proved to be noncitizens, 40 percent had no records so that citizenship could not be determined, and only 32 percent were, in fact, citizens. (The investigation was terminated without further resolution.)

The San Francisco investigation, and another in Chicago, at the very least tell us that we should be monitoring the possible misuse of bilingual voting assistance materials.

My amendment starts that monitoring process.

Finally, the proponents argue that we extend this program for 15 years so that it ends at the same time several other programs in the Voting Rights Act expire. I do not believe that this is an adequate reason for granting such a long extension for a program which has not been proven effective. Let's extend the program for 5 years while we are getting the objective facts and statistics. Then we can take another informed look at the program and extend it further if it works. We may find that the program has provided a significant, meaningful service, or we may find that it helps to continue the isolation of non-English-speaking citizens from the rest to society. Either way, we will have the information available to make an informed decision—a better decision than we will make now.

I urge my colleagues to support my amendment.

I reserve the remainder of my time.

Mr. SYMMS. Will the Senator from Wyoming yield?

Mr. SIMPSON. Yes, I yield.

Mr. SYMMS. Are the yeas and nays ordered on final passage of this bill?

The PRESIDING OFFICER. They have not been ordered.

Mr. SYMMS. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. SIMON. Mr. President, first I ask unanimous consent to add Senator MOYNIHAN as a cosponsor.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

Mr. SIMON. Mr. President, I hope this amendment will be rejected as it was in the committee by a 10 to 4 vote. We are not talking about something that is that complicated. We know that this works. And anyone who has any question, I just ask them to take a look at what happens in San Francisco where they have three languages on one ballot. Believe it or not, it is amazingly clear and not that difficult.

When my colleague from Wyoming—for whom I have great respect and who does this out of sincerity and who contributes in many areas where it frankly does not do him any good back home in Wyoming, the whole immigration matter for example—but when he says there is no evidence that bilingual ballots encourage participation, quite the contrary.

In the State of Illinois, where we have not had bilingual ballots, less than 50 percent of the Hispanics are registered. In the State of New Mexico, where you have bilingual ballots, 85 percent of the Hispanics are registered.

If this passes, then the dropping from 20,000 to 10,000 means 21 counties are eliminated, 3 counties around New York City with 53,000 Chinese-Americans—and I could go through these other counties.

The Civil Rights Commission testified before our subcommittee when we held the hearings in behalf of the 10,000 benchmark. There are, in fact, U.S. citizens who would be denied the right to vote if this were to pass. And I recall Senator HATCH's vigorous comments in opposition to this amendment when it came before the committee.

Who is the beneficiary? By and large, older Americans are the people who vote, the majority. And they are American Indians, native Americans.

Or, what about a young man, a Puerto Rican, who happens to grow up in New York City or Chicago, who speaks Spanish, barely speaks English? When we have a draft, we say to him: "You serve in the United States Armed Forces. You may have to shed your life for the freedom of this country." But we also say to that person: "Sorry, we cannot accommodate you with a bilingual ballot."

This assimilates people. My friend said we ought to be assimilating people. This does not divide people. It brings them into the process.

I think this amendment moves in the wrong direction. I hope it will be rejected.

Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join with the Senator from Illinois and urge our colleagues to reject this amendment.

Let us just put in proportion what this legislation is coming to grips with. There are 175 counties now that qualify with the 5-percent population. With a 10,000 threshold, we are only adding 34. We have 175 now. Even just with the 20,000, we are only adding 13. But that happens to cover 507,000 citizens. So it is a very small number that is actually being added, but it is clearly going to impact 507,000 of our fellow citizens; approximately 467,000 Hispanic voters and 40,000 Asian-American voters.

Now what has happened, Mr. President? We have heard a lot earlier this evening about when this help and assistance is available to Hispanic voters, do they really take advantage of it?

Well, section 203 took effect in 1976. Hispanic voter registration increased by 83 percent between 1976 and 1988 compared to an increase of only 21 percent among all voters. Latino representation in Texas, a State where bilingual coverage is most extensive, increased by 248 percent between 1973 and 1991.

Mr. President, we are talking about our fellow citizens. For all the reasons that were stated earlier in the general debate, I think the legislation itself is a very, very modest program to try and help and assist those populations which have been discriminated against in one form or another over the history of our country's laws. This is an opportunity to try and reach out, not as much as many of us would like to do, but to try and reach out in a very balanced and very modest way to encourage our fellow citizens to participate in the election system. And I hope the amendment of the Senator from Wyoming is defeated. I am glad to yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Wyoming.

Mr. SIMPSON. Mr. President, what is the situation with regard to the time?

The PRESIDING OFFICER. The Senator from Wyoming has 6 minutes and 30 seconds. The Senator from Illinois has 3½ minutes.

Mr. SIMPSON. Mr. President, I have been very intrigued by the full debate, not only on the bill but on the amendments. Not at this point with regard to the amendment, but earlier in the debate, the decibel level sometimes obscured the realities of what we are up to here.

Remember that in areas of minority populations at every polling place in the United States is someone to assist people. They are there to assist people in voting, saying: "Do you speak English?"

"No, I don't."

"Well, we can assist you. We have a person here who speaks. You can take material into the polling booth with you. Do you have something in your pocket that you could take with you?" And they do. They often do.

They can vote absentee. There are lots of things that people can do to accommodate themselves without having States and localities throughout the United States having a Federal mandate to print bilingual ballots and do it and pay for it themselves. That is the subject of the second amendment. And all of this on the basis of not one single shred of evidence as to what this does. Because after 17 years, you saw the charts, there is no difference in the percentage population participation in this—by this bilingual ballot.

Do not confuse this with the Voting Rights Act and the abolition of discrimination, which was superb and worked. And the participation there is awesome. It is not what we are talking about.

But there has not been anything presented to this Senator, neither the Census Bureau nor the GAO has produced a single shred of evidence. That is why my amendment requires a report on the program's effectiveness.

I can assure you of one thing. Studies by "the groups," in their self-serving interests, cannot be considered as evidence, and certainly are not considered here as reliable indicators. I have seen that from the beginning of my work with immigration and refugee matters where "the groups" have been presenting me stuff since 1980. Then you can get a Gallup poll, or a Roper poll, or any other kind, and it is absolutely opposite to what "the groups" are saying. They speak on what they say for "their people." It is not my quotation.

I have been there. And that is the purpose of this. What is the purpose of expansion? What is wrong with going to 20,000? Some of these jurisdictions are going to have 50—as I can see in some of this, counties that overlap, and Indian reservations. This is one of those typical examples of people saving a lot of stuff in the bottom drawer and pulling it all together and throwing it in a big pot whenever it gets to the bill that looks like this is a good place to ride it along. If you wanted just to extend it—I do not like the idea but do it. But you have not extended it. You have expanded it. And nobody yet has given us a reason why—not a soul.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I will not even use the full 3 minutes.

The reason for the 15-year extension is that this has been tried. It is working. It works well. The rest of the Voting Rights Act expires in 15 years. We extended it all to that time.

Second, when my friend—and he is my friend—from Wyoming says there is no proof that it has done any good—the Congressional Research Service is not one of "the groups," if I may use a phrase that my friend from Wyoming loves to use. The Congressional Research Service says, "Hispanic voter registration increased from 1976, when this first went into effect, to 1988, 83.4 percent." During the same time the population went up 21.3 percent.'

It works. We encourage participation. That is what a democracy is all about. I hope we reject this amendment resoundingly, as the Judiciary Committee did.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I would enter into the RECORD the chart from the U.S. Census Bureau, showing exactly the figures on Hispanic registration, black registration, white registration. Perhaps I can put that to rest, with some actual figures that I think are quite reputable.

I just will conclude and say if bilingual ballots are offered, I have no doubt they will be used. The question I have—I know it is absurd—is are they needed? So far, 17 years' worth of experience have not shown us a shred of evidence that it did what it was supposed to do. That is where I come from on it. I am glad to be thoroughly educated, mystified, cajoled, whatever. I am ready.

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. SIMPSON. I yield back the remainder of the time.

MORNING BUSINESS

Mr. SIMPSON. Mr. President, I ask unanimous consent to proceed in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERU UNDER SEIGE

Mr. PELL. Mr. President, I would like to draw attention to a recent piece in the Washington Post by Jeremy Stone, the president of the Federation of American Scientists, entitled "Save Peru From Sendero." As he points out, the Shining Path has successfully used terrorism and intimidation to demoralize the country. In the Maoist tradition, it refuses to negotiate, and is intent on destroying Peruvian institutions. Despite the limited number of guerillas, the Peruvian military has been unable to halt the Shining Path's expanding reign of terror. And, in the battle against the Shining Path, the military's efforts have been riddled with reports of human rights abuses.

The Shining Path is only one of Peru's difficulties—democratic institutions have been disbanded, drug trafficking continues unabated, a drought has crippled supplies of food, water and electricity, 80 percent of its 22 million citizens are under or unemployed, corruption is endemic, and inequities between whites and Indians create racial tensions. The many interwoven challenges facing Peru only weaken its ability to confront the Shining Path.

Because the situation in Peru is so desperate, it may well be that a Peruvian government will look to the international community for support. Dr. Stone's op-ed piece raises the question of whether the international community will, at that point, be ready with various options.

Fortunately, in the present post-cold war era, the United Nations is in a position to consider a wide variety of possibilities. Accordingly, it is incumbent upon international organizations, the Department of State, and other relevant organizations to begin thinking now about just such potential disasters, and calls for international help, from Peru and others.

Obviously, the United Nations has limited resources, and limited appetite, for intervening in the affairs of troubled countries, even if invited. Yet, there may well be ways that do not require large investments of money or military force in which these countries can be assisted, for interim periods at least, to administer themselves more efficiently while they pull themselves together or, as in the case of Cambodia, hold elections and organize constitutions.

I ask unanimous consent that the full text of the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SAVE PERU FROM SENDERO

(By Jeremy J. Stone)

A determined, resilient and Machiavellian terrorist group, Sendero Luminoso, has advanced its revolution against demoralized Peru to the point where the international community is faced with a long-term emergency. This was dramatically confirmed by Sendero's unprecedented bombings in Lima this month.

Sendero is not just another Latin American revolutionary movement that will either be eventually defeated or with which one could eventually deal. Instead, it is a Maoist revolution based on Chinese political techniques that Sendero's leader learned during China's cultural revolution—techniques Sendero has improved on and which it modifies skillfully as circumstances change.

Insurgency specialists have continually underestimated Sendero for the last dozen years of its violent phase. Its Marxist indoctrination of young people, its extraordinary patience and its capacity for cruel Mafia-style intimidation make its defeat difficult.

Nor will it deal. It refuses all dialogue. Recently, it has begun a rapidly spreading phase of infiltration of popular organizations in urban shantytowns to complement its long-standing activities in rural areas. And last week it even began bombings in the neighborhoods of Lima's upper classes.

Some can hardly believe that a few thousand terrorists, no matter how disciplined, and even backed by many sympathizers, could take over a country of 22 million people.

But Sendero's intermediate goal is not to take over Peru but to destroy it by disrupting it. In today's world, this is not that hard. What happens, for example, when a repeatedly sabotaged electrical or water network moves from rationing to cutoffs?

And Peru, in decline for decades, is already a very sick country, with its government continually shrinking in disposable revenues, its major entrepreneurs poised to flee, its impoverished population exhausted, its bureaucrats and army corrupted and its capital city, comprising one-third of the population, easily harassed.

As part of its strategy, this movement intends to prove Peru into bloody repression that will, its spokesman say, "irrigate its revolution" and cost 1 million lives.

Rebuilding from razed ground, Sendero would then build a Maoist hermit kingdom, along the lines of an agrarian North Korea. Its reconstruction of Peru on the basis of a permanent cultural revolution can be expected to cost millions more lives, as Chairman Gonzalo, the self-proclaimed Fourth Sword of Marxism, tries to move the society backward in time—away from the outside world that already feeds one Peruvian in four.

The movement's vigilant contempt for the "revisionism" of all other Marxist states, including North Korea, and its isolation from any friendly states, would prevent the Sendero leaders for decades to come from permitting ideological relaxation. Peru could be a long time returning to civilization.

An alternative is that its revolutionary movement might prove too incompetent or too ideological to run a government. In this case, Peru could move toward complete collapse at enormous further cost, as did another similar Maoist offshoot of China's cultural revolution, Pol Pot's Cambodia.

These costs outweigh the human rights outrages of Peruvian society, as an atomic bomb outweighs a conventional bomb. And because Sendero deliberately seeks to provoke far worse military repression, it represents a major continuing threat to Peruvian democracy. Sendero successes also mean further losses in the drug war. Sendero sees drug sales as a kind of twofer: It gets the revenue, and its capitalist adversary in America has its moral fiber undermined by drugs.

Accordingly, none should argue that if Peruvian President Alberto Fujimori does not, or cannot, meet specific human rights or democratic standards, we should "write off" Peru.

Instead, a coalition of interests should seek to save Peru from Sendero. The international human rights community ought to be against what Assistant Secretary of State Bernard Aronson has called a "third holocaust" in our time, after that of Hitler and Pol Pot.

And all who love freedom should recognize that Sendero's Marxist ambitions of achieving world revolution, and its sophisticated methods for overwhelming the defense of a state's body politic, might make it a kind of political AIDS virus in more than a few unstable Third World states.

Saving Peru from Sendero is not something Peru can do by itself. Neither can the United States, by itself, make a decisive difference. Instead, Peru has become an international problem requiring some kind of collective international help from the community of states—much as the permanent five members of the United Nations undertook to save Cambodia. Whether and how this will be done we don't know.

VIOLENCE ON TELEVISION SENDS WRONG MESSAGE

Mr. PELL. Mr. President, I rise to share with my colleagues an excellent column written by the junior Senator from Illinois [Mr. SIMON]. It is an important and insightful review of the problem of violence on television.

The column highlights an article by Dr. Brandon S. Centerwall, of the department of psychiatry and behavioral sciences of the University of Washington, in the June issue of the Journal of the American Medical Association.

That article contains the shocking findings of a study by Dr. Centerwall which found that the murder rate among whites in several countries, including the United States, doubled 10 to 15 years after the introduction of television into a nation's culture.

"Long-term childhood exposure to television," Dr. Centerwall concluded, "is a causal factor behind approximately one-half of the homicides committed in the United States, or approximately 10,000 homicides annually."

As incredible as that claim may appear at first blush, we should all remember that those who provide television programs cannot have it both ways. Either television is an effective and highly persuasive medium, or the advertisers who underwrite the programming are wasting their money.

I commend this column, entitled "The TV Violence Act at its Mid-Point," to my colleagues and ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE TV VIOLENCE ACT AT ITS MID-POINT

(By Senator Paul Simon)

Children imitate what they see and hear. I see that in my two-year-old granddaughter.

Teenagers come up with weird haircuts they have seen and copied.

Adults also imitate, whether it is buying a car as a result of a TV commercial or a political leader making the same gestures as John F. Kennedy.

The older we are, the less likely we are to imitate what we see and hear, but to some extent, the pattern (of imitation) follows us through life.

That becomes significant because of television. Violence on entertainment television is absorbed and imitated—particularly by children—into our lives and into our culture.

Because numerous studies show this conclusively, six years ago I asked representatives from the television industry to voluntarily establish standards on violence. They told me they could not do that, working together as an industry, because of antitrust laws.

I pushed through Congress the TV Violence Act, a three-year exemption to the McCarran-Ferguson Antitrust Act, so the industry could get together and establish standards. That finally became law.

Two things have happened to make that law significant now: One is that we are at the half-way point in terms of the exemption. Second, The Journal of the American Medical Association has published a powerful new article underscoring how violence on television is adding to violence in our society.

We are at half time and I'm pleased to say the cable industry shows signs it may yet treat the subject seriously, though we have to wait for results. The television networks have met on the issue, and only time will tell if they will begin to regard this as anything more than a public relations problem with Congress.

Cable has hired one of the nation's experts, Professor George Gerbner of the University of Pennsylvania, to do a fairly in-depth look at the cable industry's products, and there is every indication they are serious although the study is not as wide-ranging as is desired.

In the past I've had little hope that we will get anything more than pious words from the networks. I hope I am wrong.

What underscores the importance of this is an article in the June issue of The Journal of the American Medical Association by Dr. Brandon S. Centerwall, of the Department of Psychiatry and Behavioral Sciences of the University of Washington.

His study of murder rates among whites in several countries, including the United States, shows that the murder rate doubled 10 to 15 years after the introduction of television into a nation's culture.

He concludes: "Long-term childhood exposure to television is a causal factor behind approximately one-half of the homicides committed in the United States, or approximately 10,000 homicides annually. . . If, hypothetically, television technology had never been developed, there would today be 10,000 fewer homicides each year in the United States, 70,000 fewer rapes and 700,000 fewer injurious assaults."

Those conclusions are so powerful they are hard to believe—just as it was hard to believe the harm that cigarettes cause when medical researchers first came out with those studies.

Suppose the article is 50 percent off target. That still suggests that by changing our television programming we could eventually prevent 5,000 murders a year, 35,000 rapes and 350,000 assaults.

Or let us assume the article is 90 percent wrong, only 10 percent accurate. That still means we could improve television and each year save 1,000 of those murdered and prevent 7,000 rapes and 70,000 assaults.

Our friends in the television industry have our lives—and their lives—in their hands as they mull over what to do. If they use the balance of this three-year period just to spin their wheels and do nothing, it is unlikely the public will sit back and do nothing.

An aroused public may ask for government censorship.

A much better answer is for the industry to agree voluntarily—that it is worth forgoing a few dollars in profits (violence on television makes money) to have a society that is less violent.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

UNANIMOUS CONSENT ON TREATIES

Mr. SIMON. Mr. President, I ask unanimous consent that the Senate proceed in executive session to consider the following matters:

Executive Calendar: 30. 1983 Partial Revision of the Radio Regulations (Geneva 1979) and a Final Protocol;

Executive Calendar: 31. Agreement for the Medium Frequency Broadcasting Service in Region 2;

Executive Calendar: 32. Regional Agreement on Broadcasting Service Expansion in the Western Hemisphere;

Executive Calendar: 33. International Telecommunications Regulations (Melborne 1988);

Executive Calendar: 34. Partial Revision (1988). Radio Regulations Relating to Space Radiocommunications Services;

Executive Calendar: 35. Partial Revision (1985). Radio Regulations Relating to Broadcasting-Satellite Service in Region 2; and

Executive Calendar: 36. Partial Revision of the Radio Regulations (Geneva 1979) Relating to Mobile Services.

I further ask unanimous consent that the treaties be considered as having been advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification, that no amendments, provisos, understandings or reservations be in order; that any statements appear, as if read, in the RECORD, and that the Senate vote, en bloc, on the resolutions of ratification without intervening action or debate with one vote to count as seven.

I ask for a division vote.

The PRESIDING OFFICER. All those in favor of the resolutions of ratification stand and be counted.

(After a pause.)

All those opposed to the resolutions of ratification stand and be counted.

Two-thirds of those voting, having voted in the affirmative, the resolutions and ratification are agreed to.

The resolutions of ratification considered and agreed to are as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Partial Revision of the Radio Regulations (Geneva, 1979) of the International Telecommunication Union and a Final Protocol, signed on behalf of the United States at Geneva on March 18, 1983.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Regional Agreement for the Medium Frequency Broadcasting Service in Region 2, with Annexes, and a Final Protocol, signed on behalf of the United States at Rio de Janeiro on December 19, 1981.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Regional Agreement for the Use of the Band 1605–1705 kHz in Region 2, with Annexes, and Two U.S. Statements as contained in the Final Protocol, signed on behalf of the United States at Rio de Janeiro on June 8, 1988.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Telecommunication Regulations, with Appendices, signed at Melbourne on December 9, 1988, and a U.S. Statement, which includes a Reservation, as contained in the Final Protocol.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the 1988 Partial Revision of the Radio Regulations (Geneva, 1979) signed on behalf of the United States on October 6, 1988, and the U.S. Statement contained in the Final Protocol.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the 1988 Partial Revision of the Radio Regulations (Geneva, 1979) signed on behalf of the United States on October 6, 1988, and the U.S. Statement contained in the Final Protocol.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Partial Revision of the Regulations (Geneva, 1979) signed on behalf of the United States on September 15, 1985, and the U.S. Reservation and Statements as contained in the Final Protocol.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise the consent to the ratification of the Partial Revision of the Radio Regulations (Geneva, 1979) (Final Acts of the World Administrative Radio Conference for the Mobile Services (MOB–87) Geneva, 1987), signed on behalf of the United States on October 17, 1987, and the U.S. Reservations and Statement contained in the Final Protocol.

Mr. PELL. Mr. President, these are seven treaties of the International Telecommunication Union. These include the Partial Revision of the Radio Regulations (Geneva, 1979) of the International Telecommunication Union signed at Geneva on March 18, 1983, and transmitted on January 7, 1985, by President Reagan (Treaty Doc. 99–1); the Regional Agreement for the Medium Frequency Broadcasting Service (Rio de Janeiro, 1981) in Region 2, signed at Rio de Janeiro on December 19, 1981, and transmitted by President Reagan on June 26, 1987 (Treaty Doc. 100–7); the Regional Agreement for the Use of the Band 1605–1705 kHz in Region 2, signed at Rio de Janeiro on June 8, 1988, and transmitted by President Bush on July 30, 1991 (Treaty Doc. 102–10); the International Telecommunication Regulations signed at Melbourne on December 9, 1988, and transmitted by President Bush on September 11, 1991 (Treaty Doc. 102–13); the 1988 Partial Revision of the Radio Regulations (Geneva, 1979) signed at Geneva on October 6, 1988, and transmitted on April 2, 1992 (Treaty Doc. 102–27); the Partial Revision of the Radio Regulations (Geneva, 1979) signed at Geneva on September 15, 1985, and transmitted on April 2, 1992 by President Bush (Treaty Doc. 102–28); and the Partial Revision of the Radio Regulations (Geneva, 1979), signed at Geneva on October 17, 1987, and transmitted by President Bush on May 12, 1992 (Treaty Doc. 102–29).

The International Telecommunication Union is a specialized agency of the United Nations designed to promote cooperation among nations, allocate the radiofrequency spectrum, limit interference, develop telecommunication standards, and provide assistance to developing countries. These treaties are part of the ongoing process among members of the ITU to coordinate usage of the radio spectrum and accommodate new technologies in radio and telecommunications. Most of these treaties before us today were signed several years ago and have been observed for some time.

The earliest of these agreements, the Regional Agreement for the Medium Frequency Broadcasting Service (Rio de Janeiro, 1981) in Region 2 (Treaty Doc. 100-7) establishes a plan of frequency assignments for AM radio and procedures designed to reduce station interference. Prior to this agreement, AM broadcasting was allocated on a domestic or subregional basis in region 2 of the ITU which consists of the Western Hemisphere. By the 1970's, countries were increasingly experiencing interference and there was interest in a new planning initiative to more efficiently allocate the medium frequency radio spectrum.

The plan lists 15,000 frequency assignments, of which 10,000 are operating AM radio broadcast stations and 5,000 are proposed additional stations. Approximately one-third of all assignments are for stations in the United States. It was originally intended that the plan would only consist of assignments that neither cause nor receive objectionable levels of interference. However, the conference members were unable to agree on all of the 15,000 assignments. As a result, the conference produced two lists: List A, which lists frequency assignments that neither receive nor produce objectionable levels of interference; and list B, which lists those stations where there is an objectionable level of interference. Approximately 90 percent of U.S. stations were on list A. The agreement calls for continued bilateral discussions to resolve incompatibilities on list B. Cuba is the only country neighboring the United States which is not a signatory to the Agreement.

The Regional Agreement for the Use of the Band 1605-1705 kHz in Region 2 (Treaty Doc. 102-10) establishes an allotment plan for extended AM broadcasting on the band 1605 to 1705 kHz in region 2. In response to demands to increase the number of AM radio assignments, 1979 World Administrative Radio Conference in Geneva recommended that a Regional Administrative Radio Conference be convened to establish a plan for AM radio in the frequency range 1605-1705 kHz. This represented a modest extension of the existing AM radio band. The United States will have priority use of the 10 new channels except within 330 kms of neighboring countries. The United States will negotiate bilateral agreements with Canada and Mexico to refine this treaty.

The band was traditionally used by fixed and mobile services, many of which had moved to other locations on the radio spectrum. The fixed and mobile stations that had been operating on the bands may either move above the 1705 kHz band or continue to use the band on a noninterference basis in those areas where they will not be affected by broadcasting.

The International Telecommunication Regulations—Treaty Document 102-13—establish general principles for providing and operating international telecommunication services offered to the public as well as underlying facilities. Since the regulations were last revised in 1973, technological advances in the telecommunications and information fields had dramatically changed all aspects of the telecommunications field, and ITU members wanted a new regulatory framework in light of the changes.

Much of the debate over this Agreement focused on the scope of the regulations. Some countries wanted the regulations to include all international telecommunication services except for a narrowly defined range of private users, whereas the United States contended that the regulations should only cover providers of public correspondence services. The Department of State believes the United States succeeded in negotiating "flexible and neutral regulations" despite several proposals from developing countries which would have broadened the scope of regulations and recommendations. The United States achieved its goal of expanding opportunities for users to lease international circuits from public networks. The regulations also state that members may allow companies or persons to enter into special arrangements to meet specialized international telecommunications needs rather than entering into bilateral agreements.

The United States issued one reservation, understanding, and declaration at the conference, which are incorporated in the Final Protocol submitted to the Senate. The United States declared that it will not accept the responsibility to enforce the domestic regulations of any other member within United States borders; does not endorse domestic procedures of other Members which require approval for providers seeking to do business outside the United States; does not accept the obligation to apply the reservations with respect to telecommunications between the United States, Canada, Mexico, Saint-Pierre Island, or Miquelon Island; and does not accept any obligation to apply the regulations to services other than public services. Further, the United States stated its understanding that all recommendations are voluntary and disassociated itself from a "conference opinion" which expressed some nations' concern that elements of the regulations would decrease their revenues.

The Partial Revision of the Radio Regulations (Treaty Doc. 102-28) allocates the frequency band 12.2-12.7 GHz to broadcasting-satellite services and 17.3-17.8 GHz to feeder links in region 2. The major goals of the Agreement were to devise a planning procedure for the use of broadcasting-satellite services and to establish planning principles, methods, and technical parameters regarding access to the geostationary orbit which would be agreed upon at the second conference. Although the United States felt that planning for broadcasting-satellite services was premature, region 2 needed an agreement to provide international recognition of its intent to use those bands for broadcasting-satellite services and obtain equity with the other regions who had already established plans for those services. According to the Department of State, the plan retains the procedural flexibility that the United States sought.

The United States entered a reservation regarding two technical issues, received power levels and polarization directions. The United States stated that characteristics designated in the plan place constraints on the development of advanced television services and reserves the right to use a higher received power level and either sense of polarization, indirect or direct. The United States also joined 22 other countries in a statement expressing that it does not recognize the assertion by Indonesia, Colombia, and Ecuador of sovereign rights over segments of the geostationary orbit.

The 1983 and 1987 Partial Revisions of the Radio Regulations (Treaty Docs. 99-1 and 102-29) address safety and distress systems. These two agreements revise the radio regulations by allocating frequencies for mobile-satellite services, radiodetermination-satellite services, maritime mobile services, and radionavigation services, adopting regional allocation provisions for terrestrial public correspondence with aircrafts and incorporating the Global Maritime Distress and Safety System being developed by the International Maritime Organization of the United Nations. Given vast changes in technology, the system revises distress communications on the high seas by replacing the traditional ship-to-ship system with one based more heavily on ship-to-shore and shore-to-ship communication and introduces new terrestrial and satellite technology. The United States also returned frequency allotments to China that had been available for U.S. Government stations.

The United States entered two reservations to the 1987 Final Protocol. The first relates to the restriction on the allocation of mobile satellite services and states the U.S. intention to use the bands in the most appropriate way to meet its requirements. The second states that the United States will not accept the obligation on passenger ships with more than 12 passengers to carry maintenance personnel for distress and safety communications equipment. The United States also submitted a statement reserving its "* * * right to meet its radiocommunication requirements * * *" at the U.S. naval base at Guantanamo Bay.

One of the more contentious negotiations was over the 1988 Partial Revision of the Radio Regulations (Treaty Doc. 102-27) relating to the access to the geostationary satellite orbit and space services. Because the geostationary orbit has a limited number of orbital positions, developing countries wanted to guarantee access to orbital slots in the future. Since developing countries were far from needing or being able to access the orbit, the United States was concerned that planning for the use of the geostationary orbit would result in an inefficient allocation of resources. Conference members eventually agreed to a dual planning approach that allocates a certain portion of the radio spectrum to all nations under one plan and grandfathers existing and planned stations under another plan. The U.S. negotiators were satisfied with the compromise. According to the Department of State, the plan does not impose constraints on existing U.S. satellites nor unduly burden the coordination of future U.S. satellites.

The Agreement also added a new feature, multilateral planning meetings, for coordinating new satellite systems and made assignments for feeder links in regions 1 and 3. The United States joined 20 other countries in a statement which denies recognition of Colombia and Ecuador's claims of sovereign rights over portions of the geostationary orbit.

The committee held a hearing on these treaties on May 12, 1992. Testimony was received from Ambassador Bradley P. Holmes, U.S. Coordinator and Director of International Communications and Information Policy, Department of State. The committee is not aware of any opposition to the ratification of this treaty by the United States, and none of the treaties require implementing legislation.

These treaties were reported favorably by the Committee on Foreign Relations on June 11, 1992, by a vote of 18 to 0. Mr. President, I recommended that the Senate give its advice and consent to the ratification of these seven treaties.

Mr. SIMON. Mr. President, I ask unanimous consent that the motions to reconsider the vote be laid upon the table, en bloc; that the President be notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

BILL HELD AT THE DESK—SENATE JOINT RESOLUTION 330

Mr. SIMON. Mr. President, I ask unanimous consent that Senate Joint Resolution 330, introduced earlier today by Senators KENNEDY, HATCH and others, be held at the desk until close of business Wednesday, August 12.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRISH-AMERICAN HERITAGE MONTH

Mr. KENNEDY. Mr. President, I am proud to join Senators HATCH, SIMON, MACK, ADAMS, BIDEN, COCHRAN, CRANSTON, D'AMATO, DANFORTH, DECONCINI, DIXON, DODD, DURENBERGER, GLENN, INOUYE, JEFFORDS, KASTEN, KERRY, LEVIN METZENBAUM, MIKULSKI, MITCHELL, MOYNIHAN, MURKOWSKI, PELL, STEVENS, THURMOND, WELLSTONE, and WOFFORD, in introducing a Senate Joint Resolution designating March 1993 as Irish-American Heritage Month.

An identical resolution House Joint Resolution 500, has been introduced by Representative THOMAS J. MANTON and 171 other sponsors in the House.

This measure is intended to honor the many significant contributions by the Irish to our country since the beginning of America. The Irish helped us win our freedom from Great Britain more than 200 years ago. In fact, Irish volunteers played such a dominant role in the Revolutionary Army that Lord Mountjoy lamented in the British Parliament that "We have lost America through the Irish."

During the Civil War, the Irish Brigade fought on the Union side with great distinction at Fredericksburg, Chancellorsville, Yorktown, Fair Oaks, Gaines Mill, Allen's Farm, Savage's Station, White Oak Bridge, Glendale, Malvern Hill, Antietam, Gettysburg, and Bristow Station. After the battle of Fredericksburg, Gen. Robert E. Lee, the leader of the Confederate forces, paid this tribute to the Irish Brigade on the opposing side:

> The gallant stand which this bold brigade made on the heights of Fredericksburg is well known. Never were men so brave. They ennobled their race by their splendid gallantry on that desperate occasion. Their brilliant though hopeless assaults on our lines excited the hearty applause of our officers and soldiers.

In the years since then, Irish immigrants have been involved in all aspects of our national life. They built our cities and canals, and the railroads that took America to the West, Even now, it is said, under every railroad tie, an Irishman is buried.

Today, more than 44 million Americans trace their ancestry to Ireland. Irish-Americans have made their mark in many fields—law and medicine, politics and government and the armed forces, business and labor, literature and music. Eugene O'Neill once said that the most important thing about himself and his work was that he was Irish.

Through perseverance and faith, humor and hard work, courage and patriotism, often against the odds, the Irish won acceptance for themselves and consequently for many other ethnic groups in the United States.

It is an honor to introduce this joint resolution today, and I look forward to early action on it by the Congress.

Mr. KERRY. Mr. President, I am pleased to be an original cosponsor of the joint resolution to designate March 1993 as "Irish-American Heritage Month." All over the United States, and especially in the Commonwealth of Massachusetts, Irish-American people continue the legacy of their forebears in contributing to the good of our country.

From the very beginning of this country's history, Irish-Americans have been at the center of the struggle to establish the United States as a beacon of freedom and fairness for the rest of the world. The Irish came to this land in search of freedom and have been heroic participants in the conflicts to protect that ideal.

The Irish are representative of this Republic's ideals. Be it our country's infrastructure, our cultural heritage, our legacy of dedicated public servants, all have benefited from the contributions of the sons and daughters of the "Auld Sod."

Irish-Americans have had to struggle to gain acceptance in the United States, but by means of their undying patriotism and dedication to hard work, they have earned the respect of all their fellow Americans.

"Irish-American Heritage Month" is a well deserved acknowledgment of the many contributions which these people have made to our country. I am proud to join in this occasion to honor them and those who came before.

Mr. PELL. Mr. President, I am delighted to join with Senator KENNEDY to cosponsor legislation designating an "Irish-American Heritage Month." Over the past several years, I have been privileged to introduce with Senator SIMON similar resolutions honoring the Irish-American community.

There is not one aspect of American life unenriched by the contributions of the Irish. History reveals that they have played a prominent role in the United States, from the American Revolution to the present day. Furthermore, their influence permeates the many facets of this Nation's culture and identity. In fact, the impact of Irish-American heritage has enabled the United States and Ireland to continue an enduring, amicable relationship.

This resolution would declare March 1993 "Irish-American Heritage Month." In doing so, it acknowledges and applauds the accomplishments of the Irish in our Nation. I am a proud cosponsor of this joint resolution, and I encourage my colleagues to support this legislation.

(At the request of Mr. Dole, the following statement was printed in the Record.)

• Mr. HATCH. Mr. President, I am pleased to serve as an original cosponsor of a joint resolution that designates March 1993 as "Irish-American Heritage Month." It is clear that Irish-Americans have made important contributions to this country, and the purpose of introducing this resolution is to recognize the unique role that the Irish played in shaping our national identity.

Irish-Americans have distinguished themselves in government, law, military service, academia, and the arts. The noble works of Irish-American writers and poets are something in which all Americans can rejoice. However, I believe that the greatest contribution of Irish-Americans continues to be their unswerving commitment to family, hard work, and education. These values and principles guide Irish-Americans and explain precisely why this group has contributed so much to our country.

Mr. President, it is a pleasure to help introduce this joint resolution and I urge my colleagues to cosponsor this legislation.•

INDIAN TRIBAL COURTS ACT

Mr. SIMON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 536, S. 1752 relating to Indian tribal courts.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1752) to provide for the development, enhancement, and recognition of Indian tribal courts.

There being no objection, the Senate proceeded to consider the bill, which was reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Courts Act of 1992".

SEC. 2. DECLARATIONS AND FINDINGS.

Congress, after careful review of the United States historical and special legal relationship with and responsibilities to American Indian tribal governments, finds and declares that:

(1) The United States has a government-to-government relationship with each federally recognized tribal government.

(2) The United States has a trust responsibility to each tribal government that includes protection and enhancement of the sovereignty of each tribal government and the courts of each such government.

(3) Tribal governments exercise powers of self-government, requiring the enactment and enforcement of tribal laws and ordinances.

(4) An effective tribal judiciary is vital to the maintenance and enhancement of tribal sovereignty.

(5) The vindication of rights guaranteed by the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), and other Acts of Congress, within tribal forums can only be guaranteed by the provision of adequate resources to carry out the purposes and intent of such Acts.

(6) Resources are needed to update tribal legal codes, to address probation and detention needs, to assure a right to counsel as defined by tribal law, to increase tribal court access to legal authorities through computerized and other means, to train tribal court and tribal governmental personnel on court procedures and on the requirements of the Indian Civil Rights Act of 1968, to assure adequate compensation of tribal court judges and other court personnel, and to retain law clerks.

SEC. 3. PURPOSES.

Congress declares that this Act shall be implemented in accordance with the following Federal policy:

(1) The United States, as part of the exercise of its trust responsibility, shall assist tribal governments by strengthening tribal judicial systems and by promoting the recognition of tribal sovereignty and tribal court authority.

(2) The United States shall fund tribal courts at a level equivalent to State courts of general jurisdiction performing similar functions in the same or comparable geographic region.

(3) Federal funding to tribal courts shall be administered in a manner that encourages flexibility and innovation by tribal judicial systems and that avoids encroaching on tribal traditions that may be manifested in tribal judicial systems.

(4) Federal funding shall be available to provide support to intertribal appellate court systems.

(5) The United States shall provide funding for tribal judicial systems in a manner that will minimize Federal and administrative costs.

(6) The Congress encourages the mutual recognition by tribal, State, and Federal courts of the public acts, records, and proceedings of each other's courts.

(7) The Congress shall protect the diversity of tribal court systems and encourage each tribal government to determine the best system for the tribal government's particular needs.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians. Such term includes any Alaska Native governmental entity.

(2) The term "intertribal appellate court" means a judicial system that is established by two or more tribes to hear matters on appeal from tribal courts and includes regional tribal appellate court systems.

(3) The term "tribal court" means the entire judicial system of a tribal government, including all tribal lower courts, appellate courts, and circuit rider systems, established by inherent tribal authority, and traditional dispute resolution forums.

(4) The term "tribal court personnel" means tribal court, tribal appellate court, and tribal supreme court judges, officers of the court, administrative personnel, dispute resolution facilitators, bailiffs, clerks, probation officers, and others who work for or primarily with tribal courts.

(5) The term "tribal government" means the government of an Indian tribe.

(6) The term "Conference" means the Judicial Conference that is established by Indian tribal governments to carry out the purposes of this Act and recognized by the United States under section 101 of this Act.

(7) The term "Indian country" means Indian country as defined in section 1151 of title 18, United States Code.

SEC. 5. DISCLAIMER.

Nothing in this Act shall be construed to—

(1) encroach upon or diminish in any way the inherent sovereign authority of each tribal government to determine the role of the tribal court within the tribal government or to enact and enforce tribal laws;

(2) diminish in any way the authority of tribal governments to appoint personnel;

(3) impair the rights of each tribal government to determine the nature of its own legal system or the apportionment of authority within the tribal government;

(4) alter in any way any traditional dispute resolution forum;

(5) imply that any tribal court is an instrumentality of the United States; or

(6) diminish the trust responsibility of the United States to Indian tribal governments and tribal court systems of such governments.

TITLE I—JUDICIAL CONFERENCE

SEC. 101. RECOGNITION OF CONFERENCE.

(a) Judicial Conference.—The Congress, on behalf of the United States and in accordance with the provisions of subsection (b) of this section, shall recognize a nationally based Tribal Judicial Conference organized by the governments of federally recognized Indian tribes for the following purposes—

(1) the administration of funds appropriated for the support and maintenance of the Conference;

(2) the administration of contracts and grants for the enhancement of tribal courts; and

(3) the conduct of such activities, including the establishment of advisory and other committees as, in the opinion of the Conference, are necessary and appropriate for the enhancement of tribal courts, intertribal appellate courts, and regional judicial conferences. Such activities may include, but are not limited to—

(A) the conduct of a continuous study of the operation of tribal courts and making available to such courts recommended rules of practice and procedures for the promotion of procedural uniformity within each court system, fairness in administration, the just determination of litigation, and the elimination of unnecessary expense and delay;

(B) the development, in consultation with tribal governments, of a formula for the distribution of funds to tribal governments in accordance with section 106 of this title;

(C) the determination, in consultation with tribal governments, of information that will be required to be submitted annually by the tribal courts and intertribal appellate courts for the purpose of maintaining current information for formula funding analysis;

(D) the determination of other support needed under section 108(a)(10) of this title;

(E) the submission of an annual report to the Congress on information obtained pursuant to sections 4 and 7 of this title and section 202;

(F) the submission of annual estimates to the Office of Management and Budget and to the Congress, on the amounts needed to maintain and operate tribal courts, intertribal appellate courts, and the Conference; and

(G) the conduct of the Survey of Tribal Court Needs required by section 201 of this Act and the appointment of three members to the survey team pursuant to section 202 of this Act.

(b) Congressional Recognition.—A nationally based Tribal Judicial Conference that is or-

ganized by the governments of federally recognized Indian tribes may petition the Congress for recognition by the United States for the purposes described in subsection (a) of this section. Such petition may be made by letter and shall be submitted to the Congress. The petitioning organization shall be deemed recognized at the end of the 60-day period following receipt of the petition by the Congress unless a joint resolution signifying disapproval of the petitioning organization is introduced and approved during that 60-day period, in accordance with title III. Such resolution must contain specific reasons for disapproval including information that the petitioning organization is not nationally based or that the membership of the petitioning organization is not open to all federally recognized Indian tribes. If such resolution is approved by the Congress within 60 calendar days following introduction, the petition shall fail. If such resolution fails to pass the Congress within 60 days following introduction, the petition shall be deemed approved.

(c) No Restriction on Limitation on Powers of Conference.—Nothing in this Act shall be deemed to restrict or limit the powers that may be vested in the Conference by the participating tribal governments.

(d) Inherent Tribal Governmental Authority.—The Conference recognized by the United States pursuant to this Act shall be deemed to be organized under the inherent governmental authority of each participating tribal government.

SEC. 102. COMMITTEES.

The Conference may establish committees, including, but not limited to, committees on automation, personnel, practice and procedures, court-appointed counsel services, probation and sentencing, salaries and benefits, codes of conduct, and court administration and case management.

SEC. 103. ASSISTANCE FROM ADMINISTRATIVE OFFICE OF UNITED STATES COURTS.

At the request of the Conference recognized by the United States pursuant to this Act, the Administrative Office of the United States Courts shall provide technical and other assistance to the Conference, on a reimbursable basis.

SEC. 104. INFORMATION.

The Conference shall secure from the tribal courts and intertribal appellate courts information on the status of the dockets of the courts, information on the courts' need for assistance to enhance the administration of justice, and such other data as may be needed to assist the development of such courts.

SEC. 105. REGULATIONS.

After consultation with tribal governments, the Conference may make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions, powers, and authority of the Conference and shall publish in the Federal Register such rules, regulations, and notices as the conference determines to be of public interest.

SEC. 106. FORMULA; GRANTS.

(a) Establishment.—A formula for funding tribal courts and intertribal appellate courts shall be established by the Conference after full and complete consultation with tribal governments and after notice and publication in the Federal Register, incorporating the findings of the survey authorized in section 201. A minimum base funding level shall be established for each tribal court, and the balance of funds shall be distributed to tribal governments for such tribal courts and intertribal appellate courts by means of the formula. The factors that may be considered in developing such formula include, but are not limited to—

(1) Indian and non-Indian population served by the tribal court in Indian country;

(2) tribal court civil and criminal caseload, including Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.) caseload;

(3) projected caseloads based on requirements of Federal law;

(4) social and professional support services, including interpreters;

(5) tribal authorization for court-appointed counsel;

(6) facilities needs, including shelters, detention, rehabilitation or protective facilities; and

(7) location of reservation, including distances from detention, probation, and treatment facilities.

The manner in which a tribal government organizes its judicial function shall not be considered as a factor in any formula developed under this subsection or under any other provision of this Act.

(b) Distribution.—In accordance with the formula established pursuant to subsection (a), the Bureau of Indian Affairs shall distribute to tribal governments, for the use of tribal courts and intertribal appellate courts, the funds appropriated pursuant to section 109(a)(1) of this title. Nothing in this Act shall be construed as prohibiting any tribal government from providing other support, from whatever source, to its tribal courts. In no case shall the amount retained by the Bureau of Indian Affairs from the funds appropriated under 109(a)(1) of this title for administrative functions authorized by this section exceed $250,000 in any fiscal year.

(c) Appeals Procedures.—Any tribal government aggrieved by the formula established pursuant to subsection (a) of this section, or any subsequent amendments or adjustments to such formula, may appeal to the Board of Hearings and Appeals, United States Department of the Interior, but only on questions of law and only if the issue was raised and fully considered by the Conference prior to the filing of the appeal.

SEC. 107. REPORTS.

Each tribal court and intertribal appellate court that receives funding through its tribal government under section 109(a)(1) of this title shall report annually to its tribal government and to the Conference such information as the conference may deem necessary to assure the adequacy of funding to meet the needs of tribal courts, including information gathered pursuant to section 104.

SEC. 108. GRANTS FOR TRAINING, AUTOMATION, CODE DEVELOPMENT, RECORDKEEPING.

(a) Grants.—From amounts appropriated pursuant to section 109(a)(2) of this title, the Conference shall provide funding to tribal governments, tribal consortia, and national Indian organizations, for the following purposes:

(1) training of judges and other court personnel;

(2) procurement (by lease, purchase, exchange, transfer, or otherwise) of automatic data processing equipment, and training of tribal court personnel in the management, coordination, operation, and use of automatic data processing equipment in tribal courts;

(3) development of standards of conduct for court practitioners;

(4) development of tribal court rules;

(5) development of personnel standards for judges, advocates, court-appointed counsel, and other legal practitioners, and for other court personnel;

(6) development of court-appointed counsel services;

(7) development of probation and pretrial services;

(8) development of court accounting procedures;

(9) development of tribal and regional appellate systems; and

(10) such other support for the development and maintenance of tribal courts that the Conference may deem appropriate, including the development of a nationwide tribal court reporting system, and recommendations for funding for facilities construction, improvement, or repair.

(b) Method of Funding.—The Conference may provide such funding on the basis of a formula established by the Conference, or in such amounts as the Conference determines appropriate. Such funding may be provided by grants, including competitive grants. Any formula established by the Conference pursuant to this subsection shall be established in consultation with the participating tribal governments.

(c) Prohibition.—Funding provided under this section may not be used to offset the funding provided for the operation of tribal courts and intertribal appellate courts under section 106, or any other Federal sources of funding to support such courts.

(d) Standards.—No standards developed under such funding may be imposed on any tribal court except by the tribal government. Tribal governments may impose standards which assure fiscal control and recordkeeping.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

(a) Appropriations.—(1) For purposes of carrying out the provisions of section 106, there are authorized to be appropriated $50,000,000 for fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year.

(2) For purposes of carrying out the provisions of section 108, there are authorized to be appropriated $5,000,000 for fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year.

(3) For purposes of supporting the Conference, there are authorized to be appropriated $2,500,000 for fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year.

(b) Congressional Budget Act of 1974.—The authorization of appropriations provided for by subsection (a) is established only with respect to appropriations made from the allocation under section 602(b) of the Congressional Budget Act of 1974—

(1) for the Subcommittee on Commerce, Justice, State, and Judiciary of the Committee on Appropriations of the House of Representatives; and

(2) for the Subcommittee on Commerce, Justice, State, and Judiciary of the Committee on Appropriations of the Senate.

SEC. 110. SINGLE AUDIT ACT OF 1984.

Funding provided pursuant to this title shall be subject to the applicable provisions of the Single Audit Act of 1984.

SEC. 111. ELIGIBILITY.

Nothing in this Act shall affect the eligibility of a tribal government to receive funding through the Indian priority system of the Bureau of Indian Affairs for support of the tribe's court system.

TITLE II—SURVEY OF TRIBAL COURT NEEDS

SEC. 201. SURVEY.

(a) Tribal Court Needs.—Within 180 days following the date on which a Tribal Judicial Conference is recognized by the United States in accordance with title I of this Act, a comprehensive survey shall be conducted in accordance with subsection (b), of the needs of each tribal court that is eligible for services through the Bureau of Indian Affairs. Such survey shall include a comparison of current funding of each tribal court surveyed with State and local courts of comparable jurisdiction, in the same geographic area, and with similar actual and potential caseloads. The survey may include but is not limited to the following factors:

(1) the amount of base funding required to support the operation of the tribal judicial system of each tribal government, including the

funding needed to adequately enforce Federal laws, including the Indian Civil Rights Act of 1968; and

(2) the amount of base funding required to support the operation of intertribal or regional appellate judicial systems.

(b) TRIBAL COURT SURVEY TEAM.—The survey required in subsection (a) shall be conducted by the Tribal Court Survey Team, under the direction of the Conference, and in consultation with tribal governments.

SEC. 202. TRIBAL COURT SURVEY TEAM.

(a) COMPOSITION.—The Tribal Court Survey Team shall consist of—

(1) three members appointed by the Conference;

(2) three members appointed by the Director of the National Center for State Courts; and

(3) three members appointed by the Director of the Administrative Office of the United States Courts.

(b) PERSONNEL.—The Tribal Court Survey Team may employ, on a temporary basis, such personnel as are required to carry out the provisions of section 201(a).

(c) FINDINGS.—The Tribal Court Survey Team shall submit its findings to—

(1) the Conference;

(2) the Secretary of the Interior;

(3) the Chairman of the Committee on Interior and Insular Affairs of the House of Representatives;

(4) the Chairman of the Select Committee on Indian Affairs of the Senate;

(5) the Chairman of the Subcommittee on Commerce, Justice, State, and Judiciary of the Committee on Appropriations of the House of Representatives;

(6) the Chairman of the Subcommittee on Commerce, Justice, State, and Judiciary of the Committee on Appropriations of the Senate;

(7) the Director of the National Center for State Courts; and

(8) the Director of the Administrative Office of the United States Courts.

SEC. 203. APPROPRIATIONS.

For purposes of carrying out the provisions of section 201—

(1) there are authorized to be appropriated such sums as may be necessary; and

(2) the authorization of appropriations under paragraph (1) is established only with respect to appropriations made from the allocation under section 602(b) of the Congressional Budget Act of 1974—

(A) for the Subcommittee on Commerce, Justice, State and Judiciary of the Committee on Appropriations of the House of Representatives; and

(B) for the Subcommittee on Commerce, Justice, State and Judiciary of the Committee on Appropriations of the Senate.

TITLE III—EXPEDITED PROCEDURE FOR RESOLUTION OF DISAPPROVAL

SEC. 301. EXPEDITED PROCEDURE.

(a) CONTENTS OF RESOLUTION.—For the purposes of section 101(b), "joint resolution" means only a joint resolution introduced after the date on which Congress receives a petition in accordance with section 101(b) the matter after the resolving clause of which is as follows: "The Congress disapproves the petitioning organization for the following reason or reasons: (Reasons to be inserted here).".

(b) REFERRAL TO COMMITTEE.—A resolution described in subsection (a) introduced in the House of Representatives shall be referred to the Committee on Interior and Insular Affairs of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be referred to the Select Committee on Indian Affairs of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(c) DISCHARGE OF COMMITTEE.—If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a joint resolution disapproving the petition as described in section 101(b), whichever is earlier, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(d) FLOOR CONSIDERATION.—

(1) IN GENERAL.—When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(1) The resolution of the other House shall not be referred to a committee.

(2) With respect to a resolution described in subsection (a) of the House receiving the resolution—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(f) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

AMENDMENT NO. 2912

(Purpose: To provide for a study of the impact on Federal and tribal courts of Federal court review of final orders of tribal courts)

Mr. SIMPSON. Mr. President, on behalf of Senator GORTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. GORTON, proposes an amendment numbered 2912.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE IV—STUDY OF TRIBAL/FEDERAL COURT REVIEW

SEC. 401. STUDY.

(a) TRIBAL/FEDERAL COURT REVIEW.—A comprehensive study shall be conducted in accordance with subsection (b), of the treatment by tribal courts of matters arising under the Indian Civil Rights Act (25 U.S.C. 1301 et seq.) and of other Federal laws for which tribal courts have jurisdictional authority and regulations promulgated by Federal agencies pursuant to the Indian Civil Rights Act and other Acts of Congress. The study shall include an analysis of those Indian Civil Rights Act cases that were the subject of Federal court review from 1968 to 1978 and the burden, if any, on tribal governments, tribal courts, and Federal courts of such review. The study shall address the circumstances under which Federal court review of actions arising under the Indian Civil Rights Act may be appropriate or warranted.

(b) TRIBAL/FEDERAL COURT REVIEW STUDY PANEL.—The study required in subsection (a) shall be conducted by the Tribal/Federal Court Review Study Panel in consultation with tribal governments.

SEC. 402. TRIBAL/FEDERAL COURT REVIEW STUDY PANEL.

(a) COMPOSITION.—The Tribal/Federal Court Review Study Panel shall consist of—

(1) four representatives of tribal governments, including tribal court judges, two of whom shall be appointed by the Speaker of the House of Representatives and two of whom shall be appointed by the President pro tempore of the Senate; and

(2) four members of the United States Court of Appeals courts who shall be appointed by the Director of the Administrative Office of the United States Courts.

(b) PERSONNEL.—The Tribal/Federal Court Review Study Panel may employ, on a temporary basis, such personnel as are required to carry out the provisions of this title.

(c) FINDINGS.—The Tribal/Federal Court Review Study Panel, not later than the expiration of the 12-month period following the date on which moneys are made available to carry out this title, shall submit its findings and recommendations to—

(1) the Congress;

(2) the Tribal Judicial Conference; and

(3) the director of the Administrative Office of the United States Courts.

(d) TERMINATION.—Not later than 30 days after the Panel has submitted its findings and recommendations under subsection (c), the Panel shall cease to exist.

SEC. 403. APPROPRIATIONS.

For purposes of carrying out the provisions of this title there are authorized to be appropriated such sums as may be necessary.

SEC. 404. PROHIBITION ON GRANTS.

Notwithstanding any other provision of this Act, no grants shall be made by the Conference under this Act after the expiration of the 18-month period following the date of the enactment of this Act, unless the Tribal/Federal Court Review Study Panel has submitted its findings and recommendations to the Congress in accordance with subsection (c) of section 402 and a period of 60 days has expired following the submission of such findings and recommendations.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2912) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SIMON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 576, H.R. 4004; that all after the enacting clause be stricken; that the text of S. 1752, as amended, be inserted in lieu thereof; that the bill be deemed read the third time and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4004) as amended, was deemed read the third time and passed; as follows:

Resolved, That the bill from the House of Representatives (H.R. 4004) entitled "An Act to assist in the development of tribal judicial systems, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Courts Act of 1992".

SEC. 2. DECLARATIONS AND FINDINGS.

Congress, after careful review of the United States historical and special legal relationship with and responsibilities to American Indian tribal governments, finds and declares that:

(1) The United States has a government-to-government relationship with each federally recognized tribal government.

(2) The United States has a trust responsibility to each tribal government that includes protection and enhancement of the sovereignty of each tribal government and the courts of each such government.

(3) Tribal governments exercise powers of self-government, requiring the enactment and enforcement of tribal laws and ordinances.

(4) An effective tribal judiciary is vital to the maintenance and enhancement of tribal sovereignty.

(5) The vindication of rights guaranteed by the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), and other Acts of Congress, within tribal forums can only be guaranteed by the provision of adequate resources to carry out the purposes and intent of such Acts.

(6) Resources are needed to update tribal legal codes, to address probation and detention needs, to assure a right to counsel as defined by tribal law, to increase tribal court access to legal authorities through computerized and other means, to train tribal court and tribal governmental personnel on court procedures and on the requirements of the Indian Civil Rights Act of 1968, to assure adequate compensation of tribal court judges and other court personnel, and to retain law clerks.

SEC. 3. PURPOSES.

Congress declares that this Act shall be implemented in accordance with the following Federal policy:

(1) The United States, as part of the exercise of its trust responsibility, shall assist tribal governments by strengthening tribal judicial systems and by promoting the recognition of tribal sovereignty and tribal court authority.

(2) The United States shall fund tribal courts at a level equivalent to State courts of general jurisdiction performing similar functions in the same or comparable geographic region.

(3) Federal funding to tribal courts shall be administered in a manner that encourages flexibility and innovation by tribal judicial systems and that avoids encroaching on tribal traditions that may be manifested in tribal judicial systems.

(4) Federal funding shall be available to provide support to intertribal appellate court systems.

(5) The United States shall provide funding for tribal judicial systems in a manner that will minimize Federal and administrative costs.

(6) The Congress encourages the mutual recognition by tribal, State, and Federal courts of the public acts, records, and proceedings of each other's courts.

(7) The Congress shall protect the diversity of tribal court systems and encourage each tribal government to determine the best system for the tribal government's particular needs.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians. Such term includes any Alaska Native governmental entity.

(2) The term "intertribal appellate court" means a judicial system that is established by two or more tribes to hear matters on appeal from tribal courts and includes regional tribal appellate court systems.

(3) The term "tribal court" means the entire judicial system of a tribal government, including all tribal lower courts, appellate courts, and circuit rider systems, established by inherent tribal authority, and traditional dispute resolution forums.

(4) The term "tribal court personnel" means tribal court, tribal appellate court, and tribal supreme court judges, officers of the court, administrative personnel, dispute resolution facilitators, bailiffs, clerks, probation officers, and others who work for or primarily with tribal courts.

(5) The term "tribal government" means the government of an Indian tribe.

(6) The term "Conference" means the Judicial Conference that is established by Indian tribal governments to carry out the purposes of this Act and recognized by the United States under section 101 of this Act.

(7) The term "Indian country" means Indian country as defined in section 1151 of title 18, United States Code.

SEC. 5. DISCLAIMER.

Nothing in this Act shall be construed to—

(1) encroach upon or diminish in any way the inherent sovereign authority of each tribal government to determine the role of the tribal court within the tribal government or to enact and enforce tribal laws;

(2) diminish in any way the authority of tribal governments to appoint personnel;

(3) impair the rights of each tribal government to determine the nature of its own legal system or the apportionment of authority within the tribal government;

(4) alter in any way any traditional dispute resolution forum;

(5) imply that any tribal court is an instrumentality of the United States; or

(6) diminish the trust responsibility of the United States to Indian tribal governments and tribal court systems of such governments.

TITLE I—JUDICIAL CONFERENCE

SEC. 101. RECOGNITION OF CONFERENCE.

(a) JUDICIAL CONFERENCE.—The Congress, on behalf of the United States and in accordance with the provisions of subsection (b) of this section, shall recognize a nationally based Tribal Judicial Conference organized by the governments of federally recognized Indian tribes for the following purposes—

(1) the administration of funds appropriated for the support and maintenance of the Conference;

(2) the administration of contracts and grants for the enhancement of tribal courts; and

(3) the conduct of such activities, including the establishment of advisory and other committees as, in the opinion of the Conference, are necessary and appropriate for the enhancement of tribal courts, intertribal appellate courts, and regional judicial conferences. Such activities may include, but are not limited to—

(A) the conduct of a continuous study of the operation of tribal courts and making available to such courts recommended rules of practice and procedures for the promotion of procedural uniformity within each court system, fairness in administration, the just determination of litigation, and the elimination of unnecessary expense and delay;

(B) the development, in consultation with tribal governments, of a formula for the distribution of funds to tribal governments in accordance with section 106 of this title;

(C) the determination, in consultation with tribal governments, of information that will be required to be submitted annually by the tribal courts and intertribal appellate courts for the purpose of maintaining current information for formula funding analysis;

(D) the determination of other support needed under section 108(a)(10) of this title;

(E) the submission of an annual report to the Congress on information obtained pursuant to sections 4 and 7 of this title and section 202;

(F) the submission of annual estimates to the Office of Management and Budget and to the

Congress, on the amounts needed to maintain and operate tribal courts, intertribal appellate courts, and the Conference; and

(G) the conduct of the Survey of Tribal Court Needs required by section 201 of this Act and the appointment of three members to the survey team pursuant to section 202 of this Act.

(b) CONGRESSIONAL RECOGNITION.—A nationally based Tribal Judicial Conference that is organized by the governments of federally recognized Indian tribes may petition the Congress for recognition by the United States for the purposes described in subsection (a) of this section. Such petition may be made by letter and shall be submitted to the Congress. The petitioning organization shall be deemed recognized at the end of the 60-day period following receipt of the petition by the Congress unless a joint resolution signifying disapproval of the petitioning organization is introduced and approved during that 60-day period, in accordance with title III. Such resolution must contain specific reasons for disapproval including information that the petitioning organization is not nationally based or that the membership of the petitioning organization is not open to all federally recognized Indian tribes. If such resolution is approved by the Congress within 60 calendar days following introduction, the petition shall fail. If such resolution fails to pass the Congress within 60 days following introduction, the petition shall be deemed approved.

(c) NO RESTRICTION ON LIMITATION ON POWERS OF CONFERENCE.—Nothing in this Act shall be deemed to restrict or limit the powers that may be vested in the Conference by the participating tribal governments.

(d) INHERENT TRIBAL GOVERNMENTAL AUTHORITY.—The Conference recognized by the United States pursuant to this Act shall be deemed to be organized under the inherent governmental authority of each participating tribal government.

SEC. 102. COMMITTEES.

The Conference may establish committees, including, but not limited to, committees on automation, personnel, practice and procedures, court-appointed counsel services, probation and sentencing, salaries and benefits, codes of conduct, and court administration and case management.

SEC. 103. ASSISTANCE FROM ADMINISTRATIVE OFFICE OF UNITED STATES COURTS.

At the request of the Conference recognized by the United States pursuant to this Act, the Administrative Office of the United States Courts shall provide technical and other assistance to the Conference, on a reimbursable basis.

SEC. 104. INFORMATION.

The Conference shall secure from the tribal courts and intertribal appellate courts information on the status of the dockets of the courts, information on the courts' need for assistance to enhance the administration of justice, and such other data as may be needed to assist the development of such courts.

SEC. 105. REGULATIONS.

After consultation with tribal governments, the Conference may make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions, powers, and authority of the Conference and shall publish in the Federal Register such rules, regulations, and notices as the conference determines to be of public interest.

SEC. 106. FORMULA; GRANTS.

(a) ESTABLISHMENT.—A formula for funding tribal courts and intertribal appellate courts shall be established by the Conference after full and complete consultation with tribal governments and after notice and publication in the Federal Register, incorporating the findings of the survey authorized in section 201. A minimum base funding level shall be established for each tribal court, and the balance of funds shall be distributed to tribal governments for such tribal courts and intertribal appellate courts by means of the formula. The factors that may be considered in developing such formula include, but are not limited to—

(1) Indian and non-Indian population served by the tribal court in Indian country;

(2) tribal court civil and criminal caseload, including Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.) caseload;

(3) projected caseloads based on requirements of Federal law;

(4) social and professional support services, including interpreters;

(5) tribal authorization for court-appointed counsel;

(6) facilities needs, including shelters, detention, rehabilitation or protective facilities; and

(7) location of reservation, including distances from detention, probation, and treatment facilities.

The manner in which a tribal government organizes its judicial function shall not be considered as a factor in any formula developed under this subsection or under any other provision of this Act.

(b) DISTRIBUTION.—In accordance with the formula established pursuant to subsection (a), the Bureau of Indian Affairs shall distribute to tribal governments, for the use of tribal courts and intertribal appellate courts, the funds appropriated pursuant to section 109(a)(1) of this title. Nothing in this Act shall be construed as prohibiting any tribal government from providing other support, from whatever source, to its tribal courts. In no case shall the amount retained by the Bureau of Indian Affairs from the funds appropriated under 109(a)(1) of this title for administrative functions authorized by this section exceed $250,000 in any fiscal year.

(c) APPEALS PROCEDURES.—Any tribal government aggrieved by the formula established pursuant to subsection (a) of this section, or any subsequent amendments or adjustments to such formula, may appeal to the Board of Hearings and Appeals, United States Department of the Interior, but only on questions of law and only if the issue was raised and fully considered by the Conference prior to the filing of the appeal.

SEC. 107. REPORTS.

Each tribal court and intertribal appellate court that receives funding through its tribal government under section 109(a)(1) of this title shall report annually to its tribal government and to the Conference such information as the conference may deem necessary to assure the adequacy of funding to meet the needs of tribal courts, including information gathered pursuant to section 104.

SEC. 108. GRANTS FOR TRAINING, AUTOMATION, CODE DEVELOPMENT, RECORDKEEPING.

(a) GRANTS.—From amounts appropriated pursuant to section 109(a)(2) of this title, the Conference shall provide funding to tribal governments, tribal consortia, and national Indian organizations, for the following purposes:

(1) training of judges and other court personnel;

(2) procurement (by lease, purchase, exchange, transfer, or otherwise) of automatic data processing equipment, and training of tribal court personnel in the management, coordination, operation, and use of automatic data processing equipment in tribal courts;

(3) development of standards of conduct for court practitioners;

(4) development of tribal court rules;

(5) development of personnel standards for judges, advocates, court-appointed counsel, and other legal practitioners, and for other court personnel;

(6) development of court-appointed counsel services;

(7) development of probation and pretrial services;

(8) development of court accounting procedures;

(9) development of tribal and regional appellate systems; and

(10) such other support for the development and maintenance of tribal courts that the Conference may deem appropriate, including the development of a nationwide tribal court reporting system, and recommendations for funding for facilities construction, improvement, or repair.

(b) METHOD OF FUNDING.—The Conference may provide such funding on the basis of a formula established by the Conference, or in such amounts as the Conference determines appropriate. Such funding may be provided by grants, including competitive grants. Any formula established by the Conference pursuant to this subsection shall be established in consultation with the participating tribal governments.

(c) PROHIBITION.—Funding provided under this section may not be used to offset the funding provided for the operation of tribal courts and intertribal appellate courts under section 106, or any other Federal sources of funding to support such courts.

(d) STANDARDS.—No standards developed under such funding may be imposed on any tribal court except by the tribal government. Tribal governments may impose standards which assure fiscal control and recordkeeping.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

(a) APPROPRIATIONS.—(1) For purposes of carrying out the provisions of section 106, there are authorized to be appropriated $50,000,000 for fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year.

(2) For purposes of carrying out the provisions of section 108, there are authorized to be appropriated $5,000,000 for fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year.

(3) For purposes of supporting the Conference, there are authorized to be appropriated $2,500,000 for fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year.

(b) CONGRESSIONAL BUDGET ACT OF 1974.—The authorization of appropriations provided for by subsection (a) is established only with respect to appropriations made from the allocation under section 602(b) of the Congressional Budget Act of 1974—

(1) for the Subcommittee on Commerce, Justice, State, and Judiciary of the Committee on Appropriations of the House of Representatives; and

(2) for the Subcommittee on Commerce, Justice, State, and Judiciary of the Committee on Appropriations of the Senate.

SEC. 110. SINGLE AUDIT ACT OF 1984.

Funding provided pursuant to this title shall be subject to the applicable provisions of the Single Audit Act of 1984.

SEC. 111. ELIGIBILITY.

Nothing in this Act shall affect the eligibility of a tribal government to receive funding through the Indian priority system of the Bureau of Indian Affairs for support of the tribe's court system.

TITLE II—SURVEY OF TRIBAL COURT NEEDS

SEC. 201. SURVEY.

(a) TRIBAL COURT NEEDS.—Within 180 days following the date on which a Tribal Judicial Conference is recognized by the United States in accordance with title I of this Act, a comprehensive survey shall be conducted in accordance with subsection (b), of the needs of each tribal court that is eligible for services through the

Bureau of Indian Affairs. Such survey shall include a comparison of current funding of each tribal court surveyed with State and local courts of comparable jurisdiction, in the same geographic area, and with similar actual and potential caseloads. The survey may include but is not limited to the following factors:

(1) the amount of base funding required to support the operation of the tribal judicial system of each tribal government, including the funding needed to adequately enforce Federal laws, including the Indian Civil Rights Act of 1968; and

(2) the amount of base funding required to support the operation of intertribal or regional appellate judicial systems.

(b) Tribal Court Survey Team.—The survey required in subsection (a) shall be conducted by the Tribal Court Survey Team, under the direction of the Conference, and in consultation with tribal governments.

SEC. 202. TRIBAL COURT SURVEY TEAM.

(a) Composition.—The Tribal Court Survey Team shall consist of—

(1) three members appointed by the Conference;

(2) three members appointed by the Director of the National Center for State Courts; and

(3) three members appointed by the Director of the Administrative Office of the United States Courts.

(b) Personnel.—The Tribal Court Survey Team may employ, on a temporary basis, such personnel as are required to carry out the provisions of section 201(a).

(c) Findings.—The Tribal Court Survey Team shall submit its findings to—

(1) the Conference;

(2) the Secretary of the Interior;

(3) the Chairman of the Committee on Interior and Insular Affairs of the House of Representatives;

(4) the Chairman of the Select Committee on Indian Affairs of the Senate;

(5) the Chairman of the Subcommittee on Commerce, Justice, State, and Judiciary of the Committee on Appropriations of the House of Representatives;

(6) the Chairman of the Subcommittee on Commerce, Justice, State, and Judiciary of the Committee on Appropriations of the Senate;

(7) the Director of the National Center for State Courts; and

(8) the Director of the Administrative Office of the United States Courts.

SEC. 203. APPROPRIATIONS.

For purposes of carrying out the provisions of section 201—

(1) there are authorized to be appropriated such sums as may be necessary; and

(2) the authorization of appropriations under paragraph (1) is established only with respect to appropriations made from the allocation under section 602(b) of the Congressional Budget Act of 1974—

(A) for the Subcommittee on Commerce, Justice, State and Judiciary of the Committee on Appropriations of the House of Representatives; and

(B) for the Subcommittee on Commerce, Justice, State and Judiciary of the Committee on Appropriations of the Senate.

TITLE III—EXPEDITED PROCEDURE FOR RESOLUTION OF DISAPPROVAL

SEC. 301. EXPEDITED PROCEDURE.

(a) Contents of Resolution.—For the purposes of section 101(b), "joint resolution" means only a joint resolution introduced after the date on which Congress receives a petition in accordance with section 101(b) the matter after the resolving clause of which is as follows: "The Congress disapproves the petitioning organization for the following reason or reasons: (Reasons to be inserted here).".

(b) Referral to Committee.—A resolution described in subsection (a) introduced in the House of Representatives shall be referred to the Committee on Interior and Insular Affairs of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be referred to the Select Committee on Indian Affairs of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(c) Discharge of Committee.—If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a joint resolution disapproving the petition as described in section 101(b), whichever is earlier, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(d) Floor Consideration.—

(1) In General.—When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) Vote on Final Passage.—Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Rulings of the Chair on Procedure.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) Coordination With Action by Other House.—If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(1) The resolution of the other House shall not be referred to a committee.

(2) With respect to a resolution described in subsection (a) of the House receiving the resolution—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(f) Rules of House of Representatives and Senate.—This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

TITLE IV—STUDY OF TRIBAL/FEDERAL COURT REVIEW

SEC. 401. STUDY.

(a) Tribal/Federal Court Review.—A comprehensive study shall be conducted in accordance with subsection (b), of the treatment by tribal courts of matters arising under the Indian Civil Rights Act (25 U.S.C. 1301 et seq.) and of other Federal laws for which tribal courts have jurisdictional authority and regulations promulgated by Federal agencies pursuant to the Indian Civil Rights Act and other Acts of Congress. The study shall include an analysis of those Indian Civil Rights Act cases that were the subject of Federal court review from 1968 to 1978 and the burden, if any, on tribal governments, tribal courts, and Federal courts of such review. The study shall address the circumstances under which Federal court review of actions arising under the Indian Civil Rights Act may be appropriate or warranted.

(b) Tribal/Federal Court Review Study Panel.—The study required in subsection (a) shall be conducted by the Tribal/Federal Court Review Study Panel in consultation with tribal governments.

SEC. 402. TRIBAL/FEDERAL COURT REVIEW STUDY PANEL.

(a) Composition.—The Tribal/Federal Court Review Study Panel shall consist of—

(1) four representatives of tribal governments, including tribal court judges, two of whom shall be appointed by the Speaker of the House of Representatives and two of whom shall be appointed by the President pro tempore of the Senate; and

(2) four members of the United States Court of Appeals courts who shall be appointed by the Director of the Administrative Office of the United States Courts.

(b) Personnel.—The Tribal/Federal Court Review Study Panel may employ, on a temporary basis, such personnel as are required to carry out the provisions of this title.

(c) Findings.—The Tribal/Federal Court Review Study Panel, not later than the expiration of the 12-month period following the date on which moneys are made available to carry out this title, shall submit its findings and recommendations to—

(1) the Congress;

(2) the Tribal Judicial Conference; and

(3) the Director of the Administrative Office of the United States Courts.

(d) Termination.—Not later than 30 days after the Panel has submitted its findings and recommendations under subsection (c), the Panel shall cease to exist.

SEC. 403. APPROPRIATIONS.

For purposes of carrying out the provisions of this title there are authorized to be appropriated such sums as may be necessary.

SEC. 404. PROHIBITION ON GRANTS.

Notwithstanding any other provision of this Act, no grants shall be made by the Conference under this Act after the expiration of the 18-month period following the date of the enactment of this Act, unless the Tribal/Federal Court Review Study Panel has submitted its findings and recommendations to the Congress in accordance with subsection (c) of section 402 and a period of 60 days has expired following the submission of such findings and recommendations.

Mr. SIMON. Mr. President, I ask unanimous consent that calendar 536 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL BUSINESS CREDIT CRUNCH RELIEF ACT OF 1992

Mr. SIMON. I ask unanimous consent, Mr. President, that the Committee on Small Business be discharged from further consideration of H.R. 4111, the Small Business Credit Crunch Relief Act of 1992, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4111) to provide additional loan assistance to small businesses, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2913

Mr. SIMON. Mr. President, on behalf of Senators BUMPERS and KASTEN, I send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for Mr. BUMPERS for himself and Mr. KASTEN, proposes an amendment numbered 2913.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BUMPERS. The amendment which I have submitted is essentially a Small Business Committee substitute which I offer on behalf of myself and Senator KASTEN, our committee's ranking member. This bill, which passed the House on May 14, intends to remedy the severe lack of available long-term credit for small businesses by increasing the authorization for the Small Business Administration's section 7(a) loan guaranty program. While this is the primary purpose of the bill, my amendment also contains provisions affecting two other important SBA programs which I will discuss later.

H.R. 4111 as passed by the House provides for an increase in the 7(a) loan program authorization from $3.85 billion in fiscal year 1992 to $5.0 billion, with additional increases to $6.0 billion in 1993 and $7.0 billion in fiscal 1994. Senator KASTEN and I have concluded that even these increases are inadequate to meet small business credit needs for the remainder of this year, and we are proposing raising the House numbers to $5.2 billion in 1992, $6.2 billion in 1993 and $7.2 billion in 1994. Our colleague from Florida, Senator MACK, believes even these increases are not enough and would like to increase these authorizations substantially higher.

As Members of the Senate by now know, the SBA 7(a) loan program has faced a virtual run in the last year. Demand for the SBA guaranty program by borrowers and banks has increased at least 30 percent over 1991 in virtually every corner of the Nation, and some areas have incurred much higher increases. Concord, NH, for example, has seen its SBA loan volume go up by 160 percent, Hartford, CT, up 87 percent; Philadelphia, PA, up 136 percent; Dallas, TX, up 54.2 percent; and Denver, CO, up 61.9 percent. Although a variety of factors are at work here, the prolonged recession and the so-called credit crunch have conspired to push many small businesses toward the 7(a) program who have not needed the program in the past. This trend has been greatest in New England where the administration announced a pilot program in February to help meet the demand brought about by the collapse of many of the region's banks.

In late March, Congress approved the administration's request to reprogram authority from unused SBIC debenture guarantees to the Section 7(a) program and the Section 504 Development Company Program. Because of the very low subsidy rates which apply to these two programs, this additional authority translated into $500 million in new 7(a) loans and $200 million in section 504 loans. Unhappily, this amount has proved not nearly enough, and the section 7(a) program will shut down for the remainder of 1992 in a matter of a few short weeks without passage of this legislation.

H.R. 4111, Mr. President, is consistent with the administration's pending proposals, although I would be quick to say that the Bush administration has done very little to get its proposals into law. The Appropriations Committees received in late February an administration request for $1.1 billion in additional 7(a) loan guaranty authority. This figure was in addition to the $500 million reprogramming for 7(a).

The White House proposed to fund this increase—which only required $53 million in outlays—by corresponding reductions in Federal programs which provide housing subsidies for the poor, in public broadcasting facilities grants, and in nurses' training grants. These proposals came from OMB, and they have gotten a cool reception to say the least. Other Members of the Senate and I made clear from the outset that no such reductions would be enacted, although it does not take a rocket scientist to figure that matter out.

Supplemental funding was approved by Congress and signed by the President, but without the proposed offsets.

The 7(a) lending program, incidentally, has just received a ringing endorsement from one of the Nation's premier public accounting firms. On June 2, 1992, our Senate Small Business Committee took testimony on a study of the 7(a) program which was commissioned by SBA and performed by Price Waterhouse. This report is based on a proposal which I made in the Appropriations Committee several years ago, which was adopted, that an objective study be undertaken to determine the real costs and benefits of SBA guaranteed lending. Senators may recall that David Stockman and Ronald Reagan argued that SBA borrowers were economic straphangers who made little real contribution to the economy.

During the entire Reagan administration and most of the Bush administration, the study mandated by the Appropriations Committee got nowhere because the administration was not interested in knowing the facts. Administrator Patricia Saiki deserves some credit for having carried out that direction and for the excellent job done by Price Waterhouse.

While the report is both detailed and lengthy, the headline is that SBA borrowers—and this is a study of an actual group of real businesses who borrowed in 1985—paid more taxes back to the Federal Government in 1 year than their loans cost to make, administer, and service including defaults, over the entire lifetime of those loans. The Government received a return of 22.7 percent on its investment through 1989. SBA borrowers, Price Waterhouse found, were more profitable, had larger sales increases and hired more new employees than did a control group of nonborrowers.

Mr. President, let me emphasize that this bill will not solve the SBA lending problem, but that the bill is nonetheless necessary to the resolution. Presently, with the $500 million reprogramming mentioned earlier, SBA has more apporpriations than it has authorization for the 7(a) program. H.R. 4111 will correct that problem by raising the authorization substantially, but it will not provide the needed guaranty authority, which must come through the Appropriations Committee.

MICROLENDING PROGRAM

As I alluded to earlier, there are two additional programs included in the Bumpers-Kasten amendment. First, we are proposing several amendments to the SBA Microlending Program which was enacted last year and has proved extremely popular. Mrs. Saiki recently told our committee that Microloans was one of the most sought-after SBA programs in history. I am personally convinced that it offers an opportunity to lift thousands of Americans out of the cycle of poverty and into the economic mainstream.

Under this new program, SBA will make direct loans to nonprofit community organizations for the purpose of relending in so-called microloans to very small business borrowers. The maximum loan will be $25,000, but most loans will be much smaller since the average loan for intermediaries must be under $10,000. Additionally, the intermediary organization will receive a grant from SBA equal to 20 percent of the loan amount for the purpose of providing intensive management training and technical assistance to their borrowers,' most of whom will probably have very little business experience.

This is a bold experiment, Mr. President. What we are testing is whether the American dream can really be made to work for a vast array of people who have had essentially no access to capital. We are hoping to put hundreds, perhaps thousands, of Americans into business for themselves who probably have always considered this goal far beyond their reach. But they will have to start small, and there is no free lunch. These loans are not highly subsidized, and they are expected to be paid back both by the individual borrower and by the community organization. Many of the intermediaries which our committee has studied have utilized various models of peer-group lending in which borrowers spend time with each other discussing their problems and plans.

The Microloan Program as drafted last year contained what has proven to be a defect with respect to interest rates charged to the intermediary community organizations and the spread which they might earn above that cost of money through loans to borrowers. Our amendment will resolve that problem by allowing SBA to buy down the interest rate charged to borrowers to bring it more in line with Congress' original expectations, and also giving them a slightly higher margin vis-a-vis their borrowers.

Further, my amendment focuses the Microlending Program more specifically toward those areas of the country which are most in need and which are feeling the most economic pain, such as the Mississippi Delta Region. My own preference would be to focus exclusively on rural poverty and unemployment, because I believe strongly that rural needs tend to get short-changed. In political reality, however, there is equal distress in the inner cities, as the horror of Los Angeles recently demonstrated.

The substitute amendment will provide slightly greater incentives for microlenders in areas of chronically high unemployment known as labor surplus areas and also in those countries, municipalities and census tracts where the poverty rate exceeds 20 percent. In addition to inner cities, this includes a large part of the Mississippi Delta which has long been the object of my legislative efforts. It also includes several other blighted areas, such as the Lower Rio Grande Valley and large areas of New Mexico and South Dakota which have large Native American populations. This bill will not end suffering in the Delta, but it will offer the hope of economic sufficiency to hundreds of families who do not have access to capital needed to start a business.

The pending amendment will give both an interest rate buy-down and a slight increase in the amount of training grants available to microlending intermediaries located in these areas. The amendment will also permit SBA to use 3 percent of its appropriated loan fund to provide technical assistance to the intermediaries by contracting with experienced microlending organizations. The technical assistance providers will help SBA ensure that the intermediaries have the knowledge, skills and understanding of microlending practices to operate successfully.

Finally, this amendment expands the class of entities which may apply to serve as microlending intermediaries. Senator KASTEN's and my original intent in drafting this program was for SBA to utilize private, nonprofit community organizations as lending intermediaries. Our decision was based on the fact that the most successful microlending programs in the country, based on hearings in our committee, were of this type, and we remain convinced that, in most areas, private nonprofits should be the primary delivery vehicle for the Microlending Program. Additionally, our intent was and remains that the Microlending Program not be used as a subsidy or source of funds for any governmental entity, such as a State or city economic development department.

While we remain committed to the private, nonprofit sector for microlending, it has been brought to our attention that some areas of the Nation are underserved or not served at all by such organizations, although these areas may have other economic development organizations with experience and desire to participate in the program. In Arkansas, for example, although SBA funded an outstanding Microlending Program in the southern part of the State, no private nonprofit organization came forward in either northwest or northeast Arkansas seeking microloan funds. There are, however, well-established and competent planning and development districts across our State. I do not know whether any of these groups would like to apply for the program, but I believe they should be allowed the opportunity.

The primary examples of suitable applicants among the new eligible applicants are planning and development districts. The PDD's, which have a public or quasi-public status, have a long and successful history of economic development efforts through EDA, SBA, and other programs, and some have experience in making and servicing very small loans. In other regions, SBA may find that its own certified development companies can be suitable intermediaries for microlending.

We want to emphasize, however, the mandatory nature of the intensive training and technical assistance which must be provided to microloan borrowers by the intermediary. Any organization seeking to enter the program must be ready, willing, and able to provide this help to its borrowers and prospective borrowers, and it should be aware of the congressional intent that microlending should open doors to disadvantaged people who have not had access to traditional sources of business finance. This is not a program for successful, established small businesses who can go to their banker for a loan or who can participate in the SBA Guaranteed Loan Program.

SMALL BUSINESS COMPETITIVENESS PROGRAM

The third major provision of this bill, Mr. President, is a 3-year extension of the highly successful Small Business Competitiveness Demonstration Program which was enacted in 1988 as title II of Public Law 100-656. This program, which was authored principally by my distinguished colleague from Illinois, Senator DIXON, seems to have been immensely successful in resolving many long-standing complaints about so-called small business set-asides in certain industries. Before this program's enactment, Members of Congress were besieged with grievances from both large and small businesses that Federal procurement in certain areas such as construction and architecture and engineering services tended to rely almost exclusively on small business set-asides. Almost every year for several years, 80 percent or more of Federal contracting opportunities in the construction area would be reserved for small business, leaving larger businesses with virtually no Federal market in many parts of the country.

Moreover, agencies had developed an unhealthy habit of meeting their small business contracting goals by relying on the easy hits by simply reserving all certain kinds of contracts for small business. This method of operation meant that small business could always rely on getting to paint the barracks, for example, but had little chance to get experience outside painting. It made for an easy life for contracting officers who did not have to worry about finding new kinds of procurements in which small firms might want to compete but might not yet be fully competitive with big business.

The fact is, Mr. President, that small business is fully competitive with large business today in a host of areas. Quite often, a small firm can provide the same or better services or products to the government for less money than can large businesses because small firms tend to have lower overhead and are more efficient.

Hence, in Public Law 100-656, Congress agreed to suspend the long-standing protection for small firms known as the set-aside—which I must emphasize is a fully competitive procurement which is simply limited to small business participants—we agreed to suspend this set-aside in certain areas and under carefully monitored conditions.

The Competitiveness Demonstration Program established a floor of 40 percent participation for small firms under free and open competition which in most cases the small firms have had no difficulty in obtaining. In the event that the 40 percent threshold is not met, set-asides can be reintroduced in order to fulfill the mandate of the Small Business Act of 1953 that small companies are entitled to their fair share of Federal contracting.

Senator DIXON has chaired a subcommittee hearing in the Small Business Committee to conduct oversight of this program, and the results have been extremely positive. An extension of the program, which will expire October 1 if Congress does not act, seems both warranted and is broadly supported.

Incidentally, I have reason to believe that our colleagues in the House will agree to this extension as well as to the other amendments which Senator KASTEN and I are proposing to H.R. 4111, and that the bill will be sent to the President for his approval.

I ask that a section-by-section analysis of the bill be included as well as the text of the bill as amended be printed in the RECORD at the conclusion of my remarks. That analysis, which I believe is fully supported by Senator KASTEN as well, together with my statement will serve the purpose of a committee report which time did not permit drafting under the short deadline before funding for the 7(a) program expires. I urge my colleagues to support H.R. 4111 as amended.

I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS CREDIT AND BUSINESS OPPORTUNITY ENHANCEMENT ACT OF 1992—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

Subsection (a) of this section establishes the short title of the Act as the "Small Business Credit and Business Opportunity Enhancement Act of 1992".

Subsection (b) lists the provisions of the Act in the form of a table of contents.

TITLE I—IMPROVED ACCESS TO CREDIT

Subtitle A—Section 7(a) Guaranteed Loan Program

SEC. 101. SHORT TITLE.

This section establishes the short title of the subtitle as the "Small Business Credit Crunch Relief Act of 1992".

SEC. 102. AUTHORIZATIONS.

This section amends the Small Business Administration's (SBA) guaranteed loan authorization levels for fiscal years 1992–1994 from $5 billion, $6 billion and $7 billion, to $5.2 billion, $6.2 billion and $7.2 billion, respectively. This increased level of authorization is required for fiscal year 1992 to accommodate the $500 million that SBA reprogrammed, with Congressional approval, from the Small Business Investment Company Program, and the $1.45 billion appropriated by Congress to the program in the Dire Emergency Supplemental Appropriations Act (Pub. L. 102-302), which was enacted on June 22, 1992.

This section also limits the amount which SBA may spend annually on each "special or pilot" project in the financing area to 10 percent of the total appropriation. This provision is intended to ensure that the overall SBA loan programs are not drained in order to serve the purposes of any one special or pilot project.

SEC. 103. BUY AMERICAN PREFERENCE.

Section 103 retains the House-passed provision which requires SBA, when practicable, to give a preference in the consideration of loan applications to small businesses which use or purchase equipment and supplies that are produced in the United States.

SEC. 104. STATE LIMITATIONS ON INTEREST RATES.

Section 104 authorizes SBA to establish nationwide interest rates which will supersede State usury laws for SBA's 7(a) guaranteed loan program. This provision brings the 7(a) guaranteed loan program in parity with other Federally guaranteed financing programs, such as those offered by the Farmers Home Administration (38 U.S.C. 3720A) and the Department of Veterans Affairs (12 U.S.C. 1335).

Subtitle B—Microloan Demonstration Program Amendments

SEC. 111. SHORT TITLE.

This section establishes the short title of the subtitle as the "**Microlending Expansion Act of 1992**".

SEC. 112. FINDINGS.

This section sets forth Congressional findings with respect to the Microloan Demonstration Program. Congress finds that there are many individuals, including those presently unemployed or employed at low-income jobs, who have talents and skills which could enable them to become self-employed. These individuals usually lack access to credit and capital, have little or no savings, and a poor or nonexistent credit history. Women, minorities and individuals residing in areas of high unemployment or low income frequently face particular difficulty in obtaining credit or capital.

Congress also finds that providing individuals with small-scale, short-term loans and intensive marketing, management and technical assistance could allow them the access to the capital and credit needed to start their own businesses and to improve their standard of living. Banking institutions are reluctant to provide such financial assistance because of the high administrative costs associated with processing and servicing small loans and because of their lack of experience in providing the type of intensive technical assistance needed by such borrowers.

Congress finds that many organizations throughout the nation have experience providing the financial and technical assistance needed to operate successful microlending programs. Congress also finds that making direct loans and grants from the Federal government to such organizations for the purpose of making microloans is an appropriate method of providing entrepreneurs and small businesses with access to credit and capital in small amounts. Congress recognizes, however, that in some areas, providing grant funds for technical assistance and a Federal guarantee on microloans offered by intermediaries is a successful alternative for providing access to credit and capital to those small businesses which need it.

SEC. 113. MICROLOAN DEMONSTRATION PROGRAM AMENDMENTS.

The following amendments were made necessary by three changes that occurred after the October 1991 enactment of Public Law 102-140, which established the Microloan Demonstration Program. First, the worsening national economy caused a sharper reduction in the prime (interest) rate than in the Treasury's interest rates. This, in turn, created problems for the microlending intermediaries who fund their administrative costs with the "spread" between their cost of money and the rate at which they make microloans. Second, the Dire Emergency Supplemental Appropriations Act (Pub. L. 102-302) provided an additional $4 million for microloan technical assistance grants and $5 million in subsidy dollars for microloans, which buys an additional $29 million in microloans at current subsidy rates. Finally, the Committee desired to target microloans and the associated technical assistance to areas of high unemployment and low income throughout the nation.

To accommodate the changed circumstances and to provide added incentives for intermediaries to make loans of $5,000 or less, this section amends subsection 7(m) of the Small Business Act to establish three tiers of microloan program participation. For intermediaries in Tier 1, the interest rate is decreased from the original rate by one-half of 1 percent for intermediary borrowings, and intermediaries are permitted to make the loans at 7 percentage points above their cost of money in their first year of program participation and at 7 percentage points above their average cost of money in the second and later years of program participation. Tier 1 maintains the requirements of current law with respect to technical assistance grants.

Tier 2 requires that intermediaries "predominantly serve" areas of high unemployment or low income, that is, provide to such areas at least half of the loans and half of the dollars lent under the microloan program. Section 113 defines "areas of high unemployment" as labor surplus areas, as defined by the Department of Labor. The Department of Labor publishes a list of the labor surplus areas annually in "Area Trends in Employment and Unemployment," a compilation which is updated monthly.

"Low income areas" are defined in this section as "counties," "parishes," "census tracts" or "block numbering areas within central cities of metropolitan areas" in which 20 percent or more of the individuals have annual incomes below the poverty level, as determined by the most recently available census data. The Committee recognizes that the most recently available data on the census tract and block numbering area level are from the 1980 Census. The Committee expects that the Administration will not delay its loan award process to wait for the 1990 data to become available, but will use 1980 census data until such time as the Census Bureau makes 1990 census data available.

Tier 2 loans to intermediaries carry an interest rate of 1.25 percentage points below the 5-year Treasury bill rate. Tier 2 intermediaries are permitted to make microloans at 7.75 percentage points above their cost of money in their first year of program participation and 7.75 percentage points above their average cost of money in the second and subsequent years of program participation. Beginning October 1, 1992, the amount of a technical assistance grant to a Tier 2 intermediary will be up to 25 percent of its SBA loan amount, provided that the intermediary contributes 25 percent of the amount of the grant either in cash or in-kind contributions to its microloan program.

Tier 3 applies to any intermediary which meets the requirements of Tier 2 and which has a microloan portfolio that averages $5,000 or less. A Tier 3 intermediary will receive its SBA loan(s) at an interest rate of 2 percentage points below the 5-year Treasury bill rate. In order to help defray some of the higher cost of making loans of $5,000 or less, intermediaries making such loans are permitted to charge 9.5 percentage points above their cost of money in their first year of program participation and 9.5 percentage points above their average cost of money in the second and later years of program participation. Beginning October 1, 1992, in addition to the technical assistance grant of up to 25 percent which is available to a Tier 3 intermediary because it qualifies under Tier 2, a Tier 3 intermediary may also receive an additional amount equal to 5 percent of its loan amount in a grant to provide technical assistance to the microborrowers. A Tier 3 intermediary is not required to provide a matching contribution for the additional 5 percent grant.

In order to provide access to microloans to all parts of the nation, section 113 amends the definition of "intermediary" to include a consortium of private, nonprofit organizations or nonprofit community development corporations, and to include, if SBA determines that certain conditions have been met, a quasi-governmental economic development entity, such as a planning and development district. The Committee expects that a consortium will only be eligible to become a microloan intermediary if each member of the consortium has the required microlending experience.

A quasi-governmental economic development entity may become an intermediary only if SBA first determines either that SBA received no application from another qualified eligible entity to serve the geographic area in question, or SBA has received an application from an entity to serve a specified area, but has determined in writing that the needs of the service area cannot be adequately met by that entity. States, counties and municipalities and their agencies are expressly excluded from the definition of intermediary.

Section 113 also permits an intermediary which has two or more separate sites to qualify for a blended interest rate on its SBA loan and a blended maximum percentage for its grant. In establishing grant percentages and interest rates on loans to an intermediary, SBA is to consider each site separately based on the intermediary's projected allocation of the loan proceeds among sites adjusted no more often than semi-annually to reflect the intermediary's actual lending practices during its participation in the program. Similarly, in determining which tier of program participation is appropriate for each intermediary, SBA may consider the projected service area and projected loan size and may make adjustments, as necessary, after the first year of program participation to reflect the actual lending practices of the intermediary.

Section 113 also authorizes technical assistance grants for training of the intermediaries. Experienced microlending organizations may receive such grants from SBA to provide training to less experienced intermediaries to ensure that they have the knowledge, skills and understanding of microlending practices and potential problems to operate successful microloan programs. SBA is authorized to reserve 3 percent of its microloan appropriation annually for such purposes.

To accommodate the increased appropriations available for the program, which remain available until expended, this section increases the number of programs from 35 to 60 in FY 1992 and from 60 to 110 in FY 1993 and beyond. This section also permits SBA to fund up to 4 programs per state in the two-year period of FY 1992 and 1993 and an additional 2 programs per state in each of the remaining years of the program. The dollar cap per State is increased from $1 million to $1.5 million in FY 1992 and from $1.5 million to $2.5 million thereafter.

SEC. 114. REGULATIONS.

This section requires SBA to publish interim final regulations within 45 days of enactment of the statute. The Committee expects that this expedited schedule will enable SBA to fund additional intermediaries during FY 1992.

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

This section increases the authorized appropriations levels to accommodate the increased appropriations made available for microloans by the Dire Emergency Supplemental Appropriations Act (Pub. L. 102-302) and projected future outlays resulting from the increased number of programs.

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT AND RELATED ACTS

Subtitle A—Small Business Competitiveness Demonstration Program

SEC. 201. EXTENSION OF DEMONSTRATION PROGRAMS.

The "Business Opportunity Development Reform Act of 1988", Public Law 100-656, included the "Small Business Competitiveness Demonstration Program Act of 1988" as Title VII, providing for the conduct of three demonstration program regarding the participation of small business concerns in the federal procurement market. One demonstration program focused on the designated industry groups of construction (excluding dredging), refuse systems and related services, architectural and engineering services (including surveying and mapping), and non-nuclear ship repair. The basic premise of the demonstration program was that in industry categories already numerically dominated by small business concerns, such firms could successfully compete for contracts in unrestricted competitions and substantially exceed the Government-wide goal for small business participation, 20 percent. Further, the advocates for small business participation in Federal procurement within the procuring agencies and the Small Business Administration have tended to focus their efforts on industry groups in which small business concerns could succeed without the protection restriction competitions (Small business "set-asides"), and expended inadequate effort to expand small business participation in procurements of products or services which have historically demonstrated low rates of small business participation, despite ample small business capability within the overall economy. Under the demonstration program, contracting opportunities within the four designated industry groups shall be solicited on a unrestricted basis, if the rate of small business participation exceeds 40 percent, a rate twice the Government-wide goal. In the event that the participation rate was less than 40 percent during the prior fiscal year quarter, small business set-asides would be selectively reimposed as needed to once again attain the 40 percent goal. Within the overall 40 percent goal, the demonstration program prescribed a participation goal of 15 percent for emerging small business concerns, defined as those firms in the bottom half of the applicable size standard.

In addition, two alternative, industry specific demonstration programs were established pertaining to the dredging industry and the clothing and textiles industry. The alternative demonstration program pertaining to dredging prescribed increasing participation goals for small business concerns and emerging small business concerns during the term of the program. The alternative demonstration program for clothing and textiles purchased by the Department of Defense sought to permit increased participation of other than small business concerns, while maintaining a small business participation rate of at least 50 percent.

The Small Business Competitiveness Demonstration Program and both of the alternative demonstration programs included a requirement for periodic reporting. In addition, two oversight hearings were conducted by the Senate Committee on Small Business.

According to report from the Office of Federal Procurement Policy on the broader Demonstration Program, the competitiveness of small business concerns in the four designated industry groups seems to be confirmed. Significant data collection problems within the participating agencies during its initial two years were identified.

According to reports submitted to the Congress by the Defense Logistics Agency, the alternative demonstration program for clothing and textiles has been unqualified success. The industrial base supporting Defense requirements for clothing and textile products has been expanded through the participation of other than small business concerns and the rate of small business participation has remained in excess of 70 percent.

Reports from the US Army Corps of Engineers, the manager of the alternative demonstration program for dredging, reflect that the annually increasing goals for participation by small businesses and emerging small businesses was not fully attainable.

As originally enacted, the broad Competitiveness Demonstration Program (involving the four designated industry groups) has an expiration date of December 31, 1992. Both of the alternative demonstration program have an expiration date of September 30, 1992. Section 201 of the bill extends, until September 30, 1996, the Small Business Competitiveness Demonstration Program (subsection (a)), the Alternative Program for Clothing and Textiles (subsection (b)), and the dredging demonstration program (subsection (c)).

SEC. 202. MANAGEMENT IMPROVEMENTS TO THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

Subsecton (a) amends Section 712(d) of the Small Business Competitiveness Demonstration Program to require implementation on a fiscal year basis rather than the calendar year basis. As originally enacted, the Demonstration Program was initiated on a calendar-year basis to expedite implementation (commencing on January 1, 1989), but appears to have contributed to the data collection and data accuracy problems that have plagued the program.

Subsection (b) amends section 712(b) of the Demonstration Program to require the application of the remedial tools of restricted competitions on a targeted basis aimed at the buying activities that have failed to attain the required percentage of small business participation. While not specifically addressed in the amendment, it is also expected that the implementation of this amendment will provide for providing notice to the public regarding the reinstatement of restricted competitions. Such notices are not presently provided. The reimposition of restricted competitions is to be announced to the public through a notice published in the *Federal Register*, if restricted competitions are to be broadly reimposed by a participating agency. So-called "special notices" in the Commerce Business Daily are to be used to periodically supplement such *Federal Register* notices, and may be used as an alternative means of providing such notice, if the reimposition of restricted competitions will affect only a limited number of buying activities.

Subsection (c) adds a new subsection to Section 713 of the Demonstration Program to eliminate any uncertainty that the requirements of 10 U.S.C. 2855(a) and (b) continue to apply to solicitations for the procurement of architectural and engineering (including surveying and mapping) by the Department of Defense during the Term of the Small Business Competitiveness Demonstration Program.

Subsection (d) provides for the conduct of a limited test program to collect data regarding the participation of small business concerns (including disadvantaged small business concerns) as other than prime contractors in the provision of architectural and engineering (including surveying and mapping)(A-E) services to four of the Federal agencies currently participating in the Demonstration Program. The test program is grounded on the premise that the actual rate of small business participation on A-E contracts is substantially higher than is now being reflected in data captured by the Government's existing procurement data system. A January 1991 report of a subcontracting study conducted by Clemson University for the SBA Office of the Chief Counsel for Advocacy found substantial under-reporting of participation by small business concerns as lower-tier subcontractors under the Federal contracting activity studied. A-E services was not one of the services addressed in the Clemson University study.

When originally enacted in 1988, the Small Business Competitiveness Demonstration Program contained a much broader subcontract data collection test provision. The Federal agencies participating in the Demonstration Program made a convincing argument that it would be too burdensome for them. The provision mandating this broader subcontract data collection test was subsequently repealed by section 243 of Public Law 101-547, the "Small Business Administration Reauthorization and Amendments Act of 1990", to provide time for the formulation of a concept for a less burdensome subcontract data collection test program.

The program required by subsection (d) would apply to only four of the agencies currently participating in the Small Business Competitiveness Demonstration Program (EPA, NASA, Army Corps of Engineers—Civil Works, and Department of Energy) and would be limited to collecting data relating to A-E contracts only. The provision would provide discretionary authority to the Administrator for Federal Procurement Policy to expand the data collection program. The test program would begin on October 1, 1992 (or as soon thereafter as practicable) and conclude on September 30, 1996.

It should be noted that the provision requires the collection of data regarding the participation of small concerns "as other than prime contractors". It is expected that the Administrator for Federal Procurement Policy will formulate a data collection program that will address not only subcontracting (including subcontracting below the first tier), but also address joint venture-type arrangements at the prime contract level. As with the formulation of the test plan and policy direction regarding the overall Demonstration Program issued pursuant to Section 715 of Public Law 100-656, it is expected that the Administrator for Federal Procurement Policy will provide an opportunity for public participation and comment when formulating the implementation of the data collection program required by this new subsection.

Subsection (e) amends section 714(c) regarding reporting under the Small Business Competitiveness Demonstration Program. The purpose of the amendment is to provide access to data regarding the status of participating small business concerns as well as their size. Such data regarding the status of a small business concern as a so-called disadvantaged small business concern is currently collected.

While not addressed in the form of a specific amendment to Section 714 of the Demonstration Program Act, it is expected that reports will reflect the number of award actions as well as their cumulative dollar value to provide the perspective regarding the volume of business opportunities being won by small business concerns. Such data is currently available in the Federal Procurement Data System.

Subsection (f) amends Section 716 of the Small Business Competitiveness Demonstration Program Act regarding reports to the Congress. Under the proposed amendment a report would be due in 1992, as presently required, and in 1996, to capture the results of the Program extension provided by subsection (a). Under existing law the report due in 1992 is to include recommendations. Submission of recommendations is expressly deferred to the report due in 1996.

It is noted with approval and commendation that the Administrator for Federal Procurement Policy has issued on his own initiative three annual reports which have presented on a cumulative basis the progress of the implementation of the Small Business Competitiveness Demonstration Program. This has required substantial effort by the staff of the Office of Federal Procurement Policy, but has provided valuable information to Congress and to the affected segments of the business community.

Subsection (g) amends Section 717(d) to improve the accuracy of the data being reported relating to contracts for the designated industry group of architectural and engineering (A-E) services. Data pertaining to the rate of small business participation in contracting to furnish A-E services (including surveying and mapping) has been seriously distorted by the inclusion of engineering services that do not meet the statutory definition of A-E services (40 U.S.C. 541(3)). This has been an especially persistent and serious problem at the Department of Defense. Contracts for engineering services relating to the development or modification of weapon systems are being reported as A-E contract awards. To assure that only contracts for true A-E services are counted, the amendment requires that to be counted as an A-E contract award, the contract must have been solicited and awarded pursuant to the qualification-based procedures specified in Title IX of the Federal Property and Administrative Services Act of 1949", the so-called "Brooks A-E Act" selection procedures. This amendment imposes no new data collection burden on the participating agencies, since the Government-wide procurement data collection form (Standard Form 279) already contains a data element regarding whether Brooks A-E Act procedures were used in making the contract award.

Subsection (h) seeks to prevent the unwarranted use of restricted competitions for the award of A-E contracts by the participating agencies pending the implementation of the improved data collection required by subsection (g) and the data collection relating to other than prime contract awards required by subsection (d). This is accomplished by temporarily modifying the percentage of small business participation that would trigger the reimposition of restricted competitions. In large measure, the provision is prompted by the action of the Department of Defense in October of 1991 to re-impose restricted competitions regarding the award of contracts for A-E services on the basis that the small business participation rate had been missed by less than one percent, despite being supplied with analyses of DOD's own data which demonstrated that engineering contracts relating to weapon systems and other activities had been erroneously reported as A-E services. These analyses reflect that millions of dollars of contract awards to such "recognized" A/E firms as Boeing Aerospace and Electronics, General Dynamics, General Electric, Raytheon, and McDonnell Douglas have been included and used in determining whether the 40 percent small business participation rate was achieved.

Subsection (i) requires the Administrator for Federal Procurement Policy to issue appropriate modifications to the test plan and policy direction pertaining to the implementation of the Small Business Competitiveness Demonstration Program, which the Administrator has issued pursuant to Section 715 of Public Law 100-656.

SEC. 203. AMENDMENTS TO THE DREDGING DEMONSTRATION PROGRAM.

Subsection (a) specifies goals for the participation of small business concerns and emerging small business concerns in dredging contracting opportunities during the four-year extension of the Dredging Demonstration Program, as authorized in Section 201(c). The small business participation goal is set at 20 percent, including a 5 percent goal for the participation of emerging small business concerns.

Subsection (b) specifies that the dollar value of any dredging contracts performed exclusively by either so-called dustpan dredges or seagoing hopper dredges shall be aggregated together and then subtracted from the total value of dredging contracts before calculating whether the goals for the participation of small business concerns and emerging small business concerns has been attained.

This segmentation of the dredging industry on the basis of equipment type is justified on the basis that a small business concern could not have the business base to own and operate such dredging equipment. In implementing the amendment to the Dredging Demonstration Program made by this subsection, it is emphasized that only those dredging contracts which must be performed exclusively by the specified types of equipment are to be excluded. The value of dredging contracts performed using other types of dredging equipment in addition to either a dustpan dredge or a seagoing hopper dredge are not subject to being excluded.

Subsection (c) provides additional guidance to contracting officers within the U.S. Army Corps of Engineers when making the determination whether to restrict the competition for a dredging contract to small business concerns pursuant to Section 19.5 (Set-Asides for Small Business) of the Federal Acquisition Regulation (FAR). Under the FAR provisions, the contracting officer shall make a determination to set aside the contract to exclusive small business competition only if there is a reasonable expectation that offers will be obtained from at least two responsible small business concerns and the award will be made at a fair market price. In essence, a responsible contractor is one that has (or can demonstrate the ability to timely obtain) the total array of resources necessary to timely perform the contract in accordance with the contractual specifications. This provision emphasizes the contracting officer's obligation to make a determination regarding responsibility only on the basis of specific findings, which are to be reflected in the contract file. It is expected that the contracting officer shall rely on the technical expertise and recommendations of the personnel of the Construction-Operations Division within the Office of the District Engineer in accessing the technical capabilities of prospective small business offerors. It should be noted that this provision does not require the contracting officer to conduct a pre-award survey of each perspective small business offeror before making the determination to restrict competition to small business concerns, but it does seek to enhance the data supporting the contracting officer's decision regarding the capabilities of prospective small business offerors to perform the contract in accordance with its specifications, including schedule. Special attention needs to be directed to the capabilities and operational status of the equipment to be employed by the small business offeror, whether actually on-hand or to be obtained.

Subsection (d) adjusts the reporting requirements regarding the Dredging Demonstration Program to accommodate the extension of the program made by Section 201(c).

Subtitle B—Defense Economic Transition Assistance

SEC. 211. SECTION 7(a) LOAN PROGRAM.

This section amends the SBA 7(a) Guaranteed Loan Program by adding a new paragraph to specifically authorize loans to firms requiring capital to adjust their business activities due to the loss of: (a) contracting opportunities as Defense prime contractors (or subcontractors or suppliers to Defense prime contractors); or (2) Government or commercial business opportunities resulting from the closure or reduction of a DOD facility in the community. Loans would also be authorized to assist in the formation of new businesses by two groups of individuals. First, military personnel or DOD civilians, who have been involuntarily separated from Federal service or have voluntarily left in response to a program providing inducements to encourage voluntary separation or early retirement. The second group is employees of a prime contractor or a subcontractor (including suppliers), which has been forced to reduce its workforce due to the termination or substantial reduction of a DOD contract, who are involuntarily terminated or who resign voluntarily pursuant to a program offering inducements to voluntarily resign or take early retirement.

The expansion of the SBA Section 7(a) Guaranteed Loan Program to make loans to the classes of firms and individuals described in this new paragraph is to be implemented only to the extent that funds are appropriated expressly for the purpose of making loans under this new paragraph. In implementing this new authority, the SBA shall authorize self-certification by loan applicants that they meet the eligibility criteria specified. Such a self-certification process will avoid placing unworkable administrative burdens on the financial institutions making the loans.

SEC. 212. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

This section amends the Small Business Development Center (SBDC) Program authorized by Section 21 of the Small Business Act. It would specifically authorize SBDCs to undertake an array of activities to assist small business concerns dependent on DOD contracting (as prime contractors, subcontractors, or suppliers) or adversely affected by the closure or reduction of a DOD facility within their community.

Subtitle C—Small Business Administration Management

SEC. 221. DISADVANTAGED SMALL BUSINESS STATUS DECISIONS.

This provision relates to SBA's exercise of the authority provided by Section 7(j)(11)(F)(vii), which was added by Section 201 of the "Business Opportunity Development Reform Act of 1988", Public Law 100-656. Section 7(j)(11)(F)(vii) authorizes the director of the Program Certification and Eligibility Division within SBA's Office of Minority Small Business and Capital Ownership Development (MSB/COD) to decide protests regarding a small business concern's self-certification of its status as a "disadvantaged small business concern", meeting the standards of Section 8(d) of the Small Business Act. SBA exercise of this protest authority is especially important to the administration of DOD's Section 1207 Program, which establishes a five percent goal for the award of DOD contracts to disadvantaged small business concerns as well as to Historically Black Colleges and Universities and certain other educational institutions through contracting and subcontracting. Currently, SBA does not publish decisions issued under this statutory authority. The provision would require SBA to publish future decisions. Decisions already issued (numbering approximately 325) would have to be published to have any precedential value.

SEC. 222. ESTABLISHMENT OF SIZE STANDARDS.

Under Section 3 of the Small Business Act, SBA establishes size standards under which a business concern may be recognized as a small business concern for the purpose of participating in many Federal programs as well as the programs of state and local governments and some private sector entities. While these SBA size standards are accorded broad recognition, alternative small business size standards have been statutorily established for the purposes of the application of specific statutory requirements (e.g., Americans With Disabilities Act). In addition, under SBA regulations, a federal agency is permitted to establish its own agency small business size standards for activities not covered by the Small Business Act after merely consulting with the Office of the Chief Counsel for Advocacy (most typically these agency size standards are established to comply with the Regulatory Flexibility Act).

The amendment would require any agency size standard to be approved by the SBA Administrator (thus obtaining a review by the SBA's Size Policy Staff, which sets the other size standards) and to comply with SBA policies regarding the establishment of size standards (e.g., number of employees for manufacturing concerns; gross receipts for firms providing services). This would encourage greater uniformity of small business size standards within Government and foster the establishment of agency size standards using common criteria. The provision would not, however, impair the ability of an agency to implement small business size standards without obtaining SBA's concurrence in response to a specific statutory direction or a general legislative authorization to prescribe small business size standards.

SEC. 223. MANAGEMENT OF SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

This section requires the Administrator of the Small Business Administration to furnish to designated committees of the Senate and House of Representatives the test of proposed regulations for the management of the Small Business Development Center (SBDC) Program. It is understood that the 45-days accorded for the submission of such proposed SBDC Program regulations should not present an undue burden on the SBA, since such proposed program regulations are currently available within the SBA, having been drafted over a lengthly period in cooperation with various SBDC managers.

Subtitle D—Technical Amendments

SEC. 231. COMMISSION ON MINORITY BUSINESS DEVELOPMENT.

This section clarifies the termination date for the Commission on Minority Business Development created by Section 505 of the "Business Opportunity Development Reform Act of 1988", Public Law 100-656. The Commission is charged with reviewing and assessing the operation of all Federal programs assisting minority business enterprise. The General Services Administration has determined that the Commission expired on June 30, 1992, a date 90 days after the date on which GSA determined the Commission should have submitted its final report. This determination by GSA is contrary to the explicit statutory language regarding the Commission's termination. Section 505(f) of Public Law 100-656, as amended by Section 20 of Public Law 101-37, states: "The Commission shall cease to exist within 90 days after it submits its final report to the Congress and to the President." The Commission expects to submit its final report by the end of July, 1992. Adequate funds for the Commission's planned operations through September 30, 1992 have been appropriated and made available to the Commission.

SEC. 232. TECHNICAL AMENDMENTS.

This section makes a series of technical corrections to the Small Business Act, correcting misspelled words and punctuation.

TITLE III—STUDIES AND RESOLUTIONS

Subtitle A—Access to Surety Bonding

SEC. 301. SHORT TITLE.

This section establishes the short title of the subtitle as the "Small Business Access to Surety Bonding Survey Act of 1992".

SEC. 302. SURVEY.

Subsection (a) requires the General Accounting Office to conduct a comprehensive survey of firms relating to the experiences of obtaining surety bonding needed to meet bonding requirements imposed by Federal, State and local governments by law as a precondition to the award of a construction contract and as a business practice by many private sector purchasers of construction services.

Subsection (b) prescribes in some detail the content of the questions to be included in the GAO's questionnaire.

Subsection (c) describes the types of firms to be included in the GAO's survey.

SEC. 303. REPORT.

Subsection (a) requires the GAO to submit a report on the findings of the survey required by section 302 to the Committees on Small Business of the Senate and House of Representatives. GAO is to obtain formal comments from the Administrator of the Small Business Administration, which shall be included in the text of the report.

Subsection (b) specifies the content of the GAO's report. The GAO is not required to submit recommendations based on the findings of the survey.

SEC. 304. DEFINITIONS.

This section specifies the definition of terms used in the "Small Business Access to Surety Bonding Survey Act of 1992" by appropriate references to existing definitions in the Small Business Act.

Subtitle B—Small Business Loan Secondary Market Study

SEC. 311. SECONDARY MARKET FOR LOANS TO SMALL BUSINESS.

Section 311 directs the Secretary of the Treasury, the Director of the Congressional Budget Office and the Chairman of the Securities and Exchange Commission, in consultation with the Administrator of the Small Business Administration, to conduct a study of the potential benefits of developing a secondary market for loans to small businesses.

Adequate access to debt and/or equity capital is a critical component of small business expansion and success. Small businesses, and especially small business concerns owned and controlled by socially and economically disadvantaged individuals, are experiencing increased difficulties in obtaining credit. An active secondary market in small business loans could ease this problem for small businesses as it has for residential real estate loans.

Presently, legal and regulatory impediments prevent the formation of a secondary market. This study is designed to bring to light these problems and to offer proposals to aid in the development of the secondary market for small business loans, if it is economically feasible.

Subtitle C—Contract Bundling Study

SEC. 321. CONTRACT BUNDLING STUDY.

Subsection (a) requires the Administrator of the Small Business Administration, acting through the Associate Administrator for Procurement Assistance, to conduct a study regarding so-called "contract bundling" by the various procuring agencies.

Subsection (b) specifies the purposes and objectives of the study. As the procurement workforces of the various buying activities continue to be reduced, there is a very strong inclination on the part of procurement managers to take every opportunity to combine into single large contracts requirements for good or services (including construction) that would previously have been acquired through multiple contracts of a smaller size. Such contract bundling can be a severe obstacle to participation by small business concerns and disadvantaged small business concerns as prime contractors or even first-tier subcontractors. The 1990 SBA authorization act, P.L. 101-574, contained a remedial provision, Section 208 (Bundling of Contracts). Indications are that the bundling problem has continued to worsen and that the remedy was inadequate.

Subsection (c) specifies the participants in the study in addition to the Small Business Administration.

Subsection (d) requires that the study required by subsection (a) be completed by March 31, 1993.

Subsection (e) requires a report regarding the findings of the study to be submitted to the Committees on Small Business of the Senate and House of Representatives by May 15, 1993. The report shall include appropriate legislative and regulatory recommendations.

Subsection (f) specifies a definition of the term "contract bundling".

Subtitle D—Resolution Regarding Small Business Access to Capital

SEC. 331. SENSE OF THE CONGRESS.

Section 331 expresses the Sense of the Congress that financial institutions should expand their efforts to provide credit to small businesses, with special emphasis on assisting minority-owned businesses. It further expenses the Sense of the Congress that legislation to assist small businesses the given a high priority for passage and should be crafted in such a manner so as to ensure that legislation and regulations do not disproportionately impact small businesses in a negative way.

Mr. KASTEN. Mr. President, I rise today as the ranking Republican of the Senate Small Business Committee to join my distinguished colleague from Arkansas, the Chairman of the Senate Small Business Committee, in support of the Small Business Credit and Business Opportunity Enhancement Act of 1992. I am proud to stand with the Senator from Arkansas in offering this legislation.

This legislation is the product of months of work by the Senate Small Business Committee to craft legislation that will help stimulate small business growth and development. This bill gets right to the heart of helping small business in America, which is where the greatest potential for future economic growth lies. Most importantly, this legislation will create jobs for Americans. Almost two-thirds of the jobs created in recent years can be credited to small business. Over 80 percent of the jobs in my home State of Wisconsin are provided by small business. If we are going to get our economy back on the road to growth and prosperity, small business is where we must start.

One of the major components of the legislation we are introducing today is the continued authorization of the U.S. Small Business Administration's 7(a) guaranteed loan program. Our legislation would increase the maximum loan guarantee level of the Agency to $5.2 billion for fiscal year 1992, $6.2 billion for fiscal year 1993, and $7.2 billion for fiscal year 1994. Increasing the authorization level for the 7(a) program is necessary because of the increased demand placed on this program by small businesses who do not have access to any other sources of capital. Demand in my home State of Wisconsin, alone, is up substantially. This legislation will help deal with the increased demand by allowing more capital to flow out to the private sector and create jobs.

The lack of investment capital and credit in the United States is one of the major barriers today to the growth and development of our Nation's small businesses. This was emphasized by the President in his State of the Union address in January. Small business owners across the country are still feeling the effects of the credit and capital crunch. In the last year alone, the total of outstanding commercial and industrial loans declined around $30 billion. For many small business owners, the 7(a) loan guarantee program has meant the difference between keeping the doors of their business open, or shutting down and laying off their workers.

My home State of Wisconsin takes full advantage of the SBA 7(a) program. Last year Wisconsin was the fifth largest user of 7(a) loan guarantees. So far this year, from October through June, Wisconsin banks have made 422 loans totalling over $103 million with the SBA guarantee to Wisconsin businesses—a 17-percent increase over last year.

I want to stress that this program does not make direct loans, but merely guarantees bank loans to small businesses. Each small business can receive a commercial loan of up to $750,000. These loans are leveraged at a 20-to-1 ratio. That means that every $1 of taxpayers' money translates into $20 in loaned money to a small business owner. Using loan guarantees puts fewer taxpayers' dollars at risk, and maximizes their potential. This conclusion is supported by an extensive evaluation of the 7(a) loan guarantee program by Price Waterhouse, who found in their report that the 7(a) program has become a true success story in helping small business owners across the country.

The success of the 7(a) loan guarantee program coupled with the current credit and capital crunch has made the program very popular with small businesses and banks, and this popularity is increasing. When it looked like funding for 7(a) loan guarantees was going to run dry, together with Chairman BUMPERS, I helped lead the fight in the Senate to pass the $46 million emergency appropriation. This translates into $1.4 billion in lending authority, which will allow the program to continue running through the fiscal year.

The 7(a) program has gone through a transformation in recent years. In 1980 the program was experiencing serious difficulties with defaulted loans. However, the program was put back on track with proper management and attention. Today the SBA 7(a) loan program has a default rate one-seventh of what it was in 1980. Between 1980 and 1991, the SBA has guaranteed over $30 billion in loans, and the current return to the federal government is estimated by some sources to be as high as 264 percent. This program is a perfect demonstration of how government can help businesses help themselves. One would have to look hard to find another government program that accomplishes as much for businesses in America without getting in their way.

I am also proud of this legislation because it expands and improves a program which I believe can provide much-needed capital to new and emerging small business entrepreneurs. I'm speaking about the Microloans Demonstration Program, legislation that the Chairman and I worked to create and fund last year.

This legislation today expands the program from 35 to 60 pilot projects, and increases the maximum amount of money for each state program from $1.2 million to $1.875 million. It also raises the number of programs a State can receive from two to four. I'm pleased to announce that my home State of Wisconsin will be able to receive two additional programs this year. Earlier this summer, I was pleased to announce that two outstanding organizations in Wisconsin have been selected to participate in the microloans program—the Women's Business Initiative Corporation of Milwaukee and Advocap of Fond du Lac and Winnebago Counties. I am hopeful that, because of this legislation, Wisconsin will quality to receive two additional programs. It is important to get them up and running and helping entrepreneurs as soon as possible.

Our amendments to the microloans program also provide additional incentives for the intermediaries or the people who make the loans. Under the current program, intermediaries receive 20 percent of the value of the loan money to provide technical marketing and management assistance to the borrowers. Under this legislation, intermediaries will receive 25 percent of the value of the loan. This technical assistance is valuable because it provides an added boost to help a business succeed, pay back its microloan, and move on to more traditional financing methods.

Most importantly, however, our revisions more closely target the demonstration programs in the areas that need them the most—both urban and rural areas with high unemployment. We included specific provisions in the legislation to target and provide additional incentives for microloan intermediaries to serve areas of high unemployment like Milwaukee's central city. It is absolutely critical that this program serve the people who need it the most. We've included language directing the Administration to give priority to programs located in low income or labor surplus areas.

Mr. President, sometimes a $1,000 or $10,000 loan is all the difference it takes between someone getting the opportunity to experience enterpreneurship and own their own business or remaining underemployed or unemployed.

While the size limit for microloans is $25,000, the changes we are making with this piece of legislation will encourage more $5,000 loans. This will help ensure that no entrepreneur with the ability to succeed is shut out because they are too small.

There are many women, minority and low-income individuals that have good business ideas and could become successful entrepreneurs if given a chance—and that's what the microloans program is all about—a chance. Whether it's a sewing business or toy making, a delivery service or a maintenance company—this program brings hope to many people.

As the Senate moves to consider this important legislation, I want to emphasize once again that the single greatest result of the Small Business Credit and Business Opportunity Enhancement Act of 1992 will be the creation of jobs. Our country has weathered the toughest days of the economic storm during the recession, but now we need to pull out of our slump and do it decisively.

I believe that Congress needs to do more to stimulate our economy and help provide jobs to support families. This legislation will help further a program which has a proven track record in this regard. It will also create new business opportunities for many people who previously had no hope of owning their own business, and no chance to climb out of their circumstances. This will make a difference for thousands of families across the country, and help move America and its small businesses toward growth and prosperity.

Finally, I want to commend the distinguished chairman of the Small Business Committee for his leadership in advancing this important small business initiative. I also want to applaud the efforts of staff on both sides of the aisle, including John Ball, Patty Forbes and Bill Montalto of the majority staff and Cesar Conda, Kent Knutson, and Ken Dortzbach of the minority staff.

I urge the Senate to adopt this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2913) was agreed to.

Mr. WOFFORD. Mr. President, the legislation being considered today includes the Small Business Access to Surety Bonding Survey Act of 1992, which I introduced earlier this year and is cosponsored by Senators MIKULSKI, CRANSTON, KASTEN, BURDICK, SIMON, DECONCINI, DIXON, DURENBERGER, PACKWOOD, and AKAKA. This legislation will help determine whether there is improper discrimination in the surety bond market.

Surety bonds, which guarantee the performance of a contractor's or subcontractor's work, are often necessary for contractors to get business. For instance, surety bonds are required on all Federal construction in excess of $25,000 and all federally assisted construction projects in excess of $100,000. Most state and local governments and increasing numbers of private projects also require surety bonds.

It is without question that minority owned firms face obstacles to obtaining contracts. And while there may be many reasons for the denial of contracts, small businesses, especially those owned by women and minorities, have consistently asserted that corporate surety firms too frequently impede them.

The Small Business Access to Surety Bonding Survey Act will require the comptroller General to conduct a survey of business firms, especially those owned by women and minorities, to determine their experiences in obtaining surety bonding from corporate surety firms. The bill establishes a base line of questions to be included in a questionnaire to be sent to such firms in order to ensure a comprehensive review. Finally, the Comptroller General will be required to submit a report on its findings to the House and Senate Small Business Committees within 18 months of enactment. I will certainly follow up on the results of that report.

Mr. President, I thank the chairman of the Small Business Committee, Senator BUMPERS, and the ranking member, Senator KASTEN, for their support of this legislation.

Mr. MACK. Mr. President, I rise today in strong support of the committee substitute to H.R. 4111, the Small Business Credit and Business Opportunity Enhancement Act of 1992. The main component of this legislation provides additional new credit authority for the Small Business Administration [SBA] 7(a) loan guarantee program. The accounting firm of Price Waterhouse conducted an extensive study of this program, and the results are quite compelling. The study found that between 1985 and 1989:

The 7(a) loan recipients' employment growth was 167%, compared to zero percent growth for the nonrecipient companies.

Recipient companies experienced sales revenue growth at a rate of 300 percent, nearly 10 times that of nonrecipient companies.

The 7(a) guarantee recipients reported a 255-percent growth in payroll, 332-percent growth in payroll taxes, 137-percent growth in combined Federal, State and local taxes, 199-percent growth in profits, and a 1,100-percent growth in pretax incomes.

Total sales revenues in 1989 of companies receiving 7(a) loan guarantees amounted to nearly $7.2 billion. Total payroll and profits for that same year totaled more than $2.1 billion.

The Small Business Administration reported that for the first five months of fiscal year 1992, 7(a) loan demand is approximately 30% above the same period a year ago. The success of this program, combined with increased demand for 7(a) loan guarantees, led the administration to request in February 1992, that Congress provide an additional $1.1 billion in new credit authority. This bill will increase the authority to $5.2 billion in the current fiscal year, $6.2 billion in fiscal year 1993, and $7.2 billion in fiscal year 1994. While I would have preferred these authorities be higher, I wholeheartedly support these increases. My only concern is that these increases will not keep pace with demand, and Congress will again be called upon next year to provide for increased authority.

I am also pleased that the committee substitute includes two amendments which I offered. The first amendment directs the Secretary of the Treasury, the Director of the Congressional Budget Office, and the chairman of the Securities and Exchange Commission, in consultation with the administrator of the Small Business Administration, to conduct a study on the potential benefits of developing a secondary market for loans to small businesses. Adequate access to debt and/or equity capital is a critical component of small business expansion and success. Small businesses, and particularly minority-owned small businesses, are experiencing increased difficulties in obtaining credit. An active secondary market could ease this problem for small businesses as it has for residential real estate loans. Presently, legal and regulatory impediments prevent the formation of a secondary market. This study will bring to light these problems and offer proposals to aid in the development of a secondary market for small business loans if it is economically feasible.

My other amendment expresses the sense of the Congress that financial institutions should expand their markets to provide credit to small businesses, with special emphasis on minority-owned small businesses. It further expresses the sense of the Congress that legislation which assist small businesses be given a high priority for passage, and all legislation should be crafted in such a manner so as to ensure that legislation and regulations do not disproportionately impact small businesses in a negative way.

I would like to express my appreciation to the chairman of the Committee on Small Business, Senator BUMPERS, and the ranking member, Senator KASTEN, for their willingness to accept these two amendments.

I urge my colleagues to join me in supporting this legislation of great significance to small businesses throughout America.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 4111), as amended, was passed.

Mr. SIMON. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON. Mr. President, I ask unanimous consent that the text of the bill be printed as it passed the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARSH-BILLINGS NATIONAL HISTORICAL PARK ESTABLISHMENT ACT

Mr. SIMON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2079.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 2079) entitled "An Act to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes", do pass the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marsh-Billings National Historical Park Establishment Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to interpret the history and evolution of conservation stewardship in America;

(2) to recognize and interpret the contributions and birthplace of George Perkins Marsh, pioneering environmentalist, author of Man and Nature, statesman, lawyer, and linguist;

(3) to recognize and interpret the contributions of Frederick Billings, conservationist, pioneer in reforestation and scientific farm management, lawyer, philanthropist, and railroad builder, who extended the principles of land management introduced by Marsh;

(4) to preserve the Marsh-Billings Mansion and its surrounding lands; and

(5) to recognize the significant contributions of Julia Billings, Mary Billings French, Mary French Rockefeller, and Laurance Spelman Rockefeller in perpetuating the Marsh-Billings heritage.

SEC. 3. ESTABLISHMENT OF MARSH-BILLINGS NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—There is established as a unit of the National Park System the Marsh-Billings National Historical Park in Windsor County, Vermont (hereinafter in this Act referred to as the "park").

(b) BOUNDARIES AND MAP.—(1) The park shall consist of a historic zone, including the Marsh-Billings Mansion, surrounding buildings and a portion of the area known as "Mt. Tom", comprising approximately 555 acres, and a protection zone, including the areas presently occupied by the Billings Farm and Museum, comprising approximately 88 acres, all as generally depicted on the map entitled "Marsh-Billings National Historical Park Boundary Map" and dated November 19, 1991.

(2) The map referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

SEC. 4. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall administer the park in accordance with this Act, and laws generally applicable to units of the National Park System, including, but not limited to the Act entitled "An Act to establish a National Park Service, and for other purposes, approved August 25, 1916 (16 U.S.C. 1, 2-4).

(b) ACQUISITION OF LANDS.—(1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE SECRETARY IS AUTHORIZED TO ACQUIRE LANDS OR INTERESTS THEREIN WITHIN THE PARK ONLY BY DONATION.

(2) If the Secretary determines that lands within the protection zone are being used, or there is an imminent threat that such lands will be used, for a purpose that is incompatible with the purposes of this Act, the Secretary may acquire such lands or interests therein by means other than donation.

(3) The Secretary may acquire lands within the historic zone subject to terms and easements providing for the management and commercial operation of existing hiking and cross-country ski trails by the grantor, and the grantor's successors and assigns, such terms and easements shall be in a manner consistent with the purposes of the historic zone. Any changes in the operation and management of existing trails shall be subject to approval by the Secretary.

(c) HISTORIC ZONE.—The primary purposes of the historic zone shall be preservation, education, and interpretation.

(d) PROTECTION ZONE.—(1) The primary purpose of the protection zone shall be to preserve the general character of the setting across from the Marsh-Billings Mansion in such a manner and by such means as will continue to permit current and future compatible uses.

(2) The Secretary shall pursue protection and preservation alternatives for the protection zone by working with affected State and local governments and affected landowners to develop and implement land use practices consistent with this Act.

SEC. 5. MARSH-BILLINGS NATIONAL HISTORICAL PARK SCENIC ZONE.

(a) IN GENERAL.—There is established the Marsh-Billings National Historical Park Scenic Zone (hereinafter in this Act referred to as the "scenic zone"), which shall include those lands as generally depicted on the map entitled "Marsh-Billings National Historical Park Scenic Zone Map" and dated November 19, 1991.

(b) PURPOSE.—The purpose of the scenic zone shall be to protect portions of the natural setting beyond the park boundaries that are visible from the Marsh-Billings Mansion, by such means and in such a manner as will permit current and future compatible uses.

(c) ACQUISITION OF SCENIC EASEMENTS.—Within the boundaries of the scenic zone, the Secretary is authorized only to acquire scenic easements by donation.

SEC. 6. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—The Secretary may enter into cooperative agreements with such persons or entities as the Secretary determines to be appropriate for the preservation, interpretation, management, and providing of educational and recreational uses for the properties in the park and the scenic zone.

(b) FACILITIES.—The Secretary through cooperative agreements with owners or operators of land and facilities in the protection zone, may provide for facilities in the protection zone to support activities within the historic zone.

SEC. 7. ENDOWMENT.

(a) IN GENERAL.—In accordance with the provisions of subsection (b), the Secretary is authorized to receive and expend funds from an endowment to be established with the Woodstock Foundation, or its successors and assigns.

(b) CONDITIONS.—(1) Funds from the endowment referred to in subsection (a) shall be expended exclusively as the Woodstock Foundation, or its successors and assigns, in consultation with the Secretary, may designate for the preservation and maintenance of the Marsh-Billings Mansion and its immediate surrounding property.

(2) No expenditure shall be made pursuant to this section unless the Secretary determines that such expenditure is consistent with the purposes of this Act.

SEC. 8. RESERVATION OF USE AND OCCUPANCY.

In acquiring land within the historic zone, the Secretary may permit an owner of improved residential property within the boundaries of the historic zone to retain a right of use and occupancy of such property for noncommercial residential purposes for a term not to exceed 25 years or a term ending at the death of the owner, or the owner's spouse, whichever occurs last. The owner shall elect the term to be reserved.

SEC. 9. GENERAL MANAGEMENT PLAN.

Not later than 3 complete fiscal years after the date of enactment of this Act, the Secretary shall develop and transmit a general management plan for the park to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. SIMON. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN LAND

Mr. SIMON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1770.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1770) entitled "An Act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. CONVEYANCE OF LAND TO BLACK HILLS WORKSHOP AND TRAINING CENTER, INC.section 1. conveyance of land to black hills workshop and training center, inc.

(A) IN GENERAL.—Notwithstanding the Federal property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and any other law which requires that property of the United States be used for a particular purpose, the Administrator of General Services (hereinafter in this section referred to as the "Administrator") shall convey to the Black Hills Workshop and Training Center, Inc., of Rapid City, South Dakota (hereinafter in this section referred to as the "Center"), all right, title, and interest of the United States in certain property under the control of the General Services Administration and described in subsection (b).

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in section 4, T.IN., R. 7E, BHM, Rapid City, Pennington County, South Dakota, and consists of that portion of Lot 3 that has been determined to be excess property and one and one-half acres of Lot 2 from the southern boundary to a line 200 feet north of the southern boundary, as depicted on a map prepared by Fisk Engineering Inc., and approved by the Forest Service on October 2, 1990.

(c) TERMS.—A conveyance of property under this section shall be—

(1) by quitclaim deed;

(2) completed by the Administrator by as soon as practicable after receipt by the Administrator, by not later than 120 days after the date of the enactment of this Act, of payment in an amount equal to the fair market value of the property, as that value is established by an independent appraisal obtained by the Administrator under subsection (d); and

(3) subject to such other terms and conditions as the Administrator determines to be appropriate.

(d) APPRAISAL.—The Administrator shall obtain an independent appraisal of the property required to be conveyed under this section by not later than 60 days after the date of the enactment of this Act.

(e) PROCEEDS FROM DISPOSITION OF PROPERTY.—Funds received as payment for the property shall be treated as proceeds from a sale of surplus property.

Mr. SIMON. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was concurred in.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CALENDAR

Mr. SIMON. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Nos. 516, 579, and 583, that the committee amendments, where appropriate, be agreed to, that the bills be deemed read three times, passed; and the motion to reconsider the passage of these measures be laid upon the table, en bloc; further that the consideration of these items appear individually in the RECORD; and any statements appear at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCARCERATED WITNESS FEES ACT

The Senate proceeded to consider the bill (H.R. 2324) to amend title 28, United States Code, with respect to witness fees, which had been reported from the Committee on the Judiciary, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

H.R. 2324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Incarcerated Witness Fees Act of 1991".

SEC. 2. ELIMINATION OF WITNESS FEES FOR INCARCERATED PERSONS.

(a) IN GENERAL.—Section 1821 of title 28, United States Code, is amended by adding at the end the following:

["(f) An incarcerated person (other than a witness detained pursuant to section 3144 of title 18) shall be ineligible to receive the fees or allowances provided by this section.".**]**

(f) Any witness who is incarcerated at the time that his or her testimony is given (except for a witness to whom the provisions of section 3144 of title 18 apply) may not receive fees or allowances under this section, regardless of whether such a witness is incarcerated at the time he or she makes a claim for fees or allowances under this section.

(b) CONFORMING AMENDMENT.—Section 1821(d)(1) of title 28, United States Code, is amended by striking "(other than a witness who is incarcerated)".

(c) TECHNICAL AMENDMENT.—Section 1821(d)(4) of title 28, United States Code, is amended by striking "3149" and inserting "3144".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective on and after the date of the enactment of this act and shall apply to any witness who testified before such date and has not received any fee or allowance under section 1821 of title 28, United States Code, relating to such testimony.

The bill (H.R. 2324) as amended, was deemed read the third time and passed.

MILITARY ORDER OF WORLD WARS, INCORPORATED

The bill (S. 1578) to recognize and grant a Federal Charter to the Military Order of World Wars was considered, ordered to be engrossed for a third reading, was deemed read the third time, and passed, as follows:

S. 1578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL CHARTER.

The Military Order of the World Wars, a nonprofit corporation organized under the laws of the District of Columbia (hereinafter in this Act referred to as the "corporation"), is recognized as such and is granted a Federal charter.

SEC. 2. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its articles of incorporation and shall include the following:

(1) Promoting military service associations.

(2) Promoting patriotic education and military, naval, and air science.

(3) Defending the honor and integrity of the Federal Government and the Constitution.

(4) Fostering fraternal relations among all branches of the armed forces.

(5) Encouraging the adoption of a suitable policy of national security.

(6) Encouraging the commemoration of military service and the establishment of war memorials.

SEC. 3. NONDISCRIMINATION.

In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

SEC. 4. RESTRICTIONS.

(a) LOANS.—The corporation may not make any loan to any officer, director, or employee of the corporation.

(b) STOCK.—The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

(c) CONGRESSIONAL APPROVAL.—The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities.

SEC. 5. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(75) The Military Order of World Wars.".

SEC. 6. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 5 of this Act. The report shall not be printed as a public document.

SEC. 7. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

SEC. 8. TERMINATION.

The charter granted by this Act shall expire if the corporation fails to comply with—

(1) any restriction or other provision of this Act,

(2) any provision of its bylaws or articles of incorporation, or

(3) any provision of the laws of the District of Columbia.

ADMINISTRATIVE PROCEDURE TECHNICAL AMENDMENTS ACT

The bill (H.R. 2549) to make technical corrections to chapter 5 of title 5, United States Code was considered, ordered to be engrossed for a third reading, was deemed read the third time, and passed.

Mr. GRASSLEY. Mr. President, as the sponsor of S. 971, which ultimately was enacted into the Administrative Dispute Resolution Act of 1990, I rise to make several points regarding the legislative intent behind the passage of this act.

As I stated during the Senate's consideration of this legislation, the Administrative Dispute Resolution Act of 1990 is designed to encourage agencies and private parties to use ADR methods. It is intended to supplement—not replace or limit—existing dispute resolution practices and procedures. By enhancing the Government's ability to resolve a dispute effectively, my colleagues and I believed we were making it easier for agencies to use ADR techniques, where appropriate, in resolving the complex legal issues that now face them.

There are apparently some who believe that the Congress achieved precisely the opposite result. I am told by those who dwell in the arcane world of Government contracts that the Act is being interpreted as making it more difficult to resolve contract claims valued at less than $50,000. Under the terms of section 605(c) of the Contract Disputes Act of 1978, a contractor is required to certify only those claims submitted to the Government in excess of $50,000. A new section, section 605(d), was added by the Administrative Dispute Resolution Act of 1990, which appears to require that when using an ADR technique a contractor must certify all claims, regardless of their dollar amount.

The problem with this interpretation of the ADRA is that contractors perceive the certification requirement as needlessly exposing them to criminal penalties if they, in any way, present a claim that is not 100 percent in accordance with the Defense Contract Audit Agency's accounting standards. Given a choice between using ADR or proceeding with the traditional means of resolving contract disputes which do not require claim certification, the contractor will choose the latter method. Accordingly, if a contractor has a contract claim for less than $50,000 and is required to provide a certification only if he elects to use an ADR technique, he is likely to decline the opportunity.

If the statutory analysis stopped here, then I would have to agree that the Administrative Dispute Resolution Act does in fact achieve this anomalous result. However, common sense tells us that the foregoing interpretation goes too far, and is contrary to the ADRA's overreaching intent to reduce procedural formality. The text of the ADRA, along with a reading of its legislative history, also compels a different interpretation. Section 605(d) states that, when using an ADR technique to resolve a contract claim, all the provisions of the ADRA apply. The ADRA (section 4, four, new Administrative Procedures Act section 582(c)) states explicitly: "Alternative means of dispute resolution authorized under this subchapter are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques."

When discussing the rationale for the foregoing provision in the ADRA, the Senate report that accompanied S. 971 states on page 10 that:

> [T]his section * * * make[s] clear that the intent of the Act is to promote ADR methods as a supplement to already existing agency dispute resolution procedures. The provisions of the Act are not meant to interfere with or limit any procedures or practices already in use. The Tennessee Valley Authority (TVA) contacted the Subcommittee to express their concern that certain provisions of the Act, particularly those concerning arbitration, would limit the TVA's existing authority to arbitrate. This language in the Act is intended to allay that concern.

The ADRA's legislative history provides additional support for this position. During consideration of the bill, Senator LEVIN, chairman of the Governmental Affairs Subcommittee on Oversight of Government Management which held a hearing on the ADRA, rose in support of the ADRA and, in relevant part, stated:

> Federal agencies can currently engage in many ADR techniques such as mediation and mini-trials without express authorization by statute or regulations.
>
> * * * *
>
> And, I might add, it [the ADRA] is not intended * * * in any way to interfere with ongoing ADR programs.
>
> * * * *
>
> Again, ADR is not aimed at endrunning established government practice, but is aimed at enhancing, where appropriate, the government's ability to effectively resolve a dispute.

These remarks can be found on page S18087 in the CONGRESSIONAL RECORD of October 24, 1990. Echoing this interpretation are remarks I made, which can be found on page S18090 of the same edition of the CONGRESSIONAL RECORD, in which I note:

> For those agencies that have already experimented successfully with ADR—and our hearing record demonstrates these successes—nothing in S. 971 will cut back on their existing authority. Each agency will promulgate its own rules, after taking public comment, to fit ADR into the array of current procedures. Thus the firm statutory foundation provided by S. 971 will be shaped to fit the details of agency programs and disputes.

The ADRA has no effect on the ADR procedures in effect prior to the ADRA's passage, or on those which agencies understate pursuant to authority other than the ADRA. It is only in those cases where the authority of the ADRA is exercised that a certification is required for contract claims less than $50,000. Mr. President, my colleagues and I feel strongly that Federal agencies should promulgate regulations that are consistent with this interpretation of the ADRA because it achieves the result the Act was intended to achieve—making it easier, not harder, to resolve disputes through the use of ADR techniques.

This interpretation also makes good sense as a matter of public policy. First, for those expressing a concern about the need for a certification requirement to protect the public from fraudulent claims by unscrupulous contractors, I note the following trilogy of statutes under which such people can be brought to justice: 18 U.S.C. 287—making or presenting a false or fraudulent claim against the United States; 18 U.S.C. 1001—making a false statement against the United States; 18 U.S.C. 1341—devising any scheme to obtain money or defraud the U.S. Government that involves the U.S. Postal Service. Second it achieves the basic aim of the ADRA, making it easier to use less formal methods to resolve disputes. Third, after reading the act in its entirety, the true intent of the Congress, and hence the proper interpretation of the ADRA, is clear. The ADR merely supplements the authority of Federal agencies to use ADR techniques. Therefore, the ADR Act should not be read as imposing a new certification requirement for all contract claims under $50,000.

RELATIVE TO THE CENTRAL JUDICIAL DISTRICT OF CALIFORNIA

Mr. SIMON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3795, a bill to establish three divisions in the Central Judicial District of California, just received from the House, that the bill be deemed read three times, passed and the motion to reconsider laid upon the table; further that any statements relating to this measure be inserted in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SEYMOUR. Mr. President, I am extremely pleased that the Senate is taking quick action on H.R. 3795, which would establish three divisions in the Central Judicial District of California, and bring a Federal court to Riverside and San Bernardino Counties—California's inland empire.

It's no secret that California's population exploded in the past decade. One could not help but see this dramatic change in the inland empire. Ten years ago, the freeways that stretched from Los Angeles through the inland desert cut across sparsely populated orange groves, cattle and horse ranches, and uninhabited desert. Today, it is a much different picture: business districts and residential communities cover what was once barren land—a new, modern suburb of a vast southern California metropolis.

With this development, the population of southern California shifted inland. In the last decade, the population of San Bernardino County more than doubled, and the population of Riverside County increased by more than 75 percent. Today, the combined population is more than 2.6 million.

The inland empire's population growth isn't expected to end anytime soon. In fact, the populations of Riverside and San Bernardino Counties are expected to increase by 70 percent. By the year 2005, the inland empire will be home to more than 4.4 million Californians.

What the residents of the inland empire are in urgent need of is easy, local access to Federal judicial services. The Central Judicial District of California is designed to serve a predominantly coastal population, and has not adjusted to southern California's inland growth. Today, if inland empire residents have to go to Federal court, they must drive to either Los Angeles or Orange County. This is easier said than done. Southern California's overall population growth has resulted in a commuter's nightmare of highway gridlock. The more than 50 miles it takes to travel from the inland empire to Los Angeles or Orange County, and back again, can take as long as 6 hours. Absent adequate Federal judicial services in the region, inland empire residents will be forced to endure an increasingly inefficient and unreasonable waste of their time.

H.R. 3795 is a simple, cost-effective answer to the current and future population realities of southern California, particularly in the inland empire. Our federal court system must grow and respond to demographic trends to ensure that all Americans have ready access to quality Federal judicial services and facilities. For the present and future residents of the inland empire, this legislation is sorely needed.

Mr. President, H.R. 3795 has strong, bipartisan support among my friends and colleagues within the California congressional delegation. In particular, I wish to commend the bipartisan leadership of the inland empire congressional delegation, Mr. BROWN, Mr. LEWIS and Mr. MCCANDLESS. They were the original cosponsors of this legislation and they worked diligently to steer this legislation through expeditiously. I also would like to commend and extend my thanks to Chief Judge Manuel Real of the Central Judicial District of California. An extraordinary public servant, Judge Real has been a tireless and eloquent advocate of this legislation.

Finally, I thank my colleague from California, Senator CRANSTON, and the distinguished chairman and ranking member of the Judiciary Committee, Senator BIDEN and Senator THURMOND, for their exceptional leadership and assistance on this matter. It was a pleasure to work with them so that the Senate could take prompt action on an issue of great importance to the residents of California's inland empire.

TECHNICAL AND MISCELLANEOUS CIVIL SERVICE AMENDMENTS ACT

Mr. SIMON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 526, H.R. 2850, the Federal Pay Comparability Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2850) to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Technical and Miscellaneous Civil Service Amendments Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 5, United States Code.
Sec. 3. Amendments to the Federal Employees Pay Comparability Act of 1990.
Sec. 4. Amendments relating to the Ethics in Government Act of 1978.
Sec. 5. Amendments to other provisions of law.
Sec. 6. Restoration of coverage of certain Federal personnel provisions to certain veterans health administration employees.
Sec. 7. Retroactive performance awards.
Sec. 8. Miscellaneous provisions.
Sec. 9. Effective dates.

SEC. 2. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Title 5, United States Code, is amended—

(1) in the analysis for part II by striking, in the item relating to chapter 12, "Individual Right of Action" and inserting "Employee Right of Action";

(2) by striking the heading for former section 1209 (the text of which was redesignated as sections 1205 and 1206 by paragraphs (9) and (10), respectively, of section 3(a) of the Whistleblower Protection Act of 1989 (Public Law 101–12; 103 Stat. 18));

(3) by striking the heading for former section 1204 (which was redesignated as section 1211(b) by section 3(a)(6) of the Whistleblower Protection Act of 1989 (Public Law 101–12; 103 Stat. 17));

(4) in section 3105 by striking "section 3105," and inserting "sections 3105,";

(5) in section 2302(b)(8)(B) by striking "Special Counsel of the Merit Systems Protection Board," and inserting "Special Counsel,";

(6) in section 2304(b) by striking "(b) the" and inserting "(b) The";

(7) in section 3104(a)—

(A) by striking "(not to exceed 517)"; and

(B) by amending the second sentence to read as follows: "Any such position may be established by action of the Director or, under such standards and procedures as the Office prescribes (including procedures under which the prior approval of the Director may be required), by agency action.";

(8) in section 3109 by adding at the end thereof the following new subsections:

"(d) The Office of Personnel Management shall prescribe regulations necessary for the administration of this section. Such regulations shall include—

"(1) criteria governing the circumstances in which it is appropriate to employ an expert or consultant under the provisions of this section;

"(2) criteria for setting the pay of experts and consultants under this section; and

"(3) provisions to ensure compliance with such regulations.

"(e) Each agency shall report to the Office of Personnel Management on an annual basis with respect to—

"(1) the number of days each expert or consultant employed by the agency during the period was so employed; and

"(2) the total amount paid by the agency to each expert and consultant for such work during the period.";

(9) by amending section 3152 to read as follows:

"§3152. Limitation on pay

"Members of the FBI–DEA Senior Executive Service shall be subject to the limitation under section 5307.";

(10) in section 3323(b)(1) by striking "annuitant as defined by section 8331 of this title" and inserting "annuitant, as defined by section 8331 or 8401,";

(11) in section 3324—

(A) by amending the heading to read as follows:

"§3324. Appointments to positions classified above GS–15";

and

(B) in subsection (a) by amending paragraph (1) to read as follows:

"(1) to which appointment is made by the Chief Judge of the United States Tax Court;";

(12) in section 3325(b) by striking "section 3104(a)(7) of this title" and inserting "section 3104(c)";

(13)(A) by striking section 3342; and

(B) in the table of sections for chapter 33 by striking the item relating to section 3342;

(14) by amending the heading for section 3373 to read as follows:

"§3373. Assignment of employees to State or local governments";

(15) in section 3401(1)(iv) by striking "Virgin Island" and inserting "Virgin Islands";

(16) in section 3594(c)(1)(A) by striking "5108,," and inserting "5108,";

(17) in section 4109 by striking subsection (d);

(18) in section 4302(a) by striking the semicolon at the end and inserting a period;

(19) in section 4505a—

(A) in subsection (b)(2) by striking "chapter 12 or under" and inserting "chapter 12, chapter 71, or";

(B) in subsection (c) by inserting "of Personnel Management" after "Office"; and

(C) by striking subsection (d) and inserting the following:

"(d) The preceding provisions of this section shall be applicable with respect to any employee to whom subchapter III of chapter 53 applies, and to any category of employees provided for under subsection (e).

"(e) At the request of the head of an Executive agency, the President may authorize the application of subsections (a) through (c) with respect to any category of employees within such agency who would not otherwise be covered by this section.";

(20) in the heading for subchapter III of chapter 45 by striking "OFFICER" and inserting "OFFICERS";

(21) by amending section 4521 to read as follows:

"§4521. Definition

"For the purpose of this subchapter, the term 'law enforcement officer' means—

"(1) a law enforcement officer within the meaning of section 5541(3) and to whom the provisions of chapter 51 apply;

"(2) a member of the United States Secret Service Uniformed Division;

"(3) a member of the United States Park Police;

"(4) a special agent in the Diplomatic Security Service;

"(5) a probation officer (referred to in section 3672 of title 18); and

"(6) a pretrial services officer (referred to in section 3153 of title 18).";

(22) in the table of sections for chapter 51 by striking the item relating to section 5108 and inserting the following:

"5108. Classification of positions above GS–15.";

(23) in section 5108(a)(2) by striking the semicolon at the end and inserting a period;

(24) in the table of sections for chapter 53—

(A) in the item relating to section 5379 by striking "repayment." and inserting "repayments."; and

(B) by striking "Sec." immediately before the item relating to section 5391;

(25) in section 5302—

(A) in paragraph (1) by amending subparagraph (C) to read as follows:

"(C) chapter 74 of title 38, relating to the Veterans Health Administration (other than a position subject to section 7451 of title 38);"; and

(B) in paragraph (8)—

(i) in subparagraph (A) by striking "and" at the end; and

(ii) by adding after subparagraph (B) the following:

"(C) in the case of an employee receiving a retained rate of basic pay under section 5363, the rate of basic pay payable under such section; and";

(26) in section 5304—

(A) in subsection (a)(3)—

(i) by striking "Subject to paragraphs (4) and (5)," and inserting "Subject to paragraph (4),", and by striking "a comparative payment" and inserting "a comparability payment";

(ii) in subparagraph (H) by inserting "and" after the semicolon; and

(iii) in subparagraph (I) by striking the semicolon and inserting a period;

(B) in subsection (d)(1)(A) by inserting "(disregarding any described in section 5302(8)(C))" after "General Schedule", and by striking "annual";

(C) in subsection (e)—

(i) in paragraph (1) by inserting the second sentence the following: "However, members under subparagraph (A) may be paid expenses in accordance with section 5703."; and

(ii) in paragraph (2)(A)(ii) by striking "annual survey" and inserting "surveys of pay localities", and by striking "industries," and inserting "industries";

(D) in subsection (g) by amending paragraph (2) to read as follows:

"(2) The applicable maximum under this subsection shall be level III of the Executive Schedule for—

"(A) positions under subparagraphs (A)–(E) of subsection (h)(1); and

"(B) any positions under subsection (h)(1)(F) which the President may determine.";

(E) in subsection (h)—

(i) in paragraph (1)—

(I) by amending subparagraph (F) to read as follows:

"(F) a position within an Executive agency not covered under the General Schedule or any of the preceding subparagraphs, the rate of basic pay for which is (or, but for this section, would be) no more than the rate payable for level IV of the Executive Schedule;";

(II) in clause (i) by striking "or" at the end;

(III) in clause (ii) by striking the period at the end and inserting "; or"; and

(IV) by adding at the end the following:

"(iii) a position to which subchapter II applies (relating to the Executive Schedule).";

(ii) in paragraph (2) by adding at the end the following:

"(C) Notwithstanding subsection (c)(4) or any other provision of law, but subject to paragraph (3), in the case of a category with positions that are in more than 1 Executive agency, the President may, on his own initiative, provide that each employee who holds a position within such category, and in the locality involved, shall be entitled to receive comparability payments."; and

(iii) in paragraph (3) by amending subparagraph (B) to read as follows:

"(B) shall take effect, within the locality involved, on the first day of the first applicable pay period commencing on or after such date as the President designates (except that no date may be designated which would require any retroactive payments), and shall remain in effect through the last day of the last applicable pay period commencing during that calendar year;";

(27) in section 5306(a)(1)(B) by striking "166b–3" and inserting "166b–3a";

(28) in section 5314 by striking each of the following: "Under Secretary of Education.", "Under Secretary of Health and Human Services.", "Under Secretary of the Interior.", and "Under Secretary of Housing and Urban Development.";

(29) in section 5332 by amending subsection (a) to read as follows:

"(a)(1) The General Schedule, the symbol for which is 'GS', is the basic pay schedule for positions to which this subchapter applies. Each employee to whom this subchapter applies, except an employee covered by the performance management and recognition system established under chapter 54, is entitled to basic pay in accordance with the General Schedule.

"(2) The General Schedule is a schedule of annual rates of basic pay, consisting of 15 grades, designated 'GS–1' through 'GS–15', consecutively, with 10 rates of pay for each such grade. The rates of pay of the General Schedule are adjusted in accordance with section 5303.";

(30) in section 5347(g)—

(A) by striking "(g) Members" and inserting "(g)(1) Except as provided in paragraph (2), members";

(B) by striking the second sentence; and

(C) by adding at the end the following:

"(2) The position of Chairman shall be considered to be a Senior Executive Service position within the meaning of section 3132(a), and shall be subject to all provisions of this title relating to Senior Executive Service positions, including section 5383.";

(31) in section 5371(b)—

(A) by striking "chapter 73" and inserting "chapter 74"; and

(B) by inserting "subchapter V of chapter 55," after "61," each place it appears;

(32) in section 5372(c) by striking "shall," and inserting "shall";

(33) in section 5375(2) by striking "GS–8," and inserting "GS–8";

(34) in section 5377—

(A) in subsection (a)(2)—

(i) in subparagraph (C) by striking "and" at the end;

(ii) in subparagraph (D) by striking the period at the end and inserting a semicolon; and

(iii) by adding after subparagraph (D) the following:

"(E) a position established under section 3104; and

"(F) a position in a category as to which a designation is in effect under subsection (i)."; and

(B) by adding at the end the following:

"(i)(1) For the purpose of this subsection, the term 'position' means the work, consisting of the duties and responsibilities, assignable to an employee, except that such term does not include any position under subsection (a)(2)(A)–(E).

"(2) At the request of an agency head, the President may designate 1 or more categories of positions within such agency to be treated, for purposes of this section, as positions within the meaning of subsection (a)(2).";

(35) in section 5383 by amending subsection (b) to read as follows:

"(b) Members of the Senior Executive Service shall be subject to the limitation under section 5307.";

(36) in subchapter IX of chapter 53 by striking the matter after the subchapter heading and before the heading for section 5391;

(37) in section 5401(1) by striking "(a)" and inserting "(A)", and by striking "(b)" and inserting "(B)";

(38) in section 5403(d) by striking "section 5305" and inserting "section 5303";

(39) in section 5519 by striking "section 6323(c) or (d) of this title" and inserting "section 6323(b) or (c)";

(40) in section 5541—

(A) in paragraph (1) by striking "and" at the end;

(B) in paragraph (2) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) 'law enforcement officer' means an employee who—

"(A) is a law enforcement officer within the meaning of section 8331(20) or 8401(17);

"(B) in the case of an employee who holds a supervisory or administrative position and is subject to subchapter III of chapter 83, but who does not qualify to be considered a law enforcement officer within the meaning of section 8331(20), would so qualify if such employee had transferred directly to such position after serving as a law enforcement officer within the meaning of such section;

"(C) in the case of an employee who holds a supervisory or administrative position and is subject to chapter 84, but who does not qualify to be considered a law enforcement officer within the meaning of section 8401(17), would so qualify if such employee had transferred directly to such position after performing duties described in section 8401(17) (A) and (B) for at least 3 years; and

"(D) in the case of an employee who is not subject to subchapter III of chapter 83 or chapter 84—

"(i) holds a position that the Office of Personnel Management determines would satisfy subparagraph (A), (B), or (C) if the employee were subject to subchapter III of chapter 83 or chapter 84; or

"(ii) is a special agent in the Diplomatic Security Service.";

(41) in section 5542—

(A) in subsection (a)(4)—

(i) by striking "officer (within the meaning of section 8331(20) or 8401(17))," and inserting "officer,"; and

(ii) by moving the indentation for the matter following subparagraph (B) 2 ems to the right; and

(B) in subsection (c) by amending the second sentence to read as follows: "In the case of an employee who would, were it not for the preceding sentence, be subject to this section, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence.";

(42) in section 5544—

(A) in paragraphs (2) and (3) of subsection (a) by striking "2,080" each place it appears and inserting "2,087";

(B) by amending the last two sentences of subsection (a) to read as follows: "The first and third sentences of this subsection shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to the first and third sentences of this subsection, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence."; and

(C) by adding at the end the following:

"(c) The provisions of this section, including the last two sentences of subsection (a), shall apply to a prevailing rate employee described in section 5342(a)(2)(B).";

(43) in section 5547(c) by striking paragraph (3);

(44)(A) by striking section 5550;

(B) in the table of sections for chapter 55 by striking the item relating to section 5550;

(C) in section 5548(b) by striking "sections 5545(d) and 5550 of this title." and inserting "section 5545(d).";

(D) in section 6123(a)(1) by striking "5543(a)(1), 5544(a), and 5550" and inserting "5543(a)(1) and section 5544(a)"; and

(E) in section 6128—

(i) in subsection (a) by striking "5542(a), 5544(a), and 5550(2)" and inserting "5542(a) and 5544(a)"; and

(ii) in subsection (c) by striking "5544(a), 5546(a), or 5550(1)" and inserting "5544(a) or 5546(a)";

(45)(A) in subchapter VI of chapter 55 by adding at the end the following:

"§5553. Regulations

"The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter."; and

(B) in the table of sections for chapter 55 by adding after the item relating to section 5552 the following:

"5553. Regulations.";

(46) in the table of sections for chapter 57—

(A) by striking the item relating to section 5723 and inserting the following:

"5723. Travel and transportation expenses of new appointees and student trainees.";

and

(B) by adding after the item relating to section 5754 the following:

"5755. Supervisory differentials.";

(47) in the heading for section 5702 by striking "employee" and inserting "employees";

(48) in section 5723—

(A) by amending the heading to read as follows:

"§5723. Travel and transportation expenses of new appointees and student trainees";

and

(B) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(49) in section 5724(a)(3)(A) by striking "Service;" and inserting "Service or as a director under section 4103(a)(8) of title 38 (as in effect on November 27, 1988);";

(50) in section 5901(a) by striking "5902)." each place it appears and inserting "5902)";

(51) in section 5948—

(A) in the first sentence of subsection (a) by striking "provisions of this section" and inserting "provisions of this section, section 5307,";•

(B) in subsection (g)(1)—

(i) by amending subparagraph (D) to read as follows:

"(D) section 5371, relating to certain health care positions;";

(ii) by striking "or" at the end of subparagraph (H);

(iii) by striking "and" at the end of subparagraph (I); and

(iv) by inserting after subparagraph (I) the following:

"(J) section 5376, relating to certain senior-level positions;

"(K) section 5377, relating to critical positions; or

"(L) subchapter IX of chapter 53, relating to special occupational pay systems; and";

(52) in section 6303(a) by amending the second sentence to read as follows: "In determining years of service, an employee is entitled to credit for all service of a type that would be creditable under section 8332, regardless of whether or not the employee is covered by subchapter III of chapter 83.";

(53) in the second sentence of section 6304(e) by striking "date of" and inserting "date";

(54) in section 7112 by redesignating subsection (a)(1) as subsection (a);

(55) in section 7113 by redesignating subsection (a)(1) as subsection (a);

(56) in section 7701(c)(1) by amending subparagraph (A) to read as follows:

"(A) in the case of an action based on unacceptable performance described in section 4303 or a removal from the Senior Executive Service for failure to be recertified under section 3393a, is supported by substantial evidence; or";

(57) in section 8331—

(A) in paragraph (1)—

(i) in subparagraph (L) by striking "section 8347(p)(1)" and inserting "section 8347(q)(1)"; and

(ii) in clause (ii) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)"; and

(B) in paragraph (7) by striking "Gallaudet College," and inserting "Gallaudet University,";

(58) in the last sentence of section 8332(b) by striking "paragraph (16)" and inserting "paragraph (16)";

(59) in section 8334(i) by redesignating the second paragraph (5) as paragraph (6);

(60) in section 8335(b) by amending the first sentence to read as follows: "A firefighter who is otherwise eligible for immediate retirement under section 8336(c) shall be separated from the service on the last day of the month in which such firefighter becomes 55 years of age or completes 20 years of service if then over that age.";

(61) in the second sentence of section 8337(a) by striking "if the employee if" and inserting "if the employee is";

(62) in section 8339 by redesignating the second subsection (o) as subsection (p);

(63) in section 8341 in subsections (b)(1) and (d) by striking "(o)," and inserting "(p),";

(64) in section 8347—

(A) by redesignating the second subsection (p) as subsection (q); and

(B) in paragraphs (1) and (2) of subsection (q) (as so redesignated) by amending subparagraph (A) of each to read as follows:

"(A) has not previously made an election under this subsection or had an opportunity to make an election under this paragraph;";

(65) in section 8421(a)(2) by adding a period at the end;

(66) in section 8423(a)(1)(B)(i) by striking "multipled" and inserting "multiplied";

(67) in section 8425(b)—

(A) by amending the first sentence to read as follows: "A member of the Capitol Police or firefighter who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which such member or firefighter becomes 55 years of age or completes 20 years of service if then over that age."; and

(B) in the second sentence by striking "become" and inserting "becomes";

(68) in section 8438(a)(7)(B) by striking "Federal Savings and Loan Insurance Corporation," and inserting "Federal Deposit Insurance Corporation,";

(69) in section 8440(a)(3) by inserting "section 401(k)(4)(B) of such Code and" after "subject to";

(70) in section 8440a(b)(1) by striking "subchapters III and VII of chapter 84 of this title" and inserting "this subchapter and subchapter VII";

(71) in section 8461(n)—

(A) in paragraphs (1) and (2) by amending subparagraph (A) of each to read as follows:

"(A) has not previously made an election under this subsection or had an opportunity to make an election under this paragraph;"; and

(B) in paragraph (2)(D) by striking "section 8347(p)" and inserting "section 8347(q)";

(72) in section 8478(a)(2)(B)(iii) by striking "Corporation or the Federal Savings and Loan Insurance";

(73) in the analysis for chapter 85 by adding after the item relating to section 8508 the following:

"8509. Federal Employees Compensation Account.";

(74) in section 8706 by redesignating subsection (g) as subsection (f);

(75) in section 8901—

(A) in paragraph (3)(A)(iv) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)"; and

(B) in paragraph (10)(C)(ii) by inserting a comma after "section 8341(h)";

(76) in section 8904(a) by striking "this section" each place it appears and inserting "this subsection";

(77) in section 8905—

(A) in subsection (b) by striking "this subchapter." and inserting "this chapter"; and

(B) in subsection (c)(1) by inserting a comma after "8341(h)"; and

(78) in section 8906—

(A) in subsection (b)(3) by inserting a period after "Office)"; and

(B) in subsection (c) by striking "and except" and inserting "and (except".

SEC. 3. AMENDMENTS TO THE FEDERAL EMPLOYEES PAY COMPARABILITY ACT OF 1990.

The Federal Employees Pay Comparability Act of 1990, as contained in the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101–509; 104 Stat. 1427), is amended—

(1) in each of paragraphs (1) and (2) of section 109(b) (104 Stat. 1451) by striking "section 5305" and inserting "section 5303";

(2) in section 203 (104 Stat. 1456) by striking "5545(D)" and inserting "5545(d)";

(3) in section 209(a) (104 Stat. 1460)—

(A) by striking "or" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; or"; and

(C) by inserting at the end the following:

"(3) any combination of classes of positions described in paragraph (1) or (2) for which the President determines a recruiting difficulty exists.";

(4) in section 302 (104 Stat. 1462)—

(A) by striking "(A) DEFINITIONS.—" and inserting "(a) DEFINITIONS.—";

(B) by redesignating the section subsection (c) as subsection (d);

(C) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(D) by amending subsection (e) (as so redesignated) by striking "Code," and all that follows through the period and inserting the following: "Code (as in effect before the date of enactment of this Act), section 5305 of title 5, United States Code (as amended by section 101 of this Act), or any similar provision of law.";

(5) in section 402 (104 Stat. 1465) by striking "section 8331(20) or section 8401(17)" and inserting "section 5541(3)";

(6) in section 403(d) (104 Stat. 1465) by striking "section 303" and inserting "section 209";

(7) in section 404(a) (104 Stat. 1466) by striking "and any applicable special rate of pay under section 5305 of such title, as so amended, or any similar provision of law." and inserting "and, to the extent determined appropriate by the Office of Personnel Management, any applicable special rate of pay under section 5305 of such title, as so amended, or any similar provision of law (other than section 403).";

(8) in section 404(b) (104 Stat. 1466)—

(A) by striking "(b) Except" and inserting "(b)(1) Except";

(B) by striking "Trention" and inserting "Trenton"; and

(C) by adding at the end the following:

"(2) In the case of any area specified in paragraph (1) that includes a portion, but not all, of a county, the Office of Personnel Management may, at the request of the head of 1 or more law enforcement agencies, extend the area specified in paragraph (1) to include, for the purposes of this section, the entire county, if the Office determines that such extension would be in the interests of good personnel administration. Any such extension shall be applicable to each law enforcement officer whose post of duty is in the area of the extension."; and

(9) in section 405(a) (104 Stat. 1466) by striking "403 and 404" and inserting "403, 404, and 407".

SEC. 4. AMENDMENTS RELATING TO THE ETHICS IN GOVERNMENT ACT OF 1978.

(a) AMENDMENTS TO TITLE I OF THE ACT.—Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 101(f)—

(A) in paragraph (3) by striking "whose position" and all that follows through "for GS–16" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(B) in paragraph (6) by striking "whose basic rate of pay" and all that follows through "GS–16" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(2) in section 109—

(A) in paragraph (8) by striking "who is paid" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(B) in paragraph (13)(B)(i) by striking "who is compensated" and all that follows through "Schedule" and inserting "who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule"; and

(C) in paragraph (13)(B)(ii) by striking "compensated" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(b) AMENDMENTS TO TITLE V.—Title V of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 501(a)(1) by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code," and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule,";

(2) in section 501(a)(2) by striking "who becomes a Member or an officer or employee who is a noncareer officer or employee and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule during a calendar year," and inserting "who during a calendar year becomes a Member or an officer or employee who is a noncareer officer or employee and who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule,"; and

(3) in section 502(a) by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(c) AMENDMENTS TO GIFT PROVISIONS.—Section 314(g) of the Legislative Branch Appropriations Act, 1992 (Public Law 102–90; 105 Stat. 470) is amended to read as follows:

"(g)(1) The amendments made by subsections (b) through (f) shall take effect on January 1, 1992.

"(2) The amendment made by subsection (a) shall take effect on January 1, 1993.".

SEC. 5. AMENDMENTS TO OTHER PROVISIONS OF LAW.

(a) OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—The Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388) is amended—

(1) in section 7101(c)(2) (104 Stat. 1388–332) by striking "took effect, subject to section 7104." and inserting "took effect."; and

(2) in section 7202(n) (104 Stat, 1388–340)—

(A) in paragraph (2) by striking "section 8347(p)(1)" each place it appears and inserting "section 8347(q)(1); and

(B) in paragraph (4) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)".

(b) FEDERAL PAY COMPARABILITY ACT OF 1970.—Section 5(a) of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2(a)) is amended by inserting "of title 5, United States Code," after "Whenever an adjustment under section 5303".

(c) PUBLIC LAW 100–446.—Section 8(c)(2) of Public Law 100–446 (2 U.S.C. 178g(c)(2); 102 Stat.

1786) is amended by striking the second sentence.

(d) PUBLIC LAW 102–198.—Section 7(c)(4) of Public Law 102–198 (105 Stat. 1625) is amended—

(1) in subparagraph (A) by striking "2440d" and inserting "8440d"; and

(2) in subparagraph (B) by striking "subchapter III of".

(e) PUBLIC LAW 102–233.—Section 21A(b)(9)(B)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(B)(i)), as amended by section 201 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233; 105 Stat. 1765), is amended by striking the last 3 sentences.

SEC. 6. RESTORATION OF COVERAGE OF CERTAIN FEDERAL PERSONNEL PROVISIONS TO CERTAIN VETERANS HEALTH ADMINISTRATION EMPLOYEES.

(a) IN GENERAL.—Section 7511(b) of title 5, United States Code, is amended—

(1) by amending paragraph (7) to read as follows:

"(7) whose position is within the Central Intelligence Agency or the General Accounting Office;";

(2) in paragraph (8) by striking "or" after the semicolon;

(3) in paragraph (9) by striking "title." and inserting "title; or"; and

(4) by adding at the end the following:

"(10) who holds a position within the Veterans Health Administration which has been excluded from the competitive service by or under a provision of title 38, unless such employee was appointed to such position under section 7401(3) of such title.".

(b) APPLICABILITY.—(1) The amendments made by subsection (a) shall apply with respect to any personnel action taking effect on or after the date of enactment of this Act.

(2) In the case of an employee or former employee of the Veterans Health Administration (or predecessor agency in name)—

(A) against whom an adverse personnel action was taken before the date of enactment of this Act,

(B) who, as a result of the enactment of the Civil Service Due Process Amendments (5 U.S.C. 7501 note), became ineligible to appeal such action to the Merit Systems Protection Board,

(C) as to whom that appeal right is restored as a result of the enactment of subsection (a), or would have been restored but for the passage of time, and

(D) who is not precluded, by section 7121(e)(1) of title 5, United States Code, from appealing to the Merit Systems Protection Board,

the deadline for bringing an appeal under section 7513(d) or section 4303(e) of such title with respect to such action shall be the latter of—

(i) the 60th day after the date of enactment of this Act; or

(ii) the deadline which would otherwise apply if this paragraph had not been enacted.

SEC. 7. RETROACTIVE PERFORMANCE AWARDS.

(a) IN GENERAL.—Section 7(b) of the Thrift Savings Plan Technical Amendments Act of 1990 (5 U.S.C. 3392 note; Public Law 101–335) is amended by adding at the end thereof the following new paragraph:

"(3) RETROACTIVE PERFORMANCE AWARDS.—If an individual elects under paragraph (2) to continue to be subject to performance awards, the head of the agency in which such individual is serving shall determine whether to grant retroactive performance awards for any fiscal years prior to fiscal year 1991 to such individual, and the amount of any such awards, without regard to the provisions of subsection (b) of section 5383 of title 5, United States Code, and subsections (b) and (c) of section 5384 of such title. Before granting an award, the head of the agency shall make a written determination that the individual's performance during the fiscal year for which the award is given was at least fully successful, and shall consider the recommendation of the agency's performance review board with respect to the award. No such award for performance during any fiscal year may be less than 5 percent nor more than 15 percent of the individual's rate of basic pay as of the end of such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if enacted as a part of section 7 of the Thrift Savings Plan Technical Amendments Act of 1990.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) ELIMINATION OF DUPLICATIVE AMENDMENTS MADE BY THE DEFENSE ACQUISITION WORKFORCE IMPROVEMENT ACT.—Subsections (i) and (j) of section 1206 of the Defense Acquisition Workforce Improvement Act, as contained in the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1662, 1663), are repealed, and title 5, United States Code, shall read as if such subsections had not been enacted.

(b) PROVISIONS RELATING TO COMPARABILITY PAYMENTS IN 1994 AND 1995.—Notwithstanding section 5304 of title 5, United States Code, for purposes of any comparability payments scheduled to take effect under such section during calendar years 1994 and 1995, respectively—

(1) the report required by subsection (d)(1) of such section may be submitted not later than 1 month before the start of the calendar year for purposes of which it is prepared; and

(2) the surveys conducted by the Bureau of Labor Statistics for use in preparing any such report may be other than annual surveys, and shall, to the greatest extent practicable, be completed not later than 4 months before the start of the calendar year for purposes of which the surveys are conducted.

SEC. 9. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall take effect as of the date of enactment of this Act.

(b) EXCEPTIONS.—(1) The amendment made by section 4(c) shall be effective as of December 31, 1991.

(2) The amendments made by section 5(d) shall be effective as of December 9, 1991.

(3) The amendments made by sections 2(13) and 2(17) shall be effective as of October 1, 1991.

(4) The amendments made by sections 2(11), 2(19), 2(29), and 2(38) shall be effective as of May 4, 1991.

(5) The amendments made by section 2(25) shall be effective as of February 3, 1991.

(6) The provisions of section 8(a) and the amendments made by sections 2(57)(A), 2(60), 2(64), 2(67), 2(71), 2(75)(A), 3(1), 3(4), 3(6), and 5(a) shall be effective as of November 5, 1990.

(7) The amendment made by section 2(52) shall be effective as of January 1, 1989, except that no amount shall become payable, as a result of the enactment of such amendment, under—

(A) subchapter VI of chapter 55 of title 5, United States Code, based on a separation that takes effect or an election that is made before the date of enactment of this Act; or

(B) section 5551(b) of title 5, United States Code, which is attributable to an individual's being excepted from subchapter I of chapter 63 of such title before the date of enactment of this Act.

(8) The amendment made by section 2(69) shall be effective as of November 10, 1988.

(9) The amendments made by sections 2(40), 2(41), 2(42), 2(43), and 3(5) shall be effective as of the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(10) The amendments made by section 2(28) shall be effective as of the first day of the first applicable pay period beginning on or after November 5, 1990.

(11) The amendment made by section 2(49) shall apply with respect to a separation that takes effect on or after the date of enactment of this Act.

(12) The amendment made by section 5(e) shall apply with respect to any action (described in subclause (I) or (II) of the provisions struck by such amendment) occurring on or after the date of enactment of this Act.

AMENDMENT NO. 2914

(Purpose: To provide for notification to Congress before extending certain comparability payments, and to express the sense of the Congress relating to pay provisions for law enforcement officers, and for other purposes)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator ROTH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. ROTH, proposes an amendment numbered 2914.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 45, line 5, strike out "comparability payments." and insert in lieu thereof "comparability payments. No later than 30 days before an employee receives comparability payments under this subparagraph, the President or the President's designee shall submit a detailed report to the Congress justifying the reasons for the extension, including consideration of recruitment and retention rates and the expense of extending locality pay."

On page 50, insert between lines 10 and 11 the following new subsection:

(D) SENSE OF THE CONGRESS RELATING TO LAW ENFORCEMENT OFFICER PROVISIONS.—It is the Sense of the Congress that—

(1) the provisions of section 5541(3) of title 5, United States Code (as added by section 2(40)(c) of this Act)—

(A) are enacted only for the purposes of pay and not for the purposes of retirement;

(B) do not reflect any intent of the Congress to change retirement eligibility standards for law enforcement officers; and

(2) law enforcement officers in primary positions have different retirement eligibility standards than employees in supervisory or administrative positions because of the different requirements in their responsibilities.

The PRESIDING OFFICER. If there is no objection, the amendment to the committee amendment is agreed to.

So the amendment (No. 2914) was agreed to.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 2850), as amended, was passed.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE HOUSE

At 3:36 p.m., a message from the House of Representatives announced that the House agrees to the amendment of the Senate to the bill (H.R. 2926) to amend the act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the memorial, and for other purposes.

The message also announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 544. An act to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes; and

S. 2322. An act to increase the rate of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1241. An act to amend title 18, United States Code, to provide penalties for willful refusal to pay child support, and for other purposes;

H.R. 3486. An act to amend the Marine Mammal Protection Act of 1972 to provide for examination of the health of marine mammal populations and for effective coordinated response to strandings and the unusual mortality events involving marine mammals;

H.R. 3837. An act to make certain changes to improve the administration of the Medicare program, to reform customs overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, and to require reports on employers with underfunded pension plans;

H.R. 4209. An act to amend the act entitled "An Act conferring jurisdiction on certain courts of the United States to hear and render judgments in connection with certain claims of the Cherokee Nation of Oklahoma", approved December 23, 1982;

H.R. 4906. An act to amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration and to amend the Farm Credit Act of 1971, and for other purposes;

H.R. 5193. An act to improve the delivery of health-care services to eligible veterans and to clarify the authority of the Secretary of Veterans Affairs;

H.R. 5194. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes;

H.R. 5237. An act to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, to establish a grant program to improve the provision of health care services and educational services in rural areas by enabling providers of such services to obtain access to modern interactive telecommunications systems, and for other purposes;

H.R. 5739. An act to reauthorize the Export-Import Bank of the United States;

H.R. 5350. An act to establish the Great Lakes Fish and Wildlife Tissue Bank;

H.R. 5475. An act providing policies with respect to approval of bills providing for patent term extensions, and to extend certain patents; and

H.R. 5619. An act to reorganize technically chapter 36 of title 38, United States Code, and for other purposes.

ENROLLED BILL SIGNED

At 7:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4437. An act to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100-202.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1241. An act to amend title 18, United States Code, to provide penalties for willful refusal to pay child support, and for other purposes; to the Committee on the Judiciary.

H.R. 3486. An act to amend the Marine Mammal Protection Act of 1972 to provide for examination of the health of marine mammal populations and for effective coordinated response to strandings and the unusual mortality events involving marine mammals; to the Committee on Commerce, Science, and Transportation.

H.R. 3837. An act to make certain changes to improve the administration of the medicare program, to reform customs overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, and to require reports on employers with underfunded pension plans; to the Committee on Finance.

H.R. 4209. An act to amend the act entitled "An Act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma", approved December 23, 1982; to the Committee on the Judiciary.

H.R. 4906. An act to amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration and to amend the Farm Credit Act of 1971, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5193. An act to improve the delivery of health-care services to eligible veterans and to clarify the authority of the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

H.R. 5194. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes; to the Committee on the Judiciary.

H.R. 5237. An act to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, to establish a grant program to improve the provision of health care services and educational services in rural areas by enabling providers of such services to obtain access to modern interactive telecommunications systems, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5739. An act to reauthorize the Export-Import Bank of the United States;

H.R. 5350. An act to establish the Great Lakes Fish and Wildlife Tissue Bank; to the Committee on Environment and Public Works.

H.R. 5475. An act providing policies with respect to approval of bills providing for patent term extensions, and to extend certain patents; to the Committee on the Judiciary.

H.R. 5619. An act to reorganize technically chapter 36 of title 38, United States Code, and for other purposes; to the Committee on Veterans' Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3727. A communication from the Secretary of Energy, transmitting, pursuant to law, an updating of the Comprehensive Ocean Thermal Technology Application and Market Development Plan; to the Committee on Energy and Natural Resources.

EC-3728. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the demonstration and assessment of energy conservation standards for new commercial and multi-family high-rise residential buildings; to the Committee on Energy and Natural Resources.

EC-3729. A communication from the Secretary of the Interior, transmitting, pursuant to law, certification on certain reclamation lands; to the Committee on Energy and Natural Resources.

EC-3730. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-280 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3731. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-281 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3732. A communication from the Inspector General of the Department of Veterans Affairs, transmitting, pursuant to law, an addendum to the semiannual report of the Inspector General, Departmenbt of Veterans Affairs for the period ended March 31, 1992; to the Committee on Governmental Affairs.

EC-3733. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual reports on the Foreign Service Retirement and Disability System and the Foreign Service Pension System for fiscal years 1989 and 1990; to the Committee on Governmental Affairs.

EC-3734. A communication from the National President of the Association of Government Accountants, transmitting for the information of the Senate, a report entitled "A Blueprint for Attracting and Retaining Financial Management Personnel"; to the Committee on Governmental Affairs.

EC-3735. A communication from the Acting Secretary of the Postal Rate Commission, transmitting, pursuant to law, the Commission's opinion and recommended decision on the request of the Postal Service for a recommended decision on Second Class Pallet Discount, 1991, in Docket No. MC91-3; to the Committee on Governmental Affairs.

EC-3736. A communication from the Vice President of the Farm Credit Bank of Spokane (Human Resources and Planning), transmitting, pursuant to law, the annual reports of the Twelfth District Farm Credit Retirement Plan and Thrift Plan for calendar year 1990; to the Committee on Governmental Affairs.

EC-3737. A communication from the Vice President of the Farm Credit Bank of Springfield, transmitting, pursuant to law, the annual report of the Group Retirement Plan for the Agricultural Credit Associations and the Farm Credit Banks in the First Farm Credit District; to the Committee on Governmental Affairs.

EC-3738. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-3739. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations — Perkins Loan Program, College Work-Study Program, and Supplemental Education Opportunity Grant Programs; to the Committee on Labor and Human Resources.

EC-3740. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, a report on the award of a contract by the Board; to the Committee on Labor and Human Resources.

EC-3741. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the fifth report of the Department of Health and Human Services Council on Alzheimer's Disease; to the Committee on Labor and Human Resources.

EC-3742. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide an additional opportunity to enroll for educational assistance to certain individuals who receive voluntary separation incentives upon separation from active duty in the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BUMPERS, from the Committee on Small Business, with an amendment in the nature of a substitute:

H.R. 5191. A bill to encourage private concerns to provide equity capital to small business concerns, and for other purposes.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. Res. 330. An original resolution relating to authorization of multinational action in Bosnia-Hercegovina under Article 42 of the United Nations Charter.

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 3136. An original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 3137. An original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 3138. An original bill to authorize appropriations for fiscal year 1993 for military personnel of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 3139. An original bill to improve the defense economic diversification, conversion, and stabilization activities of the Department of Defense; to authorize transition assistance for members of the Armed Forces adversely affected by reductions in Federal Government spending for national security functions; to clarify and improve the policies and programs of the Department of Defense concerning the national defense technology and industrial base, and for other purposes.

S. 3140. An original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 3141. An original bill to authorize appropriations for fiscal year 1993 for military construction, and for other purposes.

S. 3142. An original bill to authorize appropriations for fiscal year 1993 for defense activities of the Department of Energy, and for other purposes.

S. 3143. An original bill to authorize transition assistance for members of the Armed Forces adversely affected by reductions in Federal Government spending for national security functions, and for other purposes.

S. 3144. An original bill to amend title 10, United States Code, to improve the health care system provided for members and former members of the Armed Forces and their dependents, and for other purposes.

S. 3145. An original bill to amend title 10, United States Code, to clarify and improve the policies and programs of the Department of Defense concerning the national defense technology and industrial base; to encourage and assist the conversion of the national defense technology and industrial base to commercially competitive capabilities, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Genta Hawkins Holmes, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Director General of the Foreign Service;

Linton F. Brooks, of Virginia, to be an Assistant Director of the United States Arms Control and Disarmament Agency;

Nancy M. Dowdy, of the District of Columbia, to be Special Representatives for Arms Control and Disarmament Negotiations;

Robert F. Goodwin, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Western Samoa.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Robert F. Goodwin.

Post: New Zealand and Western Samoa.

Contributions, amount, date, donee:

1. Self: none.
2. Spouse: Sydney Goodwin, none.
3. Children and Spouses Names; Kristin, Jennifer, and Bruce, none.
4. Parents Names, Marguerite Goodwin, R.K. Goodwin (deceased), none.
5. Grandparents Names, Deceased, none.
6. Brothers and Spouses Names, none.
7. Sisters and Spouses Names, Ann Hintz; Charles Hintz (separated) none.

Henry Lee Clarke, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uzbekistan.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Henry L. Clarke.

Post: Ambassador to Uzbekistan.

Contributions, amount, date, donee

1. Self: none.
2. Spouse: Kathleen Ann Clarke, none.
3. Children and Spouses (no spouses) Names; Ann Marie Clarke, Edwin L. Clarke, none.
4. Parents Names, Edwin L. Clarke (deceased), Jane I. Clarke—see attached list, none.
5. Grandparents Names, Edwin G. Clarke (deceased), Florine C. Clarke (deceased), Allen Jones (deceased), Helen I. Jones (deceased), none.
6. Brothers and Spouses Names (No brother), none.
7. Sisters and Spouses (divorced) Names, Jane I. Warlick, none.

POLITICAL CAMPAIGN CONTRIBUTIONS

(By Jane I. Clarke (mother of nominee))

Amount, Date, and Donee

$15.00, January, 1988, Republican Women

$25.00, March 1988, Republican National Committee

$10.00, March 1988 Nat'l Fed. Republican, Women

$5.00, May 1988, Republican National Committee

$5.00, June 1988, GOP Victory Fund

$150.00 Club, September 1988, Bunkham County Rep. Women's

$25.00, September 1988, Jim Martin for Governor

$20.00, September 1988, Victory '88 North Carolina Republicans

$25.00, September 1988, Presidential Trust Republican National Committee

$10.00, February 1989, Nat'l Fed. of Republican Women

$15.00, February 1989, Bunkham County Republican Women's Club

$25.00, March 1989, Republican National Committee

$10.00, March 1989, National Republican Congressional Committee

$5.00, April 1989, Nat'l Fed. Republican Women

$10.00, January 1990, Nat'l Fed. Republican Women

$25.00, January 1990, Republican National Committee membership
$10.00, February 1990, Narvel Jim Crawford (Republican State Legislature candidate)
$25.00, July 1990, Republican National Committee
$15.00, July 1990, Bunkham County Rep. Committee
$25.00, February 1991, Republican National Committee
$15.00, March 1991, Bunkham County Republican Women's Club
$15.00, May 1991, Nat'l Fed. of Republican Women
$25.00, July 1991, Republican National Committee
$25.00, January 1992, Republican National Committee
$35.00, January 1992, Bush/Quayle '92 primary campaign
$10.00, February 1992, Bush/Quayle '92

Donald Burnham Ensenat, of Louisiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brunei Darussalam.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Donald Burnham Ensenat.

Post: U.S. Ambassador to Brunei.

Contributions, amount, date, donee:

1. Self: $1,000 1988 Bush/Quayle 1988; $1,000 1992 Bush/Quayle 1992; $50, 1992, Friends of Bob Livington.

2. Spouse, none.

3. Children and Spouses Names: Minors, Farish: Will, none.

4. Parents Names: Mr. & Mrs. A.G. Ensenat.

5. Grandparents Names: Deceased, N/A.

6. Brothers and Spouses Names, N/A.

7. Sisters and Spouses Names: Mrs. Catherine Danburg (Spouse deceased.)

Edward Hurwitz, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kyrgyzstan.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Edward Hurwitz.

Post: Kyrgyzstan.

Contributions, amount, date, donee:

1. Self: none.

2. Spouse, none.

3. Children and Spouses Names: Even Hurwitz, Anne Hurwitz, none.

4. Parents Names: N/A.

5. Grandparents Names: N/A.

6. Brothers and Spouses Names; David Hurwitz, Marlene Hurwitz, None.

7. Sisters and Spouses Names; Bess Shay, $50, 1988, Democratic National Committee; $25, 1989, Democratic National Committee; $25, 1990, Democratic National Committee; $25, 1991, Democratic National Committee.

Jon M. Huntsman, Jr., of Utah, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Singapore.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Jon M. Huntsman, Jr.

Post: Ambassador to Singapore.

Contributions, amount, date, donee:

1. Self, Jon M. Huntsman, Jr., $1,000, March 31, 1992, Bush Quayle Compliance Committee; $1000, March 31, 1992, Bush Quayle 1992 Committee.

2. Spouse, Mary Katherine Huntsman, $1,000, March 31, 1992, Bush Quayle Compliance Committee; $1000, March 31, 1992, Bush Quayle 1992 Committee.

3. Children and spouses names, Mary Anne Huntsman (unmarried), No political contributions; Abigail Huntsman (unmarried), No political contributions; Elizabeth Huntsman (unmarried), No political contributions; Jon M. Huntsman III (unmarried), No political contributions.

4. Parents names, Jon M. Huntsman (father), $5,000, February 10, 1988, Governor's Reelection Committee (State); $500, August 23, 1988, Chris Schultz Campaign; $1,000, September 1, 1988, Utah Governors Club; $1,000, October 28, 1988, Victory 88 Campaign; $1,000, November 2, 1988, James V. Hansen; $1,000, November 2, 1988, Howard Nielson; $1,000, November 29, 1988, Victory 88 Campaign; $109, February 17, 1989 Print Flyer Campaign; $1,000, September 14, 1989, Mayor Gillins Campaign; $1,000, July 16, 1990, R. Mont Evans; $200, August 7, 1990, Robert Yates Campaign; $1,000, August 7, 1990, Tom Shimizu; $200, August 7, 1990, Katie Dixon; $500, October 11, 1990, State Sen. Haven Barlow; $500, October 11, 1990, State Rep. Lloyd Frandsen; $1,000, October 11, 1990 State Sen. Richard Carling; $500, October 16, 1990, State Rep. Afton Bradshaw; $1,000, October 17, 1990, Genivive Atwood; $1,000, October 17, 1990, Dan Marriott; $1,000, November 1, 1990, Karl Snow; $1,000, April 4, 1991, Citizens for Coradini; $2,000, September 13, 1991, Dee Dee Corradini (Local); $500, September 13, 1991, Ted Milner Campaign; $2,000, December 23, 1991, Dee Dee Coradini (Local); $1,000, February 27, 1992, Bush Quayle Compliance Committee; $1,000, March 27, 1992, Bush Quayle 92 Committee.

Karen Haight Huntsman (mother), $1,000, March 20, 1992, Bush Quayle Compliance Committee; $1,000, March 20, 1992, Bush Quayle 92 Committee.

5. Grandparents names, Alonzo Blaine Huntsman and Kathleen Huntsman, both deceased, No political contributions; David B. Haight and Ruby Haight, No political contributions.

6. Brothers and spouses names, Paul Christian Huntsman (unmarried), $1,000 February 26, 1992, Bush Quayle 1992 Committee; Mark Haight Huntsman (unmarried), $1,000 February 26, 1992, Bush Quayle Compliance Committee; $1,000 February 26, 1992, Bush Quayle 1992 Committee; James Haight Huntsman (unmarried), $1,000 February 26, 1992, Bush Quayle 1992 Committee; Peter Riley Huntsman and Brynn Ballard Huntsman, $1,000 1990, Dan Marriott; $1,000 1990, Genivive Atwood; David Haight Huntsman and Michelle Rawlings Huntsman, No political contributions.

7. Sisters and spouses names, Jennifer Huntsman (unmarried), $1,000 February 26, 1992, Bush Quayle 1992 Committee; Christena Karen Huntsman, Durham and Richard P. Durham, No political contributions; Kathleen Ann Huntsman Huffman and James Andrew Huffman, No political contributions.

Richard Monroe Miles, of South Carolina, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Azerbaijan.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Richard M. Miles.

Post: Ambassador to the Republic of Azerbaijan.

Contributions, amount, date, donee:

1. Self.

2. Spouse.

3. Children and spouses names, Sharon Miles, Richard L. Miles, Elizabeth Miles, none.

4. Parents names, Iris Mann, none; Louis Mann (Stepfather), James Miles, none.

5. Grandparents names, Richard Fortner, deceased; Lillian Fortner, deceased.

6. Brothers and spouses names, Louis and Phyliss Mann, none.

7. Sisters and spouses names, Louise and Richard Angel, none; Lois and Arthur Navarro, none; Donna and Kristin Peabody, none.

Joseph S. Hulings III, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkmenistan.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Jospeph S. Kulings III.

Post: Turkmenistan.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, none.

4. Parents, none.

5. Grandparents, none.

6. Brother, Timothy G. Hulings, up to $50 each, 1988–92, local candidates: Elkton, Va.

7. Sisters, none.

John Stern Wolf, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John Stern Wolf.

Post: Ambassador to Malaysia.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, Mahela Devaux Wolf, none.

3. Children's names, Sarah M. and Stephen D., none.

4. Parents names, Fred Wolf, Jr., deceased; Margery Wolf, $100, July 25, 1988, DNC; $200, Nov. 1, 1988, DNC; $50, May 3, 1989, Walter Phillips for Philadelphia District Attorney; $50, Nov. 12, 1990, Happy Fernandez for Philadelphia City Council; $100, Mar. 23, 1991, Flora Wolf for Judge of the Common Pleas Court of Philadelphia, and $50, June 28, 1991, DNC.

5. Grandparents names, Fred and Daisy Wolf, deceased; Bernard and Irma Stern, deceased.

6. Brother and spouse's names, Peggy Wolf, none, Fred Wolf, Jr., $100, Mar. 18, 1989, Rasmussin Campaign for County Executive; $100, May 21, 1989, Kurt Schmoke Committee—Mayor of Baltimore; $100, Aug. 21, 1989, Alan Hollander for Baltimore City Judge; $200, June 18, 1990, Tribute for Governor Schaefer.

7. Sisters and spouses names, none.

William Harrison Courtney, of West Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kazakhstan.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: William Harrison Courtney.

Post: Ambassador to Kazakhstan.

Contributions, amount, date, donee:

1. Self, $50, summer 1990, Republican National Committee.
2. Spouse, Paula Feeney.
3. Children and spouses names, William H. Courtney, Jr., Alison Feeney Courtney.
4. Parents names, Mary Lee Fleming, Wilbur Harry Courtney (deceased).
5. Grandparents names, none.
6. Brothers and spouses names, N/A.
7. Sisters and spouses names, Mary Vincent Courtney Collins, David Collins.

David Heywood Swartz, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Byelarus.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Swartz, David Heywood.

Post: Ambassador to Republic of Byelarus.

Contributions, amount, date, donee:

1. Self, David Heywood Swartz, none.
2. Spouse, Ronna Lynn Swartz, none.
3. Children and spouses names, Paul D. Swartz (son), none, Jennifer L. Swartz (daughter), none.
4. Parents names, Keith T. Swartz (father), none, Stella May Swartz (mother—deceased).
5. Grandparents names, Luther Swartz (paternal grandfather—deceased), Osa Swartz (paternal grandmother—deceased), Elmer Heywood (maternal grandfather—deceased), Martha Heywood (maternal grandmother—deceased).
6. Brothers and spouses names, Austin Swartz (brother), none, Patricia Swartz (wife of Austin), none, Stuart Swartz (brother), none. Doris Swartz (wife of Stuart), none.
7. Sisters and spouses names, no sisters.

Mary C. Pendleton, of Virginia, a Career Member of the Foreign Service, Class One, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Mary C. Pendleton.

Post: Republic of Moldova.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, N/A.
3. Children and spouses names, N/A.
4. Parents names, Joseph S. Pendleton, Katherine T. Pendleton, None.
5. Grandparents names, Deceased.
6. Brothers and spouses names, Mr. & Mrs. Thomas H. Pendleton, Mr. & Mrs. David L. Pendleton, Mr. & Mrs. Joseph P. Pendleton, none.
7. Sisters and spouses names, Mr. & Mrs. Ellis R. Olliges, Mr. & Mrs. John Boling, Ms. Anne C. Kennedy, none.

Stanley Tuemler Escudero, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tajikistan.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Stanley Tuemler Escudero.

Post: Tajikistan.

Contributions, amount, date, donee:

1. Self, Stanley T. Escudero, none.
2. Spouse, M. Jaye Escudero, none.
3. Children and spouses names, S. Alexander Cobb Escudero, none, unmarried. W. Benjamin Peter Escudero, none, unmarried.
4. Parents names, Estelle T. Damgaard, mother, none. Stanley D. Escudero, deceased 1976.
5. Grandparents names,
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

Kent N. Brown, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Georgia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Kent N. Brown.

Post: Ambassador to Republic of Georgia.

Contributions, amount, date, donee:

1. Self, Kent Brown, none.
2. Spouse, Irene Brown, none.
3. Children and spouses names, Steven Brown, none, Karen Brown, none.
4. Parents names, deceased.
5. Grandparents names, deceased.
6. Brothers and spouses names, Gordon Brown, none, Carmen Brown, none.
7. Sisters and spouses names, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was printed in full in the CONGRESSIONAL RECORD of July 27, 1992, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 102–1. Treaty with the People's Republic of the Congo Concerning the Reciprocal Encouragement and Protection of Investment (Exec. Rept. No. 102–44).

Treaty Doc. 102–6. Treaty with Tunisia Concerning the Reciprocal Encouragement and Protection of Investment (Exec. Rept. 102–45).

Treaty Doc. 102–25. Treaty with Sri Lanka Concerning the Encouragement and Reciprocal Protection of Investment (Exec. Rept. 102–46).

Treaty Doc. 102–31. Treaty with the Czech and Slovak Federal Republic Concerning the Reciprocal Encouragement and Protection of Investment (Exec. Rept. 102–47).

Treaty Doc. 102–33. Treaty with the Russian Federation Concerning the Encouragement and Reciprocal Protection of Investment (Exec. Rept. No. 102–48).

Treaty Doc. 102–34. Protocol to the Treaty of Friendship, Commerce, and Consular Rights with the Republic of Finland (Exec. Rept. No. 102–49).

Treaty Doc. 102–35. Protocol to the Treaty of Friendship, Commerce, and Navigation with Ireland (Exec. Rept. 102–50).

Treaty Doc. 102–30. Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean (Exec. Rept. No. 102–51).

TEXTS OF RESOLUTIONS OF ADVICE AND CONSENT TO RATIFICATION SUBMITTED BY THE COMMITTEE ON FOREIGN RELATIONS TO ABOVE EIGHT TREATIES.

Resolved, (two-thirds of the Senators present concurring therein). That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of the People's Republic of the Congo Concerning the Reciprocal Encouragement and Protection of Investment, signed at Washington, February 12, 1990.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Republic of Tunisia Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington on May 15, 1990.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Democratic Socialist Republic of Sri Lanka Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and a Related Exchange of Letters, signed at Colombo, Sri Lanka on September 20, 1991.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Czech and Slovak Federal Republic Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol and Three Related Exchanges of Letters, signed at Washington on October 22, 1991.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Russian Federation Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and Related Exchanges of Letters, signed at Washington on June 17, 1992.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Between the Government of the United States of the Republic of Finland to the Tragedy of Friendship, Commerce and Consular Rights of February 13, 1934, as Modified by the Protocol of December 4, 1952, signed at Washington on July 1, 1992.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Between the Government of the United States of America and the Government of Ireland to the Treaty of Friendship, Commerce and Navigation of January 21, 1950, signed at Washington on June 24, 1992.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, with Annex, which was signed by the United States, Canada, Japan and the Russian Federal on February 11, 1992, in Moscow.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN, from the Committee on Armed Services:

S. 3136. An original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; placed on the calendar.

S. 3137. An original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; placed on the calendar.

S. 3138. An original bill to authorize appropriations for fiscal year 1993 for military personnel of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; placed on the calendar.

S. 3139. An original bill to improve the defense economic diversification, conversion, and stabilization activities of the Department of Defense; to authorize transition assistance for members of the Armed Forces adversely affected by reductions in Federal Government spending for national security functions; to clarify and improve the policies and programs of the Department of Defense concerning the national defense technology and industrial base, and for other purposes; placed on the calendar.

S. 3140. An original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; placed on the calendar.

S. 3141. An original bill to authorize appropriations for fiscal year 1993 for military construction, and for other purposes; placed on the calendar.

S. 3142. An original bill to authorize appropriations for fiscal year 1993 for defense activities of the Department of Energy, and for other purposes; placed on the calendar.

S. 3143. An original bill to authorize transition assistance for members of the Armed Forces adversely affected by reductions in Federal Government spending for national security functions, and for other purposes; placed on the calendar.

S. 3144. An original bill to amend title 10, United States Code, to improve the health care system provided for members and former members of the Armed Forces and their dependents, and for other purposes; placed on the calendar.

S. 3145. An original bill to amend title 10, United States Code, to clarify and improve the policies and programs of the Department of Defense concerning the national defense technology and industrial base; to encourage and assist the conversion of the national defense technology and industrial base to commercially competitive capabilities, and for other purposes; placed on the calendar.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 3146. A bill to amend the National Trails System Act to designate the Ala Kahakai Trail in the State of Hawaii as a route to study for consideration for designation as a national trail; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself, Mr. DECONCINI, and Mr. METZENBAUM):

S. 3147. A bill to prohibit certain political activities of certain Federal officers in the Office of National Drug Control Policy; to the Committee on the Judiciary.

By Mr. PRYOR (for himself, Mr. RIEGLE, Mr. COHEN, Mr. SHELBY, Mr. GRAHAM, and Mr. DURENBERGER):

S. 3148. A bill to amend title XI of the Social Security Act to establish an Intergovernmental Task Force on Health Care Fraud and Abuse; to the Committee on Finance.

By Mr. BRADLEY:

S. 3149. A bill to establish a demonstration program to develop new techniques to prevent coastal erosion and preserve shorelines; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BRYAN:

S. 3150. A bill to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI:

S. 3151. A bill to amend title 35, United States Code, to permit the filing of a provisional application for a United States patent by describing the invention in a publication in the United States, and to facilitate the filing of patent applications in foreign countries by United States inventors; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. SIMON, Mr. MACK, Mr. ADAMS, Mr. BIDEN, Mr. COCHRAN, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DURENBERGER, Mr. GLENN, Mr. INOUYE, Mr. JEFFORDS, Mr. KASTEN, Mr. KERRY, Mr. LEVIN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PELL, Mr. STEVENS, Mr. THURMOND, Mr. WELLSTONE, Mr. WOFFORD, and Mr. RIEGLE):

S.J. Res. 330. A joint resolution to designate March 1993 as "Irish-American Heritage Month"; ordered held at the desk.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL from the Committee on Foreign Relations:

S. Res. 330. An original resolution relating to authorization of multinational action in Bosnia-Hercegovina under Article 42 of the United Nations Charter; placed on the calendar.

By Mr. DOLE:

S. Res. 331. A resolution to commemorate Hungarian National Holiday; to the Committee on Foreign Relations.

By Mr. CRANSTON (for himself and Mr. LUGAR):

S. Con. Res. 134. A resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 3146. A bill to amend the National Trails System Act to designate the Ala Kahakai Trail in the State of Hawaii as a route to study for consideration for designation as a national trail; to the Committee on Energy and Natural Resources.

DESIGNATION OF ALA KAHAKAI TRAIL FOR STUDY

• Mr. AKAKA. Mr. President, today Senator INOUYE and I are introducing legislation designed to recognize the importance of the ancient trails of Hawaii.

The National Trails System Act was established to provide for the ever-increasing outdoor recreation needs of our population and to promote the enjoyment and appreciation of the open air and historic resources of the Nation. Under the act, 8 national scenic and 9 national historic trails have been established and 33 trails have been or are being studied for inclusion in the system. Altogether more than 29,000 miles of trails have been designated as national scenic or historic trails. However, not 1 mile of trail in Hawaii has been established or designated for study.

The historical trails of Hawaii long served the people and their ali'i, or ruling leaders, for transportation, communication and trade. Although the canoe was a principal method of travel in ancient Hawaii, human survival depended on extensive cross-country trails that enabled gathering of food and water, and harvesting of materials needed for shelter, clothing, medical care, tools, canoe building, religious observances, and much more. These ancient trails served Hawaii for more than a thousand years. Most islands had an alaloa, or perimeter, trail close to the shoreline as well as mauka-makai trails, extending from seashore to the mountains. Within each ahupua'a, a land tract running from the shoreline to the interior, the trails were used for the trade of products gathered from the sea for those produced from the land.

The ruling monarchs of Hawaii depended on these trails for communication through the use of runners. Runners were not only the bearers of information and materials but, during the years of Kamehameha, were also spearfighters. Cross-country running on the trails was associated with sporting endeavors upon which wagers were made. These island trails were important to the culture of Hawaii and are a permanent mark upon the land testifying to Hawaii's past.

Just as the markings of Conestoga wagons can still be seen on pioneer trails throughout the Plains States, the impressions made by my forebears can still be seen in the Earth and lava rock of these trails. The ancient trails of Hawaii urgently need protection. Land development and the construction of modern day transportation systems have destroyed many of these ancient trails. Those that remain are in danger of being destroyed by future development.

In 1988, the State of Hawaii recognized the perils to the remaining trails and the need for a comprehensive statewide trail and access system. In response, the State of Hawaii instituted the Na Ala Hele Program to develop and improve mountain and shoreline trails and access while helping to conserve Hawaii's environment and cultural heritage. The opportunity exists to study at least one of the trails identified by the Na Ala Hele Program for designation as a national scenic or historic trail. One of the best preserved ancient trails, but also highly threatened, is the Ala Kahakai, or the "Trail by the Sea," on the Island of Hawaii.

My proposal would designate the Ala Kahakai as a shoreline trail extending from the northern tip of Hawaii Island approximately 175 miles along the western and southern coasts to the northern boundary of Hawaii Volcanoes National Park. Sections of the ancient coastal alaloa trail are in good condition but some segments have been destroyed by wave action, four-wheel-drive vehicles, land-clearing activities, and lava flows. The Trails and Access Program of Hawaii's Department of Land Nat and Natural Resources Forestry and Wildlife Division has prepared a detailed description of the proposed study route. I ask unanimous consent that the description be reprinted in full at the conclusion of my remarks. Let me briefly describe just a few of the historic and scenic highlights along the route.

The trail route passes through four national parks and several State parks. The best known of these is Hawaii Volcanoes National Park and the others are of historical and cultural significance to the people of Hawaii and this Nation. The Pu'ukohola Heiau National Historic Site contains the John Young homesite and the Pu'ukohola Heiau. John Young was a British sailor who became a trusted adviser of Kamehameha I. The Pu'ukohola Heiau which was a *luakini*, or human sacrificial temple, was completed in 1791 and dedicated to the war god Kuka'ilimoku, by Kamehameha through the sacrifice of his cousin and principal rival for supremacy of Hawaii Island. With his cousin's death, Kamehameha ruled the island. Another of the historical parks is Pu'uhonua o Honaunau National Historic Park, which is an ancient place of refuge where until 1819 the vanquished worriers and kapu or taboo breakers escaped death if they reached it ahead of their pursuers.

The route of the trail is also extremely scenic and provides unobstructed ocean-to-mountain vistas. The trail traverses or passes adjacent to all of the island's white sand beaches. Lava flows are visible along the majority of the trail and the sea can be heard in the lava tubes under a hiker's feet. Behind some lava shore are small storm beaches and a few native plants such as the silver-grey-green *hinahina* and the large-leafed *noni*. The nearshore water is quite clear, in some areas, and brightly colored fish are visible from the high shore.

Along the coast from Upolu Point to Kawaihae, an almost continuous string of fishing village ruins have been preserved by dry climate and isolation. This area was heavily populated in Kamehameha's time. Elsewhere along the route are petroglyphs, house sites, agricultural areas, heiaus, salt pans, and fish ponds which provide evidence of past habitation and are of immense interest to archaeologists and Hawaiians intent upon rediscovering their heritage.

North of the long curve of palm-shaded beach that separates the ocean from the fishponds at Anaeho'omalu, there is Waiulua Bay with its brackish ponds. Many of the ponds are decoratively bright with orange and yellow algae and some of them contain rare mutated species that delight marine biologists.

In 1991, the American Hiking Society and Backpacker magazine listed the Ala Kahakai as threatened and encouraged preservation. The State of Hawaii recognizes the importance of this trail and is working diligently to preserve what remains and reestablish that which is gone. This trail deserves to be studied for inclusion in the National Trails Systems. The Federal Government should take action to preserve this historic trail which played a significant role in the development of Hawaii. The Federal Government, through the National Park Service, should work with the State of Hawaii in a spirit of cooperation to complete a study as required by the National Trails System Act. In completing the study, the National Park Service should look for innovation solutions to management problems and not assume that the trail must be managed by the National Park Service. The designation of a trail as a part of the National Trails System and monetary assistance from the Federal Government should not preclude local or State management. Sharing of management with State and local governments is economically and politically advisable.

Mr. President, I urge my colleagues to support this legislation. I ask unanimous consent that the full text of my bill and the description of the route of the Ala Kahakai be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF ALA KAHAKAI TRAIL FOR STUDY.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"(34) Ala Kahakai Trail in the State of Hawaii, an ancient Hawaiian trail on the Island of Hawaii extending from the northern tip of the Island of Hawaii approximately 175 miles along the western and southern coasts to the northern boundary of Hawaii Volcanoes National Park.".

DESCRIPTION ALA KAHAKAI TRAIL

(Furnished by the Trails and Access Program, Forestry and Wildlife Division, Department of Natural Resources, State of Hawaii)

THE TRAIL'S NATIONAL SIGNIFICANCE

The *Ala Kahakai* (trail by the sea) would extend approximately 175 miles from the northern tip of the largest island in the Hawaiian chain, Hawai'i Island, to the northern boundary of Hawaii Volcanoes National Park. In ancient Hawai'i it was customary for each island to have an *alaloa* (long trail) that would facilitate travel completely around the island. The *Ala Kahakai* would include portions of the ancient coastal *alaloa* of Hawaii island. This is a listing of the major scenic, natural, historic and recreational features that give the Ala Kahakai National Trail significance.

SCENIC VALUES

Mountains

Major relief features on Hawai'i are the result of volcanic activity. Hawai'i island was built by the combined action of five distinct volcanic centers. From the proposed trail, three and sometimes four of these mountain formations are in view. Unobstructed ocean to mountain vistas are enjoyed by the hiker.

(1) Kohala mountain range—5,400 feet elevation, extinct, the first volcano to form.

(2) Mauna Kea—13,796 feet elevation, nearly 30,000 feet above the ocean floor, dormant. At its summit is Lake Waiau, the highest lake in the United States. Frequently snow covered; an internationally valued location for astronomical observatories.

(3) Mauna Loa—13,677 feet elevation, still an active volcano, probably the largest single mountain on earth, frequently snow covered.

(4) Kilauea Volcano—4,090 feet elevation, active volcano located in the Hawai'i Volcanoes National Park where spectacular eruptions continue to occur.

(5) Hualalai—8,271 feet elevation, still active volcano with latest eruption in 1801.

Volcanic Formations

(1) Kahuku Pali—This spectacular scarp (cliff produced by faulting of the ground surface) is in some places 600 feet high, extends 10 miles on land and can be traced southward for 18 miles beneath the ocean.

(2) Kuili cinder cone—At 343 foot elevation, this cone is a landmark as it is one of very few hills found next to the South Kohala-North Kona coastline. One can gauge dis-

tances along the coast by noting Kuili's location.

Such cinder cones and tuff cones can be seen at the summits of volcanic centers. The cones were built by moderately explosive volcanic eruptions. Certain cinder hills at lower elevations are mined for cinder which is sold and used in construction. Kuili has not yet been mined, and was used by Hawaiians as a lookout point to spot schools of fish.

(3) Ancient and contemporary lava flows are visible along the majority of the trail. The *a'a* (rough and *pahoehoe* (smooth, ropy) types of lava are dominant features, and beach areas often take the appearance of oases in the midst of desolate lava fields. Understanding how the Hawaiians survived and flourished in this seemingly inhospitable environment makes fascinating study and affords ample opportunity for trail interpretation. The west coast of Hawai'i was heavily populated in ancient times, as reported by explorers Cook and Vancouver and other travelers.

Beaches and Ocean Views

Volcanic haze from Kilauea's ongoing eruption can obscure scenic views. When prevailing winds blow away the haze, landmarks can be seen at great distances. On a clear day when there are few clouds, one can see across the channel to the islands of Maui, Kaho'olawe, Molokini, and the faint outline of Moloka'i.

The west coast of Hawai'i island has all the white sand beaches on the island. Once developed, lands adjacent to such beaches become extremely expensive. Costs of developing public parks are often prohibitive for Hawai'i State and County. The west coast has most of the beach areas on the island and less rainfall than the east side. Thus residents islandwide value west Hawai'i for shoreline recreation.

Fishponds

Hawaiians built more fishponds than any other Pacific island people. Fishponds were often reserved for use by chiefs. Numerous fishponds, at times flanked by significant historic sites, can be found along the west coast. They include:

(1) Kalahuipua'a—approximately 10 acres of prime fishponds. Several hotels, condominiums and golf courses are located here.

(2) Opae'ula or Kapo'ikai Pond—Once a fishpond, it is now a significant habitat for endangered, endemic Hawaiian birds.

(3) Kaloko and Aimakapa Ponds—located in an area being developed as a National Cultural Park at Honokohau, North Kona. Aimakapa is 20 acres of open water and a significant habitat for endangered birds. Kaloko fishpond has the largest and thickest manmade sea wall on Hawai'i island. The sea wall is to be repaired as part of the national park plan.

See the Historic Values section for more on Hawaiian fishponds.

Marine Life Conservation Districts (MLCD)

In the State of Hawai'i are the only well-developed Pacific coral reefs in the United States. Hawai'i is the most isolated island archipelago in the world. Due to this isolation, a large number of marine species are unique and endemic to Hawai'i. State Marine Life Conservation Districts have been established at Lapakahi and Wailea Bay in North Kohala and Kealakekua Bay in South Kona.

Lapakahi MLCD located on the northwestern coast of Hawai'i, Lapakahi is about 12 miles north of Kawaihae. The MLCD is divided into two subzones. Subzone A includes Koai'e Cove, and Subzone B includes the waters 500 feet outside of Subzone A and extending southward along the shoreline adjacent to the park, from the highwater mark to a distance of 500 feet offshore. Lapakahi State Historical Park features excavated and partially reconstructed ruins of the ancient fishing village of Koai'e, dating back to the 1300s.

Within Koai'e Cove are two small beaches consisting of coral rubble (there is no sand beach). The cove provides the easiest access to the water. The nearshore bottom is mostly boulders and lava fingers with some coral. The cove's northern portion has some good coral gorwth close to shore, but coral and fish are most abundant in the southern portion. Considerable marine life is also found around the outcropping of rocks to the right of the cove's center.

There is a remarkable diversity of fish species within the MLCD, as nearly all nearshore species typical of the North Kohala coast are represented. During the winter, humpback whales are frequently spotted just offshore.

Waialea Bay MLCD is located in the southern portion of Kawaihae Bay, on the western coast of Hawai'i. The MLCD extends from the highwater mark seaward to a line from the point immediately north of Ohai Point to Kanekanaka Point.

Although access to Waialea Bay is not particularly easy, the site is popular with Big Island residents. The beach (known locally as Beach 69 because of the pole marker) erodes due to strong surf during winter months, but is a beautiful beach during the summer. The bay's bottom drops off gradually from the beach to depths of about 30 feet outside the bay's mouth. An intermittent stream enters the bay, and surface visibility is reduced during periods of freshwater intrusion.

The best reef is in the MLCD's southern portion, and extends out beyond the District's boundaries. Depths range from about 10 to 30 feet. Coral communities are also found around the rocky prominence inside the bay. The diversity of marine life in Waialea is among the best in all of Kawaihae Bay, which makes it a popular site for snorkel and SCUBA activities.

Humpback whales are often seen outside the bay during winter.

Kealakekua Bay MLCD, located on the western coast of Hawaii near the village of Captain Cook, Kealakekua Bay is about 30 minutes south of Kailua-Kona. The MLCD extends from the highwater mark seaward to a line from Cook Point to Manini Beach Point. A line from Cook Point to the north end of Napo'oop'o Beach divides the district into Subzone A to the north and Subzone B to the south.

Kealakekua Bay's waters are nearly pristine, and its diversity of marine life is spectacular. The northern coastline is bordered by a sheer cliff (Pali-kapu-o-Keoua). On the pali's face numerous lava tube openings are visible, some of which are ancient Hawaiian burial caves.

Captain James Cook, the British explorer who discovered Hawai'i in 1778, arrived at Kealakekua Bay in January 1779 during his second voyage to the islands. Thought by the natives to be a god, Cook was given godly treatment. But the following month he was killed in a skirmish on the shores of Ka'awaloa Cove following a series of incidents between his crew and the Hawaiians.

In 1878 a 27-foot monument was erected in Cook's honor by his countrymen near the site where he was killed. On the lava flats behind Cook Monument are the ruins of the ancient village of Ka'awaloa.

The bay's best diving is in Ka'awaloa Cove (near Cook Monument where depths range from about 5 to 120 feet. The diversity of coral and fish is exceptional, and fish are quite tame.

Dolphins are commonly seen inside the bay.

Other Features

The Oceanthermal Energy Conversion project at Keahole is the only project of its kind in the United States. Here also are several experimental aquacultural operations.

The proposed Ala Kahakai would link national parks in Kawaihae, Honokohau, Honaunau and Hawai'i Volcanoes, and several state and county coastal parks.

NATURAL VALUES

Birds

At least two species of endangered birds can be seen along the trail, notably at Kapo'ikai and Aimakapa Ponds. Hawaiian stilts *(Himantopus mexicanus knudseni)* on Hawai'i island are only found at west coast ponds. The Hawaiian stilt population was estimated at 1,500 birds in 1977. Hawaiian coots (*Fulica americana alai*) had an estimated worldwide population of 2,500 birds in 1977.

Plants

The 1972 compilation of Hawaiian plants lists 1,381 native species of flowering plants of which 96.6 percent are endemic. Today 150 rare Hawaiian plant taxa are being proposed as threatened and/or endangered in the next couple of years. In the last six months, 22 plant taxa have become officially listed as endangered, and one plant species has been officially listed as threatened for the State of Hawai'i. However, scores of plants that took millions of years to evolve in the isolation of the Hawaiian chain have been exterminated in the two centuries since Captain Cook's arrival in Hawai'i (1778). Introduced animals and plants are primary responsible for this rapid decline of endemic flora. Most surviving endemic plants are in remote areas.

The February 21, 1990 federal register lists five candidate plant species under review for threatened and/or endangered status for this coastal area of Hawai'i.

A few endemic coastal plants can be seen growing along the trail, such as:

(1) *Maia pilo* (*Capparis sandwichiana*), used by Hawaiians to mend broken bones, and

(2) *Pua kala* (*Argemone glauca*)—a poppy used by Hawaiians for relief of toothache and ulcers.

Anchialine Pools

Anchialine (brackish) pools are frequently found along this coast. The larger pools were usually made into fishponds by the early Hawaiians. Anchialine pools exist almost exclusively along the shorelines of Hawai'i island and southwest Maui, and are rarely found on ancient lavas. These unique pools are increasingly being studied in order to better understand the environmental effects of surrounding developments on the numerous endemic plant and animal species found in anchialine waters. One 1974 study found numerous endemic plant and animal species. Among the endemic plants are crusty algae ranging in color from dark green and white to orange. Endemic animals include:

(1) *Opae'ula* shrimp. (*Halocaridina rubra*), raised extensively by Hawaiians for fish bait. Preyed upon by another endemic shrimp, *Metabetaeus lohena*. Two endemic shrimp species are blind and are known only from one other Hawaiian locality at Cape Kinau, Maui.

(2) There are a hydroid and snail found only in these Kona coast anchialine ponds.

(3) Moray eel (*Gymnothorax hilonis*) Prawn (*Macrobrachium grandimanus*) Fish (*Eleotris sandwicensis* and *Kuhlia sandwicensis*).

Waiulua Bay, part of the future Anaeho'omalu resort complex, is the location of the largest concentration of anchialine pools in the State. Locations of anchialine pools along the trail are Puako, Kapalaoa, Weliweli, Wainanali'i, Keawaiki, Kiholo, Luahinewai, Ka'upulehu, Kuki'o, Makalawena, Ka Lae, Ka'elehuluhulu, and others.

Kilauea Volcano

Within the Hawai'i Volcanoes National Park portions of the coast have been and continue to be dramatically altered by ongoing volcanic activity.

HISTORIC VALUES

Hawai'i islands' coastal areas are rich in history. Traces of once thriving coastal communities that existed in ancient times can be seen in many locations. This is only a partial listing of the abundant shoreline historic sites. Many of the historic sites are listed on the State and/or National Register of Historic Places.

Ancient Trails

Although the canoe was a principle method of travel in ancient Hawai'i, human survival depended on extensive crosscountry networks that enabled gathering of food and water, and harvesting of materials needed for shelter, clothing, medical care, tools, canoe building, religious observances, and much more.

Trails and their surrounding historic sites provide clues to how communities were linked socially, economically, and politically; which areas were important in early settlement, commerce, and religion; where particularly powerful chiefs resided; and where valuable forest or sea resources were once located.

Ancient trails are those developed prior to Western contact. They facilitated trading between upland and coastal villagers, and communications between districts, *ahupua'a* (ancient land divisions), and extended families. Ancient trails were usually narrow, following the natural topography of the land, and sometimes, paved with smooth, waterworn stepping stones (*'ala or pa'ala*). There were strict rules, punishable by death, governing access to the precious resources of the mountains and ocean. Trail use restrictions were according to the laws of the chief ruling over the particular land division(s) in which the trail was located. However, the *alaloa* (long trails), circumscribing the island, were open to all in times of peace. The proposed Ala Kahakai includes sections of the ancient *alaloa* that still exist.

The *Makahiki* was ancient Hawaiian annual tax collection season beginning in mid-October and lasting several months. It was a season of sports and religious festivities; war was prohibited. For tax collection, a procession of priests and others carrying the Makahiki god symbol would walk the shoreline trail in a clockwise direction around Hawai'i island.

Mamalahoe Kanawai is translated, Law of the Splintered Paddle. The story is told that Kamehameha I, who would later conquer and unite most of the Hawaiian islands, set out one day in a war canoe to raid a place along the Puna coast. He jumped ashore and ran after two fishermen. While running his foot slipped and was trapped between lava rocks. Seeing his plight, one of the fishermen returned with a paddle and struck him on the head so hard that the paddle splintered to pieces. Kamehameha escaped, but this experience was commemorated years later in the name he chose for one of his best-known laws, *Mamalahoe Kanawai*. This law was intended to guarantee the safety of the highways (trails) to all, particularly women, children, the sick and the aged.

Historic Trails

Historic trails are those developed after Western contact. Overland travel was predominantly by foot throughout the 1830s. With the expanding use of horses and mules from the 1840s onward, many ancient foot trails were modified by removing the smooth stepping stones which caused the animals to slip. Trail and road-building in the kingdom was done by "forced labor," prisoners, and as a form of tax payment. Sometimes trail builders were paid laborers. New, wider trails has to be constructed to accommodate two horses passing each other and eventually horsedrawn carts. Unlike the ancient foot trails, these trails could not simply conform to the natural, sometimes steep slopes. Dips in the terrain needed to be leveled, and sections of trail built-up and raised. Western surveying techniques led to straight and direct routes. These more modern trails were often bordered with kerbstones to help confine the animals to the trail. This was especially helpful when trails were used to drive cattle several miles to the nearest shipping point or to greener pastures.

All along the Ala Kahakai are remnants of ancient and historic trails illustrating the effects of changing modes of transportation—from foot travel, to horse and mules, to carts, and finally to horseless carriages.

North Kohala District

Many sites in this district are associated with events in Kamehameha I's life. Kamehameha I life. Kamehameha I was a high chief of Hawai'i island who waged war, until, in 1800, he succeeded in uniting all of the islands except Kauai under his rule, thus founding a dynasty which would rule the Hawaiian kingdom for nearly a hundred years. Hawai'i is unique in the United States for many reasons, one for which is Hawai'i's monarchical form of government that endured until 1893. Kamehameha's life is a fascinating one, and much history associated with him took place on Hawai'i island.

Umiwai Bay—Kamehameha I was born here in approximately 1758. It is a State of Hawai'i Historic Site.

Mo'okini Heiau—Tradition says that the *heiau* (temple) was built in the A.D. 1300–1400s and re-dedicated as a main war temple by the warrior, Kamehameha. It is well-known *luakini* (human sacrificial) *heiau* and a registered National Historic Landmark.

Kapunapuna and Kapa'a Villages—Along the coast from Upolu Point to Kawaihae, an almost continuous string of fishing village ruins have been preserved by dry climate and isolation.This area was heavily populated in Kamehameha's time. One of the largest village sites in North Kohala is Kapunapuna Village.

Lapakahi State Historical Park contains a restored fishing village site dating back to approximately 1300 A.D. Coastal villages often include ruins of house enclosures, canoe sheds, burials and fishing shrines.

Old Kohala Railway presently extends from Mahukona to Kokoiki. Established in 1878, it once ran from Mahukona to Niuli'i, a distance of about 20 miles. It was used for transporting sugar and other freight, to and from the small Mahukona harbor.

South Kohala District

From Mahukona to Kawaihae are shoreline jeep trails which are used regularly by residents. Some of the jeep trails were probably built over older trails. Kawaihae literally means "the water of wrath." It is said that early Hawaiians fought for water from a pool in this dry area.

John Young's Homesite is located within the 77 acre area comprising the Pu'ukohola Heiau National Historic site. John Young was a British sailor who later became a trusted advisor of Kamehameha I. Kamehameha made him a Hawaiian chief and appointed him governor of Hawai'i island from 1802 to 1812. His granddaughter was Queen Emma, wife of King Kamehameha IV.

Pu'ukohola Heiau—Kamehameha ordered this *luakini* (human sacrificial) *heiau* built, and it was completed in 1791. Kamehameha dedicated it to the war god, Kuka'ilimoku, with a sacrifice of his cousin and principle rival for supremacy of Hawai'i island, Keoua. With Keoua's death, Kamehameha ruled the island. Kamehameha had invited Keoua to the *heiau* dedication to make peace, but instead had his cousin killed as he stepped ashore from a canoe.

Mailekini Heiau—On the hillside between Pu'ukohola and the sea is Mailekini *heiau*, equal in dimensions to Pu'ukohola. It was used by Kamehameha's ancestors, and no human sacrifices were made there.

Hale o Kapuni Heiau is believed to be submerged in a cove at the base of the hill where Pu'ukohola and Mailekini are located. This *heiau* was dedicated to shark gods and is located in a shark breeding area.

Petroglyph fields—Compared to other Polynesians, Hawaiians were the most prolific in making petroglyphs. Nowhere else in the Pacific are there petroglyph fields more extensive than in Hawai'i and particularly on the Big Island of Hawai'i. Large petroglyph fields can be seen in Puako, Anaeho'omalu, Kapalaoa, Ka'upulehu, and Pohue, and Pu'uloa in Ka'u district. In addition, small groups of carvings may be found at other coastal locations. Petroglyphs are likely to be in places along trails where travelers could rest.

Fishponds—In a U.S. Department of the Interior, National Parks Service publication, "Ancient Hawaiian Shore Zone Fishponds: An Evaluation of Survivors for Historical Preservation," by R.A. Apple and W.K. Kikuchi, the Kalahuipua'a ponds of South Kohala were given the highest rating on Hawai'i island (2.45 out of a possible 3) and the second highest in the State for their historic integrity and feasibility for aquacultural use without extensive modifications. There are more fishponds and different types of fishponds in Hawai'i than on any other Pacific island. Archaeological and oral histories indicate that Hawaiian fishponds first appeared between the A.D. 1000–1400s. Fishponds in Hawai'i were primarily built and controlled by *ali'i* (chiefs).

In Hawaiian society, control of water and foods sources meant power and status. *Kekaha wai ole* (desolate land without water) is the general name given to the vast, dry lava fields found along the North Kona coast. In such arid lands it is understandable that great value and prestige were placed on the control of water resources. Other historic fishponds can be seen at Anaeho'omalu, Kiholo, Kaloko and Honokohau.

North Kona District

Kamehameha Fishpond at Kiholo—Royal fishponds existed at Kiholo by 1801 when they were threatened by the Hualalai lava flow of that year. Early Hawaiian historian Samuel Kamakau relates in his *Ruling Chiefs* that, as the flow threatened to engulf Kiholo and its ponds, Kamehameha was called to

Kiholo to placate the volcano goddess Pele—and he was successful. The flow stopped short.

Kamehameha I ordered a fishpond built at Kiholo in 1810. Reverend William Ellis described the pond as not less than two miles in circumference with a large stone ocean wall, a half mile in length. Legends say that Pele, disguised as an old woman, was refused fish from this pond. She was again refused when she asked for fish entrails. In anger she caused the 1859 lava flow which covered nearly the entire fishpond. The 1859 flow headed almost directly to the fishpond from Mauna Loa, a distance of 33 miles to the sea.

Wainanali'i Village was also destroyed by the 1859 flow. Traces of the village can still be seen and several foot trails lead to the area. According to the well known missionary, Reverend Lorenzo Lyons, the villagers were aroused at midnight by the hissing and roaring of the lava flow. Most escaped in time but several were trapped. The little harbor by the village was filled with lava. The 1859 flow is easily distinguishable from older flows along the coast. More recent flows are darker with less vegetation.

Pa'aiea Pond is said to have been three miles long, one and a half miles wide, and owned by a chief. It extended from Ka'elehuluhulu to Kalaoa. In a very similar legend Pele was denied fish from Pa'aiea and in anger caused the 1801 lava flow to fill this huge pond.

Protestant church foundation at Kiholo—As the 1859 flow drew near, the Protestant church was disassembled lest it be destroyed. However, the lava separated and went around the church site, leaving it untouched. Today the church foundation remains encircled by lava.

Salt pans at Kiholo and Ka Lae Mano—Remains of salt works can be seen at Kiholo, Ka Lae Mano, Ka'elehuluhulu and other locations along the coast. Hawaiians used shallow depressions in rocks adjacent to the sea to make salt. Larger quantities were produced in the 1800s and 1900s in man-made, shallow salt pans along the coastline. Kiholo and Ka Lae Mano were major areas of salt production, and Ka Lae Mano's salt was famous for its excellent quality.

Luahinewai is the deepest anchialine pool along the west coast. Kamehameha I's rival and cousin, Keoua, was the ruling chief of the Ka'u kingdom, the southern and eastern part of Hawai'i island. While on trip to Pu'ukohola *heiau* where he would be killed, Keoua's canoes landed at Luahinewai where he bathed. After bathing he cut off the end of his penis, an act which sorcerers called "the death of Uli." The cultural significance of this act was that Keoua knew that he was about to die. The cut off part could be used in sorcery against those who would be responsible for Keoua's death.

Petroglyphs at Ka'upulehu—Some of the petroglyphs at Ka'upulehu are interpreted as telling the story of the *Fair American*.

In 1790 Kame'eiamoku was a high chief of a residence at Ka'upulehu. Kame'eiamoku, committed a petty offense while aboard the ship *Eleanora*, for which he had been beaten by a Captain Simon Metcalfe. Angered and humiliated, he vowed to capture the first foreign boat that came his way. Unknown to him, the *Eleanora* had proceeded to Maui where, in retaliation for the killing of a sailor on watch, Metcalfe ordered what became the Olowalu massacre, in which over a hundred Hawaiians were killed or wounded.

The next vessel which put in at Ka'upulehu was, as fate would have it, the tiny schooner, *Fair American*, commanded by Metcalfe's son and having a five-man crew. Kame'eiamoku and his followers were admitted to the vessel under pretense of friendly trade. Captain and crew were thrown overboard, all but one were killed, and the vessel was seized. The sole survivor, Isaac Davis, the *Fair American* and all items seized from the schooner were taken from Kame'elamoku by Kamehameha. The *Fair American* became the first foreign vessel in Kamehameha's war fleet. Isaac Davis later became a confidential advisor of Kamehameha, along with John Young.

Queen's Bath in Kaloko/Honokohau is an anchialine pool said to have been a queen's bath. It is surrounded by seven large and striking lookout mounds made of lava rock. It is thought that guards would warn people away when the queen was bathing. The mounds form a rectangular pattern around the brackish pool.

Hulihe'e Palace in Kailua was built in 1838 by Kuakini, governor of Hawai'i island. Princess Ruth Ke'elikolani lived there for a time, and King Kalakaua used it as a summer palace. In 1927 the palace was restored as a museum and is a historic attraction today.

Mokuaikaua Church in Kailua was also constructed by Governor Kuakini, with the cooperation of 4,000 people. Stones from an old *heiau* at the same spot were used for the foundation. It was dedicated in 1823 and rebuilt in 1837 after its destruction by fire.

Kamoa Point (traditionally, Ka Lae o Ka Moa), located south of Kailua-Kona, is a promontory with a concentration of Kamehameha I and pre Kamehameha I cultural remains. These historic sites include a women's *heiau* for healing and purification rites; a *heiau* with a focus on martial arts and athletic excellence; a repository for the war god, Kuka'ilimoku, (during Kamehameha I's time); an important surfing *heiau;* and a *heiau* for the burial preparations of deceased *ali'i*. Kamoa Point is on the Hawai'i Register of Historic Places.

Kuamo'o Burials are a National Historic Site and commemorate an important event in Hawaiian history.

In 1819 Kekuaokalani, nephew of Kamehameha I and cousin of Liholiho (Kamehameha II), regarded Liholiho's orders to end the kapu system as a heinous offense. Many priests and commoners gathered in support of Kekuaokalani, and an insurrection ensued. All efforts at conciliation failed, and at Kuamo'o a bitter, bloody battle took place. Kekuaokalani and his wife, Manono, were killed. This defeat confirmed the new king Liholiho's decree, and the kapu system and associated religious system were abandoned. Discontinuance of formal religious rituals and the Makahiki celebrations left a vacuum in Hawaiian life. Thus in 1819, a year prior to the arrival of American missionaries, the stage was set for the introduction of a new order and new religion.

South Kona District to South Point

Kealakekua Bay is famous as the location of Captain Cook's death on February 14, 1779. When he first arrived at Kealakekua Bay on January 17, 1779, it was estimated that not less than 10,000 Hawaiians enthusiastically greeted the ships. *Hikiau heiau* is located here and is a State monument. It was a *kluakini heiau* of Kamehameha I. Here Captain Cook was ceremoniously received as the god Lono: he had arrived during the Makahiki season when, according to mythology, Lono was expected to arrive from the sea.

Pu'uhonua o Honaunau National Historic Park—This *pu'uhonua* is an ancient place of refuge where until 1819 vanquished warriors and kapu breakers escaped death if they reached it ahead of their pursuers. It has the walls of a fortified *heiau*. There are two *heiau* within the walled area. One is the Hale o Keawe.

Hale o Keawe—In this *heiau* the bones of high chiefs were kept in sennit caskets.

Holua slides—Very little is known about the ancient Hawaiian sport of *holua* sliding. A long narrow sled was constructed and used to slide down grassy slopes. Remains of *holua* slides continue to be discovered. Along the proposed trail, *holua* slides can be seen as sloping ramps made of varying sizes of lava rock. These ramps were covered with grass prior to sliding. The most significant *holua* slides known to be along the proposed trail are:

(1) Keauhou slide in North Kona which extended for a mile and was used until approximately 1825. This slide is a national Historic Site. Presently a half mile of the slide crosses a golf course, while the other half is as yet on undeveloped land.

(2) Ahole slide in South Kona is in better structural condition than any other known slide in the State. It is also a National Historic Site. Until the 1960s the large area adjacent to this slide was used for military bombing practice. There are impressive foot trails in this area also. It is believed that with the end of the kapu system, the *holua* slides were abandoned. Missionaries discouraged the sport since gambling was associated with it.

Ka Lae (South Point, Ka'u) is the southernmost point in the United States.

Heiau o Kalalea—This fishing shrine at Ka Lae was kapu to women. Offerings are still placed there.

Pohaku o ke au (stone of the times) is located near the Heiau o Lalalea. The stone is believed to turn over if there is to be a change of government.

Other Historic Features

Hieaus in good and bad structural condition are found along the coast and this outline has identified only a few of them. Among those omitted, for example, is 'Ahu'ena *heiau* which Kamehameha ordered restored. Located on the oceanfront at Kailua-Kona, 'Ahu'ena has recently been restored by Hawaiian experts according to descriptions given in John Papa Ii's *Fragments of Hawaiian History*. It is one of the best restoration efforts in the State.

In November 1819 at Kailua, Kamehameha II (Liholiho) officially put an end to the kapu system, an act which was to have dramatic effects on Hawaiian society and culture. He ordered *heiaus* destroyed and idols burned. Many Hawaiians refused to abandon traditional practices, and some idols escaped destruction. The *heiaus* and other Hawaiian artifacts that can be appreciated today have managed to survive earlier efforts to destroy the vestiges of Hawaiian religious practices.

Shelter caves are another feature easily visible to the hiker. These are small lava bubbles which were used by Hawaiians for temporary shelter while at the shoreline. The caves are usually big enough for one or two men to comfortably sleep. The air is quite cool in the shelter even on the hottest day. Piles of discarded seashells and other organic material outside the caves are indicators of use by early Hawaiians.

Burial caves are found in lava tubes and in cliff areas along the arid coast. All burials are considered sacred and off limits to travelers.

Ku'ula stones are fishing shrines which vary in size and are carved or natural. Used to attract fish, they honor the god of fishermen, Ku. Some of these sacred stones are still used by fishermen, and their locations are often disguised as a precaution against theft.

RECREATIONAL USE OF HAWAI'I COASTAL TRAIL

Present Use

Present recreational use of the areas along the trail varies greatly depending upon the ease of access and proximity to population centers. A few areas receive intensive use while others are rarely visited. The recreational opportunities afforded to residents and visitors along this trail system are numerous and diverse. They include such activities as:

Swimming—Various types of swimming areas are present, including both protected bays, tide pools, and open ocean.

Surfing—A number of board and body surfing sites are found along the coast.

Snorkeling and scuba diving—The coral reefs along Hawai'i's west coast are among the best developed in the islands. The water is warm and clear, and many types of marine life abound, including humpback whales and dolphins. Three Marine Life Conservation Districts are located along this coast.

Fishing—

Boating—The calm waters and steady trade winds offer ideal boating conditions for all kinds of craft.

Exploration—Areas along the trail present unlimited possibilities for exploration and scientific research. Lava fields, anchialine pools and tidepools, historic ruins and beach areas are all accessible from the trail.

Hiking—Short or long distance hikes are presently possible along the trail, although the lack of access and clearly marked trails can be problematic. A number of other trails which run from the shoreline to the mountains intersect the coastal trail and could provide access to upland areas if public rights-of-way are present.

Photography—The unique splendor and diversity of Hawai'i's natural environment make it an ideal area for photographic and other artistic pursuits.

Birdwatching—Endemic and migratory species are found by brackish ponds along the trail, including the endangered Hawaiian stilt and Hawaiian coot. Care needs to be taken so as not to disturb the birds during nesting periods.

Other—Certain State, County, and National parks along the route permit camping and have facilities for organized recreational activities.

Potential Use

The full recreational potential of the coastal trail system is at present unrealized due to a lack of funds to properly develop it for public use, the scarcity of access points, and public rights-of-way. A unified trail system with well marked routes and access points would provide a wealth of recreational and educational opportunities for Hawai'i resident population. Visitors would also greatly benefit from the added attraction that such a trail system would provide.

The presence of four National and several State parks along the proposed trail route provides a unique opportunity to link together these areas, thereby increasing the value of each. A number of these parks have as their theme the historical and cultural heritage of the Hawaiian people. The trail system would provide a link to Hawai'i's past and function as a living museum.

Access points at selected sites along the trail would allow varying types of hiking activities ranging from short day hikes to extended hikes of several weeks. Campgrounds located at suitable intervals along the trail would complement those found in parks and provide the hiker with facilities for overnight stays.

SUMMARY

Scenic beauty and unique natural features are found in many of Hawai'i's trails, but no other trail is as concentrated with historic sights of national significance, as is the Ala Kahakai. National support for preserving the ancient *alaloa* in the form of the *Ala Kahakai*, is key to ensuring this trail's survival.•

By Mr. SIMON (for himself, Mr. DECONCINI, and Mr. METZENBAUM):

S. 3147. A bill to prohibit certain political activities of certain Federal officers in the Office of National Drug Control Policy; to the Committee on the Judiciary.

OFFICE OF NATIONAL DRUG CONTROL POLICY POLITICAL ACTIVITIES ACT

• Mr. SIMON. Mr. President, today I introduce legislation to prohibit political campaigning and political management by appointed officers of the Office of National Drug Control Policy [ONDCP], commonly known as the drug czar's office.

Mr. President, the Office of National Drug Control Policy is responsible for the formation and implementation of our national drug control strategy. Appointees to this office perform a public service that requires leadership on a complex issue which affects the lives and well-being of all Americans. While I do not expect the drug czar and other appointees to act in a political vacuum, I cannot accept the blatant politicization of the office.

Last month, I inserted an article from the Orlando Sentinel in the RECORD which reported that over 40 percent of the positions at ONDCP are patronage positions. This is the highest percentage of political patronage positions in any Federal governmental agency. By comparison, the Justice Department and the Departments of the Army, Navy, and Air Force each have less than 1 percent. The article also points out that some staff members in key positions at ONDCP did not even mention the words "drugs" in their job applications. The high percentage of political appointees coupled with the general lack of experience with the drug issue has severely undermined the legitimacy of the office.

I believe this is a direct result of the politicization of the office which began under former drug czar William Bennett. During his tenure as drug czar, Mr. Bennett traveled the nation making political campaign speeches on behalf of administration-endorsed political candidates. Upon his resignation, Mr. Bennett was the first choice to head the Republican National Committee—it would have been a natural transition.

Governor Bob Martinez, who cochaired the 1988 Bush Presidential campaign replaced Mr. Bennett as drug czar. Prior to his confirmation hearings, I stated that I would oppose his nomination unless he made a commitment to refrain from partisan political activity in his office. He refused to make that commitment and that was one of the reasons I opposed his nomination. Mr. Martinez, following in the footsteps of his predecessor, has also engaged in partisan political activities, most recently by criticizing Bill Clinton at the Democratic Convention as part of a so-called Republican "truth squad."

I have also made a commitment to oppose other nominees to the drug czar's office unless they agree to refrain from partisan political activity. I have opposed nominees for this reason and I will continue to do so regardless of which party controls the White House.

Some progress has been made in the effort to fight illegal drug use in the United States, most notably in the continuing decline in casual cocaine use, but there is absolutely no doubt that there is still work to do. The increases in hard-core cocaine use and heroin availability and the soaring drug-related murder toll put our modest progress in perspective. In my home State of Illinois, there have been three times as many murders so far this year than there were deaths of United States Armed Forces in the Persian Gulf war. According to law enforcement officials, these fatalities are part and parcel of the continuing drug trade that plagues so many of our neighborhoods.

And against this backdrop of bloodshed and despair, we cannot continue to let politics overshadow the important mission of the Office of National Drug Control Policy. I believe this legislation is an important step in helping to restore some respect and credibility to ONDCP. I urge my colleagues to cosponsor this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of National Drug Control Policy Political Activities Act of 1992".

SEC. 2. PROHIBITIONS ON POLITICAL ACTIVITIES.

(A) IN GENERAL.—Section 1003(a)(2) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1502) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) The Director, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Associate Director for National Drug Control Policy shall not take an active part in political management or in political campaigns.".

(b) DEFINITION.—Section 1010 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1507) is amended—

(1) in paragraph (7) by striking out "and" at the end thereof;

(2) in paragraph (8) by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) the term 'an active part in political management or in political campaigns' means such activities as defined under section 7324(a) of title 5, United States Code.".

(c) AMEMDMENT TO HATCH ACT PROVISIONS.—Section 7324(d)(3) of title 5, United States Code, is amended by inserting before the semicolon ", except for an employee as provided under section 1003(a)(2)(B) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1502(a)(2))".•

By Mr. PRYOR (for himself, Mr. RIEGLE, Mr. COHEN, Mr. SHELBY, Mr. GRAHAM, and Mr. DURENBERGER):

S. 3148. A bill to amend title XI of the Social Security Act to establish an Intergovernmental Task Force on Health Care Fraud and Abuse; to the Committee on Finance.

INTERGOVERNMENTAL HEALTH CARE FRAUD AND ABUSE TASK FORCE ACT

• Mr. PRYOR. Mr. President, I rise to introduce the Intergovernmental Task Force on Health Care Fraud and Abuse Act of 1992. I am joined by Senators RIEGLE, COHEN, SHELBY, GRAHAM, and DURENBERGER in introducing this legislation which will help control the widespread and costly problem of health care fraud and abuse.

I believe a major reason we have a health care crisis is unchecked fraud and abuse. For example, at a hearing of the Special Committee on Aging I chaired last fall, I heard the story of how a telephone salesman pushed unneeded and dangerous medical equipment on an elderly woman and then charged it to Medicare. She repeatedly urged her Medicare carrier to deny payment for the devices, but her pleas fell on deaf ears. This same scam perpetrated along the east coast resulted in $9 million in false billings to Medicare.

We have also heard recently that the Federal Bureau of Investigation has uncovered a scam involving high-priced prescription drugs in the Medicaid program, costing the American taxpayer billions of dollars. It has also jeopardized the health of unsuspecting Medicaid patients who were given medicines that were no longer effective.

These examples are just the tip of the iceberg. According to the General Accounting Office, losses due to fraud and abuse in our health care system may be as high as 10 percent of our nation's health care bill—amounting to more than $80 billion this year alone. Although health care providers are honest, even a small number of unscrupulous individuals can—and do—steal enormous amounts of money from our health care system.

All of us here are deeply enmeshed in the debate over how to restore affordability and access to our health care system. We have spent months trying to come up with a better way to provide health care for our nation's citizens. I believe, however, until we learn how to control health care fraud and abuse our efforts to truly reform our health care system will fail.

Throughout our health care system—Medicare, Medicaid, and the private health insurance industry—it has always been easier to simply pass the costs of fraud and abuse on to those paying the bills. When, and if, crooked health care providers are caught they simply prey on another segment of our massive and fragmented system.

At that same Aging Committee hearing I referred to a moment ago, a representative of GAO pointed out that Medicare beneficiaries are the primary source of leads on fraud and abuse, and yet about half of all their calls to Medicare are ignored. How did the representative of the Health Care Financing Administration respond to these findings? She announced that HCFA was closing down the toll-free lines beneficiaries used to make these calls. Fortunately, an uproar from Congress prevented this from happening.

With the Medicare bureaucracy asleep at the switch, fraudulent medical equipment suppliers have been stealing an estimated $200 million yearly. After multiple hearings and legislation I have cosponsored and supported, that bureaucracy is finally starting to wake up and take steps to deal with this problem.

Unfortunately, the failure to take health care fraud and abuse seriously is not limited to the Medicare bureaucracy. In my capacity as chairman of the Federal Services Subcommittee, I have also been trying for the last several years to get the Office of Personnel Management to implement antifraud controls in the area of Federal employee health benefits. These controls were mandated by legislation in 1988, and to this day OPM has not taken steps to implement the law.

Mr. President, it is high time the Federal Government showed leadership, rather than laxity, in efforts to stem the epidemic of health care fraud and abuse. It is time we made this a priority and worked with the private health insurance industry to battle this problem. Where obstacles stand in the way, it is time the administration and the private health insurance industry found acceptable ways around them.

The legislation we are proposing today to establish a Health Care Fraud and Abuse Task Force will do exactly that. Its membership will be drawn from Federal, State, and private health care sectors, and its job will be to develop and put into place strategies for combating health care fraud and abuse. The task force will coordinate antifraud and abuse activities, find ways to ensure that Medicare beneficiaries and health insurance claimants are enlisted in this effort, and advise the Congress of any changes that are needed to Federal policies to advance this campaign. This legislation stems from a GAO recommendation, and was recently introduced in the House by Representatives TED WEISS, chairman of the House Subcommittee on Human Resources and Intergovernmental Relations.

The proposed Task Force on Health Care Fraud and Abuse will not require any appropriation, yet it could save the American taxpayer and our Nation billions of dollars. I urge all of my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the proposed legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intergovernmental Health Care Fraud and Abuse Task Force Act of 1992".

SEC. 2. ESTABLISHMENT OF INTERGOVERNMENTAL HEALTH CARE FRAUD AND ABUSE TASK FORCE.

Part A of title XI of the Social Security Act (42 U.S.C. 1101 et seq.) is amended by adding at the end the following new section:

"TASK FORCE ON INTERGOVERNMENTAL HEALTH CARE FRAUD AND ABUSE

"SEC. 1144. (a) ESTABLISHMENT.—There is established a task force to be known as the 'Intergovernmental Task Force on Health Care Fraud and Abuse' (in this section referred to as the 'Task Force').

"(b) COMPOSITION.—The Task Force shall be composed of 15 members as follows:

"(1) FEDERAL OFFICIALS.—The following 6 Federal officials or the designees of such officials:

"(A) The Secretary.

"(B) The Inspector General of the Department of Health and Human Services.

"(C) The Attorney General.

"(D) The Director of the Federal Bureau of Investigation.

"(E) The Administrator of the Health Care Financing Administration.

"(F) The Comptroller General of the United States.

"(2) PUBLIC MEMBERS.—Nine members, appointed by the President, of which—

"(A) one shall be an attorney general of a State;

"(B) one shall be a representative of a State medicaid fraud control program;

"(C) one shall be a representative of health care consumers;

"(D) one shall be a representative of beneficiaries under title XVIII;

"(E) one shall be a representative of health care providers;

"(F) one shall be a representative of for-profit health insurance companies;

"(G) one shall be a representative of not-for-profit health insurance companies;

"(H) one shall be a representative of employers who provide employee health insurance; and

"(I) one shall be a representative of State insurance commissioners.

In making appointments under this paragraph of an individual who is a representative of persons or organizations, the President shall consider the recommendations of national organizations that represent such persons or organizations. The President shall report to the Congress, within 30 days after the date of the enactment of this section, the names of the members appointed under this paragraph.

"(c) TERMS.—Each member shall be appointed for the life of the Task Force. A vacancy in the Task Force shall be filled in the manner in which the original appointment was made.

"(d) FUNCTIONS OF TASK FORCE.—

"(1) IN GENERAL.—The Task Force shall—

"(A) investigate the nature, magnitude, and cost of health care fraud and abuse in the United States, and

"(B) identify and develop the most effective methods of preventing and eliminating such fraud and abuse, with particular emphasis on coordinating public and private prevention and enforcement efforts.

"(2) PARTICULARS.—The Task Force shall examine at least the following:

"(A) Mechanisms to provide greater standardization of claims administration in order to accommodate fraud detection and prevention.

"(B) Mechanisms to allow more freedom for health benefit plan administrators, health care providers, and law enforcement officials to exchange information for coordinating case development and prosecution efforts, without undermining patient and provider privacy protections or violating antitrust laws.

"(C) The need for regulation of new types of health care providers.

"(D) Criteria for physician referrals to facilities in which such physician's (or such physician's family members) have a financial interest.

"(E) The extension to private health insurers of administrative remedies currently available to public insurers.

"(F) Creating a model State statute for establishing State insurance fraud units and State laws to strengthen the ability of insurers to pursue, and recover from, fraudulent providers.

"(G) The availability of resources to law enforcement authorities to combat health care fraud and abuse.

"(H) Mechanisms for involving beneficiaries under titles XVIII and XIX and health insurance claimants in efforts to identify health care fraud and abuse.

"(I) How health care fraud and abuse litigation is organized and financed.

"(3) REPORTS.—

"(A) TRANSMISSION OF REPORTS.—The Task Force shall transmit to the Ways and Means Committee, the Energy and Commerce Committee, and the Select Committee on Aging of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate—

"(i) an interim report not later than 6 months after the date on which a majority of the public members of the Task Force have been appointed;

"(ii) an additional interim report not later than 12 months after the date on which a majority of the public members of the Task Force have been appointed; and

"(iii) a final report not later than 18 months after the date on which a majority of the public members of the Task Force have been appointed.

"(B) CONTENTS OF REPORTS.—Each report transmitted under subparagraph (A) shall contain a detailed statement of the findings of the Task Force as of the date of such transmission and such recommendations as the Task Force considers appropriate.

"(e) COMPENSATION AND ORGANIZATION.—

"(1) COMPENSATION OF MEMBERS.—

"(A) RATES OF PAY.—Each public member described in subsection (b)(2) who is not an officer or employee of the Federal Government is entitled to receive pay equal to the daily equivalent of the minimum annual rate of basic pay in effect for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Task Force. Each member of the Task Force who is an officer or employee of the Federal Government shall serve on the Task Force without additional pay.

"(B) TRAVEL EXPENSES.—Each member of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code, while the member is away from such member's home or regular place of business in performance of services for the Task Force.

"(2) ORGANIZATION.—

"(A) QUORUM.—Nine members of the Task Force shall constitute a quorum but a lesser number may hold hearings.

"(B) CHAIRMAN.—The chairman of the Task Force shall be the Inspector General of the Department of Health and Human Services.

"(C) MEETINGS.—The Task Force shall meet at the call of the chairman or a majority of the members of the Task Force. Meetings of the Task Force shall be open to the public under section 10(a)(10) of the Federal Advisory Committee Act, except that the Task Force may conduct meetings in executive session if a majority of the members of the Task Force (a quorum being present) approve of going into executive session.

"(f) STAFF OF TASK FORCE.—Subject to rules prescribed by the Task Force, the chairman may appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to carry out the functions of the Task Force, without regard to the laws, rules, and regulations governing appointment and compensation and other conditions of service in the competitive service. Upon the request of the chairman, any Federal employee who is subject to such laws, rules, and regulations, may be detailed to the Task Force to assist in carrying out the functions of the Task Force under this section, and such detail shall be without interruption or loss of civil service status or privilege.

"(g) AUTHORITY OF TASK FORCE.—

"(1) HEARINGS AND SESSIONS.—The Task Force may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Task Force considers appropriate. The Task Force may administer oaths or affirmations to witnesses appearing before the Task Force.

"(2) OBTAINING OFFICIAL DATA.—

"(A) IN GENERAL.—The Task Force may secure directly from any department or agency of the United States information necessary to enable the Task Force to carry out this section. Upon request of the chairman of the Task Force, the head of such department or agency shall furnish such information to the Task Force.

"(B) ACCESS TO INFORMATION.—Information obtained by the Task Force is available to the public in the same manner in which information may be made available under sections 552 and 552a of title 5, United States Code.

"(3) GIFTS, BEQUESTS, AND DEVISES.—The Task Force may accept, use, and dispose of gifts, bequests, or devises of services or property for the purpose of aiding or facilitating the work of the Task Force.

"(4) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Task Force, the Secretary shall provide to the Task Force the administrative support services necessary to carry out the responsibilities of the Task Force under this section.

"(6) SUBPOENA POWER.—

"(A) IN GENERAL.—The Task Force may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter which the Task Force is authorized to investigate under this section. The attendance of witnesses and the production of evidence may be required from any place within the United States and may be required at any designated place within the United States for a hearing.

"(B) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under subparagraph (A), the Task Force may apply to a United States district court for an order requiring such person to appear before the Task Force to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where such person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

"(C) SERVICE OF SUBPOENAS.—The subpoenas of the Task Force shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(D) SERVICE OF PROCESS.—All process of any court to which application is to be made under subparagraph (B) may be served in the judicial district in which the person required to be served resides or may be found.

"(h) TERMINATION.—The Task Force shall terminate 60 days after the date the final report is submitted under subsection (d)(3)(A)(iii).

"(i) FUNDING.—Such funds as are necessary to carry out the functions of the Task Force shall be allocated to the Task Force by the Secretary from funds otherwise appropriated for the Department of Health and Human Services.".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall be effective on the date of the enactment of this Act.•

• Mr. RIEGLE. Mr. President, today I am joining with Senator PRYOR and others to introduce the Intergovernmental Health Care Fraud and Abuse Task Force Act of 1992. This bill establishes an intergovernmental commission to investigate the nature, magnitude, and cost of health care fraud and abuse in the United States, as well as identify and develop the most effective ways to prevent and eliminate fraud and abuse.

In 1992, the United States will spend about $800 billion on health care; this represents almost 14 percent of the gross national product. The size of the health care sector and sheer volume of money involved make it an attractive and relatively easy target for some fraudulent and abusive providers. Concern over rapid growth in health care spending had triggered an examination of what value the nation is getting for its health care dollar. In a recent report by the U.S. Accounting Office, it was estimated that 10 percent of total health care spending is a result of fraud and abuse.

Examples of health care fraud and abuse can be found in all segments of the health care industry and throughout the United States. Fraud and abuse can occur through improper billing practices, including overcharging for services provided, charging for services that were never rendered, accepting bribes or kickbacks for referring patients to facilities, and performing inappropriate or unnecessary services. We have also seen instances where suppliers of health care products have defrauded insurance carriers and the government out of millions of dollars by intentionally inflating the value of services or equipment provided.

Both the public and private sectors devote a large amount of resources to detecting fraud, but efforts to detect and prosecute health care abuses are meeting with limited success. Both public health insurance programs and private health insurance companies have problems detecting fraud and abuse. In addition, they face problems associated with prosecuting fraud and abuse, and the complications associated with evolving provider ownership arrangements.

Mr. President, we need the Intergovernmental Health Care Fraud and Abuse Commission, as established in this legislation, to examine the various causes of waste in our health care system and to recommend ways to coordinate efforts by both the public and private sector to detect fraud and abuse. In addition, it will recommend effective ways to prevent such fraud and abuse from happening in the future. I have made a commitment to enacting comprehensive health care reform legislation to correct inequalities in our health care system and control health care costs. I am proud to be working with Senator PRYOR on this important first step toward controlling health care spending and improving the quality of our health care system in America.•

By Mr. BRADLEY:

S. 3149. A bill to establish a demonstration program to develop new techniques to prevent coastal erosion and preserve shorelines; to the Committee on Banking, Housing, and Urban Affairs.

LOCAL INNOVATION AND COASTAL PROTECTION ACT

• Mr. BRADLEY. Mr. President, for a long time, I've made very clear to all my interest and love of the shore and our oceans. This is where I go with my family in the summer, as many other New Jerseyans. This is where I have focused a lot of my own attention, whether it's to celebrate the shore's history and diversity by a New Jersey Coastal Heritage Trail, or to address less pleasant issues such as oil spills and medical waste.

Last winter, the New Jersey shore was battered by a series of storms. A lot of property was damaged. A lot of beach simply vanished. Partly as a result of these storms, we have an ongoing debate both in my state and nationally as to what to do and how to prevent damage.

My own research tells me we have yet a lot to learn about living on the shore. Many communities have watched their beaches steadily erode. In my state, we've spent millions to counter erosion, often with little to show for our efforts.

In 1982, and 1983, for instance, I had to get $12 million in emergency appropriations to save the access road to the Sandy Hook national recreation area. We pumped sand on the disappearing beach. By 1989, we needed another $6 million to do the same thing. Today, the Park Service is requesting yet $8 million more.

Frankly, we've been very simpleminded in our approaches—relying too often on pumped concrete or pumped sand. We've got to get new tools, new approaches. We need innovation and we need it now.

This past spring, my office was contacted by citizens from a small town on the New Jersey coast. They had been working with a local inventor and some researchers at a local technical institute. Their small experiment used two chains of concrete disks, laid across the beach, as a simple way to reverse erosion. Lo and behold, the experiment appeared to work: the beach grew.

Last spring, these folks reached out to me to help enlarge and better monitor the experiment. I wanted to help. But, other than requesting a specific line item in an Appropriations bill, there seemed to be little to encourage the town's interest and innovative spirit.

The legislation I am introducing today would change that. My bill will target and encourage innovation. It will reach out to communities, to counties, to States. It urges them to be creative, to find a better way to protect and enhance our shores.

Here's how the bill works: The bill sets up a program—managed by FEMA—which allows coastal municipalities, counties, and States to apply for Federal grants. The Federal Government is authorized to fund projects for up to $500,000. A local cost share of 25 percent is required.

The grants are intended for projects that target coastal erosion and are considered innovative or experimental. This is a program to develop new ideas first and last.

A special preference is given to those projects that use natural features, planning, temporary or portable structures to control erosion. If we can, we want to minimize the footprint of these projects and encourage flexibility. While an approach, for instance, that relied on poured concrete and embedded steel wouldn't be ruled out, it is not the first choice.

All grants would include a provision that required a complete analysis—at full government expense—of the long-term impacts and impacts to neighboring communities. We're not trying to find new Band-Aids. We're not trying to steal sand from one beach for another. We're looking for real solutions.

The grant money will be provided by the likely beneficiaries, with direct safeguards. The legislation calls for a separate fund financed by a $5 per year fee on coastal community flood insurance policies. However, this is not your normal trust fund: first, if the money is not spent appropriately and is allowed to accumulate, the authority to collect the fee is withdrawn; second, every contributing policy holder will get an annual accounting of the program—this will help spread the word about the program, and its successes and failures; and third, after four years, the program stops and all unobligated funds are returned to the policy holders.

Additionally, the bill calls on the FEMA flood insurance managers to develop a list of approved erosion reduction techniques. FEMA is authorized to allow appropriate flood insurance discounts to those communities that aggressively employ these techniques and reduce the risks of erosion.

What I've tried to do is create a small, responsible and forward looking program. I've tried to make sure that the funds will actually be there to implement the program. I've tried to safeguard those funds so they don't get hijacked to other purposes.

At some point, the Senate will turn to consider reforms to the national flood insurance program. I hope that at that time we can consider this bill and decide that it is an appropriate response to our pressing needs.

I ask unanimous consent to have the text of the legislation printed following these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Local Innovation and Coastal Protection Act of 1992".

SEC. 2. PROGRAM AUTHORITY.

(a) In General.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:

"SEC. 1366. EROSION MITIGATION DEMONSTRATION PROGRAM.

"(a) In General.—The Director shall make grants, with amounts made available from the Coastal Erosion Control Fund established under section 1367, to demonstrate the feasibility of innovative mitigation activities designed to minimize coastal erosion, preserve shorelines, and avoid environmental degradation.

"(b) Eligible Recipients.—The Director may make grants under this section to—

"(1) any State; and

"(2) any community participating in the national flood insurance program under this title that—

"(A) has suffered recurring flood damages and claims, as determined by the Director; and

"(B) is in full compliance with the requirements under the national flood insurance program.

"(c) Eligible Activities.—

"(1) In general.—A grant under this section may be used to develop and test innovative techniques to minimize coastal erosion and preserve shorelines.

"(2) Priority.—In making grants under this section, the Director shall give a priority to eligible recipients that conduct projects to demonstrate the feasibility of techniques that—

"(A) have application to more than 1 location;

"(B) substantially broaden the applicability of proven erosion control techniques; or

"(C) avoid permanent structural alterations and rely instead on natural designs, including the use of vegetation, or temporary structures, to accomplish their goal.

"(d) Applications.—The Director shall make grants under this section on the basis of a nationwide competition, in accordance with such application forms and procedures as the Director may establish.

"(e) Maximum Amount.—The total amount of any grant under this section may not exceed $500,000 for any project assisted under this section.

"(f) Program Requirements.—

"(1) Matching requirements.—

"(A) In general.—Except as provided in subparagraph (C), a grant under this section may not exceed 3 times the amount that the recipient certifies, as the Director shall require, that the recipient will contribute from non-Federal funds to carry out activities assisted with amounts provided under this section.

"(B) Non-federal funds.—For purposes of this subsection, the term 'non-Federal funds' includes—

"(i) State or local agency funds,

"(ii) any salary paid to staff to carry out the activities of the recipient,

"(iii) the value of the time and services contributed by volunteers to carry out such activities (at a rate determined by the Director), and

"(iv) the value of any donated material or building and the value of any lease on a building.

"(C) No match required for evaluation.—No non-Federal contribution is required for the conduct of evaluations under paragraph (2).

"(2) Report.—Not later than 5 years after the receipt of a grant under this section, the recipient of the grant shall transmit to the Director a report that—

"(A) evaluates the long-term effectiveness of the techniques that were developed under this section; and

"(B) assesses any impact that such techniques have had on adjacent coastal areas.

"(g) Report to Congress.—The Director shall transmit to the Congress an annual report that—

"(1) summarizes the erosion mitigation techniques developed pursuant to this section;

"(2) describes the status of the Coastal Erosion Control Fund established under section 1367; and

"(3) recommends any legislative or administrative action necessary to further the purposes of this section.

"(h) Authorization.—There are authorized to be appropriated to carry out this section, from the Coastal Erosion Control Fund under section 1367, $12,500,000 for each of the fiscal years 1993 through 1996.".

SEC. 3. ESTABLISHMENT OF COASTAL EROSION CONTROL FUND.

Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by section 2, is further amended by adding at the end the following new section:

"SEC. 1367. ESTABLISHMENT OF COASTAL EROSION CONTROL FUND.

"(a) In General.—The Director shall establish in the Treasury of the United States a fund to be known as the Coastal Erosion Control Fund (hereafter in this section referred to as the 'Fund'), which shall be available, to the extent provided in appropriation Acts, for grants under section 1366.

"(b) Credits.—The Fund shall be credited with any premium surcharges assessed under section 1308(e).".

SEC. 4. INSURANCE PREMIUM MITIGATION SURCHARGE.

(a) In General.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by adding at the end the following new subsections:

"(e) Notwithstanding any other provision of this title, the Director shall assess, with respect to each contract for flood insurance coverage under this title, an annual mitigation surcharge of $5. The surcharges shall be paid into the Coastal Erosion Control Fund under section 1367, and shall not be subject to any agents' commissions, company expenses allowances, or State or local premium taxes.

"(f) The Director shall not assess any surcharge under subsection (e) if the balance of the Fund exceeds $15,000,000.

"(g) The Director shall transmit to those who paid a surcharge under subsection (e)—

"(1) an annual report describing the expenditures of the Fund during the preceding fiscal year; and

"(2) any unobligated funds that remain in the Fund at the end of fiscal year 1996.".

(b) Applicability.—The amendment made by subsection (a) shall apply to any contract for flood insurance under the National Flood Insurance Act of 1968 issued or renewed after the date of enactment of this Act.

SEC. 5. INSURANCE RATE INCENTIVES FOR EROSION MITIGATION EFFORTS.

Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by sections 2 and 3, is further amended by adding at the end the following new section:

"SEC. 1368. INSURANCE RATE INCENTIVES FOR EROSION MITIGATION EFFORTS.

"(a) Preferred Erosion Mitigation Measures.—The Director shall evaluate the effectiveness of the erosion mitigation measures funded under section 1366 and shall publish a list of the most effective of such measures in the Federal Register.

"(b) Rate Incentives for Communities.—The Director shall provide incentives in the form of adjustments in the premium rates for flood insurance coverage in areas that the Director determines have implemented erosion mitigation measures contained in the list published pursuant to subsection (a).".•

By Mr. BRYAN:

S. 3150. A bill to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL TRADE COMMISSION ACT AMENDMENTS

• Mr. BRYAN. Mr. President, as chairman of the Commerce Committee Consumer Subcommittee, I am proud to introduce today legislation to reauthorize the Federal Trade Commission. The Federal Trade Commission, Mr. President, is charged with the responsibility of ensuring fair competition in our Nation's markets, and protecting consumers from unfair and deceptive acts and practices. The Commission's antitrust authority is derived from its administration of the Sherman, Clayton, and Robinson-Patman antitrust acts, all of which are designed to prevent unlawful restraints on trade and commerce.

The Commission's consumer protection authority is provided to it under the Federal Trade Commission Act, which provides the FTC the authority to prevent unfair and deceptive acts and practice. These kinds of practices include telemarketing fraud, mail scams, and other methods of fraudulent contractual inducements. These types of scams, Mr. President, cost the American public billions of dollars a year. At the beginning of this Congress, Mr. President, I, along with Senator McCain, introduced legislation to enhance the FTC's authority to prevent and prosecute these kinds of activities. The bill, S. 1392, was passed unanimously by the Senate last year, and is now awaiting consideration by the House of Representatives.

To ensure adequate protection of consumers, and fair competition in the marketplace, it is imperative that the Congress acts to provide the appropriate authorization for the Commission. The legislation I am introducing, Mr. President, provides an increase in the Commission's funding to ensure that it has the appropriate resources to carry out its duties, and fulfill its legislative mandates. The legislation also includes a number of provisions to enhance and clarify the Commission's authority in certain areas.

It has been over a decade since the FTC was last authorized. This, in my opinion, is too long of a period for any agency to go without an authorization.

I plan to act quickly in moving this legislation. The Consumer Subcommittee has already held a hearing to examine the provisions contained in the bill. The Commerce Committee, in the last several Congresses, has reported authorizing bills for the Commission, which have been passed by the Senate. Therefore, Mr. President, I have no doubt that once the legislation is reported that my colleagues will give their unanimous support for this legislation.•

By Mr. DECONCINI:

S. 3151. A bill to amend title 35, United States Code, to permit the filing of a provisional application for a United States patent by describing the invention on a publication in the United States, and to facilitate the filing of patent applications in foreign countries by United States inventors; to the Committee on the Judiciary.

PATENT FILING SIMPLIFICATION ACT

• Mr. DECONCINI. Mr. President, I rise to introduce legislation that will make it easier for American inventors, universities, and companies to file patent applications in the United States and abroad. I hope that this legislation will encourage discussion of the best way to reduce the cost of filing patent applications at home and abroad. It is a rather unique concept that will require much discussion and thorough analysis.

The Publication Filing Act of 1992 would assist patent applicants who publish descriptions of their inventions in technical journals or other publications before they file their application papers in the U.S. Patent and Trademark Office. The bill would treat a publication in a technical journal as a patent application filing for as long as 1 year before any papers would have to be filed in the Patent and Trademark Office, provided certain requirements were met. In other words, the publication would serve as a provisional patent application.

This would allow American applicants to postpone some of the costs of filing a normal patent application in the Patent and Trademark Office for up to a year while preserving all of their U.S. and foreign patent rights. During the year, an applicant might be able to develop the invention further or investigate its marketability or patentability. Some applicants might find by the end of the year that it would not be worthwhile for them to proceed; if so, they would have avoided the cost of filing formal papers in the Office.

To take full advantage of the bill, an inventor would publish a written description of the invention in a technical journal or other publication before revealing the invention to the public in any other manner. The publication would describe the invention in the same detail required for a normal patent application, but would not include patent "claims," an oath, or other formal components of a normal patent application. No papers would have to be filed in the Patent and Trademark Office or any fee paid to the Office at the time of publication.

Within a year after publication, the inventor would file the necessary documents and pay the necessary fees to the Patent and Trademark Office. The Office would announce the filing and open the application papers to public inspection promptly, using the procedure that is used today from announcing and opening "reissue" patent applications. This would enable members of the public who were aware of a publication to determine within a year whether the invention described in it might be subject to patent protection. If the applicant wanted to obtain foreign patents, foreign applications also would have to be filed within a year after the publication, consistent with the 1-year period for foreign filing allowed by the Paris Convention for the Protection of Industrial Property.

The main benefits to applicants from filing by publishing are as follows:

First, the bill would enable applicants to make their inventions public for a year without losing their foreign patent rights. Under existing U.S. patent law, a party who makes an invention public has up to a year to file a patent application in the U.S. Patent and Trademark office without losing U.S. rights, but loses foreign rights if the invention is made public even one day before filing an application in the U.S. In effect, my bill provides American inventors with a 1-year grade period for foreign filing.

Second, if the United States decides to switch to a first-to-file system, as contemplated in S. 2605, which I introduced earlier this year, the Publication Filing Act, by making the date of publication a filing date, would allow parties to publish their inventions without fear of another party separately making the same invention and winning the patent rights by being the first to file. Under a first-to-file system, it becomes more important to have the earliest possible filing date. The bill establishes a relatively simple and inexpensive procedure for obtaining a filing date.

This legislation does not remove any options for patenting that exist today and it would add very little to the work load of the Patent and Trademark Office. The result of the bill would be that a larger number of patent applicants would elect to publish articles than is the case today, which would result in more rapid dissemination of technological information among inventors, scientists, and engineers.

Mr. President, the idea for this bill came from a joint hearing of the Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks and the House Judiciary Subcommittee on Intellectual Property and Administration of Justice held on April 30, 1992, regarding S. 2605/H.R. 4978, the Patent System Harmonization Act of 1992. The bill I am introducing today complements the legislative proposals for patent law harmonization.

The Subcommittees heard testimony on the need for harmonizing patent systems to make it less expensive for American inventors to obtain patent protection worldwide. At the hearing, I expressed my general support for simplifying patent procedures. Patent law harmonization is still some distance away. The diplomatic conference to negotiate a patent law harmonization treaty will not be reconvened by the World Intellectual Property Organization in Geneva before July 1993. Assuming an acceptable treaty can be negotiated, the process of ratifying it and enacting implementing legislation will require additional time.

The bill I am introducing today could be enacted without waiting for patent law harmonization. The changes in law proposed by this bill are compatible both with the first-to-invent system followed in the United States and with the first-to-file system that the United States presumably will adopt if it agrees to a harmonization treaty.

Mr. President, this bill will be especially helpful to universities. University-developed technology often is far more valuable if foreign rights as well as United States rights can be licensed. Thus, universities as well as companies are increasingly concerned with the need to obtain foreign patent rights.

Unlike the United States, most foreign countries do not have grade periods in their patent laws. They require "absolute novelty" of the invention at the time of filing the application. This means that any inventor who makes the invention public even 1 day before filing a patent application loses patent rights. The only way to avoid losing rights is to have a filing date in that country or a right of property in an application filed in another Paris Convention member country before the invention is made public.

This situation creates a problem for university research researchers. University researchers are often more interested in pursuing their basic conceptual research and publishing their results for the benefit of the scientific community. Thus, they regularly publish descriptions of their work at an early date. Unfortunately, once a university professor publishes an article in a technical journal describing an invention without consulting a patent attorney, foreign rights are lost.

In our joint Judiciary Committee hearing on S. 2605/H.R. 4978, Howard W. Bremer, testifying on behalf of the Association of University Technology Managers, said it would be useful for university publications to be accorded the equivalent of a priority date for patenting purposes as of the date of publication. Mr. Bremer's suggestion was for the patent law harmonization treaty to accord a publication the equivalent of a priority date. My bill would provide this benefit through an amendment to domestic patent law without waiting for a treaty.

The bill takes advantage of a provision in article 4 of the Paris Convention which affords a right of priority to any "filing that is equivalent to a regular national filing under the domestic legislation of any country * * *." By treating a publication in the United States as a filing, an inventor would enjoy the Paris Convention right of priority, meaning that the inventor would have up to a year to file a patent application in any other Paris Convention member country, notwithstanding the absolute novelty requirements in most countries.

It is my belief that this bill is needed even if a harmonization treaty is consummated. The treaty will permit an inventor who invents second and files first to obtain the patent over an inventor who invents and publishes first but files second. By affording a filing date as of the date of publication, the bill will enable the first inventor to file a patent application quickly by publishing and thereby avoid the possibility of being beaten by a second inventor.

The bill also provides a few advantages to inventors who file only in the United States. It provides extra time to file papers in the Patent and Trademark Office after the invention had become public in some way other than a publication, such as a public use or sale. It gives a procedural advantage in patent interferences to a party who obtains an earlier filing date by publishing the invention.

I look forward to hearing the views of inventors, patent owners, professional and trade associations, and other interested parties on this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Filing Simplification Act of 1992".

SEC. 2. PROVISIONAL APPLICATION THROUGH PUBLICATION.

Section 111 of title 35, United States Code, is amended by—

(1) by inserting "(a)" before "Application for patent"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) A publication describing the invention in the English language in the United States published or authorized by an inventor shall constitute a regularly filed application for patent, filed on the date of publication in the United States, if—

"(A) within the earlier of one year after the date of publication or one year after a foreign filing date applicable under section 119 of this title, the applicant files with the Commissioner—

"(i) a copy of the publication;

"(ii) proof of the date of publication; and

"(iii) the components of an application specified in the second sentence of subsection (a); and

"(B) the nature of the publication and the proof of the date of publication meet the requirements of regulations promulgated by the Commissioner.

"(2) Proof of receipt of a copy of a publication in the Patent and Trademark Office library shall be conclusive evidence of publication on the date of receipt. The Commissioner may establish a surcharge to recover the cost to the Office of processing applications filed by publication.".

SEC. 3. NONCONFIDENTIALITY.

Section 122 of title 35, United States Code, is amended by inserting ", except applications filed by publication in the United States under section 111(b) of this title," after "Applications for patents".

SEC. 4. DESIGN PATENTS.

(a) IN GENERAL.—Section 172 of title 35, United States Code, is amended to read as follows:

§172. Right of priority; novelty and loss of right; provisional application

"The right of priority provided for by section 119 of this title and the times specified in sections 102(d) and 111(b) shall be six months in the case of designs.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 16 of title 35, United States Code, is amended by amending the item relating to section 172 to read as follows:

"172. Right of priority; novelty and loss of right; provisional application.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect on January 1, 1994, and shall apply to—

(1) any publication occuring on or after January 1, 1993; and

(2) any application filed relating to such publication.●

ADDITIONAL COSPONSORS

S. 32

At the request of Mr. PELL, his name was added as a cosponsor of S. 32, a bill to increase the rate of special pension payable to persons on the Medal of Honor Roll, and for other purposes.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1451

At the request of Mr. BIDEN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 2236

At the request of Mr. SIMON, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2236, a bill to amend the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the Act.

S. 2385

At the request of Mr. RIEGLE, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 2385, a bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of United States permanent resident aliens, and for other purposes.

S. 2900

At the request of Mr. DOMENICI, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2900, a bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act) until certain studies and the reauthorization of the Act are carried out, and for other purposes.

S. 2909

At the request of Mr. BENTSEN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2909, a bill to amend the Tariff Act of 1930 to establish an Office of Trade and Technology Competitiveness in the International Trade Commission.

S. 2914

At the request of Mr. DURENBERGER, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2918

At the request of Mr. GRAHAM, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Virginia [Mr. WARNER], the Senator from Alaska [Mr. STEVENS], the Senator from South Carolina [Mr. THURMOND], the Senator from Wyoming [Mr. WALLOP], the Senator from Utah [Mr. GARN], the Senator from Oklahoma [Mr. BOREN], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 2918, a bill to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people.

S. 2941

At the request of Mr. RUDMAN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 2973

At the request of Mr. CRANSTON, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2973, a bill to amend title 38, United States Code, to improve the care and services furnished to women veterans who have experienced sexual trauma, to study the needs of such veterans, to expand and improve other Department of Veterans Affairs programs that provide such care and services, and for other purposes.

S. 3097

At the request of Mr. GORTON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 3097, a bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes.

S. 3119

At the request of Mr. CONRAD, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 3119, a bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes.

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Maine [Mr. COHEN], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

SENATE CONCURRENT RESOLUTION 134—COMMENDING THE PEOPLE OF THE PHILIPPINES ON THEIR GENERAL ELECTIONS

Mr. CRANSTON (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 134

Whereas achieving the first peaceful and constitutional succession of elected presidents is one of the most difficult and important steps in the establishment of democratic government;

Whereas the Philippines, under the leadership of President Corazon Aquino, has successfully completed this democratic transition and, thereby secured the final victory of the 1986 Peoples Power Revolution;

Whereas Fidel Ramos was a key participant in the 1986 Peoples Power Revolution that ended the Marcos dictatorship, and subsequently played a crucial role in opposing 6 abortive coup attempts that threatened to overthrow the democratically elected government;

Whereas newly-elected President Fidel Ramos will face the important challenge of continuing the difficult economic and political reforms begun by his predecessor;

Whereas despite a series of natural disasters (including earthquakes, typhoons, and volcanic eruption), the Philippine economy has turned from annual contraction under the previous regime to a yearly growth rate of 3 to 4 percent;

Whereas the American people can be proud of the role the United States has played in helping Filipinos succeed in the reestablishment of democracy in their country and in beginning free market economic reforms; and

Whereas despite the withdrawal of United States Armed Forces from Clark Air Field and Subic Bay Naval Station, the United States and the Philippines continue to be bound together by their Mutual Defense Treaty and to share important security interests in the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That in light of the continued strong security and economic interests shared by the United States and the Philippines as well as our deep cultural and historic ties, the Congress—

(1) congratulates Fidel Ramos on his election to the Presidency of the Philippines;

(2) commends the people of the Philippines for institutionalizing democratic government in their country by supporting peaceful and constitutional elections;

(3) urges the President of the United States to support strongly continued economic and political reform by the new Philippine Government; and

(4) believes a new era has begun in the United States-Philippine relations and recommends that a post-bases relationship be built on the cooperative pursuit of mutually beneficial goals.●

Mr. CRANSTON. Mr. President, today I am submitting a concurrent resolution on behalf of myself and Senator LUGAR commending the Philippines for completing peaceful general elections in May. These elections indicate that democracy has taken firm hold in the Philippines. The resolution also congratulates Fidel Ramos for his election to the Presidency. President-elect Ramos' victory puts the finishing touches to President Corazon Aquino's legacy of returning democratic rule to the Philippines.

Since 1986, the Philippines has overcome many obstacles in the way of its political and economic development. The resilience of this country in the face of recurring natural disasters is impressive. Its commitment to securing a democratic transition is heartening.

The resolution also recognizes that a new era in United States-Philippine relations has begun. This relationship should be built upon cooperation and mutual goals for democracy and peace in the region. It is important that the United States continue to support economic and political reform in the Philippines. The Philippines has served as a democratic example for its neighbors in the region. The United States must maintain its investment in fostering democratic growth by upholding its commitment to the multilateral assistance initiative.

At present, the Philippines future looks bright, particularly when one considers the rich oil and natural gas deposits recently discovered off its shores. President-elect Ramos is working aggressively to create an administration that will maintain stability and foster economic growth throughout the decade. The United States can help the Philippines reach its goals through continued economic support.

I urge my colleagues to join me in recognizing the Philippines accomplishments and congratulating it on its successful democratic transition.

SENATE RESOLUTION 330—ORIGINAL RESOLUTION REPORTED RELATING TO AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

Mr. PELL, from the Committee on Foreign Relations, reported the following original resolution; which was placed on the calendar:

S. RES. 330

Whereas the Republic of Bosnia-Hercegovina is internationally recognized as an independent state and is a member of the United Nations and a participant in the Conference on Security and Cooperation in Europe;

Whereas attempts to bring about a permanent cessation of hostilities precipitated by Serbia and Serbian-backed forces in Bosnia-Hercegovina through negotiations have repeatedly failed;

Whereas horrible atrocities are being committed by Serbian-backed forces against the civilian population, including the "ethnic-cleansing" of regions inhabited by non-Serbs;

Whereas the United States and other Contracting Parties to the International Convention on the Prevention and Punishment of the Crime of Genocide may, under Article VIII, "call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide" or any of the other "Acts Constituting Genocide" enumerated in Article III.

Whereas officials of the International Committee of the Red Cross have been denied access to prison camps and interment camps throughout Bosnia-Hercegovina even though such officials are entitled to access to such camps under Article 143 of the 1949 Geneva Convention.

Whereas United Nations and Red Cross relief convoys carrying much needed supplies of food and medicine are being repeatedly blocked and in some cases have been attacked by Serbian-backed forces;

Whereas the Security Council of the United Nations voted unanimously to dispatch additional forces to reopen Sarajevo's airport, and the delivery of supplies of humanitarian assistance to the city's beleaguered population is taking place under the protection of these forces but with great difficulty;

Whereas the Security Council also endorsed the cease-fire plan negotiated by the European Community Envoy which would place all heavy weapons in the possession of factions in Bosnia-Hercegovina under international supervision;

Whereas the president of the democratically elected Government of Bosnia-Hercegovina has issued urgent appeals for immediate assistance from the international community; and

Whereas the situation in Sarajevo and elsewhere in Bosnia-Hercegovina has reached a critical point requiring immediate and decisive action by the international community: Now, therefore, be it *Resolved*, That it is the sense of the Senate that—

(1) the President should immediately call for an emergency meeting of the United Nations Security Council in order to authorize, under Article 42 of the United Nations Charter, all necessary means, including the use of military force, giving particular consideration to the possibility of "demonstrations" of force as specified in Article 42, to implement—

(a) a United Nations-sponsored effort to provide humanitarian relief to civilians in Bosnia-Hercegovina; and

(b) a United Nations-sponsored plan to place heavy weapons belonging to all factions in Bosnia-Hercegovina under U.N. supervision;

(2) during such meeting, the Security Council should—

(a) consider the means by which the United Nations and International Red Cross personnel shall be granted access to refugee and prisoners of war camps in all of the republics of the former Yugoslavia;

(b) review the effects on Bosnia-Hercegovina of the arms embargo imposed on all states in the former Yugoslavia pursuant to United Nations Security Council Resolution 713 and determine whether the termination or suspension of the application of that resolution to Bosnia-Hercegovina could result in increased security for the civilian population of that country; and

(c) determine how to convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Yugoslavia and to accumulate evidence, charge, and prepare the basis for trying individuals believed to have committed such crimes; and

(3) when requested by the President, the Congress should promptly consider authorization for any use of United States military forces pursuant to, and only pursuant to, the U.N. authorization described in paragraph 1.

SENATE RESOLUTION 331—COMMEMORATING THE HUNGARIAN NATIONAL HOLIDAY

Mr. DOLE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 331

Whereas the Republic of Hungary on August 20, 1992, will celebrate the founding of the Hungarian state by King Saint Stephen in 1000 AD;

Whereas the Hungarian people, because of their successful democratic revolution, will be able to celebrate this national and religious holiday for the first time since the Communists consolidated power in Hungary in 1947;

Whereas Hungarian-Americans, who have made major contributions to the prosperity and well-being of the United States, will join joyously in this celebration: Now, therefore, be it

Resolved, That the United States Senate hereby congratulates the Republic of Hungary on the Hungarian National Holiday and extends to Hungary its best wishes for continued success in establishing a free, prosperous, and democratic nation.

Mr. DOLE. Mr. President, I rise today to submit a resolution to commemorate the founding of the Hungarian state by King Saint Stephen in the year 1000 AD.

The Hungarian people have waited many long years—almost 50 years—to celebrate this national and religious holiday. And, having successfully ousted the Communist government that held them hostage for so many years, the Hungarian people will once again honor this festive holiday on August 20.

Mr. President, I am confident that the entire Senate membership joins me in congratulating the Hungarian Government and the Hungarian people on their national holiday. We also extend our congratulations to Hungarian-Americans, who had made major contributions to the success and well-being of the United States of America.

AMENDMENTS SUBMITTED

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1993

CRAIG (AND OTHERS) AMENDMENT NO. 2903

Mr. CRAIG (for himself, Mr. DeConcini, Mr. Gorton, Mr. Stevens, Mr. Burns, and Mr. Domenici) proposed an amendment to amendment No. 2902 proposed by Mr. Fowler to the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, as follows:

In lieu of the matter proposed to be inserted, insert the following new section:

SEC. . FOREST SERVICE APPEALS.

(a) In General.—In accordance with this section, the Secretary of Agriculture shall modify the procedure for appeals of decisions of the Forest Service.

(b) Right to Appeal.—Not later than 30 days after the date of issuance of a decision of the Forest Service, a person who was involved in the public comment process for the underlying decision may file an appeal.

(c) Disposition of Appeal.—

(1) Informal disposition.—

(A) In general.—Subject to subparagraph (B), a designated employee of the Forest Service shall offer to meet with each individual who files an appeal in accordance with subsection (b) and attempt to dispose of the appeal.

(B) Time and location of meeting.—Each meeting in accordance with subparagraph (A) shall take place—

(i) not later than 15 days after the date of filing of the appeal; and

(ii) at a location designated by the Chief of the Forest Service that is in the vicinity of the lands affected by the decision.

(2) Formal review.—If the appeal is not disposed of in accordance with paragraph (1), an appeals hearing officer designated by the Chief of the Forest Service shall review the appeal and recommend to the official responsible for the decision the appropriate disposition of the appeal. The official shall decide the appeal.

(3) Time for disposition.—Disposition of appeals under this subsection shall be completed not later than 30 days after the date of filing of the appeal.

(d) Stay.—Unless the Chief of the Forest Service determines that an emergency situation exists with respect to a decision of the Forest Service, implementation of the decision shall be stayed during the period beginning on the date of the decision and ending on—

(1) if no appeal of the decision is filed, 30 days after the date of filing of the appeal; or

(2) if an appeal of the decision is filed, the date of disposition of the appeal under subsection (c).

GORTON (AND OTHERS) AMENDMENT NO. 2904

Mr. GORTON (for himself, Mr. Packwood, Mr. Craig, Mr. Seymour, Mr. Burns, and Mr. Murkowski) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 67 of the bill, strike lines 9 through 11 and insert in their place the following:

"Funding of Forest Health Improvement Projects.—To meet the forest health emergency now experienced on many of the Federal forest lands, the Secretary of Agriculture on National Forest System lands and the Secretary of Interior on public lands shall expend such sums as are necessary within available funds from the salvage sale fund authorized by section 14(h) of the National Forest Management Act of 1976 (16 U.S.C. 472a(h)) and the salvage sale trust fund within the Bureau of Land Management established by this Act. Such projects shall employ a combination of multi-resource management practices, treatments, and protections. Such projects shall be designed to accomplish the objective of improving forest health through management actions that improve stand density and composition, salvage dead and dying timber, remove or treat sources of infection or infestation, reduce excess fuels, and leave remaining vegetation in a condition designed to increase its opportunity to contribute to a healthy, productive ecosystem. In the execution of such projects, the Secretary of Agriculture and the Secretary of the Interior are authorized to use the authorities in the Knutson-Vandenberg Act of 1930 (16 U.S.C. 576) as amended, the provisions of the National Forest Management Act of 1976 (16 U.S.C. 472a), as amended, the Federal Land Policy and Management Act of 1976 (16 U.S.C. 1701 et seq.), and other applicable law.

"Environmental Analysis.—Any forest health improvement project found by the Secretary of Agriculture or the Secretary of the Interior to be not inconsistent with the long-term management goals and objectives of a land management plan for the administrative unit in which the activity is to occur shall be deemed not to be a major Federal action significantly affecting the quality of the human environment for the purpose of subsection (C) of section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)). The Secretary of Agriculture and the Secretary of the Interior shall establish by regulation a policy providing for categorical exclusions from requirements established pursuant to such section for certain types of salvage based on the extent to which the salvage includes selective thinning, minimal building of new roads, minimum loss of healthy standing timber, and other justifying factors.

"ADMINISTRATIVE REVIEW—Unless the Secretary of Agriculture or the Secretary of the Interior specifically provide for administrative review, citizens of the United States may seek immediate judicial review of a decision by the respective Secretary to conduct a forest health improvement project in the district court of the United States for the district in which the project is to occur. If the respective Secretary provides an opportunity for administrative review, standing to bring an administrative appeal of a forest health improvement project shall be available only to persons who have raised the issue or issues for which administrative review is sought in written or oral comment submitted during the preparation of the project.

"SPOTTED OWL FORESTS.—Notwithstanding the Forest Service Record of Decision of March 3, 1992, 57 Fed. Reg. 8621 (March 11, 1992), the National Forest Management Act of 1976, and the National Environmental Policy Act of 1969, the Forest Service is authorized to allow salvage timber sales in Habitat Conservation Areas and other suitable habitat for the northern spotted owl on the spotted owl forests in Washington, Oregon and California outside any units of the National Wilderness Preservation System and other areas in which timber harvesting is expressly prohibited by statute, unless such salvage will adversely affect spotted owl habitat as determined by the Secretary of Agriculture.

JEFFORDS (AND METZENBAUM) AMENDMENT NO. 2905

Mr. JEFFORDS (for himself and Mr. METZENBAUM) proposed an amendment to the bill H.R. 5503, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . Section 6 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905 and 1751) is amended by adding at the end the following new subsections:

"(c)(1) Notwithstanding any other provision of law, the Secretary of Agriculture, with respect to national forest lands in the 16 contiguous western States (except National Grasslands) administered by the Forest Service where domestic livestock grazing is permitted under applicable law, and the Secretary of the Interior with respect to public domain lands administered by the Bureau of Land Management where domestic livestock grazing is permitted under applicable law, shall establish for the grazing season that commences on March 1, 1993, and ends on February 28, 1994, a domestic livestock grazing fee equal to $2.40 per animal unit month.

"(2) The grazing fee established in paragraph (1) shall apply to grazing permits on Federal lands managed by the Forest Service (with the exception of National Grasslands) or the Bureau of Land Management, except that:

"(A) If a grazing applicant or permittee presents certified evidence that the applicant or permittee owns or controls, whether through direct ownership or through leasing or management agreements a total of fewer than (i) 500 head of cattle or horses or (ii) 2,500 head of sheep or goats, or both, on grazing land under all types of ownership, including Federal, State, local, and private, the fee shall be the greater of—

"(i) the fee determined by applying the formula described in subsection (a); or

"(ii) $1.92 per animal unit month.

"(B) All livestock owned or controlled by an applicant or permittee, whether in one or several States and whether grazed on Federal lands or not, shall be included in calculating the total number of livestock under paragraph (1).

"(C)(i) Subject to clause (ii), the Forest Service and the Bureau of Land Management shall determine by regulation the type of certified evidence applicants or permittees must provide to reflect aggregate ownership or control of domestic livestock for the purpose of determining the appropriate grazing fee.

"(ii) Proofs of livestock ownership under applicable State laws may include bills of sale, brand inspection records, State and local property tax assessments, incorporation papers, and lease agreements.

"(D) For purposes of this subsection, individual members of a grazing association shall be considered as individual applicants or permittees for the purpose of determining the appropriate fee level to be assessed.

"(E) Executive Order No. 12548, dated February 14, 1986, shall not apply to grazing fees established pursuant to this Act.

"(d) The grazing advisory boards established pursuant to an action of the Secretary, notice of which was published in the Federal Register on May 14, 1986 (51 Fed. Reg. 17874), are abolished. The advisory functions exercised by the boards, shall, after the date of enactment of this subsection, be exercised only by the appropriate councils established pursuant to section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739).

"(e)(1) Funds appropriated pursuant to section 5 or any other provision of law relating to disposition of the Federal share of receipts from fees for grazing on public domain lands or National Forest lands in the 16 contiguous western States shall be used for—

"(A) restoration and enhancement of fish and wildlife habitat;

"(B) implementation and enforcement of applicable land management plans, allotment plans, and regulations regarding the use of the lands for domestic livestock grazing;

"(C) land and range improvements and conservation practices on public lands used for the purposes of grazing, including restoration and improved management of riparian areas; and

"(D) increased production of forage and browse for livestock and wildlife habitat needs.

"(2) The funds referred to in paragraph (1) shall be distributed as the Secretary concerned considers advisable after consultation and coordination with the advisory councils established pursuant to section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739) and other interested parties, including local conservation districts in areas where applicable.".

LOTT AMENDMENT NO. 2906

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 5503, supra, as follows:

On page 91, line 14, strike "$144,245,000" and insert in lieu thereof "$144,110,000".

On page 20, line 21, strike "$206,445,000" and insert in lieu thereof "$206,590,000".

On page 21, line 3, following "1989" insert, ": *Provided*, That of the funds provided under this heading, $135,000 shall be available for exhibit design and archaeological survey for the continued preparation of the Corinth, Mississippi site development.".

BOND AMENDMENT NO. 2907

Mr. BYRD (and Mr. NICKLES) (for Mr. BOND) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 66, between lines 3 and 4, insert the following new paragraph:

None of the funds made available under this Act may be used to purchase, procure, or upgrade computer hardware or software used by an officer or employee of the Forest Service prior to the implementation, by the Secretary of Agriculture, of reforms of the field structure and organization of the Department of Agriculture.

WALLOP AMENDMENT NO. 2908

Mr. BYRD (and Mr. NICKLES) (for Mr. WALLOP) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 2, line 12, strike "545,517,000" and insert "$545,665,000".

On page 18, line 24, strike "$989,330,000" and insert "$989,282,000".

STEVENS AMENDMENT NO. 2909

Mr. STEVENS proposed an amendment to the bill H.R. 5503, supra, as follows:

Insert at the appropriate place in the bill:

"Notwithstanding any other provision of law, the Secretary of the Interior is authorized to exchange a property, located at 132–140 Manor Avenue, Anchorage, Alaska, for property that meets requirements of the United States Geological Survey located in Anchorage Alaska owned by AHPI/Municipality of Anchorage. This exchange will be based on terms and conditions determined by the Secretary to be in the best interests of the United States Government. Either party is authorized to equalize the value of the properties involved through payment or receipt of cash or other consideration.".

REID (AND BUMPERS) AMENDMENT NO. 2910

Mr. REID (for himself and Mr. BUMPERS) proposed an amendment to the bill H.R. 5503, supra, as follows:

At the end of the bill, add the following section:

SEC. . NOTWITHSTANDING ANY OTHER PROVISION OF LAW.

(a) FINANCIAL GUARANTEE.—Prior to the commencement of any mineral activities conducted pursuant to the general mining laws causing more than minimal disturbance to the environment, the claimant shall furnish a bond, surety, or other financial guarantee, which may include, but not be limited to, the use of bond pools, in an amount as determined by the Secretary of not less than $200 or more than $2,500 per acre, conditioned upon compliance with the requirements of this Act and other applicable laws and regulations. Regardless of the financial limits of the preceding sentence, the bond, surety, or other financial guarantee shall not be less than the estimated cost to complete the reclamation of the disturbed land.

(b) REVIEW.—The Secretary shall review the bond, surety, or other financial guarantee for sufficiency not less than every five years.

(c) PHASED GUARANTEES.—The Secretary may reduce proportionately the amount of bond, surety, or other financial guarantee upon determination that any portion of reclamation is completed in accordance with this Act and applicable laws and regulations.

(d) RELEASE.—The Secretary shall provide for public notice prior to any reduction in, or final release of, a bond or other financial guarantee.

BILINGUAL VOTING ACT

SIMPSON AMENDMENT NO. 2911

Mr. SIMPSON proposed an amendment to the bill (H.R. 4312) to amend the Voting Rights Act of 1965 with respect to bilingual election requirements, as follows:

On page 2, line 3, strike "2007" and insert "1997".

On page 2, line 18, strike "10,000" and insert "20,000".

At the end of the bill, add the following:

SEC. . REPORT.

(a) REPORT.—Not later than May 1, 1997, the Director of the Census, in cooperation with the Attorney General, shall prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that shall include the following information:

(1) Voting participation rates among each language minority group, both on a national basis and for each covered jurisdiction.

(2) Voting participation rates among all voters as a group and English-speaker voters as a group, both on a national basis and for each covered jurisdiction.

(3) Any increases or decreases in voting participation for each of the groups described in paragraphs (1) and (2), both on a national basis and for each covered jurisdiction.

(4) The names and qualifying information for each State, and each political subdivision, in which at least 10,000 persons are covered individuals.

(5) The names and qualifying subdivision, in which at least 20,000 persons are covered individuals.

(6) The names and qualifying information for each covered jurisdiction.

(7) For each State, political subdivision, or covered jurisdiction described in paragraph (4), (5), or (6), information regarding—

(A) whether multilingual voting assistance is available in the State, political subdivisions, or jurisdiction; and

(B) if such assistance is available—

(i) the type of such assistance that is available; and

(ii) the number of persons who utilize such assistance, as an absolute number and as a percentage of the general population and of language minority groups.

(b) Definitions.—As used in this section:

(1) COVERED INDIVIDUAL.—The term "covered individual" means an individual who is—

(A) a citizen described in clause (i) of Section 203(b)(2)(A) of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a(b)(2)(A));

(B) a citizen in a language minority described in clause (ii) of such section; and

(C) a citizen in a covered jurisdiction.

(2) COVERED JURISDICTIONS.—The term "covered jurisdiction" means a jurisdiction that is

(A) a covered State or covered political subdivision under paragraph (2)(A) of section 203(b) of the Voting Rights Act of 1965; and

(B) is not excluded from the application of such section under paragraph (2)(B) of such section.

(3) LANGUAGE MINORITY GROUP.—The term "language minority group" has the meaning given the term in section 203(e) of the Voting Rights Act of 1965.

SEC. . STUDY OF VOTING FRAUD.

(a) STUDY.—The Attorney General shall conduct a study, covering all covered jurisdictions (as defined in section (b)(2)), to determine—

(1) whether multilingual voting assistance under section 203 of the Voting Rights Act of 1965 has been used, or implicated in efforts, to violate other laws, particularly laws requiring the use of documentary identification and citizenship as a requirement for voting; and

(2) if so, the extent to which the multilingual voting assistance has been so used or implicated.

(b) REPORT.—Not later than June 1, 1995, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report setting forth the findings of such study.

INDIAN TRIBAL COURTS

GORTON AMENDMENT NO. 2912

Mr. SIMPSON (for Mr. GORTON) proposed an amendment to the bill (S. 1752) to provide for the development, enhancement, and recognition of Indian tribal courts, as follows:

At the end of the bill, add the following new title:

TITLE IV—STUDY OF TRIBAL/FEDERAL COURT REVIEW

SEC. 401. STUDY.

(a) TRIBAL/FEDERAL COURT REVIEW.—A comprehensive study shall be conducted in accordance with subsection (b), of the treatment by tribal courts of matters arising under the Indian Civil Rights Act (25 U.S.C. 1301 et seq.) and of other Federal laws for which tribal courts have jurisdictional authority and regulations promulgated by Federal agencies pursuant to the Indian Civil Rights Act and other Acts of Congress. The study shall include an analysis of those Indian Civil Rights Act cases that were the subject of Federal court review from 1968 to 1978 and the burden, if any, on tribal governments, tribal courts, and Federal courts of such review. The study shall address the circumstances under which Federal court review of actions arising under the Indian Civil Rights Act may be appropriate or warranted.

(b) TRIBAL/FEDERAL COURT REVIEW STUDY PANEL.—The study required in subsection (a) shall be conducted by the Tribal/Federal Court Review Study Panel in consultation with tribal governments.

SEC. 402. TRIBAL/FEDERAL COURT REVIEW STUDY PANEL.

(a) COMPOSITION.—The Tribal/Federal Court Review Study Panel shall consist of—

(1) four representatives of tribal governments, including tribal court judges, two of whom shall be appointed by the Speaker of the House of Representatives and two of whom shall be appointed by the President pro tempore of the Senate; and

(2) four members of the United States Court of Appeals courts who shall be appointed by the Director of the Administrative Office of the United States Courts.

(b) PERSONNEL.—The Tribal/Federal Court Review Study Panel may employ, on a temporary basis, such personnel as are required to carry out the provisions of this title.

(c) FINDINGS.—The Tribal/Federal Court Review Study Panel, not later than the expiration of the 12-month period following the date on which moneys are made available to carry out this title, shall submit its findings and recommendations to—

(1) the Congress;

(2) the Tribal Judicial Conference; and

(3) the Director of the Administrative Office of the United States Courts.

(d) TERMINATION.—Not later than 30 days after the Panel has submitted its findings and recommendations under subsection (c), the Panel shall cease to exist.

SEC. 403. APPROPRIATIONS.

For purposes of carrying out the provisions of this title there are authorized to be appropriated such sums as may be necessary.

SEC. 404. PROHIBITION ON GRANTS.

Notwithstanding any other provision of this Act, no grants shall be made by the Conference under this Act after the expiration of the 18-month period following the date of enactment of this Act, unless the Tribal/Federal Court Review Study Panel has submitted its findings and recommendations to the Congress in accordance with subsection (c) of section 402 and a period of 60 days has expired following the submission of such findings and recommendations.

SMALL BUSINESS CREDIT CRUNCH RELIEF ACT

BUMPERS (AND KASTEN) AMENDMENT NO. 2913

Mr. SIMON (for Mr. BUMPERS, for himself and Mr. GORTON) proposed an amendment to the bill (H.R. 4111) to amend the Small Business Act to provide additional loan assistance to small businesses, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Credit and Business Opportunity Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act shall be as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED ACCESS TO CREDIT

Subtitle A—Section 7(a) Guaranteed Loan Program

Sec. 101. Short title.
Sec. 102. Authorizations.
Sec. 103. Buy American preference.

Sec. 104. State limitations on interest rates.

Subtitle B—Microloan Demonstration Program Amendments

Sec. 111. Short title.
Sec. 112. Findings.
Sec. 113. Microloan demonstration program amendments.
Sec. 114. Regulations.
Sec. 115. Authorization of appropriations.

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT AND RELATED ACTS

Subtitle A—Small Business Competitiveness Demonstration Program

Sec. 201. Extension of demonstration programs.
Sec. 202. Management improvements to the small business competitiveness demonstration program.
Sec. 203. Amendments to the dredging demonstration program.

Subtitle B—Defense Economic Transition Assistance

Sec. 211. Section 7(a) loan program.
Sec. 212. Small business development center program.

Subtitle C—Small Business Administration Management

Sec. 221. Disadvantaged small business status decisions.
Sec. 222. Establishment of size standards.
Sec. 223. Management of Small Business Development Center Program.

Subtitle D—Technical Amendments and Repealers

Sec. 231. Commission on minority business development.

TITLE III—STUDIES AND RESOLUTIONS

Subtitle A—Access to Surety Bonding

Sec. 301. Short title.
Sec. 302. Survey.
Sec. 303. Report.
Sec. 304. Definitions.

Subtitle B—Small Business Loan Secondary Market Study

Sec. 311. Secondary market for loans to small businesses.

Subtitle C—Contract Bundling Study

Sec. 321. Contract bundling study.

Subtitle D—Resolution Regarding Small Business Access to Capital

Sec. 331. Sense of the Congress.

TITLE I—IMPROVED ACCESS TO CREDIT

Subtitle A—Section 7(a) Guaranteed Loan Program

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Small Business Credit Crunch Relief Act of 1992".

SEC. 102. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4) Except as may be otherwise specifically provided by law, the amount of deferred participation loans authorized in this section—

"(A) shall mean the net amount of the loan principal guaranteed by the Small Business Administration (and does not include any amount which is not guaranteed); and

"(B) shall be available for a national program, except that the Administration may use not more than an amount equal to 10 percent of the amount authorized each year for any special or pilot program directed to identified sectors of the small business community or to specific geographic regions of the United States.";

(2) by amending subsection (e)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $5,978,000,000 in deferred participation loans and other financing. Of such sum, the Administration is authorized to make—

"(A) $5,200,000,000 in general business loans, as provided in section 7(a);

"(B) $53,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $725,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.";

(3) amending subsection (g)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $7,030,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $6,200,000,000 in general business loans as provided in section 7(a);

"(B) $55,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $775,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958."; and

(4) by amending subsection (i)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $8,083,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $7,200,000,000 in general business loans, as provided in section 7(a);

"(B) $58,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $825,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.".

SEC. 103. BUY AMERICAN PREFERENCE.

In providing financial assistance with amounts appropriated pursuant to the amendments made by this Act, the Administrator of the Small Business Administration shall, when practicable, accord preference to small business concerns which use or purchase equipment and supplies produced in the United States. The Administrator shall also encourage small business concerns receiving such assistance to purchase such equipment and supplies.

SEC. 104. STATE LIMITATIONS ON INTEREST RATES.

Section 7(a)(4) of the Small Business Act (15 U.S.C. 636(a)(4)) is amended by striking "The rate of interest on financings made on a deferred basis shall be legal and reasonable but" and inserting the following: "Notwithstanding the provisions of the constitution of any State or the laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any financing made on a deferred basis pursuant to this subsection".

Subtitle B—Microloan Demonstration Program Amendments

SEC. 111. SHORT TITLE.

This subtitle may be cited as the "Microlending Expansion Act of 1992".

SEC. 112. FINDINGS.

The Congress finds that—

(1) nationwide, there are many individuals who possess skills that, with certain short-term assistance, could enable them to become successfully self-employed;

(2) many talented and skilled individuals who are employed in low-wage occupations could, with sufficient opportunity, start their own small business concerns, which could provide them with an improved standard of living;

(3) most such individuals have little or no savings, a nonexistent or poor credit history, and no access to credit or capital with which to start a business venture;

(4) women, minorities, and individuals residing in areas of high unemployment and high levels of poverty have particular difficulty obtaining access to credit or capital;

(5) providing such individuals with small-scale, short-term financial assistance in the form of microloans, together with intensive marketing, management, and technical assistance, could enable them to start or maintain small businesses, to become self-sufficient, and to raise their standard of living;

(6) banking institutions are reluctant to provide such assistance because of the administrative costs associated with processing and servicing the loans and because they lack experience in providing the type of marketing, management, and technical assistance needed by such borrowers;

(7) many organizations that have had successful experiences in providing microloans and marketing, management, and technical assistance to such borrowers exist throughout the Nation; and

(8) loans from the Federal Government to intermediaries for the purpose of relending to start-up, newly established and growing small business concerns are an important catalyst to attract private sector participation in microlending.

SEC. 113. MICROLOAN DEMONSTRATION PROGRAM AMENDMENTS.

(a) IN GENERAL.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(A)—

(A) by amending clause (i) to read as follows:

"(i) to assist women, low-income, and minority entrepreneurs and business owners and other such individuals possessing the capability to operate successful business concerns, and, in particular, those entrepreneurs and business owners located in labor surplus areas or low-income areas;"; and

(B) in clause (iii)(I), by inserting ", particularly loans in amounts averaging not more than $5,000," after "small-scale loans";

(2) in paragraph (3)(A)—

(A) by striking "As part of" and inserting the following:

"(i) IN GENERAL.—As part of";

(B) by redesignating clauses (i) through (viii) as subclauses (I) through (VIII), respectively;

(C) in subclause (III), as redesignated, by striking "economic and unemployment" and inserting "economic, poverty, and unemployment";

(D) by amending subclause (VIII), as redesignated, to read as follows:

"(VIII) any plan to involve other technical assistance providers (such as counselors from the Service Corps of Retired Executives or small business development centers) or private sector lenders in assisting selected business concerns."; and

(E) by adding at the end the following:

"(ii) SELECTION OF INTERMEDIARIES.—In selecting intermediaries to participate in the program established under this subsection, the Administration shall give priority to those applicants that provide loans to small business concerns located in labor surplus areas or in low-income areas.";

(3) by amending paragraph (3)(F) to read as follows:

"(F) LOAN DURATION; INTEREST RATES.—

"(i) LOAN DURATION.—Loans made by the Administration under this subsection shall be for a term of 10 years.

"(ii) APPLICABLE INTEREST RATES.—Except as provided in clauses (iii) and (iv), loans made by the Administration under this subsection to an intermediary shall bear an interest rate equal to one-half of 1 percentage point below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

"(iii) RATES APPLICABLE TO LOANS IN LABOR SURPLUS AND LOW-INCOME AREAS.—Loans made by the Administration to an intermediary that predominantly serves small business concerns and entrepreneurs located in labor surplus and low-income areas shall bear an interest rate that is 1.25 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

"(iv) RATES APPLICABLE TO CERTAIN SMALL LOANS.—Loans made by the Administration to an intermediary described in clause (iii) that makes loans to small business concerns and entrepreneurs averaging not more than $5,000, shall bear an interest rate that is 2 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

"(v) RATES APPLICABLE TO MULTIPLE SITES OR OFFICES.—The interest rate prescribed in clause (ii), (iii), or (iv) shall apply to each separate loan-making site or office of 1 intermediary only if such site or office meets the requirements of that clause.

"(vi) RATE BASIS.—The applicable rate of interest under this paragraph shall—

"(I) be applied retroactively for the first year of an intermediary's participation in the program, based upon the actual lending practices of the intermediary as determined by the Administration prior to the end of such year; and

"(II) be based in the second and subsequent years of an intermediary's participation in the program, upon the actual lending practices of the intermediary during the term of the intermediary's participation in the program.

"(vii) COVERED INTERMEDIARIES.—The interest rates prescribed in this subparagraph shall apply to all loans made to intermediaries under this subsection on or after October 28, 1991.";

(4) in paragraph (4)—

(A) in subparagraph (A), by striking "Subject to" and inserting "Except as otherwise provided in subparagraphs (C) and (D) and subject to"; and

(B) by adding at the end the following:

"(C) GRANTS FOR INTERMEDIARIES IN LABOR SURPLUS AREAS AND LOW-INCOME AREAS.—

"(i) IN GENERAL.—Except as otherwise provided in subparagraph (D), each intermediary that receives a loan under paragraph (1)(B)(i) and that predominantly serves small business concerns and entrepreneurs located in labor surplus or low-income areas shall be eligible to receive a grant in an amount equal to 25 percent of the total outstanding balance of loans made to it under this subsection to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection.

"(ii) CONTRIBUTION.—As a condition of any grant made under clause (i), the Administration shall require the intermediary to contribute an amount equal to 25 percent of the amount of the grant, obtained solely from non-Federal sources. In addition to cash or other direct funding, the contribution may include indirect costs or in-kind contributions paid for under non-Federal programs.

"(D) ADDITIONAL TECHNICAL ASSISTANCE GRANTS FOR MAKING CERTAIN LOANS.—

"(i) IN GENERAL.—Each intermediary that meets the requirements of subparagraph (C) and that has a portfolio of loans made under this subsection that averages not more than $5,000 during the period of the intermediary's participation in the program shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection, in addition to grants made under subparagraph (C)(i).

"(ii) PURPOSES.—A grant awarded under clause (i) may be used to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection.

"(iii) CONTRIBUTION EXCEPTION.—The contribution requirements in subparagraph (C)(ii) do not apply to grants made under this subparagraph.

"(E) ELIGIBILITY FOR MULTIPLE SITES OR OFFICES.—The eligibility for a grant described in subparagraph (A), (C), or (D) shall be determined separately for each loan-making site or office of 1 intermediary.";

(5) in paragraph (5)(A), by striking "2 grants" and inserting "6 grants";

(6) in paragraph (6), by amending subparagraph (C) to read as follows:

"(C) INTEREST LIMIT.—Notwithstanding any provision of the laws of any State or the constitution of any State pertaining to the rate or amount of interest that may be charged, taken, received, or reserved on a loan, the maximum rate of interest to be charged on a microloan funded under this subsection shall not exceed the rate of interest applicable to a loan made to an intermediary by the Administration—

"(i) in the case of a loan made by the intermediary to a small business concern or entrepreneur other than those described in clauses (ii) and (iii), by more than 7 percentage points;

"(ii) in the case of a loan of more than $5,000 made by the intermediary to a small business concern or entrepreneur located in a labor surplus or low-income area, by more than 7.75 percentage points; and

"(iii) in the case of a loan of not more than $5,000 made by the intermediary to a small business concern or entrepreneur located in a labor surplus or low-income area, by more than 9.5 percentage points.";

(7) in paragraph (7)—

(A) in subparagraph (A), by striking "35 microloan programs" and inserting "60 microloan programs";

(B) in subparagraph (B), by striking "25 additional" and inserting "50 additional";

(C) by amending subparagraph (C)(i) to read as follows:

"(i) be awarded more than 4 microloan programs in the first 2 years of the demonstration program nor more than 2 microloan programs in any year thereafter;";

(D) in subparagraph (C)(ii), by striking "$1,000,000" and inserting "$1,500,000"; and

(E) in subparagraph (C)(iii), by striking "$1,500,000" and inserting "$2,500,000";

(8) by amending paragraph (8) to read as follows:

"(8) ASSISTANCE TO RURAL AREAS, LABOR SURPLUS AREAS, AND LOW-INCOME AREAS.—In funding microloan programs, the Administration shall ensure that not less than 70 percent of the programs funded under this subsection will provide microloans to small business concerns and entrepreneurs located in rural areas, labor surplus areas, and low-income areas.";

(9) by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively;

(10) by inserting after paragraph (8) the following:

"(9) TECHNICAL ASSISTANCE FOR INTERMEDIARIES.—

"(A) IN GENERAL.—The Administration may procure technical assistance for intermediaries participating in the Microloan Demonstration Program to ensure that such intermediaries have the knowledge, skills, and understanding of microlending practices necessary to operate successful microloan programs.

"(B) ASSISTANCE AMOUNT.—The Administration shall transfer 3 percent of its annual appropriation for loans under this subsection to the Administration's Salaries and Expense Account for the specific purpose of providing 1 or more technical assistance grants to experienced microlending organizations to achieve the purpose set forth in subparagraph (A)."; and

(11) in paragraph (11), as redesignated—

(A) by amending subparagraph (A) to read as follows:

"(A) the term 'intermediary' means—

"(i) a private, nonprofit entity;

"(ii) a nonprofit community development corporation;

"(iii) a consortium of private, nonprofit organizations or nonprofit community development corporations; or

"(iv) a quasi-governmental economic development entity (such as a planning and development district), other than a State, county, municipal government, or any agency thereof, if—

"(I) no application is received from an eligible nonprofit organization; or

"(II) the Administration determines that the needs of a region or geographic area are not adequately served by an existing, eligible nonprofit organization that has submitted an application,

that seeks to borrow or has borrowed funds from the Administration to make microloans to small business concerns under this subsection;";

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following:

"(D) the term 'low-income area' means—

"(i) a county or parish; or

"(ii) a census tract or block numbering area within a central city of a metropolitan area,

in which not less than 20 percent of the population has an annual income below the poverty level, as determined by the most recently available census data; and

"(E) the term 'labor surplus area' means an area designated as such by the Secretary of Labor.".

(b) EFFECTIVE DATES.—The amendments made by paragraphs (4) and (5) of subsection (a) shall become effective on October 1, 1992.

SEC. 114. REGULATIONS.

Not later than 45 days after the date of enactment of this Act, the Small Business Administration shall promulgate interim final regulations to implement the amendments made by this subtitle.

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end the following new subsection:

"(k) AUTHORIZATION OF APPROPRIATIONS.—To carry out the program established under section 7(m), there are authorized to be appropriated to the Small Business Administration—

"(1) for fiscal year 1992—

"(A) $45,000,000, to be used for the provision of loans; and

"(B) $10,000,000, to be used for the provision of grants;

"(2) for fiscal year 1993—

"(A) $80,000,000, to be used for the provision of loans; and

"(B) $25,000,000, to be used for the provision of grants; and

"(3) for fiscal year 1994—

"(A) $60,000,000, to be used for the provision of loans; and

"(B) $35,000,000, to be used for the provision of grants.".

(b) REPEAL OF EXISTING PROVISION.—Section 609 of Public Law 102–140 (105 Stat. 831) is amended by striking subsection (*l*).

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT AND RELATED ACTS

Subtitle A—Small Business Competitiveness Demonstration Program

SEC. 201. EXTENSION OF DEMONSTRATION PROGRAMS.

(a) SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.—Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3889) is amended to read as follows:

"(c) PROGRAM TERM.—The Program shall commence on January 1, 1989, and terminate on September 30, 1996.".

(b) ALTERNATIVE PROGRAM FOR CLOTHING AND TEXTILES.—Section 721(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3895) is amended by striking "September 30, 1992" and inserting "September 30, 1996".

(c) EXPANDING SMALL BUSINESS PARTICIPATION IN DREDGING.—Section 722(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by striking "During fiscal years 1989, 1990, 1991, and 1992, the" and inserting "The"; and

(2) by inserting before the period at the end ", commencing on October 1, 1989 and terminating on September 30, 1996".

SEC. 202. MANAGEMENT IMPROVEMENTS TO THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

(a) IMPLEMENTATION ON A FISCAL YEAR BASIS.—Section 712(d) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3890) is amended—

(1) in paragraph (1), by striking "4 quarters" in the third sentence and inserting "4 fiscal year quarters"; and

(2) in paragraph (3), by inserting "fiscal year" before "quarter".

(b) TARGETED APPLICATION OF REMEDIAL MEASURES.—Section 713(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended—

(1) in the first sentence, by striking "to the extent necessary for such agency to attain its goal" and inserting "only at those buying activities of the participating agency that failed to attain the small business participation goal required by section 712(a)";

(2) by striking the third sentence; and

(3) by inserting after the first sentence, the following new sentence: "Upon determining that its contract awards to small business concerns again meet the goals required by section 712(a), a participating agency shall promptly resume the use of unrestricted solicitations pursuant to subsection (a).".

(c) RELATIONSHIP TO RELATED LAW.—Section 713 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(d) RELATIONSHIP TO OTHER APPLICABLE LAW.—Solicitations for the award of contracts for architectural and engineering services (including surveying and mapping) issued by a Military Department or a Defense agency shall comply with the requirements of subsections (a) and (b) of section 2855 of title 10, United States Code.".

(d) SUBCONTRACTING ACTIVITY.—Section 714 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) SUBCONTRACTING ACTIVITY.—

"(1) SIMPLIFIED DATA COLLECTION SYSTEM.—The Administrator for Federal Procurement Policy shall develop and implement a simplified system to collect data on the participation of small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) as other than prime contractors.

"(2) PARTICIPATING INDUSTRIES.—The system established under paragraph (1) shall be used to collect data regarding contracts for architectural and engineering services (including surveying and mapping). The Administrator for Federal Procurement Policy may expand such system to collect data regarding such other designated industry groups as deemed appropriate.

"(3) PARTICIPATING AGENCIES.—As part of the system established under paragraph (1) data shall be collected from—

"(A) the Environmental Protection Agency;

"(B) the National Aeronautics and Space Administration;

"(C) the United States Army Corps of Engineers (Civil Works); and

"(D) the Department of Energy.

The Administrator for Federal Procurement Policy may require the participation of additional departments or agencies from the list of participating agencies designated in section 718.

"(4) DETERMINING SMALL BUSINESS PARTICIPATION RATES.—The value of other than prime contract awards to small business concerns furnishing architectural and engineering services (including surveying and mapping) (or other services provided by small business concerns in other designated industry groups as may be designated for participation by the Administrator for Federal Procurement) shall be counted towards determining whether the small business participation goal required by section 712(a) has been attained.

"(5) DURATION.—The system described in subsection (a) shall be established not later than October 1, 1992 (or as soon as practicable thereafter on the first day of a subsequent quarter of fiscal year 1993), and shall terminate on September 30, 1996.".

(e) STATUS OF SMALL BUSINESS CONCERNS".—Section 714(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) (as redesignated by subsection (d)) is amended—

(1) in the subsection heading, by inserting "AND STATUS" after "SIZE";

(2) by inserting "and the status of the small business concern (as a small business concern owned and controlled by socially and economically disadvantaged individuals)" after "size of the small business concern".

(f) REPORTS TO CONGRESS.—Section 716 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3893) is amended—

(1) in the section heading, by striking "**REPORT**" and inserting "**REPORTS**";

(2) in the first sentence of subsection (a), by striking "fiscal year 1991 data is" and inserting "data for fiscal year 1991 and 1995 are"; and

(3) in subsection (c), by striking "report" and inserting "report to be submitted during calendar year 1996".

(g) IMPROVING ACCURACY OF DATA PERTAINING TO A–E SERVICES.—Section 717(d) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3894) is amended by inserting before the period at the end the following: ", and such contract was awarded under the qualification-based selection procedures required by title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)".

(h) PROCUREMENT PROCEDURES.—Restricted competitions pursuant to section 713(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) shall not be imposed with respect to the designated industry group of architectural and engineering services if the rate of small business participation exceeds 35 percent, until the improvements to the collection of data regarding prime contract awards (as required by subsection (g)) and the system for collecting data regarding other than prime contract awards (as required by subsection (d)) have been implemented, as determined by the Administrator for Federal Procurement Policy.

(i) TEST PLAN AND POLICY DIRECTION.—The Administrator for Federal Procurement Policy shall issue appropriate modifications to the test plan and policy direction issued pursuant to section 715 of the Small Business Competitiveness Demonstration Program Act of 1988, to conform to the amendments made by this section and section 201(a).

SEC. 203. AMENDMENTS TO THE DREDGING DEMONSTRATION PROGRAM.

(a) MODIFICATION OF THE SMALL BUSINESS PARTICIPATION GOALS.—The first sentence of section 722(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3895) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) 20 percent during fiscal year 1993, and each subsequent year during the term of the program, including 5 percent of the dollar value of suitable contracts that shall be reserved for emerging small business concerns.".

(b) EXCLUSION OF CERTAIN CONTRACTS.—Section 722(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is further amended—

(1) by striking "total dollar value of contracts" and inserting "aggregate value of all suitable contracts"; and

(2) by striking the last sentence and inserting the following: "The total value of contracts to be performed exclusively through the use of so-called dustpan dredges or sea-

going hopper dredges is deemed to be generally unsuitable for performance by small business concerns and is to be excluded in calculating whether the rates of small business participation specified in subsection (b) have been attained.".

(c) Qualified Small Business Competitors.—Section 722(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) Prior to making a determination to restrict a solicitation for the performance of a dredging contract for exclusive competition among 2 or more eligible small business concerns in accordance with section 19.5 of the Government-wide Federal Procurement Regulation (48 C.F.R. 19.5, or any successor thereto), the contracting officer shall make a determination that each anticipated offeror is a responsible source (as defined under section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)) and has (or can demonstrate the capability to obtain) the specialized dredging equipment deemed necessary to perform the work to be required in accordance with the schedule to be specified in the solicitation.".

(d) Reports.—Section 722(f) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is amended—

(1) in paragraph (1), by striking "September 30, 1992" and inserting "September 30, 1995"; and

(2) in paragraph (2), by striking "of the fiscal years 1989, 1990, and 1991" and inserting "fiscal year during the term of the program established under subsection (a)".

Subtitle B—Defense Economic Transition Assistance

SEC. 211. SECTION 7(a) LOAN PROGRAM.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(21)(A) The Administration may make loans under the authority of this subsection—

"(i) to a small business concern that has been (or can reasonably be expected to be) detrimentally affected by—

"(I) the closure (or substantial reduction) of a Department of Defense installation; or

"(II) the termination (or substantial reduction) of a Department of Defense program on which such small business was a prime contractor or subcontractor (or supplier) at any tier; or

"(ii) to a qualified individual seeking to establish (or acquire) and operate a small business concern.

"(B) Recognizing that greater risk may be associated with a loan to a small business concern described in subparagraph (A)(i), any reasonable doubts concerning the firm's proposed business plan for transition to non-defense-related markets shall be resolved in favor of the loan applicant when making any determination regarding the sound value of the proposed loan in accordance with paragraph (6).

"(C) Loans pursuant to this paragraph shall be authorized in such amounts as provided in advance in appropriation Acts for the purposes of loans under this paragraph.

"(D) For purposes of this paragraph a qualified individual is—

"(i) a member of the Armed Forces of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement;

"(ii) a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement; or

"(iii) an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program.".

SEC. 212. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) by striking subparagraph (D);

(2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively; and

(3) by inserting before subparagraph (H) the following new subparagraph:

"(G) assisting small businesses to develop and implement strategic business plans to timely and effectively respond to the planned closure (or reduction) of a Department of Defense facility within the community, or actual or projected reductions in such firms' business base due to the actual or projected termination (or reduction) of a Department of Defense program or a contract in support of such program—

"(i) by developing broad economic assessments of the adverse impacts of—

"(I) the closure (or reduction) of the Department of Defense facility on the small business concerns providing goods or services to such facility or to the military and civilian personnel currently stationed or working at such facility; and

"(II) the termination (or reduction) of a Department of Defense program (or contracts under such program) on the small business concerns participating in such program as a prime contractor, subcontractor or supplier at any tier;

"(ii) by developing, in conjunction with appropriate Federal, State, and local governmental entities and other private sector organizations, the parameters of a transition adjustment program adaptable to the needs of individual small business concerns;

"(iii) by conducting appropriate programs to inform the affected small business community regarding the anticipated adverse impacts identified under clause (i) and the economic adjustment assistance available to such firms; and

"(iv) by assisting small business concerns to develop and implement an individualized transition business plan.".

Subtitle C—Small Business Administration Management

SEC. 221. DISADVANTAGED SMALL BUSINESS STATUS DECISIONS.

(a) Publication of Decisions.—A decision issued pursuant to section 7(j)(11)(F)(vii) of the Small Business Act (15 U.S.C. 636(j)(11)(F)(vii)) shall—

(1) be made available to the protestor, the protested party, the contracting officer (if not the protestor), and all other parties to the proceeding, and published in full text; and

(2) include findings of fact and conclusions of law, with specific reasons supporting such findings or conclusions, upon each material issue of fact and law of decisional significance regarding the disposition of the protest.

(b) Precedential Value of Prior Decisions.—A decision issued under section 7(j)(11)(F)(vii) of the Small Business Act that is issued prior to the date of enactment of this Act shall not have value as precedent in deciding any subsequent protest until such time as the decision is published in full text.

SEC. 222. ESTABLISHMENT OF SIZE STANDARDS.

(a) In General.—Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by striking "In addition" and all that follows through the end period and by adding at the end the following new paragraphs:

"(2) In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards (by number of employees or dollar volume of business) by which a business concern is to be recognized as a small business concern for the purposes of this Act or any other Act. Unless specifically authorized by statute, the Secretary of a department or the head of a Federal agency may not prescribe for the use of such department or agency a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(A) is being proposed after an opportunity for public notice and comment;

"(B) provides for determining, over a period of not less than 3 years—

"(i) the size of a manufacturing concern on the basis of the number of its employees during that period; and

"(ii) the size of a concern providing services on basis of the average gross receipts of the concern during that period; and

"(C) is approved by the Administrator.

"(3) When establishing or approving any size standard pursuant to paragraph (2), the Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant by the Administrator.".

(b) Regulations.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue proposed regulations to implement the amendments made by subsection (a). Final regulations shall be issued not later than 270 days after such date of enactment.

(2) Listing of additional size standards.—The regulations required by paragraph (1) shall include a listing of all small business size standards prescribed by statute or by individual Federal departments and agencies, identifying the programs or purposes to which such size standards apply.

SEC. 223. MANAGEMENT OF SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall submit to the Committees on Small Business and the Committees on Appropriations of the Senate and the House of Representatives, proposed regulations for the Small Business Development Program authorized by section 21 of the Small Business Act (15 U.S.C. 648). Such proposed regulations shall not be published in the Federal Register.

Subtitle D—Technical Amendments

SEC. 231. COMMISSION ON MINORITY BUSINESS DEVELOPMENT.

(a) Termination.—Section 505(f) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 636 note; 102 Stat. 3887) is amended by inserting before the period at the end "or September 30, 1992, whichever is later".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if it were included in the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 636 note).

SEC. 232. TECHNICAL CORRECTIONS.

(a) AMENDMENTS TO SECTION 8.—Section 8 of the Small Business Act (15 U.S.C. 837) is amended—

(1) in subsection (a)(1)(B), by striking the period and inserting a semicolon;

(2) in subsection (a)(1)(C), by striking the period and inserting "; and";

(3) in subsection (a)(6)(C)(i), by striking "to (A)" and inserting "to subparagraph (A)";

(4) in subsection (a)(6)(C)(ii), by striking "7(j)(10)(H)" and inserting "7(j)(10)(G)";

(5) in subsection (a)(12)(E), by striking "to (D)" and inserting "to subparagraph (D)";

(6) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

(7) by inserting after subsection (b) the following:

"(c) [Reserved].";

(8) in subsection (d)(4)(F)(ii) (as redesignated by paragraph (6) of this subsection), by striking "impositon" and inserting "imposition"; and

(9) in subsection (h)(2) (as redesignated by paragraph (6) of this subsection), by striking "Administration" and inserting "Administrative".

(b) AMENDMENTS TO SECTION 15.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in subsection (c)(2)(B), by striking "Blindmade" and inserting "Blind-made";

(2) in paragraphs (3) and (5) of subsection (k), by striking the semicolon and inserting a comma;

(3) in subsection (l)(6), by adding a period at the end; and

(4) in subsection (m)(2)(B), by striking "requirement" and inserting "requirements".

TITLE III—STUDIES AND RESOLUTIONS

Subtitle A—Access to Surety Bonding

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Small Business Access to Surety Bonding Survey Act of 1992".

SEC. 302. SURVEY.

(a) IN GENERAL.—The Comptroller General shall conduct a comprehensive survey of business firms, including using a questionnaire described in subsection (b), to obtain data on the experiences of such firms, and especially the experiences of small business concerns, in obtaining surety bonds from corporate surety firms.

(b) CONTENT OF SURVEY QUESTIONNAIRE.—In addition to such other questions as the Comptroller General deems appropriate to ensure a comprehensive survey under subsection (a), the questionnaire used by the Comptroller General shall include questions to obtain information from a surveyed business on—

(1) the frequency with which the firm was requested to provide a corporate surety bond in fiscal year 1992;

(2) whether the frequency with which the firm was requested to provide a corporate surety bond increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(3) the frequency with which the firm provided a corporate surety bond in fiscal year 1992;

(4) whether the frequency with which the firm provided a corporate surety bond increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(5) the average size of corporate surety bonds provided by the firm in fiscal year 1992;

(6) whether the average size of the corporate surety bonds provided by the firm increased or decreased during fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(7) the dollar amount of the largest corporate surety bond provided by the firm in fiscal year 1992;

(8) whether the dollar amount of the largest corporate surety bond provided by the firm increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(9) the dollar amount of work performed by the firm by type of construction owner, including the Federal Government, State and local governments, other public entities, and private entities, in each of fiscal years 1990, 1991, and 1992;

(10) the dollar amount of such work bonded by a corporate surety company for the firm by type of construction owner, including construction owners referred to in paragraph (9), for each of fiscal years 1990, 1991, and 1992;

(11) whether the firm purchased its corporate surety bonds through an insurance agent or directly from a surety company;

(12) the means used by the firm to identify its source for the purchase of corporate surety bonds;

(13) the average corporate surety bond premium (expressed as a percentage of contract amount) paid by the firm in fiscal year 1992;

(14) any increase or decrease in the average corporate surety bond premium (expressed as a percentage of the contract amount) paid by the firm in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(15) whether or not the underwriting requirements (including state of accounts receivable, financial procedures, need for personal indemnification, and requirements for collateral) changed in fiscal year 1990, 1991, or 1992;

(16) the nature of any changes in underwriting requirements experienced by the firm in fiscal years 1990, 1991, and 1992 and the reason for any such changes, if known;

(17) whether or not the source of surety bonds (a surety agent or company) provided reasons for such changes in underwriting requirements and whether these reasons were provided orally or in writing;

(18) whether or not the bonding capacity (total dollar amount and number of bonds) for the firm changed in fiscal year 1990, 1991, or 1992;

(19) whether or not the source of surety bonds (a surety agent or company) provided reasons for any changes in bonding capacity and whether these reasons were provided orally or in writing;

(20) the services provided and advice given by the firm's source of corporate surety bonds in fiscal years 1990, 1991, and 1992;

(21) whether or not the firm obtained a corporate surety bond with the assistance of a Federal program (such as the surety bond guarantee program of the Small Business Administration and the bonding assistance program of the Department of Transportation) or a State or local program in fiscal year 1990, 1991, or 1992;

(22) whether or not the firm used any alternative to corporate surety bonds (such as individual surety bonds, letters of credit, certificates of deposit, and government securities) in fiscal year 1990, 1991, or 1992;

(23) if the firm has not provided any corporate surety bonds in fiscal year 1990, 1991, or 1992, the reasons the firm has not done so;

(24) the number of times the firm has had an application for a corporate surety bond denied in fiscal years 1990, 1991, and 1992, and the reason for any such denial, if known;

(25) whether or not the proposed source for the corporate surety bond (a surety agent or company) provided the reasons for its denial of that application and whether that explanation was provided orally or in writing;

(26) the length of time the firm has been in business;

(27) the number of years of construction experience of the firm's officers (if a corporation), partners, or owner (if a sole proprietorship), and those responsible for managing the execution of the firm's construction operations, and how many years of such experience is in the type of construction that provides the majority of the firm's annual sales volume;

(28) the approximate annual sales volume of the firm in fiscal years 1990, 1991, and 1992;

(29) the net worth (total assets less total liabilities) of the firm at the close of the firm's most recent fiscal year;

(30) the working capital (current assets less current liabilities) of the firm at the close of the firm's most recent fiscal year;

(31) the average age of the firm's accounts receivable (the average number of days required to collect payments due);

(32) whether the firm made a profit in fiscal year 1990, 1991, or 1992;

(33) the form and frequency of such firm's financial statements (statements audited and certified by an independent certified public accountant, statements reviewed by such a certified public accountant, compilation financial statements, or other forms of financial statements), and whether such statements were furnished with applications for bonding, if requested; and

(34) the 4-digit standard industrial classification code in which the firm performs the majority of its work.

(c) FIRMS TO BE SURVEYED.—The Comptroller General shall develop a statistically valid sample of business firms from the most recent list of construction firms maintained by the Dun and Bradstreet Company (identified as the "DUN Market Identifier" file) for which data regarding sales is available.

SEC. 303. REPORT.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General, in consultation with the Small Business Administration, shall conduct an assessment of the data obtained in the survey conducted pursuant to section 302 and submit to the Committees on Small Business of the Senate and the House of Representatives a report on the results of such assessment.

(b) CONTENTS OF THE REPORT.—

(1) IN GENERAL.—The report required by subsection (a) shall contain—

(A) a summary of responses of business firms to the survey conducted pursuant to section 302; and

(B) a description of any trends found by the Comptroller General in such responses.

(2) INFORMATION ON SMALL BUSINESS CONCERNS.—In presenting summaries of responses and descriptions of trends pursuant to paragraph (1), the Comptroller General shall provide specific information on the responses and trends of small business concerns, small business concerns owned and controlled by women, and small business

concerns owned and controlled by socially and economically disadvantaged individuals.

SEC. 304. DEFINITIONS.

For purposes of this subtitle—

(1) the term "fiscal year" means the fiscal year of the business firm being surveyed;

(2) the term "small business concern" has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632);

(3) the term "small business concern owned and controlled by socially and economically disadvantaged individuals" has the same meaning as in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)) (as redesignated by section 232(a)(6) of this Act); and

(4) the term "small business concern owned and controlled by women" has the same meaning as in section 127(d) of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 637 note).

Subtitle B—Small Business Loan Secondary Market Study

SEC. 311. SECONDARY MARKET FOR LOANS TO SMALL BUSINESSES.

(a) STUDY.—The Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission, in consultation with the Administrator of the Small Business Administration, shall conduct a study of the potential benefits of, and legal, regulatory, and market-based barriers to, developing a secondary market for loans to small businesses. The study shall include consideration of—

(1) market perceptions and the reasons for the slow development of a secondary market for loans to small businesses;

(2) any means to standardize loan documents and underwriting for loans to small businesses relating to retail and office space;

(3) the probable effects of the development of a secondary market for loans to small businesses or financial institutions and intermediaries, borrowers, lenders, real estate markets, and the credit markets generally;

(4) legal and regulatory barriers that may be impeding the development of a secondary market for loans to small businesses; and

(5) the risks posed by investments in loans to small businesses.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission shall transmit to the Congress a report on the results of the study under paragraph (1). The report shall include recommendations for legislation to facilitate the development of a secondary market for loans to small businesses.

Subtitle C—Contract Bundling Study

SEC. 321. CONTRACT BUNDLING STUDY.

(a) IN GENERAL.—The Administrator of the Small Business Administration, acting through the Associate Administrator for Procurement Assistance, shall conduct a study regarding the impact of the practice known as "contract bundling" on the participation of small business concerns in the Federal procurement process.

(b) PURPOSE.—In addition to such other matters as the Associate Administrator for Procurement Assistance deems appropriate to assure the conduct of a comprehensive study and the development of practical recommendations, the study required by subsection (a) shall—

(1) identify the benefits and adverse effects of contract bundling to the procuring agencies;

(2) identify the benefits and adverse effects of contract bundling on small business concerns;

(3) examine the adequacy of the policy direction to agency procurement officials regarding the bundling of contract requirements;

(4) examine the extent to which agencies have been combining their requirements for the procurement of goods and services (including construction) into solicitations requiring an offeror to be able to perform increasingly larger contracts covering multiple and diverse elements of performance;

(5) consider the appropriateness of the explanatory statements submitted by the procuring agencies pursuant to section 15(a) of the Small Business Act regarding bundling of contract requirements; and

(6) determine whether procurement center representatives, small business specialists, or other agency procurement officials can, under existing guidance and authority, have the necessary policy direction and effective authority to make an independent assessment regarding a proposed bundling of contract requirements.

(c) PARTICIPATION.—

(1) IN GENERAL.—In conducting the study described in subsection (b), the Associate Administrator for Procurement Assistance shall provide for participation by representatives of—

(A) the Office of the Chief Counsel for Advocacy;

(B) the Office of Federal Procurement Policy; and

(C) the 10 Federal departments or agencies having the greatest dollar value of procurement awards during fiscal year 1991.

(2) ADDITIONAL CONSULTATION.—In conducting the study, the Associate Administrator for Procurement Assistance shall consult with representatives of organizations representing small business government contractors and such other public and private entities as may be appropriate.

(d) SCHEDULE.—Not later than 90 days after the date of enactment of this Act, the Associate Administrator for Procurement Assistance shall publish in the Federal Register a plan for the study required by this section. The study shall be completed not later than March 31, 1993.

(e) REPORT.—Not later than May 15, 1993, the Administrator of the Small Business Administration shall submit a report to the Committees on Small Business of the Senate and the House of Representatives. The report shall contain the results of the study required by subsection (a), together with recommendations for legislative and regulatory changes to maintain small business participation in the Federal procurement process, as the Administrator deems appropriate.

(f) DEFINITION.—For purposes of this section, the term "contract bundling" or "bundling of contract requirements" refers to the practice of consolidating into a single large contract solicitation multiple procurement requirements that were previously solicited and awarded as separate smaller contracts, generally resulting in a contract opportunity unsuitable for award to a small business concern due to the diversity and size of the elements of performance specified and the aggregate dollar value of the anticipated award.

Subtitle D—Resolution Regarding Small Business Access to Capital

SEC. 331. SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds that—

(1) small business concerns remain a thriving and vital part of the economy, accounting for the majority of new jobs, new products, and new services created in the United States;

(2) adequate access to either debt or equity capital is a critical component of small business formation, expansion, and success;

(3) small business concerns, which represent higher degrees of risk in financial markets than do large businesses, are experiencing increased difficulties in obtaining credit;

(4) minority-owned business enterprises have found extraordinary difficulties in obtaining credit; and

(5) demand for credit under the loan guarantee program contained in section 7(a) of the Small Business Act is insufficient to meet current demands.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) financial institutions should expand their efforts to provide credit to small business concerns, with special emphasis on minority-owned small business concerns;

(2) legislation and regulations considered by the Congress should be carefully examined to ensure that small business concerns are not negatively impacted; and

(3) legislation and regulations that enhance the viability of small business concerns, including changes in tax and health care policy, should be given a priority for passage by the Congress.

Amend the title so as to read: "A bill to amend the Small Business Act and related Acts to provide loan assistance to small business concerns, to extend certain demonstration programs relating to small business participation in Federal procurement, to modify certain Small Business Administration programs, to assist small firms to adjust to reductions in Defense-related business, to improve the management of certain program activities of the Small Business Administration, to provide for the undertaking of certain studies, and for other purposes.".

FEDERAL EMPLOYEES PAY COMPARABILITY ACT AMENDMENTS

ROTH AMENDMENT NO. 2914

Mr. SIMPSON (for Mr. ROTH) proposed an amendment to the bill (H.R. 2850) to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes, as follows:

On page 45, line 5, strike out "comparability payments." and insert in lieu thereof "comparability payments. No later than 30 days before an employee receives comparability payments under this subparagraph, the President or the President's designee shall submit a detailed report to the Congress justifying the reasons for the extension, including consideration of recruitment and retention rates and the expense of extending locality pay.".

On page 50, insert between lines 10 and 11 the following new subsection:

(d) SENSE OF THE CONGRESS RELATING TO LAW ENFORCEMENT OFFICER PROVISIONS.—It is the sense of the Congress that—

(1) the provisions of section 5541(3) of title 5, United States Code (as added by section 2(40)(c) of this Act)—

(A) are enacted only for the purposes of pay and not for the purposes of retirement;

(B) do not reflect any intent of the Congress to change retirement eligibility standards for law enforcement officers; and

(2) law enforcement officers in primary positions have different retirement eligibility standards than employees in supervisory or administrative positions because of the different requirements in their responsibilities.

BILINGUAL VOTING ACT

SIMPSON AMENDMENT NO. 2915

Mr. SIMPSON proposed an amendment to the bill H.R. 4312, supra; as follows:

At the end of the bill, add the following:

SEC. . FUNDING.

Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e)(1) The Attorney General may make grants to States and political subdivisions for the specified purpose of paying for the costs of compliance with this section.

"(2) The prohibitions of this section shall only apply to a State or political subdivision during any period for which the State or political subdivision receives such a grant for the full amount of such costs.

"(3) The Attorney General may make such grants only to such extent, or in such amounts, as are provided in advance in appropriations Acts, for the specified purpose described in paragraph (1).".—

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearing on "Corruption In Professional Boxing".

This hearing will take place on Tuesday, August 11 and Wednesday, August 12, 1992, at 9:30 a.m. each day, in room 216 of the Hart Senate Office Building. For further information, please contact Daniel F. Rinzel of the subcommittee's minority staff at 224-9157.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. SIMON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 6, at 9 a.m. to conduct a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. SIMON. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on August 6, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 2833, the Crow Settlement Act; S. 2836, to promote economic development on Indian reservations by making loans to States to assist States in constructing roads on Indian reservations; and S. 3118, the Indian Business Opportunities Enhancement Act, to be followed immediately by a joint hearing with the House Committee on Interior and Insular Affairs on H.R. 5735 and S. 3125, to amend the Southern Arizona Water Rights Settlement Act of 1962.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. SIMON. Mr. President, I ask unanimous consent that the Surface Transportation Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 6, 1992, at 9 a.m. on high speed ground transportation oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. SIMON. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on August 6, 1992, at 2 p.m. to receive testimony on S. 2890, to provide for the establishment of the civil rights in education: Brown versus Board of Education National Historic Site in the State of Kansas, and for other purposes; H.R. 2109, to direct the Secretary of the Interior to conduct a study of the feasibility of including Revere Beach, located in the city of Revere, MA, in the National Park System; S. 2244, to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict; H.R. 3665, to establish the Little River Canyon National Preserve in the State of Alabama; Senate Joint Resolution 161, to authorize the Go for Broke National Veterans Association to establish a memorial to Japanese-American war veterans in the District of Columbia of its environs, and for other purposes; and S. 2549, to establish the Hudson River Artists National Historical Park in the State of New York, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. SIMON. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, August 6, 1992, at 9:30 a.m. The committee will hold a full committee markup on H.R. 5191, the Small Business Equity Enhancement Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. SIMON. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, August 6, at 9:30 a.m., to hold a hearing on oversight of the Defense Commissary Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SIMON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 6, at 10 a.m. to hold a business meeting to consider and vote on pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ABINGTON, MA, SENIOR LEAGUE ALL STARS LITTLE LEAGUE

• Mr. KERRY. Mr. President, today I would like to recognize the Abington, MA, Senior League All Stars Little League team for its outstanding accomplishments during this past year. Following an exceptional season of victories, Abington has become 1992 Massachusetts State champions. The team will represent our State in a division 3 championship elimination game against Arlington, VT, after which the winner of that game will advance to the Eastern Regional Championship.

Managers David Lindquist and Joseph Bognanno have led the Abington team to success, and I congratulate them as well as the players: Randy Baxter, Brian Bognanno, Robert Cummings, John Fava, Joshua La Pointe, Patrick Lydon, Ryan Marini, Brian McCormick, Kevin McGrath, Keith Sacchetti, Mark Spadorcia, Mike Spencer, Andrew Tuttle, and Todd Yazbeck. These young men have shown a dedication to sportsmanship and a spirit of athletic competition and I wish them the very best of luck in the games to come.•

INTIMIDATION IN PITTSBURGH

• Mr. BROWN. Mr. President, both newspapers in Pittsburgh, PA, have been closed since May 17 by a bitter strike, which recently has resulted in violence. Last Friday, July 31, 1992, the Miami Herald printed an editorial commenting on these disturbing developments in Pittsburgh, and I commend it to my colleagues:

If a mob sacked a newspaper office in Buenos Aires or Bogota, supporters of press freedom would be quick to protest not only the violence but also the authorities' failure to prevent it.

Similar denunciations would ring out if anti-abortion militants used violence and intimidation to disrupt an abortion clinic in the United States. Even in states where abortion is widely condemned and thus subject to efforts to outlaw it, the law doesn't countenance illegal tactics against it.

A clinic's would-be patients, after all, are merely trying to exercise a constitutional right. When government fails to protect those who would exercise their rights—even when their cause is unpopular—the result is an anarchy in which nobody is safe.

How sad, then, that so many usually loyal defenders of civil liberties have been silent about the disburbing events in Pittsburgh. A bitter labor-management dispute there has halted publication at both daily newspapers since May 17.

There are two sides in that dispute, and plenty of pain and blame for both. The disconcerting twist in this story, however, is that now violence and intimidation clearly have triumphed by effectively preventing an American newspaper from exercising its First Amendment right to publish.

Worse, some of the Pittsburgh area's leading public officials have seemed to be winking at the violence and doing little to protect the newspaper, its subscribers, its distributors, its advertisers, and those of its employees who choose to report to work. This is early reminiscent of the disappointing performance of several New York politicians during the strike at The Daily News.

Granted, the history of labor relations, especially prior to 1950, contains many egregious examples of violence by unions and management. Nobody should want a return to that shameful era. Ideally, collective bargaining in good faith would resolve issues long before economic disputes turn into physical confrontations.

When this process fails, however, both sides have a right to expect a vigorous and even-handed enforcement of laws against violence and intimidation. In Pittsburgh, that doesn't seem to be the case thus far. Where's the protest against this injustice?●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics received a request for a determination under rule 35 for David Cox, a member of the staff of Senator BOREN, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 17–29, 1992.

The committee determined that participation by Mr. COX in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The Select Committee received a request for a determination under rule 35 for William M. Long, Jr., a member of the staff of Senator HEFLIN, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs and the Far East Studies Institute, from August 15–September 1, 1992.

The committee determined that participation by Mr. Long in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.●

REMARKS BY TAYLOR BRANCH BEFORE THE FEDERATION OF STATE HUMANITIES COUNCILS

● Mr. WOFFORD. Mr. President, I recently had the great pleasure of introducing Taylor Branch at the annual Humanities on the Hill Breakfast, sponsored by the Federation of State Humanities Councils. As my colleagues know, Taylor Branch is a journalist and author who has written extensively on one of the great successes of our democracy—the civil rights movement.

In his book "Parting the Waters," Taylor Branch dramatically and perceptively described the great meeting of popular protest and public power that enabled us to achieve the two main goals of the civil rights movement—securing the right to vote for black Americans and striking down the walls of legal segregation. Mr. Branch's remarks before the State Humanities Councils remind each of us of what we have achieved, and of what we have yet to achieve.

Mr. President, I ask that these remarks appear in the RECORD.

The remarks follow:

"DEMOCRACY IN AN AGE OF DENIAL"

(Taylor Branch, Pulitzer Prize Winner)

I'm happy to be here with you this morning. You're good people assembled here in war council in bad times. My work is in history, and I call upon you partly as witnesses to a dilemma that I fear I will have when the second part of my history of the civil rights movement appears—whenever that is. I fear that few readers will believe that I began working on the book's opening scene three years before the Rodney King case. It is a 1962 police action in Los Angeles in which the LAPD raided a house of worship, beat and shot thirteen people, one of whom died, three of whom were shot in the testicles—all black men. Afterwards the victims were arrested and charged with riot, mayhem, and resisting arrest. All were criminally convicted. In effect it was what would have happened in the Rodney King case had there been no videotape. That happened in 1962. I treat the episode as a turning point in the life of Malcolm X and the life of black America. Yet one of the reasons that I spend so much time trying to recover the event is that it passed almost completely without notice in the world at large. That a trauma of that size could occur in a city like Los Angeles in 1962 without public notice is part of the history of this time. It's sobering in the sense that we see the recycling of this violence not just in 1965 in the Watts riot and again last week in the Rodney King riots, but also in 1962. It's hopeful in another sense, that in 1962 you could have even worse outrages and miscarriages of justice and not even have them noticed by the world at large. At least we've come some way from there.

The riot and the racial upheavals of the 1960s generally marked the beginning of the end of a democratic renewal that was the hopeful upsurge of the early civil rights movement. We here have to ask the difficult question, if these riots of 1992 follow the path of history and mark another inward turning in our time, where was the renewal that should have gone before? We've already started the withdrawal before we had the great expansion of hope. That is indeed a sobering thought.

Twenty-five years ago, I was a kid at Princeton, at graduate school, with a bare inclination that we had passed through a period of democratic renewal in the civil rights movement, which had forced a change in my life's interest against my will. My father is in the dry cleaning business—he brought me up to believe that all people who are interested in politics, and especially politicians, are those who cannot find honest work. The 1960s forced me to change that. In graduate school at the Woodrow Wilson School at Princeton, I wanted one chance to experience the civil rights movement before it faded away, and I persuaded my faculty review board, much against its will, to allow me to go down and work for John Lewis' voter education project in southwest Georgia. The faculty committee did not want me to go because they said non-institutional work was not policy relevant experience; they wanted me to work for the Congressional Budget Office or preferably the Bureau of the Budget, which was and is considered the Taj Mahal of crisis management—that's what we called it back then. My proposal was considered an existential lark—I wanted to go down by myself, register these voters. The professors finally agreed that if I would agree to write a five-page memorandum on the policy implications of my existential experience for monopsony in the local labor markets of the agrarian counties in southwest Georgia. Back then, all freedom issues were considered a subsidiary of economic development. So I stepped off the end of the known world in going by myself into those rural counties. This is a personal story to tell you how my fascination with democratic history began only after I became a very disoriented young man.

In the summer of 1969, on the day men first landed on the moon, I was in a tiny little county, Schley County, in Georgia. After one month's work, I had given up on men. I decided that if there was any hope for voter registration in southwest Georgia, it was with the women. And in this tiny county I'd been told there was an old, old matriarch, 90 years old, and that if she could find it in her heart to say a kind word about voter registration in this county, where there were no black registered voters, that something might happen. So I was on her porch on July 20 [1969], the day that the news had come that Neil Armstrong had set foot on the moon. And I was trying to get her interested in voter registration, to receive a grant to register voters. She was in a rocking chair and had a lip full of snuff, and all of a sudden she said to me, "Young man, do you really think we landed on the moon this morning?"

And I said, "Yes," and she said, "How do you know?"

I said, "Well, I saw it on Walter Cronkite back at the motel before I came over here this morning."

She just rocked and she didn't say anything—and the next thing she said was, "Have you seen the Simonize wax commercial?"

And I said, "What Simonize wax commercial?"

She said, "The one where the little children float across the kitchen on an invisible shield of Simonize wax and don't scuff the floor."

Actually, I remembered that—it was a very vivid commercial. I said "Yes, I've seen that."

She said, "Well, do you believe that?"

I realized she had an agenda going here, and I said, "Well, yes, I believe that they can make it look like that, but that's a commerical—I saw the moon landing on the news program. That's different than a commercial."

She didn't say anything, she kept rocking. The next thing she said was, "Have you ever been in a fist fight?"

Every time she threw me off balance I found myself talking more and more in the language of policy. I said, "Unfortunately, I have, I don't see it as a very good way of settling disputes," and so on and so forth.

She said, "I mean the kind of fist fight where more than one tooth gets knocked out at a time."

I said, "No, I've never been in one like that," and she said, "Well, I've been in some, and I've seen plenty of them, and people don't get up and talk again the way they do on 'Have Gun Will Travel.'"

She kept rocking for awhile, and I kept talking more and more about policy, getting more and more nervous, and finally she said, "Young man, I can prove to you that we didn't land on the moon this morning."

I said, "How can you do that?" She said, "Well, God wouldn't allow it." Now being in the depth of a heathen period at that time, I said, "What does God have to do with whether we landed on the moon?"

She said, "You have not thought about it. If we could land on the moon this morning, all we have to do is fill up our tank once on the moon and on the next jump we could probably make it into heaven without God's permission, without dying. And you know that could never happen."

By that time, she really had me. I didn't know what to say, but a number of lessons were dawning on me. One of them was that she was not interested in voter registration in Schley County. I perceived that. Another was that she was telling me in her own way a very profound lesson about what is fear, what is real, who can teach what to whom. Here was a lady almost 90 years old who literally went back to the end of slavery, lived in a county with no black registered voters and where her whole life has taught her that questions of voting and race go to the very nerve of survival and identity and being. And all of a sudden, here on her porch one morning comes a young white man talking about economic development and voter registration, telling her, encouraging her to do something that she knows might mean life or death in that county. At her age she was not ready for it. She was asking me questions about what is real, what is hope, what is dangerous, what you can perceive, what is fear.

I also sensed something else—there was absolutely no way that I could capture the reality of that moment or that conversation, or a thousand other things that happened to me that summer, in the language of a policy memorandum for the faculty review committee back at Princeton. The language of policy does not reach the wisdom and experience of the common people in a democracy like ours. The old lady's presence made me feel this lesson in my bones long before I could articulate it, which is the point. I kept a diary that summer, as never before or since, just trying to record the experiences that I had traveling around. That became the basis of the first article I ever had published, which occurred before it dawned on me that writing might be something for me to pursue as a career.

The old lady taught me a good deal about narrative, about democratic experience and where movements come from. "Movement" is a trivial word today. But a social movement is a fundamental faith in strangers and an encounter with new possibilities, always involving discovery and a step in the unknown. A fresh sense of democratic social movements led to my strong, strong belief in narrative history, particularly in cross-cultural affairs. We make discoveries at the human level and not at the analytic level, although many people fool themselves into thinking that they can cross barriers between cultures by analysis. It's an insight as old as the Book of Genesis that the truth of even the most complex abstractions is best communicated in stories about brothers quarreling with sisters or fathers quarreling with sons. We need narrative history—I think we especially need it in a democracy. We lose sight oftentimes of just how terrifying, how bold democracy really is. Democracy in its best form is a stark, public encounter with the inner nature of the human condition. It is by definition a faith in strangers—faith that the greatest issues of the day can turn on the vote of the last wino to come to the polls. We have more faith in strangers embedded in our tradition and in our fundamental philosophy than most of us care to contemplate. But this democracy, this vision, this movement, this opening of the public space, is basically what will save us and what will renew us if we hope to have another democratic renewal of the public faith in strangers will renew our democracy. spirit in our time.

I like to think of what I've learned in studying movement history, civil rights history, cross-racial history, religious history in the last ten years, as a fundamental primer in democracy. The democratic faith in strangers requires a disciplined vision. It is a faith balanced by the discipline of self-control. We lose sight of the elementary fact that the heart of it is self-government, to govern ourselves without benefit of external authority. So a basic definition is that democracy is where the discipline of faith in strangers meets the discipline of self-control. This is a sobering thought for these times, when we by and large have very little of either. In the generation since I met the lady rocking on her porch, white Americans have basically evacuated all large cities in the United States. We have turned inward. It is an era of white power, of suburban power, of Jewish power, black power, turning inward to tribal constituencies, rather than reaching out towards strangers. We have turned inward, we have very little faith in one another, and obviously, we have very little self-control. All we have to do is look at the budget, at schools and cities, at the environment, at some of the issues that make people concerned about the health of democracy today.

This is not the era for triumphalism, for crowing that democracy stands victorious at the end of history because the competing system have fallen, particularly communism. There are other forms of government that are much older and better established not only in history but in most parts of the world than democracy—and those forms are tyranny, and chaos. Democracy will not survive unless people give it renewals of spirit. When Ben Franklin came out of the Constitutional Convention, he was asked, "What form of government have you conceived?" He said, "A new one, a democracy, if you can keep it." It was considered a bold and risky venture to conceive of a government without some external authority treating citizens like children and telling them what to do.

The under side of modern progress is that we have lost many of the natural forms of discipline that once governed humankind. Famine, war, weather, crop failure, competition—many of these things checked our excesses through tragedy and hardship. We've triumphed over some of them, but we need to substitute a new source of discipline. The democratic belief is that it must come from within, sustained by our faith in one another and our belief in fundamental practices of citizenship. American history teaches us that whenever the meaning of our democratic intuition is tested, when it is expanded, when leaders perform like geniuses and people perform like citizens, the focus almost always has been over the race issue. The race issue tells us how democratic we are becoming, in the age of the abolitionists as well as the age of Martin Luther King. Unfortunately, in the past generation, race has driven presidential politics in this inward turning period. The unspoken, prevailing message has been that government is evil because government exists to help poor people, which mainly means black people, and therefore we want to avoid it altogether. That subliminal message in a sophisticated form has driven our presidential politics to the degree that we have made government the enemy in a country dedicated to the notion that the government is us. How can we live with this kind of contradiction? It faces the Congress, it faces the humanities councils, so that we see democracy nowadays in these riots and in the budget questions, we see it drift, lost from its fundamental principles.

I see this to some degree in my own research in the secrecy issue. Some of the most ridiculous classifications and secrets going back to the 1930s and 1940s are still maintained today. The real Berlin Wall crumbled, which is a great miracle, but the paper Berlin Wall that separates our government from our people still stands proud. If you don't believe me, go down to the FBI reading room, which has no windows and where you can't go to the bathroom without an escort, and see some of the documents that still remain classified three, four, five decades later.

Another area where there is very little thinking about the fundamentals of democracy is the telltale realm of private vices. We are all over the place on the conflict between democracy's desire to protect people, to protect their freedoms, against its equivalent, competing goal of protecting people from harm by others. Cigarettes are terrible; they kill 350,000 people a year. We say that it should be against the law for children to smoke, but we sell cigarettes in vending machines. We say that drugs are a terrible thing, such that even a government premised on the notion that people can govern themselves also operates on the premise that those same people can't resist self-evidently self-destructive devices without police to tell them to do so. Vices are monarchical in the response that they call out of people. At the same time, we have state governments promoting lotteries, telling people that vice is not only something that they don't need to avoid, but that it is their civic duty to participate. The ethos of the lottery advertisement is very similar, almost identical, to the ethos of your street corner drug dealer, which is "forget reality, forget your obligation to society, forget your children and take a chance you might hit and get high." Evocations in those ads of what people should do and ought to do if they hit the lottery are so antisocial that it mocks reality that they exist in a democracy. The fantasies portrayed have to do with buying castles or your own personal moon rocket, escaping into material bliss, getting away from the futility of work and the wretchedness of your fellow creatures. Nothing that Donald Trump has ever thought of doing would embarrass the role models in lottery ads, who make robber barons look like models of civic virtue.

To recapture and renew the basics of democracy requires clear thought, faith, discipline, and to some degree an enlargement of the public space. As the world shrinks we have to face the fact that we Americans are rich, we have to speak plain, like the lady in the rocking chair, we have to understand that we can't all be middle class, that by world standards anybody who makes $10,000 or $15,000 is rich. We have a country that is paralyzed because we have a large number of people who are too puffed up to realize that the great challenge in the modern world is what sacrifices we are willing to make for our future, for our progeny, for our public space. Marginal private consumption of people even at the basic middle class level is not as important as whether we pass on the democratic experiment alive and well in spirit. To do so requires enormous discipline and connection with strangers.

In the period I'm writing about now, one of the most moving displays of such disciplined faith occurred in the final moments of Mickey Schwerner. I've spoken with several of the FBI agents who took the confessions of the Klansmen who killed Schwerner and two other civil rights workers in June '64. The agents were struck by something—that all the Klansmen remembered the same haunting words from their victim. When he was dragged out into the Mississippi night, knowing that he was about to be lynched, facing people full of hate, Schwerner's last words before he was shot were "Sir, I know just how you feel." The discipline of the movement was that even when confronting death itself and your worst enemies, you never broke hope of establishing human contact with your fellow citizens. Such incandescent faith cannot last long. Within two years of that remark by Schwerner, which was fully in keeping with the preaching and the discipline of the freedom riders, people who had built a movement by reaching out for common ground with their enemies were instead chopping off ground even among their own allies, saying "you're not militant enough for me," or "you're only a liberal, I'm a radical," and they started turning inward. People can't afford to do that. It is rejecting the discipline and the hope of the democratic spirit.

Looking back after ten years' research, I have a number of odd thoughts on the historic challenge of renewing the democratic experience. I'll mention just two. Number one, the last time the United States had a balanced budget was in 1968, the year of the Tet offensive, the Martin Luther King riots, the Robert Kennedy assassination, the King assassination, the peak year of the Vietnam war, and the only major year of the war on poverty. The President who introduced that budget and who got it through was Lyndon Johnson, the father of the Great Society. If we have accepted the political paradox that only a bedrock conservative can have the political capital to open the door to communist China, perhaps we need to begin to entertain the notion that only a social liberal who aches for the poor can have the discipline to regain our sense of budgetary discipline in our country. How many trillions of debt must we heap on our children before that possibility occurs?

The second odd thought has to do with women, like the old woman in the rocking chair. If the periods of renewal, of movement spirit, of expansion in the public consciousness occur most often in American history around the race issue, it also seems true that those movements have been built upon the sensibilities of women in alliance with the maverick clergy. When you're looking for people to go to jail, when you're looking for plaintiffs, they are more likely to be women. And when you need a public spokesman, that public spokesman is going to speak the language of Isaiah, the language of Amos and of the other justice prophets of Hebrew scripture. That's true of the age of Theodore Parker, and true in the age of Martin Luther King, who quoted Parker: "The arc of the moral universe is long, but it bends toward justice." That message, and the purity of the notion that democratic intuition is married to something that's very close to the heart both of our religious impulses and of our highest civic duty, seems to come through the sensibilities and the manpower, if you will, of women. From this perspective, it is a tragedy that the abortion issue in the last 25 years has to some degree divided women from the clergy. We need either more women clergy or more of the prophetic clergy in consultation with women, to restore a coalition that has wrested illumination and hope from eras far more gloomy than our own.

Finally, for your humanities councils and in the spirit of democratic renewal, I would like to recommend something that I have grown with in conviction ever since I met the woman in the rocking chair, which is the value of oral history. My interview with her was an oral history. I would not have found her lessons in a library. Cultures tend to preserve what they are comfortable with. Fifty years from now, if someone wants to write about the impact of Asian American immigration in the United States in the '80s and '90s, they probably will not find the documents to bring it alive in libraries. Oral history is important not just for the raw materials of living history but as an antidote to television and other forces in our modern age that shear us off from one another, generation from generation, grandparents from grandchildren, black from white, Asian from European, all these divides that are so crucial and so paralytic to democratic change and to understanding our history. I believe that oral history is a rectifying force not just in overcoming the great tragedy of vanished, unrecoverable history—if you go to Alabama today and ask for the oral histories of the bus boycott in Montgomery or the Selma march, they will look at you like you're nuts—but as teaching tool for the people, like myself, who go and do those oral histories. In your state humanities councils, I encourage you to explore the notion of having teenagers and little school children in American history courses do oral histories with their own grandparents or other relatives, to rekindle, to rediscover the human sinews of family, these differences within the generations. They may move on to do an oral history of a grandparent of somebody else's family, particularly from a different culture. Then you've got the beginnings of what a movement is—a discovery that the world is larger than its material boundaries, and that they themselves can make it larger. That sense of stepping into the unknown is the beginning of faith in strangers, and I hope that it will renew the democratic spirit as has constantly occurred when people really apply themselves to that central intuition of our American history.

If democracy is all that's left, we must try it. And never, never take it for granted.•

M-1A1 UPGRADES

• Mr. D'AMATO. Mr. President, I am deeply suspicious of a report in the trade press concerning M-1A1 upgrades. If accurate, we have come full circle in the struggle to preserve the tank industrial base.

Two years ago, when new tank production was slated for cancellation and upgrade proposals first began to surface, the tank building community found itself very much at cross purposes. Aware that the M-1A2, then in development, promised the greatest profit per tank, the prime contractor promoted a plan for upgrading M-1A1's to the M-1A2 configuration. This plan neatly eliminated the backbone of the tank industrial base from participation in the modification program, and pooled benefits in the hands of the prime and a few electronics manufacturers producing black boxes more commonly found in aircraft cockpits.

The rest of the tank industrial base, centered around the depots and arsenals, developed an M-1 to M-1A1 upgrade that had the virtue of addressing some of the known deficiencies of early M-1's, such as an inadequate main gun and insufficient armor protection, at considerably less cost than the M-1A1's to M-1A2 plan. In the eyes of many, it was a debate over gold-plating versus modernizing the force.

After a wrangle of rare intensity, advocates of maintaining the tank industrial base compromised. The M-1 was accepted as the starting point for any upgrade program; however, on the question of the end point, the authorizers and appropriators agreed to disagree. The authorizers supported an M-1 to M-1A2 modification plan. The appropriators, noting the rapidly declining Army procurement budget and the high price and uncertain benefits of the M-1A2, chose the significantly less costly M-1 to M-1A1 option.

The Department of Defense, taking advantage of the confusion, refused to spend the money.

In the interim, U.S. forces were sent to the Persian Gulf. It was not lost on congressional observers that the Army traded M-1 tanks for M-1A1's prior to the initiation of Desert Storm, and that Iraq's Soviet-built tanks were decisively outmatched by the M-1A1 in every important category. This, combined with the dissolution of the Soviet Union, eased pressure to pace what was revealed to be wildly exaggerated estimates of the capability of Soviet armor and the rate of its armor modernization program.

Desert Storm aside, the prime contractor, still seeking maximum profit, stepped up its efforts to ram a M-1A2 upgrade through Congress last year. The Army, of mixed mind on tanks, allowed the contractor to formulate policy on Capitol Hill. By year's end, to avoid Pentagon exploitation of congressional disagreement, M-1A1 champions bowed to those favoring M-1A2 to form a united front.

The cost of the M-1A2, by now exorbitant as compared to the Army's allocation of procurement dollars, provided a convenient excuse for the Pentagon to again refuse to spend the money.

This year, faced between the choice of upgrading tanks or funding the rest of the weapons and tracked combat vehicles account, the Army understandably chose not to pursue a tank upgrade program. A rescission was offered, but only partially accepted. The Pentagon was directed to spend $225 million in prior year appropriations to initiate a tank upgrade program.

Now I read that the Army had developed a two-part plan to convert M-1A1's to M-1A2's through 1995 and then upgrade M-1's to M-1A2's from 1996 to 2000. This is nothing more than a price bailout that fattens the prime contractor while allowing the core elements of the industrial base that has produced tanks in this country for most of this century to wither away. Why do we need to upgrade the M-1A1 when, in 100 hours of brutally one-sided combat, it proved its overwhelming superiority? Even if you accept the need to improve the M-1A1, does it make sense to upgrade your best tanks first and your worst tanks last? By structuring the upgrade this way, I have to believe that this is just an Army ploy to lull the tank industrial base into not objecting. Sometime in the future, when funds magically dry up for the M-1 to M-1A2 upgrade, it will be too late for the industrial base to respond. Meanwhile, thousands of older M-1's, most destined for National Guard units, will remain unable to match even the current threat, arguably, this is a subtle way of keeping Guard combat arms units out of any future frays.

Let me put the Army leadership on notice here and now: I will do everything I can to prevent this plan from ever seeing the light of day. See you in Appropriations.•

COMMENDING THE FUTURES OF AMERICA

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a remarkable organization that has devoted years of service to 172 Veterans' Administration hospitals across the country. I am speaking of the Futures of America.

The Futures of America exemplified quality of voluntarism and dedication to our veterans and has made a difference in the lives of others. They have performed 12 free concerts for over 2,000 patients and have traveled over 5,000 miles to spread love and happiness to the veterans who fought for our freedom and democracy. As Governor of Missouri, I had the opportunity to hear their patriotic music in my office and was impressed with their spirit and enthusiasm.

These loyal members have not only devoted their time to our veterans, but have financed 60 percent of the expenses. Even though these young members have families, careers, and school, they still find time in their hearts to uplift our veterans' spirits with the sounds of peace and happiness. It is important that we remember to help those less fortunate than ourselves. The Futures of America have benefited literally thousands of veterans and, therefore, are deserving of special recognition. They are a true inspiration to others.

Mr. President, I would like to extend my sincere congratulations to the Futures of America for their service and commitment to our veterans. We salute those whose enthusiasm and deeds bring good to others in ever increasing measure. When we give of ourselves, we experience the renewing power of life.•

CENTURION ATTACK SUBMARINE AUGUST 6, 1992

• Mr. D'AMATO. Mr. President, the July 1992 issue of "Proceedings" includes two letters on *Centurion* in the "Comment and Discussion" section from Lt. Bart Vinskey and Harold Hemond. I believe Lieutenant Vinskey and Mr. Hemond have correctly divined the essential elements of the *Centurion*.

I ask that the text of both letters be printed in the RECORD immediately after my remarks.

The letters follow:

"CENTURION: THE CHANGING FUTURE OF THE FORCE"

Lieutenant Bart A. Vinskey, Supply Corps., U.S. Navy.—Commander Peppe brings up many valid points, but his belief in the submarine as a "do-all" platform is invalid. That is what killed the *Seawolf*. The Navy made it a large, do-everything submarine and eventually priced it out of existence. Face it, if the *Seawolf* and its BSY-2 combat system were not so complicated, they would not be so expensive—and would be under construction and in production.

The Navy needs to return to basics and build capable—and affordable—weapon systems. What the submarine force needs is a boat to go in harm's way: a small submarine with four torpedo tubes, space for 24 weapons (cruise missiles and torpedoes), a 30-knot top speed, and relatively simple communications, electronic-support-measures, and sonar equipment.

The submarine service doesn't need to invent new roles or cross over to other communities' roles. Ten years ago, after the Argentine Navy cruiser *General Belgrano* was sunk by a British submarine, the rest of the Argentine Navy stayed in port—while British amphibious forces re-took the Falkland Islands. That's the role for us—sinking enemy submarines and surface ships—and that's what we should be building submarines to do.

Harold C. Hemond.—Commander Peppe wrote very convincingly of the characteristics that must be incorporated into the next generation of nuclear-powered attack submarine, the *Centurion*.

However, except by implication, he overlooked probably the most important characteristic. If the *Centurion* is to avoid the fate of the *Seawolf*, it must be drastically less expensive. If the *Centurion* is half the price of the *Seawolf*, it may get favorable attention in the Congress. To ensure congressional support, the goal should be more like one-third the cost of the *Seawolf*.

The Navy and its suppliers are not accustomed to cost as a dominant characteristic in weapons procurement, but this is part of the changing future of the force. The *Centurion* must be everything Commander Peppe catalogues, but it must be affordable—or it will never exist.•

HELENE C. MONBERG RECEIVES INTERIOR PUBLIC SERVICE AWARD

• Mr. BROWN. Mr. President, Helene C. Monberg, a distinguished journalist and humanitarian who proudly points to her roots in Leadville, CO, recently received the U.S. Department of the Interior's Public Service Award from Interior Secretary Manuel Lujan, Jr.

Helene came to the Nation's Capital many years ago as one of the first women to be a Washington correspondent for United Press International. Since then, she was the Washington reporter for a number of Colorado newspapers, including the Pueblo Star Chieftain, the Leadville Herald Democrat and the Grand Junction Daily Sentinel. During the past several years, Helene has focused on issues vital to Colorado and other Western States, producing a weekly newsletter, Western Resources Wrap-up.

Despite a hectic journalism career, Helene has devoted herself toward improving the lives of the less fortunate. Her Achievement Scholarship program [ASP] has provided scholarships to more than 300 ex-offenders in the Washington area since she founded the program in 1973. A graduate of the University of Colorado, Helene plans to endow the university with scholarship funds for disadvantaged students who otherwise will never have a college education. Helene has been cited as Washingtonian of the Year by Washingtonian Magazine and Big Sister of the Year by the Big Sister Program.

Whether she is digging for a story or trying to help someone, Helene always approaches life with tenacity and boundless enthusiasm. In presenting Helene with the Interior Department's Public Service Award, Secretary Lujan noted her outstanding journalistic and humanitarian achievements. I join my colleagues in congratulating Helene on another recognition of her accomplishments and in wishing her continued success in her efforts to help others.

The text of the Memorandum of Nomination from Secretary Lujan follows:

MEMORANDUM OF NOMINATION, HELENE C. MONBERG, PUBLIC SERVICE AWARD, DEPARTMENT OF THE INTERIOR

As a veteran news reporter, Helene Monberg has made as great a contribution to natural resources work as many people directly involved in the field. Her weekly Western Resources Wrapup has presented inside information on Congressional activities, programs and actions of numerous agencies in resources fields, and headsup details on developing issues. Her newsletter has covered a great variety of topics in natural resources and has illustrated her indepth of subjects including water, forestry, mining, energy, public lands, and the environment. Her understanding of the interrelationship of Congress and the Executive Branch, coupled with her knowledge of natural resources as a native of the West, has given Ms. Monberg unparalleled ability to present issues in a way that clearly promotes public understanding and awareness of vital natural resources issues. The Western Resources Wrapup newsletter has contributed greatly to furthered understanding of Reclamation issues, in addition to other important natural resources topics and, therefore, has provided strong and continuing indirect assistance and support to the accomplishment of the agency's mission.

In addition to her outstanding professional career, Ms. Monberg has devoted a great deal of her personal time to volunteer service. She founded the Achievement Scholarship Program in 1973 to give ex-offenders a second chance to be successful and to discourage repeat offenses. Through private funding, the program has provided seed-money scholarships to individuals, primarily young black males on parole or probation in the Washington, D.C. area. Ms. Monberg's work has had a positive influence on the lives of 300 awardees who have maintained a completion rate consistently higher than the general population in colleges, trade schools, or special schools. On March 21, 1990, before the House of Representatives, the Honorable Dan Schaefer of Colorado presented a tribute to the Achievement Scholarship Program and stated that "a new milestone has been reached by a successful citizen program designed to slow down the revolving door for the ex-offender." In 1989, Ms. Monberg became semi-retired and turned the program over to the ARCH Training Center in Washington, D.C., to ensure that her efforts will continue into the future.●

THE SUPERCONDUCTING SUPER COLLIDER

● Mr. KERREY. Mr. President, on Monday the Senate considered an amendment to the Energy and Water appropriations bill regarding the superconducting super collider. I opposed the Bumpers amendment striking all funding for the superconducting super collider. I would like to discuss briefly my reasons for opposing the Bumpers amendment.

Last year, I voted with Senator BUMPERS on this issue principally because I feared cost overruns would produce a project cost beyond what I considered reasonable. However, since that vote the contractors have done an exceptional job of reducing the risk of massive increases in the cost of the project.

This is not the only change since last year. We have also witnessed significant changes in the world, particularly the collapse of communism. This change makes it clear it is time for the United States to shift its emphasis to priorities which have been underfunded throughout the 1980's.

One important priority that needs attention is the basic research in particle physics. This research forms the basis for many of our leading edge technologies. The application of these technologies—if we meet the challenge with improved training of our work force—will mean higher standards of living for the American people.

These technologies will affect how we organize our work places, how we manufacture products, and how we communicate and trade with others. Yet while the Japanese and Germans spent the last decade focusing on these technologies and investing in the industries that will profit from them, our economic resources have been spent elsewhere. As a result, the United States now spends less than 10 percent of GNP on plant and equipment, while Germans spend about 17 percent the Japanese 20 percent.

A large part of the problem is that we have been focusing our R&D dollars on military projects while our competitors have targeted theirs on civilian projects. We invented a rail system for MX missiles; they invented one for high-speed commuter trains. We perfected stealth technology that made bombers invisible to radar; they perfected microchip technology that made computer circuits invisible to the human eye.

The cold war is over and our technology must come home. The super collider, once completed, will be the world's largest scientific research facility. It will secure the United States' position at the forefront of particle physics. Particle physics and the capacity to develop a final answer for unified theory, is an extremely important piece of basic research that needs to be done if the United States is going to maintain its lead in a number of critical technologies that will develop new industries and employ thousands of Americans.

As in many other debates, deficit reduction is an important issue, but so are the priorities we use to assess our funding allocations. The super collider's fiscal year 1993 request is only 2 percent of the total civilian research budget and less than 1 percent of the Nation's total research and development budget. Programs such as the super collider are not threatening the economic future of America. In fact, it is important that we invest in programs such as these. The growth in health care entitlement programs is driving up the deficit and making it impossible for us to invest properly. This is the area to which we must look to reduce our enormous budget deficit.●

CONCLUSION OF MORNING BUSINESS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the period for morning business be concluded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTING RIGHTS LANGUAGE ASSISTANCE ACT

The PRESIDING OFFICER. The clerk will state the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 4312) to amend the Voting Rights Act of 1965 with respect to bilingual election requirements, the Senate continued with the consideration of the bill.

YEAS AND NAYS

Mr. SIMPSON. Mr. President, may I at this point—due to the early hour of voting in the morning—it might be appropriate to ask for the yeas and nays on the two amendments while our three good colleagues are here.

So I ask for the yeas and nays on the two amendments.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2915

(Purpose: To require Federal funding)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 2915.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . FUNDING.

Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e)(1) The Attorney General may make grants to States and political subdivisions for the specified purpose of paying for the costs of compliance with this section.

"(2) The prohibitions of this section shall only apply to a State or political subdivision during any period for which the State or political subdivision receives such a grant for the full amount of such costs.

"(3) The Attorney General may make such grants only to such extent, or in such amounts, as are provided in advance in appropriations Acts, for the specified purpose described in paragraph (1).".

Mr. SIMPSON. Mr. President, this amendment simply provides that the Federal Government will pay for the federally mandated bilingual ballots and other bilingual voter assistance.

Not one of us visits our districts, those in the House or here in the Senate, without understanding very clearly that the States, counties, and local governments are struggling under fiscal restraints as serious, and in some cases even more serious—if that is possible—than the Federal Government.

This amendment is consistent with my position expressed recently at a refugee hearing that if the Federal Government decides in its wisdom to do things like admitting 130,000 refugees to the United States this year, it has a vivid responsibility to also provide the funding to reimburse the State and local governments for the costs of resettling these federally admitted refugees.

It is truly irresponsible to pass laws requiring State and local jurisdictions to carry out Federal programs, and then pass the buck to the State and local governments—perhaps I should say pass "spending the buck" to the State and local governments, and passing the unfunded Federal mandates to the State and local governments which have had to cut program after program is not right and not fair.

If Congress believes that requiring bilingual ballots is a good thing to do—I am sure they will, regardless of the evidence presented about the effectiveness for 17 years—or that it is the right thing to do—I can assure you that will be the case, at least in the value of political correctness—at least we should have the conviction to find the money to pay for it.

So I urge my colleagues to support the amendment. I might treat some of my colleagues with the amendment debate in the House. There was argument that this was a constitutional right. Therefore, this was really not a Federal mandate, but simply a law supporting and enforcing this constitutional right. I say to you that there is no constitutional right to have a ballot printed in a particular voter's language. Every citizen is given the right and the opportunity to vote.

As we explained earlier, there are many ways for voting-age citizens who are illiterate in English to exercise their precious right to vote without the Federal Government mandating bilingual ballots. If we are going to do it, then we ought to pay for it.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Sacramento Bee of February 26, 1992, talking about the extra cost in that jurisdiction, and that cash-strapped Sacramento County would jump $50,000 for each collection with regard to this measure.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Sacramento Bee, Feb. 26, 1992]

$50,000 COST SEEN FOR SPANISH BALLOT

(By Ken Chavez)

The cost of democracy in cash-strapped Sacramento County could jump $50,000 for each election if a new bill designed to help voters with poor English skills is approved by Congress.

Unveiled by a group of Hispanic congressmen Tuesday as the Voting Rights Improvement Act of 1992, the proposed law would make Sacramento one of 10 California counties requiring Spanish-language ballots.

Ernest Hawkins, Sacramento's chief vote counter, said county officials who are already facing severe budget shortfalls would be forced to spend as much as $50,000 on extra printing costs to provide bilingual ballots for each election.

Currently, county election material is mailed to voters in English only. A Spanish-language translation is provided upon request, Hawkins said, adding that fewer than 100 of the county's 551,028 voters have asked for materials in Spanish.

If the law is approved, Hawkins said his staff would likely "go back and assess the need and find some way of not providing bilingual material, but providing it upon request or providing an enhanced version of what we're doing now."

Hawkins, who leaves for Washington today for a conference on proposed election law changes, said Sacramento groups like the local chapter of the Mexican-American Political Association have been more interested in having voter education material—not ballots—printed in Spanish.

Members of the group have also helped out with Spanish-speaking voters at polling booths, Hawkins said, "We've been working with these groups and we've come up with something everybody is happy with."

But backers of the proposals want to ensure that better provisions are made for voters who have trouble reading or speaking English.

Under federal voting-rights laws expiring in August, bilingual assistance must be provided in any county where 5 percent of the bilingual voters are poor English speakers.

The new bill would keep the 5 percent threshold intact, but also establish an alternative measure for reaching bilingual voters—one that requires any county with at least 10,000 voters who have limited proficiency in English to provide bilingual assistance. The bill's provisions would be extended to the year 2007.

"Non-English speaking voters need to be guaranteed the same assistance and explanatory material as English-speaking voters," said Rep. Esteban Torres, D–Los Angeles, a sponsor of the bill.

Mr. SIMPSON. Remember, this is a county that said, we have always mailed our material to the voters in English only. "A Spanish-speaking translation is provided upon request," said the clerk, adding that "fewer than 100 of the county's 551,028 voters have asked for materials in Spanish."

I know it makes everybody feel good, but it does not do a thing to increase voter participation.

Mr. SIMON. Mr. President, I hope this will be turned down decisively by this body, as it—this was not turned down in the committee, because it did not come up in the committee.

But this same amendment was decisively turned down on the motor-voter bill by this body.

The other problem, very practical problem, is that it holds up implementation of the bill. We want to move ahead on this thing. We are going to have to wait for appropriations and other things to move ahead. And we have been working with local jurisdictions, and the local jurisdiction that has the greatest impact is Los Angeles; and there, the total cost of this will be less than $200,000 for a very, very major jurisdiction.

In San Francisco, where roughly 21 percent of the population speaks Chinese, and 12 percent Spanish, there, the costs in terms of election costs is less than—in terms of total budget is four one-thousandths of 1 percent. There simply is not any necessity for this. If the Federal Government had a huge surplus and did not know what to do with it, and did not have a lot of good causes, then I think it makes sense. This is not something that is being demanded by local jurisdictions, because the costs are so minor. Again, I point out this sample ballot we have from San Francisco, adding this Spanish and Chinese on this ballot is a relatively simple thing. It is not a costly thing.

While I have this chance, Mr. President, I also want to thank my colleagues, and I thank Senator MITCHELL, the majority leader. I want to thank Senator KENNEDY, Senator BIDEN, Senator HATCH, who has been very helpful; Senator SIMPSON, who is an opponent on this matter, but one I have great respect for. And specifically, also, the members of our staff, John Trasvina and Jayne Jerkins of my staff. Dick Day, and Cordia Strom of Senator SIMPSON'S staff, Jeff Blattner from Senator KENNEDY's staff; Mark Disler from Senator HATCH'S staff, and Cynthia Hogan of Senator BIDEN's staff.

One of these products does not happen without a great deal of work from a great many people, and I am grateful to all of them. But again, Mr. President, I do not think I need to go into great detail. This is something that clearly ought to be rejected.

Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as the Senator from Illinois pointed out, on

May 19 this year, the Senate tabled, by a vote of 54-41, an amendment to the motor-voter bill that would have delayed the implementation of that legislation until 1 year after the Federal Government appropriated funds to pay for the changes in the voter registration required by that law. The Senate properly rejected that amendment and should reject this one as well.

I was just listening to my friend and colleague from Wyoming. This legislation has been in effect for 17 years. I have read the RECORD in the House of Representatives today and listened to the debate this evening. We do not have one single elected official who has written to the committee to complain about the cost of the law. That happens to be the fact.

It was never raised by those who offered a similar amendment over in the House of Representatives, and it has not been introduced into our RECORD by the minority, and it has not been referred to this evening. It is not a problem. Every local community would like additional funding. But as far as being a heavy burden on the communities, it just is not so.

Under the Constitution, a State has a solemn responsibility to provide a Republican form of government and to assure all persons of the equal protection of the law. The bilingual assistance provisions of the Voting Rights Act are necessary to assure all citizens have a meaningful opportunity to participate in the electoral process. To satisfy their constitutional responsibilities, States should bear the cost of providing bilingual assistance to voters who need it.

Requiring the Federal Government to bear the costs of assuring that States satisfy their constitutional responsibilities would set a terrible precedent. The Federal Government does not, and should not, bear the costs when a State must undertake reapportionment to comply with the Voting Rights Act or the Constitution. The Federal Government does not, and should not, bear the cost when a State must remove barriers to access to voting places for persons with disabilities to comply with the Voting Rights Act or the Constitution. It does not, and should not, bear the cost of assuring that voters get the bilingual assistance they need to vote.

So, Mr. President, I hope that our colleagues will oppose this amendment.

I yield the remainder of my time.

Mr. SIMPSON. Mr. President, let me say that this is not a killer amendment. I think, if you believe in something, as the proponents do here, you should have the courage to fund it. And the way they can do it is to have a motion to waive the Budget Act, and that must pass with 60 votes.

But I say to my friend from Illinois that indeed that is the case. It does not give the local jurisdictions any comfort for us to say to the local governments that we cannot provide Federal funding because it would slow down this bill.

It is not going to help them at all, and it is the kind of thing that leaves them limp.

This amendment, I can assure you, was not soundly rejected by the House. It failed in the House by a single vote, and I think that is the fear here. The amendment was defeated by two votes in the House of Representatives. The vote on the amendment in the House was 184 to 186. The amendment was offered there by Representative CONDIT, a Democrat from California, where his district really knows the fiscal reality of this bill.

Bad enough that it simply be extended for 15 years on a 17-year tour of duty that it has already had. But now, in these times—and I inserted in the RECORD the indication of what it was going to cost in a single county.

These are realities, and I think that these realities will be evident here tomorrow when we vote on this particular amendment.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4½ minutes remaining.

Mr. SIMPSON. I reserve the remainder of my time for the moment.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I think the point made by Senator KENNEDY on the Americans With Disabilities Act, and the attempt that we have had to encourage local jurisdictions to make polling places accessible to people with disabilities, we have to come up with funds for that. This is contrary to what we have done.

Local jurisdictions vote for President and Vice President of the United States. They have to print that on the ballot. There is a cost there. If we are going to be consistent with this amendment, we ought to provide some funding for local governments when they have to pay for voting, putting that Presidential name and Vice Presidential name on the ballot.

We have separation of responsibilities, and local governments take care of voting costs. And this is a very, very minor cost in terms of those totals. So my hope is that this will be rejected, as the motor-voter suggestion along the same line, was rejected by the Senate.

Mr. President, I am willing to yield back the remainder of my time if the Senator from Wyoming is.

Mr. SIMPSON. Mr. President, I am sure the Senator from Massachusetts is going to leave the Chamber before I close up the remainder of my time. I see that he is.

So I, reluctantly, waiting always for the final opportunity with him, reluctantly relinquish the remainder of my time.

Mr. SIMON. Mr. President, I yield back the remainder of my time.

Mr. DECONCINI. Mr. President, I want to express my strong support for the legislation before us today.

The reauthorization of the language assistance provisions of the Voting Rights Act is crucial to the empowerment of many Americans who are not English proficient.

The Voting Rights Act has been effective in providing voting assistance to thousands of citizens. This bill would further enable, as well as encourage, many segments of the population to exercise their rights to vote.

This bill ensures equal access to the electoral process by providing bilingual registration and voting assistance for Americans who are not proficient in English.

It benefits many Americans who are unable to fully exercise their rights as U.S. citizens due to an inability to fully understand a ballot or voter registration card.

Without the means to give voters the opportunity to make an independent and informed vote, government is hindered in its representative function.

Section 203 of the Voting Rights Act, which authorizes the language assistance provisions, has been in use for 17 years and is doing its job by providing language assistance to citizens in 68 counties across the United States.

More minorities are being elected, and voter registration among minorities is increasing. In Arizona, where Hispanics constitute nearly 20 percent of the population, the number of Hispanics and Native Americans registered to vote has more than doubled since 1976.

I would like to address the significant changes this bill makes to the coverage of native Americans.

Current law fails to adequately identify Native Americans needing language assistance because it does not take into account their unique history and demographics. Without an alternative standard for native Americans, the language assistance provision of section 203 will not serve those Congress intended to protect and will contravene the Federal policy of language protection established by the Native American Languages Act of 1990.

The language assistance provisions work. From 1972 to 1990, the number of precincts with predominately Navajo voters in Coconino County, AZ, quadrupled, while the numbers of registered Navajo voters increased by 164 percent and Navajo voter turnout increased by 120 percent.

In Apache County, AZ, the number of precincts with predominately Navajo voters tripled between 1972 and 1990. The number of registered Navajo voters in those precincts increased by 80 percent and the Navajo voter turnout increased by 88 percent.

Some express concern about the possible costs of expanding coverage for native Americans. I do not believe this bill will unduly burden counties for a number of reasons. First, counties can target assistance to those who need it, rather than providing it to all citizens.

Second, the cost of oral assistance is minimal. Oral assistance is all that sec. 203 requires because native languages are traditionally unwritten.

Third, covered jurisdictions themselves determine what constitutes compliance with section 203, subject to review by the Department of Justice. Good faith efforts to comply usually suffice.

And finally, the bill only covers those reservations where 5 percent of the voting age Indian population require assistance because they are not proficient in English.

Although some may argue that the provision is overbroad, I strongly disagree. Native American languages should be preserved and native Americans should participate in our electorial system of government. It is just this type of language assistance that can satisfy both these goals.

Until every member of the Hispanic, Asian and American and native American communities can take advantage of their right to vote, they will not be able to fully address the needs of housing, economic development, employment, and education which are vital to their continued success as American citizens.

The passage of this legislation will directly result in greater participation by Hispanic and native American voters in county, State, and national elections.

In this election year, it is only fitting that we demonstrate this country's commitment to protecting the constitutional rights of all citizens by passing this legislation. Without it, many Hispanic and native Americans would be deprived of the most precious of these rights, the right to vote.

I would like to commend Senators SIMON and HATCH for their hard work in moving this bill forward. This is a bill of utmost importance to Hispanics, native Americans and Asian-Americans.

I urge my colleagues to support this bill and reject any amendments that dilute its effectiveness.

Mr. MCCAIN. Mr. President, I am pleased to support and be an original cosponsor of S. 2236, the Voting Rights Act Language Assistance Amendments of 1992. Section 203 of the Voting Rights Act is set to expire on August 7, 1992. I am extremely pleased that the Senate is acting on this issue at this time.

Mr. President, section 203, along with two other permanent language assistance provisions, was added to the Voting Rights Act in 1975 to address the exclusion of limited English proficient voting age, qualified American citizens from the electoral process. Section 203 was based on congressional findings that language minority American citizens had been systematically denied access to the voting franchise.

Mr. President, the voting franchise is one of the single greatest tools any American has to voice his or her opinion. I believe that the Congress has a duty to ensure that the sacred right to express one's opinion by voting is preserved, whether that individual is fluent in English or not.

Opponents of this legislation have stated that the need for bilingual ballots has not been established. This is simply not true. Many hard working Americans would be disenfranchised if bilingual ballots were not available, and that is not right. Many taxpaying Americans of Hispanic, Asian, and native American descent utilize bilingual ballots.

Arizona voting rates prove that bilingual ballots do in fact increase voter turnout. From 1972 to 1990, the number of precincts with predominantly Navajo voters in Coconino County, AZ, quadrupled, while the numbers of registered Navajo voters increased by a staggering 164 percent, and Navajo voter turnout increased a noticeable 120 percent. During the same time, in Apache County, AZ, the number of precincts with predominantly Navajo voters tripled. The number of registered Navajo voters in those precincts increased by 89 percent and the Navajo voter turnout increased by 88 percent. The Justice Department has testified that it is convinced that section 203 has had a significant effect among Native Americans.

Second, section 203 allows for flexibility. It is important to note that the regulations governing this issue place the responsibility for determining what constitutes compliance with section 203 on the covered counties. The Federal Government, correctly, I believe, does not seek to strictly dictate what local government can do much better.

Third, I have heard from some in Arizona who oppose the extension of section 203 on the ground that counties will be forced to produce ballots in countless languages—most notably Native American languages—at a huge cost to the counties.

Mr. President, this is simply not true. For Native American languages the bill only requires oral assistance. No written ballots or other written electoral material need to be provided because most Native American languages generally have no commonly used written form. Further, the General Accounting Office determined in 1986 that the cost of oral assistance is minimal.

Fourth, I have heard from many that we should pursue teaching non-English speaking Americans the English language instead of extending the bilingual ballot program. I support efforts to teach English to all non-English speaking individuals. However, I do not believe that the teaching of English should be done at the sacrifice of people's historic culture or their constitutional right to vote.

Fifth, I believe that bilingual ballots will serve as a unifying, not balkanizing force. For example, if S. 2236 were to pass, Los Angeles County would be covered for six written languages. The Los Angeles County Registrar and organizations representing Hispanic and Asian Americans have agreed to a program that establishes how the country would comply with section 203. This agreement shows a notable amount of cooperation and unification between local government officials and language minority communities.

Lastly, Mr. President, I refer back to my first reason for supporting this bill. The right to vote is fundamental, and should not ever be denied any qualified American voter. It is contrary to the principles of representative government to deny any American the right to vote simply due to a language barrier.

Mr. President, Susan Anthony, in 1873, spoke eloquently on the subject of the integral and important link between voting and representative government:

> Here, in the first paragraph of the Declaration [of Independence], is the assertion of the natural right of all to the ballot; for how can the "consent to be governed" be given, if the right to vote be denied?

Mr. President, I strongly urge my colleagues to support S. 2236 and oppose any weakening amendments. I yield the floor.

Mr. DODD. Mr. President, I rise in support of the Voting Rights Language Assistance Amendments of 1992. This legislation will reauthorize and further strengthen section 203 of the Voting Rights Act, to ensure that language-minority voters can effectively exercise their right to vote.

At the outset, I would like to commend the chairman of the Subcommittee on the Constitution, Senator SIMON, and the distinguished Senator from Utah [Senator HATCH] on their bipartisan effort to bring this legislation to the floor.

This measure reauthorizes provisions that were first enacted in response to widespread discrimination against language-minority citizens. That discrimination took the form of unequal educational opportunities and exclusionary voting procedures such as literacy tests.

Recognizing those problems, Congress enacted measures to ensure that voters needing language assistance would not be denied their right to vote. Section 203 of the Voting Rights Act prohibits any State, county, or parish with significant numbers of limited English-proficient voters and a high-illiteracy rate from conducting english-only elections. The law also requires that covered jurisdictions provide registration and voting materials and ballots in the language of the applicable minority.

These measures have been very successful. They have helped to remove barriers to participation in the electoral process encountered by Hispanic Americans, Asian Americans and American Indians.

For example, in Texas, where the entire State is subject to Spanish language-assistance requirements, Hispanic registration rates jumped 125 percent from 1976 to 1988. In Arizona, in countries where there are large numbers of Navajo voters, voter registration has increased as much as 164 percent and voter turnout by 120 percent.

In my home State of Connecticut, the provisions of section 203 have helped numerous Hispanic voters in Hartford, Bridgeport, and Fairfield County exercise their right to vote.

Despite the effectiveness of the language assistance requirements, there is still much work to be done. The lasting effects of discriminatory practices and the increasing number of bilingual citizens indicate that we need to continue such measures. For example, the U.S. Commission on Civil Rights recently reported that one of the most significant factors limiting Asian-American political participation is the widespread unavailability of Asian language ballots and other election materials.

Furthermore, the current law only applies to certain jurisdictions, and there are many other jurisdictions where voters need assistance. This measure will expand the coverage of the bilingual voting provisions and further increase the number of citizens who register and vote.

Mr. President, our Nation has made great strides in the ongoing battle against discrimination. Unfortunately, there are still many forces which threaten to divide the citizens of this country. But we cannot afford to be divided. There are too many important issues facing this Nation—poverty, crime, and health care to name a few. These vital problems require that all our citizens work together to find solutions.

By expanding the democratic process, this legislation will help us find common solutions. This measure will ensure that language-minority citizens have equal access to the ballot box. With that access, these citizens can add their voices to, and secure the benefits of, our political system. Mr. President, I urge my colleagues to support this vital measure.

Mr. AKAKA. Mr. President, I rise today to join my colleague from Illinois, Senator SIMON, as a cosponsor of S. 2236. This bill, with 29 cosponsors, would extend provisions of the Voting Rights Act to ensure language assistance to citizens who would otherwise be prevented from voting by their limited proficiency in English.

S. 2236 would extend the expiration date of section 203 of the act through the year 2007. It would also extend coverage to jurisdictions with over 10,000 language minority citizens of voting age. This change will provide bilingual voting assistance to Americans of limited English proficiency who presently are not covered under the current 5-percent standard.

During markup of S. 2236, the Judiciary Committee adopted the 10,000-citizen benchmark. The committee concurred that the 5-percent standard failed to fulfill the goal of the Voting Rights Act. According to the committee report, which used 1990 census data, "a 20,000-citizen benchmark would fail to provide over 355,000 minority language citizens the language assistance they need for a meaningful exercise of the franchise."

Furthermore, the report states that the addition of a 10,000-citizen benchmark will make the right to vote a reality for over 860,000 language-minority citizens in the United States in 34 counties.

Although the Justice Department suggested using a 20,000 benchmark, the committee rejected that figure. Moreover, Mr. President, the 20,000 benchmark would also exclude every Asian group that would be covered under the 10,000 benchmark, with the exception of Chinese-Americans in Los Angeles.

In Hawaii, the higher benchmark would deny assistance to citizens of Japanese- and Filipino-speaking communities. In fact, Japanese, Filipino, and Vietnamese communities would not be covered anywhere in the United States under a benchmark of 20,000. Spanish-speaking citizens would also be excluded in some ares that would be covered under the 10,000 standard.

The purpose of adopting a numerical standard is to better promote the goal of section 203: To provide language assistance to large concentrations of language-minority voters who currently are unable to exercise their right to vote because of their limited proficiency in English.

Any barrier which prevents American citizens from exercising their right to vote must be eliminated. The bilingual amendments to the Voting Rights Act have assisted thousands of minority Americans to become enfranchised, and I wholeheartedly support extending the language-minority provisions. This bill enjoys bipartisan support in the Senate and has been passed by the House. In this, a Presidential election year, we should make every effort to assist our citizens to exercise their constitutional right to vote.

Raising the benchmark from 10,000 to 20,000 would significantly limit the effectiveness of this measure, and for this reason, I strongly support the Judiciary Committee's 10,000 benchmark and urge my colleagues to retain this figure.

Mr. INOUYE. Mr. President, I rise today in strong support of H.R. 4312, the Voting Rights Improvement Act of 1992. This bill reauthorizes one bilingual provision of the Voting Rights Act of 1965, section 203, and amends that section to better identify native Americans, Hispanics, and Asian-Americans whose limited English proficiency presents a barrier to meaningful participation in the electoral process. Section 203 expires by its own terms today. Accordingly, it is critical that the Senate take favorable action today. I am a proud cosponsor of the Senate companion measure and I urge my colleagues to vote in favor of H.R. 4312 and oppose any weakening amendments.

As chairman of the Select Committee on Indian Affairs, I would like to share with my colleagues my understanding of how this legislative initiative will greatly benefit descendants of the first Americans—American Indians, Alaska Natives, and native Hawaiians. Their languages were spoken on this continent for thousands of years before the English language ever arrived to these shores. Native American words have been incorporated into our political speech, such as the word "caucus." Native American political concepts, such as freedom of speech and the separation of powers, have become cornerstones of our democratic government. Nevertheless, native Americans remain under represented in local, State, and Federal Government.

Mr. President, many native Americans, particularly elders, cannot read the English language. They live on relatively isolated reservations with high rates of poverty and unemployment. Without language assistance these citizens cannot exercise their fundamental voting rights. They cannot take part in representative government. In the absence of our action, they will remain locked out of our political process.

Where language assistance has been provided under section 203 of the Voting Rights Act of 1965, native American registration and participation rates have skyrocketed. For example, on the Navajo Nation in Coconino County, AR, the number of registered Navajos increased by 164 percent and Navajo voter turnout increased by 120 percent between 1972 and 1990, in precincts where Navajo voters constitute the majority. Mr. President, I have not cited an isolated example—section 203 has clearly helped many native Americans gain access to the political process.

H.R. 4312 has special significance for native Americans because it improves section 203 coverage for those living on Indian reservations who have limited English skills. The current standard in section 203 inadvertently includes many reservations with significant populations of limited English-proficient native Americans. Elsewhere, only parts of reservations are covered. This occurs because the current coverage standard does not consider the unique history and demography of native Americans. Native Americans living on reservations and other Indian lands comprise less than one-third of 1 percent of the total population of the United States. These relatively small populations are split by State and county lines, which were often drawn without regard for reservation boundaries when States entered the Union. As a result, most limited English-proficient native Americans do not exceed 5 percent of a county's voting age population.

H.R. 4312 provides an alternative coverage standard for native Americans which better identifies those needing language assistance: Where more than 5 percent of the native American voting age population of a reservation requires language assistance, the counties on that reservation will be covered pursuant to section 203. This alternative standard is necessary in order for section 203 to have real meaning for native Americans. Without it, only 4 of the more than 500 Indian tribal governments in the United States would receive assistance under section 203 alone.

The Tohono O'odham Nation of Arizona provides a good example of why an alternative standard is needed. They are the fifth largest tribe in the United States. Their reservation spans three counties in southern Arizona. According to the Census Bureau, several thousand voting age Tohono O'odham Indians cannot speak English well enough to participate in the electoral process. Nevertheless, none of the three counties on the Tohono O'odham reservation provide language assistance under the current section 203 standard. The reason for this is that most Tohono O'odham Indians live in the same county as the large, off-reservation city of Tucson, AZ, which has more than half a million residents. Even thought the Tohono O'odham speakers number in the thousands, they do not exceed 5 percent of the county's total voting age population. Under H.R. 4312, the Tohono O'odham Nation would receive language assistance under section 203, according to preliminary Census Bureau estimates.

Inevitably, some newly covered counties will have few native Americans who need assistance, simply because the incidence of native Americans in the population overall is low in comparison to other language-minority groups covered pursuant to section 203. I do not believe this will burden covered counties because only oral assistance is required for native American languages—no written ballots are needed. Indeed, the minimal cost of oral assistance was confirmed in a 1986 GAO report. Also, the Department of Justice regulations which implement section 203 permit counties to target assistance to those who need it. Counties need not provide language assistance in precincts where no native American language speakers vote.

Mr. President, limited English proficiency skills have not prevented our Government from asking native Americans to defend our county. Indeed, native Americans have served our Nation in the Armed Forces of the United States in numbers far exceeding their representation in the population. In Operation Desert Storm, for instance, Indian participation was seven times the national average—the largest percentage of any ethnic or racial group in the United States. So many Indians volunteered to fight in World War I—a time when Indians were not even allowed to be citizens of the United States—that the Congress was shamed into granting Indians national citizenship in 1924.

Mr. President, the Congress and President recently joined to proclaim 1992 the Year of the American Indian in recognition of the many outstanding and too often unacknowledged contributions native Americans have made to American history, culture, government, art, and language. Without reauthorization of section 203 of the Voting Rights Act, however, many native Americans with limited English proficiency will remain disenfranchised—they will remain unable to cast informed votes and make their voices heard at the polls.

Mr. President, I urge my colleagues to vote in favor of H.R. 4312 to ensure that every citizen of this Nation will be able to exercise their fundamental voting rights.

Mr. CRANSTON. Mr. President, the right to vote is the most fundamental and important right of citizens of a democracy. It is through the electoral process in a democracy that the people express their will. Democratic institutions cannot function effectively without an accurate understanding of that will.

We have all heard the statistics about the declining rate of voter participation in this Nation. Barely 50 percent of the eligible voting age population voted in the last Presidential election in 1988. Barely one-third of the eligible voter participated in the 1986 congressional election.

Yet what we often forget is that there are still thousands of American citizens who want to exercise their right to vote, but cannot because of their limited proficiency of the English language. In many counties across the country, being a language-minority citizen means you don't vote—even if you want to—because there is no bilingual assistance at the polls. Language-minority citizens in Los Angeles County in California, for example, receive no bilingual assistance even though there are hundreds of thousands of Asian Americans and Hispanic Americans residing there.

Unless we act to remove this barrier to voter participation, we run the risk of destroying the legitimacy of our democratic institution. For this reason, I wholeheartedly support the measure now before us, the Voting Rights Act language assistance amendments of 1992, S. 2236, and urge my colleagues to join me in supporting this bill.

This legislation would reauthorize section 203 of the Voting Rights Act of 1965 for 15 years and would amend the section's coverage formula to better identify language-minority communities in need of assistance. The bill would require that counties provide bilingual voting assistance if 5 percent or more than 10,000 of its voting age citizens are members of a single language minority and cannot speak or understand English well enough to participate in the electoral process.

The addition of the numerical benchmark of 10,000 is crucial in correcting the enormous loophole that currently exists in section 203. With this benchmark, several thousand language-minority citizens in Los Angeles County, Orange County, San Diego County, as well as several other counties that include cities like New York, Boston, and Philadelphia, would be assisted at the voting booth.

Some opponents of the legislation argue that the cost is too prohibitive. However, the use of bilingual ballots in the 1990 election in San Francisco only consisted of 5 percent of total election costs—or thirty eight ten-thousandths of 1 percent of the total city and county budget.

The important changes required by this bill will result in an increased opportunity for citizens to vote on election day.

Today we have the chance to reinvigorate our democracy by opening it more fully to citizen participation. Let us make the most of this opportunity.

Mr. BINGAMAN. Mr. President, I rise today to express my support for H.R. 4312, the Voting Rights Language Assistance Act. I urge my colleagues to join me and the bill's authors, Senators SIMON, HATCH, and KENNEDY, in swiftly approving this legislation, which will ensure millions of Americans continued access to the most basic of all American rights: the right to vote.

I am fortunate, Mr. President, to represent the State of New Mexico, a State rich in cultural and ethnic diversity. I am particularly proud that our state has, since its inception, recognized and protected the right of each and every citizen to vote. Since becoming a state, New Mexico has required, by constitutional provision, that all constitutional amendments be printed on ballots in English and Spanish. In fact, by tradition and statute, New Mexico has always printed its entire ballot in English and Spanish and has provided oral and written assistance, in any language, to any voter who requests it.

Mr. President, every state should practice the traditions of New Mexico. As a Nation, we should feel a strong obligation to ensure that the unique needs of our diverse population are met, and we should work to preserve and promote the heritage of all our citizens. The legislation before us today will help us meet part of that obligation.

In New Mexico, from San Juan, Rio Arriba, and Colfax counties in the north; to Cibola and Grant Counties in the west; Quay and San Miguel counties in the east; and Hidago, Luna, Dona Ana, and Eddy Counties in the south, 26 of our 32 counties fall within the bill's provisions. Thousands of New Mexicans of Hispanic, Navajo, Pueblo, and Apache descent will benefit from this legislation. Across the Nation, this bill will provide American Indians, Hispanics, Asian American, and Alaska Natives with critically needed language assistance so that they can play a role in the electoral process. We should approve this legislation without delay and affirm the right to vote for all Americans.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate reconvenes tomorrow at 9 a.m., that immediately following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day, and that the Senate vote on or in relation to the Simpson 5-year extension amendment, to be followed immediately without any intervening action or debate by a vote on or in relation to the Simpson Federal funding cost to local jurisdictions amendment; that if the remaining amendments on a previous list governing consideration of this bill are offered, they be limited to 10 minutes each, equally divided in the usual form; and that no motions to recommit be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. SIMON. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate stand in recess until 9 a.m., Friday, August 7.

There being no objection, the Senate, at 10:41 p.m., recessed until Friday, August 7, 1992, at 9 a.m.

EXTENSIONS OF REMARKS

CHILDREN'S PLATFORM

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Ms. PELOSI. Mr. Speaker, I am pleased to include a copy of the youth agenda, adopted by the 1992 Scholastic Kids Caucus, for the RECORD. The platform was created to present a children's agenda of issues of concern for elected officials and to begin a dialog on the future of health care, our environment, education, and the economy. As the platform shows, concerns of children are far-reaching, complex and thoughtful. I commend their tremendous efforts to address and propose solutions to our country's problems. Enclosed is the platform which addresses the issues of education, health, economy, and environment.

CHILDREN'S PLATFORM

THE EDUCATION PLANK

We, the youth of America, have gone through experiences that kids our age should never even hear about. We walk into bathrooms where the stench of marijuana permeates the air. We watch our school buildings crumble around us. We see violence in the hallways. We see kids from broken families with more pressing concerns than school. We see teachers, administrators, and school boards who don't know how to communicate with students. We see teachers who love to be there, and those who would rather stay home. School has become a war zone—a war of funding, bureaucracy, and apathy. We want to think, discuss, cooperate, and learn how to learn. We want change . . . and we want it soon.

We, the youth of America, dream that one day the teaching environment will extend beyond the school walls: The world should be our classroom, and the different and unique people who inhabit it should be the teachers. In and out of the classroom, learning should be full of excitement rather than drooping eyes and loud snores. We dream of an America with an educational system that doesn't limit students because it is too impersonal and boring. We want a system that will produce well-educated students without turning them into computers in T-shirts and jeans. We think students should be given the chance to be more than they ever dreamed they could be. If we can—and we believe we will—reach this dream, we will make the United States a much better place to live. It is better to build schoolrooms now than prisons in the future.

We, the youth of America, believe that all students who don't go to college deserve access to a successful school-to-work apprenticeship program, giving untrained workers the skills they need.

We, the youth of America, believe that every child has the right to higher education. We need a National Trust Fund to help all students pay for tuition.

We, the youth of America, believe that more bright young students need to be attracted to teaching. Teachers deserve more pay and smaller classes. Nothing can replace a good teacher.

We, the youth of America, believe we need national standards. We need to learn real skills in communications, politics, economics, technology, and useful math. We need to be exposed to cultures and societies different from our own. We want an education that is truly multicultural. Each school should be able to reach these goals by its own means, with rewards for improvements and good performance.

We, the youth of America, believe that students, rich or poor, deserve the same quality of education. Money for schooling should be provided through a state income tax, not a local property tax, with our federal government helping to spread funding evenly between rich and poor districts. Also, the government should fully fund such special programs as Head Start.

We, the youth of America, believe we need to provide a competitive education system with incentives to perform well. We believe the road to take is to allow choice in public schools. In order to insure that this plan works, we recommend an outreach program that would inform parents and students of the benefits of different schools, and transportation services for easy access to those schools.

We, the youth of America, believe we can make a difference—we can change the world and make it better. But first we need the tools to do so, the knowledge and skills that can only come from a quality education.

THE HEALTH PLANK

We, the youth of America, have seen our generation grow up without understanding what health really means. We have seen our parents come home, worn down by work, and go straight to bed while we watch TV. We have seen kids grow up on fast food and junk food. We have seen kids seek relief from the stress in their lives by smoking cigarettes and drinking alcohol, without realizing that these crutches are eating away at them inside.

We have seen our friends, our brothers and sisters, use drugs for ridiculous reasons: to rebel against their parents or sometimes just to look cool. We have seen kids injure themselves permanently by trying to solve a temporary problem. We have seen drugs ruin our cities. We have seen drug dealers come into our neighborhoods and take over our pizza shops, our playgrounds, and our apartment buildings. We have heard gunfire in our streets and we know that children get caught in the crossfire.

We have seen the AIDS epidemic creep across this nation. Our neighbors and our friends may have the HIV virus; we may even be infected ourselves. We have seen the virus infect our heroes, like Magic Johnson and Ryan White, and we have heard that 100,000 people already have died from this plague.

We, the youth of America, dream of a country where young people are healthy enough to do everything they want to do, and can feel really good about themselves. We know that when kids feel good about themselves, when they have energy and good health, they can reach any goal they want.

We, the youth of America, believe that this government should communicate with people in healthy language—on the radio, in newspapers, and on TV. We believe in a world of healthy communication, where parents hug their children, where teachers praise their students, where we all work together to grow up in a healthy way.

We dream of a nation that works together as a team, where each of us plays an important role. We dream that someday this whole world will be part of the same team, together, working for a common goal. We believe the future is near, and we know that now is the time to start working toward a healthier world.

We believe the government should help people with their health expenses, so that no one has to go without food and shelter just because they have big doctor bills. We believe that there should be more money put into drug rehabilitation—to help people who are addicted to drugs improve their lives and return to the world. And we believe that government should spend more time and money on preventive care for everyone, so that kids start off their lives on the right foot.

But we also feel that all of us are responsible for keeping ourselves healthy. We feel that if the government is going to protect us from medical expenses, we also have a responsibility to protect ourselves from medical risks. We believe we are responsible for leading a health lifestyle, and that the nation's health, like everything, is a team effort.

Most importantly, we believe that young people have something to teach as well as something to learn. We know that health is a lot more than just eating right, or running a few miles a day. We know that people rub off on each other, that we all affect each other by what we say and what we do. We know that positive communication is an important part of health. If we can create that kind of communication, we can be the world's healthiest nation, which is what we want to be.

THE ECONOMY PLANK

We, the youth of America, believe our disease-stricken economy needs to be cured. We have seen many of our parents lose their jobs. We have seen other countries grow richer as America has become less competitive. We've seen people on the streets with signs saying, "Will work for food." Many kids can't afford college, while more and more families can't even clothe or feed themselves. We have seen hard-working people who aren't able to afford the things they have strived for because of high taxes and rising prices. Young people do not want to be the ones faced with the burden of reducing the huge national debt.

We, the youth of America, want a secure future. We need to be assured that there will be decent jobs for us when we graduate from high school or college. We want to live in a world where there are unlimited opportunities. Our dream is the American dream—for everyone to be able to work at a good job that pays well, and to own their own home. All Americans should have the opportunity to provide for their families. For us to have that future, unemployment must go down. People must have incentives to start their own businesses, which would create more

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

jobs and lead to a stronger, more competitive economy.

We, the youth of America, believe that the government has the responsibility to balance the budget and stop adding to the national debt.

We, the youth of America, believe corporations and government have a responsibility to young people. They should provide job training and work experience for us because we are the workforce of the future.

We believe that older Americans are a great resource for young people. Government and industry should create partnerships between these two generations. Older Americans can teach us job skills and how to be good, reliable workers. By employing older people to help younger people, we give the two groups of Americans who are most hurt by unemployment a chance for productive careers.

We, the youth of America, believe Americans would rather work than be on welfare, which brings down the morale of the whole country. Both the government and the private sector have a responsibility to provide job training and incentives to help people get off welfare and become self-supporting. Abandoned buildings should be given back to the communities and turned into shelters for the homeless.

Like adult Americans, the youth of America have many different ideas about solving our nation's economic problems. Some of us feel that government should play a larger role in helping the economy grow and in making sure that everyone has equal opportunity. Others feel that the government should take a back seat and let the private sector drive the economy. But all of us believe that unless something is done now, the youth of today and tomorrow face a depressing future.

THE ENVIRONMENT PLANK

We, the youth of America, are deeply concerned about the state of the world's environment. We've seen refineries dumping waste into our rivers. We's seen yellow, gaseous clouds from big chemical plants hanging over our towns. This pollution not only affects the health of people living today; it will harm future generations of unborn children.

We've also witnessed people's ignorance as they litter our earth with bags, cups, paper, and other trash. Millions of young people have witnessed these things, not just in the United States but around the world.

We, the youth of America, believe that in order to ensure a cleaner, safer earth, action must be taken immediately. Toxic wastes and pollution must be controlled. Endangered species must be protected from extinction. Global warming must be stopped, and new energy sources discovered. Recycling must be enforced. Action, not just words, is the main answer to all these problems. To give future generations a safe, clean earth is, in our opinion, the best gift of all.

We, the youth of America, believe global warming and ozone depletion are the biggest environmental problems facing the world today. A one-degree rise in global temperatures could destroy entire coastlines. And ultraviolet rays can ruin the health of millions. We believe the following must be done: Research must be spurred to discover alternatives to chlorofluorocarbons (CFCs), which cause ozone depletion. The United States should share any new technology with developing countries so that they can end their dependency on CFCs. At the same time, America needs to cooperate with other industrial countries to stop ozone depletion and global warming.

We, the youth of America, believe that the U.S. is too dependent on polluting fuels such as oil, gas, and coal. To break this dependency, the U.S. should research alternative energy sources, such as soy oil and ethanol. These not only help the environment, but the economy as well. They give off less smog and provide corn and soybean growers with a larger market for their products. The U.S. should also look into solar power and other non-polluting energy sources such as gasohol.

We also need to stop the pollution of rivers, lakes, and oceans by big business. The government should fund research to develop better methods of waste disposal.

We also are aware that forests and the animals that live in them are threatened when land is taken for timber and grazing. The cutting of acres of trees should be controlled and trees replanted, because forests, especially rain forests, are the lungs of the earth. To save endangered species we must work with other countries to create stricter poaching laws and more wildlife preserves and national parks.

We, the youth of America, believe that recycling is central to solving our environmental problems. Our nation alone produces millions of tons of waste each year. Added to what the rest of the world produces, this creates a huge number of landfills which poison our water and our air. The government should make sure that recycling programs are set up all over the country. However, there is still a huge amount of waste that can't be recycled, including diapers and most plastics. The only way to make progress in this area is to spend more time, effort, and capital on the research and development of alternative solutions.

We, the youth of America, believe that the government must take the environment more seriously. We must face the fact that we are destroying our planet.

We the undersigned submit this platform:
Van Trinh, 16 yrs, San Diego, CA.
Patrick Gray, 13 yrs, Dunn, NC.
Ashley Adams, 12 yrs, Sunnyvale, TX.
Dinah Albert, 16 yrs, New York, NY.
Jennifer Carpenter, 17 yrs, Fairfield, CT.
Kelly Aldrich, 15 yrs, Marysville, WA.
Erik Elsea, 14 yrs, Waterloo, IL.
Kimberly Anthony, 15 yrs, Russell, PA.
Chad Duncan, 18 yrs, Wenatchee, WA.
Rosie Escagedo, 16 yrs, Miami, FL.
TouSaint Walker, 16 yrs, Brooklyn Center, MN.
Shane Hilyard, 16 yrs, Rochester NY.

WAYNE T. ALDERSON RECOGNIZED FOR EXEMPLARY SERVICE TO HIS COUNTRY DURING WORLD WAR II

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. SANTORUM. Mr. Speaker, I want to take this occasion to recognize the outstanding service of Pfc. Wayne T. Alderson, retired, in recognition of acts performed at the risk of his life and beyond the call of duty while serving in the U.S. Army during World War II.

Fifty years ago, during his enlistment and concurrent duty in World War II, Wayne voluntarily engaged in singlehanded assaults of enemy soldiers as the first American soldier to cross into Germany, and subsequently opened the way for our troops into German territory across the Siegfried Line. Wayne suffered a traumatic wound to the head. Although most of his fellow soldiers were killed during the offensive, his valorous actions did not go unrecognized by his commanders, who promised to nominate him for the Medal of Honor.

It is for his brave actions that I have introduced House Concurrent Resolution 351, which recommends Wayne for the Congressional Medal of Honor. His story is contained in the resolution. Unfortunately, all of Private First Class Alderson's military records, including these documented heroic acts, were destroyed at the National Personnel Records Center by a major fire in 1973. Wayne Alderson has been waiting for over 47 years to receive the Congressional Medal of Honor which he so richly deserves.

Wayne is the president of Value of the Person consultants, which advises management and labor toward better relations based on the principles of love, dignity and respect. Wayne is active organizing the annual Labor-Management Prayer Breakfast in Pittsburgh, which draws upward of 2,000 participants.

Let me conclude by urging my colleagues to cosponsor House Concurrent Resolution 351. There are many men and women living today who need to be recognized for their courage and sacrifices during World War II, and Wayne is one such man.

SUPPORT FOR H.R. 4961

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. THOMAS of California. Mr. Speaker, I hope you and our House colleagues will join me in supporting H.R. 4961, a bill which I introduced to end the current restrictions on the export of Alaskan North Slope [ANS] oil. These restrictions, while well intended, were not very well thought out. Initially, their proponents believed that by withholding this oil from export, the United States could remove itself from dependence upon foreign oil. Unfortunately, this has not occurred, and instead these restrictions have increased our dependence upon foreign oil.

Alaskan oil is very expensive to move through the Panama Canal. As a result, about 75 percent of this oil will end up in California. Once in California, however, ANS crude competes with oil produced locally, and with California producing over 1.2 million barrels a day, there is often a considerable glut on the market. Gluts force prices to be artificially low, and therefore make California oil producers subject to extreme market pressures. A Government policy, not the market, has caused producers to cap wells—thereby ruining them for future use.

There is an alternative. Alaskan crude could be sold at world market prices to Pacific rim countries, such as Japan. This policy would help to reduce our trade deficit with these nations, while at the same time stimulating our own economy at home, with increased profits and jobs. The increased oil production in California could create employment for producers throughout the State, and at the same time provide relief to California's sagging economy.

The simple fact is that the legalization of ANS exports makes sense. That is why the Interstate Oil and Gas Compact Commission has chosen to support exporting this crude. They realize it will create jobs, it will stimulate the economy, it will reduce our trade deficit, and most importantly, it will reduce our dependence upon foreign oil. Experience has shown that today's export restrictions have not increased our energy security. It is time to install an intelligent oil production policy by passing H.R. 4961.

Resolution Concerning Export of Crude Oil Transported Through the Trans-Alaska Pipeline System

Whereas, the U.S. Congress, as a condition of its approval for the Trans-Alaska Pipeline System (TAPS) in 1973, severely restricted the export of crude oil transported through TAPS and totally prohibited such export in the Export Administration Act (EAA) of 1979; and

Whereas, every day over 1.7 million barrels of TAPS crude oil and natural gas liquids are transported to domestic markets in the lower 48, with almost 85 percent landed on the U.S. West Coast and about 15 percent on the U.S. Gulf Coast; and

Whereas, excessive TAPS crude supplies on the West Coast have caused a persistent artificial West coast crude surplus, together with forced, high transportation costs, has significantly depreciated the reserve of oil in Alaska and California, making it less attractive to explore for and develop new sources of oil or to invest in expensive enhanced recovery processes to improve recovery from existing fields; and

Whereas, the nation's domestic oil and gas industry is struggling to survive as shown by the lowest rig counts in decades, the dramatic overseas flight of capital by major producers, and the continuing decline in production by independent producers; and

Whereas, export of appropriate portions of TAPS crude would boost production and encourage additional exploration in both Alaska and California, which taken together currently account for nearly 40 percent of the U.S. total output; and

Whereas, additional exploration and development in California and Alaska will contribute significantly to the nation's economy by adding thousands of petroleum related jobs throughout the country, improving capital investment in the domestic industry and increasing national energy production; and

Whereas, simple distillation of TAPS crude yields only eight percent gasoline, California refineries must employ elaborate, high cost processing systems to upgrade TAPS crude using fluid catalytic crackers, hydrocrackers and cokers to meet California market requirements of Pacific Rim refineries; and

Whereas, export of TAPS crude to Pacific Rim markets would reduce the nation's trade deficit; and

Whereas, the U.S. has strongly urged an open trading system between nations in which market force determine the movement of goods internationally, as witnessed by pursuit of the Free Trade Agreements with Canada and Mexico, and the gradual elimination of restrictions on the export of refined domestic crude oil products; and

Whereas, the export of TAPS crude would remove U.S. Government caused economic distortions and inefficiencies in the world's energy market and result in general U.S. public gains, especially with regard to reducing the nation's balance of trade deficit with Pacific Rim countries.

Now, therefore, be it resolved, that the Interstate Oil and Gas Compact Commission strongly urges both the Congress of the United States and the President to lift the ban on the export of crude oil transported through the Trans-Alaska Pipeline System and revise the Export Administration Act to provide free market to opportunities for domestically produced crude oil, subject only to restrictions during a national security event.

U.S. MILITARY MANEUVERS IN THE GULF: JUST MORE FITS AND STARTS?

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. ASPIN. Mr. Speaker, as part of a continuing series of statements about U.S. policy toward Iraq, today I would like to discuss whether recent United States military deployments to the gulf will help achieve our policy objectives toward Iraq.

In recent days the Bush administration has made a visible show of United States military might in the gulf in hopes of discouraging further Iraqi adventurism. I support these measures because they will reassure the Kuwaitis of the United States commitment to their security. These military gestures, however, will not bring Saddam to heel unless they are part of a comprehensive policy to make Iraq comply with all the United Nations resolutions.

THE SEQUENCE OF EVENTS

To begin, let's review the major announcements and events since the standoff at the Agricultural Ministry:

July 26: Iraq ends the most recent standoff by agreeing to allow a neutral inspection team to enter the Agricultural Ministry, but without addressing any of the other outstanding areas on Iraqi noncompliance.

July 27: To send a strong signal of United States resolve to the Iraqis, the Bush administration dispatches the aircraft carrier U.S.S. *Kennedy* to the Persian Gulf and sends additional Patriot missile batteries to Kuwait and Bahrain. In addition, the Pentagon draws attention to two joint military exercises with the Kuwaitis that had already been scheduled for August. Meanwhile, several press articles quote unnamed administration officials who express unhappiness with the United Nation's acceptance of the neutral inspection deal and maintain that the United States would press for an acceleration of U.N. inspections to test Saddam's intentions.

July 28: Declaring the immediate crisis diffused, the administration reverses its decision to send the U.S.S. *Kennedy* and calls it back.

July 29: United States Ambassador to the United Nations Edward Perkins tells a congressional committee that the United States intends to ask the Security Council to authorize military action to halt Iraqi attacks on the Shi's in the south of Iraq within the next week.

July 30: Rolf Ekeus, head of the United Nations Special Commission on Iraq [UNSCOM], indicates, however, that UNSCOM does not intend to accelerate the Iraqi inspections and implies that the United States request is politically motivated. At a New York City press conference, Ekeus comments that:

> It's a hot situation in the (U.S.) presidential campaign * * * but for us, we go a steady course and therefore we are not bothered by the campaign.

Meanwhile in Washington, unnamed administration officials tell reporters that Ambassador Perkins had been mistaken when he asserted that the United States would seek authority to use force to protect the Shi'a. Similarly unnamed sources at the United Nations report that initial soundings of the Security Council indicated that such a resolution would not be supported.

July 31: The administration announces that the United States-Kuwaiti joint exercise "Intrinsic Action" originally scheduled for September would now take place in August. With this change, approximately 5,000 United States troops will participate in three exercises this month in Kuwait. Department of Defense spokesman Pete Williams states that the accelerated pattern of joint exercises should be viewed "as an expression of our support for stability in the region and the security of our allies."

August 2: On the second anniversary of Iraq's invasion of Kuwait, Iraqi officials ominously insist that "Kuwait is part of Iraq" and that Iraq will "never renounce" its claim to Kuwait. Meanwhile, at Iraqi insistence, 100 United Nations guards leave Iraq, reducing their total numbers to 320 out of a total of 500. An unidentified gunman also shoots at a United Nations guard in Baghdad.

August 3–4: Operation "Eager Mace" begins with an amphibious landing of 1,900 United States Marines in Kuwait.

This series of events paints a confusing picture of how the United States is responding to Saddam Hussein's broad challenge to the authority of the United Nations. In one week the administration backtracked three different times.

First, the Administration orders the dispatch of the aircraft carrier *Kennedy* and then recalls it the next day.

Second, they demand accelerated inspections in Iraq, but back off when UNSCOM head Rolf Ekeus describes the request as politically motivated.

Finally, Ambassador Perkins asserts in congressional testimony that the United States will seek United Nation authority to protect the Shi'a—only to be rebuked the next day by unnamed administration officials for not understanding the question.

Unfortunately, the United States is still sending mixed signals to Saddam, often threatening to take steps 1 day only to backtrack the next. If we are confused by the President's intentions, is it any surprise that Saddam might be.

SHOWING OUR MILITARY MUSCLE

Let's be clear. I support our recent military actions in Kuwait. These moves should reassure the Kuwaitis, who have been shaken by the increasingly bellicose statements coming out of Baghdad.

But reassuring Kuwait, however, is not our biggest concern. Stopping Saddam Hussein's growing pattern of defiance and noncompliance is. The critical test of our recent actions is their impact on Saddam Hussein.

Unfortunately, Iraqi defiance has continued unabated, despite these military gestures. Even as United States troops were arriving in Kuwait, Saddam Hussein was reassuring his claim to Kuwait as Iraq's 19th province, harassing United Nation personnel, evicting over 100 United Nation guards and attacking Shi'a strongholds in the South.

As I have stated earlier, Saddam Hussein has embarked on an unparalleled challenge to the United Nation authority in Iraq. Since June, Iraq has:

Rejected the border demarcation recommended by the U.N. Boundary Commission and stopped attending meetings of the Commission;

Impaired U.N. relief efforts by blocking visas and transportation and refused to sign an extension of the Memorandum of Understanding [MOU], which expired June 30, for U.N. and relief personnel in Iraq;

Engaged in a growing terrorist campaign against U.N. personnel in the Kurdish enclave;

Launched a new military offensive against the Shi'a in the South, including attacks with fixed-wing aircraft; and

Impeded U.N. weapons inspectors' access to the Ministry of Agriculture.

Such a sustained challenge can only be defeated by a sustained response. Instead, the Bush administration has responded in fits and starts—announcing new initiatives one day and backtracking the next.

I must stress that military posturing—while a useful tool when used properly—cannot substitute for an effective and comprehensive policy to deal with Iraq. Accelerated military exercises in Kuwait are no substitute for accelerated United Nation inspections in Iraq. We still need a coherent and consistent campaign to make Iraq comply with the United Nation resolutions.

INTRODUCTION OF CHRISTIANITY TO AMERICAN INDIANS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a sworn statement of Pedro Naranjo, a member of the San Felipe Pueblo, as published in a book entitled "Native America Testimony." The editorial comment which precedes the article is provided also.

BURN THE TEMPLES, BREAK UP THE BELLS

(The Pueblo Rebellion of 1680, incited by eighty years of especially harsh treatment of Native Americans in the Southwest, caught the Spanish off guard. Within a matter of weeks, over four hundred of them were massacred. Priests were slain before their altars; the mission churches and livestock were put to the torch; and twenty-five hundred soldiers were driven south to Mexico.

In an effort to discover how such an attack could possibly have been planned under their noses, Spanish inquisitors interrogated Indian prisoners, among them Pedro Naranjo of the San Felipe Pueblo. This excerpt from Naranjo's replies to his questioners describes how Popé, a San Juan medicine man and the leader of the "Indian sorcerers" mentioned in Naranjo's statement, received spiritual guidance for the rebellion. As its main strategist, he prepared the secret timing by which all nineteen of the Rio Grande Pueblos rose up in arms simultaneously. Until the Spanish "reconquest" in 1692, the Southwest was Indian country once more.)

[Under oath, Pedro Narnajo declared that the Indians] have planned to rebel on various occasions through conspiracies of the Indian sorcerers, and that although in some pueblos the messages were accepted, in other parts they would not agree to it, and that it is true that during the government of the said señor general seven or eight Indians were hanged for this same cause, whereupon the unrest subsided. . . .

Finally, in the past years, at the summons of an Indian named Popé who is said to have communication with the devil, it happened that in an estufa [sacred meeting place of kiva] of the pueblo of Los Taos there appeared to the said Popé three figures of Indians who never came out of the estufa. They gave the said Popé to understand that they were going underground to the lake of Copala. He saw these figures emit fire from all the extremities of their bodies, and that one of them was called Caudi, another Tilini, and the other Tleume; and these three beings spoke to the said Popé, who was in hiding from the secretary, Francisco Xavier, who wished to punish him as a sorcerer.

They told him to make a cord of maguey fiber and tie some knots in it which would signify the number of days that they must wait for the rebellion. He said that the cord was passed through all the pueblos of the kingdoms that those which agreed to it [the rebellion] might unite one knot in sign of obedience. . . . As a sign of agreement and notice of having concurred in the treason and perfidy they were to send up smoke signals to that effect in each one of the pueblos singly. The said cord was taken from pueblo to pueblo by the swiftest youths under the penalty of death if they revealed the secret.

Everything being thus arranged, two days before the time set for its execution, because his lordship had learned of it and had imprisoned two Indian accomplices from the pueblo of Tesuque, it was carried out prematurely that night, because it seemed to them that they were now discovered; and they killed religious, Spaniards, women, and children. . . .

Finally the señor governor and those who were with him escaped from the siege, and later this declarant saw that as soon as the Spaniards had left the kingdom an order came from the said Indian, Popé, in which he commanded all the Indians to break the lands and enlarge their cultivated fields, saying that now they were as they had been in ancient times, free from the labor they had performed for the religious and the Spaniards, who could not now be alive. . . .

Asked for what reason they so blindly burned the images, temples, crosses, and other things of divine worship, he [Pedro Naranjo] stated that the said Indian, Popé, came down in person, and with him El Saca and El Chata from the pueblo of Los Taos, and other captains and leaders and many people who were in his train, and he ordered in all the pueblos through which he passed that they instantly break up and burn the images of the holy Christ, the Virgin Mary and the other saints, the crosses, and everything pertaining to Christianity, and that they burn the temples, break up the bells, and separate from the wives whom God had given them in marriage and take those whom they desired.

In order to take away their baptismal names, the water, and the holy oils, they were to plunge into the rivers and wash themselves with amole, which is a root native to the country, washing even their clothing, with the understanding that there would thus be taken from them the character of the holy sacraments. . . . He saw to it that they at once erected and rebuilt their houses of idolatry which they call estufas, and made very ugly masks in imitation of the devil in order to dance the dance of the cacina [kachina]; and he said likewise that the devil had given them to understand that living thus in accordance with the law of their ancestors, they would harvest a great deal of maize, many beans, a great abundance of cotton, calabashes, and very large watermelons and cantaloupes; and that they could erect their houses and enjoy abundant health and leisure. . . .

PEDRO NARANJO,
San Felipe Pueblo.

HEATHER C. BOYD WINS WRITING CONTEST

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. HOLLOWAY. Mr. Speaker, I am pleased to advise this House that my constituent, Heather C. Boyd, of Eunice, LA, has won the Louisiana competition in the VFW's 45th annual Voice of Democracy Broadcast Scriptwriting Program. This year's contest theme was "Meeting America's Challenge." There were over 147,000 students nationwide entered in the contest.

Heather, a member of the National Honor Roll and National Honor Society, graduated this year from Saint Edmund High School. This most deserving young woman is the daughter of Joe and Paula Jacobi.

So you will be as inspired as I was I am including for insertion in the RECORD a copy of the speech Heather wrote. I am very proud of my constituent. She is a credit to her family, her school, her community, her great State and our Nation. There is no question that Heather Boyd is an individual of skill, maturity, and unlimited potential. I am proud to represent her in the U.S. Congress. Mr. Speaker, I am certain that Heather Boyd is not simply an outstanding student today—she will certainly be among our Nation's leaders of tomorrow. It is my honor and privilege, Mr. Speaker to submit to my colleagues and this great institution her words of challenge to us all.

MEETING AMERICA'S CHALLENGE

Welcome to America! It's the land of opportunity, the home of the free, a melting pot of cultures from all over the world. It's a place where you can travel through beautiful grasslands and forests, up majestic mountains, or across vast desert plains. In America you can do anything and be anyone. This is the place where dreams come true. The only catch is you have to make those dreams come true. Are you someone who will make America proud? Will you be an asset to America? Are you ready to meet America's challenge?

Yes, America is a land of opportunity, but She challenges us to take advantage of all she offers. In order to do this three elements are necessary; awareness, education, and action.

The first step is awareness. We must look around us and learn what is going on today. We can pay attention to the news and keep up on both community and worldwide events. We have to know what opportunities are available in order to set goals. Then we must find out what is needed to achieve those goals.

The next step is education. This means not only learning in the classrooms of schools, but also in the classrooms of life. It is essential that our minds remain open to the continuous learning experiences in our world. We need more than the basic survival skills, we need those skills necessary to truly make something special of our lives.

The third step is one that cannot be overlooked! It is to take action. We must make our own opportunities, using the skills we've learned to begin a career, a family, or both. It's no longer enough to say we can do anything, now we have to go out and do it. Each individual has to create the life he or she wants to live. Meet America's challenge!

But we can't lose sight of America's core, Her very heart. It's a challenge within a challenge. We must maintain the moral backbone of our country while living the life we've created. Once again, it's a matter of awareness, education, and action.

This time it's social awareness. We need to know that is happening to the environment and what affect today's waste will have on tomorrow's world. The lonely, the disadvantaged, and the abused must be acknowledged before it is too late.

We have to educate ourselves as to what is needed and what can be done to improve the environment, to comfort the lonely, to help the disadvantaged, and to heal the abused.

Once we know what to do, then we must act. Don't shed tears for those who are already crying, instead, be the one who dries their tears. We can give assistance in rectifying the problems in our country and world today. Becoming a part of the solution is as easy as lending a helping hand to someone in need, giving food to those who are hungry, offering shelter to those without, spending time with those who have been pushed aside, and most importantly, sharing love with one another. We can work to make others aware of the opportunities available to them, help to educate them, so that they too can plan a course of action to make their dreams a reality.

Meeting America's challenge is not a simple little issue to look at for a day. Rather, it is a complex issue we face every day. It involves a lifetime of awareness, education, and action. It is the fabric of our country. America gives us everything needed to make a difference in the world around us and determine what the future will hold. We must take advantage of the opportunities this great nation offers without taking advantage of Her people or Her resources. I ask you again * * * Are you ready to meet America's challenge?

CONSIDER THIS AS THE NAFTA LOOMS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. PEASE. Mr. Speaker, it appears as if the President and his Mexican and Canadian counterparts are very near to having a deal on the North American Free Trade Agreement [NAFTA]. In view of the impending conclusion of the NAFTA talks, I would like to submit for the RECORD the attached editorial, which appeared in the Cleveland Plain Dealer on Sunday, August 2. This piece does a brilliant job of articulating Ohio's point of view on the NAFTA, a point of view, I might add, which is shared by House Majority Leader GEPHARDT as well as a great number of other Members of Congress and their constituents.

[From the Cleveland Plain Dealer, Aug. 2, 1992]

CAUTION, CANDOR ON MEXICO TRADE

Trade policy should be as free as economic realism allows, opening foreign markets to U.S. export industries and giving the benefit of low-cost imports to U.S. consumers. But the ideal of free trade must be balanced with the realities of fair trade: Washington should maintain its tilt toward open commerce, but it must insist on rigorous terms.

There is no need to rush a treaty that may have a severe economic impact on industrial regions like Northeast Ohio: the still-unfinished North American Free Trade Agreement, adding Mexico to the existing U.S.-Canada tariff-free zone. The White House has a license to drive a hard bargain with Mexico, thanks to Congress' 1991 authorization of "fast track" negotiations. But President George Bush—who has calculated that free trade may be a vote-winning issue for his re-election campaign—must not assume that Congress will give rubber-stamp approval to the treaty's eventual wording.

Trade negotiators must reach the right deal, not just any deal, to win Ohioans' support. If it lacks adequate social safeguards—in particular, if it omits generous trade-adjustment aid for U.S. workers hurt by sudden foreign competition—Ohioans should be ready to oppose the flaws in the pact with Mexico.

Judging by preliminary drafts of the treaty, industrialized areas like Ohio may be in for a disappointment. Congress' most influential trade-policy activist, House Majority Leader Richard Gephardt—who supported the Bush administration's fast-track initiative—last week pointed to potential flaws in the pact.

Trade-adjustment aid is vital for areas such as Northeast Ohio. At least in the short run, a deal with Mexico could clobber industries like automobile, steel and glass manufacturing that are mainstays of the Great Lakes economy. Industries might have a new incentive to eliminate high-wage U.S. jobs, taking advantage of lower-wage labor in Mexico. Unless the Bush administration provides job-skill retraining, education aid and extended unemployment benefits to those who lost their jobs, many Great Lakes communities might endure a crushing blow.

The flip-side of generous aid at home is a set of rigorous requirements for Mexico. Canada and the United States could use the trade pact as an opportunity to lift some Mexican standards up to the northern nations' levels. Assurances within the treaty could raise Mexico's workplace-safety standards, could require enforcement of fair wage-and-hour laws and could encourage Canadian- and U.S.-style safeguards for labor-union organizing.

The most complex issue may be improving Mexican environmental standards. Any anti-pollution effort will be expensive—and White House cost-cutters will surely balk at new spending for any ill-defined environmental goals. Gephardt's suggestion of a cross-border transaction fee, raising money for a cleanup of the border zone, is intriguing (and seems similar to a border-adjustment fee suggested last year by Ohio's top trade-policy watchdog, Rep. Donald J. Pease of Oberlin).

Bush is bound to be disappointed if, during the campaign season, he tries to portray the debate over the Mexican trade pact as a classic confrontation between hard-headed free traders and soft-hearted protectionists. Driving the hardest possible bargain with Mexico is only common sense: Those who seek modest safeguards do not deserve the epithet "protectionist." If Bush hopes to persuade Ohioans of the wisdom of a U.S.-Mexico free-trade deal, he must offer realistic answers to skeptics' doubts.

ANDY STASIUK RETIRES FROM THE STAR LEDGER

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. RINALDO. Mr. Speaker, one of the finest and most respected newspaper editors in New Jersey, Andy Stasiuk, is retiring from the Star Ledger of Newark, NJ, after a distinguished newspaper career covering a half century. He was one of the major figures in building the Ledger's circulation into the largest daily in the State and giving it a reputation as New Jersey's newspaper of record.

There are hundreds of thousands of loyal Ledger readers who have great faith in what they read in the Ledger. They believe it is fair and thorough and keeps them well informed by separating fact from opinion. As its managing editor, Andy Stasiuk insisted on good reporting, crisp writing, eye-catching layout, and accuracy in everything it covered, from government to sports and entertainment.

In all the years I have known Andy Stasiuk, he never called himself a journalist. That was too high-falutin a term. He preferred to be call a newspaperman. He became a first-class newspaper reporter and editor who never missed a deadline or a good story. Andy Stasiuk learned his craft in the real world covering politics, courthouses, crime beats, and the human drama of life. He succeeded largely because people trusted him. They trusted his judgment, his honesty, his fairness, and that special quality of really trying to understand people. He had an uncanny ability to make people open up and tell their side of the story.

He took enormous pride in being known as a newspaperman who never once betrayed a source or carelessly or needlessly damaged anyone's reputation. Andy Stasiuk was not a scalphunter seeking to exploit the worst vices in people but very often he brought out the best qualities in people and in their institutions and traditions.

When he started at the old Newark Ledger, it was on the brink of bankruptcy. In those days, it had a reputation for reporting murder, mayhem, and high school sports. It was barely hanging on against competition from the Newark Evening News, the New York newspapers, and smaller city dailies in New Jersey. Under the new ownership of that publishing genius, the late Sam Newhouse, Mort Pye, who became the editor, and Andy Stasiuk resurrected, rebuilt, and saved the Ledger. They changed its focus to statewide and regional coverage, and the Ledger became the best read, best written, best edited, and most respected newspaper in New Jersey. With a daily circulation of 488,000 and 707,000 on Sunday, the Ledger now ranks with many of the biggest and most important dailies in the country.

In order to reach that ambitious goal, Andy Stasiuk built a staff of news reporters, feature writers, columnists, and bureau chiefs who are a blend of the old values and the new; college educated young reporters eager to cover a good story, and seasoned veterans who could tell fact from fiction. They have made the Ledger a newspaper that respects the truth and refuses to pander to the new hard copy style of supermarket tabloid sensationalism in order to boost circulation and improve the bottom line. Under Mort Pye and Andy Stasiuk, the Ledger neither panders to nor patronizes its readers, but respects their intelligence. Its reporters and editors take genuine pride in saying, "I'm with the Ledger."

The fact that Andy Stasiuk hired, inspired and in some cases, fired a few of the new breed of journalists, means that his imprint will be on the Ledger for a long time to come. Like a brother devoted to his family, he leaves his beloved newspaper in very good hands.

He will be missed for his judgment, experience, toughness under pressure, and for his vast knowledge of the people, places, and events that have made New Jersey history over the last half century.

This World War II Navy fight pilot who earned the Silver Star and other medals for bravery in combat, has served his country, his State, and his profession as well as any man I know. I join my colleagues from New Jersey in saluting Andy Stasiuk for his many contributions to our State and Nation and for his commitment to the truth and to plain old-fashioned honesty and fairness.

FARMER'S HELPER W.F. "BILL" JAMES

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. EMERSON. Mr. Speaker, I rise to recognize a distinguished friend in my congressional district. W.F. "Bill" James has been a resident of southeast Missouri since his birth, 87 short years ago on January 26, 1905.

Bill James was raised in the city of Clarkton, MI. While growing up in the Bootheel, he attended the Dunklin County public school system and then continued his education at Harris Teachers College in St. Louis. Shortly after he graduated, he returned to southeast Missouri and called home to Poplar Bluff, Caruthersville, and various other communities in between.

Bill James is a devoted family man, having married the former Mildred Phoebe, more than 57 years ago. He and his beloved wife had four children—Cynthia Null, Curtis James, Marshall James, and the late David James—and raised them all in southeast Missouri.

Our friend Bill James made a successful career out of what he loves to do—serve his fellow man. As a dedicated employee of the University of Missouri extension service, he was a county agent who serviced his neighbors from 1934 to 1971. He even split his duty between Butler County for the first 15 years and then moved to Pemiscot County where he lived, worked, and eventually retired for the final 21 years of official service. In his capacities as county agent and chief of staff for the Pemiscot County office, Bill James worked with folks involved with agriculture, home economies, and youth. In fact, his leadership abilities were recognized by his election to offices in the State County Agents Association, including that of president in 1959; and just as important, his leadership qualities were well recognized by his friends in the county and he became known as the farmer's helper.

Mr. Speaker, Bill James is known not only as a devoted family man and a dedicated employee, he is also known as a faithful Christian. He has been an active member of the Presbyterian Church throughout his entire life. At the age of 18 years, he served as Sunday school superintendent at the Presbyterian Church in Clarkton, MO, later in life as an elder, Sunday schoolteacher, Sunday school superintendent, and choir member in the First Presbyterian Church of Caruthersville; a charter member of the Caruthersville Interdenominational Laymen's prayer group; a founder in establishing the McCarty Chapel; and a lay preacher in a number of Presbyterian Churches throughout the Eighth District of Missouri. Through these endeavors—plus some—Bill James has become a well recognized servant of people. In addition, he still remains active in his congregational activities today.

As far as civic organizations are concerned, Bill James has been continually and loyally committed to the southeast Missouri community he calls home. As an active member of the Caruthersville Rotary Club since 1950, he has achieved the status of being named a Paul Harris Fellow. His leadership in these activities helped him organize the Poverty Program in Pemiscot County as well as the Senior Citizens Center and Nutrition Center there. Bill James has also served as chairman of the Bootheel Council on Aging, the Southeast Missouri Area Agency on Aging, as well as a weekly volunteer at local nursing homes, the Meals on Wheels Program, and at the local Red Cross. He is also a friend of education throughout southeast Missouri by his ardent support of Caruthersville High School and all of its academic and athletic activities.

In closing, Mr. Speaker, I would like to say that Pemiscot County, the Missouri Bootheel, the State of Missouri, and America are better places today because of people like W.F. "Bill" James. He deserves this recognition for his devotion to his family, church, and community. His loyalty to this friends, his unselfish love for community, and his untiring desire and effort in attempting to be a servant of and to all people, this gentleman of southern Missouri is outstanding, should be commended for his wonderful lifes' works, and I am proud to bring his accomplishments to the attention of the House of Representatives.

AIRLINES IN PARTNERSHIP

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. SHUSTER. Mr. Speaker, the following article may be of interest to my colleagues:

[From the Washington Post, Aug. 6, 1992]

AIRLINES IN PARTNERSHIP

Travelers around the globe should welcome an agreement between British Airways and USAir to establish the world's largest airline partnership. But the move stirs no cheer from two competing American carriers, which up until now have enjoyed domestic domination. Both Delta and American have asked the Department of Transportation to reject the deal unless the U.S. government uses the proposal as leverage to increase access by this country's airlines to passengers in Britain. The effort of U.S. carriers and the federal government to secure more rights in Britain deserves help. But this is no reason to block important foreign investment in domestic airlines—which is an important route to improved prospects for a competitive U.S. airline industry.

British Airways proposes to invest $750 million in USAir in exchange for 44 percent ownership and 21 percent of the voting rights in the carrier. If approved, the arrangement would create an airline alliance flying to 339 destinations in 71 countries. U.S. law allows foreign nationals to acquire up to 49 percent of the equity and 25 percent of the voting stock but under no circumstance to "control" a carrier. Delta Chairman Ronald W. Allen contends that British Airways would be able to exercise control through its membership on USAir's board of directors, because the vote of at least one of those directors would be required for big policy decisions, such as financing and top executive appointments.

USAir Vice President Patricia Goldman says the airline is within the law. American Chairman Robert L. Crandall acknowledges that the agreement "seems consistent with American's advocacy of greater liberalization of opportunities for international carriers" but should be blocked unless U.S. carriers are allowed larger opportunities in Britian.

The United States in general and U.S. airlines in particular need foreign investments. Carriers from everywhere need more loosening of restrictions as a way to nourish competition. The USAir-British Airways partnership serves this end.

NATIONAL ORGAN DONOR AWARENESS CAMPAIGN ACT OF 1992

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. ROYBAL. Mr. Speaker, yesterday I introduced H.R. 5785, the National Organ Donor Awareness Campaign Act of 1992, to address the severe organ shortage and improve the organ procurement and transplantation process. The accompanying statement appeared in the Wednesday, August 5, 1992, CONGRESSIONAL RECORD, on page E2390 and I insert a copy of this bill be included for the RECORD.

H.R. 5785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Organ Donor Awareness Campaign Act of 1992".

SEC. 2. NATIONAL ORGAN TRANSPLANT CAMPAIGN.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a national campaign to increase public awareness of organ transplantation. Such campaign shall include—

(1) the development and dissemination of information—

(A) on the need for organ donations from the public, including information specifically designed for language and minority populations,

(B) on how the organ procurement and transplantation system operates, and

(C) for use in educational programs, including the education of health care professionals;

(2) the development of a national clearinghouse to disseminate information related to organ procurement and donation; and

(3) educational, outreach, and research programs (including educational and outreach efforts through medical and health professionals, schools, attorneys, and State departments of motor vehicles) to encourage the donation of organs by all segments of the population.

(b) REPRESENTATION.—In conducting the campaign, the Secretary shall include representatives from all areas of the transplant community, including medical and health professionals, minorities, women, family members of transplant recipients and organ donors, transplant recipients, emergency room and hospital support staff, educational institutions, and State departments of motor vehicles.

(c) RESEARCH.—The Secretary shall conduct research in the following areas:

(1) The process by which individuals listed in the Organ Procurement and Transplantation Network are selected and the effect of the race and economic status of an individual on the selection of the individual.

(2) The role religious and other institutions play in encouraging or discouraging organ donation and the potential role they could play in educating their members and increasing organ donation, especially among youth and minorities.

(3) Incentives to encourage hospitals to identify potential donors and take a more active role in the campaign to improve organ donation rates.

(4) Developing and identifying model educational programs for the general public to increase donor awareness, specifically among groups with low rates of organ donation.

(5) Improving and promoting the use of organ donor cards.

SEC. 3. ADVISORY COMMITTEE ON ORGAN TRANSPLANTS.

(a) IN GENERAL.—Section 372 of the Public Health Service Act (42 U.S.C. 274) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall provide for appointment of an advisory committee with respect to the Organ Procurement and Transplantation Network. The committee shall include individuals who participate in organ procurement and transplantation, including representatives of transplant teams (including neurologists and neurosurgeons), emergency room personnel, transplant hospitals and center, the Network, transplant recipients, clergy, and attorneys, as well as representatives of advocacy organizations on behalf of women, on behalf of minorities, and on behalf of underserved populations. The committee shall meet not less often than twice each year.

"(2) The advisory committee shall research the following:

"(A) The process by which individuals who need organs are listed with the Network.

"(B) The process by which individuals so listed are selected to be given a transplant.

"(C) Whether the processes referred to in subparagraphs (A) and (B) are applied consistently and equitably without regard to race or financial or insured status.

"(D) The appropriateness of restoring the authority and funding of the Organ Procurement and Transplantation Network to oversee and coordinate the work of organ procurement organizations.

"(E) The dissemination of educational materials (in appropriate languages and publications) concerning organ donation and procurement to—

"(i) the public, including minority populations and including dissemination through the departments of motor vehicles in each State,

"(ii) medical and legal professionals, and

"(iii) administrators, faculty, and students at educational institutions.

"(F) The adequacy of quality controls in the organ procurement and transplant process, including the (i) training required of transplantation teams, (ii) consistent application of standards for the selection of organs suitable for transplant, and (iii) implementation of required request or routine inquiry laws, and the relation of such controls to standards for qualification of organ transplant programs under the medicare program.

"(G) The appropriateness of alternative approaches, such as presumed consent, to increase the supply of organs.

"(H) Such other aspects of the organ procurement and transplant processes as the Secretary may specify.

"(3) By not later than 2 years after the date of appointment of members to the committee, the advisory committee shall submit to the Secretary and to the Network a report on its research under paragraph (2) and recommendations relating to the organ procurement and transplantation process. In making such recommendations the committee shall consider feasibility of incorporating the authorization of organ donation as part of advanced directives and as part of an individual's medical record.

"(4) The Secretary shall transmit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives, the Committees on Finance and on Labor and Human Resources of the Senate, the Select Committee on Aging of the House of Representatives, and the Special Committee on Aging of the Senate the recommendations of the advisory committee and shall include in such transmittal such recommendations for changes in legislation as the Secretary deems to be necessary to assure the consistent and equitable allocation of organs procured through the Network.

"(5) The advisory committee shall terminate 90 days after the date of submission of the report under paragraph (3), except that the Secretary may continue the operation of the advisory committee for such period as the Secretary deems appropriate in order to monitor the implementation of any of the committee's recommendations.".

(b) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.—Subsection (a) of such section is amended by striking "$2,000,000" and inserting "$2,500,000".

(c) NETWORK REQUIREMENTS.—Subsection (b) of such section is amended—

(1) in paragraph (1)(B)(i), by inserting "women, minorities," after "associations,"; and

(2) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (J),

(B) by striking the period at the end of subparagraph (K) and inserting a comma,

(C) by redesignating subparagraph (L) as subparagraph (M), and

(D) by inserting after subparagraph (K) the following new subparagraph:

"(L) assure in its bylaws that the process of procuring and transplanting organs is consistent and equitable and does not discriminate on the grounds of race or financial or insured status, and".

(d) EXPANSION OF RECIPIENTS OF BIANNUAL REPORT.—Section 376 of the Public Health Service Act (42 U.S.C. 274d) is amended by striking "to the Committee" and all that follows through "Human Resources" and inserting "to the Committees on Ways and Means and Energy and Commerce of the House of Representatives, the Committees on Finance and on Labor and Human Resources of the Senate, the Select Committee on Aging of the House of Representatives, and the Special Committee on Aging of the Senate".

SEC. 4. EXPANDING ACCESS TO IMMUNOSUPPRESSIVE DRUGS.

(a) ESTABLISHMENT OF IMMUNOSUPPRESSIVE DRUG GRANT PROGRAM.—Title XIX of the Public Health Service Act is amended by adding at the end the following new part:

"PART C—GRANTS FOR IMMUNOSUPPRESSIVE DRUGS "GRANTS FOR IMMUNOSUPPRESSIVE DRUGS

"SEC. 1931. (a) IN GENERAL.—The Secretary shall make payments to health care facilities for the dispensing of immunosuppressive drugs to eligible patients.

"(b) DEFINITIONS.—In this section:

"(1) The term 'health care facility' means a hospital, pharmacy, or other facility authorized or licensed under State or Federal law to dispense and distribute prescription drugs.

"(2) the term 'immunosuppressive drug' means any drugs or biologicals that are to be used for the purpose of preventing the rejection of transplanted organs and tissues.

"(3) The term 'eligible patient' means an organ transplant recipient—

"(A) who is not eligible to receive reimbursement for the cost of immunosuppressive drugs under title XVIII of the Socialy Security Act, under a State plan under title XIX of such Act, or under private insurance, and

"(B) whose transplant was performed at a facility which meets standards established under title XVIII of such Act for such transplantation.

"(c) APPLICATION.—No payment may be made under this section unless an application for such payment has been submitted to, and approved by, the Secretary. Such an application shall be in such form, and submitted in such manner, as the Secretary shall by regulation prescribe.

"(d) AMOUNT OF PAYMENT.—The payment under this section shall be in such amount and on such terms as the Secretary finds appropriate; except that—

"(1) in the case of a drug described in section 1861(s)(2)(J) of the Social Security Act, the payment amount with respect to the drug shall be based on the amount of payment permitted for such drug under title XVIII of such Act to the extent of available appropriations, and

"(2) no payment shall be made to satisfy any deductible, copayment, or coinsurance amount required of an individual who is otherwise not an eligible patient.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated $7,000,000 for each of fiscal years 1993 and 1994.".

"(b) ELIMINATION OF 1-YEAR LIMITATION ON MEDICARE COVERAGE OF OUTPATIENT IMMUNOSUPPRESSIVE DRUGS.—

"(1) IN GENERAL.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is amended by striking ", within 1 year after the date of the transplant procedure".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to drugs furnished on or after October 1, 1992.

SEC. 5. INFORMATION ON ORGAN DONATION IN CONNECTION WITH ADVANCED DIRECTIVES.

(a) IN GENERAL.—Section 1866(f)(1) of the Social Security Act (42 U.S.C. 1395cc(f)(1)) is amended by adding at the end the following:

"To the extent practicable, the provision of information under this subsection shall be coordinated with the provision of organ donation information pursuant to section 1138(a)(1)(A)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 6. SPECIAL PROJECT GRANTS FOR MINORITY ORGAN PROCUREMENT.

(a) IN GENERAL.—Section 371(a)(3) of the Public Health Service Act (42 U.S.C. 273(a)(3)) is amended by adding at the end the following: "In making grants and entering into contracts for projects under this paragraph, the Secretary shall include projects which encourage procurement of organs from minority communities (including cultural, racial, and language minorities) and from other population groups with below average donation rates through outreach and educational services, including the employment of translators at hospitals.".

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amount otherwise authorized to be appropriated to carrying out section 371(a)(3) of the Public Health Service Act, there are authorized to be appropriated for special projects described in the second sentence of section 371 of the Public Health Service Act (as added by subsection (a)) such sums as may be necessary.

CHANGE ADVOCATED IN CHANGE OF COMMAND

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. BENNETT. Mr. Speaker, I was at the recent Change of Command Ceremony in which Rear Adm. Frank M. Dirren, Jr., became the new commanding officer of Helicopter Wings Atlantic. In his acceptance of this responsibility, Admiral Dirren made some remarks about the changes taking place these days. I specifically include at this point some of his comments, which I think are worthy of being put in the CONGRESSIONAL RECORD because they speak eloquently of changes in the Navy and in the national defense of our country.

SPEECH BY REAR ADM. FRANK M. DIRREN, JR.

Change-change-change. What an incredible world we live in. So many changes, it's hard to keep up with them. Who would have ever dreamed just a few years ago the changes that have occurred just in the past 4 years: the Berlin Wall, the resurgence of democracy in Latin and South America, the reshaping of eastern Europe into struggling new nations, the reunification of Germany, the collapse of Soviet Union, a coalition of disparate nations winning a quick and merciful war in Kuwait, an almost bloodless victory in a 45-year Cold War—we as Americans have every reason to celebrate these revolutionary changes during a period that futurist Alvin Toffler calls the "the hinge of history".

The world has changed and we must, too. But as we all know, with the growth that comes with change also comes some pain, some uncertainty, some risks, and some instability. The so-called world order necessitates changes within our society and our armed forces—some changes I think will be fundamental and significant. This is not a simple military drawdown—challenging as that might be to an all volunteer force for the first time. The restructuring of the armed forces of our nation, its manpower, procurement, technological development, service roles and missions are substantive and rival the forced restructure of the U.S. Navy after Pearl Harbor. This is a "sea change" of the first magnitude.

To meet these challenges, we will have to be innovative, creative, cooperative: But no matter what the changes—the one constant is the quality of the men and women of our Navy. Their quality is founded on a system of values that are the core of what makes the Navy great. Despite the very few who ignored what values are the bedrocks of our nation and armed forces, the vast majority of our sailors and their leaders possess the courage, moral integrity, loyalty, honesty, and genuine concern for the dignity of the individual to face the challenge of change. I am proud to be part of a Navy that cares, and honored to share the challenges that lie ahead.

FUTURE OF U.S. ARMS CONTROL POLICY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. FASCELL. Mr. Speaker, The world has changed dramatically in the past few years. We have seen the fall of the Berlin Wall, the breakup of the Warsaw Pact, the collapse of the Soviet Union, the emergence of ethnic strife in Eastern Europe, and political and economic breakdown in the new Republics of the Commonwealth of Independent States.

These changes have effected new and significant developments in our arms control relationship with the former Soviet Union, in particular, and with the world, in general.

To meet these changes, a comprehensive arms control policy is sorely needed, not only to manage the emerging new world order, but to prevent it from turning into disorder and disarray.

During my tenure in Congress—particularly over the last 10 years—I have attempted to shape this country's approach to arms control by participating in, and in many cases, leading the fight to implement a comprehensive arms control policy.

This comprehensive arms control policy has many elements—some have been implemented by the current President, some were a long time in coming, and still some await implementation.

These elements include:

Deep reductions in strategic arsenals;

An end to fissile material production and safe disposal of fissile material;

A comprehensive nuclear test ban;

A worldwide ban on chemical weapons;

Conventional arms control;

Controls on strategic defense systems;

Enhanced nonproliferation regimes; and

Concrete implementation of disarmament activities.

STRATEGIC REDUCTIONS

Over the years, many in the Congress have been urging the administration to negotiate deeper reductions in strategic nuclear weapons at the Strategic Arms Reduction Talks [START] in Geneva—deeper than the administration was prepared to discuss. Given the changing situation in the former Soviet Union—namely the dissolution of our former enemy and main reason for U.S. production of nuclear weapons in such vast numbers—the House passed the fiscal year 1993 defense authorization bill in early June, which called for phased reductions in nuclear arsenals worldwide.

Specifically, the House language called for: First, United States-Russian reductions in their strategic nuclear arsenals down to a level between 2,500 to 4,700; second, further United States-Russian reductions down to a level between 1,000 to 2,000, with lower levels negotiated for the United Kingdom, France and China; and third, stage-by-stage reductions in the number of nuclear weapons in all countries.

Following the House action, Presidents Bush and Yeltsin finally agreed at the June summit to deeper cuts in their strategic nuclear arsenals that went well beyond the START Treaty signed last year and the Bush and Yeltsin proposals of earlier this year. From the current level of roughly 10,000 strategic nuclear weapons on both sides, the United States will reduce down to a level of 4,250 strategic nuclear weapons by the year 1999 and to 3,500 by the year 2003. Under this agreement, the Russians will reduce down to a level of 3,800 by the year 1999 and to 3,000 by the year 2003.

From 10,000 nuclear weapons to 3,500 is no small feat. Such reductions are a recognition by the two countries with the world's largest nuclear arsenals, that nuclear weapons are ceasing to have so much value. The ability to destroy the world 10 times over is just that—overkill. There are many who argue that reducing our nuclear arsenal even further, to below 3,000, makes sound arms control sense. I hope we move in this direction. The recent Bush-Yeltsin agreement moves us in the right direction.

FISSILE MATERIAL PRODUCTION BAN AND ULTIMATE DISPOSAL

As we implement reductions in our nuclear arsenals and are faced with disposing of the fissile material from destroyed weapons, it makes eminent sense that we not produce more fissile material for new nuclear weapons.

Even without weapons reductions and eliminations, it made no sense to continue producing plutonium because the United States and the former Soviet Union have had a burgeoning stockpile of plutonium, about 100,000 kilograms each, with a half-life of 24,000 years.

Production of fissile material or access to such nuclear material is an integral part of making nuclear weapons. Without the fissile material, there can be no nuclear explosion. Therefore, it is incumbent on us to eliminate the production of this material in all countries, especially the emergency nuclear states.

A United States-Russian production ban would increase the political pressure on nuclear weapons states to half their production and put their facilities under safeguards and on nonweapons states to forgo the nuclear option.

For the past several years, the Congress has urged the President to enter into negotiations with the former Soviet Union to ban the production of fissile material for weapons purposes. The United States has not produced highly enriched uranium for nuclear weapons since 1964 and we have not produced plutonium for weapons purposes since 1988 because of the arms control, environmental and cost concerns of the Congress and the American people—and because we have so much plutonium. But the administration did not see the opportunity in our pause in production to negotiate with the former Soviet Union an end of their fissile material production for weapons purposes. But the Congress did.

As recently as last month, the House once again called on the President to engage the member states of the Commonwealth of Independent States in negotiations to end their fissile material production for weapons purposes, and to extend this ban to a worldwide ban on the production of fissile material for weapons purposes. The fiscal year 1993 defense authorization bill also requires the President to report to the Congress on the progress of the negotiations and technical working groups established with other countries to examine and demonstrate cooperative technical monitoring and inspection arrangements for verifying the dismantlement of nuclear warheads and a ban on fissile material production.

Yet it was only a few weeks ago that this administration finally saw one of its points of light when the President announced that the United States would not produce plutonium or highly enriched uranium for weapons purposes. However, the President has yet to make this a truly meaningful act by: First, calling on and negotiating with the Russians a verifiable end to their fissile material production for weapons purposes; and second, seeking a negotiated, verifiable worldwide ban on such production. The latter are two significant elements of a comprehensive arms control policy in the new world order.

One aspect of a comprehensive arms control policy in which the administration is taking some action is in the area of nuclear weapons dismantlement. As we dismantle nuclear weapons, either unilaterally or pursuant to arms control agreements, the fissile material needs to be disposed of in a safe manner. The Congress established several criteria to govern the transfer of aid to the former Soviet Union for the dismantlement of their nuclear and chemical weapons. Before aid can be transferred, the President has to certify to the Congress that the states of the former Soviet Union are committed to foregoing the use of fissile material from destroyed nuclear weapons in new nuclear weapons. However, the administration has yet to explain to the Congress how it plans to ensure and verify that the fissile material removed from such weapons is not used in new weapons.

Some arms control experts have asserted that this administration has missed an opportunity to ensure the safe transport, storage, and dismantlement of weapons from the Republics to Russia and to lay the groundwork for future deep cuts in nuclear arsenals and for a fissile material production ban, by not agreeing to an accounting and verification system for the disposition of the fissile material from destroyed weapons. The reason for this is said to be opposition on the part of the administration for reciprocal inspection and inventory of U.S. weapons and materials.

In my judgment, we must get a handle on the fissile material in the Russian inventory so that we can better track and account for the fissile material that is removed from destroyed weapons and so that we can ensure that it is not used in new weapons. Therefore, we must establish an appropriate verification regime to monitor the storage and disposition of this fissile material. This matter is undergoing serious discussion in the U.S. Government and will be a matter for congressional input in the coming months.

COMPREHENSIVE NUCLEAR TEST BAN (CTB)

For the past several years, the House has stood firm in its support for a comprehensive test ban. Recognizing that the achievement of a CTB would be preceded by step-by-step negotiations with the Russians, the House again, just this past month, approved language in the fiscal year 1993 defense authorization bill calling for a 1-year moratorium on U.S. nuclear testing for as long as the former Soviet Union does not test. Our hope was that such action would encourage the administration to move forward on nuclear testing limits, including negotiations with the Russians for a CTB. Moreover, just this week, the Senate took an unprecedented stand, by passing a moratorium on testing until July 1, imposing future limits on testing, and calling for the achievement of a multilateral comprehensive ban on testing by 1996.

Such an end to United States-Russian testing would highlight a recognition that the United States and Russia should not only seek quantitative constraints on their respective nuclear arsenals, but qualitative constraints as well. In this way, the development and deployment of new generations of nuclear weapons would be constrained.

Furthermore, a United States-Russian CTB would demonstrate a commitment on their part to ending the nuclear arms race. This would signal to the world community that the United States and Russia are taking concrete steps to implement Article 6 of the NPT, which calls for signatories to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) to end the nuclear arms race and to disarm.

Many countries have made implementation of Article 6 of the NPT the litmus test for extending the Treaty at its Review Conference in 1995. The goal of the NPT—to curb and control weapons activities around the world—is a key element of the world's nuclear nonproliferation regime. This regime and the integrity of the NPT must be preserved and strengthened.

Russia has not conducted a nuclear test since October 1990 and has extended its moratorium on nuclear testing through the end of the year. France has announced a suspension of their nuclear testing for the rest of the year and has called on all nuclear powers to end nuclear testing. While many threshold nuclear states are reluctant to participate in regional nuclear test bans, they may be more readily willing to participate in a worldwide ban.

In spite of these developments and continued congressional pressure, the President is missing another opportunity to take the lead in ending nuclear testing around the world. This administration continues to be intransigent in this area. While the President has recently acknowledged that less tests may be required per year and that we no longer need to test to develop new warheads—only for safety and reliability—he refuses to give up the ghost. There has been no effort on the part of this administration to seek a bilateral ban with the Russians, let alone a worldwide ban on nuclear testing. Nothing makes better arms control, nonproliferation, economic and environmental sense. In fact, every President since Eisenhower, with the exception of Presidents Reagan and Bush, have supported a CTB. Maybe it is time for new thinking in the White House.

CHEMICAL WEAPONS BAN

The United States and Russia have agreed to utilize $25 million of the $400 million authorized for Russian weapons disarmament purposes, for activities necessary to begin Russian destruction of their chemical weapons. This represents a continuation of my longstanding effort to bring about a verifiable program to eliminate chemical weapons—a key element of a comprehensive arms control policy.

The multilateral talks in Geneva will conclude a worldwide chemical weapons ban to be initiated in August. Then, we will look forward to a worldwide program to eliminate all chemical weapons and I envision a multilateral fund to support all chemical weapons destruction efforts.

CONVENTIONAL ARMS CONTROL

In May of last year, the House Foreign Affairs Committee adopted a conventional arms transfer restraint policy, calling for U.S. leadership in replacing the conventional arms race with arms restraint. The President's Middle East Arms Control Initiative was announced several days after the committee action.

Congressional efforts in this area culminated in the October 1991 enactment into law of a temporary moratorium on all arms sales to the Middle East unless the President undertakes good faith efforts in pursuit of negotiations among the permanent five members of the U.N. Security Council, aimed at establishing a multilateral supplier restraint regime. This congressional effort was meant to jump start the process toward restraint, to challenge ourselves and the world community to work together to stem the flow of arms and promote lasting peace in the region. The President's May 1991 Middle East arms control initiative, aimed at establishing a restraint policy among the other four major suppliers of arms, has seen only modest progress during its first three rounds of talks and appears to be losing momentum.

As proliferation of conventional arms continues to be a major concern, conventional arms control remains an important element of comprehensive approach to arms control.

CONTROLS ON STRATEGIC DEFENSE

Support for strategic defense research consistent with our treaty obligations and national security requirements, has been a longstanding element of a comprehensive arms control policy advocated by the Congress.

As far back as 1984, when President Reagan's strategic defense initiative [SDI] was getting underway, I issued a report on the adverse arms control and cost implications of SDI. These concerns remain today and if anything have intensified.

Support for SDI was initially touted as a necessary hedge against Soviet breakout of the ABM Treaty. The ABM Treaty has been an effective inhibitor of an arms race in defensive systems between the United States and the former Soviet Union. With the dissolution of our former adversary, the original purpose of a multilayered SDI has also dissolved. Now the administration has found a new mission for SDI: to protect the United States against ballistic missile threats from other countries. The problem with this new mission is that there are currently no countries—other than the former Soviet Union—with the capability of attacking the United States with ballistic missiles. Such a threat is at least 10 years away according to administration testimony. A far better hedge against this kind of threat is to strengthen the nonproliferation regime.

NONPROLIFERATION AND DISARMAMENT

Increasing proliferation risks in the nuclear, chemical and conventional areas are a major threat to stability in this new era. The emerging new world order demands a strong nonproliferation policy.

Through export controls, supplier guidelines, a strengthened NPT, a worldwide end to nuclear testing, a worldwide end to fissile material production for weapons purposes and the safe disposal of this fissile material, we can better reduce and then subsequently manage the serious proliferation risks we are facing.

We are entering a period of general disarmament, disarmament manifested in bilateral and multilateral arms control agreements and unilateral action.

Last year, the Congress initiated this move toward disarmament by authorizing $400 million to destroy nuclear and chemical weapons of the former Soviet Union. We were all pleased that the executive branch overcame its initial opposition and is now an enthusiastic supporter of this effort.

This year, in approving its new aid bill for the former Soviet Union, the House Foreign Affairs Committee authorized a total of $790 million in nonproliferation and disarmament funding.

This nonproliferation and disarmament fund begins real disarmament of thousands of weapons of mass destruction and provides support for international nonproliferation activities such as the International Atomic Energy Agency and the United Nations Special Commission on Iraq [UNSCOM].

During this process of disarmament, it is clear that the United Nations and the International Atomic Energy Agency have and will continue to play a crucial role.

In assessing the Iraqi nuclear and chemical weapons situation in particular, Rolf Ekeus, Director of the United Nations Weapons Commission, highlights the importance of disarmament and arms control in general. He states that:

> The large amount of chemical weapons were not destroyed through bombing. Nothing of the research activities were really destroyed in the nuclear area. What has been destroyed is through the peaceful means of inspection. I would like to say that arms control has demonstrated that it is the way to destroy weapons and not through bombing and attacks.

In this regard, it is imperative that we support the United Nations and the International Atomic Energy Agency in their efforts to meet their responsibilities and the challenges of their charters, and most immediately to complete the task of disarming Iraq.

Moreover, it is imperative that we actively support the U.S. Arms Control and Disarmament Agency [ACDA] in its efforts to implement its mission and the challenges of its charter.

ACDA was created by the Congress in 1961 as a new agency of peace to deal with the problem of reduction and control of armaments looking toward ultimate world disarmament. According to the statute:

> Arms Control and disarmament policy, being an important aspect of foreign policy, must be consistent with national security policy as a whole. The formulation and implementation of United States arms control and disarmament policy in a manner which will promote the national security can best be insured by a central organization charged by statute with primary responsibility for this field.
>
> ACDA must have the authority, under the direction of the President and the Secretary of State, to carry out the following primary functions:
>
> (a) The conduct, support, and coordination of research for arms control and disarmament policy formulation;
>
> (b) The preparation for and management of United States participation in international negotiations in the arms control and disarmament field;
>
> (c) The dissemination and coordination of public information concerning arms control and disarmament; and
>
> (d) The preparation for, operation of, or as appropriate, direction of United States participation in such control systems as may become a part of United States arms control and disarmament activities."
>
> (The terms "arms control" and "disarmament" mean the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement including the necessary steps taken under such an agreement to establish an effective system of international control, or to create and strengthen international organizations for the maintenance of peace.)

In the emerging world order, nonproliferation and disarmament concerns will be primary. The management and implementation of these and the other elements of a comprehensive arms control policy will be enhanced by a strong bipartisan working relationship between the Congress and the executive branch.

ACDA has the mandate and an opportunity to play a leading role in this endeavor. The committee looks forward to supporting and working with ACDA in the months and years ahead to achieve a coordinated arms control, disarmament, and national security policy that enhances our security at a lower cost and a lower risk to human survival.

INTRODUCTION OF LEGISLATION TO ESTABLISH A COMMISSION ON RETIREMENT INCOME POLICY

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. CHANDLER. Mr. Speaker, there are a number of measures pending before Congress aimed at simplifying pension plans and preserving benefits for future retirees. These measures, many of which reflect my legislative proposals, will help expand pension coverage and retirement savings. Despite these efforts, however, I believe that more comprehensive measures are needed in order to ensure the retirement security of American workers.

Current statistics relating to our private pension system are alarming, to say the least. Over 50 percent of the Nation's private sector work force is not covered by a pension plan. Contributions for those who are covered, measured in inflation-adjusted dollars, declined steadily in the 1980's. In 1989 and 1990, more pension plans were terminated than were started. These are just some of the trends which suggest trouble on the horizon, even as medical expenses for retirees continue to grow. It is vital that Congress better understand these retirement savings trends and their importance to the economy and to future retirees.

Last year, Milliman & Robertson, a nationwide actuarial and benefits consulting firm, conducted research with corporate chief executive officers which indicated that CEO's are concerned with the complexities of pension laws, inadequacies of retirement policies, and uncertainty over the future course of pension laws. Milliman & Robertson queried CEO's representing companies of all sizes. Responses from 262 CEO's, including 73 Fortune 500 companies, show that more than 90 percent of the CEO's:

Think our country's retirement savings policies are not effective at encouraging the level of saving that future retirees will need.

Think the country's overall personal savings trends present problems for current capital needs and future retiree needs.

Support the idea of a high-level panel of public and private sector leaders to search for ways to simplify and enhance the country's retirement policies.

These responses, from an informal questionnaire, are similar to the results from a survey of small- and medium-sized companies CEO's sponsored by Milliman & Robertson and conducted by the Wirthlin Group. The findings suggest that CEO's would prefer fewer laws and regulations affecting private pension plans; and, at a minimum, existing laws should be simplified in order to reduce administrative burdens and cost. In addition, they would also like a reexamination of basic pension policies to help foster better coverage and savings.

There are several standing committees of the House and Senate which take an active interest in retirement policy issues. In the House alone, the list includes the Committee on Ways and Means, Education and Labor, Aging, and Small Business. These committees periodically examine various problems associated with current pension policies. Because of busy schedules and other priorities, however, these committees have not examined all of the basic trends I have mentioned above. Too often, this has resulted in a piecemeal approach to retirement policy changes that has attempted to fix some current problems but has neglected the bigger picture.

To help correct this situation, Mr. Speaker, I am introducing legislation today to establish a national commission to examine retirement savings trends in the United States and to make recommendations for comprehensive reforms. I am joined in this effort by the two ranking members of the House Select Committee on Aging's Retirement Income and Employment Subcommittee, Representatives HUGHES and BOEHLERT.

The commission will be bipartisan and bicameral. It will consist of seven appointees each from the House and the Senate, plus four appointees by the President.

The commission should seek input from companies sponsoring pension plans, their advisers, and representatives of labor and retiree groups. To assist the commission, I am also requesting that the Congressional Research Service conduct a study on retirement income trends and the importance of retirement savings to the economy. The study should examine and report on:

First, the amount and sources of public funds, whether through direct spending or tax expenditure, and private funds necessary to finance existing and contemplated programs, and incentives for retirement savings;

Second, the most efficient and effective manner to ensure adequate retirement savings for most Americans, keeping in mind the need plan sponsors have for simplicity, reasonable costs, and appropriate incentives;

Third, the amounts future retirees at various income levels will need for replacement of preretirement income, including amounts necessary to pay for medical care and long-term care;

Fourth, the changing work force and demographic trends which affect the pensions of future retirees;

Fifth, the roles of retirement savings in the U.S. economy;

Sixth, sources of retirement income other than private pensions; and

Seventh, the shift away from insured and qualified pension benefits.

The commission will issue a report to Congress by December 31, 1993, which includes recommended measures designed to address the need for future retirees of first, appropriate pension plan coverage and other savings mechanisms, second, adequacy of retirement income, third, preservation of benefits accumulated by pension plan participants, and fourth, appropriate access to information concerning benefits and remedies for disputes as to the benefits they expect to receive. In the final report, any recommendations for new incentives or programs which would result in an increase in the federal deficit must include recommendations for offsetting any such increase.

Mr. Speaker, I am also pleased to note that similar legislation has recently been introduced in the other body by Senator BENTSEN of Texas. Senator BENTSEN's leadership on issues affecting retirement income policy is well known and I commend him for his continuing efforts.

In closing, Mr. Speaker, I would ask my colleagues to consider the importance of the issues this legislation seeks to address. As the American work force continues to age, the integrity of our private pension system will grow critical. This bill will enable policymakers and citizens alike to better understand the problems and issues at hand. And, more importantly, the best ways to address them.

I urge my colleagues to support this effort to improve the retirement security of American workers.

SALUTE TO DENVER'S COLE COALITION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mrs. SCHROEDER. Mr. Speaker, as crime and other urban problems rear their ugly heads in cities all across our Nation, citizens can run or fight. Those that choose to fight to preserve their community should be commended for their bravery and faith. Denver's Cole coalition is just such a group. The Cole coalition, an organization dedicated to the revitalization of the Cole neighborhood, has not turned away from the infiltration of gangs and drugs and has not looked the other way when their neighborhood falls into disrepair and neglect. The Cole coalition has stood its ground.

Through faith in themselves and concern for their neighborhood, the coalition has utilized scarce resources in their community to achieve exemplary results. Even though the Cole coalition was founded only a few years ago, the members have already made encouraging improvements in the neighborhood. They have cleaned up yards, repaired houses, and adopted a park for children. Cole neighborhood looks like a place where the residents care about their homes and community.

The Cole strategy does not stop there, though. They have an improvement plan that ranges in focus from housing to economic and community development. The coalition tries to increase ownership opportunities for renters and to offer loan programs for property improvement. In addition, this group razes condemned homes and turns the remaining lots into parks. The Cole coalition offers job training programs and acts as a resource for possible job opportunities. They improve the community's awareness of health issues and offer alternatives to drugs. The Cole coalition organizes AIDS awareness programs and teen advisory groups.

Mr. Speaker, it is with respect and enthusiasm that I recognize and thank the Cole coalition for their efforts. They are a model for all of America's neighborhoods.

SUPPORT FOR THE TRAXLER AMENDMENT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. HOYER. Mr. Speaker, I want to take this opportunity to explain my support of the amendment offered by Chairman TRAXLER, deleting funds from H.R. 5679 for continuing development of the space station.

Mr. Speaker, I am a strong proponent of space exploration. And it is important to note that the longterm economic benefits of space exploration and research are not what this debate is about.

This debate is about how much we can afford to spend, and how we will arrange our priorities—getting the most bang for the American taxpayers buck.

The intangible benefits of space exploration, including manned exploration, of the final frontier are meaningful and important.

International leadership, international cooperation, the research data, and the challenge itself are all reasons offered for supporting continued development of the space station.

Those are also good, rational and compelling reasons for supporting and protecting the other ongoing and projected programs administered by the National Aeronautics and Space

Administration to which $12 billion of NASA's $14 billion budget is devoted.

I, for example, have a particular interest in EOS, the Earth Observing System currently under development at NASA.

EOS involves a network of unmanned satellites intended to provide critically important data about the Earth—data that is increasingly important as we become more aware of humanity's impact on our environment.

EOS will help us understand the consequences, both intended and unintended, of daily living which may determine the health of the planet that must sustain us and future generations.

The real issue before us is the question of priorities.

Space Station Freedom is, at this point, only a fraction of the NASA budget. But at $1.73 billion, that fraction is approximately one-seventh of the total, and I've seen estimates that it will consume as much as $40 billion to develop and cost $120 billion over its lifetime to operate.

NASA's entire budget is just over $14 billion today.

As noted in the report accompanying H.R. 5679, veterans medical care required at least an additional $1.119 billion for fiscal year 1993.

Veterans medical care is the most important priority within this bill, and the committee deserves praise for making the tough decisions required to meet our commitment to our nation's veterans.

Even though funding for the VA has increased by 10 percent in constant dollars during the last decade, medical costs increased 117 percent during the same period.

There are those who argue that Chairman TRAXLER, Mr. GREEN, Mr. STOKES and the other members of the subcommittee have solved this problem; that since they have increased funding for some of the veterans programs while maintaining funding for the station, this massive project somehow does not impact other funding priorities.

The American Public, not versed in budget arcana, knows better.

Yes, the space station is "in"; community development block grants are "in", and; the shelter plus care homeless initiative is "in", as well. But, as the gentleman from Arizona, Mr. KOLBE has pointed out, the home ownership and opportunity program is funded at $649 million below the President's request; the home investment partnership program for acquiring, rehabilitating, and constructing affordable housing is $900 million below the level provided in fiscal year 1992; the emergency shelter grants program is $55 million below the level provided in fiscal year 1992; and the EPA is $388 million below the request in the President's budget. NASA, itself, is $278 billion below the level provided in fiscal year 1992.

There is no doubt that more than $1 billion in this bill for the space station may have otherwise been allocated to other pressing priorities, including some within NASA.

Mr. Speaker, the House approved the Labor, Health and Human Services and Education Appropriations bill yesterday afternoon. That bill provided important increases for head start, job corps and foster care services, but at the expense of energy assistance for poor people, community and maternal and child health care services, and other programs.

Those were the choices we made yesterday, Mr. Speaker.

We must make a similar choice today, as well.

In January, I hope that a new administration and a new Congress can re-evaluate Federal priorities outside the straight jacket of the budget agreement that makes deficit reduction the peculiar burden of domestic discretionary spending—the 15 percent of the Federal Budget that has actually decreased in size.

We must have a serious effort to evaluate the entire budget because that is the only deficit reduction effort that can realistically succeed.

Until we reach that level of crisis or leadership, we must husband our resources, investing in our Human Capital while maintaining leadership in space exploration at the least cost.

I urge my colleagues to support the chairman's amendment.

ENTERPRISE ZONES APPROPRIATE FOR LOS ANGELES

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, the Los Angeles riots reminded us once again of the very thin line that exists between order and disorder; between civilized behavior and rioting in the streets.

We here in America routinely read of riots and killings in other countries, and we chalk it up to countries with less sophistication than ours—countries that are not as civilized as ours.

Yet, now we see again that conditions exist here in America that can persuade people to become part of a mob capable of killing and stealing and burning indiscriminately.

The Rodney King verdict in Los Angeles was simply the spark that lit the fuse. The powder keg that exploded was a festering condition in our country that includes poverty, helplessness, hopelessness, and it includes the breakdown in the family. Children are being raised without parents, without guidance, without the establishment of a set of values that respects life, property and order. We have known for a long while that all of these conditions exist. We have also watched in the past decade an economic system in which the top 1 percent have gathered much more of the Nation's income and the bottom 40 percent much less. We have known that in a recession, if jobs are the alternative to poverty, then there is no alternative because there aren't enough jobs.

The riots are front page headlines, and trumpeted over every special news program with endless evaluations of what happened and why it happened. What the press and so many in our country miss is that these riots are not an out-of-the-ordinary occurrence.

The Los Angeles riot is being played out in slow motion right now on the streets of Washington, DC. Over 600 people will be murdered in our Nation's Capital this year. That is a slow motion riot that is happening all year long. It keeps people locked in their homes behind barred windows.

This same slow motion riot in our Nation's Capital is occurring right now in New York, Detroit, Chicago, and other major cities as well. It is not on the front page and it is not the subject of television specials, because we have grown accustomed to it. We accept it. We go to work, do business, and come home around it, and try to continue to believe that it won't affect us. But it does, and it will.

These Los Angeles riots represent the sounding of one more urgent alarm that our country take stock and take action. We need broad-based economic opportunity in America and we need to find ways to mend the social fabric which has been torn.

The President's call for enterprise zones is appropriate. Congress has already enacted them once in a bill which the President subsequently vetoed. We should do it again. However, it is only one small step among a large number of actions that must be taken to respond if we are going to fix the conditions that helped cause not only the Los Angeles riots but the slow motion riots that are playing out all year in nearly all of our major cities.

A TRIBUTE TO THE QUEENS HISTORICAL SOCIETY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the Queens Historical Society on the occasion of its 25th anniversary.

Within the past quarter century, the Queens Historical Society has been serving the communities of Queens County in invaluable ways. From publishing and distributing numerous books on local history, to organizing tours, the Queens Historical Society has been instrumental in providing access to the history of Queens.

Through the society's newsletter the people of Queens are kept up to date on historical community events. Through 17 historic houses auctions, the society has raised funds to preserve and renovate Queen's landmarks. This fine organization has also been dedicated to the growth and development of Flushing's Freedom Mile, a collection of historical landmarks in Flushing which have been organized as a tribute to freedom.

Currently, the Queens Historical Society is in the process of raising money in order to renovate Flushing's second oldest home, the Kingsland Homestead. Built in 1785, this 207-year-old historical landmark originally was built at 155th Street and Northern Boulevard but was moved to Weeping Beech Park in 1968. The Kingsland Homestead has become an important historical resource. It now houses a library containing information on the history of Queens and a genealogist who traces the ancestry of the borough's residents. On the grounds of the Kingsland Homestead, one can see New York City's only living landmark, the weeping beech tree, ancestor to all of the weeping beeches in North America.

In addition, tours of the Kingsland Homestead are given by the Queens Historical Society three times a week, where visitors can see historical exhibits that are changed periodically. At present, the exhibit is Landmarks of Queens: The First 350 Years. Beginning on August 8, a new exhibit will be displayed; Native Americans at the Time of Columbus: A Discovery of Two Worlds. This exhibit will focus upon the original occupants of Long Island during the time of Columbus.

The Queens Historical Society is planning to celebrate its silver anniversary with a gala reception and dinner at the Poppenhusen Institute, itself a historic landmark, on September 24.

Mr. Speaker, I call on all my colleagues in the House of Representatives to join me in congratulating the Queens Historical Society and its officers: Stanley Cogan, president; Connie Demartino, vice president; Vincent Seyfried, vice president; RoseMarie Aridas, treasurer; Winifred Gwaltney, recording secretary, and Catherine Williams, membership secretary, on their 25 years of dedication to promoting and preserving the history of Queens County.

THE BOSNIAN TRAGEDY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. PORTER. Mr. Speaker, no one who has read the newspaper or watched the television news recently can fail to have been appalled by the horrors taking place in Bosnia. We have seen pictures of children killed by mortar fire while playing in front of their homes, grandmothers seriously wounded by shrapnel while attending their grandchildrens' funeral, and now reports from many sources are alleging the existence of a system of concentration camps where thousands of innocent civilians are being systematically starved, tortured, and killed.

The grisly goal of the Serbian forces in Bosnia has finally become clear. It is the same goal as that of the Nazis and their death camps—the ethnic purification of an entire region, and the displacement or eradication—call it a holocaust—of an entire people. We simply cannot ignore this situation.

As cochairman of the Congressional Human Rights Caucus, I deplore the violence and call on the President to make the tragedy in Bosnia the highest possible priority and to take the steps necessary to bring an end to the bloodshed. I support the actions that the President has taken in cooperation with the United Nations so far.

I believe that the economic embargo—which has caused astronomical inflation in Serbia—is having some effect and that the 15,600 U.N. peacekeeping troops now deployed in Bosnia are that country's best hope for peace.

But the President must keep all options on the table and not preclude any response necessary to bring safety to the people of Bosnia.

History will judge us on our commitment here—as everywhere—to the survival and basic rights of our fellow human beings, but here our action is most compelled because here another holocaust may be in the making.

PLEDGE TO SLASH FEDERAL DEFICIT

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. MARLENEE. Mr. Speaker, today I am proud to announce that I have taken a pledge promising to do all I can to slash the Federal deficit. I believe that there is no greater issue today facing our Nation, and our children's future. I urge my colleagues, on both sides of the aisle, to listen to the voice of America, do what you know is right, and join me in signing this pledge.

THE PLEDGE

Whereas, years of hollow promises and quick fixes now threaten the well-being of future generations of Americans;

Whereas, collective political accountability is needed to break our nation's political stalemate and restore the public trust;

Whereas, significant reduction of the federal budget deficit would symbolize a new national commitment to solving the pressing problems that threaten our common future;

Whereas, the unchecked growth of the budget deficit—nearly $350 billion in 1992—and the more than $200 billion in annual interest payments on our national debt unjustly burden future generations; and,

Whereas, the U.S. Government's own accountants call for dramatic reduction of the budget deficit to avoid economic and fiscal catastrophe;

I, Rep. Ron Marlenee, do hereby pledge that unless the FY 1996 federal budget deficit is 50% lower than the FY 1992 budget deficit,[1] I will not seek re-election when my term expires.

RON MARLENEE.

August 6, 1992.

ANNIVERSARY OF THE TESTING OF THE ATOM BOMB

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. WEISS. Mr. Speaker, at a remote site in the desert of New Mexico 47 years ago, the United States tested its first atomic bomb. Within a month, nuclear explosions would level the Japanese cities of Nagasaki and Hiroshima, and shortly thereafter the war with Japan would end. We will never know whether the decision to use those weapons saved lives or cost more in the process. But what we did learn from the entire experience was that, in any light, war was a terrible event that must never occur again.

In the five decades since that time, however, mankind has known many wars and many atrocities that rival the worst of World War II. From Cambodia to Angola to El Salvador, conflict has taken its pound of flesh, and added nothing to our ability to prevent the next war. Sadly, we are witnessing new human tragedies in Yugoslavia and Somalia that again test our determination to get beyond the revolving door of conventional warfare.

Unlike past experiences, however, we may now have an unprecedented chance to build the brave new world that was hoped for following Hiroshima and Nagasaki. Nuclear weapons remain a frightening reality, but the world is no longer paralyzed or polarized by superpower rivalry and the threat of nuclear annihilation. The cold war is over and the ground is fertile for growth and prosperity, for peace and stability.

But it will take leadership from those who wield power, and commitment from those that follow if we are to be mutually successful. It will take understanding and compassion, sacrifice and generosity to convince all nations this new order is to their benefit. And it will take many small steps before we can walk proudly into the future as one.

Such steps can begin by resolving critical situations in Yugoslavia and Somalia before they reach the regional or global level. Critical initiatives, such as these, are necessary before we can open a window that takes us beyond the terror of conventional warfare and toward a door that presents innovative ways to deal with many other global problems like the eroding environment, exploding population and the burdening nuclear albatross.

Mr. Speaker, the United States is the most obvious country to lead the world into this next area. But unlike Harry Truman, the President has yet recognized the importance of the surrounding events. His hesitation and caution to effectively engage the parties in these conflicts serves no current purpose and may in fact be detrimental to our long term goals.

Therefore, as the Nation stops today to reflect on the lessons that Hiroshima offers 47 years later, I hope that the President reconsiders his position on the critical issues of our time and takes effective and decisive action before we lose this historic opportunity.

THE NORTH PACIFIC ANADROMOUS STOCKS ACT OF 1992

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing legislation to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean. This bill, which is identical to S. 2894, which was introduced by my colleagues Senators STEVENS and MURKOWSKI, will bring into force for the United States the convention that was signed in Moscow in February 1992.

My colleagues have frequently seen me come to the floor and describe the importance of the salmon industry to the State of Alaska. Some of my colleagues have even had the opportunity to sample this fine fish. However, few people are aware of the intricacies of international fisheries management, especially when dealing with a fish that is born in the United States; travels through both international waters and the waters of other nations; is harvested directly or incidentally by fishermen from many countries; and then must return to the United States to spawn. Ensuring a sustainable yield of salmon requires international cooperation.

---

[1] The unified budget deficit, including social security, measured by the U.S. Treasury.

For many years, international salmon management was conducted through several treaties among different nations. Because not all nations were party to all treaties, cooperation was difficult. We have now reached the point where all major parties concerned—the United States, Canada, Russia, and Japan—have agreed to a single salmon conservation treaty. I hope that this foreshadows a new era of cooperation in international fisheries conservation.

H.R. 5100 SENDS WRONG MESSAGE

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. THOMAS of California. Mr. Speaker, on July 8, the House passed H.R. 5100, the Trade Expansion Act of 1992. Passing this kind of legislation makes it appear as though the United States is willing to abandon the effort that has been made in foreign trade through the Uruguay round and the North American Free Trade Agreement [NAFTA] negotiations.

The Uruguay round negotiations have gone on for years, and in the past year tremendous work has been done to negotiate a North American Free Trade Agreement. These two major trade negotiations, if successful, could provide U.S. industries with the foreign market access that they deserve. With both sets of talks in what appears to be their final stages, we should give them a full opportunity to accomplish their goals. Only after the NAFTA and Uruguay round agreements have been successfully negotiated, and their effects evaluated, should we consider moving our trade policy in another direction.

The bill itself sends the wrong message to those with whom we are negotiating. It imposes new restrictions on auto imports even though such measures have often proved to be beneficial mainly to the Japanese, and usually unfair to the American consumer. Shortly after very similar trade restrictions were enacted in 1981, a study revealed, the average price of the Japanese car rose by $1,700 and American cars by $1,200. Another result was that Nissan and Toyota were driven to enter the luxury automobile market—and did so very successfully.

In addition, H.R. 5100 would require special trade actions on auto parts and rice to try to get access to the Japanese market. I fully agree all United States farmers and industries deserve full access to Japanese and other markets, but I fail to see why we should give other countries another excuse to delay serious trade talks. At best, these kinds of provisions suggest the United States has not learned anything from past experience. At worst, other negotiators may get the idea that the Congress is only serious about a few trade problems when our negotiators have been asking for far more.

As a member of the House Ways and Means Trade Subcommittee, I am always willing to work for market access. This bill focuses too much on too few markets; trade legislation, ideally, should comprehensively address a cornucopia of industries and markets in such a way that they become more competitive with one another, not protected from one another. H.R. 5100 is a bill that was conceived for completely political reasons, not to improve foreign trade for American firms. This bill, by undermining the current negotiations, could actually hurt our efforts to achieve free trade.

A TRIBUTE TO RALPH COOPER: MR. AMATEUR NIGHT AT THE APOLLO

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to my good friend Ralph Cooper, who passed away this week after a short illness. Mr. Cooper was well into his eighties and for more than 50 years, as the emcee of amateur nights at the Apollo Theater, was a Harlem landmark.

Mr. Cooper was viewed by many people as the heart and soul of the Apollo. He created amateur night in 1934, luring talent by offering a $15 prize and a week's work at the theater to anyone good enough to win the loudest applause from the critical Harlem audience.

In his dual role as emcee and star attraction, Mr. Cooper helped launch the careers of some of Black America's biggest stars including Ella Fitzgerald, Sarah Vaughan, Billie Holiday, James Brown, Gladys Knight, and Michael Jackson, who first appeared at the Apollo when he was nine years old.

While the audience paid their money to see up-and-coming performers, they also paid to see Cooper, who began each show by prancing onto the stage to the beat of the house band. He would then greet the audience in a sort of 23-skidoo-Daddy-O high-five-disc jockey patter, incorporating popular phrases of the last five decades.

Mr. Cooper dearly loved both the performers and the audiences of amateur night. In his years as producer and host, he discovered Frankie Lymon and the Teenagers, the Orioles, Louis Jordan, whom he brought from a basement cafe in Philadelphia, and Pigmeat Markham. In fact, it was Cooper who wrote the comedy skit for which Pigmeat was best known, "Here Come De Judge."

Mr. Speaker, with the loss of Ralph Cooper, Harlem has lost one of its biggest boosters, and many of us have lost a great friend. In tribute, I commend to the attention of my colleagues the following article by Keith Moore of the New York Daily News.

MR. AMATEUR NIGHT TALENT SHOW CREATOR COOPER DIES

(By Keith Moore)

"Goodbye, Ralph Cooper," the marquee at the Apollo Theater read yesterday. "We will miss you."

"Coop," Ralph Jr. told the crowd, speaking of his father, "would have wanted the show to go on."

BROKE PROGRAMING

"He was a very, very special person, and when we say goodbye to him we say goodbye to a good friend," said Percy Sutton, an owner of the Apollo.

Sutton, who owns WLIB, had programing interrupted to carry a live news conference devoted to Cooper's death and to take calls from listeners.

Of Cooper at Amateur Night, Mayor Dinkins said in a statement: "He was a vigorous presence from the dropping of the house lights till the final curtain . . . He would be a performer, a ringmaster, a booster, a judge and a consoler of those who did not win the occasionally difficult fight for the audience's approval.

"Ralph was a real personality and a real presence in the Harlem community. He will be sorely missed."

Cooper, who grew up in Harlem, invented Amateur Night to boost attendance. His showbiz career spanned more than 70 years.

He was once dubbed the "dark (Clark) Gable" of the movies; he was a bandleader, a TV and radio host and a Hollywood star of mostly gangster and cowboy movies, some of which he wrote and directed.

CO-STARRED WITH HORNE

He is credited with discovering Lena Horne after co-starring with her in a movie called "The Duke Is Tops."

But most of his discoveries were showcased on the stage of the venerable Apollo: Gladys Knight and the Pips, the Shirelles, Leslie Uggams, Ruth Brown, Gloria Lynne.

In Hollywood, Cooper made such movies as "Dark Manhattan," "Harlem on the Range," "Bargain with Bullets" and "Gang War."

But he soured on Hollywood, saying in his 1990 book, "Amateur Night at the Apollo": "I hoped for acting work, but all the parts they offered me were Uncle Tom parts. Yassuh and nosuh dummy parts were all that was available for a young black actor in those days."

Along with his son, survivors include his wife, Elizabeth, daughter Lisa Cooper Turner and two grandchildren.

SPECIAL TRIBUTE TO ARTIST ROBERT BIRMELIN, CREATOR OF THE AERIALIST

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. ROE. Mr. Speaker, on Friday, June 26, I attended the dedication on the new Federal office building located at 200 Federal Plaza, in Paterson, NJ. As we officially dedicated the new Federal building, which will serve the people of our entire region, we also celebrated the people of northern New Jersey who were of tremendous help to make this building a reality. Without them, it would not have happened. Included in the extensive list is Robert Birmelin, a commissioned artist by the U.S. General Services Administration through its Art-in-Architecture Program.

Robert Birmelin's reputation is international and his works are in public collections across the United States and abroad. A visitor coming in the main entrance of the new Paterson Federal building, faces a striking scene on the opposite lobby wall: River cliffs and a man high over the water on a slender rope. The viewer also seems suspended over the river, while both the perspective and strong diagonals guide the viewer's eyes across the visual expanse of the painting entitled "Paterson: The Aerialist, August 5, 1879."

In his own words the painting "depicts an event, that occurred toward the end of the last century. It was a period of prosperity for Paterson's mills and factories that were made possible by the water power of the Great Falls and the labor of recently arrived immigrants. In those days, it was not uncommon on a fine Sunday for crowds to be drawn to the Falls to watch aerialists cross over the span of the gorge. Such a feat of daring occurred in 1879, commemorated only by a blurred and faded photograph, when one Harry Leslie undertook to walk across the gorge on a tightrope; and it is this occasion that I chose to imaginatively represent."

Robert Birmelin is a native of northern New Jersey and continues to have close ties to the region's people, places, economics, social, and industrial history. Birmelin's best known paintings are of people in interaction with each other and their surroundings on New York City streets. Born in Newark in 1933, Birmelin completed Cooper Union in Manhattan in 1954, earned a bachelor of fine arts in 1956, and master of fine arts in 1960 from Yale University School of Art in Connecticut, and attended the University of London on Fulbright Fellowship. Today Birmelin lives in Leonia, NJ, near Hackensack and teaches at Queens College, New York City.

Birmelin's talents won him early recognition and continued support in the form of grants from the American Academy in Rome, 1961–64; National Institute of Arts & Letters, 1968; Louis Comfort Tiffany Foundation, 1973; New Jersey Council for the Arts, 1980 and 1988; and National Endowment of the Arts, 1976, 1982, and 1989. Birmelin's works are now in many public collections including the Museum of Modern Art and Metropolitan Museum of Art in New York City; the Library of Congress, the Smithsonian Institution, National Museum of American Arts, and Hirshorn Museum and Sculpture Garden, in Washington, DC; the Museum of Contemporary Art in Nagaoka, Japan; the San Francisco Museum of Art; and the Montclair Art Museum in Montclair, NJ.

Mr. Speaker, I appreciate this opportunity to present a brief profile of this great artist, Robert Birmelin, and his outstanding work, "Paterson: The Aerialist, August 5, 1879," which is indeed, an integral part of 200 Federal Plaza in Paterson, NJ, as well as a wonderful piece of history depicting our great State, and our Nation.

U.S.S. "THEODORE ROOSEVELT"—THE BIG STICK OF THE U.S. NAVY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. DORNAN of California. Mr. Speaker, President Theodore "Teddy" Roosevelt pioneered the strategy of deterrence by speaking softly and carrying a big stick. He used a strong, blue water Navy to deter aggressors from attacking the United States and U.S. interests abroad, a strategy we still successfully use today. One of the major components of this strategy is the aircraft carrier, including the President's namesake, the U.S.S. *Theodore Roosevelt*. The *Roosevelt*, which carries nearly 100 combat aircraft and more than 5,000 sailors, can deploy anywhere in the world to deter and, if necessary, destroy an enemy.

During normal voyages, these brave sailors, marines, and airmen may be at sea, away from their families, for as long as 6 months at a time. As we continue to reduce defense spending, let us not forget the sacrifice and dedication of these courageous guardians of freedom. We must do everything within our power to ensure that they receive all the quality training and personal benefits, including benefits for their families, that they deserve. Although the technology of a carrier and its aircraft are very important to the Navy's mission, it is ultimately the people aboard the carrier who guarantee us victory in battle.

I, for one, commend these brave warriors of the air and sea, and promise to dedicate myself to preserving the quality of life for those aboard the U.S.S. *Theodore Roosevelt* and all those who serve in the greatest blue water fleet in the history of naval warfare.

A CONGRESSIONAL SALUTE TO DANA STRAND VILLAGE AND THE HOUSING AUTHORITY OF THE CITY OF LOS ANGELES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. ANDERSON. Mr. Speaker, on Saturday, August 22, 1992, the community of Dana Strand will celebrate its Golden Anniversary. On behalf of the residents of Dana Strand Village and the Housing Authority of the city of Los Angeles, I would like to share with you the roots of this novel and very special community.

One year after President Roosevelt signed the Housing Act of 1937, the Housing Authority of the city of Los Angeles was created. Dana Strand Village was one of the first public housing communities owned and operated by this newly established commission. Originally intended as temporary housing for war workers, Dana Strand opened on July 1, 1942. Since its inception, this community has been home to scores of low-income families and continues to provide housing for hundreds of people.

Throughout the years, the residents of Dana Strand Village have demonstrated exceptional pride in their community. They have organized a resident advisory council and elected council officers to oversee community projects and activities. Recently, Dana Strand Village was named a recipient of a HOPE I planning grant by the U.S. Department of Housing and Urban Development and is entering into the initial phase of an ambitious planning and training program. This program will empower the community's low-income tenants to take an active role in the control of their environment and will assist in the area of homeownership.

Mr. Speaker, on this momentous occasion I congratulate the Housing Authority of the city of Los Angeles on 50 years of providing quality housing for the residents of Dana Strand Village. In addition, I congratulate the residents and resident advisory council of Dana Strand Village on the 50th anniversary of their community. My wife, Lee, joins me in extending our best wishes to them for continued years of growth, development, and success in their ventures.

STATES TO ADOPT STAFFORD'S LANDMARK ORDINANCE

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. SAXTON. Mr. Speaker, back in my congressional district, Stafford Township has distinguished itself as a national leader in the battle to end combined sewer overflows during storms.

The inventiveness of the township's stormwater management system—which I had the pleasure of demonstrating to Environmental Protection Agency Administrator Reilly last year—has led to a $275,000 EPA grant and nationwide attention.

The system is a major step in protecting the environment, as it will keep sewer waste from spoiling the many waterways surrounding the township.

It now appears that 11 States across the Nation are considering using Stafford Township as a model.

The township's story is well explained by the hometown newspaper, the Beacon. It is a story of amazing innovation and a source of great pride for everyone involved.

[From the Beacon, July 30, 1992]

ELEVEN STATES TO ADOPT STAFFORD'S LANDMARK ORDINANCE

(By Darcie Borden)

STAFFORD.—The township's stormwater management ordinance has gained such recognition that 11 states along the Eastern Seaboard will soon adopt it and the Environmental Protection Agency wants to convert it into a national ordinance, according to Councilman John Spodofora.

In fact, the EPA has given the township a $275,000 initial payment to study the system further.

Spodofora, who is also an environmental engineer for the Naval Air Station at Lakehurst, presented the idea to the township several years ago and wrote the ordinance for it in 1987.

The township has won various awards for the system and it has ignited interest on a federal level. The EPA and the Department of Environmental Protection and Energy have inspected the system, and President George Bush has seen the township's design.

The township will supply the technology, the ordinance, and sites, such as the county library, that have the storm drain systems. It will provide the opportunity to study the effect time has had on these systems, Spodofora said.

Monitoring will also be done on rainfall, siltation, and storms, and he said instrumentation may be installed into the systems to see how well contaminants are filtered out.

Vegetative filtration will be another part of the study. Grass will be placed in front of storm drain inlets so that water will flow over the grass, allowing nutrients to be pulled along with any metals and heavy contaminants, Spodofora said.

"Trees pull 100 percent of phosphorous out of water and have a major cleansing impact, and so does grass," he said.

Southern Regional's ecology club may participate in the studies as a school project. The club has previously helped in the township with lake cleanup and some other things, Spodofora said. The University of Alabama will administer the grant. The university already had a process in place for EPA grants and has helped Stafford Township acquire the grant, he said.

The system designed by Spodofora uses a large diameter pipe with little holes all around it. The method is called sub-surface infiltration, and the township is succeeding where others have failed.

Other communities tried for the same result, but they were using the wrong pipe materials, Engineer Keith Henderson has reported.

With the large, perforated pipe, the filtration step is added, allowing pollutants to seep into the soil rather than into the bay. The old storm drain system sent the water with pollutants directly into the bay, according to Henderson.

The system controls nonpoint source pollution, which is pollution that ends up in storm drains but cannot be pinpointed exactly where it came from. It could be fertilizer, animal feces, etc., that ends up in the storm drains after it rains. The rainwater washes the pollutants downland into the drains and then into lakes, streams, bay or ocean.

"The EPA sees this as a way for solving major problems with the major pollution sites, Spodofora said.

"We're the first ones to come up with a way of recharging water underground where it belongs," he said.

The township will also monitor how different soils from different areas in the nation will react to the system, he said.

Florida, Maryland, Virginia, Delaware, Pennsylvania, New York, New Jersey, and Massachusetts are among the states adopting the ordinance so far, Spodofora said.

He said the EPA is also currently studying a system in Europe. The system uses a basket that fits into storm drains and filters out siltation. The EPA will bring them here and install them and see how well they work, he said.

A TRIBUTE TO THOMAS A. DUCKENFIELD, COMMUNITY SERVANT AND ADVOCATE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Ms. NORTON. Mr. Speaker, it is with deep regret that I say farewell to a dear friend and accomplished attorney, Thomas A. Duckenfield. Tom Duckenfield, a native of Richmond, VA, graduated from Hampton University with a B.S. in mathematics in 1957. In 1970 Thomas Duckenfield graduated from Georgetown University Law Center and later attended Southern Illinois University, Edwardsville where he earned an M.B.A. in 1977.

Tom's background reflects a wealth of accomplishments. He joined Washington Gas in June 1985 as assistant general counsel. Later that year, he was elected vice president and general manager of District of Columbia Natural Gas. Tom also formerly served as clerk of the Superior Court of the District of Columbia. Prior to that, he was deputy Register of Wills for the United States District Court for the District of Columbia.

Thomas Duckenfield embraced the needs of the local community with his time and his heart. Here in the District of Columbia, he was active in an extraordinary array of organizations that serve the people of the District of Columbia. Tom served on the board of directors of the Washington Urban League, Combined Health Appeal, Neighborhood Economic Development Corp., Education in Partnership with Technology Corp., Council for Court Excellence, National Bar Institute, Junior Achievement of Metro Washington, Bar Association of the District of Columbia, National Institute for Consumer Education in Law, and D.C. Law Students in Court.

Tom Duckenfield made a special contribution to the African American legal community. He worked tirelessly to organize black lawyers to serve the public, to shape the development of law and public policy, and to overcome the vestiges of discrimination in the profession. Tom served as president of both the National Bar Association and the Washington Bar Association and was constantly active on their various committees.

Adding to these remarkable accomplishments, Tom was appointed to the District of Columbia Judicial Nomination Commission and the District of Columbia School of Law Board of Directors.

Thomas Duckenfield was a model family man as well. The only individuals who will miss him more than his many friends are his wife Evelyn; his three sons, Thomas, David and Pace; his mother, Florence Duckenfield of Richmond; his three brothers, Benjamin, Hartwell and Lloyd, all of Richmond; and a sister, Carrie Ampey of Sharon, MA.

Tom's commitment and his service will be missed. Most of all we will miss him.

CONGRESSIONAL TRIBUTE FOR SUPERIOR-BAIKAL CONNECT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. OBERSTAR. Mr. Speaker, today, Members of Congress who represent States and districts along Lake Superior's shores congratulate and encourage the efforts of the Russian, Canadian, and American team members from the Superior-Baikal Connect on their recently completed kayaking expedition through the waters of Lake Superior. The Superior-Baikal Connect kayak team, which circumnavigated Lake Baikal last summer, visited local communities to express concern for the ecological health of the world's two largest lakes and to encourage continued cultural exchange.

Lake Superior, which contains 10 percent of the world's water resources, is a major recreation center. The region's abundant natural resources make possible both recreational opportunities and much of the area's industry. Because of the complex, conflicting demands placed on the natural resource base, the region may seem at odds with itself. But with a vision for sustainable resource use, sensitivity to historic and cultural values, and wise environmental policy, the conflict need not exist. Halfway around the world, Lake Baikal presents similar opportunities and challenges to the citizens of the Commonwealth of Independent States. Lake Superior and Russia's Lake Baikal are the world's largest freshwater systems in surface area and volume, respectively. Together, they contain 30 percent of the world's freshwater reserve and are of global environmental significance.

The Superior-Baikal Connect expedition paddled along the Lake Superior Water Trail, which links Lake Superior's 3,000 miles of shoreline bordering on Minnesota, Wisconsin, and Michigan in the United States and the province of Ontario in Canada. The Lake Superior Water Trail is designed to provide an ongoing education about Lake Superior and its global significance as a unique freshwater environment. We endorse further development of this recreational and educational Lake Superior Water Trail, because it has promoted, and will, in the future promote a multinational model of cooperation.

The Superior-Baikal Connect is a successful show of international regard for the protection of our global resources. We are pleased to host our Russian and Canadian guests and encourage this cultural exchange to continue into the future. We congratulate the successful Superior-Baikal Connect expedition and its organizers, John Anderson of the Lake Superior Center and Alexander Tenyakshev of the Moscow Adventure Club. We also applaud the outstanding efforts to develop the Lake Superior Water Trail. We hope that these displays of international goodwill will encourage greater environmental protection and act as a lasting global model.

CONGRATULATING SCOTT STRAUSBAUGH AND JOE JACOBI FOR WINNING A GOLD MEDAL IN THE TWO-MAN CANOE IN THE 25TH OLYMPIAD

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. TAYLOR of North Carolina. Mr. Speaker, the rivers of western North Carolina offer some of the finest and most challenging whitewater conditions in the world. Whitewater enthusiasts from around the world come to paddle rivers such as the Nantahala, the Ocoee, the Chattooga, and the Nolichucky. In fact, some find the paddling so good in western North Carolina that they move to our area.

Recently, two young men left the mountains of western North Carolina and traveled to the Pyrenees, between France and Spain, to match the whitewater expertise they gained in North Carolina against the best paddlers from around the world. These two men, Scott Strausbaugh of Almond, NC, and Joe Jacobi of Whittier, NC, proved themselves to be the best in the world by winning gold medals in this 25th Olympiad in the two-man canoe.

Scott and Joe have become the first Americans ever to win a gold medal in whitewater canoeing or kayaking. Their hard work and dedication has put them at the very pinnacle of the international paddling world in their event. I want to extend our heartfelt congratulations to Scott and Joe from myself and all the people of western North Carolina. We're extremely proud of you both and hope to see you back home soon. In addition, I know Scott and Joe would want me to thank the Nantahala Racing Club, headquartered at the Nantahala Outdoor Center, for their support and training help.

Joe and Scott went all out on both of their perfect runs through the 25-gate course to win by 6 seconds. In doing so they signaled a new era in international whitewater competition for the United States. I hope that their success, and the interest it has generated in this infrequent Olympic event, will ensure its inclusion in the 1996 games in Atlanta. I look forward to more medals for Olympic paddlers from all over the country, and would encourage them to follow Scott and Joe's example by training in western North Carolina. The water is cold, but the people are warm, and the competition is hot. This combination made Scott Strausbaugh and Joe Jacobi winners in Barcelona.

Again, congratulations, Scott and Joe.

THE SITUATION IN BOSNIA AND HERCEGOVINA IS INTOLERABLE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to express my horror and dismay regarding the current situation in Bosnia and Hercegovina. The chilling stories of violence, brutality, and human rights violations call for immediate action by the international community.

Mr. Speaker, the administration's retreat yesterday from its earlier assertion that Serbian forces were torturing and killing Croats and Muslims at detention centers in Bosnia is disturbing indeed. What does that mean when our Government says that there is little it can do to immediately investigate reports of atrocities? I find it unconscionable that the Department of State would issue such a statement. I would think the Bush administration would have learned from history. These reports of "ethnic cleansing" and concentration camps are especially horrifying and evoke memories of unspeakable crimes committed during the Holocaust.

Mr. Speaker, the United States, the European Community, the United Nations and other relevant international organizations must work together immediately to reach a unified position on what further action should be taken against the Communist Serbian regime. The International Red Cross and other neutral agencies must be granted immediate access to camps, prisons, and detention centers throughout these areas to determine exactly what is happening. The world community has been aware of this situation for over a year now and the brutal fighting continues. It is not enough any longer to simply issue official statements and condemn the violence—concerted action is critical to curtail the spiral of violence.

Mr. Speaker, the situation in Bosnia and Hercegovina is intolerable. Our Government and the rest of the international community cannot allow this to continue. By permitting Mr. Milosevic—the Saddam Hussein of Central Europe—to carry out his torturous and murderous acts, President Bush is sending a signal that the United States will ignore aggression. I urge the administration to aggressively pursue this matter with our allies in order to avoid any further humanitarian disaster of enormous dimensions.

CONGRATULATIONS TO TRENTON STATE COLLEGE'S WOMEN'S SPORTS TEAM

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. SMITH of New Jersey. Mr. Speaker, I would like to take this opportunity to congratulate the women's sports teams of my alma mater, Trenton State College, for completing an incredible feat during the past school year. Three separate teams, the field hockey, softball, and women's lacrosse teams, all won NCAA Division III titles.

On November 16, the field hockey team won its fourth consecutive NCAA Division III title by upending Bloomsburg, PA University 1 to 0. The victory capped an unbeaten 19–0–1 record for the Lions and their coach, Sharon Goldbrenner, a TSC graduate as well, and raised their overall record to 143–11–4 during Coach Goldbrenner's tenure.

Mr. Speaker, on May 17, the softball team beat Buena Vista College, IA, 4 to 0 for the NCAA Division III title, finishing at 48 to 2. Dr. June Walker has led the team to 11 consecutive NCAA appearances and four titles during her 19 years as coach.

On the same day of the softball victory, the women's lacrosse team, also coached by Ms. Goldbrenner, defeated William Smith College, NY, 5 to 3 for its second consecutive—and fifth overall—NCAA Division III championship. The Lions, 16 to 0 this year, are now 107–12–1 under Coach Goldbrenner. To their credit, however, TSC officials discovered that an academically ineligible player had participated in some lacrosse games. The school, therefore, reported the infraction to the NCAA. While the team may not be able to retain their title, I applaud the administration for its honesty. Such an infraction is not easily detectable and reporting it to the proper authorities is commendable.

Both Coach Goldbrenner and Coach Walker have been featured in Sports Illustrated as one of the "Faces in the Crowd." Their individual accomplishments, in my view, are remarkable. The fact that they fielded three winning teams from the same school during the same school year is truly an incredible feat.

Clearly, these teams deserve the recognition they have been receiving. I am proud to be an alumnus of the school and an alumnus of the school's athletics program, and am hopeful that the tremendous success of these teams will continue in the coming school year.

TRIBUTE TO MR. J. PAUL HEURING

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to an exceptionally dedicated and committed member of the First Congressional District, Mr. J. Paul Heuring. Mr. Heuring is celebrating his 90th birthday on August 14, 1992.

Paul's life is truly an American success story achieved through hard work and dedication. His roots can be traced back to North Battleford, Saskatchewan, Canada, where he was born in 1902. His family later moved to northern Minnesota where he attended St. John's High School and Boarding School. After graduation, he returned to North Battleford to work as an assistant station master at the local train depot. Because times were hard on the family farm and at the depot, Paul returned to America for further challenges.

His journey back to America led him to the Windy City where he stayed until 1943. From the early twenties until the day he left Chicago, Paul worked earnestly for Western Electric Co., and then R.R. Donnelly's Lakeside Press. In pursuing further dreams, Paul went on to attend Northwestern University night school

In 1943, Paul sought an opportunity to become a Ford dealer in Hobart, IN, and Paul Heuring Ford was soon established. Throughout this period, Mr. Heuring has demonstrated his commitment to his dealership as owner, manager, salesman, and mechanic. To this day, in fact, one will find Paul working 10 to 14 hour shifts.

Paul has always found time to give himself to the community. He has helped with the St. Vincent DePaul Society, an advocacy group for the homeless. He has volunteered with the Civil Defense and the Red Cross, and is a devoted member of American Heart and Cancer Societies. Mr. Heuring is the proud founder of the Hobart Chamber of Commerce, as well as a past chairman of St. Bridget Finance Committee which facilitated the construction of a new church and school. Among his most noteworthy community service accomplishments was his persistence in building a community hospital. After forming an organization committee for development and building of a Hobart hospital, he headed up the finance committee to raise the funds for the St. Mary Medical

Center in Hobart. Today, the St. Mary Medical Center provides professional medical care for a substantial portion of northwest Indiana.

These many hours devoted to the First Congressional District are not without recognition. Paul Heuring has received the Time Magazine Quality Dealer Award, the Herman Schaffer Award for the State of Indiana, the Walter Berg Distinguished Citizen Award, Good Citizen Awards from Hobart's Police and Fire Departments, and one of his finest honors, the Blessed Katherine Kasper Award from the Ancilla Systems for his work with the St. Mary Medical Center in Hobart.

I sincerely recognize J. Paul Heuring on the occasion of his 90th birthday. I am both privileged and honored to wish Paul, his wife of 59 years Dorothy, their 3 sons, 11 grandchildren, and 4 great-grandchildren, the warmest greetings. His lifelong endeavors are certainly admirable and his inherent dedication, social commitment, and leadership are a model and inspiration to each and every one of us.

TRIBUTE TO ANITA NALL

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Anita Nall, a member of the U.S. Olympic swimming team. On behalf of the people of Schuylkill County and the Sixth District of Pennsylvania, I would like to congratulate Anita for her outstanding achievements in the 1992 Summer Olympics. Her accomplishments have been a source of great joy and celebration for the residents of Brockton, PA, where her grandmother, Ann Nall Shultz, resides, and for the friends and family of her Father, John Nall, who is a native of Mary D, PA.

Anita Nall had three excellent performances in Barcelona. She won three medals, a bronze in the 200 meter breaststroke, a silver in the 100 meter breaststroke and a gold in the 400 meter medley relay. In the process, she set the American record in the 100 meter and her team set the world record in the 400 meter medley relay. She and her team proved that they are the finest in the world. We have not heard the last of Anita Nall because at the age of 16, she is already beginning to think about the 1996 Atlanta Summer Olympics.

Anita Nall has made her grandmother, father, and all of the residents of Schuylkill County very proud with her fine efforts in Barcelona. Anita earned three medals through hard work and an indomitable olympic spirit. Many of her fans gathered at Wilson's Cafe in Brockton to watch her races and show their support. Her victory set off a joyous celebration in Brockton by friends, family and neighbors as she stood on the podium in Barcelona holding a small American flag while she accepted her gold medal. I ask all of my colleagues to join me in saluting Anita and wishing her the greatest success in the future. She is a fine young woman, who deserves our highest praise and respect.

LETTER PUTS U.S.S.R. SITUATION IN PERSPECTIVE

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. VALENTINE. Mr. Speaker, sometime ago I received, from a friend and constituent, a special kind of letter, which I would like to share with my colleagues.

During the long, scary years of the cold war, while the leaders of the U.S.S.R. were planning and, in many situations, executing their grand design of world domination, we came to think of most, if not all, Soviet citizens as our enemies. My friend's letter helps to place all of that in perspective.

Events have demonstrated that many citizens of the former U.S.S.R. are not unfriendly to America. And in that connection, my friend, Tom Harris, has reminded me of a significant historical fact about which we should all reflect.

If it had not been for the unbelievable sacrifice of the Soviet peoples after Hitler's invasion in 1941, our world would be a different place. The Soviet peoples, both soldiers and civilians, bore the full, brutal brunt of the cruel German legions. Faced with what appeared to be complete and utter defeat, the Soviet people stood with a resolve that staggers the imagination. Suffering losses in the tens of millions, they stood before the German war machine. Thousands of Soviets disappeared without any trace and have not been heard from to this day. Many were tortured and others were summarily executed.

Finally, the German armies were expelled and crushed. Now that the people of the former Soviet Union have thrown off the yoke of communism, we should celebrate anew the contributions that these valiant people made to the ultimate defeat of Nazi Germany.

As the writer of the letter states, they just might have done more to destroy nazism than any other nation or people, including ourselves and our Nation.

The letter follows:

WILSON COUNTY
INSURANCE AGENCY, INC.,
Elm City, NC.

Hon. TIM VALENTINE,
Congress of the United States, House of Representatives, Washington, DC.

DEAR TIM: We need to help the Russian people in their working to become a democracy. These people made the greatest sacrifices known to man during WWII. They fought Nazi Germany tooth and nail to save their homeland and the civilians suffered as much as their soldiers did.

What if they had surrendered in 1941 when the Germans had driven to within 40 miles of Moscow? I was in the 9th. Infantry Division and we fought in N. Africa, Sicily, France, Belgium and Germany so I know something about War and the hell that it is.

400 Russian Divisions kept 300 to 400 Division tied down throughout the War, from 1941 to the end. If they had not engaged so many Nazis we would have never been able to make the Normandy landings. In fact, if the Russians had given up like France did, without too much effort, the whole world would have been Zeig Heiling for the last 45 years or so. They did more to destroy Nazism than we did so I think we should do all we can to help them. With kindest wishes always,

Sincerely,

THOMAS L. HARRIS.

TOURO COLLEGE'S SCHOOL OF BUSINESS IN MOSCOW

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. GILMAN. Mr. Speaker, the committee report on the Freedom Support Act of 1992 stated:

> Some U.S. educational institutions have already established programs, including business and management education, in the region. These institutions are to be commended for their initiatives and should be considered for funding where their activities are consistent with the priorities of U.S. assistance strategies for the independent states.

One institution which already has established business and management education programs in the region is Touro College. Touro College is an institution of higher learning located in the State of New York. Touro has taken the initiative and shown both the foresight and ingenuity to establish the first international school of business in Moscow under American sponsorship.

Touro's Moscow branch offers a program in business and management to mid-level and upper-level managers, directors, and supervisors of the Commonwealth's businesses and industries. Admission is limited to graduates of indigenous universities. The program is in two phases. The first phase is an intensive study of English. The second phase of the program includes business subjects: Accounting, economics, business data processing, business law, statistics, management, marketing, banking, investments, and finance. Students who successfully pass the program of studies earn a bachelor of science diploma.

This new school which is now over a year old has had a successful beginning. The initial funding for this project has been provided solely by Touro College. In keeping with the spirit of the committee report, and consistent with the priorities of U.S. assistance strategies for the independent states, Touro College is deserving of our support in the continuation of this very important program.

U.S. AGRICULTURE RUSHES TO SUPPORT THE FREEDOM SUPPORT ACT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. BEREUTER. Mr. Speaker, as this body moves toward consideration of H.R. 4547, the Freedom Support Act, it is increasingly clear that passage of this legislation is not just important for the future of the former Republics of the Soviet Union—passage is also important for all of us in America.

In his testimony before the House Agriculture Committee, Ambassador Robert Strauss made this point very clear:

> We are in a window of opportunity and we cannot afford to lose it. I think we have to make clear to the American people that this is not an aid package and this is not a giveaway package, and this is not a funding package that funds the building of dams * * * where they don't need them * * *. This is a domestic bill because we have a domestic—vital domestic interest in it. It represents not only security for this country and for ourselves and our generations to come, it represents in addition to that, our economic interest. It represents jobs. It represents our leadership in the world.

It is also very clear that Ambassador Strauss' words are not merely rhetoric, but rather, words backed up by expressions of support by U.S. farm and agribusiness firms.

Recently, this Member received a policy statement from the National Agricultural Advisory Committee, a consortium that includes 4 former Secretaries of Agriculture and more than 100 of America's leading farm commodity and agribusiness organizations including, among many other important organizations, the following:

The American Farm Bureau Federation.
American Soybean Association.
National Association of Wheat Growers.
National Cattleman's Association.
National Corn Growers Association.
National Council of Farmer Cooperatives.
National Grain Sorghum Producers Association.
National Grange.
National Pork Producers Council.
U.S. Meat Export Federation.

In addition, the list includes the world's largest animal health facility, the SmithKline Beecham, which has its Norden laboratories in Lincoln, NE.

Most importantly, this distinguished committee was unanimous in its strong support for H.R. 4547 because its members properly recognize that if the former Republics of the Soviet Union succeed in their transitions to market economies, United States agriculture and exporters will surely benefit from a vast potential market of 290 million individuals. As the committee notes, passage of the Freedom Support Act will help the peoples of the former Soviet Union put food on their tables and ours.

Mr. Speaker, we all would do well to remember that our great Nation's fastest period of growth came at a time when its resources were strained from a long and devastating war, but fortunately, the American people rallied behind the Marshall plan to help Europe restore its democracies. That restoration created a market for U.S. goods and services that, over the years, has greatly benefited American industries. For example, in 1991, the United States enjoyed a $16.7 billion trade surplus with the European Community.

Now, we are at the end of another war—the cold war—and there can be no doubt that the emerging democracies of the former Soviet Union will have an insatiable appetite for goods and services and infrastructure development if they can continue to make progress toward democracy. The Freedom Support Act will help to ensure that those emerging democracies and vast potential markets of the former Soviet Union are not lost to a tyranny and repression that both threatens our Nation's security and economic future.

Mr. Speaker, therefore, this Member urges his colleagues to read the attached policy statement of the National Agricultural Advisory Council, take heed of their message, and vote for the Freedom Support Act.

POLICY STATEMENT OF THE NATIONAL AGRICULTURAL ADVISORY COMMITTEE

U.S. AID TO THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

We, the undersigned members of the National Agricultural Advisory Committee (NAAC), express our endorsement of a comprehensive U.S. aid package to support the emerging economies and democracies in the new independent states of the former Soviet Union.

We recognize the need to address pressing U.S. domestic issues, as well as other important international concerns. We strongly believe, however, that the active involvement of the U.S. is critical to the successful market-based economic and democratic political development of the former Soviet Union; and vital to the future stability and security of all the world's peoples.

We urge the creation of a working collaborative partnership between the U.S. public and private sectors—between the U.S. Government (USG) and U.S. agriculture and agribusiness—to provide technical assistance to, and promote U.S. trade and investment in, developing market-based food and agricultural economies in the former Soviet Union. The concerted action of the U.S. public-private sectors is mandatory to providing concrete long term agricultural and food system development in the former Soviet Union, fostering important trade and investment opportunities for U.S. agriculture/agribusiness, and accelerating the growth of the U.S. economy.

We believe that the U.S. aid initiative should authorize the President to waive the statutory provisions, remnants of the cold war, which restrict the development of normal commercial relations, and thus hinder U.S. agriculture/agribusiness. In an increasingly competitive global economy, U.S. legislation must encourage the development of new relationships and markets for U.S. businesses.

We are convinced of the inherent market potential of the former Soviet Union's emerging democracies. Experience has shown us that increased U.S. trade and investment in global markets means the creation of thousands of new jobs for American workers here at home. We therefore fully support U.S. aid for the former Soviet Union not only because it responds to the economic, political, and social needs of the former Soviet Union, but because it responds to our needs, the needs of the U.S. and the U.S. agriculture/agribusiness community.

We do not offer, and the emerging economies and democracies of the former Soviet Union do not ask for a "hand out," but rather the opportunity to develop mutually beneficial economic growth through increased U.S. agriculture/agribusinesses trade and investment. Together, we—U.S. agriculture/agribusiness and the USG through a comprehensive U.S. aid package for the former Soviet Union—can work for both regional and global peace, and help the peoples of the former Soviet Union put food on their tables and ours.

CONDOLENCES TO REPRESENTATIVE HENRY HYDE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. RINALDO. Mr. Speaker, I want to join my colleagues in expressing my condolences to my good friend and colleague, Representative HENRY HYDE, on the passing of his wife, Jeanne. I had occasion yesterday to read in the CONGRESSIONAL RECORD the eulogy delivered by his son, Robert. It was a genuinely moving and loving memorial to a remarkable woman. This is a sorrowful time, but it is clear Jeanne Hyde was a woman of strong faith and devotion. I hope and pray that HENRY and all his family will be able to take solace in the knowledge that her faith was firm, her belief in God strong, and her courage in the face of a long illness a true example of her character and conviction.

I have known HENRY HYDE closely as a colleague and friend for many years, and my condolences go out to him and his family at this time.

COMMEMORATING GUAM'S PARTICIPATION IN THE XXVTH OLYMPIAD

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1992

Mr. BLAZ. Mr. Speaker, like so many Americans, I have been in the past week thrilled and inspired by the events in Barcelona. I rise today, however, to draw my colleagues' attention to the efforts of a small, but no less inspiring, group of young people from my district who are pursuing their own Olympic dream. I speak of the participation of Guam's Olympic team in the XXVth Olympiad in Barcelona, Spain. This is the second Olympics in which Guam has participated, the first being in 1988 in Seoul, Korea.

Participation in the Olympics is a life-altering experience. For an athlete to be able to compete with the fastest and strongest, to be present when records are broken, to see the brotherhood of nations on the field of open competition, is, for many, dream becoming reality.

What is more important, however, is the route which one had to take to get to the Olympics. The early morning practices. The long hours in the pool, or on the track, or in the gymnasium. The sore muscles and bruises. Dealing gracefully with the disappointment of defeat, and being magnanimous in victory. Learning that hard work and perseverance will be rewarded.

These sacrifices are rewarded by selection to be an Olympic participant. While only a few athletes receive medals, all Olympic participants are winners. Whether one comes from the biggest, the richest, and the most sophisticated country or the smallest, the poorest, and the most primitive of circumstances, the great common denominator—sports—makes them all equal as athletes and as citizens of the world during their shining moments as participants in the most prestigious and celebrated sports event in the world.

In these troubled times, as we seek to cope with economic and political crises both nationally and internationally, it is most refreshing and reassuring to watch the Olympic events and note the quality of the men and women who are already prepared to assume leadership roles in their respective countries.

Mr. Speaker, as a territory of our great Nation, the United States, we are extended the opportunity to compete against our own country, literally speaking, in the field of athletics. It is supremely ironic indeed, as well as a magnificent commentary on the American form of democracy, that I am now appearing in this great Chamber, with pride and pleasure, to recall this year's Olympic events and to record in the annals of U.S. history the roster of the men and women who comprise the 1992 Guam contingent to Barcelona.

Biba U.S. Biba Guam.

GUAM OLYMPIC TEAM

Head of delegation: Governor Joseph F. Ada.

Swimming: Patrick Sagisi, Frank Flores, Ray Flores, Glenn Diaz, Adrian Romero, Barbara Pexa, Tammie Kaae, Ed Ching, Mick Pexa.

Judo: Erin Lum, Atef Hussein, Andy Jordanou.

Wrestling: Ed Pangelinan, Tom Schoen.

Cycling: Manny Garcia, Jazy Garcia, Andrew Martin, Martin Santos, Will Yamamoto, Jr., Margot Bean, Albert Juan.

Archery: Luis Cabra, Lee Webber.

Yachting: Jon Iriarte, Joe Pruski, Linda Yeomans, Ann Byerly.

Weightlifting: Edgar Molinos, Vincente "Benny" Crawford.

Officials: Michael J. Reidy, Chef de Mission; Richard C. Blas, Vanessa K. Blas, Judge Benjamin J.F. Cruz, Johnny Applegate, Monica Okada, Gordon Chu, James Ji.

Medical: Dr. Glocrito Sagisi, Dr. Davina Lujan, Roseann O'Rourke.

Athletics: Jenn Allred, Richard Bentley, Brian Foster.

Youth camp: Melissa Taitano, Francine G. Sablan.

Media: Thomas Evers Blaz, KUAM-TV; Marty Bahamonde Cable TV.